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PROCEEDINGS AND DEBATES OF THE 97th CONGRESS, FIRST SESSION

SENATE—*Thursday, June 25, 1981*

(Legislative day of Monday, June 1, 1981)

The Senate met at 8:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, LL.D., D.D., offered the following prayer:

Let us pray.

Our Father in heaven, Lord of heaven and Earth, Ruler of all nature, whose love and grace are free to all, manifest Thy holy presence in these Chambers and all the Senate offices today. Restrain emotions that are at the breaking point. Give patience to those who are restless and anxious.

Help those who are frustrated because things are not going their way. Dissolve anger and bitterness, replace them with love and forgiveness. Deliver us from triumphalism that turns diversity into divisiveness, adversaries into enemies. Remind us that we exist for the common good and that unity is fundamental to that, that when unity is destroyed everybody loses.

Dear God, strengthen the Senators and their associates against pressures from without and within. Guide them to decisions that will reflect the glory of God and the blessings of all peoples. In the name of Him who came not to condemn but to love and save. Amen.

RECOGNITION OF THE ASSISTANT MAJORITY LEADER

The PRESIDENT pro tempore. The assistant majority leader is recognized.

THE JOURNAL

Mr. STEVENS. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR ROUTINE MORNING BUSINESS

Mr. STEVENS. Mr. President, I ask unanimous consent that following the time allocated to the two leaders under the standing order and the special orders that have already been approved there be a period for the transaction of routine morning business not to exceed 10 minutes in length in which Senators may speak therein for not to exceed 2 minutes each.

The PRESIDENT pro tempore. Without objection, it is so ordered.

EXAMINATION OF FEDERAL LAND MANAGEMENT

Mr. STEVENS. Mr. President, I would like to point out a recent article of some interest to each Member especially those representing the Western United States. The June 29, 1981 edition of Newsweek magazine is entitled "Watts' Land Rush" and discusses the recent efforts of the Secretary of the Interior to return this country's land policy to a true multiple use doctrine. This article reflects a fair examination of Federal land management and Secretary Watt's influence.

The State of Alaska great appreciates the efforts of this Secretary to implement the Alaska lands legislation in a manner least offensive to the majority of the people living in the State and subject to the regulatory burdens of it. By promulgating balanced and reasonable regulation and seeking to cooperate rather than confront, Secretary Watt has substantially improved the image of Washington, D.C., to Alaskans.

Although we have all read and heard of a great hue and cry by extreme environmentalists concerning what they believe to be a lack of concern demonstrated by the policymakers in the Department of the Interior, specifically Jim Watt, there are other well-considered opinions supportive of the Secretary in his efforts to improve lands already acquired and to cease expansion of restrictive Federal land management policies. I believe the vast majority of our citizens applaud the Secretary's efforts to bring balance back to our Federal land management policies.

I recently received a letter from Mr. Stan Hulett, assistant to Secretary Watt and director of congressional liaison. Mr. Hulett brought to my attention correspondence written by Horace M. Albright to Secretary Watt commending the Secretary on his administration of our national parks.

As most of you know, Horace Albright was the first superintendent of this Nation's first national park in Yellowstone, Wyo. Mr. Albright was director of the Park Service from 1927 to 1933 and retired in 1950. As recently as last year, Mr. Albright received the Freedom Medal from President Carter for his efforts in conservation of our Federal lands. Horace Albright is highly revered by anyone working in public land policy during the last 50 years. I can think of no higher compliment that could be paid to Secretary Watt than that given by Mr. Albright when he wrote:

> It is heartening to me to see that after 65 years, the purpose and dream for the Park Service is still alive and well and in safe hands.

Mr. President, I ask unanimous consent to have printed in the RECORD the Newsweek article and the Albright letter to which I referred.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STUDIO CITY, CALIF., *May 25, 1981.*

Hon. JAMES G. WATT,
Secretary of the Interior,
Washington, D.C.

MY DEAR MR. SECRETARY: Not so long ago, you wrote me a fine letter that gave this old ninety-one year old national park pioneer immense happiness. It will be a cherished part of our family's heritage. I am grateful for your kindness and thoughtfulness in writing it.

I read your writings and listen to your spoken statements at every opportunity and with the keenest interest and satisfaction. Last week the television panel discussion of your plans and policies for the administration of the affairs of your department was an outstanding event of its kind. I greatly enjoyed the part you played in the discussions, especially your "charming and witty responses" to many of the questions. I admire your honesty and forthrightness. Of course, your expressions on national parks I thought most impressive—and convincing. When you use the words "jewels of our nation", it instantly calls to my mind Stephen Mather, for he used to say that our parks were the jewels in the crown of Miss Columbia (you are perhaps too young to remember that she was the symbol of our country rather than Uncle Sam)!

It is heartening to me to see that after 65 years, the purpose and dream for the Park Service is still alive and well and in safe hands.

With my every good wish for success in all your undertakings and with sentiments of highest esteem, I am

Sincerely yours,

HORACE M. ALBRIGHT.

[From Newsweek, June 29, 1981]

JAMES WATT'S LAND RUSH

The land was there before James Watt, and it will survive him, but it may never be the same. That is one view of the new Secretary of the Interior, whose strong convictions are making him the most controversial man in the Reagan Cabinet. Watt has deep feelings for the land, but as his environmental critics see it, he also knows what a nuisance it can be when it stands between man and mineral, and he has more than a few ideas about how it can be improved. That is why he is preparing to reverse the government's opposition to mountaintop mining, a procedure in which the top of a mountain is sheared off to get at the coal and dumped into the adjacent valley. In the eyes of the critics, that creates a building site out of nature's unruly topography—a level bed of earth, ready to receive man's improvements: the perfect monument, they would call it, to this public servant of practicality.

In his sense of mission, Watt is as zealous and sincere as any environmentalist who opposes him. One of his first acts as Interior Secretary was to reopen the question of oil drilling near four of northern California's most beautiful beaches—provoking a howl of protest from California Democrats and Republicans alike. He has portrayed himself as the man who will protect his native West from rampaging preservationists, and who believes the national parks should be repaired before they are expanded. His predecessors painstakingly drew up a 575-page book of strip-mining regulations, having to do mostly with restoring the land to its original contours; Watt intends to rewrite many of the rules and cut the Federal regulatory force by 40 per cent. Many of these decisions are popular with some Western governors, who have been agitating for years for more control over the Federal lands in their states, but no one has been as touched by Watt as Carl Bagge, president of the National Coal Association. "He's made my job a pleasure to do again," Bagge says. "I can look at myself in the mirror and no longer see myself as evil incarnate."

Watt, too, has often felt like a lone voice in the wilderness, crying out for some of it to be used before all of it was preserved. Now, as Secretary of the Interior, he says he has the opportunity to "swing the pendulum back to center" from what he calls the extreme environmentalist position. Environmentalists fear that Watt, by temperament and conviction, will push it to the other extreme. The Secretary of the Interior is responsible by law for balancing demands that are sometimes irreconcilable. He is not only the nation's chief environmental officer, but also its game warden, dam builder, miner and Indian chief; he is charged with promoting "multiple uses" of public land, although there is no way that a strip mine can coexist with a recreation area. Watt has been called the "fox guarding the chicken coop" so often that he has installed a photograph of a fox over the fireplace in his office. Former Sen. Gaylord Nelson, chairman of the Wilderness Society, calls Watt "unfit to hold public office," one of the milder epithets in what Watt has called a "hysterical" campaign against him, and the Sierra Club is trying to collect a million signatures on a petition to drive him out of office.

THE PRICE

The pendulum of public opinion has swung somewhat in Watt's direction, but there is certainly no broad mandate for the Administration to do away with environmental protection. A Newsweek poll conducted last week shows that a solid majority of Americans are willing to pay the added price of environmental safeguards—although the percentage expressing that opinion dropped from 69 to 58 over the last year and a half. An overwhelming majority agrees that it is possible to have strong economic growth and still maintain high environmental standards. But there are large majorities for most of the steps Watt has proposed to increase energy production: by a 70-to-22 margin, Americans approve of expanded offshore oil drilling and, by 76 to 19, they favor increasing oil exploration on Federal lands. A plurality would ease strip-mining regulations to allow more coal to be mined and a majority would relax air-pollution standards to permit more coal to be burned.

A Secretary of the Interior holds what is usually viewed as one of the more humdrum posts in Washington, and Easterners find it hard to comprehend the enormous power the Interior Department wields over the West. What monetary policy is to Wall Street, what agriculture policy is to the Chicago Board of Trade, land and water policy are to the West. The Interior Secretary administers about one-third of all the land in the United States. He runs all the National Parks, wildlife refuges, and wilderness areas; he runs the Bureau of Reclamation, which builds the dams and aqueducts that water the West. He enforces the strip-mining law, leases oil fields on the outer continental shelf and controls the mineral rights on hundreds of millions of acres of national forest.

And Watt has an influence on national environmental policy that far exceeds his nominal role. He is one of the most forceful Cabinet officers, is held in high regard by the White House and frequently boasts of how closely his views match President Reagan's. His role has become magnified because he is chairman of a Cabinet subcommittee, the Council on Natural Resources and Environment, which gives him some authority over Energy Secretary James Edwards and Environmental Protection Administrator Anne Gorsuch. As a result, Watt is playing a dominant role in writing the amendments to the Clean Air Act. A draft version leaked last week indicates that the Administration plans to weaken key enforcement provisions of the law and allow the states to control pollution at their own pace.

Watt's other strength is his ability to make his department carry out his views. A sign on his office wall serves as his motto: "Nothing in the world can take the place of persistence." Into the thicket of bureaucracy he charged, clear-cutting every appointed official except the National Park Service director, and replacing them with conservatives who share his pro-development values. Those he couldn't uproot he beat back: he described the process of taking charge of Interior as making the bureaucrats "yield to my blows." The conservationists who had romped happily for years fled like rabbits. "People in the department are scared to death," claims Dr. John Grandy IV, vice president of Defenders of Wildlife. "They don't even want to have a conservationist's phone number on their desk. I call people who've been friends for years and their voices get low and I have a different name."

PRINCIPLES

What environmentalists find so infuriating about Watt is not just that he disagrees with them, but that he challenges their most deeply held convictions. They are used to dealing with people who oppose them out of economic self-interest—miners, developers, oilmen—rather than as a matter of principle. But Watt has never had a financial stake in the exploitation of the outdoors; in fact, he is one of the least prosperous of Reagan's Cabinet members, with a declared net worth of only $65,000. He opposes them on their own terms, matching his idealism with theirs. He undercuts their basic claim to legitimacy, which is that they alone are disinterested champions of the commonwealth. It is self-evident to them that they have nothing to gain by championing the right of an obscure threatened fish over the need for a dam; it is not so clear to Watt. In his public statements and speeches, he refers to environmental "pursuits" as a "horror special-interest group that deserves no special consideration. "I listen to the miners and timber cutters and drillers as well as the preservationists," he boasts. "They realize they've lost the keys to the front door. I opened up the door to everyone."

Both Watt and his opponents talk frequently of the sacred responsibility of "stewardship" over the lands, but they mean two different things. To environmentalists, this means saving what shreds of wilderness they can from the encroaching bulldozers, to set aside as a perpetual reminder of the natural world in which man lived for all but the last few centuries of his existence on earth. Watt calls this "a greedy land-grab by the preservationists." He sees his responsibility as maintaining the land for people to use. One way to use it is recreation, of course; and it is simply false to suggest, as some of his critics have, that Watt would favor mining or timbering in the national parks. Parks are inviolate, by decree of Congress, and he has no quarrel with that.

FIXER

He does believe in making them more accessible. "My concept of stewardship is to invest in it," he says. "Build a road, build a latrine, pump in running water so you can wash dishes. Most people think that if you can drive in, walk 20 yards and pitch a tent by a stream you've had a wilderness experience. Do we have to buy enough land so that you can go backpacking and never see anyone else?" For that reason, and because the parks are deteriorating, he is trying to delay buying any more park land; he believes it's more important to maintain facilities in the existing parks. "I won't mind being remembered as the guy who fixed the plumbing," he says.

It is that side of Watt that his opponents find so provocative; he seems to regard the outdoors as a kind of wide-screen nature documentary with insects. A few hours of it is enough. Addressing a meeting of national park concessionnaires last spring, he described a recent raft trip down the Grand Canyon, which he found thrilling the first day, but increasingly tedious for the next three, until he was helicoptered out. Watt opposes environmentalists who would ban motorized rafts in the Grand Canyon on noise-pollution grounds. He wants people to be able to get down the river in four or five days, instead of ten, which he believes will make the Grand Canyon more accessible to middle-income people. Responding to a question about horseback riding in parks, he made what he now calls an ill-advised joke, assuring the audience that he favored it: "I don't like to paddle and I don't like to walk."

Statements like that convince environmentalists that Watt is hostile to ecological values—that he sees man's role as taming the natural world, rather than living in harmony with it. Watt's view is decidedly anthropomorphic, and he seems to suspect his critics of a skulking bias against humanity; informed of a thunderous denunciation of his policies by nature photographer Ansel Adams, Watt replied with a shrug: "Ansel Adams never took a picture with a human being in it in his life."

DISORDER?

Watt also takes seriously his role as the steward of that huge portion of the nation's resources he controls—half the coal, virtually all the oil shale—and he believes in managing them "so the public realizes the multiple benefits that can come from them." He is increasing offshore oil drilling, making more coal available for leasing, and offering the first onshore Alaskan oil and gas leases since the mid-1960s. Some of this development would have occurred anyway because environmental disputes that had delayed oil and coal leasing have been settled. But Watt is

moving so quickly on all these fronts that even some oilmen privately fear that development could become disorderly. Watt agrees that a careful plan is needed, but he insists that development start now. If not, he predicts "the Eastern industrial states will turn on the West and say 'We shouldn't have to pay these high OPEC prices, we shouldn't have to lose our jobs to the Sun Belt . . . when in fact this energy is available.' Then our way of life in the West will be destroyed by a crash program."

The most controversial action Watt has taken is to suggest adding four Pacific Ocean basins to a California offshore-lease sale—tracts that had been deleted by President Carter's Interior Secretary Cecil Andrus a week before the 1980 election. The basins lie in valuable fishing areas and not far from some of California's most treasured beaches—and they contain, according to U.S. Geological Survey estimates, less than twelve days' worth of oil. Although Watt often talks of the West's justifiable resentment of heavy-handed Washington bureaucrats, he failed to consult Gov. Edmund G. Brown Jr. before proposing the leases. Watt's move is so unpopular that the California State Republican chairman has warned it could hurt his party's chances of taking back the governorship next year. Even Alaska's development-minded Gov. Jay Hammond was upset. "It appears industry is playing a more influential role than it should when it is in conflict with a state's position," Hammond complained. He added that Watt was "a very straight arrow . . . with the mission of a zealot in the exploitation of resources." Watt says the final decision on the lease sale will be made in the White House "on political grounds" and he will support whatever Reagan decides: "I told them I can preach it round or I can preach it flat."

EARTHLY TIME

There is one other area in which Watt's concept of stewardship departs from that of most environmentalists: he believes it will end with the Second Coming. As he testified to the House Interior Committee shortly after taking office, he believes in setting aside some resources for future generations, but "I do not know how many future generations we can count on before the Lord returns." That quote has been unfairly interpreted as a justification for using up our resources willy-nilly; Watt says it means nothing of the sort. Says his former minister, the Rev. Howard Cummings: "As Christians we have a duty to see that the quality of life is better on earth for our having been here. We are not escapists."

But some environmentalists are uncomfortable with the idea that earthly time is limited; they are fighting to save the world for all time. Watt is deeply offended by suggestions that his religion could somehow interfere with his judgment on his job, and he refuses to discuss his beliefs in detail. He is, however, a fundamentalist Christian who attends an Assembly of God church; Rev. Cummings, who was his pastor in Denver, where Watt lived until January, calls him "a deeply Christian man" who has experienced the "gifts of the Holy Spirit," including talking in tongues. When Watt took office, he called Cummings, and the two men prayed together over the phone for guidance in Watt's new job.

Among environmentalists, stories circulate that Watt got into an argument with a geologist over the age of rocks in the Grand Canyon; Watt denies it. "If you believe as Watt does," one environmental activist said, "then there's never a resource problem because the Creator can replenish what he created." Asked how old he thinks the Grand Canyon is, Watt replies, "zillions of years." Asked if he believes in evolution, he refuses to give a direct answer: "You can speculate. I'm a fundamentalist."

CHUG

Watt has lived fifteen of the last eighteen years in Washington—always, he says, in the East but not of it. His heart is in the Great Plains—Lusk, Wyo., near the Nebraska border, where he was born in 1938; Wheatland, where his parents moved when he was in the eighth grade; Chugwater, near the farming town where his wife grew up, and which he likes to claim as a hometown because he can tell a colorful story about the name—supposedly, Indians would herd the buffalo over a bluff and the falling animals would make a "chug" sound when they hit the river bank below. His political values come with the wide-open spaces, Rev. Cummings believes: "It's a place where freedom is valued highly. It sort of goes with the land." Watt was not raised on a farm though, but in town, where his father practiced law and his mother ran Wheatland's 30-room Globe Hotel.

Watt went to the University of Wyoming and its law school; shortly after graduation he joined the Senate campaign of conservative Republican Milward Simpson. When Simpson won, he took Watt to Washington as his administrative assistant. Watt felt the difference in atmosphere right away, and he still recalls a slight from an aide to a Democratic senator who tried to win an argument by pointing out that he had gone to Harvard Law School. Watt's big break came in 1969, when he was chosen to brief Alaska Gov. Walter Hickel for his confirmation hearings as Secretary of Interior. The memory of Hickel's hearings stayed with him. "He was so abused, personally attacked—it was vicious," Watt recalls. He also recalled that Hickel had been maneuvered into making a number of promises to his environmentalist opponents and he resolved, when his own nomination came up twelve years later, not to make the same mistake.

Watt's reward was a series of high-level Interior Department jobs, including three years as head of the Bureau of Outdoor Recreation. In that post he was responsible for, among other things, the wild and scenic river program, and there were some environmentalists who took that as a sign of hope when Watt was tapped by Reagan. They were to be disappointed; one of Watt's first moves as Secretary was to merge the Heritage Conservation and Recreation Service, the successor to his former bureau, into the National Park Service.

Watt's Washington résumé also includes tours of duty as a lobbyist for the U.S. Chamber of Commerce and a member of the Federal Power Commission. But his most controversial job was in Denver where, from 1977 until his appointment last January, he was president and chief legal officer of the Mountain States Legal Foundation. This was, and is, a public-interest law firm that specializes in representing businessmen and taxpayers oppressed by "extreme environmentalists, no-growth advocates, and those who seek more government control." Joseph Coors, the wealthy brewer, was a founder of the organization, served as its first chairman, and brought Watt to Denver as its first president.

GRAZING RIGHTS

Among Watt's targets in Denver were laws giving elderly consumers reduced utility rates—an unfair burden on everyone else, he successfully argued—and an affirmative-action program at the University of Colorado. But most of his efforts were in natural-resource cases. The foundation went into court repeatedly to open public lands to resource exploration, to expand grazing rights on Federal land, and to open recreation areas to vehicles and powerboats.

One case that Watt recalls as especially significant involved 35 Mexican-American ranchers who grazed their small herds on a patchwork of Federal, state and private lands along the Rio Puerco in New Mexico. The Bureau of Land Management, concerned about erosion due to overgrazing, ordered substantial cuts in the size of the herds, and the foundation successfully challenged the cuts in court. Although foundation attorney Chip Mellor says the issue was fought primarily on the narrow question of how much notice the ranchers were entitled to receive, Watt prefers to invoke the grand issue of the BLM regulating the size of herds on private as well as Federal land. "To tell people how to manage their own land—that's *despicable* in America," Watt says heatedly. One of the last cases Watt took before leaving Denver was an appeal to the Supreme Court to overturn the 1977 stripmining act, which Watt now enforces. The appeal was rejected by the Court, unanimously, last week.

Watt's personal life is as conservative as his politics. He does not drink or smoke, and his taste in lunch places runs to McDonald's on the road and the Department cafeteria when he is eating alone at the office. He plays tennis and, when he lived in Denver, he liked to take his van into the mountains and camp with his family although he was never, in the words of one close friend, "someone who wants to get his boots muddy all the time." He has dated one woman in his life, the former Leilani Hombartner, whom he married when they were both sophomores at the University of Wyoming. She says her husband smarts a bit from all the criticism: "It would be macho to say he has a tough hide and it doesn't bother him, but it does." She too is a charismatic Christian and she conducts a weekly prayer group with other Cabinet wives. They have a 20-year-old daughter, Erin, and a 19-year-old son, Eric, both students at Oral Roberts University, which Watt calls "the finest Christian school there is." Eric is planning to enter the ministry, and Erin is married to a divinity student.

BUDGET EXCUSE

Watt often describes himself as in the "mainstream of the environmental movement," and he has said that he approves of the environmental laws passed during the 1970s. Except for the Clean Air Act, which expires this year and must be renewed, he has no legislative program. A draft of the clean-air proposals leaked last week indicates that the Reagan Administration intends to scale back many antipollution regulations, including safeguards against acid rain—setting the stage for a tough battle in Congress. Watt also intends to make changes in other regulations by administrative fiat. As he told the park concessionaires, in a speech not intended to be made public, "We will use the budget system to be the excuse to make major policy decisions."

A dramatic example of this tactic was the closing last week of the Denver branch of the Office of Surface Mining, which helps enforce the strip-mining reclamation law. The move is part of Watt's plan to reorganize the entire OSM, cutting the staff from 1,000 to 600. Watt ordered the office closed by Aug. 31 and told staff members to transfer to Casper, Wyo., or be fired. Many will not make the move. Said one top Denver staffer of Watt's order: "It was a vicious piece of paper." Many staffers believe they are being punished for their effectiveness in enforcing the strip-mining law; "There is a feeling," said OSM land specialist Sylvia Sullivan, "that they are trying to gut the law without any actual change in the legislation."

Watt has made it plain that he believes OSM has been overzealous. "Talk about abuse," he told the National Coal Association convention in St. Louis last week. "Embodied in this one office we find every abuse of government centered in one agency, directed at one industry. What a shame." Watt says his reorganization will give primary responsibility for enforcement of the law to the states, as Congress intended should happen eventually. But the states rely on the experts in Denver for technical help in this complex area. Closing the office "will cause us some real problems," grumbled Montana's reclamation director, Brace Hayden. Within days of Watt's abrupt order, Newsweek has learned, the reclamation directors of six Western mining states sent a sharply worded letter to Watt objecting that they were not consulted about the closing, and complaining that since Watt took office "communication between OSM and the Western states has been significantly reduced." Said Donald Crane, the head of the Denver office who is leaving in dismay: "It appears the surface-mining program is becoming repoliticized." Which is fine with some of Watt's Western supporters. "Let's abolish OSM and take them to Lower Slobbovia," said Wyoming Gov. Ed Herschler. "They're a pain in the backside."

"DYNAMITE"

Another of Watt's tactics, he says, is to "drive a wedge" into his opposition by courting hunters and fishermen at the expense of environmental purists. The "hook and bullet boys" share a love of the outdoors with the Sierra Club hikers, but they differ on issues such as game management and road access. Watt gave a well-received speech to a group of outdoors writers last week, describing how his love of nature had been nourished by a snowmobile trip in the Wind River mountains. This was—he admitted—a deliberate provocation to environmentalists, who regard snowmobiles as the bastard offspring of a bulldozer and a buzz saw. The National Wildlife Federation, the leading group that speaks for hunters and fishermen, has not yet taken a position on Watt. But its executive director, Jay D. Hair, called him "potentially political dynamite for Mr. Reagan."

Watt's appetite for confrontation has already caused him political problems. His energy-development plans recently suffered a setback when the House Interior Committee voted to prohibit exploration in the Bob Marshall Wilderness Area in Montana—a decision that does not have to be approved by the full House or Senate.

Chairman Morris Udall of Arizona said the confrontation could have been avoided if Watt "had come and talked to us. Cecil Andrus would call and ask what we thought. Not Watt. He would rather make loud protestations about how tough he is." Watt attributes many of his communication problems to the fact that he's a plain-spoken Westerner, who doesn't beat around the sagebrush. And some of his allies agree: "There's a gap between what Westerners think and how Easterners are inclined to think about public land and water questions," says Sen. James McClure of Idaho. "Words mean different things to different groups." McClure praises Watt's decisiveness: "He is getting things done."

LIABILITY?

That is a view also heard in the White House, where Watt is admired for his energy, knowledge and willingness, in the words of one aide, "to walk the plank for the President." If he remains as controversial as he has, Watt may eventually become a political liability—but advisers don't expect that to happen. "Remember his constituency," said one Reagan aide. "He plays to Westerners. East of the Potomac we forget that. Most of us probably wish he was a little softer at times. There's no question he has a firm agenda, but it happens to be shared by the President of the United States."

Watt prides himself on being a man of decisive action—of avoiding the bureaucratic trap of "paralysis by analysis." But analysis, say his critics, is just what many environmental questions call for Watt's impatience to exploit the West's vast reserves of energy and minerals is understandable. But while laws change, and Cabinet secretaries come and go, the land endures—bearing the marks forever of the decisions Watt is now making.

EVALUATION OF OFFICE OF TECHNOLOGY ASSESSMENT

Mr. STEVENS. Mr. President, the citizens council, which advises the Office of Technology Assessment, recently met. Charles Kimball, chairman of the Technical Assessment Advisory Council, has sent to Congressman MORRIS K. UDALL, vice chairman of the Technical Assessment Board, and to me, the chairman, a memo on the council's evaluation of the Office of Technology's recent performance.

I recommend the council's assessment of OTA to the Senate and ask unanimous consent that the text of the memorandum be printed in the RECORD.

There being no objection, the memoranda were ordered to be printed in the RECORD, as follows:

CONGRESS OF THE UNITED STATES,
OFFICE OF TECHNOLOGY ASSESSMENT,
Washington, D.C.

To: Chairman Ted Stevens, Technology Assessment Board, Vice Chairman Morris K. Udall, Technology Assessment Board.
From: Charles Kimball, Chairman, Technology Assessment Advisory Council.
Subject: TAAC Evaluation of OTA.

The legislation that established OTA charged the Technology Assessment Advisory Council with advising the Technology Assessment Board concerning the activities and performance of the Office. Pursuant to that responsibility, the Council, at its most recent meeting (April 30), asked me to communicate the following observations.

We are immensely pleased and impressed with the progress achieved at OTA over the last two years. OTA has matured into an internationally-respected analytical agency whose products and capabilities are held in high regard by the professional science and technology communities.

Studies released over the last few months, including Impacts of Applied Genetics, Technology for Local Development, and a Technical Memorandum on Coal Exports and Port Development, illustrate the range of issues examined by the Office. Recent OTA assessments such as Energy from Biological Processes and the Implications of Cost-Effectiveness Analysis of Medical Technologies are generally regarded as the most comprehensive and authoritative analyses available on those subjects. Forthcoming assessments like High-Level Radioactive Waste Management and Disposal and MX Missile Basing illustrates the extent to which OTA has undertaken issues of the most extreme difficulty, controversy, and importance.

It is well to remember that OTA was created to do something that had never been done before on a sustained basis—provide Congress with expert, in-depth, policy-related analysis of complex scientific and technical issues present and forthcoming on the Congressional agenda. We believe OTA is performing an extraordinarily difficult, valuable and unique service—one that is not available from the private sector or elsewhere in the Government. Our national future rests to a substantial degree on how effectively and wisely we harness the powerful tools of modern technology.

OTA has earned widespread respect among private sector and university professionals. We believe it now merits the full support of and utilization by the Congress, and we look forward to our continued service to TAB.

CHARLES KIMBALL.

SUPPORT FOR DIPLOMATIC EFFORTS TO RESOLVE CURRENT CRISIS IN LEBANON

Mr. STEVENS. Mr. President, I ask that the Chair lay before the Senate Calendar No. 174, Senate Resolution 144, a resolution regarding Lebanon.

The PRESIDENT pro tempore. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 144) to offer strong support for diplomatic efforts to resolve the current crisis in Lebanon, and to protect the right of Lebanese Christian and other communities to live in freedom and security.

The PRESIDENT pro tempore. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution, which had been reported from the Committee on Foreign Relations, with amendments, as follows:

On page 2, line 9, strike "Removal of all" and insert the following:

"Resolution of the issue if the";

On page 3, line 1, strike "Preservation of a free and secure", and insert the following: "Freedom, security, and opportunity for the";

On page 3, beginning on line 2, strike "community as well as", and insert the following: "and all other Lebanese communities, including";

On page 3, line 4, strike "Armenian,";

On page 3, line 9, after "Lebanon,", insert the following: "without partition";

On page 3, line 10, strike "from" through and including the period on line 12, and insert the following: "and violence, and free to determine its future without Soviet or other outside interference.";

and

On page 3, line 20, strike "Restoration:, through and including the period on line 22, and insert the following:

"Respect for and strengthening of the authority of a Lebanese Government, based on open national elections free from external interference which will be able to preserve security through its national army and its security forces without outside military presence.".

Mr. KENNEDY. Mr. President, I welcome the unanimous support by the Committee on Foreign Relations of Senate Resolution 144, which I introduced on May 21 to "offer strong support for diplomatic efforts to resolve the current crisis in Lebanon, and to protect the right of all Lebanese communities to live

in freedom and security." I hope that our colleagues will vote for support of our resolution by the Senate as a whole.

This is a resolution for the peace, freedom, and security of Lebanon. It offers the strong support of the U.S. Senate for diplomatic efforts now underway to resolve the crisis in Lebanon, including the issue of the Syrian missiles. It offers our strong support for the right of the Christian and all other communities of Lebanon to live in peace, freedom, and security.

Since introducing the resolution, with the cosponsorship of my good friends and colleagues Senators JACKSON, CRANSTON, BIDEN, and TSONGAS, we have engaged in discussions with the administration, with the committee and with concerned Lebanese-American leaders to consider any appropriate changes to obtain full bipartisan support for our initiative.

These discussions resulted in the final version of our resolution which the chairman (Mr. PERCY) reported with the unanimous support of the committee on June 17. I welcome as additional cosponsors my distinguished colleagues Senators BOSCHWITZ, PELL, MOYNIHAN, and MITCHELL.

I believe we should take great satisfaction that this resolution reflects such a strong sense of commitment to peace, freedom and security for all the Lebanese people—whether they are Christian, Muslem, Druze, or Jewish—who have suffered so much over the past decade. Because of this commitment, the final version of the resolution reflects our initiative in all its essential elements. Those relatively small changes that have been made either strengthen the resolution or are fully consistent with the original version.

This resolution is in strong support of the current mission of Ambassador Philip Habib in the Middle East, and we all hope for the success of that effort. A solution of the Syrian missile crisis cannot be the final goal of American mediation, but only the first step toward the reestablishment of full freedom for Lebanon. Therefore, our resolution provides that the United States should pursue a comprehensive and coordinated policy in Lebanon, guided by six essential principles.

The first principle remains unchanged in the final version of our resolution. It calls for "establishment of an immediate and effective ceasefire throughout Lebanon," which is the indispensable prerequisite for peace. No person can negotiate above the roar of artillery. No peoples can be reconciled if they cannot leave their homes without fear of being murdered. No order can be established if gunman and terrorists lurk behind every wall or in every bombed-out building.

The second principle, "resolution of the issue of the Syrian missiles in Lebanon," can only be successfully implemented if all Syrian missiles are removed from Lebanon. That represents not only the expressed intention of the cosponsors but should be clearly understood to the legislative history of this provision. This principle is directed against the most recent provocation in the conflict, which has endangered the stability of the entire region. The Syrian surface-to-air missiles cannot fairly be called defensive. They provide mobile cover for Syrian troops moving against Christian enclaves. They give protection to Palestinian terrorists threatening both Lebanese and Israeli civilians. They constitute an unacceptable threat to Israel, not just because they limit Israel's freedom of the skies, but because they can be used to facilitate a decision by the Syrian Government to attack Israel through the territory of Lebanon.

The third principle of our Senate resolution provides for "freedom, security, and opportunity for the Christian and all other Lebanese communities, including the Moslem, Druze, and Jewish communities in Lebanon." Again, the language in the revised version is virtually the same as in the original, with the addition of opportunity to the conditions of freedom and security for all the communities in Lebanon. This principle recognizes explicitly the need for Lebanon to remain a multiconfessional, multiethnic state in which all its communities live and work at peace with each other. It recognizes the need to protect a free and secure Christian community, as well as all the other communities in Lebanon—Moslems, Druze, and Jews. We must not tolerate the continued sacrifice of thousands of innocent Lebanese men, women, and children by events and forces beyond their control.

The fourth principle of our resolution provides for:

> Reaffirmation of the historic United States-Lebanon relationship and strengthening the longstanding commitment of the United States to the independence, sovereignty, and territorial integrity of Lebanon, without partition, free from terrorism and violence, and free to determine its future without Soviet or other outside interference.

As in its original version, this principle recognizes that the United States and Lebanon are linked by common ideals and common interests. Lebanon is an old and faithful friend. Together, we must keep the faith of that friendship, and strengthen the bonds between us. The United States can demonstrate its commitment to that friendship by helping Lebanon in its hour of need—by supporting the sovereignty, independence, and territorial integrity of Lebanon; by fighting terrorism; by rejecting military occupation; and by opposing the influence of the Soviet Union and the agents of Soviet policy in Lebanon.

Above all, this principle is inconsistent with the Syrian occupation of Lebanon. Syrian peacekeeping is a mockery of the name; it now constitutes the primary obstacle to peace and to the establishment of a strong central government. The present rule of Lebanon by Syrian fiat and firepower must end.

The fifth principle provides for "generous international support for relief, rehabilitation, and humanitarian assistance for Lebanon, particularly for those Lebanese citizens who have suffered from the terrorism and violence of recent events," in particular reference to the continued Syrian attacks on the residents of Zahle and East Beirut. This provision looks to the future, beyond the current crisis. It recognizes that the welfare of every Lebanese citizen is bound up in the reconstruction that will follow the hostilities. Lebanon cannot regain its position as a free, stable and pro-Western democracy, unless the United States and the world community work together to provide generous international assistance. Again and again, the Lebanese people have proved themselves to be resourceful and resilient. They will make the most of any help that is given; and when help is needed, America must not turn away.

The sixth principle includes and expands upon the language of its original version. It provides for "respect for and strengthening of the authority of a Lebanese Government, based on open national elections free from external interference which will be able to preserve security through its national army and its security forces without outside military presence."

This recognizes the necessity of a strong and respected government in Lebanon, able to command the support of the Lebanese people through open and honest elections. A national election is now scheduled for 1982. If the election is free and fair, it can be a shaping force in the future reconstruction of Lebanon. But if the election takes place under the domination of Syrian occupation, or if the PLO is permitted to intrude, then a splendid opportunity could be lost, and peace will be set back. The future of Lebanon is for all the Lebanese to decide, and not for Syria or the PLO or any other outside power.

In addition, two sections were added to the preamble, supporting both the survival of the ancient city of Tyre (at Senator PELL's suggestion) and the will of Lebanese people to live in freedom, security, and peace (at our suggestion). Some of the changes were made in the course of discussions with Ambassador Habib and other members of the administration.

For example, the text now calls for "resolution of the issue of the Syrian missiles deployed in Lebanon" and a Lebanon free from "outside military presence." As I have already noted, our view remains the same as expressed in the original version of the resolution, that the only satisfactory resolution is complete withdrawal of Syrian missiles and the complete withdrawal of Syrian forces from Lebanon. We interpret the final text of the resolution in this manner and we emphasize that this is the legislative history of the language on these two critical points.

Mr. President, I am deeply concerned by reports of the renewed attacks against the Christian quarters of Zahle and East Beirut, which extend to gunfire in the hospital wards themselves. Only recent-

ly, PLO forces attacked and killed Fijian soldiers serving with the United Nations forces in Lebanon. I have yet to hear any statement of concern by the Secretary General or our own administration about any of these recent actions. But the people of Lebanon should know to not ignore these events. They should know that these actions not only are noted but, in our view, reinforce the need to establish an "immediate and effective cease-fire throughout Lebanon," and to pursue the political and humanitarian provisions of our resolution.

In conclusion, this resolution constitutes an important expression of the Senate's strong sense that we must proceed without delay not just to solve the Syrian missile crisis, but to address the fundamental political, economic and social problems faced by the government and people of Lebanon.

This resolution provides a framework for U.S. policy toward Lebanon. It seeks to move our policy away from the past, piecemeal approaches—ebbing and flowing in relation to crises elsewhere in the Middle East or the world—to a "comprehensive and coordinated" approach which recognizes and deals with the critical issues facing the people of Lebanon themselves.

We have strategic, political, cultural, and moral interests in Lebanon, which has been a longtime friend and ally of the American people. We have an opportunity to express these interests through the framework and provisions of this resolution. Let us now pursue this opportunity in the Congress, with the administration, and throughout the international community, and let us move decisively toward peace, freedom, and security for Lebanon.

Mr. President, I ask unanimous consent that the original and final versions of Senate Resolution 144 be printed in the RECORD, together with a speech I delivered on June 19 to the annual conference of the American Lebanese League, setting out my views and interpretations of our resolution in further detail.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Original Version]

S. RES. 144

Resolution to offer strong support for diplomatic efforts to resolve the current crisis in Lebanon, and to protect the right of Lebanese Christian and other communities to live in freedom and security

Whereas the current situation in Lebanon has caused great human suffering and disruption of the economy of that country;

Whereas the presence of Syrian missiles threatens to further undermine the sovereignty of Lebanon and stability in the Middle East;

Whereas the removal of Syrian forces in Lebanon would significantly enhance the prospects of Lebanon once again becoming a peaceful, viable democracy;

Whereas a strong, pro-Western, democratic Lebanon would help promote stability in the region and serve the national interest of the United States; and

Whereas the Senate hopes for the success of diplomatic efforts currently being carried out by special envoy Philip C. Habib.

Resolved, That the Senate of the United States of America strongly supports diplomatc efforts to resolve the current crisis in Lebanon, and that the Government of the United States should continue to pursue a comprehensive and coordinated policy in Lebanon guided by the following principles:

1. Establishment of an immediate and effective cease-fire throughout Lebanon.

2. Removal of all Syrian missiles deployed in Lebanon.

3. Preservation of a free and secure Christian community as well as the Moslem, Druze, Armenian, and Jewish communities in Lebanon.

4. Deaffirmation of the historic United States-Lebanon relationship and strengthening the longstanding commitment of the United States to the independence, sovereignty, and territorial integrity of Lebanon, free from terrorism, from outside military occupation, and from the influence of the Soviet Union or its surrogates.

5. Generous international support for relief, rehabilitation, and humanitarian assistance for Lebanon, particularly for the residents of Zahle and East Beirut.

6. Restoration and respect for the authority of a Lebanese Government based on free and open national elections, now scheduled for mid-1982.

[Final Version]

S. RES. 144

Resolution to offer strong support for diplomatic efforts to resolve the current crisis in Lebanon, including the issue of the Syrian missiles, and to protect the right of all Lebanese communities to live in freedom and security

Whereas the current situation in Lebanon has caused great human suffering and disruption of the economy of that country;

Whereas the present crisis including violence and PLO terrorism threatens to further undermine the sovereignty of Lebanon and stability in the Middle East;

Whereas the strengthening of the Lebanese Government authority throughout the country would significantly enhance the prospects of Lebanon once again becoming a peaceful, viable democracy;

Whereas the continuing conflict in Lebanon threatens the survival of the ancient city of Tyre, one of the historical treasures of our world;

Whereas a strong, independent, democratic Lebanon—with its traditional ties to the West—would help promote stability in the region and serve the national interest of the United States;

Whereas the Senate commends and supports the will of the Lebanese people to live in freedom, security and peace; and

Whereas the Senate hopes for the success of diplomatic efforts currently being carried out by special envoy Philip C. Habib.

Resolved, That the Senate of the United States of America strongly supports diplomatic efforts to resolve the current crisis in Lebanon, and that the Government of the United States should continue to pursue a comprehensive and coordinated policy in Lebanon guided by the following principles:

1. Establishment of an immediate and effective cease-fire throughout Lebanon.

2. Resolution of the issue of the Syrian missiles deployed in Lebanon.

3. Freedom, security and opportunity for Christian and all other Lebanese communities, including the Moslem, Druze, and Jewish communities in Lebanon.

4. Reaffirmation of the historic United States-Lebanon relationship and strengthening the longstanding commitment of the United States to the independence, sovereignty, and territorial integrity of Lebanon, without partition, free from terrorism and violence, and free to determine its future without Soviet or other outside interference.

5. Generous international support for relief, rehabilitation, and humanitarian assistance for Lebanon, particularly for those Lebanese citizens who have suffered from the terrorism and violence of recent events.

6. Respect for and strengthening of the authority of a Lebanese Government, based on open national elections free from external interference which will be able to preserve security through its national army and its security forces without outside military presence.

ADDRESS BY SENATOR EDWARD M. KENNEDY

I want to thank Bob Basil for his warm introduction. Bob has done so much to bring the American Lebanese League to the position of influence and respect it has achieved today in our nation.

And I am honored to be here with the outstanding Lebanese leader and statesman, Dr. Charles Malik; with Dory Chamoun, whose family has always stood for peace and justice in Lebanon; with Elias Saadi, with Baron Nahas and with Amine Awad, who have contributed so much to the American and World Lebanese and Maronite communities.

I am particularly grateful to the American Lebanese League for inviting me to join you today. We share a common concern for the future of Lebanon that transcends all distinctions of party or philosophy. As Americans, we have a moral commitment to the freedom of Lebanon, to the sovereignty of Lebanon, and to democracy in Lebanon. And as Americans, we also have a strategic interest in an independent Lebanon, secure from foreign domination.

I salute this enterprise of decency—the American Lebanese League—which you have created. At a time when too much of the world has turned its back on Lebanon, you have chosen to care. At a time when too much of the world has been intimidated by the politics of oil, you have persevered in your noble cause. You have been true to the defining character of the American experience: you have been a beacon of principle in a darkened world.

In other days, Lebanon was the safety valve of Arab politics. Its free press offered an arena for the peaceful contention of diverse philosophies. Lebanon was a place of new ideas, a center of intellectual honesty. For a hundred centuries, it has been a land of beauty and achievement. Once, Lebanon was all these things—and a day will come when it will truly be these things again.

But recent years have brought only more horror and more chaos. Since 1975, Lebanon has lost one of every five of its people. 65,000 have died. Over 430,000 men, women, and children have been wounded, driven destitute from their homes, or orphaned by the violence and destruction.

Let us resolve that more death and more devastation shall not be the future of Lebanon.

With vision, courage and resourcefulness, America can light the path towards peace in Lebanon. After these desperate years of bloodshed, anarchy and attrition, the time has come for the United States to direct its energies to secure a settlement. It is an endeavor both sensible and humane. To succeed, it must become a comprehensive and coordinated effort. Already, that effort is underway.

A month ago, in the Senate, I introduced a resolution for "peace, freedom and security in Lebanon." I was joined by my colleagues Scoop Jackson, Alan Cranston, Joe Biden, and Paul Tsongas. We asked the Senate to declare that American policy toward Leba-

non should be guided by six fundamental principles:

First, establishment of an immediate and effective ceasefire throughout Lebanon;

Second, removal of all Syrian missiles from Lebanon;

Third, preservation of a free and secure Christian community in Lebanon, as well as the Moslem, Druze, Armenian, and Jewish communities;

Fourth, a reaffirmation of the historic U.S.-Lebanon relationship and a strengthening of the long-standing commitment of the United States to the independence, sovereignty and territorial integrity of a Lebanon free from terrorism, from outside military occupation, and from the influence of the Soviet Union or its surrogates;

Fifth, generous international support for relief, rehabilitation and humanitarian assistance for Lebanon, particularly for the residents of Zahle and East Beirut; and

Sixth, restoration and respect for the authority of a Lebanese government based on free and open national elections, now scheduled for mid-1982.

This resolution was offered in strong support of the current mission of Ambassador Philip Habib in the Middle East, and we all hope for the success of that effort. A solution of the Syrian missile crisis cannot be the final goal of American mediation, but only the first step toward the reestablishment of full freedom for Lebanon.

The first principle—an effective ceasefire—is the indispensable prerequisite for peace. No person can negotiate above the roar of artillery. No peoples can be reconciled if they cannot leave their homes without fear of being murdered. No order can be established if gunmen and terrorists lurk behind every wall or in every bombed-out building.

A ceasefire is also essential to protect the Christian communities against the ruthless bombardment of the Syrian army and the PLO. The so-called "peacemakers" have become attackers who terrorize the Christian villages and towns.

The second principle—removal of all Syrian missiles from Lebanon—is directed against the most recent provocation in the conflict, which has endangered the stability of the entire region. The Syrian surface-to-air missiles cannot fairly be called defensive. They provide mobile cover for Syrian troops moving against Christian enclaves. They give protection to Palestinian terrorists threatening both Lebanese and Israeli civilians. They constitute an unacceptable threat to Israel, not just because they limit Israel's freedom of the skies, but because they can be used to facilitate a decision by the Syrian government to attack Israel through the territory of Lebanon.

The presence of the Syrian missiles is a clear violation of the solemn understandings of the past. These missiles were put in place—not because Israel shot down Syrian helicopters, but because President Assad of Syria sought to enhance the domestic standing of his regime. Preparations for the missile batteries were already underway two weeks before Israel acted to halt the deadly Syrian air attacks against the Christians of Zahle.

Lebanon must not be a pawn in the machinations of the Syrian government. It is time for the United States to say to the Syrian government: your missiles in Lebanon must go.

The third principle of our Senate Resolution recognizes a fact which the world has sadly ignored—the Christian community in Lebanon is fighting for its life. We hear much of "Christian rightists" in the news. But what is rightist about wanting to survive? What is reactionary about wanting to live in one's ancient homeland? Christian civilization in Lebanon is almost as old as Christianity itself. The Jewish, Druze and Armenian communities are also an ancient presence in Lebanon. They too have a right to survive and a right to live in the land of their forebears. Few, if any, rights are more important than these basic human rights that are the birthrights of these communities.

This is another reason why Lebanon must remain a multiethnic state. To permit the suppression of the rights of these communities in Lebanon would be to embolden those who seek the destruction of the state of Israel. It would encourage the intolerant enemies of the Kurds, the Copts, the Berbers and other minorities seeking rights and respect in the Arab world. For all these reasons, the United States must stand for a secure Lebanon.

The fourth principle of our resolution recognizes that the United States and Lebanon are linked by common ideals and common interests. Lebanese Americans have made a lasting contribution to American society. Across the generations, the culture and the heritage of Lebanon has enriched the United States. Lebanon is an old and faithful friend. Together, we must keep the faith of that friendship, and strengthen the bonds between us.

The United States can demonstrate its commitment to that friendship by helping Lebanon in its hour of need—by supporting the sovereignty, independence and territorial integrity of Lebanon; by fighting terrorism; by rejecting military occupation; and by opposing the influence of the Soviet Union and the agents of Soviet policy in Lebanon.

Lebanon must not become any nation's colony or satellite. This principle means many things.

Neither President Assad nor any future leader of Syria must be permitted to incorporate Lebanon or any part of it. Acts of terrorism and coercion by the PLO must end. The Palestinian state within the state of Lebanon must be brought under the control of Lebanese sovereignty and law, and the larger problem of Palestinian refugees must not be solved at Lebanon's expense. Agents of Soviet policy in the Middle East must not be permitted to use Lebanon any longer as a springboard for their adventurism.

Above all, this principle is inconsistent with the Syrian occupation of Lebanon. Syrian "peacekeeping" is a mockery of the name; it now constitutes the primary obstacle to peace and to the establishment of a strong central government. The present rule of Lebanon by Syrian fiat and firepower must end.

The fifth principle looks to the future, beyond the current crisis. It recognizes that the welfare of every Lebanese citizen is bound up in the reconstruction that will follow the hostilities. Lebanon cannot regain its position as a free, stable and pro-Western democracy, unless the United States and the world community work together to provide generous international assistance. Again and again, the Lebanese people have proved themselves to be resourceful and resilient. They will make the most of any help that is given, and when help is needed, America must not turn away.

The sixth principle recognizes the necessity of a strong and respected government in Lebanon, able to command the support of the Lebanese people through open and honest elections. A national election is now scheduled for 1982. If the election is free and fair, it can be a shaping force in the future reconstruction of Lebanon. But if the election takes place under the domination of Syrian occupation, or if the PLO is permitted to intrude, then a splendid opportunity could be lost, and peace will be set back. The future of Lebanon is for the Lebanese to decide, and not for Syria or the PLO or any other power.

I am pleased to report that just this week the Senate Foreign Relations Committee has unanimously approved our resolution, after a process of discussion and revision with the Administration. I am grateful to Bob Basil, Baron Nahas, Leo Issa and many other good friends for their assistance and advice during that process. We have preserved the essential elements needed to bring the resolution to final approval by the full Congress.

It is time for the American people to recognize the real interest of our nation in the future of Lebanon, and to act upon that interest.

We have a strategic interest in Lebanon for it can become again a strong ally for stability and against aggression by the Soviet Union or its surrogates in the Middle East. We must restore Lebanon not only because it is right, but because it is in America's long run strategic interest to do so.

We have a political interest in Lebanon, for it can become again a stable democracy and a model for human rights in the region and the world. Few in the long history of human endeavor have given greater service to their country, to the United Nations, and to the cause of justice than Dr. Charles Malik. The Universal Declaration of Human Rights is a remarkable monument to the excellence of his work, and a beacon to all people struggling to live and work and worship in freedom.

We have a cultural interest in Lebanon, for it can again become a center for learning, literature, and art. And we have a moral interest in Lebanon, for it can become again a society of peace and cooperation, where diverse communities and religions live in true respect and harmony. We do not seek only the survival of Lebanon or the bare restoration of that land. We also seek the revitalization of its economic life and its political life, and of its society as a whole. We aspire not just to a remembrance of the past, but to the realization of the future that is possible. Let us work together for that day when peace shall come, and when Lebanon shall reclaim its rightful place among nations. That is our purpose here today—and our prayer for the people and the future of Lebanon.

● Mr. JACKSON. Mr. President, as one of the initial cosponsors, I welcome Senate Resolution 144 as an expression of profound congressional interest in a sovereign Lebanon that could safeguard the freedom, security, and opportunity for Christian and all other Lebanese communities, including the Moslem, Druze, and Jewish communities in Lebanon.

A strong, democratic, independent Lebanon—with its historic ties to Western nations—would be a pillar of stability in the region and advance the U.S. national interest. I join with my colleagues in urging our Government to pursue a comprehensive policy with respect to Lebanon rooted in the basic principles spelled out in our resolution.●

● Mr. MITCHELL. Mr. President, I rise in support of this important resolution on Lebanon of which I am a cosponsor.

This resolution clearly expresses what must be our foreign policy objectives with respect to the tragic situation in Lebanon; namely, we seek:

That an immediate cease-fire occur;

That the problems resulting from the presence of Syrian SAM missiles in the Bakaa Valley be resolved;

That the Christian, Moslem, Druze, and Jewish communities of Lebanon be allowed to enjoy freedom and security; and

That the Government of Lebanon be strengthened so that the Lebanese may

address their own difficulties without foreign intimidation.

Mr. President, despite the recent efforts of the President's Special Emissary Philip Habib, Lebanon continues to be the site of intense conflict between the Lebanese resistance, and Syrian troops.

The crisis in Lebanon has been building since last December when Syrian occupation forces once again began shelling heavily the city of Zahle which sits in the Bakaa Valley of central Lebanon.

The largest Christian city in the Middle East, Zahle is the home of many Lebanese who have relatives here in this country. Until Syrian occupation forces entered Lebanon as the chief component of the Arab deterrent force (ADF), Zahle was a thriving urban center, and important part of a pro-Western democratic Lebanon.

Syrian forces now labor to achieve what Syria has desired for many years: To absorb the Lebanese State into a larger unit dominated by Damascus.

The Syrians have become the benefactors of the Palestine Liberation Organization and those pro-Soviet Lebanese who are seeking to undermine the ties of friendship and cooperation which have existed over the years between Lebanon and the United States.

When the Syrian Army entered Lebanon in 1976, it came ostensibly to prevent domestic strife. Now, in 1981, Syrian troops are a primary source of violence in Lebanon. Their continued presence within the country's borders constitutes a major obstacle to Lebanon's realizing a peaceful and pro-Western future.

Two months, ago, Syria sought to solidify its control over central Lebanon by deploying Soviet-constructed surface-to-air (SAM) missiles in the region. To this, Israel has strenuously objected, citing its national security need to launch retaliatory and preemptive strikes against the guerrillas of the Palestine Liberation Organization (PLO) who take full advantage of the sanctuary which the Syrian troop presence in Lebanon affords. Israel has demanded that the missiles be withdrawn.

Perhaps more than any other area in the Middle East, Lebanon has become a game board at which competing states and factions plot strategies; on which non-Lebanese seek to resolve complex problems which have their origin elsewhere.

Lebanon has become the dumping ground for troubles in the Middle East. Certainly, the residents of Zahle—many of whom are refugees from other regions and are without shelter, adequate food, or decent health facilities—do not want it this way. Neither do the citizens of Ashrafiyeh—East Beirut—who like their Zahle counterparts, are witnessing the steady destruction of their community.

As an American of Lebanese descent, I have followed for many years events in the Middle East and especially in my mother's native Lebanon. In so doing, I am frequently reminded of how difficult it is to determine why—for what reasons—the lives and homes of innocent Lebanese must be sacrificed every 2 or 3 months.

While I certainly agree that a multilateral Middle East accord is desirable and should be a long-range objective of U.S. policy, I am also of the belief that with the support of other nations, the killing and destruction currently occurring in Lebanon can be stopped.

What can Senators do to further restraint, and thereby promote an environment in which a lasting Middle East peace plan can be developed?

First, we can insist that our Government do everything in its power to bring about an immediate cease-fire in Lebanon. Clearly, the United States should use every persuasive weapon in its diplomatic arsenal to encourage all non-Lebanese to quiet their forces before, once again, the entire Middle East is embroiled in war. The resolution before the Senate calls for such a cease-fire.

Second, we can seek ways in which Lebanon's Central Government may be strengthened. Surely, if in 1976 the Lebanese Government had possessed a capacity to resolve Lebanon's internal differences using nonviolent political means, and had possessed the power necessary to enforce the Government's will, the Arab League might have avoided sending in Syrian troops to quell the mounting Lebanese war for which Syria, in large part, was responsible.

Lastly, the United States should press for an expeditious withdrawal of the Syrian military force, the presence of which undermines Lebanese sovereignty. As long as the Syrians remain, true freedom does not exist for the Lebanese people and true independence of action cannot be enjoyed by the Lebanese leadership.

The experience of the last 5 years underscores Lebanon's need to plan its own future without outside interference of intimidation. Any attempt by outside forces to impose a solution on Lebanon will fail. Lebanon must be permitted—as are all sovereign nations—to chart its own course, freely elect its own leaders and do so without foreign forces present.

Over the past few weeks, there have been indications in the international press that neither Syria nor Israel perceive much to be gained from a new war over Lebanon. But the costs of waging such a conflict would be very great in terms of both lives and money.

Would not these precious resources be better spent building stable states with respected and secure borders? Would not a stable Lebanon, governed and controlled by the Lebanese, serve as an effective buffer between Israel and her Arab enemies?

A strong Lebanon would make the task of securing a lasting peace in the Middle East much easier to realize. And it would certainly be in the best interests of the Lebanese people. Moreover, efforts to promote restraint in the current crisis and a strengthening of Lebanon would promote global stability as well.

Naval vessels of both the United States and Soviet Union have moored in the Mediterranean off Beirut in recent weeks. The presence of these vessels testifies to the significance of the Lebanese difficulties and serves to remind us that a full-fledged Middle East conflict emanating from the current Lebanese turmoil has the potential to involve the superpowers and their allies.

Mr. President, for many years Lebanon has been one of the Nation's closest friends and most supportive allies in the eastern Mediterranean area. We have cooperated closely with Lebanon on many regional and global issues. The people of Lebanon traditionally have considered the United States to be a nation to which they could turn in times of need. Indeed, many Lebanese, in search of greater opportunity over the years have left their homes and families and have come here to live.

This mutually beneficial relationship has been severely weakened since Syrian troops have been present in Lebanon. We should not permit it to be eroded further. For strategic, humanitarian, and historical reasons, the United States must act firmly to insure that a strong United States-Lebanese relationship is restored and that Lebanon is reinstated as a vital and functioning friend of the West.

Mr. President, I urge every Member of this body to focus their attention on the situation in Lebanon, and to support this important resolution and other efforts to promote restraint and a strengthening of a Lebanese State which represents its people. Until this dangerous situation is defused, until Lebanon's rightful autonomy is realized, other initiatives designed to build a lasting Middle East peace will have to deferred.●

● Mr. METZENBAUM. Mr. President, I express in the strongest terms my support for this resolution on the crisis in Lebanon.

There can be no argument about the need to use the diplomatic means at our disposal to find a peaceful resolution to the present confrontation between Israel and Syria.

But I focus my remarks today on the second part of this resolution, which deals with the fundamental right of the Lebanese people to live in peace, freedom, and security.

In the past 6 years, the conflict in Lebanon has taken a devastating toll in human life and suffering: 75,000 Lebanese have died; 350,000 have been wounded; and 300,000 more have been made homeless.

Mr. President, these are staggering, appalling figures. Taken together, they total one-fourth of Lebanon's population.

For reasons I have never understood, press reports on Lebanon routinely describe the conflict there as one between "rightwing Christians" and "leftwing Moslems."

But, those Western-style political terms do not tell us much at all about the true situation. Rather, Mr. President, the question is survival—the survival of Lebanon as an independent nation and the survival of within that nation of a proud and ancient community.

The issue of Lebanon's survival is one that unites the vast majority of its people. A majority of the so-called Christian Militia that is fighting against the PLO in the southern part of the country,

for example, is composed of Lebanese Moslems.

And before PLO ruthlessness and Syrian territorial conflicts tore the country apart, Lebanon was and long had been a prosperous nation where Christians, Moslems, Druze, and Jews lived and worked harmoniously together.

Mr. President, I believe there is one thing that all Lebanese want—without regard to "left" and "right" Christian and Moslem. And that one thing is to take their country back from those who have usurped it.

Heavily armed PLO forces control large parts of Lebanon.

The Lebanese do not want them. But Lebanon, which is itself occupied by the PLO's Syrian sponsors, does not have the military wherewithal to disarm or expel the PLO. And because of this weak position, Lebanon has become a dumping ground for the PLO military formations whose presence no other country in the region will tolerate.

The most serious problem, however, is the presence of the Syrian Army in Lebanon.

Syria came to Lebanon 5 years ago in the guise of a peacekeeper. But today, Syrian forces constitute an army of occupation.

That should come as no surprise.

Syria has never accepted the idea of an independent Lebanon and it is no secret that Lebanon and its people have long been considered in Damascus as prime candidates for incorporation into a "Greater Syria."

One group has stood in Syria's way—the Christian community of Lebanon.

Just who are these Lebanese Christians?

They are an ancient people, the descendants of the Phoenicians.

Their Christian origins go back to the early days of their faith.

They are one of the very few groups in the Middle East that stubbornly refused conversion to Islam at the time of the Moslem conquests.

And even after all these centuries, their existence is by no means secure.

Consider, for example, what Quaddafi of Libya told an interviewer on August 15, 1980:

Question: What is to be the fate of the Christians in Arab homeland, whose numbers exceed ten million?

QUADDAFI. The Christians have followed a mistaken path and they must change their ways, to the extent they really and truly are Arabs.

Question: But there is no doubt about their Arab identity.

QADDAFI. If so, they must convert to Islam.

I would never contend that a man like Qaddafi represents the views of the Moslem world. That would be an insult.

But it is also true that Qaddafi exists—and so does the Khomeini regime in Iran. And it is true that Qaddafi has troops in Lebanon and that he is a major financial backer of the PLO and the Syrian regime.

Like the Israelis, the Lebanese Christians know from bitter experience that rationality and tolerance do not always triumph in this world of ours.

Mr. President, the Christians of Lebanon have had a long and very close relationship with France. But France has done little or nothing to help them.

Our own country has done far less than it could have to insure Lebanon's survival.

The Arab nations have turned their back on Lebanon and left "peace keeping" to Syria.

Only one country—Israel—has stepped forward to help the Christians in Lebanon.

I am proud of Israel for having done so.

But I must also ask where we have been—and where the Reagan administration proposes to take us—with regard to the future of a small, pro-Western country.

Mr. President, I know that Lebanon has no oil.

I know that it is not big enough to carry much weight in the calculations of the great powers.

But Lebanon is a country that deserves its freedom.

Lebanon is a country that has sent to America hundreds of thousands of its sons and daughters. Their contributions to this Nation's well-being have been far disproportionate to their numbers.

And I believe that our country could do nothing more decent and more honorable than to put its full influence behind the cause of peace and independence for Lebanon.

I would not presume to try to spell out everything that would entail.

But it would clearly have to mean creation of a real national army.

It would have to mean disarming the PLO.

It would have to mean replacing the Syrian Army with some other force.

And it would also mean international guarantees of a neutral Lebanon that can once again take its destiny into its own hands.

The late Robert Kennedy often quoted George Bernard Shaw's dictum—

Some men see things as they are and ask why. I dream things that never were, and ask, why not?

I submit, Mr. President, that the time has come to look at the suffering in Lebanon and say those two words—"why not?" Why not end the agony, end it with justice, and above all, why not make a strong vigorous effort to end it now? ●

The PRESIDENT pro tempore. The question is on agreeing to the committee amendments.

The amendments were agreed to.

The resolution, as amended, was agreed to.

The preamble was amended and agreed to.

The resolution, as amended, with its preamble, as amended, is as follows:

Whereas the current situation in Lebanon has caused great human suffering and disruption of the economy of that country;

Whereas the present crisis including violence and PLO terrorism, threatens to further undermine the sovereignty of Lebanon and stability in the Middle East;

Whereas the strengthening of the Lebanese Government authority throughout the country would significantly enhance the prospects of Lebanon once again become a peaceful, viable democracy;

Whereas the continuing conflict in Lebanon threatens the survival of the ancient city of Tyre, one of the historical treasures of our world;

Whereas a strong, independent, democratic Lebanon—with its traditional ties to the West—would help promote stability in the region and serve the national interest of the United States;

Whereas the Senate commends and supports the will of the Lebanese people to live in freedom, security and peace; and

Whereas the Senate hopes for the success of diplomatic efforts currently being carried out by special envoy Philip C. Habib.

Resolved, That the Senate of the United States of America strongly supports diplomatic efforts to resolve the current crisis in Lebanon, and that the Government of the United States should continue to pursue a comprehensive and coordinated policy in Lebanon guided by the following principles:

1. Establishment of an immediate and effective cease-fire throughout Lebanon.

2. Resolution of the issue of the Syrian missiles deployed in Lebanon.

3. Freedom, security and opportunity for the Christian and all other Lebanese communities, including the Moslem, Druze, and Jewish communities in Lebanon.

4. Reaffirmation of the historic United States-Lebanon relationship and strengthening the longstanding commitment of the United States to the independence, sovereignty, and territorial integrity of Lebanon, without partition, free from terrorism and violence, and free to determine its future without Soviet or other outside interference.

5. Generous international support for relief, rehabilitation, and humanitarian assistance for Lebanon, particularly for those Lebanese citizens who have suffered from the terrorism and violence of recent events.

6. Respect for and strengthening of the authority of a Lebanese Government, based on open national elections free from external interference which will be able to preserve security through its national army and its security forces without outside military presence.

Amend the title so as to read: "Resolution to offer strong support for diplomatic efforts to resolve the current crisis in Lebanon, including the issue of the Syrian missiles, and to protect the right of all Lebanese communities to live in freedom and security.".

The title was amended so as to read: "Resolution to offer strong support for diplomatic efforts to resolve the current crisis in Lebanon, including the issue of the Syrian missiles, and to protect the right of all Lebanese communities to live in freedom and security.".

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. LEVIN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL MARKETING QUOTA FOR WHEAT

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Agriculture be immediately discharged from further consideration of S. 1395, a bill to extend the time for conducting a referendum with respect to the nation-

al marketing quota for wheat, and I ask for its immediate consideration.

The PRESIDENT pro tempore. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1395) to extend the time for conducting a referendum with respect to the national marketing quota for wheat, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

● Mr. HUDDLESTON. Mr. President, I support S. 1395. The legislation before us would, first, defer a scheduled wheat referendum and, second, repeal the requirement that the Secretary of Agriculture waive interest on loans made on 1980 and 1981 crops of wheat and feed grains placed in the farmer-held grain reserve program.

On April 15, 1981, Secretary of Agriculture John Block announced a 1982 national wheat marketing quota of 2.459 million bushels. In order for the marketing quota to be effective, it must be approved by two-thirds of the producers voting by secret ballot in a referendum. The referendum must be held not later than August 1, 1981. If approved, quotas would limit the wheat acreage that a producer could plant for market without penalty.

Congress is presently considering new legislation for the 1982 and subsequent crops of wheat. Should the legislation be enacted, a wheat referendum would not be required. One purpose of S. 1395 is to permit deferral of the wheat referendum and the expenses for preparing for it until Congress has had an opportunity to develop new legislation.

The Committee on Agriculture, Nutrition, and Forestry has already considered legislation similar to section 2 of this bill. The committee agreed that grain in the farmer-owned reserve could be released when prices reach a level specified by the Secretary. However, to minimize use of the farmer-owned reserve for speculative purposes, the Secretary should be permitted to establish the rate of interest so as to encourage the orderly marketing of grains. For the 1981 crop grain going into the reserve, the Secretary could charge interest the first year and waive interest in subsequent years. This practice was established beginning in 1977, but was suspended in 1980.

I urge by colleagues to join me in supporting this legislation.●

The PRESIDENT pro tempore. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1395

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 336 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1336) is amended by striking out the last sentence and inserting in lieu thereof a new sentence as follows: "Notwithstanding any other provision hereof, the referendum with respect to the national marketing quota for wheat for the marketing year beginning June 1, 1982, may be conducted not later than the earlier of the following: (1) thirty days after adjournment sine die of the first session of the Ninety-seventh Congress, or (2) October 15, 1981.".

SEC. 2. Section 110(b) of the Agricultural Act of 1949 (7 U.S.C. 1445e(b)) is amended by deleting in clause (3) of the second sentence the phrase ", and the Secretary shall waive such interest on loans made on the 1980 and 1981 crops of wheat and feed grains".

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. LEVIN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TECHNICAL CORRECTIONS IN THE DEFENSE OFFICER PERSONNEL MANAGEMENT ACT

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Armed Services be immediately discharged from further consideration of H.R. 3807, technical corrections in the Defense Officer Personnel Management Act.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Alaska?

Mr. LEVIN. No objection.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask for the immediate consideration of the bill.

The PRESIDENT pro tempore. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 3807) to make technical corrections in the Defense Officer Personnel Management Act.

Mr. LEVIN. Mr. President, this bill has been cleared on this side of the aisle.

The PRESIDENT pro tempore. Without objection, the Senate will proceed to its consideration.

The bill (H.R. 3807) was considered, ordered to a third reading, read the third time, and passed.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RECOGNITION OF SENATOR LEVIN

The PRESIDENT pro tempore. The Senator from Michigan is recognized for 15 minutes.

Mr. LEVIN. I thank the Chair.

RELIGIOUS PERSECUTION IN THE SOVIET UNION

THE VASHCHENKO AND CHMYKHALOV FAMILIES

Mr. LEVIN. Mr. President, today we would like to call attention to an approaching anniversary. This is not a golden or silver wedding anniversary. This is not the anniversary of a historic battle or victory. This is not an anniversary of a scientific discovery or breakthrough. It is the anniversary of the patient and hopeful struggle of seven individuals whose quest for freedom has driven them to great extremes.

On June 27, 1978, seven Russian Pentecostalist Christians arrived at the entrance to the American Embassy in Moscow. They had traveled 2,500 miles from their home in the town of Chernogosk in Siberia. They were in search of American support for their efforts to escape religious persecution. Soviet guards discouraged their entrance, but they broke past them and ran into the Embassy.

Saturday, June 27, 1981, marks the 3-year anniversary of their entering the American Embassy. There they remain today confined to a single room in the basement.

The Peter Vashchenko family and Maria Chmykhalov and her son Timofei are no strangers to difficult times. The families' struggle for emigration began in 1962, a time of extremely violent anti-religious campaigns in the U.S.S.R. Peter and Augustina Vashchenko's determination to raise their children according to their religious beliefs resulted in 16 years of separation, persecution, and repression. Finally, in June 1978, the Vashchenko family received the necessary invitation to immigrate to the United States. However, they were refused the necessary papers at three separate visa offices. The families' sixth and final venture to the Embassy in Moscow was prompted by this newest injustice. Accompanied by Maria Chmykhalov, and her son, Timofie, the Vashchenko family turned to the United States Embassy for help and advice.

Even though they were carrying the proper passes, the group was stopped by Soviet guards outside the building in Moscow. Fearful, yet with no intention of remaining at the Embassy, they ran to the Embassy for safety. John Vashchenko, the second oldest son, was caught by the guards and dragged away. The seven remaining chose to stay in the Embassy until John was safely returned. Two weeks passed before they received word of his release—too long a time to return home safely after such a rebellious action. They asked for assurances from the Soviet Government that they would be allowed to leave the country and that reprisals would not be brought against any other family members.

The Soviet Union has refused for 3 years to allow these seven to emigrate. Both families have received official affidavits of sponsorship from families in the United States. But they have no close relatives abroad, a Soviet prerequisite for emigration permission. The families remain in the basement room, where I and DAVE BOREN visited them nearly 2 years ago, a room which the Embassy staff refers to as "the dungeon." The room is furnished with two twin beds, which the children sleep on while the adults sleep on the floor. Their room differs from most orthodox dungeons in that they have a window, enabling them to look out onto the streets of Moscow (when the guards do not place a garbage can in front of it). They watch helplessly as the guards pummel Soviet citizens who attempt to enter the

Embassy of the flagship nation of the free world.

For 3 years the families have resisted all pressure to leave. They have not been able to see other members of their families although several of their relatives have been persecuted for the actions of "the Seven." The eldest Vashchenko son, Sasha, who was sentenced to and served a 3-year term in a labor camp for his beliefs and who was beaten into unconsciousness on several occasions by Soviet guards, has reported since his release, increased coercion on the part of the KGB to make him renounce his family and condemn their efforts to obtain visas. The Vashchenko and Chmykhalov families have suffered through psychiatric hospitals, prisons and labor camps.

On January 29, 1981, I introduced Senate bill 312 on behalf of myself, Senator BOREN, and now 58 of our colleagues, private legislation to try to help Maria and Tomofei Chymkhalov and for Lilia, Peter, Liubov, Lidia and Augustina Vashchenko. Our legislation would grant these seven brave Pentecostal Christians permanent resident status in the United States.

This bill will not guarantee them freedom; only the Soviet Government can agree to allow them to emigrate. Our bill will guarantee these people protection under the U.S. Constitution while they continue to reside in the Embassy and it will insure that they are accorded rights under our Constitution while they are there. Clearly, the bill is also a significant indication of the strong support the families have in the United States.

Our efforts on behalf of the families have thus far produced positive results within the Embassy. The families are now permitted to have telephone communications with their relatives in Russia. The families now have the use of a radio, television, and tape recorder. The Embassy has become cooperative in arranging press interviews on request with them.

As a matter of fact, this morning Senator BOREN and I had a telephone conversation with Liubov Vashchenko. It was because of this bill and the effort now of 60 Senators and many, many Members of the House that these liberalizations have taken place and that our Embassy realizes that there is a tremendous interest in America in the plight of these families.

During our conversation this morning, we expressed to Liubov Vashchenko the hope, the prayer, and the wish that our efforts succeed. We are hoping that we will be able to have hearings on this bill and that a hearing will take place on a similar bill which has now been introduced in the House of Representatives.

We also indicated that we would do whatever we could to obtain from the Russians compensation for the use of the home in the native village of the Vashchenkos, compensation which, if made, would pay for the filing fees which must be paid if and when these families are permitted to emigrate to the United States.

The Embassy has provided the two families with food and clothing. They have access to medical treatment in the Embassy clinic. They attend church services on the Embassy compound every Sunday and are free to attend the coffee hour afterward. But, they continue to wait for their precious freedom—permission to emigrate to the United States. Experience has shown that expressions of concern and support from the West can often win concessions in the Soviet treatment of religious groups. Lidia Vashchenko has written:

> All the years of our struggle we were alone, and the advantage in number was on the side of the people who fought against us. But God was always on our side. . . . At this time God joins so many people to help us. The longer we continue to stay here, the more and more people will understand and join to help us.

Today, we rise to commemorate this approaching third anniversary. Three long years in one room, prisoners in a haven of freedom. The Vashchenko and Chmykhalov families bear witness to the suffering of untold numbers of ordinary people who want the freedom to pray and to raise their children according to the truth as they know the truth, freedom which we, as Americans, enjoy and too often take for granted. God willing, Mr. President, there will be no need to commemorate a fourth anniversary.

Mr. BOREN. Mr. President, will the Senator from Michigan yield to me at this point?

Mr. LEVIN. Mr. President, I am happy to yield to my friend from Oklahoma for a statement.

The PRESIDENT pro tempore. The Senator from Oklahoma is recognized.

Mr. BOREN. Mr. President, I am honored to join my colleague from Michigan this morning in discussing the problem of two families who have taken refuge in the American Embassy in Moscow, the Vashchenko family and the Chmykhalov family.

I wish to commend Senator LEVIN for his continued interest in these two families.

He and I and our wives have had an opportunity in Moscow to visit with these brave families and since that experience Senator LEVIN has worked without ceasing to try to make it possible for those families to come to the United States.

As we approach the third anniversary of the period in which they have taken refuge in the Embassy, living in a very small room in the basement of the American Embassy awaiting permission from the Soviet Government to come to the United States, to immigrate to the United States with their children, Senator LEVIN this morning put through a telephone call to these two families, and I was honored to be able to join him and to talk with them by telephone this morning and to assure them of the continued interest of the American people in their plight.

More than any other single individual in the Senate, Senator LEVIN has continued to hold up their cause for all of the rest of us and to continue to call the attention of the American people to the problem of religious persecution in the Soviet Union.

Mr. President, anyone who believes that religious persecution in the Soviet Union is a thing of the past is sadly mistaken.

Both Christians and Jews are being persecuted in the U.S.S.R. for practicing their religion. Many of them have served time in forced labor camps or had members of their families harassed by authorities because of their faith.

But fewer stories are more touching than that of the Vashchenko and Chmykhalov families, Russian Christians, who, on June 27, will celebrate 3 years of living in "temporary refuge" in the basement of the U.S. Embassy in Moscow.

The three adults and four children who compose these families dashed past Russian guards at the doors and sought protection in the Embassy in 1978. They have lived there in two small basement rooms ever since. One of the sons was captured by Soviet guards as the families ran into the Embassy.

Despite repeated requests, the Soviets refuse to allow these two families to emigrate to the United States. The family members are afraid to leave the Embassy for fear of arrest. Two of the daughters with whom my wife and I talked during our trip to Russia 2 years ago had been taken from the family and placed in an orphanage for 6 years because they had been receiving religious instruction in the home. The parents were charged with being unfit because they provided religious instruction for their children at home.

During my visit with the Vashchenkos and Chmykhalov families, as well as others who were suffering religious persecution, each one appealed to me to ask the people of the United States to help them. As a nation founded on religious freedom, countless numbers of Christians and Jews in the Soviet Union look to us for help.

Although public pressure which has been exerted by groups all over the world has resulted in some success, the State Department tells us that little diplomatic progress is being made on their case.

These brave people must not be forgotten by any of us. That is why S. 312 is so important, the bill introduced under the leadership of Senator LEVIN and others.

It was inspiring and moving to meet the members of these two families. They deserve and need our help. We must never allow their case to be forgotten by the people of this country.

Again I want to thank Senator LEVIN for keeping alive in the hearts and in the consciences of Americans the injustice which continues in the Soviet Union and, in particular, the injustice which is being done in the case of these two families by Soviet officials.

Mr. President, I thank my friend, the distinguished Senator from Michigan, for yielding to me, and I am very proud to join with him in this effort.

Mr. LEVIN. Mr. President, I thank my friend from Oklahoma both for his support and for his tremendous efforts in this cause. Indeed, it was that visit of Senator BOREN and his wife, and my wife and I, which first brought us into contact with these two families and which has led to this effort.

Mr. TSONGAS. Mr. President, this Saturday is the third anniversary of one of the more dramatic violations of human rights in the Soviet Union. Three years ago, the Vashchenko and Chmykhalov families, seven Pentecostals who had been trying to immigrate to the United States since 1962, were forced to flee into the U.S. Embassy in Moscow. The two families had gone there to seek advice on obtaining exit visas to leave the Soviet Union. They had received all the necessary credentials for entrance into the Embassy. They did not intend to stage a sit-in or remain at the Embassy. Yet, when they arrived, Soviet officials attempted to prevent them from entering. Fearing for their lives, the Vashchenkos and Chmykhalovs rushed into the Embassy for their safety.

For 3 years, the Vashchenko and Chmykhalov families have been living in a basement apartment in our Moscow Embassy. They cannot leave the Embassy grounds for fear that they will be prosecuted by Soviet officials. They have applied for exit visas on many occasions but have always been refused permission to emigrate. Our diplomats report little progress in their case. Moreover, the Vashcenkos' son, Sasha, who live in Chernogorsk, has been sentenced to a 3-year term in a Soviet labor camp.

Mr. President, a member of my staff recently returned from a private trip to the Soviet Union which he visited the Vashchenko and Chmykhalov families. He witnessed the abject circumstances under which they are forced to hide. The Vashchenko and Chmykhalov families live in a small room 12 by 15 feet, nicknamed the dungeon room by Embassy officials. It is furnished with only two double beds, so the adults must sleep on the floor. The Vashchenkos' and Chmykhalovs' freedom is limited to occasional trips into the Embassy grounds accompanied by U.S. officials. On occasion they have gone several days without stepping outside.

They are not permitted to work at the Embassy. They spend their time studying English, praying, and reading the Bible. Recently, they have been allowed to help unload trucks. However, there are approximately 200 Soviet citizens employed at the U.S. Embassy, and the Vashchenko and Chymkhalov families live in constant fear of these Soviet citizens, who they believe wish to harm them.

Mr. President, despite the deplorable conditions under which they must live, the Vashchenko and Chmykhalov families remain hopeful that one day they will be able to leave the U.S. Embassy for freedom. They have communicated to my staff the importance of S. 312, Senator LEVIN's bill, to their future. This bill insures that the Vashchenko and Chmykhalov families are treated respectfully and lawfully and makes them eligible for U.S. citizenship. S. 312 would boost the families' morale and show Soviet officials that there is a great desire within the United States that they be freed.

Obviously, this measure will not automatically change the attitude of the Soviet officials in this case. However, if it even draws attention in Moscow to the plight of the Vashchenko and Chmykhalov families, it will be an important step toward insuring that next year, at this time, we will not be marking the fourth anniversary of their internment. Mr. President, I urge my colleagues to support all efforts to help the Vashchenko and Chmykhalov families gain their freedom.

Mr. HATFIELD. Mr. President, as the third anniversary of the Vashchenko and Chmykhalov, June 27, arrival at the American Embassy in Moscow approaches, I want to raise my voice along with my colleagues in the hopes that a resolution of their confinement might soon be found.

The seven members of these two courageous families went to our Embassy in 1978 in the hopes of furthering their desire to emigrate to the United States after receiving an invitation from a church in Selma, Ala., to come to this country. A group of Christians in Selma, led by Pastor Cecil Williamson, had received word that these faithful believers had been trying since 1963 to escape persecution by emigrating. However, there have been few Christian emigrees ever and none since 1975 to accept invitations from foreign citizens to leave the U.S.S.R.

The members of the Vashchenko and Chmykhalov families have suffered extensive and cruel persecution, including the alleged abduction and killing of an adopted child. After 18 years of periodic imprisonment and constant harassment they took refuge in our Embassy as a last resort on June 27, 1978. From June 27 until late September 1978 the two families resided in the waiting room of the Embassy without any facilities for food preparation, privacy, or washing of clothing. They were provided then a small apartment in the Embassy for their use but a classic illustration of a catch 22 developed.

The Embassy staff and then Ambassador Malcolm Toon felt that they were compelled repeatedly to urge them to leave so they could return to their home to pursue emigration in the prescribed way. But, no guarantees could be made for their safety and it was likely that charges would have been pressed for border crossing, with the penalty of 10 years in labor camps. In the fall of 1979 when Thomas Watson became the American Ambassador, support for the families increased with a corresponding decrease in pressure to leave. But the dilemma persists to this day.

Numerous initiatives, including resolutions from the Congress, have attempted to move this situation off dead center. In a conversation I had with Sergey Chetverikov, the counsel at the Soviet Embassy here in Washington, I asked simply that the seven Baptists be allowed to leave the Embassy in Moscow and emigrate to any other country.

I pointed out that the families might be more inclined to leave, since he placed the blame for slowing down the emigration process upon the recalitrant families and their American Embassy hosts, if the Soviets would grant assurances that they would expedite their emigration applications.

To this question and others about what could be done to help alleviate tension and facilitate a rapid solution he was very cool. But as I departed he did suggest that we stay in touch about the situation. So when the new Soviet Minister Counselor, Oleg Sokolov, paid a courtesy call recently I raised the issue again.

It is my belief that we individually and as a body must continue to remind our Soviet contacts that this is of great concern to us.

The fact is that the Soviets are hopeful that we will forget about these Christian dissidents; that we will all tire of them and begin again to urge them to leave and return to Chernogorsck, Siberia, the site of their previous persecution.

I for one am committed to doing all within my power to focus increased attention on these courageous people. Numerous Christian people in many iron curtain countries are suffering unimaginable persecution for their faith and resistance to the oppressive regimes that seek to stifle vibrant belief in the God of the bible rather than God of the State. It is my view that as we seek to facilitate emigration for the Siberian seven we make a statement about all who suffer for their faith. After biblical precedent we who believe in less restrictive lands are deeply touched and ministered to by their steadfastness and faithfulness in all the afflictions which they are enduring.

Like the Apostle Paul they accept this season as a time for compelling witness, and say along with him:

"We put no obstacle in any one's way, so that no fault may be found with our ministry, but as servants of God we commend ourselves in every way: through great endurance, in afflictions, hardships, calamities, beatings, imprisonments, tumults, labors, watching, hunger; by purity, knowledge, forbearance, kindness, the Holy Spirit, genuine love, truthful speech, and the power of God; with the weapons of Righteousness for the right hand and for the left." II Corinthians 6: 3–10.

In the days to come might we not only remember these dissidents in our prayers but actively seek ways to give them hope and facilitate their release.

Mr. President, an article from the Christian Century entitled "New Hope for the Siberian Seven" is a helpful addition to this colloquy. I ask that the article be printed in its entirety in the RECORD. It not only provides valuable background but makes the point that continuing U.S. support is the only weapon available to the Chmykhalovs and Vashchenkos.

The article referred to follows:

NEW HOPE FOR THE SIBERIAN SEVEN

(By Esther Fritz)

After spending two years of asylum in the American Embassy in Moscow, seven Russian Pentecostals are only now beginning to get the publicity and American support they need to gain their freedom.

On June 27, the second anniversary of the Pentecostals' dash past Soviet guards into the embassy, a major television network commemorated the event in the first nationwide broadcast of their story, and Senator Carl Levin (D., Mich.) introduced a private bill requesting permanent U.S. residency status for the seven. Senator Levin and 42 cospon-

sors of the bill, S. 2890, hope that its passage will improve conditions for the Pentecostals at the embassy and motivate the Soviet government to give them the exit visas they have sought since 1962. The measure would make the Russian group eligible for U.S. citizenship five years from the date they entered the embassy.

I

Levin considered requesting immediate U.S. citizenship for the Vashchenko and Chmykhalov families, a spokesman for the senator reported, but decided the idea was unrealistic. Winston Churchill and the Marquis de Lafayette are the only foreigners ever granted U.S. citizenship without first living in this country for five years. Having U.S. citizenship wouldn't allow the Pentecostals to emigrate (nor would permanent residency status at the embassy); the U.S.S.R. doesn't recognize the concept of dual citizenship. But a show of American support for the seven might exert enough pressure to persuade the Soviets to let them go.

Supporters of the Pentecostals who unofficially approached State Department officials with the idea of citizenship received a negative response. Until the Soviets invaded Afghanistan, the State Department wanted to send the Pentecostals back home to Siberia. Embassy officials don't want to encourage other Christians seeking religious freedom to take refuge inside the American compound for fear that thousands more would come swarming through the gates, just as Cubans overran the Peruvian embassy in Havana.

The State Department has tried to thwart press coverage of the matter. When major television networks asked the embassy's permission to film the seven Russians for the evening news on the second anniversary of their asylum, officials at first denied the Pentecostals the right to speak into a microphone or to present a written statement, according to a friend of the seven who returned to the United States from the embassy in June. ABC, however, the only network to mention the story on the news, read a prepared statement from the seven offering thanks to supporters.

News reports prepared by ABC and NBC more than a year ago for the first anniversary of the Pentecostals' stay at the embassy were mysteriously squelched. The networks aired the documentaries only in Alabama, where a group formed to sponsor the Pentecostals' emigration demanded a showing. Some believe that the State Department pressured the networks to cancel the broadcasts. Others think that the secular press simply doesn't find reports on religious dissidents newsworthy. Newspaper and magazine articles on the seven have been scanty.

Despite the lack of publicity, the Society of Americans for Vashchenko Emigration (in Montgomery, Alabama) and the Research Center for Religion and Human Rights in Closed Societies (in New York) have mustered substantial support in the Senate for the Pentecostals. On May 9, 50 senators sent a letter to Soviet President Leonid I. Brezhnev urging the Kremlin to act expeditiously in granting them exit visas "in the best interests of amicable relations between our countries." The Soviet leader hasn't responded.

II

Senator Levin expects his bill to succeed where two Senate resolutions have not. His bill proposes action the Senate can take, while Resolution 60 merely chastises the Soviets for harassment of Christians and for restrictions on Christian emigration, and Resolution 61 names 40 people the Soviets have persecuted. The resolutions have languished in the Senate Committee on Foreign Relations since December 10, 1979.

Senator Levin says that the wording of his bill avoids setting a precedent that would encourage others to take refuge in American embassies, as occurred recently in Afghanistan and Ethiopia. The legislation notes that the seven have been living in the embassy for two years and have been refused exit visas since 1962. The bill has been referred to the Senate Judiciary Committee.

Residency status would give the Pentecostals constitutional protection so that the embassy couldn't expel them and would expedite their immigration if the Soviets granted exit visas, the spokesman for Levin pointed out. It would also allow them to work for the embassy, receive uncensored mail through the diplomatic pouch, use the telephone, and visit more freely with staff members. Only about eight embassy families are currently allowed to visit them. Senator Levin, however, was permitted to meet them during a trip to Moscow in August 1979.

III

A book about the Pentecostal's struggle for religious freedom, The Siberian Seven, by Billy Graham's biographer John Pollock, was recently published by Word Books. But the story wouldn't have been written if an American professor of Russian history hadn't discovered the Pentecostals and suggested such a book to the British author.

Robert Nichols, associate professor of Russian history at St. Olaf College in Northfield, Minnesota, visited Moscow with his family in August 1978 through a cultural exchange program. A friend of his who was about to return to the U.S. introduced him to the Pentecostals, who, at that time, were camping on sofas in the waiting room of the consular section. Nichols, having read Pollock's book The Christians from Siberia (1963), suddenly realized that "these were some of the same people." The professor telephoned Pollock in England and asked him to come back and finish the story. Pollock flew to Moscow and obtained embassy permission to meet the Pentecostals in the courtyard on a cold day. They weren't allowed to converse inside the building, but the author achieved his purpose.

Peter and Augustina Vashchenko, their daughters Lida, Lyuba and Lila, and Maria Chmykhalov and her son Timothy all came to the U.S. embassy on June 27, 1978, seeking American aid in obtaining Soviet exit visas. It was their sixth visit to the embassy. They had no intention of asking for asylum. But as they rushed into the embassy, Soviet guards at the gate grabbed the Vashchenko's 17-year-old son John. The family didn't want to leave until they found out what had happened to him. Two weeks passed before Americans got through by telephone to the Pentecostals' home town in Chernogorsk, Siberia. The Vashchenkos spoke to their daughter Vera, who reported that John had been beaten, tortured and returned home a few days earlier. "By that time they were in such deep trouble, they figured their best recourse was to stay put," Nichols said. Peter Vashchenko had served one year in prison for an hour's visit to the embassy in 1968.

The embassy has a policy of not providing asylum to people who come in off the street. They enforce the policy by refusing food and water to anyone who seeks refuge in the compound, Nichols reported. But the wife of the deputy chief of mission, who was scheduled to leave the embassy soon, fed the Pentecostals. They lived in the waiting room of the consular section for two months without having even a place to bathe.

IV

Meanwhile embassy officials tried to persuade them that they would have a better chance of emigrating if they returned home and went through proper channels. The Americans had been offering similar advice since the Pentecoastals' first visit in 1962, but following it hadn't gotten the Christians any closer to America. They insisted on remaining in the embassy.

The State Department then resorted to verbal intimidation to get them to leave. Officials sent marines to order them out, while KGB cars appeared at the front entrance.

In September 1978, embassy officials moved the Pentecostals to a basement room about 12 by 15 feet with a bathroom, kitchen, washing machine and clothes dryer. The U.S. government thought it was imposing a severe hardship by cramming seven people into that little room, Nichols said. But by Soviet standards the living conditions are acceptable.

Until recently, embassy officials isolated the Pentecostals by prohibiting guests from visiting them in their room. They were allowed to meet visitors only in the courtyard, which was cold in winter. The object, in Nichols's opinion, was to discourage meetings or at least to keep them short.

Rather than trying to assist these families, the State Department preferred to let them be an example of how little can be achieved by taking refuge in the embassy, Nichols said. "It's a kind of test case. At its worst moments the embassy sees itself being surrounded, deluged with, thousands of Christians who want to emigrate from the Soviet Union."

In August 1979, Representative Robert K. Dornan (R., Calif.) visited the Pentecostals and asked Soviet permission to take the seven and other members of their families back to the United States on the congressional plane. Soviet officials replied that the Pentecostals couldn't be allowed to emigrate because they hadn't made application. The embassy had never submitted the documents to the Soviet emigration office.

"This seems to me a rather careless oversight at best," Nichols argued, "and probably an indication of how very little the embassy actually wants to resolve this problem. There seems to be a distinct discrepancy between what the American government meant by way of human rights and what the American embassy in Moscow is willing to do even within the limits of its legal rights." Nichols thinks that President Carter's outspokenness on human rights misled the Pentecostals into believing that the American government was willing and able to help them.

The State Department did, however, send Olin Robison, president of Middlebury College in Vermont, to Moscow in fall 1978 to negotiate exit visas for the families. "The State Department decided to do something before the president began to wonder why it was doing nothing," Nichols said. "He had apparently on several occasions raised the question at cabinet meetings."

In September 1979, after a wait of almost a year, Robison succeeded in obtaining a verbal agreement from the Soviets that if the Pentecostals returned home, their application for emigration would be treated normally and the state wouldn't accuse them of any crimes, even though their presence in the embassy was a violation of Soviet law. At the same time, however, local officials in Chernogorsk launched a propaganda campaign called "Our Traitors Are Coming Home," which "didn't seem to suggest that the Soviets were going to honor their assurances," Nichols observed. The Pentecostals decided not to accept the offer.

The Soviet government might still let the Pentecostals emigrate, Nichols believes, expelling them as social outcasts rather than treating them as Christians seeking religious freedom. The Soviets recognize the right to emigrate only to reunite families, not for religious reasons, he noted. Almost 50,000 Jews were allowed to leave last year for that reason. But their numbers are small compared to the number of Christians who might emigrate if they were allowed to. And massive emigration could have a serious impact on the Soviet economy. Some 30,000 Pentecostals

alone have applied for exit visas. None of the requests has been granted. Very few Christians have ever left the Soviet Union. The State Department has searched extensively for relatives of the Vashchenkos and Chmykhalovs outside the Soviet Union to give them a legitimate reason to emigrate, but none has been found, the spokesman for Senator Levin said.

Because Soviet-American relations are so poor right now, this might be a good time to approach the Soviet Ministry of Foreign Affairs to suggest that the U.S. would take the Pentecostals' release as a sign "that things could be getting better," Nichols proposed.

v

The Minnesota Conference of the United Church of Christ recently passed resolutions asking the denomination's national leadership in New York to talk with religious leaders in the Soviet Union about ways to alleviate religious persecution and to hire a congressional lobbyist on the Pentecostals' behalf. Nichols presented a similar proposal to the National Council of Churches in June, 1979, but "as far as persecution in the Soviet Union is concerned, the NCC is just completely indifferent," he held. The NCC's Governing Board did pass a resolution on May 10, 1979, expressing concern for the Pentecostals and supporting efforts by member churches to obtain their emigration. "That amounted to sending a telegram to the State Department," Nichols scoffed. Russian Christians lack the strong backing in this country that American Jewish organizations have mustered in support of Soviet Jewry.

In the past several months the embassy has gradually relaxed some of its restrictions on the Siberian Seven. Ambassador Thomas J. Watson, Jr., who replaced Malcolm Toon in October 1979, appears to have more sympathy for them. He has at least met with them—something Toon never did. Watson assured the Pentecostals that the embassy wouldn't evict them and would continue to provide them with meals, according to a letter the Chmykhalovs wrote to the Research Center for Religion and Human Rights in Closed Societies. The new ambassador also advised them not to leave the embassy now because of worsening U.S.-Soviet relations.

The Pentecostals were recently allowed to attend Catholic services in the embassy snack bar and to meet staff members there. Consequently, they are getting more support. Before getting to know them, some staff members thought they were fanatics, Nichols said. The Soviets have attempted to discredit them with that label—possibly one reason for the Western press's lack of interest. Nichols, who spent most of his evenings with the Pentecostals during his ten-month stay in Moscow, characterized them as fundamentalist evangelicals with beliefs similar to those of Southern Baptists. Russian Pentecostals have never had strong ties to American Pentecostal groups, he noted.

Nichols, his wife and three daughters were allowed to visit the Pentecostals regularly because he offered to act as interpreter for the embassy chaplain. "It was quite a worthwhile enterprise to get to know them because we always wanted to know what the average Russian thinks," Nichols commented.

Mr. LEVIN. Mr. President, I ask unanimous consent that I be given control of the time which has been allotted to the minority leader by special order.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LEVIN. Mr. President. I am happy to yield to my friend from Wisconsin.

Mr. HEFLIN. Mr. President, I wish to speak on a matter of great importance to the U.S. Congress, and to supporters of religious and personal freedom throughout the world. For the past 20 years the Vashchenko and Chmykhalov families have been unsuccessfully attempting to gain emigration visas from the Soviet Union. Senator LEVIN has worked long and hard to aid these families in attempting to gain emigration visas. His dedication and commitment to their plight are sincerely appreciated.

The two families have been met only with harassment, imprisonment, and persecution from Soviet officials in their attempt to enter the United States where they can practice and enjoy their Pentecostal Christianity in freedom. Fearing for their lives, they were forced to take refuge in the U.S. Embassy in Moscow.

Two members of the Chmykhalov family and five members of the Vashchenko family survive with only the barest necessities confined to a single room in the basement of the Embassy. They prefer living with the uncomfortable inadequacies of the Embassy basement where they can at least worship freely and educate their children as they please rather than be subjected to the government restrictions imposed upon them as ordinary Soviet citizens. The families spend their time praying, studying English, reading the Bible, and silently hoping they will eventually win the right to immigrate to the West.

Saturday, June 27, 1981, will mark the third anniversary of the families' temporary refuge in our Embassy. This is a most appropriate time for us to commemorate their struggle and reaffirm our commitment to their quest for personal and religious freedom. In the face of grim circumstances, the Vashchenko and Chmykhalov families have chosen to remain optimistic, believing that God will deliver them. In spite of their lack of success in gaining exit visas year after year, their faith and determination do not diminish. Their optimism grows as world concern for their situation spreads. Their undying courage, determination, and willingness to sacrifice their personal health and freedom is truly admirable.

The Chmykhalov and Vashchenko families dream of personal and religious freedom for themselves, as well as for all Pentecostal Christians and others in the Soviet Union who seek religious and personal freedom. As long as this dream remains alive, we, as leaders of the free world, must provide them with the moral support necessary to endure this difficult struggle for emigration.

Senator CARL LEVIN has introduced Senate bill 312, which I am privileged to cosponsor. S. 312 will guarantee the Vashchenko and Chmykhalov families protection under the U.S. Constitution while they continue to reside in the Embassy. His noble efforts on their behalf demonstrate his compassion and commitment to the protection of fundamental rights. It is my hope that the administration will respond favorably to the situation facing these families and that Congress will pass S. 312 without further delay.

Thank you Mr. President.

SURVIVORS OF THE HOLOCAUST

Mr. PROXMIRE. Mr. President, the Genocide Convention still awaits ratification by the Senate. Every day we see reminders in the news of the importance and immediacy of this international agreement to outlaw genocide.

An article by David K. Shipler in the June 22 New York Times tells the stories of some of the victims of this horrible crime. The story of the Leitner family, for example, brings home to each of us the tremendous pain and suffering that was inflicted on the Jewish people during World War II. Shipler reports that:

Isabella Leitner and her three sisters stayed together, and when one saw a fleeting chance for escape through the swirling snow on a death march from Auschwitz, she ran. A second sister followed. Then Mrs. Leitner. Then, they assumed, the fourth; but they never saw her. The three hid in an abandoned house, and the line of prisoners marched on.

Not until 34 years later did Mrs. Leitner learn what had happened to her sister. It was at a dinner party in Paris; by chance, she said, she met a woman who had also been in that death march. The sister, the woman told her, had also run but was caught. Severely beaten, she was too terrified when another group planned an escape to try to go with them. They succeeded; she perished in another camp.

This moving and true story was one of many told at last week's convention of survivors from the holocaust. Each of the 5,000 people who attended that conference in Jerusalem knows that the persecution and murder of men, women, and children because of their membership in a group is a horrible and gruesome crime. We must never forget the holocaust, and we must never let it happen again.

Mr. President, the Genocide Convention is an attempt to outlaw this crime against humanity. The United States must join the 87 nations which have already signed and ratified this treaty. It is time for the Senate to take action. I urge my colleagues to ratify the Genocide Convention.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SURVIVORS OF HITLER'S CAMPS TELL OF THEIR RESISTANCE

(By David K. Shipler)

JERUSALEM, June 21.—Edith Singer simply decided that she was not going to die. Joseph Sandala stole potatoes to stay alive. Irene Eber dug under the fence of a labor camp and fled. Samuel Zabner hid and let a death march go on without him. David Tenenbaum sucked the ink out of his concentration-camp tatoo.

Isabella Leitner ran off into the woods with three of her four sisters during a blizzard. Andrei Lefkowitz got identity papers from a Christian boy and made similar forgeries for Jews. Philip Kinn sneaked out of the ghetto to mine roads and railroads, killing 500 Germans and wounding 1,500.

If anyone had dared ask any of the 5,000 survivors of the Nazi Holocaust who gathered here last week why it was that Jews had gone like sheep to the slaughter, the

likely response would have been that of Jeanette Friedman-Sieradski's father. "Dumb idiot that I was," she said last week, "totally ignorant, I said to my father, 'Well, why didn't you fight back?" and he laughed at me."

"DON'T ASK WHY"

Nobody asked. "Don't ask," a middle-aged woman advised a workshop of young adults preparing to tape-record the oral histories of survivors. "Don't ask why we went like sheep to the slaughter, or you will close us off immediately."

The myth of universal acquiescence under the Nazis took a beating last week. Again and again, there were tales of resistance from the survivors who assembled here in the first gathering since liberation in 1945 of those who made it through Hitler's camps.

Sometimes the resistance was overt and daring, as Guta Blas's desperate lunge at a German officer who had just told a group of prisoners, standing before an open grave, that he would give them two minutes to pray before shooting them.

"I looked around," she said. "There was my mother standing next to me, turned white as a sheet; I saw her heart pounding. I became emotional and terribly desperate, so I jumped out of the line and I jumped this German and I caught him with my fingers around his neck and I got my legs around his body and we both fell."

A QUIET DECISION

Sometimes the resistance was small and silent, as Edith Singer's decision when she was a young girl at Auschwitz that "If God wants me to live, the Germans cannot do anything to me."

"I realized that when something bad was going on, I was really hungry, I blamed the Germans for it," she said. "And maybe this was one of the ways I went on."

That approach some called "spiritual resistance." It included supreme efforts to keep Jewish religious laws, even saying the prayer to bless a morsel of bread on the Sabbath. It included a stiff resolve by family members to stick together and give each other support.

Isabella Leitner and her three sister stayed together, and when one saw a fleeting chance for escape through the swirling snow on a death march from Auschwitz, she ran. A second sister followed. Then Mrs. Leitner. Then, they assumed, the fourth; but they never saw her. The three hid in an abandoned house, and the line of prisoners marched on.

HER FATE LEARNED, 34 YEARS LATER

Not until 34 years later did Mrs. Leitner learn what had happened to her sister. It was at a dinner party in Paris; by chance, she said, she met a woman who had also been in that death march. The sister, the woman told her, had also run but was caught. Severely beaten, she was too terrified when another group planned an escape to try to go with them. They succeeded; she perished in another camp.

Samuel Zabner, who lives in New Rochelle, N.Y., survived a similar march as the Germans retreated before the Russian advance from the east.

"The Germans took us out by foot," he said. "It was winter, January. They shot a lot of people, then decided overnight to let us stay in an old camp."

In the morning, he said, "I managed to stay behind. I was hiding, and in a few days the Russians came."

POTATOES GUARDED BY A DOG

Joseph Sandala, a food importer from West 38th Street in Manhattan, described creeping up to a bucket of potatoes guarded by a watchdog and putting a few in his pockets while the dog looked on, doing nothing. "If it had been a Nazi he would have shot me," Mr. Sandala said. "The dog was better than a Nazi."

He was less lucky on another occasion. A guard, spotting the potatoes in his pockets, jammed his head into a washbasin full of water and beat him. A few hours later, the guard came to beat him again. When the guard appeared a third time, at night, Mr. Sandala said he lost control.

"I said: 'You took my brothers. You want to do that to me, do it. But stop beating me.' I have a big mouth. He looked at me, so surprised. He went away. Maybe if everybody had stood up to them, maybe it would have been better."

David Tenenbaum, who owns the Aladin Coffee Shop on West 44th Street in Manhattan, said he was put in a camp early, before numbers were tattooed on forearms. His tattoo consisted only of the letters "K L" for the German words for concentration camp. He said he knew that if he ever had a chance to escape, he would have to get rid of the mark, so he sucked the ink immediately. All that is left today is a small blue spot, where he did not quite get it all. Each morning he penciled the letters on his arm to avoid being shot for his defiance. He escaped in Bavaria on a death march as the Allies were invading Germany.

Philip Kinn, a retired butcher from Brooklyn, was in the Polish Army, the Soviet Army and, finally, among underground partisans in the forests near Minsk in Byelorussia. He said he got a medal from the Soviet Government for mining roads and railroads and killing Germans. But when he returned to his ghetto to take out his father and two sisters, he said, "It was too late—they surrounded the ghetto."

Beneath the surface of these stories, which came spewing out as survivors filled their need to talk and talk, there sometimes ran a sense of guilt that they had lived. At the same time there was a denial of that guilt, an insistence that they had done all they could to save others.

Some survivors who were interviewed noted that resistance occasionally came close to collaboration—the finding of a skill that was needed by the Germans, making the prisoner more valuable alive than dead, or the succumbing by women prostitution in the camps to stay alive.

But for Halina Olomucki, a survivor who has put her remembrances on canvas, there is a strain of toughness in the prisoners she depicts.

"There is, in each painting, a certain internal resistance," she said. "It is an optimism. I must resist." She spoke for many.

Mr. PROXMIRE. I thank my good friend from Michigan, the acting Democratic leader.

Mr. LEVIN. I yield to the Senator from Oklahoma.

HIGH INTEREST RATES

Mr. BOREN. Mr. President, this morning I again come to the floor to discuss the No. 1 enemy of productivity and economic growth in our country today, interest rates. Several of my distinguished colleagues are joining with me this week in calling the attention of the administration and policymakers to the threatening effect that interest rates are now having on our Nation's key economic sectors.

Once the effect of high interest rates are felt in these key industries, the damaging effects spread throughout the economy like cancer. The automobile industry, whose steel consumption represents 25 percent of its total raw materials used in manufacture, is likewise suffering from high interest rates.

The big three auto-makers lost collectively over $3.5 billion in 1980, and have lost three-quarters of a billion dollars in the first quarter of 1981. Auto sales are down over 20 percent from 1979, and a quarter of a million auto workers are currently out of work. A major auto maker (GM) has announced the postponement of a $40 billion 5-year capital investment plan.

Mr. President, this is exactly the kind of unemployment, profit loss, and negative investment that I have been talking about for the last week. The cancer of interest rates has spread from the steel industry to automobile manufacturers, and now to automobile dealers.

Auto dealers report that it now costs them $500 a month for each unsold car that stays on their lots. This is practically the entire profit margin of an auto dealer for an average-priced $7,500 car. The result is that 1,600 auto dealers were forced out of business in 1980, which represents 5 percent of the total dealers. But the cancer has not stopped with our Nation's auto dealers.

Wholesale and resale auto parts distributors report that they have reduced their inventories from 25 to 35 percent nationwide in an effort to avoid the tremendous burden of interest costs of maintaining normal inventory levels.

Mr. President, the cancerous effect that interest rates are causing to be spread throughout our economy, from key economic sectors to small retail businessmen, should be apparent to us all. We must continue to call attention to this, our Nation's greatest threat to economic survival. Again, my colleagues and I call upon the leadership of not only this body, but also that of the President, Secretary of the Treasury, and policy officials to end this threat before it is too late.

THE NOMINATION OF EUGENE ROSTOW

Mr. CRANSTON. Mr. President, I voted against the confirmation of Eugene Rostow in committee. I wish to share with my colleagues the reason for my decision as I explained it to the Foreign Relations Committee. I expected to support Professor Rostow. I wanted to support him. I cannot, as a consequence of his testimony of June 22. I believe his interpretation of the statutory obligations of the Director of the Arms Control and Disarmament Agency (ACDA), taken in combination with his views on arms control, make him a poorly suited nominee. He is more suited to be Secretary of Defense than to be Director of ACDA.

I will not mount a crusade against his nomination. He will be confirmed. I would expect no one better—and would anticipate someone worse—were he rejected.

I am prepared to seek to work with Professor Rostow as a responsible and constructive critic, and as an advocate of significant arms control and reduc-

tions—and the ultimate abolition of nuclear weapons.

The Director of ACDA should, however, be a strong advocate of arms control and reductions as an integral component of our national security program. He or she should, in my opinion, view arms control as an effective tool in reducing the immense dangers and the incredible costs associated with the stockpiling of nuclear arms. The Director should recognize the importance of arms control between adversaries in order to reduce the potential for armed confrontation, and to limit the effects of any direct conflict. The Director must share the express goal of ACDA—to reduce, to contain, and eventually to eliminate the world stock of nuclear weapons.

On the basis of Professor Rostow's testimony, while respecting his experience, his intelligence, and his thoughtful articulation of his views, I am not confident he shares these fundamental goals.

I am concerned by Professor Rostow's failure to identify any constructive arms control agreements other than the United States-Canadian Agreement of 1817. He ignored such measures as SALT I, the 1963 limited test ban, and the establishment of the United States-Soviet hotline. He even went so far as to suggest that the SALT process undertaken under the past three Democratic and Republican President is in itself threatening:

Adverse changes in the balance of power have been ignored because of the excessive hopes we invested in the SALT process and in nuclear arms limitation agreements.

I am especially concerned about Professor Rostow's view that an arms control agreement with an adversary—such as the Soviet Union—is useful only after that adversary has accepted our interpretation of the international rule of law and has ceased taking actions that threaten our interests.

Following that line of reasoning, it will be a very long time—if ever—before we reach an arms control agreement with the Soviet Union.

The Soviets—by the very nature of their economic and political systems and their international ambitions—will be pursuing policies inimical to our interests for at least the foreseeable future, and probably beyond.

Moreover, it is precisely with such a persistent, long-term adversary as the Soviet Union that we must reach a nuclear arms agreement—in our interests and in the interest of world survival.

We have little pressing need for an arms control agreement with friends. We have a compelling need for such an agreement with our adversaries and potential foes.

Collisions and confrontations between the United States and the U.S.S.R. are inevitable for the foreseeable future, in view of our diametrically differing philosophies. A prime objective of arms control, as I understand it, is to reduce the danger that our disputes will wind up in a nuclear exchange. Professor Rostow does not see it that way.

Another concern raised by Professor Rostow's testimony is his call for a return to the 1940's policy of containment outlined by George Kennan in a landmark 1946 Foreign Affairs article and advanced under President Truman. Rostow suggested that we should link arms control to the effective revival of this doctrine. This is but one of many instances where Rostow seems to ignore the realities of the current decade while calling for the return to policies which may have been appropriate 30 years ago, but which are simply unrealistic in the current world.

Even the author of "Containment," George Kennan, acknowledges that the world has not stood still, that the situation has changed. Kennan acknowledges in his memoirs "that what I was talking about when I mentioned the containment of Soviet power was not the containment by military means of a military threat, but the political containment of a political threat." And today, George Kennan is at the forefront of those calling for swift action to achieve major cuts in nuclear arms levels.

I am also concerned that Professor Rostow fails to see the abolition of nuclear weapons as the ultimate goal of arms control efforts. Even if he did succeed in advancing arms control efforts, he apparently would stop at a point where we—and the Soviet Union—would each retain a second strike capacity. This is a prescription for an everlasting threat of nuclear holocaust hanging over the human race, with the danger of inadvertent if not deliberate nuclear war with us without surcease.

I am concerned by Professor Rostow's low estimate of the consequences of nuclear war. When Senator PELL asked him if either the United States or the U.S.S.R. would survive nuclear war to any substantial degree, he replied, first, Japan, after all, not only survived but flourished after the nuclear attack.

I find incredible this comparison of a war involving the use of two Hiroshima type bombs to the many thousands of modern bombs that would be available—and presumably used—in a U.S.-U.S.S.R. exchange.

Pressed by Senator PELL, the professor acknowledged that as many as 10 million people might perish on one side, and 100 million on another, But, he added, that is not the whole of the population.

I am astounded by this attitude, which seems to dismiss and belittle the dire dangers and consequences of nuclear conflict to my countrymen and, indeed, to our beloved country itself. Instructive on this point is the conclusion of the recent Congress of International Physicians for the Prevention of the Nuclear War:

Our conclusion was inescapable—a nuclear exchange would have intolerable consequences.

Enormous numbers would perish in the first hours and days of a nuclear war. The wounded survivors, burned and affected by nuclear radiation, would face unbearably difficult conditions, without effective medical aid, water or food. The consequences of a nuclear war would also be disastrous to succeeding generations. A major nuclear exchange would inevitably bring extensive long-term consequences.

I wish to read briefly from the book about the post-Hiroshima world which I read first in late 1945. It is by H. G. Wells, the historian, and is entitled "Mind at the End of Its Tether." The first paragraphs reads:

The writer finds very considerable reason for believing that, within a period to be estimated by weeks and months rather than by aeons, there has been a fundamental change in the conditions under which life, not simply human life but all self-conscious existence, has been going on since its beginning. This is a very startling persuasion to find establishing itself in one's mind, and he puts forward his conclusions in the certainty that they will be entirely inacceptable to the ordinary rational man.

If his thinking has been sound, then this world is at the end of its tether. The end of everything we call life is close at hand . . .

A little later in the same book he wrote:

We may be spinning more and more swiftly into the vortex of extinction, but we do not apprehend as much.

Still later came this passage:

Mind near exhaustion still makes its final futile movement towards that "way out or round or through the impasse".

Near the close of the book, H. G. Wells wrote:

It is possible that hard imaginative thinking has not increased so as to keep pace with the expansion and complication of human societies and organisations. That is the darkest shadow upon the hopes of mankind.

In early 1946, I read another remarkable article, this one by Lewis Mumford, the eminent social historian and planner. It appeared in the "Saturday Review of Literature" on March 2 of that year. I will read only the first few paragraphs from this piece, which is entitled, "Gentlemen: You Are Mad." It starts out with these words:

We in America are living among madmen. Madmen govern our affairs in the name of order and security. The chief madmen claim the titles of general, admiral, senator, scientist, administrator, Secretary of State, even President. And the fatal symptom of their madness is this: they have been carrying through a series of acts which will lead eventually to the destruction of mankind, under the solemn conviction that they are normal responsible people, living sane lives, and working for reasonable ends.

Soberly, day after day, the madmen continue to go through the undeviating motions of madness: motions so stereotyped, so commonplace, that they seem the normal motions of normal men, not the mass compulsions of people bent on total death. Without a public mandate of any kind, the madmen have taken it upon themselves to lead us by gradual stages to that final act of madness which will corrupt the face of the earth and blot out the nations of men, possibly put an end to all life on the planet itself.

These madmen have a comet by the tail, but they think to prove their sanity by treating it as if it were a child's skyrocket. They play with it; they experiment with it; they dream of swifter and brighter comets. Their teachers have handed them down no rules for controlling comets; so they take only the usual precautions of children permitted to set off firecrackers. . . .

Why do we let the madmen go on with their game without raising our voices? Why

do we keep our glassy calm in the face of this danger? There is a reason: we are madmen, too. We view the madness of our leaders as if it expressed a traditional wisdom and a common sense: we view them placidly, as a doped policeman might view with a blank, tolerant leer the robbery of a bank or the barehanded killing of a child or the setting of an infernal machine in a railroad station. Our failure to act is the measure of our madness. We look at the madmen and pass by.

Truly, those are infernal machines that our elected and appointed madmen are setting. When the machines go off, the cities will explode, one after another, like a string of firecrackers, burning and blasting every vestige of life to a crisp. We know that the madmen are still making these machines, and we do not even ask them for what reason, still less do we bring their work to a halt. So we, too, are madmen: madmen living among madmen, unmoved by the horror that moves swifty toward us. We are thinking only of the next hour, the next day, the next week, and that is further proof that we are mad; for if we go on in this fashion, tomorrow will be more heavy with death han a mortuary.

I would be the first to concede that there are fundamental differences between the Reagan administration and members of this committee—myself and others—regarding the best way to proceed on arms control. Nevertheless, I am eager to work with the Reagan administration on these issues and others.

However, I must conclude that Professor Rostow's views on arms control are not mainstream views and are not representative, in many respects of the express views of the Reagan administration, so hostile are they to the arms control process and so pessimistic are they about the prospects of strategic arms control and nuclear nonproliferation.

ROUTINE MORNING BUSINESS

The PRESIDENT pro tempore. There will now be a period for the transaction of routine morning business.

THE RETIREMENT OF CHARLES F. LUCE

Mr. JACKSON. Mr. President, there is perhaps no other person in America who can view the Nation's electric power landscape—past, present, and future—with the perspective of Charles Franklin Luce, who has served public and private power with equal distinction. I should like to share with my colleagues and have printed in the RECORD for the benefit of all who are concerned with energy matters two recent speeches by Mr. Luce which bring all of that perspective to bear on matters of importance to all of us.

One speech was delivered in New York City, May 18, 1981, before the 96th annual meeting of stockholders of the Consolidated Edison Co. of New York, Inc., and his last as chief executive officer of the company. Although he will continue for another year as chairman of the board, he will turn CEO duties over to the company's able president, Arthur Hauspurg, this year.

The other speech was delivered in Eugene, Oreg., 3-days later on May 21, before the 41st annual membership meeting of the Northwest Public Power Association (NWPPA). Mr. Luce earned his right to speak before such an audience by virtue of his efforts, as a young lawyer in Walla Walla, Wash., to help many public utility districts and REA cooperatives get into business, and by dint of his leadership of the Bonneville Power Administration during one of its most exciting and productive periods, 1961 through 1966. There even was a time in the late 1950's, as I recall, when attorney Charles Luce was appointed the public's representative in a rate case before the Washington State Public Utilities Commission, and helped convince the commission to deny the application of an investor-owned utility for a rate increase.

That he would have held such a variety of positions is not only a tribute to the man, himself, but illustrates the point he makes in the NWPPA speech. He observes there that former antagonists have found it wiser to solve common problems by working together rather than letting them go unresolved and possibly even worsen by contesting one another. I know that Mr. Luce shares my own conviction that the existence of public and private power side by side makes for healthy competition of a type that produces benefits that otherwise might not accrue to customers of either type of utility.

A true public servant is one who puts people ahead of institutions, and I believe that to be the hallmark of Charles F. Luce.

I ask unanimous consent that his two speeches be printed in the RECORD.

There being no objection, the speeches were ordered to be printed in the RECORD, as follows:

REPORT UPON THE STATE OF THE COMPANY

(Remarks of Charles F. Luce)

Today I make my fourteenth annual report to the shareholders of our Company, and my final such report as its Chief Executive. They have been fourteen difficult years—difficult for shareholders, difficult for consumers, and difficult for the men and women who work for Con Edison. But they have also been challenging, fascinating years. An avalanche of political, social, and economic changes have rushed at our Company. Our challenge has been to anticipate these changes insofar as possible, and at all events to adapt our Company's policies and programs to meet them.

In 1967 when I joined Con Edison, fuel oil was about $2.00 a barrel. Demand for electricity had been increasing at a steady 5 percent per year, thus doubling every 14 years. New power plants could be built in four to six years. Inflation was not generally perceived to be a national problem. The consumer price index rose only 2.9 percent in 1967. Interest rates on A-rated 30 year utility bonds were 6 percent. New York City's economy was thought to be booming, and there seemed no bottom to the city treasury's ability to finance new social programs.

But storm flags already were flying over our Company 14 years ago. Several years earlier, a group of Hudson Valley residents had organized the Scenic Hudson Preservation Conference, and by litigation had halted the construction of the Cornwall (Storm King) Hydro-Electric Project. The first regionwide blackout had struck the entire Northeast. Many of the Company's generating units were old, dirty and inefficient.

The Company was facing capacity shortages that would soon lead to brownouts. Its transmission line connections to neighboring utilities were woefully weak. Yet a proposed new line to strengthen interconnections with New York and New Jersey utilities could not win construction permits. In many residential areas, the Company's distribution lines were undersized, and customer complaints of low voltage were frequent. Maintenance of the cable system in Brooklyn and Queens had been deferred.

A costly construction program to renovate and expand the Company's generating capacity, transmission system, and distribution lines was imperative, yet the Company's cash flow was poor, its dividend payout ratio high, and its balance sheet far from strong. In December 1966 Moody's and Standard & Poor's had reduced the credit rating of Con Edison bonds from AA to A. To complicate matters still further, most of the senior officers of the Company were near retirement age, and a new management team obviously had to be recruited.

Storm flags also were flying over our city 14 years ago. Three years earlier Harlem and Bedford-Stuyvesant had erupted in riots, expressing the despair and anguish of unemployed minorities. Public schools were in academic decline, the crime rate was causing alarm, apartment houses had begun to burn in the South Bronx and impoverished sections of Brooklyn, and white flight to the suburbs was increasing. Municipal unions had already proven so powerful as to paralyze the City during a transit strike.

Faced with all these problems, as well as with other problems that have developed during the past 14 years (such as double-digit inflation, soaring interest rates, ever-tightening environmental restrictions, a 2000 percent increase in fuel oil prices, and the burden of city and state taxes that increase automatically as fuel prices increase), how has your Company done? I hope it is not being immodest when I say that, despite some mistakes and many disappointments, the men and women of Con Edison—management and union members alike—have done an extraordinarily fine job for you, and for the consumers they serve.

Today we are a very different company, operating in a very different environment, from when I came here in 1967. Let's examine some of the changes.

Today our generating plants, with the exception of five small, older plants that supply the Manhattan steam system, are modern, clean, and efficient. And rehabilitation of these five older plants is well underway. Total generating capacity of the system serving New York City and Westchester, including firm Canadian purchases, has increased from 7,500,000 kw in 1967 to 12,000,000 kw today; generating reserve margins, from a nominal 23 percent to 48 percent. On the hottest day last summer the electric system not only met an all-time peak load, but also supplied 600,000 kw to neighboring utilities. The capacity of the Company's transmission system, including the lines connecting it to other utilities, has been increased to the extent that five times more power can be delivered to New York City. Starting two years ago, these lines have been bringing into New York and Westchester 740,000 kw of Canadian hydro-electricity purchased through the Power Authority of the State of New York.

The New York Power Pool, of which we are the largest member, has constructed a new control center near Schenectady that continuously schedules for the benefit of each utility's customers the most economical generating units available throughout the state. Our Company, with the aid of the Boeing Company, and at a cost of approximately $55 million, is completely modernizing its internal power control system. The new system is expected to become operational in 1982. Many overhead distribution

lines in residential areas of Westchester and New York City have been rebuilt at higher voltages to increase their capacity and improve their reliability. Others are scheduled to be rebuilt. Stringent maintenance standards have been established and enforced for the entire underground cable system. According to the most recent PSC figures, the number of customer service interruptions on our system are about one-ninth the average number experienced by the other New York utilities. Low voltage complaints are now comparatively few and far between.

The Company has made a major contribution to improving New York's air quality by burning cleaner fuels, constructing new generating plants outside the City, and importing Canadian hydroelectricity and other energy that can be purchased for less than the Company's fuel costs. Compared to emissions in 1967, last year's sulfur dioxide emissions from power plants in New York City were only 12 percent, particulates 27 percent, and nitrogen oxides 39 percent. In the categories of principal pollutants emitted by power plants, the City is now in compliance with federal primary air quality standards. One has only to travel to other large cities in the United States—Denver, Phoenix, and Los Angeles for example—to appreciate the cleanliness of New York's air. As regards water pollution, our Company has substantially reduced chemical discharges into waterways in compliance with federal and state standards.

Another environmental problem from the 1960's reached a happy conclusion just two weeks ago when the New York Public Service Commission approved what some have called the Hudson River Peace Treaty—a settlement whereby we agreed to surrender our license to construct the Cornwall pumped storage project in return for being relieved of the requirement to build very expensive and unsightly cooling towers at our Hudson River plants. Under the settlement we will substitute other measures at our Hudson River plants to mitigate their impact on fish life, but at much less cost than building huge cooling towers. So the settlement will be good for our customers as well as for the environment.

To finance the renovation and expansion of our electric system, we have sought rate increases we believed necessary to attract investment capital, and we have installed effective operating and capital budget systems. Today our balance sheet is among the strongest in the utility industry. Forty-six percent of our capitalization is common equity, 11 percent preferred equity, and only 43 percent funded debt. Earnings per common share have risen from $2.58 in 1967 to $4.67 in 1980. Dividends per common share have risen from $1.80 to $2.96.

Today our Company's bonds are rated A by Moody's and by Standard & Poor's, and very recently were upgraded to 4 by Duff & Phelps, roughly equivalent to a low AA rating. Our ratio of pre-tax income to interest obligations computed by the SEC formula is about 3.5 times. Computed by the formula in our bond indenture it is almost 4 times. Our dividend payout ratio was only 57 percent in 1980. Various brokerage houses are recommending our stock to investors.

Key to our financial recovery—and to indirectly obtaining certain tax benefits for our customers—was our decision 14 years ago to look to the Power Authority of the State of New York as a major source of new generating capacity for our system. Starting from a 1967 basis of zero, PASNY today provides generation for about 15 percent of the requirements of our service area.

Also important to our financial recovery was our policy decision in 1971—three years before the Arab oil embargo—to cease promoting the greater use of electricity, and to adopt a marketing strategy of conservation. We were the first major utility to do so. If our electric loads had continued to grow at their pre-1971 growth rate, we would have been forced to raise more capital to build expensive new facilities to serve this growth—to the detriment of both shareholders and consumers. Today our conservation program, including our nationally recognized Conservation Center, and our residential energy saving assistance measures, is one of the best in the United States. Our total electric loads today are only slightly higher than they were in 1971. Our pre-customer residential use of electricity is about one-third the national average.

Changes in our gas business have been substantial, though less obvious than those in our electric business. We have separated the gas department from the electric department, and combined it with the steam department. We have expanded large sums replacing low pressure cast iron gas mains laid 70–80 years ago, installing cathodic protection on steel mains that lacked it, replacing thousands of old service pipes, and otherwise improving the gas distribution system. In the early 1970's, large quantities of gas we had contracted to purchase on a year-round basis were taken away from us by action of the Federal Power Commission.

The Commission, concerned about a national shortage of gas, assigned a low priority to our use of gas as boiler fuel to generate electricity. FPC's reallocation of gas supplies required that we substitute imported oil for the gas we lost. In addition we built and purchased gas storage capacity to protect our firm gas customers from shortages during severely cold weather. More recently, national policy changed again, and we are now encouraged, temporarily, to use gas as boiler fuel. With gas, as with electricity, our conservation programs have been effective. Our total firm gas sales today are slightly less than in 1971. Average residential use of gas by heating customers has dropped significantly.

We have also spent large sums improving the steam system. Our proposal in the mid-1970's to place a cap on expansion of the steam system was rejected by the Public Service Commission on the ground that the availability of steam service was essential to the protection of Manhattan's air quality. Subsequently conservation has reduced steam sales by 25 percent, and a number of our steam customers have left our system in favor of installing on-site boilers. Many such former steam customers, however, have become our new gas customers in order to fire their new boilers. Our steam department now anticipates that over the next few years new business will offset further losses to on-site steam production, but that additional conservation will cause a slight net loss of steam sales.

Structurally, also, we are a very different company from 1967. Instead of directing all operations of the Company from headquarters at 4 Irving Place in Manhattan, we have decentralized. We have established six operating divisions to which we have delegated responsibility for customer service operations, as well as for design, construction, maintenance, and operation of our distribution systems. To bring our Company closer to its customers we have also opened four new business offices, bringing the total to 19. More such offices will be added in the next two to four years. Each is linked to our modern central computer data base. The bill we send out now has the name and a telephone number for the customer's account representative, thus helping to personalize our dealings with the customer. Except for some residential accounts in the Bronx, we have switched from bi-monthly to monthly billing and meter reading.

Our percentage of meters read on schedule is the highest among utilities operating in the New York metropolitan area. One happy result of this improved customer service system has been a dramatic reduction in our uncollectible accounts—from 2 percent of revenues in the mid-1970's to less than 0.5 percent today.

Company-wide personnel policies and practices have changed dramatically also. Our long-range objective is to have a Company workforce broadly representative of the population we serve. Consistent with our Company's obligation to provide reliable, efficient service we have expanded the employment of minorities and of women. In 1967, minorities constituted 8 percent of our workforce, and women 10 percent. Today minorities are 24 percent and women 13.5 percent. To assist new employees who did not receive a basic education in school, we have operated our own schooling programs, combining the three R's with on-the-job skill training. We have found qualified minorities and woman for officer positions—five thus far. Last year a minority vendor program we instituted in 1969 placed $13.5 million of business with 175 concerns owned, and managed or operated, by minorities. It is generally recognized as one of the best such programs in the New York metropolitan area.

At the same time as we broadened employment policies, we have professionalized them. We have instituted a modern management salary classification system, including regular performance reviews for each management employee. With some exceptions, vacant management positions are posted so that all employees have an opportunity to apply for them. To assist employees to perform their jobs more skillfully, and to qualify for advancement, we have expanded our training programs. We are experimenting with a four-day work schedule in certain areas of the Company. With all of these changes we are serving our customers with about 2,000 fewer active employee than we had in December 1967. And we have strengthened the funding of our employee pension system from 37 percent in 1967 to 70 percent in 1980 while at the same time increasing benefits for present employees and retirees.

There are many other changes I could speak of—for example, the improvements in the cleanliness and appearance of our property and equipment, our corporate code of ethics, our competitive purchasing policies, and our leadership in research, especially in the fuel cell and the underground transmission of electricity. But this afternoon I will not try to catalogue them all.

I mentioned earlier that there have also been mistakes and disappointments over the past 14 years. Prominent in these categories are such items as the skipped dividend in 1974, the blackout in 1977, the flooding incident at Indian Point 2 in 1980, the failure of our earnings and dividends to keep pace with inflation, the drop in market value of our stock to only 60 percent of its book value, our inability thus far to obtain government approval to use more economical fuels and to get tax relief for our customers, and the inexorable increases in electric bills caused by fuel price and tax increases and by other inflationary pressures. But whenever we stumbled we have pulled ourselves up and gone forward, applying the lessons we learned in order better to provide the energy on which the life of New York City and Westchester absolutely depends. The support given to management by our Board of Trustees in troubled hours, as well as their wise counsel and encouragement at all times, have contributed enormously to what we have been able to accomplish.

And now I am happy to present to you Mr. Arthur Hauspurg, our President, who will also become our Chief Executive on August 1, 1981. My friend Arthur is an outstanding utility executive who has been in training for this new responsibility for his entire professional career. Whereas this afternoon I have looked backward to see where we have come from, it is fitting that

Arthur will look forward and speak to us of the Company's plans and programs while he is guiding it in the years ahead.

OUR CHANGING ELECTRICAL INDUSTRY

For me, an opportunity to appear before the Northwest Public Power Association is really old home week, or old home morning in any event. It is very good to see so many old friends dating clear back to the days when I first joined Bonneville Power Administration. The fellow who hired me is here, Jebby Davidson, former General Counsel of BPA, for whom I went to work as a young Bonneville lawyer in 1944.

I have been asked to talk this morning about "our changing electric industry." Mainly, I will talk about more recent changes. But I hope you will forgive a little nostalgia since I have been in the industry, or on the edges of it, for almost 40 years.

There are many ways to classify the changes that have occurred in the electric industry in the past four decades. For today's discussion I will classify them into five categories: institutional, technological, marketing, environmental perceptions, and profound changes in the nation's energy resource base—with accompanying changes in the rates that utilities must charge to finance the projects to develop this changing resource base. Changes have been rushing at us in this industry so fast that sometimes one wonders if we might suffer from future shock. They're just hard to absorb—they come at us so rapidly.

First let's talk about institutional changes. When I joined Bonneville in 1944, the industry in the Pacific Northwest was organized in a fairly simple way. There were two sides, or perhaps three sides. There were the New York-controlled holding companies which were under federal order to dispose of their operating subsidiaries. There were the operating companies, privately owned but run from New York by the holding companies. Then there were a group of public agencies either in business or trying to get into business.

My duties at Bonneville as lawyer for H. R. "Russ" Richmond, Jr., who later was Administrator but then was Walla Walla District Manager, were to help public agencies and rural cooperatives get into business. All the way from Hood River to LaGrande on the Oregon side of the Columbia River and from Yakima to Clarkston on the Washington side. We didn't succeed in all cases, but we did help a number of agencies get going. In Oregon, there was the Hood River Electric Co-op, Northern Wasco P.U.D., and a group of REA-financed electric cooperatives in Central and Eastern Oregon. On the other side of the River, the Klickitat, Benton and Franklin County P.U.D.'s and another group of REA-financed electric cooperatives.

In the course of those first two years with Bonneville, I met some wonderful men who helped to organize these public agencies and cooperatives, at least one of whom I saw here today. There was Walter Wells, Hood River Valley, President of and moving force behind Hood River Electric Co-op., and Bill Seufert at the Dalles, Chairman of Northern Wasco P.U.D., who used to call me "Free Brains." And there were Mr. Collins of Klickitat County, Preston Royer and Bob Johannson of Benton County, Dan Jolly and Glen Walkley of Franklin County, whom I did see here today, and many others, all dedicated to the economic development of their communities through the multipurpose development of the Columbia River.

The mid-1940's were days when the institutional organization of the industry in the Pacific Northwest seemed to be rapidly changing. It wasn't clear whether the New York holding companies were going to sell to public agencies, as they did in Nebraska and the Tennessee Valley, or whether the subsidiary operating companies would succeed in getting their stock into investors' hands and thus remain privately owned. Guy Meyers was promoting negotiated sales from holding companies to public agencies, and Bonneville was promoting condemnation by public agencies of privately-owned distribution systems. It was all exciting and controversial.

When I came back to Bonneville as Administrator in 1961, after practicing law in Walla Walla for 15 years, the public-private power scene had changed, and had seemingly stabilized.

The holding companies were gone, a number of public agencies had gotten into business, and the operating utilities that had been subsidiaries of the holding companies were still operating although they had lost some of their service territory to public agencies. Public attention had changed from "what's going to happen when the holding companies dissolve?" to "how can we fully develop the Columbia River?" and "how can we manage the problem of selling electricity outside the region and protect the region while doing so?"

Fully developing the Columbia River necessarily involved cooperation with Canada, that is the building of storage dams in Canada where the best storage sites were located, and the operation of such dams for optimum downstream flood control and power production. There was no way to develop the River to its fullest potential, and take maximum advantage of storage sites in Canada, without all of the owners of downstream dams, particularly on the American side of the Columbia River system, also operating their projects in close coordination. The owners of such dams included the federal government, public agencies, and private companies. And so the very effort to negotiate that Treaty and get the upstream storage we needed to really take advantage of this marvelous resource, the Columbia River, drove the former contestants maybe not into each others arms, but certainly much closer together.

The same thing was true with planning for the Northwest-Southwest intertie, because both the public agencies and the private companies in the Northwest—and I should add the electro-process industry located in the Northwest—were concerned that down in California was this big state water plan with legal preference under the federal power marketing laws, and with an insatiable appetite for electricity. If intertie lines were built to market surpluses of Columbia River energy in Californonia—thus preventing waste and helping to protect the Bonneville rate—we wanted to sell only true surplus, that is, what we didn't need in the Northwest. To achieve such a regional preference called for very close cooperation among all segments of the Northwest utility industry.

So in my time as Bonneville Administrator from early 1961 to late 1966, the problems between public agencies and private companies had not altogether disappeared but they were muted. The former antagonists were cooperating in many more things than they were contesting with one another.

In this period since 1967 there have been profound institutional changes here in the Pacific Northwest, which I must tell you some of us in New York rather envy—particularly the Regional Power Act that you put through Congress after a lot of negotiation among the many affected interests. Through BPA it sets up mechanisms for financing conservation as well as new power projects in such a way that the region's energy resources are used efficiently, and the region will have the financial capacity to build the new power projects that are going to be necessary. To accomplish this, you had to have close cooperation among the different segments of the utility industry, as well as the states in the Columbia Valley and the electro-process industries located there.

I say that in New York some of us are rather envious of this. We are facing very serious financial problems in the New York utility industry. There is no federal agency producing power in New York. The only publicly-owned generating utility of any consequence is the Power Authority of the State of New York (PASNY). PASNY redeveloped the American side of Niagara Falls. In addition it has two pumped storage projects and a dam on the St. Lawrence River below the Falls. It also has two nuclear plants, one of which it bought from us, and an oil-fired plant it bought from us. In all, it represents close to 20 percent of the generating capacity in the State. However, it has contracted to sell most of its power, virtually all of it, under long-term contracts project by project. It doesn't have uniform, system-wide rates such as Bonneville has. Rather, it prices and sells its power project by project, that is, its customers buy power from this dam or that dam or that steam-electric plant at a rate reflecting the cost of the particular project. It does not have, nor thus far propose to have, a public utility responsibility that is statewide. Consequently it is not, at least thus far, in a position to meet the future needs of the investor-owned companies who would like to buy more power from it.

In the mid-1970's the seven investor-owned companies in New York tried to effect an institutional change by organizing Empire State Power Resources, Inc. (ESPRI) as a commonly-owned subsidiary to finance and build all new power plants.

By putting the credit of all seven companies back of the generating company, and devising a capital structure that reflected that stronger credit backing, we thought we could get lower interest rates, sell more bonds, put in less equity, pay less taxes, and thereby hold down rates. But our plan was not approved by the New York Public Service Commission, the staff of which was concerned that if ESPRI built our new generating plants the Federal Power Commission, now the FERC, would have jurisdiction over our wholesale rates in New York—and the PSC staff didn't want that. In the eyes of the PSC staff that would have constituted an undesirable infringement on state jurisdiction. The investor-owned utilities didn't care, really, whether wholesale rates were federal or state regulated. If we had any preference, we'd rather have state jurisdiction than a division of jurisdiction between federal and state rates regulatory agencies. But when we went down to Washington to see whether we could interest Congress in taking jurisdiction away from the Federal Power Commission over the wholesale rates of our subsidiary, we found opposition to that too. So thus far our efforts as a group of New York State private companies to reorganize the institutional structure of our industry have failed.

Some of us in New York now hope that we can attract political support for a program whereby the Power Authority will take on a larger share of the generation of electricity in New York, and do so in a way that treats our customers without discrimination. From the time I went to New York—1967—I have tried to buy more PASNY power for Con Edison's customers. But it's only been in the last two or three years since ESPRI failed to win approval that the industry generally in our state has moved in a similar direction. Thus far nothing has happened, but there is motion in that direction.

Not only in New York, but across the land, we see that what has happened institutionally in the Northwest is starting to happen elsewhere. Private utility companies are moving closer to public agencies and vice versa—the private companies really doing so out of financial need, and a desire to reduce their costs. The private companies are in financial difficulty because of the high cost of building and financing new power plants

and then, in turn, the difficulty of winning approval for the higher rates that it takes to persuade investors to put their money in the securities that must be sold to pay for the plants. I'll come back to the subject of higher rates as I conclude this morning.

We see in the institutional changes of the past 40 years how public and industry attitudes have changed over the last 40 years. While there is still a public-private division in our industry (and I think it is healthy that there remain such a division), the public agencies and private companies are finding more areas in which to agree and fewer areas in which to disagree. Most of the disagreement now appears to be at the distribution level and not at the generation and transmission level where, with increasing frequency, investor-owned companies and public agencies are joining together to finance projects too large or too risky for the participants to undertake individually.

Let's talk next about technological change. Technologically, the biggest change in the Northwest has been the near exhaustion of the hydro resource from the standpoint of its energy capability and the necessity to develop incremental supplies of energy from uranium and coal. I suppose if one looks at the industry across the land the biggest technological change has been that the economies of scale that we saw so dramatically develop from the mid-1940's through the mid-1960's have stopped, and perhaps have even reversed. Today the power plant we would build in New York is no larger than and probably no more efficient than the power plant we would have built 15 years ago. As a matter of fact it would take us, instead of four years, some 12 to 14 years to build. Of course that construction delay is enormously expensive because you have large sums of money invested in a partially completed plant drawing interest all during that stretched-out construction period, and at the same time construction costs are escalating with inflation.

Further, we have been required to add to these generating plants all kinds of environmental protection devices that are expensive. I'm not saying that we shouldn't add such devices, but consumers and environmentalists must realize that they make each kilowatthour cost more. Through equipping power stations with environmental controls, and retiring older and more polluting plants, we are not only producing kilowatthours but we are also producing cleaner air and cleaner water—items that cost a lot of money.

Where technology is going in the years ahead is a good question. There is a school of thought that says we are going to small technology—windmills, solar, small hydro, fuel cells, etc.

I think there will be some change in that direction. I can't believe though that the increasing basic energy needs of this country are going to be met that way. I think we've got to do everything we can to develop clean domestic sources of energy: wind sites where they are developable, and small hydro projects where we can do it without too high an environmental price, and solar, particularly in latitudes where there is a lot of sunshine. I think the fuel cell has a lot of potential for small decentralized generation, and our Company in cooperation with others is installing a 4.8 MW fuel cell in the heart of Manhattan. But with it all we are going to have to develop basically a coal and nuclear energy production system at least for the rest of this century, and probably well into the next century. And at the same time of course we're going to have to continue our efforts towards conservation. But conservation can't do it all, any more than nuclear can do it all, or coal, or solar, or wind, or hydro. None of them is a total answer. We have to put all these things, and others, together.

As far as transmission technology is concerned we seem for the foreseeable future to have topped out at about 750,000 volts. At least in the eastern part of the country we just cannot get permits to build lines any higher than 500,000 volts. There is only one line in New York State at 750,000 volts. It was built in 1977–1979 by PASNY, and its construction caused such a furor that the Chairman of PASNY said at the time that he would never ever build another one that big. We have seen direct current work very well on the Northwest/Southwest regional intertie, but it hasn't spread as much as I would have expected it to—perhaps it will more in the future as improvements are made in solid state convertors.

So much for some random observations on institutional changes and technological changes in our industry. What about marketing philosophy? There, I think, has been one of the most dramatic changes. When I came to Bonneville in 1944, and indeed when I went to New York in 1967, I was convinced that the more kilowatthours a utility sold the better job it was doing. In a sense we measured the good life in terms of electrical consumption. As we saw it, a primary indicator of standard of living was the number of kilowatthours each resident consumed. I don't think that criterion is any longer accepted by anyone.

What happened? What happened was economic—as technology leveled off, and cheap energy sources were used up, and inflation and money costs kept rising, the output of every new plant we built cost more per unit than the output of the plants we already had. This truth dawned on us in New York in about 1970. Every time we sold another block of power we necessarily wrote a prescription for a rate increase, which is not a desirable thing to do whether you are a public agency or a private agency. So in 1971 we disbanded our marketing program and went into a marketing philosophy we call Save-a-Watt, advising people through our former sales persons and by other means how to save energy rather than how to use more energy.

In 1971 there were those in our industry back in the Northeast who thought we had sort of lost our minds—well, actually, I think they thought we never knew too much about the business to begin with. It was muttered in industry circles that "you know that's what happens when you put one of those government guys in charge of a privately-owned utility—he's going to screw everything up." But we thought the economics of it were sound, and time has vindicated our analysis.

We thought the public relations of Save-a-Watt were sound too. Enviromentalists were beating us over the head with the accusation that we were causing our own problems with facility siting by promoting the greater use of electricity. We wouldn't need new power plants, they said, if we didn't try to sell electricity. We were stimulating sales and thereby were making it necessary to build plants, they argued. If we would only keep our mouths shut and not sell power, there would be no need for new power plants. We knew this wasn't true. In fact, most selling was done by appliance dealers and appliance manufacturers such as GE and Westinghouse, stimulating the desire of the public for more appliances and more air conditioning. Nevertheless it was widely believed by a group of highly vocal people that utility marketing efforts were the villains pushing up the demand for electricity. So there was a public relations value to a marketing philosophy that said "conserve—don't push sales."

This brings me to the fourth major change in the electric industry, one that has occurred in the past 15 years, namely the public perception of the need for preserving the natural environment. It's a change that we in the utility industry must deal with.

When I came to Bonneville one of the real attractions of working for Jebby Davidson and Paul Raver—in the back office, I wasn't up where they were—was my belief that developing hydroelectricity was true conservation. I thought it important that when we built dams we didn't burn coal and we didn't use other resources that were of limited quantities in the earth. Furthermore, hydro was clean and just all around good. I happen still to believe that. But there are a lot of people today who don't really think it's that simple—people who think that if you alter the natural environment at all that's bad. Arthur Godfrey—do you remember?—wants to tear down all the dams. He thinks that would be a great plus for the environment. You and I think that's ridiculous—and it is ridiculous. But there are a number of people who while not quite that extreme think that any alteration of what's left of the natural environment is highly undesirable.

There is nostalgic yearning for a simpler life—even a life without central station electric service. When I think how life was on farms that had no central station electricity—wood stoves, scrub board washing, no refrigeration, outdoor plumbing, hand milking, kerosene lanterns—I find this nostalgia has a very short memory. When, in the late 1940's, we got REA electricity in the north end of Walla Walla County, what a boon it was for people who lived there. They thought they were getting a better life—and they were getting a better life. But there is a type of person now who rather romantically thinks that isn't true, and that if instead of the REA we had only windmills, solar panels, and worked a lot more with our hands we would be morally superior and much happier.

What other changes? Raising our sights now from the Pacific Northwest to the entire nation, the biggest change we face is that which results from the fact that an economy dependent on oil and gas for 70 percent of its energy is gradually but certainly running out of oil and gas. And it's not surprising that it is, because if one looks at the totality of the earth's resources of energy, only about 6 percent of the earth's basic energy resources are in the form of oil and gas. Western Europe must make the same transition to fuels other than oil and gas, and so must Japan. So must the Eastern European Communist bloc.

For the United States as for other industrialized nations, it is a transition necessary to preserve and increase our standard of living, and to provide jobs. In our nation alone there will be 25 percent more men and women needing jobs in the year 2000 than there are today. That is only 20 years off. It takes 10–15 years to build a new electric generating station.

We've got to manage this change, and it's going to be a change that the electric utility industry, however owned, must play a very big role in. And the change is going to be difficult and controversial.

Electricity can be substituted in many cases for oil and gas. Heating is an obvious example, and you do a great job of that in the Pacific Northwest. Eventually electric cars, for suburban driving at least. There are many other uses, too, where electricity can relieve the demand for oil and gas. And of course most directly and obviously companies like ours in New York, where 85 percent of our electric generation is oil-fired, can substitute other fuels for oil and gas. We burn 40 million barrels of oil a year. If the Union of Concerned Scientists and other objectors to nuclear power had their way and shut down our nuclear plants we'd be burning another 20 million barrels of oil a year.

How do we develop electricity from coal

and nuclear, and wind, and hydro, etc. to help our country make this transition from dependency on imported oil and gas to domestic energy resources? We must do so, not only for the economic and humanitarian reasons I have mentioned, but also for reasons of national security. We must not remain dependent on the Straits of Hormuz staying open to preserve our economic life-line. Why do you suppose we have a naval task force in the east end of the Mediterranean, and a proposed rapid deployment force in Egypt? The real danger of nuclear power destruction is not from peacetime nuclear plants. It is from a nuclear war to preserve oil imports. As a matter of fact nuclear power plants are a factor for peace. To the extent we have them, they take the pressure off the necessity of using military force to keep the Persian oil flowing.

But—and here's another change that must accompany the change from oil and gas to other fuel sources—public agencies and investor-owned companies must change their pricing policies, and not shy away from necessary rate increases.

Because to build the plants—coal, nuclear, whatever—to help the country make this transition away from oil and gas will be enormously expensive and will require much higher rates to support the financing of the new plants. Consumers are going to resent it. So I would say the biggest change that is facing our whole industry, regardless of the ownership of the particular utility, is the rapid increase in rates that are going to be necessary if we do the job that the country is relying on us to do.

David Freeman, the Chairman of TVA, was in New York about three months ago to speak before a financial club on Wall Street. TVA has a big nuclear program going—some nine partially completed units—more nuclear plants than the Washington Public Power Supply System is building. There is great pressure on TVA not to finish some of those plants. The point Dave Freeman made in his Wall Street address was that TVA had to finish those plants so that by 1990, as oil and gas become scarcer and more expensive, the Tennessee Valley and the nation will have the energy from those plants to replace oil and gas. But he told the group that the opposition in the Tennessee Valley to the TVA rate increases necessary to finance this construction program was to use his word, "vicious." He said, "I am facing vicious opposition;" to which I replied, "Dave, welcome to the club!" He said it was so bad—there are three members on the TVA Board—that when the TVA Board held a meeting and decided they had to raise the rates to finance this big construction program, one of the three commissioners who opposed the rate increase held a press conference right outside the TVA Board's meeting room and denounced the Board's action. I trust things have not come to such a pretty pass here in the Northwest.

Con Edison's summertime rates in New York now are about 14 cents a kilowatthour. Our oil cost alone is 40 percent of that rate, so you can figure that our fuel costs are now about 6 cents per kilowatthour. Our state and local taxes are another 20 percent of the rate, or about 3 cents per kilowatthour. So we in New York know what it is to face rate problems, and "vicious" criticism of our rates. Of course people object to rate increases almost as much as they object to rate levels, and I am sure you have discovered that. To move from 2 cents to 2½ cents per kilowatthour may engender as much opposition from people who are being hurt by inflation and who just can't understand why all of this is necessary, as moving from 8 cents to 9 cents. It seems to be the change, as much as the level of rates, that gets people uptight.

Certainly this utility industry, changing so rapidly, is an interesting one. When I was practicing law in Walla Walla I used to think there wouldn't be anything duller than running the local district office of Pacific Power & Light. There was little for the management to do but go to the Kiwanis Club, the Rotary Club, or PTA. And to make sure there weren't any public power resolutions introduced!

But it is all different now. All of us are in the same boat together as Americans with the responsibility for helping our nation get through this transition from an oil and gas economy to an economy that is domestically relatively self-sufficient. I am convinced that the leaders of the electric industry, public and private, have the intelligence, the foresight, and the courage to assure that our industry does its part in this great national effort.

CONCLUSION OF MORNING BUSINESS

The PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

OMNIBUS RECONCILIATION ACT OF 1981

The PRESIDING OFFICER (Mr. McCLURE). The Senate will now continue with the consideration of the pending business (S. 1377), which the clerk will state by title.

The legislative clerk read as follows:

A bill (S. 1377) to provide for reconciliation pursuant to title III of the first concurrent resolution on the budget for fiscal year 1982 (H. Con. Res. 115, 97th Cong.).

The Senate resumed the consideration of the bill.

AMENDMENT NO. 104

The PRESIDING OFFICER. The pending question is on agreeing to the amendment of the Senator from New Mexico. Who yields time?

Mr. PERCY. Mr. President, I should like to address a question to the distinguished Senator (Mr. SCHMITT).

Mr. SCHMITT. Mr. President, I am happy to yield time to the Senator from Illinois.

Mr. PERCY. I thank my distinguished colleague.

Mr. President, I know of the distinguished Senator's devotion to public broadcasting. It is an interest we share. I had the privilege of serving as chairman of the board of the Fund for Public Education of the Ford Foundation. When we first started the whole concept of public broadcasting, we funded every station out of Ford Foundation money.

Subsequently, as interest grew, the Federal Government became involved and has funded this activity. Public broadcasting has been successful as a separate entity, and it has also served as a catalyst, a stimulant, to the entire commercial sector of television.

My question is on the pending amendment. In my own view, it appears not only to deal with a fundamental policy question, but also, in a sense, to detract from the responsibility of the CPB to make its own judgments. Why should we determine today what the proper proportion is that CPB should put into this project, or into programing? Today, all we know is that the Senate, the House, and the administration seem determined to bring down this budget.

If we now start to earmark their own funds and say that they must pay 50 percent of the cost of the interconnection, then what happens to programing? It just automatically means that programs like the "McNeil-Lehrer Report" "NOVA," the dance series, a new childrens' program that has been planned, may just go by the board. The Board may rightly begin to wonder: "What is our purpose if Congress is going to start dictating the allocation of our funds?"

CPB will want to do its fair share on this project. It wants the interconnection, there is no question about that. But it seems wiser to me, given the time span of their authorization, to allow them to work that out with the local stations rather than mandating it for them at this particular time and in this particular measure, the reconciliation bill.

Mr. President, I shall find myself forced to vote against this amendment, and I hope the Senator will not press forward at this particular time, given his record as a strong proponent of public broadcasting. To press at this particular time in this particular way, locking CPB in, when it really cannot see that far ahead clearly as to what shape programing will take, will detract, I think, from what those of us who were in on the CPB's inception had in mind as an appropriate role for the Congress of the United States.

I thank my distinguished colleague for yielding. I shall be happy to have any response from him.

Mr. SCHMITT. Mr. President, the general thesis of the Senator was my thesis during the consideration of this measure in the Committee on Commerce.

However, as we looked at the detailed consequences of what was proposed, it became evident that we could not justify departure from current policy, which is basically that 50 percent of the interconnection costs be supported by CPB, and that is what this mandates. It is not 50 percent of the approximately $22 million that remains available for programing. It is 50 percent of the programing costs, which equates to about $7 million—$7 million of the $22 million.

I realize that it is difficult to project into 1984. The basic issue is, should we continue current policy on interconnection costs, or should we take a very real chance, which I have been convinced is a real danger, that individual stations, particularly small stations, will find themselves unable to continue in existence because of the loss of this 50-percent provision?

So, fundamentally, we are just trying to keep current policy, as we have a chance to see what happens at this reduced funding level that has been proposed.

I became persuaded after the conference committee's deliberations—and I believe many other members of the conference committee have been equally persuaded—that we should not take the additional step that will jeopardize the strength of the providers of programing

in order to preserve that additional $7 million in discretionary programing. It is a judgment call. I come down on one side, thinking that we had better make sure that we do not lose the stations. Obviously, the Senator from Illinois has come down on the other side, that it is better to continue the unallocated support of programing by CPB.

Mr. PERCY. I thank my distinguished colleague. We do come out on different sides. I am saddened by that. We both are enthusiastic supporters of public broadcasting.

I feel that Congress does have a role, but this is not the role I envisioned for it. I feel it is a disincentive for those who are entrusted with the responsibility of making public broadcasting work to remove these funds from their discretion and to——

Mr. SCHMITT. We are maintaining policy. Right now, in this current authorization, they have the requirement to pick up 50 percent of these interconnections.

Mr. PERCY. That is right, but it freezes into the years 1984, 1985, and 1986 an existing policy that may or may not be prudent at that particular time.

Why do we have to deal with this in this reconciliation bill, when the distinguished Senator can render his judgment—and I know he will be in the Senate for many years to come—and reassess at a later date? Why lock ourselves in now? What is the necessity for it? That is what the Senator from Illinois fails to follow. Why is it necessary to do it now? "When in doubt, don't."

I cannot support this amendment, and I hope others will not. I understand that others in the appropriate committee that has had jurisdiction in this area may not agree with this.

Mr. SCHMITT. The chairman of the committee and others do support the position.

Again, you cannot always do everything immediately within committee at the time and consider all consequences of a particular action.

In this case, I believe that most of the members of the committee—if not all—have become convinced that we are taking an awfully big step in reducing funding. We had better be careful about taking the next step, eliminating the requirements of interconnection costs.

I am sure the Senator will recall that from 1968 to 1979, the board was required to pick up 100 percent of interconnection costs. We have dropped that to 50. I would not be surprised if, the next time around, we can get rid of it, if public broadcasting has survived adequately this total reduction in Federal spending.

Mr. PERCY. I feel that if the trend is there, beginning with 100 percent, and we are down to 50 percent now, why lock ourselves into 50 percent into 1984, 1985, and 1986?

Maybe 40 percent is right. Maybe 35 percent is right. Maybe there would be more incentive. Maybe it is easier to raise money at the local level. It is an expenditure that can be dramatized and made appealing to contributors. Why lock ourselves into the 50 percent, if the trend has been downward?

Mr. SCHMITT. Pure judgment.

Mr. PERCY. I thank the Senator.

Mr. SCHMITT. Mr. President, it is my understanding that there are no objections to this amendment, and I hope that the distinguished manager of the bill on this side as well as the manager on the other side will see fit to accept the amendment.

Mr. DOMENICI. Mr. President, I commend my distinguished colleague for the amendment, and I have no objection. Speaking as a Senator, I think it is a very good policy decision and I think if we were to vote on it the Senate would almost unanimously accept it. I have no objection and hope we will adopt it by voice vote.

The PRESIDING OFFICER. Is all time yielded back?

Mr. DOMENICI. I yield back any time I have.

Mr. HOLLINGS. We yield back our time.

Mr. SCHMITT. I yield back time I have.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from New Mexico. The amendment (No. 104) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SCHMITT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order the Senator from California was to be recognized.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. ROBERT C. BYRD. I ask that it be equally divided on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 191

(Purpose: To retain authority for Social Security Act funding for vocational rehabilitation services for disabled beneficiaries of disability insurance and supplemental security income)

Mr. CRANSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration. Let me say I am striking two different parts of the measure and unless there is objection I will submit this as one amendment to be considered en bloc, although it is actually two separate amendments.

Mr. GORTON. Reserving the right to object, Mr. President.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) proposes on behalf of himself and Mr. WEICKER, Mr. RANDOLPH, and Mr. MOYNIHAN, an unprinted amendment numbered 191.

On page 199, strike out all on lines 3, 4, 5, 6, and 7.

On page 259, strike out all on lines 17, 18, and 19.

The PRESIDING OFFICER. Is there objection to the request of the Senator from California?

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. Mr. President, I would like to explain that, if we could not consider it as two amendments en bloc, I would, of course, offer the first part as the first amendment. If it were accepted, I assume the second part would be accepted since it meshes with the first. If it were rejected, there would be no point in bringing up the second one. So we might as well, for simplicity, consider them together, but I do not care which way we go.

Mr. GORTON. Mr. President, I have no objection to their being read and considered at this point together. But, on behalf of the majority leader, I wish to simply reserve the right for any Senator to demand that they be divided. I will not make that demand myself.

Mr. CRANSTON. I thank the Senator.

The PRESIDING OFFICER. Is there objection to the request as qualified by the Senator from Washington? Hearing none, it is so ordered.

The Senator from California.

Mr. CRANSTON. Mr. President, this amendment would restore authority for Social Security Act funding for vocational rehabilitation of disabled individuals.

I am pleased that Senator WEICKER wishes to be added as a cosponsor and I ask unanimous consent that he be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, this amendment is necessary in order to retain the current statutory authority for continuing certain cost effective programs to provide funds for State vocational rehabilitation programs for disabled persons. In an extremely ill-advised action, the President proposed, and the Finance Committee has included in its reconciliation package, the termination of a greatly needed source of funding for State vocational rehabilitation services for disabled persons.

Let me explain what these programs do and why I think my colleagues on both sides of the aisle should be eager to support the continuation of this authority once they understand the purpose and current success of these programs.

These programs have been in existence under the Social Security Act since 1966 for the benefit of disabled persons entitled to cash payments of social security disability insurance (SSDI) and supplemental security income (SSI) disability benefits. Through a transfer—at the discretion of the Secretary of

HHS—of limited amounts from the disability insurance trust fund, for SSDI beneficiaries, and from general revenues, for disabled SSI recipients, State vocational rehabilitation programs are given an increased ability to aid thousands—literally thousands—of disabled Americans to become productive members of our society. Elimination of these transfer payments would deprive many severely disabled persons of the opportunity to participate in the rehabilitation programs the need in order to lead productive lives in their communities.

Mr. President, the specific purpose of the trust fund transfer program is explicitly stated in section 222(d) of the Social Security Act. The act states:

> . . . The purpose of making vocational rehabilitation services more readily available to disabled individuals . . . [is that] . . . savings will result to the trust fund as a result of rehabilitating the maximum number of such individuals into productive activity.

In other words, by transferring to State departments of rehabilitation money otherwise held in reserve for the payment of disability benefits for individuals unable to work due to a disabling condition, we help to create the situation where fewer individuals will need the cash payment benefits in the future. We are using the funds for disability benefits for the specific purpose of helping individuals get off the disability rolls. There can be no better use of these funds.

Mr. President, for ease of reference, I will refer to both of these programs, the SSDI and SSI programs together, as the rehabilitation transfer programs. These rehabilitation transfer programs not only save money for the American taxpayer but, more importantly, help provide critical services to thousands of disabled citizens. By helping the States provide needed counseling, testing, vocational guidance and training, and other rehabilitation services of critical importance to disabled persons, these programs assist individuals in their efforts to return to work and become active participants in their communities and to prevent needless institutionalization. Thus, the rehabilitation transfer programs provide a double benefit—by making it possible for disabled persons to lead fuller, more productive lives in their families and communities and by saving tax dollars.

Mr. President, without the incentive to provide services for individuals receiving Federal disability aid, it is unlikely that State departments of rehabilitation—during this period of budget reductions—would focus their diminished resources on individuals who are in receipt of Federal financial assistance. The result would be that individuals currently receiving SSDI and SSI disability benefits would not receive the critical rehabilitative services necessary to help them in their efforts to work and to get off the disability rolls.

Mr. President, these programs were originally enacted so that savings would ultimately result to the Federal Government by reducing the number of SSDI and SSI beneficiaries. Thus, it makes no sense to me that the administration—and the Finance Committee—are proposing this change as part of a cost-savings effort when there is no dispute that these programs do save money in the long run.

Mr. President, this particular instance of budgetary policy provides a perfect example of how the administration, in its haste to implement its so-called economic recovery package, has produced results that, upon close examination, seem to be in fundamental conflict with the administration's overall economic objectives. We are obliged to study carefully the President's proposals and point out where we think his recommendations are just plain wrong. I strongly believe the proposed elimination of the rehabilitation transfer program is simply a mistake.

Upon careful examination of the numerous budget documents the administration has provided Congress, I have been unable to find any tenable justification for the proposed elimination of this program. The reason is because there is no justification for it. Although the administration has claimed that the elimination of this transfer program would "place responsibility for all rehabilitation services under the social services block grant," neither the House nor the Senate seems inclined to adopt this approach. The authorizing committees in both the House and the Senate have reported legislation explicitly excluding rehabilitation services from the various block grants under consideration.

Mr. President, I want to emphasize strongly that the elimination of these rehabilitation transfer programs will have very serious consequences for the States voc-rehab programs. Although the Labor and Human Resources Committee has reported reconciliation legislation that would exclude rehabilitation services from any block grant approach and would authorize a slight increase in funding, the House reconciliation bill provides for a reduction of over $117 million in vocational rehabilitation grants to the States and, in addition, the House Committee on Ways and Means has proposed to alter significantly the SSDI portion of the rehabilitation transfer program. As a result of the combined impact of the legislation before us today and that which is pending in the House, it is quite likely that the reduction in rehabilitation services would be greater than those being made in other important social programs.

For example, California's Department of Rehabilitation would suffer a significant reduction of Federal funds as a result of the combined cutbacks in the basic State grants and the elimination of the rehabilitation transfer programs. Of the Federal funds used for rehabilitating disabled persons in California, about 19 percent of these funds in the current fiscal year were allocated to it through the authority provided for in the Social Security Act. The consequences of the elimination of the rehabilitation transfer programs are, of course, not limited to California alone.

The result if this amendment fails is that every State in the Nation would have a diminished ability to rehabilitate disabled individuals—with the diminution being significantly greater than would be apparent by looking only at the funding levels for the basic State grant program. Moreover, in every State there will be individuals remaining on the disability insurance and welfare rolls as a result of the elimination of these programs.

The SSDI/SSI benefit programs are part of the entitlement programs that are so often criticized as comprising an uncontrollable part of the Federal budget. The elimination of the rehabilitation transfer programs will only add to the number of individuals receiving these benefits. In many instances these individuals receive these benefits throughout their lives. The critical rehabilitative services made possible by the rehabilitation transfer programs might be the only assistance some individuals receive to help them get off the disability rolls and into a productive vocation.

Mr. President, I would like to give a few examples of individuals who have been rehabilitated into productive jobs as a result of these rehabilitation transfer programs. Nancy was an 18-year-old woman who was literally found in a county hospital. As an individual who suffers from Guillain-Barre syndrome, she was paralyzed in all of her extremities. She was both an SSDI and SSI beneficiary. As a result of the services Nancy received through the California State Department of Rehabilitation, she was able to go to college and earn a degree and finally find a job as a counselor for other disabled persons at a University of California campus.

Jack was 29 years old and married with two children when he suffered brain damage as a result of an auto accident injury. Jack, as well as his wife and two children, were receiving monthly disability checks from the Social Security Administration due to Jack's inability to find and hold down a job. The State Department of Rehabilitation performed a series of tests and provided vocational counseling so that now with the help of the Department of Rehabilitation Jack is an electronic assembly worker.

Nancy and Jack, like many other individuals with similar experiences, are no longer receiving any disability benefits from the Federal Government and, in fact, are now tax-paying individuals contributing into those funds rather than receiving benefits from them. In such cases, it does not take long for these individuals actually to pay back in taxes the total cost of the rehabilitation services which assisted them in becoming productive wage earners.

Mr. President, the fact that the rehabilitation transfer programs are cost-effective is well established. The Social Security Administration itself published in the February issue of the Social Security Bulletin this year the results of a study it conducted on the disability insurance portion of the rehabilitation transfer programs. This study clearly shows the cost-effectiveness of the transfer program. To quote from the study:

Using cost-benefit procedures and varying assumptions as to the impact of vocational rehabilitation services, the savings to the trust funds were found to range between $1.39 and $2.72 per $1.00 cost for the D.I. beneficiaries who completed their vocational rehabilitation service period in F.Y. 1975.

In addition, CBO recently completed an evaluation of these programs and concluded, in agreement with the SSA study, that cost savings do result from these programs and that out-year costs from elimination of these programs would eventually negate all of the savings and would result in net losses in Federal outlays.

I urge all Senators to consider that fundamental fact in terms of cost.

True, we spend some more money now to keep these programs going, but it is also true that later on we would be saving money.

We shall be saving money if we maintain this program. So there is no sound reason for doing the program in at this time or at any time.

The continued payment, also, of medicare benefits for these recipients would continue to add several years from now, to the cost, to the cost of eliminating these programs.

In conclusion, Mr. President, I reiterate that these rehabilitation transfer programs were originally enacted so that savings would result from helping people get off the SSDI and SSI roles and, thus, keeping the number of Federal SSDI and SSI beneficiaries as low as possible. Recent evidence shows that these programs are achieving this objective to the mutual advantage of the former disability beneficiaries and all other taxpayers. Therefore, I strongly urge all of my colleagues to vote in favor of this amendment to retain the authority necessary for the continuation of these critical and cost-effective programs.

Mr. GORTON. Mr. President, the program to which this amendment applies began in 1967 with expenditures of approximately $10 million a year. By 1979, that figure had reached $102 million a year, and at the present time, it is somewhat in excess of that figure. During that period of time, poor administration and the inclusion of a significant number of ineligible persons caused these program costs to skyrocket, to the point at which they are a major element of the threat to the Social Security Trust Fund from which that money comes.

The commitment of the administration to vocational rehabilitation is perhaps best illustrated by the fact that some $900 million from this budget will go to the various States for vocational rehabilitation programs, administered by the States, from general revenue sources as opposed to the trust fund from which these moneys come.

In 1976 and again in 1980, the General Accounting Office has reported harshly and negatively on the particular program which is the subject of this amendment. The most recent of those reports in November 1980 includes GAO's pointing out that the administration of these programs involved as many as 50 percent of those admitted and granted stipends pursuant to it who were not eligible under the statutory criteria under which the program was originally created.

In other words, the program does not effectively and efficiently accomplish the job for which it was originally designed and for which the taxpayers pay. GAO believes that it is almost impossible to conclude that beneficiaries of this program are any better off than the disabled who do not participate in it.

All of us, Mr. President, on both sides of the aisle in the Senate and throughout the Congress of the United States, have come to recognize the serious condition in which the social security system finds itself at the present time—the ever increasing burdens on the trust funds of which the system is made up. Later this year, I am convinced, we shall have a set of proposals for the reform and the restructuring of the social security system in order to see to it that it is secure, in order to see to it that it can carry out the promises which are implicit in that entire system.

Much of the criticism of the present social security system relates to disability insurance, relates to the fact that we have constantly increased its scope beyond its original intent. Almost certainly, any long-range reform is going to include elements such as this one, which is not only the recommendation of an administration very much dedicated to vocational rehabilitation—as is indicated by the large amounts of money which will continue to go to it—but by both Houses of Congress as well.

Simply stated, Mr. President, this program has not been cost effective. The rehabilitation programs of the Federal Government and of the States are undoubtedly sufficient to take care of those people who require and can benefit from this type of rehabilitation program without this added demand on the trust funds.

This amendment would simply reimpose a burden on the Social Security Trust Fund which the Committee on Finance is trying to alleviate and which we in Congress must, ourselves, attempt to eliminate. It creates an entitlement program outside of the control of the Congress as opposed to an appropriations program, which can be judged appropriately each year by the committees into the jurisdiction of which these programs fall.

In a period of financial retrenchment—a financial retrenchment which is designed to help cause the economic recovery of this country, designed to cause a cut in the rate of inflation, designed to cause greater job opportunities for all of the people of the United States—it is absolutely necessary that we judge programs not from their stated goals but from their effectiveness in reaching those goals and from their overall impact on the economy as a whole.

If we attempt to continue the same programs without change, as we have in the past, we would continue in a time of double-digit inflation and economic stagnation. If we are to do the job which is necessary for all of the people of the United States in providing for a strong economy, we obviously must include and continue strong vocational rehabilitation programs, but not those which drain the trust funds of social security, not those which are constantly the subject of harsh reports from GAO, not those which are economically ineffective as compared with other programs administered both by the State and by the Federal Government.

In order to keep within the budget strictures of the first concurrent budget resolution, in order to work toward economic recovery, in order to see to it that our programs are as effective as they must be in order to meet all of the social goals of this country, this amendment must be rejected.

The PRESIDING OFFICER. Who yields time?

Mr. CRANSTON. Mr. President, I yield such time as needed to my good friend from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. WEICKER. Mr. President, I thank the distinguished Senator from California. I rise to support his amendment. I should like to address some comments made by the distinguished Senator from Washington in opposition to this amendment.

First, I have to remind my good colleague from Washington that to bandy the figure of $900 million around as the commitment of the administration to those disabled sounds very good unless you understand that what the administration requested was a 25-percent cutback in money allocated for purposes relating to the disabled and only by compromise in the committee was this Senator, in conjunction with Senators STAFFORD and HATCH, able to obtain a 5-percent increase. The initial administration request was for a 25-percent cutback. That is No. 1. So much for the commitment.

Point No. 2: The abuses, insofar as they relate to ineligible persons receiving moneys under this program, were corrected in the 1980 amendments.

So, to come here and say that nothing has been done—it already has been done by Congress. Indeed, those who were in the program, ineligible to be in the program, will not be in the program, and we did take care of that a year ago. So that is a red herring to raise before the Senate at this time.

Point No. 3: A complaint is made by the distinguished Senator from Washington that the administration of the program has not been up to par.

My comment is: What are you going to do—lay it on the disabled? Whose fault is that? It is our fault, as Congress, among others, for not properly overseeing the program. It is the fault of the executive branch of Government—not this administration—for not administering the program. But do not blame the disabled for the fact that the administration has been poor, if indeed it has. It is a rather strange way to get accountability, to penalize those who probably suffer more than anybody else for the maladministration of the program. Sure, the taxpayer saves, but what about the disabled?

Point No. 4: We managed to keep this business out of the block grant concept for a very special reason, and that is that those who are truly the minorities, whether it is a matter of mental state or physical state or being disabled—and they are going to be the minority—will be caught between a rock and a hard place on any block grant concept when those who go for the money at the State and local level will be going for it and get it in direct relationship to their numbers.

We are talking about a very small segment of our society, and the block grant is hardly appropriate for them.

For those four reasons, I believe it will clearly have to be weighed against the statements of the distinguished Senator from Washington, saying why this amendment should be defeated.

If you follow the economic reasoning of the administration—and everybody should be for this kind of investment—this is not Federal spending. These people are trained to become productive citizens—and I mean economically, to where they return moneys to the Government.

It is my understanding that in this particular program, as best can be adduced, for every dollar spent, between $1.40 and $2.40 comes back to the Federal Government.

What are you going to do, have these people stay in a disabled state, to the point where they are continually on welfare, on the dole? Or do you want to supply the wherewithal, the programs, to make them productive citizens?

The Senator from California is entirely correct in this aspect of the reason for supporting his amendment. The administration should be first up to support this kind of investment.

Mr. President, I strongly support the amendments offered by my distinguished colleague from California (Mr. CRANSTON) and to reinforce two indisputable facts he has cited.

The rehabilitation transfer program is designed to save the Federal Government money by allowing disabled Americans to receive job training through State vocational rehabilitation departments and it works, as proved by the CBO and Social Security Administration studies to which Senator CRANSTON refers.

The Subcommittee on the Handicapped and the full Labor and Human Resources Committee has very strongly maintained support for vocational rehabilitation of disabled Americans while at the same time meeting its budget reduction targets. Not to restore the transfer funds simply will undo the work of the committee by reducing the second source of funds on which VR agencies depend. In addition it is my understanding that these funds can indeed be restored and the Finance Committee will still be beneath the budget target given to it by Senate Concurrent Resolution 9.

Mr. President the Federal Government will spend the dollars being considered by the amendments whether or not the amendments pass. The question before us is whether we want more dollars spent for welfare type subsidies to the disabled or fewer dollars—those called for in the amendment—spent to allow the disabled to take their places in tax paying productive jobs.

I urge my colleagues to approve the amendment. I cannot think of anything, in terms of humanity and in terms of the new economic reasoning, that comes together and calls more for the adoption of this amendment.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Chair advises the Senator that he has 36 seconds remaining.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the name of the Senator from West Virginia (Mr. RANDOLPH) be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. I yield myself, if I may, about 2 minutes on the bill, in addition to the 30 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, data from the Rehabilitation Services Administration on the cost effectiveness of State rehabilitation programs further validate the importance of the rehabilitation transfer programs. Fiscal year 1979 data showed that those individuals who had been rehabilitated paid $88.8 million in social security payroll taxes in their first year back at work.

In addition, these same individuals paid $99.3 million in Federal income taxes, $14.2 million in State and local income taxes, and $28.5 million in State and local sales receipts. All of these figures are in the first year alone. With the total of about $270.6 million in combined payroll and income taxes, it would take these individuals about 4 years to repay—totally—the cost of their rehabilitation. After this initial 4-year period, all money received in taxes from these individuals—together with the disability benefits saved—are the real savings that we should be trying to preserve here today.

Mr. President, I should like to stress the findings of the Social Security Administration's own study. It found that even when you adopt the most pessimistic assumptions, the Federal Government still saves $1.39 for every $1 spent.

Mr. President, we have heard much discussion about the, quote, truly needy, unquote. The hidden assumption in this phrase is that there are many individuals receiving benefits from the Federal Government who should not be receiving them. Are disabled individuals, who as a result of their disabling condition are unable to work, a part of that group the Federal Government has no obligation to serve? Do we want to deny these individuals the rehabilitation services that will enable them to become productive, contributing members of society?

One final point: I should like to refer back to the GAO report, really just a letter, that was referred to by the distinguished Senator from Washington.

That letter was actually a criticism of the eligibility criteria for social security disability insurance benefits. Last year, in Public Law 96–265, the social security disability amendments of 1980, the administration of the program was tightened. This law mandated increased reviews so that SSDI recipients must be permanently disabled and that those who are not will be removed from the disability insurance rolls.

The point that the Senator from Washington raised from the GAO letter may have been valid last year, but the Congress has already dealt with that problem, and under the revised eligibility criteria that criticism, if valid then, has no validity now.

In fact, the so-called allowance rates—the rates at which disabled people are now coming on the disability insurance roles—are currently the lowest that they have been in many years. Thus, the people mentioned in the GAO letter who were only temporarily disabled are already apparently being precluded.

Mr. President, let me cite this data in closing: The total number of people who were rehabilitated as a result of the SSDI transfer program between 1967 and 1979 was 47,770 and left the rolls.

Mr. President, that concludes my statement, and I am ready to vote. I have no more time, anyway.

Mr. RIEGLE. Mr. President, I rise in support of the amendment offered by the distinguished senior Senator from California. This amendment, restoring authority for Social Security Act funding for vocational rehabilitation of handicapped and severely handicapped individuals is cost effective and of invaluable benefit to its participants. A recent study by the Social Security Administration shows that for every dollar spent, $2 is returned. The program removes individuals from the disability insurance roles and helps them to become taxpaying citizens with self respect and the ability to care for themselves.

Through the first half of this year, in my home State of Michigan, the Bureau of Rehabilitation has succesfully trained and placed 221 individuals in productive employment. Without this program, these people had little hope of achieving the status and economic independence of wage earners and taxpayers. As a result of the transfer program, 2,500 individuals are currently receiving training and employment services. Provisions for these services have been eliminated in the reconciliation bill before us.

I urge my colleagues to support this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. GORTON. Mr. President, I suggest the absence of a quorum, and I ask that the time be taken from the bill.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there

a sufficient second? There is a suffcient second.

The yeas and nays were ordered.

Mr. CRANSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. I yield back the remainder of my time.

The PRESIDING OFFICER. Is all time yielded back?

All time having been yielded back, the question is on agreeing to the amendment of the Senator from California.

On this question the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Connecticut (Mr. DODD), and the Senator from New York (Mr. MOYNIHAN) are necessarily absent.

I further announce that, if present and voting, the Senator from New York (Mr. MOYNIHAN), the Senator from Nevada (Mr. CANNON), and the Senator from Connecticut (Mr. DODD) would vote "yea."

The PRESIDING OFFICER. Are there other Senators in the Chamber wishing to vote.

The result was announced—yeas 47, nays 50, as follows:

[Rollcall Vote No. 168 Leg.]

YEAS—47

Baucus	Glenn	Nunn
Bentsen	Hart	Pell
Biden	Hawkins	Pressler
Boren	Heinz	Pryor
Boschwitz	Hollings	Randolph
Bradley	Huddleston	Riegle
Bumpers	Inouye	Roth
Burdick	Jackson	Sarbanes
Byrd, Robert C.	Kennedy	Sasser
Chafee	Leahy	Specter
Chiles	Levin	Stafford
Cranston	Mathias	Tsongas
Dixon	Matsunaga	Weicker
Eagleton	Melcher	Williams
Exon	Metzenbaum	Zorinsky
Ford	Mitchell	

NAYS—50

Abdnor	Goldwater	McClure
Andrews	Gorton	Murkowski
Armstrong	Grassley	Nickles
Baker	Hatch	Packwood
Byrd, Harry F., Jr.	Hatfield	Percy
	Hayakawa	Proxmire
Cochran	Heflin	Quayle
Cohen	Helms	Rudman
D'Amato	Humphrey	Schmitt
Danforth	Jepsen	Simpson
DeConcini	Johnston	Stennis
Denton	Kassebaum	Stevens
Dole	Kasten	Symms
Domenici	Laxalt	Thurmond
Durenberger	Long	Tower
East	Lugar	Wallop
Garn	Mattingly	Warner

NOT VOTING—3

Cannon	Dodd	Moynihan

So Mr. CRANSTON's amendment (UP No. 191) was rejected.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the amendment was defeated.

Mr. GORTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. EXON. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. Mr. President, I ask unanimous consent that it be in order for me to suggest the absence of a quorum with the time to charge equally against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, may we have order so that the majority leader may be heard?

The PRESIDING OFFICER (Mr. SPECTER). The Senate will be in order.

Mr. ROBERT C. BYRD. Mr. President, this is an important bill and this will be an important discussion.

The PRESIDING OFFICER. The Senate will be in order.

Mr. BAKER. Mr. President, I thank the Chair.

PROPOSED UNANIMOUS-CONSENT AGREEMENT

Mr. President, as the Senate knows, since the presentation and debate on the Byrd motion to strike and insert on yesterday, there have been extensive negotiations underway to see if a way might be found to reconcile this issue to the satisfaction of the Senate. I believe that we are close to such an agreement. I believe we have such an agreement, although I will not put a unanimous-consent request at this time.

I should like to describe what the minority leader and I have agreed to and the arrangement which I believe is agreeable to the chairman of the Budget Committee and the ranking minority member.

Shortly, after certain other details are taken care of, Mr. President, I intend to put a unanimous-consent request that the strike and insert amendment be withdrawn and superseded by unanimous consent to strike certain material from the reconciliation bill from the Banking Committee and from the Commerce Committee.

The unanimous-consent request as well would provide that immediately thereafter there would be in order two amendments, and no point of order would lie, no amendments thereto would be in order and no division would be permitted, one such amendment would be offered by the distinguished Senator from Utah (Mr. GARN), the chairman of the Banking Committee, dealing with certain material to be reinserted in the bill, and one by the distinguished Senator from Oregon (Mr. PACKWOOD), the chairman of the Commerce Committee, to reinsert certain material that was stricken by unanimous consent from the reconciliation bill. Both of those amendments would be subject to a limitation on time that has already been entered, that is to say 40 minutes equally divided.

Mr. President, I would expect the Senate to remain as late as productive tonight to try to finish this bill tonight, and certainly until 9 or 10 o'clock if it appears that that would be helpful for that purpose.

The agreement I will put later will also provide, Mr. President, that final passage on this bill would occur at not later than 12 noon tomorrow, and that the only amendment to be voted on at 12 noon tomorrow will be the amendment then pending prior to the vote on final passage.

Mr. President, that does not mean at this point we have extended debate because the 20 hours will have expired well before 12 tomorrow. It does not mean that we are not going to finish until 12 tomorrow. I think we can finish today and I would hope that we would finish today.

One of the reasons for making this statement in describing the negotiations which produced this arrangement at this time, in addition to letting Senators know of the progress that is being made by the leadership on both sides in this respect, is to urge Senators who have amendments to let us know as soon as possible what those amendments are and whether they intend to offer them.

I now request Senators on this side of the aisle, and I will instruct the cloakroom to follow on this with a hot line alert to this effect, to let us know today—this is a fresh inventory, and if Members have already let us know, to let us know again—by 12 o'clock, what amendments Republican Senators may wish to offer to this bill.

I hope that the distinguished minority leader will make a similar request on his side. I shall not, of course, require him to do that with Members on his side of the aisle.

Mr. President, after we get that inventory, I hope that we can get some idea of whether we can finish this bill this afternoon or tonight. I think we should do that.

That is a rough description of the request that I shall put later, Mr. President. There is still paperwork in progress. Before I make the request, I want to make sure that every "i" has been dotted and every "t" has been crossed. For instance, the list of materials to be stricken is in preparation. The exact amendments to be offered are in preparation.

I say finally, Mr. President, that I think this is a very good way, indeed, to deal with this matter. It avoids, I believe, the philosophical questions and the legal complications that are suggested on whether certain material is extraneous and a proper subject for inclusion in a reconciliation bill.

It does not require us to resolve that.

Indeed, I do not attempt to resolve that. I contend that material is properly there. The minority leader, of course, contends that it is not. That issue is not resolved by this arrangement.

What we are doing on both sides is acknowledging, I believe, that the Senate itself, unlike the Budget Committee or committees reporting to the Budget Committee for this purpose, can do whatever it wants to do with a reconciliation bill for any reason. If the Senate decides to reinsert this material I have described by amendment, it can do that. We have not dealt with any philosophical question under the Budget Act. The Senate has simply spoken, as it has an inherent right to do.

I think these negotiations, now spanning parts of two days, have not only produced what I think may be a method by which we can dispose of this bill promptly; they have also, perhaps more importantly, avoided having the Senate having to speak on an issue that is uncertain and unclear with respect to the Budget Act and the reconciliation bill.

Mr. LONG. Will the Senator yield for a question on that point?

Mr. BAKER. Yes, Mr. President.

Mr. LONG. Mr. President, I was not part of the negotiations yesterday. I do not know what the conversations were that transpired. But it seems to me that the point which I made should be accommodated. That is, if this type of material is to be inserted in the bill, it ought to be inserted under a situation where the Senate has a right to freely debate it at some point.

For example, as far as I am concerned, I shall not object to a unanimous-consent agreement at the appropriate occasion to vote on this matter as far as adding to the bill, but I think that the context for point of reference should be the following: First, an agreement that this matter would be eliminated from the bill; then that every Senator should have the right, if anyone cares to do so, to object to adding it back; then that there would be a request made that this matter could be considered.

I would not object to that procedure, but I would like to protect the right of anyone who might like to object if he wishes to do so.

Mr. BAKER. Mr. President, I might state that the suggestion the Senator made yesterday carried great weight in the deliberations that went on. What I said, I think, conforms exactly to what the Senator from Louisiana has described. That is to say, material is stricken by unanimous consent. We provide then an opportunity for a floor amendment to be offered. We do not provide that the Budget Act controls the time for debate. We provide instead for 40 minutes for debate equally divided, which is freely given by a majority of the Senate.

The points the Senator from Louisiana made had great weight yesterday and I might say had great influence on the final shape of the agreement.

Mr. ROBERT C. BYRD. Mr. President, I wonder if I may have an opportunity to explain my viewpoint on this first and then let it be open to question.

Mr. BAKER. Mr. President, I apologize to the minority leader.

The Senator from Louisiana asked me to yield, and I did that. I should have yielded first to the minority leader.

Mr. ROBERT C. BYRD. Mr. President, I have no objection to the Senator from Louisiana asking a question. What I want to say is that perhaps what I shall say will eliminate the Senator's concern or it may not. After that, he should certainly have the right to speak.

Mr. LONG. Very well, Mr. President. The Senator can go ahead.

Mr. ROBERT C. BYRD. Mr. President, as we all have known for some time, legislation on an appropriation bill is against the rules, except in certain instances. But the Senate has, from time to time, voted to add legislation on an appropriation bill. I have no quarrel with that. If Senators want to fly in the face of the rule and include a matter that constitutes legislation on an appropriation bill, that is the Senate working its will. We have a somewhat similar situation here.

What I strenuously object to is what we are seeing happen in connection with the reconciliation bill and what happened last year. Nobody made a point of it last year, nobody raised the question. I was not aware that the reconciliation bill was being used to include extraneous matter, nonreconciliation matter. But I am aware of it now. I am aware that it is being done here.

I am greatly concerned if we do not challenge what is being done. As I said yesterday, nobody is charging that it is a plot or that it is a design to run roughshod over the minority or anything like that—up to this point. But I am concerned that if we do not challenge this action, it is going to become the practice and it will grow. And while we have legislation included here today that I may or may not oppose—in this instance, I think I shall oppose the amendment to put it back in—what will it be tomorrow?

If the Senate puts its imprimatur on this practice, then I want to be in on the deal in the future, if this is definitely the way we are going to go, when I have some extraneous matter that I want to include. The Budget Committee is helpless; it is bound and it is gagged. It has to put it in.

If we are going to go down this road of including extraneous matter, I want it to be done here, on this floor—come in the front door and let every Senator, with his eyes open, have a chance to vote on it as we now have in connection with adding legislation to an appropriation bill.

So, Mr. President, with my amendment, I have proposed that we strike out all nonreconciliation matter in the bill. I am not setting myself up as a judge as to what is nonreconciliation and what is reconciliation. That is for the people here who are much closer to the bill than I to decide.

Whatever they clearly decide is extraneous or clearly decide is reconciliation, I am content to go with. But that which is nonreconciliation ought to be stricken and we ought to alert the authorizing committees by our action today that, in the future, they must not take nonreconciliation matter and impose on the Budget Committee to include it in a reconciliation bill that comes to this floor.

That is what the majority leader's proposal would allow, Mr. President. The nonreconciliation matter would be stricken. Only that matter which is clearly reconciliation would stay in the bill at this point. The other matter would be taken out.

Then we would agree, in this one instance only, that no point of order would lie against the amendments that would be offered to put the same material back in. It is not setting a precedent. Next time a matter comes up that is not germane or against which a point of order would ordinarily lie, no Senator's right is waived in the future. But in this one instance, we would waive the right to raise any point of order that might otherwise lie against the amendments. Let them be offered. Let the Senate vote on those amendments. I will vote against, including all nonreconciliation matter in this bill, just as I said yesterday that we should reject the amendment by Mr. DURENBERGER to include extraneous matter.

So no further rights are being waived. At the present time, there are various ways in which a minority can filibuster the reconciliation bill. I can filibuster this bill right now. I do not have to wait until the 20 hours are up. All I have to do is send this book to the desk as an amendment and object to dispensing with its reading. The amendment would have to be read and will be read, except by unanimous consent. I could send it to the desk, offer it as an amendment, and it would be read. A single objection would cause the reading to go forward.

The time that would be consumed in reading that amendment cannot be charged against the 20 hours, because the 20 hours cover debate, and reading an amendment is not debate.

So I can keep us all in over the weekend, but there would be no action except the reading of this amendment. It would not be charged against the 20 hours.

Then, of course, at the end of the 20 hours, amendments can still be called up. There can be a filibuster by a minority at the end of the 20 hours simply by calling up amendment after amendment, having no debate, and demanding rollcall votes.

So the rights that a minority has now, be it any minority—a Republican minority, a Democratic minority, or a minority that cuts across both party lines—are not being waived by the request that the distinguished majority leader will make. The proposed agreement would simply provide that, in this one instance, the right of Mr. PACKWOOD to offer an amendment, which he has in any event, and the right of Mr. GARN to offer an amendment, which he has in any event, will be observed, but that any point of order that otherwise would lie against either of those amendments at this time will be waived in this instance.

No precedent is being set by anything we are doing in this request. We would have established the principle we have fought for. We will be protecting the

Budget Committee, we will be protecting the budget process, we will be protecting the committee system, and we will be protecting the integrity of the Senate, if this request is agreed to.

I yield the floor.

Mr. BAKER and Mr. LONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, I have heard two explanations, and the point that troubles me is that when we start, we find ourselves in a situation in which we are denied the right of free and full debate on a matter that ordinarily would be subject to that; and in order to take ourselves out of that trap, we are asked to agree to a unanimous-consent request that puts us back in the trap. In other words, it takes us out but then puts us back into it.

The unanimous-consent request would say—I should like the majority leader to hear this——

Mr. HOLLINGS. There can be more than 20 minutes on those amendments.

Mr. LONG. Let us see whether we understand one another.

All I am seeking is that when those amendments are offered, they be subject to free debate. If we agree that no points of order will be made but that those amendments will be subject to whatever amount of debate the Senate might want to give, I will have no objection.

I ask the majority leader if that would be the essence of the agreement.

Mr. BAKER. That is the essence of the agreement, although, as I have pointed out, we are proposing to limit debate freely and voluntarily, not under the Budget Act, but by unanimous consent, to 40 minutes. That is not derivative of the Budget Act. That is a free act of the Senate. We could leave it out and have unlimited debate. I am proposing, as a separate act, that we have 40 minutes, equally divided.

Mr. LONG. This is my thought: If we can agree that: one, this matter will be eliminated; two, that the amendment will be offered and that there will be no objection to a point of order, but that those amendments be subject to free debate at that point; and, three, having agreed to that, if a subsequent agreement can be arrived at that we will limit debate to whatever the Senate might want to agree to, I will have no objection.

I believe that the matter should be stricken and that the limitation that occurs thereafter should be freely given by the Senate, and it should not be all one request.

Mr. BAKER. Mr. President, if the Senator will yield, if I understand what he is saying, he does not object to limiting debate. He just does not want to do it now. If that is the situation, I am not sure that I have any problem with that. I would wish for a 40-minute limitation; but if we need to strike that portion of it, I will be willing to consider that.

Mr. LONG. That is what I suggest.

I should like the record to show that this matter was resolved by agreeing that the matter would be stricken and that the matter could be offered under a set of circumstances which would permit free debate. Having agreed to that, I would subsequently suggest that the Senator suggest his limitation. I do not see why we could not agree to it.

Mr. BAKER. Mr. President, I have not yet put the request. One reason I described it in some detail now was so that Members could consider the aspects of this request which has been negotiated and which we will put shortly.

I suggest this: There are documents now in preparation to make sure that we have all the details worked out. Let us not decide on a time limitation on those two amendments as yet. Let us wait until a little later, when we put the request. I will talk to the Senator from Louisiana and others, and we will see if we can work out something that is mutually agreeable.

Mr. ROBERT C. BYRD. Mr. President, I think there is a little confusion here as to what we mean by "free debate."

Under the act, as all Senators will recall, any amendment in the first degree is limited to 2 hours; any amendment in the second degree is limited to 1 hour. By order of the Senate, we have reduced that time further in this particular bill.

Also under the act, those in control of time on the bill—namely, the majority leader and the minority leader—can yield time from the bill to Senators who want additional time on any amendment. This is all the "free debate" we have in this Budget Reform Act. There is not unlimited debate under this act.

The distinguished majority leader is going to offer a proposal. The only thing it waives is the right of any Senator to make a point of order against the amendment by Mr. GARN and/or against the amendment by Mr. PACKWOOD. It allows them to call up those two amendments without risk of any point of order.

It does not limit the debate to 20 minutes or 30 minutes or 40 minutes, except under the order that is already entered here, which I believe limits all amendments to 40 minutes. But that previous order does not prevent the two leaders from yielding additional time on any amendment. The two leaders, I am sure, could yield additional time, I say to the distinguished Senator from Louisiana, on either or both of these amendments.

So insofar as the Budget Act framework allows, I say to the distinguished Senator, nothing is being done by this request to take away any Senator's right that he otherwise has under the act.

Mr. HOLLINGS. And I think this is the point of the Senator from Louisiana. If it is, in our judgment, a legislative provision and does not have a reconciliation connection, it would not be in this reconciliation bill and it would not be subject to the statutory time limitation.

To establish the principle that it be treated as a legislative matter and therefore be open to unlimited debate is the point the Senator from Louisiana is making, and we discussed that. The distinguished majority leader will remember he said we did not want to put this matter under the Budget Act; we wanted to treat it as a separate legislative issue. We can, in the original instance, pass it on its own and not as a part of this reconciliation bill. That is the whole point that is involved here. And then, under the leadership of the majority and minority leaders, if we then wish to limit debate on it to 20 minutes or 10 minutes to aside, or whatever, we can agree on that. But we reaffirm the principle of unlimited debate for legislative matters.

Does the Senator see the point of the Senator from Louisiana?

Mr. DOMENICI. Mr. President, will the Senator yield?

Mr. HOLLINGS. That is the Senator's point.

Mr. LONG. Yes.

Mr. BAKER. I yield to the distinguished chairman of the Budget Committee.

Mr. DOMENICI. Mr. President, let me say to my good friend from Louisiana that I have been working on this with the leadership and the distinguished Senator from South Carolina, and the substantive chairman have been called in to discuss the issue. I listened carefully yesterday to his discussion.

It was my thought that we could find a way to preserve the integrity not of the Budget Act but of the Senate, that we were going to have some amendments that we were going to vote up or down that were not part of the reconciliation. And here there is a dispute, and I hope the Senator will understand that where there is a dispute we are saying let us go another way. We are not conceding that every item that the distinguished minority leader wants to strike is really not a part of reconciliation.

But nonetheless we would want to offer some amendments and establish for the institution on this event this time that we all understand that those two amendments were not part of it, and we want to establish that they were, therefore, not subject to the restrictive rules prescribed under the Budget Act.

Our distinguished leader has described that in saying ultimately we must agree freely and openly outside of the Budget Act on a time certain.

We want to establish just as much as the Senator does, if we go this way, that the institution in its memory will know that in voting on those two we were not voting on them subject to the restraints of the Budget Act. On the other hand, we have to all understand one of the purposes for all this is to finish this bill.

So, the Senator knows we certainly do not do it, then, expecting that there would be literally debate for 2 weeks, but rather that the institution would determine that it understands they are outside of the Budget Act and we are going to work our will to vote them up or down anyway, and we are going to try to again within the institutional will, not the Budget Act and its limitations, agree to an expeditious handling of them.

However, we can do that so that Senator LONG as one Senator and all the others are convinced that that is what we are doing, and yet we are going to vote and see what the Senate wants to do with those two substantive matters, we are willing to work on because that is what we spent our time trying to figure out.

Mr. LONG. Mr. President, let me see if we understand each other.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me for another important matter without losing his right to the floor?

Mr. LONG. Under that condition I yield.

SUBCOMMITTEE ON LABOR

Mr. ROBERT C. BYRD. Mr. President, I am informed that the Labor Subcommittee of Human Resources Committee is meeting without permission of the Senate. They have been advised that they do not have permission of the Senate, but they are continuing to meet.

I make a point of order against the committee's meeting. I object to further meetings of the committee and I object to further meetings of the committee without the consent of the Senate today.

I also suggest to the distinguished majority leader that in the future any request of committees to meet beyond the normal 2 hours that they are allowed to meet when the Senate is in session be cleared the day before so that we will not have this happen again.

Mr. BAKER. Mr. President, I might say that on yesterday I believe there was a request for the committee to meet which was very properly objected to by the minority and consent was not given; therefore, I must say that the committee is meeting without consent of the Senate against the rules of the Senate, and I remind the subcommittee that any action taken by them will be subject to a point of order if and when any work product of that committee reaches the floor.

So I urge that they cease and desist and they abide by the rules of the Senate and discontinue their meeting.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. BAKER. Mr. President, on the request about the committee meeting cleared the day before, it is good practice to do that. I am sure the minority leader will agree it is not always possible to do that, but I assure him that I will cooperate in every way to see that the spirit as well as the letter of the rule of the Senate is abided by in this respect.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. BAKER. I yield.

Mr. ROBERT C. BYRD. Any action the committee might take might be subject to challenge in the courts at some future time.

Mr. BAKER. Yes; I agree with the Senator's statement.

Mr. ROBERT C. BYRD. And I suggest again that we try to get the clearance the day before because otherwise committees can go ahead and meet and then at the end of the day seek the approval of the Senate after having met, and I think that we should try to avoid this and I will cooperate with the majority leader in seeking to get those agreements in advance as much as I can.

I thank the distinguished Senator from Louisiana.

THE PROPOSED BUDGET RECONCILIATION REQUEST

Mr. LONG. Mr. President, I just wish to be sure that we understand one another because the point for which the Senator from Louisiana is contending is if that extraneous matter is to be added to a reconciliation resolution, there should be a point at which every one of the 100 Senators has the right if he chooses to do so to debate the matter and debate it at length.

If we use that procedure and we agree that this subject matter will be stricken and also that it may be offered, at that point the matter would be subject to debate without limitation under the Budget Act and then thereafter not be a part of the initial agreement. Once the matter has been offered with the understanding that it would not be subject to a point of order, but that it would be subject to free debate, the matter could then be debated for a brief period of time at which point a request to which prior consent had not been given would be made that there be a limitation.

I, for my point, would not be inclined to object. I would not object. I would be willing to agree to a limitation, but I wish to make it clear that I am not speaking for any other Senator.

Mr. DOMENICI. I understand.

Mr. LONG. That would be their right if they wanted to object, but, of course, the Senator would still have available to it the rights that exist under rule XXII to invoke cloture if it felt necessary it required to do so.

All I am saying is that if the record shows that by the time we settle this matter at one point at which any Senator could use his rights under the rules to debate the subject and that Senators voluntarily surrender that right, then as far as I am concerned I would have no objection.

I just do not think it should be done in the context where in order to move from a situation where a Senator has no right to freely debate it he must agree to something where he does not have the right to fully debate it. So he just simply moves.

Assuming someone would be overwhelmingly and violently opposed to what was happening, that as a condition of getting one out of one trap he had to move into another, I just think the record should show that consent was freely given in both instances, there was no coercion involved, we were willing to permit the amendment to be offered but at that second point when we limited debate the consent was freely given; there was no condition attached to it.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. BAKER. I could not agree more.

If we get this agreement clearly it will be consent freely given.

I repeat what I have said before: I acknowledge that if we work this out on this basis it is a gift of grace of the Senate and I happen to think that it is the way we have to do it in order to get the work done but not because we are coerced or constrained to do it by any act.

It is a gift of grace of the Senate. And I think it happens to be a good way to handle the matter. But it is certainly not a coercive action, as the Senator states.

Mr. LONG. We do understand each other. What I hope we are agreeing to is that there be two consent requests made. The first consent request would open the door for the amendment; the second consent request would be to limit debate on the amendment, but that consent to one would not imply consent to the other. There would be no condition one to the other, that the second consent would be freely given after the first consent had been freely given.

Mr. BAKER. I am willing to freely give consent but I am not sure how many times.

Mr. LONG. All I am saying once the Senate would consent to——

Mr. BAKER. I have the problem and the Senator puts me in then a terrible position because the objection of a single Senator can create havoc with this amendment. I would rather have the package presented with the full understanding that it is outside the Budget Act than I would to run that risk by the Senate.

Let me tell the Senator what would happen just as a matter of curiosity. I hope the Senator does not find this enticing and attractive. But let us assume it worked that way and we got consent for the two amendments to be called up under the description of the unanimous-consent agreement I have suggested, and then say somebody—surely not the Senator from Louisiana—somebody objected to a limitation of time for debate on the first one.

If we do that, what is going to happen is the Senate will never get to the second one because at 12 noon tomorrow the order would provide that the Senate is going to vote on the amendment then pending and then final passage.

So what would happen if there were a single amendment, it would defeat the symmetry of the agreement so carefully crafted, and would pose a dilemma that we would face at that point.

I surely do not suggest the Senator from Louisiana would do it, but what I am trying to suggest is whatever we do we ought to do as a package. We ought to acknowledge while doing it that the limitation of time is not derivative from the Budget Act but it is consent given by the Senate separately. It ought to be done in the same package with one unanimous-consent agreement.

Mr. STENNIS. Mr. President, if the Senator will yield to me for one question, I think the Senator from Louisiana has spoken with great clarity here, and even though I greatly appreciate the work that has been done, it seems as if you have gone right up and that you have a solution here, almost, but in making your unanimous-consent request originally, if the Senator saw fit to outline the precedent that he thinks it makes, we are doing this first step to keep from making a precedent, and it seems like we have gotten an agreement on it.

Then we turn right around and we do almost the same thing backward, and we could thereby create a bad precedent, and that is what I want to avoid. I know you want to avoid it.

Mr. BAKER. Mr. President, if the Senator will permit me to say so, I cannot

think of a person in the Senate who has dedicated a greater part of his life or effort in making sure that the integrity of the Senate procedure and the unique ness of this body are preserved than has the Senator from Mississippi. But I really do not think we are doing anything that even remotely resembles a new precedent in granting a time limitation on debate on an amendment.

I had thought that the minority leader and I had gone to great lengths to make sure that this was not a precedent; indeed, it was meant to avoid the precedent, and that we are doing only what the Senate does so well, and that is to regulate its own length of time for debate on a matter which is before the Senate.

Mr. STENNIS. The fact that you say so and so positively add greatly to the record.

I might say the Senator from West Virginia sees it the same way and might speak about it.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. BAKER. Yes.

Mr. ROBERT C. BYRD. Mr. President, if we have no agreement, the time under the act is going to run out within about 6 hours, am I correct?

Mr. DOMENICI. Correct.

Mr. HOLLINGS. Correct.

Mr. ROBERT C. BYRD. When that time runs out they can offer any amendment they want to, of course. The time may be lagging, but the majority may decide the point of order, but there will be no debate on any amendment after those 20 hours run, and they will expire in 6 hours. After that time there is no time for debate on any amendment.

What we are seeking to do here is to really extend that 20 hours and allow Senators to call up amendments after that 20th hour has expired, and to have some time on those amendments.

Minus the agreement they will have no time for debate on the amendments.

May I assure the Senator from Mississippi that I am not agreeing to take something out of this bill and then, in the second instance, to agree to go just in the opposite direction on that principle. The principle we have been fighting for here is to eliminate extraneous matter from the reconciliation bill.

We would have established that principle bevond any doubt by striking this out of this bill, so that in the future authorizing committees that might say, "Let us go to the Budget Committee and put this in or that in," would have this precedent staring them in the face.

As to the amendments being offered from the floor, that can be done now. We are not opening up a new way of getting extraneous matter in the debate. That is open now. Unless the Senate will uphold points of order, if such amendments are not germane, and the Senate upholds that point of order, fine, they are out. But a majority can decide what that point of order is as to germaneness on this bill, as a majority often does as to germaneness on an appropriation bill. So we are not opening up any new avenue. We are simply saving if any amendment is going to be offered to add extraneous matter it will have to be offered on the floor, which can be done now and on which, may I say to the distinguished Senator from Louisiana, at the present time they only have 2 hours of debate at the most, plus any additional time that the two leaders may yield time on the bill, and that time runs out in 20 hours.

Mr. CHILES. Mr. President, will the Senator yield? If the amendments were not germane, they would be subject to a point of order.

Mr. ROBERT C. BYRD. Yes.

Mr. CHILES. That is a protection that I see there.

Mr. ROBERT C. BYRD. Yes. That protection is not being waived in the future. It is only being waived on these two amendments.

Mr. STENNIS. Mr. President, if the Senator will yield to me, if I may just say this, it seems to me that each of the leaders has made very clear what the situation will be.

Mr. BAKER. May I make a suggestion? The Senator from Mississippi and the Senator from Louisiana have not been consulted on this, but I am willing to include language in the unanimous-consent request which says that debate on the amendment will be free and open debate if the Senate limits that debate now by unanimous-consent request to 40 minutes.

Mr. LONG. Mr. President, if it is all part of the same request, Senator, the point that troubles me about all this is that here let us assume that the single argument here is we are dealing with something where it should only be voted on under a situation where the Senate has a right to freely debate it. It comes to us under a basis where we do not have that right.

Then a consent request is made that the matters are to be stricken but they are to come back in under a set of circumstances where we do not have that right, and it is all made in one package request. So at no point did the Senators ever have the right of free debate on a matter that should have been the subject of debate.

That being the case, Mr. President, I submit to the Senator and to the conscience of the Senate that we ought to establish a precedent that at some point gave the Senate the right to freely consent, and when one asks a unanimous-consent request that we take something from the bill on condition that we waive all the points of order and that the matter be subject to 40 minutes limitation of debate and you cannot object to it in part, you have got to object to it in whole or not object at all, which then means that we have no right, at no point did we ever have the right, of free debate.

Mr. FORD. Mr. President, will the Senator yield?

Mr. BAKER. I yield to the Senator from Kentucky.

Mr. FORD. I would like to ask two questions of the distinguished majority leader, if I may.

We are referring—and I did not hear all of the colloquy earlier—to two amendments that will be considered, that no germaneness objection to the amendments would be made.

What do these two contain, the total Commerce package and the total Banking package?

Mr. BAKER. It is not the total package, I might say to the Senator from Kentucky. One reason why I did not put the request at this time is that the exact details of the unanimous-consent agreement on striking certain provisions and the right to insert are still in the process of completion.

The further answer to the Senator from Kentucky is that some material in the Banking Committee section and, perhaps, some material in the Commerce Committee section I think everyone will agree is relevant and nonextraneous and properly includable in reconciliation.

The only thing that would be left in there though would be those things that everyone can agree should be left in, and there are a few, at least in one case.

Then the amendment to reinsert probably will not include all of the things that are stricken. Some of the things will not be includable.

But I cannot tell the Senator in exact detail because the staff is in the process of preparing that, and when I say staff I mean the staff on both sides, the Republican and Democartic sides.

Mr. FORD. I appreciate the explanation. It makes it somewhat difficult for some of us. If you wipe it off, you ought to wipe it off. You ought to be selective in what you try to put back in, I understand that.

My second question, Mr. Leader, is this: You are about to propose a unanimous-consent agreement on which you have had considerable colloquy before you propound it. Does the previous unanimous-consent agreement to vote on the last amendment at 12 noon tomorrow and then proceed to final passage supersede the unanimous-consent agreement you are asking for here today?

Mr. BAKER. It will be all part of the same request.

Mr. FORD. You are going to include that in the same request?

Mr. BAKER. It is all part of the same package.

Mr. FORD. I thought the Senator had a unanimous-consent agreement for that.

Mr. BAKER. No.

Mr. FORD. I misunderstood, then. I was thinking if that unanimous-consent agreement was now on the books that would supersede probably what the Senator tried to do, unless you offset it.

Mr. BAKER. That is part of the whole package and what is involved and considered in conjunction with this.

Mr. FORD. I thank the majority leader very much.

Mr. CHILES. Mr. President, if I might ask the distinguished majority leader a question. My concern has been that we created the Budget Act and we created the reconciliation process and we set 20 hours of debate as the limitation for this very extraordinary reason, that we are trying to find a way of the Senate being able to act and to make some substantial cuts. We consented to that.

But, again, at the time everybody was

thinking about that and waving what is supposed to be the most important rule of the Senate, rule XXII, the basis of which makes the Senate different from any other parliamentary body in the world, the right of unlimited debate. That is something that all of us hold pretty sacred, but we agreed to waive that on the basis of what we were doing with the reconciliation.

Then, of course, along comes the committees, the authorizing committees, and they come up with extraneous matters, authorizing matters, and that raised a lot of concern.

Now, my concern is, even if we say the committee cannot put this into the package and take it to the Budget Committee, what is the protection for a minority that any majority, whether that be the majority of the Republicans or any majority of this body, would not decide on a particular question: "We have 51 votes. We have never been able to get our matter up before because there is always 41 hard votes on the other side that were willing to take the floor and to keep the floor, but here is our chance. As a pure majority, we can now get in and bring our amendment on the floor under the precedent that is going to be set here."

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. CHILES. Yes.

Mr. ROBERT C. BYRD. No, they can do that now under the act.

Mr. BAKER. That is a statutory provision.

Mr. ROBERT C. BYRD. I am very much opposed to it.

Mr. BAKER. We have gone to great lengths that we are not establishing that precedent.

Mr. CHILES. I guess that is the concern of the Senator from Florida, to make sure that there is no precedent established that way. Because my understanding of the sort of oath that I took was that unless we got something resolved on this, I thought that we should filibuster by amendment if we needed to. I thought we should go further and tell the distinguished majority leader that we would not want to cooperate on other things and we were going to start raising all kinds of matters simply because this principle is so important.

I want to make sure that we are still saying that principle is so important and even if we are not establishing a precedent that way that we are, in effect, putting notice to any majority of the Senate—and sometimes I am on those majorities that would like to change something—that we are not going to allow a process that we have limited to 20 hours to be corrupted and to be used as a means of getting around rule XXII.

Now, am I correct in that, first, we are not setting that as a precedent, that an amendment could come from the floor; and, second, that if there is an amendment that comes from the floor it is subject to the germaneness rule and that a point of order normally would lie unless it deals with a reconciliation matter, deals with a budgetary matter? Would that be correct?

Mr. BAKER. Absolutely correct.

I might say to the Senator from Florida, Mr. President—I know he understands this and I am sure he believes it—that I am as committed as he is to seeing that we do not establish a precedent.

Mr. CHILES. I think the Senator is. And I would like to say that all through this thing that came out, at one time I will have to say that when I first heard about it I suspected a plot, because I said, "My goodness, here the authorizing committees are about to do us in." Quickly, in the Budget Committee we found that was not true.

We found this was an issue in which all of us who had worked on the Budget Committee process felt should not have worked that way. And now I find basically even on the committees that it was Republicans and Democrats that were initiating this and that most of them had not thought of the consequences of that act.

Mr. BAKER. Not only this year, but last year. As the minority leader pointed out, nobody made a point of it last year. But it is not something that was ginned up, so to speak, this year.

Mr. CHILES. I agree.

Mr. BAKER. So, I think we are at one of those places now that the Senate sometimes finds where we have the unintended effects of a previous practice and of an act and we simply have to deal with it. I think this amendment is in the best interest of the Senate, or the provisions of this agreement, in trying to protect us from establishing any precedent that we will regret.

Mr. LONG. Mr. President, if the Senator will yield, one of our colleagues has shown me how this matter might be resolved. I believe it would be best that we simply discuss it off the record first and, if so, I think it would make everybody happy. I would like to suggest that we have a brief discussion and I think it might prove to be the answer.

Mr. BAKER. Mr. President, I would be more than pleased to do that.

Let me yield now to the Senator from New Jersey.

Mr. BRADLEY. Mr. President, I would like to ask the leader a question. The nature of the unanimous-consent agreement, as I understood it, would allow a committee amendment to be proposed.

Mr. BAKER. Not a committee amendment. It is not a committee amendment. It would be an amendment being offered by the Senator from Utah and an amendment to be offered by the Senator from Oregon, but they would not be committee amendments in the technical meaning of those terms.

Mr. BRADLEY. Would those amendments be amendable in the second degree?

Mr. BAKER. Under the unanimous-consent agreement, they would not be further amendable and not be subject to division.

Mr. BRADLEY. I would say to the leader that my concern is on an amendment that would be offered by the Senator from Oregon. I would have to object to the unanimous-consent request if that amendment were not amendable.

Mr. BAKER. Let me say to the Senator that I have not yet put the request. Of course, when I do, and if I do, he can do that.

But let me also point out that the way the request is drawn, it recites the attachment of a list of material that will be stricken and then it will also have accompanying it and attached to that the amendment that will be offered so that no one will be surprised. I will tell the Senator now that no material not already in the bill will be included in that amendment.

Mr. BRADLEY. That is one of the things that concerns me, because a part of what is now in the bill from the Commerce Committee is what I am objecting to. I would desire to amend a portion of that. I would like to have the right to amend it in the second degree and I would also like not to be precluded the opportunity to engage in extended debate, if necessary.

Mr. BAKER. Mr. President, I think we are making progress backwards. Sometimes the better part of discretion and valor is to stop. I think it is time we stopped this colloquy and tried to examine the situation in private.

Mr. President, I am prepared now to ask the distinguished managers of the bill to see if another amendment can be presented. I hope the minority leader would agree with me that we are not ready to consider his amendment.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. BAKER. Yes.

Mr. ROBERT C. BYRD. Mr. President, I have no objection to temporarily laying my amendment aside to take up another amendment at this point.

Mr. CRANSTON. Mr. President, when the Republican majority of the Senate Budget Committee presented on May 12 its version of the Reagan-Stockman budget, desperately attempting to conceal the huge deficits it contains, I opposed it.

When the same set of misguided economic and fiscal policies returned from conference with the other body—after blending with the Gramm-Latta budget resolution on May 20—I opposed the conference report for reasons I set out at length at the time.

This resolution now before the Senate simply carries out the reconciliation instructions of the first budget resolution which I previously opposed.

This budget has not changed very significantly since it was first presented.

In some ways, compromises achieved in bipartisan committees have improved it slightly.

In other ways, it has become worse.

For example:

Slashing an additional $812 million from education programs—seriously damaging programs already burdened with oversevere cuts, programs that provide basic skills assistance to disadvantaged children, vocational training programs for men and women, and loan programs to assist students to attend college;

Striking the social security rehabilitation transfer program providing counseling and vocational training to thousands of disabled people. This change

will end up costing the Government far more than it will save;

Blocking out vitally needed services to elderly and disabled individuals, abused and neglected children, and impoverished families seeking to attain self-sufficiency, by repealing the Economic Opportunity Act, phasing out VISTA, and making huge cuts in title XX social services, child welfare, foster care, health care, and adoption assistance; and

Adopting changes in the medicaid program that will deny some necessary health care to millions of Americans and are grossly unfair to California and 11 other States.

Finally, for 2 years I have consistently opposed the abuse of the congressional budget process achieved by using reconciliation instructions in connection with a first budget resolution for a given fiscal year, which is compounded by using the reconciliation resolution as a vehicle for substantive legislation unrelated to budgetary changes.

This abuse of process at once puts at risk carefully-crafted and time-honored rules of procedure by which the Senate has always done business, and the delicate balances of power both within the legislative branch and between the legislative branch and the executive branch.

Only after presentation of the amendment of the distinguished Democratic leader (Mr. ROBERT C. BYRD), which followed on a process I began in the Banking Committee, were really dangerous precedents narrowly avoided with the cooperation of the majority leader (Mr. HOWARD BAKER) and other concerned Senators.

But the potential for procedural abuse remains, and next time we may not be so fortunate.

I note that, as debate over Reaganomics proceeds, the President talks less and less about how his program will succeed, and more and more about whom to blame when it fails.

This was not unexpected.

But I do not think the American people will be so easily fooled.

I very much regret that due to prior commitment I shall not be present for the final vote on this resolution.

I do not want to leave any doubt where I stand.

I oppose it.

Mr. BAKER. Mr. President, I ask unanimous consent that the amendment of the Senator from West Virginia be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I yield to the distinguished Senator from Michigan who has the next amendment.

The PRESIDING OFFICER. The Senator from Michigan.

UP AMENDMENT NO. 192

(Purpose: To establish homeowner interest rates under the Small Business Administration disaster loan program)

Mr. LEVIN. Mr. President, I send an amendment to the desk on behalf of Senator RUDMAN and myself and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. EAST). The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Michigan (Mr. LEVIN), for himself and Mr. RUDMAN, proposes an unprinted amendment numbered 192.

Mr. LEVIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 392, strike lines 4 through 12 and insert in lieu thereof the following:

"(4) Notwithstanding the provisions of any other law, the interest rate on the Federal share of any loan made under this subsection (b) shall be—

(A) in the case of a business concern, the rate prescribed by the Administration but not more than a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans plus an additional charge of not to exceed 1 per centum per annum as determined by the Administrator, and adjusted to the nearest one-eighth of 1 per centum; or

(B) in the case of a homeowner, 5 percent below the rate determined for a business concern in subparagraph (A) of this paragraph (4).

The interest rates for loans".

On page 398, line 14, strike "$89,000,000" and insert in lieu thereof "$75,000,000".

On page 399, line 5, strike "$689,000,000" and insert in lieu thereof "$675,000,000".

On page 399, line 5, strike "$422,000,000" and insert in lieu thereof "$408,000,000".

On page 400, line 15, strike "$150,000,000" and insert in lieu thereof "$116,000,000".

On page 401, line 6, strike "$838,000,000" and insert in lieu thereof "$804,000,000".

On page 401, line 6, strike "$565,000,000" and insert in lieu thereof "$531,000,000".

Cosponsors added to UP Amendment No. 192 are as follows: Mr. Metzenbaum.

Mr. LEVIN. Mr. President, this amendment, which is being offered on behalf of Senator RUDMAN and myself, will restore part of the interest rate on Government loans to homeowner disaster victims. It will restore part of the safety net for one of the neediest groups in this country, the disaster victims whose homes are destroyed.

It is easy to overlook this group because we do not know who they are until the next disaster strikes. But we know who has been helped in the past, and those people who have been helped in the past reside in every one of our States. Every disaster which hits us, every disaster which occurs, which wipes out people's homes, homes which are not able to be restored because people do not have insurance or have no access to credit, argues that this program be retained. I can think of no program, Mr. President, that is more important to our citizens in a time of need than the SBA homeowner disaster loan program which has operated since 1953.

At any time, one of our States could be struck by a flood, a hurricane, a volcano, a tornado, or other calamity. The total or partial destruction of a person's property is a devastating event, especially when one's home is involved. The Small Business Administration has been operating this program, as I indicated, since 1953. Over the last several years, all 50 of our States have had disasters where loans were made to homeowners by the SBA.

Mr. President, one other feature of this amendment—and here I would particularly emphasize this for the Budget Committee—is that because there is an offset, there will be no increase in the budget as a result of the adoption of this amendment.

Less than halfway through this year, Mr. President, we have had 26 disaster declarations in 16 States and two territories. There have been floods in New York, Washington, Pennsylvania, New Hampshire, Alabama, Montana, and Texas; fires in New Jersey and Massachusetts; tornadoes in Wisconsin, Oklahoma, and Ohio; explosions in Kentucky; storms in Rhode Island and Maine, and typhoons in Guam and Samoa.

We would all be pleased if this program were never used, but that is beyond our control.

Disasters show no preference for special interest groups, income levels, or regions of the country. There is little choice for homeowners who have suffered through a hurricane, a flood, or a fire. They have to rebuild. We should make it as feasible as possible for them to do so. We must have a program of assistance and it must be a good one and a fair one.

We have traditionally provided a subsidized interest rate on loans to homeowner disaster victims. Presently, that rate is 3 percent. This assistance to homeowner disaster victims has been virtually eliminated in the reconciliation bill because the Small Business Committee raised interest rates on those loans from the present 3 percent to approximately 13 percent, which is the present cost of money to the Government.

This amendment would restore part of that assistance and peg interest rates for homeowner disaster victims at 5 percent below the cost of money, or about 8 percent in the present circumstances. In other words, this is about one-half of the former level of assistance.

Under this amendment by Senator RUDMAN and myself, loans would continue to be made for uninsured losses up to $55,000. Such assistance would be available only to those who could not get credit elsewhere because the Small Business Committee has eliminated creditworthy borrowers from the disaster loan program as a reasonable cost saving measure.

The Congressional Budget Office estimates that the amendment will have no impact on the savings achieved by the Small Business Committee for fiscal year 1982. In fiscal year 1983, the cost is $10 million, and in fiscal year 1984, the cost is $27 million. To pay for these reductions in those out years, we propose in our amendment to reduce budget authority for SBA direct business loans by an amount sufficient to achieve the necessary out year savings. In fiscal year 1983, the Small Business Administration would have $166 million available for direct business loans rather than $180 million, and in fiscal year 1984, $245 million rather than $279 million.

These relatively small reductions in an

admittedly important program will help restore and retain the disaster program. It will keep it alive with at least some semblance as we have known it. Homeowner disaster victims who have inadequate insurance and cannot get credit elsewhere are among the neediest in our population. Almost 700,000 homeowners have relied on the SBA disaster loan program since its inception to help them get back on their feet when their homes have been damaged or destroyed.

Mr. President, I ask unanimous consent that a year-by-year account of the disaster home loans be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NUMBER OF HOMEOWNER DISASTER LOANS BY YEAR

Year	Number of Loans
1954	90
1955	324
1956	1,149
1957	772
1958	664
1959	498
1960	378
1961	1,567
1962	4,322
1963	1,532
1964	1,484
1965	2,426
1966	27,790
1967	1,470
1968	11,515
1969	1,620
1970	14,914
1971	52,453
1972	88,856
1973	192,718
1974	45,138
1975	7,504
1976	21,801
1977	12,884
1978	74,546
1979	48,386
1980	51,098
1981 through April	19,206

Mr. LEVIN. Mr. President, in the past several weeks, disaster declarations have been made in Texas, Ohio, Pennsylvania, Oklahoma, and Montana. In the past few days alone, we have heard of tornadoes in Colorado and Minnesota, and fires in California.

The burden of doing right by disaster victims, which results in a slight reduction in the direct small business loan program, is manageable. It is a manageable burden. But not to provide this assistance to one of our truly neediest groups, our homeowner disaster victims, is unimaginable. I hope that the managers of this bill and the chairman and the ranking member of the Small Business Committee can accept this modification because it does not increase the budget.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, this title includes all of the President's proposed budget reduction reforms in the SBA disaster loan program. These include the elimination of nonphysical disaster assistance, the termination of loans to credit-worthy borrowers, and the elimination of interest subsidies on business and homeowner loans. These reforms are intended to provide disaster loan assistance to deserving disaster victims while reducing the costs of this program to the Government.

The Levin-Rudman amendment seeks to reinstate a Government interest rate subsidy on SBA disaster loans by lowering the interest rate on loans to homeowners to a rate 5 percent below the Government's cost of borrowing.

This same proposal was defeated inside the Small Business Committee during consideration of its reconciliation submission by a vote of 9 to 4. I am a member of that committee.

The interest rate reduction proposed by this amendment would reduce disaster loan program outlay savings achieved by this title by $10 million in fiscal year 1983 and by $27 million in fiscal year 1984. Costs would increase in proportion to loan volume in future years. No reduction in budget authority savings would occur because loan repayments in the SBA revolving fund in excess of program needs would be sufficient to cover the additional cost.

To offset the loss in outlay savings in fiscal years 1983 and 1984, the Rudman amendment reduces SBA direct business loan authorizations by $14 million in fiscal year 1983 and by $27 million in fiscal year 1984. This would maintain the level of savings necessary to keep this title in compliance with the Small Business Committee's reconciliation instruction.

This amendment, it seems to us, hides the fact that interest subsidies on these loans will cost the Government money. Against the program baseline against which the reconciliation savings have been determined, CBO estimates that assuming an average level of home disaster loans in fiscal years 1982 through 1984, the subsidized interest rate proposed by this amendment will cost the Government an additional $332 million over the average 9-year life of these loans. Put another way, the interest subsidy the amendment proposes would cost the Government $30 million in interest subsidy costs for every $100 million in home disaster lending over the life of the loans. I do not believe it is good policy to substitute a lower authorization level for direct business loans for this permanent cost-saving change in the disaster loan program.

The President's proposal to eliminate interest subsidies on disaster loans has been a cost-producing reform assumed in our first budget resolutions for the past 4 years, since fiscal year 1979. We have found that Government loans offered at deeply subsidized interest rates in times of high inflation create strong incentives for those who do not really need a loan to apply for one and encourage those eligible to borrow as much as possible. They also build pressure for public officials to seek Federal disaster declarations. Disaster loans provided at the Government's cost of money are still at a much lower rate than that which would be charged by private lenders; they provide a ready source of credit at reasonable rates to disaster victims but reimburse the Government for its costs.

Mr. President, when the SBA disaster loan program was established in 1953, disaster loan interest rates were set higher than the Government's cost of money. The policy was to provide disaster victims with a ready source of credit at reasonable rates that reimbursed the Government for its borrowing and other costs. The President asks us to return to that policy. The Small Business Committee has concurred. I ask my colleagues to vote against this amendment, and support the Budget Committee and the work which has been done by both the Small Business and the Budget Committees in the Senate.

The PRESIDING OFFICER. Who yields time?

Mr. LEVIN. Mr. President, I yield to the Senator from New Hampshire as much time as he needs.

Mr. RUDMAN. Mr. President, will the Presiding Officer advise me how much time the Senator from Michigan has remaining?

The PRESIDING OFFICER. Twelve minutes, forty seconds.

Mr. RUDMAN. I thank the Chair.

Mr. President, I am aware of no instance in our country's recent history where the Federal Government has not been willing to respond in one way or another to major natural disasters, whether through the SBA disaster loan program or other Federal programs available, upon a finding that the damage was beyond the ability of State and local governments to repair or redress. I am certainly in agreement with the changes in the law made at committee mark-up which would raise the cost of these loans to businesses to the cost of money to the Federal Government.

We all understand that any business faces substantial economic risks, not only from natural disasters but from other causes far beyond the control of the individual businessman. On balance, it is probably fair that the risk assumption that is part of any commercial venture require that, at the most, the Federal Government should respond with interest rates for its loans which do not cost other taxpayers money. It seems to me, however, that our ethical heritage has always recognized the need to address personal tragedy, especially the destruction of one's home.

True, as those who oppose this amendment will tell you, the amendment will continue in place a program which will continue to cost the Federal Government money so long as natural disasters destroy homes. However, it is not an open ended program. The program only addresses uninsured losses up to $55,000 and only for those who cannot obtain credit elsewhere. However, we should recognize what the real cost is. The real cost is only the 5-percent interest subsidy, certainly not a major sum when one considers the cost in both human and economic terms that may accrue to our country if those to whom this amendment is addressed are unable to rebuild their homes and lose them because of either the damage or foreclosure upon existing, underlying debt.

Indeed, we recognize these people in other laws. Under the Disaster Relief Act of 1974, qualifying individuals are entitled to grants, not loans, of up to $5,000 for essential needs and necessary ex-

penses at the time of natural disasters. It does not seem unreasonable to me to continue to address personal tragedy as this amendment attempts to do.

I put one final question to the Members of this body: Does anyone in the Senate really believe that this body, either this year or in any other year, would fail to respond to a major natural disaster which caused major damage or destruction to personal residences without some form of interest free loan, subsidized loan, or outright grant in order to preserve the family structure and personal dignity that is the cornerstone upon which this country was built? If their answer is as mine, Mr. President, then let us adopt a program which will be in place, ready to administer, fair in its cost sharing, and which does not represent ad hoc legislation rushed through Congress only as the need arises.

Let me add one final statement, Mr. President. It is inconceivable to me that anyone in this country would argue with the proposition that someone who is poor, who cannot get credit, who has inadequate insurance should get some sort of assistance when their home and personal belongings are destroyed in a tragedy on the coast of the Carolinas, or through the gulf, or up the New England coast, or through fires in the West. When these kinds of things have happened in America, this country has always come to the fore and helped those people. All we are saying now is that they should pay a rate that is somewhat below the cost of money. I hope my colleagues will adopt that view.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. LEVIN. Mr. President, if I could just give myself a minute more.

I particularly am addressing this question to my friend from Utah.

Mr. HATCH. If the Senator will yield, may we ask for the yeas and nays on this amendment?

Mr. LEVIN. Yes, Mr. President.

Mr. HATCH. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LEVIN. Mr. President, we have asked the Congressional Budget Office to give us an assessment of what it would take in reductions in the small business loan program in order to permit the interest assistance to disaster victims to continue at an 8 percent interest rate, 5 percent below the cost of money. The Congressional Budget Office has given us that estimate, saying that if we reduce those direct business loans by $14 million in fiscal year 1983 and $34 million in fiscal year 1984, we would be able to pay for the cost of this amendment. I point out to my friend from Utah that we have done that, that there therefore is no additional cost as a result of this amendment. We have an offset.

I am wondering whether or not he might agree with me and with what I understand to be the position of the ranking minority member on the Budget Committee, that there is no loss in budget impact as a result of this amendment in fiscal years 1982, 1983, and 1984. I am wondering if my friend from Utah would agree that, in light of the Congressional Budget Office figures for fiscal years 1982, 1983, and 1984, as we have represented it.

I believe we have satisfied the ranking minority member of the Budget Committee on this, that there is no cost and that we are not upping the budget at all by this amendment because of this offset.

Mr. HATCH. We would admit that there are costs to the interest subsidy, but there would not be on-budget costs. There would be off-budget costs.

That is what I have been complaining about for the last number of years—that we hide a lot of these costs in so-called out-budget spending, which in fiscal year 1981 amounts to $23 billion; and those are just as much costs to the Federal Government as on-budget costs.

Mr. LEVIN. I agree that there are costs, and that is why we have informed the Budget Committee that we would have an offset. We have the offset from the Congressional Budget Office figure of $14 million, which would have to be offset in 1983, and $34 million in 1984 in some other program; and we have done that so we can keep this disaster victim program going.

I am wondering whether or not the Senator from Utah would disagree with those CBO figures and whether or not the disagreement is on some other basis.

Mr. HATCH. I do not disagree with the CBO figures.

● Mr. NUNN. Mr. President, I am pleased to support the Levin-Rudman amendment reducing the interest rates charged certain homeowners for Small Business Administration disaster loans.

Under existing law, homeowners are eligible for disaster loans from SBA regardless of their personal financial status or their ability to obtain private credit in the community where they reside. Once eligible, borrowers now pay an interest rate of 3 percent on the first $55,000 of assistance.

Under the provisions of the reconciliation title approved by the Senate Small Business Committee, homeowners who are able to get credit elsewhere will no longer be eligible for Federal assistance. Those who will be eligible would be charged an interest rate equal to the "cost of money" to the Federal Government, currently 14 percent.

Under this amendment, homeowners who are not able to get credit elsewhere would be eligible for assistance—with an interest rate 5 percent below the rate charged to businesses. The rate would remain consistently tied at that 5 percent below business rate.

Mr. President, I supported the Levin amendment in committee. Others in committee did also, and I am confident that, if during the committee's consideration we knew that we were able to include this amendment with its minimal outyear offsets in direct lending at the Small Business Administration beyond the cuts already made by the committee, it would have been part of our committee's recommendation.

Mr. President, the Senator from Michigan has been an active and valuable member of the Small Business Committee. I want to compliment him for pursuing this issue in committee and here on the floor. I urge my colleagues to support this amendment.●

● Mr. METZENBAUM. Mr. President, I would like to rise in support of this amendment today which I am cosponsoring with my colleagues, Senators LEVIN and RUDMAN.

Mr. President, in my own State of Ohio recently there was a tornado in the small community of Cardington, as a result of this disaster, hundreds of individuals found their homes and/or businesses totally destroyed. Without exaggeration, members of the community of Cardington are finding themselves starting from scratch in rebuilding their homes and storefronts.

These are not individuals asking for Government assistance when they do not truly need it. They are, rather, victims—victims of a natural disaster that could happen to any one of us sitting here today.

The Small Business Administration has been operating a loan program for homeowner disaster victims since 1953. In the last several years, all 50 States have had disasters after which loans were made to homeowners by SBA. Almost 700,000 homeowners have relied on this loan program to get them back on their feet. Just in the past several weeks, disasters have occurred in Texas, Pennsylvania, Oklahoma, and Montana.

The total or even partial destruction of one's home or business is, needless to say, a horrible experience.

This amendment restores some equity to the SBA disaster loan program while keeping in line with our budget cutting goals. It would allow the victims of natural disasters to obtain loans at a reasonable rate and thus regain some normalcy to their lives.

I urge all here to support it.●

Mr. KENNEDY. I rise to support Senator LEVIN'S amendment.

Since 1953 SBA has administered a homeowner disaster loan program which provides low-interest loans to those whose homes are totally or partially destroyed by natural disaster.

Traditionally, the interest rate on loans under this program has been 3 percent. However, this year the Small Business Committee raised the rate to 13 percent in order to comply with its reconciliation instruction. Had this provision been retained, many who lose their homes due to natural disaster would have found it impossible to rebuild. Senator LEVIN'S amendment establishes the interest rate at 5 percent below the cost of money and will help assure that this vital program continues to serve those in need.

Mr. LEVIN. Mr. President, I yield back the remainder of my time.

Mr. HATCH. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Michigan (UP No. 192). On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. CANNON) is necessarily absent.

I further announce that, if present and voting, the Senator from New York (Mr. MOYNIHAN) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 67, nays 31, as follows:

[Rollcall Vote No. 169 Leg.]

YEAS—67

Andrews	Glenn	Nunn
Baker	Grassley	Packwood
Baucus	Hart	Pell
Bentsen	Hatfield	Percy
Biden	Hawkins	Pryor
Boren	Heflin	Randolph
Bradley	Heinz	Riegle
Bumpers	Hollings	Roth
Burdick	Huddleston	Rudman
Byrd, Robert C.	Humphrey	Sarbanes
Chafee	Inouye	Sasser
Chiles	Jackson	Schmitt
Cohen	Johnston	Specter
Cranston	Kennedy	Stennis
D'Amato	Laxalt	Stevens
Denton	Leahy	Thurmond
Dixon	Levin	Tsongas
Dodd	Long	Warner
Dole	Matsunaga	Weicker
Eagleton	Melcher	Williams
Exon	Metzenbaum	Zorinsky
Ford	Mitchell	
Garn	Nickles	

NAYS—31

Abdnor	Goldwater	McClure
Armstrong	Gorton	Murkowski
Boschwitz	Hatch	Pressler
Byrd, Harry F., Jr.	Hayakawa	Proxmire
Cochran	Helms	Quayle
Danforth	Jepsen	Simpson
DeConcini	Kassebaum	Stafford
Domenici	Kasten	Symms
Durenberger	Lugar	Tower
East	Mathias	Wallop
	Mattingly	

NOT VOTING—2

Cannon	Moynihan

So Mr. LEVIN's amendment (UP No. 192) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEVIN. Mr. President, I ask unanimous consent that Senator METZENBAUM be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, I also want to express my great thanks to Senator RUDMAN for his tremendous effort on this amendment, and to two staffers who worked so hard and so well, Robert Fogel of my personal staff, and Alan Chvotkin of the Small Business Committee staff.

Mr. President, I want to take a further moment to pay tribute to Bob Fogel. Bob has been on my staff ever since I served on the City Council in Detroit many years ago. He worked in my Senate campaign and he has been on my staff here since my election. The work that he did on this amendment, which was critical to its passage here today, is typical of the kind of effort and skill he has brought to the many tasks he has performed.

Bob will be leaving my staff at the end of this week to take on new and greater responsibilities. I will miss him and the Small Business Committee—which was his principle assignment—will miss him. But the Congress will continue to have the benefit of his dedication and intelligence.

I am delighted that his final effort as a member of my staff was consistent with his character—he came to me as a winner and and he is leaving as a winner.

I will miss the daily contact I have had with him over the years, but I look forward to retaining the same close personal relationship in the years ahead. I thank him for his service and I wish him the best of luck.

STEEL INDUSTRY COMPLIANCE EXTENSION ACT OF 1981

Mr. BAKER. Mr. President, I believe this is agreeable to the minority leader and the managers on both sides. I ask unanimous consent that the Senate temporarily lay aside the pending bill and proceed to the consideration of the conference report on H.R. 3520, a bill to extend the Clean Air Act compliance dates for steelmaking facilities, and that there be a time limitation on that conference report, debate on that conference report, of 20 minutes equally divided.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object——

Mr. BAKER. Mr. President, I am advised that the managers of the conference report will not require that much time, and I amend the request to provide for 10 minutes of debate equally divided.

Mr. ROBERT C. BYRD. Mr. President, I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STAFFORD. Mr. President, I submit a report of the committee of conference on H.R. 3520 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3520) to amend the Clean Air Act to provide compliance date extensions for steelmaking facilities on a case-by-case basis to facilitate modernization having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the House proceedings of the RECORD.)

Mr. STAFFORD. Mr. President, the conference report on H.R. 3520, a bill to extend Clean Air Act compliance dates for steelmaking facilities, is fundamentally the same as the bill initially passed by the Senate. The Senate-passed measure, in turn, embodied the recommendations of the Steel Tripartite Advisory Committee, which was created by President Carter in 1979 to assess the problems of the American steel industry and make proposals for its revitalization.

The conference report amends the Clean Air Act to permit some steelmaking facilities up to three additional years, to no later than December 31, 1985, in which to comply with certain requirements of the Act.

This was worked out unanimously in the Senate. All of the conferees on both sides of the Capitol signed the conference report.

The conference report does not directly grant the extensions. Rather, they are to be granted on a case-by-case basis by the Federal courts with jurisdiction over the consent decrees under which steel facilities are required to install pollution control devices. In order to receive an extension an applicant must make a request to the Administrator of the Environmental Protection Agency who will determine whether stated conditions have been met and, in her or his discretion, consent to modification of the decree.

Provisions of the bill are not intended to be used to delay compliance with emission limitations at a source where the necessary pollution control equipment has already been delivered or installed.

The conference report includes specific language requiring that any applicant receiving special consideration under the bill meet current requirements no later than December 31, 1985. Paragraph 113(e)(9) is intended to insure that neither the Administrator nor a court may extend the final date for compliance with current judicial decree requirements beyond that date.

A precondition to providing special legislative treatment for the steel industry in advance of general review of the Clean Air Act, is a formal, enforceable commitment to meet current air quality standards and particular consent decree requirements, although delayed, no later than December 31, 1985. The members of the Tripartite Committee both individually and collectively stated to Senate and House committees that this principle was a part of their agreement. Thus, no subsequent amendment to the Clean Air Act is to be used to justify further extension or modification of requirements postponed to 1985 under this bill, unless the Congress specifically amends paragraph 113(e)(9).

The conference report in paragraph 113(e)(8), makes explicit reference to the applicability of section 304(b)(1)(B) to the modification of decrees under the bill. The effect of this provision is to make clear that any person may intervene as a matter of right in any judicial proceeding and judicial decree under subsection 113(e) of the act. The fact that a person was not party to an original decree, the modification of which is being sought under the extension provisions, is no bar to that person's right to intervene in the modification proceeding and resulting modified decree.

Paragraph 113(e)(8) guarantees the

State or local government in which the source is located or any other person the right to intervene in proceedings to consider an extension and to become a party to the judicial decree itself.

The provision requiring the Administrator to give notice to the affected State and local governments whenever receiving a request for consent to a decree under the bill, together with the full intervention rights available, provide ample opportunity for a State to participate directly in establishing the terms and conditions of the modified decree, as well as to enforce its provisions as a party, if the State chooses to do so.

Mr. President, the conference report on H.R. 3520 is a carefully crafted, limited provision designed to advance the goal of achieving healthy air on a permanent basis by facilitating modernization of a major polluter, the steel industry.

This legislation is an example that proves the point that a balance can be achieved between the economy and the environment when there is a spirit of restraint and cooperation in the camps of both interests.

This bill has resulted from negotiations involving a wide variety of interested parties who joined to seek agreement on the kind of carefully crafted changes—fine tuning, if you will—to the Clean Air Act that meet the needs of our Nation.

I hope those who are involved in discussions and negotiations regarding other provisions of the Clean Air Act will take note of what we are doing here today.

I have attempted to deliver the message to those parties that we can make the Clean Air Act work better if we approach our task with a spirit of moderation and cooperation—and with dedication to the goal of keeping America's air healthy.

That message also includes the caution, however, that efforts to make drastic changes that weaken the Clean Air Act and deny its goals will most likely result in controversy, rancor, and extensive delay.

Mr. President, I urge immediate adoption of the conference report on H.R. 3520.

Unless there are questions, I yield to my distinguished and able colleague, Senator RANDOLPH.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I am pleased to join the able chairman of our Committee on Environment and Public Works, Senator STAFFORD, in bringing to the Senate the conference report on the Steel Industry Compliance Extension Act. Conferees from the Senate and House of Representatives met yesterday and we were able to resolve the few differences in the two versions of this legislation without difficulty.

As the principal sponsor of this bill in the Senate, I am glad that we have been able to bring it to the point of final passage in a timely fashion. I am appreciative of the understanding and cooperation of Senator STAFFORD in scheduling hearings and committee consideration and of his leadership in drafting a bill that meets the objectives of all concerned in a responsible manner.

Mr. President, this legislation to amend the Clean Air Act in a very limited way was first proposed last fall by the Steel Tripartite Committee. It was the outgrowth of 2 years of work by that committee in examining problems of the American steel industry. The proposal was developed by the steel industry, by labor, by environmental interests and by the previous administration. The purposes of this measure were subsequently endorsed by the Reagan administration.

The Tripartite Committee report emphasized that the major problem with the steel industry in the United States was that the old and rather dirty facilities were having difficulty competing with the newer, cleaner, and more efficient foreign facilities. Some of the capital which would have been used for modernization in the past has been used for pollution control equipment. Most of the major steel companies are under compliance schedules with the Environmental Protection Agency and the Department of Justice. A basic finding of the Tripartite Committee was that a 3-year stretchout of compliance deadlines will aid the industry by allowing it to put capital now into modernization.

The proposals for the 3-year stretchout were only part of a larger package of proposals. Other proposals included tax breaks for the steel industry, and trade protection proposals. By itself, the stretchout proposal will not make available enough capital to effectively modernize the steel industry, but they are a start in that direction.

The United States needs a strong steel industry; we also cannot forget our clean air goals in the process. This legislation commits the steel industry to modernize its facilities before a stretchout will apply to a particular facility. Only by this method will the dual goals of a cleaner, more efficient steel industry and clean air be accomplished.

The bill, as passed by the Senate, contained a provision I sponsored dealing with situations where changes in proposed methods of compliance due to availability of an extension might be associated with reduced employment. We have checked carefully and have been assured that this should not occur. We were agreeable, therefore, to dropping it from the bill in order to obtain an agreement. It is not the policy of the Clean Air Act or the intent of the Congress that air quality standards or emission limitations be met by cutbacks in production or reductions in employment. The premise behind this bill is that the same emission control requirements will be met after an extension, in the same manner but merely at a later date. Section 113(e) extensions should contribute to the longrun stability of employment in the steel industry. This bill should not, however, be used in any way which leads to major job losses in existing steelmaking communities. The economies of many communities and the security of many families in steel-related jobs depend on being helped, not penalized by extensions under this bill.

Mr. President, this legislation will enable one of our major industries to simultaneously work toward the goals of clean air and the modernization of its production facilities. I urge adoption of the conference report by the Senate.

Mr. STAFFORD. Mr. President, unless there are further speakers on this side, I am prepared to yield back whatever of my time remains. I ask my dear colleague if he is ready to yield back his time.

Mr. RANDOLPH. Yes, I yield back the remainder of my time.

Mr. STAFFORD. I yield back the remainder of my time.

Mr. ROBERT C. BYRD. Mr. President, I am pleased that the Senate has the opportunity today to adopt the conference report on the Steel Industry Compliance Extension Act of 1981. This legislation represents a balance between the capital needs and energy requirements of our domestic steel industry and our long-term national environmental goals.

The steel industry will be permitted to comply with the requirements of the Clean Air Act under a reasonable timetable established by this legislation. At the same time, the industry can make sorely-needed capital expenditures for plant modernizations while it defers compliance with the act.

This measure enjoys the support of the steel industry, regulatory officials, and the environmental community. I hope that their support can be interpreted as a recognition of the burdens arising from inflexible regulatory systems. The Steel Industry Compliance Extension Act will help remove that burden.

Adoption of this conference report will put the steel industry in a much better position to decide how and where to spend its capital.

Each steel producer will be able to plan modernization expenditures with a higher degree of certainty than presently exists. Steel producers will sit down with the Environmental Protection Agency one by one, and work out consent agreements covering pollution control initiatives to be taken at each plant.

A major policy goal underlying this legislation is to prevent the loss of jobs at steelmaking facilities. The steel industry has assured the Congress that it fully supports this goal, and will seek to reinvest any funds saved by the deferral of compliance with the Clean Air Act in ways that increase the productivity of their plants.

I commend my distinguished colleague from West Virginia, Mr. RANDOLPH for his labors with respect to this legislation. He has been a strong voice for balanced environmental policies, as has the distinguished Chairman of the Environment and Public Works Committee, Mr. STAFFORD. As a cosponsor and strong supporter of this measure, I look forward to its enactment forthwith.

I urge the adoption immediately of the conference report on H.R. 3520.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report (H.R. 3520) was agreed to.

Mr. STAFFORD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. RANDOLPH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE SENATE FINANCE COMMITTEE TAX BILL (H.J. RES. 266)

Mr. BAKER. Mr. President, I would like to take this opportunity to commend, congratulate, and express my appreciation to my friend and colleague, the most distinguished chairman of the Finance Committee, Senator DOLE, the most distinguished ranking member of that committee, Senator LONG, and every member of the Finance Committee as well for their yeoman service in reporting out comprehensive tax legislation today.

As is their custom, Chairman DOLE and Senator LONG have acted in a responsible and expeditious manner to address the economic dilemma we face today. They have delivered to the Senate tax legislation which closely parallels the tax relief proposals of President Reagan and which will provide much-needed relief to the taxpayers of our Nation.

I am pleased to note, Mr. President, that this effort was very much bipartisan—the final vote being virtually unanimous. That is as it should be for this is not a partisan issue, nor should it be one. Every Member of this Senate, from both sides of the aisle, recognizes the critical need for tax reductions for individuals and businesses alike.

The citizens of this country are being smothered by an ever-increasing tax burden, a burden which has dulled the incentives to work and to save. And that is why, Mr. President, this bill is a critical element of the President's economic recovery package. It will restore those lost incentives, promoting productivity and savings, while helping to stem the tide of inflation.

Under the superb leadership of Senator DOLE, the committee fashioned a bill endorsed by fully 19 of its 20 members. I believe that when the bill comes before the Senate, this body will endorse the proposal with the same zeal. It includes tax cuts for individuals amounting to more than $100 billion in 1984. These reductions, which will go into effect beginning on October 1 of this year, will amount to a 25-percent across-the-board rate reduction when fully implemented in 1983. Many taxpayers will also benefit by the relief from the marriage penalty provided by this bill.

Individuals will also receive relief by the committee's proposed estate tax reform. I share the belief of many of my colleagues that the present estate taxes are onerous and contribute to the decline of family-owned farms and businesses in this country.

That will no longer be the case when this bill is enacted. Senator DOLE's committee has also provided for additional savings incentives to provide for capital expansion by creating savings certificates and expanding the IRA and Keough pension programs. These, along with other provisions of the bill, will provide for tax reductions totaling $125 billion.

Business taxes are also substantially reduced and reformed. The modified 10–5–3 program provides for major depreciation reform to combat the effects of inflation on business taxes and provide companies with the funds necessary for capital expansion to revitalize our economy and improve productivity. An explicit provision is also provided for increased research and development to aid in this effort.

Other provisions help relieve the burden of Americans working abroad, promote urban revitalization, increase incentives for small oil producers, and promote employee stock ownership. All told, the business tax reforms will return in excess of $30 billion to the business community in 1984.

In summary, Mr. President, the Finance Committee has provided us with a fine example of both the type of legislation and the process necessary to achieve it that these difficult times mandate. The committee has worked hard and diligently to produce a timely bill which meets the thrust of the President's proposal while addressing some badly needed revisions in the tax code. They have held the line on revenues and provided a critical element in the economic recovery of the United States.

In short, they have assumed a most difficult task and performed it extraordinarily well. I am appreciative of Chairman DOLE's fine leadership and I am certain the full Senate and the full Nation are as well.

OMNIBUS RECONCILIATION ACT OF 1981

The PRESIDING OFFICER. The question recurs on S. 1377.

The Senate resumed consideration of the bill.

Mr. BAKER. Mr. President, while the distinguished chairman of the Environment and Public Works Committee is here, might I inquire if he is ready to offer an amendment in respect to the highway program.

Mr. STAFFORD. Mr. President, if the majority leader will yield, I am ready to offer a perfecting amendment to section 601 of the omnibus reconciliation bill.

Mr. BAKER. Mr. President, it is my understanding that this has been cleared on the minority side.

Mr. RANDOLPH. Mr. President, I will ask Senator BENTSEN to direct his remarks to this question.

Mr. BENTSEN. Mr. President, the other night I questioned the distinguished chairman of the Appropriations Committee concerning his amendment with regard to the Federal-aid highway program. At that time, he advised me that the amendment dealt with a question of redundancy. As we have gone into the amendment further, and while I know he by no means meant to misstate the case, the amendment creates several problems for the highway program. It makes available additional funds by removing the obligations limitations, places in doubt highway apportionments, and exceeds the limits set by the budget resolution. The highway program is a terribly complicated field involving contract authority, obligations, and the question of the highway trust fund. With the cooperation of the Senator from Oregon, I understand that we have clarified any misunderstanding in this matter and that this amendment will reassert the present authorizations and jurisdiction of the appropriate committees.

I thank the distinguished chairman of the Appropriations Committee for that. It has been cleared, as I understand it, with the ranking member of our committee and, as ranking member of the subcommittee, I am very pleased to participate in this clarification.

The PRESIDING OFFICER. The Senator from Vermont.

UP AMENDMENT NO. 193

Mr. STAFFORD. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the amendment of the Senator from West Virginia is set aside.

The clerk will report the amendment of the Senator from Vermont.

The assistant legislative clerk read as follows:

The Senator from Vermont (Mr. STAFFORD), for himself, Mr. BENTSEN, Mr. RANDOLPH, and Mr. SYMMS, proposes an unprinted amendment numbered 193.

Mr. STAFFORD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 184, strike lines 38 through 41, and on page 185, strike lines 1 and 2, and insert in lieu the following:

"SEC. 601. (a) Notwithstanding any other provision of law, the total of all obligations from the Highway Trust Fund for Federal-aid highways and highway safety construction programs for fiscal year 1982 shall not exceed $8,100,000,000, for fiscal year 1983 shall not exceed $8,600,000,000, and for fiscal year 1984 shall not exceed $8,800,000,000: *Provided*, That this limitation shall not apply to obligations from the Highway Trust Fund for emergency relief under section 125 of title 23 of the United States Code."

On page 185 after line 24 insert the following new subsection:

"(e) Nothing in this section shall be construed as preventing the Appropriations Committee from taking any actions properly within its jurisdiction in regard to the annual review and control of this program in annual appropriation Acts."

Mr. STAFFORD. Mr. President, I offer a perfecting amendment to section 601 of the omnibus reconciliation bill before us. This amendment affects title VI of the bill which was written by the Environment and Public Works Committee. I am offering the amendment on behalf of myself as committee chairman and Senator RANDOLPH as ranking minority member, and for Senators SYMMS and BENTSEN as chairman and ranking member respectively of the Transportation Subcommittee.

Our amendment clarifies the intent of section 601, which is to reduce outlays

in the Federal highway program in fiscal years 1982 through 1984. The amendment is necessary to avoid confusion that has arisen over a technical amendment offered Tuesday to this same section.

Senator HATFIELD, who offered that amendment, is in agreement that this additional amendment is necessary to prevent unintended disruption in the Federal highway construction program.

I would like to outline a few points that explain the amendment. In brief, it places a limitation on obligations from the highway trust fund in fiscal years 1982, 1983, and 1984. This is the only practical means to meet the Budget Committee's instruction to reduce outlays, where the Environment and Public Works Committee has direct spending authority, by $185 million in fiscal year 1982, $900 million in fiscal year 1983 and $1.365 billion in fiscal year 1984. The Hatfield technical amendment inadvertently lost these savings, which total $2.450 billion.

This program is unique. The Environment and Public Works Committee authorizes contract authority from the highway trust fund for the Federal-aid highway program. This money is immediately available to the States for obligation. Therefore, it is the Environment and Public Works Committee that has direct spending authority, not the Appropriations Committee. Appropriations come later only to cover the Federal Government's liabilities.

The obligation limitation, not the contract authority, determines the outlays for the highway program. In addition to the contract authority authorized each year, there is $6 billion available from previous years' authorizations for the States to obligate immediately. Because of this large annual carryover of unobligated apportionments, the effect of the Hatfield technical amendment could have been to make $14 billion, not $8 billion, available for obligation in fiscal 1982.

Mr. President, there is precedent for the Environment and Public Works Committee language on obligational limitations. Because of budgetary constraints, during the past few years the Environment and Public Works Committee has recommended an obligation ceiling in the March 15 report to the Budget Committee which would limit the total amount the States could obligate in each fiscal year. The Environment and Public Works Committee then included this obligation limitation in highway legislation, or in an amendment to the DOT appropriations bill, or the Appropriations Committee consulted with the Environment and Public Works Committee in developing its language.

In fiscal 1981, the Environment and Public Works Committee offered a Bentsen-Domenici amendment, including an obligation limitation, to the DOT appropriations bill with the proviso:

That this limitation shall not become effective if subsequent legislation containing an obligation limitation on "Federal-aid Highways" for fiscal year 1981 is enacted into law by September 30, 1980.

The Hatfield technical amendment in effect reauthorized the highway program at levels inconsistent with this committee's pending highway bill. Further, it inadvertently authorized the program out of the general fund of the Treasury, not out of the highway trust fund. The perfecting amendment before us corrects these oversights by making it clear that it is obligations out of the highway trust fund that are limited.

Finally, Mr. President, nothing in this section shall be construed as preventing the Appropriations Committee from taking any actions properly within its jurisdiction in regard to the annual review and control of this program in annual appropriation acts.

Mr. President, may I say that I appreciate the cooperation of the most able and distinguished chairman of the Appropriations Committee in getting this matter to which I contributed straightened out.

The PRESIDING OFFICER. The Chair advises the Senator from Vermont that it would take unanimous consent to agree to an amendment that replaces an amendment already agreed to.

Mr. STAFFORD. Mr. President, I ask unanimous consent that that may be done.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I wish to express my deep appreciation to Senator STAFFORD, the chairman of the committee; to Senator RANDOLPH, to Senator BENTSEN, to Senator HOLLINGS, to Senator DOMENICI, and others who had participated in the technical amendment which I offered a few days ago. This was within the context of a series of negotiations and amendments that we offered to try to remove the redundancy from the reconciliation resolution in which I responded to a question by the Senator from Texas (Mr. BENTSEN) when he asked on the floor that particular day about the basic meaning and purpose of the amendment.

I want to assure him and others that I in no way was intending to offer an amendment that would exert jurisdiction over the authorizing of contract authority for the Federal Highway Trust Fund. That certainly is the authority, responsibility, and jurisdiction of the Environment and Public Works Committee.

It is simply to remove redundancy as it had existed in other parts of that bill. In no way did I want to achieve any lesser goal than saving the moneys that are saved under this correction. I think it also demonstrates how committees can be a check, one to the other, and I appreciate the checking that was done on the appropriations, to check on another, and to get this authorization passed. I want to subscribe fully to the amendment today as being in the context and objective in which I first saw it in offering my amendment the other day. I thank the Senators for their assistance.

Mr. STAFFORD. We certainly thank the distinguished chairman of the Appropriations Committee.

Mr. RANDOLPH. Mr. President, I am sure that the very knowledgeable Senator from Texas (Mr. BENTSEN), ranking member of the Subcommittee on Transportation, will wish to speak. I will not take his time because we do not want to continue on this matter which is already thoroughly understood. I do want to indicate a constant confidence that I have in the intention of the Senator from Oregon in matters of this kind. I think he was very proper in what he was doing. The explanation he has made is certainly very sufficient for the record which is before us.

Mr. President, I support the amendment being offered by my colleague from Vermont, the able chairman of the Committee on Environment and Public Works. The language proposed for section 601(a) would retain the spending controls on the highway program which the committee has approved and meets the goal of reducing outlays for fiscal years 1982, 1983, and 1984.

This language makes it clear that obligations from the Highway Trust Fund for Federal-aid highways shall not exceed $8.1 billion for fiscal year 1982.

The language also inserts a new paragraph which restates the traditional role of the Appropriations Committee in establishing spending controls for this program. The authorizing committee, in this case Environment and Public Works, provides direct spending authority by authorizing this program from the Highway Trust Fund with contract authority. The program is then constrained by enactment of an annual obligation limitation which has been done in either an appropriations bill or legislation authorizing Federal-aid highways. The Appropriations Committee will then provide the liquidating cash to pay the bills resulting from obligations incurred.

Mr. President, this amendment is clarifying in nature and will continue the highway program as it has been traditionally carried forth. I thank the distinguished chairman of the Appropriations Committee for his able assistance in this matter and congratulate him on his knowledge of the highway program.

I yield to the Senator from Texas.

Mr. BENTSEN. I rise to thank the Senator from Oregon for his explanation. Both of us were seeking the same objective and we have now achieved it.

Mr. STAFFORD. Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. Is all time yielded back?

Mr. DOMENICI. Mr. President, before, that, might I thank Senators, particularly the chairman of the Public Works Committee, Senator STAFFORD; the chairman of the Appropriations Committee (Mr. HATFIELD), the distinguished ranking member of the Public Works Committee (Mr. RANDOLPH), and Mr. BENTSEN for working this matter out. It is true that if we had not brought this Stafford amendment here we would not have achieved the savings contemplated. I appreciate the spirit in which it was done and I understand the inadvertence of the

previous amendment. I think this will now bring us back into the status of savings that we had been contemplating throughout this reconciliation process.

The PRESIDING OFFICER (Mr. ANDREWS). Is all time yielded back?

Mr. STAFFORD. I am prepared to yield back if Senator RANDOLPH is prepared to yield back his remaining time.

Mr. RANDOLPH. We yield back our remaining time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Without objection, the amendment is agreed to.

The amendment (UP No. 193) was agreed to.

Mr. STAFFORD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. RANDOLPH. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from West Virginia.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, the pending amendment is the amendment I have offered. I say to the distinguished manager of the bill that I have no objection to laying this amendment aside once more temporarily to allow one additional amendment to be called up.

Mr. DOMENICI. Mr. President, let me say to the distinguished minority leader I have no objection to proceeding with the next amendment. However, I would like to check with the majority leader as to the pending negotiations. Therefore, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT 194

(Purpose: To delete section 720I in order to retain the medicare program as the primary payor of health insurance costs where Federal employees have dual coverage under the Federal Employees Health Benefits Act of 1959)

Mr. ROTH. Mr. President, I send an amendment to the desk.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. ROTH. I yield.

Mr. STEVENS. Mr. President, I ask unanimous consent that it be in order to consider this amendment and that the pending amendment be set aside until this amendment is completed.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Delaware (Mr. ROTH), for himself and Mr. STEVENS, Mr. EAGLETON, Mr. PRYOR, Mr. MATHIAS, Mr. JACKSON, Mr. LEVIN, Mr. MATTINGLY, and Mr. RUDMAN, proposes an unprinted amendment numbered 194:

Title VII of S. 1377 is amended as follows: "On page 216, beginning with line 1, strike out through line 25 on page 217".

Mr. DOMENICI. Mr. President, will the Senator yield?

Mr. ROTH. I yield.

Mr. DOMENICI. Mr. President, I designate Senator DURENBERGER to control the time in opposition to the amendment.

Mr. ROTH. Mr. President, I offer an amendment with Senator STEVENS, Senator EAGLETON, and Senator PRYOR to delete section 720I from the budget reconciliation bill we are considering today.

The proposal embodied by this section which we seek to delete is both unfair and unnecessary. This section would reverse the existing relationship between medicare and Federal employee health benefit plans. Current law provides that medicare be the primary payer for various health costs to those eligible for medicare. This measure, however, would require Federal employee health programs to be primary payers, even though an enrollee would be eligible for medicare. Currently, medicare is the primary payer for all medicare recipients. This means that medicare pays its benefits first; and any additional insurance a person may have usually covers balances not paid by medicare. This is true for all medicare recipients not only retired Federal employees but retirees from private industry as well. In other words the retired Federal employee is being unfairly singled out by this proposal. If this proposal is not deleted it will impact very seriously on both retired Federal employees and Federal employees still working for the Government. Increases in health insurance premiums for all Federal employees and retired Federal employees depending on the plan and on other variables could range from 40 to 425 percent.

It is very disturbing to me that Federal employees would be singled out so arbitrarily by this proposal. In addition to being unfair, however, this proposal is also unnecessary. The Finance Committee, of which I am a member, has proposed more savings than the amounts required by Senate Concurrent Resolution 19. I commend the committee and its distinguished chairman for the extraordinary effort made in complying with the budget reconciliation instructions. However, I spoke out against this provision in committee and I cannot agree now to make it part of the budget package.

The Governmental Affairs Committee's Subcommittee on Civil Service, Post Office and General Services, which is chaired by the distinguished senior Senator from Alaska, Senator STEVENS, held hearings on this measure on June 2 of this year. An administration witness testified that the proposal could cause some of the plans to go bankrupt.

I would point out that in cases of bankruptcy, both legislative and executive branch employees, enrolled in these plans would be held personally responsible for costs of health services rendered. In addition to dramatic increases in enrollee premiums, administrative costs to the Government could conceivably be so high as to offset any budgetary savings which might result from this measure. All witnesses at the Governmental Affairs Committee hearing strongly opposed this measure.

In addition, David Stockman, Director of the Office of Management and Budget has written Senator STEVENS opposing this proposal. To summarize, the administration does not support this measure. The only hearings held on this proposal have indicated overwhelming opposition and compelling problems with its enactment. This proposal transfers part of the Finance Committee's budget responsibility in the form of budget authority to the Governmental Affairs Committee. As chairman of that committee that disturbs me greatly. Finally, I cannot agree with the adoption of a proposal which unfairly impacts on one group of individuals. Federal employees have done their share in this year's budget.

Federal employees in both the executive and legislative branches, would be seriously affected by the Finance Committee proposal at a time when they have already made sacrifices. But even more unfair, this measure would ask Federal employees to share the cost of the medicare program without reaping any of the benefits. The only fair course to take at this time is the elimination of this proposal.

Mr. STEVENS. Mr. President, will the Senator yield me some time?

Mr. ROTH. I yield such time as the distinguished Senator from Alaska requires.

Mr. STEVENS. Mr. President, I am delighted to aline myself with the chairman of our Governmental Affairs Committee, and I wish to begin by addressing some of the issues that I think the distinguished chairman of the Finance Committee will raise regarding our letter to the Senate about this Finance Committee proposal. I am sure he will indicate that some of our horror stories about this proposal are not true because the Finance Committee's recent indication is they will change their original proposal to accommodate some of the problems we have raised.

However, the Finance Committee proposal will shift $1 billion in obligations into an existing $4 billion program. I do not feel that they have accommodated our complaints about their proposal. There is no argument that the Finance Committee's proposal will shift $1 billion in obligations from the medicare program to the Federal employees health benefits program.

The Chair will say. I believe that the premium increases will not approach the magnitude of those we discussed.

Mr. President, I ask unanimous consent to have printed in the RECORD our table showing the Federal employee health benefit premium increases that will be due to medicare and inflation, and estimates were provided us for 1982.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

FEHB PREMIUM INCREASES DUE TO MEDICARE AND INFLATION (ESTIMATES FOR 1982)

	Total bi-weekly premium, 1981	Medicare (percent)	Amount	Inflation (percent)	1982 total	Employee share		Percent increase
						1981	1982	
HIGH OPTION								
Self:								
BC	30.05	1.25	37.56	1.15	43.19	14.84	20.88	40
Aetna	25.38	1.50	38.07		43.78	10.17	21.47	110
NALC	26.27	1.34	35.20		40.48	11.06	18.17	64
APWU	25.27	1.28	32.35		37.20	10.06	14.89	48
Kaiser—N	19.76	1.15	22.72		26.13	4.94	6.53	31
Kaiser—S	25.37	1.11	28.16		32.38	10.16	10.07	−5
High 6 average	25.35	1.276	32.34		37.19			
60 percent Government contribution	15.21				22.31			
Family:								
BC	66.16	1.10	72.78		83.70	30.52	37.43	23
Aetna	50.75	1.23	62.42		71.78	15.11	25.51	70
NALC	62.87	1.10	69.16		79.53	27.23	33.26	22
APWU	61.10	1.09	66.60		76.59	25.46	30.32	20
Kaiser—N	50.35	1.16	58.41		67.17	14.71	20.90	41
Kaiser—S	65.17	1.12	72.99		83.94	29.53	37.67	28
High 6 average	59.40	1.129	67.06		77.12			
60 percent Government contribution	35.64				46.27			
BC:								
Low—Self	9.84	1.95	19.20	1.15	22.08	2.46	5.52	130
Low—Family	28.57	1.40	40.00		46.00	7.14	11.50	62
Aetna:								
Low—Self	12.79	2.65	33.89		38.97	3.20	16.66	420
Low—Family	30.24	1.56	47.17		54.24	7.56	13.55	80

Mr. STEVENS. Mr. President, I point out to the Senate with regard to the people who will be most affected, the low option for the self or the family in connection with the Aetna program alone for the self, the individual employee's policy, the result of what the Finance Committee has suggested will be an 420 percent increase in premiums. It would be 130 percent increase under other programs.

To me the argument that they have that they will change to allow the Office of Personnel Management to apply the overall premium increase evenly over all plans is not an answer, because there are over 120 Federal health plans covering 10 million people, including most of the people in Congress and in this body, and each of those plans individually negotiates with the Office of Personnel Management for benefits and premiums. The plans, including the union sponsored plans, are not going to accept increases that are unrelated to their own plan's costs and that will mean that other plans will see drastic increases which jeopardize the stability of the health program.

I am certain that the distinguished chairman will attempt to persuade, as the Finance Committee letter does, that Federal employees and retired employees covered by both medicare and FEHB plans are unjustly enriched. But may I remind my colleagues that Federal employees must qualify for medicare coverage outside of Federal employment like everyone else. Many State governments and private companies provide medicare wraparound coverage. Coverage for Federal employees is not any different. Yet the Finance Committee proposal singles out one group of individuals in our society who will be asked to pay for medicare coverage like everyone else but will not reap its benefits.

I am certain that the distinguished Senator from Kansas will declare that Federal employees are already better off than most other employees in the country. Let me respond by saying the Governmental Affairs Committee has cut the frequency of cost-of-living adjustments on retirement from twice to once a year for a savings of $513 million. The committee has reported out legislation to hold pay increases to 4.8 percent this year, down from 13 percent to which the employees would be entitled under current law. That is another savings of $3.8 billion.

If the Federal employees have "deep pockets," they certainly will not have after this bill passes. We are cutting their benefits by $4.3 billion in this bill before us.

And let me conclude my statement by saying that the Governmental Affairs Committee has held only one hearing on this proposal and every person testifying, ranging from employees, to the health carriers, to the administration, the Office of Personnel Management and the OMB, were against it.

The administration still opposes this proposal even with the changes suggested by the Finance Committee.

While it is true that savings would be achieved by this proposal, the savings are achieved through penalizing and disrupting a program completely outside the jurisdiction of the Finance Committee. In fact, this proposal raises the budget authority for the Governmental Affairs Committee in terms of our spending jurisdiction. The proposal is fraught with uncertainties and is unrealistic in its assumption, and we urge that the Senate join us in striking this amendment.

Mr. President, this amendment, I think, shows one of the pernicious problems of the Budget Act. It allows another committee which does not have jurisdiction over the subject matter to send to the Budget Committee a proposal under the name of budget revision which would not be referred to the committee having jurisdiction, the Governmental Affairs Committee, because of the Budget Act.

If the Finance Committee introduced a bill to do this, we could demand that it be sent to our jurisdiction and have hearings and present the Senate with the facts on it. Under this proposal, we had to have a separate hearing and then come to the Senate in order to get jurisdiction over it.

I urge the Senate to understand what we are saying. I actually think the provision of the Finance Committee is unconstitutional because an employee in a private insurance plan under Aetna would have secondary coverage for medicare; under this legislation an employee under the same plan working for the Federal Government would have primary coverage and, therefore, is asked to pay a higher amount for the coverage that he obtains.

The working employee is actually asked to pay for the medicare benefits of the retired employees. We cannot quite seem to get that through the Finance Committee, that the cost of the medicare program primarily refers to retired employees, yet the effect of this amendment is to increase the premiums of those people who are working now under the plan and paying their own contribution to the Federal employees health benefits plan.

I urge that the Senate listen to us. This is the jurisdiction of the Governmental Affairs Committee. It is a matter which we spent a great deal of time on in the Finance Committee and should not come before the Senate under the reconciliation bill and demand the shifting of $1 billion of responsibility for the medicare program to the Federal employees health benefits plan.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. How much time does the distinguished Senator from Arkansas wish?

Mr. PRYOR. Five minutes.

Mr. ROTH. I yield 5 minutes to the distinguished Senator from Arkansas.

Mr. PRYOR. Mr. President, I ask unanimous consent that Theresa Forster, of my staff, be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Mr. President, I support the amendment deleting the Finance Committee provisions affecting medicare and the Federal employee health benefits program.

Legislative changes proposed by the Finance Committee would change medicare to a supplemental health care payor for Federal employees and make the Federal employee plans the primary payor. Such changes would increase the cost of the Federal employee plans and increase—in some cases substantially increase—the cost of premiums to members of those plans. At a time when health care costs are substantial and major questions exist about other Federal employee benefits, such as retirement, it is critical that the Congress have as much information as possible about any proposed changes in the health benefits program.

Because of that need, the Senate Governmental Affairs Subcommittee on Civil Service, Post Office, and General Services convened a hearing June 2 to consider some important questions about the proposal such as:

First. What are the budgetary effects of this proposal and will there be new costs that have not been considered?

Second. What effect will the proposals have on premium costs to employees and retirees?

Third. What effect will changes have on OPM's administration of the program?

Fourth. What effect will the changes have on the plans themselves—in terms of enrollment changes, administrative burdens, and cost assumptions?

Finally, what effect will one more change in benefits have on employee and retiree morale and the future role of the Federal Government as an employer?

I believe Federal employees and retirees deserve answers and the Congress should have answers before it acts. This was the only Senate hearing on this subject which affects the lives, health, and economic conditions of millions of citizens.

Our subcommittee learned a great deal at the hearing.

First of all, we learned that the administration opposes this provision. In a letter from OMB Director David Stockman, the administration says it opposes this section of the reconciliation bill. I ask that Mr. Stockman's letter be placed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD. as follows:

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C. June 2, 1981.

Hon. TED STEVENS,
Chairman, Subcommittee on Civil Service, Post Office, and General Services, Washington, D.C.

DEAR TED: Thank you for the opportunity to comment on proposed legislation requiring Federal Employee Health Benefits Plan carriers to assume primary insurer status for those FEHB enrollees eligible for Medicare. The Administration is not opposed, in principle, to changing the current cost-sharing arrangement between Medicare and FEHB. There are a number of serious questions that must be answered, however, before the Administration could support such a move.

First, the magnitude of increases in carrier premium charges and the extent to which employees would shift plans in response to these increases are not known at this time. Were premiums and reserve levels to increase across the board, Federal contribution costs would rise, offsetting in part whatever savings are generated in Medicare by making Medicare a secondary insurer for eligible FEHB enrollees. Because little is known about responses to major premium charge changes in the FEHB market, the actual magnitude of such offsetting costs is difficult to estimate with any precision. The degree of instability and its attendant problems would depend on ultimate coverage (e.g., application to prospective retirees administratively would not be as adverse).

Second, there is some question about the effect of such legislation on contracts now, or soon to be, in force with FEHB carriers. The next open enrollment date for Federal employees and retirees is in November. unless steps are taken quickly to amend existing carrier contracts, primary insurer status might be difficult, if not impossible, to implement by January 1, 1982. This is only one of several serious administrative problems we face.

Until the Administration has better answers to these complex questions, it would be premature to support this initiative. For this reason, the Administration applauds your decision to hold hearings on this issue. I am certain that the testimony to be provided to your Subcommittee will shed much needed light on this complex question.

Sincerely,

DAVID A. STOCKMAN,
Director.

Mr. PRYOR. I asked Dr. Donald Devine, Director of the Office of Personnel Management the following question: "Does the administration support or oppose the action taken by the Senate Finance Committee?"

His answer was:

(W)e do not support the action taken by the Senate Finance Committee.

Second, this proposal is discriminatory. As, Mr. James N. Gillman, vice president of the Federal employee programs for Blue Cross and Blue Shield Association said:

We believe that the proposal is inequitable to retired federal employees who are eligible for Medicare since they have met the same eligibility requirements as their fellow citizens in private industry. These retired federal employees have paid the Hospital Insurance Tax for Part A and paid the monthly purchase price for Part B as have all other individuals eligible for Medicare; but retired federal employees would be denied equal Medicare benefits because they have maintained their FEHBP coverage after working for the federal government for 5 years or more. They are entitled to the same Medicare benefits as other eligible retirees. The proposed change, which would cause an increase in the FEHBP plan premiums, would impose a financial burden on both federal employees and retirees—a burden from which private industry retirees are exempted.

Mr. James Peirce, president of the National Federation of Federal Employees said:

It is unfair that Federal workers should be forced to subsidize the Medicare program twice. Like all citizens, they now support Medicare with their tax dollars (23 percent of the program's income is from general revenues) and, for those eligible for Part A, with payroll contributions. The proposals now under consideration, however, would shift some of the costs of the Medicare program to the FEHBP, and therefore increase premiums. Since approximately 40 percent of premiums are paid by Federal employees, a substantial part of this added cost would be placed on their shoulders. Again, this is patently unfair.

Mr. G. Jerry Shaw, president of the Senior Executive Association also raised constitutional questions:

The equal protection of the laws and due process provisions of the Constitution guarantee that citizens will be treated equally and fairly when being subjected to government action. Both the granting and denial of benefits must fall with equal weight on the shoulders of those citizens the law affects. There is room for separate classifications in the various laws Congress passes, but the distinctions must not be arbitrary or capricious nor may they unfairly discriminate among the classes of citizens affected.

Our preliminary study of the proposals indicates to us that the law would place an unfair burden on government employees and retirees. They alone would be prevented from obtaining Medicare coverage on the same basis as all other citizens, even though they met all the identical qualification standards presently imposed by the law. Instead, so long as they had coverage under the FEHB program, they would derive little, if any, benefit from Medicare. If the difference ended there and there was no cost effect, then the statute would not be objectionable. But it does not. Instead, government employees and retirees would have to pay up to 100 percent more in additional premiums not required of any other class of citizens in order to have their insurance program pick up the costs borne by Medicare for every other citizen covered by Medicare. This would, in effect, subsidize the Medicare program for all other participants. We do not see how this burden which falls only on government workers and retirees, can be considered fair or equitable, nor do we see how it can be constitutional.

Third, the Finance Committee proposal could mean substantial increases in premiums. According to OPM these increases could be 100 to 300 percent. Mr. Laurence B. Huston, Jr., assistant vice president, group division of the Aetna Life Insurance Co. said that the proposal would increase the low option self only premium rate more than 150-percent independent of inflation in health care costs. Mr. Jerry D. Klepner, director of legislation of the National Treasury Employees Union explained the effects on retirees and premiums:

Implementation of this proposal in FY 1982 would also have an adverse effect on many retirees. Because they rely on the Medicare benefits earned during their years in the private sector, many retirees purchase only minimal coverage under the FEHBP. These individuals would be forced to substantially increase their health insurance coverage at a considerable cost and they would not be entitled to backup Medicare Part A coverage. Those who earned Medicare benefits would receive little or nothing for their investment while still being forced to pay higher FEHBP premiums.

The effect that this provision would have upon retirees can be illustrated through our union's health insurance plan within the FEHBP. Our program, which is underwritten by the Prudential Insurance Company, has

approximately 12,000 subscribers, 6 percent of whom are retired. Of the annuitants who participate in our plan, only 40 percent, or 228 individuals, are also eligible for Medicare.

Prudential estimates that if the Senate Finance Committee's proposal becomes law, the premiums for our health plan will be increased 10 percent. Even though less than 2 percent of our plan's total enrollment would be directly affected by the Committee's recommendation, every subscriber—as well as the government—would be forced to bear substantially higher premium rates.

Fourth, this proposal could have a harmful effect on the Federal employee health benefit program itself. Dr. Gary Nelson, associated director of the compensation group at OPM testified that the proposed change "would cause major problems in the stability of the program." In fact, Dr. Devine raised the possibility of bankruptcy by some plans.

Two insurance executives expressed great concern about the problems with changes in plan enrollments. Mr. Huston of Aetna said:

We remind the Committee that all of this activity is taking place at a time when we are in the process of finalizing our estimated premium requirements for calendar year 1982. Our rate proposal must be submitted to the Office of Personnel Management by July 30th and negotiations must be concluded by September in connection with the forthcoming open session. The sum and substance of our concern is that for the first time in more than 20 years, we may have to establish rates before we are certain about pending Congressional action. We expect that all other plans will find themselves in a similarly awkward position. We fear that the open season may become chaotic for the first time ever and that the effects of this disruption will be felt by both enrollees and carriers for many years to come.

Mr. Gillman, of Blue Cross and Blue Shield said:

It is difficult to determine the overall effect this legislation would have on the FEHBP because it depends on the individual reaction of the federal employees in the program. We believe the premium increase due to the changes in the primary/secondary relationship of Medicare and FEHBP would range from 20 percent to as high as 100 percent in some rate categories of the FEHBP. This would be in addition to the increase required because of inflation of cost and utilization trends.

Such an increase would influence employees and annuitants who are lower utilizers of health service to enroll in plans with lower premiums thereby resulting in a need for still higher premiums in those plans with large percentages of members who use more health services. This shifting among plans will exacerbate the adverse selection which is affecting some plans at this time. This cycle could well continue until some carriers would no longer be viable. It could bring about the deterioration of the entire FEHBP. Such a cycle would certainly undermine the well-founded and highly regarded federal employee health insurance program.

Fifth, this plan would create administrative problems. Mr. Huston of Aetna noted that significant new regulations would be required. Mr. Gillman of Blue Cross said:

Medicare carriers and intermediaries now have a relatively simple processing function. First, they must determine Medicare eligibility and second, they pay Medicare benefits. Under the new legislation, this process will be somewhat more complex. The processors will have to first, determine Medicare eligibility; second, determine if there is FEHBP eligibility; third, determine FEHBP benefits; and fourth, determine Medicare payments. The determination of FEHBP eligibility and payment could be confusing and time consuming for Medicare contractors since not all Medicare eligible federal retirees will have retained the FEHBP coverage.

In cases where the Medicare beneficiary has kept the FEHBP insurance, the Medicare processor will be coordinating benefits with as many as 120 different FEHBP carriers. There will be many different benefit payment levels including usual, customary, reasonable, and prevailing levels of reimbursement, varying fee schedules, a variety of deductibles and coinsurances, different covered services, and different procedure coding and nomenclature.

Since there is such a great variety of benefit scopes and levels in the FEHBP plans and since not all plans provide a statement of the benefits paid, it appears that Medicare contractors will be burdened with extensive communication activities with FEHBP plans and retired federal employees to verify the precise benefit payments made by the FEHBP plans. We believe this will contribute to longer processing times for Medicare claims, increase the amount of communications and complaints for Medicare contractors, perhaps require additional Medicare claims processing and beneficiary services staff and most certainly add to the administrative costs for Medicare carriers and intermediaries.

We suggest that these administrative ramifications resulting from this legislation need further analysis particularly at a time when the Health Care Financing Administration is proposing reductions and conservation in administrative funds available to Medicare contractors. It is inconceivable that those contractors should be burdened with the additional administrative work related to the processing of Medicare claims in coordination with FEHBP and not incur additional administrative costs which should be reimbursed by the Medicare program.

Medicare beneficiaries and providers will also have increased problems in filing claims and receiving reimbursement since many hospitals and physicians will find it confusing to file claims for the federal retirees with Medicare in a way that is different from the usual Medicare beneficiary. Today, the provider and the Medicare beneficiary look with assurance to the Medicare program when services are rendered. Under the new legislation, that solid assurance will be undermined. Because of the great potential for misinformation and confusion on the part of patients and providers, claims will be sent to the wrong insuror; claims correctly sent will be erroneously returned; providers may or may not be willing to file claims for the patient; after receiving payment from one program, providers may be unwilling to file with the second insuror, thus the retiree or beneficiary will have to file the second claim; and the patients and providers will be confused about which insuror paid how much for which service. Patients and providers most certainly will communicate more with the insurors in an effort to find the answers. Many providers will become more frustrated with the Medicare program and much discontent and dissatisfaction will result for all concerned. All of these problems make an already complex Medicare program even more confusing for persons who in truth need a more simplified program.

Sixth, the Finance Committee has noted that the proposal would reduce cost to medicare, but it would also create new costs. Mr. Gillman of Blue Cross addressed this matter saying:

Also, we believe the Subcommittee should be aware that many retired federal employees with Medicare will not be willing to continue to pay the high FEHBP premiums and will drop this coverage, thereby, relying solely on Medicare for their health insurance coverage. Certainly this type of reaction will decrease any anticipated savings in Medicare expenditures. It also should be noted that federal retirees not eligible for Medicare and on rather fixed incomes would of course have to retain their FENBP coverage and endure the significant premium increases. These federal retirees would be among those shifting in and out of FEHBP plans in an effort to help reduce their out of pocket costs for health insurance.

Although these major effects on FEHBP premium rates would occur in the first year, we believe that premium rates would escalate more rapidly than usual under the proposed changes. Since annuitants as a group are high users of health care services, and the annuitant population is increasing, while active federal employment levels are expected to decrease, FEHBP premiums would reflect the entire cost of covering a growing population of high health care utilizers.

In sum, the government contribution would increase at a rate much faster than in recent years. In order for the government to remain competitive with private industry for talented workers, it would not be prudent for the government to freeze or decrease its contribution for health benefits, therefore this legislation would result in increased government costs for FEHBP.

Mr. Michael Nave, president of the National Association of Retired Federal Employees summarized some cost effects of the proposal.

Mr. Chairman, our organization urges this Subcommittee to look closely at the savings anticipated by the Finance Committee and the Ways and Means Committee as a result of passage of this legislation. Many of the figures used by these Committees have turned out to be little more than estimates of staff people totally unfamiliar with the Federal Employees Health Benefits program. Often overlooked in the Committee's discussions of this issue is the fact that the Federal Government picks up 60 percent of the health premiums under FEHB. Depending on the premium increases resulting from this proposal, the Federal Government could actually end up paying out more than it presently does for the health insurance of its workers. Furthermore, the administrative complexity to be imposed on the Social Security Administration and hospital administrators, who must figure out who is entitled to what benefits from which carrier, promises to be a costly nightmare.

Mr. Moe Biller, president of the American Postal Workers Union pointed out the effect of such changes in the Postal Service.

It is my understanding that the cost of this proposal to the Postal Service, in the aggregate, will be approximately 100 million dollars. Apart from any other considerations, let me say that it would be very unfortunate to impose this large burden on the Postal Service at this time. As you know, the already large reductions in the Postal Service subsidy proposed by the Carter Administration are going to be increased, cutting very deeply into Postal Service Revenues. The Postal Service has recently been denied the postage increases it believes necessary to meet its financial needs, and Postmaster General Bolger has already predicted an early return to the Postal Rate Commission seeking even higher increases in postage rates.

Seventh, this would mean new costs and health coverage losses to enrollees

in Federal health benefit program plans. As Mr. Gillman of Blue Cross said:

We should call your attention to still another serious disadvantage which Medicare eligible federal retirees will face. The Blue Cross and Blue Shield Federal Employee Program (FEP) and other FEHBP plans currently provide benefit liberalizations, such as not imposing the FEHBP plans' deductible and/or coinsurance, for retirees with Medicare. This enables the retired federal employee with Medicare to receive maximum benefit coverage for the health care expenses incurred. This is similar to situations in private industry where those retirees have coverage which completely fills the gaps in Medicare coverages. These complementary type programs do not have deductibles and coinsurances.

The existing combination of FEHBP plans with waivers for deductibles and coinsurances and Medicare providing primary benefits puts the federal retirees on par with the retiree from private industry. Under the new legislation, FEHBP carriers will not be able to afford to waive the deductible and coinsurances and, since Medicare will still apply its deductibles and coinsurances, the federal retiree will suffer considerable increase in out of pocket medical expenses in addition to the increase in out of pocket premium cost. Many retired federal employees on limited fixed incomes will not be able to bear the burden of these increased expenses.

As stated before, since many federal retirees are not eligible for Medicare, they will of course have to remain in the FEHBP, and those with Medicare will probably opt out of the FEHBP.

Eighth, this issue has been studied before, considered, and not adopted. As testimony by Mr. Maurice Twomey, executive vice president of the National Association of Postal Supervisors, who appeared with Mr. Eugene Dalton, president of the National League of Postmasters and Mr. Frank Miklozek, executive director of the National Association of Postmasters, explained:

The present proposal is not the first time this idea has been consideerd by the Congress. A provision to effect such a change was enacted as Section 210 of the 1972 Social Security Amendments. The change was to become effective on January 1, 1975, unless before that time, the Civil Service Commission had adopted a series of options under which each plan would directly supplement Medicare. These options would enable each federal and postal retiree who qualified for Hospital Insurance (Part A of Medicare), or who elected to buy Medical Insurance (Part B), or both, to receive the benefit of the maximum government contribution to FEHB and also the general revenue contribution to Part B of Medicare. More than 500 Medicare supplement options would have been required to carry out the provision as enacted in 1972.

Section 4 of Public Law 93-480, enacted October 26, 1974, changed the effective date to January 1, 1976, and required the Chairman of the then Civil Service Commission and the Secretary of Health, Education and Welfare to submit a joint report to Congress by March 1, 1975. This report would outline the steps that would be taken to modify FEHB and carry out the Medicare supplement concept. This report proposed only one option under which FEHB plans would supplement Medicare. This would be paid entirely by government instead of the myriad of options required by Section 210.

This joint proposal was never adopted. Instead, the Congress repealed the provision of the law under which Medicare would become the secondary insurer to FEHB. The repeal was based on a consensus that neither the original proposal for a variety of options nor the joint proposal for a single supplemental option offered any advantage over the coordination method that is still in effect today. The proposed change now before this Subcommittee would create the same Administrative nightmare that Cngress rejected after extensive study in 1975.

On the other hand, these specific proposals do not have the benefit of careful legislative study as Mr. Tony R. Huerta, executive vice president of the National Association of Letter Carriers pointed out:

If these proposals had developed in the traditional legislative process instead of the reconciliation process, we would have been given time to develop accurate data regarding the impact of the changes and potential savings and costs. Instead, you and I are put in the position of developing the facts after legislation is well on the road to acceptance by Congress. No one can really calculate the savings or costs in this atmosphere; a study of the potential impact is badly needed before Congress makes this change permanent law.

Finally, this proposal makes a major change in medicare. As Mr. Kenneth Blaylock, president of the American Federation of Government Employees emphasized,

The Committee recommendation seems to make little sense in terms of cost effectiveness. There is a final concern, however that AFGE would like to emphasize. We believe this proposal represents a radical departure from the principles on which Medicare has rested since its inception. Congress clearly intended Medicare to be primary insurer for all participants, without regard to whether or not an individual has additional health insurance from another source. However, the Senate Finance Committee has decided to segregate an undetermined number of Federal civil service annuitants from the program even though they have paid the Hospital Insurance Tax over the years and are eligible for Medicare benefits. Such a recommendation sets a very dangerous precedent.

In short, it appears to us as though the Senate Finance Committee, perhaps inadvertently, has found a "back-door" way to dismantle the Medicare program, and to shift primary responsibility for Health Insurance coverage to the private sector. Inevitably, Medicare would become no more than a supplementary program for whole categories of workers who are also covered by private plans.

For all these reasons, I urge adoption of the amendment to delete this section from the bill.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. DURENBERGER addressed the Chair.

The PRESIDING OFFICER. Is the Senator from Minnesota speaking on the time allotment designated to the Senator from Kansas?

Mr. DURENBERGER. If I recall correctly, the Senator from Minnesota was designated as in charge of the time.

The PRESIDING OFFICER. The Senator is correct.

The Senator from Minnesota.

Mr. DURENBERGER. I thank the Chair.

I will begin by saying to the Senator, my good friend from Arkansas, that the cheering you heard out here was not for your statement. It was for a victory for the budget process over in the House of Representatives. They are going to go about it in a logical way rather than the divisive way that is being proposed by the majority in the House.

That gives me an opportunity to start my statement by indicating that the amendment that is being proposed here today would eliminate net savings to the Federal Government of $1.5 billion over the next 3 years, and to say to my good friend from Delaware, what is wrong with a little extra saving? But that is not the point that brings me here today. I am a member of the Committee on Finance and also a member of the Committee on Governmental Affairs, and I sit in on the policy discussions of both of these committees.

I spent a great deal of time this spring in the reconciliation process dealing with health-related issues, all of which came up in the Committee on Finance.

Now, under this particular issue, currently, Federal employees and retired civil service annuitant receive health insurance protection under the Federal Employees Health Benefits Act (FEHBA). The Federal Government pays varying percentages of employees' and annu'tants' premiums, depending in part on the plan selected; the average Federal payment is 60 percent. When the active or retired worker reaches age 65, he or she also qualifies for medicare part A if he is eligible for social security benefits. (All aged may voluntarily purchase part B protection.) Because medicare is considered the primary payer, FEHBA pays little toward the care of its patients participating in medicare even though both the Federal Government and the individual continue to pay full FEHBA premiums.

About one-half of dual beneficiaries qualify for medicare by working less than 10 years in social security-covered employment. Because of the current phase-in of the 40 quarter minimum requirement for social security, a Federal worker age 65 this year would need only 27 quarters to qualify. Since aged spouses are also eligible as a result of the annuitant's eligibility, the total number of persons age 65 and older enrolled under both medicare and FEHBA is approximately 1 million.

I do not believe that many of us would disagree that Federal workers' retirement and health care benefits are far superior to most private plans. Why should a Federal employee who, after working a full career in Government, and earning excellent retirement and health care benefits, end up having a major portion of his or her health care costs paid by medicare because of some minimum social security-covered employment?

In response to that question the Finance Committee is recommending a provision which would require the Federal Employees Health Benefit Plan to be the payer of first resort, with medicare paying only those bills for covered services which have not been paid by a FEHBA plan.

Mr. President, we just quite simply

cannot afford to continue to subsidize the FEHBA program with medicare dollars.

Fundamentally, medicare exists to fill certain unmet health care needs. To the extent that other programs meet those needs, there is no justification for medicare coverage. Moreover, to the extent that private health insurance can meet the needs of the elderly, then private health insurance should be used. This Finance Committee provision is simply a further step toward making medicare a secondary payer where other private coverage is in effect. As you will recall, a Finance Committee provision was passed last year which made medicare secondary where payment can be made under liability or no fault insurance.

In addition to the FEHBA provision this year, the committee included a provision which would make private health insurance the payer of first resort for the initial 12 months of medicare eligibility for individuals under age 65 eligible as a result of kidney disease.

The FEHBA program is an excellent example of private health insurance at work. All the benefits and claims services are handled in the private sector. Medicare, on the other hand, is Government health insurance. It is a good program and is doing what it was primarily designed to do—pay for the high cost of acute hospital care for the many millions of Americans who could either not afford or otherwise obtain insurance coverage.

Under FEHBA, with the Federal Government contributing, on average, 60 percent of the premium cost, retired Federal workers have access to excellent health care benefits at affordable prices. It seems to this Senator that Federal workers, rather than being discriminated against, are far better off than most other Americans when it comes to health care benefits.

I would like to emphasize that the Finance Committee proposal does not take any benefits away from Federal workers; it just says that where benefits are covered by FEHBA, FEHBA should bear the cost.

It is unfortunate that so much misinformation has been circulated about what the Finance Committee provision would and would not do. There are projections that premiums for one plan would increase by as much as 450 percent, as well as testimonials that some plans would go bankrupt causing Government employees, as well as Members of Congress—Lord save them—to be held personally liable for their health care cost.

I believe that these allegations totally misrepresent the Committee proposal. Most importantly, they do not recognize the fact that the Finance provision in its final form was drafted to overcome the problems of administration and the fact that Finance Committee staff have been working with staff of the Committee on Governmental Affairs on an amendment to FEHBA which would allow for the spreading of the increased Federal employees' premium costs uniformly over all Federal enrollees.

The proposed amendment has been drafted and is acceptable as a substitute for the committee provision. Under the substitute provision the increase in premium costs to individuals would be about 20 percent.

I am disappointed that no mention is made of the proposed substitute amendment in either the Dear Colleague letter that was circulated, or in a letter sent to all Senators by the Blue Cross and Blue Shield Association of America, notwithstanding the fact that the association provided technical assistance in the development of the amendment.

But setting aside the substitute provision for a moment, the allegation has been made that one plan would increase by as much as 450 percent.

I believe that this plan is the Aetna low-option plan, which is a popular plan with Federal retirees, particularly since the Government pays 75 percent of the premiums of that plan, which you and I both know it does not on other plans.

Let us say that the plan did, in fact, go up to 450 percent. Just what does that mean in terms of dollars? Currently, the biweekly employee share of the premium is $3.20. A 450-percent increase would mean that person in that plan would pay $17.60 biweekly premium. As I indicated, in the substitute amendment that is not what is intended to happen.

So let me just say that, according to Aetna's own actuaries, the increase for this low-option plan that I just referred to would be 204 percent, not 450 percent that is being stated by the opponents of the Finance Committee's provision, which means an increase from $3.20 to $9.72 even if the substitute amendment were not agreed to by the proponents of this amendment.

The difference between the two estimates is not due to the actual increased benefit costs of FEHBA as a primary payer, but primarily a result of the formula used under FEHBA to compute the Federal share of the premium costs. Under the formula the Federal share would be about 43 percent rather than the current 75 percent for that particular plan.

It was a recognition of problems of this sort that prompted efforts between Finance and Governmental Affairs to work on an amendment to the FEHBA program to allow the increased costs to the program to be spread to all FEHBA enrollees, thereby avoiding excessive increase in any one particular plan.

I understand the concern of the distinguished Senator over the effect of the proposed legislation, and I know that he appreciates the difficult problem before the Congress in meeting the demands of the American people to reduce the growth in Government expenditures. I also know that it took a lot of nerve for everybody on the Governmental Affairs Committee to vote to limit Federal employees pay increases this year to 4.8 percent. The cuts are very difficult but in the area of health care benefits and in the area of medicare they are the kind of cuts that must be made and can be adjusted for in a variety of other ways.

Getting agreement on where to cut reminds me of the saying that "everyone wants to go to Heaven but no one wants to die." Obviously, Government spending cannot be reduced without causing changes in how programs are operated and financed. We are asking everyone to sacrifice, not only the Federal employees. The alternative is more of the same high tax, big spending policies that have pushed the country into double-digit inflation, hurting everyone, especially retired persons living on fixed incomes and the poor and those that the Federal employee health benefit plan is designed to help.

Mr. President, I would like to make one last point. Contrary to a statement made here on the floor and contrary to the Dear Colleague letter distributed by the Governmental Affairs Committee, the Office of Management and Budget informs us that the President has not taken a position in opposition to this provision.

In fact, the letter clearly states—that is the letter sent to the distinguished Senator from Alaska by OMB Director Stockman—that the administration is "not opposed in principle" to this provision, although they do have a number of legitimate questions relating to the administration of the provision and its effect on premiums. I believe these concerns are addressed in the substitute language that we are willing to accept.

In conclusion, let me say to my good friend from Alaska that I have not been around here long enough to understand the perniciousness of one committee pushing a program on another committee. But this is one of those unique situations, perhaps, in which several members of the Governmental Affairs Committee are also members of the Senate Finance Committee. We have an enormous job to do in Governmental Affairs, in terms of turning around the way this National Government meets the needs of people in this country and, as part of that job, we need to protect those Federal employees who have committed a portion of their life or all of their life to deliver that service.

When some of us put on our hat in the Finance Committee, our problems are just as large, if not larger. We have to deal with the future of income security in this country, social security, health care costs, welfare, and all of the programs that deal with our national commitment to guarantee everybody in this country the economic ability to have a level of services necessary to meet their needs, and these are not easy tasks.

We have approached the issue of health care policy and the future of medicare in the only responsible way we see possible. If adjustments need to be made to make the Federal employees whole, then that is a function of the Governmental Affairs Committee and that is a function of the Office of Personnel Management. Our responsibility is to hold down the cost of health care in this country so that more people, more citizens of this country, have access to those services.

Mr. STEVENS. Mr. President, how much time remains for the proponents of the amendment?

The PRESIDING OFFICER. The proponents of the amendment have 3 minutes and 37 seconds. The Senator from Minnesota has 6 minutes and 50 seconds.

Mr. STEVENS. Mr. President, will the

Senator from Delaware yield me 2 minutes of that time?

Mr. ROTH. Mr. President, I yield whatever time remains.

Mr. STEVENS. Mr. President, I would like to take 2 minutes of our time to say that I am disturbed at the statement of the Senator from Minnesota concerning the position of the administration.

I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered printed in the RECORD, as follows:

OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., June 2, 1981.

Hon. TED STEVENS,
Chairman, Subcommittee on Civil Service, Post Office, and General Services, Washington, D.C.

DEAR TED: Thank you for the opportunity to comment on proposed legislation requiring Federal Employee Health Benefits Plan carriers to assume primary insurer status for those FEHB enrollees eligible for Medicare. The Administration is not opposed, in principle, to changing the current cost-sharing arrangement between Medicare and FEHB. There are a number of serious questions that must be answered, however, before the Administration could support such a move.

First, the magnitude of increases in carrier premium charges and the extent to which employees would shift plans in response to these increases are not known at this time. Were premiums and reserve levels to increase across the board, Federal contribution costs would rise, offsetting in part whatever savings are generated in Medicare by making Medicare a secondary insurer for eligible FEHB enrollees. Because little is known about responses to major premium charge changes in the FEHB market, the actual magnitude of such offsetting costs is difficult to estimate with any precision. The degree of instability and its attendant problems would depend on ultimate coverage (e.g., application to prospective retirees administratively would not be as adverse).

Second, there is some question about the effect of such legislation on contracts now, or soon to be, in force with FEHB carriers. The next open enrollment date for Federal employees and retirees is in November. Unless steps are taken quickly to amend existing carrier contracts, primary insurer status might be difficult, if not impossible, to implement by January 1, 1982. This is only one of several serious administrative problems we face.

Until the Administration has better answers to these complex questions, it would be premature to support this initiative. For this reason, the Administration applauds your decision to hold hearings on this issue. I am certain that the testimony to be provided to your Subcommittee will shed much needed light on this complex question.

Sincerely,

DAVID A. STOCKMAN,
Director.

Mr. STEVENS. Mr. President, the letter states very clearly that the administration must have some questions answered before it could support such a move. It clearly does not support the move of the Finance Committee. It is very plain that the testimony of the administration before our subcommittee was opposed to the position of the Finance Committee.

The real difficulty that I have with the position that has been articulated here so well by my friend from Minnesota is that the Finance Committee seems to feel that, because we have some control over Government employees, we can treat Government employees as employees covered by the health insurance plans differently than other employees in the country.

A woman who was employed before she married and then left the work force and obtained medicare coverage is in the exact same position as the Government employee who, after leaving Government service, acquires medicare coverage through employment beyond Government service.

There are millions of people in this country who have less than a full lifetime of employment as far as coverage under social security. And yet the Finance Committee says, "Since we have this control over Government employees, make them pay a billion dollars more. We have a problem in medicare, so let us look for who can pay it." They say, "Make the Government employees pay a billion dollars more."

Mr. President, I put a table into the RECORD. The net effect is going up from a biweekly payment of $12.79 to an increase of $16.66. It is more than a 100-percent increase in the weekly coverage.

I do not understand my friend when he says that they can afford this. We have capped their salary at 4.8 percent when they are entitled to 13. We have done the things that the budget resolution asked us to do. The Finance Committee comes along—mind you, they have complied with the budget resolution and we applaud them for it—but they said, "Let's have a few more savings," so they opted to take $1.5 billion out of the pockets of Government employees for the next 3 years when it is not required by the budget resolution and it is not required by the situation regarding medicare. It is just additional savings that they say can be achieved through this process.

But it is not a savings, because the way these plans open and close, you have to go back and completely renegotiate the plans and in the negotiations some of the plans will be able to absorb the increase and some will not. To the extent that is mandated that the billion dollars must be absorbed, the extra amount must be absorbed and we predict that in the most needed area, in the low plan coverage, that the increase will be at least 420 percent.

Now, I cannot understand why they will not let us have jurisdiction over the business of Government employees and what must be done. If the Budget Committee wants to assign us another savings next year, we will have to look at it. But they have not done that.

We were the first committee out here. I applaud my friend from Delaware. He called that committee meeting and I thought it was too fast, as a matter of fact, Mr. President; we did it absolutely. We absorbed every single dollar required by the Budget Committee's instruction and our committee absorbed more out of the cuts within our total jurisdiction than any committee of the U.S. Congress. That all came out of Government employees. This should not happen.

The PRESIDING OFFICER. The time of the proponents has expired. The opponents have 6 minutes 50 seconds.

Mr. DURENBERGER. Mr. President, I yield such time as he may require to the distinguished chairman of the Finance Committee, the Senator from Kansas.

Mr. DOLE. Let me first thank all Senators who participated in this debate.

It is the same old story. It is hard to take the "me" out of "economy."

People on medicaid do not want to do it, the farmers do not want to do it, and others do not want to do it. In this case, I think equity is on the side of what the Finance Committee did.

There was issued today, or there came to my attention today, a staff study by the Congressional Budget Office on Medicare-FEHB coordination.

It says:

Over the past decade, the FEHB program's reserves have increased about fourfold, reaching $490 million in 1980, or 15 percent of the year's income from premiums; OPM guidelines specify reserve levels of about 14 percent. This growth, partly resulting from over-estimates of program costs used in annual rate studies, has drawn attention to three questions:

What level of FEHB reserves is necessary?

How should reserve holdings be allocated? And

By what means should reserve excesses be disposed of?

It is also pointed out that reserves should be about 6 percent.

Mr. President, I ask unanimous consent that certain excerpts be printed in the RECORD at this point.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

SUMMARY

In setting annual premium rates for the Federal Employees Health Benefits (FEHB) program, the Office of Personnel Management (OPM) and the more than 80 insurance carriers with which it does business negotiate program income that covers costs and overhead, and that usually yields some surplus. The surplus, held partly by the government in individual "contingency reserves" earmarked for each carrier and partly by each carrier in "special reserves," is intended to serve as a hedge against unforeseen adverse cost fluctuations in the contract year. Aside from how they are held, the two types of reserves differ little.

Over the past decade, the FEHB program's reserves have increased about fourfold, reaching $490 million in 1980, or 15 percent of the year's income from premiums; OPM guidelines specify reserve levels of about 14 percent. This growth, partly resulting from overestimates of program costs used in annual rate setting, has drawn attention to three questions:

What level of FEHB reserves is necessary?

How should reserve holdings be allocated? and

By what means should reserve excesses be disposed of?

RESERVE LEVELS

Although holding reserves is a generally accepted way to hedge against future cost variations, no specific level of reserves for FEHB has ever been agreed on. The current practice is to tailor reserve sizes to particular plans, allowing relatively larger reserves for smaller plans, which may have less nonfederal capital to draw on and smaller pools of enrollees among whom to spread risk. Overall reserve levels for the FEHB program as a whole have averaged 19 percent of premium income throughout the past decade. Analyses by various agencies, including the Congressional Budget Office and General Accounting Office, however, suggest that an

overall reserve level as low as 6 percent of premium income might well be adequate.

ALLOCATION OF RESERVES

At present, some 20 percent of FEHB program reserves rests with the participating carriers, and according to the Administration's projections, the carrier-held share will decline to around 13 percent over the next five years. Allowing carriers to hold reserves, however, conflicts with governmental financial management objectives that would prevent nonfederal entities from holding federal cash balances. Indeed, there is little reason for carriers to hold any part of the FEHB reserves. All FEHB reserves could be held by the government, specifically by the U.S. Treasury.

DISPOSITION OF EXCESS RESERVES

If overall FEHB reserve levels are to be brought down, a way must be found for disposing of the excess money. Several approaches could be considered. Under current practice, excess accumulations are used over two or three years to defray future premium rate increases. Drawing down all excesses in the next contract year instead would improve equity, because enrollees whose premiums helped create a surplus would more likely be the same enrollees to benefit from its use. Excess reserves could also be disposed of through rebates or through additional benefits. Rebates would be the most equitable approach, but they could increase program overhead and encounter administrative problems. Using excesses for additional benefits could ultimately be more costly than other methods, unless the new benefits were cancelled when the excess was exhausted.

Mr. DOLE. To quote another portion:

Overall reserve levels for the FEHB program as a whole have averaged 19 percent of premium income throughout the past decade. Analyses by various agencies, including the Congressional Budget Office and General Accounting Office, however, suggest that an overall reserve level as low as 6 percent of premium income might well be adequate.

They also discuss the disposition of excess reserves.

If overall FEHB reserve levels are to be brought down, a way must be found for disposing of the excess money.

They have excess money. We do not have excess money. Nobody I know has excess money.

One thing they suggest has been done is:

Under current practice, excess accumulations are used over 2 or 3 years to defray future premium rate increases.

That takes care of one point raised by the Senator from Alaska.

On the broader question, we had a difficult time in the Finance Committee trying to come up with the budget cuts we were directed to make by the Senate. We do not have that big a surplus. We cut about $1 billion more than we were asked, but after the CBO finished up with the reestimates, we came down much lower than that. I am not certain what the precise figure is now, but it is much less than that original $1 billion amount.

I think the point has been made by the Senator from Minnesota. It is not that we quarrel with Federal employees, but in this case we believe the Senate Finance Committee has taken the right step.

It is also my understanding in the event the motion to strike fails there will be a backup amendment to permit the spreading of increased Federal employee premium costs, uniformly over all Federal enrollees.

That is perfectly satisfactory with us. We realize that the amendment reduces savings by about $60 million, but is an amendment the Senator from Kansas would be willing to accept right now.

Mr. STEVENS. Will the Senator yield?

Mr. DOLE. Yes.

Mr. STEVENS. I want to make sure the Senator understands. We have no intention to offer that amendment. That amendment was drawn at the request of the Finance Committee, as I understand. It certainly was not the suggestion of our committee or, to my knowledge, the full committee. It is an attempt to make the Finance Committee proposal more acceptable, but we are told it will not work, that we are locked into these plans and there is no way you can spread the jam evenly across all of these plans because some will not be open.

If you mandate the change in 1 year, you cannot open those in that year. So we cannot accept that amendment.

Mr. DOLE. We have different information, however, I appreciate the comments of the Senator from Alaska.

I would say that the Senate Finance Committee just this morning completed its action on a tax proposal. There are some who do not agree with all the provisions in the bill, yet we had a vote of 19 to 1.

The point the Senator from Kansas would make is that we do our work. We try to make it as painless as possible, but sometimes it is painful. Under our proposal some well-paid Federal employees might have to pay a little more for their private insurance. It might affect some of our own offices. It might affect ourselves.

I do not think we must look every place else except to Federal employees. What is sacred about Federal employees when it comes to cuts? We have a cap on wages, but they still have pretty good wages.

They ought to be entitled to make a contribution to this effort, too, a contribution to turn the economy around, a contribution to bring down inflation.

I am certain it does not take much to stir up the Federal employee unions. They have a lot of power in this Congress. We are going to find out just how much in the next few minutes.

They are not making a vast sacrifice. They have enough reserves in the system to reduce the premiums, even if this amendment is adopted.

I would just hope that we do not take away the $360 million out of our savings in the Senate Finance Committee unless we are going to offer some offsetting provision that will take care of it.

I appreciate the Senator yielding.

● Mr. EAGLETON. Mr. President, as part of the budget reconciliation bill, the Finance Committee has reported a measure which would have a drastic impact on the Federal employee health benefits (FEHB) program. The Finance Committee measure would reverse the existing relationship between medicare and the FEHB programs.

Current law provides that medicare be the primary payers for various health costs to those eligible for medicare. The Finance Committee measure, however, would require the FEHB programs to be primary payers, even though the enrollee is eligible for medicare.

I am cosponsoring this amendment with Senators ROTH and STEVENS, and I strongly support the effort to strike the Finance Committee proposal.

The Finance Committee's action could have a dramatic, adverse effect on the Federal employee health benefits program. At a hearing held by the Governmental Affairs Committee on June 2, 1981, it was estimated that premiums for one FEHB program could increase by as much as 125 percent.

Premiums for another could increase by as much as 450 percent. An administration witness testified that the proposal could cause some of the plans to go bankrupt.

Testimony noted that in cases of bankruptcy, both legislative and executive branch employees enrolled in these plans would be held personally responsible for costs of health services rendered, which would otherwise have been covered by insurance.

Additionally, it was noted that the administrative costs to the Government could conceivably be so high as to offset any budgetary savings which might result from this measure.

It is clear that the Finance Committee neither fully considered nor understood the consequences of its action. OMB Director David Stockman, in a letter to Senator STEVENS, noted that the Finance Committee action was a leap in the dark:

The magnitude of increases in carrier premium charges and the extent to which employees would shift plans in response to these increases are not known at this time. Were premiums and reserve levels to increase across the board, Federal contribution costs would rise, offsetting in part whatever savings are generated in Medicare by making Medicare a secondary insurer for eligible FEHB enrollees. Because little is known about responses to major premium charge changes in the FEHB market, the actual magnitude of such offsetting costs is difficult to estimate with any precision. The degree of instability and its attendant problems would depend on ultimate coverage (e.g., application to prospective retirees administratively would not be as adverse).

Second, there is some question about the effect of such legislation on contracts now, or soon to be, in force with FEHB carriers. The next open enrollment date for Federal employees and retirees is in November. Unless steps are taken quickly to amend existing carrier contracts, primary insurer status might be difficult, if not impossible, to implement by January 1, 1982. This is only one of several serious administrative problems we face.

For all these reasons, the Finance Committee action is opposed by the administration. To take an action like this, with so little understanding of its repercussions, is indefensible.

Finally, there is the question of fairness. Many Americans are covered by medicare and some other health plan. Except in a very few instances, the medicare program makes payment for covered medical expenses first, without regard to any other health benefits to which an individual may be entitled. The Finance Committee proposes to change that arrangement for just one group:

The Federal employees and retirees covered by a Federal health plan and medicare. I cannot support singling out those who are enrolled in a Federal health plan, for a precipitous action which threatens to swamp the affected health plans.

Every budget cut, or shift in financial burden, causes pain for some individuals or groups. As we strive to contain inflation and balance the Federal budgets, sacrifices will be required from many Americans. But burdens must be imposed equitably.

The Senate has already decided to place a 4.8-percent limit on the pay increase for Federal employees for fiscal year 1982 and to eliminate the twice-a-year cost-of-living adjustment (COLA) for Federal retirees, substituting an annual adjustment. The ill-conceived action of the Finance Committee is particularly inappropriate in light of these other sacrifices made by Federal employees and retirees.

I urge adoption of the amendment and defeat of the Finance Committee's action.

Mr. KENNEDY. I rise in support of the amendment to restore medicare as the primary payer for individuals covered by Federal employees health benefits.

The Finance Committee's proposal would require of Federal employees something that no other group is asked to bear.

The Finance Committee proposal means a 20-percent increase in health insurance premiums for all Federal employees—at a time when pay raises for Federal employees have not kept up with inflation and lag behind the private sector.

I have serious questions about whether we should make medicare a secondary payer generally—it may only be a first step toward cutting medicare benefits—but I strongly oppose requiring this sacrifice from Federal employees and their dependents alone—who are too often the scapegoat of antigovernment sentiment.

I urge my colleagues to support this amendment.

Mr. GOLDWATER. Mr. President, my State of Arizona does not have a medicaid program presently; however, the Health Care Financing Administration is working with the Arizona State Legislature on a proposed plan and we hope that Secretary Schweiker can give the plan every consideration and subsequent unofficial approval so that the Arizona State Legislature will pass an acceptable indigent health care plan. I am bringing this up now because we are considering medicaid cap legislation which is based on previous years' expenditures and this of course would exclude Arizona.

Therefore, I would like to have it printed in the RECORD and included in the conference report that it is not Congress intent to preclude Arizona from participating in the medicaid program upon approval of an official indigent health care plan.

As a matter of fact, the Arizona State Legislature leadership has visited with various White House, OMB, Health and Human Services officials and our congressional delegation about the proposed health care plan. The administration is very enthusiastic about the provisions of the plan as they provide flexibility to the States in that the medicaid program can be more tailored to the individual State's needs. As a matter of fact, the medicaid cap legislation which we are considering contains provisions which relate to the proposed Arizona plan.

At any rate, I just want to make sure Arizona can come into the program when it has an approved plan.

Mr. DOLE. Mr. President, the Senator from Kansas thanks his distinguished colleague from Arizona for bringing this important issue to our attention. It is certainly not our intention to prevent the State of Arizona from participating in the medicaid program in the future.

We will work with the Senator to prepare language for the conference which will insure the rights of Arizona.

The PRESIDING OFFICER (Mr. D'AMATO). Is all time yielded back?

Mr. DURENBERGER. We yield back our remaining time.

Mr. STEVENS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Delaware. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from California (Mr. CRANSTON) and the Senator from New York (Mr. MOYNIHAN) are necessarily absent.

I further announce that if present and voting, the Senator from Nevada (Mr. CANNON) would each vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 47, nays 50, as follows:

[Rollcall Vote No. 170 Leg.]

YEAS—47

Andrews	Glenn	Murkowski
Bentsen	Hart	Pell
Biden	Hatfield	Pryor
Bumpers	Hawkins	Randolph
Burdick	Heflin	Riegle
Byrd, Harry F., Jr.	Huddleston	Roth
Byrd, Robert C.	Inouye	Rudman
Chiles	Jackson	Sarbanes
Cohen	Kennedy	Sasser
Danforth	Leahy	Specter
DeConcini	Levin	Tower
Dixon	Mathias	Tsongas
Dodd	Matsunaga	Warner
Eagleton	Mattingly	Weicker
Ford	Melcher	Williams
	Metzenbaum	Zorinsky

NAYS—50

Abdnor	Goldwater	Mitchell
Armstrong	Gorton	Nickles
Baker	Grassley	Nunn
Baucus	Hatch	Packwood
Boren	Hayakawa	Percy
Boschwitz	Heinz	Pressler
Bradley	Helms	Proxmire
Chafee	Hollings	Quayle
Cochran	Humphrey	Schmitt
D'Amato	Jepsen	Simpson
Denton	Johnston	Stafford
Dole	Kassebaum	Stennis
Domenici	Kasten	Stevens
Durenberger	Laxalt	Symms
East	Long	Thurmond
Exon	Lugar	Wallop
Garn	McClure	

NOT VOTING—3

Cannon	Cranston	Moynihan

So Mr. ROTH's amendment (UP No. 194) was rejected.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. METZENBAUM. I move to lay that motion on the table.

Mr. STEVENS. Mr. President, I ask that that take place. I wish to explain this a little bit. It is too close a vote. We should understand a little more what we have done in terms of health premiums for Government employees.

Under the rules I am entitled to 30 minutes on that motion to reconsider equally divided and I shall use the time.

Mr. METZENBAUM. I withhold my motion.

Mr. STEVENS. Mr. President, I will leave to my friend how much time he wants, and I will take 5 minutes of that time and just say this: The Governmental Affairs Committee wants to deal with the question of what should be the bare coverage of health insurance as far as medicare currently covered services. The effect of the Finance Committee's decision is that they transfer $1 billion of the cost of medicare to the Federal employees health benefits program. That means that right now in this next year those people who are working and paying for health insurance must absorb a billion dollars of medicare cost. There are no other employees in the country who absorb medicare costs in their health insurance premiums. I hope the Senate will understand this shifts from medicare to the health insurance premium area $1 billion. We have 120 different programs in the health care field for Government employees. They are opened and closed at different times.

We cannot change those that are not open this year. This amendment requires that we absorb a billion dollars to the transfer for those programs that are open. Some of those costs will go up as much as 420 percent in 1 year. It is not possible for us to accommodate this kind of massive shift in connection with the budgetary process.

The Office of Management and Budget came before the committee I chair and opposed this amendment. The Office of Personnel Management came before the committee I chair and opposed this amendment and urged us to bring to the floor an amendment to delete the Finance Committee's proposal.

The Finance Committee's proposal is not required by the budget resolution. It goes beyond the mandated savings that committee was required to achieve. The Governmental Affairs Committee achieved all that was mandated for them. This is not savings. It is a transfer of current expenses under medicare to the Federal employees health benefits plan premiums in a way that will destroy the system.

I urge the Senate not to do this because we have a good health care system. It may be as my friend says that the reserves under this system are now greater because of the premiums that have been paid. It may be that we can shift some and by virtue of negotiation extend the coverage of the health care

plans to cover some of the things that are currently funded by medicare.

I am certain the Government employees would like to see that. We would like to see that. But we cannot do it this way. This just shifts dollars. It does not shift the responsibility of the insurance companies. It shifts the responsibility to the payers of the premiums, and the premiums are paid both by the Federal Government and by the employees so the saving that is mentioned here is only literally partially a saving, because it just shifts over to another program in terms of paying the premiums.

I urge the Senate to reconsider what it has done.

Senator ROTH and I have studied this extensively in terms of what it means to the Government health care plan and this will readily put it in great jeopardy.

I have a letter here from Dave Stockman saying the same thing. There are too many questions that are unanswered in connection with this proposal. It is not something that was well thought out. It came out of the Finance Committee in terms of savings. It did not come out of the Governmental Affairs Committee in terms of how can this program be made to work better in the best interest of the public, the taxpayers, and to the best interest of the people who are covered by the health insurance program.

So I asked that it be reconsidered.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. I yield to the Senator from Louisiana 5 minutes.

Mr. LONG. Mr. President, this is a typical example of deciding the way we want to go. Do we want to vote for the general interest or do we want to vote for the special interest?

This Federal employee health program is a part of the Federal retirement program. It was here first and it is one of the best. It is the firstest with the bestest; the most expensive program with the biggest benefits.

Federal workers had their health benefits program before we came along with the medicare program. The Federal employees health program was here first and no one gave much thought to it at the time we passed the bill for medicare.

I can understand how the Federal employees will say, "Look, we do not need to pay near as much for our program now that we have medicare, even though ours is the better program."

Does not the average social security beneficiary wish he was under that Federal employee program? Just give them a chance and see which one they take.

So here are these people with a better program. They say, "Look, let's shift some of the costs of our Federal health program over onto the social security program. That way we will add to the tax the general taxpayer pays and help keep our own premiums low." It will tax the folks who have the inferior program for the benefit of those who have the better program.

Mr. President, the taxpayers who are paying for all of this would break the door down to get in on this Federal employees program, but they are never going to have that choice.

The question is should the Federal employee system be allowed to shift its costs on to the other fellow who it not a Federal employee?

We were ordered by the Budget Committee to try to do what we can about this matter to economize in the area of social security. We said, "Well, we would not be going broke with social security if we would cut back on unintended or indirect benefits."

We never had any intention when we put medicare into effect to subsidize the Federal health program. Federal workers did not want to contribute to social security and we did not have any intention of having social security subsidize the Federal workers program.

So, I say: "Let them pay for their program like they were doing before they ever heard of medicare and in that way we can help avoid bankrupting the program that is supposed to benefit all Americans."

It is a matter of do we want to vote for the special interest or do we want to vote for the more general interest? Do we want to vote for the taxpayers or do we want to vote to give a further subsidy to a program that is already criticized as being oversubsidized?

Let me read from this summary:

> Over the past decade FEHB program reserves have increased about fourfold.

Reserves increased fourfold while the program we are trying to protect is going broke.

> Reaching $490 million in 1980, or 15 percent of the year's income from premiums. OPM guidelines specify reserve levels of about 14 percent. This growth partially results from the overestimates of the program's cost using annual rates.

I submit, Mr. President, if we want to economize somewhere here is the place we can economize and if we want to have the social security program solvent here is a way to do it, and that is what the committee is recommending.

Mr. STEVENS. Mr. President, I have great respect and admiration for my friend from Louisiana, and I hate to get into a tilt with him about some things, but this time we are not talking about the retirement program. This has nothing to do with double dipping. The double dipping is not involved in this at all. The retirement program is not involved in this at all.

The question simply is do the people who pay the premiums for health care services who are Government employees need to pay a portion of the medicare costs of those employees who have already retired?

This is not paying for their medicare coverage in the future. It is paying this year for the medicare costs of people who retired and went out and got medicare coverage by subsequent employment and are, therefore, eligible under general law as everyone else is. As I said, a woman who worked 4 or 5 years after she got married has the same eligibility as someone who works for GM and has 100 percent coverage. She has the same coverage. We are not talking about anything but discrimination against people who are working today.

As a matter of fact, every one of you working here probably has the same policy, and the question is should you pay a portion of the medicare costs for the general system, particularly based on the fact of the number of retired Government employees who are under medicare?

We say we will expand the coverage of Government health insurance so that it will cover more of the areas that are now served by medicare. That is one way we can do it. We can extend that umbrella over everybody, including Government employees, and the big carriers would like to see that. There is no question about that.

We can plan a system whereby we can do this. Look at this letter. Here is a letter David Stockman sent to me, and I invite you to look at the letter, in which he says:

> There are a number of serious questions that must be answered, however, before the administration could support such a move. The next open enrollment date for Federal employees and retirees is in November.

Only the plans that become open will be forced to pay the $1 billion. This, my good friend, is not double-dipping. This means if you are lucky enough to be covered under the Government employees plan that is not open this year you do not need to worry. But if you are under a plan that is open this year, you had better worry because Congress is saying, if they follow this amendment of the Finance Committee, take the full $1 billion out of whatever plan is open.

It will not work we are telling you. We can study this and make the system work. But, believe me, my good friend from Louisiana, it has nothing to do with double-dipping; it does not have anything to do with retirement. It does not have anything to do with someone getting benefits who is not entitled.

As I said before, and I will say it again, I believe the amendment is unconstitutional because it means a Government employee with an Aetna plan must pay a portion of the Federal costs with his premiums, whereas another employee covered by Aetna would be required to subsidize the medicare plan in the same manner.

This is not a savings mandated by the budget process. It is not a savings mandated by the concurrent budget resolution. It is something that we are working on, I might tell the Senate. We are working on a whole new comprehensive compensation and benefits system as far as the Federal employees are concerned to try to eliminate some of these objections which have been made in the past to prove this is a system that supports itself and to which the taxpayers do not contribute as much as if the employees were working in the private field.

Almost every major business today pays 100 percent of their employees' health care plan. The Federal employees pay a portion of theirs. This discriminates against the only group in the country, the large group in the country, which does today still pay a portion of their health care benefits.

As we get into more and more problems of capping the employees—we have capped them at 4.8 this year—we have

eliminated for the retired people the twice annually adjustment of cost of living in terms of benefits, and this just is not right, Mr. President.

I yield to my friend, but I can tell you——

Mr. ROTH. Mr. President, will the Senator yield for a question?

Mr. STEVENS. I yield.

Mr. ROTH. Is it not true that the Director of OMB, Dave Stockman, testified before your committee that this raises many serious questions, and that they are in the course of studying this matter and that it would be inopportune to move at this time?

Mr. STEVENS. This was in the form of a letter, and it is in the RECORD, and it is correct. I have the letter dated June 2, 1981, and it says:

Until the Administration has better answers to these complex questions, it would be premature to support this initiative.

They do not support this initiative, and I urge the Senate—the budget process recognizes that standing committees that have staffs that study problems and work in trying to solve these problems must have their jurisdiction. If you are going to use the budget process, as I said before, if the Finance Committee introduced a bill like this, do you know where it would go? It would not go to the Finance Committee. It would go to the Governmental Affairs Committee. But they send it from the Finance Committee to the Budget Committee, and it comes to the floor under a limited time without any real attempt by us to examine into the problem, and this is the pernicious effect of the Budget Act. You cannot support this. If you do, it is just a matter of time before the impact of our expertise in terms of staff, those of us who have spent our lives in studying programs like this, are shortcut and forced to come in and with no extra time to reconsider.

Believe me, I do not think there is anyone in this Senate who knows this program the way I do. If you do, stand up and challenge me. I know this program. It is wrong and it is not right to do it in this act in this way when it is not mandated by the budget resolution.

It is not savings. This will cost you more in the long run if you destroy this system in terms not only of employee morale but in terms of trying to repair the Federal employee health benefits plan than you can possibly realize.

I urge you to reconsider it and take it out of this bill. It does not belong there.

Mr. DOLE. Mr. President, I do not want to quarrel with my distinguished colleague from Alaska. Maybe everything he said is right, but I think that it is an argument that probably should have been made. But I think the Senator from Louisiana put his finger on it.

Which program is in trouble? The medicare program or the Federal employee health benefits program? They have a surplus of 8 percent more than they need, and we have been telling people on both sides of the aisle that medicare and social security are about to go bankrupt.

If his committee had jurisdiction of medicare it is news to this Senator. We have jurisdiction over medicare, the Sociay Security Act, and that is what we did. We were directed by the Senate here, by a big vote, to go back and save some money, and we did the best we could, and this is a net savings to the Government of about $360 million. If we are going to start taking that savings away from Finance, maybe Finance ought to gang up and take something away from somebody else.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. DOLE. I did not interrupt you.

Mr. STEVENS. I just want to ask you one question: If you did it this way, why did you not shift the Department of Defense medicare coverage to people who are currently covered under the Defense employees system, full coverage? You did not do that. I do not question that you have jurisdiction over medicare, but you do not have jurisdiction over Federal employees.

Mr. DOLE. Maybe that is an alternative. Maybe we should put all Federal employees under social security. Would that——

Mr. LONG. One way to help balance the budget would be to put the Federal employees under social security. That would save a great deal of money. Obviously they do not want that.

Mr. DOLE. You are talking about wanting it both ways around here. That is what we have a demonstration of.

Mr. STEVENS. I might say we are working on just that.

Mr. DOLE. Putting them under social security?

Mr. STEVENS. So that social security comes in, then the Federal retirees, Keogh plan—we do have a plan we are working on to do exactly that, and to eliminate any—I do not believe there is double-dipping, but let us do it.

Mr. DOLE. I am trying to cut your taxes. I have been working on that for 3 days, trying to give everybody a break on taxes, and while we are doing that you are over here trying to figure out a way to reduce the Finance Committee savings. I am not so worried about the Budget Committee, but it is your committee I am worried about. I do not mind being a subcommittee of the Budget Committee, but being a subcommittee of every committee I get a little concerned about that.

All we are doing is doing what we were instructed to do by the Senate, and if we are going to reduce our savings by $360 million—we may have to seek out savings from another committee.

So I just suggest that none of us likes to do this. We are all Federal employees. Maybe that is why we should not even vote on this; maybe we have a conflict of interest.

But I agree with the distinguished Senator from Louisiana. I do not know many people who are looking for a better plan than they have now. All we are saying is we ought to make it——

Mr. LONG. Mr. President, will the Senator yield?

Mr. DOLE. I yield.

Mr. LONG. Is this not correct that this Federal benefit program was here before medicare ever showed up on the scene; is that not correct?

Mr. STEVENS. Not this one.

Mr. DOLE. Not this one?

Mr. STEVENS. Not the insurance program; it was not.

Mr. DOLE. No; you are wrong.

Mr. LONG. I helped to pass the medicare bill and it was the first time I offered the Federal program to offset the medicare because I thought it was a better answer to the problem. It was here first; they already had their program.

Mr. DOLE. And the way we are going it is going to be here last because social security is going broke.

Mr. LONG. You look at the whole package of retirement benefits for Federal workers and you have to agree that they have a far better deal, a far better program, than other Americans. But the way things turned out—and it was not given a great deal of consideration—the Federal employees could pay less for their fine program by using medicare and the general taxpayers would make up the difference. These various unintended benefits and windfalls under medicare and social security and disability, and the Good Lord knows what else, are bankrupting the social security program.

So we said: "Put some of these costs back where they came from. Here is a free-standing program that ought to pay for itself. Let it pay for itself. Let it pay for the excellent benefits it provides."

So all we want to do is leave the costs where we found them.

Mr. DOLE. I just hope we can resolve this issue. It is not a big issue. It is very important to some, but so is every other thing on this floor. They are all important issues.

I just do not believe—and I have read what Mr. Stockman says, and I do not always agree with Mr. Stockman, but suddenly we get up and say, "We are going to quote Dave Stockman; we cannot go against him." But David Stockman says in his letter that he does not oppose this in principle.

He may have other questions about it and we have questions about it, but we do the best we can in the Senate Finance Committee. We are not perfect. We try to save a little money here and there to meet the requirements of the Budget Committee and meet the requirements of the Senate. I think we have accomplished that.

We have achieved that savings and now they want to take it away from us. We have some other amendments that are coming up that affect our savings. "You do not need it. You have more than you need."

We have about 30 Governors in this country worried about medicaid. We are going to try to work out some accommodation to use some of that extra savings and we are not going to be able to do this if we lose this amendment.

Several Senators addressed the Chair.

Mr. HOLLINGS. Mr. President, will the Senator yield for a question?

Mr. DOLE. Yes.

Mr. HOLLINGS. Is it not a fact that when we instituted medicare we provided that workmen's compensation would be

payor of first resort and that medicare would be the secondary payor?

Mr. DOLE. That is right.

Mr. HOLLINGS. And is it not a fact that with certain indemnity and no-fault insurance, that these carriers would have to pay first and the Government second?

Mr. DOLE. That is correct.

Mr. HOLLINGS. And that last year we strengthened the authority of the Veterans' Administration to collect from private insurance if the veteran had private coverage?

Mr. DOLE. That is right.

Mr. HOLLINGS. Now we say, "Government employee, you have got an Aetna health plan, the best in the world. Let that plan pay first before you call on the taxpayers under medicare to take care of you."

What the Senator is asking for is a windfall for the private health insurance carriers of Government employees like you and me. Is that not the case?

Mr. DOLE. That is the case.

Mr. HOLLINGS. That is what the Senator wants us to vote for. It is not complicated. But every time you get an issue like this up, that is justified and produces savings, he says, "We are studying it and we are looking at it. You are going to break it up. We cannot do it this way. We have got jurisdiction." That is just stalling. You know that and I know that.

We are just asking for us, you and me, Senators, to be put in the same position as veterans and employees under workmen's compensation and those under no-fault. Is that not right?

Mr. DOLE. We do not want to have any special treatment around here.

Mr. MATHIAS. Will the Senator yield for a question?

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. DOLE. Mr. President, the Senator from Kansas still has the floor.

The PRESIDING OFFICER. The Senator from Kansas still has the floor.

Mr. DOLE. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Three minutes and 47 seconds.

Mr. DOLE. I reserve the remainder of my time.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, it is unfortunate that statements like that occur.

Mr. DOMENICI. Does the Senator wish to use the microphone?

Mr. STEVENS. I do not need the mike.

The program that the Senator from South Carolina mentions are fully Government-funded programs. They are not contributory programs to the veterans or the workmen's compensation people. They are both fully funded.

This is the only time I know that they have tried to ask a person who pays his own health insurance premiums to subsidize the medicare program.

And it is not the same, as my friend mentions. He is wrong. I supported both of the movements he made.

The other statement is that I wish my friend from Kansas would not continue to say that this is a response to a mandate of the Budget Committee. There was nothing in the budget resolution that required anything of this kind. You accomplished everything that the Budget Committee asked you to accomplish and we applaud you for that. This goes beyond the Budget Committee's recommendation. It was not something that was considered by the Senate. It was not something considered by the committee that had jurisdiction over Federal employee health benefit programs at all.

Mr. President, we are again wandering back. My friend likes to wander back to the retirement programs and veteran programs and workman compensation programs.

Let me tell you that if this is right, then why does not the Finance Committee say that any person in this country that pays health insurance premiums must include in the portion of the premiums a subsidy for medicare? Why should it not apply to the big oil companies, I.T. & T., G.E. and all the rest of the big companies that currently pay 100 percent of their employees' health insurance coverage? Why do they not do that? Do you know why?

Mr. HOLLINGS. Is the distinguished Senator against big oil? Am I hearing right?

Mr. STEVENS. I am asking you, why do you not do it?

You know why they do not do it. Because they cannot transfer a portion of that medicare program to a private carrier unless you have a nexus with the Federal Government and the nexus today is the Government employee who pays a portion of his premiums. None of these other employers, big oil and all the rest of them, their employees do not pay those premiums. The companies do.

But here you have people who pay a portion of them and they are being asked to subsidize the medicare program.

Does my friend from Maryland wish any time?

Mr. MATHIAS. Yes; I thank the Senator from Alaska for yielding.

It seems to me that the confusion here is in the two roles of the Government. The Government acts in the public program as the U.S. Government dealing with all the people of the country. But it has a special role in relation to its own employees.

It has employees' group insurance, which it provides, which American Airlines has or General Motors has or any other employer of size in the country has.

We are confusing these two roles of Government. It seems to me—and this is a question I was trying to ask the chairman of the Finance Committee—if you are going to go after the employees' program of the Federal Government, does that not make the employees' insurance programs of every employer in the country vulnerable? There is really no distinction except for the fact, the coincidence, that this group of employees happens to be employed by the Government. You are confusing the facts simply because they work for the Government and you are making them the whipping children in this whole operation.

Mr. STEVENS. Mr. President, do I have any time remaining?

The PRESIDING OFFICER. One minute and twenty-seven seconds.

Mr. STEVENS. Mr. President, I will close. I am sorry to take the time of the Senate on this, but I think it is important.

We will work on the extension of the employees health coverage to take care of the services that are covered by medicare. We make that commitment to the Senate. Dave Stockman has made that commitment. That is our goal.

We want to do it in a way so that the current employees who pay those premiums are paying for their medicare coverage and not for the medicare coverage of the people who have already retired and putting the burden on those people working now. We are holding down their salaries to pay a portion of the costs which have been previously general Government costs under medicare.

But we commit to you that we will extend the Government insurance program so that it covers for all of us more of the services that would be performed under medicare so the Government employees pay for the cost of the services they receive after they are retired.

But this is not the way to do that. I think my good friend—I keep looking at my good friend from Louisiana—I am sure he understands what I am saying. I just do not believe we ought to transfer to this generation of working people the errors of the Congress for those who have retired before them. It is not their errors. It was not their error that the Government health insurance program did not cover those who are already retired. The plan that was negotiated just did not cover some of them, so medicare picks that up.

To say now that this program for those people who are paying now must go back and take in this year the billion dollars of the cost of the people who are already retired, that is the thing I object to.

Believe me, we will expand this coverage. Hopefully, we will get to the time when anyone who has a Federal employees health benefit plan will never have to have any medicare. I think that would be the best thing we could possibly do is get a plan that is a lifetime plan that covers Government employees. The Government pays part of the cost. It should get nothing less than that, in my opinion. But not this way. I urge the Senate to reconsider this and pass this amendment.

Mr. DOLE. Mr. President, I am going to yield to the Senator from Louisiana in a second. But I would just plead with my colleagues not to reconsider this. I do not quarrel with Senator STEVENS and Senator ROTH. They are going to study the ZIP codes next year and they are going to study this next year. They have more studies going than you can count.

But I do not think we can wait. We

are supposed to balance the budget sometime today or next week or next month.

I want to point out what the Senator from South Carolina indicated earlier. There was a Finance Committee provition passed last year which made medicare secondary for payments to be made under liability or no-fault insurance. This year, in addition to the FEHBA provision, the committee included a provision which would make private health insurance the payer of first resort for the first 12 months of medicare eligibility for individuals under 65 eligible as a result of kidney disease. We are doing that, as you indicated, and we have jurisdiction. We did not send that to the Government Affairs Committee. We handled it in our committee. We still have a little bit of jurisdiction left. We are trying to protect that little bit we have. Let us not destroy it this afternoon.

I yield the remainder of my time to the Senator from Louisiana.

Mr. LONG. Mr. President, I think Senators themselves should recognize that they too have an interest in this matter. They too are involved.

When I came here 32 years ago, I could go downstairs and get myself a bunch of free pills and I could see the doctor and get all kinds of medical service at the expense of Uncle Sam. This practice was severely criticized. About once a year the late Drew Pearson would do an article, criticizing us for having socialized medicine for ourselves, but denying it for the taxpayers.

We still have that. You can go right down there right now and get prompt service by a good doctor and a good nurse. That is just not available to the average American citizen.

And our health insurance is a better deal than other Americans have. We make a contribution in order to participate but we have a better health insurance program. We have the option in our program to take comprehensive illness protection. Many Americans do not have this available to them.

We have the option available to us to have the Government pay until the Good Lord calls us home. As far as these people under social security are concerned, after 90 days or so in the hospital they are through. Who is going to look after them? The Good Lord only knows. They hope that charity or someone will take them on, or hope the doctor will just not charge them. They are on their own.

Not us Federal employees. We can just stay there and pray until the Good Lord asks for us, with the greatest of comfort, with all services provided. We have a better program.

Then came the medicare program. I guess I ought to know; I was the manager of that bill. At the time we passed the medicare program, we had no idea what it was going to cost for many reasons. One of the reasons we did not focus on was that all of these people who already had protection would load their programs' costs onto medicare. Here came the Federal employees. They said: "Look, we can take a whole bunch of our expenses and load them off onto medicare."

We never planned on that. Here the costs go up and up and up. The first year the cost far exceeded the estimate, all because of costs no one was able to anticipate. Doctors were charging more than we thought they would. But that is not the only reason.

Another reason was that everybody was shifting their programs' costs onto medicare, including the Federal employees, the U.S. Senate, and the House of Representatives.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. LONG. Will the Senator yield additional time?

Mr. HOLLINGS. I yield time from the bill to the distinguished Senator.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. When you vote against the Finance Committee recommendation, you are voting to fatten your own pocketbook, to load onto medicare more of what is already bankrupting the program. That is why the medicare program is going bust while the other programs are fattening up.

It does not make any sense. If you want to keep medicare sound, you will keep from loading the costs of all of these other—and better—programs onto medicare.

Mr. STEVENS. Mr. President, is there any time remaining?

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the motion.

Mr. STEVENS. A parliamentary inquiry. Is this a motion to reconsider the vote on the Roth amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. A vote to reconsider the vote on the amendment offered by Senator ROTH. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to reconsider the vote by which the amendment of the Senator from Delaware (Mr. ROTH), UP amendment No. 194, was rejected. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from California (Mr. CRANSTON), and the Senator from New York (Mr. MOYNIHAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON) would vote "yea."

The PRESIDING OFFICER. Mr. SCHMITT). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 53, nays 44, as follows:

[Rollcall Vote No. 171 Leg.]

YEAS—53

Andrews	Cohen	Ford
Bentsen	D'Amato	Glenn
Biden	Danforth	Hart
Bumpers	DeConcini	Hatfield
Burdick	Denton	Hawkins
Byrd, Harry F., Jr.	Dixon	Heflin
Byrd, Robert C.	Dodd	Huddleston
Chiles	Domenici	Inouye
	Eagleton	Jackson
Kennedy	Murkowski	Sasser
Leahy	Nunn	Schmitt
Levin	Pell	Specter
Mathias	Pryor	Stevens
Matsunaga	Randolph	Tsongas
Mattingly	Riegle	Warner
Melcher	Roth	Weicker
Metzenbaum	Rudman	Williams
Mitchell	Sarbanes	Zorinsky

NAYS—44

Abdnor	Gorton	McClure
Armstrong	Grassley	Nickles
Baker	Hatch	Packwood
Baucus	Hayakawa	Percy
Boren	Heinz	Pressler
Boschwitz	Helms	Proxmire
Bradley	Hollings	Quayle
Chafee	Humphrey	Simpson
Cochran	Jepsen	Stafford
Dole	Johnston	Stennis
Durenberger	Kassebaum	Symms
East	Kasten	Thurmond
Exon	Laxalt	Tower
Garn	Long	Wallop
Goldwater	Lugar	

NOT VOTING—3

Cannon	Cranston	Moynihan

So the motion to reconsider was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. There is no time for debate. The question is on agreeing to the amendment. The yeas and nays have been ordered.

Mr. LONG. Mr. President, the Senator wants to make a motion.

Mr. DOLE. Mr. President, a parliamentary inquiry. Is it possible to get time on the bill?

The PRESIDING OFFICER. Yes; time can be allotted under the bill.

Mr. DOMENICI. How much time does the Senator want?

Mr. DOLE. Ten minutes.

Mr. DOMENICI. I yield 10 minutes to the Senator from Kansas.

Mr. DOLE. Mr. President, we are right back where we were a while ago.

Mr. STENNIS. Mr. President, may we have conditions whereby we can hear?

The PRESIDING OFFICER. The Senator is correct.

The Senate is not in order. Senators will take their seats, and the Senator from Kansas will withhold. Staff members will move to their appropriate places. Senators will take their seats or retire to the cloakroom.

The Senator from Kansas.

Mr. DOLE. Mr. President, a parliamentary inquiry. The vote will recur on the motion to strike?

The PRESIDING OFFICER. The parliamentary situation is that the next vote will be on the amendment by the Senator from Delaware. The yeas and nays have been ordered.

Mr. DOLE. Mr. President, we probably have debated this long enough, but I say again that there are many Senators in this Chamber who are going to be worried about medicaid in a few minutes. We are not going to be able to do that. I say that right now. That will probably go by the wayside if we take $360 million out of our savings with this vote. We cannot have it both ways.

We have a responsibility to the Senate, and our responsibility was to report a savings proposal. We have done that.

It seems to me that it is going to be a question of whether the Federal employ-

ees' unions or the poor people of this country have more power, and I guess the Federal unions have more power.

Also, we should lay it on the line: We all benefit from this program—every one of us. This is a chance to demonstrate that we are concerned about the medicaid program.

I hope I have not shirked my responsibility as chairman of the Finance Committee. None of these votes was painless—none of the votes we have been able to come to in the Finance Committee.

It seems to me that what is happening here is just an indication that we cannot save money when it gets tough. We have a powerful, organized group out there to say, "You don't want to vote against us," and we are not going to vote against them. That is what it is all about. We can talk about dollars and everything else. The question comes down to the power of the Federal employees' unions, and they have it. They have demonstrated that today.

But what about the medicaid program? What about the people in medicare? What about next November, when we are going to be in deep trouble in the social security program? What about the jurisdiction of the Senate Finance Committee as compared with the jurisdiction of other committees?

I assume that we can figure a way to raid some other committee for $360 million and then take care of the medicaid requests we are going to have later this afternoon.

We are prepared to offer a compromise at the appropriate time, if we can vote down this amendment. We have a three-part compromise that I believe would be helpful.

First, we would make Medicare secondary for only part A.

Second, it would allow the Federal employees' plan to spread premium increases across all its plans.

It would allow Medicare to continue to pay the bills and recover the money at the end of the year.

This would reduce our savings by $60 million, but it is an amendment I intend to offer, if the amendment by the Senator from Delaware and the Senator from Alaska is defeated.

So I suggest that you win some and lose some in this body, but this is the supreme test for those of us who benefit from this program.

Do we want to pay our fair share, or do we not want to pay our fair share? Do we want the people in our offices to pay their fair share, or do we not want them to pay their fair share?

I like Federal employees. I am one of them. But it seems to me that we are talking about the economy of this country. We are talking about trying to do something about the economy of this country. Everyone has been asked to make a sacrifice, except those who are powerful and well organized and can put pressure on Members of Congress.

In the last analysis, we will demonstrate if we are concerned in this body, concerned about the President's program, about the future of this country, about the future of the medicare program.

It is going to be a net saving of $360 million. We are not dealing with numbers. This is the real thing.

I hope Senators support the Finance Committee. We have considered this matter. We have considered a lot of aspects.

I agree with the Senator from Alaska. The Budget Committee did not say that we have to save here, we had some latitude. We are an authorizing committee. We do not have to do everything the Budget Committee says we should or should not do.

I have the amendment prepared. It is ready to be offered as soon as we vote down this amendment, and it will ease some of the pain. I hope we can have the support of a majority of this body.

Mr. STEVENS. Mr. President, will the Senator yield me 1 minute?

Mr. DOMENICI. I yield 1 minute to the Senator from Alaska.

Mr. STEVENS. Mr. President, no one has greater respect for the chairman of the Finance Committee and the ranking minority member than I, as well as the work they do for the Senate. I do not want anyone to misunderstand anything I have said to be to the contrary.

The amendment the Senator mentions, however, deals with $6 million out of $1.5 billion. I do not see that as any compromise. It does not solve the problems I have discussed. That amendment would not save the premium-type program of health insurance for Government employees which would be destroyed if we do not take this provision out of this bill.

We are voting now, again, on the Roth amendment, as I understand it. An "aye" vote would delete the Finance Committee proposal and return the matter to the jurisdiction of the Governmental Affairs Committee, where we will continue to work on the plan.

The PRESIDING OFFICER. The Senator is correct, to the extent that an "aye" vote will delete the provision as proposed in the amendment by the Senator from Delaware.

Mr. DOLE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOLE. If the amendment should fail then the language in the bill will be subject to amendment; is that correct?

The PRESIDING OFFICER. If the amendment should fail the language in the bill would be subject to further amendment.

Mr. DOLE. Mr. President, I repeat, finally, that OMB is not opposed in principle to changes in the current cost arrangement between medicare and FEHB. If that is an issue for some people, it is not opposed to in principle by OMB.

Mr. STEVENS. Mr. President, it is just opposed to doing it this way. That is all.

SEVERAL SENATORS. Vote!

Mr. STEVENS. Have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays were ordered on the original amendment. The yeas and nays are automatic under these circumstances.

The question is on agreeing to the amendment of the Senator from Delaware on reconsideration.

On this question, the yeas and nays are ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON) and the Senator from California (Mr. CRANSTON) are necessarily absent.

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON) would vote "yea."

The PRESIDING OFFICER. Are there any Senators desiring to vote?

The result was announced—yeas 51, nays 47, as follows:

[Rollcall Vote No. 172 Leg.]

YEAS—51

Andrews	Hart	Pell
Bentsen	Hatfield	Pryor
Biden	Hawkins	Randolph
Bumpers	Heflin	Riegle
Burdick	Huddleston	Roth
Byrd, Harry F., Jr.	Inouye	Rudman
Byrd, Robert C.	Jackson	Sarbanes
Chiles	Kennedy	Sasser
Cohen	Leahy	Schmitt
Danforth	Levin	Specter
DeConcini	Mathias	Stevens
Denton	Matsunaga	Tsongas
Dixon	Melcher	Warner
Dodd	Metzenbaum	Weicker
Eagleton	Mitchell	Williams
Ford	Moynihan	Zorinsky
Glenn	Murkowski	
	Nunn	

NAYS—47

Abdnor	Goldwater	Mattingly
Armstrong	Gorton	McClure
Baker	Grassley	Nickles
Baucus	Hatch	Packwood
Boren	Hayakawa	Percy
Boschwitz	Heinz	Pressler
Bradley	Helms	Proxmire
Chafee	Hollings	Quayle
Cochran	Humphrey	Simpson
D'Amato	Jepsen	Stafford
Dole	Johnston	Stennis
Domenici	Kassebaum	Symms
Durenberger	Kasten	Thurmond
East	Laxalt	Tower
Exon	Long	Wallop
Garn	Lugar	

NOT VOTING—2

Cannon	Cranston

So Mr. ROTH's amendment (UP No. 194) was agreed to.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. May I have the attention of the Senate? Mr. President, will the Chair ask for order in the Senate?

The PRESIDING OFFICER. May we have order in the Senate? The distinguished majority leader is correct. Please clear the well. Senators will take their seats or retire to the cloakroom. Please give the majority leader your attention.

The Senator from Tennessee.

ORDER OF PROCEDURE

Mr. BAKER. I thank the Chair.

Mr. President, this morning I described in general terms a possible unanimous-consent request to try to provide for a method of handling the matters discussed in the debate yesterday in connection with the amendment of the distinguished minority leader, having to do with striking certain sections of the bill

alleged to be extraneous to the reconciliation process.

I am pleased to report, Mr. President, that I believe we now have an agreed procedure for managing that controversy. I am prepared now to make the unanimous-consent request of the exact terms to accomplish that purpose.

Mr. President, this will be two unanimous-consent requests. The first one is as follows:

I ask unanimous consent that relative to three amendments to insert, which will be the subject of a subsequent unanimous-consent request, there be a time limitation of 40 minutes each, equally divided, in the event such request is agreed to.

Mr. DECONCINI. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Arizona reserves the right to object.

Mr. DECONCINI. Mr. President, I realize the great effort and time that has been put into attempting to resolve this. I have two amendments. I wonder if, in the course of the negotiations, I could get a time certain that I could bring these amendments up.

Mr. BAKER. Mr. President, I have no problem with that. I would inquire of the distinguished chairman of the committee and the ranking minority member, but as far as I am concerned we can take those amendments up right after the unanimous-consent agreement is granted.

Mr. DOMENICI. Mr. President, as I understand it, we have begun to sequence matters with some certainty and we are planning to take up one of the Senator's amendments next. I assume that would even precede taking up the amendments contemplated by the leadership amendment. I am not aware of the second amendment. I have not been able to get all the Senators sequenced. But I can give the Senator every assurance that we will try. The Senator is next on one of the amendments.

Mr. DECONCINI. Mr. President, will the Senator from New Mexico agree to a diminishing time on the first amendment and let me take them both up? I would like to do them both at the same time if I could and get them over with.

Mr. DOMENICI. How much time would the Senator want on that reduced time?

Mr. DECONCINI. I would be willing to take up both amendments on a 40-minute time limitation, equally divided, 20 minutes on each amendment, equally divided, if it could come up after this agreement and ask it to be the pending amendment.

Mr. DOMENICI. Would the Senator go with 15 minutes on each, equally divided, for a total of 30 minutes?

Mr. DECONCINI. I would like to have 10 minutes on the veterans amendment, minimum. And if the Senator could agree to 10 on each. I will make it very short on the second amendment. We have been through it time and time again. I would like to make it 7 minutes in a spirit of compromise. I do need 10 minutes.

UNANIMOUS-CONSENT AGREEMENT

Mr. BAKER. Mr. President, let me put this additional unanimous-consent request.

Mr. President, I renew my unanimous-consent request. I ask unanimous consent that relative to three amendments to insert, which will be the subject of a subsequent unanimous-consent request, there be a time limitation of 40 minutes each, equally divided, in the event such request is agreed to.

I further ask unanimous consent that after the disposition of the request that I will shortly complete, the Senator from Arizona be recognized to call up two amendments and there be a 20-minute time limitation on one, equally divided, and 10 minutes on the other.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, and I do not have any intention to object, but I do want to make sure that in taking action on prospective amendments by limiting time thereon that we are not automatically waiving any points of order that otherwise might lie.

Mr. BAKER. Mr. President, I include that in my request; that no point of order will be waived.

Mr. DECONCINI. Mr. President, I would be glad also to cut down on the time on the vote of my amendments.

Mr. BAKER. Mr. President, I would like to reserve that just for the moment. We have certain Senators that may be away from the floor.

Mr. President, I make that request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that provisions contained in title III of S. 1377, which are on a list I now send to the desk, be stricken from the bill, and that it be in order thereafter to offer an amendment relative to those same provisions, that no point of order lie against the amendment, that the amendment not be divisible, and that no amendment thereto be in order.

I further ask unanimous consent that provisions contained in title IV of S. 1377, which are also on the list I now send to the desk, likewise be stricken from the bill, and that it be in order thereafter to offer an amendment relative to those same provisions, that no point of order lie against the amendment, that the amendment not be divisible, and that no amendment thereto be in order.

I further ask unanimous consent that subsequent to the disposition of this amendment to title IV, there be in order a Bradley amendment relative to New Jersey television licensing, that no point of order lie against the amendment, that the amendment not be divisible, and that no amendment be in order thereto.

I further ask unanimous consent that unprinted amendment number 189 be withdrawn.

I further ask unanimous consent that no other amendment dealing with any part of the subject matter contained in either of the three amendments to insert stipulated herein be in order for the duration of consideration on this bill.

I further ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9 a.m., tomorrow, Friday, June 26, 1981, and that at not later than 12 noon on tomorrow, the Senate shall proceed to vote on final passage thereof, to the exclusion of further debate on any question, all amendments not then actually pending before the Senate at that time or otherwise provided for in this agreement, all motions, except a motion to table, and all points of order or appeals.

Mr. President, before the Chair puts the question, may I say that the purpose of the unanimous-consent request I have just started is to strike from the reconciliation bill all of the material which was the subject of the minority leader's amendment to strike and insert which was offered on yesterday and in addition thereto, to provide that the Senator from Utah (Mr. GARN), and the Senator from Oregon (Mr. PACKWOOD), would be free then to offer amendments to the reconciliation bill as floor amendments to restore certain portions of that material. The Senate could then work its will on those amendments. The amendments would be qualified by this agreement. They would not be subject to a point of order.

Mr. President, in addition to that, certain other material is to be stricken from the bill which was not included in the motion to strike or in the amendment offered by the distinguished minority leader on yesterday. I will identify those provisions which will be stricken in addition to that which was the subject of the minority leader's amendment on yesterday.

In respect to title III, the banking bill, Mr. President, all of the material sought to be stricken by the minority leader would be stricken by this request.

In addition thereto, there would be certain other material which is in dispute as to whether it is extraneous material to reconciliation or not. That would be section 321–8(a), the set-aside for the UDAG grant program; 322–1 (g), authorization for Governmental Mortgage Association; 321–9 (a), (b), (d), (f), limitations on section 312, rehabilitation loan program; section 321–6, authorization for the Neighborhood Reinvestment Corporation.

By way of explanation, Mr. President, I would insert that this additional material was agreed to by our respective staffs on both sides of the aisle as material that should be stricken in order to avoid the necessity for creating a precedent on this material at this time.

On title IV, Mr. President, all the material sought to be stricken by the minority leader would be stricken by this unanimous-consent request.

In addition thereto, it would also strike the FCC users fees from the bill as well.

Mr. President, it is my hope, and I believe it is the hope of the managers and the minority leader, who, of course, will speak for themselves, that this unanimous-consent request does all of the things all of us aspire to do.

No. 1, it avoids the question of whether or not material in this bill is extraneous to reconciliation. We do not set that precedent at this time. Instead, we provide a method by which the Senate can speak on this material which is in dispute separately and aside on a time agreement.

Mr. President, it is our effort to make sure that the Senate has an opportunity to speak freely and fully and debate fairly on these issues. It is my hope that the Senate will grant this request, in which event there will be a time limitation of 40 minutes on those two amendments seeking to restore certain material in the reconciliation bill.

Mr. President, I urge my colleagues to consider that this is the most favorable way to handle this matter, to preserve for the Senate a future opportunity to speak on these matters, and to proceed with dispatch to the disposition of this measure.

The PRESIDING OFFICER (Mr. ABDNOR). Is there objection?

Mr. MOYNIHAN. Reserving the right to object, may I address an inquiry to the distinguished minority leader?

May I ask, is section 322–5(a) included in the material that would be stricken under the majority proposal?

Mr. ROBERT C. BYRD. Mr. President, the distinguished majority leader has the list in his hand.

Mr. BAKER. Mr. President, the unanimous-consent request proposes to strike from title III of the bill, among other sections, 322–3 through 322–13.

Mr. MOYNIHAN. I thank the distinguished majority leader. I appreciate that fact.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Reserving the right to object, Mr. President.

The PRESIDING OFFICER. The distinguished minority leader.

Mr. ROBERT C. BYRD. I ask the distinguished majority leader whether or not the phrase "it be in order thereafter to offer an amendment relative to those same provisions" anticipates that Mr. GARN's amendment would go beyond, in any way, the provisions of the language in the bill which is being stricken and which came out of his committee.

Mr. BAKER. Mr. President, in response to the minority leader's question, let me say first of all that a copy of the Garn amendment to be offered and the Packwood amendment to be offered are available and I will be happy to supply them to the minority leader or to any Senator.

All the material sought to be stricken will be sought to be reinstated by the Garn amendment. But, in addition to the material stricken, there is one section that would be added. The minority leader, I believe, is aware that the last paragraph of the Garn amendment will read as follows:

> And at the end of title III of S. 1377 add the following: It is the sense of the Senate that the Senate conferees on the reconciliation bill will not insist on the Senate-passed provisions of title III part (c) provided the House conferees do not insist on title III subtitle (a) of H.R. 3892 or any amended version thereof.

Mr. ROBERT C. BYRD. I call to the attention of the distinguished majority leader that that would be a provision in addition to provisions that are contained in title II.

Mr. BAKER. Yes, and this is the only material that is added in the amendment that was not previously stricken.

Mr. ROBERT C. BYRD. So that the language of the request that has been made by the distinguished majority leader would have to be altered to provide that those additional provisions could be included in the Garn amendment, else a point of order would indeed lie against it.

Mr. BAKER. Mr. President, may I say to the minority leader, I will be happy to do that. I have no problem with changing it. But in the formulation request, on the choice of words, "an amendment relative to the same provisions" was meant to be broad enough to include the material which is indeed included in the Garn amendment which is attached.

I have absolutely no problem with changing that, but it was anticipated that that language was broad enough to cover that point.

Mr. ROBERT C. BYRD. I must say that I do not believe that it would be broad enough because the sense of the Senate provisions which deal with instructions to conferees are not included in the present language that is being stricken. I would hope that the distinguished majority leader would so alter the provision so that there would be no misunderstanding that could arise later.

Furthermore, if this additional language relative to the sense of the Senate language regarding instructions could be brought in as being language "relative to those same provisions," conceivably other language could also be similarly brought in. I do not think the majority leader proposes that.

Mr. BAKER. No, I do not.

Mr. President, there are two ways I think of that we can approach this. One is simply to provide that it be in order for the Garn amendment to include that sense of the Senate language. Another would be perhaps even more comprehensive, to say that, "It shall be in order for an amendment relative to these same provisions in the form attached."

Mr. ROBERT C. BYRD. The latter would be preferable.

Mr. BAKER. I believe it would.

Mr. President, I now modify the request so that it reads at the fourth line thereof, "offer an amendment relative to those same provisions in the form attached."

Mr. ROBERT C. BYRD. Now, Mr. President, further reserving the right to object, the order would provide that when the Senate completes its business today it stand in recess until the hour of 9 o'clock tomorrow morning.

Would the distinguished majority leader indicate what he has in mind for a time for closing business today?

Mr. BAKER. Yes.

Mr. President, may I say to the minority leader that I would sincerely hope that we could finish this bill tonight. While the unanimous-consent agreement provides for a time certain for final passage at noon tomorrow after first voting on the amendment then pending, I believe it is possible for us to dispose of the remaining amendments and any votes that are ordered thereon and complete final action of this bill today. So it would be my purpose to ask the Senate to remain in session fairly late tonight. I think we should reserve judgment a little until we see how much progress we make. I would suggest at least until 10 o'clock.

If it turns out that we cannot finish, of course, we will go over until tomorrow and finish not later than noon, according to the formula described in the request.

According to the inventory of amendments that I have here, Mr. President, there are between 20 and 25 amendments that we know of. There may be others, but those are what we know of at this time. Some of them, I am quite sure, will require only a few minutes to dispose of. Some of them will, perhaps, require the entire 40 minutes now allotted. But we have only about 3 hours left, Mr. President.

May I inquire of the Chair how much time remains on the bill?

The PRESIDING OFFICER. Three hours and four minutes.

Mr. BAKER. Three hours and four minutes for debate. A great deal of additional time could be taken in rollcalls if they are ordered and quorum calls if they are necessary.

I guess what I am saying to our minority leader is that, everything considered, it is within reasonable hope that we can finish that bill in that time, and do it tonight and get it out of the way, in which event, we shall come in tomorrow, if at all, for routine matters.

Mr. ROBERT C. BYRD. Let me say that what the distinguished majority leader is doing in this request is, for one thing, extending by grace the debate on this bill an additional 5 or 6 hours over and above what the law provides for.

Mr. BAKER. No, Mr. President, I do not believe the agreement provides for additional time for debate. It provides for a time certain to conclude consideration of this measure. But the reason for 12 tomorrow is to accommodate the necessity—heaven forbid that we should need it—that we can have 15 minutes on 20 rollcalls and quorum calls as well. It is to provide an outside limit for the time we need to conclude the consideration of this bill.

I say to the minority leader, as I have said in private, that if it is necessary to provide a little additional time on some amendments—say 5 or 10 minutes on debate—I would be perfectly willing to do that. But I urge that we not do that now, that we try to forge ahead in the time remaining and do it tonight. Later on, I promise the minority leader that if we need to consider that request for additional time for debate, we shall think about it, talk about it. Right now, I reiterate my hope that we can finish this bill by, say, 10 o'clock tonight.

Mr. ROBERT C. BYRD. What I am saying, Mr. President, is that minus the

agreement, the time for debate on this bill will run out at about 7 or 7:30 tonight. What the agreement does is extend that time for debate for a possible additional 5 to 6 hours by extending the final vote until no later than 12 tomorrow.

Mr. President, I support the request. I hope it will be agreed to. If it is agreed to, I think it represents a significant victory for both sides of the aisle in that it protects the traditions of the Senate dealing with free and unfettered debate.

What do we mean by free and unfettered debate? In the Senate, there is no limitation of debate except by virtue of section 2 of rule XXII, which provides for the invoking of cloture. The budget process, on the other hand, was formulated so as to expedite the reduction of Federal spending and it was formulated in such a way that it provided extraordinary safeguards. If the language that is being stricken by the request were to be left in the bill, it would mean that section 2 of rule XXII is being circumvented.

Section 2 of rule XXII provides, first of all, that 16 Senators who wish to shut off debate sign a petition and that, on the second day following the day of the offering of that cloture petition, there will be a vote taken in the Senate, and if three-fifths of the Senators present and voting, vote to shut off debate—or two-thirds, in the case of changing the rules—then, from there on, there are 100 hours, no more than 100 hours, of debate.

If this language were to be left in this reconciliation bill, it would set a precedent whereby there would be no need to go to the cloture route in the future. Rule XXII could be circumvented and it would only be necessary to submit any legislation, controversial though, it may be, far-ranging though it may be, over to the Budget Committee, which would be powerless to change it substantively. That language would be brought to the floor in a reconciliation bill and, under an ironclad 20-hour time limit—no need to risk cloture any more; forget that; rule XXII would be virtually out of the rulebook—it is in the reconciliation bill and it may be discovered, or it may not be. If it is discovered, it has a one-vote advantage in that it is already in the bill. So any motion to strike it, any amendment to strike it, will lose on a tie vote. So there is a one-vote advantage to having the Budget Committee include it in the reconciliation bill.

The procedure that is being adopted here strikes the language from the bill, and raises a clear signal to all committees that, in the future, if they go to the Budget Committee and seek to put in controversial, nonbudget-related legislation, they are going to run into a stone wall here, on the Senate floor.

If Senators want to offer an extraneous matter on the floor here, they will be coming in the front door. It is brought to the attention of every Senator. Every Senator votes on it with his eyes open. And there is not a one-vote disadvantage to those who seek to oppose such extraneous matter.

My friends, we are not doing this with prejudice to any future point of order that may be raised later on in this bill or in any future reconciliation bill. It is only with regard to three amendments that we are waiving any point of order today. It is without prejudice to any future point of order. And it does not mean that we favor the extraneous matter that will come before the Senate in those three amendments.

I shall vote against those amendments, not on the merits but on the basis that we ought not to use this vehicle for such matter.

So, I say to all Senators that I have carefully examined this language. I have participated in the discussions and I think that the principle that we sought to preserve by virtue of the amendment I offered yesterday is preserved.

Mr. President, I thank the distinguished majority leader. I thank the manager of the bill (Mr. DOMENICI), and I thank the distinguished ranking member (Mr. HOLLINGS). I thank all who participated in the attempt to preserve this principle. I think that, in so doing, they have provided a victory for the Senate and its traditions.

Mr. RANDOLPH. Mr. President, will my majority leader yield for a question?

Mr. BAKER. Mr. President, there is a unanimous-consent request pending. Will the Senator reserve his right to object?

Mr. RANDOLPH. Mr. President, reserving the right to object, I thank all those who have worked out the agreement. In particular I pay tribute to the able majority leader (Mr. BAKER) the distinguished minority leader (Mr. BYRD), the chairman of the Budget Committee (Mr. DOMENICI), the ranking Democratic member (Mr. HOLLINGS), Mr. LONG, Mr. STENNIS, Mr. NUNN.

I do not want to go to the substance of what has been done. I only ask, and perhaps it is repetitive, Is there a possibility of finishing this matter tonight and of the Senate not being in tomorrow?

Mr. BAKER. Mr. President, I very much hope for that result. To try to improve our chances of doing that, I intend to ask the Senate to remain fairly late tonight. If we cannot finish this bill tonight, it would be my intention to be in tomorrow.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

(The list of provisions in Title III and Title IV, referred to in Mr. Baker's request, is as follows:)

TITLE III

321–1(b).
321–2 through 8.
321–9 (a), (b), (d), (f).
321–12.
321–13.
322–1(g).
322–1(l).
322–3 through 13.
323–2 through 10.
323–13.
324–1 through 18.
325–2 through 4.
326–1.

TITLE IV

Part E, except for Subpart 4.

Mr. BAKER. I thank the Chair.

I thank especially the minority leader and the minority manager of this bill as well as the chairman of the Budget Committee. I also thank the great number of Senators who have participated in these negotiations. The negotiations were painful at times; they were delicate at times; but they were complete and thorough. They represent the best efforts on both sides of the aisle. I believe that this agreement, undertaken by so many Senators, has well served the traditions of the Senate and has preserved our future operations.

Mr. STENNIS. Mr. President, I highly commend our elected leadership here and the leadership of the Budget Committee. I believe this is a milestone in the history of the Senate, and it is a victory for the institution.

Mr. HOLLINGS. That is right.

Mr. STENNIS. No one challenges the nature of our body; nevertheless, if this matter had not been given the proper attention, that would have been the result. The Nation owes a debt to all Senators involved, and I want to express my sentiment.

Mr. BAKER. I thank the Senator from Mississippi most profoundly.

Mr. NUNN. Mr. President, I wish to echo everything the Senator from Mississippi has said, without repeating it.

Mr. ROBERT C. BYRD. Mr. President, I thank the Senator from Mississippi and the Senator from Georgia.

Mr. DOLE. Mr. President, as one committee chairman. I appreciate very much what is being done here, and I congratulate the leadership.

Mr. BAKER. I thank the Senator from Kansas.

Mr. President, later today I intend to speak at greater length in connection with this matter. I congratulate the Senator from Kansas and all the other members of the Finance Committee for reporting a tax bill today. That is truly remarkable.

Mr. President, is there an order now for the recognition of the Senator from Arizona?

The PRESIDING OFFICER. There is.

Mr. BAKER. I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

UP AMENDMENT NO. 195

(Purpose: To reduce veterans' burial benefit cuts (by restoring entitlement for certain service-connected disabled veterans) to the extent such cuts exceed the reconciliation requirements for fiscal years 1982, 1983, and 1984)

Mr. DECONCINI. Mr. President, I thank the distinguished majority leader and the distinguished minority leader for making an arrangement whereby I can offer these amendments at this time. The effort they have put forth has been discussed at great length.

I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arizona (Mr. DECONCINI) for himself, Mr. CRANSTON, Mr. MATSUNAGA, Mr. MITCHELL, and Mr. RANDOLPH,

proposes an unprinted amendment numbered 195.

Mr. DECONCINI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 403, strike out all on line 35 and insert in lieu thereof the following:

"(c)(1) Subject to the provisions of paragraphs (2) and (3) of this subsection, the amendments made by subsections (a) and (b) of this section shall take effect with".

On page 403, between lines 36 and 37, insert the following:

(2)(A) On October 1, 1981 subsection (a) of section 902 of such title (as amended by subsection (c) of this section) shall be amended by striking out "30" each place it appears and inserting in lieu thereof "20".

(B) The amendments made by subparagraph (A) of this paragraph shall take effect with respect to deaths occurring after September 30, 1981.

(3)(A) On October 1, 1982, subsection (a) of section 902 of such title (as amended by subsection (a) of this section and subsequently amended by subsection (c)(2) of this section) shall be amended—

(i) by striking out the words "on the basis of a service-connected disability rated at 20 per centum or more" both places those words appear; and

(ii) in paragraph (2)(A), by striking out the comma and "for a disability rated at 20 per centum or more" after "compensation" the last place it appears.

(B) The amendments made by subparagraph (a) of this paragraph shall take effect with respect to deaths occurring after September 30, 1982.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the names of Senator CRANSTON, Senator RANDOLPH, Senator MATSUNAGA, and Senator MITCHELL be added be added as cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, under House Concurrent Budget Resolution 115, the Senate Veterans' Affairs Committee was required to achieve legislative savings in budget authority and outlays of $14 million in fiscal year 1981, $110 million in fiscal year 1982, $108 million in fiscal year 1983 and $106 million in fiscal year 1984.

On June 3, 1981, the Senate Veterans' Affairs Committee voted 11 to 1 to report a resolution which would achieve reductions of $18 million in budget authority and outlays in fiscal year 1981, $112.3 million in budget authority and outlays in fiscal year 1982, $120.9 million in budget authority and $126.9 million in outlays in fiscal year 1983, and $130.8 million in budget authority and $135.8 million in outlays in fiscal year 1984. As Senators can see, the committee surpassed its targets in each of the fiscal years.

The bulk of these reductions was achieved by limiting veterans' burial benefits of $300 and plot allowances of $150 to, first, those who are eligible to receive compensation for a service-connected disability rated 30 percent or more; second, those who are receiving pensions from the Veterans' Administration; and third, those who, solely on the basis of income level and wartime service, would be eligible to receive pension benefits but who are otherwise ineligible because of age, degree of disability or time in service.

Although I voted for other reductions incorporated in the committee package, I cast the lone vote in committee against the resolution because of its impact on disabled veterans. The primary mission of the Veterans' Administration, as the chairman of the committee has pointed out on many occasions, is to provide benefits and services for those veterans who have been disabled as a result of their service to the Nation.

I felt it was unconscionable to achieve budget savings by reducing benefits for service-connected disabled veterans. This, in my view, constitutes a violation of a sacred trust that the Nation has made with this very special group of veterans. Without their selfless service, we might not be living in a free society today.

On June 15, I received budget estimates from the Congressional Budget Office on the costs of restoring eligibility for burial benefits for veterans with a disability rated 20 percent as well as the costs of restoring eligibility for all veterans with a disability rated 10 percent or more, and I ask that these estimates be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, D.C., June 15, 1981.

MEMORANDUM

To: Ed Scott, Senate Committee on Veterans' Affairs.

From: Nina Shepherd, Congressional Budget Office.

Shown below are the savings estimates you requested for the two proposals to restrict eligibility for non-service-connected burial benefits.

Proposal 1: Restrict eligibility to veterans with service-connected disabilities rated 20 percent or more and to veterans in receipt of pension or with income low enough to meet the income requirements for pension.

[By fiscal years, in millions of dollars]

	Required budget authority	Estimated outlays
1981	−17.5	−17.5
1982	−96.7	−96.7
1983	−103.8	−103.8
1984	−112.2	−112.2
1985	−121.1	−121.1
1986	−131.0	−131.0

Proposal 2: Restrict eligibility to any veteran with a compensable service-connected disability and to veterans in receipt of pension or with income low enough to meet the income requirements for pension.

[By fiscal years, in millions of dollars]

	Required budget authority	Estimated outlays
1981	−15.8	−15.8
1982	−87.4	−87.4
1983	−94.1	−94.1
1984	−102.3	−102.3
1985	−110.9	−110.9
1986	−120.4	−120.4

Mr. DECONCINI. Mr. President, on the basis of these estimates, we can restore veterans' burial benefits for 20 percent service-connected disabled veterans in fiscal year 1982 and for all veterans with a compensable service-connected disability in fiscal year 1983 and fiscal year 1984 and still realize the Veterans' Affairs Committee's reconciliation requirements, and that is precisely what my amendment proposes to do.

A restoration of burial benefits for 20 percent disabled veterans in 1982, together with the other reductions included in the bill, would achieve overall savings of $109.6 million and would, according to the Budget Committee staff, meet the committee's reconciliation mandate. And, we can restore eligibility for burial benefits for all veterans with compensable disabilities in the outyears and exceed the committee's reconciliation instructions by $6.4 million in outlays in fiscal year 1983 and by $17.1 million in fiscal year 1984. If these budget figures had been available at the time of the Veterans' Affairs Committee markup, I am confident that the members of that distinguished committee would have approved the restorations I am proposing here.

I should like to make it absolutely clear what we are talking about here. My amendment only restores burial benefits for service-connected disabled veterans. According to VA statistics, as of January 1981, there were 2,270,658 disabled veterans receiving compensation. The reconciliation bill as it is now written would eliminate burial benefits for 1,266,567 disabled veterans. My amendment would restore eligibility for burial benefits to 356,227 disabled veterans in fiscal year 1982, and eligibility for burial benefits for 883,227 additional veterans in fiscal year 1983 and fiscal year 1984. And how much would these restorations actually cost? They would result in costs of $2.7 million in in fiscal year 1982, $12.5 million in fiscal year 1983 and $12.7 million in fiscal year 1984. These costs are not substantial and they in no way undermine the reconciliation process. It is difficult for me to understand how any Member of this body could oppose granting this benefit to the most deserving of the Nation's veterans. I urge my colleagues to support my amendment.

Finally, I should like the record to show that the American Legion and the Disabled American Veterans strongly endorse my amendment. I ask unanimous consent that the full text of the letter I received from Mr. Stan Pealer, national commander of the Disabled American Veterans, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DISABLED AMERICAN VETERANS,
Washington, D.C., June 24, 1981.

Hon. DENNIS DECONCINI,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DECONCINI: I have been informed of your intention to offer an amendment to S. 1377, the Omnibus Reconciliation Act of 1981, when that measure is considered on the floor of the Senate.

Your amendment, as I understand it, relates to Function 700 (veterans' benefits and services) of the Budget Resolution and would lessen the impact of proposed VA nonservice-connected burial benefit restrictions on

certain survivors of deceased service-connected disabled veterans.

Specifically, it would assure that, in Fiscal Year 1982, the survivors of deceased veterans who were rated as being 20% or more service-connected disabled at time of death could make application for, and receive, the VA's nonservice-connected burial allowance benefit. In the "off years" of FY '83 and '84, your amendment would provide this same assurance to the survivors of deceased veterans who were rated as being 10% or more service-connected disabled at time of death.

Senator DeConcini, the Disabled American Veterans strongly supports your amendment.

In making this statement, I wish to underscore that our organization recognizes the inevitability of the Veterans Administration assuming its fair share of the economic "belt tightening" burden that has been placed upon virtually all federal departments and agencies. The significance of your amendment is that, while it in no way exempts the VA from the savings requirements of the Reconciliation Act, it does direct the impact of such savings away from the VA's most deserving beneficiaries—those who have incurred a service-related wound, injury or disease.

Again, the DAV strongly supports your amendment and we wish to thank you for taking this initiative on behalf of our nation's disabled veterans population.

Sincerely,

STAN PEALER,
National Commander.

Mr. DOMENICI. Mr. President, I inform the Senator from Arizona that we are prepared to accept the amendment. I understand there is no objection. Senator HOLLINGS is prepared to accept it. I hope we can minimize the time so that we can go to the Senator's second amendment and give other Senators an opportunity, also.

Mr. DECONCINI. I thank the distinguished chairman of the Budget Committee. I have been standing here with baited breath, waiting for those dear words.

Mr. DOMENICI. Mr. President, in my remarks indicating to the Senator from Arizona that we were prepared to accept the amendment, I failed to mention that I had conferred with the distinguished Senator from Wyoming, the chairman of the committee, and he had given me the OK. I believe he wishes to speak at this time, and I yield to him.

Mr. SIMPSON. Mr. President, I thank the chairman of the Budget Committee, and I particularly thank the Senator from Arizona for his contribution in this matter.

We have now had the opportunity to carefully review the figures presented and the differences in figures as evidenced by the Senator's amendment versus the committee's final action, and we find that this amendment will not violate our reconciliation instruction.

It simply reduces the figure from 30-percent disability for participation to 20 percent. It would include probably another 350,000 veterans in the process.

The amendment certainly is acceptable to the committee, now that we have the appropriate figures from CBO to deal with. If we had had those figures at the time of the committee meeting, I believe we would have the same result we will find here today.

Mr. DECONCINI. Mr. President, the Senator from Wyoming has been extremely helpful in this matter, as has the staff of the committee. He has scrutinized this problem to bring it to the attention of the Veterans' Affairs Committee. At the time the chairman and a majority of the committee voted in opposition to this restoration, there certainly was a question relating to the figures, as to whether or not we would be within the mandated amount, the reduction on which the Senate had voted. I appreciate their careful review of this matter and their willingness to accept it.

This is important to some 300,000 disabled American veterans. It is not a budget buster. It will keep us within the budget requirements and the reconciliation request from the entire Senate.

I thank the Senator from Wyoming.

Mr. CRANSTON. Mr. President, I strongly support, and am delighted to join as a cosponsor of, the amendment of the distinguished Senator from Arizona (Mr. DECONCINI), a strong, effective, and very active new member of the Veterans' Affairs Committee this year.

I would have thought that this amendment would be noncontroversial and I am really at a loss to understand why anyone would oppose it. All this amendment does is to minimize the effect of the veterans title of the reconciliation bill on service-connected disabled veterans to the extent that doing so is consistent with the reconciliation instructions in House Concurrent Resolution 115 for the Veterans' Affairs Committee for fiscal years 1982 through 1984.

Mr. President, perhaps a little background information on why the Veterans' Affairs Committee's recommendations include the unneeded savings in those years would be helpful. As it fairly obvious on the face of the legislation recommended by the Veterans' Affairs Committee, the effort was made to exclude, to the extent possible, all service-connected disabled veterans from the burial benefits reductions. Thus, in preparation for the committee's June 3 markup meeting on our reconciliation recommendations, committee staff obtain CBO estimates for provisions that would exclude service-connected disabled veterans with disability ratings ranging from 10 to 100 percent. Based on those estimates and the preliminary estimates that the committee had for the other provisions contained in the recommended legislation, and taking into account the fact that the estimates were unofficial and preliminary, it appeared possible to exclude only the 30 percent or more disabled veterans if we were to meet the savings requirement of the reconciliations instructions for our committee.

Following receipt of the official CBO estimates after the markup and with a little time to review and reassess the situation, it became clear that our committee's recommendations took away burial benefits from more service-connected disabled veterans than needed to be affected. This amendment would simply correct that situation and would restore cuts that are being needlessly proposed with respect to veterans who have disabilities that they incurred in the line of duty.

If the amendment were adopted, the recommended cuts in veterans' programs would still satisfy the reconciliation instructions.

I thus do not understand why there is any opposition to this amendment.

Mr. President, the Senator from Arizona (Mr. DECONCINI) has proposed an unquestionably sensible, prudent, and fair amendment that appropriately recognizes the high priority that the Veterans' Affairs Committee attaches to the veterans concerned—those with service-connected disabilities. I urge all my colleagues to vote for this amendment.

Mr. DOMENICI. Mr. President, I yield back the remainder of my time.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the names of the distinguished minority leader, Senator ROBERT C. BYRD, and the distinguished junior Senator from Maine (Mr. MITCHELL) be added as cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Arizona.

The amendment (UP No. 195) was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, I understand that we are going to proceed to the second DeConcini amendment. We have not seen it. It must be germane.

UP AMENDMENT NO. 196

Mr. DECONCINI. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arizona (Mr. DE CONCINI, for himself Mr. RANDOLPH, and Mr. MITCHELL) proposes an unprinted amendment numbered 196.

Mr. DECONCINI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 281, line 3, strike "$500,000,000" and insert in lieu thereof "$1,000,000,000"; on line 15 strike "$550,000,000" and insert in lieu thereof "$750,000,000"; and on line 21, strike "Government." and insert in lieu thereof "Government excepting nonadministrative defense activities."

Mr. DECONCINI. I ask unanimous consent that the name of the Senator from Maine (Mr. MITCHELL) be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, I want to begin by commending the Senate Governmental Affairs Committee

for recommending a cut of $500 million in Federal consultant services and $550 million in travel in fiscal year 1982. There is no question that these cutbacks are well justified in both of these areas, as study after study has shown time and time again.

However, Mr. President, I just do not think that the reductions proposed in this bill go far enough in these activities.

My amendment which I offer for myself, Senator RANDOLPH, and Senator MITCHELL would increase the reduction in consultant services from $500 million to $1 billion, and increase the proposed cut in travel from $550 million to $750 million. Furthermore, my amendment would make it clear that the proposed travel reduction would not be applied either to law enforcement activities or to nonadministrative defense travel and transportation.

Mr. President, my concern about abuse in the Federal travel budget and wasteful consultant services is nothing new. Since February I have twice attempted to amend both the reconciliation instruction resolution, Senate Resolution 9, and the first budget resolution, Senate Resolution 19, to effect savings of $750 million in nondefense travel and $1 billion in consultant services in fiscal 1982. Each time, my waste, fraud and abuse savings package was rejected by narrow margins. On April 3, I testified before the Senate Budget Committee to urge the committee to incorporate these and other savings into the first budget resolution for fiscal year 1982. No savings were built into the resolution by the committee.

Now, Mr. President, the Senate Governmental Affairs has reported savings in travel and consultant services—but they have not gone quite far enough. My amendment would bring both the travel cut and the cut in consultant services in line with identical cuts called for in my bill, S. 421, the General Government Expenditure Control and Efficiencies Act of 1981, which I introduced on February 5.

Mr. President, I will not spend the Senate's time repeating the myriad of examples of waste and abuse in both the Federal travel and consultants services budgets. Suffice it to say that the documentation is there. The time is now to stop studying the problem and do something about the abuses. And I know of no better way to start than to give the Federal Government less money to spend on travel and consultants.

Mr. President, just yesterday, the distinguished chairman and ranking minority member of the Senate Appropriations Committee, Senators HATFIELD and PROXMIRE, held the first of two hearings on waste, fraud, and abuse. Yesterday's hearing focused on travel, training, and consultant services.

The committee received testimony from a number of excellent witnesses, including Senators DAVID PRYOR of Arkansas, the Senate champion in attacking waste in the consulting business, and Edward Harper, Deputy Director of the Office of Management and Budget came and spent over an hour with the committee. The picture of abuses in the consulting services area painted by Senator PRYOR was not pretty. Example after example of wasteful expenditures on consultants left members of the committee shaking their heads. On the other hand, Mr. Harper of OMB seemed to indicate that OMB is serious about going after the major abuses in both travel and consultants in the coming fiscal year. But the President and OMB need help from Congress in waging this campaign against waste, fraud, and abuse in travel and consultant services.

Mr. President, when Federal agencies abuse their travel and consultant expenditure authorities, it does not hurt the secretary of the department or the administrator of an agency. It hurts the on-line worker in the field, or the public health nurse who needs to get to an Indian reservation to offer medical assistance to those who cannot help themselves. It hurts the veteran who must travel long distances to reach medical treatment at a VA hospital. It hurts the handicapped who need travel assistance to get around town. It also hurts those agencies that do spend their consultant money on proper, essential activities that require outside expertise.

Mr. President, the bottom line is that despite all of the GAO reports; despite all of the committee hearings; despite all of the internal audits—the waste continues. The only sure-fire way I know to make a dent in the waste and abuse in both travel and consultant services is to cut these funds and cut them sharply. My amendment would do just that.

Mr. President, my amendment is not new. It is pure and simple. If my colleagues want to "up the ante" in our "War on Waste", they will vote for my amendment and help save the beleaguered taxpayers of this country another $700 million in 1982.

I ask unanimous consent that a copy of my remarks before the Senate Budget Committee, where I discuss specific examples of waste in travel, consultant services, and other areas, be printed in the RECORD at the conclusion of my remarks.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR DENNIS DECONCINI

Mr. Chairman, I want to thank you for providing me with this opportunity to appear before the Senate Budget Committee as you continue to review and develop your revenue and spending assumptions for the First Budget Resolution for fiscal year 1982.

As you know, most of the time when outside witnesses appear before this Committee or the Senate Appropriations Committee of which I am a member, 99 times out of 100 they ask for more money, more spending, rather than less. I am pleased to say that I am appearing before you this afternoon to recommend several general government activities where I believe substantial cuts and savings can be achieved in fiscal year 1982. The recommendations that I will discuss today are not new, nor will they come as any surprise to the Chairman of this committee who just two days ago beat back my amendment to the Reconciliation Resolution which called for the same savings next year.

I am recommending to this Committee that they incorporate into their spending assumptions for fiscal year 1982 the following expenditure reductions and savings:

$750,000,000 in non-defense travel and transportation;

$1,000,000,000 in consultant services;

$150,000,000 in Federal public relations, public affairs, public information, and advertising activities;

$250,000,000 in Federal audiovisual and film making activities; and

$1,750,000,000 in Federal debt collection.

These reductions would save a total of $3,900,000,000 in budget authority next year, and, according to the Congressional Budget Office, $1,700,000,000 in outlays. These are the same savings that are continued in S. 421—the General Government Expenditure Control and Efficiencies Act of 1981—which I introduced on February 5th and which is currenly pending before the Senate Governmental Affairs Committee. At a time when less and less of the Federal budget is subject to discretionary action by the Congress, these are not insignificant savings. Let me take the next few minutes to explain why I believe that these specific, targeted savings in specific categories of government activity are both necessary and achievable.

TRAVEL: —$750,000,000

Mr. Chairman, I would recommend that the Committee incorporate into its budget assumptions for next year, savings of $750,000,000 in non-defense travel and transportation of things.

Although it is still not clear what the total Federal travel and transportation budget proposed by President Reagan will be in 1982, the Carter travel and transportation of persons and things for next year totalled approximately $12.6 billion. Under the Carter budget, defense related travel and transportation of things and people would total $7 billion leaving about $5.6 billion in civilian agency travel that would be subject to my proposed reduction of $750,000,000, or about 13 percent in non-defense travel and transportation next year. Let's take a look at what various reports and studies say about Federal travel.

An Office of Management and Budget/General Services Administration report on Federal travel issued earlier this year concluded that, over 26.8 percent of the reasons given by agencies to OMB for travel were—"unknown". A review of specific travel vouchers at the Department of Agriculture showed that over 72 percent of the causes purposes of travel were 'unknown'; at the Department of the Treasury, 83.6 percent of the trips were for unknown purposes; at HUD, a staggering 87.4 percent of the trips were for unknown purposes.

This same report revealed that more than 25 percent of the Federal travel budget goes for information meetings, training attendance, speeches, or presentations, and conference attendance by Federal bureaucrats. That makes over 51 percent of the Federal travel budget going for these low-priority activities or for purposes that are "unknown".

A General Accounting Office report issued just last December indicated that OMB had largely ignored GAO's recommendations for improving the management of Federal travel and gave a number of examples of wasteful travel practices at Federal agencies. For example, Agriculture's Forest Service has increased, by more than 50 percent, the number of external national conferences its employees can attend. Even though OMB and Forest Service policies suggest that attendance be held to a single individual, 76 Forest Service bureaucrats attended a conference sponsored by the Association of Government Accountants; 111 attended a Forest Products Research Society meeting; and 79 Forest Service staff attended a meeting of the Entomological Society of America—all at taxpayers expense. These are just a handful of

the findings of GAO and other organizations that have spent years studying the Federal travel budget. The level of savings that I am proposing would constitute about a 13 percent reduction in non-defense travel and transportation next year.

DEBT COLLECTION: —$1,750,000,000

As Senator Sasser indicated on the floor of the Senate two days ago, the Federal debt collection problem has been perhaps one of the most well-documented instances of waste, fraud, and abuse in the entire Federal government. It would take literally hours to go over the dozens of reports and studies that have examined this multi-billion dollar problem. Suffice it to say that, according to GAO, of the current $125.7 billion in government-wide receivables due, an estimated $6.3 billion will be uncollectible—enough to fund the NASA budget for an entire year. Of the $6.3 billion an estimated $3.9 billion constitutes uncollectible student loans, benefit over-payments, and other similar obligations due the Government, with the balance consisting of delinquent income taxes that the Internal Revenue Service has deemed "uncollectible". Most recently the Congressional Budget Office has indicated in its report entitled "Reducing the Federal Budget: Strategies and Examples, Fiscal Years 1982–1986" that a net savings of $1.6 billion could be achieved in fiscal year 1982 through improved debt collection efforts by the Executive Branch, and that cumulative savings of $8.4 billion over the next five years may be "conservative". So, Mr. Chairman, my recommended savings of $1,750,000,000 is an ambitious yet achievable goal.

AUDIOVISUAL AND FILM MAKING: —$250,000,000

This is an area of potential savings that President Reagan just recently identified as a good candidate for substantial reductions in fiscal year 1982, when he announced his War on Waste just the other week.

Perhaps the most comprehensive study of Federal audiovisual activities was done under contract by the Office of Telecommunications Policy and National Telecommunications and Information Administration in April of 1978. According to GSA's National Audiovisual Center, their findings are still applicable today. Here is what the report says. Federal agencies spend an estimated $500 million a year on all aspects of audiovisual activity and could be as high as $632.3 million. The report gave as an example of wasteful audiovisual activities the case of the military's chaplain services spending $1,963,000 over 3 years on motion pictures. In another case, an agency spent $125,000 on a motion picture, but lost track of where the film went or whether anyone saw it. Another agency planned to spend $4.5 million on audiovisual equipment for a one-shot training effort. The proposal included plans for a $100,000 television studio and purchase of 22,000 tape recorders and projectors at a cost of $2.3 million. Following the conclusion of the training program, the agency intended to put some equipment in storage and surplus the rest.

The National Audiovisual Center at GSA reports that the Federal Government is one of the largest owners of audiovisual facilities in the country, owning or leasing 1,519 audiovisual facilities, totaling 8.9 million square feet of space in fiscal year 1979. Since 1978 OMB has been trying unsuccessfully to force agencies to consolidate or even eliminate audio visual facilities that may be underutilized or nonessential to the Government's mission. Mr. Chairman, my proposed reduction of $250 million in this area would go a long way toward bringing the Federal film making and audiovisual functions under control.

CONSULTANT SERVICES: $1,000,000,000

Another area of waste, fraud and abuse that has been well-documented is the area of consultant services, contracts, and studies. Depending on whose definition you use, estimates of the amount Uncle Sam spends annually on consultant services ranges from as low as $400 million, estimated by OMB last year; to $2.4 billion as estimated in a Senate Appropriations Committee Investigative report done for Chairman Warren Magnuson; to multiples of this amount spent by the Department of Energy alone. My distinguished colleague Senator PRYOR of Arkansas, perhaps the Senate's leading expert in this area, has said "The number of consulting service arrangements the Government has, the cost, and the purposes for which they exist is still not available to even the President, the United States Congress or the American people." The National Tax Limitation Committee, in its report of February 15, 1981, on expenditure control opportunities, pointed to a Washington Post investigative study of consultants that showed that of the 13,848 contracts awarded to consultants and researchers reviewed, two-thirds were granted without competition, many were awarded to former Government officials, and numerous studies were completed that went virtually unread. The General Accounting Office in one of several reports on the consultant problem pointed to a $160,947 Office of Education contract that was awarded to survey the supply and demand of newly graduated teachers. This survey was delivered eleven months late at a cost of $325,920—more than double the original contract price. The National Tax Limitation Committee study concludes in its comprehensive report on spending cuts that restricting the use of consultants could save between $500 million and $1 billion per year in the Department of Energy alone, with potential Government-wide savings of $2–3 billion.

My recommendation to this committee calls for savings of $1 billion in consultant services next year.

PUBLIC AFFAIRS, PUBLIC RELATIONS, PUBLIC INFORMATION AND ADVERTISING: —$150,000,000

What about public affairs, public information, and public relations? Mr. Chairman, as I have said many times, Government is big business and like big business, the Federal Government is spending large amounts of its scarce resources on public relations, public affairs and public information programs which appear to be largely self-promotional A two-year comprehensive study of Federal spending programs by UPI investigative reporter Don Lambro revealed that both OMB and the Office of Personnel Management had privately estimated the cost of Government public relations, self-promotion and other public information activities of the Federal Government at over $1.5 billion a year. According to the White House Reorganization Project of 1978, more than 1,000 people from 29 different agencies are assigned to Congressional Relations at a cost of approximately $24 million. Other agency personnel work within the agency to promote agency programs and inundate the public with information, charts, pictures, press releases, and publications on various program matters. Mr. Lambro's research revealed that in the Department of Agriculture alone nearly 1,000 people are employed as information media workers to handle public information and public relations duties, while the Department of Defense has a press and public affairs staff of more than 316 people in the Pentagon with another 1,200 scattered around the country to handle DOD's public relations and press activities. Add to this the 459 public affairs staff at the Department of Health and Human Services and their budget of $25.4 million and it is clear that public affairs is big, big business in the Federal Government. My recommendation is that savings of $120 million could be realized in the area of public affairs next year.

Finally, in the area of advertising, the American Association of Advertising Agencies, Inc., has estimated that it spends approximately $144,300,000 a year on advertising, most of which is in the Department of Defense. The Congressional Budget Office in its report entitled "Reducing the Federal Budget: Strategies and Examples, Fiscal Years 1982–1986" indicated that $18 million in savings could be achieved by the military through the increased use of joint-service advertising. CBO suggests that the Department of Defense has found that, for certain purposes, joint-service advertising would be most cost-effective, pointing to tests that showed joint-service magazine advertising, for example, yields per dollar spent 1.5 times the number of applicant leads for recruiting as does single-service magazine advertising. The report goes on to say that joint-service advertising may also help to avoid undesirable interservice competition for recruits. Therefore I believe that savings of $30,000,000 could be achieved in advertising activities next year.

CONCLUSION

Mr. Chairman and members of the Committee, I know that the call for savings in the area of waste, fraud, and abuse often is met with derisive humor and disdain. I am pleased, however, to note that even during your opposition to my amendment to the Reconciliation Resolution, both you and Senator Hollings acknowledged the need to rid programs of fraud, abuse, and waste. Senator Hollings said that we should "try to eliminate waste, fraud, and abuse wherever it is". President Reagan just 10 days ago launched his own campaign to root out waste, fraud, and abuse in the Federal Government, and, as my colleague from Michigan, Senator Riegle said on the Senate floor the other day "turn the junkyard dogs loose" on this problem. President Reagan has estimated that his measures will save at least $7 billion of the $765 billion Federal budget. The General Accounting Office's chief accountant, Mr. Donald Scantlebury, told the House Budget Committee in early March that the Reagan Administration could save as much as $14 billion by implementing better management procedures that the GAO and others have recommended for years. Adoption of my savings and incorporation of these dollar-specific economy measures will represent a substantial downpayment on a long term effort to ferret out waste in Government in activities that do not affect the national defense; in programs that do not affect the poor, the elderly, the handicapped, or the veterans of this country.

Just this past week, there were dozens of roll call votes on amendments to add back funds for veterans programs; for the elderly; for school lunch programs; for mental health and nutrition programs; and for health immunizations. All but one of these amendments were defeated in the name of fiscal restraint and the need to reduce Federal spending. Well, I voted for some of those amendments and against others. But if we were to make the kind of expenditure reductions that I am recommending today, then we might be able to accommodate some of these essential social programs that serve so many of our most needy citizens, without busting the budget.

Mr. Chairman, again, I urge your Committee to give serious consideration to adopting the savings proposals that I have spelled out today. I pledge to work with your Committee to effect these savings and to work through my own Appropriations Committee to bring about these reductions.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the senior Senator from West Virginia (Mr. RANDOLPH) and Senator MITCHELL of Maine be recognized as cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, I assure the Senator from West Virginia that without his able assistance time after time when this matter has been brought to the Chamber in this Congress I do not believe we would have come as close as we have in the past.

I think it is an opportunity today to send clear signals to the people of this country that we are serious about reducing travel expenses for Federal Government nondefense, nonlaw enforcement travel and consulting fees.

I thank the Senator from West Virginia for his leadership in this area year after year, and for being an original cosponsor of this amendment.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SASSER. I am pleased to be a cosponsor of this amendment by Senator DECONCINI to further reduce nonessential Federal travel and consultant expenditures.

His amendment builds on the work that Senator PRYOR and I have done in the Governmental Affairs Committee in offering and having passed amendments to the Governmental Affairs Committee reconciliation instruction that reduce nonessential Federal travel and consultant spending by over $1 billion for 1982.

This also follows in the footsteps of my successful amendment to the 1980 budget which reduced nonessential Federal travel in that year by some $500 million.

In short, we have reduced these nonessential expenditures in the past, we can do so again by this amendment.

I commend Senator DECONCINI for his continued efforts to hold down nonessential Government travel and consultant use.

Mr. HEINZ. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HEINZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I say to the Senator from Pennsylvania that perhaps we could obtain the presence of the Senator from Illinois and maybe we could go ahead and take care of another amendment.

Mr. HEINZ. Yes; I think that is a good idea.

Mr. President, I call up amendment No. 102.

The PRESIDING OFFICER. The Chair informs the Senator that an amendment is pending.

Mr. HEINZ. An amendment is pending.

Mr. President, is it in order to ask unanimous consent to lay aside the DeConcini amendment to take up amendment No. 102?

The PRESIDING OFFICER. The Senator may ask unanimous consent so to do.

Mr. HEINZ. I do not wish to interrupt the progress of what is going on here, but apparently the Governmental Affairs Committee is not well represented in the Chamber.

Mr. DECONCINI. Mr. President, without the time being charged against this amendment on this side of the aisle, my concern is that I think I am on the verge of, perhaps, winning a victory here on behalf of cutting travel and consultants, and I would hesitate to object to any effort you want to bring up with respect to your amendment, because I think you certainly are entitled to it, waiting for it like I have for 2 days. But I have reduced my time to 10 minutes, 5 minutes on each side, on the amendment, and I would like to get the Committee on Governmental Affairs to come over and object to it or agree.

Mr. HEINZ. Mr. President, if the Senator will bear with me, would the Senator object to our proceeding for not to exceed 10 minutes on this, and temporarily laying his amendment aside?

Mr. DECONCINI. I would not object.

Mr. HEINZ. Mr. President, I ask unanimous consent that we temporarily lay aside the DeConcini amendment for not to exceed 10 minutes, and that we take up amendment numbered 102, with Senator PERCY's amendment, to which I will offer a perfecting amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 102

(Purpose: To modify the employer contribution requirements for State waivers relating to the cap on credit reductions under the Federal Unemployment Tax Act)

Mr. HEINZ. Mr. President, I send amendment 102 to the desk or it is at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ) on behalf of Mr. PERCY and Mr. DIXON proposes a printed amendment numbered 102:

On page 234, line 14, strike out "150 percent" and insert in lieu thereof "130 percent".

Mr. HEINZ. Mr. President, I am pleased that the budget reconciliation package includes the provisions of legislation that I introduced along with Senator BOREN, S. 507, to stabilize and improve the economic climate of Pennsylvania and the other States that owe the Federal unemployment compensation (UC) account some $6 billion.

My State has the dubious distinction of having the largest outstanding loan from the Federal UC account—Pennsylvania has defaulted on $1.5 billion of its Federal loans. I am therefore pleased that the UC loan reform package we worked out in the Senate Finance Committee not only addresses the problems that have plagued Pennsylvania's unemployment fund but also protects the taxpayer at large from unrestricted State borrowing in the future.

My legislation, which has won the endorsement of the Pennsylvania Chamber of Commerce, will help stabilize and improve the economic climate in Pennsylvania and other debtor States in the following ways:

First, it will allow employers in debtor States to receive relief from escalating penalties they would otherwise be forced to pay because of the failure of State government to behave responsibly.

Second, it provides strong incentives for avoiding repetition of the mistakes that produced massive State indebtedness.

Third, it insures timely repayment of outstanding State debt—but in a manner least disruptive of State economic climates.

Before explaining the specific provisions of the Finance Committee package in greater detail, let me briefly recap how the problem developed in Pennsylvania and other debtor States. A significant part of the problem can be traced to national economic problems whose impact is disproportionate on the industrial States of the Northeast and Midwest. Many of these problems result from a failure on the part of the Federal Government to act to redress inequities in Federal fund distribution between Sun Belt and Snow Belt, higher energy costs, deteriorating urban areas, a shrinking tax base, an inadequate trade policy, the problems of meeting the needs of large minority or disadvantaged populations, and a bias in our Tax Code against the capital-intensive industries upon which the economic base of the region depends.

As an example of the impact of increased joblessness on the solvency of State trust funds, consider the case of Pennsylvania, whose economy suffered a net loss of 185,000 manufacturing jobs from 1970 to 1979. Philadelphia alone lost 106,000 manufacturing jobs. This loss of manufacturing jobs has had a ripple effect throughout the State's economy: for example, one manufacturing job supports seven in the retail sector. Had Pennsylvania been able to retain all these lost jobs, the State UC system would now collect $500 million more in annual revenue than it now does.

Compounding the disproportionate impact of the recession in Pennsylvania were irresponsible actions at the State level in the past. Back in 1971, the Pennsylvania UC fund actually showed a surplus of $841 million. But action that subsequently liberalized benefits without corresponding tax increases quickly wiped out that surplus, resulting in a deficit that now stands at $1.5 billion.

Fortunately, Pennsylvania last year enacted a package of tax increases and benefit reductions whose combined effect is to provide the State UC system with an additional $540 million during the first year. The effect of this package is to increase State taxes on Pennsylvania employers by $716 million per year by 1986. Recognizing how important this package was to restoring the solvency of the State UC system, members of the Pennsylvania business community ac-

tively supported its passage. When is the last time any of us in Washington has seen business lobbyists beating down our doors asking that we impose additional taxes on them?

Having bitten the proverbial bullet, Pennsylvania now faces the prospect of seeing its efforts to attain a solvent UC system thwarted—and, in the process, a worsening of the joblessness that contributed to the State's financial plight. The reason is that employers in States like Pennsylvania that have defaulted on their Federal loans lose their Federal Unemployment Tax Act (FUTA) tax credits at the rate of 0.3 percent per year until the debt is repaid. In other words, if the State fails to manage its finances responsibly, employers pick up the tab. In Pennsylvania, employers have already lost 0.6 percent of their FUTA credits and stand to lose another 0.3 percent for taxable year 1981 unless Congress acts to provide relief before November.

Each 0.3 percent loss of FUTA credits translates into roughly $70 million in additional Federal payroll taxes—on top of the increased State taxes that employers in Pennsylvania are now paying as a result of last year's reform bill and on top of the basic 0.7 percent FUTA tax that employers in all States pay. The eventual loss of the entire 2.7 percent FUTA tax credits would result in employers in Pennsylvania and other debtor States paying five times the Federal payroll tax paid in other States. One need not have a Ph. D. in economics to predict the devastating impact that this combination of increased State taxes and quintuple taxation of jobs at the Federal level will have on the economies of debtor States—resulting in increased joblessness, further drains on the UC system, and added cost to the taxpayer, both Federal and State.

Avoiding this grim scenario is the objective of the Senate Finance Committee legislation. All States in default on their Federal loans can qualify for this relief—a freeze on employers' loss of FUTA tax credits at 0.6 percent—provided that they restore their UC funds to solvency and take no action whose net effect reduces the solvency of the State fund.

Solvency is a prerequisite for the 0.6 percent freeze for two very important reasons. The first is that the solvency requirement is the only way that this relief can be justified to the Federal taxpayer. If the States meet the solvency test, then they will not engage in such massive borrowing from the Federal account, which must in turn borrow to pay for the States' loans. The cost to the Federal taxpayer of this unrestricted State borrowing is massive.

The U.S. Labor Department has estimated that the cost to the Federal Treasury during fiscal year 1981 of the outstanding State loans is as high as $1 billion. That is more than the Senate Finance Committee cut from medicare during fiscal year 1982. That is about the same as the Senate Finance Committee cut from medicaid for fiscal year 1982. That is more than the annual savings to the Federal Treasury of eliminating the national trigger for payment of extended unemployment benefits, and more than the savings to the UC system resulting from redefining the insured unemployment rate. That is also more than the reductions the Finance Committee reconciliation package makes in aid to families with dependent children (AFDC). My colleagues on the Senate Finance Committee and I do not want to be forced to make further reductions in these and other social programs in the future just so that Governors or legislatures in debtor States can avoid politically unpopular decisions.

Solvency is a prerequisite for the 0.6 percent freeze in my legislation for a second and even more important reason. The reason is that it is not in the interests of Pennsylvania or any other State for the State UC fund to be allowed to go deeper into debt. Just as significant a deterrent to prospective employers as the Federal penalty tax is the magnitude of a State's debt. Any prospective employer considering locating in Pennsylvania realizes that he is going to have to eventually help repay the State's outstanding debt of $1.5 billion.

The employers in my State recognize that new employers will not be attracted to Pennsylvania unless that debt climbs no further and is eventually repaid. That is why the Pennsylvania Chamber of Commerce—representing small business, medium-sized business, big business—has an official position on the issue of UC loan reform which reads in part:

> The Federal loan program should be changed to insure timely repayment of outstanding State loans in a manner that is least disruptive to a State's economy, while insuring that the State's UC fund remains solvent, and discouraging further State borrowing on the scale that took place in the 1970's.

Similarly, a column by the president of the Pennsylvania Chamber of Commerce that appeared in its May 18, 1981 newsletter reads:

> Continued borrowing without ensuring the means for repayment is, in effect, imposing a tax increase on Pennsylvania employers.

Mr. President, I ask unanimous consent that a summary of a meeting that the chamber's leadership and Labor Secretary Raymond Donovan recently had in my office be inserted in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, D.C., May 26, 1981.

Hon. RAYMOND DONOVAN,
Secretary,
U.S. Department of Labor,
Washington, D.C.

DEAR MR. SECRETARY: Thank you for taking the time out of your busy schedule last Wednesday to join representatives of the Pennsylvania Chamber of Commerce in my office to discuss pending Federal legislation to reform the unemployment compensation (UC) loan system.

To reiterate the concerns expressed by the Pennsylvania business community, any Federal "freeze" legislation must not allow the massive indebtedness of the seventies to recur. The economic climate of Pennsylvania and other States that have defaulted on their Federal loans depends not only upon freezing employers' loss of Federal Unemployment Tax Act (FUTA) tax credits at .6 percent but also upon timely repayment of outstanding debt, which serves as a significant deterrent to prospective new employers. Although it is recognized that the Senate Finance Committee loan reform package may be modified in the House Ways and Means Committee so that Illinois can also qualify for relief, these changes should not remove the carefully crafted incentive for State fund solvency.

I was also pleased to learn that preliminary estimates of your Actuarial Services Division indicate that Pennsylvania's UC fund will be solvent in 1982, therefore qualifying for a .6 percent freeze on employers loss of FUTA credits and avoiding an interest payment before 1983 at the earliest. Once these estimates are in final form, they should alleviate any concern that Pennsylvania officials have expressed regarding the impact of the Finance Committee package on our State.

Finally, I want to express my gratitude for the responsiveness of your staff to the request for a meeting and for statistical data. In particular, Don Shasteen, Deputy Under Secretary for Legislation and Intergovernmental Relations, was most helpful in arranging the meeting with representatives of the Pennsylvania business community. In addition, Jim Van Erden of the Division of Actuarial Services has been most responsive to requests for technical information.

I appreciate the opportunity to work with you in developing the Reagan Administration position on this matter and look forward to a continuing dialogue on Labor Department matters pending before the Senate Finance Committee.

Sincerely,

JOHN HEINZ,
U.S. Senate.

Mr. HEINZ. Mr. President, although State officials in a few States have recently sought a complete waiver from the solvency requirement, those who actually pay the bills for State borrowing—the employers—know how essential retaining this provision is. In the case of Pennsylvania, the U.S. Department of Labor projects that the reforms enacted by the legislature last year will have restored the State fund to solvency by 1982. Congress would be committing a gross error to remove the incentive for other States to undertake similar efforts. In fact, there seems to be recognition of the need for a solvency requirement on the House side as well, as evidenced by a letter sent to the President recently by Representatives W. HENSON MOORE, L. A. (SKIP) BAFALIS, BILL FRENZEL, JOHN ROUSSELOT, and BARBER B. CONABLE, JR. I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., June 4, 1981.

President RONALD REAGAN,
The White House,
Washington, D.C.

DEAR PRESIDENT REAGAN: We are concerned about rumors we have heard this week to the effect that your Administration may oppose legislation being considered in Congress which would strengthen the solvency of the State unemployment compensation programs and at the same time improve the federal budget situation.

Under current law, a state may borrow on an interest free basis from the federal government to cover state unemployment benefits. If this loan is not repaid within two years, the federal unemployment tax credit

is reduced by 0.3 percent annually until the reduction has generated enough revenue to repay the loan.

The Senate Finance Committee has already included in its reconciliation bill provisions to begin charging states interest on new loans. The Senate bill also provides some relief for states from the tax credit reduction, provided that the states meet certain solvency requirements. Both provisions are intended to minimize further borrowing in out-years.

Here in the Ways and Means Committee, we have an agreement with Chairman Rostenkowski that similar legislation will be worked out in time for us to have a position when we go to Conference with the Senate. A bipartisan group of members of the Committee has been working to develop a proposal which can get the necessary votes, will yield net Federal budget savings, and will provide some modest relief to recession-impacted states. A change in Administration position now will destroy this effort.

We believe this legislation is the right course of action. The Federal government is paying several hundred million dollars a year debt service on the funds lent to state governments on an interest free basis. Currently over $6 billion is outstanding on these interest free loans, to which will be added an estimated $3.3 billion in Fiscal 1982, another $2.5 billion in Fiscal 1983, and so on through the 1980's.

While some of this state borrowing has been an unavoidable result of recessionary pressures, much of the outstanding balance is due to the unwillingness of a number of state governments to bring their unemployment compensation taxes and benefits into balance. Some of the current indebtedness is also due to the suspension for several years under the Carter Administration of the reduction in the federal tax credit.

However, we believe it is now time to begin collecting these outstanding loans, to charge interest on new borrowing and on old loans if they are not repaid within a reasonable period of time; and to encourage states to bring their unemployment taxes and benefits into better balance. These provisions, fortuitously, would also improve the federal budget situation.

When we first embarked on efforts to secure passage of such legislation, we expected support from your Administration, whose spokesmen have encouraged us repeatedly to seek additional ways to cut federal outlays and bring the budget into balance. But now we are hearing that several Republican governors who are up for reelection have been making the rounds of Administration officials to plead their case for "business as usual" regarding unemployment compensation. They understandably shy away from presiding over the benefit reductions or the tax increases that must occur if their state unemployment systems are to recover from bankruptcy in this decade.

We, of course, have been hearing the same things from the same states. But after looking at the experience in other states which have managed to maintain solvent systems despite the recession, we are not inclined to go overboard in accommodating the politically motivated pleadings of two or three politicians who have inherited admittedly difficult situations. We understand that these governors have had more success in presenting their concerns to James Medas on the staff of the Office of Intergovernmental Affairs, who, in turn, has sought to change Administration policy to accommodate this political situation at the expense of the budget policy.

Not only do we object to the substance of this possible shift in policy, but we are also extremely concerned about its timing. We expect to begin next week to mark up the tax bill and, as is well known, a major concern among Majority members in the House and on the Committee is the impact a large FY 1982 tax cut could have on the budget deficit. There could not be a worse time to announce a policy that would increase the deficit by several hundred million dollars.

The states which owe large amounts to the federal government are seeking relief from the escalating federal unemployment tax credit reduction that will occur until their loans are repaid. While we might consider accommodating them up to a point on this issue, we would only want to do so in the context of a package that did not have a net negative impact on the Federal budget. However, if the credit reduction is capped at a relatively low level—say 0.6 percent—some states will just continue to borrow indefinitely without reforming their programs. Charging interest appears to us to be the best way to generate revenues to offset the loss associated with the freeze on the credit reduction while encouraging long term solvency.

However, if we cap the federal credit reduction in the near term and begin to charge interest only in the far term, the negative impact on the federal budget in the intervening years would be substantial. We could not in good conscience agree to such a measure. We recall reading that soon after taking office you instructed your staff to consider policy options on their merits, and to ignore partisan political considerations. We believe that where the unemployment compensation system is involved, this is particularly good advice.

Under present law, states will repay their outstanding debts through the tax credit reduction, which will soon begin rising precipitously in several cases. We think there are better ways of collecting this debt and encouraging future solvency. However, if the alternative is to raid the Federal budget, we would prefer simply to maintain present law.

Our informal discussions of this issue are continuing, and we expect that if resolution can be reached on some basic principles, markup on the unemployment compensation borrowing issue will be promptly scheduled. We therefore would appreciate an early opportunity to review this issue and get a clear signal from the Administration on whether this item is being viewed as a spending or a savings proposal.

Sincerely,

L. A. (SKIP) BAFALIS,
BILL FRENZEL,
W. HENSON MOORE,
JOHN ROUSSELOT,
BARBER B. CONABLE, Jr.

Mr. HEINZ. In closing, Mr. President, let me express my hope that the House Ways and Means Committee will act expeditiously on a companion to my legislation before House and Senate conferees begin their work on the budget reconciliation package, and that the House Ways and Means Committee will produce a responsible package that contains the necessary solvency requirements. I am particularly concerned about reports that have circulated in recent weeks to the effect that the House may base eligibility for a freeze on benefit cost rates, thereby providing a strong incentive for continued borrowing rather than fund solvency. I ask unanimous consent that there be printed in the RECORD a letter I recently sent the the Office of Management and Budget regarding the benefit cost rate proposal.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, D.C., June 3, 1981.

Hon. DAVID STOCKMAN,
Director, Office of Management and Budget, Washington, D.C.

DEAR DAVE: This is to request that the Office of Management and Budget analyze an amendment that may be proposed to the budget reconciliation package approved by the Senate Finance Committee.

As you know, the Finance Committee bill includes the provisions of legislation I introduced designed to improve the economic climate of Pennsylvania and other States, mostly industrial States of the Northeast and Midwest, that have defaulted on their unemployment compensation (UC) trust fund loans from the Federal account. Specifically, the legislation allows employers in debtor States to qualify for a freeze on the loss of their Federal Unemployment Tax Act (FUTA) tax credits at .6 percent provided that the defaulting State maintains a solvent UC trust fund in the future. As a further incentive for State solvency, any future borrowing for other than cash flow purposes would be subject to an interest charge assessed on the State rather than making employers bear the burden directly.

Since Senate Finance Committee approval of the UC loan reform package, there has been discussion of a change to the legislation allowing the States of Pennsylvania, Michigan, Delaware, Rhode Island, Connecticut, New Jersey, and Illinois—all of whose Governors signed a March 27 letter to Labor Secretary Raymond Donovan—to qualify for the .6 percent freeze. The implication of the discussion has been that without changes to the Finance Committee package, these States could not qualify for relief. In fact, all seven of these States—plus any other State in default on its Federal loans—can qualify for the freeze, provided the State UC fund is solvent during the year in which the freeze is sought.

The changes being sought by State officials of some of the debtor States are a liberalized waiver from the solvency requirement contained in the legislation; i.e., allowing any State to qualify for the .6 percent freeze regardless of whether it maintains a solvent trust fund and regardless of what action it might make to tax and benefit levels affecting the solvency of the State fund. As the Finance Committee package is now drafted, a waiver from the solvency requirement is available only if a State is in the midst of a severe recession and already imposes relatively high rates of taxation. Specifically, the measure employed is extended benefit payments for at least six months during the year and an average tax rate as a percentage of total wages at least 150 percent of the national average. This waiver is supposed to be available on an emergency basis only since a waiver for which all debtor States are projected to qualify would violate a basic objective of the Senate Finance Committee legislation; i.e., that State funds be restored to solvency.

Despite projections by the U.S. Department of Labor showing Pennsylvania's UC fund borrowing for cash flow purposes only during 1982, the Pennsylvania Department of Labor and Industry has proposed an alternative formula that would allow Pennsylvania and some other debtor States a waiver from the solvency requirement while not affecting eligibility for the .6 percent freeze. Rather than defining a recession on the basis of extended benefit payments, this alternative proposal made by the Pennsylvania De-

partment of Labor and Industry would define a recession as a year in which a State's benefit cost rate (BCR) was at least 120 percent of the average of the preceding two years. Under this proposal, BCR is defined as the ratio of benefit costs to taxable wages.

My request is that your staff analyze the alternative proposal made by the Pennsylvania Department of Labor and Industry to determine whether it is reliable as an indicator of whether a State confronts an unanticipated recession and thus reasonably cannot be expected to maintain its UC fund on a "pay as you go" basis. Specifically, we would like your staff to consider the following:

(1) Does the BCR measure the impact of a recession only, or does it also reflect relative benefit levels?

(2) Would such a measure encourage States to maintain high levels of benefits relative to taxes?

(3) Are taxable wages, which vary from State to State and overtime, more relevant than total wages for making interstate comparisons?

(4) Does the BCR correspond with the insured unemployment rate (IUR) as a measure of a recession?

(5) Does basing the definition of a recession upon the BCR allow all States in the midst of a severe, unanticipated recession to qualify while excluding those States whose economies are relatively robust relative to other States or relative to their own past economic performance?

To assist your staff in making this evaluation, I am enclosing a table displaying for 11 debtor States the following information: the 1981 BCR, the average BCR from 1971–80, the ratio of the 1981 BCR to the average for the preceding ten years, the rate of insured unemployment for the most recent 13-week period, the IUR as a percentage of the IUR for the comparable 13-week period for the preceding two years, the taxable wage base, and the average tax rate as a percentage of total wages. I am now in the process of securing this same information for all States and shall make it available to you once I have received it.

Thank you for your prompt attention to this request.

Please do not hesitate to contact me if you have any questions or require additional information.

Sincerely,

JOHN HEINZ,
U.S. Senate.

STATISTICAL DATA RELEVANT FOR CONSIDERATION OF ALTERNATIVE RECESSIONARY WAIVER CRITERIA, PROPOSED BY PENNSYLVANIA DEPARTMENT OF LABOR AND INDUSTRY

State	Benefit cost rate 1981	Benefit cost rate average: 1971–80	Ratio: 1981 benefit credit rate 10-yr average
Pennsylvania	6.07	4.07	1.49
Illinois	5.36	2.97	1.80
Michigan	8.63	3.85	2.24
New Jersey	4.64	4.21	1.10
Connecticut	2.48	3.62	.69
Rhode Island	4.80	4.21	1.14
Delaware	4.22	3.17	1.33
District of Columbia	3.99	2.93	1.36
Maine	3.79	3.12	1.21
Puerto Rico	2.72	2.91	.93
Vermont	4.07	3.26	1.25

Note: The benefit cost rate (BCR) is the ratio of benefit costs to taxable wages. If the ratio if the 1981 BCR to its average from 1971–80 is at least 1.2, the State meets the recessionary waiver criteria under this proposal.

STATISTICAL DATA RELEVANT FOR CONSIDERATION OF ALTERNATIVE RECESSIONARY WAIVER CRITERIA, PROPOSED BY PENNSYLVANIA DEPARTMENT OF LABOR AND INDUSTRY

State	IUR: 13 weeks ending May 5, a 1981 (percent)	IUR as percent of previous 2 yr	1981 taxable wage base	1980 average tax rate: Percent of total wages [1]
Pennsylvania	5.09	95	$6,300	2.1
Illinois	5.73	140	6,000	1.5
Michigan	[2] 8.58	113	6,000	1.6
New Jersey	5.77	93	7,500	1.7
Connecticut	[2] 2.74	100	6,000	1.1
Rhode Island	5.95	97	7,800	2.5
Delaware	3.73	118	6,000	1.1
District of Columbia	2.81	103	6,000	1.3
Maine	5.40	99	6,000	1.6
Puerto Rico	9.52	95	6,000	3.0
Vermont	5.01	110	6,000	1.8

[1] National average equals 1.1 percent.
[2] 13-week period ending May 9, 1981.

Mr. HEINZ. Mr. President, in order to save the time of the Senate, I am calling up Senator PERCY's amendment which he has been in the forefront of advancing to solve a problem with the unemployment compensation trust funds in the State of Illinois. He will be here in a minute to speak for himself, but it is my intention, together with Senator DOLE, to offer a perfecting amendment to Senator PERCY's amendment.

I am going to send the perfecting amendment to the desk now, and while the amendment is being sent to the desk, Mr. President, let me say that the amendment I send to the desk will change Senator PERCY's amendment in two ways: First, it requires an average employer contribution rate (as a percentage of total wages) at least 150 percent of the national average for the taxable year in question.

The second change in the recessionary waiver provision that in order to qualify, a State must have an average total unemployment rate for the preceding 3 taxable years exceeding 110 percent of the national average.

My amendment would not remove the carefully crafted incentives for State UC fund solvency contained in the Senate Finance Committee package. At the same time, however, this amendment would allow a temporary waiver for States experiencing severe economic distress—but only provided that the State has taken decisive action to restore its UC system to solvency.

It is our intent to try to address the problems in Illinois through this amendment, but subject to a caveat.

This amendment does not do everything that Senator PERCY would like it to do. It is our intention to go to conference with the House—and I will let Senator DOLE speak on that in a moment—and providing that the House of Representatives does not seek to change the interest on new borrowing provisions in our bill which take effect in fiscal 1982, we would then intend, it would be our intention, to agree in conference to the 135 percent Senator PERCY has in his original amendment.

Before closing, Mr. President, I want to express my gratitude to officials in my own State of Pennsylvania for their assistance in drafting this amendment. Fortunately, Pennsylvania's UC fund is projected to be solvent for 1982, according to the U.S. Department of Labor. But because of their concern that these forecasts may not be correct, Pennsylvania Governor Dick Thornburgh and his staff have been very helpful and cooperative in working with me and with Senator PERCY and Governor Thompson to develop this amendment so that our common goals of improving the economic climate of the Northeast-Midwest industrial States can be attained. In particular, I would like to express my sincere appreciation for the assistance provided by the Secretary of Pennsylvania's Department of Labor and Industry, Charlie Lieberth; his deputy, Barry Stern; the director of Governor Thornburgh's Washington Office, Gwen King; and the associate director, Trish Fortier. Without the assistance and cooperation of Governor Thornburgh and his staff, this amendment and its passage would not have been possible.

I think if we can maintain the integrity of this bill, with the interest on new borrowings in 1982, then we can accept Senator PERCY's numbers and meet his intent and solve any of the problems in his State.

I yield to my friend and colleague, Senator DOLE, for any comments he cares to make.

Mr. DOLE. Mr. President, I want to thank the Senator from Pennsylvania. Do I understand the amendment of the Senator from Illinois and the Senator from Pennsylvania has been modified?

Mr. HEINZ. There is pending my perfecting amendment to Senator PERCY's amendment. I believe Senator PERCY will accept that.

Mr. DOLE. As I understand, that would change only the figure on page 1 of the amendment from 150 percent to 135 percent.

Mr. HEINZ. The other way around.

Mr. DOLE. Change 135 percent to 150 percent.

Mr. HEINZ. The Senator is correct.

Mr. DOLE. I want to first say I appreciate the diligence of the Senators from Pennsylvania and Illinois. I think we can reach an agreement here that will satisfy both Senators from Illinois and from Pennsylvania once we have completed the conference.

Under current law, a State which defaults on repaying loans from the Federal unemployment account is subject to an additional Federal penalty tax. This penalty tax escalates by 0.3 percent of taxable payroll for each year in default. The funds collected from this penalty tax are used to repay the delinquent State's outstanding loan from the Federal account.

Under the Finance Committee loan

reform package, we would allow this penalty tax to be frozen at 0.6 percent, but only if the State can show it is running a solvent program, that is, not borrowing more from the Federal Government.

There is, however, an exception to the solvency requirement for States experiencing a recession. Under this recessionary waiver, a State for 2 years can have net borrowing from the Federal UC accounts and still qualify for a cap on the otherwise applicable penalty tax.

In order to qualify for this recessionary waiver the Finance Committee requires that the State meet two requirements:

First, the State must show it has had a significant increase in unemployment as evidenced by its paying at least 6 months of extended benefits.

Second, the State has undertaken a significant taxing effort as evidenced by a tax rate of at least 150 percent of the national average.

The Heinz-Percy amendment would make only one significant change in this solvency standard. It would replace the 6 months of extended benefits requirement with the requirement that in order to qualify for a recessionary waiver, the State must have at least 110 percent of the national average of total unemployment.

I believe when Senator PERCY arrives—and I see Senator DIXON on the floor—we can find something to accommodate not only the questions or the concerns of those in Pennsylvania—and I understand perhaps Arkansas if there are concerns there—but also the concerns in the State of Illinois.

I have discussed this with Senator PERCY, and briefly with Senator DIXON, and also with Governor Thompson, and I think the one thing we are concerned about we can discuss either now when Senator PERCY—both Senators from Illinois are here or later.

I reserve the remainder of my time unless Senator DIXON may want to speak.

Mr. HEINZ. Mr. President, I want to yield to the Senator from Illinois (Mr. PERCY).

The PRESIDING OFFICER. The Senator from Illinois.

Mr. PERCY. Mr. President, I thank my distinguished colleague.

I want to express my appreciation to him for his spirit of cooperation, and the assistance he has rendered to me in his capacity as a member of the Finance Committee in trying to work out a compromise.

As he knows, the State of Illinois is in a very difficult position with the second highest unemployment rate in the country, second only to Michigan, a situation we have endured for quite some time.

We have had a quite a struggle within the State over what can be done to bring our trust fund into solvency. Illinois has been going deeper and deeper in debt because of its unemployment problem.

I am pleased to say that our Governor, Jim Thompson who has been here twice this week because of the urgency of this issue has worked out an agreement on changes in the UI system with both organized labor and the business community in Illinois that will add to State unemployment trust fund revenues, in a combination of reduced benefits and increased taxation, about $422 million a year. Illinois will be working toward a position of solvency. Unless unemployment increases dramatically—and we are counting on the administration's economic recovery program to turn the economy around—we anticipate that, under the proposed changes in law we will be solvent by the end of next year.

Because the State of Illinois is doing its best, under the circumstances, we ask that consideration be given to the Illinois—and Pennsylvania—situations under the current language of the committee bill.

Mr. President, section 746 of S. 1377, the Omnibus Reconciliation Act of 1981, would revise current law with respect to the treatment of loans made to States from the Federal Unemployment Trust Fund. These revisions, as adopted by the Senate Finance Committee on May 5, would provide additional incentives for the repayment of outstanding loans and would give affected States the opportunity to qualify for relief from the current law's escalating penalty tax.

This tax is levied on employers in defaulting States if repayment has not been made within the time period specified by law. So long as a State remains in debt, the Federal tax is increased by an additional 0.3 percent per year, until the total Federal tax reaches a level of 3.4 percent or until the loan principal has been fully recovered.

The original amendment introduced by my distinguished colleague, Senator DIXON, and I was offered as a way of addressing the particular situation in which our State of Illinois currently finds itself. Specifically, it would have modified the bill's language to enable Illinois to qualify under the recessionary waiver provision of section 746 for a freeze of the penalty tax level at 0.6 percent, as allowed by the language adopted by the Senate Finance Committee.

In the bill as reported, a State can qualify for the cap on the penalty tax under either one of two circumstances: if the State's unemployment trust fund is solvent; or if a State is suffering unusually high unemployment and, therefore, unusually heavy drains from its unemployment trust fund. This second provision constitutes the recessionary waiver, in the bill and a State can qualify for it only if it has been paying extended unemployment benefits for the last 26 weeks and the State's unemployment tax rate is 150 percent or more of the national average for employer taxes.

The amendment we originally considered would enable Illinois to qualify for the recessionary waiver at the end of next year by reducing the average tax requirement in the bill from 150 to 130 percent. This amendment allowed Illinois to qualify for the cap at a lower rate of tax than is now required in the committee's language, but it nonetheless would have required of our State a tax effort well above the national average. Unfortunately the managers of the bill could not accept this reduction.

Illinois is currently suffering from the second highest unemployment rate in the country, 8.7 percent. At the end of this year, its debt to the Federal Unemployment Trust Fund will be approximately $2 billion. By any reasonable criteria, Illinois is in a recession.

Last week, our Governor, James R. Thompson, State legislative leaders, and representatives of the business and labor communities reached an agreement on a package of major legislative changes in the State UI law which will increase employer taxes and reduce benefits, for a total increase in revenues to the State trust fund next year of $422 million.

Mr. President, I ask unanimous consent that the release dated June 18, announcing the agreement be printed in the RECORD at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PERCY. I ask further consent that the list of Government, business and labor leaders who participated in this decision be printed in the RECORD at this point. These men and women are to be commended for their diligence and perseverance at this critical moment in our State's economic situation.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. PERCY. Mr. President, enactment of this package of changes, which could occur as early as this week, will enable Illinois to reduce the amount of its anticipated borrowing next spring by nearly one-half; eliminate the need to borrow thereafter; and return the State's trust fund to a balanced condition by the end of 1982. I know that I speak for Senator DIXON as well as myself in saying I believe this agreement is a substantial and significant good-faith effort on the part of the State of Illinois to strengthen its unemployment insurance system.

In light of this impending action in its own behalf, we believe it would be unfair to exclude Illinois from eligibility for the relief provided in the bill for States who make the effort to get their own houses in order. We have worked with Senator HEINZ and with Chairman DOLE of the Finance Committee on this problem and agreed to seek a compromise with them on our original proposal, one that would be acceptable to the Finance Committee, that would enable Illinois to qualify for the 0.6 percent cap on the penalty tax at the end of next year while still requiring the State, as I mentioned earlier, to make a tax effort well above the national average. To assist our State here today will make a great deal of difference in the ability of our State's employers to recover from the current economic situa-

tion and, in the long run, will contribute to a sounder unemployment trust fund in Illinois.

Finally, Mr. President, I am pleased to mention that, through the effort of our Governor, James R. Thompson, we received a commitment from the administration that it will not oppose any amendment to S. 1377, the purpose of which is to qualify Illinois for a cap in the penalty tax under the recessionary waiver provision.

I have a question for my colleagues on their intentions with respect to this amendment when the bill gets to conference.

EXHIBIT 1

SPRINGFIELD, ILL., June 18.—Agreement on a $497.3 million package of benefit and tax reforms in the State's Unemployment Insurance system was reached Thursday at a summit meeting in the Executive Mansion, Governor James R. Thompson and legislative leaders announced.

"The reform package is an equitable compromise in which both labor and business have made significant sacrifices for the betterment of all who live and work in Illinois," the Governor said.

"Their agreement will not only reinforce the original purpose of the Unemployment Insurance system by eliminating significant inequities, but it will also have a real and positive impact on the fiscal condition of the State's Unemployment Insurance Trust Fund.

"This is a great day for employers, labor and all working men and women in Illinois," the Governor said. "I am particularly grateful to the men and women who worked night and day for the past two-and-a-half days to reach this most vital settlement."

The Governor and legislative leaders convened the group on Tuesday in the Executive Mansion to deal with the problems facing the State's Unemployment Insurance system. Illinois now owes the federal government $1.4 billion and that figure could reach $2 billion by the end of the year if changes are not made.

"As a result of this agreement, the State will be able to reduce the anticipated amount of borrowing from the federal government for next spring, and it will eliminate the need to borrow thereafter, as well as eventually returning the Trust Fund to a balanced condition," the Governor said.

Included in the agreement, which will be submitted to the General Assembly for their approval, will be the following changes in benefits:

The maximum benefit amount will be frozen at the July 1981 level through January 1982. One half of the July 1982 adjustment in maximum benefits will be implemented rather than the full adjustment. Thereafter, maximum benefits will be adjusted every January rather than twice a year as they are now.

Those persons voluntarily quitting their jobs will be disqualified for benefits until they earn an amount equal to their weekly benefit amount in each of four weeks.

Those persons fired for misconduct will be disqualified for benefits until they earn an amount equal to their weekly benefit amount in each of four weeks.

Those persons refusing suitable work will be disqualified for benefits until they earn an amount equal to their weekly benefit amount in each of four weeks.

A claimant's first week of unemployment will not be compensated.

Qualifying wages will be increased from $1,400 to $1,600 with the required earnings outside the highest quarter of earnings increased from $385 to $440.

Vacation and holiday pay will be deductible from the weekly benefit amount.

The period of recoupment by the State for overpayments will be increased from one year to three years.

The definition of "base period" will be changed to the first four of the last five completed calendar quarters.

A special Management Task Force will be created to review the operations of the Bureau of Employment Security and recommend ways to improve internal management and services to both employers and employees. The Task Force will also consider such areas as establishing a standard for prompt decisions by adjudicators, improving job search programs, seeking adjustments in the Federal methods for distributing administrative funds, and other areas.

The combined dollar impact of these benefit cuts is $256.5 million. The Bureau of Employment Security projects that total benefit expenditures for calendar year 1982 will be $1.003 billion. Without these changes expenditures would have been $1.26 billion.

The following changes will be made on the tax side of the system:

The minimum tax rate will be increased from 0.1 per cent to 0.2 per cent.

The state emergency surcharge will be increased from 0.3 per cent to 0.4 per cent.

The taxable wage base will be increased from $6,500 to $7,000.

The maximum tax rate will be increased from 5 per cent to 5.3 per cent.

Employers with a total payroll of less than $50,000 a quarter will be charged a maximum rate of 2.7 per cent for that quarter.

Interest on delinquent tax payments will be increased from 1 per cent to 2 per cent. Penalty charges for late filing of employer reports will also be increased.

The impact of the tax changes is $165.8 million, As a result, the Trust Fund is projected to achieve a balanced cash flow by the end of calendar year 1982. In addition to these tax changes, Illinois employers are paying $75 million for the Federal penalty tax, which goes toward repaying the State's existing debt.

The total amount from the tax changes and the penalty tax is $240.8 million.

Employers revenue

(In millions)

Increase the minimum tax rate from 0.1 to 0.2 percent	$2
Increase state surcharge from 0.3 to 0.4 percent	27
Increase the taxable wage base from $6,500 to $7,000	54
Increase the maximum tax rate from 5.0 to 5.3 percent	34.8
Maximum tax rate of 2.7 percent for each quarter of less than $50,000 of total wages	44
Increase interest from 1 to 2 percent.	
Increase penalties	4
Subtotal	165.8
FUTA—Penalty Tax	75.0
Total	240.8

Unemployment benefits

Sec. 237 Re-define base period as first four of last five completed calendar quarters	
Sec. 401 Maximum benefit levels frozen at July 1981 level; ½ of July 1982 levels increased	72.5
Sec. 402 Vacation and Holiday pay is deductible from WBA	5.0
Sec. 500 Restore waiting week; qualifying wage 1,600/440	69.0
Sec. 601 Disqualification for voluntary quits	58.0
Sec. 602 Disqualification for misconduct	44.0
Sec. 603. Disqualification for refusal suitable work	4.0
Sec. 702 Establish a standard for promptness for claim adjudicators decisions	
Sec. 900 Three year recoupment at 25 percent of WBA	4.0
Total	256.5

The summit meeting on Unemployment Insurance was attended by:

Lester W. Brann, President, Ill. State Chamber of Commerce.

Robert Swaim, Manager, Legislative Dept., Ill. State Chamber of Commerce.

Hugh L. Muncy, President, Ill. Retail Merchants Assn.

E. Tucker Olson, V. President-Law, Ill. Retail Merchants Assn.

Robert G. Gibson, President, Ill. State AFL–CIO.

Richard Walsh, Legislative Director, Ill. State AFL–C O.

Orville V. Bergren, President, Ill. Manufacturers Association.

Bill Shaw, Director of Industrial Relations, Ill. Manufacturers Association.

James L. Wright, Director, United Auto Workers, Region 4.

Mike Klein, Legislative Director, United Auto Workers.

John Venardos, Exec. Vice Pres., Associated Employers of Illinois.

Mischa Rubin, Public Member, Employment Security Advisory Board.

Janet Otwell, Public Member, Employment Security Advisory Board.

Dean Kimmerly, Public Member, Employment Security Advisory Board.

Les Kuczynski, Legal Counsel, Ill. Bureau of Employment Security.

William M. Brogan, Vice President, International Union of Operating Engineers.

Philip J. Rock, President, Senate.

Aldo A. DeAngelis, Senator.

Robert Keats, Senator.

Frank D. Savickas, Senator.

Earlean Collins, Senator.

Glen V. Dawson, Senator.

Bruce A. Farley, Representative.

Fred J. Tuerk, Representative.

Calvin W. Schuneman, Representative.

Jim McPike, Representative.

Jim Spizzo, Legal Counsel, Senate Republican Staff.

Eric Strickland, Legislative Analyst, House Republican Staff.

Nick Cetwinski, Legislative Analyst, Senate Democratic Staff.

Terry Bedgood, Governor's Staff.

Jim Kiley, Governor's Staff.

Ron Lake, Governor's Staff.

Mr. HEINZ. Mr. President, I wish to commend both Senators from Illinois for their initiative in this matter. I think this would help the situation in Illinois. Senator DOLE has pledged his further assistance on the matter. It would be good for, I think, the business climate in not only Illinois but in a number of other States.

Mr. President, so that we will not detain the Senate further, first, I ask unanimous consent that it be in order to consider my perfecting amendment and to incorporate it in the Percy-Dixon amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. By a previous order, it was agreed that there would be a 10-minute time limitation. The time has expired.

Mr. HEINZ. Mr. President, I ask unanimous consent that the Percy amendment, as amended, be adopted by the Senate.

The PRESIDING OFFICER. The question is on the amendment.

Mr. DOLE. Mr. President, what was the unanimous-consent request?

Mr. DECONCINI. Mr. President, reserving the right to object to the unanimous-consent request.

Mr. HEINZ. Mr. President, the unanimous-consent request was that the Percy-Dixon amendment, as amended, be adopted by the Senate.

Mr. DECONCINI. Mr. President, I would have to object.

Mr. HEINZ. Mr. President, let us do it on a voice vote, then.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, it is my understanding that at this time the amendment is not agreed to. I do not know the details of the modified amendment, but my understanding is that the unmodified amendment potentially could cost quite a bit of money. Is it true that the amendment before us also has serious cost implications?

Mr. HEINZ. Mr. President, the amendment has been changed.

Mr. HOLLINGS. Mr. President, the Senator from Pennsylvania has changed the amendment. I apologize to the Senator if it is changed. I try to keep up with the amendments. I realize that the distinguished junior Senator from Illinois has also been working on this for some time to try to get an agreement on it.

Before we vote on this amendment, the Senator from Oklahoma, Senator BOREN, and others on the Finance Committee want to engage in a colloquy with the Senators from Kansas, Pennsylvania, and Illinois.

I asked the chairman of the Budget Committee if he was accepting this amendment and he stated that until the modifications of the amendment were fully understood, he was not in a position to accept the amendment.

Let me check further with the chairman of the Budget Committee and the Senator from Oklahoma before we vote on this amendment.

Mr. HEINZ. Mr. President, we have an agreement to go back to the DeConcini amendment. I believe the time on this amendment for now has expired. I believe it is in order to go back to the DeConcini amendment.

UP AMENDMENT NO. 196

The PRESIDING OFFICER. Under the previous order of the Senate, the Senate will resume consideration of the amendment of the Senator from Arizona.

Mr. DECONCINI. Mr. President, a parliamentary inquiry. How much time is remaining on the amendment of the Senator from Arizona?

The PRESIDING OFFICER. The Senator from Arizona has 57 seconds remaining.

Mr. DECONCINI. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DECONCINI. Mr. President, how much time remains on the other side?

The PRESIDING OFFICER. The time has expired for the opponents.

Mr. DECONCINI. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to the amendment of the Senator from Arizona (Mr. DECONCINI). The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Texas (Mr. TOWER) is necessarily absent.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from California (Mr. CRANSTON) and the Senator from Ohio (Mr. METZENBAUM) are necessarily absent.

The PRESIDING OFFICER. (Mr. DANFORTH). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 44, nays 52, as follows:

[Rollcall Vote No. 173 Leg.]

YEAS—44

Abdnor	Eagleton	Nickles
Baucus	Exon	Nunn
Bentsen	Ford	Pressler
Biden	Grassley	Proxmire
Boren	Hart	Pryor
Bradley	Heflin	Randolph
Bumpers	Huddleston	Riegle
Burdick	Jackson	Roth
Byrd, Harry F., Jr.	Johnston	Sarbanes
	Kasten	Sasser
Byrd, Robert C.	Kennedy	Stennis
Chiles	Leahy	Tsongas
DeConcini	Levin	Weicker
Dixon	Melcher	Williams
Dodd	Mitchell	Zorinsky

NAYS—52

Andrews	Hatch	Moynihan
Armstrong	Hatfield	Murkowski
Baker	Hawkins	Packwood
Boschwitz	Hayakawa	Pell
Chafee	Heinz	Percy
Cochran	Helms	Quayle
Cohen	Hollings	Rudman
D'Amato	Humphrey	Schmitt
Danforth	Inouye	Simpson
Denton	Jepsen	Specter
Dole	Kassebaum	Stafford
Domenici	Laxalt	Stevens
Durenberger	Long	Symms
East	Lugar	Thurmond
Garn	Mathias	Wallop
Glenn	Matsunaga	Warner
Goldwater	Mattingly	
Gorton	McClure	

NOT VOTING—4

Cannon	Metzenbaum	Tower
Cranston		

So Mr. DECONCINI's amendment (UP No. 196) was rejected.

AMENDMENT NO. 102

Mr. DOMENICI. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will come to order.

The Senator from New Mexico.

Mr. DOMENICI. While we are waiting for our leader, Mr. President, I have agreed to let the Senator from Louisiana (Mr. JOHNSTON) offer an amendment that we are prepared to accept.

Mr. PERCY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. PERCY. What is the pending business?

The PRESIDING OFFICER. The Senator will state it.

Mr. PERCY. What is the pending business?

The PRESIDING OFFICER. The question recurs on amendment No. 102, the amendment by the Senator from Pennsylvania.

Mr. PERCY. Mr. President, that can be disposed of very quickly. Everybody is on the floor who is involved with it.

Mr. DOMENICI. Mr. President, what is amendment 102?

The PRESIDING OFFICER. Amendment 102 was called up before unprinted amendment 196 was disposed of by the Senator from Pennsylvania before the amendment of the Senator from Arizona.

Mr. JOHNSTON. Mr. President, will the Senator from Pennsylvania, without losing his right to the floor on his amendment, let me have 1 minute on this amendment?

Mr. HEINZ. Mr. President, let me say to the Senator, my amendment is pending. I know of no argument about it. Why not just let the vote go through?

Mr. PERCY. I would like to have a colloquy on it, Mr. President.

Mr. DOMENICI. Mr. President, the Senator from New Mexico was unaware that, prior to the previous vote, an amendment had been called up. I suggest the absence of a quorum so I may be advised on the amendment.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I am prepared to proceed with the amendment pending. I understand that it is acceptable after some colloquy by Senator HOLLINGS. It is acceptable to the Senator from New Mexico.

Mr. HOLLINGS. Mr. President, I want to make room for some colloquy by the Senator from Oklahoma.

I yield to the Senator from Oklahoma.

Mr. BOREN. Mr. President, I thank the Senator. I should like to address some questions to the authors of the amendment, if I may, to the Senator from Pennsylvania and the Senator from Illinois.

First, I ask this of the Senator from Pennsylvania: Does the amendment provide that in order to qualify for a waiver, the State would have to have 150 percent of the average national tax rate so far as employer contribution is concerned?

Mr. HEINZ. The Senator is correct.

Mr. BOREN. I also ask the Senator from Pennsylvania and the Senator from Illinois if it is their intention, in proposing this amendment, to continue to support the position that the Senate has taken in the past, that we would not attempt to remove the interest charge on the unpaid balance that the States owe to the Federal Government in this fund.

Mr. HEINZ. Speaking for myself, the Senator is correct. Earlier, I made a very specific statement on that, as did the Senator from Kansas, and I believe the Senator from Illinois did so.

Mr. BOREN. I thank the Senator.

I address the same question to the Senator from Illinois. Is that the understanding of the Senator from Illinois, that we will not come back later or we will not in conference attempt to yield any provisions that would take away the interest penalty charge on the unpaid balance that the States owe to the Federal Government?

Mr. DIXON. That is my understanding. I believe the Senator from Pennsylvania also has that understanding.

Mr. BOREN. I see the distinguished chairman of the Finance Committee, Senator DOLE, in the Chamber.

With that understanding, I certainly would not have objection to this provision. I believe that now that we have made that figure 150 percent, we have assured that the States which are in arrears, the States which do owe money to this fund, will have to make a substantial effort, in terms of their own tax collections, to make a contribution to that fund, and that will help impose the fiscal discipline necessary.

I say to the sponsors of the amendment that it has been our feeling all along that we wanted to be reasonable in terms of the problems the States have, where they are experiencing severe economic downturns and high rates of unemployment, which put unusual pressure on their State funds. We want to be reasonable about that.

At the same time, I am sure my colleagues realize that we must maintain some fiscal discipline. Otherwise, the States will borrow from the funds without having any intention to pay it back.

With the understanding that there will not be an attempt to take away the interest charge and that in agreeing to this amendment we in no way would agree to that proposal later on, I certainly say to the ranking minority member of the Budget Committee, the Senator from South Carolina, that I would not have any objection, as the former chairman of that subcommittee, which has been studying this problem for some time.

Mr. HOLLINGS. Mr. President, on that basis, unless the two distinguished authors of the amendment have further comment, we are ready to yield back our time.

Mr. PERCY. Mr. President, I very much appreciate everything that has been done on this issue by my colleagues. The language to change the requirement for 26 weeks of extended benefits to one requiring 3 years in which the State unemployment rate exceeds 110 percent of the national unemployment rate as a means of qualifying for the penalty tax cap is certainly an improvement from our standpoint. I am still concerned about the employer contribution requirement, at 150 percent of the national average, being too high. The only reason we reached any agreement to proceed at this point was the hope that the conferees on this bill would take into account the situation faced by the State of Illinois in this mater. Certainly, the present amendment, if adopted, helps the situation somewhat but an employer contribution rate of 135 percent would help even more.

A best effort has been made now by the State. We will become solvent. We are working toward that. But we cannot stand for very long the kind of escalating penalty that would be imposed unless we were able to qualify for the cap. I had hoped that we could agree on 135 percent as the figure.

I turn to the distinguished chairman of the Finance Committee and ask him to indicate whether or not it would be possible, in his judgment, to work out in conference a provision that would clearly enable the State of Illinois to qualify for the cap in the Federal penalty tax.

Mr. DOLE. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. DOLE. Mr. President, I appreciate that Senator BOREN is on the floor. He is sort of our committee expert on these matters. I wish to state what I think is his position and my position and the position of Senator LONG and the other members of the Senate Finance Committee.

As I understand it, the Senators from Illinois, Senator PERCY and Senator DIXON, would like to have the 150-percent requirement reduced to 135 percent. That was in the original amendment. I appreciate their concern and efforts to bring this issue to the attention of the Senate.

I want to accommodate the Senators from Illinois and I would like to make that change, but the Finance Committee needs some leverage in the conference. I understand that there will be an effort to slip by 1 year the date upon which States will be required to pay interest on new borrowing. I believe that is taking place in the House. It was my purpose to change the amendment to give us some leverage.

I will be willing to commit to the Senators from Illinois and to the others that we will take care of this matter in conference so long as we keep the remainder of our loan reform package intact. I believe that is the intent of the Senate Finance Committee. Otherwise, we are going to be faced with a provision that costs the Federal Government money, without offsetting receipts.

With that understanding, I am willing to pledge to the Senators from Illinois (Mr. PERCY and Mr. DIXON)—and I am sure I am speaking for Senator BOREN, Senator LONG, and Senator HEINZ. We appreciate the cooperation we have had from Senators.

This will give us the leverage we need to make certain that we do not lose money in the process, while accommodating the desires of Illinois and perhaps Arkansas.

Mr. PERCY. Mr. President, I trust that Chairman ROSTENKOWSKI, of the House Ways and Means Committee and also of Illinois, fully understands our particular problem. I can understand the chairman of the Finance Committee wanting to have some leverage to strengthen this package. His objective is a noble and worthy one.

I express appreciation to my distinguished colleague from Illinois, Senator DIXON, who has worked mightily on this amendment and on this situation with me, in a very bipartisan spirit, working with our Governor, working with labor and business in the State of Illinois and the State legislature, to see that we all face up to our responsibilities.

Now that the State has done what it should do, at long last, it is our job to see that we show that we appreciate that effort and not impose a compounding penalty that will endanger the State and the future of its economic development.

I deeply appreciate the assurances of the chairman that we will rectify this situation, provided it can be done in the spirit of keeping a totally sound, financially sound package.

I thank the Senator from Pennsylvania for his cooperation in this effort.

Mr. HEINZ. Mr. President, this amendment is Senator PERCY's amendment. It was called up by me to save time, in his absence. It is amendment 102. So that there is no confusion in the RECORD, I want it to be clear that it is the amendment of the Senator from Illinois. It is cosponsored by the junior Senator from Illinois, Senator DIXON. It was then amended by the Senator from Pennsylvania. I want that clearly reflected in the RECORD.

I am prepared to yield back the remainder of my time.

Mr. DOMENICI. Mr. President, I yield back the remainder of my time.

Mr. DIXON. Mr. President, I join my distinguished colleague from Illinois, Senator PERCY, in support of the amendment to S. 1377. This would allow Illinois to qualify for a cap on the penalty tax for the repayment of outstanding loans made by the Federal Government to the State unemployment trust fund.

Illinois is experiencing the second highest rate of unemployment in the country; 8.7 percent of our people are still unemployed and we must allow our business sector to concentrate on creating new jobs instead of taxing away their ability to survive.

Currently, Illinois is making great strides in restoring its unemployment trust fund to solvency. Last week, Governor Thompson, business and labor leaders, and the leadership of the Illinois General Assembly were able to agree on a package of proposals which would balance the fund by early next year.

I urge my colleagues to agree to this amendment which would reduce the penalty escalation to Illinois businesses while the State continues to demonstrate its commitment toward reducing its indebtedness to the Federal Government and returning its State unemployment fund to solvency.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Pennsylvania, as modified.

The amendment (No. 102), as modified, was agreed to.

Mr. DOMENICI. Mr. President. I move to reconsider the vote by which the amendment was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, the floor managers have agreed that we would take an amendment by Senator JOHNSTON. I ask that the Chair recognize him for that purpose.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

UP AMENDMENT NO. 197

(Purpose: To change the Energy Committee's action on gasohol authorizations for Department of Energy projects to make it consistent with Congressional action on the Supplemental appropriation and rescission bill (Public Law 97–12))

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. JOHNSTON), for himself, Mr. EXON, Mr. HUDDLESTON, and Mr. BOSCHWITZ, proposes an unprinted amendment numbered 197.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On pages 172 and 173 strike section 533 and insert a new section 533 as follows:

"SEC. 533. BIOMASS ENERGY AND ALCOHOL FUELS.—Amend section 204(a) of the Energy Security Act (Public Law 96–294) by

(a) striking out paragraphs (2) and (3) and inserting in lieu thereof the following: "and (2) not in excess of $276,000,000 shall be available to the Secretary of Energy to carry out activities under subtitle A"; and

(b) striking out "$1,450,000,000" and inserting in lieu thereof "$296,000,000".

Mr. JOHNSTON. Mr. President, this amendment simply conforms this resolution to the action of Congress in appropriating $276 million in the fiscal year 1981 supplemental bill. That was the amount that already has been appropriated in budget authority for alcohol fuels, and this amendment simply conforms that same figure in this resolution.

Mr. President, this is a very simple amendment which makes changes in the Energy Committee's action on gasohol projects undertaken by the Department of Energy authorized in the Energy Security Act to make it conform with action the Congress took on these projects in the supplemental appropriations and rescission bill signed into law earlier this month. My amendment changes the authorized level in section 533 for these projects in fiscal year 1981 from $5 million to $276 million and from $25 million to $296 million thereby leaving intact the $271 million made available in Public Law 97–12 for 15 projects to continue.

The Energy Committee's markup occurred before the Appropriations Committee met and we had no way of knowing how Appropriations would make changes to meet its reconciliation instruction. Appropriations did in fact meet its instruction and made $271 million available for the 15 projects DOE has tentatively approved. This legislation was signed on June 5 and DOE has since indicated that it intends to review these projects and proceed with them, using the allowed 3:1 leveraging if needed.

Moreover, this change will not affect the Energy Committee's compliance with its 1981 reconciliation instructions. That is, with this change the Energy Committee will still be in compliance and in fact will have exceeded its instruction by over $1 billion in BA.

Finally, Mr. President, this change is within the cap provided in section 531 and thus will not be a net add to the total authorization cap adopted by the Senate Energy Committee.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the Secretary of Energy, Mr. Edwards, dated June 19, 1981.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF ENERGY,
Washington, D.C., June 19, 1981.

Hon. J. BENNETT JOHNSTON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JOHNSTON: Thank you for your letter of June 8, 1981, in which you were joined by 11 of your colleagues in encouraging me to allow leveraging of Alcohol Fuel Loan Guarantee authority as authorized by Public Law 96–514.

I want to assure you that the Department of Energy will implement this program in full accordance with statutory authority and Congressional intent. Therefore, we will leverage our funding authority. Selections for conditional commitments will be made from the 15 firms under consideration in accordance with sound business and financial judgment to protect the interests of the Government and the American taxpayer.

Thank you for your continued interest in alcohol fuels and the programs of the Department of Energy.

Sincerely,

JAMES B. EDWARDS.

Mr. JOHNSTON. Mr. President, I am prepared to yield back the remainder of my time.

Mr. DOMENICI. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana.

The amendment (UP No. 197) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HOLLINGS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, I thank the Senator for the expeditious way that he handled the amendment.

Mr. JOHNSTON. Mr. President, I thank the distinguished Senator, the floor manager and the minority floor manager.

(Mr. McCLURE assumed the chair.)

Mr. DOMENICI. Mr. President, we have agreed now that the next amendment will be the Danforth amendment, and he is going to start with it and wait for Senator MOYNIHAN, who is his cosponsor.

Is that correct?

Mr. DANFORTH. That is correct.

I thank the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

UP AMENDMENT NO. 198

(Purpose: To delay the effective date of section 791)

Mr. DANFORTH. Mr. President, on behalf of myself and Senator MOYNIHAN, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Missouri (Mr. DANFORTH), for himself, Mr. MOYNIHAN, Mr. ROTH, Mr. HEINZ, Mr. BRADLEY, and Mr. MITCHELL, proposes an unprinted amendment numbered 198.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 276, line 13, strike out "the date of the enactment of this Act" and insert in lieu thereof "the 180th day after the date of enactment of this Act".

Mr. DANFORTH. Mr. President, I strongly believe that the budget cuts Congress is undertaking are both necessary and appropriate, but in the case of trade adjustment assistance we may be opting for changes in the law that cut away more of the program than the administration or the Congress ever intended.

Our intent was to streamline the program, to cut down its cost to American taxpayers. This we have clearly accomplished, with changes that will save an estimated $1.3 billion out of a program otherwise estimated to cost $1.5 billion in 1982—a reduction of nearly 87 percent. But in the process, we may be enacting new restrictions that will prevent many deserving workers from qualifying for the small amount of money allocated for the program, yet alone the additional funds set aside by the administration to finance training and to help workers find new employment.

Therefore, Mr. President, I am proposing an amendment that is in my view technical in nature. Technical, because by all available estimates, it will not increase the cost of the TAA program as proposed by the administration.

The current trade adjustment assistance program, established by the Congress in the Trade Act of 1974, was designed to compensate and help those American workers who lose their jobs because of import competition. Although the program is not perfect, the need to assist such workers to readjust to new economic circumstances is clear. Between April 1975 and December 1980, some 900,000 workers were certified for adjustment assistance. In each of 20 States, over 10,000 workers benefited from the program.

We are about to make drastic alterations in the program. The three main legislative changes that will link TAA benefits to State unemployment insurance (UI) payments were the subject of hearings in the Finance Committee. Congressional Budget Office estimates indicate that virtually all of the cuts

necessary to reduce Federal spending to the administration's targeted amount of $205 million in fiscal year 1982 can be met by these measures alone. CBO has no estimates for the savings from the remaining measures proposed by the administration, but reports that "due to the proposed requirement that individuals exhaust their UI benefits before being eligible for TAA, the proposal's impact would be miniscule."

Therefore, it seems to me unnecessary, if not counterproductive, to retain all of these additional criteria. Of particular concern are two proposed revisions that may make it impossible for any worker whose firm has not already gone bankrupt to receive cash or retraining benefits.

The first change would adjust the criterion upon which a group of workers qualifies for TAA from the current measure—whether imports "contribute importantly" to the unemployment—to a new and higher standard—whether imports are a "substantial cause" of the unemployment. Had this standard been applied to autoworkers, who receive more than 80 percent of current outlays, many —if not all—would have been found ineligible.

The second change, a new criterion, would require the Secretary of Labor to determine that there is a "substantial probability" that the lower level of employment at a firm will be permanent before certifying its workers for TAA benefits. But there exists no way of measuring this standard, where many larger firms can place workers on "indefinite layoff" for up to 3 years before their recall rights are exhausted. The House chose not to incorporate this provision in its draft.

Neither change was examined in hearings before the Finance Committee, but one CBO analysis addressed the problems this way:

It might also be difficult to implement the Administration's proposal that the criteria for determining the eligibility of groups of workers be restricted substantially. The shift from a "contributed importantly" test to a "substantial cause" test, of the impact of imports on job separations would require substantial changes in the type of analysis performed by the Department of Labor (DOL) in its eligibility determinations. The Secretary would be required to examine all possible causes of job separations and compare their relative contribution to layoffs in order to decide whether or not imports were less important than any other cause. This change presumes a level of sophisticated economic analysis that may not have been developed yet. Currently the Secretary only must determine if imports are an important cause of layoffs without examining other causes.

Similar problems may arise from the requirement that job separations be likely to be permanent for an affirmative determination. Such a determination would require that DOL use some forecasting methodology; whereas, under current law, the Secretary need examine only historical data. The Administration has suggested that determining the likelihood of a plant or subdivision permanently reducing its labor force would be facilitated by consultation with employers, but this approach might not provide complete information about the actual outcome.

In its proposal, the administration placed much-needed emphasis on retraining and relocation of workers. The increase in funding for the positive adjustment provisions of TAA promised by the administration, approximately $100 million more in fiscal year 1982 than in fiscal year 1981, will enable workers to find and move to new jobs if, and only if, they can qualify for the program in the first place.

This amendment would postpone enactment of the two criteria described until 6 months from enactment of this legislation. This would enable us to take another look at the TAA program with a view to improving the chance workers have to qualify for these positive adjustment benefits, without changing the amount that has been budgeted for the program.

Finally, for the record, I should like to point out a change that has been drafted into the House proposal for the program of trade adjustment assistance for firms. In the past, the two TAA programs have shared the "contribute significantly" test for eligibility. Unlike TAA for workers, however, TAA for firms is not an entitlement, but a fixed amount that the Commerce Department has used in the past to assist a few firms with approved adjustment plans. This program has seen a few successful cases of firms working their way back up the competitive ladder. However, in their proposal for the TAA program for firms, the administration requested an increase in the standard to mirror the new "substantial cause" language in the worker program. The House draft includes such a change, although the Senate version does not.

I believe that in conference, we should seek a return to the original "contributes significantly" language. This would once again bring the firm TAA program standard into line with that of the worker program, as proposed in my amendment. This change would not increase the cost of the program, but would continue to allow some troubled but salvageable firms to regain their competitiveness—firms unlikely to qualify for the higher threshold "burial insurance" offered by the "substantial cause" language.

Mr. President, during consideration of the reconciliation bill in the Finance Committee the trade adjustment assistance program was substantially reduced in dollar amount.

In the current law the trade adjustment assistance program costs about $1.5 billion. However, in the Finance Committee's version of the bill it would be reduced.

Mr. MOYNIHAN. Mr. President, could we have order? The Senator from Missouri is speaking to a matter of great importance.

The PRESIDING OFFICER. The Senate will be in order.

Mr. DANFORTH. Mr. President, the dollar amount would be reduced $350 million.

This amendment has nothing to do with the dollar amount. The problem is that in the Finance Committee, in addition to reducing the dollar amount, the criteria for individuals to participate in trade adjustment assistance was altered and two additional criteria were included.

First, imported goods would have to be found a substantial cause of unemployment beginning on September 30, 1980; and, second, the Secretary of Labor would have to determine that there is a substantial probability that unemployment will be permanent.

These are two changes in criteria. Both would be effective in the bill as it now stands on September 30, 1981.

Mr. President, it is felt that under these two criteria the results would be unknown as to exactly how they would be applied, but it is felt, for example, that under these criteria Chrysler employees would not be qualified for trade adjustment assistance; therefore, the concern is that while we were reducing the dollar amount, which was intended, the unintended result was that the criteria were so changed that even those dollars that we do make available for trade adjustment assistance would not in fact be available to people who should be participating in this program.

We have discussed this problem. Senator MOYNIHAN and I have discussed this problem with Senator DOLE and with the administration, and this amendment would simply extend the time at which the criteria would be applicable until 6 months after the date of enactment of the bill.

Therefore, it would give us time to work out the criteria, perhaps even to change them by legislation, to have hearings in the Finance Committee on the criteria, and to try to determine how the Secretary of Labor would construe them if, in fact, Congress chose to maintain these particular standards.

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from New York?

Mr. DANFORTH. I yield to the Senator from New York.

Mr. MOYNIHAN. Mr. President, I thank my colleague and friend.

Mr. President, I rise today with the confidence that the Senate will accept the amendment that Senator DANFORTH and I are introducing to protect those who lose their jobs because of imports and who are entitled by law to Federal assistance. Specifically our amendment would postpone the effective date of section 791 for 6 months.

But I am not without misgivings that this Congress is in large part renegging on a commitment it made to import injured workers over 18 years ago.

Trade adjustment assistance (TAA) is at the heart of our international trade policy. Not only because it compensates workers who lose their jobs as a direct result of our Federal trade policies. But also because it is good economics. This program is in effect a long-term investment in the retraining of an experienced and skilled work force while technological adjustments are made.

The Reagan administration has proposed, and this distinguished body has accepted with little resistance an 86-percent reduction in the budget of the TAA program. This, I submit, is more than a serious mistake. It is an outrage.

Albeit the rising tide of opposition to this program in recent years has stemmed principally from its extraordinarily high costs during the auto crisis. The costs were high. A $200 million program suddenly rose to levels of $1 billion and $2 billion.

But what is alarming is that this Congress has begun to challenge the very rationale of this program, to deny any responsibility of the Government to compensate and assist workers when they are injured by Federal policies.

Now the costs are falling—significantly and without any changes in the law. In fiscal year 1982 we could expect the TAA program to cost $350 to $500 million, and by fiscal year 1983 to run only $200 to $300 million. But the provisions in this omnibus reconciliation bill not only cut 86 percent of the TAA budget, but drastically limit those who are eligible.

TAA is above all else an entitlement program. Workers who lose their jobs because of foreign imports are entitled to some assistance by the Federal Government to adjust to new competitive situations. Section 791 of this bill, however, will virtually make it impossible for most workers to be eligible for TAA.

Specifically, section 791 changes the contributed importantly standard for adverse trade impact certification to a far more restrictive standard of substantial cause. It would also require that there be substantial probability that the unemployment caused by imports be permanent. Although neither the administration, the Congressional Budget Office, nor the Department of Labor has made an estimate of the number of workers who will lose their eligibility for TAA benefits if the Congress accepts this change, the CBO report is clear:

> The changes in certification procedures proposed by the administration would unambiguously reduce TAA participation.

And as such, it denies entitlement. Indeed, the administration estimates that 67 percent of the workers who would have been eligible for benefits under the current program will not be eligible under the administration's program. That is, two-thirds of these eligible workers will no longer receive the assistance to which they are entitled.

Even without specific estimates, we have witnessed before the exceeding restrictiveness of the substantial cause test. This is the same standard that is used in escape clause cases to determine import injury to industries under section 201 of the 1974 Trade Act. Of the 29 industry petitions for import relief under the escape clause since 1977, the ITC determined that imports were a substantial cause of injury in only 18 of them. Of these, however, the President accepted only one of the ITC recommendations for relief.

What is more, without any change in the current contributed importantly standard, the Labor Department is now certifying TAA petitions at one-fifth the success rate than in 1975. Only 10 percent of the petitions to the Labor Department for TAA eligibility are currently certified.

There is beginning to be a pattern of denial here. There is a danger that the consensus which existed just a short while ago when the Congress approved the Multilateral Trade Agreements may break down. A danger that the specific provisions of these agreements which lessen the hardships that workers encounter as trade barriers are reduced are no longer thought to be basic elements of our liberal trade policy. As decision after decision show a mounting disregard for the problems of those injured by imports, the message is being sent: Do not bother to apply, there is no help for you here.

Our amendment postpones the effective date for section 791 for 6 months. If, as the administration claims, the real thrust of the changes it has proposed to the TAA program are intended to encourage and to strengthen the training aspects of the program, we must eliminate the barriers that prevent workers from being eligible for those benefits. The effect of imposing these new, more restrictive criteria would be to limit severely the pool of experienced workers who could take advantage of these training opportunities.

I am confident that this body is not prepared to renege on its longstanding commitment to assist workers who lose their jobs as a result of our Federal trade policies.

Mr. President, I commend the Senator from Missouri on his persuasive explanation of our amendment and thank him for his many great efforts in support of this program.

We are happy that postponing this change appears to be acceptable to the managers of the legislation.

We promise hearings and promise that those affected be given a chance to be heard as they were not.

We remind this body that an understanding was reached with the American labor movement at the time that the Tokyo Round of multilateral trade negotiations was considered by this body. The understanding was that trade adjustment assistance would be available to ease the shock of shifting economic activities brought about by American national policy.

We have an obligation to those workers and would at least not be breaking that obligation if this amendment can be accepted and such a serious change in the law can be averted.

I thank the Chair and I thank my friend from Missouri.

Mr. DANFORTH. Mr. President, I thank the Senator from New York.

Mr. President, I ask unanimous consent to add as cosponsors Senators ROTH, HEINZ, BRADLEY, and MITCHELL.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. DANFORTH. Mr. President, I yield to the Senator from Kansas.

Mr. DOLE. Mr. President, I shall take a minute. I rise to indicate as already has been indicated by both Senators that there is agreement on this.

This will give those who have an interest an opportunity to take a look. And everyone has an interest in this program. Some have more of an interest in this program than others. I think it has been somewhat of a failure. But in any event, this will give 6 months from date of enactment to take a look at it, and I hope that will satisfy the Senator from Missouri and the Senator from New York.

We would have wished to have been more accommodating, but that is about as far as we could go within the constraints that we were operating under.

I am willing to accept the amendment.

Mr. DANFORTH. Mr. President, I thank the Senator from Kansas for working with us so closely on this and for agreeing to the amendment.

Mr. MOYNIHAN. Mr. President, if the Senator will yield, I join in thanking the Senator from Kansas who has been under constraints but has accommodated this. We feel and hope that the outcome will be satisfactory, and we offer our appreciation to him.

Mr. ROTH. Mr. President, I rise in support of the amendment offered by my colleagues, Senators DANFORTH and MOYNIHAN, regarding the trade adjustment assistance program. I believe the criterion for eligibility to receive trade readjustment allowances included in the President's budget package is overly restrictive and will serve only to substantially cut back payment to those workers who rightly deserve compensation. Moreover, the proposed requirement that the Secretary of Labor determine there is a substantial probability of permanent unemployment before certification can be given is an additional, unwarranted burden.

This amendment—to delay imposition of these new criteria for 6 months following enactment of the budget package—should provide us with sufficient time to formulate fair and appropriate boundaries for TRA eligibility.

I have traditionally believed that an effective—and usable—trade adjustment assistance program is a crucial element of our national trade policy. In fact, much of labor's support for the trade-liberalizing acts of Government has been based on the availability of a program that will give them a backup when the markets for their goods are temporarily or permanently taken over by increasing imports.

The trade adjustment program has come under much scrutiny over the last few years. I, in fact, have been joined by a number of my colleagues in pressing for extension of the TAA program to cover workers in firms that supply import-impacted companies. While I believe the present review process is useful, revisions such as changes in criteria for eligibility should be studied carefully, with the benefit of our full attention.

I, therefore, urge my colleagues to support this amendment and delay enactment of any revised eligibility criteria for the period necessary for a complete review.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. QUAYLE. Mr. President, on behalf of the Budget Committee, we do have a letter from CBO saying that this amendment will not reduce the cost savings estimate of the trade adjustment program included in this bill.

The amendment is acceptable to the majority and, I understand, Senator HOLLINGS will also accept it.

The PRESIDING OFFICER. Is all time yielded back?

Mr. DANFORTH. Mr. President, I ask unanimous consent that the Senator from New York (Mr. D'AMATO) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. DANFORTH. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Missouri. (Putting the question.)

The amendment (UP No. 198) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DANFORTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, on this amendment concerning the trade adjustment assistance, I ask unanimous consent that the Senator from Delaware (Mr. ROTH), the Senator from New Jersey (Mr. BRADLEY), the Senator from Pennsylvania (Mr. HEINZ), and the Senator from Maine (Mr. MITCHELL), who have asked to be listed as cosponsors, be listed as such cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 199

Mr. McCLURE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. DANFORTH). The clerk will report.

The assistant legislative clerk read as follows:

The amendment is as follows:

The Senator from Idaho (Mr. McCLURE) proposes an unprinted amendment numbered 199.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Page 38, line 36, after the period insert the following new subsection (c).

"(c) (1) The authority contained in subsection (a) of this section shall expire on September 30, 1982, unless the President at least 30 days prior to such date determines, in his discretion, that the remaining silver authorized for disposal by subsection (a) of this section is excess to the current requirements of the stockpile as of the date of the determination.

(2) The determination in paragraph (1) shall be based upon affirmative consideration of the following factors, among any other relevant factors.

(A) the demand requirements annually over the next ten years for silver as a strategic and critical material to supply the industrial, military and naval needs of the country for common defense;

(B) the domestic supply over the next ten years, as a function of price, of silver available to meet demand requirements established pursuant to paragraph (A);

(C) potential import dependence over the next ten years on foreign supplies of silver to meet demand requirements established pursuant to paragraph (A);

(D) the effect of disposal pursuant to subsection (a) of this section on (1) the world silver market (in terms of price and production), (2) the domestic and international silver mining industry (in terms of exploration and production activities), (3) international currency and monetary policy and (4) long range military preparedness.

(3) Any determination by the President under paragraph (1) shall be reported promptly to the Committees on Armed Services of the Senate and House of Representative with a detailed discussion and analysis of the factors in paragraph (2) and any other relevant factors.

Mr. McCLURE. Mr. President, the purpose of this amendment is to provide a timely review of and limit on the disposal of silver from the strategic and critical materials stockpile by having the authority to sell silver expire on September 30, 1982, unless the President determines at that time that the silver is truly excess to requirements of the stockpile.

A little less than a week ago I testified before the Senate Armed Service's Subcommittee on Preparedness on the administration's proposal to dispose of 139.5 million ounces of silver from the national stockpile. The subcommittee and full committee have not yet taken a position on this sale. On June 11, the Committee on Armed Services sent to the Committee on the Budget, its actions to reduce direct spending as required by the first concurrent resolution. While the Armed Services Committee stated that it had not yet considered the stockpile legislation and that it was not prepared to offer a recommendation, the legislative language excerpted from the President's stockpile legislative proposal was given to the Budget Committee.

I am strongly opposed to the administration's proposal to sell all 139.5 million ounces of silver currently in the stockpile and I am adamantly opposed to the use of the national stockpile to reduce the budget deficit. In my view, such action is a violation of the Strategic and Critical Materials Stockpile Act which reads as follows:

SEC. 3(b)(1). The purpose of the stockpile is to serve the interest of national defense only and is not to be used for economic or budgetary purposes.

My amendment today is not everything I would like as I cannot even agree with the rationale to sell the silver. With the current language in the reconciliation, there is no effective means to review the sale of all 139.5 million ounces. I have to offer today a compromise which will allow for the sale of silver as proposed for fiscal years 1981 and 1982. However, after September 30, 1982 the authority to sell any more silver will expire, unless the President determines at that time that the remaining silver is truly excess to requirements of the stockpile.

I have also requested submission of a report prior to any disposal of silver under this law which will aid the Congress in making a decision on the administration's proposal. Briefly the report requires an analysis of the demand silver requirements as a strategic and critical material, the domestic supply, the potential import dependency and the effect of disposal.

Mr. DOMENICI. Mr. President, this amendment would not affect the savings reported by the Senate Armed Services Committee in the reconciliation bill. This proposal to sell silver in the defense stockpile was an administration proposal to begin with. This amendment will merely oblige the President to reaffirm, 30 days before September 1, 1982, that he still identifies remaining silver in the stockpile as excess to stockpile requirements. There is no reason, at this time, to expect that this will not be the case. Since the savings reported by armed services are not affected by this amendment, it is acceptable.

We have no objection to the amendment at this point, and I understand Senator HOLLINGS has no objection.

Mr. McCLURE. Mr. President, I yield back the remainder of my time.

Mr. DOMENICI. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Idaho (putting the question).

The amendment (UP No. 199) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, may I have the attention of the Senate for a moment?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BAKER. Mr. President, I intend in a moment to propound a series of unanimous-consent requests that are necessary in conjunction with the adjournment over of the Senate for the Fourth of July break.

Before I do that, may I say that it appears likely now, I think, that we can complete this bill tonight. Once again I urge Members who have amendments to offer to do so as promptly as possible and to accept time limitations as short as possible. I think we are making good progress and I think there is an increasing likelihood we can, in fact, adjourn tonight for the Fourth of July break.

Before I put this series of unanimous-consent requests, I intend to shortly submit a concurrent resolution which will provide for the adjournment over of the Senate from either today or tomorrow, depending on when we finish our business, until Wednesday, July 8 instead of Monday, July 6.

AUTHORIZATION FOR CERTAIN ACTION DURING THE ADJOURNMENT OF THE SENATE OVER UNTIL JULY 8, 1981

Mr. BAKER. Mr. President, I ask unanimous consent that during the adjournment of the Senate over until

Wednesday, July 8, 1981; messages from the President of the United States and the House of Representatives may be received by the Secretary of Senate and appropriately referred, and that the Vice President, the President pro tempore, and the Acting President pro tempore be permitted to sign duly enrolled bills and joint resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE ON JULY 8, 1981

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate reconvenes on Wednesday, July 8, 1981, the reading of the Journal be dispensed with, no resolutions come over under the rule, the call of the calendar be dispensed with, and following the time allotted to the two leaders under the standing order, there be a period for the transaction of routine morning business not to exceed 30 minutes in length with Senators permitted to speak for not more than 5 minutes each.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object—and I will not and do not—what will be the then unfinished business before the Senate?

UNFINISHED BUSINESS—S. 951

Mr. BAKER. Mr. President, if the Senate adopts the concurrent resolution of adjournment over until Wednesday, July 8, without any further unanimous consent or further order, it will be my understanding that the unfinished business, which will recur 2 hours after we convene, will be the Department of Justice authorization bill, S. 951.

Mr. ROBERT C. BYRD. I do not object.

Mr. STENNIS. Mr. President, what will be the leadership's intention after the disposition of the Department of Justice authorization bill?

Mr. BAKER. Mr. President, the distinguished Senator from Mississippi asked me just now what would the leadership's intention be after we dispose of the Department of Justice authorization bill.

May I say to the Senator it would be my hope that we could then proceed to the consideration of the farm bill.

Mr. STENNIS. I thank the Senator.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished majority leader further yield just for the information of all Senators? May I ask the leader or the Chair what the pending question with respect to the Department of Justice authorization bill would be at that time?

Mr. BAKER. Yes; I ask the Chair to advise us and to answer the minority leader's question.

The PRESIDING OFFICER. The amendment of the Senator from North Carolina (Mr. HELMS) No. 96 as modified to his own amendment No. 69.

Mr. ROBERT C. BYRD. Then the pending question will be on an amendment that is in the second degree; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

AUTHORIZATION FOR COMMITTEES TO FILE REPORTS ON JULY 1, 1981 BETWEEN 9 A.M. AND 3 P.M.

Mr. BAKER. Mr. President, I ask unanimous consent that on Wednesday, July 1, 1981, committees may be authorized to file reports between the hours of 9 a.m. and 3 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OVER UNTIL JULY 8, 1981

Mr. BAKER. Mr. President, I send to the desk a concurrent resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 23) providing for an adjournment of the Senate from June 25, 1981 or June 26, 1981 to July 8, 1981 and an adjournment of the House from June 26, 1981 to July 8, 1981.

There being no objection, the Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution. (Putting the question.)

The concurrent resolution (S. Con. Res. 23) was agreed to as follows:

Resolved by the Senate (the House of Representatives concurring), That when the Senate adjourns on Thursday, June 25, 1981 or Friday, June 26, 1981, pursuant to a motion made by the Majority Leader in accordance with this resolution, it stand adjourned until 12:00 noon on Wednesday, July 8, 1981, and that when the House adjourns on the legislative day of Friday, June 26, 1981, it stand adjourned until 12:00 noon on Wednesday, July 8, 1981.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I thank all Senators.

OMNIBUS RECONCILIATION ACT OF 1981

The Senate continued with the consideration of S. 1377.

Mr. BAKER. Mr. President, I urge Senators who have amendments to the reconciliation bill to come to the floor and offer them as soon as possible. It is the intention of the leadership to try to finish this bill tonight.

UP AMENDMENT NO. 200

Mr. GARN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Utah (Mr. GARN) proposes an unprinted amendment numbered 200.

Mr. GARN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In Title III, insert the following:

Those sections that were stricken from Title III of S. 1377 by the Unanimous Consent Agreement of June 25, 1981, as follows:

321–1(b).
321–2 through 8.
321–9 (a), (b), (d), (f)
321–12.
321–13.
322–1(g).
322–1(i).
322–3 through 13.
323–2 through 10.
323–13.
324–1 through 18.
325–2 through 4.
326–1.

In the exact placement of these sections as they appeared in Title III of S. 1377, as reported June 17, 1981.

And, at the end of Title III of S. 1377, add the following:

It is the sense of the Senate that the Senate conferees on the reconciliation bill will not insist on the Senate-passed provisions of title III, part C, provided that the House conferees do not insist on title III, subtitle A, of H.R. 3982, or any amended version thereof.

Mr. GARN. Mr. President, may I first say I thank all of those Senators involved, the joint leadership of the Senate as well as the leadership of the Budget Committee, for working out a compromise so that we could avoid the situation we were confronted with yesterday where none of us wanted to set a precedent by adding to this particular bill, the housing bill through the reconciliation, through the committee process.

The compromise, as was explained in the unanimous-consent agreement, was that we would withdraw those extraneous amendments and provisions that the distinguished minority leader wished to withdraw, but then through a procedure that was outlined once again in the unanimous-consent agreement I would, by amendment, put those elements of the housing bill back in that were removed.

And although the distinguished minority leader will still oppose this procedure, it did clear up the problem of setting a precedent in the reconciliation.

I would like to make certain that this is an identical amendment to that referred to in the unanimous-consent request that was approved. Nothing has been added or deleted other than what was in the unanimous-consent agreement.

On yesterday, Mr. President, I outlined the reasons that I took this course initially and I will very briefly do that again so there is no misunderstanding. The Senate Banking Committee approved our 1982 authorization bill, not only in committee but we brought it to the floor on June 3 and passed that bill 65 to 24. The House of Representatives did not meet the deadline of May 15 for reporting an authorization bill nor have they considered any type of authorization bill on the floor.

I waited for the markup of the reconciliation bill in the Banking Committee to see what action the House would take. The action they did take was to place very few elements of the housing bill

into their reconciliation process, which certainly is not proper procedure as we have adequately discussed in this body. They put flood insurance, FHA limits, and a few things in an attempt to not go to conference in the way we normally do between the House and Senate and argue out our differences and come to a joint agreement. They put such things as barrier islands in and all sorts of extraneous matters.

So that was the only reason I added the housing bill to the reconciliation process, some way to get the House of Representatives to come to a conference on this particular matter and resolve it in the normal way. We have had difficult conferences in the past. Some of them have gone as long as 4 months before we came to an agreement.

I am certainly willing to go through that process again if necessary. Obviously, I would have to give up some provisions in the Senate bill as Mr. ST GERMAIN would have to in a House bill if they are willing to pass it.

So that is the reason, not that I enjoyed this process. That is why I am pleased that we now have the opportunity to pull it out of the reconciliation bill as was proposed yesterday, not have it come from the authorizing committee to the Budget Committee and have it part of that process, but to delete those items and then put them back in by amendment.

Mr. HOLLINGS. Mr. President, I yield myself just a few minutes.

Mr. President, I think the most friendly opponent that the distinguished Senator from Utah has is myself. The fact is that I favor this legislation. If the RECORD is accurate, I think I already voted for it. So what is the issue?

The issue is the integrity of the authorizing committees. Unless we maintain that, we have no budget process. We feel it very keenly working in this budget field. We do not want any discretion under our reconciliation bill to infringe on other committees. Once the committees report back their savings, they bring it to us and we automatically report it to the floor just as it is. That is as it should be.

But when we look at this amendment we find that it is legislation which has no reconciliation connection or reduction in the budget. When I say "reconciliation connection" I mean such things as those that really do not reduce the budget but respond to what the reconciliation resolution specifically directed. Several times the resolution directs certain actions, as it did with respect to the REA accessibility to the Federal financing bank That did not constitute a savings or reduction in the budget, but it did direct certain action. That was the will of the Senate. Therefore, we on the Budget Committee could not object or raise the point about it being extraneous or damaging the authority of the authorizing committee when the Agriculture Committee reported it as part of their reconciliation legislation.

I recounted the history yesterday about the time for reconciliation and the language relating to reductions in spending. We do not mean cursory reductions. Every piece of legislation has some financial connection; Federal employees are paid. We mean real savings: Cuts in appropriations, entitlements and specific reductions in authorizations.

When October comes and the appropriations and the authorizing entitlements have been approved, the Congress can take an overall comprehensive look at the budget. In some cases we are going to have to hold back on some of these things even though we passed those appropriations and entitlements bills. We adopted the overall budget ceilings in a second concurrent resolution. Reconciliation is to reconcile those amounts just voted by the Senate with those appropriation amounts and those entitlements, as approved by the authorizing committees.

We expanded that process last year when we started reconciliation with the first budget resolution. So that precedent has been set.

But my argument with the distinguished Senator from Utah is that his amendment does not belong on reconciliation. He has got the right amendment and I would support it if it were not included here. I understand his dilemma. I understand the offense on the House side, including as it did matters that do not constitute a reduction in the budget or have a reconciliation connection.

Though the House committed the offense, I do not want every offense committed by the House side to be taken as carte blanche authority for us to start engaging in the same tactics.

I do not know what reconciliation bill the House will finally approve. I do not think they know because they are going to wait until tomorrow morning to adopt it. But if they had adopted the original reconciliation bill with debate on only six amendments, I could give you dozens and dozens of instances of authorizing legislation that did not belong there. If each one of the committee chairmen would look at his jurisdiction in the bill, they would all come running and say, "Wait a minute. They have done it on the House side and we have done it here, and the entire authorizing process is breaking down."

You look around and you find reconciliation bills containing all sorts of authorizing items to be deleted under limited time. In the Budget Committee, we hear a lot and learn a lot. But we have no way of knowing the subject matter as well, for example, as the distinguished Senator from Utah knows banking and housing.

We get good briefings from our very, very able staff; the staff on both sides of the Budget Committee have done an astounding job of keeping up with this. We sound pretty educated when we stand up and debate these amendments. But we do not have, to my knowledge, the feel for these particular items and we could not possibly develop the kind of legislative expertise the authorizing committees have, therefore, we should not handle it on this bill. On that basis, Mr. President, I have to oppose the distinguished Senator's amendment.

The PRESIDING OFFICER. Who yields time?

Mr. GARN. Mr. President, Senator DOMENICI, the distinguished chairman of the Budget Committee, was to speak on this amendment. He is temporarily away.

I would briefly respond to the distinguished ranking minority member of the Budget Committee that I understand what he is saying. In this amendment, there is a sense-of-the-Senate resolution that says to our conferees that they insist that the House of Representatives pull out their extraneous amendments or provisions and if they will do so we will as well. That would be the cleanest process of all. Then we have cleaned it up. We have not only taken our extraneous matters out but we have gotten the House of Representatives to do it also.

I want to make that additional point.

This was at the suggestion of the distinguished Senator from South Carolina, that we use that sense of the Senate to try and do that. So at least on one part of my amendment he does agree. Maybe I could get one-third of his vote or something if we could split votes.

Mr. President, at this time I have no further comments. I would reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS. Mr. President, will the Senator yield?

Mr. HOLLINGS. I yield.

Mr. STENNIS. Mr. President, I again refer to the very fine debate we had here this afternoon, and the splendid fashion in which I think the Senate has come through and preserved its integrity and its rules.

We are now down to the last stage.

The housing bill referred to is a bill that I voted for and that was presented, I believe, by Senator LUGAR.

I am not fighting the bill, as such, but I do believe, Mr. President, that to carry out the full purpose and the real framework of the operation of the Senate, of which the Budget Committee is only a part, it would be far better, and I speak with great deference to the Senator from Utah, for the Senate to reject this amendment before us and, in that way, avoid setting a precedent or letting the process be used, as another illustration, of forcing the Budget Committee to go through something in which it was helpless, and also the chairmen of the major committees concerned to have to come in with an awkward step and not be able to present a matter with the force and really the same authority that the Senator and his coworkers would ordinarily have.

For that reason, Mr. President, I hope we can get a clean vote on this matter and not approve the amendment. I yield the floor.

The PRESIDING OFFICER (Mr. DURENBERGER). Who yields time?

If neither side yields time, time will be charged equally to both sides.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. HOLLINGS. I yield.

Mr. ROBERT C. BYRD. Mr. President, I do not talk with respect to the merits of the amendment. I may very well support the amendment on its substantive merits. But I oppose the inclusion of nonbudget-related items in this bill. Why? For the reasons I have already expressed earlier today and on yesterday in support of the amendment which I offered.

Where do we draw the line? If we include this non-budget-related legislation in this measure, why not go further and include additional non-budget-related legislation?

I have some non-budget-related legislation I would like to get passed. This is the ideal vehicle on which to place it.

Why do I say that? Because the legislation I am interested in is very controversial. It would undoubtedly be debated at length, and Senators might want to resort to invoking cloture.

This is the ideal vehicle for me to use in attaching legislation in which I am interested in order to circumvent section 2 of rule XXII, in order to have this priceless, ironclad time cap which I can use to my advantage.

Not only is there a time cap on this legislation, but when the conference report on the reconciliation bill comes back, there is a time cap on that, an even more restrictive time cap. So the legislation in which I am interested, if it can be included in a reconciliation bill, it goes to conference and comes back in a conference report, which protects me even more to the Senate's disadvantage, because there is a 10-hour cap on a reconciliation conference report.

In order to discourage ROBERT BYRD or any other Senator from utilizing this vehicle or a similar reconciliation vehicle in the future for the inclusion of legislation which would otherwise be hotly and long debated, and to which many amendments might be proposed, I think we should attempt to draw the line now.

If we establish a pattern of strong opposition on the part of the leadership to the inclusion of such legislation—by that I mean non-budget-related legislation—in reconciliation bills, we will have served the Senate and the people, and we will have imbedded in concrete the principle of free and unfettered debate.

I think it is a principle that is worth standing for, worth fighting for, and I hope that the Senate will reject this amendment and any other amendment of like nature—by like nature, I mean nonbudget related—in order that such legislation will come to the floor in the normal course of things, after having had committee hearings, after having had the calling of witnesses before the committees, after having had committee markup, and after having had full debate in the Senate in the normal legislative process.

I am told that this particular legislation did have hearings. In that respect, it may be a little different from other amendments that may be called up. But if we include this on the basis that the Senate has already acted upon it, there may be other such measures that would fall in the same category.

I do not think that it is a valid argument for the inclusion of such legislation.

In the interest of establishing a pattern of rejection by the Senate of legislation that is nonbudget related, and by way of looking down the road into the days and months and perhaps years beyond this day, in the interest of establishing a strong principle around which we can rally in the future, I urge the Senate to vote down this amendment.

As I say, I do not argue against the amendment on its merits. I might support it if it should come in at another time in the normal course of the legislative process. But in this instance and for the reasons I have stated, I shall vote against it. I urge my colleagues to do likewise.

Mr. BAKER. Mr. President.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. Will the Senator yield 2 minutes to me?

Mr. DOMENICI. I yield 2 minutes to the distinguished leader.

Mr. BAKER. Mr. President, I support the amendment. It would be an imposition for me to reargue the disagreement between the minority leader and myself on this subject at this point. I do believe, Mr. President, that we have done a good thing in the unanimous-consent agreement in providing that this amendment would be in order at this time.

One of the underlying arguments supporting that agreement finally reached was that, while the Budget Act indeed might produce unintended effects when an authorizing committee reported legislation of this character to the Budget Committee, which had no alternative except to act in an administrative capacity to report the bill to the floor and to gain thereby the time for debate and other tests of the act, that on the contrary, the Senate could do anything it wanted to do.

There is more than one provision in the act for a waiver of every provision of the Budget Act, for that matter, but there is an inherent right of the Senate to put legislation on an appropriation bill—although I do not approve of that or do not urge that; it can be done in some circumstances—and, indeed to put legislation on a reconciliation bill regarding the Budget Act.

So in the dealings covering part of yesterday and today, we decided to handle this issue in just this way, try to remove the precedential effects of this measure, present it squarely on the basis of the merits in this case.

The merits are, in my view, Mr. President, No. 1, regardless of what the intended the Budget Act to be, it has provided a system by which, in this case, the House of Representatives has included much of this same material in their reconciliation bill, with whom we shall have to go to conference at some point. We are going to have to go meet with our colleagues in the House—some of us will—and deal with this measure. So I think, if for no other reason than to give the Senate an opportunity to meet them on an even basis, on an even keel, we should support the amendment being offered by the Senator from Utah.

I reiterate, Mr. President, I express my appreciation to the minority leader, to the distinguished ranking member of the Committee on the Budget, to the Senator from Mississippi, the Senator from Louisiana, and so many others, for making it possible by unanimous consent to remove the question of whether we are doing damage to the precedent of the Senate in proceeding th's way. We are not. We have now provided for a straight shot at the question at hand: How can the Senate best protect its position in conference with the House of Representatives? I urge my colleagues to support this amendment.

Mr. DOMENICI. Mr. President, I ask the distinguished Senator from Utah if he will yield this Senator 5 minutes on the amendment.

Mr. GARN. I am happy to yield to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, it has been a great privilege on my part to be part of the resolution of this issue. Since we have resolved the issue by saying to ourselves that, as to this amendment, some of these housing provisions in the opinion of some may have been extraneous to the bill, no one should be concerned that we are violating any precedent here today because the Senate has, by unanimous consent, said to us, "You decide whether or not these housing provisions should be sent to the House for conference as part of the reconciliation process or not."

That is the issue, Mr. President: Do you want to or not?

As I see it, on Monday of this week, some issues that might have been clearly extraneous were taken out. For instance, the width of trucks had been put in a Commerce bill and there was an agreement to take it out. But we have a much different issue here today.

The Senate should understand that the largest saving in 1982, 1983, and 1984 in budget authority in this entire budget is expected of the Banking Committee in the area of housing. So you will understand the dimension of the saving, it is $14.5 billion in budget authority saving in 1982 alone; over $54 billion in budget authority saving over the 4 years.

Now, nobody questions that the Budget Committee and the U.S. Congress told that committee to save $54 billion in budget authority. Am I right, I ask the Senator from Utah?

Mr. GARN. That is correct, Mr. President.

Mr. DOMENICI. That is what we told them to do. What we have done is say to them, "You save $54 billion in budget authority, but in this case, since you have come up with a total housing reform package, a few provisions of which Senator MOYNIHAN might stand up after me and say have nothing whatsoever to do with housing, we are saving money."

The overwhelming provisions before the Senate are the Senate's approach to saving $54 billion. That is what we voted on the other day.

Am I right, I ask the Senator from Utah?

Mr. GARN. Once again, the Senator from New Mexico is correct.

Mr. DOMENICI. This Senate said, "If we are going to save $54 billion, we need a whole new housing bill. We do not need a little bit doctored up here and there. You cannot save $54 billion doctoring up a housing program that is a disaster. You have to have a new housing bill." That is what Senator GARN and his committee produced. In the process, obviously, they have to change many provisions of the disastrous housing law—change the mix, more rehabilitation so we do not buy half-million-dollar-average homes under one of these sections, with outlay budget authority of $224 billion on the books right now

and growing at about $15 or $20 billion a year in budget authority.

So they did precisely what the Senate wanted them to do. They passed a comprehensive housing bill that, if carried out, will save $54 billion. In the process, Mr. President, there are those who would say, "Don't go to conference with the House on this. Set some arbitrary authorization limits and run out and punch the computers at CBO and say, 'Yep, those new limits will save all these dollars, but don't put in the reforms that will carry it out.'"

Now, I regret to say that while I was part of putting all this together, while I had the idea, let us do it this way and put it at the end and get the Senate to agree and there are other people with much better talent than I who can put all the pretty language to it, I really never understood how we expect to save $54 billion without this reform package.

So while I am agreeing to it and we have saved ourselves from any precedent that anyone is worried about, I take the exact opposite view. We would be doing ourselves a disservice if we did not pass this housing reform bill and send it to the House.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. DOMENICI. Will the Senator yield me another minute?

Mr. GARN. I shall be happy to yield to the distinguished Senator. He is making such a great speech.

Mr. DOMENICI. What I want to close with is this: In proposing this reform housing program, I remind Senators again that it is going to save more money than any other program the President has asked us to consider, and I almost think it is our duty to send the reform package to the House. We passed it, and now we have eliminated any concern about not passing it again, because we established that there is not any bad precedent by passing it again. So we should ask whether or not we are serious about housing reform. If we are, we should not cripple housing reform in the name of some kind of reconciliation purity.

If ever we logically—although perhaps accidentally—found an amendment that we should send as part of a reconciliation package, even if questionably extraneous, it is this one. We could not have invented a better one.

I thank the Senator from Utah.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. I yield to the Senator from New York.

Mr. MOYNIHAN. I thank the Senator from South Carolina.

Mr. President, I had a distinguished predecessor in this body, a member of the opposite party, who served in the late 19th century and was no friend of civil service legislation. He once observed that when Dr. Johnson declared that patriotism was the last refuge of a scoundrel, he underestimated the potential of reform.

This housing reform, if I may put it in the simplest terms, includes in section 322(5)(a) an affront to the Nation's largest city and the most important city in the world today.

The city of New York, as all the great cities of the world, has had difficulty maintaining a mix of population and decent housing and has voluntarily, of its own accord, established an arrangement whereby the builders of new apartment buildings—most of the people living in the city of New York live in apartments—those landlords, those entrepreneurs, may enter into a voluntary arrangement with the city of New York whereby in return for an agreement to stabilize rents, which is to say they may rise at a steady and not precipitate rate, they receive tax rebates from the city.

It is an internal matter, a successful matter, a successful arrangement, voluntary on the part of the entrepreneur.

In the name of free enterprise, reform, and restoration of the rights of communities, we are penalizing the city of New York and its people. It does not matter too much: Only poor people will be hurt; and we now have a pretty good idea at what level of priority the concerns of poor people are considered in this body at this time.

Mr. President, this is an affront to our people in New York. I hope the amendment is not agreed to. If it is agreed to, it will not be forgotten.

I thank my friend from South Carolina.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield me a couple of minutes?

Mr. HOLLINGS. I yield.

Mr. ROBERT C. BYRD. Mr. President, I also call attention to the fact that the amendment includes a sense-of-the-Senate provision that "the Senate conferees on the reconciliation bill will not insist on the Senate-passed provisions of title III, part C, provided that the House conferees do not insist on title III, subtitle A, of H.R. 3982, or any amended version thereof."

Mr. President, the appropriate place for instructing the Senate conferees—although I admit this is only a sense-of-the-Senate provision and has no binding effect and therefore is useless—the appropriate place for instructions to the conferees is following the passage of the bill, following the consent to a conference, if the House has requested one, which it has not, or following the request by the Senate for a conference with the House and before the appointment of conferees. That is the place for instructions to the conferees. This means nothing.

In addition, it is in the wrong place, and I do not believe the Senate should be voting on this provision at this point.

We agreed that the amendment would not be divisible; therefore, we have to take it all or reject it all.

I hope the Senate will vote against this amendment.

We have cured the back-door problem by virtue of the consent agreement that was entered into, and this amendment is something that is being brought in the front door, so to speak. We are all voting on it with our eyes open.

I believe we have to discourage what may become a practice here, as we have seen legislation on appropriation bills become a practice.

I recall that Senator Magnuson, before he left the Senate, and other Senators, myself included, have long deplored the increasing use of appropriation bills as vehicles for legislation.

The budget process, in the long run, will suffer. It will gradually fall into disrepute here. I believe it has been used fairly appropriately by the majority up to this point, because the only way a package of budget cuts could be brought to the Senate and not broken apart piecemeal is by using the budget process. This is the only way the majority could effectively enact such a program. I compliment the majority party on so doing.

But if it is misused and we fall into a pattern of abuse of the budget process, someday that process will be rejected; and there will come a time, if it is going to become the practice, when majorities in the future will attach legislation to budget reconciliation bills that may be very objectionable and hurtful to any minority at that point.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. ROBERT C. BYRD. I yield myself 30 seconds on the bill.

I urge the Senate, in the interest of protecting the budget process in the long run, to reject this amendment.

Mr. GARN. Mr. President, I ask for yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. GARN. Mr. President, I am prepared to yield back the remainder of my time and vote.

Mr. DOMENICI. Mr. President, will the Senator yield me 30 seconds?

Mr. GARN. I yield to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, in my remarks, I mentioned that the outyear liability under section 8 housing would be $224 billion. I should like the record to be corrected to show that it is $221 billion.

Mr. GARN. Mr. President, I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Maine (Mr. COHEN) is necessarily absent.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from California (Mr. CRANSTON), and the Senator from Ohio (Mr. METZENBAUM) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators wishing to vote?

The result was announced—yeas 54, nays 42, as follows:

[Rollcall Vote No. 174 Leg.]

YEAS—54

Abdnor	Danforth	Hatch
Andrews	Denton	Hatfield
Armstrong	Dole	Hawkins
Baker	Domenici	Hayakawa
Boschwitz	Durenberger	Heinz
Byrd, Harry F., Jr.	East	Helms
Chafee	Garn	Huddleston
Cochran	Goldwater	Humphrey
D'Amato	Gorton	Inouye
	Grassley	Jepsen

Kassebaum	Packwood	Stafford
Kasten	Percy	Stevens
Laxalt	Pressler	Symms
Lugar	Quayle	Thurmond
Matsunaga	Roth	Tower
Mattingly	Rudman	Wallop
McClure	Schmitt	Warner
Murkowski	Simpson	
Nickles	Specter	

NAYS—42

Baucus	Ford	Moynihan
Bentsen	Glenn	Nunn
Biden	Hart	Pell
Boren	Heflin	Proxmire
Bradley	Hollings	Pryor
Bumpers	Jackson	Randolph
Burdick	Johnston	Riegle
Byrd, Robert C.	Kennedy	Sarbanes
Chiles	Leahy	Sasser
DeConcini	Levin	Stennis
Dixon	Long	Tsongas
Dodd	Mathias	Weicker
Eagleton	Melcher	Williams
Exon	Mitchell	Zorinsky

NOT VOTING—4

Cannon	Cranston	Metzenbaum
Cohen		

So, Mr. GARN's amendment (UP No. 200) was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. FORD. May we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order.

Who yields time?

Mr. PACKWOOD. Mr. President, have you announced the vote on the last one? I missed it.

The PRESIDING OFFICER. The vote on the last amendment was yeas 54, nays were 42.

Mr. PACKWOOD. I thank the Chair.

Mr. HOLLINGS. That is not a precedent. [Laughter.]

UP AMENDMENT NO. 201

Mr. PACKWOOD. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

Mr. FORD. Mr. President, may we have order in the Senate? I would like to hear the distinguished Senator from Oregon. I am on the committee and I have an interest in the amendment he is about to propose.

The PRESIDING OFFICER. The Senate will be in order. The request is appropriate.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon (Mr. PACKWOOD) proposes an unprinted amendment numbered 201.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In Title IV, insert:

Those sections that were stricken from Title IV of S. 1377 by the Unanimous Consent Agreement of June 25, 1981, as follows:

Part E, except for Part E, Subpart 1, Section 441-2 on p. 150, 11. 4-22, and Part E, Subpart 3 on p. 150, beginning with line 31 through and including line 28, p. 154.

Mr. PACKWOOD. Mr. President, this is a very simple and, I think, a very clear-cut issue. It is distinguishable from the previous amendment. We have no quarrel with the House.

Mr. STENNIS. Mr. President, we are entitled to a chance to hear the Senator. I make the point of order that the Senate is not in order.

The PRESIDING OFFICER. The Senator from Mississippi's point is appropriate. The Senate is not in order.

Mr. PACKWOOD. Let me explain the situation to this body as to what happened on this particular amendment and let me assure this body that all extraneous material has been stricken out except for one item that we will have a debate about.

There is nothing in this amendment about the international telecommunications task force or the Federal Communications management director or the annual report. There is nothing in this bill involving Western Union in Europe or amateur radios or truck widths. That is all gone; out. This particular amendment, which is the subject of the unanimous-consent agreement, involves about $100 million in savings over the 3-year period that was made by the Commerce Committee.

When the Budget Committee made its recommendation to the Senate and the Senate adopted the recommendation in the reconciliation order, they suggested to the Commerce Committee that we adopt for the next fiscal year exactly $100 million in user fees imposed on those who use Coast Guard services; basically, the boaters around this country. That was the recommendation from the Budget Committee and from the Senate.

Last night, the Senator from South Carolina, Senator HOLLINGS, and I discussed this issue. I want to make very clear what his position is. I think he said he is not a supporter of Coast Guard user fees but it was his position at the time that the Commerce Committee was obligated, if they came up with user fees, to come up with Coast Guard user fees. That is not the position of the chairman of the Budget Committee, nor do I think it is the position of this Senate.

We were given a total mark to hit. We had to save about $1.7 billion. And I know, again, I said it yesterday, in terms of the relative budget of many committees, that is not a lot of money. But our committee is not a big-dollar committee. It has heavy responsibilities in the area of regulation but not in terms of appropriation and spending the great amounts of money. So $100 million savings to us is a significant amount of savings.

Now, the Senator from South Carolina earlier in the day talked about preserving the integrity of the authorizing committees. Well, if we had to follow the theory of the Senator from South Carolina and could only come up with Coast Guard user fees then that, indeed, does destroy any kind of freedom that the Commerce Committee has to meet the mark in some other way.

We did not have the votes in that committee to pass Coast Guard user fees. There are not the votes in this Senate to pass Coast Guard user fees on every little boater in this country. We all knew it. Yet, we had to meet a mark.

So what we did was come up with user fees on radio and television licensees in this country, the owners of radio and television stations. As a part of the agreement for getting their support for the user fees, we agreed to lessen the regulations on them. It was a package. That is the only way we could have gotten their support. Without these user fees, this committee could not have met its budget mark. Pure and simple.

We have asked them to meet half the cost of regulation through fees. It is quite common in other industries. We have never had user fees before on radio and television. They said, "All right, we will do it if you will agree to take off what we regard as overburdened regulations." We agreed and that is part of the package.

In this reconciliation package in order to save the $100 million, the Budget Committee counts user fees as savings. We lessened the regulations. In the process of doing that, we were able to lower the authorizing level of the Federal Communications Commission because they were no longer going to have to look at the logs of radio stations to see how many commercials they ran; they were no longer going to have to look at the books of television stations to see if they have done a local ascertainment.

We went down the list of other regulations and we said to the Federal Communications Commission, "Now, can you live with a lesser budget because you do not have as many regulations to enforce?" They said, "Yes." That is the upshot of this amendment. Nothing more. It is a package and it was a package based upon an honorable agreement that we would lessen the regulations if they would accept the user fees. That is what we are now going to vote on up or down.

I will say again, if it is going to be the position of this Senate that the only user fees that we could have adopted were Coast Guard user fees, then, indeed, we have made the Budget Committee supreme. I will say once more that is not the position of the chairman of the Budget Committee.

We are free to meet the mark in the way that we want it and to change the law that is necessary to enable us to meet that mark. Pure and simple; end of argument.

I would hope that the Senate would accept this amendment and understand the package that it is.

Mr. SCHMITT. Will the Senator yield?

Mr. PACKWOOD. Yes.

Mr. SCHMITT. The Senator from Oregon and the distinguished chairman of the Commerce Committee has stated the case, even for his great abilities, remarkably well; that it is simple. It is a very simple case and I concur with the analysis that he has given.

As the principal sponsor of the original radio bill that went to the Commerce Committee, I think that not only have we taken a major step toward having the industry pay the costs of the regulations which they benefit from, but we have taken an additional major step in focus-

ing the attention of the FCC on the things they ought to be working on instead of things that clearly have not promoted any great or any significant public benefit over the years.

We have run that experiment about the heavy regulation of the broadcast industry. The experiment did not accomplish anything. So now let us walk away from it and provide not only the savings of fees, of license fees, but also the savings to the FCC from having to administer these burdensome regulations.

So I would hope that our colleagues would see the wisdom of this decision by the distinguished chairman and by the Commerce Committee. I am happy to concur in his proposal.

Mr. PACKWOOD. I appreciate very much the remarks of the Senator from New Mexico.

Mr. FORD. Will the Senator yield for a question?

Mr. PACKWOOD. On the Senator time?

Mr. FORD. I do not have any time.

Mr. PACKWOOD. Go ahead. I will see how long the question goes. Yes.

Mr. FORD. Mr. President, the Senator explained the user fees and reduction of regulations in order to accommodate the user fees. What else is in the Senator's amendment other than user fees and reductions of regulations?

Mr. PACKWOOD. Nothing. The authorization for the FCC is there. There is nothing else in the amendment.

Mr. FORD. Radio deregulation is not in this amendment?

Mr. PACKWOOD. I thought you said that. Was there anything else besides the regulations?

Mr. FORD. Radio deregulation. What about TV licensing?

Mr. PACKWOOD. As me the question again.

Mr. FORD. Are there other things in the bill? Is radio deregulation in your amendment?

Mr. PACKWOOD. Yes.

Mr. FORD. Is TV licensing in your amendment?

Mr. PACKWOOD. Yes.

Mr. FORD. Then user fees is in your amendment?

Mr. PACKWOOD. Yes.

Mr. FORD. So two pieces of legislation that probably would have been on the unanimous-consent calendar, one for radio deregulation and TV licensing, we are putting it on reconciliation legislation?

Mr. PACKWOOD. I doubt very much that I could have gotten the votes for the user fee without concomitant reductions in the regulations on radio and television.

Mr. FORD. Could that not be brought up at another time and not on this piece of legislation?

Mr. PACKWOOD. Again, I was trying to meet a budget mark of $1.7 billion without going to the Coast Guard user fees. All I am saying is I do not think I could have gotten the votes for the radio and television user fees.

Mr. FORD. The question I have to the Senator—if I could ask for time in opposition, I would be glad to do it—is could not this legislation that he is proposing in this amendment be brought up tomorrow, straight up, and have radio deregulations and TV licensee user fees all in one package without putting it on a reconciliation bill?

Mr. PACKWOOD. No; because we would not meet our budget mark.

Mr. FORD. It is very difficult for me to understand that.

I yield the floor, then, to the distinguished Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I do not see how in the world this developed into a user fee debate. That is not the issue before the Senate in this amendment.

I will get right to the facts and the point, and if I am wrong, I will be glad to stand corrected. The total reconciliation instruction to the Commerce Committee was to save $1.658 billion in budget authority and $984 million in outlays in fiscal year 1982. Indirect spending, the committee was to save $100 million in budget authority and outlays for fiscal year 1982.

Actually, the committee's total savings for fiscal year 1982 were $1.831 billion in budget authority and $1.177 billion in outlays, more than they were required to save. The reason the committee exceeded its savings was because it made large cuts in direct spending programs, where they saved $490 million in budget authority and $340 million in outlays for fiscal year 1982, rather than the $100 million in budget authority and outlays it was instructed to save.

So the committee in its report to the Senate has presently achieved savings of $390 million in budget authority and $240 million in outlays, more than its direct spending instructions for fiscal year 1982. Because of this excess savings in direct spending, the committee is over its total savings requirement, including reduced authorizations.

If the amendment of the distinguished Senator from Oregon fails, he would still have achieved more savings than the committee was required to achieve.

We should not misrepresent this. The Commerce Committee would have achieved reductions in direct spending more than $360 million in budget authority and $210 million in outlays over the committee instructions if this amendment fails. Senator PACKWOOD has said that the only way the committee could achieve these savings is with the user fees he is talking about.

He has the user fee argument, but I will not fall into that trap. I know about the user fees and I know about the inspection fees, and I know about this bill. I may end up as a cosponsor of this bill, if it is considered outside of the reconciliation bill.

He knows and I know that I heard a rumor that I supported licensing boats. My friend, the distinguished senior Senator from Arizona counseled me, as he does from time to time. He said, "Have you gone crazy?" I said, "not quite." He said, "I understand you support establishing licenses and user fees on boats." I said, "Well, that is certainly not the case," and so I finally set the record straight on that rumor.

But the categorical answer is that even if the amendment of the Senator from Oregon fails the committee has still achieved more savings in budget authority and outlay savings than required.

User fees were not instrumental to these savings, they were not incidental, they were not a large part of the savings. The big savings were made by another subcommittee on which the distinguished Senator from Kentucky and I serve.

I have been on the Communications Subcommittee for 15 years. John Pastore and Hugh Scott were here. I recall that we considered this legislation 14 years ago.

They are not going to let these provisions stay in on the House side where they are not going to pass this kind of legislation in the reconciliation bill. This is the vice I hope the Senate will avoid.

It was agreed not to pass these provisions in the earlier unanimous-consent request, as extraneous legislation not directly related to budget savings. It is the kind of legislation which should not be on this bill and the Senator from Oregon knows that.

By unanimous consent we have stricken these provisions and now he is trying to reinstate them on a user fee argument and that is the only way he can justify it. I say that is not the issue before us.

What the Senator really did was add all the communications legislation to the reconciliation bill. The Senator allowed Western Union to enter international trade. The Senator added legislation for the FCC. The Senator added a task force to investigate international telecommunications. He put in everything. You heard the distinguished Senator from Arizona, that we did not agree that the chairman take this action on these bills. The committee chairman and the ranking member were gone on important assignments.

What happened? The Members put all of this legislation on the reconciliation bill.

This action is the violence to the authorizing committees that we have been trying to debate.

I can debate these particular bills. We have been debating them for 15 years.

There is some interest that comes from the Senator from New Jersey. I am not going to vote for his amendment.

I would vote for his amendment 100 times on a bill, because I think New Jersey ought to get some consideration, and Delaware. But immediately, if we are going to pass communications bills in reconciliation, the Senator says, "Before I agree," and so on, and in order to get unanimous consent we have to agree to consider a New Jersey TV licensing bill. The bill has nothing to do with reconciliation or reductions in spending. That is how extreme this is, how the extreme point is reached.

It ought to be clearly understood that the very vice we are talking about is presented by a chairman of a committee coming up and saying that this is the only way we can do it. But that is not the case.

I have given the Senate the exact figures. If I am wrong, I do not mind being corrected. I asked the staff to give it to me in an objective way without prejudice,

because I have no prejudice against the legislation. I am for 5-year licenses for TV and general deregulation of radio. My constituents know that. I have been cosponsor of the radio deregulation bill. But this procedure I am not a cosponsor of, I can say that.

On behalf of the Senate, I raised the point first in the Budget Committee. I said, "Heavens above, we are passing all these communications bills that we have been waiting to debate and talk about."

In its reported savings provisions, the Commerce Committee even included a proposal to allow trucks up to 102 inches wide to operate on the Federal highways. Then the committee members tell me about the care, the great strain they were under, and how they were trying to get user fees.

Who is going to buy that nonsense? That is outrageous nonsense, to come up here and get a boat argument from the Coast Guard and how necessary it was and how the committee was straining to report within their instructions.

False. There are the figures and I have given them to the Senate. If I am wrong, I will be glad for the Senator to correct me.

(Mr. MATTINGLY assumed the chair.)

Mr. DOMENICI. Will the Senator from Oregon yield 5 minutes?

Mr. PACKWOOD. I am happy to yield.

Mr. DOMENICI. I do not want to say that the Senator from South Carolina is wrong but I think there may be another explanation. He is not technically wrong, but there is a practical explanation for the position of the Senator from Oregon, and I think he acted under that premise.

The figures are not wrong, but let me see if I can explain it.

In the President's budget and in the target of the first budget resolution—not the reconciliation but the targets for the first budget resolution—the ADAP program is reduced from $789 million to $450 million. That amounts to a $339 million difference.

Technically, we could not order the Commerce Committee to reconcile the ADAP program, because the ADAP legislation had expired. But we had already contemplated in the budget resolution totals that if and when ADAP is reauthorized it would be at the $450 million level. The Commerce Committee, in the reconciliation bill, reauthorized ADAP. Therefore, they technically get credit for $339 million although none of this could specifically be contemplated in the reconciliation instruction.

Mr. HOLLINGS. No, no——

Mr. DOMENICI. Let me finish. I am talking about the concern of Senator PACKWOOD. He is absolutely right. He is legitimately concerned.

What is going to happen is that the Commerce Committee in a sense will get credit twice. They get credit for meeting the reconciliation instruction and for meeting the budget resolution target which already assumed the $339 million savings.

So, as a matter of fact, when he looked at the real savings necessary to achieve the budget target, as compared with the accounting savings from ADAP, he was short, even after making the ADAP reauthorization and the others.

I hate to say this to the Senator from South Carolina, but user fees were also assumed in the reconciliation instruction. Incidentally, for those who think user fees on boats are irresponsible, whatever the Senator called them, or ludicrous, user fees on boats were in the Senate reconciliation resolution last year and we dropped these in conference with the House.

User fees were contemplated as an assumption in the reconciliation instruction because the President asked for user fees on pleasure boats and we adopted it. The Senate does not have to do it. It is an assumption that we took in arriving at the amount of savings the Commerce Committee might make.

The Commerce Committee chose not to adopt Coast Guard user fees. Now, you cannot say that the committee could not adopt another kind of user fee—and I am not using the user fee argument to support the deregulation. I am merely saying that anything within the committee's jurisdiction on which it could get a majority of votes and that was indeed user fees and not taxes, it could do. The Senator chose to adopt user fees for the communications industry. Is that correct?

Mr. PACKWOOD. That is exactly correct.

Mr. DOMENICI. I just want to dispel any notion that Senator PACKWOOD and the Committee on Commerce are so enamored of user fees on the communications industry that they would put them on to exceed their reconciliation instruction. I do not think they really wanted to do it that badly. They wanted to do it because they were working toward meeting their reconciliation instructions.

Mr. PACKWOOD. When we were working on the last day, we were working within a $30 million tolerance of the reconciliation instruction. The Senator is absolutely right on the ADAP. We knew that money was going to be spent and authorized eventually.

His staff will recall when my staff came to him, he was very honestly trying to estimate whether or not we were hitting our mark and for 2 or 3 days, there was some question whether we would even hit the mark at all.

Mr. DOMENICI. The point I am trying to make to the Senate, Mr. President, is that the Committee on Commerce could have chosen quite appropriately not to reauthorize the ADAP program in this bill. They could have brought that to the floor all by themselves if they wanted. It is the kind of bill that probably would have gone to conference with the House. But in their judgment and wisdom, they said, we might as well do it as part of reconciliation. It lowers the threshold of expenditures from $789 million to a new level of $450 million as requested by the President. So they did that.

In doing that, they were only doing what the President had asked for and what we had asked for in our budget resolution target but we could not instruct the committee to reconcile because there was no existing authorization.

Mr. PACKWOOD. That is exactly correct.

Mr. DOMENICI. I thank the Senator.

Mr. GOLDWATER. Will the Senator yield?

Mr. PACKWOOD. I am happy to yield to the Senator.

Mr. HOLLINGS. Mr. President, could I clarify one thing before that happens?

Mr. PACKWOOD. Mr. President, I yield to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, yesterday I agreed with the minority leader in his very eloquent plea relative to the abuse of the Budget Act. I still feel that way, but I feel that a satisfactory agreement has been reached whereby we can consider the bills that are being considered—namely, the housing bill and now the several communications bills. But again, I have to say this to my chairman: Bringing a matter like this up on a budget bill does make it a little difficult to get into the nitty-gritty of deregulation because all we are hearing so far is licensing boats. I did ask my friend, "Are you off your rocker?" I happen to be a boatman and anybody who wants to charge me for running my boats is going to have a fight.

We seem to forget that we have been asked to deregulate and to rewrite the Communications Act. The act was written in 1934. As I have often said, all we had then were some good smoke signals. Now we have advanced to getting radio and television off satellites and we have to come about on this.

I just want to mention some of the things this bill does. I do not want to discuss user fees or any other kind of fee. I remember last year—in fact, the last 2 years—serving with my good friend from South Carolina. He was sort of stuck on spectrum fees and I was not. So we argued that around the block.

This bill goes a long way in deregulating. I have to tell my colleagues, after having spent over 200 hours of hearings on this matter in the last 4 years and having talked with broadcasters and radio and television people all over this country who really back this approach—they want it, and that includes every State in the Union—what we are doing about licenses is long overdue. What we are doing about Federal regulation of television is long overdue.

We have had the Federal Government messing around with television programs, and I have to say we probably have the worst television programs in this country of any country I know of. It is all because the Federal Government is trying to tell television stations how to run their business. My attitude and approach to this is a free enterprise approach. If the television station or the radio station does not offer programs that people watch or listen to, then they are going out of business.

We are directing our efforts in this legislation not just to users fees and so forth; we are trying to get down to what deregulation amounts to. It is to go along with the deregulation of trucking, the deregulation of airlines.

I wish that my colleagues would pay less attention, although I know it is difficult, to dollars and cents in this bill and a little more attention to what we are really accomplishing.

Mr. FORD. Will the Senator yield for a question?

Mr. GOLDWATER. Not on our time.

Mr. FORD. May I have 30 seconds on our time?

Mr. GOLDWATER. Yes, you have it.

Mr. FORD. I understand the Senator has the authority to give it to me, but I do not think the Senator over here has accepted that authority.

Mr. HOLLINGS. I yield 30 seconds to the Senator.

Mr. FORD. Mr. President, the Senator from Arizona has said forget about spectrum fees or charges or money, think about the legislation that is on this bill. That is the thing that the Senator was against yesterday, that is the thing he is against tonight. I am a cosponsor of both of these bills. I want them as badly as anybody else. But there is a principle here that the Senator adheres to. We are letting that go down the drain.

I want it. I was on the committee. I walked through the door when the gavel hit to object to the procedure we are using. That is my fault and I am suffering the consequences now. But I say to the distinguished Senator, he said "legislation" more times than he said any other words since he has been talking except "forget about the dollars and cents."

Mr. GOLDWATER. The Senator answers his own question better than I can.

Rather than prolong this discussion, Mr. President, I do recognize that it is difficult, but it is a bill and we are asked to vote on it. That is all I have to say about it. I yield the floor.

Mr. HOLLINGS. Mr. President, in order to clarify what the distinguished chairman stated, I ask unanimous consent to have printed in the RECORD at this point a Table, Commerce Committee Reconciliation Estimates, as of June 12, 1981, prepared by the Congressional Budget Office. On this table is shown airport development and planning grants (ADAP) savings as of June 12. The committee was given full credit for these ADAP savings. The fact is, that when we passed the first concurrent resolution on May 21 these ADAP savings were assumed in it. So the ADAP savings were planned.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

COMMERCE COMMITTEE RECONCILIATION ESTIMATES

	Fiscal year 1982		Fiscal year 1983		Fiscal year 1984	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
Directing spending:						
Instruction (Coast Guard user fees)	−100	−100	−200	−200	−300	−300
Committee draft savings provisions (ADAP, highway safety grants, FCC user fees) [1]	−490	−340	−590	−398	−673	−496
Committee draft savings provisions more than (+) /less than (−) instruction	+390	+240	+390	+198	+373	+196
Authorizations:						
Instruction	−1, 558	−884	−1, 598	−1, 328	−1, 465	−1, 337
Committee draft savings provisions	−1, 341	−837	−1, 321	−1, 179	−1, 283	−1, 194
Committee draft savings provisions more than (+) /less than (−) instruction	−217	−47	−277	−149	−182	−143
Total: [2] Committee draft savings provisions more than (+) /less than (−) instruction	+173	+193	+113	+49	+191	+53

[1] Fiscal year 1981 impact of +$255,000,000 in budget authority, −$25,000,000 in outlays.

[2] Under reconciliation scorekeeping rules, savings in direct spending can be substituted for reduced authorizations.

Mr. HOLLINGS. So, do not use the argument that FCC user fees were necessary for reconciliation. To be able to require the FCC to charge user fees is a great delight to the Senator from Oregon, it is no strain. Why? Because the point the Senator from Arizona made.

One of the important communications industry struggles over the past several years is the struggle on spectrum fees. There are Senators in this body who do not believe that the people of America own the space, the spectrum, and the air and that we should license that spectrum to different users under certain conditions and policies mandated by the Congress of the United States. I happen to believe that we should have spectrum fees but others do not believe this and never wanted to institute them.

Well, at the same time, opponents have said that instead of a spectrum fee, they would gladly accept a user fee. It has been their contention, that it is permissible to offset cost, but never establish the principle of a license fee.

That issue is one of the major issues to be debated on the communications bill, and it will be debated at some time. I am not concerned about maintaining free debate in this instance.

But we must not accept Senator PACKWOOD's argument because the ADAP funding cut was made and it is not relevant what was in his mind when he voted. I can tell you, I have studied and lived with this issue. I have been chairman of the Communications Subcommittee. I have been on the Budget Committee since it was first formed, and I have been chairman of the Budget Committee. I was Chairman of the Budget Committee through the first reconciliation. I can tell you categorically that the figures I have given you are absolutely true. Vote down this amendment. You can discuss what was in each Senator's expectations when he voted. That is fine.

I have shown you the charts. I have shown you the totals for the Commerce Committee in the reconciliation bill and the ADAP figures. But do not say we are overgenerous. The same standards would apply to every chairman.

I happen to know this: FCC user fees were not included in order to help the Commerce Committee achieve its reconciliation instruction. I can tell you that. I know it. The relationship of their bill to their instruction was the first thing that I checked. I asked, "Does the committee have to do that?" There was no reason to. That is the fact. Those figures are accurate and the chart is accurate, and the first concurrent resolution is a matter of record.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, will the Senator yield me 2 minutes?

The PRESIDING OFFICER. Only 20 seconds remain.

Mr. DOMENICI. I yield myself 2 minutes from the bill.

I say to the Senator from South Carolina (Mr. HOLLINGS) that that is why I was so careful. I did not want to say his figures were wrong and mine were right. I just tried to give him an explanation of the figures, and I will stand on that. I will make this statement: If the Commerce Committee had not proceeded as they did, under the first budget resolution as it has passed, with language in it that you cannot enroll any bills that exceed the budget resolution crosswalk until the second concurrent resolution, your crosswalk target would not have permitted you to do one, single, additional piece of direct spending legislation for the remainder of the year.

The committee crosswalk in the first resolution took into consideration the ADAP savings, which we could not include in reconciliation, because there was no law to reconcile against. Your committeee chose to recreate ADAP at a lower level of authorization from a nonauthorized posture to a new one. In doing that, we had no alternative but to give you credit for going from $789 million to $450 million.

So we are both right.

You exceeded the savings under one system; and, as I see it, you were extremely prudent, because the savings you made in ADAP were never contemplated as part of reconciliation. Yet, you were targeted to make them or suffer the consequence of having no enrollable bills until the second concurrent resolution.

You did that, and I said, "We will use the user fees and the other matters to reach the figures that are our reconciliation instruction." I believe that is how the sequence occurred.

I do not believe that makes him right and me wrong on numbers. It is just an explanation of the numbers, as I see it.

Mr. HOLLINGS. Mr. President, the distinguished chairman knows that I have the highest regard for him and never like to differ, but I must.

The Senator said there would be nothing to reconcile. The entire reconciliation bill before the U.S. Senate, which is

about to be passed this evening or tomorrow—no later than noon—has nothing to reconcile. We have not passed appropriations. We have not passed some of the authorizing entitlements. As the Senator has said, we have not had the second concurrent resolution. Therefore, none of this is applicable.

I marvel at the twisting and turning and various hues and colors of the explanations we hear when we want to save $3.8 billion, and it is all right to put that $3.8 billion off-budget.

Now we are going to jump to the second concurrent resolution and say we are both right, when that is not the case, and we know it. The Senator from Oregon knows it. He agreed to it. We had unanimous consent to strike the language. It was clearly extraneous.

Going one step further, a little while ago, the Senate went along with the Finance Committee's cuts on food stamps, cuts for aid to dependent children, cuts straight on down the line in medicare. But not when it came to Senators, and a cut of approximately $300 million in their health care program. We could not do that. There are some good, fine precedents being set here this evening. That, however, will be another one; and it is wrong, and they know it.

The proponents are trying to pass legislation, and that is the whole argument. But the users' fee was so hard to get to. If he could palm this off and get away from the spectrum fee argument, we have $150 million over there that we have not found out how to reimburse. The FCC has not been able to determine a fee. If you want to talk about money, use the $150 million to do that. He is delighted to get into the users' fee rather than the spectrum fee.

But I can get into that argument. I am for the principle of the U.S. Senate, the authorizing committee, and the best proof is this debate going on.

Nobody other than a few broadcasters' friends have contacted me to say, "Don't talk too strongly against this. Let's get it by now. We have waited so long." They are my friends, and I understand that plea; but I will not go along with abusing the reconciliation process. As to the statement that there is a good explanation for this, that both figures are right, that is erroneous.

The PRESIDING OFFICER. Who yields time?

SEVERAL SENATORS. Vote! Vote!

The PRESIDING OFFICER (Mr. GORTON). Do Senators yield back their time?

Mr. HOLLINGS. I yield back the remainder of my time.

Mr. PACKWOOD. I yield back my time, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oregon. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Maine (Mr. COHEN), is necessarily absent.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from California (Mr. CRANSTON), and the Senator from Ohio (Mr. METZENBAUM), are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 55, nays 40, as follows:

[Rollcall Vote No. 175 Leg.]

YEAS—55

Abdnor	Gorton	Nickles
Andrews	Grassley	Packwood
Baker	Hatch	Percy
Boschwitz	Hatfield	Pressler
Byrd, Harry F., Jr.	Hawkins	Quayle
Chafee	Hayakawa	Roth
Cochran	Heflin	Rudman
D'Amato	Heinz	Schmitt
Danforth	Helms	Simpson
DeConcini	Humphrey	Specter
Denton	Jepsen	Stafford
Dole	Kassebaum	Stevens
Domenici	Kasten	Symms
Durenberger	Laxalt	Thurmond
East	Lugar	Tower
Exon	Mathias	Wallop
Garn	Mattingly	Warner
Goldwater	Mitchell	Zorinsky
	Murkowski	

NAYS—40

Baucus	Hart	Nunn
Bentsen	Hollings	Pell
Biden	Huddleston	Proxmire
Boren	Inouye	Pryor
Bradley	Jackson	Randolph
Bumpers	Johnston	Riegle
Burdick	Kennedy	Sarbanes
Byrd, Robert C.	Leahy	Sasser
Chiles	Levin	Stennis
Dixon	Long	Tsongas
Dodd	Matsunaga	Weicker
Eagleton	McClure	Williams
Ford	Melcher	
Glenn	Moynihan	

ANSWERED "PRESENT"—1

Armstrong

NOT VOTING—4

Cannon	Cranston	Metzenbaum
Cohen		

So Mr. PACKWOOD's amendment (UP No. 201) was agreed to.

Mr. BAKER. Mr. President, is there an amendment sequenced now by previous order?

The PRESIDING OFFICER. The amendment was not sequenced. However, the amendment by the Senator from New Jersey was allocated time for debate.

UP AMENDMENT NO. 202

(Purpose: To amend S. 1377 to provide very high frequency commercial television stations to States without such service)

Mr. BRADLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey (Mr. BRADLEY) for himself, Mr. WILLIAMS, Mr. ROTH, and Mr. BIDEN, proposes an unprinted amendment numbered 202.

Mr. BRADLEY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment follows:

On page 165, line 22, insert the following: "That section 307 (47 U.S.C. 307) of the Communications Act of 1934 is amended by adding at the end thereof the following new subsection:

'(f) In order to carry out the intent of subsection (b) of this section, it shall be the policy of the Commission to distribute licenses for very high frequency commercial television broadcasting stations in a manner which ensures that there will be located not less than one such station in each state. In the event that a very high frequency television broadcasting channel assignment becomes available after January 1980 in a state which has more than one such assignment, the Commission shall allocate, where technically feasible, such channel to a state in which no very high frequency commercial television broadcasting station is operating.'."

Mr. BRADLEY. Mr. President, the amendment that I am proposing this evening is an amendment that would provide for the reallocation of a VHF television station from a State in which there is more than one station to a State in which there are no VHF stations.

I am introducing this amendment on behalf of myself, Senator WILLIAMS, Senator ROTH, and Senator BIDEN.

Mr. President, there are only two States in the Union that do not have VHF television stations. They are New Jersey and Delaware. The effect of this, Mr. President, is that New Jerseyians know more about the mayor of Philadelphia or a councilman in Queens, or the Governor of New York than they do about their own Governor, or their own mayor.

But more important than this, Mr. President, is the fact that New York and Philadelphia television stations have failed to adequately cover New Jersey concerns, and thus our citizens have not been adequately informed about serious problems and issues that confront the State. I will give you three examples.

During last winter and spring, the State of New Jersey faced one of its most serious droughts in history. There were strict rationing rules in the northern half of the State where households were limited to 50 gallons per week and in which many schools and businesses were close to closing. Communications about the problem, about ways to save water, surely would have been given much attention by a New Jersey commercial VHF station, if New Jersey had one. But we had to settle for inadequate coverage and inadequate information from the stations outside the State.

A second example, Mr. President, is the growing problem of toxic wastes that are close to polluting New Jersey's water supplies. Mr. President, over the years industrial and residential wastes have been disposed of carelessly in municipal and private dumps. The result has been to endanger the water supply of many municipalities and many municipalities have already closed down their water systems.

Mr. President, television could play an important role in educating the public, in dispelling panic and rumor, in publicizing proper waste disposal techniques and in building public support for prudent governmental solutions. Yet out-of-State stations have provided virtually no balanced coverage of these conditions nor the steps needed to deal with them.

Finally, Mr. President, I would highlight the problem of a public official in the State of New Jersey. We just completed a gubernatorial primary, a gubernatorial primary in which there were a number of candidates, the Governor of

New Jersey being one of the most powerful elected officials in the country, appointing over 5,000 people, all district attorneys and judges, all noncivil service positions. And yet Mr. President, it might seem incredible but it is true that in the last 4 days of the campaign, on all seven New York television stations, there was a total coverage of this gubernatorial election of 13½ minutes per day. Thirteen-and-a-half minutes for seven television stations.

In addition to that, Mr. President one television station set a limit of eight 30-second spots per week, including three after 11:30 p.m. and only one in prime time. None were allowed during special events or sporting events.

Mr. President, I think it is instructive to also observe that there were none of these restrictions found in the last several primary elections for Governor of New York, or mayor of New York City.

Mr. President, in this amendment, we are not even seeking equity. We are simply saying that the nearly 8 million residents of New Jersey certainly deserve at least one station if the 8 million people of New York City can have seven stations.

Mr. GOLDWATER. Will the Senator yield?

Mr. BRADLEY. I would be pleased to yield to the distinguished Senator from Arizona.

Mr. GOLDWATER. Mr. President, speaking as chairman of the Subcommittee on Communications, I could not agree with the Senator from New Jersey more. I think every State in this Union should have at least one television station. And I know that New Jersey and Delaware do not. I am not sure about New Hampshire. I think they have one.

I think it is rather obvious why they have been denied. The big stations in Pennsylvania and New York do not want to think about competition coming from two relatively small geographic States but very heavily populated. In fact, I think New Jersey has the heaviest population in the United States per square mile.

As chairman of the subcommittee, if this amendment is not taken or if it does not pass, I think it makes a lot of sense to merely express the sense of the Senate that every State should have a high frequency television license and push on the new Chairman of the FCC to get that accomplished.

I can tell my friend from New Jersey I will do that and if it is necessary to hold hearings, I can promise all the Senators on this amendment that the subcommittee will hold hearings, if that is necessary, as soon after the recess as we can, because I felt for many, many years that these two States were being discriminated against. It does not make any sense for a State not to have a television station.

I just want to lend my support to the Senator.

Mr. BRADLEY. I thank the distinguished Senator from Arizona for his expression of support clearly stated tonight, and, as usual, persuasive. I also appreciate his support in previous hearings before his committee.

Mr. HOLLINGS. Will the Senator yield?

Mr. BRADLEY. Yes.

Mr. HOLLINGS. It will be on our time. Mr. President, right to the point, of course, on the merits, I agree and support the initiative of the particular amendment of the Senator from New Jersey.

On the other hand, for the higher principle, for the good of the body, for the assurance that we do not confuse these legislative matters, there is not a budgetary issue involved in this particular amendment or issue. On that basis, I would have to vote against it.

But I would not insist on a rollcall vote unless some other colleague did. I think we can save a good bit of time here and voice vote and I will abide by the will of the majority.

Mr. DOMENICI. Will the Senator yield back the remainder of his time?

Mr. BRADLEY. I would be pleased to yield back the remainder of my time after Senator WILLIAMS has had a chance to put his statement in the RECORD.

Mr. MURKOWSKI. Mr. President, I support the amendment offered by the distinguished Senator from New Jersey. Once again, he is representing the best interests of his State of New Jersey.

His amendment makes a very important point and attempts to rectify a situation currently imposed upon the residents of his State. The amendment he offers seeks to insure that reasonable and adequate communications are available in New Jersey. It seeks to provide that at least one commercial television station be located in each State.

I, as the Senator from Alaska, recognize the importance of adequate and accurate information. As the Senator pointed out in his statement, if the information is originating from a source far away from the recipients of the communication, then the relevance, and very possibly the importance, of the message communicated may lose its relevance.

I am certain that the people in New Jersey are interested in news of events affecting cities and towns in New Jersey just as the people in Alaska are interested in the news of events affecting communities in Alaska. For this reason, it is important to have a medium of communication which accurately reflects the needs and interests of the communities within each respective State.

I cannot overemphasize the importance of communications and its accurate dissemination. In my State of Alaska, TV plays a critical role in the educational process of numerous communities. TV provides a way in which many Alaskans have an opportunity to learn about their community, their State, and their country. It is important to note however, that the TV source, originates within the State of Alaska. I cite this example only to add strength to the argument presented by the Senator from New Jersey that it is critical for residents of communities to have the proper and sufficient information about events affecting their communities.

Mr. President, once again I commend my good friend from New Jersey for his amendment and I look forward to working with him on many other issues in the future. I therefore urge my colleagues to follow his leadership on this issue and adopt the amendment.

Mr. WILLIAMS. Mr. President, 20 years ago, New Jersey found itself to be one of only two States in this Nation with no commercial VHF television service.

In 20 years, the telecommunications industry has blossomed, network and local news programing has become infinitely more sophisticated and New Jersey has been left out. It is not fair and that is why Senator BRADLEY and I rise today to offer this amendment.

I should say at the outset, Mr President, that I am as reluctant as everyone else to offer this type of legislation on a budget reconciliation measure. But with passage of amendments which do so much to alter Federal communications law, I simply feel that this is an appropriate time to make the necessary provisions for New Jersey.

Over the years, many of us in New Jersey have worked to rectify New Jersey's lack of commercial VHF television. I have served for a decade as cochairman of the New Jersey Coalition for Fair Broadcasting, a citizen's group formed to advocate New Jersey's cause.

The coalition petitioned the Federal Communications Commission in 1974 to seek relief and we all were heartened when the Commission found that, "New Jersey's television needs and its overall circumstances constitute a special case warranting unique and responsive action by the Commission."

But, Mr. President, that finding occurred 7 long years ago and New Jersey still does not have its own VHF TV station.

The Commission has explored a variety of options, it has asked New York and Philadelphia stations to pay more attention to my State, it has even suggested that we might fill the airwaves with UHF programing about New Jersey.

But none of the solutions or recommendations can alter the fact that when people tune in the TV, they tune in the big stations with a strong signal. And if you live in New Jersey, it means that when you flip on the switch you will hear all about the latest transit strike in New York, what the city's delightful mayor is doing, or what is happening in the City of Brotherly Love.

But you hear and see precious little about what is going on in your own backyard.

Mr. President, there have been studies and articles over the years which suggest that New Jerseyites have trouble identifying with their State because there is no television station to help focus attention on the issues, problems, and success stories which would give people greater understanding of the place they call home.

That is now beginning to change and New Jerseyites are becoming even more proud of their State. We need a television station to invigorate our self-awareness and to teach us more about ourselves. It should be such a simple thing and with action today by the Senate, an appropriate, sensible, and efficient solution may be discovered in short order.

The amendment which Senator BRADLEY and I offer would simply say that

the policy of this Nation is to insure that each State has at least one commercial VHF television station. That is not particularly radical or complex and it is certainly in keeping with the spirit, if not the letter, of the original Communications Act of 1934.

Second, our amendment provides that if a station becomes available for relicensing in a State which already has other VHF television stations, then the Federal Communications Commission should give that station to a sister State with no VHF station when it is technically feasible to do so.

This provision will have no dramatic impact on the distribution of licenses across the Nation. In fact, there is probably only one situation where it would apply and that situation is, not surprisingly, New Jersey. Should a station become available in a city like New York, either through litigation or action by the FCC, then this amendment would give the FCC the clear mandate it needs to reallocate the station to New Jersey.

And that solution, I say to the ladies and gentlemen of the Senate, would be a blessing to the seven million residents of my State who do not enjoy the kind of VHF television service which they deserve.

We have debated this provision over the years. Senator BRADLEY and I and Senator Case before that have testified, and introduced and sponsored and amended, and now is the time, finally, to gain the action from the Senate which we have awaited for so long.

I am delighted that interest in this amendment has been shown by the capable and distinguished members of the Commerce Committee who have sympathized with the sense of frustration over New Jersey's plight.

I appreciate their concern and I would certainly appreciate the support of my colleagues on this seemingly small, but very important amendment. The people of New Jersey will thank you.

Mr. President, I just want to say that over the years that I have been before the committee, Senator Case before Senator BRADLEY was here, and Senator BRADLEY, the subcommittee has always heard our case and indicated not only an understanding, but a great sympathy for the frustrations we felt in not having a television station.

Again I thank those from the committee that have understood our plight and we hope now that we have reached a point when someth'ng can be done about New Jersey's oversight of not being served by television.

Mr. BRADLEY. Mr. President, before I move the amendment, I would like to restate to the body that in New Jersey this is not a partisan issue. We have people on both sides of the aisle in the House of Representatives and in the State who are strongly committed to this effort that we are making tonight.

I am prepared to yield back the remainder of my time if the other side is and move adoption of the amendment.

Mr. DOMENICI. I yield back any time I have remaining.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from New Jersey.

The amendment (UP No. 202) was agreed to.

Mr. BRADLEY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BIDEN. Mr. President, as a member of the Budget Committee and as one who follows his leader all the time, I, too, have an amendment related to Delaware, that other State which does not have a television station. I will not call up the amendment because I feel that not only would the Senator from South Carolina not speak to me again, but he does happen to be right in principle.

I would like to ask one question. I have been told that the Senator from South Carolina and the Senator from Arizona indicated they would hold hearings on the question of whether or not Delaware would have a televesion station also.

Mr. GOLDWATER. If the Senator will yield, I believe the Bradley amendment will take care of it. The Senator from Delaware is appearing as a cosponsor on the Bradley amendment and so is Senator ROTH. The language of the Bradley amendment does not specify one State. It just says that each State is entitled to a station. If that does not prove to be right, I will say to the Senator from Delaware what I said to the Senator from New Jersey. I promise I will hold hearings if that becomes necessary as soon after the recess as we can.

Would the Senator agree that the amendment just passed can take care of it? I ask the Senator from South Carolina.

Mr. HOLLINGS. I believe it will take care of it.

As the Senator from Delaware pointed out, they have been trying to do this for a long time. We have had hearings in Delaware on this matter. I would be glad to cooperate with the Senator from Delaware and join in this particular initiative.

Mr. BIDEN. I thank my colleagues.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. The next amendment will be an amendment from the distinguished chairman of the Judiciary Committee (Mr. THURMOND).

Mr. BAKER. Will the Senator from South Carolina yield 1 minute to me?

Mr. HOLLINGS. I yield.

Mr. BAKER. Mr. President, it is clear now that we are not going to have time to complete debate on all amendments. I think it would be unfair to proceed to vote without any debate at all. I have not been able to reach the minority leader who is temporarily absent, but I have talked to both the chairman of the Budget Committee and the ranking minority member. I now propose this unanimous-consent request:

UNANIMOUS-CONSENT AGREEMENT

Mr. President, I ask unanimous consent that on amendments that now remain there be a time limitation on debate of 10 minutes to be equally divided, with the further proviso that this may be invalidated and rescinded on the subsequent objection of the minority leader.

Mr. McCLURE. Reserving the right to object and I shall not object, it is not my intention to, I think we are all aware that the 20 hours under the Budget Act is about to expire. I assume the intention of the request is to apply to amendments even after the expiration of the 20 hours.

Mr. BAKER. Yes, it is. The reason for doing it now is simply because there is no way to proceed to the next amendment in a reasonable way without such an agreement. So I bring the agreement to apply to all future amendments, but provide that on objection subsequently noted by the minority leader, it will be rescinded.

The PRESIDING OFFICER (Mr. SPECTER). Is there objection?

Mr. McCLURE. Reserving the right to object, Mr. President, and I shall not object, I want to point out that this is the first time that we have gone beyond the 20 hours. I think it may well be justified in view of the lengthy time that was consumed by trying to resolve the procedural question raised earlier. I would not want our actions here tonight to be taken casually or lightly that the Senate will, as a matter of fact, in subsequent years, or in subsequent actions, on reconciliation matters, casually go beyond the 20 hours. With that understanding, it is not my intention to object. I withdraw the reservation.

Mr. GLENN. Reserving the right to object and I will not object, I ask the majority leader, that would be approximately a half hour per amendment, 10 minutes on a side and 15 minutes for a vote?

Mr. BAKER. No; 10 minutes equally divided, plus the rollcall.

In view of the fact that we obviously are going to run late if we finish, and I intend to finish, I would like to add that the rollcall votes be limited to 10 minutes. I add that.

Mr. GLENN. Can the majority leader tell us how many amendments will be called up? If we are going to have quite a number, perhaps we should go over until tomorrow and finish tomorrow.

Mr. BAKER. Mr. President, a large number of Senators have indicated to me that they want to finish tonight and I believe we can finish tonight. I believe we know of 15 amendments. My guess would be that not more than a third of those would be presented for any length of time. I think it is practical to proceed.

Mr. GLENN. I have no objection.

Mr. HOLLINGS. I might say, Mr. President, we discussed this issue in the conferences that we had in negotiating and in the final resolution of the procedural matters, we discussed what we could do because we were running out of time. I am confident the minority leader would approve of it, but I withhold on that part of the request regarding 15-minute rollcalls being reduced to 10 minutes while the Senator is not here. I like to bring a few surprises but not total shock to him.

Mr. BAKER. I could not agree more. I think after a long day that is enough for one sitting. I withdraw that part of the request relating to the reduction of time

for rollcalls from 15 minutes to 10 minutes, and reiterate my request that debate on amendments from this point forward be limited to 10 minutes equally divided. The request is subject to a subsequent objection by the minority leader.

Mr. LEAHY. Mr. President, I should like to ask the majority leader a question. I have an amendment that I intend to bring up on the summer feeding program. Under this agreement, irrespective of whether the 20 hours is up or not, it would be in order to bring that up and it would be 10 minutes evenly divided?

Mr. BAKER. Yes, it would be, Mr. President.

Mr. LEAHY. I have no objection.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, how many minutes do we have remaining on the resolution on either side? How many minutes for the distinguished Senator and myself?

The PRESIDING OFFICER. The Senator from South Carolina has 12 minutes and 22 seconds. The Senator from New Mexico has 2 minutes and 30 seconds.

Mr. HOLLINGS. I should like to say, then, that the Senator from Florida has the next amendment. I shall try to share that time with him. I just want the people to know we are out of time.

Mr. DOMENICI. Mr. President, I understand that Senator THURMOND is going to offer an omnibus bill in this regard in behalf of a number of Senators, including both Senators from Florida, as I understand it.

The PRESIDING OFFICER. Does the Senator yield to the Senator from South Carolina?

Mr. DOMENICI. I do not have to yield to him, Mr. President, but I will. He is calling up an amendment on which he has 10 minutes, as I understand it.

UP AMENDMENT NO. 203

Mr. THURMOND. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. THURMOND), for himself, Mr. SIMPSON, Mr. SPECTER, Mr. GRASSLEY, Mr. MATHIAS, Mr. BIDEN, Mr. LEAHY, Mr. HEFLIN, Mr. BAUCUS, Mr. DECONCINI, Mr. GORTON, Mr. HAYAKAWA, Mr. CRANSTON, Mr. BOSCHWITZ, Mr. LEVIN, and Mr. CHILES, proposes an unprinted amendment numbered 203.

Mr. THURMOND. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(A) Beginning on page 282, line 17, strike everything through page 284, line 9, and insert in lieu thereof, the following:

SEC. 1002. Section 261(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671(a)) is amended by striking out "for each of the fiscal years" and inserting in lieu thereof "for the fiscal year" and by striking out "1981, September 30, 1982, September 30, 1983, and September 30, 1984." and inserting in lieu thereof the following: "1981. To carry out the purposes of this title there is authorized to be appropriated $77,000,000 for the fiscal year ending September 30, 1982; $77,500,000 for the fiscal year ending September 30, 1983; and $74,900,000 for the fiscal year ending September 30, 1984."

"SEC. 1004. Foreign Claims Settlement Commission for its activities, including—

(1) services as authorized by section 3109 of title 5. United States Code;

(2) expenses of packing, shipping, and storing personal effects of personnel assigned abroad;

(3) rental or lease, for such periods as may be necessary, of office space and living quarters for personnel assigned abroad;

(4) maintaining, improving, and repairing properties rented or leased abroad, and furnishing fuel, water, and utilities for such properties;

(5) advances of funds abroad;

(6) advances or reimbursements to other Government agencies for use of their facilities and services in carrying out the functions of the Commission;

(7) the hire of motor vehicles for field use only; and

(8) the employment of aliens: $705,000.

SEC. 1004. There are authorized to be appropriated for fiscal year 1982 to the Community Relations Service for its activities including the hire of passenger motor vehicles: $5,313,000.

SEC. 1005. Notwithstanding any other provision of law or Section 1119 of this bill, there are authorized to be appropriated for Indochinese refugee assistance $583,705,000 for the fiscal year ending September 30, 1982; $570,214,000 for the fiscal year ending September 30, 1983; and $470,000,000 for the fiscal year ending September 30, 1984.

SEC. 1006. Notwithstanding any other provision of law, there are authorized to be appropriated for the payment of salaries and expenses of the Patent and Trademark Office $118,961,000 for the fiscal year ending September 30, 1982; $118,067,000 for the fiscal year ending September 30, 1983; and $118,193,000 for the fiscal year ending September 30, 1984, and such additional or supplemental amounts as may be necessary for increases in salary, pay, retirement or other employee benefits authorized by law.

On page 390, after line 21, insert the following: "(f) Notwithstanding any other provision of this Act, there are authorized to be appropriated $94,000,000 for fiscal year 1982 and $59,000,000 for fiscal year 1983."

Mr. THURMOND. Mr. President, on behalf of myself and other Senators, I offer this amendment that addresses several problems that have arisen in the area of refugees.

In addition, several other Senators have joined in cosponsorship and I send a list of them to the desk at this time.

The amendment does two things, basically. First, it adds $59 million in 1982 for Cuban and Haitian refugees. This restoration of money brings funding for this program to the level recommended by President Reagan. Second, the amendment restores money to the Indochinese refugee program, again bringing the level of funding up to that recommended by President Reagan.

In addition, the amendment corrects a computer error that incorrectly ordered the Labor and Human Resources Committee to reduce the Indochinese refugee program under the 1980 Refugee Act. That program is in the jurisdiction of the Judiciary Committee.

My amendment is a joining of two amendments, then, and allows three things to occur: First, we have restored these refugee programs to the levels envisioned by the President; second, we have corrected a computer mistake; and third, we have allowed more funding within the Judiciary Committee's jurisdiction for juvenile justice grants. This means that the Judiciary Committee will still meet its reconciliation instruction; and, it means that the Labor and Human Resources Committee will still meet the spirit of its instruction.

I urge my colleagues to adopt this amendment, which has the support of so many of our colleagues and corrects an unfortunate error at the same time.

In addition to correcting the placement of the refugee assistance program into title X of the reconciliation bill, this amendment offers provisions which will bring the Committee on the Judiciary into compliance with the reconciliation instructions it has received from the Committee on the Budget.

Mr. President, the amendment includes provisions that will achieve savings of $6 million in the Department of Justice authorization bill, S. 951. Those items include the Federal Bureau of Prisons, the Community Relations Service, and the Foreign Claims Settlement Commission.

This amendment also reduces the annual authorizations for the Juvenile Justice and Delinquency Prevention Act of 1974 for fiscal years 1982, 1983, and 1984. The levels in the amendment, $77 million for fiscal year 1982, $77.5 million for fiscal year 1983, and $74.9 for fiscal year 1984, are arrived at by deducting from the current authorization levels of $200 million for those fiscal years such amounts as are necessary to meet the required savings pursuant to instructions from the Senate Budget Committee. For example, in fiscal year 1982, the Judiciary Committee is required to achieve savings of $133 million in budget authority. Reducing the level of $77 million for fiscal year 1982 achieves the required savings. This holds true for the other 2 fiscal years.

Mr. President, the amendment also vitiates action taken by the Senate Judiciary Committee on June 9, 1981. During an executive session of the committee, the following actions were taken:

The Civil Rights Commission was reduced by $1 million;

The juvenile justice program was reduced by $26 million;

Reduction of OJARS—research and statistics—by $16 million;

Acceleration of patent fees in Patent and Trademark Office, plus $10 million; and

Reduction of immigration and naturalization funds for inspection and border patrol by $6 million.

The provisions of this amendment I am offering today would repeal these actions in the reconciliation bill, S. 1377, and leave further action in any of these areas to the consideration of S. 951, the Department of Justice authorization bill by the Senate.

The amendment also inserts the levels for the refugee assistance program as recommended by President Reagan for fiscal years 1982, 1983, and 1984. Those levels are below the baseline figure of the Senate Budget Committee. Therefore, action on the levels submitted by the President will result in savings of $68

million for fiscal year 1982, $66 million for fiscal year 1983, and $60 million for fiscal year 1984. The savings of $68 million in 1982 when added to the savings achieved by certain provisions of the Department of Justice, and the Patent and Trademark Office, give the Judiciary Committee the needed savings to meet the instruction of $116 million for fiscal year 1982 and the required savings in fiscal years 1983 and 1984.

Finally, Mr. President, the amendment adopts the Reagan administration submission for the Patent and Trademark Office. It achieves savings of $3.3 million in 1982 and additional savings in fiscal years 1983 and 1984.

The entire amendment, when considered as a package, achieves the savings necessary for the Judiciary Committee to be in compliance with the first concurrent budget resolution, but more importantly, reinstates the levels recommended by President Reagan for the refugee assistance program and the Cuban-Haitian program.

Mr. President, I ask unanimous consent that several tables indicating the levels of assistance to each State for refugee assistance be printed in the RECORD following my remarks.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

Fiscal year 1980 refugee program allowances to States

	Total allowances
Alabama	919, 822
Alaska	10, 000
Arizona	1, 841, 200
Arkansas	1, 239, 374
California	154, 517, 408
Colorado	6, 925, 958
Connecticut	2, 228, 348
Delaware	60, 635
District of Columbia	925, 666
Florida	22, 539, 575
Georgia	997, 840
Guam	508, 055
Hawaii	8, 933, 367
Idaho	689, 819
Illinois	16, 540, 800
Indiana	600, 926
Iowa	5, 630, 962
Kansas	4, 745, 667
Kentucky	1, 102, 000
Louisiana	5, 208, 091
Maine	531, 657
Maryland	2, 609, 594
Massachusetts	5, 660, 267
Michigan	5, 186, 355
Minnesota	20, 802, 385
Mississippi	339, 710
Missouri	1, 394, 200
Montana	1, 193, 032
Nebraska	893, 300
Nevada	663, 116
New Hampshire	31, 200
New Jersey	3, 966, 353
New Mexico	1, 071, 365
New York	5, 996, 125
North Carolina	1, 143, 317
North Dakota	374, 362
Ohio	2, 268, 128
Oklahoma	2, 537, 324
Oregon	15, 284, 085
Pennsylvania	16, 860, 271
Puerto Rico	23, 700
Rhode Island	2, 106, 426
South Carolina	340, 985
South Dakota	427, 950
Tennessee	1, 117, 316
Texas	11, 591, 603
Utah	3, 061, 115
Vermont	213, 541
Virgin Islands	----------
Virginia	7, 351, 400
Washington	28, 883, 624
West Virginia	165, 150
Wisconsin	6, 778, 000
Wyoming	126, 673
Total	387, 169, 142

Fiscal year 1980 refugee program allowances to States

Source: Office of Refugee Resettlement, Department of Health and Human Services.

REFUGEE IMPACT DATA, JUNE 1981

Fifteen leading States in terms of Indochinese population

	Population
1. California	167, 522
2. Texas	42, 612
3. Washington	22, 394
4. Pennsylvania	18, 847
5. Illinois	17, 841
6. Minnesota	16, 152
7. Virginia	14, 677
8. Oregon	14, 613
9. New York	13, 530
10. Louisiana	11, 435
11. Florida	8, 927
12. Michigan	8, 658
13. Massachusetts	8, 347
14. Colorado	8, 229
15. Iowa	7, 562

Source: Office of Refugee Resettlement, as of April 30, 1981.

15 LEADING STATES IN TERMS OF THE RATIO OF INDOCHINESE REFUGEES TO TOTAL POPULATION

State	Total population	Refugee population	Ratio of refugee population to total population
1. California	23, 668, 562	167, 522	1:141
2. Hawaii	965, 000	6, 083	1:159
3. Oregon	2, 632, 663	14, 613	1:180
4. Washington	4, 130, 163	22, 394	1:184
5. Utah	1, 461, 037	6, 187	1:236
6. Minnesota	4, 077, 148	16, 152	1:252
7. Texas	14, 228, 383	42, 612	1:340
8. Colorado	2, 888, 834	8, 229	1:351
9. Rhode Island	947, 154	2, 660	1:356
10. Virginia	5, 346, 279	14, 677	1:364
11. Louisiana	4, 203, 972	11, 435	1:368
12. Kansas	2, 363, 208	6, 322	1:374
13. Iowa	2, 913, 387	7, 562	1:385
14. Nevada	799, 184	1, 986	1:402
15. Oklahoma	3, 025, 266	6, 591	1:459

Fifteen Leading States in Terms of the Number of Indochinese Refugees on Cash Assistance

State	Refugees on cash assistance*
1. California	89, 300
2. Washington	13, 361
3. Minnesota	12, 583
4. Texas	9, 363
5. Oregon	9, 141
6. Pennsylvania	7, 552
7. Illinois	6, 308
8. Virginia	4, 802
9. Colorado	4, 196
10. Hawaii	3, 934
11. Wisconsin	3, 587
12. Louisiana	3, 327
13. Iowa	3, 316
14. Massachusetts	3, 201
15. Kansas	3, 116

*Refugee cash assistance recipients include non-AFDC recipients.

Source: Office of refugee Resettlement, as settlement, as of November 1, 1984.

15 LEADING STATES IN TERMS OF THE RATIO OF INDOCHINESE REFUGEES ON CASH ASSISTANCE TO TOTAL NUMBER OF AFDC RECIPIENTS

State	Total number of AFDC recipients	Refugees on cash assistance [1]	Ratio of refugees on cash assistance to AFDC recipients
1. Oregon	103, 914	9, 141	1:11
2. Minnesota	143, 676	12, 583	1:11
3. Washington	166, 814	13, 361	1:12
4. Hawaii	60, 801	3, 934	1:15
5. California	1, 446, 253	89, 300	1:16
6. Colorado	80, 599	4, 196	1:19
7. Utah	43, 441	1, 888	1:23
8. Kansas	72, 219	3, 116	1:23
9. Rhode Island	53, 903	2, 215	1:24
10. Montana	20, 728	671	1:31
11. Iowa	112, 029	3, 316	1:34
12. Texas	317, 103	9, 363	1:34
13. Virginia	172, 706	4, 802	1:36
14. Oklahoma	91, 931	1, 978	1:46
15. New Mexico	55, 743	1, 065	1:52

[1] Refugee cash assistance recipients include non-AFDC recipients.

Sources: Office of Refugee Resettlement, as of Nov. 1, 1980; Social Security Administration, as of Sept. 1, 1980.

Mr. SIMPSON. Mr. President, I join with my chairman of the Committee on the Judiciary in proposing this amendment to the reconciliation bill of 1981.

As chairman of the Subcommittee on Immigration and Refugee Policy, I do want to reaffirm the principles of the Refugee Act of 1980 as reported out by the Committee on the Judiciary last year. This act provided the sole statutory authorization for refugee admissions to the United States, and for domestic assistance to these refugees as they are resettled into American communities.

I am not commenting on the issue out of a sensitivity of a burgeoning turf battle. The facts must be presented. This year, the Subcommittee on Immigration and Refugee Policy will conduct the annual consultation with the Departments of State and Justice to determine the number and geographical distribution of those refugees who will be admitted to the United States for resettlement in fiscal year 1982. In determining this number, we shall consider what the American "fair share" should be while insuring that other nations of the free world do also accept their responsibility for providing haven to those persons of the Earth who are fleeing persecution.

The United States has been most truly generous in accepting for permanent resettlement so many victims of persecution who could not return or be repatriated to their own countries or be resettled in the country to which they first fled. It is in the national interest of the United States to continue this tradition. However, we must insure that the total numbers of refugees coming in will not jeopardize the welfare of those American communities who have been the most hospitable to them. During this year's consultation on refugee admissions, I intend to fully examine the feasibility of establishing an overall "cap" on immigration—which would include refugees.

Whatever the number of refugees the Congress may decide to admit into the United States, it is very clearly the responsibility of the Federal Government

to provide the necessary funds to facilitate their resettlement and their economic self-sufficiency. We cannot reduce the authorization for the domestic resettlement programs to such a level that the States should have to fully absorb the costs for the refugees who have been resettled within their communities. As the chairman of the Committee on the Judiciary so well pointed out, States, counties, and voluntary organizations already are providing many services to refugees for which they receive no reimbursement. Clearly, the Federal Government could not handle this responsibility alone without their continued assistance and cooperation.

Mr. President, I strongly urge passage of this amendment which will place the domestic refugee resettlement program back into the proper jurisdiction of the Committee on the Judiciary and still meet the authorization of appropriations at the levels requested by the President.

Mrs. HAWKINS. Mr. President, this amendment restores money for Indochina and Cuban-Haitian refugee assistance. While the State of Florida receives money for both these programs, my concern today has been primarily with the Cuban-Haitian program, since those funds were completely eliminated by the committee, based on the mistaken belief that the crisis is over, and that these funds would be a windfall to Florida and other States which host these entrants. Nothing could be further from the truth.

In fairness to the committee members, I should note that the Labor and Human Resources Committee was faced with the difficult task of making one-third of the cuts required under the first concurrent budget resolution.

Mr. President, the entry of a large portion of these individuals into the United States is based on an invitation by the previous administration and therefore is Federal, not State policy. The Federal Government should therefore assume financial responsibility for assisting these individuals.

I appreciate the Senator from South Carolina and the Senator from New Mexico for their assistance and understanding in getting these funds restored.

The Federal funding available under this act only partially reimburses the States for the cost associated with hosting these entrants. Even if this amendment is successful, the domestic assistance funds reimburse the States only for selected social services. The States must still bear the financial burden of increased costs in law enforcement, excess educational costs, court, and related social service programs. Florida, because of its geographic loctaion, is bearing a disportionate burden of a problem caused by a national policy. Not only is the State host to 75 percent of the entrants, but attempts to relocate the Cubans and Haitians throughout the various States has proven to be a dismal failure. The secondary migration rate of entrants returning to south Florida is estimated to be as high as 50 percent.

Florida has been utilizing the Federal domestic assistance funds to provide these entrants with the necessary educational and employment training skills needed to alleviate the need for governmental assistance. The social service program funded by the Federal Government and operated by the State of Florida has been making progress in assisting these individuals to obtain employment. The Office of Refugee Resettlement recently commended the State of Florida's social service program for the special emphasis it places on employment and language skills. If funds for this program are reduced by half, then the entrants will not receive the necessary occupational and linguistic skills they will need to be self-sufficient.

The State of Florida, like the 30 other States hosting the Cuban and Haitian entrants, simply does not have the resources necessary to deal with a problem of this magnitude.

I would urge the Senate not to agree to these drastic reductions in funding for Cuban and Haitian domestic assistance. The crisis is not over and the need for Federal funding to meet Federal responsibilities continues.

Mr. THURMOND. Mr. President, I thank the able Senator from Florida for her pertinent remarks.

I yield 2 minutes to the distinguished Senator from Minnesota.

The PRESIDING OFFICER. The Chair advises the Senator from Minnesota that there is only 1 minute remaining.

Mr. BOSCHWITZ. Mr. President, I am sponsoring this amendment today along with Senator THURMOND, chairman of the Senate Judiciary Committee, and others, to restore the funding cuts for Indochinese refugee assistance to the levels recommended by the Reagan administration.

As a Senator from a State which has the fourth largest population in the country of Indochinese refugees, I am very sensitive to funding cuts which shift the burden for resettling refugees from the Federal Government back to the States. It is my firm belief that the initial cost of resettling refugees—whether they be Indochinese, Cuban, Latin Americans, or Soviet Jews—is the sole responsibility of the Federal Government. If it is deemed in the national interest to admit refugees to this country, the Federal Government should be prepared to take the responsibility for their resettlement expenses rather than shouldering States with this burden.

When refugees arrive on our shores unable to speak English, and without any food, clothing, or shelter there are, undeniably, short-term expenses involved in resettling these newcomers. I do not for a minute propose that the Federal Government commit itself to open-ended funding for refugee resettlement programs, but initially, there are expenses for basic needs which we cannot ignore. And it is my opinion, Mr. President, that for at least a reasonable period of time, those expenses should be borne by the Federal Government.

The United States is fortunate that States such as Minnesota, California, Florida, Washington, Oregon, and others have opened their doors and welcomed the refugees to their communities. However, if the Federal Government cuts off its assistance to the States for the basic resettlement costs, those States will, understandably, be reluctant in the future to participate so willingly in these resettlement efforts.

I take a great deal of pride in the role the State of Minnesota has played in the resettling of the Indochinese refugees. We have 23,000 Indochinese refugees statewide and the single largest concentration in the country of the Hmong people in the Twin Cities area. Minnesotans are very generous and compassionate people. They have volunteered a great deal of their time, as well as ther money, to help the Indochinese get their feet on the ground and to become well-adjusted, productive members of our society. They have made their contribution, and now the Federal Government must fulfill its responsibility. In the Refugee Act of 1980, we made a commitment to the States to cover 100 percent of the costs for refugees for their first 3 years in this country. We have made a commitment to the States and now we must fulfill that obligation and oppose the 40 percent cut proposed by the Labor and Human Resources Committee. For the reasons stated above, Mr. President, I am sponsoring this amendment which will restore funding for the Indochinese refugee programs to the levels proposed by the Reagan administration.

Mr. THURMOND. Mr. President, I yield to the distinguished senior Senator from Florida.

Mr. CHILES. Mr. President, this amendment restores funding for cash, medical, and social services to the $88 million level requested by the administration for fiscal year 1982. It adds to that $6 million for education assistance to school districts which bear the cost of treating these disadvantaged, non-English speaking children. These are quite low estimates. Assistance for Cuban and Haitian entrants, like that for refugees, is limited to 3 years. It thus declines dramatically to $53 million in fiscal year 1983, when most of the entrants are expected to be self-sufficient, and disappears to zero in 1984.

These payments are only a fraction of the costs borne by the taxpayers of States which bear the brunt of Federal immigration policy, or the lack of such a policy. They cover mostly the costs of welfare and medicaid, which the Federal Government requires the States to provide. The social services are vocational training and related programs designed to bring the refugees into the work force. These payments do not include the massive costs of police, fire, sanitation, housing, and other municipal services required for the 160,000 people who came to Florida in just a few months. That is equivalent to adding services for a quarter of the population of Boston, a massive job and a burden for local taxpayers.

Much has been written about the economic success of the earlier Cuban refugees. Let me just point out two things. First, it took 20 years to achieve that success and bring the average Cuban

refugee income up to the level of non-Cubans. Second, this new wave of refugees lacked the educational and economic background of the first group. They are not the upper middle-class looking just for political freedom. They are a low-income group looking for low-skill jobs. Most are black and suffer racial disadvantage in addition to lack of English language skills. They are just not going to achieve complete economic independence in a year or two.

Mr. President, I thank the distinguished Senator from South Carolina.

Mr. THURMOND. Mr. President, I yield to the distinguished Senator from Delaware (Mr. BIDEN).

Mr. BIDEN. Mr. President, as the ranking Democrat of the Judiciary Committee, I support this amendment to S. 1377, the reconciliation bill. This amendment will restore funding for a number of law enforcement related programs that are essential if the Federal Government truly intends to focus on the drug and violent crime problem in this country.

The issue of crime is one that should not have been subject to the budget-cutting process. I do not believe the American people want less service from those agencies whose responsibilities it is to fight crime. That is why restoring these law enforcement cuts was a crucial feature of the crime package endorsed by the Democratic conference last week.

During the markup of the Department of Justice authorization the Judiciary Committee members worked in a bipartisan manner to achieve savings where possible but not at the expense of vital services.

The committee reported a trimmed budget but one that did not sacrifice crucial programs. I believe the unanimous vote of the committee's members on May 12, 1981, was a clear indication of the committee's intent.

However, on June 9, 1981, the Judiciary Committee met again and another $60 million was cut from Judiciary Committee accounts because we were short of the $116 million savings included in reconciliation language.

I believe these cuts currently reflected in title X of S. 1377 were hasty and unwise. They would virtually eliminate the Bureau of Justice Statistics and the National Institute of Justice, two programs considered vital by law enforcement personnel at all levels of government. Other cuts would have had a severe impact on the operation of Immigration and Naturalization Service, the juvenile justice program and the Civil Rights Commission.

Today's amendment will erase all of those needless cuts. It will restore funding for agencies working in the criminal justice area and alleviate an unnecessary cut to the Civil Rights Commission.

This amendment will also restore funding to the refugee assistance program. If the refugee assistance program budget is going to be cut, I prefer a cut of $68 million in fiscal year 1982 instead of $291 million, as previously proposed.

I commend Senator THURMOND for working to find an alternative to these damaging budget cuts that are currently included under title X of this bill. I believe this amendment corrects the mistakes hastily made in trying to find savings in programs under the jurisdiction of the Judiciary Committee, and I encourage all of my colleagues to approve it.

Mr. GORTON. Mr. President, this amendment, of which I am a cosponsor, is vital to the commitment which this Nation has undertaken in admitting large numbers of refugees from Vietnam, Cuba, and Haiti. It is also essential to those States, like Washington, which have received a share of these refugees disproportionate to their population and their resources. I urge its adoption.

The need for this amendment, of course, highlights the urgency for the development of a rational immigration policy for the United States—a look which I trust the Judiciary Committee will undertake promptly, decisively and successfully.

● Mr. HEFLIN. Mr. President, I rise in support of Senator THURMOND's amendment to the reconciliation bill. The purpose of his amendment is to insure the continuation and viability of two extremely important law enforcement programs within the Department of Justice; the Office of Justice Assistance, Research and Statistics and the Office of Juvenile Justice and Delinquency Prevention. I commend Senator THURMOND, chairman of the Judiciary Committee, Senator BIDEN, ranking member of that committee, and Senator SPECTER, chairman of the Juvenile Justice Subcommittee, for their great leadership in these areas.

Mr. President, the Office of Justice Assistance, Research and Statistics was created by Congress in 1979, and since that time has overhauled and greatly improved the Federal approach to criminal justice assistance, research, and statistics, OJARS provides invaluable assistance to Federal, State, and local law enforcement through such successful programs as greater citizen involvement, relevant research and reliable statistics, elimination of redtape, stronger management, and providing an expanding role for local government. OJARS also coordinates two very important programs—the National Institute of Justice and the Bureau of Justice Statistics.

The National Institute of Justice has provided invaluable service to the improvement of criminal justice in the United States by conducting basic and applied research into justice issues. These programs are evaluated and their impact on the quality of justice is assessed. Other programs are funded to test the effectiveness of different approaches to law enforcement and criminal and civil justice problems. The NIJ also collects and disseminates a wide range of valuable information to organizations and interested individuals.

The Bureau of Justice Statistics is a national center for compiling and analyzing crime statistics and provides this information to the President, Congress, judiciary, State and local governments, public and the media. The Bureau has become a national source of information on almost all aspects of crime. The bureau also aids State and local governments in the development of facilities responsible for the collection and analysis of criminal justice data and statistics. With the emphasis that Congress and the administration is now placing on crime as a national priority, I believe it is essential to maintain an objective source of information concerning crime and criminal behavior.

Senator THURMOND's amendment will also insure the continued funding for juvenile justice programs as authorized under the Juvenile Justice and Delinquency Prevention Act of 1974. The ever-increasing growth of violent crime in this country is of great concern to the American people. If we are to effectively reduce violent crime in the United States, we must address the problem of juvenile crime.

Young people under the age of 18 are disproportionately responsible for our national crime problem. While juveniles comprise only 13.8 percent of the total U.S. population, they account for 20.1 percent of all arrests for violent crime.

The purpose of the Juvenile Justice and Delinquency Prevention Act was to establish a Federal effort to reduce and prevent juvenile crime and over the past decade we have seen significant progress in the development of the juvenile justice system in this country. This program has provided assistance for research into juvenile delinquency and evaluation of juvenile justice programs, and technical assistance. I do not believe that this is the time to curtail our efforts to reduce and control juvenile crime.

Mr. President, I join with Senator THURMOND in urging my colleagues in the Senate to accept this amendment to the reconciliation bill and insure the continuation of these most important programs.●

● Mr. HAYAKAWA. Mr. President, since the fall of Saigon in April 1975, about 500,000 refugees from Vietnam, Cambodia, and Laos have entered the United States in search of a new life. They left Indochina to escape political difficulties of the past three decades which have agonized and splintered their homeland. Now most of the refugees face a new and different set of problems in adjusting to a foreign land. The U.S. Government assumed much of the humanitarian responsibility of helping refugees resettle in this country.

Today, we are considering just how much of this responsibility will be shifted to the State and local governments. The Labor and Human Resources Committee proposed slashing President Reagan's proposal of $584 million for refugee aid to $360 million. This 40 percent reduction in Federal assistance would shift responsibility for roughly $180 million in cash and medical aid to the State and local governments.

I am pleased to join Senator THURMOND in sponsoring an amendment to S. 1377 restoring President Reagan's $584 million funding level for refugee assistance in fiscal year 1982. This aid is granted to refugees during their first 36 months of residency in the United States, according to the provisions of the Refugee Act of 1980.

According to the Office of Refugee Resettlement, 483,964 Indochinese refugees had settled in the United States as of April 20, 1981. The national dependency rate of refugees on cash assistance was estimated at more than 49 percent in November 1980, and 65 percent in the 11 most impacted States. Three quarters of California's refugee population receives cash assistance—more than 111,000 Indochinese. Local efforts are further hampered by incomplete settlement records which often include only a portion of the refugees living in a State. A striking example of this was in February, 1981, when 109.4 percent of Rhode Island's refugee population was receiving cash assistance.

It is evident that assuming $182 million in refugee aid will cause severe hardship for State and local governments and all welfare recipients, including refugees. The responsibility for current Federal funding would shift primarity to local government general relief, and result in reductions across the board for welfare recipients. Even in Santa Clara County, Calif., a high employment area for refugees, 15,000 Indochinese receive cash assistance. It is estimated that the average monthly general assistance payment would drop from $204 to $123 per recipient in the absence of Federal aid. In San Diego, Calif., the average general assistance payment would drop from $111 to $67 per month.

Orange County, Calif. would have to raise their general relief budget more than fourfold, from $4 million to $18 million to pay for the added burden of refugees. Obviously, such an increase would be impossible for the local treasury, resulting in slashing general relief to all recipients from an average $132 to approximately $80 per month. As of March 31, 1981, Los Angeles County had 35,751 on refugee assistance rolls, a number that grows by more than 1,000 each month. It is unjust to ask local governments to take on such an enormous portion of the responsibility for the Federal decision of admitting refugees. President Reagan's proposal of $584 million for fiscal year 1982 refugee aid is a strong statement of his administration's commitment to this humanitarian responsibility. The least we can do is support that commitment and be equitable to the local governments, our partners in this responsibility.

On the national scene, I am sure that all of us have seen racial tensions in our own States between refugees and other low-income groups. Social tensions have already been elevated by shortages of housing, vocational training, and jobs. I recall an incident in Sacramento last year when a white man entered a public school, armed with a shotgun, to shoot an Indochinese refugee who had been accepted in his place for adult education classes. The burden of more refugee assistance on the local coffers can do nothing but ignite the social tensions that have been building among low income groups who must now share limited resources and facilities with the new arrivals, refugees.

I must emphasize that I am anxious to see refugees become self-sufficient as soon as possible. I am distressed to hear predictions about a permanent welfare state for them. I have seen much evidence that Indochinese refugees came to this country with sincere intensions of paying their own way, and have managed to do so in most cases.

However, I believe we all agree that especially the latest groups of refugees, mostly boat people, have been through traumatic experiences in their native countries and are less skilled and educated than the earlier wave of refugees who arrived from Saigon in the midseventies. The numbers of refugees arriving have increased, while their level of education and vocational skills have decreased. The Indochinese assistance rolls in Santa Clara County, Calif., for instance, have increased from 953 to 15,000 recipients since 1978.

It is not uncommon to find whole settlements of Hmongs, Laotian natives who had no written language in their own culture, and came from a tribal society in the hills of Laos. Certainly, some assistance must be provided for their assimilation into our way of life. Concepts which we all take for granted such as jobs, education, and bank accounts are completely foreign to many of the refugees who receive the Federal assistance we are considering today. At the resettlement centers in Los Angeles, the refugees are asking "What is a toilet?", "What is an apartment?", "What is a job?".

The Indochinese refugees came to this country under the authority of the Federal Government. Today, 71 percent of the 24,000 Indochinese refugees in the State of Washington, for example, are receiving public assistance. By the end of fiscal year 1982, there will be roughly 700,000 Indochinese refugees in the United States. Over 75 percent will have been in the United States for less than 36 months. This group will qualify for the Federal assistance at issue today. It would not be fair to ask the impacted States to assume the resulting financial burden. I urge my colleagues to support Senator THURMOND's proposal to authorize $584 million for fiscal year 1982, $570 million for 1983, and $470 million for 1984, as requested by the President for refugee assistance.●

The PRESIDING OFFICER. The remaining time is with the Senator from South Carolina.

Mr. THURMOND. Mr. President, how much time remains?

The PRESIDING OFFICER. Five minutes remain.

Mr. HOLLINGS. I shall share 2½ minutes with the distinguished Senator from New Mexico.

Mr. DOMENICI. I thank my good friend.

Mr. KENNEDY. Mr. President, I would like to ask the distinguished chairman of the Budget Committee to clarify certain aspects of this agreement. It is my understanding that the Labor and Human Resources Committee will not be penalized for the reassignment of the refugee account savings to the Judiciary Committee, and will still be considered in compliance with the reconciliation instruction after taking all parts of this amendment into account.

Mr. DOMENICI. The Senator is correct. The amendment brings the level of funding for the Cuban and Haitian refugees assistance up to the level of the President's budget request, plus the enacted supplemental for education funding. This program remains within the Labor and Human Resources Committee's jurisdiction, and they will still meet their reconciliation instruction after this is taken into account.

The amendment also corrects for a computer error that assigned the general refugee assistance account, covering the Indochinese and other refugees, to the Labor and Human Resources Committee. That program is under the jurisdiction of the Judiciary Committee and, through this amendment, will cut that program to the level of the President's budget request. We will certainly not penalize the Labor and Human Resources Committee for that computer error. We believe they met the spirit of the reconciliation instruction and will still do so after this amendment.

Mr. KENNEDY. In other words, the Labor and Human Resources Committee will not be required to make any further savings to compensate for the effects of this amendment either in the second concurrent budget resolution this year or in any budget resolution in fiscal year 1982, 1983, and 1984. Is that correct?

Mr. DOMENICI. Yes, Mr. President, we fully intend to adjust the baseline for our second budget resolution to take into account this transfer.

Mr. KENNEDY. Mr. President, I would like to express my strong support for the amendment offered by Senator THURMOND to restore funds for the Indochinese refugee programs, to provide greatly needed funds for Cuban and Haitian refugees, and to increase funding for the juvenile justice program.

This amendment reflects a carefully thoughout agreement between the members of the Judiciary, Budget, and Labor and Human Resources Committees. As the ranking member of the Labor and Human Resources Committee, as well as the Immigration and Refugee Subcommittee of the Judiciary Committee, I found myself in a unique position with respect to the problem which precipitated this amendment.

Due to a computer error, the general refugee assistance account, covering Indochinese and other refugees, was assigned to the Labor and Human Resources Committee instead of the Judiciary Committee where it belonged. This agreement recognizes that the Labor and Human Resources Committee relied in good faith on the budget figures provided to us by the Budget Committee in making our savings. It clearly provides that the Labor and Human Resources Committee will not be penalized for the reassignment of the refugee account to the Judiciary Committee in fiscal years 1982, 1983, or 1984.

In my capacity as ranking member of the Refugee Subcommittee and as the author of the Refugee Act of 1980, I am pleased that this amendment increases the funding for the Indochinese refugee program by $223 million. Moreover, as a long-time advocate of the juvenile justice program—the last program in the Federal Government which deals with violent crime—I am pleased that this amendment restores funding for this essential function which the administration proposed eliminating.

In sum, Mr. President, I believe that this is an excellent agreement which reconciles the justifiable concerns of both the Labor and Human Resources Committee and the Judiciary Committee. I am pleased to be a chief cosponsor of this amendment.

I would like to ask the distinguished chairman of the Budget Committee to clarify certain aspects of this agreement. It is my understanding that the Labor and Human Resources Committee will not be penalized for the reassignment of the refugee account savings to the Judiciary Committee, and will still be considered in compliance with the reconciliation instruction after taking all parts of this amendment into account.

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Mr. DOMENICI. Yes, we fully intend to adjust the baseline for our second budget resolution to take into account this transfer.

Mr. HOLLINGS. Mr. President, I yield to the distinguished Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. HUDDLESTON. Mr. President, I am not going to oppose this amendment, but I think it is important to understand that, while we are cutting school lunch programs for indigent children, we are cutting back job training programs, we are reducing assistance to the elderly and looking forward to cutting back on social security benefits for citizens of this country, the administration is proposing no substantial reduction in the refugee programs and other immigration programs of this country, which are costing the taxpayers of the United States somewhere close to $3 billion total, with that amount of money that is going into the Indochinese refugee program.

I hope our Members will realize that the program we have there started out as a humanitarian program to rescue citizens fleeing from persecution. It has long since passed. That is not what is happening there now. What is happening there now is gigantic recruitment program by the United States, using radio, using voluntary agencies, to bring people into this country at our expense who are not fleeing persecution but are looking for a better way of life, a better economic situation.

I hope that, in the coming weeks, we shall have an opportunity to give more consideration to this overall immigration program that the country is involved in. I hope to bring to my colleagues' attention additional information relating to that specific situation so that we can address this problem and can put the priorities where they ought to be and can restore to the Congress, or at least to the executive branch or to somebody in this country, control over the policies relating to refugees and immigration. We do not have that at this time.

I thank the Senator.

Mr. THURMOND. Mr. President, I thank the able Senator from Kentucky.

Does anyone else wish to make any remarks on this subject?

Mr. DOMENICI. The distinguished minority manager has the time in opposition. Will he yield 30 seconds to the Senator from New Mexico?

Mr. HOLLINGS. I yield.

Mr. DOMENICI. Mr. President, I commend all Senators who have worked on this amendment collectively. We had a very difficult problem and I most of all wish to thank Senator THURMOND for the effort that he took in putting both Democrats and Republicans together to bring this amendment to a successful fruition here.

I say to the distinguished Senator from Kentucky we are well aware of the problems he described and no one has been more concerned about this area than he. It has been difficult. He has not been able to make the headway, I am sure, that he would have liked to make, but he sure served a real purpose to constantly remind us about the costs in these programs and our inability to come up with any kind of national program of real significance regarding these problems.

I have nothing further.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, I yield back our time.

Mr. HOLLINGS. I yield back our time.

Mr. THURMOND. Mr. President, I yield back the time on this side.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to the amendment of the Senator from South Carolina.

The amendment (UP No. 203) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. KENNEDY. Mr. President, while we are getting the tables prepared, as I understand I have 5 minutes on this side; is that correct?

The PRESIDING OFFICER. The Senator has 5 minutes if he calls up an amendment.

Mr. KENNEDY. Mr. President, while I am getting the material, I ask unanimous consent to have 45 minutes outside of the amendment in place of the 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BASEBALL STRIKE

Mr. KENNEDY. Mr. President, I send a resolution to the desk and indicate to the majority leader as well as to the minority leader that I have talked to them about the resolution that is being offered, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 164) relating to the baseball strike.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Massachusetts?

Mr. DOMENICI. Mr. President, I just checked on this side and we have to object. It has not cleared on our side yet.

I am sure that the Senator's statement to me that it has is correct, but those who——

Mr. KENNEDY. If we could proceed with the amendment, then, at an appropriate time I will ask unanimous consent for the immediate consideration of the resolution.

There may be many things that divide this body but I hope we will all be able to reach a favorable solution concerning of this resolution.

I yield.

Mr. DOMENICI. Mr. President, could we agree that we will set this resolution aside now?

Mr. KENNEDY. Yes.

Mr. DOMENICI. And it will be set aside, and the Senator will proceed with the amendment on reconciliation.

(Later the following occurred:)

Mr. BAKER. Mr. President, the resolution has been cleared, and I urge its adoption.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

Without objection, the Senate proceeded to consider the resolution.

Mr. KENNEDY. Mr. President, it has been a long day and divisive debate, but I hope there is one thing we can all agree on: It is time to settle the major league baseball strike.

The purpose of this resolution is to express the sense of the Senate in favor of round-the-clock negotiations to achieve the earliest possible settlement of the strike.

Baseball is America's national sport. We are now in the 14th day of a strike that has brought major league baseball to a halt in mid-season for the first time in the 110-year history of the game—162 games have now been cancelled and they will never be replayed.

Red Sox fans in Massachusetts are like millions of other fans all across the country. They want the season to go on. They do not want a summer without baseball.

So I hope the Senate will go on record now in urging the parties to this strike to settle it as soon as possible.

It is time for America to play ball again.

I would like to read to the Senate the letter I have sent to the President tonight urging him to use his efforts to end this dispute.

DEAR MR. PRESIDENT: I am writing to you as one sports fan to another to urge you to take whatever steps you feel are appropriate to facilitate an immediate settlement of the major league baseball strike, so that the regular season can be resumed at once.

We are now in the 14th day of the major league baseball strike, over 162 games have been cancelled that will never be played.

I am enclosing a copy of a resolution introduced today in the Senate, calling on the parties to reach a settlement. Unfortunately, there is no significant progress in the negotiations, which began many months before the strike was called.

The strike has already lasted too long. I hope, therefore, that you will join in this effort to encourage the parties to settle the strike as quickly as possible, so that once again the teams of major league baseball can "Play Ball".

Sincerely,

EDWARD M. KENNEDY.

I urge the adoption of the resolution.

The resolution (S. Res. 164) was considered and agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

Whereas baseball is loved by millions of fans as America's national sport;

Whereas the nation is now enduring the 14th day of a strike that for the first time in the 110-year history of major league baseball has halted games during the regular season;

Whereas, as a result of the strike, 162 games have already been cancelled that will never be replayed;

Whereas months of negotiations between the parties were unsuccessful in avoiding the strike;

Whereas no significant progress is being made in the current negotiations to end the strike;

Resolved, it is the sense of the Senate that

(1) The parties to the major league baseball strike have a responsibility to the baseball fans of America to settle the issues in the strike as soon as possible, so that the regular season may be resumed; and

(2) The parties should immediately begin round-the-clock negotiations to reach a settlement of the strike.

OMNIBUS RECONCILIATION ACT OF 1981

The Senate continued with consideration of S. 1377.

UP AMENDMENT NO. 204

(Purpose: To reduce certain authorizations for programs of the Department of Energy other than atomic energy defense activities)

Mr. KENNEDY. Mr. President, I send to the desk an amendment on the reconciliation bill.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an unprinted amendment numbered 204.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 172, strike lines 28 through 34 and insert the following:

SEC. 532. Funds are hereby authorized to be appropriated to the Secretary of Energy for programs of the Department of Energy, other than atomic energy defense activities, not to exceed $5,571,615,000 for the fiscal year ending on September 30, 1982, not to exceed $5,375,111,000 for the fiscal year ending on September 30, 1983, and not to exceed $5,458,767,000 for the fiscal year ending on September 30, 1984: *Provided, however*, That such funds include funds authorized pursuant to part 2 of subtitle except that "None of the funds appropriated pursuant to the authorization established by this section in excess of $840,753,000 for the fiscal years ending September 30, 1982, September 30, 1983, and September 30, 1984, may be expended for operating expenses or plant and capital equipment for nuclear research and development activities."

Mr. KENNEDY. Mr. President, this amendment is a very simple amendment. What it basically does is it strikes $309 million from the nuclear fission program—cutting it back to President Carter's level.

The administration—if we can have order, Mr. President, I can get through this much more quickly.

The PRESIDING OFFICER. The Senator from Massachusetts is correct. The Senate is not in order.

The Senate will be in order.

Mr. KENNEDY. Mr. President, I have written to our colleagues and I have had the opportunity to talk with many of them about this particular amendment so they are familiar with the material.

What basically has happened is that the administration has increased the nuclear fission program some 41 percent. At the same time the administration has proposed significant cuts in housing, jobs, social security, and school lunch programs.

In fact, the pervasiveness of these cuts is a critical element of the President's program. Certain "fundamental principles" the document states, "guided the development of his program." The "first and most important of these principles," the President said, is that "all members of our society except the truly needy will be asked to contribute to the program for spending control." Every group, the President insisted, must bear its part in curbing the growth of Federal spending.

In the midst of the enormous budget sacrifice that is being demanded from every other element of our society, there is no justification for the decision by the Office of Management and Budget not only to exempt the nuclear power industry from the administration's spending cuts, but to permit instead, an extravagant increase of 41 percent in subsidies for the industry above the level sought by the previous administration.

The Office of Management and Budget has worked diligently to cut wasteful spending. It has required every other group in our society to accept spending cuts as part of its fiscal austerity program.

They have cut veteran's benefits—yet, they have increased the budget for breeder reactors—a program that OMB Director David Stockman has called "totally incompatible with our free market approach to energy policy."

Benefits for orphans have been cut—but subsidies are increased for nuclear utilities to operate commercial nuclear facilities.

They cut $400 million from programs for disadvantaged children of poor families, but then have not cut 1 cent from programs to help the nuclear industry manage its commercial nuclear wastes.

They cut loans for college education, but they increased the subsidy to help a major oil company to keep its hopes alive to reprocess plutonium.

In the energy area, every element of the research and development budget was cut. Fossil research and development was cut by 66 percent. Solar and conservation research was cut by 55 percent. Why, in light of all these other cuts, should the nuclear energy budget be the solitary exception to this austerity rule?

This inequity is graphically illustrated by this chart. It shows: Disease prevention funding is reduced 30 percent; youth jobs funding is reduced by 50 percent; fossil fuel funding is reduced by 66 percent; and the conservation and solar program is reduced by 55 percent.

Smaller energy budgets are forcing all of us to face the larger questions. The most important of these is—what is the purpose of Federal energy spending?

Over the past 10 years, a broad national consensus has emerged that we must increase energy security by reducing the amount of oil the United States imports from abroad. This agreement on policy was forged through three administrations—two Republicans and one Democratic—and has been the cornerstone of our national energy policy.

The Reagan administration has explicitly rejected reduction of oil imports as a goal of Federal energy spending. Instead, the Reagan administration argues that Federal energy spending should focus on "long-term research and development activities * * *."

In preparing for the Joint Economic Committee's oversight hearings on energy policy, I obtained estimates of how much extra oil would be saved as a result of the activities of the solar and

conservation division and the nuclear division of the Department of Energy. The nuclear division has no estimate—because virtually all its spending will have no oil saving impact for at least 30 years. The solar and conservation division estimated that its programs would achieve annually a savings of about 103 million barrels of oil in 1985—the equivalent of 20 days of imports. This chart adjusts those estimates to reflect the Energy Committee's increases in some conservation and solar programs.

Unfortunately, this legislation has cut by about 55 percent the programs that can do the most to reduce oil imports in the short run—solar and energy conservation—and has increased by 41 percent those programs that will have almost no impact on oil imports—nuclear energy funding.

The administration's energy spending programs are not only misdirected, they are anachronistic.

The nuclear fission programs are hand-me-downs from the 1960's that have acquired independent bureaucratic and industrial constituencies. When they were first conceived, the United States could pump all the oil we needed and utility companies were planning massive electrical construction programs. Today, the energy situation is exactly the opposite—we are importing $30 per barrel oil and electricity demand is hardly growing.

It is ironic—and telling—that the Reagan administration is seeking to dismantle the social programs of the 1960's while at the same time spending unprecedented accounts on the energy programs of the 1960's. The irony is that the social problems that spawned the social programs are still with us. But the energy conditions that spawned their favored energy programs—low oil prices and a growing demand for electricity—are long gone.

Today these expensive nuclear electric projects have become classic white elephants:

The payoff, if any, is far off and unpredictable;

These projects call for massive Federal spending to find alternatives to coal. It is hard to understand why the Federal Government, in an era of drastically tightened budgets, should be spending billions of dollars over the next decade to try to create a substitute for coal—our most abundant domestic energy resource.

When he was a Congressman, OMB Director Stockman urged his colleagues to turn away from Federal subsidies for nuclear power. These payments from the Treasury to private industry, Stockman said, "were the antithesis of the free market." He described one key nuclear project—the Clinch River breeder reactor—as a "test" of Republican principles. The new Reagan budget is committed to spending $1.6 billion on this project over the next 5 years.

An energy policy that slashes funds for the programs that save the most energy while lavishing billions on nuclear white elephants squanders Federal energy resources. It also raises questions about the fairness of these Reagan budget cuts. Should job training programs for the poor be abolished while CETA programs for nuclear engineers are expanded?

Energy security today is the essence of national security. And energy security is a matter of using our resources to the best advantage to reduce imports. It makes no sense to spend billions to subsidize redundant nuclear power research while we spend billions more to import OPEC oil.

I would like to reassure my colleagues that are concerned with the cleanup of the nuclear waste problems at Three Mile Island and at West Valley, that the budget assumptions that I have used assume that these programs are funded. Thus the amendment I am now offering, rather than cutting the nuclear fission R. & D. budget by $337 million, as I had originally proposed, will instead reduce the budget by $309 million.

In summary, we are cutting all the other programs except nuclear. This is very unfair.

Second, it is bad energy policy, because we are cutting programs that can do most about the importation of oil into this country, and we are increasing the program that will not significantly impact on the importation of oil. That, effectively, is the case.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, I yield time in opposition to the amendment to the distinguished chairman of the Energy Committee, Senator McCLURE.

Mr. McCLURE. I yield 2 minutes to the Senator from Louisiana.

Mr. JOHNSTON. Mr. President, the distinguished Senator from Massachusetts is correct in saying that the nuclear budget has been increased 41 percent—only if you include nuclear weapons. If you do not include nuclear weapons, then the increase is as follows: From $1.66 billion in fiscal year 1981, under Carter, to $1.247 billion, under President Reagan. The increase is very slight.

This increase is largely represented by the Clinch River Breeder Reactor, a technology that is not obsolescent, but rather it is up to date. I wish we had time to discuss it. It is greatly needed in this country.

Mr. President, the Reagan budget is actually smaller in total dollars than the Carter budget for nuclear fission proposed during the first year President Carter was in office. Further, it is only nominally larger this year over last year.

In this nuclear fission budget are items of very high priority. For example, within the nuclear waste program funding of $299 million, we have items such as the West Valley program, which is vital to learn how to solidify nuclear waste. Also there is the mill tailing cleanup projects—items of great health hazard across this country, as well as deep geologic storage of nuclear waste.

For the advanced nuclear systems, these $38 million go to a national defense program, in providing nuclear power supplies for satellites.

The conventional reactor systems programs include the Three-Mile Island cleanup and include light-water reactor safety.

If you go down all these items, you will find that it is a very lean budget, involving items of safety, items of public health, and items of very high priority in nuclear research.

Mr. President, this is not a 41-percent increase in nuclear. It is a 41-percent increase only if you consider nuclear weapons, which, while they are under the Department of Energy and traditionally have been under the Department of Energy, they are not a nuclear fission item in the sense that this budget is being called a nuclear fission budget.

Mr. President, this is a lean budget and it should be approved by the Senate.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. I yield 1 minute to the Senator from Washington.

Mr. JACKSON. I shall be very brief.

Mr. President, the Senator from Louisiana has particularized some of the provisions in the pending budget in connection with the nuclear energy program.

I should especially like to emphasize the importance of the commercial nuclear waste program, which is absolutely vital to the proper management of our nuclear power program in this country.

If we are ever going to get out from under the enormous dependence of this Nation on oil from abroad, I say, here and now, that we must have a balanced program. This includes programs with which we are all familiar—the program on synthetic fuels, the program for accelerated development of our public lands so that we can get the oil and the gas, the solar program, and the great research and development program in the nonnuclear areas.

The amendment offered by Senator KENNEDY to reduce the nuclear fission budget must be opposed if we are to maintain a viable nuclear energy program in the Department of Energy. This blind reduction in the total funds for the nuclear fission program does not take cognizance of the importance of the individual activities contained in the program. Rather, the amendment is an attempt to penalize the nuclear energy program in keeping with the perceived penalization of solar conservation, fossil, and other energy technologies in the Reagan administration's budget submittal.

In fact, one must look at the historical records to appreciate the relative cuts in these technologies. For instance, in 1977 the Carter administration revised the January 1977 budget submittal for fiscal year 1982. In the Carter administration's February 1977 budget, there was $1.27 billion for nuclear energy research which was already a cut from the Ford budget. In May of that year, the nuclear energy budget was cut further and then, over the next 3 fiscal years, the Carter administration proposed budgets which were lacking in a sense of commitment to the nuclear energy option while greatly increasing emphasis on nonnuclear energy technologies.

The Reagan budget for nuclear energy in the fission technologies as submitted in March of 1981 is for $1.25 billion reflecting a $20 million decrease in real terms in comparison to the February 1977 nuclear fission budget. Moreover,

with the rampant inflation which has occurred in the past 4 years, this represents an effective cut of at least 42 percent in the nuclear fission budget just based on the consumer price index. In fact, the costs of scientific research and construction have outstripped the CPI so the reductions are even more severe than the 42 percent general inflationary effect.

The Committee on Energy and Natural Resources adopted the overall figure for the category of energy supply research and development without providing for specific allocation of funds for these various nuclear and nonnuclear energy technologies. The specific amounts to be appropriated within this total amount have been left to the appropriations process. For us to take an action today which provides a cap on any of these energy technologies is at variance with the general approach that the committee adopted. However, if the committee had put in the detailed amounts for individual energy technology programs, it seemed quite likely that they would have voted in large part to allocate the funds in keeping with the administration's proposed amounts.

I think it is important also to look at the potential impacts of the amendment offered by the Senator from Massachusetts. The amendment does not propose any particular area for reduction within the nuclear fission program; thus, the Appropriations Committees could allocate the funding decrease in any way that they saw fit.

It is important to look at the programs within the nuclear fission budget: The commercial nuclear waste program ($299 million), the advanced nuclear systems program ($38 million), the conventional reactor systems program ($70 million), the breeder reactor systems program ($737 million), the interim fuel management program ($7 million), the advanced isotope separation (AIS) technology program ($86 million), and the uranium resources assessment program ($10 million).

The cut being proposed by the Senator from Massachusetts would have a devastating effect on each of these programs. For instance, such a cut could virtually eliminate the program of commercial nuclear waste disposal technology development. The commercial nuclear waste program has, as important elements within it, the clean-up costs for activities at abandoned Manhattan project sites, and the abandoned mill tailings projects in the west. None of these activities should be reduced or deferred due to a simple blind reduction in the nuclear fission budget.

This amendment could be viewed as an unspecified attack on the Clinch River breeder reactor project itself. This amendment would eliminate funding for the project if the Appropriations Committee were to apply the cut to that project directly. I do not believe that the Senate endorses the termination of the Clinch River breeder reactor project, but that could be one of the possible effects of this amendment. Similarly, such a cut could, if applied to the breeder base program, virtually eliminate the supporting research for the Clinch River breeder reactor.

Such a decrease in the nuclear fission program could result in the termination of light water reactor safety research which is important to maintaining public confidence in our existing nuclear powerplants. Just last year, the Congress enacted a law to promote greatly expanded program in generic safety for light water reactors. Moreover, such a cut could result in the termination of activities on alternative reactors such as the high temperature gas reactor or the light water breeder reactor.

The amendment does not really impact on the AIS program because while these funds are included in the nuclear fission account, the costs are borne as part of the uranium enrichment charge to customers purchasing enrichment services. Thus, the offsetting revenues result in no budgetary impact for this subprogram of the nuclear fission program.

We could terminate the uranium resources assessment program which is being phased out anyway, but I would remind the supporters of this amendment that this program was started by those who opposed the breeder program itself, and thus is likely to die in any budget cutting actions on the nuclear fission program.

Basically, this amendment is a punitive amendment for the nuclear energy option which has been sufficiently punished in the last 4 years. This reduction will not result in additional appropriations for some of the other technologies which have been cut. I urge my colleagues to oppose this amendment on general principle. The amendment is not well reasoned on the basis of the programs within the nuclear fission program which are to be reduced, and it is in fact anti-nuclear in its intent, rather than an honest budget cutting effort.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. McCLURE. I yield 1 minute to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, I oppose this amendment, and I hope the Senate will defeat it. It would reduce funding for nuclear fission research by $300 million per year in budget authority. Outlays would be reduced by about $100 million in 1982 and $300 million in 1983 and 1984. I believe that anyone who has studied that program and its significance in terms of a real alternative for America would agree that we should not be cutting it now.

The PRESIDING OFFICER. Time in opposition to the amendment has expired.

Mr. KENNEDY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 1 minute and 48 seconds.

Mr. KENNEDY. I yield myself 1 minute.

Mr. President, I am using the figures that have been provided by the administration when I talk about $309 million.

If those who oppose this amendment just want to go back to what the Carter administration proposed and make that the amendment, I will welcome the opportunity to change my amendment. But I am quoting the figures here that have been provided by the Reagan administration, as the basis for this amendment. Those are the figures that have been accepted by the Budget Committee, so make no mistake about it.

Second, in reviewing this total book, you have yet to find a place which has been used to justify the 41-percent increase. Over $300 million, and there is not a line of explanation or justification for it. There are plenty of lines of justification for cutting back on health, cutting back on education, but not justification for the increase.

There has been talk here this evening about having a balanced program. What we are talking about is a reduction of 66 percent in fossil fuel, in coal, a reduction of 55 percent in areas of conservation and solar, and an increase of 41 percent.

It seems to me, Mr. President, that we are not having a balanced program. When you talk about backing off the imports, using the Department of Energy's own figures, you see what we can do in terms of those figures in backing off.

This is a national security issue: 4 million barrels with nuclear, 66 million barrels with conservation and solar. All we are trying to do is to have the balanced program that has been talked about by the Energy Committee, and that is why I hope this amendment will be accepted.

The PRESIDING OFFICER. The time of the Senator has expired.

The Chair recognizes the Senator from Idaho.

Mr. McCLURE. Mr. President, I yield 15 seconds to the Senator from Tennessee.

Mr. BAKER. Mr. President, I oppose this amendment.

I believe that the Energy Committee has done an extraordinary job in bringing coherence and reasonableness to the energy program of the Government of the United States. They ought to be commended for it.

I believe that this amendment would be destructive of that coherence, and I urge its defeat.

Mr. McCLURE. Mr. President, I oppose the amendment.

I am sorry to say to the Senator from Massachusetts that he has looked at the wrong set of figures, because he is making comparisons against the budget submission from the administration, not by actions taken in the Energy Committee or by actions taken in the Appropriations Committee, both of which have been merged into the reconciliation resolution.

I am sorry to point out that he is totally in error in his presentation tonight. That is unfortunate. I wish we had more time to explore that in detail.

I believe we also should point out that this limitation in the proviso in the amendment is exactly the kind of limitation on obligation authority that has been resisted on this floor time after time in a number of other measures here.

As I understand the amendment, it would reduce authorization for nuclear fission programs by $337 million in fiscal years 1982, 1983, and 1984. I would only say that this program has seen a 40-

percent reduction over the past 4 years through real reduction and inflation.

Does the sponsor intend to reduce or eliminate the funds requested for finding a site for commercial waste disposal? Does he intend to halt the West Valley demonstration or the remedial action program for the cleanup of m'll tailings? Would he intend that the remedial program for cleanup of old Manhattan project sites? I cannot imagine that the sponsor wants to see a reduction in the nuclear safety research program. If these programs are not the ones intended for reduction then only one major program remains—and that is the breeder program. Does the sponsor wish to decrease that program with this amendment?

I have asked these questions somewhat rhetorically in an effort to make a simple point. The reductions proposed in this amendment are so large that no one program can be singled out and therefore all of them would be affected. The programs I have listed are not just a select few, but major efforts and I do not believe the sponsor of the amendment would like to see all of those I have touched on eliminated.

Let me review for the benefit of my colleagues the programs found within nuclear fission. The commercial nuclear waste program makes up 23 percent of the nuclear fission budget. It focuses on research and development for the identification of suitable sites for nuclear waste repositories. Along with these efforts are programs for Federal/State interactions. Some specific projects which would be affected by cuts in commercial nuclear waste would be the West Valley demonstration project for the solidification of high-level waste and the Manhattan Engineer'ng District remedial action program for the clean up of uranium mill tailings accounts for 10 percent these funds alone and it certainly would be affected by this cut.

The advanced nuclear systems program provides research in the areas of space applications of nuclear power and isotope work. Cuts here would affect the NASA Galileo mission to explore Jupiter and the use of isotopes for civilian purposes.

The conventional reactors program which makes up 6 percent of the nuclear fission budget involves research into advanced reactor systems and safety systems for today's technology. It also includes research into the accident at Three Mile Island.

The interim spent fuel program provides research into fuel storage techniques to enhance at-reactor storage capabilities provided by utilities.

The advanced isotope separation program provides research toward the development of a system for the enrichment of uranium which would decrease the costs of enrichment.

Last, there is the breeder reactor program which is for the development of a technology that will extend our uranium resources by a factor of 60. I would remind my colleagues that the energy value of the uranium already mined which would be used by this technology is the energy equivalent of our total unmined coal resources.

Mr. President, the programs I have described are clearly not trivial. I know the proponents of this amendment argue that reductions should be made in these programs just as in programs such as energy conservation and solar. I remind them that these nuclear programs have undergone a 40-percent reduction over the past 4 years and the programs they are comparing them to have not. I also remind the proponents of this amendment that the Energy and Natural Resources Committee has raised the levels of authorization for solar and conservation programs to levels, judging by yesterday's vote on further increases. that are satisfactory to this body.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. GRASSLEY). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Maine (Mr. COHEN) is necessarily absent.

Mr. ROBERT C. BYRD. I announce that the Senator from Oklahoma (Mr. BOREN), the Senator from Nevada (Mr. CANNON), the Senator from California (Mr. CRANSTON), the Senator from Montana (Mr. MELCHER), and the Senator from Ohio (Mr. METZENBAUM) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators wishing to vote?

The result was announced—yeas 25, nays 69, as follows:

[Rollcall Vote No. 176 Leg.]

YEAS—25

Baucus	Hatfield	Pressler
Biden	Kennedy	Proxmire
Boschwitz	Leahy	Randolph
Bradley	Levin	Riegle
Bumpers	Matsunaga	Sarbanes
Byrd, Robert C.	Mitchell	Tsongas
Chafee	Moynihan	Williams
Dodd	Pell	
Eagleton	Percy	

NAYS—69

Abdnor	Gorton	Murkowski
Andrews	Grassley	Nickles
Armstrong	Hart	Nunn
Baker	Hatch	Packwood
Bentsen	Hawkins	Pryor
Burdick	Hayakawa	Quayle
Byrd, Harry F., Jr.	Heflin	Roth
Chiles	Heinz	Rudman
Cochran	Helms	Sasser
D'Amato	Hollings	Schmitt
Danforth	Huddleston	Simpson
DeConcini	Humphrey	Specter
Denton	Inouye	Stafford
Dixon	Jackson	Stennis
Dole	Jepsen	Stevens
Domenici	Johnston	Symms
Durenberger	Kassebaum	Thurmond
East	Kasten	Tower
Exon	Laxalt	Wallop
Ford	Long	Warner
Garn	Lugar	Weicker
Glenn	Mathias	Zorinsky
Goldwater	Mattingly	
	McClure	

NOT VOTING—6

Boren	Cohen	Melcher
Cannon	Cranston	Metzenbaum

So Mr. KENNEDY's amendment (UP No. 204) was rejected.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the amendment was defeated.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. What is the will of the Senate?

Mr. DENTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

UP AMENDMENT NO. 205

(Purpose: To make technical changes in the authorization of appropriations for legal services)

Mr. DENTON. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment of the Senator from Alabama.

The legislative clerk read as follows:

The Senator from Alabama (Mr. DENTON) proposes an unprinted amendment numbered 205.

Mr. DENTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 382, strike lines 17 through 23 and insert in lieu thereof the following:

"Sec. 1137. There is authorized to be appropriated for legal assistance to the poor $100,000,000 for fiscal year 1982, and $100,000,000 for fiscal year 1983."

Mr. SYMMS. Mr. President, could we have order?

The PRESIDING OFFICER. The Senate will be in order. The point of the Senator from Idaho is well taken. The Senator from Alabama will suspend until the Senate comes to order. The staff in the back of the Chamber will disperse.

The Chair recognizes the Senator from Alabama.

Mr. DENTON. Mr. President, the purpose of this amendment is to defer until the proper time the decision as to how and through what governmental activity the $100 million allocated for the function of legal assistance to the needy is to be distributed. The reason for this deferral is to avoid the impropriety of making a legislative decision through a budgetary vehicle such as the reconciliation bill. It is my intention as the chairman of the subcommittee which has jurisdiction over legal services to authorize no more than $100 million for legal assistance for the poor in whatever form that takes. I want to make it clear that I offer this amendment because it will give the administration and the Congress the flexibility to determine later how the legal services funds shall be spent.

We need a reauthorization to make the changes which even most of the Corporation's proponents would concede are necessary. We have such a reauthorization vehicle in the $100,000,000 reauthorization bill which the Human Resources Committee voted out yesterday. For the sake of the legislative process, I recommend that we use that reauthorization to make whatever legislative decision we need to make in this area.

I believe that the poor of our Nation do indeed have legitimate legal needs. There is no constitutional requirement, however, that mandates that these services must be provided through an entity such as the Legal Services Corporation. The administration, for example, proposes to provide the necessary money for legal services through the block-grant mechanism, thereby placing the responsibility of determining who will get the money and how much they will receive, in the hands of the State and local authorities.

In addition, I believe that the private bar has an ethical responsibility to provide more pro bono services to the needy. Both mechanisms would insure closer scrutiny of the nature of the services provided. If we adopt this amendment the Senate, through the regular authorization process, will have the opportunity to work its will with regard to legal services to the poor. Just yesterday, the Senate Labor and Human Resources Committee ordered reported legislation to extend the Legal Services Corporation for 3 years.

Mr. President, while I voted against the committee's legislation, today there is no intention to prejudice that proposal. However, the exclusive purpose of the reconciliation bill, as pointed out by so many, including the majority and minority leaders, is to reduce Federal spending now and in the future. The Congress should be given the opportunity to make decisions which establish Legal Service policies through the regular authorization process. The administration strongly endorses this amendment and I urge support of my colleagues.

Mr. THURMOND. Mr. President, today, I rise to express my support for the amendment offered by my distinguished colleague from Alabama (Mr. DENTON), regarding the authorization of $100 million to the States to provide legal services for the poor.

As I have stated on several occasions, I support the overall goal of equal access to the courts for the poor. However, I do not feel that the present system of providing government aid for this effort through the federally financed Legal Services Corporation is the most desirable means of meeting that goal. This Corporation, originally designed to give aid to those Americans too poor to afford legal help in such basic matters as settling disputes with their landlords, or domestic relations problems such as divorce and child support, has instead become a weapon used by social and judicial activists in an unending battle against the very Government that funds their activities.

Rather than attending to the legitimate, basic legal needs of the poor and disadvantaged, the grantees of the Corporation and their employees have repeatedly misused taxpayer dollars to promote their own ideals of social justice or change, using the poor they represent to obtain standing in their suits. Nor is this problem a temporary phenomenon, or one which could be easily remedied through legislation. On several different occasions, Congress has attempted, through amendments to the Legal Services Corporation charter, to restrict Corporation attorneys and other employees to proper legal assistance activities. Unfortunately, many Legal Services staffers have continued to ignore their charter, or interpreted it to suit their own purposes and notions of social activism. It is partly because of this continued, serious misuse of public funds that I oppose continued Federal funding for the Legal Service Corporation at this time.

The administration has proposed the decentralization of Legal Services Corporation authority. Instead of the current national parent Corporation; State and local units of government, in cooperation with local bar organizations, would assume the responsibility for providing these services. These local efforts would be supported in part through social service block grants to the States.

This is an approach with which I wholeheartedly agree, and which the amendment offered by Senator DENTON seeks to implement. I believe that the task of providing basic legal services, if indeed a responsibility of government at all, is a responsibility which should be borne primarily by the States. The existing Legal Services Corporation provides no assistance which cannot be more efficiently and directly made available by State and local sources, assisted to some extent by Federal funds. Furthermore, the resulting, more localized, administration of the program would allow for a more effective review of the wayward activities of some program attorneys and other employees.

In conclusion, Mr. President, I hope my colleagues will support the amendment which has been offered by the junior Senator from Alabama. Experimentation on behalf of noval legal theories and rights, where it is pursued, should be pursued through the private sector; not with Government funding supplied for the purpose of helping lower income Americans with basic legal services. The local control which will be possible under the administration proposal, embodied in this amendment, will more effectively allow for the administration of basic legal services for disadvantaged Americans.

Mr. HELMS. Mr. President, this is the first time the Senate has considered a conciliation bill. Everything we do will set a precedent. We must be very careful, therefore, that we do not set precedents that can later be used against a minority, even a minority of one.

My distinguished colleague, the distinguished minority leader (Mr. ROBERT C. BYRD) has been particularly eloquent on the issue of minority rights. He raised the point that controversial legislation could be added to the reconciliation bill and passed without the full protection of the Senate rules. As the minority leader said:

> Under those circumstances the legislative process could become an abomination. The rights of the minority and each Senator would be trampled. It is not a strictly partisan minority that would be injured. It may well be a regional minority of Senators threatened with some bill that would do great harm to their area of the country. Should that be included in Reconciliation, they would be powerless to stop or even slow its enactment.

Mr. President, my distinguished colleague the able minority leader is right on target with his comments. The pending amendment does exactly this and no more. It says that instead of reauthorizing a specific program we will authorize funds for a type of program, thereby allowing the Senate, under the full panoply of its rules, to debate and consider the specific program.

It would be irresponsible for the Senate, in its haste, to reauthorize this program at the same time set a precedent that would allow that same program or any other program to be changed or eliminated entirely as part of a future reconciliation bill. Mark my words, Mr. President, if the Senate reauthorizes this program on this reconciliation bill the Senate could repeal it on the next reconciliation bill.

I do not think any one wants to make that an ironclad rule of the U.S. Senate. I do not believe my colleagues here in the Senate want to set a precedent for trampling minority rights.

I urge adoption of this amendment.

Mr. CHILES. Mr. President, I want to take a few minutes to explain how I voted on this matter and explain my position on the Legal Services Corporation.

I feel strongly that this bill should not be used to redesign programs but instead to achieve budget savings. The Senate rules governing reconciliation bills prohibit Senators from offering floor amendments to change what the committee has done. The rights to free debate and amendment are too important to be set aside. In addition, adding such legislative issues would jeopardize the speedy enactment of the budget cuts. This bill, as reported from committee, would continue the Legal Services Corporation but cuts its budget from $300 to $100 million. I supported this budget cut in the Budget Committee. But I did not vote to abolish all funding for the Legal Services Corporation. The funding in this program is considered an interim measure to continue the program at limited funding until the Senate can redesign the program in regular session.

Yes, the Legal Services Corporation has been under attack. Some of the criticism is well grounded. In my mind, the original purpose of the program was to provide basic legal assistance to low income people who cannot afford an attorney. As chairman of the Senate Committee on Aging, I have talked with many elderly citizens who were too poor to hire a lawyer, but were able to get legal help from legal services on such matters as drafting of wills and settling complicated insurance claims. This is the kind of assistance that should continue to be provided, not those kind of activities that have come under so much fire.

The reauthorization of the Legal Services Corporation is a separate matter, one that Congress needs to consider by itself, and not in this budget savings package. At the moment, both Houses of Congress are moving forward with proposals to re-

authorize the Corporation. The Senate Human Resources Committee approved a reauthorization bill just yesterday. It provided an authorization of $100 million, but made few changes in the charter of the Corporation. The House has passed its own version of Legal Services reauthorization. The House, however, has added several restrictions on the scope of the activities of the Corporation.

It is my belief that there need to be significant changes in the way the Legal Services Corporation operates if we are to continue to have a Legal Services Corporation. First and foremost, I believe that we need to give State and local bar associations a far greater voice in the direction of Legal Services activities in each community. For instance, I feel that local bar associations should appoint the majority of the members of the board of directors of a local Legal Services agency. I also believe that each State should be required to set up advisory councils, to review all alleged violations of the Legal Services Act charter.

Together, these two would help insure that the Legal Services Corporation works with the community, and focuses on the activities it was originally designed to focus on. I have been working with the Florida Bar Association on developing language that will accomplish this objective. I would have offered this language as an amendment to this bill, but, as I said earlier, this bill is a budget savings proposal; its not a reauthorization bill. Therefore, it would not be appropriate for me to offer such an amendment at this time.

Mr. President, there are other changes that we need to consider. For instance, I do not think it is appropriate for Legal Services attorneys to lobby State legislatures on the taxpayer's time. In any case, we need to look at these and other important issues in the framework of a Legal Services reauthorization bill. By adopting this amendment, we preserve our opportunity to consider what the future of the Legal Services Corporation should be. We can decide whether or not to continue the agency, and look at the possible amendments to the Corporation. As I stated earlier, to include the reauthorization in this proposal could prevent us from making those considerations. And I feel that the issue is too important to be handled without careful consideration.

The PRESIDING OFFICER. Who yields time?

Mr. DENTON. I yield to the Senator from Utah.

Mr. HATCH. Mr. President, during the committee markup this past week, our full committee reported out a clean bill on the National Legal Services Corporation by a vote of 9 to 7, with the understanding that we would have a full-fledged debate on this bill on the floor of the Senate, and with the commitment of the majority leader and myself that this bill will come up, I presume, before the end of this year.

I believe that is the proper way to approach this matter. It is a matter of great significance. There is a wide variance of opinion. There is a wide difference on whether or not to continue the National Legal Services Corporation, or whether to do it in a block grant by giving the block grant moneys to the States and they provide legal services to the poor.

Over the last 4 years I voted twice on the National Legal Services Corporation. I am opposed to the National Legal Services continuing as an entity, but I am very strongly in favor of legal services for the poor and actually would prefer a block grant.

The PRESIDING OFFICER. All time on the amendment has expired.

Mr. HATCH. Mr. President, I ask unanimous consent that I may proceed for 30 seconds.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HATCH. I want to give credit to the distinguished Senator from Connecticut. The bill that will be debated on the floor will be a 3-year bill, with the same authorization level, $100 million a year over each of the next 3 years. I think that is the approach that should be taken.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. Mr. President, I yield myself 1 minute in opposition to this amendment.

I think the distinguished Senator from Utah stated it accurately. It should be in his authorization and fully debated on the floor, not with 5 minutes on the floor. With deference to the distinguished Senator from Alabama, it is he who would be setting a budgetary change in this matter.

As it now stands, we have had the Legal Services Corporation and if it is to be changed, it should be changed with proper legislation from the authorizing committee.

What in essence is being attempted in this amendment is a change in the Legal Services Corporation, which I had occasion to talk about with Associate Justice Powell the other day, and with the head of the American Bar Association.

We worked this out and really proposed and instituted under a Republican administration in 1974, after some misgivings and we have had some from time to time, to put provisos on its appropriations. But you should not in a 5-minute period change the policy. It should be properly debated by the authorizing committee bill when it is reported.

Mr. HATCH. Will the Senator yield for a question?

Mr. HOLLINGS. Yes.

Mr. HATCH. The only difference between the language within the reconciliation bill and the clean bill as reported is the clean bill has a 3-year authorization and the reconciliation bill has a 2-year authorization.

Mr. HOLLINGS. I would like to point out that the Senator's amendment we are considering here actually extinguishes the Legal Services Corporation.

Mr. HATCH. No, it does not. What it does is we have a commitment from the majority leader to bring this clean bill to the floor. I personally believe that the proponents of the bill will be able to prevail on the floor but we will have a full-scale debate on the floor.

Mr. HOLLINGS. Mr. President, to establish the precedent, because that is what we were talking about, extraneous material, and this matter of legislation, I raise the point of order that the amendment is not germane, that it is legislation. That was my point.

Mr. DENTON. Will the Senator yield for a question?

Mr. HOLLINGS. Momentarily, yes.

Mr. DENTON. The expiration of the authorization for the Legal Services took place on September 30, 1980. By continuing resolution, it will exist until September 1981. The effect, in my opinion, is usurping the normal process of the Senate because this is going out into the out years.

The PRESIDING OFFICER. The Senator from South Carolina has raised a point of order on whether or not the amendment is germane. The Chair is prepared to rule.

The amendment sets up a new program for legal assistance to the poor and it is, therefore, not germane. The Chair sustains the point of order raised by the Senator from South Carolina.

Mr. DENTON. Mr. President, I appeal the ruling of the Chair and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Shall the ruling of the Chair stand as the judgment of the Senate? The yeas and nays have been ordered and the clerk will call the roll.

Mr. KENNEDY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. Will the Senator from Massachusetts suspend for a moment?

The Senator from Massachusetts will state his inquiry.

Mr. KENNEDY. Is an aye vote a vote to sustain the Chair?

The PRESIDING OFFICER. The Senator from Massachusetts is correct. An aye vote is to sustain the Chair.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Maine (Mr. COHEN) is necessarily absent.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from California (Mr. CRANSTON), the Senator from Ohio (Mr. METZENBAUM), the Senator from Oklahoma (Mr. BOREN), and the Senator from Montana (Mr. MELCHER) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 73, nays 21, as follows:

[Rollcall Vote No. 177 Leg.]

YEAS—73

Abdnor	Byrd, Robert C.	Ford
Andrews	Chafee	Glenn
Armstrong	Chiles	Goldwater
Baker	D'Amato	Gorton
Baucus	Danforth	Hart
Bentsen	DeConcini	Hatfield
Biden	Dixon	Heflin
Boschwitz	Dodd	Heinz
Bradley	Dole	Hollings
Bumpers	Domenici	Huddleston
Burdick	Durenberger	Inouye
Byrd, Harry F., Jr.	Eagleton	Jackson
	Exon	Johnston

Kassebaum	Packwood	Schmitt
Kasten	Pell	Simpson
Kennedy	Percy	Specter
Leahy	Pressler	Stafford
Levin	Pryor	Stennis
Long	Quayle	Stevens
Lugar	Randolph	Tsongas
Mathias	Riegle	Wallop
Matsunaga	Roth	Weicker
Mitchell	Rudman	Williams
Moynihan	Sarbanes	Zorinsky
Nunn	Sasser	

NAYS—21

Cochran	Hayakawa	Murkowski
Denton	Helms	Nickles
East	Humphrey	Proxmire
Garn	Jepsen	Symms
Grassley	Laxalt	Thurmond
Hatch	Mattingly	Tower
Hawkins	McClure	Warner

NOT VOTING—6

Boren	Cohen	Melcher
Cannon	Cranston	Metzenbaum

So the ruling of the Chair was sustained as the judgment of the Senate.

The PRESIDING OFFICER (Mr. ROTH). The Senator from Alabama is recognized.

Mr. DENTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DENTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 206

Mr. DENTON. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. DENTON) proposes unprinted amendment numbered 206.

On page 382, line 19, strike "Section 1010 (a)".

On page 382, line 19, strike "L" and insert "l".

On page 382, line 19, strike "S" and insert "s".

On page 382, lines 19, 20, and 21, strike "42 U.S.C. through "sentence:".

On page 382, lines 21 and 22, strike "There are authorized" through "Legal Services Corporation".

Mr. DENTON. Mr. President, this amendment has been reworded. The technical language would now be ruled germane, and it amounts to changing the capital letters to small case letters.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. EAGLETON. Mr. President, Senator DENTON's amendment, while not precluding extension of the authority for the Legal Services Corporation, nonetheless, it is clearly an effort to place the $100 million in spending authority for legal services to the poor under a block grant to the States. Should that happen, it would be the equivalent, in my opinion, of denying civil legal assistance to poor people.

This amendment would open the door to relying on States to assume responsibility for a program they have never had before—not with new money, but in fact with greatly reduced funds for other vital social services for which they have traditionally had responsibility, for example, such as day care.

The States have not yet met their existing legal obligations to provide legal services to the poor in criminal matters. In fact, their ability to do so is eroding as inflation outpaces available resources. It is futile to suggest that they take on a new responsibility for civil legal assistance at this time.

Further, a block grant approach would impose a whole new level of bureaucracy on a program that is now a model of administrative simplicity. As of now, less than 3 percent of the corporation's appropriated funds are used for management and administrative costs. Without any intermediate levels of bureaucracy, the vast majority, over 93 percent of the funds, are spent on the direct provision of legal services. Thus, the block grant approach, on the other hand, would impose an administrative burden where none now exists.

The block grant approach to legal services creates an inherent conflict of interest for State or local officials who would be responsible for allocating funds. The poor's legal disputes very often are with public officials who make decisions about their housing, their income, their health care, and their children.

There is a direct conflict if funding for lawyers comes from the same officials against whom the poor seek legal representation. It was to protect against this kind of conflict that Congress created the corporation, outside of the Federal executive branch. That independence has served the program well.

The block grant approach would remove the unique accountability to Congress that the Legal Services Corporation Act provides. In writing and amending the Legal Services Corporation Act, Congress has been particularly concerned that, within the context of a locally administered legal services program, certain national requirements and limitations be placed on the work of legal services lawyers. All of that careful work by Congress could be thrown out if this amendment carries. It could be replaced by an approach which, as has been demonstrated by other block grant and revenue sharing programs, provides little in the way of information or accountability to the Congress.

The provision within the bill before us, which Senator DENTON seeks to modify, is the way to assure continuation of an independent corporation, and that assurance is the only effective means by which we can truly achieve equal justice for all.

Mr. President, just yesterday, the full Committee on Labor and Human Resources approved a 3-year extension of the Legal Services Corporation at a $100 million authorization level for each year. Therefore, I urge my colleagues to reject the Denton amendment.

Mr. WEICKER addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. I yield to the Senator from Connecticut.

Mr. WEICKER. Mr. President, I oppose the amendment. It is not a question of changing the language or capitals or whatever. The fact remains that in a compromise in the committee, those of us who support legal services agreed that it would not be an amendment to the Older Americans Act. It would come out on the floor and be voted up and down in clean fashion.

Now we have an amendment in different form, which obviously is meant to do away with the program. I suggest that this is not the time or place to do it.

We will have that opportunity. As has been indicated by the majority leader, we will have a vote up or down on the Legal Services Corporation.

All this does is maintain the program at the $100 million level, which is considerably reduced, while reserving the right to all of us to debate on the floor the merits of the program and vote it up or down.

So I hope that my colleagues will go along with the recommendations of the committee and continue the program until such time as they are ready to either vote it down, reform it, vote it up, or what have you.

But, clearly, what this does is to come around the other end of the barn and try to do away with the program altogether. It is as simple as that.

The only reason why I am sorry it appeared in this form is that I thought we had the issue resolved to where you could cleanly vote on it. Now I find that, instead, we confront the matter in this fashion, in a few minutes, on the reconciliation bill.

I repeat: By agreement with the chairman of the committee and the majority leader, Senators will have an opportunity, in this session, up or down, on the matter of legal services.

Mr. BAKER. Mr. President, will the Senator from New Mexico yield to me for a unanimous-consent request?

Mr. DOMENICI. I yield.

Mr. BAKER. Mr. President, I have cleared this request all around, with the minority leader in particular.

I ask unanimous consent that further rollcall votes that may be ordered during the evening be 10 minutes instead of 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DENTON. Mr. President, I yield to the Senator from Utah.

Mr. HATCH. Mr. President, so that everybody understands, we feel that the Legal Services Corporation issue is a very hot issue, with a wide variety of opinion and belief.

We agreed in the committee to report a clean bill. That was reported last week, with the express understanding from me, as chairman of the committee, and from the majority leader that that clean bill will come up on the floor of the U.S. Senate in time to allow everybody to debate this issue and to vote one way or the other, against or for the Legal Services Corporation, whichever the case may be, in the eyes of the individual Senators. There is no question that we will do that.

What needs to be done here is that

this amendment keeps the $100 million going minimally in the form of a block grant. It will have nothing to do with whether or not we debate legal services. We feel that the appropriate way to do this is to split legal services out of the reconciliation bill, since these commitments have been made, so that the full debate is on the clean bill, up and down, in this Chamber, before the end of the authorization time of the Legal Services Corporation.

I urge our colleagues to vote for it, whether they are for or against legal services, because their rights will not be negated.

But why leave it in this bill, when we have guaranteed this right on the floor? Nobody is going to lose a thing.

Mr. HOLLINGS. I will be glad to answer that question: Because the President of the United States has indicated that he is going to veto your bill, and if it is left out of this bill, you will have no Legal Services Corporation.

Do not mislead the body. That is a treacherous suggestion you are making, knowing that the President is likely to veto your bill, and you are insinuating that we are going to have a vote up or down. If we take this authorization out of the reconciliation bill, there will be a veto.

Mr. HATCH. We do not know whether there will be a veto or not, but he has said that he may veto the bill.

Mr. HOLLINGS. Tell the body about that.

Mr. HATCH. I think nobody misunderstands that. There is nothing new about it.

We are saying let us get it out in the open, where we debate it, and let it stand on its own merits. That is the issue.

Mr. President. I hope our colleagues will vote with Senator DENTON on this amendment.

Mr. DENTON. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama (Mr. DENTON). On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Maine (Mr. COHEN) is necessarily absent.

Mr. ROBERT C. BYRD. I announce that the Senator from Oklahoma (Mr. BOREN), the Senator from Nevada (Mr. CANNON), the Senator from California (Mr. CRANSTON), the Senator from Arizona (Mr. DECONCINI), the Senator from Montana (Mr. MELCHER), and the Senator from Ohio (Mr. METZENBAUM) are necessarily absent.

I further announce that, if present and voting, the Senator from Arizona (Mr. DECONCINI) would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 35, nays 58, as follows:

[Rollcall Vote No. 178 Leg.]

YEAS—35

Armstrong	Hatch	Proxmire
Baker	Hawkins	Quayle
Byrd, Harry F., Jr.	Hayakawa	Roth
Cochran	Helms	Simpson
D'Amato	Humphrey	Stennis
Denton	Jepsen	Stevens
Dole	Laxalt	Symms
East	Lugar	Thurmond
Garn	Mattingly	Tower
Goldwater	McClure	Wallop
Grassley	Murkowski	Warner
	Nickles	Zorinsky

NAYS—58

Abdnor	Glenn	Moynihan
Andrews	Gorton	Nunn
Baucus	Hart	Packwood
Bentsen	Hatfield	Pell
Biden	Heflin	Percy
Boschwitz	Heinz	Pressler
Bradley	Hollings	Pryor
Bumpers	Huddleston	Randolph
Burdick	Inouye	Riegle
Byrd, Robert C.	Jackson	Rudman
Chafee	Johnston	Sarbanes
Chiles	Kassebaum	Sasser
Danforth	Kasten	Schmitt
Dixon	Kennedy	Specter
Dodd	Leahy	Stafford
Domenici	Levin	Tsongas
Durenberger	Long	Weicker
Eagleton	Mathias	Williams
Exon	Matsunaga	
Ford	Mitchell	

NOT VOTING—7

Boren	Cranston	Melcher
Cannon	DeConcini	Metzenbaum
Cohen		

So Mr. DENTON's amendment (UP No. 206) was rejected.

UP AMENDMENT NO. 207

Mr. LEAHY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont (Mr. LEAHY) proposes an unprinted amendment numbered 207.

Mr. LEAHY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 29, line 41, strike out "repealed." and insert in lieu thereof the following: "repealed, except that such repeal shall not apply to the extent that funds are made available in advance through appropriations Acts during the period October 1, 1981, through September 30, 1982, for making payments on a pro rata basis, to school food service authorities in areas in which at least 50 per centum of the children meet the income eligibility guidelines for free or reduced-price meals in accordance with section 9 of the National School Lunch.".

Mr. LEAHY. Mr. President, could we have just a little bit of order, just for practice?

[Laughter.]

The PRESIDING OFFICER. The Senate will please be in order.

Mr. LEAHY. I thank the Chair.

I ask unanimous consent that the following Senators be added as cosponsors to the amendment: Senators DOLE, BRADLEY, HEINZ, PRYOR, DIXON, KENNEDY, SPECTER, WILLIAMS, PRESSLER, DANFORTH, and MOYNIHAN.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, with this amendment we are attempting to assure that a piece—and I emphasize only a piece—of a vitally important social program will remain in effect. S. 1377 would eliminate the summer feeding program altogether. Our amendment would retain the summer feeding program in fiscal year 1982, only to the extent it is operated by school food service authorities.

Our amendment is consistent with the budget. It represents a 70-percent reduction in this program, for a savings of over $100 million a year in fiscal year 1982. Yet, it would allow a meaningful portion of this program to remain in effect, operated by sponsors who have no history of mismanagement, fraud, and abuse. These sponsors, which would include public school systems, archdioceses and others, could continue to provide meals to poor children during the summer months.

Complete elimination of the summer feeding program is an unnecessarily harsh and unwarranted measure. The program is the summer equivalent of the free school lunch program, currently providing meals to over 2 million needy children nationwide. There is no reason to believe that these children need these meals any less than the free lunches they receive during the school year.

Elimination of the summer feeding program would have effects well beyond nutrition. Meal service is the focal point for countless summer recreational activities across the country. Without a meal to serve, these programs would be greatly weakened or forced to terminate. The number of unsupervised children and teenagers, and their potential for mischief or crime, would greatly increase. Thus, elimination of this program would effect entire communities, not just the children.

This is a very reasonable and responsible amendment, although I regret it is for 1 year only. To summarize, let me make several important points about it.

First, this amendment makes clear that the summer feeding program is an authorization and not direct spending since it allows payments to be made on a prorata basis, if necessary. While I believe that summer feeding is an authorization under current law, this amendment makes it crystal clear.

Second, this amendment falls well within the budget. It affects only fiscal year 1982. It would cost about $45 million. The Committee on Agriculture, Nutrition, and Forestry has been credited with excess savings for fiscal year 1982 that would easily accommodate the cost of this amendment. I would also point out that this amendment constitutes a major savings compared to current law. It slashes the summer feeding program by 70 percent, for a savings of over $100 million.

Third, the amendment makes moot any criticism that has been leveled at the management of this program. All categories of sponsors responsible for fraud and abuse problems in this program would be eliminated. Under my amendment, the only sponsors can be school food authorities. School food authorities

have no record of fraud and abuse in this program.

Fourth, this amendment would target the summer feeding program even more closely on poor children than under current law. The program could operate only in areas where over 50 percent of the children meet the guidelines for free or reduced price school meal participation.

Mr. President, there undobutedly are thousands of summer feeding programs in this country that are well administered by churches, schools, private agencies and public agencies. As it now stands, S. 1377 would simply abolish every single summer feeding program, no matter how well administered it is, and no matter how many destitute children need its benefits. I believe this is a clear case of throwing the baby out with the bathwater.

Our amendment offers the Senate a clear choice.

It can blindly eliminate an entire program. Or, it can support an amendment that is consistent with our budget and retains a meaningful piece of the program that is free of fraud and abuse.

I urge my colleagues to support this very reasonable and responsible amendment.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. LEAHY. I yield to the distinguished Senator from Kansas.

Mr. DOLE. Mr. President, I rise in support of the amendment introduced by the distinguished Senator from Vermont. The Senator from Kansas agrees that a proposal to entirely eliminate a program that serves needy children during the summer months should be carefully evaluated. This amendment would preserve a worthwhile piece of this program—the summer feeding program would only be maintained in programs operated by school food service authorities, as a kind of extension of the school lunch program.

BUDGET IMPLICATIONS

Previously, the Agriculture Committee had decided to eliminate this program, because it needed to make certain direct spending cuts. This amendment would clarify the categorization of this program and establish it as an "authorization." Since the direct spending issue is resolved by the language of this amendment, it is important to note that the amendment can be accommodated within the reconcilation instructions—there is room for an additional $45 million in expenditures because the Committee on Agriculture, Nutrition and Forestry has been credited with excess savings for fiscal year 1982 and fiscal year 1983. I would also like to emphasize that this amendment constitutes a significant savings over current law—the summer feeding program would be cut back by 70 percent for a savings of over $100 million in fiscal year 1982.

MISMANAGEMENT CONCERNS

Perhaps most important, this amendment addresses all of the fraud and abuse concerns that have plagued this unfortunate program—this proposal eliminates all categories of sponsors responsible for the mismanagement problems in this program that have occurred since its inception. Under this amendment, the only sponsors can be school food service authorities, and they have consistently demonstrated responsible and effective administration of feeding programs. In addition, this amendment would tighten the rather loose eligibility criteria that exists under current law: The program could operate only in areas where over 50 percent of the children meet the free or reduced-price school meal guidelines.

CONSTRUCTIVE RECREATION

Aside from the nutritional considerations of the summer feeding program, elimination of this program would have another side effect which ought to be considered. This summer meal program provides a focal point for thousands of summer recreational activities across the country. A total elimination of the program would greatly weaken or even obliterate many of these recreational programs, resulting in a tremendous increase in the number of unsupervised children and teenagers. For this reason, entire communities would be affected—not just the children in these communities. If these children and teenagers are left to their own devices, their potential for mischief and even crime will most likely increase significantly, and this kind of development is something that would provide a source of grave concern to local communities.

CONCLUDING REMARKS

I seems to the Senator from Kansas that the Senate would be acting responsibly, and well within the required budget guidelines, to preserve a small fragment of this program, in order that needy children will not go hungry during the summer months. Although there have certainly been a lot of problems with operation of the program in the past, there are also thousands of summer feeding programs that are effectively administered by churches, schools, private and public agencies. It would simply be unwise to eliminate this program in its entirety, when there may well be a part that is worth preserving. There is no need to leave many children in a destitute condition, when summer nutrition services can be provided at a minimal cost to the tapayer and in such a way that all the previous concerns about this program have been sufficiently addressed.

The Senator from Kansas agrees with the distinguished Senator from Vermont that a meaningful segment of this program—free of fraud and abuse implications—should be preserved. I urge my colleagues to support this new approach to the summer feeding program.

● Mr. HEINZ. Mr. President, I must congratulate the Committee on Agriculture, Nutrition, and Forestry on their huge undertaking of successfully identifying areas within their jurisdiction to receive reduced or eliminated spending. The legislative language the committee has drafted effects reductions in direct spending and authorizations required by the resolution.

It is my belief, though, Mr. President, that the committee has unintentionally categorized the summer food service program as a direct spending program, and therefore unintentionally, I am sure, targeted the program for elimination. I say "unintentionally," Mr. President, because the committee saw fit to reclassify a separate companion program, the school lunch program, from direct spending to an authorization. The summer food service program was created to insure that those children who were being fed during the school year would have something to eat during the summer. Now, if we are talking about the same hungry kids, I can only assume that the splitting of spending classifications must have been an oversight.

I agree wholeheartedly that there have been administrative problems with the implementation of the program. But, Mr. President, I believe that there is a legislative remedy other than eliminating the program. My colleague from Vermont, I believe, provides us with that legislative remedy— a remedy which is fiscally responsible, is programmatically responsible, eliminates the participation of historical program abusers, and feeds hungry kids.

The allowance of payments to school food service authorities has tremendous value. First, the authorities have traditionally been accountable to the State and to the children they serve, as they are exclusively responsible for the administration of the school lunch program during the school year. Second, this would eliminate the fly-by-night private contractor, who is more interested in making a profit than feeding the kids, and most importantly, who is accountable to no one.

Mr. President, accountability is the issue here. I am delighted that we have a way to redeem a valuable program. I urge my colleagues to join with me in doing so.●

Mr. KENNEDY. I rise in support of the amendment offered by Senator LEAHY.

The bill we are considering today would totally eliminate noontime meals now provided during the summer for over 2.3 million children. Many of these youngsters come from poor families and receive free lunches during the regular school year. The summer feeding program has been effective in insuring that these same children have at least one balanced meal a day in the summer months.

Senator LEAHY's amendment would restore just $45 million for this program next year. These funds would be targeted on the poorest children in the neediest communities. Only schools with high concentrations of poor students would be allowed to operate the program.

This proposal recognizes that serious problems have plagued the summer feeding program in the past. It corrects these deficiencies, and builds on the program's strengths.

Sponsors who mismanaged the program in the past would be eliminated. Unscrupulous operators who milked the program for personal gain would not participate.

Senator LEAHY's program would be run by the same experts who so successfully manage the year-round lunch program. GAO and the Inspector General

found no evidence of fraud in the schools.

The cost of this program is modest, but the benefits to the thousands of children it could reach will be enormous. I urge its adoption.

SUMMER FEEDING

Mr. BRADLEY. Mr. President, I am pleased to join Senator LEAHY in cosponsoring this amendment to restore partial funding for the summer feeding program. The Omnibus Reconciliation Act, now before the Senate, would eliminate the summer feeding program in its entirety. The reason: Budgetary necessity. Children whose low-family incomes qualify them for free or reduced price lunches during the school year—children who are truly needy—will be the real losers under this administration-recommended proposal.

I cannot support this kind of budget cutting. The summer feeding program provides vitally needed nutritional assistance to many poor children across our Nation. For many, the summer lunch program provides them with their best meal of the day. These children require good nutrition no less during the summer than during the school year. Their family economic situation does not miraculously improve during the summer, thereby removing the need for Federal nutritional assistance.

Moreover, the elimination of the summer feeding program is likely to have effects well beyond nutrition. School-based meal service is the focal point for countless summer recreational activities in communities nationwide. Without the continuation of the summer feeding program, these programs would be greatly weakened or forced to close down. Few question that the number of unsupervised children and teenagers, and their potential for mischief, would greatly increase.

Mr. President, our amendment would restore limited moneys for a targeted summer feeding program. These reduced Federal dollars would serve only low-income areas. No school could participate unless 50 percent or more of its school children qualify for free and reduced price meals. Our amendment also addresses the identified areas of abuse which have plagued the summer feeding program in some locations. Program sponsorship would be limited to school food services, where there is no evidence of the abuse and mismanagement which have given the program a questionable reputation in some States.

Mr. President, child nutrition is one of the best budget bargains we can make. Good nutrition is essential for growing bodies and growing minds. Children who receive free and reduced price lunches during the school year continue to eat in June, July, and August. Mr. President, eliminating the summer feeding program for these needy children would be extremely shortsighted. Therefore, I urge all my colleagues to join us in continuing the summer feeding program for these children.

Mr. LEAHY. Mr. President, I commend the Senator from Kansas for his help and support in the program and for the leadership he has exercised as chairman of the Nutrition Subcommittee.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, we have no objection to the amendment. It has no adverse budgetary impact and it does remove even from the authorization level the most objectional parts of the summer feeding program.

Mr. HOLLINGS. We recommend its adoption, Mr. President.

Mr. LEAHY. Mr. President, I ask unanimous consent that Senator DURENBERGER be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I yield back the remainder of my time.

Mr. DOMENICI. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Vermont.

The amendment (UP No. 207) was agreed to.

Mr. HOLLINGS. I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TOWER addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

UP AMENDMENT NO. 208

(Purpose: To increase funds for Federal impact aid)

Mr. TOWER. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Texas (Mr. TOWER), for himself, Mr. WARNER, Mr. EXON, Mr. NUNN and Mr. NICKLES proposes an unprinted amendment numbered 208.

Mr. TOWER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 33, between lines 36 and 37, insert the following:

FEDERAL IMPACT AID

SEC. 1120–1. Notwithstanding the provisions of section 1115, there are authorized to be appropriated for the purpose of making payments to local educational agencies under sections 2, 3, and 4 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) and for carrying out section 6 of such Act not to exceed $550,000,000 for fiscal year 1982, and not to exceed $550,000,000 for fiscal year 1983. In carrying out the provisions of this section, the Secretary shall, as necessary, pro rata reduce the entitlements of local educational agencies under sections 2, 3, and 4 of such Act.

Mr. TOWER. Mr. President, may we have order?

The PRESIDING OFFICER. The Senator from Texas is entitled to be heard. The Senate will please be in order.

The Senator from Texas.

Mr. TOWER. Mr. President, the amendment that I have offered on behalf of myself and a number of other Senators would restore $300 million for impact area aid for school districts that are adversely impacted by the presence of large military installations. In fact, the presence of these installations have created burdens for local governments, for local school taxing authorities, and it is the moral obligation of the Federal Government to compensate those districts so they are not required to absorb the burden of educating the children.

We have a particular problem in my State in that we are compelled to educate illegal aliens for which there is no tax base, as well as military dependents. There are problems that exist in school districts throughout the United States.

We feel that this is justified. If, over the long haul, we should do away with the impact aid, let us phase it out on a gradual basis. If we fail to adopt my amendment by July 1, many school districts will have to lay off teachers. It is probable, in many of these districts, tuition will be charged for military personnel and their dependents to attend schools. Many State legislatures have already authorized this.

This would have an enormously adverse impact on the retention rate of our noncommissioned officers and junior officers.

So let us go at the problem in an orderly way. If we are going to reduce impact aid, we should phase it out, rather than put the impact on a number of school districts throughout the United States.

Mr. President, I yield 1 minute to the distinguished Senator from Nebraska.

Mr. EXON. Mr. President, I thank my friend from Texas.

Mr. President, I rise in behalf of the Tower-Warner-Exon-Nunn amendment to add $300 million for the impact aid program.

Yesterday, the Senate Armed Services Committee held a hearing on the crisis which is developing over impact aid. The unfortunate situation is this: Many school districts in our country are dependent to a large degree upon adequate impact aid payments, and these schools will either be forced to close their doors or to begin charging tuition to the families of military dependents.

This crisis has been caused, in my opinion, because of unrealistic budgeting in both the executive branch and in the Congress.

Yes, the impact aid program can be cut, but not as extremely as the President has proposed and certainly not to the level of $200 million, which is the amount authorized in the reconciliation bill.

The Budget Committee itself did not assume such a deep cut in Impact Aid when it shaped the Reconciliation instruction, and the addition of $300 million will not violate the President's overall budget cutting targets.

This is the last clear opportunity to avoid these problems between school districts and military families. When tuition is charged, this will have an extremely bad effect on morale, and this will also affect military retention.

Furthermore, bad feelings and sense

of mistrust will inevitably grow up in many of our threatened communities.

Passage of this amendment is critical to averting the crisis. Furthermore, passage of this amendment will also provide funding for so-called section 6 schools, those schools which are located on military bases and are funded totally by the Federal Department of Education. Currently, neither the Senate nor the House has made any provisions for the $75 million it costs to operate these schools.

Mr. President, if we take no action today there will be other very serious problems caused for school districts which have a high percentage of Indian population. In Nebraska, there are three public schools which are almost totally dependent upon impact aid payments. There is no doubt but that they would have to close their doors if the Senate does not change its $200 million funding level. Many other States have schools which will encounter similar problems.

Mr. President, the amendment before us allows the Senate the opportunity to correct the major mistake of disallowing recognition of so-called military B students. Military B students are those whose parents are in the military services, work on a military installation, but live off base. In this situation, the family pays property taxes either directly or indirectly to supoprt the local public school district, but the family does not pay many other taxes which are an important part of the revenue base for the school.

Since the family does its shopping at the commissary and PX, the State or local government does not collect sales taxes on these purchases.

Furthermore, because such facilities are provided on base, the local economy does not develop the number of retail stores that it ordinarily would, and this also detracts from the community's property tax base.

The military family who lives off base is also not likely to pay State income taxes, which is an increasingly important source for support of public schools, nor is the family likely to pay a variety of other minor taxes which are imposed upon permanent and legal residents.

By adopting the Tower-Warner-Exon-Nunn amendment, the Senate will give the Appropriations Committee the opportunity to weigh these important factors in making distribution decisions under the impact aid program. This Senator cannot accept any authorization language which would preclude the recognition of circumstances caused by military B's.

Mr. President, some of my colleagues may have concerns about this amendment because it appears that many other important programs are being cut and why should impact aid be singled out as an exception. Actually, impact aid has already been cut for 1981, and even if this amendment is adopted, the 1982 impact level will be approximately 13 percent below the current year's level. The impact aid program is, therefore, bearing a share of the budget cuts, and is not being singled out for special treatment.

I urge the adoption of this amendment. It solves real problems and does not violate the President's total budget cutting recommendations.

Mr. TOWER. Mr. President, I yield 1 minute to the Senator from Virginia.

Mr. WARNER. Mr. President, I rise in support of this amendment. I am a cosponsor of it.

This is a most important issue, and yet it is one with which most Members of the Senate are not familiar.

Impact aid has been in existence for over 30 years and its purpose was to offset the negative impact on the tax base of regions where the Federal Government was present in a big way. The most obvious examples are military bases, NASA facilities, Indian reservations, and so forth, where Government activities place burdens on localities without contributing to the tax base.

The issue before us is whether the Federal Government will continue to provide funds to localities to compensate for the Federal impact on that locality or whether military families or local tax bases will be asked to pay for what is clearly a Federal responsibility.

Mr. President, I do not believe it is appropriate or fair for the Federal Government to ask individual military families or individual localities to pay the bill here. In fact, I do not think military family budgets or local tax bases can afford to pay the bill.

If this amendment is not passed, military families will, in fact, be charged tuitions because local counties cannot afford to absorb the loss of impact aid.

Mr. President, I would like to point out one of the most harmful impacts that would result from a failure to fund impact aid adequately—and that is an immediate and serious harm to the military readiness of the United States.

Over the past several years, our military readiness was declining because of the loss of skilled career military personnel and shortages of spare parts.

Experienced and highly trained military personnel were leaving our Armed Forces by the thousands and our military readiness was hurting.

I need not remind my colleagues that one of the major reasons for the exodus of skilled personnel was the low level of pay and benefits our military people received and the perceived lack of public interest and appreciation for the job our military people do.

However, responding to the warning signals, the Congress last year took dramatic action to stem the decline in readiness and restore the strength of our military forces.

We in the Congress responded. We raised military pay and improved some of the benefits.

Now, just 1 year later, we in the Congress are being asked to strike hard at our military people in two areas of great importance to them—their children and their pocketbooks.

If tuition charges become a reality, many military families may—again—be forced to leave the service.

When they are already living at or near the margin, an unexpected tuition bill of $1,000 or $2,000 per child will be more than they can handle.

Even worse will be the difficulty of handling the insult the Congress is being asked to deal them.

Imagine the sailor at sea or the soldier in the field who has not seen his family for 5 months. He is working long hours. He pays his taxes.

Now the Government is telling him he has to pay tuition for his children's education, but the children of illegal aliens have a right to a free education.

I believe that that sailor or soldier is going to tell the Congress to forget their pay raises—they are giving with one hand and taking with the other. He is going to quit serving his country in the military.

Mr. President, we cannot—we should not take an action today that will require military families to pay tuition. It simply is not justifiable, and it would directly and immediately harm our military readiness. Those very skilled technicians that we have tried so hard to keep in our military services would be driven out in large numbers by an action that forces tuition payments for military families.

Let us acknowledge the Government's responsibility in this matter.

Mr. President, I realize this budget cutting process has been a painful one. In fact, this reconciliation bill is well below the budget level that President Reagan has asked us to achieve.

Let us not be irresponsible. Let us not shirk our responsibility. Time is running out. Schools will open in just 60 days. We cannot place this burden on our military families or the localities.

Mr. President, if we do not act tonight to restore the needed funds to prevent hardship to military people and hardship to innocent communities, we are going to affect the military readiness of this country.

In the past 2 years, the Senate has taken the lead to place added dollars in the budget to restore the buying power taken by inflation to the men and women of the Armed Forces. We have taken about three or four steps forward. If we do not restore the funds, we are going to take two giant steps backward.

We give these people a check with one hand, representing increased pay, and then, with the other hand, we take that money away by placing them in jeopardy in their local school districts subject to possible tuition charges. That is being unfair. It is striking at the very heart of those people that we need to retain.

Therefore, I urge that my colleagues accept this amendment.

Mr. TOWER. Mr. President, I ask unanimous consent that the Senator from Idaho (Mr. McCLURE), and the Senator from Oklahoma (Mr. NICKLES), be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I yield 1 minute to the Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, I rise in support of the amendment by

my colleagues on the Armed Services Committee, Senators TOWER, WARNER, and EXON. I am reluctant to support this measure because it provides no offset in the budget. The diligent work of the committees is circumvented on the floor of this body if we are to simply add money with no corresponding offsets in selected categories.

However, I must support this amendment because I believe the loss of impact aid to our communities will result in the inability of the schools across this Nation to provide tuition free public educations to this country's children.

Hearings held in the Armed Services Committee yesterday made it painfully evident that the mere prospect of cuts in the Impact Aid budget has led schools in several States to threaten tuition charges for the children of military personnel.

Not only does this grim approach make it even more difficult to improve the morale of this country's military service people but it promises to cost this Government dearly in litigation expenses and tuition payments.

Indeed, several States have passed legislation permitting local school districts to charge the children of military personnel tuition for their education. It is clear to all of us that the morale of our military must be improved. This Congress has been laboring tirelessly to present a package of benefits for our military personnel which would improve incentives to promote recruitment and retention. To now force our service people to face the prospect of paying for the public education of their children is intolerable.

One overriding premise is clear to all of us: Military personnel should not be compelled to pay tuition for the public education of their children. Likewise, the local school districts cannot be expected to shoulder the entire financial burden of educating children from military bases where no property taxes are leveled.

Particular problems are raised in States such as New Hampshire where State-contributed aid to education is among the lowest in the country. Indeed, education in New Hampshire is funded almost entirely through Federal contributions and property tax revenues. The loss of these revenues through Federal ownership of large parcels of property, compounded by the loss of impact aid, places an intolerable burden on these school districts.

Faced with the necessity to provide a free public education to all students and the inability of local school districts to fund this education in areas where their property tax base is severely limited by Federal ownership of property, it is imperative that we act immediately to provide the funds for our local schools to continue providing quality education. For that reason I support this amendment.

Mr. President, I think the essential point to be aware of is that the impact aid program, unlike so many programs we deal with, is not a giveaway program. This is a program of reimbursement to communities for the expenses they incur in educating the children of military personnel who live on a base and, therefore, who do not pay property taxes in their communities.

As the bill now stands, the amount involved is approximately half of what the President requested, and even what the President requested is less than the 1981 figure.

This is a program of reimbursement for expenses incurred. This is not some kind of a giveaway. I thank the Chair.

Mr. TOWER. Mr. President, I ask unanimous consent that the following Senators be added as cosponsors: Senators BURDICK, MATHIAS, and GARN.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I am not going to oppose the amendment, but I think we ought to make a little record here.

The amendment is subject to a point of order. I will not raise it. It is not one that addresses the basic budget principles, but I think it is subject to a point of order.

Second, I just hope the Senate knows that every President since Dwight Eisenhower has recommended that the U.S. Government get out of the impact aid business.

At least we will get some diminution in that because, even at this level, there will be about a $300 million curtailment of the program. If I understand it correctly, the House is going to come in somewhere around the President's number of about $407 million. So if we get that far, we will have made some historic steps; not what the President asked for, but some.

I understand, having been here and watching the Senators speak, and watching the number of cosponsors that have been added to this amendment, that there is not any use to oppose it, so I will not. I will not insist on a rollcall vote. I am willing to accept it and let us proceed.

I will acknowledge that the authorizing committee went substantially under the President. Perhaps that is unfortunate, but this goes substantially over it. Having said that, I am willing to accept it.

I yield to the distinguished Senator from Vermont.

Mr. STAFFORD. Mr. President, I share the sentiments of the chairman of the Budget Committee. The Subcommittee on Education of the Labor and Human Resources Committee did vote $200 million for impact aid as part of our package. We were prepared tonight, knowing that the President had recommended $400 million for this program, to accept $400 million for impact aid as a compromise. That would put the funding level for impact aid at $400 million.

I agree with the distinguished chairman of the Budget Committee that a point of order would lie against this amendment, but, like the chairman, I can also count the votes against us tonight. It appears to us that an appeal on a point of order would carry. While I do not personally support the amendment of the Senator from Texas, I shall not oppose it by asking for a rollcall vote or raise a point of order against it.

Mr. DOMENICI. Mr. President, I have one further remark for the distinguished chairman of the Labor Committee.

This will cause his committee to breach the reconciliation number.

I hope the record will clearly reflect that it was not the committee that did it, that it was not the bill reported out, but it was the action of the full Senate that breached the instruction of the Labor Committee. I am not making a point of it. It is a privilege of the Senate. I am not accusing the committee of doing it, but it was the Senate that did it.

● Mr. DECONCINI. Mr. President, I am pleased to cosponsor this proposal to restore $300 million for impact aid to school districts. If the $200 million ceiling for impact aid which is in the reconciliation bill were to become law, the results would be devastating for many school districts throughout the Nation.

Arizona would be severely affected by this drastic reduction in impact aid. Only two States are receiving more impact aid funds this year—Alaska and California. Arizona's allotment of approximately $35 million would be reduced to approximately $7 million should the reconciliation bill provision remain. This $28 million reduction would cause unwarranted hardships on public school districts serving large Indian and military populations in the State. For example, the Window Rock School District, located on the Navajo Indian Reservation, received $3.6 million in impact aid funds for the last school year. This amount funds about 30 percent of the district's budget. The $200 million ceiling would mean at least a $1.6 million loss in funds for the district. Because there is virtually no private taxable property located within the district those having taxable property would experience tremendous increases in their tax rates in order to make up for the loss of impact aid funds.

The Window Rock School District is but one example. Other districts such as Ganado, Tuba City, Chinle, and Whiteriver would find themselves in a similar situation.

Further, the Fort Huachuca Accommodation School and the Williams Air Force Base Accommodation School, both which serve dependents of military personnel, would face a loss of large sums of funds should the $200 million ceiling remain, as would public schools in Yuma, Sierra Vista, and Western Maricopa County.

Mr. President, some school districts have proposed to charge tuition for dependents of military personnel due to the loss of impact aid. Although I am not aware of any districts in Arizona that have proposed tuition payments, I do not believe charging military personnel tuition to send their children to public schools to be appropriate. Military personnel are underpaid as it is, and to impose additional costs for their children's education would be unconscionable.

The Congress made a commitment many years ago to assist school districts

that provide educational services to children whose parents are in the military or are native Americans. In my judgment reducing these funds so drastically in such a short period of time would be reneging on our commitment.

It should be pointed out that even if this amendment is successful there will still be a reduction of over $200 million in impact aid funds for next year. Thus, this $300 million restoration will simply lessen the severity of the cut. It is a reasonable proposal which provides for a more equitable reduction than the provision in the reconciliation bill. I urge my colleagues to support this measure.●

● Mr. PRESSLER. Mr. President, I am pleased to cosponsor this amendment to provide an additional $300 million in fiscal year 1982 for impact aid schools. Without adequate impact aid, many South Dakota schools would be forced to close in the coming year.

The proposed reduction of impact aid in the budget is not new. As many of my colleagues are aware, appropriations for this program have been under attack for many years. Appropriations are authorized for children whose parents both work and live on Federal property, "category A," and children whose parents work or live on Federal property, "category B." This year, the budget calls for the elimination of payments for "category B" students other than those in low-income housing.

In South Dakota this reduction would be a severe blow to schools on and near our Indian reservations and military bases. A total of 49 school districts, including 5,015 "category B" students and 8,026 "category A" students receive impact aid in South Dakota alone. With the proposed spending cuts, South Dakota schools would suffer a nearly $10 million reduction in impact aid. While changes in the impact aid program may be necessary, the Committee on Armed Services and the Select Committee on Indian Affairs should have a chance to review the program, and we should not completely break our commitment to these schools on such a short notice.

On South Dakota's Indian reservations, approximately two-thirds of the school land is nontaxable. As a result, these schools receive a large percentage of their financial support from impact aid. While budget reductions in other programs will force alternative means of funding, there are simply no alternatives for these schools. The districts in which these schools are located are presently assessing the maximum tax on property and receiving maximum State aid.

Ellsworth Air Force Base in South Dakota is one of the largest recipients of impact aid in the country. In 1981, 60 percent of the district's funds came from impact aid. It seems contradictory that Congress should be considering legislative initiatives to improve benefits for our military personnel while at the same time eliminating funding for the education of their children.

Mr. President, the Indian and military children deserve education programs which are comparable to programs in nonimpacted schools. I urge the Senate's adoption of this amendment.●

Mr. DOLE. Mr. President, I would like to express my strong support for the amendment offered by the Senator from Texas.

Those of us who represent States with large military installations know how critical impact aid has been in providing an education for the children of military families. As Senator TOWER has so ably stated, we are shortsighted if we grant our military personnel pay raises at the same time we take away their schools or require them to pay tuition for educating their sons and daughters in so-called "public" schools.

In some cases the proposed tuition charges precipitated by reduced impact aid would exceed $10,000, a burden which no military family can bear. We cannot afford to abandon these children at the same time we refocus our efforts on the urgent need for a strong defense. How do we think we are going to lure qualified men and women into the military and keep them as they begin to rear families. These are precisely the people we so desperately need to retain.

I am convinced that Senator TOWER'S amendment strikes a fair balance between our ultimate objective of cutting the Federal budget and the demands of equity and fairness to our military personnel and others impacted by the Federal Government. Even with this $300 million addition, spending for impact aid will still be cut from $800 million to $500 million, only $100 over President Reagan's initial proposal. This is not a budget buster.

My State of Kansas stands to have its impact aid cut from over $7.5 million to under $1.5 million if Senator TOWER'S amendment is not approved by this body. That will threaten schools in our State, particularly the Leavenworth school system which is attended solely by the children of personnel living at Fort Leavenworth. If impact aid is cut as drastically as is now proposed, the Leavenworth schools will have nowhere to go. There is no tax base, and the parents cannot afford the high tuition being discussed. I describe the problems facing this community because they are typical of those found throughout the 50 States.

But the dollar loss to my State, or any other State, is not the true question here tonight. More importantly, we must determine whether we are going to abandon those men and women who choose to serve their country in the military by refusing to educate their children. I urge my colleagues to approve this amendment.

Mr. THURMOND. Mr. President, I rise as a cosponsor of the pending amendment which restores to the budget $300 million in the impact aid program for school systems across the country.

While even this restoration of funds would leave the school districts well below the money provided in past fiscal years, it would allow continuation of the on-base schools and an across the board supplement to districts serving students in federally impacted areas.

This amendment would also allow payments for the so-called class B students as well as the class A students, a provision I believe is much more fair than the Budget Committee proposal limiting payment only for class A students.

Mr. President, I strongly support the view that the Federal Government has a moral obligation to provide States with financial aid to offset the costs of educating children of parents who work on Federal property. These individuals are in the service of the Federal Government and their presence and exemption from local taxes should not place an undue fiscal burden on citizens in the communities in which they happen to be situated.

The prospect of military personnel having to pay tuition costs to educate their children in a Nation of public schools is totally unacceptable. This is a fully justifiable expense of the Federal Government and should be funded through the Department of Education as in the past. The fiscal restraints already placed on the impact aid program will undoubtedly cause some additional financial burdens on the public as a whole, thus we should restore these funds to at least a reasonable level or our school system will be in chaos this fall.

Mr. DOMENICI. Mr. President, I yield back the remainder of my time.

Mr. TOWER. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 208) was agreed to.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed.

Mr. TOWER subsequently said: Mr. President, the copy of the amendment I sent to the desk a moment ago had a clerical error of some $50 million in it. I ask unanimous consent that my amendment be corrected to correct the figure $500 million vice $550 million.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. We are most appreciative. That saved us $50 million.

AMENDMENT NO. 101

(Purpose: To restore funds for grants for services for rape victims)

Mr. MATHIAS. Mr. President, I call up amendment No. 101 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Maryland (Mr. MATHIAS) proposes an amendment numbered 101:

On page 299, line 37, strike out "602,".

On page 301, line 27, strike out "602,".

Mr. MATHIAS. Mr. President, my amendment is very simple. It strikes the repeal of section 602 of the Mental Health Systems Act contained in this budget reconciliation bill.

The effect of my amendment is to continue in law an authorization which was enacted less than a year ago and which provides for direct services to the vic-

tims of rape. That authorization for service funding for victims of rape was favorably reported by the Senate Labor and Human Resources Committee last year. Yet, here is the committee this year repealing that very same provision.

Section 602 of the Mental Health Systems Act, of which I was the sponsor in both the 95th and 96th Congress, provides for public and private nonprofit entities to be eligible for grants for:

First, counseling and followup counseling for both the rape victim as well as the victim's family;

Second, assistance in securing mental health, social, medical, and legal services for rape victims; and

Third, demonstration projects to develop and implement methods of preventing rape and assisting rape victims

I was joined in sponsoring that legislation by Senators BAYH, HEINZ, JACKSON, STAFFORD, RIEGLE, RANDOLPH, LEAHY, INOUYE, TSONGAS, WILLIAMS, WALLOP, HATFIELD, and MOYNIAHN.

The legislation was carefully crafted with the assistance of service providers across our Nation who daily help the victim of rape in her time of trauma.

Several features of the service program became clear in the course of 4 years of honing and fine tuning.

One was that the existing community mental health centers were, for the most part, the wrong vehicle for victim counseling, telephone hotlines, and victim accompaniment to the hospital, courts, and allied social services. This was made clear in the committee reports which accompanied the Mental Health Systems Act.

Section 602 clearly contemplated that existing rape crisis centers, of which there are an estimated 900 nationwide, would be the best qualified and best staffed operations to provide victim counseling and accompaniment.

Striking section 602 of the Mental Health Systems Act would undo the work of the Congress and would renege on our commitment to the victims and potential victims of rape in their most traumatic time of need.

I am disappointed that the Labor and Human Resources Committee has chosen to abandon this program when it has not had a chance to get off the ground. Because what the committee is really doing is abandoning the rape victim in her most serious and intense emotional time of need.

I would remind my colleagues that rape knows no age, race, class, or economic barriers. It can and does happen to one's wife, mother, sister. daughter, or friend. It can be committed by someone known to the victim or by a complete stranger.

A rape is reported in the United States once every 10 minutes. and, while one of the most underreported crimes, is the fastest growing of all violent crimes, according to the FBI.

I would ask the chairman of the Labor and Human Resources Committee why his committee took this action.

Mr. President, as I said, the effect of this amendment is very simple. It simply preserves an important program that Congress has enacted. It is a program to provide service funding for the victims of rape.

This is a crime which, unfortunately, is prevalent in this country, and growing. The statistics are that there is one rape reported every 10 minutes in the United States.

For every rape that is reported, it is assumed that, for obvious reasons, there are others that are not reported.

This is the only program which deals specifically with preventing the crime of rape and dealing with the problems of the victims of rape. I would hope we would adopt this amendment and preserve the program. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I rise in oppositon to this particular amendment.

Our committee has had more than its share of difficulties throughout these last 5 months. Frankly, what Senator MATHIAS intends to do is to restore section 602 of the Mental Health Systems Act. As I understand it, this section would provide grants for services for rape victims. Our health services block grant, in line with the President's proposal, repeals section 602. I might add that section 602 was put into the community mental health law last fall but to my knowledge it has never been funded. The President wants it repealed and so we repeal it. But we did include language that would allow funding for mental health services related to rape. The problem is that section 602 included, in addition to mental health services, social, medical and legal services.

Section 602 was authorized for $6 million in 1981, $9 million in 1982, $12 million in 1983, and $12 million for 1984. Thus, if 602 is restored, offsetting cuts would have to be made or this money will be added to our reconciliation package.

I might mention that the reason that I stand against this is not only because we have just had $300 million more added back into our reconciliation figures on our budget by the last amendment for impact aid, but because the Mathias amendment erodes the health services block grant. It would, in effect, begin a new categorical program. I believe it is contrary to what we are trying to do here today.

I hope our colleagues will vote against this amendment, especially since I think we have covered it adequately in another way. I am prepared to yield back the remainder of my time.

I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. MATHIAS. Mr. President, section 602 clearly contemplated that existing rape crisis centers, of which there are about 900 nationwide, would be the best qualified and best staffed operations to provide victim counseling and the accompanying services. Striking section 602, which the bill does without this amendment, would undo the work of the Congress, and it would really renege on the commitment that we have made to the victims and, unhappily, to the potential victims of rape in their traumatic time of need.

The Senator from Utah is right in saying that there has been no appropriation for this bill. But why not? Because the authorization was passed less than a year ago. There has not been an appropriation bill. There has not been an opportunity.

I would urge the Senate not to go back on our word but to keep this program alive, a program which means a great deal to the people of America.

Mr. DOMENICI. Will the Senator yield?

Mr. HATCH. I yield.

Mr. DOMENICI. Mr. President, I oppose the amendment and I do that reluctantly. But this is a classic example of what we hope will happen when we get block grants really going. This program has not even been funded before and it is included in the reconciliation instruction as part of a block grant. As a matter of fact, the kind of service is mandated in a block grant that is before us.

What the Senator would do would be to pull it out of that block grant in an effort to get it funded separately. Perhaps he assumes the block will not get funded adequately, but it is an absolutely perfect case for block grants.

We have even gone one better and said when they are in effect the States will have to use a portion of the money for this kind of care and treatment as we move into the transition toward more flexibility.

So it is with reluctance that I oppose it. It is not a lot of money. It is more a matter of policy and principle, moving in a new direction, that causes me to join with the authorizing committee that blocked this rather than start it as a categorical one.

Mr. MATHIAS. How much time have I remaining, Mr. President?

The PRESIDING OFFICER (Mr. BOSCHWITZ). Six seconds remain.

Mr. MATHIAS. I wish I could be satisfied with the assurances of the chairman of the Budget Committee, but the fact is that the language that was put into the Budget Committee's instructions are merely these: "consultation and education services which promote the prevention of rape and the assistance of victims."

That is not a proper substitute for the language which we fine tuned and honed for 4 years to make sure this program was right. It is not proper to wipe out the work of 4 years and say that language of the reconciliation bill is adequate.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time?

Mr. HATCH. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Maryland. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Maine (Mr. COHEN), is necessarily absent.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from California (Mr. CRANSTON), the Senator from Arizona (Mr. DECONCINI) and the Senator from Ohio (Mr. METZENBAUM), are necessarily absent.

I further announce that, if present and voting, the Senator from Arizona (Mr. DECONCINI), would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 43, nays 52, as follows:

[Rollcall Vote No. 179 Leg.]

YEAS—43

Baucus	Hart	Pell
Bentsen	Hatfield	Pressler
Biden	Heinz	Pryor
Boschwitz	Inouye	Randolph
Bradley	Jackson	Riegle
Bumpers	Kennedy	Sarbanes
Burdick	Leahy	Sasser
Byrd, Robert C.	Levin	Schmitt
Chafee	Mathias	Simpson
Chiles	Matsunaga	Specter
D'Amato	Melcher	Stevens
Dixon	Mitchell	Tsongas
Dodd	Moynihan	Williams
Eagleton	Murkowski	
Ford	Packwood	

NAYS—52

Abdnor	Gorton	McClure
Andrews	Grassley	Nickles
Armstrong	Hatch	Nunn
Baker	Hawkins	Percy
Boren	Hayakawa	Proxmire
Byrd, Harry F., Jr.	Heflin	Quayle
Cochran	Helms	Roth
Danforth	Hollings	Rudman
Denton	Huddleston	Stafford
Dole	Humphrey	Stennis
Domenici	Jepsen	Symms
Durenberger	Johnston	Thurmond
East	Kassebaum	Tower
Exon	Kasten	Wallop
Garn	Laxalt	Warner
Glenn	Long	Weicker
Goldwater	Lugar	Zorinsky
	Mattingly	

NOT VOTING—5

Cannon	Cranston	Metzenbaum
Cohen	DeConcini	

So Mr. MATHIAS' amendment (No. 101) was rejected.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 209

(Purpose: To adjust the authorization of appropriations for the National Technical Institute for the Deaf and for Gallaudet College, and to reduce the authorization of appropriations for the education of the handicapped)

Mr. HELMS. Mr. President, I send to the desk an unprinted amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS), on behalf of himself, Mr. DOLE, Mr. D'AMATO, Mr. MOYNIHAN, and Mr. LEAHY, proposes an unprinted amendment numbered 209.

Mr. HELMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 387, beginning with line 32, strike out through line 17, on page 390, and insert the following:

be appropriated $874,500,000 for the fiscal year 1981, $945,850,000 for the fiscal year 1982, and $993,000,000 for the fiscal year 1983, to make grants under this part (other than section 619).".

(2) Section 618(e) of the Act is amended by adding at the end thereof the following new sentence: "No sums may be authorized to be appropriated in excess of $2,300,000 for the fiscal year 1981, $2,300,000 for the fiscal year 1982, and $2,300,000 for the fiscal year 1983.".

(3) Section 619(e) of the Act is amended—

(A) by striking out "In" and inserting in lieu thereof "Except as provided in the last sentence of this subsection, in"; and

(B) by adding at the end thereof the following new sentence: "There are authorized to be appropriated $26,000,000 for the fiscal year 1981, $25,000,000 for the fiscal year 1982, and $25,000,000 for the fiscal year 1963, to carry out the provisions of this section.".

(b)(1) Section 627 of the Act is amended—

(A) by inserting "and" before "$21,000,000" and by striking out ", $24,000,000 for fiscal year 1981, and $25,000,000 for fiscal year 1982" in the first sentence;

(B) by inserting "and" after "1979," and by striking out ", $29,000,000 for fiscal year 1981, and $32,000,000 for fiscal year 1982" in the second sentence;

(C) by striking out "the two succeeding fiscal years, $20,000,000 for fiscal year 1981 and for the succeeding fiscal year" in the third sentence and by inserting in lieu thereof "the three succeeding fiscal years"; and

(D) by inserting "and" after "1979," and by striking out ", and $16,000,000 for the fiscal year 1981 and for the succeeding fiscal year" in the fourth sentence.

(2) Section 627 of the Act is further amended by inserting "(a)" after the section designation and by adding at the end thereof the following new subsection:

"(b) There are authorized to be appropriated to carry out the provisions of sections 621 and 624 with respect to severely handicapped individuals $4,500,000 for the fiscal year 1981, $5,000,000 for the fiscal year 1982, and $5,000,000 for the fiscal year 1983. There are authorized to be appropriated to carry out the provisions of section 621 with respect to regional resource centers, $6,800,000 for the fiscal year 1981, $9,800,000 for the fiscal year 1982, and $9,800,000 for the fiscal year 1983. There are authorized to be appropriated to carry out the provisions of section 622 $16,000,000 for each of the fiscal years 1981, 1982, and 1983. There are authorized to be appropriated to carry out the provisions of section 623 $17,500,000 for the fiscal year 1981, $20,000,000 for the fiscal year 1982, and $20,000,000 for the fiscal year 1983. There are authorized to be appropriated to carry out the provisions of section 625 $2,900,000 for the fiscal year 1981, $4,000,000 for the fiscal year 1982, and $4,000,000 for the fiscal year 1983.".

(c)(1) The first sentence of section 636 of the Act is amended by striking out "$90,000,000 for the fiscal year 1981, and $95,000,000 for the fiscal year 1982" and inserting in lieu thereof "$43,500,000 for the fiscal year 1981, $58,000,000 for the fiscal year 1982, and $58,000,000 for the fiscal year 1983".

(2) The second sentence of section 636 of the Act is amended—

(A) by striking out "and" the second time it appears, and

(B) by striking out "and each of the two succeeding fiscal years" and inserting in lieu thereof a comma and the following: "and $500,000 for the fiscal year 1981, $1,000,000 for the fiscal year 1982, and $1,000,000 for the fiscal year 1983".

(d) Section 644 of the Act is amended by striking out "$26,000,000 for the fiscal year 1981, and $28,000,000 for the fiscal year 1982" and inserting in lieu thereof "$15,000,000 for the fiscal year 1981, $20,000,000 for the fiscal year 1982, and $2,000,000 for the fiscal year 1983".

(e) Section 654 of the Act is amended by striking out "$29,000,000 for the fiscal year 1981" and inserting in lieu thereof "$17,000,000 for the fiscal year 1981, $19,000,000 for the fiscal year 1982,".

DEVELOPMENTAL DISABILITIES

SEC. 1163. (a) Section 113(b)(2) of the Developmental Disabilities Assistance and Bill of Rights Act (hereafter in this section referred to the "Act") is amended by striking out ", and $15,000,000 for the fiscal year ending September 30, 1981" and inserting in lieu thereof "$7,500,000 for the fiscal year 1981, and for each of the two succeeding fiscal year".

(b)(1) Section 123(a) of the Act is amended by striking out ", and $16,000,000 for the fiscal year ending September 30, 1981" and inserting in lieu thereof "and $7,000,000 for the fiscal year ending September 30, 1981, and for each of the two succeeding fiscal years".

(2) Section 123(b) of the Act is amended—

(A) by inserting "and" after clause (1);

(B) by striking out "and" after clause (2); and

(C) by striking out clause (3).

(c) Section 131 of the Act is amended by striking out ", and $75,000,000 for the fiscal year ending September 30, 1981" and inserting in lieu thereof "$43,100,000 for the fiscal year ending September 30, 1981, and for each of the two succeeding fiscal years".

(d) Section 145(f) of the Act is amended by striking out "and $26,000,000 for the fiscal year ending September 30, 1981" and inserting in lieu thereof "$3,500,000 for the fiscal year ending September 30, 1981, and for each of the two succeeding fiscal years".

MISCELLANEOUS ACTIVITIES AND PROGRAMS

SEC. 1164. (a) Section 2 of the National Technical Institute for the Deaf Act is amended—

(1) by striking out "For" and inserting in lieu thereof "Except as provided in the second sentence of this section, for"; and

(2) by adding at the end thereof the following new sentence: "No sums may be authorized to be appropriated in excess of $20,300,000 for the fiscal year 1981 and no sums may be authorized to be appropriated in excess of $32,800,000 for each of the fiscal years 1982 and 1983".

(b) The first section of an Act to promote the education of the blind approved March 3, 1879, is amended by inserting "(a)" after "That" and by adding at the end thereof the following new subsection:

"(b) Notwithstanding any other provisions of this Act, no sums may be authorized to be appropriated in excess of $5,000,000 for each of the fiscal years 1981, 1982, and 1983, to carry out the provisions of this Act.".

(c) Section 6 of the Act entitled "An Act

to Create a Committee on Purchases of Blind-made Products, and for other purposes", approved June 25, 1938, is amended—

(1) by striking out "There" and inserting in lieu thereof "Except as provided in the second sentence of this section, there"; and

(2) by adding at the end thereof the following new sentence: "There is authorized to be appropriated $500,000 for each of the fiscal years 1981, 1982, and 1983.".

(d) Notwithstanding any other provision of law, there are authorized to be appropriated $50,000,000 for the fiscal year 1981, $61,500,000 for the fiscal year 1982, and $61,500,000 for the fiscal year 1983 for Gallaudet College.

Mr. HELMS. Mr. President, I point out that this amendment is cosponsored by Senator DOLE, Senator D'AMATO, Senator MOYNIHAN, and Senator LEAHY.

This amendment would restore $11.5 million to funding for Gallaudet College and $12.5 million to funding for the National Technical Institute for the Deaf for fiscal year 1982 and fiscal year 1983 by shifting these funds from education of the handicapped programs.

Mr. President, the rubella epidemic which swept the Nation in 1964–65 resulted in double the occurrence of early-deafness in children born during that period. Over 8,000 children were born deaf and over 4,000 were born blind and deaf as a result of that epidemic.

These children are fast approaching college age—and will need the special education opportunities which only Gallaudet and NTID can offer. Therefore, it is imperative that we provide the necessary funds for these institutions to prepare for this extraordinary but temporary increase in enrollment.

This is a very important point, Mr. President. We must be careful in the budget process that we not expand programs beyond actual need. However, the rubella epidemic created a one-time situation that must be dealt with.

These children will reach college age within the next 3 years. Gallaudet and NTID must prepare for this surge in enrollment by training staff, adjusting curriculum and preparing facilities.

Mr. President, this amendment does not propose any new entitlement, nor does it invade an area traditionally handled at the State level. There is a long history of Federal support for education for the deaf—especially at Gallaudet College and the National Technical Institute for the Deaf.

Obviously, more is at stake than merely a monetary return on a Federal investment. However, it is interesting to note, in addition to the improved quality of life which results from this education, that during their lifetime graduates of Gallaudet College earn on the average about $320,000 more than deaf persons without a college education. At current Federal tax rates this amounts to about $80,000 more in Federal taxes paid as a result of a Gallaudet education. It currently costs $45,000 for a Gallaudet student to complete a degree. These students are repaying the Government nearly $2 for each $1 spent.

When I consider the billions of dollars spent on fraud-ridden Federal programs, I am even more convinced that we ought to provide adequate funding to programs with such an admirable record of service to the people of this country.

Mr. President, my amendment will provide the necessary funding for these schools to educate these additional students handicapped as a result of the rubella epidemic. It will do so by shifting funds from the education of handicapped programs, which were funded in committee at amounts significantly greater than the Reagan budget request. By offsetting the increase there will be no overall budget impact with this amendment.

Now, I am not unmindful of the financial need in programs funded under the Education of the Handicapped Act, but this adjustment will amount to only about a 2-percent decrease in those funds for each year. The amendment is not intended to provide—nor will it provide—a windfall to Gallaudet and NTID, but will only cover the cost of this temporary increase in enrollment.

The PRESIDING OFFICER. The Senate will be in order.

Mr. DOMENICI. Mr. President, will the Senator yield?

Mr. HELMS. I yield.

Mr. DOMENICI. Mr. President, do I correctly understand that the chairman of the committee is opposed to this amendment?

Mr. HATCH. Yes, I am.

Mr. DOMENICI. Mr. President, I designate Senator HATCH and give him 5 minutes to oppose the amendment.

Mr. HELMS. Mr. President, I ask unanimous consent that the names of the Senator from Minnesota (Mr. BOSCHWITZ), the Senator from Montana (Mr. MELCHER), and the Senator from West Virginia (Mr. RANDOLPH) be added as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. HELMS. I yield.

Mr. DOLE. Mr. President, it is a pleasure to offer this amendment along with my distinguished colleague from North Carolina, Senator HELMS. I commend his support for the special education required at the college level to train deaf students. This amendment will increase the funding for institutions such as Gallaudet College, the National Technical Institute of the Deaf, which is part of the Rochester Institute of Technology, as well as Johnson County Community College in my own home State of Kansas, which is a Gallaudet College extension center.

DEMOGRAPHIC NECESSITY

The reason such an amendment is appropriate at this time is to provide the necessary funding to accommodate an emergency situation within the deaf population, resulting from a maternal rubella epidemic which occurred back in 1964 and 1965. As a result of this epidemic, more college resources will be needed to take care of the significant demographic changes which this epidemic caused. During the rubella epidemic, more than twice the usual number of children were born deaf in both 1964 and 1965. These young deaf people will reach college age during the next 3 fiscal years, and we need to provide the necessary educational services to train them to enter the mainstream of our society.

Since the achievement levels of this population of deaf students compare favorably with that of nonrubella populations, this is a very worthy cause in which to invest some additional funds to carry the deaf population through this emergency demographic situation. These young people will begin to seek admission to Gallaudet College in fiscal year 1982. In fiscal year 1983 and fiscal year 1984, the entering classes at Gallaudet will double from 300 new students each year to 600 new students each year.

In order to accommodate this huge increase in enrollment, Gallaudet College must recruit and train additional faculty to serve these students. The college must also increase critical support services in areas such as audiology, speech training, counseling, medical services, and job placement. In addition, the college must provide a modest expansion of already overcrowded dormitories to meet this large increase in enrollment. Above all, the college requires the necessary resources to maintain the quality of its programs in the face of rising enrollments.

KANSAS IMPACT

In Kansas, the hearing impaired program at Johnson County Community College currently has approximately 60 students and will be doubling in size from the impact of the rubella epidemia of 1964–65. In Kansas, the number of students who are now freshmen and sophomores are more than double the usual number. Some of these students will attend JCCC, while others will go directly to Gallaudet College. In addition, some of the JCCC students will be transferring to Gallaudet College. Many of these Gallaudet College graduates will be coming back to the midwest to become taxpayers and will thus help subsidize future programs of this nature. I was very privileged to have working in my office last summer a young deaf girl by the name of Sheryl Guest, a Gallaudet College student who is planning on returning to Kansas City after graduation. She was a great asset to our staff, and provided valuable assistance to several of my legislative assistants.

COST-EFFECTIVENESS OF AMENDMENT

During their lifetimes, graduates of Gallaudet College earn on average about $320,000 more than deaf persons without a college education. At current Federal tax rates, this amounts to about $80,000 more in Federal taxes which are paid as a result of this higher education training. Although it currently costs $45,000 for a Gallaudet student to complete a degree, these students end up repaying the Government nearly $2 for each $1 spent, which the Senator from Kansas thinks is a good return on the initial investment.

CONTRIBUTION OF GALLAUDET COLLEGE

Mr. President, Gallaudet College has done much to assist in improving the quality of life for deaf persons in Kansas and at JCCC, as well as throughout the country. Gallaudet College is now facing a hard time in the life of the institution

because of recommended budget rescissions to cut funds from $61.5 million, which incidentally was included in the President's budget request, to $50,000. This funding level of $61.5 million was included in the President's budget request, and the Senator from Kansas would like to see this funding level upheld in the Reconciliation Act. In addition, this amendment would increase the funding levels for the National Technical Institute for the Deaf from $23.05 million to $32.8 million.

The cut currently included in S. 1377 would come at a critical time, as the need is apparent to serve increasing numbers of deaf students. This amendment will restore the funding level to the President's original request, and this increase will be offset by reducing the general education for handicapped funds for fiscal year 1982 and fiscal year 1983 by 2 to 3 percent.

Mr. President, because this is an emergency demographic situation, there will be no necessity to continue these higher funding levels after the upcoming deaf students have been accommodated. I think this is a reasonable transfer of funds, with a minimum amount of impact on a broader spectrum of handicapped education programs, and I urge my colleagues to support this amendment in order to help these specialized institutions get through the next few years.

Mr. LEAHY. Mr. President, as a former trustee of Gallaudet College, I know well the work they do. I also know of the great need for the amount of money referred to here. It continues our commitment to helping those who are hard of hearing. It is much needed.

This is a worthwhile amendment, and I urge its adoption.

Mr. HATCH. Mr. President, as chairman of the Committee on Labor and Human Resources, I oppose this amendment, along with the chairman of the Subcommittee on the Handicapped.

We have fought very, very hard through this whole process to keep as much money as we could in this reconciliation bill for the handicapped. This is the one area where I personally had to go against the administration.

It went all the way through the process, into the conference between the Budget Committees of the House and the Senate. We were able to preserve and protect the moneys we originally had started with, with regard to the handicapped. We feel that those moneys are distributed in a fair and equitable manner. Much as I appreciate the desire on the part of the distinguished Senator from North Carolina to help this wonderful college and to help these individuals who cannot help themselves, who have been affected with these difficulties and these handicaps, we feel that we have done the best job we can on this particular segment of the handicapped program.

Mr. President, I commend the distinguished senior Senator from Connecticut for his work in this regard, and I yield the remainder of my time to him.

Mr. WEICKER. Mr. President, I thank the distinguished chairman for his comments.

I wish to say this to my colleagues: The 25-percent cut was scheduled by the administration in this area. Thanks to the chairman and others on the committee that cut was prevented, and all the programs for the disabled, the retarded, the deaf, the visually impaired, et cetera, have been level funded to 1983.

For Heaven's sake do not put into the arena now the deaf, the blind, the retarded, and the disabled and start scrapping for those funds.

What the committee did was to make sure that we got it level funded rather than having it cut, and everyone would be treated equally. Quite frankly, not only that, but in terms of State grant programs if the Senate wanted to go ahead and assist Gallaudet, or any other endeavor, the American school for the deaf in Connecticut, they could go ahead and do so.

I found it galling that we should even be level funded. But start this picking and choosing process, and believe me I think we defeat all of our ends and the fact that all of us want to help those who need our special care in this country. That is what this issue is about, not against Gallaudet, but because of the very restricted amount of funds that are available, at least let us treat all those who need our special care in an equal fashion.

I think Senators will find themselves just as uneasy as I am. Once we start to scramble for funds among those who are disabled, who is to say whether or not the loss of sight or the loss of hearing or retardation or physical disability deserves more of our care?

So believe me, with the help of the chairman, No. 1, the significant achievement was to get this level funded, not cut at all.

Beyond that point let us not start to represent any particular form of disability but rather at least fight for as much as we can in funding for all of them, and that is the reason why I oppose this specific amendment of the Senator from North Carolina.

Mr. HATCH. Mr. President, I am prepared to yield back time.

Mr. HELMS. Mr. President, the distinguished Senator from Connecticut overlooked the fact that these are line items. We are not suggesting that they get down in any arena.

What we are talking about is covering the victims of an epidemic of rubella. This is a temporary thing involving about 8,000 students who are trying to go to college, and we are talking about a reduction of about 2 percent of the education of the handicapped program funds.

If we turn our back on these deaf young people we are really going to dump them into the welfare rolls.

I urge the adoption of the amendment and I yield back the remainder of my time.

Mr. WEICKER. Mr. President, how much time remains?

The PRESIDING OFFICER. One minute and 17 seconds.

Mr. HATCH. Mr. President, I yield to the distinguished Senator from Connecticut.

Mr. WEICKER. Mr. President, the difficulty is that this is not an add-on. We are taking it away from another segment of those who are disabled and who also have disabilities in terms of sight, retardation, and so forth.

I did not have the support of my good colleague from North Carolina in fighting the 25-percent cut. We succeeded on that point. We managed to get a less level funded.

This money is going to be given to Gallaudet at the expense of another portion who are disabled, retarded, visually impaired, and so forth.

That is the argument here. I am asking Senators please, since we made provision for everyone right across the board, do not take it out of the State grant program. They have the ability to go ahead and put the money where they want.

As I said, I do not want to be talking. I want Senator HELMS over here to support me, in other words, as an add-on. I would be here fighting for him. I am not fighting against Gallaudet. But let us not pit one against the other.

That is simply the issue.

Mr. MOYNIHAN. Mr. President, I am pleased to join my colleagues from North Carolina and Kansas, in proposing an amendment to provide a $24 million increase in the authorization for the National Institute for the Deaf (NTID) and Galluadet College in fiscal years 1982 and 1983. This funding is designed to help meet the special needs of those children born with hearing deficiencies as a result of the rubella epidemic which swept the Nation between 1963 and 1965.

Most of those who became ill with German measles during this epidemic suffered no long-term effect. But for many women who were pregnant during this illness, it resulted in the deafness of the children they carried. Between 1963 and 1965, some 15,000 children, more than twice the number from prior and latter periods, were born deaf.

These children are approaching college age and will turn for postsecondary education to NTID and Gallaudet, the two institutions established by the Federal Government to provide postsecondary training to deaf students. Students come from all over the country and attend these institutions. New York is fortunate in having one of these schools in its higher education community. In 1966, Rochester Institute of Technology was selected to sponsor NTID, a college to provide technical training to deaf students. NTID's mission encompasses three fundamental charges: First, to provide technical education and training for deaf citizens; second, to train professionals to serve the Nation's deaf population; and third, to conduct applied research into the social, educational and economic accommodations of deaf people. Since the first students enrolled in 1968, nearly 3,000 deaf students have attended NTID, enabling them to gain the technical, personal, social, and communication skills neces-

sary to obtain satisfying employment. This has allowed them to become self-supporting thereby reducing the financial burden on their families and the Federal Government.

Adoption of our amendment would allow NTID and Gallaudet to provide similar assistance to the children of the rubella epidemic. I urge my colleagues to support our amendment.

Mr. KENNEDY. Mr. President reluctantly, I rise in opposition to the amendment of the Senator from North Carolina. I would support an increase in funding for Gallaudet and the National Technical Institute for the Deaf if it were not at the expense of the Education for All Handicapped Children Act. Unfortunately, the Senator's amendment forces us to choose between two important programs.

Public Law 94-142 benefits close to 4 million handicapped children, many of whom, in the absence of this Federal program, would be denied access to mainstream education, or, at least the opportunity to reap the greatest benefits from our public education system. The special education program provides this access and opportunity to virtually all handicapped children including the deaf. More importantly, the program reaches children at the beginning of the educational process and provides the best opportunity for overcoming those aspects of disabling conditions that can prevent the handicapped from leading productive lives.

The 1964-65 nationwide rubella epidemic has resulted in a temporary increase in the number of hearing impaired people seeking postsecondary education and training. Senator Helms' amendment would address this problem by giving Gallaudet and NTID additional funds, much of which would be used for construction of new dormitories in anticipation of increased enrollments. I am not convinced that this is the best solution to an immediate and short-term problem. I do not believe that we must sacrifice special education funds to achieve what the pending amendment is intended to do.

Mr. LEAHY. Mr. President, later today I will address myself to the Omnibus Reconciliation Act of 1981 as a whole. At this point I wish to speak to the health, education, and human service provisions of that act.

While I believe that members of the various committees made significant improvements over the President's original proposals for health, education, and human service programs, I cannot endorse a number of the committees' efforts.

This legislation cuts more than fat and waste. It cuts muscle and marrow. It is unjust and shortsighted. It does not recognize that today's reduction in funds for day care, rehabilitation services and job training may be offset tomorrow by higher costs for welfare and unemployment compensation. Today's reduction in funds for community health and mental health programs will be offset tomorrow by increased costs for the institutional care of the sick, the handicapped, the mentally ill. Today's reduction in funds for many educational programs mean that tomorrow's generation of students will be ill prepared to meet the demands of a complex society.

This legislation, the merits of which the Senate will debate for only 20 hours, repeals in part or in full landmark legislation enacted over decades to express our commitment, as a nation, to excellence in education, safety in the workplace, dignity in retirement, and a head start for our children. This includes the Mental Health Systems Act, the Adoption Assistance and Child Welfare Act, the Health Planning and Resource Development Act, the Comprehensive Alcohol Abuse and Alcoholism Act, the Family Planning Act, the Comprehensive Employment and Training Act, the Economic Opportunity Act of 1964, the Elementary and Secondary Education Act of 1965, and portions of the Social Security Act.

Many of the programs authorized under the above legislation have been eliminated. Others have been folded into a general block grant to the States. Both mandates and the money necessary to fulfill a nation's promise to its citizens in need have been abandoned. In short, the social safety net is moored in sand.

In the health field, the Senate Finance Committee has agreed to place a cap on Federal payments for health care under the medicaid program. Older and disabled Americans will be asked to pick up, over the next few years, some $2 billion in costs for the medicare program through increased premiums and deductibles. This change was approved despite the fact that medicare covers only about 38 percent of the health bill for elderly Americans.

Payments for vocational rehabilitation services under the supplemental security income and disability insurance programs will be eliminated. Funds for maternal and child health, hemophilia, and genetic diseases have been reduced by 25 percent. Because of the vast amount of authority and flexibility granted to the States under these proposals, and the reduction in State matching requirements, it is extremely difficult to predict the hardship which will result from them.

Despite concerns about the ever rising costs of medical and hospital care, Senate committees have eliminated both the health planning and professional standards review programs. These are the Federal Government's only source of reducing the incidence of costly hospitalization and institutional expansion. Health economists have stated that it will take 10 years for the administration backed health care reform proposal to increase competition in the health care industry. It makes little sense to abandon all efforts to control health expenditures, without adopting alternative methods of achieving the same goal.

The Senate Committee on Labor and Human Resources approved two large health block grants to the States. Senator STAFFORD deserves immense credit for his effort to assure continued funding of both community health and community mental health centers. The committee did not approve the full reduction in funds proposed by the President for those programs. Community health centers would be guaranteed 85 percent of their current funding in fiscal year 1982. Community mental health centers would be guaranteed 75 percent of their current funding in fiscal 1982. Thereafter, support is assured at declining levels.

It is extremely regrettable that any reduction in funds whatsoever was approved for these very effective programs. Together they have served to improve access to health care in the rural areas of the Nation, to reduce the incidence of disease and the incidence of costly institutionalization. Even at the level of funding assured by the committee's proposal, Vermont's programs may suffer dramatically. According to the Vermont Association of Community Mental Health Centers, a 25-percent reduction would force a decrease in services provided in emergency screening programs, programs which offer consultation, treatment and evaluation to children in schools and day care centers, and adult day care efforts.

It is also unfortunate that the Committee on Labor and Human Resources chose not to accept the proposal put forth by members of the committee's minority to establish a separate alcohol, drug abuse, and mental health block grant. This was recommended by the General Accounting Office and several national health organizations. In addition, the committee approved massive reductions in funds for mental health research and training.

A number of the programs included in the various block grants may not be funded by the States because of their controversial nature. The block grant approved does not require the States to fund family planning services, and repeals title X of the Public Health Service Act. Federal family planning programs, however controversial or misunderstood, have been effective. They prevented 800,000 unintended pregnancies in 1979 alone. If the States choose not to fund family planning services, as they may under the block grant proposal, the subsequent human and economic costs will be dramatic.

Other human services proposals approved by the various Committees would result in a 25-percent reduction in funds for social services, day care, foster care, child welfare and adoption assistance. The removal of the current State matching requirements for the title XX program may well mean even greater reductions in funds for essential social service programs such as meals on wheels and homemaker services.

Of particular concern is the proposal approved by the Senate Committee on Labor and Human Resources for Gallaudet College, the only postsecondary institution in the world.

As a former board member of the college, I am familiar with its plans to expand faculty and audiological facilities to meet the needs of the large numbers of students who will be enrolling over the next few years. The rubella epidemic which swept the Nation in 1964 resulted in the birth of more than twice the number of early deafened children. These

children will reach college age over the next 3 years and will be turning to Gallaudet for admission. Under the proposal approved by the committee, the college's plans for expansion will have to be halted. I am hopeful that the Senate will correct this situation with an amendment I hope to cosponsor with Senators DOLE and HELMS later today.

The proposals for education approved by the Senate Committee on Labor and Human Resources, under the leadership of Senator STAFFORD, are an outstanding improvement on the proposals recommended by the President. I fully agree with the priorities of the committee as expressed in its report. I agree that the title I, handicapped, adult, vocational and bilingual education programs should not be included in a general block grant to the States and I applaud the committee for maintaining the requirements of Public Law 94–142, the Education for All Handicapped Children Act.

The reductions in funding approved by that committee for higher education student financial assistance will substantially reduce the number of loans and grants to low- and middle-income Americans. However, the proposal approved is a significant improvement over the recommendations of the administration.

The President's proposal to eliminate the inschool interest subsidy for the guaranteed student loan program, among others, would have prevented between 500,000 and 750,000 students from receiving financial assistance.

Mr. President, while I agree with a number of the proposals approved as a part of reconciliation for health, education, and human services, on balance I cannot support these sections of the Reconciliation Act of 1981.

This week in Vermont, our professional standards review organization was notified that it would no longer receive funds. Our commissioner of social and rehabilitation services announced drastic reductions in funds for essential day care services. At least one of Vermont's two follow through programs for disadvantaged students may close in the near future. One of the State's most successful community mental health centers is reducing the services it provides. Vocational rehabilitation clients are calling my offices, anxious about the possible imminent reduction in funds for services. Low- and middle-income students attending Vermont colleges are watching and waiting to see if they will continue to be eligible for loans to finish their education.

There has been inadequate time to debate this legislation. There has been altogether too little thought about what this body, this administration has wrought in the name of economic recovery. There has been far too much concern with cutting, and far too little for caring. In short, we have determined the price of everything, while considering the value of nothing.

There was a time when the Congress as a whole acted on the belief that our national security depends also on our domestic security and the continued progress of a nation toward social justice. I look forward to the day when it again follows that creed.

Mr. HATCH. Mr. President, I yield back the remainder of my time and ask for the yeas and nays.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Maine (Mr. COHEN), is necessarily absent.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from California (Mr. CRANSTON), the Senator from Arizona (Mr. DECONCINI), and the Senator from Ohio (Mr. METZENBAUM), are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators wishing to vote?

The result was announced—yeas 32, nays 63, as follows:

[Rollcall Vote No. 180 Leg.]

YEAS—32

Armstrong	East	Melcher
Bentsen	Exon	Mitchell
Boren	Ford	Moynihan
Boschwitz	Hayakawa	Packwood
Bumpers	Heflin	Pryor
Byrd, Robert C.	Helms	Randolph
D'Amato	Hollings	Sarbanes
Denton	Jackson	Sasser
Dixon	Kasten	Tower
Dole	Laxalt	Zorinsky
Domenici	Leahy	

NAYS—63

Abdnor	Hatch	Percy
Andrews	Hatfield	Pressler
Baker	Hawkins	Proxmire
Baucus	Heinz	Quayle
Biden	Huddleston	Riegle
Bradley	Humphrey	Roth
Burdick	Inouye	Rudman
Byrd, Harry F., Jr.	Jepsen	Schmitt
	Johnston	Simpson
Chafee	Kassebaum	Specter
Chiles	Kennedy	Stafford
Cochran	Levin	Stennis
Danforth	Long	Stevens
Dodd	Lugar	Symms
Durenberger	Mathias	Thurmond
Eagleton	Matsunaga	Tsongas
Garn	Mattingly	Wallop
Glenn	McClure	Warner
Goldwater	Murkowski	Weicker
Gorton	Nickles	Williams
Grassley	Nunn	
Hart	Pell	

NOT VOTING—5

Cannon	Cranston	Metzenbaum
Cohen	DeConcini	

So Mr. HELM'S amendment (UP No. 209) was rejected.

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 210

(Purpose: Make amendments to title IV)

Mr. PACKWOOD. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oregon (Mr. PACKWOOD) for himself, Mr. CANNON, Mr. LONG, Mrs. KASSEBAUM, Mr. DANFORTH, Mr. QUAYLE, and Mr. SCHMITT proposes an unprinted amendment numbered 210.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 104, in the table of contents, strike the item relating to section 414–2, and insert in lieu thereof the following: "Sec. 414–2. Passenger Service Collective-Bargaining Agreements.".

On page 104, in the table of contents, strike the item relating to section 416–12, and insert in lieu thereof the following: "Sec. 416–12. Miscellaneous.".

On page 105, strike lines 34 through 36, and insert in lieu thereof the following:

"(3) SHIPPERS.—Conrail shall utilize the revenue opportunities available to it under the provisions of the Staggers Rail Act of 1980 and subtitle IV of title 49, United States Code.".

On page 107, strike lines 32 through 36.

On page 108, strike all after "residence" on line 28 through line 29, and insert in lieu thereof a semicolon.

On page 109, line 14, strike "Commuter".

On page 109, line 15, insert "normal" immediately before "exercise".

On page 110, line 37, strike "subtitle," wherever it appears and insert in lieu thereof "subpart,".

On page 112, line 3, strike "303(b) and" and insert in lieu thereof "303".

On page 112, line 31, strike "authority" adn insert in lieu thereof "authorities".

On page 113, line 33, insert "Amtrak," immediately before "Amtrak Commuter".

On page 113, line 39, insert "Amtrak," immediately before "Amtrak Commuter".

On page 115, strike all from "made" on line 24 through line 26, and insert in lieu thereof the following: "between Amtrak Commuter and the commuter authorities that operate commuter service.".

On page 115, line 41, strike "and".

On page 116, line 1, strike "carriers." and insert in lieu thereof "carriers, and holders of purchase money equipment obligations.".

On page 116, insert the following immediately after line 21:

"(e) In any disposition of Conrail securities under this section, the Secretary shall consider, in addition to any other alternatives, whether a plan whereby employees receive a substantial part of such securities or the proceeds of the sale thereof would be in the public interest. The Secretary may transfer any such securities of a sale thereof to employees of Conrail if such a transfer is necessary to effectuate such a plan found to be in the public interest. Notwithstanding any other provisions of law, for purposes of this section, employees of Conrail shall include officers of Conrail.

"(f) Discussion and negotiations for the transfer of Conrail freight properties and service responsibilities will be conducted, to the maximum extent practicable, to assure the preservation and enhancement of rail competition in the Northeast. In the development of agreements for the transfer of Conrail properties and responsibilities, rail stations which have heavy rail freight activity (based on the level to be determined by the Commission within 120 days of the date of enactment of this part, as well as shipper input and other available data) will receive priority designation for competitive service.".

On page 117, strike line 13; on line 14, strike "operations:" and insert in lieu thereof "operations; and"; and insert the following immediately after line 14:

"(E) Write-offs or realizations from abandonments or other disposition of unprofitable rail properties:".

On page 117, line 41, after "action", insert: to a single "purchaser.".

On page 118, line 18, strike "and" the first time it appears; and strike "competition." and insert in lieu thereof "competition, and the orderly disposition of equipment subject to railroad equipment obligations and of rail properties subject to contractual obligations based on improvements directly financed by States, localities and shippers.".

On page 120, line 23, strike "of" and insert in lieu thereof "on".

On page 122, line 12, strike "$1,000,000 for fiscal year 1982" and insert in lieu thereof "$150,000,000 for fiscal years 1982 and 1983."

On page 124, line 2, strike "Conrail shall pay"; and insert "shall be paid" immediately after "allowance".

On page 124, line 24, insert the following at the end thereof: "For purposes of this section, the term 'qualified' includes the established physical requirements of the rail carrier.".

On page 127, lines 6–7, strike "Commuter"; on line 12, strike "Commuter"; on line 19, strike "Commuter"; and on line 12, strike "Commuter".

On page 128, line 2, insert "504(f)" immediately after "504(b)".

On page 128, line 2, strike "507,"; on line 11, strike "507,"; and insert the following immediately after line 12:

"(3) Section 507 of the Regional Rail Reorganization Act of 1973 is amended by striking 'section 509(b), or section 509(c) and those disputes or controversies provided for in subsection (g)(2)(D) of section 505 and subsection (b) of section 504'.".

On page 128, line 16, strike "part," and insert in lieu thereof "part and employees adversely affected by an abandonment by Conrail pursuant to section 10903 of subtitle IV of title 49, United States Code,".

On page 128, line 36, strike "$1,000,000." and insert in lieu "$400,000,000".

On page 129, line 9, strike "210" and insert in lieu thereof "120".

On page 129, line 14, strike "210" and insert in lieu thereof "120".

On page 129, line 15, insert "Amtrak" immediately after "Commuter,".

On page 129, line 16, strike "Commuter".

On page 129, strike all from line 18 through line 3 on page 130, and insert in lieu thereof the following:

"(c) Such negotiations shall—

"(1) determine the number of employees to be transferred to Amtrak or a commuter authority;

"(2) identify the specific employees of Conrail to whom Amtrak or a commuter authority offers employment;

"(3) determine the procedure by which such employees may elect to accept employment with Amtrak or a commuter authority;

"(4) determine the procedure for acceptance of such employees into employment with Amtrak or a commuter authority;

"(5) determine the procedure for determining the seniority of such employees in their respective crafts or classes in Amtrak's Northeast Corridor or with a commuter authority which shall, to the extent possible, preserve their prior seniority rights;

"(6) ensure that all such employees are transferred to Amtrak or a commuter authority no later than 1 year after the date of enactment of this part; and

"(7) determine the extent to which employees transferred to Amtrak or a commuter authority shall retain seniority rights with Conrail. Such determination shall ensure the maximum separation of the freight and passenger work forces and shall (A) provide employees transferred to Amtrak who are subsequently deprived of employment at least one opportunity to exercise previous seniority rights; (B) maximize employment opportunities for employees on furlough; (C) maintain the ability to recall experienced employees; and (D) ensure that under no circumstances are seniority rights exercised in any manner which results in a position being filled which would otherwise not be filled under the terms of any crew consist, fireman manning, or other similar agreement.

"(d)(1) If agreements with respect to the matters being negotiated pursuant to subsection (c) of this section are not reached within 180 days after the date of enactment of this part, the parties to the negotiations shall, within an additional 10 days, select a neutral referee. If the parties are unable to agree upon the selection of such a referee, the National Mediation Board shall immediately appoint a referee.

"(2) The referee shall commence hearings on the matters being negotiated pursuant to subsection (c) of this section not later than 10 days after the date he is selected or appointed, and shall render a decision within 30 days after the date of commencement of such hearings. All parties may participate in the hearings, but the referee shall have the only vote.".

On page 130, line 9, strike "Commuter".

On page 130, strike all after "transferred," on line 13 through line 15, and insert in lieu thereof the following: "the parties to the negotiations shall, within 10 days, select a neutral referee. If the parties are unable to agree upon the selection of such a referee, the National Mediation Board shall immediately appoint a referee. The referee shall resolve the dispute in accordance with the provisions of subsection (d)(2) and (3) of this section.".

On page 130, strike all from line 16 through line 31 on page 131, and insert in lieu thereof the following:

"PASSENGER SERVICE COLLECTIVE-BARGAINING AGREEMENTS

"SEC. 414–2. (a) Amtrak Commuter shall contract with Amtrak for performance of work involving employees covered by applicable collective-bargaining agreements as provided in this section, and may also contract with Amtrak for the performance of management and professional services such as accounting, law, and personnel, to the extent joint use of employees is not precluded by a need for Amtrak Commuter to operate without knowledge or involvement by Amtrak on a particular matter.

"(b) Amtrak shall negotiate new agreements with respect to rates of pay, rules, and working conditions with the representatives of various classes or crafts of employees of Conrail for work performed in connection with intercity and commuter service in the Northeast Corridor (unless there is currently in effect an Amtrak agreement covering such classes or crafts). Amtrak shall consult with Amtrak Commuter in the preparation for and conduct of negotiations for new collective-bargaining agreements. An agreement negotiated by Amtrak pursuant to this subsection shall govern employees engaged in work performed in connection with intercity and commuter service and shall become effective unless, within 30 days after such agreement is reached, a majority of the members of the Board of Directors of Amtrak Commuter who represent commuter authorities votes to oppose ratification of the provisions of the commuter service components of such agreement.

"(c) Any commuter authority that intends to operate commuter service and the representatives of the various classes or crafts of employees to be transferred to such commuter authority, pursuant to the provisions of the part, shall enter into new collective-bargaining agreements with respect to rates of pay, rules, and working conditions.

"(d)(1) Amtrak or a commuter authority and the representatives of the various classes and crafts of employees to be transferred to Amtrak or a commuter authority shall, within 120 days after the date of enactment of this part, establish a fact-finding panel chaired by a neutral expert in industrial relations, for purposes of recommending changes in operating practices and procedures which result in greater productivity to the maximum extent practicable.

"(2) The National Mediation Board shall appoint public members of the panel established under paragraph (1) of this subsection.

"(3) The fact-finding panel shall, within 60 days after the date it is established, submit a report to the parties setting forth its recommendations for changes in operating practices and procedures.

"(4) The fact-finding panel may provide mediation, conciliation, and other assistance to the parties.

"(e) The provisions of this section shall apply to any dispute between Amtrak or a commuter authority and employees with respect to negotiation of a collective-bargaining agreement governing rates of pay, rules and working conditions pursuant to subsections (b) and (c) of this section.

"(f) If a dispute between the parties described in subsection (e) of this section is not resolved, any party to the dispute or the Governor of any State through which the service that is the subject of the dispute is operated may, within 120 days after the date of enactment of this part, request the President to establish an emergency board pursuant to subsection (g) of this section.

"(g) Upon the request of a party or a Governor under subsection (f) of this section, the President shall create an emergency board within 30 days to investigate and report on the dispute.

"(h) Within 210 days after the date of enactment of this part, the emergency board shall conduct a public hearing on the dispute at which each party shall appear and provide testimony setting forth the reasons it has not accepted the recommendations of the fact-finding panel established pursuant to subsection (d) of this section for settlement of the dispute.

"(i) If no settlement in the dispute is reached at the end of 240 days after the date of enactment of this part, the parties to the dispute shall submit to the board within 30 days final offers for settlement of the dispute.

"(j) Within 30 days after the submission of final offers pursuant to subsection (i) of this section, the board shall submit a report to the President setting forth its selection of the most reasonable offer.

"(k) Beginning on the date the board is established and ending 30 days after the board makes its report under subsection (j) of this section, no change, except by agreement, shall be made by the parties in the conditions out of which the dispute arose.

"(l) If the emergency board selects a final offer submitted by a carrier and the employees of such carrier engage in any work stoppage arising out of the dispute, such employees shall not be eligible during the period of such work stoppage for benefits under the Railroad Unemployment Insurance Act.

"(m) If the emergency board selects a final offer submitted by the employees and the carrier refuses to accept the final offer submitted by the employees, the carrier shall not participate in any benefits of any agreement between carriers which is designed to provide benefits to such carriers during a work stoppage.

"(n) For purposes of the negotiations with a commuter authority, 'representatives of

various crafts or classes of employees' as used in this section shall be limited to a council of three representatives selected by crafts or classes of Conrail employees. In the event that such crafts or classes are unable to agree on such representatives, the National Mediation Board shall appoint a council of three representatives within 10 days of being requested to make such determination.

"(o) The provisions of this section shall supersede the provisions of section 401–24 of the Amtrak Improvement Act of 1981.".

On page 140, line 27, insert "(a)" immediately before "The"; and insert the following immediately after line 33:

"(b) The operation of trains by Conrail shall not be subject to the requirement of any State or local law which specifies the minimum number of crew members who must be employed in connection with the operation of such trains.".

On page 141, line 8, insert the following immediately after "claims": ", including loss, damage, and overcharge claims,".

On page 141, line 37, insert the following immediately after "Amtrak": ", Amtrak Commuter, or commuter authorities"; on line 37, strike "Amtrak's"; on line 38, insert the following immediately after "Amtrak": ", Amtrak Commuter, or commuter authorities"; and on page 142, line 7, insert the following immediately after "Amtrak": ", Amtrak Commuter, or commuter authorities.".

On page 142, strike line 24 and insert in lieu thereof the following: "MISCELLANEOUS".

On page 142, line 33, insert "(1)" immediately after "(b)"; and insert the following immediately after line 36:

"(2) If the Secretary finds that additional trackage rights for such carrier are in the public interest, the Secretary may petition the Commission to grant such additional trackage rights.

"(3) At any time after the date of enactment of this part, the Secretary may grant to any rail carrier in the Region (as that term is defined in section 102(15) of the Regional Rail Reorganization Act of 1973) that received a loan under section 211(a) of the Regional Rail Reorganization Act of 1973, trackage rights over the individual rail lines of Conrail located in the States of Pennsylvania and New York which the United States Railway Association had initially offered to a rail carrier other than Conrail pursuant to its Final System Plan, dated July 20, 1975. At any time after the date of enactment of this part, the Secretary may grant to any terminal railroad operating primarily in the city of Philadelphia, trackage rights over the individual lines of Conrail located in the city and port of Philadelphia. In making such decisions the Secretary shall take into consideration the continued viability of Conrail.

"(c)(1) The provisions of section 11125(b)(4) of title 49, United States Code, may be waived by the Commission if a directed carrier offers voluntarily to provide service without compensation under section 11125(b)(5) of title 49, United States Code. If the Commission waives such provisions, it shall require the directed carrier to hire the employees of the other carrier, under the work rules and conditions of the directed carrier, to the extent that such employees are required by the directed carrier for the operation on the lines of the other carrier. Employees hired under this provision shall have protection, rights, and obligations substantially equivalent to those imposed by the agreement of March 4, 1980 (the 'Miami accords'), between parties involved in Midwest rail restructuring.

"(2) If an employee refuses employment offered under paragraph (1) of this subsection, he shall not be deemed to have lost his rights to protection afforded by other provisions of law.

"(3) If a directed carrier provides service under this subsection, the Commission may extend the time period for directed service for any period deemed in the public interest, and may order the directed carrier to provide compensation to the other carrier at a rate set by the Commission.".

Strike page 120, lines 14–40 and insert in lieu thereof the following:

"LIGHT DENSITY RAIL SERVICE

"SEC. 412–17. (a) The Secretary may, at any time after the date of enactment of this part, request Conrail to determine whether any particular branch line is necessary to achieve profitability by Conrail, as such term is defined in section 412–12 of this chapter. Within 30 days after the date on which such request is made, Conrail shall make and submit such determination to the Secretary.

"(b) At any time after the date of enactment of this part, the Secretary may enter negotiations for the transfer of—

"(1) any rail lines which are the subject of an abandonment proceeding pending before the Commission; and

"(2) branch lines which carried less than 3,000,000 gross ton miles of traffic per mile in the preceding calendar year and which have been identified by Conrail as not necessary for the achievement of profitability, pursuant to the provisions of subsection (a) of this section. The Secretary may transfer any such lines in accordance with the terms of an agreement entered into by the Secretary under this subsection, except that no branch line identified in paragraph (2) of this subsection may be transferred before the expiration of the time period specified in subsection (a). Any transfer in accordance with this subsection shall not be subject to congressional review, but shall take effect on the date of such transfer by the Secretary.

"(c) As a part of each transfer negotiation authorized and directed by section 412–11 of this chapter, the Secretary shall promote the inclusion of those additional Conrail lines that connect with, and only with, the line or lines that are the subject of particular transfer negotiations (hereafter "associated branch lines"), and which are financially viable.

"(d)(1) Within 60 days after the date of enactment of this part, the Secretary shall enter into negotiations for the transfer of distressed rail properties in the States of Connecticut and Rhode Island.

"(2) As a part of any transfer negotiation pursuant to this subsection, the Secretary may consider the inclusion of those additional associated branch lines which are financially viable and which promote the maintenance of an efficient rail network. Further, any transfer negotiation shall be designed to preserve, to the greatest extent possible, existing levels of rail service in these States.

"(3) The Secretary must determine that an acquiring railroad—

"(A) is financially and operationally capable of assuming these lines;

"(B) is able to guarantee the operation of all the acquired lines without Federal operating subsidies and within the limits of the surcharges permitted by the Staggers Rail Act of 1980;

"(C) is able to operate on lines identified pursuant to subsection (1) under fair and equitable divisions of joint rates without levying surcharges for the sole and exclusive purpose of subsidizing light density rail lines: *Provided*, That if the parties cannot agree on such divisions of joint rates, the Secretary may establish interim divisions; and

"(D) will operate the lines for no less than 3 years after the date of transfer.

"(4) As part of the transfer process pursuant to this subsection, within 120 days after the submission of all proposals the Secretary shall—

"(A) approve and publish a final transfer proposal or proposals;

"(B) submit a counter-proposal to one or more of the potential purchasers who have submitted a proposal or proposals for the lines; or

"(C) submit to the Congress a detailed account of the reasons for the disapproval of all proposals, together with a separate plan for the operation of rail service within the States of Connecticut and Rhode Island which would preserve existing levels of service.

"(5) The Secretary may transfer such lines in accordance with the terms of an agreement entered into by the Secretary under this subsection. Any transfer in accordance with this subsection shall not be subject to congressional review, but shall take effect on the date of such transfer by the Secretary.".

On page 121, line 1, strike "(d)" and insert in lieu thereof "(e)".

On page 121, strike lines 4 and 5, and insert in lieu thereof the following: "transfer, that an affected State, shipper, or connecting railroad (other than a Class I or II railroad) concludes is essential, that State, shipper, or connecting railroad, or any combination of such States, shippers, or railroads, may immediately enter", and on line 9, insert "railroad" immediately after "shipper,".

On page 121, line 14, strike "(e)" and insert in lieu thereof "(f)".

Mr. PACKWOOD. Mr. President, I can explain this amendment quickly and simply. It is the Conrail amendment.

The PRESIDING OFFICER. Will the Senator suspend for a moment? Let us have order in the Senate.

Mr. PACKWOOD. It is the Conrail amendment, and with the exception of an amendment that Senator HEINZ will offer, I believe that the Budget Committee will find the amendment acceptable. It is the administration's program to allow them to sell Conrail back to private enterprise. There is a provision in it for labor protection that has been worked out with those people who are affected.

The essence of this amendment will allow the Secretary of Transportation to negotiate for the sale of the railroad, and the Federal Government will get out from under the obligation of running Conrail.

This is designed to turn the Conrail system back to private enterprise, and this is the legislation that will permit it.

I withhold the remainder of my time.

Mr. HOLLINGS. Mr. President, while I will not object to the amendment of the chairman of the Commerce Committee, I would like to take this opportunity to advise him of my concern about a section in the House-reported Amtrak bill which will also be an item in the reconciliation conference.

The section to which I refer contains two provisions on Amtrak's outstanding debt of about $850 million in loans from the Federal Financing Bank.

The question of Amtrak's outstanding debt is a particularly troublesome one both for Amtrak, which must make sizable annual interest payments on it, but also for those of us who must eventually address the thorny question of how we can retire this outstanding debt owed to the FFB.

For one thing is clear—Amtrak will never be in a position to pay this debt from its revenues. Even the GAO has

examined ways to appropriately retire this debt.

Briefly, the House bill would do two things: First, it would increase the statutory ceiling on loan authority so that Amtrak can borrow even more money from the FFB which it can never hope to repay. So we would be adding as much as $80 million to a serious financial problem which has already grown to a level of $850 million.

Second, in addition to allowing Amtrak to borrow more on loans from the FFB, the House bill would permit Amtrak to defer making interest payments on the debt. This would be a very undesirable precedent. These interest payments are a real cost to the taxpayers of operating Amtrak which should be reflected in the budget. Also, if Amtrak does not make the interest payments. they do not disappear; the amount of receipts which the FFB returns to the Treasury would be reduced by that amount.

I hope that during conference on the reconciliation bill. the distinguished chairman of the Commerce Committee will give serious consideration to the undesirable public policy and budgetary precedent which would be established by adoption of these House provisions. I understand that the administration also opposes these provisions.

(By request of Mr. PACKWOOD, the following statement was ordered to be printed in the RECORD.)

OMNIBUS RECONCILIATION ACT OF 1981, PART B (CONRAIL)—NORTHEAST RAIL SERVICE ACT OF 1981

● Mr. CANNON. Mr. President, I join Senator PACKWOOD in supporting the Conrail legislation and the committee amendments we are offering here today.

A number of changes have been made since the original Conrail bill, S. 1100, was introduced. In my view, those changes have substantially improved the legislation. This has essentially been a bipartisan effort to find a solution to the Conrail dilemma, a solution that will be cost effective and preserve essential rail service in the Northeast.

Even after the bill was reported by the Commerce Committee and submitted to the Committee on the Budget as part of the reconciliation procedures, we continued our efforts to improve the legislation. An additional day of hearings was held last week—at my request and that of Senators FORD, RIEGLE, and EXON. Based on the record of that hearing, the committee is proposing additional changes and technical amendments. It is important that these amendments be adopted.

As the chairman has pointed out, two of our amendments relate to funding for labor protection and maintenance of essential rail service. Those amendments are crucial. Unless they are adopted, there will be no Conrail legislation—we will have failed in our efforts to resolve the Northeast rail problem. Even now, I am informed that labor is not satisfied with the level of protection in the bill and may not ratify the agreement for savings which was worked out last month between Conrail and rail labor. All parties agree that labor cost savings must be realized if Conrail is to have an opportunitiy to achieve profitability. We will continue to study the labor issues as the legislation proceeds through the conference process. But one thing is certain at this point. The proposed amendments which relate to funding must be adopted, and I urge your support in this matter.

Finally, as ranking minority member, I would like to thank our chairman and Senator DANFORTH for their cooperation and leadership in resolving some of the difficult issues which have faced the committee with regard to the Conrail legislation. I would also like to thank our members, particularly Senators FORD, RIEGLE, and EXON, for helping to develop constructive legislation which represents the committee's best efforts. Thanks are also due to staff—both minority and majority—who have devoted many long hours to the Conrail bill.

Mr. President, I am pleased with the progress that has been made, and I assure you of my continued support and that of my colleagues as we proceed.●

Mr. PELL. Mr. President, I am pleased to support the amendment of the Commerce Committee regarding the future of Conrail in the Northeast. This committee amendment will allow essential freight services to continue during the period prior to the transfer of Conrail operations back to private enterprise, where they properly belong.

The committee amendment also contains a provision relative to transfers of Conrail lines in the States of Connecticut and Rhode Island. Last week, in testimony before the Surface Transportation Subcommittee, I urged that an immediate solution be found to the problems of rail shippers in southern New England. Because of heavy surcharges, deteriorating track, and the possibility of numerous abandonments, there is a very real possibility that freight service in this region will disappear entirely if a solution is deferred until the administration plan for Conrail is implemented.

The provision contained in this committee amendment, worked out through discussions with the committee and Senators CHAFEE, WEICKER, and DODD, addresses the southern New England problem in a constructive fashion. It requires the Secretary of Transportation, within 60 days after enactment of the bill, to initiate negotiations leading to the sale of all distressed lines in the States of Connecticut and Rhode Island to another private railroad. Additional provisions assure that action will be taken on the proposals of private carriers within a reasonable period, and mandate that the acquiring railroad is financially and operationally capable of continuing all existing service for a period of at least 3 years, without any Federal operating subsidies.

I appreciate the recognition the Commerce Committee has given to the rail problems of Connecticut and Rhode Island, and am grateful to Senator PACKWOOD and Senator CANNON, and their staffs, for the considerable time they gave to providing an expedited mechanism for resolving this issue. The provision which has been adopted will allow an early restoration of Conrail lines in these States to private enterprise, preserve existing freight service, and—of particular importance to me—help to assure a viable future for the jobs of the hundreds of rail workers in southern New England. Effective transportation systems are the backbone of a productive economy in any region, and this amendment will greatly improve the future health of local rail freight service—a vital cornerstone of our national transportation network.

● Mr. WEICKER. Mr. President, I am pleased to cosponsor this amendment to the committee amendments proposed by the Committee on Commerce, Science and Transportation. The committee deserves special recognition for working out the compromise included here which addresses the rail freight situation in Connecticut and Rhode Island.

On May 29, the Federal Railroad Administration rejected an expedited transfer of Connecticut and Rhode Island's lines from Conrail to a private carrier. Concern has been raised over this process by shippers on low density rail lines in these States and by large shippers, rail labor and the State of Connecticut over the future presence of Conrail in Connecticut.

Conrail has a significant presence in Connecticut. Conrail operates profitably on certain lines in the State. Shippers who account for 75 to 80 percent of all rail freight traffic in the State are satisfied with Conrail's service on these lines and prefer to be served by a large single carrier such as Conrail. On the other hand, of 450 miles of rail lines served in the State. Conrail has identified almost 138 miles for some sort of corrective action; Conrail has planned to or has already levied surcharges on 50.1 miles in the State. These surcharged lines will most likely be abandoned by Conrail at the end of the year, since most of the shippers refuse to pay charges which range from $130 to $1,690 per car.

The language included by the committee in the pending reconciliation bill provided for the Secretary to negotiate for transfer of light density lines which were identified as:

First, lines subject to abandonment proceedings;

Second, rail properties in Connecticut and Rhode Island;

Third, and branch lines which carried less than 3 million gross ton miles of traffic per miles in the preceding calendar year and have been identified by Conrail as not necessary for the achievement of profitability.

Our concern is the vague reference to "rail properties in Connecticut and Rhode Island." Since these States' rail properties fall under the conditions stated in first and third, this provision encourages the Secretary to negotiate for sale of possibly all lines in these States.

I oppose any mandatory transfer of all the rail properties in these two States, since Conrail does operate profitably on some lines in Connecticut and has ex-

pressed an interest in remaining the State.

Proponents of a mandatory sale of all lines premise their position on the assumption that no carrier or carriers will choose to purchase less profitable branch lines alone without other profitable lines being included. I believe this premise fails to recognize three important facts: First, a number of carriers have expressed interest in some of the light density lines in the State; second, that railroad networks, in order to be most efficient, should be established on operational lines and not by artificial State boundaries; and third, that certain shippers are satisfied with Conrail's operations. Thus, the pending amendment, which has the support of the chairman of the Commerce, Science and Transportation Committee, Senator PACKWOOD, addresses the needs of those distressed rail properties in southern New England in a manner which satisfies the concerns of all interested parties in the State.

The amendment establishes a process which specifically addresses "distressed rail properties in the States of Connecticut and Rhode Island." These "distressed rail properties" are those lines which are:

First, scheduled for abandonment by Conrail;

Second, identified by Conrail as not necessary to its operations in order to achieve profitability; or

Third, lines on which shippers are not satisfied with Conrail's service.

The Secretary is directed to entertain proposals for sale of these lines to one or more carriers. Since many of these lines may represent "cherry-picked lines" which have been discarded by Conrail, the Secretary is permitted also to negotiate to include financially viable lines in any transfer package. The potential transferee or transferees will be required to meet strict conditions in order that all rail properties included in the transfer can be assured of guaranteed service. These conditions are essential if the Secretary is going to attract financially viable lines. The conditions which an acquiring railroad must meet include:

First, operationally and financially capable of assuming these lines;

Second, be able to guarantee the operation of all the acquired lines without Federal subsidy and within the limits of surcharging which are presently allowed by statute;

Third, be able to operate on the financially viable lines under fair and equitable divisions of joint rates without levying surcharges solely to subsidize unprofitable lines; and

Fourth, will operate the lines for no less than 3 years.

These conditions insure that any acquiring railroad will provide service to all lines which is at least as good as Conrail's.

The amendment also establishes a time frame of 180 days in which the proposals must be considered; and then, either approved or disapproved. In the event that no proposal can be worked out which insures service to these less profitable lines, the Secretary must submit to Congress his reasons why such a transfer could not be negotiated.

Mr. President, there are two further observations I would like to make with respect to this amendment.

First, the amendment does not preclude the possibility that many of Connecticut Conrail lines are better served by private carriers. But, unlike proposals to mandate sale of all th lines in the two States, it is designed to address all parties' concerns by providing the Secretary with the flexibility to work out the best operational solution which accrues to the States' shippers needs, labor and the future of Conrail in New England.

Second, it recognizes that Conrail does have a significant presence in Connecticut with which many shippers and labor are satisfied, but it provides an important mechanism for the Secretary to negotiate for the sale of less profitable branch lines in Connecticut.

We have assurances that there ar carriers who are interested in these lines. At the same time, it must be recognized that Connecticut and Rhode Island are a part of New England's entire rail network. Under the pending amendment, it is anticipated that the Secretray will consider transfers with the best interests of New England rail service generally and Connecticut and Rhode Island specifically in mind. This flexibility is critical to maintaining essential rail service in this region.●

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Technically I am not in opposition to the Packwood amendment, so I think under the rules the majority leader will have to designate somebody who is.

Mr. BAKER. The minority leader will do it.

Mr. DOMENICI. The other side is not in opposition either.

Mr. PACKWOOD. I am prepared to vote on this. I think there is no opposition to it, and I am prepared to yield back the time, and whoever has the other time to yield it back.

Mr. DOMENICI. We are prepared to accept the Packwood amendment.

Mr. PROXMIRE. Mr. President, will the Senator yield? Is there any money involved?

Mr. PACKWOOD. Four hundred million dollars in labor protection.

Mr. PROXMIRE. Four hundred million dollars in additional money?

Mr. PACKWOOD. It is actually money we are going to save, take my word for it. It is cheaper to sell the railroad, if we can sell it, and I hope we can sell it.

Mr. PROXMIRE. We had a point of order on the impact aid amendment, as I understand it, and that was not pressed. We accepted the amendment. We are already over, are we not?

Mr. DOMENICI. The point of order was not with reference to exceeding the instruction. No point of order lies on this amendment.

Mr. PROXMIRE. The Senator from New Mexico admitted we were over. With reference to the Labor Committee's instructions, the addition of impact aid caused that instruction to be breached.

Mr. DOMENICI. We are not in breach of the total savings. We are still in excess.

Mr. PROXMIRE. Will the manager inform the Senate whether this would add $400 million? Would it be $400 million of additional spending, outlays?

Mr. PACKWOOD. I will answer the question. Yes. And the reason it does that is because the administration's bill on Conrail was not ready at the time the budget was being prepared. I have a letter which I will submit for the RECORD from the administration, from the Secretary of Transportation, supporting this legislation, as does the Office of Management and Budget.

It would have been included—I might ask the budget chairman this—it would have been included in the budget had the administration had their bill ready at the time.

When you say is it $400 million above the present budget reconciliation? Yes. Was it ready at the time? No. Was it supported by the Office of Management and Budget and the administration? Yes.

Mr. PROXMIRE. It is $400 million and I am going to oppose the amendment. I would hope that other Senators would join me. If not, I am not going to ask for a rollcall vote. I am not going to go through a vain act. It is too late now. It will be 10 minutes wasted.

Mr. PACKWOOD. Mr. President, let me say to other Senators that it is going to cost you more to defeat the amendment than it is to pass it. If that is what the Senator from Wisconsin wants a rollcall on, fine.

Mr. PROXMIRE. Mr. President, I do not see any other Senators rising to my side. I am not going to ask for a rollcall, but I just wanted to be on record as against the amendment.

Mr. HOLLINGS. Let us voice vote.

The PRESIDING OFFICER. Is all time yielded back?

Mr. PACKWOOD. Yes.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oregon.

The amendment (UP No. 210) was agreed to.

Mr. BAKER. I move to reconsider the vote by which the amendment was agreed to.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 211

(Purpose: To revise provisions relating to profitability determinations with regard to the sale of Conrail)

Mr. HEINZ. Mr. President, I call up my amendment at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ), for himself and others proposes unprinted amendment numbered 211.

Mr. HEINZ. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Beginning on line 27, page 116, strike out through line 21, page 117, and substitute the following:

(b) Except as provided in section 412–17 of this chapter, the Secretary may propose the sale of Conrail as an entity after June 1, 1982. The Secretary may not propose the transfer of individual Conrail lines to separate purchasers until August 1, 1984, if the Conrail Advisory Board has made an affirmative finding under subsection (e)(1) of this section unless the Corporation requires additional Federal funding after May 1, 1983. If a negative finding is made under subsection (e)(2) of this section, such transfers may take place on or after December 1, 1982.

(c) Prior to December 1, 1982, the Conrail Advisory Board shall periodically review the performance of Conrail to determine whether Conrail is meeting the goals set forth in section 411–2 of this part and report its findings to the Congress.

(d)(1) As soon as possible after financial results are available for the period June 1, 1982, through November 30, 1982, the Conrail Advisory Board shall determine whether Conrail has become profitable and requires no further Federal financial assistance beyond amounts authorized by this part and available for obligation under appropriations Acts enacted prior to the date such determination is made.

(2) As used in this section, "profitable" refers to the generation of net income in accordance with ICC accounting principles: *Provided, however,* That there shall be excluded from any determination of whether Conrail is profitable the following:

(A) payments made by Conrail for any labor protection obligations to the extent Conrail has not received full reimbursement therefor from the United States;

(B) the cost of any labor severance program;

(C) any payments made by Conrail with respect to its 7.5 percent Convertible Debentures due January 1, 2011, and Series A Preferred Stock;

(D) net costs to Conrail attributable to passenger operations; and

(E) writeoffs or realizations from abandonments or other disposition of unprofitable rail properties:

And provided further, That in any such determination of profitability there shall be included all amounts received by Conrail from any States, counties, municipalities, or political subdivisions thereof.

(e)(1) If the Conrail Advisory Board determines that Conrail has become profitable, then any proposal for the transfer of Conrail lines that is proposed by the Secretary shall provide for the transfer of the Conrail system as a whole until August 1, 1984.

Mr. HEINZ. Mr. President, I offer this amendment on behalf of myself, Mr. D'AMATO, Mr. BIDEN, Mr. SPECTER, Mr. LUGAR, Mr. MATHIAS, Mr. STAFFORD, Mr. LEVIN, Mr. RIEGLE, Mr. BRADLEY, Mr. LEAHY, Mr. GLENN, Mr. DODD, Mr. RANDOLPH, Mr. ROTH, Mr. QUAYLE, Mr. MOYNIHAN, and Mr. WEICKER.

Mr. President, a number of us are deeply concerned that the administration's plan to transfer Conrail to the private sector can be accomplished without dangerous and undue haste. We are talking, in this effort to get Conrail out of the pocket and off the back of Government, about the major rail system that serves the Northeast and a large part of the Midwest. Indeed, the part of the country that this railroad serves accounts for 45 percent of the personal income, 50 percent of the manufacturing employment, and 43 percent of the nonmanufacturing employment in the entire United States.

If we make a mistake in the way we handle Conrail, transferring it to the private sector, it is not just the Northeast and part of the Midwest that will suffer. It is going to be the entire country that suffers.

This amendment would give the Secretary of Transportation more time to sell Conrail as an entity, as a whole, as a complete operation, if Conrail is found to be profitable—there is a board that is supposed to find out whether it is profitable at the end of next year—and if its decision does not cost the Federal Government any more money.

So there is no budget impact—although some may dispute that—there is no budget impact in the way we have drawn this amendment.

What the amendment does do besides stretch out from August 1, 1983, to August 1, 1984, if Conrail is profitable and if it does not cost the Government any more money, it gives all the people involved in the successes or failure of Conrail the incentive to get Conrail's costs down.

We all know they are too high. Conrail has an incredibly high cost-to-revenue ratio. That problem is only going to be solved—I know the Senator from Oregon knows this—if everybody that is now part of Conrail has a vested interest in getting rid of their own vested interest. We have to get rid of those work rules. They have to be negotiated away. We have to get rid of bad management practices in Conrail. Those have to go.

But that is only going to be a reality if the parties involved—Conrail labor, Conrail management—see that after they make all those sacrifices—and these are considerable sacrifices—that they will have a shot at continuing as an operating corporation and will not be chopped up by a cleaver wielded down at the Department of Transportation and sold out willy-nilly in bits and pieces here and there, not all, by any means, to the highest bidder.

There is one other reason. There is a practical business reason if we want to get the highest return for the dollar on Conrail. Everybody is proposing that it be sold. Well, the biggest problem I see with the committee bill—and that is what this amendment addresses—is that people have about 8 months after this finding of profitability before they can cherry pick, before they can buy a piece here or a piece there. My biggest concern, as a practical matter, is people are going to wait those 8 months from December 1982 to August 1983. They will not come forward with a proposal to buy all of Conrail and we will end up with cherries picked and pits all over the ground. It is going to cost us jobs all over this country.

So, Mr. President, I hope that my colleagues will accept this amendment.

I note that Senator KENNEDY would like to be added as a cosponsor. I ask unanimous consent that he be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. Will the Senator yield me 1 minute?

The PRESIDING OFFICER. The Senator has 10 seconds remaining.

Mr. HEINZ. Mr. President, I am happy to yield at least half of the remaining time.

Mr. GLENN. Mr. President, I rise in support of Senator HEINZ' amendment to expand by 1 year the period during which Conrail may be sold only as a single entity. The sole purpose of the amendment is to provide a reasonable amount of time for Conrail to strengthen itself and become a more attractive property for sale.

Quite frankly, I regret that we are even discussing this subject today. The provisions in question have no budgetary impact whatsoever. They do not belong in this bill. Plainly and simply, this is yet another example of how the reconciliation process is being abused.

We have debated this matter at length for the past several days, so I will touch on it only briefly. But I want my colleagues to know that even though they may think we are here to discuss the Federal budget, what we are actually doing is using reconciliation as a vehicle for backdoor legislating and sleight-of-hand policymaking. In the short run, this may only be bad precedent. In the long run, the practical result may be a prescription for economic disaster in the Northeast and Midwest.

Examining these provisions will demonstrate what I mean. On the one hand, we are restructuring Conrail and its operations in an effort to make it a viable railroad. I support this effort. Everyone—the administration, the U.S.R.A., and Conrail itself—recognizes that such efforts must be made in order for Conrail to become profitable. At the same time, however, we are announcing to the world that regardless of how our efforts turn out we are going to sell the railroad, in whole or in part, by mid-1983.

During this short period, some would have us believe that management, labor, shippers, and other interested parties will be working full-bore to make the railroad an attractive property for sale. Commonsense suggests just the opposite. Just ask yourself, what incentives are there for labor to make the concessions needed to reduce Conrail's costs? What incentives are there for topflight management people to devote their energy and talents to a railroad that will vanish in little over a year? What incentives are there for shippers to increase their business with Conrail? The answer is that there are no incentives for anyone in this bill, and the short time allotted before eventual sale makes it very doubtful that any real successes can be achieved in their absence.

It is far more likely that people will size up these provisions for what they truly are and begin acting accordingly. Who could blame them? If the Senate will only pay lip service to profitability, who can expect them to pay cash? Labor may dig in its heels as a result. Management will be hard pressed to devise innovative cost-cutting measures because its best employees will leave. And shippers will switch to trucks if they can or relocate if they cannot. We will be left

with a railroad collapsing under its own weight, massive job losses and abandonments, economic dislocation, and the prospect of a fire sale of what is left of the Conrail in 1983.

My point is not that we should continue pouring money into a lost cause. My point is that if we are going to spend money—and the dollar figures are the same regardless of whose proposal we adopt—then we should spend the money wisely. We should spend it in a manner that gives us a reasonable, fighting chance to keep Conrail intact, to make it viable, and to preserve economic stability in a region that accounts for 45 percent of this Nation's personal income, half its manufacturing jobs, and 43 percent of its nonmanufacturing employment.

Mr. President, I realize that the constraints we are operating under during this reconciliation debate prevent us from substantially altering the Conrail provisions in the bill. But it is not too late to make the change Senator HEINZ has proposed. It is a minor change. It has no budgetary impact. But it at least provides some breathing room to Conrail workers and their families, to management, and to the thousands of businesses that depend on rail service as their transportation lifeline. Without spending one thin dime of public money we can give these groups a reasonable period of time to improve Conrail's chances of being sold as a unit.

This is not a large request, and I urge the Senate to adopt the Heinz amendment.

Mr. HEINZ. Mr. President, I ask unanimous consent that I be allowed to yield 30 seconds on the bill to Senator BIDEN.

Mr. PACKWOOD. I object.

The PRESIDING OFFICER. The objection is heard

Who yields time?

Mr. DOMENICI. Mr. President, I am prepared to yield the control of the time in opposition to the distinguished Senator from Oregon. However, I would like the Senator to reconsider and permit the distinguished Senator from Delaware to take 30 seconds.

Mr. PACKWOOD. I thought he asked for 30 minutes.

Mr. DOMENICI. Thirty seconds.

Mr. PACKWOOD. I yield 30 seconds to the Senator.

Mr. BIDEN. Mr. President, ever since President Reagan announced in early March his administration's intention to provide no further Federal funds to Conrail, I have watched with concern this proposal's progress through Congress. From the very beginning, I have argued that the administration's reasoning and timing was flawed.

In mid-March, I attempted to restore fiscal year 1982 funds in the Budget Committee for Conrail arguing that labor protection demands alone required additional funding. I lost. I raised the issue again on the Senate floor on April 1, and again lost. Yet 6 days later, the Budget Committee received a letter from Secretary of Transportation Drew Lewis, requesting an additional $250 million in fiscal year 1982 for Conrail. When the administration finally admitted that additional funding was necessary in fiscal year 1982, the Budget Committee restored $200 million during our markup on the first concurrent resolution.

Meanwhile, the administration announced its intention to dissolve Conrail by transferring its profitable lines to private sector carriers. This legislation, S. 1100, was introduced by Senator PACKWOOD, the chairman of the Commerce Committee, on May 4. Two days later, the Commerce Committee met to act on this legislation without having held a hearing on its provisions and the impact they will have on the 17 States within the Conrail service region. The committee failed to report the bill at that meeting only because most of the minority members walked out therefore leaving the committee without a quorum.

A week later, the administration's Conrail dissolution bill was reported out of the Commerce Committee by a vote of 10 to 5.

It should be pointed out that my distinguished colleague from Michigan, Senator RIEGLE, is the only Senator from the 17 States in the Conrail service region who serves on the Senate Commerce Committee—1 Senator out of 17 committee members. We all know that if a bill impacts directly on our States, we look at its provisions much more closely. Yet only 1 Senator out of 34 whose State will be directly affected by this bill has had the chance to propose major amendments to it.

It should also be understood that only 4 Senators of the 22 members of the Senate Budget Committee represent States in the Conrail region. So again, Delaware's interests and those of the other States serviced by Conrail were under-represented when this year's debate began in the Congress.

To the credit of Senator PACKWOOD, Senator DANFORTH, Senator CANNON, and especially Senator RIEGLE as well as other members of the committee, discussions continued on ways to improve upon the committee's bill. These negotiations culminated on June 12, when the Commerce Committee adopted several additional changes to the text of S. 1100 prior to voting to include its language in its budget reconciliation package—all 84 pages of their Conrail bill. It is this language which we are debating in the reconciliation bill tonight.

While the current draft of the Commerce Committee's bill is an improvement upon the administration's original version, it still could be improved. I acknowledge that Conrail legislation is needed. No one seeks to maintain the status quo—not the shippers, not labor, not the commuter authorities, nor the communities serviced by Conrail.

Since the rules governing reconciliation effectively preclude the detailed debate we would like to have had on the future of Conrail and rail service throughout the Northeast and Midwest, Senator HEINZ and I have agreed to offer an amendment addressing what we believe to be our most important concern.

This is not a complex amendment, nor is it a comprehensive amendment, since such an approach would be nongermane and subject to a point of order. In addition, the 10-minute time limitation on debate currently in effect is not sufficient to even discuss such a detailed amendment. What the Heinz-Biden amendment does do is simply extend for 1 year—from August 1983 to August 1984—the time period during which the Secretary of Transportation can only propose to sell Conrail as "an entity."

The Commerce Committee's bill currently authorizes the Secretary of Transportation to propose Conrail's sale as an entity beginning July 1, 1983. A test period of 6 months also commences on that date. If Conrail is found not to be profitable at the conclusion of the test period, the Secretary is authorized to propose the sale of Conrail's various lines to interested purchasers. Our amendment does not change either of these provisions.

The Commerce Committee's bill contends, however, that if Conrail is found to be profitable during this 6-month test period, then the Secretary must continue to seek a "single purchaser" until August 1, 1983.

Senator HEINZ and I believe this is too brief a time period—only 8 months—to encourage the sacrifices necessary to insure that Conrail is profitable and that a single-entity solution is found.

So what our amendment proposes is a simple 1 additional year extension of the period during which the Secretary can propose Conrail's sale only as an entity. Importantly, we have also included language which permits this extension only as long as Conrail does not request additional Federal financing.

If at any time after May 1983, Conrail requests additional funding, then our amendment would permit the Secretary to proceed with a piece-by-piece solution. This provision insures that Conrail will not become a permanent burden on the Federal budget.

This amendment is necessary for two important reasons. First, it would expand to 20 months the time for the Secretary to find a way to sell a profitable Conrail as an entity. As presently proposed, the bill would essentially allow the Secretary only 8 months, an amount of time that is not adequate to fully explore all possible approaches for selling an entity as large as Conrail. Second, by providing an adequate amount of time to structure a sale, the amendment would increase the likelihood that Conrail would be sold as an entity instead of in pieces. That, in turn, would provide a greater incentive for all concerned, particularly labor and management, to make the sacrifices that will be necessary for Conrail to become profitable. It would also increase the likelihood that the most beneficial outcome to the Conrail crisis would be realized—namely, a prosperous Conrail rejoining the Northeast economy as a private sector enterprise.

The Heinz-Biden amendment is equitable. It provides a meaningful amount of time to fashion the best possible solution to the rail service needs of the Northeast and Midwest. It does so without adding to the costs of the committee's bill. It does this by providing the extension of time only if Conrail has been

found profitable and does not seek additional funding.

This amendment provides for the bare minimum needed to prevent an untimely demise of Conrail. Other legislative changes should be made, but the time and Senate rules preclude such debate on the reconciliation bill.

Mr. President, before concluding I would like to read from the testimony of Stephen Berger, chairman of the U.S. Railway Association, before the Senate Commerce Committee last week. Mr. Berger testified:

However, the Department of Transportation is recommending a process leading to the dismemberment and sale of Conrail lines. This recommendation is now embodied in the "compromise" bill now being considered by this committee, S. 1100. In my view, the Department's proposal as reflected in S. 1100 is a very high risk option that may lead to less rail service in the Northeast without saving any Federal expenditures. Specifically, S. 1100 would authorize the Secretary of Transportation to dismember Conrail at his own discretion after a brief waiting period, regardless of whether the railroad can become viable. This plan for automatic dismemberment of the Northeast rail system would create the "fire sale" atmosphere with its attendant economic uncertainties for the region that all of us were hoping to avoid. Moreover, there is great doubt that the scenario currently envisioned in S. 1100, namely an inexpensive transfer of the Conrail system to private sector operation, could ever be realized under the plan contained in the bill.

I ask unanimous consent that the entire text of Mr. Berger's testimony be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BIDEN. I share Mr. Berger's concern and concur with his analysis. By enacting the committee's bill, we are predetermining Conrail's fate. Perhaps, many of my concerns will be resolved in conference with the House. Their version of the Conrail legislation is much more acceptable. But in the meantime, I urge my colleagues to support this one amendment.

Mr. President, I conclude by saying, gentlemen and ladies, passage of the Heinz-Biden amendment is necesesary to avoid a fire sale.

EXHIBIT 1

Mr. Chairman and Members of the Committee:

I appreciate the opportunity to appear before you today to discuss options for Conrail. The principal choice facing Congress today is between two major courses of action. One is to make the changes necessary for Conrail to succeed, while preserving maximum flexibility for future action depending on the railroad's performance. The other is to adopt S. 1100, which, as currently drafted, limits the options available for the future by predetermining Conrail's rate and dictating its ultimate dissolution.

Whatever course of action is decided upon will be vitally important to the Nation as a whole and particularly to the Northeast quadrant. The importance of the Northeast to the national economy is amply demonstrated by the fact that the region accounts for more than 45 percent of the personal income of the United States, 50 percent of the manufacturing employment, and 43 percent of the nonmanufacturing employment. At the same time, however, the Northeast's share of these is declining compared to the rest of the country. Indeed, all of us are aware of the problems facing the region.

It is therefore all the more necessary that we keep in mind the importance of Conrail as the Northeast's major rail system. In the Northeast's weakened economic condition, failing to ensure the continued orderly operation of that rail system could have a detrimental effect on large segments of the business community. Shippers would perceive a threat to the basic transportation network, switch from rail to truck, and begin planning the relocation of their plants and facilities to areas considered less prone to economic disruption. Events like this would encourage disinvestment, accelerate the deterioration of the Northeast, and thus undermine the President's efforts to revitalize the economy. Ultimately, new pressures would be created, especially in the South and the West, for enormous capital expenditures for new industry, housing, energy, and transportation. In short, there would be pressure to duplicate the existing economic and social infrastructure of the Northeast at a time when the Nation is facing a severe shortage of capital to rebuild its economic base.

The problem, then, is how best to resolve the Conrail dilemma while minimizing the risk of massive economic dislocation. In seeking a solution to this problem we can be guided by several criteria.

First, it is most important that the initial course of action be one which preserves the most options. Unforseeable and uncontrollable circumstances can render the best of plans useless in short order, but if we do not back ourselves into an economic corner, it will be possible to adjust to cope with future events to our advantage. In essence, the best solution is one that allows the most flexibility.

Second, any appropriate course of action must address the basic problem: Conrail's poor cost to revenue relationship. Whether Conrail is to continue to exist as a single entity or is to be dismembered and sold, it is imperative that its labor costs, including labor protection costs, be reduced; that its operating costs be brought under control; and that the passenger and Northeast Corridor problems be solved.

Third, the rail service needs of the region must continue to be met. If rail service is permitted to rapidly deteriorate or is brought to an abrupt end, detrimental results will be felt throughout the region's business sector.

Fourth, the best solution is one which will cause the least economic and social disruption by reducing uncertainty. In short, economic dislocation can be avoided best by choosing a course of action having a planned, realistic outcome in which the parties with a direct interest may participate.

Fifth, the problem should be solved at the least cost to the taxpayer.

Finally, the overall objective must be to return Conrail to the private sector.

I believe that a program aimed at making Conrail viable has the best chance of achieving these objectives. In its April report, Conrail at the Crossroads: The Future of Rail Service in the Northeast, USRA recommended that Congress provide Conrail enough funds to enable it to achieve very substantial, visible progress throughout a two-year transition period as a condition of not dissolving the railroad. At the same time, and as dictated by predetermined signs of progress or lack thereof, a contingency plan for proceeding to dissolution should be formulated. Since any dissolution strategy would require some preparation and implementation time under any circumstances, this transition approach is both practical and flexible. If Conrail possesses the ability to succeed and pay dividends to the region as a productive, competitive, self-sufficient force in the transportation market, this mechanism, though cautious and austere, gives it a chance to prove it. If Conrail cannot make its own way, the trial period will have better prepared the property and all parties involved for an orderly dissolution process which minimizes Federal and other costs.

In summary, several important steps must be achieved: Conrail must make aggressive use of the new economic flexibility provided by the Staggers Act; it must be relieved of the burdens of passenger service and labor protection; it must reduce its costs; and it must, both through management actions and negotiations with organized labor, attain appropriate employment levels and improve productivity.

Moreover, a program to improve Conrail's cost structure, tighten its management, and achieve necessary labor concessions would be an essential part of the transition even if the railroad were to be sold or dismantled. However, if it were ordained beforehand that Conrail was to be abolished, it would be more difficult to achieve the management-induced improvements and other interim goals that are essential before other railroads would agree to take over major portions of Conrail's lines.

It is particularly encouraging that the Department of Transportation, Conrail, and the ICC also agree that these objectives must be achieved. In addition, I am further encouraged by the recent agreement negotiated by Conrail and organized labor that will result in Conrail's costs being reduced by $229 million annually. The USRA April report incorporated a potential reduction of $225 million in labor expense as a major component in Conrail's ability to achieve a positive income from operations at an early date. Thus, the recent agreement with labor represents a major step toward accomplishing those elements which all parties agree are necessary.

However, the Department of Transportation is recommending a process leading to the dismemberment and sale of Conrail lines. This recommendation is now embodied in the "compromise" bill now being considered by this committee, S. 1100. In my view, the Department's proposal as reflected in S. 1100 is a very high risk option that may lead to less rail service in the Northeast without saving any Federal expenditures. Specifically, S. 1100 would authorize the Secretary of Transportation to dismember Conrail at his own discretion after a brief waiting period, regardless of whether the railroad can become viable. This plan for automatic dismemberment of the Northeast rail system would create the "fire sale" atmosphere with its attendant economic uncertainties for the region that all of us were hoping to avoid. Moreover, there is great doubt that the scenario currently envisioned in S. 1100, namely an inexpensive transfer of the Conrail system to private sector operation, could ever be realized under the plan contained in the bill.

First, the S. 1100 provision for appropriations for interim funding and transfer costs is uncertain. The bill provides an authorization of "such sums as may be necessary" to maintain "essential services during the transfer process." Thus the bill does not specify a level of appropriations, nor does it shed light on what Conrail services the Secretary might deem "essential" and therefore fund. Our April report estimates that Conrail would require $400 to $600 million more in Federal funding to become viable. DOT has estimated that implementation of its fire sale proposal could require more than $600 million in Federal funds.

In my opinion, it could cost more. For example one major requirement of a transfer process would be transition funding. As-

suming that the transition process takes two years to prepare for the then "instantaneous" transfer of Conrail, the Federal costs of those two years should be comparable to continuing to operate Conrail and maintaining its service capacity for two years. While the management of a railroad scheduled for liquidation could severely limit plant and equipment replacement and maintenance, this reduction in capital expenditures might be balanced by traffic diversion as shippers anticipate service cuts. Indeed, given heightened shipper concern about uncertain future service patterns, extensive traffic losses could result, stripping revenue out of the shrinking system faster than costs could be reduced. Moreover, management would have neither the incentive nor the capability to achieve potential cost reductions. In addition, a transfer process would have to address implementation costs and the acquiring railroads' possible need for financial assistance.

Second, as currently drafted, S. 1100 relies heavily on the assumption that potential acquirers will be eagerly waiting in the wings to take over the Conrail system. However, extensive conversations with other railroads that could logically pick up the pieces convince me that none of them is prepared at this time to acquire substantial portions of Conrail's lines and thus its cost problems. I believe that other railroads would require Conrail to make fundamental progress in addressing its cost structure before any significant segments of its lines would be attractive.

This unwillingness to purchase Conrail's lines is not surprising, since the situation was the same in the early 1970s when the major railroads of the Northeast and Midwest, including the Penn Central, were bankrupt. At that time, because no profitable railroads were willing to acquire the bankrupts' lines and their attendant cost problems, the Federal Government had to step in to ensure continued rail service in the Northeast quadrant. Thus, in a sense both then as well as now the rest of the industry is demanding that Conrail's physical plant and human resources be reduced to a level commensurate with its real market potential, and this cannot be done overnight.

In addition, other railroads are heavily preoccupied with consolidating their own organizations as a result of recent and prospective rail mergers and with trying to adjust to the business implications of the Staggers Act reforms.

Perhaps even more significant is the fact that there is little economic necessity for any railroad outside Conrail's service area to take an active interest in acquiring Conrail's lines. An analysis of Conrail's 1979 traffic base reveals that about 70 percent of Conrail's traffic originates and terminates within Conrail's service region and is never interchanged to or from other railroads outside the region. The principal cross-regional interchange is with the Southern region, which accounts for 11 percent of Conrail's traffic. Only 15 percent of Conrail's traffic is interchanged with railroads west of the Mississippi River, and that traffic is widely dispersed: 3 percent moving to or from the Pacific coast states, 5 percent to the Sunbelt west of the Mississippi, and 7 percent to the Rocky Mountain and Northern Plains states.

This distribution of Conrail's traffic suggests the railroads that should be most interested in gaining access to Conrail's traffic base are those presently serving the Conrail region, or the emerging cross-regional carriers that span the Conrail region and the Southern region, such as the CSX or the proposed NWS. As we note in our April report, these carriers would need to acquire relatively small portions of Conrail's physical and human resources to serve the bulk of Conrail's traffic. Assuming even modest acquisitions by those carriers, the bulk of the traffic now interchanged by Conrail with railroads west of the Mississippi could continue to move over the same gateways as it does today, so those railroads would not be compelled to seek Conrail lines to preserve their traffic.

Combining these economic factors with the clear reluctance of other railroads to consider acquiring Conrail lines at this time suggests strongly that, absent other circumstances such as substantial government intervention, committing the government to a transfer process now would produce an end result closer to the "small segments" than to the "major portions" end of the transfer spectrum.

S. 1100 does little to resolve these fundamental problems. If anything, it may exacerbate them, since it puts all parties in interest on notice that Conrail most likely will be dismembered after mid-1983. During the interim period, the railroad can be expected to deteriorate physically, employee attitudes can be expected to worsen, and the best of Conrail's employees—both labor and management—can be expected to seek their fortunes elsewhere.

In sum, I believe that the likely result of this process will be a Conrail which is less likely to look like an attractive acquisition than the Conrail of today. This will put further pressure on the Federal government to step into a permanent financing role as our hopes to return these rail properties to the private sector slip ever further from our grasp.

In dealing with possible approaches to a transfer process, the real issue remains how can the Conrail economic equation—namely, its revenue to cost relationship—be altered. The analyses in our December and April reports conclude that change requires a fundamental alteration of costs. Transfer of small segments of Conrail to neighboring railroads could permit those enterprises to acquire a high proportion of Conrail's revenue base while absorbing relatively small portions of Conrail's physical and human resources, altering the present revenue/cost equation of serving Conrail's traffic. On the other hand, if to obtain Conrail's traffic, acquiring railroads would also have to acquire major portions of Conrail's physical and human resources, it is difficult to understand how much transfer and acquisition would by itself alter the revenue/cost relationship of serving Conrail's traffic. Either the essential changes must be made before other railroads would purchase, or the acquiring railroads must be expected to take the same steps we believe are essential and achievable by Conrail itself.

Therefore, I urge that legislation be adopted which undertakes to solve the economic problems of freight service in the Conrail region rather than to merely reorganize them. I am not persuaded that the economic ills attendant to current patterns of rail operations and service in this region will be ameliorated by merely changing Conrail's name.

Legislation designed to meet the criteria I mentioned previously would have as its main feature an "incentive" provision for Conrail.

Specifically, Congress should provide Conrail with sufficient funds to enable it to implement, over a two-year transition period, a program designed to result in financial viability. Unlike S. 1100, however, if profitability were achieved, then the railroad would not be automatically dismembered.

Accomplishing this objective will require, of course, cooperation of labor, shippers, other railroads, and government at all levels. But we believe that without such cooperation the railroad has little future in its present form or as a transfer candidate. For this reason, we recommend that all of these parties continue to participate in the process of deciding Conrail's future.

A control board, similar to that proposed in the Lent-Lee bill in the House—with advisory assistance from a group reflecting various private sector interests, would maximize the potential for such cooperation. If, during this time frame, it became apparent that Conrail was not making substantial progress toward financial viability, this group could make such a determination based on an objective test of profitability. If, however, Conrail did make substantial progress, at the end of the period it could be a more attractive acquisition candidate or, if it were deemed appropriate, the Federal government could dispose of its stock position in the railroad through the normal offering process.

Of course, there are no low risk, low cost answers to the problems of providing an adequate and effective private sector rail system for the Northeast and Midwest regions. The one common thread of all the studies undertaken pursuant to the Staggers Act is that there is not any "no further Federal funding" solution to the rail service problems of the Conrail region. However, I continue to believe that achieving a viable Conrail ought to be attempted because, if that goal is accomplished, it will be at less cost and produce more benefits than any other option. It will be the least disruptive of solutions and provide the most service. A viable Conrail will contribute to the general economic revitalization of the country, something which is of enormous concern to all. But while interim funding is made available, Conrail must be required to achieve definite performance objectives throughout a two-year period. And specific plans should be developed for future action in the event Conrail is not successful in attaining those performance goals.

Most importantly, as USRA's April recommendations make clear, the end result of the process must be a Conrail fully restored to the private sector, either through having achieved viability and having been recapitalized with its ownership then being shifted from the government to private hands, or, if viability is not achieved, through transfer of its lines to other railroads.

Mr. DOMENICI. Mr. President, I yield control of the time in opposition to the distinguished Senator from Oregon.

Mr. PACKWOOD. Mr. President, I will take 1 minute and yield time, if I can, to the Budget Committee members and others who are opposed to it.

One, the test of profitability on this bill is the Interstate Commerce Commission test: Does the railroad meet its daily operating schedule? That is the normal test of profitability.

Second, the House already has an August 1, 1984, date.

Third, every year that the Federal Government keeps this railroad is a hemorrhage for us. We have no idea what it is going to cost.

Fourth, if you want to get this monkey off your back and hope you can sell it, you do not want to postpone it any further than we have postponed it in this bill. The budgetary impact is unknown but significant because we do not know how much it is going to lose if we keep it any longer than we now keep it in this bill.

I yield 1 minute to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, I think the Senator has made a telling argument, and I hope everyone understands it.

What Senator HEINZ is saying is that we want to delay the sale of Conrail

and see if the Secretary can make a determination that the railroad is profitable. But Senator HEINZ has not seen fit to change the definition of profitability. Profitability is still defined in the old organic law and it is not profitability at all.

It does not take into consideration maintenance or capital needs. It is just day-to-day operations.

So what you will have is a delay in the sale based upon actual losses and you will still call Conrail profitable.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. PACKWOOD. Mr. President, I yield an additional 30 seconds.

Mr. DOMENICI. In addition, the reason we adopted the $400 million amendment to add money was to make sure we had enough to properly sell this railroad and buy out the labor contracts. We are going to do that, and it is precisely what is needed to make the sale and make it effective.

Now we will have put labor protection funds in and also go along with a delay while we measure profitability, making the last $400 million for labor protection a lead pipe giveaway.

The PRESIDING OFFICER (Mr. STEVENS). The Senator's time has expired.

Mr. PACKWOOD. Mr. President, I yield 1 minute to the Senator from North Dakota.

Mr. ANDREWS. Mr. President, this money that is going to be taken will be money taken from highway projects, will be money taken from the control towers and airports, will be money that is going to be taken from a host of other transportation facilities that you have come to the Transportation Subcommittee and asked for.

I do not see how you can justify maintaining all of these branch lines and this railroad, too, when railroads all over the rest of America are shutting down branch lines trying to economize.

The package put together by the committee is one that ought to be held up in the Senate.

Mr. KENNEDY. Mr. President, I am pleased to cosponsor the Heinz amendment which extends from August 1983 to August 1984 the period of time during which Conrail must be sold as an entity.

I regret that the Commerce Committee included Conrail legislation in the reconciliation bill. The issues are too complex and the interests at stake too important to justify resolving them in this fashion.

It is obvious the legislation as reported was inadequate. It provided only $1 million for operating subsidies and $1 million for labor protection. The committee has recognized this and Senator PACKWOOD has now offered an amendment which makes some very important changes.

It adds $150 million for freight operating subsidies, $400 million for labor protection and removes a number of onerous and unacceptable provisions concerning collective bargaining rights of Conrail commuter line employees.

And I was pleased to support that amendment.

The steps it takes are helpful but they simply do not go far enough. All of us recognize that Conrail cannot continue to operate with Federal funds indefinitely. But instead of providing Conrail with one last chance, as its supporters claim, this legislation almost assures the ultimate dismantling of Conrail piece by piece with an attendant reduction in service in many areas.

That is why the Heinz amendment is so important. It provides essential additional time to assure that when Conrail is sold, it will remain intact.

The bill presently provides that the Secretary of Transportation is authorized to sell Conrail in pieces after a brief 8-month waiting period even if it becomes profitable.

The 8 months between December 1982 and August 1983 is simply not enough time to structure a sale of the entire Conrail system.

Private carriers are not going to be prepared to purchase Conrail by August of 1983. And we will face a breakup of the system—leaving shippers and consumers on branch lines holding the bag.

Steven Berger, chairman of USRA, testified before the Commerce Committee last week that the present bill creates a fire sale atmosphere that will cause great economic uncertainty in the Northeast, and that our goal of an orderly transfer of Conrail to the private sector will not be realized.

This amendment provides essential additional time to prevent Conrail's demise by extending for 1 year—until August of 1984—the period during which the Secretary cannot sell Conrail off piece by piece.

Speaking for my own State of Massachusetts, I am convinced there will be an economic disaster if the demise of Conrail is permitted.

Some 80 industries have located or expanded their facilities on Conrail in Massachusetts over the past 5 years with an investment of some $50 million and the creation of 6,200 new jobs. They and the existing industries and communities depend on Conrail for service.

The problems facing Conrail are complex and difficult. But it will never be possible—either to produce a self-sustaining railroad or to achieve any planned transition to private lines—if we adopt the proposal which has been offered by the Commerce Committee in its present form. The shippers, the commuters, and the consumers who depend on Conrail deserve better.

This amendment will at least give us a chance of success.

(By request of Mr. PACKWOOD, the following statement was ordered to be printed in the RECORD.)

● Mr. CANNON. Mr. President, today the Senate is considering a budget reconciliation package providing important funding for Amtrak. For each of the fiscal years 1982 and 1983, Amtrak would be authorized to receive $735 million. With respect to fiscal year 1984, $640 million is provided, which the committee will be reevaluating at a later date. I strongly urge the support of my colleagues for this necessary and appropriate funding level.

Amtrak has stated that with this funding it would be able to operate a national rail passenger system similar to that currently in existence: Previous funding proposals had raised questions as to the viability of any service outside the Northeast corridor. We must remain committed to maintaining a national transportation network. This figure of $735 million would insure a rail passenger system which is an integral part of this network and which serves the transportation needs of all parts of the country.

It is important to note that this figure of $735 million assumes cost reductions which Amtrak has already begun to put into effect. Recently, for example, Amtrak announced a reduction in its headquarters personnel by 25 percent. Thus, at this funding level, we would be encouraging a reduction in Federal spending while at the same time fulfilling our responsibility to the maintenance of a national transportation system. I hope for the full Senate's support of this sound funding level.●

Mr. PACKWOOD. Mr. President, I am prepared to vote.

The PRESIDING OFFICER. Is all time yielded back?

Mr. PACKWOOD. I yield back my time. Is the other time yielded back?

Mr. HEINZ. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Pennsylvania. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Maine (Mr. COHEN) and the Senator from Utah (Mr. HATCH) are necessarily absent.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from California (Mr. CRANSTON), the Senator from Arizona (Mr. DECONCINI), and the Senator from Ohio (Mr. METZENBAUM) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 34, nays 60, as follows:

[Rollcall Vote No. 181 Leg.]

YEAS—34

Biden	Heflin	Randolph
Bradley	Heinz	Riegle
Burdick	Huddleston	Roth
Byrd, Robert C.	Jackson	Sarbanes
D'Amato	Jepsen	Sasser
Denton	Kennedy	Specter
Dixon	Leahy	Stafford
Dodd	Levin	Tsongas
Exon	Lugar	Weicker
Ford	Mathias	Williams
Glenn	Moynihan	
Hart	Percy	

NAYS—60

Abdnor	Chafee	Gorton
Andrews	Chiles	Grassley
Armstrong	Cochran	Hatfield
Baker	Danforth	Hawkins
Baucus	Dole	Hayakawa
Bentsen	Domenici	Helms
Boren	Durenberger	Hollings
Boschwitz	Eagleton	Humphrey
Bumpers	East	Inouye
Byrd, Harry F., Jr.	Garn	Johnston
	Goldwater	Kassebaum

Kasten	Nunn	Stennis
Laxalt	Packwood	Stevens
Long	Pell	Symms
Matsunaga	Pressler	Thurmond
Mattingly	Proxmire	Tower
McClure	Pryor	Wallop
Melcher	Quayle	Warner
Mitchell	Rudman	Zorinsky
Murkowski	Schmitt	
Nickles	Simpson	

NOT VOTING—6

Cannon	Cranston	Hatch
Cohen	DeConcini	Metzenbaum

So Mr. HEINZ' amendment (UP No. 211) was rejected.

Mr. PACKWOOD. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who seeks recognition?

Mr. DOMENICI. Mr. President, it is our understanding that Senator DOLE has an amendment. Does he need some additional time?

Mr. DOLE. I suggest the Senator go ahead.

Mr. DOMENICI. Mr. President, I yield to the Senator from New York.

UP AMENDMENT NO. 212

Mr. D'AMATO. Mr. President, I have an amendment which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. D'AMATO), for himself, Mr. GORTON, Mr. MATHIAS, and Mr. MOYNIHAN, Mr. WARNER, Mr. SARBANES, and Mr. MURKOWSKI proposes an unprinted amendment numbered 212.

Mr. D'AMATO. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In Title XI of S. 1377 insert after Section 1101–4 a new Section 1101–5.

SEC. 1101–5. (a) The Secretary of Health and Human Services may, without regard to section 3648 and 3709 of the Revised Statutes (31 U.S.C. 529, 41 U.S.C. 5), enter into contracts with public or private entities to conduct feasibility studies as to the acquisition and continued operation by non-Federal entities of hospitals and clinics currently part of the Public Health Service. Any such contract shall provide for a report not later than September 15, 1981, to the Secretary on the feasibility of such acquisition and continued operation. The authority of the Secretary to enter into contracts under this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

(b) If the Secretary of Health and Human Services determines, based on a feasibility study conducted under subsection (a), that the acquisition and continued operation of a Public Health Service hospital or clinic by a non-Federal entity is financially viable, the Secretary shall take such steps, within the amounts available through appropriations, as may be necessary and proper—

(1) to operate (or participate or assist in the operation of) the hospital or clinic by the Public Health Service until the acquisition is accomplished,

(2) to bring the hospital or clinic into compliance with applicable licensure, accreditation, and local medical practice standards, and

(3) to provide for such other legal, administrative, personnel, and financial arrangements (including allowing payments made with respect to services provided by the hospital or clinic to be made directly to that hospital or clinic) as may be necessary to effect a timely and orderly transfer of such hospital or clinic (including the land, building, and equipment thereof) from the Public Health Service not later than March 31, 1982.

Mr. D'AMATO. Mr. President, I understand this amendment will be accepted by both sides. It has no financial implication but merely extends to the Secretary of Health and Human Services the ability for 6 months to conduct a survey with regard to these Public Health Service hospitals in terms of the feasibility of working out an orderly transfer of these hospitals to the private sector. There are absolutely no financial implications whatsoever. Mr. President, this amendment will allow for that orderly transfer to be conducted.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, the Senator is correct. We have no objection. The amendment has no budgetary impact. It does precisely what the Senator says. That is its intention. We do not oppose it.

The PRESIDING OFFICER. Does any Senator seek recognition in opposition to the amendment.

Mr. HOLLINGS. Mr. President, the distinguished senior Senator from New York has an interest in this amendment. We have checked with him and I think it is safe to say he accepts it.

Mr. MOYNIHAN. Mr. President, I am pleased to associate myself with my colleague in sponsoring this amendment.

The PRESIDING OFFICER. Is all time yielded back?

Mr. DOMENICI. I yield back my time.

Mr. HOLLINGS. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 212) was agreed to.

Mr. DOMENICI. I move to reconsider the vote by which the amendment was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 213

The PRESIDING OFFICER. Who seeks recognition?

Mr. DOMENICI. Mr. President, I send to the desk a technical amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI) proposes an unprinted amendment numbered 213:

Beginning on page 38, line 37, strike everything through page 41, line 4.

Mr. DOMENICI. Mr. President, this amendment deletes matter that was not to be included in the legislative language submitted by the Armed Services Committee to the Budget Committee.

The inclusion of this language was a printing error on the part of the Government Printing Office and this amendment seeks to correct that error.

This deletion does not in any way affect the savings that were achieved by the Armed Services Committee in response to the reconciliation instructions.

I believe the distinguished minority manager agrees.

Mr. HOLLINGS. I agree, Mr. President.

I accept that amendment.

The PRESIDING OFFICER. Is all time yielded back?

Mr. DOMENICI. I yield back my time.

Mr. HOLLINGS. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 214

The PRESIDING OFFICER. Does any Senator seek recognition?

Mr. DOMENICI. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI) proposes an unprinted amendment numbered 214:

On page 189, line 22, after the word "ending" insert "September 30, 1981,".

Mr. DOMENICI. Mr. President, this amendment is necessary to achieve the savings required by the Environment and Public Works Committee. It is made necessary by the leadership amendment which revised a portion of that committee's section. It seeks to conform with the action taken last night. I think the Senator from South Carolina agrees.

Mr. HEFLIN. Mr. President, I object to it.

Mr. HOLLINGS. There is objection. Let us hold it up.

The PRESIDING OFFICER. Does the Senator wish to be heard?

Mr. HEFLIN. Yes.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. Let him handle the time.

The PRESIDING OFFICER. The Senator is recognized.

Mr. HEFLIN. Mr. President, this has been handled and it has been discussed with a good number of people. This involves now a private approach by which private industry is coming in and is handling——

Mr. President, I have a voice problem.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

Mr. HEFLIN. I should like to talk to the Senator for a moment.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the pending amendment be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Idaho is recognized.

UP AMENDMENT NO. 215

Mr. McCLURE. Mr. President, I have an amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes an unprinted amendment numbered 215.

Mr. McCLURE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 170 strike lines 25 through 34 and insert in lieu thereof,

"(A) Forest Management, Protection, and utilization programs pursuant to Public Law 95-313, Public Law 95-495, Public Law 96-487, Public Law 96-514, the Act of June 12, 1960, relating to multiple use of National Forests (Public Law 86-517), the Public Rangelands Improvement Act of 1978 (Public Law 95-514), Public Law 90-583 (43 U.S.C. 1241-1243), Public Law 95-224 (41 U.S.C. 506), Public Law 93-378 (16 U.S.C. 1601-1614), Public Law 95-307 (16 U.S.C. 1641-1647) Public Law 95-313 (16 U.S.C. 2101-2109), section 31 of the Act of July 22, 1937, relating to the Farmers Home Corporation (7 U.S.C. 1010-1012), section 603(a) of the Act of August 30, 1972, (Public Law 92-419, 7 U.S.C. 2201), section 703 of the Act of September 21, 1944, relating to agricultural conservation (7 U.S.C. 2250), the Act of July 23, 1955, relating to multiple use (30 U.S.C. 611-614), the Act of July 31, 1947, relating to disposal of materials on public lands (30 U.S.C. 601-604), the Act of March 3, 1905, relating to supplemental appropriations (33 Stat. 1257; 31 U.S.C.), the Act of May 23, 1908, relating to appropriations for the Department of Agriculture (35 Stat. 259; 31 U.S.C. 534), the Act of June 24, 1954, relating to certain public lands in Oregon (68 Stat. 271; 43 U.S.C. 1181(h)-1181(j)), and Reorganization Plan Numbered 2 or 1953 (67 Stat. 6 * * * and". of the Revised Statutes; and".

Beginning on page 170, line 39, striking everything through page 171, line 17, and insert in lieu thereof,

"(F) Forest Service permanent appropriations pursuant to section 14(i) of Public Law 94-588 (16 U.S.C. 472a(i)), section 7 of the Act of June 20, 1958, relating to the work of the Forest Service (16 U.S.C. 579c), the Act of March 4, 1913, relating to appropriations for the Department of Agriculture (16 U.S.C. 501), the Act of August 11, 1916, relating to appropriations for the Department of Agriculture (16 U.S.C. 490), section 711 of title 18, United States Code, section 3 of the Act of May 23, 1952, relating to Smokey Bear (31 U.S.C. 488a), sections 1 through 4 (6)), and Public Law 96-487; and ".

On page 178, line 8, strike "535-11" and insert in lieu thereof, "534-21".

On page 18, line 14, strike "568" and insert in lieu thereof, "168".

On page 13 strike lines 23 and 24 and on line 25 strike "(2)", and insert before the period on line 26, ": *Provided*, That such amount shall be in addition to the amount authorized by section 519 of this Act".

On page 172, line 4, before the period insert, ": *Provided*, That such amount shall be in addition to the amount authorized by section 142 of this Act".

On page 173, section 533 (b), as amended, shall be further amended by adding at the end thereof before the period, ": *Provided*, That such amount shall be increased to include the amount authorized by section 142 of this Act".

Mr. McCLURE. Mr. President, this amendment corrects a printing error in the energy title of the bill.

The Energy Committee's submission was incorrectly printed by the Government Printing Office. The amendment simply places the pending bill in conformance with the language which was submitted to the Budget Committee.

It also clarifies an unintentionally vague reference in the Energy title of the bill by specifying the underlying law which is being affected.

Mr. President, the Energy Committee and the Agriculture Committee separately amended the same provision of law in the Energy Security Act authorizing the alcohol fuels programs in the Department of Energy and the Department of Agriculture. This technical amendment cross-references the two provisions in this bill to rationalize the two provisions without changing the budget result. The amendment accomplishes that objective, while preserving the respective jurisdictions of the two committees and their active role in the decisions in conference on the alcohol fuels program.

Mr. President, I know of no opposition to the amendment.

Mr. HOLLINGS. Mr. President, we approve of the amendment. I yield back our time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 215) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The amendment of the Senator from New Mexico is before the Senate.

Mr. BAKER. Mr. President, I ask unanimous consent that the amendment of the Senator from New Mexico be set aside temporarily once more, so that the Chair may recognize any other Senator who has an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Does any Senator seek recognition?

The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, is there 5 minutes on a side.

The PRESIDING OFFICER. Five minutes on a side, on each amendment.

UP AMENDMENT NO. 216

(Purpose: To provide for coordination of benefits between medicare and the Federal Employees Health Benefits Act, to modify the medicaid cap)

Mr. DOLE. Mr. President, the Senator from Kansas has an amendment that is pending. I believe that if I could have a little time to discuss it, we could work out a resolution of it which would avoid any votes and which might even avoid my having to vote on anything.

The PRESIDING OFFICER. Does the Senator seek time on the bill?

Mr. DOLE. Wherever I can get it.

The PRESIDING OFFICER. What does the Senator request?

Mr. DOLE. I will take time on the bill.

Mr. BAKER. There is no time on the bill. If the Senator requires more than the 5 minutes which would be allocated, I am willing to consider allocating part of the remaining 5 minutes; but I would be reluctant at this hour—it is 11:25—to provide for additional time.

Mr. DOLE. I do not want to take a lot of time, but we can save time if we do not have a rollcall vote.

Mr. BAKER. I will be happy to suggest the absence of a quorum, if the Senator is not ready to proceed at this time.

Mr. DOLE. Let me proceed for 3 minutes.

The PRESIDING OFFICER. Will the Senator send his amendment to the desk?

Mr. DOLE. The amendment is at the desk.

The PRESIDING OFFICER. The Chair is informed that the Senator's staff member retrieved the amendment.

Mr. DOLE. We will get another one. I will talk about the amendment. As soon as we find it, we will send it to the desk.

The PRESIDING OFFICER. Without objection, the Senator may proceed.

Mr. DOLE. The amendment is now at the desk.

The PRESIDING OFFICER. Time will be charged against the amendment when it is submitted.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment numbered 216.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 216, beginning with line 1, strike out all through page 223, line 35, and insert in lieu thereof the following:

COORDINATION OF BENEFITS BETWEEN FEDERAL HEALTH PLAN AND MEDICARE

SEC. 720I.(a)(1) Section 8909 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(f)(1) At the end of each fiscal year, the Office shall pay from the Fund to the Federal Hospital Insurance Trust Fund or the Federal Supplementary Medical Insurance Trust Fund (as may be appropriate) the amount determined under paragraph (2) for the fiscal year.

"(2) The amount determined under this paragraph shall be the amount (agreed to by the Director of the Office and the Secretary of Health and Human Services) which equals, as nearly as practicable, the amount that has been paid during the fiscal year to provide items or services under title XVIII of the Social Security Act for all individuals enrolled in or covered by a health benefits plan under this chapter, to the extent such items and services would have been proven or paid for by such plan had such individuals not been entitled to benefits under such title XVIII, plus interest on such amount for the period beginning on the

date that payment for such items and services was made from the Federal Hospital Insurance Trust Fund and ending on the date that payment is made under paragraph (1) with respect to those items and services, at a rate equal to the average of the rates of interest, for each of the months any part of which is included in such period, on obligations issued for purchase by the Federal Hospital Insurance Trust Fund.".

(2)(A) Subsection (a) of section 8909 of such title is amended—

(i) by striking out "and" at the end of paragraph (1),

(ii) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and ". and

(iii) by adding at the end thereof the following new paragraph:

"(3) without fiscal year limitation for payments under subsection (f).".

(B) Subsection (b) of section 8909 of such title is amended by adding after paragraph (2) the following new paragraph:

"(3) A percentage determined by the Office to be reasonably necessary to provide a reserve for payments under subsection (f).".

(b) Part C of the Social Security Act is amended by adding at the end thereof the following new section:

"COORDINATION OF MEDICARE BENEFITS AGAINST OTHER HEALTH BENEFIT PLANS

"SEC. 1834. Benefits payable under this title shall be coordinated with benefits payable under chapter 89, United States Code (the Federal Employees Health Benefits Act), and amounts paid under section 8909(f) of such title shall be deposited into the Federal Hospital Insurance Trust Funds, and the Federal Supplementary Medical Insurance Trust Fund (as may be appropriate). Such payments are intended to put such Trust Funds in the same position they would be in if payment under this title were secondary to payments under chapter 89 of title 5, United States Code.".

(c) The amendments made by this section shall take effect on January 1, 1982, except that the transfer payment made under section 8909(f) of title 5, United States Code (as added by this section), for the fiscal year ending September 30, 1982, shall apply only with respect to items or services furnished after December 31, 1981.

PART C—MEDICAID

CAP ON FEDERAL MEDICAID EXPENDITURES

SEC. 721. (a) Section 1903 of the Social Security Act (as amended by section 719 of this Act) is further amended by adding at the end thereof the following new subsection:

"(t)(1) Notwithstanding any other provision of this section (except as otherwise provided in paragraph (3)), payments to which a State would otherwise be entitled under this title for expenditures incurred in fiscal year 1982, other than—

"(A) payments under subsection (a)(3), (a)(6), or (a)(7);

"(B) interest paid under subsection (d)(5); and

"(C) payments with respect to services received through a facility of the Indian Health Service, shall be reduced by 2 percent.

"(2)(A) Notwithstanding any other provision of this section (except as otherwise provided in paragraph (3)), payments under this title to any State for fiscal year 1983 or any fiscal year thereafter, other than payments described in subparagraphs (A) through (C) of paragraph (1) and payments for claims relating to expenditures made during fiscal year 1981 or 1982, shall not exceed the amount of such State's cap for such fiscal year, as determined in accordance with this subsection, subject to any adjustments made pursuant to paragraph (4).

"(B) The amount of a State's cap for fiscal year 1983 shall be an amount equal to the estimate (based upon the last such estimate for such State received by the Secretary before April 1, 1981) of the Federal share of expenditures under this title (other than payments described in subparagraphs (A) through (C) of paragraph (1) and claims relating to expenditures made during fiscal year 1980 or 1981) in fiscal year 1982 for such State, increased or decreased (as the case may be) by a percentage equal to the Gross National Product implicit Price Deflator for fiscal year 1983 published by the Department of Commerce, as set forth in the President's proposed budget for fiscal year 1983.

"(C) The amount of a State's cap for fiscal year 1984 and each fiscal year thereafter shall be an amount equal to the cap determined under this paragraph for such State for the preceding fiscal year, increased or decreased (as the case may be) by a percentage equal to the Gross National Product Implicit Price Deflator for such fiscal year (for which the cap is being determined) published by the Department of Commerce, as set forth in the President's proposed budget for such fiscal year.

"(3) For fiscal year 1982 and any fiscal year thereafter, payments under this title to Puerto Rico, the Virgin Islands, and Guam, other than payments described in subparagraphs (A) through (C) of paragraph (1) and payments for claims relating to expenditures made during fiscal year 1980 or 1981, shall not exceed—

"(A) $45,000,000 in any fiscal year in the case of Puerto Rico;

"(B) $1,000,000 in any fiscal year in the case of the Virgin Islands; and

"(C) $900,000 in any fiscal year in the case of Guam.

"(4)(A)(i) There is established the Medical Assistance Commission (hereafter in this subsection referred to as the 'Commission') which shall consist of eight members. Two members shall be appointed by the President, two members shall be appointed by the Speaker of the House of Representatives, two members shall be appointed by the President Pro Tempore of the Senate, and two members shall be appointed by the President from among a group of at least six nominees submitted to the President by the National Governors' Association and determined by the President to be knowledgeable with respect to the program established under this title. Members shall be appointed without regard to the provisions of title 5 United States Code, governing appointments in the competitive service. The President shall designate one member as the Chairman of the Commission.

"(ii) Members of the Commission shall be appointed as soon as possible after the date of the enactment of this subsection and shall serve until the termination of the Commission. Vacancies occurring on the Commission shall be filled in the same manner as original appointments. The Commission shall terminate at the end of the twenty-fourth month following the month in which the Commission holds its first regular meeting. The Commission shall report to the Congress not less often than quarterly.

"(iii) Each member of the Commission shall be entitled to per diem compensation at rates fixed by the President, but not more than the current per diem equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day (including traveltime) during which the member is engaged in the actual performance of duties vested in the Commission, and all members of the Commission shall be allowed, while away from their homes or regular places of business in the performance if service for the Commission, travel expenses (including per diem in lieu of subsistence) in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

"(B)(i) The Commission shall investigate, evaluate, and submit recommendations to the President and to the Congress with respect to the validity and equity of any adjustments to the amount of Federal matching for all States or any particular State which ought to be made under paragraph (2) for fiscal year 1983 and each fiscal year thereafter (including the methodology for calculating and implementing such adjustments) to reflect economic and demographic factors affecting such State which are out of the ordinary sphere of control of such State, including but not limited to consideration of—

"(I) population growth or decline;

"(II) changes in the composition of a State's population (such as unemployment and age);

"(III) comparative differences in eligibility, benefit levels, and reimbursement levels; and

"(IV) changes in wage, price, and taxable base levels.

"(ii) The Commission shall formally submit to the President and to the Congress proposals for any such adjustments which it determines should apply to any State for any fiscal year, prior to the April 1 preceding such fiscal year. Any such proposed adjustment shall become effective unless such proposal is formally disapproved by the President within 60 days after it is submitted.

"(iii) The Commission may also submit recommendations to the Congress for legislative changes in the Federal Medical Assistance Percentage.

"(C)(i) The Secretary shall provide such technical, secretarial, clerical, and other assistance as the Commission may require.

"(ii) The Commission may secure directly from any department or agency of the United States such data and information as may be necessary to enable it to carry out its duties under this subsection. Upon request of the Chairman of the Commission, any such department or agency shall furnish any such data or information to the Commission.

"(D) There are authorized to be appropriated such sums as may be necessary to carry out this paragraph.".

(b) Section 1108(c) of such Act is repealed.

(c) The amendments made by this section shall become effective on October 1, 1981.

COST-EFFECTIVE ARRANGEMENTS

SEC. 722. (a) Section 1902(a)(23) of the Social Security Act is amended to read as follows:

"(23) provide that limitations or restrictions elected by a State with respect to choice by recipients of medical assistance provided for by the State—

"(A) must be cost-effective arrangements which provide for reasonable payment based upon comparison of costs at which services of proper quality may be obtained and are actually available (and for this purpose the plan may provide that such arrangements need not be in effect in all political subdivisions of the State notwithstanding the provisions of paragraph (1)); and

"(B) must assure that such recipients shall have reasonable access to services (taking into account geographic location and reasonable traveltime) for which they are eligible (including emergency services and provisions for timely referral and transfer to other providers when medically appropriate) through providers which meet all applicable standards under the State plan and whose services are available to such recipients;".

(b) Section 1903(m) of such Act is repealed.

(c) Section 1902 of such Act is amended by adding at the end thereof the following new subsection:

"(k) The Secretary may waive any requirements of this title with respect to provision of or payment for medical care in

order to permit the State agency to share, by means of providing additional services, with any recipient of medical assistance under the State plan, any cost savings which may result from use by such recipient of medical care which is more cost-effective than medical care generally provided or paid for under such plan. A waiver shall not be provided under this subsection unless the State provides assurances satisfactory to the Secretary that the granting of such waiver would not be inconsistent with the purposes of this title.".

(d) The amendments and repeal made by this section shall become effective on the date of the enactment of this Act.

REIMBURSEMENT OF HOSPITALS AND PHYSICIANS

SEC. 723. (a)(1) Section 1902(a)(13) of the Social Security Act is amended—

(A) by striking out subparagraph (D) thereof; and

(B) by redesignating subparagraphs (E) and (F) as subparagraphs (D) and (E), respectively.

(2) Section 1902(a)(20) of such Act is amended—

(A) by inserting "and" at the end of subparagraph (B);

(B) by striking out "and" at the end of subparagraph (C); and

(C) by striking out subparagraph (D).

(b) Section 1903(i)(1) of such Act is amended to read as follows:

"(1) with respect to any amount paid for physician services, or for medical services, supplies, and equipment (including equipment servicing) which in the judgment of the Secretary do not vary significantly in quality among suppliers, to the extent that the aggregate of such amounts for any fiscal year exceeds the aggregate which would be paid for such fiscal years for such items and services on the basis of reasonable charges determined under section 1842;".

(c) Section 1902(h)(1) of such Act is amended—

(1) by striking out "shall continue to be made under the State plan approved under this title at the payment rate described in paragraph (2)" and inserting in lieu thereof "may continue to be made under the State plan but at a rate of payment not to exceed the rate described in paragraph (2)"; and

(2) by striking out "such payment shall be made" and inserting in lieu thereof "such payment may be made".

(d) The amendments made by this section shall become effective on the date of the enactment of this Act.

SERVICES FOR THE MEDICALLY NEEDY

SEC. 724. (a) Section 1902(a)(10) of the Social Security Act is amended—

(1) by adding "and" at the end of subparagraph (A);

(2) by striking out "and" at the end of subparagraph (B);

(3) by amending subparagraph (C) to read as follows:

"(C) that if medical assistance is included for any group of individuals described in section 1905(a), other than individuals described in subparagraph (A), then the plan shall include a description with respect to each such group of the criteria for determining eligibility for, and the extent of, such medical assistance;"; and

(4) in the matter following subparagraph (C), by inserting "and" before "(II)" and by striking out ", and (III)" and all that follows and inserting in lieu thereof a semicolon.

(b) Section 1902(a)(13) of such Act (as amended by section 723 of this Act) is further amended—

(1) in subparagraph (A), by striking out clause (i), striking out "(ii)", and striking out "and" at the end thereof;

(2) by striking out subparagraph (C); and

(3) by redesignating subparagraphs (D) and (E) (as so redesignated by section 723 of this Act) as subparagraphs (C) and (D), respectively.

(c) The amendments made by this section shall become effective on the date of the enactment of this Act.

OPTIONAL COVERAGE FOR STUDENTS RECEIVING AFDC

SEC. 725. (a) Section 1902(b)(2) of the Social Security Act is amended to read as follows:

"(2) any age requirement which excludes any individual who has not attained the age of 19 and is a dependent child under part A of title IV;".

(b)(1) Section 1905(a)(i) of such Act is amended to read as follows:

"(i) under the age of 21, or, at the option of the State, under the age of 20, 19, or 18, as the State may choose, or any reasonable category of such individuals,".

(2) Section 1905(a)(ii) of such Act is amended by striking out ", except for section 406(a)(2),".

(c) The amendments made by this section shall become effective on the date of the enactment of this Act.

TIME LIMITATION FOR WAIVER REQUESTS

SEC. 726. (a) Section 1902 of the Social Security Act (as amended by section 722 of this Act) is further amended by adding at the end thereof the following new subsection:

"(i) Within 90 days after receiving from a State a proposed State plan or plan amendment, or a request for a waiver of a requirement of this title submitted by such State pursuant to a provision of this title, the Secretary shall approve or disapprove the proposed plan or amendment or waiver request, or shall inform the State agency in writing with respect to any additional information which may be necessary in order to make a final determination with respect to the proposal or request. Within 90 days after receiving such additional information, the Secretary shall either approve or disapprove the proposed plan or amendment or waiver request.".

(b) The amendment made by this section shall become effective 90 days after the date of the enactment of this Act.

PNEUMOCOCCAL VACCINE

SEC. 727. (a) Section 1903(a) of the Social Security Act is amended—

(1) by striking out "plus" at the end of paragraphs (1), (2), (3), (4), and (6);

(2) by redesignating paragraph (7) as paragraph (8); and

(3) by inserting after paragraph (6) the following new paragraph:

"(7) an amount equal to 100 percent of the reasonable costs incurred (not to exceed $10 per vaccination) in such quarter in administering pneumococcal vaccine (including the cost of the vaccine) to any individual aged 65 or older who is eligible under the plan or who is receiving supplemental security income benefits under title XVI, by any physician or other provider who participates in the State plan, or by a State or local health department in such State; and".

(b) Section 1903(r) of such Act is amended by striking out "paragraphs (2) and (7) of subsection (a)" each place it appears in paragraphs (1)(A), (1)(C), (2)(A), and (2)(C) and inserting in lieu thereof in each instance "paragraphs (2) and (8) of subsection (a)".

(c) The amendments made by subsections (a) and (b) shall become effective with respect to vaccinations administered on or after the date of the enactment of this Act.

(d)(1) The Secretary of Health and Human Services shall, as soon as possible after the date of the enactment of this Act, issue a pneumococcal vaccine voucher to each individual aged 65 or older who is an eligible individual or eligible spouse for purposes of title XVI of the Social Security Act (other than an individual whose benefits are reduced by reason of section 1611(e)(1)(B)), and who resides in a State which has a State plan for medical assistance approved under title XIX of the Social Security Act.

(2) The value of a voucher issued under paragraph (1), and submitted for payment in accordance with paragraph (3), shall be the allowable charge by, or cost to, a physician or other provider (as determined under the State plan) in administering pneumococcal vaccine (including the cost of the vaccine) to the individual to whom such voucher was issued, but not to exceed $10.

(3) Such voucher shall be accepted as payment for the administration of pneumococcal vaccine by any physician or other provider who participates in a State plan approved under title XIX of the Social Security Act, or by a State or local health department in a State having such a plan, and shall be submitted by such physician or provider to the State for reimbursement in accordance with the requirements of such State plan.

(4) Any voucher issued under this section and paid by the State under such State plan shall be considered an expense incurred by such State under such State plan for purposes of section 1903 of the Social Security Act, and payment shall be made for such vouchers under section 1903(a)(7) of such Act.

NONMEDICAL SERVICES FOR CERTAIN INDIVIDUALS

SEC. 728. (a) Section 1902(k) of the Social Security Act (as added by section 722 of this Act) is amended—

(1) by inserting "(1)" after "(k)";

(2) by striking out "this subsection" and inserting in lieu thereof "this paragraph"; and

(3) by adding at the end thereof the following new paragraph:

"(2) The Secretary may by waiver provide that a State plan approved under this part may include as 'medical assistance' under such plan personal care services and any other services (other than room and board) approved by the Secretary which are provided pursuant to a plan of care to an individual who, but for such services, may require institutionalization in a medical institution in which the cost of his care could be reimbursed under the State plan. A waiver shall not be granted under this paragraph unless the State provides assurances satisfactory to the Secretary that necessary safeguards have been taken to protect the health and welfare of any recipients of such services.".

(b) The amendments made by this section shall become effective on the date of the enactment of this Act.

Mr. DOLE. Mr. President, this amendment, if it were pursued and if it were adopted by the Senate tonight, would modify the proposal in the bill.

In fiscal year 1982, there would be a 2-percent reduction in Federal payments under medicaid. In fiscal year 1983, there would be a permanent cap based on prior years' Federal share, increased by the GNP deflator and applied on a State-by-State basis.

There would be a Presidential commission appointed by the President, by the Senate, by the Speaker of the House, and by two public members—a total of nine members—which could make recommendations and investigations with reference to this program.

It also would eliminate the current provision in the bill reducing the Federal minimum match for medicaid.

The amendment also would reinstate the Federal Employee Health Benefits Act provision, which we discussed at length with the Presiding Officer, the Senator from Alaska (Mr. STEVENS).

That is what we propose to do. However, what we would like to do is to modify that amendment and, in effect, remove everything in the amendment with the exception of one provision which results in the creation of a Presidential Commission.

It is related to spending reduction, but it does not reduce spending. It appoints a commission to evaluate the medicaid cost reduction program established by this bill. This is done in response to the pleas from the Governor of Tennessee, the Governor of Illinois, and the Governor of Georgia. I am joined in this effort by the two Senators from Georgia (Mr. MATTINGLY and Mr. NUNN), and I hope the Senator from Illinois (Mr. DIXON) will join.

We believe that we could satisfy the concerns of some of the Governors in about 30 States, and probably all the States, with the establishment of this Federal commission, the Presidential Commission.

The President will control the commission and will be responsible for appointing three members. It will be the commission's responsibility to advise the Congress, and the President on changes which might be made in the medicaid cost reduction program which is created by this bill. The suggestions of such a group will be very useful in our efforts to seriously evaluate the medicaid cap, and its impact on individual States. Certainly our intention is to be as equitable as possible. The Senator from Kansas believes the Commission will help us with this effort.

If we could agree on that one provision, so far as the Senator from Kansas is concerned, that would end the matter.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. DOLE. I yield.

Mr. BAKER. Mr. President, I believe that is a good solution. I understand the complications involved procedurally, but it is a good way to handle this matter at this time.

As I understand it, the Senator would modify his amendment to strike all those provisions except the Presidential commission. Is that correct?

Mr. DOLE. That is right. I send it to the desk at this time.

Mr. BAKER. If the Senator sends the modification to the desk now, so far as I am concerned, I will not object to that.

I inquire of the distinguished managers of the bill as to their opinion.

Mr. DOLE. Mr. President, I modify the amendment to read as follows:

On page 217, line 39, before the period insert ", including any adjustment under paragraph (4)".

On page 218, between lines 17 and 18, insert the following:

This is what we are inserting, which is nothing but the Presidential Commission. I believe I have the support of the Senators from Georgia.

To be totally candid about it. I think our original amendment may have been subject to a point of order because of germaneness. and we could have two or three votes. I believe this will satisfy the Presiding Officer.

The PRESIDING OFFICER. Will the Senator send his modification to the desk, so that it can appear in the RECORD? The Senator has a right to modify his amendment. Does he modify the amendment?

Mr. DOLE. I do modify the amendment.

The PRESIDING OFFICER. The amendment is modified.

The modified amendment is as follows:

On page 217, line 39, before the period insert ", including any adjustment under paragraph (4)".

On page 218, between lines 17 and 18, insert the following:

"(4)(A)(i) There is established the Medical Assistance Commission (hereafter in this subsection referred to as the 'Commission') which shall consist of nine members. Three members shall be appointed by the President, two members shall be appointed by the Speaker of the House of Representatives, two members shall be appointed by the President Pro Tempore of the Senate, and two members shall be appointed by the President from among a group of at least six nominees submitted to the President by the National Governors' Association and determined by the President to be knowledgeable with respect to the program established under this title. Members shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The President shall designate one member as the Chairman of the Commission.

"(ii) Members of the Commission shall be appointed as soon as possible after the date of the enactment of this subsection and shall serve until the termination of the Commission. Vacancies occurring on the Commission shall be filled in the same manner as original appointments. The Commission shall terminate at the end of the twenty-fourth month following the month in which the Commission holds its first regular meeting. The Commission shall report to the Congress not less often than quarterly.

"(iii) Each member of the Commission shall be entitled to per diem compensation at rates fixed by the President, but not more than the current per diem equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day (including traveltime) during which the member is engaged in the actual performance of duties vested in the Commission, and all members of the Commission shall be allowed, while away from their homes or regular places of business in the performance if service for the Commission, travel expenses (including per diem in lieu of subsistence) in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

"(B)(i) The Commission shall investigate, evaluate, and submit recommendations to the President and to the Congress with respect to the validity and equity of any adjustments to the amount of Federal matching for all States or any particular State which ought to be made under paragraph (2) for fiscal year 1983 and each fiscal year thereafter, (including the methodology for calculating and implementing such adjustments) to reflect economic and demographic factors affecting such State which are out of the ordinary sphere of control of such State, including but not limited to consideration of—

"(I) population growth or decline;

"(II) changes in the composition of a State's population (such as unemployment and age);

"(III) comparative differences in eligibility benefit levels, and reimbursement levels; and

"(IV) changes in wage, price, and taxable base levels.

"(ii) The Commission shall formally submit to the President and to the Congress proposals for any such adjustments which it determines should apply to any State for any fiscal year prior to the April 1 preceding such fiscal year.

"(iii) The Commission may also submit recommendations to the Congress for legislative changes in the Federal Medical Assistance Percentage.

"(C)(i) The Secretary shall provide such technical, secretarial, clerical, and other assistance as the Commission may require.

"(ii) The Commission may secure directly from any department or agency of the United States such data and information as may be necessary to enable it to carry out its duties under this subsection. Upon request of the Chairman of the Commission, any such department or agency shall furnish any such data or information to the Commission.

"(D) There are authorized to be appropriated such sums as may be necessary to carry out this paragraph.".

Mr. DOMENICI. Mr. President, I wonder if there is anyone else who would object. From my standpoint, I hope no one does, because this is the best deal we will ever get.

The PRESIDING OFFICER. The Senator does not need unanimous consent to modify his amendment.

Mr. DOMENICI. I know. This is with respect to accepting it.

The PRESIDING OFFICER. The Senator from New Mexico has the floor.

Who yields time?

Mr. DOMENICI. Mr. President, I yield to the Senator from Georgia.

Mr. NUNN. Mr. President, I urge my colleagues on this side to support the amendment.

There are many other things the Governors wanted. We have been negotiating. We have not been able to reach all the conclusions we hoped for. But this is part of what the Governors want and they feel they have to have it in order to be able to monitor these large cutbacks that are going to take place in the medicaid program.

I think it is at least something that can help in that respect.

I urge our colleagues to accept it.

Mr. STENNIS. Mr. President, if the Senator will yield 1 minute, I do not know about saving the $600 million, but I think we have all been convinced that something more has to be done than we have been doing for several years past.

I have looked into it enough to see that we have already had two or three commissions and it did not amount to enough.

But I believe we are in a position to go after it now much better but mainly I am fully satisfied that this thisg is not going to be on a sound basis until something in depth is learned about all the facts and a new start taken.

I warmly support the Senator's amendment.

(By request of Mr. DOLE, the following statement was ordered to be printed in the RECORD:)

● Mr. MATTINGLY. Mr. President, the amendment sponsored by the distinguished chairman of the Senate Finance Committee addresses a very serious issue brought to our attention by members of the National Governors Association.

There is certainly a great deal we have yet to learn about the implication of the medicaid cap on a particular State's program.

This Commission created by this amendment will allow us to examine the changes which might reasonably be made, to improve upon that method of cost control.

The Senator from Georgia commends the Senator from Kansas for having agreed to include this provision, and joins him in urging the support of our colleagues.●

Mr. DOLE. Mr. President, let me say that I appreciate the remarks of the distinguished Senator from Mississippi.

Mr. President, I also say to some who are concerned about the minimum match that I know the Senator from Connecticut, the Senator from New Jersey, the Senator from California and others, believe we can resolve most of the concerns in conference and I hope that might preclude another amendment on that portion.

So I appreciate the leader's efforts and the Presiding Officer and the Budget Committee.

The PRESIDING OFFICER. Who yields time?

Is all time yielded back?

Mr. DOMENICI. I yield back time that I have.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Kansas.

The amendment (UP No. 216), as modified, was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STENNIS. Mr. President, I ask unanimous consent that my name be added as a cosponsor of the Dole amendment, the last Dole amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 214

The question occurs on the amendment of the Senator from New Mexico which was temporarily set aside.

Mr. HOLLINGS. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. HOLLINGS. Mr. President, on behalf of the Senator from Alabama with respect to this appropriation the amendment says that no more appropriation is authorized on this coal gasification. However, let us go back to the original appropriation. The original appropriation was for $177 million, and both President Carter and President Reagan included that amount in the rescission request.

We actually agreed to rescind $85 million of the $177 million, but that left $92 million appropriated. Of the $92 million appropriated, $42 million of that was deferred as an appropriation until 1982, retaining, if you please, $50 million for 1981.

The distinguished Senator from Alabama wants to make absolutely certain that that appropriation of $92 million, the $50 million for 1981 is OK, and the amount for 1982 is not disturbed by this amendment, and I am confident it is not.

Does that satisfy?

We will check the record to make sure.

Mr. HEFLIN. That is satisfactory.

Mr. HOLLINGS. I thank the Senator.

Mr. DOMENICI. Mr. President, might I say the distinguished Senator is absolutely correct. My amendment does precisely what he says and does not intend to disturb the previous appropriation.

The PRESIDING OFFICER. Is all the time yielded back on the amendment of the Senator from New Mexico?

Mr. DOMENICI. I yield back any time I have remaining.

Mr. HOLLINGS. We yield back our time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Mexico.

The amendment (UP No. 214) was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLURE. Mr. President, the task before the Congress of bringing the Federal budget within rational limits is, as we are all discovering, neither easy nor pleasant. Every authorization, every program, every appropriation has been made because a majority of Congress approved of it. To reverse that process will inevitably result in compromise. It is also evident that this bill is tremendously complicated and intricately related to many programs. Specifically, I am concerned with the ultimate effect of this process on the territories and insular possessions of the United States.

The importance of the territories and their administration and development predates the adoption of the Constitution. The Articles of Confederation and the Northwest Ordinance of 1787 specifically address the issue. Under article IV of the Constitution, the Congress was given plenary authority over territories. That plenary authority, however, carries with it a responsibility for the health and safety of the residents of the territories and their political, social, and economic development.

In 1813, the Senate established a Committe on Public Lands in part to supervise the laws relating to the settlement of the Louisiana Territory. By 1847 a specific Committee on Territories had to be created and one of its first major activities was the compromise of 1850. Although several special committees were later created for the Philippines and Cuba, in 1921 all jurisdiction was consolidated in a new Committee on Territories and Insular Possession. Pursuant to the legislative Reorganization Act of 1946 that committee, and, several other standing committees, became the Committee on Interior and Insular Affairs. The jurisdiction over territories was retained by the Committee on Energy and Natural Resources in 1977.

Through these committees, legislation was considered and enacted for the territories for hospitals, schools, water and sewage systems, transportation, law enforcement, disaster relief, and the entire spectrum of political, social, and economic affairs. Virtually every State, aside from the original 13, was developed pursuant to legislation reported by these committees with funds appropriated by the Subcommittee on Interior and Related Agencies and its predecessors.

As the Federal Government has grown, however, a variety of programs were developed to provide assistance throughout the United States in areas of health, education, welfare, and economic development. In many instances, the territories were included in these programs on the same basis as the States or through separate treatment. This inclusion has not always been beneficial, but it has made the expertise of Federal agencies available to the territories. To the extent that this assistance, these programs, and this expertise has been available, the Committee on Energy and Natural Resources has refrained from duplication of effort and the levels of appropriations necessary for the Secretary of the Interior to fulfill his responsibilities for the administration of territories has been reduced.

Mr. President, I offer this brief history because I am concerned that we may very well be unintentionally harming the territories and creating situations which we are powerless to remedy. During this year's appropriations hearing I asked the administration witness what the total levels of Federal reductions would be to the territories under the President's program and what would be the effect. The witness did not know. I noticed in reading the reconciliation bill that $5 million in general assistance for education to the Virgin Islands for fiscal year 1982 and fiscal year 1983 was to be eliminated. I did not know of this reduction and I would assume that neither did the Virgin Islands. I am concerned because unlike American Samoa and the Trust Territory of the Pacific Islands, the Virgin Islands does not have a general authorization and consequently there is no way the Subcommittee on Interior and Related Agencies can address this cut.

In addition to the uncertainty of program cuts, the territories, as a result of Federal law, operate under a mirror tax. The proposed Federal tax cuts will automatically be mirrored in the territories resulting in decreased revenues at the same time that Federal assistance is being reduced.

Mr. President, I am prepared, as chairman of the Committee on Energy and Natural Resources and chairman of the Subcommittee on Interior and Related Agencies of the Appropriations Committee, to reassume the total responsibility for all programs in the territories if that is the direction we are going. But if that is the direction we are going, the budget must adequately reflect the needs of the territories and the increased responsibilities of the Secretary of the Interior. There is very little flexibility under the reconciliation process to accommodate this.

I would hope that this will not happen, but if it does, I hope that sufficient lead-

time is given so that the necessary authorizations can be enacted. I would like to state, however, that it is my intention, within whatever constraints there may be, to insure that the Congress properly fulfills its responsibilities for the U.S. citizens and other residents of the offshore areas including the Trust Territory of the Pacific Islands, Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Northen Mariana Islands.

Mr. LEAHY. Mr. President, I will vote against the Omnibus Reconciliation Act which is now before the Senate. I do this notwithstanding my great respect for Senator HOLLINGS and Senator DOMENICI.

My opposition to this bill is not without reservation, however. I support the main objective of this act which is to reduce Federal spending by some $140 billion over the next several years. I support many of the specific provisions of S. 1377, and I believe it is a better bill because of some of the amendments we have passed during the past several days, including two of my own relating to child nutrition.

This legislation is the end product of what began as a good faith effort, with strong public support, to meet the reduced spending targets which are a part of the President's economic recovery program. Unfortunately, along the way I believe the American people have been misled.

Americans want better economy in government, but I do not believe they want massive reductions in income security and retirement programs with limited study and limited debate. I do not believe they endorse a lowering of the minimum standards for health care, for shelter, and for feeding programs. I cannot believe the American public supports the depth of cuts this legislation proposes for education and job training assistance, for transportation systems, for help to the handicapped and the elderly and for energy and economic development programs.

We have asked the public to sacrifice for the good of the Nation, to accept these painful reductions in benefits and services, with the promise that an improved economy will soon follow. The sad truth is that the benefits we hope to receive from the budget cuts we are proposing today may never be realized.

Massive tax cuts, and an unprecedented peacetime defense buildup threaten to wipe out all of the budget savings from the actions the Senate is debating today.

We have cut and tightened spending programs to the maximum. We have gone so far as to renege on past commitments and lower previous standards, and yet we still face the prospect of higher budget deficits, more inflation and greater unemployment.

Mr. President, I am also concerned with the precedent we are setting by packaging, in one vote, and with limited debate, major changes affecting virtually every aspect of government.

The Congressional Budget Act has achieved some remarkable successes in its short history. We must not damage forever the congressional budget process by using it as a vehicle for controversial legislative proposals which have little or nothing to do with the budget debate.

The distinguished minority leader and others have spoken at great length on the dangers of this course of action during this debate, and I wish to commend them for their efforts and associate myself with their remarks.

Mr. President, I cannot possibly address myself to each detail of this legislation. I have spoken earlier of my concerns with a number of the nutrition, health, education and justice proposals contained in the bill.

I would also like to comment briefly on some of the other provisions of this legislation which I feel are especially important. In some instances I am supportive of the proposals, in others I am opposed to them.

TITLE I—SENATE COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY

NUTRITION PROGRAMS

I am pleased that the Senate has accepted my two amendments in the area of nutrition. The first restored funds for residential child care institutions, such as orphanages and homes for retarded, neglected, and handicapped children. The amendment prevented funds from the school lunch-breakfast programs from being terminated in fiscal year 1984. Second, the Senate accepted my amendment to authorize a much reduced summer feeding program for fiscal year 1982 and fiscal year 1983. This amendment provided for a 70-percent cut in funding for this program with sponsorship limited to school fund authorities. Although this is a severe reduction, it does allow the summer feeding program to continue, targeted to the most needy areas, with protections against mismanagement. I support all of our nutrition programs, and I regret that this budget process has not provided what I believe to be adequate overall funding.

PUBLIC LAW 480—CARGO PREFERENCE

I would also like to explain why I supported the Agriculture Committee's decision to delete the current cargo preference requirement on Public Law 480 commodities.

The committee voted by a 10 to 4 margin to eliminate the current cargo preference requirement on Public Law 480 shipments. Current law requires at least 50 percent of title I—concessional sales—food aid to be carried on U.S. flagships, a provision which results in an ocean freight differential payment to U.S. shippers of some $65 to $70 million annually. An additional $6 to $10 million in costs results from the application of cargo preference provisions to shipments under the grant food aid programs of title II.

The Agriculture Committee sought to meet its responsibility in the reconciliation process for making savings in Public Law 480 in the way least injurious to the food aid program. Rather than saving the requisite $75 million by reducing commodity levels by some 300,000 to 400,000 tons, we dropped the cargo preference requirement. I believe reinstating the cargo preference requirement is misplaced in the agriculture function for the following four reasons:

First, the cargo preference requirement distorts the U.S. food aid program. Public Law 480 is, first and foremost, a food program. Its objectives are clearly stated:

> To expand international trade, to develop and expand export markets for United States agricultural commodities, to . . . combat hunger and malnutrition and to encourage economic development in the developing countries . . . and to promote in other ways the foreign policy of the United States.

The act itself says nothing about subsidizing the U.S. merchant marine. As funds each year become tighter and food aid commodities more limited, it is more and more important to view Public Law 480 as a food aid program with specific food-related objectives in developing countries.

Of course, if we can achieve the stated objectives of Public Law 480 and at the same time help our maritime industry, so much the better. But the choice before the Senate was food-for-peace or a maritime subsidy. Either we buy U.S. farm commodities and let them travel by the most cost-effective means, or we buy fewer commodities and send them on U.S. ships. Given this choice, I feel we should choose food for the hungry over subsidies for the maritime industry, taken out of the Public Law 480 program.

Second, reinstating the cargo preference requirement would have adverse human and diplomatic repercussions. Already the administration has forgone its planned fiscal year 1981 Public Law 480 supplemental request. Already our fiscal year 1982 levels have been cut by $100 million at the request of OMB, reluctantly agreed to by the State Department. Cuts of another $75 million in commodity levels will create real hardship.

The poorest developing countries are faced with alarming food deficits, to which Public Law 480 responds. The title II programs of humanitarian and development agencies like CARE, Catholic Relief Services, and the United Nations World Food Program, would probably be reduced, although I would hope the cuts would be made elsewhere. The legislated mandatory minimum tonnage for title II of 1.7 million metric tons annually would probably not be met.

Finally, reinstating the cargo preference requirement would be a rebuff to various constituencies which are strong supporters of Public Law 480. On the commodity side, producer groups have traditionally lent considerable weight to passage of food aid legislation. The American Farm Bureau Federation has made known its support for the Agriculture Committee's action in striking the cargo preference requirement.

From a world hunger standpoint, the Interreligious Taskforce on U.S. Food Policy has written Senator HELMS that while it appreciates the arguments advanced to justify a continued subsidy for the U.S. merchant marine, "such a subsidy is in our view ill-advised if it comes at the expense of food for hungry people in developing countries."

Mr. President, I too would like to see a strong merchant marine. However, there may well be better ways to provide the necessary support. The cargo preference

requirement may have been a good idea 25 years ago when the U.S. fleet was underutilized and more than half of U.S. agricultural exports moved through Public Law 480. Yet the situation is different today now that Public Law 480 represents less than 5 percent of U.S. agricultural exports and there is a shortage of U.S. ships to meet the cargo preference requirement.

I ask unanimous consent to have printed in the RECORD a recent article from the Philadelphia Inquirer which concludes that the ships being subsidized by the Public Law 480 cargo preference requirement are inefficient, overage, and in some instances even in dangerous condition.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NOT JUST HUNGRY ARE FED

(By Robert R. Frump)

The story of the government's efforts to aid the American shipping industry and how they went wrong is almost as old as some of the ships carrying grain under it.

It begins with a foreign aid program, Food for Peace. The food program is often referred to as "PL 480" for Public Law 480, the 1954 act of Congress that authorized the shipment of American grain abroad to feed the hungry in poverty-stricken Third World nations.

That same year Congress also passed Public Law 664, an amendment to the Merchant Marine Act that is commonly called the Cargo Preference Act, requiring that half of all "government-generated" cargos, such as the Food for Peace grants, be shipped on American ships.

The joining of the programs seemed an ideal marriage in which the whole equaled more than the sum of the parts.

Forty-three percent of the American tramp ship fleet was laid up without cargo to carry in 1954, according to maritime records. (A tramp ship is a vessel that runs an irregular schedule, chartered to travel from one port to another carrying a specific cargo.)

The Cargo Preference Act was designed to send those ships back to work. The Food for Peace program nourished hungry nations. One program serviced the other. The taxpayers serviced them both.

In some cases, under Title I of the Food for Peace program, the government gave money in the form of long-term loans to impoverished nations to buy grain at market rates.

The foreign governments booked ships to carry the grain. And because rates inevitably were higher for the American ships that were required to carry the grain, the U.S. Agriculture Department transferred a sum to the foreign country equal to the difference between the world rate and the U.S. rate. Last year, $15 million was paid in such differentials in that one program alone.

A second program, called Title II, functioned in essentially the same manner, except that the grain was given away as relief to countries suffering from droughts, famines and other disasters. The higher American shipping rates could be paid directly through U.S. loans and grants. The Agriculture Department administered some Title II grants; the Agency for International Development (AID) also administered a portion of them.

The programs have thrived. Under them, 280 million metric tons of agricultural commodities valued at $30 billion were shipped abroad from 1954 through 1979, according to government records.

Before that grain filled any bellies, it filled the holds of many, many American freighters.

But over the years, a serious problem developed in the program that forced the use of only a "good proportion" of American ships to move the grain. For example, the "good proportion" last year was 42 percent of the 4.1 million metric tons shipped under the Agriculture Department's Title I program.

The amount shipped in U.S. vessels fell 8 percent short of the required 50 percent for the simplest of reasons: The American merchant fleet had shrunk to the point that there were not enough American ships to carry half of the relatively modest volume of government-sponsored shipments.

"The American ships don't move 50 percent . . . because there aren't enough of them," said Robert Duane, who oversees the cargo preference programs for AID shipments.

Indeed, the Maritime Administration lists only 25 freighters flying U.S. colors capable of carrying the grain. If those ships were large, modern bulk carriers, the problem might not be so pronounced. But many of the ships are not modern vessels.

Industry experts say the potential for profits from the program has not encouraged the construction of a modern, efficient fleet of American grain carriers because the government-sponsored shipments are not sufficiently large or frequent to justify the large investment required to build new freighters in the United States.

So instead of keeping the U.S. merchant fleet strong, the government program in many cases keeps old, sometimes potentially dangerous, ships at sea.

Despite this, maritime interests are opposing a current attempt at cutting the cargo preference requirements in the Agriculture Department's segment of the Food for Peace program. The Senate Agriculture Committee gave preliminary approval to such a cutback in a June 5 hearing. Chairman Jesse Helms (R., N.C.) said the step was proposed as an economy measure to help reach budget-cutting goals.

But the House Agriculture Committee has not taken similar action, leaving the future of the program unclear. The presidents of both major maritime unions have announced their opposition to the proposal.

An inspection of data on 20 U.S. bulk carriers shows that they have an average age of 21.9 years—about two years past the commonly accepted useful life of 20 years for most ships. But those statistics give a deceptive picture, for only eight of those vessels were constructed after 1973. And 11 of them were constructed before 1949.

And even that list gives an optimistic picture of the age of many of the ships in the grain trade.

Five other ships do not appear on Maritime Administration lists of bulk carriers. They are classified as "Tween Deckers—ships that potentially could carry general cargo or grain.

Combined, the lists of Tween Deckers and bulk carriers show 25 ships that could carry grain. Fourteen of those ships were constructed before 1950. They have an average age of about 36 years.

They are very old, but they are not unloved. For in a sellers' market the ships are sought out by every poor nation using American money to charter American ships to carry grain.

Some of the American grain moves by out-of-work tankers. Some moves by liners—ships that make bus-route-like stops at foreign ports. In those cases, the cargo preference requirements appear to have the desired effect of maintaining safe, cost-effective ships.

But much of the grain moves in old tramps. Such ships can carry as much grain on as many trips as the antique vessels can make.

"They are more or less being offered to us perpetually," said N. D. Norton, of Universal Shipping in Washington, the company that, under the grain program on behalf of the Egyptian government, chartered the Poet on its last run. "And they are perpetually in demand. In a seller's market the demand created by government programs and requirements far outstrips the supply of ships."

Just how much money the operators of the aging fleet of carriers make shipping the government grain is shrouded in mystery.

Government officials say they make an effort to limit the rates their operators charge to carry U.S. grain.

But Maritime Administration officials—including Walter Oates, a Maritime Administration spokesman, and Thomas Romeo, chief of the agency's National Cargo Division—refuse to say just how the rates are set.

And others believe that the operators of the old vessels are asking and getting unreasonably high rates to carry the U.S. grain—even *with* maritime regulation.

"We do think they get too much even now," said Donald Pickett, director of vessel approval for Agriculture Department's Title I program. "But the Maritime Administration has the figures and the final say."

The Maritime Administration sets maximum rates for each ship on each voyage. The rates cannot exceed the administration's maximum. The government officials review the ship owner's figures to determine costs. They say that they cannot reveal the specific costs of each ship because they are given the information as part of their regulatory function only with the agreement that the figures be kept private.

An outside expert on shipping costs, asked by The Inquirer to estimate the Poet's running costs at sea, put them at about $7,375 per day. He bases that figure on a daily consumption of about 190 barrels of oil a day. Stevedoring, piloting and port fees would amount to about $86,000.

Henry J. Bonnabel, owner of the Poet, has declined to talk to The Inquirer about his operations but testified at a Coast Guard hearing into the ship's loss that the vessel burned 365 barrels of oil a day—not the 190 suggested by the expert. The expert said of that testimony, "I don't see how that could be, unless the ship was in very bad shape."

By the expert's estimate, the Poet would steam at a cost of about $19,375 a day, or a total of $775,440 for the 40-day trip. Bonnabel's fuel estimates would drive those costs considerably higher, to about $974,000.

Either way, he was assured of a six-figure return on the trip. For the Poet's owners were paid by the ton, not the day. Bonnabel's corporation, Hawaiian-Eugenia Corp., received about $80 per metric ton to ship the grain.

According to Duane, that is about twice the world rate. And that means the Hawaiian-Eugenia Corp. would have received about $1,110,000—$110,000 more than Lloyds of London eventually paid in settlement of the insurance claim on the Poet's loss.

Based on Bonnabel's own figures of fuel consumption, the profit would have been about $136,000. Would have been, that is, if the Poet had reached port.

No sign of the Poet ever has been found. Nothing. No lifejackets. Not even the light bulbs that usually pop to the surface after a ship sinks. The Coast Guard inquiry is pending, although a Marine Board of Investigation has issued "presumed dead" letters for the crew.

The ship's insurers have assumed that the

Poet was overwhelmed by a fierce storm that swept up the Eastern seaboard last Oct. 25 and Oct. 26.

The Poet no longer sails. But the system under which it sailed and sank continues, unexamined by government officials, unchecked by government programs.

A fair profit is allowed, the officials say. But Robert Goldman, a maritime official who works at setting the rates, said that a general percentage-of-profit figure is not available because the percentage of profit differs with each ship.

Still, some general figures are public. For example, ships the size of the Poet, the aging freighter that was lost at sea last fall while carrying a government-sponsored cargo of grain, have a maximum "in port" cost of about $12,000 a day, according to Goldman.

Those figures include the cost of financing the ship, insurance, crew payrolls, all the cost of running a ship save the oil for steaming and the various other costs for pilots, wharf fees and canal passage.

As nearly as can be determined, the prospective balance sheet for the Poet's last voyage looked something like this:

The Poet sailed from Philadelphia with bulk corn bound for Port Said, Egypt, under the Title II program administered by the Agency for International Development.

The cruise there and back takes no more than 35 days. If it took 40, the in-port costs of the ship would come to $480,000 by the Maritime Administration's estimate of $12,000 a day.

Mr. LEAHY. Many of us who wish to delete the cargo preference requirement are concerned about the U.S. merchant marine, just as many who have expressed an interest in reinstating the requirement are concerned about U.S. commodity purchases and world hunger.

Since the budget process this year frames the choice as an either/or, I felt we should have supported the committee position, kept Public Law 480 commodity levels adequately funded, and provide in other ways for the needs of the U.S. maritime industry.

TITLE III—SENATE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS—URBAN MASS TRANSIT—RURAL BUS LINES

Mr. President, the authorization levels in this bill for section 311 urban mass transportation programs are not adequate to support the transportation needs of our Nation's rural communities. Limiting the funding for the section 18 program to $75 million will cripple rural bus programs in Vermont and elsewhere in 1982. Future cuts which have been endorsed by the Banking Committee in its committee report will force the discontinuation of all rural bus service in Vermont by 1983.

I cannot support language in the committee report that endorses the urban mass transportation program proposed by the administration.

The administration has proposed to eliminate the use of section 18 funds for operating assistance in 1983 and phase-out the use of section 5 funds for operating assistance by 1985.

The Budget Committee's endorsement of the President's proposal to eliminate these subsidies will place a heavy strain on urban transit systems. But it will undeniably force the closure of all rural bus lines in Vermont, and many of those serving the rural areas and small communities in every State.

Eliminating all operating assistance for rural bus lines dooms the rural people of this Nation to further isolation and limited economic opportunities. The administration's belief that Americas small towns have the resources to totally support the operating costs of their bus systems does not recognize rural reality.

I believe that Vermont and other rural States should be allowed to continue to decide how their Federal rural mass transit money can best be spent. What is right for the subway and bus systems of big cities like New York, Chicago, and Los Angeles, does not necessarily match the unique needs and circumstances of bus lines serving rural Vermont.

This arbitrary and urban biased approach to telling States how they should use mass transit funds is not one that I can support. It is not in the best interest of working Vermonters who have come to depend on these bus lines' reliable services, and it is certainly counterproductive to our Nation's goal of reducing the consumption of foreign oil through more efficient transportation services.

Furthermore, I can find no justification for administration's proposal that 1980 Census data be ignored as the funding basis for section 5, the urban mass transit program. This arbitrary decision unfairly penalizes the emerging small cities.

Thirty-six new standard metropolitan statistical areas (SMSA's) were recently designated by the Office of Management and Budget. My home State of Vermont's largest city, Burlington, was included in this designation.

New SMSA's are by definition small cities with growing populations and demands for services. It is these very cities that have the greatest need for Federal transit support to help subsidize the substantial start-up costs of adequate urban transportation systems. The administration has offered no clear rationale explaining why these growing cities should be excluded from section 5 funding.

Overall, I feel that the administration's urban mass transportation proposals will have disastrous consequences for both urban and rural transportation systems.

This country has made great progress over the past few years in reducing our energy consumption. However, I feel that this administration's shortsighted mass transportation proposals are a backward step in our continuing effort to achieve energy independence.

HOUSING AND COMMUNITY DEVELOPMENT

I opposed the Housing and Community Development Act when it was before the Senate last month, and I oppose the inclusion of these provisions in the reconciliation bill.

The community development block grant program is reauthorized at $4.1 million for fiscal years 1982 and 1983. This represents a substantial reduction from the current authorization for community development block grant (CDBG) and urban development action grants (UDAG). Funding authorizations for CDBG would be reduced from approximately $4 billion to $3.7 billion for 1982 and from $4.1 billion to $3.7 billion for 1983. UDAG authorizations would drop by more than one-quarter in each of these years, from $675 million to $500 million.

The way that community development programs are administered would be significantly changed to allow for more local flexibility in using block grants. Administration of the small cities program would be turned over to the States.

I have long been an advocate of increased State and local responsibility for community development. For that reason I support the provision in this bill which creates a new small cities community development program administered by the States.

My home State of Vermont has many highly professional State and local officials. I am confident that they would do a superb job of administrating the small cities program of the act.

However, I would like to draw a distinction between the collective desire of this body to give the States and local governments greater flexibility in the administration of community development programs and our responsibility to insure that Federal funds are effectively targeted and utilized.

The bill before us today eliminates the CDBG application process and the citizen participation procedures while weakening the Secretary's ability to conduct performance reviews. I do not think these changes benefit either the low and moderate income people for whom the program was created, nor do they reflect the concerns of Federal taxpayers everywhere that waste and abuse of Federal funds not be tolerated.

I would advocate a bill that strikes more of a balance between the dual objectives of giving the State greater flexibility to administer community development programs and maintaining adequate Federal control over how Federal funds are spent.

According to a General Accounting Office study of September 24, 1980, we have entered "the decade of the housing crisis." The traditional dream of owning a home is being shattered for the vast majority of people in this country. Homeownership cost increases have priced all but 7 percent of American families out of the home-buying market. At the same time, the Nation's existing rental housing stock has reached its lowest vacancy rate with little prospect for any new, privately financed construction.

This bill would limit additional authorizations for public housing and section 8 programs to long-term budget authority of $17.8151 billion for fiscal year 1982 and $17.8106 billion for 1983. This is a reduction of $12.3 billion from the $30.1 billion provided by the 96th Congress for fiscal year 1982.

The housing assistance title further erodes Federal subsidized rental assistance by funding an estimated 150,000 additional units in fiscal year 1982, and 141,000 additional units in fiscal year 1983, cuts of 41 percent and 45 percent respectively from the number currently provided. It does this without proposing any alternative solutions for the severe rental housing shortage facing this country.

Furthermore, this bill would penalize those low-income people fortunate enough to qualify for assisted housing by mandating a 5-percent increase in the amount of their income paid to rent. Low-income tenants of assisted housing would be required to contribute 30 percent of their net incomes to rent. As a result of this provision, the Federal Government would take in some $1.72 billion in extra rent from low-income renters over the next 5 years.

I am terribly concerned that this increase places a disproportionate burden on those who can afford it the least, the very low-income tenants who will bear the brunt of this increase.

I would also hope that the 1-year authorization of rural housing programs in this bill does not in any way suggest a lack of commitment on the part of the committee to the acute rural housing problems facing this country. I strongly encourage the Rural Housing Subcommittee to undertake a thorough study of our rural housing problems this summer. I would hope that I would have an opportunity to address this matter in detail at that time.

NATIONAL CONSUMER COOPERATIVE BANK

I cannot support the provisions in this bill which would dismantle the National Consumer Cooperative Bank. The Co-op Bank was established by Congress in 1978. It was started with a small investment of Federal seed capital, and will develop as a private stockholder owned institution which will operate without further Federal guarantees or assistance. It is modeled after the Farm Credit System, which paid back all of its Government capital by 1968, and as such will serve as a rare example of a government program which actually repays the Federal Treasury.

An important purpose of the Bank is to put cooperatives in the financial mainstream. It is not expected to be the only credit source for cooperatives. Rather, it is hoped that its successful operations will demonstrate that cooperative financing is good business, thus over time leveraging funds from other credit institutions.

The proposal to terminate the National Consumer Cooperative Bank comes at a time when the Bank is on the brink of becoming self-sufficient. To eliminate funding at this point would be a tremendous waste of the taxpayer dollars invested in the formation of the Bank. Termination of the Bank would prevent it from recovering the capital it has already invested and would save only a very small amount in the current budget.

COMPREHENSIVE PLANNING PROGRAM

I cannot support the proposed elimination of the 701 comprehensive planning assistance program originally authorized in the Housing Act of 1974. This proposal is based on the contention that metropolitan communities and urban counties which receive community development block grant "entitlements" should pay for planning activities with CDBG entitlement funds. I do not disagree with this contention.

However, this proposal ignores the fact that there are many small communities and rural areas that are not "entitled" to CDBG funds and, therefore, do not have alternatives to the "701" funds.

The 701 funds are now targeted to those States and areawide planning organizations (APO's) within each State that serve small, nonentitled communities. I actively worked to target these funds to such States, and to organizations—known as regional planning commissions in Vermont—because I believe local participation in planning efforts is essential.

Regional planning commissions are made up of and controlled by local elected officials from the member communities. They are a means for local decisionmaking. In Vermont, local elected officials from more than 220 of our 247 towns—about 90 percent—sit on the regional planning commissions.

Regional planning commissions provide a forum in which these local officials can work cooperatively on problems that cross municipal lines such as road and transportation needs, water pollution control and solid waste management, and health care and social service delivery systems.

Regional planning commissions have saved millions of dollars of the taxpayers' money by arriving at cooperative solutions, rather than each small community trying to solve a problem with its limited resources. They have provided small communities with the opportunity to learn about and to use new technologies and management procedures that small communities would not otherwise have had.

I am concerned that the proven value of local representation provided by the regional planning commissions will be lost if these planning activities must compete against housing, economic development, and other eligible and worthwhile activities which will be funded by the small cities block grant program to be established by this proposal.

TITLE IV—SENATE COMMITTEE ON SCIENCE, COMMERCE AND TRANSPORTATION

AMTRAK

I would like to commend the members of the Senate Commerce, Science, and Transportation Committee for their extraordinary efforts in reaching a workable consensus on the Amtrak bill. I would also like to commend Senators DURENBERGER and THURMOND for their distinguished work outside of the committee on behalf of this bill.

I believe the bill strikes an acceptable compromise between the objectives of maintaining a national rail passenger system and achieving the Federal budget cuts mandated by reconciliation.

Amtrak has shown great progress in modernizing its rolling stock, streamlining its reservation and ticketing system, and improving the on-time performance of its trains. This progress is reflected in the continuing passenger demand for its services. I applaud the opportunity to services. I applaud the work of the committee in recognizing that Amtrak deserves the opportunity to continue its progress.

I am very concerned, however, by the proposed elimination of the performance criteria established in section 404 of the Rail Passenger Service Act. I recognize that Amtrak must be afforded some flexibility to discontinue service, given current budgetary constraints.

In making decisions about which routes are to be continued, however, I would hope that Amtrak will not abandon the performance guidelines established in the 1979 act. Ridership, as well as cost considerations must be considered when evaluating the need for and value of passenger service on current Amtrak routes.

TITLE V—SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. President, if the United States is to end its dangerous dependence on foreign sources of oil, we must employ a balanced mix of all domestic energy sources. This mix will include oil, coal, and natural gas. But it must also include a strong conservation effort and renewable energy sources. Each fuel must be allowed to make an effective contribution.

The initial Reagan administration energy budget proposals were not balanced. A 66-percent reduction in fossil fuel programs, a 67-percent cut in solar and renewable energy programs and a slash of 78 percent in conservation programs will not increase our Nation's energy self-sufficiency. At the same time, the administration proposed these cuts, an increase in funding for nuclear power programs of nearly 33 percent was proposed—including a massive commitment to the Clinch River breeder reactor. I regret that an amendment to reduce the funding level for nuclear fission research to the level proposed by President Carter was rejected by the Senate earlier today.

Mr. President, I simply cannot support an energy budget so out of balance with today's energy needs—one that denies the proven benefits of conservation efforts and renewable energy technologies.

The Senate Energy and Natural Resources Committee increased the authorization for energy conservation programs and for solar and renewable energy programs to $518.5 million. This is a step in the right direction, but it is not enough. Many conservation programs are big energy savers and they are cost effective. Renewable energy programs speed the introduction of promising energy technologies to the market.

The authorization of $50 million for the operation of the Solar Energy and Energy Conservation Bank is also a step in the right direction. Again, however, it is simply not enough. We cannot assume that this funding commitment will enable the Bank to realize its enormous potential for helping low and moderate income people save energy and money.

Mr. President, the merits of conservation and renewable energy programs are well documented. The Energy Extension Service produces $16 of energy conservation improvements for every Federal dollar spent. The State energy conservation programs have been strongly endorsed by the Nation's governors as valuable

and effective tools to reduce energy consumption and expenses in their respective States. Heat pumps, fuel cells, and photovoltaics are developing more quickly because of our commitment. Alcohol fuels and other biomass energy projects have been perfected sooner.

We must continue these efforts and our commitment to them must be strong. We simply cannot afford to render valuable energy programs ineffective. We can and must return to the balanced road to energy independence.

HISTORIC PRESERVATION

I am deeply concerned with the proposed reductions in historic preservation funding. While I support efforts to reduce Government spending and improve economic conditions, I believe reductions in historic preservation funding work against these goals.

Historic preservation conserves energy, agricultural land, and many other natural resources. Rehabilitation is 25 percent more labor intensive than new construction—this means more jobs for dollars spent. Preservation stimulates private investment. Federal programs involving preservation often leverage as much as $6 for every Federal dollar. Preservation stimulates economic revitalization. In communities throughout the country preservation has been an essential element in revitalization efforts. Preservation costs less than new construction.

Preservation gives us a sense of community and an understanding of our heritage. Preservation of our Nation's past gives richness to the present and direction to the future.

TITLE XI—THE SENATE COMMITTEE ON LABOR AND HUMAN RESOURCES FUEL ASSISTANCE AND WEATHERIZATION

The Labor and Human Resources Committee is to be commended for keeping the basic elements of the low-income energy assistance program intact, and for making the necessary adjustments to maintain funding at last year's level.

The committee has recommended retaining the major provisions of last year's program, while allowing the States to adapt the program to best meet their individual needs. Public participation in forming the State plans is guaranteed, and outreach efforts will be continued to insure that the elderly and those isolated in rural areas will be aware of the assistance available to them. Vermonters have coped with escalating fuel costs as best they can, but many simply cannot turn their thermostats any lower—and they cannot afford to switch to alternative forms of heating. In many instances, energy assistance has literally made the difference between death and survival.

Energy assistance is an essential program as long as energy costs continue their unrelenting rise. The home weatherization program is far more effective in reducing energy costs in the long run, however. Statistics show that low-income and elderly households pay up to four times the percentage of their income for energy as do other households, mostly because their homes are not as well insulated or have less efficient furnaces. The weatherization program is now operating at the peak of efficiency and will actually run out of funds before the end of the year.

It is one of the best investments we can make. Reducing the energy needs of low-income households will ultimately reduce their need for energy assistance as well.

LEGAL SERVICES

I was heartened by the decision of the Labor and Human Resources Committee to retain $100 million for the Legal Services Corporation. Although this represents a sharp reduction from this year's level, it is far preferable and more responsible than the complete elimination of the Corporation. I can say from my experience as a former State's attorney that legal aid in Vermont has improved the efficiency of Federal assistance programs and has insured that low-income citizens are provided equal justice before the law.

I would like to mention a few statistics that may clarify what legal aid does and what sort of activities it has been involved in. The Corporation is not a Washington bureaucracy—only 2 percent of its budget is spent on overhead and administration. The rest goes directly to local groups for legal assistance. Last year 6,200 attorneys handled some 1.5 million cases. Their 85-percent success rate is enviable. Less than 0.2 percent of these cases involved class action suits. Clearly, Legal Services lawyers are not, as critics charge, preoccupied with the pursuing of personal causes and frivolous cases.

The Legal Services Corporation plays, and should continue to play, a vital role in guaranteeing equal access to justice. I will continue to support adequate funding for the Corporation.

NATIONAL ENDOWMENT FOR THE ARTS

The proposed reductions in the budgets of NEA and NEH of 50 percent are a direct assault on the artistic and cultural integrity of our country. These cuts are accompanied by a call for increased private philanthropy and greater State and local support for the arts and cultural activities. While I believe private sector support for the arts should be encouraged and expanded, I am not confident that private donations will compensate for the loss in Federal support that would result from this proposal. Corporation spokesmen say they cannot be expected to pick up the Nation's cultural tab in the wake of reduced Federal arts funding. Less than 30 percent of all corporations have a program of contributing to charities or other groups. Of those, 10 to 15 percent give to the arts.

Federal support for the arts is good business. It produces revenues and a solid return for the investment. It encourages development. It preserves our culture. It pays a dividend of greater value than most public expenditures—it creates personal and community awareness of the value and quality of life itself.

The proposed reductions are too severe and too abrupt. The arts community needs time to identify and locate alternative sources of funding. A smooth transition from Federal to private support for the arts will not be possible if we approve the cuts proposed in this act.

Mr. THURMOND. Mr. President, today, I rise in support of S. 1377, the Omnibus Reconciliation Act of 1981.

On May 21, 1981, Congress adopted House Concurrent Resolution 115, the first concurrent resolution on the budget for fiscal year 1982. The purpose of that resolution was to accomplish a radical change in the spending policies which have been the hallmark of the Federal budget for the last quarter of a century. This bill contains specific changes in Federal programs that will cut in half the rate at which Federal spending has been growing. At the same time, the overall spending targets will allow for real growth in spending for national defense, thereby reversing a dangerous decline in that area.

Mr. President, House Concurrent Resolution 115 instructed the House and Senate committees to recommend changes in the laws under their jurisdiction, so as to achieve cuts in budget authority of $189 billion and $141.6 billion in outlays for the fiscal year 1981 through 1984. The recommendations contained in this bill fall some $1.7 billion short of that goal in fiscal year 1984, but the bill is definitely a step in the right direction.

Mr. President, this budget reconciliation bill is a massive product that cuts across hundreds of programs throughout the Federal Government. Its passage is critical to a successful economic recovery in this Nation.

While I do not necessarily agree with every programmatic change in this bill, there are many which I have advocated for years, and I fully support the overall product. I shall not take the time of the Senate to discuss the recommendations of each committee, but there are several important features of this legislation which I would like to address.

Mr. President, I am pleased that the Agriculture Committee has included in this bill a number of substantial reforms in the food stamp program that will pare its burgeoning cost by nearly $2.5 billion in fiscal year 1984, with slightly smaller savings in fiscal year 1982 and fiscal year 1983. Among the reforms are prohibitions on food stamps for strikers and against household income splitting, both of which were addressed in legislation I have sponsored.

The Finance Committee has recommended significant and greatly needed cost savings in a variety of social services programs, including aid to families with dependent children, medicaid, medicare, unemployment compensation, and trade adjustment assistance. I particularly commend the committee for its proposal to combine numerous categorical grant programs into a social services block grant, in a manner similar to the proposal by President Reagan. The block grant approach is one which I strongly support, because it provides greater control and flexibility for State and local officials to fashion programs in a manner best suited to the particular needs of the citizens of each State.

With regard to the trade adjustment assistance programs, S. 1377 contains several provisions similar to my bill, S. 173. Workers eligible to receive trade readjustment allowance (TRA) payments

would be required to exhaust all their regular unemployment benefits before receiving TRA payments. These payments would then be limited to an amount no greater than that received from unemployment benefits. In addition, the trade impact certification standard would be strengthened by requiring that increased imports be a "substantial cause" of unemployment, rather than simply to have "contributed importantly" to job losses.

Mr. President, faced with a mammoth task, which was made even more difficult by strong differences of opinion among committee members, the Labor and Human Resources Committee has recommended a number of cost-saving, modified block grant proposals. While I would have preferred that additional, narrow categorical grant programs be encompassed in these block grants, especially in the education area, the committee action is a constructive step toward a more decentralized Government. I would also like to indicate my strong approval of the committee recommendation to eliminate further funding for the largely ineffective CETA public service jobs program. Similarly, I support the committee action placing reasonable limitations on guaranteed student loans, thereby targeting Federal assistance for college expenses toward families most in need of this help.

Taken as a whole, Mr. President, this is an excellent bill that represents one of the most important and dramatic legislative actions ever undertaken by Congress. Although budget reconciliation was attempted last year on a much smaller scale, this is the first substantial effort in Congress to take a comprehensive look at previously enacted legislation and make cost saving adjustments in numerous existing Federal programs. In adopting this bill, the Senate will be acting responsibly, and in accord with the wishes of the vast majority of American citizens, who long for a return to fiscal responsibility at the Federal level. This measure does not fully achieve that objective, but it constitutes a giant step toward a balanced budget and the concomitant goal of a healthy economy, free of the ravages of inflation.

Mr. HEINZ. Mr. President, I wish to clarify the purpose of an important provision in part D, subpart 2 relating to home energy block grants. In an effort to address both the financial and energy needs of low-income families, the Labor and Human Resources Committee will allow States to use up to 10 percent of their fuel assistance grants for actual weatherization services. This raises two questions, Mr. President. How does this 10-percent allocation relate to other Federal weatherization efforts? And second, how do we define "weatherization" within the context of this program? I pose these questions to my colleague.

Mr. WEICKER. Mr. President, in response to my friend and colleague from Pennsylvania I would first say that the 10-percent allocation is intended to support ongoing weatherization services within a State, and should not be construed so as to supplant other Federal aid programs whose primary purpose is to do just weatherization or energy-related activities. With regard to my colleague's second question, about defining "weatherization" for the purposes of this program, it should be the intent of this program that these weatherization funds be used primarily for "low-cost/no-cost" materials designed to improve the energy efficiency of the dwelling. Funds should also be available for the retrofitting of antiquated or dilapidated furnaces and air-conditioners, installing hot water heater blankets and pipe insulation and installing attic insulation, all of which have been shown to greatly improve the quality of the home environment and increase the energy efficiency of the building.

Mr. HEINZ. Mr. President, I seek a further clarification with regard to the home energy block grant. Specifically, I am concerned that a more precise definition of coordination was not included in the bill as it is now presented to the Senate. It is my firm belief that conservation activities are an appropriate part of an energy assistance program, so that future demands for fuel assistance payments will be reduced. Within the context of the general mandate for States to coordinate these services, would it be the Senator's interpretation of section 5(c)(4) to allow State to option to:

First. Use one organization to deliver both energy assistance and weatherization funds?

Second. Use agencies and organizations experienced in the delivery of fuel assistance and weatherization service?

Third. Give priority to weatherization assistance to those residences which can achieve the highest energy savings?

Mr. WEICKER. Mr. President, in response to my good friend and distinguished colleague I would answer "yes" to all three of his questions. Section 5(c)(4) assures that each State agree to "coordinate its activities under this subpart with similar and related programs run by the Federal Government and such State, particularly low-income weatherization." These suggestions offered by the Senator from Pennsylvania are clearly consistent with the intent of the committee in this regard and could be adopted by a State to fulfill the mandate for coordination. I fully agree that coordination of weatherization assistance and fuel payments is a critical part of a successful energy assistance program.

Mr. HEINZ. Mr. President, I thank my good friend from Connecticut for his comments on the home energy block grant.

I would like to take this opportunity to explain my concern in regard to this program. Let me begin by saying that I am very pleased by the efforts made by the Senate Committee on Labor and Human Resources to report a low-income energy assistance measure that will respond to the urgent needs of so many Americans. This, of course, is a program of major importance to the elderly. They are among the most vulnerable to astronomical increases in fuel costs since their incomes often cannot keep pace with rapid rises in home energy costs. They are the people now paying nearly 30 percent of their incomes on energy as opposed to 8 percent for the average household. And they are the people who are least able to adjust their consumption patterns since they are less physically able to cope with temperature changes than other individuals.

Because of the importance of the low-income energy assistance issue to the elderly, the Special Committee on Aging, of which I am chairman, held hearings early in this session on the options open to Congress in developing an energy assistance program appropriate to the economic realities of the coming years. We heard testimony from OMB Director David Stockman, the Department of Health and Human Services, State officials, aging groups, and energy suppliers and consumers. We found unanimous support for strengthening the provisions of current law that directs coordination efforts.

Although I am generally satisfied with the Labor Committee bill, I am concerned that a more precise definition of "coordination" was not included in the program as it is now presented to the Senate. Within the context of the general mandate for States to coordinate weatherization and fuel assistance, I would strongly encourage States to consider three options which could improve the responsiveness of the fuel assistance program.

First, States should seriously consider using a single office to deliver both fuel assistance and weatherization. Delivery of both programs by the same office at the local level would tend to facilitate the administrative process of receiving fuel assistance and weatherization funds from the client's point of view. The same office would then be able to determine eligibility for both programs, process the applications, and notify recipients of benefits. Existing situations in which low-income energy assistance clients go to another office for weatherization and repeat the application process would be eliminated. Instances in which applications for weatherization assistance are accepted by the energy assistance offices and then forwarded without all of the data needed to assure speedy action would also be eliminated.

My second suggestion is that experienced personnel be used in delivering fuel assistance and weatherization services. Clearly, States must have adequate flexibility in structuring their programs, yet I believe consideration should be given to those organizations that have been successfully delivering weatherization services through the Department of Energy's weatherization program. This suggestion is of course consistent with the priority given to local administrative agencies in this block grant. The future of these organizations is uncertain and I think positive steps should be taken to assure that the expertise of the current workers is preserved. The loss of experienced conservation personnel could set back the weatherization effort substantially.

Finally, I suggest that States consider giving priority in weatherization assistance to those residences which can achieve the highest energy savings. It is imperative that we address the simple

fact that the Government is currently pouring tax dollars into dilapidated homes which then leak substantial amounts of the heat that our fuel assistance buys. Clearly, weatherizing the least energy-efficient homes will achieve a reduction in the demand for assistance payments and conserve the greatest amount of fuel. In short, this assures a more efficient expenditure of Federal assistance dollars.

Taken together, I believe these considerations would assure relief for those low-income citizens who literally cannot afford to adjust to market incentives as others can.

SUPPORT FOR CONTINUATION OF THE COMMUNITY SERVICES ADMINISTRATION

Mr. BRADLEY. Mr. President, the Community Services Administration (CSA) serves a valuable national interest. CSA's goal is the eradication of the causes of poverty by helping the poor attain economic self-sufficiency: 878 community action agencies located in 2,210 of the Nation's 3,141 counties are operating to achieve this goal. Instead of using a welfare program approach, CSA encourages a self-help approach which provides lasting solutions to the problems of poverty. CSA's assistance is necessary for our impoverished citizens to make the transition from dependency to self-actualization and productive citizenship.

Approximately 25,214,000 Americans—11.6 percent of the population—needed this help as of 1979, only slightly fewer than the 11.8 percent whose incomes fell below the poverty line in 1976. Progress in the development of this human capital must be continued and hastened.

The 3-year authorization of CSA expires in 1981. CSA should be continued as a separate program, at least at its 1981 level. The administration's proposal to include CSA in a social services block grant to the States with a 25-percent funding cut would be devastating. The impact on New Jersey provides a striking example. A national reduction from $536 million to $402 million would result in a $2.75 million drop in New Jersey's share to $8.25 million. The Budget Committee proposal providing for a 34-percent cut from $536 million would result in a cut of $2.4 million for total funding of $8.6 million for New Jersey. Under this proposal 95 percent of the funds must go to political subdivisions for them to provide services directly or through private nonprofit community organizations.

An effective national effort to abolish poverty can continue through support of CSA. CSA has demonstrated its accomplishments with the poor in individual self-improvement, neighborhood improvement, involvement of the total community and mobilization of local resources. Elimination of this program at this time is an unfortunate retreat from a worthy undertaking. We must not desert millions of truly needy low-income people who are served by CSA.

MEDICARE PART B PREMIUM INCREASE

Mr. President, as part of this administration's austerity drive, the Senate is being asked to support potentially major increases in medicare part B premiums. These are the monthly payments the elderly and disabled make to receive medicare insurance coverage for physicians' services. This premium is already scheduled to increase from $9.60 to $11.00 this July, as provided under current law. The change incorporated in the reconciliation bill would lead to much steeper premium increases, which will exceed the percentage by which the basic social security benefit is adjusted to compensate for the effects of inflation.

Mr. President, if this provision, buried in the 400-page reconciliation bill, were considered on its merits, I doubt that the Senate would countenance such a change. Unfortunately, it is symptomatic of the times that we are under such pressure to cut programs that the consequences of proposed changes are insufficiently understood. As a result, sacrifices will be required not only of those groups who are better off economically and are able to cope, but also, as in this case, of elderly and disabled Americans who are heavily dependent on fixed incomes and are least able to afford to pay the higher premium costs for health care.

Consider the economic situation of the elderly in America in 1981. According to the most recent report issued by the Special Committee on Aging, of which I am a member, the median income of families headed by persons age 65 and over is $10,124, or less than 60 percent of the income of younger families. Almost one in seven older Americans had an income which fell below the poverty line, with the incidence of poverty rising with age. Worse, the black aged have a poverty rate of almost 34 percent, or nearly three times that of the white aged. As indicated by these income statistics, it is understandable that social security is an important source on income for the aged.

At the outset of the medicare program, part B premium payments were intended to cover 50 percent of the costs of part B services with the Federal Government appropriating the remainder. If health care costs increased, so too would the premium. However, in 1972 the Congress provided that future increases in the part B premium be limited to the same percentage increases in the basic social security benefit, which was indexed for inflation, as measured by the Consumer Price Index (CPI). In making these changes, Congress recognized the dependence of many elderly and disabled Americans on social security as a primary income source and sought to assure that would not be eroded by disproportionately higher part B premium costs. Given the high rates of inflation in health care costs in the last decade, the effect of the limitation imposed in 1972 has been that the actual percentage of the program costs covered by the monthly premiums has fallen steadily to its present level of about 24 percent of part B costs for the elderly and 15 percent of such costs for the disabled. This downward trend is likely to continue as health care costs rise at rates higher than the CPI. Following from this trend, Federal expenditures for part B services are expected to increase both in dollar terms and as a percentage of the total program costs. Unless, of course, the 1972 limitation on the rate of increase in the premiums collected from the elderly and disabled beneficiaries is altered.

Mr. President, the provision to link the part B premium to program costs instead of the cost-of-living adjustment in social security benefits is just such a change. This revenue-raising provision would require premium increases sufficient to cover the percentage of program costs currently provided by part B premiums, approximately 24 percent. However reasonable this proposal seems, its real effect in this era of runaway inflation in the health care sector will be to reduce the already meager purchasing power of many older and disabled Americans. When Congress indexed social security benefits to the CPI in 1972, they did so to protect social security beneficiaries against some of the ravages of inflation. When Congress tied part B premium increases to the CPI increase, also in 1972, they did so for the same reasons. This provision would undo these protections.

Mr. President, there is no question that medical costs are the culprit here, not the elderly or the social security program. Yet we are not being asked to address the problem of escalating health care costs. We are not being asked to remedy the reimbursement mechanism in medicare whose major feature is the absence of any incentives for hospitals, doctors, or consumers to be prudent users of health services. Instead, we are being asked to reduce the Federal medicare costs by shifting the costs to the elderly and the disabled. How else can we interpret the proposal to increase the part B deductible from $60 to $75? How else can we interpret the proposal to eliminate the 3-month carryover provision in current law? And how else can we interpret this proposal to increase part B premiums by reducing the purchasing power of older and disabled Americans who depend on social security for income? These proposals are not part of a strategy to moderate health care cost increases, merely one to transfer these growing costs to those least able to bear them.

For those among the elderly and disabled population who are wealthy, or who have other sources of income, the burden of the increased part B premium costs will be minor. But for those elderly and disabled Americans who depend on social security as their primary source of income, the sacrifice will be severe. They have few options. Cutback on food? Adequate nutrition is already a problem for many elderly. Cutback on housing costs? Taxes must be paid, rents are not declining, and foregoing repairs and other maintenance expenditures is a false economy, usually leading to greater long-term costs. Cutback on heating oil in winter? Only if the weather cooperates are savings possible here. The choice is one that the elderly should not be forced to make.

Mr. President, I cannot agree with the approach to saving Federal budget dollars taken in this proposal. The neediest among the elderly and disabled, those least able to bear additional costs, will be hurt most. That is wrong.

Finally, Mr. President, a procedural

point. The purpose of this reconciliation bill is to save Federal dollars by cutting back on an extraordinary range of Federal programs. In our committees, we were not allowed to "save" by closing tax loopholes or increasing user fees for services provided by the Federal Government. These, we were told, were revenue-raising measures and were therefore out of order. Now, however, it appears that the rules are being changed in order to include this revenue raiser in reconciliation. I would call attention to the Senate Budget Committee's report which accompanied S. 1377. On page 20, the medicare part B premium item is listed as producing no savings in any fiscal year. On page 446, the increase in part B premiums is called an offsetting revenues increase, although, as it is noted, revenues from these premiums are "traditionally, not treated as technically offsetting receipts by the Office of Management and Budget." In other words, Mr. President, these premiums are regarded by OMB as revenue raisers and are treated as revenue raisers by the Senate Budget Committee's own tables. Mr. President, I think we should be consistent in applying the rules: On procedural grounds, this revenue-raising provision should not be part of this bill.

Mr. President, even were there no procedural question, I could not support this provision in the reconciliation bill. The Congress recognized the plight of those elderly and disabled Amercans living on their social security monthly benefit and, in my judgment, appropriately limited the part B premium increase to the percentage by which their social security benefit increases each year. Mr. President, I see no reason to alter that earlier congressional action. Social security recipients deserve to be assured that the value of their benefit will not be eroded by disproportionate inflationary increases in the cost of those goods and services essential to their survival. Health care is high on this list of essentials. I hope our conferees will keep these concerns in mind when they meet with the Representatives from the House and will find it possible to drop the provision to increase medicare part B premiums from the final bill.

NUTRITION PROGRAMS FOR CHILD CARE INSTITUTIONS

Mr. KENNEDY. I support Senator LEAHY's amendment to strike the provisions that prohibit residential institutions caring for orphaned, handicapped and abused children from participating in child nutrition programs.

The cost of this amendment in a budget that cuts $50 billion next year is small. It would add just $69 million and only in 1984. But the implications of not making this change are enormous.

First, these savings are not needed. The committee only agreed to this change after first rejecting it, when it appeared the budget targets could not be meet. If the $49 million were added back the Agriculture Committee would still exceed its goal by $30 million.

But even more important, by accepting this unnecessary change in the law the Senate will send a chilling message to every corner of this country.

We will say to the thousands of children forced to live in institutions we no longer care about them. We are writing them off.

If they were going to public schools, they would get a free or reduced-priced lunch. But because they are in a home, put away from the rest of us, we can turn our backs.

Some say that the States should provide for these children. But let us look at the record. The States have had their chance.

Until 1975 the States were responsible and the overwhelming evidence presented at the time was that these children were not well fed. Many were living in substandard conditions and were fed poor quality food.

Nothing indicates the States are prepared to do a better job today. In fact, the opposite is true.

Governor Hunt on behalf of the National Governors' Association wrote to Senator HELMS to indicate his deep concern. He predicts that many States will just cut back on other much needed services for these children to make up for the loss of Federal help.

I urge my colleagues not to deprive these children.

Mr. WEICKER. Mr. President, it is well known in this body and elsewhere that this Senator voted against the reconciliation resolution on April 2 and against the first budget resolution on May 12.

I have consistently stated that I agree that an important step toward restraining inflation must be to restrain the growth of Federal spending. We do really need to apply the brakes to Federal spending growth and tax revenues, and begin to shift to the private sector of our economy the opportunity to improve U.S. productivity and production and restore the dynamic enterprise of the United States. Furthermore, I have been quite explicit in supporting and even advocating the proposition that $40 billion or so in Federal Government spending should be cut in order to finance an appropriate supply-side tax cut for our economy.

However, I cannot accept the proposition that one program of budget cuts is as good as any other, and that everyone should blindly rubberstamp whatever is put in front of us.

In other words, a proposed budget—or reconciliation package—must meet two equal critical tests: It must be of about the right macro size at the total bottom line; and the mix of specific program cuts that add up to the aggregate figure must be right.

The reconciliation resolution and the first concurrent budget resolution, in my judgment, met the first, or macro test; but were fatally flawed as to the second, equivalent test. The mix of cuts was all wrong and, from Connecticut's point of view, was pure nonsense. So there will be no misunderstanding, I would not hesitate to vote against those resolutions again today.

It is no wonder that the mix of spending cuts was all wrong. The earlier budgets were slapped together precipitately and injudiciously—and cuts were based upon philosophical instinct rather than upon careful scrutiny of programs. Budgets were slashed senselessly, without regard for substance; without delving into details that prove or disprove a program's worth.

The proof of the folly of that whole misguided exercise came when the administration conjured up its plan for carving up the social security system and slashing social security retirement benefits. In the stampede to cut, cut, cut, and to ignore blissfully the effects of the indiscriminate ax wielding, someone zeroed in on the social security program and then people woke up. Suddenly, people were saying, "Wait a minute, exactly what are we doing here?" Finally, the facade of painless cuts in waste, fraud, fat, and abuse was exposed for what it really is, and people began to get serious about the details behind the bottom line cut figure we all can support.

Mr. President, I am not happy with the reconciliation bill that is before us today. Again, I do not quarrel with the macroeconomic proposition underlying the bill: That Federal spending must be cut by roughly $40 billion. I still have reservations, however, about the mix of the specific program cuts that cumulate to that aggregate bottom line.

But unlike the previous resolutions, there has been greater opportunity to delve into the substance of proposed program cuts. Once the Congress had worked its will and instructed its committees to come up with the appropriate legislation achieving the assigned spending reductions, the die was cast—each of the committees had to achieve its assigned spending cut. At that point, the question of the mix of cuts became the only subject for debate, not the assigned amounts.

Beginning with the memorandum of the distinguished majority leader (Mr. BAKER) to committee chairmen shortly after adoption by the Senate of the first budget resolution, members and staffs of Senate committees went to work to scrutinize their programs to find those areas where programs could absorb cuts and those areas where programs deserved to be preserved. For me, and I am sure for all of my colleagues, this was an excruciatingly difficult process.

Some programs were cut that should not have been cut; some programs were cut too deeply. But some programs were preserved that are of the greatest importance for the people of my State, and indeed of our country, particularly the the most needy—even though the original budget resolutions assumed harshly draconian cuts in those vital programs.

In short, in numerous instances, the authorizing committees have had a chance to concentrate their programmatic expertise upon their assigned budgetary savings and have tempered significantly the excesses that characterized the earlier budget resolutions.

In the Labor and Human Resources Committee on which I serve, for example, which was instructed to save $8.8 billion, or 25 percent of the total savings, I was able to work with my colleagues to moderate what I considered to be ill-conceived block grant proposals and poorly designed spending priorities. As a result

of my efforts, and those of some of my colleagues, we were able to insure that authorization levels for programs for the handicapped in fiscal year 1982 and fiscal year 1983 will remain at the prerescession 1981 levels, except for the special education and vocational rehabilitation State grants which will be increased 5 percent in 1982 and another 5 percent in 1983, for a total increase over the original administration budget of some $400 million in each year. Both of these programs remain categorical and thus are not included in any block grant. The developmental disabilities program has been reauthorized through fiscal year 1983.

Furthermore, title I of the Elementary and Secondary Education Act, respecting aid to disadvantaged schoolchildren, was preserved and the proposed cut were halved.

In addition, Mr. President, the low-income energy assistance program, which is vital to the truly needy of New England, is to be funded at $1.875 billion, up $400 million over the level proposed by the administration. In the health area, we were able to obtain a guarantee of at least 2 years continuation of the community health and community mental health centers. And $100 million was authorized for continuation of the Legal Services Corporation.

So in the case of the Labor and Human Resources Committee, I believe that given our assigned savings we have achieved a significant improvement, in the form of a substantive rearrangement of what was originally assumed for that committee. We have succeeded, thereby, in preserving what I for one consider to be of the highest priority for our people.

In the Small Business Committee, which I chair, we were able to work out an agreement on major reforms in the disaster assistance program, thereby preserving SBA's direct lending program to minority small business investment companies (MESBIC's) and local economic development companies. The original reconciliation resolution adopted by the Senate had assumed total elimination of this vital program of loans to small businesses and I am pleased we were able to moderate that extreme predisposition.

In other committees as well, I believe significant improvement has been made over what was originally adopted by the Senate. In the area of veterans' health care, for example, where I joined the Senator from Florida and the Senator from California in trying unsuccessfully to restore critically needed funding, the Veterans' Affairs Committee, under the able leadership of the Senator from Wyoming, was able essentially to restore the current funding level for the veterans' health care program, and has presented the Senate with a more palatable proposal than we had before us originally. And even where cuts are made, the main point is that the needy veteran is fully protected—and this was not the case in the resolution before the Senate in April.

With respect to mass transit assistance, which the administration and the Budget Committee had sought to cut too drastically, and by the way very unfairly to the Northeast, we now have before us a restoration for Amtrak of $122 million, or 20 percent for fiscal year 1982, and we are not now faced with the total elimination of mass transit operating assistance after fiscal year 1982. The Banking Committee will reconsider the issue in connection with its review of the general reauthorization bill next year, so we have avoided the precipitate decisions which could have been so detrimental to this program.

Even in regard to housing assistance, which would have been very deeply cut from President Carter's recommendation of 260,000 units of section 8 and public housing to 160,000 units for fiscal year 1982 under the original Budget Committee recommendation, the Banking Committee decided to couple 100,000 units of GNMA tandem assistance with 150,000 section 8 units, for a total of approximately 250,000 dwelling units for fiscal year 1982, a significant improvement.

Finally, Mr. President, in the Energy Committee, we made really remarkable improvements, by restoring $350 million for energy conservation programs, of which $336 million is earmarked for home weatherization, a program with which I have been so closely associated. I am pleased, too, that we restored $168.5 million for energy supply and research, including such critical projects as the fuel cell, enhanced gas recovery, and MHD.

In addition, $50 million was reallocated for the solar energy and energy conservation bank, $25 million to the historic preservation fund, $55 million to the land and water conservation fund, and $30 million to the Youth Conservation Corps. These additions total $728.5 million in vital energy research programs holding a near-term promise, and essential natural resources projects to maintain and protect our natural heritage.

In all of these areas, therefore, the committees of jurisdiction have delved into the details of proposed program cuts and have achieved measurable improvements over what we had before. The question for me, and for every other Member of this body, is whether those improvements have been sufficient—given the fact that the cuts were assigned—to redeem the reconciliation bill itself.

After long and careful consideration, I have concluded that the scrutiny of our Senate committees, a good part of which I was involved in, has redeemed this bill and justifies its support. Make no mistake: This is no occasion for celebration. But we have succeeded in moderating some of the excesses that characterized the earlier bludgeon approach to program slashing. The cuts are still deep, and there should be no question about that fact. But some attention has at last been given to the substance of programs; we have gone behind the cosmetics of cuts to the implications for human beings: for schoolchildren; veterans; the handicapped; the poor; and the sick.

In short, Mr. President, for those of us who have said all along that we were in support of the bottom-line aggregate figure for spending reduction, we must acknowledge that there has been modest, though significant, improvement in the mix of the cuts within the committees legislative jurisdiction. In recognition of that fact, I intend to vote "Yes" on final passage of S. 1377.

Mr. HART. Mr. President, I am voting against the Omnibus Reconciliation Act today because it is irresponsible budget cutting.

At the beginning of this process, I supported responsible reductions in Federal spending to reduce the deficit. In fact, I developed my own plan for achieving cuts at the level the President proposed.

I supported the reconciliation instructions passed by the Senate earlier this year because of this commitment to reducing the Federal deficit. I supported the instructions as an indication of the level of spending we could and should cut—although a number of the President's proposals and the priorities underlying them were wrong and many of us sought to change them.

But the Senate committees have recklessly exceeded those initial instructions and cut much more from specific programs in the budget. While we still must support a reduction of $40 to $45 billion in Federal spending, this bill and its particular package of cuts cannot be supported. They go even substantially deeper than the President asked for.

Furthermore, the cuts which fall in three particular areas will not lead to economic recovery or make our economy stronger; they will make it weaker.

First, this bill does serious damage to the safety net the President promised he would keep under those who most need it. Among the unwise and too severe cuts in this area are:

Elimination of a child nutrition program which provides meals to about 2.3 million children nationally;

Deep cuts in the school lunch program;

Elimination of the social security minimum benefit for all current and future beneficiaries, effective August 1981;

Elimination of funding of rehabilitation services for SSI recipients;

Consolidation of the foster care and adoption program for hard-to-place children into a block grant with reduced funding; and

A reduction of the minimum Federal matching rate for the medicaid program, a piecemeal reform which will create severe hardships in a number of States.

Second, the bill decreases our energy security. The budget for energy development is seriously unbalanced and needs substantial reordering to emphasize a much wider range of alternatives. Among the areas where we need to increase the Federal effort are:

Solar energy, which was cut by over 50 percent;

Conservation programs, which were cut by close to 75 percent; and

Filling of the Strategic Petroleum Reserve which, despite its importance to our national security, was funded "off-budget."

Finally, the bill reduces Government investment in the growth of our economy—our supply-side investment—in technological innovation and in human capital. For example:

The Economic Development Administration was eliminated; and

Public service employment programs were reduced.

There is one additional point to make about this bill. It contains a number of extraneous legislative items which do not belong in a reconciliation bill. Inclusion of these measures, whatever their individual merit, does a serious injustice to the budget process and the congressional committee process.

The time will come, and that time is not far away, when the effect of those unfair and unjust program cuts are felt by many Americans who rely on a wise and benign Government and when the radical experiment called supply-side economics is revealed to be the riches-for-the-rich scheme that it is and the voice of thought for Americans will be heard.

SBA DISASTER LOANS

● Mr. PRYOR. Mr. President, I commend the Small Business Committee for including the provision of my bill, S. 865, in the committee's budget reconciliation recommenadtions. This legislation will insure that all SBA disaster loan applications are treated equally.

Much of this country suffered through a devastating drought last summer which drastically reduced crop yields. Farmers throughout the southern and western regions of this Nation watched their crops wither before their eyes as temperatures soared in excess of 100 degrees for much of the summer. These farmers suffered significant losses from this drought.

The Small Business Administration recognized the severity of the situation and designated much of the southern region of the country as a disaster area. Farmers in the affected region were encouraged to apply for disaster relief by SBA officials. The deadline for disaster relief applications was February 18, 1981. Almost a month later, after some loans had been approved and funded, the Office of Management and Budget instructed the SBA to freeze further funding. Then on March 19, a new set of regulations governing disaster loans was issued by the SBA. These regulatory changes were made without benefit of public notice or comment.

The changes in eligibility announced on March 19, and which went into effect on that date, include: First, the amounts of business physical disaster loans (other than home loans) are limited to not more than 60 percent of verified loss. Previously, a business was eligibile for loans equal to all verified losses up to a maximum of $500,000; second, economic injury loans can not exceed $100,000. Previously there was a $500,000 limit on such loans except in substantial hardship cases; and third, a credit elsewhere test was imposed limiting business disaster loans to those unable to obtain financial assistance from other sources.

Mr. President, the Small Business Administration has, by imposing these regulation changes, created an inequitable situation which unfairly punishes our farmers for the slow processing of their loans. Our farmers have as little control over this process as they did over the weather, and the result was the same: Disaster. In my own State of Arkansas, the SBA was unable to keep up with the applications so a large backlog developed.

A comparison of activity in different States demonstrates the inequity of this situation. On February 28 of this year, the Arkansas SBA office had approved 1,399, or 41 percent of the loans it had received, and had 2,019 applications still pending; South Dakota had approved 540 loans but still had 2,402 loan applications being processed; Georgia had approved 339 loans but still had 947 applications being processed.

On the other hand, the SBA office in Texas had approved 15,822 loans (or 82 percent of those received) and Missouri had approved 1,611 loans with only 691 loans pending. It is evident that some States are better prepared than others to handle such emergencies as this. It is also clear that many farmers are being penalized due to administrative problems resulting in the slow processing of disaster loan applications.

My bill, and the recommendation of the Senate Small Business Committee, rectifies this inequity by providing that the SBA shall act as requests for assistance "under the rules and regulations in effect on that date such application is received by the Small Business Administration." In effect it says that the rules cannot be changed in the middle of the game.

Again, I commend the Small Business Committee for its sensitivity to the current inequity and its willingness to address this situation in the budget reconciliation process.●

○ Mr. CHAFEE. Mr. President, on March 31, 1981, I offered an amendment to the first reconciliation bill, Senate Concurrent Resolution 9, to restore about $1 billion in cuts for education and other domestic programs. Although my amendment generated a significant amount of support, it failed to pass the Senate.

But this week, as the Senate debates the second reconciliation bill, which will implement the programmatic changes needed to reduce spending, it appears that the Senate has recognized the importance of some of the programs which concerned me in March.

While a direct comparison between my amendment and the figures within the reconciliation package is difficult to make, it is clear that fiscal years 1982 and 1983 Federal aid levels for title I of the Elementary and Secondary Education Act, my primary concern, will be higher than originally expected under the President's original budget proposal.

The President proposed cutting elementary and secondary education programs by 25 percent in terms of Federal outlays, and would have lumped them together into a block grant program. My amendment would have restored $450 million in 1982 outlays, resulting in an overall cut of 11.4 percent. The bill before us today cuts the major elementary and secondary education programs about 15 percent, and in some cases much less.

I am particularly heartened that title I of the Elementary and Secondary Education Act, which provides funds to help the disadvantaged, will be removed from the block grant, thus guaranteeing funding in every State.

A similar situation developed in programs for community health centers, which the President first proposed be lumped into a broad primary health block grant, which would then be funded at a level 25 percent below the previous year. My amendment would have provided a cut of only about 11 percent in community health care.

Under the bill before us today, community health centers are protected within the health block grant program and assured of funding at 15 percent below the previous level.

In another program—funds for urban development grants—my amendment sought to keep cuts at the level orginially proposed by the President after the Senate Budget Committee had proposed even steeper cuts. In the bill before us today, the extra cuts are eliminated, and the program will be funded at the level contemplated by my amendment.

All in all, the changes in the bill before us today have turned out far more favorably than I originally anticipated. When the President first offered his proposals, many of us from the Northeast were concerned about deep cuts in many domestic, social, and energy conservation programs. In a number of cases, the impact of the President's cuts has been mitigated by adjustments in the budget process. In retrospect, my amendment came closer than any other provision offered to what the Senate is now approving.

Although I am pleased about improvements made in title I ESEA and community health programs, I remain disheartened about the proposed funding levels for low-income energy assistance and weatherization. My amendment would have added $300 million for energy assistance and $50 million for weatherization in fiscal years 1982 and 1983. The bill before us adopts the President's recommendations for a 25-percent reduction in energy assistance and provides hazy promises for weatherization funding, leaving the final decision up to the Appropriations Committee. I will continue to oppose further reductions in these programs which are critical to the colder regions of our country.

Mr. President, I ask for the following editorial from the Washington Star be printed in the RECORD. The editorial makes several excellent points about the education block grant and the importance of title I.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington Star, June 23, 1981]

BLOCKSMANSHIP

Some Reagan administration officials feel the block grant program is the "cornerstone" of the administration's economic plan. One can see why. The plan to consolidate nearly 100 categorical grants into block grants for the states—while cutting spending 25 per cent—could eliminate many federal programs.

That is not a bad thing. If sorting out good programs from bad ones is desirable, it is not certain that Congress is always capable of doing the sorting. President Reagan's approach is to turn over such decisions to the states, believing that the states are better able to use money for local purposes than the federal government. That was the thesis behind revenue sharing.

We have no quarrel with the idea that many categorical grant programs have grown old before their time and exist chiefly as a drain on the federal treasury. But some have been successful—and their success has much to do with the fact that they are guided by federal rules.

An example is the 1965 Elementary and Secondary Education Act, which also happens to be the largest and most expensive education program. Its centerpiece is Title I, aid to "disadvantaged" children. Another is the Education for All Handicapped Children Act, passed in 1975. Mr. Reagan wants to consolidate these two acts—and 42 other education programs—into two block grants.

Under Title I, poorer school districts are targeted for the most money. The money is spent mainly for instruction—remedial reading and mathematics—and seems to have hit its "target." That is the point. For instance, a 1977 study by the National Institute of Education found that Title I students in first grade made an average gain of 12 months in reading and 11 months in mathematics in a 7-month period; similar results were reported among third-grade students. Other studies suggest that disadvantaged students' reading scores increased dramatically over the past decade.

It may be argued that the results are inconclusive, and that evidence linking Title I money to achievement is circumstantial at best. In the District, for example, where test scores have been rising, credit is given to programs which stress the basics. But Title I money is meant precisely for that purpose—to teach the basics. The nation's six largest school districts use Title I money to pay about 5 percent of their teachers and more than 40 percent of their educational aides.

Similarly, it has been argued that worthwhile programs would continue anyway, that the states in their wisdom would sensibly target their block grants without federal strings. Many states might. But others may see the grants as a form of educational revenue sharing, and use them to modernize cafeterias, build swimming pools and repair roofs—all worthwhile goals, but not at the expense of helping children learn to read and write.

Sen. Robert T. Stafford, R-Vt., chairman of the education subcommittee, has observed that the primary reason for the Act was "the failure of individual states to provide equal and appropriate opportunities to disadvantaged youngsters." In fact that failure was documented.

The education block-grant proposals are stalled in Congress and may remain so if the administration insists on combining consolidation with budget cutting in all cases. It would be a pity if the administration's efforts at "blocksmanship" are entirely defeated. But it would also be a mistake to permit substitute legislation to unravel successful programs simply because they do not fit block-grant philosophy.

No one ought to be unduly distressed if such programs as "metric education" and "ethnic heritage studies" are severely cut, and one may even cheer if dozens of similar programs are merged into single grants for the states to disperse, perhaps in other ways. But neither should the effectiveness of other programs, in particular those under Title I, be diluted by lumping them in with 40-odd other ones and shipping the money en bloc to the states. If it is federal responsibility to eliminate what is expendable, it is equally the federal obligation to preserve what is working well.●

● Mr. BURDICK. Mr. President, as I vote for the Omnibus Reconciliation Act, I want to voice my protest about the process which was attempted here to expedite passage of substantive legislation. We were able to make a number of important improvements, but I fear the extensive rewriting of existing law and the actual repeal of several major acts circumvented the traditional legislative process in a way that could set a dangerous precedent for the future.

I feel that many of the cuts could have been made in other areas, and others were too severe. Many of the provisions of this bill have implications far beyond their budgetary impact. If the traditional process had been followed a better and fairer bill could have been produced.

I am voting for this omnibus bill because there is a paramount need for a reduced Federal budget. If the Reagan mandate meant anything, it signaled a desire—a desire to cut Government spending. I share this desire. I support many of the cuts in this bill and am willing to give the President's program a chance.●

● Mr. MOYNIHAN. Mr. President, I oppose the Omnibus Reconciliation Act, but with a deep sense of disappointment. When the economic failures of recent years focused the Nation's attention on the rising level of Federal expenditures, a historic opportunity arose to prove our capacity to be both responsible for and responsible about the way the Federal Government spends and collects the people's money. The current majority has squandered this precious moment.

It is time to modulate the distortions that 30 years of accelerating deficits have introduced into our economic life, and I defer to no Member of this Chamber in my dedication to reducing the rate of growth in Federal spending. Long before this administration came to power, I supported legislation in July 1978 to mandate a balanced budget for the 1981 fiscal year.

I know that $36 billion can be cut from the current budget of some $700 billion, and I supported this level of reductions in the first budget reconciliation instruction, initially within the Budget committee, then on the floor of the U.S. Senate, and finally by supporting the conference report. But the Congressional Budget Office analysis reveals that the administration's entire fiscal program would produce a $87.5 billion deficit in the 1984 fiscal year. On May 12, 1981, I introduced an amendment that would have supplanted the enormous deficit projected for 1984 under the majority's plans with a $23.8 billion surplus, the first since 1969.

My proposal was not approved and the passage of this reconciliation bill insures a deficit. Beyond this I cannot support a budget program that selects its spending reductions in an irresponsible and inequitable manner. On June 22, 1981, I introduced an amendment to remove spending provisions for foster care, adoption assistance, and child welfare services from the social services block grant, and to maintain funding for the Child Welfare and Adoption Assistance Act of 1980.

The majority's legislation would slash Federal support for foster children, many with tragic disabilities, and leave in place the State-funded child welfare programs which Congress so recently found wholly inadequate. Spending cuts must not be directed at those groups least able to secure their own means of support through the private economy, just because they also are least able to gain the attention and understanding of the White House and its allies in this Chamber.

I also cannot support a budget program that reduces Federal spending inequitably from one State to another. If we are to secure a national consensus for a balanced budget, no region can perceive itself its special victim. On April 2, 1981, therefore, I introduced an amendment to the revised second concurrent budget resolution stipulating that budget reductions embody a principle of "equal sacrifice," by requiring that each standing committee to the extent possible, insure that its cuts be distributed proportionate to the population of the various States.

The majority rejected my amendment, and it is now clear that the burden of its spending cuts will fall most heavily on citizens from the Northeast and Midwest.

Finally, I cannot support a budget program that includes myriad extraneous provisions which pervert the entire process of bringing Federal spending and taxation under responsible control. With the Budget Committee and on the floor of the Senate, I have fought the extraneous amendments offered by the Banking Committee to deny section 8 housing funds to any city which maintains a program for rent control or rent stabilization. New York City has long adopted rent controls and rent stabilization (a voluntary arrangement between the city and landlords) to help subsidize the housing needs of its poor and elderly citizens. That city receives almost 10 percent of all section 8 units; this provision would deny the city between 5,000 and 6,000 units in the 1982 fiscal year alone. This provision represents both an unwarranted intrusion by the majority into the budget process and an unwarranted invasion by the Federal Government into the proper prerogatives of local authorities.

This Omnibus Reconciliation Act breaks faith with the American people, who have demanded, and properly so, that we begin to balance the budget in a responsible and equitable manner. I hope that the House of Representatives will approach these matters more sensibly, and I will be able to support the resulting conference.●

● Mr. RANDOLPH. Mr. President, we have been considering the question: Have Senate authorizing committees met reconciliation instructions by having reduced authorization levels of programs to achieve required cost savings in fiscal years 1982, 1983, and 1984?

The Labor and Human Resources Committee on which I serve has jurisdiction over nearly all federally funded programs that provide aid and comfort to the truly needy in this country. The committee reported its reconciliation measure after a slow and painful process of compromise—often against our better judgment. The members cut funding for programs such as health care, unemployment benefits, job programs, legal services, poverty-community action services,

drug and alcohol abuse, and finally, education. These programs, in my view, were cut to the point where I fear they will no longer adequately serve large numbers of people who are in need. These persons will slip through the unmendable holes in the President's so-called safety net.

Recently, in writing for the Washington Star, Richard Cohen said:

Why do we always have to wait until we can see the victims to appreciate the pain—to understand that programs serve people and when they get cut, people suffer.

President Reagan and Mr. Stockman continue to provide empty assurances that local and State resources will pick up the slack from the lack of Federal dollars that are being slashed from this budget for social and domestic programs. What these two gentlemen are not saying is that in order for local and State governments to pick up the slack—those governments will necessarily have to increase State and local taxes to bring in additional revenues for that purpose.

I am gratified that through constant effort and willingness to compromise, both Democrats and Republicans on the Labor and Human Resources Committee were able to hammer out agreements on budget cuts and block grants that, to the extent possible, minimize the impact of reduced services to our people.

I am pleased that our reconciliation report contained an education block grant that has the backing of the administration, Senator PETE DOMENICI, the capable chairman of the Budget Committee, and of our own able committee Chairman, Senator ORRIN HATCH. Needless to say, I am gratified that the education block grant does not contain the vital services provided in title I of the Elementary and Secondary Education Act, or the programs for educating and treating the handicapped children and adults. We managed to keep them separate.

Mr. President, I do not say that I embrace these agreements on reconciliation with enthusiasm or great satisfaction. In my years of service in the Congress, I have always believed in and practiced the delicately balanced give and take of compromise and cooperation.

If, as President Reagan claims, the majority of Americans want a balanced budget at any price—then Federal programs must be drastically cut.

Many Americans who are not poor, believe they will not be victims of these budget cuts. The President and Mr. Stockman have consistently and deliberately over simplified the process of Federal spending cuts, and under emphasized their overall effect on the general public.

Dr. James J. Thompson, Jr., professor of history at the College of William and Mary, recent wrote:

Despite rhetoric to the contrary, and whether we like it or not, we live in the era of the welfare state; to rail against freeloaders only complicates matters and places a stigma upon the aged, the infirm, the unskilled and all those who have not prospered in our society.

That goes to the heart of the issue of cutting programs under the jurisdiction of the Labor and Human Resources Committee.

The administration maintains that where local and State resources fail to pick up the lack of Federal dollars, religious organizations will step into the breach and come up with what is needed to care for the poor. Yet, only last week, a panel of area religious leaders composing the Interfaith Conference of Metropolitan Washington condemned the Reagan budget and said, and I quote:

The human suffering would be immeasurable if Congress approves Reagan's proposals.

The Interfaith Conference is composed of Catholic, Protestant, Jewish, and Islamic organizations, and has accused the administration of trying to substitute charity for justice, and warned against changes in the concept of the role of government in insuring the general welfare of its people.

Mr. President, of all the matters discussed in the Committee on Labor and Human Resources during consideration of reconciliation, one of the most important was the decision to cut student assistance programs to the point where they will no longer effectively serve currently enrolled students at colleges and universities throughout this country. They will certainly not be able to serve students entering college for the first time next year.

Mr. President, a study reported on June 18 by the Congressional Budget Office states that some families with incomes as low as $15,000 per year—well below the national median—would lose money under the Reagan administration's proposals to cut college aid—with most of that loss coming in the guaranteed student loan program.

A student from a family earning $35,000 a year, according to the CBO report, would have access to $1,824 less than they would under existing college aid programs.

I support the compromise proposal, drafted by Senator STAFFORD, chairman of the Education Subcommittee, which makes certain changes in the guaranteed loan and Pell grant programs, but does not go as far as the Reagan proposals. Senator STAFFORD's proposal, adopted by the committee by a vote of 10 to 6, will reimpose a $25,000 income cap on GSL borrowers. Below this students can borrow the maximum amount with no needs test required. Above it demonstrated need is required to enable a borrower to obtain "remaining need only" in the GSL program. Further, a 5-percent origination fee is imposed on all student borrowers, borrowing on or after July 1 of this year. This fee is retained by the lending agency as part of its special allowance, or incentive fee, normally paid by the Federal Government. These two major changes in the GSL program have my support because they retain the backbone of the GSL program—the in-school interest subsidy for all student borrowers.

Ellen Goodman, in writing in the Washington Post, Monday, June 22, said:

Only a rare child now inherits economic security, know-how, or tools, from a parent. Our kids will not inherit a piece of land or a set of tools, a business or a skill by which they can make a living. All that we can do, is help them get the price of admission—a college degree. The student who could once work his or her way through college now finds jobs scarce and the gap between paychecks and tuition bills a chasm. The student from a family that earn $30,000 a year can barely more afford college than the student from a family that earns $20,000 a year.

Ms. Goodman further wrote:

There is undoubtedly a need to improve the program guidelines, to have some income ceiling, and make changes in the repayment program.

Senator STAFFORD's proposal, which I supported, does that.

Ms. Goodman concluded by saying:

There is undoubtedly a need to improve the program guidelines, to have some income ceiling, and make changes in the repayment program.

But I don't think we have to accept the either/ors of this administration. I don't agree that we can either afford college loans for the middle class or school lunches for the poor. Not while we go on a defense-spending spree . . . This is not a giveaway program, but a loan to families, and an investment . . . we need to make sure middle-class families aren't cut off from the future. They too need a place in this vast and intricate patchwork quilt called budget cutting.

President Reagan is fond of quoting Franklin Roosevelt when it suits his purpose to do so. There is one Roosevelt quote that I hope the President will embrace. In 1936, Franklin Roosevelt said:

Governments can err, Presidents do make mistakes, but the immortal Dante tells us that divine justice weights the sins of the cold-blooded and the sins of the warm-hearted on different scales. Better the occasional faults of a government that lives in a spirit of charity than the consistent omissions of a government frozen in the ice of its own indifference.

I hope, Mr. President, that this Congress and this administration will not be frozen in the ice of their own indifference, as we proceed to reconciliation of the budget over the next 3 fiscal years.●

TITLE IX OF THE OMNIBUS RECONCILIATION BILL

● Mr. ROTH. Mr. President, title 9 of S. 1377 contains the recommendations for changes in laws necessary to achieve the required savings assigned to the Committee on Governmental Affairs. These recommendations were agreed to individually by the Governmental Affairs Committee on May 5, 1981.

Before I begin to discuss the specific changes we recommended, I would like to thank the members of the Governmental Affairs Committee for their cooperation and assistance in working on our part of this reconciliation measure. The members of the Governmental Affairs Committee made some very tough decisions in passing these proposals. Difficult though they were, I believe these decisions will be proven right and in the best interest of those they affect. I would also like to commend my distinguished ranking minority member for his creditable leadership and clearsighted good judgement on these budget matters in particular, as well as the rest of the business which comes before the Governmental Affairs Committee.

The Governmental Affairs Committee

was instructed to recommend savings totaling approximately $5.2 billion in outlays and $4.8 billion in budget authority in fiscal year 1982. The committee achieved these savings. The committee also recommended savings of $1.6 billion in budget authority and $2.1 billion in outlays in fiscal year 1983 and $1.4 billion in budget authority and $1.7 billion in outlays in fiscal year 1984.

Legislative changes approved by this committee include both reductions in authorization and reductions in direct spending.

In order to save an estimated $513 million in direct spending in fiscal 1982, the committee voted to discontinue semiannual cost-of-living adjustments for Federal Civil Service retirees and instead provide an annual cost-of-living adjustment. This adjustment would be given in March of each year and would be based on the Consumer Price Index.

I believe I speak for the rest of the Governmental Affairs Committee when I say that we are dedicated to the basic principle that our retired Civil Servants should be treated with fairness. In this time of budget cutbacks and belt tightening I absolutely will not agree to any proposal which uses the Federal retiree as a scapegoat to achieve budgetary savings. Our retired civil service employees who served this country well and in good faith should not be singled out and taken advantage of. I pledge to fight any effort to unfairly penalize civil service pensioners. The best way to preserve the purchasing power of the pension, however, is to stop inflation. This proposal would save an estimated $414 million in fiscal 1983 outlays and $357 million in fiscal 1984 outlays.

The Committee on Governmental Affairs has also voted to establish an across-the-board 4.8-percent ceiling for the annual cost-of-living adjustment for Federal employees.

Under the Federal Pay Comparability Act, the President designates a pay agent to compare Federal salaries with those in the private sector. The comparison is based on data from the Bureau of Labor Statistics and the pay agent makes a recommendation on an appropriate annual pay increase for Federal employees based on the BLS data. Under the existing comparability process, the cost-of-living adjustment for Federal employees is estimated currently to reach approximately 13 percent in fiscal year 1982.

The committee has before it S. 838, an administration proposal to reform the comparability process. If this proposal were adopted, it is estimated that a 4.8-percent pay raise for Federal employees would result. The committee will be unable to fully consider this proposal, due to its complexity, in time to comply within the Budget Committee's instructions. Instead, an across-the-board 4.8-percent ceiling is proposed for adoption by the committee.

The 4.8-percent pay cap would not apply to military personnel. Additionally, the 38,000 top-level career officials in Government who have their pay capped due to the unchanged pay levels of executive level personnel, will not receive any increase in pay.

Approximately 2.3 million civilian general schedule and blue-collar workers are covered under the cap as are several classes of employees, such as those in the Foreign Service, who have pay systems outside the predominant Federal pay systems.

The total estimated savings under the proposal is approximately $3.7 billion in fiscal year 1982 budget authority and outlays.

As I will later discuss in further detail, the committee did not adopt pay caps for fiscal years 1983 and 1984. To adopt such ceilings at this time would be premature. The committee will however, make additional changes in order to achieve the targeted savings in the outyears.

Mr. President, the committee also approved legislative changes in the borrowing authority of the District of Columbia government which will save $173 million in projected outlays over the next 3 years.

The District of Columbia has, in the past, exclusively financed its capital improvement projects by borrowing from the U.S. Treasury at the prevailing Treasury rate. The payback period for each loan is 30 years in equal annual installments. As of September 30, 1981, the District had loans outstanding of approximately $1.4 billion.

Since the D.C. government borrows directly from the U.S. Treasury, its loans are in effect direct outlays from Federal resources. These outlays may reach a level of nearly $190 million in fiscal year 1982 according to recent CBO projections.

The committee set a cap on these loans of $155 million in both fiscal years 1982 and 1983. The authority for the D.C. government to borrow from the U.S. Treasury will terminate in fiscal year 1984 under the committee's proposals. However, the District was planning to enter the private capital markets in fiscal year 1984 and the proposed cap should not greatly disrupt the Government's fiscal operations.

The committee's proposal is consistent with the theme of section 461 of the D.C. Home Rule Charter which is designed to encourage the District government to become more fiscally self-sufficient. It is also more costly for the District of Columbia to borrow from the U.S. Treasury, especially in light of the lower bond prices which have prevailed recently. In sum, Mr. President, the committee felt this change was wise both from a fiscal and a general policy standpoint.

The committee reviewed the operations of the Postal Service quite carefully and agreed to recommend the Senate changes which will save over $950 million in outlays in the next fiscal year and $1.2 billion in fiscal 1984.

The committee achieved these savings by reducing both the public service subsidy, which the Postal Service receives to help finance such non-postal-related matters as serving as a registration point for the Selective Service System, and the revenue-forgone subsidy, which provides Federal funds to the Service to compensate it for the costs of providing certain services at a rate lower than that necessary to fully recover costs. These lower rates are established by Congress.

Under the committee's proposal, the public service subsidy would be reduced from a projected $644 in fiscal 1982 to a level of $300 million and would be phased out entirely by 1984. The revenue-forgone subsidy, which fluctuates depending on the increase in mail volume each year and other factors, would be capped beginning in fiscal 1982 at a level of $500 million per year. Together, these proposals produce the savings the Congress mandated under Senate Concurrent Resolution 9.

The committee believes the Postal Service will be able to adjust to these cuts without reducing services. William Bolger, the Postmaster General, has testified before Congress that he believes the Service can absorb the reduction in the public service subsidy by maintaining its growth in productivity levels which last year increased by over 5 percent. There is no question that some rates for mailers will occur such as those to nonprofit groups and within county newspapers. However, these increases will actually result from an accelerated implementation by the Postal Service of step rate increases in subsidized rates which are by law required to occur over the next 6 years. I should mention, too, Mr. President that the committee's proposal will not affect the mailing privileges now granted to the blind and handicapped.

The effect of all these changes is to move the Postal Service closer to the goal set for it in the 1970 Postal Reorganization Act: To establish the Postal Service as a viable Government organization able to operate with minimal congressional or Presidential interference. In addition, these changes insure to a greater extent than now that the actual user, and not the taxpayer, pays the costs of using the Postal Service.

Finally, Mr. President, the changes proposed by the committee would not disrupt mail service nor would they force the closing of any local post offices or end Saturday mail delivery. In short, the committee's actions make real reductions in Federal outlays for postal operations but they should not affect the Service's ability to provide quality service to all Americans.

In addition to the four recommendations I have discussed, the committee voted to reduce spending on consultant services by $500 million and Government travel by $550 million. Both of these reductions would be apportioned among the agencies and departments of the Government by the Director of the Office of Management and Budget.

In making the recommendations I have discussed, the Committee on Governmental Affairs has complied with the reconciliation instructions contained in Senate Concurrent Resolution 19. In addition, the committee will continue its efforts to find saving in other areas and will particularly focus on ways in which waste, fraud and abuse can be eliminated.●

AN HISTORIC ACT—WITH SERIOUS FLAWS

● Mr. PELL. Mr. President, the budget reconciliation bill upon which the Senate has completed action today is truly an act of historic proportions.

It is historic and unprecedented both in the sheer size of the Federal budget cuts made by the act, and in the procedure used to make the budget reductions.

It is because I have serious misgivings about both the content of the bill and in the procedures that I have voted against the reconciliation bill.

I believe that strong restraint of Federal Government spending and sharp pruning of lower priority Government programs is an essential step in any effective program to control inflation.

However, I disagree strongly with the national economic and social priorities that are reflected in the budget cuts provided in this reconciliation bill. The bill provides for severe and I believe unwise budget cuts in many programs that are of vital importance to the education, health and well-being of many millions of Americans. Many of these budget cuts I believe will return to haunt and plague our Nation in later years in the form of new, unresolved national problems.

The priorities embodied in the reconciliation bill become clear when we realize that while the bill would reduce Federal spending for nondefense programs by $141 billion over the next 4 years, the administration proposes increasing defense spending by more than $100 billion during the same time.

In my view, we are cutting far too deeply into important, valid nondefense spending programs, and at the same time, looking toward increases in defense spending that are excessive and are likely to lead to waste and inflationary pressures.

In the reconciliation bill, of the $141 billion in spending cuts provided over the next 4 years, only $2.6 billion—or less than 2 percent of the budget cuts—are imposed on defense spending.

The strength of our Nation, and indeed our national security consists of more than weapons, and I am concerned that if we neglect the educational, health, nutritional, and housing needs of the American people we may well be undermining the real source of our national strength.

I am concerned also that many of these budget cuts have been proposed not simply because of an economic need to restrain spending, but because the administration does not believe the Federal Government has any real and substantial role in trying to assure that all Americans have opportunities for education, decent health care, decent housing and a decent daily diet. I believe the Government has a very real role and responsibility which we should strive to fulfill within the limits imposed by our national wealth and the state of our economy.

My second reason for voting against the reconciliation bill is my deep concern over the procedures that are being used to enact these budget cuts. The reconciliation provisions of the Budget Act were never intended to be used to force massive budget cuts for 4 years into the future as this reconciliation bill does.

Reconciliation was intended to be used, after the Congress had acted on all appropriations bills for 1 fiscal year, to bring total Federal Government spending within the targets that the Congress itself had established. It is intended, as the name implies, to "reconcile" or harmonize for 1 fiscal year all of the individual decisions that Congress has made on Federal Government spending for that year.

This year, however, the reconciliation process has been used to force the Congress to rewrite and change dozens of Federal Government programs to achieve savings in Government spending 2, 3, and 4 years from now.

All of this is being done under severe restraints on time, on committee consideration, and on floor debate. As a result, many far-reaching changes in Government programs are being made hastily, and without the opportunity for full public debate and understanding.

It will be many months before the full impact of the changes being made by this bill are understood by the American people. In my view, it is just not the right procedure to use to make far-reaching, long-lasting changes in well-established valuable, and proven Federal Government programs.

For these reasons, I have voted against the reconciliation bill despite my strong support for substantial and carefully considered cuts in Federal Government spending.●

● Mr. LEVIN. Mr. President, this reconciliation bill achieves considerable savings. I support the level of savings found in this bill. In fact, I supported efforts to increase those savings by supporting cuts in Government travel and consulting services.

This reconciliation bill, however, makes these cuts in ways I simply cannot support. The cuts in this bill are inequitable and they intensify regional disparities.

This reconciliation bill violates the commitments we have made as a nation to millions of seniors who have come to depend on the social security system for adequate retirement incomes. We are breaking our promise to the unemployed, the elderly, and the disadvantaged—breaking the President's own pledge that a safety net for the truly needy would remain in place.

This reconciliation bill is unfair to more than individuals. It is also unfair to entire regions of the country and sectors of the economy. If the budget is considered a tool to encourage economic growth, and promote growth in areas needing help, this reconciliation bill contradicts, in a number of ways, that goal. Objective studies suggest that the program cuts in this reconciliation bill will clearly work to the disadvantage of older industrial States of the Northeast and Midwest. While water projects remain relatively untouched, critical economic development programs, the Economic Development Administration and the urban development action grants, for example, are eliminated or severely reduced. Reductions in these programs will mean slower growth in economically depressed regions.

Finally, Mr. President, many of these cuts are shortsighted. It is a false economy to make major slashes in energy conservation and energy research and development and in preventive health care and education assistance. Greater costs to society will follow in the long run.

For these reasons, I oppose the reconciliation bill.●

ENERGY RESEARCH AND DEVELOPMENT, PARTICULARLY WITH RESPECT TO SOLAR PHOTOVOLTAIC TECHNOLOGY

● Mr. MATSUNAGA. Mr. President, for the purpose of clarification, I would like to speak for a moment with the distinguished Senator from Idaho, Senator MCCLURE, in his capacity as chairman of the Energy and Natural Resources Committee. Is it your understanding of the committee's actions in approving the Department of Energy authorization for fiscal year 1982 that it was endorsing the administration's policy of placing the major emphasis on long-term, high-risk energy research, and where national security is not at stake, making the results of that research available to the industrial and scientific community as soon as practicable?

Mr. MCCLURE. That is a good characterization of what I believe the committee did.

Mr. MATSUNAGA. As the principal Senate sponsor of Public Law 95–590, the Solar Photovoltaic Energy Research, Development and Demonstration Act, I am pleased to note that the private sector, in collaboration with the Federal Government, has developed solar photovoltaic technology to a stage where the principal Government involvement need only occur in the areas of long-range research and business incentives.

In this respect, it is my understanding that a member of the Senate Finance Committee is considering the introduction of a measure to improve upon the business tax credits available for energy development which effectively then would shift Government activity from determining the total course of alternative energy development to primarily providing equitable opportunity for private sector commercialization.

It is my impression that certain Federal demonstration and facilities activities, such as the funding of manufacturing facilities, perturbed the commercial marketplace in an undesired fashion. Moreover, the Department of Energy is preoccupied with achieving an annual reduction in the cost of solar cells perhaps at the expense of achieving the more substantial decrease in solar cell costs which would result from a breakthrough in photovoltaic technology. Are my observations consistent with the intent of the Energy and Natural Resources Committee regarding the photovoltaics program?

Mr. MCCLURE. I say to the distinguished Senator from Hawaii that the administration's request for fiscal year 1982 reflects the general thrust of the Senator's statement on photovoltaics. A greater emphasis has been placed on advanced R. & D., while technology development has been reduced by 79 percent. Furthermore, the administration proposed a phaseout of marketing development. The committee has not yet acted with respect to the suggestion of the budget submission so I cannot characterize this as the position of the com-

mittee, or, indeed, of the Senator from Idaho.

Mr. BIDEN. I supported the budgetary savings of $36 billion in the reconciliation instruction adopted by the Senate earlier this year. I also voted for the first budget resolution which incorporated that savings and others as well.

However, during consideration of both of those pieces of legislation I raised questions about budget priorities and about some specific cuts. In fact, I voted for amendments to lessen the impact of some of the proposed cuts.

Now we are voting on specific changes in substantive law that will change Government services and benefits to accomplish the desired budget savings. My earlier concerns remain and are heightened. I believe that many of the legislative proposals in this bill are unacceptable, both because of the immediate effect on certain sectors of society and because of the stage it sets for even further cuts in future years that will hurt millions more.

Specifically, I cannot accept the decision to hold a "fire sale" of Conrail which carries 40 percent of the Nation's freight. This bill would break up the railroad, even if it becomes profitable, dooming forever adequate freight transportation to the Northeast.

The inclusion of several block grants in the education, health, and social services areas that will eliminate targeted aid to States and localities. Block grants will not achieve the administrative savings and efficiencies that its proponents claim, but will severely cut the level of services to people in need.

I am concerned about consumer impact of some of the FCC decisions made in this bill and whether the rights of the American people, who own the airwaves, are protected. But the procedure under which this bill is considered does not allow for adequate consideration of these concerns.

I am deeply concerned about the denial of social security minimum benefits to people who are already receiving them. I believe this is the first step in a systematic denial of many social security benefits to people who retired or planned their retirement in anticipation of them. This action sets the stage to limit early retirements, cut benefits, and delay cost-of-living increases as the President proposed recently. We must draw the line now.

Aside from some of the specific budget cuts in this bill, I am concerned about the future implications of this process. Debate on this omnibus bill, which contains many important pieces of legislation, is limited to a total of 20 hours. Several of these pieces of legislation have no budgetary impact. But actually the legislation that does have a budgetary impact is probably more important and far reaching than the legislation that does not. These include changes in social security benefits, medical insurance, health programs, Conrail and Amtrak, environmental programs, energy supply and conservation, veterans' benefits, and many, many more.

We have set today the precedent that we can—perhaps that we should—consider such far-reaching legislative proposals in a mere 20 hours; and with a very effective limitation on amendments that are in order. This may limit debate in the Senate very dramatically on all kinds of issues in the future, and to the extent that debate is limited the American people lose an essential protection of their rights. I believe we will live to regret the precedent we have set here today of dealing with major legislation in this shortcut way. It will severely limit our ability to deal intelligently with many problems in the future. At its worst it will permit an unyielding majority to force bad policies on an unwilling country.●

Mr. HUDDLESTON. Mr. President, S. 1377, the reconciliation bill, is an important first step toward bringing the expanding Federal budget under control. Its adoption will show the Nation that Congress is committed to reducing inflation.

However, budget cutting under the reconciliation instructions has not been an easy task. Most, if not all, of the Federal programs adversely affected by the proposed budget cuts provide needed assistance to the people of the United States. Certainly, the Committee on Agriculture, Nutrition, and Forestry was given stringent budget reduction targets to meet. The committee had no option but to make cuts in programs that are vital to U.S. farmers and rural communities and to insuring that the Nation's people receive the benefits of good nutrition.

I commend the distinguished chairman and the other members of the Committee on Agriculture, Nutrition, and Forestry for their hard work in shaping the cuts that had to be made, to minimize the adverse effects of the cuts on the committee's programs.

Also, I would like to point out that the Agriculture Committee, prior to considering the reconciliation bill, had already made substantial cuts in programs under its jurisdiction. We have already reported out a dairy price support reduction bill—which has become law—an omnibus farm bill, and a food stamp bill, all of which will reduce the budget.

By eliminating the April 1 increase in dairy price support, some $160 million in fiscal year 1981 outlays were saved.

The farm bill reported by the committee will reduce direct spending outlays for farm programs by $900 million for the next fiscal year. In that bill, we reduced the level of dairy price supports for 1982, 1983, and 1984, which will save something on the order of one-half billion dollars during each such year. We lowered the support level for wool, which will save about $15 million in each of the 1982 through 1985 fiscal years. In addition, we will save $380 million in fiscal year 1982 on interest payments as a result of cutbacks in other farm programs.

The changes the committee made to the food stamp program will save over $1.8 billion next year. Including the cuts made under the reconciliation bill, the Agriculture Committee will have reduced outlays for fiscal year 1982 by some $5 billion. This figure represents a reduction of nearly 20 percent of the overall budget for the committee's programs.

Clearly, the magnitude of these cuts imposes on Congress the great responsibility of overseeing the reduced programs very closely. The programs must be soundly and efficiently managed. Those benefiting from the programs should not have to suffer needlessly from inequitable application of budget reductions.

REDUCTIONS IN FARMERS HOME ADMINISTRATION PROGRAMS

The Farmers Home Administration provides credit in rural areas through a variety of programs. These programs include ownership and operating loans to farmers who cannot get credit elsewhere; loans to farmers who suffer losses because of natural disasters; loans and grants to rural communities for water, sewer, and essential community facilities; and guaranteed loans for rural businesses that create jobs, which are an important source of off-farm income. These programs have been targeted by the administration as areas in which to achieve budget savings.

The administration had proposed that savings be achieved by raising interest rates, reducing program levels, eliminating the limited resource farmer loan program and the business and industrial loan program, and allowing the economic emergency loan program to expire at the end of this fiscal year.

Fortunately, the Senate Committee on Agriculture, Nutrition, and Forestry was able to find enough savings elsewhere to modify the administration's proposals in this area. Nonetheless, the reductions to which the committee agreed are painful and will reduce Federal assistance provided to rural areas.

The proposals to which the committee agreed on Farmers Home Administration programs are as follows: For the water, sewer, and community facilities program, the committee accepted the administration's proposed loan levels, which are about one-half of this year's program level. The administration has recommended that the interest rate for these loans be set at 1 percent above the municipal bond rate. Because of savings achieved in other areas, the committee was able to set the interest rate at 3 percent below the municipal bond rate.

In addition to changing the interest rate for these loans, the committee capped the grant program at $100 million. This will maintain a ratio of $3 of loan money for each dollar of grant money.

The committee accepted the administration's proposal on program levels for operating and ownership loans. These levels will represent a reduction in ownership loan funds and an increase in operating loan funds. The increase in operating loans is needed to offset the effect of allowing the economic emergency loan program to expire at the end of this fiscal year.

With respect to the limited resource farmer program, current law requires that 25 percent of the operating and ownership loan funds be allocated to

limited resource farmers at reduced interest rates.

The committee rejected the administration's proposal to eliminate the limited resource farmer program. With the average age of farmers approaching 56 years, there is an obvious need to encourage and assist young and beginning farmers.

Because of savings achieved in other areas, the committee was able to set aside 15 percent of the operating and ownership loan funds for limited resource farmers. The interest rate on these loans will be 3 percent below the cost of money. The interest rate for regular ownership and operating loans will continue to be at the cost of money to the Government.

The administration's legislative proposals on disaster loans were to raise the interest rate for farmers who cannot get credit elsewhere from 5 percent to a rate based on the cost of money to the Government; limit the amount that may be loaned under the program to such amounts as are provided in advance in appropriation acts; and make farmers who can get credit elsewhere ineligible for disaster loans.

I offered an amendment, which was accepted by the committee, to give the Secretary of Agriculture discretionary authority to permit farmers who can get credit elsewhere to participate in the program. I believe that a disaster program should be open to anyone who suffers from a disaster. In many cases, there is insufficient loan money for rebuilding or meeting other financial needs available in a community that has suffered a disaster, even for those who have good credit ratings. To assure that this extention of eligibility is not abused, under my amendment, farmers who are creditworthy borrowers would have to pay interest based on the normal commercial rate.

The proposals to raise the interest rate for farmers who cannot get credit elsewhere and to establish lending limits for the program under appropriations acts were accepted. I am concerned that, in severe disaster years, the appropriations requirement will create needless delays in getting assistance to farmers when and where it is needed. I urge the administration to make every effort to assure that sufficient loan funds remain available at all times to meet the needs of farmers after a disaster strikes.

PUBLIC LAW 480

The committee also acted to reduce direct spending and authorizations under the Public Law 480 food for peace programs. The reductions were achieved by increasing interest rates under the title I concessional sales program, eliminating the cargo preference requirements, and reducing program authorization levels.

Concern has been expressed that the increased interest rates will force poorer countries to opt out of the title I program and seek contracts under the title III program, which provides for loan forgiveness. If this happens, it could negate some of the savings anticipated in direct spending. I urge the administration to take steps in developing loan terms and negotiating agreements to insure the continued vitality of the title I program under Public Law 480.

INSPECTION FEES

The reconciliation bill includes an administration request bill to require users of various agricultural commodity inspection services to pay fees to cover the costs of these services.

Tobacco farmers in my State will be affected by this administration request bill with respect to services under the Tobacco Inspection Act. I was pleased that the Agriculture Committee adopted an amendment to the administration proposal, offered by Senator HELMS and me, to require the establishment of a permanent advisory committee of tobacco producers to advise the Secretary of Agriculture regarding the level of tobacco inspection, fees, and other services. The advisory committee will have subcommittees for each major type of tobacco.

NUTRITION PROGRAMS

The reconciliation bill will make substantial reductions in child nutrition programs, including the school lunch program, and the food stamp program.

In the child nutrition programs, major savings are achieved by lowering the income eligibility levels for free and reduced price meals; significantly lowering the reimbursement rates for paid school lunches and breakfasts; doubling the cost of reduced price lunches; tightening income verification requirements under the school feeding programs; limiting the number of meals served and reimbursements provided in the child care feeding program; eliminating the special milk program except for schools with no other Federal feeding program; and completely eliminating the summer feeding program.

One of the problems with the reconciliation process in relation to child nutrition is the classification by the Budget Committee of some of these programs as direct spending and others as authorizations. Until this year, all programs but the WIC program were classified as entitlements or direct spending. For reasons that are not clear, all of the child nutrition programs except special milk and summer feeding were reclassified this year as authorizations. A careful review of how these programs operate would show that there is insufficient basis for the classifications the Budget Committee made.

Furthermore, this classification has essentially resulted in the Budget Committee making line item reductions in programs under the Agriculture Committee's jurisdiction. Since the only two child nutrition programs classified as entitlements were targeted for elimination in the budget resolution, the Agriculture Committee had no option but to eliminate these programs if it wished to comply with the budget resolution targets for nutrition programs. Even though other programs like school lunch, school breakfast, and child care feeding operate much the same as special milk and summer feeding, the Agriculture Committee did not have the option, for instance, to take a deeper cut in the breakfast or lunch programs in order to preserve part of the summer feeding program.

In the food stamp program, the reconciliation bill includes, with one variation, the savings provisions included in the Senate-passed version of S. 1007, the Food Stamp and Commodity Distribution Amendments of 1981. These provisions, which would save over $6 billion in fiscal years 1982 through 1984, include cancellation of changes in benefits and deductions scheduled to take effect in fiscal year 1982; a delay in cost-of-living increases in each of the next 3 years; a freeze on the standard and shelter deductions for 2½ years; proration of benefits provided in the initial month of eligibility; a lowering of the income eligibility limits; the elimination of strikers from the program; a lowering of the earned-income deduction; a tightening of the definition of household; and several others.

CONCLUSION

Mr. President, I strongly support the effort to reduce the budget that S. 1377 represents. However, as ranking Democrat on the Committee on Agriculture, Nutrition, and Forestry, I will make every effort to assure that the reduced budget is managed properly, so that maximum protection, within the budget limits, will be given to U.S. agriculture and to those of our citizens in need of a healthy diet.

Mr. PERCY. Mr. President, I rise to support the Omnibus Reconciliation Act. I will vote for this measure that will be the first major step toward fulfilling our pledges to put the U.S. economy on a sounder footing.

This legislation is a landmark in almost any sense in which it is viewed. It is a landmark because of the size of the budget reductions included in it: $141 billion for fiscal years 1981 to 1984. Congress has never attempted to grapple with budget reductions of this magnitude. Last year, it is true, we did pass the very first reconciliation bill ever passed by Congress and it has saved the taxpayers of this country billions of dollars. But that reconciliation bill was well under $10 billion in its total savings and a large part of last year's legislation related to revenue-raising measures. So, the actual spending reductions per se were less than $4 billion.

The bill we are considering today will slice off nearly $40 billion in just fiscal year 1982 alone. That is a tremendous change from last year's bill. These budget cuts take on an even larger dimension in 1983 and 1984, when cuts of $46 billion and $55 billion, respectively, will be realized.

Mr. President, I ask unanimous consent that a chart prepared by the Budget Committee be included in the RECORD at this point.

There being no objection, the chart was ordered to be printed in the RECORD, as follows:

RECONCILIATION BILL TOTALS

[In millions of dollars]

	Fiscal year 1981		Fiscal year 1982		Fiscal year 1983		Fiscal year 1984	
	Budget Authority	Outlay	Budget Authority	Outlay	Budget Authority	Outlay	Budget Authority	Outlay
Direct spending:								
Committee recommendations	−343	−732	−8,192	−13,664	−9,634	−15,831	−11,074	−18,204
Instructions to committees	−498	−745	−6,640	−12,595	−7,910	−15,278	−8,898	−17,334
Authorizations:								
Committee recommendations	−8,807	−914	−46,504	−25,967	−49,822	−30,261	−56,139	−35,828
Instructions to committees	−12,152	−776	−44,054	−22,571	−49,689	−31,164	−57,118	−38,398
Grand total:								
Committee recommendations	−9,150	−1,646	−54,696	−39,631	−59,456	−46,092	−67,213	−54,032
Instructions to committees	−12,650	−1,521	−50,694	−35,166	−57,599	−46,442	−66,016	−55,732

Source: Senate Budget Committee, report on Omnibus Reconciliation Act of 1981.

Mr. PERCY. The chart very graphically presents the savings that will be realized by this landmark legislation. It outlines the actual savings that have been achieved by S. 1377 and compares those savings with the instructions that were given to committees many weeks ago. Although this chart shows some discrepancy between savings and instructions, let me point out that the Senate has adopted amendments this week that will bring our total savings up to the level of the instructions. I have supported these amendments—cutting still more in Federal spending—to make sure that we achieve the full measure of the cuts requested by President Reagan.

The bill before us today is also a landmark in another manner. It is, as I explained earlier, the first time that the Senate has sought to make major budget cuts in one legislative vehicle. It is the success of this vehicle—the reconciliation bill—that stands as a landmark in itself. Who would have thought just a year ago that the Senate would have the discipline to make cuts in nearly every Government program and bring forth from 14 separate committees spending reductions of this size? Moreover, who would have thought that such a package of reductions could be passed by the Senate by the end of June—just 3 months since the time Senate committees were instructed to make these cuts?

There have been two reasons that we have been able to accomplish these reductions. The first has been the commitment of the Senate Republican leadership and I pay special tribute to the majority leader, my good friend HOWARD BAKER, for organizing committees to meet this deadline. He has done a commendable job as our leader and I congratulate him on it.

The second reason that we have been able to succeed with these spending reductions is the 1974 Budget Reform Act. That law gave us the mechanism—reconciliation—that we are using today to assemble these many reductions.

I was pleased to have been a coauthor of the Budget Reform Act of 1974. It originated in our Government Operations Committee and was shaped in cooperation with the Senate Rules Committee. We have operated under the budget process since 1976 and it has given us a semblance of business-like fiscal management. The budget process is a vast improvement over the chaotic situation that existed when I came to the Senate and under this process, we have a complete picture of spending and revenue, rather than the piecemeal approach of previous years.

The reconciliation bill—reconciling actual spending with the spending targets in the budget resolutions—has proven this year to be a vital and essential part of the budget process. With the proper discipline and will, we are proving that Congress can bring about fiscal responsibility. With the passage of this bill today, we will be on a straight road to a balanced budget in 1984, as promised by President Reagan in his budget messages earlier this year.

Mr. President, I must say that I think we have done a fairly good job of dealing with matters that were somewhat extraneous to this budget plan. Under the Budget Act, the Budget Committee does not have any authority whatsoever to change spending reductions made by the individual committees. Their job is to package the recommendations into one bill.

Some committees added extraneous, nonbudgetary items to their spending reductions. These items did not reduce spending in any real way. Rather, the relevant committees saw the reconciliation bill as a vehicle for reauthorization of programs that would have otherwise had to proceed on their own merit. The majority and minority leaders did work out an elimination of many of these extraneous items and the Senate passed those in the first day of debate. The reconciliation process is too important to undermine with nonbudgetary items and it was essential for us to keep it centered on its primary purpose: The reduction of Federal spending.

A great many amendments have been offered to this bill. I voted against those amendments that would have added millions of dollars of additional spending to the budget. Now is not the time to be adding to the $695 billion budget we already have—up from $655 billion budget of 1981. Even with the major reductions of this legislation, spending will still increase in 1982 over this year's levels. We are cutting as deep as we can, but essential programs for the truly needy will be maintained and will actually increase in terms of their share of the total budget. We are also increasing defense spending in the 1982 budget, to make up for the neglect of the past decade.

I am also pleased that steps were taken in the course of the debate on this bill to move Illinois closer to a position whereby it could qualify for a cap on the penalty tax its employers are paying to the Federal Government for its unpaid debt to the Federal unemployment trust fund. Through passage of an amendment offered by myself, Senator DIXON, and Senator HEINZ of Pennsylvania, the formula for relief from this escalating penalty tax was made more favorable to the State of Illinois. We have received assurances from the chairman of the Finance Committee, Senator DOLE, that every effort will be made in the subsequent joint House-Senate conference on this bill to insure Illinois' ability to qualify for relief from this burden on our State's business community.

This bill will be good for the economy and it will be good for my own State of Illinois.

AMENDMENT TO RESTORE CUTS IN JUDICIARY COMMITTEE AUTHORIZATIONS

Mr. LEAHY. Mr. President, I am pleased to add my name as a cosponsor of Senator THURMOND's amendment to restore vitally needed funds to the Department of Justice. No one has shown more sensitivity than the Members of this body to the need for cutting the cost of governing America. But what is the fair value to our citizens of peace and personal security? It is ironic to me that as we strengthen our military forces to contend with the threat of international lawlessness, we are weakening our defenses within and are opening our cities and rural areas to new invasions of fear and violence.

While the fight against crime is a war on many fronts, the first front has to be the battle against youthful crime, in many respects the most chilling front. And I am speaking more for my children than for my own generation, for if the increase in juvenile crime continues, they are all too likely to spend a significant part of their lives in fear. In the name of a sound budget we are proposing to cut deeply into a juvenile justice program that has been effective and is still necessary. In the name of tomorrow, I must question that judgment.

We see in the breakdown of order and respect among the young the shadow of our own failures. Cutting off juvenile justice funds will perpetuate that failure. I understand—and am a part of—the new initiatives in Congress and the Nation to crack down on youthful crime, and such bills as the Violent Juvenile Reform Act of 1981 will help do just that.

But it is pointless to pass laws that toughen enforcement of criminal laws against juveniles at the same time as we are cutting funds for programs that are essential to help prevent juvenile delinquency, that help the States to deal effectively with young offenders, that help provide needed services in those cases where juvenile offenders can be diverted from the sure path to criminal careers.

Mr. President, my plea is that we think hard about the investment we need to make now in juvenile justice to yield to our children a future free of the fear of pervading violence.

I also strongly support the balance of the Thurmond amendment, Mr. President. The $17 million for the Office of Justice Assistance, Research and Statistics (OJARS) has been invaluable to the States in understanding the scope and dimension of their criminal justice problems so that State resources are effectively used.

The Border Patrol has never needed our support more than it does now. We cannot expect it to function effectively on fewer dollars and should not seek to capitalize on the selflessness of this group of dedicated public servants.

I also concur in the deletion of the acceleration of the increase in patent fees, which had no other rationale than to raise more fee funds sooner, contrary to fair public expectation.

Mr. President, most of the items in the Thurmond amendment go to the heart of the Department of Justice program. While we all recognize the scope of the crime problem in the Nation, I am not convinced that we are willing to provide the needed remedies. Restoring these funds will be an important first step in the right direction.

Mr. KENNEDY. Mr. President, I want to thank the members of my staff who have worked so long and well in shaping the proposals of the Labor and Human Resources Committee. I particularly want to thank Jim Steinberg, Jo Ann Glisson, Mike Forscey, Kathy Higgins, Tony Medina, Jerry Hitchins, and the minority staff director, Dr. Lawrence Horowitz.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. BAKER. Mr. President, is there any limitation on debate during the period for general debate at this point?

Mr. ROBERT C. BYRD. Mr. President, may we hear what is being said?

The PRESIDING OFFICER. All time for debate on the bill has expired.

Mr. BAKER. Mr. President, I ask unanimous consent that prior to the vote on final passage there be 5 minutes available for statements and debate.

I understand there is one matter of a colloquy perhaps that must be perfected.

No other amendments, of course, are in order.

But I ask unanimous consent that there now be a period of 5 minutes for debate on the bill.

Mr. HOLLINGS. Equally divided.

Mr. DOMENICI. Is that to be equally divided?

Mr. BAKER. Equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Kansas.

Mr. DOLE. I ask unanimous consent to offer a conforming amendment to UP amendment No. 216: "On page 1 strike lines 1 through 3." It does not change anything except that it conforms to our original intent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, for the moment I suggest the absence of a quorum and ask unanimous consent that the time be charged against that 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Does the Senator from New Mexico yield time?

Mr. DOMENICI. Mr. President, I wish to discuss with the chairman of the Governmental Affairs Committee the savings required of that committee by the reconciliation instruction. I believe it is a good idea for us to have this discussion since there has been considerable confusion regarding savings associated with Federal pay raises.

Mr. ROTH. Federal employee compensation is a unique area within the Federal budget. Under current law, the President is required to make an annual adjustment of Federal civilian pay rates. The President has assumed budgetary savings of $5.2 and $6.1 billion in fiscal years 1983 and 1984 respectively, for Federal employee compensation reform. The administration has submitted legislation to the Congress which would reform Federal employee compensation practices.

The Committee on Government Affairs felt it was not appropriate to impose ceilings on Federal employee pay in fiscal 1983 and 1984 for several reasons. The Federal pay system is greatly in need of study and revision. However, the committee has before it an administration proposal to totally revise the Federal pay system. It is totally unrealistic to expect the Governmental Affairs Committee to devote time to this problem if the policy on Federal pay is already set for the foreseeable future.

In addition, placing ceilings on Federal pay in fiscal years 1983 and 1984 could seriously interfere with labor negotiations between various Federal employee unions and the Federal Government.

When the Governmental Affairs Committee began work on legislation to comply with the budget reconciliation instructions, it became clear that capping the out years would cause serious problems. Our staff discussed these problems with the Budget Committee staff and it was agreed that the Governmental Affairs Committee would be in compliance with the budget reconciliation instructions in the out years by considering the pay comparability question in order to make the necessary savings. We agreed the Committee on Governmental Affairs will address this legislation so that these savings will be achieved in fiscal years 1983 and 1984.

The office of management and budget had informed the committee staff that by reserving the pay comparability issue for consideration in the near future, we would be consistent with the savings proposed by the President.

Mr. President, I ask unanimous consent to have printed in the RECORD the two letters sent from me to the Budget Committee and a letter to me from the distinguished majority leader.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

COMMITTEE ON
GOVERNMENTAL AFFAIRS,
Washington, D.C., June 4, 1981.

Hon. PETE V. DOMENICI,
Chairman, Senate Budget Committee,
Washington, D.C.

DEAR MR. CHAIRMAN: In accordance with the instructions to the Committee on Governmental Affairs contained in S. Con. Res. 9 and S. Con. Res. 19, I have enclosed our recommendations for changes in laws necessary to achieve the total budgetary savings assigned to this Committee. The recommendations of the Committee on Governmental Affairs are projected to save more than $6.2 billion in fiscal 1982 outlays, with additional savings to be realized in later years. Legislative changes approved by this Committee include both reductions in authorizations and a reduction in direct spending.

In order to save an estimated $513 million in direct spending in fiscal 1982, the Committee has voted to discontinue semi-annual cost of living adjustments and instead provide federal civil service retirees with an annual cost of living adjustment. This adjustment would be given in March of each year and would be based on the Consumer Price Index.

The Committee has agreed to limit federal outlays for District of Columbia loans for capital improvement projects to $155 million in fiscal 1982 and fiscal 1983. These changes will result in a projected savings of $40 million and $64 million in outlays for each year, respectively. In 1984, when the District of Columbia Government plans to enter private capital markets, outlays for this purpose will no longer be necessary.

The Committee has agreed that subsidies to the U.S. Postal Service should be reduced by $956 million in fiscal year 1982 and $1,077 million in fiscal year 1983. The Committee has approved legislation which would limit the public service subsidy to $300 million in fiscal 1982 and 1983. No public service subsidy would be given in fiscal 1984. The revenue forgone subsidy would be limited to $500 million in fiscal years 1982, 1983, and 1984. The Postal Service has testified before the Congress that these reductions are possible without reducing services. Postal rates for blind or handicapped mailers will not be affected by these reductions.

The Committee has also voted to establish an across the board 4.8% ceiling for the an-

nual cost of living adjustment for federal employees. The Committee will be prepared to recommend additional appropriate reductions to achieve necessary savings in fiscal years 1983 and 1984 in this or possibly in other areas.

In addition to the above four recommendations, the Committee has voted to reduce spending on both consultant services and government travel by $500 million and $550 million respectively in fiscal year 1982. Both of these reductions would be allocated among the departments and agencies by the Office of Management and Budget.

The Committee on Governmental Affairs, in submitting these legislative changes is in compliance with the instructions which have been agreed to for this Committee. In addition, this Committee plans to carefully examine ways in which waste, fraud and abuse in the federal government can be eliminated. The Committee will of course continue its efforts to determine legislative changes which may be necessary in order to achieve further budgetary savings.

Sincerely,

WILLIAM V. ROTH, Jr.,
Chairman.

COMMITTEE ON
GOVERNMENTAL AFFAIRS,
Washington, D.C., June 9, 1981.

Hon. PETE V. DOMENICI,
Chairman, Budget Committee,
Washington, D.C.

DEAR MR. CHAIRMAN: As you are aware, under current law the President has the authority to make an annual adjustment of federal civilian pay rates. The President has assumed budgetary savings of $5.2 and $6.1 billion respectively in fiscal years 1983 and 1984 for federal employee compensation reform. The Administration has submitted legislation to the Congress which would reform federal employee compensation practices. The Committee on Governmental Affairs will consider this legislation so that these savings will be achieved in fiscal years 1983 and 1984.

Sincerely,

WILLIAM V. ROTH, Jr.,
Chairman.

U.S. SENATE,
OFFICE OF THE MAJORITY LEADER,
Washington, D.C., June 18, 1981.

DEAR MR. CHAIRMAN: I wish to take this opportunity to thank you personally for the extraordinary action taken by you and the Governmental Affairs Committee in meeting fully the savings policies requested by President Reagan, and by the Congress through the reconciliation process.

Not only was your Committee the first to deliver the changes in law required, but you successfully tackled two of the most difficult savings restraint measures in the entire Economic Recovery Package.

I believe that under your leadership we have laid the groundwork for a fundamental shift in government spending, and have taken a great step forward towards fiscal discipline and restraint in the growth of the federal deficit. In addition, the promptness of your Committee's action set a pioneering example for other Committees in the Senate and helped lead to the unprecedented savings of more than $36 billion from the fiscal year 1982 federal deficit.

Again, thank you and congratulations on a job well done.

Sincerely,

HOWARD BAKER.

Mr. DOMENICI. I believe the remarks of the Senator from Delaware are very useful in clarifying this issue. His committee was the first to deliver your positive response to reconciliation instructions, and you have addressed two of the most difficult savings measures in the restraint package. I know that he will meet the pay raise problem head-on as the administration's comparability program is given a full hearing. I must add, that these savings seem among the most certain to occur, since the President has the power to make annual adjustments and has indicated his intent to do so.

Mr. HOLLINGS. Mr. President, the Committee on Governmental Affairs failed to meet its reconciliation instructions in fiscal year 1983 and fiscal year 1984 by a total of nearly $11 billion. The fact is that the committee could have met its instruction either by capping Federal pay for 1983 and 1984 at 7 percent or by reporting the pay reform legislation proposed by the administration.

The statement has been made that the committee complied with its reconciliation instruction in the outyears by just considering pay caps or pay reform. Well, that committee always seems to be considering and always studying, but it never complied.

To give credit to the Governmental Affairs Committee is not fair to the other committees, which did all comply with their instructions.

We seem to have different standards for each committee. Most committees have been under tremendous pressure to achieve the savings required of them. One did it just by putting $3.8 billion off-budget. But we have a special procedure for the Committee on Governmental Affairs, chaired by the distinguished Senator who 3 years ago introduced a resolution that mandated a balanced budget.

If we had said then, "Oh, wait, we will consider it," he would be the first to jump us. Now, he would have us give him credit for nearly $11 billion in savings because he has promised to consider it. Well, we are not going to give him the good government award with this colloquy when he could have complied. All of the other committees tried hard to comply and most did. He did not.

Mr. DOMENICI. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Shall the bill pass? The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS: I announce that the Senator from Maine (Mr. COHEN), is necessarily absent.

Mr. ROBERT C. BYRD: I announce that the Senator from North Carolina (Mr. CANNON), the Senator from California (Mr. CRANSTON), the Senator from Arizona (Mr. DECONCINI), and the Senator from Ohio (Mr. METZENBAUM), are necessarily absent.

On this vote, the Senator from Arizona (Mr. DECONCINI) is paired with the Senator from California (Mr. CRANSTON).

If present and voting, the Senator from Arizona would vote "yea" and the Senator from California would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 80, nays 15, as follows:

[Rollcall Vote No. 182 Leg.]

YEAS—80

Abdnor	Glenn	Melcher
Andrews	Goldwater	Mitchell
Armstrong	Gorton	Murkowski
Baker	Grassley	Nickles
Baucus	Hatch	Nunn
Bentsen	Hatfield	Packwood
Boren	Hawkins	Percy
Boschwitz	Hayakawa	Pressler
Bumpers	Heflin	Proxmire
Burdick	Heinz	Pryor
Byrd, Harry F., Jr.	Helms	Quayle
	Hollings	Roth
Byrd, Robert C.	Huddleston	Rudman
Chafee	Humphrey	Sasser
Chiles	Inouye	Schmitt
Cochran	Jackson	Simpson
D'Amato	Jepsen	Specter
Danforth	Johnston	Stafford
Denton	Kassebaum	Stennis
Dixon	Kasten	Stevens
Dole	Laxalt	Symms
Domenici	Long	Thurmond
Durenberger	Lugar	Tower
East	Mathias	Wallop
Exon	Matsunaga	Warner
Ford	Mattingly	Weicker
Garn	McClure	Zorinsky

NAYS—15

Biden	Pell	Randolph
Bradley	Kennedy	Riegle
Dodd	Leahy	Sarbanes
Eagleton	Levin	Tsongas
Hart	Moynihan	Williams

NOT VOTING—5

Cannon	Cranston	Metzenbaum
Cohen	DeConcini	

So the bill (S. 1377), as amended, was passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I yield to the distinguished manager of the bill.

Mr. DOMENICI. Mr. President, I have cleared this unanimous-consent request with the minority.

I ask unanimous consent that S. 1377 not be transmitted to the House of Representatives awaiting the receipt of the House companion bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I thank the majority leader.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business to extend not more than 30 minutes in length in which Senators may speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

GAMBLING WITH OUR ENERGY FUTURE

Mr. ROBERT C. BYRD. Mr. President, a humorous political cartoon published recently in one of the national news magazines featured a long line of OPEC oil ministers anxiously waiting, gas pumps in hand, to fill the tank of a lone

American driver. In graphic terms, this portrayed the mysterious turn of events which has brought falling oil prices, surplus oil supplies, and smug speculation by many that the energy crisis is all but over. Day after day, there are reported reductions in the price of crude oil charged by exporting nations. Oil analysts are talking of a totally new environment—something to take seriously in long-term business planning. The question is whether this new situation represents merely a short respite or a real reversal in the crisis which has gripped the industrialized West for almost a decade.

Saudi Arabia's decision following last month's OPEC meeting in Geneva, to refuse to raise its crude oil prices or cut production, has guaranteed at least a temporary continuation of the oil glut. With the Saudis producing at a rate of 10.5 million barrels per day, it is estimated that world production exceeds current demand by 2 to 3 million barrels per day. Crude oil prices on the spot market have tumbled amidst reports that buyers are refusing to pay official OPEC rates.

Mexico, which exports about 700,000 barrels of oil a day to the United States, has cut its prices by $4 a barrel, a move matched by the British for high-quality North Sea crude. Intense pressure has been levied on the African members of OPEC—Libya, Nigeria, and Algeria—to reduce contract prices, which have run $5 to $6 a barrel more than those prevailing in the world market. Plummeting world prices have meant a 3- to 5-cent reduction in the price of gasoline at the pump, a welcome relief in the midst of the summer driving season.

To a large extent, this realinement of the world oil markets has come about as a result of increased conservation by American consumers and businesses. Total oil imports have averaged only 5.6 million barrels per day over the past 4 weeks, 14.8 percent below the average for a comparable period 1 year ago. Total U.S. energy consumption has dropped approximately 9 percent from last year's totals.

High prices and uncertain supplies have spawned a burgeoning energy conservation industry. Conserving energy, which was never regarded as the primary method of cutting the Nation's appetite for imported oil, has now become a critical factor in our national energy picture. Accelerated capital investment in new energy-efficient equipment and booming sales in conventional conservation products—such as insulation—have helped to slow energy consumption far more than the most optimistic forecasts.

So where do these facts leave us? Are we, in fact, on the edge of an era of energy abundance, or is this a temporary phenomenon that could change overnight? The wrenching experiences of the past decade, with two recessions and unprecedented inflation, should have forced us to recognize that serious oil supply interruptions are probable, if not inevitable. The short-term price stability we are now experiencing does not reflect a corresponding political stability in the Persian Gulf region.

Virtually all energy forecasts indicate that the level of U.S. oil production has begun an irreversible decline. Continued recourse to imported oil to cover our energy deficit will jeopardize our national security, constrain the independence of our foreign policy, and curb our economic growth. Those who would base our national energy policy on the false hope of lower oil prices and surplus energy supplies are ill-advised or have failed to learn the lessons of recent history.

The Reagan administration is expected to unveil its national energy policy plan by July 15. The plan will, in the words of the Secretary of Energy:

> Reflect the reformulation of energy policy in the context of the Administration's overall economic recovery plan.

During the past 4 years, Congress and the Carter administration established a balanced program to facilitate the transition from oil to alternate sources of energy. The increased use of coal, the creation of a commercially-viable synthetic fuels industry, the development of new energy sources such as solar, geothermal and biomass, and the promotion of energy conservation, were the cornerstones of this comprehensive program. In the shift from one administration to another, it is critical that consistency characterize our Nation's energy policy. Disavowal of these goals, in the name of fiscal restraint, would not serve the interests of our Nation or our allies, and would seriously jeopardize our national and economic security.

It is easy to to misinterpret long-term trends on the basis of today's headlines. It is easy to be distracted by small swings in price or production that can create a glut or shortfall in world oil markets almost overnight. The truth is that the United States and other major world oil consumers can expect more disruptions in oil supplies, sharply rising prices and declining domestic production. We can reduce the risks attendant to the events with reasoned and consistent policies founded on the experiences of the past. An energy strategy should improve the Nation's long-term security and prepare for sudden crises. This is the standard by which the administration's energy plan will be measured.

PEANUT PROGRAM

Mr. NUNN. Mr. President, today I rise in support of S. 884, the Agriculture and Food Act of 1981 as reported from the Committee on Agriculture, Nutrition, and Forestry under the leadership of Senator HELMS and Senator HUDDLESTON. I commend my colleagues for their conscientious reauthorization of programs which provide economic stability to the farmers of our respective States who are producing an abundant and affordable food supply for our Nation and the world.

I rise to lend my support to title VII of this bill which maintains the acreage allotments and poundage quota system for the production and marketing of peanuts. When the administration's proposal for the 1981 farm bill came to Capitol Hill, it became clear that significant alterations in the peanut program would be debated on the Senate floor with probable votes. Prior to the 1981 farm bill, peanut provisions had been part of the Omnibus Farm Act and no separate floor votes occurred.

As one of the 16,000 Georgia peanut growers, I wrote to the Senate Select Committee on Ethics describing my farm operation and, explaining attempts by me to sell my allotment during my first year as a Member of this body. I asked the committee to determine whether my participation in floor debate and votes would violate any Senate rules on conduct and ethics. I have recently received their response which concluded that legislative activity by me regarding the peanut program is not prohibited by the Senate Code of Official Conduct. Mr. President, I ask that my letter and the Ethics Committee's response be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, D.C., April 30, 1981.

Hon. MALCOM WALLOP,
Chairman, Senate Select Committee on Ethics, Washington, D.C.

DEAR MR. CHAIRMAN: As you know, the Reagan Administration has submitted its recommendations on the 1981 Farm Bill to the Senate Committee on Agriculture, Nutrition, and Forestry. The Administration's proposal contains language that significantly alters the peanut program, including the elimination of the acreage allotment system. In addition, there are two pending amendments to S. 884 (Senator Helms' amendment 34 and Senator Mattingly's amendment 36) which may directly determine the future of the peanut program.

Georgia leads the nation in peanut production. The commodity contributes approximately $1.6 billion to the economy of my State with an allotted acreage of 567,000 acres and over 16,000 producers. I am, therefore, concerned about the proposed changes and the effect they would have on the agriculture community in Georgia.

I am now placed in an awkward position, however. My sister and I have a 75 acre peanut allotment in Houston County. I rent the farm from my sister and operate it as a sole proprietorship. I grow peanuts annually on this property, and this crop, depending on the many variables affecting farming, represents between 6% and 12% of my farm's gross income.

The dilemma is obvious—when legislation altering the peanut program is considered on the Senate floor, as a Senator from Georgia, I feel that I should play a role in the legislative process. On the other hand, I feel obligated to inform my colleagues of my own involvement in the peanut program, and I have refrained from any involvement in sponsoring legislation on this subject until my ethical responsibilities are clarified.

In the past, there has been no controversy on the peanut program in the Senate, and there have been no separate floor votes on this program. Legislation affecting the peanut program has been incorporated in the past as part of the Omnibus Farm Bill.

In 1973, early in my career in the Senate, I made an attempt to sell the allotment owned by my sister and myself, but I found that my attempted sale created much apprehension in the farming community because of considerable false speculation that I had inside information on the peanut program's future. Because of this, I decided against further efforts to sell the allotment even though

I preferred not to be a direct participant in a program with substantial federal government involvement.

This year, for the first time since I have been in the Senate, it is probable that there will be efforts to change the peanut program, and that the changes will result in Senate debate and votes.

With this background, I ask for your committee's advice on the following question: Would my participation in Senate debate and votes on the peanut program violate any Senate rules on conduct and ethics?

Thank you for your assistance in this matter.

Sincerely,

SAM NUNN.

U.S. SENATE,
SELECT COMMITTEE ON ETHICS,
Washington, D.C., June 2, 1981.

Hon. SAM NUNN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR NUNN: This is in response to your letter of April 30, 1981 concerning pending farm legislation. The Administration's recommendations on the 1981 farm bill contain significant changes in the present peanut program, including a recommendation for the elimination of the acreage allotment system. In addition, Members have submitted amendments which would significantly affect the nation's peanut program. While these issues are presently pending before the Committee on Agriculture, Nutrition, and Forestry, of which you are not a Member, these issues will very likely be the subject of debate by the full Senate.

These potential changes in peanut policy could, of course, have a major impact on the agriculture community in Georgia, which leads the nation in peanut production. This consideration leads you to a major concern over how peanut legislation will affect your State and constituents.

In addition to these issues, we understand you and your sister have a 75-acre peanut allotment in Houston County, Georgia. You rent the farm from your sister and operate it as a sole proprietorship. You grow an annual crop of peanuts on this property, and the crop represents between 6% and 12% of the farm's gross income, depending on the variables affecting farming in a particular year.

In view of upcoming debate on the peanut program, the interest of your constituents in the program, and your own involvement in the program, you ask whether your participation in Senate debate and votes on the peanut program would violate any Senate rules or standard of conduct.

Paragraph 4 of Rule 37 of the Standing Rules of the Senate provides:

"No Member, officer, or employee shall knowingly use his official position to introduce or aid the progress or passage of legislation, a principal purpose of which is to further only his pecuniary interest, only the pecuniary interest of his immediate family, or only the pecuniary interest of a limited class of persons or enterprises, when he, or his immediate family, or enterprises controlled by them, are members of the affected class."

The legislative history of this provision indicates that the provisions of the paragraph should be read quite narrowly. The Special Committee for Official Conduct stated in its report accompanying this provision to the floor as follows:

"The Committee recognizes that in many cases, legislation advancing through the Senate will have some impact on the financial situation of a member, officer, and employee. All tax legislation has such an import. Ordinarily, however, the impact on an individual's holdings is likely to be quite minimal in comparison to the impact of the legislation on the public and the public interest served. This paragraph addresses itself to the rare case when the relationship between the legislator's private interest and the public interest is dramatically different from the ordinary situation. It applies when a principal purpose of the legislation is to further the financial interests of the member, officer, or employee or his family. Legislation may have a significant financial effect on a Senator because his holdings are involved, but if the legislation also has a broad, general impact on his state or the nation, the prohibitions of the paragraph would not apply." S. Rep. 95-49 at 41-42 (1977).

The Committee Report went on to use an example which we believe is specifically applicable to the question you raise:

"Thus, for example, if a dairy farmer represented a dairy farming state in the Senate, and introduced, worked for, and voted for legislation to raise or maintain price supports for dairy producers, he would not fall under the strictures of this Rule. The strong presumption would be that the Member was working for legislation because of the public interest and the needs of his constituents and that his own financial interest was only incidentally related. In the terminology of the paragraph, the dairy farmer would be part of a class affected by the legislation, but not a member of a "limited class," as envisioned in this paragraph. The Committee tried to apply a number to the concept of "limited class" but found the task futile. However, the Committee intends that a class of people or enterprises sharing a particular economic interest (i.e. dairy farmers, shoemakers; disabled veterans) would not be a "limited class." By "limited class," the Committee means a class which resembles much more closely the class of people affected by a private bill. Therefore, to return again to the example of the Senator who was a dairy farmer, he would not be prohibited from working for legislation to help boost or maintain the price supports of dairy products. If, however, legislation was introduced to purchase a piece of land made up in part of a piece of this property and in part of pieces of his neighbors' property, in order to build a federal project there, the Senator would be foreclosed from working on the legislation.

If the legislation does meet the "principal purpose" (and "limited class") standards as necessary, the Committee intends that the disqualification from involvement with the legislation should be total." Id., at 42.

This legislative history makes clear that while you would be part of a class affected by changes in the peanut program, you would not be a member of a "limited class" as contemplated by the provision. As the report states, "[t]he strong presumption would be that the Member was working for legislation because of the public interest and the needs of his constituents and that his own financial interest was only incidentally related." We therefore conclude that legislative activity by you regarding the peanut program is not prohibited by the Senate Code of Official Conduct.

You are to be commended for your inquiry, which demonstrates sensitivity to the problems raised by potential conflicts of interest. That same judgment, carried through, indicates an ethical sensitivity to the problems and might at some moment dictate prudent withdrawal if events become more specific.

Sincerely yours,

MALCOLM WALLOP.
HOWELL HEFLIN.

Mr. NUNN. The present allotment system for peanut production has existed for over 40 years and represents 567,000 acres in Georgia. The average peanut allotment acreage in Georgia is 29 acres. With the exception of 1980 when dry weather sharply curtailed the crops, the program has insured a quality plentiful supply of peanuts at reasonable prices to consumers. This economic stability has contributed to the ability of many family-size farms to stay viable in the face of a series of drought years.

In light of producer initiated changes in the 1977 act, the overall cost to the Federal Government is minimal when compared to other commodity programs. Changes that give greater flexibility in the export and crushing markets have allowed peanuts produced in excess of quota but within the alloted acreage to be advance contracted for export at competitive market prices. This provision removes exposure for the Government by preventing those peanuts from entering the price support loan.

The present program is costing about $20 million annually. This compares with the Department of Agriculture's 1980 costs of milk at $1.03 billion, cotton at $75.8 million, wool at $34.5 million, and food stamps at $10.8 billion.

Following 1977, farm peanut prices have been stable with an increase of 8 percent between 1977 and 1981 ($420 per ton, 1978-79: $455 per ton, 1980-81).

Between 1976 and 1979, feeder steers doubled in price, corn rose from an average season price of $2.02 per bushel in 1977 to over $3.00 per bushel in 1980, and there was a general rise of 76 percent in the index of all farm prices.

Peanut prices to consumers have increased at about between 8 percent and 18 percent based on peanut butter data. Price ranges from 98 cents to $1.10 per pound in 1977 and $1.06 to $1.20 per pound in 1979. During the same period food prices rose about 27 percent.

Peanuts are also a unique perishable food crop which cannot be held in storage as grain and other commodities. This forces the marketplace to be highly dependent upon production controls and a price support program. Marketing supervision under the present program also provides for grower indentification at the buying point thereby removing any mold or toxins from the food chain that are unfit for human consumption.

Peanuts are also unique in the type of equipment required to plant, harvest and dry for market. Investments required for this specialized equipment would tend to discourage major expansion into this industry should production control be eliminated. Data provided to me from the University of Georgia College of Agriculture states:

A recent study in Georgia gives more indication of what might have happened if additional peanut production were unlimited in 1979. Preliminary estimates from the study show that peanut acreage would have expanded by 23 percent, soybean acreage would have decreased by 8 percent, corn acreage would have decreased by 4 percent, and all other crops would have decreased by 3 percent. Only about 6 percent of the new production would have come from new producers and their average acreages would have been significantly less than for established growers.

The relatively small increase predicted by new growers in the shortrun was not surprising in light of the significant specialized investment required for peanut production and somewhat specialized knowledge of cultural practices. Some indicators were that relatively small acreages forecast by new

producers were related to ability to rent specialized equipment from neighbors who were peanut growers. No new potential growers were found outside the traditional peanut counties.

The 1980 crop year for Georgia peanut farmers was devastating with a 40 percent reduction in crop yields. Farmers in Georgia have also experienced extremely dry conditions in almost every year since 1977 for all commodities. The financial burden has forced many bankruptcies of farm families that have lived on the land for generations. The stability of the peanut program works for the grower. It works for the landowner that uses the value of the allotment as equity to finance other farm enterprises. It works for the banker that can estimate a return for the money he lends on the peanut farmer's operating costs. It works for the fertilizer and implement dealer who provide the chemicals and equipment for this protein source. And it works for the consumer who has enjoyed an adequate supply of peanuts at a stable price for the last 25 out of 26 years.

I feel now is not the time to eliminate acreage allotments for peanuts and I endorse the committee's recommendations of the Agriculture and Food Act of 1981.

JUNE GOLDEN FLEECE GOES TO DEPARTMENT OF COMMERCE

Mr. PROXMIRE. Mr. President, I am presenting my Golden Fleece of the Month Award for June to the Department of Commerce for giving the city and county of Honolulu $28,600 to study how they can spend another $250,000 for a good surfing beach.

Spending Federal money so you can figure out how to spend more money is bad enough. What is worse is the fact that the city and county of Honolulu plan to spend the $28,600 to hire an outside consultant to find a good surfing beach. Keep in mind, Hawaii is packed with expert surfers—most of whom already know the good surfing spots like the back of their surfboards, and some of whom already work for the city and county of Honolulu and could do the job for free.

The Federal bureaucrats should have waved goodby to this request. Instead, Honolulu got a good buy to study a wave.

SPENDING TAX DOLLARS TO STUDY WHERE THE SURF IS UP

Spending tax dollars to study where the surf is up is certainly not on most people's lists of national priorites: Honolulu City and County Councilman Rudy Pacarro put it best when he said of this $28,600 handout to the local government:

> I know the money is free, but it's taxpayer's money. In parks and recreation we have some people who have been surfing all their lives. And we're gonna pay a guy $28,600 to tell us where to put the damn place? That is a lot of horse manure.

Unfortunately, Councilman Pacarro's perceptive words failed to override the attractiveness of a free Federal grant.

The story of this wasteful spending begins with the Hawaiian Electric Co., which paid $250,000 to the city and county of Honolulu to settle a lawsuit over the disruption of a surfing beach.

Two surfers, angered that Hawaiian Electric's expansion of a powerplant ruined the nearby surfing, filed the lawsuit because the Army Corps of Engineers failed to require a Federal environmental impact statement for the expansion.

The power company agreed to compensate the city and county by providing the $250,000 to improve other surfing areas on the west coast of Oahu.

Realizing that in a State full of surfers the last thing Honolulu needed was a paid surfing adviser, the lawsuit's settlement ordered that none of the $250,000 be spent for surfing study teams or consultants.

LURE OF FEDERAL HANDOUT TOO STRONG

But the lure of a Federal handout proved too strong for city and county officials. Honolulu turned to Uncle Sam.

The city and county applied to the Department of Commerce's Office of Coastal Zone Management to pay for a planning study under a program with the fancy title of "Mitigation of Environmental and Recreational Impact of Coastal Energy Activities."

In fiscal year 1980, the Federal bureaucrats approved the $28,600 to conduct a study to tell Honolulu how to spend $250,000 for a good surfing beach.

In order to justify spending $28,600, a series of the usual bureaucrat tasks were planned. These included setting up a number of public meetings for interested and affected people including officials, as well as conducting surveys and studies of the economic and physical characteristics of the various surfing sites.

Are all these meetings, surveys and studies necessary? Of course not. If ever there were a project that should totally involve local money, effort and control, this one is it. Should the hard-pressed Federal taxpayers really pay for a study of how to spend money searching for the perfect wave?

VISIT OF JAPANESE MINISTER OF STATE FOR DEFENSE

Mr. HUDDLESTON. Mr. President, on June 28, the Japanese Minister of State for Defense, Omura Joji, will arrive in the United States for a visit and meetings with Secretary of Defense Weinberger. It is, consequently, I believe, an appropriate time to reemphasize to the Japanese Government the necessity for Japan to increase its defense spending and assume defense responsibilities commensurate with its position in the Pacific.

In saying this, I do not discount the positive actions which Japan has taken, especially in terms of support for U.S. forces in the area and economic aid to countries such as Thailand, Pakistan, and Turkey, in whose security the United States also has an interest. Nor do I discount the political and psychological problems relating to defense which confront the Japanese.

But, I also believe that it is clear that, taken together, the Japanese contributions both to their own security and to that of the area are modest at best.

In fact, Japanese contributions pale considerably when balanced against other considerations. First, there is the reliance on U.S. military capabilities. Not only does Japan sit under the protection of the U.S. nuclear umbrella, but it also relies upon U.S. deployments of land and sea forces to stabilize the East Asia and western Pacific area. In fact, Japan was reportedly quite concerned about the balance of power in the area after the U.S. withdrawal from Vietnam and the period of uncertainty over the U.S. role in the Pacific which followed. Any policy arguments aside, the point to be illustrated is the Japanese expectation of certain U.S. military protection.

Second, there is the dependence of Japan upon sealanes for a broad range of resources. Being an insular and generally densely populated nation, Japan must import large amounts of foodstuffs, natural resources required for manufacturing and, of course, oil. Trade and sea transportation truly are lifelines for the Japanese, and it is only reasonable to expect them to carry a proportionate share of the costs of protecting such lifelines.

Third, there are the increased threats which cannot be ignored. The Soviet buildup in East Asia, both in terms of land and sea forces, is well documented. Yet, requirements in the Indian Ocean and Persian Gulf have forced the United States to stretch 7th Fleet deployments thin. The long-range naval requirements of these developments in the Western Pacific and the gulf will undoubtedly compel greater cooperation and greater efforts, efforts which must be shared.

And, finally, there is the unalterable fact that Japan is a mature industrialized and competitive state which can afford to contribute more to its own defense. One percent of Japan's gross national product (GNP) is not enough. It can and must do more. The realities of the 1980's dictate that.

Furthermore, a number of possibilities clearly and legitimately come within the rubric of defense. Expanded warning, surveillance and antisubmarine warfare (ASW) capabilities are among those.

Mr. President, the point is quite simple: The Japanese must do more and they must start now.

They cannot expect us to cooperate in trade areas or in space programs or in a host of other activities if they will not cooperate on defense. Datsuns and destroyers or Hondas and helicopters will have to go together. That is the message. We should make it firm and clear.

Mr. President, I ask unanimous consent that two recent editorials, one from U.S. News & World Report and one from the Norfolk Virginian-Pilot, be inserted at this point in the RECORD.

There being no objection, the articles

were ordered to be printed in the RECORD, as follows:

[From the Norfolk Virginian-Pilot, June 1, 1981]

JAPAN MUST SPEND MORE

Twenty years ago Japan was a puny kid which needed a brawny Uncle Sam to look after it.

Well, things have changed. The kid has grown up. And it's about time it assumed adult defense responsibilities.

Alas, there remain childhood hang-ups, Japan, alone among the earth's nations, bore the brunt of atomic weapons. The elevated cancer rates among Hiroshima and Nagasaki survivors keep that nightmare from dying.

Japan is now stewing over Harvard professor and former Ambassador Edwin O. Reischauer's thoughtlessly timed revelation that American warships have always been permitted to bring nuclear weapons into Japanese waters and ports. That poisons the climate, says the Japanese, against boosts in defense spending.

Then there is Japan's constitution, inspired by General Douglas MacArthur, that envisions an unarmed nation renouncing war and providing moral leadership in a new world of peace and good will.

And, lastly, there are the apprehensions a rearmed Japan might stir among its World War II victims: Thailand, Malaysia, Burma, the Philippines, to name a few.

Most of Japan's hang-ups have to do with the past, however. And most collide head-on with modern realities.

The chief reality is this: The United States should not be the sole protector of a robust industrial competitor.

In 1960, Japan's gross national product was one-twelfth that of America. Today it is one-half. And yet Japan's defense expenditures are less than one-tenth those of the United States.

Of course, the United States wants a major role in the defense of Japan and the Western Pacific. But there are limits to spending American dollars for a country competing for American markets, when that country shares so insignificantly in its own self-protection.

Western Europe, including West Germany, has long shared the joint defense burden. So why shouldn't Japan? After all, Japan has more to lose than anyone from Soviet Far East aggression, instability on the Korean peninsula, and disruption of its sea lanes.

Prime Minister Suzuki said on his recent visit to Washington that Japan would indeed improve its defense capabilities, to the point of guarding sea lanes 1,000 nautical miles from Japan.

Even this modest suggestion has sparked hysteria in the Japanese left, dependably allergic to all things American.

Should Ronald Reagan then allow Mr. Suzuki to duck his pledge or press him to fulfill it?

Press, by all means. Why should America accept the "pacifist" fringe in Japan and Western Europe as a spoiler of sound allied defense policies?

[From the U.S. News & World Report, May 18, 1981]

TIME FOR JAPAN TO PLAY BALL

(By Marvin Stone)

Why shouldn't Japan do more to share in a common military defense—instead of relying so heavily on the U.S. for protection against a rising Soviet threat in the Pacific?

That's a question President Reagan raised, with barely concealed irritation, in his May 7–8 talks with the visiting Japanese Prime Minister, Zenko Suzuki.

The President's was a very proper—and timely—question. He was bound to be disappointed by the stonewalling that he received in return.

It is high time we stopped asking, and started insisting, that Japan increase its defense efforts and do more to help the U.S. protect that strategically vital area of the world.

There was a time, at the end of World War II, when Americans were justifiably pleased to have their wartime enemy, Japan, forswear military power. American occupation authorities helped frame Japan's post-war Constitution that forbids the creation of armed forces with warmaking potential.

But times and circumstances have changed. Now Americans are justifiably resentful as they see how Japan is profiting from its intractable stance.

Although one of the world's richest nations, Japan is spending a miserly 1 percent of its gross national product on defense. In numbers: Japan spends about 11 billion dollars a year. We are spending 20 times that.

Japan maintains a so-called Self-Defense Force of about 240,000 soldiers, sailors and airmen. It has no nuclear submarines, no long-range missiles, no aircraft carriers, no ships larger than a destroyer. Its air defense is so porous that a Soviet defector was able to fly through it undetected.

The Japanese are able to get by with this meager effort because the U.S. has assumed most of the burden of their national defense. About 45,000 American troops are stationed in Japan, including a Marine division on Okinawa, a Marine air wing at Iwakuni, the Seventh Fleet at Yokosuka and Fifth Air Force components near Tokyo. Too, the U.S. supplies the crucial—and expensive—nuclear umbrella that Japan lacks.

As many Americans understandably see it: Japan is profiting at their expense. With the money it saves on defense, Japan is able to bolster its economy and its technology, better to invade American markets.

Justifiably, the Reagan administration also feels that Japan's military weakness is a danger to the entire free world at a time when the Soviet Union is a growing menace.

What Reagan wants is not a revival of Japan's prewar military juggernaut. He merely seeks a more equitable sharing of the common defense burden.

It is true that Japan has made some modest increases in its defense spending in recent years, as its concern has mounted over the Kremlin's aggressive behavior. The increases have been at a rate of about 7 percent a year. Japan also has indicated a willingness to consider paying more toward the cost of maintaining U.S. forces at bases on its soil.

This, however, falls far short of what U.S. officials consider Japan's fair share. In a recent conversation with this writer at Pearl Harbor, that sentiment was emphasized by Adm. Robert L. J. Long, commander in chief of all American forces in the Pacific. "In my view," the admiral said, "Japan's effort on defense is not keeping pace. We should continue to urge Japan to shoulder a greater share of the burden to defend Japan."

Japanese officials plead political as well as constitutional difficulties in building up military strength. But that argument is hardly impressive to Americans who, in the midst of severe economic problems, are contributing record amounts of their tax dollars to beef up a defense that stands guard over Japan as well as the United States. The American taxpayers have a right to expect some sacrifice by the Japanese, too.

EXPLOITATION OF OUR NATURAL RESOURCES

Mr. KENNEDY. Mr. President, I would like to place in the RECORD today an excellent column by Ansel Adams, one of the most renowned photographers in this Nation.

This column appeared in the Boston Globe on May 7, 1981. I want to bring this column to the attention of my colleagues because I share Mr. Adams' concerns that the public lands policies of this administration will lead to an unbalanced exploitation of our Nation's natural resources.

The column follows:

THIS LAND IS YOUR LAND—SAVE IT

(By Ansel Adams)

CARMEL, CALIF.—I have spent a good part of more than 60 years working with many others on the problems of conservation and the environment, beginning in 1919 as the summer custodian of the Sierra Club's center in Yosemite. I do not intend, at the age of 79, to stand back now and observe the destruction of our environment and all that has been accomplished to preserve and manage the resources of the earth—the physical, recreational and aesthetic qualities of the world in which we live.

The present Administration's endorsement of free exploitation of our basic resources will have tragic consequences for the well-being of our people and the amenities of continued life on this earth. These dangerous new policies are expressed through Secretary of the Interior James Watt. I address my critical remarks directly to him as the spokesman of these dire policies.

The impact of the fearful concepts and intentions expressed by Watt is not fully realized, except by a few experienced conservationists. I invite you who care deeply about our air, lands and water to enter an all-out ideological war on Secretary Watt and his supporters; I am just getting started, join me!

My opinions are naturally intense on the general subject: I will outline a few here.

Coastal oil drilling-exploration: Watt stands behind this "for the national interest." I remind him that there are several national interests: the fishing industry, the tourist industry and the beauty of our coastal shores and waters. The potential pollution from this project is immense. I ask you to imagine oil derricks up and down our coastline. Think of oil spills. Think of our gray whales, sea lions and otters.

National parks, wilderness and recreational areas: Invasion of these lands for oil, timber and mining, reduction of their financial support and the concept of "multiple use" of wilderness areas all have implications of most serious consequence. It appears that there are plans to turn over the management and, perhaps, the control, of our national parks to private business.

I have heard of plans to drain part of the Everglades National Park, and to open our parks to snowmobiles. I think of the High Country of Yosemite National Park in winter, the peace and quiet of the winter wilderness, to be spoiled for cross-country skiers by the harsh sounds and fumes of those machines.

Watt is also against urban national parks and recreational areas. Of course the cities do not have the monies to maintain the parks if they revert to them. Is our land only to be experienced by those with the wealth to travel? How wonderful it is to have recreational parks where the access is close and quick, where transportation is inexpensive and people in diverse regional areas can directly benefit.

Indeed, Watt acts as though he is ignorant about the park system that he controls. He continues to confuse the Gateway Recreational Area in New York (one of his endangered species of urban parks) with the Golden Gate Recreational Area north of San Francisco, which is one of the most beautiful areas of California.

The man, himself: It is common knowledge that Watt is a religious fundamentalist. He has the right to embrace any religion or creed he desires, but he has no right to im-

pose his religious philosophy on the management of his department and the future of the American people. I have heard that he justifies his program of using our land and resources now without regard for the future by saying, in effect, there will be very little future: the Second Coming is due any time now. To me, as things seem to be going now, the Second Coming will be preceded by the First Coming of the hydrogen bomb!

Summarizing the consequences of Watt's actions and promises:

We are dipping disastrously deep into our resource capital.

The overwhelming problems of the economy and defense have taken precedence over consideration for our natural and cultural resources. I sympathize with the President in his difficult economic and political decisions. I implore him to recognize the important fact that if we lose the essential qualities of our environment, no political philosophy and no effort for defense will have validity. Watt's values appear restricted to the material, immediate and profit-oriented mentality of a two-dimensional group with little wisdom or conscience.

I intend to fight this complex "Pearl Harbor" of our American earth to the limit of my abilities. I invite all to join with me to oppose Watt and his intended rampage. We can work together with clarity, truth and dignity to protect our irreplaceable heritage.

ROBERT McNAMARA AND THE DEVELOPMENT STRATEGY OF THE WORLD BANK

Mr. WILLIAMS. Mr. President, many of us are rising today to pay tribute to the World Bank and its fine work promoting coherent and rational strategies for economic development the world over. But, Mr. President, the success of the Bank in recent years is inextricably linked to the Bank's effective and talented President, Robert S. McNamara.

Mr. McNamara is no stranger to many of us here in the Chamber. His leadership in the American business community and in two Presidential administrations gave us greater understanding of his superb ability as an administrator and taught us to appreciate his eloquent voice in the arena of international affairs.

Today he stands as one of the most capable and dedicated spokesman for international development which promotes the economic interests of Third-World nations, particularly the interests of citizens in those nations who are desperately poor.

The World Bank, through an aggressive program aimed at expanding its financial commitments, now supervises more than 1,600 projects in 100 countries with a total value invested of over $100 billion.

These projects have a fundamental goal in mind: to promote the economic growth of the nation and to spread the benefits of that growth equitably among the nation's residents. The success of the Bank's strategy is measured not in balance sheets or accountant's tables, but rather in the number of lives which have been improved as a result of World Bank involvement.

One can safely say that millions are now living better as the result of the World Bank and I think we can all join in expressing our gratitude both to the Bank and to its President, Bob McNamara, who has lent his dynamic and forceful presence to the Bank for the last 13 years. Mr. President, it is a special honor for me to join in this tribute today.

LEGAL SERVICES CORPORATION

Mr. WILLIAMS. Mr. President, during the past few weeks, there has been prolonged debate both in the House and on the floor of the Senate regarding the merits of the Legal Services Corporation.

I have long been an advocate for the Legal Services Corporation and feel that continued support for an effective Legal Services Corporation is a demonstration of our country's commitment to providing poor people an opportunity for equal access and representation in our legal system.

While I would have supported a more substantial funding level to continue the crucial services offered by the Legal Services Corporation to our Nation's economically disadvantaged individuals, I am pleased that the Committee on Labor and Human Resources has reauthorized legislation to continue the Legal Services Corporation for 3 years.

All too often, we are inundated by the horror stories surrounding federally funded programs which, in this instance, represents a small fraction of the more than 300 legal services programs.

The majority of legal matters handled by Legal Services attorneys involve daily survival issues for poor people, such as shelter, employment, and consumer protection. I, for one, am confident that the cases handled by LSC on a daily basis deal with simple issues critically important to individuals whose lives exist in a cycle of poverty.

At this point, Mr. President, I ask unanimous consent to insert in the RECORD an excerpt of a letter received from one of the staff attorneys with the Essex County Legal Aid Association.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ESSEX COUNTY BAR ASSOCIATION,
Newark, N.J.

As Staff Attorney of the Essex County Legal Aid Association, a counseling and referral service, primarily funded by the Essex County Bar Association and closely affiliated with the Essex County Bar Association's Referral Service, I come in daily contact with many of the clients assisted by Legal Services. In fact, of the 16–20 people I see each day, approximately 30 percent are referred to Essex-Newark Legal Services.

These people generally have problems revolving around the issues of landlord-tenant, domestic relations, consumer protection and public benefits.

For example, I've had a number of clients come in who had gone to their apartments to find that their landlord had locked them out without a court order, which action is against the law in New Jersey. In some cases, the furniture was thrown on the street or in the garbage. Other times families with small children were forced to sleep in cars, walk the streets until the proper legal steps were taken to restore possession. Legal Services is an irreplaceable resource in these cases.

Unfortunately, another problem regularly appearing at our office is the plight of the battered wife. Most of these women are non-working housewifes or are earning low supplemental incomes. These people desperately need legal assistance to help remove a violent spouse (and parent) from the household. Yet these women cannot afford a private attorney. Again, Legal Services must come to the rescue.

The Supreme Court of the United States has long recognized the right of low-income people to pursue the option of divorce. By dismantling Legal Services, many people would be prohibited from obtaining a divorce by the substantial legal fee charged by the private bar. As one elderly client remarked to me: "In the old days, we poor folk didn't bother with divorce, we'd just get married again". The result would be bigamy and later confusion with inheritance and death benefits.

Despite relatively strong consumer protection laws in New Jersey, many poor residents of Essex County still find themselves paying for furniture and appliances which are either switched with a non-functioning model or are never delivered. Legal Services offers invaluable aid to enable these people to receive a fair deal.

Sadly, if Legal Services did not exist, I would have few alternatives for my present referrals. It would be unrealistic to expect the private bar to fill the gap with pro bono services. Essex County is a case in point. The Essex County Bar Association through our office has developed a reduced fee panel of lawyers for those people just above the Legal Service eligibility guidelines, yet who still cannot afford standard legal fees. The panel attorneys take cases for a predetermined fee well below the "going rate". Out of 2800 lawyers in our bar association only 45 (1.6%) registered for this panel. Thus, the prospects for recruiting attorneys who would take cases for free are indeed dim.

CONSTRUCTION OF THE BRADLEY LAKE HYDROELECTRIC PROJECT

Mr. THURMOND. Mr. President, the Legislature of the State of Alaska on May 28, 1981, adopted resolution No. 37 relating to construction of the Bradley Lake hydroelectric project.

I ask unanimous consent to have printed in the RECORD this resolution.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION No. 37

Whereas the United States Army Corps of Engineers is completing the design and specifications on the Bradley Lake hydroelectric project; and

Whereas the United States Congress has authorized construction of the Bradley Lake hydroelectric project; and

Whereas the Alaska State Legislature would like work to begin on the Bradley Lake hydroelectric project as early as possible; and

Whereas the Bradley Lake hydroelectric project is an economically, environmentally, and technically feasible renewable energy project which should be constructed as early as possible;

Be it resolved that the Alaska State Legislature respectfully requests that the United States Congress provide for a system to permit the United States Army Corps of Engineers to design and construct the Bradley Lake hydroelectric project as a project of the Alaska Power Authority provided that the financial responsibility for this project shall solely be the responsibility of the State of Alaska and the Alaska Power Authority.

Copies of this resolution shall be sent to the Honorable Strom Thurmond, President Pro Tempore of the U.S. Senate; the Honorable Thomas P. O'Neill, Jr., Speaker of the U.S. House of Representatives; the Honorable

Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress; to Colonel Lee Nunn, Chief of Alaska District, United States Army Corps of Engineers; to Mr. John Katz, Special Counsel to the Governor; and to Mr. Eric Yould, Executive Director, Alaska Power Authority.

WHITE EARTH INDIAN RESERVATION CONTROVERSY

Mr. THURMOND, Mr. President, the Legislature of the State of Minnesota adopted resolution No. 3 with reference to memorializing the President and Congress to seek a settlement of the White Earth Indian Reservation controversy.

I ask unanimous consent to have printed in the RECORD this resolution.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION No. 3

Whereas, there has been considerable controversy in communities lying on or near the White Earth Indian Reservation in regard to questions of jurisdiction relating to the enforcement of game and fish laws, the enforcement of land claims, environmental regulation, and a number of other matters; and

Whereas, the conflict arising from these controversies has reached the extent that it is causing intense strife between the various factions in the communities surrounding the White Earth Indian Reservation; and,

Whereas, this conflict is beginning to have an undesirable effect upon land values and the quality of life on and around the White Earth Indian Reservation; and,

Whereas, the resolution of these disputes would be a major step in improving the relations between the groups currently in disagreement; and,

Whereas, the federal government possesses the powers and abilities to most suitably settle these controversies; Now, therefore,

Be it resolved by the Legislature of the State of Minnesota that the President of the United States and the United States Congress should seek a settlement to this controversy which equitably and adequately addresses the concerns of all of the parties involved.

Be it further resolved that the Secretary of State is directed to transmit copies of this memorial to the President of the United States, the President and the Secretary of the United States Senate, the Speaker and Chief Clerk of the United States House of Representatives and the Minnesota Senators and Representatives in Congress.

DECISION OF THE SUPREME COURT UPHOLDING DRAFT REGISTRATION OF MEN ONLY

Mr. THURMOND. Mr. President, today the Supreme Court decided the case of Rostker against Goldberg which presented to the Court the issue of the power of Congress to authorize draft registration of young men without authorizing similar registration of young women. The case was presented to the Supreme Court on appeal from a district court decision which had held that male-only draft registration violated the due process clause of the fifth amendment. Justice Rehnquist delivered the opinion of a six-member majority, while Justices White, Marshall, and Brennan dissented.

Noting the broad power of Congress to raise and regulate military and naval forces, the Court held that Congress acted well within its power in determining that male-only registration was appropriate. More significantly, the Supreme Court took the lower court to task for having attempted to substitute its own policy judgment for the judgment of Congress. The Supreme Court found in clear terms that the lower court had exceeded its authority under the Constitution.

I had occasion recently to suggest in the Senate that the Federal judiciary should undergo a period of self-examination and self-discipline in which the Federal courts themselves took the necessary steps to return to the limits on their authority specified in the Constitution. The decision of the High Court today in Rostker is an indication that at least the Supreme Court is mindful that the powers of the Federal courts are not boundless and that the Constitution vests in an elected Congress the power of decision of issues of Federal public policy while denying to the courts the power to substitute their opinion for that of the representatives of the people.

I commend to the attention of the Senate and public the decision of the Court in Rostker and suggest that the opinion of the Court is based in a well-founded understanding of the intention of the Framers of the Constitution in separating and defining the power of three coequal branches of the National Government.

PHILIP KLUTZNICK ON THE MIDEAST SITUATION

Mr. PERCY. Mr. President, Philip M. Klutznick, former Secretary of Commerce who has served also as president of the World Jewish Congress and B'nai B'rith International, has written an assessment of the Mideast situation following the Israeli air strike on the Iraqi reactor. His article appeared in the Christian Science Monitor of June 19, 1981.

Because Secretary Klutznick is so respected by Senators, and because he is so knowledgeable of events in the Middle East, I ask unanimous consent that his article be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

OUR NUCLEAR AFFLICTION

(By Philip M. Klutznick)

Any act using military power by one nation against another in these days of a perilously over-armed universe can hardly be cause for celebration. Generally, the nation that undertakes such action claiming it was done to avoid impending danger to its own security is entitled to have its case fairly examined by public opinion. Yet, one cannot escape admitting that the burden of proof is on the nation that acts.

Unfortunately, nearly all of us who react lack the intimate knowledge on which Israel acted; nor do we Americans possess the full information on which our government has decided to temporarily suspend additional F-16 deliveries to Israel. Furthermore, it would be unnatural for me as an American Jew not to hope that Israel was justified in its action and will satisfactorily meet its burden of proof. Still, I feel I must raise certain questions and thoughts which beg for answers especially as they come from agonizing friends, not enemies, of the Jewish state:

(1) In the short run, what damage has been done to the Habib mission and was the timing of Israel's strike unavoidable? In retrospect, American diplomacy had avoided an impending military confrontation between Israel and Syria and further raised hopes for a possible resolution of the Lebanese situation. Why did Israel act at this time and without consultations with the United States, thus endangering present regional peace while claiming to safeguard Israeli security in years ahead?

(2) Was the timing of the Baghdad raid inspired by Israel's June 30th election as seems to be the case? Even if the Israeli position of acting in self-defense is accepted, could not the action have been delayed just a few weeks, long enough to avoid tarnishing it with the suspicion that it was—even partially—an election ploy?

(3) Most imperative in the short run is the effect this act might have on Egyptian-Israeli relations, especially in light of the Sadat-Begin meeting held but days before the strike into Iraq. Camp David and Egypt are the only peace games in the Middle East. Anything that diminishes the political strength of Egypt or the significance of Camp David makes more consequential peace initiatives in the area far more difficult. Instead of increasing the prospects for true Israeli security, do not such actions reduce security by threatening regional stability, inflaming passions, and by further isolating both Egypt and Israel?

(4) Finally, what of the problems created for Israel's most reliable national friend, the United States? The Reagan Administration's frequently avowed regard for Israel as a "strategic asset" is already disturbed by the AWACs issue and now will face internal decisions and U.N. problems not easily reconcilable to the satisfaction of either Israel or the U.S. Having accepted an arms dependency relationship with the United States, can Israel reasonably insist on taking actions unacceptable and unexplainable to many and which threaten American regional interests?

Yet the short-run problems will fade, leaving scars that are presently unpredictable. The greater fears that deeply concern me are the long-term implications for world order of Israel's action. There will be a never-ending difference between Israel and her acknowledged national enemies as to whether or not the act was justified in international law and usage as self-defense. Yet, looked at beyond the politics of the moment, and even accepting the Israeli claim of Iraqi intentions, there remain certain fundamental and gnawing questions which go to the heart of the Camp David peace process and to the basis of today's international society.

A rather ominous precedent has now been set. What is "sauce for the goose is sauce for the gander." Tomorrow, Iraq or some other unfriendly nation can indulge in a "suicide mission" on Israel's Dimona reactor, or India can turn on Pakistan, the Soviet Union on China. Israel has totally avoided this discussion as if only Israel's interests are vital, only Israel's existence threatened. Yet in effect, Israel has breached the long and worrisome efforts to secure a measure of restraint in the nuclear age, Israel's unilateral act creating a sense of anarchy and permissiveness hitherto beyond acceptability.

The Israeli government along with a number of friendly American commentators have compared Israel's action with the proposed action of the U.S. during the Cuban missile crisis—even though the Americans followed a diplomatic course and avoided military action.

I was an Ambassador on the American delegation at the U.N. in those days. And I remember vividly the painful week through which Ambasador Stevenson and other top government officials passed debating what steps the U.S. should take. The tension of a possible nuclear war was not easy for anyone to contemplate. The President, who doubtless favored a "surgical strike" if necessary, rightly decided to give the Soviets and the Cubans a way to step back. I was in the Security Council when Stevenson, in uncharacteristicly turgid language, used the now historic phrase that he "would wait for an answer (from the USSR) until hell freezes over!" I can forget the horror of that week, nor the sense of relief when the crisis evaporated. Anyone who lived through those days cannot be overjoyed by this latest development, no matter how necessary it may have appeared to be to some. For now the devil of preemptive attack has been unsheathed—all the worse for Israel having acted without clearly exhausing all opportunities for reaching a general peace in the region which is surely the only way in the long term to safeguard Israel's security.

Without strenuous efforts in pursuit of a comprehensive Middle East peace structured on the foundation of the Camp David understandings, Israel's action may well stimulate rather than retard a highly destabilizing arms race. Just a decade ago Israeli bombing near Cairo had that very result. Today, such a new regional arms race might well go beyond conventional weapons.

But the greatest lesson that can be drawn from these events is that the world rests on the edge of a nuclear precipice. Whether it is between the superpowers or in a regional context in Asia or the Middle East, one single bomb of today's sophistication could unleash a holocaust for mankind. The great powers and Europe have been living for some time under a powerful nuclear Sword of Damocles. Now Israel has struck out against the potential of facing a similar reality.

It behooves the superpowers to get on with serious arms limitations talks and together with other nations on the verge of nuclear abilities to develop a foolproof "fail safe" political and security program to protect us from our own rashness. Proclaiming "holy wars" or threatening use of nuclear weapons—two events which clearly precipitated Israel's action—hardly encourage restraint. But without superpower leadership, regional actors are encouraged to act irresponsibly. Consequently George Kennan's recent call for "a bold and sweeping departure" from our present collision course through a quickly negotiated bilatreal reduction in nuclear weapons deserves profound contemplation.

For Israel's action is but a symptom of the threat to which we are all ominously exposed. We are caught under a nuclear burden and have yet to remove or even lighten it.

SENATOR TOWER'S DISTINGUISHED SERVICE

Mr. PERCY. Mr. President, it is with great respect and admiration for Senator TOWER that we recall his tremendous victory just 20 years ago when he became the first Republican since Reconstruction chosen to represent the State of Texas in the U.S. Senate.

Not only did his victory bring to the Senate a man of extraordinary intellect and prodigious diligence, but it also established that Republicans could win senatorial elections in what had been known as the solid South, the solid Democratic South. for some 80 years. Since Senator TOWER's triumph, many Republicans have been elected to the Senate from the South and this fact underscores the historic nature of Senator TOWER's victory.

Those of us who have worked with Senator TOWER over the years appreciate the great vigor and disciplined work habits of this man who has contributed so much to our deliberations and who has taken notable leadership particularly in the area of national defense. He believes, as I do, that a strong economy and a credible defense establishment are the requisite underpinnings for a successful foreign policy.

On this occasion, the 20th anniversary of his first election to the Senate, I join with my colleagues in congratulating him on his distinguished service and in wishing him well for the future.

RETIREMENT OF ROBERT S. McNAMARA AS PRESIDENT OF THE WORLD BANK

Mr. PERCY. Mr. President, I wish to join in commending Robert S. McNamara for an outstanding job as President of the World Bank for the past 13 years. He came to the Bank in 1968 following a distinguished career in business and equally distinguished service to his country as Secretary of Defense.

As President of the World Bank, Bob McNamara has served the common interest of the Bank's 135 member countries—and all mankind—in accelerating economic development and striving to erase absolute poverty. His compassion for the poorest peoples of the world has been matched by his determination to make the World Bank a powerful force for improving living conditions in developing countries, and he has succeeded.

The World Bank, under Bob McNamara's leadership, has become a powerful, positive force for development with equity. All around the globe there are millions of people enjoying clean water, adequate food and housing, and productive, rewarding jobs because of the projects supported by the World Bank. The Bank committed $11.5 billion last year to development projects, and the Bank is currently supervising more than 1,600 projects in 100 countries. The total value of those projects exceeds $100 billion.

The scope of the Bank's lending has expanded beyond loans in support of physical infrastructure to lending for population planning, environmental protection, primary health care, and energy development. Bob McNamara is responsible for the World Bank's comprehensive and highly cost-effective approach to development. Bob McNamara has helped nations to redesign their development strategies and the world to refocus development assistance to the poorest people in the poorest countries—and he has done so without losing a dime of the money provided by member country subscriptions and private market purchases of Bank securities. There has never been a default on a World Bank loan. Not only have holders of Bank securities earned a good return on their investment, but the developed countries, including the United States, have been repaid several times over in increased trade and investment income.

Bob McNamara would be the first to say that the task of development is far from over. His successor, A. W. Clausen, former chairman of the Bank of America, faces a formidable challenge. But Bob McNamara has set the course and greatly strengthened the World Bank, while faithfully serving the loftiest goals of humanity. He has done exceedingly well in the doing of good, and we are greatly in his debt.

ADMINISTRATION'S APPROACH TO ARMS CONTROL

Mr. PERCY. Mr. President, since taking office the administration has repeatedly affirmed its commitment to the goal of negotiated arms limitation agreements. In his address to a joint session of Congress in February, President Reagan declared, "We remain committed to the goal of arms limitation through negotiation and hope we can persuade our adversaries to come to realistic balanced and verifiable agreements." During his confirmation hearings, Secretary Haig deemed the resumption of the SALT process "a matter of the utmost priority." And in a television interview last month, White House Counselor Meese stated that there would undoubtedly be discussions with the Soviet Union in the future leading to a formal resumption of SALT negotiations.

At the theater nuclear force (TNF) level, the administration has already set in motion discussions which will lead to a reconvening of the TNF arms control negotiations in Geneva by the end of the year. Following preliminary discussions with Soviet Ambassador Dobrynin in Washington, Secretary Haig intends to meet with Soviet Foreign Minister Gromyko in September at the United Nations to discuss the timing and procedure for these negotiations. Significantly, NATO confirmed at its May ministerial meetings in Rome that the TNF talks would be conducted within the framework of SALT.

In preparation for the resumption of the TNF negotiations and an eventual resumption of SALT talks, the administration has been conducting a far-ranging review of U.S. national security objectives, including the role arms control should play in an overall strategy for restoring a stable strategic balance. With the nominations for the top posts at the Arms Control and Disarmament Agency now before the Senate, I would hope that the administration's complete national security and arms control team will soon be in place and that the various interagency reviews related to strategic force planning and the role of SALT can be expeditiously concluded. The Foreign Relations Committee will continue to monitor the progress of these reviews closely and will look forward to detailed administration briefings once they are completed.

Pending final decisions on the future course of U.S. SALT policy, the administration has declared that the United States will continue to respect existing SALT agreements, provided the Soviets demonstrate similar restraint. At present, United States and Soviet delegations to the SALT Standing Consultative Commission (SCC) are meeting in Geneva to discuss, inter alia, a number of issues related to SALT I and SALT II compliance and adherence.

I would also note that nothing in the fiscal year 1981 defense supplemental bills or the fiscal year 1982 defense procurement bill requested by the President and approved by the Senate in any way contravenes the letter or intent of either SALT I or SALT II.

Mr. President, on May 7 the Foreign Relations Committee conducted a hearing in executive session on arms limitation issues, with particular emphasis on: First, SALT compliance and adherence; second, the agenda for the SCC meeting now convened in Geneva; and third, recent NATO decisions on TNF modernization and arms control. At the start of the hearing, Under Secretary of State Walter J. Stoessel, Jr., provided the committee with a broad overview of the administration's approach to arms control generally, including the enumeration of eight specific principles that will guide its long-term arms control policy. The full transcript of the hearing remains classified. However, the administration agreed with the view of the committee that Under Secretary Stoessel's opening statement provides the most comprehensive articulation to date of the administration's basic perspective on arms control and should thus be available for public dissemination and review.

Mr. President, I ask unanimous consent that the declassified version of Under Secretary Stoessel's opening statement be printed at this point in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

UNDER SECRETARY STOESSEL'S STATEMENT

Mr. Chairman, Members of the Committee: It is a distinct pleasure for me to appear before this committee today to review with you the Administration's approach to arms control generally and to strategic and theater nuclear force limitations more particularly. With me are Mr. Richard Burt, Director of the Bureau of Politico-Military Affairs in the State Department, Mr. Thomas Graham, Jr., General Counsel of the Arms Control and Disarmament Agency, and Dr. James Timbie, Acting Assistant Director of ACDA.

Mr. Burt and I have brief statements to make. Mine will provide an overview of this Administration's approach to arms control generally and what it can accomplish. Mr. Burt will then address in greater detail SALT, the session of the Standing Consultative Commission that begins on May 27, and theater nuclear force limitations.

Looking back over the past decade, I think it is clear that arms control has in fact accomplished much less in concrete terms for U.S. and Allied security than its proponents argued that it would. This is despite all the attention devoted to it and the political importance it has acquired.

As a means of buttressing our security and of diminishing the risk of war, arms control has been greatly oversold. SALT, for example, has not prevented the Soviet Union from massively building up its strategic nuclear forces to a point where—clearly inferior in 1971—these are now superior to our own in many important respects. More particularly, SALT has not prevented the Soviets from acquiring the technical capability which will shortly allow them to destroy practically our entire ICBM force in a disarming first strike. A similar disparity can be cited between expectations and achievement regarding other areas of arms control as well. Unattainable goals have served only to undercut support for arms control itself.

This Administration intends to adopt a more limited and, we believe, more realistic concept of arms control than that of the past decade. Fundamental to this concept is the conviction that we cannot automatically look to negotiations with the Soviet Union as the most appropriate and logical means of resolving our military problems. Such an approach greatly overestimates the role that arms control realistically can play, and it tends to undermine our dedication to making necessary improvements in our own forces. As a means of enhancing the security of the U.S. and of our Allies, arms control must not impede required force improvements. This is not to say that arms control cannot be of some help; it can. But it must be accorded a more realistic role in U.S. security planning than has been the case heretofore.

As a general rule, any arms control negotiation the U.S. undertakes must have a clear and compelling security rationale; and any agreement we conclude must embody concrete, if modest, benefits for the U.S. Moreover, we cannot enter into negotiations without having both a clear sense of our ob'ectives and prospects for the leverage necessary to attain them. Nor should we enter into negotiations expecting to see early results.

By way of expanding on this overall concept, I should like to set out certain more specific—but still basic—principles that should guide our long-term arms control policy. These are eight in number:

(1) Arms control initiatives must be fully compatible with U.S. and Allied efforts to redress imbalances brought about by the Soviet military build-up. We must ensure that programs we will need in the future are not held back.

(2) We need to be sensitive to the interrelationship among the various arms control processes—SALT and TNF being an obvious example—and to the fact that any given arms control negotiation may be seriously affected by Soviet military developments in another area. We need to look not only at the weapons systems under negotiation, but also at those that are not under negotiation.

(3) Arms control cannot be pursued in a political vacuum. It must be set within the context of Soviet international behavior.

(4) At the same time, we should maintain a commitment to the goal of serious, substantive arms control. We should give this posture content, where and when appropriate, by making proposals that would enhance U.S. security if the Soviets agreed for their negotiability, but rather for their for their negotiability, but rather for their contribution to U.S. and Allied security.

(5) As I indicated earlier, however, we should not over-estimate the role that arms control can realistically play and should recognize the limited prospect that arms control in the near term can help achieve practical solutions to our most pressing military problems. There is not sufficient congruence of U.S. and Soviet interests, nor is there adequate U.S. leverage to achieve these goals. We should, therefore, be realistic about the prospects for substantive progress in the short term. We should vigorously pursue our military programs both as leverage and to hedge against the possible failure of serious arms control proposals.

(6) In 1979, the Alliance decided to couple the deployment of long-range theater nuclear systems with an arms control offer to the Soviets. This Administration stands by that decision and is determined to see it implemented.

In the future, however, we should avoid automatically coupling force modernization programs with arms control steps. If this is perpetuated, we run the risk of holding every modernization initiative hostage to negotiations that can be dragged on indefinitely, while our adversary, feeling no need to couple his modernization efforts with arms control, gains more and more leverage. If modernization is needed, it should be pursued. If arms control is needed, it should be pursued. But these two approaches should not be bound together.

(7) We should maintain a strong and consistent emphasis on verification and compliance. Obviously, no arms control agreement can serve its function of enhancing our security unless we have the means to verify Soviet compliance and unless the Soviet Union and other parties do in fact comply. And the pattern of Soviet compliance or non-compliance will of course substantially influence whether and to what extent we engage in further arms control negotiations.

(8) Finally, any substantive arms control proposals we formulate should have a clear public rationale, one that we can sustain over time with both domestic and Allied audiences.

Consistent with these principles, the Administration intends to proceed cautiously and deliberately with regard to resumption of arms control negotiations. We need to reexamine the rationale for these negotiations; to set ourselves clear objectives; and to ensure that we have the leverage necessary to attain them. This we will do.

This concludes my prepared statement.

Mr. PERCY. Mr. President, in inserting Ambassador Stoessel's statement in the RECORD, I recognize that the lengthy and detailed questioning by myself and my colleagues of a number of points central to the administration's approach is necessarily omitted. This portion of the hearing transcript, which includes discussion of a number of sensitive issues, must remain classified to preserve the integrity of executive session proceedings. Nonetheless, publication of this comprehensive administration statement on arms control promotes the public interest by providing a starting point for informed debate on this vital issue.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PRESIDENTIAL APPROVAL

A message from the President of the United States reported that on June 23,

1981, he had approved and signed the following act:

S. 1213. An act to amend title I of the Marine Protection, Research, and Sanctuaries Act, as amended.

MESSAGES FROM THE HOUSE

At 12:48 p.m. a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 1098. An act to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

S. 1123. An act to permit certain funds allocated for official expenses of Senators to be utilized to procure additional office equipment; and

S. 1124. An act to authorize the Sergeant at Arms and Doorkeeper of the Senate, subject to the approval of the Committee on Rules and Administration, to enter into contracts which provide for the making of advance payments for computer programming services.

The enrolled bills were subsequently signed by the President pro tempore (Mr. THURMOND).

At 6:35 p.m., a message from the House of Representatives, delivered by Mr. Berry, announced that the House insists upon its amendments to the bill (S. 694) to authorize supplemental appropriations for fiscal year 1981 for the Armed Forces for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, and for research, development, test, and evaluation, to increase the authorized personnel end strengths for military and civilian personnel of the Department of Defense for such fiscal year, to authorize supplemental appropriations for such a fiscal year for construction at certain military installations, and for other purposes; asks for a conference with the Senate on the disagreeing votes of the two Houses thereon, and has appointed Mr. PRICE, Mr. BENNETT, Mr. STRATTON, Mr. WHITE, Mr. NICHOLS, Mr. BRINKLEY, Mr. MOLLOHAN, Mr. DAN DANIEL, Mr. DICKINSON, Mr. WHITEHURST, Mr. SPENCE, Mr. BEARD, Mr. MITCHELL of New York, and Mrs. HOLT as managers of the conference on the part of the House.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3238. An act to amend the Communications Act of 1934, to extend certain authorizations of appropriations contained in such Act relating to public broadcasting, and for other purposes.

At 10:10 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House has agreed to Senate Concurrent Resolution 23, providing for an adjournment of the Senate from June 25, 1981, or June 26, 1981, to July 8, 1981, and an adjournment of the House from June 26, 1981, to July 8, 1981.

HOUSE BILL PLACED ON CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3238. An act to amend the Communications Act of 1934, to extend certain authorizations of appropriations contained in such Act relating to public broadcasting, and for other purposes.

ENROLLED BILLS PRESENTED

The Secretary reported that on today, June 25, 1981, he had presented to the President of the United States the following enrolled bills:

S. 1123. An act to permit certain funds allocated for official expenses of Senators to be utilized to procure additional office equipment; and

S. 1124. An act to authorize the Sergeant at Arms and Doorkeeper of the Senate, subject to the approval of the Committee on Rules and Administration, to enter into contracts which provide for the making of advance payments for computer programing services.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1477. A communication from the Assistant Secretary of the Army (Installations, Logistics, and Financial Management), transmitting, pursuant to law, a report on a study with respect to the conversion from in-house operation to commercial contract of various functions; to the Committee on Armed Services.

EC–1478. A communication from the Under Secretary of the Navy, transmitting, pursuant to law, a report on a study with respect to converting from in-house to contract for various services; to the Committee on Armed Services.

EC–1479. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend title 10, United States Code, to increase one of the dollar thresholds applicable to the making of contracts, and for other purposes; to the Committee on Armed Services.

EC–1480. A communication from H. G. Rickover, transmitting for the information of the Senate, a report on the sea trials of the USS OHIO, our first TRIDENT Class nuclear powered ballistic missile submarine; to the Committee on Armed Services.

EC–1481. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Will There Be Enough Trained Medical Personnel in Case Of War?"; to the Committee on Armed Services.

EC–1482. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a report entitled "To Be Self-Sufficient Or Competitive? Eximbank Needs Congressional Guidance"; to the Committee on Banking, Housing, and Urban Affairs.

EC–1483. A communication from the Vice President for Government Affairs, National Railroad Passenger Corporation, transmitting, pursuant to law, a report on the total itemized revenues and expenses and revenues and expenses of each train operated by the Corporation for the month of April 1981; to the Committee on Commerce, Science, and Transportation.

EC–1484. A communication from the General Counsel of the Department of Energy, transmitting, pursuant to law, notices of meetings related to the International Energy Program; to the Committee on Energy and Natural Resources.

EC–1485. A communication from the Acting Administrator of the General Services Administration, transmitting, pursuant to law, 31 proposed prospectuses for alterations; to the Committee on Environment and Public Works.

EC–1486. A communication from the Assistant Secretary of the Treasury (Legislative Affairs), transmitting, pursuant to law, project performance audit reports prepared by the International Bank for Reconstruction and Development, special studies prepared by the External Review and Evaluation Office of the Inter-American Development Bank and project performance audit reports or project completion reports prepared by the Asian Development Bank; to the Committee on Foreign Relations.

EC–1487. A communication from the Inspector General of the Department of Agriculture, transmitting, pursuant to law, the matching reports of the Inspector General under the Office of Management and Budget's Matching Guidelines; to the Committee on Governmental Affairs.

EC–1488. A communication from the Assistant Secretary for Health, Department of Health and Human Services, transmitting, pursuant to law, a report on an altered Privacy Act system of records; to the Committee on Governmental Affairs.

EC–1489. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a report on the examination of the financial statements of the Inter-American Foundation for fiscal years 1979 and 1980; to the Committee on Governmental Affairs.

EC–1490. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Status, Progress, and Problems in Federal Agency Accounting During Fiscal 1980"; to the Committee on Governmental Affairs.

EC–1491. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of legislation adopted by the Council on June 2, 1981; to the Committee on Governmental Affairs.

EC–1492. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of legislation adopted by the Council on June 2, 1981; to the Committee on Governmental Affairs.

EC–1493. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of legislation adopted by the Council on June 2, 1981; to the Committee on Governmental Affairs.

EC–1494. A communication from the Mayor of the District of Columbia, transmitting, pursuant to law, the Summer Youth Employment Program 1981 Operational Plan for the District of Columbia; to the Committee on Governmental Affairs.

EC–1495. A communication from the Secretary of the United States Postal Rate Commission, transmitting, pursuant to law, changes to be made in the opinion and recommended decision upon reconsideration issued June 4, 1981, in Docket No. R80–1; to the Committee on Governmental Affairs.

EC–1496. A communication from the Acting Commissioner of Immigration and Nat-

uralization, transmitting, pursuant to law, copies of 1,987 orders in which authority in section 212(d)(3) of the Immigration and Nationality Act was exercised; to the Committee on the Judiciary.

EC–1497. A communication from the Secretary of Education, transmitting a copy of certain published regulations relative to education programs; to the Committee on Labor and Human Resources.

EC–1498. A communication from the Chairman of the United States Commission on Civil Rights, transmitting, pursuant to law, a report entitled "Civil Rights: A National Not a Special Interest"; to the Committee on the Judiciary.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–255. A resolution adopted by the City Council of Rio Dell, California, expressing its support of efforts by the Federal administration to return powers to local entities and urging a careful implementation of those efforts in ways that will enhance, not further impede, home rule; to the Committee on Governmental Affairs.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HATCH, from the Committee on Labor and Human Resources:

James Bert Thomas, Jr., of Virginia, to be Inspector General, Department of Education; pursuant to the order of June 2, 1981, the nomination was referred to the Committee on Governmental Affairs for not to exceed twenty days.

(The above nomination was reported from the Committee on Labor and Human Resources with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. STAFFORD, from the Committee on Environment and Public Works:

A. Alan Hill, of California, to be a member of the Council on Environmental Quality; and

W. Ernst Minor, of Ohio, to be a Member of the Council on Environmental Quality.

By Mr. HATCH, from the Committee on Labor and Human Resources:

Donald L. Dotson, of Pennsylvania, to be an Assistant Secretary of Labor; and

Thomas F. McBride, of the District of Columbia, to be Inspector General, Department of Labor; pursuant to the order of June 2, 1981, the nomination was referred to the Committee on Governmental Affairs for not to exceed twenty days.

(The above nominations were reported from the Committee on Labor and Human Resources with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. TOWER, from the Committee on Armed Services:

Mr. TOWER. Mr. President, from the Committee on Armed Services, I report favorably the following nominations: Lt. Gen. Ranald T. Adams, Jr., U.E. Air Force (age 56) for appointment to the grade of lieutenant general on the retired list; Lt. Gen. Benjamin N. Bellis, U.S. Air Force (age 57) for appointment to the grade of lieutenant general on the retired list; Lt. Gen. Edgar S. Harris, Jr., U.S. Air Force (age 56) for appointment to the grade of lieutenant general on the retired list; Lt. Gen. Eugene F. Tighe, Jr., U.S. Air Force (age 60) for appointment to the grade of lieutenant general on the retired list; Gen. Volney F. Warner, Army of the United States (major general, U.S. Army) (age 54) for appointment to the grade of general on the retired list; Lt. Gen. Pat W. Crizer, Army of the U.S. (age 56) for appointment to the grade of lieutenant general on the retired list; Lt. Gen. Ernest Graves, Jr., Army of the U.S. (age 56) for appointment to the grade of lieutenant general on the retired list; Lt. Gen. Thomas H. Tackaberry, Army of the U.S. (age 57) for appointment to the grade of lieutenant general on the retired list; Maj. Gen. Raphael D. Tice, U.S. Army, to be lieutenant general; Rear Adm. Thomas J. Kilcline, U.S. Navy, to be vice admiral; Vice Adm. John G. Williams, Jr., U.S. Navy, to be admiral; and Rear Adm. Eugene A. Grinstead, Jr., U.S. Navy, to be vice admiral.

I ask that these names be placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. In addition, in the Army there are 108 promotions to the grade of colonel and below (list begins with Alan E. Babigan). Since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of June 15, 1981, at the end of the Senate proceedings.)

By Mr. TOWER, from the Committee on Armed Services:

Francis J. West, of Rhode Island, to be an Assistant Secretary of Defense.

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation:

Hans Michael Mark, of Virginia, to be Deputy Administrator of the National Aeronautics and Space Administration;

Joseph P. Welsh, of Virginia, to be Inspector General, Department of Transportation; pursuant to the order of June 2, 1981, referred to the Committee on Governmental Affairs for not to exceed twenty days;

June Gibbs Brown, of Virginia, to be Inspector General, National Aeronautics and Space Administration; pursuant to the order of June 2, 1981, referred to the Committee on Governmental Affairs for not to exceed twenty days;

Joseph H. Lipscomb III, a captain of the Coast Guard Reserve, to be a permanent commissioned officer in the Coast Guard Reserve in the grade of rear admiral.

(The above nominations were reported from the Committee on Commerce, Science, and Transportation with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. PACKWOOD. Mr. President, I also report favorably a nomination list in the U.S. Coast Guard and, to save the expense of reprinting them on the Executive Calendar, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators. Coast Guard nominations beginning Augusta L. Duncan, which appeared in the CONGRESSIONAL RECORD of June 15, 1981.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GARN (for himself, Mr. PROXMIRE, and Mr. LUGAR):

S. 1427. A bill to reduce financing cost to cities, counties, and States by amending section 5136 of the Revised Statutes to permit national banks to underwrite and deal in revenue bonds issued by State and local governments, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. TSONGAS:

S. 1428. A bill for the relief of Somjai Sriweownetr and Chaluay Sriweownetr, husband and wife, and their children, Somkiat Sriweownetr, Siriuck Sirweownetr, and Luckana Sriweownetr; to the Committee on the Judiciary.

By Mrs. KASSEBAUM (for herself and Mr. JOHNSTON):

S. 1429. A bill to amend the Securities and Exchange Act of 1934 to make the margin requirements for domestic purchasers of securities applicable to foreign purchasers of securities in certain significant transactions involving the United States securities markets, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BAKER (for himself and Mr. SASSER):

S. 1430. A bill to amend the Internal Revenue Code of 1954 relating to estate taxes to provide that the election to use the alternate valuation date may be made on a return that is filed late; to the Committee on Finance.

By Mr. STAFFORD (for himself, Mr. KENNEDY, Mr. PELL, and Mr. RANDOLPH):

S. 1431. To promote further development of public library services, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. MOYNIHAN (for himself, Mr. MITCHELL, Mr. BAUCUS, Mr. METZENBAUM, Mr. SARBANES, and Mr. SPECTER):

S. 1432. A bill to amend the Internal Revenue Code of 1954 with respect to offsetting positions in personal property, and for other purposes; to the Committee on Finance.

By Mr. MATHIAS (by request):

S. 1433. A bill to provide for improvements in the local planning process in the District of Columbia, a transfer authority over certain purely local planning activities to the government of the District of Columbia, and for other purposes; to the Committee on Governmental Affairs.

By Mr. MATHIAS (for himself and Mr. DOMENICI):

S. 1434. A bill to eliminate the bar of the act of state doctrine to adjudication on the merits in certain cases in U.S. courts; to the Committee on the Judiciary.

By Mr. THURMOND (for himself, Mr. EAST, and Mr. HELMS):

S. 1435. A bill to amend the Labor Management Relations Act of 1947, with respect to suits for damages brought against individual defendants acting not in behalf of their union but in their personal and nonunion capacity for violating a no strike provision of a collective bargaining agreement, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. D'AMATO (for himself and Mrs. KASSEBAUM):

S. 1436. A bill to amend the Securities Exchange Act of 1934 to provide uniform margin requirements in transactions involving the acquisition of securities of certain United States corporations by foreign persons where such acquisition is financed by a foreign lender; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. ABDNOR (for himself and Mr. PRESSLER):

S. 1437. A bill to authorize the construction of a project for pumped-storage hydropower development and other purposes at Fort Randall Dam-Lake Francis Case, South Dakota; to the Committee on Environment and Public Works.

By Mr. BIDEN:

S. 1438. A bill to amend Sec. 307 of the Communications Act of 1934; to the Committee on Commerce, Science, and Transportation.

By Mr. PELL (for himself, Mr. CHAFEE, Mr. KENNEDY, Mr. WILLIAMS, Mr. BRADLEY, Mr. TSONGAS, Mr. DODD, Mr. LEAHY, Mr. LEVIN, Mr. MOYNIHAN, Mr. METZENBAUM, Mr. RIEGLE, Mr. SARBANES, Mr. MITCHELL, and Mr. BUMPERS):

S. 1439. A bill to provide for the distribution of overcharges collected by the Department of Energy; to the Committee on Labor and Human Resources.

By Mr. WEICKER:

S. 1440. A bill to amend the Internal Revenue Code of 1954 to provide job opportunities, and for other purposes; to the Committee on Finance.

By Mr. DOLE.

S. 1441. A bill to amend section 6(e)(2) of the Land and Water Conservation Fund Act of 1965, as amended; to the Committee on Energy and Natural Resources.

By Mr. HATCH (for himself, Mr. ZORINSKY, Mr. HELMS, Mr. HUDDLESTON, Mr. JEPSEN, and Mr. QUAYLE):

S. 1442. A bill to amend the Federal Food, Drug, and Cosmetic Act, the Poultry Products Inspection Act, the Federal Meat Inspection Act, and the Egg Products Inspection Act to improve food safety decisions, to provide for assessment of risks to health presented by substances present in food, to provide for referral of food safety questions to expert scientific advisory panels, to provide authority for flexible regulatory response based on the risks and uses associated with a substance, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. THURMOND:

S.J. Res. 94. Joint resolution to designate October 19, 1981, as "National Jogging Day."; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GARN (for himself, Mr. PROXMIRE, and Mr. LUGAR):

S. 1427. A bill to reduce financing costs to cities, counties, and States by amending section 5136 of the Revised Statutes to permit national banks to underwrite and deal in revenue bonds issued by State and local governments, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

LEGISLATION TO ALLOW COMMERCIAL BANKS TO UNDERWRITE MUNICIPAL REVENUE BONDS

● Mr. GARN. Mr. President, I am today intrdoucing a bill which would amend the Glass-Steagall Act to permit commercial banks to underwrite municipal revenue bonds. In addition, I am cosponsoring Senator CHAFEE's bill to amend the act to authorize depository institutions to operate and sell interests in investment companies. The Glass-Steagall Act, passed in 1933, established limitations generally designed to prohibit commercial banks from engaging in investment banking activities.

I have decided to join in proposing these bills in recognition of the dramatic and ongoing changes occurring in the Nation's financial markets and the resulting need for the Congress to consider whether the prohibitions contained in the Glass-Steagall Act continue to be necessary or appropriate.

When Congress enacted comprehensive banking legislation in 1933 which included the Glass-Steagall Act, it sought to correct problems which contributed to the economic collapse of the early 1930's. Congress decided that among these problems was the participation by banks in various aspects of the securities business. At the same time, Congress acted on a number of other fronts to strengthen the Federal role in supervision of financial institutions through such measures as the creation of Federal deposit insurance, prohibition of interest payments on demand deposits, and regulation of extensions of credit for securities transactions.

Since 1933, there have been very substantial changes in both the regulation and supervision of financial institutions and in the structure of the marketplace in which financial institutions and intermediaries operate. While recent announcements of the mergers of securities firms with Prudential Insurance Co. and American Express have focused attention on the potential reordering of the financial services industry, the trend toward creation of "financial supermarkets" and the movement toward bank-like services by nondepository competitors was well underway prior to these announcements.

The development and spectacular growth of money market funds is one obvious example of this trend. While it is true that these funds are an extension of longstanding money management activities of securities and investment management firms, it is clear that they have, for many customers, taken the place of more customary savings and investment options, and thus may change permanently the role of depository insituations. Consumer interest in money market funds is hardly surprising, since these funds operate free of many Government-imposed restrictions which make it impossible for banks and thrift institutions to compete on equal terms for savings of investors.

In addition to the phenomenon of money market funds, many other changes have occurred in the operations of securities firms, including the establishment of products similar to those historically available only through depository institutions, and the affiliation of brokerage firms with institutions which take deposits.

The Committee on Banking, Housing, and Urban Affairs recently completed 7 days of oversight hearings concerning the regulation of financial markets and the competitive environment which exists between depository and nondepository institutions. These hearings provided a broad spectrum of opinion about the current climate for financial services and the appropriate Federal policies with respect to those services. While witnesses at the hearings expressed many different viewpoints and proposed different types of action, the most frequent recommendations offered to the committee were to avoid the imposition of unnecessary Federal regulatory restrictions on providers of financial services, and to eliminate unnecessary barriers to competition.

I view the two bills amending the Glass-Steagall Act in that light. The Glass-Steagall Act, whatever its merits, is clearly a substantial restraint upon competition imposed by Federal policy. Whether the original purposes of the act are equally worthwhile today, the specific restrictions which the act imposes must be reviewed in the light of the evolving structure of the financial services marketplace and the significant changes which have occurred in the regulation and supervision of depository institutions.

These proposals do not amount to repeal of the Glass-Steagall Act; while they would create exceptions to the general principle that institutions which receive deposits should not be involved in investment banking activities, that principle would still apply in many circumstances. Most obviously, commercial banks would continue to be prohibited from underwriting corporate securities.

My purpose in associating myself with these bills is to assure that the issues which they address will receive adequate consideration by the Congress. While I start from the premise that the competitive barrier which prohibits depository institutions from involvement in securities-related activities should be viewed with skepticism at a time when securities firms are undertaking bank-like activities, I believe that there are legitimate questions about the proposals which should be addressed by interested parties.

Proposals to amend the Glass-Steagall Act necessarily involve complicated policy questions and arouse the passions of those who believe that they would be most affected. There is much more at stake, however, than the narrow interest of any group. In recent years this country's financial marketplace has been experiencing a revolution, and the lines separating competitors have blurred to the point where the restrictions of the Glass-Steagall Act are more strained than ever before.

The changes which have occurred may, however, be minor compared to those ahead. The added competition which can result from these innovations presents the opportunity for enhanced service for consumers and investors, but Congress must assure that all competitors are

treated evenly by the Government. It is in that spirit that I am acting.

Mr. President, I would now like to explain briefly the bill permitting the underwriting of revenue bonds and to comment upon the bill authorizing investment company activities by depository institutions.

MUNICIPAL REVENUE BONDS

Since 1933, commercial banks have been prohibited from underwriting municipal revenue bonds, but permitted to underwrite general obligation bonds. When this distinction was made in 1933, revenue bonds were a nominal factor in the municipal bond business. Since 1933, the act has been amended from time to time to permit bank underwriting of specific types of revenue bonds, but the general prohibition against revenue bond underwriting has remained in force. Recently, revenue bonds have become a larger and larger factor in the municipal bond market; in 1980, revenue bonds comprised more than 70 percent of all long-term bonds sold by State and local governments.

My bill would permit banks to underwrite and trade in municipal revenue bonds that are investment grade securities eligible for bank investment portfolios.

Because of the potential savings in borrowing costs which could result from added competition in revenue bond underwritings, this proposal is supported by many organizations representing State and local government, including the National Governors Association, the National League of Cities, the U.S. Conference of Mayors, the National Association of Counties, the Municipal Finance Officers Association, and the National Association of State Treasurers.

Similar legislation has been passed by the Senate twice before. However, concern has been expressed by securities firms that commercial banks should not be permitted to compete with them in revenue bond underwriting because of alleged competitive advantages which banks would have. For example, banks are permitted to deduct the interest costs which are incurred on borrowings to hold municipal securities, but broker-dealers cannot do so.

I believe that this concern should be weighed during the consideration of the bill and, if appropriate, the bill could be amended to assure that neither banks nor broker-dealers enjoy a significant competitive advantage. I would note, however, that broker-dealers appear to be quite competitive now with banks in underwriting municipal general obligation bonds, which suggests that the perceived advantage which banks are said to have may be of little practical significance.

MUTUAL FUNDS

The bill introduced by Senator CHAFEE (S. 1424) would permit banks, savings and loan associations and other depository institutions to operate investment companies including mutual funds. One of the historical functions of banks has been investment management of assets for individual customers through bank trust departments; similarly, banks routinely are involved in managing and advising pension funds, other employee benefit plans and institutional clients through the exercise of established fiduciary powers. Both trust accounts and employee benefit accounts may be pooled by a bank with other similar accounts into collective funds, making possible greater diversification of investment and economies of scale which reduce the costs of management.

However, the Supreme Court decided in 1971 that banks are prohibited under the Glass-Steagall Act from pooling the assets of individual customers for whom they act as agent, based on the Court's determination that this activity potentially could involve the same types of risks which Congress perceived in 1933 when it adopted the act. As a result, agency accounts must be individually maintained, and the costs involved in doing so make it impossible for banks to offer their investment management services to small investors.

Last year, in major financial institutions legislation, the authority of federally chartered savings and loan associations was broadened to permit them to compete more effectively in the changing climate expected as a result of deregulation. Among the new powers made available to these associations were trust powers, in order to permit them to offer a wider array of financial services. This bill would make it possible for a savings institution to manage investment assets of its customers on a collective basis and would therefore make it economical to provide such services to a broader group of investors. Similarly, the bill would permit comparable investment services by mutual savings banks and credit unions.

The bill is intended to permit these institutions to compete on equal terms with existing money market mutual funds, as well as to allow these institutions to manage other kinds of investment companies under the established regulatory system administered by the Securities and Exchange Commission.

Mr. President, I ask unanimous consent that the text of the bill permitting bank underwriting of revenue bonds be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1427

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraph Seventh of section 5136 of the Revised Statutes of the United States, as amended (12 U.S.C. 24), is hereby amended by adding the following new sentences at the end of such paragraph: "The limitations and restriction contained in this paragraph as to dealing in and underwriting investment securities shall not apply to all other nongeneral obligations issued or guaranteed by or on behalf of a State or any political subdivision thereof (except special assessment obligations and industrial revenue bonds) which are at the time eligible for purchase by a national bank for its own account, except that (1) no association shall hold such obligations of any one obligor or maker as a result of underwriting, dealing, or purchasing for its own account (and for this purpose obligations as to which it is under commitment shall be deemed to be held by it) in a total amount exceeding at any one time 10 per centum of its capital stock actually paid in and unimpaired and 10 per centum of its unimpaired surplus fund, (2) the purchase of such obligations by a national bank as fiduciary from such bank as an underwriter or dealer shall not be permitted unless lawfully directed by court order, (3) no association may purchase such obligations as fiduciary from a member of a syndicate in which such association is participating until the syndicate has closed as to underwriting, (4) any sales of such obligations by an association to any of its depositors or borrowers or to any correspondent bank (whether for such bank's own account or as trustee) must be accompanied by a disclosure in writing to the purchaser that the association is selling as an underwriter or dealer, and (5) the purchase, during the underwriting period, of any such obligations by an association for its own investment account, from such association's own account acting as underwriter, dealer, or trader, or from any entity affiliated with such association within the meaning of subsection (b)(1) of section 2 of the Banking Act of 1933, as amended (12 U.S.C. 221a(b)(1)), shall not be permitted: *Provided,* That this restriction shall not apply to any purchases by an association for its investment account or accounts of any such obligations (A) it alone has underwritten or (B) directly from the underwriting syndicate or member thereof in which it is a participant, or to associations not in the underwriting syndicate. For purposes of this paragraph, the term 'industrial revenue bond' shall mean an obligation, not secured by the full faith and credit of the issuer, payable solely from the rentals received by the issuer from private entities.".

SEC. 2. The Secretary of the Treasury shall submit an annual report to the Congress showing the extent to which the business of underwriting and dealing in State and local obligations is being carried on by commercial banks as compared with other banking institutions with a view to determining the effect of the amendment made in the second section of this Act on the institutional distribution of such business. As used herein, the "term State and local obligations" means obligations issued or guaranteed by or on behalf of a State, political subdivision of a State, or an agency of a State or political subdivision thereof.●

By Mr. TSONGAS:

S. 1428. A bill for the relief of Somjai Sriweownetr and Chaluay Striweonetr, husband and wife, and their children, Somkait Sriweownetr, Siriluck Sriweownetr, and Luckana Sriweownetr; to the Committee on the Judiciary.

RELIEF OF SOMJAI SRIWEOWNETR AND HIS FAMILY

Mr. TSONGAS. Mr. President, today I am introducing a private bill for a very special person and his family. He is the unsung hero of the American hostage crisis in Iran. He received no welcoming parades, no medals, no yellow ribbons in the United States—not even recognition for his bravery and valor. Yet he selflessly risked his life and property to help the Americans held hostage in Iran. He is Somjai Sriweownetr, who did so much for the American hostages while living in Iran and who has now returned to his home in Bangkok, Thailand.

The bill I am introducing today would allow Somjai Sriweownetr, his wife Chaluay, and their three children to come here and make America their permanent home. It is the very least we can do for someone who has served our country so bravely.

Mr. Somjai's story begins on November 4, 1979, when Iranian militants seized the American Embassy in Tehran. At the time, he was working as a cook

for three employees of the U.S. International Communications Agency. The three, Kathryn Koob, William Royer, and Barry Rosen, would later be among those taken hostage.

On November 4, Koob and Royer were working at the Iran-America Society, several miles from the Embassy. When they learned of the takeover, they immediately established a telephone link with Washington. They depended on Mr. Somjai to bring them food so they could continue to maintain this important contact without interruption.

Shortly thereafter, an American diplomat called Mr. Somjai from the Iranian Foreign Embassy where he and two other Americans were themselves being held. Speaking to him in his native Thai, he asked Mr. Somjai if he would hide five Americans who had managed to escape from the Embassy. Without hesitation, Mr. Somjai hid the five Americans in the homes of his employers—Koob, Royer, and Rosen—seeing to it that they were fed and did not have to go outside and risk being identified.

Before the militants discovered the homes of the hostages, Mr. Somjai helped the five Americans escape again—this time to the Canadian Embassy, from which they eventually gained their freedom. Prior to the militants' arrival, Mr. Somjai had the foresight to search the homes and destroy documents he feared the militants might use against the American hostages. After the militants searched the homes, they questioned Mr. Somjai closely about his relationship to the Americans and when he refused to cooperate with them they confiscated his own personal belongings.

In the 14 months that followed, Mr. Somjai stayed in Iran in spite of the tremendous danger he faced for having helped the Americans. Even then he continued to assist the Americans being held at the Iranian Foreign Ministry by sending in food and clothing through Swiss diplomats.

Throughout the period, he worked to secure information about the situation inside the Embassy and the welfare and whereabouts of those hostages who had been moved.

For his own safety, Mr. Somjai was encouraged to leave the country. But he insisted on staying until the American hostages were released.

He did not have to help his American friends. But he was a brave man who, instinctively and without a second thought, showed his intense loyalty to the people he respected and cared for.

He acted as courageously as a soldier in the frontline of battle. He was diligent, brave, resourceful, generous, and loyal. He repeatedly risked his property and his life. Such acts of heroism are rare in the annals of human endeavor and all the more precious for that rarity.

Mr. Somjai has shown above all else his intense loyalty to Americans in time of danger. He has shown that he loves freedom and his fellow man. He deserves the opportunity to emigrate to the United States with his family.

We as a Nation should be proud to have such a man among us—a man who does not turn his back on his friends, a man who does not panic in the face of danger, a man who is not afraid to do what he believes is right.

In America, when we find such men and women we give them awards and recognition. All this brave man wants is a chance to immigrate to the United States and become a citizen. What will be our response?

Mr. President, I believe our only responsible response is to welcome him and his family to America with open arms. It is the very least we can do for someone who has already given us so much.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1428

Be it enacted by the Senate and House of Representatives of the United States of America in Congress asembled, That, notwithstanding paragraph (14) of section 212 (a) of the Immigration and Nationality Act, for purposes of such Act, Somjai Sriweownetr and Chaluay Sriweownetr, husband and wife, and their children, Somkiat Sriweownetr, Siriluck Sriweownetr and Luckana Sriweownetr shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the proper number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas which are made available to natives of the country of the aliens' birth under section 203(a) of the Immigration and Nationality Act or, if applicable, the total number of immigrant visas which are made available to natives of the country of the aliens' birth under section 202 of such Act.

By Mrs. KASSEBAUM (for herself and Mr. JOHNSTON):

S. 1429. A bill to amend the Securities Exchange Act of 1934 to make the margin requirements for domestic purchasers of securities applicable to foreign purchasers of securities in certain significant transactions involving the U.S. securities markets, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

MARGIN REQUIREMENTS FAIRNESS ACT OF 1981

● Mrs. KASSEBAUM. Mr. President, yesterday's Washington Post reports on the efforts of Joseph E. Seagram & Sons, Inc., a large Canadian firm, to gain a controlling interest in Conoco, Inc. Conoco is the ninth largest oil company in the United States and earlier this year was subjected to an unfriendly tender offer from another Canadian company.

Yesterday's headline is another development in the alarming trend by Canadian companies attempting to take over U.S. companies. Earlier this year the Senate Judiciary Committee held a hearing on the implications of the attempt by Canadian Pacific Ltd., Canada's second largest company, to acquire Hobart Corp. Hobart was successful in thwarting Canadian Pacific, but others may not be as fortunate.

Another domestic energy concern is currently facing similarly grim prospects. Nu-West Ltd., a Canadian corporation engaged in real estate development and in exploration, development and production of oil and natural gas, has purchased 7.2 percent of Cities Service Co. stock, making it the second largest shareholder in the company. It has done so despite the fact it is only one-tenth as large as Cities Service. Further, Nu-West's board of directors has authorized the purchase of additional shares that would make it the Cities Service top stockholder.

These takeover bids are occurring at a time when the Canadian Government is making it increasingly difficult for U.S. companies to hold Canadian interests, especially those in the oil and gas business. Thus, Cities Service and other American companies are precluded from making counter offers which would normally be a logical move to blunt such actions.

Cities Service faces the possibility, as happened to Conoco, of having to turn over its valuable oil and natural gas properties in Canada, at depressed prices, in order to have its shares returned.

Mr. President, present law in the Securities and Exchange Act of 1934 authorizes the Federal Reserve Board to impose margin requirements on domestic companies to prevent the excessive use of credit for the purchase or carrying of securities. These margin requirements establish maximum percentages of market value for loans to purchase securities traded on national exchanges and selected securities traded over the counter. In 1970, the act was amended to prohibit any U.S. person from obtaining credit for the purchase of U.S. securities in an amount exceeding the margin limit, regardless of whether the lender is subject to the margin requirements. Thus, in the United States, this law is applicable to both lenders.

The legislation I am introducing today would extend the margin requirements to foreign borrowers acquiring significant interests in publicly traded U.S. companies. This would end the favorable treatment foreign investors receive in the United States which is unavailable to U.S. investors in Canada. Jurisdictional problems might be associated with efforts to regulate foreign financial institutions are avoided by limiting the extension to foreign borrowers only.

As a means of enforcing the provisions of the bill, a private right of action would be given to any person injured or threatened with injury by a violation of the margin requirements.

Finally, the bill would place a 9-month moratorium on Canadian takeovers of domestic energy resource companies. Canadian companies and individuals would be prohibited from acquiring voting securities of any U.S. energy company with assets valued at more than $100 million if, after the acquisition, they would own more than 5 percent of any class voting stock in the U.S. company. This maintenance of the status quo will give Congress the necessary time to consider extension of the margin requirements and will permit thoughtful development of the long-term policies needed

to insure protection of our domestic energy resources.

Mr. President, I encourage swift consideration of this timely legislation and ask unanimous consent that the bill and a section-by-section analysis be printed in the RECORD. I also ask consent that the attached Washington Post article be printed at this point in the RECORD.

There being no objection, the bill, analysis, and article were ordered to be printed in the RECORD, as follows:

S. 1429

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I.—MARGIN REQUIREMENTS

SHORT TITLE

SEC. 101. This title may be cited as the "Margin Requirements Fairness Act of 1981."

FOREIGN PERSONS

SEC. 102. (a) Section 7(f) of the Securities Exchange Act of 1934 (15 U.S.C. § 78g(f)) is amended—

(1) by redesignating paragraphs (2) and (3) as Paragraphs (3) and (4), respectively; and

(2) by inserting after paragraph (1) the following new paragraph:

"(2) It is unlawful for any person not subject to paragraph (1) of this subsection to obtain, receive, or enjoy the beneficial use of the proceeds of a loan or other extension of credit from any lender (without regard to whether lender's office or place of business is in a State or the transaction occurred in whole or in part within a State) for the purpose of (a) purchasing or carrying United States securities, or (b) purchasing or carrying within the United States any other securities, if (i) under this section or rules and regulation prescribed thereunder, the loan or other credit transaction is prohibited or would be prohibited if it had been made or the transaction had otherwise occurred in a lender's office or other place of business in a State, and (ii) a statement has been or is required to be filed under section 13(d) or section 14(d) of this Act by such person in connection with the purchasing or carrying of such securities. For purposes of clause (ii) of the preceding sentence, a statement shall be deemed to have been or to be required to be filed by a person if it has been or is required to be filed by (I) such person, (II) any partnership, limited partnership, syndicate, or other group which is deemed to be a "person" pursuant to section 13(d)(3) of this Act and of which such person is a member, or (III) group described in clause (II) of this sentence."

(b) Paragraph (4) of section 7(f) of the Securities Exchange Act of 1934, as redesignated by subsection (a) of this section 15 use 78g(f) is amended by striking out "United States person" and inserting in lieu thereof "persons".

(c) Section 7 of the Securities Exchange Act of 1934 (15 U.S.C. 78g) is amended by adding at the end thereof the following new subsection:

"(g) Any United States person injured or threatened with injury by reason of a violation of this section or the rules and regulations prescribed pursuant thereto, and any person whose securities are being purchased or carried, may bring an action in the appropriate district court of the United States, or in the appropriate United States court of any territory or other place subject to the jurisdiction of the United States, to recover damages for such injury or to enjoin such a violation".

REPORTING

SEC. 103. Section 13(d)(1)(B) of the Securities Exchange Act of 1934 (15 U.S.C. 678m (d)(1)(B)) is amended to read as follows:

"(B) the source and amount of the funds or other consideration used or to be used in making the purchases, and if any part of the purchase price or proposed purchase price is represented or is to be represented by funds or other consideration borrowed or otherwise obtained for the purpose of acquiring, holding, or trading such security, (i) a description of the transaction and the names of the parties thereto, except that where a source of funds is a loan made in the ordinary course of business by a bank, as defined in section 3(a)(6) of this title, if the person filing such statement so requests, the name of the bank shall not be made available to the public; and (ii) information as to whether the margin requirements imposed pursuant to section 7 of this title and the regulations promulgated thereunder are applicable and not being violated;".

EFFECTIVE DATE

SEC. 104. (a) "Except for purposes of section 32 of the Securities and Exchange Act of 1934, as amended (15 U.S.C. 78ff(a))," the amendments made by this title take effect on June 24, 1981, and the provisions of paragraph (2) of section 7(f) and section 7(g) of the Securities Exchange Act of 1934, as so amended, shall apply to any loan or extension of credit in connection with any purchase or carrying of any securities on or after June 24, 1981, if (1) such loan or extension of credit originated on or after such date, (2) any of the proceeds thereof used to purchase or carry such securities were disbursed on or after such date, or (3) the person who has obtained, received or used the loan or extension of credit to purchase or carry securities acquires directly or indirectly by any means any additional securities of the same issuer on or after such date.

(b) For the purpose of this section—

(1) "any loan or extension of credit" shall be deemed to include all loans or extensions of credit to the same person in connection with the purchase or carrying of any securities of the same issuer; and

(2) any "person" shall be deemed to include (A) such person, (B) any partnership, limited partnership, syndicate, or other group which is deemed to be a "person" pursuant to section 13(d)(3) of the Securities Exchange Act of 1934 and of which such person is a member, or (C) any other member of any group described in clause (B) of this sentence.

TITLE II—FOREIGN ENERGY INVESTMENT

SHORT TITLE

SEC. 201. This title may be cited as the "Foreign Energy Investment Act of 1981".

TAKEOVER MORATORIUM

SEC. 202. (a) During the period beginning on July 1, 1981, and ending on March 31, 1982, except as provided in (b) of this section, it shall be unlawful for any Canadian person to acquire, directly or indirectly, by purchase or trade any voting securities of a United States energy resource corporation if, after such acquisition, more than 5 per centum of any class of voting securities of such corporation will be directly or indirectly owned by (1) such Canadian person, (2) any partnership, limited partnership, syndicate, or other group (within the meaning of section 13(d)(3) of the Securities and Exchange Act of 1934 (15 U.S.C. 78m (d)(3) of which such Canadian person is a member, (3) the other members of any such partnership, limited partnership, syndicate, or other group, or (4) any combination of the foregoing. Any transfer of securities in violation of this subsection shall be null and void and shall be of no legal effect.

(b) The prohibition contained in paragraph (a) of this section shall not apply to any acquisition which was the subject of an agreement to merge between a United States energy resources corporation and a Canadian person prior to June 24, 1981.

INVESTMENT STUDY

SEC. 203. The Secretary of Energy, in consultation with the Secretary of State, the Secretary of Defense, the Secretary of the Interior, the Secretary of Commerce, the Securities and Exchange Commission, and other appropriate federal officials and agencies, shall undertake a comprehensive study of direct and indirect investment in United States energy resources enterprises by foreign persons and report his findings and recommendations to the Congress not later than March 1, 1982. In conducting the study, the Secretary shall consider and evaluate the following—

(1) the extent to which foreign countries, and particularly Canada, restrict, discriminate against or discourage non-national ownership or control of their energy resources and deny reciprocal privileges with respect to energy resources; and

(2) the effects on the economy, energy policy, national security, and foreign relations of the United States, and on United States securities markets and investors, of discriminatory policies or practices of foreign countries, and particularly Canada, concerning United States energy resources enterprises.

CERTAIN DEFINITIONS

SEC. 204. For the purpose of this title—

(1) the term "Canadian person" means any individual who is a citizen or resident of Canada or any corporation, partnership, association, joint stock company, trust, or other entity or group which is organized under the laws of or has its principal place of business in Canada, or any other individual or entity or group which is owned or controlled directly or indirectly by such an individual or entity or group; and

(2) the term "foreign person" means any individual who is a citizen of a country other than the United States or who does not reside in the United States or any entity which is organized under the laws of or has its principal place of business in a country other than the United States, or any other individual or entity or group which is owned or controlled directly or indirectly by such an individual or entity or group; and

(3) the term "United States energy resources enterprise" means any business entity organized or existing under the laws of the United States or any State which "as of July 1, 1981"—

(A) engages in (i) the exploration for, or the development, production, or transmission of, crude oil or natural gas, (ii) the refining of petroleum products, or (iii) the development of alternate fuels; and

(B) has assets valued at more than $100,000,000.

SECTION-BY-SECTION ANALYSIS

1. Extension of Margin Requirements. Section 102 of the bill would amend Section 7(f) of the Exchange Act to extend the margin requirements to foreign borrowers (regardless of whether the credit is obtained from a foreign or a U.S. lender) in transactions already subject to the Williams Act.

There would be two major limitations on this extension of Section 7(f). First, it would apply only to foreign borrowers, and not to foreign lenders. This would enable the margin requirements to be applied to foreign credit transactions, while at the same time avoiding the potential jurisdictional and other problems associated with any attempt to regulate foreign financial institutions. Second, the prohibition would only apply where the foreign person—or any partnership, limited partnership, syndicate, or other group, or any member thereof, of which the foreign person is a member—is already required to file a statement under either Sec-

tion 13(d) or 14(d) of the Exchange Act in connection with the purchased securities.

2. Reporting. Section 103 of the bill would amend Section 13(d)(1)(B) of the Exchange Act to require that the statement required to be filed pursuant thereto include information as to whether the U.S. margin requirements are applicable and are not being violated. This additional information would have to be included in statements filed under Section 14(d) as well. This additional disclosure requirement would facilitate enforcement of the margin requirements without unduly increasing the reporting burden on investors.

3. Private Right of Action. Section 102(c) of the bill would provide a private right of action to any person injured or threatened with injury, including the issuer of the securities involved, by a violation of any of the margin provisions. The express statutory grant of this private right of action does not indicate that private rights of action under other provisions of the securities laws were not meant to be implied.

4. Applicability. Section 104 of the bill provides that the extension of the margin requirements to a foreign purchaser would apply to any loan in connection with the purchasing or carrying of securities on or after the date the bill is introduced, if (1) the loan originates on or after that date, (2) any proceeds of the loan are disbursed on or after such date, or (3) the investor—or any partnership, limited partnership, syndicate, or other group, or any member thereof, of which the investor is a member—acquires any securities of the same issuer on or after that date. This provision guarantees maximum application without being retroactive, and is necessary to assure that introduction of the bill does not provoke anticipatory actions which, if not consummated before enactment of the bill, would be prohibited.

5. Executive Study. Section 203 of the bill would require the Secretary of Energy, in consultation with various other Executive officials and agencies, to undertake a comprehensive study of foreign investment in U.S. energy resources enterprises and discriminatory energy policies by other countries, including Canada, and to report his findings and recommendations to the Congress by March 1, 1982. This study would enable the Executive Branch and Congress to take appropriate steps, after a full review of the relevant considerations, to protect U.S. energy resources vital to our economy and national security.

6. Moratorium. Section 203 of the bill would place a moratorium on Canadian takeovers of U.S. energy resource companies from July 1, 1981, until March 31, 1982. Generally, Canadian individuals, companies, partnerships, limited partnerships, syndicates and other groups would be prohibited from directly or indirectly acquiring any voting securities of a U.S. energy resources enterprise if, after the acquisition, they would hold more than 5 percent of any class of voting securities of the energy enterprise. Only the securities of U.S. energy enterprises having assets valued at more than $100,000,000 as of July 1, 1981, would be subject to the moratorium. The proposed moratorium, while unusual, finds recent precedent in Title IX of the "Depository Institutions Derergulation and Monetary Control Act of 1980," which imposed a moratorium on foreign takeovers of U.S. financial institutions.

SEAGRAM SEEKS TAKEOVER OF CONOCO FOR $2 BILLION

(By James L. Rowe, Jr.)

NEW YORK, June 23—Joseph E. Seagram & Sons Inc., the big Canadian distiller, revealed today it was trying to gain a controlling interest in Conoco, Inc., the ninth-largest U.S. oil company.

The $2 billion Seagram bid, the latest in a recent series of Canadian attempts to take over U.S. companies, comes at a time when the Canadian parliament is making it harder for U.S. companies to own Canadian firms, especially those in the oil and gas business.

Seagram Ltd., the world's largest producer and marketer of distilled spirits and wines, last year had sales of $2.5 billion. Conoco, the ninth-biggest oil company and the 14th largest industrial corporation in the United States, had sales of $18.3 billion last year.

Canadian Prime Minister Pierre Elliott Trudeau has put forward a program to "Canadianize" that nation's oil and gas industry and is expected to come up with proposals soon to put curbs on foreign subsidiaries. Trudeau has promised more vigorous surveillance of foreign investment.

Joseph E. Seagram & Sons is a wholly owned subsidiary of The Seagram Co. Ltd., which is based in Montreal. Seagram was rebuffed last April when it tried to take over St. Joe Minerals Corp. for $2.1 billion.

Conoco was the target of another Canadian attack last spring. Dome Petroleum Ltd., of Calgary, a company one-third the size of Conoco, bought 22 million Conoco shares in an unfriendly tender offer, then turned the shares back to Conoco in return for Conoco's Canadian oil and gas interests and $245 million cash.

Seagram has been sitting on a pile of cash since it sold its U.S. oil and gas holdings to the Sun Oil Co. last year for $2.3 billion. Ever since then it has been searching for a way to invest the money.

Conoco has no more investments in Canada after swapping its 52.9 percent stake in Hudson Bay Oil and Gas Co. to Dome. But a spokesman for Seagram said Conoco is "an attractive company with strong positions in oil and coal and other fields as well."

Last week Conoco revealed that a foreign company, which it would not identify at the time, offered to purchase 15.9 million shares from Conoco at $70 a share and acquire another 9.6 million in the open market.

As an alternative, Seagram proposed to buy 28.6 million shares directly from Conoco at $70 a share—a $2 billion transaction that would have given Seagram effective control of Conoco with more than 25 percent of the stock.

Conoco was the fifth most active stock on the New York Stock Exchange today. It closed at $62 a share, $3.25 higher than its Monday close and $7.50 higher than its final price last Thursday, just before it disclosed the "foreign" offer.

Conoco rejected both Seagram proposals and said it has approached another U.S. company that is "approximately similar in size" about a possible merger. Conoco has refused to answer any questions about its potential U.S. buyer.

After Conoco rejected Seagram's offer, the Canadian distiller told Conoco that it is filing a notification with both the Federal Trade Commission and the Department of Justice that it intends to buy enough Conoco shares on the open market to bring its holdings in the oil giant to 25 percent or more. There are about 195 million shares of Conoco stock outstanding.

Canadian interests have made several well-publicized bids for U.S. companies recently, but the U.S. firms have fought back hard. Although Conoco lost its fight against Dome—Conoco's Canadian assets were Dome's goal from the beginning—not only has St. Joe Minerals beat back Seagram's but the Hobart Corp. fought off Canadian Pacific Ltd., Canada's second biggest company. After a month of battling, Hobart, a $400 million manufacturing company based in Troy, Ohio, found a friendly merger partner in Dart & Kraft.●

● Mr. JOHNSTON. Mr. President, when an action of peculiar circumstances happens once it is an isolated event; if it happens twice, it might be a coincidence; but if it happens thrice it does not take a great deal of perception to understand that a pattern has developed—the exception then appears on its way to becoming the rule.

In just the last 3 months there has been an unusual amount of sales of U.S. energy company's oil and natural gas assets located in Canada. Three significant domestic companies have been the target of Canadian companies wishing to acquire the former's Canadian holdings: St. Joe Minerals sold its Canadian subsidiary after an attempt by Joseph E. Seagram & Co. to take over its assets; Conoco sold its Canadian subsidiary to Dome Petroleum, Ltd. in response to that Canadian firm's acquisition of a large amount of Conoco stock and is according to yesterday's newspaper accounts, again under siege from Seagram's; and finally, reports have Cities Service preparing for a charge by a company one-tenth its size.

If these forays into corporate America came about because of companies of equal advantage using good business acumen to achieve its ends none of this activity would be particularly discomforting to me. No company, especially large energy companies, should fear a healthy, vibrant, and sometimes, voracious marketplace. But the parties in these takeover attempts are not equal. It is no secret that the Canadian's national energy plan is tilted toward the goal of encouraging Canadian owned companies to explore and develop its natural resources. The NEP not only provides large subsidies to Canadian companies but restricts the right of non-Canadian companies to engage in the development of its Federal lands.

Mr. President, it is unusual for our friends to the north to want a large amount of its resources to be developed by its own companies? No, not in itself. It is only the discriminatory treatment of existing American companies vis-a-vis Canadian companies that is unusual. The way this discrimination is occurring is not evident to the unpracticed eye in such matters. The last takeover attempts have been occurring by the following chain of events:

The Canadian company seeks to acquire a large amount of the U.S. company's securities in order to give it bargaining power with the U.S. company with the ultimate goal of acquiring that company's Canadian assets. One of the weapons used by companies to fend off such attempts is for the target company to sell or at least have the threat to sell, the desired subsidiary to another company. However, this avenue of defense is largely unavailable to American companies because of not only the NEP but the Foreign Investment Review Agency's extremely powerful prior approval authority to review: the U.S. acquisition of Canadian businesses; establishment by a U.S. concern of a new enterprise in Canada; or expansion by any U.S. owned enterprise in Canada into a new business area.

This prior approval procedure is not just chilling; its effect has got to be a deep freeze on the ability of the target

company to sell its subsidiary to any other than a Canadian company. Since the opportunity of an alternative purchaser is unavailable the effect on the target company's Canadian stock is depressing. If this were not enough, the takeover companies can and are able to acquire the U.S. companies stock on either a highly leveraged or worse, a totally leveraged basis.

Mr. President, our bill today would do much to alleviate this situation. First, the stock margin requirements would apply to foreign borrowers the same amount as is currently required by domestic borrowers—the current "maximum loan value" prescribed by the Federal Reserve Board at 50 percent of its current market value. These margin requirements would extend to foreign borrowers acquiring significant interest in publicly traded U.S. companies. Under current law, foreign investors may engage in leveraged transactions that are barred for U.S. investors. This disparity, of course, adds an additional unfair advantage in the corporate takeover context because the foreign country's business can finance the purchase of U.S. securities better than domestic companies are able to do. Our bill would remove this disparity.

The other major provision of our bill, Mr. President, provides for an action that I do not take lightly—a moratorium on Canadian company takeovers of U.S. energy resource companies from July 1, 1981, until March 31, 1982. Normally, I would be opposed to such a provision, but the series of events in the last few months are not ordinary corporate events but instead a situation in which domestic companies are being unfairly discriminated against by actions of the Canadian Government.

In my view these actions are taken without the existence of circumstances in our country which would prompt such a response. So, my initial trepidation has give away to a determination that the Congress have the benefit of a review of just what the situation is in order for us to decide a proper course of action. Title II's requirement of a study during this moratorium period would protect our interests until this decision is made. I add that the concept of this congressionally mandated pause in the action is not without precedent. Title IX of the Depository Institutions Deregulation and Monetary Control Act of 1980 imposed the same sort of provisions on foreign takeovers of U.S. financial institutions.

Mr. President, I reiterate by reluctance in having to cosponsor this legislation. But the actions of the past mandate the Congress be concerned with this issue. While the analogy may be trite, it is applicable here, the chance of too many patients dying while the doctor sleeps is real. My good friend, JOHN DINGELL on the House side, has already held a hearing dealing with this matter and I will urge my colleagues here in the Senate to do the same. It is imperative that grave attention be given to this matter. I understand from the Department of State that they too are concerned and have acted bilaterally with the Canadian Government and multilaterally through the OECD's Investment Committee and the International Energy Agency, to underscore their concern with the mentioned policies. I urge the President to put this issue on the agenda at the summit meeting in Canada this summer. Perhaps action there will make pursuance of this legislation unnecessary.●

By Mr. BAKER (for himself and Mr. SASSER):

S. 1430. A bill to amend the Internal Revenue Code of 1954 relating to estate taxes to provide that the election to use the alternate valuation date may be made on a return that is filed late; to the Committee on Finance.

USE OF ALTERNATE VALUATION DATE

Mr. BAKER. Mr. President, I am today introducing on behalf of Senator Sasser and myself a bill which would alleviate an inequity in the Internal Revenue Code relating to the valuation of property for estate tax purposes.

Under existing law, the estate of a decedent may elect to use an "alternate valuation date" for purposes of computing the value of the estate for estate tax purposes. The alternate valuation date is the date 6 months after the date of death.

This rule, which had its origin in the economic decline of the 1930's, is intended to prevent the inequity of imposing the estate tax on the date of death value of property, if that value declines shortly after the date of death.

One problem with the existing law is that the alternate valuation date may be used only if it is elected on an estate tax return that is filed within the prescribed time. This rule applies even where there is reasonable cause for the failure to file the return within the prescribed time.

Thus, under existing law, if the estate tax return is just one day late, and even if the delay is due to reasonable cause, the estate may not use the alternate valuation date.

I do not believe that this harsh result serves any legitimate policy of the tax law. The alternate valuation date is intended to and should apply if the decedent's property has severely decreased in value, even if, for some reason, the return is filed late.

Accordingly, this bill would permit an estate to elect the alternate valuation date on a late return. The bill would not, however, change any of the existing penalties for the late filing of a return.

Similar bills were introduced in the House and Senate and considered by the 96th Congress. While there was uanimous agreement that the rule of current law was wrong and should be changed, there was some disagreement over the appropriate effective date of this change in law. As introduced, the bill provided relief from the consequences of current law for estates of decedents dying before the date of enactment even if the tax return was filed late.

The Treasury Department did not object to providing relief for estates of decedents dying in prior years. However, the Treasury Department was not satisfied with the transitional rule in the form in which it was proposed because many estates which were unfairly treated under the current law would not have been able to qualify for relief.

On the other hand, the Treasury Department did not want to provide relief to all the estates of decedents dying prior to the date of enactment because such a broad rule would have caused great administrative problems. Thus, in order to overcome the Treasury Department reservations, it was necessary to find a rule that would be fair to as many estates as possible, without raising difficult problems of administration.

In response to the concerns of the Treasury Department, the bill as introduced today contains a modified effective date provision. I believe the effective date provision is fair and that it will not give rise to administrative dfficulties. The effective date of the amendment to the alternate valuation date provision is, generally, for decedents dying after the date of enactment.

However, estates of decedents dying before the date of enactment will be entitled to elect to apply the new rule provided that the statute of limitations for making adjustments in estate tax is still open. Assuming the statute of limitations is still open and the executor makes an election under section 2032(c), in accordance with this new legislation, the statute of limitations will remain open for 2 years in order to permit the Internal Revenue Service to audit the estate and propose any necessary adjustments to the estate's tax liability.

Although the total number of estates which could be benefited by the effective date provision is uncertain, because of the special nature of the alternate valuation date election provision, it is likely that the total number of estates affected in prior years would be very small. Clearly, then, the effective date will not give rise to difficult administrative problems.

The Finance Committee agreed to report the bill as we had introduced it. Unfortunately, there was not sufficient time to address the concerns of the Treasury Department and several Senators during the 96th Congress, and this important correction of the tax law could not be enacted in the form in which we proposed it.

I am confident that, with the changes that have been made in the effective date provision, most Senators will agree that this necessary change in the estate tax law should be effective to relieve the burden of the current law in all possible circumstances.

● Mr. SASSER. Mr. President, I am pleased to cosponsor with Senator BAKER this legislation to correct an inequity in the estate tax provisions of the tax law. The proposed legislation is particularly appropriate at this time when the Congress and the Senate Finance Committee are considering needed revisions of the estate tax laws.

At this time we have the opportunity to make meaningful changes in the estate provisions. The Finance Committee is considering proposals to remove or reduce the burden of the estate tax on

small or closely-held businesses, family farms, and on modest estates.

Our proposed legislation, while only a small part of the broad revision now underway, is consistent with the proposals intended to improve the estate tax law.

The legislation we are introducing today has previously been considered by the Senate. During the 96th Congress, the legislation was favorably reported by the Senate Finance Committee.

However, the Treasury Department opposed the provisions of the bill which woud have provided equitable relief to estates of decedents dying in prior years. In the last minute rush to adjournment, there was not sufficient time to meet and overcome the Treasury Department's objections.

Frankly, I believe that the Treasury Department's reasons for opposing equitable treatment of estates of decedents dying in prior years was quite weak. I know many of my colleagues agreed with me on this point. Nevertheless, the legislation introduced this year has been revised in order to address some of the Treasury Department's concerns.

As presently drafted, the bill permits estates which are now open under the statute of limitations to select the alternate valuation date even though the estate tax return was filed late. This effective date thereby relieves an unjust tax burden from estates in circumstances such as the estate of Sylvia Buring of Tennessee.

In that situation, the estate tax return was filed late because the executor had open heart surgery 1 month before the tax return was due. There is no tax policy or administrative reason which justifies imposing an enormous tax burden on the estate in these circumstances. This legislation prevents that inequitable result.

I am hopeful that the Treasury will support the bill in the 97th Congress and that it can be expeditiously considered and reported by the Senate Finance Committee.●

By Mr. STAFFORD (for himself, Mr. KENNEDY, Mr. PELL, and Mr. RANDOLPH):

S. 1431. A bill to promote the further development of public library services, and for other purposes; to the Committee on Labor and Human Resources.

NATIONAL LIBRARY AND INFORMATION SERVICES ACT

● Mr. STAFFORD. Mr. President, today I am introducing on behalf of myself and Senators PELL, RANDOLPH, and KENNEDY the National Library and Information Services Act, a bill with a simple goal: To improve America's libraries. It would replace the Library Services and Construction Act, which expires next year.

This bill is virtually identical to S. 2859, a measure introduced in the 96th Congress by Senators Javits, KENNEDY, PELL, RANDOLPH, WILLIAMS, and myself, and based on recommendations of the 1979 White House Conference on Library and Information Services.

Reintroducing the proposal should help focus the attention of the 97th Congress on the role the Federal Government should fulfill in supporting public libraries, and on the relationship of State, local, and Federal jurisdictions in meeting library objectives. These include funds, interlibrary cooperation, planning and construction, and meeting the needs of special categories of users.

America's libraries have not kept pace with information needs and demands. Creativity and initiative are required to make better use of existing resources and to develop techniques for improved access to and sharing of information.

Local and public libraries across the country are in deep trouble. Cost increases, fueled by inflation, have combined with budget cuts to force staff layoffs, reduced hours and fewer purchases of books, periodicals and other materials. In States like California and Massachusetts, taxpayer revolts against property and sales taxes have created additional problems, increasing pressure to close library branches.

This retrenchment comes at a time when indicators suggest an increased demand for the variety of services a good public library offers.

My bill is an attempt to reverse a trend that threatens to erode the library's tradition as a public institution—a precept that is almost fundamental to our democratic system. Major provisions of the bill include the following:

Defining the responsibility of the U.S. Department of Education in coordinating library and information services.

Providing funds to connect—on a voluntary basis—all public and private libraries that care to participate.

Authorizing matching funds to support public library services.

Authorizing matching funds to spur construction or renovation of public libraries.

Specific authorization of Federal grants to meet the special needs of such library users as rural residents, the functionally illiterate, handicapped and otherwise disadvantaged people.

Support for State planning, public awareness programs and training of local people in library skills.

The act has five titles, broken down in this manner:

TITLE I. INTERLIBRARY COOPERATION

Federal funds appropriated under this title would be used for planning development, and maintenance of cooperative library networks on local, State, regional, and national levels. Resources of different kinds of libraries would be pooled, and research libraries with collections used by the general public would be eligible for financial assistance.

TITLE II. OPERATING FUNDS FOR PUBLIC LIBRARIES

The Federal share of matching funds would be based on the Hill-Burton formula, taking into account a State's economic resources. No more than 5 percent of the funds authorized by this title could be used to meet State administrative costs.

The balance would be distributed to local public libraries on the basis of population, with adjustments provided for by State regulation. Money would be used for general library operating expenses, including acquisitions, staff, heat, lighting, and similar costs. This support would continue from year to year, supplanting the short-term demonstration grants offered under current law.

TITLE III. PUBLIC LIBRARY CONSTRUCTION

There have been no Federal construction funds for libraries for several years. Construction grants would require State matching funds, again based on the Hill-Burton formula, and would permit acquisition of existing structures and conversion for library purposes.

TITLE IV. PUBLIC LIBRARY PROGRAMS TO MEET SPECIAL USER NEEDS

People who live in rural, sparsely populated and impacted areas would be eligible for special library funds under this title. It also is intended to provide funds for special services—to combat such problems as illiteracy, high unemployment or inability to speak English.

Other programs would be aimed at people with physical handicaps, those who are institutionalized, economically and educationally disadvantaged people, and other groups with specific needs. These special library services grants would be financed entirely with Federal funds allocated under State plans.

TITLE V. PLANNING AND DEVELOPMENT

Grants under this title are to be used for planning and strengthening State library systems, public awareness programs, and training of library personnel in local communities, including trustees.

Mr. President, I hope that we may begin consideration of this legislation through hearings later this summer, and I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1431

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Library and Information Services Act".

DECLARATION OF POLICY AND PURPOSE

SEC. 2. (a)(1) It is the policy of the United States to establish, support, and expand educational opportunities for individuals of all ages and conditions through the promotion of universal library and information services; to provide all persons ready and convenient access to information relating to publicly supported programs designed to provide assistance to those in need, including particularly programs concerned with health, employment, social security, education, recreation, and the elderly; to implement the constitutional guarantees of free speech and free press through public access to all Government repositories of nonclassified information, especially information about public processes and the various sides of public issues; and to provide to all persons, without regard to their educational attainment, individual ability or economic condition, free, equal, and open access to all publicly funded library and information services.

(2) In order to achieve the policy set forth in subsection (a) of this section, it is essential that a national program be established to insure that an adequate level of library and information services is made available in all communities, accessible to all residents thereof, and to encourage government agencies at all levels to work together toward the goal of library and information services for all.

(b) It is the purpose of this Act to assist the States (1) in promoting interlibrary cooperation among all types of libraries; (2) in the provision, extension, and improvement of public library services; (3) in public library construction; (4) in the provision, extension, and improvement of public library programs to meet special user needs, including library services for physically handicapped, institutionalized, functionally illiterate, unemployed, persons with limited English language skills, and economically and educationally disadvantaged individuals; and (5) in strengthening State library administrative agencies and library personnel.

(c)(1) It is further the purpose of this Act to preserve the tradition of local control over the selection and purchase of library materials and the furnishing of library and information services. The administration of libraries, the selection of personnel and library books and materials, and, insofar as consistent with the purposes of this Act, the determination of the best uses of the funds provided under this Act shall be reserved to the States and the units of local government of the States.

(2) Nothing in this Act shall be construed to interfere with State and local initiative and responsibility for the conduct of library services.

DEFINITIONS

SEC. 3. As used in this Act—

(1) "Annual program" means the projects which are developed and submitted to describe the specific activities to be carried out annually toward achieving fulfillment of the long-range program. The annual programs shall be submitted in such detail as required by regulations promulgated by the Secretary.

(2) "Basic State plan" means the document which provides assurances—

(A) that the officially designated State library administrative agency has the fiscal and legal authority and capability to administer all aspects of this Act; and

(B) that the policies, priorities, criteria, and procedures of the State necesary to the implementation of all programs under the provisions of this Act will be established and implemented; and which is submitted for approval as required by regulations promulgated by the Secretary.

(3) "Construction" includes construction of new buildings and acquisition, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings, or any combination of such activities (including architects' fees and the cost of acquisition of land). For the purposes of this paragraph, the term "equipment" includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them; and such term includes all other items necessary for the functioning of a particular facility as a facility for the provision of library services.

(4) "Criteria for determining adequacy of public library services" means the standards adopted by the State and approved by the Secretary to determine services or resources of public libraries which are inadequate and for which funds under this Act may be expended.

(5) "Disadvantaged persons" means persons who have educational, socioeconomic, cultural, or similar disadvantages that prevent them from receiving the benefits of library services.

(6) "Functionally illiterate" means persons who do not possess the necessary skill to read, write, and comprehend sufficiently to fulfill their own objectives as family and community members, citizens, consumers, job-holders, and members of social, religious, and other associations of their choosing.

(7) "Interlibrary cooperation" means the establishment, expansion, and operation of local, regional, and interstate cooperative library networks.

(8) "Library" means any school, public, academic, or special library or information center which provides library services, whether publicly or privately funded.

(9) "Library materials" means books, periodicals, newspapers, documents, pamphlets, photographs, reproductions, microforms, pictorial or graphic works, musical scores, maps, charts, globes, sound recordings, slides, films, filmstrips, and processed video and magnetic tapes; printed, published audiovisual materials, and nonconventional library materials designed specifically for the handicapped, and materials of a similar nature.

(10) "Library service" means the performance of all activities of a library relating to the collection and organization of library materials and to making the materials and information of a library available to a clientele.

(11) "Long-range program" means the comprehensive five-year program which identifies the library needs of the State and sets forth the activities to be taken toward meeting the identified needs supported with the assistance of Federal funds made available under this Act. Each long-range program shall be developed by the State library administrative agency and shall specify the policies, criteria, priorities, and procedures of the State consistent with this Act as required by the regulations promulgated by the Secretary. Each long-range program shall be updated as library progress requires.

(12) "Network" means a formal arrangement under which materials, information, and services provided by a variety of types of libraries and other organizations are made available to all potential users and is designed to provide for the systematic and effective coordination of the resources of school, public, academic and special libraries and information centers to achieve improved service to the users thereof. A network may serve a community, metropolitan area, region covering portions of more than one State, or region within a State, or be statewide, multi-State, national, or international in scope.

(13) "Office" means the Office of Libraries and Learning Resources in the Department of Education.

(14) "Physically handicapped" means persons who have restricted physical capabilities which impair their ability to use library materials, including the blind, visually handicapped, and hearing impaired persons.

(15) "Public library" means a library that serves free of charge all residents of a community, district, or region, and receives its financial support in whole or in part from public funds, and is not an integral component of an institution of higher education.

(16) "Public library services" means library services furnished by a public library free of charge.

(17) "Resource library" means any library which—

(A) makes its services available to the public free of charge;

(B) has extensive collections of books, manuscripts, and other materials suitable for scholarly research which are not available to the public through other public libraries;

(C) engages in the dissemination of humanistic knowledge through services to readers, fellowships, educational and cultural programs, publication of significant research, and other activities; and

(D) is not an integral part of an institution of higher education.

A public library which is also a resource library has the same basic entitlement to funds under this Act as any other public library.

(18) "Secretary" means the Secretary of Education.

(19) "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands or the Northern Mariana Islands.

(20) "State advisory council on libraries" means an advisory council for the purposes of clause (3) of section 9(a) of this Act which shall—

(A) be broadly representative of the public, school, academic, and special libraries in the State, and of persons intended to be served by such libraries, including disadvantaged persons within the State;

(B) advise the State library administrative agency on the development of, and policy matters arising in the administration of, the State plans, and programs; and

(C) assist the State library administrative agency in the evaluation of activities assisted under this Act.

(21) "State institutional library services" means the providing of books and other library materials, and of library and information services, which would normally be provided by a public library, to (A) inmates, patients, or residents of penal institutions, reformatories, residential training schools, orphanages, or general or special institutions or hospitals operated or substantially supported by the State, or (B) students in residential schools for the physically handicapped (including mentally retarded, hearing impaired, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired individuals who by reason of such impairment require special education) operated or substantially supported by the State.

(22) "State library administrative agency" means the official agency of a State charged by law of that State with the extension and development of public library services throughout the State, and which has adequate authority under the laws of the State to administer State plans and annual programs in accordance with the provisions of this Act.

(23) "Strengthening the State library administrative agency" means improving the capacity of the agency in the administration of programs and projects assisted under this Act to meet Federal requirements.

AUTHORIZATION OF APPROPRIATIONS

SEC. 4. (a)(1) There are authorized to be appropriated for the purpose of making grants to States to carry out interlibrary cooperation programs under title I, $20,000,000 for the fiscal year 1983 and for each of the succeeding fiscal years ending prior to October 1, 1987.

(2) There are authorized to be appropriated for the purpose of making grants to States for public library services under title II, $90 million for the fiscal year 1983, $100 million for the fiscal year 1984, $110 million for the fiscal year 1985, $125 million for the fiscal year 1986, and $150 million for the fiscal year 1987.

(3) There are authorized to be appropriated for the purpose of making grants to States for public library construction under title III, $40 million for the fiscal year 1983, and for each of the succeeding fiscal years ending prior to October 1, 1987.

(4) There are authorized to be appropriated for the purpose of making grants to States for public library programs to meet special user needs under title IV $20 million for the fiscal year 1983 and for each of the succeeding fiscal years ending prior to October 1, 1987.

(5) There are authorized to be appropriated for the purpose of making grants to States to carry out planning and development, public awareness, and library personnel training programs under title V, $15 million for the fiscal year 1983 and for each of the succeding fiscal years ending prior to October 1, 1987.

(b) Notwithstanding any other provision of law, unless enacted in express limitation of the provisions of this subsection, any sums shall—

(1) be included in the Act making appropriations for the fiscal year prior to the fiscal year in which such sums are obligated,

(2) be made available for expenditure prior to the beginning of such fiscal year, and

(3) subject to regulations of the Secretary promulgated in carrying out the provisions of section 5 (b), remain available for obligation and expenditure for the year specified in the appropriation Act and until the close of the following fiscal year.

ALLOTMENTS TO STATES

SEC. 5. (a) (1) From the sums appropriated pursuant to paragraph (1), (2), (3), (4), or (5) of section 4 (a) for any fiscal year the Secretary shall allot the minimum allotment as determined under paragraph (3) of this subsection to each State. Any sums remaining after minimum allotments have been made shall be allotted in the manner set forth in paragraph (2) of this subsection.

(2) From the remainder of any sums appropriated pursuant to paragraph (1), (2), (3), (4), or (5) of section 4(a) for any fiscal year, the Secretary shall allot to each State such part of such remainder as the population of the State bears to the population of all the States.

(3) For the purposes of this subsection, the "minimum allotment" shall be—

(A) with respect to appropriations for the purposes of title I, $40,000 for each State, except that it shall be $10,000 in the case of Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands;

(B) with respect to appropriations for the purposes of title IV, $100,000 for each State, except that it shall be $40,000 in the case of Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands;

(C) with respect to appropriations for the purposes of title III, $100,000 for each State, except that it shall be $20,000 in the case of Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands;

(D) with respect to appropriations for the purposes of title IV, $100,000 for each State except that it shall be $20,000 in the case of Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands; and

(E) with respect to appropriations for the purposes of title V, $40,000 for each State, except that it shall be $10,000 in the case of Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

If the sums appropriated pursuant to paragraph (1), (2), (3), (4), or (5) of section 4 (a) for any fiscal year are insufficient to fully satisfy the aggregate of the minimum allotments for that purpose, each of such minimum allotments shall be ratably reduced.

(4) The population of each State and of all the States shall be determined by the Secretary on the basis of the most recent satisfactory data available to him.

(5) There is authorized for the purpose of evaluation (directly or by grants or contracts) of programs authorized by this Act, such sums as Congress deems necessary for the fiscal year 1983, and for each of the succeeding fiscal years ending prior to October 1, 1987.

(b) The amount of any State's allotment under subsection (a) for any fiscal year from any appropriation made pursuant to paragraph (1), (2), (3), (4), or (5) of section 4 (a) which the Secretary determines will not be required for the period and the purpose for which such allotment is available for carrying out the State's annual program shall be available for reallotment from time to time on such dates during such year as the Secretary shall fix. Such amount shall be available for reallotment to other States in proportion to the original allotments for such year to such States under subsection (a) but without such proportionate amount for any such other States being reduced to the extent that it exceeds the amount which the Secretary estimates the State needs and will be able to use for such period of time for which the original allotments were made. The total of such reductions shall be similarly reallotted among the States not suffering such a reduction. Any amount reallotted to a State under this subsection for any fiscal year shall be deemed to be a part of its allotment for such year pursuant to subsection (a).

PAYMENTS TO STATES

SEC. 6. (a) From the allotments available therefor under section 5 from appropriations pursuant to paragraph (1), (2), (3), (4), or (5) of section 4(a), the Secretary shall pay, to each State which has a basic State plan approved under section 9(a)(1), an annual program and a long-range program, an amount equal to the Federal share of the total sums expended by the State and its political subdivisions in carrying out such plan, except that no payments shall be made from appropriations pursuant to such paragraph (2) for the purposes of title II to any State (other than the Trust Territory of the Pacific Islands and the Northern Marianas Islands) for any fiscal year unless the Secretary determines that—

(1) there will be available for expenditure under the programs from State and local sources during the fiscal year for which the allotment is made—

(A) sums sufficient to enable the State to receive for the purpose of carrying out the programs payments in an amount not less than the minimum allotment for that State for the purpose, and

(B) not less than the total amount actually expended, in the areas covered by the programs for such year, for the purposes of such programs from such sources in the second preceding fiscal year; and

(2) there will be available for expenditure for the purposes of the programs from State and local sources during the fiscal year for which the allotment is made not less than the total amount actually expended for such purposes from such sources in the second preceding fiscal year.

(b) (1) For the purpose of this section, the Federal share for title I of this Act shall be 100 per centum of the cost of carrying out the State plan.

(2) (A) For the purpose of this section, the Federal share for title II and title III of this Act shall be 100 per centum less the State percentage, and the State percentage shall be that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of all States (excluding Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands and the Northern Mariana Islands), except that (i) the Federal share shall in no case be more than 66 per centum or less than 33 per centum, and (ii) the Federal share for Puerto Rico, Guam, American Samoa, and the Virgin Islands shall be 66 per centum and (iii) the Federal share for the Trust Territory of the Pacific Islands and the Northern Mariana Islands shall be 100 per centum.

(B) The Federal share for title II and title III for each State shall be promulgated by the Secretary within sixty days after the beginning of the fiscal year ending September 30, 1982, and of every second fiscal year thereafter, on the basis of the average per capita incomes of each of the States and of all the States (excluding Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands and the Northern Mariana Islands), for the three most recent consecutive years for which satisfactory data are available to him from the Department of Commerce. Such promulgation shall be conclusive for each of the two fiscal years beginning after the promulgation.

(3) For the purpose of this section, the Federal share for title IV shall be 100 per centum of the cost of carrying out the State plan.

(4) For the purpose of this section, the Federal share for title V shall be 100 per centum of the cost of carrying out the State plan.

OFFICE OF LIBRARIES AND LEARNING TECHNOLOGIES

SEC. 7. (a) (1) There is established in the Department of Education an Office of Libraries and Learning Technologies.

(2) The Office shall be headed by a Deputy Assistant Secretary.

(b) In order to carry out the purposes of this Act, the Secretary, through the Office, shall—

(1) carry out financial assistance programs authorized by titles, I, II, III, IV, and V of this Act;

(2) encourage and assist comprehensive planning, coordination and development of multitype library and information networks and exchange programs, including—

(A) both profit and not-for-profit libraries from the public and private sector,

(B) the Library of Congress,

(C) a national periodicals system, and

(D) a national lending library for print and nonprint materials,

in cooperation with State library agencies and such other agencies, organizations, or libraries as are involved in such networks and programs, except that the operation of such networks shall be controlled at the State or regional level and shall be accessible equally to benefit all individuals;

(3) (A) encourage and assist interlibrary cooperation among libraries of all kinds, including national and regional library and information resource centers, State library agencies, creation of interinstitutional catalogs, exchange of library materials, transmission of bibliographic information, and joint operation of communications facilities, and

(B) encourage and support low rates for postal and telecommunication charges for such services;

(4) encourage and assist the transmission of information to public libraries for the benefit of individual users concerning Federal and State publicly supported programs designed to provide assistance to individuals in need, including particularly programs concerned with health, employment, social security, education, recreation, and the elderly;

(5) encourage and assist the development and implementation of procedures to insure convenient, speedy and free access to all nonclassified information and materials in Government repositories, especially information about public processes and the various sides of public issues, including information and materials maintained by federally funded libraries and information services, whether operated by Federal agencies or established under Federal law;

(6) encourage and assist the development and implementation of procedures to facilitate participation by all federally supported libraries and information services and appropriate Federal agencies in the development, review, adoption, and implementation of national and international standards for publishing, producing, organizing, storing, and transmitting information using estab-

lished and recognized procedures and institutions;

(7) encourage and assist the establishment and implementation of standards which address hardware and software compatability computer and communications network protocols, and machine-readable information;

(8) encourage and conduct research programs into development of new technologies to permit convenient and economic media conversion between conventional print and other formats for storage, retrieval, and transmission, including formats specially designed to serve hearing impaired, blind, and other physically handicapped persons;

(9) encourage and assist the establishment of cooperative library exchange programs with foreign libraries, including the translation and distribution of library materials and the international exchange of library and information services, including international networking;

(10) encourage and assist the development and improvement of the library resources of the United States, including acquisition of foreign materials, establishment of special collections to preserve local history and ethnic and cultural heritage, including American Indian culture, improved cataloging procedures, conservation and archival preservation of library materials, and technological advances;

(11) plan and implement campaigns and programs to increase public awareness of library and information services on the national level in coordination with the States as appropriate;

(12) encourage and assist measures to improve library-community interaction, including community needs assessment projects, cultural awareness projects, age-level consultant projects, and youth incentive projects;

(13) cooperate with and assist the Bureau of Indian Affairs in their establishment and operation of a National Indian Library Center and, upon request of the Bureau, assist in—

(A) the preservation, production, collection, and distribution of materials to Indian libraries;

(B) the operation of a clearinghouse and referral center for collections of Indian cultural, language, and historical materials;

(C) the provision of technical assistance to Indian libraries;

(D) the provision of network services to Indian libraries, including access to information on Government assistance programs for Indians, including health, social services, economic development and job training; and

(E) the provision and coordination of preservice and inservice training and certification of Indian library workers, in collaboration with higher education agencies and the several Indian tribes, Alaska Natives and Aleuts;

(14) encourage and assist the planning and implementation of a national plan for the distribution of Government publications to insure convenient access to all Government publications by all citizens, including financial assistance to participating libraries to aid in the maintenance collections, facsimile transmission, and other technical facilities where appropriate, and the maintenance of a low price structure for the purchase of Government publications;

(15) coordinate the collection and dissemination of statistical data relating to library services;

(16) establish and operate a National Clearinghouse on Library and Information Services to—

(A) plan and implement demonstration programs and research in innovative and improved library programs and information services,

(B) collect information on innovative and improved library programs and information services in the United States and elsewhere in the world,

(C) publish and distribute information of special value in developing or improving library programs and services, and

(D) encourage and assist the exchange and circulation of cultural programs, exhibits, and other special materials to enrich library service to the public;

(17) advise and assist Federal departments and agencies which have responsibility for the institutional care, treatment or custody of persons, including correctional facilities and hospitals, to plan for and provide adequate library and information services to individual residents in such institutions; and

(18) administer grants authorized for the purpose of assisting in the implementation of the foregoing purposes.

ADMINISTRATIVE PROVISIONS

SEC. 8. (a) In order to carry out the functions of this Act, the Secretary is authorized to—

(1) prescribe such regulations as he deems reasonably necessary;

(2) appoint and fix the compensation of such personnel as may be necessary;

(3) receive money and other property donated, bequeathed, or devised, without condition or restriction other than that it will be used for the purposes of the Office, and to use, sell, or otherwise dispose of such property for the purpose of carrying out the functions of the Office under this Act;

(4) receive, and use, sell, or otherwise dispose of, in accordance with paragraph (3) money and other property donated, bequeathed, or devised to the Office with a condition or restriction including a condition that the Office use other funds of the Office for the purpose of the gift;

(5) appoint one or more advisory committees composed of such private citizens and officials of Federal, State, and local governments as the Secretary deems desirable to advise the Office with respect to its functions under this Act, which advisory committee or committees shall have the same representative composition and functions on the national level as the State Advisory Council on Libraries have pursuant to section 3 of this Act;

(6) secure from any Federal agency, including any independent establishment or instrumentality of the United States, or from any State or political subdivision thereof, information, estimates and statistics required in the performance of functions under this Act;

(7) obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code;

(8) accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses including per diem as authorized by section 5703 of title 5, United States Code;

(9) enter into contracts, grants, or other arrangements, or modifications thereof to carry out the provisions of this Act;

(10) provide for the making of such reports (including fund accounting reports) and the filing of such applications in such form and containing such information as the Secretary may reasonably require;

(11) make advances, progress, and other payments which the Secretary deems necessary to carry out the provisions of this Act without regard to the provisions of section 3648 of the Revised Statutes, as amended (31 U.S.C. 529); and

(12) Make other necessary expenditures.

(b) Each member of a committee appointed pursuant to paragraph (5) of subsection (a) of this section who is not an officer or employee of the Federal Government shall receive an amount not to exceed the maximum daily rate prescribed for GS-18 under section 5332 of title 5, United States Code, as determined by the Secretary for each day he is engaged in the actual performance of his duties (including travel time) as a member of a committee. All members shall be reimbursed for travel, subsistence, and necessary expenses incurred in the performance of their duties.

(c) Upon written request made by the Secretary of Education, each Federal agency, independent establishment or instrumentality is authorized and directed to furnish such cooperation, assistance, access, information, estimates, and available statistics, to the greatest practicable extent, to the Office in the performance of its functions.

STATE PLANS AND PROGRAMS

SEC. 9. (a) Any State desiring to receive its allotment for any purpose under this Act for any fiscal year shall—

(1) have in effect for such fiscal year a basic State plan which meets the requirements set forth in subsection (b),

(2) submit an annual program for the purposes for which allotments are desired, meeting the appropriate requirements set forth in title I through V,

(3) submit, not later than July 1, 1982, a long-range program for carrying out the purposes of this Act as specified in subsection (d), and

(4) establish a State Advisory Council on Libraries which meets the requirements of section 3(20).

(b) A basic State plan under this Act shall—

(1)(A) provide for the administration, or supervision of the administration, of the programs authorized by this Act by the State library administrative agency;

(B) provide assurances that the State will pay from non-Federal sources, State and local, the non-Federal share of the sums expended under the State plan, the long-range program and the annual program;

(2) provide that any funds paid to the State in accordance with a long-range program and an annual program shall be expended solely for the purposes for which funds have been authorized and appropriated and that such fiscal control and fund accounting procedures have been adopted as may be necessary to assure proper disbursement of, and account for, Federal funds paid to the State (including any such funds paid by the State to any other agency) under this Act;

(3) provide satisfactory assurance that the State agency administering the plan (A) will make such reports, in such form and containing such information, as the Secretary may reasonably require to carry out his functions under this Act and to determine the extent to which funds provided under this Act have been effective in achieving the State's criteria for adequate services, including reports of evaluations made under the State plans, and (B) will keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports; and

(4) set forth the criteria to be used in determining the adequacy of public library services in various geographical areas and for various groups of persons in the State for titles I through V.

(c)(1) The Secretary shall not approve any basic State plan pursuant to this Act for any fiscal year unless—

(A) the plan fulfills the conditions specified in section 3 (20) and subsection (b) of this section and the appropriate titles of this Act;

(B) the Secretary has made specific findings as to the compliance of such plan with requirements of this Act and he is satisfied that adequate procedures are contained in the plan to insure that any assurances and provisions of such plan will be carried out, including the receipt and acceptance of re-

ports as required by subsection (b)(3) of this section.

(2) The State plan shall be made public as finally approved.

(3) The Secretary shall not finally disapprove any basic State plan submitted pursuant to subsection (a)(1), or any modification thereof, without first affording the State reasonable notice and opportunity for hearing.

(d) The long-range program of any State for carrying out the purposes of this Act shall—

(1) set forth a program under which the funds received by the State under the programs authorized by this Act will be used to carry out a long-range program of library services and construction covering a period of not less than three nor more than five years;

(2) be annually reviewed and revised in accordance with changing needs for assistance under this Act and the results of the evaluation and surveys of the State library administrative agency;

(3) set forth policies and procedures (A) for the periodic evaluation of the effectiveness of programs and projects supported under this Act, and (B) for appropriate dissemination of the results of such evaluations and other information pertaining to such programs or projects; and

(4) set forth effective policies and procedures for the coordination of programs and projects supported under this Act with library programs and projects operated by institutions of higher education or local elementary or secondary schools and with other public or private library services programs, and for cooperation among local libraries to meet the needs of the people of the community.

Such program shall be developed with the advice of the State Advisory Council and in consultation with the Secretary and shall be made public as it is finally adopted.

(e) Whenever the Secretary, after giving reasonable notice and opportunity for hearing to the State agency administering a program submitted under this Act, finds—

(1) that the program has been so changed that it no longer complies with the provisions of this Act, or

(2) that in the administration of the program there is a failure to comply substantially with any such provisions or with any assurance or other provisions contained in the basic State plan,

then, until he is satisfied that there is no longer any such failure to comply, after appropriate notice to such State agency, the Secretary shall make no further payments to the State under this Act or shall limit payments to programs or projects under, or parts of, the programs not affected by the failure, or shall require that payments by such State agency under this Act shall be limited to local or other public library agencies not affected by the failure.

(f)(1) If any State is dissatisfied with the Secretary's final action with respect to the approval of a plan submitted under this Act or with his final action under subsection (e) such State may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action as provided in section 2112 of title 28, United States Code.

(2) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence. The Secretary may thereupon take new or modified findings of fact and may modify his previous action, and shall certify to the court the record of further proceedings.

(3) The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

TITLE I—INTERLIBRARY COOPERATION AND NETWORK SUPPORT GRANTS TO STATES FOR INTERLIBRARY COOPERATION AND NETWORK SUPPORT PROGRAMS

SEC. 101. The Secretary shall carry out a program of making grants to States which have an approved basic State plan under section 9(c) and have submitted a long-range program under section 9(d) and an annual program under section 103 for interlibrary cooperation and network support programs among school, public, academic, and special libraries and information centers.

USES OF FEDERAL FUNDS

SEC. 102. (a) Funds appropriated pursuant to paragraph (1) of section 4(a) shall be available for grants to States from allotments under paragraphs (1) and (3) of section 5(a) for the purposes of paying the Federal share of the cost of carrying out State plans submitted and approved under sections 9 and 103. Such grants shall be used for—

(1) planning for, and taking other steps leading to the development and maintenance of, cooperative library networks on an intrastate, statewide, regional, multistate, and national basis;

(2) establishing, expanding, and operating intrastate, statewide, regional, multistate, and national cooperative networks of libraries to provide for the systematic and effective coordination of the resources of school, public, academic, and special libraries and information centers to achieve improved service to the users thereof, including bibliographic access, communications, and delivery systems, and including the conversion of existing collections and catalogs to machine-readable data bases; and

(3) special financial assistance for collection maintenance or development to resource libraries identified in the State plan, including research libraries, major academic libraries, and where appropriate, privately funded library collections which are heavily used as library resources by public libraries in the State.

(b) Notwithstanding any other provision of this Act, the Secretary is authorized to set aside not to exceed 15 per centum of the funds appropriated under paragraph (1) of section 4(a) for the purpose of making discretionary grants for assistance to regional, multistate, national, or international cooperative networks which benefit the libraries in one or more States but which extend beyond the jurisdiction of any single State, including research, system development, operations, and capital costs.

(c) No school, public, academic, special library or information center, or resource library may receive assistance or network services under this title unless the school, public, academic, special library or information center, or resource library has agreed to share its own library and information resources on a fair and equitable basis with other participating libraries in the appropriate cooperative network program.

STATE ANNUAL PROGRAM FOR INTERLIBRARY COOPERATION AND NETWORK SUPPORT

SEC. 1023. Any State desiring to receive a grant from its allotment for the purposes of this title for any fiscal year shall, in addition to having submitted, and having had approved, a basic State plan under section 9, submit for that fiscal year an annual program for interlibrary cooperation and network support. Such program shall be submitted at such time, in such form, and contain such information as the Secretary may require by regulation, and shall—

(1) set forth a program for the year submitted under which funds paid to the State from appropriations pursuant to paragraph (1) of section 4(a) will be used, consistent with its long-range program for the purposes set forth in section 102, and

(2) include an extension of the long-range program taking into consideration the results of evaluations.

TITLE II—PUBLIC LIBRARY SERVICES

GRANTS TO STATES FOR PUBLIC LIBRARY SERVICES

SEC. 201. The Secretary shall carry out a program of making grants from sums appropriated pursuant to section 4(a)(1) to States which have had approved basic State plans under section 9(c) and have submitted a long-range program under section 9(d) and an annual program under section 203 for the provision, extension, and improvement of public library services.

USES OF FEDERAL FUNDS

SEC. 202. Funds appropriated pursuant to paragraph (2) of section 4(a) shall be available for grants to States from allotments under section 5(a) for the purpose of paying the Federal share of the cost of carrying out State plans submitted and approved under sections 9 and 203. In order to provide, extend, and improve public library services, each State library administrative agency shall distribute funds received under this title for public library services.

STATE ANNUAL PROGRAM FOR PUBLIC LIBRARY SERVICES

SEC. 203. Any State desiring to receive a grant from its allotment for the purposes of this title for any fiscal year shall, in addition to having submitted, and having had approved, a basic State plan under section 9, submit for that fiscal year an annual program for public library services. Such program shall be submitted at such time, in such form, and contain such information as the Secretary may require by regulation, and shall—

(1) set forth a program for the year submitted under which funds paid to the State from appropriations pursuant to paragraph (2) of section 4(a) for that year will be used, consistent with its long-range program, to provide, extend, and improve public library services on a fair and equitable basis to all citizens including children, students, adult learners, and older readers throughout the State;

(2) set forth a program for any statewide public library services to be performed by or furnished by the State library administrative agency, including public library services in areas of the State not adequately served by existing public libraries;

(3) set forth a program for allocating funds paid to the State from appropriations pursuant to paragraph (2) of section 4(a), which shall insure that (A) the funds will be distributed among public libraries in the State on the basis of population, subject to such adjustments as may be provided for in reasonable standards and regulations adopted by the State library administrative agency, and (B) the State will expend from State and local sources an amount not less than the amount expended by the State from such sources for library services during the second preceding fiscal year;

(4) provide assurances that any public library receiving funds from appropriations made pursuant to paragraph (1) of section 4(a) will share its resources on an exchange basis with other public libraries in the State, and set forth procedures for the establishment of a statewide library network based upon the sharing of such resources;

(5) provide assurances that the State will use not more than 5 per centum of the funds

received by the State under this Act to pay the costs of activities required by this Act for a State to qualify for assistance and necessary for meeting Federal reporting and compliance requirements;

(6) include such information, policies, and procedures as will assure that the activities to be carried out during that year are consistent with the long-range program;

(7) include an extension of the long-range program, taking into consideration the results of evaluations; and

(8) provide assurances that the State will submit a substantially complete annual program for each title of this Act under which funds are being sought within ninety days after the Secretary has notified the State of the availability of funds, and that such reports as may be due will have been submitted to the Secretary before the annual program is to be considered.

TITLE III—PUBLIC LIBRARY CONSTRUCTION

GRANTS TO STATES FOR PUBLIC LIBRARY CONSTRUCTION

SEC. 301. The Secretary shall carry out a program of making grants to States which have had approved a basic State plan under section 9(c) and have submitted a long-range program under section 9(d) and an appropriately updated annual program under section 303 for the construction of public libraries.

USES OF FEDERAL FUNDS

SEC. 302. Funds appropriated pursuant to paragraph (3) of section 4(a) shall be available for grants to States from allotments under section 5(a) for the purpose of paying the Federal share of the cost of construction projects carried out under State plans submitted and approved under sections 9 and 303. Such grants shall be used solely for the construction of public libraries as defined in section 3 and for the remodeling of public libraries necessary to meet standards adopted pursuant to the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968, for the acquisition and conversion of existing structures for use as libraries, and for remodeling designed to conserve energy in the operation of public libraries under approved State plans.

STATE ANNUAL PROGRAM FOR THE CONSTRUCTION OF PUBLIC LIBRARIES

SEC. 303. Any State desiring to receive a grant from its allotment for the purpose of this title for any fiscal year shall, in addition to having submitted, and having had approved, a basic State plan under section 9, submit such projects as the State may approve and are consistent with its long-range program. Such projects shall be submitted at such time and contain such information as the Secretary may require by regulation and shall—

(1) for the year submitted under which funds are paid to the State from appropriations pursuant to paragraph (3) of section 4(a) for that year, be used, consistent with the State's long-range program, for the construction of public libraries in areas of the State which are without the library facilities necessary to provide adequate library services;

(2) follow the criteria, policies, and procedures for the approval of applications for the construction of public library facilities under the long-range program;

(3) follow policies and procedures which will insure that every local or other public agency whose application for funds under the plan with respect to a project for construction of public library facilities is denied will be given an opportunity for a hearing before the State library administrative agency; and

(4) include an extension of the long-range program taking into consideration the results of evaluations.

TITLE IV—PUBLIC LIBRARY PROGRAMS TO MEET SPECIAL USER NEEDS

GRANTS TO STATES FOR PUBLIC LIBRARY PROGRAMS TO MEET SPECIAL USER NEEDS

SEC. 401. The Secretary shall carry out a program of making grants to States which have an approved basic State plan under section 9(c) of this title and have submitted a long-range program under section 9(d) and an annual program under section 403 of this title for public library programs to meet special user needs.

USES OF FEDERAL FUNDS; FEDERAL SHARE

SEC. 402. Funds appropriated pursuant to paragraph (4) of section 4(a) of this title shall be available for grants to States from allotments under section 5(a) of this Act for the purpose of paying the Federal share of the cost of carrying out State plans submitted and approved under sections 9 and 403. Such grants may be used for—

(1) library services for rural, sparsely populated, and impacted areas to supplement services funded under title II;

(2) literacy training programs for the functionally illiterate;

(3) job information services and career counseling in high unemployment areas;

(4) English language instruction;

(5) library services for the aging, the developmentally disabled, those with learning disabilities, the blind and visually handicapped, and those with hearing disabilities;

(6) extension library services for patients, residents and inmates of mental and general hospitals, correctional facilities, and other publicly supported institutions, which may include State institutional library services;

(7) outreach programs and other services to serve the economically and educationally disadvantaged;

(8) technical and reference services to serve business, employee, scientific, or other special groups;

(9) information and referral centers established in cooperation with other community and educational institutions and public and private agencies;

(10) assistance to library and information services in Indian country; and

(11) library programs developed in cooperation with public agencies; public broadcasting; nonprofit arts, cultural, archival, and historic preservation organizations; and publicly supported museums, schools, colleges, and adult education programs.

STATE ANNUAL PROGRAM FOR PUBLIC LIBRARY PROGRAM TO MEET SPECIAL USER NEEDS

SEC. 403. Any State desiring to receive a grant from its allotment for the purposes of this title for any fiscal year shall, in addition to having submitted, and having had approved, a basic State plan under section 9, submit for that fiscal year an annual program for public library programs to meet special user needs. Such annual program shall be submitted at such time, in such form, and contain such information as the Secretary may require by regulation and shall—

(1) set forth a program for the year submitted under which funds paid to the State from appropriations pursuant to paragraph (4) of section 4(a) of this Act will be used, consistent with its long-range program for the purposes set forth in section 402 of this title, and

(2) include an extension of the long-range program taking into consideration the results of evaluations.

COORDINATION WITH OTHER FEDERAL PROGRAMS

SEC. 404. In carrying out the program of grants authorized by this title, the Secretary shall consult with the heads of other appropriate Federal agencies for the purpose of coordinating, wherever practicable, the programs assisted under this title with the activities of such agencies.

TITLE V—PLANNING AND DEVELOPMENT

GRANTS TO STATES FOR PLANNING AND DEVELOPMENT

SEC. 501. The Secretary shall carry out a program of making grants to States which have an approved basic State plan under section 9(c) and have submitted a long-range program under section 9(d) and an annual program under section 503 for planning and development.

USES OF FEDERAL FUNDS

SEC. 502. (a) Funds appropriated pursuant to paragraph (5) of section 4(a) shall be available for grants to States for allotments under section 5(a) for the purpose of paying the Federal share of the cost of carrying out State plans submitted and approved under section 503. Subject to such limitations and criteria as the Secretary shall establish by regulation, grants under this title may be used for—

(1) meeting the costs of State library administrative agencies for planning and evaluation, studies and research, coordination with other Federal library grant programs, planning for State network development, and coordination with regional and national networks;

(2) strengthening the capacity of State library administrative agencies for meeting the needs of the people of the State, including development of staff, which may include specialists in adult, young adult, and children's services, and the continuing education of State library administrative agency personnel;

(3) funding statewide public awareness programs to educate the citizens of the State as to the availability and use of library and information services and the value of such services in meeting individual needs, such public awareness programs to be coordinated with any similar programs undertaken on the national or local community levels; and

(4) providing in-service training, continuing education, and career incentive programs for local library personnel, supplementing programs under the Higher Education Act, and including the recruitment and training on the local level of community liaison workers, public information officers, learners' advisers, literacy instructors, information specialists, trustees, and other library personnel who are representative of the constituencies in the community being served.

(b) Funds provided under this title may be transferred for use by institutions of higher education to carry out programs described in subsections (a)(2) and (4) of this section.

STATE ANNUAL PROGRAM FOR PLANNING AND DEVELOPMENT

SEC. 503. Any State desiring to receive a grant from its allotment to the purpose of this title for any fiscal year shall, in addition to having submitted and having had approved a basic State plan under section 9, submit for that fiscal year an annual program for planning and development. Such program should be submitted at such time, in such form, and contain such information as the Secretary may require by regulation and shall—

(1) set forth a program for the year submitted under which funds paid to the State from appropriations pursuant to paragraph (5) of section 4(a) would be used, consistent with its long-range program for the purposes set forth in section 502, and

(2) include an extension of the long-range program taking into consideration the results of evaluations.

TITLE VI—MISCELLANEOUS PROVISIONS

EFFECTIVE DATE

SEC. 601. The provisions of this Act shall take effect October 1, 1981.●

By Mr. MOYNIHAN (for himself, Mr. MITCHELL, Mr. BAUCUS, Mr. METZENBAUM, Mr. SARBANES, and Mr. SPECTER):

S. 1432. A bill to amend the Internal Revenue Code of 1954 with respect to offsetting positions in personal property, and for other purposes.

STRADDLES TAX ACT OF 1981

● Mr. MOYNIHAN. Mr. President, I am introducing a bill today that would prevent commodity straddles from being used to avoid income taxes.

This is the second bill I have introduced on straddles. The first—last March—was really no more than a discussion draft. It has been substantially revised.

The new bill can be described in five sentences. It would require that futures contracts traded on U.S. exchanges be marked to their market prices each year on December 31. An investor would be taxed on 60 percent of his profit each year at the tax rates for long-term capital gain. The other 40 percent of his profit would also be taxed, but at the higher rates for short-term capital gain. Taxing profits like this means that the tax rate for an investor in the top income bracket is 32 percent.

The bill has a fairly broad exemption for hedging transactions—to insure that ordinary business uses of the futures markets by farmers, banks, and other corporations would not be affected by the new rules.

The Senate Finance Committee voted this morning to include my straddles proposal in the tax-cut legislation, with the understanding that the staff may still change the language of the proposal to clear up any lingering technical problems. The committee was aware of at least one technical difficulty before it acted. We intended to allow corporations—like banks—that hedge a variety of foreign currency risks, including risks associated with owning foreign subsidiaries or business assets abroad, to be covered by the hedging exemption on all of these transactions. I would have said that in the draft, but a way could not be found to do it and yet limit the exemption to hedging transactions in which there is no conversion of income into capital gain.

This matter will be addressed in the bill that the committee reports to the Senate later in June.

Mr. President, I ask unanimous consent that the text of the bill and an accompanying fact sheet be printed in the RECORD.

There being no objection, the bill and fact sheet were ordered to be printed in the RECORD, as follows:

S. 1432

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENTS OF 1954 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Straddles Tax Act of 1981".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 2. POSTPONEMENT OF RECOGNITION OF LOSSES, ETC.

(a) GENERAL RULE.—Part VII of subchapter 1 (relating to wash sales of stock or securities) is amended by adding at the end there of the following new section:

"Sec. 1092. Straddles.

"(a) RECOGNITION OF LOSS IN CASE OF STRADDLES, ETC.—

"(1) LIMITATION ON RECOGNITION OF LOSS.—

"(A) IN GENERAL.—Any loss with respect to 1 or more positions shall be taken into account for any taxable year only to the extent that the amount of such loss exceeds the unrealized gain (if any) with respect to 1 or more positions which—

"(i) were acquired by the taxpayer before the disposition giving rise to such loss,

"(ii) are offsetting positions with respect to the 1 or more positions from which the loss arose, and

"(iii) are not part of an identified straddle.

"(B) CARRYOVER OF LOSS.—Any loss which may not be taken into account under subparagraph (A) for any taxable year shall be taken into account in the taxable year as of the close of which all positions which are treated as included in such offsetting position under subparagraph (A)(ii) have been disposed of.

"(C) ALLOCATION AMONG POSITIONS.—If more than 1 position (or set of positions) meets the requirements of causes (i), (ii), and (iii) of subparagraph (A) with respect to any positions from which the loss arose, such loss shall be allocated among the unrealized gain of such positions in the manner prescribed by the Secretary by regulations.

"(2) SPECIAL RULE FOR IDENTIFIED STRADDLES.—

"(A) IN GENERAL.—In the case of any straddle which is an identified straddle as of the close of the taxable year—

"(i) paragraph (1) shall not apply for such taxable year, and

"(ii) any loss with respect to such straddle shall be treated as sustained not earlier than the day on which all of the positions making up the straddle are disposed of.

"(B) IDENTIFIED STRADDLE.—The term 'identified straddle' means any straddle—

"(i) which is clearly identified on the taxpayer's reports, before the close of the day on which the straddle is acquired, as an identified straddle,

"(ii) all of the original positions of which (as identified by the taxpayer) are acquired on the same day and with respect to which—

"(I) all of such positions are disposed of on the same day during the taxable year, or

"(II) none of such positions has been disposed of as of the close of the taxable year, and

"(iii) which is not part of a larger straddle.

"(3) SPECIAL RULE FOR REGULATED FUTURES CONTRACTS.—In the case of a straddle—

"(A) at least 1 (but not all) of the positions of which are regulated futures contracts, and

"(B) with respect to which the taxpayer has not elected to have the provisions of section 1256 apply, the provisions of this subsection shall apply to any regulated futures contract and any other position making up such straddle.

"(4) UNREALIZED GAIN.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'unrealized gain' means the amount of gain which would be taken into account with respect to any position held by the taxpayer as of the close of the taxable year if such position were sold on the last business day of such taxable year at its fair market value.

"(B) REPORTING OF GAIN.—

"(i) IN GENERAL.—Each taxpayer shall disclose to the Secretary, at such time and in such manner and form as the Secretary may prescribe by regulations—

"(I) each position (whether or not part of a straddle) which is held by such taxpayer as of the close of the taxable year and with respect to which there is unrealized gain, and

"(II) the amount of such unrealized gain.

"(ii) REPORTS NOT REQUIRED IN CERTAIN CASES.—Clause (i) shall not apply—

"(I) to any position which is part of an identified straddle, or

"(II) with respect to any taxable year if no loss has been incurred on any position (including a regulated futures contract) during such taxable year.

"(b) CHARACTER OF GAIN OR LOSS; WASH SALES.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, in the case of gain or loss with respect to any position of a straddle, rules similar to the rules of subsections (b) and (d) of section 1233 and section 1091 shall apply.

"(2) SPECIAL RULE FOR STOCK OPTIONS.—The provisions of paragraph (1) shall apply to the granting or holding of any stock option which is a position which is a part of a straddle other than a stock option which—

"(A) is traded on a domestic exchange, and

"(3) is of a type with respect to which the maximum period during which such option may be exercised is less than the minimum period for which a capital asset must be held for gain to be treated as long-term capital gain under section 1222 (3).

"(c) STRADDLE DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'straddle' means offsetting positions with respect to personal property.

"(2) OFFSETTING POSITIONS.—A taxpayer holds offsetting positions with respect to personal property if there is a substantial diminution of the taxpayer's risk of loss from holding any position with respect to personal property by reason of his holding 1 or more other positions with respect to personal property (whether or not of the same kind).

"(3) PRESUMPTION.—

"(A) IN GENERAL.—For purposes of paragraph (2), 2 or more positions shall be presumed to be offsetting if—

"(i) the positions are in the same personal property (whether established in such property or a contract for such property),

"(ii) the positions are in the same personal property, even though such property may be in a substantially altered form,

"(iii) the positions are in debt instruments of a similar maturity or other debt instruments described in regulations prescribed by the Secretary.

"(iv) the positions are sold or marketed as offsetting positions (whether or not such positions are called a straddlle, spread, butterfly, or any similar name),

"(v) the aggregate margin requirement for such positions is lower than the sum of the margin requirements for each such position (if held separately), or

"(vi) there are such other factors (or satisfaction of subjective or objective tests) as the Secretary may by regulations prescribe as indicating that such positions are offsetting.

For purposes of the preceding sentence, 2 or more positions shall be treated as described in clause (i), (ii), or (iii) only if the value of 1 or more of such positions ordinarily varies inversely with the value of 1 or more other such positions.

"(B) PRESUMPTION MAY BE REBUTTED.—Any presumption established pursuant to subparagraph (A) may be rebutted.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) PERSONAL PROPERTY.—The term 'personal property' means any personal property (other than stock) of a type which is actively traded.

"(2) POSITION.—The term 'position' means an interest (including a futures or forward contract or option) in personal property.

"(3) POSITIONS HELD BY RELATED PERSONS, ETC.—

"(A) IN GENERAL.—In determining whether 2 or more positions are offsetting, the taxpayer shall be treated as holding any position held by a related person.

(B) RELATED PERSON.—For purposes of subparagraph (A), a person is a related person to the taxpayer if such person—

"(i) is the spouse of the taxpayer, or

"(ii) files a consolidated return (within the meaning of section 1501) with the taxpayer.

"(C) CERTAIN FLOW-THROUGH ENTITIES.—If part or all of the gain or loss with respect to a position held by a partnership, trust, or other entity would properly be taken into account for purposes of this chapter by a taxpayer, then, except to the extent otherwise provided in regulations, such position shall be treated as held by the taxpayer.

"(a) REGULATED FUTURES CONTRACT.—The term 'regulated futures contract' has the same meaning given such term by section 1256 (h).

"(e) EXCEPTION FOR HEDGING TRANSACTIONS.—This section shall not apply in the case of any hedging transaction (as defined in section 1256 (e)).

"(f) CROSS REFERENCE.—

"For provision requiring capitalization of certain interest and carrying charges where there is a straddle, see section 263 (g).".

(b) PENALTY FOR FAILURE TO DISCLOSE.—Section 6653 (relating to failure to pay tax) is amended by adding at the end thereof the following new subsection:

"(g) SPECIAL RULE IN CASES OF FAILURE TO REPORT UNREALIZED GAIN ON POSITION IN PERSONAL PROPERTY.—If—

"(1) a taxpayer fails to make the report required under section 1092(a)(4)(F) in the manner prescribed by such section and such failure is not due to reasonable cause, and

"(2) such taxpayer has an underpayment of any tax attributable to the denial of a deduction of a loss with respect to any position (within the meaning of section 1092(d)(2)),

then such underpayment shall, for purposes of subsection (a), be treated as an underpayment due to negligence or intentional disregard of rules and regulations (but without intent to defraud.".

(c) APPLICATION WITH SECTION 1233.—Paragraph (2) of section 1233(e) (defining property to which section applies) is amended by inserting ", but does not include any debt instrument to which section 1092 applies" after "taxpayer" in subparagraph (A).

(d) CLERICAL AMENDMENTS.—

(1) The table of sections for such part VII is amended by adding at the end thereof the following new item:

"Sec. 1392. Straddles.".

(2) The heading for such part VII is amended to read as follows:

"Part VII—WASH SALES; STRADDLES".

(3) The table of parts for subchapter O of chapter 1 is amended by striking out the item relating to part VII and inserting in lieu thereof the following:

"Part VII—WASH SALES; STRADDLES.".

SEC. 3. CAPITALIZATION OF CERTAIN INTEREST AND CARRYING CHARGES IN THE CASE OF STRADDLES.

Section 263 (relating to capital expenditures) is amended by adding at the end thereof the following new subsection:

"(a) CERTAIN INTEREST AND CARRYING COSTS IN THE CASE OF STRADDLES.—

"(1) GENERAL RULE.—No deduction shall be allowed for interest and carrying charges properly allocable to personal property which is part of a straddle (as defined in section 1092(c)). Any amount not allowed as a deduction by reason of the preceding sentence shall be chargeable to the capital account with respect to the personal property to which such amount relates.

"(2) INTEREST AND CARRYING CHARGES DEFINED.—For purposes of paragraph (1), the term 'interest and carrying charges' means the excess of—

"(A) the sum of—

"(i) interest on indebtedness incurred or continued to purchase or carry the personal property, and

"(ii) amounts paid or incurred to insure, store, or transport the personal property, over

"(B) the sum of—

"(i) the amount of interest (including original issue discount) includible in gross income for the taxable year with respect to the property described in subparagraph (A), and

"(ii) any amount treated as ordinary income under section 1232(e)(4)(A) with respect to such property for the taxable year.

"(3) EXCEPTION FOR HEDGING TRANSACTIONS.—This subsection shall not apply in the case of any hedging transaction (as defined in section 1256(e)).".

SEC. 4. REGULATED FUTURES CONTRACTS MARKED TO MARKET.

(a) GENERAL RULE.—Part IV of subchapter P of chapter 1 (relating to special rules for determining capital gains and losses) is amended by adding at the end thereof the following new section:

"SEC. 1256. REGULATED FUTURES CONTRACTS MARKED TO MARKET.

"(a) GENERAL RULE.—For purposes of this subtitle—

"(1) each regulated futures contract held by the taxpayer at the close of the taxable year shall be treated as sold for its fair market value on the last business day of such taxable year (and any gain or loss shall be taken into account for the taxable year),

"(2) proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account by reason of paragraph (1),

"(3) any gain or loss with respect to a regulated futures contract shall be treated as—

"(A) Short-term capital gain or loss, to the extent of 40 percent of such gain or loss, and

"(B) long-term capital gain or loss, to the extent of the 60 percent of such gain or loss, and

"(4) if all the offsetting positions making up any straddle consist of regulated future contracts to which this section applies (and such straddle is not part of a larger straddle), sections 1092 and 263 (g) shall not apply with respect to such straddle.

"(b) REGULATED FUTURES CONTRACTS DEFINED.—For purposes of this section, the term "regulated futures contract' means a contract—

"(1) which required delivery of the personal property (as defined in section 1092(d)(1)) or an interest in such property;

"(2) with respect to which the amount required to be deposited and the amount which may be withdrawn depends on a system of marking to market; and

"(3) which is traded on or subject to the rules of a domestic board of trade designated as a contract market by the Commodity Futures Trading Commission or of any board of trade or exchange which the Secretary determines has rules adequate to carry out the purposes of this section.

"(c) TERMINATIONS.—The rules of paragraphs (1), (2), and (3) of subsection (a) shall also apply to the termination during the taxable year of the taxpayer's obligation with respect to a regulated futures contract by offsetting, by taking or making delivery, or otherwise. For purposes of the preceding sentence, fair market value at the time of the termination shall be taken into account.

"(d) ELECTIONS WITH RESPECT TO MIXED STRADDLES.—

"(1) ELECTIONS.—The taxpayer may elect to have this section—

"(A) apply to all positions of each mixed straddle of the taxpayer in the same manner as if all such positions were regulated futures contracts; and

"(B) not apply to all regulated futures contracts which are part of a mixed straddle.

"(2) TIME AND MANNER.—An election under paragraph (1) shall be made at such time and in such manner as the Secretary may by regulation prescribe.

"(3) ELECTION REVOCABLE ONLY WITH CONSENT.—An election under paragraph (1) shall apply to the taxpayer's taxable year for which made and to all subsequent taxable years, unless the Secretary consents to a revocation of such election.

"(4) MIXED STRADDLE.—For purposes of this subsection, the term 'mixed straddle' means any straddle (as defined in section 1092(c))—

"(A) at least 1 (but not all) of the positions of which are regulated futures contracts, and

"(B) with respect to which each position forming part of such straddle is clearly identified, before the close of the day on which such position is acquired, as being part of such straddle.

"(e) MARKED TO MARKET NOT TO APPLY TO HEDGING TRANSACTIONS.—

"(1) SECTION NOT TO APPLY.—Subsection (a) shall not apply in the case of a hedging transaction.

"(2) DEFINITION OF HEDGING TRANSACTION.—For purposes of this subsection, the term 'hedging transaction' means any transaction if—

"(A) such transaction is entered into by the taxpayer in the normal course of the taxpayer's trade or business primarily—

"(i) to reduce risk of price change or currency fluctuations with respect to assets which are held or to be held by the taxpayer and the gain on the sale or exchange of which is treated as ordinary income, or

"(ii) to reduce risk of interest rate changes or currency fluctuations with respect to borrowings made or to be made, or obligations incurred or to be incurred, by the taxpayer, and

"(B) before the close of the day on which such transaction was entered into, the taxpayer clearly identifies such transaction as being a hedging transaction.

"(3) SPECIAL RULE FOR SYNDICATES.—

"(A) IN GENERAL.—Notwithstanding paragraph (2)(A), the term 'hedging transaction' shall not include any transaction entered into by a syndicate.

"(B) SYNDICATE DEFINED.—For purposes of subparagraph (A), the term 'syndicate' means any partnership or other entity (other than a C corporation)—

"(i) if at any time interests in such entity have been offered for sale in any offering required to be registered with any Federal or State agency having authority to regulate the offering of securities for sale, or

"(ii) if more than 35 percent of the losses of such entity during any period are allocable to limited partners or limited entrepreneurs.

In the case of any person which is a dealer in securities, the Secretary may on a case-by-case basis increase the percentage under clause (ii).

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) C CORPORATION.—The term 'C corporation' means any corporation other than an electing small business corporation (as defined in section 1371(b)).

"(ii) Holding attributable to active management.—An individual shall not be treated as a limited partner or limited entrepreneur

with respect to any entity for any period during which such individual actively participates in the management of such entity.

"(f) SPECIAL RULES.—

"(1) DENIAL OF CAPITAL GAINS TREATMENT FOR PROPERTY IDENTIFIED AS PART OF A HEDGING TRANSACTION.—For purposes of this title, gain from any property shall in no event be considered as gain from the sale or exchange of a capital asset if such property was at any time identified under subsection (a) (2) (B) by the taxpayer as being part of a hedging transaction.

"(2) SUBSECTION (a) (3) NOT TO APPLY TO ORDINARY INCOME PROPERTY.—Paragraph (3) of subsection (a) shall not apply to any gain or loss which, but for such paragraph, would be ordinary income or loss.".

(b) CLERICAL AMENDMENT.—The table of sections for part IV of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 1256. Regulated futures contracts marked to market.".

SEC. 5. CARRYBACK OF LOSSES FROM REGULATED FUTURES CONTRACTS TO OFFSET PRIOR GAINS FROM SUCH CONTRACTS.

Section 1212 (relating to capital loss carrybacks and carryovers) is amended by adding at the end thereof the following new subsection:

"(c) CARRYBACK OF LOSSES FROM REGULATED FUTURES CONTRACTS TO OFFSET PRIOR GAINS FROM SUCH CONTRACTS.—

"(1) IN GENERAL.—If a taxpayer (other than a corporation) has a net commodity futures loss for the taxable year and elects to have this subsection apply to such taxable year, the amount of such net commodity futures loss—

"(A) shall be a carryback to each of the 3 taxable years preceding the loss year, and

"(B) to the extent that, after the application of paragraphs (2) and (3), such loss is allowed as a carryback to any such preceding taxable year—

"(i) 40 percent of the amount so allowed shall be treated as a short-term capital loss from regulated futures contracts, and

"(ii) 60 percent of the amount so allowed shall be treated as a long-term capital loss from regulated futures contracts.

"(2) AMOUNT CARRIED TO EACH TAXABLE YEAR.—The entire amount of the net commodity futures loss for any taxable year shall be carried to the earliest of the taxable years to which such loss may be carried back under paragraph (1). The portion of such loss which shall be carried to each of the 2 other taxable years to which such loss may be carried back shall be the excess (if any) of such loss over the portion of such loss which, after the application of paragraph (3), was allowed as a carryback for any prior taxable year.

"(3) AMOUNT WHICH MAY BE USED IN ANY PRIOR TAXABLE YEAR.—An amount shall be allowed as a carryback under paragraph (1) to any prior taxable year only to the extent—

"(A) such amount does not exceed the net commodity futures gain for such year, and

"(B) the allowance of such carryback does not increase or produce a net operating loss (as defined in section 172 (c)) for such year.

"(4) NET COMMODITY FUTURES LOSS.—For purposes of paragraph (1), the term 'net commodity futures loss' means the lesser of—

"(A) the net capital loss for the taxable year determined by taking into account only gains and losses from regulated futures contracts and positions to which section 1256 applies, or

"(B) the sum of the amounts which, but for paragraph (6)(A), would be treated as capital losses in the succeeding taxable year under subparagraphs (A) and (B) of subsection (b)(1).

"(5) NET COMMODITY FUTURES GAIN.—For purposes of paragraph (1)—

"(A) IN GENERAL.—The term 'net commodity futures gain' means the lesser of—

"(i) the capital gain net income for the taxable year determined by taking into account only gains and losses from regulated futures contracts and positions to which section 1256 applies, or

"(ii) the capital gain net income for the taxable year.

"(B) SPECIAL RULE.—The net commodity futures gain for any taxable year before the loss year shall be computed without regard to the net commodity futures loss for the loss year or for any taxable year thereafter.

"(6) COORDINATION WITH CARRYFORWARD PROVISIONS OF SUBSECTION (b)(1).—

"(A) CARRYFORWARD AMOUNT REDUCED BY AMOUNT USED AS CARRYBACK.—For purposes of applying subsection (b)(1), if any portion of the net commodity futures loss for any taxable year is allowed as a carryback under paragraph (1) to any preceding taxable year—

"(i) 40 percent of the amount allowed as a carryback shall be treated as a short-term capital gain for the loss year, and

"(ii) 60 percent of the amount allowed as a carryback shall be treated as a long-term capital gain for the loss year.

"(B) CARRYOVER LOSS RETAINS CHARACTER AS ATTRIBUTABLE TO REGULATED FUTURES CONTRACT.—Any amount carried forward as a short-term or long-term capital loss to any taxable year under subsection (b)(1) (after the application of subparagraph (A)) shall, to the extent attributable to losses from regulated futures contracts, be treated as loss from regulated futures contracts for such taxable year.

"(7) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) REGULATED FUTURES CONTRACT.—The term 'regulated futures contract' means any regulated futures contract (as defined in section 1256(b)) to which section 1256 applies. Such term includes any position treated as a regulated futures contract under section 1256 (d)(1).

"(B) EXCLUSION FOR ESTATES AND TRUSTS.—This subsection shall not apply to any estate or trust.".

SEC. 6. CERTAIN GOVERNMENTAL OBLIGATIONS ISSUED AT DISCOUNT TREATED AS CAPITAL ASSETS.

(a) GENERAL RULE.—Section 1221 (defining capital asset) is amended by striking out paragraph (5) and by redesignating paragraph (6) as paragraph (5).

(b) TREATMENT OF AMOUNTS RECEIVED ON SALE OR OTHER DISPOSITION.—Subsection (a) of section 1232 (relating to bonds and other evidences of indebtedness) is amended by adding at the end thereof the following new paragraph:

"(A) CERTAIN SHORT-TERM GOVERNMENT OBLIGATIONS.—

"(A) IN GENERAL.—On the sale or exchange of any short-term Government obligation, any gain realized which does not exceed an amount equal to the ratable share of the acquisition discount shall be treated as ordinary income. Gain in excess of such amount shall be considered gain from the sale or exchange of a capital asset held less than 1 year.

"(B) SHORT-TERM GOVERNMENT OBLIGATION.—For purposes of this paragraph, the term 'short-term Government obligation' means any obligation of the United States or any of its possessions, or of a State or any political subdivision thereof, or of the District of Columbia which is issued on a discount basis and payable without interest at a fixed maturity date not exceeding 1 year from the date of issue. Such term does not include any obligation the interest on which is not includible in cross income under section 103 (relating to certain governmental obligations).

"(C) ACQUISITION DISCOUNT.—For purposes of this paragraph, the term 'acquisition discount' means the excess of the stated redemption price at maturity over the taxpayer's basis for the obligation.

"(D) RATABLE SHARE.—For purposes of this paragraph, the ratable share of the acquisition discount is an amount which bears the same ratio to such discount as—

"(i) the number of days which the taxpayer held the obligation, bears to

"(ii) the number of days after the date the taxpayer acquired the obligation and up to (and including) the date of its maturity.".

(C) TECHNICAL AMENDMENTS.—

(1) Subparagraph (D) of section 1231 (b)(1) is amended by striking out "paragraph (6)" and inserting in lieu thereof "paragraph (5)".

(2) Subparagraph (B) of section 341 (c)(2) is amended by striking out "(and governmental obligations described in section 1221(5))".

SEC. 7. PROMPT IDENTIFICATION OF SECURITIES BY DEALERS IN SECURITIES.

Subsection (a) of section 1236 (relating to dealers in securities) is amended—

(1) by striking out "before the expiration of the 30th day after the date of its acquisition" and inserting in lieu thereof "before the close of the day on which it was acquired (before the close of the following day in the case of an acquisition before January 1, 1982)", and

(2) by striking out "expiration of such 30th day" and inserting in lieu thereof "close of such day".

SEC. 8. TREATMENT OF GAIN OR LOSS FROM CERTAIN TERMINATIONS.

(a) GENERAL RULE.—Part IV of subchapter P of chapter 1 (relating to special rules for determining capital gains and losses) is amended by inserting after section 1234 the following new section:

"Sec. 1234A. Gains of losses from certain terminations.

"Gains or loss attributable to the cancellation, lapse, expiration, or other termination of a right or obligation with respect to personal property (as defined in section 1092 (e)(1)) which is (or on acquisition would be) a capital asset in the hands of the taxpayer shall be treated as gain or loss from the sale of a capital asset."

(b) CLERICAL AMENDMENT.—The table of sections for part IV of subchapter P of chapter 1 is amended by inserting after the item relating to section 1234 the following new item.

"Sec. 1234A. Gains or losses from certain terminations.".

SEC. 9. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in this section, the amendments made by this subtitle shall apply to property acquired and positions established by the taxpayer after June 23, 1981, in taxable years ending after such date.

(b) IDENTIFICATION REQUIREMENTS.—

(1) UNDER SECTION 1236 OF CODE.—The amendments made by section 7 shall apply to property acquired by the taxpayer after the date of the enactment of this Act in taxable years ending after such date.

(2) UNDER SECTION 1256(1)(2)(a) OF CODE.—Section 1256(e)(2)(P) of the Internal Revenue Code of 1954 (as added by this subtitle) shall supply to property acquired by the taxpayer after December 31, 1981, in

(c) ELECTION WITH RESPECT TO PROPERTY HELD ON JUNE 23, 1981.—If the taxpayer so taxable years ending after such date.

elects (at such time and in such manner as the Secretary of the Treasury or his delegate shall prescribe), the amendments made by this subtitle shall also apply to regulated

futures contracts or personal property held by the taxpayer on June 23, 1981, effective for periods after such date in taxable years ending after such date. For purposes of the preceding sentence, the term "regulated futures contract" has the meaning given to such term by section 1256(b) of the Internal Revenue Code of 1954, and the term "personal property" has the meaning given to such term by section 1092(c)(1) of such Code.

(d) NO CARRYBACK TO YEARS ENDING BEFORE JUNE 23, 1981.—No amount shall be allowed as a carryback under section 1212 (c) of the Internal Revenue Code of 1954 to any taxable year ending on or before June 23, 1981.

COMMODITY TAX STRADDLES

The proposal provides a comprehensive set of rules governing commodity straddles, cash-and-carry transactions and related transactions designed to prevent conversion of ordinary income into capital gains and the deferral of income. It does so, in principal part, by extending the rules of short sales and wash sales to commodity futures and other positions in personal property.

Regulated Futures Contracts.—These will be marked to market on disposition or at the end of the year without regard to whether they constitute straddles. That is, contracts subject to variable margin will be valued at their fair market value and taxed on such gain or loss at such times. Thus, only net losses on straddles will be deducted for tax purposes. This rule avoids most of the tracing problems inherent in an offsetting position approach.

Nonregulated Futures Contracts, Forward Contracts and Other Straddles.—In lieu of the general offsetting position rules of S. 626, for those commodities for which there is an active futures market, losses will be deferred to the extent there are unrealized gains in offsetting positions. However, such deferred losses cannot exceed such net unrealized gains. Moreover, these rules will not apply to nonregulated contracts if identified by the taxpayer as part of a straddle. All legs of such identified straddles must be opened simultaneously and thereafter such legs must be closed simultaneously; gain will be taxed when all legs are closed.

The general rules will apply to positions in tangible personal property (except stock) that is actively traded. The proposal thus takes a much narrower approach than several earlier proposals. In determining whether positions constitute a straddle a set of broad presumptions will apply. To secure compliance with this rule and prevent taxpayers playing the audit lottery, taxpayers will be required to disclose open, unidentified positions at year end.

Mixed Straddles.—In the case of mixed straddles consisting of positions of one or more regulated futures contracts and one or more other positions, a taxpayer may make a one-time election to have such straddles treated under the mark to market approach or the nonregulated futures rules. In the case of unidentified mixed straddles or in the absence of an election, the regulated futures contracts will be subject to the mark to market rule but the entire straddle will be otherwise subject to the loss deferral rules of the general provision.

Cash and Carry Transactions.—Taxpayers will be required to capitalize interest and carrying charges for certain offsetting positions. Thus, taxpayers will be denied a current deduction but permitted an increased basis in the asset.

Inventory and Commercial Hedges.—Broad rules will except identified inventory and commercial hedging transactions from the general rules governing regulated futures contracts. The hedge exception will not, however, reach hedges entered into outside a taxpayer's trade or business. Because of the breadth of the hedging exception, to prevent its use by tax shelters the rule will not be available to certain syndicates.

T-Bills.—Under the proposal, short-term Treasury bills held for investment will, like long-term bonds, be capital assets.

Identification of Securities.—Dealers will be required to identify securities held for investment (and entitled to capital gain and loss treatment) on the day such securities are acquired. A transitional rule which permits identification within one day will apply for calendar year 1981.

Rate.—Gains on straddles off the regulated exchanges will be taxed at long or short term capital gains depending upon holding period. Regulated futures contracts will be taxed at a maximum rate of 32%, based upon 40% short-term capital gains and 60% long-term capital gains.

Sale or exchange.—The proposal would provide that a disposition of a capital asset which gives rise to taxable income or recognizable loss would qualify as a capital transaction without regard to whether the transaction otherwise qualified as a sale or exchange.

Carrybacks.—The proposal would amend the general rules which prohibit the carryback of capital losses by individuals and instead permit individuals to carry back losses for three years against gains on regulated futures contracts and identified mixed straddles that are marked to market. The proposal would not extend the new carryback rules to other off exchange capital losses.

Effective Date.—The proposal would generally be effective for positions entered into after June 23, 1981. Taxpayers may also elect to have the rules of the proposal apply to property held on such date. No identification requirements for hedges will apply; however, to property acquired earlier than January 1, 1982. The proposal will thus permit existing unrealized appreciation to be brought within the system but does not provide an averaging rule for such gain. To the extent long-term stock options become regularly traded the rules of the proposal would apply.●

By Mr. MATHIAS (by request):

S. 1433. A bill to provide for improvements in the local planning process in the District of Columbia, a transfer authority over certain purely local planning activities in the Government of the District of Columbia, and for other purposes; to the Committee on Governmental Affairs.

IMPROVEMENTS IN THE DISTRICT OF COLUMBIA PLANNING PROCESS

● Mr. MATHIAS. Mr. President, I am introducing today legislation intended to clarify and expedite certain planning functions in the District of Columbia which are of a purely local nature.

The bill amends the D.C. Alley Dwelling Act; the D.C. Redevelopment Act of 1945; an act to provide a permanent system of highways in that part of the District of Columbia lying outside of cities; the D.C. Surplus Real Estate Act of 1939; the D.C. Land Exchange Act of 1951; and an act to establish a code of law for the District of Columbia, as amended.

I ask unanimous consent that a letter from the Mayor of the District of Columbia to the President of the Senate describing and justifying this legislation appear at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE DISTRICT OF COLUMBIA,
Washington, D.C. May 20, 1981.

Hon. GEORGE BUSH,
President, U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT: I have the honor of submitting for the consideration of the 97th Congress a draft bill "To provide for improvements in the local planning process in the District of Columbia, a transfer of authority over certain purely local planning activities to the government of the District of Columbia, and for other purposes."

The enclosed draft bill would provide for a transfer of certain local planning functions currently performed by the National Capital Planning Commission (the Commission) to the District of Columbia Government. Specifically, the draft bill would provide for: (1) elimination of the Commission's approval authority over plans for replatting and methods of condemnation of land for public housing projects under the D.C. Alley Dwelling Act (D.C. Code, 5–104); (2) a transfer to the Mayor of the Commission's authority to adopt and modify general or comprehensive urban renewal plans and redevelopment plans for urban renewal project areas (D.C. Code, secs. 5–705 and 5–711), (3) elimination of the Commission's authority to revise local plans for the permanent system of highways and to approve readjustment plats for educational, religious, and similar institutions (D.C. Code, secs. 7–109 and 7–113), (4) elimination of the Commission's approval authority over the sale of District-owned property that has been declared surplus (D.C. Code, sec. 9–301), (5) elimination of the Commission's approval authority of the Commission's approval authority over the exchange of District-owned property for abutting land (D.C. Code, sec. 9–401), and (6) elimination of the Secretary of Transportation's, the National Park Service's and the Commission's approval authority over local legislation regulating conduct on District waters (D.C. Code, sec. 22–1701).

The primary purpose of the draft bill is to clarify the respective roles of the National Capital Planning Commission and the District of Columbia Government in certain local planning matters. The Commission's present role in these local planning matters is a by-product of the pre-Home Rule practice of having the Commission serve as the central planning agency for local as well as Federal developments in the District of Columbia. Since the advent of Home Rule, a clear delineation of Federal and local planning interests has emerged.

The draft bill is designed to streamline the local planning process and remove unnecessary administrative impediments to the development of public housing projects, urban renewal projects, and other public and private development projects in the District of Columbia. The draft bill would eliminate the Commission's approval authority over those local planning activities, which experience has shown, involve little or no impact on Federal interests.

I urge the Congress to take prompt and favorable action on the enclosed draft bill.

Sincerely,

MARION S. BARRY, Jr.,
Mayor.●

By Mr. MATHIAS (for himself and Mr. DOMENICI):

S. 1434. A bill to eliminate the bar of the act of state doctrine to adjudication on the merits in certain cases in U.S. courts; to the Committee on the Judiciary.

INTERNATIONAL RULE OF LAW ACT

● Mr. MATHIAS. Mr. President, today Senator DOMENICI and I introduce a bill to end an outmoded practice that has handcuffed U.S. courts and worked to the

disadvantage of American interests abroad. We call this legal anachronism the act of state doctrine.

Many Americans do not realize that if one of the many plundered victims of Attila the Hun were able to bring "the Scourge of God" before the bar of justice in a U.S. court, the judge would probably dismiss the case. Under this oddity in U.S. jurisprudence Attila would have gotten off scotfree. The act of state doctrine prevents our courts from hearing, otherwise justifiable, cases that allege that a foreign government official violated international law.

In deference to this doctrine, our courts now automatically dismiss cases properly within their jurisdiction when the dispute requires them to judge the validity of an act of a foreign government. The most notorious examples in recent history date from Castro's expropriation of the assets of U.S. citizens after his takeover in 1959. Even though the takeovers were generally acknowledged to be both confiscatory and discriminatory and thus in violation of international law, U.S. courts dismissed the otherwise valid claims of the expropriated Americans trying to attach Cuban assets in this country. Hiding behind the skirts of the act of state doctrine, the courts refused to sit in judgment of the validity of Castro's expropriation under international law.

In the 20 years that have elapsed since Castro's expropriation, the act of state doctrine has been the source of continuing confusion. To free our courts from this self-imposed constraint and to put an end to dismissals by reflex under the the act of state doctrine. Senator DOMENICI and I now introduce a bill that directs judges to decide cases before their courts according to the relevant law. This bill, the International Rule of Law Act, should put our courts in step with the courts of advanced legal systems around the world by allowing them to hear disputes involving violations of international law that involve an act of a foreign government. It would permit the United States, to the limited extent possible in our legal system, to participate in the development and application of international law. A barricade across the courtroom door is no way to dispose of litigants who have the right to be inside.

The world that crowds in on us from all directions today is one in which some governments exploit helpless aliens, and issue discriminatory expropriation decrees. Prof. Don Wallace, Jr., of Georgetown's International Law Institute, recently wrote that:

The enactment of a bill that would limit the act of state doctrine, and enable the courts of the United States to declare and apply international law, would permit this country to contribute to the progressive development of international law throughout the world.

Such a demonstration is by now long overdue. The alternative might be a sad spectacle, where U.S. courts, by their very abstention, encourage violations of international law. The time has come to deal with the outmoded act of state doctrine. This confused doctrine of judicial abstention does harm to us as a nation, and it does harm to the individual men and women who are denied redress in our courts. America prides itself on being a country ruled by the law, where equal justice under law is available to all. We praise our independent judiciary for its renditions of just decisions untainted by political influences. I find it ironic that by shirking a responsibility taken on by other judiciaries around the world, U.S. courts announce that they will take no part in the development or application of international law.

America today is seen drawing back from active participation in a world of open borders and global markets that we helped create. The United States is alone among those nations with advanced legal systems in adhering to this version of the act of state doctrine. Having adopted a practice with roots in 17th century England, our courts have not adapted it to the 20th century. They have, perhaps unwittingly, disputed Mr. Justice Frankfurter's statement that "no court can make time stand still." We in Congress can free our courts from their self-imposed harness, and allow them to apply their wisdom and justice to controversies that need adjudication. Our international rule of law bill will harmonize our practice with the rest of the civilized world.

Mr. President, I ask unanimous consent that the text of our bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1434

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "International Rule of Law Act."

SEC. 2. FINDINGS AND DECLARATION OF PURPOSE.

The Congress finds and declares that the act of state doctrine should not be invoked to preclude the application of international law, including international law concerning the protection of persons and property; and that the act of state doctrine is conceptually and legally separate and distinct from the defense of "foreign sovereign compulsion." The Congress further declares that it is the purpose and intent of this Act to eliminate any bar of the act of state doctrine to the application of international law in the determination of the merits of any case.

SEC. 3. RESTRICTIONS ON THE ACT OF STATE DOCTRINE.

Title 28, Chapter 111, United States Code, is amended by inserting after Section 1656 the following new section:

"Section 1657. Elimination of the act of state doctrine in certain cases.

No court in the United States shall decline on the ground of the federal act of state doctrine to make a determination on the merits in any case in which the act of state is contrary to international law."

SEC. 4. APPLICATION OF INTERNATIONAL LAW.

(a) For purposes of this section, international law shall mean the law referred to in Article 38 of the Statute of the International Court of Justice as further refined by such acts of Congress heretofore or hereafter adopted to clarify principles of international law to be applied to U.S. courts, administrative bodies, and executive officers.

(b) In any case involving a violation of international law by a foreign state with respect to the personal, property, or contractual rights of a person not a national of that state, courts in the United States in deciding such cases shall apply principles and rules of international law.

SEC. 5. FOREIGN SOVEREIGN COMPULSION DEFENSE.

Nothing in this Act shall be deemed to modify the foreign sovereign compulsion defense, which shall continue to remain fully available in U.S. courts.

SEC. 6. REPEAL OF OTHER ACT: EFFECTIVE DATE.

(a) Effective on the date of enactment of this Act, Section 620(e)(2) of the Foreign Assistance Act of 1961, as amended (Title 22, Chapter 32, Section 2370(e)(2)) is repealed.

(b) The provisions of this Act shall become effective on the date of its enactment and shall apply to all cases where a final judgment has not been rendered.●

By Mr. THURMOND (for himself, Mr. EAST, and Mr. HELMS):

S. 1435. A bill to amend the Labor-Management Relations Act of 1947 with respect to suits for damages brought against individual defendants acting not in behalf of their union but in their personal and nonunion capacity for violating a no-strike provision of a collective-bargaining agreement, and for other purposes; to the Committee on Labor and Human Resources.

AMENDMENT OF LABOR-MANAGEMENT RELATIONS ACT

Mr. THURMOND. Mr. President, I am today introducing legislation designed to correct an egregious legal perversity which has apparently been brought about through a prior action of the U.S. Congress.

The U.S. Supreme Court, in the case of Complete Auto Transit, Inc., et al. against Reis et al., has recently held that under section 301(b) of the Labor-Management Relations Act, an employer may not sue his employees for damages arising out of an intentional breach of a collective bargaining agreement by those employees. Specifically, where individual employees participate in a wildcat strike in contravention of a no-strike clause contained in a valid contract, they cannot be sued for damages due to their breach of that contract.

According to the Court, section 301(b) only allows suits against the union itself for contract violations, and the union cannot be held accountable for the damages incurred because of the wildcat strike unless the union itself specifically authorizes or supports that strike. This essentially means that employers have no effective remedy against wildcat strikes by union employees, a point emphasized both in a concurring opinion by Justice Lewis Powell, and in the dissent to the main opinion.

My fellow Senators should be interested to learn that the Court based its decision in this case on what it described as the clear intent of the Congress, when enacting section 301(b), to exclude individual strikers from damage liability. Reading from the syllabus to the aforementioned case, the Court holds; and I quote:

Held: Section 301(a) does not sanction damages actions by employers against individual employees for violating the no-strike

provision of a collective-bargaining agreement, whether or not the union participated in or authorized the strike. The legislative history of § 301 clearly reveals Congress' intent to shield individual employees from liability for such damages, even though this results in leaving the employer unable to recover for his losses.

The anomalous result of this decision is that an employee may sue the employer directly for breach of the agreement or contract (even though the employee is not technically a party to the contract) but the employer may not sue an individual worker for a union-sponsored breach, nor may the employer sue the union members for breaches that the union has not condoned. Not only is this patently unfair to the employer, it is a rule in direct opposition to long established principles of basic contract law, which establish the concept of individual liability for individual conduct.

The bill I am introducing today will correct this artificially imposed aberration of law by inserting a new subsection into the body of section 301. The new language provides that a suit for money damages may henceforth be brought against individual officers and members of a labor organization when those individuals, acting in their personal and nonunion capacity and not in behalf of a labor organization, violate a no-strike clause in a collective-bargaining agreement.

I want to emphasize at this point that this bill is not intended to be of an anti-union nature, and I have no desire to limit in any way the legitimate activities and practices of the labor movement. Indeed, this legislation has no effect on the established labor organizations in this country at all. Rather, it is directed at the individual wildcat striker who promotes labor unrest against the wishes of his union. Responsible unions do not approve of the wildcat strike as a means of registering labor complaints, and should support this bill as a means of maintaining labor peace when there is a valid collective-bargaining agreement in existence.

There are those who will say that there is no need to pursue this type of legislation; first, because there are already remedies available to employers when they are targeted for wildcat strikes; and, second, because enactment of this legislation will entail new hardships on working Americans. In response to the latter contention, I can only say that I find nothing wrong with supporting a principle which states that individuals should be responsible for the consequences of their actions. All other individuals must face the prospect of personal liability for damages caused by their intentional acts; why should individual union employees be treated any differently?

As for the assertion that there are already remedies available to employers when they are subjected to illegal wildcat strikes. I would like to point out some of the fallacies of such arguments. As noted by Justice Lewis Powell in his concurring opinion to the Complete Auto Transit case, there are four main avenues of redress open to employers when faced with a wildcat strike: First, the employer can request that the union use its own internal disciplinary powers; second, the employer can sue the union entity for damages; third, the employer can obtain an injunction; and, lastly, the employer can discharge the workers involved in the wildcat strike. The problems attendant to the actual use of these remedies are manifest.

With regard to the use of internal union discipline, I would note that the Supreme Court has ruled the union has no affirmative obligation to intervene in or attempt to reconcile a wildcat strike. Under present law, the union is not liable for the actions of its workers unless it supports them, and union leadership is not inclined to actively involve itself in a dispute on the side of management. Such an action would only serve to alienate the leadership from its rank and file members. Therefore, the union entity has little or no incentive to intervene in these disputes, and may often be involved in unofficially supporting the efforts of the wildcatters.

A successful suit for damages against the union also fails to serve as an effective remedy for employers, mainly because such a suit is extremely difficult to maintain. As I have previously stated, financial accountability on the part of the union cannot be imposed unless the union is supporting the wildcat strike. I need hardly point out that few unions are going to allow themselves to be caught supporting an illegal wildcat strike, knowing full well that to do so would open the door to union liability.

When considering the use of injunctions to remedy breaches of valid and enforceable collective-bargaining agreements, it should be remembered that section 4 of the Norris-La Guardia Act, 29 U.S.C. 104, generally prohibits courts of the United States from enjoining strike activity. Even in the rare case where an injunction is not prohibited by this act, a court may still not impose injunctive relief unless the case is one in which an injunction would otherwise be appropriate.

Given all of this, where it is ultimately found that the issuance of an injunction is proper, courts are often reluctant to take this step, or they may be reluctant to impose contempt penalties on workers who do not adhere to the court's decree. As a matter of course, striking workers rarely honor court-ordered injunctions, and these workers are rarely, if ever, punished for their disobedience.

This leaves the employer with only the remedy of discharge available to him, a remedy both drastic in scope and counter-productive on application. Workers who illegally strike can be fired because such strikes are an unprotected activity under the National Labor Relations Act. However, Justice Powell, in his concurring opinion to the Complete Auto Transit case, noted three reasons why this remedy is ineffective.

First, in a large wildcat strike, wholesale discharges are impractical because the employer cannot maintain his business without an experienced work force.

Second, the National Labor Relations Board seems to have taken the position that an employer may not discipline one union official more severely than another, thereby rendering selective discharges illegal.

Lastly, such discharges may serve to harden the resolve of the other strikers, with the discharges themselves becoming an issue in the strike.

All of these factors illustrate the need to have these illegal wildcat strikers made to bear the responsibility for the consequences of their actions. Valid collective-bargaining agreements arrived at through arms-length bargaining are meant to insure industrial peace during the term of the contract. Such agreements involve give-and-take on both sides, with the employer yielding traditional managerial prerogatives in return for commitments on the part of labor, primarily that of no strikes during the term of the contract.

If workers can break these agreements with impunity, the employer has given up his rights with no concomitant gains received in return. Chief Justice Burger, in his dissent which questions whether Congress even intended to authorize the exemption I have discussed, states the case for imposing individual liability on wildcate strikers as follows:

> Accountability of each individual for individual conduct lies at the core of all law—indeed, of all organized societies. . . . This principle of individual accountability is fundamental if the structure of an organized society is not to be eroded to anarchy and impotence, and it remains essential in civil as well as criminal justice. Today the court penalizes the employer for the 'wildcat' breaches of the employees and rewards those errant employees.
>
> It seems to me that, by now, the American labor movement has matured sufficiently so that neither unions nor their members need this kind of paternalistic protection for admittedly illegal acts—a protection contrary to fundamental, centuries-old concepts of individual accountability. The stability of unions and the harmony of industrial relations will be enhanced, not impaired, by applying to union members the same standards of accountability that govern all other individuals in society. . . . I submit that if union members understand that where they breach a contract without the approval of their union, individual liability will follow, we will very likely see fewer unauthorized strikes, for union authority will be enhanced and greater industrial harmony will likely result.

Mr. President, I find the Chief Justice's remarks persuasive, and I trust my colleagues will also.

I ask unanimous consent that a copy of the bill be printed in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1435

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 301 of the Labor Management Relations Act, 1947, is amended by inserting "(1)" after the subsection designation, and by adding at the end thereof the following new paragraph:

"(2) a suit for money damages may be brought under this subsection against individual officers and members of a labor organization, acting in their personal and nonunion capacity and not in behalf of a labor

organization, by an employer for a violation of a no strike clause in a collective-bargaining agreement.".

By Mr. ABDNOR (for himself and Mr. PRESSLER):

S. 1437. A bill to authorize the construction of a project for pumped-storage hydropower development and other purposes at Fort Randall Dam-Lake Francis Case, S. Dak.; to the Committee on Environment and Public Works.

CONSTRUCTION OF A HYDROPOWER PROJECT

● Mr. ABDNOR. Mr. President, today I am introducing legislation to authorize the Gregory County pumped-storage project, which will increase the hydroelectric potential of the Missouri River dams by 58 percent and irrigate approximately 52,000 acres of land. Senator PRESSLER has joined with me in cosponsoring this bill.

This project has a benefit-cost ratio of 1.8, and the Department of Energy estimates it will reduce imported oil demands by 2.9 million barrels annually, saving over $90 million a year.

The mechanics of the Gregory project are that it will utilize coal-fired energy provided by the Western Area Power Administration to pump water up onto the bluffs for storage. During peaking hours the water would be run down the bluff through the turbines and generate 1,180,000 kilowatts of power. The project potentially could be increased to 2.4 million kilowatts, and at this size, it would save over $180 million annually in reduced oil consumption.

The local conservancy sub-district supports this project and the local people are very excited about the irrigation possibilities. In this semiarid area we desperately need water to improve the viability of the agriculturally based economy.

It should be noted that President Reagan presented this statement to the Western States Water and Consumer Power Conference on October 3, 1980, on the Gregory project:

In South Dakota, for example, the Gregory County Pump Storage Project demonstrates what could be done by an Administration committed to a policy of energy development. . . . This pump storage project should be under construction right now.

In conclusion, Mr. President, I hope my colleagues will join me in supporting this project that will provide much-needed, low-cost power for the Midwest and potentially 52,000 acres of irrigation at little additional cost for south-central South Dakota.●

By Mr. BIDEN:

S. 1438. A bill to amend section 307 of the Communications Act of 1934; to the Committee on Commerce, Science, and Transportation.

AMENDMENT OF COMMUNICATIONS ACT OF 1934

● Mr. BIDEN. Mr. President, today, I am introducing legislation which, if enacted, would go a long way to solving one of Delaware's long standing problems—the lack of a commercial VHF television station within Delaware. In fact, Delaware is the only State which has neither a VHF or UHV commercial station. Delawareans are entitled to the same news and programing coverage of their communities as are the other 96 percent of the residents of the United States.

Last week, the House Subcommittee on Telecommunications, Consumer Protection, and Finance held a hearing on legislation addressing both Delaware's and New Jersey's lack of commercial VHF coverage. I ask unanimous consent to have reprinted in the RECORD the text of my testimony.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR JOSEPH R. BIDEN, Jr.

Mr. Chairman, once again I welcome an opportunity to discuss the unique situation which presents itself to citizens of Delaware and the neighboring State of New Jersey with respect to in-state television coverage.

Neither Delaware nor New Jersey has a VHF television station, a basic service which 96.5 percent of the Nation's population residing in the other 48 States take for granted. Delaware, in fact, lacks even the UHF television facilities which New Jersey has at present.

In an age when television has replaced newspapers and radio as the primary source of news, the absence of a commercial television station in Delaware is an inexcusable disservice to the public in that State. But this communications void need not continue. Solutions are available to the television problems which are unique to Delaware and New Jersey. Indeed, this hearing is yet another step toward providing such solutions.

I appreciate your willingness to hold this hearing, and I hope that the legislation we are discussing today will be reported favorably in the very near future. I am committed to ensuring the adoption of similar legislation in the Senate.

DELAWAREANS DESERVE ADEQUATE COVERAGE

Delaware is a small state. It has been fought over in one way or another since the 17th Century, when the proprietors of both Pennsylvania and Maryland claimed the area for their colonies. But Delaware eventually established its own identity as a colony and went on to become the first state to ratify the national Constitution. Ironically, however, the state that produced the quickest ratification largely because of the relative ease of communicating with its citizens may become the last state to win for its citizens the right to full-fledged commercial television service within its own borders.

The 600,000 television viewers of Delaware have been denied that fundamental service that is enjoyed almost universally elsewhere in the nation, commercial television programing originated within the state.

If you ask a child or even many adults who the governor of Delaware is, you are more likely than not to be given the name of the governor of Pennsylvania or Maryland, depending on whether you are in the northern or southern part of the state.

Delaware viewers comprise only a small fraction of the market for either the Philadelphia or Baltimore television stations. As a result, those stations provide little more daily coverage than the next day's weather forecast for Delaware's seashore resorts. To add insult to injury, almost all the public service programing to which Delawareans have access is aimed at Philadelphians and Baltimoreans. Delawareans hear more about the city councils and boards of education in Philadelphia and Baltimore than they do about their own city and county governments. Two winters ago, for instance, the governor of Delaware declared a state of emergency, but television viewers in Delaware were told only about a traffic jam in the Baltimore Harbor Tunnel or a fire in Philadelphia. The people of Delaware deserve better.

Our quest for a Delaware-based VHF television station is not intended, let me add, to be unneighborly toward Pennsylvania or Maryland, nor toward the commercial television stations that serve the Philadelphia and Baltimore markets. Those states deserve their own commercial television service, just as Delaware does, and the stations serving those big-city markets must respond to the economic realities of their service areas. But Delaware should not suffer the consequences of those realities by default, as it does now.

Developing a mechanism that would allow Delaware to secure its own commercial VHF allocation is the issue I am addressing here today.

EXISTING DELAWARE SERVICE

At present, Delaware has neither a VHF nor a UHF television station operating within the state. There is one public television station, WHYY-TV (Channel 12), licensed in Delaware, but it is in fact an essentially Pennsylvania-oriented station that, like the Philadelphia commercial stations, focuses its attention primarily on the Philadelphia market.

WHYY's executive offices, principal studios and transmitter are all located in Philadelphia. Most of the station's personnel and most of its programing decisions are made in that city. There is a Channel 12 studio in Wilmington, where modest news and public service programing are produced; WHYY, in fact, offers more Delaware-oriented programing than any of the Pennsylvania or Maryland stations. But it remains essentially a Philadelphia station, and its Delaware programing is by no means sufficient to Delaware's needs.

EFFORTS TO IMPROVE DELAWARE TV PROGRAMMING

Within the severe limits on Delaware-oriented television programming imposed by the lack of a Delaware VHF commercial station, there have been significant and successful efforts in recent years to improve upon the poverty of television services in the state. These efforts have not, and could not, fully compensate for the lack of commercial television within the state, but they have been important and I do not want to overlook them here.

I want especially to recognize the important role performed by the Delaware Citizens Committee and, earlier, by the Citizens Committee for the Expansion of Television to Delaware (CCETD). Today the Citizens Committee is the permittee of Channel 64—an ETV/PBS translator station—in Seaford, Delaware. Channel 64 has no studio. It originates no programming. But it does provide an important service to the citizens of southern Delaware by rebroadcasting the Delaware-originated programming of Channel 12. Limited as it is, Channel 64 is Delaware's only entirely in-state television station.

The Delaware Citizens Committee was also actively involved in the FCC proceedings which led last year to the authority to construct a commercial UHF station to operate on Channel 38, also assigned to Seaford. To date, however, the company which proposed to construct the station has been unable to negotiate network affiliation. Without such affiliation, it is unclear whether Channel 38 will become a reality.

H.R. 2128 AND ITS IMPACT UPON DELAWARE

The television programming void faced by the people of Delaware and New Jersey is not a new problem. Organizations like the Delaware Citizens Committee and its counterparts in New Jersey have petitioned the Federal Communications Commission requesting

assignment of commercial VHF service for their respective states.

In response the FCC has held hearings, ordered the preparation of staff reports and mandated existing out-of-state stations to provide greater coverage to the two states and to maintain a physical presence in both. Such solutions were opposed by the Delaware and New Jersey organizations as unworkable. Time has proven them correct. The only way to ensure Delawareans adequate coverage of news and adequate public service programming is to provide commercial television service based in and broadcasting from Delaware, not from Pennsylvania or Maryland.

In the last Congress, this subcommittee recognized this television programming problem. Hearings were held, and language similar to the bill we are examining today was included as part of H.R. 6228, the Communications Cross-Ownership Act of 1980. In the closing days of the 96th Congress, this legislation was debated in the House under the "suspension of rules" procedures. While a majority of the House voted aye, it was not the two-thirds majority required under the suspension and the bill was sent back to the committee, where the "Maguire" language was stricken to expedite passage of the underlying bill prior to adjournment.

H.R. 2128 and its counterpart in the Senate, S. 525, provide a mechanism whereby the FCC might eventually assign a commercial VHF station to Delaware and New Jersey. But this legislation, as introduced, provides Delawareans with only a glimmer of hope. It does not mandate such an assignment, and it cannot—since there is no vacant channel available in these market areas. Nor does this legislation mandate the reassignment of an existing Pennsylvania or Maryland station to Delaware or an existing Pennsylvania or New York station to New Jersey. It does have the effect of mandating the assignment to Delaware or New Jersey of any appropriate station whose license is either not renewed or is revoked by the FCC at some time in the future.

This provision is conditioned by certain factors:

1. Such an assignment must be technically feasible.

2. The license must have been revoked or not renewed after January 1, 1980.

3. No assignment can be made until after all litigation is concluded.

H.R. 2128, as introduced, provides an equitable mechanism for offering minimal commercial television service to the eight million residents of Delaware and New Jersey. But H.R. 2128 offers Delawareans only the possibility of eventual in state television programming. For that reason, I urge the subcommittee to include language directing the FCC to assign a "drop-in, limited-facility" VHF station to Delaware if, and only if, it is technically feasible.

As the subcommittee is aware, the FCC last November proposed a new rule making "drop-in" stations possible nationwide. This action reversed an earlier FCC decision against allocating short-spaced VHF stations. In addition, the FCC last September approved such allocations for four cities: Charleston, West Virginia; Altoona/Johnstown, Pennsylvania; Knoxville, Tennessee; and Salt Lake City, Utah. Just this week, the reply comment period expired on this proposed rulemaking. Given the changes in the commission's membership which have occurred as a result of the election, it is unclear whether this rulemaking will proceed. I hope it does. But no matter what the commission eventually decides, allocation of an LFS to Delaware would be a significant step toward filling the existing void in the television programming originating in Delaware.

Is assignment of a Limited Facility Station to Delaware technically feasible? The Delaware Citizens Committee believes it is. Following the commission's vote last fall, a study was underwirtten by the Delaware Citizens Committee. It found that a VHF station using Channel 8 could be dropped in at Seaford at the proposed coordinates of UHF Channel 38.

By the inclusion of such a provision in H.R. 2128, Delaware might be able to obtain its long-sought VHF service without awaiting a corresponding loss of service in either Philadelphia or Baltimore. As long as this alternative appears to be technically feasible, I can see no reason for not giving it a chance. Delawareans deserve the opportunity.

Finally, while this alternative might not solve New Jersey's service problems because of its location between Philadelphia and New York, including it would certainly not hinder New Jersey's chances for a VHF allocation.

In conclusion, I urge the subcommittee to support including language authorizing the allocation of a Limited Facility VHF station to Delaware. For my part, I will pursue its adoption in the Senate.

Thank you.

By Mr. PELL (for himself, Mr. CHAFEE, Mr. KENNEDY, Mr. WILLIAMS, Mr. BRADLEY, Mr. TSONGAS, Mr. DODD, Mr. LEAHY, Mr. LEVIN, Mr. MOYNIHAN, Mr. METZENBAUM, Mr. RIEGLE, Mr. SARBANES, Mr. MITCHELL, and Mr. BUMPERS):

S. 1439. A bill to provide for the distribution of overcharges collected by the Department of Energy; to the Committee on Labor and Human Resources.

FUEL OVERCHARGES SHOULD BE RETURNED TO CONSUMERS AND STATES

Mr. PELL. Mr. President, the Washington Post earlier this week reported that the Federal Government is considering keeping for itself billions of dollars in overcharges that the Department of Energy is presently recovering from oil companies because of the difficulty in returning the money to consumers.

If such a decision is made, the Federal Government would retain more than $1.6 billion in settlements already negotiated with the oil companies and possibly as much as $12.6 billion in overcharge settlements if current DOE on-going investigations prove that violations of price and allocation rules between 1973 and January 1981 are correct.

The issue of what should be done with the overcharge settlements by DOE is receiving considerable attention by the Reagan administration since the Department of Energy is moving ahead on its investigations of alleged violations and there remains considerable uncertainty over what should be done with the substantial settlements from the oil companies. Recently the General Accounting Office submitted a study to the administration suggesting that the cash recovered from the oil companies should go directly to the U.S. Treasury if the overcharged customers cannot be identified.

Mr. President, the Reagan administration has succeeded in making substantial cuts in conservation program funding that would have meant a great deal to the frost belt States in easing the energy cost burden upon consumers, and equally important, reducing our dependency upon imported oil.

They proposed, for example, to phase out the DOE weatherization programs that have helped ease the energy burden in the Northeast for many families. In Rhode Island, more than 1,500 houses were weatherized by local CAP agencies in 1980 alone. Although I am hopeful that weatherization funding will be authorized, the amount and certainty of funding is not clear at this time.

Mr. President, the dilemma which the administration faces with the substantial funds that have been collected by DOE provides an excellent opportunity for President Reagan to restore some of the conservation funding without affecting the current congressional efforts to balance the Federal budget in the coming years.

I understand the Department of Energy is currently reviewing a number of options for returning the moneys to consumers, however, I am deeply concerned that the administration will make the decision to place all of the moneys from the oil companies' overcharges in the U.S. Treasury. These overcharges, I believe, belong to the consumers.

The problem confronting the Governernment is a real one. In most cases it is either difficult or impossible to determine exactly which consumers were the victims of overcharges so that refunds can be made to them. And in many cases, even if it is possible to identify the overcharged consumers, the amount of the refund due to each consumer would be smaller than the administrative cost of making the refund.

The problem of refunding overcharges is real, but the solution being considered by the administration is wrong. Taking funds that were gouged illegally from consumers by the oil companies and treating those funds as a financial bonanza for the Federal Government is really not equitable. Those recovered overcharge funds belong to the consumers of this Nation, and using them as general revenues is in effect imposing a tax on consumers.

I suggest that, if the actual individual consumers who were overcharged cannot be identified, and the amount refunded, then the funds should be used to ease the burden of consumers who have been most hurt and have suffered most severely from the sharp increase in the price of oil products during the past several years. This could be done by earmarking these funds for existing home weatherization and low-income energy assistance programs.

Mr. President, I am today introducing legislation that will return these moneys, collected by DOE as settlements, are negotiated to consumers directly through the States. Under the legislation I am proposing, funds collected by DOE would be allocated to States for both weatherization and low-income energy assistance programs. The formula for distribution to the States would be the same as that reauthorized under the reconciliation bill for the low-income energy block grant

assistance program. No more than 10 percent of the funds could be used for administrative costs.

Mr. President, as I have mentioned previously, the administration has an excellent opportunity to provide assistance to many families in the frost belt who will need substantial relief from their energy cost burden in the coming years. Since there will be very limited funding for weatherization programs along with other conservation efforts, I hope the administration will support this legislation. Consumers who were overcharged over the past years have every right to the funds which have been collected by the Department of Energy, the money should certainly not go to the U.S. Treasury.

Mr. President, I ask unanimous consent that the text of my legislation be printed in the RECORD at the conclusion of my remarks along with the June 23 article from the Washington Post.

There being no objection, the bill and article were ordered to be printed in the RECORD, as follows:

S. 1439

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Low-Income Fuel and Weatherization Supplementary Assistance Act".

HOME ENERGY GRANTS AUTHORIZED

SEC. 2. (a) The Secretary is authorized to make grants, in accordance with the provisions of this Act, to States to assist eligible households to meet the costs of home energy. Not more than 10 percent of the funds available to each State under this Act may be used to meet administrative costs.

(b) There are authorized to be appropriated for the fiscal year 1982 and for each of the four succeeding fiscal years to carry out the provisions of this Act 100 percent of all funds received by the Federal Government from collections and settlements for fuel overcharges, less such amounts as may be necessary to pay all identifiable legitimate claims for such overcharges.

(c) Upon receipt of a grant under this Act, the Governor of a State shall have the discretion to allocate the funds for weatherization or energy grant assistance as needed.

DEFINITIONS

SEC. 3. As used in this Act—

(1) "household" means any individual or group of individuals who are living together as one economic unit for whom residential energy is customarily purchased in common or who make undesignated payments for energy in the form of rent;

(2) "home energy" means a source of heating or cooling in residential dwellings;

(3) "lower living standard income level" means the income level, adjusted for (A) family size, and (B) regional, metropolitan, and nonmetropolitan differences (or, as the State at its option may select, a single level from among the levels adjusted under this clause as applicable to such State), determined annually by the Secretary of Labor based upon the most recent "lower living standard family budget" issued by the Secretary of Labor;

(4) "Secretary" means the Secretary of Health and Human Services;

(5) "State" means each of the several States and the District of Columbia; and

(6) "energy crisis intervention" means weather related and supply shortage emergencies.

STATE ALLOCATIONS

SEC. 4. (a)(1) The Secretary shall, from 99.9 percent of the amount appropriated under section 2 for each fiscal year, allot to each State an amount equal to such 99.9 percent multiplied by the State's allotment percentage.

(2)(A) For purposes of paragraph (1), a State's allotment percentage is the percentage which the amount the State was eligible to receive under the allotment formulas of the Home Energy Assistance Act of 1980 bears to the total amount available for allotment under such formulas.

(B) For purposes of subparagraph (A), the allotment formulas of the Home Energy Assistance Act of 1980 shall be treated as including the rules provided by, and the rules referred to in, section 101(j) of Public Law 96–536.

(3) If the sums appropriated for any fiscal year for making block grants under this Act are not sufficient to pay in full the total amount allocated to a State under paragraph (1) of this subsection for each fiscal year, the amount which all States will receive under this Act for such year shall be ratably reduced.

(4) For the purpose of this subsection, the term "State" does not include the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(b)(1) The Secretary shall apportion the one-tenth of 1 percent remaining in each fiscal year on the basis of need between the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(2) Each jurisdiction to which paragraph (1) applies may receive grants under this Act on an application submitted to the Secretary containing provisions which describe the programs for which assistance is sought under this Act, and which are consistent with the requirements of section 6 of this Act.

(c) Of the funds available to each State under subsection (a), a reasonable amount based on data from prior years shall be reserved by each State for energy crisis intervention.

(d)(1) If, with respect to any State, the Secretary—

(A) receives a request from the governing body of an Indian tribe or tribal organization within the State that assistance under this Act be made directly to such tribe or organizations, and

(B) determines that the members of such tribe or tribal organization would be better served by means of grants made directly to provide benefits under this Act, the Secretary shall reserve from amounts which would otherwise be allotted to such State under this Act for the fiscal year the amount determined under paragraph (2).

(2) The Secretary shall reserve for the purpose of paragraph (1) from sums that would otherwise be allotted to such State not less than 100 percent of an amount which bears the same ratio to the State's allotment for the fiscal year involved as the population of all eligible Indians for whom a determination under this paragraph has been made bears to the population of all eligible households in such State.

(3) The sums reserved by the Secretary on the basis of a determination under this subsection shall be granted to the Indian tribe or tribal organization serving the individuals for whom such a determination has been made.

(4) In order for an Indian tribe or tribal organization to be eligible for an award for a fiscal year under this subsection, it shall submit to the Secretary a plan for such fiscal year which meets such criteria as the Secretary may prescribe by regulation.

(5) The terms "Indian tribe" and "tribal organization" have the same meaning given such terms in section 4(b) and section 4(c) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(b) and (c)).

APPLICATIONS AND REQUIREMENTS

SEC. 5. (a) Each State desiring to receive an allotment for a fiscal year under this Act shall submit an application to the Secretary. Each such application shall be in such form as the Secretary shall require. Each such application shall contain assurances by the chief executive officer of the State that the State will comply with subsection (b) and will meet the conditions enumerated in subsection (c).

(b) After the expiration of the first fiscal year in which a State received funds under this Act, no funds shall be allotted to such State for any fiscal year under this Act unless the legislature of the State conducts public hearings on the proposed use and distribution of funds to be provided under this Act for such fiscal year.

(c) As part of the annual application required by subsection (a), the chief executive officer of each State shall certify that the State agrees to—

(1) use the funds available under this Act for the purposes described in section 2 and otherwise in accordance with the requirements of this Act;

(2) describe households in the State eligible for assistance and give priority to households with incomes equal to or less than the lower living standard income level or, in the case of a one person household, with an income equal to or less than 125 percent of poverty;

(3) conduct outreach activities designed to assure that eligible households, especially households with elderly individuals or handicapped individuals, or both, are made aware of the assistance available under this Act;

(4) coordinate its activities under this Act with similar and related programs run by the Federal Government and such State, particularly low-income weatherization programs;

(5) describe the amount of assistance to be provided to or on behalf of participating households assuring (A) that priority is given to households with lowest incomes and to eligible households having at least one elderly or handicapped individual, and (B) that the highest level of assistance is provided to households with lowest incomes and the highest energy costs in relation to income;

(6) give special consideration in the designation of local administrative agencies to any local public or private nonprofit agency which is receiving Federal funds under any low-income energy assistance program or weatherization program on the date of the enactment of this Act, except that (A) the State shall, before giving such special consideration, determine that the agency involved meets program and fiscal requirements established by the State, and (B) if there is no such agency because of a change in the assistance furnished to programs for economically disadvantaged persons, then the State shall give special consideration in the designation of local administrative agencies to any successor agency which is operated in substantially the same manner as the predecessor agency which did receive funds in the fiscal year preceding the fiscal year for which the determination is made;

(7) if the State chooses to pay home energy suppliers directly, establish procedures to—

(A) notify each participating household of the amount of assistance paid on its behalf.

(B) assure that the home energy supplier will charge the eligible household, in the normal billing process, the difference between the actual cost of the home energy

and the amount of the payment made by the State under this Act.

(C) assure that the home energy supplier will provide assurances that any agreement entered into with a home energy supplier under this clause will contain provisions to assure that no household receiving assistance under this Act will be treated any differently because of such assistance under applicable provisions of State law or public regulatory requirements, and

(D) assure that any home energy supplier receiving direct payments agrees not to discriminate, either in the cost of the goods supplied or the services provided, against the eligible household on whose behalf payments are made;

(8) provide assurances that the State will treat owners and renters equitably under the program assisted under this Act;

(9) provide that—

(A) in each fiscal year, the State may use for planning and administering the funds available under this Act an amount not to exceed 10 percent of its allotment under this Act for such year; and

(B) the State will pay from non-Federal sources the remaining costs of planning and administering the plan and will not use Federal funds for such remaining costs;

(10) provide that fiscal control and fund accounting procedures will be established as may be necessary to assure the proper disbursal of and accounting for Federal funds paid to the State under this Act, including procedures for monitoring the assistance provided under this Act, and provide that at least every year each State shall prepare an audit of its expenditures of amounts received under this Act and amounts transferred to carry out the purposes of this Act; and

(11) permit and cooperate with Federal investigations undertaken in accordance with section 8.

The Secretary may not prescribe the manner in which the States will comply with the provisions of this subsection.

(d)(1) In addition to the requirements of subsection (c), the chief executive of each State shall prepare and furnish to the Secretary a plan which contains provisions describing how the State will carry out the assurances contained in subsection (c). The chief executive of each State may revise any plan prepared under this paragraph and shall furnish the revised plan to the Secretary.

(2) Each plan prepared under paragraph (1) of this subsection shall be made available for public inspection within the State in such a manner as will facilitate review of, and comment on, the plan.

(e) Each audit required by clause (10) of subsection (c) shall be conducted by an entity independent of any agency administering activities or services carried out under this Act and shall be conducted in accordance with generally accepted accounting principles. Within thirty days after the completion of each audit, the chief executive officer of the State shall submit a copy of such audit to the legislature of the State and to the Secretary.

(f) The State shall repay to the United States amounts found not to have been expended in accordance with this Act or the Secretary may offset such amounts against any other amount to which the State is or may become entitled under this Act.

(g) The Comptroller General of the United States shall, from time to time, evaluate the expenditures by States of grants under this Act in order to assure that expenditures are consistent with the provisions of this Act and to determine the effectiveness of the State in accomplishing the purposes of this Act.

NONDISCRIMINATION PROVISIONS

SEC. 6. (a) No person shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this Act. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity.

(b) Whenever the Secretary determines that a State that has received a payment under this Act has failed to comply with subsection (a) of this section or an applicable regulation, he shall notify the chief executive officer of the State and shall request him to secure compliance. If within a reasonable period of time, not to exceed sixty days, the chief executive officer fails or refuses to secure compliance, the Secretary is authorized to (1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted, (2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, or section 504 of the Rehabilitation Act of 1973, as may be applicable, or (3) take such other action as may be provided by law.

(c) When a matter is referred to the Attorney General pursuant to subsection (b) of this section, or whenever he has reason to believe that the State is engaged in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

PAYMENTS TO STATES

SEC. 7. (a) From its allotment under section 4, the Secretary shall make payments to each State in accordance with section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213), for use under this Act.

(b) Payments to a State from its allotment for any fiscal year must be expended by the State in such fiscal year or in the succeeding fiscal year.

WITHHOLDING

SEC. 8. (a)(1) The Secretary shall, after adequate notice and an opportunity for a hearing conducted within the affected State, withhold funds from any State which does not utilize its allotment in accordance with the provisions of this Act and the assurances such State provided under section .

(2) The Secretary shall respond in an expeditious and speedy manner to complaints of a substantial or serious nature that a State has failed to use funds in accordance with the provisions of this Act or the assurances provided by the State under section 5. For the purpose of this paragraph a violation of any one of the assurances contained in section 5(c) that constitutes a disregard of that assurance shall be considered a serious complaint.

(3) The Secretary may not withhold funds under this subsection from a State for a minor failure to comply with the provisions of this Act.

(b) (1) The Secretary shall conduct in several States in each fiscal year investigations of the use of funds received by the States under this Act in order to evaluate compliance with the provisions of this Act.

(2) Whenever the Secretary determines that there is a pattern of complaints from any State in any fiscal year, he shall conduct an investigation of the use of funds received under this Act by that State in order to insure compliance with the provisions of this Act.

(3) The Comptroller General of the United States may conduct an investigation of the use of funds received under this Act by a State in order to insure compliance with the provisions of this Act.

(c) Pursuant to an investigation conducted under subsection (b), a State shall make appropriate books, documents, papers, and records available to the Secretary or the Comptroller General of the United States, or any of their duly authorized representatives, for examination, copying, or mechanical reproduction on or off the premises of the appropriate entity upon a reasonable request therefor.

(d) In conducting any investigation under subsection (b), the Secretary or the Comptroller General of the United States may not request any information not readily available to such State or require that any information be compiled, collected, or transmitted in any new form not already available.

LIMITATION ON USE OF GRANTS FOR CONSTRUCTION

SEC. 9. (a) Except as provided in subsection (b), grants made under this Act may not be used by the State, or by any other person with which the State makes arrangements to carry out the purposes of this Act, for the purchase or improvement of land, or the purchase, construction, or permanent improvement (other than low-cost residential weatherization or other energy-related home repairs) of any building or other facility.

(b) The Secretary may waive the limitation contained in subsection (a) upon the State's request for such a waiver if he finds that the request describes extraordinary circumstances to justify the purchase of land or the construction for facilities (or the making of permanent improvements) and that permitting the waiver will contribute to the State's ability to carry out the purposes of this Act.

[From the Washington Post]

DEPARTMENT OF ENERGY—U.S. FINDS OIL OVERCHARGE MONEY HARD TO GIVE BACK

(By Douglas B. Feaver)

The federal government is proposing to keep for itself billions of dollars in overcharges it is recovering from oil companies because of the difficulty of returning the money to the customers.

The problem is in the hands of the Department of Energy and is likely to be around for some time, despite President Reagan's elimination of controls on petroleum prices.

More than 1,000 alleged violations of price and allocation rules are still under investigation by two Department of Energy enforcement offices. If all the allegations are correct, petroleum product customers were overcharged $12.6 billion from August, 1973, to last January, the period when price controls were in effect. DOE officials have already reached settlements totaling $1.6 billion.

Once cases are settled, either through negotiated agreements or litigation, something must be done with the money, and that's where it gets tough. The Reagan administration is studying a General Accounting Office suggestion that cash recovered from oil companies should go directly to the U.S. Treasury if overcharged customers cannot be "readily identified."

What that means is that companies like the airlines, who know exactly how much jet fuel they purchased, what they paid for it and who sold it to them, are going to get some money. The little guy, who buys heating oil for his furnace or gasoline for his car, who doesn't use a credit card or has long

since lost his stubs, is unlikely to benefit directly.

This is the same problem that Paul Bloom, the former chief of DOE's Office of Special Counsel, solved in February by giving $4 million in recovered overcharges to four major charities and instructing them to distribute it to needy people who had trouble paying their heating oil bills.

That episode, which surprised the new Reagan administration, ended when the charities were told to keep $3 million and return $1 million. Bloom's solution is being studied by the Justice Department to determine its legality. It clearly does not meet the new administration's criteria for handling the problem.

In fact, there was talk early in the administration of disbanding the enforcement effort, and the original Reagan budget for the year beginning Oct. 1 would just about have done that. But Energy Secretary James B. Edwards has promised Congress and reporters that "there will be no amnesty" for those who violated price controls.

Reductions are taking place in Energy's enforcement staff as in many other federal offices, but the enforcement program is apparently going to come through the budget reconciliation process essentially intact, according to congressional sources.

"The vibes I'm getting now are, 'Keep up the work,' but nobody calls it good work," said George Breznay, director of Energy's Office of Hearings and Appeals. "It's regarded as something like pulling teeth; it's got to be done." Breznay's office is charged with figuring out how to disburse the money once it is recovered.

In the days of controls, DOE would simply order the offending gasoline station or oil refiner to roll back prices. "Even that was far from perfect," Breznay said. "If a service station cuts prices a few cents, then he might have the cheapest gasoline on the block and get a lot of somebody else's customers who had not been overcharged."

Settlements between the department and oil companies include the establishment of pools of money against which groups can file claims. Some groups are well equipped for this because they have good records and can demonstrate that they lost large amounts of money.

That's not the case with the auto owner. If he was overcharged two-tenths of a cent per gallon in 1977 and drove 10,000 miles in a car that averaged 15 miles per gallon, then his total overcharge that year would have been $1.33. The administrative costs of proving that overcharge and writing the check are a good deal higher.

The argument for sending the money to the Treasury if it cannot be precisely refunded is that everybody benefits, at least indirectly, through increased federal revenue.

Carl Corrallo, solicitor in the Office of Special Counsel, which is responsible for prosecuting overcharge allegations against the 15 biggest oil companies, said, "When we started the audits in 1977, we charted all kinds of permutations on how to win, but never gave a lot of thought about what to do with the money."

Mr. CHAFEE. Mr. President, officials in the Department of Energy now find themselves faced with the question of how to distribute billions of dollars in overcharges collected from the oil companies. The funds are being recovered from the oil companies to make up for overcharges that occurred when oil price controls were in effect. Settlements totalling $1.6 billion have already been made and the total collected could range to nearly $13 billion.

So the question now stands, what to do with the money? The obvious answer is to return the funds to those who were originally overcharged, that is, American consumers. But this option is difficult to administer and would probably result in little benefit to individual homeowners or drivers. Since few consumers keep accurate, detailed records of oil and gasoline purchases, they would find it difficult to collect their portion of the overcharge. However, large consumers such as the airlines or industrial customers, who normally use one supplier and keep receipts, would be easily reimbursed,

Since returning the money to consumers seems overly burdensome, expensive to administer and potentially inequitable, the General Accounting Office has recommended that the money be turned over to the coffers of the Federal Government. Mr. President, we all know that the Federal Government is running a deficit and could use each dollar of the $13 billion to reduce the size of the deficit. But using money recovered from overcharges to consumers to balance the Federal budget is just plain wrong.

Consumers of heating oil and gasoline have faced continually escalating prices for years. Decontrol, while in the best interest of our Nation as a whole, has placed an extra-special burden on these consumers. To return money that was unlawfully charged them to the Federal coffers is adding insult to injury.

The best suggestion for the money, Mr. President, is embodied in the bill we are introducing today, the Low-Income Fuel and Weatherization Supplementary Assistance Act. Under this proposal, the recovered funds would be distributed under the current formula and according to the rules which now govern these programs.

Both programs are critical to the colder States in our Nation. They provide cash and conservation assistance to lower income persons. The weatherization program is especially important because it provides the only means available to these persons for permanently reducing the amount of energy required to heat their homes. When a home is properly weatherized, energy use and energy bills are reduced.

Funding for the low-income energy assistance program and the weatherization program will be reduced next year, although the need for these programs continues to grow. The bill we are introducing today would take overcharges collected from all petroleum consumers and return them not to the Federal Treasury or only those who can document their purchases, but to those who need the help to reduce energy consumption and lower fuel bills.

This bill makes sense, Mr. President. It would distribute the money the Department of Energy recovers in the most equitable way and with the lowest administrative costs.

By Mr. WEICKER:

S. 1440. A bill to amend the Internal Revenue Code of 1954 to provide job opportunities, and for other purposes; to the Committee on Finance.

SMALL BUSINESS JOB TAX CREDIT ACT OF 1981

Mr. WEICKER. Mr. President, today I am introducing the Small Business Job Tax Credit Act of 1981.

The proposal that I offer today is designed to reduce unemployment by providing tax credits for small business employers who hire the at-risk unemployed and train them for productive jobs in the private sector.

This legislation establishes a two-tiered credit; one to encourage the hiring of unemployed adults and youth; and one to foster job opportunities for special target groups.

In the first tier, a small business employer who hires either an unemployed adult eligible to receive extended unemployment insurance benefits, or an unemployed youth, would be entitled to a one-time credit of 50 percent on the first year's wages up to $8,000, or a maximum credit of $4,000.

The second tier of credits would be given to small businesses for hiring members of groups currently covered under the current targeted jobs tax credit program scheduled to expire this year and residents of distressed areas. Small business employers of people from those groups would be entitled to a 60-percent credit on the first $8,000 of the first year's wages, or a credit of $4,800, and a second year credit of 30 percent on the first $8,000 in wages.

The current targeted jobs tax credit program covers economically disadvantaged youth between the ages of 18 and 24, Vietnam-era veterans, ex-convicts, general assistance recipients, SSI recipients, vocational rehabilitation referrals, and cooperative education students.

To reduce revenue losses and insure that the first-tier credit is an incentive for net new job creation, only incremental hiring in excess of 102 percent of the previous year's wages would be eligible for the tax credit. This feature is modeled after the new jobs tax credit provisions of the 1977 tax law.

Since present law does not require incremental hiring of individuals from targeted groups as a condition of qualification for the employment tax credit, my bill would not impose the 102-percent standard for qualification of the credit for the hiring of these individuals.

By way of summation of the eligibility provisions of this bill, tier-1 credits are patterned after the provisions of the 1977 employment tax credit law, while tier 2 credits conform to the present law. Small business employers of persons from the broader pool of at-risk unemployed adults and youth would qualify for a one-time, 50-percent tax credit, but only if these were truly net new hires. Small business employers of persons from the narrowly targeted eligibility pool would qualify for 2 years of tax credits, 60 and 30 percent, and would not need to demonstrate that net new hiring had occurred.

For purposes of this act, unemployed adults would be defined as individuals over the age of 21, who are eligible to receive unemployment compensation and

who otherwise would be eligible to receive extended benefits on the basis of work in the base period. They would not have to have exhausted their unemployment compensation or extended benefits, but they would have to be eligible to receive extended benefits. The extended benefits qualification test is used as the basis of adult eligibility for the tax credit because of its ease of certification and because even casual work can qualify an individual for regular unemployment insurance. Therefore, a small business employer qualifies for a 50-percent tax credit if he or she hires an individual who is unemployed and receiving regular unemployment insurance, and who worked 20 weeks in the base period.

An unemployed youth is defined in the bill as an individual, aged 18 to 21 who does not have a job, is not pursuing a full-time course of instruction and is seeking work. While the universe of youth unemployment encompasses far more than the age 18-to-21 bracket, clearly members of this age group, who are in the process of moving from school into the career job market, are at a very important and often difficult stage in their career development. Placing youth in private sector jobs during this transition period is very important, particularly for those youths who choose not to go on to more formal schooling. Generally, those who encounter difficulty entering the labor market at ages 18 to 21 will have even more difficulty entering the labor market as adults.

Mr. President, it is important to note that only small businesses with gross annual sales of less than $5 million would be eligible to receive tax credits in a taxable year. The legislation establishes a maximum ceiling of $100,000, as compared to the $200,000 lid in current law.

Since many small firms are not profitable and, therefore, have no tax liability, this legislation also provides that 25 percent of any excess credit would be refundable. By providing for a refundable credit, we would be making the credit more attractive and useful to those small businesses which have no tax liability and, therefore, would not derive any benefit from this credit.

Refundability is especially important for small firms located in distressed areas, where their earnings are very low or nonexistent. Those firms must be relied upon as the principal economic development vehicle in many urban areas, particularly the declining cities of the Northeast and Midwest. If the unemployed are to have private sector job opportunities in these areas, they must get them in small business. The tax credit incentive must be at least partially refundable to bring this about.

Finally, this legislation provides that anyone hired under these credits should receive training. Small businesses are uniquely positioned to provide a special kind of worker training that we ought to encourage. Often a small business owner must wear several hats and be the master of several trades in the operation of the business. An employee of a small business may be exposed to many different skills necessary to running the business. Either through formal or informal training a worker may be able to learn a new skill or upgrade an old skill in an individualized and personalized setting. Equally as important as developing a specific job skill, the one-on-one interaction between a worker and an owner can also be an important source of stimulation and motivation, particularly for young workers. These credits will permit small business employers to provide valuable job training, as well as providing jobs that will give the at-risk unemployed an important foothold into the working world.

SMALL BUSINESS: THE MAIN SOURCE OF NEW JOBS

I have always maintained that in order to create job opportunities for our Nation's citizens, our attention must focus on the private sector.

Studies have shown that small businesses are the major source of new private sector jobs. Prof. David Birch of MIT has shown that firms that employ fewer than 500 employees create 86.7 percent of new jobs. Professor Birch also found that 66 percent of new job growth came from firms with 20 or fewer employees, that is, small business.

Furthermore, small businesses are vitally important to the survival and renewal of our Nation's older urban centers. Professor Birch has more recently published a report on job creation in cities, in which he examines the pattern of job creation within specific metropolitan areas. He concludes that "the only source of net new jobs in older (urban) areas is in smaller business." As we all have observed, the exodus of larger corporations and industries from the Northeast and Midwest has created a tremendous amount of unemployment, and the rejuvenation of our older metropolitan areas should be of particular concern to all of us. Professor Birch tells us that neighborhood economic development will depend on finding ways to foster the development of our small business sector. Small businesses, not large corporations, are the key to getting our older urban areas back on their feet. As the primary source of private sector new jobs, small business development is the key to opening up economic opportunities for many of our Nation's citizens.

Expanding the pool of eligibility will enable more of the at-risk unemployed, especially those just above the poverty line or those who reside in distressed areas, to have access to the opportunity for private sector employment in growth firms.

Mr. President, the Bureau of Labor statistics estimates that the labor force will grow by 1.8 million annually through 1985. To keep pace with this expanding workforce, this Nation will look to small business—the proven job creator. That is why the legislation I have introduced has targeted the tax credit to this sector of our economy.

THE UNEMPLOYMENT PROBLEM

According to the reports of the Bureau of Labor statistics for the month of May, the overall seasonally adjusted rate of unemployment nationally was 7.6 percent. As we focus on our efforts on reducing the rate of inflation and increasing productivity over the next decade, economists agree that the rate of unemployment will continue to be over 7 percent and could go much higher. During these periods of high unemployment, disadvantaged members of our economy will continue to suffer disproportionately. Therefore, our attention should be directed at lessening the unemployment impact on those populations.

While the overall unemployment rate is high, the rate of unemployment for youth is currently 19.5 percent, and for black and other minority youth the rate is 33.6 percent. In selected metropolitan areas the rate for black youth is now 50 percent. These figures are staggering; with the projected slowdown in the economy, the high levels of joblessness will be deadly. For the past year, we have lived with this time bomb of high youth unemployment, particularly among minority youth. We must begin to defuse this bomb, before it explodes.

In addition to the disproportionate effect on disadvantaged members of our economy, the National Commission for Employment Policy, in its sixth annual report, says that the debate on reducing inflation and increasing productivity will influence employment policies by displacing large numbers of workers who will need retraining assistance. We in the Northeast have already begun to see this phenomenon as our economy shifts from an industrial manufacturing base to a more commercial/service oriented society. Many older displaced workers are having to return to school for training in order to get jobs. This problem of the displaced worker will be exacerbated as more manufacturers begin to lay off workers.

According to the press reports of a recent United Technologies layoff, 9 of every 10 employees laid off had worked for UTC for 2 years or less. Those who worked for longer periods may have to be retrained; all of those laid off will have to collect unemployment while they seek other jobs. This is why, Mr. President, it is so terribly critical that we have a tax credit incentive for new careers in smaller enterprises.

I am pleased to note that the distinguished Senator from Pennsylvania (Mr. HEINZ) and others recently introduced an extension of the present law targeted jobs tax credit. I applaud this effort and believe it to be compatible with the bill I am introducing today. The difficulty is that, while it seeks to clear up the administrative problems and abuses, it maintains the very narrowly targeted eligibility population. I agree that an extra edge should be provided for new hires of such individuals, but I believe that the employment and training of other persons, who are substantially at risk in the labor force, should also be encouraged by tax credits, I think we have in the incremental hiring provisions of the 1977 law the basis for bringing such persons into the jobs tax credit incentive system, particularly for small business.

While some may feel we should not broaden the eligibility pool at this time, I do believe that when our Federal aid programs are being concentrated exclu-

sively on the "truly needy" in the "social safety net," potential employers of those who may be in danger of slipping into long term unemployment and dependence; namely, our unemployed youth and those adults eligible for unemployment insurance benefits, should be afforded the tax credit incentive to expand job opportunities.

Mr. President, I urge my colleagues to consider joining me in this legislation and creating at last a small business job development tax credit, to insure that the unemployed of our country are given the chance to have new careers in the private sector of our economy.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1440

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1954 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Small Business Job Tax Credit Act of 1981".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 2. REPLACEMENT OF TARGETED JOBS CREDIT WITH JOB DEVELOPMENT CREDIT.

(a) IN GENERAL.—Paragraph (1) of section 51(b) (defining qualified wages) is amended by striking out "members of a targeted group" and inserting in lieu thereof "qualified job development candidates".

(b) QUALIFIED JOB DEVELOPMENT CANDIDATE DEFINED.—Section 51 (relating to amount of credit) is amended by adding at the end thereof the following new subsection:

"(i) QUALIFIED JOB DEVELOPMENT CANDIDATE.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified job development candidate' means an individual who—

"(A) is a qualified unemployed individual,

"(B) is a member of a targeted group who is not a qualified unemployed individual, or

"(C) is a resident of a distressed area who is an individual not described in subparagraph (A) or (B).

"(2) QUALIFIED UNEMPLOYED INDIVIDUAL.—

"(A) IN GENERAL.—The term 'qualified unemployed individual' means—

"(i) in the case of an individual who is over 21 years of age, an individual who—

"(I) is eligible to receive unemployment compensation, and

"(II) at the time such individual became eligible had 20 weeks of full-time insured employment, or the equivalent in insured wages, and

"(II) in the case of an individual who is 18 to 21 years of age, an individual who—

"(I) is unemployed,

"(II) is not pursuing a full-time course of instruction, and

"(III) is seeking work.

An individual described in clause (ii) shall be treated as a qualified unemployed individual only if he files a written statement with the employer that he meets the requirements of such clause.

"(B) EQUIVALENT IN INSURED WAGES.—For purposes of subparagraph (A), the term 'equivalent in insured wages' means those earnings covered by State law for unemployment compensation purposes which exceed—

"(i) 40 times the individual's most recent weekly benefit amount, or

"(iii) 1½ times the individual's insured wages in the quarter in which the individual's insured wages were highest.

"(3) RESIDENT OF DISTRESSED AREA.—The term 'resident of a distressed area' means an individual who is a resident of an area of substantial unemployment (within the meaning of section 3 (2)) of the Comprehensive Employment and Training Act.

"(4) NOTIFICATION OF SECRETARY.—No individual shall be treated as a qualified job development candidate unless the employer notifies the Secretary (in such form and manner as the Secretary may prescribe within 45 days of hiring such individual that such individual is a qualified job development candidate.".

SEC. 3. AMOUNT OF CREDIT.

(a) IN GENERAL.—Subsection (a) of section 51 (relating to determination of amount) is amended to read as follows:

"(a) DETERMINATION OF AMOUNT.—

"(1) IN GENERAL.—The amount of the credit allowable by section 44B for the taxable year shall be the sum of—

"(A) an amount equal to the sum of—

"(i) 50 percent of the excess of the qualified first-year wages for such year for qualified unemployed individuals over 102 percent of such amount for the preceding taxable year, and

"(ii) 60 percent of the qualified first-year wages for such year of all qualified job development candidates other than qualified unemployed individuals, and

"(B) 30 percent of the qualified second-year wages for such year of all qualified job development candidates other than qualified unemployed individuals.

"(2) MINIMUM PRECEDING YEARS WAGES.—For purposes of determining the amount of the credit under subsection (a) with respect to any taxable year under paragraph (1)(A)(i), 102 percent of the amount of the aggregate qualified first-year wages paid during the preceding taxable year shall be deemed to be not less than 50 percent of the amount of such wages paid during the taxable year.

"(3) TOTAL WAGES MUST INCREASE.—The amount of the credit allowed by section 44B for any taxable year shall not exceed the amount which would be determined for such year under paragraph (1) (without regard to paragraph (2)) if—

"(A) the aggregate amounts taken into account as qualified first-year wages were determined without any dollar limitation, and

"(B) '105 percent' were substituted for '102 percent' in subparagraph (A)(1) of paragraph (1).

"(4) $100,000 PER YEAR LIMITATION ON CREDIT.—The amount of the credit determined under this subpart any employer (and the amount of the credit allowable by section 44B to any taxpayer) with respect to any taxable year shall not exceed $100,000.".

(b) FIRST $8,000 OF WAGES TAKEN INTO ACCOUNT.—

(1) IN GENERAL.—Paragraph (4) of section 51 (b) (defining qualified wages) is amended by striking out "$6,000" each place it appears in the text and heading and inserting in lieu thereof "$8,000".

(2) CONFORMING AMENDMENTS.—Paragraph (1) of section 51(h) (relating to special rules for agricultural and railway labor) is amended—

(A) by striking out "$6,000" in subparagraph (A) and inserting in lieu thereof "$8,000", and

(B) by striking out "$500" in subparagraph (B) and inserting in lieu thereof "$667".

(c) CONFORMING AMENDMENT.—Section 52 is amended by adding at the end thereof the following new subsection:

"(g) ADJUSTMENTS FOR CERTAIN ACQUISITIONS, ETC.—Under regulations prescribed by the Secretary—

"(1) ACQUISITIONS.—If, after December 31, 1980, an employer acquires the major portion of a trade or business of another person (hereinafter in this paragraph referred to as the 'predecessor') or the major portion of a separate unit of a trade or business of a predecessor,

then, for purposes of applying this subpart for any calendar year ending after such acquisition, the amount of unemployment insurance wages deemed paid by the employer during periods before such acquisition shall be increased by so much of such wages paid by the predecessor with respect to the acquired trade or business as is attributable to the portion of such trade or business acquired by the employer.

"(2) DISPOSITIONS.—If, after December 31, 1980—

"(A) an employer disposes of the major portion of any trade or business of the employer or the major portion of a separate unit of a trade or business of the employer in a transaction to which paragraph (1) applies, and

"(B) the employer furnishes the acquiring person such information as is necessary for the application of paragraph (1),

then, for purposes of applying this subpart for any calendar year ending after such disposition, the amount of unemployment insurance wages deemed paid by the employer during periods before such disposition shall be decreased by so much of such wages as is attributable to such trade or business or separate unit.".

SEC. 4. PORTION OF CURRENT YEAR CREDIT TO BE REFUNDABLE.

(a) IN GENERAL.—Subsection (a) of section 53 (relating to limitation based on amount of tax) is amended by striking out "90 percent of" and inserting in lieu thereof "the sum of the qualified amount plus".

(b) QUALIFIED AMOUNT DEFINED.—Section 53 is amended by adding at the end thereof the following new subsection:

"(c) QUALIFIED AMOUNT.—For purposes of this section, the term 'qualified amount' means 25 percent of the lesser of—

"(1) the amount by which the sum of—

"(A) the amount of the carrybacks and carryovers to such taxable year under subsection (b), plus

"(B) the amount of the credit determined under section 51 for such taxable year, exceeds the liability for tax for such taxable year, or

"(2) the amount of the credit determined under section 51 for the taxable year.".

(c) AMOUNT TREATED AS OVERPAYMENT.—Subsection (b) of section 6401 (relating to amounts treated as overpayments) is amended by inserting at the end thereof the following new sentence: "That portion of the credit allowable under section 44B for any taxable year which constitutes the qualified amount shall be considered an overpayment.".

SEC. 5. CREDIT APPLICABLE ONLY TO SMALL BUSINESS.

(a) IN GENERAL.—Subsection (a) of section 44B (relating to credit for employment of certain new employees) is amended by striking out "taxpayer" and inserting in lieu thereof "qualified taxpayer".

(b) QUALIFIED TAXPAYER DEFINED.—Section 44B is amended by adding at the end thereof the following new subsection:

"(d) QUALIFIED TAXPAYER.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified taxpayer' means any person engaged in a trade or business which has gross receipts for the taxable year of $5,000,000 or less.

"(2) COMMON CONTROL.—In the case of—

"(A) a controlled group of corporations (within the meaning of section 52(a)), or

"(B) trades or business (whether or not incorporated) which are under common control (within the meaning of section 52 (b)),

the gross receipts of all members of the controlled group or of the trades or business under common control shall be treated as the gross receipts of any member of such group or trades or business.".

SEC. 6. EXTENSION OF CREDIT.

Paragraph (4) of section 51(c) is amended by striking out "1981" and inserting in lieu thereof "1983".

SEC. 7. TRAINING OF QUALIFIED JOB CANDIDATES.

To the maximum extent feasible, any employer receiving credits under section 44B of the Internal Revenue Code of 1954 shall provide training for any employee with respect to which the credit is allowable.

SEC. 8. EFFECTIVE DATE.

The amendments made by this Act shall apply to taxable years beginning after December 31, 1981.

By Mr. THURMOND:

S.J. Res. 94. Joint resolution to designate October 10, 1981, as "National Jogging Day"; to the Committee on the Judiciary.

NATIONAL JOGGING DAY

Mr. THURMOND. Mr. President, I am introducing today a Senate joint resolution which would request the President to declare October 10, 1981, "National Jogging Day."

"National Jogging Day" was begun in 1971, in an effort to encourage Americans to actively pursue some form of exercise and to especially encourage jogging as a method to stay physically fit. The purpose of "National Jogging Day" is to encourage people to make safe, enjoyable exercise a part of their daily activity. Last year's events on "National Jogging Day" involved more than 1 million people nationwide in such events as races, walkathons, bicycle races, and picnics.

The sponsor of these annual events held throughout the country is the National Jogging Association, which is in its second decade of service. The members of this nonprofit educational organization number more than 35,000 people, all of whom realize that physical fitness and good health go hand-in-hand. This group is dedicated to promoting safe, enjoyable exercise and to encouraging Americans to make some form of exercise a part of their daily activity.

This year, "National Jogging Day" is being sponsored by the National Jogging Association, in cooperation with the President's Council on Physical Fitness and Sports, the Governors' Councils on Physical Fitness and Sports, the National Recreation and Park Association, the YMCA, the American Podiatry Association, and the American Academy of Podiatric Sports Medicine.

For many years I have been a jogger and a believer in the benefits of a complete program of physical fitness. In fact, I presently jog about 3 miles a day.

"National Jogging Day" is a proven success in getting people involved and active, and so I urge my fellow Senators to give this joint resolution, which requires no expenditure of Government funds, their full support.

I ask unanimous consent that this joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 94

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

Whereas the public awareness of the need for maintaining physical fitness is becoming increasingly evident;

Whereas jogging is an excellent, convenient, and inexpensive form of exercise that provides opportunities for a graduated program of physical fitness for most individuals regardless of age, sex, or level of fitness;

Whereas numerous medical authorities believe that a regular, sensible jogging program improves the function of the cardiovascular system, reduces coronary risk factors, and serves as an advisable supplement to a weight-reducing or weight-control program;

Whereas a positive correlation exists between the development of a fit body and the ability to experience an enriched and more satisfying life; and

Whereas an estimated thirty million persons all across America jog or run as a recreational activity which is beneficial and enjoyable: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation declaring October 10, 1981, as "National Jogging Day," and calling upon the people of the United States and interested groups to celebrate such day by participating in fitness-related sports, seminars, and other events throughout the United States and to incorporate regular exercise into their everyday life.

By Mr. DOLE:

S. 1441. A bill to amend section 6(e)(2) of the Land and Water Conservation Fund Act of 1965, as amended; to the Committee on Energy and Natural Resources.

LAND AND WATER CONSERVATION FUND

● Mr. DOLE. Mr. President, the legislation I am offering today intended to allow local communities the opportunity to maximize the usefulness of facilities constructed with grants from the Heritage Conservation and Recreation Service, land and water conservation fund. My proposal would allow the Secretary of Interior to permit localities to construct shelters for facilities developed with financial assistance from the land and water conservation fund. This proposal will not cost the Federal Government 1 penny and will allow localities to determine the optimal use for facilities constructed with Federal funds.

Mr. President, there is precedent for allowing the construction of shelters. In 1976, Congress amended the act to permit sheltering of swimming pools and ice rinks in areas where the severity of climatic conditions and the increased use made possible by sheltering justified their construction. However, Congress further restricted sheltering to areas of "extreme cold, snow or high winds" in "Northern Tier" areas. To meet those requirements, it was necessary to adopt climatic factors to establish eligible geographic areas. Unfortunately, many areas of the country which would benefit greatly from shelters over swimming pools, tennis courts and similar facilities are denied the right to construct shelters. The State of Kansas falls into the latter category.

I believe that my proposal to amend the Land and Water Conservation Fund Act of 1965 would enhance close-to-home, year-round, cost-effective recreation opportunities at a time when energy conservation is crucial. I encourage the Senate to act expeditiously on its enactment.●

By Mr. HATCH (for himself, Mr. HELMS, Mr. HUDDLESTON, Mr. JEPSEN, Mr. QUAYLE, and Mr. ZORINSKY):

S. 1442. A bill to amend the Federal Food, Drug, and Cosmetic Act, the Poultry Products Inspection Act, the Federal Meat Inspection Act, and the Egg Products Inspection Act to improve food safety decisions, to provide for assessment of risks to health presented by substances present in food, to provide for referral of food safety questions to expert scientific advisory panels, to provide authority for flexible regulatory response based on the risks and uses associated with a substance, and for other purposes; to the Committee on Labor and Human Resources.

FOOD SAFETY AMENDMENT OF 1981

Mr. HATCH. Mr. President, I am today introducing legislation to revise and update our Nation's food safety laws. I am proud to have join me as original cosponsors of this bill, Senators HELMS, HUDDLESTON, JEPSEN, QUAYLE, and ZORINSKY. I also wish to acknowlege the cooperation of Representatives DE LA GARZA and WAMPLER along with many of their other House colleagues for their assistance in this effort.

This bill, the Food Safety Amendments of 1981, will amend the Federal Food, Drug, and Cosmetic Act administered by the Food and Drug Administration; the Meat Inspection Act; the Poultry Products Inspection Act; and the Egg Products Inspection Act administered by the U.S. Department of Agriculture. I believe that my bill should serve as a good starting place for public discussion on how Congress can rationalize and update our food safety laws.

First, Mr. President, let me make clear my view that the Food and Drug Administration and the U.S. Department of Agriculture have both done excellent jobs in providing significant protection for the American consumer and in general have acted in as flexible a manner as possible to meet a wide variety of situations during the course of changing circumstances. However, because the existing statutes are antiquated, these agencies have been forced to make regulatory decisions that are sometimes widely perceived by the public and experts alike as irrational and not in the public interest.

Indeed, the National Academy of Sciences, in a report requested by Congress as a result of the FDA's attempt to ban saccharin, recommended that Congress overhaul the present food regulatory system which "has become complicated, in-

flexible, and inconsistent in implementation."

The bill I am introducing today is intended to retain the basic structure of the food safety laws, but to make revisions sufficient for the laws administered by the FDA and USDA to provide a framework for regulatory decisions within which those agencies can work more effectively.

My bill revises the existing statute to provide a realistic standard of safety, to bring the best available scientific judgment to bear on questions involving safety of food substances, and to provide authority for a flexible regulatory response tailored to the risks and uses associated with a substance.

While keeping our food supply safe is of the highest priority, it is necessary to recognize that there is some degree of risk which is inherent in providing an economical and available food supply.

My bill thus assures that safety decisions must be based on a comprehensive assessment of the risks presented by a substance. These decisions cannot be directed at achieving absolute safety or eliminating all risk, but rather at identifying and limiting those risks that are significant rather than trivial. It has become clear that we can no longer ignore difficult decisions by claiming to follow a policy of assuring zero risk in the food supply. To the contrary, the FDA is now faced with a plethora of decisions regarding which risks should be regulated, and which should not. This is so, because risks not known to exist under the prior state of the art of scientific testing have now been idenified under current techniques which permit identification of amounts of a substance previously ignored. Traces of environmental contaminants, indirect food additives, animal drugs, and other substances are being discovered at levels which are very low, but which cannot be ignored. This knowledge requires the identification of the level at which the risk from the presence of such traces becomes significant to human health.

Other events in recent years have proven the existing statutes to be in need of revision. The FDA's inability to deal effectively with both the saccharine and nitrites situations have made clear that the law must contain sufficient flexibility to deal with substances which may involved some risk, but which are nevertheless acceptable because of their importance as a substance to the food supply. A flexible regulatory response to the risks of such "important" substances should be permitted. My bill does not specifically decide the regulatory fate of any of the substances that have caused headlines and public debate in recent years. Rather, my bill provides the appropriate framework for rational decisionmaking.

During recent years FDA has faced even more difficult decisions, which may have resulted in its ignoring the law. Some longstanding components of the food supply have been identified as having potential adverse health effects. In other cases, traces of carcinogenic environmental contaminents have been found in important foods. The identification of carcinogenic and other harmful substances inherent in basic and traditional foods and essential nutrients have strained the FDA's authority for responding to these situations within the framework of the act. My bill recognizes that different standards should apply to different categories of food such as substances inherent in basic foods, environmental contaminents in food and discretionary additives. My bill assures that FDA and USDA will not arbitrarily require the banning of important sources of nutrition.

I recognize that there will be much public debate on revision of the Delaney clause. This bill proposes one possible revision which will permit full consideration of all relevant factors concerning a substance's safety. However, as I recognized in a recent paper before the American Bar Association, other options may be equally plausible. I have submitted for the RECORD, along with my bill, a copy of that article and hope that during the upcoming hearings we can adequately explore the merits of all these options.

Mr. President, let me enumerate what have been the guiding criteria that I have followed in drafting this bill and the criteria that I hope will serve as a basis of our public debate on food safety.

First, that we should not attempt to wholly restructure or alter the existing statutes or substantially overrule existing judicial case law on food safety, but rather retain the integrity of the current law which has insured American consumers that their food supply is the safest, most wholesome and abundant in the world; second, that the law should continue to provide incentives for the development of safe additives; third, that all relevant scientific data and information be analyzed in food safety decisions and in distinguishing significant from insignificant risks, and to protect against those risks which are significant to human health; fourth, to make available the best outside scientific judgment to assist the agency in assessing risks; fifth, to provide the flexibility of regulatory response to respond rationally in cases where a risk, though significant, is acceptable on account of the importance of the substance; and sixth, to authorize a range of regulatory responses to adequately protect the consumer from risks which are identified as significant.

Mr. President, while I have included with this bill a detailed section-by-section analysis of the purposes and provisions of this bill, I will at this point summarize the highlights of certain specific provisions. My bill:

First. Provides for consideration of all pertinent scientific data and information in food safety decisions under all applicable sections of the Food, Drug, and Cosmetic Act;

Second. Requires food safety decisions, to be based on an assessment of the risks to humans from exposure to a substance and permits, but does not require, the use of quantitative risk assessment techniques.

Third. Establishes a consistent definition of the term "safe" as applied to food additives, color additives and new animal drugs. Under this bill, the term "safe" would mean the absence of a significant risk to humans.

Fourth. Retains the Delaney clause except for those substances that do not present a significant risk.

Fifth. Provides for external peer review of food safety decisions.

Sixth. Improves the food additive, color additive, and new animal drug approval processes by qualifying the obligations of petitioners and the FDA.

Seventh. Revises the regulatory scheme for food contact substances—substances used to pack, package, transport or hold foods—to eliminate unnecessary regulatory requirements. Under this bill food contact substances would be regulated under a premanufacture notification system patterned after the Toxic Substances Control rather than the elaborate food additive clearance procedures.

Eighth. Provides in the case of food additives, color additives and new animal drugs which are identified as presenting significant risks for the consideration of "other" factors before a substance is prohibited or its use limited. These other factors would be considered only in the case of a substance with a substantial history of use and not reasonably practicable substitute. After evaluating the risks and these other factors FDA would be authorized to issue regulations that would be needed to protect the public health.

Ninth. Improves the procedures used to set tolerances for food contaminants, clarifies the criteria to be used, and makes the criteria consistent with those under other sections of the act.

Tenth. Defines basic and traditional foods as raw agricultural commodities and spices, including those processed by methods generally recognized as not significantly altering their properties, and excludes them from the food additive definition. Under my bill these foods would be regulated under the basic adulteration provisions of the act.

Eleventh. Authorizes the FDA to gradually eliminate the use of a substance in food consistent with the public interest.

Twelfth. Conforms the Meat, Poultry, and Egg Acts to the changes in the Food, Drug, and Cosmetics Act where those acts have parallel provisions and thereby insures that consistent procedures and standards will be applied to all segments of the food supply.

Mr. President, let me stress that my bill is intended not as the end but rather as the beginning of the process of revising the food safety laws. I have intended to present broad principles that may be applied in bringing rationality and flexibility to our food safety decisions. Only then can the American people rely on a regulatory process which makes sense and which will assure the safety of our food supply.

Mr. President, I ask unanimous consent that the text of the bill, a detailed section-by-section analysis of our bill, and an article that I wrote several months ago for the American Bar Association Symposium on Health Risks be printed in the RECORD.

There being no objection, the bill and other material were ordered to be printed in the RECORD, as follows:

S. 1442

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Food Safety Amendments of 1981."

TITLE I—AMENDMENTS TO THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

REFERENCE

SEC. 101. Whenever in this Title an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act.

DEFINITIONS

SEC. 102. Section 201(s) is amended—

(a) by striking "any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food" and inserting in lieu thereof "any substance intended for use in producing, manufacturing, processing, preparing, or treating food";

(b) by inserting after "does not include—" the following new clause:

"(1) a basic or traditional food; or";

(c) by redesignating subparagraphs (1) through (5) as subparagraphs (2) through (6), respectively;

(d) by striking the period after "new animal drug" and inserting in lieu thereof "; or"; and

(e) by adding at the end thereof the following new paragraph:

"(7) a food contact substance or any substance which may be present in food as a result of the use of a food contact substance."

DEFINITION OF "SAFE"

SEC. 103. Section 201(u) is amended to read as follows:

"(u) The term 'safe,' as used in paragraph (s) of this section and in sections 408, 409, 512, and 706, means the absence of significant risk under the intended conditions of use of a substance, and has reference to the health of man or animal."

DEFINITION OF "NEW ANIMAL DRUG"

SEC. 104. Section 201(w) is amended—

(a) by striking "such" after "but not including" and inserting in lieu thereof "an";

(b) by inserting "bearing or containing a new animal drug" after "animal feed";

(c) by striking "; or" at the end of paragraph 2 and inserting a period in lieu thereof; and

(d) by striking paragraph 3.

DEFINITION OF "ANIMAL FEED"

SEC. 105. Section 201(x) is amended by striking "is intended for use as a substantial source of nutrients in the diet of the animal," and inserting in lieu thereof "provides one or more sources of calories and nutrients".

ADDITIONAL DEFINITIONS

SEC. 106. Section 201 is amended by adding at the end thereof the following new subsections:

"(bb) The term 'basic or traditional food' means (1) any raw agricultural commodity, including spices, with a history of significant food use in the United States, and (2) any such raw agricultural commodity which has been processed by any method that is generally recognized, among experts qualified by scientific training and experience, as not significantly changing the properties of such raw agricultural commodity."

"(cc) The term 'food contact substance' means any substance intended for use as a component of materials used in packing, packaging, transporting, or holding food or other substances used in food contact surfaces if such substance is not intended to and does not have any physical or other technical effect in food."

PROHIBITED ACTS; REPORT OF MINOR VIOLATIONS

SEC. 107. (a) Section 301(e) is amended—

(1) by striking the comma after "512(j)" and inserting in lieu thereof "or"; and

(2) by striking "or (m),".

(b) Section 301(p) is amended by inserting "or 512(m)" immediately following "section 510".

(c) Section 306 is redesignated as section 306(a) and is amended by adding the following new subsection:

"(b) If the Secretary determines that a substance shall be prohibited from use in food pursuant to sections 402, 406, 408, 409, 512, or 706, he shall be authorized to permit, by regulation, the gradual elemination of the substance from the food supply if he finds that the public interest will be adequately served thereby, and that the continued use of the substance in conformity with such regulation will not present an imminent danger to health."

ADULTERATED FOOD

SEC. 108. Section 402(a)(1) is amended by striking the semicolon at the end thereof and inserting the following: "; *Provided,* That the determination of whether such food is adulterated within the meaning of this paragraph shall be based on, among other relevant factors, an assessment of the nature and extent of the risks from the probable consumption of such substance, taking into account all pertinent safety data and safety factors, which in the opinion of experts qualified by scientific training and experience to evaluate the safety of food constituents, are valid and appropriate for such determination; and *Provided further,* That a basic or traditional food shall be deemed not to be an added substance;".

POISONOUS SUBSTANCES IN ADULTERATED FOOD

SEC. 109. Section 402(a)(2) is amended—

(1) by striking "poisonous or added deleterious" after "if it bears or contains any added";

(2) by striking "or" after "(iii) a color additive";

(3) by inserting "; or (v) a food contact substance" after "(iv) a new animal drug"; and

(4) by adding at the end thereof "(E) if it is, or is in contact with, a food contact substance which is unsafe within the meaning of section 413, or".

REQUIRED OR UNAVOIDABLE SUBSTANCES

SEC. 110. Section 406 is amended to read as follows:

"REQUIRED OR UNAVOIDABLE SUBSTANCES

"SEC. 406. (a) If a substance added to any food is required in the production thereof, cannot be avoided by good manufacturing practice, or is a substance referred to in paragraph (5) of section 201(s) for which there is no reasonably practicable substitute, the Secretary may promulgate regulations limiting the quantity of such substance therein or thereon to such extent as he finds necessary for the protection of the public health, and any quantity exceeding the limits so fixed shall be deemed to be unsafe for purposes of the application of clause (2)(A) of section 402(a). While such a regulation is in effect limiting the quantity of any such substance in the case of any food, such food shall not, by reason of bearing or containing any added amount of such substance, be considered to be adulterated within the meaning of clauses (1) or (6) of section 402(a). In determining the quantity of such added substance to be tolerated in or on different articles of food the Secretary shall take into accout (i) the extent to which the use of such substance is required or cannot be avoided or there is no reasonably practicable substitute; (ii) the other ways in which the consumer may be affected by the same or other poisonous or deleterious substances; (iii) an assessment, after consultation with the food safety committee established pursuant to section 414, of the nature and extent of the risks from the probable consumption of such substance, taking into account all pertinent safety data and safety factors which in the opinion of experts qualified by scientific training and experience to evaluate the safety of food constituents are valid and appropriate; and (iv) the effects of such limits on the cost and availability of food to which the limits would apply. The Secretary shall specify the analytical procedure for determining compliance with any tolerances established under this section.

"(b) In any action under section 302, 303, or 304 alleging that the presence of a substance renders a food adulterated within the meaning of section 402(a)(1), upon request of any party the court shall determine whether such substance is required or unavoidable in such food within the meaning of subsection (a) of this section or is a substance referred to in paragraph (5) of section 201(s) for which there is no reasonably practicable substitute, and, if so, shall for the purposes of the action before the court determine a limit on the quantity of such substance therein as necessary to protect the public health, taking into account the factors listed in clauses (i) through (iv) of subsection (a) of this section. For the purposes of the action before the court, an article shall not be deemed to be adulterated within the meaning of section 402(a)(1) on account of the presence of such substance in quantities not exceeding such limit, and any article shall be deemed so adulterated if it bears or contains such substance in excess of the limit established by the court."

FOOD ADDITIVES

SEC. 111. Section 409(b) is amended by redesignating paragraph (5) as paragraph (7) and by inserting the following new paragraphs:

"(5) The Secretary shall, by regulation, establish procedures to facilitate early discussion regarding, and submission of, data and information respecting a food additive prior to the submission of a petition in order to expedite action on the petition after it is filed.

"(6)(A) Not later than thirty days after the date a petition is received by the Secretary, the Secretary shall determine whether the petition meets the requirements of paragraphs (2), (3), and (4) of this subsection and shall so notify the petitioner. If the Secretary determines that a petition meets such requirements, or if the Secretary fails to make any determination with respect to such requirements within thirty days of receipt of the petition, the petition shall be deemed to have been filed on the day of receipt.

"(B) If the Secretary determines that the petition may not be filed, he shall so notify the petitioner in writing, stating in detail the complete basis for the determination. The petitioner may, not later than thirty days after receipt of such notification, notify the Secretary in writing that the petitioner will file supplementary information to correct the deficiencies of the petition, or request that the petition be filed notwithstanding the Secretary's determination. If the petitioner submits supplementary information, the Secretary shall in the manner prescribed in subpargaraph (A) consider whether the petition as supplemented meets the requirements of paragraphs (2), (3), and (4) of this subsection and shall so notify the petitioner. If the petition as supplemented meets such requirements, or if the Secretary fails to make any

determination with respect to such requirements within thirty days of receipt of the supplementary information, the petition shall be deemed to have been filed on the date the supplementary information was received. If the petitioner requests that the petition be filed notwithstanding the Secretary's determination, it shall be deemed to have been filed on the date the petition was received, but such request shall not excuse the petition from otherwise complying with the requirements of this section.

"(C) For purposes of this subsection, a petition shall be deemed to have been received on the date on which it is delivered to the Secretary or to an officer or employee authorized by the Secretary, by regulation, to accept delivery."

ACTION ON PETITIONS RELATING TO FOOD ADDITIVES

SEC. 112. (a) Section 409(c)(1) is amended—

(1) by inserting "(A)" after "(1)";

(2) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii); and

(3) by inserting the following new subparagraphs:

"(B) (i) With respect to any petition proposing the issuance of a regulation to extend the conditions of safe use for a food additive that is already the subject of a regulation issued under this section, the Secretary shall, in the notice of filing published pursuant to subsection (b)(1) of this section, state whether the food additive may be used on an interim basis pending final action on the petition.

"(ii) The Secretary shall permit such interim use when it appears, from initial review of the petition and any other data and information available to the Secretary, that such use is safe. The Secretary shall permit such interim use either under the conditions of use proposed in the petition or under conditions of use different from those proposed in the petition.

"(iii) The Secretary may permit such interim use conditioned upon the petitioner undertaking to obtain additional specified data or information. In the event that the Secretary permits interim use conditioned upon any such undertaking, the time limits for action on the petition established in subparagraph (c) (2) of this section shall be suspended until the petition is amended by the submission of all such data or information."

(b) Section 409(c)(1)(B) is amended by inserting immediately before "notify the petitioner" the following: "within the time prescribed for issuance of an order under paragraph (2) of this subsection", and by adding at the end thereof the following new sentence: "Such notification shall include a statement setting forth in detail the findings and conclusions upon which the order is based."

(c) Section 409(c)(2) is amended—

(1) by striking "paragraph (1)(A) or (B)" and inserting in lieu thereof "paragraph (1)(A)(i) or (ii)"; and

(2) by inserting after "shall" and before "be issued" the following: ", in the absence of prior referral of the matter to the food safety committee or request for such referral pursuant to subsection (e) of this section,".

(d) Section 409(c)(3)(A) is amended by striking all after "will be safe:" and inserting in lieu thereof *"Provided*, That in determining whether a proposed use of a food additive will be safe the Secretary shall base his decision on the factors listed in paragraph (5) of this subsection and, where provided for under this section, the factors in paragraph (7)(B) of this subsection; or".

(e) Section 409(c)(5) is amended—

(1) by striking "consider among other relevant factors" and inserting in lieu thereof "base his determination on all relevant factors including"; and

(2) by striking the text of subparagraph (C) and inserting in lieu thereof "an assessment of the nature and extent of the risks from use of the additive under the prescribed conditions, taking into account all pertinent safety data and safety factors which in the opinion of experts qualified by scientific training and experience to evaluate the safety of food additives, are valid and appropriate for such determination.".

(f) Section 409(c) is amended by adding at the end thereof the following new paragraphs:

"(6)(A) No food additive shall be deemed to be safe within the meaning of subsection (c)(3)(A) of this section if it is found by the Secretary to induce cancer when ingested by man or animal, or if it is found by the Secretary, after tests which are appropriate for the evaluation of the safety of food additives, to induce cancer in man or animal, except that the foregoing provisions of this subparagraph shall not apply (i) with respect to the use of a substance as an ingredient of feed for animals which are raised for food production, if the Secretary finds (I) that, under the conditions of use and feeding specified in proposed labeling and reasonably certain to be followed in practice, such additive will not adversely affect the animals for which such feed is intended, and (II) that no residue of the additive presenting a significant risk to human health will be found in any edible portion of such animal after slaughter or in any food yielded by or derived from the living animal; or (ii) if the additive is otherwise deemed to be safe pursuant to subparagraph (c) of this paragraph.

"(B) Before the Secretary issues an order denying a petition or proposes to repeal a regulation or to impose a new limitation on the use of a food additive on the basis that the additive induces cancer in man or animal, the Secretary shall prepare a written summary of the data and information before him with respect to such additive, shall refer the matter to the food safety committee appointed pursuant Section 414, and shall provide an opportunity for the person who filed the petition for the food additive and other interested persons to provide written or oral data and information before such committee with respect to the safety of the additive.

(C) Notwithstanding subparagraph (A) of this paragraph, an additive shall be deemed safe under subsection (c)(3)(A) of this section, (i) if the Secretary finds, based on the evidence before him including evidence adduced under subparagraph (B) of this paragraph, and taking into account the factors listed in paragraph (5) of this subsection, that the use of the additive under the prescribed conditions does not present a significant risk to health, or (ii) if the Secretary concludes that a regulation may issue pursuant to paragraph (7)(C) of this subsection.

"(7)(A) Whenever the Secretary has initiated a proceeding to repeal a regulation or to impose a new limitation on the use of a food additive which has a substantial history of use and no reasonably practicable substitute, and the period for public comment thereon has ended, the Secretary, before issuing an order repealing the regulation or imposing a new limitation on the use of such additive, shall by notice request the submission of information on the factors set forth in subparagraph (B) of this paragraph.

"(B) In determining whether to repeal a regulation or impose a new limitation on the use of such additive, the Secretary shall base his determination on—

"(i) the factors listed in paragraph (5) of this subsection;

"(ii) the nature and extent of consequences resulting from use, or limitation or prohibition on use, as the case may be, of the food additive, including effects on the nutritional value, consumer cost, availability and acceptability of food, use for dietary management, or use for health related purposes; and

"(iii) the feasibility and effect of providing information to consumers concerning the type and extent of risk associated with the food additive as the basis for informed choice by consumers.

"(C) After consideration of the factors in paragraph (5) of this subsection and the factors in subparagraph (B) of this paragraph the Secretary shall issue a regulation imposing such conditions of use on such additive as he finds necessary and sufficient for protection of the public health, unless no such conditions are found, in which case he shall repeal the regulation respecting such additive."

REFERRAL TO FOOD SAFETY COMMITTEE

SEC. 113. Section 409 is amended by redesignating subsections (e) through (i) as subsections (f) through (j), respectively, and by inserting the following new subsection:

"REFERRAL TO FOOD SAFETY COMMITTEE

"(e)(1) In any proceeding for the issuance, amendment, or repeal of a regulation prescribing the conditions under which a food additive may be safely used, the petitioner or any person who will be adversely affected by any order issued under subsections (c), (d), or (i) of this section or any proposal issued under subsections (d) or (i) of this section may request at any time before or within thirty days after the publication of such order, but prior to the commencement of a hearing under subsection (g) of this section, that the matter be referred to the food safety committee established pursuant to section 414 for a report and recommendations. Upon such request supported by reasonable grounds therefor, or on his own initiative if the Secretary within such time deems such a referral necessary, or if such a referral is required under subsection (c)(6)(B) of this section, the Secretary shall within thirty days refer to such committee, together with all data and information before him, such matter for study thereof and for a report and recommendations thereon. A person who has filed a petition or who has requested the referral of a matter to such committee pursuant to this subsection and other interested parties as well as representatives of the Secretary, shall have the right to present written and oral data and information to such committee in connection with the matter referred to it.

"(2) Within ninety days after the date of such referral, or within an additional thirty days if the committee with the concurrence of the Secretary deems such additional time necessary, the committee shall, after independent study of the data and information furnished to it by the Secretary and other data and information before it, certify to the Secretary a report and recommendations, together with all underlying data and information and a statement of the reasons or basis for the recommendations. A copy of the foregoing shall be promptly supplied by the Secretary to any person who has filed a petition with respect to such matter, or who has requested such referral to the committee, and to other interested persons on request. Within sixty days after such certification, and after giving due consideration to all data and information then before him, including such report, recommendations, underlying data and information, and statement, and to any prior order issued by him in connection with such matter, the Secretary shall by order confirm or modify any order theretofore issued or, if no such prior order has been issued, shall act upon the petition or other proposal in accordance with this section.

"(3) Where (A) the Secretary has initiated a proposal or issued an order to repeal or amend a food additive regulation pursuant to this section, and (B) a request has been made for referral of such proposal or order to the food safety committee pursuant to this subsection, the Secretary may not act by order on such proposal, and any such order shall be stayed, until the committee has made a report and recommendations to him under paragraph (2) of this subsection and he has considered such recommendations, unless the Secretary finds that there is an imminent hazard to health necessitating the issuance of an order notwithstanding this paragraph."

PUBLICATION OF ORDERS

SEC. 114. Section 409(f) (as redesignated by this Act) is amended—

(1) by inserting at the beginning "Subject to the provisions of subsections (e)(3) and (i) of this section,";

(2) by striking "(c) or (d)" and inserting in lieu thereof "(c), (d), (e), or (i)"; and

(3) by striking at the end thereof "(f)" and inserting in lieu thereof "(g)".

PUBLIC HEARINGS

SEC. 115. (a) Section 409(g)(1) (as redesignated by this Act) is amended—

(1) by striking "(c) or (d)" and inserting in lieu thereof "(c), (d), (e), or (i)";

(2) by inserting at the end of the second sentence thereof the following: "; *Provided*, That if such matter has been referred to the food safety committee or such referral has been requested pursuant to subsection (e) of this section, no public hearing under this subsection shall be commenced until the Secretary issues an order pursuant to paragraph (2) of subsection (e) of this section"; and

(3) by inserting after the second sentence the following: "Any report, recommendations, underlying data and information, and reasons certified to the Secretary by the committee if relevant and material, and any order issued pursuant to paragraph (2) of such subsection shall be made a part of the record of any hearing, subject to the provisions of section 556(c) of title 5 of the United States Code. The committee shall designate a member to appear and testify at any such hearing with respect to the report and recommendations of such committee upon request of the Secretary, the petitioner, or the officer conducting the hearing, but this shall not preclude any other member of the committee from appearing and testifying at such hearing."

(b) Section 409(g)(3) (as redesignated by this Act) is amended by striking "ninetieth" and inserting in lieu thereof "thirtieth".

JUDICIAL REVIEW

SEC. 116. Section 409(h) (as redesignated by this Act) is amended—

(1) by redesignating paragraph (1) as subparagraph (1)(A);

(2) by redesignating paragraphs (2) through (5) as subparagraphs (B) through (E), respectively;

(3) by striking "(f)" wherever it appears and inserting in lieu thereof "(g)"; and

(4) by adding the following new paragraph:

"(2)(A) In any proceeding for the issuance of a regulation the petitioner may file a complaint in the district court of the United States in the district in which the person resides or has his principal place of business or in the United States District Court for the District of Columbia seeking an order compelling the Secretary to act on the petition within the time prescribed under subsection (c)(2) or to provide the detailed notification required under subsection (c)(1)(B), and the court shall have jurisdiction to issue an order compelling the Secretary to so act.

"(B) Notwithstanding any other provision of law, the Secretary shall serve an answer or otherwise plead to any complaint made under this subsection within ten days after service upon the Secretary of the pleading in which such complaint is made, unless the court shortens or lengthens this period for good cause shown.

"(C) The court shall advance on the docket and expedite the disposition of all cases filed therein pursuant to this section."

AMENDMENT OR REPEAL OF REGULATIONS

SEC. 117. Section 409(i) (as redesignated by this Act) is amended by inserting "(1)" after "(i)" and by adding at the end thereof the following new paragraphs:

"(2) In any case in which the safety or physical or technical effect of a food additive has been called into question on the basis of new information which is inconclusive, and the Secretary determines that there is a reasonable certainty that the substance is not harmful and that no harm to the public health will result from the continued use of the substance during the conduct of studies to resolve the question, such procedure shall permit the Secretary to adopt, in accordance with the provisions of this section for the issuance, amendment, or repeal of regulations, an interim food additive regulation with respect to such substance. Such regulation shall condition continued use of such additive on the undertaking of studies adequate and appropriate to resolve the questions raised with respect to the additive. Promptly upon the completion of such studies, the Secretary shall review all available data and information and shall terminate the interim regulation for such additive, and shall by order act with respect to such additive in accordance with the provisions of this section.

"(3) In any action to prohibit or limit the use of a substance which the Secretary has classified as generally recognized as safe, or of a substance that has a substantial history of use in food on the basis that it is generally recognized as safe, the Secretary shall follow the procedures under this section for the amendment or repeal of a regulation. A food shall not be deemed adulterated under paragraphs (1), (2)(C), or (6) of section 402(a) by reason of bearing or containing such a substance prior to the completion of such procedures unless the Secretary finds that the substance constitutes an imminent hazard to health.

EXEMPTIONS

SEC. 118. Section 409(j) (as redesignated by this Act) is amended by striking "(h)" and inserting in lieu thereof "(i)".

FOOD CONTACT SUBSTANCES

SEC. 119. The Federal Food, Drug, and Cosmetic Act is amended by adding after section 412 the following new section:

"FOOD CONTACT SUBSTANCES

"SEC. 413. (a) A food contact substance shall, with respect to any particular use or intended use of such substance, be deemed unsafe for the purposes of the application of clause (2)(E) of section 402(a), unless—

"(1) it and its use or intended use conform to a premarket notification effective under this section with respect to such use or an exemption from premarket notification issued pursuant to subsection (e)(2) of this section; or

"(2) it and its use or intended use conform to a regulation promulgated under section 409 or subsection (g) of this section; or

"(3) it or its constituents are not reasonably expected to become a component of food under its intended conditions of use. While such a notification or regulation is effective, a food shall not, by reason of bearing or containing a food contact substance in accordance with such notification or regulation, be considered adulterated within the meaning of clauses (1) or (6) of section 402(a).

"(b)(1) Any person may, not less than ninety days prior to the introduction or delivery for introduction into interstate commerce for sale of a food contact substance, register with the Secretary a premarket notification with respect to the intended use of such substance.

"(2) Such notification shall set forth—

"(A) the intended use of the substance;

"(B) the identity of the substances;

"(C) a summary of the data on the quantity of the substance or its constituents reasonably expected to become a component of food as a result of the intended conditions of use of the substance including a description of the analytical test procedures used in obtaining such data; and

"(D) a summary of the data upon the basis of which the registrant concludes that the intended use of the substance does not present a significant risk of harm to the public health.

"(c) The premarket notification shall become effective within ninety days, unless within that time (or such longer period as the Secretary and the registrant may agree) the Secretary finds to the contrary and so notifies the registrant in writing. The premarket notification shall be effective only with respect to a substance produced by the manufacturer named therein, or any successor in interest. A finding that a premarket notification shall not become effective shall issue only if the Secretary finds—

"(1) that the intended use of the food contact substance presents a significant risk of harm to the public health, taking into account (i) the quantity of the substance or its constituents expected to be present in the diet under its intended conditions of use, (ii) the chemical nature of the substance, and (iii) an assessment of the nature and extent of the risks from the substance under its intended conditions of use, considering all pertinent safety and toxicological data which, in the opinion of experts qualified by scientific training and experience to evaluate the safety of the substance, are valid and appropriate for such determination; or

(2) that the data in the premarket notification are inadequate or incomplete to the extent that qualified experts cannot fairly determine whether the substance presents a significant risk. A finding under this paragraph shall issue only if the chemical nature of the substance, and the general knowledge, or lack thereof, concerning the substance under its intended conditions of use are such that the absence or inadequacy of data would, in the opinion of qualified experts, raise concerns of a significant risk of harm that can only be resolved by further data.

"(d)(1) Any notice of a finding issued to the registrant under subsection (c) of this section shall include a statement setting forth in detail the facts and conclusions upon which it is based.

"(2) The Secretary's finding under subsection (c) shall constitute final agency action subject to judicial review in the district courts of the United States, which shall have jurisdiction to review the Secretary's action in accordance with section 706 of title 5 of the United States Code.

"(3) Such action shall be commenced within ninety days from the date the Secretary issues a notice under subsection (c) of this section, except that an action for review may be commenced after such date if the review action is based solely on grounds arising after such ninetieth day.

"(4) In any proceeding for judicial review under this subsection, the court may grant leave to adduce additional evidence or

may order such evidence to be taken before the Secretary and to be adduced in such manner and upon such terms and conditions as the court may deem proper. The Secretary may modify his findings of facts or make new findings by reason of the additional evidence so taken. He shall file such modified or new findings and his recommendation, if any, for the modification of the original finding, with the return of such additional evidence to the court.

"(e)(1) A premarket notification shall be deemed to be in effect for the purposes of subsection (a) of this section for any use of a food contact substance which (i) is generally recognized as safe within the meaning of section 201(s), or (ii) is in accordance with a sanction or approval as described in paragraph (5) of section 201(s).

"(2) The Secretary by regulation may exempt any substance or class of substances from the requirement of premarket notification if he finds that such notification is not necessary to protect the public health.

"(f) The Secretary shall maintain for public inspection a listing of all effective premarket notifications filed pursuant to subsection (b) of this section and any interested party shall have access to the safety data supporting the notification.

"(g) Nothing in this section shall prevent a person from petitioning the Secretary for promulgation of a regulation approving the use of a food contact substance in lieu of filing a premarket notification pursuant to subsection (b) of this section, or where the Secretary, in accordance with subsection (c)(1) of this section, has notified him that a notification with respect to such substance will not be permitted to become effective. In promulgating a regulation under this subsection, the Secretary shall follow procedures and criteria identical to those of section 409 for the promulgation of a regulation approving the use of a food additive.

"(h) The Secretary may promulgate a regulation which modifies or revokes a regulation issued under subsection (g) of this section or a premarket notification that is effective pursuant to this section. In promulgating a regulation under this subsection, the Secretary shall follow procedures and criteria identical to those of section 409 for the amendment or repeal of a food additive regulation."

FOOD SAFETY COMMITTEE

SEC. 120. The Federal Food, Drug, and Cosmetic Act is amended by adding the following new section:

"FOOD SAFETY COMMITTEE

"SEC. 414. (a) For purposes of receiving referrals respecting the safety of food substances pursuant to sections 406, 409(e), 512(e), 706(b)(5)(F), or any other applicable provision of law, or on the initiative of the Secretary, the Secretary shall—

"(1) request the National Academy of Sciences, the Federation of American Societies for Experimental Biology, or such other independent body possessing appropriate scientific expertise in the evaluation of the safety of food constituents, food additives, color additives and animal drugs as the Secretary may choose to establish a committee to study and report on the safety of food substances, or

"(2) if the National Academy for Sciences and the Federation of American Societies of Experimental Biology and such other entity or entities as the Secretary may request decline to establish such a committee, establish an advisory committee for the performance of such functions.

"(b)(1) If the Secretary establishes an advisory committee pursuant to subsection (a)(2), he shall appoint to such advisory committee persons who are qualified by training and experience to evaluate the safety of food substances. The Secretary shall make appointments so that the advisory committee shall consist of members with adequately diversified expertise. In addition, the advisory committee shall include as nonvoting members a scientific representative of consumer interests and a scientific representative of food industry interests. Interested individuals and scientific, trade, and consumer organizations shall be afforded an opportunity to nominate individuals for appointments to the advisory committee. No individual who is in the regular full-time employ of the United States and engaged in the administration of the Act may be a member of the advisory committee. The Secretary shall designate one of the voting members of the advisory committee to serve as chairman thereof.

"(2) Advisory committee members (other than officers or employees of the United States), while attending meetings or conferences of the advisory committee or otherwise engaged in its business, shall be entitled to receive compensation at rates to be fixed by the Secretary, but not at rates exceeding the daily equivalent of the rate in effect for grade GS–18 of the General Schedule, for each day so engaged, including travel time; and while so serving away from their homes or regular places of business each member may be allowed travel expenses (including per diem in lieu of subsistence) as authorized by section 5703(b) of title 5, United States Code, for persons in the Government service employed intermittently.

"(3) The Secretary shall furnish the advisory committee with adequate clerical and other assistance.

"(4) Section 14 of the Federal Advisory Committee Act shall not apply with respect to the duration of the advisory committee established under this subsection."

NEW ANIMAL DRUGS

SEC. 121. (a) Section 512(a)(1) is amended—

(1) by striking ", and" from paragraph (B) and inserting in lieu thereof ".";

(2) by striking subparagraph (C) thereof;

(3) by striking from clause (i) thereof "the holder of an approved application" and inserting in lieu thereof "a registrant";

(4) by striking from clause (ii) thereof "holder of an approved application" and inserting in lieu thereof "registrant";

(5) by striking the period at the end of clause (ii) thereof and inserting in lieu thereof "; or "; and

(6) by inserting the following new clause:

"(iii) has been exempted from registration under subsection (m) of this section.".

(b) Section 512(a)(2) is amended—

(1) by striking from subparagraph (B) "there is in effect an approval of an application pursuant to subsection (m)(1) of this section with respect to such animal feed" and inserting in lieu thereof "the first dilution or mixing of such drug into animal feed is performed (unless exempted by the Secretary) at an establishment having an unrevoked registration pursuant to subsection (m) of this section";

(2) by striking from subparagraph (C) all that follows "indications of use" and inserting in lieu thereof "established in the approved application with respect to such drug filed under subsection (m) of this section."; and

(3) by striking from subparagraph (C) "(m)" and inserting in lieu thereof "(c)".

APPLICATION FOR USE OF NEW ANIMAL DRUGS

SEC. 122. Section 512(b) is amended—

(a) by inserting "(1)" after "(b)";

(b) by redesignating paragraphs (1) through (8) as subparagraphs (A) through (H);

(c) by inserting at the beginning of subparagraph (G) (as redesignated by this Act) "in the event it is required by the Secretary,"; and striking "practicable" from such paragraph; and

(d) by inserting the following new paragraph:

"(2)(A) Not later than thirty days after the date an application is received by the Secretary, the Secretary shall determine whether the application meets the requirements of paragraph (1) of this subsection and shall so notify the applicant. If the Secretary determines that an application meets such requirements, or if the Secretary fails to make any determination with respect to such requirements within thirty days of receipt of the application, the application shall be deemed to have been filed on the day of receipt.

"(B) If the Secretary determines that the application may not be filed, he shall so notify the applicant in writing, stating in detail the complete basis for the determination. The applicant may, not later than thirty days after receipt of such notification, notify the Secretary in writing that the applicant will file supplementary information to correct the deficiencies of the application, or request that the application be filed notwithstanding the Secretary's determination. If the applicant submits supplementary information, the Secretary shall in the manner prescribed in subparagraph (A) consider whether the application as supplemented meets the requirements of paragraph (1) of this subsection and shall so notify the applicant. If the application as supplemented meets such requirements, or if the Secretary fails to make any determination with respect to such requirements within thirty days of receipt of the supplementary information, the application shall be deemed to have been filed on the date the supplementary information was received. If the applicant requests that the application be filed notwithstanding the Secretary's determination, it shall be deemed to have been filed on the date the application was received, but such request shall not excuse the application from otherwise complying with the requirements of this section.

"(C) For purposes of this subsection, an application shall be deemed to have been received on the date on which it is delivered to the Secretary or to an officer or employee authorized by the Secretary, by regulation, to accept delivery.

"(D) The Secretary shall, by regulation, establish procedures to facilitate early discussion regarding, and submission of, data and information respecting a new animal drug prior to the submission of an application in order to expedite action on the application after it is filed."

PROCEDURES

SEC. 123. Section 512(c) is amended by inserting after the second sentence thereof the following new sentence: "A referral to the food safety committee as permitted or required under subsection (n) shall be deemed an agreement to delay the commencement of such hearing until thirty days after the issuance of the report of the committee on the matter referred to it."

APPROVAL OF APPLICATION

SEC. 124. (a) Section 512(d)(1) is amended—

(1) by inserting "or" after the semicolon in clause (F);

(2) by striking out "or" at the end of subparagraph (G);

(3) by striking out clause (H); and

(4) by striking out "(A) through (H)" in the last sentence thereof and inserting in lieu thereof "(A) through (G)".

(b) Section 512(d)(2) is amended—

(1) by inserting "an assessment of the nature and extent of the risks from the use of the drug under the prescribed conditions of use, taking into account all pertinent safety data and" before "safety factors" in clause (C);

(2) by striking from subparagraph (c) "the use of animal experimentation data" and inserting in lieu thereof "such determination"; and

(3) by striking the last sentence thereof.

(c) Section 512(d) is amended by redesignating paragraph (3) as paragraph (5) and inserting the following new paragraphs:

"(3)(A) A new animal drug shall be deemed unsafe if it is found by the Secretary to induce cancer when ingested by man or animal, or if it is found by the Secretary, after tests which are appropriate for the evaluation of the safety of such drug, to induce cancer in man or animal, except that the foregoing provisions of this subparagraph shall not apply with respect to such drug (i) if the Secretary finds that, under the conditions of use specified in proposed labeling and reasonably certain to be followed in practice, such drug will not adversely affect the animals for which it is intended, and no residue of such drug will be found in any edible portion of such animal after slaughter or in any food yielded by or derived from the living animal; or (ii) if the drug is otherwise deemed to be safe pursuant to subparagraph (C) of this paragraph.

"(B) Before the Secretary issues an order denying an application or proposes to repeal a regulation or to impose a new limitation on use of a new animal drug on the basis that the drug induces cancer in man or animal, the Secretary shall prepare a written summary of the data and information before him with respect to such additive, shall refer the matter to the committee provided for in subsection (n) of this section, and shall provide an opportunity to the person who applied for approval for such drug and other interested persons to provide written or oral data and information before such committee with respect to the safety of the drug.

"(C) Notwithstanding subparagraph (A) of this paragraph, a new animal drug shall be deemed to be safe (i) if the Secretary finds, based on the evidence before him including evidence adduced under subparagraph (B) of this paragraph, and taking into account the factors listed in paragraph (2) of this subsection, that the use of the drug under the prescribed conditions of use does not present a significant risk to human health, or (ii) if the Secretary concludes, based on the factors in paragraph (4) of this subsection, that conditions of use can be prescribed for the drug.

"(4) In any hearing under subsection (c) or (e), or before a committee under subsection (n), an applicant may present evidence on—

"(A) the nature and extent of consequences resulting from use, or a limitation on use, as the case may be, of the drug, including effects on the nutritional value, consumer cost, availability and acceptability of food;

"(B) the present commercial availability of approved alternatives for the drug; and

"(C) the feasibility and effect of providing information to consumers concerning the type and extent of risk associated with the drug as the basis for informed choice by consumers.

The Secretary shall take this evidence into account in determining whether grounds exist for refusing to approve an application under subsection (c) or revoking or limiting an approval under subsection (e)."

HEARINGS ON NEW ANIMAL DRUGS

SEC. 125 (a). Section 512(e)(1) is amended—

(1) by striking "The Secretary shall," and inserting in lieu thereof "If the Secretary finds";

(2) by striking ", issue an order withdrawing, modifying, or limiting the approval of an application filed pursuant to subsection (b) with respect to any new animal drug if the Secretary finds"; and

(3) by striking the period immediately preceding the parenthetical phrase in subparagraph (E) and amending such phrase to read as follows: "(the supplemental application to be treated in the same manner as the original application),"; and

(4) by striking the period after subparagraph (E) and inserting the following: "the Secretary shall modify or limit the approval to conform to the conditions of use on the basis of which the application would be approvable under subsection (d), unless no such conditions are found, in which case the approval shall be withdrawn."

(b) Section 512(e) is amended by redesignating paragraph (3) as paragraph (5) and by inserting the following new paragraphs:

"(3) In any action to prohibit or limit the use of an animal drug which the Secretary has classified as generally recognized as safe and effective, or of an animal drug that has a substantial history of use on the basis that it is generally recognized as safe and effective, the Secretary shall follow the procedures under paragraph (1) of this section. An animal drug or an animal feed bearing or containing such drug shall not be deemed adulterated under sections 402(a)(2)(D), or 501(b) (5) or (6) prior to the completion of such procedures unless the Secretary acts in accordance with the last sentence of paragraph (1) of this subsection."

"(4) In any case in which the safety or efficacy of a new animal drug for which there is in effect an approval of an application that has been filed pursuant to subsection (b) or that is subject to paragraph (3) of this subsection has been called into question on the basis of new information which is inconclusive, and the Secretary determines that there is a reasonable certainty that the animal drug is not harmful and that no harm to the public health will result from the continued use of the substance during the conduct of studies to resolve the question, the Secretary shall issue an order pursuant to subsection (1)(1) of this section, establishing the reports to be filed, providing data adequate to resolve the questions raised with respect to the animal drug. Promptly upon receipt of the reports, the Secretary shall review all available data and information and shall act with respect to such animal drug in accordance with the provisions of this section.

REVOCATION OF ORDERS

SEC. 126. Section 512(f) is amended by inserting "limiting, modifying," after "withdrawing,".

SERVICE OF ORDERS

SEC. 127. Section 512(g) is amended by striking "(other than orders issuing, amending, or repealing regulations)".

APPEALS FROM ORDERS

SEC. 126. Section 512(h) is amended—

(a) by inserting "(1)" after "(h)";

(b) by inserting "or registrant" after "applicant";

(c) by inserting ", limiting, modifying," after "refusing";

(d) by inserting "or revoking a registration under subsection" after "subsection (b)"; and

(d) by inserting the following new paragraph:

"(2)(A) In any proceeding for the approval of an application, the applicant may file a complaint in the district court of the United States in the district in which the person resides, or has his principal place of business, or in the United States District Court for the District of Columbia, seeking an order compelling the Secretary to act on the application within the time prescribed under subsection (c), and the court shall have jurisdiction to issue an order compelling the Secertary to so act.

"(B) Notwithstanding any other provision of law, the Secretary shall serve an answer or otherwise plead to any complaint made under this subsection within ten days after service upon the Secretary of the pleading in which such complaint is made, unless the court shortens or lengthens this period for good cause shown.

"(C) The court shall advance on the docket and expedite the disposition of all cases filed therein pursuant to this section."

PUBLICATION OF INFORMATION CONCERNING APPLICANTS

SEC. 129. Section 512(l) is amended—

(a) by striking "is" after "subsection (b)" and inserting in lieu thereof "has been";

(b) by striking "by notice, which upon publication shall be effective as a regulation, published in the Federal Register" and inserting in lieu thereof "make publicly available, and give notice of the availability of";

(c) by striking "any animal feed for use in which such drug is approved" and inserting in lieu thereof "the animal feed under the conditions of use for which such drug is approved"; and

(d) by striking the last sentence thereof.

REGISTRATION

SEC. 130. Section 512 is amended by striking subsections (m) and (n), and inserting in lieu thereof the following new subsections:

"(m)(1) Any person may register with the Secretary an establishment at which a new animal drug which has been approved under subsections (c) is to be first diluted with or mixed into animal feed. Such registration statement shall (A) identify the location of the establishment and any trade name under which it might operate, (B) state the name (as defined in section 510(a)(2)) of the owner, and (C) state, if known, the species for which new animal drugs are to be mixed or diluted.

"(2) An establishment shall register once, at the time it begins mixing or diluting new animal drugs. An amended registration statement shall be submitted if any information previously submitted is no longer true.

"(3) The Secretary may assign a registration number to any establishment registered pursuant to this section, and shall make available for inspection any registration filed pursuant to this section.

"(4) The Secretary may, after due notice and an opportunity for hearing to the registrant, revoke any registration if the Secretary finds—

"(A) the registration statement (and any amendments thereto) contain an untrue statement of material fact, or

"(B) any new animal drug intended to be mixed or diluted, or any animal feed bearing or containing a new animal drug held at such establishment, has been adulterated within the meaning of section 501(a)(2)(B), or

"(C) any new animal drug feed bearing or containing a new animal drug held at such establishment is adulterated within the meaning of section 502(a)(5) or (6).

"(5) Any order under paragraph (4) of this subsection shall state the findings upon which it is based.

"(6) Any person registered pursuant to this subsection shall be exempt from registration under section 510 in accordance with paragraph (4) of section 510(g).

"(7) Any person who is not required, pursuant to subsection (a)(2)(B) of this section, to register under this subsection shall be exempt from sections 501(a)(2)(B) and 510.

"(n)(1) In any proceeding for the approval, or limitation or withdrawal of approval, of an application filed pursuant to subsection (b) with respect to a new animal drug, the applicant may request at any time prior to the commencement of a hearing under subsections (c) or (e) of this section,

that the matter be referred to the food safety committee established pursuant to section 414(a)(1), or to a committee formed in the manner prescribed in section 414(a)(2) if the safety of the drug is not at issue, for a report and recommendations. Upon such request, or on his own initiative if the Secretary within such time deems such a referral necessary, or if such a referral is required under subsection (d)(3)(B) of this section, the Secretary shall within thirty days refer to such committee, together with all data and information before him, such matter for study thereof and for a report and recommendations thereon. A person who has filed an application and other interested parties as well as representatives of the Secretary shall have the right to present written and oral data and information to such committee in connection with the matter referred to it.

"(2) Within ninety days after the date of such referral, or within an additional thirty days if the committee with the concurrence of the Secretary deems such additional time necessary, the committee shall, after independent study of the data and information furnished to it by the Secretary and other data and information before it, certify to the Secretary a report and recommendations, together with all underlying data and information and a statement of the reasons or basis for the recommendations. A copy of the foregoing shall be promptly supplied by the Secretary to any person who has filed an application with respect to such matter, and to other interested persons on request.

"(3) Where (A) the Secretary has issued a notice of opportunity for hearing under subsection (e), and (B) request has been made for referral of such proposal or order to the committee pursuant to this subsection, no further action may be taken to modify, limit or withdraw the approval until the committee has made a report and recommendations to him under paragraph (2) of this subsection and he has considered such recommendations, unless the Secretary acts pursuant to the last sentence of paragraph (1) of subsection (e).

"(4) Any report, recommendations, underlying data, and reasons certified to the Secretary by the committee shall be made a part of the record of any hearing under this section if relevant and material, subject to the provisions of section 556(c) of title 5 of the United States Code. The committee shall designate a member to appear and testify at any such hearing with respect to the report and recommendations of such committee upon request of the Secretary, the applicant, or the officer conducting the hearing, but this shall not preclude any other member of the committee from appearing and testifying at such hearing."

COLOR ADDITIVES

SEC. 131. (a) Section 706(b)(4) is amended by striking "however" after *"Provided,"*, and by inserting after "That" and before "a color additive" the following: "in determining whether a proposed use of a color additive will be safe the Secretary shall base his decision on the factors listed in paragraph (5)(A) of this subsection, and, where provided for under this section, the factors in paragraph (5)(E)(ii) of this subsection, and *Provided further*, That".

(b) Section 706(b)(5)(A) is amended—

(1) by striking "consider, among other relevant factors" and inserting in lieu thereof "base his determination on relevant factors including"; and

(2) by striking the text of clause (iii) and inserting in lieu thereof the following: "an assessment of the nature and extent of the risks from the use or uses for which the additive is proposed to be listed; taking into account all pertinent safety data and safety factors, which in the opinion of experts qualified by scientific training and experience to evaluate the safety of color additives, are valid and appropriate for such determination;".

(c) Section 706(b)(5) is amended—

(1) by inserting in paragraph (B) "(I)" after *"Provided,"*; and by striking the period at the end thereof and inserting the following: ", and (II) that clauses (i) and (ii) of this subparagraph shall not apply if the additive is otherwise deemed to be safe pursuant to subparagraph (D) of this paragraph.";

(2) by inserting in paragraph (B) "presenting a significant risk to human health" after "no residue of the additive";

(3) by striking from paragraph (B) "(by methods of examination prescribed or approved by the Secretary by regulations, which regulations shall not be subject to subsection (d)";

(4) by striking paragraph (D) and redesignating paragraph (C) as paragraph (F);

(5) by adding after paragraph (B) the following new paragraphs:

"(C) Before the Secretary issues an order denying a petition or proposes to repeal a regulation listing a color additive or to impose new limits on the use of a listed color additive on the basis that the additive causes cancer in man or animal, the Secretary shall prepare a written summary of the data and information before him with respect to such additive, shall refer the matter to the food safety committee appointed pursuant to section 414, and shall provide an opportunity for the person who filed the petition for the color additive and other interested persons to provide written or oral data and information before such committee with respect to the safety of the additive.

"(D) Notwithstanding subparagraph (B) of this paragraph, a color additive shall be deemed safe under subsection (b)(4) of this section, (i) if the Secretary finds, based on the evidence before him, including evidence adduced under subparagraph (C) of this paragraph, and taking into account the factors listed in subparagraph (A) of this paragraph, that use of the additive under the prescribed conditions does not present a significant risk to health, or (ii) if the Secretary concludes that a regulation may issue pursuant to subparagraph (E)(iii) of this paragraph.

"(E)(i) Whenever the Secretary has initiated a proceeding to repeal a regulation or to impose a new limitation on the use of a color additive which has a substantial history of use and no reasonably practicable substitute, and the period for public comment thereon has ended, the Secretary, before issuing an order repealing the regulation or imposing a new limitation on the use of such additive, shall by notice request the submission of information on the factors set forth in clause (ii) of this subparagraph.

"(ii) In determining whether to repeal a regulation or impose a new limitation on the use of such additive, the Secretary shall base his determination on—

"(I) the factors listed in paragraph (5)(A) of this subsection;

"(II) the nature and extent of consequences resulting from use or limitation or prohibition on use, as the case may be, of the color additive, including effects on the consumer cost, availability and acceptability of a food, cosmetic, drug or device; and

"(III) the feasibility and effect of providing information to consumers concerning the type and extent of risk associated with the color additive as the basis for informed choice by consumers.

"(iii) After consideration of the factors in subparagraph (A) of this paragraph and the factors in clause (ii) of this subparagraph the Secretary shall issue a regulation imposing such conditions of use on such additive as he finds necessary and sufficient for protection of the public health, unless no such conditions are found, in which case he shall repeal the regulation respecting such additive."

(d) Section 706(b)(5)(F) as redesignated by this Act is amended to read as follows:

(F)(i) In any proceeding for the issuance, amendment, or repeal of a regulation listing a color additive, whether commenced by a proposal of the Secretary on his own initiative or by a proposal contained in a petition, the petitioner, or any other person who will be adversely affected by such proposal or by the Secretary's order issued in accordance with paragraph (1) of section 701(e) if placed in effect, may request, at any time before or within thirty days after the publication of such proposal or such order, but prior to the commencement of a hearing under subsection (g) of this section, that the matter be referred to the food safety committee established pursuant to section 414 for a report and recommendations. Upon such request supported by reasonable grounds therefor, or if the Secretary within such time deems such a referral necessary, or if such a referral is required under subsection (b)(5)(C) of this section, the Secretary shall within thirty days refer to such committee, together with all the data and information before him, such matter for study thereof and for a report and recommendations thereon. A person who has filed a petition or who has requested the referral of a matter to such committee pursuant to this subparagraph [(C)] and other interested parties, as well as representatives of the Secretary, shall have the right to present written and oral data and information to such committee in connection with the matter referred to it.

"(ii) Within ninety days after the date of such referral, or within an additional thirty days if the committee with the concurrence of the Secretary deems such additional time necesssary, the committee shall, after independent study of the data and information furnished to it by the Secretary and other data and information before it, certify to the Secretary a report and recommendations, together with all underlying data and a statement of the reasons or basis for the recommendations. A copy of the foregoing shall be promptly supplied by the Secretary to any person who has filed a petition with respect to such matter, or who has requested such referral to the advisory committee, and to other interested persons on requests. Within sixty days after such certification, and after giving due consideration to all data and information then before him, including such report, recommendations, underlying data and information, and statement, and to any prior order issued by him in connection with such matter, the Secretary shall by order confirm or modify any order theretofore issued, or if no such prior order has been issued, shall act upon the petition or other proposal in accordance with this section.

"(iii) Where—

"(I) the Secretary has initiated a proposal to remove from listing a color additive previously listed pursuant to this section; and

"(II) a request has been made for referral of such proposal to the food safety committee;

the Secretary may not act by order on such proposal until the committee has made a report and recommendations to him under clause (ii) of this subparagraph and he has considered such recommendations, unless the Secretary finds that emergency conditions exist necessitating the issuance of an order notwithstanding this clause."

PROCEDURES FOR REGULATIONS RELATING TO COLOR ADDITIVES

SEC. 132. Section 706(d) is amended—

(1) by striking "(C)" from the first sentence thereof and inserting in lieu thereof "(F)";

(2) by redesignating paragraph (2) as

paragraph (6) and inserting the following new paragraphs:

"(2) The Secretary shall, by regulation, establish procedures to facilitate early discussion regarding, and submission of, data and information respecting a food additive prior to the submission of a petition in order to expedite action on the petition after it is filed.

"(3)(A) Not later than thirty days after the date a petition is received by the Secretary, the Secretary shall determine whether the petition meets the requirements for filing such petition and shall so notify the petitioner. If the Secretary determines that a petition meets such requirements, or if the Secretary fails to make any determination with respect to such requirements within thirty days of receipt of the petition, the petition shall be deemed to have been filed on the day of receipt.

"(B) If the Secretary determines that the petition may not be filed, he shall so notify the petitioner in writing, stating in detail the complete basis for the determination. The petitioner may, not later than thirty days after receipt of such notification, notify the Secretary in writing that the petitioner will file supplementary information to correct the deficiencies of the petition, or request that the petition be filed notwithstanding the Secretary's determination. If the petitioner submits supplementary information, the Secretary shall in the manner prescribed in subparagraph (A) consider whether the petition as supplemented meets the requirements of paragraphs (2), (3), and (4) of this subsection and shall so notify the petitioner. If the petition as supplemented meets such requirements, or if the Secretary fails to make any determination with respect to such requirements within thirty days of receipt of the supplementary information, the petition shall be deemed to have been filed on the date of the supplementary information was received. If the petitioner requests that the petition be filed notwithstanding the Secretary's determination, it shall be deemed to have been filed on the date the petition was received, but such request shall not excuse the petition from otherwise complying with the requirements of this section.

"(C) For purposes of this subsection, a petition shall be deemed to have been received on the date on which it is delivered to the Secretary or to an officer or employee authorized by the Secretary, by regulation, to accept delivery.

"(4)(A) With respect to any petition proposing the issuance of a regulation to extend the conditions of safe use for a color additive that is already the subject of a regulation issued under this section, the Secretary shall, in the notice of filing published with respect to such petition, state whether the additive may be used on an interim basis pending final action on the petition.

"(B) The Secretary shall permit such interim use when it appears, from initial review of the petition and any other data and information available to the Secretary, that such use is safe. The Secretary shall permit such interim use either under the conditions of use proposed in the petition or under conditions of use different from those proposed in the petition.

"(C) The Secretary may permit such interim use conditional upon the petitioner undertaking to obtain additional specified data or information. In the event that the Secretary permits interim use conditioned upon any such undertaking, the time limits for action on the petition established in paragraph (1) of this subsection shall be suspended until the petition is amended by the submission of all such data or information.

"(5) If the Secretary issues an order denying a petition, he shall notify the petitioner of such order, and such notification shall include a statement setting forth in detail the findings and conclusions upon which the order is based;

(3) by striking "an advisory" from paragraph (6) (as redesignated by this Act) and inserting in lieu thereof "the food safety".

(4) by striking from paragraph (6) (as redesignated by this Act) "an advisory committee appointed pursuant to subparagraph (D) of subsection (b)(5) of this section" and inserting in lieu thereof "the food safety committee appointed pursuant to section 414";

(5) by striking from paragraph (6) (as redesignated by this Act) "the Administrative Procedure Act (5 U.S.C. 1006(c))" and inserting in lieu thereof "section 556 of title 5 of the United States Code";

(6) by striking from the second sentence of paragraph (6) (as redesignated by this Act) "advisory" wherever it appears;

(1) by redesignating paragraphs (3) and (4) as paragraphs (9) and (10), respectively, and inserting the following new paragraphs:

"(7) In any case in which the safety or physical or technical effect of a color additive has been called into question on the basis of new information which is conclusive, and the Secretary determines that there is a reasonable certainty that the substance is not harmful and that no harm to the public health will result from the continued use of the substance during the conduct of studies to resolve the question, such procedure shall permit the Secretary to adopt, in accordance with the provisions of this section for the issuance, amendment, or repeal of regulations, an interim color additive regulation with respect to such substance. Such regulation shall condition continued use of such additive on the undertaking of studies adequate and appropriate to resolve the available data and information and shall terminate the interim regulation for such additive, and shall be order act with respect to such additive in accordance with the provisions of this section.

"(8) In any action to prohibit or limit the use of a substance which is provisionally listed pursuant to section 203 of the Color Additive Amendments of 1960, the Secretary shall follow the procedures under this section for the amendment or repeal of a regulation. A food shall not be deemed adulterated under section 402(a)(1), (2)(C), or (6) by reason of bearing or containing such a substance prior to the completion of such procedures unless the Secretary finds that the substance constitutes an imminent hazard to health;";

(7) by striking from paragraph (9) thereof (as redesignated by this Act) "(f)" and inserting in lieu thereof "(g)";

(8) by striking from paragraph (10) thereof (as redesignated by this Act) "(f)" and inserting in lieu thereof "(g)"; and

(9) by inserting the following new paragraph:

"(11)(A) In any proceeding for the issuance of a regulation the petitioner may file a complaint in the district court of the United States in the district in which the person resides or has his principal place of business or in the United States District Court for the District of Columbia seeking an order compelling the Secretary to act on the petition within the time prescribed under paragraph (1) or to provide the detailed notification required under paragraph (5), and the court shall have jurisdiction to issue an order compelling the Secretary to so act.

"(B) Notwithstanding any other provision of law, the Secretary shall serve an answer or otherwise plead to any complaint made under this subsection within ten days after service upon the Secretary of the pleading in which such complaint is made, unless the court shortens or lengthens this period for good cause shown.

"(C) The court shall advance on the docket and expedite the disposition of all cases filed therein pursuant to this section."

TITLE [TWO] II—AMENDMENTS TO THE POULTRY PRODUCTS INSPECTION ACT, THE MEAT INSPECTION ACT, AND THE EGG PRODUCTS INSPECTION ACT

AMENDMENTS TO THE POULTRY PRODUCTS INSPECTION ACT

SEC. 201(a) Section 4(g)(1) of the Poultry Products Inspection Act is amended by inserting before the semicolon at the end thereof the following: ": *Provided*, That the determination of whether a food may be injurious to health shall be based on, among other relevant factors, an assessment of the nature and extent of the risks from the probable consumption of such substance, taking into account all pertinent safety data and safety factors, which in the opinion of experts qualified by scientific training and experience to evaluate the safety of food constituents, are valid and appropriate for such determinations."

(b) Section 4(g)(2)(A) of the Poultry Products Inspection Act is amended—

(1) by striking "or" before "(iii)";

(2) by inserting "; or a food contact substance" immediately following a "color additive"; and

(3) by striking "may, in the judgment of the Secretary, make such article unfit for human food", and inserting in lieu thereof "is unsafe within the meaning of section 406 of the Federal Food, Drug, and Cosmetic Act".

(c) Section 4(g)(2)(d) of the Poultry Products Inspection Act is amended by adding after "official establishments;" the following: "*Providing further*, That regulations of the Secretary prohibiting use of a pesticide chemical, food additive, or color additive which is not otherwise deemed adulterated under clause (B), (C) or (D) shall be issued in conformity with the provisions of section 408 of the Federal Food, Drug, and Cosmetic Act in the case of a pesticide chemical, section 409 of the Federal Food, Drug, and Cosmetic Act, in the case of a food additive, and section 706 of the Federal Food, Drug, and Cosmetic Act, in the case of a color additive;".

(d) The Poultry Products Inspection Act is amended by adding the following new section:

"SEC. 28. If a substance in food or food packaging violates a general or specific safety provision of this Act the Secretary may, by regulation, permit the gradual elimination of the substance from the food supply if he finds that the public interest will be adequately served thereby, and that the continued use of the substance will not present an imminent danger to health."

AMENDMENTS TO THE FEDERAL MEAT INSPECTION ACT

SEC. 202(a) Section 1(m)(1) of the Federal Meat Inspection Act is amended by inserting before the semicolon at the end thereof the following: ": *Provided*, That the determination of whether a food may be injurious to health shall be based on, among other relevant factors, an assessment of the nature and extent of the risks from the probable consumption of such substance, taking into account all pertinent safety data and safety factors, which in the opinion of experts qualified by scientific training and experience to evaluate the safety of food constituents, are valid and appropriate for such determination".

(b) Section (1)(m)(2)(A) of the Federal Meat Inspection Act is amended—

(1) by striking "or" before "(iii)";

(2) by inserting "; or a food contact substance" immediately following "a color additive"; and

(3) by striking "may, in the judgment of the Secretary, make such article unfit for human food", and inserting in lieu thereof

"is unsafe within the meaning of section 406 of the Federal Food, Drug, and Cosmetic Act".

(c) Section 1(m)(2)(D) of the Federal Meat Inspection Act is amended by adding after "Title I of this Act;" the following: "*Provided further*, That regulations of the Secretary prohibiting use of a pesticide chemical, food additive, or color additive which is not otherwise deemed adulterated under clause (B), (C) or (D) shall be issued in conformity with the provisions of section 408 of the Federal Food, Drug, and Cosmetic Act in the case of a pesticide chemical, section 409 of the Federal Food, Drug, and Cosmetic Act, in the case of a food additive, and section 706 of the Federal Food, Drug, and Cosmetic Act, in the case of a color additive;".

(d) The Federal Meat Inspection Act is amended by adding the following new section:

"SEC. 25. If a substance in food or food packaging violates a general or specific safety provision of this Act the Secretary may, by regulation, permit the gradual elimination of the substance from the food supply if he finds that the public interest will be adequately served thereby, and that the continued use of the substance will not present an imminent danger to health."

AMENDMENTS TO THE EGG PRODUCTS INSPECTION ACT

SEC. 203(a) Section 4(a)(1) of the Egg Products Inspection Act is amended by inserting before the semicolon at the end thereof the following: ": *Provided*, That the determination of whether a food may be injurious to health shall be based on, among other relevant factors, an assessment of the nature and extent of the risks from the probable consumption of such substance, taking into account all pertinent safety data and safety factors, which in the opinion of experts qualified by scientific training and experience to evaluate the safety of food constituents, are valid and appropriate for such determinations".

(b) Section 4(a)(2)(A) of the Egg Products Inspection Act is amended—

(1) by striking "or" before "(iii)";

(2) by inserting "; or a food contact substance" immediately following "a color additive"; and

(3) by striking "may, in the judgment of the Secretary, make such article unfit for human food", and inserting in lieu thereof "is unsafe within the meaning of section 406 of the Federal Food, Drug, and Cosmetic Act".

(c) Section 4(a)(2)(D) of the Egg Products Inspection Act is amended by adding after "official plants;" the following: "*Provided further*, That regulations of the Secretary prohibiting use of a pesticide chemical, food additive, or color additive which is not otherwise deemed adulterated under clause (B), (C) or (D) shall be issued in conformity with the provisions of section 408 of the Federal Food, Drug, and Cosmetic Act in the case of a pesticide chemical, section 409 of the Federal Food, Drug, and Cosmetic Act, in the case of a food additive, and section 706 of the Federal Food, Drug, and Cosmetic Act, in the case of a color additive;".

(d) The Egg Products Inspection Act is amended by adding the following new section:

"SEC. 30. If a substance in food or food packaging violates a general or specific safety provision of this Act the Secretary may, by regulation, permit the gradual elimination of the substance from the food supply if he finds that the public interest will be adequately served thereby, and that the continued use of the substance will not present an imminent danger to health."

TITLE III—GENERAL AND CONFORMING PROVISIONS

CONFORMING AMENDMENT

SEC. 301. Section 706(e) of the Federal Food, Drug, and Cosmetic Act is amended by striking "406,".

EFFECT OF AMENDMENTS

SEC. 302. Food additive petitions, color additive petitions, and new animal drug applications filed pursuant to sections 409, 706, and 512 of the Federal Food, Drug, and Cosmetic Act, respectively, shall be considered—

(a) In accordance with such section as in effect prior to the enactment of this Act; or

(b) In accordance with such section as amended by this Act.

A person who has filed such a petition or application which is not the subject of a final order prior to the date of enactment of this Act shall amend such petition and state therein under which alternative he seeks consideration of such petition or application within 30 days of the date of enactment of this Act. Failure to submit such an amendment within such period shall be deemed a selection by the petitioner or applicant to proceed in the manner prescribed by such section as in effect prior to the date of enactment of this Act.

EFFECT ON PROCEEDINGS

SEC. 303. Any proceeding under sections 301, 302, 303, 304, or 305 of the Federal Food, Drug, and Cosmetic Act, or section 4(g)(1) or 4(g)(2) of the Poultry Products Inspection Act, or section 1(m)(1) or 1(m)(2) of the Federal Meat Inspection Act, or section 4(a)(1) or 4(a)(2) of the Egg Products Inspection Act based on acts which occurred prior to the date of enactment of this Act, whether such proceeding commenced before or after the date of enactment of this Act, shall be carried out as if such Acts had not been amended by this Act.

EFFECTIVE DATE

SEC. 304. Except as provided in sections 302 and 303 of this Act, the amendments made by this Act shall become effective on the date of enactment.

SECTION-BY-SECTION ANALYSIS OF THE FOOD SAFETY AMENDMENTS OF 1981

I. INTRODUCTION

The "Food Safety Amendments of 1981" ("the Amendments") are a comprehensive series of revisions to the food safety provisions of the Federal Food, Drug, and Cosmetic Act, (the "FDC Act") and conforming changes to the Federal Meat Inspection Act (the "FMI Act"), Poultry Products Inspection Act (the "PPI Act"), and Egg Products Inspection Act (the "EPI Act"). The Amendments address a number of significant problems in the regulation of food additives, food contact substances, color additives, food contaminants, and new animal drugs, while retaining the basic framework of the four laws. But, by building on the years of experience with those laws and recent advances in science, especially in the areas of analytical chemistry and risk assessment, the Amendments revise the substantive standards and procedures in the four laws to reflect desirable public policy. The Amendments also build on the report of the National Academy of Sciences conducted under the 1977 Saccharin Study and Labeling Act, (Pub. 95-203, 91 Stat. 1451) and bills introduced previously in the Congress.

In recent years, public controversies have erupted over saccharin and nitrites, two widely used additives which are important to the safety, variety, appeal, and acceptability of major segments of our food supply. These episodes, and other regulatory actions by the Food and Drug Administration and U.S. Department of Agriculture regarding such substances as aflatoxins, mercury in fish, polychlorinated biphenyls (PCBs) acrylonitrile, aspartame, cyclamates, and others too numerous to mention, have served to focus public attention on the need to consider revisions in our food safety laws.

The Congress began this process in 1977, when it enacted the Saccharin Study and Labeling Act which, in addition to placing a moratorium on FDA's efforts to ban saccharin, the only approved non-nutritive sweetener, directed that a study be undertaken by the National Academy of Sciences of our food safety laws. The recommendations of that study, review of the FDC Act and FMI, PPI and EPI Acts by FDA and USDA, and the efforts of numerous public and private groups are all reflected in the Food Safety Amendments of 1981.

As noted, the Amendments retain the basic structure and approach of the four laws under which most food safety decisions are made. Retention of the basic approaches of current law was a conscious decision, for although there is undeniably a need to revise those laws to make them consistent with sound science and good public policy, the actions of previous Congresses in enacting the basic laws and in amending them over the past seventy-five years have left a sound foundation.

The Amendments are thus another step in the continuing process to evolve sound food safety policies that protect the public, encourage and facilitate innovation in food processing and packaging, provide for a varied, wholesome, abundant, and nutritious food supply, maximize the potential for informed choices by consumers as to the foods they eat and drink, and authorize regulatory intervention when necessary to protect the public against significant risks, and then to do so in the way that maximizes the benefits for society.

The four laws that are revised by the Amendments are complex, This section-by-section analysis, therefore, not only contains a description of the way in which the Amendments would revise the current law, but also a summary of current law and the ways in which food safety problems are not treated adequately under current law.

This analysis is organized into the following sections:

(1) Definitions;
(2) Food Contaminants;
(3) Food Additives;
(4) Food Contact Substances;
(5) New Animal Drugs;
(6) Color Additives;
(7) Conforming Changes to the Meat, Poultry and Egg Acts.
(8) Miscellaneous Provisions.

Each section contains a brief summary of current law and the nature of the problem that the Amendments address, a general explanation of the way in which current law would be revised, and a summary of the rationale for the change. That summary followed by a detailed section-by-section analysis.

II. DEFINITIONS

A. Summary:

Since 1906, when the Federal Food and Drugs Act of 1906 and the Federal Meat Inspection Act were enacted, and continuing with each legislative revision of the food safety laws, Congress has attempted to refine the categorization of substances that are added to or may get into food and to ensure that the regulatory criteria and procedures that are applied to each category are appropriate. The Congress has created different categories of substances in food and tailored different regulatory procedures for each category for several reasons. First, some items, such as raw agricultural com-

modities—fruits and vegetables, spices, meat and poultry—have been consumed for their food properties for centuries. Application of elaborate preclearance requirements for these items would be nonsensical. Other substances, such as environmental contaminants, while not desired in food and not intended to be there, are unavoidable to some degree if the food supply is to be affordable and plentiful and again require special standards and procedures. In short, the categorization of substances reflects, in part, broad risk-benefit judgments involving consideration of the nature of food itself, the relative ease or difficulty of regulating the substance, and its significance to the food supply.

Each of the major revisions of the food safety laws since 1906—the 1938 FDC Act, the 1954 Miller Pesticide Amendments, the 1958 Food Additives Amendment, the 1960 Color Additive Amendments, and the 1962 Animal Drug Amendments—has involved an attempt to create or clarify the categories of substances in food. Under the law, these categories now exist:

1. Food Additives, which are defined under section 201(s) of the FDC Act as those substances, the intended use of which results in their becoming a part of food or which may become a part of food through migration from food contact surfaces such as packaging materials.

2. Generally recognized as safe (GRAS) substances, which are excluded from the food additive definition in section 201(s) of the FDC Act because scientists "generally recognize" them to be safe.

3. Prior Sanction Substances, which are also exempt from the food additive definition because they were approved for use by FDA or USDA before the 1958 Food Additives Amendment was enacted.

4. Color Additives, which are those substances used in food, drugs, cosmetics, and medical devices to impart color.

5. Residues of new animal drugs used in food-producing animals.

6. Pesticide residues, which are regulated by the Environmental Protection Agency under section 408 of the FDC Act and the Federal Insecticide, Fungicide, and Rodenticide Act.

7. Food contaminants, including environmental contaminants and naturally-occurring contaminants, which under the law, are referred to as "poisonous or deleterious substances." Different regulatory requirements and administrative procedures apply to each of these categories of substances. For example, while the regulatory scheme for color additives under section 706 of the FDC Act is not unlike that for food additives under section 409, there are major differences between the way in which additives and food contaminants are regulated. Many of the definitions under section 201 of the FDC Act establish the categories of substances, and are important because they help determine how substances will be regulated.

Under the Amendments, two changes would be made in the definition of the term "food additive" in section 201(s) of the FDC Act. Since 1958, FDA and the food industry have struggled with the breadth of the definition and its apparent application to substances that were never intended to be subject to food additive regulation. The first of these changes would define "basic or traditional foods," those items of the diet which consumers ordinarily think of as "food" or as essential elements of it and exclude these from the food additive definition. Centuries of use have amply demonstrated the safety of these items and their ambiguous status under current law ought to be clarified. Consideration of these items under the elaborate food additive provisions of the law would be inappropriate and unnecessary.

Therefore the Amendments would exclude from the definition of food additive and therefore section 409, basic and traditional foods with a significant history of food use in the United States. This category would include raw agricultural commodities such as fruits and vegetables, flour, vegetable oils, meat, poultry, spices, and herbs. These items would retain their status as "basic or traditional foods" when processed by any method which is generally recognized as not significantly changing their properties.

The definition of food additive in the FDC Act is also revised to reflect the new premarket notification procedure for food contact substances. This amendment involves revising the language of the current definition of food additive to exclude substances which are intended for use in packing, packaging, transporting, or holding food and the inclusion in the definition section of the FDC Act of a new definition of "food contact substances." This aspect of the Amendments is discussed more fully in the section of this analysis entitled "Food Contact Substances."

Another change in the definitions section of the FDC Act involves the definition of the term "safe" which currently appears in Section 201(u). The definition in current law is not explicit, merely stating that the term safe has reference to the health of man or animal. Consistent with one of the principal objectives of the Amendments, which is to clarify that FDA and USDA's regulatory actions regarding substances in the food supply ought to be directed at protecting the public health from significant risks, the definition of the term safe is revised to refer to the absence of significant risk.

The term "new animal drug" under section 201(w) of the FDC Act and the term "animal feed" as defined in section 201(x) of the FDC Act are both revised to be consistent with changes made in the regulation of new animal drugs under section 512. These changes are discussed more fully in the section of this analysis entitled "New Animal Drugs."

B. Section by Section Analysis:

Sec. 106. A new definition for "basic and traditional foods," those items which consumers have historically considered to be "food," and items which have a long history of use in the food supply and are generally considered to be significant components of it, has been added to the FDC Act as new section 201(bb). Under the new section, basic and traditional foods would be defined as (1) raw agricultural commodities, including spices, with a history of significant food use in the United States (raw agricultural commodities are defined under section 201(r) of the FDC Act) and (2) raw agricultural commodities which have been processed by any method which is generally recognized by experts as not significantly changing the properties of the raw agricultural commodity. Basic and traditional foods would be exempted from the definition of "food additive" under section 201(s)(1) by section 102 (a) of the Amendments.

Basic and traditional foods are now technically subject to regulation as food additives, although most, if not all of them, have not been actively regulated as such because they are exempt as generally recognized as safe (GRAS) substances or subject to a prior sanction. Nevertheless, the possibility remains that in the future the GRAS exemption would become unavailable in one way or another and, therefore, the prospect that a substance such as an apple might, when made into applesauce, unnecessarily be subject to the food additive preclearance procedures cannot be dismissed. Although exempt from the definition of food additive by the Amendments, basic and traditional foods would still be subject to the basic food adulteration provision in Section 402(a)(1) of the FDC Act. Under that provision, a basic and traditional food would be adulterated if, by reason of the presence of a poisonous or deleterious substance inherent to the food (e.g. solanine in a potato) the food was "ordinarily injurious to health." This retains the approach of current law. However, by the addition of a brief proviso to Section 402(a)(1), the law would be clarified so that its was clear that the ordinarily injurious test applied to a basic or traditional food whether it was standing alone or added to another food whether it was standing alone or added to another food (e.g., an apple would always be subject to the ordinarily injurious test even when used to make applesauce.)

Sec. 106. A new definition is added to section 201 for food contact substances, which would, under the Amendments, also be excluded from the definition of food additive in section 201(s) of the FDC Act. Under new section 201(cc), substances used as components of materials used as food contact surfaces, including materials used to pack, transport, hold or package food would be defined as "food contact substances" and thereafter regulated under a system set forth in new section 413. This new definition is discussed more fully under the "Food Contact Substances" section of this analysis.

Sec. 103. The definition of "safe," currently found in Section 201(u) of the FDC Act, is revised to reflect the intent of the Amendments as to the appropriate basis for regulatory action with respect to substances in the food supply. Under the revised definition, the term "safe," as used in sections 408 (pesticides), 409 (food additives), 512 (new animal drugs), and 706 (color additives), would refer to the absence of a significant risk under the intended conditions of use of the substance, as well as having reference to the health of man or animal, the latter being retained from the current definition.

The term "significant risk" refers to the probability and severity of an effect arising from exposure to a substance, and while it cannot be defined precisely, has come to be generally understood in recent years. In fact, FDA has relied on the concept in several recent regulatory matters, including those involving the color additive lead acetate, certain hair dye colors, and new animal drug residues.

Inclusion of an explicit reference to significant risk is consistent with the recent Supreme Court decision in the Benzene case and the decision of the D.C. Court of Appeals in the Monsanto case remanding the acrylonitrile ban to FDA for further consideration. It is unnecessary to specify that the prohibition of added poisonous or deleterious substances in section 402(a)(1) requires a finding of significant risk because the Supreme Court so held in the Lexington Mill case in 1914 and this has remained the legal standard ever since.

The revised definition of safe makes clear that decisions under sections 408, 409, 512, and 706 respecting the safety of pesticides, food additives, new animal drugs, and color additives, respectively, are to protect the public from significant risks and that regulatory action on insignificant risks is inappropriate and unnecessary. With the development of techniques for quantitative risk assessment, it has become increasingly possible to determine more precisely the magnitude and nature of the risk to humans from exposure to substances in the food supply. With the revised definition (and other changes made by the Amendments), quantitative risk assessments will be used where feasible, and regulatory action by FDA will be better focused at those substances in the food supply which may be appreciable public health concern. The notion of "absolute

safety" would be explicitly rejected through the new definition.

III. FOOD CONTAMINANTS

A. Summary:

The FDC Act presently contains two related provisions dealing with the consequences of the presence in food of contaminants, which under the Act are referred to as "poisonous or deleterious substances." Under Section 402(a)(1), a food is adulterated if it contains an added poisonous or deleterious substance which "may render it injurious to health." Section 406 of the FDC Act, however, provides FDA with authority to establish tolerances for added poisonous or added deleterious substances which are either "required in the production of food" or "unavoidable under good manufacturing practice." Thus, in section 406, the Congress recognized that the presence of some substances in food which would otherwise adulterate the food under section 402(a)(1) was nevertheless necessary in manufacturing or unavoidable and the FDA was directed to regulate such substances by the setting of tolerances as necessary to protect the public health.

In setting a tolerance under section 406, FDA must now use a formal trial-type public hearing, a very cumbersome and time-consuming procedure. As a result, FDA has adopted only one formal section 406 tolerance, for PCBs in a variety of foods. In lieu of section 406 tolerances, FDA has resorted to the use of "action levels," which are the informal counterpart of tolerances. Unlike tolerances set under 406, however, action levels are established internally by FDA and the public has no active role in the determination of the appropriateness of the level.

Moreover, the relationship between 402(a)(1) and section 406 is not clear and the language of section 406 is itself ambiguous. The Amendments clarify the relationship between the two sections, the language and intent of section 406, and by the addition of a proviso to section 402(a)(1) and new criteria to section 406, ensure that decisions under those sections are made on the basis of sound science and that quantitative risk asssessment techniques are used when the data are adequate to support their use.

The Amendments respond to the problems created by the overlapping and somewhat inconsistent relationship between sections 402(a)(1) and 406, the disincentive to use 406 created by the formal hearing requirement and related questions respecting the criteria and factors to be taken into account in establishing section 406 tolerances. By adding a new subparagraph (b) to section 406, the amendments also provide an additional incentive for FDA to adopt section 406 tolerances.

B. Section-by-Section Analysis:

Sec. 108. Section 402(a)(1) of the FDC Act would be revised by the Amendments in two respects. First, a proviso (which also appears in sections 406, 409, 512, and 706) would be added requiring that decisions on whether a food is adulterated within the meaning of section 402(a)(1) be based on "an assessment of the nature and extent of the risks" from probable consumption of the poisonous or deleterious substance, taking into account all pertinent safety data. This proviso permits, but does not require, the use of quantitative risk assessment techniques in the determination of whether the presence of a poisonous or deleterious substance presents risks such that it satisfies the "may render it injurious to health" test of section 402(a)(1). Because section 402 applies not only to poisonous or deleterious substances, such as environmental contaminants, but may be relied on by FDA in taking regulatory action against a substance which is exempt from regulation as a food additive under section 201(s)(4) because it has a "prior sanction," the inclusion of this proviso is necessary to insure that, among other things, food safety decisions under the Act are based on the application of consistent principles and techniques, that quantitative risk assessments are relied on when feasible, and that all relevant data are considered.

The addition of this proviso is not intended to require the FDA to compile an administrative record on the nature and extent of the risks from exposure to a particular poisonous or deleterious substance as a statutory prerequisite to initiating a seizure action in which it is alleged that a food is adulterated under secton 402(a)(1). The proviso is intended, however, to require FDA, as part of its internal processes in which potential regulatory actions are proposed, evaluated, and decided upon, to assess the nature and extent of the risks and to undertake action only with respect to significant risks. After a seizure is filed, the court must make such an assessment in deciding the case of the question is contested.

The second change to section 402 relates to the new definition of basic and traditional foods in section 201(bb) and the exclusion of those foods from the food additive definition in section 201(s). In order to make clear what standard of adulteration applies to those foods, a proviso is added to section 402(a)(1) stating that a basic and traditional food is not an added poisonous or deleterious substance. This clarification of the standard of adulteration changes current law only in one modest respect. Under current law, a food, such as an apple, is not adulterated by reason of the presence of a substance inherent in the apple, unless that inherent substance "ordinarily renders the food injurious to health." The Amendments would make clear that when the apple is processed to make applesauce the ordinarily injurious test still applies.

Finally, with respect to section 402(a)(1), one of the principal objectives of the Amendments is to clarify that regulatory action by FDA and USDA with respect to substances in food should be directed at protecting the public health from "significant risks." As explained above, this objective is achieved principally by defining safe in section 201(u) to mean, with respect to sections 408, 409, 512, and 706, the absence of a significant risk to consumers from the pesticide, food additive, new animal drug, or color additive, as the case may be, under the intended conditions of use of the substance. In the case of section 402(a)(1), however, it is not necessary to revise the standard of adulteration for added substances that may render food injurious to health, because under case law going as far back as 1914 (Lexington Mill) decided by Supreme Court, the test has been held to mean a reasonable possibility of injury to consumers, thus requiring a finding of "significant risk." And, of course, the test of adulteration applying to non-added substances—ordinarily injurious to health—is a standard that requires more than a finding of significant risk.

Sec. 110. Section 406 of the FDC Act, the provision which authorizes the FDA to establish tolerances for added poisonous or deleterious substances which are required in the production of food or which cannot be avoided by good manufacturing practice, is substantially revised. Initially, section 406 is revised to clarify its otherwise uncertain meaning. Specifically, the Amendments would provide that if a substance, (other than a food additive, color additive, new animal drug, pesticide, or food contact substance) is required in the production of food or cannot be avoided under good manufacturing practice, or if it is a substance for which there is a prior sanction within the meaning of section 201(s)(4) for which there is no reasonably practicable substitute, the FDA is required, after consulting with a committee of outside experts, to establish a tolerance for such substance as is necessary to protect the public health. This revision of section 406 has a number of effects:

1. It clarifies that the purpose of section 406 is to permit the FDA to establish administrative tolerances for those added poisonous or added deleterious substances which are required in the production of food or which cannot be avoided or are subject to a prior sanction for which there is no substitute, where a tolerance is necessary to protect the public health.

2. The revision clarifies the appropriateness of using section 406 for prior sanction substances for which there is no reasonably practicable substitute. FDA has previously regulated some prior sanction substances under section 406.

3. The revision also makes clear that a tolerance need not be set for all section 406 substances. A tolerance need be set only when necessary to protect the public health.

The revision of section 406 would also change the procedures for establishing tolerances in two respects. First, the requirement for a formal evidentiary hearing is deleted and informal notice-and-comment rulemaking under section 553 of the Administrative Procedure Act is substituted. Second, the requirement that FDA consult with the expert committee established under section 120 of the Amendments is included to insure that external peer review is obtained on the scientific issues involved in setting a tolerance.

Under the revised section 406, the determination of what should be the tolerance limitation, if any, for a substance subject to section 406, would be based on the assessment by the FDA as to the extent to which the substance is required or cannot be avoided in the production of food (or the lack of a reasonably practicable substitute in the case of a prior sanctioned substance), the other ways in which the consumer may be affected by the substance (both of these criteria appear in current 406), an assessment of the nature and extent of the risks from consumption of the substance (the standard criteria that the Amendments would include in each of the sections of the FDC Act under which food safety decisions are made), and the effects of the tolerances on the cost and availability of food (this criterion clarifies current FDA practice which has evolved over the years under section 406). A final sentence would also be added to new subparagraph (a) of section 406 to provide that, whenever a tolerance is established under section 406, the FDA must specify an analytical method that will be used to determine compliance with the tolerance. In this way, the affected industries will be able to comply with the tolerance.

Section 406 is also revised by the addition of a new subparagraph (b). The new paragraph provides that, in any action under the Act, including a seizure, injunction or criminal prosecution, in which the alleged violation involves the application of section 402(a)(1), if there is no tolerance under 406 for such substance, any party to the proceeding may request that the court determine whether the substance meets the criteria of section 406 and, if so, the court in deciding the case before it, may fix a tolerance as determined to be appropriate consistent with the criteria of section 406.

This new paragraph has two principal consequences. First, it is an incentive to FDA to comply with the tolerance-setting requirement in section 406 where the agency believes that a tolerance is needed, since the consequence of not having a section 406 tolerance would be that a court would make that determination. It should be preferable for FDA to establish tolerances under section 406 administratively, with the new, less

cumbersome procedures, rather than having repeatedly to demonstrate in court on a de novo basis the validity of its position. Second, new subparagraph (b) will insure that determinations of adulteration under section 402(a)(1) involving the presence of poisonous or deleterious substances in food are not made without resort to the criteria of section 406 when the substance in question falls within the criteria set out in that section. FDA's action levels would remain as statements of the agency's enforcement discretion, but if a tolerance were not adopted under section 406, a court would be free to determine the appropriate limit, if any, on the presence of a substance in food, notwithstanding the action level.

Neither the changes to section 402(a)(1) nor the revisions in section 406 is intended to inhibit the exercise of FDA's enforcement authority respecting poisonous or deleterious substances. When prompt action is necessary to protect the public health, FDA will still be able to act. The Amendments do not impose any preconditions on FDA for the initiation of a seizure action to remove from commerce food which it believes is adulterated within the meaning of the Act. Rather, the changes to section 406 are intended to encourage and facilitate the use of that section by FDA before initiating regulatory action.

To the extent that section 406 is used, the public will have the opportunity to participate in the establishment of tolerances for poisonous or deleterious substances which are appropriately handled under section 406. The problems of environmental contamination of food through the presence in the environment of such industrial chemicals as polychlorinated biphenyls (PCBs) has become more important in recent years. If, as is expected, these problems persist, it will become increasingly important that the scientific basis for decisions on what levels of these substances to tolerate in food be exposed to public view and established only after full opportunity for public participation. Moreover, it will become increasingly important that the decision on what level of a substance to tolerate under section 406 be subject to external peer review. These changes ensure that FDA will be able to respond to problems of contamination of food in a sensible, efficient way consistent with the need to protect the public health.

IV. FOOD ADDITIVE REGULATION

A. Summary:

In 1958, Congress enacted the Food Additives Amendment which established, for the first time, a premarket approval process for food additives.

As noted above, two categories of substances that fit the broad definition of "food additive" that the Congress adopted in 1958—GRAS and prior sanction substances—were held not to require the elaborate preclearance procedures and by exclusion from the definition of food additive in section 201(s) of the FDC Act were exempted from section 409. GRAS substances were given a conditional exemption (i.e., GRAS status may be removed if a substance becomes no longer GRAS) and prior sanctioned substances were given a permanent exemption.

Food additives may be usefully considered to be of two types. The first are the so-called "direct additives," i.e., those substances that are intentionally added to food by food processors in order to achieve a desired technical or other physical effect, such as preservation. The second category, the so-called "indirect additives" are those substances which may migrate to food from such things as food packaging, but which are not intended by food packagers or processors to become a part of food. Nevertheless, under current law, both types of additives are subject to the requirements of section 409.

Under section 409, an additive may not be approved for use by FDA unless, on the basis of a food additive petition submitted to the agency, it determines that the additive: (1) will accomplish the intended technical or other physical effect for which its use is sought and (2) is safe. The term "safe" in section 409(c) is not defined. On the basis of the legislative history of the 1958 Food Additives Amendment, the term has been held to require proof to a "reasonable certainty" that "no harm" will occur from the use of the additive under its intended conditions of use. In that legislative history, the Congress made clear that proof of "absolute safety" was not a requirement for food additives. Much of the controversy about food additives that has occurred since 1958, however, has involved the meaning and proper interpretation of the term "safe" as used in section 409.

Section 409 also contains one of the three Delaney Clauses that appear in the Act. The other two appear in sections 512 (animal drugs) and 706 (color additives). The Delaney Clause provides that no additive may be found to be safe if it "induces cancer in man or animals." Although the Clause has rarely been relied on by FDA to ban or not approve the use of food additives, the policy reflected in it no doubt has had ramifications well beyond those few instances in which it has been relied on formally. It is also important to bear in mind that because GRAS and prior sanctioned substances are excluded from the definition of food additive and therefore from section 409, the Delaney Clause does not apply to them.

Under section 409, the FDA may not, under any circumstances, consider any factors concerning the use of a food additive other than an assessment of its risks and a determination of whether it accomplishes the technical or other physical effect for which its use is desired. In the case of additives that have been in use for many years and are a significant part of the food supply, and which have properties which make them unique, this limitation can give rise to difficulty.

Since 1958, it has become increasingly difficult to satisfy the FDA that an additive has been shown to be safe, largely because the agency has, while citing the "reasonably certainty of no harm" standard, required something closer to proof of absolute safety before it would authorize the use of an additive. The difficulties in getting additives approved, and continuing controversies over additives in use, have, among other things, impaired the credibility of FDA and the faith of the public in the safety of the food supply, while also inhibiting innovation in the development and marketing of new food additives and packaging materials. Without the benefit of food additives currently in use, our food supply would not be as varied, safe, reliable, affordable, acceptable, or available as it is. The Amendments respond to the problems under section 409 involving the meaning and application of the term "safe," the Delaney Clause, the absence of any provision to consider other factors in the case of any direct food additive and the time and cost of obtaining approval for direct additives. The problems peculiar to indirects additives are addressed by the new notification system for food contact substances.

The Amendments would make a number of important changes in the way in which FDA handles food additive petitions and the criteria for its action on those petitions without changing the burdens of proof under current law. The Amendments address a number of problems:

1. The time for action on petitions has grown increasingly lengthy and the costs of developing and bringing to market new and potentially important food additives have become enormous. The Amendments address this problem through a number of statutory improvements in the food additive petition and handling process.

2. In recent years, the FDA's application of the criteria for food additive approval has drifted towards a requirement that the proponent of use of the additive demonstrate that the additive is absolutely safe, notwithstanding the fact that, in 1958, when Congress enacted the food additive law, it explicitly rejected the "absolute safety" standard and adopted a standard of "reasonable certainty of no harm." The Amendments, through the revised definition of safe in section 201(u) and through changes in section 409 of the FDC Act, rectify this problem.

3. The use of risk assessment where appropriate and feasible is not explicitly addressed in current law. The Amendments permit the use of this analytical technique.

4. The value of external peer review of scientific decisions under the FDC Act has been widely recognized. No provisions currently exists in section 409 (or in a number of other sections) to provide for such external peer review. The Amendments would correct that deficiency.

5. Although the Delaney Clause has not been relied on by FDA as a basis for prohibiting the use of many food additives, its effect on numerous food safety decisions is readily apparent.

Given the advances in analytical chemistry in recent years, which now enable chemists to identify substances in parts per trillion or lower, and the availability of techniques for quantitative risk assessment, the flat prohibition of the Delaney Clause on the use of any additive shown to cause cancer in man or animal, regardless of the risk, if any, which would flow from such use is outdated. The Amendments would retain the Delaney Clause but allow for an exception in the case of an additive not shown to present a significant risk of cancer. This would conform public policy to our current scientific capabilities.

6. Current law contains no provision for the consideration by FDA of factors other than risk in determining whether additives should be continued in use. The Amendments would provide for a limited opportunity for consideration of important factors other than risk that may bear on the question whether a food additive with a substantial history of use and no reasonably practicable substitute should be used.

These changes are designed to improve the implementation of the food additive provisions of the FDC Act, both procedurally and substantively, and to insure that, as Congress intended in 1958, the food additive law would serve two important purposes: protection of the public health from significant risks and encouragement of the use of additives for the wide range of technological purposes that additives may have in order for consumers to have a varied, safe, and wholesome food supply.

B. Section-By-Section Analysis:

Sec. 111. A new paragraph is added to section 409(b) to require FDA to file food additive petitions within thirty days after receipt, unless a specific determination is made that the petition is inadequate for filing. Although FDA has recently changed its internal practices to accord with this approach, the Act should itself require that this be done.

Secs. 111 and 112. A series of additions are made to sections 409(b) and (c) to require FDA to improve the current handling of food additive petitions. FDA would be required to specify in detail the specific reasons for any conclusion that a food additive is not safe or has not been shown to be safe. If FDA fails to follow the new statutory requirements with respect to a direct food additive, the petitioner would be given the right to an expedited court review.

Sec. 111. A new paragraph is added to section 409(b) to require the Secretary to establish, by regulation, procedures to facilitate early discussion about food additives and the submission of data and information concerning them before a petition is actually

filed. This provision will enable prospective petitioners to consult with FDA on such issues as the type of data needed in the petition, the significance if any, of findings in studies conducted to establish safety, and other matters that often arise in the development of a food additive petition. This so-called "progressive review," which has worked well in the case of new drugs, will better enable FDA to act in a timely manner on petitions and help ensure that FDA and petitioners do not waste time and resources pursuing matters that are not important.

Sec. 111. A new provision is also added to section 409(b) to permit FDA to authorize an expansion of the use of an already approved additive when, based on an initial review of the petition for an expanded use, it appears that such use will be safe. Under the new provision, the decision of the Secretary on whether to permit the expanded use pending formal action on the petition would be made within the 30-day period provided for the filing of petitions. In an appropriate case, the Secretary could authorize the interim expanded use but also impose on the petitioner a requirement to provide additional data or information. This provision will permit new uses of existing and previously approved additives to be promptly undertaken when no significant safety issues are raised by the new uses, and provide for the accumulation of useful new data on such additives.

Sec. 112(e). Section 409(c) would be revised to provide that, in determining whether a food additive is safe, the FDA should base its determination on a consideration of all relevant factors and scientific data and explicitly on an assessment of the nature and extent of the risk to humans from use of the additive under the proposed or actual conditions of its use. The requirement that these decisions be based on an assessment of the nature and extent of the risk to humans would permit, but not require, the use of quantitative risk assessment in making these decisions. This criterion for food additive decisionmaking would replace the new obsolete concept that such decisions be based on the use of "safety factors," although when a quantitative risk assessment is not feasible, safety factors could be used. This new criterion for food safety decisionmaking under section 409 insures that additives are neither banned nor denied approval on the basis of speculative risks, broadens the nature of the scientific inquiry on food additives to help insure that decisions are the result of careful consideration of all the relevant risk factors, including such matters as metabolic and epidemiologic data where available and pertinent, and permits distinctions to be made between direct and secondary carcinogens consistent with the revised definition of safe in section 201(u).

Sec. 112(f). The Delaney Clause is retained but with important changes. As revised in section 409(c), an additive which is shown to induce cancer when ingested by man or animal would be deemed not to be safe, as is the case under current law. However, if the risk to humans from consumption of the additive is determined not to be significant, then the Delaney Clause would not apply to that additive. Thus, the Amendments would provide that substances presenting a de minimis risk because of low potency and low exposure would not fall within the Delaney Clause. This change is consistent with the redefinition of safe in section 201(u) and reflects increasing knowledge about the nature of the process of carcinogenesis, as well as the availability and appropriateness of using quantitative risk assessment to make food safety decisions. The current DES proviso to the Delaney Clause would be retained, but revised explicitly to include the significant risk concept.

In order to insure that decisions under the revised Delaney Clause are based on valid scientific data, the Amendments would require FDA to follow a special procedure in all cases in which the issue of carcinogenicity is raised concerning an additive. The procedure would require FDA to:

Prepare a written summary on an additive that it believes induces cancer (internal peer review) and refer the scientific questions concerning the additive to a committee established under section 414 of the FDC Act. The Committee would prepare a detailed analysis of the scientific data bearing on the risks from the additive and the respect in which the additive may or may not present a significant risk. Under this provision, for example, both the FDA and the committee would be able to determine whether an animal carcinogen is a primary carcinogen that directly initiates cancer or is a secondary carcinogen that does not directly initiate cancer and is thus not within the Delaney Clause. FDA would then review the Committee's report before initiating regulatory action to ban or limit the use of an additive and would thereafter follow the current procedures for issuing, amending or repealing food additive regulations.

Sec. 112(b). A new provision is added to section 409(c) to provide for the consideration of factors other than risk in making decisions on certain food additives. Under the new provision, the Secretary would be required to consider, in the case of a food additive which appears to have a significant risk associated with its use (after consideration of this issue by the standing committee established under section 414 of the Act and consideration of the issue through the rulemaking process) and which (1) has a substantial history of use and (2) no reasonably practicable substitute, other factors which may appropriately bear on the decision of the Secretary to either ban the additive or impose new limitations on its use.

In this limited case, the Secretary, in determining whether to ban the additive or impose new limitations, would consider not only the assessment of the nature and extent of the risks from use of the additive, but the nature and extent of consequences resulting from limitations or a prohibition on use of the additive, including effects on the nutritional value, consumer cost, availability and acceptability of food, and use of the additive for dietary management and other health-related purposes.

Additionally, the new provision would direct the Secretary to consider the feasibility and effect of providing information to consumers concerning the type and extent of risks associated with the additive as a basis for informed choice by consumers. After considering the risks and these other factors, the new provision directs the Secretary to prescribe, by regulation, such conditions of use for the additive as are found necessary and sufficient to protect the public health. If no conditions exist sufficient to protect the public health, the Secretary would prohibit use of the additive.

Under this new provision, consideration of these "other factors" is subject to several limitations:

1. It applies only to additives that are in use and that have a substantial history of use; new additives would not be subject to consideration on the basis of these other factors.

2. The other factors can be considered only in the case of those additives that have been identified in the rulemaking process as presenting a significant risk.

3. Additives that present only insignificant risks are safe, as the term is defined in new section 201(u); the consideration of these other factors in such cases is not necessary.

4. An additive in use which has been identified in the rulemaking process as presenting a significant risk would be eligible for consideration of the other factors only if the additive has a substantial history of use and no reasonably practicable substitute. Additives that do not have a substantial history of use or for which there are reasonably practicable substitutes are ineligible for evaluation on the basis of the other factors. These two criteria thus function as "entry criteria," further limiting the occasions on which the Secretary is authorized to consider the "other factors." Given the judgmental nature inherent in considering the "other factors" and the fact that, without a substantial history of use, or if a substitute is available, an additive with a significant risk is unlikely to be supported by substantial data on the "other factors," the limitations on its availability will ensure that these factors are considered only when it is clear that to fail to do so would result in a decision not consistent with sound public policy.

5. After receiving data and information from the public on the other factors, the Secretary would evaluate the entire administrative record then accumulated on the additive and issue a regulation as is necessary to protect the public health. The regulation may retain the current conditions of use for the additive, impose new conditions, such as labeling, or prohibit use of the additive, as needed to protect the public health.

Sec. 113. A new provision is added to section 409 to provide for the use of an independent food safety committee to provide peer review and scientific advice on proposed FDA actions respecting a food additive. (The committee would be established by section 120, as new section 414 of the FDC Act, and would also receive referrals under sections 406, 512, and 706 of the Act.) This committee would be established as a standing committee under the auspices of the National Academy of Sciences, the Federation of American Societies of Experimental Biology (FASEB) or another appropriate scientific body. If neither the NAS nor FASEB, nor any other scientific group, agreed to form the committee, the Secretary would be authorized to establish the committee. This new provision incorporates the element of peer review which is widely recognized as necessary for valid food safety decisions by FDA.

Under the provision, referral of matters to the committee in any proceeding for the issuance, amendment, or repeal of a food additive regulation would be at the initiative of the Secretary, or upon request of any interested person supported by reasonable grounds therefor, except in the case in which the application of the Delaney Clause is at issue, in which case referral to the committee would be mandatory.

Sec. 116. A new provision is added to section 409 to allow expedited court review of any failure by FDA to meet the statutory time limits set for action on a petition for a direct food additive or for the failure of FDA to provide a detailed written statement of the scientific reasons for an FDA determination that a direct food additive is not safe or is not shown to be safe. Presently, court review takes so long that it is not a realistic remedy. Under this provision the FDA would be required to serve an answer or otherwise respond to a complaint within ten days after the complaint is served and the court would be required to give expedited treatment to the case.

Sec. 117. The Act is revised by the addition of two new subparagraphs in section 409(1). The first paragraph explicitly confirms the authority of the Secretary to adopt, in accordance with the requirements in section 409 for the issuance, amendment, or repeal of regulations, interim food additive regulations in those instances in which substantial questions have been raised about the safety or technical effect of an additive but no conclusive judgment can be reached. Under the

interim food additive regulations that FDA has previously issued (21 C.F.R. Part 180), the continued use of such an additive is conditioned on the undertaking of studies which are adequate and appropriate to resolve the questions raised with respect to the additive. These regulations have twice been upheld in the courts. The Amendments simply confirm the authority of the Secretary to issue such regulations.

The second change in section 409(i) provides that, in any action taken by the Secretary to prohibit or limit the use of a substance which has been classified as GRAS or that has a substantial history of use on the basis that it is GRAS, the Secretary shall follow the procedures under section 409 for the amendment or repeal of regulations. This insures that the procedures and criteria in section 409 (e.g., external peer review, rulemaking requirements, possibility of consideration of other factors) will apply to GRAS substances when that would be appropriate. A GRAS substance not classified as such or without a substantial history of use based on GRAS status would not fall under section 409.

V. FOOD CONTACT SUBSTANCES

A. Summary:

Virtually all of the nation's food supply is packaged. The physical health of our country depends upon such packaging. Neither packaging manufacturers nor food processors intend for packaging components to get into food, and if this occurs, it is only in minuscule amounts. Yet all food contact substances—packages, conveyor belts, etc.—are regulated under current law in the same way as food additives, that is, substances that are intentionally added to foods to accomplish a given technical or other physical effect.

As the current law is now implemented by FDA, practically every change, no matter how minor, in an existing packaging material, let alone the introduction of a new packaging material, is subject to the elaborate clearance requirements embodied in the food additive process. It is commonplace for the process of promulgating a regulation approving an indirect additive (*e.g.*, a component of a package) to take two years or more, even though no new or significant toxicological concerns are raised by the application to FDA.

When the Food Additives Amendment of 1958 was being considered by the Congress, there was little discussion of the potential impact of the legislation on the so-called "indirect additives"—those substances not intended to be present in food and which do not perform a technical or physical effect in food. What little discussion occurred left a clear impression that industry could rely on the FDA's common sense to interpret the law in such a way that reasonable handling of packaging materials issues would continue.

Before the 1958 Amendments, it was common practice for manufacturers of food packaging to provide FDA with information about a packaging substance and to obtain the agency's informal approval. After 1958, for a few short years, industry was able to obtain letters of concurrence from FDA that a material was exempt from the food additive procedures on the basis of a showing of "no migration" of substances from the the package to food. In the early 1960's, however, the agency ceased to operate in this reasonable fashion and began to insist upon the filing of food additive petitions for virtually all materials. As a result, more than two-thirds of the some 365 pages of the Code of Federal Regulations dealing with food additives are concerned with indirect additives.

These results could hardly have been anticipated by Congress in 1958. At that time, analytical detection of materials in food in amounts less than one part per million was rare. Today, measurements in parts per trillion are commonplace. Chemists can now detect substances in food in amounts approaching one million times less than that which was detectable in 1958. This fact, coupled with the requirement that almost all packaging materials must now receive "full-blown" food additive petition treatment, has resulted in the regulation of trace migrants from food packaging materials that has become one of the most anomalous and obsolete aspects of current food safety policy.

The regulatory burdens associated with FDA's approach to packaging are not justified by the level of risk associated with food packaging materials, are inconsistent with the regulation of these materials in other countries, and stifle the development of needed new and innovative food packaging. This is a view shared, as a matter of policy, by leading officials of FDA's Bureau of Foods. They have stated as recently as two months ago that society and the scientific community are wasting a great deal of its time and scarce public and private resources by the way the packaging industry is regulated in the U.S. It has been estimated by these officials that 85 percent of the time spent reviewing indirect additive petitions is wasted.

The unnecessary and expensive FDA procedures not only bear no relationship to protection of the public health from significant risks, but undoubtedly increase the cost of packaging materials and the food in them. To the inherent cost of time and money involved in the lengthy regulatory process, often taking years to complete, must be added the cost to society of the difficulties of developing new packaging materials. The current regulatory system is thus a significant disincentive to innovation without appreciable benefits to the public health.

To alleviate this situation, while also maintaining the protection of our law which has provided the safest and most varied food supply of any country, the Amendments define food contact substances (new section 201(cc)) and exclude them from the definition of food additive. Under a new and simplified premarket notification system set forth in a new section 413 of the FDC Act, manufacturers of food contact substances would be required, before marketing, to submit a notification statement to FDA. The statement would contain pertinent information about the substance, the quantity expected to be present in food, if any, as a result of its use, and a summary of the toxicological data on the material. Unless FDA concludes that use of the material would present a significant risk, the notification automatically becomes effective within 90 days, and the substance may be marketed. The specific provisions of section 413 of the Act are discussed below.

B. Section-by-Section Analysis:

Sec. 106. A new definition of the term "food contact substance" would be added to section 201 of the FDC Act. Under the definition in Section 201(cc), substances intended for use as components of materials used to pack, package, transport or hold food, or other substances used in food contact surfaces, which have no technical or physical effect in the food, would be exempt from the definition of a food additive in section 201(s) of the Act. This new definition excludes from the food additive definition those substances which, while ordinarily in contact with food, albeit sometimes for very brief periods, are not advertently added to food and if present in food, are at levels which often defy detection by even the most sophisticated analytical techniques that analytical chemists have at their disposal.

Sec. 119. Under new section 413(a), a food contact substance, as defined in section 201 (cc) would be deemed unsafe (and the food which it contacts therefore adulterated under section 402(a)(2)(E)) unless the substance and its use conforms to an effective notification statement, or a food additive regulation promulgated under section 409 (for existing food contact substances that have already been cleared through the food additive petition process) or new section 413(g), for those few food contact substances which in the future may not be suitable for disposition under the normal notification process. A food contact substance may be used without notification if it or its constituents are not reasonably expected to become a component of food under its intended conditions of use.

Sec. 119. New section 413(b) provides for notification statements to be filed with FDA 90 days before marketing and sets forth the required contents of the statement. The statement is the vehicle through which the premarket notification system is carried out. The statement is required to identify the substance and its intended use, to provide data on the quantity of the substance or its constituents reasonably expected to become a component of food (and to provide a description of the analytical testing which will bear this out), and a summary of the data upon the basis of which the registrant concludes that the intended use of the substance does not present a significant risk of harm to the public health.

Sec. 119. Under new section 413(c), the notification statement automatically becomes effective within 90 days unless FDA notifies the registrant in writing to the contrary. A notice may be issued if FDA finds (1) that the intended use of the substance presents a significant risk of harm to the public health; or (2) that the data in the notification statement are inadequate or incomplete to the extent that it cannot be determined whether a significant risk is presented. A finding on the ground of insufficient information may be issued only if the absence of or inadequacy of the data is so substantial that concerns of significant risk of harm are raised which can only be resolved by the submission of further data.

This system is designed to simplify and accelerate substantially the clearance process for food contact substances without impairing the FDA's capability to protect the public health. It is expected that the vast majority of all notification statements will become effective within the 90-day period, thus reducing by many months, if not years, the delay built into the current system. Only where a genuine risk is presented can FDA reject the notification and either prevent marketing of the substance or require further data before marketing begins.

This section also provides that a notification statement is effective only for the substance produced by the manufacturer named in the statement. Under current law, food additive regulations permit any person to produce a substance so long as it meets the specifications of the regulation. This has contributed to the inordinate delay associated with clearance of food additive petitions, because FDA must take data associated with a particular substance and process and write a "generic" regulation that will apply across the board.

Under the Amendments, all manufacturers of a substance will be required to file a notification. Although this will increase the number of submissions, this disadvantage is outweighted by eliminating the question of whether a product produced by one company will be safe when produced by another during the consideration of the first company's notification, thus facilitating its approval. Moreover, a subsequent notification by another company of a previously-marketed product should be simple: FDA will already have the safety data from the first statement which it can rely on freely in reviewing subsequent notifications, and, in the absence of significantly different production processes or specifications that would raise

concerns of significant risk, review of subsequent registrations will be straightforward.

Sec. 119. Under subsection (d) of new section 413, the finding that FDA will issue when, subject to the criteria provided for such action, it desires to prevent a notification statement from taking effect, must state specifically the conclusions of the Agency and the facts on which it relies. The subsection also provides that the finding constitutes final agency action which is subject to judicial review in a U.S. District Court in accordance with section 706 of title 5 of the U.S. Code. Finally, the subsection requires generally that suit for review of a such a finding begin within 90 days and also provides that the court may receive additional evidence on the matter or permit the FDA to receive additional evidence if needed to properly dispose of the matter.

Sec. 119. Under section 413(e), a notification statement shall be deemed to be in effect for the use of a food contract substance which is now generally recognized as safe (GRAS) or is used in accordance with a prior sanction. This section continues the current law, which does not require food additive regulation for substances that are GRAS or that have prior sanctions. This section also avoids the filing of unnecessary statements for substances already in use. Under this section, FDA would also be able, by regulation, to exempt categories of food contract substances from the notification requirements.

Sec. 119. To facilitate compliance with the law, as well as its enforcement, new subsection (f) requires the FDA to maintain a public listing of all effective statements filed pursuant to subsection 413(b).

Sec. 119. Section 413(g) gives a manufacturer or group of manufacturers the option, in lieu of the notification process of section 413(b), to petition FDA to issue a regulation under section 409 authorizing the use of a food contact substance. It is not anticipated that this section will be used often to obtain approval of a food contact substance. Except in the rare and unusual cases where the notification process is insufficient to obtain FDA clearance, the food additive process and requirements will not apply to food contact substances.

Sec. 119. Finally, subsection (h) authorizes the Secretary to revoke or modify either a regulation under section 409 or a notification covering a food contact substance if this is necessary to protect the public health. In such a case, FDA will act by promulgating a regulation in accordance with the procedures and criteria of section 409 for the amendment or repeal of a food additive regulation.

VI. NEW ANIMAL DRUGS

A. Summary:

Americans spend less of their disposable income on food than any other group of consumers in the world. They do this because American farmers, although only about 3 percent of our population, produce nearly 20 percent of the food consumed in the world. With less land available to agriculture, they produce half again as much as they did a generation ago.

An important part of this vastly increased agricultural production for human food consumption is meat and poultry. The 650 presently approved animal drugs play an important role in both the health of livestock and poultry and the continued productivity of the growers and producers of meat and poultry products.

Important areas of research remain. University scientists have documented continuing significant losses in dairy cattle, swine, and broilers. All together, 15 to 20 percent of our food animals die before reaching market. This and other health-related losses cost animal producers and thus ultimately the consumer 4.6 billion dollars each year.

In the face of these clear-cut needs to speed the development of animal drug to continue to enhance the productivity of animal agriculture, the animal drug industry remains among the most tightly regulated of all groups subject to the FDC Act. The Animal Drug Amendments of 1968, while providing a single procedure for the clearance of new animal drugs, retained the substantive requirements of three separate provisions of the Act relating to food additives, new drugs, and antibiotics. More than a decade of experience demonstrates that some of the controls imposed are unnecessary to protect the public health and that the procedures need to be revised to provide an incentive for the prompt review of pending applications.

Since 1962, drugs and other food additives used in food-producing animals have been subject to a special proviso to the Delaney Clause (the so-called DES provisio) that sets forth the conditions under which drugs that have been found to be carcinogenic may nonetheless be used in food-producing animals.

This provision has been difficult both to interpret and apply, and there is a need to assure that, as Congress intended in 1962, it can provide a meaningful basis for FDA action within the basic structure established by the Delaney Clause. As in the case of food and color additives, the concept of limiting regulations to substances which present a significant risk to humans is the vehicle for a more flexible but sound public policy.

B. Section-by-Section Analysis:

Secs. 121–130. These sections of the Amendments contain a number of changes to section 512(a)–(h) which are largely conforming changes to those made to the food additive and color additive sections of the FDC Act. Thus, for example, the changes made to section 409 to improve and speed up the food additive clearance process, including the requirements that petitions be filed within thirty days and that if FDA fails to act on the petition within the statutory time period the petitioner may seek expedited court review of the agency's failure to act, are also included in section 512 for animal drugs. Additionally, the concept of external peer review, the requirement for a written summary of the data and information on a substance before the FDA as a precondition to initiating the administrative process to limit or prohibit the substance, and the use of the concept of significant risk are all carried over to section 512.

Specifically, section 122 amends section 512(b) by adding a new paragraph setting forth the specific procedures for the filing of new animal drug applications. These changes are comparable to those that were adopted with respect to food additives in section 111 of the Amendments. Section 123 incorporates the food safety committee referral described in section 130 below, and authorizes a delay in the commencement of any hearing until after the food safety committee issues its report. Section 124 makes a number of revisions in the specific approval criteria under section 512 of the FDC Act, including a revision to incorporate the concept of risk assessment, relocation of the Delaney Clause and DES proviso into the approval factors section, and the addition of specific provisions as to what the Secretary must do when reaching a decision under the Delaney Clause. All of these changes are essentially identical to those adopted with respect to food additives under sections 111 and 112 of the Amendments.

One aspect of the changes to sections 409 and 706 that is not carried over to section 512 in identical fashion is the provision for the consideration of "other factors" in deciding what action to take with respect to food and color additives with a substantial history of use, no reasonably practicable substitute and that have been identified through the rulemaking process as having a significant risk. The differences between the regulation of food and color additives, on the one hand, and the regulation of animal drugs on the other, dictate slightly different approaches.

Animal drug approvals, unlike the approvals of food additives and color additives, are individual product licenses rather than general regulations. Similarly, when FDA proposes to revoke an approval, it is moving against one or more particular licenses for specific products rather than proposing, through rulemaking, a general revocation. The new animal drug process is thus closely analogous to the new drug process under section 505. Congress has been clear in the regulation of drugs that each product must stand on its own merits and it was to be neither permitted nor banned based on a comparison with alternative products. Nonetheless, occasions may arise, particularly in the application of the Delaney Clause, when it is appropriate to take into account the impact that the banning of a drug may have on the food supply for want of adequate alternatives, and the courts have held that the FDA is under an obligation to consider that issue when it is raised. The revisions to section 512 provide a mechanism by which the applicant can raise that issue before either the safety committee hearing in the event of the proposed application of the Delaney Clause or before an advisory committee in other cases or at an evidentiary hearing on the proposed disapproval or withdrawal of an approval for the drug. In the absence of the applicant raising the issue, it does not become an issue on which the FDA is obligated to take evidence or rule.

Sec. 125. This section modifies section 512(e) of the FDC Act in a number of respects. First, it explicitly requires that the Secretary determine, in any proposed revocation proceeding, whether the existing conditions of use can be modified or limited in order to be safe. This is consistent with the case law that has developed since 1968, requiring the agency to conform approvals to safe and effective conditions of use, even if this requires a modification of existing labeling.

Second, provisions are added that explicitly provide for interim marketing in order to provide additional safety or efficacy data, and that require the agency to follow procedures under the FDC Act where it calls into question the safety or efficacy of an animal drug that has been determined not to be a new animal drug, or that has a significant history of use on the basis that it is no longer a new animal drug. These provisions are comparable to those adopted in section 117 with respect to food additives.

Sec. 126. This section modifies section 512(f) to conform it to the changes made in 512(e), and the change in the handling of medicated feeds, discussed under Section 130 below.

Sec. 127. This section contains a conforming amendment to section 512(g), relating to the amendments made to section 512(i) as discussed under section 120 below.

Sec. 128. This section contains two amendments. The first is a conforming change relating to the new handling of medicated feed establishments providing for judicial review of revocation of establishment registrations. The second change, comparable to that adopted in section 116, provides for expedited court review in the event of FDA's failure to abide by the statutory time limits for review of applications.

Sec. 129. One of the difficulties that has routinely been encountered in implementing the animal drug amendments has been the considerable time it has taken for Federal Register notices of drug approvals to be published. With the change in the medicated feed program, such published approvals are no longer necessary. The elimination of this requirement will also substantially

reduce the size of FDA's regulations listing the individual approvals and their sponsors. This information is already widely disseminated by private industry in various compendia used by the medicated feed industry as well as by the individual sponsors of the drugs. Accordingly, under revised section 512 (l), the public availability of information on the proper use of the drugs would be required and FDA would be permitted to announce in the Federal Register, as it does in the case of medical devices, that particular drugs have been approved. New section 512 (l) does not require such publication or the Federal compilation of the approvals.

Sec. 130. This section of the Amendments replaces tht current subsection (m) of section 512 and in so doing provides for the establishment of a registration system applicable to persons who initially mix the diluted form of medicated animal feeds. For historical reasons related to the application of the new drug provision of the Act prior to 1968, FDA has regulated animal feeds containing new animal drugs more strictly than it has regulated any users of approved food additives or color additives in their production of food for human use. In addition, feed manufacturers are extensively regulated by the individual states under commercial feed laws. The revision lessens the burden of regulation by eliminating the requirement for individual product licenses and substituting a one-time location registration for recipients of undiluted animal drugs. This limitation of registration to the person doing the initial mixing is consistent wth FDA's own program to eliminate registration and licensing requirements for other persons proposed in January 1981 (46 Fed. Reg. 2456). In order to enhance FDA's ability to identify those persons using the most concentrated form of animal drugs intended for feed use, the Amendments prohibit animal drug manufacturers and their wholesalers from shipping these products to other than a registered establishment.

Sec. 130. New subsection (n) provides a statutory basis for the use of expert advisory committees in reviewing new animal drug applications. Where a safety issue is presented, this provision permits the use of the same committee as would then exist for the reviews of safety decisions for food and color additives. The issues with respect to new animal drugs, however, are often broader than just human health. It has been found that the use of advisory committees is advantageous, both in human drug area and in the medical device area. Accordingly, this provision permits the creation of advisory committees in accordance with the procedure established in section 414(b) where the issue is not limited to human health concerns, but involves, for example, the safety or efficacy of the drug with respect to the target species. Where a Delaney Clause issue is presented, the referral, through new subsection (n) would be to the committee established under new section 414(a).

Sec. 130. Finally, the Amendments repeal that portion of the new animal drug amendments that provides for the batch-by-batch certification of five specific antibiotics. When antibiotic certification was extended to all human use antibiotics in 1962, Congress did not extend this requirement to veterinary use antibiotics beyond the five that were already listed in the statute. The overwhelming amount of use of these antibiotics in veterinary practice is in medicated feeds, for which certification is not required of either the bulk drug or the finished feed. As a result, this provision is largely obsolete and its impact is limited to a relatively small number of dosage form animal drugs whose safety and purity is adequately controlled through the regular new animal drug approval process. The elimination of this provision saves both producers and the agency time and resources without lessening public health protection.

VII. COLOR ADDITIVES

A. Summary:

Pursuant to the Color Additive Amendments of 1960, color additives used in foods, drugs, medical devices, and cosmetics are regulated under section 706 of the FDA Act. The regulatory scheme established for color additives under that section is comparable to that established under Section 409 for food additives.

For example, under section 706, color additives must be shown to be safe before they can be approved by FDA and are subject to the color additive Delaney Clause. There are several important differences, however, between the regulation of color additives and the regulation of food additives. Unlike the situation with food additives, in which substances which are GRAS or which have a prior sanction are excluded from the definition of food additive and therefore from section 409, there is no GRAS list of color additives or a prior sanction for a color additive.

Under the 1960 Color Additive Amendments, however, Congress created a special category of color additives which has no direct counterpart under the food additive portions of the law. In order to provide for an efficient, non-disruptive transition to the premarket requirements for color additives, Congress, in 1960, established a category of color additives which are "provisionally listed." The provisionally-listed color additives are those for which further testing was required to demonstrate their safety before they could be moved to the so-called permanent list, that is the list of color additives that had been approved by FDA under section 706. Because of repeated FDA testing requirements, the provisional list of color additives has been extended repeatedly for some color additives and continues to exist today while additional testing is being completed. This procedure has been reviewed and approved in the courts.

The problems that exist in the regulation of color additives under section 706 and the provisions having to do with the provisionally-listed color additives, are comparable to the problems of food additive regulation under section 409. These problems include an increasing tendency on the part of FDA to require proof of absolute safety for color additives, rather than the quantum of proof that Congress intended in 1960 (proof to a reasonable certainty), the absence of a requirement under section 706 for external peer review in the case of scientific questions arising under section 706 (although section 706 does contain a provision for a National Academy of Sciences advisory committee in cases in which the color additive Delaney Clause is at issue), and the absence of any provision in section 706 for the consideration of factors other than risk in the case of certain color additives. The Amendments address each of these problems consistent with the revisions that the Amendments would make to section 409.

B. Section-by-Section Analysis:

Sec. 131(b). The Secretary would be required under section 706, as amended, to base his determination on the safety of a color additive on an assessment of the nature and extent of the risks from use of the additive, as would be the case under revised section 409. This provision, which would also appear in sections 402(a)(1), 406, 409, 512, and 706, would, among other things, permit, but not require, the use of quantitative risk assessments in making color additive safety decisions.

Sec. 131(c). The Delaney Clause applicable to color additives, contained in section 706(b)(5)(B), is amended in the same ways as is the Delaney Clause applicable to food additives. As amended, the color additive Delaney Clause would provide that an additive shown to induce cancer in man or animals was not safe unless it was shown that the risk was not significant to human health. The amendments to section 706(b) would alos require that before proposing a regulation to ban or limit the use of a color additive on the basis that it causes cancer in man or animal, the Secretary prepare a summary of the data and information before him on the additive and refer the matter to the food safety committee provided for under new section 414. Referral to the committee in other circumstances would be available on the initiative of the Secretary or request of an interested person supported by reasonable grounds.

Sec. 131(d). Section 706(b) would also be amended to provide that, in the case of a color additive identified through the rulemaking process as presenting a significant risk, the Secretary, if the additive has a substantial history of use and no reasonably practicable substitute (the same criteria as applied to food additives), would consider other factors in deciding what action to take with respect to the color additive. This provision is similar to that under section 409. Under this provision, the Secretary would consider the nature and extent of the consequences from a prohibition or limitation on the use of a color additive, including the effects on the cost, availability, and acceptability of the product involved.

The Secretary would also be directed to consider the feasibility and effect of providing information to consumers concerning the risks associated with the use of a color additive as the basis for informed choice by consumers. As in the case of food additives under section 409, after the other factors are considered, the Secretary would issue a regulation establishing conditions of use for the additive as are found necessary for protection of the public health. If no conditions exist sufficient to protect the public health the Secretary would prohibit the use of the additive.

Sec. 131(d). Under present 706, an advisory committee is available only to review the application of the Delaney Clause to a color additive. The Amendments authorize, as for food additives and tolerances under section 406, referral to a standing panel of experts of all safety issues respecting color additives. The NAS advisory committee currently provided for under section 706 would be deleted as redundant.

Sec. 132. Section 706(d) is revised to include the "progressive review," thirty-day filing requirement, expedited court review, and interim expanded use provisions added to section 409 and described under the food additive section of this analysis.

Sec. 132. A new subparagraph (7) is added to section 706(d) to confirm the authority of the Secretary to issue interim color additive regulations in those instances in which questions are raised about the safety or technical effect of a color additive, but continued use of the additive will be safe while the questions are resolved. As is the case under section 409, if the Secretary concludes that further testing as a condition of continued use of the color additive is appropriate, he would be authorized to permit the use of the additive on an interim basis while further studies are conducted.

Sec. 132. Under current law, a provisionally listed color additive may summarily be banned without any procedural safeguards. The amendments would add a new subparagraph (8) to section 706(d) which would require that, before taking action to prohibit or limit the use of a color additive which is provisionally listed, the Secretary follow the procedures under section 706 for the amendment or reveal of a regulation for a permanently listed color additive. This will insure that color additives that have been in long use under the provisional list are not banned

without appropriate administrative procedures.

VIII. CONFORMING CHANGES TO THE FMI, PPI, AND EPI ACTS

A. Summary:

Under the FMI, PPI, and EPI Acts, USDA regulates meat, poultry, and egg products. The adulteration sections of these three laws parallel, nearly verbatim, portions of section 402 of the FDC Act. In order to insure that decisions made by the Secretary of Agriculture respecting the circumstances in which a meat, poultry, or egg product is adulterated under the three laws which he enforces are consistent with decisions by FDA, conforming changes are necessary to those three laws to reflect the changes made in section 402 of the FDC Act and related sections. These changes do not alter the current allocation of responsibility and jurisdiction between USDA and FDA with respect to food safety, but rather are limited in purpose to ensuring that consistent criteria and procedures are applied across the full range of foods.

The current allocation of responsibility and jurisdiction between USDA and FDA (and in the case of pesticide chemicals, between the Environmental Protection Agency and USDA) is as follows: FDA is responsible for regulating food generally, including decisions on the approvability of food and color additives under sections 409 and 706 of the FDC Act, as well as determining the circumstances in which a food is adulterated by reason of the presence of a contaminant. In the case of meat, poultry, and egg products, the Secretary of Agriculture is given authority to determine what food and color additives may be used and the circumstances in which any one of those products is adulterated because it contains a contaminant. USDA may not, however, authorize the use of a food or color additive in a meat, poultry, or egg product unless the food additive or color additive has been approved by FDA, or a pesticide chemical unless it has been approved by the Environmental Protection Agency. Even if the additive or pesticide has been approved, however, USDA need not permit its use in meat, poultry, and egg products. This allocation of responsibility between the agencies would not be affected by the Amendments. Where, however, the substantive criteria or procedures are changed in the FDC Act and there is a comparable provision in the Meat, Egg, and Poultry Acts, conforming changes have been made.

B. Section-by-Section Analysis:

Sec. 201(a). Section 4(g)(1) of the PPI Act is revised by the addition of the language which has also been added to sections 402(a)(1), 406, 409, 512, and 706 of the FDC Act to the effect that decisions made under those sections be based on an "assessment of the nature and extent of the risks" from consumption of the substance. As added to section 4(g)(1) of the PPI Act, this language will permit, in any case in which the Secretary of Agriculture or a court is determining whether a poultry product is adulterated because it contains a poisonous or deleterious substance which "may render it injurious to health" the use quantitative risk assessments where the data are adequate to use such techniques and require that all pertinent safety data be considered.

Sec. 201(b). Under section 4(g)(2)(A) of the PPI Act, a poultry product is adulterated if it contains an added poisonous or deleterious substance (other than a food additive, color additive, or pesticide residue) which, in the judgment of the Secretary of Agriculture, makes such article "unfit for human food." This imprecise standard in current law would be revised by the Amendments to be consistent with the overall approach of the Amendments. Specifically, the standard of adulteration would be "unsafe within the meaning of section 406" of the FDC Act, instead of "unfit for human food." Thus, under the Amendments, the Secretary of Agriculture would be directed to take action to protect the public from a poultry product containing a contaminant when the presence of the contaminant renders the food unsafe under section 406, as, for example, in the case in which a tolerance exists for the substance and the quantity of it in a poultry product exceeds the tolerance.

Sec. 201(c). Under section 4(g)(2)(B)(C) and (D), a poultry product is adulterated if it contains a food additive or color additive which has not been approved by FDA, or a pesticide not approved by EPA. That section also provides, however, that the Secretary of Agriculture may, by regulation, prohibit the use of a food or color additive or pesticide which is approved by FDA or EPA. In such a case, a poultry product bearing such a substance is adulterated. Under the Amendments, the issuance of regulations by the Secretary of Agriculture prohibiting the use of substances which have been approved by FDA or EPA would be required to be issued in accordance with the procedures under section 408, in the case of a pesticide, section 409, in the case of a food additive, and section 706 in the case of a color additive. Thus for example, the Secretary could not prohibit the use of an approved food additive on the ground that the additive was not safe for use in a poultry product, unless he determined that the additive presented a significant risk of harm, the standard of safety embodied in section 409 (through the new definition of safe in section 201(u) of the FDC Act). Similarly, actions undertaken by the Secretary of Agriculture to prohibit the use of approved food or color additives in poultry products could be undertaken only if the Secretary referred the scientific questions arising in such matters to the committee established under section 414 of the FDC Act and otherwise in conformance with the procedures contained in those sections.

Sec. 202 (a), (b), (c). The pertinent adulteration sections in the FMI Act are identical to those contained in the PPI Act. Accordingly, sections 1(m)(1), 1(m)(2)(A) and 1(m)(2)(D) of the FMI Act are amended in exactly the same fashion as the comparable sections in the PPI Act.

Sec. 203 (a), (b), (c). The EPI Act contains identical adulteration provisions to those in the FMI and PPI Acts. Accordingly, sections 4(a)(1), 4(a)(2)(A) and 4(a)(2)(D) of the EPI Act are amended to conform to the comparable provisions in the PPI Act and FMI Act.

IX. MISCELLANEOUS PROVISIONS

A. Summary:

The need for a provision in the law authorizing the gradual elimination of substances from the food supply has been widely recognized. The resolution of this deficiency and several miscellaneous provisions which are necessary to insure the efficient and expeditious implementation of the Amendments are described below.

B. Section-by-Section Analysis:

Secs. 107, 201(d), 202(d) and 203(d). Current law contains no provision explicitly permitting FDA or USDA to provide for the gradual elimination of a substance from the food supply. This gap in current law was exposed when, in 1979, the then Secretary of Health Education and Welfare and Secretary of Agriculture requested that the Attorney General render an opinion on the legality of phasing out the use of nitrites, if it was determined that such action was necessary and required under the FDC, FMI and PPI Acts.

The Attorney General concluded that the current law did not permit the phase-out of a substance from the food supply. The absence of explicit authority to provide for the gradual and orderly elimination of a substance in use in food, but found not to be appropriate for continued use, has been widely acknowledged as a deficiency in the current law.

The Amendments would add a new subparagraph (b) to section 306 of the FDC Act which would explicitly authorize the FDA to provide for the gradual elimination of a substance from the food supply when it concludes that elimination under those circumstances would adequately serve the public interest and that continued use of the substance in conformity with the regulation issued by the agency setting forth the terms of the phase out would not present an imminent danger to health. This authority would also be added in new sections 28, 25, and 30 of the PPI, FMI and EPI Acts respectively.

Sec. 301. Section 701(e) of the FDC Act is amended by deleting the reference to section 406 in order that the formal trial-type hearing requirement that currently applies to the setting of tolerances under that section be replaced by the notice comment rulemaking procedure.

Sec. 302. This section provides that food additive and color additive petitions and new animal drug applications filed prior to the date of enactment of the Amendments, which have not been acted on finally by FDA, would be governed by the law in effect before enactment, unless, within thirty days of the date of enactment, the person who has filed the petition or application, advises FDA that he seeks consideration of the petition under the revised law.

Sec. 303. This section provides that proceedings under section 301, 302, 303, 304, or 305 of the FDC Act, or section 4(g)(1) or 4(g)(2) of the PPI Act or section 1(m)(1) or 1(m)(2) of the FMI Act or section 4(a)(1) or 4(a)(2) of the EPI Act based on acts which occurred before the date of enactment of the Amendments, whether or not the proceeding was commenced before or after date of the enactment, will be carried out as if no amendments had been made to the Act. This provision ensures that persons are not found to have violated the Acts on the basis of actions which occurred before the Act was amended but judged by the Act, as amended.

Sec. 304. This section provides that the Amendments shall become effective on the date of enactment, except as provided differently under sections 302 and 303 of the Amendments.

CHANGING PERSPECTIVES ON HEALTH RISK LEGISLATION: AN ANALYSIS OF THE FOOD SAFETY PROVISIONS

(By ORRIN G. HATCH)

Current congressional representation reveals a predictable political sensitivity to the need for legislation which minimizes health risk. Indeed, the age of consumerism has intensified the demand for legislation which is more responsive to both risks imposed upon us by technological advances and risks newly perceived because of technological advances. Not the least of this demand has arisen from controversial conclusions based on inflexible and outdated food safety law. The political response has been clear: among members of the 97th Congress, there is an awareness that the Federal Food, Drug and Cosmetic Act (FDCA) [2] is in need of major revision.

At the center of this food safety controversy is the Food Additives Amendment of 1958 [3] and its anticancer clauses [4] (also known as the Delaney Clauses) which regulate the introduction of actual or potential carcinogens into the food supply. During the last six years, at least one hundred and eighty-five bills were introduced in Congress to amend, directly or indirectly, these

Footnotes at end of article.

anticancer provisions. Further, several bills that would amend the FDCA's food safety provisions have already been introduced into the 97th Congress.

They include: H.R. 2313 (Representative Martin) which would authorize the issuance of a regulation for a food additive on the basis of an evaluation of the risks and benefits of the additive; H.R. 1201 (Representative Whitehurst) which would prohibit the Secretary of Health and Human Services from establishing a regulation for the use of a food additive unless such additive is found to induce cancer when ingested in reasonable quantities by man or animal; H.R. 981 (Representative McDonald) which would exclude from the definition of food additive the food itself, a combination of foods, or food for special dietary use, or the ingredients thereof, unless being used as preservatives or flavors for a food; H.R. 638 (Representative Wampler) which would establish a National Science Council to decide questions of scientific fact which arise in agency adjudications involving restriction of the use of certain substances which are primarily used in food production, processing, or marketing and which may be harmful to human health. Additional legislation will certainly be forthcoming.

While these past and current efforts are indicative of the need for major revision, the Congress has proceeded slowly in formulating new general policy. This is in recognition of the complexity and difficulty of legislating in an area where the scientific foundations are uncertain and the evidence often conflicting. In 1977, the Congress carefully avoided opening up new ground by responding to the Food and Drug Administration's proposed ban on the use of saccharin in prepackaged foods and as a tabletop sweetener[5] with an 18 month moratorium of the F.D.A. action on this issue.[6] At the same time the Congress articulated the need for the nation's food safety policy to be thoroughly and thoughtfully re-studied.[7] In response, the National Academy of Sciences,[8] the Congressional Office of Technology Assessment,[9] the Food Safety Council,[10] and numerous other scientific and legal experts [11] have provided the Congress with the needed analyses of the issues.

I propose to suggest that two general premises emerge after careful examination of the issues and these recent studies. First, the existing food safety provisions of the FDCA are antiquated. The statutory framework for the regulation of foods and food additives reflects more the patchwork attempts by the Congress over time to amend the law to deal with specific circumstances than a thoughtful, well-designed system for assuring food safety. Legislative revision of the food safety provisions to accomplish this end is clearly necessary. Second, the major deficiency in the current approach to regulating carcinogenic hazards in foods is that the FDA is precluded from the consideration of all relevant factors. This produces results which are often unrealistic, arbitrary and difficult to implement.

Part I will examine the statutory framework, the legislative history and some of the difficulties encountered in implementation of the food safety provisions. Part II will examine the need for a flexible legislative standard and options for regulating potential carcinogenic hazards under the Federal Food, Drug, and Cosmetic Act.

PART I—THE NEED FOR A REVISED STATUTORY FRAMEWORK [12]

In 1906, Congress enacted the first Federal food and drug law, the Food and Drugs Act of 1906, which banned from interstate commerce any traffic in adulterated or misbranded food.[13] Under this law, a food would be considered adulterated if among other reasons "it contains any added poisonous or other deleterious ingredient which may render such article injurious to health." [14] Thus the 1906 statute established the first legislative standard for food safety by defining the level of acceptable risk for "added" substances. In United States v. Lexington Mill and Elevator Co.[15] and United States v. Coca Cola Co.,[16] the Court interpreted the standard "may render such article injurous to health" to require only the possibility that the substance was indeed harmful before it would be banned from interstate commerce. However, the 1906 Act did not define "added" nor did its provisions deal with substances that were not "added." [17]

Twenty-two years after this first enactment, after five years of legislative hearings and prompted by the sulfonamide drug disaster, Congress passed the Federal Food, Drug and Cosmetic Act of 1938.[18] Section 301 of the Act prohibits the shipment in interstate commerce of any adulterated food [19] and Section 402 defines adulteration.[20] Specifically, Section 402(a)(1) established two regulatory standards: "Added" substances (as in the 1906 Act) would be adulterated if the substance "may render (the food) injurious to health"; "not added" [21] substances (not previously subject to the 1906 Act) were adulterated only if the substance renrenders the food "orindarily injurious to health." [22] A third regulatory mechanism was established for substances that are required in the production of food or good manufacturing practice.[23] The quantity of these essential and unavoidable substances could be limited to the extent necessary for the protection of the public.

In 1958, Congress enacted the Food Additives Amendment [24] to provide an independent mechanism for the regulation of "food additives." However, the Act did not alter original provisions of the 1938 Act, including sections 402 and 406 that regulated "added" substances.[25] The terms "food additive" and "added substance" are not legally identical.[26] Further, very different procedures and standards emerged for food additives. For example, the Food Additives Amendment requires the manufacturer of a food additive to undertake premarket safety testing and prohibits the use of any food additive unless a regulation is in effect that prescribes the permissible terms of use of the food additive.[27]

Elaboration of these regulatory standards is explicitedly provided under the Food Additives Amendment. Section 409(c)(3) reads in part:

No such regulation shall issue if a fair evaluation of data before the Secreary—

(A) fails to establish that the proposed use of the food additive, under the conditions of use to be specified in the regulations, shall be safe: *Provided*, That no additive shall be deemed safe if it is found to induce cancer when ingested by man or animal, or, if it is found, after tests which are appropriate for the evaluation of food additives, to induce cancer in man or animal. . . .[28]

The first clause in section 409(c)(3) provides a standard of general safety with respect to most food additives. However, the anticancer provision embodied in this same section provides that carcinogenic substances be regulated under a different and far stricter standard.

The statute itself does not define the meaning of "safe", although the legislative history suggests that safety requires proof of a reasonable certainty that no harm will result from the proposed use of an additive.[29] More importantly, the anticancer clause has been interpreted to prohibit the setting of an acceptable tolerance level for a food additive that has been found through an appropriate test to induce cancer in laboratory animals or man.[30]

It should be noted that the anticancer clause does not apply to all carcinogens found in food. It applies only to "food additives". Nor does it apply to those substances that are regulated under sections 402 ("added" and "not added" substances) or 406 (substances that are required in the production of food or good manufacturing practice). In addition the term food additive specifically excludes two categories of substances from coverage by the Food Additives Amendment. The first are those substances that have been "generally recognized as safe by qualified experts (GRAS)." [31] These substances include such common substances as sugar and salt and other familiar substances. The second are those substances that have been "prior sanctioned"—that is specifically approved for use prior to 1958.[32]

Similarly, the Color Additives Amendment of 1960 [33] and the Animal Drug Amendments of 1968 [34] both provide, within the framework for regulating color additives and new animal drugs, a safety provision and an anticancer clause.[35] An additional regulatory standard, enacted in 1962 [36] and recodified in the Animal Drug Amendments in 1968, permits the use of a carcinogenic animal drug in a food producing animal only if no residue of the drug can be found in the food that is ultimately consumed.[37] This provision has become known as the DES Amendment, because it was enacted to allow the continued use of diethylstilbesterol in food producing animals as long as the drug did not enter the food chain.[38] It can be argued that the DES Amendment reflected a policy change in the no risk philosophy embodied in the anticancer clauses, since the DES Amendment permitted tolerances to be established for carcinogenic animal drugs at the level of sensitivity of the analytical methodology approved by the Secretary.[39] While there was some recognition by Congress at the time the DES Amendment was enacted that methods for detecting residues would improve,[40] there was no prediction that the methodology would advance at such a rapid pace that today there are some instances where residues can be detected at a few parts per trillion.[41] It is no wonder that the FDA has expressed concern at the prospect of employing the most sensitive method.[42] Surely, in most instances, the biochemical significance of such infinitesimal quantities is beyond our current comprehension.

After reviewing the multiple provisions of the Food, Drug and Cosmetics Act that pertain to food safety and examining the many standards for judging safety embodied within the Act, it is not difficult to understand why the statute has been viewed as complex and in many instances inflexible.[43] Further, there can be little doubt that the multiple, sometimes overlapping, provisions of the Act have often resulted in inconsistent implementation and often less than credible results.

An illustration is the Seventh Circuit's decision in the United States v. Ewing Brother Co., which clearly reveals the difficulties in applying the current statute.[44] The court held that residues of the pesticides DDT and dieldrin, known to have contaminated certain fish, were "food additives" within the meaning of section 409. The apparent reasoning behind the decision was that the presence of the chemicals in the food could be traced back to human action. The anticancer clauses were thereby applicable through section 409. Had section 406 or 402 been applied, the anticancer clauses would not have become involved. This interpretation of the statute is entirely unrealistic. Both DDT and dieldrin, documented carcinogens, are ubiquitous in the food pyramid.[45] Applied in this manner, section 409 could be interpreted to prohibit most foods of animal origin.

Another example of how the statute forces the FDA to artificially classify substances such as environmental contaminents in order

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to accommodate specific statutory standards is seen in United States v. Anderson Seafoods, Inc.[46] The case confronted the issue of whether mercury found in swordfish was an "added" substance. If it were found to be an "added substance" the Court would apply the "may render injurious" standard found in section 402(a). If it were determined that mercury was not an added substance then the "ordinary injurious" standard would be applicable. A statute that forces such artificial questions to be answered precludes the more important process of taking into account all relevant factors.[47]

A further problem created by the arbitrary classification scheme of the statute was at issue in Monsanto Co. v. Kennedy.[48] The commissioner had ruled that acrylonitile beverage containers are food additives, under section 409, because chemicals could be predicted to migrate into the contained beverages although such migration might not be detectable. Thus, the anticancer clauses would be applicable. It would not matter that the chemicals that will migrate from those food contact items would usually be present in very small amounts.

In the face of advancing methods of chemical analysis, the applicability of the anticancer clauses to such substances may produce unreasonable results.

These examples serve to underscore a significant point: change in the statute is necessary to avoid awkward and unrealistic results. Revision of the statute could be accomplished in different ways. The Congress could eliminate all categories and apply a uniform criteria of risk to all substances. In the alternative, the current categories can be better clarified by establishing specific provisions for distinct categories such as environmental and food contact substances. Both options need serious consideration in the 97th Congress.

PART II—THE NEED FOR A FLEXIBLE STANDARD WHEN REGULATING CARCINOGENIC HAZARDS IN FOODS

The anticancer clauses of the Food, Drug and Cosmetic Act need to be revised to permit full consideration of all relevant factors concerning a substance's safety. As noted, the Act prohibits the approval of any substance that "is found to induce cancer when ingested by man or animal, or . . . is found, after tests which are appropriate for the evaluation of the safety of food additives, to induce cancer in man or animal".[49] Through case law and FDA action these provisions have been strictly intrepreted to prohibit the use of food additive if any quantity of that substance induces cancer in animals or humans. No consideration may be given to the chemical's potency, the magnitude of the actual risk to the consumer, nutritional value, commercial availability of alternatives and overall economic impact.[50]

Despite this overwhelming rigidity, it is also true that the anticancer clauses do permit some discretion on the part of the FDA in it's decision making role. For example, there is a wide degree of latitude permitted in determining whether a substance is a carcinogen. The Secretary may prescribe the tests appropriate for safety evaluations of additives, interpret the results of the studies and specify the evidence that will suffice for concluding that a chemical is carcinogenic.[51] Even the fact that a chemical is noted to produce tumors in certain test animals does not automatically require labeling the substance as a carcinogen.[52]

Equally important, FDA has broad discretion under the anticancer clauses in determining whether to rely on a particular study as a basis for invoking the anticancer clauses. For example, in August, 1978, a joint statement by the FDA and the United States Department of Agriculture indicated that a new research study on nitrites strongly suggested that nitrites produce lymphoma in test animals. Without taking regulatory action in the interim, on August 19, 1980, the FDA and the Department of Agriculture released the reports of an independent group of pathologists and of an Interagency working group on nitrites. Both of these reports took exception with the earlier research findings. Consequently, the federal agencies exercised their discretion not to rely on the initial study.[53]

Thus, it is important to highlight that the difficulties with the anticancer clauses are not that they prohibit all discretion, for they do not. The problem is that the clauses unreasonably limit discretion by prohibiting the consideration of all relevant factors. First among these factors is that the clauses do not allow consideration of how weakly carcinogenic the substance is nor how minute a quantity of the susbtance is present. The anticancer clauses were specifically enacted in 1958 to prohibit consideration of these two factors. The basis for that policy decision at that time was a report from the National Cancer Institute. It stated that:

"No one at this time can tell how much or how little of a carcinogen would be required to produce cancer in any human being, or how long it would take the cancer to develop. . . . The extrapolation of data relating to the potency of a carcinogenic agent from the laboratory experiment to the human is at present unwarranted. At best, a substance may be demonstrated to be either carcinogenic or noncarcinogenic within the limits of any set of experimental circumstances." [54]

There are two significant advances since the enactment of the Food Additives Amendment of 1958 that make exclusion of these two factors in the overall assessment of a substance's safety untenable. First, there has been during the last twenty years a greater understanding of the statistical nature of carcinogenic risk allowing tolerances yielding extremely low risks (not zero risk) to be established.[55] Second, advances in the analytical methods for detecting chemical residues reveal many substances contaminated by very small quantities of carcinogenic chemicals.[56]

There are other compelling factors that support a revision in the underlying assumptions of the anticancer clauses. Foremost, as we attempt to regulate the tremendous numbers of weakly carcinogenic substances, especially those that are present in minute amounts, we may be misplacing our priorities and misusing our resources. A second factor is that the nation's overall capacity for toxicological testing is limited to a few hundred compounds a year and ought to be reserved for those compounds that may pose significant risks.[57]

Without question emphasis should be placed first on finding and eliminating significant risks. Also by focusing on potential, low-level risks, the scientific credibility of federal consumer protection activities becomes severely strained among the public. A fourth factor is that in attempting to enforce a zero risk statute, significant nutrients, which do not have adequate replacement, may be eliminated.[58] Further, requiring absolute safety will act to discourage industry innovation in food technology.[59] Fifth, but hardly least, there is evidence that many potential low-level carcinogens may pervade the entire food supply. Attempting elimination of these would markedly limit the quantity and variety of food available to our nation.[60]

Despite these potentially severe impacts, it could be argued that the clause adds little to the agency's authority to regulate the safety of the nation's food supply. During the last 23 years FDA relied on the anticancer clauses only four times.[61] Nonetheless although rarely invoked, the underlying philosophy of zero risk embodied in the anticancer clauses has certainly permeated FDA's regulatory outlook.

Taking this analysis further, when compared to the many other statutes that attempt to protect the public health and safety, it is apparent that the anticancer clauses represent an extreme of the spectrum of statutory approaches to risk management.[62] The anticancer clauses by precluding consideration of any information once a determination of some risk has been made, have been categorized as a "risked-based" law, in contrast to many other health risk laws that permit a cost-benefit analysis. The cost-benefit approach may be viewed as the other end of a spectrum since it requires the analysis of all existing information. Both approaches have their proponents and critics.[63] Any attempt at revision of the anticancer clause however must also strongly consider the options in between these extremes of the risk only and cost-benefit approaches.

One option would permit "de minimis" risk. Under this approach an acceptable level of risk could be established utilizing risk assessment procedures.[64] This is based on the premise that there is a level of risk below which exposure is tolerable. As with the current anticancer provisions, no analysis of health or economic benefits need occur for a judgment to be made. A result of this approach would be that some low risk carcinogens would be permitted to remain in the food supply.

A second option would be to establish zero tolerances for direct additives but allow risk assessment for food contaminents. This reflects the fact that most food contaminants are present in very low levels. Risks from these substances may be tolerable. On the other hand, direct additives are usually present in higher levels and result in greater exposure to the public. Risks from these substances may not be tolerable. While this approach might reduce the problems created by advances in analytical methodology, it would establish a double standard for what might well be identical risks. Further, standards based on the categorization of the substance rather than on relevant toxicological criteria such as potency exposure levels may lead to problems similar to these previously discussed.[65]

A third option would be to establish an unacceptable level of risk above which the substance would be prohibited. No consideration of benefits would be permitted. Conversely, an acceptable level of risk would be established below which the substance would be permitted but also without consideration of the benefits. Substances with risks between these levels would be subject to cost-benefit analysis. This system would permit flexibility in establishing regulatory priorities, but avoids the complexity of utilizing cost-benefit analysis in every instance.

A fourth option would alter the anticancer clauses so that instead of creating an absolute prohibition against any carcinogenic substance, a rebuttable presumption against the substance would be created. This presumption could be rebutted by showing that the substance does not pose a significant risk to human health. Risk assessment methodology would be used to determine whether the risk from the substance is significant. The presumption could also be rebutted by a showing that the scientific evidence establishing carcinogenicity was invalid. A primary advantage of this approach is essential retention of the anticancer clauses while allowing some flexibility to avoid unrealistic and inappropriate results. This approach would also allow for all relevant scientific information to be considered as well as to permit the FDA to base their assessments on the most recent developments in carcinogensis research. The approach would further ban those carcinogenic

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additives presenting significant risks, while permitting insignificant risks to remain in the marketplace.

A fifth approach would not require cost-benefit analysis for every food additive approval but would allow consideration of additional factors once a question of risk has been raised. Such factors could include the nutritional value of the food, cost availability and acceptability of food, use of the substance for dietary management, the commercial availability of alternatives for the substance as well as the feasibility and effect of permitting the additive to be used while also giving consumers information about it so that they can make an informed choice.

Such an approach provides the flexibility necessary to deal with the situations where banning of the substance has significant economic and health consequences while leaving intact the existing decision making process which looks solely to safety considerations for approval for the majority of food substances.

These options and any others must be carefully discussed and studied by the Congress. No matter which standards are ultimately enacted, the public acceptance of the results will depend to a large extent on the openness of the decisionmaking process. As one commentator has written:

"Today certainty in regulation is elusive, and it is likely to remain so until adequate science develops. At the same time, judgment in the face of uncertainty does not call for an apology. Indeed, the current regulatory process may be in disfavor because it is not honestly judgmental and, by insisting on inadequate science and intransigent ideals, produces results that are perceived at times as arbitrary, inconsistent, or unacceptable to the public at large. The central point of procedural reform is that resolution of uncertainties must be attempted in an open sociopolitical context, because usefulness, benefit, tolerable hazard, and safety cannot be defined on the independent authority of scientific facts or statutory prerogative.[66]

CONCLUSION

The food safety provisions of the Food, Drug and Cosmetic Act require major revision. As discussed in this article, the statutory framework for the regulation of foods and food additives often dictates inappropriate regulatory responses. In addition, a major deficiency in the current statutory approach to regulating carcinogenic hazards in foods is that the standard established by the anticancer clauses preclude consideration of all relevent factors and thus unnecessarily limit the scientific foundations upon which to base such actions. Thus it is not surprising that the National Academy of Science in a report requested by the Congress, recommended that Congress overhaul the present food regulatory system which "has become complicated, inflexible, and inconsistent in implementation."[67]

The statute must be revised to define a realistic but effective standard of safety, to bring the best available scientific judgment to bear on questions of safety of food substances, and to provide authority for a flexible regulatory response tailored to the risks and uses associated with a substance.

While keeping our food supply safe is of the highest priority, it is necessary to recognize that there is some degree of risk which is inherent in providing an economical and available food supply. Food safety decisions must be based on a comprehensive assessment of the risks presented by a substance. These decisions cannot be directed at achieving absolute safety or eliminating all risk, but rather at identifying and limiting those risks. To trigger regulatory action, risks should be ascertainable and significant rather than speculative and trivial.

I have attempted in this discussion to highlight those issues of food safety that are most in need of active and vigorous debate. After further study and discussion of these issues, I hope to be able to introduce a bill to be entitled "The Food Safety Amendments of 1981."

FOOTNOTES

[1] United States Senator. B.S. 1959, Brigham Young University, J.D. 1962, University of Pittsburgh.

[2] 21 U.S.C. § 301–392 (1976) (hereinafter cited as FDCA).

[3] Food Additives Amendment of 1958, Public Law No. 85–929, 72 Stat. 1784.

[4] 21 U.S.C. § 348(c)(3)(A), 360b(d)(1)(H), 376(b)(5)(B) (1976).

[5] 42 Fed. Reg. 19996 (1977). On April 14, 1977 the Commissioner of the FDA issued a detailed plan for ending the use of saccharin as a general purpose food additive. The FDA proposal would have banned saccharin's use in foods and beverages, cosmetics likely to be ingested, and as a non-medical ingredient in drugs. Also proposed was the continued marketing of saccharin as a single-ingredient drug for use by diabetics.

[6] The Saccharin Study and Labeling Act, Public Law No. 95–203, 91 Stat. 1451 (1977). The ban was subsequently extended an additional 12 months by Public Law 96–273, 94 Stat. 536 (1980).

[7] Id. The Congress requested that the National Academy of Sciences examine the risks and benefits to health that the use of saccharin posed, and to consider in more general terms issues raised by the current federal food safety policy.

[8] Committee for a Study on Saccharin and Food Safety Policy, Institute of Medicine and the National Research Council, National Academy of Sciences, Part I Saccharin: Technical Assessment of Risks and Benefits, Nov. 6, 1978; Part II Food Safety Policy, Scientific and Societal Considerations, March, 1979.

[9] Office of Technology Assessment, Congress of the United States, Cancer Testing Technology and Saccharin, October 1977; Assessment of Technologies for Determining Cancer Risks from the Environment, March, 1981.

[10] Food Safety Council. Principles and Processes for Making Food Safety Decisions: Report of the Social and Economic Committee of the Food Safety Council, Dec. 1979; Proposed System for Food Safety Assessment, June 1980.

[11] Blank, The Delaney Clause: Technical Naiveté and Scientific Advocacy in the Formation of Public Health Policies, 62 Calif. L. Rev. 1084 (1974); Epstein, The Delaney Amendment, 3 Ecologist 424 (1973); Epstein, The Delaney Amendment, 2 Preventive Med. 140 (1973); Oser, An Assessment of the Delaney Clause After 15 Years, 2 Preventive Med. 150 (1973); Saffiotti, Comments on the Scientific Basis for the Delaney Clause, 2 Preventive Med. 125 (1973); Schneiderman & Mantel, The Delaney Clause and a Scheme for Rewarding Good Experimentation, 2 Preventive Med. 165 (1973); Freedman, Reasonable Certainty of No Harm: Reviving the Safety Standard for Food Additives, Color Additives and Animal Drugs, 7 Ecology Law Quarterly 245 (1978); Kessler, Implementing the Anticancer Clauses of the Federal Food, Drug, and Cosmetic Act, 44 University of Chicago Law Review 817 (1977); Merrill, Regulating Carcinogens in Food: A Legislator's Guide to the Food Safety Provisions of the Federal Food, Drug, and Cosmetic Act, 77 Michigan Law Review 171 (1978); Schneiderman, Legislative Possibilities to Reduce the Impact of Cancer, 7 Preventive Medicine 424 (1978); Gardner and Larkin, Food Safety Policy: Problems, Perspectives and Possibilities, 7 Journal of Legislation 1 (1977); Comment, Reinterpretation of the Delaney Clause, 73 Northwestern University Law Review 1090 (1978); Merrill, Risk Benefit Decision-making by the Food and Drug Administration, 45 George Washington Law Review 994 (1977); Report of the Interagency Regulatory Liaison Group on Risk Assessment, Scientific Bases for Identification of Potential Carcinogens and Estimation of Risks (February 17, 1979); The Regulatory Council, Regulation of Chemical Carcinogens (September 28, 1979); Office of Science and Technology Policy, Executive Office of the President. Identification Characterization, and Control of Potential Human Carcinogens, A Framework for Federal Decision-Making, February 1, 1979.

A Partial List of hearings conducted by the Congress on Food Safety Policy during the last decade include: U.S. Congress. House. Committee on Appropriations. Subcommittee on Agriculture—Environmental, and Consumer Protection Appropriations for 1975. Hearings, 93rd Congress, 2d session, on Food and Drug Administration "Study of the Delaney Clause and Other Anti-Cancer Clauses." Part 8. 1974; U.S. Congress. House. Committee on Government Operations. Cyclamate sweeteners. Hearing, 91st Congress, 2d session. June 10, 1970; U.S. Congress. House. Committee on Interstate and Foreign Commerce. Subcommittee on Health and the Environment. Moratorium on saccharin ban. Hearings, 95th Congress, 1st session, on H.R. 7753, directing the Institute of Medicine of the National Academy of Sciences to conduct a one-year review on the toxicity and carcinogenicity of food additives. June 27, 1977. Proposed saccharin ban. Oversight hearings, 95th Congress, 1st session. March 21–22, 1977. Saccharin ban—Oversight. Hearing, 96th Congress, 1st session, Finding of the National Academy of Sciences in the Use of Saccharin. April 11, 1979, Saccharin moratorium. Hearings, 96th Congress, 1st session, on H.R. 4194, H.R. 1819, H.R. 4160 and H.R. 4172 (and all similar bills). Bills to amend the authority of the Food and Drug Administration respecting the availability of saccharin May 23, 1979; U.S. Congress. House. Committee on the Judiciary. Subcommittee No. 2 Cyclamates. Hearings, 92d Congress, 1st session, on H.R. 4264, H.R. 4180, H.R. 4265, H.R 4870, H.R. 4912, H.R. 5848, H.R. 5862, H.R. 6163, H.R. 6155, Sept. 29–30, Oct. 6, 1971.

U.S. Congress. Senate, Committee on Human Resources. Subcommittee on Health and Scientific Research. The banning of saccahin, 1977. Hearings, 95th Congress, 1st session, on examination of the risks included in the use of saccharin and the decision by the Food and Drug Administration to ban the substance from the market. June 7, 1977, Proposed ban on the artificial sweetener saccharin. Hearings, 95th Congress, 1st session, March 24, 1977; U.S. Congress. Senate. Committee on the Judiciary. Ad Hoc Subcommittee. Cyclamates. Hearings 92d Congress, 2d session, on H.R. 13366. September 7–8, 1972; U.S. Congress. Senate. Select Committee on Small Business. Food additives: Competitive, regulatory and safety problems. parts I and II. Hearings. 95th Congress, 1st session. Jan. 13–14, 1977.

A Brief List of Congressional Reports and Documents on Food Safety Policy include: U.S. Congress. House, Committee on Government Operations. Regulations of Cyclamate sweeteners. Thirty-sixth report. 1970. (91st Congress, 2d session. House. Report no. 91–1585); U.S. Congress. House. Committee on Interstate and Foreign Commerce. Saccharin extension (H.R. 4453) 1979. (96th Congress, 1st session. House. Report no. 92–348; U.S. Congress. Senate. Committee on Commerce, Science, and Transportation. Saccharin Study, Labeling, and Advertising Act (S. 1750). 1977. (95th Congress, 1st session. Senate. Report no. 95–369); U.S. Congress. Senate. Committee on Human Resources. Amending the Public Health Service Act, Federal Food, Drug, and Cosmetic Act (S. 1750). 1977. (95th Congress, 1st session. Senate. Report no. 95–353).

[12] For an excellent and thorough examina-

tion of the Food Safety Provisions and upon which I, with permission, have relied for background in this section see Merrill, Regulating Carcinogens in Food: A Legislator's Guide to the Food Safety Provisions of the Federal Food, Drug, and Cosmetic Act, 77 Michigan Law Review 171 (1979).

[13] Federal Food and Drugs Act 34 Stat. 768, 59th Congress, 1st Session, 1906.

[14] Id. at Section 7.

[15] 232 U.S. 399 (1914).

[16] 241 U.S. 265 (1916).

[17] For a description of the difficulties in implementing the 1906 Act see Turner, Principles of Food Additive Regulation in Epstein and Grundy, Consumer Health and Product Hazards, Volume 2, of the Legislation of Product Safety (1974).

[18] 72 Stat. 1784, 85th Congress, 2nd Session (1958).

[19] 21 U.S.C. § 331 (1976). Section 301 provides in relevant part:

Sec. 301. The following acts and the causing thereof are hereby prohibited:

(a) The introduction or delivery for introduction into interstate commerce of any food, drug, device, or cosmetic that is adulterated or misbranded.

(b) The adulteration or misbranding of any food, drug, device or cosmetic in interstate commerce.

(c) The receipt in interstate commerce of any food, drug, device or cosmetic that is adulterated or misbranded, and the delivery or proffered delivery thereof for pay or otherwise.

[20] 21 U.S.C. § 342 (1976). Section 402 provides, in relevant part:

A food shall be deemed to be adulterated—

(a)(1) If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance such food shall not be considered adulterated under this clause if the quantity of such substance in such food does not ordinarily render it injurious to health; or (2)(A) if it bears or contains any added poisonous or added deleterious substance (other than one which is (i) a pesticide chemical in or on a raw agricultural commodity; (ii) a food additive; (iii) a color additive; or (iv) a new animal drug) which is unsafe within the meaning of section 346 of this title, or (B) if it is a raw agricultural commodity and it bears or contains a pesticide chemical which is unsafe within the meaning of section 346a (a) of this title, or (C) if it is, or if it bears on contains, (any food additive) which is unsafe within the meaning of section 348 of this title. . . .

[21] According to the FDA, "not added" is synonomous with "naturally occuring". See e.g., 39 Fed. Reg. 42743 (1974).

[22] Under both provisions of section 402, the government has the burden of proving that a chemical is unsafe. See Christopher and Goodrich, Cases and Materials on Food and Drug Laws 531 (1973).

[23] 21 U.S.C. § 346 (1976). Section 406 provides:

Any poisonous or deleterious substance added to any food, except where such substance is required in the production thereof or cannot be avoided by good manufacturing practice shall be deemed to be unsafe for purposes of the application of clause (2)(A) of section 342(a) of this title; but when such substance is so required or cannot be so avoided, the Secretary shall promulgate regulations limiting the quantity therein or thereon to such extent as he finds necessary for the protection of public health, and any quantity exceeding the limits so fixed shall also be deemed to be unsafe for purposes of the application of clause (2)(a) of section 342(a) of this title. While such a regulation is in effect limiting the quantity of any such substance in the case of any food, such food shall not, by reason of bearing or containing any added amount of such substance, be considered to be adulterated within the meaning of clause (1) of section 342(a) of this title. In determining the quality of such added substance to be tolerated in or on different articles of food the Secretary shall take into account the extent to which the use of such substance is required or cannot be avoided in the production of each such article, and the other ways in which the consumer may be affected by the same or other poisonous or deleterious substances.

[24] Food Additives Amendment of 1958. Public Law No. 85-929, 72 Stat. 1784. The legislative history of the Food Additives Amendment of 1958 is interesting. In June, 1950, the House of Representatives adopted a Resolution that created a Select Committee to Investigate the Use of Chemicals in Foods. The Select Committee was known as the "Delaney Committee", after its chairman Representative James Delaney of New York. The Committee published its findings in four reports that covered fertilizers, cosmetics, food and fluoridation. The report on food specifically recommended that chemicals used in or on foods be tested to establish their safety prior to their use in foods. H.R. Report No. 2356, 82d Congress, 2d session (1952). Several bills were introduced into the 83d, 84th and 95th Congresses to implement the Delaney Committee recommendations. In 1958, after 11 days of hearings, the House Committee on Interstate and Foreign Commerce reported out the Food Additives Amendment of 1958. The bill contained a specific requirement for pre-market clearing of food additives.

The bill reported by the House Committee did not contain an anticancer clause, although the Committee had considered it. The FDA initially had opposed such a clause because it believed it would be redundant. The Department of Health, Education, and Welfare stated:

". . . We, of course agree that no chemical should be permitted to be used in food if, as so used, it may cause cancer. We assume that this, and no more, is the aim of the sponsor. No specific reference to carcinogens is necessary for that purpose, however, since the general requirements of this bill give assurance that no chemical can be cleared if there is a reasonable doubt about its safety in that respect.

"United States Congress, House of Representatives, Subcommittee of the Committee on Interstate and Foreign Commerce, Food Additive Hearings, 85th Congress, at 38-39 (1958)."

Subsequent to the filing of the report, Representative Delaney introduced an amendment that added an anticancer provision. To assure passage of the amendment, the FDA withdrew its objection to the anticancer clause. The Senate Report stated:

"We have no objections to that amendment whatsoever, but we would point out that in our opinion it is the intent and purpose of this bill, even without the amendment, to assure our people that nothing shall be added to the foods they eat which can reasonably be expected to produce any type of cancer in humans or animals . . . In short, we believe the bill reads and means the same with or without the inclusion of the clause referred to. This is also the view of the Food and Drug Administration. S. Report No. 2422, 85th Congress, 2d Session (1958).

[25] See text and notes at notes 21-22.

[26] The term food additive is defined in 21 U.S.C. § 321(s) (1976).

Section 201(s) provides in relevant part:

The term "food additive" means any substance the intended use of which results or may reasonably be expected to or indirectly, in its becoming a component or otherwise affecting the characteristics of any food (including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food; and including any source of radiation intended for any such use), if such substance is not generally recognized, among experts qualified by scientific training and experience to evaluate its safety, having been adequately shown through scientific procedures (or, in the case as (sic) a substance used in food prior to January 1, 1958, through either scientific procedures or experience based on common use in food) to be safe under the conditions of its intended use . . .

[27] U.S.C. § 348(a)(1976). Section 408(a) provides:

A food additive shall, with respect to any particular use or intended use of such additives, be deemed to be unsafe for the purposes of the application of clause (2)(C) of section 342(a) of this title, unless—

(1) it and its use or intended use conform to the terms of an exemption which is in effect pursuant to subsection (1) of this section; or

(2) there is in effect, and it and its use or intended use are in conformity with a regulation issued under this section prescribing the conditions under which such additive may be safely used.

While such a regulation relating to a food additive is in effect, a food shall not, by reason of bearing or containing such an additive in accordance with the regulation be considered adulterated within the meaning of clause (1) of section 342(a) of this title.

[28] 21 U.S.C. § 348(c)(3)(A)(1976).

[29] See H.R. Rept No. 2284, 85th Congress, 2d Session 4 (1958); S. Report No. 2422 85th Congress, 2d Session 6 (1958). Congress specifically recognized that absolute certainty of harmlessness (zero risk) was impossible to achieve.

The concept of safety . . . does not—and cannot—require proof beyond any possible doubt that no harm will result under any conceivable circumstance.

This was emphasized particularly by the scientific panel which testified before the subcommittee. The scientists pointed out that it is impossible in the present state of scientific knowledge to establish with complete certainty the absolute harmlessness of any chemical substance. Id.

[30] Bell v. Goddard 366 F. 2d 177, 181 (7th Cir. 1966).

[31] See note 26.

[32] The definition of a food additive excludes:

(4) any substance used in accordance with a sanction or approval granted prior to the enactment of this paragraph pursuant to this Act, the Poultry Products Inspection Act or the Meat Inspection Act of March 4, 1907. 21 U.S.C. § 321(s)(4) (1976).

[33] Pub. L. No. 86-618, 74 Stat. 397. In response to the Supreme Court decision in Fleming v. Florida Citrus Exchange 358 U.S. 153 (1958) which held that the FDA could not set tolerances for coal-tar additives, the Department of Health, Education, and Welfare sought legislation to regulate color additives. The legislation as initially supported by the Department of Health, Education, and Welfare did not provide for any anticancer provision. As reported by the Senate Committee on Labor and Public Welfare, the legislation contained no anticancer clause. However, the Secretary of Health, Education, and Welfare was soon confronted with the situation in which cranberries were possibly contaminated with a potential carcinogenic pesticide. At the same time, the Secretary became aware of possible residues of diethylstilbesterol (DES) in poultry. The anticancer clause of the food additive provisions was not applicable because diethylstilbesterol was prior sanctioned. Possibly because of these circumstances Secretary Fleming supported the in-

clusion of an anticancer clause in the Color Additives Amendment. See U.S. Congress, House Committee on Appropriations. Study of the Delaney Clause and other Anticancer clauses pt. 8, 93d Cong., 2d session 1974.

[34] Public Law No. 86-618, 74 Stat. 397.

[35] The Color Additives Amendments codify the safety clause at 21 U.S.C. 342(c) (1976) and the anticancer clause at 21 U.S.C. 376(b)(5)(B) (1976). The Animal Drug Amendments codify the safety clause at 21 U.S.C. 351 (a)(5) (1976) and the anticancer clause at 21 U.S.C. 360b(d)(1)(H) (1976).

[36] Public Law No. 87-781, 76 Stat. 780 (1962).

[37] 21 U.S.C. 360b(d)(1)(H) (1976). This section precludes approval of a new animal drug if: Such drug induces cancer when ingested by man or animal or, after tests which are appropriate for the evaluation of the safety of such drug, induces cancer in man or animal, except that the foregoing provisions of this subparagraph shall not apply with respect to such drug if the Secretary finds that, under the conditions of use specified in proposed labeling and reasonably certain to be followed in practice (i) such drug will not adversely affect the animals for which it is intended, and (ii) no residue of such drug will be found by methods of examination prescribed or approved by the Secretary by regulations, which regulations shall not be subject to subsections (c), (d), and (h), in any edible portion of such animals after slaughter or in any food yielded by or derived from the living animals.

[38] The clause applies to all new animal drugs used in food producing animals, not only DES.

[39] See note 37 supra.

[40] 108 Cong. Rec. 19916 (Sept. 26, 1962) (daily ed.).

[41] See FDA, Evaluation of Chemical Analysis in Relation to the Regulation of Foods, Drugs and Cosmetics in Agriculture—Environmental and Consumer Protection Appropriations for 1975. Hearings before the Subcommittee on Agriculture—Environmental and Consumer Protection of the House Committee on Appropriations, 93d Cong., 2d sess., pt. 8 at 218 (1975).

[42] 42 Fed. Reg. 10412 (1977), 38 Fed. Reg. 19226 (1973), 43 Fed. Reg. 22675 (1978), 44 Fed. Reg. 17070 (1979). The FDA has for over seven years attempted to develop a proposal that establishes the criteria and procedures for evaluating assays for carcinogenic residues. It's proposal relies on quantitative risk assessment in establishing the sensitivity of the detection method required to justify approval of any animal drug believed to be carcinogenic 44 Fed. Reg. 17070 (1979).

[43] Committee for a Study Saccharin and Food Safety Policy, Institute of Medicine, National Research Council, National Academy of Sciences, Part II Food Safety Policy, Scientific and Societal Considerations S-5 (1979).

[44] 502 F. 2d 715 (7th Cir. 1974) cert. denied. 420 U.S. 945 (1975).

[45] Advisory Panel on Carcinogenicity of Pesticides and their relationship to Environmental Health 14 (Dec. 5, 1969).

[46] 447 F. Supp. 1151 (1978).

[47] For example section 402(a)(1) does not appear to allow consideration of the benefits of an added substance. Section 403 does however appear to allow consideration of the substance's benefit and overall economic impact.

[48] Monsanto Co. v. Kennedy No. 77-2023 (D.C. Cir. Nov. 6, 1979).

[49] 21 U.S.C. § 348(c)(3)(A) (1970).

[50] Blank, The Delaney Clause: Technical Naiveté and Scientific Advocacy in the Formulation of Public Health Policies, 62 Cal. L. Rev. (1974).

[51] Id. Also see comment, Reinterpretation of the Delaney Clause, 73 Northwestern University Law Review 1090 (1978); Martin, The Delaney Clause and Zero Risk Tolerance 34 Food, Drug, Cosmetic Law Journal 43 (1979); Wade, Delaney Anticancer Clause: Scientists Debate an Article Of Faith 177 Science 588 (1972); Hutt, Unresolved Issues in the Conflict Between Individual Freedom and Government Control of Food Safety, Conference on the Control of Environmental Health Hazards, New York Academy of Sciences, June 29, 1978; Study of the Delaney Clause and other Anti-Cancer Clauses, U.S. Cong. House Committee on Appropriations 93rd Cong. 2nd. Sess. (1974).

[52] Secretary Fleming stated during testimony on the Color Additives Amendment of 1960:

"It has been suggested that once a chemical is shown to induce a tumor in a single rat, this forecloses further research and forever forbids the use of the chemical in food. This is not true. The conclusion that an additive "is found to induce cancer when ingested by man or animal" is a scientific one. The conclusion is reached by competent scientists using widely accepted sicentific testing methods and critical judgment. An isolated and inexplicable tumor would not be a basis for concluding that the test substance produces center."

Color Additives: Hearings before the House Comm. on Interstate and Foreign Commerce, 86 Cong., 2d. Sess. 501 (1960).

[53] Congressional Research Service, Nitrite Food Additives, Issue Brief IB79063 (1981); see also General Accounting Office, Does Nitrite Cause Cancer? Concerns about validity of FDA—Sponsored Study Delay Answer (1980); U.S. Economics, Statistics and Cooperatives Services, An Analysis of a Ban on Nitrite Use in Curing Bacon (1979). Both the sodium and potassium salts of nitrite and nitrate have been used for centuries in meat curing processes, and it is generally estimated that nitrite products comprise 7% of the food sold today. Nitrites have also been shown to inhibit the growth of Clostridium botuliunum which may produce the botulin toxin. The health benefit led the FDA to seek a legal means to phase out the use of nitrite while alternatives were developed. The Department of Justice determined that such health benefits may not be considered under existing law and that the FDA and USDA "do have discretion, upon making a finding that nitrites are carcinogenic, to adopt timetables and procedures to assure the orderly removal of that substance from commerce." However, the Justice Department concluded that neither FDA nor USDA has "the authority to balance the benefits of nitrite against their potential harm and determined that their continued use will be permitted until such time as a feasible substitute is developed and put in place." 125 Cong. Reg. S4010, April 5, 1979 (daily ed.).

A further issue in the attempted banning of nitrites was whether nitrite was a "food additive" for the purposes of applying the anticancer clauses. The USDA had declared that nitrite use in meat was covered by a valid prior sanction, while uses in poultry and fish was not prior sanctioned. This provides another example where the categorization of a substance is crucial and may, more than risk, determine the regulatory outcome.

[54] Color Additives: Hearings on H.R. 7624 and S. 2197 Before the House Comm. on Interstate and Foreign Commerce 86th Cong. 2d. Sess. 61 (1960). The anticancer clauses in the Act were modeled after the recommendations of a symposium held by the International Union Against Cancer in August, 1956. See Report of Symposium on Potential Cancer Hazards from Chemical Additives and Contaminants to Foodstuffs, 13 ACTA UNIO Internationales Contra Cancrum 170, 188 (1957).

[55] See Leap, Quantitative Risk Assessment in Regulation of Environmental Carcinogens, 4 Harvard Environmental Law Review 86 (1980); Office of Science and Technology Policy of the Executive Office of the President, Identification, Characterization and Control of Potential Human Carcinogens, A Framework for Federal Decision-Making February 1, 1979; Interagency Regulatory Liaison Group. Scientific Bases for Identification of Potential Carcinogens and Estimation of their Risks, 44 Fed. Reg. 39858 (July 6, 1979).

[56] In 1962 the detection of a few parts per million (the mass ratio of the constituent to its parent specimen) was considered rare. Today, the detection of a few parts per trillion can be achieved in some instances. For example, the bioassay method used to detect DES in the 1950's reached a sensitivity of 50 p.p.b. In the 1960's the use of gas chromatography permitted detection of 5 p.p.h. Recently, radioimmunoassay has been able to detect 0.5 p.p.b. See FDA, Evolution of Chemical Analysis in Relation to the Regulation of Foods, Drugs and Cosmetics in Agriculture Environmental and Consumer Protection Appropriations for 1975, Hearings before the Subcommittee on Agriculture—Environmental and Consumer Protection of the House Committee on Appropriations, 93 Cong. 2d. Sess. 7(1975).

[57] Gori, The Regulation of Carcinogenic Hazards, 208 Science 256 (1980).

[58] An example of an essential nutrient that would have to be prohibited if the anticancer clauses were fully implemented is selenium which in high doses induces tumor formation. Selenium in low doses is essential for normal growth and metabolism in animals. Since humans cannot produce it endogenously it must be consumed in the diet. See generally, National Academy of Sciences, Selenium in Nutrition (1971). To avoid banning selenium, the FDA invented an exception for secondary carcinogens which when used in high doses produces a pathological abnormality such as liver dysfunction and the pathological abnormality then results in tumor formation. Merrill and Hutt, Food and Drug Law 86 (1980). See 38 Fed. Reg. 10460 (1973), 21 C.F.R. § 573.920 (1977).

Another example of how attempts to enforce a zero risk statute could significantly reduce the food supply, surrounds the regulation of nitrites. The Director of the Bureau of Foods has stated that if the FDA were to "carry through the Delaney philosophy, it would mean banning the curing of meat in this country." Food Chemical News, Sept. 18, 1972, at 26. He stated that at present there is no substitute for nitrites and estimated that about 80 percent of swine meat in the U.S. is cured with nitrites, amounting to approximately 40 percent of the nation's meat supply. Id.

[59] Weidenbaum, in The United States in the 1980's. (Dunigan and Rabushka eds.) cites the following example:

"It must be discouraging to the innovative instincts of American business to undergo experience like the recent one of Monsanto, a major chemical company, with its Cycle-Safe plastic bottle for soft drinks. According to John W. Hanley, Monsanto's president, shoppers in the test markets liked the product because it was lightweight and shatter-resistant. It was also recyclable. But the Food and Drug Administration banned the new product because it was made with acrylonitrile (a chemical that had been used in food contact applications for more than 30 years). The regulators say that if the bottles were filled with acetic acid and stored for six months at 120° F, an infinitesimal amount of the chemical could leak into the solution. But in fact, a carbonated beverage stored at 120° would burst the bottle in a few weeks. Nevertheless, Monsanto has had to close all plants making Cycle-Safe bottles. The government, via the regulatory process, is building a 'legal envelope' around existing technology."

Id. at 202.

See also Furman, Impact of the Delaney Clause on the Research Intensive Manufacturer of Biomedical Products Presented at a conference on the Scientific Basic for Interpretation of the Delaney Clause sponsored by the International Academy of Environmental Safety, Feoruary 1978.

[60] See Hutt, Unresolved Issues in the Conflict Between Individual Freedom and Government Control of Food Safety, Conference on the Control of Environmental Health Hazards, New York Academy of Sciences, June 29, 1978.

[61] On April 7, 1967 the food additive Flectol H was found to induce cancer when ingested by test animals and was removed as a component of food contact articles. 32 Fed. Reg. 5675 (1967). The Delaney Clause was involved for a second time on December 2, 1969, when FDA banned 2-chloroaniline, an additive which had been approved as a polyurethane curing agent and as a component of food packaging adhesive and polyurethane resins. 34 Fed. Reg. 19073 (1969). The FDA attempted to remove saccharin as a food additive was based not only on the anticancer clause but also on the general safety clause of section 409. 42 Fed. Reg. 2002 (1977). FDA's proposal to ban chloroform is also based on the anticancer clause. 41 Fed. Reg. 26842 (1976). See also Congressional Research Service, Background Paper on Substances Banned under the Federal Food, Drug and Cosmetic Act March 31, 1980).

[62] See Regulatory Council, Regulation of Chemical Carcinogens, September 28, 1979. See, Office of Technology Assessment, Assessment of Technologies for Determining Cancer Risks From the Environment, Chapter 7. Approaches to Regulating Carcinogens March 1981; Lave, Quantitative Analyses of Proposed Social Regulations (1980).

[63] Green, Cost-Risk-Benefit Assessment and the Law. 45 The George Washington Law Review 901 (1977); Rowe, Governmental Regulation of Societal Risks, 45 The George Washington Law Review 944 (1977); Merrill, Risk-Benefit Decision-making by the Food and Drug Administration 994 (1977); Baram, Cost-Benefit Analysis: An Inadequate Basis for Health, Safety and Environmental Regulatory Decision-making, 8 Ecology Law Quarterly; Starr and Whipple, Risks of Risk Decisions 208 Science 1114 (1980). Several congressional hearings have been held that deal with risk benefit decision-making they include: U.S. Congress. House. Committee on Interstate and Foreign Commerce. Subcommittee on Oversight and Investigations and Subcommittee on Consumer Protection and Commerce. Use of cost-benefit analysis by regulatory agencies. Joint hearings, 96th Congress, 1st. session. July 30 and Oct. 24, 1979; U.S. Congress. House. Committee on Science and Technology. Subcommittee on Science, Research and Technology. Comparative risk assessement. Hearing, 96th Congress, 2d session. May 14–15, 1980; U.S. Congress. House. Committee on Science and Technology. Subcommittee on Science, Research, and Technology. Senate Committee on Commerce, Science, and Transportation. Subcommittee on Science, Technology, and Space. Risk/benefit analysis in the legislative process. Joint hearings, 96th Congress, 1st session. July 24–25, 1979; U.S. Congress. Joint Economic Committee. Regulatory budgeting and the need for cost-effectiveness in the regulatory process. Hearings, 96th Congress, 1st session, 1979.

[64] See note 54 supra.

[65] Part I deals with the difficulties encountered in categorizing carcinogenic hazards.

[66] See note 52 supra.

[67] Committee for a Study on Saccharin and Food Safety Policy, Institute of Medicine, National Research Council, National Academy of Sciences, Part II Food Safety Policy, Scientific and Societal Consideration, March 1979.

Mr. HELMS. Mr. President, I am pleased to join my distinguished colleague from Utah (Mr. HATCH) in cosponsorship of a bill entitled the Food Safety Amendments of 1981.

This legislation would amend the Federal Food, Drug, and Cosmetic Act, the Federal Meat Inspection Act, the Poultry Products Inspection Act, and the Egg Products Inspection Act to make major revisions in our Nation's food safety laws.

Mr. President, these amendments will provide increased flexibility in administering the Nation's food safety laws. While they may not be the complete or final solution in bringing our outdated food safety laws in line with the continuing advances of modern technology, they will provide an excellent focal point for encouraging public debate on this complex issue.

This bill builds on the prior work of the National Academy of Sciences, FDA, USDA, and a variety of industry groups. It reflects the recognition that while a safe food supply is our top priority, certain minimal risks are unavoidable if we are to have an economical and abundant food supply.

This bill incorporates several major reforms that have been advocated by groups ranging from the National Academy of Sciences, to the American Farm Bureau, and the American Meat Institute.

The first of these is the elimination of the so-called zero risk standard incorporated into current food additive law. History has shown that there is no such thing as a food supply with zero risk. Whether the food is as natural as a potato, or as manmade as saccharin, risks are involved in consumption. Potatoes contain the potential toxin solanine; saccharin has been found to cause cancer in animals.

The question should not be whether or not a substance poses zero risk, but rather whether the risk is significant enough to justify banning. In order to make that determination, risks to humans must be scientifically assessed, and all pertinent scientific data considered before issuing the regulation.

Furthermore, I believe we must consider that there are situations in which the risk posed by consuming a substance is indeed significant to humans, but the lack of a substitute and a long history of use make it preferable to inform consumers of the risk and then let them decide whether or not to accept that risk and consume the product.

The bill provides that in such instances, FDA must consider additional factors before determining whether to ban or limit the use of a food additive. These additional factors include health and other benefits to consumers that flow from the use of the additive and the use of more detailed product labeling as an alternative to an outright ban.

A second major reform is a provision calling for external scientific peer review of all food additive regulations and tolerance levels. Such scientific peer review would be provided through a food safety committee established by the National Academy of Sciences, the Federation of American Societies of Experimental Biology, or another appropriate scientific body.

Neither consumers nor industry can afford another nitrite fiasco. Back in 1978, both USDA and FDA announced that they intended to phase out the use of nitrite in the food supply. Two years later they announced that they could not show that nitrite causes cancer after all. Investigations by the Congressional Research Service, among others, have uncovered evidence that the original announcement of the phaseout was made without FDA or USDA ever having subjected the scientific evidence used to adequate review by qualified scientific experts.

The result was 2 years of confusion, doubt, and uncertainty for consumers, farmers, meat processors, and retailers alike. The cost has been great.

I believe the food safety amendments of 1981 will help prevent another such regulatory debacle.

Mr. President, I will not at this time enumerate all of the other changes incorporated in this bill. I believe the Senator from Utah has outlined those well. I might mention, however, that it does define basic and traditional foods as raw agricultural commodities and spices, and excludes them from the definition of food additive. It would also revise regulation of food contact substances, such as packaging materials, so that they are no longer defined as food additives. These changes should greatly simplify the regulatory process without in any way endangering the safety of the food supply.

Mr. President, I reiterate that this is only the first step in the process of reforming our Federal food safety laws. This bill sets forth certain principles, and it is now time that we open them up for public debate. I look forward to extensive hearings on the part of the Agriculture Committee to allow full and detailed consideration of these principles.

In conclusion, I note that on April 26, the Washington Post magazine carried an excellent piece by Mr. Philip J. Hilts entitled "The Day Bacon Was Declared Poison." I believe this article elucidates well the background on nitrite regulation, and is illustrative of the type of problems that are being encountered under current law. I ask that the text of that article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE DAY BACON WAS DECLARED POISON

(By Philip J. Hilts)

Nine billion pounds of meat, tons of fowl, fish, cheese and even pet food—on one day in August of 1978 all of it became suspected poison. Ten percent of the entire food supply of America. Sodium nitrite—the salt that is used to preserve, color and flavor our foods—apparently causes cancer, two regulatory agencies announced jointly on that day.

Nitrite soon became both famous and feared. The hot dog, symbol of the casual American diet, seemed suddenly tainted, colored with disease. And not any disease, but the disease that is unpredictable, lingering, disfiguring and extremely painful. Cancer, according to public opinion polls, is something Americans fear more than war.

Then, one day last fall, with what seemed to be equal suddenness, the regulatory agencies jointly said, "Never mind." It was al-

most two years to the day after their warnings that the regulators said they couldn't prove that nitrite causes cancer after all. "I had a hot dog for lunch," crowed the commissioner of the Food and Drug Administration.

What happened with nitrites is a classic story of the combat between public and private interests, between difficult science and irascible politics. It is a struggle the regulator—no matter what his political affiliation—must face daily: Decisions must be based on science, which is always slow and often ambiguous, despite the pressures of Washington politics, which are quick, clear and powerful.

That is a volatile mixture. If the regulator goes slowly, as the scientific results are checked and rechecked to assure accuracy, he can be accused of covering up what he already thinks he knows, of being a tool of the business interests he is supposed to regulate, of fiddling while the public burns. If he moves too quickly, he can be accused of recklessly toying with people's jobs, of needlessly damaging industry and the economy, of becoming that government shibboleth—the Washington regulator run amok.

One incident in the nitrite episode expressed the dilemma well. Donald Kennedy, then head of the Food and Drug Administration, wrote in defense of his move to ban nitrites gradually: "Scientific peer review tries to establish the validity of a test . . . It is not a complete guarantee of being right . . . [but] regulators can and must be willing to proceed with less than this guarantee. When serious health risks are involved, scientific evidence suggestive of these risks should be enough to justify regulatory action."

(Someone in the meat industry got hold of this internal working paper and marked in the margin: "Big Mistake!")

Later in the same document, Kennedy concludes "There are special reasons why we should [run risks of this sort] when the public health is at stake. You have a politically expendable regulator [Kennedy himself] who is prepared to take the blame and will do so if the outcome proves more disastrous than this argument predicts."

At the beginning of the nitrite case, when Kennedy realized how difficult regulation of this simple salt would be, he told his colleagues that this case would be the real, best test of them as regulators.

The test may have been too hard. The result appeared to outsiders to be a series of chaotic charges, and then retreat in disarray.

The small laboratory building in Boston, its bricks blackened with age and soot, was the place the whole drama began. On the top floor is the office of Dr. Paul M. Newberne, a milk-looking man with gray hair and an easy manner.

Newberne is a specialist in animal diet and disease at Massachusetts Institute of Technology. From 1976 to 1978, he raised about 2,100 rats in his laboratory, and fed them nitrite in a dozen different ways. He was testing, for the FDA, the proposition that nitrites cause cancer in animals.

By the winter of 1978, the animals were dead—of cancer, of natural causes, or at the hands of researchers anxious to finish up the experiment and get the cells of the last aged stragglers onto microscope slides.

Lab assistants took the tiny organs from the bodies, pickled them in preservative, inked them with blue stain, impressed them in wax, then sliced them 7/1000 of an inch thick. With the features darkened and the tissue now thinner than paper, the animals' cells had become transulcent.

Newberne bent over his gray, double-eyepiece microscope and painstakingly began to count. Among the circular globs and granules of the cells were ones that had become elephantine. These were cells stunted and gnarled with disease. He named cell types and made diagnoses out loud as a secretary wrote. It was a long list that was taken down. There were 50,000 slides to see, to recognize, to judge and to diagnose.

What Paul Newberne found surprised him. He did not simply send a report to the FDA. Nor did he even call in a report. He decided he had better carry his news to Washington in person.

Mankind has been curing meats with salts for 10,000 years without benefit of regulatory agencies to guard the public health. There are cave paintings that show meat being cured with sea salt, a good source of nitrite.

But it was not until this century that chemists discovered that the active disinfectant that prevents deadly botulism poisoning is sodium nitrite. We now know that nitrite is virtually everywhere in nature. It is in vegetables in sizable amounts. It is manufactured in human saliva constantly. In fact, our intake of nitrite from cured products is only a small percentage of our total intake of the chemical.

The hazards of nitrite were discovered beginning in 1954 when scientists began to learn that nitrites, under certain conditions, can combine with a variety of chemicals called amines. Together they make nitrosamines, among the most potent cancer-causing agents known to man. Nitrosamines have been found to be carcinogens in 22 species of animals—a deadly superlative among chemicals.

In 1971, the Food and Drug Administration contracted with Newberne and a colleague to study nitrosamines. Newberne got the expected deadly result from his animals. But he got something else as well, something far more disturbing. In one control group, rats had been given nitrite alone, with no amines. Newberne expected to see no nitrosamines formed and no cancers following.

But instead, Newberne reported, this group showed a startling number of lymphomas—malignant tumors, cancers of the lymph system.

It was still two years before Newberne would begin his big study of nitrite, using 50,000 slides. This result was only in a side group, an accidental finding, and could not be relied on for scientific accuracy. But, still, it was startling.

The findings meant that nitrite itself might be a carcinogen. If that were found to be true, then the whole focus of worry would have to be shifted back one level, from the nitrosamines to the nitrite itself. Worse, food manufacturers were not adding nitrosamines to food, but were adding nitrite to billions of pounds of meat, poultry, cheese and fish.

So it was a few dozen rats, and Paul Newberne's diagnosis of their lymphomas, that began the early history of the great nitrite scare. As a result, the FDA pushed Newberne to do a monumentally large study to learn whether nitrites themselves could cause cancer.

Animal studies of cancer had not been done in any numbers until a few years earlier, in the late 1960s. "The diagnoses in those dark ages went unquestioned," said Dr. Robert Squire of The Johns Hopkins University. "Everybody believed everyone else. The Good Laboratory Practices standard (a uniform standard to assure consistent quality in lab work) hadn't been established yet, and no one suspected the kind of irregularities that could occur."

It is a typical irony in this tale of nitrite that the first accidental result now appears to have been misread and mistaken, according to the pathologist who reviewed the old slides for the government.

"If this early study had been looked at the way we look at these things today, there would have been no need for everything that has happened since . . . I found that half the things called lymphomas were not lymphomas. There was nothing there" to set off the alarm on nitrite, said Squire, who reviewed the work for the government.

Gary Flamm, then assistant commissioner of FDA, said: "Of course, Squire may be right. . . . We didn't review that study, but if it came in now I certainly think we would review it in some detail. God, yes."

But the FDA didn't review it. Instead, a much larger study was commissioned to look at nitrite alone, to try to prove or disprove that nitrite itself can cause cancer in rats. That study began in 1975.

There were more than a hundred rats in each of 18 groups, each group fed a slightly different way. Some were fed nitrite in their rat chow, some were fed nitrite in their water. Some got large doses, some smaller doses and some none at all. For Newberne, the result was the 50,000 slides to examine every day for months.

Pathology—the examination of tissue to find abnormalities—is notoriously tricky. The pathologist must be familiar with the look of each different sort of tissue as well as the scores of different tumor types, both malignant and benign.

Paul Newberne, a tall man with a soft southern voice, peers into the gray microscope near his desk and says, "If you've got 10 years of experience looking at that under all sorts of conditions, you know whether it is normal or not. You get a sense of how distended the parts are, whether they are irregular or too long for their type, even though only a few of them are actually misshapen."

Newberne started his career 25 years ago as a veterinarian, working for three years in rural Georgia before returning to Auburn University for his Ph.D. in pathology and the beginning of his animal research career. Along the way, Newberne had earned two distinguished fellowships to study animal pathology, and from school he went directly to head a program in nutritional pathology at Auburn.

In the past two decades, he has continued to devote himself to the study of diet and its effect in animal disease.

"This is why we don't all agree on tumors," said Newberne, nodding toward the microscope. What was there looked like the spotted surface of granite. "The tumors show up at such a wide range in their stages of development, and they look different at each stage. The question is whether it has advanced to the stage where it is irreversible, malignant and must be removed before it kills the animal."

By spring of 1978, Newberne had eyed his 50,000 slides of tissue. Seeing the slides one at a time, he had no sense of their pattern; he did not think he had found any special effect. It was only when he tabulated the number of tumors that he began to think he was finding groups of nitrite-fed mice with two to four times more lymphomas.

Newberne was surprised and a little excited. He flew to Washington to meet with Donald Kennedy, then commissioner of the FDA.

"At that meeting we pushed Newberne very hard on a variety of questions," said Kennedy. "I thought he gave a very strong account of himself, and the conclusion at the end of the grilling of a couple of hours was that a report would soon be in the public record as a major indictment of nitrite."

Newberne recalls showing his data, scratched out on a big pad of paper, to a roomful of people. "I said the result was only suggestive and we needed more studies to find out what's going on. That's all I said. I didn't tell them to go ban nitrite. Never."

It was the beginning of May 1978, and the news spread like a shock wave among the small number of people allowed to hear it. Donald Kennedy was upset, according to

those who talked with him later. The FDA had just come through a loud, bitter public dispute over the banning of saccharin, the largest public battle the FDA had ever had to face, bigger than the cyclamate case, bigger than the cranberry brouhaha of years past.

Then, up popped an issue much larger and much more complex. From the beginning Kennedy told his colleagues that this case would be their best test as regulators. It was legally complicated because nitrite was governed by several different, competing laws. It was politically scary because there were possibly billions of dollars worth of consequences that would come from any decision. It was a public health nightmare because it was not a simple matter of removing a hazard from the market—the regulators had to balance two hazards. How many fatal cases of botulism or other disease would occur if nitrite were banned as a protector of foods? How many cases of cancer would be caused if it were not banned?

Kennedy called Carol Tucker Foreman, the assistant secretary of agriculture in charge of food quality and consumer services. Her activist approach to food and health issues had already earned her the title of "dragon lady" among pork producers of the Midwest. They believed that "whenever she opened her mouth, pork prices dropped," one meat industry spokesman said.

"Apparently it's true," Foreman said, "that whenever the Commodity News Service carried something on the issue of nitrosamines and our department, the pork belly prices fell the limit. There was quite a lot of fear engendered among the farmers. We just don't know how, in a chemical-filled world, not to frighten people from time to time as we deal with these issues."

Foreman had been wrestling for a few years with the problem of the nitrosamines found in bacon. At just about the time Don Kennedy called, she thought she had finally wrestled it to the mat, arriving at a technical compromise with the meat industry.

She answered the phone in her large second-floor office. "I have some very bad news for you," Kennedy told her. He said he had a study showing nitrite could cause cancer directly, never mind the nitrosamines.

"Oh ———." Foreman said, and sank through the same rapid, dismal thoughts that other regulators say they also had when they heard the news. "All this struggle over the nitrosamines, and now this guy comes in and says that nitrites themselves are the bad actors. This was obviously something much bigger, much worse."

Commissioner Kennedy gathered a group of half a dozen top agency officials to decide what must be done. Contrary to the procedure on smaller matters, he did not turn the Newberne study over to his agency's senior scientists. Kennedy knew that the Newberne report contained political dynamite. He also knew that the FDA was a sieve, which constantly leaked to the press. The fewer people who knew of this report, he figured, the more likely his group would be able to work in peace. This would later turn out to be a key mistake.

Aware that scientific review would take place at some point, the Kennedy group simply went to work on the assumption that Newberne was right. Newberne, after all, had a strong reputation. He was believed to be an especially cautious man in his work and what he said about it.

A single thought hung over the first meetings like a pall: Nowhere had man actually faced the problem of preserving meat without salt. The problem was new and on a scale quite beyond the saccharin flap that had so occupied the previous two years. Epidemics of botulism poisoning could hit the nation if nitrite were suddenly banned. And the applicable law—called the Delaney amendment—seemed to demand an outright ban with no phaseout period.

It was May, and the group talked of picnics: families taking luncheon meat or sausage in plastic wrap and sealed containers. The fatal botulin bacteria grows rapidly in the absence of air. The inside of a sausage or a hot dog is a good place for it to breed. They envisioned children carrying their lunch boxes to school, setting them in the sun for a few hours before lunchtime. That evening, some of them might not come home.

"Since we had no experience with the situation, we had no idea what the real risks were, if some other infections might not result as well," said Flamm. "After all, people will do anything with a sandwich. They will subject a sandwich to the most incredible conditions—one man will take it to a foundry and set it down in better than a hundred-degree heat, another who drives a refrigerator truck will put it back there and let it freeze before lunchtime," said Flamm.

The problems facing Kennedy's caucus were more than the fear of disease. Since man has used nitrite salts for so long in so many ways, its trail through the law is a tangle.

When Kennedy's caucus sorted it out in 1978, it was clear that the law was very strict: It demanded that when a substance is found harmful or carcinogenic, it must be banned.

The law simply allowed no phase-out, moratorium or other ways of backing into regulation. In the case of nitrite, Kennedy and Foreman knew a public health disaster was possible if botulism and food poisoning were not carefully contained after a ban of nitrite.

A nitrite ban could lead to economic chaos for the meat industry, which in nitrite-treated red meat alone is a $12.5 billion operation.

By law, the regulators simply could not consider these things. They did anyway.

Kennedy's strategy was to develop a 50-page paper detailing the options ranging from no action at all to an immediate ban, and then choosing the most reasonable course—a phase-out of nitrite based on the speed with which the nation could find substitute ways of preserving meat.

The group found that refrigeration would not work—too few refrigerators, too many that might break down and let the meat temperature rise above the 40-degree safety mark. Luncheon meat, hot dogs and the like would have to be frozen. To do that, the nation's freezer capacity would have to be doubled.

Over the years, about 700 chemicals have been tested to see if any might make acceptable substitutes. Nearly all have been failures.

To get around the rigid law, Kennedy and his group decided to adopt the tactics of their opposition in the saccharin battle. In that one, they were forced to give up their ban when Congress passed a law declaring a moratorium on the issue. Kennedy thought they might bring their own bill to Congress—this time to prevent themselves from banning a substance.

Up to this time, Kennedy had not worried about the scientific data. He had sent the Newberne report to reputable scientists around the country for them to review, checking statistics and logic. Of course, they could not check the pathology. The reports came back positive—the paper itself seemed all right.

At that moment, in late June, Kennedy had no idea that the Newberne study would eventually go well beyond the usual peer review that scientific papers get. "There are two kinds of scientific review," Kennedy explained. "One is peer review, in which a paper is passed out to referees to look it over and see if the conclusions can be justified by the data. A pathology review is something entirely different. It is like a new experiment, only it takes as raw material the data of an older experiment. It is costly and time-consuming and you don't conduct one until it becomes clear that there is a problem with the study.

"Early on, it was not apparent to me that a pathology review was necessary. Actually, earliest on, I wouldn't have known a pathology report if it ran over me in the street," Kennedy said.

"What one does as commissioner when you've got issues in half a dozen scientific areas buzzing around you—you just ask the best questions you can, and decide on the basis of the answers what needs to be done."

So he and his small group of officials worked out a compromise among bitterly competing interests. Only later, at the insistence of other scientists at the FDA, was the deeper scientific review started. A little too late to avoid embarrassment, as it turned out.

Outside the closed circle of Kennedy's caucus, those other FDA scientists had been worried. Politics was being discussed and decided, but no science. The senior scientists waited through the summer, but were not consulted and were not given copies of Newberne's study to review.

The action by Kennedy to keep Newberne's study secret even from the senior scientists at the FDA is the decision that has since been most vigorously attacked by critics. It has also been criticized in a General Accounting Office investigation and in a Congressional Research Service report.

After the FDA had Newberne's report for two months, chief scientists at the FDA began to realize that they were being cut out of the decisionmaking. Whether their judgment was necessary or even useful, they felt hurt to be left out, and upset that their skeptical point of view was not getting a proper hearing. No scientific review was taking place. But political plans were already far along.

"On many an occasion," said Dr. Albert Kolbye, associate science director of the Foods Division of the FDA, "I expressed to Dr. [Howard] Roberts, my immediate superior, my growing dismay and concern that events were proceeding too quickly without an adequate foundation of scientific review. I have never experienced before in my government career a situation where the word was [that] most of us were to be excluded and not to get involved."

Flamm, too, worried. "We had been alerted to something that was wrong with the study. Newberne had called in and changed the numbers of rats supposed to have tumors. He changed them not once, but twice, then three times that I heard about. And they all moved the number of tunors downward. This is extraordinary, and it made us very nervous.

"This was an important case," Flamm said. "I was concerned, extremely concerned, that I should do the right thing . . . During that time I began to walk in the woods of West Virginia with my wife to talk about it. I knew that if I screwed up on this, I would leave government work altogether.

"When the Newberne numbers started to change, we told Kennedy that it was serious. Our case might be going straight down the tube."

Then, the scientists heard that Kennedy was likely to hold a press conference soon to announce plans. They heard the news first by rumor and then by reading it in Food and Chemical News, a trade publication. Kolbye barked loudly about this. Before the supposed press conference, Gary Flamm was asked to help anticipate critical questions about the Newberne study.

"I was role-playing. I was supposed to be Giovanni Salami, the head of the Meat Industry of America. I worked over two FDA scientists and criticized the Newberne re-

port. I think I hit impressively hard," Flamm said.

Kennedy says he was not told of the three successive changes in Newberne's data. If he had been, he says, it would have shocked him into some quick action. But by the time Kennedy turned from the political and legal questions to the scientific ones, it was August.

Suddenly, the bubble of privacy enjoyed at FDA was burst.

Marian Burros, food editor of The Washington Post called the FDA, saying she knew of the Newberne study and was going to run a story on it. The FDA concluded that a public statement had to be made.

"Nothing was secure at FDA," Kennedy lamented. "I actually had members of Congress getting internal memos before I got them!"

On a Friday, Aug. 11, a joint statement was issued by the FDA and the USDA.

"A study recently completed for FDA by the Massachusetts Institute of Technology strongly suggests that nitrite produces cancer of the lymphatic system in test animals," the statement said.

Within a few days the 50-page document that the Kennedy caucus had been working on was in the hands of the press. The report said: "FDA has received a report from Dr. Paul Newberne of MIT . . . The agency has evaluated the study and has concluded that it shows that nitrite induces cancer when ingested in laboratory rats . . . FDA expects that its conclusion will withstand further analysis . . . Accordingly, FDA and USDA are planning for a phaseout of nitrite over a period of several years."

There was no more time for deliberation. Everyone was in the water now; the free-for-all began.

The loudest squeal came from the pork producers. "Consumerist zeal running roughshod over science and common sense," was one observation. "The meat industry," said a Senate Agriculture Committee report, "especially the pork producers, are convinced that removal of nitrite will result in their economic ruin."

One of the unspoken concerns at the time, but one which may have been a major factor in the thinking of meat industry executives, was mentioned by Paul Newberne: "You have to remember that nitrites let them off the hook on many points. Not just botulism. They can be a lot less sanitary in their plants, and so they can spend a lot less money cleaning up and using special equipment. Nitrite, you know, is an excellent disinfectant. I suspect this thought played an important role."

"A nitrite ban would cause prepared meats to disappear," said a Tennessee newspaper in quoting a meat industry spokesman, "disrupting the food supply. The hog industry would be decimated, since 70 percent of U.S. pork ends up in processed meats. What is more . . . nitrite protects against the poison that causes botulism. Banning nitrite could save say, 2,000 lives from cancer each year and lose 10,000 to food poisoning."

Consumer activists were not happy either. "Carol Foreman and Donald Kennedy should go back to the law and read it because they are violating it," said Ralph Nader. The Environmental Defense Fund attacked the agencies for "laying low when they should be racing ahead."

Although the consumerists wanted an immediate ban, the industry wanted no ban and no hints of severe action either.

But even as the FDA and the USDA were weaving a defense for their actions on TV and in interviews, FDA scientists were unraveling it from the other end.

Within six weeks of the announcement that would have altered the eating habits of virtually the entire nation, FDA scientists already knew that the Newberne study had problems. In late September, two independent pathologists looked at the slides that were supposed to contain the rat tumors found by Newberne. The two worked separately, but their conclusions were virtually identical.

They disagreed with Newberne on 29 of 35 animals checked. This result was enough to knock the Newberne study below the level of statistical significance, even though only a seventh of the tumorous animals had been checked.

By today's standards, Newberne's diagnoses of that time are considered loose. He lumped together different sorts of tumors under the category of lymphoma.

The FDA soon decided to have all 50,000 slides done by Newberne reviewed by other expert pathologists—a group called the Universities Associated for Research and Education in Pathology (UAREP). Forty-six pathologists looked at all the slides. Their conclusions were just as negative as the earlier reports:

Of the 2,100 or so animals studied, the reviewing pathologists disagreed with Newberne in 897 cases, an enormous 43 percent disagreement. The reviewers normally expect disagreement of only a few percent.

Of the 220 or so tumors that Newberne called cancers of the lymph system—and this was the heart of the study, the reason for banning nitrite—the reviewers could find only 30 such tumors. This is only 14 percent of what Newberne claimed.

"We are at a loss to understand this enormous difference," said Kenneth Endicott, chief of UAREP. Some pathologists have believed that it could not have been Newberne himself who did the diagnoses, that he must have allowed an inexperienced student to do it.

Newberne says he did it himself. He also disagrees with the diagnoses of the many pathologists who reviewed the study.

Says Newberne: "I may be wrong in my diagnoses. All right. But whatever I call it, something is there, and it is not good. I don't give a damn whether you call it lymphoma or call it what the UAREP people call it, histiocytic sarcoma. That doesn't make a damn bit of difference to me. They are malignant tumors. That's what counts."

UAREP's Endicott says, "It does matter. Our pathologists believed the tumors were not derived from the lymph system, but orignated in the connective tissue. It is like having an assortment of fruit; when you compare them, do you separate out the oranges and the grapefruits?"

Since the study as a whole identified about two dozen different tumors in various organs, the categories to which the tumors are assigned do matter. If many sorts of tumors are grouped together, the category in which they have been placed might become large enough to indicate a significant result for the study as a whole.

Why Newberne would end up looking so mistaken when his previous work and his reputation have been so strong is "a puzzle that none of us have been able to solve," said one pathologist. "It is really intriguing, especially when you go back to the first small study, the one that started all this. The diagnoses there had exactly the same problems. This is not something a pathologist of Newberne's experience would do. So why did he? No one knows."

"Look," said Kennedy, "science is conducted on the assumption that when you have a seasoned, well-respected investigator from a good institution, and he reaches a scientific conclusion, it is far more likely to be right than wrong.

"In this case you can certainly conclude that Newberne's judgment on what you call a tumor is different from other experts in the field. It is clear Newberne was doing something very different, but not necessarily wrong."

Nitrite was found not to be a direct cause of cancer, the FDA concluded, though some doubt remains. Donald Kennedy thinks that something suspicious may exist in lower-dose ranges that showed abnormalities, but no tumors. And untouched by the episode altogether is the fact that nitrites do sometimes become potent carcinogens as nitrosamines, though the process is not well understood.

But in the Newberne case, two years and seven days after the bad news on nitrite was first announced, it was repealed.

Smug remarks could be heard from all quarters as the biggest regulatory case ever belly landed, then fell to pieces, leaving behind a heap of smoking wires, wings and struts.

The pork industry says the cost of the whole episode could hardly be calculated, but if someone tries, it says, one should begin with the billion-dollar loss of sales in pork bellies. Though others disbelieve it, the pork producers say the losses occurred when millions of people conscientiously cut bacon and hot dogs from their diets in response to the nitrite "scare."

But the biggest cost of the whole episode, as one congressional staffer said, may have been to the public's credulity:

"To cry wolf as big and as loud as it was yelled in this case—that's enough to make us all start giving these agencies some funny looks next time they start talking about what causes cancer. I don't know if that's good or that's bad. . . ."

ADDITIONAL COSPONSORS

S. 25

At the request of Mr. ARMSTRONG, the Senator from Florida (Mrs. HAWKINS) was added as a cosponsor of S. 25, a bill to amend title 38, United States Code, to provide a new educational assistance program for persons who enlist, reenlist, or otherwise enter the Armed Forces after December 31, 1980, and a career service person's educational assistance program, and to amend title 10, United States Code, to authorize an educational leave of absence for members of the Armed Forces.

S. 29

At the request of Mr. LUGAR, the Senator from Wisconsin (Mr. KASTEN) was added as a cosponsor of S. 29, a bill to repeal the Federal requirement of incremental pricing under the Natural Gas Policy Act of 1978.

S. 85

At the request of Mr. BENTSEN, the Senator from North Carolina (Mr. EAST) was added as a cosponsor of S. 85, a bill to amend the Internal Revenue Code of 1954 to exempt independent producers and royalty owners from windfall profit tax on the first 1,000 barrels of daily production.

S. 395

At the request of Mr. WALLOP, the Senator from Mississippi (Mr. COCHRAN), and the Senator from Indiana (Mr. QUAYLE) were added as cosponsors of S. 395, a bill to amend the Internal Revenue Code of 1954 to provide estate and gift tax equity for family enterprises, and for other purposes.

S. 496

At the request of Mr. MELCHER, the Senator from Georgia (Mr. NUNN) was added as a cosponsor of S. 496, a bill to amend the Federal Mine Safety and Health Act of 1977.

S. 569

At the request of Mr. JEPSEN, the Senator from Hawaii (Mr. INOUYE), and the Senator from Montana (Mr. BAUCUS) were added as cosponsors of S. 569, a bill to amend the Internal Revenue Code of 1954 to provide an investment credit for certain soil and water conservation expenditures.

S. 756

At the request of Mr. HOLLINGS, the Senator from Louisiana (Mr. JOHNSTON) was added as a cosponsor of S. 756, a bill to amend Military Selective Service Act to provide for the reinstitution of the registration and classification of persons under such act and to reinstate the authority of the President to induct persons involuntarily into the Armed Forces, and for other purposes.

S. 939

At the request of Mr. EAGLETON, the Senator from Connecticut (Mr. DODD) and the Senator from Colorado (Mr. HART) were added as cosponsors of S. 939, a bill to authorize appropriations for the Legal Services Corporation for fiscal years 1982, 1983, and 1984, and to encourage the use of private attorneys in the provision of the legal services under that act, and for other purposes.

S. 1049

At the request of Mr. DURENBERGER, the Senator from Georgia (Mr. MATTINGLY) was added as a cosponsor of S. 1049, a bill to amend the Internal Revenue Code of 1954 to expand tax incentives for retirement savings.

S. 1153

At the request of Mr. THURMOND, the Senator from Wyoming (Mr. WALLOP) was added as a cosponsor of S. 1153, a bill to amend the Surface Mining Control and Reclamation Act of 1977 relating to maps and plans of lands to be mined.

S. 1162

At the request of Mr. LONG, the Senator from Georgia (Mr. MATTINGLY) was added as a cosponsor of S. 1162, a bill to amend the Internal Revenue Code of 1954 to increase the allowable contributions to employee stock ownership plans, to provide a credit against tax for contributions to an employee stock ownership plan based upon payroll as an alternative to that based on investment in equipment, and for other purposes.

S. 1247

At the request of Mr. DOLE, the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 1247, a bill to amend the Freedom of Information Act to provide a hearing for persons objecting to disclosures of private confidential information, to preserve the confidential status of certain kinds of private information contained in Government records, and for other purposes.

S. 1279

At the request of Mr. DANFORTH, the Senator from Arkansas (Mr. BUMPERS) and the Senator from Oregon (Mr. HATFIELD) were added as cosponsors of S. 1279, a bill to amend the Internal Reve-Code of 1954 to exclude from gross income a certain amount of interest earned on the all savers certificate offered only at savings institutions.

SENATE JOINT RESOLUTION 72

At the request of Mr. HAYAKAWA, the Senator from Kentucky (Mr. HUDDLESTON) and the Senator from Nevada (Mr. LAXALT) were added as cosponsors of Senate Joint Resolution 72, joint resolution proposing an amendment to the Constitution of the United States with respect to proceedings and documents in the English language.

SENATE JOINT RESOLUTION 74

At the request of Mr. MATHIAS, the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of Senate Joint Resolution 74, joint resolution designating the week of October 4 through October 10, 1981, as "National Diabetes Week."

SENATE JOINT RESOLUTION 93

At the request of Mr. HAYAKAWA, the Senator from Iowa (Mr. JEPSEN) was added as a cosponsor of Senate Joint Resolution 93, joint resolution to clarify that it is the basic policy of the Government of the United States to rely on the competitive private enterprise system to provide needed goods and services.

SENATE RESOLUTION 134

At the request of Mr. PRESSLER, the Senator from Pennsylvania (Mr. SPECTER), the Senator from Alaska (Mr. MURKOWSKI), and the Senator from New York (Mr. MOYNIHAN) were added as cosponsors of Senate Resolution 134, resolution expressing the sense of the Senate with respect to continued access of the Rural Electrification Administration to the Federal Financing Bank.

AMENDMENT NO. 76

At the request of Mr. BIDEN, the Senator from Georgia (Mr. NUNN) and the Senator from Florida (Mr. CHILES) were added as cosponsors of amendment No. 76 intended to be proposed to S. 951, a bill to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1982, and for other purposes.

AMENDMENT NO. 77

At the request of Mr. BIDEN, the Senator from Georgia (Mr. NUNN), and the Senator from Florida (Mr. CHILES) were added as cosponsors of amendment No. 77 intended to be proposed to S. 951, a bill to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1982, and for other purposes.

AMENDMENT NO. 80

At the request of Mr. BIDEN, the Senator from Georgia (Mr. NUNN), the Senator from Tennessee (Mr. SASSER), and the Senator from Florida (Mr. CHILES) were added as cosponsors of amendment No. 80 intended to be proposed to S. 951, a bill to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1982, and for other purposes.

AMENDMENT NO. 82

At the request of Mr. BIDEN, the Senator from Georgia (Mr. NUNN), the Senator from Tennessee (Mr. SASSER), the Senator from Vermont (Mr. LEAHY), and the Senator from Florida (Mr. CHILES) were added as cosponsors of amendment No. 82 intended to be proposed to S. 951, a bill to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1982, and for other purposes.

AMENDMENT NO. 83

At the request of Mr. BIDEN, the Senator from Georgia (Mr. NUNN), the Senator from Vermont (Mr. LEAHY), and the Senator from Florida (Mr. CHILES) were added as cosponsors of amendment No. 83 intended to be proposed to S. 951, a bill to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1982, and for other purposes.

AMENDMENT NO. 84

At the request of Mr. BIDEN, the Senator from Tennessee (Mr. SASSER), the Senator from Vermont (Mr. LEAHY), and the Senator from Florida (Mr. CHILES) were added as cosponsors of amendment No. 84 intended to be proposed to S. 951, a bill to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1982, and for other purposes.

AMENDMENT NO. 85

At the request of Mr. BIDEN, the Senator from Vermont (Mr. LEAHY), and the Senator from Florida (Mr. CHILES) were added as cosponsors of amendment No. 85 intended to be proposed to S. 951, a bill to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1982, and for other purposes.

AMENDMENT NO. 86

At the request of Mr. BIDEN, the Senator from Georgia (Mr. NUNN), the Senator from Tennessee (Mr. SASSER), the Senator from Vermont (Mr. LEAHY), and the Senator from Florida (Mr. CHILES) were added as cosponsors of amendment No. 86 intended to be proposed to S. 951, a bill to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1982, and for other purposes.

AMENDMENT NO. 87

At the request of Mr. BIDEN, the Senator from Florida (Mr. CHILES) was added as a cosponsor of amendment No. 87 intended to be proposed to S. 951, a bill to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1982, and for other purposes.

AMENDMENT NO. 88

At the request of Mr. BIDEN, the Senator from Georgia (Mr. NUNN), and the Senator from Florida (Mr. CHILES) were added as cosponsors of amendment No. 88 intended to be proposed to S. 951, a bill to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1982, and for other purposes.

AMENDMENT NO. 89

At the request of Mr. BIDEN, the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of amendment No. 89 intended to be proposed to S. 951, a bill to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1982, and for other purposes.

AMENDMENT NO. 90

At the request of Mr. BIDEN, the Senator from Georgia (Mr. NUNN), the Senator from Tennessee (Mr. SASSER), the Senator from Vermont (Mr. LEAHY), and the Senator from Florida (Mr. CHILES) were added as cosponsors of amendment No. 90 intended to be proposed to S. 951, a bill to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1982, and for other purposes.

AMENDMENT NO. 91

At the request of Mr. BIDEN, the Senator from Georgia (Mr. NUNN), the Senator from Vermont (Mr. LEAHY), and the Senator from Florida (Mr. CHILES) were added as cosponsors of amendment No. 91 intended to be proposed to S. 951, a bill to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1982, and for other purposes.

AMENDMENT NO. 92

At the request of Mr. BIDEN, the Senator from Florida (Mr. CHILES) was added as a cosponsor of amendment No. 92 intended to be proposed to S. 951, a bill to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1982, and for other purposes.

AMENDMENT NO. 97

At the request of Mr. BIDEN, the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of amendment No. 97 intended to be proposed to S. 951, a bill to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1982, and for other purposes.

AMENDMENT NO. 98

At the request of Mr. BIDEN, the Senator from Georgia (Mr. NUNN), the Senator from Vermont (Mr. LEAHY), and the Senator from Florida (Mr. CHILES) were added as cosponsors of amendment No. 98 intended to be proposed to S. 951, a bill to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1982, and for other purposes.

SENATE RESOLUTION 162—RESOLUTION RELATING TO THE CURRENT BASEBALL STRIKE

Mr. D'AMATO submitted the following resolution; which was referred to the Committee on Labor and Human Resources:

S. RES. 162

Whereas, the major league baseball strike has covered the hearts and minds of Americans like an infield tarpaulin in a summer shower, life in America has been adversely affected in several ways:

Trading baseball cards has become as meaningful as swapping gas coupons,

Youngsters now yearn to be federal mediators rather than the next Joe Dimaggio,

Billy Martin has not dusted the trousers of an umpire for several days,

The economy has been slowed by a decline in the sale of hot dogs, peanuts, beer, and soda pop,

The Chicago Cubs have not lost a game in nearly three weeks,

Americans are being bombarded with television reruns and old movies,

Divorce rates are soaring as husbands and wives are being forced to pay attention to each other,

Americans even miss Howard Cossell,

The God-given right of New Yorkers to have a team, if not two, in the World Series is threatened,

Therefore, be it resolved that it is the sense of the Senate that a summer day in America is not complete without the cry of "Play ball." The major league owners and players should let boys be boys, reach an equitable agreement, as soon as possible and return the "Boys of Summer" to America.

SENATE RESOLUTION 163—RESOLUTION RELATING TO UKRAINIAN INDEPENDENCE DAY

Mr. D'AMATO submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 163

Whereas, the American people cherish the concepts of freedom and independence which laid the foundation for the United States of America in the 18th century and which have retained their significance to the present day;

Whereas, our heartfelt understanding of freedom and independence has transcended our own good fortune and has instilled within us a warm sympathy for the aspirations of other peoples and other nations throughout the world;

Whereas, on January 22, 1918, after centuries of occupation, the Ukrainian people instituted a free and independent Ukrainian state, which soon fell victim to the onslaught of the Soviet Union;

Whereas, this year marks the 40th anniversary of the renewal of Ukrainian independence by proclamation on June 30, 1941, which, although shortlived, became the symbol of a continuous struggle of the Ukrainian people;

Whereas, the Ukrainian people look to the American people for assistance and moral support in their own struggle for the recovery of their freedom and independence;

Now, therefore, be it

Resolved, That it is the sense of the Senate that June 30, 1981 be designated Ukrainian Independence Day and the President of the United States be authorized and requested to issue a proclamation inviting the people of the United States to observe this day with appropriate ceremonies and activities.

● Mr. D'AMATO. Mr. President, June 30, 1981, marks the 40th anniversary of the proclamation renewing Ukrainian independence that was issued on June 30, 1941, in Lviv, the capital of the western Ukraine. This date is significant for Americans of Ukrainian origin not only because it represents the most recent period of Ukrainian independence, but also because it symbolizes the continuing struggle of the Ukrainian people for freedom and independence. The people of the Ukraine have been subjugated by the Soviet Union for over 60 years, but their hope of eventual freedom has not died. Their tenacity in the face of the brutal repression common in the Soviet Union is admirable. It is only right that we salute these courageous people by declaring June 30, 1981, Ukrainian Independence Day.●

AMENDMENTS SUBMITTED FOR PRINTING

PRICE SUPPORTS AND INCENTIVES FOR FARMERS

AMENDMENTS NOS. 105 AND 106

(Ordered to be printed and to lie on the table.)

Mr. PRESSLER submitted two amendments intended to be proposed by him to the bill (S. 884) to revise and extend programs to provide price support and production incentives for farmers to assure an abundance of food and fiber, and for other purposes.

IMPORTATION OF CASEIN PRODUCTS AND INSPECTION OF IMPORTED MEATS AND MEAT FOOD PRODUCTS

● Mr. PRESSLER. Mr. President, I am today introducing two amendments to the 1981 farm bill, S. 884, pertaining to imports which I intend to call up during Senate consideration of this legislation.

My first amendment would require the inspection, labeling and grading of all imported meat and meat food products at the port of entry into the United States. This amendment is identical to S. 905 which I introduced earlier this year.

Under the terms of this amendment, all imported meat would be required to meet the same standards as domestically produced meat. The port of entry inspection, labeling and grading would be funded through a fee assessed against the foreign plant or person exporting the meat or meat food products.

This amendment would benefit many groups:

First, the consumers would be assured that they are purchasing high quality meat and meat food products;

Second, domestic meat producers and processors would be given some relief from the unfair foreign competition; and

Third, the Federal Government would save money by having the present spot check inspection program replaced by the new port of entry inspection, labeling and grading program funded by the fees assessed to the exporter.

My second amendment would place a 50-percent quota on the importation of milk protein products, including casein, based upon an average of the importation during the 5-year period preceding 1981. The 5-year average casein imports are 139 million pounds, thus a 50-percent quota would limit this to approximately 69.5 million pounds. The quota would mean a large saving in the cost of the dairy price support program to the Commodity Credit Corporation.

A recent USDA study on the impact of milk protein imports on the Dairy Price Support Program found that in 1980 the 152.2 million pounds of casein and casein mixtures imported displaced 333 million pounds of nonfat dry milk. This meant an increased cost of $300 million to the Commodity Credit Corporation. My amendment, if adopted, would reduce this expense to the Federal Government by nearly 50 percent.

Mr. President, I urge my colleagues to join me in supporting these amendments.

Mr. President, I ask unanimous consent that the text of the amendments be printed in full in the RECORD.

AMENDMENT NO. 105

On page 235, between lines 17 and 18, insert the following new section:

IMPORT LIMITATION ON CASEIN PRODUCTS

SEC. 1112. (a) Congress finds that milk protein products, including but not limited to casein, caseinates, lactalbumin, and whey protein concentrates or mixtures containing 5 per centum or more of these products, are being imported into the United States in such quantities as to render or tend to render ineffective, or materially interfere with, the dairy price support program conducted by the Secretary of Agriculture under the Agricultural Act of 1949.

(b) To ensure that the entry into the United States of milk protein products will not render or tend to render ineffective, or materially interfere with, the dairy price support program conducted by the Secretary of Agriculture under the Agricultural Act of 1949, the President shall by proclamation impose, under the authority of section 22 the Agricultural Adjustment Act (7 U.S.C. 624), a quota limiting the amount of milk protein products, including but not limited to casein, caseinates, lactalbumin, and whey protein concentrates or mixtures containing 5 per centum of more of such products, that may enter the customs territory of the United States in any calendar year after 1981. The quota so proclaimed by the President shall be in an amount equal to 50 per centum of the average of the total imports of such milk protein products into the United States during the five-year period 1977 through 1981. The proclamation shall be considered a proclamation issued by the President under section 22 of the Agricultural Adjustment Act (7 U.S.C. 624) meeting the requirements of that section.

AMENDMENT NO. 106

On page 312, between lines 9 and 10, insert the following:

MEAT INSPECTION, GRADING AND LABELING

SEC. 1437. (a) Section 20(a) of the Federal Meat Inspection Act (21 U.S.C. 620(a)) is amended by striking out "No" and inserting in lieu thereof "(1) Except as provided in paragraph (4), no", and by adding at the end thereof the following new paragraph:

"(2) Except as provided in paragraph (3), no carcasses, parts of carcasses, meat or meat food products of cattle, sheep, swine, goats, horses, mules, buffalo, or other equines which are capable of use as human food may be imported into the United States unless tests have been conducted, at the point of entry into the United States, on such carcasses, parts of carcasses, and meat and meat food products, including the internal organs of the animals from which such articles came, to determine whether such articles (A) contain any substance which would be prohibited under this Act if found in a carcass, part of a carcass, meat or meat food product of any animal (referred to above in this paragraph) produced in the United States and capable for use as human food, or (B) contain a level of any substance which is in excess of the maximum level which would be permitted under this Act in a carcass, part of a carcass, meat or meat food product of any animal (referred to above in this paragraph) produced in the United States and capable for use as human food.

"(3) Any meat food product consisting in whole or in part of meat from any animal named in paragraph (2) which was processed and packaged outside the United States may be imported into the United States without having been subjected to the tests required under paragraph (2) if the Secretary determines that the conducting of such tests is impracticable. Any such meat food product imported into the United States shall bear labeling in accordance with regulations issued by the Secretary which indicates that such meat food product has been imported into the United States without having been subjected to the tests described in paragraph (2).

"(4) Any carcass, part of a carcass, meat or meat food product which is tested under paragraph (2) and found to be adulterated may be imported into the United States if—

"(A) such carcass, part of a carcass, meat or meat food product is labeled, marked, stamped, or tagged in accordance with regulations issued by the Secretary as 'Inspected and condemned'; and

"(B) such carcass, part of a carcass, meat or meat food product is destroyed for food purposes and is distributed or sold in accordance with regulations issued by the Secretary only for use as fertilizer or other similar purposes.

"(5)(A) The Secretary shall prescribe such assessments and fees on imported meat and meat food products as he determines necessary to cover the costs of inspections, certifications, testing, and labeling (or other marketing) required under this section.

"(B) In establishing the level or rate of assessments and fees to be imposed under this section, the Secretary shall take into consideration the volume of exports, the value thereof, and such other factors as he deems appropriate in order to achieve a fair and equitable allocation of such assessments and fees among exporters.

"(C) The Secretary may suspend or revoke the privilege of any person or plant to export meat or meat food products to the United States if such person fails to pay the assessments or fees for which he is responsible under this section.".

SEC. (b). Section 7 of the Federal Meat Inspection Act (21 U.S.C. 607) is amended by adding at the end thereof the following new subsection:

"(f)(1) The Secretary shall establish a system for the labeling of all carcasses, parts of carcasses, meat or meat food products of cattle, sheep, swine, goats, horses, mules, buffalo, or other equines which are inspected under this Act. Such system shall require that—

"(A)(i) except as provided in subclause (ii), all such articles which originate in the United States bear labeling indicating that such articles are 'domestic', and all such articles which originate in a country other than the United States bear labeling indicating that such articles are 'imported'; and

"(ii) any meat food product containing imported meat bear labeling clearly indicating that such product contains imported meat;

"(B) the labeling of all such articles under clause (A) indicate the country of origin of the imported meat or the imported meat contained in the article.

"(2) The Secretary shall provide that the labeling required pursuant to paragraph (1) be affixed to a carcass, part of a carcass, meat or meat product at the time of inspection of such carcass, part of a carcass, meat or meat food product under this Act. If any person other than the ultimate consumer divides a carcass, part of a carcass, meat or meat food product or breaks a package or container containing a carcass, part of a carcass, meat or meat food product and such carcass, part of a carcass, meat, meat food product, package, or container bears labeling as required by paragraph (1), such person shall affix labeling, as provided in regulations issued by the Secretary, to each piece of such carcass, part of a carcass, meat or meat food product or to each package or container in which any such carcass, part of a carcass, meat or meat food product is placed to provide the information required by paragraph (1).".

SEC. (c) Section 203(h) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622(h)) is amended—

(1) by inserting "(1)" after "(h)";

(2) by striking out ", except that no person shall be required to use the service authorized by this subsection"; and

(3) by adding at the end thereof the following:

"(2)(A) In carrying out paragraph (1), the Secretary shall establish and carry out a system for grading the quality of imported carcasses, parts of carcasses, and meat and meat food products of cattle, sheep, swine, goats, horses, mules, buffalo, and other equines which are capable of use as human food. Such system shall provide for the following grades: (i) prime, (ii) choice, (iii) standard, (iv) utility, and (v) such other grades as the Secretary may by regulation establish.

"(B) For purposes of this paragraph—

"(i) the term 'meat food product' has the same meaning as in section 1(j) of the Federal Meat Inspection Act; and

"(ii) the term 'capable of use as human food' has the same meaning as in section 1(k) of such Act.".

AMENDMENT NO. 107

(Ordered to be printed and to lie on the table.)

Mr. BENTSEN (for himself, Mr. TOWER, Mr. BOREN, Mr. DOMENICI, Mr. SCHMITT, and Mr. NICKLES) submitted an amendment intended to be proposed by them to the bill S. 884, supra.

PREMIUMS AND DISCOUNTS FOR CERTAIN GRADES OF COTTON

● Mr. BENTSEN. Mr. President, I am today submitting an amendment which will correct an inequity in S. 884, the Agriculture and Food Act of 1981, as it was reported from the Senate Agriculture Committee. I am pleased to have as cosponsors of this amendment the entire Senate delegation from Texas, Oklahoma, and New Mexico—Senators TOWER, BOREN, DOMENICI, SCHMITT, and NICKLES.

The amendment which we are proposing would delete section 507 of the committee bill. Current law allows the Secretary of Agriculture to use his discretion in setting the premiums and discounts for the various grades and staples of cotton under the loan program. Section 507 of the committee bill would restrict this traditional authority by requiring the Secretary to use a 1 to 1 ratio of past loans to current market average in setting these premiums and discounts.

Section 507 would have the effect of greatly increasing the discounts for the short-staple cotton which is grown largely in Texas, Oklahoma, and New Mexico. It runs completely counter to the past policy of the Department of Agriculture, which has used a 5:1 ratio to set the micronaire discounts in past years. The amendment would result in no reductions in Federal outlays.

However, due to the fact that the USDA loan schedules of discounts for micronaire and other quality factors are commonly used in our three States as a basis for actual farm sales of cotton, this section could cost cotton farmers over $19 million a year just on micronaire discounts and just in West Texas alone.

The Department of Agriculture has had discretionary authority to set these

loan schedules each year. Each year the Department has carefully considered all the factors involved, and never before has the Department seen fit to use the 1:1 ratio mandated by section 507 of this bill.

I strongly believe that the best interests of the cotton industry and of the Nation as a whole will be served by giving the administration the discretion which they have always had and which they would like to retain. The administration is also opposed to including section 507 in the farm bill, and I urge my colleagues to support this amendment to allow the administration the discretion it needs to properly administer the cotton loan program.●

DEPARTMENT OF JUSTICE AUTHORIZATION, 1982

AMENDMENT NO. 108

(Ordered to be printed and to lie on the table.)

Mr. BIDEN (for himself, Mr. NUNN, Mr. KENNEDY, Mr. EAGLETON, Mr. LEAHY, and Mr. CHILES) submitted an amendment intended to be proposed by them to the bill (S. 951) to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1982, and for other purposes.

LACEY ACT AMENDMENTS OF 1981

AMENDMENT NO. 109

(Ordered to be printed and to lie on the table.)

Mr. CHAFEE (for himself, Mr. BAKER, and Mr. MCCLURE) submitted an amendment intended to be proposed by them to the bill (S. 736) to provide for the control of illegally taken fish and wildlife.

ELIMINATION OF MANDATORY SECOND OFFENDER FELONY PROVISION

Mr. CHAFEE. Mr. President, today I am submitting an amendment to S. 736 that would eliminate the mandatory second offender felony provision that is found in the bill as reported favorably with amendments by the Committee on Environment and Public Works on May 21, 1981. The amendment would also make several technical and clarifying changes to the bill.

The inclusion of a second offender felony provision by the committee was based upon the premise that repeat offenders should be dealt with more harshly for unlawful acts committed after an initial conviction. Such offenders cannot deny knowledge of the serious nature of their offense.

Nevertheless, upon further consideration of the issue, it appears that felony punishment may not be warranted for all second offenses. For this reason, Senators BAKER, MCCLURE and I intend to propose an amendment to the bill (S. 736), as reported by the Committee on Environment and Public Works, to provide for the control of illegally taken fish and wildlife.

Deletion of the second offender felony provision should not be interpreted to suggest that second offenders are not to be dealt with harshly. Sentencing of repeat offenders should reflect the congressional judgment that such offenses are extremely serious and must be deterred.

The sentencing should also deprive the offenders of their ill-gotten gains. Although felony punishment may not be warranted for all second offenders, the premise that repeat offenders should be dealt with more harshly for unlawful conduct committed after an initial conviction is still valid and is meant to be incorporated into this legislation.

Mr. President, I ask unanimous consent that the text of the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 109

On page 5, line 21, strike out "or foreign".

On page 11, beginning with line 11 down through line 14, strike out ", for the first offense and shall be fined not more than $20,000, or imprisoned for not more than five years, or both, for each offense committed after the initial conviction".

On page 17, beginning with line 11 down through line 12, strike out "subsections 4(b) and 4(e)" and insert in lieu thereof "section 4".

On page 17, line 17, strike out "in interstate or foreign commerce".

On page 18, line 24, insert "Indian country as defined in section 1151 of title 18, United States Code, or" before "a State".

On page 17, line 20, strike out "To" and insert in lieu thereof "Beginning in fiscal year 1983, to".

NOTICE OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MCCLURE. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a public hearing before the Committee on Energy and Natural Resources on Thursday, July 9, beginning at 9:30 a.m. in a room to be announced. The committee will consider the nominations of James R. Harris, of Indiana, to be Director of the Office of Surface Mining, Department of the Interior; James R. Richards, of Virginia, to be Inspector General, Department of Energy; and James G. Stearns, of Nevada, to be Director of the Office of Alcohol Fuels, Department of Energy.

Those wishing to testify or who wish to submit written statements for the hearing record should write to the Committee on Energy and Natural Resources, room 3104 Dirksen Senate Office Building, Washington, D.C. 20510.

For further information regarding the hearing, you may wish to contact Mr. Charles Trabandt at 224-7141.

SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT

Mr. PACKWOOD. Mr. President, the Subcommittee on Taxation and Debt Management Generally of the Senate Finance Committee will hold a hearing at 9:30 a.m. on Friday, June 26, 1981. I have scheduled six bills for the hearing. The six bills are:

First, S. 169, introduced by Senator HEINZ, relating to industrial development bonds for pollution control or waste disposal facilities and expensing of pollution control facilities;

Second, S. 532, introduced by Senator HEFLIN, and S. 791, introduced by Senator MITCHELL, relating to applicability of the unemployment tax to certain fishing boat services;

Third, S. 721, introduced by Senator HUMPHREY, relating to imposition of taxes by States on income earned by employees at the Portsmouth Naval Shipyard by individuals who are not residents of Maine;

Fourth, S. 979, introduced by Senator LUGAR, and S. 1382, introduced by Senator D'AMATO, relating to the tax treatment of obligations issued by certain volunteer departments.

The purpose of this statement is to briefly explain the issues raised by these bills. This may help you chart the progress of tax legislation before the Taxation Subcommittee. It also helps assure greater public awareness of tax bills coming before hearings.

POLLUTION CONTROL FACILITIES—S. 169

S. 169, introduced by Senators HEINZ, RANDOLPH, and GLENN, relates to industrial development bonds for pollution control facilities, and expensing for pollution control facilities.

Under current law, industrial development bonds may be issued for solid waste disposal facilities and for air or water pollution control facilities. However, IRS regulations provide that the exemption is not available for bonds issued to finance a facility which prevents the creation of a pollutant. S. 169 provides that industrial development bonds can be issued for facilities which prevent the creation of a pollutant.

Current Treasury regulations provide that tax-free industrial development bonds for pollution control facilities do not include facilities used in the handling or disposal of hazardous waste. S. 169 provides that tax-exempt industrial development bonds may be issued for hazardous waste and solid waste disposal facilities that have no significant purpose other than to comply with the Solid Waste Disposal Act.

Present law allows 5-year amortization of pollution control facilities (code section 169). S. 169 would allow immediate expensing of certified pollution control facilities.

The revenue loss of the industrial development bonds provisions of S. 169 are $100 million in fiscal year 1983, increasing to $200 million by fiscal year 1986.

The revenue loss of the expensing provision in S. 169 is $900 million in fiscal year 1981, $1.7 billion in fiscal year 1982, $1.6 billion in fiscal year 1983 and 1984, and $1.5 billion in fiscal year 1985 and 1986.

UNEMPLOYMENT TAX STATUS OF CERTAIN FISHING BOAT SERVICES—S. 532, S. 791

S. 532, introduced by Senator HEFLIN, and S. 791, introduced by Senators MITCHELL, MATHIAS, and HEFLIN, would extend a social security and income withholding rule relating to certain fishing boat services to the unemployment tax.

Under current law, certain crew members of fishing boats are treated as self-employed, not as employees, for purposes

of the Federal Insurance Contributions Act (FICA) and income tax withholding. Fishermen treated as self-employed are those working on boats with 10 or fewer crew members (or a fleet of boats each of which has 10 or fewer crew members), where compensation is determined by sharing the catch.

S. 532 and S. 791 extend this exemption to the Federal Unemployment Tax Act (FUTA).

It is estimated that either bill would reduce revenues by less than $1 million per year.

TAXATION BY A STATE OF EMPLOYEES AT THE PORTSMOUTH NAVAL SHIPYARD—S. 721

S. 721, introduced by Senator HUMPHREY, provides that the State of Maine may not tax employees at the Portsmouth Naval Shipyard who are not residents of Maine.

Under current law, any State has the same authority to tax individuals working in Federal areas within the State as it does to tax employees working elsewhere in the State (4 U.S.C. 106).

S. 721 changes this rule with respect to services performed, or transactions occurring at the Portsmouth Naval Shipyard in Maine. Under the bill, income derived from services performed, or transactions occurring, at the Portsmouth Naval Shipyard by individuals who are neither residents nor domiciliaries of the State of Maine would be exempt from income taxes imposed by the State of Maine.

The bill produces a slight Federal revenue gain because it would reduce the number of persons claiming an itemized deduction for State income tax.

VOLUNTEER FIRE DEPARTMENTS—S. 979, S. 1382

S. 979, introduced by Senators LUGAR and QUAYLE, and S. 1382, introduced by Senator D'AMATO, provide that certain government-supported volunteer fire departments may issue obligations under IRC section 103.

Under a recent IRS ruling, bonds issued by volunteer fire departments are not tax free under section 103, on the grounds that a volunteer fire department is a social club, not a political subdivision of a State.

S. 979 and S. 1382 create a limited additional category for obligation issued under section 103 for certain volunteer fire departments. Under S. 979 and S. 1382 an obligation issued by volunteer fire departments may qualify under section 103 if the volunteer fire department meets a number of requirements, including—

First, the volunteer fire department is the sole firefighting service within a political subdivision;

Second, the volunteer fire department is required by the political subdivision to furnish firefighting services in the area;

Third, the volunteer fire department receives over half of its funds from the political subdivision; and

Fourth, the volunteer fire department makes no charge for its services.

Property which may be purchased with the proceeds of the obligations issued under section 103 as a result of this amendment is limited to depreciable equipment used for training for or performance of firefighting or ambulance services, or which is used to house such equipment.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER AND COMMITTEE ON FOREIGN RELATIONS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands and Reserved Water of the Committee on Energy, and the Committee on Foreign Relations have the authorization of the Senate to have met during the session of the Senate on Wednesday, June 24.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, June 25, to hold hearings on the Israel air strike and related issues.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Thursday, June 25, to mark up the following bills:

S. 892, which amends the Federal Grant and Cooperative Agreements Act;

H.R. 1371, which amends section 12 of the Contract Disputes Act of 1978;

S. 1127, which authorizes appropriations for fiscal year 1982 for intelligence;

S. 10, which creates a citizens commission on a more effective government;

S. 1249, the Debt Collection Act;

S. 1224, which amends the United States Code regarding the use of the frank; and

S. 678, a United States Code amendment regarding the voluntary nine-digit ZIP code.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, June 25, to consider the nomination of Francis West to be Assistant Secretary of Defense for International Security Affairs and to consider the DOD pay bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. BAKER. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, June 25, to hold a briefing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Thursday, June 25, at 2 p.m., to hold a markup on the nomination of Allan Hill for CEQ.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Intergovernmental Relations of the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Thursday, June 25, to hold oversight hearings on ACIR.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TWENTIETH ANNIVERSARY OF AMNESTY INTERNATIONAL

● Mr. KENNEDY. Mr. President, crucial tests face the global struggle for liberty and human rights in the coming decade. In country after country, the freedom of expression and dissent is under challenge if it exists at all. Abduction, imprisonment, torture, and murder—often sanctioned at the highest levels of government—have become systematic practices in nations of widely varying ideologies. Nearly half of the 154 governments of the United Nations are believed to be holding prisoners of conscience—people imprisoned for their beliefs, their racial or their ethnic origins—who have not used or advocated violence. In more than 50 countries citizens can be detained by administrative orders without formal charges or trial.

Moreover, nongovernmental groups have carried out an increasing number of human rights violations, including the taking of hostages, the use of torture and the execution of political opponents.

Our Nation and the international community must oppose and act against these acts of terrorism and repression, whether they occur in authoritarian or totalitarian regimes; whether they involve individuals, groups or states; whether they implicate our allies, our enemies, or the nonalined.

Americans have already witnessed or undertaken important battles for civil liberties and human rights in the United States. They will continue to do so. The hallmark of our democracy has been our commitment to the inalienable rights of life, liberty and the pursuit of happiness. In our day and generation, let us be true to this commitment. Let us speak and let us work for liberty and human rights in our Nation and throughout the world. The present administration's move to downgrade human rights is unworthy of our proud heritage; its call for quiet diplomacy is too often a call for silence in response to human rights abuses.

This year Amnesty International, one of the most important and most successful organizations in the vanguard of the struggle for universal human rights, is celebrating its 20th anniversary.

After a British lawyer, Peter Benenson, announced the inauguration of a campaign for human rights called "An

Appeal for Amnesty 1961" in the Observer of London, Amnesty International had formed over 70 groups in 8 countries by the end of its first year. Today, 20 years later, there are members, supporters, and subscribers in 134 countries and over 2,500 groups worldwide.

During the past 5 years alone, Amnesty International groups have interceded for 9,664 prisoners of conscience. In that same period, they learned of the release of 8,235 prisoners for whom they had campaigned. In 1977, Amnesty International was awarded the Nobel Peace Prize in recognition of its truly outstanding work in "defending human dignity against violence and subjugation."

Last June 15, at the Jefferson Memorial, a candlelight ceremony was held in celebration of Amnesty International's 20th anniversary. That evening I was privileged to join with Tom Wicker, the distinguished columnist of the New York Times, Chairman Vincent McGhee and other leaders of Amnesty International, and seven former prisoners of conscience—including the courageous Romanian dissident Nicolae Dascalu whom we had helped to be released and to be permitted to emigrate. At this moving ceremony, we were all able to renew our dedication to a "Declaration of Conscience and Commitment" issued by Amnesty International U.S.A. This declaration calls upon every individual—

To undertake the commitment to work for the release of those imprisoned because of their political, religious, or other conscientiously held beliefs or by reason of their ethnic origin, sex, color, or language, provided they have neither used nor advocated violence; to advocate fair and early trials for all political prisoners; to seek the abolition of the death penalty; and to eliminate torture or other cruel, inhuman or degrading treatment or punishment in any circumstance.

Mr. President, I request that the Declaration of Conscience and Commitment, issued by Amnesty International U.S.A. on June 15, and my remarks at the Jefferson Memorial candlelight ceremony that same day be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DECLARATION OF CONSCIENCE AND COMMITMENT

PREAMBLE

The thirty articles of the Universal Declaration of Human Rights provide that everyone has the right to life, liberty and security of person, to equality before the law without discrimination, to a fair and public trial, to be presumed innocent before proven guilty, to freedom of movement, to freedom of thought, conscience and religion, to freedom of opinion and expression, and to freedom of peaceful assembly. It declares that no one shall be held in slavery, no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment and that no one shall be subjected to arbitrary arrest, detention or exile. The declaration also establishes that everyone has the right to a nationality, to marry, to own property, to take part in the government of his or her country, to work, to receive equal pay for equal work, to receive just and favorable remuneration, to enjoy rest and leisure, and to have an adequate standard of living and education. The declaration further stipulates that everyone has the right to form and join trade unions and the right to seek asylum from persecution.

Of particular concern to Amnesty International are the following four articles of the Universal Declaration of Human Rights:

Article 5. No one shall be subjected to torture or to cruel or degrading treatment or punishment.

Article 9. No one shall be subjected to arbitrary arrest, detention or exile.

Article 18. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19. Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Although many nations have incorporated the different articles of the declaration into their national legislation, it is primarily a statement of principles with an appeal to "every individual and every social organization" to promote and guarantee respect for the freedom and rights it defines. It was never the intention that member states of the United Nations should formally ratify the Universal Declaration of Human Rights. Membership in the United Nations is, however, often considered to be an implicit acceptance of the principles of the declaration. Furthermore, one-third of the world's governments are now legally bound to respect and promote human rights through their ratification of the international human rights Covenants which are the elaboration of the declaration in treaty form. It should also be noted that under the Charter of the United Nations, member states are pledged to take joint and separate action to promote universal respect for, and observance of, human rights and fundamental freedom. This is a legal obligation. The declaration is an authoritative statement of what those human rights and fundamental freedoms are.

In this twentieth anniversary year of Amnesty International, our members continue to participate as individuals within the structure of our worldwide movement working for individuals elsewhere in the world whose rights under Amnesty International's limited mandate have been violated.

We rededicate ourselves to the basic human rights found in the Universal Declaration of Human Rights and to the specific mandate of Amnesty International. Let us call on our friends and neighbors, our families and our professional colleagues; let us call on all citizens of the United States of America to join us in pledging agreement and action to protect and defend the human rights of every individual wherever they may be.

DECLARATION OF CONSCIENCE AND COMMITMENT

We call upon local, state, and national governmental officials to work for the release of colleagues—and all other persons—who are imprisoned for their political beliefs, provided they have neither used nor advocated violence;

We call upon religious leaders and members of their congregations to help in ending imprisonment or assassination of those of any faith because of their beliefs or their attempts to foster non-violent social change and equality;

We call upon professional associations and their members to speak out on behalf of their colleagues—and all other persons—who are arbitrarily detained in prison or mental institutions because of their professional activities, such as defending unpopular causes, protesting torture, or freely speaking and writing their opinions;

We call upon trade unionists to support workers—and all other persons—who are kidnapped, tortured or executed because of their efforts to organize for economic advancement and equality;

We call upon members of the business community to assist those engaged in commerce—and all other persons—who are being imprisoned on the basis of their political or economic opinions;

We call upon teachers and students at all educational levels to work on behalf of their colleagues—and all other persons—imprisoned for exercising their right of intellectual inquiry. We also call upon teachers and students to foster an awareness of human rights in schools and universities.

And we call upon every individual to undertake the commitment to work for the release of those imprisoned because of their political, religious, or other conscientiously held beliefs or by reason of their ethnic origin, sex, color, or language, provided they have neither used nor advocated violence; to advocate fair and early trials for all political prisoners; to seek the abolition of the death penalty; and to eliminate torture or other cruel, inhuman or degrading treatment or punishment in any circumstance.

REMARKS BY SENATOR KENNEDY TO AMNESTY INTERNATIONAL U.S.A.

I am proud to join you for this moving and beautiful candlelight ceremony in celebration of the cause of human freedom. For the past 20 years, Amnesty International has lighted candles across the world against the darkness of brutality and oppression. You have illuminated the human spirit. You have brought the light of liberty to the most blighted corners of our planet. Your faith has moved the mountain of tyranny and carried us closer to true brotherhood and sisterhood on earth.

Four years ago, in recognition of your outstanding achievements for all humanity, you were awarded the Nobel Prize for Peace. And your Declaration of Conscience and Commitment this evening is a clear call that we are proud to answer here as we renew our dedication to the noblest cause of our time.

Tonight, we are honored by the presence of a man whose life reflects that faith, who embodies in his very being the never-ending search for freedom, Nicolae Dascalu.

When I first heard about his plight and raised his case with the government of Romania, I knew that he was a man of unusual courage and uncommon commitment to human rights. And the more I learned about him, the more I understood that the only crime he had committed was to think for himself and to speak for the liberty of others. As Nicolae said recently:

"They interrogated us, asking us if we wanted to overthrow the government. I told them we only wanted the rights in the United Nations Declaration of Human Rights."

We pay special tribute to Nicolae for his leadership in the free trade union movement. His brave experience reaffirms the universal appeal of trade unions everywhere and the universal right of freedom of association.

Assaults against trade unionism are rising in many countries where human rights are also under siege. The struggle of the workers in Romania and Poland demonstrates anew the deep belief of workers everywhere in collective action as the only certain way to secure economic progress and individual liberty. Any government that ignores this most profound message of the free trade union movement does so at grave peril.

But for tonight, we are joyous because Nicolae, his wife and daughter have walked

from the shadow of their old oppression into the light of their new freedom.

They are free because of their own commitment and sacrifice, and because you and I and so many others cared enough to stand with them in their long ordeal. The history of Nicolae's life honors that ancient ideal of which Pericles spoke at the dawn of freedom in ancient Greece: "Courage is the secret of liberty and liberty is the secret of happiness."

Tonight, as we honor Nicolea and the other freed Prisoners of Conscience celebrating with us here, let us renew our commitment to those who still struggle around the world, who still suffer the deprivation of the most basic rights.

We must speak for those who have no voice.

We must write and we must publish for those living in the land of the censors, where even many dreams can never be written down.

We must stand for those who are bowed under the weight of tyranny; we must remember those who are forgotten.

In our best days, that has been the mission and the meaning of America as "the last, best hope of earth." The defining mark of our democracy has been our belief in "the inalienable rights of life, liberty, and the pursuit of happiness."

In our own day and generation, let us hold fast to that heritage. Wherever fellow human beings cry out for help, let us offer all the hope we can.

Few Americans will ever feel the personal impact in human terms of any retreat by America from the defense of human rights. We will not see the faces pressed against the barred windows of political prisons. We will not know the names of the innocents rounded up by dictators in distant nations. None of us will hear the despairing pleas for justice of prisoners under torture, when they are now told by their keepers that America no longer cares.

A different message goes out tonight from this place—a message that America still cares.

The people of this country know in their hearts that our country must never turn back from the cause of human rights.

Never again must America tell the world that we care more about saving the profits of giant international firms than we do about saving the lives of children dying from misuse of infant formula.

There are real reasons why we must deal with nations even when we disagree with their denials of liberty. But we must never accept a double standard on human rights. We must never be silent in the face of the repression that scars the third of the earth subject to communist dictatorship. And we speak out against the abuses of our adversaries, we must also work for human rights in the nations we regard as allies.

A call for quiet diplomacy is a call for the diplomacy of silence. America must not remain silent about the violation of human rights in the Soviet Union or Chile, in China or Argentina, in South Africa, South Korea, Eastern Europe, or any other place where people cry out for justice.

It is fitting that we pay tribute to those who struggle for human rights in other lands by meeting here at this memorial to the father of human rights in our own land.

The immortal words of Thomas Jefferson carved on these marble walls echo among us from across the ages: "I have sworn upon the altar of God eternal hostility against every form of tyranny over the mind of man."

The flame of our candles here reflects the fire of liberty that burns in every human heart. The flame may flicker, but we shall keep its fire of freedom warm. And in the midst of a cold winter for human rights in so many distant lands, we shall keep watch upon the horizon for the springtime of liberty that will surely come at last.

I am proud to introduce a man who has lived to see that spring in his own life, whose trials and final triumph constitute eloquent proof of the progress we can make, a friend and a fellow keeper of our common faith—Nicolae Dascalu.●

NUCLEAR WEAPONS

● Mr. HART. Mr. President, I commend for the study of my colleagues an excellent series of articles by Adm. Noel Gayler about the ever-increasing danger to our national security posed by nuclear weapons. Admiral Gayler, who has participated in strategic nuclear planning, and who served as Director of the National Security Agency writes knowingly and perceptively on this threat.

In a thoughtful discussion of what the United States and the Soviet Union have at stake in our failure to achieve nuclear restraint, Admiral Gayler points out that although our two nations have many objectives which conflict intensely we share one objective far more important than all the others: not being blown up.

Admiral Gayler's articles represent a compelling argument for moving forward promptly with strategic arms control talks. Unless we are able to achieve arms control agreements with the Soviet Union and thereby reduce the chances of nuclear war, we can never be a country that is truly strong and secure.

I ask that Admiral Gayler's articles be printed in the RECORD at this point.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 17, 1981]

STICKING BY OUR GUNS

(By Noel Gayler)

(This is the first of three articles on defense by Admiral Gayler, who has participated in strategic nuclear planning, and who served as director of the National Security Agency and, before his retirement, as commander of all U.S. forces in the Pacific.)

Chancellor Helmut Schmidt came to see us at a time when the NATO West was troubled over nuclear weapons based in Europe. He has had to tell his own party, the Social Democrats, to shape up on this issue, or find a new leader.

With full American support, he's taken a firm line. So have other NATO governments. But their electorates are not necessarily on board. And if there's one clear lesson of the Vietnam War, it is that military policy, without supporting political consensus, is a loser. The basic issue is that most Europeans don't want to fall under Russian military conquest or domination, with all the odious apparatus of Communist totalitarian rule. But they also don't wish to take a serious or unnecessary risk of being eradicated by nuclear weapons. Most people will think these are reasonable concerns.

In the past some Europeans have made a choice, under the slogan of "Better Red than Dead." More robust characters have reacted in the spirit of our own Patrick Henry: "Give us liberty or give us death." But these are not the only alternatives. Both security and freedom for Europe are possible. They require that as allies we see clearly what the military needs are, and that we act on that knowledge.

The first nuclear proposal now before the allies is that NATO must "match" the Soviet medium-range ballistic missiles targeted on Europe (SS20) with medium-range ballistic missiles of our own (Pershing II or cruise missiles) based in Europe. This may or may not be a good idea. We have made it a touchstone of the unity of NATO, and Chancellor Schmidt's loyal support to that ideal should command admiration and respect. The deployment plan is seen also as a necessary, if paradoxical, step to the negotiation of balanced nuclear force reduction. Let's hope the negotiating strategy works.

But there are a few things we should understand about it:

Europe is under no special or unusual danger from SS20s. There are plenty—very many more than plenty—of Russian intercontinental-range missiles, which can strike any target in Europe, simply by shortening the trajectory. It makes no real difference to the target where a missile comes from—only where it lands.

You don't have to "match" any weapons with an equal and opposite weapon of your own. Late in the 19th century, battle cruisers were built to rule the seas. They had 11-inch guns to sink other battle cruisers, 8-inch guns for cruisers, 6-inch guns for light cruisers, 4-inch guns for destroyers, 3-inch guns for torpedo boats and (I guess) small arms to repel boarders. Then British Admiral "Jackey" Fisher had a remarkable insight: 11-inch guns that could sink a battle cruiser could also sink any smaller ship! The all-big-gun Dreadnought was built, and all other big warships were obsolete. Our intercontinental weapons are our big guns.

European-based NATO missiles impart no special freedom of action or autonomy to the European allies. It is inconceivable they could be used without American consent.

The basis on which to judge the proposals is the extent to which they contribute to or lessen the nuclear threat to Europe and to the unity of NATO.

The second nuclear issue before NATO is the so-called neutron bomb. President Carter first supported this notion, then snatched it back. Secretary Weinberger recently floated the idea. Secretary Haig slapped it down, for reasons not central to its merits. No one doubts the idea will surface again. It has powerful supporters. What about it?

The "neutron" weapon is one of a class called "tactical" nuclear weapons. These are weapons smaller (but still enormous) in yield, designed to be used by military forces against military forces. Some examples are artillery shells, short-range missiles and aircraft bombs. They have greater destructive power and their use entails grave risks. What are those risks?

The enemy will certainly retaliate in kind, and he will up the ante. Rapid escalation to total nuclear war is a strong possibility, once the nuclear firebreak has been crossed.

Russian incursion will be fought on allied soil. Noncombatants will be killed in their hundreds and thousands, and these will be our friends and allies. Since our friends may well object to this outcome, the alliance may be fractured at the outset.

Even if we enjoy two miracles in series—there is no escalation and the alliance holds together—we will be far worse off militarily after a tactical nuclear exchange than before. That is because we have the more critical and vulnerable targets: ports, airfields and lines of communication central to our defense.

The so-called neutron weapons (also called enhanced radiation weapons) are designed to meet some of these objections. Most, but not all, of the energy comes out as radiation that kills or injures living creatures but does little damage to material. There is, however, an irreducible minimum of heat and blast, which is still very large by ordinary standards. Are they very different from "conventional" nuclear weapons in practical effect? No. Are they more dangerous? Perhaps, if

they serve to lower the threshhold to nuclear war. Are they really necessary to defeat tanks? No. There are better alternatives.

There is another difficulty, of a different kind. Rightly, no president with all his marbles is likely to release nuclear weapons for use, except in the most extreme circumstances, if even then. The risks are simply too high to make the game worth the candle. The commander in the field therefore has an uncertain weapon on which he can never rely. Much better that he have effective means to victory that he can be confident will be available to him. We can have such means, if we will.

What are some of these alternatives? Weapons that effectively kill tanks, by finding them and hitting them. Weapons that ensure our aircraft are superior to the enemy's. Means to find and kill submarines and protect our ships at sea against aircraft and missiles. Weapons to stop infantry on the ground. Most important, means to control information, the key to tactics and to battle. All of this, without resort to nuclear weapons. All of this, fundamentally, by technology well suited to the American and European genius and far ahead of the adversary.

Given political will and economic support NATO can field the forces necessary to defend ourselves. We have no need to resort to the unmeasured hazard of nuclear weapons. We need be neither Red nor dead.

[From the Washington Post, June 23, 1981]

A WAY OUT OF THE NUCLEAR TRAP

(By Noel Gayler)

(This is the second of three articles on defense by Admiral Gayler, who has participated in strategic nuclear planning and who, before his retirement, served as director of the National Security Agency and as commander of all U.S. forces in the Pacific.)

All the West is caught in the cruel trap of ever-increasing danger from nuclear weapons. We have strange company; the U.S.S.R. We and they struggle mightily for a preferred place within our trap, but every struggle draws the net tighter.

Most of you who read this live near Washington—you will not survive a nuclear exchange. Nor will those who live in New York or Boston or Seattle or Chicago or any of our great cities. Nor those who live in Moscow or Kiev or Tbilisi or Vladivostok or remote Alma-Ata or almost anywhere else in either enormous country.

Our present policy has reached a dead end. So has the Russian policy. But there is a way out of the trap. George Kennan has made a dramatic proposal for the immediate 50 percent reduction, on both sides, of all nuclear weapons, of all kinds, without haggling over detail. This is great, as far as it goes, but it does not go far enough. To see why this is so, read on.

Our basic need is truly to understand the nature of nuclear weapons. They are so enormous that, in a nuclear exchange, the first few weapons arriving do almost all the damage conceivable to the fabric of the country. So we have a military paradox: the power position of either side is not affected much by the size of its nuclear forces. Which way the wind is blowing (carrying nuclear fallout) makes more of a difference than an extra thousand missiles or so on either side.

In a similar way, technology has no great payoff. It makes no difference whether New York, say, is devastated by an old SS11 or a brand new SS19 MIRV warhead. In the absence of effective defenses, it makes no difference whether delivery is by a hypersonic maneuvering re-entry body, or a tired old Bear bomber. The results are the same.

But what about defenses? Can't we have the missile defenses and air defenses that would shield us against a Russian attack? The short answer is: no way. In conventional air defense, it's enough to shoot down a few aircraft at each go—the cumulative losses soon bring the attack to a halt.

In nuclear defense, the situation is reversed: essentially all weapons have to be stopped or else the damage is done. Effective defense against hundreds or thousands of weapons is impossible.

Isn't accuracy important, and its exotic technology? Well, yes, but only if you want to attack hard, fixed targets such as missile silos, and that brings us to MX.

MX is really two separate and separable ideas. One idea responds to the potential threat against our own missiles by creating uncertainty about their precise location. No matter how powerful and how accurate the attacking missile, it cannot, except by chance, destroy a target it cannot locate.

The idea is good. We make our missiles relatively secure against attack, and we don't have to fire them out in the few minutes of warning time available. The hair-trigger is gone, as is much of the danger from false alarms. But the present scheme is unnecessarily elaborate. We don't have to pave the states of Utah and Nevada and suck dry the water of the West to give security to our force. Much simpler means will do the job.

The second MX idea creates a powerful rocket with numerous and very accurate independent warheads, as replacement for Minuteman. This is a dubious proposal, in its present form. If and to the extent we need to replace an aging missile with a new one, it's a good idea. To the extent we create a force with warheads numerous, powerful and accurate enough to threaten the Russian ICBM force in hard silos, it's a bad idea. Why?

Because the U.S.S.R. will surely respond. They will be no more content than we to see their land-based force threatened by surprise attack. What are their options?

They could live with their vulnerability. This would be very dangerous—they would feel the hair-trigger necessity to fire out on warning of attack.

They too could play hide and seek.

There is a worse Russian option. That is that they would do both the above. They could elect to keep the hair-trigger force they have, and also to build a force we cannot target. We would end up with the worst of both worlds.

All of this means that the security of both their force and ours is good—stabilizing. The idea of attacking such forces—"counterforce" in the jargon—is a loser. It is destabilizing and dangerous for us and for them.

The missile-firing submarines are pretty secure. Sure, both sides are working hard on anti-submarine measures, and have had some limited success. But with the vast areas of the ocean they both can now hide in, it's inconceivable that any important number can be sunk in the opening hours of war. Three months, maybe—not three hours.

Still different are the bombers. We've accepted that their chance of getting shot down is so great they must carry cruise missiles to penetrate to the target. Better we should convert most of the bomber force, present and future, to useful military purposes.

This notion that military force should have useful military purpose, is so self-evident that it seems fatuous to state it. Yet we must, for there is an obvious disconnect in our present forces.

There is no sensible military use for any of our nuclear forces: intercontinental, theater or tactical. Their only reasonable rationale is, first, to deter the other fellow from the use of his and, second, to gain whatever political edge there may be from the appearance of nuclear strength. As a general rule, we can state that nuclear forces are militarily sufficient whenever they are politically sufficient.

So now we know how to escape the trap. It is the usable conventional military power that counts, not the useless threat of distant destruction. Cut back the nuclear forces, ours and theirs, across the board, as Kennan suggests. Give up any notion of first use. Look to the united political, economic and usable military strength of the West to keep us free.

[From the Washington Post, June 25, 1981]

THE SOVIETS WANT TO SURVIVE, TOO

(By Noel Gayler)

(This is the last of three articles on defense by Admiral Gayler, who has participated in strategic nuclear planning and who, before his retirement, served as director of the National Security Agency and as commander of all U.S. forces in the Pacific.)

Neither we nor the Soviet Union can possibly want to be in our present position, where our very existence depends on the nuclear restraint of the other. There is only one way out—we must each negotiate with the other not only a major reduction of nuclear weapons but an absolute end to any military dependence on them.

Negotiating will be tough. We each have major and nearly insoluble problems with the other. The West feels threatened by the enormous Russian military buildup, by their worldwide trouble-making under the rubric of "wars of national liberation," by their unprincipled subjugation of their neighbors. They in turn recognize us as their most dangerous potential military adversary, as the stumbling block to their worldwide ambitions, and as the organizers of international alliances to contain them.

And we have a lot of experience negotiating with the Soviet Union—much of it bad. We see them as adversary, devoid of good will, manipulatory, unwilling to compromise. They see us as uncertain, compliant, willing to yield after a while to intransigent positions, for the sake of agreements. Both views have a good deal of validity.

Yet both are beside the point. The object isn't to "win" a negotiation, or to end up with "superior" nuclear forces. The object is to make the chance of nuclear war as small as possible. We have other political objectives. So has the Soviet Union. Most of them conflict intensely. But this one objective we share, and it is far more important than all the rest put together.

The key is to find our common interests, and they are not hard to find; we have a common interest in not being blown up. We also have a common interest, as great powers, that we not be subject to nuclear blackmail from smaller powers or terrorist groups. This is plenty to build agreement on, but only if we detach these overriding problems from all the other issues between us. The notion that we can punish or coerce the Soviet Union for its behavior by withholding our agreement on nuclear weapons is fallacious. Our need is every bit as great as theirs. If we wait until they shape up, to our standard, on every bone of contention between us, we will wait a long, long time. And the clock of nuclear danger is ticking away.

So we have the basis for negotiation. What precisely should we propose? Here is a list, for openers:

Immediate equal reduction of nuclear weapons of all categories, as proposed by George Kennan. This can become a progressive process.

Renunciation of nuclear initiatives for any purpose whatever.

Renunication of any "counterforce" strategy against strategic nuclear forces.

Concurrent strong opposition to any form of nuclear weapons proliferation, by our clients or theirs. The first step must be our own reductions, or we have no credibility whatever.

Are such agreements possible? Yes, because the Soviet Union and the United States would gain by them. Can they be verified? Yes. Weapons turned in can be counted. Weapons could be hidden away in small quantities, but only very large quantities would make a difference. And very large quantities we would know about. Nuclear initiatives are foreshadowed by the nature of the weapons, for example a "neutron" bomb must be made and deployed before it can be used. And opposition to nuclear weapons proliferation must by nature be public, or it isn't real opposition.

Supposing we believe all this; what are the Russian views? We know that they are suspicious, and slow to react to new proposals. We know that their military literature abounds in references to nuclear war exchanges and mixed nuclear-conventional campaigns. (To a certain extent, so does ours.) We know that some of their military exercises and some of their military equipage bear out these ideas. But there is no evidence that the Soviet Union is irrational. The compelling logic against the use of nuclear weapons applies equally to the Russians as to us. The Party leadership has given every signal that they understand that logic. And the last effort to reach a limiting agreement, imperfect though it was, was terminated not by the Soviet Union, but by the Americans when the Senate refused to approve SALT II.

The nuclear preparations of the Soviet military can therefore be regarded as worst-case insurance, as indeed ours should be.

So we have our prescription for negotiations. We need be realistic, hardheaded and specific. Generalities about the "spirit" of Camp David or anywhere else will get us nothing but disappointment. And we must confine negotiations severely to our common interests: to reduce the chance of nuclear war. No attempted arm-twisting on other subjects, no attempts to gain points by "winning." If we do this, we and they have a good chance to reach agreements that will in some measure lift this cloud of danger from us.

President Reagan has an unmatched opportunity. He alone can initiate this process without suspicion of weakness. The American people wish, and he wishes, for America to have unmatched strength—military, economic, political strength and strength of purpose. Yet the president has common sense in uncommon measure, and will surely see that our military strength lies in people and forces far removed from these useless and dangerous nuclear weapons. Should he act on this perception, and should he succeed, history will record him as one of our greatest presidents.●

EFFECTS OF GOVERNMENT PROGRAMS ON RURAL ELDERLY

● Mr. PRESSLER. Mr. President, the elderly are one of South Dakota's greatest resources. They comprise 14 percent of our State's population and play a very important role in its functioning. The problems facing this increasing proportion of our population are varied and must be addressed so this valuable resource may function at their full potential.

In the past few weeks, I have received numerous letters in reaction to the President's social security proposals. These letters also address three areas upon which we must focus our attention. They include transportation, health care and housing. These three facets of life can become troublesome areas for older Americans if the services provided are not adequate to meet their needs. In rural areas the above problems that pertain to the elderly are compounded by gaps in the services that are provided for them.

The lack of adequate public transportation systems in the rural areas lies at the core of many of the problems that the older citizen experiences. The lack of mobility has an effect on numerous aspects of the elderly rural resident's everyday life. Areas such as food, employment, health care, recreation and their continued participation in the mainstream of life hinge upon being able to find easily accessible transportation.

In South Dakota many of the small towns have no public transportation systems to meet these needs. Many of the smaller communities do not provide taxi service and those that do may run into a problem with prohibitive costs. The areas that provide public busing usually do so on a limited basis and in many instances are not fully equipped to accommodate the handicapped. The problem with transportation not only affects the transportation systems that are provided by the city, but also older Americans who own their own cars. They are prone to problems such as restrictions or loss of drivers license due to impaired hearing or vision, high insurance rates, and increasing costs of gas and maintenance.

Transportation lags increase the already urgent deficits in rural medical services that are available to the elderly rural residents. The need for medical care increases with age. Persons age 65 and older average seven visits to the doctor per year compared with five visits by people of prime working age and many rural areas are without adequate health care facilities. Rural areas have 58 percent fewer doctors, 38 percent fewer dentists, and 29 percent fewer nurses per capita than in urban areas. Stressing this is the fact that 77 percent of the doctors in South Dakota are practicing in the nine largest cities in South Dakota. This means in these underserved areas, the elderly have two options—pay exorbitant prices to travel long distances to obtain health care or to do without.

While this area is a problem to all ages of rural residents, the older rural resident is particularly vulnerable to the deficiencies in the health care delivery system. Studies have shown that by age 65, 8 percent of older Americans report some sort of chronic ailment that intails a more frequent need for medical attention.

A second characteristic of rural elderly health care problems can be attributed to the rural social structure. The elderly in these areas have in the past and continue to rely upon the support of family and friends, often leading to more informal than professional care. This together with a lower expectancy for health care leads to a seriously widening gap in the care system. To illustrate this point, before the 1900's rural areas were considered the healthiest places to live, however, urban areas have now achieved this distinction. This change reflects the availability of better and more accessible health care in urban areas.

Housing needs are also more acute for the rural elderly. Today, for many older Americans the opportunities to find satisfactory, independent and affordable housing in places of their choice, especially in a rural area remain elusive. Currently, 60 percent of the Nation's substandard housing is located in the rural areas and one-quarter of this substandard housing is now occupied by the elderly rural resident. This substandard housing has many deficiencies that threaten the well-being and health of the occupant. In a sample taken of housing conditions of the rural elderly it was reported that 50 percent lack central heating, 20 percent lack bathrooms, 17 percent lack proper sewage disposal, and 16 percent lack running water. Compounding these inadequacies in the housing situation is the fuel inefficiency of many of these homes. Much of the housing that the elderly occupy was built before 1950, and is not fuel efficient, causing them to have to pay very high heat bills.

For example in South Dakota in the months of October through April, which include the coldest months of the year, an average heat bill will run between $76 and $86. This represents a sizable chunk of the elderly's fixed income. These problems help to illustrate the important differences between the urban elderly and the rural elderly. Their services differ according to individual and environmental differences and thus their needs should be dealt with accordingly in the consideration of the Older Americans Act and other legislation affecting the elderly.

As a member of the Senate Aging Committee, I am pleased that Congress is addressing many of these problems. I am personally planning a field hearing on a South Dakota Indian reservation to review the acuteness of these specific concerns. With the numerous budget decisions which Congress must make in the weeks ahead, I trust that we will remain dedicated to the needs of America's elderly.●

WARREN CHRISTOPHER ADDRESSES IMPORTANT FOREIGN POLICY ISSUES

● Mr. EAGLETON. Mr. President, former deputy Secretary of State Warren M. Christopher recently delivered a speech at Bates College in Lewiston, Maine, a speech which I would like to bring to the attention of my colleagues. Mr. Christopher speaks with his usual incisiveness and clarity on three major foreign policy issues: strategic arms control, nuclear nonproliferation, and human rights.

I ask unanimous consent that Mr. Christopher's speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

PRACTICAL IDEALISM IN FOREIGN AFFAIRS

(By Warren M. Christopher)

It is a special honor for me to appear at the alma mater of Senator Muskie.

When Ed Muskie was in the Senate, he had my respect and my gratitude—for such things as his leadership on the environment, his stewardship of the budget, and his statesmanship in foreign affairs.

My admiration became stronger still when he took the helm of the Department of State. I came then not only to appreciate him as a leading public figure of our time, but to treasure him as a friend, the kind of person you most want to have on your side in a tough situation.

I hope there are more like Ed Muskie in this graduating class. Our nation, and the world, will be the richer.

I proceed in his presence, and in these surroundings, with some trepidation. This is the State where the mother-lode of plain-spokenness is known to exist. Ed Muskie ranks among the country's finest, and most concise, orators. And he has also reminded us all many times of the Maine saying, "there's no point in speaking unless you can improve on silence."

But I press on nonetheless. For I cannot resist—and I have not tried very hard—this opportunity to make some observations, and share some worries, on where our country is headed.

Most of all, I want to urge your support for ideals and values—particularly your support for a foreign policy based on ideals and values.

Our nation has always depended on its youth to help define our values and to hoist the warning flag when we stray off course. The campus traditionally has been a place where policies are measured not simply on the basis of what is effective, but also what is just; not only what is expedient, but also what is right.

What I ask is that you bring those measurements along as you embark on the next stage in your lives—that instead of moulding yourself too much to fit the way things are, you strive to shape your next environment to the way you feel things ought to be.

That view presently seems in jeopardy, in foreign policy even more than in other spheres. One conservative columnist suggested not long ago that the discourse on moral considerations in foreign policy be removed from the real world and reserved for "high tea at the rectory."

I suggest, however, that the true pragmatist is one who understands that idealism is one of our vital assets in today's world.

Let me briefly outline four areas of policy which currently underscore that point. In each case I believe our self-interest and our values are not pulling in opposite directions but are in precise alignment.

I

The first area is strategic arms control between the United States and the Soviet Union. I believe our civilization has no higher value, no greater imperative, than the avoidance of nuclear war in which, as it has been said, the survivors would envy the dead.

Yet the advocates of arms control have always had to live down a suspicion of being utopian, or at least afflicted with excessive idealism.

But let us see where realism lies.

As you know, in 1979 the prior Administration completed a new strategic arms limitation agreement, the SALT II Treaty. However, the treaty was not ratified by the Senate, and it now hangs in limbo. A strange silence pervades the national landscape, as if the nuclear clock had stopped ticking.

This is not the time to recite the terms or rehash the merits of that 1979 agreement. It is time, however, to address arms control strategy.

We are living on borrowed time. The 1972 interim Agreement on offensive weapons expired in 1977, so even those limits are not binding in law. Meanwhile, both sides are at the threshold of major new build-ups.

Let me suggest a few reasons—hard-headed, practical reasons—why we cannot afford to waste time.

First, without arms control our defense planning is seriously complicated, simply because the threat is much harder to predict.

That is why our professional military leaders—the Joint Chiefs of Staff—supported SALT II.

In the SALT II Treaty, the Soviets accepted provisions that would require them to halt a modernization program that was underway, and even to dismantle some forces they already had.

But if there are no limits, the Soviets, with open production lines, have a capacity to surge forward. In a few years, for example, they could easily build up to over 10,000 separate warheads just on the land-based portion of their forces, compared to a maximum of about 8,600 permitted by the treaty.

Even with modest arms control, we at least define the outer limits of the threat. We know with some confidence what we must do to avoid an imbalance. But with no agreement, the threat is open-ended and is that much harder to counter.

A second reason to pursue arms control is that defense decisions now being made will have a major bearing on what kind of treaty, if any, will be feasible later on.

History shows what can happen. In the early 1970s, our planners had to make a decision on multiple warhead weapons, the so-called MIRVs that allow a single missile to fire warheads at a number of different targets. Instead of attempting to limit this technology in SALT, the Administration then in power decided to go ahead with MIRVs, mainly because we were ahead with the technology.

The decision now haunts us. The Soviets soon developed MIRVs and this technology now stands as a barrier to arms control.

Similar problems, such as how to base the M-X missile, are on the present agenda. Delay in addressing these problems could cause us to lose—through inadvertence or neglect—the bargaining room we will need if negotiations do commence.

A third reason to address arms control now is that without a clear American commitment to SALT, the defense consensus in Europe could begin to unravel.

It had been a diplomatic achievement to keep the support of our NATO partners for the common defense decisions made over the past several years. However, that consensus was grounded, and still depends, upon our commitment to pursue arms control in Europe "within the SALT framework."

But until we are prepared to move forward on strategic arms control, there will not likely be the prerequisite SALT framework. And the longer that situation continues, the shakier the NATO consensus becomes.

So the time to negotiate arms control is now, right now.

II

Nuclear non-proliferation—by which I mean a policy to prevent the spread of nuclear weapons to other nations—is a second, related area where strong action will serve both our values and our interests.

Six nations now have nuclear weapons. With mathematical certainty, the spread of nuclear arms compounds the risk that these weapons will turn up in the hands of people who are willing to use them. This conjures up a legion of nightmares—for example, global contamination from a regional nuclear war . . . or terrorists planting suitcase bombs in major cities, perhaps with no clue as to the source, in the twisted hope of sparking a major war between the superpowers.

Nonproliferation must be the business of the United States, because proliferation directly affects the security of the United States, and the personal safety of each of us.

The difficult case of Pakistan illustrates the danger of an erosion of our principles in this area.

Pakistan has signed neither the Nuclear Non-Proliferation Treaty nor the Nuclear Test Ban Treaty. All evidence suggests that Pakistan is far along on a nuclear program, and is moving toward an actual nuclear explosion.

Few would deny that the brutal Soviet invasion of Pakistan's neighbor, Afghanistan, is good cause for us to be concerned about Pakistan's defenses and the security of the region. But nuclear weapons can only detract from that goal, by spurring a senseless and futile competition in which no country can prevail. A nuclear test by Pakistan will not, to understate the matter, foster nuclear restraint by others, such as India, Pakistan's neighbor and sensitive rival.

It would leave the United States with precious little influence on the situation if we pressed an aid program for Pakistan reportedly as large as $2.5 billion at the same time that Pakistan's nuclear program is galloping ahead.

Indeed, it foresakes influence entirely to insist upon flexibility to continue aid even if Pakistan sets off a nuclear device.

We have faced a similar issue before. We were prepared in 1980 to seek an adjustment in the law so Pakistan could receive assistance despite its program to enrich nuclear fuel. But the policy required assurances from Pakistan that it planned no nuclear explosion, and we made it clear that an explosion would cancel that arrangement.

That is the right policy, and I hope your values will help us achieve it.

III

The third area I want to discuss is human rights.

I raise the issue not to defend the past, but to recommend for the future—on the basis of hard-headed realism. Human rights is not a means to comfort our enemies by harassing our friends. Rather it is a strategy to identify America with the cause of human freedom, and to advance it wherever and however we can.

This is not a simple policy to carry out. Tactics have to be tailored to specific circumstances. We must design for each case a strategy with the best chance of working and with attention to other important American interests, including security needs.

But for all of its complications, a human rights policy is one of profound importance to our long term interests in the world. It is not secondary to containing the Soviet Union, but essential to it.

Open political systems have a great practical advantage. They can absorb and reflect popular aspirations. In closed systems, grievances are likely to find expression in other ways—in radical politics and violent acts.

Similarly, governments that concern themselves with the economic security of their people will themselves be more secure. Unquestionably, communism and terrorism are enemies of order. But we deceive ourselves if we think human misery is not as great an enemy, for it gives the others places to flourish.

A strong human rights policy enhances our security. Stable societies make stronger, better allies.

Of course we cannot say that our influence will always make a difference, or that a human rights strategy will prevent turmoil. But surely it is preferable to exert what influence we can for peaceful, constructive change, even as we stand ready for military action when our vital interests are threatened and there is no other choice.

IV

In a fourth, and final, area, it serves our ideals and our pragmatic interests to work for peace—to seek to heal the divisions that

create violent disruptions among the nations of the world.

Specific instances make the case:

In 1978, the Camp David agreement produced the first authentic, durable peace between Israel and Egypt. No single step since the birth of Israel in 1948 has done more to enhance the security of the region, or to brighten the future of both peoples.

In southern Africa the 1979 settlement in Rhodesia, now Zimbabwe, means that country's course is being determined by ballots, not bullets. And the peace replaced a regime dominated by the white minority with a government which provides majority rule but also protects minority rights.

The pursuit of peace can be risky work. It requires steady hands and a cool head. And it requires public understanding and patience. Yet the potential results are worth the most strenuous efforts.

Currently, for example, the search for a solution in Lebanon, led by a fine career diplomat, Phil Habib, deserves our full encouragement and support.

We should be equally resolute in seeking solutions in the other hot spots around the globe, notably in Namibia and El Salvador. These problems are worthy of your sustained attention.

I say this not only because peace ends the terrible suffering war brings to innocent people.

I say it not only because peace allows governments to turn to endeavors that can enhance life, not end it.

I also say it because peace serves our self-interest.

Peace in any region limits the chance that local conflict will boil over into a wider war, possibly into a great power confrontation.

Peace limits opportunities that our adversaries might otherwise exploit.

Peace is essential if the expansion of human rights is to proceed, to foster a more stable world where all of our interests are more secure.

So we can place America's interests at the head of the line and still be—indeed, must be—for the ideal of peace.

This has been a rather sweeping discourse on American foreign policy. Let me conclude with one final thought.

It is this: A foreign policy that neglects our values also defies our character as a nation.

"Sometimes people call me an idealist," President Woodrow Wilson once declared. "Well," he continued, "that is the way I know I am an American."

Such statements denote more than national pride. They reflect an important truth.

The United States, unlike other nations, is not identified by common ethnic traits or cultural traditions. Instead, the United States, uniquely, is organized around an idea—principally, a reverence for the inherent worth and the dignity of each human being.

The international values I have described . . . restraining the weapons of war, supporting human rights, persisting in the search for peace . . . all of these grow out of that same founding idea that each person is sacred.●

EXTENDING THE VOTING RIGHTS ACT

● Mr. GOLDWATER. Mr. President. I wish to discuss a subject of great importance to minorities in America. It is a subject that also interests everyone who wishes to see the continued success of our unique experiment in freedom.

I refer to the question of extending the Voting Rights Act of 1965. Or rather, I should say, extending the time periods of application of certain provisions of that act.

Unless Congress amends the law, States, counties and cities covered by sections 5, 6, and 8 of the act can soon apply for release from these provisions. After August 6, 1982, political entities covered by these sections can bring an action for declaratory judgment in the U.S. district court here in Washington, D.C., to be free of Federal supervision of its election process. If the court finds the State or unit has not practiced discrimination during the preceding 17 years, it shall release the political unit from the requirements of these sections. The court still retains jurisdiction for 5 years.

Section 5 is considered to be one of the most important temporary provisions. It requires preclearance by the Justice Department before the State or local unit can change any law potentially affecting elections, including redistricting, city annexations, or a change of polling places or hours. The burden is on the State or local unit to show the proposed change will not injure minority voters.

Another prominent feature of the Voting Rights Act is section 203 that expands coverage of the act to language minorities. The Federal preapproval provisions now apply in any jurisdiction where more than 5 percent of voting age citizens are of a single language minority and less than 50 percent of voting age citizens had registered or voted in the 1972 election. Bilingual elections are required and assistance must be given to voters who lack English language skills. States and subdivisions may file for removal from these provisions after August 6, 1985.

Some States and units were not covered under any requirements of the act until 1970, and these jurisdictions will not be eligible for release until after August 6, 1987.

Some provisions of the act are permanent and no State can ask to be exempt. Section 2 bans racial discrimination in voting nationwide. Sections 4 and 201 ban literacy tests nationwide.

Since some of the key provisions of the law have the effect of expiring next year, Congress and the administration are exploring the broader issue of extending the entire law at one time, possibly for another 10 years.

Now, what can we say about the Voting Rights Act? Is it so essential to protecting the exercise of voting rights that it must be renewed again and again? The temporary provisions of the law have already been renewed twice; once in 1970 and again in 1975.

Or does the act represent an undue invasion of State sovereignty? Is the concept of treating a State or local government as if it is guilty of discrimination, unless it proves otherwise, an outdated vestige of the past? Just how burdensome are the administrative time and costs of compliance with the act?

These are among the factors I am considering in reviewing the subject. I am consulting with State and local voting officials in Arizona. I have asked the Justice Department for statistics and information regarding the actual implementation of the law. I have obtained material from the NAACP Washington bureau. And I am obtaining voting data from the Census Bureau.

First and foremost, I believe this: If the State practices discrimination in voting in Federal or State elections, the 15th amendment is clear that the Federal Government has both a right and duty to do something about it.

The Supreme Court has written that the right to vote may be the most important right any citizen possesses. In its own words, the Court has announced that:

"The right of suffrance is a fundamental matter in a free and democratic society . . . preservative of other basic civil and political rights." *Reynolds* v. *Sims*, 377 U.S. 533, 561–2 (1964).

Also, the Court has stated that:

"Statutes distributing the franchise constitute the foundation of our representative society." *Kramar* v. *Union Free School District*, 395, U.S. 621, 626 (1969).

In the clearest possible words, the Court has declared:

No right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live. *Wesberry* v. *Sanders*, 376 U.S. 1, 17 (1964).

The Voting Rights Act has clearly passed the test of fulfilling this great purpose of representative democracy. It has been and is tremendously successful in extending the franchise to Americans of every race and color.

For example, registration of blacks has doubled or more in States covered by the act. And minority citizens have been elected to public office in growing numbers.

Over 800, I think 815, proposed changes in election practices have been objected to since 1965. Each of these objections may stand as a significant protection of the rights of minority citizens. Moreover, how many election changes have not been adopted, have not been filed for review with the Justice Department, simply because the provisions of the Voting Rights Act exist? The success of the law may be as much in what unknown changes have not been attempted, as it is in what the act has visibly prevented.

But is the success of the act a reason for allowing it to wind down? Should we continue to tie the trigger of the act to the 1965 situation, or should we update the provisions to 1980 election behavior? My initial reaction to these questions is that the success of the law should not be used against it. Who knows what risk we might be taking by allowing the guiding force and influence of the law to expire? Rather the achievements of the act justify its continued life in order to insure that the progress made in the past continues undiminished.

The act is not technically outmoded, even if election statistics have changed. The law is flexible enough to cover any kind of potentially discriminatory practices. True, the most blatant kind of discrimination has almost vanished, but

other techniques can be used with the same result.

Election districts can be deliberately gerrymandered. Cities can annex new areas with a changed racial mixture in order to weaken minority voting strength. At-large elections can be adopted to keep blacks from winning any seats. Polling places can be relocated to inconvenient places. Elective positions can suddenly become appointive in order to keep blacks from being voted into office.

So, I think it is obvious that the law could continue to serve a valid and useful purpose. This does not end the question, however, of whether the act should be extended intact, without any amendment.

In this connection, I would ask just how great is the infringement of State authority? What actual administrative burden does the law impose that might reasonably be lifted or eased?

Nearly 34,800 proposed election changes have been submitted to the Justice Department under the Voting Rights Act. Only 2 percent of these proposals were objected to; 98 percent were approved. This does not appear unduly offensive or hindersome to the exercise of local jurisdiction.

But how much expense was incurred in preparing these submissions? How many hours were spent in complying with the reporting and pre-clearance provisions? How many local officials actually came to Washington, D.C., to personally explain and justify the changes? Are several follow-up hearings and interviews of witnesses routinely scheduled?

These are questions of implementation that I have asked the Justice Department to answer. But there is some preliminary indication that not more than 10 percent of local units are asked for additional information, whether by telephone or letter. Apparently, only about 1 percent of local officials ever come to Washington because of the act and many of these trips are not really required by the Justice Department. This information is unofficial and tentative, however, and I am awaiting complete details from the Justice Department and State officials.

Now, I am troubled by one effect of the law and this is the fact that it applies to every special district election, whether it is a school district or irrigation district. Hundreds of local bond elections and reclamation board elections are covered by the law.

Yet I think most people have in mind elections of Federal or State-wide officials or even city officials, when we discuss the Voting Rights Act. Perhaps there is some way to adjust the sweeping application of the act so that it does not reach every single bond election in covered States. Or maybe the precise requirements of the law can be revised in a less burdensome way.

These are some aspects of the issue that I am still reviewing. However, I hope to be able to vote for an extension of the act. The right to vote is a badge and obligation of a free citizen.

The 15th amendment succinctly provides that:

> The right of citizens of the United States to vote small not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

So I do not have any doubt of the constitutionality of the Voting Rights Act.

We have come a long way from 1776, when the proposition that all men are created equal did not include certain individuals because of their race. Equality meant then and means now equal political liberty, equality of political rights.

Ours is a living republic, capable of improving and extending the blessings of liberty as the wisdom of its people grows. We have the opportunity of fulfilling the promise and commitment of equality set forth in the Declaration of 1776 for all citizens. This means our election practices must not only be free, but free of any appearance of discrimination.●

AMERICAN ASSEMBLY FOR ZIONISM AND ISRAEL

● Mr. KENNEDY. Mr. President, I wish to bring to the attention of the Senate an important event which took place in New York on May 24: The American Assembly for Zionism and Israel. Jewish leaders—including students, academic experts, and community leaders—gathered in a major expression of their commitment to Israel and to Zionist values.

I was privileged to participate in the Jewish student and youth session of this great assembly, and to share the dais with Yosif Mendelevich, who was such a courageous prisoner of conscience in the Soviet Union, with Arye Dulzin, the outstanding chairman of the Executive of the World Zionist Organization and the Jewish Agency for Israel, with my good friends Charlotte Jacobson and Rabbi Joseph Sternstein who lead the World Zionist Organization—American section and the American Zionist Federation respectively, and with David Kornbluth and Bruce Rudolph, cochairmen of the American Zionist Youth Council.

Mr. President, Arye Dulzin delivered an eloquent and impressive address to the Jewish student and youth session of the American Assembly for Zionism and Israel. As Mr. Dulzin said:

> It was Zionism which diagnosed the Jewish condition.
>
> It was Zionism which warned the Jewish people of the impending catastrophe in Europe and elsewhere.
>
> It was Zionism which learned the lessons of history.
>
> It was Zionism which offered the only viable solution.

I commend and congratulate Charlotte Jacobson and Rabbi Sternstein, as well as all the other Jewish leaders and organizations who made the American Assembly for Zionism and Israel such an important event and such a striking success. I request that the full text of Mr. Dulzin's address be printed at this point in the RECORD, along with my own remarks to the Jewish Student and Youth session of this American Assembly.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ADDRESS BY MR. ARYE DULZIN

On behalf of the World Zionist Organization, I bring you greetings from Jerusalem.

It is good to see so many young people turn out for this rally this morning, because Zionism is a movement of the young at heart. It has always been that way.

Zionism was started by young people, mostly in their late teens, who rebelled against the condition of the Jewish people as it then prevailed—at the end of last century, mainly in Eastern Europe, where the masses of the Jewish people lived in poverty, distress and oppression.

Their dream was to create a new Jewish society, through Jewish sovereignty in the land in which our nation and our culture were born and evolved.

It is both timely and necessary to remind ourselves, and the world, of the origins and the primary aims of our movement, because they are being deliberately distorted by the U.N., by Arab propaganda, by Soviet anti-Semitic literature, and by those in Europe who, out of economic or political expediency, bow to Arab oil blackmail. They want to deny the Jewish people equal footing among the nations by attacking the Zionist movement.

It must, therefore, be repeatedly stressed, that Zionism is the historic and legitimate liberation movement of the Jewish people. It is the expression of Jewish self-determination It is our right, no less than that of other peoples, to aspire to that degree of liberty and peace in our land, to which they are entitled to in theirs, and which they enjoy.

Zionism has five principal tasks today, with Aliyah as its major goal:

(A) to insure the existence, the development and the security of the State of Israel and its future;

(B) to insure the existence and the creative life of the Jewish people wherever they live;

(C) to preserve and to foster the unity of the Jewish people;

(D) to maintain reciprocal and mutual responsibility between the State of Israel and the Diaspora;

(E) to save Soviet Jewry, the largest Jewish community in the world after Israel and the United States, and to do everything in our power to ensure their Aliyah as well, as that of any other Jewish community which will be in danger.

Zionism is an expression of vision, faith and action.

A Zionist's primary objective remains the consummation of the Zionist idea by personal Aliyah. Gathering the majority of the Jewish people into Israel remains Zionism's great task, and each and every one of you, by contemplating and by making Aliyah, will make his or her own personal contribution towards that goal.

Aliyah has a double purpose: the security of Israel and the security of the Jewish people.

There are three elements embodied in Aliyah; personal commitment, the development of Israel and the impact on the Jewish community in the Diaspora.

Aliyah is a personal link to Israel and it is a link between Jewish families and Jewish communities.

It is my firm belief that, eventually, seven or eight million Jews will be living in Israel, and you, the young people, will live to see it.

Settlement is second in importance only to Aliyah. Until we settle every stony hill in the Galilee and every tract of desert in the Negev, and make them into good land, the task of Zionism will not be completed.

Thirdly, the Zionist movement has always been the bearer of the loftiest of social ideals

in western civilization. Here, too, our task remains unfinished until those ideals, entailing equality, justice, and a high quality of life will be attained.

Even though we are fully aware that a great deal has yet to be done, we must not overlook the record of Zionism's success to date:

Providing a place for every Jew who needs to come or wants to come to his old-new homeland.

Reviving the Hebrew language, thereby making again possible Jewish creativeness in its original language and cultural context.

Fortifying a state in which we alone will be masters of our destiny, thereby reinforcing Jewish identity and Jewish pride everywhere.

Showing the world what can be done through hard work and the application of science, even in a small, arid and resourceless country.

Demonstrating to the world how refugees can be successfully absorbed into the fabric of a society, even though it is still in a stage of transformation.

Putting before young Jews challenges which perhaps were lost or do not exist anymore in the countries in which they now live.

Zionism was the work of the few who believed and who foresaw the future. It is they who brought about its fulfillment, the embodiment of which is the State of Israel.

Religion in Jewish history was a cohesive force and catastrophe was always a catalyst and an accelerator. But the State of Israel was created by Zionism, to which the other two elements were but accessories.

It was Zionism which diagnosed the Jewish condition.

It was Zionism which warned the Jewish people of the impending catastrophe in Europe and elsewhere.

It was Zionism which learned the lessons of history.

It was Zionism which offered the only viable solution.

Unfortunately, those who did not accept the necessity of Zionism are no more. They perished in the Holocaust. And now, that we have eliminated the last pockets of distress and are in the process of salvaging Soviet Jewry, our great challenge remains among the Jews of the free world.

It may be an irony of history, but it seems that what centuries of persecutions, pogroms, inquisitions, expulsions and mass murder could not do, the affluence and liberties of the western world, where the bulk of the Jews reside, is accomplishing.

Which brings me to our greatest task today: fighting assimilation through Jewish education, through educating people to Zionism.

My friends, Zionism always considered itself to be responsible for the fate of the entire Jewish people. We, today, are responsible for the Jewish people. If we won't do it, nobody else will. We must not only provide shelter when catastrophe strikes. We must also sound the alarm of self-liquidation through assimilation.

Herzl spoke of a "new ghetto". We must not let it happen. We changed the course of Jewish history and we now must see to it that this process continues. We must never rest on our laurels.

It is the Jewish people, not Zionism, which is undergoing a crisis, but it is Zionism which must show the way.

Powerful forces in the world are trying to undo what we created, but they are not succeeding. We must make certain that those assaults should not distract us, even though they may irritate us.

But beating back attacks is not enough. We must also show what we can do when we are no longer prevented from exercising our rights as a nation.

Thus, it is incumbent upon us, to renew ourselves constantly, and to create a new concept of Zionist realization which will provide answers to the questions that young Jews who live in the western democracies ask themselves.

We must bring to young Jews everywhere the realization that life in the Diaspora is no substitute for life in Israel. Even the best galut is only like a luxury hotel, but it can never be a home.

My friends, Jewish youth, ever since the emancipation in Europe, has actively taken part in all movements of national liberation and in all revolutions. In many instances the Jews were in the forefront and leaders of these movements. This was only natural, stemming from the deep motivation, anchored in Jewish tradition, to fight for freedom, liberty and justice.

The world today is witnessing a crucial debate between the free world and the non-free world on the question how to solve humanity's problems—through what method and through what system of governance. Even though oil may cast its shadow on these discussions, the true issue is food, education, and health. Most of mankind today is lacking those. Who, then, can solve this problem?

We in Israel proved what can be done. We have truly created a revolution, and it is a Zionist revolution, by absorbing 1.8 million immigrants who came to us from underdeveloped countries, lacking in skills and education, often in ill-health and in distress. And they came, at the end of the forties and the beginning of the fifties, into a poor, resourceless land. And yet, we have given them all the benefits of welfare, education and material existence, thereby proving, that problems of this magnitude can be solved only in a free society.

The job remains unfinished. Much remains to be improved and further developed. And, therefore, this remains every Zionist's major task: to be part of the ongoing Zionist revolution.

And this is my message to you, young friends, today: Become part of what we are doing, so that Zionism will be both an example for and a solution to world problems! No Jew quarrels among Jews any longer with Zionism. History has proven us right. But to have been right and to have triumphed is not sufficient. We must again move people and expand our ranks if we want Zionism to come to full function.

Let us therefore rise to the occasion!!

If we succeed, as succeed we must, Zionism, refuting all its slanderers, will have made one of the greatest contributions to civilization.

Thank you.

ADDRESS OF SENATOR EDWARD M. KENNEDY

It is a pleasure to be here with David Kornbluth and Bruce Rudolph, and with Arye Dulzin, who has done so much for the World Zionist Organization and the Jewish Agency for Israel, and with my good friends Charlotte Jacobson and Rabbi Joseph Sternstein, who both invited me to be here today. Let me also acknowledge Suzanne Jacobs and Don Adelman, who are joining us in this program and who care so deeply about this cause.

Above all, I share in the joy we all feel in seeing Yosif Mendelevich here among us. He is a courageous Zionist who struggled for many painful years to leave the prisons of the Soviet Union and come home to liberty and the land of Israel.

I was proud to work with many of you to make sure that his dream of living and worshipping in freedom would never die. I am also proud that earlier this year I was there to welcome another dedicated Zionist, Lew Roitburd, the last of the 18 individuals and families who have been permitted to leave the Soviet Union since I raised their cases personally with President Brezhnev in Moscow in 1978.

To Yosif Mendelevich, to Lev Roitburd, to all those we have helped, and to the many who are still prisoners of conscience and we still seek to help, let us reaffirm our pledge here today—we must do everything we can now, so that someday soon, first the hundreds and then the thousands more of your compatriots will realize their great dream of "Next year in Jerusalem."

In the short span of a few weeks, our nation and the world have gone through the profound shock of the attacks on the President and then on the Pope. When the Pope was wounded, it seemed to be a shot that went to the soul of the world.

All of us are grateful that Pope John Paul, President Reagan, and the others who were injured are now recovering. But before these stunning flashes of gunfire fade from our conscience, we must demand, and we have a right to expect, not merely words, but real deeds against the scourge of terrorism.

There must be a greater exchange of information, and a greater determination to act upon it. It is incredible that the Pope's assailant roamed free after his first arrest and after threatening assassination, and that he continued to be at liberty for two weeks after Turkish authorities sighted him in Italy and reported him to the Italian police.

We must act to stop the terrorists before they do their evil work again and again. More governments, including our own, must learn from the shining example of Israel in combatting the determined terrorism of the PLO.

And there is something else that must be said about the reign of violence and crime in our own country. At long last, we must act on handgun control. We must outlaw the Saturday Night Specials whose only purpose is to kill and to maim other human beings. We must take cheap handguns out of the hands of the killers, the muggers, and the psychopaths.

Last year, handguns killed 48 people in Japan, 8 in Great Britain, 34 in Switzerland, 52 in Canada, 21 in Sweden, 42 in West Germany—and 10,728 in the United States. That statistic would be unacceptable in any other civilized country in the world, and we must make it unacceptable in our own country.

Those of us who favor handgun control have absolutely no intention of taking rifles and sporting pistols from hunters. We will not limit the right of law-abiding citizens to defend their families. But we have had enough of the old smears and the false fears spread by the N.R.A. When I read their propaganda, I think that perhaps the National Rifle Association should really be called the National Handgun Association. So let us say to them, on the issue of handgun control, we will never give up or give in.

In our opposition to violence and terrorism at home and around the world, we must also remember that our greatest strength is that we are for something—for justice, compassion, and the dignity of every person. I reject as fundamentally wrong the Administration's decision to downgrade human rights, and their pretense that this decision is required for a successful fight against terrorism. In fact, terrorism is a violation of human rights. It is not beyond the reach of this great nation to prevail both against those who perpetrate terror and against those who practice torture or violate basic decency in other ways.

In our best days, Americans have held high the standard of human rights. The defining element in the character of our country is an unyielding commitment to "the inalienable rights of life, liberty, and the pursuit of happiness."

Yosif Mendelevich is a moving reaffirmation in human terms of the results we can achieve. When he arrived in Vienna from the Soviet Union, he spoke eloquently of the dream he had held for more than a decade—to go to Jerusalem, to walk to the Western

Wall, to journey there on foot as a pilgrim. In his prison cell, he had dreamed of each step. He had travelled in his mind's eye along that walk from the airport in Israel to the Jerusalem he had never seen.

Now, Yosif Mendelevich is free. His dream is real because of his own great personal faith and sacrifice and because you and so many cared enough to support him in the fight that finally made him free. As Josif told those who greeted him in Vienna, "Faith is a gift from heaven, but it is the test of faith under critical situations which counts. By reaching Israel, I have now reached a state of total satisfaction. All my dreams have come true."

This weekend, this Assembly will issue its own proud Declaration of Faith in Zionism and Israel. You will reaffirm your "commitment to Zionism as a movement whose purpose is the safeguarding of the fundamental human rights of Jewish individuals and communities anywhere in the world." You will proclaim to all that "the Zionist idea continues to serve as a beacon and a catalyst in the struggle for human rights."

For Zionists and for Americans, it is not a sign of weakness to support the cause of human rights. Twenty years ago, a President of the United States stood up for human rights, and then stood up against the Soviet Union during the Cuban Missile Crisis. Today, the President of the United States can stand up for America, without sacrificing the ideals for which America must always stand.

We meet this morning at a time of deepening danger in the Middle East, and of mounting concern about the direction of our government's policy in that vital region of the world.

It is time for the United States to be clear about its purposes in the Middle East, and to serve those purposes consistently, reliably and effectively.

We must strengthen the security of Israel, our closest friend and surest ally in the region. We cannot and must not jeopardize the security of Israel by supplying offensive arms to its sworn enemies.

We must do more to promote peace and stability in the Middle East. Israel and Egypt are strategic cornerstones in the broader peace we must seek. The Camp David Accords are a historic achievement. We must never set them aside in a futile effort to appease those pledged to an unholy war against the Holy Land of Israel. Nor can we allow the Soviet Union or its surrogate to subvert the prospect of a just and lasting peace in the Middle East.

We must also work to achieve full energy security for ourselves and our allies, by lifting from our economy and our policy the crushing burden of dependence on foreign oil. We cannot and must not indenture ourselves indefinitely to the Arab oil cartel and to Arab oil blackmail.

On all these issues, the new Administration has taken the wrong course. They have embarked on the most extensive rearmament of the enemies of Israel in modern times—and that is wrong. They have expressed support for the Camp David Accords, while acquiescing in European efforts to undercut the peace process—and that too is wrong. And instead of a policy for energy security, the Administration has turned its back on steps to reduce our dependence on foreign oil—and that is wrong.

The European initiative on the Middle East, as Abba Eban reminds us, can only encourage a radical hard line among the Palestinians. The PLO must never play a role in any peace negotiations, until it has abandoned the use of terrorism and until it has renounced absolutely and forever its oath to destroy Israel.

And with respect to energy independence, the issue is more than a matter of our own national security. On it will ultimately depend our true hopes for peace in the Middle East and the true safety of Israel.

Those hopes are in danger now.

I strongly oppose the Reagan Administration's decision to sell AWACS planes and advanced military equipment to Saudi Arabia.

In 1978, I voted in the Senate against the sale of F-15 fighter planes to Saudi Arabia, because I know they would threaten Israel. In fact, that sale generated so much concern that the Carter Administration promised to draw the line there—and never to increase the offensive capability of the Saudi aircraft.

A new Administration must not repudiate the solemn obligations of the United States Government. We are not talking about some mere technical "enhancement" of the F-15. We are talking about advanced Sidewinder missles and sophisticated AWACS planes that will give Saudi Arabia a command platform in the air to guide attacks against the territory of Israel.

America must never give the Saudis or any other nation the power to overwhelm Israel's air defenses. I will vote and speak and work against the AWACS sale and all the other parts of this dangerous arms sale to Saudi Arabia—and with your help, I am confident that we can defeat that deal in the United States Senate.

If the Reagan Administration wants to pursue an anti-terrorist strategy, then let them stop selling offensive arms to Saudi Arabia, which spends nearly $400 million a year to finance the terrorists of the PLO.

If the Administration wants peace in the Middle East, then let them stop selling offensive arms to Saudi Arabia, which fiercely opposes the Camp David path to peace. Any arms we supply to Saudi Arabia must be defensive weapons only. They must always be pointed in the right direction—and never against Israel.

A new source of deep concern to all of us is the renewed crisis in Lebanon. Svria's military forces there have abandoned any pretense of peacekeeping. They have joined the PLO in a ruthless new assault on the Christian community. The Syrians have occupied strategic mountain sites—and they have now positioned Soviet missiles in Lebanon to shoot down Israeli aircraft.

This is an unacceptable danger to peace. It presents an intolerable risk to the future of both Israel ond Lebanon. If these missiles are not removed, they will give military cover for PLO attacks on Israel, and the Christians of Lebanon will become hostage to radical foes.

Therefore, I have introduced in the United States Senate a resolution on the peace and security of Lebanon, which is also sponsored by Senators Scoop Jackson, Alan Cranston, Joseph Biden and Paul Tsongas. That resolution expresses strong support for the diplomatic efforts now underway to end this crisis. It calls for an immediate and effective ceasefire, the removal of all Syrian missiles, and the complete withdrawal of Syrian forces from Lebanon. The resolution also demands security for the Christian community of Lebanon. It calls for new international efforts to revise Lebanon as a prosperous, stable and pro-Western democracy and as a partner in the cause of peace in the Middle East.

Today, you advance that cause by your own Declaration of Faith in Zionism and Israel. You re-dedicate yourselves to the cherished hope for peace between Israel and her Arab neighbors. You reaffirm your "commitment to Zionism as a movement whose purpose is the cultural revitalization, the spiritual renewal, and the political and economic self-determination of the Jewish people." You renew the call for an Israel that is strong in social and economic terms—a strength that is essential to the welfare of the entire Middle East. And you call for Jewish religious and cultural expression "which will enrich the spiritual future of all nations."

It is right that as young Americans you issue this declaration of faith in Zionism. In 1960, Senator John Kennedy spoke of the historic value of Zionism and youth:

"Israel is the classic case of an ancient dream finding a young leader. For Theodor Herzl was only thirty-seven years of age when he proclaimed the inevitability of Zionism. The Jewish people have never considered youth as a barrier to leadership, or measured maturity and experience by length of days."

It is also right that you issue this declaration of faith in Zionism during Sefira, which marks the time between Passover and Shavuot. The first holiday marks the Exodus from Egypt; the second marks the Revelation of the Law and the Ten Commandments at Mount Sinai. One festival symbolizes freedom; the other symbolizes responsibility. The one teaches of human rights; the other teaches of duty.

Zionism is not only one of the world's enduring movements of national liberation. It is also a great moral force for all humanity.

As Theodor Herzl, the prophet of Zionism, declared so eloquently ninety years ago:

"The Jews who wish will have their State.

"The world will be freed by our liberty, magni ed by our greatness.

"And whatever we attempt there to accomplish for our own welfare, will react powerfully and beneficently for the good of humanity."

What happens at this Assembly and in your schools and colleges and communities across America is of enduring importance for the future of our nation. The young did not make the world they live in, but they have the chance to change it.

As my brother Robert Kennedy used to say, each individual can make a difference. He told the students at the University of Capetown in South Africa on his visit there in 1966:

"Each time a person stands up for an ideal, or acts to improve the lot of others, or strikes out against injustice, he sends forth a tiny ripple of hope, and crossing each other from a million different centers of energy and daring, these ripples build a current which can sweep down the mightiest walls of oppression and resistance."

At times like this in other years, America has drawn inspiration from the young. One of the finest chapters in the history of civil rights was written by the youth of America in the early 1960's. One of the noblest chapters in America's concern for the impoverished people of the world was written by young men and women in the Peace Corps overseas and in our domestic service programs here at home.

In our neighborhoods today and in nations throughout the world, young Americans are doing many worthwhile things. They are people whose names we may never know, whose pictures we may never see, whose deeds we may never read about.

Young physicians are bringing health care to people and places that never had a doctor. Young lawyers are bringing the Constitution to people who never knew the Bill of Rights. Young business men and women are bringing new enterprises to our cities and our rural areas, helping to end the ancient curse of poverty and neglect.

And young people like yourselves are giving of each other to support the land and the spirit of Israel. You are helping to make the deserts bloom and rocky soils productive. You are enhancing the ancient values at the heart of Zionism's contribution to Israel, to our own country, and to the culture of the West.

If each of us cares enough, then all of us together can leave things a little better

than we found them. To those who hesitate to make the effort because the road appears too difficult for success too distant, I reply that not within my lifetime have I seen such extraordinary opportunities for progress as I see today. The strenuous efforts of those who went before have opened up so many doors. The torch of leadership will pass again, and soon your generation will help to light the way.

So I am proud to stand with you in your declaration of faith. And in that spirit, let us renew our covenant with Israel and our own pledge of peace.

For peace is all that Israel asks.

Peace, as the prophet Micah wrote, so that "they shall sit, every man under his vine and under his fig tree, and none shall make them afraid."

Peace, as the Torah teaches, so that "the desert shall rejoice and blossom as the rose, and they that wait upon the Lord shall renew their strength."

Let us pledge to pursue that peace together. Let us follow the age old dream as a guiding star.●

U.S. FOREIGN POLICY AT THE CROSSROADS

● Mr. COHEN. Mr. President, as a member of the Armed Services Committee, I have had a special interest in the direction of U.S. defense and foreign policy. That policy has, in recent years, often seemed almost rudderless. The lack of direction has hurt the Nation, I believe, in its dealings with its international neighbors and allies.

With the election of President Reagan, the United States is beginning to reassert itself. There is renewed attention to strengthening the Nation's defense capability and to establishing a firm, clearly defined foreign policy course.

One of the most concise and incisive analyses I have seen dealing with American foreign policy and the course being charted by the Reagan administration was contained in an address by our distinguished colleague, BILL ROTH, in a speech before the Wilmington, Del., Rotary Club recently. Senator ROTH touched on the problems which have beset our foreign policy in the past decade and provided an incisive view of what needs to be done to restore our Nation's prestige in the international community.

At the heart of BILL ROTH's message is that leadership abroad must rest on a proven ability to manage or own affairs. This is why the success of President Reagan's economic program is so essential, he stresses. An equally critical point is that unless we spend our money wisely, we may not buy better security.

As chairman of the Governmental Affairs Committee, Senator ROTH has been in the forefront of efforts to reduce waste, fraud, and abuse in Government spending. He is committed to spending the dollars necessary to give the United States the strongest defense possible, but he is committed to seeing that those dollars are spent as wisely as possible.

In addition to improving the way in which our Nation spends its defense dollars, Senator ROTH says, the United States must work with its allies to insure that they pay their fair share toward meeting the defense needs of the Western alliance. As he says, if our alliance structures do not adapt to current and future realities, they risk becoming little more than irrelevant anachronisms.

A final point made by Senator ROTH is that the United States must work for agreements with the Soviets on balanced and verifiable arms reductions. As he says, an America sure of its course will stand ready to seek genuine agreements with our adversaries that will lessen the danger of nuclear conflagration and lead to lasting peace.

All who care about the course of the Nation's foreign policy will find Senator ROTH's speech of great interest and value. I commend it to the attention of the Senate, and I submit it for printing in the RECORD.

The speech follows:

SPEECH BY WILLIAM V. ROTH, JR., U.S. SENATOR, BEFORE THE ROTARY CLUB, WILMINGTON, DELAWARE, MAY 7, 1981

U.S. FOREIGN POLICY AT THE CROSSROADS

I thought that I might share with you today some of my views on where the United States stands internationally, and what I think our foreign policy priorities ought to be.

As we enter the 1980's, it is clear that we are again at a crossroads. We have just emerged from an unusually long and bitter period of self-doubt and divisiveness. The results of the election last November indicate the beginning of a consensus on a bipartisan foreign policy. We have put behind us wishful thinking and negativism. We have returned to those qualities that are native to America: Optimism and self-confidence born out of a clear sense that we know who we are and where we are going.

But this consensus is as yet fragile. Having swung too far in the direction of self-doubt and vacillation, we cannot afford to swing too far in the direction of either bellicose activism or angry withdrawal. Secure in ourselves, we must deal with the world as it is with policies that are both realistic and solidly grounded in our own moral principles.

The last two decades have been troubled ones. America suffered through the traumas of Vietnam and Watergate. We stood by helplessly as OPEC raised oil prices time after time. And we clenched our fists in frustration as terrorists held our diplomats hostage for 444 long days.

American productivity fell and foreign products captured larger and larger shares of our markets both at home and abroad. The U.S. seemed unable to conquer the twin curses of inflation and unemployment.

Even in space—where we once reigned supreme—the Space Shuttle for a time, just couldn't seem to get off the ground. Happily the success last month of the shuttle seemed to me to be an omen that we are once again moving to take control of our own destiny.

But for many Americans events over the past 15 years called into question the very foundations of our nation. Rather than a force for good in the world, America has been accused of being the source of much that is wrong in the world.

Defense budgets were regarded as domestic issues. The question was not how much do we need to provide for our security. Rather the question was how little we could get away with spending that would satisfy an allegedly sinister military/industrial complex.

American oil companies, not OPEC, were accused of deliberately provoking the oil crisis.

Even humanitarian aid to starving refugees was portrayed as enslaving the Third World in a neo-colonialist dependency relationship.

Our motives themselves had become suspect.

Conversely the motives of our adversaries somehow became benign.

The Soviet Union was seen as a status quo power that shared our own dreams for an international system free of intimidation and marked by respect among nations.

If we showed restraint in arms expenditures, then others would surely follow suit.

In any event, military power was felt to be obsolete in solving political disputes. Or even in winning wars.

In fact the exercise of power itself eventually was replaced by rhetoric that assumed that everyone, even our adversaries, shared our view of the world, and accepted our definition of the rules for international behavior.

Needless to say, this catalog of depressing misconceptions, half-truths and fantasies has proven to be a poor guide for sensible policies, wishful thinking ran into reality. And we are paying a heavy price.

In the expectation that restraint would be matched by restraint, the U.S. made a strategic decision to allow the Soviet Union to catch up to us on the nuclear level. The theory was that if each side could inflict equal damage on the other, neither would attack.

In accordance with this so-called strategy of mutually assured destruction—or the mad doctrine as it is gruesomely and appropriately known—we began unilaterally to restrain and put-off the development and deployment of several new strategic weapons systems. We stopped completely building ICBMs, new bombers and ABM systems. In real dollars our defense expenditures have declined every year since 1967.

Unfortunately, when the Soviets reached nuclear parity in the mid-seventies, instead of becoming less militant, they continued their military build-up. In the past decade they have increased real military expenditures by 4 to 5 percent per year. And although they have a smaller economic base, they have outspent us in absolute terms as well, by allocating 12 to 15 percent of their GNP to defense.

As a result, the Soviets are now completing development of a fifth generation missile system that has highly accurate, independently targetable warheads. In contrast, we have yet to develop a replacement for the aging Minuteman, or even the Titan.

The Soviets have also massively built up and modernized their conventional forces while we lagged behind.

The result is that today the NATO front could not hold up against a Warsaw Pact conventional attack without recourse to nuclear weapons. By deploying the backfire bomber and SS20 missiles, the Soviets also have gained a decisive edge in theater nuclear weapons. Under conditions of nuclear parity, then, a Warsaw Pact attack on Europe would leave us with the choice of surrendering Western Europe to the Soviets or initiating an all-out nuclear exchange that would leave no winners.

For those that would believe that the Soviets have benign intentions. I offer the following quotation by Leonid Brezhnev, made in Prague, Czechoslovakia in 1977: "In 1985, we (that is the Soviets) shall have attained most of our objectives in Western Europe, and the reversal of forces will then be so decisive that we shall be in a position to impose our will."

Nor are Soviet goals limited to Western Europe, as the invasion of Afghanistan has so clearly shown. In developing an all-ocean, blue-water navy, the Soviets now have the ability to project military power far from their borders. The Soviets moved quickly to acquire access to air and sea port facilities in Vietnam and around the Indian Ocean so that they now can interdict the jugular vein

of the Western World: Vital sea lanes to the Persian Gulf.

Acting both on their own behalf and through Cuban surrogates the Soviets are attempting to outflank the traditional defenses of the West, to threaten sources of supply for critical oil and other raw materials.

In short, the Soviet Union is not—as some would have us believe—a passive power driven to seek security in the face of American bellicosity.

The Soviet Union is an aggressive, expansionist state that takes as moral justification an ideology that consigns the capitalist democracies of the West to the dustbin of history.

This does not mean that the Soviets have a timetable, or detailed master plan, for installing Communist governments around the world. Nor do I believe that Soviet leaders are reckless madmen ready to launch a surprise attack at the first opportunity. But in accordance with their view of an inevitable historical process, it is the role—and the duty—of the Soviet Union to take full advantage of any weakness in the west to hasten the ultimate triumph of a Communist world order.

Well, I for one believe that we have the moral obligation to stand up for what we believe in and prove that the Communist view of history is wrong.

The dramatic decline in U.S. power relative to the Soviet Union would perhaps have been less alarming if our free world partners had taken up the slack. Although there have been some modest signs of willingness to do more, by virtually any measure we are still bearing a grossly disproportionate share of the burden.

To some extent, of course, the U.S. has itself to blame. Our policies have lacked consistency, to say the least. Periods of indifference have been followed by sudden bursts of arm twisting. We have changed signals so often that it is hardly surprising that our partners doubted our sincerity.

Since by word and deed we proclaimed our inability to provide either leadership or strength, it is hardly surprising that some of our partners began to cast about for new ways to provide for their own security.

To many, détente seemed to be the answer. Originally détente aimed to envelop the Soviet Union in a web of economic and human ties with the West that would induce it to act in a responsible and civilized manner. But détente was always to have behind it a strong defense and a credible balance of power.

As the political and economic commitment to détente grew stronger, however, the original strategic purpose got turned inside out. Instead of enmeshing the Soviet Union in a web of ties to the West, there grew a reluctance in the West to risk the benefits of détente for even national security reasons. Thus, when the Soviet Union invaded Afghanistan, thereby directly threatening Persian Gulf oil fields, we found it very difficult indeed to persuade some of our allies to take strong countermeasures.

In the United States, détente became part of the rationale for doing less in defense.

Fortunately, the United States has now taken the first important steps towards placing its foreign and defense policies on a firm footing. But what should be our priorities in consolidating the new and growing consensus in this country?

First of all, we must recognize that the pursuit of any successful foreign policy must begin at home. Leadership abroad must rest on a proven ability to manage our own affairs.

Above all, we have to reduce inflation, improve producitivity and create jobs by getting the economy moving again. Only then will we regain the confidence and respect of the world.

This is why the President's economic program must be passed by the Congress without major modification.

Second, there is no question that we have to do more on defense. Defense expenditures have been declining in real dollars for more than a decade.

But doing more does not mean just opening the budget spigot in an all-out effort to defeat our enemies by outspending them.

Unless we spend our money wisely, we may not buy better security.

In fact, we could end up undermining the very economic base necessary for a sustained defense effort.

In any event, there is no need to engage in an open-ended spending contest. We can rebuild our free world defenses without causing inflation if we proceed on three levels.

First, we should concentrate our budgetary resources on (a) developing and deploying the most modern state-of-the-art weapons systems; (b) improving our readiness to meet conventional emergencies; and (c) eliminating waste, fraud and mismanagement.

Second, we should insist on a division of labor among our allies that will provide everyone with greater security at lower costs.

And third, we should seek agreements with the Soviets that will enhance our mutual security through verifiable and balanced arms reductions.

There is a general consensus among experts that the United States will face a strategic "window of vulnerability" in the mid-1980s. This means that the Soviet Union will be able to inflict so much damage on us in a first strike that we will be unable to retaliate effectively.

The experts also say that even if we start now, there is nothing we can do to prevent this window from opening up. The question is how to close it.

Under these conditions, we should not squander resources on expensive, jerry-rigged proposals that rely on yesterday's technology just to provide a "quick-fix." We should take advantage, rather, of our still superior technological talents to meet the threats of the future with the technology of the future.

It is for this reason among other things that I voted against reactivating World War II battleships such as the *New Jersey*. Similarly I intend to take a very hard look at the proposed MX missile system. I have some question as to whether putting missiles on an underground railroad will actually pose insoluble problems for the Soviets in the 1990's.

On the other hand, there are areas that seem to hold great promise for technologically leapfrogging anything in the Soviet arsenal. For example laser technology may make it possible to put in place a very effective ABM system.

The success of the space shuttle has also given us a quantum leap in space technology over the Soviets. The outer space treaty rightfully prohibits the placing of weapons of mass destruction in space, but we now have it in our capacity to greatly improve our early warning and surveillance capabilities.

The second area where we should concentrate our budgetary resources is on improving the readiness and mobility of our conventional forces. The United States remains the only western nation potentially capable of a world-wide security policy. But today we have neither the air nor sea lift capacity to respond really quickly to emergencies outside of the traditional treaty areas.

I am not suggesting that the United States should be a "policeman" to the world. Far from it. There are many situations where the use of American forces would precipitate the very disaster we intended to prevent.

But where our vital interests are involved, especially when one side is clearly being supported by the Soviet Union, we must have the ability to move quickly and decisively.

My third concern lies in the area of waste and fraud within the military. Any buck private can give you countless examples on how the military wastes its money—our money.

The General Accounting Office, in a recent letter to Defense Secretary Weinberger, recently identified several billion dollars worth of waste in the Department.

By recovering what we lose in waste and fraud, we could greatly improve our defense capability at no cost to the taxpayer.

Internationally, we need to update our partnership agreements with our European and Pacific allies. The U.S. still remains the senior free world partner, but our Japanese and European allies have long since graduated to full partnership status without assuming either greater responsibilities, or making contributions commensurate with their economic power.

If we are going to keep defense expenditures non-inflationary, we cannot continue to run huge deficits overseas, when our allies obviously have both the financial and technical means to contribute more to their own defense.

For the past three decades from one-third to one-half of our defense budget has been devoted directly or indirectly to forces to defend Western Europe in a conventional war. Our European partners certainly can afford to provide the main conventional deterrent in Europe.

In the Pacific, Japan could clearly take greater responsibility for defending the air and sea lanes around Japan and East Asia. And the further out its air and sea forces could range, the more easily the Seventh Fleet could meet emergencies in the Indian Ocean and elsewhere. Since Japan is the most dependent of all the industrial democracies on Middle East oil, this division of responsibility should make sense from a Japanese perspective as well.

I think that it is time that we recouped our investment. After World War II we understood that to contain the Soviet Union, we needed economically strong partners. We therefore adopted policies such as the Marshall Plan to help rebuild the war-shattered economies in Europe and Japan.

Those policies succeeded beyond our fondest expectations. We now have strong allies.

But we also now face an enormous increase in Soviet military power at the same time that we have come to have a large and growing dependence on unstable, and potentially unfriendly, Third World sources of critical raw-materials.

The time has come to play our European and Japanese cards.

Updating these partnership agreements will not be easy. NATO is really a collection of national defense programs rather than a functionally integrated alliance. And the Japanese have severe political and legal problems relating to their constitution.

But if our alliance structures don't adapt to current and future realities, they risk becoming little more than irrelevant anachronisms.

The third element in enhancing our security, without breaking the bank, is to seek agreements with the Soviets on balanced and verifiable arms reductions. We have learned that unilateral restraint does not improve our security. The Soviets simply do not accept our rules of the game. We are in a long term contest with an alien philosophy and way of life. A lasting peace will continue to require vigilance and strength of purpose.

But the weapons of mass destruction that both sides possess are so awesome—and so costly—that we have a mutual, and moral, interest in exploring every avenue to reduce their numbers and destructiveness.

In closing, let me say that I am optimistic that America will take the right fork in the road. With President Reagan in charge, the consensus that we now have for a constructive and positive foreign policy will endure.

With our economy healthy again, America will speak with a strong and confident voice that provides leadership without bullying.

With our strategic and conventional defenses rebuilt, America will provide the bulwark of defense for the free world in meaningful partnership with our friends and allies.

Secure in our own values and moral principles, we will extend an assisting hand to those in real need, and will stand by those who share our outlook.

And finally, sure of our course, America will stand ready to seek genuine agreements with our adversaries that will lessen the danger of nuclear conflagration and lead to lasting peace.●

PAUL TSONGAS AND THE PEACE CORPS

● Mr. DODD. Mr. President, last weekend, the distinguished Senator from Massachusetts (Mr. TSONGAS) spoke before the National Conference of Former Peace Corps Volunteers and Staff.

In recounting some of his own experiences as a volunteer in Ethiopia in the early 1960's, he effectively evoked something of the common experience of all of us who served in the Peace Corps then.

Senator TSONGAS also reflected movingly on the spirit of that time and the changes that have taken place since then. He acknowledged—with a tinge of regret I think—that we "cannot go home again." But at the same time, he demonstrated that the values that led to the creation of the Peace Corps and animated its volunteers in those years have an important role in today's world.

This thoughful speech deserves a wider audience. I ask consent that it be printed in the RECORD for the benefit of our colleagues.

There being no obection, the speech was ordered to be printed in the RECORD, as follows:

SPEECH OF SENATOR PAUL S. TSONGAS

I'd like to say—and I mean this very sincerely—that the Peace Corps in 1981 is blessed with an exceptional Director. I have quite a few disagreements with this Administration, as you know, but the fact is that the best appointment made by President Reagan was Mrs. Ruppe as Director of the Peace Corps.

In 1962 in this city, I went with some of the others here today to the Rose Garden, where President Kennedy sent us off on our mission. We trained in Georgetown . . . University. In that era we didn't know quite what we were all about, and one of the things we were not quite sure of was the fact that we had to learn the language. If you've been here in the summer heat, you'll understand how difficult it is to do anything.

But the slogan of our Ethiopian contingent was "Babor Tabyaw." Obviously that has a selective audience. "Babor Tabyaw" means "railroad station." And one of those conversations that I'm sure you all went through repeatedly was "Babor Tabyaw Yetinew?"—"Where is the railroad station?" We were so sloppy in those days that as we would see other Peace Corps Volunteers in Washington, instead of saying "Hello" or "Tenaystelin", we would say, "Babor tabyaw." Well, the first day in Ethiopia, a couple of the less diligent volunteers went up to the first live host country national—sometimes they are referred to as Ethiopians—shook his hand and said, "Babor tabyaw." At which point the Ethiopian pointed down the street and wandered off. That was the great beginning of the Peace Corps in Ethiopia.

We all have our stories—all of us in this room. I remember when I went to Wolisso, the village I was to live in for 2 years. Of course, all kinds of things happened, but the one that I remember as much as any other was about our sensitivity in wanting to be part of the Ethiopian culture. We were invited to have dinner with the tellik sew, the "big man" in the village, so we all went.

The traditional Ethiopian food is injera and wat. Now the injera is no problem—it's a pancake. It's the wat that gets to you in more ways than one. We had not really been accustomed to that kind of very hot, spicy food. So we sat down in this man's home and he gave us not mild wat, but the real wat . . . because he wanted to treat us with respect. And wanting to respond with respect, I began to eat the injera and wat and it began to eat me. After a few minutes my mouth was just burning. I looked on the table and there was a glass of a clear liquid. Whether or not we learned the language, or anything about teaching, one thing we learned in Georgetown was: Don't drink the water. Well, I gazed at that glass, and took another bite, and gazed at that glass. Finally, Washington seemed a long way away. Between drops of perspiration, my hand involuntarily took the glass and I drank it. It was not water. It was arake—the Ethiopians' most potent drink. As the representative of the United States, and one of "John Kennedy's children," I made a damn fool of myself. And probably so did you.

After the 2 years, in fact, I grew quite accustomed to injera and wat, and American food seemed very bland when I came home.

Last year I went to the Ethiopian Embassy to meet the Foreign Minister. My wife and I sat down to dinner. (It was her first experience with injera and wat.) At the very first smell of wat, I began to perspire. That Pavlovian reaction—17 years dormant—came flooding back. So we're all still Peace Corps Volunteers in a very real sense.

The Peace Corps was the formative experience of my life. I had come from a somewhat disadvantaged background . . . My parents were Republicans. There aren't many places in Washington where you can say this and get a laugh. When we left Ethiopia in 1964, the students and the people of Wolisso gave us a number of dinners and gave me an Ethiopian dress. It was a very emotional experience. They were the best years of my life.

I went back in 1977 after the revolution, this time as a Congressman, and the country had changed. I had much difficulty and bureaucratic wrangling to get past the checkpoint and go see Wolisso. I finally did, and went back to Wolisso. The school that we helped to construct was gone. There wasn't a trace left of what had been referred to as the "dormitory." I walked through the village, and no one recognized me, even though I was pretty much the same. We went to have dinner, and one old man looked at me and looked at me and said, "Do I know you?" I said, "I hope somebody does." I told him who I was and he looked at me and he said, "But you weren't so heavy then, and you didn't wear glasses." He was the only one who remembered me.

I left Wolisso very sad about it—about whether I had done anything—and went back to the Embassy. I stayed there at the Ambassador's home and slept in the Ambassador's bed—something you don't do as a Peace Corps Volunteer. That day we had a meeting with the ruler of Ethiopia, then Colonel (now Chairman) Mengistu, which was on Ethiopian television and in the Ethiopian Herald. The next day servants came up and said there were some people outside to see me. I went outside and there were two of my students. We looked at each other, and they ran up and hugged me. I think you know what I felt. The next day we went out and had dinner, but before we did, Congressman Don Bonker and I went around Addis and saw the bodies of those who had been killed the night before. We lamented the violence that had been visited upon Ethiopia during those years, the change from the quietude that we remembered. This is not to argue for Haile Selassie, because I think in the end he was corrupt and had to go. But there was sadness to find out that three of the students whom I had taught—Haile Wolde, Gazaghne and Andreas—had been executed by the government. I can remember those students, I can visualize their faces, and it's sad that they are now dead.

But others have come to the United States, and I have seen them as I saw those who were there, and we are still in contact. There's no question—you can't go through that kind of experience and come out the same. I am very grateful to the Peace Corps. It changed my life.

Well, 17 years ago, when the first Peace Corps reunion took place, I went to it. I had spent the year in Yale Law School wondering what I was doing; it was a very difficult period for me. Going to the reunion was very important because I found out that everybody else was as screwed up as I was. When I finished law school, I went back into the Peace Corps, this time to the West Indies, and learned after some time that it was not for me, that I could not return to Mother Peace Corps but had to go on to other things—and I've done that. So there is a new life, and new tasks and new responsibilities. I'm getting older. Some of us have learned the joys of having children.

What I wanted to leave you with today is not so much a sense of what we were—I'm proud of what we were. It is not so much to tell you it's a pleasure to be with friends—I feel very comfortable with Peace Corps Volunteers; some of my best friends happen to be Peace Corps Volunteers.

What I want to leave you with is a sense of the task that is left to be done. The task that is left to be done is here. We are in a struggle for the soul of our country. There was no Moral Majority when we went. There was the idealism of John Kennedy. The issue then was "Ask not what your country can do for you—ask what you can do for your country." That's very different from the "devil take the hindmost" attitude that reflects a lot of the attitude of this nation today.

The fact is that the same nation that sent some of you to work for the hungry is also the only nation in the world to vote against infant formula code.

The fact is that the same nation that sent all of us to encourage peace is also the nation that rejected the negotiated arms control treaty—SALT II. The Carter Administration stopped pushing it because of the Russians in Cuba. This Administration said to the Senate Foreign Relations Committee that arms control is "oversold." That's not the world that I remember.

The fact is that the same nation that sent us to express goodwill in the Third World is the nation that today has officials who talk blithely about the difference between torture by "authoritarian" regimes as opposed to "totalitarian" regimes. That attitude is not what we're about and Ernest Lefever is not what we're about either.

The fact is that the same nation which sent all of us to spread the technology of development has today become a nation intent on spreading the technology of war. We have become an arms merchant to the world, and that has had far more impact today than the Peace Corps program that we have.

Is that what we're about? I don't think so. And it goes on.

The so-called White Paper on El Salvador turns out to be discredited. Four nuns with the same vision that we had are killed, and we contend as a nation that they were somehow political activists and imply that they got what they deserved.

We are cozying up to South Africa. Why? Because we see them as a bulwark against communism They are an entree for communism. Under President Carter, we ranked 15th in the world in foreign aid per capita. That was before the budget cuts that we're now seeing.

I am very concerned for two reasons. First, we have now seen a resumption of the East-West mindset, and will destroy the goodwill that we have built up with the time we have invested. The issue is not our values, the issue in the Third World now is "Are you for us or are you against us?" "Are you pro-communist or are you anti-communist?" "Are you pro-Castro or are you anti-Castro?"

It is not "What do you believe in?" Not "What do you do to your people?" Not "What values do you embrace that we share?" We've come a long way in the wrong direction.

Second, I have concluded, sadly, that before the end of this century you and I will witness the use of a nuclear weapon. The way nuclear arms are being spread around the world, the way proliferation is going, I believe that we will see, some time, someplace, some leader decide to do the unthinkable. And the people we nurtured in those villages and towns will be obliterated by that technology. We're hardly in a position today to do much about it. In his campaign the President said that nuclear proliferation was none of our business. We are engaged in an arms race. We are talking about nuclear superiority—the wealth of this nation poured into an arms race that we cannot win.

What we did was meaningful, and we can be proud of it. But that's not enough. You have a responsibility because the Peace Corps taught you another way. You know better. Because you know better, you have a task, and that task is here at home. I expect more from you, and therefore I will ask more of you. I ask you to volunteer, again, but this time in service to America, to the ideals that sent us to all those countries. Today more than ever in our nation's history those ideals need support, encouragement and dedication, for the sake of those countries where we served, but most of all for our country.●

DR. W. M. BOST LEADERSHIP CITED FOR EXTENSION SERVICE

● Mr. COCHRAN. Mr. President, today in Mississippi an outstanding agricultural leader and public servant, Dr. William M. Bost, who has served as director of the Cooperative Extension Service the past 19 years, is retiring.

Dr. Bost, or Bill Bost, as his many friends and colleagues know him, has spent his career in Extension Service work in our State of Mississippi, except for his World War II duty in the U.S. Navy and his graduate school work at Cornell University.

His dedication, leadership, and concern have contributed a great deal to the Extension Service's excellent work the past two decades in Mississippi, and the program carried out by the Extension Service has provided much of the impetus for the agricultural, economic, social, and educational progress of our State. Mississippi is basically a State of small towns and rural communities, and the work of the Extension Service touches the lives of a great many people, young and old, and its benefits are positive and widespread.

Bill Bost is the epitome of the dedicated, able and effective Extension Service worker in our State, and I am proud to take this opportunity to salute his career as his friends, colleagues and fellow Extension Service workers and other officials honor him today at Mississippi State University. They are hosting an appreciation luncheon for Dr. Bost and following that, dedicating the William M. Bost Cooperative Extension Center on the campus of Mississippi State.

Dr. Bost was born in Pontotoc County, Miss., which incidentally was my birthplace, and after finishing high school there, he served in the Navy, then received his bachelor's degree in agriculture from Mississippi State University.

He began his professional career in 1949 as a veterans instructor of the on-farm training program at Ecru High School, and in 1951 became the assistant county agent for the Cooperative Extension Service in Calhoun County. He steadily moved up the ladder, serving as county agent in Tippah County, and as a district agent for the Extension Service at Mississippi State. He also was continuing his academic career, obtaining a master's degree in extension administration from Cornell, and a doctorate in administration in higher education from the University of Mississippi.

Dr. Bost served 1 year as associate director of the Mississippi Cooperative Extension Service, before assuming the position of director on July 1, 1962, a post he has filled so ably these past 19 years.

In addition to his work with the Extension Service and on the faculty and administration at Mississippi State, Dr. Bost has been active in a number of civic, professional, and community programs and organizations. His participation and accomplishments at the local, State, and national level are numerous, but I would like to cite a few. He has been honored by the U.S. Department of Agriculture for distinguished and superior service in his professional work with the Extension Service, and in 1973 he was presented by the Governor of our State with the "Outstanding Mississippian Award" for his efforts in agriculture and rural development to provide total service for the betterment of the entire population of our State.

I ask my colleagues to join me in congratulating this outstanding American, Dr. William M. Bost, on a job well done. We wish him and his family every possible happiness in the future.●

EMPLOYEE OWNERSHIP: AN INCENTIVE FOR PRODUCTIVITY

● Mr. CRANSTON. Mr. President, when the Senate turns to the tax package soon to be reported from the Finance Committee, a constant theme of the debate will be how to increase the productivity of American workers and American industry.

The Finance Committee has included in its proposed package improvements in the tax laws affecting employee stock ownership plans (ESOPs). In my opinion these provisions of the bill rank among the most significant in offering a direct incentive to increase the productivity of workers. It is hard to beat the combination of the profit motive plus increased capital investment which lies at the heart of the ESOP program.

The Los Angeles Times of June 24, 1981, has published a major article on ESOP's in the context of the ownership plan undertaken by the employees of Continental Airlines. This event is an exciting new departure for American business. If the ESOP transaction goes through as planned, Continental will be the largest employee-owned company in the United States. The transaction will also establish a precedent in corporate affairs which will give employees the prospect of having a voice in corporate takeovers of their employer.

I urge my colleagues to read the article printed in the Los Angeles Times and ask that the article be printed in the RECORD.

The article follows:

EMPLOYEE OWNERS: CONTINENTAL WORKERS FLY AS THEY BUY
(By Bill Sing)

What began as a plan to prevent an unfriendly takeover by another airline is about to transform Continental Airlines into the largest worker-controlled business in the nation.

The airline's 11,000 pilots and other employees have agreed to forgo a portion of their future wages, in return for which they will gain control over 51 percent of the company's stock, a deal that is expected to be consummated this week.

It is a dramatic change for a line that as recently as last December was suffering from the bitterness of a major strike. And it has management and union leaders alike predicting that the takeover will cut Continental's costs, improve its efficiency and lift it back into the black.

Continental joins a small but growing number of U.S. companies that have turned all or part of their stock over to employees as a way of motivating them or simply of raising needed cash. It also joins the controversy over whether the firms and the employees themselves are better off with worker ownership.

SOME 5,000 FIRMS ADOPT ESOPS

Encouraged by tax breaks and other incentives, as many as 5,000 firms have now adopted Employee Stock Ownership Plans, better known as ESOPs, compared with only 250 as of 1975. The ESOPs are the most popular of the worker-ownership plans, although there are others, including cooperatives. About 200 ESOP companies today are majority or wholly owned by their workers.

A number of advocates see the trend to worker participation in ownership as an answer to the nation's current productivity and product quality problems and to some of the failings of American management.

"If handled properly, employee ownership can give a whole new meaning to our free enterprise system," said Sen. Russell B. Long (D-La.), the most vociferous congressional advocate of such plans. "It can be a second American revolution."

"They (ESOPs) will be the wave of the future," said Paul Eckel, a member of the Air Line Pilots Assn. and Continental pilot who spearheaded the employee takeover drive with ESOP as the avenue.

PROVES A LIMITED SUCCESS

Despite such plaudits, however, worker capitalism ESOP-style so far has proven only a limited success.

In many cases, small, privately owned companies have prohibited their employee-stockholders from voting their employee-owned shares—resulting at times in worker disenchantment.

In one case involving South Bend Lathe Inc., an Indiana machine-tool firm which issued all its stock to workers and managers to prevent a threatened plant closure in 1975, worker-owners actually staged a nine-week strike last summer in a dispute with management over cost-of-living wage increases.

Even though South Bend Lathe workers theoretically own the company, the old management—which arranged the ESOP under a government loan—retained decisionmaking powers. Workers say productivity there has steadily declined in recent months.

In some cases, experts say, managers have set up employee stock plans which actually helped strengthen their control over their companies. Under ESOP laws, management can allot itself a disproportionate amount of the ESOP stock. In other cases, the amount of worker ownership in a company has been too small to lift worker morale.

SOME PLANS PROVE HARMFUL

And in still other cases, experts say, companies have set up ESOPs that actually harm employees. A report released last year by the General Accounting Office, the watchdog arm of Congress, noted significant abuses at 13 small, privately owner defense contractors with such employee stock ownership plans. These abuses, the GAO charged, included inflating the value of the stock so as to gain a larger tax deduction for the company.

Inflating the stock put the worker-shareholders at greater financial risk when in some cases the stock later declined in value, the GAO said. The Labor Department recently sued several companies over this question.

In another case, a company put its employees' pension fund money into an ESOP. But later, the company declared bankruptcy and went out of business—leaving workers not only without their pensions, but with worthless stock.

Despite the problems, however, a number of financially hard-pressed airlines already are looking at the Continental plan as a possible way out of their difficulties. Continental's local rival, Western Airlines, which has suffered record losses recently, says it is considering an ESOP as part of a wage freeze for its employees.

A new airline in the Northeast, People Express, requires new employees to buy stock. And now a group of Pan American World Airways pilots has suggested that employees might purchase about half the airline's stock in order to combat what they consider bad management.

Many ESOPs do appear to be giving the companies involved a boost in worker performance and in profits. Robert L. Strickland, chairman of Lowe's, a North Carolina building supplies retailer, said productivity increases resulting from establishing an employee stock plan—which now owns about 24 percent of the stock—is the main reason his firm has survived. Three of five competitors in the Southeast have gone out of business since 1960, he said.

"It's pure capitalism as far as I see it," Strickland said. "But obviously it's not a panacea. If it were, then more companies would have them."

Some experts suggest that problems with ESOPs in this country are related to their relative newness compared with worker ownership plans abroad.

In Israel and in the Basque region of Spain, communities of worker-owned enterprises are highly developed and have consistently outperformed comparable non-worker-owned firms for more than 40 years, according to Harvard University lecturer Joseph Blasi, who has studied the question.

In the United States, one of the most dramatic successes of worker ownership involves a railroad company.

Purchased by its employees in 1972, the Chicago & North Western Transportation Co., has more than doubled its revenues and profits. Stock bought by workers at $50 a share in 1972 is now worth more than $5,000 a share—after adjustment for stock splits. Chicago & North Western would still be the nation's largest worker-controlled firm—current and former employees own about 57 percent of the stock—but only about 4,000 of its current 12,000 workers own shares.

COOPERATIVES AN ALTERNATIVE

Worker cooperatives are another form of ownership in which the employees—and only the employees—elect the board of directors and divide profits.

One such cooperative, 40-year-old Puget Sound Plywood Inc. in Tacoma, Wash., is considered a showcase for industrial democracy. The 150 worker-owners there run for and elect the board of directors and chairman on a one person-one vote basis. All worker-owners receive the same pay and profits from the chairman on down to the hourly workers, although a few non-owner professional managers hired and selected by the workers are paid more. Because of worker self-supervision, there is only one shop floor supervisor and no foreman. Worker-owners vote on many company decisions, such as the purchase of new timberland or new machines.

Last year, when a devastating slump in home building nationwide caused a sharp drop in orders at Puget Sound Plywood and other wood products firms, worker-owners consented to a 6-month shutdown. Operations have since resumed in the black with workers taking pay cuts.

ESOPS FASTEST GROWING

The fastest growing form of worker ownership, however, involves the ESOPs. In an ESOP, a block of stock is placed in a trust for distribution to employees.

Such plans were pioneered in 1956 by Louis Kelso, a San Francisco lawyer who contends that America's economic problems are caused largely by the concentration of ownership in the hands of 5 percent of the population. By enabling a small investor to own stock, an ESOP-based "capitalist revolution" would get America out of its "rich-get-richer while the poor-get-poorer rut," Kelso contends.

But Kelso's evangelism not withstanding, the use of employee ownership plans languished in the early years as companies apparently were reluctant to give stock to employees without getting something in return.

Then in 1975, with the support of Sen. Long, whom Kelso had recruited as an ally, Congress passed legislation authorizing companies already entitled to a 10 percent tax credit on funds used for certain investment in plant and machines to gain an additional one percentage point credit for funds used to buy stock for workers in an ESOP.

In addition, ESOPs obtained "qualified" status under the federal tax laws, meaning that the value of stock contributed to employees through an ESOP are tax deductible to their companies.

Largely because of these incentives, the number of ESOPs exploded. Companies using ESOPs now include many of the nation's industrial giants, such as Exxon and American Telephone & Telegraph, which generally offer the plans to supplement existing pension, profit-sharing or other employee-benefit plans. However, the percentage of company stock owned by employees at these large firms is generally under 10 percent and the typical ESOP company has fewer than 500 employees.

Now, Long and other congressmen are sponsoring new legislation that would make ESOPs even more attractive. One provision in the legislation would, in effect, extend the number of companies eligible for ESOP-based tax credits by enabling firms to claim a tax credit for 1 percent of their total payroll costs if the funds are used for ESOPs, thus tying the credit to more than just investment in plant and equipment.

The proposed legislation also include a provision that would allow small business owners who sell their firms to employees to defer taxes on any profits from the sale.

Harvard lecturer Blasi said the proposed legislation, if passed, would be the single "most important thing to encourage employee ownership" in U.S. history.

However, there is some resistance to the legislation because critics say the tax credit provision would cost the Treasury about $6 billion in revenues over the next three years.

Furthermore, there is continual dispute over whether ESOPs as currently constructed actually boost employee productivity and company profits. Studies to date are inconclusive or contradictory. For example, a 1977 University of Michigan study concluded that ESOP companies are on average 1.5 times more profitable than non-ESOP businesses. But a 1980 study by two South Carolina business professors concluded the opposite—that profits were on average significantly lower in ESOP firms.

RELUCTANT TO GIVE UP POWER

"American managers are very reluctant to give up their power," said James O'Toole, a USC professor who has studied employee ownership. "But if workers are to be owners, they must be treated as owners" and given rights and responsibilities to manage their companies.

Unions continue to have a strong voice in worker-owned firms. "Just because a company is worker-owned doesn't mean that the workers will be treated fairly," said Warner Woodworth, a Brigham Young University professor who has acted as a consultant at several ESOP companies.

Woodworth noted that so far only one worker-owned firm, Jeanette Sheet Glass near Pittsburgh, voted its union out after an ESOP was set up. Those workers are now trying to bring in another union, he added.

Unions that had been cool to ESOPs have begun to warm up to the plans as way to prevent plant shutdowns or as alternatives to wage concessions at troubled companies.

United Auto Workers President Douglas Fraser says the union will demand an employee stock plan—as well as participation in management—as an alternative to any wage concessions at Ford Motor Co. and General Motors Corp. This could mark the first time a major national union has pushed for employee ownership in wage negotiations. Chrysler Corp. set up an ESOP as part of its government-backed loan guarantee package; employee ownership of the troubled auto maker could reach as high as 20 percent.

Workers who initiated their own ESOPs are attempting to correct some of the voting rights and other problems associated with earlier ESOPs, such as the one at South Bend Lathe.

For example, workers at Rath Packing Co., who agreed to give up $20 a week of their salaries for the next two years to pay for 60 percent of the company's stock—part of an effort to revive the money-losing Iowa meat packer—demanded and got 10 of the 16 directors' seats.

HIRES PROFESSIONAL MANAGERS

Rath has maintained professional managers to run daily operations. But to resolve problems and share ideas, workers and managers have devised—shop-floor "cell committees" as well as steering and planning committees to oversee plantwide operations and develop long-term corporate strategy.

The Rath board of directors has calculated that for the last eight months, those systems helped save the company about $2.5 million in reduced labor and meat costs, according to BYU consultant Woodworth, who has worked closely with Rath.

At Continental, workers initiated their ESOP largely to prevent a takeover of the airline by Texas International Airlines. Texas International has challenged the ESOP in federal court, but twice has been denied an injunction to stop the plan.

Continental workers say their ESOP will be unique in terms of voting rights. Unlike many previous ESOPs, in which the stock is held in trust until a worker retires or leaves, Continental workers will gradually receive stock as they forgo up to 15 percent of their wages over the next four to seven years. That money will repay a $185-million loan that Continental's ESOP trustee will use immediately to buy 15.4 million shares of newly issued stock.

ONE PERSON-ONE VOTE

Workers will be able to vote on a one person-one vote basis stock in the trust which they have not yet paid for and received. To do this, the trustee holding the shares will poll the workers.

Four of the 15 seats on Continental's board of directors will be designated for worker representatives, with three seats for management and eight for outsiders. Workers have indicated they plan to retain the airline's top management.

Continental's management says that it will use the $185 million of proceeds from the ESOP to reduce the airline's huge debts and finance purchases of new aircraft. This, combined with the fact that the workers will be paying for the stock out of their salaries instead of using government loans or company funds (as has been the case for most previous ESOPs), has prompted some to hail the Continental plan as a model for future ESOPs—one that will benefit workers, companies and taxpayers.

BOON TO TROUBLED INDUSTRIES

This kind of ESOP will be ideal for troubled industries with high wages and high debt, such as autos and steel, said Jack Curtis, a Washington attorney who has worked on the employee stock ownership plans at Continental and Rath.

Continental employees say morale at the airline has undergone a complete turnaround from the bitterness during a three-week flight attendants' strike last December.

Eckel, the pilot who spearheaded the ESOP drive, says his fellow pilots have been busy making productivity-boosting suggestions—such as how to save costly jet fuel on takeoffs and landings.

Continental management may need those suggestions, given the fact that it lost $20.9 million last year and $25.8 million in the first three months of this year.●

SENATOR KENNEDY IS PRESENTED SCOPUS AWARD

● Mr. METZENBAUM. Mr. President, on June 22, the American Friends of the Hebrew University presented their Scopus award to Senator EDWARD KENNEDY, who used that occasion to make a very important statement on this Nation's Middle East policy.

Countless words have been spoken in recent weeks about Israel's decision to eliminate Iraq's nuclear weapons capability.

France, the country whose greed for oil and arms sales brought the threat of nuclear holocaust to the Middle East, has demanded that Israel pay reparations to Iraq.

Our own U.N. Ambassador sat down with Iraq's foreign minister to draft a resolution condemning Israel. Shortly thereafter, Iraq responded to this unfortunate gesture of ours by calling for the use of the Arab oil weapon against the United States. And Iraq's leader has now publicly expressed his ambition to acquire nuclear weapons.

But of all that has been said and written in this matter, I have seen nothing that more clearly and forcefully presents the real issues than Senator KENNEDY's speech before the American Friends of the Hebrew University.

Senator KENNEDY said:

The United States should not second guess Israel in a dilemma that potentially involved a threat to the very survival of our best friend and ally in the Middle East. . . . Instead of assailing Israel, we should criticize the failure to forestall European suppliers from providing sensitive nuclear technology to Iraq.

The Senator added:

And we should insist that the administration must abandon the disastrous course of voting to condemn Israel in the United Nations.

Mr. President, I ask that texts of this speech and of the introduction of Senator KENNEDY by Mr. Julian B. Venezky be printed in their entirety in the RECORD.

The material follows:

INTRODUCTION OF SENATOR KENNEDY BY JULIAN B. VENEZKY, CHAIRMAN OF THE BOARD, AMERICAN FRIENDS OF THE HEBREW UNIVERSITY

Tonight is a very special night for all of us. and for the American Friends of the Hebrew University of Jerusalem. We stand with a friend. A proven friend. A totally reliable and predictable friend. Sometimes organizations give awards, and one is not always sure exactly how deserving the recipient may be. We do not have those doubts tonight. Over the years, 19 years in the Senate, and through the last difficult months and critical days, Ted Kennedy has stood with us, never once letting us down. His voting record on matters relating to Israel and American Jewry is not only good, it is perfect—there are no blemishes. He has not only voted right, he has led, and he has fought, and he has been out front, and sometimes he has stood all but alone.

On every economic package, on every military assistance package, in all matters relating to foreign aid, Ted Kennedy has been with us. In the matter of Soviet Jewry, not only has he fought hard, not only has he stood with Jackson-Vanik, but he has personally intervened, above and beyond the call of duty, and because of his actions, scores of Soviet Jewish men, women and children, are free in Israel and the United States.

Senator, it is not surprising to us, whatever our political affiliation or our involvement in the elections of 1980, to know that our brethren, American Jewry, gave you extraordinary support in 1980, from primary to primary, in numbers sometimes reaching 90 percent. It is not surprising to any of us that four out of five New York Jews went into their polling booths on March 25, 1980 and pulled the lever with the name Kennedy on it.

It is not surprising, because we as a people, have wonderful memories. We remember those who stood with us, we remember our friends. We also remember the others.

And no one who knows anything about the strength, the intensity, and the consistency of Ted Kennedy's support for Israel was surprised over the last few weeks, as the Third World condemned Israel for destroying the Iraqi nuclear weapons potential, as the Arab world feigned shock, as the Western democracies hypocritically feigned outrage, as many American leaders, Republicans and Democrats alike, were so mealy mouthed that you couldn't figure out what they thought. No, we were not surprised that Ted Kennedy stood up, and in this case stood up alone, and said that Israel acted in its own self interest, that its actions were pragmatic and understandable, and that those who now criticize Israel should have spend their energies years before criticizing those Western nations that for a profit will sell any madmen the nuclear technology that murderers might once again turn on the children of Israel. Kennedy said what so many others thought, but were too cowardly to put in words. And Ted Kennedy's words mean more to us in this room, than the nonsensical rhetoric that periodically spews forth from the Jewish hating sewers of the United Nations of 42nd Street.

Senator Kennedy, tonight we bestow upon you the Scopus Award of the Hebrew University of Jerusalem. Tonight we put one more link on that special bond between you and the Jewish people. You and your brothers have been with us through thick and thin. It was not always easy. Our bond with you is physical, through joy and suffering, a bond of life and death. We give you more than our award, we give you our thanks and our love.

ADDRESS OF SENATOR EDWARD M. KENNEDY

I am proud to accept your Scopus Award, which carries the proud name of the indomitable Mount Scopus. That Summit is one of the most beautiful places on Earth, soaring above a panorama of Israel, with a view of the entire Jewish State. From the Summit of Scopus, one can see the ancient dream come true again.

Scopus is far more than a piece of geography. It is a symbol for a people and a spirit that refused to die.

Sadly, Scopus is also a symbol of the precarious isolation of Israel in the world community today. For 19 years Scopus was surrounded by an enemy army. It was an outpost of freedom within a sea of hostility. It was a Masada that did not fall, but stood for the great past of a great people and now for their bright future in their own homeland.

In 1948, the Jewish State was reborn. In 1967, Mount Scopus was reborn. And just as there must be a Jewish State in the land of Israel, there must always be a Hebrew University atop Mount Scopus within the unified city of David which is Jerusalem.

Even before Israel began again, there was a Hebrew University. What determination and imagination, what vision and faith its founding fathers had when they established a University for the Jewish people thirty years before there was a Jewish State.

Through the shadows of World War I, the founders saw deep into the future to the education of the children of Abraham and the liberation of their promised land. They foresaw the University as the center of education and culture for millions and millions all over the world.

As Chaim Weizmann said in 1918, when the 12 foundation stones were laid for the University:

"In this University we have gone beyond

restoration; we are creating during the war something which is to serve as a symbol of a better future. In the University the wandering soul of Israel will reach its haven."

And from Mount Scopus, the Hebrew University proclaims to all the world that bold dreams founded on justice and grounded in faith shall not be denied.

The Presidents of American Friends of the Hebrew University, who sit with us and are honored here tonight, have a commitment to make minds as well as deserts come to bloom. Each individual can make a difference—and all of them have done so. People who give of themselves to fulfill great ideals are true heroes in an age when too many take refuge in easy expediences of the moment. Such heroes sit on the dais tonight. And when I think of them, I recall the words of my brother Robert Kennedy in South Africa:

"Each time a person stands up for an ideal, or acts to improve the lot of others, or strikes out against injustice, he sends forth a tiny ripple of hope, and crossing each other from a million different centers of energy and daring, those ripples build a current which can sweep down the mightiest walls of oppression and resistance."

These words describe the life of Sam Rothberg—a true pioneer, the father of Israel bonds, the inspiration of the American Friends. In his name, the School of Overseas Study will truly transform the Hebrew University into a larger university of all the Jewish people, a university for the Jews of Israel and for the Jews of the Diaspora, a glorious link between the Jewish people and the Jewish State.

Sam Rothberg was dedicated to a dream, and he has lived to see his dream become a reality.

No dream was ever reached by giving up, by abandoning our values and traditions, by dishonoring our heritage. All who are here tonight know the central truth that there are issues in this world that are worth struggling for.

I have come here tonight to talk of the struggle that must continue. We must take our stand against the violence and terrorism and totalitarianism of our time. And we must also remember that our greatest strength is that we stand for something—for justice, compassion and the dignity of every person.

I reject as fundamentally wrong any decision to downgrade human rights in American foreign policy and any pretense that this will help in the fight against terrorism. In fact, terrorism is a violation of human rights, and freedom from fear is a fundamental human right. It is not beyond the power of this nation to prevail against those who practice torture as well as those who perpetrate terror.

In our best days, Americans have held high the standard of liberty. The defining character of our country is an unyielding commitment to "the inalienable rights of life, liberty and the pursuit of happiness."

There are real reasons why we must deal with nations, even when we disagree with their denials of freedom. But we must never accept a double standard on human rights. We must never be silent in the face of the repression that scars the third of the earth subject to Communist dictatorships. And as we speak out against the abuses of our adversaries, we must also speak and work for human rights in the nations we regard as allies.

A call for quiet diplomacy is a call for the diplomacy of a silence that will be taken as tacit consent. America must never be silent about the violation of human rights in the Soviet Union or Chile, in China or Argentina, in South Africa or South Korea, in Eastern Europe or in any other place where people cry out for justice.

The spread of terrorism reminds us that the world is often a cold and silent place. When Israel was a lonely target of the terrorists, when the blood of Jewish children was being spilled in their very nurseries, and Israeli airlines were being sabotaged and bombed, too much of the world was mute.

Even worse, some in the world exalted the goals and tactics of terror. The darkness spread. The spectre reached Europe and Japan, and now it threatens us all.

Today, the world denounces and condemns. If the voices had spoken out in the beginning, when Israel was first a target, terrorism might have been stopped years ago. But amid the early sounds of silence, the disease and destruction became a global epidemic. Let us recall the words of Pastor Martin Niemoeller:

"In Germany, they came first for the Communists, and I didn't speak up because I wasn't a Communist; and then they came for the Jews, and I didn't speak up because I wasn't a Jew; and then they came for the trade unionists, and I didn't speak up because I wasn't a trade unionist; and then they came for the Catholics, and I didn't speak up because I was a Protestant; and then they came for me, and by that time no one was left to speak up for me."

There are times when we cannot rely on others to speak and to act. There are some issues so important that we must stand up, even if we are alone.

Let there be no confusion about where we stand, or about the strength of our will to protect ourselves and our allies. Above all, let us tell the world that there are issues and principles that we will never betray, and that there are principled commitments at the core of our foreign policy.

In the Middle East, the cornerstone of America's commitment must always be to stand with Israel. We must strengthen the security of Israel, our closest friend and surest ally in the Middle East. We cannot and we must not jeopardize the security of Israel by supplying offensive arms to its sworn enemies.

For that reason, I strongly oppose the Administration's decision to sell advanced military planes and equipment to Saudi Arabia.

In 1978, I voted in the Senate against the sale of F–15 fighter planes to that nation. In fact, that sale caused so much concern that the Carter Administration promised to draw the line right there—and never again to augment the offensive capability of Saudi aircraft.

A new Administration must not repudiate the solemn obligations of the United States government. We are not talking about some mere technical "enhancement" of the F–15. We are talking about the advanced Sidewinder missiles and sophisticated AWACS planes that will give Saudi Arabia a command platform in the air to guide attacks against the territory of Israel.

America must never give Saudi Arabia or any other nation the power to overwhelm Israel's air defenses. I will vote and speak and work against the AWACS sale and the other parts of this dangerous arms deal with Saudi Arabia. And with your help, I believe that we can defeat that deal in the United States Senate.

If the Administration truly wants to pursue an anti-terrorist strategy, then let them stop selling offensive arms to Saudi Arabia, which spends nearly $400 million a year to finance the terrorists of the PLO.

If the Administration wants peace in the Middle East, then let them stop selling offensive arms to Saudi Arabia, which fiercely opposes the Camp David path to peace. Any arms we supply to Saudi Arabia must be defensive weapons only. They must always be pointed in the right direction—and they must never be pointed against Israel.

The Israeli action against the Iraqi nuclear facility is also very much on our minds tonight. You know where I stand. I consider the State Department's criticism of Israel's decision in this difficult situation to be unwarranted, unwise and unjust.

The United States should not second-guess Israel in a dilemma that potentially involved a threat to the very survival of our best friend and ally in the Middle East. This issue is central to the security of Israel. It is an issue for the Israelis to determine for themselves.

There surely was cause for grave concern. Iraq is the sworn enemy of Israel, committed to its destruction. Since 1948, Iraq has been in a state of war with Israel. Unlike other Arab nations, Iraq has refused to sign an armistice. Iraq supports terrorist actions against Israel. Iraq has rejected the Camp David agreements. And now Iraq presented Israel with the prospect of nuclear weapons in the hands of one of Israel's most implacable enemies.

Instead of assailing Israel, we should criticize the failure to forestall European suppliers from providing sensitive nuclear technology to Iraq.

We should insist that the effort to halt nuclear proliferation must become a major priority for our nation and the world.

We should insist that the Administration resume the delivery of F–16 aircraft, which are essential to the defense of Israel.

And we should insist that the Administration must abandon the disastrous course of voting to condemn Israel in the United Nations. It took the last Administration four years to make that mistake. It took this one only four months. But let me tell you: no matter how many months or how many years it may take, we will turn this anti-Israel policy around. We have all heard our U.N. Ambassador's excuse that the U.N. resolution could have been worse. But could anything be worse than what she herself did and said?

Never again should an American Ambassador to the United Nations sit down with the Foreign Minister of Iraq and write a resolution to condemn the people and the State of Israel. Never again should our U.N. Ambassador, in front of all the world, compare Israel's effort to protect its very survival with the Libyan invasion of Chad. Never again should our U.N. Ambassador compare what Israel did in its own defense to the Syrian occupation of Lebanon. And surely our U.N. Ambassador should never again compare what Israel did to the brutal Soviet invasion and destruction in Afghanistan.

The vote in the United Nations was 15 to nothing. But numbers do not necessarily make right. For America, there would have been honor only if the vote was 14 to 1—and if that one vote was proudly cast by the United States.

They may appreciate the Administration's vote in Saudi Arabia. They might like the condemnation of Israel in Iraq or in Libya.

But we do not approve of these actions in the United States. They not only hurt Israel; they also damage our strategic interests in the Middle East.

How does suspending aircraft deliveries increase the reliability of America among our allies? How does this action increase respect for America among our adversaries. The suspension of the F–16 sale is bad in principle and bad in practice, and I call upon President Reagan to end it without further delay.

The Talmud says: "on three things the world rests: on truth, on justice, and on peace."

The foreign policy of the United States too must rest on truth, on justice, and on peace.

We must not be afraid, ever, to speak our beliefs, even if we speak alone. We must recall Jacobo Timerman's words: "I had not been humiliated by torture, but I had been profoundly humiliated by the silent complicity of our own leaders."

No matter how convenient it may be, we must say of silent complicity—never, never, never again.

Finally, let me say to you once more how moved I am by this Scopus award.

It witnesses the friendship I treasure with so many of you. Above all, it witnesses our common love of Israel, our shared cause and our enduring dream. I am deeply honored by your award, and I am deeply grateful to all of you for sharing this evening with me.●

COMMEMORATION OF 40TH ANNIVERSARY OF UKRAINIAN INDEPENDENCE

● Mr. LEVIN. Mr. President, June 30 marks an event of history important to the people of Ukraine. On this date in 1941, soon after the outbreak of the Soviet-German war, Ulkrainian underground fighters made a move to restore the independence of their nation by establishing a provisional government in West Ukraine.

One of the leaders of the Organization of Ukrainian Nationalists, Yaroslav Stetzko, was proclaimed Prime Minister of this government and a proclamation of the restoration of independence was issued.

This attempt to restore sovereignty to a country which in modern times had only experienced independence for a very short time between 1918 and 1921 was just a brief moment in the history of Ukraine. The Independence Proclamation was negated by the German occupation forces, and Stetzko was banished to a concentration camp.

After its reconquest by the red army in 1944, Ukraine remains to this day a captive nation under the harsh and oppresseive rule of the Soviet Union.

On July 12, the Ukrainian community of southeastern Michigan will commemorate the 40th anniversary of this moment in history by honoring Yaroslav Stetzko at a banquet in Warren, Mich.

Mr. President, the Ukrainian community of Michigan invites all people who cherish their freedom and commit themselves to the fight for human rights to join them in the commemoration of this event.●

VOTING RIGHTS ACT OF 1965

● Mr. COCHRAN. Mr. President, both Houses of Congress are beginning a review of the Voting Rights Act of 1965. There are controversial and very emotional issues that surround this process, but that should be an incentive for careful and deliberate study by every Member of Congress.

I am convinced the act can be changed, and improved at the same time, without diluting the commitment of the Government of the United States to protect the rights of all citizens to full participation in the political process of this great country.

These rights should be protected by a law that applies to every State in the Union. The law should be administered fairly, equitably, and impartially just as every Federal law should be. This may be a tall order, a big challenge but I think a just solution can be found if we will really work at it.

On this subject the Clarion-Ledger of Jackson Miss., recently carried two editorials which I request be printed in the RECORD for the information of my colleagues.

The articles follow:

VOTING RIGHTS NOW ASSURED

The proposed extension of the Voting Rights Act of 1965 is one of the main—and most controversial—issues being considered in Congress this year. Major provisions of the act are due to expire in August 1982 unless Congress renews them.

Hearings on a bill to extend the law for 10 years opened last month and are expected to last until late June. Proponents of the extension contend that minority voters still need protection, while opponents contend the law has achieved its purpose.

The evidence supports the position that the act has removed restraints and assured minorities of their voting rights. As Mississippi Gov. William Winter has said, "The original intent of the act was to make sure that everyone has a chance to participate fully in the political process. I think we have reached a point in Mississippi where those rights are now assured."

Further, the "pre-clearance" provision, while requires certain states and localities to obtain advance approval from the Justice Department or the U.S. District Court in Washington before implementing any changes in voting or election procedures, is an onerous burden that is causing—particularly for municipalities—difficulties which compound other problems unrelated to voting rights.

An example is the objection raised by the Justice Department, under the Voting Rights Act, to Jackson's city expansion of 1976. However, Jackson's rationale for its annexation proceeding is shared by many municipalities across the country who are trying to achieve orderly development of an urban community experiencing a marked increase in population.

While gerrymandering in city limits alterations can be used to put minorities at a disadvantage, the act presumes the guilt of a municipality when that is usually not the reason for annexation proceedings. Any perceived violation of rights through annexation should be challenged through regular channels provided for those claiming discrimination.

The reduction of the issue to a claimed denial of minority rights ignores other vital factors. In the case of so many American cities, particularly those in the South, the problems of gaining some kind of control over aimless growth have been immense. Many affluent taxpayers move to the suburbs for reasons ranging from lower tax rates outside the city to taking their children out of court-ordered desegregated city schools with black student majorities.

As a result, many suburban communities have incorporated, forming a ring of separate jurisdictions that blocks expansion of the main city from whose growth their existence has been generated. This causes the stagnation and decline of the center city and also produces a jumble of jurisdictions often in conflict. Altogether, it makes almost impossible a sensible program of areawide economic development, public services and enrichment of the community's cultural life.

It also tends to place minority missions at cross-purposes. While trying to bolster black voting strength on the one hand by opposing incorporation of white neighborhoods, civil rights groups thereby contribute to the resegregation of schools.

At the same time, cities are hobbled fiscally, through the deterioration of the tax base, and in land use planning, zoning, economical supply of city services and in meeting other governmental obligations.

When the process of decline reaches an advanced stage, if not before, the federal government is usually called upon to help sustain and revive financially-strapped cities suffering from, among other ills, an increase in crime and a decline in their systems of public education.

Meanwhile, the federal government maintains an entire section in the Justice Department to police the Voting Rights Act. Through 1980, the department received 34,798 proposed election-law changes from the state affected, according to the Voting Rights Section of the Civil Rights Division, with 2.3 percent—815—of the changes being rejected.

The basic rights contained in the act have been made nationwide and permanent—the prohibition of literacy tests, poll taxes and attempts to coerce or intimidate voters. But the nine states (including Mississippi) and portions of 13 others affected by the pre-clearance requirement should be relieved of that burden.

The original—and existing—purpose of assuring voting rights to all citizens could be served better by a less inclusive law and one which does not discriminate against any section of the country.

ACT SHOULD BE APPLIED UNIFORMLY

If the Federal Voting Rights Act of 1965 is extended past 1982, when it is slated to expire, Congress should at least apply its provisions equally to all jurisdictions in all the states.

Enforcement provisions now fall disproportionately on the South. Section Five requires Alaska and six Southern states—Alabama, Georgia, Louisiana, Mississippi, South Carolina and Virginia—and portions of 13 other states in various parts of the country to get Justice Department approval before changing any election law. This "pre-clearance" process is not only unfair but also time-consuming and otherwise burdensome and, 16 years after the law was enacted, unnecessary.

In 1964 a voting study by the Southern Regional Council showed that only 6.7 percent of the blacks in Mississippi eligible to vote were registered. By 1976, according to the U.S. Census Bureau, 67.4 percent of the eligible blacks had registered. The percentage—the highest of any state in the South—is probably higher today.

Two Mississippi leaders, Democratic Gov. William Winter and Republican Sen. Thad Cochran, have spoken cogently against the bill now in Congress to extend the act until 1992. Gov. Winter, pointing out that no other state has reached total and absolute equity, said to continue to subject Mississippi to the surveillance it has been under puts our citizens in a "second class" category. "I think we're at a point where Mississippi no longer needs to be singled out," the governor commented. "I think we need to be treated just like other states."

Sen. Cochran said pre-clearance provisions are better suited to a feudal society than a

democracy. "Local officials have to go to Washington, get on their knees, kiss the ring and tug their forelock to all those third-rate bureaucrats," he said. "The presumption of guilt is absurd—to have that mentality reflected in the laws of these United States."

The voting rights act—proponents and critics agree—has assured the rights of all American citizens to participate in the business of democracy in our republic. In view of this success, Congress should consider carefully whether any extension is needed. If so, the act should be simplified, restricted in scope and made to apply to all states alike.●

JEWISH REFUGEES FROM ARAB LANDS

● Mr. D'AMATO. Mr. President, yesterday I had the honor of meeting with representatives of the Jewish Identity Center and the World Organization of Jews From Arab Countries. They visited to express their concern to me that the American public may not fully understand the difficult situation that Israel faces in the Middle East.

In the United States we have the luxury of being bordered by friendly neighbors, Mexico and Canada. In Israel they enjoy no such luxury.

Iraq has not joined in any effort to achieve peace with Israel. In fact they have contributed to hostilities in the region and even yesterday Iraqi President Hussein appealed for Arab nations to unite to develop a nuclear bomb. This statement alone should send us a clear signal as to what Iraq's intent was for the nuclear reactor under construction near Baghdad.

I ask you, why does a nation so rich in oil need a nuclear powerplant?

Israel's preemptive strike on the plant was truly a courageous move undertaken for the justifiable reason to preserve its national security. If all the facts are taken into consideration by the Foreign Relations Committee, I am confident that this is the conclusion that will be reached.

In working for peace in the Middle East it is important that we understand some of the attitudes that prevail and have prevailed in the region. Dr. Heskel M. Haddad, the president of the World Organization for Jews From Arab Countries has written a position paper giving insight as to the treatment that Jews have received from their Arab neighbors.

Mr. President, I would like to share this position paper entitled "Jewish Refugees From Arab Lands" with my colleagues at this point. It is important for us to consider this information as we explore methods with which to lessen hostilities in the region.

I ask that the text of this paper be printed in full in the RECORD.

The text follows:

JEWISH REFUGEES FROM ARAB LANDS

(By Heskel M. Haddad, M.D.)

All factions agree that the solution of the Palestinian problem is vital to any plan for permanent peace. The Palestinian problem cannot be resolved without the rightful solution of the refugee problem in the Middle East, both of the Palestinian Arab refugees and of the Jewish refugees from Arab lands. Few—in or out of the U.N.—mention the fact that 794,000 Jewish refugees existed in the Middle East in the years between 1948 and 1951. Stripped of their possessions, forced from their homes in a score of Arab countries, they were unwelcome anywhere but Israel. This tiny sliver of a State, poor to begin with and further impoverished by an unsought war, nevertheless offered sanctuary to all of these Jewish refugees from the Arab world. These refugees in Israel faced the hardships of living in camps and tents for several years and of making a cultural and social adjustment to a largely European society. Despite the fact that they were accepted by Israel as Israeli citizens, the trauma of displacement and of extreme sudden change in life, and the hardships of being refugees still reflect until this very day on these Jews and their offsprings wherever they live, as today they number over two million the world over and constitute over half of Israel's population.

In contrast, the Arab states, vast in area and rich beyond dreams of avarice, closed their hearts and borders to the Palestinian Arabs, and to this day have allowed them to languish—and fester—in refugee camps, supported in main by the United States contributions to the U.N. The plight of the Palestinian Arab refugee is offered as an excuse by the Arabs for every kind of barbarity, and this excuse is increasingly accepted as valid. For over thirty years, these states have played with the lives of their fellow Arabs, using them as pawns in the game of war and peace. Their callousness is compounded when one knows that the Palestinian Arabs were urged to leave their homes in Israel at the outbreak of the 1948 war, and assured that they would return in triumph after Israel had been swept into the sea.

At this crucial junction, especially when the fragile peace between Israel and Egypt so depends on the Palestinian autonomy talks, Israel has no such human pawns to manipulate on the world stage. Neither does Israel have oil to offer in exchange for "even-handedness". Israel in fact has executed its share of the "Population Exchange" which the Arab countries imposed in 1948–1951 by expelling or forcing out the Jews from their homes in the Arab countries under the pretense of making room for the displaced Palestinian Arabs.

In the face of the Arab demands Israel can marshall facts and figures: in Baghdad alone, for example, more than $150,000,000 in cash was confiscated from fleeing Jews, in addition to billions of dollars in assets. Syria, Egypt, Yemen, Morocco, Algeria and Libya follow suit. In Egypt, President Sadat admitted that the wealth the Jews left behind in Egypt was in excess of 3 billion dollars. Over all, Jewish property and assets left behind in Arab lands amount to over 100 billion dollars. In addition over 100,000 square kilometers of land was taken from the Jews in the Arab lands—this compared to Israel's total area of 20,000 square kilometers (Israel plus Judea, Sumaria, Gaza and Golan Heights are less than 30,000 square kilometers).

Of far greater importance than financial assets are those 35,000 Jews still left in Arab lands (in 1948 there were 951,000 Jews in Arab lands). Though those Jews remaining in Tunisia and Morocco live in relative freedom, they are less than second-class citizens, always fearful of reprisal should incidents occur between Israel and any Arab body, or even between Arab factions themselves, as is currently happening in Tunisia. The 400 Jews of Iraq and the 4,000 Jews of Syria live under virtual house arrest: forbidden to travel or communicate with one another, prohibited from working in their professions, owning a car or having a telephone. They can be detained without warning or reason. For them there are no rights of habeas corpus. Hundreds have been jailed and at least sixteen were publicly hanged following sham trials. Many have been tortured and clandestinely executed in prison.

For some reason, the mass media has, in the main, ignored these issues. Perhaps it is because the Palestinian Arab refugees, paraded before the press in all their misery, make colorful copy, while Jews, once refugees, now fully absorbed in Israeli life, are simply not news. Jews in Arab states are, of course, out-of-reach, out-of-sight, and therefore out-of-mind.

Our aim is to bring these issues and these Jews out of limbo. We would like their rights to be well represented in any Middle East peace plan. We would like the restoration of their cultural and religious assets left behind in Arab countries. We would demand the full compensation for all of their communal and private property which was stolen, frozen or confiscated, and for all the injuries suffered by Jews as a result of discrimination and persecution by the responsible Arab countries, and to demand the full satisfaction for all the rights—political and otherwise—of the Jews from Arab countries, above all to those still languishing in Syria, Iraq and other Arab countries.

We the Jewish refugees from Arab lands, demand equal rights of representation before the World forums as has been accorded to the delegates representing Palestinian Arab refugees. Only when all the pieces are on the board can the game be played to a fair finish.

JEWS OF ARAB COUNTRIES

	1948	Today	Immigrants in Israel
Algeria	140,000	100 or less	110,000
Egypt	100,000	300 or less	90,000
Iraq	150,000	400 or less	125,000
Lebanon	6,000	100 or less	1,000
Libya	35,000	100 or less	33,000
Morocco	300,000	25,000 or less	250,000
Syria	40,000	4,000	35,000
Tunisia	100,000	5,000	75,000
Yemen and (Aden)	80,000	100 or less	75,000
Total	951,000	35,100	794,000

SECRETARY REGAN'S POLITICAL EDUCATION

● Mr. HARRY F. BYRD, JR. Mr. President, the New York Times yesterday had an excellent article on Secretary of the Treasury Donald T. Regan. In a moment I shall ask that it be printed in full in the RECORD.

Secretary Regan is doing an outstanding job as the President's chief spokesman on tax matters. To him is due much credit for the bipartisan compromise tax reduction legislation approved by the Senate Finance Committee today.

Donald Regan is new to official Washington, but it has not taken him long to get a firm grip on the many problems facing a Secretary of the Treasury. He has quickly proved himself a man of ability, courage and, indeed, patience.

President Ronald Reagan is fortunate to have Donald T. Regan as his Secretary of the Treasury and his chief economic spokesman. Unlike many successful business executives, Mr. Regan has a knack for moving in the political

arena. Reagan and Regan make a good team.

At this point, I ask to have printed in the RECORD Hedrick Smith's profile of Secretary Regan published in the New York Times of Wednesday, June 24.

The article is as follows:

REGAN'S POLITICAL EDUCATION: TREASURY CHIEF WINS KEY ROLE ON TAX POLICY

(By Hedrick Smith)

WASHINGTON, June 23.—Treasury Secretary Donald T. Regan, the former chairman of Merrill Lynch & Company now in his first government post, recently called in some political aides for advice on handling Congress.

As they talked, he sank one of their ideas with the curt judgment: "No, I don't think that will work on the Hill." Quickly he broke into laughter at his own temerity. "Here I am," he chortled, "spouting off to you guys about politics."

Politics was very much on Mr. Regan's mind, too, when he was told that David A. Stockman, the director of the Office of Management and Budget, had privately told reporters his thoughts on an ultimate compromise tax bill that Mr. Regan was trying to negotiate with Congressional Democrats. The Treasury Secretary, a normally genial man with a gusty Irish temper, exploded in anger. He went to President Reagan to complain that Mr. Stockman had overstepped.

With the President's go-ahead, Mr. Regan then called several reporters to assert his own primacy in the tax domain. "This is where you'll hear Administration tax thinking," he advised. "If you hear something different from someone else, then it's wrong."

Those two episodes illustrate the rapid political education of Mr. Regan. After six months here, he is emerging with a reputation as a tough, vigorous negotiator, a loyal team player for the President, the Administration's increasingly self-confident chief economic spokesman, and a business executive with a knack for moving in the political arena.

In the opening weeks of the Reagan Administration, the gray-haired, 62-year-old former marine and innovative Wall Street executive was vastly overshadowed by Mr. Stockman, the fireball, whiz kid budget director whose experience in Congress gave him a headstart even before Inauguration Day.

But the tax battle has now thrust Mr. Regan to center stage. Almost daily, he has huddled with the tax-writing barons of Congress—Representative Dan Rostenkowski, the Democratic chairman of the House Ways and Means Committee; Barber Conable, the committee's ranking Republican, and Senator Bob Dole, the Republican chairman of the Senate Finance Committee.

He has shuttled among breakfasts with the mainstream Democrats, lunches with the breakaway "boll weevil" Southern conservatives, and late afternoon sessions with the White House legislative strategy team. For weeks he labored for a major compromise bill with Mr. Rostenkowski, and when that fell through Mr. Regan took to the talk shows with partisan patter about the Democratic package as "a last-minute, scattershot scheme which falls short of addressing the economic needs of the country."

Obviously warming to the world of political maneuvering, he enthused to a reporter at the end of one long day: "This is my great outing. I'm enjoying it."

"I predicted he was going to be a powerhouse," Senator Dole said. "It just took awhile for him to learn the ropes. He learns fast and he works hard. He's right in the middle of it. He and Stockman are a pretty good one-two punch. Regan's the spokesman. He doesn't get up tight. He's very plainspoken but does it with a smile most of the time.

"KNEW WHAT WOULD FLOAT"

"After starting slow, the Secretary is coming on strong," added Representative Charles Stenholm, leader of the Conservative Democratic Forum. "In our meetings with the Administration he was the nuts and bolts man on taxes. He had the numbers. He knew what would float, both economically and with the President. He deserves a lot of credit for the tax package that finallly got put together."

"The Secretary and Stockman are different," Mr. Stenholm went on. "David is a ball of energy and moves in so many areas at one time, it's hard to keep up with him. The Secretary zeroes in on one target. He's calmer, quieter, more business-like."

Veteran Congressional leaders conclude, nevertheless, that the President and his White House chief of staff, James A. Baker 3d, called the tough turns in the tax maneuvering. "In the crunch, we'd call Baker," said an aide to Mr. Rostenkowski.

When the Baker-Regan group became convinced that the President had to compromise on his three-year, 30 percent individual tax rate cut and had to add other provisions to pull together a majority in the House of Representatives, they took him a proposal for a 25 percent rate cut with several "sweeteners."

"We gulped several times before we approached him on that," Mr. Regan said in an interview. "I told him I thought it was the logical thing to do."

"Do we have to?" the President inquired.

"This is the way to get a consensus bill," Mr. Regan advised.

"Press on," the President replied. "Let's see what we can get."

But the mainstream Democrats balked at anything more than two years and the deal had to be struck with the conservative minority group.

Business leaders have generally been pleased with the Treasury Secretary's performance, though some complained loudly when the Administration's new tax package scaled down by $50 billion the depreciation write-offs from the original plan. Mr. Regan quickly put together a compromise to help business more without adding greatly to deficits in the next couple of years. A few executives are still smarting at the way they were initially handled.

Mr. Regan's directness has ruffled some feathers in Washington. Even Republican Congressmen groused that he had a Wall Street air of superiority and needed to learn to talk the language of Main Street.

"He was used to snapping his fingers and having things happen quickly in a very large business," Mr. Conable commented. "He's offended some people on the Hill by his directness. But he's proven adaptable and been quite successful in adjusting his sights to a new reality here. He has come into his own more lately."

The biggest difference between Wall Street and Washington, Mr. Regan commented in an interview, is that "here many more people have a part to play in a decision. You negotiate not with one but two houses, two parties, plus staffs, and there's always a portion of the process available to the media."

As a precaution, the Treasury Secretary initially felt it necessary to have his public appearances fully scripted. And though he still bobbles some of the ins-and-outs of monetarist theory by tainting it with traditional conservativism, he speaks the litany of Reagan economics now with confidence.

What he has enjoyed most so far, he said, is "trying to convince people of the wisdom of what we're doing and to make the sea changes, not only in tax policy but in the way the Federal Government is handling itself."

He has also enjoyed some quick, humorous exchanges with President Reagan, most memorably on the day that the President, frustrated by Wall Street's evident skepticism toward the Reagan economic program, remarked to a White House meeting, "I have never found Wall Street a source of good advice."

At a Cabinet meeting later that day, Secretary Regan tossed a news agency dispatch quoting the President across the table to his boss and quipped: "What are you trying to do—get me in trouble with Wall Street? You're making me burn all my bridges."

The President laughed as other Cabinet members ribbed Mr. Regan. "Hell," the President said, "I was quoting you."

That stumped the Secretary. Finally he figured out that the President had reformulated a comment he had made about bond markets being ruled by traders with a time horizon of four hours. "I said, 'Never ask a Wall Street trader for economic advice,' " Mr. Regan recalled. "He'll never recognize your economic program." ●

WARTIME BRAVERY

● Mr. JEPSEN. Mr. President, I submit for the RECORD today an editorial published in the May 10 Des Moines Tribune. The editorial, written by Kenneth M. Quinn, highlights the camaraderie experienced behind the scenes by American soldiers in Vietnam.

Of particular interest is the spontaneous breakdown of any racial barriers and animosities originally felt on American soil. Ken Quinn speaks from his personal experience while assigned as a Foreign Service officer to the U.S. Embassy in Vietnam. He has also served on the National Security Council staff, and has held various assignments within the State Department in Washington. Currently, he serves as an administrative assistant to Iowa Gov. Bob Ray under the auspices of the State Department's Pearson project.

I find the insider's viewpoint expressed to be informative, and I believe it will interest my colleagues.

The editorial is as follows:

REFLECTIONS ON WARTIME BRAVERY THAT'S BORN OF TIES THAT BIND

(By Kenneth M. Quinn)

A few weeks ago, I stood in Gov. Robert Ray's office as he signed a proclamation designating April 26 as Vietnam Veterans Recognition Day. During that ceremony, the governor called upon all Iowans to reflect on the service and sacrifices of American fighting men and women during that conflict.

The governor's words made me think about the 5½ years I spent in that tragic, far-off land between 1968 and 1974 and the observations I had made about America and Americans from their conduct in that complex, often hard-to-understand war.

Six years have passed since hostilities ended with North Vietnam's capture of Saigon on April 30, 1975. In that time, the passions that deeply divided our country have cooled. It would not be productive to resurrect the debate about which side was right in the war or whether we should have been there in the first place. Historians, no doubt, will assess these issues for decades to come.

But perhaps we can separate out the question of how our soldiers conducted themselves in that war and what their actions say about us as people and the values we possess.

There was a saying during the war that you could find facts in Vietnam to support any argument about that conflict and our role in it. This was no less true about the American military establishment. If you wanted to find negative aspects of our military presence in Indochina, you did not have to look far. Americans in uniform reflected a full cross-section of our society, and you did not have to leave Saigon to find examples of the problems plaguing us both back home and in Indochina.

Drug use, racial animosities, corruption and inefficiencies were all too visible in that war-torn capital and other areas with large American-troop concentrations. Moreover, in the eyes of some Americans, events like My Lai and terms like "free-fire zone" and "search and destroy" stigmatized the entire military with an image of a brutal, insensitive force.

Unfortunately, the bad was all too often easier to see since much of it took place in the major cities and towns where Americans lived. This has left a large segment of the American population with a negative impression of the conduct of the American fighting man in Vietnam.

Deeper below the surface and often more difficult to perceive, however, was another set of realities demonstrating the positive side of America. These were often to be found in isolated individual actions while Americans were engaged in combat, often miles from the view of outside observers.

Moreover, many of these actions in and of themselves were at the time seen as of little significance or importance to the overall war effort and thus did not merit special attention. In retrospect, however, it may be these individual actions that tell us more about our soldiers and ourselves than almost anything else in the war.

These actions resulted from a special, unstated bond that existed among most Americans when they were engaged in combat. Simply put, it was: If you were wounded, under heavy enemy fire or if your life was in danger, you would not be abandoned by your fellow Americans. Americans would always come to the rescue of other Americans in trouble. These bonds might break down later back at base camp or when the danger was over, but as long as we were in combat, they held us all together.

I saw my first example of this phenomenon while I was an adviser in the Mekong Delta in 1969 and 1970. The advisory team of 10 officers and NCO's that I headed was colocated with a Vietnamese military headquarters. We were the only Americans for miles around and were dependent on the Vietnamese for our defense—until we got into serious trouble. Then, all we had to do was put out a radio call that a "Uniform Sierra" (the military phonetic substitute for U.S.) was wounded or under heavy fire, and the response from the Army and Navy bases (there was no Air Force near us) was instantaneous.

On other occasions, if a Vietnamese unit was pinned down, the response might be slower or more uncertain; but let it be known that an American was involved and everything else was dropped to rescue a comrade in trouble.

I remember one particular night when a nearby village was overrun by a Viet Cong unit. Three of my team members were trapped there in a small mud fort, surrounded and under heavy mortar fire. I put out the call to the Vinh Long Army Air Field, and almost immediately two helicopter gunships were "on station" and in communication with our men, ready to put in air strikes if needed.

It didn't bother the pilot that he was exposed to enemy ground fire that could bring down his ship. It also didn't matter that he had probably never met any of the Americans down below. They, in fact, never even knew each other's names, since we all used radio code names like "Apache One Four'" or "Uncle Delta Two" to identify ourselves. All that mattered was that they were Americans and needed help.

Shortly after the helicopters arrived, we received word that Navy "RAG" boats from Sadec were on their way to the village, even though they had to risk possible enemy ambushes on the narrow canals that wended their way to the village.

They had never met any of my advisers, either. Two "Black Pony" Navy planes then contacted us, volunteering to put in air strikes. At one point, so many American aircraft were present that I was beginning to be more worried about a mid-air collision than the enemy threat on the ground.

This instantaneous show of force worked. The Viet Cong retreated, and the only casualty was the team's mascot—a dog killed by an incoming mortar round. As the various American elements departed the sceen, there was a final parting word of thanks from those of us on the ground to the pilots and boat commanders—people we might never see.

Strict radio procedures usually fell by the wayside at this moment and emotions took over when the people on the ground, who realized they probably wouldn't be alive except for this quick response, would say something like: "Hey! You guys really saved our tails tonight." And the understated reply would come, "All in a night's work" or "Just doing our job." But everyone understood the real meaning of the reply was: "We knew you were Americans. That's why we came. We know you'd do the same for us."

These special bonds between Americans were so strong that at times they could overcome even the strongest feelings and animosities, such as racial prejudice. One of the greatest ironies of the war is that, while it caused so much division at home, perhaps more than anything else in our national experience, combat in Vietnam obscured, and occasionally even erased, racial barriers between blacks and whites.

This phenomenon might have lasted for only a few hours or a few minutes, and it usually came at the height of battle, but the important thing was that it happened. For example, pilots coming to assist Americans usually had no way of knowing the color of the Americans down below, nor, of course, did they ever ask. It was enough to know that they were Americans.

I distinctly remember one situation in which the pilot—whom I knew to be white—probably did know the man on the ground was black because of his use of ghetto street slang over the radio. The black was the radio man in a squad that had set up a night ambush along a trail used by the Viet Cong. They ran into a much larger enemy unit than was expected, and a major fire fight ensued.

The radio man was separated from the rest of his unit, all of whom he believed had been killed. He was alone, in the middle of the jungle on a dark night, surrounded by the enemy and beginning to panic.

After he informed us what happened, we quickly called a helicopter unit to come to the rescue. I can remember to this day listening to the conversation between the white pilot and the black soldier.

The pilot first calmed him by assuring him he wouldn't leave him and would stay there until he got him out alive. Then, by a series of stealthy maneuvers, the radio man signaled his position on the ground. The pilot then flew close to the ground not only exposing himself to enemy fire but also coming close to the trees, which he could barely discern in darkness. Finally, after guiding the radio man to a clearing in the woods, he landed and picked him up.

It hadn't mattered that a heavily armed Viet Cong unit was down below. It hadn't mattered that one man was black and the other white. At that moment, all that seemed to matter was that they were both Americans.

One of my most vivid memories of Vietnam came, ironically, after the war was over and from an experience in North Vietnam rather than in the south. In 1977, I traveled to Hanoi as part of a special commission headed by Ambassador Leonard Woodcock to seek an accounting of our more than 2,300 men still missing in action.

At the end of three days of negotiations, Vice Foreign Minister Phan Hien told us that his government was prepared to turn over the remains of 12 American servicemen. The next day, the caskets were brought to Gia Lam airport.

Standing at the rear of our C–141 Air Force plane, we Americans held a brief ceremony as we received the bodies of our fallen comrades. Placing an American flag on top of one of the coffins, I felt as never before that special bond that existed between Americans engaged in combat in Vietnam. We had all lived by the maxim that even in death we would not abandon each other. And here on a gray overcast day in our wartime enemy's stronghold, I was keeping faith with 12 men I had never known in life. The simple fact that they were Americans was all I needed to know.

During Armed Forces Month in May, as we reflect on the brave exploits of Iowans in all our nation's wars, it would be well to note that, despite all the controversy that surrounded our involvement in Vietnam, our fighting men there performed as bravely as those who fought in other wars. Moreover, during moments of high risk and danger, they demonstrated that ultimate virtue that binds us together as a people and a nation—they kept faith with their fellow Americans.●

JUSTICE POTTER STEWART

● Mr. DURENBERGER. Mr. President, next week, on the eve of our Nation's 205th birthday, we will lose the full-time services of one of our country's most dedicated and professional public officers. After almost 23 years on the Supreme Court, Justice Potter Stewart will step down to take up the full-time roles of husband, father, grandfather, and private citizen.

History will remember Justice Stewart in the manner of his own words: "A good lawyer who did his best." Since taking his place as the Nation's youngest Federal judge in 1954, Justice Stewart has faced the most difficult issues of our generation. His consideration of the many cases that have come before him has been marked not by ideology, but rather by a commonsense adherence to the rights of every individual.

A large share of the congratulations and thanks that we owe Justice Stewart is also due his wife, Mary Ann. All of us in public service know the sacrifices

our families make. The long hours, the time away from home, the economic gains many of us give up and the other demands on the families of public servants place a tremendous burden on home life.

In her own right Mary Ann Stewart also has been a dedicated public servant. She has contributed her time and talents to numerous organizations, including the National Center for Voluntary Action (volunteer) where I served with her. She richly deserves to share the accolades that are due the Stewart family.

Mr. President, I found it interesting to note that Justice Stewart's decision to retire from the Supreme Court was prompted by a letter from Donna Gallus, a St. Cloud, Minn., high school student. Donna put the question to Justice Stewart that many Americans ask of their public servants: "* * * Why have you stayed on the Supreme Court so long?"

Justice Stewart responded with typical wisdom: "It's better to go too soon than to stay too long." With that, he announced his retirement.

Many times I and others have asked Donna's question of our elected and appointed officials. The answer often has been less than satisfactory. Earlier this year, I introduced Senate Joint Resolution 24 to limit Federal judicial terms to 10 years. I am also an original cosponsor of legislation to limit terms of Senators and Members of Congress.

The point of this constitutional amendment is to return the Federal judiciary to "citizen jurists"—to men and women who will commit a substantial and most productive portion of their lives to society in significant public service.

Admittedly, my amendment would have the effect of retiring skilled and dedicated men and women like Justice Stewart. But, with all respect for the outstanding talents of the retiring Justice, I know that there are many more "Justice Stewarts" in our country who are waiting only for the opportunity to serve.

The progressive turnover assured by my amendment would insure a flow of fresh ideas and perspectives to the Federal judiciary. It would give our country the opportunity to benefit from a decade of service from men and women like Justice Stewart, and would prevent us from suffering anymore than 10 years of service by those who fail to meet our expectations.

In sum, we attract the good and weed out the not so good. We accept the wise philosophy of Justice Stewart that it is better to go too soon than to stay too long.●

THE INTERDEPENDENCE OF ALL NATIONS

● Mr. DURENBERGER. Mr. President, recently my distinguished colleague from Marvland. Senator CHARLES MCC. MATHIAS, JR., addressed the farewell dinner of the Hubert H. Humphrey North-South Fellows at the Hubert H. Humphrey Institute of Public Affairs at the University of Minnesota.

Senator MATHIAS spoke on one of the most important issues facing our country and our world—the interdependence of all nations. In his typically direct and well-researched style, Senator MATHIAS makes a convincing argument for a strong U.S. role in promoting the development of other nations.

Senator MATHIAS points out that our own economic problems must be the first item on everyone's agenda. However, we cannot lose sight of the political and economic benefits due the United States from promoting and assisting development in other nations.

Mr. President, as always, our distinguished colleague from Maryland has given us a lot of food for thought. I wish to share his comments and ask that his speech be printed in today's RECORD.

The speech follows:

WE WILL BE REMEMBERED . . . FOR THE POWER OF OUR COMPASSION

(By Senator CHARLES MCC. MATHIAS, JR.)

It is a great honor to be asked to address the Farewell Dinner of the Hubert Humphrey North-South Fellows. To be given the last word with men and women who will shape my children's world is a rare privilege and a heavy responsibility. I accept with humility.

My only regret, as we embark upon this evening together, is that none of the Hubert Humphrey North-South Fellows had the ineffable experience of knowing the man himself. Hubert Humphrey was an absolutely extraordinary human being—a dynamo of energy—a torrent of love and enthusiasm and words. If Hubert were in my place tonight, he would convert all of you to everything he believed. In the process, he would delight you and he would talk your ears off.

I hope to make a few converts myself tonight. But, while I may not delight you as Hubert would have, your ears are safe with me. I will observe the three G's, sacred to dinner speakers who hope to be invited back: Get up, Get down to cases, and Get down. I'm already up, so we're a third of the way home

Getting down to cases is not hard, if you have a text from Hubert Humphrey to guide you, which I have. Mine dates back 15 years to a dinner, such as this, where Hubert reminded his fellow citizens of a very fundamental truth. He told them:

"We will be remembered not for the power of our weapons, but for the power of our compassion, for our dedication to human welfare."

That was 15 years ago. Last year, the nations of the world spent more than $500 billion on weapons, with the United States and the Soviet Union accounting for the lion's share. But no area of the world was immune from this madness. The Third World spent $80 billion, or 16 percent of the total, which is double what it had spent 10 years earlier.

You and I know that there is a sane alternative to the arms race. It is the development race. But, unfortunately, in the United States today the constituency that backs development over arms is shrinking. And there is no Hubert Humphrey around to scold us as we stray from the paths of reason and to summon us to the duties our humanity requires of us.

Hubert Humphrey believed devoutly in humanity and in the possibility—when you listened to him, it was the inevitability—of development. He worked every day of his life to make the world better and happier. He believed that all good things were achievable and that each person was duty-bound to strive to build a more humane, prosperous and peaceful world.

I know that you share those ideals and that you are working to translate them into reality in your own countries. But you may also share a sense of frustration with the pace or pattern of development and with the state of North-South relations. I don't blame you.

In the United States and in other rich countries misperceptions about development abound. Americans, in particular, seem to believe that development is not taking place, that foreign aid has largely been wasted. The sad truth is that I rarely receive a letter supporting foreign aid. It is just a non-subject.

There is a reason for this, I think. Americans have very short attention spans. As a nation, we are in love with success, and we are accustomed to getting quick results. If we don't see an immediate return on our investment of money, or effort, or care, we tend to turn our thoughts and our energies elsewhere. As a songwriter put it, in another context: "Unrequited love's a bore."

Foreign assistance programs are working, both in terms of higher economic growth rates in developing countries and in terms of reducing the levels of misery for the poorest people. But development does not take place overnight and, unreasonably, Americans become impatient when countries mired in poverty for centuries do not attain U.S. living standards within a decade. We have not been able to sell the American people on development because the evidence of success is too slow in coming to suit the national temperment.

It seems to me that the greatest service alumni of the Hubert Humphey North-South Fellowship Program could render the United States would be by acting as a communications network to spread the word in this country that development is working. It may surprise you to hear an American politician ask you to propagandize the American people, but that's exactly what I'm doing. When you go home, keep in touch. Tell us of your plans and of your progress, of your hopes and your dreams. And tell us when and how we can help you.

There is, I believe, a growing understanding in the United Sttaes of the interdependent nature of the world we live in. I am hopeful, in time and with your help, this understanding will be reflected in an expanded commitment of resource assistance to the developing countries of the world. In the short run, however, I am not optimistic that the American people will endorse such an expanded commitment.

Right now Americans are preoccupied with their own problems. They are looking inward and they don't like what they see—inflation, unemployment (some of it caused by foreign competition) and a flagging economy. Congress today reflects the public mood. Priority number one on every agenda is to solve our own economic problems.

The Ronald Reagan remedy is to cut federal spending to get a handle on inflation and to cut taxes to stimulate investment and reinvigorate the economy. If it works, if Americans see some evidence that economic conditions are improving, I think we will see a shift of attention outward again, toward the rest of the world.

But right now, while domestic spending programs that affect the needy and the elderly are being cut, it is difficult to drum up much support for foreign assistance. A laidoff factory worker in Detroit or an unemployed teenager in Baltimore just isn't very susceptible to the blandishments of politicians about the importance of foreign aid. It is particularly difficult just now to sell the idea of providing U.S. tax dollars to

multilateral lending institutions over which we are perceived to have little direct control.

Long ago Marcus Cato identified our problem when he reminded the citizens of ancient Rome that "It is a difficult task to make speeches to the belly which has no ears".

The task is difficult—very difficult—but not impossible. The American worker recognizes self-interest as well as anyone. Someone once said that "man's most sensitive nerve is the one that runs from his brain to his wallet. Tweak that nerve and he's sure to respond."

The way to tweak that nerve in America on the development issue is by showing two things:

First, that American aid dollars end up buying American goods and services, and

Second, that trade follows aid.

Support by the United States for development is far from being an act of pure altruism, although this is the American perception of it which we must work together to dispel.

Development entails significant economic and political benefits for the United States. For example, in the 35 years since the World Bank was founded, the United States has supplied $934 million in paid-in capital while $6.4 billion in contracts have gone to U.S. companies.

That's the kind of "altruism" a hardheaded, tight-fisted American worker can identify with, if he's told about it.

Access to secure supplies of minerals and raw materials at relatively stable prices is one facet of the American economic stake in developing countries. Another is that the United States currently sells 40 percent of its manufacturing exports to developing countries. These countries form the fastest growing market for U.S. exports, expanding at a rate of 20 percent a year compared to 15 percent for U.S. exports to developed countries. The developing countries are also major purchasers of U.S. agricultural commodities and will inevitably become better customers as their populations expand. In turn, we import 50 percent of the goods they manufacture.

The facts are clear and I really do believe that it is only a matter of time before they sink in and bring American perceptions in line with world reality. You Hubert Humphrey Fellows can give that process a powerful assist, as I suggested earlier, and I hope you will.

There are other misperceptions you can help to clear up as well. Just as Americans are prone to underestimate the mutual gains from foreign assistance and economic development, leaders in developing countries sometimes underestimate what can be accomplished without massive aid transfers. The Green Resolution is an excellent example of the achievement which is possible when appropriate technology is combined with skillful management.

I know there is always the nagging question of whether new discoveries will keep pace with the expanding needs for food, energy, health, etc. No one can be sure, but to help dispel the gloom, consider the ray of hope the tiny lantern fish provides from the bottom of the sea. The lantern fish is about the size of a sardine; it looks like a miniature trout and it glows in the dark. A U.N. research program recently discovered about 100 million tons of lantern fish in the Arabian Sea alone. When you consider that the total annual world fish catch is 70 million tons and that lantern fish are found in every ocean, you can imagine the potential protein resource available to developing countries with seacoasts.

That is the promise; the problem is to find ways to catch the lantern fish, and teach people how to harvest it and use the protein. That will be one of the many jobs for you and your colleagues as leaders in developing countries.

Fortunately, the possible breakthroughs in development are not limited to the lantern fish nor to its more famous distant relative, the Antarctic krill. There is great promise for agriculture-enhancing discoveries in current research on biological fixation of nitrogen and genetic enginering. The energy problem may recede as renewable energy resources and energy conservation programs are developed. The expanded rate of oil and gas exploration may yield dramatic results as well.

I do not mean to suggest that new technology will always provide the answers. The challenge you face includes knowing when to preserve traditional approaches which are effective.

As leaders of developing nations, you have the awesome responsibility of deciding how to combine traditional and modern methods in order to achieve development objectives. I urge you to proceed with all the perseverance and unswerving optimism of Hubert Humphrey because the greatest enemy of development is despair.

Recently, warnings have been sounded on all sides about the common peril facing mankind. The Global 2000 report is the most recent study in the United States to point to the terrible risks which can arise from rapid depletion of the world's resources, explosive population growth and increasing pollution of the air and water we all use. If present trends continue, the report says:

"The world in 2000 will be more crowded, more polluted, less stable ecologically, and more vulnerable to disruptions than the world we live in now. . . . For hundreds of millions of the desperately poor, the outlook for food and other necessities of life will be no better. For many it will be worse . . . unless the nations of the world act decisively to alter current trends."

Barbara Tuchman, who comes at these facts with an historian's perspective, has explained why predictions of doom have so often missed the mark. ". . . (D)comsayers", she writes, ". . . take a trend and extend it, forgetting that the doom factor sooner or later generates a coping mechanism". One of the greatest challenges we face is to trigger that coping mechanism in time to avert catastrophe.

We live in one of the great transition periods in human history. The future of civilization may well depend on the decisions we make—or fail to make—in this decade. We have an urgent agenda before us. But we also have at our disposal unprecedented resources—both human and technological—for attacking the problems on that agenda.

A miraculous future is certainly possible but for one thing: The dismal failure of political wisdom to keep pace with the extension of human knowledge. We are almost literally able to control the forces of nature, but we still cannot control the forces of human nature. This is the greatest of all the challenges we face.

I belong to a small group called the Congressional Clearing House for the Future which aims to stretch the minds of people like me, who are so hemmed in by today's problems that we tend to believe that tomorrow never comes. Not long ago, at one of our meetings, someone asked Arthur C. Clarke, the great science fiction writer, what would happen to the universe if we destroyed ourselves.

"The universe wouldn't notice," he replied. "But," he continued, "in a few thousand years the universe will notice if we do not destroy ourselves. One day humans may control the destiny of the stars. . . ."

Paul Valery once remarked that: "The trouble with the future is that it isn't what it used to be." But he got it wrong. The future is better than ever. The question is: Are we?

The answer to that question rests with you—the leaders of the future.●

THE FOREIGN SERVICE THAT COULD BE

● Mr. PELL. Mr. President, I have long had a special interest in this Nation's Foreign Service. I spent 7 years in the State Department and the Foreign Service, and am the only Member of the Senate to have served as a Foreign Service Officer. And while we do have a Foreign Service in which we can all take pride, I believe that it is crucial to America's future and security that we do all we can to strengthen and improve the Foreign Service.

In February 1965, then Deputy Under Secretary of State for Administration William J. Crockett addressed the American Foreign Service Association. He discussed the condition of the Foreign Service at that time, both its strengths and some of its problems. He also looked toward the future, outlining "The Foreign Service That Could Be."

Mr. President, in order that Mr. Crockett's remarks could reach as wide an audience as possible, I asked in 1965 that his address be printed in the RECORD. Upon rereading his comments, I find them as realistic, refreshing, and timely now as they were than and I ask that Mr. Crockett's address, "The Foreign Service That Could Be," be printed in the RECORD.

The remarks follow:

THE FOREIGN SERVICE THAT COULD BE

(By William J. Crockett, Deputy Under Secretary of State for Administration)

I have given much time and thought to the Foreign Service—what it is, how it got that way, and what it must become. I would like to share with you today some personal reflections and convictions about this truly great institution of ours—the Foreign Service.

Ours is an old Service steeped in all of the significant events that have been a part of the history of our country.

Ours is a proud Service not only because of our historic past, but because of the vital part we shall play in our country's future.

I sincerely believe ours is the best Foreign Service—quite capable of meeting the challenges that face our country.

One reason the Service is what it is, today, is our heritage of greatness.

From the past come our traditions of loyalty and heroism; traditions of excellence and professionalism; traditions of devotion and public service.

These great traditions not only serve as benchmarks—but they are a part of the historic lore that is so essential to the ongoing esprit of our corps.

A senior Senator recently paid us a great tribute when he likened the Foreign Service to the Supreme Court as an institution of public service.

For all of this, and more, we are forever indebted to our retired officers.

They built the Service. We need their continued interest and hope for their constant support.

I hope that July 1 of each year will become our "anniversary homecoming day" for the Service—for those who have retired as well as for those who are on active duty. We are working now on such a program for next July.

We have a ceremony on the eighth floor each Thursday for officers who are retiring from the Service. I invite all of you retired

officers to join us in saying goodbye and godspeed to our retiring colleagues.

It has been a part of our historic past that each senior officer has felt and assumed a responsibility for the future of the Service. There are many things that the State Department as an institution can do and has done for the good of the Service—training, housing, allowances, schools, medical facilities, rest and recuperation—and sometimes it even has provided home-leave funds.

However, our profession, like judgment, can't be learned in school for it can't be taught in school. It, like the crafts of old, must be imparted, from master craftsman to apprentice, in the heat of a real situation.

Each senior officer not only has a substantive job to do, but he also must be a teacher and counselor of young officers.

Only you can demonstrate to younger colleagues the importance of intuition and instinct, as well as the insight and understanding that are a part of your judgments and professionalism. Only you can demonstrate and impart the qualities of leadership that will make today's youth tomorrow's leaders.

Just the other day an ambassador recounted with pride the success of many officers who had served apprenticeships under him. This is our tradition.

Our present and our future will be secure so long as each of us takes the time and makes the effort to teach people as well as to work and judge them.

A third heritage which I hope we won't lose sight of is the individual officer's conviction that his excellence and his success are primarily his responsibility.

Again the institution—the State Department— should give career guidance, and educational opportunity and scientifically tailored assignments and all the other paraphernalia of modern management techniques in support of our common struggle for excellence. But, today as it was yesterday, the basic responsibility for growth rests with the individual.

Young officers in particular should keep in mind that every job in the Foreign Service offers opportunity and challenge. They have only to seek them. The shortcomings of our institutional programs, direction, and organization, cannot excuse an officer's lack of personal initiative for making the most of every opportunity.

Each officer is responsible for his own professional improvement, and for his personal conduct. Each must decide what he wants and what he is willing to give of himself in order to achieve our objectives in the Service.

But it is of the future that I wish to speak today—"The Foreign Service That Could Be."

The framers of the Foreign Service Act of 1946 had a vision of greatness for the Foreign Service. They, like the framers of our Constitution, enunciated fundamental principles for achieving greatness.

Like the Constitution, the act does not establish a rigid procedure for reaching those high objectives. And wisely so, because the methods for attaining the goals will change, while the goals will remain unchanged.

We must accept the idea of change if the Service is to be as great as the expectations of those who created it.

What should the Service be in order to meet the future? Specifically I don't know. I don't know whether it should be bell-shaped, or an inverted pyramid; I don't know whether it should be composed of generalists or specialists. But this much I do know. It must be large enough, and diverse enough, and good enough to fulfill the Nation's needs.

And I also know that in order to do this we must keep pace with change—with the new frontiers of knowledge—science, space technology, development economics, and others, for all these things will play a part in our problems of the future. We must as Loy Henderson once said, be dynamic in a dynamic era.

Our challenge then is to recognize the changes we must face and then find the means and adopt the methods to become the Service that could be.

The Foreign Service could be more fully understood by the American public.

We have begun to tell America about this great Service of ours—to build the public support we all would like. Under our community services program, Foreign Service officers and their wives visit their hometowns and make themselves known in their own communities. They use their home leave to speak before service and church groups, social organizations, and on television and radio. This has produced hundreds of hours of free TV and radio time and much of favorable newspaper treatment of our Service. Our officers and their families have enjoyed their participation in this program and have opened the eyes of many Americans who have learned about us for the first time.

President Johnson once said "The failure to communicate to our own people the success of American efforts abroad is, in no small part, responsible for many of the difficulties in maintaining support for our international policies and programs."

If the people of America can be made to understand that the Foreign Service is made up of people like themselves, like their own friends and neighbors, they will have a greater confidence in the Service and in the State Department.

These are forward steps but there are also backward steps. We build and we tear down.

I am distressed and disturbed by what I read and hear about us.

By the very nature of our responsibilities, we can't avoid being the center of public debate and controversy. The kitchen is hot and we like it that way.

But must we, as a Service, add fuel to the fire?

Can we gain the respect of the Nation if we don't respect ourselves? Can we gain public understanding and support if we cast doubt upon each other?

We bewail and deplore our poor congressional image, or lack of constituency and our bad press. But why should this surprise us when much of what is said and what is written about us comes from what we say and what we write about ourselves? Are we really the overstuffed—overstaffed—overstymied State Department and the highest paid third-rate Service in the world?

Does this actually represent your evaluation of the Service? It doesn't represent mine. I believe that we are the best Foreign Service in the world and we are getting better all the time. Our standards of conduct are high. Our security standards are high. Our professional standards are high. Our esprit is high. Let's talk and write this way.

The framers of the 1946 act emphasized that ours should be an American Foreign Service.

Through our recruitment process and our college relations program, we interest the finest and best young men and women of America in the Foreign Service. They come from every section of the country and from every ethnic background. They come from more than 400 universities and colleges located in every State of the Union.

But starting with typical Americans to represent us abroad is only part of the story. Our people must remain American.

The framers of the act of 1946 stated that "Foreign Service officers should be brought back home throughout their careers as often as possible to renew their knowledge of developments in the United States and their feeling for the American way of life."

The first responsibility of every person going abroad, President Kennedy once stated, is to represent America to a foreign land, not that foreign land to America.

The Wriston program has accomplished much for the Service—it has enriched and enlarged it. But if I were asked to cite the major benefit from it, I would say that it provided the opportunity for all officers to serve regular tours of duty in Washington. Not only has this enabled us to participate deeply in foreign policy formulation and execution, but it has enabled us as Foreign Service officers to gain renewed appreciation and understanding of our own country. A Washington tour of duty has become a regular and important part of the Service.

The job of ably and fully representing America abroad is an awesome responsibility, and an occasional Washington assignment does not guarantee preparation for the task. Far from it. But it can be a truly enriching experience.

All of us must take full advantage of our time here to deepen our understanding; add to our knowledge and to renew our feeling of the American way of life so that we can interpret it faithfully.●

NOMINATION OF EUGENE V. ROSTOW

● Mr. PELL. Mr. President, I support, with some misgivings, the nomination of Eugene V. Rostow as Director of the U.S. Arms Control and Disarmament Agency.

Dr. Rostow is coming to this position with a distinguished record as an academician and public servant. He is a man of considerable intelligence and has a deep and probing mind. I hope that as he becomes more familiar with the arms control issues of today, he will gain a better appreciation of the past achievements of arms control and an understanding of the tremendous potential arms control has as an integral ingredient of our national security and as a vital element in achieving world stability. Dr. Rostow was questioned in some detail by the Committee on Foreign Relations in the course of his nomination hearing on June 15. While I was encouraged by some of Dr. Rostow's testimony, my concerns were heightened in some other regards.

I was particularly encouraged that Dr. Rostow, when pressed by the distinguished chairman of the Foreign Relations Committee, the senior Senator from Illinois, indicated that he shares our sense of urgency in regard to the initiation of new Strategic Arms Limitation Talks. Earlier, he had indicated that it might take as long as 9 months for the administration to be prepared to move ahead. When pressed, however, he agreed to do what he could to shorten that period. I very much hope and expect that he will succeed in that effort.

I was also encouraged that Dr. Rostow appears favorably disposed toward action on key arms control initiatives, such as proceeding toward ratification of the Threshold Test Ban Treaty of 1974 and the Nuclear Explosions Treaty of 1976. I concluded that Dr. Rostow is prepared to pursue certain arms control opportunities with some vigor.

I was disappointed, however, at the scant credit he is willing to give arms control for its meaningful and important achievements in the past. He indicated to the committee that he could think of only one successful arms control agreement in modern history—the Rush-Bagot Agreement of 1817, which still limits the naval power we and Canada can deploy on the Great Lakes.

I believe it is not necessary to cast backward 164 years to find an arms control success, and I was disturbed to see Dr. Rostow omit such achievements as the Limited Test Ban Treaty of 1963, the nonproliferation treaty, and the successes of the Nixon and Ford administrations with regard to chemical and biological weapons, the seabed arms control treaty and the treaty banning the military uses of environmental modification techniques.

It was unclear to me just how Dr. Rostow will apply the concept of linkage to nuclear arms negotiations. I hope he will not approach his tasks with so many caveats that success becomes impossible. To illustrate my concerns, Dr. Rostow told the committee that:

> The linkage we seek between Soviet behavior and arms control should not be merely a transitory or isolated Soviet action, the sight of a dove upon the troubled waters, but the restoration of world order sustained by deterrence.

I hope that Dr. Rostow is not setting a standard so high as essentially to preclude success. It may, in fact, be impossible to reach agreement on anything in a contentious atmosphere, but to abandon the effort entirely is to insure failure.

Either effective arms control serves our interest or it does not. If the commitment to arms control is constructed so as to be possible of achievement only in the most benign circumstances, it will surely fail to produce the results we desire from it. I was further worried by what seemed to me as a dismissal of the importance of the strategic arms limitation talks, and of nuclear nonproliferation objectives, and by the lack of any concrete commitment to making progress on such matters as a prohibition on the development and deployment of antisatellite weapons and a prohibition on the production of chemical weapons.

In general, his testimony appeared to demonstrate an insensitivity to the potential and value of arms control and an insensitivity to the terrible dangers of nuclear war. For example, he basically skirted questions I posed to him on the effect of limited and full nuclear exchanges. He pointed out that deaths of 10 million on one side and 100 million on the other are not the whole of the population. When I asked him whether a country would survive a nuclear attack, he responded, "the human race is very resilient, Senator PELL." He pointed out that Japan, where two nuclear weapons of less than 20 kilotons which were used at the end of the war, "not only survived but flourished." I wondered why he did not differentiate between two relatively small bombs dropped on Hiroshima and Nagasaki, on the one hand, and a situation involving the exchange of thousands of nuclear weapons of incredibly greater explosive force on the other.

Mr. President, I hope that this will help my colleagues to understand my misgivings. I reiterate, however, that I believe that Dr. Rostow's intellectual depth and background can serve him in good stead at the Arms Control Agency. He has the potential for being an excellent Arms Control and Disarmament Agency Director. It is on the basis of these prospects that I now support his nomination.●

MODERN MIRACLES OF COMMUNICATION REQUIRE DEDICATION OF MANY TALENTED PIONEERS SUCH AS DONALD BROOKS MORRIS OF FAIRMONT, W. VA.

Mr. RANDOLPH. Mr. President, last month it was my privilege to participate in a ceremony at Etam, W. Va., dedicating a giant new antenna for the world's busiest Comsat station.

During that event, tribute was paid to the well-known giants of electronics and communications industry, beginning with Marconi's invention of the high-frequency wireless telegraph in 1901.

All participants in the Etam event were aware that inventions without applications and continuing refinements cannot change the world. In my address, I commended the skilled Comsat workers and electronics experts who have given us the world's best communications system.

Throughout the communications industry, there are those talented people who grew up with the miraculous development of electronics, and adopted each new invention as a natural progression of the craft. Some who cut their teeth on the crystal set became leaders and organizers in the growing field.

Such an individual was Donald Brooks Morris, who died last month at his Fairmont, W. Va., home at the age of 70. Mr. Morris was a true radio buff, and throughout his lifetime worked to enhance the professionalism of the communications industry. I join with his family and friends in saluting this outstanding man, and ask that a newspaper obituary from the Fairmont Times-West Virginian be placed in the RECORD.

DONALD MORRIS, RADIO BUFF, DIES

Donald Brooks Morris, a West Virginia pioneer in electronics and communications, died Sunday evening in Fairmont General Hospital. He was born March 13, 1911, in Marion County, a son of the late Brooks L. and Minnie Catherine Fitzwater Morris. He resided at 1136 Morning Star Lane.

Survivors include his widow, Dorothy Shields Morris; one son, Donald B. Morris, Jr., of Waynesboro, Va.; a daughter, Mrs. Michael (June) Thompson, Weston, Conn.; one sister, Mrs. Harry (Helen) Meighen of Fairmont; and four grandchildren, Tammy, Jeff, and Brad Thompson, and Jennifer Morris.

Morris graduated from East Fairmont High School in 1928 and the same year he was licensed and became active in the radio field. He held the call letters of W8APN, W8IXD, W8JFV, and W8JM, and operated all bands from 160 through 2 meters at various times.

In the 1930's he was a desk sergeant for the Fairmont city police department and installed the first two-way radio system for the police department. He was cited for emergency work in the Ohio River flood in 1937, and assisted at the floods of 1950 and 1951 at Petersburg, Moorefield and West Union.

He was a co-founder of the Mountaineer Amateur Radio Association and served as its first president. He originated the West Virginia Radio Council in 1960 and served for several years as its president. He started the state convention at Jackson's Mill in 1959 and was president and general chairman from 1959 through 1963. He served eight terms as SCM of West Virginia.

Morris was an honorary member of the Kanawha Radio Club, Tri State Club of Huntington, KERA Radio Club of Ravenswood, and was assistant director of the Roanoke Divisions for five terms. He was a member of the Military Affiliated Radio Systems known as MARS. He was the recipient of many outstanding honors and awards for his service in the field of communications including the West Virginia Centennial Award.

In 1964 he was named the Outstanding Amateur of the Year in West Virginia. He was administrative director of the American Radio Relay League, Inc.

He was an electronics technician with the Monongahela Power Co., until his retirement. He was a member of the First United Methodist Church.

PUBLIC BUILDINGS PROGRAM

● Mr. MOYNIHAN. Mr. President, last week the Washington Star published a series of articles on the public buildings program of the General Services Administration. The articles cogently described many of the failings that have concerned those of us on the Committee on Environment and Public Works who are charged with overseeing the GSA's Public Buildings Service.

Our awareness of those problems prompted us to declare a moratorium on public building approvals in March of 1979 and to develop remedial legislation, which we first introduced in December of 1979. Although that bill, of which I was proud to be chief sponsor, did not survive a Senate-House conference last year, we reported a similar bill this year, and it passed this body on May 6 by a vote of 93 to 0.

As Chairman STAFFORD, Senator RANDOLPH, and I have stated on many occasions in discussing that legislation, some of the failings of the public buildings program can be laid at the doorstep of the Congress. The existing Public Buildings Act and the congressional authorization procedures it established simply do not provide the General Services Administration with the requisite authority or incentive to carry out a well-planned, efficient, and economical program.

The article printed by the Star on Wednesday, June 17, makes this point very well. I commend the article to my colleagues—and to our counterparts in the other body, as well, some of whom have resisted our reforms. I think it of singular import that Howie Kurtz, author of the Star series, who clearly devoted considerable time to its research and writing, also identified authorization procedures created in the 1959 Public Buildings Act as a cause of some of the egregious faults of the program.

Mr. Kurtz's finding recalls that of the General Accounting Office, which last year reported:

> The existing congressional authorization process does not require GSA or the Congress to establish priorities or to link authorization and planning to budgeting . . . we continue to believe that the proposed authorization and planning procedure in Senate bill 2080 is an improvement over the current piecemeal prospectus authorization procedure.

Mr. President, I had occasion to remark during the course of the conference on this legislation last year that its reforms have no constituency. It is about good management in one of the most mundane—but essential—aspects of the day-to-day business of Government. I am, therefore, most gratified to see the attention given it by the Star and I ask that a copy of the June 17 article be printed in the RECORD following my remarks.

May I just note one inaccuracy in a piece of reportage otherwise noteworthy for fastidiously accurate detail? The article identifies me as ranking Democrat on the committee. The senior Senator from West Virginia (Mr. RANDOLPH), our beloved former chairman, holds that honor, of course, and he has been steadfast in urging a cleanup of our public buildings affairs.

The article follows:

CONGRESSMAN'S WISH IS PANEL'S COMMAND

(By Howie Kurtz)

In the waning days of the lame-duck session of Congress last year, one of the few items to make it through was a new $13 million federal courthouse and office building for the small community of Redding, Calif.

The bill was somewhat curious for the General Services Administration admitted to Congress it knew of no plans to station a full-time judge in the Redding area. And the other major tenant proposed for the building, the Agriculture Department, conceded it had no need for the extra space.

But Redding is the hometown of former Rep. Harold T. "Bizz" Johnson, D-Calif, the longtime chairman of the House Public Works and Transportation Committee until he was defeated in November. Johnson had asked for the building a few months before, and GSA officials wasted little time in accommodating the chairman who oversees their agency.

Sen. Alan K. Simpson, R-Wyo., who tried in vain to stop the Redding building, says the entire process by which Congress approves public buildings is "ridiculous" and "disgusting."

"In these types of projects, the 'need' is simply the chairman's whim," Simpson said. "From now on, if a member of either body is retiring, then I propose that we give him or her a solid gold, $50,000 watch—carefully engraved, 'Paid for by the Taxpayers'—and that will be eminently less painful . . . than any $13 million building."

Several other influential members have managed to push through questionable federal buildings for their home districts. Few legislators want to challenge the system publicly for fear of endangering a dam or a highway or some other federal plum for their own districts. And committee chairmen often trade these costly projects for votes on other key issues.

What makes this sort of horse trading so easy is that unlike any other piece of legislation, each new federal building, lease or repair job over $500,000 can be authorized with just a stamp of approval from the House and Senate public works committees. While both houses later must approve the actual financing, the projects themselves never have to face a floor vote in either chamber.

In the case of the Redding courthouse, the House Public Works Committee approved the building after a one-day hearing, then engaged in some last-minute negotiating with the Senate Environment and Public Works Committee. Members of the Senate panel were told that unless they approved the building for "Bizz" Johnson, the House committee would not approve money for a leased GSA building in Providence, which was being sought by Senator John Chafee of Rhode Island, or for a border station favored by Senator George Mitchell of Maine.

Former Representative Johnson says the rapidly growing 200-mile area around Redding has "ample need" for a courthouse for the future. But others maintain that what really won the okay for Johnson's pet project was the House members' final demand: without approval for the Redding building, they would not even consider a Senate bill designed to reform the entire GSA building program.

The Senate side gave in, but as it turned out, the reform legislation died anyway in December during bitter deliberations by a House-Senate conference committee. The bill was recently resurrected, however, and a few weeks ago the Senate passed it again 93 to 0.

Proponents of the reform measure argue that the House and Senate committees look at each building project on a piecemeal basis, without comparing one to another or to any annual budget scheme. Congressional committees often approve dozens of projects at a time, they say, without planning for the government's future needs and with little notion of how GSA's Public Buildings Service should spend its $1.6 billion annual budget.

As a result, the bill's backers contend, Congress sometimes approves buildings that shouldn't be built and spends too much money on rent and alterations. Republican Senator Robert T. Stafford of Vermont, chairman of the Senate Public Works Committee, admits "there is no coherent policy on federal buildings," only "increasing disarray."

The reform bill, sponsored by Stafford and Daniel P. Moynihan of New York, the committee's ranking Democrat, would require GSA officials to give Congress an annual list of every project they want in order of priority. They also would have to devise five-year construction plans, and each project would have to be cleared by both houses of Congress. But the two houses are still quarreling over this approach.

"The whole idea of committee approval is a sham," said a Senate official who works on the public buildings program. "Most of these buildings are outside Washington, and we don't know a damn thing about them. We always approve them. We never turn them down. It's pretty irresponsible, but what else can we do?"

Rep. Elliott H. Levitas, D-Ga., a House Public Works subcommittee chairman, insisted that his panel reviews each project carefully. If there were an annual appropriations bill, he says, dozens of members would load it up with costly pet building projects in their home districts.

"The pork would be coming out between your toes and your ears," Levitas said. "It would be the biggest pork bill ever to hit the floor."

But the Senate panel disagreed and simply refused to approve any GSA project for more than a year. "The House has hearings with 20 or 30 leases at a time," a Senate aide said. "The question is whether we have a pork barrel Christmas tree in committee or whether we do it in public where everyone can see it."

Ironically, the projects that get no congressional scrutiny at all are the leases and renovations that cost under $500,000, and it is these smaller jobs that led to indictments against several GSA officials in Washington for accepting bribes and approving fictitious repair work.

The Senate bill also would abolish the procedure that allows individual legislators to demand that GSA evaluate the need for projects in their home districts—often the only projects that Congress will approve.

The measure would also push GSA to reduce the vast amount of space it now leases.

There is growing concern on Capitol Hill because the nation's annual rental bill is now approaching the billion-dollar mark, and more than half of all federal employees now work in rented space. Yet it is Congress itself that has preferred to lease buildings, some members say, because the real cost can be "hidden" in the budget.

When Congress approves a new building, the entire cost of capital construction must be listed in the budget during the first year. But when GSA signs a long-term lease, Congress lists only the rent payments for the first year in the budget—even though the government is committed to pay the rent for the next 20 years.

The trouble, some studies show, is that building federal facilities is really much cheaper than renting them in the long run. GSA is like any other tenant when it comes to renting space: after 20 years all the government has to show is a pocketful of rent receipts.

Another alternative that GSA has turned to in recent years is hiring developers to put so-called "lease-construction" buildings. Under this method, GSA pays a developer to build the building and then rents it for 20 to 30 years, during which time the developer retains ownership. But Moynihan and Stafford want to ban this approach; they say the buildings cost 2½ times as much as direct federal construction and that GSA has little say over their quality or appearance.

One such project in Helena, Mont., ran into two years of construction delays, and when Sen. Max Baucus, D-Mont., asked for an audit, the inspector general's office found it to be "a defective, substandard building."

The building's fire alarm system initially failed to work, so GSA had to pay $52,000 for workers to stand guard all night in case there was a fire.

All of the floors in the building are uneven, some by several inches, which causes some file cabinets to tilt to the side, the auditors found. They also found sound transmission problems that cause voices to carry from one room to the next. All told, the audit uncovered 246 defects that GSA failed to detect.

The developers, John and Barbara Sanderson, have gone into default on the project, and the building is under a bank receivership. But Barbara Sanderson "completely refuted" the audit, saying, "It is unconscionable, unsubstantiated and unsupported. GSA deliberately caused the loss of my financing and wouldn't give me an extension. It's a beautiful building and not one dime is owed to anyone." ●

FALLACY OF SUPPLY-SIDE ECONOMICS

● Mr. HART. Mr. President, on June 12, the Wall Street Journal published an article on the fallacy of supply-side economics by Mr. Walter Heller, former Chairman of the Council of Economic Advisers under Presidents Kennedy and Johnson, and now regents' professor of economics at the University of Minnesota.

Professor Heller points out a number of contradictions in the economic theory underlying the Reagan administration's economic program—contradictions which could result in the failure of this program to strengthen our economy. He points out, for example, that while tax cuts may be work incentives for the wealthy, cutbacks in food stamps and job training programs create a large disincentive for the poor and working poor

to seek or continue employment. He also cites the failure of the administration to invest as heavily in human capital as in new plant and equipment—noting that this kind of supply-side investment, as I call it, is the real secret weapon of U.S. economic leadership. And Professor Heller criticizes the unwillingness of the administration to tackle tax subsidies and loopholes, which have for years discouraged the kind of productive investment supply side economics should promote.

There are aspects of this economic program which each of us can support—and probably have supported in the past before this administration proposed them. But we should not be misled about the effects of a program which is so inconsistent and which does so little to address the real problems in our economy.

Mr. President, I ask that the article be printed in the RECORD.

The article follows:

SUPPLY-SIDE FOLLIES OF 1981

(By Walter W. Heller)

Much of the skepticism about Reaganomics, especially in financial markets, arises out of what one might call the macro-defects of the program:

An expansionary fiscal menu of tax cuts and defense boosts that will outstrip budget cuts by $100 billion a year ago by 1984, coupled with a firm pledge to cut money growth in half by 1986, is seen as an open invitation to tight money, high interest rates and periodic economic indigestion.

A program premised on promises that real GNP will surge ahead at a 4.5% rate in 1982–85 and investment will jump from 10.5% to 14.5% of GNP while inflation drops from 11% to 5% a year and short-term interest rates from 14% to 6% is viewed as a candidate for "That's Incredible."

To get even close to the projected 1984 budget balance, everything would have to break right: plunging interest rates, no defense overruns, Congress coming through with $125 billion of budget cuts by 1984, and the economy hitting on all cylinders. That, too, stretches credulity.

But even if one lays aside these macro-doubts and judges the specifics of the Reagan program just by its supply-side tenets, one finds that micro-defects abound. Again and again Reaganomics fails to meet its own supply-side tests of spurring incentives to save, work and invest and channeling resources into efficient and growth-promoting uses.

Take savings stimulus. Never mind that the savings the nation may gain from the incentive effects of lower marginal tax rates under the 5–10–10 plan will be wiped out and then some by the continued deficits arising out of big tax cuts. The most effective single instrument the federal government can use to boost saving is to reduce its own dissaving (its own deficits) or run surpluses in a high-employment economy. What good does it do to stimulate private saving by deep tax cuts if such saving is more than offset by increased public dissaving?

The supply-siders argue that the saving induced by tax cuts will provide a non-inflationary source of financing for the continued federal deficits. (After years of inveighing against inflationary Democratic deficits, the Reaganites now assure us that Republican deficits need not be inflationary.) At the same time we are assured that the new flow of savings spurred by tax cuts will fuel an investment boom. Elementary arithmetic tells us they can't use the same savings twice.

A RUDE JOLT

Then there is the question of the savings surge itself. Except in the high, wide and handsome brackets above $50,000, two opposing attitudes may give Treasury hopes of increased personal saving a rude jolt.

On one hand, putting three years' tax cuts on the books at once may irresistibly tempt inflation-wise consumers to buy cars and other durable goods on the cuff, counting on surefire tax cuts to pay the installments. Here, "unnamed White House sources" have made clear that the motive is more political than economic: "If Congress hasn't got the money, it can't spend it."

On the other hand, taxpayers who see through the nominal tax cuts and recognize that they will get little or no real relief on marginal tax rates won't have any incentive to save more. Especially in the critical middle range between $16,000 and $35,000, where brackets are narrow, the inflation pump will push marginal rates up as fast as Kemp-Roth pulls them down.

On this front, the Kennedy tax cut analogy so often cited by the supply-siders breaks down. Savings stimulated by the 1964 tax cut came from real marginal rate cuts in a non-inflationary environment, not illusory ones that high inflation in the Eighties will snatch away.

A puzzling inconsistency in the supply-siders' approach is their unwillingness to tackle tax shelters and deductions that have perverse supply-side effects. Cut high-bracket rates to boost savings? Fine. But cut off the tax deduction for interest on consumer debt and thereby remove a spur to spending (and hence a deterrent to saving) that costs the Treasury $6 billion a year? Or curb mortgage interest deductions and other tax breaks for housing that siphon funds away from productive machinery, equipment and plant? Or end the use of tax-free industrial revenue bonds ($8 billion in 1980) to finance private investments in everything from factories to golf courses, K marts and hamburger stands? None of these supply-side improvements has been put on the White House economic agenda. Why not? "We were elected to cut taxes, not increase them."

What seems to escape the supply-siders is this: Eliminating tax subsidies that discourage saving and distort investment has the same effect as granting tax reductions that encourage saving and promote investment. Indeed, true-blue supply-siders ought to insist on (a) cutting back tax preferences that deter saving or divert resources from the efficient uses into which the free play of market forces would channel them and (b) plowing the resulting revenue proceeds into reductions of marginal tax rates. *That* would double the bank for the supply-side buck.

A related supply-side puzzle centers on the 10-5-3 depreciation plan (even as now modified in the "coalition program"). It throws an awful lot of money at the investment problem, over $50 billion a year when fully effective. We need to stimulate capital formation and innovation. But is this the most supply-effective way to do it?

The modified Reagan capital recovery program would still divert industrial investment from equipment to structures and would confer huge tax benefits on big utilities and manufacturing companies and on the oil and gas industry. But there is very little in it for high-technology companies, small business and service industries with low capital requirements.

To make matters worse, the slow phase-in over five years creates an incentive to postpone investment to get a better tax break. And the combined benefits from 10-5-3 and the investment tax credit in some cases wipe out more than 100 percent of the corporate tax liability (and thus create juicy new tax shelters). The net result is a sloppy supply-side measure.

One has to hope that the Congress will work out a tighter formula, speed up the schedule (even if personal tax cuts have to be delayed a bit), and give a better break to small business and the industries that rely on human investment and research and development. It could thus significantly enlarge the supply-side payoff from the $50 billion-plus package of investment tax benefits.

When we turn to stimulus of work effort, the search for supply-side consistency in the Reagan program doesn't fare much better. True, on the insistence of Congress, provision is now being made for reducing the "marriage penalty," a definite plus for work incentives. Careful studies show that while tax cuts on existing earners don't have much net effect on work effort, second earners in the family do respond to lower tax rates both by working harder and by saving more.

BENEFITS WOULD BE CUT

But a curious contradiction persists in the Reagan fiscal program. Cuts in marginal tax rates for the middle and upper brackets are touted as an incentive for greater market-oriented work effort. But the Reaganites apparently do not recognize that cutbacks in food stamps and welfare payments for the working poor create a huge disincentive for their work effort.

Thus, under the Reagan proposals: Earn nothing, and benefit payments would be $518 a month (for a typical welfare mother). Work hard for miserable pay (say $300 a month), and those benefits would be cut back so sharply that the takehome pay would rise to only $535, a "marginal tax rate" of 95 percent! Where is the supply-side logic (let alone equity) in a 50 percent cap on marginal tax rates for the wealthy while levying a 95 percent marginal rate on the earnings of the poor?

In its zeal to provide much-needed tax incentives for investment, the Reagan team seems to forget that the real secret weapon of U.S. economic leadership has been its generous investment in human capital—education, training, health, nutrition and similar intangibles. Deep budget cutbacks in these areas—for example, in education aids and loans, training and retraining, the Medicaid payments for the poor, in food stamps, in nutrition benefits for expectant mothers—threaten to reverse progress toward a more skilled, healthy and productive work force.

Supply-side economics in the sense of promoting more efficient use of resources, removing impediments to saving and investment, and providing target tax incentives for greater work effort and capital formation has much to offer. But if it is to deliver on its promise, the supply-siders—especially those in the White House and Treasury—will have to practice what they preach.●

HIGH INTEREST RATES AND THRIFT INSTITUTIONS

● Mr. BIDEN. Mr. President, this country is facing a number of economic decisions. These decisions will determine the strength and vitality of our economy for the rest of this decade. Here in the Senate we have already begun to faceup to some of the basic causes of our economic problems. We have begun to reduce the growth of Federal spending—in fact, we will be working on that difficult issue here in the Senate today. And we will soon be working on tax cuts aimed at increasing levels of savings and investment.

These are important efforts that, over time, should alleviate the inflationary tendencies in our economy and create more employment. But despite some optimistic estimates to the contrary, we all know that these are long-term efforts to be applied over many years. The results will not be quick or easy. This means that we will also have to address some of our problems on a short-term basis while we are waiting for the longer term results of Federal spending restraint and reduced tax burdens.

Typical of those issues requiring immediate attention are the high interest rates that are currently burdening the private sector (as well as the Federal budget) and the future of the savings and loan industry which in the past has played such an important role in our prosperity. Well designed tax incentives can help to encourage savings and investment and ultimately lower interest rates. Spending restraint can lower Government deficits and the reduced Federal presence in the credit markets can ease interest rates. However, these may not take effect soon enough to help our savings and loan institutions to regain their important former role. And the present high levels of interest rates may well snuff out the increased investment in plant and equipment which our other, long range efforts seek to achieve.

Many of us here in the Senate and the House of Representatives have sought to address these problems and to uncover useful solutions. That is why in the last Congress I cosponsored and supported legislation, which was adopted, to exempt from taxation the first $200 of interest income ($400 per couple). This year I am cosponsoring with Senator BENTSEN a bill to increase that to $1,000 per individual or $2,000 per couple.

I believe that such proposals can provide an immediate shot in the arm to our beleagured savings and loans while increasing total savings and investment for the longrun good of the economy. I hope the administration will soon join those of us in Congress who are concerned by offering proposals to reduce interest rates and protect our financial institutions. The contribution of this administration in seeking solutions is needed so that all parties concerned about the future viability of our economy have participated in the solutions. I hope that administration recommendations will be forthcoming.

Mr. President, there can be no one today who has not been seriously affected by the high cost of credit. Whether buying a car, starting a business, purchasing a home, investing in new equipment, paying for a college education, or any other of the many purposes for which individuals and businesses borrow money—no matter what the purpose, the cost of credit makes action most impossible.

Take housing, for example. In May, housing starts dropped 14 percent below April, the lowest level in a year. In 1979 we were building over 2 million units a year, but today housing starts are just over 1.1 million—slightly less than half the number started in 1979 and far less than we need to provide housing. Unemployment in the construction industry at 16.3 percent is more than twice the national unemployment rate. Mortgage interest rates were running at 16 percent or more. This decline of the housing industry—which we have always counted on to lead our economy—is directly related to high interest rates and the difficulties of our thrift institutions.

The problems faced by our thrift institutions are well known by now. The withdrawal of deposits from our thrift institutions reached $28 billion in 1980. The problems have continued in 1981. In April savings and loans lost a record $4.6 billion in net deposits, on top of outflows of $2.1 billion in March. In the past the savings and loan industry was long counted upon as a source of long-term mortgage funds, but it was forced to borrow its money on the basis of short-term, low-interest deposits. This mission which the Federal Government promoted and encouraged, has resulted in a huge number of long-term, low-interest mortgages outstanding. But inflation and Federal actions have forced up the cost of the money to finance these mortgages above the interest earned from them.

The ultimate solution to this problem will be a reduction in the level of interest rates. This would again provide the S. & L.'s with a source of financing at reasonable cost and would help the housing industry to struggle back. In the long run our efforts to reduce inflation through fiscal restraint will be helpful in achieving lower interest rates, but we must find some shorter term way to bring rates down. It has been estimated that a 3.5-point decline in rates could put the thrift industry in a break even position once again.

Those of us who are seeking answers to this problem have identified at least four possible areas for action.

First, the implementation of the variable-rate mortgage instrument should be beneficial over the long term. This will assure that mortgage rates keep pace with the cost of money to S. & L.'s and other financial institutions.

We must examine appropriate tax incentives that can stimulate additional savings by individuals which will serve to increase our national savings rate and spur all forms of investment, including housing.

We must look carefully at the present status of our efforts to deregulate our financial institutions to see whether we need to adjust our present thinking to provide equitable treatment for all forms of financial institutions.

We must take every possible action, such as lowering Federal deficits, to bring down interest rates.

In all of this, I am concerned that the administration, or indeed the Congress, may follow too stimulative a fiscal policy which will generate further inflation and place greater pressure on the Federal Reserve to control it by tightening the money supply. That is why I look with grave concern at the deficits that the administration proposes for the next 2 years—and that Congress so far has accepted. That is why I question every new spending proposal and, indeed, why I express concern at the size and make up of proposed tax cuts.

I believe that many have not been willing to face up to the very real problems confronting our thrift institutions. Many seem to seek easy solutions, which I believe do not exist. Continued high interest rates will lead to further pressure for bail-out actions and will make our job more difficult. The real answer is short-term actions to stabilize our financial institutions along with long-term efforts to bring down inflation. But we must act quickly. I call upon the administration to join with Congress in seeking solutions to this problem.●

INTERNATIONAL TRADE

● Mr. EAGLETON. Mr. President, this administration has taken a dim view of import relief for domestic industries found to be injured by foreign competition. From the beginning, it has pronounced itself to be a proponent of free market and free trade.

Just 3 weeks ago, Under Secretary of Agriculture Seeley Lodwick went before the European Feed Manufacturers Federation in Munich, West Germany, and stated that:

> This administration intends to pursue, and pursue aggressively, international policies that will liberalize, rather than restrict, trade in agriculture products.

However, in a startling turnaround, the Reagan administration this week recommended to the International Trade Commission that imports of flue-cured tobacco be limited by quota.

I must admit this came as quite a surprise to me. But what was perhaps most surprising, is the reasoning used by the administration in justifying this proposal. President Reagan's representatives went before the ITC and said we must reduce imports, not because they are hurting a domestic industry, but because they are going to force the Federal Government to take a loss on its tobacco price support program.

I have a question for the Reagan administration:

> Why are import quotas sound policy when they benefit the government, but protectionism when they benefit private workers and businesses?

It is not as though the administration had no other options to deal with this problem in the tobacco price support program. It could get behind amendments which some of us in the Congress are proposing to reduce the subsidy for this particular crop.

I realize that taking this alternative might be awkward for those who support the tobacco program. They have always contended that this price support program does not cost the taxpayer a dime. I think the administration's testimony before the ITC lays the facts on the record. The Government could lose as much as $123 million this year on that program. In order to prevent that, the administration has chosen to climb down from its perch of free-market, free-trade principles and urge import quotas.

Mr. President, having made that decision, the administration will be hard pressed to climb back to the safety of

lofty principle when it must decide on trade relief for private industries.

I believe it would be most enlightening for my colleagues to read the testimony presented by the Department of Agriculture at yesterday's hearing. It appears to me to be more of a clear justification for a revision in the flue-cured tobacco price support program than a justification for limiting imported tobacco.

I ask that the USDA statement be printed in the RECORD.

The statement follows:

STATEMENT OF HOKE LEGGETT

I am Hoke Leggett, Associate Administrator of the Agricultural Stabilization and Conservation Service, United States Department of Agriculture. Appearing with me are Miss Rosina Bullington, of the Office of General Counsel; Mr. Kenneth Howland and Mr. William Doering of the Foreign Agricultural Service; and Dr. Robert H. Miller of the Economics and Statistics Service.

We are appearing before you to describe the conditions and considerations which led to the recommendation by the Secretary of Agriculture that action be taken under Section 22 of the Agricultural Adjustment Act of 1933, as amended (7 U.S.C. 624), to limit imports of certain tobacco in order to prevent their interference with the Department's program for flue-cured tobacco. The categories of tobacco concerned are described in items 170.3210, 170.3500, 170.6040, and 170.8045 of the Tariff Schedules of the United States (TSUS).

Section 22 provides for the imposition by the President of import quotas or fees on articles in order that the entry of such articles will not render or tend to render ineffective or materially interfere with the price support or stabilization programs of the Department of Agriculture. The Department is experiencing such interference with its support program for flue-cured tobacco and believes that such interference, if not controlled, will become more serious.

I will first briefly describe our support program and then follow with the facts which show that interference by imports has occurred and, in our judgment, is practically certain to increase. I will conclude with our suggestions for remedial action under the Section 22 authority.

The legislative authority for the Department's tobacco program is the Agricultural Adjustment Act of 1938 as amended, the Agricultural Act of 1949, as amended, and the Commodity Credit Corporation Charter Act. The program's objectives include stabilizing, supporting, and protecting farm income and prices, assisting in the maintenance of balanced and adequate supplies of tobacco, and facilitating the orderly distribution of tobacco. In my remarks, I shall concentrate on the support and stabilization operations for flue-cured tobacco, as distinguished from other types of tobacco, because flue-cured tobacco is the kind of tobacco experiencing the problems we are here to discuss.

The tobacco program consists of two parts: marketing quotas and price supports. The 1938 Act provides that producers of each kind of tobacco shall vote in a referendum to determine whether or not marketing quotas will be in effect for the ensuing three year period. Marketing quotas are intended to restrict the marketing of flue-cured tobacco to the amount which is needed for domestic and export use each year. In December 1979, producers of flue-cured tobacco approved quotas for the 1980, 1981, and 1982 marketing years.

The 1949 Act provides that price support shall be made available for each crop of any kind of tobacco for which marketing quotas have not been disapproved by producers. The level of support is determined each year in accordance with a statutory formula. The Department has no discretion to adjust the support level. Support rates are set for each of the many grades of eligible kinds of tobacco. The weighted average of the support rates for the various grades must equal the announced national support level.

In most cases, the Commodity Credit Corporation (CCC) contracts with producer-owned, producer-controlled cooperative associations, which in turn contract with auction warehouses, to make price support available to tobacco producers. In the case of flue-cured tobacco, the Commodity Credit Corporation contracts annually with the Flue-Cured Tobacco Cooperative Stabilization Corporation (FCS) of Raleigh, North Carolina. FCS contracts with auction warehouses to receive from producers eligible tobacco which failed to receive at auction a price equivalent to the support rate. For this tobacco the producers receive a payment, called a "price support advance", equal to the applicable support rate, minus a deduction to cover a portion of the administrative expenses incurred by FCS in handling the tobacco.

The tobacco received from producers under this arrangement is pledged by FCS to CCC as collateral for non-recourse loans made by CCC to FCS. The amounts loaned are used, in accordance with the CCC-FCS contract, to make "price support advances" to producers and to cover expenses involved in receiving, redrying, packing, storing and selling the tobacco received from producers.

Under the terms of the FCS-CCC contract, certain expenses are deducted from the proceeds as sales of the tobacco pledged as loan collateral are made. The remaining proceeds are paid to CCC for application against the loans made to FCS. After the loans for a particular crop are repaid, the producers share pro rata in the net gains, if any. However, if the remaining proceeds are insufficient to repay CCC fully for loans on that crop, FCS is not liable for the deficiency. In this way, losses to CCC can occur.

Imports of flue-cured tobacco have grown steadily during the past ten years, rising from about 10 million pounds, farm sales weight equivalent, in marketing year 1970 to 84 million pounds in 1980. Imports in the current marketing year, which ends June 1981, are projected at 76 million pounds.

During the same period, U.S. utilization of domestic flue-cured tobacco has declined. As a consequence, imported flue-cured tobacco, which made up less than 2 percent of utilization in marketing year 1970, made up 13 percent in marketing year 1980.

Projections of the ten-year trends indicate that imports can be expected to reach 118 million pounds, nearly 19 percent of utilization, in marketing year 1985.

The growth in imports is primarily due to the disparity in price between domestic and foreign flue-cured tobacco. Although meaningful price comparisons are difficult to make because of differences in tobacco qualities, on average domestic flue-cured prices over the years have consistently exceeded imported flue-cured prices by a factor of more than 2 to 1.

During marketing years 1970 through 1976 imported flue-cured tobacco (leaf and scrap) averaged about 3 percent of total utilization. In analyzing the situation, this level is assumed to be the non-competitive or complementary level of imports. In years for which imports were greater than 3 percent of total utilization, the excess is deemed to represent import displacement.

The quantity of domestic flue-cured tobacco from the 1975–79 crops estimated to have been diverted into loan stocks by imports is about 169 million pounds with a loan value of $198 million. Import displacement from the 1980/81 crop is projected to be 56 million pounds with a loan value of $80 million. The accumulated displacement from the 1975 through 1980 crops is estimated to total 225 million pounds. This would constitute 47 percent of current uncommitted flue-cured tobacco loan stocks of 476 million pounds.

As utilization of U.S. grown flue-cured tobacco declined relative to supplies during the period beginning with the 1974 crop, the national marketing quota was reduced. Under Section 317 of the Agricultural Adjustment Act of 1938, as amended, the national marketing quota for any kind of tobacco is the amount which the Secretary of Agriculture estimates will, during the marketing year, be used in the United States and exported, adjusted as he determines desirable to maintain an adequate supply or effect an orderly reduction of supplies to the reserve-supply level. For the 1975 through 1980 crops, the national marketing quota was reduced in 4 of the 6 years. The marketing quota was further reduced for the 1981 crop by 7.5 percent from the 1980 level because domestic supplies were considered excessive.

Other program features were changed to deal with the build-up in flue-cured tobacco inventories. In 1977, USDA revised the grade standards for flue-cured tobacco. More stringent waste tolerances were set for the nondescript group. Foreign matter was defined more precisely. Beginning with the 1978 crop, the Four-Leaf Program was adopted. Because of limited flavor and aroma, tobacco from the bottom stalk positions is less saleable and competitive. Under the program, growers are encouraged to leave the bottom four leaves in the field (Four Leaf Program). In 1980, price support was eliminated on 8 grades of lower stalk tobacco in limited demand. Still, by May 1, 1981, about 21 percent of the unsold loan stocks consisted of the less desirable priming (P) grades. Lug (X) grades constituted 31 percent. The remaining 48 percent were almost entirely of variegated (K) grades—less desirable upperstalk leaf grades—mostly from the 1977 and 1980 crops. Sales over the past few months have reduced inventories but made little change in stocks of these grades.

Because of competition from imports, the composition of FCS inventories has shifted mostly to less desirable upperstalk and lowerstalk grades. There has been less difficulty in selling upperstalk, higher graded flue-cured, but most of the remaining loan stocks cannot be readily sold since they are relatively high-cost compared to foreign-produced tobacco.

As it becomes necessary to sell the tobacco currently under loan from the 1975–80 crops in order to prevent deterioration, substantial price discounts very likely will be needed. But, if discounts are made, the FCS will be able to recover the loan value. Therefore, CCC will realize losses. A reduction in the marketing quota sufficient to allow sale of these stocks probably would cause shortages of high quality upperstalk tobacco and result in reduced utilization. Growth in imports beyond the increase already projected then would result, exacerbating the problem.

The problem of excess lowerstalk tobacco first became evident in 1974. Virtually all of the 23 million pounds placed under loan that year were in the lug, priming, and nondescript grades. Lowerstalk tobacco had long been too costly for exporters and was becoming over-priced for domestic manufacturers—they could import similar kinds of neutral tasting filler tobacco at considerably less cost. Thus, such 1974 loan tobacco remained in FCS inventory until sold by bid in March 1979. The proceeds of the sale failed by $5.9 million to cover the costs incurred by CCC.

As of May 1, 1981 FCS had uncommitted holdings from the 1975–80 crops of 476 million pounds (farm sales weight) representing principal and interest of around $682 million. The financial outcome of these CCC loans remains to be seen, but considering the repayment history it is fairly certain that the principal eventually will be repaid. However,

there is a strong likelihood that a portion of the interest will not be recovered.

Current CCC policy calls for interest rates on CCC loans to be at or near the interest rate which the Treasury charges CCC for its funds. Interest on 1981-crop loans will be 14.5 percent and will be adjusted each October and April to conform with this policy. Earlier crops (1975–80) carry fixed interest rates and, with the rise in commercial borrowing rates, FCS enjoys a substantial interest advantage on these crops which has probably facilitated disposal of loan stocks at the full cost plus carrying charges. The interest advantage eventually will be eliminated as the loan stocks are turned over and new crops come under loan.

At current approved selling prices (effective January 12, 1981), FCS officials project that sale of the 1975 crop inventory would result in a loss of $11.6 million. This projection will probably have to be revised upward since 39 percent of loan placements are still outstanding and sales since 1978 have been limited except for bid sales in December 1979, February 1980 and February 1981. All sale proceeds were credited to principal; but a proration of interest costs between principal and interest would have shown that proceeds fell 18 percent short of repayment. Thus, considering the outstanding loan for the 1975 crop of $188 million (principal and interest) and the limited market for the remaining lug (X) grades, a projected loss of $34 million from eventual sale of 1975-crop stocks seems reasonable.

Later crops might experience a smaller share of loss because the lowerstalk grades declined as a share of loan receipts beginning in 1976, the result of loan rate discounts. Therefore it may be reasonable to assume a 12 percent loss on the unsold 1976–80 stocks loans ($494 million, principal and interest). That could mean an eventual $59 million loss to CCC, for a total loss on the 1975–80 crops of $93 million, even without imputing additional interest. However, the increased interest rates and buildup of imported leaf stocks in the United States could push the loss share on the 1976–80 crops nearer the rate of 18 percent estimated for the 1975 crop, for a total loss on the 1975–80 crops of $123 million.

These losses would not be entirely attributable to imports. Even if imports were zero, a certain quantity of the stocks might have to be sold for less than their loan value plus accrued interest because of an excessive supply of certain grades. But imports most certainly will make it more difficult to sell these stocks in the market. Every pound of FCS stocks—no matter what its grade—faces competition from imports; and the longer the tobacco is under loan the more insurmountable becomes the import competition. Import competition is expected to force FCS to discount its loan stocks—in order for them to be sold to prevent waste through deterioration—causing a loss of from 12 to 18 percent.

The estimated losses of $93 million to $123 million cited above are for existing stocks that eventually will be sold. Future crops must also be considered. Given that the U.S. price, based on the legislated support formula, is likely to continue well in excess of the prices for imported tobacco, there is little doubt that without limitation imports will assume an ever greater share of total U.S. use of flue-cured tobacco and will displace a certain quantity of U.S.-grown tobacco and force it into FCS stocks. Only the size of the displacement is in question.

The quantity of domestic flue-cured tobacco displaced into loan stocks depends on a number of factors. These include the U.S. inflation rate (which affects the level of tobacco price support), the overall quality of the U.S. crop, the comparative support levels for the various grades and qualities, foreign leaf prices, export demand for U.S. flue-cured, domestic consumption, and the accuracy with which the U.S. marketing quota reflects actual demand conditions. Whatever the conditions, once tobacco goes under loan, accrual of interest and other carrying charges further reduces its competitiveness with respect to imports.

The inventory management problem is therefore one of moving loan stocks from the 1975–80 crops into use while at the same time preventing an accumulation of loan stocks from future crops. Assuming no legislative change in the support program and barring an unforeseen upsurge in U.S. or world demand for U.S. flue-cured tobacco, the means for accomplishing this supply adjustment appear to be limited to reducing domestic production and/or imports.

To estimate future displacement of U.S. flue-cured tobacco by imports, total use (domestic disappearance plus imports) for 1970–79 is projected through marketing year 1985. The complementary share of imports (3 percent) used to estimate displacement during the 1975–79 marketing years is also used for 1980–85. Imports, unless restrained, are estimated to displace about 414 million pounds with a loan value of $833 million over the next five years; a 12 to 18 percent loss on these stocks would be $100 to $150 million.

Let me now summarize the main facts of the evidence I have presented. The Commission is charged with advising the President whether flue-cured tobacco is being, or is practically certain to be, imported under such conditions and in such quantities as to render or tend to render ineffective or materially interfere with the price support and stabilization operations now being conducted by the Department of Agriculture for flue-cured tobacco. In our view, there is no doubt as to the conclusion. The Department is operating a support program through the instrumentality of the Flue-Cured Tobacco Cooperative Stabilization Corporation which is intended to support producer prices at levels prescribed by the governing legislation and to maintain a balance between supplies and requirements.

Increasing imports are displacing domestic flue-cured tobacco, primarily on the basis of price. This displacement has forced an accumulation of stocks by FCS and, in the majority of recent years, has forced a reduction in marketing quotas—that is, in domestic production. The facts of the situation indicate, with near certainty, continuance of these trends—increasing imports, increasing displacement, increasing stocks accumulation. There is a practical limit to the continued reduction of marketing quotas as a means of compensating for the distortions in the supply balance. Some losses to CCC are now virtually locked into the management and disposal of present FCS inventories. Larger losses will be incurred unless remedial action is taken.

Action must be taken to allow the Department's support program to achieve its objectives, to operate reasonably and normally, and to prevent substantial losses to the CCC. We believe that the Commission should reach a finding of interference and recommend that imports be restricted.

Section 22 authorizes the imposition of either fees or quantitative limitations. In our view, import fees would not be an effective remedy. The weakness of price as a control mechanism has been pointed out by the Commission in various other Section 22 investigations.

There is also the fundamental disadvantage that such fees are required by Section 22 to be treated for administrative purposes as duties and are therefore subject to refund under so-called "drawback procedures" (19 U.S.C. 1313). Drawback enables manufacturers, upon exportation of cigarettes and other tobacco products, to obtain refund of the duty paid on the identifiable imported tobacco component. Moreover, to the extent exported products contain domestic tobacco of "same kind and quality" to imported tobacco, manufacturers can obtain refund of duties paid on an equivalent quantity of imported tobacco. The estimated quantity of flue-cured tobacco exported in manufactured products currently exceeds the quantity of flue-cured tobacco imported. So long as this continues to be the case, import fees would not effectively control flue-cured tobacco imports.

We therefore recommend that flue-cured tobacco imports be limited by a quota. We recommend that the three most recent calendar years, 1978 through 1980, be taken as the representative period and that the quota represent 100 percent of average annual flue-cured tobacco imports during that period. This would allow importers and manufacturers to continue their business operations without the disruption which could result from a severe rollback of present levels. They would be able to maintain their current blends and to determine the origin and form (unstemmed, stemmed or machine-threshed leaf) of imports. At the same time, with further import increases precluded and the maximum volume of imports a known quantity, we believe it will be possible to manage the support program in such a way as to gradually work off the existing excess inventory and to prevent any further buildup from the 1981 crop onwards.

We recognize that not all of the tobacco imported under the four TSUS categories which are the subject of this investigation is flue-cured tobacco. The Department estimates that average annual imports of unmanufactured flue-cured tobacco under the four TSUS categories during the period 1978–1980 were about 52 million pounds, declared weight. (For comparability to previously cited figures of imports and FSC stocks, all of which were on a farm sales weight basis, this figure is equivalent to about 72 million pounds farm sales weight).

The Department recommends that, effective January 1, 1982, an annual quota of 52 million pounds, declared weight, be established on unmanufactured flue-cured tobacco entered or withdrawn from warehouse for consumption under TSUS items 170.3210, 170.3500, 170.6040 and 170.8045. We suggest that the distinction for quota purposes between flue-cured tobacco imports and imports of other tobacco be determined on the basis of certification of identity of the tobacco by the importer. We also suggest that consideration be given to the establishment of separate statistical subcategories for flue-cured tobacco under TSUS items 170.3500, 170.6040 and 170.8045 for reporting purposes.

Finally, the Department recommends that the annual import quota be global, that is, be effective for tobacco from all countries of origin without allocations among supplying countries.

In summary, we believe that the facts warrant the following findings and recommendations by the Commission:

a. Imports of flue-cured tobacco provided for in items 170.3210, 170.3500, 170.6040 and 170.8045 of part 13, schedule 1 of the Tariff Schedules of the United States have been and are practically certain to be imported under such conditions and in such quantities as to render or tend to render ineffective or materially interfere with the price support and stabilization programs now being conducted by the Department of Agriculture for flue-cured tobacco, or to reduce substantially the amount of any product being processed in the United States from such domestic flue-cured tobacco.

b. Imports of flue-cured tobacco under the aforementioned four TSUS categories should be limited by a single annual calendar year quota, without allocations by country of origin, effective January 1, 1982.

c. The representative period for establish-

ment of the quota should be the calendar years 1978–1980.

d. The amount of the quota should be 52 million pounds, declared weight.

This concludes our statement. We will be glad to answer questions or, as necessary, to supply supplemental information for the record.●

MEDICAL FACILITIES FOR MAINE VETERANS

● Mr. MITCHELL. Mr. President, I ask that a joint resolution of the Maine Senate and House of Representatives be inserted in the RECORD.

Mr. President, I am pleased that the Maine Legislature has acted to bring to the attention of Congress a situation affecting thousands of Maine's veterans. Approximately 13,000 veterans live in Aroostook County, Maine's northernmost county. Many of these veterans are in need of VA health benefits, especially outpatient care. However, many Maine veterans are not receiving the required care simply because of the lack of an appropriate facility.

Many of these veterans reside over 300 miles from the nearest Veterans' Administration medical facility in Augusta, Maine. It is not realistic to assume that someone who is sick or disabled can travel this distance, especially when you consider long Maine winters and the rising price of gasoline.

Something must be done to provide these deserving and loyal citizens with the medical attention which they have earned at such a terrible cost. An outpatient clinic, as suggested by the Maine Legislature, is a possible solution to this problem. I intend to do all that I can to aid Maine's veterans in obtaining the necessary medical facilities to care for their needs.

The joint resolution follows:

JOINT RESOLUTION

We, your Memorialists, the House of Representatives and Senate of the State of Maine of the One Hundred and Tenth Legislature, now assembled, most respectfully present and petition your Honorable Body, as follows:

Whereas, as early as 1946, Aroostook County veterans have felt the need for the establishment of a specific Veterans Medical Care Facility centrally located in Aroostook County, but in spite of numerous efforts and proposals such a facility has not yet come to pass; and

Whereas, utilization of the Veterans Administration Medical Facility at Togus by Aroostook County Veterans is ⅓ that of veterans throughout the remainder of the State; and

Whereas, the cost and personal hardship of driving 600 or more miles, many times in dangerous weather conditions, from Aroostook County to Togus for outpatient work, post-operative work, physical examinations, prehospital physicals, physical therapy, or other outpatient services, is most substantial; and

Whereas, a satellite facility located within an existing medical facility in central Aroostook County would show a substantial savings in travel expenses paid to veterans, while at the same time making the services more available to the veteran; and

Whereas, hospitals in Aroostook County, such as Cary Medical Center, are equipped with adequate medical technology, physician specialists and medical equipment to provide quality medical care on an outpatient basis for the veterans; now, therefore, be it

Resolved: That We, your Memorialists, respectfully recommend and urge the Congress of the United States to consider and approve provisions for health care services to veterans in a central facility in Aroostook County, State of Maine, under the auspices of the Veterans' Administration Center, Togus, Maine; and be it further

Resolved: That a duly authenticated copy of this Memorial be immediately submitted by the Secretary of State to the President of the Senate and Speaker of the House of the Congress of the United States and to each member of Congress from this State.●

PROBLEMS FACING BANKING INSTITUTIONS

● Mr. HATCH. Mr. President, I recently came across some remarks which I feel give some excellent insight into the problems facing the banking institutions in our country along with some persuasive arguments providing solutions to these problems.

These remarks were recently delivered by Thomas G. Labrecque, president of the Chase Manhattan Bank. Mr. Labrecque also discusses the role of American business and industry in meeting the financial needs of a revitalized economy.

I commend these remarks to my colleagues and ask that the text be printed in full in the RECORD.

The remarks follow:

REMARKS BY THOMAS G. LABRECQUE

MEETING AMERICAN INDUSTRY'S FUTURE FINANCIAL NEEDS

Thank you, Larry, for that kind of introduction, and thank you, ladies and gentlemen.

My topic this morning is how the financial needs of American industry can be met. As a banker, I'd like nothing more than to focus on thoughts about how we and other financial intermediaries might meet industry's borrowing needs in the coming years by delivering financial services in new and innovative ways. Indeed, I'll try to do some of that later in my remarks today.

At the same time, we must recognize that such an approach, taken alone, would fall far short. The underlying issues for our country and for its industry in these volatile times are not merely how financial resources and services will be delivered—which is what the financial community does.

The fundamental question is how we as a nation can generate and harness the financial resources we know are needed to build—indeed rebuild—our competitive position in the world marketplace. Both resources and their delivery are key for meeting the future needs of American business and industry—your needs.

Before we can look meaningfully at financial requirements for the future, we have to take an honest look—warts and all—at where we are today.

The productivity of the U.S. economy—and of the industry which underlies it—is extremely worrisome.

Prior to 1970, the productivity growth of the private sector averaged over 3 percent a year. In the 1970–78 period, that growth dropped to under 2 percent, and has actually declined for periods of time since then. Over the 1970s, the United States had the lowest rate of productivity growth of any modern industrial nation.

Investment is the key to productivity; and we don't invest enough. Japan invests about 20 percent of its GNP in new productive facilities. Germany invests 15 percent. In the United States, we invest only 10 percent. We cannot expect to compete and to grow with this pattern of declining investment in productivity.

Is there still anyone who is not concerned about the viability of our auto industry—our steel industry—our shipbuilding industry—our chemical and pharmaceutical industries—and yes, even our high-technology electronics industry?

We have to turn that situation around—and re-establish our economic leadership.

Renewed economic vigor will take resources—money—for investment. Where will that money come from? It must come from three sources:

Decreased government claims on our wealth.

Increased individual savings.

And increased earnings from industry itself, earnings which can be put to productive use.

The principal creator of this inflationary environment has been government itself. Government, ostensibly for our own good, has taken more and more of the Nation's wealth for its use.

In the second half of the 1970's the tax bill for American families increased more than eight times as much as their fuel bill.

Government expenditures have increased by a third, in real terms, over the past 10 years.

With regard to individual savings, in recent years our society has put consumption ahead of saving. We save less of our earnings now than we did a decade ago, and we save far less than people in other modern industrial nations—the very nations that have overtaken us in the marketplace.

But we ought to be very slow to blame the public for not saving more—because in choosing to spend, rather than to save, the American consumer has made a rational choice. It's an intelligent choice because inflation has made spending a smart decision, and taxation and regulation have made saving a less profitable decision.

At the footing of renewed economic strength and future growth must be strong earnings. Sound fiscal policy and the capability of individuals to save depend on these earnings.

Thus, at root, it is industry that must lead.

You have the jobs—or must make them.

You have the talent and genius to develop, manufacture and market new and better goods.

You have the charter to compete—and to marshal the entrepreneurial spirit which has enabled your companies to thrive.

And in this regard, I number myself and my colleagues in the financial community as being among you in this requirement to be leaders.

There are, of course, some genuine disincentives to increased earnings. Among them is a perception of profits which rhetorically links earnings with evil: the expression "obscene" when applied to profits is now a commonplace; the term "windfall" when applied to profits has been elevated to a stature just short of gospel. The idea has been lost that profits—like a harvest—are necessary not only to sustain us today, but to produce next year's seed as well.

In the past, we businessmen and women have failed to argue the case for profits, investment and growth as effectively as we should. We have, by our silence, conceded the argument to the critics—and left the public aware of only one alternate source for meeting economic needs. That source is government—and I need not recount what our default in this debate has meant as a result.

If we are to generate the earnings needed for future growth, we must likewise help create and sustain an environment in which these earnings will be possible. We must speak out for free enterprise.

At the same time as general business and

industry will have to be more creative and forward-thinking to maintain its competitive position in the world. American financial institutions—especially commercial banks—will have to find new and better ways in which to meet the credit needs of business and industry.

Clearly, there will not be easy answers in the form of more attractive rates and pricings of general reduction in incertainty or risk. Nor will we be able simply to look to the Eurodollar or other markets for more attractive rates or new methods of pricing. Rather, we should expect some present trends in financing to become more pronounced and for these trends to have an increasing effect on the financial marketplace.

Over past years, and largely as a result of competition among commercial banks to provide more financial services to their customers, corporate customers of commercial banks have become more sophisticated—and somewhat more self-sufficient—in meeting their credit needs. For example, advanced cash management techniques have made it possible for a company treasurer to monitor and manage corporate funds in much the same way today as only a bank could in the past. From this cash management capability, it is only a relatively small additional step for the cash-rich company to become a lender to others that are short of cash. Hence the thriving commercial paper market.

Among larger companies, this has been a practical move—to the point that the commerical paper market is now a major source of financing for many companies.

On the one hand, commercial paper is particularly appropriate for the larger, better situated of companies. This universe of companies which can offer IOUs, however, is—and has been—expanding. Thus, it is possible that we will see an increased reliance, at least among a larger number of firms, on commercial paper financing.

A similar trend toward increasing sophistication is also now evident among major investors, the traditional sources of funds for lending, that is, some major sources of funds for investment, such as insurance companies, have found it possible and advantageous to invest their funds directly with borrowers rather than through a commercial banking intermediary. Again, in effect, the competitive services provided by commercial banks to major sources of funds have contributed to these investors doing for themselves what in the past they have relied upon banks to do for them.

In addition to increased dependence upon commercial paper and direct financing from investors, industry has increasingly turned in recent times to foreign banks for some of their credit needs. This is another trend in which continued growth seems likely.

To the consternation of some American banks, foreign banks—through regulatory and other advantages—can enter the U.S. market with significantly lower capitalization than an American bank could, and can offer certain kinds of credit products at rates which cannot be matched by domestic banks. We should all question whether such a situation is in our national interest—quite apart from the narrow question of bank-to-bank competition.

Unlike the commercial paper alternative and the trend toward direct investment by major funding sources in a major investment project, the trend toward foreign bank borrowing has appeal even for smaller businesses.

We are also beginning to see borrowers use interest rate futures to hedge rate risks, thus protecting themselves against unfavorable interest rate environments. It is likely that this growing component of the financing scene will continue to thrive—especially if interest rates remain as volatile as they are today. The availability of active futures markets in commercial paper, CDs, and Eurodollar deposits, is still somewhat limited. But the sophistication of the markets are bound to press this hedging trend upward.

The challenges for commercial banks, the traditional source of financing for most business, will be to operate increasingly effectively in this very changed environment. It is clear that the commercial paper market requires bank back-up lines and guarantees in order to flourish and grow. And yet it is these back-up lines and guarantees which move the direct business away from the banks. Banks will wrestle with this situation for some time to come.

Another alternative direction for commercial banks is increased activities normally associated with merchant banks—that is, the bringing together of investors and borrowers, and the development of credit packages in new and creative ways. To an extent, banks have already undertaken this role; out much greater emphasis on the arranging, syndicating, marketing, and management of major investor-borrower deals will be required if banks are to continue to serve their current markets in meeting financial needs.

With regard to pricing, it is very likely that pricing on a money-market basis will increase and that multiple pricing options will become even more the order of the day as banks continue to compete with other less-regulated lenders and their product offerings. While this is still a somewhat unformed area for commercial banks, one can only expect to see increased multiple pricing as the financial services industry continues to evolve and change.

Many of these changes in financial services will have their greatest effect on the largest of companies. However, if the past is indeed a guide to the future, we can expect an extension of these techniques and approaches deeper and deeper into the medium and smaller industry units. That is, as both borrowers and commercial lending institutions become increasingly experienced and as the market for these instruments becomes more developed, we can expect these changes to impact a broader range of companies.

Can we achieve all this? Can we generate the resources required and develop a more responsive and creative financial services community?

In short, we must. And we will.

But it will take extraordinary efforts from every sector.

At present, government shows genuine evidence of wanting to be constructive and helpful. The President's current compromise proposal is one we should support—not because we agree that every number is exactly what we would prefer, but because we recogtion of housing; reduction of the tax impact be far more beneficial than some other position taken much later—or perhaps never.

The individual income tax cut proposal—originally 30 percent in 3 years, now scaled down to 25 percent in 3 years—is a substantial improvement over our present tax situation. Timely passage will help put more dollars into private hands.

Improved depreciation write-off periods are welcome—even if they are not what each of us might have preferred in some ideal world.

New investment tax credit for rehabilitation of housing: reduction of the tax impact of married status; reduction in estate taxes; and permanent exclusion of current levels of dividends and interest income for individuals; all are improvements. We should support them, rather than fight for a dollar more here or there.

In short, we need action now on a good workable package—which the President's proposal is. As one philosopher has put it, "the perfect is the enemy of the good."

We also appear to have the President's attention and support for cutting back the thicket of regulations—which were well-meant when enacted, but which have proven harmful in application. I hope that the Congress will play its part well in the legislative arena to bring greater sanity to our regulatory bedlam.

But it is essential to recognize that government policy proposals and regulatory changes cannot, by themselves, create the wealth we need to restore our country's economic well-being. That burden and responsibility must be borne most heavily by the private sector. We must actively lead in supporting changes needed to improve the economic environment.

That means give-ups—give-ups for virtually every firm and institution represented in this room this morning. We must all be prepared to sacrifice some part of our special interests for common survival. Otherwise our chance as a nation to seize this opportunity will evaporate—for longer, perhaps, than we would like to envision.

These give-ups are liable to hurt your company—or mine;

Your industry—or mine;

Your community—or mine;

We must also follow up vigorously to exploit the opportunities that an improved governmental and regulatory environment opens up:

We must increase earnings by every means possible, especially by exporting more vigorously.

We must deliberately and consciously take a longer view of our needs and responsibilities. We must avoid the tendency to focus unduly on short-term earnings results, rather than our continued ability to deliver earnings into the future.

In this regard, we must also be prepared to invest earnings courageously in the future—in new plant, and in constructive research and development. We need long-range investment in better and more competitive goods, rather than in development geared to short-lived product improvement.

We must seek new and innovative ways to work with labor to increase productivity, recognizing that higher productivity leads not only to better company earnings but to better worker earnings as well.

We must also be willing to "go public" with our belief in the free enterprise system, taking the case for profitable enterprise to the American people.

This is not a plea for altruism, it is a proposal for survival. At this moment, our country has a rare chance to undertake a profound change for the better.

American business and industry must lead. The American people should be able to expect American business and industry—the engine of the free enterprise system—to lead the nation on its economic course. The alternative, as we have seen, is a turn to government.

We cannot afford to forfeit this opportunity to restore our credibility—nor can we afford to squander this promising opportunity for change.●

RECLAIMING DESERT LANDS

● Mrs. HAWKINS. Mr. President, during my recent trip to Israel I was impressed with the efforts being made by the Israeli Government to make the desert blossom as the rose. In many, many areas irrigation, correct crop selection, conservation, and desalinization are having their effect. Desert lands are being reclaimed and made productive.

Unfortunately, much more needs to be done. While exact measurement of desert land is difficult, it seems apparent that more and more land which is now arable is becoming desert. By some estimates, as much as 5 million hectares of arable land becomes desert, and thus un-

productive, each year. Most of the land is lost on the borders of existing deserts, of course, and most of those areas are areas where productivity is low, and living conditions are the worst. Desertification thus hurts those who can least withstand the damage.

Mr. President, scientific research can do a great deal to ameliorate these conditions, as the Israeli experience shows. I ask that an article discussing the role of scientific research in combating desertification be printed at this point in the RECORD. The article was written by Dr. Joel Schechter, of the Ben-Gurion University of the Negev. I found it fascinating and hope that my colleagues will heed its warning as well.

The article follows:

THE ROLE OF RESEARCH IN COMBATING DESERTIFICATION AND IN THE DEVELOPMENT OF ARID ZONES*

(By J. Schechter)

The tragedy of recurring drought in the Sahel has served as a warning of the grave consequences of mankind's increasingly destructive pressures on the world's marginal areas. What is not so generally realized is that more than a third of the world's land surface is classed as "arid" or "semi-arid", and much of this is subject to such pressures. Research-based new technology is vital to any programme for the containment and eventual rehabilitation of the areas at risk.

It has been estimated that over one million square kilometres and about 50 million people living in regions bordering on desert areas have been directly affected by desertification (Anon. 1977). Another 600 million people are considered to be endangered by this process; most of these people live in the poorest and most underdeveloped areas of the world. The total area of formerly productive regions which have reverted to desert or desert-like conditions has been estimated at about 20 million square kilometres. Unfortunately, the information available on this crucial question is sparse, and comparative studies, even those recently undertaken, often lack base-line data. Usually, attention is drawn to currently troubled areas while other regions in which conditions have been ameliorated may go unnoticed. Le Houerou (1975) defines desertization as "the extension of typical desert landscapes and landforms to areas where they did not occur in the recent past". According to him these processes, with several exceptions due to local anomalies, take place essentially along the margins of deserts or where the rainfall is between 100 and 200 mm in the summer or less than that in the winter (Le Houerou 1973). Rapp (1974) defines it as the "spread of desert-like conditions in arid and semi-arid areas due to man's influence or to climatic change". On the other hand Kassas (1970) sees desertification as part of a large-scale process of degradation or shift of a vegetational belt whereby "desert encroaches over steppe, steppe over savanna and savanna over forest". This latter definition gives a broader meaning to the concept and in many cases affords a dynamic and more useful definition of the phenomenon.

It has become quite clear that desertification, as we have perceived it during recent historical times, is due largely to the interaction of demographic and socioeconomic factors with climatic fluctuations (Kates et al. 1977).

The factors leading to desertification are by now fairly well known if not always well understood. These fall into several general categories: population pressures leading to overgrazing, overstocking of flocks and depletion of woody vegetation for fuel; destructive techniques such as incorrect irrigation and cultivation methods; climatic change and fluctuations either due to natural causes or to man's polluting impact on the environment; social, political and cultural factors. These factors are almost all interrelated and in order to be able to find solutions to restrain or even reverse desertification processes they must be better understood.

It is not accurate to speak of an annual desert advance of so many kilometres, since deserts usually advance erratically, forming patches within more cultivated areas, rather than as a solid front. In any particular year the so-called desert border can either advance or retreat depending on the rainfall of that year. Thus, desertification should be measured over periods of some tens of years. It can also occur in highly productive irrigated arid areas as was the case in the salinity-caused deterioration of the Indus and Tigris-Euphrates valleys (van Aart 1972). Where desertification occurs along the borders of deserts, its effect on global food production is only slight, but its effect on the local population can be truly devastating.

The United Nations Environmental Programme has estimated that, on a global scale, about 5 to 7 million hectares of formerly productive soils are lost each year, mostly through desertification (Anon. 1975). The Agency for International Development (AID) has estimated that in the Sahel, in many areas along the 3,500 kilometres southern border of the Sahara, desert encroachment is taking place at a rate close to 50 kilometres per year. AID further estimates that about one million square kilometres of arable land in the Sahel have been lost in the past 50 years alone (Anon. 1972). While there have been less intensive studies of desertification in South America, there is every reason to believe that desertification processes are at least as acute and, in fact, the World Map of Desertification places Chile, Argentina and north-east Brazil in the category of those regions with a very high danger of imminent desertification.

NEED FOR INCREASED AGRICULTURAL PRODUCTION

FAO statistics show that world food production is increasing at a slightly greater rate than population increase. This is not the case for many developing areas which are barely maintaining a statistically constant level of per capita agricultural production. Africa, for example, actually showed a 5 percent per capita drop in agricultural production from 1971–75. Furthermore, the increased demand for food in most developing countries is higher by far than the increase in population or in agricultural production. The inequalities of food distribution within these countries are even more extreme. It is estimated that about a half a billion people suffer from malnutrition (FAO 1978).

Among the large nations, only the United States, Australia, Canada, New Zealand, Argentina, Thailand and France are net food exporters. Other countries, with few exceptions, are dependent upon food imports from these nations. The annual rate of increase of food imports in Algeria is 40 percent, Mauritania 30 percent, Egypt 44 percent, Libya 30 percent, Iraq 41 percent and Morocco 35 percent. A similar condition exists in most of the developing nations in the arid and semi-arid regions (El-Sharbini & Sincha 1978). Especially critical is the growing dependence of many developing nations on imports of cereals. In Chile and Peru, for example, imports of cereals increased over the same period (1971–75), at an approximate rate of 30 percent per year. Excluding Argentina, the remaining nations of South America collectively imported in 1976 close to five times more cereals than they did in 1970 (FAO 1977).

Aside from the oil-producing nations most arid zone countries have little to export to pay for their food imports. This economic constraint and the political goal of achieving a greater level of self-sufficiency drives such nations towards a policy of greater food production which to a large extent, continues to place ever-increasing pressures upon even more marginal land reserves in these already ecologically-fragile arid environments.

To meet the nutritional demand of the population projected for the year 2000, present agricultural production will have to be doubled. Since most of the world's more fertile productive areas are already being exploited, this will require that present yields per unit area will have to be almost doubled if agriculture is to be discouraged from spreading into marginal areas prone to desertification. Achieving this would require a marked increase in inputs. At present about a quarter of the world's energy production is utilized in food production systems. Doubling unit area yields would require a threefold increase in the amount of energy needed in the form of fertilizers and water for agriculture (Pimentel et al. 1976). Here again, the rising cost of energy presents an economic constraint which will discourage intensification and encourage the expansion of agriculture into marginal lands where, at least temporarily, additional production can be obtained with lower energy inputs. Population growth coupled with the high price of energy is therefore a potent factor which can exacerbate desertification processes.

The 1978 United Nations Environmental Programme Conference on Desertification produced a Plan of Action to Combat Desertification—a veritable encyclopaedia of principles and technologies. While a great deal of wishful thinking was indulged in concerning social, political and cultural change (without doubt cardinal factors in desertification) the Conference documents brought together most of the technological measures required for this purpose. However, the Plan of Action assumed a great deal more than is really known. It ignored the huge gaps in knowledge and technology on questions of vital importance and it ignored the relative lack of experience with long-term ecological effects of various development schemes.

There should be no illusion that a technological 'fix' either exists or that science and technology will create one in the near future. The really crucial roles are those of social and economic relationships. Desertification will continue in most susceptible areas for many years to come. However, where there does exist a national will to remedy the situation and where some measure of equitable distribution has been achieved, much can be done to rehabilitate degraded areas and indeed to convert them to a condition of high productivity.

POTENTIAL OF ARID LANDS

It is apparent that arid and semi-arid lands will not be capable of making a significantly large contribution to solving the food problems of the world; agriculture is severely limited by lack of rainfall and other water resources, a harsh climate with high evapotranspiration rates and a large fluctuation in rainfall from year to year. Distances between population centres are large and there is usually a poor infrastructure of roads, power lines and water transport.

However, where water is available the mild climates of some arid regions permit multiple cropping systems and, with appropriate inputs, exceedingly high yields. These same climatic conditions can, in many cases, allow production for export to colder regions where high prices can be obtained for out-of-season fruits and vegetables.

There is also good potential for livestock

*Based on a paper given at the S American Regional Seminar Agricultural Research in Arid and Semi-Arid Zones, Santiago, Chile, September 1978.

raising both on an intensive and an extensive basis. The large land areas, if properly managed, could produce sufficient high-value protein for the present levels of population. Large-scale intensive raising of poultry and dairy cattle needs less capital in arid climates and often shows higher yields (Matlock 1977).

Arid areas are relatively rich in mineral deposits, mainly evaporites, such as salts, nitrates, gypsum, etc. Phosphate deposits are found in the deserts of North Africa and Asia. Deposits of valuable metals, such as copper, gold, iron, lead, silver and mercury, are already providing a large share of the world's production of these materials. About half the world's petroleum comes from arid areas. The potential value of such raw materials is that they can serve as the basis for the establishment of industry which can be far more remunerative than simply mining and exporting raw materials.

THE ROLE OF RESEARCH IN DESERT DEVELOPMENT

Research and development comprise important and often critical elements for the economic and social development and progress of even the most advanced societies. The pursuit of such activity is even more important in the use and development of the arid and semi-arid regions which comprise over one-third of the Earth's land surface, which present a complex of conditions and problems not encountered in the more humid areas, and which often require unique approaches and solutions. Much has been accomplished in the past but far more remains to be done—a challenge to man's ingenuity and determination to transform these barren wastes into productive and environmental congenial areas.

It is also clear that there are large gaps in the understanding of many desert phenomena, and the choice of alternative technologies suitable to arid and semi-arid regions is severely limited or often non-existent. Without detracting from the necessity for immediate remedial activities, there is a dire need for more intensive research for improvement of existing technologies and the development of new ones. Any programme for containment or rehabilitation of arid areas will require at least a generation to gain momentum and to achieve visible impact; research should accompany every development project, be considered as an integral part of each action programme, and receive a specified percentage of the total budget.

WATER RESEARCH

The role of water is undoubtedly the most critical of all factors in arid zone development. Water can contribute to desertification by causing salinization and waterlogging or, alternatively, it can turn desolate areas into highly productive food-producing regions (van Aart 1972). It has been reported that 250,000 ha in Peru that are affected by salinity and waterlogging are mainly the result of the high rates of water application and the same is true for many desert areas in South America where over-irrigation is common. Proper irrigation and dainage systems can double or treble the productivity of presently-irrigated areas but the information and methodology needed for effective water resource planning and development are largely inadequate and the specific problems for different areas will need individual attention (Berkund & Turkott 1977).

IRRIGATION TECHNOLOGY

Clearly the rehabilitation of presently-operating irrigation systems should take priority over new water-development programmes. Over-irrigation is not only wasteful of precious water but it also leaches soil nutrients and complicates and aggravates drainage problems. The investment needed for improving irrigation systems so as to be able to control and reduce water application rates is expensive but not prohibitive; it would have a great impact on food production and on reducing present environmental degradation of potentially fertile and productive areas. It is, of course, dependent for realization on social and economic factors as well as on availability of the required capital.

The correct use of irrigation technology can bring immense benefit to arid areas where water is available. During a ten-year period agricultural yields in Israel were almost doubled even though little additional water was supplied (Schechter 1977). Considerable research was needed to accomplish this. For most arid-zone developing nations there are insufficient agro-meteorological data for the determination of plant-water requirements whose relationships, for important local crops and indigenous plants of potential value, are largely unexplored. Soil-water characteristics, important for designing adequate drainage systems, are similarly lacking.

Simpler and more inexpensive irrigation and drainage systems are needed, as well as cheap mulching materials for conserving soil moisture. Appropriate techniques requiring less capital investment must be found for use in newly developed areas.

Saline water could be used effectively with adequate drainage. The use of soil amendments to improve the physico-chemical properties of the soil, and hence to extend the range of saline-irrigated crops, has not been sufficiently well investigated. Better soil properties could also reduce the cost of drainage. Genetic amelioration of plant resistance to salinity would have similar advantages. A better understanding of the physiological response of plants and the physico-chemical reaction of soils to salinity would be of great value for the efficient and non-destructive use of saline waters (Pasternak & Rappaport 1976).

GROUNDWATER EXPLORATION AND MANAGEMENT

There has been a considerable number of optimistic reports indicating the availability of both fossil and replenishable water under many arid and semi-arid regions (e.g. Ambroggi 1966). Such reports should be verified and more information concerning aquifer characteristics obtained. Groundwater exploration is vitally needed for development planning. Where possible and suitable, exploration of groundwater should take precedence over the construction of huge water projects which often turn out to be environmentally destructive. There is also a need for developing appropriate techniques for acquifer management so as to preserve both the quantity and the quality of available water resources.

WATER TRANSPORT AND STORAGE

About a half of all irrigation water is lost by evaporation and seepage before reaching the field. Moreover, seepage losses contribute to problems of waterlogging and salinity. At present, lining of canals in under-developed areas is very expensive. The use of plastic film for this purpose has reduced initial investment costs in many cases but maintenance and replacement costs remain relatively high. Of greater impact would be the development of local materials and methods to produce an impermeable layer as an effective barrier to seepage.

Water storage is a major problem in arid zones, open storage results in extreme water losses due to high rates of evaporation and seepage. It has been estimated that evaporation losses in the western United States amount to about 20 billion cubic metres per year. In Egypt, Lake Nasser loses some 10–15 billion cubic metres per year—over 15 percent of the total used. Often, the quantity of water evaporated from an artificial lake is far greater than the amount used for irrigation; this may turn out to be the case at the Sobrodinho dam on the São Francisco River in Brazil.

There is a need to revive research on methods of evaporation prevention and seepage control. Alternatives to large, open-surface storage lakes and ponds must be sought. Often, simple management techniques such as immediate use of water captured from flash floods can reduce water losses.

DESALINATION

Increasing energy costs have reduced the feasibility of using desalinated ocean water for irrigation purposes. However, where sufficient capital is available, water desalination is often the most practical means of supplying water to growing urban and industrial centres, and the development of solar or wind energy could possibly extend such methods to rural areas. Geothermal energy, which seems to be available more generally than was previously thought, could become an important energy resource for water desalination, utilizing lower temperatures than those necessary for economic electric power generation. As cities and industries grow in size and demand greater water supplies, the need for water recycling will increase, and the recycling of municipal and industrial waste effluents could extend the available water supply; cheaper recycling methods need to be developed, with appropriate safeguards against health and environmental hazards. These effluents often contain valuable nutrients that could be utilized for the cultivation of high-protein algae, animal feeds or fertilizers.

OTHER WATER RESOURCES

There has been some success in artificial rainfall technology. Whilst this is fairly expensive research, if successful it could lead to the provision of an inexpensive source of water, but such research should be undertaken only where both atmospheric and ground conditions are suitable. More basic information is needed in the field of cloud physics and mechanisms of rain formation, and such information could be the basis for future schemes for weather modification, including rainfall enhancement.

The possibility of transporting icebergs from Antarctica to tropical coastal deserts of South America deserves further technical and economic feasibility studies. Due to the relative nearness of South America to the Antarctic, such an idea should be more practical than the suggested transportation of icebergs to Saudi Arabia.

INCENTIVES FOR THE RATIONAL USE OF WATER

Suitable legislation concerning the distribution and use of water resources should be designed in accordance with the socio-political nature of each society. A system of incentives at the level of the individual farmer, designed to encourage the more efficient use of water, is essential. Such incentives would include water pricing, subsidies, water quotas, grants and loans for the purchase of improved irrigation equipment. Limited experiments could greatly enlarge experience and knowledge on a vital subject which, possibly more than anything else, could ensure the efficient use of this important resource.

REVEGETATION

Among the large number of projects and programmes suggested for the rehabilitation of arid and semi-arid areas, emphasis has been placed on revegetation with woody species (Forti 1976). Trees and shrubs have been used successfully to stabilize dunes by binding the soil and reducing wind velocities near the ground (Prego *et al.* 1971, Alvarez de Benito 1972, Nikham & Ahranjani 1975). Once established, such areas can be a source of much-needed fuel and, in higher rainfall areas, a source of building material. With good management, grazing is possible between the rows and on the pods, young shoots and leaves of the trees or shrubs. Certain trees and shrubs produce industrial

materials, such as waxes, gums, edible oils and other valuable components, and may provide an alternative economy for local inhabitants, which could possibly obviate the need for many of the ecologically disruptive activities presently practised by desert peoples in order to sustain themselves. If desertification is to be combated, alternative sources of income must be provided. Trees and bushes properly selected and managed can constitute a major source of such alternative activities and at the same time act as a barrier to the expansion of the deserts. Successful experiments have been carried out in several countries utilizing various species of Atriplex bushes for raising sheep and cattle. For example, yields of over 12 tons fresh weight per hectare, with a 15 percent protein content have been obtained in Israel in a 200 mm winter rainfall area (Forti 1970).

Many other drought-hardy species of bushes have been found to be excellent sources of fodder for livestock. Jojoba (*Simmondsia*) bushes or trees such as *Acacia senegal* are good examples of species that could provide valuable industrial material while binding sands or providing wind breaks. Various species of *Eucalyptus, Acacia, Prosopis, Melia,* etc., have a multiplicity of uses. The selection and management of 'multiple use' species for arid zone rehabilitation constitutes a field of research which deserves wide international support.

Many plans for combating desertification call for large-scale reafforestation programmes. While some of these are on a colossal scale and possibly of doubtful efficacy, there is a strong consensus of opinion that revegetation with woody species will play an important and even critical role in achieving a measure of ecological stability in the endangered areas. Large-scale reafforestation projects are expensive and will require efficient organization and management; decades will probably lapse before ecologically significant areas have been planted. It is to be hoped that, with proper management, rehabilitated lands will maintain their yields over many decades before requiring replacement. Considering the long time-range of the investments and the large expenses involved, intensive research is necessary in order to ensure the selection of the most suitable species to be used and the propagation of the most successful and productive individuals within that species.

PROPAGATION OF USEFUL DESERT SPECIES

Unfortunately, almost none of the indigenous arid and semiarid zone woody species have undergone a process of selection or breeding. They are mostly wild types with a wide spectrum of genetic characteristics. Even where seedlings are raised from seed from the best individual within the species, genetic recombination results in a whole spectrum of characteristics and the productivity of the best individual of the species compared to the average, grown under the same conditions, can vary greatly. For example, jojoba bushes growing under identical conditions have highly varied individual yields. The best bush has a yield of five times the average and many-more-fold than that of the poorest individuals. Selection and genetic improvement needed to obtain a pure strain which will give the highest yields under the particular environmental conditions will require decades to achieve significant results. The economic feasibility of commercial jojoba (*Simmondsia chinensis*) and guayule (*Parthenium* spp.) plantations now being developed in Mexico, Israel and the USA will finally be dependent on success in obtaining high-yielding varieties. Outstanding individual plants, chosen with great care, should be the basis for vegetative propagation of material to be used for revegetating particular regions with similar edaphic and climatic conditions. Vegetative propagation is at present the only available means of preparing high-yielding plantlets within a reasonable time scale; even so, techniques are not sufficiently developed.

There are several methods commonly used for vegetative propagation, such as the rooting of cuttings and the use of grafting techniques. Cuttings of woody species are often difficult to root and usually the superior individual tree or bush does not provide sufficient plant material for large-scale plantlet production. This is a long and tedious process, and one in need of further research.

An alternative method is bud grafting onto rootstocks grown from seed. Since only buds are used, this method has the advantage of making more vegetative material available, but it is more expensive and requires more skilled manpower. Shortage of genetic material is a limiting factor here as well, but where good rootstocks already exist in the field this method may find immediate application. Problems of compatibility will undoubtedly arise and, along with many other problems, will require many years of experience and research.

Tissue culture propagation holds out great promise for the rapid mass production of genetically superior stock (Birnbaum, private communication) and requires only a minutely small amount of the original plant material. Cells are proliferated as callus tissue which differentiates, under test tube conditions, to form roots and shoots so that a miniature plant is obtained. Tissue culture propagation has long been used successfully for herbaceous species but little work has been done to adapt this technology to the woody perennial species now being considered for desert rehabilitation. A well-organized research and development programme aimed at utilizing tissue culture for woody species is urgently needed. Once trees or shrubs are planted they should remain productive for decades and provide a source of livelihood for local inhabitants as well as stabilizing endangered ecosystems.

An international research programme to develop economically viable techniques for vegetative propagation of woody desert species could produce satisfactory results within several years. The activities proposed for such a programme would include:

Identification in the field of genetically superior individuals of woody perennials of potential economic value; individuals of the same species should be selected from varying edaphic and climatic environments:

Establishment of specialized nurseries for initial vegetative propogation of the superior plant material chosen which could also be the basis for longer range genetic improvement:

Improvement of present techniques for vegetative propagation for woody species including cuttings, grafting and, especially, tissue culture propagation.

ENERGY

The economic development of solar energy has been disappointingly slow, but considerable international effort is under way in this field and it would be wise for developing countries to maintain contact with new developments through a modest research programme of their own. Geothermal energy in certain countries appears to be more promising and more immediately applicable. New ideas should always be examined; for example, workers in Japan, Israel and the United States are seeking ways of producing energy from salt deposits or from highly concentrated salt brines (Loeb 1975, Schechter 1978), both of which are common in arid areas.

SOLAR GREENHOUSES

Many aspects of protected horticulture could have special relevance for arid and semi-arid regions. The high yields obtained per unit of water used in comparison to conventional horticulture may allow many areas with scarce or expensive water resources to supply fresh vegetables to local populations or for export to colder countries. Interesting experiments in the use of greenhouses with totally controlled internal environments have been made in Tucson (USA), Puente Penasco (Mexico), Abu Dhabi, Iran, Israel and Saudi Arabia. This concept, largely pioneered by the University of Arizona, has been aimed at obtaining hermetically-sealed systems in which the irrigation water can be conserved by recycling. There is a need to develop cheaper plastic structures and more efficient cooling schemes for the removal of heat during the day and its storage for use at night. Methods for increasing plant resistance to heat should be investigated.

HOUSING IN ARID ZONES

The design of housing for arid areas is closely related to heat energy balance. Homes, factories and offices have to be climatically suitable. The proper use of materials and design can improve indoor climates both in summer and in winter.

Local materials need to be developed which will be cheap, will provide internal and external surfaces which will give greater heat insulation, will have more resistance to rain and wind erosion and present a more hygienic finish. Problems of colour, ventilation, shading and so forth have still not been sufficiently examined.

INDUSTRY AND MINING

Arid regions are often relatively rich in mineral resources, and these could be an appropriate basis for the establishment of industry. Industrial development is an excellent growth stimulant and where a suitable infrastructure has been developed such activities are often the preferred alternatives for development. Conventional technologies are not always suitable for these dry regions, however and much more information is needed before such development programmes could be undertaken. The research problems would include:

Selection of industrial processes based upon low-temperature energy sources such as solar energy and geothermal energy:

Development of 'dry technologies', which use little water, and recycling of industrial effluents to reduce water requirements:

Detailed mineral exploration:

Use of indigenous and introduced agricultural species for advanced industrial products:

Formulation and testing of incentive programs to attract industry to these regions.

ROLE OF AN ARID ZONE RESEARCH INSTITUTE

The influence of a research institute established in an arid zone extends far beyond its possible research successes. The social and political consequences of bringing highly trained and sophisticated personnel to a developing area can be of paramount importance. This cannot be done automatically—suitable incentives must be offered to attract professional staff and skilled technicians, and steps should be taken to ensure maximum interaction between the research institute and the community. The institute can become the focus for the development of the region.

In Israel this is exemplified by the Negev Institute for Arid Zone Research which was established in Beer-Sheva in 1958 when the population numbered only some 25,000. It started with a nucleus of 10 professionals which grew quickly to about 100 scientists and a similar number of technician-assistants. The Negev Institute was specifically oriented towards research on problems of the arid zone and, as such, contributed significantly to the expansion and intensification of agriculture in the Negev Desert. Subsequently, the Negev Institute, together with a second research institute which was

founded shortly afterwards, formed the basis of the establishment of the new Ben-Gurion University, which located in Beer-Sheva, today has an enrollment of 5,000 students and a staff of 400; with a population that has grown to over 120,000, a large professional and academic community exists in Beer-Sheva, greatly enriching the cultural and economic life of the region.

Along with the establishment of population centres, cultural, educational and health facilities were set up, in all of which activities the original Negev Institute for Arid Zone Research served as initiator, catalyst and often as focal point. Today the emphasis of development of the Negev Desert has switched from agriculture to industry. For this reason the Negev Institute has become the new Applied Research Institute and its orientation is now mostly in the direction of industrial research.

A new centre for arid zone research has been established further south at Sdeh Boker in an even more arid environment, and so the role of research in combating desertification and in the development of arid zones continues to be, where it should be, at the interface of desert and settled community.●

HUMAN RIGHTS POLICY

● Mr. LUGAR. Mr. President, there has been considerable criticism lately—much of it unjustified—of the Reagan administration's human rights policy. I would like to bring to my colleagues' attention a recent speech on this subject by Richard Schifter. Mr. Schifter speaks with his usual perception, clarity, and grace in expressing the new administration's commitment to a vigorous and effective human rights policy.

Mr. President, I ask permission that Mr. Schifter's speech to the Council of the Americas, entitled "The United States Government's Commitment to Human Rights," be reprinted in full.

THE UNITED STATES GOVERNMENT'S COMMITMENT TO HUMAN RIGHTS

(By Richard Schifter)

My good friend, Michael Novak, tells a poignant story which appropriately fits under the heading "The Reagan Administration, Human Rights, and the Media." Less than two weeks after the new Administration had taken office, Michael was on his way to the annual meeting of the United Nations Human Rights Commission which was about to convene in Geneva.

Given the many important policy issues on which a new President and his circle of advisers had to focus, and the interrelationship of the human rights issue with a host of complex foreign policy problems, it is understandable that no new, comprehensive human rights policy had been developed in the first ten days of the new Administration.

So it happened that Michael and, thereafter I, were asked, on very short notice, to go to Geneva to represent our Government's interests, with only the briefest of briefings, and no direction to do anything other than call for evenhandedness in dealing with human rights violations. Yet when Michael, on his way to Geneva to assume his new duties, picked up a newspaper on the plane, he found in it a story about the Reagan Administration's decision to reject the human rights cause. After reflecting on it, Michael came to the conclusion that it was not likely that the new Administration had taken budget cutting so far as to send him new instructions through the daily press.

And so it has been since that initial article which Michael Novak read on his way to Geneva. As happens with regard to a great many other public issues, slogans and oversimplications are substituted for thoughtful analysis and reasoned debate.

What I shall try to do today is to share with you my views as to the substantive issues with which we must deal in formulating a United States human rights policy, as distinct from the slogans and public-relations stances to which we have been exposed.

One of the reasons why much of the recent public debate over the issue of human rights has been both confused and confusing is that the questions on which there may very well be overwhelming consensus have not been clearly separated from those over which there is indeed controversy. Before delving into the human rights debate, it is, therefore, important to distinguish between ultimate objectives and the methods to be used in reaching them.

As to ultimate objectives, few of us will doubt that the great majority of Americans will at all times support the proposition that our concern for human rights must and should be an important factor in our relations with other countries. Americans are compassionate. We, as a people, care about human rights and human digniyt. We object to and disapprove of violations of human rights, wherever they might occur.

Moreover, let us keep in mind, that fatalism is not a national character of ours. We believe that when things go wrong, they should be set right and that we, as a nation, should, at least, try to help set them right.

It follows that as a country which believes in human rights, we expect our government to reflect that belief in all its actions, both domestic and foreign. It is also worth keeping in mind that in our country, more than in many others, basic popular attitudes on foreign policy register on the government and are reflected in its policies. The basic American concern for human rights will indeed be taken into account by the government, irrespective of what administration might be in power. That is so because, first, the policymakers are not a self-segregated elite, but an integral part of the American people whose sentiments they share.

Beyond that the policymakers are politicians and, as such, tend to reflect the prevailing views of the electorate. As a matter of fact, if we want to look for a prototype of the American concerned with human rights and committed to human decency, embodying the essential goodness of the American character, we can easily start with the head of the work force at 1600 Pennsylvania Avenue. And indeed, since last January, the new Administration's basic commitment to the cause of human rights has been stated and restated by the President, the Vice President, and the Secretary of State.

To be sure, the broad majority consensus on human rights of which I have spoken focuses only on basic principles, on ultimate goals. It generally does not deal with the question of the methods that the Government of the United States may adopt to reach these goals.

It is when we get to the questions of detail in the execution of policy that we enter the realm of controversy. There may be arguments as to which particular approach is best designed to achieve a desired result. There may also be arguments as to the manner in which the human rights policy must be correlated with other foreign policy objectives. It is in this area, the area of tactics, that we find changes in approach as we go from administration to administration and it is in that area that we also run into heated debates among advocates of differing approaches.

I would suggest, on the basis of my experience of recent months, that in analyzing the problem of how to carry out a human rights policy, we should distinguish between two broad categories of issues on which our Government might be asked to act. A UNESCO committee on which I recently served recognized this distinction by labeling one category as "questions".

A "case" involves a single individual or a limited group of named individuals who have been or are threatened to be deprived of a human right and for whom specific relief is being sought, such as the commutation of a death sentence or the release from prison.

The term "question", by contrast, was an abbreviation of the phrase 'questions of massive, systematic or flagrant violations of human rights which result either from a policy contrary to human rights . . . or from an accumulation of individual cases forming a consistent pattern." The relief that is sought when we deal with a "question" is for the accused government to change its basic mode of conducting its affairs. It does not take a great deal of experience in the conduct of international affairs to recognize that as difficult as it may be obtain a favorable solution to a "case", it is far more difficult to obtain the desired answer to a "question".

It stands to reason that once the United States decides to use its good offices on behalf of a victim of a human rights violation, it should adopt a course of action which is most likely to attain the desired result of relief for the victim. There are few who will disagree that to attain that result the best initial approach is one of quiet diplomacy. That does not mean that private groups should not focus their attention on a specific human rights violation and speak out on that subject. But a government should generally seek to avoid painting another government into a corner. The latter might find it easier to bow to world public opinion than to give in to the demands of another national government. Bowing to world public opinion can be explained away as an act of generosity performed for the sake of maintaining international good-will. For one country to submit to the demand of another tends to wound national pride and would be viewed as an act of vassalage.

What a government may not want to say to another government in public, it can, however, say in private. Private communication is not only less embarrassing, but it can also be more precise. Public statements can easily be embellished by the media, both in the country from which the communication originates and the one to which it is directed. Such embellishment can easily exacerbate the problem. Also, the public communication can, as recent history has shown, be designed for its public-relations effect in the dispatching country, which may very well be inversely proportional to its effectiveness in attaining the desired result in the receiving country. One of your publications, issued last year, made this precise point. Here is how you put it:

"Certain unilateral actions by the U.S. Government have hampered the effectiveness of the U.S. corporations vis-a-vis their foreign competitors, cost the U.S. economy jobs, and hurt the nation's balance of payments. At the same time, these actions have not achieved the desired political result in Latin America."

The question can, of course, appropriately be asked as to how the general public will find out that representations have been, in fact, made on a human rights issue, if it is done in a confidential setting. The answer is that because of the very fact that representations have been made in private, it will not be possible to publicize the matter. All that an outsider will be able to do is examine the pattern of behavior of certain countries over a period of time, see what improvements in the field of human rights can be recognized and try to draw inferences therefrom.

For example, would it not be reasonable to assume that the commutation of the death

sentence of Kim Dae Jung, as well as the recent amnesty in South Korea, were among the topics of conversation between South Korean and American official representatives before the South Koreans acted? Would it not be reasonable to make similar assumptions with regard to certain actions taken by the Government of Argentina?

Does that mean that we should under no circumstances go public with an appeal for life or the freedom of a person who is a victim of a human rights violation? It does not mean that at all. It does mean that we should go public only as a last resort, when it is clear that all other methods have failed.

I have, you will note, not made any distinction in the foregoing discussion between friendly, neutral, and unfriendly countries. The same basic principles apply. It is indeed a well-known fact that quiet diplomacy has helped us obtain the release from imprisonment of some Soviet dissidents.

Now let us turn to what the UNESCO committee to which I referred earlier calls "questions", patterns of conduct by governments which have the effect of depriving large numbers of people of their human rights.

What is it that our country should do where such a pattern emerges? Should we there, too, try our best at private diplomacy? Under what circumstances should we go public? Should we, in making representations, consider the circumstances under which a government acts, namely whether it is suppressing peaceful dissent or whether it is confronted by terrorism and armed rebellion? Should we take a country's geopolitical importance to the United States into account, before acting on that country's human rights record?

Here, at last, some observers might say, we have reached the core of the present controversy, the basic difference between the Carter Administration and the Reagan Administration. The former, they might contend, adopted a purist human rights policy. The latter, by contrast, they say, is prepared to sacrifice human rights for geopolitics.

On further examination, I submit, you will find that it ain't necessarily so. As I am speaking to you today as a private citizen and not as an official of the State Department, let me be less than diplomatic and cite two specific cases. As we all know, we have not made a major issue of the human rights record of the People's Republic of China, not during the Carter years and not since then. We have seen the wave of democratization which crested in 1976, recede. We have refrained from public criticism not for lack of sympathy for the brave souls who came forward a few years ago to put posters on Democracy Wall but because we did not think it was in our national interest to speak up. Nor have we made a major public issue of the status of women in Saudi Arabia, not in the Carter years, and not since then.

What I have thus suggested is that relating our human rights policy to other foreign policy concerns and then acting on the basis of what we consider to be in our national interest is not a new approach, invented by the Reagan Administration. It is a perfectly understandable and wholly defensible aspect of our conduct of foreign affairs.

The critical question has been to determine where our national interests lie. Key policymakers in the past Administration appear to have been of the view that our position on the international scene would not be adversely affected if we lost the friendship of some Latin American governments which we considered to be human rights violators. President Carter, you will recall, spoke in 1977 approvingly of the end of the inordinate fear of Communism.

The present Administration does not consider that fear inordinate, but reasonably justified by the Soviet Union's record in world affairs. Nor does the Administration feel sanguine about our own margin of safety. There is, therefore, a far less cavalier attitude about our losing the friendship of countries in the Western Hemisphere that would like to maintain good relations with us or permitting a government not friendly to the Soviet Union to be replaced by one which looks to Moscow for guidance.

While Latin America is the region that comes to mind when we speak of the Carter Administration's willingness to lose friends, sight is often lost of the fact that there is another part of the world where a poorly thought-through policy did serious harm to American interests. Considerations of human rights violations caused us, in 1977, to terminate our military relationship to Ethiopia, which then caused the Ethiopian government to switch to the Soviet side. It can, you will agree, fairly be said that conditions of human rights in that country have not improved as a result of the entrenchment in Addis Ababa of Soviet, Cuban, and East German military detachments or technical advisers.

Our experience with Ethiopia does indeed bring into sharp focus the geopolitical problems we face. Without our having registered a gain for the cause of human rights, we now find the Soviet Union thoroughly established on the Horn of Africa, in an improved position to endanger our lifeline to the Persian Gulf. For when we speak of the steps we need to take to safeguard our national interests, we are referring principally to our concern over the imperialist, expansionist designs of the Soviet Union, the threat posed by the Soviet Union to its immediate neighbors, to our access to national resources vital to our economy, and to the cause of freedom.

The fact that I have put the cause of freedom last does not mean that it should be regarded least important. The United States was deeply concerned about the fact that the Soviet Union was a totalitarian police state long before the Soviets were able to endanger American access to our vital resources. As we all know, in country after country that has been absorbed into the Soviet bloc, Soviet domination has meant the abrogation of the most basic human freedoms, the establishment of control of the people by a secret police force and the suppression, and often killing or imprisonment of all those who stand in the way of the new regime.

Thus, when we give weight to considerations of national interest in formulating our policy toward an independent country which is guilty of human rights violations, we are by no means betraying the cause of human rights. What we are doing, at worst, is subordinating certain perfectly legitimate short-range human rights concerns to our effort to protect the free world against the most serious long-term threat to the cause of human rights.

What I have emphasized from the very beginning of this presentation is that human rights violations are a matter of concern to us wherever and whenever they occur. The difficult problem with which we must deal is what it is that our Government can do about these violations when we are not focusing on an individual case in which we are asking for clemency but are urging a change in the basic pattern of a government's conduct. That is indeed the setting when we should use quiet diplomacy in speaking to our friends but should speak out loud in calling attention to the pattern of conduct in those countries which are not friendly.

Here again, our actions should be guided by our purpose to obtain beneficial results for the human rights cause. Getting a government to change its pattern of conduct as a result of outside intervention will under no circumstances be easy. But when we are dealing with a friendly or potentially friendly country, the chances of success would be greatest if we engage in off-the-record discussions, discussions which take into full account the problem the country might face, such as terrorism or armed rebellion, and the existence or non-existence of institutions on which civil order can be built.

The situation is obviously different when we deal with the Soviet Union and countries in the Soviet bloc. As distinct from the individual case in which clemency might be brought about through quiet diplomacy, informal discussions by United States representatives with Soviet or Soviet-allied officials will not succeed in eradicating Stalinist practices in the post-Stalin Soviet sphere. If there is any hope of change, it stems from the possibility that the Soviet Union or its satellites will be shamed into such change by world public opinion or by those peaceful dissidents who will have persevered in speaking out because they knew they were not abandoned, that there were people elsewhere who identified with their cause.

Is there, you might ask, a risk that our raising these human rights issues vis-a-vis the Soviet Union might endanger world peace? I submit to you that there is no historic evidence that our abstention from strong criticism of Soviet domestic policy will significantly affect that country's pursuit of its foreign policy objectives. It is from the pinnacle of United States-Soviet friendship at the end of World War II, after we had time and again averted our eyes from the brutally repressive actions of the Soviet regime, that Stalin set the course for the takeover of Eastern Europe. Conversely, our repeated condemnations of Soviet aggression and Soviet repression since the invasion of Afghanistan have not prevented Leonid Brezhnev from speaking in measured tones to the West in his most recent foreign policy statements.

Not only will our expression of concern with the Soviet Union's human rights record not do any harm to our relations with that country, but in the long run we have indeed reason to hope that it might do good. What the history of post-Stalin Russia, post-Mao China and now of post-Gierek Poland has demonstrated is that not even the most brutal repressive measures can entirely extinguish the spark of the instinctive human longing to be free.

Orwellian language is indeed spoken in many countries but the Orwellian nightmare of 1984 has not come true, for the efforts at brainwashing entire populations have fortunately utterly failed. What is important, though, is that we keep up the spirit of those who have the courage to speak out for the rights of man in repressive totalitarian societies. It is important that they know that their efforts at peaceful change to a freer system are recognized, applauded and supported. It is, for that reason, that where we can do little or nothing to obtain immediate changes for the better, where there is no opportunity to obtain results through quiet diplomacy, we speak out, and by doing so keep the flame of hope burning bright.●

THE NOMINATION OF EUGENE ROSTOW TO BE DIRECTOR OF THE ARMS CONTROL AND DISARMAMENT AGENCY

● Mr. HART. Mr. President, we have before us the nomination of Eugene Rostow, to be the Director of the Arms Control and Disarmament Agency. Mr. Rostow is a distinguished man, with a distinguished educational and public service record. I have the highest personal regard for him and would not oppose his nomination.

I am, however, deeply concerned about the administration's apparent willing-

ness, as stated by Mr. Rostow, to delay the resumption of arms control negotiations until well into 1982 and intention to link the negotiations to "the effective revival of the Truman Doctrine" of containment. Neither of these policies are in our country's national security interests.

I strongly urge those who will shape the course and direction of ACDA in the next 3½ years to make a sound arms control agreement one of this administration's highest priorities. The United States cannot have an effective national security policy without an arms control treaty which would limit specific Soviet weapons and alter the way the Soviets shape their strategic forces. Nor can we afford the cost to our economy and our efforts to fight inflation of an unlimited nuclear arms race.

I hope Mr. Rostow will follow through on his pledge to do all he can to shorten the time it takes to get new negotiations with the Soviets started. We cannot afford indefinite delays in such a critical endeavor.

I also hope the administration will reconsider making certain Soviet action a precondition for resuming negotiations. This approach flies in the face of the very reason we should be negotiating a treaty. Arms control agreements are not needed among friends. By definition, they are between rivals, if not outright antagonists. The purpose of strategic weapons treaties is to reduce the possibility that already-existing tensions will escalate to nuclear war.

In fact, the more one distrusts the Soviets, the more one assumes a continued weapons competition with them, and the more one assumes a continued strategic buildup by them, then the more one should support arms control agreements which put limits on the Soviets.

Unless and until we are able to achieve a new arms control agreement with the Soviet Union and thereby reduce the chances of nuclear war, we will never be a country that is truly strong and secure.●

THE CALENDAR

Mr. BAKER. Mr. President, there are a number of items on both the Calendar of General Orders and the Executive Calendar. I would inquire of the distinguished minority leader if we might be in a position to deal with some of those now. I especially call his attention to these items on the Legislative Calendar.

Calendar Order No. 177, S. 1278, the saccharin study bill; Calendar Order No. 181, Senate Joint Resolution 64, a resolution regarding "National Blinded Veterans Recognition Day"; Calendar Order No. 182, Senate Joint Resolution 91, a resolution regarding "National Peach Month"; Calendar Order No. 183, Senate Joint Resolution 12, a resolution regarding "Operating Room Nurses Day"; Calendar Order No. 184, Senate Joint Resolution 73, a resolution regarding "Management Week in America."

Mr. President, I inquire of the minority leader if he might be in a position to consider all or any part of the items that I have just identified.

Mr. ROBERT C. BYRD. Mr. President, the measures the distinguished majority leader has referred to have been cleared on this side of the aisle and the minority is ready to proceed with their consideration.

Mr. BAKER. I thank the minority leader.

Mr. President, I ask unanimous consent that the calendar orders just identified be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

SACCHARIN STUDY AND LABELING ACT AMENDMENT OF 1981

The bill (S. 1278) entitled the "Saccharin Study and Labeling Act Amendment of 1981," was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 1278

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Saccharin Study and Labeling Act Amendment of 1981".

SEC. 2. The Saccharin Study and Labeling Act is amended by striking from section 3 "June 30, 1981" and inserting in lieu thereof "twenty-four months after the date of enactment of the Saccharin Study and Labeling Act Amendment of 1981".

Mr. HATCH. Mr. President, the subject of food safety and the problems surrounding the administration of the Food, Drug, and Cosmetic Act have been brought to the attention of the Congress a number of times in recent years. Perhaps no other single issue demonstrated the problems inherent in food safety decisionmaking as vividly as the controversy surrounding saccharin.

The attempted banning of saccharin from the food supply by FDA in 1977 created an immense uproar and resulted in the FDA and the Congress being deluged with an unprecedented volume of mail questioning FDA's ability to make rational food safety decisions. The net result of this public outcry was the unfortunate loss of credibility suffered by FDA and the need for Congress to intervene in the decisionmaking process. Since that time, Congress acted twice (Public Law 95–203 and Public Law 96–345) to assure the continued availability of saccharin to the American public.

I believe that a review of the history of saccharin, the scientific studies conducted and now in progress, and a weighing of the consequences of keeping it on the market, will lead to the inescapable conclusion that saccharin should continue to be available to the American people for at least another 2 years. It is appropriate for the Senate today to provide for a 24-month extension from the date of enactment. I am pleased that I was joined as initial sponsor of this legislation by my colleague, the distinguished ranking minority member of the Committee on Labor and Human Resources, Senator KENNEDY, as well as the distinguished Senator from California during whose term on the committee had been very active on this issue, Senator SAM HAYAKAWA. This bill would continue to require the warning statement mandated by the Saccharin Study and Labeling Act (Public Law 96–203) and would allow the American public the option of using saccharin in their foods.

I believe the interest of the public will best be served by allowing saccharin to continue to be marketed for at least another 2 years, during which time ongoing studies will be completed and evaluated. We in Congress, meanwhile, will have begun our deliberations on updating and revising the Nation's food safety laws to make them more responsive to today's increasingly sophisticated food safety testing technology. I am beginning that process by introducing today separately the Food Safety Amendments of 1981. It is fitting that this bill should be introduced on the day the Senate adopts the saccharin extension.

I urge all my colleagues to support this needed legislation. I ask unanimous consent that my committee's report (No. 97–140) be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

REPORT No. 97–140

[To accompany S. 1278]

The Committee on Labor and Human Resources, to which was referred the bill (S. 1278) to extend for 24 months the prohibitions on actions by the Secretary of Health and Human Services respecting saccharin, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

I. SUMMARY OF LEGISLATION

S. 1278 amends section 3 of the Saccharin Study and Labeling Act (Public Law 95–203, as amended by Public Law 96–273) to extend from June 30, 1981, to "twenty-four months after the date of enactment" of this act, the prohibitions on actions by the Secretary of Health and Human Services respecting saccharin.

II. HISTORY OF S. 1278 INCLUDING HEARINGS

S. 1278 was introduced on May 21, 1981, by Senators Orrin G. Hatch, Edward M. Kennedy, and S. I. Hayakawa and was referred to the Committee on Labor and Human Resources. Owing to the imminent expiration of the existing statutory deadline, the lack of controversy surrounding a further 2-year extension, and the recency of previous committee action (less than 1 year before), the committee voted unanimously to report S. 1278 without benefit of further hearings. The vote was taken by a poll of committee members taken on June 15, 1981.

III. BACKGROUND AND COMMITTEE VIEWS

Little more than a year has passed since this committee last filed a report on the issue of saccharin (Senate Report 96–715, May 15, 1980). That report details the history of the use of saccharin and studies conducted on its safety. The committee is prepared to make a reexamination of the existing food safety statutes a priority during the 97th Congress and therefore to honor the commitment it made in this previous report. In light of that the conclusions drawn in that committee report continue to be valid and are deserving of repetition as this committee's continuing views.

The committee believes it is appropriate to extend the moratorium on Food and Drug Administration regulatory efforts to remove saccharin from the market. Under current law, FDA is required to remove from the market any additive that is unsafe or is found to cause cancer in appropriate animal or human studies. Although the process of removing saccharin from the market would

take at least 15 months to complete, the committee's action to extend the moratorium makes it clear that this process should not begin at this time.

Although the committee believes that the saccharin controversy is an important one, it should not be considered in isolation from overall food safety policy. The Congress should not be asked to intervene in the regulatory process and overrule existing statutes on a product-by-product basis as is currently the case. The committee believes that if current regulatory statutes do not permit these issues to be fairly resolved, then those statutes should be reexamined.

The National Academy of Science has recently reviewed our food safety laws and concluded:

"The law has become complicated, inflexible and inconsistent in implementation. Although complex in itself, the law is inadequate to meet changing and increasing problems of food safety."

The committee believes that this conclusion in light of the growing number of controversies about individual products argues for a thorough and complete congressional reexamination of the food safety laws. The extension of the moratorium will give the committee the time to complete such an examination. It is the committee's intent to reach final resolution on saccharin in its proper perspective as part of the overall food safety policy.

The committee does not intend its action in extending the saccharin moratorium to be interpreted as an endorsement of the view that studies to date have proven saccharin is safe for human consumption. The committee recognizes that many people, including diabetics and others on specific diets, want a no-calorie or low-calorie substitute for sugar and that at the present time saccharin is the only noncaloric substance available.

The committee believes that the American people would prefer an alternative nonnutritive sweetener, that is not subject to so many questions of safety and carcinogenicity. Therefore, the committee hopes that industry will make a determined effort to develop a safe alternative to saccharin.

The committee felt strongly that during the original 18-month moratorium that consumers should be afforded a reasonable opportunity to know which products contain saccharin so that they could make personal judgments concerning its use.

The Saccharin Study and Labeling Act, therefore, authorized the Secretary to place warning labels on products containing saccharin and required retail establishments that sell saccharin or food containing saccharin to prominently display a notice of the risks to health that may be related to the use of saccharin. This requirement is unchanged and reflects the committee's continued support of consumer choice in this matter.

IV. VOTES IN COMMITTEE

Pursuant to section 133(b) of the Legislative Reorganization Act of 1946, as amended, the following is a tabulation of votes in committee:

All members of the committee voted to favorably report the bill without amendment.

V. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., June 16, 1981.

Hon. ORRIN G. HATCH,
Chairman, Committee on Labor and Human Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: As requested by your staff, the Congressional Budget Office has reviewed S. 1278, the Saccharin Study and Labeling Act Amendment of 1981, as introduced and referred to the Senate Committee on Labor and Human Resources on May 21, 1981.

The bill would extend for 2 years after enactment the prohibition on removal of saccharin from the market by the Secretary of Health and Human Services acting under the authority of the Federal Food, Drug, and Cosmetic Act. Based on our review, it is expected that no additional cost to the government would be incurred as a result of enactment of this legislation.

Sincerely,

ALICE M. RIVLIN, *Director.*

VI. REGULATORY IMPACT STATEMENT

The committee anticipates that there will be little if any additional regulatory impact because of this legislation. The bill merely extends for an additional 24 months the original moratorium as enacted under the Saccharin Study and Labeling Act (SSLA) (Public Law 95-203) and extended to June 30, 1981, by Public Law 96-273. There are no new labeling or testing requirements in this bill, only the effective date has been changed. Posters and notices will continue to be distributed by the manufacturers of the products or by their trade associations. There may be some minimal costs to industry for additional posters for display in retail stores, however, this should be incurred only where new stores are opened or existing posters need to be replaced because of damage or other similar reasons.

Manufacturers of products containing saccharin will not incur additional expenses related to labeling changes because the basic labeling requirements—prescribed by the law itself (section 4)—are unchanged and have been implemented during the initial moratorium.

VII. SECTION-BY-SECTION ANALYSIS

The bill contains only one section which amends section III of the Saccharin Study and Labeling Act (Public Law 95-203 as amended by Public Law 96-273) to extend the prohibition on actions by the Secretary of Health and Human Services from June 30, 1981 to "twenty-four months after the enactment of the Saccharin Study and Labeling Act Amendment of 1981".

VIII. CHANGES IN EXISTING LAW

In compliance with rule XXVI paragraph 12 of the Standard Rules of the Senate, the following provides a print of the statute or the part or section thereof to be amended or replaced (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 3 OF THE SACCHARIN STUDY AND LABELING ACT

SEC. 3. During the period beginning on the date of the enactment of this act and ending [June 30, 1981;] *twenty-four months after the date of enactment of the Saccharin Study and Labeling Act Amendment of 1981,* the Secretary—

(1) may not amend or revoke the interim food additive regulation of the Food and Drug Administration of the Department of Health, Education, and Welfare applicable to saccharin and published on March 15, 1977 (section 180.37 of part 180, subchapter B, chapter 1, title 21, Code of Federal Regulations (42 Fed. Reg. 14638)), or

(2) may, except as provided in section 4 and the amendments made by such section, not take any other action under the Federal Food, Drug, and Cosmetic Act to prohibit or restrict the sale or distribution of saccharin, any food permitted by such interim food additive regulation to contain saccharin, or any drug or cosmetic containing saccharin,

solely on the basis of the carcinogenic or other toxic effect of saccharin as determined by any study made available to the Secretary before the date of the enactment of this Act which involved human studies or animal testing, or both.

NATIONAL BLINDED VETERANS RECOGNITION DAY

The joint resolution (S.J. Res. 64) designating August 13, 1981, as "National Blinded Veterans Recognition Day", was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S.J. RES 64

Whereas there are thousands of Americans in the United States today who, as a result of service in the military forces of their country, incurred the catastrophic disability of blindness;

Whereas, despite the extreme severity of their disability, most of these veterans have received rehabilitation and have returned to and continue to lead useful and productive lives; and

Whereas the sacrifices and contributions that these veterans have made and the service rendered by the many veterans who later suffered blindness from nonservice related causes are deserving of national recognition: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That August 13, 1981, is designated as "National Blinded Veterans Recognition Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States and interested groups and organizations to set aside this day to honor the sacrifices and service of blinded veterans in an appropriate manner.

● Mr. SIMPSON. Mr. President, I am most pleased that this body has seen fit to pass Senate Joint Resolution 64—commemorating National Blinded Veterans' Recognition Day. This resolution was originally introduced at the request of the Blinded Veterans Association.

The Blinded Veterans Association is a highly respected veterans service organization which works actively to represent the very special needs and legislative interests of this country's thousands of blinded and visually impaired veterans. Over the years the Senate Veterans' Affairs Committee has introduced, and the Congress has enacted, a wide variety of bills which have targeted the very unique needs of these most deserving veterans. Programs have been initiated, expanded, and improved in the areas of compensation, readjustment, rehabilitation, and specially adapted housing in order to assist the blinded and severely visually impaired veteran to live a more independent and productive life.

On August 11 of this year, the Blinded Veterans Association will hold its national convention here in our Nation's Capital. The hundreds of blinded veterans who will be attending the convention will evaluate the need for new legislative initiatives. As always we will be very interested in their proposals. During the convention, on the date of August 13, a commemorative postal envelope will be issued in braille honoring the blinded veterans of America.

Their representatives on that date also will place a memorial plaque in the memorial display room at Arlington National Cemetery honoring our war dead. By establishing August 13, 1981, as Blinded Veterans Recognition Day, Congress will appropriately and effectively indicate its support and appreciation

for the thousands of blinded and visually impaired veterans who have served and sacrificed in the defense of our Nation.

Mr. President, I wish to express my appreciation to the many colleagues who joined me in supporting this resolution. Without doubt this resolution recognized the very extraordinary sacrifices made and the problems faced by those fine veterans.●

NATIONAL PEACH MONTH

The joint resolution (S.J. Res. 91) to designate July 1981 as "National Peach Month," was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S.J. RES. 91

Whereas peaches are recognized as the number one summer fruit;

Whereas peaches are harvested in our Nation from May until October, with peak supplies occurring nationally in July;

Whereas public awareness of the need for a well-balanced diet is becoming increasingly evident;

Whereas medical authorities believe that proper nutrition can be a factor in preventing and relieving diseases such as cancer, cardiovascular diseases, and other illnesses; and

Whereas peaches, which contain only thirty-eight calories each, are an important sources of vitamin A, protein, and minerals, such as calcium and iron, and can be a nutritious part of any well-balanced diet: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to designate July 1981 as "National Peach Month", to call upon the people of the United States to incorporate nutritious peaches into their diets when they are in season, and to call upon interested groups to celebrate this month with appropriate programs and activities that will make the benefits of this succulent fruit and of a well-balanced diet known to the consumers of America.

Mr. THURMOND. Mr. President, the Senate is taking action today on Senate Joint Resolution 91, a resolution authorizing and requesting the President to designate July 1981, as "National Peach Month." I introduced this resolution on June 11, on behalf of myself and Senators HOLLINGS, NUNN, and MATTINGLY. I would like to take this opportunity to thank our following 25 colleagues who added their names as cosponsors of this resolution: Senator EAST, Senator HELMS, Senator QUAYLE, Senator DENTON, Senator WARNER, Senator HATCH, Senator ROTH, Senator SYMMS, Senator HAYAKAWA, Senator GRASSLEY, Senator DOLE, Senator SPECTER, Senator RANDOLPH, Senator HEFLIN, Senator BUMPERS, Senator PRYOR, Senator HUDDLESTON, Senator SASSER, Senator WILLIAMS, Senator JOHNSTON, Senator SARBANES, Senator DIXON, Senator STENNIS, Senator BYRD of West Virginia, and Senator BYRD of Virginia.

As I commented in my statement on the Senate floor when introducing Senate Joint Resolution 91, passage of this resolution would serve two purposes. It would first call attention to the nutritional value of this delicious summer fruit and would emphasize the importance of a well-balanced diet in general. Second, designation of a national peach month would highlight the economic importance of this fruit to the States of South Carolina and Georgia and other peach-producing States. South Carolina, I am very proud to say, is the second largest peach-producing State in the Nation, producing 355 million pounds of peaches in 1980. This amount of production resulted in revenues for our State which approached $62.4 million. South Carolina, however, is the largest exporter of fresh peaches. In recognition of the importance of peach production to South Carolina's economy, Richard Riley, Governor of our State, recently proclaimed July 1981, as Peach Month in South Carolina. A number of other States have issued similar proclamations.

Mr. President, I hope that the full Senate, following the lead of the Judiciary Committee, will take favorable action on Senate Joint Resolution 91. I also hope that my colleagues in the Senate will enjoy fresh South Carolina peaches this summer, which will be in peak production during the month of July.

OPERATING ROOM NURSES DAY

The Senate proceeded to consider the joint resolution (S.J. Res. 12) to authorize and request the President to designate November 14 of each year as "Operating Room Nurses Day," which had been reported from the Committee on the Judiciary with an amendment.

On page 2, line 4, strike "of each year", and insert "1981".

The amendment was agreed to.

The jo nt resolution, as amended, was read the third time, and passed.

The preamble was agreed to.

The joint resolution, as amended, and the preamble are as follows:

S.J. RES. 12

Whereas the Association of Operating Room Nurses, Incorporated, is a specialty nursing organization with a primary focus on education and a goal of excellence in patient care for all who undergo surgery;

Whereas there are twenty-eight thousand five hundred registered nurse members in such association;

Whereas on November 14, 1980, such association sponsored activities nationwide to educate the public about the role the members of the association play in health care; and

Whereas the association intends to continue to educate the public of the nursing care rendered during surgery: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to designate November 14, 1981, as "Operating Room Nurses Day", and to call upon Federal, State, and local government agencies, and the people of the United States to observe such day with appropriate programs, ceremonies, and activities.

The title was amended so as to read: "Joint resolution to authorize and request the President to designate November 14, 1981, as 'Operating Room Nurses Day.' ".

MANAGEMENT WEEK IN AMERICA

The Senate proceeded to consider the joint resolution (S.J. Res. 73) to designate the week beginning June 1, 1981, and ending June 7, 1981, as "Management Week in America", which had been reported from the Committee on the Judiciary with an amendment.

On page 2, beginning on line 3, strike "June 1, 1981, and ending June 6, 1981", and insert the following: "June 6, 1982 and ending June 12, 1982".

The amendment was agreed to.

The joint resolution was read the third time, and passed.

The amendment to the preamble was agreed to.

The preamble, as amended, was agreed to.

The joint resolution, and the accompanying preamble, are as follows:

S.J. RES. 73

Whereas the high level of dedication of the members of the management profession has contributed significantly to the success of the American free enterprise system;

Whereas the quality of management is of crucial importance in ensuring increased production of superior goods and services at costs that permit successful competition in both domestic and world markets; and

Whereas the first full week in June has been recognized as a proper time for acknowledging the essential role of the management profession in ensuring the continued strength of the American economy: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning June 6, 1982, and ending June 12, 1982, is designated "Management Week in America", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

The title was amended so as to read: Joint resolution to designate the week beginning June 6, 1982, and ending June 12, 1982, as "Management Week in America.".

Mr. BAKER. Mr. President, I move to reconsider the votes by which the calendar orders identified were passed or agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE CALENDAR

Mr. BAKER. Mr. President, I would once more inquire of the distinguished minority leader if he might be in a position to consider certain items on the Executive Calendar. I would advise the minority leader that we are in the position on this side to consider in executive session all the nominations on the Executive Calendar with the exception of the nomination of Winifred Ann Pizzano, of Virginia, to be Deputy Director of the ACTION agency. If the minority leader is in a position to consider all or part of those nominations, I am prepared to ask that the Senate go into executive session for that purpose.

Mr. ROBERT C. BYRD. Mr. President, the minority is ready to proceed with the

consideration of nominations beginning with the nomination of Lawrence F. Davenport, of California, under ACTION agency, and proceeding through District of Columbia Court of Appeals, and all nominations on page 2 and page 3 of the Executive Calendar, provided that the nominations which were reported by the Armed Services Committee today and which are at the desk be included.

Mr. BAKER. Mr. President, I thank the minority leader. I would indeed like to proceed to those nominations as well.

EXECUTIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate go into executive session for the purpose of considering the nominations on the Executive Calendar beginning with Calendar Order No. 254, Lawrence F. Davenport, of California, and including all of those nominations on page 2 and page 3 of the Executive Calendar, and including, as well, the nominations that were reported favorably from the Armed Services Committee today and which are at the desk.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BAKER. Now, Mr. President, I ask unanimous consent that the nominations be considered and confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

(Nominations confirmed en bloc are as follows:)

ACTION AGENCY

Lawrence F. Davenport, of California, an Associate Director of the ACTION Agency, vice John Robert Lewis, resigned.

DISTRICT OF COLUMBIA COURT OF APPEALS

James A. Belson, of the District of Columbia, an associate judge of the District of Columbia Court of Appeals for the term of 15 years, vice George R. Gallagher, retired.

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Warren Roger King, of the District of Columbia, an associate judge of the Superior Court of the District of Columbia for a term of 15 years, vice Fred L. McIntyre, retired.

Richard Stephen Salzman, of the District of Columbia, an associate judge of the Superior Court of the District of Columbia for a term of 15 years, vice William S. Thompson.

Reggie Barnett Walton, of the District of Columbia, an associate judge of the Superior Court of the District of Columbia for a term of 15 years, vice Leonard Braman.

DEPARTMENT OF COMMERCE

Gerald J. Mossinghoff, of Virginia, Commissioner of Patents and Trademarks, vice Sidney A. Diamond, resigned.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Loren A. Smith, of Delaware, Chairman of the Administrative Conference of the United States for the term of 5 years, vice Reuben B. Robertson, resigned.

DEPARTMENT OF JUSTICE

O. Evans Denney, of Delaware, U.S. marshal for the district of Delaware for the term of 4 years, vice Irvin B. Smith, Jr., resigning.

DEPARTMENT OF STATE

Jose S. Sorzano, of Virginia, the Representative of the United States of America on the Economic and Social Council of the United Nations, with the rank of Ambassador.

Charles W. Bray III, of Maryland, a Foreign Service officer of class 1, Ambassador Extraordinary and Plenipotentiary of the United Sttaes of America to the Republic of Senegal.

Jane Abell Coon, of New Hampshire, a Foreign Service officer of class 2, Ambassador Extraordinary and Plenipotentiary of the United States of America to the People's Republic of Bangladesh.

Arthur F. Burns, of the District of Columbia, Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federal Republic of Germany.

INTERNATIONAL COMMUNICATION AGENCY

James B. Conkling, of California, an Associate Director of the International Communication Agency, vice Mary G. F. Bitterman, resigned.

James T. Hackett, of Virginia, an Associate Director of the International Communication Agency, vice James David Isbister, resigned.

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

Eugene Victor Rostow, of Connecticut, Director of the U.S. Arms Control and Disarmament Agency, vice Ralph Earle II, resigned.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

James Montgomery Beggs, of Missouri, Administrator of the National Aeronautics and Space Administration, vice Robert Alan Frosch, resigned.

DEPARTMENT OF EDUCATION

Clarence Thomas, of Maryland, Assistant Secretary for Civil Rights, Department of Education, vice Cynthia G. Brown, resigned.

John H. Rodriguez, of Virginia, Deputy Undersecretary for Intergovernmental and Interagency Affairs, Department of Education, vice Elizabeth S. Carpenter, resigned.

COMMUNITY SERVICES ADMINISTRATION

Dwight A. Ink, of Maryland, Director of the Community Services Administration, vice Richard John Rios.

IN THE AIR FORCE

Lt. Gen. Ranald T. Adams, Jr., U.S. Air Force (age 56), for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 8962.

Lt. Gen. Benjamin N. Bellis, U.S. Air Force (age 57), for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 8962.

Lt. Gen. Edgar S. Harris, Jr., U.S. Air Force (age 56), for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 8962.

Lt. Gen. Eugene F. Tighe, Jr., U.S. Air Force (age 60), for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 8962.

IN THE ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be general

Gen. Volney Frank Warner [redacted] (age 54), Army of the United States (major general, U.S. Army).

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. Pat William Crizer [redacted] (age 56), Army of the United States (major general, U.S. Army).

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. Ernest Graves, Jr [redacted] (age 56), Army of the United States (major general, U.S. Army).

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. Thomas Howard Tackaberry, [redacted] (age 57), Army of the United States (major general, U.S. Army).

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. Raphael Dean Tice [redacted], U.S. Army.

IN THE NAVY

The following-named officer, having been designated for command and other duties of great importance and responsibility in the grade of vice admiral within the contemplation of title 10, United States Code, section 5231, for appointment while so serving as follows:

To be vice admiral

Rear Adm. Thomas J. Kilcline, U.S. Navy.

The following-named officer, having been designated for command and other duties of great importance and responsibility in the grade of admiral within the contemplation of title 10, United States Code, section 5231, for appointment while so serving as follows:

To be admiral

Vice Adm. John G. Williams, Jr., U.S. Navy.

The following-named officer, having been designated for command and other duties of great importance and responsibility in the grade of vice admiral within the contemplation of title 10, United States Code, section 5231, for appointment while so serving as follows:

To be vice admiral

Rear Adm. Eugene A. Grinstead, Jr., Supply Corps, U.S. Navy.

IN THE ARMY

Army nominations beginning Alan E. Babigan, to be colonel, and ending Thomas F. England, to be captain, which nominations were received by the Senate and appeared in the Congressional Record of June 15, 1981.

STATEMENT ON THE CONFIRMATION OF GERALD J. MOSSINGHOFF, OF VIRGINIA, TO BE COMMISSIONER OF PATENTS AND TRADEMARKS

Mr. THURMOND. Mr. President, I rise today to state my support for Mr. Gerald J. Mossinghoff, the nominee for Commissioner of Patents and Trademarks.

In 1957, Mr. Mossinghoff earned his degree in electrical engineering from St. Louis University. He received his law degree from George Washington University where he graduated in 1961 with honors.

While attending law school, Mr. Mossinghoff was employed as patent examiner for the U.S. Patent Office. He later served as the Director for the Patent

Office's legislative planning division. He has continually exemplified his expertise in the area of patents and trademarks. Mr. Mossinghoff has many published writings on such subjects as patent infringement, reform acts, procurement, and exploitation.

It is evident that Mr. Mossinghoff has devoted much of his academic and public service career to the patents and trademarks profession, and I feel he will make an outstanding Commissioner. I urge my colleagues to vote for the confirmation of Gerald J. Mossinghoff.

STATEMENT ON THE CONFIRMATION OF LOREN A SMITH, OF DELAWARE, TO BE CHAIRMAN OF THE ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Mr. THURMOND. Mr. President, I rise to give my enthusiastic support for President Reagan's choice for chairman of the Administrative Conference of the United States, Mr. Loren Allan Smith.

The position of Chairman of the Administrative Conference calls for an individual who will strive to improve efficiency as well as to identify delay and unfairness in administrative proceedings affecting private rights.

Mr. Smith has the prerequisite experience and qualifications to become an outstanding chairman. In 1966 he graduated from Northwestern University in Illinois. He then attended law school at the same institution, where in 1969 he received his J.D. degree. Mr. Smith is presently an associate law professor at the Delaware School of Law.

In the past, Mr. Smith has held the position of Assistant to the Special Counsel to the President of the United States; Special Assistant U.S. Attorney for the District of Columbia; and general attorney for the Federal Communications Commission.

Mr. Smith has the knowledge, expertise and ability to insure a cohesive working relationship among the many organizations with which he will be associated.

President Reagan has made an outstanding choice in selecting Loren Smith for Chairman of the Administrative Conference of the United States, and I urge my colleagues to support his nomination.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the nominees were confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PERCY. Mr. President, would the majority leader allow me to make the comment that there is no hold that I know of on this side of the aisle for Winifred Ann Pizzano, of Virginia, to be Deputy Director of the ACTION agency. Certainly, I have no hold.

Mr. BAKER. Mr. President, I thank the Senator from Illinois. That is very helpful information. I can assure him, then, that after we return from the 4th of July recess, we will make every effort to proceed with the consideration of that nomination at that time.

Mr. President, I ask that the President be immediately notified that the Senate has given its consent to these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BAKER. Mr. President, I now ask that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, there is one other matter that has been cleared on this side of the aisle for consideration this evening. That is the resolution to authorize testimony and direct the Senate legal counsel to provide representation in the case of the United States against Stephanie L. Roth, et al. I believe that has been cleared by the distinguished minority leader. If that is the case, I am prepared now to ask the Senate to turn to the consideration of that resolution.

Mr. ROBERT C. BYRD. That has been cleared.

Mr. BAKER. I thank the minority leader.

RESOLUTION AUTHORIZING TESTIMONY AND DIRECTING THE SENATE LEGAL COUNSEL TO PROVIDE REPRESENTATION

Mr. BAKER. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 165) to authorize testimony and direct the Senate legal counsel to provide representation in United States v. Stephanie L. Roth, et al.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. BAKER. Mr. President, Senator JOHN P. EAST and two members of the staff of the Subcommittee on Separation of Powers have been served with subpenas by the prosecution and the defense in United States against Stephanie L. Roth, et al., the cases brought against six members of the audience for allegedly disrupting the subcommittee's hearings on April 23, 1981. This resolution will authorize Senator EAST and the two members of the subcommittee staff to testify about events they witnessed at the hearing, and will authorize the Senate legal counsel to represent them and to raise the privileges of the Senate and its Members on their behalf and on behalf of the subcommittee. The resolution does not authorize the production of any documents.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 165) was agreed to, as follows:

S. RES. 165

Whereas, in the case of "United States v. Stephanie L. Roth, et al." Crim. No. M4347-81, pending in the Superior Court of the District of Columbia, the defendants have been charged with disrupting a public hearing of the Subcommittee on Separation of Powers on April 23, 1981;

Whereas, Craig Stern, counsel to the Subcommittee, has been served with a subpoena to testify as to the events he witnessed at the public hearing on April 23, 1981;

Whereas, Senator John P. East, Chairman of the Subcommittee, and James McClellan, Chief Counsel to the Subcommittee, have been served with subpoenas to appear as witnesses and to produce documents of the Subcommittee regarding the selection of, requests to, and replies from, witnesses for the Subcommittee's hearings on S. 158;

Whereas, by the privileges of the Senate of the United States no evidence under the control or in the possession of the Senate can, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no Member or employee of the Senate is authorized to produce any information, documents, papers or records of the Senate but by order of the Senate and information secured by employees of the Senate pursuant to their official duties may not be revealed without the consent of the Senate;

Whereas, when it appears that testimony of a Member of the Senate or its staff is needful for use in any court for the promotion of justice and, further, that such testimony may involve documents, papers, and records under the control of or in the possession of the Senate, the Senate will take such action thereon as will promote the ends of justice consistently with the privileges and rights of the Senate;

Whereas, under section 704(a)(2) of the Ethics in Government Act of 1978 ("the Act"), 2 U.S.C. § 288c (Supp. III 1979), the Senate may direct the Senate Legal Counsel to defend the Senate, or any Member or employee of the Senate, in any proceeding with respect to any subpoena or order directed to them in their official capacity;

Whereas, under section 706(a) of the Act, 2 U.S.C. § 288e(a) (Supp. III 1979), the Senate may direct the Senate Legal Counsel to intervene in the name of any subcommittee of the Senate, in any proceeding in which the powers and responsibilities of Congress under the Constitution of the United States are placed in issue; Therefore, be it

Resolved, that if the Court should determine that testimony of Senator John P. East, James McClellan, or Craig Stern about events they witnessed at the public hearing of the Subcommittee on Separation of Powers on April 23, 1981, is relevant and material to issues in the case of "United States v. Stephanie L. Roth, et al.," they are authorized to appear and testify as to those matters; *Provided*, That the appearance of Senator John P. East be scheduled at such time as not to interfere with his responsibilities to the Senate;

2. That pursuant to section 704(a)(2) of the Act, the Senate Legal Counsel is directed to represent Senator John P. East, James McClellan and Craig Stern with respect to any such testimony for the purpose of asserting, if necessary, the privileges of the Senate and its members.

3. That pursuant to section 704(a)(2) of the Act, the Senate Legal Counsel is directed to represent Senator John P. East and James McClellan with respect to the subpenas served on them in this case;

4. That pursuant to section 706(a) of the Act, the Senate Legal Counsel is directed to appear as a movant in the name of the Subcommittee on Separation of Powers, to quash the subpenas to Senator John P. East and James McClellan insofar as they seek the documents of the Subcommittee, its Members and employees.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. EAGLETON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PERMISSION FOR COMMITTEES TO FILE REPORTS ON MONDAY, JULY 6, 1981

Mr. BAKER. Mr. President, I ask unanimous consent that on Monday, July 6, 1981, committees be authorized to file reports between the hours of 9 a.m. and 3 p.m. This is in addition to the request made previously in that respect.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, there is one other matter that I believe might come before the Senate at this time which has been cleared on our side. I yield to the distinguished Senator from North Carolina so that he may, if he wishes, present that matter.

The PRESIDING OFFICER. The Senator from North Carolina.

AUTHORIZATION OF APPROPRIATIONS FOR THE FOOD STAMP PROGRAM

Mr. HELMS. Mr. President, I ask that the Chair lay before the Senate Calendar Order No. 180.

Mr. ROBERT C. BYRD. Mr. President, I do not believe that has been cleared on this side.

Mr. President, I have no objection.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 3991) to amend the Food Stamp Act of 1977 to increase the authorization for appropriations for fiscal year 1981, and to amend Public Law 93-233 to continue, through August 1, 1981, the cash-out of food stamp program benefits of certain recipients of Supplemental Security Income.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill.

UP AMENDMENT NO. 217

(Purpose: To amend the Food Stamp Act of 1977 to increase the authorization for appropriations for fiscal year 1981; and to amend Public Law 93-233 to continue, through August 1, 1981, the cash-out of food stamp program benefits of certain recipients of Supplemental Security Income)

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 217.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

That section 18(a)(1) of the Food Stamp Act of 1977 is amended by striking out, before the period at the end of the first sentence thereof, "and not in excess of $9,739,276,000 for the fiscal year ending September 30, 1981" and inserting in lieu thereof "and not in excess of $10,739,276,000 for the fiscal year ending September 30, 1981".

SEC. 2. Effective for the period July 1, 1981, to August 1, 1981, section 8(d) of Public Law 93-233 is amended to read as follows:

"(d) Upon the request of a State, the Secretary shall find, for purposes of the provisions specified in subsection (c), that the level of such State's supplementary payments of the type described in section 1616(a) of the Social Security Act has been specifically increased for any month after June 1976 so as to include the bonus value of food stamps if: (1) the Secretary has found that such State's supplementary payments in June 1976 were increased to include the bonus value of food stamps; (2) recipients of supplementary payments in such State were ineligible for food stamps for the month of December 1980; and (3) such State continues to meet the requirements of section 1618 of such Act for each month after June 1977 and up to and including the month for which the Secretary is making the determination.".

Mr. HELMS. Mr. President, this amendment will insure that the food stamp program is sufficiently funded for the month of August by providing an additional $1 billion.

This additional supplemental in this form is necessitated by a delay in the House of Representatives. Everyone concerned with the food stamp program has known for 6 months that there would be a shortage of funds for fiscal year 1981. Originally projected as $1.2 billion short, the estimate is now $1.7 billion short in August and September of this year.

The Congress has had 6 months to act. The Senate did act—on June 10—2 weeks ago not only to increase the authorization for fiscal year 1981 but also to implement numerous reform measures which will make such emergency supplementals unnecessary in the future.

Instead, the House has with all due respect to our friends in the House of Representatives procrastinated in acting on food stamps. They have pushed the Congress to the brink. The Department of Agriculture has now announced that unless funding is obtained by July 1, they will issue instructions to the States to shut down the program during August and September. This amendment will prevent that occurrence.

The House has submitted a bill for $1.7 billion and expects the Senate to accept it without seeking to achieve any fundamental reforms in the program for the future. This amendment provides 1 month, rather than 2 months, of authorization in order to encourage the House to act expeditiously on the cost-savings provisions of S. 1007 which the Senate passed on June 10.

The House Agriculture Committee has not cooperated in including any specific cost-saving provisions in its reconciliation package in the House. While I am optimistic that a more realistic reconciliation provision will be in the final House-passed bill in the form of the Gramm-Latta substitute, this requirement for the Congress to reexamine spending for September will insure further action on cost-saving reforms.

The Department of Agriculture has already indicated that fiscal year 1981 expenses are running high partially as a result of delays in enacting the legislative savings passed by the Senate.

Each passing day that reforms are not enacted will continue to cost the American taxpayers precious millions of tax dollars.

The pending amendment includes the House-passed provisions which extends from July 1 to August 1 a special provision which allows the State of California to remain "cashed-out" for its elderly supplemental security income recipients. Again, Congress will have ample time to consider the further extension in connection with the September authorization before August 1.

Mr. President, I shall say this 1-month extension, which is what it amounts to, has been agreed upon by the distinguished Senator from Kansas (Mr. DOLE), the distinguished Senator from Vermont (Mr. LEAHY), the distinguished Democratic ranking member (Mr. HUDDLESTON), and everyone else that I know of concerned with this matter.

Mr. EAGLETON. Mr. President, I rise in opposition to Mr. HELMS' amendment and hope I can persuade my colleague not to go forward with this amendment.

First of all, my colleague (Mr. HELMS) leaves the impression that it is his benign amendment that will be the only thing that will permit the food stamp program to go forward for the next month. The truth is the bill that is before us, that has been called up by the Senator from North Carolina, would complete the funding for the food stamp program for the remainder of this fiscal year—not only the month of August, but also the month of September.

It is the Helms amendment that seeks to abort that—to abort this bill, by the way, that is supported by the President of the United States and by Mr. Stockman of the Office of Management and Budget and Mr. Block, the Secretary of Agriculture. Rather than allow 2 months of additional funding to complete this fiscal year, he will provide only 1 month so we can go through a monthly "Perils of Pauline" act at 15 minutes after midnight in various dark nights on the eve of the food stamp program being brought to a screeching halt.

Further, I point out to the Senator from North Carolina that I do agree with one point he has made. He said that for 6 months it has been well known that the food stamp program would run out of money for the current fiscal year. That is true. That was known to the Sen-

ator from North Carolina when he opposed the amendment last November in the lame duck session, which would have guaranteed the full funding in the food stamp program for the full fiscal year. He knew that the money appropriated up to that time would be inadequate for the full funding. By premeditated design, he saw to it that the full amount was not appropriated—which was perfectly within his rights in a free, open, and Democratic process.

Mr. President, the knowledge that this program was going to run out of money was very much in the mind of the Senator from North Carolina. It is in his mind on a daily basis. He continues to engage in a never-ending act of trench warfare and sabotage on the food stamp program.

We know that was true insofar as the authorization bill was concerned. We passed that bill here in the Senate 2 or 3 weeks ago. The House committee has completed action on its bill. I should think—here we are, as I say, 15 minutes past midnight on the last day of the session before the recess—that we would at least complete funding of the food stamp program for this fiscal year. I think that in this year alone, this is about the fifth or sixth time that the food stamp program has been debated. Not only have we debated it, we have voted on a whole series of reforms contained in the authorization bill that came through Senator HELMS' Agriculture authorizing committee.

Mr. President, I hope that we can resolve this matter for this fiscal year and then, when the appropriations bills come through later on for fiscal year 1982, we can have further debate about food stamps and about chiselers and cheaters and the whole program.

If we adopt the Helms amendment, Mr. President, that means that we shall have a crisis at 1 minute to midnight in August. Again we shall have to rush a bill through, and I presume at that time, Senator HELMS will want a 10-day extension of the program or a 10-minute extension of the program.

It seems to me, Mr. President, that enough is enough. There is a time and a place for a resolution of matters. We have the bill before us. It provides for $11,080 million, which will fund the program for the remainder of this fiscal year. Let us get it over and done with.

So I oppose the Helms amendment and hope that the Senator might see fit to withdraw it so that the Senate can be about its business.

Mr. HAYAKAWA. Mr. President, I support the amendment of the distinguished Senator from North Carolina. It is crucial that the Senate act favorably on this legislation tonight, despite the lateness of the hour. It will allow the State of California to continue its policy of providing cash in lieu of food stamps to SSI beneficiaries.

If Congress does not agree to this provision in final form by July 1, 1981, Mr. President, which is before the recess ends, the State of California will have to begin providing food stamps to eligible SSI beneficiaries by spending $80 million in administrative costs to provide $30 million in benefits.

Although this body passed this legislation as part of the food stamp bill earlier this month, and the other body passed it earlier this week, without a final assessment on this matter, a tremendous waste will occur in California. Therefore, I urge my colleagues to approve this legislation.

Mr. EAGLETON. Will the Senator from California yield for a clarifying question?

Mr. HAYAKAWA. I will, Mr. President.

Mr. EAGLETON. Mr. President, I take it the remarks of the Senator from California are in support of the bill as sent over from the House, which, in the text thereof, takes care of the peculiar dilemma of the State of California. Is that not correct?

Mr. HAYAKAWA. That is correct. On July 1, we shall have to provide food stamps to eligible SSI beneficiaries and it will cost $80 million in administrative costs to provide $30 million in benefits.

We have a cash-out program in California, Mr. President.

Mr. EAGLETON. I understand that.

Mr. HAYAKAWA. That is instead of food stamps. We shall have to go back to food stamps at an enormous administrative cost unless this is passed tonight.

Mr. EAGLETON. Mr. President, the House bill addresses the California dilemma, treats the cash-out system that is the system in California. We should pass the House bill as is. By the way, that is the only bill that can be passed here tonight. If we were to accept any amendment, be it the Helms amendment, Hayakawa amendment, or Huddleston amendment—any amendment that we put on this bill tonight assures there is no bill, for the simple reason that there will be no conference on the bill. It will have to go to conference, and there is no time for that.

I can assure the Senator from California, because I am familiar with the problem he is addressing, his problem is taken care of completely in the House-passed bill. The only thing that will insure that his problem is not satisfactorily resolved is to go forward with the Helms amendment, because there will be no bill if the Helms amendment passes.

Mr. HELMS. Mr. President, my friend from Missouri is sincere, but he is sincerely wrong. The House will be in session tomorrow.

I have no doubt about the House approving this bill as amended. It is simply a matter of whether we mean business with respect to the food stamp program and encourage the House of Representatives to roll up their sleeves and do something about the waste and abuse in the program. That is all we are talking about.

The Senator from Missouri is 180 degrees wrong when he says there will not be any bill. But even if he were correct, we will be back here early in July, and there is money for the food stamp program for the month of July.

I believe we owe it to the taxpayers to take every precaution available to us to make sure that one of the most outrageously expensive and most abused programs in the history of the country will be brought under control. That is all the Senator from North Carolina said any other time.

I do not begrudge helping any of the truly needy; but anybody who tries to pretend that this program does not need radical reform is just cockeyed. We can have all the rhetoric we want on this floor, but in matters of this kind, we either put up or shut up on the question of whether we are going to reform the food stamp program. That is all there is to it.

It is now 12:22 a.m., and the Senator from North Carolina is ready to vote on it.

Mr. EAGLETON. I will ask for a rollcall vote on this amendment.

Mr. BAKER. Mr. President, I hope the Senator from Missouri would not do that. I have announced already that there will be no rollcall votes tonight. Of course, he may do that if he wishes.

However, it is my understanding that when this matter was presented, it had been cleared on both sides to be presented tonight and that there would be a colloquy, that there would be a statement by the Senator from Missouri and a statement by the Senator from North Carolina and others, if they wish. But if there is a request for a rollcall vote, it will be necessary to postpone that until we return. I had not anticipated that, and I do not believe that Members here had thought it would be the disposition of this matter when it was called up.

I repeat: The Senator from Missouri may do as he wishes, but I hope he will not ask for a rollcall vote on the Helms amendment at this time.

Mr. EAGLETON. Mr. President, I have high regard for the majority leader, and I understand the dilemma in which he finds himself.

Speaking for myself, the bill was cleared as a clean bill, but I told Senator HELMS I would object to his amendment. A bill can be passed tonight—the bill that the administration wants, the bill that the President wants, the bill that the Secretary of Agriculture wants, the bill that the Director of the Office of Management and Budget wants.

I know of one and possibly two individuals who do not want this bill here presently—the Senator from North Carolina and perhaps the Senator from California. So it is the Senator from North Carolina who, at this late hour, is interposing another amendment to truncate the food stamp program so that we can have a repeat performance of the same exercise, as we get close to August 1.

Every time we get close to the beginning of the month—and that is when the Secretary must send out his notifications that he is to cut back on program benefits—every time we get close to the first of the month, we get into one of these trench warfare situations.

I do not know of any good reason—rationally and in commonsense—why we do not complete the funding of this program for the remainder of this fiscal year, 2 more months.

We can fight about the fiscal year 1982 appropriation. We have the agriculture

bill which is going to come up in a week or two, after we come back from the Fourth of July recess, and that would be a perfectly fine vehicle to discuss food stamp spending again.

We have vehicles and opportunities galore to fight and argue and discuss food stamps. Why can we not fund the program for this year, knowing that we have all these other opportunities to take aim on the food stamp program in the months to come?

Mr. HUDDLESTON. Mr. President, I hate to see us get into any kind of impasse tonight; because not only is the hour late, so far as this particular day is concerned, but also, it is late so far as the funding of the food stamp program is concerned.

What we are confronted with tonight is not something that is unusual for us, because we have done it every year since I have been in the Senate.

We have dealt with the food stamp program in the Agriculture Committee, as the distinguished chairman of the committee has indicated. On the Senate side, we made a very determined effort to tighten up the program, cut the costs, eliminate abuses, and develop a program that would be acceptable to the people and at the same time meet the needs of some of the truly needy in this country. I believe our bill does that. It will go into effect, of course, with the new fiscal year.

I do not believe any harm will be done if we bail the program out for 30 days or 60 days or whatever. During the consideration of the food stamp bill in the Agriculture Committee, I proposed and supported removing the cap altogether. I believe it is a charade. We go through this exercise unnecessarily every year.

No former administration has ever been willing to cut back on the benefits to adjust to the level of funding when that is reached.

So we have gone through this exercise every time. I have tried to get from the current administration some indication as to what their philosophy is. I tried to get them to answer this question: If you bump against the ceiling, are you going to cut back on the benefits or are you going to come to Congress and ask for an increase to cover it? We never did get an answer. I suppose this is the closest we have come to getting an answer to that particular question. Nevertheless, we are faced now with that situation.

If the Senator from North Carolina prevails, it just means we will be back again next month, in all probability, to extend the limits so that we can continue the program through the final month of the fiscal year, which will be September.

There, again, the administration will have to make a decision: Do they want to ask for more funding or do they want to cut back the benefits? I should like to know what their policy is going to be.

The bottom line is that we are talking about benefits to people. If we develop an impasse here that we cannot resolve, there will be no choice on the part of the administration except to reduce benefits to conform with the spending limits that are established on the program.

If we accept the amendment by the distinguished Senator from North Carolina, then at least we have assured those benefits for another month; and we will have time when we come back to deal with the following month, if we run into that situation again.

That is why, as the ranking minority member of the Agriculture Committee, I have consented to go along with the desires of the chairman at this point, in attempting to make sure that we at least protect the program for such a period of time that we have an opportunity to deal with it again. It is not my preferred approach. We develop a program and we establish certain criteria, and I believe we should fund it. The people have a right to expect that they are going to receive those benefits throughout the year.

The full committee did not agree with removing the spending cap; neither did the full Senate. So my position did not prevail on that particular issue. So we will deal with it as it is, not as I would particularly like it.

So I will just say that I think we should resolve this issue tonight. No real harm can be done by the approach of the Senator from North Carolina, because whichever position we take on this issue, we will have ample time to confront it again. I do not like the idea of having to confront it throughout the year but, nevertheless, the opportunity is there.

So, I suggest that we not allow ourselves to get into a situation here tonight that we cannot resolve. Our colleagues have been led to believe that this issue would be decided on the basis that the current level of funding will continue, at least until they can get back here. and most of them already are gone and will not be back until after the recess. If we do not do anything. then we leave no alternative to the Secretary of Agriculture except to adjust the benefits downward to conform with the funding that is available to him.

I thank the Chair.

Mr. EAGLETON. Mr. President, I will be brief in response of my colleague from Kentucky and I understand the situation in which he finds himself.

Let us understand where we all find ourselves here tonight. The House Agriculture Committee unanimously approved this bill. The House of Representatives by unanimous consent approved this bill. We can go forward tonight with this bill that has the virtual unanimous support of everyone in the Senate excent perhaps one or two Members of the Senate.

I just do not believe that we should have this program under incessant sniper attack on a day-to-day, month-to-month basis.

All of us have received calls either from our State secretaries of agriculture or the food stamp administrators of the various programs in the respective States. and each month we go through this, as I call it, 1 minute to midnight kind of rescue operation.

If we adopt the Helms amendment, that means we can expect yet another session similar to this one, almost exactly 30 days from tonight.

I ask and implore the Senator from North Carolina: let this program be funded for the remainder of this year and we can make all of these collateral, direct, or indirect attacks on the food stamp program through the many vehicles available in the future, if that be our desire.

Mr. BAKER. Mr. President, does the Senator from Missouri ask for the yeas and nays on his amendment?

Mr. EAGLETON. I oppose this amendment, and I want to defeat it, but I have not enough bodies here to insure its defeat unless I can be certain of the vote of the Senator from Kentucky perhaps. No; I do not think the Senator from North Carolina has the right to continually subject this program to incessant attack.

My God, he is the chairman of the Agriculture Authorization Committee that has jurisdiction over the food stamp program and has ample opportunity to hold all kinds of hearings, ample opportunity to consider all kinds of food stamp legislation, and indeed his committee did and we acted on it about 2 weeks ago. Enough is enough. There is a time when we must end debates on the same subject matter.

As I say, in the House of Representatives, their Agriculture Committee approved this unanimously and it was approved by unanimous consent in the House. I do not see what is to be gained by this amendment and then son of this amendment 30 days from now and then grandson of this amendment 30 days thereafter, on and on, endlessly.

Mr. HELMS. Mr. President, the Senator from Missouri missed the point. The Agriculture Committee has acted. This Senate has acted. The House of Representatives has not acted.

If this thing is held up, if indeed the notices are put in motion on July 1, it will not be the Senate's fault. It will not be the fault of the House of Representatives and it will be the fault of the Senator from Missouri, Mr. EAGLETON.

Let that be clear because I am offering a way out, but I am also insisting that the House do something about reforming this program. That is all I am saying. They sent it back here with nothing except a cap.

I think it is a little bit unfair for the Senator from Missouri to make some of the statements that he made. I know it is late at night. But he need not be churlish about it.

The Senator from North Carolina has asked nothing unreasonable. As far as calling it up late at night that was not the option of the Senator from North Carolina. I would have been perfectly willing the first thing this morning, and I was here. I would have been perfectly willing to lay aside the bill today any time, and I was here.

I am perfectly willing to accept the responsibility for demanding as best I can that this program be reformed. And the majority of the Senate has voted to say that it should be reformed.

Our bill went to the House of Repre-

sentatives. With not so much as a by your leave they sent it back over here with no reform. I think that is totally unacceptable for the Senate.

I absolutely feel that we should go ahead and approve the amendment and I hope the Senator from Missouri will not be an obstructionist on this matter because I told him before this matter came up that I was not going to play any games on this thing. I ask the Senator if I did not tell him that.

Mr. EAGLETON. I told the Senator directly I would oppose this amendment. Just as directly as he said we would not play games, I said I would oppose it.

Mr. HELMS. That is a non sequitur.

Mr. EAGLETON. What is a non sequitur, that I told you directly I would oppose it?

Mr. HELMS. I said but there will be no games.

The PRESIDING OFFICER. Senators will address the Chair.

Mr. HELMS. I have no more to say, Mr. President.

Mr. BAKER. I put the question. Will the Chair state the pending question?

The PRESIDING OFFICER. The pending question is on the amendment of the Senator from North Carolina.

Mr. EAGLETON. I want to make a clarification for the RECORD as well.

Do not let anyone here in this deserted Chamber think that the Senator from North Carolina is trying to help the food stamp program. He used the word "obstructionist." There has been no more premeditated obstructionist of the food stamp program than the Senator from North Carolina. He has fought it, maligned it, abused it, at every conceivable opportunity, at every hour of the day and night.

So, if the termination notices go out from the Secretary of Agriculture, let it be loud and clear so the country will know it is the Senator from North Carolina who insisted at 12:15 to 12:45 in the morning that his amendment be taken or else; his amendment which instead of having the program funded for the next 2 months, would fund it only 1 month to give him another lie-in-wait opportunity to take another cut, slice, slash, sledgehammer blow at the food stamp program.

That is what he wants. What he wants is the forum so that he can attack it again and again and again.

And so let everyone who is a food stamp beneficiary know, whether he is in the State of California, the State of North Carolina, the State of Missouri, or in the State of any Senator here on this floor, that the man who did the program in—insofar as having the benefits cut or terminated or having the notice go out on July 1—was the Senator from North Carolina, the Honorable JESSE HELMS.

I am going to ask for a rollcall vote on the amendment.

Mr. HAYAKAWA. Mr. President, I would implore the distinguished Senator from Missouri not to call for a rollcall vote. This does require taking the matter up again at the end of July.

Nevertheless, we have to confront the problems that have been raised by the distinguished Senator from North Carolina, and the Senator from California has an obligation to his own State, to the people of that State, that the program not be terminated on July 1 so that we have to go into a different system of distribution altogether, extraordinarily more expensive than the food stamps themselves that will be issued.

I implore the distinguished Senator from Missouri, therefore, to permit us to attack this problem again before the first of August so that we can approach this thing in a more clearheaded and more rational manner than we can at this late hour.

For the State which I have the honor to represent it is very, very much a matter that falls upon us this coming week, on July 1, and we shall have to change our whole system of issuing cash instead of food stamps, a much more efficient process. If we have to go back to the food stamp program, as I say, it will result in great, great inefficiencies and great, great loss of the money of the taxpayers to whom the Senator from Missouri, the Senator from North Carolina, and I all have an obligation.

I, therefore, implore the Senator from Missouri to withdraw his call for a rollcall vote tonight and postpone this debate until the end of July when we can consider this matter all over again.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President it is my intention in a moment to call for the regular order, and it is my understanding that a call for the regular order will end morning business, and the measure before the Senate will go back to the calendar; is that correct?

The PRESIDING OFFICER. The Senator is correct.

CALL FOR REGULAR ORDER

Mr. BAKER. I call for the regular order, Mr. President.

The PRESIDING OFFICER. Regular order has been called for. The time for morning business has expired.

ROUTINE MORNING BUSINESS

Mr. BAKER. Now, Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business to extend for not more than 5 minutes, during which Senators may speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. BAKER. Mr. President I do not know whether it is possible to work our way out of this dilemma or not, but I am going to speak for 2 or 3 minutes, and I hope that during that period the distinguished Senator from North Carolina, the Senator from Missouri, and others, the Senator from Kentucky, might confer and counsel on whether there is some method by which we can resolve this issue.

Shortly, if I see no prospect of that, I intend to move in accordance with Senate Concurrent Resolution 23 that the Senate stand in adjournment.

PRAISE FOR THE HANDLING OF THE OMNIBUS RECONCILIATION ACT OF 1981

Mr. BAKER. Mr. President, in order to provide a brief opportunity now for Senators to consult and confer if they wish, I wish to take this opportunity to say, Mr. President, that today the Senate has witnessed one of its best performances. I cannot recall in the years I have been in the Senate when Members on both sides of the aisle have acted with such diligence and dedication in serving the purpose not only of a statute, in this case the Budget Act, but the traditions and precedents of the Senate as well.

I wish to especially pay my respects and to extend my compliments to the distinguished chairman of the Budget Committee, Senator DOMENICI. I think nothing short of superlative is an adequate adjective to describe his performance during the time of the consideration of this measure.

Mr. President, I wish as well to commend the distinguished ranking minority member of the Budget Committee, Senator HOLLINGS. I have seen in my time in the early months and years of the life of the Budget Act, extraordinary bipartisan cooperation between the first chairman and the first ranking member, Senator Muskie, our former colleague, and Senator Bellmon, our former colleague.

I believe their tradition has been preserved in this most recent exercise of the Senate's authority under the Budget Act.

I think Senator HOLLINGS has made a monumental contribution to the further evolution and development of the Budget Act and of the traditions and precedents of the Senate in respect to it.

Mr. President, as well I would be remiss if I did not express my appreciation to the distinguished minority leader. Every day that goes by I understand with greater certainty the burdens he bore as he had this job of trying to manage the schedule of the Senate and to see that a legislative agenda was navigated successfully, and that a legislative result was the end product.

But in his role as minority leader, Mr. President, I could not expect greater cooperation and understanding than he has shown, especially in his efforts to find a way out of the serious dilemma in which the Senate found itself on the question of precedent under the Budget Act.

I said then, and I repeat now, often our acts produce unintended results. But unintended results can sometimes be no less harmful than intended results. It was with the good offices of the minority leader that we were able, with the cooperation of so many other Senators, to devise a series of unanimous-consent agreements and parliamentary procedures that permitted us to do the work of the Senate and still avoid precedents that I believe the Senate would not wish to embrace at this time.

Finally, Mr. President, I wish to pay my respects to the staff of the committee on both sides. They are truly outstanding and in the highest traditions of professionalism, and they comported themselves with great distinction.

May I pay my respect, Mr. President, to the distinguished occupant of the Chair. The distinguished assistant Republican leader has presided over much of the debate, especially in the late evening hours. I told him privately from the floor and informally which, perhaps, I should not have done, but I will repeat now publicly, that I have not seen the duties of the Chair handled with such dispatch and efficiency in recent years as has been done by the distinguished Senator from Alaska.

I commend him for it. I commend to all our colleagues who may occupy that chair his good example in handling the procedure of the Senate with surety, with certainty, with competence, with fairness, but with dispatch.

Now, Mr. President, I wish to inquire of my friends if it is their desire to proceed to the consideration of this bill at this time.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished majority leader yield?

Mr. BAKER. Yes, I yield.

Mr. ROBERT C. BYRD. Mr. President, I need not attempt to equal the eloquence of the distinguished Senator from Tennessee, the majority leader, as he has expressed well-deserved tributes to the managers of the reconciliation bill, Mr. DOMENICI and Mr. HOLLINGS. Both of those men have comported themselves with great dedication, and have acted in a most admirable way to skillfully pilot the legislation through the Senate.

I must say that I am concerned about the budget process. I thank the distinguished majority leader and all who worked to eliminate the matter which had been put into the reconciliation bill by the Budget Committee, and which it was required to do upon the request of the authorizing committees. That material was deleted.

But as I watched the Senate then proceed to include in the bill by majority vote certain amendments which were offered on the floor, and which certainly came within the purview of the act, I more and more have come to the conclusion for the first time that the Budget Reform Act needs some reform.

I saw happening to the budget reform process what has happened to the appropriation bills increasingly in recent years when legislation has been tacked onto appropriation bills, legislation which had had no hearings, no committee markups, legislation which was added without the benefit of the testimony of witnesses and appearances before committees. Now we see the same prostitution of the process taking place with regard to budget reform.

I compliment the distinguished majority leader on the job he is doing as majority leader. He is doing an excellent job. I admire the way he has handled this budget legislation.

It is the only process by which the President's proposals could be brought before the Senate in a single package and acted upon. Had it not been possible to have done this, the President's package and proposals would have been torn apart piece by piece and little by little and nickled and dimed to death. I think the American people expect better than that. Fortunately for the President, the Budget Reform Act was in place.

But I watched this development with some sadness, because it is a great piece of legislation if not misused. And I think that what I have seen this afternoon is the beginning of the erosion of the Budget Reform Act. And it will be regrettable, because in the last few years, under the joint leadership of Mr. Muskie and Mr. Bellmon and now under the equally skillful and dedicated and able leadership of Mr. DOMENICI and Mr. HOLLINGS, the Budget Reform Act has enabled us to discipline ourselves and to act with fiscal restraint. But I am afraid that we are going to become undisciplined if we allow what I perceive to be an erosion of the process to continue.

So I want to state that for the record so that others may think about it and perhaps there will be some needed modifications of the budget reform process. I say this with the utmost desire to uphold the process, because I think it is a beneficial one if not misused.

Mr. President, I thank the distinguished majority leader for his kind comments concerning me and concerning Mr. HOLLINGS and others on this side of the aisle. Again, I pay tribute to him. He is making a fine majority leader and I am happy to cooperate with him where I can.

Mr. BAKER. Mr. President, I wish to express my deep appreciation to the distinguished minority leader, who is extraordinarily kind but who has been an extraordinarily good role model for me and I am sure for every other Senator in his affection for the Senate, his understanding of the rules and his appreciation of his responsibility.

Mr. President, I must say that in my view two things are happening in the budget process. I think both of them are good.

We are developing a body of common law, as it were, of precedents and procedures for the implementation and fleshing out of the Budget Act. We are learning to live with it. We are learning what it means. It has grown its first set of teeth.

I rather expect that maybe that is what the minority leader had in mind when he was so instrumental in the final formation of that bill as it emerged from the jurisdiction committee of the Senate and was considered by this body and adopted.

But the second thing that is happening is that we are coming to understand that there are aspects of the bill that need our careful attention in light of this new experience and efforts to implement its extraordinary provisions; call it midcourse corrections, if you will.

So it may be that the product of that experience may lead to, as the minority leader suggests, consideration of changes in the bill. I am not prepared now to say there should be changes in the bill.

I am certainly prepared to say that we should take stock quietly and calmly of our new-found experience with the bill and our enhanced and improved appreciation of its potential and decide in a deliberate way whether further adjustments and midcourse corrections should be undertaken.

But, in any event, Mr. President, I think as in so many other cases that exercise has produced a beneficial result. It certainly has as far as my appreciation of the act is concerned.

So when we are through with this process, as we will be shortly, I trust and assume, perhaps the minority leader and I and the chairman and ranking member of the Budget Committee and other interested Senators can view the matter with a calmer perspective, at least a more distant perspective, and find out what we have truly learned about the process in the course of this energetic debate and enthusiastic application of the Budget Act.

Mr. President, I hope the Chair will indulge me for one brief moment.

EXTENSION OF TIME FOR ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that the time for the transaction of routine morning business be extended by 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION OF APPROPRIATIONS FOR THE FOOD STAMP PROGRAM

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar Order No. 180, H.R. 3991, an act to amend the Food Stamp Act of 1977 and that the bill not be subject to amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the time for debate on that bill be limited to 5 minutes.

Mr. HELMS. Mr. President, I do not agree with that.

Mr. BAKER. Mr. President, I withdraw that portion in regard to the time limitation.

The PRESIDING OFFICER. Without objection, the Senator's previous request is agreed to.

Mr. BAKER. Mr. President, I withdraw that portion of the request dealing with the portion of the time.

The PRESIDING OFFICER. The Chair understood that. The previous request is agreed to without objection.

The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3991) to amend the Food Stamp Act of 1977 to increase the authorization for appropriations for fiscal year 1981, and to amend Public Law 93-233 to continue, through August 1, 1981, the cash-out of food stamp program benefits of certain recipients of Supplemental Security Income.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President. clearly there is an impasse here at 1 o'clock in the morning, following an agreement that was made earlier this evening on the floor involving the Senator from Kansas (Mr. DOLE), the Senator from Vermont (Mr. LEAHY), to which the distinguished minority ranking member (Mr. HUDDLESTON), agreed.

As a matter of fact, everybody on this floor at this time, insofar as I know, is

in agreement with the amendment previously offered by the Senator from North Carolina, except the distinguished Senator from Missouri.

I might note for the record that Senator LEAHY entered into this agreement, yet I notice his aide is sitting by Senator EAGLETON. Senator LEAHY is not here to participate in the agreement which he made. That is up to any Senator.

Mr. President, notwithstanding my strong feelings that the Senate owes an obligation to the American people to pursue diligently a course of reform in the food stamp program, I have great sympathy for the position in which the distinguished Senator from California (Mr. HAYAKAWA) finds himself with reference to that portion of the legislation and my amendment.

He will be caught in the middle in disagreeing with the Senator from Missouri and the Senator from North Carolina. The Senator from Missouri can suggest the absence of a quorum and we can then make it go live, recalling Senators between 1 and 2 o'clock in the morning. That will not prove anything except that the rules permit it. I do not fault the Senator from Missouri for being willing to do that. I am not willing to do it. The Senate has worked all day and I have worked all day. But I am saying, Mr. President, that the Senate is not exercising its responsibility to encourage the House of Representatives to move along with the reforms of the food stamp program that are so desperately needed.

My friend from Missouri was a bit harsh in his characterization of me. That is fine. He is not the first and he will not be the last. He had some of his facts wrong. For example, he kept talking about a 3-month extension. We are talking really about 1 month because the month of July is already covered, as the Senator should know. So we are talking about August and September, and the amendment of the Senator from North Carolina would have covered August, leaving only September, giving us the time to make clear to the House of Representatives that they should get about the business of reforming the food stamp program.

Here we have a program, Mr. President, that has gone into the stratosphere because of abuse, corruption, fraud, and mismanagement. It has doubled in cost in the last 4 or 5 years, having over 20 million participants in it. Crime syndicates are involved in the food stamp program, which is now a second currency. Because the Senator from North Carolina has insisted as openly, frankly, and candidly that insofar as his capabilities go the program will be reformed, I am subjected to harsh criticism.

I accept it. But I think those who criticize me tell more about themselves than they tell about me.

I regret that the comity of the Senate has been thus violated but I will forget it, and. yes, I will yield because of my friendship for Senator HAYAKAWA. But I say to the Senate that were it not for Senator HAYAKAWA and for his great need in his State, and the fact that they need many millions of dollars, if I did not yield to the Senator from Missouri I would stay here all night tonight and all day tomorrow. I think the Senator knows that, and I think he would stand with me. He, himself, has been outspoken on this program, as have many other Senators; indeed, as the entire Senate spoke a couple of weeks ago.

So I do not want any of this nonsense about the truly needy. I am not trying to do a thing in the world to the truly needy. They are the ones being shortchanged by the tendency of the U.S. Senate and the House of Representatives just to escalate the cost while wrapping the toga of sanctity around themselves and saying, "We are looking after the poor."

They are not looking after the poor. The poor are the victims of a corrupt program.

Mr. President, one day, the people of this country are going to wise up to what is going on. A great many of them already are aware. I promise the Senate, and I promise the people I am trying to serve, that as long as I am a Member of the Senate I am going to oppose with all the vigor I possess wasteful Federal programs which are born of expedience and apathy, and disregard for the best interests of the people.

The PRESIDING OFFICER. The time of the Senate has expired.

Mr. HELMS. I did not agree to a time limitation.

Mr. BAKER. Mr. President, I ask unanimous consent that the time for routine morning business be extended by——

Mr. HELMS. One minute.

Mr. BAKER. Be extended for 5 minutes, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I think the record is clear.

Let me say in conclusion once more that were it not for my respect and admiration for the Senator from California (Mr. HAYAKAWA) I would not yield on this question. I want him to work out his problems. I want his State to avoid the expenditure of millions of dollars unnecessarily. So I shall not offer an amendment to the bill. I thank the Chair.

Mr. HAYAKAWA. Mr. President, let me express my profound gratitude to the distinguished Senator from North Carolina. I realize that this is a matter of principle and he has made a sacrifice on my behalf.

I also pay my respects to the distinguished Senator from Missouri, for whom this is also a matter of principle and here is the point at which principles have clashed. That is what this distinguished body is for, the clash of principles. We have to hear it out on both sides and, late as it is, I am happy to have heard both of them. I am happy to be associated with both of them in this distinguished body. I am happy that we have taken this time to deliberate this matter and debate this matter so very thoroughly.

So, Mr. President, let me thank both of the Senators again—the distinguished Senator from North Carolina (Mr. HELMS) and the distinguished Senator from Missouri (Mr. EAGLETON). I sit down with a sense of profound fulfillment that I lived through this with these two Senators.

Mr. EAGLETON. Mr. President, I have one point. I do not want the only fall guy for this past hour to be this gentleman named Mr. Fersh, whom I did not know until this moment. Let me explain completely for the record how this occurred.

I was seated in the cloakroom watching the 11:30 ABC Nightline or whatever that program is called. Pat Griffin, this fellow with the mustache, came into the cloak room and said, "I know you are interested in food stamps, Senator EAGLETON."

I said, "Yes, I would debate JESSE HELMS at the drop of a hat on food stamps."

He said, "Senator HELMS has an amendment that apparently Senator LEAHY, Senator DOLE, and Senator HELMS have agreed to to give a 30-day food stamp extension."

I said, "Pat, I don't agree with that. Convey my message to Senator HELMS."

I had never met Mr. Fersh. He was sitting on the couch back there. Pat said, "By the way, that is Mr. LEAHY's nutrition guy."

I wrote his name down, "Fersh." Wherever Senator HELMS has gone to, I hope the word will get to him that this is not some plot or conspiracy. This is not Senator LEAHY conspiring to send his staff here. It has no sinister implications whatsoever. That is precisely how I learned about it, through Mr. Griffin, while I was watching television in the back room.

I am the one who motioned Mr. Fersh to come down here. I think when any Member of the U.S. Senate asks a staffer of some other Senator, "Come and give me some assistance on a matter that is before the body," I do not think the staffer should hide in the corner and say, "Oh, no, I have a Leahy sign, 'LEAHY only' or 'HUDDLESTON only.'"

The PRESIDING OFFICER. The question is on the third reading of the bill.

The bill was ordered to a third reading, was read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I hope that we shall all go home with a spirit of friendship in our hearts. We have found our way out of this brier patch. I compliment the Senator from North Carolina (Mr. HELMS) on agreeing to the unanimous-consent request that was put by the majority leader which made the enactment of this measure possible.

I want also to compliment Mr. EAGLETON on his dedication to his duty as he saw it. Mr. President, I feel that at 1:15 in the morning, almost anybody may lose his temper a little bit. Happily, this is one of those bodies in which men and women do so and then forget about it when they emerge from the doors and come back on the next day with entirely new feeling in their hearts.

May I express to the majority leader again my good wishes and my thanks. May I wish him a very pleasant and enjoyable, happy and restful holiday.

Mr. BAKER. Mr. President, I thank the minority leader.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The time for morning business has expired.

DEPARTMENT OF JUSTICE AUTHORIZATION

The PRESIDING OFFICER. The clerk will state the pending business.

The legislative clerk read as follows:

A bill (S. 951) to authorize appropriations for the purpose of carrying out the activities of the Department of Justice.

ADJOURNMENT UNTIL WEDNESDAY, JULY 8, 1981

Mr. BAKER. Mr. President, I move, in accordance with the provisions of Senate Concurrent Resolution 23, that the Senate stand in adjournment until 12 noon on Wednesday, July 8, 1981.

The motion was agreed to; and at 1:17 a.m. the Senate adjourned until Wednesday, July 8, 1981, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate June 25, 1981:

DEPARTMENT OF STATE

Parker W. Borg, of the District of Columbia, a Foreign Service officer of class 2, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Mali.

Robert Strausz-Hupe, of Pennsylvania, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Turkey.

DEPARTMENT OF TREASURY

Kenneth W. Gideon, of Texas, to be an Assistant General Counsel in the Department of the Treasury (Chief Counsel for the Internal Revenue Service), vice N. Jerold Cohen, resigned.

SECURITIES AND EXCHANGE COMMISSION

Bevis Longstreth, of New York, to be a Member of the Securities and Exchange Commission for the remainder of the term expiring June 5, 1982, vice John S. R. Shad, resigned.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

Robert A. Rowland, of Texas, to be a Member of the Occupational Safety and Health Review Commission for a term expiring April 27, 1987, vice Frank R. Barnako, term expired.

DEPARTMENT OF JUSTICE

Sarah Evans Barker, of Indiana, to be United States Attorney for the Southern District of Indiana for the term of 4 years vice Virginia Dill McCarty, resigning.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 26, 1981:

ACTION AGENCY

Lawrence F. Davenport, of California, to be an Associate Director of the ACTION Agency, vice John Robert Lewis, resigned.

INTERNATIONAL COMMUNICATION AGENCY

James B. Conkling, of California, to be an Associate Director of the International Communication Agency, vice Mary G. F. Bitterman, resigned.

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

Eugene Victor Rostow, of Connecticut, to be Director of the U.S. Arms Control and Disarmament Agency, vice Ralph Earle II, resigned.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

James Montgomery Beggs, of Missouri, to be Administrator of the National Aeronautics and Space Administration, vice Robert Alan Frosch, resigned.

UNITED NATIONS

Jose S. Sorzano, of Virginia, to be the Representative of the United States of America on the Economic and Social Council of the United Nations, with the rank of Ambassador.

INTERNATIONAL COMMUNICATION AGENCY

James T. Hackett, of Virginia, to be an Associate Director of the International Communication Agency, vice James David Isbister, resigned.

DEPARTMENT OF EDUCATION

Clarence Thomas, of Maryland, to be Assistant Secretary for Civil Rights, Department of Education, vice Cynthia G. Brown, resigned.

COMMUNITY SERVICES ADMINISTRATION

Dwight A. Ink, of Maryland, to be Director of the Community Services Administration, vice Richard John Rios.

DEPARTMENT OF STATE

Charles W. Bray III, of Maryland, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Senegal.

Jane Abell Coon, of New Hampshire, a Foreign Service officer of class 2, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the People's Republic of Bangladesh.

DEPARTMENT OF EDUCATION

John H. Rodriguez, of Virginia, to be Deputy Under Secretary for Intergovernmental and Interagency Affairs, Department of Education, vice Elizabeth S. Carpenter, resigned.

DEPARTMENT OF DEFENSE

Francis J. West, of Rhode Island, to be an Assistant Secretary of Defense, vice David E. McGiffert, resigned.

DEPARTMENT OF STATE

Arthur F. Burns, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federal Republic of Germany.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

OFFICE OF PATENTS AND TRADEMARKS

Gerald J. Mossinghoff, of Virginia, to be Commissioner of Patents and Trademarks, vice Sidney A. Diamond, resigned.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Loren A. Smith, of Delaware, to be Chairman of the Administrative Conference of the United States for the term of 5 years, vice Reuben B. Robertson, resigned.

DISTRICT OF COLUMBIA COURT OF APPEALS

James A. Belson, of the District of Columbia, to be an Associate Judge of the District of Columbia Court of Appeals for the term of 15 years, vice George R. Gallagher, retired.

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Warren Roger King, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for a term of 15 years, vice Fred L. McIntyre, retired.

Richard Stephen Salzman, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for a term of 15 years, vice William S. Thompson,

Reggie Barnett Walton, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for a term of 15 years, vice Leonard Braman.

DEPARTMENT OF JUSTICE

O. Evans Denney, of Delaware, to be United States Marshal for the District of Delaware for the term of 4 years, vice Irvin B. Smith, Jr., resigning.

IN THE AIR FORCE

Lt. Gen. Ronald T. Adams, Jr., U.S. Air Force, (age 56), for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 8962.

Lt. Gen. Benjamin N. Bellis, U.S. Air Force, (age 57), for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 8962.

Lt. Gen. Edgar S. Harris, Jr., U.S. Air Force, (age 56), for appointment to the grade of lieutenant general on the retired list, pursuant to the provisions of title 10, United States Code, section 8962.

Lt. Gen. Eugene E. Tighe, Jr., U.S. Air Force, (age 60), for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 8962.

IN THE ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be General

Gen. Volney Frank Warner, [redacted] (age 54), Army of the United States (major general, U.S. Army).

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. Pat William Crizer, [redacted] (age 56), Army of the United States (major general, U.S. Army).

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. Ernest Graves, Jr., [redacted] (age 56), Army of the United States (major general, U.S. Army).

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. Thomas Howard Tackaberry, [redacted] (age 57), Army of the United States (major general, U.S. Army).

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. Raphael Dean Tice, [redacted] U.S. Army.

IN THE NAVY

The following-named officer, having been designated for command and other duties of great importance and responsibility in the

grade of vice admiral within the contemplation of title 10, United States Code, section 5231, for appointment while so serving as follows:

To be vice admiral

Rear Adm. Thomas J. Kilcline, U.S. Navy.

The following-named officer, having been designated for command and other duties of great importance and responsibility in the grade of admiral within the contemplation of title 10, United States Code, section 5231, for appointment while so serving as follows:

To be admiral

Vice Adm. John G. Williams, Jr., U.S. Navy.

The following-named officer, having been designated for command and other duties of great importance and responsibility in the grade of vice admiral within the contemplation of title 10, United States Code, section 5231, for appointment while so serving as follows:

To be vice admiral

Rear Adm. Eugene A. Grinstead, Jr., Supply Corps, U.S. Navy.

IN THE ARMY

Army nominations beginning Alan E. Babigan, to be colonel, and ending Thomas F. England, to be captain, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 15, 1981.

HOUSE OF REPRESENTATIVES—*Thursday, June 25, 1981*

The House met at 10 a.m.

The SPEAKER. The opening prayer today was to be given by Dr. Carroll Hubbard, Sr., father of our Congressman, CARROLL HUBBARD of Kentucky.

Dr. Hubbard died in Louisville, Ky., on June 11. The prayers and the solaces of the Members of the House go to our colleague, CARROLL HUBBARD, and his family.

The prayer that Dr. Hubbard was to offer on this day will be read by our own Chaplain.

PRAYER

The Chaplain, Rev. James David Ford, D.D., read the following prayer:

Eternal God, our Father, we humbly acknowledge Thy blessing upon this Nation. We are grateful for our heritage of faith and prayer.

Grant to these representatives of the people health of body, clarity of mind, and nobility of spirit necessary to meet the responsibilities of high office. May they have the ability to discern issues correctly, the strength to support their convictions with due regard for others, and a willingness to work together for the good of the country and for the rule of righteousness on Earth.

As we approach another Fourth of July, renew our faith in freedom and our dedication to the lofty principles of a democracy under God.

This we ask in the name of Him who is Lord of all. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. ROUSSELOT. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 380, nays 12, answered "present" 1, not voting 38, as follows:

[Roll No. 103]

YEAS—380

Addabbo	de la Garza	Hansen (UT)
Akaka	Dellums	Hartnett
Albosta	Derrick	Hatcher
Alexander	Derwinski	Hawkins
Anderson	Dickinson	Heckler
Annunzio	Dicks	Hefner
Anthony	Dixon	Heftel
Archer	Donnelly	Hendon
Aspin	Dorgan	Hertel
Atkinson	Dornan	Hightower
AuCoin	Dougherty	Hiler
Badham	Downey	Hillis
Bafalis	Dreier	Holland
Bailey (MO)	Duncan	Holt
Bailey (PA)	Dunn	Hopkins
Barnard	Dwyer	Horton
Barnes	Dyson	Howard
Beard	Early	Hoyer
Bedell	Eckart	Hubbard
Beilenson	Edgar	Hughes
Benedict	Edwards (AL)	Hunter
Benjamin	Edwards (CA)	Hutto
Bennett	Edwards (OK)	Hyde
Bereuter	Emerson	Ireland
Bethune	Emery	Jeffords
Bevill	English	Jeffries
Biaggi	Erdahl	Jenkins
Blanchard	Erlenborn	Jones (NC)
Bliley	Ertel	Jones (OK)
Boggs	Evans (DE)	Jones (TN)
Boland	Evans (IN)	Kastenmeier
Bolling	Fary	Kazen
Boner	Fascell	Kemp
Bonior	Fazio	Kildee
Bonker	Fenwick	Kindness
Bouquard	Ferraro	Kogovsek
Bowen	Fields	Kramer
Breaux	Findley	LaFalce
Brinkley	Fish	Lagomarsino
Brodhead	Fithian	Lantos
Brooks	Flippo	Latta
Broomfield	Florio	Leach
Brown (CA)	Foglietta	Leath
Brown (CO)	Foley	LeBoutillier
Brown (OH)	Ford (TN)	Lee
Broyhill	Fountain	Lehman
Burgener	Fowler	Leland
Burton, John	Frenzel	Lent
Burton, Phillip	Frost	Levitas
Butler	Fuqua	Lewis
Byron	Garcia	Livingston
Campbell	Gaydos	Loeffler
Carney	Gejdenson	Long (LA)
Chappell	Gephardt	Long (MD)
Chappie	Gibbons	Lott
Cheney	Gilman	Lowery
Clinger	Gingrich	Lowry
Coats	Ginn	Lujan
Coelho	Glickman	Lundine
Coleman	Goldwater	Lungren
Collins (IL)	Gonzalez	Madigan
Conable	Gore	Markey
Conte	Gradison	Marlenee
Corcoran	Gramm	Marriott
Coughlin	Gray	Martin (IL)
Courter	Green	Martin (NC)
Coyne, James	Gregg	Martin (NY)
Coyne, William	Grisham	Matsui
Craig	Guarini	Mattox
Crane, Daniel	Gunderson	Mavroules
Crane, Philip	Hagedorn	Mazzoli
Daniel, Dan	Hall (OH)	McClory
Daniel, R. W.	Hall, Sam	McCloskey
Dannemeyer	Hamilton	McCollum
Daschle	Hammerschmidt	McCurdy
Daub	Hance	McDade
Davis	Hansen (ID)	McDonald
McEwen	Ratchford	Stanton
McGrath	Regula	Stark
McHugh	Reuss	Staton
Mica	Rhodes	Stenholm
Michel	Rinaldo	Stokes
Mikulski	Ritter	Stratton
Miller (CA)	Roberts (KS)	Studds
Miller (OH)	Roberts (SD)	Stump
Mineta	Robinson	Swift
Minish	Rodino	Synar
Mitchell (NY)	Roe	Tauke
Moakley	Roemer	Taylor
Molinari	Rogers	Thomas
Mollohan	Rose	Traxler
Montgomery	Rostenkowski	Trible
Moore	Roth	Udall
Moorhead	Roukema	Vento
Mottl	Rousselot	Volkmer
Murphy	Roybal	Walgren
Murtha	Rudd	Wampler
Myers	Russo	Washington
Napier	Santini	Watkins
Natcher	Sawyer	Waxman
Nelligan	Scheuer	Weaver
Nelson	Schneider	Weber (MN)
Nichols	Schulze	Weber (OH)
Nowak	Seiberling	Weiss
O'Brien	Sensenbrenner	White
Oakar	Shamansky	Whitehurst
Oberstar	Shannon	Whitley
Obey	Sharp	Whittaker
Panetta	Shaw	Whitten
Parris	Shelby	Williams (MT)
Pashayan	Shumway	Williams (OH)
Patman	Shuster	Wilson
Patterson	Siljander	Winn
Paul	Simon	Wirth
Pease	Skeen	Wolf
Perkins	Skelton	Wolpe
Petri	Smith (IA)	Wright
Peyser	Smith (NE)	Wyden
Pickle	Smith (NJ)	Wylie
Porter	Smith (OR)	Yates
Price	Snowe	Yatron
Pritchard	Snyder	Young (AK)
Pursell	Solarz	Young (FL)
Quillen	Solomon	Young (MO)
Rahall	Spence	Zablocki
Railsback	St Germain	Zeferetti
Rangel	Stangeland	

NAYS—12

Collins (TX)	Jacobs	Sabo
Evans (IA)	Johnston	Schroeder
Goodling	Luken	Walker
Harkin	Mitchell (MD)	Wortley

ANSWERED "PRESENT"—1

Ottinger

NOT VOTING—38

Andrews	Deckard	McKinney
Applegate	DeNardis	Moffett
Ashbrook	Dingell	Morrison
Bingham	Dymally	Neal
Carman	Evans (GA)	Pepper
Chisholm	Fiedler	Richmond
Clausen	Ford (MI)	Rosenthal
Clay	Forsythe	Savage
Conyers	Frank	Schumer
Cotter	Hall, Ralph	Smith (AL)
Crockett	Hollenbeck	Tauzin
D'Amours	Huckaby	Vander Jagt
Danielson	Marks	

Mr. FOGLIETTA changed his vote from "nay" to "yea."

□ 1015

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate has passed without amendment a bill of the House of the following title:

H.R. 3807. An act to make technical corrections in the Defense Officer Personnel Management Act.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1395. An act to extend the time for conducting the referendum with respect to the national marketing quota for wheat for the marketing year beginning June 1, 1982, and to eliminate the requirement that the Secretary of Agriculture waive interest on loans made on 1980 and 1981 crops of wheat and feed grains placed in the farmer-held grain reserve.

THE LATE DR. CARROLL HUBBARD, SR.

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, I want to express my appreciation to the Speaker of the House and our Chaplain, Dr. James Ford, for their efforts regarding today's opening prayer. Today's prayer, as announced by the Speaker, was written by my father, Dr. Carroll Hubbard, Sr.

Several weeks ago, our Chaplain invited my father, a Baptist minister, to lead the House prayer on Thursday, June 25. My father wrote the prayer prior to suffering a heart attack on June 1. He died June 11 at Baptist East Hospital in his hometown of Louisville, Ky., at the age of 70.

Naturally, I was and am proud of my father. His reputation was a big factor as to why his namesake was elected to Congress in 1974.

Again, my thanks to the Speaker and Chaplain for their arranging for the prayer today to be as earlier scheduled—one prepared by Dr. Carroll Hubbard, Sr.

THE MARGIN REQUIREMENTS ACT OF 1981

(Mr. SYNAR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SYNAR. Mr. Speaker, along with my colleague from Kansas, Mr. WHITTAKER, I am today introducing legislation to stem the tide of recent attempts by Canadian companies to acquire U.S.-held energy interests in Canada. These takeover attempts are a result of the new Canadian national energy policy. I'm sure my colleagues in the House have been following recent press accounts of these takeover attempts, to which three companies have already fallen victim. Many more attempts are expected in the future.

Action by our Government to forestall further confiscation of American energy company subsidiaries in that country is urgently needed.

For this reason, we have introduced legislation which does three things to address the problem. First, it imposes a 9-month moratorium on further Canadian takeovers of U.S. energy companies, to give us time to study the problem more carefully. Second, it imposes on foreign investors who want to acquire significant portions of U.S. energy companies the same "margin" requirements which we currently impose on American investors. And third, it calls upon the Secretary of Energy and other Cabinet officials to report to Congress on the problem of direct and indirect foreign investment in our Nation's energy resources.

Because of the urgency of the problem, we hope the Congress will take quick action on this necessary legislation.

Canada is a good ally and close friend to all the people of the United States. It is my hope, and I am sure the hope of every Member, that this troublesome issue can be resolved quickly and effectively without jeopardizing in any way the relationship we have long enjoyed with our neighbors to the north.

THE AMTRAK BUDGET

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute.)

Mr. DORGAN of North Dakota. Mr. Speaker, yesterday I visited with Mr. Alan Boyd, the president of Amtrak Railroad. I have been concerned about what the budget process and the proposed budget cuts will mean to rail passenger service in this country.

President Reagan suggested in his budget proposal a plan to cut the Amtrak budget to $613 million. Mr. Boyd told me yesterday that at that level there would be no Amtrak rail passenger service any place in this country except the Washington-to-Boston corridor. In other words, under the President's budget request we are talking about the abandonment of rail passenger service all across the country except the Northeast corridor.

The committee has worked its will in this Congress, and will be reporting to the floor a proposal for funding Amtrak at $735 million, which the president of Amtrak indicated will allow rail passenger service to continue for the rest of the country.

Mr. Speaker, this is not a time for this country to abandon rail passenger service. The French, the English, the Japanese, and the Germans all subsidize rail passenger service more heavily than we have in this country.

There will be attempts to further cut the budget in presentations to the House in the next couple of days. The president of Amtrak has indicated to me that if those cuts are made they will mean the loss of rail passenger service in this country in 1983 and 1984.

I hope, Mr. Speaker, that we will work together to continue rail passenger service in this country.

SEPARATE VOTES ON THE ADMINISTRATION'S RECONCILIATION PACKAGE

(Mr. GORE asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. GORE. Mr. Speaker, there was an extraordinary event that occurred yesterday. The leadership of the minority announced that if they had to vote on the President's reconciliation package in parts, they would not even offer the amendments.

That raises a question.

What are they afraid of? Has the minority fallen into a state of disarray because the President is out of town on a trip? Is the minority fearful that the separate pieces of the President's program cannot pass in this body?

I would call upon my colleagues on the other side of the aisle to give us a chance to vote on the separate parts of the President's program so the will of the American people can be worked in this body. I say to the minority, "Put aside your fear and trembling. Give us an opportunity to vote on the President's program."

□ 1030

WHAT IS FAIR?

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALEXANDER. Mr. Speaker, today the House will consider the reconciliation title to the first budget resolution. Six amendments have been made in order to debate the President's desire to cut the budget further. The President wants to cut $685 million from the social security program. The President wants to cut another $3 billion from child nutrition and student loans.

The President wants to cut another $2.5 billion from the housing programs, to cut more from medicaid payments; but the President says that it is unfair for the House to consider these amendments separately.

The President has also said that his program is designed to protect the elderly, the unemployed, and the poor.

Is it unfair, Mr. Speaker, for Congress to debate these issues separately, so the American people can be the judge?

THE LEGISLATIVE BRANCH IS AN EQUAL BRANCH, NOT A SUBSERVIENT BRANCH

(Mr. PEYSER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEYSER. Mr. Speaker, I have read the statements by the President of the United States attacking the decision of the Rules Committee on the reconciliation decision that was made. He said that the Democrats have performed an "act of sabotage."

While I understand that the President is fighting to have his way, he must recognize that our Constitution makes the legislative branch of Government an equal branch, and not a subservient one, and I thank God for that.

Frankly, I would have supported a one vote on the Gramm-Latta program because I am convinced that no Democrat in good conscience would have supported what would turn out to be a takeover of the House of Representatives. However, the Rules Committee, in its judgment, has decided that we should vote on the major individual issues and I support their point of view.

Can it really be "backroom politics" as the President says, when we stand in full view of the American people and vote on the issues as we believe in them?

I am truly sorry that the President's directors have him acting as though he is in a grade "B" movie.

LET THE HOUSE FULFILL ITS CONSTITUTIONAL RESPONSIBILITIES: VOTE FOR THE RULE

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, I support the rule today on reconciliation. I think it is a responsible rule. The alternative package allowing only a vote on a complete substitute package, dubbed "Gramm-Latta II," I think, takes away the ability of individual Members to look at specifics, instead leaving them with an either-or option. That is not an appropriate way to legislate. Some of the amendments which the rule allows provide for substantial additional cuts to the reconciliation bill. I would like to vote for some of them. But the question before the House is not whether to cut or not to cut. The committees of this House met the President's budget cuts. It exceeded them by several billion dollars.

The question is, Who makes the decision? This Congress was not elected to be a rubber stamp for the President. This is not a parliamentary system. Ronald Reagan is President, not the Prime Minister. Each of us was elected to represent our own constituencies to the best of our abilities.

In short, the specifics involved in this budget resolution clearly convince me to vote for the rule and for the previous question.

A RARE TREAT FOR CAPITOL HILL

(Mr. AKAKA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. AKAKA. Mr Speaker, a little bit of Hawaii comes in a rare performance to Capitol Hill today. The Kamehameha School's Concert Glee Club will perform at 7 p.m. tonight in the Cannon Caucus Room, 345. This group of singers and dancers represents Hawaii's very best in the ancient tradition of the Hawaiian dances and choral music.

This group has also just won more medals at the Performing Arts International Music Festival in Orlando, Fla., than any other group in the history of the festival. The group won gold medals in three of the four categories of competition: Men's, mixed, and ethnic.

The club also took a silver medal in the women's competition. The silver medal was the highest award in that category.

At this evening's performance, the group will share with its Capitol Hill audience a rare performance of Hawaii's unique heritage, both past and present.

I hope that you and your staff and your families will be able to join the Hawaii delegation at this performance of Hawaii's rich cultural heritage in song and dance tonight.

AMENDMENT TO MAKE CIVIL DEFENSE PART OF OUR STRATEGIC DEFENSE POLICY

(Mr. SKELTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKELTON. Mr. Speaker, yesterday this House began its consideration of the Department of Defense authorization bill. In this bill that we have now under consideration, we have the opportunity to implement the amendment which I offered last year and became law that would make civil defense part of our strategic defense policy.

This bill this year provides for $174 million in the area of civil defense.

I wish to compliment our colleague, the gentleman from Georgia, Chairman BRINKLEY, for his outstanding work in this area.

This provision this year provides for a dual purpose civil defense. It is very important for those of us that live in the Fourth District of Missouri because our district has been plagued in recent years with killer tornadoes and devastating floods. In addition, we have some 150 ICBM missile silos out at the Whiteman Air Force Base.

A strong civil defense is a must for our Nation. This DOD bill is a first step in making that a reality.

PRESIDENT REAGAN TELLS CHILDREN WHO NOT TO SEE ON CAPITOL HILL

(Mr. DELLUMS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELLUMS. Mr. Speaker, the other day Mr. Lyn Nofziger, aide to President Reagan, was entertaining a group of junior achievers in the White House. During the proceedings Mr. Nofziger was asked the question, "While all we young people are here in Washington, D.C., who should we see?"

In response to that question, Mr. Nofziger said, "Let me first tell you who you should not see; RON DELLUMS, for he is too liberal."

I would suggest, Mr. Speaker, that that response is unprincipled, undemocratic, and anti-intellectual.

I would finally suggest, Mr. Speaker, that the distance between telling children who they should not see and who they shall not see is a very short step—perhaps just a goosestep and a swastika away.

I would suggest, in conclusion, that is not democracy, that is fascism, Mr. Speaker.

MY REPUBLICAN FRIENDS

(Mr. MITCHELL of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MITCHELL of Maryland. Mr. Speaker, I want to take the opportunity to publicly acknowledge that I have many good friends over on this side. They are fair Republicans. Indeed, they are fair, perhaps too fair, when it comes to the matter of pigmentation; but they are my friends.

I want to tell my friends over here that I will defend your right to stand up and argue for the cuts that you want to impose on children. You have that right and I am going to fight for it.

I am going to stand up and defend your right to argue and debate the cuts that you want to impose on senior citizens.

If the Speaker told me not to, I would defy even the Speaker in the matter of fairness to let these honorable gentlemen stand up and defend the cuts that they want to impose on the week, the poor, the senior citizens, and children.

I yield back the balance of my time, and I love my friends over there.

THE DIFFERENCE BETWEEN THE BOY SCOUTS AND THE CONGRESS

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, there has been an old saying around here that was always a joke but apparently the President did not understand it was a joke. People jokingly used to say that the difference between the Boy Scouts and the Congress was that the Boy Scouts had adult leadership.

Well, the Congress has adult leadership, and I wish the President would recognize that. Our adult leadership thinks we are mature enough to be able to deal with the President's package in pieces, that we have high enough IQ's and a long enough attention span, that we can deal with the several different pieces of his plan, rather than having it all prepackaged and sugar coated. Our leadership feels we will not be too taxed or too overworked if we have to vote more than once.

I am pleased that we not only have adult leadership, but we also have them recognize that Members are adults, also. It is a real tribute to this body that we are willing to stay and deal with the President's package piece by piece and item by item, for it will be more understandable by everyone rather than have it all shoved at us in one big package. Maybe the other party does not want people to know what the parts of the package are. Otherwise I do not understand their objections to the rule.

CUT WHAT?

(Ms. OAKAR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. OAKAR. Mr. Speaker, I keep hearing about the fact that the American people mandated the President to cut. The question is, to cut what?

The President made solemn campaign promises not to hurt older Americans.

The President promised not to reduce the COLA for Federal retirees and not to cut social security.

Today we will have a chance to aid the President in keeping his campaign promises. We will have a chance to vote on social security cuts and the reduction of COLA.

Let us help the President keep his campaign promises by voting against the Republican amendments on these issues.

CONTINUING VIOLATIONS OF HUMAN RIGHTS IN IRAN

(Mr. MAVROULES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAVROULES. Mr. Speaker, I stand before you today in order to object to the continuing violations of human rights taking place at this very moment in Iran. It is ironic that after all of the Ayatollah Khomeini's criticism of the Shah in regard to human rights, nothing seems to have changed.

We are by now all too familiar with the atrocities committed on a daily basis by Iran's Khomeini regime. Nevertheless, it remains our duty, as representatives of a just and caring American people, to point out human rights violations whenever and wherever they occur.

Earlier this week, the Ayatollah removed President Bani-Sadr from office, despite his overwhelming mandate in elections held 16 months ago. Under the guise of eliminating opposition to the Islamic Republic of Iran, any former or present supporter of Bani-Sadr is now branded a traitor and an enemy to the people.

Since Saturday, over 25 people, many of them quite young, have been executed by firing squads. Their crime? Simply exercising that right which all Americans hold so dear—the right to have and express one's own opinion. Another 30 people died this week in riots incited by the Ayatollah.

Khomeini, and all others who insist on trampling upon the lives and freedom of their fellow men, must stand warned that the United States will not tolerate such crimes now or in the future. I urge my colleagues in the House to continue to speak out for the rights of all people everywhere.

To do so is not only to perform our duty to America, but also to the entire world.

PRESIDENT SAYS, "DO NOT PASS GO, DO NOT COLLECT $200"

(Mr. WIRTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WIRTH. Mr. Speaker, the President of the United States has said to us, "Do not pass go, do not collect $200. You cannot achieve the goals of the reconciliation process. You cannot collect the great savings that we have in the reconciliation motion. You cannot pass go and collect $200 until you have a full monopoly, until you have taken all these pieces and put them together; until you have Boardwalk and Park Place and until you have all the greens, you cannot pass go and collect $200."

I would remind my colleagues on the minority side that this is not a game we are playing. This is not a board game. This is a very serious endeavor related to a lot of people's housing, food programs for people, medical care for those who cannot afford it—a whole series of issues that have got to be taken one piece at a time.

This is not Monopoly. This is not a board game. This is something that we must address piece by piece.

ORDER OF BUSINESS

The SPEAKER. Are there any other Members who desire to make 1-minute speeches?

The Chair wants the Members of the minority to know that there is complete fairness here.

The Chair recognizes the gentleman from Mississippi (Mr. LOTT).

ONE OF THE MOST DASTARDLY DEEDS IN THE HISTORY OF THE HOUSE

(Mr. LOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LOTT. Mr. Speaker, yesterday, June 24, 1981, is a date which will live in infamy. Last night at 8:12 p.m. one of the most dastardly deeds in the history of the House was consummated. It was a deed that moves me to the point of tears when I think what it will mean to the American people. It will mean human suffering brought on by continued inflation, high interest rates, deficit budgets, and high unemployment. It will make it hard for our elderly citizens to make ends meet on fixed incomes because of continued inflation.

It will mean our young people will find it almost impossible to afford a home because of high interest rates, as the gentleman from Colorado just mentioned.

The Rules Committee reported out a rule that was the most unfair abuse of the rules that I have seen in the 13 years that I have been here. There is not allowed a bipartisan substitute. We do not get to offer our substitute in pieces. The Speaker has directed, as a matter of fact, that our pieces be cut into thin slices and we are told when and how and in what way we can offer these amendments, if at all.

We do not even control the normal minority motion to recommit.

This infamous, inflationary rule, will go down in history, but today, it must go down.

HARSH CANADIAN POLICY ON U.S. ENERGY FIRMS

(Mr. WHITTAKER asked and was given permission to address the House

for 1 minute and to revise and extend his remarks.)

Mr. WHITTAKER. Mr. Speaker, the nation of Canada has instituted a policy designed to take over the operations of all U.S. energy firms now operating in their nation. This harsh action will cost American businesses and stockholders billions of dollars, and must be blocked. This is why Mr. SYNAR and I have introduced legislation calling for a 9-month moratorium on Canadian energy investment in the United States, and a resolution calling for this issue to be discussed at the Economic Conference President Reagan has scheduled with Prime Minister Trudeau in Ottawa on July 20–21.

Already, it has been announced that Seagrams of Canada is attempting a $2 billion takeover of Conoco Oil, taking advantage of the unfair trade practices announced by the Canadian Government.

To fight the attempt, it appears that Conoco is preparing to merge with several other U.S. corporations to form possibly the largest single business in American history.

Before the Canadian discriminatory policies wreak havoc on our companies with international interests, we must take action. I urge my colleagues to join in cosponsoring this 9-month moratorium and our resolution which will insure that leaders of our two nations will seek a solution when they meet next month.

□ 1045

RULE ON RECONCILIATION AND ATTEMPT TO REWRITE THE PRESIDENT'S PROGRAM

(Mr. TAUKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TAUKE. Mr. Speaker, I rarely use the 1-minute forum in the proceedings of the House to express my frustrations, but today I am going to use it not for overstatement and not to make provocative statements, but to attempt to explain to my colleagues why I feel the rule we are going to be voting on today is unfair.

The explanation offered by the majority leader yesterday and the comments made by my colleagues on the other side of the aisle today have been deceptively misleading. This is not a matter of splitting the President's package. This is a matter of rewriting the President's package.

I served on the Energy and Commerce Committee with my colleagues from Colorado and Tennessee who spoke earlier, and they know full well that, for whatever reason, we never had a vote in the Energy and Commerce Committee on consideration of the reconciliation package. There were 21 Members supporting each of two sides. The 21 Members on that side submitted their package and we submitted ours. They have been able to rewrite their package. We have tried to put together a balanced energy program, a balanced railroad program, a balanced health care program, on our side, but we have not been allowed to submit our revisions since June 12.

This is not a matter of splitting the package; it is a matter of rewriting the package. I personally resent the efforts to prevent the Republicans from presenting a responsible alternative.

MAJORITY PARTY STACKS DECK ON RECONCILIATION

(Mr. EVANS of Delaware asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EVANS of Delaware. Mr. Speaker, the agencies and departments of the Federal Government have spent a long and gaudy night on the town. Now in the cool gray light of the morning after it is time to assess the costs, pay our bills, and get our fiscal practices back in line. The American people want and demand such action because the uncontrolled spending policies of the past have brought about a great deal of human suffering.

The President's comprehensive economic program is the key to the elimination of that human suffering. It is also a program that will provide hope and opportunity for all Americans. Yet unfortunately we learn today that yesterday's rhetoric about the program being considered in an ample, full, free, and fair manner was nullified by the preposterous action of the Rules Committee last night. I used to have time to play cards occasionally but I have never seen a finesse like this one.

The leadership of the majority party has stacked the deck and marked the cards in a desperate 11th-hour attempt to deny to the representatives of the American people an opportunity to vote up or down on President Reagan's comprehensive program to revitalize the American economy.

RECONCILIATION RULE IS UNFAIR

(Mr. BADHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BADHAM. Mr. Speaker, there is a Biblical saying: "Who among you, if your son asked for bread, would give him a stone?"

Today we might paraphrase that. We can say: The American people have asked only to have an economy where they can afford bread—but the Democratic leadership has chosen to place stones along the road of economic recovery.

On the radio this morning was a report on the deliberations of the Rules Committee last night. One member said that the rule proposed by the majority was not fair. And the answer to that from a majority leader was: "Well, some say that life is unfair."

It is not life that is unfair. It is human beings and their institutions that act unfairly. Let us not blame life for deliberately deceptive decisions made by the individual leaders of the majority.

That remark got me to thinking. What do we have here? Government by wisecrack? Government by one-liners? When we have come to a point when a leader of the majority sneers at a reasonable statement about unfairness, what does it say about the majority?

Let me set the record straight: Whether life is fair or unfair is not the issue.

At issue is—is the rule fair? The answer is no.

SUPPORT REAGAN BUDGET RECONCILIATION PROPOSALS

(Mr. JEFFRIES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JEFFRIES. Mr. Speaker, as we begin debate today on the budget reconciliation bill, I want to urge my colleagues to pass a responsible version of the measure. I have been surprised and disappointed by the obstructionist tactics displayed by some of our committees. Unreasonable spending cuts have been proposed in the areas of student loans, postal expenditures, and hot meals for the elderly. Needless to say, it was not President Reagan's intention to close one-third of the Nation's post offices.

We have, in passing the bipartisan budget resolution, made a solemn commitment to the people of this country; now we must carry through with these proposals. Our purpose is not to stomp on the truly needy, but simply to cut back where we can in moving toward a balanced budget.

This is not the time to pursue special interests or pet projects. It is not the time to turn to spite in an effort to wreck the overall program.

I urge my colleagues to aid in the completion of the reconciliation process by making legitimate reductions in line with President Reagan's requests.

TIME IS RIGHT TO TRY THE PRESIDENT'S POLICIES

(Mr. SILJANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SILJANDER. Mr. Speaker, for decades now the American people have been forced to put up with a ballooning tax burden to subsidize an ever-increasing and power hungry Federal bureaucracy—a bureaucracy which has attempted to usurp more and more personal freedom and local decisionmaking.

Sick and tired of having Government regulations shoved down their throats, American voters sent a decisive message to Capitol Hill in November. They voted for a commonsense approach to Government and decisionmaking, and for the proposals of a man who has a vision of how to dramatically change the pattern of bigger Federal budgets and more Government agencies.

We, as representatives of the people, owe it to them to carry out their wishes. Our economy has been floundering under the present policies. President Reagan's proposals have been well thought out, and the time is ripe to try them.

When I go home to Michigan on weekends, people tell me they are hungrier than ever for a 3-year tax break and a restructuring of Federal power.

I encourage my colleagues who are used to the status quo of big government and high taxes to take a politically courageous stand for the good of the economic health of the country.

DEMOCRATIC TRICKERY

(Mr. WALKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALKER. Mr. Speaker, I would say to my colleagues on the Republican side of the aisle in many ways we owe a debt of gratitude to the Democratic leadership for what they have done. They have relieved us of the responsibility of describing their true motives and their attitudes toward helping the American family.

They stand before their countrymen, unmasked, with the arrogance of too many years in power clearly written on their faces, an arrogance clearly demonstrated in some of the cutesy and deliberately misleading speeches we heard from the other side this morning.

I have heard of people that would rather fight than switch, but the Democratic leadership is the first group that I have ever heard of who would rather switch than fight. They would rather switch the rules than fight fairly. They would rather resort to a last, desperate effort of trickery than face the American people directly.

The Democratic leadership hopes to get their way today, but they will never get their ultimate wish, which is to go back to the days when they could tax the American families into debt and despair. The time of their cruel economic philosophy has come and gone. They are no longer fighting for a recognizable program. Rather, they are retreating in a rout, desperately throwing up roadblocks against the American people.

It is not going to work. The people have spoken. The big spending economic philosophy of the Democratic leadership stands condemned before history, before this House, and before the American people.

Tricks, dirty or otherwise, are not going to save it.

DEMOCRATIC RULE HAS DEVASTATING EFFECT ON IMPACT AID

(Mr. GOODLING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOODLING. Mr. Speaker, I am sure those on the majority side that spoke this morning understand that we are not able to get our individual packages under this rule. I would have no problem with that. Rather, the rule is crafted in such a manner where one can only get a piece of his individual package.

Let me tell my colleagues what the rule will do to many of those who represent impacted areas. The impacted aid portion that came from my committee was drawn up at the very last minute and it gives a little bit to everybody. Sometimes that works. But in this particular case a little bit to everybody means that if my colleagues represent an A impacted area, heavily impacted area, I do not know how they are ever going to balance their school budgets. They will not have an opportunity to do that because they have already prepared their budgets.

If my colleagues represent a heavily impacted B area, because of military problems, that will not change either because they throw just a little crumb to them.

The only thing worse than my committee's package in relationship to impacted aid is what the other body has done. That is even worse. That is totally devastating and it means when we go to conference, I suppose, we will have to look at the difference of what has been offered on the House side which is bad and the Senate side which is worse. The alternative is disaster for school districts that are heavily impacted by A and B children. We will not be able to correct that under this rule and that is an unfortunate situation for many school districts that many of my colleagues represent. You will have to face this as we go down the line toward election time.

FEDERAL EMPLOYMENT UNDER RECONCILIATION

(Mr. PARRIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PARRIS. Mr. Speaker, one of the most objectionable features of H.R. 3982, the Democrat resolution, sometimes called the Jones reconciliation proposal, that we will be voting on today and on which no amendments are permitted under the rule is that it contains a great deal of substantive legislation.

One of the most flagrant examples of this is in chapter 37 of this bill where there are Federal agency personnel ceilings established. It is identical to H.R. 4717 of the last Congress which was totally ignored because it was a fraud. Under that provision if a governmental agency determines that it needs an additional 100 Government employees to do its job, it simply notifies the OMB of that fact and the OMB is required, within 30 days, to furnish the money and the personnel slots to that agency in accordance with its own decision and to increase its budget accordingly.

If the agency determines that it can contract out to an independent agency to do at less cost what 100 Government employees have previously done, the employees' retention of their employment status is still preserved and the personnel ceilings are not required to be reduced.

To include a provision of that magnitude in this budget legislation is outrageous. It will cost the taxpayers of this Nation billions of dollars. This House has never considered it, nor have even any of the appropriate committees had an opportunity to hold hearings, to debate, to consider, or to vote on this proposal. With that package included, it is enough in and of itself to justify my colleagues' rejection of the entire budget resolution offered by the Democrat majority.

KING CAUCUS RULES AGAIN

(Mr. BLILEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLILEY. Mr. Speaker, King Caucus rules again, the tyranny of the liberal-controlled Democratic Caucus lives again on the floor of the House today.

On May 20, this House approved the first concurrent budget resolution for fiscal year 1982—a resolution calling for a reversal of King Caucus' tax-and-spend policies of the past three decades. As part of that resolution, the committees of this House were instructed to report changes in law to accomplish specified outlay and budget authority savings. Many did so

in good faith. Others persisted in their attempts to subvert the will of the Congress and the will of the American people by reporting changes that result in false savings or are excessively harsh and unnecessary.

Today, we begin the final steps. We have the assembled reconciliation bill. And now we are asked to approve a rule for considering that reconciliation bill—concocted, behind the closed doors and smoke-filled rooms of King Caucus. A rule which prohibits us from offering and considering the President's "program for economic recovery" as a package.

Mr. Speaker, whatever happened to the due consideration that was to be given the President's program? King Caucus has decided to lock this House in shackles to prevent its consideration. Mr. Speaker, I urge my colleagues to reject the dictates and tyranny of King Caucus. A vote for the rule is a vote for the tyranny of King Caucus—a vote to disenfranchise the representatives of 44 percent of the American people.

The American people have rejected the policies of King Caucus and its liberal Democratic members. Let us also reject that tyranny and strike a blow for liberty and democracy. Let us begin the process of restoring the faith of the American people in their Congress.

□ 1100

ILLUSIONS DESTROYED

(Mr. JOHNSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHNSTON. Mr. Speaker, I rise today with a broken heart because my illusions as to the nature of this body have been destroyed by the Speaker and 11 of his colleagues. I came here a few months ago believing that this was a group of dedicated statesmen seeking to choose between the best available alternatives.

I watched while our chairman of the Committee on the Budget, the gentleman from Oklahoma (Mr. JONES), carefully crafted his own budget resolution. And this reconciliation package will be submitted to this body.

Our President—and he is all our President—has asked that his proposals also be considered in a package. Yet the Speaker and 11 handpicked colleagues have chosen to deny him this privilege. You even seek to deny me the privilege of voting on the President's package. This is not democracy.

Today my illusions may have been destroyed, but the Speaker has destroyed a lot more. He has destroyed in many of us our respect and affection for this House, and that is the sorest loss of all.

IF WE ARE TO MEET OUR DUTY TO AMERICANS, WE SHOULD SUPPORT THE PRESIDENT TODAY

(Mr. SMITH of Oregon asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Oregon. Mr. Speaker, today we in the House face a test of the courage of our convictions. We will vote up or down on a motion that is much more than just a procedural vote. It is a motion that pits TIP O'NEILL and his backroom political flimflam against one of the most strongly supported American Presidents in history.

If you vote with Mr. O'NEILL, you vote against President Reagan, against the American people, and against what is best for our country. If you vote with Mr. O'NEILL, you are voting for higher taxes and higher Government spending.

The SPEAKER. The Chair will remind the gentleman from Oregon (Mr. SMITH)—the Chair appreciates the fact that he is a new Member—that under the precedents which govern conduct in debate in the House, it is not proper to refer to another Member by his name in that manner.

Mr. SMITH of Oregon. I apologize, Mr. Speaker.

The SPEAKER. The Speaker knows that the gentleman is not fully acquainted with all the rules and this time will let it pass.

Mr. SMITH of Oregon. Yes, sir.

Is that what your constituents really deserve?

Oregonians voted for new leadership and for new direction in our Government. That is what the President offers, and if we are to meet our duty to Americans, we should support the President today.

STRONG OPPOSITION TO THE RESTRICTIVE GAG RULE

(Mr. LENT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LENT. Mr. Speaker, I rise in strong opposition to the restrictive gag rule that the Rules Committee would have the House operate under for consideration of the reconciliation bill. The President's entire economic recovery program is at stake. To deny this House the opportunity to vote on the President's program in the same manner as the rule provides for the consideration of the Jones package—that is, as a whole—is completely unfair, and an abuse of the rules of the House.

The people of this country have overwhelmingly indicated that it is time to get inflation under control and to reduce the involvement of the Federal Government in areas where the private sector is better equipped to respond to particular needs.

In order to assure that the Members of this body are given the opportunity to be recorded on a vote for the President's package as a whole, we must defeat the rewrite job proposed by the Rules Committee. By so doing, we will then be in a position to operate in a manner that will permit a true comparison between the President's program for economic recovery and the Jones proposal.

When the vote on the previous question on the rule for the reconciliation bill is before us today, I urge my colleagues to vote "no" so the Members of this House can be given an opportunity to vote on the President's program in its entirety.

WE MUST REJECT OBSTRUCTIONISM

(Mr. TRIBLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRIBLE. Mr. Speaker, this House should insist on an up-or-down vote on the Gramm-Latta package.

We have an important task before us—to curtail Government spending. We can succeed only by requiring sacrifices by all groups at once. We need a package to do what we set out to do. That is why we have an omnibus bill—to defeat challenges to individual spending cuts.

We also need a workable package—one which delivers the cuts.

Many of us believe that the committee bill is unworkable. It has too many question marks, contradictions, and boobytraps.

The committee bill just does not do what it is supposed to do.

People who want to break up Gramm-Latta, and vote on its parts, oppose meaningful spending reductions. We must reject that obstructionism.

LET US ADOPT A RULE WHICH ALLOWS A REAL VOTE—BETWEEN THE BUDGET COMMITTEE'S BUDGET AND THE AMERICAN PEOPLE'S BUDGET

(Mr. KRAMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KRAMER. Mr. Speaker, the decision of the Democratic leadership to deny consideration of the Reagan-backed budget cuts as a package is nothing more than a gag rule—to avoid an up-or-down vote on the President's budget recommendations. What we have here is the tyranny of the majority leadership—a leadership which does not represent the majority of the

American people but only the majority of a few, which is not only out of touch but which is on its way out.

The American people have backed the President, and rather than letting Members here vote on his package as a whole, the rule requires a piecemeal series of votes. Even worse, the way the rule is structured, Members will not be able to vote on some items at all.

To make a bad situation worse, while the Committee on the Budget will be able to present its package as a whole, the supporters of the President do not have a similar opportunity.

Let no one be deceived. This is nothing more than a blatant attempt to hide the truth from the American people and a strong-arm attempt by the leadership to avoid a vote on the President's proposals.

The Democratic leadership can hide behind its rule, but it cannot hide from the American people.

Let us vote down the rule and adopt one which allows a real vote—between the Budget Committee's budget and the American people's budget.

THE GAG RULE

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, the discussion of this rule, I think, will help to dispel one of the saddest myths in the country. The myth says that the party that controls the White House is in control of the political destiny of the country. Fifty-five percent of the American people believe that. It is simply not true, because Presidents propose but Congress disposes.

The political action in this country in terms of taxing and spending will be determined by this House, and this whole exercise over this gag rule illustrates it all the more. This gag rule did not evolve yesterday. The foundation for it was laid when this House was organized, when we Republicans were shorted six slots on the Committee on Ways and Means in the organization of the House, in the policy committee that shapes the tax policies of this country.

We were shorted on the Committee on Rules that put out this gag rule. Specifically three slots. If our people are not serving on committees, their votes cannot be counted.

Mr. Speaker, in November of last year Republican candidates for Congress received 49.8 percent of the vote. The Democratic Party candidates received 49.15 percent of the vote.

I must remind the people who lead the majority party that organized the House that we are in the majority with the American people. That is what they voted for in November, and the majority party's rule is against that. We hope to have the privilege next November, if we do not defeat the previous question today, of reminding the people of this country how you gagged the ability of the minority to express the true majority will of the people of this country.

THIS IS A VOTE EITHER FOR THE ECONOMIC RECOVERY PROGRAM OF PRESIDENT REAGAN OR A VOTE FOR BUSINESS AS USUAL

(Mr. KEMP asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KEMP. Mr. Speaker, the majority party has made much to do about President Reagan's attempts to reduce Government spending and have gone on to say we were not elected to make cuts in vital Government spending. Mr. Speaker, I agree. We were elected to get this economy moving again. We were elected to reduce interest rates and inflation—get the tax burden off the backs of enterprising Americans and American enterprise.

One thing is sure. For the first time in history, no one will be able to hide behind a procedural question such as the previous question. A vote for this rule is a vote for steady as you go and business as usual—something the American people are tired of hearing from Congress.

Mr. Speaker, in a few hours the House will vote on the rule under which we will consider the reconciliation bill. This vote is neither abstract nor procedural for it will have historic importance and is in reality a choice between a new beginning or old excuses for business as usual.

Ronald Reagan made his program for economic recovery the central focus of his Presidency, and the American people expressed their faith in his program by electing him. The Congress accepted his challenge and his program by adopting the Latta-Gramm budget resolution. Now it is time to adopt the legislation to implement this program which would be impossible under this rule.

But we find the majority leadership is trying to obstruct the will of the American people through procedural tricks. The Democratic-controlled Rules Committee refuses to allow the House to vote on two different approaches to implementing the budget. They absurdly argue that allowing minority Members of the House to fashion their own amendment or even amendments, that have the support of the President, the American people, and a majority of the Congress, would somehow be an attack on the committee system of the Congress. Nonsense. The Democratic-controlled Rules Committee has decided to rewrite our amendment and cut it into pieces, because of their hopes this would make it easier to defeat.

I do not believe that a successful committee system requires the House to rubberstamp what it produces. But a responsible committee system does not deny the duly elected representatives of the American people a chance to work with the President to restore prosperity to America.

THIS IS A SHAM IN THE RULES

(Mr. DICKINSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DICKINSON. Mr. Speaker, after the elections of last November, the Republicans in the House, in proportion to the total, were 5 Democrats to 4 Republicans. This is a substantial change from three Congresses ago when there were 2 to 1 plus 1.

When the House was organized and when the committees were organized, most of the committees showed this proportion of the 5 to 4, with the exception of the very vital Committee on Rules and Committee on Ways and Means, one of which I consider as the policeman and traffic cop of the bills coming to the floor, and the other one having control of the vital tax bill offered by this administration.

Instead of showing a reflection of 5 to 4, they continued with stacking the committees 2 to 1 plus 1. So what happened when we organized the House was we had a stacked deck given to us, and today we are having to play the hand that was dealt from that stacked deck without being given an opportunity to freely and adequately discuss and vote on the legislation that the American people want and deserve.

I think that this is a sham of the rules, and I think that the American people will ultimately realize this, and I think their indignation will be reflected in about 18 months in the next congressional election.

WE ARE BEING DENIED OUR RIGHTS

(Mr. GREEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GREEN. Mr. Speaker, as the House moves toward the vote on the previous question on the rule on the reconciliation bill, I hope it will be understood by everyone that what is being denied the Republican Party is not merely the right to present its proposals in the form that it wishes. In fact the Republican Party is not being given even the right to present the substance that it wishes.

For the last several weeks, I and other members of the Republican Party from the Northeast and Mid-

west have been working with the Republican leadership to insure that the Republican package would contain provisions that were important to our part of the country, and the Republican leadership has worked with us to accomplish that. Yet what we are going to be permitted to offer today will not contain some of those provisions which the Republican leadership and we from the Northeast and Midwest want, because your rule, Mr. Speaker, prevents us from presenting our package with the substance that we want.

So I think we should understand we are being denied not merely the form we want but the substance we want. I cannot think of anything more dictatorial and undemocratic than for the minority not even to be permitted to make the case it wants to this House.

For that reason it is my intent to vote against the position of the Democratic Party on this rule.

□ 1115

SURPRISE, SURPRISE, SURPRISE

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. "Surprise, surprise, surprise." Those are the famous words of a television character named Gomer Pyle who, a number of years ago, was the picture of innocence and naivete in the ways of the world. I do not think even he would be saying "surprise, surprise, surprise" today when we find out what the Committee on Rules has presented to us. Only those people who are absolutely ignorant of the way we have organized this place could confess surprise at the fact we have been presented with a gag rule in this House.

When we organized at the beginning of this year, we got 11 Democrats and 5 Republicans on the Committee on Rules. That committee, that traffic cop of legislation, was the committee which told us when they wanted their budget this year that one of the things they were going to do was protect the rights of the minority. Well, all I can say, Mr. Speaker, is, Lord help us from those who are our appointed saviors. Maybe we would like to do it ourselves.

Give the American people a chance to be heard here. Let us not have tyranny by the leadership. Let us not have tyranny by unrepresentative committees of the House of Representatives, which itself ought to be a contradiction in terms. This ought to be rejected out of hand by the good Democrats who recognize the fact that we ought to protect the rights of the minority because some day they may be the minority. Even more important, our constituents are represented by us whether we are in the minority or the majority. They have the right to be heard and they are being denied the right to be heard on this floor by this rule.

We ought to tell it up front. We ought to be straight about it.

PARLIAMENTARY DICTATORSHIP

(Mr. CARNEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARNEY. Mr. Speaker, almost 200 years ago, George Washington said:

> I always believed that an unequivocally free and equal representation of the people in the legislature, together with an efficient and responsible Executive, were the great Pillars on which the preservation of American freedom must depend.

If that great American were alive today, what would he find? He would find "an efficient and responsible Executive" in President Ronald Reagan in the White House. But would he find the House of Representatives a place of "unequivocally free and equal representation?"

I am afraid not. He would find that the Democratic leadership consider themselves—in George Orwell's phrase—more free and equal than others.

How can we say we have free and equal representation when the will of the people is thwarted by parlimentary dictatorship?

Every Member of this House and every American they represent is, in effect, being asked today to give up the right to a free and open debate and submit to what amounts to government by whim.

The rules of this House should be in the interest of the people. But today we see the people's interests sacrificed to the rules.

COMPASSION

(Mr. MADIGAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MADIGAN. Mr. Speaker, from the playground to the battleground, Americans are taught to fight hard but to fight fairly.

What the majority leadership has done is to turn its back on that great American tradition.

What they could not win at the ballot box, what they cannot win on an up-and-down vote, they attempt to win through parliamentary dictatorship.

There is a saying about dictatorships. It is said that their triumphs are brief but their ruins are eternal.

The brief triumphs that the Democratic leadership may win through rules changes will be forgotten by history. But the ruins they have made of every American family's budget, hopes, and dreams will last as long as history is recorded.

For 9 years I have been on this floor and listened to that leadership crow about how compassionate, how noble, and how bighearted it is. And for 9 years I have watched them destroy savings with inflation, weaken our economy, and create the biggest regulatory mess in history.

Every time I hear a Democratic leader use the word "compassion" I check to see if my wallet is still there.

The American people have been paying for the Democratic leadership's version of compassion for a generation or more. It is time the American people got some real compassion.

VOTING IN FAVOR OF GAG RULE IS SUBSTANTIVE

(Mr. COURTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COURTER. Mr. Speaker, I have the feeling that there are probably a lot of good Democrats, people on this side of the aisle, that feel that voting in favor of the rule is really a procedural vote and they will be able to hide behind that when the time comes to face their constituents; but voting in favor of this gag rule is very substantive.

For example, the report indicates that, "After careful consideration, it concluded that the elimination of 6 days' service would be intolerable," with regard to the Post Office.

That left closing of small post offices the only option. The proposal, therefore, directs the Postmaster General to develop and submit to Congress on January 1, 1982, a plan to achieve a $100 million saving by closing an estimated 10,000 post offices.

If the Members are in favor of having a "workfare" program and they vote in favor of the rule, that really means they are against "workfare" for those people that are able-bodied.

If the Members feel that States and local municipalities should be able to have the option to use some of the low-income energy assistance funds for programs such as weatherization and insulation, that option is prohibited if they vote in favor of the rule.

So this veneer, this curtain that Members may be hiding behind if they vote in favor of the rule is a gossamer one and the Members' constituents will see them through it. This vote on the rule is substantive. Please keep that in mind.

THE RULE IS A STACKED DECK

(Mr. COATS asked and was given permission to address the House for 1

minute and to revise and extend his remarks.)

Mr. COATS. Mr. Speaker, I am new in this body and have only been here 5 months. I have not yet learned all the complexities and procedural ins and outs of the Committee on Rules and the rules that govern this body, but I have lived enough years to recognize a stacked deck when I see it.

We have heard a lot today from our friends on the other side of the aisle about the fairness of the rule that was reported, about the democratic processes of the committees and all the input that all the Members have had into the content and the substance of the legislation that is reported.

For those who are not part of the Committee on Energy and Commerce and who might be thinking each committee had equal input into this process, let me just remind the Members that the minority has had not one word of input as to the Energy and Commerce Committee bill, because the chairman signed off before we could look at it in any instance whatsoever.

So we now have the Democratic bill coming out of the Committee on the Budget with one vote up or down, with no chance to put our input into it. And on the other hand, we have the minority bill and the opposition Members, under the stacked rule reported by the Rules Committee, have the opportunity under the rules to slice it up any way they want it.

I would suggest, Mr. Speaker, that it might be important to point out that the definition of fairness as defined by the Committee on Rules has taken on a new meaning and perhaps our friends on the other side of the aisle ought to know that that word "fairness" does not apply equally to both sides of the aisle.

TIME TO DOUBT INFALLIBILITY OF LIBERAL DEMOCRATIC LEADERSHIP

(Mr. SMITH of Alabama asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Alabama. Mr. Speaker, in a moment of controversy at the Constitutional Convention, Benjamin Franklin once asked his fellow delegates to "doubt a little of (your) own infallibility." The majority leadership in the House today needs to follow the same advice. The proposed rule under which the budget reconciliation will be debated is only the latest, and most blatant, attempt by the majority leadership to circumvent the wisdom and will of the American people.

Mr. Speaker, the time has come to doubt the infallibility of—

A liberal Democratic leadership that engages in parliamentary gymnastics instead of honest and open debate;

A liberal Democratic leadership that prefers a back door approach to the public's business rather than a front door willingness to be held accountable by the American people;

A liberal Democratic leadership that is willing to sacrifice long-term national interests in favor of short-term expedience; and

Finally, a liberal Democratic leadership that insists on embracing a worn-out philosophy of government that was rejected overwhelmingly by the American people only a few short months ago.

This proposed rule must be defeated—and an honest attempt at budget reconciliation must be made. The times demand it. The American people expect it.

A DEMOCRATIC WONDERLAND

(Mr. KINDNESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINDNESS. Mr. Speaker, Alice, I believe, had to go through the looking glass to find herself in Wonderland. I do not remember walking through the looking glass, but here I am in Wonderland where the Democratic leadership says "up is down" and their loyalists respond "east is west and water runs uphill;" where the leadership says that it is fair to present us with a rule that allows only one vote on its package regarding reconciliation, and that it is fair for an opposing package to not be considered at all; not even in pieces, only little portions of it.

It seems to me that the rule with which we are presented today and on which we will be giving consideration and a vote soon must be voted down by voting down the previous question so as to restore east to its proper place and west can be where it should be and water will again run downhill.

Mr. Speaker, I urge that fair consideration be given to the reconciliation package under a rule that would be far different from the rule with which we are presented today, and I would urge a "no" vote on the previous question.

AMA CALLS FOR HALT TO FEDERAL SUBSIDIES TO TOBACCO INDUSTRY

(Mr. PETRI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PETRI. Mr. Speaker, reversing a policy going back about 15 years, the American Medical Association passed a resolution a couple weeks ago calling for a halt to Federal subsidies to the tobacco industry.

Delegates representing about 40 percent of the Nation's doctors at their annual convention voted to support the elimination of the Federal price support program for tobacco.

In the past the AMA always refused to support an end to tobacco subsidies.

Earlier this week I introduced a bill that would do just that: End the very restrictive tobacco allotment system and repeal the tobacco loan program.

I am heartened by this significant action by the AMA and pleased to see broad support for solving the problems of the tobacco industry.

VOTE ON RULE AN EPHEMERAL POLTERGEIST

(Mr. MARTIN of North Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARTIN of North Carolina. Mr. Speaker, I want to say to my colleagues across the aisle, there have been several who have spoken here this morning who have challenged the fact that in the November 1982 elections we are going to try to hold accountable those who would stuff this gag rule down us, and deny fair play for the President's economic recovery plan in its total balance. Actually, Mr. Speaker, we all know from past experience it is very difficult to make a political issue out of a procedural vote. I think my colleagues understand how that goes.

Those who will vote for the previous question will say, "I did not vote against the President's plan; I just voted to shut off debate." That is the way it has been done before. That is the way it would be done again in hopes that the voters' eyes would glaze over and they would miss the point that is being made.

So it is not likely we will be able to do very much with that as a political issue. The real issue, though, Mr. Speaker, is that this previous question and the vote on it will determine whether, in fact, there is a bipartisan coalition which really exists in support of the Reagan economic recovery plan or whether it is a mere illusion, an ephemeral poltergeist.

It is anticipated by some on this side that when the roll is called up yonder on the previous question, many of the Southern Democrats who voted for the bipartisan resolution earlier will now vote for this unfair rule, because they feel that they can count on the obscurity that surrounds a procedural question.

Mr. Speaker, I believe that they will be true to their convictions, that they will vote "no" on the previous question, because many of them will be true to their convictions. If they desert us, we may or may not be able to effectively hold them accountable on that procedural vote, but at least we will have a true test of where their true allegiance lies, and as to whether

they are just playing games and illusions with us.

Perhaps some of our Southern colleagues will follow their party's leadership on this. If they do, I doubt that there is much we can do about it in the next election. It may turn out that your constituents just would not understand how they talked one way but voted another on the key procedural vote. But you yourselves will know. And we will know.

And there would not be any more illusions here, will there?

VOTERS SHOULD ASK THEIR CONGRESSMEN HOW THEY VOTED

(Mr. EMERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EMERSON. Mr. Speaker, I hope that President Reagan will suggest to the country that voters ask their Congressmen how they voted on the previous question today.

I suggest in this case the country will know exactly what the previous question meant and will know it pretty quickly. The previous question today is that on which the people voted last November. Will we remember what the people said then?

MALE-ONLY MILITARY DRAFT REGISTRATION UPHELD

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, I am going to change the subject for just my 1 minute and say that the Supreme Court today upheld male-only military draft registration, saying Congress has the constitutional power to authorize the registration of men but not women.

Mr. Speaker, the vote was 6 to 3 that the Congress has the right to raise and support the armies.

BUDGET RECONCILIATION RULE SHOULD BE DEFEATED

(Mr. HUNTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUNTER. Mr. Speaker, the liberal leadership of the House has decided that we will not be able to vote on President Reagan's bipartisan program for economic recovery.

Now the leaders on the Democratic side have attempted to justify their maneuvers on the basis that they want to help the American people.

Mr. Speaker, I represent a district which has many poor people and, as I look at my people and the effect that a myriad of liberal social programs have had on them, I wonder how much more help from the liberals can they afford. Because, Mr. Speaker, deficits lead to inflation and inflation damages the poor much more than it does the wealthy.

Largely because of inflationary policies of this body, most of our poor have long ago given up the dream of owning a home. In fact, Mr. Speaker, in my district many people, because of the generosity of the major party, cannot afford to finance a refrigerator today, much less an automobile or an education for their children.

So, Mr. Speaker, let us stop this so-called generosity borne of so-called compassion which has locked America's poor into a no-win, no-hope future. Let us rededicate ourselves to this exercise of discipline which was manifested in the Gramm-Latta proposal. Let us defeat this rule.

The SPEAKER. The Chair would like to know how many Members still wish to be recognized for 1 minute. Kindly rise.

Well, the President ought to have some time to make some phone calls.

THE AMERICAN PEOPLE HAVE SPOKEN

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, the American people have spoken. They issued a clear mandate in November that spending by the Federal Government must be reduced. Daily, they remind us of our duty to carry out that mandate. It is time for America to have a fair budget package—namely, the one embodied in the Gramm-Latta amendments. As we begin debate on the reconciliation bill, it is imperative that we have an equitable rule that allows consideration of the Gramm-Latta package. This is the package that the people support. Indeed, it is the package that this Congress has already voted for overwhelmingly.

We must defeat the inequitable rule as reported by the committee and pass a rule which makes it possible to carry out the clear wishes of the American people for responsible and substantial budget reductions.

RULES ARE MADE TO BE BROKEN

(Mr. THOMAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS. Mr. Speaker, as I sat here I thought of a lot of cliches. One of them was: "I did not intend to speak on this matter." Another is, "Put your money where your mouth is." In this House I guess it is, "Put your votes where your mouth is."

I want to thank the majority leadership for an opportunity to end the shuck and jive by saying that we have an opportunity now to put our vote where our mouth is. In thinking of one last cliche I thought of the old one about, "Rules are made to be broken."

The SPEAKER. The gentleman from California.

The Chair thought the gentleman from California was seeking recognition.

THE PRESIDENT IS ON THE PHONE

(Mr. ROUSSELOT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROUSSELOT. Mr. Speaker, I appreciate the Speaker recognizing me. I just want to say to the Speaker, the President is on the phone.

THE WILL OF THE PEOPLE IS BEING THWARTED

(Mr. RITTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RITTER. Mr. Speaker, I think it is comforting to know that the President is on the phone. I thank the gentleman from California (Mr. ROUSSELOT) for informing this body that the President is on the phone because I think it is important to note that many of the people who will be called upon to vote today will be subject to "the President's being on the phone" in many different ways back in their district and to many of the people who they feel are important to them.

Mr. Speaker, it has been the heart of the administration's economic recovery proposal to impose tighter controls on the Federal budget. The people have spoken—and they have done so resoundingly: They do want us to put spending under control, and they are willing to bear the sacrifices that are called for. They know our country can do better.

However, majority leadership strategy is to give us rules that will make it impossible for Republicans and Democrats alike to introduce and manage, in a sound, responsible manner, the budget that they believe responds most acutely to the needs of the country. The Republican Party has been in the forefront of this revolution and responsible Democrats have agreed that a new approach is needed, one that calls for more fiscal responsibility in Government. We believe that this is a bipartisan objective, one that many of the Speaker's compatriots would readily vote for if they were free to do so.

The will of the people is not being permitted its free exercise, thanks to

the practical intent of the Rules Committee to strangle debate on this critical national budget. I wish to express my discouragement with the majority leaders of this body who have in fact perverted the democratic process for narrow and shortsighted political gain. The question remains, is this the kind of leadership that can turn America in the direction it needs to go.

The American people will be responding to that question very shortly.

BUSINESS AS USUAL IN WASHINGTON

(Mr. GREGG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GREGG. Mr. Speaker, the Democratic leadership, through procedurally sleight of hand, has closed out the ability of this House to institute a very reasonable budget procedure which we passed just a few weeks ago. This act of pure backroom politics flies in the face of what the American peole demanded in the last election.

The Democratic leadership is simply thumbing its nose at those who asked and demanded of us that we institute fiscal responsibility. What they are saying today is that here in Washington it will be business as usual with more spending, more deficits, and more inflation.

THE AMERICAN PEOPLE ARE THE ONES WHO ARE BEING HURT

(Mr. CAMPBELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CAMPBELL. Mr. Speaker, I would like to compliment you as a gentleman on your political skills. Though I may not agree with what the gentleman's motives are, I would like to say that from the beginning when the gentleman very effectively put the ratio on the Rules Committee, the Committee on Ways and Means, and the Committee on Appropriations at the level that the minority was not represented anywhere near the ratio that it holds in the House, the gentleman effectively at that time thwarted the President's efforts.

But I would also like to say that this leadership does not really hurt the President, nor does it hurt the minority party. The fact is that it hurts the American people. There is but one question before this House today, not amendments, not alternatives. The vote is up or down on a rule as to whether the people will have the right to be represented or not. The question is, will the people's voice be heard? I trust we will make the right decision.

LET US GET ON WITH THE PRESIDENT'S PROGRAM

(Mr. SOLOMON asked and was given permission to address the House for 1 minute).

Mr. SOLOMON. Mr. Speaker, over the last several years I have stood up here like Members on my side of the aisle, Members on that side of the aisle, and we have had some fun poking jabs at each other.

I have a speech here this morning and I was going to do the same thing as I have done day after day on this floor. But I am not going to give this speech because just before I came to the floor, I got a call from a constituent. He is a loyal Democrat and he says he has been all his life. He is a senior citizen on social security.

He said, "I want you to give the Speaker a message for me." He said, "You know, deep down we all feel that the President is right." He said, "I didn't vote for President Reagan," he said, "because I didn't think he would do what he said he was going to do." He said, "Some of the things that he is proposing, it is going to hurt me and I know it. But we all know that it is right. Deep down in your hearts you all know it is right if we are to turn this country around and make America great again."

I just wish, Mr. Speaker, when push comes to shove here a few hours from now on this rule, that you would stay in your seat and let the people on your side of the aisle vote the way they want to. I have talked to a number of them and they want to vote to defeat this rule and they want to support the President.

So, Mr. Speaker, on behalf of that loyal Democrat who thinks the world of you, let us defeat the previous question and let us get on with the President's program. Let us do it for America.

IMPACT AID PROGRAMS IMPORTANT TO STUDENTS

(Mr. EDWARDS of Oklahoma asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EDWARDS of Oklahoma. Mr. Speaker, we have heard from the majority side a lot of great concern about the welfare of a lot of people including the young people in this country.

The State of Oklahoma has many young people who get their education partly because of the money that the Federal Government makes available to them through impact aid programs. In my district and in the districts of a couple of my colleagues, those impact aid programs are extemely important. I have been very greatly concerned about the decision by the Rules Committee to prohibit us from offering the amendment that, in my State, would greatly improve the ability of the school districts to receive impact aid funds. I would appeal to the Members of the majority to help us get the money for those young people to get their education by allowing us to offer an amendment to restore impact aid funding to those levels.

□ 1145

MINORITY ADVISED TO CONSULT MR. GRAMM OF TEXAS ON PROCEDURES

(Mr. LELAND asked and was given permission to address the House for 1 minute.)

Mr. LELAND. Mr. Speaker, I yield to the gentleman from Arkansas (Mr. ALEXANDER).

Mr. ALEXANDER. Mr. Speaker, the Members of the minority during the 1-minute rule have indicated dismay about the procedure to be followed today for offering amendments on the rule. I, too, was confused earlier during the week, and so I conferred with the gentleman from Texas (Mr. GRAMM), to ask him what was his next play. He advised that he would like to offer amendments to cut about $7 billion in additional funds from fiscal year 1982, for a total of about $20 billion during the next 3 years, in about six functional categories.

I would suggest to my colleagues representing the minority that, in the future, if they are confused about the procedure which the administration wishes to follow, to confer with the gentleman from Texas (Mr. GRAMM).

The SPEAKER. Mr. GRAMM is entitled to respond for 1 minute.

WILL THE HOUSE ALLOW THE DEMOCRATIC PROCESS TO WORK?

(Mr. GRAMM asked and was given permission to address the House for 1 minute.)

Mr. GRAMM. Thank you, Mr. Speaker.

I would like to say very clearly that it is important that we look at the facts. The myth is that we have divided the question on Gramm-Latta II. The reality is that two-thirds of this package has been discarded, and even those parts which remain, such as the food stamp change in eligibility, have been altered, not presented in the form that we introduced, but in the form that others would like it to be introduced.

The issue here is not whether we do what the President wants. The issue is not whether we do what the American people want. The issue is, are we going to allow a fair-play vote and let the democratic process work? And are we going to do what is right? We need to control entitlements because we are sitting on a powder keg. With Gramm-Latta II, which alters only 2 percent of

the package that comes out of committee, we can stick a finger in the crack in the dike on entitlements. Unless we gain control of entitlements, not only are we going to be denied a balanced budget in 1984, but we are going to have a whopping big deficit and we are going to lose a clear chance to turn America around.

That is the issue on the previous question.

"AYE" VOTE URGED ON HOUSE RESOLUTION 169

(Mr. VOLKMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VOLKMER. Mr. Speaker and Members of the House, I have tried to listen attentively to each of the speakers, especially the large number of the minority, who have spoken even though on the verge of tears and with broken hearts, but I find that on June 2, one of their leaders, Office of Management and Budget Director Dave Stockman, said in the Washington Star—and anybody can read it—

> In the reconciliation process the House must vote on the next step in the budget process known as reconciliation. Under a closed rule, that would not allow a single amendment to the proposal of the Budget Committee.

If the Members will read Gramm-Latta, which was passed by the House—and passed in the conference report, it does not say anything about a substitute. It does not say anything about amendments. It says there shall be a reconciliation bill from the Budget Committee.

This rule we are going to vote for today, and which I support wholeheartedly, does give more to the minority than either the Budget Director or the provision of Gramm-Latta provided for. It gives more than Dave Stockman says they are entitled to. It is not a sense of trickery; it is not unfair; it is more than fair. I personally would vote along with Dave Stockman for a closed rule on the budget as proposed by the Budget Committee, which is the correct reconciliation process.

All these tear jerkers and those with broken hearts, they want to change the rule now that they do not have some of the cuts the way they want the cuts. It is not the total that is not cut. The total is cut. It is a question of, do we cut impact aid the way they want, or do we cut impact aid the way the Education and Labor Committee says it should be cut?

The cuts are there, there is no foolery. I say, vote for the previous question, vote for the rule, and let us get on with reconciliation. Do it the way that Gramm-Latta said it should be done.

MR. JACOBS OF INDIANA—A PARSIMONIOUS PROGRESSIVE

(Mr. JACOBS asked and was given permission to address the House for 1 minute.)

Mr. JACOBS. Mr. Speaker, I very rarely vote for a previous question, only in cases where I think a filibuster is at hand, but I think I have found another case in this situation.

I have always opposed previous questions because it simply meant that the membership did not have the opportunity to vote on individual amendments, and I thought that was wrong. I still do. Somebody alluded to Gomer Pyle a few minutes ago in this discussion. As I recall, at Marine Corps boot camp, the strongest instruction one received was, "Don't think."

I heard the minority say yesterday, "Yes; there are some bad parts, but there are also some good parts in our package."

The question fundamentally to me is whether I will be given the opportunity to vote on those bad parts and those good parts, and since some of those bad parts are harsh and sudden cuts in the social security program, I shall vote for the previous question so that we can vote on those individual parts.

I might point out also that I have examined the Budget Committee's proposal, and it spends less—l-e-s-s—less money than the alternative. I have been asked many times in this House whether I consider myself a conservative. I have said that I consider myself a parsimonious progressive because I cannot afford to spend as much as conservatives do.

AMERICAN PEOPLE SHOULD KNOW WHO IS HURTING THEM THE MOST

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEISS. Mr. Speaker, we have heard statements alluding to gag rules and dictatorship in this body today. The fact is that the only thing akin to gag rule or dictatorship is that which the President and his Republican allies are proposing. What Mr. Reagan is suggesting is that it is not enough for this House to adopt a bill which gives him more than 100 percent of the total he wanted as far as cuts are concerned. It is not enough that 85 percent of those cuts be exactly along the lines that he asked. No; it has to be 100 percent, and it has to be 100 percent packaged in one single substitute so that the American people will not have the opportunity to find out exactly who stands for hurting people the most. That is what this really is about.

The President is opposed to opening up the process so that the people of this country will know that the damage that is already being done to them is intended to be even more severe if the Republicans have their way.

DEMOCRATIC PARTY REPRESENTS ALL THE PEOPLE

(Mr. GARCIA asked and was given permission to address the House for 1 minute.)

Mr. GARCIA. Mr. Speaker, I was upstairs in my office listening to the 1 minutes. Listening to the rhetoric from my colleagues on the minority side of the aisle. What I find most ironic is, speaker after speaker, spoke about all Americans. Support the President, and that the majority party was blocking the will of the country.

I really think it is unfortunate. My side of the aisle is made up of all Americans, but when I look on the minority side there is not one black face. They have but one Hispanic. So, when we talk about all Americans—and many of you on the minority side represent those poor people who are blacks in the South, poor people who are Hispanics throughout many parts of California and the Southwest.

Mr. SOLOMAN. Mr. Speaker, will the gentleman yield on that point?

Mr. GARCIA. I will not yield.

I say to you on the minority side as I listened to this rhetoric, that if you are going to represent your districts, represent all the people of your districts and everybody who lives in your districts. Do not represent only those that can defend themselves, because you have got a responsibility for everybody in the district.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. GARCIA. Yes, I yield.

Mr. SOLOMON. The gentleman is one of my best friends, I guess, but the gentleman has to remember he was endorsed by the Republican Party.

Mr. GARCIA. There is no question about it, and when I ran for Congress, I had to run as a Republican because the political bosses of my party, the Democratic Party, would not give me the nomination. But, just let me say this to you—there are bosses on both sides of the aisle, and the biggest boss we have now is at 1600 Pennsylvania Avenue, who thinks that he can rule this country as a king and a monarch. This is a democracy made up of three parts: The House, the Senate, and the Presidency, and as long as we have control here, we are going to utilize it.

Mr. SOLOMON. We are proud to have you represent us.

CONFERENCE REPORT ON H.R. 3520, STEEL INDUSTRY COMPLIANCE EXTENSION ACT OF 1981

Mr. DINGELL submitted the following conference report and statement on the bill (H.R. 3520) to amend the Clean Air Act to provide compliance date extensions for steelmaking facilities on a case-by-case basis to facilitate modernization:

CONFERENCE REPORT (H. REPT. No. 97-161)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3520) to amend the Clean Air Act to provide compliance date extensions for steelmaking facilities on a case-by-case basis to facilitate modernization, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Steel Industry Compliance Extension Act of 1981".

SEC. 2. Section 113 of the Clean Air Act is amended by adding the following new subsection at the end thereof:

"(e)(1) The Administrator may, in his discretion, in the case of any person which is the owner or operator of a stationary source in an iron- and steel-producing operation not in compliance with the emission limitation requirements of an applicable implementation plan, consent to entry of a Federal judicial decree, or to the modification of an existing Federal judicial decree, with such person establishing a schedule for compliance for such source extending beyond December 31, 1982, but ending not later than December 31, 1985, on the following conditions:

"(A) the Administrator finds, on the basis of information submitted by the applicant and other information available to him, that such extension of compliance is necessary to allow such person to make capital investments in its iron- and steel-producing operations to improve their efficiency and productivity;

"(B) the Administrator finds, on the basis of information submitted by the applicant and other information available to him, that an amount equal to the funds the expenditure of which would have been required to comply by December 31, 1982, with those requirements of an applicable implementation plan for which such extensions of compliance are granted and whose expenditure for such purposes are being deferred until after December 31, 1982, pursuant to such extensions will be invested prior to two years from the date of enactment of this subsection in additional capital investments in the iron- and steel-producing operations owned or operated by such person, and located in communities which already contain iron- and steel-producing operations, to improve their efficiency and productivity;

"(C) the Administrator and such person consent to entry of Federal judicial decree(s) establishing a phased program of compliance to bring each stationary source at all of such person's iron- and steel-producing operations into compliance with the emission limitation requirements of applicable implementation plans (or, with respect to existing stationary sources located in any nonattainment area for which no implementation plan has been approved as meeting the requirements of part D and subject to implementation plan(s) which do not require compliance with emission limitations which represent at least reasonably available control technology, compliance with emission limitations which represent reasonably available control technology) as expeditiously as practicable but no later than December 31, 1982, or, in the case of sources for which extensions of compliance have been granted, no later than December 31, 1985; such decree(s) shall also contain, at a minimum, (i) requirements for interim controls (which may include operation and maintenance procedures); (ii) increments of compliance sufficient to assure compliance by the final compliance deadlines; (iii) requirement(s) that the amount referred to in subparagraph (B) above, is to be invested in projects representing additional capital investments in the iron- and steel-producing operations owned or operated by such person for the purposes specified in such subparagraph and shall contain schedule(s) specifying when each such project (or specified alternative project) is to be commenced and completed, as well as increments of progress toward completion; (iv) stipulated monetary penalties covering completion of the air pollution control project required by the decree, the projects referred to under (iii) above, and such other items as appropriate; (v) monitoring requirements; (vi) reporting requirements (including provision for periodic reports to be filed with the court); and (vii) provisions for preventing increases of emissions from each stationary source;

"(D) the Administrator finds, on the basis of information submitted by the applicant and other information available to him, that such person will have sufficient funds to comply with all applicable requirements by the times set forth in the judicial decree(s) entered into pursuant to subparagraph (C) of this subsection;

"(E) the Administrator finds, on the basis of information submitted by the applicant and other information available to him, that the applicant is in compliance with existing Federal judicial decrees (if any) entered under section 113 of this Act applicable to its iron- and steel-producing operations or that any violations of such decrees are de minimus in nature; and

"(F) the Administrator finds, on the basis of information submitted by the applicant and other information available to him, that any extension of compliance granted pursuant to this subsection will not result in degradation of air quality during the term of the extension.

"(2) For the purpose of this subsection, 'iron- and steel-producing operations' include production facilities for iron and steel, as well as associated processing, coke making and sintering facilities. For the purpose of this subsection, 'phased program of compliance' means a program assuring, to the extent possible, that capital expenditures for achieving complaince at all sources owned or operated by such person in iron- and steel-producing operations must be made during the second and each succeeding year of the period covered by the decree(s) in an amount such that at the end of each such year the cumulative expenditures under the decree(s) will be at least equal to the amount which would have been spent if the total expenditures to be made under the decree(s) were made in equal increments during each year of the decree(s). For the purpose of this subsection, 'additional capital investments in iron- and steel-producing operations' means investments which the Administrator finds would not be made during the same time period if extension(s) of time for compliance with clean air requirements were not granted under this subsection. The decree entered into pursuant to subparagraph (C) of paragraph (1) of this subsection shall specify the projects which represent additional capital investment in iron- and steel-producing operations, but may also contain specified alternative projects. The decree may also be modified to substitute equivalent projects for those specified. The owner or operator of iron- and steel-producing operations seeking an extension of compliance under this subsection has the burden of satisfying the Administrator with regard to the findings required in paragraphs (A), (B), (D), (E), and (F). A person which is subject to a judicial decree entered or modified pursuant to this subsection shall not be assessed a noncompliance penalty under section 120 of the Act for any source with an extension of compliance under such decree for the period of time covered by the decree only if such source remains in compliance with all provisions and requirements of such decree.

"(3) Any records, reports, or information obtained by the Administrator under this subsection shall be available to the public, except that upon a showing satisfactory to the Administrator by any person that records, reports, or information, or particular part thereof (other than emission data) to which the Administrator has access under this section if made public, is likely to cause substantial harm to the person's competitive position, the Administrator shall consider such record, report, or information or particular portion thereof confidential in accordance with the purposes of section 1905 of title 18 of the United States Code, except that such record, report, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act or when relevant in any proceeding under this Act. Any regulations promulgated under section 114 of this Act apply with equal force to this subsection subject, however, to any changes that the Administrator shall determine are necessary. This paragraph does not constitute authority to withhold records, reports, or information from the Congress.

"(4) Nothing in this subsection shall preclude or deny the right of any State or political subdivision to enforce any air pollution requirements in any State judicial or administrative forum.

"(5) The provisions of this subsection shall be self-executing, and no implementing regulations shall be required.

"(6) Upon receipt of an application for an extension of time under this subsection with respect to any stationary source the Administrator shall promptly—

"(i) publish notice of such receipt in the Federal Register,

"(ii) notify the Governor of the State in which the stationary source is located; and

"(iii) notify the chief elected official of the political subdivision in which the source is located.

"(7)(A) The Administrator shall publish in the Federal Register notice of any finding made, or other action taken, by him in connection with the entry of any consent decree or modification of an existing con-

sent decree pursuant to this subsection or in connection with the Administrator's failure or refusal to consent to such a decree.

"(B)(i) Except as provided in clause (ii), any finding or other action of the Administrator under this subsection with respect to any stationary source, and any failure or refusal of the Administrator to make any such finding or to take any such action under this subsection, shall be reviewable only by a court in which a civil action under section 113 of this Act is brought against the owner or operator of such stationary source.

"(ii) Where, before the date of the enactment of the Steel Industry Compliance Extension Act of 1981, a civil action was brought under this Act against the owner or operator of such stationary source, and finding or other action of the Administrator under this subsection with respect to such stationary source, and any failure or refusal of the Administrator to make any such finding or to take any such action under this subsection, shall be reviewable only by the court in which the civil action was brought.

"(8) The provisions of section 304(b)(1)(B) of this Act shall be applicable to this subsection.

"(9) For a source which receives an extension under this subsection, air pollution requirements specified in Federal judicial decrees entered into or modified under this subsection that involve such source may not be modified to extend beyond December 31, 1985.".

SEC. 3. Section 110(a)(3)(C) of the Clean Air Act is amended to read as follows:

"(C) Neither the State, in the case of a plan (or portion thereof) approved under this subsection, nor the Administrator, in the case of a plan (or portion thereof) promulgated under subsection (c), shall be required to revise an applicable implementation plan because one or more exemptions under section 118 (relating to Federal facilities), enforcement orders under section 113 (relating to Federal facilities), enforcement orders under section 113(d), suspensions under section 110 (f) or (g) (relating to temporary energy or economic authority), orders under section 119 (relating to primary nonferrous smelters), or extensions of compliance in decrees entered under section 113(e) (relating to iron- and steel-producing operations) have been granted, if such plan would have met the requirements of this section if no such exemptions, orders, or extensions had been granted.".

And the Senate agree to the same.

JOHN D. DINGELL,
HENRY A. WAXMAN,
JAMES H. SCHEUER,
T. LUKEN,
DOUG WALGREN,
JAMES T. BROYHILL,
EDWARD MADIGAN,
CLARENCE J. BROWN,
Managers on the Part of the House.

ROBERT T. STAFFORD,
PETE V. DOMENICI,
JOHN H. CHAFEE,
JENNINGS RANDOLPH,
GEORGE J. MITCHELL,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3520) to amend the Clean Air Act to provide compliance date extensions for steelmaking facilities on a case-by-case basis to facilitate modernization submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

The House and Senate versions were quite similar, thus the provisions were merged by the conferees.

The agreement drops the Senate language dealing with situations where changes in proposed methods of compliance due to availability of an extension might be associated with reduced employment. It is not the policy of the Clean Air Act or the intent of the Congress that air quality standards or emission limitations be met by cutbacks in production or reductions in employment. The premise behind this bill is that the same emission control requirements will be met after an extension, but merely at a later date. One of the purposes of modernization expected from this legislation is to help job security, particularly in the communities where the iron- and steel-producing operations are located. The conferees expect all the persons interested in the legislation to work together to achieve this purpose.

Therefore, the specific language of the Senate bill is not necessary. Section 113(e) extensions should contribute to the long-run stability of employment in the steel industry. This bill should not, however, be used in any way which leads to major job losses in existing steel-making communities. The economies of many communities and the security of many families in steel-related jobs depend on being helped, not penalized by extensions under this bill.

The conferees did not adopt the language of the Senate bill which sought to restate the intervention provisions of section 304 of the Act, but adopted a substitute that refers to section 304. Any person may intervene as a matter of right in any judicial proceeding and judicial decree under the authority of this subsection. The conferees intend that any person, including the states and union representatives, will be supported by EPA and the Justice Department in any effort to intervene and to participate fully in the proceedings and the decrees. The conferees also expect the applicants to support such intervention consistent with the spirit of the tripartite agreement. The conferees expect EPA to keep the committees of jurisdiction fully and currently informed of all efforts to intervene and of any effort by anyone to oppose or restrict such intervention.

The conferees agree that because the States will have ample opportunity through the provisions of section 304(b)(1)(B) of the Clean Air Act to participate, the specific language of the Senate version giving a State an opportunity to object was not included.

The conference agreement adopts from the House version the judicial review provisions with some technical changes and the provisions on notice and prohibiting the withholding of information from Congress or its committees.

In lieu of the Senate language in section 113(e)(7), the conference report provides that for any source which receives an extension under this subsection, air pollution requirements specified in Federal judicial decrees entered into or modified under this subsection that involve such source may not be modified to extend beyond December 31, 1985.

JOHN D. DINGELL,
HENRY A. WAXMAN,
JAMES H. SCHEUER,
T. LUKEN,
DOUG WALGREN,
JAMES T. BROYHILL,
EDWARD MADIGAN,
CLARENCE BROWN,
Managers on the Part of the House.

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PETE V. DOMENICI,
JOHN H. CHAFEE,
JENNINGS RANDOLPH,
GEORGE J. MITCHELL,
Managers on the Part of the Senate.

MEDICAID VIEWS OF REPUBLICAN GOVERNOR OF MICHIGAN

(Mr. CROCKETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CROCKETT. Mr. Speaker, as one of the youngest Members in terms of service here in the House, I frequently have the difficult task of deciding what is best from the standpoint of the Nation and what is best from the standpoint of the State. So, I do as I am sure many other freshmen do; we have certain role images that we follow.

On what is best for the country I accept the leadership of the Speaker. On what is best for the State I frequently look for the leadership of the Governor of my State, who happens to be a Republican. In this case, Mr. Speaker, I want to share with the House a communication that I recently received from our Republican Governor, Bill Milliken.

It reads as follows:

STATE OF MICHIGAN,
OFFICE OF THE GOVERNOR,
Lansing, June 23, 1981.

To: Michigan Members, U.S. House of Representatives.

From: Gov. William G. Milliken.

As I am sure you know, the various proposals under discusssion in Congress for limiting federal Medicaid expenditures will have significant consequences for Michigan. While I support the President's efforts for reducing the federal budget, it is essential that these actions be taken in ways which are fair and which recognize the widely different situations in which various states find themselves.

Medicaid is a major budget expense for Michigan state government. Unduly large reductions in the federal government's share of these costs would have grave consequences.

It is my understanding that the House of Representatives will shortly vote on alternative proposals for limiting federal Medicaid expenditures. Given the Administration's

position of record to date, I urge you to support the Energy and Commerce Committee proposals as submitted by Chairman Dingell. I believe that this proposal is both consistent with the President's overall aims and fair to the State of Michigan.

WILLIAM G. MILLIKEN.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE PRIVILEGED REPORT ON DEPARTMENT OF THE INTERIOR APPROPRIATIONS, FISCAL YEAR 1982

Mr. YATES. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on a bill making appropriations for the Department of the Interior and related agencies for fiscal year ending September 30, 1982.

Mr. McDADE reserved all points of order on the bill.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 3982, OMNIBUS BUDGET RECONCILIATION ACT OF 1981

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 169 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 169

Resolved, That upon the adoption of this resolution it shall be in order to move, any rule of the House to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3982) to provide for reconciliation pursuant to section 301 of the first concurrent resolution on the budget for the fiscal year 1982, and the first reading of the bill shall be dispensed with. General debate shall continue not to exceed eight hours, with the chairman and ranking minority member of each of the following committees to equally divide and control the time indicated: the Committee on the Budget, thirty minutes; the Committee on Agriculture, thirty minutes; the Committee on Armed Services, thirty minutes; the Committee on Banking, Finance and Urban Affairs, thirty minutes; the Committee on the District of Columbia, thirty minutes; the Committee on Education and Labor, thirty minutes; the Committee on Energy and Commerce, thirty minutes; the Committee on Foreign Affairs, thirty minutes; the Committee on Interior and Insular Affairs, thirty minutes; the Committee on Merchant Marine and Fisheries, thirty minutes; the Committee on Post Office and Civil Service, thirty minutes; the Committee on Public Works and Transportation, thirty minutes; the Committee on Science and Technology, thirty minutes; the Committee on Small Business, thirty minutes; the Committee on Veterans' Affairs, thirty minutes; and the Committee on Ways and Means, thirty minutes: *Provided,* That the chairman and ranking minority member of the Committee on the Budget may reserve a portion of their time to close general debate. It shall be in order to consider an amendment in the nature of a substitute consisting of the text of the bill H.R. 3964, as modified by the amendment printed in the Congressional Record of June 23, 1981, by Representative Jones as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered as having been read for amendment, and said substitute shall be in order any rule of the House to the contrary notwithstanding. No amendment to the substitute or to the bill shall be in order in the House or in the Committee of the Whole except the following amendments (unless otherwise stated, references are to the committee print entitled "Amendments to be offered by Representative Latta to the amendment in the nature of a substitute (text of H.R. 3964) to H.R. 3982, the Omnibus Reconciliation Act of 1981", Committee on Rules, June, 25, 1981), said amendments shall be in order any rule of the House to the contrary notwithstanding, shall be considered only in the following order if offered, shall be considered as having been read, shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole, shall not be subject to amendment but shall be debatable as herein specified, and the Chair shall not entertain any other amendments.

(1) the motion to strike out and insert on page 305, line 17 through page 307, line 9 of the committee print; the motion to strike out and insert on page 307, line 10 through page 312, line 20 of the committee print; the motion to strike out sections 15421, 15427, and 15429 of the text of H.R. 3964 and to insert the provisions on page 324, line 33 through page 326, line 27, on page 326, line 28 through page 327, line 19, on page 327, line 28 through page 328, line 6, on page 328, lines 7 through 15, on page 336, line 8 through page 337, line 11, on page 341, lines 21 through 343, line 17 of the committee print, to be debated for not to exceed one hour, to be equally divided and controlled by the proponent of the motion and a Member opposed;

(2) an amendment to title VI consisting of the proposal submitted by the ranking minority member of the Committee on Energy and Commerce, Mr. Broyhill, to the Committee on the Budget on June 12, and printed in the Congressional Record of June 24, 1981, by Representative Jones, to be debated for not to exceed one hour, to be equally divided and controlled by the proponent of the amendment and a Member opposed;

(3) the motion to strike out and insert on page 36, line 30 through page 37, line 36 of the committee print; the motion to strike out and insert beginning on page 44, line 10 through page 54, line 12 (child nutrition/school lunch) of the committee print; the motions to strike out and insert beginning on page 36, line 30 through page 37, line 4, beginning on page 37, line 5 through page 42, line 31, and beginning on page 44, line 1 through page 44, line 9 of the committee print (student assistance provisions except for those relating to "Sallie Mae"), to be debated for not to exceed one hour to be equally divided and controlled by the proponent of the motion and a Member opposed;

(4) on page 2, immediately after line 11 insert the text of sections 1302 ("Household Definition"), 1303 ("Boarders"), 1306 ("Adjustment of the Thrifty Food Plan"), 1307 ("Gross Income Eligibility Standard"), 1308 ("Reduction in Deduction Adjustment"), 1310 ("Repeal of Increases in Dependent Care Deductions for Working Adults and Medical Deductions for the Elderly and Disabled"), 1311 ("Retrospective Accounting"), 1312 ("Periodic Reporting"), 1314 ("Eligibility Disqualifications and Claims Collections"), 1317 ("Strikers"), 1319 ("Prorating Allotments"), and 1321 ("Outreach") of H.R. 3603 as reported from the Committee on Agriculture, redesignated as sections 1001 through 1012 respectively, and renumber succeeding sections of title I accordingly, to be debated for not to exceed one hour, to be equally divided and controlled by the proponent of the amendment and a Member opposed;

(5) the motion to strike out and insert on page 24, line 40 through page 31, line 27 of the committee print, to be debated for not to exceed one hour, to be equally divided and controlled by the proponent of the motion and a Member opposed; and

(6) on page 345, immediately after line 24, insert the text of section 10002 ("Annualization of Cost of Living Adjustment for Federal Employees") from page 300, lines 1 through 30, of the committee print, redesignated as section 10009, to be debated for not to exceed one hour, to be equally divided and controlled by the proponent of the amendment and a Member opposed.

At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except two motions to recommit. One such motion may not contain any instructions, but notwithstanding any other provision of this resolution, it shall be in order to offer a second motion to recommit with instruction containing only the following amendments contained in the committee print: the motion to strike out and insert the provisions on page 54, line 13 through page 66, line 29 (social service block grants) and the provisions on page 74, line 9 through page 95, line 3 (consolidation of education programs); the motion to strike out and insert on page 312, line 23 through page 324, line 29; the motion to strike out and insert on page 10, line 5 through page 24, line 39, but excluding the insertion on page 10, lines 10 through 17; the motion to insert on page 7, line 15 through page 10, line 2. The previous question shall be considered as having been ordered on said motion to final adoption without intervening motion, but said motion shall be debatable for not to exceed one hour, to be equally divided and controlled by the proponent of the motion and a Member opposed.

□ 1200

The SPEAKER. The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. LATTA), pending which I yield myself 2 minutes.

I am not going to take very much time at this point. I expect to speak

later. My first speakers basically are going to be the distinguished chairman of the Committee on the Budget and his task force chairman, the gentleman from California (Mr. PANETTA), who dealt with reconciliation.

I have listened with real care to the rather numerous speeches from the minority side, and I would like to add a little bit to the discussion of fairness. Day before yesterday, I believe it was, I got a request from the minority that I authorize a Rules Committee print of the minority substitute. I sent it to the GPO with a letter asking that it be accomplished just as promptly as possible, and then, in addition to that, I asked the Speaker for help. Yesterday afternoon at 5 o'clock I received the last new version from the minority.

I lay no blame on anybody, but we finally got a printed copy, and I guess it was a copy of the first request, between 9:30 and 11 last night.

Now, I had tried to be fair and am still trying to be fair, but the moving target technique is not really very helpful. We tried very hard to be fair in dividing up the minority's consolidated amendment approach. We did exactly the same thing that Gramm-Latta did to the committees of the Congress. We made in order only cuts, and what is available in the amendments as split is substantially larger cuts than there were in the consolidated version, because the consolidated version of this fair package, unlike what the committees did, was loaded with sweeteners—sweeteners to the tune of about roughly one-half of all the cuts. In other words, there was a real load—you can call it fair or unfair—there was a real load of sweeteners in the substitute which had not been allowed in the committee process of reconciliation.

Now, I do not draw any conclusions from that. I do not draw the conclusion that that is intentionally unfair because I know it was not. But I do know that I am very, very sorry that so many newer Members made speeches on a subject about which they seem to know remarkably little of the facts and were so sure that they were right, because the fact of the matter is that in the future they may not regret the speeches but they are going to regret the inaccuracies, because I know that each and every one of them is a fair and honorable Member.

Mr. LATTA. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I have to ask the question: Why are we here today?

We are here because the spending of the Federal Government is out of control, and I think that even the Members who voted against Gramm-Latta realize that. When the late John Kennedy was President of the United States we had a $100 billion budget in his second year for the first time in history. In the few short years since, we are faced with a $695 billion budget and a $1 trillion 60 billion national debt.

We are here because we have been spending beyond our means. We are here because of the inflation and high interest rates which have resulted from these excesses. The American people want a change, and they voted for a change last November. We offered President Reagan's proposals—as amended in the Rules Committee—to be made in order as a package of amendments.

We knew what the vote was going to be in committee on our request. This was decided when the Democrat leadership decided on the 11 to 5 Democrat majority on the committee. But in the House we had already voted 253 to 176 to make some meaningful cuts in our exploding budget and to reverse our trend because the American people were demanding it.

We are here today to carry out the mandate of the Congress and the will of the people. We are not going to play any games. The President of the United States is not playing games with the American people.

What is wrong with the reconciliation work of the committees? Well, actually 8 of the 15 committees took their work seriously, and made meaningful cuts to reach the $35 billion mandated by the Congress. One committee, the Committee on Education and Labor, thought they were really playing games and turned out a product which even they were ashamed of. They jerked it back real quick and made some changes. That shows us what was going on in that committee by the majority.

□ 1215

Now, how close did all of the committees come to their mandated targets?

According to the best information that we can get, the shortfall in 1982 is $5,889,000,000. In 1983 it is $8,141,000,000, and in 1984 it is $8,446,000,000, for a total of $22,476,000,000.

I thought that we were going for a balanced budget in 1984 when we passed Gramm-Latta. I think the American people thought we were going for a balanced budget; but if we turn around and pass the committee package we have before us, we are going to have a shortfall of $22,476,000,000 by 1984. This will mean no balanced budget.

Now, we have heard a lot of talk here today and we will probably hear a lot of talk later on about the fairness of this rule. I do not know whether I can say I am fortunate or unfortunate in having to serve on the Budget Committee as well as the Rules Committee, so I get a double dose of this; but I do not think we have any real problem when it comes to deciding the fairness of this rule.

Here we have the committee print with literally hundreds of amendments that came from the committees before us under a rule which provides for one vote on this package with a couple exceptions. It railroaded out of our Rules Committee last night by a vote of 11 to 5. We knew what the vote was going to be before it was cast. We knew that the rule had already been decided by the Democratic leadership and that it would be a packaged vote on the committee bill.

But on the Republican package it was a different set of rules they had prepared for us. We were only asking for the same consideration for our package as the Democrats were being given for theirs. Ours only went to the work of six committees in trying to bring the bill into line with what we voted on in Gramm-Latta. The Democrats gave us a rule which stipulated separate votes on every amendment, and they did not even include all the propositions that we had in our amendment to start with.

Let me say that I think that is grossly unfair. I think the American people think it is unfair. It is unfair to the President of the United States, who has a commitment from all the people, all the people of this country, to turn the economy of this country around and to get us on an upward course once more.

Mr. ZEFERETTI. Mr. Speaker, I yield 5 minutes to the distinguished chairman of the Budget Committee, the gentleman from Oklahoma (Mr. JONES).

Mr. JONES of Oklahoma. Mr. Speaker, I rise in support of this rule. This is a change in my previous position.

I would like to explain why I have changed this position and why I ask my colleagues who have yet to make up their minds to support the rule also.

Let me give you a history of my activities in this reconciliation process. As you know, when we came out of the Budget Committee, we offered an alternative which we thought genuinely was a better alternative for the country and for the economy. We lost that vote. The Gramm-Latta substitute passed. The Gramm-Latta directed the various committees—15 of them in this House—to cut total spending by $35.1 billion next year and by $137 billion in 1982, 1983, and 1984. It did not tell any of the committees what they had to do and where the cuts had to be achieved.

I said at that time that as chairman of the Budget Committee, we were going to enforce what this body and what Congress directed to be done. I supported then and up until I testified before the Rules Committee a few days ago a closed rule so long as the

committees met the instructions required of them in the Gramm-Latta substitute and made real cuts in the amount of money they were told to cut from existing law.

I indicated the only amendments that I would support were amendments in those instances in which the committees were unable to reach agreement on where the cuts would be, as happened in the Commerce and Energy Committees, or where committees tried to play games with the process and would come in with cuts that were phony, not real, or would not be certified by the Congressional Budget Office.

Now, I took this position in favor of a closed rule for three main reasons. First of all, we are dealing with a very complicated process. What we asked the committees to do in a 30-day period was to review and cut 250 existing programs that are now on the books, and that is a very complicated process. Even Mr. LATTA, Mr. GRAMM, and David Stockman recognized how complicated this process is. In the debate, in response to questions from other Members of this body and in private conversations with Mr. LATTA and Mr. GRAMM in trying to find out where those cuts should occur, they said, "It is not our responsibility to tell the committees where to cut. It is just our responsibility to tell the committees how much to cut and leave it to their expertise as to where those cuts should be."

So, because of the complicated nature of this process, I felt it was important to support the committees that met their instructions under reconciliation.

Second, I did not and do not want to unravel or undermine this process of reconciliation. You know, on both sides of the aisle, at the beginning of this process there were Republicans and Democrats alike who were wanting to add back on, to restore funding, to undermine the cuts that were directed. I did not think we should start on that path.

Third, I felt we should have a very tightly controlled situation in order to meet the timetable that we have mutually agreed, Democrats and Republicans alike, the timetable to try to complete this process and send it to the President by July 15. So for those reasons I supported a closed rule.

After Gramm-Latta passed and the committees intensely worked for 30 days to make the specific cuts and they reported back beginning on June 12 to the Budget Committee, we looked at what they did. We asked the CBO to verify what they did and we found that in addition to the $35.1 billion they were asked to cut next year, they not only met that target, but the House committees cut $37.6 billion in fiscal year 1982 outlays; $2.6 billion more than they were asked to cut. Over the 3-year period, the House committees cut a little over $2 billion more than they were asked to under Gramm-Latta.

Now, the gentleman from Ohio talks about shortfalls. Who says there are shortfalls? The CBO does not. They verified what the Senate did. They verified what the House did and we are virtually together. OMB may have said there were shortfalls, but OMB is that same group of people that told us we are going to have 8.9 percent interest rates beginning in October. They are the same group of people that said the way to save $3 billion from the Strategic Petroleum Reserve is just to move it off budget and pretend you do not have to borrow the money to pay for it.

Well, I suggest to you that we can trust CBO and their verification more than we can OMB.

But in any event, after the committees met their targets and exceeded those targets, last Thursday night OMB Director Dave Stockman asked to meet with Mr. PANETTA and myself to discuss this. He presented us a list of about 12 items in which he said cuts were not deep enough. He never mentioned anything about restorations. He never mentioned anything about the committees not having met their responsibility. He said that we need to cut more. We need to cut more out of social security. We need to cut more out of medicaid. We need to cut more out of medicare. We need to cut more out of guaranteed student loans.

I told him that I had taken the position for a closed rule, but that I would present it to the leadership. We presented it and met with the minority leadership, and it was decided that these additional cuts would be allowed; but let us not do it in one package. To do it in one package would violate this process just as much as telling the Ways and Means Committee to report out a tax bill and telling the Armed Services Committee to report out an Armed Services authorization and telling the Committee on Education and Labor to report out elementary and secondary education and down the line and then bring them to the floor and after they have all been reported out, say, "Let's make a call to OMB and let them put one amendment to all those bills and let us vote on it up or down."

Now, we would not do that in the normal legislative process. I do not think we ought to violate reconciliation and start doing it today.

Every one of the cuts Mr. Stockman asked us to make in order are made in order in this rule. If you want to protect the legislative process, the independence and the integrity of Congress and the legislative process, if you want to protect the budget process, then I suggest you support the rule.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee (Mr. QUILLEN).

Mr. QUILLEN. Mr. Speaker, we all know where we are. This is definitely a gag rule. Let us not swallow it. Let us do something about it. Let us vote down the previous question.

I offered an amendment to the rule to allow the economic package of the Republican Party and the President of the United States to be voted on as a package. The vote was 11 to 5 against. Every vote the Rules Committee cast was 11 to 5.

This rule is a partisan rule. Even back during the dueling days when Andrew Jackson, the great Democratic President of the United States, was challenging people for duels, he never said, "Let's have this duel. I'll use live ammunition, but my opponent must use blanks."

There should be fairness. But what has the Rules Committee done and what has the Democratic Party done? They say, "Let us have a duel. We are going to use live ammunition, but you on this side of the aisle, you Republicans, we are going to make you use blanks." To me that is unfair.

Let us vote down the previous question. I appeal to you on the Democratic side of the aisle to have the courage to rise above partisan politics and vote to defeat the previous question, so that we can get down to the business of what the American people want and demand.

The second Congressman from Tennessee on the floor of the House when it was assembled in 1801 left his party, when the vote for the President of the United States was thrown into the House of Representatives. He left his party with courage and voted for Thomas Jefferson for President of the United States and Thomas Jefferson was elected by one vote.

I appeal to you to have the courage to rise above partisan politics and do whatever is necessary to turn this country back into the right economic life that the Democrats over a period of more than 26 years have fumbled us into.

Yes, we must have the courage. I urge you again to vote down the previous question.

Mr. ZEFERETTI. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. PANETTA), the very capable chairman of the Budget Committee Task Force on Reconciliation.

Mr. PANETTA. Mr. Speaker, through the maze of political maneuverings and posturing and war on words, and righteous indignation expressed on all sides, I hope we do not lose sight of what is before the House and what is before the American people, and that is the basic question: Have the committees of the House met the targets that were provided to

them under the budget resolution adopted by the Congress? The answer to that is "Yes."

The reconciliation bill provided a target to the committees in 1982 of $35.1 billion in reductions. They achieved $37.5 billion in savings.

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We were given a target on budget authority of $50 billion, and they achieved $54 billion in excess of the target.

These figures are confirmed by the CBO. They are confirmed as legitimate cuts in savings by the CBO.

There are 250 programs that are reduced in this package that represent 85 percent of the President's package, 85 percent of what was proposed to be targeted in the resolution itself. The other body did 90 percent. They have made major changes in terms of the President's package and yet there is no attack on the other body, there is no attack that the other body somehow did not give them 100 percent.

But the House committees provided 85 percent. Fifteen House committees reported, and 12 to 13 of those committees did it on a bipartisan basis, working together in the committees to try to come up with the targets that were proposed to them. They achieved those targets. They exceeded those targets, and that is the question before us today.

This has been a long and difficult process for the chairmen and for all of the Members in a very tight timeframe, but they did it; they exceeded the targets and they provided 85 percent of what the President wanted.

Now, at the 11th hour, Mr. Stockman comes in and says "85 percent is not good enough. We not only want 100 percent, we want 110 percent. We want $6 billion more in cuts because they did not do good enough in reducing social security, child nutrition, student loans. We want not only to achieve the $6 billion in cuts, but we want to do it without consideration of the committees, without consideration by the House, and we want one vote up or down on the whole package. If we have anything less than that, it is unfair. It is unfair."

I think we have lost sight of what the definition of unfairness is. I think it is unfair to criticize the committees for meeting the targets that they were given under the resolution, according to the instructions that were provided to the committees. I think it is unfair to criticize the committees for not cutting entitlements when they have cut almost $45 billion in entitlements. I think it is unfair to criticize the committees for not exercising their discretion when, in fact, that is what we said they could do.

The gentleman from Ohio, Mr. LATTA, said, "When the time comes and we vote on the matter of reconciliation, we will not be telling the chairmen what particular programs they must reduce." That is the instruction we gave the committees. That is what they did. They exercised their discretion.

The worst thing we could do today is to convert this debate from a debate on the budget and priorities to an institutional debate. That is what is happening. I recognize that this process is being stretched to the brink, it is being stretched to the breaking point. But in the very least we have had the committees of jurisdiction review the proposals that were before them and that is something we cannot say for a proposal that Mr. Stockman has come up with that is 350 pages and that was not even printed until 10 o'clock last night.

I ask my colleagues from a reconciliation point of view, from a process point of view, but, most importantly, from an institutional point of view, that we not surrender the only power we have here, the power to check and balance the Executive. That line is going to have to be drawn sometime, and I urge my colleagues to draw it now by supporting the rule.

Mr. LATTA. Mr. Speaker, I yield 1 minute and 30 seconds to the gentleman from Missouri (Mr. TAYLOR).

Mr. TAYLOR. Mr. Speaker, as we deliberate today on a very important issue before this body, I think it is important that we recognize that as Democrats and Republicans we, at least most of us, I think, have the best interests of this Nation at heart and are doing what we believe is right.

As we consider the differences between the committee bill and the Gramm-Latta substitute, there are many areas that I feel that are deficient in the committee bill that are covered in the Gramm-Latta substitute and in the minute and a half that I have I would like to discuss just one of them. It deals with the dual pay of our Federal employees who are in the National Guard and our Reserve components during periods when they are on temporary active duty.

We recognize today that the defense of this Nation is important and on the minds of every American. We recognize that our Reserve components represent our first line of defense.

The Reserves and National Guards of this Nation are composed of 20 percent Federal employees. Twenty percent, over 100,000 people who are loyal Federal employees that serve their Nation in the Reserve and the National Guard.

It has been the policy of the Defense Department and of our country to go to the private sector and to encourage employers to support the National Guard and the Reserve, and continue their pay while on duty in camp. Yet in the committee bill, these loyal Federal employees will be penalized for the time they spend in camp because their compensation as a reservist, or guardsman, while on duty, will be deducted from their pay. At a time when we are asking the private sector to give this support, I think it is wrong that we, as a government, deny the same support for our own employees.

They are protected in the Gramm-Latta substitute, and I urge, Mr. Speaker, the defeat of the previous question.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. Mr. Speaker, the gentleman from California (Mr. PANETTA) asked we not turn this into an institutional debate. I think we should. I think there are some critical institutional choices facing us today.

I have said many times in the past that this body would function better with a closer division of the parties so the choices offered the American people would be viable ones. Imbalance makes those with political power arrogant and demoralizes those without it.

There was reason for hope in the close party divisions of the House which resulted from the last election. This hope can be realized only if the power of the majority is exercised with the restraint which is necessary and traditional in a democratic republic like ours.

It is not restraint for the majority to deny the minority the right to offer its alternative on as critical an issue as budget reconciliation. It is not restraint for them to dictate to the minority what amendments they can offer. It is not restraint if the majority specifies what will be in the motion to recommit, the last recourse of the minority. In short, it is not restraint to control procedures so that the major alternatives cannot emerge.

Mr. Speaker, it is not in the best interests of this body for us to lose our character as a free marketplace of ideas where the American people can freely choose. Controlled markets just do not work. Voting against the previous question will permit this body to function as it was supposed to.

Go thou and vote accordingly.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona (Mr. RHODES).

Mr. RHODES. Mr. Speaker, there has been much rhetoric about the possible effect on poor folks if the Gramm-Latta II package is adopted. There are allegations that social security recipients would be hurt by Gramm-Latta.

Of course, that is not true. Actually the Gramm-Latta would help the recipients of social security.

In the Jones package there is an item which would cut $1.8 billion from the budget at the expense of the social

security recipients. This is done by postponing the cost-of-living allowance increase which would otherwise be paid on July 1 to October 1, a very sly and a very cute means of depriving senior citizens of badly needed funds.

But this would be corrected if we adopted the Gramm-Latta substitute and we have to vote down the previous question in order to do that.

Let me talk institutionally, although the gentleman from California (Mr. PANETTA) asked that we not. Institutionally, this rule does a terrible thing to the sense of comity which we have had in this House for all of these years. I understand that some majority Members are saying not to worry about having a vote on the package, you can get such a vote on the motion to recommit. That is not true. The motion to recommit proscribes what the minority will put in the motion. I have never seen this happen before. It does not allow us to offer Gramm-Latta II as a substitute. I have known for 28 years that the motion to recommit is probably the best weapon that the minority has. It should always be allowed the authority to put what it wants in a motion to recommit with instructions, within the rule of germaneness. I offered an amendment to the rule to provide such a motion to recommit. It was voted down. How? Eleven to five, a straight party vote.

So the only motions to recommit we can offer are either a straight motion, or a motion with instructions pertaining only to block grants.

I think it is a very bad rule. I think that it is something which we will all be sorry as time goes by if, indeed, we adopt it.

So I ask my colleagues to vote against the previous question. As far as I am concerned, if the previous question is adopted I am going to vote against the rule.

Mr. BOLLING. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Georgia (Mr. FOWLER).

Mr. FOWLER. Mr. Speaker, I have, as have all of us, listened very carefully to this debate. I note there is one thing that is missing. The missing ingredient in all of the debate is the question of accountability. How do we insure accountability to these American citizens that we have asked to bear the majority of the burden of these additional cuts recommended by the President?

This is the only issue left before us because we all agree that this Congress did cut more Government spending than the President of the United States recommended. The only question now remaining is whether or not we will stare the American people in the eye, stare at each one of these people, not camouflaged by talk of programs, not camouflaged by talk of packages, but look the American people in the eye and say to them, "It is you, the parent, that we will deny a student loan; it is you, the worker, that we will deny a first home."

Mr. Speaker, with you in the chair, indulge me. We have finally reached the point of an old, old story of a member of a church congregation who got tired of his preacher all the time talking about the Devil and how the Devil was going to get you if you did not go exactly this way or exactly that way as the preacher wanted. One of the members of the congregation—finally tiring of it—went out and rented himself a devil's suit, complete with pitchfork, and just at that point in the sermon when the preacher was pouring it on about the Devil, leaped out in front of the congregation with his pitchfork poised. The preacher dived under the pulpit, the choir crashed out the back, the congregation leaped through the stained glass windows, clearing the church except for one old lady stuck down on the front row, with cane, staring down this Devil with his pitchfork. "Wait a minute, Devil," she said, "I have been in this church for 38 years. I have tithed 34 of the 38 years. I have voted for every offering, domestic and foreign, that has ever come through this place. And, besides, Devil (her voice whispering), I am really on your side."

That is what we have been doing, telling the American people we are going to cut, cut, cut this package, but whispering to every parent and every child and every constituent, "We are really on your side; we are not going to cut your program more than your fair share."

Today is the day of reckoning. Today is the day of accountability. Today is the day that a rule has finally been made that allows us to fulfill the basic requirement of the American legislative system: Accountability to the people that we ask to bear the largest burdens of these cuts. They deserve to know how each of us vote. They deserve to require this accountability of their representatives in the Congress.

□ 1245

Mr. LATTA. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Nebraska (Mrs. SMITH).

Mrs. SMITH of Nebraska. Mr. Speaker, I rise in opposition to the rule which the majority of the Rules Committee would like to impose upon this Chamber.

Yesterday, the President's budget proposal—known as Gramm-Latta II—was called a moving target by both the majority and the minority. The Rules Committee, in its 11-to-5 vote last night, has formulated a rule which would decimate this so-called target, thereby denying both the President a vote on his program and the American people the budget cuts they mandated last November.

It is my view that the rule which was approved last night should instead be a target for decimation by this House, on behalf of the American people.

Mr. Speaker, this rule allows an up-and-down vote on the Budget Committee's package, revised as late as yesterday. It disallows an up-and-down vote on Gramm-Latta II, instead singling out six topics for amendment. In contrast, the Rules Committee in May allowed a vote on Gramm-Latta I; because the substitute won—a win for the President and for the American people—the committee has decided to foreclose consideration of Gramm-Latta II. What a wonderful demonstration, as Independence Day approaches, of the American way—of fairplay.

Moreover, Mr. Speaker, this rule contains what even the chairman of the Rules Committee has called a unique motion to recommit: A two-headed monstrosity—either without instructions, which denies further opportunity to the minority, or with instructions relating only to block grants. This portion of the proposed rule is a further demonstration of blatant disregard of American fairplay.

When I return to the Third District of Nebraska for the Independence Day recess, I will face Nebraskans who even now are harvesting wheat, laying pipe for irrigation projects, running small businesses, and preparing for county fairs. They will want to know—if this rule is accepted—why the President's program was not given the same chance as the gentleman's from Oklahoma.

I hope that a majority member of the Rules Committee will offer an answer, not only for Nebraskans, but also for New Hampshirites, North Carolinians, and Nevadans. This answer should be satisfactory for Independence Day speeches, when the idea of a more perfect union is on everyone's mind.

I urge a "nay" vote on adoption of the proposed rule.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. REGULA).

Mr. REGULA. Mr. Speaker, next week this body will recess to celebrate a sacred day in American history. On July 4, 1776, 57 courageous Americans from 13 States pledged their lives and fortunes to sign that precious document, the Declaration of Independence—a declaration of independence from oppressive government. They said for all time that government derives its powers from the consent of the governed; that whenever government becomes destructive of these ends it is the right of the people to alter or to abolish it.

On last November 4, the people of this Nation once again elected with their votes to alter their Government. Today we seek to implement the mandate of the people.

If you agree that we do have the right to alter our Government; if you agree that a program that over the next 3 years will reduce Federal spending an additional $22 billion plus over the committee bill is vital; if you agree that it is important that we get entitlements under control; if you agree that a program that will potentially create 13 million new jobs—jobs for our young people especially—between 1980 and 1986 is necessary; if you agree with a program that will lower inflation, that will lower taxes for all taxpayers, that will lower interest rates by getting Government out of competition with the people of this Nation for credit dollars, that will renew the American dream; if you agree with these goals today in this, the people's House, you will vote no on the previous question so that we get the opportunity to alter our Government in response to the people's will.

Mr. LATTA. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. GRAMM).

Mr. GRAMM. Mr. Speaker, we have had numerous people come to the well and speak. We have talked about a question of whether to allow the President to have his program, supported by 200 Members of this body in a firm, hard commitment, voted on up or down, or whether we are going to break it into six packages and make it more difficult to pass.

I would like to make it very clear that that is not the issue and that is not what the Committee on Rules did.

The Committee on Rules last night came out with a rule that takes two-thirds of the President's program and throws it in the trash can, then takes the other third and breaks it up into parts, and even in that third it changes those parts. If we vote on eligibility for food stamps here today under this rule, we are not voting on what Mr. LATTA and I introduced. That language has been changed. You are voting on the Rules Committee amendment on eligibility—not my amendment, not Mr. LATTA's amendment, not the President's amendment.

In the area of community and economic development, the rule provides that we can strike the authorization for the reconciliation package, but it does not allow us to put in our authorization, so we revert back to existing law which is higher than both.

Do not be deceived. The issue here today is not the whole package versus a fragmented package. The issue here is circumvention of the democratic process. Do not think we are going to be able to go back home and say we wanted to vote on its parts, because that is not the way the rule does it.

What this rule does is destroy our opportunity to work the people's will. I ask you to vote against the previous question and against the rule, and for Gramm-Latta when it is introduced—not because the President is for it, not because the American people support it, not because fair play and the democratic process dictate that 200 Members of this body get an opportunity to have their package voted on, but because it is right.

Most of the committees did a good job, but in the area of entitlements, which is scheduled to grow from $267 billion to $400 billion over the next 3 years, unless we can stick our finger in the dike, we are going to lose control of spending, and we are going to lose an opportunity that may never come again.

If you are for spending cuts, or if you really want to gain control of Federal spending, then vote down the previous question. If you want to preserve all of the programs—and it is legitimate to be for those programs that would be cut—then vote yes. But do not get carried away in the logic that this is simply procedure. This is simply partisanship. This is partisanship in its rawest and most destructive form, to convert the greatest substantive issue of this decade and possibly of the postwar period into a procedural vote, and then try to pressure people on party loyalty or as a result of fear of party discipline to vote against their will and the will of the people.

Mr. BOLLING. Mr. Speaker, I yield 2 minutes to the gentleman from New York, (Mr. PEYSER).

Mr. PEYSER. Mr. Speaker, first of all I want to say that having listened to the remarks from the chairman of the Committee on the Budget, the gentleman from Oklahoma (Mr. JONES), and the gentleman from California (Mr. PANETTA), who headed up the committee, the task force on reconciliation, frankly, makes me proud to be a Democrat, because in spite of all the talk that we have heard on the other side of the aisle about the Fourth of July and about Andrew Jackson and Thomas Jefferson and George Washington, we heard from these two men what the facts were and what we were dealing with today. I am proud of what they had to say and how they said it.

I would also like to say at this time that I obviously support this rule, and I support voting affirmatively on the previous question.

One of the reasons I am anxious to have the amendment out on this floor, amendments that the minority are offering or perhaps will offer dealing with the guaranteed student loans that I have been so actively involved with, is that I have done some research today, and it is going to be very worthwhile to have this vote because I want to see who is going to vote for this amendment if it is offered, do you know that under the proposed amendment that will come out a family with a $36,000 income, if they are sending their child to a public institution, a community college, a State college that has an average cost of $3,000 or $3,500 a year, they will not be eligible for one penny of a guaranteed student loan. Yet, if that same family having a $36,000 (AGI) income has their child apply for a private institution, they might be eligible for a $2,500 loan. What kind of fairness is that to those going to the public and State institutions?

Also I think it is interesting to note that if a family has an (AGI) income of $45,000 they will not be eligible for any guaranteed student loan under the provisions of the amendment that is going to be offered, if it is offered. I want the opportunity for the minority to offer these amendments because maybe we can see where people stand on the issue of guaranteed student loans. I think this will be just one factor that will show the American public who is concerned about the education of young people in this country.

Mr. COLLINS of Texas. Mr. Speaker, I want to thank the Chair for the opportunity that we have in making these comprehensive speeches because this is a most important subject. I do not know whether all the Members have had an opportunity yet to pick up the three documents in the back of the room that summarize this budget, but there are 1,364 pages of finely typed print trying to explain this bill.

Now how they think that we can take this bill up separately, one section by one section, it is absolutely impossible. There is only one way to handle this bill. It is to handle the bill as a single package. I hope that we will act accordingly on the rule.

Mr. Speaker, I rise to strongly support the Republican reconciliation bill—Gramm-Latta II. This reconciliation vote is more important than what this House did in passing Gramm-Latta I because we can deliver to the President his budget requests which are essential to the success of the entire economic recovery program. Our reconciliation bill recognizes that we must save $47 billion in fiscal year 1982 and $238 billion over fiscal years 1982–84 if we are to achieve a balanced budget by 1984. The Democrat's bill saves only $29 billion, less than 30 percent of the essential entitlement savings. Gramm-Latta II would effect an additional $18.5 billion savings over the course of fiscal years 1982–84. By passing the Republican bill, we could achieve half of all the entitlements savings we must make over the next 3 years.

The budget process is more than a mere numbers game. Therefore, I

hope my colleagues are not misled by the Democrat's claims that H.R. 3289 meets the conference report guidelines. The bill contains false savings and is full of number juggling that allows a continuation of old entitlements programs that will maintain a drag on the private sector's vitality. If Congress does not group the present opportunity to hold the line on entitlement spending, we will see a continuation of the rise in entitlements costs that have gone from $14.4 billion in fiscal year 1955, to $63 billion in fiscal year 1970, to $267 billion in fiscal year 1980. If we do not stop this spending, we will be spending $406 billion on entitlements by fiscal year 1984.

I want to speak directly to several of the energy-related provisions of the Republican reconciliation bill. Energy policy is of the greatest concern to me; I know we cannot go on discouraging domestic energy production and wasting money in Federal programs that will fare better in the free marketplace. Gramm-Latta II moves in the right direction on energy policy: It is honest in its approach to the strategic petroleum reserve, and it redirects the Department of Energy toward research and development and away from regulation.

While I have reservations about the strategic petroleum reserve, I firmly believe its funding should be free from manipulation. Gramm-Latta II creates a 3-year off-budget account which will allow crude to be purchased on contract at the lowest possible prices during advantageous market conditions. We place $3 billion off-budget each year, just as was specified by Gramm-Latta. The Democrats have put $3.9 billion in an off-budget account for 1 year and thus obtained $900 million in false savings. The "savings" thus achieved are put back into conservation and energy-related entitlements programs that the President wants to eliminate. I urge my colleagues to consider this as but one of many reasons to reject the House bill.

Gramm-Latta II is designed to get the DOE out of the energy regulatory business and into long-term research and development. To this end, our bill zeroes out regulatory provisions of the Fuel Use Act, the building energy performance standards program, and the Public Utilities Regulatory Policies Act. We make provisions for the President's requested energy block grants to State and local governments resulting in $424 million in fiscal year 1982 savings, which the Democrats totally ignore.

Americans will be saved $20.3 million in fiscal year 1982-84 if we eliminate the BEPS program, which has never produced information that could be used by or was wanted by business or labor. We have wasted more than $40 million spent by contractors to produce these programs which have yielded no real world, practical information. By getting rid of BEPS, cities and States would be allowed to look for the most workable conservation codes and fruitless research that has gone nowhere would end.

Perhaps the most onerous and costly regulatory program to the private—and public—sector is section 301(a) of the Powerplant and Industrial Fuel Use Act. This provision actually makes it a criminal offense for public utilities to reduce oil consumption by replacing it with less costly and more plentiful natural gas. Without the repeal of 301(a), electric utilities will be forced to abandon useful gas generating capacity to comply with the prohibition of gas usage in existing facilities after 1990. We can save around $50 million over the next 3 years in regulatory and administrative expenses associated with section 301. The utility industry will be saved about $75 billion nationwide over the next 10 years by not having to convert unnecessarily to coal. Those are savings that will be passed on to consumers.

Again I urge my colleagues not to be misled by the House bill which, while it repeals 301(a), it constructs a new conservation program for gas-burning utilities that will cost utilities and consumers $20 million in the first year above. This is an example of the House bill coming to the right budget numbers while building drag into the private economy at the same time.

I finally would like for my colleagues to take special note of the Nuclear Regulatory Commission provisions in Gramm-Latta II. The NRC package would effect a savings of $14.1 million in fiscal year 1982 and would provide for expediting the process by which nuclear powerplants are licensed. If the NRC delays are not converted in tandem with reconciliation savings, 11 to 13 powerplants will be idled for up to 102 months over the next 2 years. By moving ahead with these licenses, we can reduce our oil consumption by over 200,000 barrels per day and save consumers tens of millions of dollars.

In short, Mr. Speaker, we have an opportunity to do things in the Republican reconciliation package that will help the President turn this country's ailing economy around for the better. If we were serious about our vote in Gramm-Latta I, we have even more reason to follow through with our support for the Gramm-Latta II reconciliation bill.

● Mr. FRENZEL. Mr. Speaker, under the current Democrat management, this House has again and again passed outrageous gag rules which have prevented the Republican minority from either debating and/or amending bills before the House. Over the years I have grown accustomed to unfairness, accustomed to stifling of minority views.

But, today, the Democrat leadership has outdone itself. It is attempting, in this rule, to prevent the minority from bringing the question of the President's budget to the House. The rule would prevent Republicans from making its amendment to the reconciliation bill. The only basis for such a rule are fear and arrogance—fear that the Democrats cannot defeat a Republican amendment, and arrogance that their majority status allow them to abuse this House's tradition of free debate with impunity.

In my judgment, the minority ought to have an opportunity to offer its alternative to the most important bill we will vote on this year. The fact that the minority is about to be gagged diminishes those who control this House. It diminishes the process. And it also diminishes the whole House, its Members, and its traditions.

Not only is it important that we vote down the prevision question to give the President's economic program a chance to be noted on. It is even more important to vote "no" on the previous question to preserve the democratic process.●

● Mr. GOLDWATER. Mr. Speaker, I rise today in strong opposition to the adoption of House Resolution 169, the rule making in order consideration of H.R. 3982, the Omnibus Reconciliation Act.

Our President has, rightfully, called this rule a gag rule. I could not agree with him more. I hope that my fellow Members will speedily act to defeat this unfair measure which prevents the minority from presenting the alternatives the American people have asked for.

It is abundantly clear, or it should be, that the Nation wants and desperately needs relief from the crushing burden of inflation, rising cost of living, and skyrocketing inflation. We shall have a chance after the July recess to try to do something about the skyrocketing taxes.

The critical question today is, do we continue to respond to the clearly articulated will of the people, or do we simply offer up business as usual? Last May we made a good start in adopting the first Gramm-Latta budget. I am sure that my colleagues have had the same response from their constituents that I have had: overwhelming support for the President's proposed cuts. In checking the mail I have received, I note that the ratio of pro to con is 850 to 30.

Now, the rule before us today makes six separate amendments in order rather than a package substitute as before. In opposing this piecemeal approach forced on us, the minority has been accused of being "afraid of the specifics" and a "rubber stamp for the President." I say that these unwar-

ranted attacks are simply a red herring.

The plain truth is that the six amendments made in order will not do the trick. If we are ever to bring inflation under control we have to rein in the runaway growth of the Federal budget. The budget proposed by the majority side, even if amended, will not accomplish any real reduction in runaway entitlement spending.

Let us be frank. Gramm-Latta II does make some hard spending reduction priorities. Some people will be initially affected by these cuts. But ever-upward spiraling inflation hurts these same people more—for every percentage point gain in inflation, thousands of families are pushed into the welfare morass—a pit that is almost impossible to climb out of.

What is the better choice in the long run: Hard, short-term measures to turn our economy around, or yielding further to special interests that give us nothing but a first-class ticket on the downhill slide to economic disaster? To me, that is no choice at all.

So, I urge my colleagues to join with the minority in defeating this rule. Let us have the opportunity to do what we were sent to Washington to do: Engage in free and open debate on the issues, to examine the will of the people, and to exercise our judgment wisely based on all the facts. Vote "no" on the previous question.●

Mr. LATTA. Mr. Speaker, I yield 2½ minutes to the gentleman from New York (Mr. KEMP).

Mr. KEMP. Mr. Speaker, I rise in support of President Reagan's economic recovery program for America and that means a no vote on the previous question. Mr. Speaker, a previous speaker on the floor of the House talked about a $30,000 family in America today, and how they are going to be hurt by the Gramm-Latta substitute measure. Mr. Speaker, A $30,000 family in America, indeed all families in America today, after taxes and inflation, are taking home less income than they were in 1970 on the average. The combination of high interest rates and high inflation coupled with the heavy burden of taxes on family incomes has put them in the position where they can hardly send their children to college, much less buy a home or do the things they would like to do for themselves and their children.

If you look at housing starts today in America, if you look at interest rates in America on small businessmen and women, if you look at the ability of people to buy an automobile in America today or the job market you will see that we are going backward, not forward in terms of the American Dream.

Mr. Speaker, the reason we are going backward is that the Federal Government has spent the last 25 years taking control of the productive resources of the Nation. An increasing amount of our productive resources have been diverted from uses which would have made all Americans more prosperous. In the process, we have increased taxation, increased Federal borrowing and created preferential access to credit markets through an intolerable array of loan guarantee devices while interest rates on the rest of our people climb to unconscionable heights.

The diversion of productive resources and the incentive-destroying financing which has ensued has crippled a once proud industrial giant. At the beginning of this session of Congress, there was wide agreement that the program for economic recovery proposed by the President and supported by all Republican Members and many Democratic Members, would receive full consideration in the House of Representatives. The plan for considering the legislation was bipartisan and fairly simple. We would take up the budget resolution, setting the guidelines for all that was to follow and then proceed to substantive legislation.

Those of us on this side of the aisle were pleased with the action of the majority on the budget. After hours of debate, the two versions of the Federal budget were taken before the Members so that a clear choice could be made as to the future of U.S. Federal budget policy.

It seems, however, that those on this side of the aisle were too complacent. We took this good faith action by the majority as evidence that the program we are proposing would come before the House at each step of the process for a clear choice to be made between the liberal spending and taxing policies of the Democratic leadership and the program for economic recovery.

We now come to the first real legislation, to the first change in law, and find that the other side reneges on good faith, turns its back on the democratic process by refusing to allow a clear choice to be made. The rule which we are now considering would allow only the liberal alternative to come before the Members, denying the people a hearing on the program which they sent us here to enact.

Now I ask my colleagues, when in the history of our democracy has it been the intent of the people that the legislative process be controlled by one party, and at that, by one small ideological portion of that party?

Why this sudden change of heart—a change from equity and free choice to political maneuvering and disregard for the democratic process? The budget is not binding until actual tax and spending laws have been changed. The majority has taken a most cynical view that it can allow a choice to be made on a resolution which has no effect on actual expenditure and then tie up the entire legislative process when it comes time to make substantive change.

The intention here is to allow the Congress to vote on President Reagan's program only when the vote does not result in a change in law. Now what does that mean for future legislation?

To implement the President's program for economic recovery, to create more jobs, to increase incentives for free enterprise and individual initiative we still must pass the tax bill, the second concurrent resolution on the budget, probably a second reconciliation bill and 13 appropriation bills. Until each of these is passed, our work will not be done.

I ask my colleagues if they look forward to having their choice restricted on each of these? Do they intend to allow the liberal leadership to dictate to them the legislation which can be offered and then to allow only amendments of which they approve?

The next bill to come up is the tax bill. Is it the intention of the leadership that I come before the House to offer a tax substitute which would be the O'Neill-Rostenkowski-Kemp amendment? Do they intend to rewrite the language on which Members of this House as well as the President campaigned in an effort to prevent the issue of genuine tax rate reduction from coming before the Congress?

Mr. Speaker, I doubt that there are many Members who will want to return to their districts if when asked "How did you vote on the President's tax package?" they must answer, "I did not, the leadership would not let me."

If we allow this rule to be approved we will accept the premise that a small group opposed to the idea of getting the Federal Government out of the capital markets, out of the real resource markets and out of the pockets of the American taxpayers should be granted control of the legislative apparatus.

Mr. Speaker, a vote for the previous question is a vote for business as usual in Federal taxing and spending and a vote against freedom of choice in the democratic process.

If you turn your back on these spending cut provisions which implement the Latta-Gramm budget, it seems to me that you turn your back on the President's entire plan for ecomomic recovery. You turn your back on lower spending, you turn your back on reduced taxes and lower interest rates and you turn your back on returning this Nation to prosperity.

Vote down the previous question. Adopt the Latta amendment to the rule which would allow the Congress a clear choice between the discredited economic policies of the past 25 years and President Reagan's program for

economic recovery which will help get America back on the road to prosperity and put America back to work.

Mr. BOLLING. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Speaker, I want to say a few words about what we owe to ourselves by way of choices, a few words about what we owe to the President of the United States, and a few words about what we owe to the legislative process and to the Congress as an institution.

It seems to me that we owe to ourselves the right to make choices and to go on record clearly as to our individual positions on the component parts of this very broad substitute. What we have today is a question of whether we shall be permitted to vote only on one issue that is a compendium of proposals that were dictated by David Stockman in the Office of Management and Budget, or whether we shall have the opportunity to vote on each of six component parts. Each of the parts affects a separate set of programs. Each involves a multibillion-dollar proposition in its own right. There may well be Members, and I may be one of them, who would like to vote for one of these amendments and against others.

Do we deny ourselves that privilege? Do we limit our choice to one blind up-or-down vote on a whole package which so far as I know has not even been written into legislative language? Do we want to vote on substance, or do we want to vote on image? Do we want to vote on a slogan, wrapped together and tied with a pretty bow that comes under the vague imprimatur of "the President's program," and let the President's appointee, Mr. Stockman, dictating the component parts of that program? Or do we want to face the hard, tough questions of exactly how much money we reduce from exactly which programs, and from whom we take that money?

The one-page summary that was handed to the chairman of the Committee on Budget by Mr. Stockman purporting to represent the President's desires, suggests that we cut social security by $7 billion over the next 3 years—$7 billion more to be taken from payments to the recipients of social security. Do you not think the recipients of social security are entitled to our voting on the merits of that question on its own? I am informed that this proposal, if enacted, would immediately reduce payments now being received by 3 million Americans. Do we simply wish to obscure that ugly fact by concealing it inside a nebulous package labeled "the President's program?"

The question is, shall we vote individually on the proposal that would reduce medicare and medicaid payments by some $8,800,000,000 over the next 3 years? Are we afraid to face those issues on their own merits? Do we want to obfuscate them by putting them under a tent and putting a label on the tent that says, "the President's economic retrenchment program." Do we want to conceal exactly what it is that we are voting for?

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Why is it that some Members do not want to face these specific issues? Surely they are of sufficient scope to warrant individual consideration. There is one proposal that would make child nutrition, summer feeding, and school lunch programs lose about $2 billion in 3 years. There is another proposal that would reduce guaranteed student loans by $2½ billion or $3 billion and probably make it more difficult for some 600,000 to 1 million young people to attend college. None of this was expressly demanded by the Gramm-Latta proposal that we passed in the first place. That resolution required the committees of the House to reduce some $35 billion to $36 billion from coming year's expenses, and they have done that. They have complied. They were not expressly ordered just which programs to reduce.

Here is their bill. It is a complex piece of work, put together carefully by 15 standing committees of the House. Now we are being asked, sight unseen, without ever having seen a copy of the so-called Gramm-Latta substitute, to make in order and to support the ideas of one or two people who met clandestinely and arrogated to themselves the assumption that they have more wisdom and can do a better job than the committees of the House could do.

So it seems to me that we should adopt this rule that lets us have votes, up or down, on the merits of those individual proposals. But let me just say this: I hope no Member seeks to absolve himself by voting for the previous question and then voting against the rule. If you are not going to vote for this rule, then give the minority its rule. Give it the opportunity it demands to put it all in one package and let us have a vote. Let us at least give the public the answer of whether or not we want to cut these programs. In my opinion we owe it to the public to face these decisions individually rather than in a collective lot, because that, in itself, is a form of a gag rule.

Let me just say a word about what we owe the President. I think we owe to the President of the United States cooperation, our best advice, and an openminded hearing. We do not owe to him obeisance, obedience, and submissiveness. Yet that is what is being demanded of us. We are being asked simply to put our faith in David Stockman and let him do our thinking for us.

I have never known a situation in which a Congress extended itself farther in an effort to accommodate any President that has been the case this year. It is unprecedented, as it was described by my distinguished friend, the minority leader, for a Congress to give to any Chief Executive a specific timetable and to stick with that timetable to make sure that every element of his proposals would get fair and free and sympathetic opportunities to be heard and to be acted upon.

Yet, we have done that and we have stuck with that timetable. What else do we owe? We swallowed the pill of having our budget resolution rewritten to appease the whims of the Budget Director, after we had voluntarily encompassed fully three-fourths of his recommendations. We suffered the indignity of having each of our standing committees ordered to reduce programs under its jurisdiction by an arbitrary figure dictated by Mr. Stockman. Now, having followed that mandate faithfully and in good time, our committees having carried out the mandate fully, encompassing $37 billion in program cuts within this reconciliation document, we are being told that is not good enough. We are told that Mr. Stockman and Mr. GRAMM are not satisfied with the way in which our committees fulfilled their orders and that they want us to yield to their will once again.

Yesterday the President of the United States said in San Antonio that unless he can have it all, every last thing exactly as his Budget Director commands it, he will feel thwarted and his economic retrenchment program might not work. No President, no President in the history of the United States—not Franklin Roosevelt, not Lyndon Johnson, not George Washington, or Thomas Jefferson—ever demanded of Congress that we lie down submissively and give him every last detail just as his minions order it. No President has ever demanded that we allow the Office of Management and Budget to write our legislation.

Have we come to this? Has the Congress of the United States—the last repository of the people's will—come to the point that we are willing to let an appointed official in the Office of Management and Budget dictate every last scintilla, every last phrase of law, to tell us what precise provisions we may and may not pass in carrying out his mandate to reduce by $36 billion the cost of Government?

I think not. This is an unprecedented situation. Never before in my knowledge—and I believe never before in American history—has any administration arrogated to itself the presumption that if we fail to give in to its dictates in every last detail, down to the dotting of the last "i" and the crossing of the last "t" that its agent

demands of Congress, then the program will not work and the Congress will not have done its job.

You know better than that. Members of the minority know better than that. They know that what we have done represents substantial cooperation with the requests of the President. It does not represent obedience. It does not represent a willingness to give up the historic prerogatives of Congress.

So I ask the Members: Vote for the rule, if you can. Give the Members choices among these significant proposals in order that we may go on record upon them individually and the public may know exactly what is being done.

Mr. LATTA. Mr. Speaker, I yield 3 minutes to the gentleman from Mississippi (Mr. LOTT).

Mr. LOTT. Mr. Speaker, yes, the gentleman from Texas (Mr. WRIGHT) wants to vote on the parts of the bipartisan substitute but not on the parts of the Jones substitute. Never before have so few done so much to violate the rights of so many. The reconciliation rule proposed by the Democratic leadership in the Rules Committee effectively denies at least half the Members of this House and the 110 million Americans they represent a clearcut vote on the President's package of budget cuts which total $20 billion more than the Democratic package of cuts. It is parliamentary obstructionism.

The huge budget savings required over the next 3 years—$48 billion in fiscal year 1982, and $238 billion overall—cannot be achieved by voting one program at a time. In the guise of procedure, the Democratic leadership has rigged the system to prevent these cuts from occurring. If not defeated, the reconciliation rule will become a precedent which will thwart the entire budget control process.

What is at stake here? What is really at stake? $22.4 billion in additional real budget savings over fiscal years 1982 through 1984. The annual amounts are $5.9 billion, $8.1 billion, $8.4 billion in fiscal years 1982, 1983, and 1984 respectively; corrections of serious shortfalls on entitlement savings from the first budget resolution and reconciliation instruction. The savings shortfall is $17 billion overall for fiscal years 1982-84 and $26 billion for nine specific entitlement programs addressed in the Gramm-Latta amendment.

Make no mistake about it: This is it. This is the vote on substance, not on procedure. If we do not get the opportunity to vote on this substitute, we will not be able to get to the substance. This is Gramm-Latta. Gramm-Latta II is the implementation of Gramm-Latta. Are we going to bring the Federal Government under control or not? This is the time when we decide. The American people will know that this is the vote.

I urge that the Members defeat the previous question so we can get this issue to the floor.

Mr. Speaker, I yield back the balance of my time.

Mr. LATTA. Mr. Speaker, I yield 2½ minutes to the gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. Mr. Speaker, the beauty of the American system of government is that reasonable men may disagree in regard to the issues before this Congress. I know one of the first things I was told when I came to the Congress was that at no time would my leadership ever ask me to vote against my convictions or my conscience. I want to say that I can honestly commend all of the committee chairmen for the work that they have done, both those that I agree with and also those that I personally, philosophically disagree with, because I believe that every chairman of this House of Representatives has done what they believe is right and in the best interests of this country.

I reserve the right to disagree on specifics, as all Members of this House do. I happen to believe that the majority of this, the 97th Congress, wants to reduce Federal spending, at least wants to reduce the growth of Federal spending. I believe the majority of this House wants to be fair and equitable as we make these reductions. I believe that the majority of this House wants to continue the economic system that has allowed America to become the greatest country the world has ever known, to provide a higher standard of living for the poorest among us that makes them rich by comparison with other countries of the world.

I have worked hard as an individual Member of this Congress to work in a bipartisan manner to weld a consensus, to put together a program that will work; and I believe that the bipartisan program that has surfaced is basically getting awfully close to agreement on both sides—we are only maybe 10 or 15 percent apart—but I happen to believe that that 10 percent is extremely critical.

I believe that the vote on the previous question will be the most important vote that this Congress will cast this year. It is one that will clearly identify those who are truly committed to making a distinct direct change in the direction that our country is moving. I repeat: I have no animosity to anyone who disagrees, and I appreciate those who extend the same courtesy to me.

The SPEAKER. The gentleman from Ohio (Mr. LATTA) has 5 minutes remaining.

Mr. LATTA. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia (Mr. WAMPLER).

Mr. WAMPLER. Mr. Speaker, in all the years I have been in Congress, I do not believe I have ever seen a rule providing for consideration of a bill in the House of Representatives that is quite so arbitrary, quite so capricious, quite so demeaning to those who constitute the Republican Members on this side of the aisle and several Democratic Members on the other side of the aisle as does House Resolution 169.

The rule (H. Res. 169) for reconciliation of the first concurrent budget resolution puts all Americans on notice that those who support it—and I speak now basically of the majority leadership—do not place any priority on the task to put the economic house of the Nation in order. They endorse phantom savings that they claim in their reconciliation bill; they endorse questionable legislative accounting procedure which they incorporate in their reconciliation bill; they refuse to realistically address inflation which is the No. 1 enemy of every American in this country.

Inflation is the cruelest tax that could ever be imposed on any individual, and yet the majority leadership of this House apparently is willing to see the double-digit inflation rate continue in effect in this country indefinitely because they refuse to come to grips with real cuts in spending, with provisions of law that would provide real savings in Government spending. They refuse to adopt accounting procedures and a reconciliation bill consistent with the first concurrent resolution (H. Con. Res. 115) passed by this body by a substantial margin, that would by all accounts provide a balance by 1984.

We have a President in President Reagan who was elected on a platform of bringing economic sanity back to this Government, economic rationality in the way Government deals with its budget, in the way it deals with its legislation, and in the way that it deals with the American people. He is keenly interested in bringing inflation under control in this country, and the only way he can do that is to bring reason and commonsense back into the budget process to get Government spending under control and to at this time set in place and start implementing a plan that will see a balanced budget within a realizable period of time, such as 1984.

The majority leadership of this body were soundly defeated in offering their version of House Concurrent Resolution 115 by a margin of approximately 100 votes. It was a resounding defeat. And, I remind you that when this body took up and passed the Gramm-Latta substitute to House Concurrent Resolution 115, Mr. GRAMM warned everybody that they were using real bullets in this fight to bring Government spending under control.

What has happened? The response of the majority leadership of this body is to provide a reconciliation bill with some duds—some blank bullets. It is a reconciliation bill that is rife with phantom savings. It seems clear that the majority leadership of this body want to continue to mislead the American people into thinking that all is well with the economy of this country. They seem to be afraid to give President Reagan an opportunity to offer his program which has been endorsed by many Members on both sides of the aisle because they appear to fear that it may succeed.

The last administration came into office in 1977 with promises—and only promises—to keep Government spending under control. President Ford had made tremendous progress in his tenure. He had the inflation rate in 1976 at 4.8 percent. By February 1980 the inflation rate reached a 20-percent annual rate. That high inflation rate helped to defeat President Carter.

All of the minority members of the House Committee on Agriculture in filing a separate view to its report on March 20, 1981, with the Committee on the Budget set forth their pledge to support President Reagan in the action that he was taking in his administration to alleviate the grievous economic plight confronting this Nation. We indicated an intention to sign up in the President's efforts to put America's economic house back in order.

The reconciliation bill supported by the majority leadership here, which is the only one made in order by the rule (H. Res. 169), only in a minor way addresses the economic problems facing this Nation. If the majority leadership is permitted to get its way, then it appears that the message to the American people will be that of a continuation of high inflation in this country. It would be an endorsement of what we saw as 4 years of economic chaos in the prior administration which brought us to a period of the highest interest rates and highest rate of inflation this country has ever seen.

The Budget Committee continues to set a high spending course that this country has been on for too many years. The majority leadership refuses to veer from this high spending course. This is true, notwithstanding the fact that the American people last fall said they had enough Government intervention, enough deficit spending, enough inflation, enough high interest rates, and they wanted a change.

The majority leadership refuses to give the President elected by the American people the opportunity to make that change. I predict that the American people cannot be fooled as President Lincoln said "all the time." The American people will resent the action of the majority here in refusing to be fair to President Reagan, in refusing to be fair to a coalition of Republicans and Democrats and in refusing to be fair to the voters of this country who voted for real economic change in Government procedures last fall.

This is watershed legislative action that everybody will be voting on today. President Reagan is on the threshold of getting control of this Government and its uncontrolled spending habits. If he is rebuffed in this instance, then the message is clear to the American people they may well have to reinforce in the future the message they sent last fall.

I urge all of the Members of this body to vote down the previous question so that an amendment to this rule (H. Res. 169) will be in order that will give some real meaning to reconciliation that will put real savings forward in Government spending and that will abandon phantom savings and abandon the creative accounting that is found in H.R. 3982 and H.R. 3964. In other words, vote down the previous question to provide fairness in this body.

Mr. LATTA. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. FIELDS).

Mr. FIELDS. Mr. Speaker, the American people last November spoke up with one loud and resonant voice. They were tired of being taken for granted and they were tired of being deceived.

They said they wanted a change, and they said they wanted truthful and courageous men and women representing them in Congress.

Mr. Speaker, if you and the majority leadership had told the American people the truth in years past, we would not have had to suffer for so long with massive Federal deficits. If you and the Democratic leadership had been honest with the American people long ago, we would have checked runaway inflation.

Mr. Speaker, you and the Democratic leadership did not tell the American people the truth then—and the American people showed their anger in 1980. And you and the majority leadership are not telling the American people the truth now—and the American people know it.

The truth is that we are not debating here today a rule alone. In fact, we are debating and will shortly be voting on the fate of President Reagan's entire economic recovery program.

The truth is that if this proposed rule—this gag rule—passes, my colleagues and I will have no opportunity to vote for or against the Gramm-Latta substitute that President Reagan has endorsed. And that is exactly what you, Mr. Speaker, and other big spenders want.

The truth is that you and the Democratic leadership support an alternative budget that is fraught with omissions, half-truths, distortions, and inaccuracies designed to deceive the American people into believing you are reducing spending.

You are not—and the American people know that you are not. They rejected that kind of manipulation in 1980, and they will reject it again in 1982 if you persist in this campaign to deceive the American people.

Mr. Speaker, there is only one vote here today—and that is to support or oppose the bipartisan budget that President Reagan has endorsed.

That budget serves as a foundation for the President's entire economic recovery program—but you have done everything possible in recent weeks to criticize, undermine, and sabotage that budget.

Mr. Speaker, the American people are watching us here today to see what we do. For our Nation's sake, there can be only one vote cast today: Against this terrible rule that surely frustrates the public will. I urge its defeat.

The administration proposal would require able-bodied welfare recipients to work in exchange for their welfare assistance. The committee bill, by contrast, continues current prohibitions against such requirements.

Mr. LATTA. Mr. Speaker, I yield such time as he may consume to the gentleman from Wyoming (Mr. CHENEY).

Mr. CHENEY. Mr. Speaker, I am deeply concerned about a double breach of faith the House of Representatives may be about to commit against the American people.

Just over 7 months ago, the American people forcefully delivered a message to all of us about the state of the economy, the tax load on the average American worker, and runaway Federal spending. There is no one in this Chamber who failed to understand what the overwhelming majority of Americans were saying. American taxpayers want change—and relief from the crushing economic burdens they bear, and they expect us to do our jobs and give it to them.

Seven years ago this House created the mechanism to do just that.

In 1974 the Congress faced up to the need to gain control of the budgetary process for the first time. It revamped its budgeting procedures, created a system of setting target ceilings, and wrote into being the reconciliation process.

But for 7 years Congress ignored that procedure, once it had been enacted. Business went on as usual, and Federal spending continued to spiral out of control.

Double-digit inflation and the crushing tax burden the American people voted so strongly against last fall were the direct result of that program of spend and spend and spend.

Throughout those 7 years, the procedure to control that spending was on the books. Now it is being used, as it was intended to be throughout all that period, for the first time. President Reagan, with the support of Republicans and responsible Members of the Democratic majority, intends to live up to those expectations of the American people.

It is the height of irony now to hear some of those very same Members who wrote the budgetary reforms in the first place, and who voted them into law, protest that the process is being abused—simply because it is being used as it was meant to be for the first time.

Mr. Speaker, we face very real and very growing problems during the next several fiscal years, unless we move right now to gain control of the Federal spending process. That budget control mechanism the Congress created 7 years ago, with its essential reconciliation component, can impose needed fiscal discipline on the Congress for the first time.

We know that the job has to be done. This country's economy is in deep need of major stimulation. We are all encouraged in the improvement in the inflation rate during the past 3 months. But there is no one in this Chamber who does not fully understand the great need for tax reforms and investment incentives to get the economy truly moving once again. A major element of any such package must be a cut in Federal spending.

That requirement is underlined by this Nation's need to enhance its spending on defense. For the past several years we have allowed our military to fall behind the crucial demands it faces in an increasingly dangerous world.

We know that we cannot continue uncontrolled spending on every program ever suggested and meet those most immediate needs as well. We have to cut the growth in other Federal spending programs if we are going to be able to spend the extra $191 billion President Reagan says is needed during the next 5 years to bring the military back from the depths to which the Carter administration allowed our defenses to fall.

We will not be able to accomplish that badly needed task unless we regain control of the Federal spending process.

Mr. Speaker, a number of the House committees have done an admirable job in working toward that goal during the reconciliation process. I want to congratulate them today for the work they have done.

Republicans are not attempting to dictate the terms of the reconciliation bill. We understand that bringing the budget into balance with the budget authorization ceiling Congress enacted in May requires a process of conciliation and compromise. But we insist that the House of Representatives live up to the commitments it made to the American people 7 years ago when it adopted that budget reform package, and in May when it enacted that budget ceiling to meet those desires the American people expressed so clearly last November.

It took the Congress 25 years to spend this country into the fiscal mess the American worker faces today. We know, and those American workers know, that those problems are not going to be solved overnight, or in a single year's budget. All of us know that spending cuts such as those being proposed today are going to have to be repeated for the next several years to make a dent in the economic problems we face.

We are going to have to cut the growth of most Federal spending programs in fiscal 1982 and fiscal 1983 and fiscal 1984 and probably beyond, if we are to slow inflation and halt the ever-increasing load of taxes on the backs of those American workers.

We know as well that the job is not going to be an easy one. Mr. Speaker, that job is going to be even more difficult, however, if we give in to temptation and put off starting the work until next year. That will be an election year. Does anyone here seriously think the Congress will be willing to start cutting budgets in the middle of an election campaign? At a time when the social security system will be on the verge of collapse, unless we have the courage to face the task—the same sort of courage President Reagan showed when he brought that problem to our attention this spring?

What we are unwilling to start this year will be even more difficult to begin in 1982, and we ought to be honest enough with ourselves, our colleagues and the American worker and taxpayer to admit that here today.

We will not make that needed beginning by caving in to the Democratic leadership of the House, as several of our committees have done, and adopting spending cuts that are false, counterproductive, and which will actually force spending and inflationary increases. We will not make that needed beginning by playing politics as usual, as the Democratic leadership proposes to do in this budget reconciliation process, and by continuing to push those uncontrolled spending programs of the past quarter century that have spent our Nation into the economic poorhouse.

We will accomplish that needed beginning only by following the lead of those responsible committees which have lived up to our commitments to the American taxpayer. The American people are watching and waiting, and they want responsible action now. It is time for all of us to live up to those commitments.

Mr. Speaker, the House Republican Policy Committee, of which I am chairman, has addressed these questions, and has adopted an official policy statement on this issue. The full text of the statement follows:

Republicans welcome the first steps which have been taken to bring the budget reconciliation process into balance with the bipartisan budget ceiling resolution for fiscal 1982 supported by President Reagan and adopted by Congress last month.

Major work remains to be done, however, if the growth of federal government spending is to be slowed to ease the runaway inflation and soaring taxes that have so sorely plagued American workers in recent years.

Eight House committees have met the task of acting to cut spending program proposals to bring them into line with the budget ceiling resolution. Another seven, however, have fallen far short of that task. In many cases, they have acted in conjunction with the Democratic leadership to continue what President Reagan has aptly described as the "fiscal joy ride" this country has been on for the past several decades.

It is a breach of faith with those workers to adopt artificial spending cuts that do not bring spending decreases—or which actually add to federal spending.

Unfortunately, that is the course chosen by some of the Democratically-controlled House committees as they continue to play "politics as usual" with the pocketbooks of American taxpayers. Rather than making good faith efforts to live up to the budget ceiling resolution adopted by Congress, the Democratic leadership has chosen instead to propose completely unacceptable, counterproductive and false spending "cuts" by some House committees.

One of the biggest reasons for the tremendous growth in government spending in recent decades has been the explosion in federal entitlement programs and their payments. In trimming entitlements alone, the spending proposals for fiscal 1982 of the Democratic leadership fall $8.5 billion short of what is required under the budget resolution already enacted by the Congress. For the next three fiscal years, those Democratic entitlement proposals bust the budget ceilings by $23 billion. The American taxpayer deserves far better.

The House Republican Policy Committee supports the proposed bipartisan budget reconciliation package which will correct many of those spending abuses, and which will bring the reconciliation process into line with the budget ceiling. We urge all Republican Members to do the same.

The bipartisan package authored by Reps. Delbert Latta (R-Ohio) and Phil Gramm (D-Texas), and supported by the House Republican Policy Committee, will boost House committees' real savings $5.2 billion in fiscal 1982. In the next three years, the package will save American taxpayers more than $19 billion.

The House Republican Policy Committee supports this approach of compromise and conciliation. It rejects the idea that Congress must capitulate to continued spending abuses in the face of the economic crisis facing all Americans. The bipartisan proposal supported by the House Republican Policy Committee does not rewrite the entire budgetary work of House committees. It simply improves on the initial work of the committees, and spurns the fiscal games being played by the Democratic leadership

through its control of the House Budget Committee.

In addition, the bipartisan package takes crucial steps toward cutting waste and inefficiencies in these federal programs. It moves toward making these spending reductions permanent for the benefit of American taxpayers. It accomplishes both these goals through the creation of needed block grant programs in the fields of health, social services, rehabilitation services, energy assistance, education and community development.

Such block grant programs will vastly increase program flexibility at the state and local level, while reducing overhead costs and inefficiencies in Washington at the same time. There is a strong need in this country to return control of such programs to those levels of government closest to the problems. Unfortunately, the budget reconciliation package advanced by the Democratic leadership shows no recognition of those needs.

This approach would be a major first step toward cutting the bureaucratic waste that has built up in more than 40 years of uncontrolled federal spending programs, while at the same time protecting those Americans in need from the loss of services.

The House Republican Policy Committee endorses the bipartisan package containing both the additional cuts in spending proposals, and block grant programs.

Mr. LATTA. Mr. Speaker, I yield 5 minutes to the Republican leader, the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Speaker, you will recall that on that opening day of this Congress when we were on the dais together, that after professing our good friendship for one another and the fun of an occasional friendly golf game, I said there would be those times when the political process would call for our being partisan adversaries between the hours of 9 and 5. I see the clock reads 1:15 in the afternoon, so it qualifies for that confrontation, and I cannot hold it back any longer, Mr. Speaker.

I have got to vent my spleen over what you and your cohorts are proposing for us, the minority. We requested a rule giving us one clean vote on a comprehensive package of amendments to the committee bill. We spend several weeks putting it together, not in the form of a completely rewritten substitute, but narrowing our differences down to 7 of the 15 committee recommendations.

Obviously, what we put together was a very attractive package. I can understand your concern, Mr. Speaker, for there you were down there in the sand trap while we were up here already on the green. Recognizing that, recognizing that in unity there is strength, you and your leadership group consciously decided that you had to cut us up in pieces, a sort of divide and conquer strategy. I might have grudgingly conceded to this approach had you given us a clean-cut vote on the 6 or 7 individual parts of our package of amendments; but no, you would not even give us that opportunity. You had to get extra greedy. I could not believe you would take our individual parts and slice them up into still smaller pieces, taking what your want and, of course, discarding what we want.

What right have you in this so-called great deliberative body to dictate not only the form and the substance of our amendments, but the verbiage as well?

I always thought the Constitution gave us the right under the free speech and debate clause to say anything we pleased on the floor of this House in this forum, so much so as to be unaccountable in any other place for what we say here. That is what is written in the Constitution. We are all free men. We ought to take advantage of it and we are being denied that today.

I cannot believe that you expect us to take it here today. It is unconscionable and, moreover, you have the audacity to still refer to the specific amendments made in order under the rule as Republican initiatives.

Mr. Speaker, Mr. WRIGHT, my friend Mr. BOLLING: These are no longer our amendments that are made in order. They are bastards of the worst order for which we disclaim any parental responsibility.

What have you done to us? You have denied what I believe is a majority of this House philosophically if not numerically a clean vote up or down on our package.

□ 1315

You are furthermore denying the President a clean-cut expression of what he prefers. But moreover, you are denying the American people a vote they want to move more swiftly and assuredly to a balanced budget in 1984.

This is no procedural vote, as the gentleman from Mississippi said, it is a substantive vote, a $20 billion vote, as a matter of fact.

I might remind some of my friends that when we helped orchestrate the component parts of the first concurrent resolution in the form of Gramm-Latta I, there were those whose price for support was deeper cuts to the tune of $5 billion to give you a smaller deficit in 1982.

That was done to accommodate our friends who we felt at the time were very serious about joining us in this fight to significantly cut Federal spending, get us to a balanced budget more quickly, and chart a significant change of direction for our country.

In my windup remarks on that first concurrent budget resolution, I referred to that vote as a relatively easy one. I think I used the words, it is a cake walk and the tougher ones were yet to come. I guess to include the golfing analogy one more time, "You drive for show and putt for dough."

That first concurrent budget resolution was one all for show and this is the one for real dough, $20 billion of it.

This is not only a bad rule, it is a rotten rule. It is what you would expect to cram down the throats of a party of nincompoops. It offends every single Member on my side of the aisle and I know it has to offend the sensibilities of a good many on the Speaker's side, who feel that the gentleman stretched this one out just a bit too far.

I might say further, we might as well find out today whether there is or is not a formal philosophical coalition. Is it there or is it not?

The country cries out for it. Give us a chance to implement what we voted for, they say. We ask our friends on the Democratic side of the aisle to again join us in this effort.

I need not tell the Members what the long-range implications are of this very critical vote today. Those Members with a good sense of fair play should be just as incensed as I am over this turn of events. We are witnessing, in effect, foul play today and I urge my colleagues to let it be known in no uncertain terms by voting down the previous question and give us an opportunity to substitute a rule to make in order our package of amendments that we are so concerned about.

Finally, Mr. Speaker, today surely will go down as the day we measure political courage around here. I certainly hope we can show at the end of the day there is a lot to be measured among Members on both sides of the aisle.

Mr. BOLLING. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER. The gentleman from Missouri has 7 minutes.

Mr. BOLLING. Mr. Speaker, I had sort of hoped to be able to make a serious speech about what this was about.

I expect courtesy from both sides, strangely enough.

I was going to talk about the economic program a little bit, the President's economic program. I do not know very many people who really think it is such a cinch as I have heard discussed today. A lot of people question this very seriously, including a great many of the allies of the President and even the Members of the Republican Party in the House.

I am not going to talk about the third imperial President with whom I have dealt and opposed, Lyndon Johnson, Richard Nixon, and now I see another. I am not going to talk about the independence of Congress and the individual Members of Congress and the real horror with which I watched for the first time, I believe, in my experience on a major issue every Republican walk in lock step. I am not even going to talk about the individual responsibility of the individual Member

to be accountable, honest, and fair with his constituency.

The first step in that direction would have been and will be, I hope, today when we have votes on cuts offered by Republicans that are deeper than their package amendments simply because we applied the same rule to Gramm-Latta that was applied by Gramm-Latta I to the committees. We took out the sweeteners, about half of the $20 billion in cuts were taken away by the sweeteners.

So this infinite level of purity of purpose that we have heard from so many different people needs just a little explanation. I think maybe I am the one to explain it because in the very beginning, even before we got into the process, I had discussions with people who included the gentleman who now heads up the Office of Management and Budget. He indicated a deep desire to have an opportunity to keep their program together in the beginning. I must say that I thought beyond that he intended to play fair and that the people on the Hill would play fair, too; and that we would have a budget process that would be rational and fair.

Then I had the terrible problem as an individual, as the chairman of the Rules Committee, to realize that what was in Gramm-Latta went way beyond the budget process, went way beyond anything contemplated or used in reconciliation.

Then I had to make an individual and soul-searching decision as to whether it should be allowed to come to the floor because it was such a fraud.

I decided that I would honor my commitment despite the fraudulent content of the bill. We have before us an extension of that same approach. There has never been until Gramm-Latta I, an attempt to legislate for 3 years, an attempt to undo authorization bills in the budget process, an attempt to destroy the budget process for a narrow partisan gain in support of a radical, doubtful program. If there is any fairness left it would not even be a problem what happens on the previous question.

My good friend talked about "You drive for show and you putt for dough." I played golf until I quit at 18 and played it fairly well and that is a fair illustration of what is easy and what is hard. But let me tell this body, you have not even begun to putt for dough. You have got the hard votes coming, not today when you do not even have the capacity to deal with six amendments separately so the people know where you stand on the issues and you hide behind a still popular President and an economic program that nobody really believes in.

The shoe is on the other foot. Perhaps you do indeed believe in your President's economic program. I am delighted. That makes you very honorable and honest people. But I have the good fortune to work in that field, too, and I know the numbers of people from Wall Street and from big business who come to me and say, "No, we don't believe in it, but we have to go along with the President."

I have a reasonable opportunity to keep up with what people are really saying. The issue today is: Do we begin to accept the responsibility of Members of the House of Representatives without regard to party, without regard to a popular President? Do we have the guts to stand up for what we believe in? Do we have the guts to stand up for the people we represent? Are we willing and determined to do for those people the kind of representation that enables them to know where we stand or are we going to hide behind this parliamentary game, this attempt to gag the House?

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER. The question is on ordering the previous question.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. LATTA. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 210, nays 217, not voting 4, as follows:

[Roll No. 104]

YEAS—210

Addabbo	Dellums	Gray
Akaka	Derrick	Guarini
Albosta	Dicks	Hall (OH)
Alexander	Dingell	Hamilton
Anderson	Dixon	Harkin
Andrews	Donnelly	Hatcher
Annunzio	Dorgan	Hawkins
Anthony	Downey	Hefner
Applegate	Dwyer	Heftel
Aspin	Dymally	Hertel
AuCoin	Dyson	Holland
Bailey (PA)	Early	Howard
Barnes	Eckart	Hoyer
Bedell	Edgar	Hubbard
Beilenson	Edwards (CA)	Hughes
Benjamin	English	Jacobs
Bevill	Ertel	Jenkins
Biaggi	Evans (IN)	Jones (NC)
Bingham	Fary	Jones (OK)
Blanchard	Fascell	Jones (TN)
Boggs	Fazio	Kastenmeier
Boland	Ferraro	Kazen
Bolling	Fithian	Kildee
Boner	Flippo	Kogovsek
Bonior	Florio	LaFalce
Bonker	Foglietta	Lantos
Bouquard	Foley	Lehman
Bowen	Ford (MI)	Leland
Brinkley	Ford (TN)	Levitas
Brodhead	Fountain	Long (LA)
Brooks	Fowler	Long (MD)
Brown (CA)	Frank	Lowry
Burton, John	Frost	Luken
Burton, Phillip	Fuqua	Lundine
Chisholm	Garcia	Markey
Clay	Gaydos	Matsui
Coelho	Gejdenson	Mattox
Collins (IL)	Gephardt	Mavroules
Coyne, William	Gibbons	Mazzoli
Crockett	Ginn	McCurdy
D'Amours	Glickman	McHugh
Daschle	Gonzalez	Mica
de la Garza	Gore	Mikulski
Miller (CA)	Rahall	Stokes
Mineta	Rangel	Stratton
Minish	Ratchford	Studds
Mitchell (MD)	Reuss	Swift
Moakley	Richmond	Synar
Moffett	Rodino	Traxler
Mollohan	Roe	Udall
Murphy	Rose	Vento
Murtha	Rosenthal	Volkmer
Myers	Rostenkowski	Walgren
Natcher	Roybal	Washington
Neal	Russo	Watkins
Nelson	Sabo	Waxman
Nowak	Savage	Weaver
Oakar	Scheuer	Weiss
Oberstar	Schroeder	Whitley
Obey	Schumer	Whitten
Ottinger	Seiberling	Williams (MT)
Panetta	Shamansky	Wirth
Patman	Shannon	Wolpe
Patterson	Sharp	Wright
Pease	Simon	Wyden
Pepper	Skelton	Yates
Perkins	Smith (IA)	Yatron
Peyser	Solarz	Young (MO)
Pickle	St Germain	Zablocki
Price	Stark	Zeferetti

NAYS—217

Archer	Fields	McDade
Ashbrook	Findley	McDonald
Atkinson	Fish	McEwen
Badham	Forsythe	McGrath
Bafalis	Frenzel	McKinney
Bailey (MO)	Gilman	Michel
Barnard	Gingrich	Miller (OH)
Beard	Goldwater	Mitchell (NY)
Benedict	Goodling	Molinari
Bennett	Gradison	Montgomery
Bereuter	Gramm	Moore
Bethune	Green	Moorhead
Bliley	Gregg	Morrison
Breaux	Grisham	Motti
Broomfield	Gunderson	Napier
Brown (CO)	Hagedorn	Nelligan
Brown (OH)	Hall, Ralph	Nichols
Broyhill	Hall, Sam	O'Brien
Burgener	Hammerschmidt	Parris
Butler	Hance	Pashayan
Byron	Hansen (ID)	Paul
Campbell	Hansen (UT)	Petri
Carman	Hartnett	Porter
Carney	Heckler	Pritchard
Chappell	Hendon	Pursell
Chappie	Hightower	Quillen
Cheney	Hiler	Railsback
Clausen	Hillis	Regula
Clinger	Hollenbeck	Rhodes
Coats	Holt	Rinaldo
Coleman	Hopkins	Ritter
Collins (TX)	Horton	Roberts (KS)
Conable	Huckaby	Roberts (SD)
Conte	Hunter	Robinson
Corcoran	Hutto	Roemer
Coughlin	Hyde	Rogers
Courter	Ireland	Roth
Coyne, James	Jeffords	Roukema
Craig	Jeffries	Rousselot
Crane, Daniel	Johnston	Rudd
Crane, Philip	Kemp	Santini
Daniel, Dan	Kindness	Sawyer
Daniel, R. W.	Kramer	Schneider
Dannemeyer	Lagomarsino	Schulze
Daub	Latta	Sensenbrenner
Davis	Leach	Shaw
Deckard	Leath	Shelby
DeNardis	LeBoutillier	Shumway
Derwinski	Lee	Shuster
Dickinson	Lent	Siljander
Dornan	Livingston	Skeen
Dougherty	Loeffler	Smith (AL)
Dreier	Lott	Smith (NE)
Duncan	Lowery	Smith (NJ)
Dunn	Lujan	Smith (OR)
Edwards (AL)	Lungren	Snowe
Edwards (OK)	Madigan	Snyder
Emerson	Marks	Solomon
Emery	Marlenee	Spence
Erdahl	Marriott	Stangeland
Erlenborn	Martin (IL)	Stanton
Evans (DE)	Martin (NC)	Staton
Evans (GA)	Martin (NY)	Stenholm
Evans (IA)	McClory	Stump
Fenwick	McCloskey	Tauke
Fiedler	McCollum	Tauzin

Taylor	Weber (OH)	Wolf
Thomas	White	Wortley
Trible	Whitehurst	Wylie
Vander Jagt	Whittaker	Young (AK)
Walker	Williams (OH)	Young (FL)
Wampler	Wilson	
Weber (MN)	Winn	

NOT VOTING—4

Conyers	Danielson
Cotter	Lewis

□ 1330

The Clerk announced the following pairs:

Mr. Conyers with Mr. Danielson.

Mr. LONG of Maryland changed his vote from "nay" to "yea."

Mr. DAVIS changed his vote from "yea" to "nay."

So the previous question was not ordered.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. MYERS. Mr. Speaker, a few years ago I can recall that a pilot took off from New England to fly to the west coast. He wound up in Scotland. He has been known now as Wrong Way Corrigan.

On the last vote, after the time had expired, I came on the floor and voted wrongly my intentions. There are few votes that I would change during my 15 years here, but that is the first time I had come on the floor and put it wrongly.

Mr. Speaker, I ask that the record show that I intended to vote "no," that I did push the "yes" button inadvertently, but I do want the record to show immediately following the vote that my intention was to vote "no."

I apologize for the mistake.

□ 1345

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. LATTA

Mr. LATTA. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. LATTA: Strike all after the resolving clause and insert in lieu thereof the following:

"That upon the adoption of this resolution it shall be in order to move, any rule of the House to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3982), to provide for reconciliation pursuant to section 301 of the first concurrent resolution on the budget for fiscal year 1982, and the first reading of the bill shall be dispensed with, and all points of order against said bill are hereby waived. General debate shall continue not to exceed 8 hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Budget. The bill shall be considered as having been read for amendment under the five minute rule. No amendment to the bill shall be in order in the Committee of the Whole except an amendment in the nature of a substitute which shall be the text of the bill H.R. 3964, said amendment shall be considered as an original bill for the purpose of amendment, and shall be considered as having been read, all points of order are hereby waived against said amendment, and no amendment shall be in order to said amendment except—

"(1) A substitute amendment to title VI by Representative Broyhill, if offered, and said amendment shall be considered as having been read and shall not be subject to amendment or to a division of the question in the House or in the Committee of the Whole, but shall be debatable for not to exceed 2 hours to be equally divided and controlled by Representative Broyhill and a Member opposed thereto and all points of order against said amendment are hereby waived and (2) the amendments of Representative Latta of Ohio, said amendments shall be considered en bloc and shall be considered as having been read and shall not be subject to amendment or to a division of the question in the House or in the Committee of the Whole, but shall be debatable for not to exceed 4 hours, to be equally divided and controlled by Representative Latta and a Member opposed thereto, and all points of order against said amendments are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit, with or without instructions."

The SPEAKER pro tempore. (Mr. WRIGHT). The gentleman from Ohio (Mr. LATTA) is recognized for 1 hour.

Mr. LATTA. Mr. Speaker, for purposes of debate only, I yield to my good friend, the Speaker of the House.

Mr. O'NEILL. Mr. Speaker, may I inquire, will the gentleman yield me equal time with himself? The gentleman is entitled to 1 hour.

Mr. LATTA. Mr. Speaker, I am yielding to the Speaker. I yield the Speaker whatever time he may need.

Mr. O'NEILL. Mr. Speaker, I yield myself such time as I may need.

Mr. Speaker, these are the times that try men's souls, and make no mistake about it. One of the Members on the other side said, "You may hope this day will be forgotten." I hope someday this day is forgotten, too.

Let me give the Members a little history of the process that has gone on around here. Back about 1971 or 1972 there were a tremendous number of concerned people in America—congressional watchers, editorial writers, historians—who felt that the thoughts and the ideas of the Founding Fathers were being violated. The Founding Fathers 200 years ago wrote a Constitution in which there would be the equality of a tripartite system: The Presidency, the Congress of the United States—the House and the Senate—and the judiciary, free, equal, and distinct. And they gave to them certain powers. The power to declare war was given to the Congress of the United States, the power over the purse strings was given to the Congress of the United States, and the power to tax was given to the Congress of the United States. They were wise in their judgment. There were to be two bodies, one of which would report home every 2 years.

With the advent of Roosevelt, and a rubberstamp Congress, and the passage of years along the line, the power of the Congress eroded. There was a time when you and I would authorize and appropriate, and the President would sign, and if he felt like spending the money, he spent the money; if he did not feel like spending the money, he did not.

There were those who were concerned. Congressional prerogatives had eroded. Congress had lost its power and one of those powers related to war. We went to Vietnam and we lost 55,000 of our finest, 150,000 were wounded, and we were paying out billions of dollars. We were in a war, an undeclared war. So we put the War Powers Act through this Congress. The President may put troops in a country for a period of 30 days, but unless there is action by this Congress those troops must be withdrawn. That was in line with the thoughts of the Founding Fathers.

On impoundment, we put an impoundment control bill throught so the President could not just impound; now he can rescind or defer subject to the restrictions. We are all aware of those laws. We have even gone to a one-House veto in some situations because we thought there was too much regulation.

When I came here 30 years ago, foreign affairs was in the hands of the administration. Whether or not the Founding Fathers had intended it, we had a bipartisan policy; whether it was an Eisenhower or a Kennedy, we followed it. But we have drifted away from that because we thought too much power was concentrated in the hands of the President and the powers of the Congress were eroding.

Let me tell the Members what has developed in the last 4 days. I received a telephone call on Friday morning from the President of the United States. No man living has more respect for that title than I do, regardless of who the President is.

The President said to me, "I would like to have you go along with the amendments that I am sending over in the package." He said, "The Rules Committee has been asked by the Budget Committee to have a closed rule."

"Well," I said, "Can you be specific?"

"Well," he said, "there was a meeting last night of JIMMY JONES, and LEON PANETTA, with Stockman, and they were given a sheet of paper on which the amendments were written where we don't think you have gone far enough. I think it's unfair," he said, "to the Republicans for the

Democratic Rules Committee to have a closed rule."

I said, "Mr. President, I will talk it over with my leadership."

I called the leadership. I called DICK BOLLING in. We talked it over. Truthfully, I felt the closed rule was unfair. I have been opposed to a closed rule all along, even though 80 percent of my party was for a closed rule.

And now they handed us a package of amendments. In my conversation with the President, I said, "Mr. President, you have to be more specific. Can you outline for me what you have in mind?"

He could not. "But," he said, "I will send it up." He said, "Who shall I send it to?"

I said, "Send it to the Rules Committee. Send it to DICK BOLLING."

About an hour and a half later it came up. Here we had this sheet of paper on the cuts he wanted because our cuts did not go deep enough. I felt as though he wanted those because he truly felt that ours did not go deep enough. But to myself I thought, he has entertained 66 Democrats down there at the White House. When he was asked by one Member, he was told: "I have more senior citizens and more Golden Agers and more people on social security than any other section of the country. Mr. President, I think your plan goes too far."

The President's response to that was: "Do you think that I would hurt the senior citizens of America? This is merely a target. This is a target, and you are going to have your opportunity to vote on the matter."

Now, that was said by the President of the United States. When he was asked about student aid by another Member of the group that was there, he said, "This is merely a target. You are going to have your opportunity." You know I myself was opposed to the Jones bill as it came out. It destroys the things that I have been interested in, the bills that I really believe in."

Is there a safety net? Yes; I think there is a safety net. What is happening to the American public under the Democratic bill is that we cut them off at the knees instead of cutting them off at the hip. That is about the difference in these bills.

So I think we were acting in good faith. I think this is wrong. This process is wrong.

Then what happened? That morning we called in BOB MICHEL, for whom I have had the greatest affection. I think he is a great Republican leader. He had not seen the piece of paper and the amendments that Stockman had given to JONES and PANETTA the night before. He had not seen it. Later the White House put into Mr. BOLLING'S hands a three-page document and Mr. MICHEL had not seen it.

What I am saying is this: BOB MICHEL is your elected leader; yet he had no knowledge of the package that was being put together. He was shown it in the Speaker's Office for the first time. Now, that is the way the administration plays. I said to BOB, "BOB, when the President has remarked that 'I haven't heard back from TIP O'NEILL,' " I said, "No; he hasn't heard back from me. You are the Republican leader, and that is the man I will work through." When we had formulated the rule, I called him in and told him what I had in my mind and what the Rules Committee had in its mind and what the consensus of Members on our side was.

Why do I do that? Because that is the way the system works. I have never seen anything like this in my life, to be perfectly truthful. What is the authority for this? Does this mean that any time the President of the United States is interested in a piece of legislation, he merely sends it over? You do not have any regard for the process, for open hearings, discussion as to who it affects, or what it does to the economy? But because a man who does not understand or know our process sends it over, are we to take it in bulk?

I think we bent over backwards in ultimate fairness. We looked at the amendments in the packages. You say that we have formulated the packages for you. I believe that you have the opportunity to make these amendments. You know it. Let us stop shamming with each other. We are not drawing the amendments for you.

□ 1400

The six items that came to the gentleman from Oklahoma (Mr. JONES) and the gentleman from California (Mr. PANETTA), what do they in effect do? The President proposes a cut of $35 billion in fiscal year 1982 to the Congress. The committees of the Houses have met that directive. The committees have come up with savings. We exceeded that by more than $2.5 billion; but now the President is insisting on a different package. That is what this argument is all about.

Do we have the right to legislate? Do we have the right to meet our target or can he in one package deregulate, delegislate, the things that have taken years to do?

I just want to talk about say one item, social security, the proposal that is in your package with regard to minimum benefits. Three million Americans will be affected who are currently receiving social security. Now, are you aware that that is in the package, 3 million Americans?

You know, maybe the system was wrong along the line when you could qualify for minimum benefits. If a man was a policeman and after he retired and worked out of the public sector for so many quarters, he was entitled to social security, the minimum benefit, and it moved up with the cost-of-living adjustment. He is getting that now.

On average, 1,500,000 recipients would have their benefits reduced $800 a year. Now, do you think that is fair? Do you think that a man who under the law, has gone out and earned for himself his social security, should be cut?

How about a senior citizen who is depending upon that?

Those are the problems that are in this bill and make no mistake about it.

I think you are kidding yourselves if you say we are saving the system, we will have social security legislation down the line. You know it as well as I know. You know, I told the story so many times of the health unit in my district, East Boston, mostly Italian Americans, a beautiful, beautiful area. We have a health unit. I think it was probably the last health unit that was built in America under Hill-Burton funds. It cost $3 million; 2,000 people a week go to that health unit. We had 2 or 3 grants last year from the Federal Government; but 80 percent of the money is paid by medicaid, even though there are 13 permanent doctors and 18 volunteer doctors and Lord knows how many other volunteers along the line. You cap medicaid, and you do it in your proposal, and hospitals and centers of that type where over 100,000 people a year go, they will be closed within 3 years because medicaid pays for the most part of that hospital.

You know, we could go down the line. These were the areas where you said we had not gone far enough. These were the changes that you wanted us to let you offer. We wanted to let you offer them, but not in a package, and for a very simple reason why it should not be in a package, because we wanted the American people to know what was in these amendments.

I could go along the line with regard to student aid. This package repeals all State energy conservation programs. It will deny student loans to about 1,350,000 people, not in 1981, but in 1982.

I saw an interesting ad in the Boston paper the other day:

> Do you have your student loan for the fall semester of 1981? Are you one of the 70 percent who have already applied? If you are one of the 30 percent, apply before the new law goes in. You may be denied an opportunity for an education.

We wanted to give you an opportunity to vote on these issues item by item, because we thought it was the fair thing for America.

I think your package is wrong, to be perfectly truthful. If I thought my own was wrong when we cut if off at the knee, I certainly think yours is wrong where you cut if off at the hip.

The rule is now in your court. I hope the rule does not prevail. I will personally vote against it. The Speaker does not usually vote except on tie occasions; but today I have to extend to the American people what my feelings are on legislation of this type. Thank you.

The SPEAKER pro tempore. The gentleman from Massachusetts, the Speaker, has consumed 18 minutes, so that there remain 42 minutes in all.

May the Chair have the attention of the gentleman from Ohio who controls the time in order that the Chair may inquire of the gentleman as to his disposition with respect to the remainder of the time.

The gentleman has approximately 42 minutes remaining of the 1 hour allotted to him. Does the gentleman desire to yield up to the total of 30 minutes, which would include the 18 minutes consumed by the Speaker?

Mr. LATTA. Mr. Speaker, it is my intention to move very shortly the previous question on this. We have heard this many, many times. I think it is time to get down to work.

Mr. BOLLING. Does the gentleman intend to yield any time to me?

Mr. LATTA. If the gentleman wants to make a speech in the 12 minutes remaining, I will be happy to yield.

Mr. O'NEILL. I understand I had 30 minutes; is that correct?

Mr. LATTA. Regular order, Mr. Speaker.

The SPEAKER pro tempore. Let the Chair inquire of the gentleman from Ohio, did he or did he not yield 30 minutes of the hour to the Speaker?

Mr. LATTA. Right.

Mr. O'NEILL. Well, I am reserving the balance of my time.

Mr. LATTA. We have no speakers on this side. If they have speakers on that side, they can use their 12 minutes.

Mr. O'NEILL. Well, I reserve the 12 minutes that I have remaining.

Mr. LATTA. Mr. Speaker, I yielded previously for purposes of debate only the time to the Speaker on that side. As I understand, the gentleman has 12 minutes left.

Mr. O'NEILL. Is the gentleman going to have any further speakers on his side?

Mr. LATTA. Not to my knowledge at this time, but we reserve the balance of our time.

Mr. O'NEILL. I yield such time as he may consume to the gentleman from Missouri (Mr. BOLLING).

Mr. BOLLING. Mr. Speaker, I do not have any intention of making a speech. I do not think anybody could top the speech that was made by our distinguished Speaker, the gentleman from Massachusetts.

I do want to outline the parliamentary situation. If five of the unanimous Republicans were to change their minds, we could have a vote on a whole series of interesting subjects that the American people would like to know about, some of which the Speaker outlined. If five of our very sincere and very conservative Democrats were to change their minds, or any combination, that vote would reverse and the rule offered by the distinguished gentleman from Ohio would not prevail and we would have another opportunity to vote for responsibility and accountability.

Mr. LATTA. Did the Speaker yield back his time?

Mr. O'NEILL. I reserve my right until such time as the gentleman wants to move the previous question.

Mr. LATTA. We have the right under the rules of procedure to close debate.

The SPEAKER pro tempore. The gentleman is correct.

Mr. LATTA. We have the right to close debate on this issue.

Mr. O'NEILL. I have no requests for time on this side.

Mr. LATTA. That is what we were trying to find out.

POINT OF ORDER

Mr. WEISS. Mr. Speaker, a point of order.

The SPEAKER pro tempore. The gentleman from New York will state his point of order.

Mr. WEISS. Mr. Speaker, none of us in this body except perhaps the gentleman from Ohio and those closest to him have a copy of the proposed rule. None of us know what it is we are going to be asked to vote on. I raise that as a point of order against proceeding further until copies are distributed to us.

The SPEAKER pro tempore. The gentleman actually has not stated a point of order. The gentleman will simply have to inquire, and I am sure that copies of the amendment would be made available.

Mr. WEISS. Mr. Speaker, may we inquire that the gentleman read and explain what is in his proposed rule?

Mr. LATTA. Mr. Speaker, regular order.

The SPEAKER pro tempore. The gentleman from New York will be advised that the contents of the amendment were read in full by the Clerk.

The gentleman is not in order to make such a point of order at this time.

Mr. WEISS. It is a hell of a way to run a railroad, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Ohio has been recognized. The gentleman has 29 minutes or any part of it that he may desire to consume.

The gentleman from Massachusetts has 11 minutes remaining, but has declared that he has no further requests for time.

The Chair recognizes the gentleman from Ohio.

Mr. LATTA. I thank the Chair.

Mr. MURPHY. Mr. Speaker, will the gentleman from Ohio yield for a question, please?

Mr. LATTA. No; I am not going to yield at this time.

The SPEAKER pro tempore. The gentleman declines to yield at this time.

The gentleman from Ohio is recognized for such time as he may consume up to 29 minutes.

Mr. LATTA. Mr. Speaker, let me say there is no one in this institution I have a higher regard for than the Speaker of the House. I had the good fortune of sitting across from him for many years in the Rules Committee when we had the old table up there. I got to know the Speaker very well.

On this issue, let me say that we just do not agree with him. We did not agree with the rule and a majority of this House did not agree with the rule that was crafted.

I might say that the Speaker makes a very good speech, but for some unknown reason he left out a very important part when he was talking about social security in his remarks. I do not know whether the Speaker is aware of it or not, but the way the committee proposal came out of the committee, and as it is before the House at this moment, 36 million Americans—36 million Americans would have their cost-of-living benefits delayed next year for a 3-month period. That amounts to $1.8 billion out of the pockets of those 36 million senior citizens.

Mr. O'NEILL. Will the gentleman yield?

Mr. LATTA. I will be happy to yield to my friend, the Speaker.

□ 1415

Mr. O'NEILL. The gentleman appreciates, of course, that that was proposed by the President of the United States?

Mr. LATTA. Let me say in reply to my Speaker, I do not know who proposed it but it did not come out in our package. This reemphasizes the fact stated earlier, that all of the suggestions to come out of the White House did not get into our package, as some gentlemen previously stated.

Mr. Speaker, I move the previous question on the amendment in the nature of a substitute and on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

Mr. O'NEILL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device and there were—yeas 219, nays 208, not voting 5, as follows:

[Roll No. 105]

YEAS—219

Archer	Gradison	Myers
Ashbrook	Gramm	Napier
Badham	Green	Nelligan
Bafalis	Gregg	Nichols
Bailey (MO)	Grisham	O'Brien
Barnard	Gunderson	Parris
Beard	Hagedorn	Pashayan
Benedict	Hall, Ralph	Paul
Bereuter	Hall, Sam	Petri
Bethune	Hammerschmidt	Porter
Bliley	Hance	Pritchard
Breaux	Hansen (ID)	Pursell
Broomfield	Hansen (UT)	Quillen
Brown (CO)	Hartnett	Railsback
Brown (OH)	Hendon	Regula
Broyhill	Hightower	Rhodes
Burgener	Hiler	Rinaldo
Butler	Hillis	Ritter
Byron	Holland	Roberts (KS)
Campbell	Hollenbeck	Roberts (SD)
Carman	Holt	Robinson
Carney	Hopkins	Roemer
Chappell	Horton	Rogers
Chappie	Huckaby	Roth
Cheney	Hunter	Roukema
Clausen	Hutto	Rousselot
Clinger	Hyde	Rudd
Coats	Ireland	Santini
Coleman	Jeffords	Sawyer
Collins (TX)	Jeffries	Schneider
Conable	Johnston	Schulze
Conte	Kemp	Sensenbrenner
Corcoran	Kindness	Shaw
Coughlin	Kramer	Shelby
Courter	Lagomarsino	Shumway
Coyne, James	Latta	Shuster
Craig	Leach	Siljander
Crane, Daniel	Leath	Skeen
Crane, Philip	LeBoutillier	Smith (AL)
Daniel, Dan	Lee	Smith (NE)
Daniel, R. W.	Lent	Smith (NJ)
Dannemeyer	Lewis	Smith (OR)
Daub	Livingston	Snowe
Davis	Loeffler	Snyder
DeNardis	Lott	Solomon
Derwinski	Lowery	Spence
Dickinson	Lujan	Stangeland
Dornan	Lungren	Stanton
Dougherty	Madigan	Staton
Dreier	Marks	Stenholm
Duncan	Marlenee	Stump
Dunn	Marriott	Tauke
Edwards (AL)	Martin (IL)	Tauzin
Edwards (OK)	Martin (NC)	Taylor
Emerson	Martin (NY)	Thomas
Emery	McClory	Trible
Erdahl	McCloskey	Vander Jagt
Erlenborn	McCollum	Walker
Evans (DE)	McDade	Wampler
Evans (GA)	McDonald	Weber (MN)
Evans (IA)	McEwen	Weber (OH)
Fenwick	McGrath	White
Fiedler	McKinney	Whitehurst
Fields	Mica	Whittaker
Findley	Michel	Williams (OH)
Fish	Miller (OH)	Wilson
Forsythe	Mitchell (NY)	Winn
Frenzel	Molinari	Wolf
Gibbons	Montgomery	Wortley
Gilman	Moore	Wylie
Gingrich	Moorhead	Young (AK)
Goldwater	Morrison	Young (FL)
Goodling	Mottl	Young (MO)

NAYS—208

Addabbo	Bennett	Burton, John
Akaka	Bevill	Burton, Phillip
Albosta	Biaggi	Chisholm
Alexander	Bingham	Clay
Anderson	Blanchard	Coelho
Andrews	Boggs	Collins (IL)
Annunzio	Boland	Coyne, William
Anthony	Bolling	Crockett
Applegate	Boner	D'Amours
Aspin	Bonior	Daschle
Atkinson	Bonker	de la Garza
AuCoin	Bouquard	Dellums
Bailey (PA)	Bowen	Derrick
Barnes	Brinkley	Dicks
Bedell	Brodhead	Dingell
Beilenson	Brooks	Dixon
Benjamin	Brown (CA)	Donnelly
Dorgan	Jones (OK)	Ratchford
Downey	Jones (TN)	Reuss
Dwyer	Kastenmeier	Richmond
Dymally	Kazen	Rodino
Dyson	Kildee	Roe
Early	Kogovsek	Rose
Eckart	LaFalce	Rosenthal
Edgar	Lantos	Rostenkowski
Edwards (CA)	Lehman	Roybal
English	Leland	Russo
Ertel	Levitas	Sabo
Evans (IN)	Long (LA)	Savage
Fary	Long (MD)	Scheuer
Fascell	Lowry	Schroeder
Fazio	Luken	Schumer
Ferraro	Lundine	Seiberling
Fithian	Markey	Shamansky
Flippo	Matsui	Shannon
Florio	Mattox	Sharp
Foglietta	Mavroules	Simon
Foley	Mazzoli	Skelton
Ford (MI)	McCurdy	Smith (IA)
Ford (TN)	McHugh	Solarz
Fountain	Mikulski	St Germain
Fowler	Miller (CA)	Stark
Frank	Mineta	Stokes
Frost	Minish	Stratton
Fuqua	Mitchell (MD)	Studds
Garcia	Moakley	Swift
Gaydos	Moffett	Synar
Gejdenson	Mollohan	Traxler
Gephardt	Murphy	Udall
Ginn	Murtha	Vento
Glickman	Natcher	Volkmer
Gonzalez	Neal	Walgren
Gore	Nelson	Washington
Gray	Nowak	Watkins
Guarini	O'Neill	Waxman
Hall (OH)	Oakar	Weaver
Hamilton	Oberstar	Weiss
Harkin	Obey	Whitley
Hatcher	Ottinger	Whitten
Hawkins	Panetta	Williams (MT)
Hefner	Patman	Wirth
Heftel	Patterson	Wolpe
Hertel	Pease	Wright
Howard	Pepper	Wyden
Hoyer	Perkins	Yates
Hubbard	Peyser	Yatron
Hughes	Pickle	Zablocki
Jacobs	Price	Zeferetti
Jenkins	Rahall	
Jones (NC)	Rangel	

NOT VOTING—5

Conyers	Danielson	Heckler
Cotter	Deckard	

□ 1430

The Clerk announced the following pairs:

Mr. Conyers with Mr. Danielson.

Mr. LONG of Maryland and Mr. SKELTON changed their votes from "yea" to "nay."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Ohio (Mr. LATTA).

PARLIAMENTARY INQUIRY

Mr. O'NEILL. Mr. Speaker, I have a point of parliamentary inquiry.

The SPEAKER pro tempore. The Speaker will state his point of inquiry.

Mr. O'NEILL. As I understand, now we will be voting on the rule as proposed by the gentleman from Ohio (Mr. LATTA) which allows just two amendments, the amendment offered on the energy and health section and the substitute of the entire Latta package. In other words, other than those two, this is a closed rule.

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. O'NEILL) correctly states the parliamentary situation that we are voting upon the amendment to the rule proposed by the gentleman from Ohio (Mr. LATTA) which provides for 8 hours of general debate: 2 hours of debate upon the Broyhill amendment, and 4 hours of debate upon the Latta amendment, those two amendments to be made in order.

Mr. O'NEILL. Are there any other amendments to be placed in order?

The SPEAKER pro tempore. The Chair would respond in the negative to that question.

PARLIAMENTARY INQUIRY

Mr. DINGELL. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman from Michigan will state his parliamentary inquiry.

Mr. DINGELL. Is the Broyhill amendment published? Is it available?

The SPEAKER pro tempore. The Chair cannot answer that question. The amendment has been read by the Clerk.

Mr. DINGELL. I have a further parliamentary inquiry. Has the entire Broyhill amendment language in haec verba been read?

The SPEAKER pro tempore. The amendment has been read by the Clerk.

Mr. DINGELL. In its entirety?

The SPEAKER pro tempore. No, no. The Chair misunderstood the gentleman's question. The amendment to the rule offered by the gentleman from Ohio (Mr. LATTA) has been read. It is upon that that the vote now occurs and on which the previous question has been ordered.

Mr. DINGELL. I have a further parliamentary inquiry.

The SPEAKER pro tempore. The gentleman from Michigan is recognized for a further parliamentary inquiry, subsequent to which the Chair will recognize any Members for legitimate parliamentary inquiries.

Mr. DINGELL. I have a further legitimate parliamentary inquiry. Is the Broyhill amendment different from the language of the Latta amendment, the Latta-offered rule?

The SPEAKER pro tempore. The Chair is not in a position to answer that question.

Mr. DINGELL. I have a further legitimate parliamentary inquiry. Where may I find copies of this?

The SPEAKER pro tempore. The House will be in order.

The Chair will preserve the rights of all Members.

PARLIAMENTARY INQUIRY

Mr. WEAVER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman from Oregon will state it.

Mr. WEAVER. Mr. Speaker, I have a parliamentary inquiry. Because no amendments are allowed on this rule, is it a so-called gag rule?

Mr. Speaker, I make a point of order that the rule is a gag rule.

The SPEAKER pro tempore. The House will be in order.

The Chair will request that Members respect the situation that exists. The Chair will ask Members to desist from interruptions and propound only legitimate parliamentary inquiries.

The Chair is going to recognize the gentleman from Oklahoma (Mr. JONES) for presumably a parliamentary inquiry.

PARLIAMENTARY INQUIRY

Mr. JONES of Oklahoma. I have a parliamentary inquiry, Mr. Speaker. I am trying to determine if we have the proper language of the rule we are about to be voting on, and is it the same rule that says: "the amendments of Representative LATTA of Ohio, said amendments shall be considered en bloc and shall be considered as having been read and shall not be subject to amendment or to a division of the question in the House or in the Committee of the whole, but shall be debatable for not to exceed 4 hours, to be equally divided and controlled by Representative LATTA and a Member opposed thereto, and all points of order against said amendments are hereby waived."

Is this the rule we are about to vote on?

The SPEAKER pro tempore. The gentleman is correctly reading from the amendment to the rule upon which the previous question has been ordered.

Mr. JONES of Oklahoma. I have a further parliamentary inquiry, Mr. Speaker. Do we have or does anyone have a copy of the Latta amendment to be considered en bloc? The chairman of the Committee on the Budget has not been able to get it. Does anybody have it?

The SPEAKER pro tempore. The Chair cannot answer that question.

PARLIAMENTARY INQUIRY

Mr. MILLER of California. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman from California will state his parliamentary inquiry.

Mr. MILLER of California. I would like to ask the Chair under the rule, if the rule is adopted, does it in fact make in order then the consideration of what is titled committee print June 25, 1981? It is unclear to this Member, Mr. Speaker, whether it will be this 350-page document and whether or not we will have an opportunity to have the Clerk read the document to the Members of the House. Is this in fact the document to be debated?

The SPEAKER pro tempore. The Chair is not in a position to answer that question. The amendment proposed and upon which a vote presently will be taken simply stipulates "amendments of Representative LATTA of Ohio, said amendments" to be considered en bloc.

In response to the second portion of the gentleman's question, those amendments the rule considers as read and not open to amendment at any point.

PARLIAMENTARY INQUIRY

Mr. JONES of Oklahoma. I have one further parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Oklahoma is recognized for a point of inquiry.

Mr. JONES of Oklahoma. Does the language of this rule saying that the Latta amendments, which are so far unknown, shall be considered as having been read and not subject to amendment mean that Mr. LATTA can offer any amendments en bloc without having them read?

The SPEAKER pro tempore. The gentleman understands, of course, that the amendment confers upon the gentleman from Ohio (Mr. LATTA) the privilege of offering amendments which shall be considered en bloc if this amendment to the rule is adopted, and shall be considered as having been read and shall not be subject to amendment or to division of the question. That is all that is stipulated in the amendment, and further reference as to the contents of the amendment to be offered by the gentleman from Ohio is not specified.

PARLIAMENTARY INQUIRY

Mr. VOLKMER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. VOLKMER. Listening to the gentleman from Oklahoma and the Speaker reading the rule, I did not hear anything about a motion to recommit being in order. I would like to know, under the Rules of the House, even though the rule does not specifically provide for a motion to recommit—is there a provision?

The SPEAKER pro tempore. The Chair will advise the gentleman from Missouri that the amendment offered by the gentleman from Ohio (Mr. LATTA) does specifically provide for one motion to recommit either with or without instructions.

Mr. VOLKMER. I thank the Speaker.

PARLIAMENTARY INQUIRY

Mr. BOLLING. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The Chair recognizes the distinguished gentleman from Missouri (Mr. BOLLING) for a parliamentary inquiry.

Mr. BOLLING. I understand that the matter on which we are about to vote, the amendment to the rule, is a rule which provides an amendment by Mr. LATTA and that we have no copy of that amendment, and no copy is available, and that in effect we have a gag rule, a closed rule buying a pig in a poke.

The SPEAKER pro tempore. The House will be in order.

Mr. BOLLING. Did the Chair hear my last few words: a closed rule buying a pig in a poke?

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Ohio (Mr. LATTA).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. LATTA. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 216, nays 212, not voting 4, as follows:

[Roll No. 106]

YEAS—216

Archer	Evans (IA)	Madigan
Ashbrook	Fenwick	Marks
Badham	Fiedler	Marlenee
Bafalis	Fields	Marriott
Bailey (MO)	Findley	Martin (IL)
Barnard	Fish	Martin (NC)
Beard	Forsythe	Martin (NY)
Benedict	Frenzel	McClory
Bereuter	Gilman	McCloskey
Bethune	Gingrich	McCollum
Bliley	Goldwater	McDade
Breaux	Goodling	McDonald
Broomfield	Gradison	McEwen
Brown (CO)	Gramm	McGrath
Brown (OH)	Green	McKinney
Broyhill	Gregg	Mica
Burgener	Grisham	Michel
Butler	Gunderson	Miller (OH)
Byron	Hagedorn	Mitchell (NY)
Campbell	Hall, Ralph	Molinari
Carman	Hall, Sam	Montgomery
Carney	Hammerschmidt	Moore
Chappell	Hance	Moorhead
Chappie	Hansen (ID)	Morrison
Cheney	Hansen (UT)	Mottl
Clausen	Hartnett	Myers
Clinger	Heckler	Napier
Coats	Hendon	Nelligan
Coleman	Hightower	Nichols
Collins (TX)	Hiler	O'Brien
Conable	Hillis	Parris
Conte	Hollenbeck	Pashayan
Corcoran	Holt	Paul
Coughlin	Hopkins	Petri
Courter	Horton	Porter
Coyne, James	Huckaby	Pritchard
Craig	Hunter	Pursell
Crane, Daniel	Hutto	Quillen
Crane, Philip	Hyde	Railsback
Daniel, Dan	Ireland	Regula
Daniel, R. W.	Jeffords	Rhodes
Dannemeyer	Jeffries	Rinaldo
Daub	Johnston	Ritter
Davis	Kemp	Roberts (KS)
DeNardis	Kindness	Roberts (SD)
Derwinski	Kramer	Robinson
Dickinson	Lagomarsino	Roemer
Dornan	Latta	Rogers
Dougherty	Leach	Roth
Dreier	Leath	Roukema
Duncan	LeBoutillier	Rousselot
Dunn	Lee	Rudd
Edwards (AL)	Lent	Santini
Edwards (OK)	Lewis	Sawyer
Emerson	Livingston	Schneider
Emery	Loeffler	Schulze
Erdahl	Lott	Sensenbrenner
Erlenborn	Lowery	Shaw
Evans (DE)	Lujan	Shelby
Evans (GA)	Lungren	Shumway

Shuster
Siljander
Skeen
Smith (AL)
Smith (NE)
Smith (NJ)
Smith (OR)
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Staton
Stenholm
Stump
Tauke
Tauzin
Taylor
Thomas
Trible
Vander Jagt
Walker
Wampler
Weber (MN)
Weber (OH)
White
Whitehurst
Whittaker
Williams (OH)
Winn
Wolf
Wortley
Wylie
Young (AK)
Young (FL)

NAYS—212

Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkinson
AuCoin
Bailey (PA)
Barnes
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brinkley
Brodhead
Brooks
Brown (CA)
Burton, John
Burton, Phillip
Chisholm
Clay
Coelho
Collins (IL)
Coyne, William
Crockett
D'Amours
Daschle
de la Garza
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan
Downey
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (CA)
English
Ertel
Evans (IN)
Fary
Fascell
Fazio
Ferraro
Fithian
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fountain
Fowler
Frank
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Ginn
Glickman
Gonzalez
Gore
Gray
Guarini
Hall (OH)
Hamilton
Harkin
Hatcher
Hawkins
Hefner
Heftel
Hertel
Holland
Howard
Hoyer
Hubbard
Hughes
Jacobs
Jenkins
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kildee
Kogovsek
LaFalce
Lantos
Lehman
Leland
Levitas
Long (LA)
Long (MD)
Lowry
Luken
Lundine
Markey
Matsui
Mattox
Mavroules
Mazzoli
McCurdy
McHugh
Mikulski
Miller (CA)
Mineta
Minish
Mitchell (MD)
Moakley
Moffett
Mollohan
Murphy
Murtha
Natcher
Neal
Nelson
Nowak
O'Neill
Oakar
Oberstar
Obey
Ottinger
Panetta
Patman
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Price
Rahall
Rangel
Ratchford
Reuss
Richmond
Rodino
Roe
Roemer
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Savage
Scheuer
Schroeder
Schumer
Seiberling
Shamansky
Shannon
Sharp
Simon
Skelton
Smith (IA)
Solarz
St Germain
Stark
Stokes
Stratton
Studds
Swift
Synar
Traxler
Udall
Vento
Volkmer
Walgren
Washington
Watkins
Waxman
Weaver
Weiss
White
Whitley
Whitten
Williams (MT)
Wilson
Wirth
Wolpe
Wright
Wyden
Yates
Yatron
Young (MO)
Zablocki
Zeferetti

NOT VOTING—4

Conyers
Cotter
Danielson
Deckard

□ 1445

The Clerk announced the following pairs:

Mr. Conyers with Mr. Danielson.

Mr. SKELTON changed his vote from "yea" to "nay."

So the amendment in the nature of a substitute was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution, as amended.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. VOLKMER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 214, nays 208, not voting 9, as follows:

[Roll No. 107]

YEAS—214

Archer
Ashbrook
Badham
Bafalis
Bailey (MO)
Barnard
Beard
Benedict
Bereuter
Bethune
Bliley
Breaux
Broomfield
Brown (CO)
Brown (OH)
Broyhill
Burgener
Butler
Byron
Campbell
Carman
Carney
Chappell
Chappie
Cheney
Clausen
Clinger
Coats
Coleman
Collins (TX)
Conable
Conte
Corcoran
Coughlin
Courter
Coyne, James
Craig
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daub
Davis
DeNardis
Derwinski
Dickinson
Dornan
Dougherty
Dreier
Duncan
Dunn
Edwards (AL)
Edwards (OK)
Emerson
Emery
Erdahl
Erlenborn
Evans (DE)
Evans (GA)
Evans (IA)
Fenwick
Fiedler
Fields
Findley
Fish
Forsythe
Frenzel
Gilman
Gingrich
Goldwater
Goodling
Gradison
Gramm
Green
Gregg
Grisham
Gunderson
Hagedorn
Hall, Sam
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Hartnett
Heckler
Hendon
Hightower
Hiler
Hillis
Holland
Hollenbeck
Holt
Hopkins
Horton
Huckaby
Hunter
Hutto
Hyde
Ireland
Jeffords
Jeffries
Johnston
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach
Leath
LeBoutillier
Lee
Lent
Lewis
Livingston
Loeffler
Lott
Lowery
Lujan
Lungren
Madigan
Marks
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
McClory
McCloskey
McCollum
McDade
McDonald
McEwen
McGrath
McKinney
Mica
Michel
Miller (OH)
Mitchell (NY)
Molinari
Montgomery
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Moorhead
Morrison
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Nelligan
Nichols
O'Brien
Parris
Pashayan
Paul
Petri
Porter
Pritchard
Pursell
Quillen
Railsback
Regula
Rhodes
Ritter
Roberts (KS)
Roberts (SD)
Robinson
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Roukema
Rousselot
Rudd
Santini
Sawyer
Schneider
Schulze
Sensenbrenner
Shaw
Shelby
Shumway
Shuster
Siljander
Skeen
Smith (AL)
Smith (NE)
Smith (NJ)
Smith (OR)
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Staton
Stenholm
Stump
Tauke
Tauzin
Taylor
Thomas
Trible
Vander Jagt
Walker
Wampler
Weber (MN)
Weber (OH)
Whitehurst
Whittaker
Williams (OH)
Wilson
Winn
Wolf
Wortley
Wylie
Young (AK)
Young (FL)

NAYS—208

Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkinson
AuCoin
Bailey (PA)
Barnes
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brinkley
Brodhead
Brooks
Brown (CA)
Burton, John
Burton, Phillip
Chisholm
Clay
Coelho
Collins (IL)
Coyne, William
Crockett
D'Amours
Daschle
de la Garza
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan
Downey
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (CA)
English
Ertel
Evans (IN)
Fary
Fascell
Fazio
Ferraro
Fithian
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fountain
Fowler
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Ginn
Glickman
Gonzalez
Gore
Gray
Guarini
Hall (OH)
Hall, Ralph
Hamilton
Harkin
Hatcher
Hawkins
Hefner
Heftel
Hertel
Howard
Hoyer
Hubbard
Hughes
Jacobs
Jenkins
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kildee
Kogovsek
LaFalce
Lantos
Lehman
Leland
Levitas
Long (MD)
Lowry
Luken
Lundine
Markey
Matsui
Mattox
Mavroules
Mazzoli
McCurdy
McHugh
Mikulski
Miller (CA)
Mineta
Minish
Mitchell (MD)
Moakley
Moffett
Mollohan
Murphy
Murtha
Natcher
Neal
Nelson
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patman
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Price
Rahall
Rangel
Ratchford
Reuss
Richmond
Rodino
Roe
Roemer
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Sabo
Savage
Scheuer
Schroeder
Schumer
Seiberling
Shamansky
Shannon
Sharp
Simon
Smith (IA)
Solarz
St Germain
Stark
Stokes
Stratton
Studds
Swift
Synar
Traxler
Udall
Vento
Volkmer
Walgren
Washington
Watkins
Waxman
Weaver
Weiss
White
Whitley
Whitten
Williams (MT)
Wirth
Wolpe
Wright
Wyden
Yates
Yatron
Young (MO)
Zeferetti

NOT VOTING—9

Conyers
Cotter
Danielson
Deckard
Frank
Long (LA)
Rinaldo
Skelton
Zablocki

□ 1510

The Clerk announced the following pairs:

Mr. Long of Louisiana with Mr. Deckard.
Mr. Frank with Mr. Rinaldo.
Mr. Zablocki with Mr. Skelton.
Mr. Conyers with Mr. Danielson.

Mr. ROEMER and Mr. WHITE changed their votes from "yea" to "nay."

So the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

(Mrs. HECKLER asked and was given permission to address the House of 1 minute.)

Mrs. HECKLER. Mr. Speaker, on rollcall No. 105 I was unavoidably absent. Had I been present, I would have voted "aye."

FURTHER LEGISLATIVE PROGRAM

(Mr. JONES of Oklahoma asked and was given permission to address the House for 1 minute.)

Mr. JONES of Oklahoma. Mr. Speaker, I take this time to announce to the House the schedule for the remainder of today and the schedule for tomorrow.

We are entering 8 hours of general debate, during which time in sequential order as listed in the committee print, the chairman and ranking minority member of each committee will explain what is in the bill that pertains to their committee jurisdiction. The general debate will be concluded today.

It is my understanding that there will be no further votes on substance.

Tomorrow, the House would convene at 10 o'clock and go immediately into the amendment on the Commerce Committee portion of reconciliation. That is subject to 2 hours of debate. On conclusion of that, the House would go into the Latta substitute, which is subject to 4 hours of debate.

After the Latta substitute is disposed of, a motion to recommit and final passage would be in order, and we would hope to conclude tomorrow.

(Mr. McCLORY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCLORY. Mr. Speaker, I rise in support of proposed legislation to create an independent Commission on Presidential Protection.

For the past two decades this country, not to mention the world-at-large, has experienced an unprecedented surge of violence directed against political leaders. On at least four occasions since 1963, our President has been targeted for death and one has fallen victim to a successful attempt on his life. After each event, there has been debate about the President's personal security—debate which always dims with the passage of time and succumbs to the insistent necessity for public access to its national leader.

Mr. Speaker, I believe that we must have an objective analysis of the security provided our President by a body as authoritative and dispassionate as the one proposed by this legislation. It is imperative that recommendations for personal safety come to the President from a group that shares his accountability to the public and thereby appreciates his responsibility to remain accessible. Such a group as this can provide suggestions that will be heeded by the President and which will be understood by media and public alike.

This Nation cannot continue to weather the repeated turmoil which it faced upon the assassination of President Kennedy and the near deadly attack against President Reagan. Yet there is no reason to believe such attacks will abate on their own. Precautions must be taken to insulate the President not from the public but from those unwarranted dangers inherent from being the center of public attention. The danger is not one posed by the people but by the individual persons and that is why we need a commission such as this—a group that understands the relationship of an elected official to the electors.

Mr. Speaker, this legislation will cost little but may save this country repeated tragedy. I urge its speedy consideration.

□ 1520

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE PRIVILEGED REPORT ON DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT APPROPRIATIONS, 1982

Mr. BOLAND. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on the bill making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1982, and for other purposes.

Mr. GREEN reserved all points of order on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

CLARIFICATION ON BROYHILL AMENDMENT TO RECONCILIATION BILL

(Mr. OTTINGER asked and was given permission to address the House for 1 minute.)

Mr. OTTINGER. Mr. Speaker, I take this time to try to inquire from the minority as to the situation with respect to the Broyhill amendment.

We do not understand whether the Broyhill amendment is already in the Latta package or not. We do not understand to what the Broyhill amendment is an amendment. We do not understand whether it is all an academic exercise, if we are choosing between one Broyhill amendment and another Broyhill amendment. And we do not know whether in fact there will be a choice between the Dingell submission and the Broyhill amendment.

I wonder if the gentleman from North Carolina (Mr. BROYHILL), who I see is in the Chamber, could enlighten us as to what that situation is?

Mr. BROYHILL. Mr. Speaker, will the gentleman yield?

Mr. OTTINGER. I am glad to yield to the gentleman from North Carolina.

Mr. BROYHILL. Mr. Speaker, except for technical amendments, the Broyhill amendment is the same as in the committtee print which the gentleman has had in his possession.

Mr. OTTINGER. Mr. Speaker, my question is: Does the gentleman's amendment amend the Latta group of amendments, or does it amend the Dingell submission as contained in the Jones bill?

Mr. BROYHILL. The bill we have before us came from the Budget Committee, and my amendment would be to the bill that came to us from the Budget Committee.

Mr. OTTINGER. Mr. Speaker, do I understand there will be a choice, then between the Budget Committee version and the Broyhill substitute?

Mr. BROYHILL. Yes, just as there will be a choice between the amendments that will be offered by the gentleman from Ohio (Mr. LATTA) and that which is in the Jones bill.

Mr. OTTINGER. Mr. Speaker, I thank the gentleman.

OMNIBUS BUDGET RECONCILIATION ACT OF 1981

Mr. JONES of Oklahoma. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3982) to provide for reconciliation pursuant to section 301 of the first concurrent resolution on the budget for the fiscal year 1982.

GENERAL LEAVE

Pending that motion, Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 3982, and to include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oklahoma (Mr. JONES).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3982, with Mr. BOLAND in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Oklahoma (Mr. JONES) will be recognized for 4 hours, and the gentleman from Ohio (Mr. LATTA) will be recognized for 4 hours.

The Chair now recognizes the gentleman from Oklahoma (Mr. JONES).

Mr. JONES of Oklahoma. Mr. Chairman, I yield myself 2 minutes, and I reserve the balance of my time to close debate.

Mr. Chairman, I would only point out now that this is perhaps the most bizarre way to legislate that I have experienced in the previous 8 years that I have served in Congress, and in the preceding 10 years I spent observing and working in the legislative process. What we have done is to adopt a rule that makes in order something that we have not seen, something that will be voted on en bloc, something that waives all points of order, and something that waives points of germaneness. I just hope that during this general debate we will have the opportunity of knowing what is going to be in the Latta substitute that we will vote on tomorrow.

I would point out that the committees that were asked to cut spending by $35.1 billion in outlays next year not only met that instruction but exceeded that instruction. The total spending cuts of $37.6 billion from existing law in existing programs were actually made by the 15 committees which were asked or instructed to meet these reconciliation targets.

What we have before us, I think, is a process that could lead to the unraveling of the budget process itself. I think we ought to honor the good work of the various committees, I think we ought to support them, and as the general debate unfolds, I think we will get a clear idea of what they have actually done and what may be done to the American people by the substitute that will be voted on tomorrow.

Mr. JONES of North Carolina. Mr. Chairman, will the gentleman yield for a question?

Mr. JONES of Oklahoma. I am happy to yield to the gentleman from North Carolina.

Mr. JONES of North Carolina. Mr. Chairman, under the terms of the legislation which has been defeated and substituted for, are we providing an opportunity for committee chairmen to explain the reconsiderations and the cuts they have made? Will that be necessary at this point in time, and will the gentleman explain what is in the Latta substitute?

Mr. JONES of Oklahoma. Mr. Chairman, I will be yielding to each of the committee chairmen to explain what is in the legislation, and I intend to do that right now.

Mr. JONES of North Carolina. At this point in time?

Mr. JONES of Oklahoma. That is correct.

Mr. Chairman, let me inquire of the gentleman from Ohio (Mr. REGULA), does the minority wish to take some of its time allotted to the Budget Committee at this time, or does the gentleman want to reserve his time?

Mr REGULA. No; we will reserve our time at this time.

Mr. JONES of Oklahoma. In that case, Mr. Chairman, I yield 15 minutes to the distinguished chairman of the Committee on Agriculture, the gentleman from Texas (Mr. DE LA GARZA).

Mr. DE LA GARZA. Mr. Chairman, I rise in support of the omnibus budget reconciliation bill. I wish to comment specifically on title I which includes those items for which the House Committee on Agriculture, which I have the privilege of chairing, has responsibility.

The House Committee on Agriculture has reported legislation which contains a balanced package of reconciliation provisions. It is difficult to make cuts in programs of the magnitude demanded by the reconciliation provisions of the first concurrent budget resolution. However, the Committee on Agriculture faced its responsibilities and acted with two goals in mind—to spread the burden of the cuts in a fair manner, and to preserve essential services in programs for which this committee has jurisdiction.

The committee was required to reduce authorizations for appropriations by $1.976 billion in budget authority and $1.828 billion in outlays for fiscal year 1982, with the savings increasing progressively for fiscal years 1983 and 1984. In the case of direct spending programs, it was required to reduce budget authority by $232 million and outlays by $693 million for fiscal year 1982, with increased amounts for the 2 succeeding years.

The committee achieved the reductions in authorizations for appropriations in large part by imposing spending caps on the food stamp program. These are realistic spending caps. The savings would be achieved under the food stamp program by a series of amendments to the Food Stamp Act of 1977 contained in H.R. 3603, which was reported to the House by the Committee on Agriculture on May 19, 1981, and by certain administrative changes which are to be implemented by the Department of Agriculture. These approach in total the savings for fiscal year 1982 effected by this bill, and make very significant savings for the outyears as well.

Further savings came from similar spending caps on other programs of the Department of Agriculture—and on the salaries and expenses relating to those other programs—except for agricultural research, extensions, and teaching, and foreign market development.

The committee achieved required reductions in direct spending by a variety of legislative changes. It reduced the support level for milk from 80 percent of parity to 75 percent of parity with no semiannual adjustment for fiscal year 1982. It also provided for elimination of the mandatory first-year interest waiver for 1980- and 1981-crop grain which producers deposit in the future in the long-term producer reserve. Additionally, it provided for imposition of user fees for inspection programs for cotton, tobacco, and grain, and for services under the U.S. Warehouse Act; it limited the amount of rural development-type loans that may be made by the Farmers Home Administration in fiscal year 1982, and increased the interest rate on such loans. Finally, it provided for reduction of the administrative expenses that may be paid from the funds of the Commodity Credit Corporation.

The committee reviewed the proposals for legislative changes transmitted to us by the Budget Committee reflecting the recommendations of the administration earlier this year. We accepted many of them. For example, the committee accepted the proposed reductions in the food stamp program, the elimination of the interest waiver on grain to be entered into the farmer-held reserve, the proposal for adoption of user fees for the inspection programs, and certain of the recommended changes in the rural development programs of the Farmers Home Administration. However, it did not agree with several other recommendations and, instead, adopted a package of legislation which it believes spreads the burden of required reductions more equitably.

For example, the committee did not accept the recommendations for substantial cuts for authorization programs such as the Public Law 480 program, the agricultural conservation programs, and the programs for water and waste disposal grants. In the direct spending category, it did not agree with recommendations for phasing out the farm storage facility loan program and for sharp reductions in the farmer loan programs of the Farmers Home Administration, such as its real estate, operating and emergency loan programs.

The committee is of the view that the food-for-peace program provided

for in the Public Law 480 legislation is a very important foreign policy and market development tool which should not be shortchanged. It also believes that agricultural conservation is a matter deserving of prime attention in order to preserve our fertile farmlands so that American agriculture can continue to meet food and fiber demands here and abroad. Further, it is convinced that the integrity of the farmer credit programs of the Farmers Home Administration must be maintained. Adequate credit is the keystone to the success of a farmer's operation. At times when interest rates are high and farmers are unable to obtain credit through their usual channels, there is danger that a farming operation may fail. Also, a farm storage facility loan program is important in order to enable a farmer to hold grain so that he can control the time of its disposition and obtain as high a return as possible. Adequate storage capacity further enables the producer to participate in the farmer-held reserve program, benefiting not only the farmer but also the economy as a whole.

Instead of making these proposed legislative changes, the committee provided, in the case of authorizations for appropriations, an across-the-board cut of about 9 percent in budget authority for fiscal year 1982 and comparable cuts for the outyears for most of the programs of the Department of Agriculture. This was done so that the burden of spending reductions could be shared in a fair and equitable manner by all, instead of being targeted to a few. In the case of direct spending programs, the committee achieved a sizable reduction in spending by providing for a reduction in the support level for milk from 80 percent of parity to a level of 75 percent of parity.

I urge the Members to join me in support of this balanced and fair measure.

Mr. Chairman, let me at the outset tell the members of this Committee that the Committee on Agriculture, after the first budget resolution was approved, took the mandate seriously, and we went back to work to implement the cuts mandated under the budget. Then on the reconciliation we went back and we made the cuts as mandated by the Budget Committee for the reconciliation.

I feel somewhat personally aggrieved and incensed at the fact that after we had made what we thought were responsible cuts, after we had made cuts above and beyond what we thought the people of the United States in the agricultural sector could withstand, one area of all those segments of agriculture was taken out of context because it probably is one of the most controversial programs that we have, and that is the food stamp program.

The Committee on Agriculture nonetheless did a responsible job, as we have been doing through the years. We have had continuous oversight to see that, in any area where we feel there is the possibility of fraud and abuse, we try to legislate or we try by regulation, working with the administration, to attempt to curtail further abuses in that program.

□ 1530

I am aggrieved and incensed, because after having done this, very responsible people, Members of this House and of the administration, still incorrectly or if not incorrectly, then maliciously have maligned our committee, asserting that we have not made responsible legislative cuts in the food stamp program. This got spread out throughout the land and the media picked it up, notwithstanding what we said.

The members of our committee, both Democrats and Republicans, without any attempt at all at partisan endeavor have done their work. I think I speak for all the members of our committee, Democrats and Republicans, that it was unjust and unfair for responsible Members of this House, some in very high positions and for responsible members of the administration, as late as yesterday morning to state that we had not legislated meaningful cuts in the food stamp program. That is not so. Those that have made those statements have been misinformed. They have been misled and they have been given wrong information, or if they had the correct information, they were not stating the facts as they were.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield briefly to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I am just trying to analyze in my mind the strategy for the future for the farm bill. With the removal of the food stamp legislation from the farm bill and putting it in reconciliation so when we get to the farm bill, undoubtedly we will not work on the food stamps anymore; is that the gentleman's understanding?

Mr. DE LA GARZA. The gentleman from Texas could not give the gentleman from Missouri a certain answer on that.

Mr. VOLKMER. But that is a possibility?

Mr. DE LA GARZA. The fact is that I do not know. There is a possibility we may deal in both ends. There is a possibility that—I do not know what will come out of this committee in the final version. I do not know what will come out of conference. We do not know where we are or where we will be, as has been the case throughout this Gramm-Latta process.

As of now, at 3:32 p.m. this afternoon, we still do not know for a certainty what is in Gramm and what is in Latta and what we are expected to do.

Mr. FITHIAN. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Indiana.

Mr. FITHIAN. I thank the chairman for yielding.

I am concerned that though the chairman is going to make some very erstwhile efforts to tell us what is in the agricultural section of the bill, it is really not that bill we are going to be voting on. We are going to be voting on the Latta bill.

I wonder if at some point the gentleman from Virginia (Mr. WAMPLER), the ranking member of our committee, or the gentleman from Ohio (Mr. REGULA) from the Budget Committee or the gentleman from Ohio (Mr. LATTA) himself might tell us what it is we are going to vote on in agriculture.

Mr. DE LA GARZA. I think the gentleman from Missouri (Mr. COLEMAN) is going to handle that end. I would expect that he will advise the Members of what is in the substitute.

I will mention briefly my end of it. I do not think that I would impose on the House, except to say that we met the figures imposed on us. We cut in the reconciliation process for 1982 in outlays, $2,596,000,000.

In 1983, it is $3,552,000,000.

In 1984, it is $4,382,000,000.

Mr. ANTHONY. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Arkansas.

Mr. ANTHONY. I thank my chairman for yielding.

I have been making this point for many days, not only in our conservative forum caucus, but also at the White House earlier this week. If I understand what the gentleman has said correctly, the gentleman took Gramm-Latta I instructions and the gentleman's subcommittee and the full committee fulfilled those requirements.

Mr. DE LA GARZA. The gentleman is correct, and we went beyond.

Mr. ANTHONY. And the gentleman went beyond what you were required to do.

Mr. DE LA GARZA. We certainly did.

Mr. ANTHONY. But the gentleman's committee under the direction of the gentleman has fulfilled its responsibility?

Mr. DE LA GARZA. We fulfilled it to the *n*th degree.

Mr. ANTHONY. Is the gentleman saying then that the only difference of opinion or the main difference of opinion here then is the fact that we did not put it in the reconciliation bill, but we merely kept it tied to the farm bill where it has been tied to all these years?

Mr. DE LA GARZA. Well, with the exception of three items, that is correct.

We were accused of not having legislated meaningful reform. We did.

Mr. ANTHONY. They did, and so when that statement was made even by the President of the United States and articulated by the gentleman from Texas (Mr. GRAMM) and Mr. Stockman that, in fact, is not true.

Mr. DE LA GARZA. The gentleman is correct.

Mr. COLEMAN. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield briefly to the gentleman from Missouri.

Mr. COLEMAN. Since my name was mentioned a while ago, I just would like to clarify what I see as the situation. The situation is that we are on general debate on the agricultural aspect and the chairman can address any questions and any comments regarding what is in there because he is the chairman of the committee that passed that out. That is what we are talking about; but in addition to that, we are talking about an amendment which will be entertained later in the Gramm-Latta II amendments which I can address; but everything else in the farm section I am sure our chairman is quite capable of addressing and those of us on the committee are.

Mr. DE LA GARZA. The gentleman will have his own time to explain the amendment.

Mr. COLEMAN. I just wanted to explain that there is nothing new in here, except what I would explain if anybody wanted to ask me about food stamps.

Mr. DE LA GARZA. The gentleman is correct.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield briefly to the gentleman from Kansas.

Mr. GLICKMAN. First of all, one thing I noticed that is in the Gramm-Latta II that is not in the agriculture bill is making the Puerto Rican food stamp program into a block grant; is that correct?

Mr. DE LA GARZA. That is in the substitute, that is correct.

Mr. GLICKMAN. As I recall, during the administration's deliberation of the farm bill, they did not want to at this time turn it into a block grant program. That is the fundamental difference, probably the fundamental difference in the proposal.

Mr. DE LA GARZA. One of the three changes in the food stamp program, the gentleman is correct.

Mr. ANTHONY. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Arkansas.

Mr. ANTHONY. I thank the gentleman for yielding.

Would my colleague on the other side please respond to a question?

The document that I have in front of me is entitled "Committee Print, June 25, 1981," with title I being "House Committee on Agriculture."

It goes from page 1 through page 10, lines 1 and 2.

The question that I would propose to the gentleman, the exact language that is in this committee print, will that be the exact language that will be offered by the gentleman from Ohio (Mr. LATTA) as a package tomorrow?

Mr. COLEMAN. It is my understanding that that is not necessarily so. There are very few, but there are some pieces of language being changed. That is what was told to me by the people who were making that distinction. I would hope that they would have it printed up so we could see it.

Mr. DE LA GARZA. Will the gentleman allow me to reclaim my time at this point?

We do not know what the final version of Gramm-Latta II is going to be. We do not know what amendments are going to be offered in the block grant that we will not be able to separate and for which we will not be able to offer any amendments and for which we will only have to vote yes or no. That is a fact. That is the situation as of this time.

The gentleman from Texas cannot tell you what is going to be the final amendment offered by the Gramm-Latta II. I doubt that the gentleman from Texas (Mr. GRAMM) or the gentleman from Ohio (Mr. LATTA) know.

Mr. FITHIAN. Will the chairman yield?

Mr. DE LA GARZA. I would be happy to yield.

Mr. FITHIAN. I just must make this observation, Mr. Chairman. We worked pretty hard on the Agriculture Committee to fashion this. I just find it incredible that the ranking member of the Agriculture Committee, that the gentleman from Missouri (Mr. Coleman) and other members of this committee having worked on this would now rise in the Chamber of this House and tell us that they do not know what is going to be in Gramm-Latta, because that is what we are going to be voting on and this is the 15 minutes in which we are going to be instructed. Am I correct?

Mr. DE LA GARZA. The gentleman is correct.

Mr. FITHIAN. The chairman does not know what is going to be in it.

Mr. DE LA GARZA. The gentleman is correct, not for any ignorance on the part of the gentleman from Texas, let me state, but for lack of availability from the proposed sponsors.

Mr. FITHIAN. Will the chairman yield further?

Mr. DE LA GARZA. I yield.

Mr. FITHIAN. If I understood the statement of the gentleman from Missouri, he voted along with that side on something nobody knows about, because presumably the gentleman from Ohio (Mr. LATTA) is now out fashioning a new agriculture bill, a new farm bill; is that correct?

Mr. DE LA GARZA. Well, I do not know that the gentleman from Ohio (Mr. LATTA) involved himself too much in that. I understand that all the negotiations have been between the gentleman from Texas (Mr. GRAMM) and Mr. STOCKMAN; but again, I speak for our Agriculture Committee. We worked, if you will pardon the vernacular, we ground our guts out trying to see where we were going to cut. We deliberated and we worked with the minority. We worked together. We came out with a package. This is the package.

I resent the fact that the Committee on Agriculture of the House of Representatives and their members, their power and their jurisdiction have been usurped by a Member of this House and some unelected member of the administration and in some corner or some dark alley or hallway or heaven knows where they meet, they wrote and maybe are still writing what is going to be our package for agriculture. As your chairman, I think I speak in your behalf. I resent and I challenge the right of anyone to do that.

□ 1540

That is why I get upset over this.

Mr. ANTHONY. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Arkansas (Mr. ANTHONY).

Mr. ANTHONY. Mr. Chairman, I would like to associate myself with the words of my chairman, who I know diligently tried to make his members work extra hard. I know we met our target. We did exactly what was asked of us.

Now, at the last minute, we are being asked to do something else because it did not suit the opinion of some other party. When you cannot give us the amendments in writing tonight to go home and study and to be able to debate on the House floor tomorrow, I think you have voted for and fashioned a very unfair rule.

Mr. DE LA GARZA. In the package that will be offered and explained by my colleague from Missouri (Mr. COLEMAN), there is a proposition for a block grant to Puerto Rico. I must advise the Members that as this administration is trying to formulate a foreign policy, this administration is speaking of a Caribbean program for the Caribbean, and to single out the people of Puerto Rico for different treatment as American citizens, different from any other State, I think it is an affront to Puerto Rico. I know that it saves money but, as one American citizen, I resent that another American citizen will be treated differently than the rest of us for the sake of a few dollars.

You do not sell citizenship for a few dollars.

There ought to be someplace, somewhere, that we can find a savings without treating our brethren in Puerto Rico different than the rest of all of the other American citizens.

Mr. CORRADA. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the Commissioner from Puerto Rico (Mr. CORRADA).

Mr. CORRADA. Mr. Chairman, I would like to associate myself with the statements just made by the chairman of the Agriculture Committee and state that it is inconceivable that the Republicans may be considering offering a provision to block grant food stamps in Puerto Rico when this matter has not been adequately and appropriately discussed through public hearings, allowing all people concerned to analyze it and discuss it thoroughly. I believe that Puerto Rico should not be block granted when we have to serve in the wars to defend American democracy, which we proudly do. I resent very much that there is talk that this block grant will be offered, and I certainly oppose it.

Mr. REGULA. Mr. Chairman, I yield as much time as he may consume to the gentleman from Virginia (Mr. WAMPLER), the ranking minority member of the Agriculture Committee.

Mr. WAMPLER. Mr. Chairman, I thank the gentleman for yielding.

Let me say at the outset that the distinguished chairman of the Committee on Agriculture (Mr. DE LA GARZA) indeed has worked diligently. I think, in fact, the entire committee worked diligently to try to meet the instructions that were given to us as a result of the House having adopted the first concurrent budget resolution, or what has commonly come to be known as the Gramm-Latta substitute.

I do have here a copy, which was just handed to me, of what I understand will be part of Gramm-Latta II which will be made in order for consideration tomorrow, as I understand it. I also have a section-by-section analysis of the food stamp portion of the Gramm-Latta amendment.

Mr. COLEMAN. Mr. Chairman, will the gentleman yield?

Mr. WAMPLER. I yield at this point to the gentleman from Missouri (Mr. COLEMAN).

Mr. COLEMAN. Mr. Chairman, I have a definitive answer to all of the questions and that is that I misspoke awhile ago. I now have direct information from the people that put this together that the committee print dated June 25 dealing with the function of agriculture is word for word as it appears in the Gramm-Latta amendment. There are no changes in this section from the committee print, printed and distributed several days ago by the Rules Committee. This is it. There is nothing changed, unless it is a typographical error.

Mr. WAMPLER. I thank the gentleman for his contribution.

As I was about to say, I have here before me an analysis of the food stamp section of the Gramm-Latta amendment and I will be happy to make it available to anyone who has an interest in it.

Let me say, Mr. Chairman, I think we find ourselves in a somewhat unusual dilemma today. Certainly this issue has been well debated on the question of the rule for the reconciliation bill. But may I suggest to my friend from the majority, had we had a rule reported by the Rules Committee that was more fair perhaps we would not find ourselves in this rather awkward and unusual situation today.

It is my understanding that the section or title of the Gramm-Latta amendment that will be before us tomorrow will make some changes in the food stamp program. They are somewhat along the lines of those that were proposed by the minority members of the House Committee on Agriculture in amendments which were offered and which were voted down in the full committee. So that will be offered tomorrow. If there is any question about what is in it, or any explanation, as the ranking minority member I will do my best to try to clarify it.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. WAMPLER. I yield to the gentleman from Missouri.

Mr. VOLKMER. During the deliberations on the food stamp part of the farm bill there was discussion as to whether or not we would have a block grant proposal for Puerto Rico.

Mr. WAMPLER. Indeed.

Mr. VOLKMER. And it was my understanding of the administration's position at that time that they wanted hearings and wanted to develop a block grant proposal, but that it was not appropriate at that time for the food stamp bill; is that correct?

Mr. WAMPLER. I say to the gentleman from Missouri it is my understanding that the administration has not yet sent such proposed legislation to our committee or, in fact, to the Congress that would constitute a block grant proposal. However, the Senate version of reconciliation has a block-grant proposal for Puerto Rico.

Mr. VOLKMER. But I find it right in here, a block grant proposal.

Mr. COLEMAN. Mr. Chairman, will the gentleman yield?

Mr. WAMPLER. I yield to my colleague from Missouri (Mr. COLEMAN).

Mr. COLEMAN. What I hear now is perhaps the gentleman from Missouri (Mr. VOLKMER), my colleague, objecting to this because the administration has not proposed it. We heard from the Speaker awhile ago that everything in here was demanded by the administration.

I think this points up exactly what has happened. These are Republican legislative alternatives, not dictated by the White House or anybody else. I will tell my colleagues who put this together. I put it together and I did not ask David Stockman, I did not ask anybody at the White House if they liked it or not. I have not gotten a direct comment from them on the Puerto Rican block grant.

I do know that it was in one of their original proposals, but I think the record ought to be set straight right here that there is no dictation by the White House, there is no dictation by OMB. These are legislative responses and proposals. The reason we have to make a block grant for Puerto Rico is that after my committee got through with reconciliation they were short $2 billion in 1984, $2 billion short under Gramm-Latta I.

So what could we do? We had to go through and make those real tough decisions and the tough decisions I will spell out at the appropriate time. They are right here in the committee print. My colleagues can read them.

But one of them, the most difficult one for me, was the block grant to Puerto Rico. I think it is very important we recognize what we are doing here. No one is dictating to us. These are tough choices, but they are choices that have to be made in order to insure that we come up to Gramm-Latta and save the $2 billion that my committee was short.

Regardless of how we mix it, these are CBO figures; they are not cooked figures, they are not OMB figures. These are CBO figures. We are $2 billion short.

That is why I am so delighted to have the opportunity to offer these amendments for a full vote on the floor of the House of Representatives.

Mr. FITHIAN. Mr. Chairman, will the gentleman yield?

Mr. WAMPLER. I yield to the gentleman from Indiana (Mr. FITHIAN).

□ 1550

Mr. FITHIAN. If I may inquire of the gentleman from Missouri, does this preclude, then, the entire hearings? I was somewhat inclined, as I think Congressman DE LA GARZA was, to do something about the Puerto Rican situation. I was persuaded in the committee by some of the members on both sides and by the administration that we ought not to do this prior to having hearings and inquiring into this. I am reasonably sure this has not been done.

Does this mean, then, that without those hearings and without any further proceedings in the committee we are going to go directly bypassing the

committee and bypassing the hearings to what the gentleman from Missouri believes is best for the country?

Mr. COLEMAN. Will the gentleman yield?

Mr. WAMPLER. I yield to the gentleman from Missouri.

Mr. COLEMAN. I thank the gentleman for yielding. We certainly had hearings on this. The gentleman well knows we had the Governor of Puerto Rico before my subcommittee. We had my fine colleague and friend, the Delegate from Puerto Rico (Mr. CORRADA) before it. We had other testimony before the subcommittee. There was nobody shortchanged in the hearing process. This is all on the record. I would suggest to my friend, go read the record, and I will discuss these tomorrow when we bring up the amendment. Nobody short circuited anything. The entire process of budget reconciliation has got to make some of these changes.

The letter coming out from the task force, from the gentleman from California (Mr. PANETTA), has demanded and requested of all of us to make these changes. Some of them are newer initiatives than others. That does not mean that we cannot explore these, adopt them and make the changes.

Furthermore, if the gentleman from Virginia (Mr. WAMPLER) will continue to yield to me, the block grant for Puerto Rico will not go into effect until fiscal 1983, to give sufficient time to the people of Puerto Rico to set up their administration and make these adjustments and changes.

I might point out it is less onerous than the Senate language which will decrease their food stamps immediately within 6 months of the enactment of this bill. So my language is much more liberal, if you want to talk about that, for the people of Puerto Rico than what the Senate language already adopted is.

Mr. FITHIAN. Will the gentleman from Virginia yield for a question?

Mr. WAMPLER. I yield to the gentleman from Indiana.

Mr. FITHIAN. I thank the gentleman for yielding. I would just like to ask this question.

I believe I was there every minute in the committee when we were deliberating the food stamp section. I would like to ask the gentleman from Missouri (Mr. COLEMAN) if my memory fails me. I do not recall the gentleman from Missouri offering a block grant amendment to the food stamp program. Was that offered in the committee?

Mr. COLEMAN. If the gentleman from Virginia will yield, I believe the gentleman's recollection is correct. The gentleman from Missouri offered many amendments adopted by the committee in order to accomplish the savings that the committee did enact. The response to that question is, no, it was not.

The other two sections of the amendment, if the gentleman would yield further, dealing with food stamps, if you want to talk about those, they were discussed in committee, were voted upon in committee. One lost. The benefit reduction rate lost by a tie vote. And the other one we talked about at length when we discussed the food plan. We are simply building upon what the committee has already done.

There was much discussion about Puerto Rico. We were hopeful we would not have to address this issue. We all wanted to let it go. But the fiscal responsibility, clear within the framework of Gramm-Latta, was to make deeper cuts. This is coming to the Gramm-Latta level.

Mr. CORRADA. Mr. Chairman, will the gentleman yield?

Mr. WAMPLER. I yield to the gentleman from Puerto Rico.

Mr. CORRADA. I thank the gentleman for yielding.

I would like to state for the record that the Governor of Puerto Rico and I did testify in the general hearings that were held by the Committee on Agriculture with reference to the reauthorization of the food stamp bill, but at that time the only thing that we were dealing with was a concept about a block grant that the administration announced they would subsequently send to the committee. There was no specific proposal on the block grant when we testified. There is no specific proposal on the block grant now or ever sent by the administration.

I say we are legislating here in a void if we approve that amendment. Furthermore, let me point out it is ill-advised and ill-conceived because you will see a massive migration of thousands of Puerto Ricans coming to New York, to Illinois, and to the 50 States if you provide this kind of block grant. We would rather take care of them there.

But this is the kind of thing public hearings would allow you to look into so that you would not provide something that is unfair to a community of 3.2 million Americans.

Mr. COLEMAN. Mr. Chairman, will the gentleman yield?

Mr. WAMPLER. I yield to the gentleman from Missouri.

Mr. COLEMAN. I would like to ask the Delegate from Puerto Rico a question. Would he say that my amendment on Puerto Rico, the block grant, is a better amendment for Puerto Rico than the language that the other body put in?

Mr. CORRADA. If the gentleman from Virginia would yield, both of them are utterly unfair in proposing a block grant for Puerto Rico at a time when these proposals are not being made for the 50 States. We are being singled out and discriminated against.

Mr. COLEMAN. Does the gentleman agree with me, and have we not talked about this, that the Senate language is more restrictive and more unfair to the people of Puerto Rico, yes or no? Have we not talked about this?

Mr. CORRADA. The language in the other body is more restrictive, but that does not make this language fair or just.

Mr. COLEMAN. I agree.

Mr. BEDELL. Mr. Chairman, will the gentleman yield?

Mr. WAMPLER. I yield to the gentleman from Iowa.

Mr. BEDELL. I thank the gentleman for yielding.

Will the gentleman from Missouri tell us what it is that has changed since we had our deliberations in our committee?

Mr. COLEMAN. If the gentleman from Virginia (Mr. WAMPLER) would yield, the change is that we did not reach reconciliation.

Mr. BEDELL. The change is what?

Mr. COLEMAN. The change is the committee did not perform its function under the guidelines set up by the Gramm-Latta reconciliation package.

Mr. BEDELL. The gentleman was part of the committee. The gentleman was there for those deliberations. The problem some of us have is it is so difficult for us to understand how it could be that we could discuss these matters in the committee—of course, the gentleman knows I was one of those trying to cut back some on what was done in Puerto Rico—but at least we had the discussion; we had the votes. The votes went the other way.

Now it appears to me that the gentleman with nothing changed is coming to the floor with a significant change as a part of a whole package that we will have no opportunity to debate, no opportunity to discuss, and we will vote up or down on a whole package.

Mr. COLEMAN. Mr. Chairman, will the gentleman yield?

Mr. WAMPLER. I yield to the gentleman from Missouri.

Mr. COLEMAN. I think the gentleman from Iowa (Mr. BEDELL) made some good points, and I want to respond to them. Why should the 43 people on the Committee on Agriculture preclude 430 people from discussing this issue? Just because the Agriculture Committee did not do anything on this does not mean that America has to suffer.

Mr. BEDELL. Will the gentleman yield?

Mr. WAMPLER. I yield to the gentleman.

Mr. BEDELL. The argument is not whether anybody should be able to vote. The argument is should there be that opportunity? But the fact is that

we do not have a chance to vote on the gentleman's proposal. We have a chance to vote on a whole package which the gentleman has put in the package, where we have to vote up or down on the whole package.

Mr. COLEMAN. Will the gentleman yield?

Mr. WAMPLER. I yield to the gentleman.

Mr. COLEMAN. That is exactly the point. That is exactly what all of these committees have given, all of us, one vote on the billions of dollars out there that we were going to have a yes or no vote on originally through the Budget Committee.

What kind of input to the defense posture did the gentleman make? What part did he play in it or in the other committee recommendations and suggestions? None. We have the same input on this.

Mr. BEDELL. If the gentleman will yield, at least I had a vote on the agriculture amount. This way I did not have a chance to vote on anything.

Mr. WAMPLER. Mr. Chairman, may I reclaim my time and inquire of the Chair how much time have I consumed?

The CHAIRMAN. The gentleman has consumed 14 minutes.

Mr. WAMPLER. I think that is a reasonable time to discuss the Gramm-Latta amendment, which has not yet been offered.

I regret we are in that posture, but the gentleman from Virginia did not fashion the rule reported by the Rules Committee under which this is being considered. Again I want to point out that had we had a more reasonable rule from the Rules Committee under which to consider this rather extraordinary procedure of reconciliation, perhaps we all would be better informed.

Let me say to my colleague from Puerto Rico that I know of his genuine concern, and the gentleman from Virginia shares that. I would like to say for the record it is my understanding that President Reagan has appointed a high-level task force that is looking at many of the unique problems affecting the Commonwealth of Puerto Rico. This is one important part of it—the food stamp program. Whether we should go to a block grant approach or some other mechanism, I think we all must be concerned with the cost of the food stamp program. I can say without any hesitation this program is out of control as far as fiscal discipline is concerned. I have been a supporter of the food stamp program, but I think we have to look at it in the context of what the President has proposed as a part of his economic recovery program.

We are going to have to find ways to take the fraud and abuse and mismanagement out of the food stamp program because we simply cannot permit it to continue to grow at the rate in the future that it has in the past. So this is one of the things we are trying to consider. There is certainly no desire on my part to be unfair to the people of Puerto Rico or any State of the Union. The block grant provision in the Gramm-Latta amendment does not take effect until October 1, 1982.

□ 1600

Mr. CORRADA. Mr. Chairman, will the gentleman yield?

Mr. WAMPLER. I yield to the gentleman from Puerto Rico.

Mr. CORRADA. I have no question nor challenge as to the motivations and the good intentions of the gentleman from Virginia (Mr. WAMPLER). I am afraid that I cannot say the same thing with reference to the proposals originally made by OMB with reference to this provision I believe that it would be much better if this problem was addressed by the task force appointed by President Reagan to look into problems pertaining to the Puerto Rican economy rather than improvising this kind of amendment within the context of the budget reconciliation bill.

I think this is not the right way to do it, but, of course, I know that the gentleman from Virginia (Mr. WAMPLER) has tried to be fair, as well as the gentleman from Missouri (Mr. COLEMAN), and I do not question their motivation or their sensitivity; but I know what they are doing.

What this amendment will do will be to create severe hardship in our island and ultimately will even reflect adversely on the foreign policy that President Reagan wants to establish in the Caribbean Basin. If even the Puerto Ricans as American citizens in the Caribbean are perceived to be unfairly treated by the Reagan administration, how can the rest of Central America and the Caribbean believe they are going to be treated under this administration?

Mr. WAMPLER. The gentleman raises some very legitimate concerns, and I appreciate his contribution.

Mr. FITHIAN. Mr. Chairman, will the gentleman yield?

Mr. WAMPLER. I yield, finally, to the gentleman from Indiana.

Mr. FITHIAN. Mr. Chairman, I have one comment and one quick question of the gentleman from Virginia (Mr. WAMPLER).

I think we have to accept the fact, as I understand this rule, that, although this is an altogether new approach that has not been voted on, not even put up for a vote in the committee, that Mr. Stockman and Mr. COLEMAN, or some combination thereof, have fashioned a new bill, and we are going to accept that because we cannot really get at it to vote on it.

Let me ask the gentleman one other question: What is the gentleman going to do; what is the gentleman personally, individually, going to do? Obviously, this is an individual bill, this is not a House of Representatives bill. I would like to ask the gentleman from Missouri what he has unilaterally decided to do with the cap.

Mr. WAMPLER. Mr. Chairman, I would be happy to yield to the gentleman from Missouri (Mr. COLEMAN) for that answer, if he chooses to answer.

Mr. COLEMAN. The gentleman, first of all, I think, casts a question about whether we even discussed this before in committee.

As I indicated before, we have had hearings on it; the Governor of Puerto Rico was there.

Mr. FITHIAN. Well, we have been over that ground.

Mr. COLEMAN. Does the gentleman want me to answer this question?

Mr. FITHIAN. If the gentleman would.

Mr. COLEMAN. I thank the gentleman.

Mr. Chairman, it is not any Stockman-Coleman fashioned bill. I was very clear, very forthright, and frank that, when I came down to the bottom line, trying to find $300 million that the committee had not yet saved, the only thing that I felt that we could do at this point in time was to go to a block grant for Puerto Rico.

Mr. FITHIAN. But it was the gentleman, personally, individually, alone, by himself, who did this; is that right?

Mr. COLEMAN. No. This was raised in committee, and the gentleman's colleague from Iowa offered amendments, as the gentleman knows, to start looking at Puerto Rico in a different light, and eventually go to a block grant.

Mr. FITHIAN. There was no block grant amendment offered in the committee. The gentleman knows that and I know that.

Mr. COLEMAN. But the gentleman from Iowa started down that road, and we discussed it at some length. We discussed possible changes because Puerto Rico has to be looked at differently.

The facts of the matter are that Puerto Rico's economy is different.

Mr. FITHIAN. My question was on the cap.

Mr. COLEMAN. This is something we have to address. If we could not address it in committee, we must face up to this on the floor.

Mr. WAMPLER. Mr. Chairman, I believe we have consumed enough time of the Committee relating to a matter that will not be before the House until tomorrow when the Gramm-Latta amendment will be offered. I yield back the balance of my time.

Mr. BEDELL. Mr. Chairman, will the gentleman yield?

I have been misquoted, I think. Will the gentleman yield for a correction?

The CHAIRMAN. The gentleman from Virginia (Mr. WAMPLER) has consumed 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. SIMON).

Mr. SIMON. Mr. Chairman, I yield 15 minutes to the gentleman from Florida (Mr. BENNETT) for the Armed Services Committee.

Mr. BENNETT. Mr. Chairman, to satisfy the reconciliation instruction to the Committee on Armed Services, we reported legislation to the Budget Committee that would:

First, authorize sales of excess materials from the strategic stockpile, authorize appropriations for the acquisition of strategic and critical materials, and make improvements in stockpile management;

Second, replace the current semi-annual cost-of-living adjustment mechanism for military retired pay with an annual adjustment contingent on a similar change being implemented in the civil service retirement system; and

Third, authorize an open enrollment period for the survivor benefit plan to permit current nonparticipating military retirees to elect survivor protection.

Title II of the reconciliation bill contains these provisions as reported by the Committee on Armed Services.

With regard to the issue of the strategic stockpile, the legislation would authorize the disposal of quantities of 14 materials currently held in the national defense stockpile that have been determined to be excess to national defense needs under the current planning criteria. The Committee on Armed Services believes the disposal of six of these materials is in the national interest.

The authorization for disposal of quantities of other materials, including additional quantities of two of the materials in the first group, was included in order to satisfy the reconciliation instruction of the House.

In addition, the Committee on Armed Services included provisions that would amend the Strategic and Critical Materials Stock Piling Act to improve the operations and management of the national defense stockpile.

Regarding the cost-of-living adjustment for military retirees, currently, military retired pay is adjusted twice a year—in March and September—based on the increase in the Consumer Price Index (CPI) in a preceding 6-month period, June to December, December to June, respectively. Other Federal staff retirement systems, including the civil service retirement system, include a similar provision.

The Committee on Armed Services suggested that another portion of the reconciliation instruction could be satisfied by authorizing a permanent change providing for an annual adjustment of military retired pay if a similar change were to be authorized for the civil service retirement system.

Finally, Mr. Chairman, the Committee on Armed Services suggested authorization of an open enrollment period for the survivor benefit plan.

Because the member electing survivor benefit coverage incurs a reduction in retired pay, savings would result from this provision for a number of years in the future.

Before concluding, Mr. Chairman, I would like to comment on the provision in the reconciliation bill recommended by the Committee on Post Office and Civil Service that would reduce the civilian pay of a military retiree working for the Federal Government by the amount of any military retired pay received. There has been considerable discussion of this provision among members of the Committee on Armed Services, and the general consensus is very negative.

While there may be arguments for and against such a provision, in general, the method of implementation can only be viewed as poor public policy. Military retirees took jobs in good faith offered by the Federal Government at a wage commensurate with their abilities. Financial responsibilities were assumed based on expectations of future earnings from these jobs and other income available. To unilaterally change the contract of employment—which is what the provision does—is an action unprecedented in the history of the Federal Government.

The primary reason for the implementation of this provision without adequate "grandfathering" provisions is one of saving money. But even this goal—as questionable as the method of achieving it is—is extremely unlikely. Faced with a pay reduction of the magnitude required, the vast majority of these dedicated public servants will be forced, faced with existing financial obligations, to depart the Federal Government. They are filling, today, positions valued at their current salary, and they can undoubtedly—although with great personal and familial trauma—secure employment in the non-Federal sector at generally the same salary. When their positions are subsequently filled by nonmilitary retirees, the "savings" will evaporate.

As I indicated earlier, our committee has recommended a change in the method of adjusting military retired pay from twice a year to once a year. We believe that the retired population is willing to accept this change in view of the sacrifices being asked of others in our society.

Mr. Chairman, I urge the Members to support the provisions of title II of the reconciliation bill.

TITLE II—HOUSE COMMITTEE ON ARMED SERVICES—EXECUTIVE SUMMARY

To satisfy the reconciliation instruction to the Committee on Armed Services, that committee reported legislation to the Budget Committee that would:

(1) Authorize sales of excess materials from the strategic stockpile, authorize appropriations for the acquisition of strategic and critical materials, and make improvements in stockpile management;

(2) Replace the current semi-annual cost-of-living adjustment mechanism for military retired pay with an annual adjustment contingent on a similar change being implemented in the civil service retirement system;

(3) Authorize an open enrollment period for the Survivor Benefit Plan to permit current non-participating military retirees to elect survivor protection.

STRATEGIC AND CRITICAL MATERIALS

Authorization of Disposals. The legislation would authorize the disposal of quantities of 14 materials currently held in the National Defense Stockpile that have been determined to be excess to national defense needs under the current planning criteria. The Committee on Armed Services believes the disposal of six of these materials is in the national interest:

(1) 1,000,000 pounds of iodine.

(2) 1,500,000 carats of diamonds, industrial crushing bort.

(3) 710,253 pounds of mercuric oxide.

(4) 50,000 flasks of mercury.

(5) 6,000,000 pounds of mica, muscovite splittings.

(6) 25,000 pounds of mica, phlogopite splittings.

The authorization for disposal of quantities of materials, including additional quantities of the first two materials listed above, is included in order to satisfy the reconciliation instruction of the House:

(1) 105,119,000 troy ounces of silver.

(2) 3,000 short tons of antimony.

(3) 6,000 short tons of asbestos amosite.

(4) 6,000 short tons of asbestos chrysotile.

(5) 3,000,000 carats of diamond stones.

(6) 197,465 carats of diamonds, industrial crushing bort.

(7) 1,213,000 pounds of iodine.

(8) 150,000 pounds of mica muscovite film, first and second qualities.

(9) 150,000 pounds of mica muscovite block, stained and lower.

(10) 1,397 long tons of vegetable tannin extract, wattle.

Authorization of appropriations. The legislation would authorize appropriations in the sum of $2,140,000,000.

Improvements in stockpile management. The Committee on Armed Services included provisions that would amend the Strategic and Critical Materials Stock Piling Act to improve the operations and management of the National Defense Stockpile. The Committee on Armed services expressed particular concern that management of the stockpile be consistent with the purpose set out in the Act: "to serve the interest of the national defense only and is not to be used for economic and budgetary purposes".

To this end, the amendment to the Act would:

(1) Provide that the President submit each year a five-year plan for the operation of the National Defense Stockpile;

(2) Provide that no acquisitions could be made without informing appropriate committees of Congress;

(3) Eliminate the provision in current law that limits the availability of appropriated funds for the purchasing of stockpile materials to five years;

(4) Eliminate the provision in current law that provides that funds remaining in the Stockpile Transaction Fund for three fiscal years would revert to miscellaneous receipts of the Treasury; and

(5) Provide that no sales could be made from the National Defense Stockpile if the sale would result in a balance in the Stockpile Transaction Fund in excess of $1 billion or, in the case of a disposal to be made after September 30, 1983, if the disposal would result in a balance in the fund in excess of $500 million.

COLA ADJUSTMENT FOR MILITARY RETIREES

Currently, military retired pay is adjusted twice a year (in March and September) based on the increase in the Consumer Price Index (CPI) in a preceding six-month period (June to December, December to June, respectively). Other Federal staff retirement systems, including the civil service retirement system, include a similar provision.

A provision authorizing a permanent change providing for an annual adjustment procedure was included in the Defense authorization bill for fiscal year 1981 as it was enacted (Public Law 96-342, section 812). Consequently, there exists today a standing provision in law requiring that military retired pay be adjusted on an annual instead of a semi-annual basis if, at any time in the future, the civil service retirement system is modified to include a similar provision.

The Committee on Armed Services suggested to the Budget Committee that another portion of the reconciliation instruction could be satisfied from this source.

OPEN ENROLLMENT PERIOD FOR SBP

Currently, if a married military member elects, at the time of retirement, not to provide, under the Survivor Benefit Plan for military retirees, a survivor annuity to a spouse, a subsequent election to join the plan can not be made. Members who retired before 1972 (when the plan was enacted) who were married at that time were given a year and a half to elect coverage during an initial "open enrollment" period.

The Committee on Armed Services recommended that a final portion of the reconciliation instruction could be satisfied by authorizing an open enrollment period for retirees who had not previously joined the plan and for those who had joined but who had elected less than the full survivor protection available. This provision would not permit reductions in existing coverage or withdrawal from the plan. Further, under this provision, survivors of retirees electing coverage during the open enrollment period would receive only a return of contributions if death occurs within one year of the election.

Because the member electing survivor benefit coverage incurs a reduction in retired pay, savings would result from this provision for a number of years in the future.

I yield to the gentleman from Alabama (Mr. DICKINSON).

Mr. DICKINSON. I thank the gentleman for yielding.

Mr. Chairman, the Armed Services Committee was directed under reconciliation to save some $966 million of the reduced——

The CHAIRMAN pro tempore (Mr. STUDDS). The Chair will inquire, did the gentleman from Illinois or the gentleman from Ohio yield time to the gentleman from Alabama?

Mr. DICKINSON. The gentleman from Florida yielded to me.

The CHAIRMAN pro tempore. Does the gentleman from Florida wish to retain the floor?

Mr. BENNETT. Yes, I retain the floor, and I yield back as much time as I can to the Agriculture Committee.

The CHAIRMAN pro tempore. The Chair will advise the gentleman that if that is the case, the gentleman must remain standing.

Mr. SIMON. If the gentleman from Illinois may inquire, my understanding was that the gentleman from Florida was going to be yielding some time to the House Agriculture Committee.

Mr. DICKINSON. I was unaware of that. If the gentlemen would prefer to do that now, I will, or I will get my own time and proceed with the 15 minutes on each side.

Mr. SIMON. If I may, I would suggest that the gentlemen get time from the gentleman from Ohio.

Mr. DICKINSON. I will be very pleased. It is not my idea. The gentleman from Florida (Mr. BENNETT) yielded to me.

Mr. BENNETT. Mr. Chairman, at this time I yield the balance of my time to the Agriculture Committee.

Mr. SIMON. How much time is remaining for the gentleman from Florida (Mr. BENNETT) at this point?

The CHAIRMAN pro tempore. The gentleman has returned 12 minutes to the acting chairman of the Budget Committee.

Mr. SIMON. Mr. Chairman, I will yield to the gentleman from Texas (Mr. DE LA GARZA) for 12 minutes, then.

If the gentleman from Texas would yield to the gentleman from Wisconsin for a comment on the armed services, and then take the balance of the 12 minutes.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. DE LA GARZA).

Mr. DE LA GARZA. Mr. Chairman, I yield to the gentleman from Wisconsin (Mr. ASPIN).

Mr. ASPIN. I would like to get into the issue and discuss what the Gramm-Latta substitute is doing about some of these issues in the stockpiles and in the COLA.

So all I am saying is that I hope that we do not yield all of the time that was devoted to armed services to the Agriculture Committee, because I think there are a couple of important issues in the armed services section that I would like to try and find out what the Gramm-Latta substitute does with them.

Mr. DE LA GARZA. Mr. Chairman, I would like to tell the gentleman that I very much appreciate the fact that the gentleman from Florida is obliging us by yielding us some time, and I hope we do not take any more than 5 minutes, and allow the balance of the time for the Armed Services Committee for their discussion.

Mr. Chairman, If I might, then, there are two other items——

The CHAIRMAN pro tempore. The gentleman from Texas (Mr. DE LA GARZA) will suspend so that the Chair can clarify the situation.

The Chair will inquire of the gentleman from Illinois (Mr. SIMON): How much time has the gentleman granted to the gentleman from Texas (Mr. DE LA GARZA)?

Mr. SIMON. My understanding is that the gentleman from Florida (Mr. BENNETT) yielded his time to the gentleman from Texas (Mr. DE LA GARZA).

The CHAIRMAN pro tempore. Under the amended rule, all the time is controlled by the gentleman from Illinois as a member of the Budget Committee.

Mr. SIMON. The gentleman from Texas indicates that 5 minutes is adequate, and the gentleman from Wisconsin would also like to discuss the armed services area.

The CHAIRMAN pro tempore. The Chair is simply trying to make clear that the time is controlled by the gentleman from Illinois.

The Chair understands the gentleman to yield 5 minutes to the gentleman from Texas; is that correct?

Mr. SIMON. I will yield 5 minutes to the gentleman from Texas (Mr. DE LA GARZA).

The CHAIRMAN pro tempore. The gentleman from Texas (Mr. DE LA GARZA) is recognized for 5 minutes.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to my distinguished colleague.

Mr. DELLUMS. I thank the gentleman for yielding.

Mr. Chairman, the District of Columbia has a very minor role in this process, and the gentleman from California is prepared to make a very modest statement in a few moments. I am more than willing to yield the balance of my time to the gentleman from Texas so that the significant issues with respect to the Armed Services Committee can be more intelligently debated, or Agriculture can be more intelligently debated. I would be more than happy to do that if that would serve some useful purpose, Mr. Chairman.

The CHAIRMAN. The Chair will advise the gentleman and the members of the committee that the time is controlled totally by the Committee on the Budget, and the allocation of time is within the discretion of the managers on the part of the Budget Committee.

Mr. SIMON. Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. DE LA GARZA).

The CHAIRMAN pro tempore. The gentleman from Texas (Mr. DE LA GARZA) is once again recognized for 5 minutes.

Mr. DE LA GARZA. I thank the gentleman from Illinois.

Mr. Chairman, there were two items that I did not cover related to the proposal or the so-called substitute that I would like to mention.

As I stated before, and if I was not too clear, let me again state, as far as our reconciliation process, which I feel we responsibly met, this area is not touched or will not be touched, as I understand, by the substitute, except the area related to food stamps; and in the area related to food stamps, only three items have been singled out. The Puerto Rican block grant that we have discussed. There is another item, which is the thrifty food plan, and this is one area that I feel very strongly about because this plan represents the lowest amount of money that is allowed per meal per person under any food plan.

It is something like 44 or 46 cents per meal per person. If the people of the United States can understand what having to prepare a meal for 46 cents would mean—we have an escalator providing for inflation and what the substitute will do, as I understand it, is to extend for 6 more months or for 1½ years time wherein we allow the escalator to provide for inflation.

This means that the amount of money given in food stamps will buy less food for the family that is needy and requires the use of food stamps. This, I think, is something that we should look at because we have already dealt with possible areas of abuse. We have already dealt in reductions. We have already touched every area we could find to tighten up the law or to reduce expenditures.

But this is one that goes to the heart of the program, that you do not allow timely inflation impact on the amount of food that you can buy. This is going to come out of the poor and the working poor.

The other item is the benefit deduction which we have now as 30 percent of household income.

The CHAIRMAN pro tempore (Mr. STUDDS). The time of the gentleman from Texas (Mr. DE LA GARZA) has expired.

Mr. SIMON. Mr. Chairman, I yield 3 additional minutes to the gentleman from Texas (Mr. DE LA GARZA).

Mr. DE LA GARZA. Mr. Chairman, this other item provides there is a deduction in the household allotment representing 30 percent of household imcome. The proposed substitute would increase that to 31.5, and then 32.5 percent. It brings a substantial amount of savings into the picture.

My disagreement with that is the fact that it cuts across, to the poorest, the one who has almost no income at all, the same as the one who has a little bit more income.

So some of the people who are social security recipients, for example, who would get $86 and $96 or $120 a month, as many people in my congressional district do, they will be reduced by that greater amount.

For every dollar of earned income, instead of reducing the allotment by 30 cents, they will reduce it by 31½ cents.

My fault with that is that it cuts across the board to the very poorest of the poor, the same as to those who have a little higher income. There ought to be a better way.

I do not fault the gentleman from Missouri. Anything I have said about exterior forces, none was aimed in any way whatsoever to the members of the Committee on Agriculture, all of whom on both sides, as I stated before, worked diligently, worked long hours, worked with great devotion and care, as far as the chairman is concerned.

So, I have no fault with any Member or with any of the members of our committee.

But the technical aspect of this is that regardless of the intentions, nonetheless, it impacts on the poorest of the poor. We are the only country in the world that has this program. Granted it may be out of control. I am not going to argue with that. Granted it costs a lot of money. But this is to feed people who cannot feed themselves, to feed people who need the assistance of the Government. Our system provides for that.

Our Government provides for that and it is something that we need to do. What our responsibliity was and where I keep insisting that we meet that responsibility is to cut out any possible areas of abuse, to cut out any possibility of fraud and then to control the program so that it is aimed, as everyone in my district tells me it should, only to those who need it.

This is what I think we did, but this is what is being criticized as somehow not meeting our obligation.

I thank the gentleman.

Mr. ANTHONY. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Arkansas.

Mr. ANTHONY. Mr. Chairman, I would like to say also, and have this refuted tomorrow if it is not correct:

The substitute would require that benefits be figured by subtracting 31.5 percent of net income beginning October 1, 1982, and 32.5 percent of net income beginning October 1, 1983, rather than 30 percent, from the cost of the thrifty food plan. This would result in cutting benefits for nearly all households on the program, including the elderly and disabled and many of the poorest recipients. For every $100 in income a household has, it would lose first $1.50 and then $2.50 in benefits. This provision constitutes an across-the-board benefit cut. Benefits would be reduced nearly $435 million a year by fiscal 1984.

For many elderly and disabled couples, this would result in benefit cuts of about 15 to 30 percent. An elderly couple whose sole income is a $400 a month social security check would lose over 20 percent of their current food stamp benefits.

Mr. DE LA GARZA. The gentleman is correct. That is my disagreement with the proposed amendment.

I thank the gentleman from Illinois for his kindness and generosity.

Mr. SIMON. Mr. Chairman, I yield 4 minutes to the gentleman from Florida (Mr. BENNETT).

Mr. BENNETT. Mr. Chairman, I yield to the gentleman from Wisconsin (Mr. ASPIN) to allow him to make whatever remarks he would like to make.

Mr. ASPIN. I thank the gentleman for yielding.

I would like to raise some questions about how we are affecting the armed services provisions in the Gramm-Latta substitute. Is there somebody on the Republican side who can answer some questions about how this is affected?

Mr. DICKINSON. Mr. Chairman, will the gentleman yield?

Mr. ASPIN. I yield to the gentleman from Alabama.

Mr. DICKINSON. I will attempt to.

Mr. ASPIN. As I understand it, what we are saying is that the Gramm-Latta substitute does not change what the Committee on Armed Services did; is that correct?

Mr. DICKINSON. Yes. It does not change what we did in the committee.

Mr. ASPIN. That is right; so we are taking a certain amount of money out of stockpiles of which the majority comes from silver. They are going along with the savings of $37 million by opening up the survivors benefits.

Mr. DICKINSON. Right.

Mr. ASPIN. And they are going along with the $394 million that we had under COLA providing the Committee on Post Office and Civil Service went along with the change in COLA for the civilians.

Mr. DICKINSON. That is correct.

Mr. ASPIN. About $500 million worth of silver is being sold out of the stockpile.

The point I am raising here though is that, as I understand it, what the Gramm-Latta substitute does do is change the COLA calculations under the Committee on Post Office and Civil Service; is that correct?

Mr. DICKINSON. I think the gentleman has it backward, but it would have that net effect.

Mr. ASPIN. So there is a change in the COLA in the Committee on Post Office and Civil Service provision in the Gramm-Latta substitute, but there is not in the bill that has come out of the Budget Committee.

The net effect is that the Gramm-Latta substitute is going to be a change in the COLA for military retirees.

Mr. DICKINSON. There will be a once-a-year COLA instead of twice-a-year, according to what was done in the Committee on Post Office and Civil Service.

Mr. ASPIN. No, sir, not according to what was done in the Committee on Post Office and Civil Service. It was according to what was done in Gramm-Latta.

The Committee on Post Office and Civil Service kept the two-a-year COLA for the civil service retirees and under the language in our bill that means it keeps the two-a-year calculations for COLA for the military.

If the Gramm-Latta substitute changes the COLA for the civil service retirees, which it does, then according to our language the gentleman is automatically changing it for the military. So the net effect of all of this is to change the calculations in the COLA for retired military.

Under the committee bill, the military will get twice a year COLA. Under the Gramm-Latta substitute the military will get once a year COLA.

Mr. BENNETT. Mr. Chairman, will the gentleman yield?

Mr. ASPIN. I yield to the gentleman from Florida.

Mr. BENNETT. Under the committee bill, I thought, the COLA did not take place for the military unless it took place for the civilians.

Mr. ASPIN. That is right. The point I am making to the gentleman from Florida is that under the bill that came out of the Budget Committee—the thing that came out of the Committee on Armed Services linked the change in COLA to the change in civil service. As it came out of the Committee on Post Office and Civil Service, they did not change that.

So that means it did not change for the military either. But the Gramm-Latta substitute changes it for the civil service and therefore according to our language we are automatically going to change it for the military.

What I am saying is that the net effect is that if the Gramm-Latta substitute passes, we have once a year COLA for the military. If the Gramm-Latta substitute does not pass and the committee's bill passes, we have twice a year COLA for the military.

Mr. BENNETT. They are equally treated, both the civil service and the military. That is what the committee voted to do and the gentleman voted for it.

□ 1620

Mr. REGULA. Mr. Chairman, I yield such time as he may consume to the gentleman from Alabama (Mr. DICKINSON).

Mr. DICKINSON. Mr. Chairman, I thank the gentleman. Let me say that I too find that it is very unfortunate that we find ourselves in the position of having to decide very serious matters and very complex matters under these circumstances, but as was pointed out by the gentleman from Virginia, if the leadership and the majority had not tried to fashion such a gag rule to start with and made it so onerous that even many of their own Members could not swallow it, I do not think we would be in this position today, but as it turned out they stepped on a rake and got hit in the head with it, and I am sorry.

But to get to the bill at hand, armed services, we were required under reconciliation to save some $966 million. We did this in three areas. One was from the stockpile; one was from military retired pay and estimated savings from cost-of-living increases; and one was estimated savings from open enrollment period of the survival benefit plan.

We did not like any of these, but we too were under mandate to make these savings. We were very reluctant to sell from the stockpile, particularly the silver, but in an effort to effect these—and I might say the law says, and the law is very clear, that the stockpile will not be used for budgetary purposes but is to be used to store strategic minerals, metals, and other things that would not be needed in our national defense. It is obvious and plain on its face that that is not what we are doing. We are not selling from the stockpile for any reason except budgetary reasons, and those of us on the committee are concerned with this very much, and resent it, but we were faced with this fact.

Getting back to the proposition the gentleman from Wisconsin raised, I think he stated it correctly. We were assured as much as an assurance could be given that there was no chance that the Post Office and Civil Service Committee was going to change the COLA from twice a year to once a year, and they did not. But, we did change the language to say that the military would be treated the same as civil servants, and we did this thinking that there was no chance that that would happen, but in order to meet our goals we did it. Well, Gramm-Latta does change it from twice a year to once a year, which automatically triggers us into a once a year for the military.

I might go further and say that there are, as far as our military are concerned, that under the Jones bill a military retiree who already has his retirement and goes to work with civil service loses his pay under civil service up to the amount of his retirement. This provision is done away with under Gramm-Latta. The policemen out here, so many of whom are retired military, will not lose their pay. My staff-man will not lose his pay because he is working for me now. He is retired military. This affects many, many people, so that is one of the good things that comes from this.

So, I think we have fashioned things as well as we could under the burden that was put on us. It is not a perfect bill. I think we did the best we could under the circumstances, and I think we have done the best that we could by the military. I would certainly support the Gramm-Latta.

Mr. ASPIN. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I will be glad to yield.

Mr. ASPIN. Mr. Chairman, I appreciate the gentleman yielding. I think he is right. The gentleman is correct that the Gramm-Latta has made that different provision in regard to the double-dippers. Of course, in terms of overall numbers of retirees, there are a lot more people more concerned about the twice-a-year versus once-a-year COLA than about the double-dippers. They are only military people who have left the military and come back and are working for the Government, but if you have the twice-a-year COLA versus once-a-year COLA, that affects absolutely everybody who has retired military in everybody's district, in anybody's district that has got retired military.

I only raise the issue because I know, having sat through numerous Armed Services Committee meetings with the gentleman from Alabama and the gentleman from Florida, we have all sat through it and know what a hot issue that is and how upset the members of the committee get when we talk about taking away that twice-a-year to once-a-year COLA. I am sorry the gentleman from New York (Mr. MITCHELL) is not here. He is very eloquent on the subject of how we are now beginning to build back some confidence on the All-Voluntary Army, and now we are going to start eroding the benefits again.

Mr. DICKINSON. If the gentleman will let me reclaim my time to make two more points, perhaps in the time remaining I would be glad to yield back to the gentleman.

One has to do with impact aid. Under the Gramm-Latta bill, the impact aid for schools is much more liberal than it would be under the Jones bill.

Military construction at $20 million, as I recall, is put in here for construction of schools on base under Gramm-Latta. This was not in the Jones bill.

Also, there is a provision that is not mandatory, that the Secretary of De-

fense can authorize a certain sum of money, I believe up to $75 million, to assist in schooling on base. I think that is section 6 schooling. This was prohibited specifically by the Jones bill, so even though it is not a perfect bill and we are going to make some of our military unhappy with only once-a-year instead of twice-a-year COLA, it is still infinitely better for the military than was offered under the Jones bill, and for that reason I am pleased to support it.

Mr. ASPIN. If the gentleman will yield further, the gentleman may be correct about the education benefits, but I do not think that cuts much ice with the military.

Mr. DICKINSON. It does if you have impact aid coming into your district. It cuts a big piece of ice.

Mr. ASPIN. If the gentleman would let me finish my sentence, I do not think that cuts much ice with the military retirees and those who are about to retire. That is the issue. The gentleman knows that on the Armed Services Committee the subject of impact aid has never been heard. The subject of twice-a-year COLA, we hear quite often, and I hope that I will do my best to make it very clear to the Members of this body that a very critical difference between voting for the Gramm-Latta substitute and voting for the Jones bill is, if they vote for the Gramm-Latta substitute, there is no question but what there is going to be once-a-year COLA for the military.

Mr. DICKINSON. If I can reclaim my time, has that not been the position of the Budget Committee all the time, once-a-year COLA?

Mr. ASPIN. The Budget Committee allows——

Mr. DICKINSON. Answer the question.

Mr. ASPIN. No, the Budget Committee has no position. The Budget Committee allowed the Armed Services Committee to use the language that it did, and that language said that whatever the Post Office and Civil Service Committee did with the civilian, that would be OK. But I just want to warn the people of this House that over in the Senate they have already gone to once-a-year COLA. If we go to once-a-year COLA with the Gramm-Latta substitute, there is no difference, and there will be no issue in conference.

Mr. DICKINSON. What would the gentleman suggest, then? You would prefer the committee bill with the balance it does to the military rather than over what is done with Gramm-Latta? Is that what the gentleman is saying?

Mr. ASPIN. Absolutely, no question. If I were retired military or a person involved in the retired military organizations, there is no question but what the committee bill is better than the Gramm-Latta substitute; absolutely no question. The double-dipper provision is there, but that affects a relatively small number of retirees compared to twice-a-year COLA, which affects all of them.

Mr. DICKINSON. I would have to take exception with the gentleman there because I think that most military that do retire go to some other employment. They do not all go to civil service, but a very large number do. I think they are still productive, I think they still have the right to vote for the civil service if they please without forfeiting their retired pay.

Mr. ASPIN. True, but is that so many of them? Everyone is affected by COLA

Mr. DICKINSON. The Budget Committee did in fact suggest that they go to once-a-year COLA, and that is the Senate's position. I am sorry we have to do it. We would not have done it if we had a choice, but we had no choice. Under reconciliation we had to find the dollars to save, and this is what we did. I want to insert for the record a description of how the military and military retirees and impact aid fare under other committees' proposals.

TREATMENT OF MILITARY BY COMMITTEE

	Current situation	Jones bill	Latta amendment
Armed Services		Same	Same.
Post Office and Civil Service		Does not provide for single COLA for civilians; therefore no change in military COLA of twice a year.	Provides single yearly COLA for civilians, thereby implementing once a year COLA for military as in HASC bill.
Education and Labor	Impact aid:		
	(1) Construction: $50 million	$0	$20 million.
	(2) Section 6 schools: $75 million	$0 and current prohibition continues against funding by DOD or any agency other than Department of Education.	$0 but drops current prohibition (So DOD could fund).
Post Office		Prohibits: a. Receiving full civil service pay while receiving full military retired pay. b. Dual compensation for Guard/Reserve who are Federal civil servants.	Continues current practice.

□ 1630

Mr. ASPIN. Mr. Chairman, the gentleman has a choice. The choice is between the Jones bill and the Gramm-Latta substitute.

Mr. REGULA. Mr. Chairman, will the gentleman yield to me?

Mr. DICKINSON. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Chairman, let me ask the gentleman, does he know whether the Armed Services Committee took credit for a savings as a result of the language they incorporated in their proposal?

Mr. ASPIN. Yes. When we talked about that, I went back to the chairman, to the gentleman from California (Mr. PANETTA), and to the counsel, and I asked them. I said, "Will we get credit for this language?" And the answer was, "Yes, we will get credit."

Mr. REGULA. Did the gentleman agree with that?

Mr. ASPIN. Yes.

Mr. REGULA. Then the gentleman had to assume it was going to be done, if he had that language.

Mr. ASPIN. Not at all. Last year we wanted to have that, but it never happened. I would say that I do not know whether it is going to happen this year, but last year it did not happen.

Mr. REGULA. But you did take credit for the savings in your report?

Mr. ASPIN. Absolutely, because under the way the accounting works, it gets counted. If you get credit and you can also save the pay for the military retirees, so much the better.

Mr. O'NEILL. Mr. Chairman, will the gentleman yield to me so I may make a brief statement?

Mr. DICKINSON. I certainly will yield to the distinguished Speaker.

Mr. O'NEILL. Mr. Chairman, I have had many requests from Members of Congress, in particular those on my own side, as to what we are working on and what about the Latta amendment. The Members are aware of the fact that this committee print was printed based on material submitted to the Rules Committee, Monday at 10:30 p.m.

Last night, at 5 o'clock, they brought up another version with, as I understand it, significant changes in the Broyhill section.

Now, we do not know whether the Broyhill section will be offered separately or whether it will be offered combined with the Latta bill.

Mr. Chairman, the gentleman from Ohio, Mr. DEL LATTA, for whom I have great respect and whom I know very well, is a decent, honorable man, and he tells me that as to the Rules Committee print, he does not anticipate there will be any changes in it except that there will be one change in Education and Labor that is currently being prepared by Jim Hedlund—I have not been able to get in touch with Mr. Hedlund—and a different

version of the Energy and Commerce section.

But I am taking this in good faith, and I have to presume that is what the situation is. So if the Members can for now work off the committee print, and I believe the Rules Committee is trying to make available the revised version of the Energy and Commerce version that was sent to them at 5 o'clock.

Mr. STANTON of Ohio. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. For a response to the Speaker's statement, I am glad to yield to the gentleman from Ohio.

Mr. STANTON of Ohio. Mr. Chairman, I appreciate the gentleman's yielding so I can respond to the Speaker's statement.

I would not want the committee, without the representation of the gentleman from Ohio (Mr. LATTA) here, to have somebody else give an answer to that.

Mr. O'NEILL. I do not need an answer. I am merely telling the Members of my conversation with Mr. DEL LATTA.

Mr. STANTON of Ohio. I was going to say, I will say to the distinguished Speaker, that it has not been brought to our attention now that his side of the aisle has been responsive to the situation on the neighborhood self-help program.

Mr. O'NEILL. What is that? I did not understand.

Mr. STANTON of Ohio. I refer to the neighborhood self-help program, the reinforcement corporation. By a committee printing error or by error, that was left out somewhere along the line. It will have to be put in or left out, if technically we went to that particular document. I think we would have to leave some room for something like that on which there will be some kind of a unanimous-consent request.

Once again, although I am sure that the gentleman from Ohio (Mr. LATTA), if he were here, would concur with what the distinguished Speaker is saying, since he is not here, I wanted to throw in the fact that there may be something like that.

Mr. O'NEILL. Of course, we understand there could be technical amendments, but we trust in good faith that there are not going to be any wide, unusual exceptions, and that you are not going to come in with additions that none of us have anticipated.

Mr. STANTON of Ohio. Absolutely not.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. Mr. Chairman, I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Chairman, I thank the gentleman for yielding so I may respond to the distinguished Speaker's comments.

As I understand the parliamentary situation, we now have before us the Jones reconciliation bill, a substitute for the committee-reported bill which is the text of H.R. 3964. The rule allows a perfecting amendment to be offered by Mr. BROYHILL and an amendment en bloc to be offered by Mr. LATTA.

I am further advised that the amendments that will be offered tomorrow will be filed before the close of business today so that they will be printed in the RECORD as it will be offered.

Mr. O'NEILL. But in view of the fact that we are going through general debate, the Members ought to have some knowledge now of what some of these things are, and that is why I am here explaining it.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from California.

Mr. PANETTA. Mr. Chairman, I thank the gentleman for yielding.

Just so I understand the approach that is being used here, my understanding is that the committee print that we have of the Latta substitute, which was printed up late last night, is not necessarily what will be proposed in every instance or offered tomorrow.

Now, the Speaker indicates that the gentleman from Ohio (Mr. LATTA) says there is only one change, in Education Labor. Is that the understanding of the minority, that there is only one change, in Education and Labor? My understanding was that there were also significant changes in Energy and Commerce.

Mr. O'NEILL. But the Energy and Commerce may be in a separate package, and, yes, there are changes there from the committee print.

Mr. DICKINSON. Mr. Chairman, if I may reclaim my time, if there are no other Members who want to discuss armed services, I yield back the balance of my time.

The CHAIRMAN. The Chair will state that the gentleman from Alabama (Mr. DICKINSON) has consumed 16 minutes.

The Chair recognizes the gentleman from California (Mr. PANETTA).

Mr. PANETTA. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, if I could, I would like to clarify this situation for the Members, because I think it is extremely important in terms of debating this reconciliation measure during the rest of the day and particularly tomorrow when we get to the amendments.

As I understand the Speaker's conversation with the gentleman from Ohio (Mr. LATTA), the proposal that will be offered tomorrow is essentially that contained in the committee print, with the possibilty of one amendment on education and labor?

Mr. O'NEILL. That is correct.

Mr. PANETTA. And what is the fact with regard to energy and commerce?

Mr. O'NEILL. The version will be that submitted to the Rules Committee after the committee print was at the printers.

Mr. PANETTA. With regard to Energy and Commerce, what is the situation?

Mr. O'NEILL. With regard to Energy and Commerce, the gentleman from Ohio did not know whether or not that will be offered separately or will be offered as part of the bill. They have not made that decision yet.

Mr. PANETTA. But what Energy and Commerce amendment are we working with, the one in the print?

Mr. O'NEILL. No, we are not working with the Energy and Commerce amendment in the print; we are working with the one that was sent up to the Rules Committee last night at 5 o'clock.

Mr. PANETTA. Mr. Chairman, I thank the Speaker.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. If I have time, I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Chairman, I want to make it clear that the minority will be offering a perfecting amendment for the record that will be inserted prior to the close of business today. There may be other changes of a substantive nature in that perfecting amendment as allowed by the rule.

So we have mentioned already Education and Labor, Energy and Commerce, and technical amendments, and there may be some amendments to other titles, which is totally in conformance with the rule that we are working under. I just want to advise the gentleman from California (Mr. PANETTA) and the Members that the perfecting amendment will possibly have some additional changes which are being worked on right now.

The CHAIRMAN. The time of the gentleman from California (Mr. PANETTA) has expired.

Mr. PANETTA. Mr. Chairman, I yield myself 2 additional minutes.

Then, Mr. Chairman, the fact is that we do not know what we are dealing with at this point in terms of the Latta substitute. The Speaker has just indicated that he had a conversation with the gentleman from Ohio (Mr. LATTA) in which it was indicated that there would be only one amendment on Education and Labor to the committee print. The gentleman from Ohio (Mr. REGULA), as I understand it, is now indicating that there may be a number of amendments.

Mr. MICHEL. Mr. Chairman, if the gentleman will yield, there is going to be no change in the Education and Labor provisions we submitted Tuesday. What was put in place last evening is in place, and the other gentleman from Ohio was unaware of our revised provisions.

Mr. PANETTA. If I may ask this of the gentleman from Illinois, then, since I think it is extremely important for the Members who are trying to debate this issue to understand what is before them, is the committee print, then, substantially what is contained in terms of the Latta substitute that will be offered tomorrow?

□ 1640

Mr. MICHEL. We will be putting into the record within the next few minutes as soon as it is typed up the final form, particularly the Broyhill substitute amendment and the Latta amendment as refined.

Mr. PANETTA. Therefore, the committee print is, indeed, subject to other revisions that we are not aware of until we see this?

Mr. MICHEL. Very, very slight. I do not think the gentleman is going to find any problem with that at all. It is one of some very slight changes. I think you will find, for example, the medicaid cap is 7½ percent instead of 6 percent.

Mr. PANETTA. Frankly, for the benefit of the Members, I think it is very important for them to have access to whatever they are working with, so we at least know what we are dealing with in terms of debating the substance.

Mr. MICHEL. Well, the gentleman understands that some of what we presented to the Rules Committee, like the Education and Labor provisions, which we understood were going to be printed as a committee print never really got to the printer on time.

I share the gentleman's concern. We are remedying that immediately, so that I would not want to come here tomorrow asking Members to vote out of the depths of their ignorance or in blindness, having nothing before them. That has got to be a condition precedent to our action.

Mr. PANETTA. I thank the gentleman.

Mr. Chairman, I yield 15 minutes to the gentleman from Rhode Island (Mr. ST GERMAIN), the chairman of the Committee on Banking and Currency.

Mr. ST GERMAIN. Mr. Chairman, this is a historic day and a historic moment. Everything is very clear; we are in an utter state of confusion. As I was stating to the staff a few moments ago while listening to the debate taking place in the Committees on Agriculture, Armed Services, if we continue to lose subsequent votes on this side, perhaps the loyal opposition has, in fact, done us a favor. I say that because had we prevailed, we could well have been charged with being the ones who cut housing units from a 250,000 level recommended by the previous administration down to 176,000. But if the voting continues as it has up to now those people who are now living in rat-infested hovels, and dumps with leaky roofs and rotting floors with one light bulb to read by, will remain in those units. They will stay there because no safe, decent, sanitary housing will be available to them. I can say, though, when they complain, we can point and say, "We did our darndest, but you're going to have to wait and wait and the day may never come that you will get a decent, safe and sanitary house to live in."

Addressing those Members from the Northeast; when all of a sudden the realization comes to the people that there are not any weatherization grants available to them, and they come to me and complain, I will say, "All well and good. Talk to my colleagues from the Frost Belt who went along and voted to destroy this program."

Oh, yes, they say they are folding the program into CDBG, but they are reducing CDBG while folding everything into it. The point soon comes that the fold becomes a wrinkle, and the next thing you know we will not be able to find those programs at all.

About UDAG: I issue a clarion call right now to the mayors of this Nation that under the proposal we will be voting on, which will probably prevail, UDAG is going to disappear into the distance.

The mayors of those many communities that were hoping to get some funds from CDBG, will have to go to their Governors and their State legislators to fight other mayors to determine where those CDBG funds will go because CDBG is going to be turned into a revenue sharing program, pure and simple.

Under CDBG, housing assistance plans will go out the window.

Tenant participation will go out the window.

But when it comes to building new tennis courts, you bet your life; swimming pools, you bet your life; massage parlors, Swedish exercise trails, any of these things they can use CDBG funds for. But what happens to the poor, the needy, the disadvantaged, the disabled, the handicapped, who knows? It depends on how powerful a voting element they are in the particular State or the particular community.

Mr. Chairman, as I said, maybe it is not so bad, because we on the Committee on Banking came within the Gramm-Latta numbers, in fact, exceeded those cut targets and we would have been charged with reducing and eliminating many laudatory, worthwhile and necessary programs. But it is being taken out of our hands. We attempted to exercise damage control, but even that has been taken away from us.

There has been great talk about hearings, thorough hearings, and thorough understanding of legislation. Throughout this we have had trouble getting information from the Republicans. The administration plan came to the Subcommittee on Housing the last day of the hearings. Hearings had gone on for 3 weeks and they knew long ahead of time that these hearings were going to be held. We held hearings, considered carefully and that which we have in our bill is the result of that, and it makes sense.

Suddenly, after all that work things change overnight. A good portion of the funding that may come out of assisted housing will go to the Ex-Im Bank, to Boeing, to General Electric, to the giant corporations of this Nation. Certainly, the substitute says, we have got money for them, but, by golly, we do not have it for the elderly, for the handicapped, and for the disadvantaged.

Frankly, I have not had an opportunity to thoroughly study the print that was submitted last night. We will have further debate on this comes the amendatory process tomorrow. I understand we are going to have a full 4 hours to consider it. Quite a deal.

I do know that in our committee, we spent the time. We deliberated. We understand our programs and we voted in a responsible, responsive manner. I would sleep well tonight and tomorrow night and all the nights ahead if only my conscience was the only thing concerned, but I may not sleep out of concern about the people who are no longer going to be receiving the benefits to which they may not be entitled, but which they are in need of if they are to survive.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. ST GERMAIN. I yield to the subcommittee chairman on housing.

Mr. GONZALEZ. I thank the very distinguished chairman of the full Committee on Banking.

I also wish to emphasize the importance of his message that he eloquently has given us. There should be no reason for any Member to be ignorant as to the exact thrust and nature of what is being foisted in the House; but in general terms, the chairman has done this. I would like to be given the privilege to get into some matters of special importance.

The Committee on Banking had the biggest cuts to make of all the committees in the House. Of all the subcommittees in the House, the Subcommittee on Housing had the biggest amount of the outlays and authority to cut.

The current service estimate for programs within the Subcommittee on Housing and Urban Affairs jurisdiction is $40.8 billion in authority. We were told and mandated by the budget resolution to take the standard OMB cut of 25 percent. Now, for reasons beyond the reach of rational minds to understand, the Stockman formula

says that domestic programs must be cut by 25 percent. It matters not whether the program is for education, housing or sidewalks, if it is a program for people, it goes down by 25 percent. Needless to say, this arbitrary kind of target leads to the necessity of making equally arbitrary decisions. Nevertheless, the subcommittee, with the great help and leadership of the overall chairman of the full committee, struggled with the numbers, juggled the programs, and produced budget authority cuts of $10.5 billion.

We made those cuts in as rational and humane a way as possible, with the steady constant and undiluted opposition of the minority; but there is no denying the reality that there will not be enough money in this budget to provide anything like the level of community development assistance that our cities require and neither will there be anything like the commitment needed to provide decent and affordable housing for those millions of citizens who are living in substandard and high cost housing.

□ 1650

We started with a current services level that was already inadequate and then faced the command to cut those services by one-fourth. Thus we began with an assisted housing production level that meets about one-third of a reasonable goal and we ended up with an assisted housing production level that will meet perhaps a fourth of the goal.

In short, beginning with inadequate program levels we were forced to go to absurd and inhumane levels. There is no way to accomplish that kind of task without pain. The results of this vast budget cut will be with us for years to come in the form of overcrowded, overpriced housing, in the form of growing numbers of substandard homes, and in less visible, but equally damaging forms of inadequate community services and underdeveloped local economies.

If the administration gambles luckily and we do not have more immediate social eruptions and disturbances as are being registered in less fortunate countries such as Belgium, France, and even West Germany under very similar conditions in housing, that is the commitment that this administration has demanded and which the majority here has accepted. We have done our duty to produce the required cuts. To protect the existing housing stock, we acted to provide $1.64 billion in operating subsidies for public housing. This covers operating and maintenance requirements and will enable housing authorities to begin restoring operating reserves that have been depleted through extraordinary utility costs.

The operating subsidy goes largely to utility costs—40 percent of it, in fact. Budgets for 1980 and 1981 assumed that utility costs would increase by only 11.4 and 12 percent respectively, when in actual fact utility costs went up by twice those amounts. The utility cost shortfall for 1981 alone was $250 million. Housing authorities were forced to deplete their reserves in order to pay their bills.

The administration also has failed to provide $100 million to make adjustments in cases where the performance funding system formula does not accurately reflect the real needs of housing authorities, which often happens in the case of larger housing authorities.

Altogether, the administration budget request was $440 million short of what is required to make the housing authorities whole. This bill provides a sufficient amount to cover that shortfall. Failure to do so will only mean that housing authorities will be forced to cut further back on maintenance and other services, which in turn would lead to loss of housing that we cannot afford to lose.

The public housing stock is valued at $60 billion, and it is imperative that this housing be preserved, which this bill provides for.

Second, this bill aims to protect the poor. The budget resolution assumes that housing subsidies will be cut by $60 million, through imposition of rent increases. We reject that, because the evidence is that the rent increases could well result in either no increase in revenue or an actual decline in revenue. Information we gathered shows that in San Antonio, for example, public housing rents could go up by $5 to $36 a month. The trouble is that the people who occupy this housing are so hard pressed that they do not have that kind of money to spare. Witnesses told us that they would have to move out of public housing, into substandard housing, rather than pay the increased rent. The reality is that these are people who would have to choose between shoes for children and rent increases, or choose between food and higher rent. The administration's rent increase proposals would hit hardest at working poor families who already pay most of the rent received by housing authorities. These are the families that would move out, in order to be able to buy ordinary necessities, even at the cost of moving into substandard shacks. Who would replace them? In all likelihood even lower income tenants, who would pay far less in rent. I do not believe that the administration's rent increase proposal would produce the revenues claimed, and I know that it would only create greater hardship among people who already have as much as anyone can bear. Therefore, in rejecting the rent increase proposal, we believe that we are not just protecting the poor, but acting to protect the housing authorities from losing the very families that now provide the greatest rents and the greatest stability.

Aside from turning back the counterproductive rent proposal, we acted to provide at least a minimal level of modernization funds. Too many of the Nation's public housing units are in a state of disrepair. It is imperative that we keep those units in operation; it will be far less expensive to do that than to pay the cost of replacing them. Again, we acted to protect the interests of the poor people who live in public housing, so that the units they occupy will be safe and decent; and at the same time, we acted to keep the housing stock from declining.

Third, this bill provides as much new housing production as possible. A realistic national housing goal requires that 600,000 assisted housing units be produced, but in 1981 we expect only a third that many to be started. From that already inadequate base, the budget resolution called for a vast reduction. There is in fact no way to keep up existing production levels and still meet the requirements of the budget resolution. However, we have provided funds for $1 billion in annual contribution commitments, for a total of $20 billion over the life of the resulting contracts. This will produce 176,000 assisted housing units—55 percent of them in the form of existing homes, and 45 percent of them in the form of either new or substantially rehabilitated homes.

The minority substitute offered a level of 158,000 units, which is 17,000 below what the President proposed. What we have provided in this bill is far from enough to meet any reasonable goal, but is the most that can be done within the budget targets. It would be a genuine tragedy to see any further cuts in housing production at a time when we know that the supply of the decent and low-cost housing is actually falling in relation to the need for it.

There is no disputing the fact that in this decade the Nation needs to produce more housing than at any other time in history. Unless that need is met, we will see continued demand pull on housing prices, and we will see the continuation and worsening of the pressures that have already priced housing out of the reach of all but the most fortunate of our citizens. For that reason, we rejected the administration plan to stop Ginny Mae tandem plan operations, and provided $1.1 billion in tandem commitments, which should enable the purchase of mortgages with an aggregate value of $1.9 billion during 1982. This is essential in light of the continued high interest rates that make housing unaffordable without some form of relief and assistance.

We do not believe that the administration's plans to kill FHA are realis-

tic, and this bill extends FHA authority and adjusts insurance limits to reflect existing market trends. We also provided an extension of the 202 program for elderly housing, at a level of $850 million in fiscal 1982.

Those are the highlights of the housing portion of this bill.

I want now to turn to the community development issues.

For the community development block grant program, this bill provides $3.64 billion in fiscal 1982, which is a slight—in today's terms—reduction from current levels. The reduction is $220 million. The bill also provides for continuation of the UDAG program, at a $425 million program level—a reduction of $250 million.

The administration proposed vast changes in the community development programs. Taken as a whole, these cuts would have killed off the provisions that assure that community development funds are targeted and used in ways that put the funds into the areas with the greatest needs. In short, what the administration's changes in CDBG would have done would be to make this into another form of general revenue sharing.

In addition, the administration proposed to put small city CDBG money under control of the States, a move that even Secretary Pierce says the States are not prepared to cope with. It is also a move that no city asked for, and that an overwhelming number of small cities are opposed to.

We believe that community development block grants ought to be kept in their present form. The program was developed after years of effort, and in a bipartisan effort. It has been subjected to thorough review by the committee, most recently in 1980. We concluded that there is nothing to be gained, and much to be lost, by the radical changes put forward at the last moment by the administration.

Likewise, we rejected the notion of putting the urban development action grant program into a block grant. In point of fact, the arrangement proposed would have destroyed the merit of UDAG, which is that it has a specific purpose for specific areas. It is a high-impact program, and its impact and effect would simply be frittered away if it were placed into a general revenue sharing type of program at a time when aid to cities for community development is going down. Taken as a whole, the proposals for community development asked for by the Office of Management and Budget and putatively supported by HUD would merely create revenue sharing under a new name. Both parties have agreed for a decade that the cities need flexibility, but they also need funds that are targeted and directed toward their areas of greatest need. That is what community development block grants and UDAG does, and that is the concept this bill preserves.

The housing and community development provisions of this bill are intended to keep essential programs alive. Some programs have been killed—701 planning and others. On the whole, however, our aid is to provide the greatest assistance to the areas and people of greatest need, and in the most sensible way possible. We have avoided any radical action. We have been judicious and prudent. We have met the requirements of the budget resolution. This is a bill that has been painful to draw, and is painful for me to have to support, but in the circumstances it is the best that can be done. The housing and community development title is realistic, and it merits your support.

I yield back to the distinguished chairman of the Banking Committee, and in so doing want to take this opportunity to commend him and my colleagues for a splendid job under the most distressing and painful circumstances imaginable.

I yield back to the distinguished gentleman.

Mr. ST GERMAIN. I would like to make an observation. I recalled while listening to Chairman GONZALEZ that Mr. Stockman attended Harvard Divinity School. He was a lucky chap. That is a very cozy place, well built, warm, and well endowed, nicely heated. He did not face the rigors of New England's winters as many underprivileged and disadvantaged people do, and perhaps that is why weatherization grants and decent, sanitary, heated housing does not mean much to him.

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. ST GERMAIN. I yield to the gentleman from New York (Mr. SCHUMER).

Mr. SCHUMER. Mr. Chairman, our committee has labored very hard to put together what we feel is an equitable package. With one fell swoop of an arm, all that work has now gone down the drain and a new budget proposal, which had been rejected by our committee, will be the only thing that is before us.

I would like to make two points. First, the President has made his pitch all along to my constituents and yours that the budget has to be cut. But now his true teeth have been revealed because it is not just that he wants the budget cut, he wants it cut on the backs of the people who can least afford it.

A dollar cut out of the Export-Import Bank reduces inflation and Government spending by the same amount as a dollar cut out of assisted housing and there is no economic justification under the Reagan administration's proposals to switch that cut and say it is legislative tricks. It is not. It is the legislative prerogative to decide where those cuts should be made within his mandate.

Second, I would like to ask my colleague on the committee or my colleagues from the Northeast who are on the other side of the aisle: Are they going to vote to reduce CDBG in cities from 80 percent to 70 percent? Are they going to vote to eliminate UDAG? Those are going to be pretty tough votes and I think that the people who make that vote from the Gramm-Latta package, particularly from the Northeast, will be hurting their own communities and their constituencies are going to realize it.

I thank the gentleman for yielding and yield back the balance of my time.

Ms. OAKAR. Mr. Chairman, will the gentleman yield?

Mr. ST GERMAIN. I yield to the gentlewoman from Ohio (Ms. OAKAR).

Ms. OAKAR. I thank the gentleman for yielding.

Mr. Chairman, I was saddened really by the Republican explanation of raising tenants' rent from 25 to 30 percent, they say it would only cost $5 a month. That $5 affects 40 percent of the people who live in public housing who are elderly and that $5 is an awful lot of money when one lives on $133 a month, the minimum benefit.

Where is the conscience of Congress in what they are trying to do to our elderly.

Mr. ST GERMAIN. If the gentlewoman would yield back to me, the thing that confuses me is that from that side of the aisle it came from the Duncan amendment that we will not increase rent for those people in subsidized housing, if the gentlewoman will remember, when their social security checks are increased. The conference was held up for months on that one. Now I hope those same people who voted for that will realize they are going to be answerable at home for increasing the rent of elderly citizens 1 percent per year over the next 5 years.

Ms. OAKAR. I thank the gentleman and yield back to the chairman.

Mr. GARCIA. Mr. Chairman, will the gentleman yield?

Mr. ST GERMAIN. I yield to the gentleman from New York (Mr. GARCIA).

Mr. GARCIA. I would like to say to my chairman that I was pretty proud of the way our committee conducted itself on both sides. I think our colleagues on the Republican side as well as the Democratic side conducted themselves well.

But I was especially proud of you, Mr. Chairman.

The CHAIRMAN pro tempore. (Mr. SMITH of Iowa). The gentleman's time has expired.

Mr. ANTHONY. Mr. Chairman, I yield 3 minutes additional to the gentleman from Rhode Island (Mr. ST

GERMAIN) from the time of the gentleman from California (Mr. DELLUMS).

Mr. GARCIA. Will the gentleman continue to yield to me?

Mr. ST GERMAIN. I yield to the gentleman from New York.

Mr. GARCIA. I would just like to say, if I may, Mr. Chairman, we have been down this road before, but I do not think there is a person in this Chamber who represents a district that needs housing more than mine. The callousness in terms of the way the cuts were made in terms of section 8, the callousness in terms of the moneys that are absolutely essential for public housing, all of this is now in jeopardy, and all I can say to my colleagues on that side of the aisle is I hope they will afford me the opportunity to let them come to my district to have an opportunity to see for themselves and talk to the people, not necessarily listen to me. I am supposed to say these things because I represent them. But I would ask them to speak to the people who are there on a day-to-day basis, the people they will be subjecting to undue hardship.

I thank my chairman for yielding this time to me.

Mr. REGULA. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. STANTON).

Mr. STANTON of Ohio. Mr. Chairman, the very distinguished chairman of our Committee on Banking, Finance and Urban Affairs stated, as he entered the well here this afternoon, that he would sleep better now knowing that some of the obligation was off his back and onto the minority. I want the gentleman to know that I feel better knowing he is going to sleep better.

But also, Mr. Chairman, I am confused at this moment and maybe my friend from Ohio (Mr. REGULA) can clarify it for me. I thought that we were here to discuss the Jones substitute today and tomorrow, Gramm-Latta. I have listened to several committees and all I have heard about is the Gramm-Latta, so I presume that that is the subject.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. STANTON of Ohio. Of course I yield to the gentleman from Ohio (Mr. REGULA).

Mr. REGULA. As a matter of fact, what is presently before us is the Jones substitute, and the Latta perfecting amendment will not be before us until tomorrow.

Mr. STANTON of Ohio. I thank the gentleman for clarifying that point because what I wanted to do, Mr. Chairman, is simply to make a couple of observations.

The first one is that someone said that they were apologizing for this particular moment in the debate of this particular subject. Mr. Chairman, that is the farthest thought from my mind. I am very happy, and very pleased to be here.

I also want the House to know that it is very unnecessary that this subject matter, at this particular day, at this particular time, is before the Committee of the Whole.

□ 1700

Mr. Chairman, starting several weeks ago, now maybe a couple months ago, we had this subject matter, mainly in the housing bill, before our subcommittee. I have been a proud member of that subcommittee for 17 years. I have watched the committee work up to a point where there has been a great feeling of pride for the last several years. We would come out, after debate on the House floor, with a housing bill that was truly nonpartisan in nature and perhaps there were 25 votes against it.

However, that was not the case this time, Mr. Chairman, because after consideration by the subcommittee we were scheduled to go to the full committee. We happen to know, Mr. Chairman, that when we were to go to the full committee some of the material that we will vote upon tomorrow was going to be accepted by a vote of 22 to 21. We had the votes, and the next thing I know, Mr. Chairman, the meeting was called off and the decision to put the housing bill into the reconciliation process was made by the majority. They met in a caucus, in a secret and private caucus. The minority was never contacted on the input that was going into the reconciliation bill on housing or anything else.

So, Mr. Chairman, I say to you and to all of the Members present that today's step was not necessary. It could have been avoided.

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. STANTON of Ohio. I yield to the gentleman from New York.

Mr. SCHUMER. I thank the gentleman for yielding. I would just like to get some clarification. I do not recall any vote in the Housing Subcommittee that was then later overruled by the full committee.

Mr. STANTON of Ohio. I want to ask the gentleman from New York, does he ever remember meeting in the full committee on the subject of housing? We had a meeting scheduled on a Monday morning, and the meeting was called off on the Friday before because the decision was made by the gentleman's chairman, and we in the full Committee on Banking, Finance, and Urban Affairs never had a chance to work our will in the full committee on a housing bill. We had to wait until we got to reconciliation.

I think the gentleman from New York ought to sit down because he is the one man that I know who really made out well in the Gramm-Latta bill with one amendment that increased subsidized housing to $1.6 billion.

Mr. SCHUMER. The point is well taken.

Mr. STANTON of Ohio. We could have knocked that down, but we remembered the gentleman from New York.

Getting back, Mr. Chairman, to the point before us, the minority met. We met in good conscience and good faith, and we had a couple of days of excellent debate, as the gentleman from New York (Mr. GARCIA) has said. It was very good debate on the subject of the reconciliation process. We, Mr. Chairman, offered nine amendments during that process. Eight of them were defeated almost entirely by a party line vote.

During the debate, Mr. Chairman, I made the statement that we had a substitute which would have brought the number of housing units down from 176,000 to 173,000 subsidized units under section 8, and I gave my word at that time, Mr. Chairman, that if this amendment carried in the little substitute that we had at that particular time that I would feel dutybound to stick to that figure.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

Mr. REGULA. I yield 2 additional minutes to the gentleman from Ohio.

Mr. STANTON of Ohio. Now we are phased down to 162,500 units, regrettably what I had anticipated before. So when we do meet tomorrow and we do discuss in detail the Gramm-Latta, I will go into more detail at that time.

Let me leave you with one thought, of which I am very proud to be able to say to the Members who are here present. There is nothing in that Gramm-Latta bill that was not thoroughly discussed in our committee in the reconciliation process. I am very proud of that fact. The Office of Management and Budget had some idea of other things that could be put into it. But what you will vote on tomorrow is after consultation with the minority on housing and you can rest assured everything we will be discussing, we thoroughly discussed in committee. I think I want to make that point and be very fair with everybody.

Mr. REGULA. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. WYLIE).

Mr. WYLIE. Mr. Chairman, it was suggested here a little earlier that the minority is blindly following the recommendations of the administration, as far as this housing section of the bill and as far as the banking section of the bill is concerned. There are many exceptions, but I would just like to note one in particular for the record.

The administration had recommended the complete elimination of the National Consumer Cooperative Bank. There was zero funding in the recom-

mendation of Gramm-Latta II as it originally came to us.

Congressman MCKINNEY and I went to Director Stockman and pointed out what we thought was an error in his recommendation or suggestion in that regard. I might say that he listened to us, and I am pleased to say the substitute which will be offered tomorrow will continue funding for the National Consumer Cooperative Bank. So in that respect the administration did follow our suggestion or recommendation.

I do not particularly like the procedure which brings us here today, but the gentleman from Ohio (Mr. STANTON) mentioned that we were really not afforded an opportunity to vote on a housing bill in the full Committee on Banking, Finance and Urban Affairs. We had to do it through the reconciliation process.

We had wanted to offer an amendment to the housing bill per se here on the floor which, for example, would eliminate the categorical grant program for smaller cities and phase that into a community development block grant program to States which would have eliminated a considerable amount of redtape and would have made the program much more workable.

I wanted to offer an amendment to repeal the Holtzman amendment to the FAIR plans for example, which we debated in the Housing Subcommittee and which came up during the reconciliation process, but the whole subject of FAIR plans really was not germane to the reconciliation process, I will have to admit.

I also wanted to offer an amendment similar to the one I offered last year which would restrict the section 8 program from being used in cities which have rent control.

So, whereas I am not all that smitten with the procedures which we have to follow today, I do think the Gramm-Latta substitute which will be offered tomorrow will be the better of the two bills.

Mr. REGULA. Mr. Chairman, I have no further requests for time on this subject.

Mr. ANTHONY. Mr. Chairman, I yield 12 minutes to the gentleman from California (Mr. DELLUMS).

Mr. WILLIAMS of Montana. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. I yield to the distinguished gentleman from Montana.

Mr. WILLIAMS of Montana. I thank the gentleman for yielding.

As I look over the Latta substitute as best I am able to do under these hurried conditions, I find a matter of critical importance to many of my constituents who are American Indians. The point has to be made that the American Indians in this country are probably the poorest of the poor and have never been protected by anyone's safety net, Democratic or Republican. They suffer the worst housing conditions in the Nation.

Half—half—of all the Indians in the United States of America live in substandard housing. That is a despicable condition caused only by our lack of commitment to better the conditions.

The Jones budget cut $9 billion out of housing, which was far too much. As I understand it, as best I can find, the Latta budget goes even further and cuts an additional $2 billion out, and this is a critical point. The Latta budget will build 17,000 fewer units than President Reagan has asked be built in his budget. How many of those units are houses for Indians?

I thank the gentleman for yielding.

Mr. DELLUMS. Mr. Chairman, I first address the body in my capacity as chairperson of the Committee on the District of Columbia. As you well know, Mr. Chairman, the District of Columbia Committee has a very modest role to play in the reconciliation process. Therefore, suffice to say that we have received communication from the Committee on the Budget that the Committee on the District of Columbia has met its responsibilities with respect to reconciliation in the Budget Act for the next fiscal year.

Having said that, Mr. Chairman, I would like to use whatever remaining time that has been allotted to me for the purposes of making a few observations at a much broader level.

First, I would like to say, Mr. Chairman, that I believe that the process we are presently engaging in has done and will continue to do extreme violence to this institution in that we have struck a very powerful blow against the independence of this institution. I think that over the months and years we will live to regret whatever we do here today.

□ 1710

Second, Mr. Chairman, it is terribly important that we all understand that the reconciliation process is more than simply shifting numbers. What we have before us is a mechanism by which we are attempting to radically alter policy without ever going back to the organic legislation, redefining the role of Government in people's lives, and finally, Mr. Chairman, redefining some very basic values in this country.

I think the statements I am trying to make best display themselves in a discussion of the proposition offered by my distinguished colleagues on the other side of the aisle with respect to block grants. I would like to make a few observations on the issue of block grants.

First, Mr. Chairman, it is my considered opinion that what we are doing with block grants is repealing a generation of progress. Tucked away at the end of each block grant bill is a list of laws repealed as part of establishing the block grant. These actions wipe out landmark legislation which resulted in dozens of individual programs, protections, and requirements built up over years of debate and review to assure that Federal dollars are expended to meet Federal objectives.

Among the laws repealed, Mr. Chairman, are the following bills, and I would simply read some of them:

The Child Welfare and Adoption Assistance Act of 1980.

Title XX of the Social Services Act.

The Developmental Disabilities Assistance and Bill of Rights Act.

The Child Abuse Prevention and Treatment Act of 1974.

The Child Abuse Prevention and Treatment and Adoption Reform Act of 1978.

The Runaway and Homeless Youth Act.

The Rehabilitation Act of 1973.

Titles II, III, IV, VI, VII and IX of the Community Services Act of 1974.

Other sections of the Social Security Act and amendments.

The Education For All Handicapped Children Act, Public Law 94-142.

All of the Elementary and Secondary Education Act of 1965, including Title I.

The Women's Educational Equity Act.

Title V of the Maternal and Child Health Care Act.

The Community and Migrant Health Centers, sections 329 and 330 of the Public Health Services Act.

Family Planning, title X of the Public Health Services Act.

And major portions of the Equal Opportunity Act.

And dozens of other major laws, Mr. Chairman.

These bipartisan and hard-fought laws provide far more than money for programs. They establish standards and models for States and local governments. Far more is at stake in this battle than simply budget cuts. I also believe, Mr. Chairman, that we are neglecting the truly needy.

The allocation process will be turned over to a brutal political struggle where the most vulnerable and least powerful groups are almost certain losers. In the health block grants, for example, there is no requirement that funds be targeted to low-income or needy people. All families, regardless of income, are eligible under the social services block grant legislation. There is no income or needs test.

State allocation processes will respond to the priorities of constituencies who are organized, vocal, and voters.

There is nothing in the President's block grants that would specifically protect the truly needy. In fact, his program abolishes dozens of specific protections.

The poor, minority, disadvantaged, and handicapped will be pitted against one another for a piece of an increasingly smaller pie. These groups will be forced to fight one another for the limited remaining resources at the State level. This conflict will be bitter,

will result in extraordinary community and political tensions and will foster fragmented rather than coordinated human service approaches.

States will be unwilling or financially unable to pick up all the Federal programs. As a result, many will be scrapped.

Rural constituencies may lose vital services as States are forced to concentrate funds on programs which provide the most services to the most people at the lowest cost.

States have historically failed to respond to human needs unless required by Federal regulations. Many of our present programs were established after neglect and abuse at the State level were documented.

Among the programs proposed to be abolished are those relating to primary health care; treatment of hemophilia; emergency medical services systems; handicapped children's services; maternal and child health; rape prevention, control, and counseling; community mental health centers; child abuse; disease prevention; adolescent smoking; alcohol abuse and treatment; education for disadvantaged students; reading and math improvement; schools undergoing desegregation; and rehabilitation services for the blind and disabled.

This, in itself, speaks to the President's concern for human needs.

The Congressional Budget Office (CBO) has stated that consolidation may increase administrative costs and inefficiency. There is growing discussion over the ability of States to take on the administrative responsibilities for these services, given the lack of time for planning and startup.

The administration's determination to implement the program by fiscal year 1982 (October 1, 1981) guarantees that States and communities will be unable to plan for a transition to the new programs. Confusion and turmoil will result and, in many communities, services will grind to a halt.

Rather than save administrative costs, block grants may result in greater costs because States may have to set up 50 separate bureaucracies to administer programs.

A May 1 CBO study stated:

> While there might be offsetting savings, any such amounts are likely to fall far short of the proposed cuts.

A number of mayors and commissioners are openly asserting that municipal needs will be neglected if Governors and State legislatures gain administrative control over grant programs.

Cities, historically ignored by State governments, may lose funding for needed programs currently provided by the Federal Government.

Mayors and local officials feel that since they are closer to the local environment, they know more of what the needs of city residents are and should have a substantial input into the funding process.

The proposals contain virtually no requirements to target services to persons or areas with the greatest need, no citizen participation provisions, no civil rights protections, no mandated program priorities, and no requirements that Federal funds supplement, rather than supplant, State funds. They contain no application procedures and no system for holding States accountable for how they spend the funds. Preconditions for receiving Federal funding would also be eliminated.

The administration's no-strings approach to block grants would totally ignore accountability issues and give virtually unfettered discretion to State governments.

The proposed block grants would provide no assurance that State programs would be adminstered in an open, accountable manner. States would merely have to submit brief reports stating generally how they intend to spend their money. Each State would audit its own expenditures, with no provisions for an independent audit. The role of the Federal Government would be limited to checking to see that States spent the funds the way they promised.

There are no requirements for the participation of State legislatures in assessing needs, setting priorities, or evaluation.

Billions of dollars will be wasted by States which will not have to answer to the Federal Government or State legislatures on how it chooses to spend block grant funds.

Politicians and a spoil system will take over.

In general, in terms of accountability, the enactment of the block grants will mean:

No goals or standards;

No requirements for adequate recordkeeping;

No way to trace where the money went;

No basis to provide for testimony before congressional hearings;

No requirement for public access to records;

No requirement for independent analysis and monitoring;

No process by which people can point out discrepancies or wrongdoings to the Federal Government; and

No administrative complaint procedures.

Mr. REGULA. Mr. Chairman, I yield such time as he may consume to the gentleman from Connecticut (Mr. McKINNEY).

Mr. McKINNEY. Mr. Chairman, title IV of this bill deals with the efforts of the Committee on the District of Columbia to deal with the reconciliation process. I know of no controversy surrounding the changes in legislation recommended in this section, and I dare say that I believe debate can be concluded momentarily.

Title IV amends the District of Columbia Self-Government and Governmental Reorganization Act, commonly referred to as the home rule charter, by placing a cap on the amount the city is authorized to borrow from the U.S. Treasury for capital improvement projects and by placing a cap on the outlays associated with this borrowing. I am pleased to report that these actions are totally consistent with the President's recommendations and are fully responsive to the reconciliation instructions given to the Committee on the District of Columbia.

While the ceilings placed on budget authority and outlays are not totally painless for the District of Columbia, they are in line with the goal of getting the District government into the private bond market for capital borrowings and out of the U.S. Treasury. A review of the recent past indicates that the outlays from borrowing authority of $125 million in fiscal year 1980 amounted to only $90 million, and in fact a rescission of borrowing authority was possible in that year because of the slowdown in the program. The city will not suffer from the ceilings suggested in this legislation. In fact, it is probably to the benefit of the city that we take this action. The sooner the city is able to enter the bond market for capital projects the better, because the city will pay less in interest by 1 or 2 percent. The savings could be substantial, and this legislation paves the way for the city to rethink and restructure its capital program with those savings in mind.

Mr. Chairman, when our committee met earlier this month, I introduced the legislation which is now title IV of this bill. It was accepted without debate and it was accepted unanimously. As I mentioned earlier I know of no opposition or controversy on this section of the bill, and I urge that it be accepted.

Mr. REGULA. Mr. Chairman, we have no further requests for time on this subject.

The CHAIRMAN. The Chair recognizes the gentleman from Arkansas (Mr. ANTHONY).

Mr. ANTHONY. Mr. Chairman, I yield 15 minutes to the chairman of the Committee on Ways and Means, the gentleman from Illinois (Mr. ROSTENKOWSKI).

Mr. ROSTENKOWSKI. Mr. Chairman, today is a historic day, but a sad day for the legislative process.

As chairman of the Ways and Means Committee, I felt a great pride in what the subcommittee chairmen and the ranking members did to develop our reconciliation recommendations. What was being done was not pleasant, but it was done in response to the directive of our colleagues. I took a great deal

of pride in the fact that there was a cooperative atmosphere in our work.

Let me focus first on the major provisions of title XV of H.R. 3964 which contains the budget reconciliation recommendations of the Committee on Ways and Means and illustrate how these recommendations compared with the administration proposals are more fair and equitable. This title provides spending reductions of approximately $9.3 billion in fiscal year 1982 and another $35.1 billion from fiscal year 1983 to 1986 with respect to programs within the jurisdiction of the Ways and Means Committee.

Mr. Chairman, before I go into detail on the specific provisions in our title, I would like to emphasize that these recommendations are the results of several months of hearings and detailed consideration by the subcommittees. In fact, the committee began hearings on possible reductions in the programs within its jurisdiction in March to insure that we could comply with both the instructions and the difficult timetable imposed by reconciliation. Therefore, I believe that the committee's recommendations represent responsive reductions in our programs which will result in genuine savings.

Subtitle A consists of three parts amending the trade adjustment assistance programs for workers and firms. The amendments reflect administration proposals in nearly all respects. The worker trade adjustment assistance program was changed substantially. The major amendments are, first, that the causal link between increased imports and worker layoffs is strengthened from the present "contributed importantly" standard to the "substantial cause" standard used for industrywide import relief; and, second, basic benefits are reduced to State unemployment compensation levels for a maximum duration of 52 weeks of unemployment compensation and trade adjustment combined, payable only after unemployment benefits are exhausted. The program would focus on increased training and job search and relocation.

Subtitle B contains the changes made to the social security program. The administration, you might remember, proposed that student benefits be phased out immediately. High school seniors who have just graduated would be denied benefits this fall despite the commitments we made to them as surviving student beneficiaries. By the time this legislation would be finalized they would have less than 1 month to make other arrangements to finance their education. In addition, the administration proposal required that existing beneficiaries take a 25-percent reduction in benefits each year. In contrast, this bill protects the high school seniors that have just graduated and the high school seniors of next year. However, it provides that no benefits be paid during the summer except when a student is enrolled full time in a summer program and that after the 1981 July cost-of-living increase there will be no additional increases for college students. Thus, compared with the administration's proposals the committee bill protects 1.4 million high school juniors and seniors plus the 2 million current student beneficiaries would not suffer reductions in their monthly benefit levels while attending school full time.

The administration proposed that the social security minimum benefit be eliminated entirely—both for beneficiaries currently on the rolls and for new beneficiaries. For example, this would have meant that someone age 80 receiving a small pension but with income slightly above the poverty line could lose $1,000 or more per year in social security benefits. This amount would not have been made up by any increases in supplemental security income (SSI) or other governmental assistance programs. It is unfair and poor social policy to make such reductions in income for individuals who have no ability to compensate for this loss. The committee bill, on the other hand, eliminates social security minimum benefits only for those individuals reaching age 62 after January 1982. This provision, in contrast to the administration's proposal, would not affect the 3 million beneficiaries currently relying on the minimum benefit.

To make up for these losses in savings, the committee recommends that the July 1982 cost-of-living increase be halved and that the remainder plus 2 additional months of inflation be given in October, the start of the fiscal year. This same increase applies to SSI, veterans and railroad retirement benefits. The administration has recommended in their social security financing package that the entire July 1982 cost-of-living increase be postponed until October. Thus, the committee recommendation is a modified version of the administration's proposal.

The committee also recommended that the retirement test exempt age remain at 72 throughout 1982, that there be a modification of the month of initial entitlement for 62-year-old workers and their dependents, and that administration proposals regarding a curtailment of the lump-sum death benefit be enacted.

Subtitle C contains the changes in the unemployment compensation programs, Aid to Families with Dependent Children (AFDC), SSI, low-income energy and social services. The unemployment changes basically include administration proposals. The committee bill eliminates the national trigger so that extended benefits will be payable only in States where State unemployment rates reach specified levels. The committee bill excludes extended benefit claimants from State-triggered calculations. In addition, the unemployment compensation requirements for ex-military personnel are tightened considerably.

The committee bill makes major modifications in the AFDC program. Most important, the bill reduces the amount of earnings a family can have and still qualify for some amount of AFDC benefits. While these changes in the earnings disregards will reduce by $2,000 to $4,000 the amount of yearly earnings a family can have and still receive AFDC, they are not as drastic or severe as the changes proposed by the administration.

The committee was concerned that the administration's proposals would eliminate any financial incentive for single parents with children to remain in the workforce. For example, under the administration's bill, a California AFDC family of three, after the mother had been on the job for 4 months, would have disposable monthly income of $434. Whereas, a mother with the same number of children, but who didn't work, would have $578. Thus, the first family is penalized $144 per month for working; plus, the family loses medicaid. The Congressional Budget Office has calculated that roughly one-third of AFDC mothers who currently work would no longer work if the administration's proposals were put in place.

The committee bill mandates that States assume that the income of stepparents is available to an AFDC child. It requires retrospective accounting and monthly reporting in those cases where the State judges them to be cost effective. In addition, the committee bill allows States to require certain AFDC recipients to participate in job search and work experience assignments. In other words, States will be allowed to operate "workfare" programs so long as they contain certain specified safeguards.

Several amendments will improve State child support enforcement programs. For example, child support agencies are authorized to collect alimony in addition to child support, and to obtain child support payments through a reduction in unemployment benefits. The committee also makes minor changes in the SSI program.

In the low-income energy assistance program, the committee recommends a funding level of $1.4 billion in 1982 and $1.6 billion in 1983. Under this reauthorization of low-income energy assistance, greater flexibility is provided to the States so each State can design and operate a program that meets its particular energy-related problems. The formula for allocating funds

among the States would not be changed.

Subtitle D contains the medicare changes. The bill achieves $1.6 billion in health savings by change in medicare reimbursement benefits, deductibles and coinsurance amounts and through more efficient program administration.

Medicare reimbursement limits on in-patient hospital and home-health services would be tightened, an incentive reimbursement system for renal dialysis service would be established, interest earnings on funded depreciation accounts of providers would be offset against interest expenses in determining reimbursement, rules regarding reduced payment for long-term care in hospitals would be tightened, and a provision of existing law postponing reimbursement to certain hospitals at the end of fiscal year 1981 be repealed.

Deductible and coinsurance amounts under medicare part A—hospital insurance—would be changed to more nearly reflect current hospital costs, and a coinsurance amount of $1 per day would be established for the 1st through 60th day of inpatient hospital care. The annual deductible for medicare part B would be increased from $60 to $70 and indexed in future years to reflect cost-of-living increases. The Secretary of Health and Human Services would be authorized to impose civil money penalties on persons who file fraudulent medicare or medicaid claims, and utilization guidelines would be established for coverage of home-health care.

Authority would also be given to the Secretary of Health and Human Services to terminate the least effective professional standards review organizations during the fiscal year 1982, and the entire PSRO program would be repealed at the end of fiscal year 1983.

Medicare part B would become the secondary payor to the Federal employees health benefits (FEHB) program for people age 65 and over who have coverage under both programs. Medicare part A would become secondary payor to the Federal employees program with respect to people reaching age 65 on or after January 1, 1982.

This briefly concludes the recommendations from the committee.

Mr. Chairman, the reconciliation process, particularly when done in connection with the first resolution, is a most difficult process. The Committee on Ways and Means began work on its legislative recommendations long before the Budget Committee developed its reconciliation instructions. We felt that this was the only responsible way of achieving reductions in an evenhanded manner in the complex programs under the jurisdiction of the committee. In working on these proposals, the committee functioned in a very bipartisan manner. With few exceptions, there was general agreement on the committee's recommendations by members of both parties.

I regret that the administration continues to find it necessary to only approach legislation in a very partisan and divisive manner. The committees and the House itself function best when we all work together to develop a reasoned and well-thought-out legislative proposal. I am proud to say that the Ways and Means Committee has worked together in the developing of this legislation, and I only regret that my Republican colleagues have yielded to outside pressure to reject the product of their very own work. While we in the committee used a scalpel in making our program cuts, here on the floor of the House of Representatives, Mr. LATTA, Mr. GRAMM, and Mr. Stockman have chosen to use an ax.

Mr. Chairman, at this point in the RECORD, I would like to insert a detailed summary of the implications of the Gramm-Latta amendment as I currently understand it to be drafted:

SUMMARY OF GRAMM-LATTA AMENDMENTS

Based on the best information available at 4 p.m., the proposed amendments by Congressmen Gramm, Latta, and Broyhill would have the following effects for programs within the jurisdiction of Ways and Means. Briefly, the amendments would eliminate the minimum benefit for all beneficiaries effective in April 1982; would phase out student benefits sooner than the Committee bill; would delete the modified Administration's Social Security cost-of-living delay, would reduce funding for Title XX by $661 million and fold it into a block grant with several other programs (including several from the Education and Labor Committee); would increase funding for the energy assistance program by $1,875 million; substitute the Senate Finance AFDC package for the Committee's AFDC benefit reductions, repeal certain Medicare benefit expansions and would make worker training under Trade Adjustment Assistance a non-entitlement program.

ADDITIONAL SAVINGS (−) OR COST (+) TO COMMITTEE BILL

[Millions of dollars]

	Fiscal year		
	1982	1983	1984
Minimum benefit termination and student benefit phaseout	−671	−1,769	−1,569
Deletion of modified administration proposal to delay social security COLA	−1,880	+749	+978
Reduced funding for title XX	−495	−595	−695
Increased funding for energy assistance	+1,875	+1,875	+1,875
Substitution of Senate Finance AFDC package	−454	−447	−445
Repeal of certain medicare benefit expansions	−123	−163	−207
Total	2,008	−350	−63

For programs under the jurisdiction of the Ways and Means Committee, the Gramm-Latta substitute would not save money but would actually increase costs substantially.

For fiscal year 1982, there would be $2 billion of additional costs. For the 3 year period fiscal year 1982 to 1984, there would be $1.6 billion of additional cost.

SOCIAL SECURITY

Termination of the minimum benefit

The package would amend the Committee provision which eliminates the minimum benefit only for prospective beneficiaries by adding the Senate Finance Committee provision, effective for March benefits payable in April 1982, to eliminate all minimum benefits for those already receiving them. This provision would also create a new SSI benefit for those age 60 to 64 who would receive the social security minimum and who would qualify for SSI aged payments except for their age (the minimum age under present law for SSI aged payments is 65). This provision is similar to the President's proposal except for the SSI portion.

The Ways and Means Committee on a bipartisan basis, rejected the President's proposal to eliminate the minimum benefit for those now receiving it for several reasons:

(1) This proposal would mean reducing benefits for 1.5 million beneficiaries now receiving the minimum benefit. This implies an average reduction of approximately $800 per year for each of these affected beneficiaries. Actually 3 million beneficiaries receive the minimum benefit but some would have no loss of income due to receipt of other OASDI benefits or SSI. For some low-income retired couples, the loss of income could be $2,500 or more.

(2) Only about 360,000 (at a maximum) of those affected are retired civil service workers who could be considered as receiving a windfall from the social security benefit structure. Even in this group, it is not known how many are receiving a small government pension which they have been supplementing with the minimum benefit in order to live.

(3) The main impact of this proposal will fall on at least 1.2 to 1.3 million elderly poor beneficiaries who will be forced general assistance or SSI. At least 86 percent of all minimum recipients are women, either workers or widows; 78 percent are 65 or older and 500,000 are over 80. Many of these elderly women have been living for years in or near poverty on their social security benefit of $100 to $200 per month, plus whatever savings or other small income they might have. This sudden reduction will force them to apply for welfare or general assistance, in fact, the Administration's estimates assume many of them will not apply for SSI even though they are eligible. It does not seem either fair or sound social policy to take away social security benefits from elderly people who have been living for years on those benefits, to which they contributed, and who have no ability to work or otherwise compensate for the loss of income except to force them onto welfare, or State public relief rolls.

(4) The proposal assumes enactment by April 1982 in order to achieve $496 million in budget savings. This effective date is totally unrealistic from an administrative viewpoint because the Social Security Administration (SSA) does not have the systems' capacity either to identify the 3 million recipients on the benefit rolls, or to recompute their benefits and make all the necessary adjustment by April 1982. The SSA computer system is in such poor condition, that this task cannot be done automatically, and must be done through manual re-programming. The Secretary of HHS has stated, in a letter to the committee, that "The Social Security Administration does face a severe crisis in its ADP processing functions". This crisis will be

greatly exacerbated by the massive job of finding these beneficiaries and recomputing their benefits. Because this would be a manual task it would require SSA to hire and train at least 8,000 new staff before April (and over 10,000 work years in fiscal years 1981 and 1982) in order to make these changes; such a requirement is close to impossible for the agency to fulfill. If SSA must attempt this massive job, it will jeopardize the agency's ability to carry out its basic task of paying benefits. Error rates in OASDI and SSI will climb, applications will be delayed, and there is a serious risk of 35 million benefit checks being in error or failing to be sent on time. The savings estimates for this proposal are thus illusory and do not take into account any of the large administrative costs and risks involved. (SSA currently requires about 20,000 work years per quarter to administer its present functions.)

(5) The savings estimates of this provision may be overstated. The Administration has assumed that only one-fourth of those eligible to participate in SSI would indeed participate. If more participate, SSI and Medicaid costs would be substantially higher.

Earlier phaseout of student benefits

The Committee provision is amended by substituting the Senate Finance provision, which speeds up the phase-out (eliminating new student benefits after June 1982 instead of December 1982, thus cutting out one more class of students than the House provision), eliminating all student benefits during May, June, July and August (the House provision would eliminate payments for June, July and August only if the student was not in full time school during those months), and reduce benefits to current students by an additional 25 percent each year, beginning in 1982, with no further cost-of-living adjustments (the House provision eliminated future COLA's but does not reduce benefits by 25 percent each year).

The Committee, again on a bipartisan basis, also rejected the President's proposal for eliminating student benefits.

The Committee proposal is based on the premise that students have been counting on these benefits in planning for college and need time to adjust to this abrupt termination of benefits. The Senate proposal means that children now entering their senior year in high school would have their benefits cut off in June 1982, leaving very little time for them or their parents to plan for other ways to finance their education. In most of these cases, at least one parent is either dead or disabled, and in many cases the deceased worker has planned the family's insurance based on the assumption that social security would provide for his college-age children through age 21.

The Committee bill would not reduce the monthly benefit now being received by student beneficiaries whereas the Republican substitute would reduce benefits substantially. The substitute reduces monthly benefits by 25 percent each year after fiscal year 1982. Whereas the Committee bill would freeze the benefit amount, under the substitute college freshmen this fall would receive only 25 percent of the current benefits when they are seniors. Such a large reduction is inequitable.

Deletion of modified administration proposal to delay social security COLA

The Gramm-Latta package would delete the Committee provision to move part of the annual cost-of-living adjustment from July to October in 1982.

The Committee provision is a milder version of the proposal made by the President last month to delay the entire benefit increase for 1982 to October, with no payment in July. Secretary Schweiker testified last month that the Administration considered its proposal to delay the benefit increase by three months "a delay as opposed to a cut". The Committee proposal is even less of a delay, or cut, in that case, than the Administration's proposal since it calls for a partial payment in July, and a larger payment in October based on a longer period of inflation. Recipients will get a larger total payment in calendar year 1982 under the Committee proposal than they would get under current law—and a much larger payment than they would get under the Administration proposal.

AFDC

Substitute the Senate Finance Committee approved AFDC amendments for the AFDC amendments approved by Ways and Means

The Republican Amendments to the House Reconciliation Bill would substitute the Finance Committee's AFDC amendments for those approved by the Ways and Means Committee.

With only minor changes, the Senate Finance Committee adopted the AFDC amendments proposed by the Administration's Budget legislation. In addition to developing some of its own amendments, Ways and Means adopted a number of the Administration's proposals, some with important modifications, and rejected others.

The AFDC and Child Support Enforcement amendments approved by Ways and Means would save $670 million in fiscal 1982. The Republican amendment would increase this by $450 million. Approximately $275 million of this additional $450 million in savings would come from a substantial reduction in AFDC payments to AFDC mothers who work in low paying jobs. For example, $50 million would be achieved by requiring the States to assume that all working AFDC recipients receive the Earned Income Tax Credit (EITC) on an advance monthly basis. Ways and Means rejected this proposal because of information from the Internal Revenue Service that virtually no one receives EITC on an advance monthly basis. Employers are refusing to make such monthly payments because of the administrative procedures involved.

An additional $170 million in benefits would be taken from working AFDC mothers by requiring States to eliminate the $30 plus one-third work incentive earnings disregard in current law after the person has received it for four months. In contrast, the Ways and Means bill would allow States to terminate or reduce the disregard, for families with earned income above the poverty level, after the person has received this disregard for 12 months. This provision was developed after discussions with State AFDC administrators who were concerned that the Republican proposal would eliminate any incentive for AFDC mothers to go to work and, as a result, would increase AFDC expenditures rather than reduce them as the Administration contends.

For example, a mother with two children who lives in California and works full time at the minimum wage has disposable income of $687 per month under current law. Under the Republican amendment that same working mother would immediately be cut back to $504 per month of disposable income. After four months she would be further cut to $434. If that mother quits working and simply collects welfare, her disposable income would increase to $578. Thus, she would receive an additional $144 per month for quitting her job plus Medicaid benefits. In effect, thousands of working mothers would be forced to stop work and become totally dependent upon welfare. Many States are convinced that this will result in significant increases in AFDC and Food Stamp costs rather than save $170 million as estimated by the Administration. The Congressional Budget Office has estimated that one-third of the current recipients who work would no longer work as a result of these amendments.

Another $100 million of the additional AFDC savings is attributed to a provision that would permit States to reduce AFDC payments to families receiving food stamps or housing subsidies. Ways and Means rejected this proposal, and seriously questions the savings attributed to it, because it permits States to do something they can already do under current law. Under current law, States set their AFDC payments at any level they choose, and in doing so may take into consideration food stamps and all other benefits available to recipients. Clearly the $100 million in savings attributed to this provision, which simply tells States that they may do something they already had the authority to do, is a false savings.

An additional $75 million of savings is the result of a provision that would prohibit States from paying AFDC benefits to a youngster over eighteen, even if the child is still attending high school. Under the Ways and Means bill, a State could stop payments at age 18, or continue payments until the person reaches 21, if he or she is in high school, college or a vocational school. This gives States the flexibility to encourage youngsters to complete high school or other educational programs, if the State wants to do so.

According to estimates provided by the Department of Health and Human Services, the Republican AFDC amendments would reduce benefits to needy children in over 250,000 families, including reduced benefits to nearly 175,000 children in 13 States where the combined AFDC and Food Stamp benefit level is less than two-thirds of the poverty level. Children in an additional 400,000 families would be totally denied AFDC assistance because their mothers work in low paying jobs to supplement meager incomes.

Some of these same families will lose or experience a reduction in AFDC benefits under the Ways and Means amendments. However, the Ways and Means provisions were developed with the clear intent of limiting benefit reductions to AFDC families with the greatest demonstrated capacity to provide for themselves.

TITLE XX—SOCIAL SERVICES

Social services block grant with reduced Federal funding

The current Federal authority for several programs, including Title XX Social Services (by far the largest of the group), Child Abuse, Runaway Youth, and Community Services would be repealed. These programs would be consolidated into a block grant funded at approximately 84 percent of the fiscal year 1982 level provided under current law.

For example, fiscal 1982 Federal funds for Title XX Social Services could be cut from $3.1 billion to $2.5–$2.6 billion.

Title XX Social Services was converted to a "block grant" in 1975, under which Feder-

al funds are provided to States according to population. States have wide discretion to use these funds for a variety of Social Services programs which they administer.

Because Title XX is already a block grant with programs administered by States, no additional administrative savings will be achieved under the Republican amendment. Therefore, the $500 million cut in Federal funds will result in a substantial reduction in services for the aged, disabled, and children who receive necessary assistance under this program.

For example, upward of 250,000 aged, blind, and disabled SSI recipients could lose social services. 80,000 elderly and disabled persons could lose needed homemaker and meals-on-wheels services which make it possible for them to remain at home rather than moving into a costly nursing home or other institutions. 120,000 children could lose day care services, at the same time the Republican amendment proposes to cut back on a working AFDC mother's ability to pay for needed day care.

The Administration has said it would not impede implementation of child welfare, foster care, and adoption assistance reform legislation enacted last year. However, the Republican social services block grant proposal would reduce funding for child welfare services under Title XX by upwards of $120 million, at a time when one million children are abused or neglected each year, and half-a-million others are in foster homes or institutions.

Increase funding for low-income energy assistance

The substitute would leave intact the Committee's energy assistance program. In addition to this, it would fund another $1.875 billion program for home energy assistance. This new and additional low-income energy assistance authorization does not consolidate any programs; and it contains more rules and requires more Federal regulations than the Committee provision. In other words, it costs more and is less of a block grant proposal than the Committee bill.

MEDICARE

Representative Broyhill will offer a package of amendments on the House floor representing the minority position of the Energy and Commerce Committee. A number of the provisions are amendments to the Medicare program. These same provisions are a part of the Gramm-Latta substitute.

(1) The Broyhill amendments are inconsistent with the decisions of the Ways and Means Committee with respect to Medicare. No attempt is being made to change Ways and Means language to remove the inconsistencies.

(2) The Broyhill amendments would make $89 million of additional reduction in Medicare benefits in areas specifically rejected by the Ways and Means Committee. Broyhill would repeal more than a dozen provisions of law adopted by the Congress just last year. These include provisions with respect to:

(a) home health visits and occupational therapy services for the homebound elderly;

(b) outpatient physical therapy services;

(c) outpatient rehabilitation services for the handicapped;

(d) certain severe dental procedures when provided by a dentist; and

(e) year round open enrollment to enable the elderly to enter the Medicare program at any time during the year.

(3) The Energy and Commerce Committee majority rejected all of these repeals in benefits, and the Senate Finance Committee rejected all but one in whole and two in part.

(4) In addition, the Broyhill amendments would make two other changes recommended by the Administration and specifically rejected by both the Ways and Means Committee and the Senate Finance Committee. The Broyhill amendments would:

(a) repeal the right of railroad retirees to choose their own Medicare carrier for the Administration of Medicare benefits; and

(b) require the immediate implementation of competitive bidding among Medicare intermediaries and carriers. This administrative change has been adopted on a demonstration basis with mixed results, including a nightmare for Medicare beneficiaries in Illinois, and needs to be reviewed more carefully before it can be implemented on the large scale contemplated by the Broyhill amendments.

TRADE

Amend the committee provision to make training under the worker trade adjustment assistance program a nonentitlement program

One of the few changes the Ways and Means Committee adopted in the Administration's worker trade adjustment assistance proposals was to make training an entitlement for the following reasons:

(1) The worker trade adjustment assistance program has become primarily another income maintenance entitlement rather than an adjustment program. There is bipartisan consensus in the Committee that worker training and other adjustment measures should be the most important aspects of the program.

(2) The current lack of focus on training arises largely because minimal funds have been allocated annually from a discretionary fund of the Secretary of Labor. Making training an entitlement ensures that the Administration will request adequate appropriations from the Congress to meet training needs and that training availability and approval will no longer be contingent on its priority relative to other demands on the allocation of discretionary funds.

(3) Concerns of entitlement opponents are met in the Committee-approved bill by requiring that the Secretary of Labor shall approve training and the worker become entitled to payment of its costs only if he determines a number of statutory prior conditions are met. The bill does not create worker entitlement to training upon demand.

At this time, Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. PICKLE), the chairman of the Subcommittee on Social Security, to go into detail as to what we have done with respect to our budget cuts; and if he can shed any light on what is happening in the new proposal, we would appreciate that as well.

The CHAIRMAN pro tempore (Mr. SMITH of Iowa). Without objection, the gentleman from Texas (Mr. PICKLE) is recognized for 5 minutes.

Mr. PICKLE. Mr. Chairman, the Subcommittee on Social Security of the Committee on Ways and Means was called upon to cut $2.4 billion in the social security program. Our subcommittee met and we cut $3.1 billion in actual outlay reductions in the social security program for 1982.

Now these are real savings amounting to $18.36 billion over the next 5 years. There are no gimmicks to these proposals. There are no sly maneuvers.

Now if we enact the Gramm-Latta substitute, we will put social security below the target set in the Gramm-Latta budget resolution. That substitute, the Gramm-Latta, will leave us with $1.98 billion in social security savings for fiscal 1982 compared to the $2.4 billion which the Gramm-Latta resolution would request.

Now the Gramm-Latta substitute would delete a provision in our bill, the Committee on Ways and Means bill, to move the social security COLA to the start of fiscal year 1982. They have called this amendment of ours, "Unwarranted and unrealistic."

But, Mr. Chairman, the President himself has already proposed that we delay the COLA from July to October next year. He proposed it as part of his social security financing package presented on May 13. Gramm-Latta here asked the House to vote against the COLA provision when the President is going to ask us for a delay in a very short time.

They will probably ask for that vote to come later and that is very inconsistent.

There are two other provisions I want to mention and I would not be able to go into detail about it.

First, let me mention one that makes reference to the minimum provision. As my colleagues know, years ago we enacted a resolution as part of our social security bill that says if the very poorest of our wage earners did not get much money, if he only got $50 a month, we said at least he could get $122. We wanted him to be able to eat and live.

Now for years that has operated. Gramm-Latta would say that we are going to take away the minimum benefit starting in January 1982. We are going to say to those 3 million people, we are taking away your minimum benefit as of January 1. Now there are about 3 million of them. Can anyone imagine the hardship and anguish that is going to go through the mind of an 80-year-old widow who for 5 or 10 years may have been receiving the minimum social security benefit, and we are going to say, "We are going to take that away from you in January."

The President recommended we take away the minimum. Our committee met and said that is a legitimate request because we do have the SSI program and we ought to do something about it. But we said we are going to do it prospectively. We are going to do it with the people after January 1. We are going to do it for the future. We are not going to go back and take benefits away from those people who have

been getting them for the last 5 or 10 years, but we will do it prospectively.

We make a good deal of saving out of that. That is fair and that is honorable.

How is SSA going to find these 3 million people? When the benefit computation was made for the most part years ago, it was done on an individual folder and they put that record in the folder. They did not always record all of his earnings. All they did was say he is entitled to the minimum and he is classified to receive the minimum. We do not know what his earnings were in many instances.

For the most part his earnings record just met the requirement for minimum benefit. So we do not really know who these people are and we have to go back to Federal Records Center and we have to pull those folders individually, nearly 3 million of them, or upwards of that, over 2 million, and we have to try to find the missing earnings.

Now it is going to cost us. The Secretary of HHS said, "It is going to cost us 9,000 man-years to make this search, if we had 2 or 3 months," he said, "and if our people at the Social Security Administration did not have anything else to do, they could go find these people." They could really get down in the trenches and locate them if they had 9,000 man-years and 2 or 3 months.

Well, it is going to cost us, Mr. Chairman, it will cost us more in trying to find them than it would in taking it away.

Now in the first place it is wrong morally for us to take it away. In the second place, I must say, yes, I guess we could find those people, maybe we could find the 2 or 3 million people affected. If you had a lot of Sherlock Holmes spyglasses and a bunch of bloodhounds to turn loose over at SAA, you might locate those people but it will cost you more than you would ever save on it.

I would like to insert in my statement at this point excerpts from an internal document of operating components of the Social Security Administration, which lays out an "optimistic" plan for implementing the minimum benefit proposal. Even under this optimistic plan, very serious problems will result just from trying to implement it, and it seems most likely that service to all SSA beneficiaries will suffer greatly from the agency's attempt to implement this provision.

1981 LEGISLATIVE PROPOSALS—OCO CONTINGENCY PLAN

The purpose of this staff paper is to delineate the actions to be taken by the Office of Central Operations (OCO) to implement the 1981 legislative provisions.

ACTIONS TO BE RESOLVED

1. Will due process be required before adjusting benefits, and if so, how, with what systems assistance and in what time frame?

2. Is the administration willing to defer work on all initial claims, as well as all postentitlement actions, for a period of at least 60 days to use benefit authorizers and claims authorizers on the proposed revisions?

3. If OCO cannot process both student benefit phase-out and minimum benefit elimination concurrently by the effective date (including deferring all other work), which of the two proposals has the greater priority?

4. Will we attempt to recover overpayments created if all benefits are not reduced timely?

5. Will the central computer system have the capability to process the large increases in work?

ACTIVITIES REQUIRED TO ELIMINATE THE MINIMUM BENEFIT

1. About 2.1 million cases will be processed (single entitlement only.)

2. The 900,000 dual entitlement cases will be processed at a later date. Costs for these cases are not included in the paper.

3. All cases that cannot be processed timely would constitute an overpayment in which recovery actions would have to be initiated.

Little can be expected from term employees with this scenario except to help clean up the after effect of this "crash" program.

If we devote 100 percent of our regular claims authorizers' hours, 100 percent of overtime hours at 10 hours per week per CA, plus the hours of other employee types working CA cases on overtime, and total hours of non-OCO employees available for this project, it would still require 2 months to process this work. Obviously, taking the above action would create critical backlogs in the other workloads.

To complete this workload within 2 months, all other work would be deferred. This includes any other legislative initiatives (including student phase out) and the current disability initiatives.

The DO's could process some critical payments via impact, but over 200,000 initial claims would be delayed an additional 60 days. Delays in processing postadjudicative work will result both in underpayments and overpayments. The district offices will be inundated with requests for status. We can also predict an increase in complaints to congressmen.

Resource requirements may be supplemented by suspending technical assistant reviews and having TA's work cases. Quality reviews can be suspended and QA analysts diverted to this work in central office, the PSC's and regions. Lastly, while district offices will not be in good shape we could save critical CA and BA workpower by rescinding additional conspicuous characteristics to increase DOFA claims processing.

ACTIONS AFTER IMPLEMENTATION TO RESTORE NORMALCY

It is important that OCO return to normal as soon as possible after implementation of the proposals. This will require that we:

1. Reduce backlogs to acceptable levels.

2. Implement the second phase of the legislation initiatives (i.e., withholding COLA for students and processing 900,000 dually entitled special minimum cases).

3. Resume processing of AERO, enforcement and other deferred workloads.

4. Complete training of partially trained technicals.

5. Start a major initiative to process and collect overpayments.

To meet these goals, OCO must continue to use a high level of resources. Overtime must continue at maximum levels. Also, while OCO would prefer to advance recruit FTP employees, it could train the term employees requested in the 1981 supplemental and the revised budget request as CA's and BA's.

OCO OBSERVATIONS ON TIMING OF ACTIVITIES

The fallout resulting from the effort needed to meet the proposed effective dates is certain to be negative and heavily political. Beneficiaries in large numbers across the nation will be faced with reductions or eliminations in benefits, overpayment notices and poor service, not only on inquiries and postentitlement actions but also initial claims. This will not be a 1-month occurrence, but the reaction and the service deterioration will persist for at least 1 year.

In summary OCO believes the timetable for processing the 1981 legislative proposals creates serious operating and legal problems. The scenario outlined above does not present a worst possible story. Our assumptions, particularly in terms of automation, are optimistic. Any major systems failure could put us in a hole that will require years to overcome.

This report assumed a somewhat shorter time frame than we are faced with in the Gramm-Latta amendment. But it does not take much to determine that in an operation of this magnitude a few months one way or another are not going to make any difference.

Finally, this package contains another amendment which bears comments. That is the faster phaseout of the students benefits. There is no question that this benefit is going to be phased out. The only question is how humane we are in that process. I think the committee approach strikes a proper balance between tough and necessary budget actions and the expectation of the people involved. Eighty-one percent of these students are children of deceased or disabled workers. They are very likely to be dependent on these benefits. Again, you have been told that the committee version extends the benefit for too long. Our committee version provides frozen benefits only for those now about to enter their senior year in high school. Without these benefits, these children of deceased or disabled workers would have only 1 year to make alternative plans for their education. You have been told that the committee continued full payments where a cut is needed. The truth is the committee freezes the benefits and provides no cost-of-living increases for these students now in the program.

These agreements have been reached on a bipartisan basis in this committee. I have repeatedly stressed the social security must be approached in a bipartisan way, and that is the way we have done it in our committee. The committee approach is good for the program, good for the beneficiaries and good for the budget. I urge rejection of this amendment.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. STARK).

The CHAIRMAN pro tempore. Without objection, the gentleman from California (Mr. STARK) is recognized for 2 minutes.

Mr. STARK. I thank my distinguished chairman for yielding.

I only wish that all my colleagues on the other side of the aisle had the understanding of the political process that has been demonstrated by the gentleman from Illinois (Mr. ROSTENKOWSKI) and indeed by the minority members on the Subcommittee on Public Assistance and Unemployment Compensation of the Committee on Ways and Means.

□ 1730

Our subcommittee, at the direction of the chairman of our full committee, followed the request of the administration in cutting dollars from our share of the budget. And the Public Assistance Subcommittee probably had as much or more cuts than any other subcommittee in the House of Representatives, over $3 billion. In complying with the President's budget, we cut low-income energy assistance; we cut benefits for mothers and children on aid to families with dependent children; we cut funds for the aged and disabled. We reduced Federal funding for all the truly needy as President Reagan directed.

When your State closes or reduces meals on wheels, and house-bound senior citizens go without adequate food, the Republicans can be proud. The Republicans can be proud of the foster care that is no longer available. The Republicans can be proud of the mentally ill who will no longer get training or home care; and the senior citizens who will have to leave their homes and move into institutions because the social services that allow them to remain at home are no longer available.

It is interesting that none of the Republicans are looking me in the eye. They are looking at their feet; maybe because they realize and are ashamed of the human suffering that will result from the changes this administration has forced them to support.

The President's advisers understand the budgetary cost of what they have proposed; but they do not know its costs in terms of human life or human suffering. They do not understand the value of dignity or the value of charity. They think you can take an athlete or an actor or a divinity student and cut funding for public assistance and social service programs, and have supply side economics to feed, clothe, provide medical care and assistance to the aged, blind, disabled, and other truly needy in this country.

That is a lie. You will see, ladies and gentlemen, that the President has been lying to you, and the Republicans in this House will bring the lie to fruition.

Mr. Chairman, I strongly oppose the Latta amendment. As chairman of the Public Assistance and Unemployment Compensation Subcommittee, I am especially concerned with the provisions of this amendment that affect aid to families with dependent children (AFDC), title XX social services, and low-income energy assistance.

Programs under the jurisdiction of the Public Assistance and Unemployment Compensation Subcommittee constitute a vital element of the social safety net we hear so much about these days. These programs serve the aged, the disabled, the poor, and the disadvantaged children of this Nation.

Despite this, nearly 10 percent of the President's original cuts for the entire Congress fell in programs under the subcommittee's jurisdiction. We met, and the Ways and Means Committee approved, the savings targets required by the reconciliation process—$3 billion worth.

The proposal now before us cuts an additional $1.1 billion in AFDC, title XX social services, and low-income energy assistance. The Gramm-Latta substitute:

Cuts benefits to needy children in over 250,000 families. This includes reduced benefits to nearly 175,000 children in 13 States where the combined AFDC-food stamp benefit level is less than two-thirds of the poverty level. How many of us could support ourselves and two children on $4,600 or less per year.

Totally denies benefits to children in an additional 400,000 familes living in poverty;

Denies services to over 80,000 senior citizens and disabled individuals that enable them to remain in their homes rather than in institutions;

Denies protective and support services to over 20,000 abused, abandoned, or neglected children;

Denies rehabilitative services to over 25,000 mentally retarded or developmentally disabled Americans; and

Denies day care services to over 120,000 children.

In addition, Mr. Chairman, the Latta amendment destroys 13 years of progress in encouraging poor people to work, to become self-sufficient, and go off the welfare rolls. Under this proposal, an AFDC mother in my State, with two children and a minimum wage job, is $144 and the cost of medical care better off each month if she quits her job and simply becomes totally dependent on welfare. Mr. Latta and the administration actually make it irresponsible for poor parents to hold jobs.

Proponents of Gramm-Latta claim that their amendment is necessary to eliminate "excessive income deductions and earnings disregards, which allow relatively high income families to remain on AFDC." In fact, the latest information shows that less than 2 percent of these AFDC families with a working adult make over $10,000 a year, and that 70 percent have earnings of $500 a month or less.

Gramm-Latta would reduce the income of virtually all AFDC families in which the mother is engaged in some level of employment. Whereas, the Ways and Means Committee rejected the arbitrary limitations on earnings incorporated in Gramm-Latta, such as the termination of all earnings disregards after 4 months and a cap on eligibility which would deny AFDC and medicaid to any family that has gross earnings above 150 percent of the State's needs standards.

These and other Gramm-Latta provisions run directly counter to the professed objectives of their sponsors. They discriminate against those who are struggling to remain in the paid labor market. These provisions make work less profitable than welfare. Many families simply will not be able to hold onto their jobs in the face of these losses.

In response to the argument that the disregards promote reliance on AFDC, the Ways and Means proposal allows for a phaseout or reduction of the disregards for families at the upper end of the eligibility scale, leaving the decision as to whether and how to phase out to State option so that the system can be tailored to the situation in each State. Gramm-Latta, on the other hand, sets an arbitrary and rigid 4-month limitation on the work incentive disregards that all States must adhere to.

Current law provides an earned income tax credit (EITC) for the working poor. Eligible employees may receive their EITC in the form of advance payments added to their paychecks or may apply for a refund at the end of the year when they file their tax returns. The Republican amendment would require States to assume all working AFDC recipients receive advance EITC payments and count these amounts as income in determining the family's monthly benefits.

As a practical matter, the availability of advance EITC payments depends upon the individual's employer advising her of its availability and making the necessary calculation and accounting changes.

The Ways and Means Committee rejected this proposal because of information from the Internal Revenue Service that virtually no one received EITC on an advance monthly basis. Employers are refusing to make such monthly payments because of the administrative procedures involved.

Counting advance EITC payments as monthly income when AFDC recipients do not receive them is simply unfair.

Gramm-Latta would eliminate the payment of AFDC benefits to pregnant women on behalf of the unborn child before the sixth month. Under existing law, at State option, payments may be made to eligible women as soon as pregnancy is medically verified.

Currently, 31 States provide benefits prior to the sixth month of pregnancy in recognition of the additional needs of the mother resulting from the existence of the unborn child. The first trimester of pregnancy, in particular, is important to the healthy development of a fetus and the subsequent birth of a healthy child.

The elimination of assistance as proposed by Gramm-Latta is inappropriate.

Furthermore, Gramm-Latta would permit States to do something which they already can do under current law, and claim $100 million in savings.

I am referring to the provision that would permit States to reduce AFDC payments to families receiving food stamps or housing assistance. Under current law, States may set their AFDC payments at any level they choose, and in so doing may take into consideration food stamps and all other benefits available to recipients.

Clearly any savings attributed to this provision, which simply tells States that they can do something which they already have the authority to do under existing law, can be seriously questioned.

It is a false savings. The Ways and Means Committee rejected this proposal for this very reason.

On February 18 of this year, President Reagan said and I quote:

> Those who through no fault of their own must depend on the rest of us, the poverty stricken, the disabled, the elderly, all those with true need, can rest assured that the social safety net of programs they depend on are exempt from any cuts.

The proposal before us today makes a mockery of the President's commitment to America's needy. It condemns thousands of senior citizens to institutions, thousands of children to continued abuse and neglect, thousands of handicapped persons to lives of despair, and thousands more children and their families to total welfare dependency.

I urge the defeat of the Latta substitute.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from Arkansas (Mr. ALEXANDER).

Mr. ALEXANDER. Mr. Chairman, the proposed cuts in social security are cruel cuts that are to be taken out of the hides of our senior citizens who built America. We are not standing on their shoulders to build a better future. We have our boots on their necks.

Mr. Chairman, I rise in grave concern for the propositions before this House which would eliminate the minimum benefit provisions for all social security beneficiaries, effective April 1982; which would cut student benefits and phase them out in unseemly haste; and which would deprive the elderly of cost-of-living increases for 1981 by delaying the readjustment.

Earlier in June, the President proposed several changes in the social security system which he said were absolutely essential for maintaining the viability of the program. Apparently the changes became less essential when the retired and elderly rose up in indignant opposition to his proposals for ending the minimum benefit payment, for summarily reducing benefits for those who retire at age 62, and for effecting changes that cut far deeper than needed over the next few years. Although everyone knew that changes in the program were needed, the character of the President's proposals created the suspicion that he was willing to seek a smaller deficit to please the financial community at the expense of the elderly and disabled.

In any case, the President, confronted with a unanimous resolution of disapproval in the Senate, a resolute majority from both parties in the House, and mounting criticism from the American public, the President receded from his position.

But apparently David Stockman was not deterred in his dedication to the proposition that support of the financial community was more important to the political goals of the administration than keeping the President's pledge to maintain the "social safety net" erected to provide a foundation level of income security for the elderly and the poor. As soon as the opportunity presented itself—in the form of the reconciliation measure—Stockman sought to bury his newly formulated proposals in his substitute measure which he hoped could be voted upon as part of a package. Fortunately for the elderly of the Nation, all Members of this House will have the opportunity to go on record in support of the "social safety net" or in opposition to it.

The proposition before the House will eliminate the minimum benefit for 1.5 million social security recipients effective April 1982 and it runs exactly counter to then-candidate Ronald Reagan's pledge during the campaign debate on October 24, 1980, when he said, "No one presently dependent on social security is going to have the rug pulled out from under them and not get their checks."

The fact is, the present law gradually phases out the minimum benefit by freezing the initial value of the primary insurance amount at $122 per month. In the future, a 65-year-old retiree will receive no more than $122 per month unless preretirement earnings justify a higher benefit. In the years to come, under present law, benefits and earnings requirements for eligibility will be adjusted and persons with high earnings and minimum participation in the social security program will not likely be eligible for the minimum benefit. Thus, the minimum benefit will still be available for the very poor who have had minimal participation in the social security program but will not be extended to those who do not have a real need for the additional income.

This amendment would only disadvantage the very poor and do very little to reform the system. The amendment is, in fact, another example of the administration's willingness to change the rules in the middle of the game for the elderly who are counting on these benefits—however small—to be able to maintain themselves in the future.

The President also wants to cut social security benefits to students. The amendment would speed up the phaseout of the program by eliminating benefits for new applicants after June 1982 instead of December 1982 and eliminate all student benefits for the months of May, June, July, and August, regardless of whether the student was attending summer school.

Mr. Chairman, these benefits now go to the 800,000 sons and daughters of deceased, retired, or disabled workers, many of whom, without the social security benefit, would not be able to afford a college education. To ask these young people to have to rely on assistance from a drastically reduced student loan program is unconscionable in view of the rising costs of education.

Last month, the President proposed that the 1982 cost-of-living adjustment for social security recipients be delayed from July to October. The committee modified the proposal to provide for a partial payment in July and a larger payment in October to make it possible for larger benefits to flow to recipients in calendar year 1982.

Now the President wants to delete this provision entirely and leave cost-of-living adjustments unchanged—at least for the moment. The amendment would add $1.9 billion to the cost of the bill which seems clearly inconsistent with the urgency of the stated Republican need to find additional savings.

But aside from its basic inconsistency, it creates a reasonable surmise that the administration is more interested in shoring up political support for its budget proposals than it is in achieving financial solvency in the social security system. There is virtual

consensus among liberals, moderates, and Republicans alike that adjustments in the social security COLA system are warranted and necessary. The committee proposal would ameliorate the effects of the changes which the administration will ultimately have to recommend—probably at a time when the Director of OMB believes it politically expedient.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1½ minutes to the gentleman from Indiana (Mr. JACOBS).

Mr. JACOBS. Mr. Chairman, I simply want to point out to the committee that when the Ways and Means Committee looked into the medicare program we were not unmindful of the fact that President Reagan had promised the American people there would be no cuts in the medicare program of the elderly of this country. Nonetheless, recommendations did come from the administration to make cuts in the program and, generally speaking, those cuts followed the pattern of repealing the most recent changes in the medicare program.

Some of those changes included allowances for what are known as freestanding clinics. Now, I am not really pleading the case for the elderly and the ill. That case has already been pleaded, and one is either sympathetic to it or one is not, but just in case one is sympathetic not only to the elderly ill but also to the taxpayers and saving money for the taxpayers, let me point out that these freestanding clinics are not expenditure items, but they are savings items.

The changes that were recommended by the Ways and Means Committee were recommended on a bipartisan basis. They were recommended in the hope that they would not make sudden changes in peoples' lives, abrupt changes in their lives. I believe it is also true of the social security program.

The only point I wanted to make is, to stop benefits tomorrow for people who are using them now, particularly benefits that are important to students, for example, I do not know whether that is cruel, but it certainly is mindless and, more to the point, it is unnecessary.

This amendment, whatever it is—and we only communicate with Mr. LATTA by rumor at the moment—but whatever this amendment is, I understand that it will undo the bipartisan work of the Ways and Means Committee and undo some very good things that the American public supports.

I thank the gentleman.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri (Mr. GEPHARDT).

Mr. GEPHARDT. Mr. Chairman, I rise to talk also about the social security changes in the Gramm-Latta substitute. They have been called cruel, and they have been called inefficient. They certainly are that.

The minimum benefit which is impossible, it will never happen, it cannot happen because it is impossible to implement, but I think the greatest wrong in the Gramm-Latta substitute is the duplicity that is exhibited in the restoration of a cut that was made in the committee. That was the cut that was embodied in the 3-month delay in the COLA for 1982. The reason that the restoration in Gramm-Latta of that cut is duplicitous is because an even harsher cut in the COLA is proposed in the Reagan social security package which was delivered to Congress about a month ago.

Now, either President Reagan is serious about doing something about social security or he is not. Apparently, all that the Republicans are serious about is enacting cuts that cannot be implemented, but when it comes to a cut that they themselves proposed, now they come and say that we should restore that cut; and having done that, I would like to know how, a month from now or 2 months from now, we are going to put a cut like that in the social security bill.

I think the American people ought to start asking questions about the kind of games that are being played with the social security system, when we make a proposal in one month and we come back a few days later and say, "No, we cannot do that because the Democrats put it in their reconciliation bill."

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts (Mr. SHANNON).

Mr. SHANNON. Mr. Chairman, I thank the chairman of the committee for yielding to me.

Mr. Chairman, this has been a very dramatic day in the House of Representatives. This discussion of Gramm-Latta has seemed like it is the biggest issue we are going to be discussing in this Congress, but it really is not. The biggest issue we are going to be discussing in this Congress is social security. The biggest issue we are going to be discussing is how we are going to treat our elderly citizens. The issue we are going to be discussing is whether we are going to keep a promise which has been made to those citizens for the last 45 years.

I think the Gramm-Latta substitute, the cuts that have been proposed by the Reagan administration in this budget proposal, are cruel and they are unfair and they are broken promises. What can we say to millions of low-income Americans whom we promised we would protect when they find out tomorrow, if this substitute passes, that they are going to suffer a serious reduction in benefits? What are we going to say to the thousands of students who are going to find that they are not going to have the level of assistance this September to go to school that they thought they were going to get? What are we going to say when our phones start ringing?

Are we going to say, "It was contained as a small part of a very big bill that we have not had a chance to review"? I hope not.

Long after Gramm-Latta is history, long after discussion of this budget proposal has ceased, we are going to have to live with the effects of what we do today. One of those effects will be a very serious—a very serious change in the social security system. It is not going to affect just programs; it is going to affect people.

I hope my colleagues on the Republican side are going to keep that in mind before they vote.

The CHAIRMAN. The gentleman from Illinois has used all of his time.

Mr. ANTHONY. Mr. Chairman, I yield the gentleman from Illinois (Mr. ROSTENKOWSKI) 2 additional minutes.

Mr. ROSTENKOWSKI. Mr. Chairman, as has been pointed out by several of the subcommittee chairmen, it is really not a pleasure to cut budgets and to deny access of the needy to the benefits that they have been receiving under these important social programs. I would just like at this time to point out in several sample States what the effects of the Gramm-Latta substitute, and its reduction in funding for title XX social services programs, will mean.

In California, 11,800 low-income people will lose day care services, 12,900 aged or disabled Californians will lose homemaker or attendant care services.

□ 1740

In Illinois, 4,400 children from low-income families will lose day care services, and 4,500 aged, disabled individuals in Illinois will lose homemaker and follow-on services.

In New York, 19,500 low-income children will lose day care service, 25,500 aged will lose senior citizen center services in New York, and the services necessary to respond to 23,000 cases of child abuse or neglect would be eliminated in New York.

A more detailed summary follows:

GRAMM-LATTA SUBSTITUTE: SOCIAL SERVICES BLOCK GRANT

ESTIMATED STATE-BY-STATE IMPACT OF THE REDUCTION IN TITLE XX SOCIAL SERVICES FUNDS

The Gramm-Latta substitute reduces from $3 billion to approximately $2.5 billion fiscal 1982 Federal funds for the title XX social services program. Examples of the potential impact of this reduction on various social services programs in each State are attached. These impact examples are not meant to be precise figures. They simply demonstrate the potential impact on various services and an estimate of the number of individuals who could be affected.

EXAMPLES OF THE POTENTIAL IMPACT OF THE GRAMM-LATTA REDUCTION IN FUNDING FOR THE TITLE XX SOCIAL SERVICES PROGRAM

State	Current law fiscal year 1982 allocation	20 percent reduction	Examples of impact of Gramm-Latta amendment
Alabama	$51,373,000	$10,274,600	1,800 low-income children would lose day care services in Alabama. 1,300 aged and disabled in Alabama would lose homemaker services.
Alaska	5,534,000	1,106,800	Services needed to respond to 300 cases of child abuse or neglect would be eliminated. Services needed to provide social services to 120 aged or disabled unable to protect themselves from abuse or exploitation would be eliminated.
Arizona	33,394,000	6,678,800	2,500 children from low-income families would lose day care services in Arizona. Services needed to respond to 1,900 cases of child abuse or neglect would be reduced.
Arkansas	29,714,000	5,942,800	500 mentally retarded and developmentally disabled children would no longer be provided therapy, training and social services which enables parents to care for their children at home instead of an institution. 500 children from low-income families would be denied day care.
California	309,326,000	61,865,200	11,800 low-income children would lose day care services in California. 12,900 aged or disabled Californians would lose homemaker or attendant care services.
Colorado	37,783,000	7,556,600	3,000 children from low-income families would lose day care in Colorado. 1,600 aged and disabled in Colorado would lose homemaker services.
Connecticut	42,458,000	8,491,600	1,000 children from low-income families would lose day care services in Connecticut. 800 mentally retarded individuals in Connecticut would lose special training services.
Delaware	7,933,000	1,586,000	320 children from low-income families would lose day care services in Delaware. Services needed to respond to 240 cases of child abuse or neglect would be reduced.
District of Columbia	8,941,000	1,788,200	320 children from low-income families in D.C. would lose day care services. 100 aged and disabled individuals in D.C. would lose homemaker or chore services which enables them to live in their own home instead of an institution.
Florida	120,765,000	24,153,000	6,600 children would be denied day care services in Florida. 3,300 aged or disabled would lose homemaker services in Florida. 18,400 fewer individuals would receive family planning services in Florida.
Georgia	69,746,000	13,949,200	1,900 children from low-income families would lose day care in Georgia. 1,000 mentally ill individuals in Georgia would lose community services provided as an alternative to institutional care.
Hawaii	12,471,000	2,494,200	1,100 children from low-income families would lose day care in Hawaii. 500 aged and disabled individuals in Hawaii would lose homemaker and chore services.
Idaho	12,335,000	2,467,000	140 mentally and physically handicapped individuals would lose sheltered workshop services. Idaho's youth rehabilitation services program would serve 1,200 fewer youth.
Illinois	153,055,000	30,611,000	4,400 children from low-income families would lose day care in Illinois. 4,500 aged and disabled individuals in Illinois would lose homemaker and chore services.
Indiana	73,604,000	14,720,800	Community services for 900 developmentally disabled individuals in Indiana would be eliminated. 2,200 children from low-income families in Indiana would lose day care services.
Iowa	39,555,000	7,911,000	1,600 aged and disabled Iowans would lose homemaker services which enables them to live outside an institution. 900 emotionally disturbed and handicapped foster care children would be denied treatment services.
Kansas	32,290,000	6,458,000	1,500 children from low-income families would lose day care services in Kansas. 1,000 aged and disabled Kansans would lose homemaker services.
Kentucky	48,074,000	9,614,800	Services to respond to 3,500 cases of child abuse or neglect in Kentucky would be eliminated. 2,200 aged or disabled individuals in Kentucky would lose homemaker services.
Louisiana	54,767,000	10,953,406	2,600 low-income children would lose day care services in Louisiana. 800 aged or disabled individuals would be denied home-delivered meals or meals at senior citizens centers.
Maine	14,952,000	2,990,400	440 children from low-income familits in Maine would lose day care. Special community seervices programs for 260 of the mentally retarded in Maine would be eliminated.
Maryland	56,538,000	11,307,600	2,400 children from low-income families would lose day care in Maryland. 1,100 aged or disabled individuals in Maryland would lose homemaker or chore services to enable them to live outside an institution.
Massachusetts	78,633,000	15,726,600	2,000 children from low-income families would lose day care services in Massachusetts. 1,800 aged and disabled individuals in Massachusetts would lose homemaker services which enables them to live outside of an institution.
Michigan	125,494,000	25,098,000	5,000 children from low-income families would be denied day care. 8,000 aged or disabled individuals would be denied services under Michigan's "adult home help services" which enables them to remain in their own home instead of living in an institution.
Minnesota	55,339,000	11,067,800	Services needed to respond to 1,500 cases of child abuse or neglect would be eliminated in Minnesota. 160 emotionally disturbed children in Minnesota would be denied treatment services. 900 children would lose day care services in Minnesota.
Mississippi	33,108,000	6,621,600	1,300 children from low-income families would lose day care services in Mississippi. 1,300 aged and handicapped would lose special transportation services to health and community services in Mississippi.
Missouri	66,339,000	13,267,800	4,600 children from low-income families would lose day care services in Missouri. 1,800 aged and disabled individuals would lose home-delivered meals and meals in senior citizens centers.
Montana	10,713,000	2,142,600	120 developmentally disabled individuals would lose special vocational training services. Services to respond to 1,000 cases of child abuse or neglect would be eliminated.
Nebraska	21,454,000	4,290,800	340 of the mentally retarded in Nebraska would lose special services. 1,400 children from low-income families would lose day care in Nebraska.
Nevada	9,568,000	1,913,600	600 mentally and physically handicapped individuals in Nevada would lose special rehabilitation services. Services necessary to respond to 300 cases of child abuse or neglect would be eliminated.
New Hampshire	12,090,000	2,418,000	650 children of low-income families would lose day care in New Hampshire. 500 aged or disabled in New Hampshire would lose homemaker services to enable them to live outside of an institution.
New Jersey	99,937,000	19,987,400	3,900 children from low-income families would lose day care services in New Jersey. 7,200 aged and disabled would lose homemaker/home health services to enable them to live outside an institution.
New Mexico	16,915,000	3,383,000	500 aged or disabled in New Mexico would lose homemaker services which enables them to live in their own home instead of an institution. 320 children from low-income families in New Mexico would lose day care services.
New York	240,547,000	48,109,400	19,500 low-income children would lose day care in New York. 25,500 aged would lose senior citizens center services in New York. The services necessary to respond to 23,000 cases of child abuse or neglect would be eliminated in New York.
North Carolina	76,411,000	15,282,200	2,500 children from low-income families in North Carolina would lose day care services. 3,100 mentally retarded and emotionally disturbed individuals would lose services under North Carolina's special services program.
North Dakota	8,955,000	1,791,000	360 aged or disabled individuals would lose homemaker services which enables many of them to live in their own homes instead of in an institution.
Oklahoma	39,419,000	7,883,800	4,300 children from low-income families in Oklahoma would lose day care services. 4,600 fewer individuals could be served under Oklahoma's "community youth services program."
Ohio	146,267,000	29,253,400	6,700 low-income children would be denied day care in Ohio. 4,400 AFDC recipients and other low-income individuals would not receive employment and training services.
Oregon	34,444,000	6,888,800	600 fewer AFDC recipients each month would be served with Oregon's "Family Self Support" program which provides day care and other social services while family members are in training or employment. 280 aged and disabled individuals each month would lose chore services which enables them to live in their own home instead of an institution.
Pennsylvania	159,897,000	31,979,400	3,400 children from low-income families in Pennsylvania would lose day care services. 5,000 aged in Pennsylvania would be denied services in senior citizens centers.
Rhode Island	12,663,000	2,532,600	800 aged or disabled in Rhode Island would lose homemaker services which enables them to live in their own home instead of an institution. 110 mentally retarded individuals in Rhode Island would lose vocational services.
South Carolina	39,964,000	7,992,800	950 children from low-income families in South Carolina would lose day care/child development services. 320 fewer individuals would be served under South Carolina's "special services program for the developmentally disabled."
South Dakota	9,391,000	1,878,200	300 children from low-income families in South Dakota would lose day care services. 350 aged and disabled in South Dakota would lose homemaker or home health aide services.
Tennessee	59,701,000	11,940,200	1,400 children from low-income families would lose day care services in Tennessee. 800 aged and disabled individuals would lose community services which enables them to live with their families instead of in an institution.
Texas	182,373,000	36,474,600	4,500 low-income children would lose day care in Texas. Services needed to respond to 24,000 cases of child abuse or neglect in Texas would be eliminated.
Utah	18,633,000	3,726,600	Services to respond to 2,400 cases of child abuse or neglect would be eliminated. 1,700 children from low-income families would lose day care in Utah.
Vermont	6,720,000	1,344,000	400 children from low-income families would lose day care services in Vermont. Services to respond to the needs of 700 abused or neglected children and children in foster care would be eliminated.
Virginia	70,837,000	14,167,400	2,600 children from low-income families would lose day care services in Virginia. Services needed to respond to 6,600 cases of child abuse or neglect would be eliminated.
Washington	53,513,000	10,702,600	700 aged and disabled individuals in the State of Washington would lose chore services which enables them to live in their own home instead of an institution. The State of Washington's social services program for the developmentally disabled in group homes would serve 135 fewer individuals.
West Virginia	25,598,000	5,119,600	1,800 children from low-income families would lose day care services in West Virginia. Services necessary to respond to 1,300 cases of child abuse or neglect would be eliminated.
Wisconsin	64,335,000	12,867,000	2,700 children from low-income families would lose day care services in Wisconsin. 500 fewer handicapped individuals would be served with Wisconsin's "sheltered employment services."
Wyoming	6,134,000	1,226,800	320 aged and disabled individuals would lose homemaker services in Wyoming which enables them to live in their own home instead of an institution. 400 individuals would lose family planning services in Wyoming.

Mr. Chairman, this was not, as I said earlier, a pleasant task, but to go even further into these delicate areas is a tragedy, in my opinion.

Mr. Chairman, we are going to have an opportunity tomorrow in further debate to point out a little bit more about what this substitute will do to the aged and to the poor in this country.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. ROSTENKOWSKI. Mr. Chairman, I yield back the balance of my time.

Mr. REGULA. Mr. Chairman, I yield 10 minutes to the ranking minority member of the Committee on Ways and Means, the gentlemen from New York (Mr. CONABLE).

Mr. ROUSSELOT. Mr. Chairman, will my colleague yield briefly?

Mr. CONABLE. Yes, I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate my colleague's yielding.

I would like to say to my chairman of the Committee on Ways and Means that we are not reducing title 20 in this amendment by 20 percent. The block grant consideration, as I understand it, is 16 percent, but there is total flexibility within that grant.

Mr. STARK. Mr. Chairman, if the gentleman will yield, that does not take into account the $100 million increase.

Mr. ROUSSELOT. Mr. Chairman, if I may proceed, perhaps the gentleman will yield after I have finished. Let me complete my statement, if I may.

There is total flexibility within that grant for the Governors or the State agencies to shift that money from one program to the other, so it is not true that it is a 20-percent reduction in the block grant. It is 16 percent, but it is a reduction from present law of $3.7 billion to $3.1 billion. So there is roughly a savings of $603 million in 1982.

Mr. Chairman, I appreciate my colleague's yielding, and I would be glad to discuss more of this a little later after the gentleman has completed his remarks.

Mr. CONABLE. Mr. Chairman, I thank the gentleman from California (Mr. ROUSSELOT).

Mr. STARK. Mr. Chairman, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from California.

Mr. STARK. Mr. Chairman, my math is not very good, and I am sure my distinguished colleague, the gentleman from California (Mr. ROUSSELOT), is a better mathematician than I am. But going from $3.7 billion to $3.1 billion, if he sees that as anything other than a 20-percent cut, he has probably been talking with Dave Stockman and getting his figures from under his pillow.

Mr. CONABLE. Mr. Chairman, I do not particularly care to yield further for a lot of sour grapes.

Mr. STARK. That is said in all honesty.

Mr. ROUSSELOT. Mr. Chairman, if the gentleman will yield once more, I just want to give the gentleman the figures again.

Mr. CONABLE. Mr. Chairman, I see this as just sour grapes, but I will yield further.

Mr. ROUSSELOT. This is a reduction from $3.7 billion under present law to $3.1 billion for 1982. So that is $603 million.

Mr. CONABLE. That is a reduction of $603 million, if I may interject.

Mr. ROUSSELOT. Right. And this is for the 5-year program.

Mr. CONABLE. Mr. Chairman, no foster care or adoption assistance programs from the Committee on Ways and Means are in the block grant at all. They were separated out in order to implement the changes made in the law last year. There seems to be some misunderstanding about that.

Mr. Chairman, I regret that we are on such an acrimonious note here. The House has decided that it wishes to proceed with the cuts which previously were decided upon in the aggregate. It seems to me that we should accept the House's decision and try to understand exactly what is going on here in detail, and my purpose is not to try to defend the decision of the majority of the House but to explain what the changes mean.

We have already had substantial discussion of the social security changes involved, and that probably is the most dramatic part of the jurisdiction of the Committee on Ways and Means. I wish to point out, however, to those who deplore the fact that President Reagan requested a postponement of the effective date of the cost-of-living adjustment from July 1 to October 1 that we were not bound to accept his recommendation, and if it is dishonest to reject it, let me remind the Members that a little while ago everybody was saying that we were all marching to the Executive's drum.

I do not know what is going to happen on the cost-of-living adjustments ultimately, but let me say that I respect the work that the gentleman from Texas (Mr. PICKLE) is doing on the subcommittee of the Committee on Ways and Means, and I think this body is perfectly capable of making long- and short-term adjustments to save the social security system and make it solvent in the long run, as it must be if the American people are to depend on it to the degree they obviously do, implicit in the figures involved in this remarkable tax proceeding.

Now, there are two elements that have been reduced rather than postponed. As to the effective date of the 1982 cost-of-living adjustment, those elements are a speedup of the elements of the student benefits, which it has been decided were going to be phased down in any event. The student benefits, under current law, involve benefits paid to the children of an insured worker when the worker retires, becomes disabled, or dies, and the benefits, after 1965, have been payable after age 18 and up until the 22d birthday—that is, providing the child is still going to school—and generally speaking, that is not viewed as one of the core purposes of the social security system. It is one of those issues which many people feel to some degree detracts from the solvency of the system with respect to the core purpose, namely, retirement.

The amendment would eliminate student benefits for beneficiaries 18 years of age and older who begin postsecondary education after May 1982. No benefits would be paid during the 4 months, May through August, beginning in 1982. The monthly benefit would be reduced by 25 percent beginning in September 1982 and by an equal amount in September 1983, 1984, and 1985, with no further student benefits payable after August 1985. No further cost-of-living adjustments would be payable to these students after July 1981.

High school students would continue to receive child's benefits as under current law, except that effective in August 1982, no high school student could receive child's benefits after his 19th birthday.

This is a speedup of the phaseout of student benefits and is one of the trade items in order to avoid having to postpone the effective date of the cost-of-living adjustment in 1982. The minimum benefit would be eliminated on April 1, 1982, for a savings of $510 million in fiscal year 1982, compared with only $45 million under the majority's bill.

I wish to remind my colleagues that we had decided long ago, in December 1977, to phase out the minimum benefit entirely, and this is a speedup of the phaseout.

Let us look at the social services block grants that my friend, the gentleman from California, referred to. Five programs would be folded together in a block grant funded at $3.1 billion. This represents a 16-percent cut over current law in fiscal 1982. It will save $603 million. The programs folded into the block grant are: Title 20 of the Social Security Act, two child abuse acts under the Education and Labor Committee jurisdiction, the Runaway and Homeless Youth Act, and seven titles of the Community Services Act. I want to repeat that no foster care or adoption assistance programs from the Committee on Ways and Means are in the block grant.

I acknowledge that this involves a reduction in the social services areas that will cause some problems. However, we have some confidence that the States will be able to assign priorities among these programs in ways that will minimize the hardships, and I want to say that I am particularly pleased that the block grant does not include the foster care or adoption assistance programs, which I think in the long run will save money and be a much more humane approach to foster care and adoption assistance, as

was worked out by the committee last year and approved into law last year.

□ 1750

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate my colleague yielding and describing so well what is contained in the Gramm-Latta substitute as it relates to title XX and these other programs.

I think it was pretty clear in our committee discussions, even though it was not totally agreed to, that if we could block grant these particular programs, that many of the Governors and State agencies would be able to save quite a bit of time, effort and paperwork, through a block grant procedure, that in most cases they are used to these programs, they know their value, and by not having to constantly come through Washington for clearance that they will be able in effect to save in several of these programs.

Mr. CONABLE. I thank the gentleman for his comments.

I want to point out that if we leave the administration of these programs exactly as it is and cut them by $603 million, using the same centralized and probably inefficient method of delivery of the funds, inevitably it will result in a substantial reduction of the benefits to the beneficiaries.

We have a chance under the block grant program to find new ways of administering the funds in ways that will be hopefully more responsive to the needs of the people in the specific States which each has a different type of welfare delivery system.

Mr. STARK. Mr. Chairman, will the gentleman yield to me?

Mr. CONABLE. I yield, yes.

Mr. STARK. Is the gentleman aware that title XX is now a block grant?

Mr. CONABLE. Yes.

Mr. STARK. And so there can be no administrative savings. All the cuts in title XX will have to come out of benefits, because it is already administered by the States as a block grant.

Mr. CONABLE. I acknowledge that title XX has had a cap on it for some time.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. REGULA. Mr. Chairman, I yield the gentleman 3 additional minutes.

Mr. CONABLE. Mr. Chairman, I would like briefly to touch on three other areas: First, aid to families with dependent children. There has been a long series of changes proposed in our bill that would bring the bill into line with the provisions adopted by the Senate Finance Committee and, obviously, that was one of the concerns that was involved where we had a tremendously complex series of changes, each differing in the different bodies.

Some of the major changes included tighter income and assets tests, stronger work requirements, various changes to streamline administrative procedures and make the program operate more efficiently.

The AFDC savings will total just over $1 billion under the Gramm-Latta provisions, about double the savings provided in the majority bill. One cannot meet the goals we have set, that we have previously adopted, unless one does that type of cutting.

Another area is the low-income energy assistance. Here we had some complications that are going to have to be resolved in conference.

The Ways and Means portion of the Gramm-Latta amendment makes no change in the majority bill regarding energy assistance.

Therefore, it remains in the bill as a categorical 2-year program funded at $1.4 billion for fiscal year 1982.

The education and labor portion of the Gramm-Latta substitute contains a $1.875 billion block grant for energy assistance.

Therefore, in the Senate where you have only one such low-income energy assistance program, we will have a discrepancy that will have to be worked out in conference.

Now, as to trade adjustment assistance, there is a comparatively little difference. Gramm-Latta strikes the newly created entitlement for the training programs. There is comparatively modest money in this program in contrast to earlier years. The only difference was that the majority bill had a provision which would have created an entitlement, even though there was very little money with respect to training programs for those on adjustment assistance.

Mr. Chairman, I think this is an entirely appropriate time once again to say that if the House is to implement decisions already made, we must make the types of adjustments I have described. They are faced up to honestly in the Gramm-Latta proposal that is now being considered in the House. I trust it will be adopted tomorrow.

Mr. REGULA. Mr. Chairman, I yield to the gentleman from California (Mr. ROUSSELOT) for a unanimous consent request.

Mr. ROUSSELOT. Mr. Chairman, my colleague Mr. CONABLE has properly reviewed the Social Services block grant provisions of the Gramm-Latta II substitute reconciliation bill.

Here are some additional details:

The Gramm-Latta substitute for the Ways and Means Committee provisions of the reconciliation bill would provide for a 4-year (fiscal year 1982-85) block grant of $3,123 million to states for social services.

Fiscal year 1982 funding under present law

Programs being consolidated:	*Millions*
Title XX, Social Security Act	$3,099
Child Abuse Prevention and Treatment Act of 1974	24
Child Abuse Prevention and Treatment and Adoption Reform Act of 1978	5
Runaway and Homeless Youth Act	12
Community Services Act Titles I, II, III, IV, VI, VII, and IX	586
Total funding under present law	3,726
Total funding under Social Services block grant: (A 16 percent reduction in fiscal year 1982)	3,123
Savings in fiscal year 1982	603

Let me add a special note: No child welfare programs would be included in the block grant.

Now I would like to discuss the transfer authority: A State could opt to transfer up to 10 percent of the funding to any of the other block grants for health services, health prevention or energy assistance. For 1982 and 1983 only, a State could also transfer up to its share of $255 million for use under the low-income energy assistance block grant.

Here are purposes for which the social services block grant could be used:

1. Fostering individual self-sufficiency and economic self-support;

2. Preserving families and promoting family stability;

3. Reducing neglect, abuse, or mistreatment of vulnerable persons;

4. Promoting independent living where possible and assuring appropriate institutional care where needed; and

5. Stimulating improved use of public and private resources, including resources available from private nonprofit organizations, in the delivery of social services.

Specific services which may be provided include: Daycare, child care, foster care services, protective services, foster care maintenance payments, adoption assistance payments, emergency room and board, home management and maintenance services, preparation and delivery of meals, health support services, family planning, transportation, rehabilitation, training and related services, employment services, legal services, delinquency prevention services, services to minors in the justice system, information, referral, and counseling services, and such other community and social services as may be appropriate and consistent with the purposes of this block grant.

Titles IV-B and IV-E are not included in the block grant.

For reference purposes most of the provisions in Gramm-Latta II can be reviewed on pages 312 through 323 of the Latta Amendment Document dated June 25, 1981.

I urge my colleagues support of these provisions.

Mr. REGULA. Mr. Chairman, we have no further requests for time on the Ways and Means Committee subject.

Mr. JONES of Oklahoma. Mr. Chairman, I yield 7 minutes to the gentleman from Illinois (Mr. SIMON), a distinguished member of the Budget Committee and the Education and Labor Committee.

Mr. SIMON. Mr. Chairman, first let me just momentarily comment on the process. I see my distinguished colleague, the gentleman from Illinois (Mr. MCCLORY) here on the floor. I served with him in the State legislature in Illinois. I remember shortly after he was elected to Congress I said to him, "What is the real difference in serving in Congress and in serving in the State legislature?"

He said, "There is this major difference, that in Congress the committees work."

My friends, today marks the day as I have never seen it before when the committees do not work. Welcome to the State legislature of the United States of America.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield briefly to my colleague, the gentleman from Ohio.

Mr. REGULA. We are spending a lot of time tonight, if what the gentleman says is true, on having all the committee ranking members and chairmen discuss this reconciliation package on behalf of their respective members. I do not think it quite fits with the gentleman's statements, the time we are putting in with the committee people here.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I will yield briefly to my colleague, the gentleman from Illinois, but I stand by my point.

Mr. McCLORY. Mr. Chairman, I thank the gentleman for yielding.

I want first of all to express my great respect for the gentleman who did, indeed, serve with me in the Illinois General Assembly as well as having served our State as its Lieutenant Governor.

I merely want to say that for the first time, it seems to me, we have a responsible committee working in this body now by the name of the Congressional Budget Committee, the House Budget Committee. It was one of my first efforts as a Member of this House to try to establish a Congressional Budget Committee and to see that it operated responsibly to establish spending levels which were consistent with what I thought the revenues of the Nation were. The Budget Committee has operated very well. The other committees are now falling in line.

I thank the gentleman.

Mr. SIMON. Mr. Chairman, if I may reclaim my time, I want to assure my colleague, the gentleman from Illinois, that this product is not the product of the Budget Committee nor of any committee of this body.

Now, if I may briefly discuss just one aspect of the Education and Labor area. The chairman of the committee will be discussing particularly nutrition and elementary and secondary education tomorrow. What we are doing in the field of higher education, my colleagues, is reversing something that is a great tradition in this country. In 1862 under a Republican President by the name of Abraham Lincoln, we took the first major step forward, the Federal Government assisting higher education with the Moral Act and 119 years later for the first time in history we are going to take a major step backward, ironically again under a Republican President.

Now, what does this Gramm-Latta amendment do that our Budget Committee proposal does not do? Well, there is some uncertainty, first of all, let me assure everyone. We are trying to find out, but so far as I can see, this is what it does, among other things. It reduces Pell grants, basic opportunity grants, from $200 million to $400 million. You can roughly equate 100,000 students for each $100 million; so it means 200,000 to 400,000 young people are not going to have a chance to have some assistance. Many of them will not get to college. Which ones are the Jonas Salks and the George Washington Carvers of the future? I cannot tell you, but they are there.

□ 1800

On the guaranteed student loan program, I have asked the subcommittee staff to put together roughly how many students are going to be denied loans. It is difficult to calculate, but approximately, and I urge my colleagues to listen to this, approximately 1.3 million students are going to be denied loans under this proposal. It sets, among other things, a $1,000 minimum as what one has to borrow. So if a student has a need of $250, they have to borrow $1,000. I can see the headlines now, "Millions in Federal Funds Given Out in Loans Where the Needs Are Not Present."

The amendment, and I urge my colleagues to listen to this, too, the amendment, while it increases the assets permitted, it adds home equity in the assets. If one owns a home in Connecticut, Michigan, New York, Illinois, or Oklahoma, that home is now counted among the assets. What does that do for people, particularly those most in need of these loans?

I would point out that our subcommittee staff tells us that by including home equity there is a disproportionately heavy burden that falls on divorced and single females who have dependents who are going to school.

Under this proposal, colleges can assess "a reasonable fee to students for any loans and grants processed." What is a reasonable fee, $10, $50, $100? Whatever that fee is, like the rest of the Gramm-Latta proposal, it falls disproportionately on low-income people because if the fee is $50, and the income is $10,000, obviously that hurts a lot more than if an income is $20,000.

I could go on, Mr. Chairman. I simply suggest, No. 1, the process is seriously flawed. Remember this date, my colleagues, June 25, 1981. It is a date that we will remember as a date of shame as far as the legislative process is concerned.

Second, I would urge my colleagues to keep in mind those students who really need help.

Mr. JONES of Oklahoma. Mr. Chairman, I yield 4 minutes to the gentleman from Connecticut (Mr. RATCHFORD).

Mr. RATCHFORD. Mr. Chairman, I thank the gentleman for yielding.

First of all, I might indicate that I served in a State legislature for a dozen years. I have been here 2½ years and never in that almost 15 years of experience have I been asked to react and to vote on a document of this size which has never been presented to us before.

Second, let us look at the impact. We are repealing a number of laws that have improved the quality of life of America's citizens, the elderly, the young, the handicapped, the disadvantaged, and we are called upon to vote and we still do not have a final copy of that document.

We are told it repeals title 20. Let me tell my colleagues what title 20 does in the State of Connecticut. I served as the Commissioner on Aging. We used those funds and we used them wisely. We used them to provide a better complaint mechanism so that abuse in our nursing homes was cut down. We used that funding to get at those in the community who were abusing senior citizens. And yes, we used that funding for legal advocacy for those over the age of 60.

All of these mandates will be removed if we approve of a document which we have not as yet seen.

Second, we are told not to worry about it, the States will pick up the responsibility. Not my State. The State of Connecticut is considered to be a State that is among the extremely wealthy. I will tell my colleagues that our legislature, when it goes back this fall, does not have the resources to pick up, if we eliminate title 20, to pick up if we cut this funding somewhere between 16 and 25 percent, to pick up if we eliminate these programs.

So I ask my colleagues to look at what they are doing. They will be removing mandates and removing protections. We will be removing guarantees against abuse and yet we are saying the States are going to do it. It is not going to happen, Mr. Chairman, any more than it is going to happen in

the related area of medicaid. That cap will do one thing. It will deny services or medicare where we are removing the incentives for home health care.

I will tell my colleagues what we are doing tonight and tomorrow without a bill, without a document, without the detail; we are removing a commitment to those who need the most protection, the old, the young, the handicapped, the frail. The bottom line is important, Mr. Chairman, but people are poor, too. What we are doing now is removing protection from those who can least afford to be denied protection.

I, for one, Mr. Chairman, will not be voting for a document I have not seen, we have not been provided, we have not been given an opportunity to read, and I will not be voting for a document that denies basic guarantees to frail Americans.

Mr. MITCHELL of Maryland. Mr. Chairman, will the gentleman yield?

Mr. RATCHFORD. I am happy to yield to my colleague from Maryland (Mr. MITCHELL).

Mr. MITCHELL of Maryland. I thank the gentleman for yielding.

This has been an extremely difficult day for all of us. There are some Members on our side who indicate that in a way it represents a victory because the responsibility for all that goes wrong in the lives of people will rest with the other side. I cannot feel any euphoria about that because I just cannot begin to comprehend the incalculable damage we have done to the lives of people.

This is a very, very sad day and I think this day will come back to haunt each and every Member of this Congress.

Mr. Chairman, I rise to explain the provisions of title XIII.

The purposes of this title are threefold—to comply with budget reconciliation, to minimize its adverse impact, and to assist small businesses.

First, it reduces the budget authority for SBA programs to the levels mandated by the budget resolution—House Concurrent Resolution 115—thereby "saving" in fiscal year 1982 $526 million in budget authority and $390 million in outlays. Reductions in fiscals 1983-84 "save" over $500 million in each year.

These reductions in budget authority necessitate substantial reductions in SBA direct and guaranteed loan program levels and surety bond guarantees and are basically the amounts in the President's budget. This reduction in budget authority would necessitate even greater reductions in program levels if it were not for another provision the committee included to require SBA to liquidate some direct loans now in its portfolio in order to obtain sufficient cash to operate the loan programs at the reduced levels. They also entail increases in the interest rates on direct loans, approximately 50 percent on regular business loans, and between 30 and 40 percent on disaster loans to homeowners and businesses without credit elsewhere. In addition, businesses are limited to loans for 85 percent of the amount of net disaster loss.

Second, it consolidates the Small Business Administration's diverse business lending authorities found in the Small Business Act into a simplified, single business lending program under section 7(a) of the Small Business Act; and consolidates eight other nonphysical disaster loan programs into a single nonphysical disaster/Federal action loan program.

Finally, it modifies the provisions of the expanded 7(a) business lending authority to permit greater flexibility in the terms and conditions of assistance provided and modifies the physical disaster lending program under section 7(b)(1) of the act.

This legislation was approved by the Small Business Committee by a recorded vote of 37 to 1. However, the program reductions and the increases in interest rates on SBA loans are going to be harmful to the small business community and were done solely to comply with reconciliation instructions. Personally, I am very opposed to them, as are other members of the House Small Business Committee. I believe that they are going to be counterproductive and constitute a reversal of our policy of aiding and assisting small business.

At this point, I want to provide a more detailed explanation of this title.

SBA PROGRAM LEVELS/BUDGET SAVINGS

Title XIII would provide that the amount of assistance be specified by program as it is now but that these amounts be readjusted for 1982, 1983, and 1984. This would retain congressional control of program direction.

For my colleagues information, I want to compare the appropriated SBA program levels in fiscal year 1981 with the authorized levels proposed herein for each of 1982, 1983, and 1984.

First, 7(a) direct regular business loans would be cut from $219 million to $155 million.

Second, 7(a) guaranteed regular business loans would be cut from $4 billion to $2.785 billion.

Third, 7(h) direct handicapped assistance loans would be cut from $25 million to $15 million.

Fourth, 7(h) guaranteed handicapped assistance loans would remain at $5 million.

Fifth, 7(i) direct economic opportunity loans would be cut from $65 million to $45 million.

Sixth, 7(i) guaranteed economic opportunity loans would be cut from $70 million to $50 million.

Seventh, 7(l) direct solar and energy conservation loans would remain at $10 million.

Eighth, 7(l) guaranteed solar and energy conservation loans would be cut from $33 million to $15 million.

Ninth, development company direct loans would be cut from $6 million to zero.

Tenth, development company guarantees would be cut from $250 million to $150 million.

Eleventh, direct purchase of small business investment company equity would be cut from $42 million to $35 million.

Twelfth, guaranteed small business investment company debentures would be cut from $160 million to $145 million.

Thirteenth, physical disaster loans would be cut from approximately $2 billion to $693.5 million.

Fourteenth, nonphysical disaster loans would be cut from $50 million to $40 million.

Fifteenth, surety bond guarantees would be cut from $1.6 billion to $1.2 billion.

Sixteenth, pollution control bond guarantees would be increased from $100 to $250 million. I want to note that this is a "money-making" program as program participants pay SBA more in fees than SBA expects to eventually pay in claims.

Seventeenth, real estate lease guarantees would remain at $4 million.

The authorizations for fiscal years 1982, 1983, and 1984 in title XIII reflect the instructions of the budget resolution to effect savings of approximately $500 million in each year.

SALARY AND EXPENSE LEVELS

Salary and expense levels would still be specified by major category as is the case now but with adjustments down to reflect budgetary constraints (in 1981 they totaled $235.3 million but would be reduced to $227.6 million). This would retain congressional control over the amount to be spent and allow congressional identification of priority areas for emphasis.

LOAN CONSOLIDATION

Title XIII also provides for consolidation into section 7(a) of the Small Business Act of specific programs for trade adjustment loans under section 7(e), handicapped assistance loans under section 7(h), economic opportunity loans under section 7(i), solar and energy conservation loans under section 7(l) and development company loans under sections 501 and 502. In addition to the export assistance and ESOP loan provisions as presently specified in section 7(a), the revised section 7(a) would also contain a specific enumeration of all now permissable uses and those contemplated under the consolidated program. That is, in addition to the general language, section 7(a) would contain provisions

specifying that this program can provide assistance to homebuilders, to handicapped, for economic opportunity, for energy conservation, to development companies, for export financing, and for ESOP's.

DIRECT LOAN INTEREST RATES

Except for loans to handicapped individuals or to organizations for the handicapped which would be continued at a 3-percent interest rate, title XIII would provide that effective October 1, 1981 the direct loan interest rates would be based on a new formula. They could not exceed, however, the average market yield on comparable length marketable obligations of the Government, plus up to 1 percent (this would yield 15.3 percent at the present time). Under existing law, the interest rates are 9¼ percent on 7(a) regular business loans and 7(l) solar and energy conservation loans and 11⅜ percent on 7(i) economic opportunity loans.

MAXIMUM LOAN MATURITY

Title XIII would increase the maximum maturity of SBA loans to 25 years plus construction time. Under existing law, most SBA loan programs have shorter maximum maturities. Permitting a longer term loan in appropriate cases will help small businesses with cash flow problems.

ELIMINATION OF REPORTS ON ENERGY CONSERVATION LOANS AND LOANS TO ASSIST LOW INCOME AND DISADVANTAGED INDIVIDUALS

Title XIII would repeal certain individual reporting requirements but rewrite general reporting requirements of section 10(b) to include these matters.

USE OF SBA LOANS FOR REFINANCING

Conditions would be specified under which SBA loans may be used to refinance prior indebtedness and loans for such purpose would be limited to an 80-percent guarantee rather than 90 percent. SBA would report on the effectiveness of this provision and it would be sunset October 1, 1985.

GUARANTEE FEE

Financial institutions specifically would be prohibited from directly passing on to the borrower the 1-percent guarantee fee which SBA imposes on the bank. This is a general cost of doing business and should be recovered by the lending institution as part of interest income received from SBA borrowers.

OPTIONAL LOAN REPAYMENT PLAN

At the election of all parties, a 7(a) loan—either direct or guaranteed—could provide for the payment of interest only during the first 2 years of the loan, if such loan has a maturity of at least 8 years; during the first 3 years of the loan, if the loan has a maturity of at least 10 years; and, during the first 4 years of the loan, if the loan has a maturity of at least 15 years. If the lender agrees to accept interest only payments, it could obtain a one-time fee of 1 percent of the loan principal which could be paid directly out of the proceeds of the loan. This authority is in addition to SBA's general authority to set loan terms and conditions and should be used to assist small business borrowers.

EXTENDING TERM OF EXISTING LOANS

Title XIII would authorize SBA to agree to an extension of the term, or refinancing—if it results in an extension of term—of an outstanding SBA 7(a) guaranteed loan if: One, all parties to the loan so agree; two, the extended term does not exceed the maximum term of an SBA 7(a) loan permitted by law; and three, the extended loan or refinancing is to be repaid in equal installments of principal and interest, except as may be provided for under the optional loan repayment plan.

If the extended loan or refinancing results in a new term of longer than 10 years, the lender would be authorized to charge the borrower a one-time fee of 1 percent of the outstanding principal of the loan.

Again, this authority is in addition to SBA's general authority to set loan terms and conditions.

PERCENT OF LOAN GUARANTEED

Under existing law, the SBA has authority to guarantee up to 90 percent of a loan by a bank or other institution. Due to anticipated budgetary reductions in guaranteed loan program levels of 25 percent in 1981, many SBA offices have denied guarantees unless the bank was willing to accept a 70-percent guarantee. SBA central office is considering implementing this 70-percent maximum guarantee limitation by emergency regulation on a national basis. The net effect may be to completely deny financial assistance to those who need it most as many banks would be unwilling to accept an increase in their exposure.

Title XIII would provide that guaranteed loans of $100,000 and less must carry at least a 90-percent guarantee; that guaranteed loans over $100,000 receive a guarantee of between 70 percent and 90 percent; that SBA only reduce such guarantees below 90 percent on a case-by-case basis; and that SBA not use the guarantee percentage as a means of giving priority consideration to loan applications.

"SUNSET" PROVISIONS AND REPORTING REQUIREMENTS

The new refinancing and optional loan repayment programs, unless extended, would expire on October 1, 1985.

SBA would be required to submit two separate reports to the Congress on the operation of its 7(a) loan program, as modified by this title. The first report would be due by February 28, 1984; and the second 1 year later.

Such reports would contain statistical data on the number, dollar amount, and default rates of loans made subject to the new provisions of this title and similar data for loans that are not affected by such new provisions.

DISASTER LENDING AUTHORITIES

Title XIII would provide a new consolidated 7(b)(3) economic injury/Federal action loan program; and make conforming amendments to the disaster loan fund. Section 7(g) water pollution control loans would be repealed, as would seven other nonphysical disaster loan programs under sections 7(b)(3) through 7(b)(9).

Title XIII would change 7(b)(1) physical disaster loan interest rates to: 5 percent for homeowners—now 3 percent; and 7 percent for business not able to secure financing otherwise—now 5 percent. Homeowner loans would be available in amounts equal to 100 percent of the uninsured, net damage; and business loans in amounts equal to 85 percent of the uninsured, net damage—now 100 percent.

Additionally, credit worthy borrowers would be limited to $100,000—now $500,000—loans for an initial 2-year term—now 3 years—at an interest rate of 15.3 percent.

SBA would be directed to liquidate sufficient dollar amounts of direct loans made under the Small Business Act to provide supplementary funds to make regular business and physical disaster and economic injury loans at the indicated levels for fiscal years 1982–84.

ECONOMIC IMPACT OF REDUCTIONS IN SBA LOAN PROGRAMS

To put the SBA loan reductions in focus, it is important to understand the role of small businesses in economic growth and job creation and the problems small business face in the current economic arena.

ECONOMIC GROWTH

Small business establishments with 20 or fewer employees accounted for 66 percent of new jobs created between 1969 and 1976, according to an M.I.T. study by David L. Birch, "The Job Generation Process." Establishments with less than 50 employees created nearly 98 percent of all new jobs from 1969–76. Small business investment generates far more jobs per million dollars of investment than large businesses. For example, in 1976 the petroleum and communications industries had $150;900 and $138,200—in constant 1972 dollars—invested per employee respectively while the construction and furniture industries—dominated by small firms—needed only $11,700 and $10,000 capital per employee. A million dollars invested in the petroleum or communications industries will generate 6 to 8 jobs; in the construction or furniture manufacturing industries the same $1 million will generate 85 to 100 jobs—more than 10 times as many.

In addition, small businesses function as training facilities for the development of skilled workers and experienced managers—workers and managers who often move on to large businesses. Small businesses also play an important role in innovation. Sustained economic growth without a strong small business community seems impossible.

ACCESS TO CREDIT

The major problem for small businesses, even in a strong economy, is access to credit at reasonable rates. Small businesses normally pay a "small business" interest premium above rates charged to large businesses. The prime interest rate serves as a fairly good barometer of rates paid by small businesses—depending on the riskiness of the loan, small businesses pay from slightly below prime to several points above.

Since the initiation by the Federal Reserve Board of a strict monetarist approach to control of the money supply, the small business premium has more than doubled. The spread between the rate of inflation and the prime rate—a measure of the small business interest premium—averaged 2 percentage points between 1960 and 1978. Between the fourth quarter of 1979 when the Federal Reserve initiated its new policy and the end of the first quarter of 1981, the spread averaged over 6 percentage points. The huge increase in the small business premium has put many small businesses in precarious financial positions.

The increase in the small business premium has been associated with more than a doubling of the rate of business failures as reported by Dun & Bradstreet. The gap between planned and actual capital investment by small businesses is large and increasing. A typical small business lament is that they simply cannot afford to pay 20-percent interest in order to borrow for expansion.

The high rate of inflation the past 2 years has increased the credit needs of small businesses—operating, inventory, and equipment costs are higher. While their need for credit has increased, the availability of credit has not. Large corporations facing high long-term interest rates have held back bond issues in favor of short-term financing. This has put large businesses in direct competition with small businesses in the short-term financial markets—the major source of financing for small businesses.

IMPACT OF SBA CREDIT REDUCTIONS

The reductions in SBA credit programs will lower the amount of credit available to small businesses, as under SBA eligibility criteria only those firms otherwise unable to obtain credit may seek SBA assistance; thus, a firm that cannot obtain a loan in the private sector will now be denied his last hope for help, the SBA.

One role of SBA in providing loans and loan guarantees to small businesses is to spread the risk. The SBA's large portfolio is far less risky simply because of its size than the small loan portfolios held by small banks. A few bad loans in the SBA portfolio are relatively harmless whereas a few bad loans in a small bank's portfolio can have serious consequences. Hence, small banks, the major source of credit to small businesses, hesitate to loan to small businesses, especially in times of economic turmoil. The SBA acts, in a sense, as a financial intermediary for the benefit of the small business community.

JOB CREATION

The loss of over $1.5 billion of credit to the small business community will mean that approximately 60,000 jobs will not be created. This assumes that it costs approximately $25,000 for small businesses to create a job—a generously high estimate as many estimates place the cost at under $10,000. Even if this amount of credit were made available to big business—with a cost 10 times as high—only 5,000 jobs could be created. The net loss of jobs amounts to 55,000—a significant number in light of our currently high unemployment rate. In addition, small businesses tend to create entry level jobs—a critical need given the high rates of unemployment among young and minority Americans.

The net effect of reductions in SBA credit offerings will be to reduce the rate of job creation.

CONCLUSION

I am not proud of the reconciliation provisions of title XIII. They are going to inflict definite harm upon the small business community.

By reducing the amount of SBA direct loans and loan guarantees, we will be denying financing to some 15,000 small businesses per year. That simply means that they either will not be born or expand or will go out of business. This obviously will have a detrimental impact upon employment.

By increasing direct loan interest rates to Federal cost of money plus 1 percent, we will be making a handsome profit for the Government and may well put the cost of borrowing beyond the reach of these small businesses or prospective small businesses.

By decreasing the amount of surety bond guarantees, we will be denying some 5,000 small firms per year the opportunity to compete for construction business, especially with the Federal Government which requires surety bonds on most Federal contracts.

Finally, by increasing the interest rates on disaster loans and by limiting disaster loans to businesses to 85 percent of the net loss, we are denying needed assistance to innocent disaster victims and at least delaying the recovery of communities devastated by floods, hurricanes, tornadoes, and other calamities.

Nonetheless, if the House Small Business Committee must reduce spending by some $500 million, title XIII will do so.

I do strongly support, however, as beneficial to the small business community the other provisions of title XIII.

Mr. JONES of Oklahoma. Mr. Chairman, I yield 3 minutes to the gentleman from California, Mr. MILLER, a member of the Committee on Education and Labor.

Mr. MILLER of California. Mr. Chairman, like most of the people who have responded to the document that we will be asked to vote on, I am also in the position of trying to express concerns. Unfortunately, we do not know if the concerns are fact or fiction. But I think we have to be concerned if we look at the nutrition program; it appears that for those low-income families who were receiving reduced price lunches, who were paying a maximum under current law of 20 cents per lunch, it appears they will now be required to pay more than $1 a lunch under the provisions required in the substitute that will be offered tomorrow.

It also appears that families that are now middle-income families and are receiving family help with the school lunches will be required to pay substantially more for the lunches next September.

I think it would be fair to suggest that some of those middle-income families will, in fact, be paying more in increased school lunch costs than they will get back under the President's proposal on income tax reforms and reductions.

It also appears that there is a cap on the women's, infants', and children's programs in 1983 and 1984. Our best calculation is that we can expect to lose about 300,000 low-income women, infants, and children from participating in this program. As Members of the House know, this is a program that was devised some years ago to combat mental retardation, to combat physically handicapped children from being born, and these are children which receive a medical evaluation, or pregnant women that receive a medical evaluation to determine they are at risk to giving birth to a mentally retarded child.

We have found that we have cut the infant mortality rate for people who participate by better than 30 percent. We have found that healthier babies are being born and that handicaps are fewer and yet we are placing a cap on that program.

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Also there is a substantial rearrangement within the block grant proposals.

One of my concerns is that I think there is proposed in this a lack of enforcement and monitoring by the States for title I. In fact, we provide money, as I read this substitute, for the States and yet we do not provide monitoring to make sure that low-income children or low-income schools are in fact required to spend the money on behalf of those children. This flies in the face of the fact that title I is working for these children in that we find that first grade children that participated in title I made an average gain over 12 months in reading and 11 months in math compared to those children who in fact did not participate. The programs are working.

What we have here is a recommendation to make these cuts when in fact the Secretary of Education, Terrel Bell, testified to our committee that no one can question that these programs are working. Yet he is recommending that these cuts be made.

Then we were given just a couple hours ago a 210-page substitute which this committee will be asked to vote on tomorrow, and nobody in the House of Representatives will have read it.

The CHAIRMAN. The time of the gentleman has expired.

Mr. REGULA. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. ASHBROOK) the ranking member on the Committee on Education and Labor.

Mr. ASHBROOK. Mr. Chairman, let me say at the outset fun is fun, but when you get to a place where you accuse us of the very things that you did, then I think maybe that is the time to answer. Let us start from the beginning this year with what has happened in the Committee on Education and Labor.

I have been an advocate of trying to keep the rhetoric down. I can honestly say to my colleague, the gentleman from California (Mr. MILLER), that many of the Members on our side, many of the new Members, came to me a few weeks ago and said, "JOHN, is not what the Democrats are doing a violation of the House rules? They are meeting in caucus. They are shaping legislation. They are behind closed doors. They are in effect writing the legislation they will bring before the committee. Does that not in some way violate the law or the spirit?"

I kept saying, "No; they have problems. It is a very difficult time. Let them work it out and bring it out. we will work it out in the committee."

Look at what did happen. You met for weeks in your own caucuses. That is fine. I have no objection to that. You brought out your recommendations early this year. You were $12 billion and $14 billion over budget. You had to meet and draw in that $10 or $12 billion. That was very difficult. We conceded you the problems you had and gave you every latitude possible.

On June 10, 1 hour before we had to vote, we found out what was in your package, what was the result of all your weeks of work in your Democratic caucuses. I do not object to that. You did it under very difficult conditions. In many cases you voted to cut down programs that you did not want to cut, programs that were your own infant, so to speak.

For you to stand up now and say how terrible it is that we come up with a package that will be printed in the RECORD, that you will have on your desk in the morning, that you will have at least 7 or 8 hours to read—where those of us on our side had only a few minutes and at the most an hour for consideration on June 10, and then you compound the problem. You come back on June 17 and completely rewrite it all over again. We did not know what you were going to do on the 17th. We did not know what priorities you were going to change.

As the ranking minority member, even before Rules, I went out of my way to say, I do not criticize my friend, the gentleman from Kentucky, Mr. PERKINS; I do not criticize the Democrats on the Committee on Education and Labor because I fully understand the difficulties under which they have been working. But then when we get to the floor, I say to my friends—and I say it with a smile on my face; this is not something that is going to divide us, I hope—then when you all of a sudden, having done that yourselves, come to us and say that because we now have a package and we are going to have it out in the very same way, somehow the legislative process is being prostituted, then I think it is time at least that the American public know.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from California.

Mr. MILLER of California. I thank the gentleman for yielding. I will assume the gentleman will recall in each of those committee hearings he was entitled to offer substitutes and amendments, where in fact here, there is no opportunity to offer amendments to this package.

Mr. ASHBROOK. In a very few minutes. As a matter of fact, I think a couple of Members here, the gentleman from Vermont, Mr. JEFFORDS, and others, were very much limited in what they could offer. We did not even have the gentleman's package for an hour.

Mr. MILLER of California. It was not quite as limited as the House of Representatives will be, and the gentleman is dealing here with another 380 Members who have never dealt with the subject matter here, and he is talking about a total block grant operation. That is the gentleman's privilege. He enjoys the same privilege we do. But I think it has got to be called to attention when we spend 1¾ or 2 hours on 1-minute speeches suggesting there was a gag rule not providing for amendments, and we now find outselves in the situation where we are carrying on 8 hours of general debate where there are no documents before us as to what is contained. You provide almost in absolute form a closed rule, which I have joined the gentleman on a number of times in voting against on the theory that there should be free and open debate, and on suggestions to cut off debate. Yet, in fact, no matter what this debate turns up, much to the surprise of the military community when they found out what was happening on COLA, no matter what the debate turns up, there will not be an opportunity on this side to offer any amendments. I think that is a far different situation than was presented in the Committee on Education and Labor.

I think the Chairman made it known a number of times that he was willing to sit there until the dogs came home to consider amendments and to give you your due.

Mr. ASHBROOK. I think my colleague recalls the previous question was moved. As a matter of fact, on the one issue that I had a vital interest in, if the gentleman recalls, it took unanimous consent after a vote on the committee to add $3.5 million back to a vocational program. There was just no opportunity to offer those amendments.

Mr. MILLER of California. And the gentleman was accommodated. If we discover $3.5 million tomorrow, that accommodation will not be allowed. That is why we have the deliberative legislative process.

Mr. ASHBROOK. I would say to my colleague I looked at the rule. The rule would have very severely limited any opportunity that we might have had to shape this legislation. That rule failed, and now we have the same opportunity. All I am saying is I do not think it is exactly the height of legislative sincerity to operate with a knife, and when it cuts one way it is fine but when it cuts the other way it is not fine.

Mr. MILLER of California. It is a far different situation in this case where there is no opportunity for amendment and there are no documents before the committee. We have been given hundreds and hundreds of pages. Nobody has suggested whether this is going to be the actual document or not. The gentleman from Missouri, Mr. COLEMAN, only found out in the middle of debate that in fact the Agriculture print was the same as what had been offered.

Mr. ASHBROOK. My colleague knows he asked this morning and I gave it to him.

Mr. MILLER of California. The gentleman has been very cooperative. This is wonderful. This is 210 pages here.

Mr. COLEMAN. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Missouri.

Mr. COLEMAN. I thank the gentleman for yielding.

Mr. Chairman, the gentleman from California (Mr. MILLER) raises an issue about having advance notice. Let us go back to the Committee on Education and Labor. In 5 minutes before we were to vote on the entire reconciliation package we had not seen it. We are almost one-half of that committee. We did not have one chance to look at it. In 5 minutes it was dumped on our desk. What was dumped on our desk? No legislative language. Figures. There was not any legislative language, which was before the majority for weeks and days.

The gentleman is going to have an opportunity to read the legislative language if he gets in early to do it, which will be in the RECORD—which is more than what his people gave to us in five minutes on the committee.

Mr. ASHBROOK. I thank my colleague, and that was the point I made. At least the gentleman will have 7 or 8 hours tomorrow to peruse the RECORD, something that none of us on the minority had.

Mr. MILLER of California. If the gentleman will yield, if we find the most egregious flaw, there will be no opportunity to amend it.

Mr. ASHBROOK. Mr. Chairman, I will proceed with my statement.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. I thank the gentleman for yielding. I just would like to ask the gentleman, I have not read it, and I think both sides are beating each other to death about whether the Democrats or the Republicans are the meanest, fastest draw, or the sneakiest. But if the gentleman from Ohio knows what is in it, I wish he would take the time left and explain it to us.

Mr. ASHBROOK. Mr. Chairman, I rise to enthusiastically support the amendment to H.R. 3964 offered by my distinguished colleague from Ohio, Mr. LATTA. In particular, I am delighted with the part of the amendment which is a complete substitute for title V—the "Omnibus Education and Labor Reconciliation Act of 1981."

I am delighted with it because it is a more responsible and socially responsive ordering of priorities than title V of Mr. JONES' bill. I am delighted with it because it contains a historic first step—but a long step forward—in a more rational and more useful packaging of education assistance, one which returns to States and to local school districts the responsibility for making education decisions. I am particularly proud that it includes with little change the Ashbrook "Education Consolidation and Improvement Act of 1981"—H.R. 3941—which was cosponsored by all four ranking Republicans on the subcommittees dealing with education and training.

Let me cite some examples within our committee's education and social programs where this substitute for title V is more responsive to human needs than the original approved by our committee and included in H.R. 3964.

We provide more funds for the education of disadvantaged children under title I of ESEA. We provide more funds for the education of handicapped children. We provide more money for vocational education. We provide a great deal more money for educational research under the National Institute for Education. We provide more money for Howard University and Gallaudet College for the Deaf—two very special institutions—as requested by President Reagan. We even provide more funding for CETA employment and training, with the emphasis on training.

In fairness, there are programs for which we could not be as generous as the majority, because we more fully met the instructions to cut entitlements, consistent with the assumptions approved by the House in House Concurrent Resolution 115. Therefore, we provide less funding for child nutrition programs. But we are convinced that due to the very hard work of our ranking Republican on the subcommittee which handles child nutrition—Mr. GOODLING of Pennsylvania—and the other members of the subcommittee, we have a well-balanced package which will avoid disruption of the programs and insure adequate meal service for children. Our bill is far different from that recommended by the administration, particularly in its effects upon basic support for the vital school lunch program, and is based upon our careful study of and concern for these programs.

And let me put to rest—at least for our committee—all this loose talk about the proposals in the Latta amendment having been written by OMB or the White House. That just is not true. We did cooperate with them and accommodate their concerns where possible. But the substance of our major proposals, and the figures we use, were fashioned by our staff acting on our instructions. In most areas there are very great differences from administration proposals. This is particularly true with respect to education program consolidation, child nutrition, impact aid, and the social services block grant.

I might say that this is in marked contrast to the behavior of this House under President Johnson, when legislation was written in the executive branch and passed with little change.

On impact aid, we rejected the administration proposal which would terminate payments this year for all so-called B children—those whose parents live in private homes on taxable property—because that would cause too much disruption in school budgets which already have been formulated for the school year 1981–82. We have also rejected the committee majority approach of giving every category of entitlement a percentage of the entitlements, thus continuing the outmoded and much-criticized system—a system which tends to benefit many wealthy school districts suffering no adverse economic impact from Federal activity. The Goodling-Daub alternative phases out payments for B children over a period of 3 years, thus offering an opportunity for permanent reform which concentrates impact aid on the districts which genuinely need help to educate children who live on Federal, nontaxable property.

The social services block grant proposal in the substitute is an extremely refined version of the language originally proposed by the administration. Under the proposal several existing Federal programs are consolidated into a single block:

Title XX of the Social Security Act;

The Child Abuse Prevention and Treatment Act of 1974;

The Child Abuse Prevention and Treatment and Adoption Reform Act of 1978;

The Runaway and Homeless Youth Act;

Titles I, II, III, IV, VI, VII, and IX of the Community Services Act.

Under the proposal States are permitted to use up to 10 percent of these social services block grant funds for other block grants. Of the funds available under the block grants, States are given the flexibility to set their own priorities among various eligible activities.

Among the most significant departures from the original administration proposal are the following:

The Developmental Disabilities program is not placed in the block grant;

The Rehabilitation Act is not placed in the block grant;

Title IV–B of the Social Security Act is not placed in the block grant.

In making these basic revisions to the administration's initial proposal, we feel we have created a workable, realistic approach to improving social services delivery on the local level.

The student aid proposals in the substitute are directed toward achieving two basic objectives: First, placing the guaranteed student loan program on a sound basis for the long term by

curbing loan volume; and second, maintaining loan availability to all postsecondary students who need loans. The proposal achieves these goals by making the following major changes:

Placing loan eligibility on a remaining need basis;

Maintaining the in-school interest subsidy and current GSL interest rates;

Raising the interest rate on the parents loan program from 9 to 14 percent.

Eliminating higher loan limits for independent students, but allow these students to borrow under the parents loan program;

Eliminating various deferments and grace periods;

Raising minimum repayment amounts;

Setting the maximum Pell grant for fiscal year 1982 at $1,800 and placing caps on the total appropriations for the program.

These proposals represent a sound approach toward Federal student assistance programs.

The Low Income Energy Assistance Block Grant is designed to streamline the present paperwork requirements of the low income energy assistance program operated by the Department of Health and Human Services. Under this block grant, States will be able to assist low-income families meet the rapidly escalating costs of home energy. The grants are devised so as to maximize their effective use on the local level. States are permitted to use up to 10 percent of their funds for weatherization, for example. Similarly, States will be permitted to conduct "crisis intervention" programs similar to those presently conducted by many local community action agencies.

The legislation requires a 20-percent match from participating States beginning in fiscal year 1983, which should insure a careful use of funds. This legislation is similar to the proposal included in the Senate Omnibus Reconciliation Act.

Although reductions in the Federal Employees Compensation Act were not targeted in the First Concurrent Resolution on the Budget, the Reagan administration has proposed legislation on this subject and changes are included in our substitute.

The administration's proposal, entitled the "Federal Employees' Reemployment and Compensation Amendments of 1981," would assure that Federal Workers disabled as a result of their employment are returned to gainful work as soon as possible. The bill would correct numerous deficiencies in the design of the program, stemming from the 1974 amendments, by tightening program administration to reduce the incentives for abuse and to assure more efficient case processing. Estimated saving in fiscal 1982 is $76.3 million, with cumulative saving through fiscal 1986 of $796.2 million.

These changes would provide immediate relief to a program burdened by frivolous, minor and fraudulent claims, assure more prompt disposition of justifiable claims, and is consistent with the President's economic program.

I believe that the education consolidation bill (H.R. 3941) I have introduced and which is included in this amendment would offer a chance to permanently alter the structure of much of our aid for schools in a way which they will find far more useful. In the process, we can free our schools of an unbelievable burden of Federal paperwork and return to the State and local level responsibility for making education decisions.

Education consolidation as found in the proposed amendment has two parts. Title I of ESEA is kept completely separate and unchanged from the existing title in distribution formula, basic structure, and purposes. We do remove those sections of the present law which give detailed instructions to local school officials on procedures to implement the programs—instructions which add almost all of the estimated 5 million hours of useless paperwork required each year to administer the program.

We would also retain provisions for the participation of private schoolchildren in title I exactly as in existing law. We retain—but with changes suggested by numerous school administrators—requirements for maintenance of State and local effort and for maintaining comparable non-Federal expenditures for title I schools and other schools within a district. We prohibit supplanting State and local funds with Federal funds.

Similar protective language is retained in the rest of the act. I stress these points because they are important to educators and also sharply distinguish this proposal from the administration education block grant bill. This proposal was carefully designed with the assistance of school administrators from across the country, including those in a number of our major cities. We also worked closely with the U.S. Catholic Conference—which consults with Lutherans, Orthodox Jewish, and others on nonpublic school participation, although I do not mean to imply that the conference endorses the bill.

The rest of the bill is a consolidation of all the rest of the titles of ESEA—except bilingual education in title VII—and three programs from other education acts. Those are the Teacher Corps and Teacher Centers programs from the Higher Education Act, the precollege science teacher training program administered by the National Science Foundation, and authority parallel to that in title IV of the Civil Rights Act for teacher training and advisory services for schools with desegregation problems. We do not, however, amend the Civil Rights Act in any way or transfer functions from it.

Although, this consolidates about 27 or 28 separate programs, depending on what you count as a program, of Federal aid for elementary and secondary schools. There would be a single grant to the States, based upon their relative number of school-age children, with a minimum grant for 13 or 14 small States of four-tenths of 1 percent of the funds distributed. One percent would be reserved off the top for outlying territories—Puerto Rico and the District of Columbia are treated as States—and 5 percent for the Secretary of Education to use for national projects. Ninety-four percent would go to the States. Each State would then be required to distribute at least 80 percent of its allocation to local school districts. This would be on a school-attendance basis, but weighted to reflect such extra cost factors as high concentrations of low-income children and sparse rural populations entailing high transportation costs. This is a variation—one suggested by school people—of a formula already utilized in title IV of ESEA.

Almost all the consolidated programs are discretionary grants; that is, they are doled out to schools at the discretion of Washington bureaucrats. The central major point of my bill is to give every school district—for the first time—a grant of Federal funds which it could use, within the broad purposes authorized in the consolidated programs, to plan and implement its own programs. They could use the funds—within those broad purposes—in accordance with their own needs and priorities. The present system in effect has the priorities set in Washington for 16,000 school districts. This is a calculated and long overdue shift of the focus of education policy and programing back to the States—and particularly to school districts—where it properly belongs.

This consolidation of Federal elementary and secondary programs addresses these problems in a way intended to improve, not damage, Federal aid to schools. It has been scrutinized line by line over a period of at least a year by school administrators from districts from Philadelphia to Los Angeles, and Ohio, Michigan, Colorado, and other States in between. It reflects many of their suggestions. A version very close to that which we hope to offer has been included in the Senate reconciliation package by the Committee on Labor and Human Resources. The only vote against it was by my friend and fellow Republican, Senator HUMPHREY of New Hampshire, who reportedly felt it does not

go far enough in consolidating programs.

It does not amend or affect the Education of All Handicapped Children Act, the Adult Education Act, the Head Start-Follow Through Act, the Vocational Education Act, the Alcohol and Drug Abuse Education Act, the Indian Education Act, or the Bilingual Education Act, among others under which Federal funds flow to elementary and secondary schools. It is a modest proposal, but a well-constructed one which will make an important contribution to education in this country.

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Mr. Chairman, I would be very pleased to answer any questions.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Illinois.

Mr. McCLORY. I thank the gentleman for yielding.

Reference was made to the school lunch program, and likewise, by the gentleman from California (Mr. MILLER). I discussed the subject of the school lunch program with my son, who is a high school teacher at Richmond High School, California, which I think is in the gentleman's congressional district, and he related to me that the school lunch program in his school was one of the most wasteful programs that he has ever had the experience of knowing about; but more than that, he said, in addition to the fact that it was wasteful in that the school lunch tickets are marketed for 25 cents, which then the student recipient uses to buy some candy or other things at noontime, $1.75 that remains from the value of that school ticket goes to someone else, and the other person has made $1.75 profit on a $2 lunch ticket.

He mentions in his communication to me that this is not only existent in the Richmond High School, but throughout the San Francisco area, and the administrators of the schools know about it there.

It is my understanding that in this measure that is being considered here today, we are tightening up on that. We are preventing that kind of fraud from being perpetrated, because as my son, who is a devoted schoolteacher, points out, it is not the monetary loss that is so serious, but it is the fact that we are teaching these young persons how to defraud the Government, how to engage in an illegal operation, and teaching them immorality at this tender age.

So it is something more than just the dollars and cents that are involved. It is the question of the moral upbringing of these young students. So I certainly want to congratulate those who devised this modified school lunch program, which I understand will help close up the losses that are experienced in this kind of fraudulent practice which apparently has been widespread up to the present time.

I thank the gentleman for yielding.

Mr. ASHBROOK. Mr. Chairman, I thank my colleague.

I know my colleague, the gentleman from Pennsylvania (Mr. GOODLING) will want to make remarks on that particular subject. I think the gentleman would admit—as we all do honestly—we certainly have not drawn in in every area. We have made what we feel is a modest step in the area of verification. We have a long way to go even on this program.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Chairman, I would like to say that even though it would appear since we met what the Budget Committee said we were to meet, the $1.4 billion to $1.5 billion in school lunch and child nutrition, our committee did not. They came up to $1.1 billion. That is questionable. It would appear, then, that in the area of reimbursement to paying customers, that they have done better, because they are saying 21 cents will go. That is where they pick up part of this additional money in school lunch and child nutrition. But actually, with our proposal, we do much better. We give 17 cents for the paying customer, but on top of that we mandate regulatory reform.

The most ridiculous thing anyone could ever mention that the Federal Government does is to tell the local school nutrition people, the people who are trained to carry that on, that they do not know how much a second-grade child should have in the area of fruit, but we will tell them they should have three-fourths of a cup. That is where we would get some more savings for them, and anywhere from 8 to 10 cents. So their paying customers under our proposal would actually get more like 25 to 26 cents, where they are showing 21 cents.

There are several other areas where we have that same kind of saving. Where the greatest fraud has been in the summer feeding program, which is the one other area where they appear to pick up additional money, is in the private sector part of it. We do not include the private sector. We tried to eliminate that fraud, but we do permit all of the school related, whether they be private, parochial, State or local government, where some of the best programs have been run under the recreation program, all of those are included in our summer feeding program.

So actually we may show that we have met the Budget Committee's target figures, which we thought we were supposed to do, and the committee has not, but at the same time we do not reduce the amount of available capital for the local school districts to handle their school lunch and child nutrition feeding programs.

The CHAIRMAN. The gentleman from Ohio (Mr. REGULA) has consumed 17 minutes.

Mr. REGULA. Mr. Chairman, I yield 7 minutes to the gentleman from Vermont (Mr. JEFFORDS).

Mr. JEFFORDS. Mr. Chairman, these have been difficult days for all of us. I personally do not agree with the way we have been required to proceed. My involvement with the reconciliation process during the last few weeks has included several hours of head-to-head negotiations with David Stockman, the Director of the Office of Management and Budget. Part of that time, I was working in my role as ranking Republican on the Employment Opportunities Subcommittee, which has jurisdiction over some of the programs which have been targeted for the most severe cuts. Most of the time I was working as an active member of a group of Republicans from Northern States who have sought to eliminate budget inequities which would victimize our regions of the country.

I am pleased to report that the talks have been productive. The administration and Republican congressional leadership, who I had occasionally criticized for inflexibility during debate on the budget resolution, have been sensitive to the need for shifts during the current phase of the budget process. House Republicans, overall, have showed much more willingness than the Democratic leadership to negotiate, program by program, toward that essential goal.

A blatant example of this occurred last week, as the Education and Labor Committee finalized a reconciliation package. There were three alternative packages: They were labeled the Democratic alternative, the Republican alternative, and a third version which I offered along with Mr. DENARDIS. While committee Republicans took the position that all three versions should be weighed on their merits, the Democrats refused to allow discussion or a vote on the Jeffords-DeNardis compromise. The vote, therefore, was a simple showdown between the two major party versions.

The Republican alternative, it should be emphasized, was not a simple restatement of the budget levels suggested by the Gramm-Latta resolution. Shifts were called for in almost every program, with funds added to programs of importance to our region of the country, balanced by reductions in spending in programs where funds are less urgently needed. The Republican version would have added considerable amounts of fund-

ing to elementary and secondary education, youth employment and job training programs, the handicapped, and arts and humanities. It would have cut less deeply than the Democratic version into areas such as vocational education, adult education, ACTION and VISTA, and programs funded by the Older Americans Act.

The Jeffords-DeNardis version would have added additional funds in the programs under our committee's jurisdiction which were singled out as areas of concern by our coalition of Northern Republicans.

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Substantial inroads and shifts have been made which have made this substitute package much more acceptable to me. Let me go through what has happened in the educational area and alert people as to what kind of changes we have made.

First of all, and most significantly and substantially for those of us who come from the North, we have increased the amount of money available for low-income energy assistance from $1.365 billion to $1.875 billion, an increase of half a billion dollars.

At a time when people in the North are going to be faced with the most severe increases in fuel costs it would be a crime to cut back to the extent that the majority wants to cut.

The minority, in this function, retains the 1981 funding level which will be much more fair to the people in the North who are trying to deal with this substantial rise in energy costs.

Let it be clear, if we vote for the majority package tomorrow against this substitute, we will be voting for a half billion dollars less in the low-income energy assistance program. In addition to that, as has already been noted, we have additional funds for such vital programs as title I of ESEA, handicapped education, the NIE, and Follow Through.

In another important area, the majority package does not fund a title I of the Higher Education Act, which provides vital outreach programs, especially in rural States such as Vermont. The minority funds this program at a $10 million level. There are many things which we disagree about, but one thing stands out in my mind regarding this package. It represents a very responsible effort on the part of the minority to design programs in the critical human services areas that will meet many more needs than the majority package.

Mr. JONES of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Oklahoma.

Mr. JONES of Oklahoma. I thank the gentleman for yielding.

Since I have not seen the minority's package and I will take the gentleman's word that there was restored a half billion dollars on fuel assistance, may I ask the gentleman where you cut in order to make up for that half billion dollars.

Mr. JEFFORDS. The package we provided reduces areas that have already been discussed, such as child nutrition and guaranteed student loans to meet the Gramm-Latta mandate. We also reduced programs within our jurisdiction to balance off whatever increases were included. I think the programs we have come up with as a substitute are adequate and will do the job.

Mr. JONES of Oklahoma. So the minority has cut further into child nutrition and student loans in order to put some money back into fuel assistance; is that correct?

Mr. JEFFORDS. I do not believe that we can specifically say that reduction in certain programs balance out the increases in other programs. The cuts already mentioned were only some of the cuts we made. I do not want to infer that those were the areas we cut for the purpose of funding fuel assistance.

Mr. JONES of Oklahoma. I was trying to find out where the gentleman cut to get that half a billion dollars.

Mr. JEFFORDS. We made cuts. We examined the programs as a whole and tried to balance the areas affected by the cuts. I think the gentleman has the ability much more than I do to figure that out for himself. All I know is that the only figure in the substitute for low-income energy assistance is $1.875 billion. There is one area in which the cuts of both versions have saddened me, an area in which I think the cuts are very counterproductive. I do not like to see these cuts and I would hope instead that we could increase funding in this area. It is the area of training for people whom we want to become employable. This function is drastically cut back by both the majority and minority, Senate and the House. Unfortunately there is no significant disagreement in the funding levels.

To my mind it is counterproductive to cut back in the very areas where we could be increasing the productivity of our economy and enhancing the ability of our people to cope. I am very disappointed with these cuts.

Another provision that is better in the minority package, than in the majority package is the funding level for the Employment Training Administration within the Department of Labor for the people who administer the training programs. The minority provides for $96.5 million in that function versus $36.9 million or less than half of that figure in the majority package.

It would be impossible under the majority package to adequately administer a $3.8 billion program. This cut in program administration would exacerbate the affect of the extensive cuts already made to this program.

In a general sense, Mr. Chairman, from listening to the debate today, one would think that there is a substantial difference of opinion on cuts between one side and the other. If one goes back and reviews the various proposals for this year, one finds that there is a consensus, whether it is good or bad, that there ought to be substantial cuts.

For those of us who are now debating that these cuts are horrendous or that those cuts are horrendous, let us face it: They are all horrendous. What we are trying to do now is make the best of what is a bad situation. There are many of us, and I know of many on my side, who feel we made a bad mistake by not taking $3 billion to $4 billion out of the defense function and shifting it over to the domestic social service functions, so that we would make these cuts less severe on the most needy.

This type of reallocation would have been a wise, reasonable, and rational approach, but the rules generated by the majority prevented that move. The rules prevented this kind of shift by requiring the elimination of all defense increases before any reductions would be credited as savings. That rule was impossible, but we should have worked out some procedure that would have allowed the possibility of shifting funds from defense is what we ought to have done.

What are we left with is only the possibility of negotiating spending levels among the different functions—and this is exactly what we have done.

The proposals agreed by the coalition of northern Republican Members which I referred to earlier, agreed upon after a series of meetings, would shift funds to beef up a wide range of programs within the jurisdictions of many committees. A total budget shift of $3.6 billion was endorsed by the coalition. They included an additional $1 billion for energy, $1 billion for youth employment programs, $700 million for elementary and secondary education, $600 million for student assistance, arts and humanities, $150 million for education of the handicapped, $135 million for vocational education and increases in medicaid funding. The group also endorsed changes in other critical areas of the budget which have been spearheaded by Republican members of various committees. Although we did not get all that we wanted, we did achieve shifts amounting to half the total request.

The position of the coalition has addressed a great many of the concerns I had expressed earlier about specific provisions of the Gramm-Latta budget. By working as a group, we have been able to enhance our effectiveness in working for shifts which

are minimal in terms of the overall budget, but vital to programs of importance to our constituents.

The total budget shifts endorsed by the coalition amount to less than half of 1 percent of the fiscal 1982 budget. The additional funding would be accomplished through shifts from other functions, where the need for funding is less urgent, rather than by increasing the deficit.

In fact, we proposed that the necessary funds could be secured through productivity improvements in the administration of defense programs. The well-known letter from Elmer Staats, until recently Comptroller General, to Secretary Weinberger estimated that $4 to $10 billion could be gained through increased efficiency at the Pentagon. Unfortunately, the restrictions imposed by the majority on the reconciliation process prevented us from pursuing this alternative.

Although we were prevented from implementing this strategy, it represented the most sensible way to achieve regional equity while sustaining necessary improvements in our national defense position. To put the dollar amounts involved into better perspective, it is instructive to look back at the first budget resolution debate and recall that all of the major alternatives offered at that time would implement the President's economic strategy. The levels of outlays were all extremely close.

It is even more interesting to compare a proposal that was considered too conservative last year with the alternatives offered during consideration of the First Budget Resolution. My colleague from California, Mr. ROUSSELOT, introduced a balanced budget alternative in the last Congress. After reestimates to reflect this year's actual spending rates, Mr. ROUSSELOT's outlay figure of $601.4 billion would have resulted in actual outlays of $649.33 billion. If Mr. ROUSSELOT wanted to project a real increase of zero percent in 1982 for all categories including defense, this would mean outlays of $708.27. The Rousselot amendment called for $147.9 in defense outlays, a far cry from the more than $162 billion that the House Budget Committee projects for 1981 outlays. If Mr. ROUSSELOT were to accept the Gramm-Latta outlay figure for the defense function, his outlays would be higher than any of the alternatives, considered earlier this spring.

Certainly I am not suggesting that Mr. ROUSSELOT would offer the same amendment this year, and I am not unaware of the uncertainties involved in making these projections. I only wish to point out that, when viewed against the standards by which we judged spending only 1 year ago, all of the alternatives presented in the 97th Congress have represented extremely conservative budgets.

In proposing these budget shifts, the ultimate goal of all our efforts has been to implement the administration's economic recovery program fully, but in a way that would distribute the burden fairly and avoid the shockwaves and economic disruption that can occur from sudden elimination of programs that fill legitimate needs in our society.

Mr. Chairman, I do not feel good about the way the legislative process has been abruptly changed to effect social change. I am however, pleased that significant alterations have been made to accommodate what I believe were substantial deficiencies in the administration's original budget proposals. I am hopeful that as the year goes on, more rational, responsible, reasonable changes can be made to lessen any detrimental impact of these serious changes. None of us like to have less but, I personally look upon this new period as a time of challenge. Doing more with less is a New England way of life that I intend to attempt to implement at the national level.

Mr. REGULA. Mr. Chairman, as I understand it, we have the full 4 hours and we are going to use more than 15 minutes on some of the committees, so we have some additional requests on Education and Labor.

We would like to give them an opportunity to be heard.

The CHAIRMAN. The gentleman from Ohio (Mr. REGULA) has 2 hours and 36 minutes remaining, and the gentleman from Oklahoma (Mr. JONES) has 2 hours and 24 minutes remaining.

Mr. JONES of Oklahoma. Mr. Chairman, could I inquire of the gentleman from Ohio how many more requests he has? The reason I ask is that there are about four relatively quick unanimous-consent requests on this side.

Mr. REGULA. Mr. Chairman, in the interests of giving those who have unanimous-consent requests a chance to get out, we will withhold our additional time on Education and Labor until we have finished those.

Mr. JONES of Oklahoma. Mr. Chairman, I yield such time as he may consume to the distinguished chairman of the Committee on Interior and Insular Affairs, the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Chairman, title VIII of the Omnibus Budget Reconciliation Act of 1981 contains the reconciliation provisions reported by the Committee on the Budget with respect to matters under the jurisdiction of the Committee on Interior and Insular Affairs.

These provisions assure total reductions of $2.8 billion in budget authority and $2.5 billion in outlays for fiscal years 1982–84. The reductions made by the committee are greater than the reductions directed by House Concurrent Resolution 115 by $600 million in budget authority and $1.1 billion in outlays for the 3 fiscal years.

The provisions in title VIII place ceilings on budget authority for the agencies under the jurisdiction of the Committee on Interior and Insular Affairs. While these ceilings assure that total reductions projected over the 3-year budget reconciliation period will more than meet the reductions directed by House Concurrent Resolution 115, they also retain flexibility for the relevant legislative committees and their House and Senate Appropriations Committees counterparts to decide on specific items within these spending levels at the appropriate times in the congressional decision-making process.

While this approach recognizes that decisions on specific items will be made during the appropriations process, it does reflect the concerns of our committee about some items of particular interest. For example, it specifies that there shall be appropriated $275 million for the land and water conservation fund, $30 million for the historic preservation fund, and $100 million for payments in lieu of taxes.

Finally, title VIII includes provisions to offset appropriations by over $250 million by increasing uranium enrichment user fees and noncompetitive oil and gas fees and rentals.

Mr. JONES of Oklahoma. I thank the gentleman, and I think that effort of the Committee on Interior and Insular Affairs deserves great applause in and of itself.

Mr. LUJAN. Mr. Chairman, there has been much debate on this resolution to the effect that the committee process has been ignored. Concerning the Interior and Insular Affairs Committee title of this bill, I can assure you that it is exactly the product of the committee. Not only is the Interior and Insular Affairs title in this substitute resolution, identical in every detail to the Budget Committee figures, it is the product of hard and searching negotiations between the majority and minority members of the committee.

This title contains maximum spending limitations on the various departments and agencies that have programs falling under the jurisdiction of the committee. These include the Department of Agriculture, the Department of Energy, the Department of the Interior, and the Nuclear Regulatory Commission. The maximum spending limitations have been derived from the budget revisions submitted to the Congress earlier this year by the administration.

There are to be sure certain figures within this title that we all would like to see differently adjusted, however to meet the intent of the overall economic program, each ox received some

goring. So while each ox has some wounds, none are fatal.

The committee did, however, impose some minimum spending limitations on various Interior Department programs, with which we do disagree.

It is my assumption, however, that the Appropriations Committee will have to arrange the maximum spending limitations to adequately reflect the intent of this title. If certain of the minimum spending levels are adhered to it will force a cut of 12 percent on the average in all other Interior Department programs.

I refer to:

The minimum spending limitation to be imposed on the Land and Water Conservation Fund of $275 million;

The minimum spending limitation to be imposed on funding under the National Historic Preservation Act of $30 million; and

The minimum spending limitation to be imposed on funding for the payment-in-lieu-of-taxes program of $100 million.

However, Congress has always followed a general rule of law that a statute enacted subsequent to an earlier statute will prevail over the earlier statute when a direct contradiction exists. Thus, it is my understanding that an appropriations bill enacted after this reconciliation legislation is enacted into law will prevail.

Therefore, the Appropriations Committee is not forced to accept the minimum amounts of money for those programs specified in this title.

I do want to emphasize one portion of this title that concerns the payment-in-lieu-of-taxes program commonly referred to as the PILT program.

The PILT program was enacted in 1976. It is a product of long, hard negotiating by the members of the Interior Committee in a successful effort to come up with a program to assist county and local governments in obtaining adequate operating funds, where their tax base, their land, is owned in large part by the Federal Government. We succeeded in our efforts. We came up with a program that county and local governments across this Nation appreciate, understand, and relied upon. There are counties who rely on PILT for most of their operating income. We have one county in my home State of New Mexico, which relies on PILT for over 77 percent of their expenditures. We have five counties which rely on PILT for over 50 percent of their expenditures.

One satisfying aspect of PILT is the fact that the cost of administering the PILT program is less than 1 percent of its funding level. If this record could be spread to the rest of Government we might not be in the economic mess we find today.

The PILT program is a model program and we on the committee support funding for it at as high a level as we can reasonably afford.

The PILT program is another example to refute the argument made earlier in this House, that the OMB and the White House are dictating what we are doing here. The figures budgeted for PILT are more than double what they requested.

The conclusion, Mr. Chairman, let me repeat that this title is identical in both the substitute resolution and the Budget Committee package. It is the result of bipartisan effort within the Interior Committee.

We are fully cognizant of our responsibility to preserve and protect and rationally utilize our natural resources, with that in mind, we can live with the reductions called for in this title and I urge its adoption.

Mr. JONES of Oklahoma. Mr. Chairman, I yield such time as he may consume to the gentleman from North Carolina (Mr. JONES), the distinguished chairman of the Committee on Merchant Marine and Fisheries.

Mr. BIAGGI. Mr. Chairman, will the gentleman yield?

Mr. JONES of North Carolina. I yield to the gentleman from New York (Mr. BIAGGI).

Mr. BIAGGI. Mr. Chairman, section 9001 of H.R. 3982 contains the authorization of appropriations for certain programs of the Maritime Administration. In attempting to meet budgetary targets, the Committee on Merchant Marine and Fisheries made substantial cuts in the authorization for research and development expenses.

These cuts were made in the MARAD research and development authorization for two reasons. First, the committee wanted to target more money for the State maritime academies to help them in the financial emergency they face due to increased fuel costs and critical ongoing maintenance programs for their training vessels.

Second, the committee had some concern that the research and development program has not been as productive as it could be—and that a temporary lower level of funding was appropriate while the program was being reevaluated and restructed.

While I agreed with that action of the committee, there is one part of the Maritime Administration's R. & D. program that, in my opinion, is highly valuable. This is CAORF—the Computer-Aided Operations Research Facility.

This is a ship control simulation facility. It is valuable not only as a research and development tool but as an effective training device. It is now being used to study the reactions of ships and their crews to various operating situations. The objective, of course, is to reduce accidents and improve maritime safety. This facility is also used to test the use of simulators as training devices.

I am hopeful that, within the admittedly stringent research and development budget we have recommended, the Maritime Administration will be able to continue its work at this valuable facility. CAORF promises direct payoffs in safety at sea. That should be a top priority in the utilization of available funds.

Mr. JONES of North Carolina. Mr. Chairman, let me list briefly how the Merchant Marine and Fisheries Committee has responded to the reconciliation mandate.

No. 1. We have eliminated new funding for construction differential subsidy, commercial shipbuilding in fiscal 1982. We assume that there will be $100 million annually for this program in each of fiscal 1983 and fiscal 1984. This is in total compliance with the assumptions of the budget resolution passed by Congress.

At this point, I would add that we have also included most of the text of our maritime authorization bill for fiscal 1982. Of course, we modified the language to eliminate all new funds for construction subsidies. However, we did include $417 million for operating subsidies for American-flag vessels. This amount was requested by the Reagan administration.

No. 2. It was assumed that our committee would eliminate the entitlement to free health care through the public health system now enjoyed by merchant seamen. We have complied substantially with this resolution. Our language states that these beneficiaries can still receive health care through whatever system may remain, but they will be required to reimburse the Federal Government for that care. This will provide a savings of $92 million in fiscal 1982 and greater savings in subsequent years. I might point out that language in the Broyhill amendment would repeal the entitlement entirely and, therefore, if the Broyhill amendment is adopted, there will be a contradiction between title 9 and title 6.

No. 3. The committee has also provided for a fee to be imposed on the dumping of materials in the ocean in fiscal 1983 and fiscal 1984. The fee can be as much as $5 per ton. This will produce revenues of at least $300 million per year in fiscal 1983 and fiscal 1984. I might note that Public Works Committee has reconciliation language also affecting dumping fees, and there will have to be a resolution of the differences in conference.

Finally, I might note our committee would include language providing for a comprehensive system of oil spill liability. Because of jurisdictional questions, the Budget Committee has chosen to drop this section.

Mr. REGULA. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri (Mr. COLEMAN).

Mr. COLEMAN. Mr. Chairman, one of the areas that I think that we have some basic harmony, as far as the goals that we want to accomplish, is in the student loan program. Of course, we have different avenues to get there.

I would like to join in the commendation to our chairman, the gentleman from Illinois, in the close working relationship that we have personally had in trying to arrive at the conclusions that we have today. Obviously, he has a position and I have one, but it is one where we can disagree without being disagreeable.

My chairman had taken the well and said a few things about my proposal that I could not pass up or allow to go tonight and wait until tomorrow. One of those, I think the basic difference between our proposals is whether or not we should allow anybody and everybody to come in and ask for and be eligible for a guaranteed student loan, or should we base it on need—those people who truly need it and cannot fund their own education.

The committee bill is the former; our proposal is the latter. We feel a person who can definitely show need, they should have a student loan, and under this proposal, they will receive one. It is a targeted loan, not a scattershot approach.

Let us remember we have had some convenient loans in the past where students have borrowed the money which maybe they did not need. I might point out that there has been a suggestion that 1.3 million students would be denied student loans under this proposal.

I would only point out that under the present law and the proposal by the committee that 75 percent of those students who are eligible under present law do not take advantage of it.

I am afraid that through our total discussion of this matter that more and more people are going to apply. If they do, under the committee's proposal, they could totally bankrupt the Treasury because it is open ended. Under my proposal, they have to continue to show need to come in and get their grant. We have a minimum loan of $1,000 and that is absolutely true because we feel that we need to insure that there is money available to be lent.

□ 1840

If a student comes in and asks a bank to lend him $200, chances are the bank is going to say no. That is why we put in a $1,000 minimum. It is going to help poor people more than anybody else.

Mr. REGULA. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois (Mr. ERLENBORN).

Mr. ERLENBORN. Mr. Chairman, there are two areas that I will discuss very briefly in the bill before us and the substitute that will be offered tomorrow. The first is Federal employees' compensation.

The bill before us has no changes in this entitlement program. The substitute will have some changes that will implement recommendations that actually began in the Carter administration for some major revisions of the Federal Employees Compensation Act.

In 1974, the act was amended, and the number of claims filed in that year by Federal employees was approximately 16,000. Because of such changes as eliminating the 3-day waiting period, which kept minor claims from being filed, and the other changes that were made, the number of claims has increased drastically to over 100,000 claims in the last year.

Mr. SIMON. Mr. Chairman, will my colleague yield?

Mr. ERLENBORN. I yield to my colleague from Illinois.

Mr. SIMON. Not on the area my colleague from Illinois is talking about now, but one of the areas where we have some agreement, but also some disagreement, is in relation to the black lung funds. What has the gentleman done in his proposal on that?

Mr. ERLENBORN. That was the other item I was going to address.

Mr. SIMON. I am sorry.

Mr. ERLENBORN. I will be happy to do that, but I will just make another comment or two about FICA.

The changes in the substitute will be as follows: We will change the compensation rate, which is now at 66⅔ percent of gross pay, and make the rate 80 percent of predisability expendable income. This is in line with the Workers Compensation Commission report of the early 1960's, which has been a yardstick for making judgments as to whether State workers compensation programs are adequate or not. This change to 80 percent of predisability spendable income will make a drastic change in the incentives for employees to return to work, since in many cases 66⅔ percent of gross pay well exceeds 100 percent of preinjury disposable income.

The 3-day waiting period that was changed to come after the continuation of the pay passed in the 1974 amendments will be reinstated at the beginning of the injury, and will be made, as a matter of fact, a 7-day waiting period.

However, if the delay is approved, there will be a 5-day payback so that the employee would stand to lose only 2 days which could probably be picked up through the use of annual leave or sick leave.

We will convert the FICA recipients, those who are receiving compensation, to civil service or other Federal retirement programs at the age of 65, taking them off the Federal employees' compensation rolls and rather giving them the pension that they otherwise would have received.

A few other minor changes will be made, and the net effect will be a savings of $76 million out of what is now a total funding level of $344 million, so there will be a substantial savings and will implement recommendations, as I say, that were initiated in the Carter administration.

Now, to answer my colleague from Illinois relative to the black lung program, the gentleman is not quite correct in saying that we have some agreements and disagreements. I am in total disagreement with what was done by our committee in the black lung program. The principal thing that we did that is in the Education and Labor Committee part of this bill is to provide, in my judgment without cause, repayment to coal companies and to insurance companies of black lung claims that they have already paid. This is a total giveaway of Federal funds against the black lung trust fund.

The substitute bill will make no changes in the black lung program. Now, frankly, I would have liked to have seen changes in the substitute. I would have liked to have seen irrebuttable and rebuttable presumptions changes. I would have liked to have seen the promise of the portions of this program initially made in 1969 fulfilled to turn the program over to State workers compensation.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. REGULA. Mr. Chairman, I yield 2 additional minutes to the gentleman from Illinois.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield.

Mr. MILLER of California. Does that include a tax?

Mr. ERLENBORN. I will be happy to yield to the gentleman for that purpose, and let me say that is correct. The tax, of course, in the Budget Committee bill was put in the portion that was attributable to the Ways and Means Committee but in neither that portion nor in our portion is the tax included.

I will be happy to yield to the gentleman from Illinois.

Mr. SIMON. Coming to the question, we, in our proposal, increased that interest that the coal companies pay while something is on appeal so that they do not have a financial incentive to protest every single black lung claim; what does the gentleman do there?

Mr. ERLENBORN. As I say, there are no changes in the black lung program contained in the substitute. I might advise the gentleman that interest rate currently is established by regulation. The Secretary of Labor may, and I believe will, because I have heard him complain personally about the low interest rate, and I advised him that he has it within his ability by just changing the regulation of the Department to increase that rate.

Mr. SIMON. If my colleague will yield further, the gentleman would encourage the Secretary to do that?

Mr. ERLENBORN. I would encourage the Secretary to do that, and I would also say to the gentleman that I will look for an opportunity in the near future to enact the other changes that I have been seeking in this program.

Mr. REGULA. Mr. Chairman, I yield 5 minutes to the gentleman from Minnesota (Mr. ERDAHL).

Mr. ERDAHL. Mr. Chairman, as the gentleman from Ohio, our ranking member, has already said, in spite of some of the charges we have heard around here today, many parts of the substitute program the minority proposes are rather generous in responding to our real human needs in the area of education, I think especially in the areas of aid to the handicapped and vocational rehabilitation programs and National Institute of Education. We have also heard, some of us have been charged with knuckling under to the administration or the OMB. Here too, I think, we were successful in keeping these programs zeroed in on specific areas in their categories. Again, I mention specifically the area of aid to the handicapped and vocational rehabilitation program.

As ranking minority member of the Subcommittee on Select Education, I wish to commend my own minority colleagues for the strong commitment they have made to handicapped children, disabled adults, and their endorsement of continued Federal support for educational research through the National Institute of Education.

For example, the proposal that we made was around $56 million as compared to $20 million on the part of the majority. I think, as we look down the road, I think our colleagues propose more money for education programs for the handicapped than the majority. They oppose inclusion of these programs in the block grant. My colleagues proposed significant moneys, as I mentioned, for the National Institute of Education and domestic volunteer services than did the majority.

So, some of the charges we have heard that we are cutting all these programs—admittedly we have cut some—just are not true. I think these actions suggest that we do have a commitment and that we have set economic goals that are not insensitive to the needs of the people we represent and the people of this country.

□ 1850

We did not endorse radical changes in programs for reconciliation. We do not dismiss or challenge national priorities in educational or social programs. I think it is time for all of us to recognize that we have had some rancor here today, and we will have more, I suppose, in the days to come, but in these areas we should try to achieve bipartisan support. Basically, in education I think this has been the rule rather than the exception. We have to recognize that we must make responsible attempts to reduce Federal spending and at the same time make the cuts where they will do the least harm and remember that we have people in our society who do need the help of those of us in the Government.

I would just like to make a couple of comments on education of the handicapped, because here is one area, I think we would agree across the party lines of this House, where we need to maintain some priorities set by our predecessors and by those who still serve in this body.

The Education of the Handicapped Act authorizes to assist States in providing educational programs for handicapped children. It also authorized funds to train school personnel to work with handicapped children, and finally, it provides support for research and demonstration projects which address new teaching techniques, the development of technological advances, and other activities to facilitate the participation of handicapped children in schools, in their homes, and in the community.

The minority substitute authorizes $1,112 million for each fiscal year, 1982, 1983, and 1984. No substantive changes in the act are proposed in the Republican substitute. Specific authorization levels are given for each of the several programs in the act.

The minority substitute reflects a strong Federal commitment to education of handicapped children. It recognizes the importance of providing funds directly to States, and it assures a continuity in research, training, and demonstration activities supported with Federal funds. In total, I believe that the minority substitute is a more balanced proposal because it avoids drastic reductions in the proportion of funds that are authorized for any one program.

Mr. Chairman, as we go through this debate today and tomorrow, I trust that, especially in this area of education, in dealing with the handicapped, in dealing with vocational rehabilitation programs, in dealing with the National Institute of Education, and in dealing with title I, which my colleague, the gentleman from Ohio (Mr. ASHBROOK), has already touched on, we will have a responsible program that satisfies problem priorities and yet meets the goals that we have set not only as an administration but as a Congress in the previous vote on the budget. I think it is a proposal that merits bipartisan support from the Members of this body.

Mr. REGULA. Mr. Chairman, I yield 3 minutes to the gentleman from Connecticut (Mr. DENARDIS).

Mr. DENARDIS. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise to speak in support of the education and labor portion of the Gramm-Latta amendment and to particularly comment on the proposal to establish a block grant in the field of education.

I want to pay tribute to the distinguished ranking minority member of the committee, the gentleman from Ohio (Mr. ASHBROOK), who has labored for several years to bring us to this point where we could consider a well-designed block grant in this field. It has been my privilege to work with Mr. ASHBROOK and cosponsor this bill.

The lack of debate over a block grant in the Committee on Education and Labor is an example of why we had to take extraordinary steps to bring this measure to the full body. In almost hysterical fashion, the majority refused to consider even discussing the matter in committee. Therefore, the members of the minority have had to fashion a block grant program, which I feel makes some very useful changes in the way we will deliver education money and services to State and local governments.

The block grant proposal consolidates 25 separate elementary and secondary education programs into two grants for the States, reducing Federal regulation and control of State and local education to more appropriately reflect what should be the Federal Government's role in education.

Title I of the new proposal would streamline and consolidate programs for disadvantaged children and leave them basically as they are now. The Handicapped Act programs, originally proposed for inclusion in this title, would not be consolidated so that these programs for the disadvantaged and the handicapped would not have to compete with one another for funds.

Title II would provide financial assistance to States for improvement of school resources and performance by consolidating 24 small categorical programs, 17 of which are currently funded at less than $10 million each.

It is the right moment in time to examine the Federal role in education and to divest ourselves of the role of playing county school board or local school board for educational needs in this country. There are 17 programs that are funded at less than $10 mil-

lion apiece, many of them created in 1978, including a number of programs which have not been funded at all, all of which have been the product of special interest lobbying and all of which have no place in Federal education statutes in the manner in which they now appear.

The States can use these funds for purposes and activities that are authorized under the current categorical programs, meeting priority needs either through contracts with LEA's or other private and public agencies.

Mr. Chairman, we have had a network of complex and confusing requirements which have often placed heavy administrative burdens on the States and LEA's and have resulted in practices that many people feel are counterproductive to educational achievement. These would be eliminated under the block grants and I believe that our federal system and education will be so much the better for it.

Mr. REGULA. Mr. Chairman, I yield 5 minutes to the gentleman from Pennsylvania (Mr. GOODLING).

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. GOODLING. Yes; I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I thank the gentleman for yielding.

I have several schools in my district that are located on property adjoining the Great Lakes Naval Training Center and a VA hospital, and there are a very large number of students there whose parents both live and work on these Federal facilities. I am anxious to know about what this legislation or what this reconciliation process does as far as impact aid is concerned, especially the category that we call A or super A, because super A would accommodate the two schools, the principal schools that I am concerned about, where I might say there is a very high percentage of disadvantaged children from minority families who benefit substantially from the impact aid funds.

Mr. Chairman, Great Lakes Naval Base and the north Chicago VA hospital compose one-half of the available land within north Chicago's School District Nos. 64 and 123—representing nine elementary schools, one junior high school and one high school. It is estimated that if this area were assessed for tax purposes it would more than double the present districts' assessed value of $80 million.

Mr. Chairman, North Chicago School District No. 64 is not part of a wealthy community. The district's per capita income is one of the lowest in the Metropolitan Chicago area and, therefore, is characterized by a high concentration of title I students. A large number of these students are members of minority groups. Accordingly, the benefits from impact aid—especially in this area—are enjoyed primarily by those who are most in need of the educational opportunities which impact aid supports. These students should not be deprived of the quality education which has been made possible through the program of impact aid.

During 1980, the school district's per capita cost for educating each child was $2,137. Revenue for A students can be broken down as follows: $1,000 in State aid, $934 in impact aid, and $203 from local and other sources. This means that the taxpayers in Illinois supported "A" students by 57 percent of revenue. Should the House of Representatives decide to accept the Education and Labor Committee's bill and eliminate even the funding for "super A" students, there is no guarantee that the State board of education would continue to provide their share of educational benefits for these students—whose parents are not, indeed, actual residents of the State. It has been proposed by some school officials that the schools should begin charging tuition in an effort to maintain the same quality of education that they have been providing to students in their schools in the past.

Another proposal has been to develop a program requiring payments to the school districts in lieu of taxes—with the proceeds going to educate the dependents of Federal employees who attend public schools in the area.

Mr. Chairman, my constituents and I are grateful to have these Federal installations in our midst. We like those who work there. Their presence is important to the community in terms of jobs and resources. Military children bring a stimulating dimension into the local school districts. However, these facilities impose a substantial additional burden to the community—which is alleviated only by the distribution of Federal impact aid funds. In the absence of impact aid the other local residents would have to bear an inordinate increase in their property taxes.

Mr. Chairman, aside from the school districts in North Chicago, there are other school districts within the 13th District of Illinois which are presently receiving impact aid and who would be affected by any reduction in category B impact aid funds. These other districts are: Winthrop Harbor School District No. 1, Beach Park School District No. 3, Zion School District No. 6, Woodland School District No. 50, Gurnee School District No. 56, Waukegan High School District No. 60, Zion-Benton School District No. 126, Kaneland School District No. 302, Lake Bluff School District No. 65, and Warren High School District No. 121.

These school districts would not have continued receiving impact aid under the administration's proposal, which required that "super A" students comprise 20 percent or more of a district's total enrollment to receive assistance. Accordingly, these districts would not feel cuts as severely as North Chicago Districts Nos. 64 and 123. However, it is obvious that a complete cutoff or reduction in impact aid would also have an adverse effect on their academic programs.

Mr. Chairman, we should revise—and not abolish the program of impact aid. We should recognize that impact aid is not an educational program in the same sense that title I, bilingual education and vocational education are. It is a program that provides funds to school districts in lieu of taxes. At least that is the way it is perceived—and the way it works in my congressional district of Illinois.

We must give thoughtful consideration to the special needs of the children in my congressional district and other similar congressional districts throughout the United States who deserve the Federal support this program provides.

Mr. GOODLING. Mr. Chairman, I will be very happy to respond in my remarks, and the gentleman from Nebraska (Mr. DAUB) will also supplement those remarks.

I would like to say that there are two things, I think, that bothered me most of all during the discussion today: No. 1, the continual comments that are made that OMB fashioned some kind of program that we as Republicans were offering. Let me make it very clear that there is not anything in school lunch and child nutrition and impact aid that please the Director of Office of Management and Budget, I can assure the Members of that.

The second thing that bothered me most was that we came up with something at the last minute, and we are now presenting it. Let me again say that I am sure Members on the majority side will be quick to say that their proposal is one I designed in relation to school lunch and child nutrition, and that was what they used to work from, and it was given to the chairman many, many weeks ago; and in fact, practically the only difference is the fact that as I indicated further, I thought the Budget Committee said we had to reduce $400 million more than what they decided we had to reduce.

The other area, of course, is the one that I mentioned earlier, and that is the area of impact aid, which my colleague, the gentleman from Illinois (Mr. McCLORY), has asked me about. First of all, impact aid, when it came from my committee, had zero. It was zero. Of course, they realized what a serious problem school districts were going to have with no money in the budget for impact aid for 1981 and 1982, when the budget back home in

the local school district was already prepared.

So in doing it hurriedly, unfortunately, as I said today, they spread a few crumbs around, and sometimes that works, but when you are dealing with the impact aid, a few crumbs does not help a super A impacted area, for instance, or a super A and super B impacted area. In fact, there is very little they can do when they lose millions of dollars they thought they were going to have for their budget.

So we have tried to come up, and this is something else I had given to the chairman a long time ago. It is something that would help us, particularly when we go to conference, because, as I said in my 1-minute speech on the impact aid, what we have to understand is that the committee's proposal is bad, but the proposal from the Senate is even worse. So we go to conference with "bad" and "worse," and I do not know how we come out with anything that is good when we have to go from something that is bad and worse.

□ 1900

Mr. DAUB. Mr. Chairman, will the gentleman yield?

Mr. GOODLING. Yes, I would be happy to yield to a gentleman who has worked long and hard in trying to come up with something that would be fair in the area of impact aid, my colleague from Nebraska.

Mr. DAUB. I thank my colleague, the gentleman from Pennsylvania (Mr. GOODLING) for those kind remarks. I want to commend him for his leadership, as well as our ranking minority member, the gentleman from Ohio (Mr. ASHBROOK) for the labor of love in the last 2 weeks.

I want to be specific in two points. First, with respect to impact aid, we are faced with a funding level this year of $756 million and to achieve reconciliation under the Gramm-Latta first budget resolution, figuring a way to devise the "A" and the "B" formulas that would be targeted specifically to those areas that would be impacted the most severely by the loss of those funds, the reverse logic, if you will.

So I submit in answer to the question from our colleague, the gentleman from Illinois, that in the case of the Great Lakes naval area and the fact that you have a combination of "A" and "B", military "B" students, that our formula far exceeds the amount of dollars the school districts can rely on the 1982 budget.

I am very pleased to have been a part in drafting the language that is in this bipartisan substitute.

Mr. Chairman, I rise in support of the impact aid proposal contained within title 5 of the Gramm-Latta amendment to the reconciliation bill.

Faced with the real necessity of cutting 50 percent of the funding for impact aid, it would seem only logical that we target whatever funds are available to those districts most heavily dependent on those dollars.

It was with this objective in mind, that Congressman GOODLING and I have worked over the past several weeks in developing a fair and cost effective way to make the necessary changes, while living within the budgetary constraints of the first budget resolution.

Beginning in fiscal year 1982, if enacted, this impact aid proposal would first pay—from the available funds—the heavily impacted school districts. We would pay these districts 100 percent of the rate they were paid for section 3(a) in fiscal year 1981 and 80 percent of the rate they were paid in fiscal year 1981 for section 3(b). I might point out here that these percentages represent higher percentages of payment than the Democrats' plan offers. And I submit these heavily impacted districts are the ones most reliant and most deserving of this greater percentage.

Those districts which meet the 25 percent threshold or the other thresholds for eligibility would continue to receive funding for B children on a declining scale from 80 percent in fiscal year 1982 to 50 percent in fiscal year 1984. It is also our intention to phase out all B payments altogether.

Any remaining funds would be distributed among the unfunded 3(a) entitlements, again authorized at the fiscal year 1981 payment rate. In 1982, this distribution would total 70 percent of the payment each currently eligible district receiving 3(a) payments got in 1981.

To be a heavily impacted district, a district must meet at least one of three thresholds: It must be either: (1) a district which at least 50 percent of whose total enrollment is comprised of 3(a) and 3(b) children, or (2) at least 20 percent of 3(a) children, or (3) a 25-percent impaction of 3(a) and 3(b) children, counting 3(a) children as one, military family 3(b) children as one, and civilian family 3(b) children as five.

To summarize, we are capping the program at $401 million, staying within the budgetary assumptions of the first budget resolution, while fully funding the heavily impacted districts with sufficient remaining funds to pay 70 percent of the unfunded 3(a) entitlement.

Mr. GOODLING. Mr. Chairman, in closing I would like to say that I am very happy to be associated with an alternative program that does better than the other program, the committee's program, in ESA, title I; does better in Follow Through; does better in education for the handicapped.

The CHAIRMAN pro tempore (Mr. STRATTON). The time of the gentleman from Pennsylvania has expired.

Mr. REGULA. Mr. Chairman, I yield 2 additional minutes to the gentleman from Pennsylvania.

Mr. GOODLING. This is hard to say, but in the area that the chairman holds most dear, I never thought we would be able to outdo him in vocational education, but we do better in the area of vocational education than the committee program.

Mr. McCLORY. Mr. Chairman, would the gentleman yield to me?

Mr. REGULA. Yes, I would be happy to yield.

Mr. McCLORY. I thank the gentleman for yielding.

First of all, I want to commend the gentleman from Pennsylvania and the gentleman from Nebraska (Mr. DAUB) and likewise the ranking minority member on the committee, the gentleman from Ohio (Mr. ASHBROOK), for the very effective work that they have done in bringing this legislation to us and bringing this program of impact aid and other educational benefits.

I think it does, indeed, exemplify the good committee work that has been done which we are now able to benefit from.

I would like to ask the gentleman a further question and that has to do with a program called Follow Through, because I have one of the demonstration Follow Through programs in my district in Waukegan, Ill. It is highly successful. Again, it benefits a very high percentage of children from minority families. I would hope that there would be Federal support for a continuation of this Follow Through program.

Mr. Chairman, an excellent Follow Through program is located at Gertrude M. Carman Elementary School in southeast Waukegan, Ill.

Follow Through is a top flight education program which also brings social and psychological, dental, and medical services to disadvantaged youngsters. Funded by the U.S. Office of Education, it focuses on helping children from Head Start and similar preschool programs through third grade. At Carman School nearly 530 children participate.

There are 18 Follow Through classrooms, using two different incentive techniques—one involving tokens, the other involving contracts. Children in grades K through 2 participate in a token economy in which they are rewarded for good work and good behavior. Third graders complete contracts to earn their rewards.

In each K through 2 class, there is a certified teacher, a trained aide who has had at least 30 hours of college classes, and at least one parent assistant who, along with the aide, has received a week of intensive training prior to entering the classroom.

Together these adults form a teaching team, using individualized instruc-

tion. At any one time, the children might be found gathered in small groups, with the classroom teacher instructing them in reading, the aide working with them on math, and the parent assistant helping with handwriting and spelling. Before the program began here in 1969, second and third graders were scoring below grade level. At the end of second grade, they were only at 1.4 grade; at third grade they had achieved only 2.0 grades. Follow Through has raised these scores at or above national norms. The children now advance 1 year each year—something rarely achieved by disadvantaged children.

Because of its success in stimulating achievement, the Waukegan Follow Through program has been cited by HEW as one of fewer than 200 exemplary education programs across the country worthy of duplication by other school districts.

Mr. GOODLING. We have twice as much money in our budget for Follow Through as does the committee budget.

Mr. McCLORY. Well, that is certainly very encouraging. Again, I want to commend the committee for its support of appropriate impact aid funds and for other support programs for youthful programs of education which the committee has seen fit to recommend and to provide and to authorize adequate funds for.

I thank the gentleman.

Mr. REGULA. Mr. Chairman, I have no further requests for time on Education and Labor.

Mr. PANETTA. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan (Mr. FORD).

Mr. FORD of Michigan. Mr. Chairman, I have not seen the specific provisions of the substitute with respect to the Post Office and Civil Service Committee, but from the way it has been described to me by the ranking minority Member, I understand that what we are doing is a little bit of sleight of hand to take care of 135,000 very specially advantaged double dippers. We are going to take money away from 2 million civilian employees and 3 million military and civilian retirees to make up for the extraordinary double compensation that the double dippers will continue to get, all in the name of Republican reform.

I will have more to say about this when we see the specifics of their recommendation tomorrow.

Mr. Chairman, it is with great pain that I defend the budget cuts made by the House Post Office and Civil Service Committee against the assaults of those who demonstrate so little regard for the progress of our Nation in the areas of human need.

In another time and in other circumstances the cuts made by the committee would be indefensible. I defend them now only because the alternatives are so heinous.

We have been thrust into this outrageous position at legislative gunpoint. We have no choice but to try to save what we can from this destructive onslaught.

The Committee on Post Office and Civil Service does not consider its proposed cuts fair or wise. But it was left with little choice under a process that placed immutable dollar targets ahead of every other consideration. The committee was left without reasonable options and it was denied the legislative means to carry out its responsibilities to the people. It was forced to make cuts instead of reasonable choices.

The full committee on June 9 voted to cut $4.2 billion for civil service programs and $947 million from postal service areas under its jurisdiction during fiscal 1982.

Action of the committee was extremely painful. It did, however, proceed in good faith to comply with the mandate of the budget process.

Under these circumstances, members were shocked and hurt by allegations by the President's Office of Management and Budget that it failed to achieve the savings required of it. A June 14, OMB document charged that the committee had exceeded the President's budget by $11.3 billion in Federal pay and contended that the committee's savings in the area of the military pension offset were greatly overstated.

This allegation is irresponsible and, to me, represents a flagrant attempt to distort the facts. The committee acted on Congressional Budget Office estimates.

I have asked OMB Director David Stockman to provide all memorandum, cost estimates, critiques, analyses, or other written material it has relating to this committee's recommendations, together with the names of persons preparing and reviewing such materials.

For the sake of the committee's integrity and its responsibility to the public, I am determined to get to the bottom of these false allegations.

The committee weighed one painful option against another in a sincere effort to wring what little equity it could from an inequitable process. In the end, because of the conditions that bound the committee, it was impossible to act without inflicting injury to many.

Because of rigid constraints imposed on it, the committee was forced to make tradeoffs between unrelated or little related programs in order to achieve compliance. It found itself, out of sheer necessity, guided by monetary targets rather than by reason. It has to wonder what final price will have to be paid for a process that places so little importance on human need.

The committee is satisfied that it has made the best possible choices under the circumstances and they are far, far superior to the administration's alternatives. For example, the committee chose to shift the burden of its cuts from 3.1 million civilian and military retirees and 2 million active Federal employees who now receive only one check to 140,000 double dippers. This shift is fully explained in the following letter:

JUNE 18, 1981.

DEAR COLLEAGUE: The Administration is asserting that savings which the Committee on Post Office and Civil Service would achieve by eliminating so-called double dipping are "phony" and unnecessarily painful. The committee strongly disagrees. You should have the facts so you may make your own judgment.

Eliminating double dipping is not a new idea. It was recommended by the General Accounting Office in 1977 and has been consistently championed by the National Taxpayers Union. The effect of the committee proposal is to treat military retirees the same as civil service retirees who already have their salary reduced by the amount of their annuity.

The savings, $907 million in budget authority in FY '82, are real. In its "Preliminary Assessment of House Committee Reconciliation Bills" OMB charges. "the predictable large exodus of these employees (double dippers) from the Federal workforce would substantially reduce" the savings claimed by the committee. This is the same document which misleads Members by mistakenly charging this committee with exceeding the President's Budget by $11.3 billion in the area of Federal pay. OMB now admits that mistake. They are also mistaken in the double-dipping area.

The committee's savings are based on an estimate from the Congressional Budget Office. The estimate takes into account an extraordinary attrition rate as a result of the proposal, as well as several other factors which reduce the savings. This is a professional estimate prepared after weeks of study.

The double-dipping cuts are painful, but not unnecessarily so. Painful cuts are required by the Gramm/Latta budget resolution. To comply with Gramm/Latta, the committee had only two realistic choices—eliminate double dipping, or eliminate twice-a-year COLA for all civilian and military retirees. President Reagan in a campaign promise (now broken), and the full House just last year (309-72), have supported twice-a-year COLA. And by choosing to eliminate double dipping, the committee has placed the financial burden required by the budget process on the group that can best afford it.

There are 142,500 double dippers. There are about 3.1 million military and civilian retirees and survivors who now receive twice-a-year COLA. The average double dipper, even after the committee proposal goes into effect, will still receive $22,482 per year in combined salary and retired pay from the Government. Retired officers will receive almost $32,000 average. By comparison, the average retired Federal employee receives about $11,000, and the average survivor annuity is only $4,700. Certainly the pay cut the double dippers will suffer is unfortunate. But compared to many RIFed Federal employees who will have no job, no

salary, and no pension to fall back on, the average double dipper is faring very well under the budget process.

These are the facts. You must, of course, decide for yourself whether the committee acted responsibly in meeting its budget savings.

Sincerely,

WILLIAM D. FORD,
Chairman.

Mr. Chairman, I would like to explain how the committee arrived at various decisions.

CIVIL SERVICE PAY

The committee found the issue of pay for Federal employees especially difficult. The administration itself estimated that under existing law Federal workers were entitled to a 13.5-percent increase during fiscal year 1982. But through convoluted economic logic, wrapped up in a so-called reform plan, the administration worked this down to 4.8 percent. It explained it arrived at the figure by assuming in part that Federal employees—be they Secret Service men heroically protecting the President, firefighters, scientists, lawyers, shipbuilders, or physicians—should be paid 6 percent less than their counterparts in the private sector because of certain intangible benefits which the administration assumes. The administration, however, failed to quantify this assumption.

In the present employment atmosphere—where Federal workers are falling behind and some of our best people are fleeing to the private sector—the committee felt it could not in good conscience accede to the administration's tortured logic. Thus it has recommended changes in laws under its jurisdiction in areas other than pay sufficient to reduce savings that must be made in the pay area. This permitted the committee to recommend a 5.8-percent increase. The committee regards this figure as insufficient in light of present economic conditions. But under the strictures of the restrictive budget process it could go no further.

It felt compelled, however, to protect Federal employees against future unwarranted and arbitrary measures and proposed that in the 3 fiscal years covered by reconciliation the President may not alter the statutory pay adjustments by submitting alternative pay plans. This is to insure that the pay adjustments provided by the committee proposal will in fact, occur. It will allow time to study fully the administration figures and assumptions and to develop a meaningful and considered pay reform plan.

It is also the intent of the committee to improve sagging morale in the Federal work force by injecting a measure of stability into an uncertain situation. The committee feels that Federal employees are entitled to have some idea where they will be in the immediate future, free of political whim. The committee is confident that when the dust settles, a work force more secure in its future will be more efficient.

Over the long haul, reducing the real wages of Federal workers results in a lower quality work force, slowing production, reducing service, and making Government more expensive. The best leave and their replacements lack the knowledge, experience, and capabilities of their predecessors. The economics of Federal employee pay and benefits are simple and unavoidable. You get what you pay for.

The committee was troubled by the optimistic economic assumptions of the administration and has provided a floor for fiscal year 1982, 1983, and 1984 pay adjustments. If the adjustments required by law exceed the projections of the administration, the floor will automatically be increased by the amount the administration has underestimated the increase.

DUAL COMPENSATION FOR MILITARY RETIREES

Existing law that permits some retired military personnel employed under civil service to receive full retirement pay and full civilian pay simultaneously has long been the subject of controversy. It has given birth to the epithet "double dipper." It has given retired military people a distinct advantage over their brothers and sisters in the civilian work force.

The Dual Compensation Act of 1964 was enacted to help alleviate a difficult manpower problem during a time when the Federal Government was experiencing critical problems in filling sensitive civilian positions with qualified people. At that time a large number of Reserve military officers were nearing retirement age but were not eligible to compete for hard-to-fill civilian positions. So at the time the act made eminent good sense. Today, however, situations in both the military and the civil service have been reversed. There is a critical military manpower shortage at a time when it is administration policy to shrink the size of the civilian work force. Thus the committee feels that it makes good sense today to eliminate the financial incentives that encourage skilled military personnel to leave the services and, in effect, walk across the street to civilian jobs in the Defense Department or other departments or agencies. The committee also feels that a question of equity is involved in this issue and that all those retired from Federal service—whether military or civilian—should be treated equitably.

The question of equity has long been a problem for those who have studied this issue, including the General Accounting Office.

In a letter to this committee on August 2, 1977, Comptroller General Elmer Staats took note of the problem, saying:

The reemployment of retirees by the Federal Government is a source of experienced personnel. However, the differing compensation practices that prevail for reemployed retirees under the different Federal retirement systems are neither fair nor equitable. We see no reason why reemployed Federal retirees should be treated differently. Again, it is our opinion that both salary and retirement attributable to Federal service should not be paid during active service to a Federal employee.

DUAL PAY FOR RESERVISTS AND GUARDSMEN

Federal employees who are members of the National Guard or the Reserve are entitled to receive both their civilian pay and military pay while on active training duty under existing law. The arguments for continuation of this practice are cogent. Elimination would sharply reduce incentives for entering or continuing in this vital service. It would likely encourage the 46 States who emulate the Federal practice to follow suit. The large number of private employers who either duplicate the Federal policy or provide differential pay likely would reconsider their positions.

These arguments notwithstanding, the Reagan administration specifically proposed elimination of dual pay for reservists and members of the National Guard. In the face of the administration proposal and an ironclad mandate to produce billions of dollars in savings, the committee deferred to the judgment of the administration despite its conviction that the ready reserve program is vital to national security. This is but one more example of how the present budget procedure strangles the legislative process.

REDUCTIONS IN FORCE

It appears to the committee that the Office of Personnel Management is reaching beyond its statutory authority in proposing to regulate with respect to reductions in force in the Senior Executive Service. The approach that OPM seems to be taking is to allow agencies simply to separate career executives if the agency decides to reorganize or abolish positions.

SES was created to provide the Government with an experienced, mobile cadre of top executives. It is false economy simply to kick these executives, trained at great Government expense, out into the cold because of RIF's or reorganization.

The committee proposes procedures whereby career appointees left jobless as the result of RIF's would be reassigned to another SES position for which they are qualified in the same agency. If no such position is available, the SES member would be placed some place else in the Government.

At a time when some of the best and brightest people in Federal executive positions are leaving in droves because of the executive pay ceiling and because they can do far better in the public sector, it seems to the committee that the Government should be

doing everything possible to retain what talent remains.

While it is impossible to put a dollar figure on the amount of money that would be saved by keeping and utilizing trained executives, clearly the move proposed by the committee would result in savings, unless all accepted assumptions about executive management are wrong.

CONTRACTING OUT

The committee remains deeply suspicious of the administration's proposal to reduce Federal civilian employment on grounds that it will save $1.7 billion between now and the end of fiscal year 1982. It has become very popular in recent years to reduce personnel ceilings with great fanfare and to proclaim big dollar savings. It is the experience of the committee, however, that these savings exist only on paper.

Experience has taught the committee that when the jobs of 100 GS-5 maintenance workers are eliminated the positions are moved to other places in the same agency at higher grades. And since the maintenance work must be done by someone, the job is contracted out and 100 new bodies are hired. And while it may be cheaper this year, there is no guarantee for future years. The result is that we have increased the invisible bureaucracy, freed up personnel slots for higher paid employees and fooled the American public.

To insure that this does not happen in this instance, the committee has proposed measures that would link contracting out to personnel ceilings. In essence, it provides that Federal personnel ceilings be adjusted up or down, as appropriate, to reflect contracting-out decisions by agencies. It also provides that no employee may lose a job due to contracting out without a cost comparison.

An awareness that employment ceilings are often used to lull both the public and the Government itself into the false belief that dollars are being saved certainly is not original with this committee. Comptroller General Elmer Staats put the problem very succinctly in testimony before our Subcommittee on Human Resources in 1979:

> Emphasis on limiting the number of persons on the Federal payroll may obscure the reality that the government incurs the cost of all manpower resources devoted to Federal programs even though many of the people are not on the Federal payroll.

He said:

> We frankly believe that personnel ceilings are a barrier to effective work force management.

FRAUD AND WASTE

The committee strongly endorses President Reagan's efforts to eliminate fraud, waste, and mismanagement in the Federal Government. But the committee feels there is a need for inducement beyond the mere guarantee of protections against reprisals for those making disclosures.

The committee proposes cash awards for Federal employees whose disclosures result in cost savings to the Government. Under the proposal Inspectors General would be authorized to make cash awards for disclosures, saving an agency money. These would be limited to the lesser of $10,000 or 1 percent of the saving. The President would also be authorized to give not more than 50 cash awards of $20,000 each year for disclosures that result in substantial savings to the Government.

POSTAL REVENUE FOREGONE

The committee has been forced to reverse traditional national policy by reluctantly reporting severe reductions in "revenue foregone" appropriations to the Postal Service. This appropriation subsidizes postal rates paid by certain types of mailers, such as nonprofit organizations, rural newspapers, and libraries.

Historically, the Federal Government has helped these mailers pay their postal bills, not as a special favor but in furtherance of the national good. Low rates for small newspapers facilitate the flow of necessary information in all sections of the Nation. Subsidized rates for schools, libraries, and suppliers of classroom materials help advance the education of our young people. And low rates for mailings by charitable organizations make a contribution toward helping the truly needy.

The committee, confronted by binding reconciliation instructions and strong advocacy by the Reagan administration to slash these appropriations, has had to report legislation which will sharply reduce these appropriations and greatly increase the postage bills paid by these mailers. The committee has also reluctantly accepted the position of OMB Director David Stockman and placed much of the burden of the administration's proposal on the shoulders of third-class bulk nonprofit mailers. Those mailers—mainly large charitable and philanthropic organizations—will have their mailing and fundraising costs tremendously increased at a time when the administration is saying, in other contexts, that the Nation will have to place greater reliance on private giving.

Again, despite the public price, the committee was left without a viable alternative under a procedure that ignores all but dollar quotas.

PUBLIC SERVICE APPROPRIATION

To reach the required savings target on the postal side of the reconciliation ledger, the committee was forced to propose a cut in the public service appropriation to the U.S. Postal Service of $1.356 billion over the 3-year period from fiscal year 1982 to fiscal year 1984.

This appropriation reimburses the Postal Service for the cost of providing nonprofitable service such as 6-day delivery and the maintenance of small post offices.

The committee fulfilled its obligation to a single-minded procedure. It acted, however, with a great sense of foreboding.

● Mrs. SCHROEDER. Mr. Chairman, I rise in support for the Post Office and Civil Service Committee provisions in H.R. 3964, the Jones reconciliation bill. I guess I also rise in opposition to the Latta-Stockman substitute. I can only guess that I oppose the Latta bill because I have no better idea than anyone else in this Chamber what is in the Latta-Stockman bill. If it is anything like the committee print which came out last night, I know I am against it.

In the Post Office and Civil Service area, the effect of the Latta-Stockman substitute is clear. It eliminates $870 million worth of savings by allowing 150,000 privileged individuals to draw two monthly checks from the Government—one a salary check and the other a military pension averaging $10,000—while reducing the monthly fixed income of over 2 million individuals who, for the most part have no other source of income. Further, to make up some of the lost savings, it reduces the October 1 comparability adjustment to an insulting 4.8 percent, or, looked at another way, it cuts real wages of Federal workers by 8 or 9 percent.

Latta-Stockman may do more; I am not sure. It cuts out of the committee proposal the contracting out proposal, which I am convinced is the biggest moneysaver in the entire reconciliation proposal. Procurement, contracting, and consulting are the biggest ripoffs known to the Federal Government. Arbitrary personnel ceilings, not based on any sort of work force planning system, are imposed on agencies by the Office of Management and Budget (OMB). These ceilings are enforced with the same flexibility as are the antilittering laws in Singapore. At the same time, OMB issues regulations, known as Circular A-76, which is supposed to govern contracting out. Of course, A-76 is so full of loopholes that it covers very little. Further, no one enforces it. So, managers thumb their noses at the rules governing contracting out and pay to have their work done outside just to meet personnel ceilings. The upshot is that contracting out is a great big CETA program for private companies. The difference is that CETA is fraud and waste free compared to contracting out. Because the committee wanted to eliminate real fraud, waste, and abuse in Government, we adopted the provisions dealing with contracting out. Nothing could belie President Rea-

gan's professed interest in eliminating waste and fraud more than his opposition to this provision.

Also stemming from our interest in eliminating waste and fraud was a provision authorizing the President to grant $20,000 bonuses to the 50 whistleblowers who disclosed the greatest waste each year. We also permitted agency Inspectors General to grant awards, without the involvement of the agency head, to employees who come to them with disclosures which result in agency cost savings. The last version of Latta-Stockman that I saw retained this provision. I hope it is adopted and the President uses it to reward whistleblowers. As chairwoman of the Civil Service Subcommittee, I can tell you that the persecution of whistleblowers has not abated since President Reagan declared his support for them.

The Post Office and Civil Service Committee included provisions dealing with career members of the Senior Executive Service (SES) when an agency is reducing its work force. Last night's version of Latta-Stockman struck this provision. Now, my colleague from Virginia, Mr. WOLF, assures me that the committee provision will remain. These provisions clarify the intent of the Civil Service Reform Act of 1978. I thought the law was clear enough, but some people in this administration seem to have a problem with the clear language. SES is a rank in person system where tenure, pay, and responsibility are supposed to be based exclusively on performance and conduct. After all, career SES members are the best Federal managers we have. The provision in the bill requires that we use, rather than discard, career SES members when job responsibilities and agency missions change. This provision totally nullifies the unjustified and improper SES reduction-in-force regulations which are currently the subject of a tug of war between the Office of Personnel Management and OMB.

The strongest reason to adopt the Post Office and Civil Service Committee proposal and reject Latta-Stockman in this area is, however, the outrageous tradeoff between double dippers and retirees. The committee proposal is preferable, not just because it saves much more money, but also because it will cure a morale problem caused by the present inequitable treatment of these two classes of civil servants and because it will help our defense readiness posture. The underlying justification for the Dual Compensation Act of 1964 has now been entirely removed. So, we are left with a historical vestige: An income transfer program which gives an average of $10,000 to each of 150,000 privileged individuals. I, for one, would rather spend $100 on each of 15 million poor schoolchildren so they could eat a hot lunch.

Four years ago, Admiral Rickover testified before the committee on this problem. It might interest my colleagues to listen to what he had to say:

> The Government has no moral commitment to pay a full civilian salary plus retired pay to retired military personnel. . . . [A]s a matter of public policy, no government agency should have to depend on retired military personnel to staff its organization. Frequently filling vacancies with persons drawing retired pay from the Government tends to demoralize career civil servants who might otherwise have had a chance to fill these positions. Military persons drawing retired pay have the option to seek employment outside the Government if restrictions on dual compensation are unpalatable.
>
> At one time the liberal retirement provisions for the military were thought to be compensation for the fact that military pay was lower than comparable wages in the private sector. Today, however, military pay is generally conceded to be comparable to civilian pay. Yet the right to early retirement and a life-time retirement income remain.
>
> Here are my recommendations: First, prohibit waivers of the Dual Compensation Act. There is no valid justification for the Government to pay some retired military officers combined civil service salary and military retired pay which is greater than the salaries paid to the Chief Justice of the Supreme Court, the Vice President, and Members of Congress.
>
> Second, dual compensation restrictions should apply to all retired military personnel—regulars, reservists, officers, enlisted. There is no valid reason to discriminate against regular officers in applying dual compensation restrictions.
>
> Third, retired military personnel subsequently employed under civil service should be compensated in the same manner as a civil service employee who continues to work for the Government after he is eligible for retirement. Namely, he should continue to earn retirement credits, but he should not be paid in total more than the approved civil service salary for the job he is doing.

Since July 1977 when Admiral Rickover testified, military pay has gone up quite significantly. In many cases, a soldier is paid more than a civil servant to do the same job. The staffing problems are not in the civil service, where there is a hiring freeze and a long queue of applicants, but in the military where we are having trouble keeping skilled personnel. At a time like this, it is crazy to provide a big, fat incentive for skilled personnel to walk out of the military after 20 years and start drawing two checks.

Mr. Chairman, I urge rejection of the Latta-Stockman substitute, whatever it says, and adoption of the Post Office and Civil Service Committee bill.●

Mr. PANETTA. Mr. Chairman, I yield 1 minute to the gentleman from New York (Mr. BIAGGI).

Mr. BIAGGI. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, as a senior member of this Committee on Education and Labor I wish to make some observations about our reconciliation package. I have referred to our particular ordeal as "legislative extortion." Our committee found itself having to make a first round of draconian cuts—only to reverse this action a week later after it was revealed that we would not be able to restore these cuts on the floor.

In my 12 years as a member of the committee I have never been through as painful a process as this reconciliation. We presided over the dismantling of programs which for years have served the needy of our Nation. We saw the public service jobs under CETA almost entirely eliminated. Our commitment to higher education was diminished when we were forced to impose restrictions on access to student financial aid. Our commitment to child nutrition has been reduced.

In many ways, the Education and Labor Committee was the scapegoat in the reconciliation. As I have said before—Congress once prided itself by providing the poor and needy with a hand up. Today we are throwing our poor and needy into precarious safety net which may be more porous than it is safe. I state again that I was an unwilling participant in this reconciliation package but feel we have achieved the dubious distinction of emerging with the lesser of two evils.

I have attempted throughout these deliberations to defend our committee's commitment to higher education.

I feel it imperative to clarify the history of my involvement in our programs for higher and continuing education. As New York's senior member of the Education and Labor Committee, I was an original cosponsor of all major pieces of legislation which have extended and revised the Higher Education Act of 1965. These acts include the Education Amendments of 1972, which established the Pell (formerly basic) grant program. This legislation provides basic grant assistance to students and forms the foundation upon which all other forms of student aid are based. Its importance to my own State of New York cannot be underestimated. Today, we now have 324,000 New York students receiving $330 million in Pell grants. Under current law, this amount would have grown to $440 million next year.

In 1976, the education amendments approved by Congress, with strong bipartisan support, extended and revised our financial aid programs for postsecondary education. These programs include the supplemental grant program, critical to students in independent sector schools, State student incentive grants, college work study, and the national direct student loan program, providing low-interest loans to the neediest of students and the all-important guaranteed student loan

program, which provides critical aid to middle-income families. These programs were reauthorized because of the importance of a college education to millions of American families.

Higher education was finally eliminated from being the sole province of the rich with the 1978 Middle Income Student Assistance Act. As a major force in the shaping and the passage of this legislation, my reasons for doing so were simple. With its approval, this legislation allows us to now point to the fact that some form of Federal assistance will be available to any and all students who require it to finance college costs. The 1978 MISSA as it is called, removed the income requirement for eligibility for these loans. The reasons behind this were twofold: First, college costs were rising, making higher education slip out of the hands of hundreds of thousands of students. Second, restricting eligibility for these loans to students with family income under $25,000 was cutting out the very same students we wanted to serve. This legislation was not intended to be a giveaway program. Low-cost loans, with the Government paying the interest on the principal while the student was still in school, which would be repaid upon graduation, can hardly be termed "giveaway" programs.

To illustrate the importance of the expansion of the program in 1978 under MISSA, let me explain its effect upon my own New York State. The number of students receiving loans since 1978 has nearly doubled from 236,000 to 500,000. Loan volume in the State, which was $400 million in 1978, is estimated to be nearing $1.1 billion for the upcoming school year. These loans are being given to students who depend on these funds, especially those who attend high-cost institutions. The importance of this program to New York cannot be lessened: New York cost-of-attendance, especially in our private sector, is one of the highest in the Nation.

In 1979, Congress passed a series of technical amendments which incorporated my emergency legislation to save the student loan program when rising interest rates threatened to close it down. I introduced this bill when it was brought to my attention that the cap on the so-called special allowance—the subsidy paid to lenders by the Government—was too low and under current market conditions, would have prohibited the Government from paying this subsidy to lenders. This would have closed down the entire program at the period of highest business for the program: Right before the 1979-80 academic year began. Due to the timely diligence of our Education and Labor Committee, our then subcommittee chairman BILL FORD and our distinguished Committee Chairman CARL PERKINS, the 1979 amendments were passed and the program was saved.

Last year, Public Law 96-374, the Education Amendments of 1980, extended and revised these programs through 1985. As a original cosponsor of the legislation, a member of the Postsecondary Education Subcommittee which considered it, and a member of the conference committee which finalized it, I was proud to have been part of the effort. When this legislation was signed into law, it was the culmination of 2 years of hearings, with hundreds of witnesses, from students to college presidents testifying in support of the House bill which provided a balanced approach to extending our higher education programs equally between both the public and the private sectors.

My own efforts in this area were directed at improving access to postsecondary education to those who still faced barriers to a college degree. These include what we now call the nontraditional adult student to the neediest of students at high-cost independent sector schools. I authored an amendment which would examine the remaining barriers that adults face in going back to school. I also authored provisions which would eliminate the penalties that some States, such as New York, faced in the distribution of Federal grant funds. Finally, included in this package was my bill to provide for the creation of student financial aid data banks in title I of Public Law 96-374. Such data banks would compile all aid information for eligible students in order that they be able to obtain this information in a timely, concise, and individualized fashion, tailored to their own financial needs.

My efforts on behalf of the nontraditional student and those who face barriers to postsecondary education were rewarded earlier this year when Speaker O'NEILL appointed me as a member of the Commission on National Development in Postsecondary Education established by Public Law 96-374. This Commission, with members appointed by the Speaker, the President of the Senate and the President of the United States, is charged with the examination of future Federal policy with regards to higher education. Critical to our work will be a close scrutiny of the problems of the adult student. I am honored to have been appointed to such a prestigious panel and look forward to serving with distinction.

Our Education and Labor Committee, under instructions by the Gramm-Latta substitute budget proposal adopted by the House—which I did not support—cut almost $13 billion from our programs. We voted these changes unfavorably by a bipartisan vote of 23 to 4. We did so with the understanding that the alternative would be to thwart the right of the authorizing committees to make these changes by turning our work over to the Budget Committee. It seemed certain that in that committee, we would see the adoption of block grants for education, health and social service programs.

I remain steadfast in my opposition to consolidation of our programs for education, social services and health without the benefit of full committee hearings on such proposals. To incorporate such a massive shift in social policy into a budget reconciliation bill—completely bypassing the committees under which such legislation should be considered—abrogates our commitment to those who are directly served by these programs and makes a mockery of the legislative process of this institution.

Our initial approach to this process in the Education and Labor Committee was well-publicized. We voted to cut the very heart out of programs we wanted to preserve. We were assured by the House leadership that we would have floor amendments to restore these cuts. It became clear subsequent to our actions that such restorative amendments could not be assured. We then returned to committee and reported the following recommendations to the Budget Committee, which are included in this bill, H.R. 3982:

For higher education: Retain the basic structure of the Guaranteed Student Loan Program, retaining the in-school interest subsidy, and adopting my resolution—H.J. Res. 259—which defers and changes in the program until after October 1, thus allowing students to receive loans under current program structure and plan accordingly for the following academic year. Retaining the maximum Pell (Basic) Grant award at $1800 which assured the neediest recipients of aid and deferring changes we adopted in last year's reauthorization of the Higher Education Act for three years. Reduced authorization levels for College Work Study by $50 million and elimination of the State Student Incentive Grant program. Other educations for programs under the jurisdiction of the Postsecondary Education Subcommittee were also effected, including libraries, the arts and humanities endowments and vital continuing education programs for our nation's non/traditional students.

For elementary and secondary education: Most of these 26 programs under this subcommittee are capped at their 1981 funding levels, including bilingual and adult education. Title I ESEA and vocational education are recommended for funding at levels above their 1981 appropriation. Impact Aid has been reduced by almost 50 percent to $404.6 million, Emergency School Aid has been eliminated except for $30 million for magnet schools and the following areas have been reduced below their 1981 funding levels: Basic Skills under Title II ESEA, Department of Education expenses and salaries, refugee aid and Department of Defense Overseas Dependents schools.

For child nutrition: We extended last year's reconciliation provisions and added an additional 8.5¢ to the paying children's subsidy. Eligibility for reduced-price meals is lowered from 195 percent to 185 percent

of poverty level and the standard deduction used in computing the reduced-price income limit is lower by $50 a month. The price of reduced-price lunches is increased 15¢ and the reimbursement for paid school breakfasts is reduced by 5¢. The summer food program is limited where private sponsors are serving no more than 1,000 children at no more than 10 sites. The Committee eliminated private schools with tuitions above $1,500 but this change is adjusted not to exclude those schools with high numbers of children on scholarship aid. All changes in this program area will also begin October 1, 1981.

Other reductions include: $409.2 million from the education of the handicapped, $5.6 billion from CETA employment and training programs under Titles II-D and VI, a cap of the Rehabilitation Act state grant section at its 1981 funding level of $854.3 million and reduces funding for the National Institute of Education to a maximum of $25 million per year. In addition to reducing authorization levels for NIE by 68 percent, the Committee also includes a provision which mandates the Institute award all its funds through a process of competitive bidding with no set-asides for the labs and centers authorized under subsection 405(f). At a time when the Institute will be faced with decreased resources, it is our feeling that all its funds should be directed to the highest-quality research. In order to insure its most vital research remains funded, it is our feeling that the most equitable way to provide for this is through a process of competitive bidding.

In addition to draconian cuts in these vital social programs which I have consistently supported, we have also included the reauthorization of the following programs:

One. The Older Americans Act of 1965. With respect to the Older Americans Act reauthorization which is contained in this bill, let me express my unqualified support. During the Education and Labor Committee's consideration of this bill on May 5, I offered a number of amendments which were accepted.

They included—

An amendment to upgrade the position of the Commissioner on Aging by having him report directly to the Secretary of the Department of Health and Human Services, rather than the Assistant Secretary which is the case under current law. In addition, for the first time the Administration on Aging will be able to have control over their salaries and expense budget.

An amendment which provides states with greater "flexibility" in the uses of their Title III funds under the Act. Specifically, my amendment provides states with the ability to transfer up to 20 percent of funds between Title III B and III C, the Social Services and Nutrition programs respectively. Passage of my amendment served as a repudiation of an Administration proposed plan to consolidate all of Title III and the Commodity Food program administered by the Department of Agriculture.

An amendment which provides for a separate program for mental health demonstration projects for the elderly.

An amendment which increased the authorizations for Title IV and Title V.

H.R. 3046 as reported by the Education and Labor Committee is an excellent bill, one which will insure the continued success of the Older Americans Act in cities and towns across the Nation.

For 15 years, the program has operated as a categorical grant program and I am especially pleased that the House will see fit to keep it as a categorical program and not a block grant program.

We may have many regrets with this overall bill, but I am happy to say that the Older Americans Act reauthorization is not one of these regrets.

Two. The Economic Opportunity Act. The committee approved H.R. 3045, which I cosponsored, which extends the programs under the act for 3 years, except for Head Start, extended for 5 years under title V of H.R. 3045. Also included in this extension is the Community Action agencies, under title II of the bill.

Three. The Domestic Volunteer Service Act. The programs under this act, including the ACTION and VISTA programs, are extended for 3 years through 1984.

Four. The Child Abuse Prevention and Treatment Act and Adoption Opportunities Act. This bill, H.R. 2318, which I cosponsored, extends these vital programs through 1985. I have a special concern for these particular programs I authored, in the original bills that became law in 1974 when this program was first adopted. In addition, it was my 1978 provision which expanded the definition of "child abuse" to include sexual exploitation when we discovered the hundreds of thousands of children who fall captive each year to the pornography market.

Five. Alcohol and Drug Abuse Education Act. This small, but effective program provides funds to train officials in local school districts to conduct programs encouraging the prevention of alcohol and drug abuse. This bill, which I cosponsored, extends programs under this act through 1985.

Our best effort now lies before this House. We have not willingly conducted this process but have done so out of respect for the laws and procedures which govern this institution. We are also painfully aware of the alternative to our own package of cuts.

The record must reflect that we have not abandoned—nor did we ever intend to abandon—students, the elderly, the poor, the handicapped, and the economically disadvantaged and others who so directly rely on these programs for their survival. I have fought for these programs my entire 12 years in Congress. I do not intend to now allow them to be sacrificed on some altar of economy.

Make no mistake about it. The budget reconciliation bill, H.R. 3982, and its provisions under title V of this bill, the Committee on Education and Labor, represent our best hope for these programs. I urge my colleagues' support for our work.

Mr. PANETTA. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. WEISS).

Mr. WEISS. Mr. Chairman, besides being appalled by this process, which is an absolute perversion of the legislative deliberative process that we all claim that we are so proud of, I am somewhat bemused, but really annoyed, by some of the protestations being made by our colleagues on the minority side as to how they are really providing more moneys for some of these programs.

The fact is it was their votes which mandated a cut of $37 billion on the committees, $10 billion in outlays, $12 billion in budget authority on the Committee on Education and Labor.

What they are pretending to do is nothing more or less than a shell game. The fact is that they are block granting some 25 programs toward the end of repealing the Federal participation in the various education programs.

It seems to me that although maybe they think that in this body they can get away with the game of pretense, when they go home and have to start explaining to their constituents what they have done, especially those of my colleagues who like to think of themselves on the minority side as being liberal or moderate Republicans, I think they are going to have some very heavy explaining to do.

I can understand some of my reactionary colleagues on my side of the aisle, because they believe; but I cannot understand the betrayal of principle which some of the minority members have engaged in. They should be standing up and fighting against the very cut that they are now proposing and supporting.

Mr. PHILLIP BURTON. Mr. Chairman, will the gentleman yield?

Mr. WEISS. I would be pleased to yield to my dear colleague.

Mr. PHILLIP BURTON. Is my distinguished colleague from New York upset that we have nothing in print and the 10 inches thick that embody the Latta proposal are on its way to the print shop just now, 10 inches thick, making more changes in the United States Code in one bill than normally takes place in a decade? Is my friend from New York trying to convey that he is upset at this kind of process?

Mr. WEISS. Exactly that kind of process.

Mr. PHILLIP BURTON. Is my friend from New York trying to convey the impression that there is a procedural concern in the world that can accept this kind of mindless consideration of something that affects this whole country?

Mr. WEISS. In his very eloquent fashion, my distinguished friend from California has put his finger on it. The

Members on the minority side who claim to be conservatives ought to be the very ones rebelling against the perversion of process that we are engaged in.

The Congress of the United States, this House of Representatives, will no longer be able to claim that it is a legislative body. It is nothing more nor less than a rubberstamp. We do not even know what is printed on the rubberstamp.

Mr. JONES of Oklahoma. Mr. Chairman, I yield such time as he may consume to the distinguished chairman of the Committee on Foreign Affairs, the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. Mr. Chairman, I rise to briefly report the House Foreign Affairs action on budget reconciliation under its jurisdiction.

At the outset I would like to take this opportunity to commend the distinguished chairman of the Budget Committee, the gentleman from Oklahoma (Mr. JONES) for his efforts to retain some vestige of order in the budget process and to protect the prerogatives of the authorizing committees. He has accomplished this task in spite of the fact that the reconciliation process, in my view, goes well beyond the original concept under the Budget Act.

For example, the first budget resolution for fiscal year 1982, instructed the authorizing committees to make necessary adjustments in authorization levels, not only for the coming fiscal year, but also for the next 2 consecutive fiscal years, before a second budget resolution is adopted, and in fact, before the committees have had an opportunity to review the impact of such an action under the normal process. It is for that reason that this Member opposed this approach to reconciliation in principle, and specifically voted against the so-called Gramm-Latta substitute on the floor because the Gramm-Latta substitute included the Senate provision on reconciliation. Mr. Chairman, it is not my intention to take the time of the committee to report in detail the action of the Foreign Affairs required by the reconciliation requirements, instead it is my intention to insert the details for the RECORD.

The Committee on Foreign Affairs was required by the reconciliation instructions in the first concurrent resolution on the budget to achieve reductions of $250 million in budget authority and $130 million outlays in fiscal year 1982; $275 million in budget authority and $200 million in outlays in fiscal year 1983; and $300 million in budget authority and $300 million in outlays in fiscal year 1984. The committee achieved those savings by reporting to the Committee on the Budget those savings already achieved in those specific accounts listed in title VII in authorization bills reported by the committee for fiscal years 1982 and 1983. Those bills are: H.R. 3566, the International Security and Development Cooperation Act; H.R. 3518, the Department of State, International Communication Agency and Board for International Broadcasting Authorization Act; and H.R. 3467, the Arms Control and Disarmament Amendments Act.

For fiscal year 1984, the committee included reductions in essentially the same accounts as addressed in the reductions for fiscal years 1982 and 1983, but adjusted the reductions, in some cases, by the inflation factor assumed in the budget resolution for 1984.

While the aforementioned procedure achieved most of the required savings, a small amount of reductions in budget authority and outlays still had to be made in order to achieve the total reductions for each of the 3 fiscal years required by the reconciliation instructions. This was achieved by setting a ceiling on the total program activity for food for peace (Public Law 480) programs for fiscal year 1982 at $1,856 million, for fiscal year 1983 at $1,949 million, and for fiscal year 1984 at $2,072 million. This ceiling I might add, would still allow a higher program level in each of the 3 fiscal years than would the administration's budget.

Mr. Chairman, I am proud to advise that on a bipartisan basis the Committee on Foreign Affairs, in addition to cutting the President's own budget request for foreign affairs programs under its jurisdiction, also achieved most of the required savings from the so-called baseline in the course of marking up legislation referred to the committee. We have complied, both in letter and spirit, with the reconciliation instructions.

The Foreign Affairs met its responsibility primarily to help generate support for a very important program for our Nation's security through economic and military assistance.

The proposed deep cuts for important domestic programs in the Latta substitute, I submit, judging from comments of our colleagues, assures the administration's international programs will be in jeopardy.

In closing the gentleman from Wisconsin would be remiss if I would not comment on the procedure we are acting on the omnibus budget bill. Blindly—under gag rule—in all of my over 32 years of service in this august body, have I experienced a more irresponsible legislative process—denying separate votes on amendments.

● Mr. BROOMFIELD. Mr. Chairman, at the outset, I want to indicate my strong support for the President's efforts to reduce the runaway growth of Federal expenditures, to bring down inflation, and to revitalize our economy. Such an effort to seriously address these issues is long overdue. I think the President is to be congratulated for the firm and courageous leadership he has provided in the ongoing effort to make the difficult and critical decisions necessary to apportion overall budget reductions among specific programs. He deserves our support.

For these reasons, I supported the Gramm-Latta substitute. Moreover, I was pleased to join with my good friend and distinguished colleague, the chairman of the Committee on Foreign Affairs, in a responsible bipartisan effort to make reasonable and necessary cuts in the proposed foreign aid program authorization.

As a result of the very considerable savings already made by the committee on its own initiative during markup, including a reduction of $654 million in the International Security and Development Cooperation Act bill, the Foreign Affairs Committee was, therefore, called upon to make only a relatively small additional cut of approximately $45 million. Our committee then promptly and fully complied with our reconciliation instructions.

Despite these committee cuts, and in light of the magnitude of the reductions Americans are being called upon to accept in a number of domestic programs, we have still not done enough by way of reducing foreign affairs spending. Until we succeed in our efforts to get our own economic house in order, the American people cannot fairly be asked to undertake sacrifices at home and at the same time to countenance an expansion of foreign assistance. All countries must understand this fundamental fact and must, in a sense, share in the restraint in our domestic and foreign assistance programs made essential by present economic conditions.

Given the concern of Americans that the Federal budget and inflation be brought under control, I urge my colleagues to join with me in supporting our President's courageous leadership as we proceed along the difficult and demanding path we must take to restore the vitality and productivity of our economy essential to the well being of all Americans.●

Mr. JONES of Oklahoma. Mr. Chairman, I yield 15 minutes to the gentleman from Michigan (Mr. DINGELL), the distinguished chairman of the Committee on Energy and Commerce.

□ 1910

Mr. DINGELL. Mr. Chairman, I thank my friend and colleague, and I yield 3 minutes to the gentleman from New Jersey (Mr. FLORIO), chairman of the Subcommittee on Commerce, Transportation and Tourism.

The CHAIRMAN pro tempore. Without objection, the gentleman

from New Jersey (Mr. FLORIO) is recognized for 3 minutes.

There was no objection.

Mr. FLORIO. Mr. Chairman, I rise in support of the title of the reconciliation bill dealing with energy and commerce programs. Under this proposal Amtrak is guaranteed sufficient funds to operate a national rail passenger system.

On the other hand, the minority proposal, as I understand it, would limit Amtrak to the operation of service in the Northeast after the next fiscal year.

The committees of both Houses of the Congress, indeed the administration itself, have all recently supported the operation of the national Amtrak system. The Senate Commerce Committee, with the support of Mr. Stockman, recently agreed to give Amtrak next year the same level of funding as the House Committee on Energy and Commerce provided in the bill it reported. It seems to me, therefore, inconsistent that the minority position would be to terminate service out of the Northeast.

Under the provision being submitted, this title also contains a comprehensive solution to the problems of railroad retirement systems, a solution supported by both rail labor and rail management. This solution is a responsible one which fully complies with the budgetary requirements of Gramm-Latta.

If we fail to act now the system will run out of money next April, April 1982, leaving 1 million retirees without their earned retirement benefits.

Unfortunately, the minority substitute does not even attempt to address this very serious problem, but merely cuts benefits. If the substitute is adopted, the railroad retirement system will continue on the path of bankruptcy. We can prevent this disastrous occurrence and protect the livelihood of 1 million of our elderly citizens by supporting the energy and commerce title.

As to Conrail, there was a clear understanding that the Conrail authorization language that passed the full committee by an overwhelming bipartisan majority would be contained in both the majority and the minority proposal. I understand that that commitment is now being scrapped. It is my understanding, Mr. Chairman, that in the guise of a technical amendment, provisions are being offered which will provide for a drain of some $125 million over the next 2½ years through the transfer of certain trackage rights. It is important to note that this authorization for 2½ years is only $375 million. To drain $125 million out of that will result in the bankruptcy of Conrail which, of course, is what the Secretary of Transportation is interested in doing anyway.

But there are agreements, as the gentleman knows, from the subcommittee, agreements that have been entered into by rail labor and rail management that are all conditioned upon the commitments that have been made. To walk away from those commitments is to insure the fact that rail service in the Northeast would be jeopardized with the inevitable economic catastrophe that would occur.

I am hopeful those Congressmen from the Northeast that were supportive of the position of the subcommittee and the full committee will not support a retreat from that commitment by supporting the Gramm-Latta substitute.

Mr. REGULA. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Chairman, the substitute offered under Gramm-Latta II provides several alterations to the reconciliation package reported by our committee.

First, it would replace the current biannual cost-of-living adjustment for Federal annuities with annual indexing beginning in March of next year. Under this amendment there would be no adjustment this September.

Second, the committee proposals relating to retired military pay and the dual compensation for reservists and guardsmen are deleted. This had the effect of continuing existing law.

Third, the Gramm-Latta amendment sets pay caps on Federal employees for the next 3 years as follows: not to exceed 4.8 percent in fiscal year 1982, and 7 percent in each of fiscal years 1983 and 1984.

Finally, the amendment deletes from the committee reported language the provision which would require the adjustment of Federal personnel ceilings based on the extent to which Federal functions are contracted out.

In my opinion, if cost-of-living adjustments are annualized, Federal annuitants deserve a guarantee from the administration on preserving the independence and integrity of the civil service retirement fund. It has been my consistent position that the retirement program is an integral part of the whole civil service system from recruitment and appointment through the close of a career of service.

Mr. Chairman, during the past 10 days we have seen a great deal of public debate over the highly questionable procedure that has carried us into this legislative turmoil.

There is growing concern that the pendulum of the Budget Act has swung too far and that it threatens the traditional committee system that allows for, at least usually reasoned and practical consideration of legislative action. I question this procedure which disposess a committee of its judgmental function in dealing with the legislative act under its jurisdication.

In our committee, the unfortunate consequence of this procedure was the need for the Democratic majority to produce paper savings with mirrors and illusion. For example, the smokescreen of retired military employees double-dipping from the Treasury with military pensions and civil service pay was carefully engineered to distract from the stickier matter of civil service annunities. While I can understand their desire to find an escape hatch, I must disagree with their maneuver. I also offer a word of caution to our Federal careerist and annunitants: that is that they keep a wary eye on the Ways and Means Committee which has made a 45-year career out of mismanagement of the social security program.

Regardless of the outcome of today's vote, the responsibility for the current disastrous condition of the social security system rests with the Ways and Means Committee.

In coming up with its recommended reductions on civil service related issues, the committee majority came up with some recommendations which ultimately may prove to be more stylistic than substantive. It reacted similarly in dealing with postal issues, but I must confess its performance in this area was no worse than that of the Office of Management and Budget.

The OMB, under the stern direction of David Stockman, has shown an abysmal ignorance of Postal Service affairs. Advice and instruction from that agency has been neither practical nor enlightened, and more often than not, has led to compounding the problem.

At the same time when the inept Postal Rate Commission was playing games with the postal rate structure, OMB was imposing further cuts on the operating budget of the Postal Service with no cognizance of the impact of these combined actions.

How can postal management sit down at the bargaining table and negotiate an effective package with militant union leaders while outside parties are mindlessly tinkering with its projected operating income?

There has been a great deal of talk today about the right to make choices. I submit, Mr. Chairman, the combination of existing parliamentary procedure and the Budget Act deprives each and everyone of us of genuine freedom of choice on an issue which involves the economic well being of our Nation.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to my good friend from Colorado, Mr. WIRTH, chairman of the Subcommittee on Telecommunications, Consumer Protection and Finance.

The CHAIRMAN pro tempore. Without objection, the gentleman

from Colorado (Mr. WIRTH) is recognized for 1 minute.

There was no objection.

Mr. WIRTH. I thank the gentleman for yielding.

I had a question that I wanted to address to the gentleman from Ohio, Mr. REGULA, or the gentleman from North Carolina, Mr. BROYHILL, about the contents of Gramm-Latta or the Broyhill amendment as it relates to the communications and security areas.

Can the gentlemen tell me if there are any references in Gramm-Latta, any budget or legislative changes that relate to either the securities area or to the communications are that falls under the jurisdiction of that subcommittee? It had been our understanding earlier there would be none.

Mr. BROYHILL. Will the gentleman yield?

Mr. WIRTH. I yield to the gentleman from North Carolina.

Mr. BROYHILL. The gentleman has a copy of the committee print which was put out by the Rules Committee in front of him on the table and, of course, he is free to peruse that. But there is no reference in that amendment which we would intend to offer tomorrow to amend our communications laws or security laws.

Mr. WIRTH. The gentleman has no intention of changing that in any way?

Mr. BROYHILL. No intention whatsoever.

Mr. WIRTH. I thank the gentleman.

Mr. BROYHILL. I have no intention of doing that.

Mr. DINGELL. Mr. Chairman, I yield 3 minutes to the gentleman from New York, Mr. OTTINGER, chairman of a very important subcommittee of the Committee on Energy and Commerce, the Subcommittee on Energy Conservation and Power.

The CHAIRMAN pro tempore. Without objection, the gentleman from New York (Mr. OTTINGER) is recognized for 3 minutes.

There was no objection.

Mr. OTTINGER. Mr. Chairman, first I would like to draw the attention of the House to what I consider a perfidy. This morning I asked the gentleman from North Carolina whether or not we would have a clear vote as between the Dingell determination in our committee and the Broyhill substitute. I was assured that we would, and I was assured by him, and I was assured eyeball to eyeball, as was Chairman DINGELL, by Mr. GRAMM, that this would not also be contained in the Gramm-Latta block amendments. This would make the separate vote on the Broyhill amendment a mockery, since even if it were defeated on the separate vote it could be resurrected against the expressed will of the House, in the Gramm-Latta block amendments.

I have just learned that, in fact, the Broyhill substitute is in the Gramm-Latta substitute as sent to the printer today, and a serious misrepresentation has been made to this body. We are not going to be given the kind of clear choice that we and the House were promised, and they are going to get two bites at the apple. I think that is very unfortunate. If we can't deal with each other on the basis of honor in this body there is little of civility left in our deliberations.

Mr. Chairman, I strongly oppose the Broyhill substitute and in favor of the Budget Committee's bill, which includes the Energy and Commerce reconciliation proposal transmitted by Chairman DINGELL. I will focus my remarks on the energy provisions.

The Dingell bill includes the Department of Energy authorization with an overall cap for energy programs at $5.6 billion. This cap will insure that the energy program will remain within the ceiling established in the budget resolution. It will also conform almost to the dollar with the ceiling established in the reconciliation bill of the Senate Energy and Natural Resources Committee.

By establishing an overall ceiling for DOE programs, we will permit a reallocation of funds in the Reagan budget, where necessary, to permit longstanding programs to continue. In particular, programs such as low-income weatherization, state and local energy conservation, and solar and renewable energy programs can continue, although these programs will have to share in the overall reductions. At the same time, the bloated DOE bureaucracy, which the Broyhill amendment increases despite the overall budget reductions, will also be required to share in the budget cuts.

The Reagan energy budget, endorsed in the Broyhill substitute, is a shameful attempt to gut every conservation and renewable energy program in the DOE budget. Nearly every conservation program under our committee's jurisdiction is eliminated in the Broyhill substitute. In their place is a State block grant program, in which States will share in some amount of money to do not just energy conservation, but energy supply R&D every impact amendment, emergency planning, mass transportation as well as RLS, weatherization, schools and hospitals and I say some amount because it changes daily. The last version I saw indicates that these so-called block grants will total about $300 million per year or about half of the total fiscal year 1981 appropriations for the same program.

Let me reemphasize this point, so that everyone of my colleagues understands what they are voting for if they vote for the Broyhill substitute. The Broyhill substitute repeals virtually every conservation program ever enacted by this Congress. The substitute replaces approximately $600 million of fiscal year 1981 conservation funds with less than $300 million of State grants, which need not even be used for conservation. The Broyhill substitute repeals laws relating to residential conservation, schools and hospitals weatherization, low-income weatherization, State energy conservation, Federal energy management, and more. It turns our backs on the quickest and cheapest solutions to our Nation's energy problems—the solutions which will bring the most immediate relief to your constituents from rising energy bills.

The Broyhill substitute is even more incredible in its total refusal to spend for solar and renewable energy. Compared to the fiscal year 1981 appropriations of about $100 million for solar and renewable programs in our committee's jurisdiction, the Broyhill substitute authorizes $2.5 million. That is right—a 98-percent reduction.

To put these numbers in perspective, the $300 million for conservation, solar and renewables in the Broyhill substitute—even if the States use all of the money for these purposes—compares to $1,700 million for nuclear programs, not even including uranium enrichment programs.

I would point out that the Broyhill substitute also does the same thing in the area of energy regulations. It provides a scant $12 million to the Economic Regulatory Administration an incredible cut from the $140 million fiscal year 1981 appropriation. If you should hear any oil companies giving support to the Broyhill substitute, I can tell you why. The authorization would gut the oil pricing compliance office and allow the major oil companies to get away with as much as $10 billion in alleged overcharges. As Chairman DINGELL has said before, it is amnesty for oil companies.

In addition to the DOE authorization, the committee's bill transmitted by Chairman DINGELL amends the Fuel Use Act to permit the continued use of natural gas by utilities. The provision will result in vast consumer benefits for electric consumers in many parts of the country, and will provide protections for all gas consumers.

The Dingell submission also eliminates all mandatory aspects of the Building Energy Performance Standards being studied by DOE. But unlike the Broyhill substitute, our bill retains statutory provisions which authorize the studies to continue, to further assist consumers, builders, realtors, and others in measuring energy efficiency in buildings and furthering our knowledge of buildings conservation. The building industry strongly wants this assistance, and because of its dispersed nature, cannot fund this kind of research itself.

The strategic petroleum reserve bill establishes a special off-budget account to fund our purchase of oil for the reserve. While none of us have been enthusiastic about taking this spending off-budget, we complied with the budget resolution. We did so in a responsible manner. In taking the entire budget for petroleum acquisition off-budget, we are in conformance with the approach recently adopted by the Senate.

To summarize, the Broyhill substitute would replace years of bipartisan work to create a balanced energy program with a lopsided budget which guts every conservation, solar, and renewable energy program. It will place its heaviest burdens on the average citizen who needs help now to conserve energy. At the same time, it will continue to provide funds to oil companies to perform work that they already can afford, while providing them amnesty from overcharge violations.

Mr. Chairman, I would like to call to the attention of the House a letter just received by our chairman that the U.S. Conference of Mayors opposes the Broyhill amendment because of the devastation it does to our national conservation programs. The text of the letter follows:

U.S. CONFERENCE OF MAYORS,
Washington, D.C., June 25, 1981.

Hon. JOHN DINGELL,
Chairman, Committee on Energy and Commerce, House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: The U.S. Conference of Mayors urges defeat of the Broyhill Amendment.

The centerpiece of the Broyhill Amendment is the repeal of almost all energy development conservation and assistance programs to be replaced by a state and local block grant.

The U.S. Conference of Mayors is a strong supporter of state and local energy block grants and commends Rep. Broyhill for his efforts in moving towards that direction.

However, it is not appropriate that such a block grant be based on wholesale cancellation of existing programs which have provided worthy help in saving energy.

Proposals for genuine energy block grants which will work in close cooperation and coordination with existing programs are now before the Committee on Energy and Commerce. They deserve close scrutiny and attention by the Committee and we are confident they will receive it soon.

An energy block grant for local governments is a long held urban goal. We look forward to working with you and Rep. Broyhill towards passage of such a landmark bill under the right conditions at the right time.

The U.S. Conference of Mayors therefore joins you in urging defeat of the Broyhill amendment.

Sincerely,

JOHN J. GUNTHER,
Executive Director.

Mr. DINGELL. Mr. Chairman, I yield 3 minutes to the gentleman from California, Mr. WAXMAN, my friend and colleague and chairman of the Subcommittee on Health and the Environment.

The CHAIRMAN pro tempore. Without objection, the gentleman from California (Mr. WAXMAN) will be recognized for 3 minutes.

There was no objection.

Mr. WAXMAN. Mr. Chairman, before I begin my remarks I would like to use this time to address a question to the gentleman from North Carolina (Mr. BROYHILL) if I might. I understand that we will have before us tomorrow an amendment known as the Broyhill amendment. I would like to know from the gentleman from North Carolina what changes will be made in the Broyhill amendment with regard to the medicaid program from that which was originally proposed to the Budget Committee.

Mr. BROYHILL. Will the gentleman yield?

Mr. WAXMAN. I am pleased to yield to the gentleman from North Carolina.

Mr. BROYHILL. The gentleman, of course, has the amendment that was proposed by the Budget Committee and was available to the Rules Committee. Since that time we have made a revision in the medicaid cap which, as the gentleman knows, was recommended at 5 percent in the administration recommendation.

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We are recommending that that cap be 7.5 percent as opposed to 5 percent. In other words, in the next year, fiscal year 1982, there would be a 7.5 percent, to amount to $17,371,000,000 available for the medicaid program allocated to the States for fiscal year 1982.

Mr. WAXMAN. If I might address another question to the gentleman, suppose the Broyhill amendment does not succeed tomorrow. Will this proposal be part of the Latta amendment or Latta substitute offered?

Mr. BROYHILL. I have no control over that decision. I was really not a part of the agreement that was made by others. The gentleman would have to ask them. I do not see them on the floor here.

Mr. WAXMAN. Is the gentleman aware of their decisions?

Mr. BROYHILL. I am going to offer my amendment as it was provided for in the rule and do everything I can to carry that amendment. Whether or not the gentleman from Ohio (Mr. LATTA) offers his amendment and includes my package I do not know that at the present time. That will be a decision that would have to be made by others and not this gentleman.

Mr. WAXMAN. Does the gentleman feel it appropriate to have that provision in the Latta substitute?

Mr. BROYHILL. My preference was to have a package which included all. That preference is well known.

Mr. WAXMAN. Mr. Chairman, I rise in support of the provisions of title VI of H.R. 3964, the recommendations relating to programs in the jurisdiction of the Committee on Energy and Commerce. Specifically, I urge the Members' support of the provisions relating to the health programs of this Nation—medicaid, maternal and child health, prevention programs, health manpower programs, mental health, alcohol and drug abuse programs, among others.

Subtitle D of title 6 of this bill contains 15 chapters on health programs. Every authorization has been cut below current funding. The total savings for the health proposals are nearly $700 million more than required by the Budget Resolution.

The debate over the health recommendation is, therefore, not about savings and dollars. The President and Mr. Stockman proclaimed the totals of the budget resolution to be their goal for reduced spending. We have reached and surpassed that goal of reductions.

But the major point I would make to the Members is that we have designed programs to achieve these reductions in rational and reasonable ways.

We have developed a proposal to save $935 million in medicaid—without imposing an arbitrary and unfair cap as the administration proposed, and as the Broyhill amendment contains. A cap simply shifts costs to the States. It affects individual States unequally and unpredictably. Each State is locked into a fixed share of the limited pot of Federal funds on the basis of estimates prepared in November of 1980. Anyone who knows anything about those State estimates knows that they are often incorrect and are nearly always revised substantially. But not under the cap proposal. There would be no adjustments.

A cap on Federal medicaid contributions does nothing to address the underlying problems of health care cost inflation or inappropriate utilization. It does not stop hospital costs from rising. It does not cap the aging process. It does not change people's basic need for medical care. All a cap will do is shift the costs from the Federal Government to the States. And squeezed between health care cost increases and decreases in Federal funds, the States will almost certainly be forced to cut preventive programs, cut innovative programs to encourage alternatives to institutional care for the aged, and cut care for children.

Our proposal provides direct incentives to the States to improve antifraud efforts and to institute programs to control hospital costs. Our proposal provides a great deal of flexibility to the States—to design better methods to pay for hospital care, to use competitive bidding arrangements where

they make sense, to set up programs which provide alternatives to institutional care. We do not throw out all standards for payment and access but we provide tools for flexibility where they are needed. And we maintain the commitment of the Federal Government to carry its share of the burden.

We have developed a proposal to save $503 million in health service and prevention programs and we have developed health block grant programs for the States where they make sense. We have a carefully developed maternal and child health block grant. We have a prevention block grant. And we have an alcohol and drug abuse block grant where the States will exercise control. These are areas where block grants are workable, where States have long experience. These are areas where States can take over programs now without disruption and confusion. These are programs where it is reasonable to test the block grant theory. But where block grants do not make sense, we have kept categorical programs in place.

The Broyhill proposal, by contrast, lumps programs indiscriminately into three massive block grants. There is no acknowledgement that some programs—like migrant health centers—simply do not fit. There is no real accountability. There are no assurances that priority areas will be continued. States can use Federal funds to substitute for their own funds. The experience or interest of States in certain programs is not taken into account.

Let me remind you that Federal programs were created for a reason. Some were originally because of health problems the States cannot control. Epidemics do not stop at State lines. Tuberculosis is beginning to reappear in young schoolchildren across the country, and one State's failure to control it means that all States face the epidemic.

Other programs were first passed because of problems the States did not control. The original community mental health program was begun because more than half a million persons were institutionalized and three out of four Americans who received mental health care received it in a hospital. With Federal aid, that ratio has been reversed and three out of four who receive care receive it outside a hospital and fewer than 148,000 persons are institutionalized.

If a categorical program makes sense and works, and is run efficiently now, it should not be tossed out without thought. Our proposal keeps a mental health program—albeit with significant State participation. We keep a program for the developmentally disabled. We keep family planning. We reauthorize childhood immunizations, TB, VD control, and community and migrant health centers as separate programs at authorizations reduced to reflect the budget resolution. The programs are salvaged and more than the required amounts are saved.

H.R. 3964 contains amendments related to health manpower programs and health planning. The States are given the option to concentrate planning at the State level and eliminate their HSA's. They are provided support for vital health manpower programs like nurse training. We cut from the current policy level by 25 percent—a major cut. But we do not destroy the programs by slashing them by more than half, as the Broyhill amendment does.

I have made no secret of my vehement opposition to reconciliation as a process. It is a bad process. It is not a reasonable way to develop policy and laws. It is a process which establishes policy in terms of abstract numbers and leaves the substance of the law and its problems to others—to the States, to industry, and to the poor.

But since reconciliation is, for this year, a fact of life, and major cuts in health programs are required, I support H.R. 3964 as the most considered and equitable approach that can be developed within the budget resolution's limits and I urge the Members to support it.

Do not agree to a Broyhill amendment which throws many successful programs together in a way which could destroy them. Do not throw an arbitrary cap on medicaid because of some rhetoric about controlling entitlement programs—without examination of the consequences, without the reasoned consideration of changes which can address the problems of health care cost inflation. Do not just shift costs to the States. Reject the Broyhill amendment. Support good health care programs. Support the Dingell proposal in H.R. 3964.

Mr. DINGELL. Mr. Chairman, I yield such time as he may consume to my good friend and colleague, the gentleman from Indiana (Mr. SHARP) the chairman of the Subcommittee on Fossil and Synthetic Fuels.

The CHAIRMAN pro tempore (Mr. STRATTON). Without objection, the gentleman from Indiana (Mr. SHARP) is recognized.

There was no objection.

Mr. SHARP. Mr. Chairman, the Committee on Energy and Commerce has complied with the budget resolution, in fact gone one better and cut spending further than required by the budget resolution, and that savings is embodied in the reconciliation package before us. Because of the budget resolution, Mr. Chairman, we adopted a procedure by which the strategic petroleum reserve will be funded off-budget. Basically, Mr. Chairman, it is a lousy idea which all people interested in truth-in-budgeting deplore. However we adopted it because the administration recommended it to us, and it is the only way that we can assure that the country will now buy oil and we can get oil and get it at a reasonable price. It is in the utmost security interest of this country that we do so now.

Mr. Chairman, we have also altered the Fuel Use Act in the reconciliation package in an effort to see that the capital already invested in our electric utilities in this country will be used wisely and will not be wasted.

Now we have before us a proposal which we hope we will eventually understand. We will not have a printed copy of it until tomorrow. It is called the Broyhill substitute or the Broyhill amendment.

Mr. Chairman, this goes far beyond what was required of us in terms of cutting the budget. It makes major programmatic changes without any real deliberation. Without any real deliberation it guts conservation programs which are critical to the future of this country. Without any real deliberation it impairs the ability of the National Government to collect important information about the oil and gas reserves of this country, to collect important information that will be vital if we have another interruption of our oil supplies.

Mr. Chairman, the Broyhill substitute goes beyond budget cutting and it impairs the ability of the new Office of Emergency Preparedness established by this administration to help prepare the country for any emergency that we might have in the event our oil supplies are cut off.

Finally, Mr. Chairman, the Broyhill substitute takes a bad idea recommended to us by the administration and makes it incredibly worse. It recommends to us that we commit the American people and this Government to borrow $9 billion for the strategic petroleum reserve through 1984 and call it a savings.

Mr. Chairman, when we are told we are going to stop borrowing in 1984, we are committing ourselves tomorrow to borrowing at least $3 billion in 1984 and pretending it is not a part of the Federal deficit. That is not the idea the people have of balancing the budget. It is not my idea. I think everybody understands whose idea it is.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to my good colleague and friend, the gentleman from Oklahoma (Mr. SYNAR).

The CHAIRMAN pro tempore. Without objection, the gentleman from Oklahoma (Mr. SYNAR) is recognized for 2 minutes.

There was no objection.

Mr. SYNAR. I thank the gentleman for yielding.

Mr. Chairman, I rise for a very important provision under the Dingell amendment, the Fuel Use Act provision. Since I was intimately involved in

writing it, I bring to the attention of my colleagues in Oklahoma, Louisiana, and Texas that for the first time we are going to get the type of relief in our natural gas utilities we have sought for so many months.

For my colleagues in the Northeast, the provisions we have for the voluntary conversion of plants necessary is very reasonable, and for my colleagues across the country the conservation methods and provisions we have put in this will insure that we have reasonable conservation from our utilities. I invite my colleagues to give them close examination before they make a decision on the provisions of the Dingell amendment.

I stand tonight to tell you that from whatever you have read and whatever you have seen, the Dingell provisions are the best provisions not only for the South and the Northeast, but for the country.

The CHAIRMAN pro tempore. The time of the gentleman from Michigan (Mr. DINGELL) has expired.

Mr. JONES of Oklahoma. Mr. Chairman, I yield 12 minutes to the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Chairman, I thank my good friend for the courtesy.

I yield 2 minutes to my distinguished friend, the gentleman from Connecticut (Mr. MOFFETT).

The CHAIRMAN pro tempore. Without objection, the gentleman from Connecticut (Mr. MOFFETT) is recognized for 2 minutes.

There was no objection.

Mr. MOFFETT. Mr. Chairman, it is clear to me and I think many of my colleagues particularly on this side of the aisle that there was no mandate in November for the point of view that there should be no Government role in conservation, in weatherizing our inner cities, in making appliances more energy efficient. There was no mandate for the position that there is no Government role for getting the States and cities to conserve energy.

One trademark of Ronald Reagan's, and I think an admirable one, is clarity. I think if nothing else what has happended here today is that our Republican colleagues have helped us bring clarity back to the budget debate. I think it is now clear, Mr. Chairman, who has overreacted, who has been shortsighted, and who has put us in a position of mortgaging future generations to pay for our mistakes. I would hope in line with what the gentleman from California (Mr. WAXMAN), had to say that we will have the same kind of clarity on the Broyhill amendment when it comes up in that many of our friends from the Northeast, Midwest, many of the Republicans from the Northeast and the Midwest area who voted against the Broyhill amendment will also vote against Gramm-Latta if the Broyhill amendment is included in it so that we have a consistency of position from those Members, because some of us feel that there is a bit of a game going on and that some of our colleagues wanting an out will have the opportunity to vote against the Broyhill and then vote for Gramm-Latta.

I would certainly make a plea that we have the same kind of consistency and clarity that the President has shown in his position that has been given back to this debate today with a solid Republican victory, and that we do not have any of these games played on the Broyhill amendment by our colleagues on the other side of the aisle who have absolutely endorsed the Reagan game plan in its totality.

Mr. Chairman, on page 289 of the Jones reconciliation bill, a section appeared titled "Expedited Supplemental Transactions." That section is now gone but I would like to describe the history of it and to describe why this section was so important to the continued availability of rail service to the citizens of Connecticut, even though there appears to be little chance of its inclusion in the Republican substitute.

Stated simply, the amendment accomplishes the following: 10 days after the effective date of the bill, the Secretary of Transportation shall initiate discussions with private carriers which express interest in obtaining all rail properties in Connecticut and Rhode Island over which freight shipments travel. Within 60 days after the effective date of this bill, the Secretary shall petition the special court to effect the transfer of these properties to another railroad in the region.

Railroads could qualify for the transfer if (a) they completed negotiations with the Secretary of Transportation to assume freight service without abandonments for 5 years and could do so on a self-sustaining basis; (b) they reached an agreement with Conrail to run the lines, or (c) they had submitted a proposal to takeover the lines pursuant to the Staggers Act.

The Secretary is encouraged to promote the inclusion of additional nonmainline corporation properties in adjoining States that connect with the properties subject to this transfer. This section was added so that the Berkshire lines in Massachusetts and lines extending to Poughkeepsie, N.Y., could be considered as part of this transaction.

The amendment requires the Secretary to petition the special court so that this unbiased entity can resolve some key factors which might otherwise impede the transfer. The special court shall determine a fair price for the properties so that the sale of the Connecticut and Rhode Island freight lines will reward properly the Treasury for this transaction. The special court will determine divisions of joint rates, if the parties cannot otherwise agree. These payments must be fair and equitable to both parties. This language was included in lieu of another proposal, which was unsatisfactory, which suggested that the acquiring carrier pay its divisions in advance. Such a proposal would constitute an unfair and confiscatory tax on rail shippers. This language—stating that the divisions be fair and equitable—is further buttressed by the provision requiring that divisions be promptly paid.

There is language which requires the acquiring carrier to assume charges for operating on Amtrak's lines which had formally been paid to Amtrak by Conrail. However, in the event that the Consolidated Rail Corporation—Conrail—operates any freight service over these lines, Conrail and not the acquiring carrier must reimburse Amtrak.

Finally, important language appears in the amendment which grants railroad labor the full panoply of new protection benefits in the event that they are not picked up by the acquiring carrier.

This summarizes the effect and intent of the amendment. Let me explain why it is necessary that this provision of the House bill be carried forward and enacted into law.

UNCERTAINTY OF CONRAIL'S FUTURE IN NEW ENGLAND

The Conrail legislation before the House represents a serious change in direction for rail freight service in the United States. As with all other Government services, the free-spending days of Conrail are over. Conrail's survival as a corporate entity is now going to be determined by its chances for profitability. Its survival is dependent upon the Corporation being able to pare off unprofitable lines and applying surcharges to marginal lines—techniques authorized by the Staggers Act.

This change in direction has disquieting consequences for New England generally and for the properties in Connecticut and Rhode Island particularly. The bulk of Conrail's operating losses are in New England and New England's primary losses are in those States. Conrail is managed best as a long-haul carrier and most of the lines in my area of New England are short-haul. Thus, continued service in Connecticut and Rhode Island given Conrail's ability to abandon lines—either in fact or de facto through massive surcharges—will be directly contingent upon Conrail's future profitability. The future profitability of Conrail however appears clouded by the extreme cut in its authorization level and the opinions of experts who believe that only gargantuan funding levels will enable the corporation to survive.

The box in which Conrail finds itself in with respect to its recent report on Conrail:

. . . as federal subsidies end, Conrail will be compelled to reduce its workforce, impose surcharges on light density lines, arrange for state and local subsidies, and postpone its capital improvements. Perhaps more important to New England is the probability of the selling or abandoning of many secondary and branch lines in the region—especially in Connecticut and Rhode Island, which are primarily responsible for the $40 million deficit which Conrail incurs through its New England operations.

The gloomy assessment of Conrail's viability was echoed by the ICC in its letter to Vice President Bush dated April 30, 1981. This is particularly important, with respect to Connecticut, because when Conrail is forced to economize, the economies will come from the elimination of service where Conrail cannot operate profitably.

In recent weeks, the reports of Conrail, DOT, and U.S.R.A. have received extensive coverage . . . They find that the problems are severe and the prospects gloomy. We concur in and endorse these findings. We think all of the reports accurately portray the formidable obstacles which Conrail faces if it is to become financially independent. Even the most optimistic of them concludes that if Conrail can make major, and in our view, unlikely reductions in its labor and plant expenditures it could just hope to break even financially in 1985 or 1986 . . . Just as importantly, we believe it unlikely that Conrail can achieve all of the cost reductions necessary to attain even this goal. In sum, we believe that Conrail faces no real prospects of financial independence in the foreseeable future.

The impact of this situation on Connecticut has not been difficult to discern. In the report titled "Options for Conrail," dated April 1, 1981, Conrail made public a list of those lines it anticipated would receive notices of surcharges or abandonments. Eighteen lines in Connecticut were so designated. Surcharges ranging from $100 to $560 are to be imposed—beginning July 4—per boxcar; 140 miles of track in Connecticut would be hit with surcharges or abandonments. Something has to be done to rescue small business, large corporations, and the jobs which are dependent on continued rail service in my State.

On the basis of the aforementioned conditions—the continuing financial difficulty for Conrail to operate in Connecticut, for example—the Congress adopted the so-called Dodd-Moffett amendment to title VII of the Staggers Rail Act. This language, added in the House on September 9, 1980, was added to promote an "Expedited Supplemental Transaction Process" for the Connecticut and Rhode Island properties. The expedited STP refers to a supplement added to the final operating plan for Conrail. Under this amendment, the Secretary of Transportation was to initiate a process which was to eventuate in the transfer of the Connecticut/Rhode Island freight lines. The conditions attached to the transfer were as follows:

(i) The Secretary was to initiate the transfer if he finds that the acquiring carrier will promote self-sustaining rail service in our region;

(ii) That the acquiring carrier would be financially viable;

(iii) That the transfer would not impair the financial viability of Conrail;

(iv) That the transfer took place after appropriate rulemaking and in conformity with the Administrative Procedures Act;

(v) That the price for the properties was the constitutionally minimum value; and

(vi) That the bid was for all properties.

This last point is the most important. Some lines in Connecticut are extremely profitable; others have been run historically at a loss, primarily because the management of those lines has not been geared toward short-haul service. Regardless, any proposal to obtain the Connecticut rail properties has to be conditioned to accept all lines. This enables shippers on light density lines to operate with the assurance that service will continue to be available. This enables the operating carrier to operate these lines as loss leaders while using the more profitable lines to suppport the outlying lines. Fragmentation would result in massive abandonments, job loss, and economic disruption across Connecticut. Congress determined, as a matter of public policy, that the transfer would have to be to one carrier operating all lines.

Enactment of the Staggers Act put into motion the expedited STP for Connecticut and Rhode Island. In December 1980, the Secretary asked for bids. Four carriers applied: Providence & Worcester, the Wabash Valley, Central Vermont, and the Boston & Maine. Unfortunately, at the conclusion of the process—on May 29, 1981, FRA was ordered to recommend one of the applying carriers for the transfer—no carrier's application was approved. Because this process had become stalemated—some say for political and personal reasons at FRA—another amendment was required to get the process back on track.

The citizens of Connecticut and Rhode Island cannot wait for a slow or a recalcitrant FRA to rethink its decision. Nor can they wait for the administration to reveal its gameplan regarding the sale of Conrail to one or a number of private carriers. If they waited, additional surcharges and abandonments would inevitably occur. Rail service in Connecticut and Rhode Island would fragment and decay. This is unacceptable.

The amendment I drafted which was accepted by the Commerce Committee speaks to this stalemate and proposes a process to enable the transfer to take place once and for all.

It reopens the bidding, inviting all carriers to participate if they want to operate all of the lines in Connecticut and Rhode Island as a unit.

It prevents the fragmented transfer of the lines to protect the States' economies.

It protects rail labor by granting them all of the new labor protection benefits open to employees who remain with Conrail.

It biases the process in favor of a transfer—to whichever carrier qualifies—because further stalemate will only cripple freight service in our States.

I am grateful for the leadership and support exhibited during this process by Chairman JIM FLORIO; my Democratic and Republican colleagues on the Transportation Subcommittee; the Connecticut delegation members like Representatives STEWART MCKINNEY, BILL COTTER, BILL RATCHFORD, and SAM GEJDENSON who supported the concept of a transfer; members of the private sector like Thomas K. Lawlor, Henry Loomis of the Charter Oak Corp., Continental Forest Industries, Edmund Pratt and Arthur Hartzell of Pfizer Inc.; the Chambers of Commerce in Connecticut—Northwest, Waterbury, Hartford, and Northern Middlesex—which were so supportive; the State officials like Gov. Joseph Garrahy and Connecticut Rail Advisory Task Force Chief Richard Carpenter. I am sure that there are others who I have missed. I appreciate their help.

Mr. DINGELL. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, the recommendations that were submitted by me as chairman of the Committee on Energy and Commerce to the Committee on the Budget more than met the reconciliation instructions of the conference report. The Energy and Commerce Committee was instructed that we should save $4.598 billion in authorizations. Our recommendations save $5.9 billion or 28 percent more than required. In entitlements we were directed to save $787 million. We have saved $1.498 billion or 91 percent more than required. There are no gimmicks. There is no cross-subsidization, and these are real savings.

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We have made no changes in the recommendations of the committee after filing. We do not have the vaguest idea of what it is that will be included in the Latta substitute, nor do we have any real appreciation of what will be done with regard to the amendment that may be offered by my good friend from North Carolina (Mr. BROYHILL). The gentleman from North Carolina (Mr. BROYHILL) claims to make savings. We do not know

whether he makes savings, or if so how much, because there are no CBO cost estimates of his proposal available to us at this time.

The amendment of the gentleman from North Carolina also would change laws. We do not know exactly what laws, nor do we know exactly in what fashion.

These matters have not been considered by the committee and are evidently still being changed. We have no way of making a genuinely informed recommendation to the House with regard to this matter, so we have to fly blind.

With regard to medicaid, the amendment suggested by the Committee on Energy and Commerce preserves the medicaid program while cutting spending. The latest available Broyhill substitute would place a staggering burden on the States by putting a cap on the Federal share, and the States could lose as much as $10 billion in 1983-86. There is also a permanent change in formula which cannot be fully described at this time, but, which would be truly devastating in its impact on the States and their indigent poor.

With regard to health matters, the proposal of the Committee on Energy and Commerce cuts health manpower by 24 percent but continues basic student assistance, nurse training, health research training, and other basic programs. The latest Broyhill substitute, I am informed, would cut health manpower in half and eliminate all student assistance and cut nurse training by 60 percent.

With regard to Amtrak, the Commerce Committee recommendations would impose reasonable cost savings for Amtrak trains but would retain a National Rail Passenger System. The newest Broyhill substitute slashes Amtrak funding below the level agreed to by Mr. Stockman and eliminates all service outside the Northeast corridor in 1983. My colleagues who are interested in rail passenger service should understand that if you do not live between Washington and Boston you ought to be concerned.

With regard to DOE, the proposal submitted by the Commerce Committee would save $1 billion, but it retains the basic energy statutes, including those requiring energy conservation, and it also retains a funding balance amongst all energy sources. The latest Broyhill substitute guts energy conservation laws, achieving no savings, reduces renewable energy programs from $100 million to a mere $2.5 million in 1982, and sets up mini-block-grant programs for States to do with whatever they would, without having any orientation or targeting requirements.

With regard to the strategic petroleum reserve, like most of my colleagues on this side of the aisle, I opposed the idea that there should be off-budget funding for SPR. Mr. Chairman, we have complied with the requirements of the House and have gone, however, to off-budget funding for SPR. The ever-changing Broyhill substitute, I am informed, would provide $9 billion, almost all off-budget, for 3 fiscal years, with no provision for congressional supervision, no provision for oversight, for authorization, for the appropriations process. This is truly the worst kind of backdoor spending.

Mr. Chairman, it should be recognized that there are some other differences that merit the careful attention of this body. The Broyhill forces have charged that we played games on the Commerce Committee with regard to the figures. Regardless of what figure you take off-budget—the level that he would take or the level that we would recommend—we have more than exceeded the requirements that are imposed upon us by the conference report and we have fulfilled our duty to the House and have responded fully and fairly to the requirements that were imposed upon us in the conference report on the first budget resolution.

I would say that the responsible approach is that which the committee recommends and my colleagues should at all costs resist and vote against the amendment suggested by my good friend, the gentleman from North Carolina, which is neither printed, which has never been made available to us, and which has undergone, and apparently is still undergoing, a metamorphosis which at least equals that of a butterfly.

Mr. Chairman, I yield back the balance of my time to my good friend from Oklahoma (Mr. JONES).

The CHAIRMAN pro tempore. The gentleman yields back 3 minutes.

Mr. REGULA. Mr. Chairman, I yield such time as he may consume to the gentleman from North Carolina (Mr. BROYHILL).

Mr. BROYHILL. Mr. Chairman, I yield 7 minutes to the gentleman from Ohio (Mr. BROWN), the ranking minority member on the Energy Subcommittee.

The CHAIRMAN pro tempore. Without objection, the gentleman from Ohio (Mr. BROWN) is recognized for 7 minutes.

There was no objection.

Mr. BROWN of Ohio. Mr. Chairman, the question before us is whether the Congress is going to follow through on the mandate we were given by the people of the United States in the election last November.

On May 20, the House took the first step in fulfilling this mandate with the adoption of the conference report on the first concurrent resolution on the budget. The vote captured the attention of the Nation because it reversed three decades of unbridled spending increases. By that vote, the Congress pledged to take significant actions to reduce the rate of growth of Federal spending.

Now is the time to fulfill that pledge.

Unfortunately, the reconciliation bill assembled by the Budget Committee falls far short of what the people have demanded and what we have promised to do in restraining the growth of Federal spending.

The Budget Committee bill does not go far enough in attacking waste and fraud, thereby allowing expensive Federal aid to be passed on to many who don't deserve it or need it. It claims false savings and avoids long-range solutions in favor of measures which snip rather than cut at escalating Federal expenditures. It also ignores the structural flaws of wornout programs which are costing the taxpayers a fortune and whose benefits are often lost or tied up in the Federal bureaucracy.

The committee bill advances a savings proposal for medicaid, for instance, which calls for an increased Federal investment of 9 percent or more in fiscal year 1982 while providing the States with few incentives to make their programs more efficient and little flexibility to do so. The Democratic medicaid proposal would wipe out two-thirds or more of the President's recommended savings of $1 billion in the medicaid program next year—totally distorting the spending targets adopted by the Congress in the first budget resolution.

Another critical component of the President's strategy is to streamline the Washington bureaucracy while cutting program spending levels so that the amount of aid actually delivered to State and local governments is not so substantially reduced.

By denying the States the right to spend Federal assistance dollars for health, education, and energy as they best see fit through block grants, the committee bill would impose substantial reductions in Federal assistance for each of the separate program areas involved, while forcing the States to maintain the same fragmented, inefficient and expensive government structurers which make each State bureaucracy a microcosm of the one here in Washington. Put simply, because of the common phobia about block grants which has plagued my Democratic colleagues for years, the reconciliation bill we are now considering would mean that intergovernmental relations in 1982 and beyond will continue to involve umpteen separate State agencies compiling umpteen extensive, overlapping and time-consuming State plans in order to apply for Federal assistance from umpteen Federal categorical grant programs.

For example, in the area of energy policy, on which I have been working

for some time, the Budget Committee's bill blatantly ignores the ability of State local governments to judge which energy needs are most vital to their area.

Under the Broyhill amendment, financial assistance for energy conservation and supply would be channeled through to State and local governments through a 2-year block grant instead of a series of narrowly defined categorical grant programs. By placing these block grants on a lower tier of government, we would eliminate much redtape, administrative inflexibility, and regulatory burdens in 10 current programs, accounting for a $424 million savings in fiscal year 1982.

The Broyhill amendment would also reduce regulatory burdens on financially pressed utilities by eliminating the Residential Conservation Service as well as eliminating funding for the Public Utility Regulatory Policies Act (PURPA), saving $30 million in fiscal year 1982.

The Broyhill amendment would repeal the Building Energy Performance Standards (BEPS). The DOE has consistently failed to rework the standards to reflect the real world, while the Congress has twice before given DOE one more chance. Rather than bail out the DOE bureaucrats one more time, the Congress should not allow them another chance.

Finally, the committee bill plays fast-and-loose with the strategic petroleum reserve by placing the entire amount of acquisition funds off-budget and then uses this supposed on-budget "savings" to increase spending for other programs.

In total, the committee bill calls for $20 billion more in Federal spending over the next 3 fiscal years than the Latta and Broyhill amendments.

If we do not adopt the Latta and Broyhill amendments to the committee bill, we will not be giving the Reagan economic program a chance to work. The spending reductions are only the first step. If we don't cut the spending, how can we expect the Reagan tax cut to work? If we don't cut spending how can we expect the Federal Reserve Board to correct our problems through monetary policy alone or even to stick to the monetary policy goals that the President has outlined?

If we do not adopt the Latta and Broyhill amendments, we will be telling the American people that the Congress is going back to business as usual. We will be saying that we are not willing to halt the growth of Federal spending.

The American people know what will then happen. There will be no chance to cut into the rate of inflation. Even if we give a token tax cut, the average American worker will not be given the opportunity to see his standard of living increase. Americans who have been denied the opportunity to earn their own way in this world with a meaningful job will be forced to remain wards of the Government.

Mr. Speaker, if we do not adopt the Latta and Broyhill amendments, we will be giving the American people the fifth year of the Carter Presidency, instead of the first year of the Reagan Presidency. I think the people already have made it abundantly clear what they think of that.

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Mr. BROYHILL. Mr. Chairman, I yield 6 minutes to the gentleman from New York (Mr. LENT).

The CHAIRMAN pro tempore. Without objection, the gentleman from New York (Mr. LENT) is recognized for 6 minutes.

There was no objection.

Mr. LENT. Mr. Chairman, I rise today in support of the Broyhill amendment to title VI of the Omnibus Reconciliation Act. That package as a whole is one which is deserving of the support of this body because it is consistent with the letter and the spirit of the first resolution on the budget; it achieves a true reduction in spending.

More particularly, as ranking minority member of the Commerce, Transportation, and Tourism Subcommittee, I would like to detail for my colleagues today the issues within the jurisdiction of that subcommittee which I believe are resolved in a thoughtful and thorough fashion in the Broyhill reconciliation package.

In the rail area, the Broyhill language incorporates the Lent-Lee-Madigan Conrail bill in virtually identical form to the bill which was recently passed by the Energy and Commerce Committee by a 30-to-12 vote with the support of the distinguished colleague from New Jersey (Mr. FLORIO). That bill phases the Federal Government out of the railroad business without disruption to vital Northeastern and Midwestern rail freight service; it divests Conrail of its costly commuter operations; it initiates a number of unprecedented labor and management reforms; it provides limited additional financing of Conrail only if certain stringent conditions are met; it repeals onerous, expensive labor protection requirements, and it sets deadlines for the sale of Conrail to the private sector which permit Conrail to maximize its potential profitability as a result of all the provisions and reforms I just mentioned.

For Amtrak, the Broyhill reconciliation package substantially reduces Federal funding of Amtrak while permitting Amtrak to maintain its nationwide passenger service operation. Further, other changes are made with respect to Amtrak's operation which should improve its ability to function in a more efficient and cost-effective manner; for example, requires the elimination of the food and beverage service deficit by the end of fiscal year 1982.

In the railroad retirement area, the Broyhill package repeals a court case which required payment of unintended benefits. It is true we have not attempted to offer a resolution of this complex pension system in its entirety in the reconciliation package simply because time has not permitted the type of careful analysis which we believe is necessary to a long-term solution to the pension system's ills.

The retirement proposal which is contained in the Jones/Dingell package is one which is advocated by railroad labor and management as their recommendation for the retirement system, but absent in the Jones/Dingell proposal is one critical piece—the tax that the parties believe is necessary to fund the system. Without those taxes the Jones/Dingell retirement proposal simply does not work—benefits are being promised but no revenue is coming in to fund those promises. Further, I would like to assure my colleagues it is my intention to recommend our subcommittee take up the rail retirement issue in its entirety in the near future and give it the careful and thorough analysis it deserves—an analysis which is lacking in the Jones/Dingell package.

I also want to bring your attention to another section of the Broyhill package which I believe is deserving of your strong support. That section is the National Tourism Policy Act. As included in the Broyhill proposal, that act is identical to the bipartisan compromise measure which was reported by the Energy and Commerce Committee in lieu of a bill which would have established an independent Federal agency for tourism. The act in the Broyhill package is strongly supported by the tourism industry. It will improve our balance of payments. It will considerably strengthen the tourism industry, which is one of this Nation's largest employers. Further, it will create new jobs, especially among those groups most burdened by unemployment. Be aware—there is no tourism bill in the Jones/Dingell reconciliation package—a potentially devastating omission considering the vital role tourism plays in improving the health of the American economy.

Also in the Broyhill reconciliation package are important resolutions to the local rail assistance program and the Northeast corridor problem. As included in the Broyhill package, the local rail assistance program targets funds to those States that have the most serious branch line problems and eliminates operating subsidies; the Northeast corridor resolution adds 15 minutes to trip time requirements to make sure projected budget savings

will actually be realized without real sacrifice of highspeed service.

In closing, I would reiterate that the issues within the jurisdiction of the Commerce, Transportation, and Tourism Subcommittee have been dealt with in a thoughtful and thorough manner in the Broyhill reconciliation package. Inclusion of the Broyhill package to this body's reconciliation bill is key to the President's overall economic recovery program. I urge your support for Mr. BROYHILL's package.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. LENT. I yield to the gentleman from New Jersey.

Mr. FLORIO. I thank the gentleman for yielding.

Just for a clarification, the gentleman represented that the Conrail provision was substantially identical to what previously had been agreed to. Might I ask what the difference is? It is my understanding that there is a provision that will provide for authorizations for transfer of trackage rights off the D. & H. and over a 2½-year period, as the gentleman knows. That would result in a $125 million loss of revenue to Conrail. Is that representation correct?

Mr. LENT. Well, I would not put it in quite those words.

The CHAIRMAN. The time of the gentleman from New York (Mr. LENT) has expired.

Mr. BROYHILL. Mr. Chairman, I yield 2 additional minutes to the gentleman from New York.

Mr. FLORIO. If the gentleman will continue to yield, in the bill that was passed through the committee, as I recall, the plug was pulled on the D. & H. Railroad. In the package which the gentleman from North Carolina (Mr. BROYHILL) presents tonight, we maintain the status quo, there is no change, in other words, under the Broyhill package in the current law.

We did that because very frankly we did not want to be in a position of bankrupting the D. & H. and causing another rail bankruptcy.

Mr. LENT. The computation as to the moneys that were authorized were preconditioned upon certain assumptions. One assumption was a $50 million revenue going for Conrail annually off of the D. & H. traffic.

Now if in fact the D. & H. is going to be maintained and moneys are going to flow from the Federal Government to the D. & H., that will result in a reduction of the moneys that are going to be authorized for Conrail. That is there will be a provision for increasing the authorization for Conrail to compensate for the moneys that are now being allowed to flow for D. & H.

Mr. LENT. It is our position that the $375 million authorization for Conrail in this package is sufficiently adequate to cover any minor contingencies that might occur with respect to D. & H.

Mr. BROYHILL. Mr. Chairman, I yield 3 minutes to the gentleman from Iowa (Mr. TAUKE) for further discussion of the energy part of the Broyhill amendment.

The CHAIRMAN pro tempore. Without objection, the gentleman from Iowa (Mr. TAUKE) is recognized for 3 minutes.

There was no objection.

□ 1950

Mr. TAUKE. Mr. Chairman, members of the committee, as I have listened to the discussion of the amendment being offered that is known as the Broyhill substitute, I have been somewhat surprised by some of the comments of my colleagues relating to energy and conservation, and particularly weatherization programs. I notice in a very complex matter we are discussing this evening, as I look at the Democratic packages and look at the packages that are being offered under the title of Gramm-Latta II and Broyhill substitute, I note some interesting things relating to weatherization.

First of all, under the Budget Committee's offering there is $1.4 billion offered for low-income energy assistance, while in the Gramm-Latta II substitute there is $1.875 billion offered for energy assistance, $187.5 million of which would go for weatherization. There is nothing comparable in the Democratic substitute.

Particularly with the Broyhill amendment, we have earmarked $300 million in a block grant for energy conservation, which could be used for weatherization. When I look to the section of the Dingell amendment, I do not find any money earmarked for weatherization, or for that matter any other energy conservation programs. We know that $5.6 billion is set aside for the Department of Energy, but we do not know how that money is to be spent. We look then, I guess, to the Appropriations Subcommittee, which has so far indicated that it would spend $150 million for weatherization, which I would point out is less than is included in the Gramm-Latta II substitute.

It provides $100 million for schools and hospitals, and $15 million for energy extension services. All those alone, when added up, do not come to the $300 million that is available each year for 2 years under our State and local energy block grant.

I am not suggesting that there are not cuts in energy conservation programs under the Broyhill substitute, but to suggest that it is the end of conservation programs supported by the Federal Government, or to suggest that there is substantially more money in the offerings of the majority rather than those being offered in the Broyhill substitute and Gramm-Latta II for programs like weatherization is, in my judgment, a misstatement of the facts.

So, for that reason I am hopeful that Members on our side of the aisle, and also those on the other side of the aisle, will recognize that the combination of Gramm-Latta II and the Broyhill substitute provides more money, not less, for programs like weatherization and conservation.

Mr. BROYHILL. Mr. Chairman, for the purpose of discussing the health portions of this package, I yield 6 minutes to the gentleman from Illinois (Mr. MADIGAN).

The CHAIRMAN pro tempore. Without objection, the gentleman from Illinois (Mr. MADIGAN) is recognized for 6 minutes.

There was no objection.

Mr. MADIGAN. Mr. Chairman, I rise in support of the Broyhill amendment, and as I have particular concern that this body have the facts before we vote on the competing Dingell and Broyhill packages, I would like to ask the indulgence of my colleagues for just a few moments.

First, I would like to point out that the savings achieved under the Broyhill package are drawn on realistic base line assumptions, unlike some savings shown in the Dingell package.

Second, savings found in the Broyhill package are achieved over a 3-year period as specified in the instructions of the first budget resolution.

Finally, the programmatic changes found in the Broyhill package provide needed redirection in the focus of the Federal activity in the health area.

With regard to particular portions of the Broyhill package, I would like to note the following: The Broyhill medicaid portion provides for a 7.5-percent cap on fiscal year 1982 growth. For the 2 outyears, costs are contained by retarding growth within the limits of the GNP deflator.

In addition, Broyhill provides for flexibility for State management and administration, and particular attention has been paid to State flexibility in the area of reimbursement rules.

On the other hand, the Dingell bill allows a 3-percent floating match rate reduction. In essence, this 3-percent floating cap would allow fiscal year 1982 spending to escalate to inflated levels without any regard to the consequences of that, and I question whether this is a spending reform at all, and suggest that my colleagues question that as well.

Broyhill also provides the States with the flexibility that they need to manage the medicaid programs. Dingell, however, talks about flexibility and yet continues all of the rigid Federal lockhold on the States' ability to operate efficiently.

Further, I think my colleagues will be interested to know that the savings projected by the Dingell medicaid bill appear, unfortunately, to be entirely contrived. I have received a study by the Health Care Financing Administration which states that $896 million in savings projected in the Dingell package cannot be substantiated by them. I would be happy to share this document with my colleagues if they so desire, and in doing so question whether the Dingell package really saves any money at all.

Further, the Dingell bill once again raises the specter of mandated hospital cost containment in that incentives are provided in the event of State adoption of hospital cost containment, and I wonder if we really want to get into that again.

As to the categorical health programs, our bill contemplates consolidation of those programs into three block grants, which will give the States the flexibility they need to administer these programs in a responsible manner, taking into account the particular needs of the several States and the local concerns within each State. Enactment of our block grants will eliminate Federal requirements which presently represent more than 200 pages of law and regulation, as well as 350,000 man-hours per year of paperwork. I believe this to be a desirable result, and assume that it is only one of the reasons why the Governors are working so hard to get this block grant program adopted.

On the other hand, we have the Dingell categorical reauthorizations, which seem to be a most interesting exercise in sophistry wherein the authors have endeavored to call consolidations of some programs block grants, although they retain sufficient Federal control over the consolidated programs so that they really continue to be categorical programs as they are now. I would hope that my colleagues would look closely at those wolves in sheep's clothing which mock the entire subject of block grants so desperately sought by the Governors.

The Broyhill bill adopts realistic changes in entitlements. It makes necessary consolidations of categorical programs into block grants, and achieves true rather than just contrived savings in a number of programs pending reauthorization.

By contrast, I am afraid the Dingell bill has limited value in our efforts to achieve any type of fiscal reform. Its efforts to cut entitlement spendings are based on false assumptions, are misleading, and will not provide for any true savings.

Further, in their efforts to gain your support, I am afraid that adherents to the Dingell package have juggled the figures to provide savings where no savings exist. A vote for the Dingell package is a vote based on false assumptions and contrived projections. It would be a vote contrary to the needs of the Nation and the will of the people. It would be a vote contrary to what the mandate clearly was from the American people in the November election, and I would urge its rejection.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. MADIGAN. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I think the gentleman made a very important point when he talked about how the Governors of the country are supporting the block grant concept that is embodied in the Broyhill approach. I think it also is well to point out that a recent survey of State legislators showed that 76 percent of State legislators across this country are supporting the block grant concept, and many of those legislators had polled their constituents and found that 76 percent of their constituents support the block grant concept that is embodied in the Reagan administration proposal.

So, I think the gentleman is absolutely right, that out in the States and localities the block grant idea is a very, very popular one.

Mr. MADIGAN. I thank the gentleman for his contribution, and I am provoked by it to remind the House that the block grant concept did not have its genesis in the Reagan White House. This is a proposal that came from the National Governors Association, a bipartisan coalition of the Governors of all the States, and it is their program, not ours.

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Mr. BROYHILL. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The Chair will state the gentleman from North Carolina (Mr. BROYHILL) has consumed 24 minutes.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield for a question?

Mr. BROYHILL. Mr. Chairman, I just yielded back the balance of my time, so I would have to be yielded more time.

Mr. LATTA. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina (Mr. BROYHILL).

Mr. BROYHILL. I yield to the gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. Mr. Chairman, I would like to know what the gentleman's intentions are with respect to offering his amendment, as he assured the House earlier he would. Is it the intention of the minority to include the amendment also in the Latta block of amendments?

Mr. BROYHILL. Mr. Chairman, as I pointed out, this decision that would be made with respect to the other amendment is a decision that others would make. Under the rule, I have an obligation or some responsibility to offer this amendment, and I fully intend to do that.

Mr. OTTINGER. Is the gentleman also going to include it as part of the Latta block of amendments?

Mr. BROYHILL. Mr. Chairman, as I pointed out a few moments ago in colloquy, that was my first preference. Whether or not it will be done that way is up to other Members, and it is not my decision.

Mr. OTTINGER. Am I correct in saying that it was printed as part of the Latta amendment package?

Mr. BROYHILL. That I could not answer.

Mr. OTTINGER. Mr. Chairman, can the gentleman from Ohio (Mr. LATTA) inform us in that regard?

Mr. LATTA. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from Ohio.

Mr. LATTA. Mr. Chairman, it is printed in the committee print, with a few modifications that the gentleman will be making.

Mr. OTTINGER. So it is at the present time a part of the gentleman's amendment block?

Mr. LATTA. With a few modifications.

Mr. OTTINGER. Does the gentleman intend to offer it as part of that block tomorrow?

Mr. LATTA. That will depend on the decisions that the gentleman will make.

Mr. OTTINGER. I thank the gentleman.

Mr. JONES of Oklahoma. Mr. Chairman, I yield such time as he may consume to the distinguished chairman of the Committee on the Judiciary, the gentleman from New Jersey (Mr. RODINO).

Mr. RODINO. Mr. Chairman, may I say that I am appalled at the manner in which the legislative process has been distorted and manipulated today in that we are being required to vote on legislation affecting the lives and welfare of millions of Americans, and for that reason I am opposed to this legislation, the Gramm-Latta proposal which is before us.

Mr. Chairman, I rise to express my strong opposition to the Latta substitute to H.R. 3982, the Omnibus Reconciliation Act.

The Judiciary Committee, of which I am chairman, was not charged with any reconciliation directives under the first budget resolution. However, I have followed with deep concern the fate of many programs in the areas of health, education, nutrition, housing, job training, and income security that were covered by the reconciliation process. I believe our House legislative committees, despite grave doubts and

reservations about the wisdom of the cuts imposed upon them, worked responsibly with responsiveness to human needs in developing the budgetary levels incorporated in the Omnibus Reconciliation Act reported by our Budget Committee.

I am, therefore, appalled by the situation in which we now find ourselves. We are being forced, under a closed rule, to vote on a substitute bill which has not even been read. We are being asked to accept a package of further budget cuts whose impact on the lives of millions of Americans cannot be assessed accurately, for the text of the substitute is not even available on the floor.

In my judgment the rule presented by the Rules Committee offered all Members the opportunity to fully debate, in public view, proposed changes that are critical to the elderly, our children, the disabled and the disadvantaged of our Nation.

It appears, for example, that the Latta substitute would eliminate the social security benefit for the 3 million truly needy persons who now receive the minimum benefit of $122 a month. It would make numerous changes in the aid to families with dependent children program that would penalize poor working families, by reducing their benefits by the amount of food stamps and housing subsidies received. These changes are not only insensitive and punitive to those most in need, but also unrealistic and counterproductive. Loss of these benefits will simply force many people to turn to the supplemental security income program to meet the needs of existence.

The Latta substitute cut in the health area is alarming. It would place a cap on medicaid expenditures that would mean a loss to the States of $1.5 billion in fiscal year 1982 and a total reduction of $13.8 billion through fiscal year 1986. In my own State of New Jersey, the first year loss would mean that services in nursing homes, housing 19,000 elderly people, would have to be lowered. In addition, over 20 health programs would be consolidated into three block grants, with the further burden of a 25-percent funding cut. The future of essential health services, including maternal and child care, mental health care and home health care services for the elderly and disabled, will be in jeopardy.

Our children would further suffer because of the proposed cap and other changes in the women's, infants', and children's nutrition program, resulting in the elimination from coverage of about 400,000 children. The Latta cut could cause thousands of schools to shut down their school lunch programs entirely because of unfair eligibility standards and prohibitive administrative costs.

The prospect of additional cuts in the guaranteed student loan program seems ominous to me. The Latta substitute involves a means test that will result in loans being denied to about 1.4 million middle-class college students attending public colleges. Our Congressional Budget Office has estimated that as many as 50 percent of GSL borrowers could lose their loans if a "remaining need" requirement, authorized for consideration under the substitute, is instituted.

The Latta substitute would change food stamp eligibility requirements and dependent care deductions to save some $1.4 billion. This will severely hurt our poor and elderly, and the change in the gross income eligibility limit would remove about 1 million people from the food stamp program.

It appears that the Latta substitute would produce a reduction in assisted housing units from 176,000 to 158,000, which in my State of New Jersey would mean a cut of 3,705 units. In addition, the substitute would increase the maximum tenant rent contribution from 25 to 30 percent. This, together with changes to standardize essential deductions such as child care in determining net income, will actually mean that recipients of housing subsidies will be paying more than a 5-percent increase in rent.

Mr. Chairman, the reconciliation bill presented by our House Budget Committee was carefully drafted, drawing upon the knowledge and expertise of our legislative committees to achieve budget cuts that would be as fair and realistic as possible given the ceilings imposed. These cuts were drastic. The further cuts proposed by the Latta substitute, as far as can be determined in the absence of the actual document, are cruel and insensitive and will hurt those of our citizens who most need help to meet vital human needs.

This is an unjust and inhumane way to proceed with legislation affecting the lives and welfare of millions of Americans. It is unfair and cynical to those of us who champion their cause to be expected to vote blindly on the invisible Latta substitute. I urge my colleagues to reject it.

Mr. JONES of Oklahoma. Mr. Chairman, I yield 5 minutes to the gentleman from Tennessee (Mr. GORE), a member of the Committee on Energy and Commerce.

Mr. GORE. Mr. Chairman, I thank my chairman for yielding me this time.

There are a number of items about which I would like to speak, but I am going to really confine my remarks to one item. I would talk about the strategic petroleum reserve, but that has been covered. Just briefly, I would like to say that I would encourage our conferees to accept a proposal which I understand will be forthcoming from the other body to treat the strategic petroleum reserve forthrightly in the budget, and I think there is a good chance that that will happen.

I could talk about the elimination of the solar energy programs, the renewables, and the cutting of conservation in half.

But I want to talk about something else, because I daresay there are not three or four Members of this House who know what the Gramm-Latta II provision and the provision known as the Broyhill amendment will do to an entity called the Economic Regulatory Administration in the Department of Energy. Let me just briefly describe what this does.

Over the last 7 years there has been a massive fraud in the oil industry in this country. Now, there have been some violations of the law that were caused by companies having difficulty understanding the regulations that implement the law; we all recognize that. But having said that, there has also been a whole lot of lying, cheating, and stealing. There has been a lot of illegal overcharges by the oil industry, and in the last administration there was a commitment made to the American people that the law would be enforced, and that those individuals who violated the law would be brought to justice.

We know that if somebody robs a grocery store of $50, they are going to be pursued to the ends of the Earth, and they should be, because they violated the law. But if somebody steals $50 million, should they be absolved of all responsibility simply because they have a coat and a tie and because they have friends in high places, or for whatever reason? Should they be absolved of all responsibility of guilt? Obviously, the answer is "No." The law should be enforced against the high as well as the low, against the wealthy as well as the poor.

This proposal grants amnesty to everyone in the oil industry who has violated the law over the last 7 years. It cuts the budget for those who are charged with enforcing the law from $140 million down to $12.5 million, and of that $12.5 million—and we had hearings on it—more than half is going to be used in personnel costs to pay for the RIF's, reductions in force.

As a practical matter—and this was made abundantly clear in hearings before the Committee on Energy and Commerce—even the Secretary of Energy himself came and apologized for the mistake and said, "Yes, Mr. Chairman,"—speaking to Chairman DINGELL—"I thank you, Chairman DINGELL, for pointing out what a terrible error we made. We are going to go back and put more money into this category so the law can be enforced." They were embarrassed.

They were embarrassed, Mr. Chairman. They were embarrassed by the charge that they were granting amnes-

ty to those in the oil industry who had violated the law, so they came back in and said, "We want to change our budget request."

Here it is again, Mr. Chairman, in Gramm-Latta. Once again we have amnesty for the oil industry, for all of those who have violated the law.

Now, I want my colleagues on both sides of the aisle to understand quite clearly that this issue is not going to evaporate, it is not going to go away, and it is not something that is going to be quickly forgotten. Maybe for the moment Americans who waited in gasoline lines and who watched the price of gasoline go up while storage tanks were full, maybe for the moment, in a time of falling prices and in a time of stability in the marketplace, all is forgotten and all is forgiven.

The CHAIRMAN. The time of the gentleman from Tennessee (Mr. GORE) has expired.

Mr. JONES of Oklahoma. Mr. Chairman, I yield 2 additional minutes to the gentlemen from Tennessee (Mr. GORE).

Mr. GORE. But, Mr. Chairman, if I may continue, I just have a feeling that when the American people realize and when the American people know that this proposal grants amnesty to all those who illegally took money out of their pockets while they were waiting in those gasoline lines, who illegally overcharged the American people for gasoline and other oil products, and provides that they are all being forgiven and granted amnesty while the law is enforced against more lowly transgressors, they are going to remember again, and I believe they are going to ask for some help.

Mr. OTTINGER. Mr. Chairman, will the gentlemen yield?

Mr. GORE. I yield to the gentlemen from New York.

Mr. OTTINGER. Mr. Chairman, is it not true that the Gramm-Latta budget is premised on $1.5 billion in collections from prosecutions of the oil companies, and, therefore, this will unbalance the Gramm-Latta proposal?

Mr. GORE. Not only that, but the $1.5 billion is a low estimate of the amount that will be coming into the Treasury if the enforcement program is carried out, and it cannot be carried out with this figure.

There is an extra $8.5 billion to $13.5 billion that will go to the American people, to groups like truckers, bus owners, and those who have had special overcharges against them and have proven them. They will be able to recover if the law is enforced, and the Treasury will be able to recover if the law is enforced.

This is a phony savings. They are going to cut this amount out of the enforcement budget. They are going to pretend to save a hundred and some odd million dollars, and they are going to lose $10 billion to $15 billion. It is a phony savings. It helps those in the oil industry who violated the law.

Mr. OTTINGER. Mr. Chairman, I am glad that the gentleman from Tennessee (Mr. GORE) has made that point.

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Mr. JONES of Oklahoma. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Ohio (Ms. OAKAR).

Ms. OAKAR. Mr. Chairman, I thank the gentleman for this opportunity.

Mr. Chairman, I consider what we are doing here a real perversion of the legislative process, since our committees worked very, very hard on meeting the congressional mandates in terms of meeting the maximum budget requirements and as a result we are asked now to consider a substitute that the committees have not even seen.

Mr. Chairman, I rise in opposition to the Gramm-Latta amendments to the reconciliation proposal as it affects the recommendations of the Committee on Post Office and Civil Service.

The committee was mandated by the first budget resolution to achieve spending reductions of over $5 billion within our area of jurisdiction. This was one of the largest cuts required of any of the authorizing committees of the House. The members of the Post Office and Civil Service Committee considered many legislative changes that would have complied with the House mandate. All but the handful contained in the committee's reconciliation proposal were rejected for one reason or another. Our committee did not ask for these cuts—they were forced on the committee by the budget resolution.

However, Mr. Speaker, whether the House agrees or disagrees with the way the cuts were fashioned, the committee fully complied with the mandate of the House in a prudent and responsible manner. In fact, we have actually exceeded our reconciliation instructions for fiscal year 1982 by over $100 million. Critics of the committee's proposal complain that the cuts will hurt one group or another unfairly. I agree and that is unfortunate. I do not want to cut anyone's benefits. It seems to me the real issue today is not over the size of the cuts, because the Gramm-Latta substitute actually results in less overall outlay savings in fiscal years 1982 and 1983. The real issue today is whether the House will tell the authorizing committee not only how much to cut from its jurisdiction, but specifically where to make the cuts.

The House Budget Act of 1974 was never intended to supplant the work of the authorizing committee, and no Member ever expected reconciliation to be used to second-guess the expertise of the committees. Mr. Speaker, the Committee on Post Office and Civil Service worked hard at adopting a package of spending cuts that spread the pain and suffering in as fair a manner as possible under very difficult circumstances. The Gramm-Latta substitute amendments would not cut one dime more from the budget than the committee's proposal. Our recommendation is a delicate combination of cuts—they must stand together. Let me explain what the Gramm-Latta substitute really does.

It reduces the present twice-a-year cost-of-living allowance for 3.1 million civilian and military retirees to a once-a-year adjustment. It also reduces the October 1, 1981, Federal employees pay raise from the committee's recommended 5.8-percent increase to a miserly 4.8 percent.

The money that would be cut from the annuities of retirees and the wages of Federal workers under the Gramm-Latta substitute would be used to continue the present system of "double dipping" by approximately 140,000 military retirees working for the Federal Government. The remaining $50 million saved under the Gramm-Latta substitute would also go to continue paying Federal employees dual compensation when they are on active duty with a National Guard or military Reserve unit—an entitlement, incidentally, that both President Reagan and OMB Director David Stockman oppose. I also oppose cutting these programs, but I am more adamantly opposed to cutting the twice-a-year COLA for 3.1 million Federal retirees. Evidently there is a misconception that Federal retirees are better able than others to absorb these cuts. Mr. Speaker, let me set the record straight on that issue.

One out of four Federal retirees must try to live on less than $500 a month—40 percent of all Federal retirees struggle to make ends meet but with $700 a month. Fully 75 percent of all the survivors of Federal retirees receive less than $6,000 a year. Are these the people whose benefits Gramm-Latta wants to cut? I hope not.

I would like to remind my colleagues that candidate Ronald Reagan, in October of last year, made a solemn promise to Federal retirees to keep the present system intact. This is a commitment that has now been broken. The House in 1976 eliminated a 1-percent sweetener for retirees and substituted for that reduction in benefits the present twice-a-year system. I would hope the House would not also renege on that commitment.

Proponents of these amendments say that Federal retirees are overcompensated and that social security is indexed but once a year and this amendment will bring an overgenerous system into line with other programs. I would strongly disagree with that

and remind my colleagues that, unlike social security, a Federal annuity is subject to Federal and State income tax. I would also point out the reconciliation bill already takes more than the proverbial pound of flesh from Federal benefits.

Just review with me for a moment what is happening this year that adversely affects the Federal sector:

First, the reconciliation bill cuts Federal pay by $3.4 billion by imposing a 5.8-percent pay cap instead of the 13.5 percent required to keep our Federal work force in line with the private sector. Incidentally, this is the fourth straight year that a Federal pay cap has been imposed. In the years 1970 to 1980, Federal white-collar pay has trailed the private sector by 20 percent and is 35 percent behind the CPI for the same period. Certainly, we should not cut a 5.8-percent pay raise any further.

President Reagan has also imposed a massive reduction in force on the Government that would eliminate over 100,000 Federal jobs in 1981 and 1982.

The Senate reconciliation bill contains a proposal that would shift almost $1 billion in health care costs from the medicare program to the Federal employees health benefits program. According to the Office of Personnel Management and the health carriers, this will result in premium increases of up to 100 percent for Federal retirees and could actually destroy the program. I say enough is enough.

The Congress and the administration should stop dumping on the Federal worker and retiree, or the best run Government in the world will be destroyed. It is no coincidence that our country narrowly averted a disastrous air traffic controllers strike only this week—a strike threat created by frustration at continued pay caps and reductions in benefits. If we continue down this road of singling out the Federal worker and retiree for punitive treatment, these strike threats will escalate and we can say goodbye to the peaceful and harmonious labor relations our country has long enjoyed with the Federal work force.

In conclusion, let me remind the House of what President Franklin D. Roosevelt said during his Presidency, "The fundamental purpose of government is to do the greatest good for the greatest number of people."

I am not happy with the committee's cuts, but we have done the best we could to protect the greatest number of people; and I, therefore, urge the rejection of the Gramm-Latta substitute.

Mr. JONES of Oklahoma. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida (Mr. FUQUA), the distinguished chairman of the Committee on Science and Technology.

Mr. FUQUA. Mr. Chairman, I yield myself 6 minutes.

Mr. Chairman, I take this opportunity to express my full support for the substitute offered by the gentleman from Oklahoma, Mr. JONES. This year the House is engaged in a very large legislative undertaking in response to the widespread feeling that the reconciliation procedure be used earlier in the fiscal year.

The Committee on Science and Technology has acted to respond to this feeling and sent to the committee for inclusion in the title for science and technology only the legislative language and reports acted on by the committee on or before the May 19, 1981, deadline. In addition, the committee on June 11, in open session and with a quorum present, approved by a bipartisan rollcall vote, 23 yeas to 12 nays, the motion to transmit the committee's fiscal year 1982 authorization recommendations. At this place in the RECORD I would like to insert the letter sent by our committee enclosing its reconciliation package.

COMMITTEE ON SCIENCE AND TECHNOLOGY, U.S. HOUSE OF REPRESENTATIVES,
Washington, D.C., June 12, 1981.

Hon. JAMES R. JONES,
Chairman, Committee on the Budget, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to your request of June 8, 1981 for the inclusion of certain matters in our reconciliation legislation, I am submitting the following measures reported by the committee to you, including the legislative report for each bill which contains all actions required by the House Rules as well as the CBO cost estimates. The Science and Technology Committee met on June 11, 1981 to consider its report to the Budget Committee and by a recorded vote of 23-12 agreed to the enclosed submission.

The work of our committee consists in part in reporting and enacting annual authorization bills for the matters within our jurisdiction. As the House's non-military research and development committee, some of our programs do overlap with other committees. We have found that the best way to proceed legislatively is to separate out those matters which can be solely referred and acted on from those other matters which are jointly or sequentially referred.

In your letter you commented on the Ramseyer rule by saying, "As the reconciliation bill consists almost entirely of changes to current law the inclusion of Ramseyers in the report would make it too cumbersome." The annual authorization measures we are submitting contain only three Ramseyers, which makes the point, I believe, that our committee in reporting its legislation and submitting it to the Budget Committee for inclusion in the reconciliation bill is operating within its established jurisdiction to enact annual authorization R&D legislation. Annual authorizations for our committee were first established as part of the Space Act of 1958 with the active participation of House Speaker Sam Rayburn and Senate Majority Leader Lyndon Johnson, and have stood the test of time. As you are aware, under House Rule XXI, clause 2 no appropriation is in order unless there is an existing authorization for the item appropriated. The House Rules have made it essential that our committee have a very good working relationship with the Appropriations Committees and its subcommittees, and our ceilings and committee actions are carefully considered in their funding deliberations.

I am hopeful that the inclusion of our reported legislation as part of the reconciliation bill will continue the tradition and responsibility of our committee and the House for legislative oversight and for annual review of federal science and technology programs and projects. To best accomplish this goal I would request that the reconciliation legislative language sent to you by our committee be placed in our committee title of the reconciliation bill by subtitle so that:

1. The solely reported legislation is contained in separate subtitles; and

2. The jointly or sequentially referred and reported legislation is contained in separate subtitles.

This determination between the individual authorizations contained in our submission will facilitate the appointment of conferees based on committee jurisdiction and should also expedite consideration of the specific measures by the House with the Senate.

Thank you and your staff for the tremendous assistance you have provided in the background necessary for this transmittal.

Sincerely,

DON FUQUA, *Chairman.*

Enclosures.

CHAPTER XII

SCIENCE AND TECHNOLOGY COMMITTEE RECONCILIATION ACTIONS, FISCAL YEAR 1982

SUMMARY TABLE

[In millions of dollars]

Subtitle	Fiscal year 1981 appropriations	Fiscal year 1982 request	Reconciliation baseline CBO current policy base	Committee authorizations
A. Department of Energy civilian R. & D. programs and projects (H.R. 3146)	4,721	3,548	5,073	3,606
B. Department of Energy civilian programs (H.R. 3447)	1,538	378	591	277
C. National Science Foundation	1,074	1,034	1,132	1,161
D. Atmospheric, climatic, and ocean pollution (NOAA)	436	499	475	499
E. Environmental research, development and demonstration (EPA)	355	306	382	306
F. Federal Aviation Administration research, engineering, development, and demonstration (FAA)	85	85	93	85
G. Federal Emergency Management Agency (FEMA)	83	91	91	93
Total	8,292	5,941	7,837	6,027

Net savings achieved by committee: $1.8 billion.

Subtitle A

DEPARTMENT OF ENERGY CIVILIAN RESEARCH AND DEVELOPMENT AUTHORIZATION (H.R. 3146)

SUMMARY OF SCIENCE AND TECHNOLOGY COMMITTEE ACTIONS

The following tables summarize the Committee's actions for Subtitle A which is the same as H.R. 3146, as reported. In addition, the tables indicate in italic type those other programs, projects and activities which were acted on by the Committee in the joint bill, H.R. 3447, contained in Subtitle B which was jointly referred to the Committees on

Science and Technology, Energy and Commerce and Interior and Insular Affairs. The Committee has reflected those actions in these tables so that all Members will have available to them the total authorization amounts related to this Committee's jurisdiction. Because of the emphasis placed on authorization amounts and budget authority (B/A) this year, the Committee felt it necessary to display the composite tables in its report, H. Rept. 97-34.

SUMMARY OF COMMITTEE ACTIONS

(Budget authority amounts related to authorization are the same)

[Dollar amounts in thousands]

	Fiscal year 1981 budget authority made available	Revised fiscal year 1982 DOE authorization request (Reagan)	Committee action	
			Changes to Reagan authorization request	Total authorization
(1) FOSSIL ENERGY				
H.R. 3146				
OPERATING EXPENSES				
Sec. 2(b)(1):				
Coal:				
Mining R. & D	$39,000	$15,000	−$11,000	$4,000
Coal preparation R. & D	9,000	6,000		6,000
Coal liquefaction	93,200	105,200	+8,000	113,200
Surface coal gasification	75,000	53,440	+860	54,300
In-situ gasification	9,900	8,300		8,300
Adv. Rsrch. and tech. dev	46,361	60,100	−6,000	54,100
Adv. eviron. control tech	37,000	26,400		26,400
Heat engines and recovery	22,000	15,600		15,600
Combustion systems	56,200	27,800	+1,900	29,700
Fuels cells	32,000	28,600	+3,000	31,600
Magnetohydrodynamics (MHD)	66,500	0	+29,000	29,000
Program direction	10,818	12,520	−2,445	10,075
Subtotal, coal	616,379	358,960	+23,315	382,275
Oil and gas:				
Enhanced oil recovery	18,000	20,100	−4,000	16,100
Oil shale	32,048	16,250	+4,100	20,350
Drilling and offshore tech	2,000	0		0
Adv. process tech	3,500	3,700		3,700
Program direction	1,475	1,620	−395	1,225
Subtotal, oil	57,023	41,670	−295	41,375
Enhanced gas recovery	30,048	10,000	+4,000	14,000
Program direction	415	460	−160	300
Subtotal, gas	30,463	10,460	+3,840	14,300
Total, operating expenses	703,865	411,090	+26,860	437,950
CAPITAL EQUIPMENT				
Sec. 3(b)(1):				
Coal	4,600	3,800	−800	3,000
Oil	2,470	2,250		2,250
Gas	500	200		200
Total, capital equipment	7,570	6,250	−800	5,450
CONSTRUCTION				
Sec. 3(a): Prior-year projects: 80-FE-11, PFB comb. cycle		11,000		11,000
Sec. 4(1)(2): New construction:				
82-F-505, general project		6,000		6,000
82-F-506, surf. water cont		1,000		1,000
Total, construction	425,300	18,000		18,000
Total, fossil energy	1,136,735	435,340	+26,060	461,400
(2) GEOTHERMAL				
H.R. 3146				
OPERATING EXPENSES				
Sec. 2(b)(3):				
Hydrothermal industrial	50,000	2,124	+1,000	3,124
Geopressured resources	35,600	20,336	−6,000	14,336
Geothermal tech. development:				
Hot dry rock	13,500	9,700	+2,000	11,700
Component development	35,300	9,876		9,876
Program direction	1,400	1,600		1,600
Total, operating expenses	135,800	43,636	−3,000	40,636
CAPITAL EQUIPMENT				
Sec. 3(b)(3):				
Geopressured resources	200	0		
Geothermal tech. development	1,110	863		863
Total, capital equipment	1,310	863		863
CONSTRUCTION				
Prior-year projects:				
Sec. 3(a): 80-G-1, geothermal demo, Valles Caldera, N. Mex	10,911	3,876		3,876
Sec. 3(b)(9): 80-G-2, 50 MWe geothermal binary demo, Heber, Calif	8,000	0	+7,000	7,000
Total, construction	18,911	3,876	+7,000	10,876
Total, geothermal	156,021	48,375	+4,000	52,375
H.R. 3146				
OPERATING EXPENSES				
Sec. 2(b)(4):				
Program direction	192	200		200
Admin. of loan guar. program	1,092	0		0

SUMMARY OF COMMITTEE ACTIONS—Continued

(Budget authority amounts related to authorization are the same)

[Dollar amounts in thousands]

	Fiscal year 1981 budget authority made available	Revised fiscal year 1982 DOE authorization request (Reagan)	Committee action	
			Changes to Reagan authorization request	Total authorization
Total, operating expenses	1,284	200		200
Total, geothermal RSRCS dev	1,284	200		200
(4) SOLAR ENERGY				
H.R. 3146				
OPERATING EXPENSES				
Sec. 2(b)(2):				
Active heating and cooling	42,450	11,000		11,000
Passive and hybrid	32,900	10,100	+4,000	14,100
Photovoltaics	153,200	55,900	+39,750	95,650
Solar thermal	119,950	42,650	+10,850	53,500
Biomass	45,750	19,500	+5,000	24,500
Wind	83,700	19,200	+28,600	47,800
Ocean thermal	38,300	0	+23,000	23,000
Alcohol fuels R. & D	20,800	10,000	10,000	
Program direction	6,786	4,000		4,000
Subtotal, H.R. 3146	543,836	172,350	+111,200	283,550
H.R. 3447				
Sec 601(A):				
Solar international	12,000	4,000	−4,000	0
Solar information	1,400	6,700	−1,700	5,000
Subtotal, other solar	13,400	10,700	−5,700	5,000
Total, operating expenses	557,236	183,050	+105,500	288,550
H.R. 3146				
CAPITAL EQUIPMENT				
Sec. 3(b)(3): H.R. 3146, total	16,550	10,250	+1,650	11,900
CONSTRUCTION				
Prior-year projects:				
Sec. 3(b)(8) 80–ES–19, Sm. Comm. solar Thermal powerplant		0	+5,000	5,000
Sec. 3(b)(6): 81–ES–1, OTEC		0	+6,300	6,300
New construction:				
(4)(3): 82–ES–1, central receiver utility repowering project		0	+6,000	6,000
(4)(22): 82–ES–2, solar/hybrid electric power project		0	+4,000	4,000
Total, construction	25,050	0	+21,300	21,300
Total solar	598,836	193,300	+128,450	321,750
Bill totals:				
H.R. 3146	585,436	182,600	+134,150	316,750
H.R. 3447	13,400	10,700	−5,700	5,000
Total, solar	598,836	193,300	+128,450	321,750
(5) CONSERVATION				
H.R. 3146				
OPERATING EXPENSES				
Sec. 2(b)(5):				
Bldg. and comm. systems	73,905	20,647	+24,253	44,900
Industrial	81,200	965	+27,200	28,165
Transportation	111,520	37,030	+28,000	65,030
Multisector	12,100	17,290	−2,290	15,000
Subtotal, H.R. 3146 operating expenses	278,725	76,932	+77,163	153,095
H.R. 3447				
Joint bill: Title VI, sec 601(B):				
Bldg. and comm. systems	16,000	9,000	−2,500	6,500
Industrial	7,500	0	+1,400	1,400
Energy extension service	20,000	0	+15,000	15,000
Multisector	12,000	0	+5,000	5,000
Residential/comm. retrofit	0	0		0
Subtotal, joint juris, operating	55,500	9,000	+18,900	27,900
Total, operating expenses	334,225	84,932	+96,063	180,995
H.R. 3146				
CAPITAL EQUIPMENT				
Sec. 3(b)(2): H.R.3146	3,650	1,003	+326	1,329
H.R. 3447				
Sec. 601(D) Joint juris (B. & C.S.)	800	100		100
Total, capital equipment	4,450	1,103	+326	1,429
Total, conservation	338,675	86,035	+96,389	182,424
Bill totals:				
H.R. 3146	282,375	76,935	+77,489	154,424
H.R. 3447	56,300	9,100	+18,900	28,000
Total, conservation	338,675	86,035	+96,389	182,424
(6) GENERAL SCIENCE AND RESEARCH				
H.R. 3146				
OPERATING EXPENSES				
Sec. 2(b)(6):				
High energy physics	243,380	29,400	−2,000	288,400
Nuclear physics	89,500	99,100	0	99,100
Life sciences/nuc.med	44,000	48,300	600	48,900

SUMMARY OF COMMITTEE ACTIONS—Continued

(Budget authority amounts related to authorization are the same)

[Dollar amounts in thousands]

	Fiscal year 1981 budget authority made available	Revised fiscal year 1982 DOE authorization request (Reagan)	Committee action	
			Changes to Reagan authorization request	Total authorization
Program direction	1,135	1,360		1,360
Total, operating expenses	378,015	439,160	−1,400	437,760
CAPITAL EQUIPMENT				
Sec. 3(a):				
High energy physics	37,500	41,700		41,700
Nuclear physics	9,400	10,500		10,500
Life sciences/nuc. med	1,900	2,200		2,200
Total, capital equipment	48,800	54,400		54,400
CONSTRUCTION				
Sec. 3(b): Prior-year projects:				
High-energy physics:				
Sec. 3(b)(4): 81-E-218, Tevatron I		39,500	−21,500	18,000
Sec. 3(a): 79-9-b, Energy Saver		2,600		2,600
Sec. 3(b)(13): 78-10-b, Isabelle		165,500	−149,500	[1] 16,000
Nuclear physics: Sec. 3(b)(10): 80-GS-5, Nat'l supercond, cyclotron		18,100	−11,600	6,500
New construction:				
High-energy physics:				
Sec. 4:				
(18) 82-E-204, GPP		6,000	−1,000	5,000
(19) 82-E-205, accel. improv		7,000	−1,000	6,000
(20) 82-E-206, Tevatron II		49,000	−43,000	6,000
Nuclear physics:				
(15) 82-E-221, accel. improvmts		2,000		2,000
(16) 82-E-22, GPP, various locations		2,800	−400	2,400
(17) 82-E-223, Atlas		7,700	−5,700	2,000
Total, construction	82,600	300,200	−233,700	66,500
Total, general science and research	509,415	793,760	−235,100	558,660
Budget authority amounts relating to authorization	509,415	567,460	−5,800	561,660
(7) BASIC ENERGY RESEARCH				
H.R. 3146				
OPERATING EXPENSES				
Sec. 2(b)(7):				
Basic energy sciences	220,994	255,500	−7,000	248,500
Technical assess. proj	13,040	3,000		3,000
Univ. research support	8,120	10,600		10,600
Tech. prog. pol. anal	[2] 1,981			
Adv. and oversight		[2] 3,311		3,311
Total, operating expenses	244,135	272,411	−7,000	265,411
CAPITAL EQUIPMENT				
Sec. 3(b)(3):				
Basic energy sciences	16,600	16,900		16,900
CONSTRUCTION				
Sec. 3: Prior-year projects: Multi prog., gen'l purpose facilities:				
Sec. 3(b)(5): 81-E-308, energy syst. rsrch. lab		0	+500	500
Sec. 3(b)(14): 81-E-309 plant rehab		8,700	−8,700	0
Sec. 3(b)(14): 81-E-310 trans. and dist		5,050	−5,050	0
Sec. 3(b)(14): 81-E-317, roof replcmt		1,000	−1,000	0
Sec. 3(b)(14): 81-E-318, Upgrade, ORNL		2,800	−200	2,600
Sec. 3(b)(14): 81-E-321, site utilities		7,200	−2,150	5,050
Sec. 3(b)(14): 81-E-323, fire safety		2,600	−1,000	1,600
Sec. 3(b)(14): 81-E-324, fire protec		1,000		1,000
Sec. 3(b)(14): 81-E-325, energy tech. lab		16,600	−11,600	5,000
Sec. 3(b)(14): 81-ES-11, INEL facility		12,000	−7,550	4,450
Total		56,950	−36,750	20,200
New construction: Multi prog., gen'l purpose facilities:				
Sec. 4(9): 82-E-301, 300 util		11,600	−10,600	1,000
Sec. 4(10): 82-E-302, security fac		8,100	−7,040	1,060
Sec. 4(11): 82-E-305, traffic safety		6,200	−2,960	3,240
Sec. 4(12): 82-E-306, railroad mods		2,000		2,000
Basic energy sciences:				
Sec. 4(7): 82-E-321, accel. imprv		300		300
Sec. 4(8):				
82-E-320, GPP		300		300
82-E-322, high-tem. mat		17,000	−17,000	0
Total		17,600	−17,000	600
Total, construction	28,500	102,450	−74,350	28,100
Total, basic energy research	289,235	391,761	−81,350	310,411
Budget authority amounts relating to authorization	289,235	333,411	−23,000	310,411
(8) NUCLEAR FISSION				
H.R. 3146				
OPERATING EXPENSES				
Sec. 2(b)(8):				
Conventional reactor:				
HTGR	38,000	0	+38,000	38,000
LWR	34,000	27,000	−12,250	14,750
TMI	5,500	29,000	−4,250	24,750
Adv. reactor	1,000	2,800		2,800
Prog. direction	1,465	1,500		1,500

SUMMARY OF COMMITTEE ACTIONS—Continued

(Budget authority amounts related to authorization are the same)

[Dollar amounts in thousands]

	Fiscal year 1981 budget authority made available	Revised fiscal year 1982 DOE authorization request (Reagan)	Committee action	
			Changes to Reagan authorization request	Total authorization
Subtotal, conventional	79,965	60,300	+21,500	81,800
Civilian waste mgt	177,651	214,274	−15,750	198,524
Spent fuel storage	7,013	6,417		6,417
Adv. nuclear systems	39,381	35,100		35,100
Breeder reactor syst.:				
LMFBR	[3]412,469	566,700	−168,914	303,286
Sec. 6(a): CRBR term. costs				44,500
Sec. 6(b): LDP concep. design				50,000
Subtotal				397,786
Water cooled breeder	59,000	57,000	−26,000	31,000
Prog. direction	11,181	10,574		10,574
Subtotal, breeder	482,650	643,274	−194,914	439,360
Fuel cycle R. & D	42,100	23,000	+11,000	34,000
Operating expenses:				
Sec. 2(b)(8)	828,760	973,365	−178,164	700,701
Sec. 6(a)				44,500
Sec. 6(b)				50,000
Total H.R. 3146, operating	828,760	973,365	−178,164	795,201
H.R. 3447				
OTHER FISSION				
Civ. waste mgt:				
Sec. 703: West Valley	5,000	12,800	−3,000	9,800
Sec. 702:				
Licensing/supporting studies	3,400	4,000	−500	3,500
Spent fuel non-R. & D	4,500	0		0
Total, other fission	12,900	16,800	−3,500	13,300
Total, fission operating	841,660	990,165	−181,664	808,501
CAPITAL EQUIPMENT				
Sec. 3(b)(3): H.R. 3146, R. & D:				
Conventional reactor	4,000	9,200		9,200
Civ. waste management	11,550	11,101	−2,000	9,101
Spent fuel storage	1,000	1,000		1,000
Adv. nuclear systems	2,600	2,900		2,900
Breeder reactor system	11,700	26,042		26,042
Fuel cycle R. & D	5,400	3,100	−1,500	1,600
Total, H.R. 3146	36,250	53,343	−3,500	49,843
H.R. 3447 other fission cap. equip: Civ. waste management, West Valley	0	200		200
Total, fission capital equipment	36,250	53,543	−3,500	50,043
CONSTRUCTION				
Prior year construction:				
Sec. 3(b)(15):78–6–c, SAREF		18,100	−10,100	8,000
Sec. 3(a):78–6e, ETEC		4,900		4,900
Sec. 3(a):78–6–f, FMEF		24,200		24,200
New construction:				
Sec. 4(6):82–N–310, mods. to reactors		2,000		2,000
Sec. 4(5):82–N–312, GPP		11,000	−2,086	8,914
82–N–315, GPP, waste		1,100	−1,100	0
Sec. 4(4):82–N–318, nuc. test and eval. facility		0	+1,100	1,100
Total, construction	76,526	61,300	−12,186	49,114
Bill totals:				
Fission—H.R. 3146	941,536	1,088,008	−193,850	894,158
Fission—H.R. 3447	22,900	17,000	−3,500	13,500
Total, nuclear fission	964,436	1,105,008	−197,350	907,658
Budget authority amounts relating to authorization:				
H.R. 3146	941,536	1,077,908	−183,750	894,158
H.R. 3147	22,900	17,000	−3,500	13,500
Total	964,436	1,094,908	−187,250	907,658
(9) MAGNETIC FUSION				
H.R. 3146				
OPERATING EXPENSES				
Sec. 2(b)(9):				
Applied plasma physics	65,800	70,400	−3,000	67,400
Confinement systems	92,800	133,470	−1,000	132,470
Development and tech	59,150	67,650	−5,500	62,150
Center for magnetic fusion engineering	3,450	9,150	+5,000	14,150
Planning and projects	34,500	26,130	+5,000	31,130
Program direction	3,117	3,900		3,900
Total, operating expenses	258,817	310,700	+500	311,200
CAPITAL EQUIPMENT				
Sec. 3(b)(3):				
Applied plasma physics	6,400	6,200		6,200
Confinement systems	17,700	18,210		18,210
Development and tech	8,400	12,700		12,700
planning and projects	1,400	1,630	+1,000	2,630
General purpose equip	3,000	3,260		3,260

SUMMARY OF COMMITTEE ACTIONS—Continued

(Budget authority amounts related to authorization are the same)

[Dollar amounts in thousands]

	Fiscal year 1981 budget authority made available	Revised fiscal year 1982 DOE authorization request (Reagan)	Committee action	
			Changes to Reagan authorization request	Total authorization
Total, capital equipment	36,900	42,000	+1,000	43,000
CONSTRUCTION				
Prior-year projects:				
Sec. 3(b):				
(16): 76–5–a, Tokamak		45,000	−4,900	40,100
(12): 78–3–a, MFTF		106,500	−65,000	41,500
78–3–b, McCormack fusion test fac		0		0
(11): 80–MF–3 Elmo Bumby Torus		69,000	−55,000	14,000
(7): 81–T–314, ISX–C		0	+3,500	3,500
3(a): 80–MF–4, large coil test facility		6,000		6,000
New construction: Sec 4(21): GPP–82, gen'l plant projects		5,700		5,700
Total, construction	98,400	232,200	−121,400	110,800
Total, magnetic fusion	394,177	584,900	−119,900	465,000
Budget authority associated with authorization	394,177	460,000	+5,000	465,000
(10) SMALL-SCALE HYDROPOWER				
H.R. 3146				
OPERATING EXPENSES				
Sec. 2(b)(10):				
Research and development	11,011	0	+1,750	1,750
Program direction	789	0	+250	250
Subtotal, H.R. 3146	11,800	0	+2,000	2,000
H.R. 3447				
Title VI, Sec. 601(C): Demonstration	10,000	0	+1,000	1,000
Total, operating	21,800	0	+3,000	3,000
Total, hydropower	21,800	0	+3,000	3,000
(11) ELECTRIC ENERGY SYSTEMS AND STORAGE				
H.R. 3146				
OPERATING EXPENSES				
Sec. 2(b)(11):				
Electric energy systems:				
Syst. Architecture and integration	19,000	4,100	+5,750	9,850
Power delivery	18,500	4,525	+12,750	17,275
Storage application	[1] 6,200	0	+3,600	3,600
Program direction	923	875		875
Subtotal, EES	44,623	9,500	+22,100	31,600
Energy storage systems:				
Electrochemical	37,800	25,550		25,550
Physical and chemical	31,200	11,850	+3,000	14,850
Program direction	1,000	500		500
Subtotal, ESS	70,100	37,900	+3,000	40,900
Total, operating expenses	108,523	47,400	+25,100	72,500
CAPITAL EQUIPMENT				
Sec. 3(b)(3):				
Electric energy syst	1,500	400		400
Energy storage syst	1,700	1,100		1,100
Total, capital equipment	3,200	1,500		1,500
Total, electric energy systems and storage, H.R. 3146	111,723	48,900	+25,100	74,000
(12) ENVIRONMENTAL R. & D.				
H.R. 3146				
OPERATING EXPENSES				
Sec. 2(b)(12):				
Overview and assessment:				
Overview management	5,747	3,000		3,000
Environ. assessment	16,700	12,500	6,000	6,500
Environ. and safety eqm'g	18,680	16,100		16,100
Oper. and environ. safety	9,343	14,000		14,000
Subtotal	50,470	45,600	−6,000	39,600
Biological/environmental research:				
Human health rsrch	27,500	31,400	+350	31,750
Health effects biol	46,547	46,500	+1,150	47,650
Environ. rsrch	32,365	29,800	+2,900	32,700
Phys. and tech. rsrch	30,720	28,400	+1,000	29,400
CO^2 and climate	12,934	16,700		16,700
Risk analysis	3,985	4,000		4,000
Subtotal	154,051	156,800	+5,400	162,200
Program direction	11,133	10,700		10,700
Total, operating expenses	215,654	213,100	−600	212,500
CAPITAL EQUIPMENT				
Sec. 3(b)(3):				
Overview and assessment	2,040	4,000		4,000
Biological/environ	11,700	9,700		9,700
Total, capital equipment	13,740	13,700		13,700

SUMMARY OF COMMITTEE ACTIONS—Continued

(Budget authority amounts related to authorization are the same)

[Dollar amounts in thousands]

	Fiscal year 1981 budget authority made available	Revised fiscal year 1982 DOE authorization request (Reagan)	Committee action	
			Changes to Reagan authorization request	Total authorization
CONSTRUCTION				
Sec. 4: New construction:				
Sec. 4(13): 82-GPP-I, gen'l plant proj		3,000		3,000
Sec. 4(14): 82-V-305, mods to rsrch facilities, various loc		1,000		1,000
Total, construction	6,400	4,000		4,000
(13) ADVANCED ISOTOPE SEPARATION TECHNOLOGY [1]				
H.R. 3146				
OPERATING EXPENSES				
Sec. 2(b)(13):				
Adv. isotope separation technology	63,355	79,087	−6,000	73,087
Program direction	944	1,205		7,205
Total, operating expenses	64,299	80,292	−6,000	74,000
CAPITAL EQUIPMENT				
Sec. 3(a)	9,000	5,500		5,500
CONSTRUCTION				
Sec. 4: New construction:				
Sec. 4(23): 82-N-402, gen'l plant projects		650		650
Sec. 4(24): 82-N-403, development module		0	+6,000	6,000
Total, construction	6,945	650	+6,000	6,650
Total, adv. isotope separation technology	80,244	86,442		86,442

[1] Budget authority level is $21,000,000.
[2] Fiscal year 1981 funding reflects interior appropriations; some restructuring in fiscal year 1982.
[3] Includes $122,000,000 for CRBRP.
[4] Not included in total as this was carried in energy storage system in fiscal year 1986.
[5] The remaining portions of the uranium enrichment program (gaseous diffusion and gas centrifuge) are contained in the bill, H.R. 3447.

[Dollar amounts in thousands]

	Fiscal year 1981 budget authority made available	Revised fiscal year 1982 DOE authorization request (Reagan)	Related fiscal year 1982 DOE budget authority request (Reagan) [1]	Committee action	
				Changes to Reagan authorization request	Total authorization
Total, H.R. 3146	4,735,775	3,968,021	($3,548,371)	−362,001	3,606,020
Amounts contained in H.R. 3447	1,696,415	2,291,806	(2,182,831)	−209,375	2,082,431
Revenues (uranium enrichment)	−1,254,045	−1,805,000	(−1,805,000)		−1,805,000
Total	5,178,145	4,454,827	(3,926,202)	−571,376	3,883,451

[1] Total reduction in budget authority relating to authorization is −$42,751,000.

NUCLEAR FISSION R&D: SUMMARY OF COMMITTEE ON SCIENCE AND TECHNOLOGY ACTIONS

A. Operating expenses

1. Conventional Reactor System (Converter Reactors)

The Committee added $38.0 million to High Temperature Reactor technology to establish a HTGR Lead Plant project including the development of materials and components and to continue international cooperation with other Governments engaged in similar programs. Under Light Water Reactors (LWR) Systems the Committee reduced Uranium Utilization by $6.25 million; Occupational dose reduction/productivity improvment by $4.0 million; and LWR Safety Technology by $2.0 million. Another $4.25 million was reduced from the funding level of the Three Mile Island (TMI) activities.

2. Civilian Waste Management

The Committee decreased operating expenses by $15.75 million which included a decrease of $13.65 million in Terminal Isolation R&D and a $1.0 million decrease in Waste Systems Evaluation.

The Committee also reduced low-level waste management by $1.1 million.

3. Breeder Reactor Systems

(a) The Committee deleted $168,914 million from the Liquid Metal Fast Breeder Reactor program as follows:

$209.5 million decrease in the Clinch River Breeder Reactor Plant Project and the project was deauthorized with $44.5 million authorized for project termination.

$50 million increase for the Large Development Plant project for generic design activities.

$8 million decrease in Breeder Technology to realign priorities and provide a balanced program.

$1.414 million decrease in test facilities to realign priorities and provide a balanced program.

(b) The Committee reduced Water Cooled breeders by $26 million including $19 million from the Advanced Water Breeder Application program, $5 million from the Light Water Breeder Reactor program and $2 million from the Shippingport Atomic Power Station, and directed that operation of the Shippingport reactor terminate in fiscal year 1982.

4. Fuel Cycle R. & D.

The Committee added $8 million to Light Water Reactor fuel cycle R&D to emphasize the importance of this activity. Fast Breeder Reactor Fuel Cycle R&D was reduced by $11 million because of budget constraints and to reflect the lower priority of this activity. Thorium fuel cycle R&D funding of $4 million was provided to support the development of the High Temperature Gas Cooled reactor. The Committee added $10 million for the Barnwell Nuclear Fuel Plant including $6 million for reprocessing and safeguards R&D at Barnwell and $4 million for evaluation of the reliability and design adequacy of Barnwell and conceptual design of needed facility modifications, for use as an integrated technology demonstration of LWR reprocessing.

5. Advanced Isotope Separation Technology

The Committee decreased operating funds by $6 million to provide funds in plant and capital for a demonstration module.

B. Conventional plant and capital equipment

1. Convention Reactor Systems (Converter Reactors)

The Committee added $2.0 million in capital equipment to the High Temperature Reactor program for use in the HTGR materials and components testing. Concurrently, the Committee reduced the capital equipment funding level by $2.0 million for Three Mile Island activities.

2. Civilian Waste Management

The Committee reduced the capital equipment funding level for Terminal Isolation by $2.0 million.

3. Breeder Reactor Systems

The Committee reduced general plant projects by the amount of $2,086,000.

4. Fuel Cycle R. & D.

4. The Committee reduced capital equipment funding for Fast Breeder Reactor Fuel Cycle R. & D. by $1.5 million to reflect a shift of priority to light water reactor fuel cycle R. & D.

5. Advanced Isotope Separation Technology

In advanced Isotope Separation Technology, the Committee increased plant and capital by $6 million in order to allow design work to proceed in fiscal year 1982 on a demonstration module.

MAGNETIC FUSION: SUMMARY OF COMMITTEE ACTIONS

A. Operating expenses

1. Development and Technology

The Committee reduced fusion materials research area by $5 million in line with the decision not to terminate the Mike McCormack Fusion Materials Test Facility. Also, $.5 million was transferred from various operating budgets to the Center for Magnetic Fusion Engineering.

2. Applied Plasma Physics

The Committee reduced funding by $3.0 million in order to enhance the Center for Magnetic Fusion Engineering category.

3. Center for Magnetic Fusion Engineering

The Committee increased the budget by $5 million to allow additional industrial participation and site selection studies for the Fusion Engineering Device project to be completed during fiscal year 1982.

4. Planning and Projects

The Committee increased by $5 million funding for the Mike McCormack Fusion Materials Test Facility (formerly FMIT) in line with the Committee recommendation not to cancel the project.

5. Confinement Systems

The Committee transferred $1.0 million from operating to provide funding for ISX-C design work.

B. Plant and capital equipment

1. Confinement Systems

The Committee continued funding for ISX-C (project 81-MF-2) design work at a level of $3.5 million, and encourages multilaboratory and industry participation.

2. Planning and Projects

The Committee provided an additional $1 million for capital equipment not related to construction (CENTRC) for accelerator development as part of the continuation of the Mike McCormack Fusion Materials Test Facility project.

SMALL-SCALE HYDROPOWER: SUMMARY OF COMMITTEE ACTIONS

The Committee authorized $2 million in operating expenses for continuing a program of research and development which President Reagan proposed to eliminate.

ELECTRIC ENERGY SYSTEMS AND STORAGE: SUMMARY OF COMMITTEE ACTIONS

Electric energy systems

The Committee authorized above President Reagan's proposed budget for operating expenses $5.75 million for System Architecture and Integration, $12.75 million for Power Delivery; and $3.6 million for Storage Application.

Energy storage systems

The Committee authorized above President Reagan's proposed budget for operating expenses $3 million for Physical and Chemical Storage.

FOSSIL ENERGY: SUMMARY OF COMMITTEE ACTION

The Committee authorized a total of $461,400,000 for fossil energy research and development programs, which is an increase of $26,060,000 over the President's March request.

A. Operating expenses

In several specific subprograms, the Committee acted as follows:

1. *Mining R. &. D.*—Decreased by $11 million to facilitate transfer of the program to the Department of the Interior.

2. *Advanced Research and Technology Development.*—Made a general reduction of $6 million.

3. *Coal Liquefaction.*—Increased by $8 million, adding $10 million for the operation of the H-Coal pilot plant, and reducing disposable catalyst work by $2 million.

4. *Combustion Systems.*—Added $9 million for the IEA pressurized fluidized bed pilot plant program, and reduced advanced concepts and technology by $7 million.

5. *Fuel Cells.*—Increased by $3 million for phosphoric acid fuel cell technology development.

6. *MHD.*—Added $29 million to continue the program.

7. *Surface Coal Gasification.*—Added $860,000 overall, but redirected funds from fixed bed gasification and third generation processes to fluidized bed gasification and high Btu gasification.

8. *Enhanced Oil Recovery.*—Reduced by $4 million in light oil.

9. *Oil Shale.*—Increased by $4.1 million to complete the Equity and Geokinetics in situ conversion projects.

10. *Enhanced Gas Recovery.*—Increased by $4 million in eastern shales and western tight sands.

11. *Program Direction.*—Reduced by $1,445,000 in Coal; reduced by $395,000 in Petroleum; reduced by $160,000 in Gas.

B. Capital equipment

Capital Equipment in the Mining R&D program was eliminated for a reduction of $800,000.

GEOTHERMAL ENERGY: SUMMARY OF COMMITTEE ACTIONS

Operating expenses and plant and capital equipment

1. Geothermal Energy

The Committee increased the Administration's request of $48.375 million for a total authorization and recommended budget authority level of $52.375 million. Within this amount, the Committee directed that $80 million be used for the Second 50 MWe demonstration facility which was not part of the Administration's request. The Committee further decreased the authorization for Hot Dry Rock technology by $2.0 million.

2. Geothermal Resources Development Fund

The Committee took no action on this item.

SOLAR ENERGY: SUMMARY OF COMMITTEE ACTIONS

The Committee's actions on the Solar Energy programs are summarized briefly below. Total authorized funding, including operating expenses and plant and capital equipment, for the programs is $316,750,000, which is an increase of $134,100,000 over the Administration's revised request. It further represents a reduction of $268,686,000 from the fiscal year 1981 appropriations.

A. Operating expenses and capital equipment not related to construction

The Committee acted on the following subprograms:

1. *Active Heating and Cooling.*—Increased by $5.675 million for basic materials R&D, component development, test center operations, heat pumps and solar cooling development.

2. *Passive and Hybrid.*—Increased by $4.0 million for the initiation of an integrated passive-photovoltaic hybrid residential program, and for basic materials research.

3. *Photovoltaic Energy Systems.*—Increased by $61.75 million for technology development, test and applications and systems engineering and standards and decreased by $24 million from advanced R&D and capital equipment..

4. *Solar Thermal Energy.*—Increased by $20.05 million for technology and systems development, and decreased by $9.2 million from research and advanced development and planning and analysis.

5. *Wind Energy Systems.*—Increased by $29.4 million for development of small and large machines (MOD-5), wind resource assessment and SWECS consensus standards.

6. *Ocean Thermal Energy Conversion.*—Increased by $23 million to restore this program, proposed for termination by the Reagan Administration.

B. Plant (construction)

1. *Solar Thermal Energy Systems.*—Increased by $17.65 million for the following activities:

Project 80-ES-19, Small Community Solar Thermal Power Experiment ($5 million).

Project 82-ES-1, Central Receiver, Utility Repowering Project ($6 million).

Project 82-ES-2, Solar/Fossil Hybrid Electric Power Project ($4 million).

Capital Equipment ($2.65 million).

2. *Ocean Thermal Energy Conversion.*—Increased by $7 million for the following activities:

Project 81-ES-1, 40MWe OTEC Pilot Plant ($6.3 million).

Capital Equipment ($700,000).

CONSERVATION: SUMMARY OF COMMITTEE ACTIONS

The Committee authorized a total of $154,424,000 for energy conservation, which is $77,489,000 above the revised FY 1982 DOE authorization request.

1. *Buildings and Community Systems.*—The Committee added $24,579,000 (including $326,000 in capital expenses) for activities in Technology and Consumer Products, Building Systems, Community Systems and program direction.

2. *Industrial Energy Conservation.*—The Committee added $27,200,000 for activities in Waste Energy Reduction, Industrial Process Efficiency, Cogeneration and program direction.

3. *Transportation.*—The Committee added $28,000,000 for activities in Vehicle Propulsion RD&D, including gas turbines, Stirling engines and supporting technology.

4. *Multi-Sector.*—The Committee reduced the requested level by $2,290,000 primarily in the area of energy conversion technology.

BASIC ENERGY RESEARCH: SUMMARY OF COMMITTEE ACTIONS

A. Operating expenses

1. Basic Energy Sciences

The Committee decreased operating expenses by $7.0 million. The reduction in the subprograms are as follows:

	Millions
Nuclear science	$1.0
Materials sciences	1.0
Chemical sciences	1.0
Engineering, mathematical and geosciences	3.0
Advanced energy projects	0.5
Biological energy research	0.5

B. Plant and capital equipment

1. Basic Energy Sciences

The Committee decreased the authorization by $17.0 million for Project 82-G-322, High Temperature Materials Laboratory, Oak Ridge National Laboratory.

2. Multiprogram General Purpose Facilities

The Committee deferred three projects and changed authorization for eight other projects. The net reduction is authorization from the Administration's revised request is $57.35 million.

GENERAL SCIENCE AND RESEARCH: SUMMARY OF COMMITTEE ACTIONS

A. Operating expenses

1. High Energy Physics

The Committee decreased High Energy Physics Technology by $2.0 million.

2. General Life Sciences Research and Nuclear Medicine Applications

The Committee increased nuclear medicine applications by $600,000.

B. Plant and capital equipment

The Committee decreased construction authorization by a total of $233.7 million for the following high energy and nuclear physics projects:

	Millions
Project 78-10-b, ISABELLE Brookhaven National Laboratory	$149.5
Project 80-GS-5, National Superconducting Cyclotron Laboratory, Michigan State University	11.6
Project 81-E-218, Tevatron, Phase I, Fermi, National Accelerator Laboratory	21.5
Project 82-E-204, General Plant Projects, Various Locations	1.0
Project 82-E-205, Accelerator Improvements & Modifications, Various Locations	1.0
Project 82-E-206, Tevatron, Phase 2 Fermi National Accelerator Laboratory	43.0
Project 82-E-222, General Plant Projects, Various Locations	0.4
Project 82-E-223, Argonne Tandem-Linac Accelerator System (ATLAS), Argonne National Laboratory	5.7

ENVIRONMENT: SUMMARY OF COMMITTEE ACTIONS

A. Operating expenses

The Committee's authorization total for the environmental activities is $600,000 below the Administration's request. The changes include: in all three major programs: The Overview and Assessment Program was reduced by $6,000,000. The Environmental Research Program was increased by $5,400,000. The Life Research Program was increased by $600,000. (See General Science and Research.)

Subtitle B

DEPARTMENT OF ENERGY CIVILIAN PROGRAMS AUTHORIZATION (JOINTLY REFERRED) (H.R. 3447)

SUMMARY OF COMMITTEE ON SCIENCE AND TECHNOLOGY ACTIONS

The following tables summarize the Science and Technology Committee's actions for Subtitle B, which is the same as H.R. 3447, as reported. All of the activities contained in the following table were considered by the Committee as part of its shared jurisdiction with the Committee on Energy and Commerce and the Committee on Interior and Insular Affairs.

[In thousands of dollars]

H.R. 3447	Fiscal year 1981 budget authority made available	Revised fiscal year 1982 DOE authorization request (Reagan) [1]	Committee action	
			Changes to Reagan authorization request	Total authorization
SOLAR ENERGY				
Section 601(A):				
Solar international	12,000	4,000	−4,000	0
Solar information	1,400	6,700	−1,700	5,00
Total operating solar	13,400	10,700	−5,700	5,000
CONSERVATION				
Section 601(B)—Title VI:				
Building and community systems	16,000	9,000	−2,500	6,500
Industrial	7,500	0	+1,400	1,400
Energy extension service	20,000	0	+15,000	15,000
Multisector	12,000	0	+5,000	5,000
Residential/community retrofit	0	0		0
Subtotal operating	55,500	9,000	+18,900	27,900
Capital Equipment (B&CS)	800	100		100
Total conservation	56,300	9,100	−18,900	28,000
SMALL-SCALE HYDROPOWER				
Section 601(C)—Title: Demonstration	10,000	0	+1,000	1,000
URANIUM ENRICHMENT				
Section 701(A)—Operating expenses:				
Gaseous diffusion operations and support	847,426	978,900		978,900
Gas centrifuge operations and support		17,000		17,000
Program direction	64,800	3,100		3,100
Total operating	915,286	1,063,200		1,063,200
Section 701(C)—Capital equipment:				
Gaseous diffusion	24,000	23,600		23,600
Gas centrifuge	3,300	3,600		3,600
Total capital equipment	27,300	27,200		27,200
Section 701(B)—Construction:				
Prior-year projects:				
81-R-503, Utilities upgrade		17,000		17,000
81-R-504, Supervisory control		7,000		7,000
81-R-506, Environment protection		60,000	−53,000	7,000
80-UE-2, Control water pollution		4,000		4,000
80-UE-3, Security improvement		4,000		4,000
80-UE-5, Motor and switchgear		8,600	−2,000	6,600
76-8-g, Portsmouth		636,325	−35,325	601,000
New construction:				
82-R-410, GPP		17,500		17,500
82-R-411UF_6 cylinders		11,000		11,000
82-R-412, Cooling tower nods		10,000	−2,000	8,000
82pR413, Improved UF_6		39,000	−31,900	7,100
82p/R-414, Purge and cascade		9,000		9,000
82-R-415, Fire Alarm		19,000	−14,300	4,700
82-R-416, Phase II environmental mods		16,000	−14,000	2,000
82-R-417, Air distribution		2,700		2,700
82-R-418, Advanced centrifuge		25,000	−19,000	6,000
Total construction	417,215	886,125	−171,525	714,600
Total uranium enrichment, H.R. 347	1,359,801	1,976,525	−171,525	1,805,999

[In thousands of dollars]

H.R. 3447	Fiscal year 1981 budget authority made available	Revised fiscal year 1982 DOE authorization request (Reagan) [1]	Committee action	
			Changes to Reagan authorization request	Total authorization
Budget authority (B/A) relating to authorization	1,359,801	1,873,000	−68,000	1,805,000
NUCLEAR FISSION				
Section 702—Civilian waste management:				
Operating expenses:				
Office of Nuclear Waste Isolation (ONWI)	2,000	2,000		2,000
Assistance to States in waste system evaluation and public interaction	500	1,000	−500	500
Low level waste management	900	1,000		1,000
Section 703:				
West Valley demonstration plant	5,000	12,800	−3,000	9,800
Subtotal operating expenses	8,400	16,800	−3,500	13,300
Capital equipment: West Valley demonstration plant	0	200		200
Total civilian waste management: Nuclear fission	8,400	17,000	−3,500	13,500
Other fission	14,500			
Total fission H.R. 3447	22,900	17,000	−3,500	13,500
DEPARTMENTAL ADMINISTRATION				
Section 801(A)—Operating expenses:				
Policy analysis and systems studies	24,374	17,725		17,724
International affairs	8,257	5,417		5,417
Management and support	245,259	277,690	−35,000	242,690
Intergovernmental affairs	14,433	11,485		11,485
Public affairs	6,868	3,200		3,200
In-house energy management	3,900	5,400		5,400
Cost of work for others	43,803	47,614		47,614
Changes in inventories	12,000	7,600		7,600
Miscellaneous revenues	−184,267	−167,900		−167,900
Consumer affairs	1,472	907		907
Technical information services	11,708	14,830		14,830
Comparability adjustment	17,142			
Total operating expenses	204,949	223,068	−35,000	188,968
Section 801(C)—Capital equipment:				
Management and support	4,600	4,613		4,613
Public affairs	115	0		0
Technical information services	450	950		950
Total capital equipment	5,165	5,563		5,563
Section 801(B)—Construction: [2]				
Prior-year projects:				
81-A-602, Energy monitoring		2,500		2,500
81-A-605, Automated management system		1,900		1,900
80.-DA-6, Alternate energy source		3,000		3,000
81-A-603, Energy monitoring		2,000		2,000
New construction:				
82-A-601, Mods for energy management		22,200	−8,100	14,100
82-A-602, Advanced test reactor		4,900		4,900
82-A-603, High temperature water distribution		10,450	−5,450	5,000
82-C-601, Plant engineering and design		2,000		2,000
Total construction	32,900	48,950	−13,550	35,400
Total departmental administration	234,014	278,481	−48,550	229,931
Budget authority (B/A) relating to authorization	234,014	273,031	−43,100	229,931

[1] Budget authority (B/A) relating to authorization is the same.
[2] Reflects transfers after appropriations bill to other programs.

[In thousands of dollars]

	Fiscal year 1981 budget authority made available	Revised fiscal year 1982 DOE authorization request (Reagan)	(Related fiscal year 1982 DOE budgert authority request (Reagan)) [1]	Committee action	
				Changes to Reagan authorization request	Total authorization
Total H.R. 3447	1,696,418	2,291,806	(2,182,831)	−209,375	2,082,431
Amounts contained in H.R. 3146	4,735,775	3,968,021	(3,548,371)	−362,001	3,606,020
Revenues (uranium enrichment)	−1,254,045	−1,805,000)	(−1,805,000)		−1,805,000
Total	5,178,145	4,454,827	(3,926,202)	−571,376	3,883,451

[1] Total reduction in budget authority (B/A) relating to authorization is −$42,751,000.

A. SOLAR ENERGY

1. *Solar International.*—The Committee reduced the request by $4 million to terminate these activities within the Department.

2. *Solar Information.*—Reduced funding for this activity by $1.7 million; within the total $3.5 million was set aside for the operation of the National Solar Heating and Cooling Information Center.

B. ENERGY CONSERVATION

The Committee authorized a total of $28,000,000 which is an increase of $18,900,000 above the revised fiscal year 1982 authorization request.

1. *Buildings and Community Systems.*—The Committee reduced the requested authorization for urban waste RD&D by $2,500,000.

2. *Industrial Energy Conservation.*—The Committee added $1,400,000 for Implementation and Deployment activities.

3. *Energy Extension Service.*—The Committee added $15,000,000 to continue the program in fiscal year 1982.

4. *Multisector.*—The Committee added $5,000,000 to continue the Appropriate Technology Small Grants Program in fiscal year 1982.

C. SMALL-SCALE HYDROPOWER

The Committee recommended $1 million for technological demonstration of ultra low head hydropower for the generation of electricity.

D. URANIUM ENRICHMENT

The Committee reduced construction funds for the Portsmouth Gas Centrifuge Enrichment Plant by $68 million delaying non-critical path expenditures from the 4th

quarter of fiscal year 1982 to the 1st quarter of fiscal year 1983. The project will not be delayed by this cut.

E. NUCLEAR FISSION—CIVILIAN WASTE MANAGEMENT

The Committee reduced the funding levels of two programs. Assistance to the States in the Waste Systems Evaluation and Public Interaction was reduced by $0.5 million and the West Valley Demonstration Project was reduced by $3.0 million.

F. DEPARTMENTAL ADMINISTRATION

1. *Operating Expenses.*—The Committee reduced various program management activities by $35 million and redirected funds for community assistance activities for Los Alamos, New Mexico, and Oak Ridge, Tennessee.

2. *Plant and Capital Equipment.*—The Committee reduced Project 82-A-601 by $8.1 million for various In-House Energy Management projects.

Subtitle C.—NATIONAL SCIENCE FOUNDATION AUTHORIZATION (H.R. 1520)

NATIONAL SCIENCE FOUNDATION BUDGET COMPARISONS, ACTIONS BY THE COMMITTEE ON SCIENCE AND TECHNOLOGY

[Authorizations in millions of dollars]

Activities	Current, fiscal year 1981	Administration request, fiscal year 1982 (Jan. 15)	Administration request, fiscal year 1982 (revised Mar. 10)	H.R. 1520 amended by Science and Technology Committee	Change from administration proposal
Mathematical and physical sciences	257.1	301.3	295.4	295.4	0
Engineering	86.8	104.6	102.6	102.6	0
Biological, behavioral and social sciences	198.1	219.0	172.0	198.1	26.1
Astronomical, atmospheric, Earth and ocean sciences	236.2	268.0	253.2	253.2	0
Ocean drilling programs	22.0	30.0	26.0	14.0	−12.0
Antarctic research programs	64.7	70.1	70.1	69.6	−0.5
Scientific, technological and international affairs	56.4	80.0	37.7	56.4	18.7
Cross-directorate programs	26.8	97.9	0	29.7	29.7
Program development and management	61.7	67.2	63.2	63.2	0
Science and engineering education	80.7	111.9	9.9	75.0	65.1
Special foreign currency	5.6	3.5	3.5	3.5	0
Total	1,096.1	1,353.5	1,033.6	1,160.7	127.1

BUDGET ACTIONS

Budget total

The President's original budget included a request for $1,353.5 million in new obligational authority for the National Science Foundation in fiscal year 1982. A revised request for $1,033.5 was made on March 18, 1981.

Subtitle C authorizes new obligational authority totalling $1,160.7 million. This is $192.8 million less than the original request and $127.1 million more than the revised request. The difference, $127.1 million provides $75 million for the Science and Engineering Education Directorate, $16.5 million for modernization of research equipment and facilities, and restoration of funds to the Biological, Behavioral and Social Sciences and the Scientific, Technological and International Affairs Directorates.

Increases

1. Biological, Behavioral and Social Sciences is increased by $26.1 million from $172 million to $198.1 million.

2. Science and Engineering Education is increased by $65.1 million from $9.9 million to $75 million.

3. Scientific, Technological, and International Affairs is increased by $18.7 million from $37.7 million to $56.4 million.

4. Cross-Directorate Programs are restored to an amount of $29.7 million.

Decreases

1. Ocean Drilling programs are decreased by $12 million from $26 million to $14 million.

2. The U.S. Antarctic program is reduced by $0.5 million from $70.1 million to $69.6 million.

OTHER ACTIONS

A. The committee provides that the Science and Engineering Education Directorate be reorganized to address area of highest priority and to provide for effective flexibility in allocating funds made available in this legislation. It is expected that the Foundation will establish suitable priorities following the general guidelines expressed in this report on the legislation. A final reorganizational plan should be submitted to Congress and the appropriate authorizing and appropriation committees no later than December 1981.

B. The bill further provides that funding for the Biological, Behavioral and Social Sciences be restored to the fiscal year 1981 level and the Foundation is directed that no reprogramming exceeding 20 percent of the fiscal year 1981 current levels be incurred for any given subactivity of that Directorate.

C. The bill also provides for restoring funds for the Scientific, Technological and International Affairs to the fiscal year 1981 current levels and that strong emphasis be maintained in the areas of innovation, appropriate technology and international cooperative scientific activities.

D. The bill provides that funds available to each program and subprogram shall be either the amount authorized or a reduced amount logically proportional to the amount appropriated, unless individual exceptions are specified in the text of the Appropriations Act.

E. Two amendments are made to the National Science Foundation Organic Act. One provides greater flexibility in the use of special commissions by the National Science Board. The other is a technical change which deletes an unnecessarily codified section from the act.

F. Additional concerns and views of the Committee are reflected in the sections of H. Rept. 97-34 on views and programs.

GENERAL EXPLANATION OF BUDGET ACTIONS

The Committee's hearings and Subcommittee markup of legislation authorizing appropriations to the National Science Foundation (H.R. 1520) were based on the President's original (January 1980) budget request and the President's revised request of March 1981. As may be seen from the table above, the bill authorizes a total of $1,160.7 million. This is $192.8 million less than the original request of $1,353.5 million and $127.1 million more than the revised request of $1,033.5 million.

Explanation of the 11 line items of the table (sections 2(a) and 6 of the bill) follows:

1. *Mathematical and physical sciences.*—The Committee approved the President's revised request of $295.4 million.

2. *Engineering.*—The Committee approved the President's revised request of $102.6 million.

3. *Biological, behavioral, and social sciences.*—The Committee provided an increase of $26.1 million above the President's revised request of $172.0 million. Further discussion is contained in the Committee Views.

4. *Astronomical , atmospheric, Earth and ocean sciences.*—The Committee approved the President's revised request of $253.2 million.

5. *Ocean Drilling programs.*—The Committee provided the full $14 million of the revised request for the existing Deep Sea Drilling Projects but eliminated any funding for the ocean margin drilling project, resulting in a decrease of $12 million from the revised request of $26 million.

6. *U.S. Antarctic program.*—The Committee concerned with the efficiency of logistical support decreased the President's revised request by $0.5 million to a total of $69.6 million.

7. *Scientific, technological, and international affairs.*—The Committee provided an increase of $18.7 million above the revised request of $37.7 million, for a total of $56.4 million. Further discussion is contained in the Committee Views.

8. *Cross-directorate programs.*—The Committee provided a restoration of $29.7 million with $16.5 million to be applied to a special initiative for modernization of research equipment and facilities. Funds for Women and Minorities in Science program, 2- and 4-year instructional equipment and program and policy analysis were also emphasized. Further discussion is contained in the Committee Views.

10. *Program development and management.*—The Committee approved the President's revised request of $63 million.

11. *Special foreign currency.*—The Committee approved the President's request of $3.5 million.

Subtitle D.—Atmospheric, Climatic, and Ocean Pollution Authorization (H.R. 2803)

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION (NOAA) BUDGET COMPARISONS, ACTIONS BY THE COMMITTEE ON SCIENCE AND TECHNOLOGY

[In thousands of dollars; fiscal years]

Activity	1981 appropriation [1]	1982 base	1982 Presidential request to Congress		1982 committee recommendation	1982 recommendation versus administration request
			Carter	Reagan		
	(1)	(2)	(3)	(4)	(5)	(6)
Marine ecosystems analysis and ocean dumping	17,153	17,445	17,889	17,824	18,324	+500
Basic environmental services	147,071	155,066	165,231	160,880	159,830	−1,050
Environmental satellite services (w/o LANDSAT)	90,725	85,818	140,966	124,236	122,236	−2,000
Public forecast and warning services	88,193	93,373	101,266	99,636	98,856	−780
Specialized environmental services	41,982	43,993	46,820	44,543	44,543	0
Environmental data and information services	23,784	24,539	25,731	24,715	25,041	+326
Global monitoring of climatic change	4,059	4,141	4,149	4,141	4,141	0
Weather modification	8,023	9,176	10,294	10,245	9,245	−1,000
International projects	8,846	9,027	9,118	9,027	9,027	0
Activity total	429,836	442,578	520,964	495,247	491,243	−4,004
Other authorizations:						
National climate program office	1,153	1,200	1,700	1,200	2,200	+1,000
LANDSAT	1,200	1,400	123,800	2,100	5,100	+3,000
Bill total	432,189	446,378	646,464	498,547	498,543	−4

[1] Does not include funds rescinded by Carter and later deferred by Reagan.

I. THE PURPOSE OF SUBTITLE D

The purposes of Subtitle D are to authorize appropriations for atmospheric and climate activities of the National Oceanic and Atmospheric Administration, to authorize the National Oceanic and Atmospheric Administration to plan for, develop, and operate a civilian Earth remote sensing system, and to authorize appropriations to the National Climate Program Office.

II. COMMITTEE ON SCIENCE AND TECHNOLOGY ACTIONS

The Subcommittee on Natural Resources, Agriculture Research, and Environment held hearings on atmospheric, climatic, and ocean pollution activities of the National Oceanic and Atmospheric Administration on March 5 and March 12, 1981. In response to these hearings, H.R. 2803 was introduced on March 12, 1981, by Mr. Scheuer. H.R. 2803 was ordered reported by the Subcommittee on March 25, 1981, by a recorded vote of 9–1. The full Committee on Science and Technology ordered the amended bill reported on May 13, 1981, by voice vote.

As ordered reported the bill has several major provisions:

1. It authorizes $491,243,000 for NOAA's atmospheric, climatic, and ocean pollution activities.

2. It contains a specific authorization of $2,200,000 for the National Climate Program Office.

3. It authorizes NOAA to plan for, develop, and operate a civilian Earth remote sensing system; $5,100,000 are authorized for this purpose.

The bill will authorize appropriations totalling $498,543,000 for fiscal year 1982, which is $4,000 less than the President's request.

III. BACKGROUND AND NEED FOR THE LEGISLATION

The National Oceanic and Atmospheric Administration was created by Reorganization Plan No. 4 as part of the Presidential reorganization in 1970. Since its establishment NOAA has obtained most of its funding for its major programs through direct appropriations with little or no authorization or congressional oversight. Authorization actions that did occur were limited to a few specific areas of interest such as ocean pollution and ocean waste disposal. Because of this lack of a comprehensive view of NOAA and its programs, the Committee decided to authorize those programs and activities that fall directly in the Committee's jurisdiction, namely the atmospheric, climatic, and ocean pollution activities. These program elements comprise well over one-half of NOAA's total program. It is the Committee's intention to work toward a full NOAA authorization including the remaining programs for future fiscal years in full collaboration with the appropriate Congressional Committees. The bill represents a first step in that direction. For fiscal year 1982 H. Rept. 97-61 provides direction from the Science and Technology Committee for NOAA's atmospheric, climatic, and ocean pollution programs.

Subtitle E.—Environmental Research, Development and Demonstration Authorization (H.R. 3115)

EPA OFFICE OF RESEARCH AND DEVELOPMENT—SUMMARY OF AUTHORIZED APPROPRIATIONS

[In thousands of dollars]

Medium program category	Fiscal year 1981		Fiscal year 1982 President's request to Congress	President's request versus fiscal year 1981 estimate	Fiscal year 1982 committee recommendation	Committee recommendation versus President's request
	Authorized	Estimate [1]				
	(1)	(2)	(3)	(4)	(5)	(6)
Air:						
Oxidants	19,292	16,896	18,076	+1,180	19,076	+1,000
Hazardous air pollutants	11,794	11,753	10,768	−985	10,768	0
Mobile sources	8,618	9,316	6,253	−3,063	6,253	0
Gases and particles	34,120	31,529	29,332	−2,197	29,332	0
Subtotal	73,824	69,495	64,430	−5,065	65,425	+1,000
Water:						
Water quality	26,044	28,510	18,056	−10,454	20,906	+2,850
Municipal wastewater	21,427	21,623	19,385	−2,238	19,585	+200
Industrial wastewater	16,261	15,111	10,598	−5,013	10,598	0
Subtotal	63,732	65,744	48,039	−17,705	51,098	+3,050
Drinking water	28,693	26,774	29,713	+2,939	29,713	0
Solid/hazardous wastes	26,796	29,564	31,046	+1,500	27,046	−4,000
Pesticides	10,053	10,858	6,876	−3,982	6,876	0
Radiation (nonionizing)	3,259	3,272	2,982	−290	2,982	0
Interdisciplinary	6,301	6,562	6,484	−78	6,484	0
Toxic substances	40,385	36,507	38,008	+1,501	34,008	−4,000
Energy:						
Control technology		56,582	39,987	−16,795	40,987	+1,000
Health effects		16,825	5,807	−11,018	7,057	+1,250
Ecological effects		22,870	15,085	−7,785	16,335	+1,250
Monitoring systems		3,139	230	−2,909	480	+250

Subtitle E.—ENVIRONMENTAL RESEARCH, DEVELOPMENT AND DEMONSTRATION AUTHORIZATION—Continued

[In thousands of dollars]

Medium program category	Fiscal year 1981 Authorized	Fiscal year 1981 Estimate [1]	Fiscal year 1982 President's request to Congress	President's request versus fiscal year 1981 estimate	Fiscal year 1982 committee recommendation	Committee recommendation versus President's request
Acid rain		7,160	9,037	+1,877	9,037	0
Subtotal	[2] 110,994	106,578	70,146	−36,432	73,896	+3,750
Program total	364,037	355,354	297,724	−57,630	297,524	−200
Program management support	11,004	10,204	8,512	−1,692	8,712	+200
EPA ORD total	375,041	365,558	306,236	−59,322	306,236	0

[1] Pending fiscal year 1981 rescissions are not included in the budget estimate.
[2] Public Law 96–569 authorized all funds under health and ecological effects and control technology.

I. THE PURPOSE OF SUBTITLE E

The purposes of Subtitle E are to authorize appropriations for environmental research, development and demonstration activities of the Environmental Protection Agency for fiscal year 1982, to strengthen the Agency's long-term research capability, to enhance the Agency's research quality, to improve research coordination and integration and information dissemination, and for other purposes.

A summary (by program medium) of appropriations authorized by this Subtitle is as follows:

EPA research and development authorization for fiscal year 1982

Program medium:	Authorization
Air	$65,425,000
Water quality	51,098,000
Drinking water	29,713,000
Solid waste	27,046,000
Pesticides	6,876,000
Radiation	2,982,000
Interdisciplinary	6,484,000
Toxic substances	34,008,000
Energy	73,896,000
Program management and support	8,712,000
Total	306,236,000

II. COMMITTEE ON SCIENCE AND TECHNOLOGY ACTIONS

H.R. 3115 was introduced on April 7, 1981, by Mr. SCHEUER with three cosponsors (Mr. BROWN of California, Mr. BLANCHARD, and Mr. WALGREN).

The Subcommittee on Natural Resources, Agriculture Research and Environment held hearings on the EPA budget request on March 11, 17, and 18. In response to these hearings, a draft bill was prepared, introduced (H.R. 2804), and presented to the Subcommittee on March 26 for markup. In that meeting, the Subcommittee ordered reported, by a 9 to 1 vote, a clean bill, H.R. 3115, to the full committee. The bill reported out of subcommittee authorized $345,587,000 for the FY 1982 EPA research program. The full Committee on Science and Technology amended the bill and ordered it the bill reported on May 13, 1981.

As ordered reported the bill has several major provisions.

1. It authorizes $306,236,000 for the research programs of EPA.

2. It promotes quality research by providing for: (a) a study of peer review in research planning, (b) the commissioning of literature reviews to acquire and organize scientific and technical knowledge, and (c) the verification of measurement protocols to ensure accuracy and reproducibility of scientific data.

3. It authorizes a study by the EPA Science Advisory board on how environmental research can be better coordinated, integrated, and made available to users.

The bill authorizes appropriations totalling $306,236,000 for fiscal year 1972. This represents a 16.2 percent reduction from the EPA 1981 budget estimate of $365,558,000 for research and a 19.0 percent reduction from the $375,041,000 authorized in last year's bill (Public Law 96–569). The amount of appropriations for fiscal year 1982 is equal to the Administration's FY 1982 request.

III. BACKGROUND AND NEED FOR THE LEGISLATION

The Committee on Science and Technology has adopted the practice of annual authorization of the Environmental Protection Agency research program as a way of ensuring that the program is well managed and is supporting the Agency's primary role of protecting public health and welfare.

Last year's bill (Public Law 96–569) continued the process of authorizing program funds; gave the Agency certain direction; promoted quality research; and amended Section 8(a) of Public Law 95–155 perfecting the language pertaining to the scientific advice given by the Science Advisory Board of the Environmental Protection Agency.

This Subtitle again authorizes program funds, gives the Agency certain direction (as explained in H. Rept. 97-93); promotes quality research; and authorizes a study by the EPA Science Advisory Board on how environmental research can be better coordinated, integrated and made available to users.

Subtitle F

FEDERAL AVIATION ADMINISTRATION RESEARCH, DEVELOPMENT, AND DEMONSTRATION AUTHORIZATION (JOINTLY REFERRED) (H.R. 2643)

	Fiscal year 1981	Fiscal year 1982
Air Traffic Control	$58,415,000	$51,660,000
Navigation	11,335,000	9,775,000
Aviation Weather	7,050,000	6,715,000
Aviation Medicine	1,200,000	1,250,000
ATC Computer Modernization	7,000,000	15,600,000
Total	85,000,000	85,000,000

COMMITTEE ON SCIENCE AND TECHNOLOGY ACTIONS

Research, engineering and development

The Committee on Science and Technology and the Committee on Public Works and Transporation to whom was referred the bill, H.R. 2643 agreed, to include authorization amounts for fiscal year 1981 for the Airport and Airways Development Program as part of the bill as reported. The level authorized for 1981 is identical to the amount appropriated, $85,000,000.

The FAA requested a total of $95,000,000 from the Airport and Airway Trust Fund for Research, Engineering and Development for fiscal year 1982. A revised request for $85,000,000 was submitted subsequently. This amount is identical to the amount appropriated for fiscal year 1981.

Within the recommended total, the committee directs that funds be reprogrammed to permit completion of the Flight Level 290 Study and expedited development of the Doppler Weather Radar (Nexrad).

The revised request also contained a proposal to fund $19.81 million of regulatory support research and development from the Trust Fund. These activities had previously come under a budget category known as Facilities, Engineering and Development which was funded from the General Fund. The Committee considers this use of Trust Fund money to be at variance with the purpose and philosophy of the Trust Fund. The request is therefore denied.

Subtitle G

FEDERAL EMERGENCY MANAGEMENT AGENCY AUTHORIZATION (JOINTLY REFERRED) (H.R. 3356)

OVERALL BUDGET AUTHORIZED FOR THE EARTHQUAKE, FIRE, AND MULTIHAZARD PROGRAMS

[In millions of dollars]

	Administration request for fiscal year 1982: President Carter	Administration request for fiscal year 1982: President Reagan	Committee action for fiscal year 1982 [1]
Title I: Earthquake:			
Federal Emergency Management Agency	2.000	2.000	[2] 2.000
U.S. Geological Survey	37.400	34.425	35.925
National Science Foundation	27.700	27.150	27.150
National Bureau of Standards	0.425	0.425	0.425
Subtotal	67.525	64.000	65.500
Title II: Fire:			
Federal Emergency Management Agency	17.219	16.806	[3] 17.106
National Bureau of Standards	5.352	5.345	[4] 5.345
Subtotal	22.571	22.151	22.451
Title III: Multihazard programs:			
Emergency First Response Program	0.939	0.939	[3] 0.939
Preparedness Measures for Major Hazard Zones	3.300	3.300	[2] 3.300
Public Law 96–472	0.700	0.700	0.700
Subtotal	4.939	4.939	4.939
Total	95.035	91.090	[5] 92.890

[1] Committee budget actions are for "base programs" only. "Such sums as may be necessary" are authorized for mandated pay increases.
[2] $2.0 million is authorized to the Federal Emergency Management Agency (FEMA) under Title I to carry out sections 5 and 6 of the Earthquake Hazards Reduction Act of 1977. +$3.3 million is authorized to FEMA, under Title III to conduct a program of planning, preparedness and mitigation related to multiple direct and indirect hazards resulting from the occurrence of large California

earthquakes. $5.3 million total for FEMA's National Earthquake Hazards Reduction Program.

[3] $17.106 million of a total Title II authorization of $21.115 million is authorized to FEMA's U.S. Fire Administration to conduct a program of fire protection and control. This includes $0.654 million for executive direction (including rent and office supplies) by FEMA. The balance $4.009 million ($21.115 million—$17.106 million) is for a pass-through for the Fire Research Center at the National Bureau of Standards (NBS). +0.939 million is authorized to FEMA's U.S. Fire Administration under Title III to conduct an Emergency First Response Program. $18.045 million total for FEMA's U.S. Fire Administration National Fire Prevention and Control Program.

[4] $4.009 million Title II authorizes "such sums as may be necessary" of a total Title II authorization of $21.115 million as a pass-through from FEMA to the NBS Fire Research Center. The appropriation for this is expected to be about $4.009 million. +$1.336 million. The National Bureau of Standards Authorization Act for Fiscal Years 1981 and 1982 authorizes $1.378 million to the Secretary of Commerce for the NBS Fire Research Center. The appropriation for this is expected to be about $1.336 million. $5.345 million total for NBS Fire Research Center.

[5] $92.890 million. This represents the program total recommended by the Committee. Of this, the bill authorizes appropriations of $91.554 million with the balance of $1.336 million authorized by the National Bureau of Standards Authorization Act for Fiscal Years 1981 and 1982.

COMMITTEE ON SCIENCE AND TECHNOLOGY ACTIONS

The Subcommittee on Science, Research and Technology held authorization hearings on the fiscal year 1982 budget for the Earthquake Hazards Reduction Program and the Federal Fire Prevention and Control Program on February 25, March 4 and 11. On March 24, the Subcommittee reported out its recommendations in a draft version of the bill, and on April 27, H.R. 3263 was introduced on the Floor of the House by Subcommittee Chairman Walgren and Mrs. Heckler. H.R. 3263 was considered and amended in Full Committee markup on April 28. On April 30, a clean bill to supersede H.R. 3263 was introduced in the House and on May 13, the Committee ordered H.R. 3356, favorably reported by roll call vote.

1. Overall budget

Committee on Science and Technology View

The overall Committee recommendation for the Earthquake Hazards Reduction Program, and Fire Prevention and Control Program and the Multihazard Research, Planning, and Mitigation Program is $92.89 M, which is $1.8 M above the Reagan Administration's overall request and $3.95 M below the Carter Administration's 1982 overall request.

Discussion

The Committee on Science and Technology recognizes that the budget authorized for FY 1982 represents only very minor increases, or, in some instances, no increase over the FY 1981 appropriations to the agencies responsible for the conduct of the earthquake, fire, and multihazard programs. The Committee on Science and Technology also notes that, especially in the case of the earthquake hazards reduction program, the authorized amounts fall short of the minimum funding levels recommended by the "Newmark-Stever" report, "Earthquake Prediction and Hazard Mitigation Options for USGS and NSF Programs," U.S. Government Printing Office, September 15, 1976, for the various elements of the earthquake program. The shortfall in these funding levels should not be viewed as a reflection upon the importance of these programs but rather of the need for overall fiscal restraint in governmental spending.

The committee is proud of its long record of legislation of the Federal nonmilitary research and development part of the budget. The annual authorization bills provide the basis for new projects and the ceilings for R. & D. programs and subprograms. The committee is pleased to report that the total authorizations contained in this reconciliation bill total only $46,027,000,000 which is $1,810,000,000 below the reconciliation baseline provided to the committee by the CBO and $2,265,000,000 below last year's appropriated amount. When compared to the total request of all the agencies contained in the bill by the Reagan administration we have exceeded their request by only $86,000,000—a 1.3 percent increase. The following explanation of title XII of the reconciliation substitute sets forth the action of the committee for each agency under the jurisdiction of the Committee on Science and Technology.

FOSSIL ENERGY PROGRAMS

The committee added $26,060,000 to the President's request for fossil energy programs for a total of $461,400,000 in fiscal year 1982. This increase represents a series set of increases and decreases in the various activities in the fossil energy research and development program.

In mining research and development, funds were reduced by $11.8 million, leaving $4 million for program planning and project management. The committee feels that these programs should be transferred to the Department of the Interior and integrated with the current programs in the Bureau of Mines. The coal preparation activities are to be retained in the Department of Energy because the committee views coal preparation as more closely related to coal utilization than to coal mining, even though coal preparation activities may occur at the mine mouth.

In the coal liquefaction area, the committee increased the program by a total of $8 million. Within that increase were included a decrease of $2 million for the disposable catalyst activity and an increase of $10 million for the H-coal pilot plant activity. This increase for H-coal will rely on significant private sector participation to complete operation at the pilot plant. In report language, the committee also stressed the importance of the SRC I demonstration project, the committee recognizes the necessity of fiscal constraint but suggested that the Appropriation Committee consider alternative methods to continue the project within the limits of the President's budget.

In the surface coal gasification program, the committee made a number of changes which resulted in a net increase of $860,000 above the administration's budget. These actions included a reduction of fixed bed gasification activities by $4 million, an increase for fluid bed gasification activities by $5 million, a decrease of $7 million for catalytic coal gasification, and a decrease of $1 million for the high rate entrained floor gasifier. The technical support activity was reduced by $4 million, The Bi-Gas pilot plant operation operating expenses were increased by $7.86 million for a total of $9 million. The peat gasification activity was increased by $4 million.

Though the committee continues to support the advanced research and technology development activities in the fossil energy program, the committee reduced the administration's request by $6 million. This action still leaves an increase of nearly $3 million above the fiscal year 1981 level for this program.

In the combustion systems activity, the operating expenses for the program were increased by $1.9 million. This action includes a decrease of $4.1 million for advanced fluidized bed concepts as well as a decrease of $3 million for advanced combustion technology. The committee provided an increase of $9 million for the Grimethorpe project which is an international energy agency pressurized fluidized bed pilot plant located in the United Kingdom. The committee also redirected an additional $500,000 for the atmospheirc fluidized bed combustion project in Shamokin, Pa.

In the fuel cell program, the committee increased operating expenses by $3 million. This increase represents a total increase of $7.1 million for phosphoric acid systems development and is to be used for all competing phosphoric acid fuel cell concepts with special applications to electric utilities. Also within the fuel cell program, the molten carbonate systems development activity was reduced by $4.1 million.

The committee added $29 million for the MHD research program. This program was completely discontinued in the President's budget. The committee has followed this program for the past 6 years with great interest; at times it has been extremely disturbed by the lack of an adequate plan for program management. However, in the last 2 years, the program has developed an approach to the technology that promises meaningful results in the near future, if the program is funded for the next year or two. A number of facilities have just come on line and without funding in fiscal year 1982, we will have no way of knowing whether the improvements in MHD technology have any application to electric power production or not. The committee does not want to spend money on an unnecessary technology, but neither does it wish to cut off a program before we know whether the technology can make a real contribution. The committee provided less than half of the 1981 funding level for the MHD program, but this is sufficient to permit the major facilities to accept and test components that will be built in fiscal year 1981 and were intended to be delivered and tested in fiscal year 1982.

In the oil and gas program, the committee decreased the light oil recovery

program by $4 million, since it feels that these techniques can be developed by the oil industry in the light of price decontrol. In the oil shale program, $4.1 million was added for the development of the long-term horizontal modified "in situ" recovery and true "in situ" recovery technologies. To stop these projects at this point would lose the substantial investment already made and the committee believes that the technological advances represented by these processes should be supported through fiscal year 1982.

In the enhanced gas recovery program, the committee added $4 million above the administration's request. This allows $2 million to complete the eastern mineback facility and start stimulation tests; it also provides $1 million for carrying out the western mineback project and $1 million for developing advanced diagnostic instrumentation and field testing for measuring key reservoir parameters in the western sandstones.

Over the past 8 years, the Committee on Science and Technology has been instrumental in developing the Federal solar energy research and development program. Beginning in 1974, with the passage of two landmark pieces of solar research and development legislation, the Solar Heating and Cooling Demonstration Act and the Solar Energy Research Development and Demonstration Act and culminating last year with the Wind Energy Systems Act and the Ocean Thermal Energy Conversion Research Development and Demonstration Act, the Science Committee has taken a leadership role in formulating and directing the Federal efforts to develop economically viable, and technically proven solar energy technologies.

In a year in which both the administration and the Congress has reviewed the entire Federal budget to reduce waste and unnecessary Federal programs, the committee took a hard look for solar program activities that are no longer necessary. However, in the areas where the committee found that Federal research and development and demonstration efforts were still required, we set adequate solar program priorities and authorized adequate funding levels.

The committee authorized a total of $317,750,000 for the solar energy programs. This represents a reduction, or savings of over $267 million from the fiscal year 1981 appropriations level. This authorization level increases the administration's fiscal year 1982 authorization request for these programs by $135.1 million.

The programs that received additional funding were those where the technology is not sufficiently developed for a sustainable entry into the marketplace. The committee also provided funding to maintain key program activities that industry and the private sector could not pick up at this time.

I would like to briefly summarize some of the principal actions of the committee on the fiscal year 1982 solar energy program request.

The photovoltaic program authorization request of $62.9 million represents a reduction of $97.3 million from the fiscal year 1981 appropriation. This reduction, combined with the request's emphasis on long-term, high-risk research calls into serious question the program's ability to meet the objectives of Public Law 95-590, the "Solar Photovoltaic Energy Systems Research, Development, and Demonstration Act of 1978," as well as the program's own cost goals. If this occurs, then it is very unlikely that photovoltaics will penetrate the grid connected utility market in the foreseeable future. The actions taken by the committee emphasize those program activities that pertain to increasing the probability of reaching the legislated and programmatic objectives for photovoltaics. Activities that do not pertain to achieving those objectives have been eliminated from the program by the committee's action.

The Department's authorization request calls for the termination of the OTEC program at the Department of Energy in fiscal year 1982. Consequently the Department requested no fiscal year funding for the program.

During the 96th Congress, two pieces of legislation dealing with ocean thermal energy conversion were overwhelmingly enacted into law. These laws are Public Law 96-310, the "Ocean Thermal Energy Conversion Research Development and Demonstration Act" and Public Law 96-320, the "Ocean Thermal Energy Conversion Act of 1980."

In the committee's review of the OTEC programs and the status of the OTEC industry, it became quite clear that the present risks were too great for the private sector to develop and commercialize OTEC without continued Federal assistance. Therefore, the committee provided $30 million for the continuation of the OTEC program. Included in this authorization is $6.3 million for Project 81-ES-1, 40 MWe OTEC pilot plants. The $23 million in operating expenses is the minimum funding level to maintain an adequate research and development effort in support of the pilot plant activity.

Finally, in the area of wind energy, the committee added funding to maintain the MOD-5 advanced multi-megawatt wind turbine developmental program. The $18 million that we have authorized for MOD-5 will be matched by substantial cost sharing from the two industrial participants, if it is to go forward. Once this wind turbine is developed, it will provide electricity that is cost effective in a broad utility market. This will be true, even for the initial prototypes that are developed, thus accelerating the market entry of utility class wind turbines.

CONSERVATION PROGRAMS

The Science Committee authorizes all of DOE's conservation R.D. & D. programs plus the Energy Extension Service. In fiscal year 1981, the total amount appropriated for these programs, not including rescissions and deferrals, was $341 million. The Reagan request for those same program areas for fiscal year 1982 was $87 million, reduction of exactly 75 percent.

The committee did not accept the Reagan authorization request and instead put together its own conservation R.D. & D. budget, at a lean, but effective level. We have taken a sizeable cut 46.5 percent from last year's appropriation. Our authorization levels are summarized in table 1, below.

TABLE I.—ENERGY CONSERVATION R.D. & D. PROGRAMS

[In millions of dollars]

	Fiscal year 1981 appropriation	Reagan request	Subcommittee authorization
Buildings and community systems (does not include RCS, appliance, standards, FEMP, small business)	91.9	30.1	52.2
Residential/commercial retrofit	0	0	0
Industrial energy conservation	[1] 89.7	1.0	29.6
Transportation	[1] 113.0	37.3	65.3
Conservation Multisector	[1] 26.5	17.7	20.4
Energy extension service	[1] 20.0	0	15.0
Total add to Reagan request	[1] 341.1	86.1	182.5

[1] Included in BCS in fiscal year 1981.

As you can see from the table, the committee added $96.4 million to the Reagan request. I am pleased to note that all but $5 million of that add was appropriated by the Interior Appropriations Subcommittee. Let me give you a brief outline of what those additions involve.

In the buildings and community systems area, we added $4 million to enable the Department to continue its efforts in education and technical assistance, demonstrations and case studies and the development of voluntary energy standards for new buildings. We added $15 million to continue the important work being done by the technology and consumer products program in advanced electric and gas-fired heat pumps, improved oil and gas furnaces, energy efficient appliances, and advanced systems. We also added $2 million to program direction to retain sufficient in-house personnel to carry out needed planning, analysis and evaluation work. Out total add in BCS was $22 million.

In industrial energy conservation, we added $12.5 million for waste energy reduction, $8 million for process efficiency, and $5.2 million for cogeneration. These funds will allow the office to fund a sufficient number of high-

priority projects to keep a meaningful program alive. We also added $1.4 million to continue the highly successful Energy Analysis and Diagnostic Centers and boiler workshops. And we left sufficient funds in program management for 54 headquarters personnel. Our total add in this area was $29.6 million.

In transportation, we added $28 million to the vehicle propulsion R. D. & D. program to continue one team each on Stirling engines and advanced turbine work.

Finally, we did not accept the administration's proposals to terminate the Energy Extension Service and the appropriate technology small grants program. We believe that the EES is a cost-effective and essential information dissemination program that has only begun to prove its worth. We funded it at a "bare bones" level of $15 million. In appropriate technology, we authorized $5 million to allow the program to monitor existing grants, write final reports, disseminate information and carry out an evaluation. We intend for the program to work with the National Center for Appropriate Technology to carry out these activities.

BASIC RESEARCH/GENERAL SCIENCE AND RESEARCH

BASIC ENERGY RESEARCH PROGRAMS

For basic energy sciences, operating expenses were reduced by $7.0 million (or less than 3 percent) from the administration's request. This action slows the growth of the subprograms in nuclear science; materials sciences; chemical sciences; engineering, mathematical and geosciences; biological energy research; and advanced energy projects. The committee did not authorize construction funds for Project 82-G-322, High Temperature Materials Laboratory at Oak Ridge National Laboratory. This decision was based solely on overall budgetary constraints. The committee expects that this worthy project will be contained in the administration's proposed budget for fiscal year 1983.

The committee recognizes that the DOE national laboratories represent a unique national resource and supports the current effort to upgrade and rehabilitate their facilities, under the construction program called "multiprogram general purpose facilities." However, because of budgetary constraints, the committee recommended the delay of three projects. In addition, the committee chose to bring the fiscal year 1982 authorization for this construction program into alinement with the administration's request for fiscal year 1982 budget authority.

The committee accepted the administration's request for technical assessment projects, university research support, and advisory oversight and program direction.

GENERAL SCIENCE AND RESEARCH PROGRAMS

For high energy physics, the committee decreased operating expenses by $2.0 million in the high energy physics technology activity. This reduction would slow or delay lower priority accelerator and experimental facility research and development.

The committee provided authorization for multiyear construction projects to cover only the requests for fiscal year 1982 budget authority. No multiyear authorizations were recommended. The committee also reduced high energy physics general plant projects by $1.0 million and reduced accelerator improvements and modifications by $1.0 million which would defer lower priority projects.

The committee provided a fiscal year 1982 authorization of $16.0 million for Project 78-10-b Isabelle, at Brookhaven National Laboratory. Thus, the total authorization through fiscal year 1982 would be $125.5 million. The committee recommends a fiscal year 1982 budget authority of $21.0 million in accordance with the administration request.

The committee is concerned about continuing difficulties associated with the fabrication of the superconducting magnets for the Isabelle facility. Consequently, the committee recommends an additional project authorization to cover only the request for fiscal year 1982 budget authority.

After a review of the project status and revised costs during fiscal year 1982, the committee will consider further authorization for Isabelle as part of the fiscal year 1983 authorization legislation.

For nuclear physics, the committee accepted the administration's request for operating expenses, and chose to bring the fiscal year 1982 authorization for construction projects into alinement with the administration's request for fiscal year 1982 budget authority (no mulityear authorizations were recommended).

The committee provided a fiscal year 1982 authorization of $6.5 million for Project 80-GS-5, the National Superconducting Cyclotron Laboratory, and recommends a fiscal year 1982 budget authority of $4.5 million in accordance with the administration request.

The committee provided $2 million in fiscal year 1982 authorization for initiation of Project 82-E-233, the Argonne Tandem-Linac Accelerator System (ATLAS), and recommends a fiscal year 1982 budget authority of $2 million. The committee's decision to partially authorize this worthy project in fiscal year 1982 is based solely on overall budgetary constraints. The committee expects that the project will be included in the administration's proposed fiscal year 1982 budget at a level commensurate with the original construction schedule.

The committee also reduced nulear physics general plant projects by $0.4 million, which would defer lower priority projects.

In life sciences research and nuclear medicine applications, the committee increased operating expenses by $600,000. The committee directed that $400,000 shall be used to construct a prototype imaging device employing the proportional wire counting technique, and that $200,000 be used for the further development of neutron capture therapy.

DEPARTMENTAL ADMINISTRATION

Those activities which relate to the committee's responsibilities are the following: General management, field offices, other salary expenses, in-house management, and intergovernmental affairs. The first three categories provide the support for overall headquarters and field personnel involved with the research and development programs.

The committee reduced general management, field offices, other salary expenses, travel, and services, and in-house energy management in department administration by $41 million, or 15 percent, to maintain a fiscally responsible overall budget level, and to balance the changes made by the committee in the priorities for the other DOE programs. The committee believes that the Department should reduce management and streamline procedures consistent with the reductions made in the several programs under DOE administration.

The specific reductions from the Department for these areas are as follows:

1. General Management—a reduction of $8,050,000 for a total of $62,004,000.

2. Field Offices—a reduction of $8,050,000 for total of $56,638,000.

3. Other Salary Expenses, Travel and Services—a reduction of $18,900,000 for a total of $131,506,000.

4. In-House Energy Management—a reduction of $8,100,000 from Project 82-A-601, Modifications for Energy Management, various locations, for a total fiscal year 1982 authorization of $14,100,000.

The committee directs that the program direction category in the Office of Intergovernmental Affairs be reduced by $926,000 and that those funds be reallocated to the administered programs as follows: $600,000 for Los Alamos and $326,000 for Oak Ridge. The committee notes that the program direction category is excessively high because of a budgeting error at DOE. The Carter budget for program direction was $2,140,000 to retain approximately 51 full-time permanent positions. The Reagan administration decreased the number of full-time permanent positions to 24 but

failed to reflect the associated decrease in funding.

The redirection in the Intergovernmental Affair category permits the Department to distribute 100 percent of the contractual amount (or in those areas where no contract exists, the amount appropriated pursuant to this authorization) to each of the communities in a timely fashion.

At this time, Mr. Chairman, I would like to call on the distinguished ranking minority member on the committee who has been most cooperative in trying to achieve a reconciliation process if he could explain what would be contained in title XII of the bill as it relates to our committee. It is my understanding that it just contains that part of the bill that relates to the Department of Energy authorization.

I yield to the gentleman from Kansas (Mr. WINN).

Mr. WINN. Mr. Chairman, I thank the gentleman for his kind words. I want to echo the fact that we have worked together very well. I want to commend the gentleman for keeping us on schedule down through the past few months.

Mr. Chairman, in response to the gentleman's question, the Gramm-Latta substitute for title XII dealing with the Science and Technology Committee portion of the omnibus reconciliation bill contains only a substitute for the Department of Energy authorization.

The substitute excludes authorizations for NSF, EPA, NOAA, FEMA, and NASA. Of course, this body passed the NASA authorization separately last Tuesday in the regular course of consideration, and it is our intention that the remainder of these agencies, NSF and FEMA, several of which are over the President's budget, will be brought up individually at a later date. This, of course, is the regular authorization process that these agencies have proceeded under for the past several years.

Mr. FUQUA. Mr. Chairman, I would like to ask the gentleman, as I understand it, basically the major change in the DOE request is that of the inclusion back in the bill of the Clinch River breeder reactor program of $230 million.

Now, this was considered by the committee, and I might add by a minority motion that also prevailed by a majority of the minority, as well as the majority, that this project was removed from the budget. It is my understanding that the gentleman does include $230 million back in for that project; is that correct?

Mr. WINN. The gentleman is basically correct. This is part of the vote that we will discuss tomorrow as a part of the Gramm-Latta amendment will be considered. It is called now the Winn amendment. It basically constitutes bringing it up to the floor for House consideration so that the Members of the House can in this case have a chance to work its will as a part of the Gramm-Latta amendment, a vote on the Clinch River.

I do not have to remind the chairman that the Rules Committee did not issue a separate rule as was asked for by the gentlewoman from Tennessee (Mrs. BOUQUARD). She was not given the privilege of bringing it to the floor.

I might also point out that in the past 6 or 7 years we have had a version of the Clinch River breeder and that has always passed the House by a margin of 2 to 1, and in some cases almost 3 to 1; but the gentleman is right. That is a part that we will include in the Gramm-Latta proposal tomorrow.

Mr. FUQUA. It is my understanding also from the gentleman that the other areas, as compared in the table that I have been handed by the minority, that those figures are essentially the same as outlined in that table in the various categories of solar, geothermal, conservation, and the other general areas of the bill.

Mr. WINN. Well, the gentleman is correct; but I would like to take just 1 minute and then I will be glad to yield some time to the gentleman if we run out again to clarify that there was some erroneous information about title XII of Gramm-Latta sent around earlier this week. In that package of material was included a comparison of the DOE budget as proposed in Gramm-Latta. This comparison was incorrect.

I would like, and I think the gentleman has the copy and is referring to it now, a correction for insertion in the RECORD. This will also be available in the Chamber doors tomorrow.

The table is as follows:

GRAMM-LATTA II, TITLE XII—COMPARISON OF FUNDING LEVELS

[In thousands of dollars]

Program	Administration request	H.R. 3146, 3447	Winn substitute
Fossil	411.1	438.0	423.0
Solar	183.1	288.6	270.9
Geothermal	43.6	40.6	38.6
Geo. devel. fund	2	2	2
Conservation	84.9	181.0	155.0
General science	439.2	437.8	437.2
Basic research	272.4	265.4	265.4
Fission (other than CRBR)	736.2	764.0	711.5
CRBR construction	254.0	44.5	230.0
Magnetic fusion	310.7	311.2	302.2
Hydropower	0	3.0	3.0
Elec. energy system	47.4	72.5	62.5
Envir. R&D	213.1	212.5	210.1
Adv. isotope sep.	80.3	74.3	74.3
Uranium enrichment	1,063.2	1,063.2	1,063.2
(Revenues)	(1,805.0)	(1,805.0)	(1,805.0)
Dept. admin.	223.9	188.9	188.9
Subtotal, op ex.	2,558.0	2,580.7	2,631.0
Prior year plant & capital equip.	1,194.1	1,132.1	1,127.1
New construction	173.8	170.5	165.1
Total	3,925.9	3,883.3	3,923.1

Note.—Total figures are exact. All other figures have been rounded off.

Mr. FUQUA. Mr. Chairman, I just want to say that I appreciate the gentleman's explanation. I hope he will include that table in his remarks so that it will be available to the Members tomorrow.

Mr. WINN. I thank the gentleman. I intend to offer that table as part of my unanimous-consent request.

I also would like to provide for the RECORD a description of the Gramm-Latta substitute to title XII.

FOSSIL ENERGY

The Winn substitute for fiscal year 1982 effectively addresses all of the energy research and development programs and at a level of $11 million more than the administration's request. Changes were made to the request on the basis of technology priorities and of program continuities. Several fossil activities have progressed to the stage of providing data and, therefore, termination is inappropriate. Operation is important to complete the original scope of, for example, the Grimethorpe—U.K.—pressurized fluidized bed combustor and the magnetohydrodynamics project.

The Department has also adopted a new philosophy about funding R. & D. projects whereby they would limit development projects to those which offer high payoff potential but which are high-risk by nature and require long-term study. These types of projects contain little or no motivation for industry involvement.

In the fossil energy program, the bill reported out by the Committee on Science and Technology (H.R. 3146) is similar to the Winn substitute. However, there are three significant changes. Surface coal gasification was increased above the Winn substitute by $3 million, with that authorization applied to continued work by a gasification project which has been judged to be commercial by the funded entity. In fact, that gasification process has been proposed for financial assistance to the Synthetic Fuels Corporation by the respondents.

The fuel cell program was increased by $3 million over the Winn substitute and the authorization designated support of the phosphoric acid process, although a demonstration of that technology is imminent in this country and foreign sales for the technology have been publicized.

The magnetohydrodynamics (MHD) program was increased by $9 million. The Winn substitute had recommended a minimum authorization of $20 million for fiscal year 1982 to enable the completion and submittal of the comprehensive program plan to the committee. This plan has been requested by our committee for several years, and we are told that its release is imminent. The increase provided by H.R. 3146 does not result in proportionate increase in the amount of useful data.

The Winn substitute provides nearly $400 million in authorization to other fossil energy programs, such as liquefaction, direct combustion, advanced research and technology development, enhanced oil recovery, and environmental control technology. These and other programs have been supported by the Committee on Science and Technology from inception to their present stages of development.

The Winn substitute looked very closely at the coal conversion processes. For example, additional funds were provided for the continued operation of the H-coal pilot plant. This facility has begun operation and is providing very useful data, as planned, for the conversion of coal to valuable liquid products. It was believed that continuation of this activity would be very beneficial to the welfare of this country. However, the Winn substitute removes all authorization for the demonstration plants which had been previously considered. Specifically, the Winn substitute provides no authorization in fiscal year 1982 for SRC-I, SRC-II, the Memphis gasification project, and the two high-Btu gasification plants planned for Ohio and Illinois.

The Winn substitute also proposes continuation of the Exxon donor solvent process, which in a manner similar to the H-coal pilot plant, is providing very useful data for the conversion of coal by another process to liquid products.

The Winn substitute strongly supports the authorization of advanced technology research and development in such important fields as coal preparation, coal liquefaction, surface coal gasification, advanced environmental control technology, fuel cells, and combustion systems. In all cases, the Government should participate totally in these programs in their early stages since justification for industrial participation is difficult. However, as in the case of the demonstration plants, when the time arrives that the process has been well defined, then it should be made available to the industrial sector for their total participation. This concept is evident in that the Synthetic Fuels Corporation has recently received 63 proposals for the conversion of shale and coal into gas and liquid products by processes claimed to be commercial. In all cases, the participation by the proposer is total and the Government role is that of guarantor only.

GEOTHERMAL ENERGY

The Winn substitute strongly supports the geothermal program, which seeks to utilize geothermal resources as economic, reliable, operationally safe, and environmentally acceptable energy sources for electrical power generation, for direct heat applications, and for thermal energy and methane recovery from geopressured resources. All facets of this program are continued by the Winn substitute.

Particular emphasis is paid to the hydrothermal processes, particularly the process which will extract energy by the binary method, utilizing lower temperature resources, rather than the flash-steam process. Successful demonstration of this technology will allow for more widespread use of this geothermal resource. The construction project, to be located at Heber, Imperial Valley, Calif., will provide data for the binary process and will prove very useful in characterization of this extraction method.

Geopressured resources will be investigated in the gulf coast area of Texas and Louisiana. It is believed that the utilization of these resources is dependent to a large extent on materials and components development. Therefore, the Winn substitute is adopting the realistic course of concentrating authorization for the development of materials and components while at the same time continuing geopressured resource drilling at a somewhat lower rate.

Relative to the binary energy extraction process, a study by the U.S. General Accounting Office dated June 25, 1981, states that the elimination of Federal funds for the Heber project will impede full development and use of hydrothermal resources. The report recognizes that the Heber project is the first of its kind. Despite the risks inherent in such an activity, the project cost is being shared with the industrial sector.

These changes made within the geothermal program are accomplished at a total cost of $2 million more than the administration's request.

It is believed, in fact, that the Winn substitute is a very realistic approach to the utilization of this valuable resource.

SOLAR

This amendment provides $300.05 million for the Department of Energy's solar programs, an increase of $106.75 million over the administration's request. I believe that this action will provide for a more balanced and aggressive program that will permit the orderly development of our Nation's solar resources. This action will allow for the continued development of many solar activities consistent with the intent of previous legislation which has been authored by our committee.

Of the funds authorized for appropriations in the solar program, the Department is directed to provide $4 million for the Crosbyton 5 MWe solar hybrid electric power project, in Crosbyton, Tex. However, no funds are authorized to be obligated or expended for this project unless the fossil-fired portion of the project, including the fuel costs during the operational period, is privately funded.

In the active heating and cooling area, a cut of $3.2 million is recommended, bringing the funding for operating expenses for this activity to a level of $8.3 million. This action will provide funding in accordance with the redirections outlined in the committee report accompanying H.R. 3146, the DOE authorization bill for fiscal year 1982 recently reported out by the Science Committee, but with reductions in spending in basic materials and component development for solar hot water and space heating and in funding for test center operations and standards and codes. Under this amendment, the passive and hybrid systems program receives a $1 million increase over the administration's request. This increase will be used to initiate the integrated passive/photovoltaic hybrid residential program described in the Science Committee report accompanying H.R. 3146.

In the photovoltaics area, this amendment adds $37.75 million for the solar photovoltaics program over the administration's request. This increase is allocated among the technology development program, $44.95 million; systems engineering and standards, $5 million; and tests and applications, $7.3 million. Additional funding for the technology development program will allow the Department of Energy to continue vital work in meeting the program's overall cost goals. Funding for this specific activity is allocated in accordance with the recommendations outlined in the committee report accompanying H.R. 3146.

A significant increase, $24.5 million, over the administration's request is also recommended in the solar thermal area. These increases are to be allocated in accordance with the guidelines in the committee report accompanying H.R. 3146. This action will provide funding for many promising solar thermal activities, including the small community solar thermal power project and the utility repowering initiative.

Under this amendment, $29.4 million is added to the wind program. Funding increases will be allocated for wind characteristics and resource assessment, $2 million; technology development, $6.5 million; engineering development, $18.7 million; implementation and market development, $1.5 million; and capital equipment, $800,000.

Based on legislation passed into law last year, this amendment provides $25 million for the ocean thermal energy conversion program. Included in this amount is $6.3 million for the design and construction of 40 megawatts OTEC pilot plants. This funding will allow for the completion of conceptual designs and initiation of phase II preliminary designs during fiscal year 1982.

For alcohol fuels, this amendment provides $8 million for fiscal year 1982 activities. These activities will focus on advanced process technology development, including enzymatic and acid hydrolysis technologies, that can utilize alternative feedstocks. Promising work is being pursued in this area, including the hydrolysis program currently underway at the U.S. Natech Laboratories in Massachusetts. According to many studies, this capability is necessary in order to develop a viable long-term alcohol fuels industry.

Finally, this amendment makes several other changes in the administration's solar request. No funding is provided for the solar international program. The solar information program is funded at the $5 million level, with $3.5 million specifically directed for the National Solar Heating and Cooling Information Center. No changes were made to the administration's request in biomass and program direction.

ENERGY CONSERVATION

In the conservation area, this amendment would provide $156.4 million for conservation research, development, and demonstration activities for fiscal year 1982, an increase of close to $70.4 million over the administration's request. This additional funding is provided in light of strong testimony before the House Science and Technology Committee which indicated that conservation is one of the most immediate and cost-effective means to deal with our Nation's current energy problems. This amendment attempts to provide for a balanced conservation research, development, and demonstration program along the lines which are consistent with the statutes that the Science Committee has authorized and recommended in the past.

For the buildings and community systems program, this amendment provides an increase of $10.1 million over the administration's request of close to $30.1 million. This action includes $6.5 million for the urban waste program, a program which I believe shows great promise for tapping the energy potential of municipal solid wastes. The Science Committee has heard a great deal about the need for a vigorous and comprehensive national urban waste program, and this amendment provides sufficient funding to give this program the emphasis and visibility it deserves. In addition, the technology and consumer products program receives an addition of $9 million, to pursue the promising hardware-type activities that can help our Nation develop more energy-efficient consumer products and appliances. The community systems program is also authorized at the $2.4 million level, to provide funding for a comprehensive district heating program and technical assistance to towns and cities to assess local energy options.

In the industrial conservation area, this amendment provides $19.57 million to continue the promising industrial energy conservation program. Over the years, the Science Committee has heard about the dramatic achievements which could be made in reducing industrial energy use, and our committee has been greatly impressed with the work done to date at the Department of Energy in this area. This funding is directed to continue activities in waste heat recovery, industrial process efficiency, cogeneration, and implementation and development.

For transportation energy conservation, this amendment provides over $60 million for the Department of Energy transportation programs. This represents an increase of $23 million over the administration's request in this area. The transportation sector uses more petroleum-derived fuel than all other energy-consuming sectors combined and accounts for over 26 percent of all the energy consumed in our country. The transportation sector's almost total dependence on petroleum and the resulting need for imported oil create a major impact on the Nation's balance of payments and results in an already demonstrated vulnerability to petroleum supply disruptions. In response to these problems, this amendment provides funding to permit the continued development of proof-of-concept alternative heat engines. The increase is intended to continue the Shirling engine development program, the gas turbine engine development program, and supporting automotive and truck technology.

Funding for the multisector area is identical to that recommended in the two DOE authorization bills for fiscal year 1982—H.R. 3146 and H.R. 3447—which have already been reported out by the committee. The committee added $5 million for the appropriate technology program to enable the program to carry out program evaluation, information dissemination, assistance to grantees, the preparation of final reports for existing grants and activities. At the authorized level, no new grants will be awarded in fiscal year 1982. Based on testimony received by the Science Committee, I believe that the overall integration of technical oversight, information dissemination and outreach, and the appropriate technology small grants program and small inventors program is inadequate. The programs have no guidance as to the state of research nor adequate outreach, training, information or localized/individualized technical assistance. Since Federal money is limited, this amendment intends that these services should help prevent the duplication of efforts of other federally supported programs and assist individuals and localities seeking technical advice on developing their own energy production, conservation, and invention ideas. I also hope that the Office of Small Scale Technology and the Office of Inventions would coordinate their efforts with other Federal agencies.

Finally, this amendment provides $15 million for the Energy Extension Service. It assumes at least 20 percent State cost-sharing in this program. This requirement will help secure adequate State participation in this program. A similar requirement had been considered by the committee in previous fiscal years as well as in the Energy Management Partnership Act, which was also considered by the committee during the 96th Congress. Cost-sharing may be satisfied through either a service, capital, or cash contribution.

In response to concerns regarding the management and operation of the Department of Energy conservation and renewable energy technology transfer programs, this amendment requires the Secretary of Energy to transmit to Congress a detailed description of the comprehensive program and management plan for these programs. This plan must include a detailed description of the roles, division of responsibilities, and relationships of the regional solar energy centers with the other technology transfer activities of the Department of Energy, including the Energy Extension Service, the Solar Energy Information Data Bank, and the National Solar Heating and Cooling Information Center. This plan must also include a detailed description of how the information dissemination activities and service of the Department of Energy in the fields of renewable energy resources and energy conservation are being coordinated with similar or related activities and services of other Federal agencies. The plan must be transmitted to Congress within 6 months after the date of enactment of this act.

NUCLEAR FISSION, FUSION, BASIC SCIENCES, SUPPORTING RESEARCH, ELECTRIC ENERGY STORAGE AND ELECTRIC ENERGY SYSTEMS

Last year at this time, I emphasized the need for a well-rounded energy research and development effort to free this country from our dependence on oil imports.

The Science Committee has worked hard to develop a balanced funding under the budget levels requested by the President. However, I regret the massive cuts in the nuclear research and development budget, such that these programs are now funded at levels below those proposed by the President.

One program that has been continually supported by Congress is the high temperature gas reactor. Both

the Jones substitute and my substitute bill authorize restored funding to establish an HTGR lead plant project. Since a rescission of $22.176 million has been converted to a deferral by the House subcommittee, making funds available at the beginning of fiscal year 1982 to supplement our committee's authorization, I feel that we can assure the HTGR program of adequate funding with an authorization of $35 million. The total authorization for conventional reactor systems is $76.8 million.

Generally, in the area of nuclear fission, my substitute is very similar to the Jones substitute. However, in view of the need to resolve the nuclear waste management problems this country has struggled with, I propose we authorize increased funding for civilian waste management programs to $199.024 million. I wish to note that the committee supported the following language:

COMMITTEE VIEW

This Committee strongly supports timely initiation of the nuclear waste solidification demonstration project at West Valley. The Committee expects that $13.0 million will be available for appropriation for Fiscal Year 1982 activities. The Committee expects that the Department of Energy will complete all planned activities for Fiscal Year 1982 with these available monies. Some members of the Committee raised a concern in reference to the implementation of the cooperative agreement concluded between the federal government and the State of New York in the context of the intent of Public Law 96-368. While the Committee certainly does not want to delay implementation of this project, the Committee directs that the Department evaluate the provisions of the cooperative agreement within the context of the intent of Public Law 96-368 and report to the authorizing Committees within thirty days after this report has been filed. Also, these concerns have been referred to the Investigation and Oversight Subcommittee of the Science and Technology Committee for a report.

I agree with the Jones substitute on the need to restore funding for the Barnwell Nuclear Fuel Plant. My substitute bill provides an additional $2 million to obtain research and development design information and to prepare the facility for possible use as an integrated reprocessing technology demonstration and test facility. I wish to emphasize that I concur with the language from our committee report. The fuel cycle research and development program has a total authorization of $36 million.

The authorizations for advanced nuclear systems, for advanced isotope separation technology, capital equipment, and for construction are as reported out by the Science Committee in H.R. 3146.

The truly significant difference between my substitute bill and the authorization bill reported out by the Science and Technology Committee is the authorization for the Clinch River breeder reactor project. I strongly support the Clinch River breeder reactor program. I believe that the cancellation of the Clinch River breeder reactor project will result in the overall liquid metal fast breeder reactor program becoming unfocused. Unless the program has the definable and measurable end product of a specific demonstration plant, it will lack such focus. I believe the project should continue to have our support. Therefore, the substitute bill authorizes the $566.7 million in funding for the liquid metal fast breeder reactor program as requested by the President, with $230 million for the CRBR. The authorization for the water-cooled breeder reactor systems program would remain at the levels as reported out in H.R. 3146.

This administration has recognized that magnetic fusion is a particularly appropriate research program for Government support because it is long term and high risk, and offers the potential payoff of nearly 1 billion years energy supply for the entire world. This substitute would authorize $67.4 million for applied plasma physics, $132.47 million for confinement systems, $62.15 million for development and technology, $10.15 million for the Center for Magnetic Fusion Engineering, and $26.13 million for planning and projects, for a total of $302.2 million for operating expenses. In addition, it would authorize $43 million for capital equipment and $109.8 million for construction. Although there are some slight differences with the total funding level in this substitute and the Jones substitute, I do concur with the report language supporting the magnetic fusion program, and in particular wish to endorse the Science Committee's commitment to an industrially managed Center for Fusion Engineering which should be established within budget during fiscal year 1982.

Electricity generation, whether from coal, nuclear, geothermal, or other sources, will become increasingly important in the country's energy future. The electric energy systems program fulfills an important role for tying together the energy source and electric energy use technologies. This substitute bill authorizes $24.6 million for electric energy systems.

For many energy technology alternatives, energy storage is a key research need. This program is authorized for $37.9 million. This includes $2.1 million for the Battery Energy Storage Test Facility that will test large-scale utility, load-leveling batteries. The total authorization for electric energy systems and storage, including capital equipment, will be $65 million.

General science and research programs are always at the frontiers of knowledge about the fundamental laws of the physical world. This substitue bill would authorize $288.4 million for high energy physics, $99.1 million for nuclear physics, $48.3 million for life sciences and nuclear medicine, $1.36 million for program direction, and $54.4 million for capital equipment. This would also include $61.4 million for construction. I specifically wish to mention three important construction projects. This substitute would authorize $0.4 million for the Argonne tandem-linear accelerator system and $14.5 million for the Tevatron phase I at Fermi National Laboratory. This substitute bill agrees with the Jones bill in providing fiscal year 1982 authorization of $16.0 million for intersecting storage accelerator project at Brookhaven National Laboratory, such that the total authorization through fiscal year 1982 would be $125.5 million. I concur with the recommendation of a fiscal year 1982 budget authority of $21 million for ISABELL in accordance with the administration request.

The basic energy programs at DOE provide for the basic research necessary to support the energy technology base, of which a significant percentage of the funding goes to universities. This includes $265.411 million for operating funds, $16.9 million for capital equipment and $27.6 million for construction.

The CHAIRMAN. The Chair will inform the gentleman from Kansas with respect to extraneous material that he will have to get that permission in the House.

Mr. WINN. I appreciate the Chair's remarks.

Mr. FUQUA. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Michigan (Mr. WOLPE), a member of the committee.

The CHAIRMAN. Without objection, the gentleman from Michigan (Mr. WOLPE) is recognized for 3 minutes.

There was no objection.

Mr. WOLPE. Mr. Chairman, I want to focus attention for a moment on the subject of the Clinch River breeder reactor. The effect of the proposed Republican substitute would be to restore $230 million for this unfortunate example of government waste and totally override the decision of the Committee on Science and Technology to deauthorize this project. Incidentally, the $230 million figure is only one part of the total project cost so estimated, upon completion, to exceed $3 billion.

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It is important to understand that the vote in committee to deauthorize the Clinch River project was taken only after the most extensive consideration. No issue was more exhaustively considered by our committee this year. Moreover the ultimate decision to deauthorize the Clinch River breeder reactor was supported on a bipartisan basis, with eight Republicans joining a

majority of the committee's Democratic members. Indeed, the amendment to deauthorize this project was introduced by a Republican Member, Congresswoman CLAUDINE SCHNEIDER of Rhode Island.

It is important to understand, in addition, that the committee majority that voted to deauthorize the Clinch River breeder reactor included not only opponents of nuclear power, but also strong supporters of nuclear power. The reason for the committee's decision, and it was a difficult one for the committee to make, was the clear recognition that there is nothing within the entire Federal budget that represents more of a gross waste of taxpayer funds than this particular endeavor. Indeed, following the committee action, as staunch an advocate of nuclear power as Edward Teller extended his congratulations. Dr. Teller wrote: "Clinch River is technically obsolescent, and its small scale and large cost make it thoroughly inconsistent with badly needed economy in government." In short, even from the standpoint of the advocates of breeder technology, Clinch River simply makes no sense.

It is important to understand, finally, that the Republican substitute proposes not only to restore this classic boondoggle but, to accomplish this ill-conceived goal, to increase the total Federal energy budget by $39.8 million. We are talking in this instance not about a deeper cut, but about a major add-on.

Moreover, in order to fully accommodate the $230 million that the Republicans would add for the Clinch River breeder reactor, the Republican substitute cuts the Science and Technology Committee recommendations for fossil energy, solar energy, geothermal energy, conservation, general science, magnetic fusion, electric energy systems, and environmental research and development.

In short, the Republican substitute not only asks us to invest in a technology that makes no sense, that cannot effectively contribute to the displacement of petroleum, and that—because of new estimates of electricity demand and uranium availability—will not be commercially viable until the middle of the next century, if then. Not only does the Republican substitute ask taxpayers to continue to fund an absolutely wasteful project, but, more seriously, it deflects precious dollars and resources away from investments in those technologies that will much more rapidly displace petroleum and reduce our country's No. 1 national security dilemma; namely, our dependence upon foreign oil.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. WOLPE) has expired.

Mr. FUQUA. Mr. Chairman, I yield 1 additional minute to the gentleman from Michigan (Mr. WOLPE).

The CHAIRMAN. Without objection, the gentleman from Michigan (Mr. WOLPE) is recognized for 1 additional minute.

There was no objection.

Mr. WOLPE. I submit that the Republican substitute in this instance is a sellout to special interests and does direct damage to the national security interests of our country. The Clinch River add-on offers in and of itself sufficient reason to repudiate the Republican substitute.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. WOLPE. I am happy to yield to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Chairman, I totally concur in the statement of the gentleman from Michigan (Mr. WOLPE). I think he has made an eloquent statement of the case against the breeder reactor.

Apparently the only one who is for it is the majority leader of the other body.

Mr. WOLPE. I think that is correct. I yield back the balance of my time.

Mr. REGULA. Mr. Chairman, I yield such time as he may consume to the gentleman from Kansas (Mr. WINN).

Mr. WINN. Mr. Chairman, I would like to state that there were several Members on our side of the aisle who wanted to debate the Clinch River breeder reactor facility all over again, and I have asked them if they would just highlight their remarks and ask unanimous consent that the remainder be put in the RECORD. I appreciate their cooperation on this matter.

Mr. Chairman, I rise in opposition to the Omnibus Reconciliation Act as it is presently constituted. In particular, I am opposed to title XII, which contains the portion reported by the Committee on Science and Technology. As the ranking minority member of that committee, I want to take this opportunity to explain the basis for my opposition.

The threshold problem with title XII centers around an administrative loophole in the definition of the current policy baseline for the Department of Energy. The baseline for fiscal year 1982 was defined as the fiscal year 1981 appropriation plus an inflation factor. Because the President made a major policy change, some areas of the DOER budget for fiscal year 1982 were proposed to be reduced by as much as 80 percent. Our Science and Technology Committee went along with most of the President's requests, making some program adjustments, but sticking to the overall requested level. But because the Carter DOE budget from the previous year was so outrageously high, our committee was able to achieve a committeewide illusory savings of some $1.8 billion on reconciliation. The committee knew that this paper savings was a charade.

But the majority used this illusion as justification to prevent cuts of over $125 million from being made in authorization for such agencies as the National Science Foundation and the Federal Emergency Management Agency—both over the budget request. It is this kind of game with creative accounting, Mr. Chairman, that leads me to oppose this bill.

I do not believe that the will of the Congress—or the American people—is being served by accepting actions such as title XII in this form. Let me give several more examples. Title XII does not contain a continuation of the authorization for the Clinch River breeder reactor. The breeder reactor has been a controversal issue since the mid-1970's, but each and every year this House has had an opportunity to express its will on the Clinch River project—and has supported it. Title XII will deny us that opportunity.

Another example is that Strategic Petroleum Reserve, Title XII contains an "on budget" authorization of $3.8 billion for the Reserve. This is in direct conflict with both the minority position on Science and Technology and the majority and minority positions of the Energy and Commerce Committee. I doubt many Members knew this budget buster was contained in this bill.

Mr. Chairman, we will have an opportunity very shortly to correct these deficiences. The Gramm-Latta amendment provides suitable remedies which I will address at the appropriate time. I oppose the bill in its present form and urge adoption of the Gramm-Latta amendment.

At this time, Mr. Chairman, I yield 5 minutes to the gentleman from New Mexico (Mr. LUJAN).

The CHAIRMAN. Without objection, the gentleman from New Mexico (Mr. LUJAN) will be recognized for 5 minutes.

Mr. LUJAN. Mr. Chairman, the Science and Technology Committee title of the substitute resolution is the product of a bipartisan effort. This title again demonstrates that this substitute is not the dictates of OMB or the White House, for it provides for substantial increases over the administration's requested funding for solar energy and for energy conservation, as well as increases in fossil energy.

Solar energy is a particularly appropriate energy technology for the Western States as we have seen in my sunny home State of New Mexico. This title would also authorize $50 million for development of geothermal energy sources. The mission of the geothermal program has been to foster the rapid development and use

of this abundant resource in the United States as safe, reliable and environmentally acceptable sources for power generation, direct heat uses, and the production of methane. The Department of Energy's role through this fiscal year has been to conduct assessment, research, development and demonstration programs, to reduce costs, and to provide incentives and the institutional climate for rapid growth of geothermal use.

The DOE program for fiscal 1982 reflects the major change in administration policy that has taken place. It redefines the Government role in the development of energy resources. The program will largely complete the commercialization, demonstration, and short-term technology development activities that have been used in past years to foster the industry.

The program will concentrate on the long-term research and development necessary to determine the technical and economic feasibility of extraction of methane, thermal and mechanical energy from geopressured resources, as well as thermal energy from hot dry rock.

The increases in this title's figures offer us a balanced energy program. We have, however painfully, had to make strong cuts in some areas, such as nuclear fission, particularly in the authorizations for civilian waste management.

We have been able to increase the authorization for the high-temperature gas reactors to a total of $35 million. This is a promising technology that could provide steam for process heat for industrial applications. The near future can produce a system which would provide steam for use in chemical, synfuel, shale oil, and metal refining industries, in addition to electricity.

This potential is exciting because the nuclear process heat will directly displace the fossil fuels.

The major difference between this title and the Budget Committee package is the funding for the Clinch River breeder reactor project. This item has been hotly debated and I will address the debate.

The opponents argue that the Nation faces a critical economic climate and that the Clinch River project should be based upon its economic value and live or die in the marketplace. The United States is now in a critical economic climate, and that is due to the misplacing of our priorities. The failure of this country to establish a rational national energy plan is without a doubt a major factor contributing to this situation.

The Reagan administration supports an energy program based on conserving the resources we have and expanding our domestic energy supplies, especially coal and uranium. The administration also supports the Clinch River project and breeder technology. We must not fall into the same dilemma with uranium as we face today with oil. Without the breeder, nuclear fission has a limited lifespan. We must crawl before we can walk, this breeder technology if continued will allow us to leapfrog into world leadership in nuclear power technology, and reduce significantly our dependance upon foreign oil.

If the Clinch River project is terminated, much of the money spent to date will have been wasted. The human resources, facilities, industrial capabilities, and other "know-how" of private enterprise which is a national resource in itself, may be permanently lost.

The utilities supporting the Clinch River project from throughout the United States have consistently lived up to their part of the original agreement with the Federal Government. The 753 utilities backing the Clinch River project pledged to contribute at least $250 million to the partnership and exceeded that amount by $7 million. Utilities and vendors associated with the project have already contributed about $125 million to the project.

If we breach the contract on Clinch River, the taxpayers will have to assume the burden of paying hundreds of millions of dollars in reparations for terminating it. And if we do terminate it, our Government's commitment will have been eroded to where the confidence will be lost not only to breeder reactors but to nuclear energy itself.

There is another side to the cost question, and that is the value of the breeder to our energy independence. There is material from the uranium enrichment process for light water reactors which is now waste material, but could become useful with the development of breeder reactors—this material which we are now trying to determine how to get rid of—could be the energy equivalent of the estimated oil resources of the entire world; and could provide for our total electrical energy needs for several centuries. So while we are talking continuing a project for millions, we could be insuring a resource worth trillions.

Therefore, I am convinced that this title offers a balanced energy program in fiscal 1982 and a base well into the future. And I urge its adoption.

□ 2030

Mr. WINN. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. GOLDWATER).

The CHAIRMAN. Without objection, the gentleman from California (Mr. GOLDWATER) is recognized for 5 minutes.

There was no objection.

Mr. GOLDWATER. Mr. Chairman, this Clinch River breeder reactor has been categorized as a boondoggle. In listening to that, I am wondering myself where all of a sudden did we find this wisdom when in fact the breeder reactor program has been underway for some 30 years. Thirty congresses and many Presidents have studied, analyzed, discussed, debated, and passed it year after year after year for now 30 years. Now, all of a sudden, it is a boondoggle.

Mr. Chairman, I would suggest to you I have also looked at this very closely, and that is why I am a supporter of it. It was started in 1951. It was a demonstration of near-term technology. It has been a progression, starting with EBR-1 in 1949, EBR-2, the Fermi reactors, and now the fast flux test facility, followed now by the Clinch River breeder reactor, continuing to demonstrate our knowledge that is gained from our basic research programs.

It is a "walk before you run" progression, and it is important because it is one of the first energy programs where the Government has gotten in partnership with utilities, some 753. We have a trust that we must uphold if we are going to continue to attract private industry investment interested in research and development and thrusting out into the future new technology for energy.

The program is 80 percent complete and to stop it at this point does not make commonsense. It does represent the latest state of the art, and it is constantly in refinement. We are in a learning process and, in fact, if we do stop this program, we are in essence falling further behind our foreign competition who all are in the forefront of building and operating breeder reactors.

The Japanese, the Russians, the British, the French, and the Germans are all in the various state of either completion and operation or moving forward, recognizing the tremendous utility gained by breeder programs. It has been estimated that the energy uranium already mined, in essence uranium-238, the byproduct of the enrichment process which is used in the breeder program to breed new fuel, is equivalent to some three times the OPEC reserves. In fact, it has been equated to the total unmined coal resources of the United States. Again, it is a tremendous waste just to be allowed to sit in casks all around this country.

Mr. Chairman, it has been estimated that by the year 2000 we will have a supply gap of some 15 quads. This is equivalent to an annual energy use of 150 million cars, or five times the present electricity produced by current nuclear reactors. Just as fossil fuels will be depleted, so will uranium. Uranium is limited, but the breeder produces some 60 to 70 times as much fuel as it uses, while it is producing electricity right along.

It is analogous to an automobile that would get 1,200 miles per gallon when it used to get 20 miles per gallon. The economic argument has been made, and I would suggest to you that it is an economic project, in 1980 we paid $90 billion for imported oil, which averages some $1,200 per household. Because of this import of oil and the cost to the American people, it has seriously increased fuel prices and accelerated inflation.

We have seen massive exporting of jobs and reduced worldwide confidence in the United States.

We must become energy independent if we are going to maintain our leadership in the world.

Mr. Chairman, it has been estimated by all kinds of people that to terminate this program would cost about $1 billion. I would suggest to you that it would cost almost $1 billion to complete it, so it makes sense to continue with demonstration these technologies.

I happen to think, Mr. Chairman, that it is in our best interests as a nation, in our security, in our energy independence, and certainly in advancing the state of the art and thus controlling the safety of nuclear energy, for the United States to maintain its leadership role in this particular program.

Mr. Chairman, I support the addition of the moneys for the Clinch River breeder reactor that are contained in the Gramm-Latta substitute.

TECHNOLOGICAL STATUS OF CLINCH RIVER DESIGN

Since 1975, the Clinch River Breeder Reactor Plant (CRBRP) has been the subject of at least 13 independent government reviews. These reviews have confirmed the basic objectives, approaches, and design parameters of the Clinch River Project.

The latest review was conducted in 1980 by the General Accounting Office (GAO).

The GAO reiterated the conclusions of its 1979 and 1975 reports that "the Clinch River project was not technically obsolete, too small, or too expensive."

The design of the CRBRP continues to be updated day-by-day. For example:

An advanced heterogeneous core design, which enhances breeding performance and safety margins, was adopted in 1979. This first-of-a-kind design is based on advanced U.S. physics, thermal-hydraulic, and structural design capabilities, and is not found in foreign breeders.

A Key Systems Design Review subsequent to the Three Mile Island accident has resulted in an upgraded control room design and operator procedures and brings CRBRP ahead of current nuclear power plants in this important area of safety.

Technological advances have been incorporated in such components as the main sodium pumps and steam generators.

Multiplexing has been incorporated in the design, enabling multiple electrical signals to be transmitted simultaneously and saving more than 1½ million feet of electrical cable.

The CRBRP design is the most up to date in the world in meeting U.S. safety and licensing requirements. Unique features to meet such requirements have been incorporated through dialogue with the Nuclear Regulatory Commission (NRC). Resolution of such design questions has not occurred for other U.S. or foreign breeder designs.

In late 1979, a comprehensive study of large breeder reactors for the Department of Energy (DOE) confirmed that the loop-type plant is the correct design for the U.S. The Fast Flux Test Facility (FFTF), CRBRP, and the Large Developmental Plant (LDP) described in the March 31, 1981 DOE report to the Congress on the Conceptual Design Study (CDS) are all based on the loop design.

Extensive analyses of both loop and pool plant concepts by U.S. design experts and the NRC over many years have established that neither is clearly superior for safety, economic, or environmental reasons. Both concepts have been and are being developed in the U.S. and foreign nations.

The U.S. is significantly more advanced in the development and licensing of the loop concept.

The CRBRP design is technologically correct and up to date.

Mr. Chairman, I also wish to include a letter sent to me by some of the finest scientists in this Nation.

NEW YORK, N.Y.,
June 4, 1981.

Hon. BARRY M. GOLDWATER, Jr.,
Rayburn House Office Building,
Washington, D.C.

DEAR CONGRESSMAN GOLDWATER: Responding to an inquiry by Representative Marilyn L. Bouquard, Scientists and Engineers for secure energy (SE_2) has evaluated the merits of the Breeder Reactor Program at Clinch River. We feel that this issue is one of great importance within the context of this country's national energy debate; we hope that you share our concern and will, therefore, be interested in our comments on the matter.

Today, a substantial majority of SE_2's membership is strongly in favor of continuous funding for this most important project. Rather than to repeat the detailed analysis which led us to support the ongoing development of the Liquid Metal Fast Breeder Reactor (LMFBR) technology in the United States—an analysis which by now must be quite well known to all interested parties—let us here summarize the main reasons which compel most members of the SE_2 Steering Committee, and many other experts within our organization, to come out on the side of the Clinch River Breeder Reactor Project (CRBRP).

(1) LMFBR is the only, already proven technology which can serve as guaranteed insurance against possible, future energy crises.

(2) At the time of possible, future deployment, LMFBR's will be a secure, and most probably economical way by which to convert nuclear power technology into a truly renewable energy resource of unlimited potential.

(3) In many respects, the CRBRP is the most advanced development project of its kind. If promptly pursued and properly followed up, it may open the way for the United States and the world to acquire, by the turn of the century, a fully commercially applicable, advanced breeder technology at precisely the time when a massive introduction of such a resource may become necessary.

(4) In view of recent political developments in certain Western countries, particularly France, the Clinch River Breeder Project may become the only reliable technological undertaking of its kind in the Free World.

Together, the four above points constitute a powerful case for the continuation of CRBRP. Incidentally, our support for the steady development of the LMFBR technology in this country does not in any way reduce our enthusiasm for the search for, and development of, alternative avenues for the secure generation of nuclear power. In particular, we fully endorse the call by Edward Teller for an ongoing assessment by a national body of technological experts of various known and promising technical options. Such work should yield practical proposals which could serve as useful guides for future Congressional and Administrative action. Nevertheless, we strongly believe that such an assessment of additional alternatives should proceed concurrently with the vigorous, and rapid, development of the Clinch River Plant.

The United States urgently needs the working experience and trained personnel which only an ongoing CRBRP can provide. We trust that the Congress will, in the best national interest, provide the required funds.

For the Scientists and Engineers for Secure Energy: Robert K. Adair, Yale University; Manson Benedict, Massachusetts Inst. of Technology; Hans A. Bethe, Cornell University; R. Creighton Buck, University of Wisconsin; Karl Cohen, Stanford University; Albert Gold, New York Polytechnic Institite; Robert Hexter, University of Minnesota; Erich Isaac, City University of N.Y.; Robert S. Mulliken, University of Chicago; Thomas Pigford, U. of California, Berkeley; James Rainwater, Columbia University; Norman C. Rasmussen, MIT; Dixy Lee Ray; Frederick Seitz, Rockefeller University; Miro M. Todorovich, City University of N.Y.; Alexander von Graevenitz, University of Zurich; Alvin Weinberg, Oak Ridge Associated Universities; and Eugene Wigner, Princeton University.

Mr. WINN. Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota, Mr. WEBER.

The CHAIRMAN. Without objection, the gentleman from Minnesota (Mr. WEBER) is recognized for 3 minutes.

There was no objection.

Mr. WEBER of Minnesota. Mr. Chairman, since the Clinch River breeder reactor was first authorized in 1970, a host of arguments have been raised both for and against the viability and necessity of the breeder program. Regardless of the merits of the other peripheral points, the economic basis for opposition to CRBR is simple and indisputable—that with a given level of Federal money to be invested in the development of alternate energy technologies, the Clinch River breeder reactor has never been, and will not be in the foreseeable future, a cost-effective means of insuring this Nation's energy self-sufficiency.

I would further like to make the point—the most significant point, in my judgment—that continuation of this program marks a critical and unwarranted disruption of free market

forces—a disruption which is both inconsistent with our overall administration philosophy and detrimental to the national interest.

Secretary of Energy Edwards, in his February 24 testimony before the Science and Technology Committee, outlined the administration's rationale for sharply reducing Federal outlays in virtually all areas of the energy budget. He said:

It will be the free marketplace, not Government, which will supply the enormous capital investments required to support the commercial introduction of new and alternative energy technologies into the economy. The marketplace can do this more efficiently and effectively than Government, especially when energy prices truly reflect energy costs.

. . . The Government (will) focus its support on longer term, high-risk research and development which industry cannot reasonably be expected to undertake.

Industry will be expected to support demonstration of promising near-term technologies and to be responsible for their ultimate commercial development.

I do not believe that at this stage of the debate there should be any real doubt that the Clinch River breeder reactor constitutes the demonstration of near-term technology and that, therefore, its commercial development should be assumed by the private sector.

Simply put, support for continued Federal subsidization of Clinch River represents a rejection of these significant new efforts to foster a free market in energy technology. A truly market-oriented approach should reject massive, long-term subsidization of any one energy technology, and should instead center around a cost-effective response to the energy problem—that is, arriving at a competitively derived energy mix that will provide maximum productivity at the least possible cost to both the energy consumer and the taxpayer. This will inherently exclude a project like Clinch River, which most energy experts agree is one of the least cost-effective energy alternatives available given the enormous capital investment requirements and the likelihood of reduced electrical demand over the next several decades.

The figures before us today make a compelling point—that there is a fundamental and irreconcilable conflict between the administration's oftenstated commitment to reducing unnecessary and inefficient Federal subsidization of energy technologies and the continued development of a nuclear white elephant such as Clinch River.

If I may make a rhetorical point, given the projections of low-cost and plentiful uranium and reduced electrical demand well into the 21st century, can it seriously be argued that the Clinch River breeder reactor will prove itself to be a competitive, energy-efficient technology thus ushering in an era privately funded breeder reactors. I think not.

In fact, in my strong opinion, if this project is funded, we will be committing ourselves to an open-ended development scheme which will eventually require the Federal Government to subsidize far more than the single reactor we have at issue here today. As David Stockman put it in his 1977 memo in opposition to Clinch River:

(The CRBR) will generate a vast industrial support and supply infra-structure among private companies engaged in all phases of reactor design, component manufacture, and plutonium fuel cycle support. The development of this infrastructure is in fact one of the central goals of the project. . . . What will happen is that the breeder will develop still greater institutional momentum. (Stockman memo, 9/17/77.)

This institutional momentum, of course, given the decision to proceed with full-scale commercialization of Clinch River, will necessitate additional capital investments for the construction of additional breeder reactors of at least the magnitude and cost of the Clinch River reactor, and additional Federal subsidization of an energy network which, under the vast majority of scenarios will not become economically competitive until after the middle of the next century. In fact, a comparative economic analyst for the respected American Enterprise Institute named Brian Chow conducted a study of 108 possible pricing scenarios of light water versus breeder reactors. In 83 percent of these scenarios, the breeder is not an economically competitive option until after the year 2050, while the best case scenarios show cost-effectiveness no sooner than the year 2013. This means that financial support of this particular technology will remain largely a public sector responsibility for at least 30 years.

Past statements by both Secretary Edwards and Budget Director Stockman essentially indicate acceptance of the fact that breeder technology could not possibly survive when subjected to the rigors of the marketplace. In his testimony before our committee, the Secretary said that Federal funding will be limited to—

Potential payoffs which are often so distant and risky that private investors cannot anticipate an adequate return of their investment. (Edwards testimony 2/24/81.)

and in his 1977 memo, Director Stockman said:

(The) reduction in the cost of breeders is absolutely essential to the commercial success of the development effort on the present timetable (however), the history of the light-water reactor and the great unknowns in breeder and reprocessing technology make the likelihood of achieving cost reductions of the requisite magnitude almost nil. (Stockman memo 9/17/77.)

Who can possibly put a price tag on this type of network? Will $20 billion be enough? Thirty? Forty? I fear that in our haste to endorse the continued development of breeder technology, we have virtually ignored the potential enormous Federal funding requirements for this narrow, complex, and costly infrastructure.

Mr. Speaker, Clinch River is an ineffective and poorly devised approach to our Nation's critical energy problems, which both the taxpayers and energy consumers of this country can ill afford. It has been my hope that the free-market premises of the new administration could be applied equitably and without bias to all areas of Federal involvement in the energy field. With Clinch River, however, this has not been the case. As Mr. Stockman has put it:

. . . early commercialization of the breeder will result in large economic losses to society . . . therefore, no further subsidization of the Clinch River project, an integral step in the early commercialization program, can be justified.

I can find no legitimate reason why a program whose sole merit and support rests on institutional momentum and narrow financial interests should receive an extraordinary amount of Federal largesse at a time when far worthier programs are being sacrificed in the name of budget restraint.

I would urge the termination of this project.

Mr. WINN. Mr. Chairman, I would like to clarify two things. The vote in the committee on Clinch River was 21 to 19. I would like to correct the statement that the chairman made about the minority. The minority vote was nine in favor of Clinch River and eight against.

Mr. FUQUA. Mr. Chairman, I yield 2 minutes to the gentlewoman from Tennessee, Mrs. BOUQUARD.

The CHAIRMAN. Without objection, the gentlewoman from Tennessee (Mrs. BOUQUARD) is recognized for 2 minutes.

There was no objection.

□ 2040

Mrs. BOUQUARD. Mr. Chairman, as many of my distinguished colleagues know, it is my conviction, as chairman of the Subcommittee on Energy Research and Production, that the Committee on Science and Technology made a substantial error when it voted, by a one-vote margin to terminate the Clinch River breeder reactor project, However, aside from this action, I believe that the Committee's Department of Energy Authorization bill is for the most part, a balanced approach to energy research and development.

I would only add that since the Gramm-Latta II substitute for the DOE authorization is in essence the bipartisan agreement of the Committee on Science and Technology that was reached immediately prior to the committee's CRBR termination vote,

then it is, a fortiori, the better recommendation for a balanced energy R. & D. program. The depth and degree of support for this most important national project, the Clinch River breeder reactor, is shown in the dissenting view on the committee's bill, which I have included at the end of my oral statement.

Overall, in the nuclear fission area, the committee decreased the Reagan budget proposal by $187 million. While achieving this decrease, the committee acted responsibly to continue the high temperature gas reactor program that had been slated for termination. The potential diverse application of this technology to produce high temperature steam for the chemical, synfuel, shale oil, metal refining, and electric energy industries, warrants a continued national effort to bring it to the point of commercialization.

The committee also restored a valuable program at the Barnwell Nuclear Fuel Plant. The research and development conducted at the Barnwell plant has developed what many believe to be the most sophisticated nuclear safeguards system in existence. This work is very important to assuring effective safeguards at reprocessing facilities throughout the world. The Barnwell efforts will also result in the improved techniques for shipping and storing spent fuel. This work has achieved increased signficance in light of recent developments in the Middle East.

In the magnetic fusion program, the committee increased the Reagan budget by $5 million to $465 million. It is now a modestly aggressive program to develop the technology consistent with the Magnetic Fusion Energy Engineering Act of 1980. The committee reaffirmed the congressional commitment to encourage domestic industry to meaningfully participate in the engineering development phase of fusion research, and it indicated strong support for the Center for Fusion Engineering.

The small-scale hydropower program was also increased from a zero proposed budget to a minimal budget of $2 million. This funding level will assure a continuing low-level Federal effort to support research in engineering for the wider use of this resource.

The electric energy systems storage programs were increased by $25.1 million to a total of $74 million. This level of funding provided for the continued development of technologies for bringing electricity from decentralized sources into complex distribution systems, for superconducting cables, for high voltage transmission, for load leveling battery research and for other important research.

The committee's action in balancing the priorities were not easily taken. A serious loss to the Nation in the fossil program may result from the cancellation of the SRC-I Plant. The coal refining process that would have been demonstrated at this plant works well on eastern coal and produces a variety of products that can directly offset imported oil, including boiler fuel, anode coke, and petrochemical, and transportation feedstocks. Hopefully some mechanism will be found to continue the demonstration of this process through the Synthetic Fuels Corporation.

The committee also approved a $29-million increase over a zero-budget request in the promising magnetohydromatics, or MHD, program. This environmentally clean technology can be developed to utilize the tremendous coal reserves of the United States to produce electricity with 50 percent efficiency. A modest base technology effort in this area is certainly in the national interest.

In conclusion, Mr. Chairman, I would note that if a DOE authorization bill is finally enacted into law under the wing of this omnibus bill, then it would only be the second annual DOE authorization bill enacted since the creation of the Department of Energy in 1977. This testifies to the fact that Congress has not been doing its job in properly overseeing this important agency of the Government. I want to have a fiscal year 1982 DOE Authorization Act. However, I want to state plainly that I will do my best to correct the mistake made by the science committee in deauthorizing the Clinch River breeder reactor project.

We are precluded by the rule from a separate vote on this subject, but if a vote were permitted, I am confident that the House would resoundingly reaffirm their support for this project.

I include the following:

DISSENTING VIEW ON CLINCH RIVER BREEDER REACTOR PLANT PROJECT

These views are presented to underscore our strong support of the Clinch River Breeder Reactor Plant Project as the key element in our nation's breeder reactor development program.

The action of the Committee on Science and Technology to terminate the Clinch River Breeder Reactor Plant (CRBRP) is in direct opposition to the will of Congress as expressed over the last four years and to the intent of the new Administration. This action comes just at the time when we can move ahead with construction of CRBR and revitalize our national and international commitment to the development of nuclear energy. Our support for this project is based on a broad consensus in the scientific and technical community as well as the federal governments of the U.S. and the major developed countries that breeder technology is important to future energy security. In pursuing this goal, we believe, for a number of reasons, that CRBRP is the next step that the U.S. should take in its breeder development program.

Clinch River is the best plant to accomplish the goals of the U.S. breeder program. No alternative can offer more than this plant without greater cost or a serious loss of time. The design has been favorable reviewed at least 20 times by independent government and industry organizations with the objective of insuring that it was sound and at the forefront of technology. The Clinch River Breeder Reactor is the most advanced design in the world today in all aspects except size, and the size of CRBR was properly selected so that it would not be too large a scale-up from the predecessor plant, the fast Flux Test Facility.

CRBRP is ready to go now. Project design is about 86 percent complete and engineering research and development is about 96 percent complete. By the end of fiscal year 1981, about $218 million worth of completed hardware will have been delivered and more than $540 million worth will be in fabrication. We could complete the plant about seven years after receiving regulatory consent to begin construction.

Every other major industrialized nation in the world is building breeder reactors. The Soviet Union, France, the United Kingdom, Japan, Italy, and West Germany are actively developing breeder reactors with four fast breeder reactors larger than 250 MWe already operating and nine under construction or planned. All these nations realize that without breeder reactors to assure long-term fuel supplies, nuclear power will be a relatively short-term energy resource.

The U.S. must have a high-confidence energy strategy. We must assure ourselves and future generations of a secure supply of energy. The prudent course is to preserve the breeder option by proceeding with CRBRP. The General Accounting Office in its 1979 report, "The Clinch River Breeder Reactor—Should the Congress Continue to Fund It?", said flatly that if this nation wants a strong breeder program the Clinch River Breeder Reactor should be built. The GAO said further that a decision not to develop breeders implies the phasing-out of nuclear fission as an energy source. GAO support of CRBRP has been consistent and is included in subsequent GAO reports dated July 10, 1979 and September 22, 1980.

The proper stewardship of our indigenous resources requires that we utilize the breeder reactor to assure adequate supplies of nuclear fuel for centuries to come. The breeder promises to use uranium at least 50 times more efficiently than today's light water reactors. The prestigious National Academy of Sciences in its report, "Energy in Transition", came to the conclusion that we need all our resources—but we especially need coal and nuclear. The Academy said that the breeder would essentially make uranium a potential source of energy for hundreds of thousands of years. While current nuclear fuel resource projections indicate that breeders may not be needed until after the year 2020, significant uncertainties surround the long-term production capacity for this fuel.

The United States last year sent an estimated $100 billion overseas for oil. We are exporting our money and jobs for a resource that we burn rendering it unavailable for satisfying a wide range of human needs such as plastics, medicine, and fertilizer. Nuclear power cannot replace all that oil or its substitute fuel natural gas, but it can make a substantial contribution in modifying the energy mix so as to lessen our dangerous dependence on a foreign and depletable oil resource. A typical 1000 megawatt nuclear plant can replace 10 million barrels of oil per year if it is used to displace some of the more than 420 million barrels of oil consumed each year for generating electricity.

Those who say we could abandon our development effort and buy foreign breeder technology are wrong because of the licensing and economic aspects attendant to such an action. The U.S. has been a leader in technology, especially nuclear technology, until the present. Whether we retain this lead and build our own advanced fission plants according to our own safety standards and economics will be decided this year. The delays encountered in adopting foreign technology to our needs as well as the direct costs of design modifications would significantly add to the cost of breeder reactors in the U.S. On the other hand developing the breeder for the U.S. market will assure us the safest and most efficient machine possible.

Nuclear power is needed to meet our growing electric energy demands. Even doubling our present coal consumption for electric energy production—a prodigious task—we still will not be able to meet our projected electricity needs in the year 2000 without significantly expanding our nuclear generating capacity even assuming an electricity growth rate that's only one-half our historical growth rate during healthy economic times. Furthermore, nuclear is economical! For example, the Commonwealth Edison Company uses coal, oil and nuclear fuel to generate electricity. Because of its heavy reliance on nuclear power, its ratepayers saved $460 million in 1980 alone over what costs would have been if these nuclear plants had been constructed as coal-fired units. Projections for their system indicate that electricity from new nuclear plants will continue to be about 20% cheaper than from new coal plants.

Opponents of CRBR have argued that it is uneconomic and too expensive. A first-of-a-kind technology demonstration is never judged on economically competitive grounds. Arguments about the costs of breeder reactors 20 or 30 years into the future have to be based on assumptions that cannot be verified. The market conditions of the future will dictate the rate of breeder deployment. Furthermore, the return on the Federal dollar for developing CRBRP includes more than that gained from the advancement of breeder technology. The economic arguments against CRBRP ignore the tremendous revenues from the sale of generated electricity that will be realized over the plant lifetime. These net revenues are estimated at $3.2[1] billion at today's wholesale cost of electricity for TVA (almost $20 billion at projected costs). The present value of this future revenue is $854[1] million.

The Clinch River Plant will cost less, can achieve critical program objectives sooner, and will entail less technical risk than any alternative yet proposed. Any other plant would add at least eight to ten years more to the demonstration project schedule and increase costs by several billion dollars. Additionally, to increase the plant size would also increase the risk of failure. In order for breeder reactors to have any impact on nuclear fuel supplies before the year 2030, we must move ahead now with a demonstration plant. That plant can only be the CRBR.

Some support for CRBR has been lost because of a desire to shift the financial burden for costly demonstration projects to the private sector. While we support the approach in concept, it cannot be implemented independent of the realities of the marketplace. Private industry has previously demonstrated its willingness to take risks in the development of nuclear power as shown by the utility contribution to CRBR as well as other private nuclear ventures such as the Barnwell nuclear facility. Current conditions, however, make it nearly impossible for the highly regulated utility industry to purchase new generating capacity needed to displace oil-fired units, much less finance expensive R&D plants. If nuclear energy is to continue to provide power for America in the 21st century, the government must make a comparatively minor investment now.

A severe critic of the CRBR in the past is Mr. David Stockman. He recently sent to the Committee, through the Ranking Republican Larry Winn, a letter dated May 11, 1981. Mr. Stockman noted that "republicans over the years have seen the development of the breeder reactor as . . . a logical part of a complete and efficient total nuclear fuel cycle. The Clinch River Breeder Reactor is the first material evidence that the United States is willing to move toward such a goal." In addition, he stated that "The Reagan Administration favors the economical and safe development of nuclear energy. And, in particular, this Administration supports construction and operation of the Clinch River Breeder Reactor. This Administration intends to reinvigorate the effort on this project by joining the long struggle by the Congress to complete this project."

The CRBR project is important in the near term to the future of nuclear power. If Congress acts to terminate CRBR, this will be one more in a series of policy reversals (including closing the enrichment order books, prohibition against domestic and foreign reprocessing, and the Carter Administration's identification of nuclear power as an energy source of last resort) which, in conjunction with regulatory uncertainty and private financing constraints, make additional investment in nuclear power difficult at best. If we are to meet our growing electric energy needs, these uncertainties must be removed. The focus of attention today is on the government's willingness to continue with the CRBR project.

We strongly support the completion of the Clinch River Breeder Reactor Plant and believe it is one of the most important energy technology development decisions facing the Congress this session. Moving ahead with CRBR will not only move us once again toward world leadership and influence in breeder technology but permit the much needed domestic development of nuclear power.

Robert A. Roe, Marilyn L. Bouquard, Ronnie G. Flippo, Albert Gore, Jr., Robert A. Young, Richard C. White, Harold L. Volkmer, Ralph M. Hall.

Larry Winn, Jr., Barry M. Goldwater, Jr., Manuel Lujan, Jr., Harold C. Hollenbeck, Robert S. Walker, Edwin B. Forsythe, William Carney, Joe Skeen, Bill Lowery.

Mr. JONES of Oklahoma. Mr. Chairman, how much time do we have left on our side?

The CHAIRMAN. The gentleman from Oklahoma (Mr. JONES) has 1 hour and 32 minutes remaining.

The gentleman from Ohio (Mr. REGULA) has 1 hour and 30 minutes.

Mr. JONES of Oklahoma, Mr. Chairman, I yield 10 minutes to the gentleman from New York (Mr. DOWNEY).

POINT OF ORDER

Mr. MONTGOMERY. Mr. Chairman, I have a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. MONTGOMERY. Mr. Chairman, I thought the chairmen of the committees would be recognized first.

Mr. JONES of Oklahoma.

Mr. Chairman, I agreed in advance to yield 10 minutes to the gentleman from New York (Mr. DOWNEY). As soon as that is completed, the gentleman from Mississippi (Mr. MONTGOMERY) will be recognized.

Mr. DOWNEY. Mr. Chairman, I thank the gentleman for yielding.

I beg the indulgence of the chairman of the Veterans' Affairs Committee.

Mr. Chairman, it is axiomatic that sequels are rarely as good as the original. I just saw "Superman II" and I can attest to that fact. As a fantasy, "Superman I" was infinitely better. So was "Jaws I" better than "Jaws II." I daresay that Gramm-Latta II will go the way of all great movie sequels and not be as good as Gramm-Latta I.

The one comparison that is appropriate with Gramm-Latta I and Gramm-Latta II with the movies is that they both are fantasies. The fantasy in this instance is that somehow through the conglomeration of amendments we can present in one package a change, a dramatic change in our budget that will solve our problem of inflation and high interest rates and get our country moving again. Incredible.

It was amazing to me as I sat and listened on the floor today the Orwellian scenes that pervade the Chamber. On the one hand, the Republicans were decrying a gag rule that the Democrats were trying to force upon them, a rule that would allow six amendments on the various cuts that they wanted to see proposed in things like social security, school lunch programs, and the like; and on the other hand, there were the Democrats who wanted to see the separate votes on their package.

What happened? The Republicans said that these particular amendments were really a pernicious attempt on the part of the Democrats to expose their program to the American people. So they proposed their own rule.

In keeping with the fantasy, 27 Democrats decided that they would go along with it; and, in fact, we now have a Republican substitute. No one has seen the substitute.

It is being printed at this very moment. We really do not know what is in it. But it proposes for there to be not six votes, but only two votes: The one that we could all agree on on Energy and Commerce and the Latta substitute. The Republicans are hiding behind the Latta substitute; and why

[1] Figures revised based on more recent and detailed analysis.

are they doing that? Frankly, they are embarrassed about part of their program. They do not really want to go home and tell social security recipients that they cut their benefits. They are not anxious to tell handicapped children that the programs are reduced 25 percent. They are really not interested in telling students who are qualified for student loans that there may not be money for them.

I do not blame them. No one can really blame them for not wanting to do that. I would not want to do that.

So they are hiding behind this rule; but we have had an opportunity to see a few of the things that the Republicans are up to because in this voluminous document called Committee Print of June 25, amendments to be offered by Representative LATTA, now, of course, this is not really the Bible because it is being changed as I speak.

There are a number of fascinating attempts by the Republicans to shore up the safety net. We will probably in this administration do away with poverty; and why can I say that? Because on page 324 of this print, line 6, section 15,496, subsection (a): "The Office of Management and Budget is authorized to define poverty and to revise the definition of poverty each year."

Is that not marvelous? We will probably be able to do away with poverty because David Stockman will be defining poverty.

Also, embodied in this great document, just a little line, on that same page, on page 324, section (2)(e) of the Randall-Shepherd Act, it is repealed. Now, what is the Randall-Shepherd Act? It is an act that allows a priority for blind vendors to serve people in the Federal Government. It is repealed.

I assume that this is an economy move. Possibly people with sight will be able to serve us more quickly and, therefore, will be able to get on to our work much more expeditiously.

Mr. JONES of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY. I would be happy to yield to my distinguished chairman.

Mr. JONES of Oklahoma. I appreciate the gentleman's comments. We have had difficulty finding out what is in this Republican substitute. I think it is important to put in perspective what today's debate was all about and what tomorrow's debate is all about.

Today the committee bill was a complication of what 15 House committees did at the instruction of the House of Representatives. These 15 House committees were asked to cut $35.1 billion in outlays next year. Not only did they comply with that, but they did better than that, cutting $37.7 billion in outlays in spending next year from current programs. Some of these programs that they cut did not meet the approval of Mr. Stockman, the head of the OMB. So they came back and wrote a substitute that had additional cuts.

I think it is important to put in perspective where these additional cuts occur. There are nearly $7 billion of additional cuts from social security affecting 3 million elderly social security recipients; $1.8 billion of additional cuts come from medicare, affecting untold numbers of elderly citizens from good health care; $4.9 billion additional cuts from medicaid, affecting health care for the poorest of the poor of this country; $2.4 billion additional cuts, over and above what the committees have already done, additional cuts in child nutrition, school lunch programs, summer feeding programs.

And for 1.3 million students, college students from middle class families who are trying to get a college education with a Government loan, they will be cut off this program because of this Republican substitute.

When we are looking at these two different proposals, the Democratic proposal that was done by the House committees cuts $37.6 billion next year; the Republican proposal cuts even more from the elderly, the students, and the young. I think it is important to put that in perspective.

Mr. DOWNEY. Mr. Chairman, I would like to propound a question to the esteemed chairman of the Reconciliation Committee Task Force.

I have heard the Republicans say, and the President himself say, that these cuts are really cosmetic in many ways and that in the out years we will be increasing the size of the budget, not decreasing it. Is that a fact?

Mr. PANETTA. I would tell the gentleman that not only did the committees exceed the targets that were provided for savings in 1982 by over $2 billion in outlays, $37 billion instead of $35 billion, and an additional $54 billion in budget authority instead of $50 billion, in addition to that they did in excess of the targets for the out years both 1983 and 1984 so that, frankly, the House version was much more in line in terms of trying to achieve a balanced budget than even the Senate version insofar as the out years are concerned.

We think that was an important achievement by the 15 committees. We think that cutting 250 programs and providing the President with 85 percent of what the President had requested was a substantial accomplishment in terms of the committees trying to respond to the budget resolution.

□ 2050

Mr. DOWNEY. I have one other question.

What did the Senate do differently than the House? Did not the Senate make some changes in their reconciliation package?

Mr. PANETTA. It was interesting that all of this debate has seemed to focus on what the House has accomplished. The reality is that the Senate gave the President roughly 90 percent of what he wanted, only 5 percent more than what the House did, but they still did not accomplish 100 percent.

One wonders why they are not attacking the Senate for that.

The second point is that the Senate itself has made about 12 to 13 major changes in terms of the President's program as proposed to the Congress. Yet we did not hear about that as well.

Mr. DOWNEY. That is a remarkable set of facts.

Mr. GORE. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY. I yield to the gentleman from Tennessee.

Mr. GORE. I thank the gentleman for yielding.

I think it is also important to point out that some of the changes advertised as cuts in the proposal of our colleagues are actually phony cuts that will result in increases in the budget deficit.

For example, the item that I referred to in the Department of Energy endorsement budget, they cut out virtually all of the money for the lawyers and investigators to press the overcharge cases where the oil industry has allegedly violated the law and overcharged customers in this country.

All of those lawyers and investigators are fired and amnesty is declared for any who may have violated the law in the oil industry over the last 7 years if the cases have not yet been prosecuted, and a lot of them are pending. We estimated on the Committee on Energy and Commerce that up to $15 billion worth of overcharges will not be collected if all these lawyers and investigators are fired.

The CHAIRMAN. The time of the gentleman from New York (Mr. DOWNEY) has expired.

Mr. JONES of Oklahoma. I yield 1 additional minute to the gentleman from New York.

Mr. GORE. If the gentleman will yield further, interestingly enough, the authors of this resolution assume collections into the Treasury of $1.5 billion to help try and balance their books. None of that will be forthcoming. So even by their own figures, they are going to save a few million dollars and lose $1.5 billion.

I wanted to ask the gentleman one question. Is it not true on something the gentleman said earlier that by giving the Director of the OMB the authority to define poverty this would in effect give the Director of the Office of Management and Budget the authority to completely and totally eliminate the food stamp program simply by redefining the level of pov-

erty at his whim above some arbitrary level because those who collect those benefits can only do so if they are under that level.

If he can establish the level, he can cut everybody out.

Mr. DOWNEY. There is no question that this abrogates to the Director of OMB tremendous authority. I am not quite sure whether or not he is more like "Jaws II" or "Superman II," but I suspect a lot more like "Jaws I."

Mr. JONES of Oklahoma. Mr. Chairman, I yield such time as he may consume to the distinguished chairman of the Committee on Veterans' Affairs, the gentleman from Mississippi (Mr. MONTGOMERY).

Mr. MONTGOMERY. Mr. Chairman, action taken by the Committee on Veterans' Affairs to comply with the reconciliation instructions contained in the first concurrent resolution on the budget for fiscal year 1982 is explained in detail beginning on page 227, volume III, of the report to accompany H.R. 3982; therefore, I shall be brief in my remarks.

When the President submitted his budget adjustments to the Congress on March 10, for function 700, the President recommended that Congress reduce outlays for veterans' benefits and services by $830 million in fiscal year 1982. Our committee met on March 26 to consider the President's proposed budget reductions.

My colleagues in the House are aware that I have been outspoken in my belief that we must reduce Federal spending. I have long believed that deficit spending, more than anything else, is the primary cause for the high rate of inflation during the past several years and, unless we begin to control Federal outlays, we are not going to get a handle on inflation and veterans will continue to suffer along with others.

As the chairman of the Committee on Veterans' Affairs, and based on my belief that all committees must share in the responsibility for reducing the Federal budget, I recommended to our committee members that we agree to a reduction of $441.2 million in outlays—about one-half the total reductions proposed by the President. For example, we did not accept a reduction of some 5,500 health-care personnel because VA had lost more than 7,000 positions in the 2 preceding fiscal years. We did not accept the proposed sweeping consolidation of most functions of the 58 regional offices that would have resulted in a first-phase reduction of some 1,764 DVB personnel in the next fiscal year.

The committee did agree to share some of the responsibility to reduce Federal spending. Of the total agreed to, $110 million in budget authority and outlays had to be accomplished through legislative cost-savings. These are set out in title XIV of the reported bill.

Section 14001 of the bill would terminate the authority of the Veterans' Administration to provide educational assistance to veterans and servicepersons for the pursuit of flight and correspondence training. The termination of these two programs were proposed by former President Carter and President Reagan. The effective date of this provision is October 1, 1981, and, according to the Congressional Budget Office, would result in savings of $32 million in 1982, $28 million in 1983, and $24 million in 1984.

Section 14002 of the bill would terminate the authority of the Veterans' Administration to make education loans after September 30, 1981, to veterans and other eligible persons training under Chapters 32, 34, or 35 of title 38, United States Code. The Veterans' Administration has continued to experience great difficulty in collecting loans that have matured. With the default rate exceeding 64 percent, the committee is recommending that the program be discontinued effective October 1, 1981.

The Congressional Budget Office has projected savings of $6 million in outlays in 1982, $5 million in outlays in 1983, and $4 million in 1984.

Section 14003 of the bill would eliminate outpatient dental treatment for service-connected noncompensable dental conditions which are unrelated to service trauma or prisoner of war status. The President's budget adjustments recommended that this benefit be terminated. Our committee is agreeing with the President's recommendation. The effective date of this provision would be October 1, 1981.

According to the Congressional Budget Office, it is estimated that enactment of this provision would result in savings of $36 million in budget authority and outlays in 1982, $38 million in 1983, and $40 million in 1984.

Section 14004 of the bill would limit the payment of burial benefits—funeral and plot allowances—to cases where the taxable income of the deceased veteran and his or spouse does not exceed $20,000 in the 12-month period preceding the veteran's death. The committee feels that if reductions are to be made, the committee proposal would not have any adverse impact on the families of needy veterans by limiting the benefit to those cases where income exceeds $20,000.

According to the Congressional Budget Office, this provision would result in savings of $42 million in budget authority and outlays in 1982, 1983, and 1984.

Mr. Chairman, the Committee on Veterans' Affairs has agreed to the terminations and reductions in benefits contained in this bill in order to bring about the reductions contained in the reconciliation target for the committee as approved by the Congress.

I yield back the balance of my time.

Mr. LATTA. Mr. Chairman, I yield 5 minutes to the gentleman from Arkansas (Mr. HAMMERSCHMIDT).

Mr. HAMMERSCHMIDT. Mr. Chairman, I believe the Veterans' Affairs Committee has done a good job in meeting its target with respect to reconciliation.

Our committee recommended to the Budget Committee that certain actions be taken which in the aggregate would result in an additional savings of $110 million. We recommended that flight and correspondence training programs be terminated which would result in a savings of $32 million in budget authority and outlays in fiscal year 1982. We also recommended that termination of the educational loan program which would result in a $6 million savings in outlays in fiscal year 1982, $5 million in 1983, and $4 million in 1984. Further, we recommended termination of what is called class II dental treatment which has resulted in saving $32 million in budget authority and outlays in fiscal year 1982, $38 million in fiscal year 1983, and $40 million in fiscal year 1984. Finally, Mr. Chairman, we recommend a substantial change in certain burial benefits for veterans who in the last year of their lives had substantial income. This savings amounted to $42 million in outlays in fiscal year 1982 and the same dollar savings in fiscal year 1983 and fiscal year 1984.

In addition to the savings I have just alluded to, Mr. Chairman, the Veterans' Affairs Committee also took other actions which were involved in cost savings when related to previous budget submissions. The compensation increase for service-connected veterans has been ordered reported by our committee to the full House. It involved an increase of 11.3 percent as compared to a previous recommendation of $12.3 percent. Our committee accepted some terminations and some deferrals of construction projects involving $71 million in savings.

We accepted proposals to increase interest subsidies on insurance policy loans resulting in $96 million in outlay savings. Other construction projects were deferred involving $32 million.

All of these proposed reductions resulted in a total savings in budget authority of $351 million and $441 in outlays. This is not what the President requested but in terms of what to our committee seem to be prudent, we believe it is acceptable.

Very importantly, there will be no adverse impact on the quality of medical care as a result of these proposals. Moreover, a reorganization proposal which would have literally destroyed the authority of 58 regional offices has been overturned and is no longer

being considered. I repeat Mr. Chairman, I believe our committee has carried out its responsibilities with respect to reconciliation.

Mr. JONES of Oklahoma. Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Chairman, I rise in support of the House Budget Committee reconciliation bill, the Jones bill. But as I do, I am struck by what an extraordinary procedure we are following, unprecedented in the annals of this body.

Here we are, discussing a bill that is not before us, a bill that has not even been printed yet, that is not available to the Members of this body, and which, technically under the rule, can be changed any time up until midnight tonight, a bill that only a privileged few have even seen and which fewer still, apparently from the debate this evening, even understand.

We are operating under a rule which, had it been offered by the majority, would have been denounced by the Republicans as a gag rule. Yet, now that it is their rule, now that it is the minority's rule, both the Republicans and the defecting Democrats are hiding under this facade of the Gramm-Latta substitute in what can only be described as a case of massive avoidance of accountability. They simply do not want to stand up and be counted on the substance of this bill and on what it does to the people of this country.

No administration and no party should fear public review. No administration should fear public scrutiny of its programs. But this administration and our colleagues on the other side of the aisle are hiding from that public scrutiny. I want them to come out in the broad sunshine, in the broad daylight of public review and subject their proposals one by one to votes on the House floor so that people of this country will know where they stand on questions of needs of America and economic development and social growth and development in this country and public transportation and the whole range of programs that are covered by this bill, but they are hiding behind this facade. It is a massive abrogation of power to the executive branch, power taken away from the Congress. It is a dangerous procedure.

It is one that Democrats and yes, indeed, if there are some—and I know there are some—some thinking Republicans ought to overwhelmingly rise up against and reject this drastic usurpation of the legislative process.

Mr. LATTA. Mr. Chairman, how much time do I have?

The CHAIRMAN. The gentleman from Ohio (Mr. LATTA) has 1 hour and 25 minutes.

Mr. LATTA. Mr. Chairman, I had not intended to say anything, but apparently they want to start this debate all over again and I am prepared to do exactly that.

The gentleman who preceded me apparently is oblivious to the print that has been up there beside the Speaker's chair all afternoon and he has not taken the time to even glance at it. Apparently the gentleman is oblivious to the fact that we do not have to introduce our amendment until tomorrow. Apparently the gentleman is oblivious to the fact that all afternoon they have been discussing on this side of the aisle, the ranking members and other members on the various six committees or seven committees that we are attempting to amend the work of the Democratic side.

I do not think that anybody is hiding from anything. But apparently they are hiding from the committee bill itself.

□ 2100

There has been very little discussion of what is in the committee bill. Let me, if I may, just take the little document here called the CONGRESSIONAL RECORD on June 22, and turn to page H3154 to peer into what, not what we say is in the committee bill that has been forgotten here this afternoon—and we are still working on that piece of legislation—let us see what Mr. PANETTA has to say about this legislation, and we are talking about the committee bill that has been strangely silent this afternoon. I am quoting from what Mr. PANETTA put in the RECORD:

The package includes cuts in the dairy price support program, the food stamp program, CCC administrative expenses, rural water and waste grants, the P.L. 480 program, USDA salaries and expenses, USDA conservation programs and the Farmers Home Administration's Rural Development and Agricultural Credit Insurance Funds. The Committee also approved the elimination of the first year interest subsidy for the grain reserve and user fees for inspection of grain, tobacco and cotton.

Now, it has been strangely silent from that side this afternoon about these cuts that are in the committee bill. Let us go into the next committee that is in the committee bill, Armed Services, and once again, do not take my word; I am quoting from Mr. PANETTA:

The package achieves savings through a once-a-year COLA for military retirees (subject to similar benefits being enacted for civilian retirees), stockpile sales and open enrollment in the military survivor benefit plan.

Under Banking, Finance and Urban Affairs, and I might say to my friends that we had nothing to do with these. These came out of the committees on your side of the aisle. The package includes reductions in subsidized housing. We have not heard a word about that from that side this afternoon.

The package includes reductions in subsidized housing, Export-Import Bank, CDBG, UDAG . . .

My, my, where have our city friends been on that side of the aisle this afternoon about this reduction?

. . . rural housing loans, National Conservation Cooperative Bank, HUD grants (neighborhood self-help development assistance grants, Section 701 planning assistance grants), Solar Energy Conservation Bank, Section 202 Housing for the Elderly and Handicapped, FmHA housing grant programs, FEMA flood studies and reductions in salaries and expenses for eight agencies and bureaus. HUD Section 312 Rehabilitation loans . . .

And so it goes in that department. Let us go on to the next. Well, skip the District of Columbia. Let us go to Education and Labor.

The package includes reductions in the following programs.

Please take note:

Special milk; summer feeding; school lunch; juvenile justice; vocational education; other education programs; student assistance; guaranteed student loans; impact aid; CETA PSE; CETA training; the National Endowments for the Arts and Humanities; Youth Conservation Corps; Vocational Rehabilitation; runaway youth; child abuse; Indian Education; Headstart; Institute for Museum Services; Work Incentive (WIN); Community Services Employment for Older Americans; elderly nutrition; ACTION; and services for Cuban-Haitian refugees. The Committee has also proposed a user fee which would be used to finance the Black Lung Trust Fund.

That means a tax, a tax on every ton of coal. Let us go on; Energy and Commerce:

Although the Committee met and adjourned without formally reaching a decision on a reconciliation package, separate majority and minority packages have been submitted to the Budget Committee . . .

We have heard very little about the Dingell package this afternoon, but we have heard a lot about the Broyhill package. Why all the strange silence on the majority side on their cuts?

On Foreign Affairs:

The package includes reductions for American Schools and Hospitals Abroad, International Organizations and Programs, international narcotics control, international disaster assistance, Inter-American Foundation, Peace Corps, assessed contributions to international organizations, the Board for International Broadcasting, the International Communications Agency, Arms Control and Disarmament Agency and the P.L. 480 Food For Peace Program.

And the farmers of this Nation like this program. .

Interior and Insular Affairs:

"The package includes reductions for the Department of the Interior, the Indian Health Service, Water Resources Council and uranium supply activities under the Department of Energy. Also included are significantly increased user fees—

And that is a tax—

. . . for uranium enrichment and filing and leasing fees for noncompetitive oil and gas lands.

I wonder—I wonder why we have not been discussing these things on that

side of the aisle. You have been extremely silent about the cuts that you have, and there are a lot more than what we have been proposing. You go into every committee. We are only going into 7 of the 15.

Merchant Marine and Fisheries:

The package includes a repeal of the merchant seaman entitlement for health care and the deauthorization of the MARAD Construction Differential Subsidy 1982 program, and reduction of the 1983 and 1984 program. Program oil-spill liability legislation and an ocean dumping user fee are also included.

Mr. JONES of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. LATTA. I will not yield at this time. If you would like to take this CONGRESSIONAL RECORD and follow along, you are welcome to do so.

Mr. CAMPBELL. Mr. Chairman, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from South Carolina.

Mr. CAMPBELL. Mr. Chairman, I appreciate the gentleman yielding. I have just come from my office and witnessed probably the biggest charade that I have seen in a long time. I did not realize that the Public Broadcasting System was involved possibly in slanting the view of this debate.

However, as I watched the television set for the lawmakers in the debate on the floor of this House, I watched a set deal where a Member came in with prior notification to make a speech at 20 minutes till 9, when other Members were not recognized, changed out of turn, a speech was made for 10 minutes slanted absolutely one way, and then the people walked out and no other debate was given. It was a most interesting occurrence, obviously done with some coordination. I just thought it might be to the interest of the gentleman that this sort of thing has taken place.

Mr. LATTA. Let me say to my friend that I was not oblivious of the fact, because I heard the same speeches earlier in the day, and they were just repeated at that hour.

Let me continue here on Post Office and Civil Service:

The package includes a provision to cap Federal pay in fiscal years 1982-1984, a provision to reduce the civil service pay of retired military personnel, . . .

Mr. JONES. of Oklahoma. Would the gentleman yield for a question for clarification?

Mr. LATTA. You can get this little document underneath your seat and follow along.

Mr. JONES of Oklahoma. No, I have reference to what you said that is not in the document.

Mr. LATTA. May I continue, and as soon as I finish this I will finish my statement, but we only have a little bit further to go on the reading of what Mr. PANETTA says that the committee substitute, the majority committee substitute contains, and I take him at his word, and I am not saying that I oppose any of these cuts that he has. I am not saying that. I am just pointing them out. I think the American people and this House have a right to know what is in it, but strangely this afternoon we have only heard about six or seven of the committee's work on our side, the cuts that they have proposed to do.

So, I think we ought to get it all in the RECORD.

Mr. JONES of Oklahoma. I am just wondering if the gentleman——

Mr. LATTA. I will continue.

The CHAIRMAN. The gentleman refuses to yield.

Mr. LATTA [continuing].

The elimination of equal pay for civil servants who are on leave for active duty in the National Guard or Reserves and a provision directing the Postmaster-General to develop a plan to achieve $100 million in savings.

Under Public Works and Transportation—

The Committee did not have a formal mark-up, but has submitted a package that reduces obligations for federal highway programs, cuts highway safety grants, urban mass transit grants, the Economic Development Administration, Regional Commissions EPA sewage and wastewater grants, EPA research and development, Corps of Engineers-related projects, a TVA energy project, Airport Development and Planning Grants and the Civil Aeronautics Board. The package also includes an oil-spill liability user fee.

□ 2110

As far as Science and Technology, the package includes reductions in the Department of Energy, EPA research and development, and the FAA research engineering.

Under Small Business, the package includes cuts in SBA business loans and disaster loans.

In Veterans' Affairs, the package provides for the termination of VA flight and correspondence benefits and VA class II dental benefits. Also included is legislation limiting nonservice-connected burial benefits to those veterans whose income and spouse's income did not exceed $20,000 in the year prior to the veteran's death.

In the Committee on Ways and Means, the committee package—and on that note, we have heard very little about that committee package this afternoon—the committee package proposes reductions in social security, trade adjustment assistance, unemployment compensation, public assistance, child support enforcement, low-income energy assistance, supplemental security income, social services training, and medicare.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. LATTA. I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, did the gentleman say that the committee package that we have heard so little about includes reductions in social security?

Mr. LATTA. Mr. Chairman, let me say, as I pointed out this afternoon in the colloquy with the Speaker of the House, that they are going to save about $1.8 billion by delaying a portion of the cost of living for some 36 million senior citizens next year.

Mr. WALKER. Mr. Chairman, will the gentleman yield further?

Mr. LATTA. I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. That is 10 times the number of citizens we have the Speaker and everybody else talk about from the well today as being affected in the Gramm-Latta package.

Am I not correct that in Gramm-Latta, in the package that we have, what we are trying to do is get at the people who have been double-dipping in the social security system for a long, long time—even the Speaker made reference to that today—and what they are doing is going after the retirees, the very people who depend upon social security for their livelihood? Is that not the difference between the two packages?

Mr. LATTA. Let me say to my friend, the gentleman from Pennsylvania, that under Gramm-Latta we restore that $1.8 billion for the 36 million people on social security.

Mr. WALKER. And so the people who are really retired, the people who are depending on social security for their livelihood, are much better off under Gramm-Latta than they are under the committee package?

Mr. LATTA. Those 36 million would be, that is for sure.

Mr. WALKER. Mr. Chairman, I thank the gentleman from Ohio (Mr. LATTA). That is a very important clarification.

Mr. JONES of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. LATTA. I am happy to yield to the gentleman from Oklahoma.

Mr. JONES of Oklahoma. Mr. Chairman, there are two clarifications to be made. As the gentleman fully knows and as the gentleman from Pennsylvania (Mr. WALKER) fully knows, the Committee on Ways and Means did what the Reagan administration wanted it to do in cutting these programs, only it did not do it as severely.

But the real point of clarification—and this is the question I want to ask of the gentleman from Ohio—is that I understood the gentleman to say that the Latta substitute cuts in only 7 committee programs, whereas we cut in 15 committee programs. Does that mean that the Latta substitute will restore the funding in those other eight committees?

Mr. LATTA. No. If I led the gentleman to believe that, that is not accurate.

Mr. JONES of Oklahoma. All right. So the Latta substitute does not restore those cuts.

Mr. LATTA. As the gentleman well knows, as we said at the outset, we accept the work of the committees that we do not include in our substitute.

Mr. JONES of Oklahoma. It would be fair to say, then, that the gentleman's proposal cuts all 15 committees also?

Mr. LATTA. Absolutely. We ought to spread it on the RECORD, and that is the reason I am doing it here in this fashion. We have heard all afternoon about what they are doing in these seven committee areas, but we have not included all of them, and I think we ought to know what the whole package contains.

Mr. JONES of Oklahoma. I wish the RECORD would spread out what the Latta substitute does also.

Mr. LATTA. May I say to the gentleman that all he would have to do is walk about 35 steps up there and get the document, and then he could walk back and sit down and read the document. He could spend the evening reading it.

Mr. WALKER. Mr. Chairman, will the gentleman yield further?

Mr. LATTA. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding.

We have just heard the committee package laid off to the Reagan administration, and I think there is an important clarification to be made there, too, because we have heard again all afternoon about how we are being dictated to by the White House.

If that is the case, it seems to me that that would be in our package, not in the committee's package. It sounds to me as though they took that kind of direction, whereas we have taken care of what we saw to be an inequity. We have gone back and helped those social security recipients, keeping the COLA in July.

I just think it is important to clarify that we Republicans have not given up our ability to be responsive to what we see as the needs of the American people, and once again I think that speaks well for the gentleman's package.

Mr. LATTA. Mr. Chairman, I thank the gentleman from Pennsylvania (Mr. WALKER) for his comment.

● Mr HOWARD. Mr. Chairman, the budget resolution which recently passed the Congress assumes control of Federal spending as a critical and primary element of any serious anti-inflation policy, and rampant inflation as the single most profound threat to our economy and to our future domestic security. Accordingly, the spending decisions underlying that resolution span the programmatic gamut from defense to social issues, from individual to business tax cuts, and from business to investment incentives. It is the latter—investment programs, and specifically those spending reductions associated with public works investment programs—that are of primary concern to the Committee on Public Works and Transportation.

Section 301(11) of the conference report to accompany the first concurrent resolution on the Budget for fiscal year 1982 directs the House Committee on Public Works and Transportation to change laws within its jurisdiction to achieve savings in authorization programs of $6,346 million in budget authority and $1,033 million in outlays for fiscal year 1982, and in direct spending programs, $185 million in outlays for fiscal year 1982.

In addition, savings amounts are also included for fiscal years 1983 and 1984, as follows: In authorization programs, $5,122 million in budget authority and $2,665 million in outlays for fiscal year 1983; $6,241 million in budget authority and $4,355 million in outlays for fiscal year 1984; and in direct spending programs $900 million and $1,365 in outlays for fiscal years 1983 and 1984, respectively.

The committee's portion (title XI) of the reconciliation bill, as estimated by the Congressional Budget Office, more than meets its budget resolution savings directive. For fiscal year 1982, the committee demonstrates additional savings of approximately $28 million in budget authority and an estimated $429 million in outlays over and above that which was required of it by the budget resolution. In addition, for fiscal years 1983 and 1984, the committee stated both in its letter of tranmittal to the Budget Committee and in the report accompanying its submission, that when these programs are considered for reauthorization, the committee will achieve the outyear reductions.

Generally, the reconciliation package fashioned by the committee was the result of substantial discussion and painstaking decisions regarding many of the programs over which we have all labored hard and long. It is premised not only upon the unqualified commitment of the Committee on Public Works and Transportation to comply fully with the budget resolution directive, but also upon the committee's recognition of the need to control inflation and to reduce overall Federal spending to achieve economic recovery.

Mr. Chairman, I would like to outline some of the major program reductions proposed by the committee.

ADAP

The committee achieves a fiscal year 1982 savings of $139 million in budget authority and $28 million in outlays from CBO's current policy baseline by setting the total amount available for obligation in fiscal year 1982 for the grants-in-aid to airports program at $650 million.

CAB PAYMENTS

The committee achieves a fiscal year 1982 savings from the baseline of $21.8 million in budget authority and $20 million in outlays by setting the total amount of compensation for fiscal year 1982 at $75 million under sections 406 and 419 of the Federal Aviation Act of 1958.

FEDERAL-AID HIGHWAYS

The committee achieves a fiscal year 1982 savings of $500 million in outlays by setting the obligation ceiling for the Federal-aid highways account at $8.2 billion in fiscal year 1982 with a limitation in the first quarter of 25 percent of the total.

HIGHWAY SAFETY

The committee achieves a fiscal year 1982 savings of $309.9 million in budget authority and $116.4 million in outlays by reducing existing current law budget authority for the National Highway Traffic Safety Administration's (NHTSA) 402 safety grant program from $200 million to $100 million, the Federal Highway Administration's (FHWA) 402 safety grant program from $25 million to $10 million, and by reducing existing authorizations for the NHTSA's national maximum speed limit program and NHTSA's innovative projects grant program. In addition, a total of $173 million in unobligated contract authority of the 402 safety grant program covering both NHTSA and FHWA is rescinded.

UMTA

The committee achieves a fiscal year 1982 savings of $1,3211 million in budget authority and $200 million in outlays by reducing the following UMTA programs—sections 3, 18, miscellaneous appropriations, section 5 tiers I–III, and section 5, bus tier—and by limiting the total amount of interstate transfers for public mass transportation projects. Operating subsidies are not affected by the committee's action.

EPA WASTEWATER TREATMENT CONSTRUCTION GRANTS

The committee achieves a fiscal year 1982 savings of $3,500 million in budget authority and $226 million in outlays by reducing the 1982 authorization for the EPA wastewater treatment construction grants program from the currently authorized level of $5 billion to $100 million.

EPA—NONENERGY R. & D. ABATEMENT

The committee achieves a fiscal year 1982 savings of $209 million in budget authority and $49 million in outlays by setting a total authorization level in fiscal year 1982 of $540 million for EPA nonenergy research and development and abatement, control, and compliance activities.

CORPS WATER PROJECTS

The committee achieves a fiscal year 1982 savings of $137 million in budget authority and $103 million in outlays by establishing an authorization ceiling for the Corps of Engineers construction general account at $1,588 million for fiscal year 1982.

TVA PROJECT

The committee achieves a fiscal year 1982 savings of $202 million in budget authority and $95 million in outlays by prohibiting the authorization of appropriations for funds for the North Alabama coal gasification project in fiscal year 1982.

EDA

The committee achieves a fiscal year 1982 savings of $306 million in budget authority and $171 million in outlays by reducing the authorization to appropriate funds for EDA programs to a total of $360 million in fiscal year 1982, including $27 million for salary and expense activities. All existing authorizations to appropriate funds to EDA for redevelopment loans. supplemental and basic grants to States, bonus grants to economic development districts, Indian economic development grants, disaster area economic recovery assistance, and job opportunity programs are also repealed.

In addition, the authority to appropriate funds for title V Regional Commmission in fiscal year 1982 is repealed, thereby achieving a savings of $46 million in budget authority and $44 million in outlays.

APPALACHIAN REGIONAL DEVELOPMENT

The committee achieves a fiscal year 1982 savings of $182 million in budget authority and $95 million in outlays by reducing existing 1982 authorizations for both highway construction and regional development activities of the Appalachian Regional Commission to a total of $212.1 million. Funds for operations of the Commission are also reduced in fiscal year 1982 to a total of $2.9 million.

In formulating these reductions, however, it is important to note that the committee also believes that we must assure minimum funding sufficient to rebuild and revitalize various aspects of the public sector infrastructure so as to avoid undercutting the long-term impact of the President's program of economic recovery and revitalization.

Today, the Federal Government is contributing to capital investment in superhighways and lesser roads, jet airports and electronically controlled airways, seaports and waterways, urban and rural transportation systems, flood control structures, industrial parks and municipal wastewater treatment plants.

It is because the Committee on Public Works and Transportation shares the President's dream of a revitalized, industrialized America that we accord great priority to these programs, on which so much of the private economy's vitality depends.

The construction and preservation of an adequate highway system is an essential element of the national economy. Without such a system, there can be no possibility of achieving the industrial revival the President has called for.

The Federal-aid highway system in which we have invested billions over the past quarter century—$74 billion for the interstate alone—is deteriorating at an alarming rate because of deferred capital improvements and maintenance. Nearly 26,000 miles of interstate, arterial and collector highways are in immediate need of major resurfacing or reconstruction, and on the Federal-aid system alone there are more than 55,000 deficient bridges. Merely to restore the highways to their 1975 condition and keep them that way would have required an annual investment of $14 billion a year for capital investments in 1975 constant dollars, according to a 1977 Department of Transportation needs report.

The capital needs of our Federal-aid highway system are only part of the picture. With the nationwide awakening to the new realities of energy and economy in transportation, greater than ever demands have also been placed on our Nation's public transit systems.

Transit use and its capital needs have increased accordingly. In fact, the National Transportation Policy Study Commission projects needs for Federal-aid of about $130 billion (in 1975 dollars) for urban transit capital requirements through the year 2000, with rural public transit capital needs expected to be about $5 billion.

Only through the continued support for capital investment in mass transit can the demonstrated need for this mode be met. The future of public transportation depends on continuation of our financial investment at levels that will assure essential service and reliability for our Nation's transit systems.

A similar case can be made for the projection of our capital investment in airports and air traffic control systems. We have fallen behind the needed rate of investment in these facilities to the point where the Department of Transportation and the Federal Aviation Administration are warning that they may be forced to constrain traffic growth in the next few years because of the saturation of runway and air traffic capacity. And we are at the beginning of a decade in which the number of air passengers is expected to double.

According to the National Airport System Plan, it will cost $2.04 billion in 1978–79 dollars to maintain the existing system, a total of $4.36 billion to bring it up to standard, or a total of $12.67 billion to expand the system to accommodate increased demand over the years 1980–89.

Consider also the need for continuing capital investment in our waterways, which handle fully one-fourth of all our intercity commercial cargo at an energy efficiency equal to or better than that of railroads; or what deferred capital investment has meant for our seaports in the new age of supertankers and giant cargo carriers; or the commitment over the past 8 years in the form of Federal grants for wastewater treatment plants.

Consider two various targeted economic development assistance programs which have yielded the taxpayers a significant return on their investment.

These and many other public works programs do not represent investment in frills; the needs and health of the public, the environment and the economy as a whole are what is at stake.

Recognizing this, Mr. Chairman, the committee believes that the only responsible course over the immediate future is to strike a careful balance between spending cuts and programs of public investment. In a spirit of bipartisanship, the Committee on Public Works and Transportation has fashioned a legislative savings package which, it believes, achieves that end.

Thank you.●

● Mr. CLAUSEN. Mr. Speaker, the importance of reducing Federal spending as the most effective weapon in the ongoing war against inflation has at last received its proper priority in both the White House and on Capitol Hill.

The budget resolution recently passed by the Congress and with substantial impetus provided by the Reagan administration, acting on its mandate from the American people, correctly targeted inflation as the greatest threat to this Nation's economic health and viability.

That message was not lost on the Public Works and Transportation Committee. When the conference report to the first concurrent resolution on the budget for fiscal year 1982 directed our committee to achieve certain savings in both its authorization and direct spending programs, we more than met the level of savings recommended in the reconciliation instructions.

In fact, the committee in a strong bipartisan approach, responded to the dollar targets set in the conference report by submitting recommendations containing $28 million of added savings in budgetary authority and over $400 million in outlays.

In accordance with Budget Committee guidelines, the committee recommended no specific legislative changes for fiscal years 1983 and 1984, since re-

ductions assumed by the budget resolution of the outyears were for programs not presently authorized beyond fiscal year 1982. However, the committee clearly and strongly expressed its commitment to achieve the recommended outyear reductions when its programs come up for reauthorization.

In exceeding the aggregate savings directed by the budget resolution, our committee complied with both the letter and the spirit of the savings directives it received while at the same time recognizing the expertise of the committee to make the necessary decisions on any programmatic changes. I might say at this point that savings achieved by the Public Works and Transportation Committee in its recommendations to the Budget Committee were not reached without substantial discussion and some hard decisions on highly significant programs of great impact throughout the Nation. In making the necessary decisions on these programs, our committee sought and achieved a careful balance between the essential spending reductions and the needs of vital programs.

In that regard, the committee stressed the need to provide funding sufficient to those public works investment programs so essential to President Reagan's goal of national economic revitalization.

Savings in specific programs were achieved in the following areas under Public Works and Transportation Committee jurisdiction:

In aviation, the committee achieved a $139 million savings with $650 million cap in fiscal year 1982 budget authority for the airport development and noise abatement programs, a figure substantially below the $789 million set by the Congressional Budget Office.

Even as we make the necessary decisions to reduce funding for aviation programs, we must continue to protect our valuable capital investment in airports and air traffic control systems if we expect to meet projected increases in air traffic growth.

Likewise, the Nation's capital investment in its highway and public transit systems, so essential to any plans for industrial revitalization, must continue to receive high priorities.

In its recommendations to the Budget Committee, our committee put an $8.2 million limitation for fiscal year 1982 on obligations for Federal-aid highway and highway safety construction programs, excluding those for emergency relief and three emergency bridge projects. Consequently, outlays for the Federal-aid highway program would be reduced by $500 million, as compared to the budget resolution assumption of only $185 million in outlay savings.

In the area of highway safety, the committee's reconciliation proposal reduces total budget authority available for highway safety programs in fiscal year 1982 by $308 million. The committee also proposed a $110 million obligation ceiling on highway safety programs in the next fiscal year.

Budget authority for public mass transportation was reduced by the committee from that provided in the Urban Mass Transportation Act to levels anticipated by the budget resolution. Thus, the committee achieved a $1,321 million savings in budget authority and an anticipated $200 million outlay savings in fiscal year 1982.

In water pollution control programs, the Committee complied with the Budget resolution conference report's assumption and recommended deleting the $5 billion now authorized for the Environmental Protection Agency's construction grants program, which assists municipalities in constructing publicly owned sewage treatment plants. However, the committee proposed a $100 million authorization to insure that States will be able to continue administering those portions of the program delegated to them.

For EPA's nonenergy research and development programs, and for abatement, control and compliance activities in fiscal year 1982, the committee recommended a $540 million authorization, $209 million less than the amount in the Congressional Budget Office baseline.

The committee recommended that funds for construction of Corps of Engineers water resources projects not exceed $1,588 million in fiscal year 1982, representing a reduction of $20 million more than assumed in the conference report.

Funding for all programs authorized by the 1965 Public Works and Economic Development Act were reduced in the committee's recommendations from $1,070 million to $360 million.

We further recommended that programs authorized by the Appalachian Regional Development Act be cut from $358 million to $215 million and that title V regional action planning commissions authorized under the 1965 Public Works and Economic Development Act be eliminated.

It is my understanding that the Latta substitute in no way touches the Public Works and Transportation portion of the Jones substitute.●

● Mr. BIAGGI. Chairman, I wish to make some general observations about the pending legislation, H.R. 3982 the omnibus budget reconciliation bill. First and foremost, I must express my profound concern about the process we have engaged in over the past several months. I must state from the outset that I opposed passage of the Gramm-Latta substitute—for two definite reasons. The first was that it asked far too much in the way of cuts, the second was that it threatened to violate the traditional workings of the House.

As we stand today prepared to debate and ultimately vote on a reconciliation process—my worst fears have been realized and exceeded. We have been forced to accept some horrendous cuts in programs for the truly needy whether it be food stamps, child nutrition, social security, or housing for the needy. Further, we have emasculated the traditional authorization process in this House. We have been forced to include authorization bills, some of which only were given cursory consideration in committees. Suddenly they are made a part of this omnibus bill and they cannot be amended any further.

When all is said and done—we will pass a bill and we will make cuts necessary to fulfill the terms of the Gramm-Latta proposal. But what damage will we be doing to people? That is the issue we cannot lose sight of in this debate. In the end we may be judged on how much we cut in an accounting sense—but we may be indicted on how much we cut in the human sense.●

Mr. JONES of Oklahoma. Mr. Chairman, I yield 5 minutes to the distinguished chairman of the reconciliation task force, the gentleman from California (Mr. PANETTA).

Mr. PANETTA. Mr. Chairman, I will not be long. I wanted to take this opportunity as chairman of the reconciliation task force to commend both the majority and minority members of the various committees who responded to the instructions on reconciliation and to commend the staffs of those various committees who, operating under a great deal of pressure in a very tight timeframe, had to respond to the instructions that were provided in the Gramm-Latta resolution. The resolution itself was adopted by the House on May 15.

Immediately following the adoption of the resolution we sent letters to all of the 15 committees involved, providing them not only with the targets and savings they had to achieve but also presenting them with the guidelines they had to follow in terms of how they could achieve those cuts, as well as the recommended areas for achieving those cuts.

In all instances the chairmen of those committees and the members of those committees responded, I think, in a responsible fashion. This is a difficult chore, and I do not think we ought to overlook the work that was involved in the committees.

Some of these committees, frankly, I thought, would say, "No," that they were not going to do anything in terms of the responsibility and the task that faced them. But, instead, the chairmen and the members of these committees got down to work, tried to find

legitimate areas of cuts that could be made, legitimate areas of savings, and worked with the Budget Committee and worked with the staffs of CBO and others to try to determine where in fact those reductions could be made. I think it is a credit to the members and the chairmen of those committees that they were concerned enough about the jurisdictions in their committees and concerned enough about the programs under their jurisdiction that they wanted to play a role in determining where those reductions would be made.

This has not been an easy responsibility. It has not been easy for Republicans, and certainly it has not been easy for Democrats. And yet on June 12, 14 of the 15 committees presented back to the Budget Committee their recommendations for cuts. The 15th committee could not get a quorum to enact a report, but both the majority and the minority presented their recommendations with regard to areas of cuts.

Mr. BROYHILL. Mr. Chairman, will the gentleman yield on that point?

Mr. PANETTA. I will be pleased to yield to the gentleman from North Carolina.

Mr. BROYHILL. Mr. Chairman, I believe the gentleman has been misinformed. There was a quorum present in the Committee on Energy and Commerce. The chairman would not permit a vote.

Mr. PANETTA. Well, for whatever reason the committee would not report out, what I am commending them on is the fact that both the chairman and the ranking minority member were willing to sit down and then make the recommendations back to the Budget Committee as to where areas of reduction could be achieved, and for that I commend them both.

Mr. LATTA. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I am pleased to yield to the gentleman from Ohio.

Mr. LATTA. Mr. Chairman, I have asked the gentleman to yield because I want to commend him for his hard work. He has done a lot of hard work on this reconciliation process not only this year but last year. I think the House owes the gentleman a debt of gratitude for the hard work he has done.

Mr. PANETTA. Mr. Chairman, I thank the gentleman from Ohio (Mr. LATTA). I thank him and also the gentleman from Ohio (Mr. REGULA), who worked on the task force for reconciliation. I thank also the other members of the Budget Committee who worked on the task force and tried to cover all the various committees in terms of the reports that had to be made.

This was a difficult responsibility, as I said. We are talking about a massive piece of legislation here—500 pages in terms of what the committee reported out. I think we are looking at a substitute that will be somewhere in the vicinity of 350 to 400 pages.

I regret that most Members are not familiar with all the details that are contained here. I think the members of the particular committees are probably aware of the areas that are impacted, but I do not think most Members are aware of the full range of cuts that are involved in the package that is before the Congress and the package that will be voted on tomorrow. To that extent it is somewhat regrettable that we have not had the opportunity to engage in greater debate on these issues, because we are talking about 250 programs that will be impacted here in one way or another.

□ 2120

I think the American people are owed the responsibility of debating and considering these various areas in a responsible way. Reconciliation is a tool of the budget process. It can only work if it remains a tool of the budget process and not a vehicle for enacting any kind of massive program that stretches throughout the Federal Government. It cannot become that kind of vehicle. It has to be a tool of the budget process that is used to implement the targets in a budget resolution.

The CHAIRMAN. The time of the gentleman has expired.

Mr. JONES of Oklahoma. Mr. Chairman, I yield 1 additional minute to the gentleman from California (Mr. PANETTA).

Mr. PANETTA. To that extent, I would hope that regardless of what happens with reconciliation, both tomorrow and eventually in conference and by the Congress that we will take a close look at the use of the reconciliation tool and that we will consider it only as a tool to be used to try to enforce the targets in the budget resolution and not a tool to implement broad legislative changes here, there and everywhere, that do not relate specifically to reductions in the budget.

Mr. JONES of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the chairman.

Mr. JONES of Oklahoma. I want to take this opportunity to commend the gentleman for a job very well done. There is no one in Congress and I think there is no one in the United States who knows more about the reasons for and the workings of the reconciliation process than the gentleman from California. The gentleman has taken on this task with vigor, with honesty. The gentleman has enforced what the Congress said should be accomplished in reconciliation. I think all this body and all this country owes the gentleman from California a debt of gratitude.

Mr. PANETTA. I thank the chairman and I thank him for his suport in this process.

The CHAIRMAN. The Chair recognizes the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, Will Rogers said once that when two people agree on everything, one of them is unnecessary. I think that explains in large measure the concern that many members of the Democratic Party have about what is happening to this budget both in terms of substance and in terms of process.

I would like to drop all the discussion of substance for the moment and deal with what I think is fundamentally the most important question facing us on this issue, that is the question of process. It is the question of how we got where we are now.

I am pleased that the minority leader is on the floor because I have a great deal of affection for him and respect for him. I know that he has concern about the orderly processes of government.

Another philosopher said once that experience is that quality which enables us to recognize a mistake when we make it again. I believe that anyone who served here under Lyndon Johnson ought to recognize what is happening here again. I did not have that pleasure. I was not here under President Johnson. I came here on April Fool's Day of 1969. All I can do is recall what I was reading in history or in newspapers at the time and all I can do is analyze the legislation which was passed at that time. In my judgment, what Lyndon Johnson lacked more than anything else during his Presidency was constructive criticism, both within his own party and from the opposition party, effective constructive criticism.

The seeds of the Reagan landslide were planted in the early days of the Johnson administration when Congress rolled through bill after bill almost on the basis of titles, without regard to whether or not the ideas which were good translated into effective administration and effective implementation.

In short, Congress paid attention to title. It legislated on the basis of public mood and the title of the legislation in all too many instances. It did not pay sufficient attention to detail. As a result, we had programs, some of which were well intentioned, but in fact were never really worked out efficiently and, therefore, were never really structured in such a way that they could be administered effectively and the public became tired of it and therein, I believe, lay one of the seeds of the Reagan election in this last November.

What I would like to address, I suppose it is fitting that I am doing this at the close of the day when not many Members are in the Chamber, because very little attention in the House is devoted to questions of process; but I believe that the most important thing which has happened this year is something which has been related to the way we are abusing and radically altering the process by which we make budget decisions in this House.

I was reading the other day some memos which were circulated in the Democratic caucus in 1973 when the Whitten-Ullman resolution was first introduced, which was the first action which led to the eventual adoption of the Budget Control Act of 1974. It is interesting to me to note that all of the concerns that were expressed at that time about how the first resolution could be misused and abused in a way which would destroy the committee system of the House of Representatives and virtually every concern that was raised at that time has been proven valid by what has happened in this House in the last 60 days. What has happened is that we have gone far beyond the process that was necessary in order to achieve effective budget control.

At this point, I do not say this as a matter of criticism. I do not mean what I am about to say as personal criticism of the gentleman from Ohio. I simply want to say what I am about to say as an observation about what has happened in the last 2 months.

The major difference between the Jones proposal whan it was brought to the House floor some 60 days ago and the Obey amendment which I offered and the Gramm-Latta substitute is that the Jones proposal, and I submit the Obey amendment to the Jones proposal, both kept in mind the procedural intent of the Budget Act. Both resolutions contained reconciliation instructions for entitlement programs, for back door spending, if you will, because that is the only way in which you can effectively establish annual review over what would otherwise be runaway uncontrollable spending.

It is necessary in my judgment to deal with entitlement programs in that kind of process.

The major difference betweeen Gramm-Latta and Jones was not substance. We disagreed in the main about where $12 billion went in a $700 billion budget. Now, you figure out that percentage. It is less than 2 percent. The main difference was process. What the Gramm-Latta amendment did that the Jones and the Obey proposals did not do is to cross that line and for the first time say that we would apply the reconciliation process not only to entitlement programs, but also to the regular authorization legislation in this House. We would, therefore, be using the Gramm-Latta proposal to rewrite basic law.

I was in the Rules Committee earlier in the week and I saw member after member arguing before the Rules Committee about their version of block grants and their version of food stamp legislation. Those kinds of issues, the design of those programs, should be discussed before the Rules Committee. The Rules Committee, in spite of the fact that they represent some of the most talented people in the House, they do not have the legislative life experience to deal in great detail with those kinds of issues. The authorizing committees of this House do and the Appropriations Committee of this House does.

I ask you to keep in mind that the major strength of Congress through the years, the reason that we have remained a viable legislative body when almost any other legislative body in Western society has become nothing but a tool of the Executive is because of our ability to specialize.

□ 2130

It has been because of the committee system. When we lose our fealty to the orderly committee process, what we do is destroy that which has made us different than any other legislative body in the world, and that is what we have done by adopting Gramm-Latta. That is why I agree with most of what was said by the gentleman from Ohio tonight.

I believed that the product brought to us by the committee process was faulty to a great degree. The reason was because it was required by Gramm-Latta that those committees include not only budget control recommendations, but changes in basic law. That is, I think, a very dangerous precedent.

On occasion Congress has produced ideas on its own. We have had an idea here from time to time. But in the main the role of control has simply been to take the ideas presented by the President and the bureaucracy and to hang them out there in public view and to give a wide variety of opinion in this country, people from all walks of life who are affected by our actions, an opportunity to comment on what we are about to do to them before we do it to them, not afterwards.

That is what is different from the process we are using here this week.

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

Mr. OBEY. Mr. Chairman, I yield myself 8 additional minutes.

Mr. Chairman, we are not giving, because we were precluded from doing that by the timetable that was required by the Gramm-Latta amendment originally, we have been precluded from giving society an opportunity to comment on the fine print.

We represent, each of us, on an average about 500,000 people. We, in a sense, are their representatives in a legal case. Many of us are not lawyers but we are making law.

I submit that any lawyer who would sign a contract on behalf of his client without reading the fine print ought to be subjected to disbarment and the fact is, whichever product we would wind up supporting, be it the committee product which was produced under great duress, or be it the substitute which the gentleman from Ohio (Mr. LATTA) will offer tomorrow, either or both products will be voted on without yet any real understanding of that fine print.

The American people are not going to be affected by the general outlines of the program that we pass. They will be affected by the specifics. People will be affected in specific terms by what happens to student loans, by what happens to loan rates, by what happens to education financing, what happens to energy programs. They will be affected in specific ways, not in big ways, and we have an obligation to know what that effect will be.

I submit, and I dislike saying this, but I submit that there is not a single person in this House who really has an adequate understanding of what will be in either the gentleman's amendment tomorrow or, for that matter, what has been in the committee product. The great virtue of what was presented to us in the committee product is that it has at least been strained and sifted through the committees who know the most about it. We have not given the public an opportunity to comment on either package because the reconciliation process, as it has been abused, has prevented that from occurring.

I simply want to suggest, I know what is going to happen tomorrow. I know who is going to win and who is going to lose. What is important, I believe, now, is that Members take a look after the fact, I am sorry to say, but nonetheless take a look at what we have done because they will see what we have done is effectively destroyed the effective committee process in this House. When we do that, when we no longer run these ideas through the committee process for thorough examination, we lose the basic protection that we have had through the years.

I want to make another statement, and I do not do this again to bring any approbation at all on the House. I am extremely sensitive to the fact of life that when we are forced to vote, as we are going to be forced to vote tomorrow on one or two major items, en bloc, no opportunity to change or amend, what we do is run the great

risk that Congress will, down the line, be embarrassed.

We have had a number of occasions in recent years in which Members have been accused of violating their public trust. I have had the unpleasant experience on two occasions of having the Justice Department sit down and ask me what I know about how certain items got into certain bills when two of our Members were in the process of being prosecuted for abuse of their public trust.

We all know that in documents as large as the documents which we deal with every day there is always the opportunity for somebody to slip something into a piece of legislation for the wrong reason. How much easier is it for that same kind of thing to happen when we are effectively dealing in a blind fashion with a document this large? Even with the committee product, the Budget Committee was required under the Reconciliation Act to take what was essentially a 4,000-page document, when one takes the bill and the report which accompanied it. We were required to review that and to report it out without having a copy available at the time on the basis of one Member's description of its contents. That is what has happened to orderly process, because we have abused the reconciliation process.

I urge Members on both sides of the aisle to consider what we are doing to our obligation as an institution to make an informed choice when we abuse that process in this way. I urge my colleagues to reconsider down the line and to recognize the importance of separating out the entitlement programs from regular authorization and appropriation programs in dealing with budget control.

There is a great misconception abroad in this House that we have to have reconciliation in order to apply fiscal discipline on the authorizations. That is not so. Under the budget process, if we were right now to apply reconciliation only to entitlement programs so that they did not squeeze out discretionary spending in the budget, we would still have effective control over authorizations and appropriations because the 302B section of the Budget Act provides that no conference report from the Appropriations Committee can go to the President if it exceeds those allocations. So we have the overall spending control.

What we should do, if we cared about orderly process, would be to exclude from reconciliation regular authorization proposals. We would keep the ceilings established by those 302B allocations but we would take the next 4 months to look at that fine print in that contract and what we would do is go through the regular appropriation and authorizing process and accomplish what is going to happen. We would accomplish the President's program but we would do it in a manner which we could be proud about.

□ 2140

This in a sense, this reconciliation action today, is the House's Gulf of Tonkin resolution as applied to economics.

Bill Fulbright spent 7 years fighting the Vietman war after he ironically had carried on the Senate floor the Gulf of Tonkin resolution, when Gaylord Nelson from Wisconsin said, "Hey, we ought to have an amendment to this thing which says that the President cannot use this resolution as authority to send troops to Vietnam." Fulbright went to the White House. The White House guaranteed him that they would never use that resolution in that way. So Fulbright himself opposed the Nelson amendment and spent the next 7 years regretting his action.

I submit to you we are going to regret our actions on this legislation in the same manner.

The CHAIRMAN. The time of the gentleman has expired.

Mr. OBEY. I yield myself 3 additional minutes.

We are going to regret our actions on this legislation in the same manner as Bill Fulbright, a great Senator, did on that issue.

We simply do not know what we are doing on this, and we ought to take the time to slow down the process, not to obstruct the President's program. He can get his program in an orderly way. The most important thing about democracy in the end is not the product that it produces but it is the process by which that product is reached, and if we do not have an orderly process about which we can be proud, then we really do not belong here.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. I thank the gentleman for yielding. The gentleman has made one of the most profound and thoughtful presentations on the budget and budget process. I just wish this Chamber had been filled with Members to hear that presentation, and I hope that they will all read what the gentleman had to say, because he has described the ultimate irony of the budget process which started out as a means for Congress, the legislative branch, to seize control of the budget and the appropriating process, but instead it has wound up seizing control of us.

Mr. OBEY. I thank the gentleman.

Mr. ROEMER. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Louisiana.

Mr. ROEMER. I thank the gentleman for yielding, and I would like to associate myself and my name with his remarks. I want to echo what my colleague just said to the gentleman for the record, that I wish every seat in this Chamber had been filled to hear what the gentleman had to say. I personally found myself in the awkward position today of voting against both rules for the very reason which the gentleman so eloquently pointed out here today. Although we might share different philosophical views on economic issues, and at times we do, I appreciate everything the gentleman had to say, and I hope every Member reads it.

Mr. OBEY. I thank the gentleman.

Mr. Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. I thank the gentleman for yielding.

The hour is late, and it would be very, very difficult to improve on the wonderful dissertation we just heard from our very distinguished colleague, the gentleman from Wisconsin. I was sitting quietly in my office during the debate a few minutes ago, and I heard one of the gentlemen on the Republican side get up and denounce the public broadcasting program "The Lawmakers" on the ground that it was biased in favor of the Democratic side. I happened to have heard that program. That is why I went over to my office to see what they might be thinking of our processes, and I turned it on, and the first person I heard was the minority whip (Mr. MICHEL), the distinguished gentleman from Illinois, making a very effective statement of his side of this argument.

So on this point that this was so biased, it seems to me that the gentleman who made that statement could no have possibly heard the entire program. Perhaps he did not like the very effective rebuttals that were made by the Speaker and the gentleman from New York (Mr. DOWNEY).

However, I would just like to correct the record in one other respect. I also heard the gentleman from Ohio (Mr. LATTA) saying the Members all know what is in this or can know and find out what is in the Latta amendment because there is a copy at the desk. He knows full well that that is not the copy that has been sent to the printer, which is what he is going to offer tomorrow. I happen to have seen that copy just before it went to the printer. It was not a copy; it was a stack of paper this high, and it was all marked up in handwritten annotations dealing with substantive law as well as with money.

Sometime tomorrow morning the Members of this House will have a chance to go through a document of some 400 printed pages and try to find out what changes in the United States Code Annotated, what changes in the substantive programs we have worked

on over the last 30 years this document makes.

I heard the gentleman from Ohio making one other statement. He was reading at great length from some of the cuts that have been made by the various reconciliation resolutions that have been reported out by the various committees. He knows full well that those cuts were mandated by the Gramm-Latta No. 1 which he himself is the author of. I have here the three volumes of the committee report dealing with the reconciliation actions of the committees, and you can read every single one of them.

It starts out, "In compliance with the Budget Resolution adopted by the House, we are hereby submitting the following reconciliation reductions in the budget," the Gramm-Latta budget, which the gentleman himself authored with the help of Mr. GRAMM and Mr. Stockman.

So I would like to simply say this, as one of the participants who took a very active role in our committee's actions on reconciliation, if we had adopted the premises of the Gramm-Latta resolution No. 1, we would have wiped out whole programs, programs that had been evolved through bipartisan effort over the years, supported by Presidents on both sides of the political spectrum, carefully tailored after public hearings, and we would have wiped them out without so much as a hearing or even a thought.

We did not do that. We made a very careful effort to sift through the reconciliation problem that we had to save the important programs that the American people have shown their support for in the Congress over the years, and to make sure that while we cut and took our lumps the same as everybody else, nevertheless, we did not destroy the work of years of careful legislation.

But we are here tonight debating a proposed reconciliation resolution which the majority of the Members of this House have not seen and I am not sure anybody has seen it in its complete form. I doubt if even the gentleman from Ohio himself has seen it in its totality. I was very interested to see that the gentleman from Wisconsin stole the line that I was going to use, because truly this is a domestic economic, and possibly in other ways, Gulf of Tonkin resolution which the Congress is someday going to regret.

I am sorry that I have to be here at the time that it happens, but we will do the best we can under the circumstances.

I thank the gentleman for giving me this time.

Mr. OBEY. Mr. Chairman, I have no more requests for time and reserve the balance of my time.

Mr. LATTA. I have no additional requests for time and I yield back the balance of my time.

Mr. OBEY. Mr. Chairman, I yield back the balance of my time.

Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore, Mr. BENNETT, having assumed the chair, Mr. BOLAND, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having under consideration the bill (H.R. 3982) to provide for reconciliation pursuant to section 301 of the first concurrent resolution of the budget for the fiscal year 1982, had come to no resolution thereon.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3520) entitled "An act to amend the Clean Air Act to provide compliance date extensions for steelmaking facilities on a case-by-case basis to facilitate modernization."

The message also announced that the Senate had passed a concurrent resolution of the following title in which the concurrence of the House is requested:

S. Con. Res. 23. Concurrent resolution providing for an adjournment of the Senate from June 25, 1981 or June 26, 1981, to July 8, 1981, and an adjournment of the House from June 26, 1981, to July 8, 1981.

ADJOURNMENT OF THE CONGRESS

The SPEAKER pro tempore laid before the House the Senate privileged concurrent resolution (S. Con. Res. 23) providing for an adjournment of the Senate and the House.

The Clerk read the Senate privileged concurrent resolution, as follows:

S. CON. RES. 23

Resolved by the Senate (the House of Representatives concurring), That when the Senate adjourns on Thursday, June 25, 1981, or Friday, June 26, 1981, pursuant to a motion made by the majority leader in accordance with this resolution, it stand adjourned until 12 noon on Wednesday, July 8, 1981, and that when the House adjourns on the legislative day of Friday, June 26, 1981, it stand adjourned until 12 noon on Wednesday, July 8, 1981.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WALKER. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on the subject of House Resolution 169, and to include therein extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

AIR TRAFFIC CONTROLLERS' PACT

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks, and to include extraneous matter.)

Mr. RUDD. Mr. Speaker, the air traffic controllers' tentative pact with the Federal Government deserves a careful examination before the Congress even considers rubberstamping it.

While there is already an unhealed black eye on the American public, who were subject to the unconscionable actions of PATCO in its strike blackmail of the past few weeks, there is also the dangerous precedent of negotiating in this fashion with the controllers whose paychecks and fringe benefits have heretofore been nonnegotiable in direct bargaining.

Who knows how many other white-collar Government employees, and their union leaders, will consider employing the same logic that is currently being shoved into the Federal bargaining process.

There is an element of stress and skill in any job in the Federal sector—just as there is in any position in the private sector. But there has never been a lack of highly qualified individuals who seek an annual wage of $52,000 and an office in a control tower. With the proposed terms of this new agreement, these lines will surely lengthen.

The air traffic controllers were pampered enough in the last agreement a few years ago. The new tentative pact goes well beyond what the controllers are presently allowed in fringe benefits, including: A shortened workweek, elimination of the ceiling on premium pay, and retraining allowances.

As an article in the local press points out, there are other Federal employee organization leaders who observed the bargaining process last week with envy. They applauded the threatened strike by PATCO, with one union director commenting, "the only illegal strike is an unsuccessful one."

I have nothing against proper bargaining methods as they are practiced in the private sector. But the employers in this case are the American people. It is illegal to strike, or threaten to strike, against the Federal Government, which is for the people, by the people and funded by the people. I hope other Members of Congress will

be aware of these facts when we consider this tentative agreement.

Attached for the consumption of my colleagues, the June 23, 1981, article by Mike Causey in the Washington Post and a letter from one of my constituents, John L. Boyle, president of Rep Co., International, at this point of the RECORD.

AIR CONTROLLER PACT SETTING A PRECEDENT

(By Mike Causey)

If Congress approves the strike-averting $39 million-a-year increase that Uncle Sam is willing to give air traffic controllers, the 17,000 aerial traffic cops will be paid more than most other federal workers, including many of their bosses.

The tentative 42-month contract between the militant Professional Air Traffic Controllers Organization and the Federal Aviation Administration breaks lots of new ground. And it sets a precedent for the government to bargin directly with other white-collar feds whose pay and fringes previously have been non-negotiable items.

With the exception of the U.S. Postal Service and the Tennessee Valley Authority, federal agencies never have bargained with workers or unions over salaries or fringes. White-collar government salaries, which are supposed to follow industry wage patterns, are in fact set by the President. Congress determines such fringes benefits items as life and health insurance, premium pay, holidays and the amount of vacation. But faced with a midnight Sunday strike deadline, the FAA—with some prodding from Congress—has given administration support to legislation that would give the typical controller (now earning about $32,000 a year) 1981 wage increases of about $4,000. The pay rise would include the 4.8 percent that will go to other white collar civil servants (whose average salary is around $22,000) this October.

Here are the money items that FAA and PATCO tentatively have agreed to:

Controllers would get 42 hours pay for working a 40-hour week.

Elimination of the ceiling on premium pay (night, holiday, Sunday work) for controllers, and only controllers. Other federal workers would be subject to the $50,122.50-a-year pay limit.

An increase in the present 10 percent night differential for controllers to 15 percent.

Provision of a "retraining allowance" for controllers with five years consecutive service as controllers who want to qualify for other jobs.

All these items are subject to approval by PATCO's 14,000 members and cannot go into effect until after Congress approves them and President Reagan signs them into law. FAA officials, speaking for the White House, said they actively would support the changes.

A major question is what effect a PATCO-FAA settlement would have on federal workers who also have stressful jobs and/or provide vital services. They include customs agents, border patrol personnel, various law enforcement types, people in Social Security payment centers, sanitation workers, prison guards, hospital staffers and others whose absence could cause problems.

Strikes or the threat of a strike against the government are illegal. They are punishable by dismissal, a $1,000 fine and/or a year and day in jail. Leaders of other federal unions said yesterday they are delighted with PATCO's breakthrough victory, and may take advantage of it themselves.

John Sturdivant, acting director of organization for the American Federation of Government Employees, said that PATCO settlement "is just great. Of course, the promise of support for legislation and getting legislation passed are two different things, but we are happy for them." He said it shows that a strong union "can make management sit down and negotiate . . . and it sends a message to labor and to the government." Commenting on the federal no-strike law, Sturdivant said "the only illegal strike is an unsuccessful one."

Vincent Connery, president of the National Treasury Employees Union, said he thinks federal workers will be "glad the controllers got what I'm sure they are entitled to . . . more power to them." Connery said he thought the settlement "should cause Congress to reconsider the inadequate 4.8 percent raise" targeted for other civil servants.

"My God, there is this pay cap when people are supposed to get wages comparable with the private sector. Comparability has been thrown out the window" by the government. "The sad thing," said Connery, whose union represents IRS agents and tax collectors, Federal Communications Commission personnel and workers at the Federal Elections Commission, "is that the powers that be only pay attention to people who have the power to smack them in the face."

* * * * *

An increase in the nighttime pay differential from 10 percent to 15 percent.

Premium pay without regard to the current $50,112 ceiling on Civil Service pay. Premiums are paid for night, Sunday and holiday work.

A retraining allowance of 14 weeks' salary for controllers with five consecutive years of service at the journeyman level who are forced to retire for medical reasons—if they are not eligible for retirement or other job-related disability payments.

Lewis said the package represents a 6.6 percent average annual pay increase for the controllers in addition to the estimated 4.8 percent pay increase that all federal workers will receive this year. That means that the controllers, who had been seeking an immediate $10,000 raise, will get an average annual increase of $4,000, according to Lewis. Controllers earn an average of $34,000 annually.

The new contract also gives controllers a voice on committees that make policy recommendations affecting the nation's air traffic control system. Lewis said that the government wants to benefit from the advice of the working controllers; but he cautioned that the FAA will retain management prerogatives.

Federal mediator Kenneth Moffett said that the two sides reached "an agreement in principle" between 3:30 and 4 yesterday morning, allowing Poli to call off a strike scheduled for 7 yesterday morning.

"At 3:30, I knew there would be no strike," said Moffett, who is also the chief mediator in the continuing baseball strike.

REP CO. INTERNATIONAL,
Scottsdale, Ariz., June 18, 1981.

EDITOR,
KOOL—CBS Radio,
Phoenix, Ariz.

TO THE EDITOR: When I think of the air traffic controllers strike, an immediate comparison comes to mind. I work in the real estate industry. Real estate sales people are not unionized. And except for licensing requirements, the real estate industry is relatively free to offer whatever services it can sell, and charge whatever prices the public is willing to pay. In spite of the fact that some people think that the average real estate commission is too high, the fact is that most real estate companies are having trouble hiring sales people. Why? Because the average person is afraid he can't earn enough on a commission basis to support himself. In fact this year, according to the Arizona Department of Real Estate, approximately 11,000 real estate agents in Arizona have not renewed their licenses. Most people will agree that this is good. It is an example of a free market at work. If the industry cannot support these real estate agents, then they should go someplace else where they will be more productive and earn more money. Meanwhile those people who manage to stay in real estate sales are apparently offering a quality service that the public is willing to retain them for.

Now let us consider the air traffic controllers. If a recent article in the Wall Street Journal is correct, there is a surplus of 9,000 applicants for air traffic controllers jobs. Certainly the job can't be too bad if 9,000 people are anxious to be employed under current conditions. An in spite of the fact that a federal strike is illegal, Mr. Poli, the head of air traffic controllers union, is quoted saying "The only illegal strike is one that fails." Apparently Mr. Poli believes that blackmail is a proper and correct form of behavior. If the Justice Department allows such a strike, it will not only represent an insult to the American people and the elected officials who voted to make such actions illegal, but much more importantly it will promote a gross misallocation of resources in a direction that a free market would not tolerate.

I happen to also be a pilot and I appreciate the necessary and important work that air traffic controllers perform. But I cannot believe that tax dollars spent to pay these people an average of $52,000 a year for a four day work week is money well spent. More significantly, whatever the worth of an air traffic controller, it should be determined by the marketplace, not by unions using blackmail and not by politicians seeking votes.

I am sending a copy of this letter to my elected representatives to encourage them to insist that any such illegal strike be stopped immediately by decertifying the union as a bargaining agent and by allowing the FAA to hire replacements for striking workers. If you don't like blackmail, I hope you will write too. The sooner we have a free market, the better off we will all be.

JOHN L. BOYLE,
President, Rep Co. International.

QUALITY OF TELEVISION PROGRAMING

(Mr. McEWEN asked and was given permission to address the House for 1 minute to revise and extend his remarks and include extraneous matter.)

Mr. McEWEN. Mr. Speaker, I am placing into the RECORD today a portion of a commentary that appeared in the Cincinnati Enquirer of Sunday, June 22. My colleagues are familiar with the debate in recent years over

the quality of television programing broadcast by the commercial networks as well as efforts by some groups to improve that quality. These latter groups have often been branded "fanatics" or "extremists." The networks have suggested that any attempt to influence their programing would be tantamount to censorship and that they are immune to such influence.

As Thomas Gephardt, associate editor of the Cincinnati Enquirer, points out in the following commentary, the networks are not immune to all influence and those who would show concern are not always extremists. Rather, they are often responsible, compassionate Americans who will neither condone nor support irresponsible broadcasting. I applaud the Procter & Gamble Co. for their recent action and hope that others will take note of their wise leadership.

By Thomas Gephardt

From the time Capt. Charles Cunningham Boycott refused to receive rents at rates fixed by tenants in County Mayo, Ireland, a century ago, the word "boycott" has had an ugly connotation.

It conjures up pictures of a narrow-minded militants browbeating friends, neighbors and the general public to refrain from patronizing a person or an institution with whose policies the militants disagree.

Occasionally, a boycott assumes heroic dimensions, as when civil-rights activists in the 1960s threatened the very existence of the public transit system in Montgomery, Ala., because its policies discriminated against blacks.

More often, however, a boycott is regarded as the ultimate weapon in the arsenal of policy shaping—a weapon that easy going Americans are reluctant to use.

That's why many were a little nervous when they read back in February that an organization known as the Coalition for Better Television was shaping plans to monitor the television networks and to organize a boycott of advertisers who consistently sponsor TV productions steeped in violence, profanity and gratuitous sex.

Some immediately saw the threat as the first step toward the "censorship" of the TV networks by a handful of self-anointed guardians of public morals. But if, as some fear, the "fanatics" are about to take over the monitoring of television, it's because individual Americans feel helpless to stem the flow of trash into their homes. And trash it is—trash, moreover, that gets progressively worse every season.

The Moral Majority may be the most widely publicized of those protesting the moral standards being legitimatized by TV. But there are millions of Americans—including some who wouldn't touch the Moral Majority with a 10-foot pole—who share its repugnance.

Most often when an individual complains about the content of a particular TV program, he's reminded he can turn it off: If you don't like it, don't watch it. It's the same argument used to disarm critics of pornography: If you don't like it, don't read it.

But that is an easy and unthinking slogan, not an answer. Because, everything that's printed for wide distribution, everything that's televised across America, makes a contribution to the moral standards of the nation. It either helps to elevate and inspire the human spirit, or it draws it further into the sewer.

The Jones family, for example, may turn-off a TV program that portrays violence as a way of life. But the Joneses have to live in the same block as the Smiths and the Browns and the Johnsons who perhaps enjoy a diet of unrelieved TV violence and eventually come to the conclusion that, yes, violence is a perfectly acceptable answer to their discontents—violence that may be visited upon the Joneses. All the Joneses of America, in short, must live in the world television is making.

Whenever the issue arises, the TV networks invariably assume the posture of put-upon innocence. They say they are portraying life as it is (when actually they are portraying life as they are working day and night to make it). They also insist upon insulation from the pressures of some special interests, although they have shown a remarkable disposition to accommodate their fare to others.

TV Guide, as an illustration, reports that the three networks send almost all their scripts involving homosexual themes to the Gay Media Task Force for "suggestions"— a cozy arrangements that says TV Guide, may have made gays "the most effective lobby in television."

If the networks are so solicitous of the sensitivities of organized homosexuals, why are they not equally solicitous of the sensitivities of those Americans who are not gay, who are not violence-prone, who are not foul-mouthed, who are not sexually promiscuous.

Perhaps it was all these concerns that induced the Procter & Gamble Co. last week to announce a new policy of accepting some accountability for the moral content of the TV presentations its advertising dollars make possible. To consider that P&G is America's largest TV advertiser is to recognize the immense contribution the company proposes to make to the restoration of some semblance of decency in television.

Is P&G trying to "censor" the TV industry? Not at all. There is no rule of law or reason that requires an individual—or a corporation—to subsidize an activity in the private sector that he—or it—finds manifestly distasteful.

Do P&G executives believe that their advertising dollars give them a licénse to dictate to the television industry? Again, not at all. P&G is not telling other advertisers how they should use their advertising dollars. It is only accepting accountability for its own.

No advertiser imagines that his advertising dollars buy the medium in which he advertises. What he buys is time or space, and if he doesn't believe he's getting value from what he buys he stops buying.

What P&G is acknowledging is a sense of accountability for what its advertising dollars put into the American home—for the way of life, in effect, it helps to popularize.

If more companies embraced a similar sense of responsibility, many Americans would begin to feel hopeful again.

BISHOP ROMEO BLANCHETTE, A MAN OF INCREDIBLE PATIENCE AND HUMOR

(Mr. O'BRIEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. O'BRIEN. Mr. Speaker, when I have concerns and anxieties, I like to reflect on the condition of a longtime friend who handles extreme adversity with incredible patience and humor. He is Bishop Romeo Blanchette, of Joliet, Ill., who resigned in January 1979, after he learned that he had amyotrophic lateral sclerosis, known as "Lou Gehrig's" disease. Although immobile and voiceless, he communicates by using a method he devised earlier. The procedure divides the alphabet into vowels, the first half of the consonants, and the second half of the consonants. When the right letter is pronounced, the bishop blinks his eyes until the correct word is formed and so on.

Incidentally, it takes less than 2½ seconds to say the first five words of this statement. It takes 1 minute and 10 seconds to work out this first word, "when," according to the technique developed by this remarkable prelate.

Through that long and tiring method he wrote the following which he titled, "A Bit of Humor."

Bishop Romeo Blanchette is a great bishop and a man and a half.

[From the Catholic Standard, June 18, 1981]

A Bit of Humor

(By Bishop Romeo R. Blanchette)

The author of this article, Bishop Blanchette, resigned in January, 1979, as Bishop of Joliet, Ill., after he learned that he had amyotrophic lateral sclerosis, known as Lou Gehrig's disease. Although immobile and voiceless, he communicates by using a method he devised earlier. The procedure divides the alphabet into vowels, the first half of the consonants and the second half of the consonants. When the right letter is pronounced, the Bishop blinks his eyes until the correct word is formed and so on. Through that long and tiring method he wrote the following which he titled, "A Bit of Humor."

Joliet, Ill. (NC)—Someone once said that when God created man, one of the things He gave man to distinguish him from other animals was a sense of humor. Of course, we may have met a few men who seemed devoid of a sense of humor, but generally, most people show wonderful humor, some in an extraordinary fashion. When I became ill with a disease that would render me immobile and without voice, I decided that I had a choice of being angry, grouchy, irritated, rebellious or just plain ornery. Another choice was to laugh at myself, be cheerful, and try to see humor whenever possible.

The second was my choice, which with the help of God, I have tried to follow to the best of my ability. At first, I used to drop things and, inwardly, I would laugh at myself and think how clumsy I was. While still able to walk, I began to fall. One day I fell in my room and could not get up on my chair. Like a snake, I crawled and wiggled slowly on the floor until I reached the phone. I blindly knocked the receiver off the hook and dialed the operator. When I heard a voice, I asked her to send someone to pick me up. Shortly after, I had to go to the nursing home of the Franciscan Sisters of the Sacred Heart. Many humorous events happened during my stay there for over a year.

One day, nurses and aides were helping me from my bed to my reclining chair, when suddenly my knees buckled and my helpers lost their grip. I was falling when an aide pulled me to the chair where I sat down, but to her surprise (and mine) on her lap. In spite of my scary experience, I laughed to relieve the distress of the nurses and especially, to relieve the embarrassment of the young aide.

Because of weak neck muscles, my head used to bobble up and down and move sideways. When my helpers moved me, I would hit my head on them, the wall or the towel rack. As a joke, I began to count the bumps. the nurses and aides would ask me, "How many times does that make?" I stopped counting when I reached 120.

During my two and one-half years of helplessness in the nursing home and hospital, there were many times my fingernails had to be cut. It amused me to have someone cut my nails, when her own nails were so long that a bald eagle would love to have them as his talons. Of course this is an exaggeration but some really have nails that are long and sharp. Sometimes one has the tube for suctioning phlegm from my mouth while another is lifting my leg for exercise and someone else is washing my arm. I am reminded of a three-ring circus where there is always something going on.

Twice daily I receive inhalation therapy. After each treatment, the therapist gives me percussion, to loosen the phlegm, by pounding on my rib cage with both hands. I try to picture the rhythm of African bongo drums.

Each day priests come to lift me from and back to my bed so that I can assist at Mass from a reclining chair. This is a painful procedure. One day after a very difficult time, one priest said, "We didn't do so well today." After putting me back in bed, they saw me laughing. The priest said, "I guess it wasn't so bad after all." Another priest replied, "Don't be fooled, the more it hurts the more he laughs." Since it was Lent, I said, "For my penance I shall get up an extra time daily."

One day the scripture reading and homily were about God touching us with His finger. The homilist applied this to those with trials, difficulties, illness, suffering, etc. After Mass I, with a smile, spelled out the following comment: "In my case it seems that God touched me not only with a finger, but used both hands."

Many other things have happened which, if written, could fill several books, but this was written to show that joy can exist with suffering and to help others suffering with a rebellious or downhearted attitude to obtain peace of mind.

THE PROBLEMS OF THE SOCIAL SECURITY SYSTEM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. ROUSSELOT) is recognized for 15 minutes.

Mr. ROUSSELOT. Mr. Speaker, as a member of the Ways and Means Social Security Subcommittee, I rise today to discuss the extremely important issue of the social security system's problems. Problems that today affect one in seven Americans as well as potentially millions of additional Americans who would soon retire or collect other benefits.

A lot has been said in recent weeks about our social security system by members of Congress, the administration, the media, many national organizations, and many social security beneficiaries. A great deal of anxiety, anger, and confusion has been exhibited by these groups over some of the proposals presented to remedy the insolvency problems of the system. Mr. Speaker, today I would attempt to clarify much of the confusion and to elaborate briefly upon some of the proposals which this Congress will soon be considering.

On August 14, 1935, when the social security system was established by the Social Security Act, Franklin Delano Roosevelt stated, as he signed this legislation into law:

> Today a hope of many years' standing is in large part fullfilled * * * we have tried to frame a law that will give *some* measure of protection to the average citizen and to his family against poverty-ridden old age." (emphasis added).

Notice the word "some" in President Roosevelt's statement.

While the Nation felt it was necessary to safeguard the elderly from poverty, social security was never originally intended to be more than a basic retirement program for retired workers in commerce and industry. It was intended simply to serve as a floor or base of financial support for citizens when they reached 65. While the economic prosperity of the 1950's and 1960's led to surpluses in the trust funds, we saw that the Congress responded with ample generosity by providing many major benefit increases. Bit by bit, benefits were added, coverage was expanded, and new programs were piled on; yet all without the benefit of foresight with respect to future funding requirements. This once modest system has since been expanded to cover such varied categories as dependents and survivors, disabled workers, and the self-employed; it has extended coverage to nearly all wage earners, and it has added a broad and costly medical program.

In every year since 1975, Social Security costs have exceeded revenues—in other words we have been living beyond our means by giving out more than we have been taking in for the past 6 years. The social security system has certainly taken a different form from when it was first signed into law. In 1950, the program provided benefits for 2.5 million people, at a cost of $522 million, representing 1 percent of all Federal expenditures. This year, 35.6 million Americans will receive benefits, amounting to an expenditure of $174 billion, consuming 25 percent of the Federal budget. By 1985, the benefits will exceed $200 billion.

As a result of these past benefit increases, of poor economic performance, and of changing demographics, the social security system today faces its worst crisis in its 46-year history. We must realize that, without legislative action, the crisis is inescapable: The old-age and survivors insurance (OASI) trust fund, the largest of three trust funds and through which 85 percent of social security benefits are paid, is expected to have insufficient reserves to pay benefits by November 1982. Quite frankly, this would mean that 32 million people would not receive their monthly benefits beginning approximately November 1982.

Even interfund borrowing from a second trust fund for disability insurance (DI) would only delay this occurrence for 3 months. In fact, if the assets of all three trust funds, OASI, DI, and hospital insurance (HI), were to be combined, benefits could only be adequately made through 1984 or, by the very latest, through 1986, depending on how well the economy perform. The fact is: the cumulative trust fund deficit of income required to meet benefits could be as high as $111 billion in the next 5 years.

The crisis is not restricted to finances. A crisis of confidence in the system pervades the country. A recent AP/NBC survey showed that 74 percent of those polled believe the social security system will fold before they are entitled to its benefits.

The reality of the situation necessitates immediate, decisive congressional action which goes right to the heart of the problem, so that the social security system will be saved from insolvency and the integrity and public confidence in it will be restored. We cannot wait until next year when the program will literally teeter on bankruptcy. We have to face the problem now. Nothing could be more cruel than for the Federal Government to continue making promises it cannot fulfill. The question is: What course of action will Congress take to begin untangling this intricate problem?

One must keep in mind the fact that, as the system was originally set up, Congress devised a pay-as-you-go scheme where payroll taxes collected from workers were simply transferred to beneficiaries. In 1950, there were 16.5 social security taxpayers to support one beneficiary. Last year our average, longer lived pensioner was supported by only 3.2 taxpayers. By the year 2025, this ratio is expected to drop to 2 to 1, as the children of the baby-boom period of the mid-1940's to mid-1960's begin their retirement and collection of benefits. In addition, in the first year that social security payroll taxes were collected, the life expectancy of the average American was 61 years. Today it is 73.2 years. Furthermore, those who presently reach age 65 can expect to live even longer: 14 years for males and 18.4 years for females. Just 2 weeks ago, the Census

confirmed that half of America's population is over the age of 30, while more than 10 percent is over age 65. In a pay-as-you-go system, these demographics pose much cause for concern about the future stability of the program.

CHOICES

There are two main problems which this Congress will have to address: the first, and most immediate problem, is to insure that the system will not run out of money in the next year so that beneficiaries will be able to continue receiving their social security income.

The second problem is long term in nature. Reforms will have to be enacted so that those persons who, currently and in the future, pay into social security system will know with certainty that social security will be there for them as a financial base of support when they turn 65.

To address these problems, there are basically three alternative solutions from which the Congress can choose: (1) increase payroll taxes; (2) find some other revenue source, such as general revenue financing; or (3) restrain the growth of benefits.

1. INCREASE PAYROLL TAXES

The social security payroll tax (which was increased in 1978, 1979 and 1981) is already scheduled to rise in 1982, 1985, 1986 and 1990. These increases will amount to a 15-percent increase in payroll taxes between now and 1990. Congress passed the Social Security Amendments of 1977 in December of that year to restore financial soundness to the social security system by raising taxes. This was the largest peacetime tax increase in our Nation's history. I did not vote for the 1977 social security bill because it did not make the necessary corrections to provide an economically sound and efficient system. Ironically, it was these tax increases in the Social Security Amendments of 1977 which President Jimmy Carter proclaimed: "* * * will guarantee that from 1980 to the year 2030, the social security funds will be sound."

It is my belief that an increase in the payroll tax would not be adequate to deal with the problems of the system. Present and future taxes are already too high. Quite specifically, what is ignored by increasing taxes are the changes that have to be made in financing the system that reflect the demographic changes. This is why the 1977 payroll tax increases did not work, as some of the fundamental problem within the system were not addressed.

Similarly, raising the Social Security tax rates now to finance the current program requirements would be unfair to taxpayers who have to bear the tax burden, not to mention the serious drag it would incur on the economy. Presently, more than 50 percent of all American families pay more in social security payroll taxes than they do in income taxes. In 1935, the maximum tax imposed on business and industrial workers was just $30. Today the maximum tax rate is $1,975, a year. In just nine years (1990), the maximum tax has been estimated by the Social Security Administration to be $4,039, but will most probably be higher.

2. OTHER REVENUE SOURCES, SUCH AS GENERAL REVENUE FINANCING

Since there is no general revenue fund in the Treasury for social security to turn to, either taxes would have to be increased, or new deficit financing would need to be created. Increasing general taxes, as I have just mentioned, would add to the burden of those presently paying social security taxes. As Secretary of Health and Human Services Richard S. Schweiker pointed out before our Subcommittee on Social Security on May 28, 1981, "* * * there is a deficit to reduce and you don't balance the budget by adding the social security deficit to the existing general revenue deficit."

Most importantly, many believe that using general revenues to help the program would obliterate the original intent that the social security system be self-supporting and would eliminate the discipline necessary for it to be so. This would turn the social security program into more of a general welfare program than a self-supporting insurance program. I firmly believe that interfund borrowing would only be a temporary Band-Aid solution, and would not establish the fundamental reform which is needed.

3. RESTRAIN THE GROWTH OF BENEFITS

Any proposal which will place the social security system firmly back on solid ground will have to restrain the growth of future benefits. Although many of these changes will not be popular, they are needed to insure the long-term stability of the program. In other words, Congress must act to slow down the accelerated in benefits to save the system.

In making these changes, it will be important to preserve the basic benefit structure and the original intent of the program. The recommendations will also have to include a slow-down in the increases in future social security benefits. However, those who are 62 years old today will not receive reductions in their benefits.

We can be certain that no single solution will solve all of the problems of the social security system. A combination of actions and proposals are essential to resolving the present insolvency problems. In fact, President Reagan in a May 21, 1981, letter to the leadership of the Congress stated that, "This Administration is not wedded to any single solution." In the same letter the President called upon "a bipartisan effort to save social security," further adding, "We recognize that Members of Congress on both sides of the aisle have alternative answers. This diversity is healthy—so long as it leads to constructive debate and then to an honest legislative response." The President concluded: "None of us can afford to underestimate the seriousness of the problems facing social security. For generations of Americans, the future literally rests upon our actions. This should be a time for statesmanship of the highest order * * *."

CURRENT PROPOSALS

As my colleagues know, presently there are two major financing packages before the Congress which attempt to address the insolvency problems of the social security system. The first proposal is H.R. 3207, introduced on April 9, 1981 by Social Security Subcommittee Chairman J. J. Pickle, of Texas. The administration, however, responding to a request from the Social Security Subcommittee, presented a second set of proposals on May 12, 1981.

Both packages have similar effects on the financial status of the trust funds in the short run and the long run. However, the administration's proposal achieves this result largely through expenditure reductions, whereas the Pickle bill relies heavily on general revenue financing. It is important to know of the major provisions of each of these proposals which will be considered by the Congress during this session. In examining these major proposals, we must realize that there is plenty of room for compromise and that at this point they are still being viewed as recommendations.

H.R. 3207, introduced by Representative J. J. Pickle of Texas, Chairman of the Social Security Subcommittee, contains three major provisions:

One, shift one-half of the hospital insurance tax (trust fund) to the old age, survivors, and disability trust funds, which are expected to become bankrupt by the autumn of 1982. The hospital insurance trust fund would then be reimbursed by the Treasury from general revenues.

Two, raise the age at which full retirement benefits would be paid from 65 to 68 by the year 2,000.

Three, reduce benefits for those retiring before 65 to encourage continued work. Early retirement would still be available at age 62 but at lower benefit levels. Instead of the present 80 percent which one is eligible to receive, a 36-percent reduction would occur if retirement were elected at age 62. This change would be accomplished gradually over the period 1990 to 1999, so that by the year 2000, those retiring at age 62 would receive 64 percent of the full benefit with the percentage graduated up to 100 percent at age 68.

THE ADMINISTRATION PROPOSAL CONSISTS OF FIVE MAJOR ELEMENTS

One. Continue traditional retirement age of 65; no change from the present.

Two. Like the third major provision of the Pickle bill, the administration would also encourage work until the age of 65 by reducing the benefit rates one receives for early retirement. Instead of the present 80 percent, or 64 percent proposed by Representative PICKLE, the administration has recommended a benefit rate of 55 percent for those retiring at age 62. Each month that is spent in the work force past the age of 62 would receive a 1.25-percentage increase in benefits. This means that at age 63 and 8 months a person would be eligible for 80 percent of their full social security benefits, and at age 64 and 6 months, 90 percent of full benefits would be received.

It is important to realize that the recommendation to reduce benefits to 55 percent of the full amount for those retiring at age 62, is still just a proposal. During Secretary Schweiker's testimony before our Social Security Subcommittee, I questioned him on the possibility of reducing benefits to 70 percent or even 75 percent of the full retirement benefits one receives at age 65. Mr. Schweiker told me that a rate of 70 percent or 75 percent could be accomplished, but other reductions in benefits would have to be found. The Secretary also pointed out to the subcommittee that their proposal to lower benefits for early retirees could be phased in over time, instead of taking immediate effect this January 1982 as originally proposed.

"That is one of the areas we're willing to compromise on." Secretary Schweiker made clear.

A further recommendation to encourage work between 62 and 65 years of age would assign a zero value for the years 62 through 64 for those electing not to continue their employment. This would reward those continuing in the work force as their average earnings would reflect during those years; while those not working would receive a zero value of earnings for each year they are not employed, creating a lower average earnings during their lifetime of work.

Three. Gradually reduce the replacement ratio, which determines how much of a worker's last paycheck is replaced by his first benefit check, down from 42 percent to 38 percent for the average earner. The purpose of this proposal is to correct the overindexing of the past and would only apply for the years 1982 through 1987.

Four. Payroll taxes, scheduled to rise, would be reduced. Overall social security taxes for the average worker would go down by about 10 percent—a $33,600 savings over his or her lifetime.

Five. Other administration recommendations would relate disability insurance more closely to a worker's history earnings and medical condition. For example, presently it is possible for workers to qualify for disability benefits based on such factors as age, education, and work experience. Provisions of the administration's proposal would limit eligibility to medical factors alone, the original intent of this aspect of the program.

SOME OF THE PROPOSALS OF THE ADMINISTRATION AND REPRESENTATIVE PICKLE ARE FAIRLY SIMILAR

One. Both plans would phase out earnings limitation of social security recipients. Presently, senior citizens are discouraged from remaining in the labor force to supplement their income by losing $1 in benefits for each $2 they earn over $5,500. As if this was not enough of a penalty, such earnings are further reduced by Federal, State, and local taxes. I have repeatedly cosponsored and introduced legislation—H.R. 614 in the 97th Congress—to repeal any limitation on the amount of outside earnings for retirees which is permitted each year without loss of social security benefits. It is my belief that citizens who are willing to work should not be penalized by a loss of benefits that they have earned, and likewise our society should not be deprived of the vast store of experience and creative ability that older persons can contribute. The administration's proposal would phase out the earnings limitation for those 65 and older to $10,000 in 1983, $15,000 in 1984, $20,000 in 1985, and eliminate any limitations after 1985. The Pickle bill would eliminate the retirement test for persons 68 and older beginning in 1983.

Two. Both proposals would eliminate the windfall portion of benefits which permits noncovered employees to retire and work just long enough to collect disproportional benefits.

Three. A gradual phaseout of student assistance and the minimum benefit is recommended under both proposals.

Four. Adjustment in the cost-of-living increase to a fiscal year basis, which commences every October 1, is similarly recommended under both plans. The administration proposed to move the date for automatic benefit increases from June to September of 1982—and using a 12-month average. This would bring it into line with the Federal fiscal year. In contrast, the Pickle bill would use a two-step benefit increase for the cost-of-living adjustment to convert to a fiscal year basis in 1982. This one-time adjustment would result in a higher cost-of-living increase than would otherwise occur.

I feel strongly that the President should be commended for focusing attention on this issue and for his willingness to discuss the many options that Congress has to save this system from bankruptcy. He has exemplified great courage and foresight. As a result of the President's action, the American public is just now beginning to understand the full extent of the system's problems; specifically: the social security system will surely go broke if we do not act this year. Similarly, Social Security Subcommittee Chairman JAKE PICKLE should also be commended for his many efforts in moving our subcommittee to concentrate on recommendations and reforms necessary to save the system, before the media or the public understood the full implications of the crisis.

Frankly, I do not share agreement with all of the changes proposed by the administration or by the Pickle bill. While both major proposals have been formally put forth, there is still much room to compromise or to provide other changes. There are two well-written books on social security that I would like to recommend to my colleagues. The first, "The Coming Revolution In Social Security," is authored by A. Haeworth Robertson, Chief Actuary of the U.S. Social Security Administration from 1975 to 1978. The second book offers a more technical presentation: "Social Security: The Inherent Contradiction" is written by Peter J. Ferrara, an associate scholar of the CATO Institute. Both of these works review the history and original intent of the social security program as well as many of the proposals being considered to overcome the shortcomings of the system. Because they provide a comprehensive exploration of this often misunderstood subject, I recommend these books for general reference.

It is my belief, Mr. Speaker, that the social security crisis can be overcome. It is the responsibility of this Congress to reach agreement on a plan of reforms which will insure that, in the short run as well as the long run, the social security system will be able to continue to adequately serve retired Americans without unduly penalizing working Americans. This can be accomplished if we work diligently and with sufficient courage to carefully make the difficult decisions this crisis demands. As my colleague the Honorable ELDON RUDD of Arizona has succinctly stated, "If we act to secure the system now, we will all be the benefactors * * * If we do nothing, we will all suffer the consequences."

Thank you, Mr. Speaker, for the time to focus on this most urgent problem.●

HIGH-SPEED RAIL PASSENGER SERVICE FOR AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gen-

tleman from Wisconsin (Mr. REUSS) is recognized for 10 minutes.

Mr. REUSS. Mr. Speaker, I have today introduced H.R. 4028, the Rail Passenger System Act of 1981, aimed at creating in the United States high-speed rail passenger systems equal to or better than those of the other industrialized nations.

In Japan, with its 663-mile Shinkansen "Bullet" train between Tokyo and Hakata, passengers are transported safely, efficiently, and inexpensively, at an average speed of 100 miles per hour. In September 1981, France will begin similar high-speed rail service over the 242-mile Paris-Lyon route. In contrast, the average speed of present U.S. passenger trains is only 44 miles per hour.

The Passenger Railroad Rebuilding Act of 1980 (Public Law 96-254), directed the Department of Transportation and Amtrak to determine the U.S. rail passenger corridors with the greatest potential for attracting riders, reducing energy consumption, and providing cost-effective rail passenger service. DOT and Amtrak identified 20 such corridors in their July 1980 report. H.R. 4028, the Rail Passenger Systems Act of 1981, will provide for the creation of high-speed train service, like that of the Japanese and French, in each of these 20 American corridors.

The new legislation is necessary because high-speed passenger rail service cannot be achieved under the present Amtrak system. Passenger rail service as now conducted, no matter how much money the Federal Government puts into it, is a losing proposition for the following reasons:

First. Since Amtrak does not own its own track, except in the Northeast corridor—Boston-New York-Washington—it is at the mercy of the freight railroads whose tracks it uses. Amtrak's passenger trains must poke along behind the freights, which average only 20 miles per hour today. In addition, the length of U.S. freight trains often reaches 100-150 cars or more, making them longer than the sidings built for the shorter trains of the past. As a result, today's freights have no place to pull out of the way when overtaken by a faster passenger train.

Second. American freight trains use very heavy, 100-ton-capacity cars. These cars, strung together to form superheavy freight trains, ruin the track on which they run. They flatten out curves, leaving them without proper elevation or cant. Even on a straightaway, the heavy freight cars cause the high-grade metal of the rail to melt or flake off at the top, deforming the railhead. This reengineering of the track does not much affect the operation of a 20-mile-per-hour freight train. But it prevents passenger trains from achieving acceptable speeds, since the damaged track causes them to rattle, or even derail, if they don't slow down.

Third. There are 26,000 grade crossings on tracks used by Amtrak. Although grade crossings may not seriously curtail the speeds of slow-moving freight trains, they require substantial reductions in the speeds of faster passenger trains. And anywhere there is an intersection of rail and road, there is the danger of collision. As part of Japanese and French high-speed passenger rail service, all grade crossings are eliminated, just as they were in our Interstate Highway System, which relies on interchanges to avoid traffic disruption. The Japanese "Bullet" train, completely free of grade-crossings, has carried more than 1.6 billion passengers since 1964 without a single casualty.

A passenger railroad cannot be run successfully as we have tried to run Amtrak: Behind slow freight trains, on bad track that is ruined by heavy freight trains, and along routes that bristle with grade crossings. H.R. 4028, the Rail Passenger Systems Act of 1981, will allow us to start over and do it right.

H.R. 4028 would empower Amtrak to buy, or acquire by eminent domain, one good right-of-way in each of the 20 interurban corridors listed in the text of H.R. 4028. Loan guarantees could help Amtrak finance its right-of-way acquisitions, its rolling stock purchases, its electrification, its grade-crossing separation.

Amtrak could designate additional corridors for high-speed rail service in the future.

Without the interference of grade crossings and competing freight service, Amtrak will finally be able to initiate frequent and fast passenger service.

Then, as soon as it becomes economically feasible, that service can be electrified. This will save imported oil, and help make us independent of OPEC.

Presently, American passenger and freight trains are pulled by diesel locomotives. These locomotives burn oil, almost half of which is imported. The diesel locomotive makes its electricity right in the locomotive, powering electric motors which run its wheels.

U.S. electric utilities have 30-percent excess capacity today, according to the Edison Electric Institute. Why not use that excess capacity to produce electricity from domestic coal, natural gas, hydropower, or nuclear power, and use it to power our train system? This could be done by constructing very safe, overhead catenary trolleys, enabling electricity to be produced in a central plant, then transported through the trolleys to the train cars. This system would be efficient, using electric capacity which would otherwise go to waste. Subsequent electrification of freight rail service to the 20 interurban corridors could be accomplished with relative ease, using the same centrally generated power, and catenary systems, as the passenger trains.

H.R. 4028 would provide an excellent start in reindustrializing America. For the next generation, we could be busy making rail locomotives and cars, new track, electrification systems, and the other things needed to redevelop our rail system. We would also be making jobs in America. Just as automobiles made the 1920's, and television made the 1950's, we could have, in the decade of the 1980's, an American revival based on the revitalization of our railroads. The economic miracles in Germany and Japan after World War II took place in large part because those nations found work for their people to do. Even in Britain, British Railway Engineering Ltd. (BREL) employs 35,000 workers in 13 large plants to develop, produce, and maintain locomotives and railroad cars. Why don't we do the same?

In order to insure Federal-State-local cooperation, H.R. 4028 directs Amtrak to coordinate its efforts with the Department of Transportation, and with State and regional rail authorities, to the maximum extent possible. The act also provides that Amtrak will be assisted in its high-speed corridor development by a Presidential Rail Corridor Development Expediter, serving in the Executive Office of the President, responsible for coordinating the high-speed passenger rail operation, and for notifying the President and the Congress of any administrative, legislative, or financial problems, so that prompt corrective action may be taken.

Under the Rail Passenger Systems Act of 1981, the United States would finally have a passenger train system that makes sense. Without this bill, we will continue to pour billions of dollars into an Amtrak system that cannot succeed, because its trains will never achieve high enough speeds or frequencies. Unless action is taken, we risk reductions in Federal subsidies, resulting in the loss of Amtrak routes and, eventually, of our entire rail passenger service. Efficient passenger rail service was a cornerstone of America's past. Let us begin right now to make it a part of America's future.

The text of H.R. 4028 follows:

H.R. 4028

A bill to provide for the development of high-speed rail passenger service, and thereby revitalize America's rail system

Be it enacted by the Senate and House of Representatives of the Untied States of America in Congress assembled, That this Act may be cited as the "Rail Passenger Systems Act of 1981".

SEC. 2. The Rail Passenger Service Act (45 U.S.C. 501 et seq.) is amended by adding at the end thereof the following new title:

"TITLE XI—HIGH-SPEED SERVICE

"SEC. 1101. ESTABLISHMENT OF SERVICE.

"(a) The Corporation shall acquire, by purchase or gift, or by exercise of the right of eminent domain under section 305(d)(1) of this Act, any rights-of-way necessary for the operation of high-speed rail passenger service in accordance with the provisions of this title.

"(b) The Corporation shall establish high-speed rail passenger service on rights-of-way owned or acquired under subsection (a) for each of the following rail corridors, at such tiems and in such order as shall seem economically sensible:

"(1) Atlanta, Georgia, to Nashville, Tennessee.

"(2) Atlanta, Georgia, to Savannah, Georgia.

"(3) Boston, Massachusetts, to New York, New York, to Washington, District of Columbia (the Northeast Corridor).

"(4) Boston, Massachusetts, to Springfield, Massachusetts, to New Haven, Connecticut.

"(5) Cleveland, Ohio, to Columbus, Ohio, to Cincinnati, Ohio.

"(6) Chicago, Illinois, to Indianapolis, Indiana, to Cincinnati, Ohio.

"(7) Chicago, Illinois, to Cleveland, Ohio.

"(8) Chicago, Illinois, to Detroit, Michigan.

"(9) Chicago, Illinois, to St. Louis, Missouri.

"(10) Chicago, Illinois, to Milwaukee, Wisconsin, to Minneapolis-St. Paul, Minnesota.

"(11) Los Angeles, California, to Las Vegas, Nevada.

"(12) Los Angeles, California, to San Diego, California.

"(13) San Jose (Bay Area), California, to Sacramento, California, to Reno, Nevada.

"(14) Miami, Florida, to Jacksonville, Florida.

"(15) New York, New York, to Albany, New York, to Buffalo, New York.

"(16) Philadelphia, Pennsylvania, to Atlantic City, New Jersey.

"(17) Philadelphia, Pennsylvania, to Harrisburg, Pennsylvania.

"(18) Seattle, Washington, to Portland, Oregon.

"(19) Dallas-Ft. Worth, Texas, to Houston, Texas; Dallas-Ft. Worth, Texas, to San Antonio, Texas; San Antonio, Texas, to Houston, Texas (the Texas Triangle).

"(20) Washington, District of Columbia, to Richmond, Virginia.

"(c) The Corporation may from time to time establish high-speed rail passenger service under this section on additional designated corridors.

"(d) In acquiring rights-of-way under subsection (a) and establishing high-speed rail passenger service under subsection (b), the Corporation shall take into account the need for adequate freight service in such a manner as to not disrupt such high-speed passenger service or damage equipment and facilities necessary for such high-speed passenger service.

"SEC. 1102. OPERATION OF SERVICE.

"High-speed rail passenger service operated by the Corporation under this title shall whenever possible be operated by employees of the Corporation, on rights-of-way owned by the Corporation, using facilities and equipment owned by the Corporation. The Corporation shall as soon as feasible implement a grade-crossing separation program in cooperation with private rail carriers.

"SEC. 1103. ENCOURAGING AMERICAN INDUSTRY.

"The Corporation shall acquire and maintain equipment and facilities necessary for the operation of high-speed rail passenger service under this title. In carrying out this section, the Corporation shall seek to stimulate the American economy and create jobs in the United States by entering into contracts for the acquisition of locomotives, rolling stock, and other equipment so as to encourage the development of domestic production capabilities for such equipment. In the development of such domestic production capabilities, foreign technology and capital may be employed whenever feasible.

"SEC. 1104. ENCOURAGING ELECTRIFICATION.

"if local electric utilities have excess production capacities in a corridor designated for high-speed rail passenger service, the Corporation shall take all feasible steps to run such service using centrally generated electrical power, whenever possible in coordination with a similar use by freight carriers.

"SEC. 1105. COORDINATION.

"In the planning, financing, development, and operation of high-speed rail passenger service under this title the Corporation shall, to the maximum extent practicable, cooperate and coordinate its efforts with State and regional transportation agencies.

"SEC. 1106. PRESIDENTIAL RAIL CORRIDOR DEVELOPMENT EXPEDITER.

"The President of the United States shall appoint a Presidential Rail Corridor Development Expediter, to serve in the Executive Office of the President, who shall assist the Corporation in the planning, financing, development, and operation of high-speed rail passenger service under this title, and shall ensure that the President and the Congress are aware of any administrative, legislative, or financial problems that jeopardize the successful operation of such service.".

Sec. 3. (a) Title XI of the Rail Passenger Service Act, as added by this Act, is amended by adding at the end thereof the following new section:

"SEC. 1107. LOAN GUARANTEES.

"The Corporation may employ, for the purposes of this title, loan guarantees authorized under section 602 of this Act.".

(b) Section 601(b)(1)(E) of the Rail Passenger Service Act (45 U.S.C 601(b)(1)(E)) is amended by inserting "and" after "September 30, 1980,"; and by striking out ", and not to exceed $25,000,000 for the fiscal year ending September 30, 1982".

(c) Section 602 of the Rail Passenger Service Act (45 U.S.C. 602 is amended—

(1) in the first sentence of subsection (a) by inserting "the acquisition of any rights-of-way under section 1101," after "upgrading of roadbeds,"; and

(2) in subsection (d) by striking out "$900,000,000" each place it appears and inserting in lieu thereof "$2,000,000,000".

COMMEMORATION OF THE BATTLE OF KOSOVO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, June 28 marks the commemoration of the Battle of Kosovo when almost six centuries ago the courageous Serbs fought against the Turkish invasion of their homeland.

Serbia was one of the first Christian nations brought under Moslem influence when Turkey began its centuries-long expansion into Europe. The Battle of Kosovo on June 28, 1389, marked the beginning of the 500-year struggle to keep the Serbian national spirit alive, despite Serbia's position as a battleground for the Turkish, Austrian, and Russian empires. Turkish attacks on that day proved to be too strong for the Serbian forces, and the Serbian kingdom collapsed. However, to this day the Serbians remain undeterred in their hopes for restoring their political freedom.

Mr. Speaker, I extend my greetings to Americans of Serbian descent in the 11th District, which I am honored to represent, and across the Nation, who are commemorating the Battle of Kosovo. We who enjoy the blessings of liberty must remember the sacrifices others have made in defense of freedom and continue to do all that we can to support the aspirations of a people dedicated to the principles of individual liberty and national self-determination.

The Serbian National Committee has issued a memorandum on violations of human rights in Yugoslavia, and a copy of that memorandum follows along with the names of the officers of this fine organization:

VIOLATIONS OF HUMAN RIGHTS IN YUGOSLAVIA—MEMORANDUM OF THE SERBIAN NATIONAL COMMITTEE

The Commission on Security and Cooperation in Europe has released its report to the Congress on "implementation of the Final Act of the Conference on Security and Cooperation in Europe: Five Years After Helsinki," in Washington on November 1979 and on July 31, 1980. In spite of the numerous indications of human rights violations, including Amnesty International Reports, the Commission's Report ignores these violations in Yugoslavia!

Yugoslavia is a country which for the last thirty-five years has been one of the most severe violators of human rights in the world. That situation has not changed in the least during the five years since the Yugoslav Government affixed its signature to the Helsinki accords.

The present one-party dictatorship in Yugoslavia seized power in the wake of Soviet tanks in 1944 and 1945. Its first task was to eliminate all political opposition, dissolve democratic political parties, and restructure the life of the country on a totalitarian pattern.

Fearing the popularity and democratic symbolism of General Mihailovich, who declined to leave his suffering country when it exchanged a bitter Axis occupation for a totalitarian Communist dictatorship at the end of the war, the Tito regime resolved to physically destroy its rival. The captured Mihailovich was tried in 1946 before a kangaroo court of Communist Party officials on ludicrous charges of collaboration with the enemy. When the more than 500 rescued American airmen offered to testify on Mihailovich's behalf, the "court" refused to consider their depositions on the ground that the accused patriot was obviously so

guilty that there was no point in making any evidence for the defense!

General Mihailovich was sentenced to death and shot.

The Communist Party of Yugoslavia possesses the monopoly of power in the country. All office-holders and administrative personnel must be Party members. No other political organizations are allowed.

The legislative organs of Yugoslavia are made up exclusively of Party members. They only pass those laws which are sanctioned by the Central Committee of the Communist Party of Yugoslavia.

The regime's survival is assured by the "Sluzba Drzavne Bezbedonosti" (SDB), the dreaded secret police. SDB is not bound in its operations even by the formal guarantees given in the Yugoslav constitution. It is impossible to escape from SDB because the courts are also staffed by Communist Party members who owe their loyalty and their jobs to the dictatorship.

The operations of SDB are not confined to Yugoslavia, but also have extended abroad in a reign of terror against freedom-loving Yugoslavs who had taken refuge in democratic countries.

The "legal foundation" for this terroristic activity carried on by a government which is a signatory to the Helsinki Agreement are articles 106 and 107 of the Yugoslav Criminal Code, which read:

"Article 106: The Validity of the Yugoslav Criminal Legislation For the Yugoslav Citizens Who Commit Criminal Acts Abroad."

The citizen of Yugoslavia (should he be found on the territory of Yugoslavia or is deported thereto) is subject to Yugoslav Criminal Legislation even when he commits abroad some criminal act other than the criminal acts enumerated in Article 105 of this Law.

"Article 107: The Validity of the Yugoslav Criminal Legislation for the Foreigner Who Commits Criminal Act Abroad."

The Foreigner who outside the territory of Yugoslavia commits a criminal act against Yugoslavia or one of her citizens, even if it is not among the criminal acts enumerated in Article 105 of this Law, is subject to the Yugoslav Criminal Legislation should he be found on the territory of Yugoslavia, or is deported thereto.

("Official Gazette of the S.F.R. of Yugoslavia," September 8, 1976, Vol. 32, No. 44)

According to this appalling totalitarian legislation, the validity of Yugoslavia's Criminal code extends to:

(a) all Yugoslav citizens (or former citizens, because Yugoslavia does not recognize dual citizenship anywhere in the world) who commit any act punishable under Yugoslav legislation (Art. 106), and

(b) all inhabitants of the world, or about four billion persons in all, who commit in any other country acts which would be punishable in Yugoslavia, though they might have been perfectly legal in the place where they were committed (Art. 107).

From the standpoint of the Yugoslav regime, the acquisition of new citizenship does not protect persons of Yugoslav origin now living and taking part in political activities in democratic countries from the kind of punishment they would routinely receive in Yugoslavia if they engaged there in similar undertakings.

Armed with such "legal authority," unprecedented in the annals of the jurisprudence of civilized countries, the Yugoslav secret police is sending assassination squads to Western Europe and even in the U.S., to liquidate the regime's political opponents. The victims' only offense was to demand democratic change in Yugoslavia and to express opposition to the Yugoslav dictatorship in ways which were legal under the laws of their host countries.

Partial list of crimes committed by the Yugoslav Secret Police in the free world against the Serbian political refugees since 1969 follows. This list covers only the Serbian and excludes the refugees of other national groups from Yugoslavia.

1. Andra Loncaric, murdered with an ax in Paris, France, on March 6, 1969. His killer, a former convict recruited by the UDBA, Bosko Paraskijevic, now reportedly in Yugoslavia.

2. Sava Cubrilovic, murdered in Sweden on December 25, 1969. His killer, Sop Djokic seen in Belgrade by a Norwegian reporter, who published the story in the newspaper "Aktuelen."

3. Miroljub Lazic, kidnapped by Yugoslav agents from Austria on July 2, 1980. Later tried and sentenced to 12 years at hard labor.

4. Ratko Obradovic, editor of Serbian refugee newspaper "Iskra", shot to death in Munich, Germany, in 1970.

5. Jakov-Jasa Ljotic, editor of Serbian refugee newspaper "Iskra," strangled to death on July 9, 1974, in Munich, Germany. Murderers have never been apprehended.

6. Borivoje Blagojevic, former guerrilla commander, shot to death on March 6, 1975 in Brussels. Murderers not apprehended. A year prior to Blagojevic's murder, one Slavko Trbic was approached by the UDBA agents to kill Blagojevic. He was supplied with a forged passport, revolver Walter 7.65 with a silencer and promised a reward after the murder. Trbic, however, reported this to the French police and Blagojevic.

7. Petar Valitch, editor of Serbian refugee newspaper "Vaskrs Srbije" shot to death in his apartment on May 13, 1975 at Brussels. Valitch was 72 years old.

8. Slobodan-Bata Todorovic, prominent economic expert, kidnapped from Milan, Italy in December 1975. Now in a Yugoslav prison.

9. Miodrag Boskovic, one of Serbian leaders in Europe and president of the exile organization "Privrednik", shot to death in his office on August 6, 1976 in Brussels, Belgium.

10. Dragisa Kasikovich, 44, Serbian newspaper editor, and his fiance's daughter, Ivanka Milosevich, 9, were shot and stabbed to death on June 9, 1977, in the office of the Serbian National Defense Council of America, in the city of Chicago, Illinois, U.S.A.

11. Dusan Sedlar, 71, president of the Serbian National Defense Council of West Germany and editor of "Beli Orao" (White Eagle) an official newspaper of the same organization, was shot to death on April 16, 1979 in Dusseldorf, West Germany.

Every one of them was a Serbian nationalist and patriot, and everyone of them was killed or kidnapped by the dreaded secret police of Yugoslavia.

An edition of the "Human Rights Reports," prepared by the U.S. Department of State for the Subcommittee on Foreign Assistance of the Foreign Relations Committee of the U.S. Senate (March 1977) considers the human rights situation in Yugoslavia. Though written in cautious diplomatic terms, the findings of this authoritative report fully support the conclusions developed in this Memorandum in all essential respects:

POLITICAL SITUATION

Internally, although the six republics and two autonomous provinces of the Yugoslav Federation possess a fair degree of autonomy, the League of Communists of Yugoslavia (LCY) is the pervading authority. Since 1971, the central role and authority of the LCY has been strengthened. There has also been an increase in ideological discipline and police activity. Politicial groups in opposition to the LCY are not permitted to function.

LEGAL SITUATION

The Yugoslav judicial system is part of the civil service rather than an independent branch of government. The monopoly of political power held by the LCY, however, allows it to exert a major influence on the interpretation and implementation of the law. In cases involving political crimes and perceived threats to internal stability the regime can and evidently evidently does influence the course of justice.

OBSERVANCE OF INTERNATIONALLY RECOGNIZED HUMAN RIGHTS

Compared with that of the Western democracies, the Yugoslav record on human rights is weak. The Yugoslav government consistently violates certain rights, particularly those pertaining to critical political expression.

OTHER FREEDOMS

There are strong restrictions on the public expression of thoughts and opinions. Criticism of government policies may be considered hostile propaganda, a punishable offense. The advocacy of opposition political ideas is not permitted by the government and the League of Communists. . . No political gatherings are permitted except on the authority of official bodies. . .

OTHER HUMAN RIGHTS REPORTING

Amnesty International's 1975-76 Annual Report noted that the period was characterized by a dramatic series of political arrests and trials which it depicted as one manifestation of the Government's efforts to insure future stability and security. It observed that in most cases groups of persons rather than individuals had been arrested for political reasons . . . Freedom House places Yugoslavia in the "not free" category.

The diplomatic phrasing of the Report notwithstanding, it is evident that in the view of competent State Department analysts Yugoslavia is a major violator of human and political rights. It is particularly noted that the 1975-1980 period, i.e. while the Helsinki Accords were in effect, was marked by "a dramatic series of political arrests and trials." Those violations must become a subject of discussion at the forthcoming Conference in Madrid.

Courageous voices of dissent have risen in Yugoslavia to denounce the denial of human rights resulting from the dictatorial methods of the regime. One such action was the "Memorandum to the Supreme Court of Yugoslavia" submitted by 46 leading university professors and intellectuals in 1976.

Once more we have a courageous demand for freedom in Yugoslavia.

The following appeal was submitted to the Yugoslav government early last June. While it received wide coverage in Europe, it has been ignored by the American press.

To the Presidency of the Socialist Federal Republic of Yugoslavia:

In accordance with Article 157, and in relation to Article 314 of the Constitution of the Socialist Federal Republic of Yugoslavia, we request the enactment of the following:

Law of Amnesty

Article 1.—Amnesty is granted to all those individuals who, prior to the enactment of this law, committed the offense of expressing prohibited political views.

Article 2.—If criminal proceedings have not been initiated against those individuals to whom this amnesty refers, then such proceedings should not subsequently be started; if criminal proceedings are currently in progress, then they should be stopped; if the above mentioned individuals have already been sentenced, then they should be acquitted; and if they have started serving their prison sentences, they should be released.

Article 3—The Law of Amnesty also refers to security measures that forbid all forms of public expression and to the legal consequences of a sentence, which include prohibition of all further public expression.

We consider that the enactment of this law would be in the general interest of our society.

The State Department deliberately ignored this brave Appeal. WHY?

The Serbian National Committee believes that the democratic countries which signed the Helsinki Agreement have a moral obligation to consider human rights issued wherever they legitimately arise. As the record proves, Yugoslavia alone presents a rich terrain for human rights inquiry to occupy the Conference.

On September 4, 1980 from Belgrade, the following statement came by telephone to The Democracy International Committee to Aid Democratic Dissidents in Yugoslavia:

"On the eve of the Madrid Conference we can state that the human rights situation in Yugoslavia is not substantially different from that of Poland or Hungary, although the conditions are somewhat better than Romania and Bulgaria.

"There has been no improvement in these conditions since the Belgrade Conference. For example, the punishment for so-called verbal crimes in Yugoslavia ranges from 8 to 12 years.

"On the basis of vague official information, it is our estimate that at the present time, there are about 600 political prisoners in Yugoslavia, ninety percent of them condemned for verbal crimes. This means that over 500 people are in jail for expressing their opinions."

The Conference in Madrid will be a new opportunity for a thorough and honest discussion of the signatories' respect for human rights.

The potential targets of the inquiry—among them the Government of Yugoslavia—cannot stage manage these proceedings in order to suppress embarrassing facts or silence recalcitrant critics. Every delegation is free to voice its views according to the dictates of its conscience. World public opinion, both captive and free, will be eagerly watching the representatives of democratic countries for signs of determination to make the Conference live up to its purpose.

The American delegation will be under particularly close scrutiny, not the least because of the Inaugural words of President Jimmy Carter, which have inspired the free and given new hope to the oppressed:

"Because we are free, we can never be indifferent to the fate of freedom elsewhere. Our moral sense dictates a clear-cut preference for those societies which share with us an abiding respect for individual human rights."

The Serbian National Committee is convinced that those noble sentiments will guide the American and other Free World delegation at the Helsinki Follow-up Conference in Madrid.

Signed,

Dr. Urosh L. Seffer,
President.

Dr. George M. Radovevich,
Secretary General.

Vice Presidents: Vojislav D. Pantelich, Vidak P. Chelovich, Milutin Bajcetich, Alija S. Konjhodzich, Eng. Dusan M. Miletic, and Dragoslav Markovich.

Secretaries: Konstantin B. Djurickovic, Eng. Dusan Lazarevich, and Miladin R. Perovich.

Financial Secretary: Milutin M. Savich.

Members of the Executive Committee: H. G. Bishop Iriney, H. G. Bishop Petar, H. G. Bishop Vasilije, Mitar L. Bulatovich, Ljubisa Cirich, Lazar N. Dabetich, Rade D. Dobrivojevich, Eng. Milan Lazarevich, Eng. Aleksandar Mladenovich, Viseslav Milosavljevic, Dusan R. Mirkovich, Djordje M. Nikolich, Miodrag S. Ratkovich, Dr. Milan D. Shijachki, Novica Vucinich, and Bogdan Zarich.

Political and Advisory Committee: Stevan D. Trivunac, Dr. Rajko D. Tomovich, and Branislav Zugich.●

GRANTS TO STATES FOR STATE VETERANS HOMES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. MOTTL) is recognized for 5 minutes.

● Mr. MOTTL. Mr. Speaker, today I am introducing a bill, at the request of the administration, that would extend the authority for the program of grants to States for State veterans homes and for other purposes. The State veterans home program has been a most successful one. It is a high-quality, cost-efficient alternative to the direct provision of extended care in VA facilities. The grant program is currently authorized through September 30, 1982. Grants made under this program cannot exceed 65 percent of the estimated construction cost of any project and excludes land acquisition. Currently, $18 million is expended annually for this purpose.

In addition, Mr. Speaker, the bill will extend by 1 year the date the Administrator is to report to the Committee on Veterans' Affairs his findings and recommendations on a pilot program on the treatment and rehabilitation of alcohol or drug dependence or abuse disabilities. It would also extend the reporting period by an additional year.

It is my hope that hearings can be held at an early date and that this measure can be reported to the floor as soon as possible.●

REMARKS OF HON. GEO. W. CROCKETT TO NATIONAL BIENNIAL BANQUET OF WOMEN'S INTERNATIONAL LEAGUE FOR PEACE AND FREEDOM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CROCKETT) is recognized for 5 minutes.

● Mr. CROCKETT. Mr. Speaker. Last Saturday, June 20, I had the privilege of addressing the National Biennial Banquet of the Women's International League for Peace and Freedom at Eastern Michigan University in Ypsilanti, Mich. The Women's International League has a long history of dedication and hard labors for the causes of world development, civil and humanitarian rights, and the peaceful coexistence of all nations and peoples. They are concerned not only with the policies and procedures of world policy, but also with the full and active participation of all segments of society in the policymaking process. For this reason, I spoke to the group about the role which black Americans have played in the formulation of American foreign policy.

I would like to insert my remarks to that gathering into the RECORD today, for the information of my colleagues:

REMARKS OF CONGRESSMAN GEO. W. CROCKETT, JR., NATIONAL BIENNIAL BANQUET, WOMEN'S INTERNATIONAL LEAGUE FOR PEACE AND FREEDOM, JUNE 20, 1981

Thank you very much for this opportunity to speak to you today on the role of black Americans in the formulation and conduct of U.S. foreign policy. This is a subject about which I have been deeply concerned for many years. Since going to Congress, my interest in this subject has intensified.

Today, there is a strong notion in this country that black Americans have gained influence and increased importance in the foreign policy field. I think this is an illusion—an illusion that was fostered by black participation in the Carter administration, and which lingers today despite the absence of strong black voices in foreign policymaking positions under the present administration.

The need for such black participation is without question. The Reagan administration has taken positions that are inimical to the interests of blacks and others around the world. They have signalled a change of direction in U.S. policy towards South Africa and the racist apartheid system there; they have subjugated the needs of Third World nations to the profits of American businesses, as evidenced most recently by their vote in the World Health Organization not to endorse the use of breast-feeding over formulas in developing nation; and they have failed to take a strong position against Israel for its illegal preemptive strike against an Iraqi reactor, killing innocent civilians and gravely jeopardizing the case of peace in the Middle East. Indeed, Israel not only broke international law, but, in using American-made defense articles in the air strike, violated U.S. law which prohibits the use of such materials for anything other than legitimate self-defense. The Reagan administration does no more than scold Israel for such violations.

In this and other situations on the foreign policy front, blacks must become involved in the policy process. Our voices must be heard if we expect U.S. policies to be just.

During the 4 years of the Carter administration, the involvement of American blacks in the formulation and implementation of American policy reached a new level of importance and prominence. With the appointment of former Congressman Andy Young as U.S. Ambassador to the United Nations, the Carter administration assured blacks in this country that they would have a voice in the direction of American policy toward the Third World in general and Africa and the Caribbean in particular. It also meant that blacks for the first time would be included in some of the other non-Third World foreign policy issues discussed and debated by that administration.

Although Andy Young's presence was the most prominent manifestation of black America's new involvement in foreign affairs it was not the only one. For example the Carter administration;

Appointed Terry Todman, currently American Ambassador to Spain, as the first black American to be an Assistant Secretary of State for a geographic bureau at the State Department.

It assigned Ambassador John Reinhardt as the Director of the United States Information and Cultural Agency.

It placed a black American on the prestigious White House National Security Council staff.

And it appointed several blacks to ambassadorships in important European posts, including Ambassador David Bolen to East Germany, Ambassador Ruddy Aggrey to Romania and later Ambassador Terry Todman to Spain.

Besides taking these very visible and significant high level appointments, the Carter administration sought to increase minority representation in the career foreign service and to provide greater opportunities for blacks to come into the White House and the State Department to present their views on foreign affairs issues.

As we are beginning to realize, the presence of black involvement did make a difference. Although the press criticized Andy Young's free-wheeling style of public diplomacy and constantly sniped at his remarks, he was an active and effective spokesman for black and Third World opinions. Looking at America's relations with Africa during the first 6 months of the Reagan administration and comparing them with the relations that the Carter administration established with Africa, this is self evident. Because of Andy Young and the other blacks in the Carter administration, relations between the United States and Africa improved dramatically. Africans supported some of our global initiatives and gained confidence in America's sense of purpose. Moreover Andy Young helped lay the foundation for Zimbabwe's independence under Prime Minister Robert Mugabe; and Don McHenry, Andy's deputy and later successor, made national news in helping to resolve a crisis involving the abduction of a Soviet ballerina from New York. But more importantly, he was the architect of the Carter administration's effort to solve the still lingering Namibian problem. In smaller forums, black Ambassadors in East Germany and Romania helped to improve our relations with those countries and demonstrated in the process that blacks can do the job in Berlin as well as Benin. And even Andy Young's forced resignation following his meeting with a PLO representative in New York in an effort to cool off a hot diplomatic crisis helped stimulate and broaden the debate on the very complex political and military situation in the Middle East.

Those 4 years were good for black America. They put us on center stage in the diplomatic arena—a place we had not been before. They also demonstrated without a doubt that we are not only interested in the art of diplomacy but that we are equally adept as practitioners of it.

However, the prominence of black Americans in the foreign policy process has only helped to create an illusion of our influence, importance and significance in the institutionalized foreign policy process in this country.

In fact, the opposite is true.

Today blacks are probably more poorly represented in the day to day decisionmaking process on foreign policy issues—inside and outside of Government—than any other professional field in this country. Now that Andy Young is running for mayor of Atlanta and Don McHenry has been relieved of his U.N. position where is our institutionalized black strength?

Few—if any blacks are, or have been, accepted into the permanent foreign policy of this country. Few—if any—blacks are involved in the foreign affairs career services that help to formulate and implement policy in this country. Few—if any—blacks are members or partners in the major legal firms or international banks from which Secretaries of State and senior diplomats are drawn. And few—if any—blacks are a part of the foreign policy "old boys network" that exists in Washington, New York and Boston. In short, few blacks are a permanent part of the foreign policy network of this country.

What I have said is evident if you look at institutions in this country which handle foreign policy.

Let's turn first to the State Department. The State Department is the instrument of government which deals with foreign affairs and which produces most of America's career diplomats. Today, there are no black foreign service career officers in senior policymaking positions in the Department of State. And it is unlikely that this administration will appoint any. There are no black Assistant Secretaries or Under Secretaries of State. And there are only four black Ambassadors out of some 144 American Ambassadors around the world. This is of course less than 3 percent of the total. Moreover, the number of black career foreign service officers totals less than 8 percent, with most of them stuck in deadend, non-policymaking jobs. Under the current administration, this situation is not likely to change.

Now, let's look at another sector, the area of private foundations and associations concerned with international affairs. The two most prominent of these foundations are the Council on Foreign Relations and the Carnegie Endowment for International Peace. There are many others, but an examination of their records with respect to blacks would invariably produce the same results—very few blacks. The Council on Foreign Relations has a select membership of some 2,000 individuals. It also publishes Foreign Affairs magazine—regarded in this country and abroad as the most prestigious journal on foreign affairs in the world. Its editorial board includes such names as Henry Kissinger, William Bundy, John J. McCloy, James Billington, James Chace, and A. Doak Barnett. These men and the others who make up the Council are regarded by both Democrats and Republicans as the most influential group of foreign policy representatives in this country. If you were to ask whether any blacks are on the Council of Foreign Relations, I would have to say frightfully few. And even fewer are in prominent positions within the organization or recipients of its grants and fellowships.

The Carnegie Endowment for International Peace occupies a similar role. Although it does not have an established membership list, its publication, Foreign Policy magazine, enjoys a reputation nearly as great as that of Foreign Affairs. But if one were to go to the offices of the Carnegie Endowment in Washington, I am afraid you would not find any blacks among the academic experts and scholars who are shaping our foreign policy and who will be our future foreign policy leaders.

There are other institutions such as major international banks, legal firms, and nonprofit research firms which also play a role in making and shaping U.S. foreign policy—as well as providing new foreign affairs specialists for the Government. For the most part, the number of blacks in those organizations is small.

You may ask why it is important to have blacks in these institutions. The answer is simple. The men who are selected by succeeding administrations—whether they are Democrats or Republicans—are drawn from the ranks of these organizations. The men who occupy the senior positions in these organizations also constitute an informal club or network which is influential inside and outside of Government. On the outside, the club promotes its members through the publication of their articles and acts as a training ground for future policymakers. Inside of Government they make the policies, generally in collaboration with their supporters. Because blacks are not a part of this network, their views are frequently ignored and overlooked and when it comes time to recommend people for senior positions they are not among those in the club recommended for high office. Until blacks can become a part of these permanent foreign policy institutions and networks, our capacity to influence decisions and to have a permanent say is somewhat limited.

One of the few places that blacks have had genuine institutional power and influence over policy is through the legislative process. There are now 18 members in the Congressional Black Caucus of the U.S. House of Representatives. Although all of these members would probably place domestic priorities above international issues, and this is only natural given the problems which continue to confront the black community in this country, they are all—and I can assure you of this—all concerned about foreign policy issues in general and African and Caribbean issues in particular.

Although our influence and power is limited—particularly now that we have a Republican administration in the White House—we try to act as a watchdog over the administration's policies which affect Africa and the Third World, over legislation that is introduced in Congress on foreign policy issues and on activities which concern the overall U.S. foreign relations. But our job is not strictly defensive.

We meet with the Secretary of State, as we did recently, to express the views of the black community on various foreign policy issues.

We introduce legislation against South Africa's system of apartheid.

We press for more rational policies toward El Salvador and the black nations in the Caribbean.

We fight for greater American assistance to Africa's refugees.

And, we help shape and develop legislation which will speed Africa's economic development, commercial growth and political stability.

As black Americans we have a strong interest advancing our foreign policy interests and views. Our tradition of involvement in foreign affairs is a long one which can be traced with pride and dignity over the entire breadth of our Nation's history.

In the 1840's and 50's Frederick Douglass, the noted abolitionist, fought for American recognition of Liberia and Haiti and was later appointed America's envoy to Haiti;

At the turn of the century and throughout the period following World War I, William EB. Dubois helped organize the first Pan-Africanist Congress which fought for early decolonization of black nations under German control;

In 1948, Dr. Ralph Bunche, as the U.N. Undersecretary for Political Affairs, helped to negotiate an end to the first Arab-Israeli conflict and in the process became the first black American to win the Nobel Peace Prize;

And of course, most recently we have had the major contributions of Andy Young, Don McHenry and others.

We have played a role in the foreign policy process and we can continue to play a role in this area in the future. But if we are to do more it will mean that all our organizations, particularly those that have traditionally concentrated on domestic issues, will have to take a significantly greater interst in foreign affairs. In effect, this will require such organizations as the NAACP, The Urban League, OIC, Operation Push and others to demonstrate and articulate a greater concern about African and Caribbean issues. And this interest cannot emanate only from the leadership of those organizations: it must also come from the grass roots. In addition, more blacks will have to be encouraged to assume jobs and positions in the Government and non-Government foreign policy network which exists in this country.

All of this can be achieved. We must work together to see that it happens.●

LEGAL SERVICES CORPORATION/PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Louisiana (Mr. LONG) is recognized for 5 minutes.

● Mr. LONG of Louisiana. Mr. Speaker, at the time of final passage of the Legal Services Act last Thursday evening, June 18, I was unavoidably detained. Had I been present I would have voted in support of final passage of the bill.●

BROYHILL AMENDMENT TO TITLE VI OF RECONCILIATION ACT

(Mr. BROYHILL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

, Mr. BROYHILL. Mr. Speaker, the following is an explanation of the substitute which I shall be offering tomorrow to title VI of the Reconciliation Act:

SUMMARY OF THE BROYHILL AMENDMENT TO TITLE VI OF THE OMNIBUS RECONCILIATION ACT, JUNE 25, 1981

TITLE VI—HOUSE COMMITTEE ON ENERGY AND COMMERCE

Substitute A—Direct Spending Reductions

Chapter 1—Railroad Retirement Reductions

1. The legislation included herein addresses the adverse budget impact of a recent court decision (Gebbie, et al. v. United States Railroad Retirement Board, 631 F. 2d 512, 1980). Left unaddressed, the decision will require the Board to make retroactive windfall payments to all spouses similarly situated amounting to an additional $200 million for fiscal year 1981, approximately $50 million for fiscal year 1982, and increases in succeeding fiscal years. It addresses this decision as follows:

a. Provides for the ultimate elimination of windfall payments arising from dual entitlement under both the Rail Retirement Act and the Social Security Act;

b. Restricts new entitlement to a windfall payment to a retired railroad employee who is vested under the provisions of sections 3(h)(1) and 3(h)(2) of the Railroad Retirement Act for a railroad retirement annuity and for a benefit under the Social Security Act based on his or her own income.

c. Applies on a prospective basis only: i.e., does not affect any windfall payment currently being paid by the Board or any such payment commenced before June 1, 1981, or the date of enactment of the bill, whichever is later.

Chapter 2—Medicare and Medicaid Amendments

1. Portions of an Administration bill, H.R. 3725—Health Care Financing Amendments of 1981, are utilized to achieve cost savings in this area.

2. The Administration's bill would do the following:

a. Establish a 7.5% ceiling on Federal expenditure increases in Medicaid for fiscal year 1981;

b. Federal financial assistance in Medicaid would be limited to $16,400,000,000 for fiscal year 1981, and $17,371,000,000 for fiscal year 1982. For succeeding fiscal years, Federal funding for Medicaid would change by a factor equal to the Gross National Product deflator;

c. Federal funding for automated eligibility determination and Medicaid management information systems would be subject to a separate ceiling;

d. Funds for State fraud control units and funds to reimburse State's claims for program cost incurred before fiscal year 1981 would be outside the ceiling;

e. The program would be amended to increase State's flexibility to determine the scope of their Medicaid program and to assure that services are provided in an effective and cost-efficient manner;

f. States would be permitted to tailor their eligibility criteria, benefit packages, reimbursement methods, and planned administration;

g. Legislation would repeal the postponement from fiscal year 1981 to fiscal year 1982 of certain periodic Medicare payments to hospitals;

h. Provides for a 6 month study of new formula which would adjust State's share depending on unemployment and cost of living indices.

i. States would be given authority to charge copayment for basic medicaid services.

j. "Sunset" the PSRO Program effective 10/1/83.

Chapter 3—Merchant Seamen Health Services Repeal

1. The bill contains the Administration's proposed bill, H.R. 3223, which eliminates free medical care for merchant seamen, and permits closure of Public Health Service hospitals.

Subtitle B—Matters under the jurisdiction of the Subcommittee on Energy Conservation and Power and on Fossil and Synthetic Fuels

Chapter 1—Strategic Petroleum Reserve

a. The Strategic Petroleum Reserve will be funded, in part, off-budget.

b. The Senate Strategic Petroleum Reserve bill (S. 998), which is supported by the Administration, will be slightly modified. This legislation would provide for the following:

(1) Establishment of an off-budget SPR account in the Treasury to be funded by general Treasury receipts, receipts from the sale of any SPR oil or unexpended obligations existing at the end of fiscal year 1981;

(2) DOE may obligate up to $9 billion from the account without additional authorization or appropriation. This sum represents the amount projected to be required for crude oil acquisition from fiscal year 1982 through fiscal year 1984;

(3) Acquisition or construction of facilities must be funded by annual on-budget authorizations;

(4) $1.1 billion in SPR funding will remain on-budget;

(5) The account terminates at the end of fiscal year 1984 and all unobligated funds will revert to the Treasury;

(6) The Secretary of Energy is authorized to enter into agreements with any State to store petroleum in the SPR without regard to procurement laws and regulations;

(7) The President is urged to fill the SPR at an average rate of 300,000 barrels a day until there are at least 750 million barrels stored in the SPR;

(8) The Secretary of Energy is required to submit quarterly reports (one of which may be submitted in conjunction with the annual report); and

(9) A study of alternative methods of financing the SPR oil purchases must be submitted by the Secretary of the Treasury within one year.

Chapter 2—Other Energy Programs

a. DOE Program Authorizations. It is proposed that the Administration's DOE Authorization bill (H.R. 3447) will be enacted into law for fiscal years 1982 and 1983.

b. State and Local Energy Block Grants. $146.8 million in fiscal year 1982 budget authority for conservation and solar programs and departmental administration; $14.1 million in fiscal year 1982 nuclear regulation savings; and $39.1 million in fiscal year 1981 DOE Appropriations deferred into fiscal year 1982 for conservation and solar programs and energy regulations under the Supplemental Appropriations bill, will be rolled into a $600 million, 2 year "State and Local Energy Block Grant." This block grant will have the following key provisions:

(1) Repeals current DOE programs for low income weatherization, schools and hospitals conservation, renewable energy demon-

strations, energy emergency preparedness, state energy conservation, energy extension service, and residential conservation service. Replaces them with a flexible block grant available for energy supply, conservation and low income weatherization activities deemed necessary by States;

(2) Authorization meets Reagan budget targets;

(3) 30% State and local match requirements first year; 50% thereafter;

(4) 2 year authorization—$300 million per year, automatic 3 year sunset of legislative authority;

(5) OMB recommended audit and reporting requirements included;

(6) Annual report by States to Congress required;

(7) Low income weatherization and schools and hospitals conservation would be required to receive priority consideration.

c. Repeal of DOE Regulatory Authority. The following DOE regulation, commercialization, and information programs would be repealed:

(1) Building Energy Performance Standards (BEPS);

(2) Residential Conservation Service and Commercial and Apartment Conservation Service provisions requiring utilities to offer energy audits to homeowners and commercial and apartment building owners. (Replaced by State and Local Energy Block Grant);

(3) Schools and Hospitals Grants and Local Governments Technical Assistance Program. (Replaced by State and Local Energy Block Grant);

(4) Low-income Weatherization Assistance Program. (Replaced by State and Local Energy Block Grant);

(5) State Energy Conservation Program grants to State energy agencies. (Replaced by State and Local Energy Block Grant);

(6) Energy Auditor Training Program. (Replaced by State and Local Energy Block Grant);

(7) Residential Retrofit Demonstration Program. (Replaced by State and Local Energy Block Grant);

(8) National Energy Extension Service grants to States for extension and information activities. (Replaced by State and Local Energy Block Grant);

(9) Appropriate Technology Small Grants for energy inventions. (Replaced by State and Local Energy Block Grant);

(10) Section 301(a) of the Fuel Use Act prohibiting use of natural gas by existing powerplants;

(11) Section 402(b) of the Fuel Use Act prohibiting post-1982 use of natural gas for existing outdoor decorative lighting; and

(12) Section 202 of the Fuel Use Act prohibiting new major fuel-burning installations from burning natural gas or petroleum as a primary energy source.

d. FERC Small Hydro Amendments. The Federal Power Act would be amended as recommended by the Administration to expand licensing exemptions available to small hydro projects. In addition, exemptions for conduit Hydroelectric facilities would be expanded.

e. Nuclear Regulatory Commisison Authorizations for fiscal year 1982 and 1983. The Energy and Commerce Committee reported version of H.R. 2330 will be enacted into law with regulatory reforms to speed the licensing of nuclear power plants and budget reductions.

Subtitle C—Matters under the jurisdiction of the Subcommittee on Health and the Environment

Chapter 1—Omnibus Health Programs Amendments

1. This proposal accomplishes budget savings in several Public Health Service Act Programs by making substantive changes in existing law. This proposal will contain the provisions incorporated in the Administration's bill, H.R. 3724, "to extend and amend various health authorities". The proposal includes the following major provisions:

a. Center for Health Care Technology and Health Services Research

(1) Eliminate as a separate entity the National Center for Health Care Technology;

(2) Transfer health care technology activities to the renamed National Center for Health Care Technology and Health Service Research;

(3) Authorize, rather than require, the Secretary of Health and Human Services to carry out health care technology activities;

(4) Authorize the Secretary to participate in health care technology international cooperative endeavors;

(5) Apply to health care technology information the same requirements concerning consent for release of information as now apply to health services research information;

(6) Permit, rather than require, the Secretary to fund health services research centers; and

(7) Permit approval without peer review of health services research and health care technology grants and contracts of $50,000 or less (rather than only grants and contracts of $35,000 or less).

b. Center for Health Statistics

(1) Eliminate the requirement that an ongoing study of pollution and other environmental conditions be funded solely from appropriations for health statistics activities;

(2) Repeal the authority for support of the Cooperative Health Statistics System; and

(3) Repeal the requirement that the Secretary, acting through the National Center for Health Statistics, develop guidelines, to apply to each executive department, for statistics concerning the effect of employment conditions and the environment on public health, and repeal a requirement that the Center act as a clearinghouse for statistics generated under the guidelines.

c. National Research Service Awards

(1) Provide that the Secretary give special consideration, in making National Research Service awards, to physicians who agree to undertake a minimum of two years of biomedical research;

(2) Repeal the requirement that National Research Service Awards be made only in those subject areas shown by a continuing study of the National Academy of Sciences to need personnel, and repeal the authority for continuing that study;

(3) Permit an Award recipient to meet his service obligation, if authorized by the Secretary after a determination that there are no suitable teaching or research positions, by private clinical practice in a health manpower shortage area, by engaging in professional activities for any Federal agency, or by clinical practice at the request of a State or local government;

(4) Make clear that National Research Service Awards cover tuition and fees;

(5) Eliminate the provision that such awards made to individuals at non-Federal institutions cover the costs of support services;

(6) Eliminate the service requirement for undergraduate recipients of such awards; and

(7) Increase from more than three months to more than twelve months the minimum length of a National Research Service Award that carries a service requirement.

d. Medical Libraries

(1) Replace the authority for the support of training in medical library sciences with an authority for the support of training in information sciences related to health; and

(2) Permit, rather than require, the Secretary to make grants for special scientific projects and for research and development projects in medical library science and related fields.

e. Immunization Programs

f. Venereal Disease Program

g. Public Health Service Commissioned Corps Physician bonuses

(1) Would give the Secretary discretion to determine how much, if any, additional special pay (up to $9,000 annually, or up to $10,000 annually for physicians with ten or more years of service) to grant to Public Health Service Commissioned Corps physicians.

h. Health Program Changes

(1) Sunset Health Planning at the end of fiscal year 1983 and repeal the Health Planning Law.

Chapter 2—National Health Service Corps and Health Professions and Nurse Training

1. This proposal contains in principal form the Administration's health manpower legislation, H.R. 3723. However, there will be shifting of funding among the various health manpower programs. In the aggregate, this proposal will exceed the Administration's proposed funding level of $268 million by $10 million. The differences in the individual program funding contained in the Administration bill and that which will appear in this proposal are reflected in the chart on the next page:

[Dollars in thousands]

Program	PHS Act section No.	Administration bill	Bipartisan proposal
Medical capitation	770	.....	.....
Family med. res.	786	.....	25,000
Family med. dept	780	$44,000	10,000
Primary Care	784	.....	13,000
AHEC	781	16,000	21,000
Educ. ass't disad	787	20,000	14,000
Finan. distress	788	7,000	10,000
Preven. med	794	3,000	3,000
Spec. projects	772/789	5,000	4,500
Public H. training	748	.....	2,500
H. admin. training	749	.....	2,000
PH/HA depts	791	6,000	3,000
PH/HA spec. projects	792	.....	500
Allied health	796	.....	4,500
Nursing capitation	810	.....	.....
Nurse spec. projects	820	.....	8,000
Adv. nurse training	821	.....	10,000
Nurse trainee	830	14,000	9,000
Nurse practioner	822	.....	8,000
Nurse student loan	837	.....	.....
Nurse finan. distress	815	.....	5,000
Physician asst	783	5,000	5,000
NHSC scholarship	756	38,000	38,000
NHSC field program	338	110,000	85,000
Subtotals:			
Medicine		106,000	118,000
Nursing		14,000	40,000
Corps		148,000	123,000
Total		268,000	281,000

Chapter 3—Categorical Program Block Grants

1. Three block grants are included in the proposal. Each would consolidate specified

programs and reduce Federal outlays by 25 percent in the aggregate. These block grants are as follows:

a. Health Services Block Grant Program
Primary Care Services
Community Health Centers [1]
Migrant Health Centers [1]
Primary Care R&D
Home Health Services
Emergency Medical Services
Mental Health Systems [1]
Substance Abuse Programs
Alcoholism/Alcohol Abuse
Drug Abuse
Black Lung Clinics (Not within Energy & Commerce jurisdiction)
Program Management

b. Prevention Health Block Grant Program
Incentive Grants
Risk Reduction/Health Education
Fluoridation
Rodent Control
Hypertension Control
Adolescent Health
Family Planning [2]

c. Maternal and Child Health Block Grant Program
Title V
SSI
Genetic Diseases
Hemophilia
Lead Based Paint Poisoning
Sudden Infant Death Syndrome
Developmental Disabilities
Program Management

2. Language is included in each block grant which would preclude arbitrary distribution of funds within a State.

3. Local input is provided for in determining distribution of funds under all three block grants.

4. In the maternal and Child Health block, a 15 percent set-aside has been provided for research and training purposes.

Chapter 4—Consumer Product Safety Amendments

1. Legislation included in the reconciliation package would transfer the functions of the Consumer Product Safety Commission to the Department of Commerce, and would reduce the authorization level for the product safety program.

2. Major provisions of the proposed legislation would:

a. Prohibit writing of mandatory safety rules unless it was found that there did not exist voluntary standards which could adequately address a risk of injury. If a voluntary standard did exist and was approved by the regulatory body, the voluntary standard would preempt differing State law;

b. Guarantee that information gathering activities would be for a specific regulatory purpose and narrow types of information that could be disclosed to the public;

c. Eliminate the advisory councils set up under various acts administered by the Commission;

d. Require the preparation of a draft and final regulatory impact statement and give the Congress an opportunity to disapprove rules before they go into effect;

e. Require CPSC to reopen rule-making regarding optional means of complying with the safety standard regulating walk-behind power lawn mowers; and

f. Create a Chronic Hazards Advisory board, made up of scientists, to advise on regulatory decisions dealing with chronic hazards posed by consumer products.

Subtitle D—Matters under the jurisdiction of the Subcommittee on Commerce, Transportation and Tourism

Chapter 1—Conrail

1. Transfer of Conrail Commuter Services. Conrail would be divested of its commuter operations in a two step process. First, the commuter service would be transferred to a Conrail subsidiary, then to an Amtrak subsidiary to be known as Amtrak Commuter. Local commuter authorities would always have the option of operating the commuter service themselves. Total spending involved: $120 million in transitional assistance.

2. Additional Financing of Conrail. The U.S. Railway Association Board (Comptroller General, Secretary of Transportation, and Chairman of USRA) will continue to purchase securities of Conrail only if certain conditions are met. Total funding involved: $375 million over 2 year period from October 1, 1981 to September 30, 1983.

3. Transfer of Freight Service. USRA Board (DOT, USRA, Comptroller General) determines whether Conrail will become profitable. If determined to be profitable between July, 1982, and December, 1983, DOT sells common stock of Conrail. If unprofitable, DOT sells Conrail in pieces after December, 1983.

4. Labor Protection. Title V of the 3-R Act is repealed and replaced with the sum of $315 million for employees adversely affected by terminations and layoffs. Up to $115 million sequestered for termination of 4,600 brakemen and firemen jobs.

5. Terms of Labor Assumption. Implementing agreements are to be negotiated between the proper parties to a transfer.

6. Authorization of U.S. Railway Association. Authorizes to be appropriated to the U.S. Railway Association (USRA) for purposes in carrying out its administrative expenses $1,000,000 for fiscal year 1982, $1,100,000 for fiscal year 1983, and $1,200,000 for fiscal year 1984.

Chapter 2—Amtrak

1. Legislation is identical to the Energy and Commerce Committee reported Amtrak Authorization bill (H.R. 3568), except for authorization levels for fiscal year 1984. This legislation would:

a. Substantially reduce the Federal funding of Amtrak, and

b. Make substantive changes with respect to the Corporation's operation which should improve its ability to function in a more efficient and cost-effective manner as follows:

(1) Operation within Available Resources. Requires Amtrak to evaluate the financial requirements of its total operation at the beginning of each fiscal year and, should available funding not be adequate to meet the projected operating costs, take action to reduce costs including the reduction or discontinuance of service, beginning with those routes which meet the criteria by the smallest margin.

(2) Food and Beverage Service Deficit. Requires the elimination of the food and beverage service deficit by the end of fiscal year 1982 and repeals the statutory prohibition against contracting out such services.

(3) 403(b) Services. Increases the State's contribution to selection 403(b) service (currently 20% of the solely related costs in the first year of operation, 35% in the second year, and 50% thereafter) to 60% of the short term avoidable loss in the first year, and 80% of the short term avoidable in loss each year thereafter. Specifies that the Corporation may agree to provide 403(b) service if the revenues from such service will cover 30% of the costs, not including the State's contribution.

(4) Rail Corridor Development. Requires the Corporation to report to Congress in January, 1982, with its recommendations and a comprehensive plan for the development of rail corridors.

Chapter 3—Local Rail Services Assistance Program

1. The Local Rail Services Assistance Program was originally established by the Regional Rail Reorganization Act of 1973 to alleviate the impact of substantial branch line abandonments associated with the start-up of Conrail. This provision would amend the Act as follows:

a. Eliminate operating subsidies from the rail freight assistance program;

b. Require a State seeking rail freight assistance to contribute 30%, making the Federal share 70%;

c. Repeal the requirement that each State receive a minimum of 1% of the funds. Substitute a formula and a procedure for the allocation of available funds under which each State would be entitled to a share in proportion to the number of eligible light density lines.

d. Provide each State with $100,000 in planning assistance for its rail plan.

Chapter 4—Northeast Corridor

1. The Northeast Corridor Improvement Project was enacted to establish and maintain improved high-speed rail passenger services between Washington, D.C. and Boston and intermediate cities. The project requires, by the end of FY 1985, the establishment of regularly scheduled rail passenger service between Boston and New York City on a 3-hour-and-40-minute schedule and between New York City and Washington, D.C. on a 2-hour-and-40-minute schedule. The project includes, among other things, the acquisition, construction, and installation of improved passenger stations, communications equipment, safety facilities and equipment, electrification of lines, and other faciiities or equipment necessary for improved high-speed rail passenger service.

2. Savings would be achieved by making the following changes:

a. Modify the trip time requirements stated previously by adding 15 minutes to each schedule. It is necessary to provide some flexibility with respect to these schedules if the mandated savings are to be achieved.

b. Specify that completion of the segment of the project between Washington, D.C. and New York City should be given priority over the project segment between New York City and Boston. This priority is entirely consistent with the higher ridership rates of the project between Washington and New York City; ridership between New York City and Boston represents only about 20% of the total.

Chapter 5—Toxic Substances Control Act

1. The Toxic Substances Control Act (TSCA) was enacted in 1976 to respond to concerns regarding the risks to human health and the environment associated with exposure to a wide array of natural and synthetic chemical substances. The Act generally provides the Environmental Protection Agency with authority to gather informa-

[1] Short-term program continuity to be ensured by use of a declining sum-of-digits "earmarked". Formula: First year—75 percent of previous year is targeted; Second year—49.5 percent (⅔ of 75 percent) targeted; Third year—16.34 percent (⅓ of 49.5 percent) targeted.

[2] Short-term continuity formula: First year—75 percent of previous year targeted; Second year—25 percent (⅓ of 75 percent) targeted.

tion, require testing, and regulate the manufacture, distribution, use, and disposal of chemical substances and mixtures that may present an unreasonable risk of injury to human health and the environment.

2. Legislation included is identical to the Energy and Commerce Committee reported Toxic Substances Control Act Authorization Bill (H.R. 3495). This legislation would:

a. Authorize $1,500,000 to be appropriated for each of the Fiscal Years 1982 and 1983 for State grants under § 28 of the Act. These grants are available to States for the establishment and operation of programs to prevent or eliminate unreasonable risks which are associated with a chemical substance or mixture; and

b. Authorize $62,000,000 to be appropriated for each of the Fiscal Years 1982 and 1983 for carrying out the general purposes of the Act.

Chapter 6—Noise Control Act

1. The Noise Control Act was enacted in 1972 to address the adverse health effects associated with noise emissions of products distributed in interstate commerce. The Act generally provides the Environmental Protection Agency with authority to establish Federal noise emission standards for products distributed in interstate commerce, provide technical and financial assistance to States and localities for their noise control programs, and coordinate Federal research activities related to noise.

2. Legislation would reduce the level of authorizations as well as the scope of the EPA noise control program. The provision follows the Energy and Commerce Committee reported version (H.R. 3071) which provides the following:

a. Eliminates Federal regulatory authority with respect to products in general. However, such authority is retained for railroads, motor carriers, and motor vehicles;

b. Retains Federal preemption of conflicting or inconsistent State or local noise regulations; and

c. Continues technical and financial assistance to States and localities for purposes of noise control as well as the advisory aviation noise control program under the Act.

Chapter 7—National Tourism Policy Act

1. The National Tourism Policy Act establishes a national tourism policy to promote tourism to the United States. As included herein, it is identical to the Energy and Commerce Committee reported bill (H.R. 1311). This legislation would do the following:

a. Enumerate duties of the Secretary of Commerce related to the national promotion of tourism;

b. Establish a U.S. Travel and Tourism Administration within the Department of Commerce to implement tourism policy and programs;

c. Establish an interagency tourism council and coordinate and monitor Federal Government policies and programs that affect tourism;

d. Create a Tourism Advisory Board comprised of representatives of the travel and tourism industry to study and advise the Secretary on the activities of the U.S. Travel and Tourism Administration; and

e. Authorize appropriations of $6,500,000 each for fiscal year 1982, fiscal year 1983, and fiscal year 1984.

RECONCILIATION PACKAGES COMPARED—COMMITTEE ON ENERGY AND COMMERCE

Program	Budget Committee—Dingell	Broyhill
	RAILROAD RETIREMENT REDUCTIONS	
Provides a Social Security equivalent benefit and a private pension benefit to railroad employees and their families.	Attempts to resolve complex pension issue in reconciliation. Taxes necessary to support change in existing law have been stripped out by the Budget Committee.	Repeals court case which required payment of unintended benefits.
	With taxes in, it violates Gramm-Latta; without taxes it doesn't solve the system's problems.	Complies with Gramm-Latta.
	REASONS TO SUPPORT BROYHILL	
Complies with the President's Budget. Does not prejudice a more thorough analysis of the complex pension system.		
	MEDICAID/MEDICARE PART B	
Medicaid/Medicare Part B: Title XIX of Social Security Act (Medicaid) provides for Federal-State matching program to provide health care services to the poor. Title XVIII of the act includes Medicare part B, voluntary outpatient service program for the elderly and disabled. It supplements the in-patient benefits available under Medicare Part A (Medicare Part A is solely within the jurisdiction of Ways and Means).	Medicaid.—Reduces Federal Medicaid payments to States by 3 percent in fiscal year 1982, by 2 percent in Fiscal year 1983, and by 1 percent in fiscal year 1984. Other Medicaid reforms.—Makes other reforms such as ineligibility determination and service reimbursement; allows additional flexibility in program administration. Medicare Part B and other reforms.—Includes increased patient deductibles and changes in reimbursement rates for long/term care provided in certain hospitals.	Medicaid Cap.—Imposes a ceiling on Federal Medicaid expenditures equal to 7.5 percent above fiscal year 1981 outlay level. Allows inflationary increases in out/years. Consistent with the Administration bill, States would be allowed additional flexibility to determine the scope of their Medicaid program and to assure that services are provided in a cost effective manner. Other reforms.—Replaces patient freedom of choice provision with a more restrictive requirement which will assure continued quality medical care; provides for competitive bidding for Medicare claim processing contracts; provides more effective fraud and abuse countermeasures; sunsets the PSRO programs.
	REASONS TO SUPPORT BROYHILL	
7.5 percent cap for fiscal year 1982 provides savings that are real; Cap is only device which ensures that States will maximize the potential flexibility provides for in the bill.	Dingell package contains numerous assumptions and projections which cannot be quantified, according to a Health Care Financing Administration study.	
	PUBLIC HEALTH SERVICE HOSPITALS—MERCHANT SEAMEN ENTITLEMENTS	
Public Health Service Hospitals-Merchant Seamen Entitlements.	Closure of PHS Hospital System—Close Hospital System and provide for community transfer. The Merchant Marine and Fisheries Committee has recommended termination of the entitlement. Savings under this approach are estimated (in millions) as follows.—Fiscal year 1982 equals $92; fiscal year 1983 equals $179; fiscal year 1984 equals $191.	Closure of the PHS Hospital System and Termination of Merchant Seamen Entitlement.—Secretary of HHS given authority to seek through appropriations process interim funding for hospitals taken over by local communities thru March 31, 1982. Savings under this approach are estimated (in millions) as follows.—Fiscal year 1982 equals $92; fiscal year 1983 equals $179; fiscal year 1984 equals $191.
	STRATEGIC PETROLEUM RESERVE	
Store crude oil for use during national emergencies. DOE estimates a need for roughly $10 billion over next three fiscal years. Gramm-Latta assumed only $3 billion per year off-budget with all other funding on-budget.	Creates permanent off-budget account for SPR. Funds only fiscal year 1982. Places $3.9 billion off-budget, thereby raiding the SPR for $900 million in false savings. Places $190 million on-budget, including an unexplained cut of $10 million necessary to prepare storage facilities. Violates Gramm-Latta.	Creates 3-year off-budget account, which terminates at end of fiscal year 1984. Funds fiscal year 1982 fiscal year 1983 and fiscal year 1984. Places $3 billion off-budget each year, as assumed by Gramm-Latta. No false savings. Provides necessary on-budget funds to continue Congressional oversight of SPR: *$1.1 billion fiscal year 1982. *$0.7 billion fiscal year 1983. *$0.4 billion fiscal year 1984. Makes no cuts in SPR programs, but cuts other programs to stay within budget. Complies with Gramm-Latta.
	REASONS TO SUPPORT BROYHILL	
Provides for uninterrupted SPR full funding for the next 3 years. Complies with the President's budget, without creating false savings.		

DOE AUTHORIZATION

Authorizes DOE Budget for civilian energy programs.
Sets budget ceilings and line-item allocations for Appropriations Committee.
Programs include: Energy regulation and information, Strategic Petroleum Reserve, Conservation and solar, uranium enrichment, commercial nuclear waste management.

$5.6 billion "cap" on DOE fiscal year 1982 budget, but no line-items or reductions—leaves allocation to Appropriations Committee. $457 million reconciliation savings.
Conflict with Science and Technology Committee and Interior Comm., because $457 million Dingell savings assume "reallocation" with those Committees to allow: Increased energy regulation and information spending, increased public utility intervention spending, increased conservation and solar "information" spending, increased building energy "guideline" spending.
Violates reconciliation—no fiscal year 1983 and fiscal year 1984 ceiling for DOE. No changes in existing law—assumes "all activities mandated by law" will continue, including energy regulations.
$190 million on-budget SPR funding.
Violates Gramm-Latta and reconciliation.

Administration fiscal year 1982 DOE Authorization bill, including $660 million savings and item-by-item funding for DOE programs.
Zeroes out Fuel Use Act, PURPA, RCS, and BEPS regulation spending.
$600 million, 2 year State and local energy black grant for energy conservation and supply development activities, including low income weatherization and schools and hospitals conservation.
Requires no changes in Science and Technology and Interior Committees reconciliation reports.
Sets fiscal year 1983 ceiling on DOE spending—fiscal year 1982–84 savings would be $2.3 billion.
$1.1 billion on-budget SPR funding.
Complies with Gramm-Latta and reconciliation.

REASONS TO SUPPORT BROYHILL

Enacts Administration DOE authorization, with $660 million in specific fiscal year 1982 line-item savings, fiscal year 1983 ceiling.
Redirects DOE away from regulation and "pamphlets", toward energy R. & D.
No conflict with other House Committees jurisdiction.
$660 million, 2-year State and local energy block grant, with 20% pass through to local governments.
Complies with Gramm-Latta and reconciliation; no "double-counting" savings in other Committees.

STATE AND LOCAL ENERGY BLOCK GRANT

Ten categorical grants authorize State and local conservation and renewable energy programs, including low income weatherization and schools and hospitals conservation with separate administrative, labor and installation restrictions and regulations.

No provision.
No specific funding for State energy conservation and renewable energy programs.
No removal of administrative inflexibility or regulatory restrictions in 10 separate categorical programs.
No local government share.

$600 million, 2 year State and local block grant for energy conservation and supply activities including, but not limited to: low-income weatherization; schools and hospitals conservation; energy impact assistance, applied energy research and development; energy management assistance to retailers, small businesses; renewable energy and energy supply demonstration; emergency preparedness; energy efficiency in transportation.
State must give priority to low income energy conservation needs and schools and hospitals conservation.
Minimum 20% pass-through to local governments.
Consolidates 10 existing programs, doubles funding recommended by Reagan budget, meets Reagan budget target.
Eliminates administrative inflexibility and regulatory burdens of current programs.

REASONS TO SUPPORT BROYHILL

$600 million, 2-year State and local energy block grant for energy conservation and supply activities.
Eliminates red-tape, administrative inflexibility, and regulatory burdens in 10 current programs.
Minimum 20% pass-through to local governments.
Priority must be given to low-income weatherization needs and schools and hospitals conservation.
$424 million fiscal year 1982 savings.

BUILDING ENERGY PERFORMANCE STANDARDS (BEPS)

BEPS would regulate the design and construction of all new buildings, prescribing maximum energy use.
BEPS would add $3400 to cost of new home without any real increase in energy savings.
BEPS is really 3 programs: Research: Over $40 million spent by contractors to produce BEPS. No practical information developed and distributed. Voluntary guideline: BEPS would be recommended by DOE to Cities and States as a Building Code. Mandatory program: Only if the President recommends and if both Houses of Congress approves, can DOE forces BEPS upon Cities and States to include BEPS in their building codes.

Reg. research: Would continue. Program has never produced information useable or desired by building industry or trade unions.
Voluntary regulatory guidelines: Standards would continue even though BEPS rejected by industry and labor. 45 States already adopted more workable standard.
Mandatory Program: Would be repealed. However, since Pres. Reagan will not propose mandatory program, BEPS cannot, by law, become mandatory. Therefore, the Congressional repeal of the mandatory program is meaningless in a practical sense. It does not end BEPS.
Does not provide for any savings.

Repeals all 3 BEPS programs.
BEPS would not add to energy conservation.
Would end fruitless and expensive research which has enriched consulting firms.
Would give Cities and States the "go-ahead" to adopt more workable conservation codes.
Would put to sleep all "nine lives" of the BEPS program instead of "holding out" until April 1984.
Would allow termination of expensive program; producing savings of over $21 million over next three years.

REASONS TO SUPPORT BROYHILL

Ends the BEPS program once and for all.
The building industry supports an end to BEPS.
BEPS has been one of the worst regulatory programs ever devised by the Government: It should not be allowed to continue under any conditions.
DOE has consistently failed to re-work BEPS to suit the real world and Congress has twice before given DOE "one more chance". No more chances should be given.
$20.3 million reconciliation savings fiscal year 18982–84.

PUBLIC UTILITY REGULATION AND RESIDENTIAL CONSERVATION SERVICE

The Public Utility Regulatory Policies Act authorizes DOE to intervene in State and local utility rate proceedings, to fund consumer intervenors in State utility proceedings and to require reporting and paperwork by utilities.
Residential Conservation Service/CACS requires utilities to offer "energy audits" to residents, apartments and commercial buildings, and to provide a financing and installation program for energy conservation measures.

Increases spending for PURPA and RCS regulation.

Zeroes out PURPA, for DOE intervention, consumer intervenor funding and utility paperwork.
Repeals RCS to conform to zero-budget funding in DOE bill.
Roll in energy auditors funding into State and local block grant.
Fiscal year 1982 savings equals $30 million.
Does not repeal cogeneration and small hydro (PURPA § 210).

REASONS TO SUPPORT BROYHILL

$30 million fiscal year 1982 reconciliation savings.
Reduces regulatory burdens on financially-pressed utilities by repealing RCS, zeroing-out funding for PURPA.
Adopts Administration's DOE regulatory budget.
Complies with Gramm-Latta and reconciliation.

POWERPLANT AND INDUSTRIAL FUEL USE ACT (FUA)—SECTION 202 NEW MAJOR FUEL-BURNING INSTALLATIONS

Grants DOE authority to prohibit new major fuel-burning installations from burning petroleum and natural gas.
§ 202 restrictions have resulted in cancelled new industrial plants: Out of over 300 applications for exemptions, only 36 have been granted.

Retains § 202 on the books.

Strikes out § 202 in its entirety, thereby removing fuel use restrictions on new major fuel-burning installations.
Allows DOE to zero-out Office of Fuels Conversions as recommended by President Reagan in DOE budget.

REASONS TO SUPPORT BROYHILL

Removal of natural gas and petroleum restrictions on new major fuel burning installations will: Make U.S. companies more competitive; increase productivity and efficiency; allows for industrial expansion and new jobs.

POWERPLANT AND INDUSTRIAL FUEL USE ACT (FUA)—SECTION 301 OFF GAS PROVISION

Prohibits the use of petroleum and natural gas in existing powerplants subject to regulations and exemption procedures of DOE.
Unless § 301(a) is repealed, utilities all over the country will have to shut-down generating capacity before the expiration of the useful life of the powerplants.

Strikes out § 301(a) natural gas restrictions.
Inserts a massive new conservation mandate upon all utilities using natural gas: Cost to utilities: over $20 million in first year. The conservation mandate is enforceable by civil and criminal penalities including injunctive powers which could conceivably condition § 301(a) relief upon compliance with the conservation mandate. Costs consumers money.
Fails to preserve proposed and final coal conversion orders under § 301(b). Hurts Northeast utilities.
Strikes out § 301(c) authority to prohibit excessive mixtures.

Strikes out § (a) in its entirety thereby removing the 1990 ban on natural gas and all interim restrictions on the use of natural gas by existing powerplants.
Retains the authority of the Secretary to order mandate coal conversions if existing powerplants certify such plants are coal capable.
Explicitly grandfathers proposed and final orders under § 301(b).
Retains the authority of the Secretary to prohibit excessive use of natural gas and petroleum in mixtures with coal and alternative fuels upon certification by existing powerplants.
Allows DOE to zero-out Office of Fuels Conversion as recommended by President Reagan in DOE Budget. Saves consumers money.

REASONS TO SUPPORT BROYHILL

Removal of prohibitions on natural gas use by existing utilities.
No unworkable and costly ($20 million cost to utilities for the first year alone) conservation program.
No mandatory retention of the RCS program and additional public information programs.
Preservation of proposed and final coal conversion orders in accordance with § 301 (b) and (c).
Saves consumers money.

POWERPLANT AND INDUSTRIAL FUEL USE ACT (FUA)—SECTION 402 OUTDOOR LIGHTING

Prohibits gas companies from servicing outdoor gaslights. Imposes unnecessary costs to gas companies and consumers.	Strikes out § 402 prohibitions on the use of natural gas for residential outdoor lighting, except each local distribution company must: periodically inform customers about cost and amount of natural gas consumed by outdoor lighting.	Strikes out § 402 prohibitions on the use of natural gas for residential outdoor lighting, fixtures installed before date of enactment of FUA. Does not require a new and unnecessary public relations program of the gas companies, thereby reducing the cost of service to consumers. Allows DOE to zero-out Office of Fuels Conversion as recommended by President Reagan in DOE budget.

REASONS TO SUPPORT BROYHILL

Prevents arbitrary shut-off of existing residential gaslights.
No mandatory, costly burden on distribution companies to discourage existing gaslights.
Saves consumers money.

NUCLEAR REGULATORY COMMISSION AUTHORIZATION

Authorizes funding for nuclear powerplant regulation, licensing and R. & D. at Nuclear Regulatory Commission.	No provision. Energy and Commerce Commission adopted "interim licensing" powerplant licensing reforms not contained in Interior Commission reported bill. No NRC bill was passed by House in fiscal year 1981 and fiscal year 1980 bill was 12 months late due to Committee conflicts. Interior Committee included NRC authorization savings in reconciliation package.	Enacts NRC bill with budget cuts reported by Interior Comm. and bipartisan compromise regulatory reforms to speed nuclear licensing reported by Energy & Commerce Commission. $14.1 million in fiscal year 1982 reconciliation savings. Licensing reforms include: NRC authority to issue "interim licenses" with full safety and environmental assurances to allow completed powerplants to operate pending final NRC hearings. Will save $2 billion consumer electric costs of current licensing logjam at NRC. Budget cuts include 2 percent cut reported by Interior Committee and removal of "Data Link" funding.

REASONS TO SUPPORT BROYHILL

$14.1 million fiscal year 1982 savings.
Bipartisan compromise adopts regulatory reforms to speed licensing of completed nuclear powerplants and save up to $2 billion in consumer electric costs of delay.

DISCRETIONARY HEALTH PROGRAMS

National Centers for Health Care Technology, Services, Research, and Statistics; National Research Service Awards; Assistance to Medical Libraries.	Reauthorize the 5 programs, but provide for a (16 percent) cut in funding. Total 3 year savings are estimates (in millions) as follows: Fiscal year 1982=$51; fiscal year 1983=$53; fiscal year 1984=$55.	Omnibus Health Program Amendments: Consolidate the National Centers for Health Care Technology and fund at reduced funding levels. Reauthorize the National Center for Health Statistics at reduced funding levels. Reauthorize National Research Service awards at reduced funding levels. Reauthorize Medical Libraries Assistance Act, but lower funding. With respect to above reauthorizations, make several substantive changes to law to reduce reporting requirements and to give greater discretion to Secretary of HHS.

CHILD IMMUNIZATION, VENEREAL DISEASE CONTROL, PHS COMMISSIONED CORPS PHYSICIAN BONUSES

Child immunization.	Retain as categorical program and provide for slight increase over baseline service levels. 3 year funding set at $9.65 million.	Retain as categorical and fund at baseline service levels. 3 year funding set at $87 million.
Venereal Disease Control.	Retain as Categorical program and fund over 3 years at $139 million.	Retain as categorical and fund over 3 years at $120 million.
PHS Commissioned Corps; Physician bonuses.	Not addressed.	The Secretary of HHS would be given discretion to determine how much, if any, additional special pay to grant PHS Commissioned Corps physicians. 3 year baseline savings are estimated to be $9 million. Savings are estimated as follows: fiscal year 1982=$22 million; fiscal year 1983=$24 million; fiscal year 1984=$26 million.

HEALTH PLANNING

Health planning.	Reduces authorizations and required activities for health planning agencies. Savings are estimated as follows: Fiscal year 1982—$20 million; fiscal year 1983—$34 million; fiscal year 1984—$36 million.	Provides for the repeal of health planning laws effective at the end of fiscal year 1983. Savings are estimated as follows: Fiscal year 1982—$0; fiscal year 1983—$0; fiscal year 1984—$162 million.

HEALTH MANPOWER

Health Manpower.	Reduces health manpower programs by 25 percent. This includes eliminating the capitation program. Savings are estimated as follows: Fiscal year 1982—$139 million; fiscal year 1983—$136 million; fiscal year 1984—$155 million.	Terminates the capitation program. Increases funding over the Administration's request by $10 million. Reallocates the funding proposed in the Administration's bill, H.R. 3723, to provide additional money for nurse's training, primary care training, AHECS, and public health administration. Savings are estimated as follows: Fiscal year 1982—$271 million; fiscal year 1983—$312 million; fiscal year 1984—$355 million.

CATEGORICAL HEALTH SERVICE PROGRAMS

Maternal and Child Health, Genetic Diseases, Hemophilia, Sudden Infant Death Syndrome, Developmental Disabilities, Adolescent Pregenancy, Lead-Based Paint Poisoning, Section 314(d) Incentive Grants, Rat Control, Fluoridation, Tuberculosis, Venereal Disease, Hypertension, Community Health Centers, Migrant Health, Primary Health Care Demon., Alcoholism & Alcohol Abuse, Drug Abuse, Mental Health, Family Planning, Home Health, Black Lung Clinics, Emergency Medical Systems.	Block Grants.—Consolidates approximately 15 health programs into 3 block grants: Maternal and child health block grant: Reduce funding for maternal and child health, sudden infant death syndrome, adolescent pregnancy, and hemophilia programs by 18 percent and consolidate into a block grant. Prevention block grant: Consolidate health incentive grants, rodent control and floridation programs into a block grant and reduce funding by 20 percent. Alcohol/durg abuse block programs: Reduce by 24 percent funding for programs in the National Institute on Alcohol Abuse and Drugs. Consolidate Federal support for alcohol and drug abuse treatment and prevention programs. Reductions In Other Discretionary Health Programs: Family planning/genetic diseases: Reduce funding for family planning and genetic diseases programs by 25 percent. Primary care services: Reduce total health centers and migrant health centers funding by 20 percent. Includes termination of home health grant programs by the end of fiscal year 1981. Mental health programs: Reduce funding for community mental health centers and other mental health programs by 30 percent. Developmental disabilities: Reduce funding by 25 percent.	Consolidates 24 health programs into 3 block grants: Maternal and Child Health block grant: Reduces maternal and child health programs by 25 percent below fiscal year 1982 baseline. Also included are genetic diseases, sudden infant death syndrome, developmental disabilities, hemophila, and lead paint programs. 15 percent set-aside for regional rehabilitation research and training. Health Services block grant: Reduces funding for discretionary health programs by 25 percent. Includes the community, migrant and mental health centers, (with 3 year declining earmarks) alcoholism, drug abuse programs. Preventive Health Service block grant: Reduces funding for family planning, adolescent health, fluoridation and other preventive health programs by 25 percent. Provides for 2 year declining earmark for family planning. Other discretionary health programs: Child immunization retained as categorical program with funding set at slightly below baseline level. Venereal disease retained as categorical with authorization level at $40 million 1987 current service level.

REASONS TO SUPPORT BROYHILL

Broyhill proposal will bring $494 million in fiscal year 1982 savings, $1,838 million over fiscal year 1982–84.
Dingell package continues categorical programs disguised as block grants so that Federal involvement would continue at an undesirable level. This result would run counter to the State-oriented philosophy which underlies the block concept. Broyhill blocks provide across-the-board 25 percent cuts and consolidate nearly every program. Dingell package does not.

CONSUMER PRODUCT SAFETY ACT

Consumer Product Safety Act Amendments.	Both packages to include in principal the provisions of the bill reported out of Subcommittee. Major provisions of the bill would: Prohibit writing of mandatory safety rules unless it was found that there did not exist voluntary standards which could adequately address a risk of injury. If a voluntary standard did exist and was approved by the regulatory body, the voluntary standard would preempt differing State law; Guarantee that information gathering activities would be for a specific regulatory purpose and narrow types of information that could be disclosed to the public; Eliminate the advisory councils set up under various acts administered by the Commission; Require the preparation of a draft and final regulatory impact statement and give Congress an opportunity to disapprove rules before they go into effect; and Create a Chronic Hazards Advisory Board, made up of scientists, to advise on regulatory decisions dealing with cronic hazards posed by consumer products. The two proposals differ in the following ways: Provides for authorization levels as follows: Fiscal year 1982—$33 million; fiscal year 1983—$35 million; fiscal year 1984—$37 million.	Provides for authorization level for three years at $33 million each year. In addition, such sums as necessary are authorized for severance pay in 1982. Requires the Commission to reopen its lawnmower safety standard rulemaking proceeding to consider an optional means of compliance with the existing standard. Transfer the functions of the CPSC to the Department of Commerce.
	Permits an optional means of complying with the safety standard regulating walk-behind power mowers.	

HEALTH MAINTENANCE ORGANIZATIONS

Health Maintenance Organizations.	Phases out planning and initial development contracts over three years. Savings are estimated as follows: Fiscal year 1982—$26 million; fiscal year 1983—$40 million; fiscal year 1984—$45 million.	Not addressed.

CONRAIL

Transfer of Conrail commuter services.	Conrail divested of its commuter operations in two-step process—Conrail commuter, Amtrak commuter or local commuter authorities. $70 million in transitional grant assistance.	Identical.
Additional financing of Conrail.	Continued funding contingent on certain conditions being met. Total new funding: $375 million over a 2-year period.	Identical.
Transfer of freight service.	USRA Board determines whether Conrail will become profitable. If determined to be profitable between July 1982 and Dec. 1983, DOT sells common stock of Conrail. If unprofitable, DOT sells Conrail in pieces after Dec. 1983.	Identical.
Labor Protection.	Title V of the 3–R Act is repealed and replaced with the sum of $315 million for employees adversely affected by terminations.	Identical
	Complies with Gramm-Latta in fiscal year 1982.	Complies with Gramm-Latta in fiscal year 1982.

REASONS TO SUPPORT BROYHILL

Incorporates the Lent-Lee-Madigan Republican substitute reported by the Energy and Commerce Committee.

AMTRAK

Amtrak was created under the Rail Passenger Service Act of 1970 to operate a national rail passenger system profitably. Since establishment, Amtrak has received ever-increasing amounts of Federal funds—more than $4.2 billion through fiscal year 1980.	(1) Operation within Available Resources. Requires Amtrak evaluate the financial requirements of its total operation at the beginning of each fiscal year and, should available funding not be adequate to meet the projected operating costs, take action to reduce costs including the reduction or discontinuance of service, beginning with those routes which meet the criteria by the smallest margin. (2) Food and Beverage Service Deficit. Requires the elimination of the food and beverage service deficit by the end of fiscal year 1982 and repeals the statutory prohibition against contracting out such services. (3) 403(b) Services. Increases the State's contribution to section 403(b) service (currently 20 percent of the solely related costs in the first year of operation, 35 percent in the second year, and 50 percent thereafter) to 60 percent of the short term avoidable loss in the first year, and 80 percent of the short term avoidable loss each year thereafter. Specifies that the Corporation may agree to provide 403(b) service if the revenues from such service will cover 30 percent of the costs, not including the State's contribution. (4) Rail Corridor Development. Requires the Corporation to report to Congress in January, 1982, with its recommendations and a comprehensive plan for the development of rail corridors. (5) Authorizes $735,000,000 for fiscal year 1982, and $842,000,000 for fiscal year 1983.	Identical except as follows: Authorizes $735,000,000 for fiscal year 1982; $654,000,000 for fiscal year 1983; $593,000,000 for fiscal year 1984.

REASONS TO SUPPORT BROYHILL

Reduces the Federal funding of Amtrak instead of increasing it as the Dingell package. This is consistent with the legislative provisions which are intended to improve Amtrak's ability to function in a more efficient and cost-effective manner.

LOCAL RAIL ASSISTANCE

Established by the Regional Rail Reorganization Act of 1973 to alleviate the impact of substantial branch line abandonments associated with the startup of Conrail. Authorizes the Secretary of Transportation to provide financial assistance to States for rail freight assistance programs.	Eliminates operating subsidies from the rail freight assistance program.	Identical.
	Requires a State seeking rail freight assistance to contribute 30 percent, making the Federal share 70 percent.	Identical.
	Repeals requirement that each State receive a minimum of 1 percent of the funds. Substitute a formula and a procedure for the allocation of available funds under which each State would be entitled to a share in proportion to the number of eligible light density lines.	Identical.
	Provides each State with $100,000 in planning assistance for its rail plan.	Identical.
	Retains for each State a contingent interest (redeemable preference shares) for the Federal share of funds in any line receiving rail freight assistance. Provides that such shares can be redeemed if the line is filed for abandonment or disposed of in any way after it has received such assistance.	Does not provide each State with a contingent interest as contained in Budget Committee-Dingell bill.
	Authorizes $40,000,000 for fiscal year 1982, $44,000,000 for fiscal year 1983, and $49,000,000 for fiscal year 1984.	Authorizes $40,000,000 for fiscal year 1982, $40,000,000 for fiscal year 1983, and $40,000,000 for fiscal year 1984.

REASONS TO SUPPORT BROYHILL

Targets funds to those States that have the most serious branch line problems.
Provides funds for acquisition or substitute service assistance, thereby eliminating operating subsidies.
Achieves greater savings than does the Budget Committee-Dingell bill, while assuring an adequate level of funding for those States who need assistance.

NORTHEAST CORRIDOR

Enacted to establish and maintain improved high-speed rail passenger services between Washington, D.C. and Boston and intermediate cities.	Makes no changes in the scope of the project, thus keeping in place an existing trip time requirement of 3 hours and 40 minutes between New York City and Boston and 2 hours and 40 minutes between New York City and Washington, D.C.	Modifies the trip time requirements of 3 hours and 40 minutes between New York City and Boston and 2 hours and 40 minutes between New York City and Washington, D.C. by adding 15 minutes to each requirement.

Requires by the end of fiscal year 1985 the establishment of regularly scheduled rail passenger service between Boston and New York City on a 3 hour and 40 minute schedule and between New York City and Washington, D.C. on a 2 hour and 40 minute schedule.	Deletes the order of priorities in § 703, thereby emphasizing that all the projects enumerated therein should be achieved.	Specifies that completion of the segment of the project between New York City and Washington, D.C. should be given priority over the project segment between New York City and Boston.
Includes the acquisition, construction, and installation of improved passenger stations, communications equipment, safety facilities and equipment, electrification of lines, and other facilities or equipment necessary for high-speed rail passenger service.	Limits the authorization of appropriations to $200,000,000 in fiscal year 1982 and $185,000,000 in fiscal year 1983. Complies with Gramm-Latta.	Limits the authorizations of appropriations to $200,000,000 in fiscal year 1982 and $185,000,000 in fiscal year 1983; and specifies that no funding shall be available in fiscal year 1984. Complies with Gramm-Latta.

REASONS TO SUPPORT BROYHILL

Adds 15 minutes to trip-time requirements to make sure the projected budget savings will actually be realized, without any real sacrifice of high-speed service.
Provides for the completion of the Washington, D.C.–New York City line, putting the investment where 80 percent of the ridership is.
Supported by the administration.
Complies fully with Gramm-Latta and Reconciliation.

TOXIC SUBSTANCES CONTROL ACT

Enacted in 1976 to respond to concerns regarding the risks to human health and the environment associated with exposure to a wide array of natural and synthetic chemical substances.	Authorize $1,500,000 to be appropriated for each of the fiscal years 1982 and 1983 for State grants under § 28 of the Act. These grants are available to states for the establishment and operation of programs to prevent or eliminate unreasonable risks which are associated with a chemical substance or mixture.	Identical.
The act generally provides the Environmental Protection Agency with authority to gather information, require testing, and regulate the manufacture, distribution, use, and disposal of chemical substances and mixtures that may present an unreasonable risk of injury to human health and the environment.	Authorize $62,000,000 to be appropriated for each of the fiscal years 1982 and 1983 for carrying out the general purposes of the act.	Identical.

REASONS TO SUPPORT BROYHILL

Provisions are identical to bill (H.R. 3495) reported by the Energy and Commerce Committee.

NOISE CONTROL ACT

Enacted in 1972 to address the adverse health effects associated with noise emissions of products distributed in interstate commerce.	Eliminates Federal regulatory authority with respect to products in general. However, such authority is retained for railroads, motor carriers, and motor vehicles.	Identical.
The act generally provides the Environmental Protection agency with authority to establish Federal noise emission standards for products distributed in interstate commerce, provide technical and financial assistance to States and localities for their noise control programs, and coordinate Federal research activities related to noise.	Retains Federal preemption of conflicting or inconsistent State or local noise regulations; and continues technical and financial assistance to States and localities for purposes of noise control as well as the advisory aviation noise control program under the act.	Identical
	Authorizes $7,300,000 for fiscal year 1982 and 1983.	Authorizes $7,300,000 for fiscal years 1982, 1983, and 1984.

REASONS TO SUPPORT BROYHILL

Provisions are identical to bill (H.R. 3071) reported by the Energy and Commerce Committee.

NATIONAL TOURISM POLICY ACT

National Tourism Policy.	Not Included.	Enumerates duties of the Secretary of Commerce related to the national promotion of tourism. Establishes a U.S. Travel and Tourism Administration within the Department of Commerce to implement tourism policy and programs. Establishes an interagency tourism council to coordinate and monitor Federal Government policies and programs that affect tourism. Creates a Tourism Advisory Board comprised of representatives of the travel and tourism industry to study and advise the Secretary on the activities of the U.S. Travel and Tourism Administration. Authorizes appropriations of $6,500,000 for each of fiscal year 1982, fiscal year 1983, and fiscal year 1984.

REASONS TO SUPPORT BROYHILL

Incorporates the Lent Republican substitute reported by the Energy and Commerce Committee, adopted as a compromise measure in lieu of a bill which would have established an independent Federal agency for tourism. The measure will improve our national balance of payments and create jobs, especially among those groups most burdened by unemployment.

Energy and Commerce minority staff—June 25, 1981.

BROYHILL AMENDMENT TO RECONCILIATION ACT

(Mr. BROYHILL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BROYHILL. Mr. Speaker, there arose some confusion over the actual text of my amendment when Congressman JONES of the Budget Committee inserted into the CONGRESSIONAL RECORD of June 24 an outdated version of my amendment without my knowledge or approval.

I hope my colleagues will find useful a copy of the text of the amendment I will offer as a substitute for title VI of the Jones amendment. It has been printed as title VI of the material inserted in today's CONGRESSIONAL RECORD by my distinguished colleague, the gentleman from Ohio (Mr. LATTA).

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. WALKER) to revise and extend their remarks and include extraneous material:)

Mr. ROUSSELOT, for 15 minutes, today.

Mr. JEFFRIES, for 10 minutes, June 26, 1981.

Mr. FORSYTHE, for 10 minutes, today.

(The following Members (at the request of Mr. PATMAN) to revise and extend their remarks and include extraneous material:)

Mr. REUSS, for 20 minutes, today.

Mr. FORD of Michigan, for 5 minutes, today.

Mr. GONZALEZ, for 15 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. MOTTL, for 5 minutes, today.

Mr. CROCKETT, for 5 minutes, today.

Mr. LONG of Louisiana, for 5 minutes, today.

Mr. HUTTO, for 30 minutes, on June 26.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. LUJAN, immediately following the remarks of Mr. UDALL, in the Committee of the Whole, today.

Mr. OBEY, and to include extraneous material, during general debate on H.R. 3982 in the Committee of the Whole, today.

Mr. BROYHILL, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $3,600.

(The following Members (at the request of Mr. WALKER) and to include extraneous matter:)

Mr. CONTE.
Mr. WALKER.
Mr. DANIEL B. CRANE.
Mr. LUJAN.
Mr. LEBOUTILLIER.
Mr. LAGOMARSINO.
Mr. MCKINNEY.
Mr. GRADISON.
Mr. RITTER in two instances.

Mr. WAMPLER.
Mr. ROUSSELOT in two instances.
Mr. DUNCAN.
Mr. GILMAN in two instances.
Mr. COLEMAN.
Mr. DAVIS.
Mr. MCCOLLUM.
Mr. DERWINSKI in three instances.
Mr. PARRIS.
Mr. BEARD.
Mr. MCCLORY.
Mr. SOLOMON.
Mr. GUNDERSON.
Mr. BROYHILL.

(The following Members (at the request of Mr. PATMAN) and to include extraneous matter:)

Mr. ALBOSTA.
Mr. HOYER.
Mr. FORD of Michigan.
Mr. MINETA.
Mr. OTTINGER.
Mr. MCDONALD.
Ms. OAKAR.
Mr. RODINO.
Mr. ENGLISH.
Mr. HAMILTON.
Mr. MINISH.
Mr. MOAKLEY.
Mr. CROCKETT.
Mrs. SCHROEDER.
Mr. DE LA GARZA.
Mr. LUNDINE.
Mr. FOGLIETTA.
Mr. AUCOIN.
Mr. FASCELL in five instances.
Mr. DASCHLE in two instances.
Mr. LANTOS in three instances.
Mr. LUKEN.
Mr. SCHEUER.
Mr. DELLUMS.
Mr. DIXON.
Mr. GUARINI.
Mr. WEISS.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 271. An act to repeal section 222 of the Communications Act of 1934; to the Committee on Energy and Commerce.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 1123. An act to permit certain funds allocated for official expenses of Senators to be utilized to procure additional office equipment; and

S. 1124. An act to authorize the Sergeant at Arms and Doorkeeper of the Senate, subject to the approval of the Committee on Rules and Administration, to enter into contracts which provide for the making of advance payments for computer programing services.

ADJOURNMENT

Mr. PATMAN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 56 minutes p.m.), the House adjourned until tomorrow, Friday, June 26, 1981, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1689. A letter from the General Counsel, Department of Defense, transmitting a draft of proposed legislation to amend title 10, United States Code, to increase one of the dollar thresholds applicable to the making of contracts and for other purposes; to the Committee on Armed Services.

1690. A letter from the Mayor of the District of Columbia, transmitting the summer youth employment program 1981 operational plan for the District of Columbia, required by House Report No. 96-1271; to the Committee on the District of Columbia.

1691. A letter from the Secretary of Education, transmitting notice of the closing date for transmittal of fiscal year 1981 new project applications under the National Institute of Handicapped Research, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

1692. A letter from the Under Secretary of State for Security Assistance, Science and Technology, transmitting the annual report for fiscal year 1980 on military assistance and military exports, pursuant to section 657 of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

1693. A letter from the Director, Defense Security Assistance Agency, transmitting the quarterly report on foreign military sales as of March 31, 1981, pursuant to section 36(a) of the Arms Export Control Act; to the Committee on Foreign Affairs.

1694. A letter from the Director, Defense Security Assistance Agency, transmitting addenda to the quarterly report on foreign military sales as of March 31, 1981, pursuant to section 36(a) of the Arms Export Control Act; to the Committee on Foreign Affairs.

1695. A letter from the Assistant Secretary of the Treasury (Legislative Affairs), transmitting various project performance audit reports prepared by the International Bank for Reconstruction and Development, and project performance audit reports and project completion reports prepared by the Asian Development Bank, pursuant to section 301(e)(3) of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

1696. A letter from the Acting Comptroller General of the United States, transmitting a report on the status and problems in Federal agency accounting during fiscal year 1980 (AFMD-81-58, June 25, 1981); to the Committee on Government Operations.

1697. A letter from the Inspector General, Department of Agriculture, transmitting reports of various computer matching programs to be conducted by his office; to the Committee on Government Operations.

1698. A letter from the Assistant Secretary for Health, Department of Health and Human Services, transmitting notice of proposed changes in an existing records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

1699. A letter from the Counsel to the Pacific Tropical Botanical Garden, transmitting the annual audit report of the organization for calendar year 1980, pursuant to section 10(b) of Public Law 88-449; to the Committee on the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DINGELL: Committee of conference. Conference report on H.R. 3520 (Rept. No. 97-161). Ordered to be printed.

Mr. BOLAND: Committee on Appropriations. H.R. 4034. A bill making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1982, and for other purposes (Rept. No. 97-162). Referred to the Committee of the Whole House on the State of the Union.

Mr. YATES: Committee on Appropriations. H.R. 4035. A bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1982, and for other purposes (Rept. No. 97-163). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ALEXANDER:

H.R. 4009. A bill to regulate interstate commerce by protecting the rights of consumers, dealers, and end-users; to the Committee on Energy and Commerce.

H.R. 4010. A bill to increase the interest exemption to $1,000 in the case of taxpayers who are not elderly, to exclude from gross income all interest in the case of taxpayers who are elderly, to make permanent the exemption of certain interest income from tax, and for other purposes; to the Committee on Ways and Means.

By Mr. CAMPBELL:

H.R. 4011. A bill to provide for the payment of losses incurred as a result of the ban on the use of the chemical Tris in apparel, fabric, yarn, or fiber, and for other purposes; to the Committee on the Judiciary.

By Mr. DAVIS (for himself, Mr. BONIOR of Michigan, Mr. CORCORAN, Mr. EDGAR, Mr. JEFFORDS, Mr. OBERSTAR, Mr. PURSELL, Mr. SCHEUER, Mrs. SCHROEDER, Mr. WEISS, Mr. WOLPE, and Mr. MITCHELL of Maryland):

H.R. 4012. A bill to require the Secretary of Health and Human Services to study whether there may be a relationship between exposure of members of the Armed Forces of the United States to nuclear radiation in Hiroshima and Nagasaki immediately after World War II and various symptoms currently exhibited by such members; to the Committee on Energy and Commerce.

By Mr. DAVIS (for himself and Mr. ALBOSTA):

H.R. 4013. A bill to provide that reasonable charge determinations under part B of title XVIII of the Social Security Act for services provided in the State of Michigan shall be determined on a statewide basis; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. DE LA GARZA (for himself, Mr. FOLEY, Mr. JONES of North Carolina, Mr. JONES of Tennessee, Mr. BOWEN, Mr. ROSE, Mr. BEDELL, Mr. ENGLISH, Mr. HUCKABY, Mr. COELHO, Mr. ANTHONY, Mr. VOLKMER, Mr. HATCHER, Mr. WAMPLER, Mr. FINDLEY, Mr. JEFFORDS, Mr. HAGEDORN, Mr. COLEMAN, Mr. MARLENEE, Mr. HOPKINS, Mr. THOMAS, Mr. HANSEN of Idaho, Mr. STANGELAND, Mr. ROBERTS of Kansas, Mr. EMERSON, Mr. NAPIER, Mr. SKEEN, Mr. MORRISON, Mr. ROBERTS of South Dakota, Mr. GUNDERSON, Mr. EVANS of Iowa, Mr. CHAPPIE, Mr. LUKEN, Mr. WATKINS, Mr. AUCOIN, Mr. PASHAYAN, Mr. BLILEY, Mrs. SMITH of Nebraska, Mr. MADIGAN, Mr. LOEFFLER, Mr. RITTER, Mr. ROBINSON, Mr. BEREUTER, and Mr. MARTIN of North Carolina):

H.R. 4014. A bill to amend the Federal Food, Drug, and Cosmetic Act, the Poultry Products Inspection Act, the Meat Inspection Act, and the Egg Products Inspection Act to improve food safety decisions, to provide for assessment of risks to health presented by substances present in food, to provide for referral of food safety questions to expert scientific advisory panels, to provide authority for flexible regulatory response based on the risks and uses associated with a substance, and for other purposes; jointly, to the Committees on Agriculture and Energy and Commerce.

By Mr. ECKART:

H.R. 4015. A bill to amend the Internal Revenue Code of 1954 to provide long-term capital gain treatment for distribution of earnings with respect to certain small business participating debentures; to the Committee on Ways and Means.

By Mr. GIBBONS (for himself and Mr. FRENZEL):

H.R. 4016. A bill to amend the Internal Revenue Code of 1954 to increase the competitiveness of American firms operating abroad and to help increase markets for U.S. exports by providing for a system of residence-based taxation; to the Committee on Ways and Means.

By Mr. JONES of Tennessee:

H.R. 4017. A bill to modify the Mud Lake feature of the flood control project for the western Tennessee tributaries, Tennessee and Kentucky; to the Committee on Public Works and Transportation.

H.R. 4018. A bill to designate the building known as the Big Sandy Post Office in Big Sandy, Tenn., as the "Laverne Gearhiser Post Office Building"; to the Committee on Public Works and Transportation.

By Mr. LUNDINE (for himself, Mr. MINETA, and Mr. ZEFERETTI):

H.R. 4019. A bill to require Federal agencies to include in a notice of proposed rulemaking estimates of the costs to State and local governments resulting from a proposed rule, an identification of sources of funds to pay such costs and a statement requesting comments from State and local governments on the costs to such governments resulting from the proposed rule; to the Committee on the Judiciary.

By Mr. MATSUI (for himself and Mr. DREIER):

H.R. 4020. A bill to amend the Internal Revenue Code of 1954 to provide a refundable tax credit for qualifying security devices; to the Committee on Ways and Means.

By Mr. McCLOSKEY:

H.R. 4021. A bill to amend the Immigration and Nationality Act to provide for the establishment of a record of admission for permanent residence or temporary employment of certain aliens currently out of status in the United States, to provide for enhanced enforcement of the immigration laws, and for other purposes; jointly, to the Committees on the Judiciary and Ways and Means.

By Mr. MOFFETT:

H.R. 4022. A bill to amend the Public Health Service Act to extend the authority of the Director of the National Cancer Institute respecting contracts, grants, and cooperative agreements; to the Committee on Energy and Commerce.

H.R. 4023. A bill to amend the Internal Revenue Code of 1954 to authorize the disclosure of certain employment tax information to the National Institute for Occupational Safety and Health, for specified uses in such Institute's epidemiological research program; to the Committee on Ways and Means.

By Mr. MOTTL:

H.R. 4024. A bill to provide the President with greater control over the Board of Governors of the Federal Reserve System; to the Committee on Banking, Finance and Urban Affairs.

By Mr. MOTTL (by request):

H.R. 4025. A bill to amend title 38, United States Code, to extend the authority for the program of grants to States for State home facilities, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. MURPHY:

H.R. 4026. A bill to impose a Federal criminal penalty for robbery of controlled substances from a pharmacist; to the Committee on the Judiciary.

H.R. 4027. A bill to provide for the placement of an appropriate statue or other memorial in Arlington National Cemetery to honor individuals who were combat glider pilots during World War II; to the Committee on Veterans' Affairs.

By Mr. REUSS:

H.R. 4028. A bill to provide for the development of high-speed rail passenger service, and thereby revitalize America's rail system; to the Committee on Energy and Commerce.

By Mr. ROBERTS of South Dakota:

H.R. 4029. A bill to authorize the construction of a project for pumped-storage hydropower development and other purposes at Fort Randall Dam-Lake Francis Case, South Dak.; to the Committee on Public Works and Transportation.

By Mr. RODINO (for himself and Mr. McCLORY):

H.R. 4030. A bill to establish a Presidential Protecton Commission to advise the President and the Congress on reducing the risk of assassination at public appearances and otherwise to increase efforts to prevent criminal assaults against the President and to recommend amendments to title 18 of the United States Code and other provisions of Federal law relating to safeguarding the President; to the Committee on the Judiciary.

By Mr. SMITH of Iowa (for himself Mr. GORE, Mr. WAXMAN, Mr. ANDERSON, Mr. BEDELL, Mr. BINGHAM, Mr. PHILLIP BURTON, Mr. CORRADA, Mrs. CHISHOLM, Mr. CLAY, Mr. CLINGER, Mrs. COLLINS of Illinois, Mr. CONYERS, Mr. CROCKETT, Mr. DANIELSON, Mr. DELLUMS, Mr. DWYER, Mr. DYMALLY, Mr. FAUNTROY, Mrs. FENWICK, Mr. FOGLIETTA, Mr. FORD of Tennessee, Mr. GUARINI, Mr. HARKIN, Mr. HYDE, Mr. KILDEE, Mr. LAFALCE, Mr. LEHMAN, Mr. LELAND, Mr. MAVROULES, Ms. MIKULSKI, Mr. MINETA, Mr. MITCHELL of Maryland, Mr. MOTTL, Mr. MURPHY, Mr. NEAL, Mr. PEPPER, Mr. PERKINS, Mr. PORTER, Mr. RINALDO, Mr. RODINO, Mr. ROE, Mr. SCHEUER, Mr. SOLARZ, Mr. STOKES, Mr. TAUKE, Mr. VENTO, and Mr. WYDEN):

H.R. 4031. A bill to amend the Federal Food, Drug, and Cosmetic Act to require that certain foods intended for human consumption be labeled to show the amount of sodium and potassium they contain; to the Committee on Energy and Commerce.

By Mr. STENHOLM:

H.R. 4032. A bill to amend the Internal Revenue Code of 1954 to repeal the passive income limitation for small business corporations; to the Committee on Ways and Means.

By Mr. WHITTAKER (for himself and Mr. SYNAR):

H.R. 4033. A bill to amend the Securities Exchange Act of 1934 to make the margin requirements for domestic purchasers of securities applicable to foreign purchasers of securities in certain significant transactions involving the U.S. securities markets, and for other purposes; to the Committee on Energy and Commerce.

By Mr. BOLAND:

H.R. 4034. A bill making appropriations for the Department of Housing and Urban Development and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1982, and for other purposes.

By Mr. YATES:

H.R. 4035. A bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1982, and for other purposes.

By Mr. BIAGGI:

H.J. Res. 298. Joint resolution designating May 11, 1982, as "Colonel Commandant Michael Kovats Memorial Day"; to the Committee on Post Office and Civil Service.

By Mr. DORNAN of California:

H.J. Res. 299. Joint resolution to establish a national Tomb for the Unknown Soldier of the Vietnam war; to the Committee on Veterans' Affairs.

By Mr. FORSYTHE (for himself, Mr. BREAUX, Mr. BROWN of Ohio, Mr. DICKINSON, Mr. JONES of North Carolina, Mr. LOEFFLER, Mr. LATTA, Mr. SNYDER, Mr. WAMPLER, Mr. WHITEHURST, and Mr. YOUNG of Alaska):

H.J. Res. 300. Joint resolution providing for the removal of restrictions that impede or constrain leasing and development of energy resources and strategic and critical material resources on public lands, the Outer Continental Shelf, and other lands that contain resources under the control of the Federal Government; jointly, to the Committees on Agriculture, Armed Services, Energy and Commerce, Interior and Insular Affairs, and Merchant Marine and Fisheries.

By Mr. WHITTAKER (for himself and Mr. SYNAR):

H.J. Res. 301. Joint resolution to require the consideration of certain energy reciproc-

ity matters at a forthcoming economic summit meeting with Canada; to the Committee on Foreign Affairs.

By Mr. WALKER:

H. Con. Res. 154. Concurrent resolution expressing the sense of the Congress that volunteer firefighters, paramedics, and rescue team members be commended for their service; to the Committee on Post Office and Civil Service.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. COLEMAN:

H.R. 4036. A bill for the relief of Isaac N. Hulver of Kansas City, Mo.; to the Committee on the Judiciary.

By Mr. GLICKMAN:

H.R. 4037. A bill for the relief of Metro Air Conditioning, Inc., Blair Scott Stephens, and Freddie Large; to the Committee on the Judiciary.

By Mr. MAVROULES (by request):

H.R. 4038. A bill for the relief of James Mabiho Rwabuhinga; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 160: Mr. KRAMER.

H.R. 247: Mr. WEBER of Ohio, Mr. STATON of West Virginia, Mr. SUNIA, Mr. DYSON, Mr. SILJANDER, Mr. DYMALLY, Mr. GRAY, Mr. BADHAM, and Mr. WASHINGTON.

H.R. 741: Mr. MCKINNEY and Mr. RITTER.

H.R. 1005: Mr. JEFFORDS, Mr. MORRISON, Mr. KAZEN, and Mr. MICA.

H.R. 1313: Mr. FUQUA, Mrs. CHISHOLM, Mr. MONTGOMERY, Mr. HARKIN, Mr. HERTEL, Mr. TAUKE, Mr. FLORIO, Mr. RODINO, Mr. HORTON, Mr. HAGEDORN, Mr. LEHMAN, Mr. ST GERMAIN, Mr. CROCKETT, Mr. GREEN, Mr. ASPIN, Mr. YATES, Mrs. FENWICK, Mr. DERWINSKI, and Mr. OTTINGER.

H.R. 1400: Mr. DAUB.

H.R. 1955: Mr. BONKER, Mr. MCCLOSKEY, and Mr. FROST.

H.R. 2017: Mr. HILER, Mr. IRELAND, Ms. MARTIN of Illinois, and Mr. MONTGOMERY.

H.R. 2234: Mr. PATTERSON and Mr. MCCOLLUM.

H.R. 2235: Mr. PATTERSON and Mr. MCCOLLUM.

H.R. 2240: Mr. NICHOLS, Mr. KOGOVSEK, Mr. TRAXLER, Mr. HENDON, Mr. MAZZOLI, Mr. FIELDS, Mr. DORNAN of California, Mr. WOLPE, and Mr. BENNETT.

H.R. 2348: Mr. GINGRICH, Mr. HARKIN, Mr. KOGOVSEK, Mr. DORNAN of California, Mr. TAUKE, Mr. JAMES K. COYNE, and Mr. CORCORAN.

H.R. 2376: Mr. ROBERTS of Kansas, Mr. ERDAHL, Mr. BEDELL, Mr. SUNIA, Mr. EVANS of Georgia, Mr. NAPIER, Mr. WHITEHURST, Mr. LAGOMARSINO, Mr. COELHO, Mr. NEAL, Mr. EMERSON, Mr. SIMON, Mr. IRELAND, Mr. BEREUTER, and Mr. JEFFRIES.

H.R. 2377: Mr. FRENZEL, Mr. WHITEHURST, Mr. LAGOMARSINO, Mr. COLLINS of Texas, Mr. COELHO, Mr. NEAL, Mr. IRELAND, Mr. KOGOVSEK, Mr. BEREUTER, Mr. ROBERTS of Kansas, Mr. ERDAHL, Mr. ENGLISH, Mr. BEDELL, Mr. BEARD, Mr. SUNIA, Mr. EVANS of Georgia, Mr. JEFFRIES.

H.R. 2464: Mr. WRIGHT.

H.R. 2488: Mr. MAZZOLI.

H.R. 2509: Mr. COUGHLIN and Mr. DANNEMEYER.

H.R. 2593: Mr. EMERSON, Mr. HARKIN, Mr. ANTHONY, Mr. SIMON, and Mr. SKELTON.

H.R. 2605: Mr. VOLKMER, Mr. FOGLIETTA, Mr. BARNES, and Mr. DYSON.

H.R. 2793: Mr. TRAXLER, Mr. DELLUMS, and Mr. FOWLER.

H.R. 2794: Mr. PATTERSON and Mr. MCCOLLUM.

H.R. 2955: Ms. FERRARO.

H.R. 3006: Mr. WHITEHURST, Mr. CORRADA, Mr. SAWYER, Mr. EVANS of Georgia, Mr. WHITTAKER, Mr. BAFALIS, Mr. MILLER of Ohio, and Mr. SMITH of Alabama.

H.R. 3075: Mr. KEMP.

H.R. 3227: Mr. HARKIN, Mr. ECKART, and Mr. TRAXLER.

H.R. 3274: Mr. GINGRICH.

H.R. 3298: Mr. PATTERSON, Mr. LUNGREN, Mrs. HOLT, Mr. DE LA GARZA, Mr. EMERY, Mr. OTTINGER, Mr. SILJANDER, and Mr. PASHAYAN.

H.R. 3498: Mr. GOODLING, Mr. BEVILL, Mr. IRELAND, Mr. FAUNTROY, Mr. PATMAN, and Mr. BURGENER.

H.R. 3606: Mr. GREGG, Mr. BURGENER, Mr. LAGOMARSINO, Mr. EVANS of Georgia, Mr. PHILIP M. CRANE, Mr. BEARD, Mr. DUNCAN, Mr. COLLINS of Texas.

H.R. 3632: Mr. FORD of Tennessee, Mr. FORD of Michigan, Mr. GAYDOS, Mr. SOLARZ, and Mr. WALGREN.

H.R. 3719: Mr. LEBOUTILLIER, Mr. KRAMER, Mr. WYDEN, and Mr. PHILIP M. CRANE.

H.R. 3769: Mr. SUNIA.

H.R. 3812: Mr. PATTERSON.

H.R. 3824: Mr. BENJAMIN, Mr. COURTER, Ms. FIEDLER, Mr. DAUB, Mr. CROCKETT, Mr. SPENCE, Mr. WHITEHURST, Mr. SAWYER, Mr. DENARDIS, Mr. LEBOUTILLIER, Mr. DOUGHERTY, Mr. LUNGREN, Mr. BEARD, Mr. LOWERY of California, Mr. BETHUNE, Mr. MOORHEAD, Mr. CAMPBELL, Mr. RHODES, Mr. SMITH of New Jersey, Mr. GINGRICH, Mr. ECKART, Mr. SMITH of Alabama, Mr. BIAGGI, Mr. LAGOMARSINO, Mrs. SCHROEDER, Mr. RINALDO, Mr. RITTER, Mrs. FENWICK, Mr. DANNEMEYER, Mr. BROOMFIELD, Mr. HILER, Mr. SHAW, Mr. MURPHY, Mr. FARY, Mr. EDGAR, Mr. CHAPPELL, Mr. MARTIN of New York, Mr. LIVINGSTON, Mr. EVANS of Iowa, Mr. SOLOMON, Mr. STATON of West Virginia, Mr. BURGENER, Mr. WALKER, Mr. MCKINNEY, Mr. CORRADA, Mr. FORSYTHE, Mr. REGULA, Mr. GILMAN, Mrs. SCHNEIDER, Mrs. HOLT, Mr. SILJANDER, Ms. MARTIN of Illinois, Mr. DERWINSKI, Mr. CORCORAN, Mr. WEBER of Ohio, Mr. PEPPER, Mr. WORTLEY, Mr. SMITH of Oregon, Mr. ATKINSON, and Mr. LEE.

H.R. 3857: Mr. BAFALIS.

H.R. 3899: Mr. CLAUSEN.

H.R. 3995: Mr. STUMP, Mr. JEFFRIES, and Mr. COELHO.

H.J. Res. 212: Mr. ADDABBO, Mr. ALEXANDER, Mr. ANDREWS, Mr. ANNUNZIO, Mr. ARCHER, Mr. ATKINSON, Mr. BAILEY of Pennsylvania, Mr. BAILEY of Missouri, Mr. BARNES, Mr. BEARD, Mr. BENEDICT, Mr. BENJAMIN, Mr. BONER of Tennessee, Mr. BONIOR of Michigan, Mrs. BOUQUARD, Mr. BREAUX, Mr. BRINKLEY, Mr. BRODHEAD, Mr. BROOMFIELD, Mr. BROWN of California, Mr. BROYHILL, Mrs. CHISHOLM, Mr. CLAY, Mr. COATS, Mr. COELHO, Mr. COLEMAN, Mr. CONYERS, Mr. CORCORAN, Mr. CORRADA, Mr. COTTER, Mr. COUGHLIN, Mr. COURTER, Mr. CROCKETT, Mr. CHAPPELL, Mr. DAUB, Mr. DENARDIS, Mr. DERRICK, Mr. DERWINSKI, Mr. DICKINSON, Mr. DICKS, Mr. DONNELLY, Mr. DREIER, Mr. DUNN, Mr. DWYER, Mr. EARLY, Mr. EDGAR, Mr. EDWARDS of Alabama, Mr. EMERSON, Mr. EVANS of Georgia, Mr. DYMALLY, Mr. FARY, Mrs. FENWICK, Mr. FISH, Mr. FLORIO, Mr. FOGLIETTA, Mr. FORD of Tennessee, Mr. FORD of Michigan, Mr. FOWLER, Mr. FOUNTAIN, Mr. FRANK, Mr. GAYDOS, Mr. GEJDENSON, Mr. GEPHARDT, Mr. GINGRICH, Mr. GINN, Mr. GOLDWATER, Mr. GONZALEZ, Mr. GOODLING, Mr. GORE, Mr. GRADISON, Mr. GREEN, Mr. GRISHAM, Mr. GUARINI, Mr. HAGEDORN, Mr. HANSEN of Idaho, Mr. HARTNETT, Mr. HAWKINS, Mrs. HECKLER, Mr. HEFNER, Mr. HERTEL, Mr. HILER, Mr. HOLLAND, Mr. HOLLENBECK, Mrs. HOLT, Mr. HOYER, Mr. HOPKINS, Mr. HOWARD, Mr. HYDE, Mr. JACOBS, Mr. KAZEN, Mr. JONES of North Carolina, Mr. LEBOUTILLIER, Mr. LEHMAN, Mr. LOEFFLER, Mr. MARRIOTT, Mr. MARTIN of New York, Mr. MATSUI, Mr. MATTOX, Mr. MAVROULES, Mr. MCDADE, Mr. MICA, Mr. MINISH, Mr. MITCHELL of New York, Mr. MOAKLEY, Mr. MOFFETT, Mr. MOLINARI, Mr. MOLLOHAN, Mr. MOORHEAD, Mr. MURPHY, Mr. MYERS, Mr. NATCHER, Mr. NICHOLS, Ms. OAKAR, Mr. OBERSTAR, Mr. O'BRIEN, Mr. OTTINGER, Mr. PATTERSON, Mr. PERKINS, Mr. PRICE, Mr. PRITCHARD, Mr. PURSELL, Mr. RANGEL, Mr. REUSS, Mr. ROEMER, Mr. ROSENTHAL, Mr. RUDD, Mr. SABO, Mr. SNYDER, Mrs. SNOWE, Mr. SOLOMON, Mr. SPENCE, Mr. STANTON of Ohio, Mr. TAUKE, Mr. TRAXLER, Mr. WALGREN, Mr. WAXMAN, Mr. WEAVER, Mr. WILLIAMS of Ohio, Mr. LATTA, Mr. LENT, Mr. ROTH, Mr. BADHAM, Mr. WHITEHURST, Mr. KEMP, Mr. QUILLEN, Mr. ERTEL, Mr. JENKINS, Mr. DOUGHERTY, Mr. LIVINGSTON, Mr. PORTER, Mr. BIAGGI, Mr. HIGHTOWER, Mr. BEILENSON, Mr. BLANCHARD, Mr. LEACH of Iowa, Mr. LEATH of Texas, Ms. FERRARO, Mr. ANDERSON, Mr. STRATTON, Mr. MCEWEN, Mr. DE LA GARZA, Mr. PHILIP M. CRANE, Mr. BETHUNE, Mr. WYDEN, Mr. LUKEN, and Mr. MORRISON.

H.J. Res. 230: Mr. PATTERSON.

H.J. Res. 280: Mr. DOUGHERTY, Mrs. FENWICK, Mr. NOWAK, Mr. OTTINGER, Mr. RINALDO, Mr. SABO, and Mr. VENTO.

H. Con. Res. 100: Mr. DICKINSON, Mr. KILDEE, Mrs. FENWICK, Mr. ERTEL, Mr. FASCELL, Mr. HARKIN, Mr. SMITH of Alabama, Mr. FLORIO, Mr. BRODHEAD, Mr. RODINO, Mr. ARCHER, Mr. ROEMER, Mr. RICHMOND, Mr. LOWERY of California, Mr. WYDEN, Mr. SHAMANSKY, Mr. JONES of Oklahoma, Mr. WINN, Mr. DANNEMEYER, Mr. WEBER of Minnesota, Mr. MINETTA, Mr. FLIPPO, Mr. WOLPE, Mr. MCGRATH, Mr. CONYERS, Mr. ATKINSON, Mr. LOWRY of Washington, Mrs. HECKLER, Mr. HORTON, Mr. SHELBY, Mr. YOUNG of Missouri, Mr. SOLARZ, Mr. LAFALCE, Mr. SIMON, Mr. CORRADA, Mr. GILMAN, Mr. MAVROULES, Mr. PHILLIP BURTON, Mr. GREEN, Mr. HERTEL, Mr. YATES, Mr. GEJDENSON, Mr. ADDABBO, Mr. KEMP, Mr. DOWNEY, Mr. WORTLEY, Mr. ALBOSTA, Mr. BLANCHARD, Mr. FOGLIETTA, Mr. PICKLE, Mr. DWYER, Mr. ROSENTHAL, Mr. LAGOMARSINO, Mr. WEISS, Mr. EDWARDS of California, Mr. LEBOUTILLIER, Mr. RITTER, Mr. OTTINGER, Mr. WHITEHURST, Mr. PEPPER, Mr. SCHEUER, Mr. LENT, Mr. BARNES, Mr. LUNGREN, Mrs. HOLT, Mr. FORD of Michigan, Mr. FAUNTROY, Mr. FRENZEL, Mr. AUCOIN, Mr. GLICKMAN, Mr. GEPHARDT, Mr. WAXMAN, Mr. MOAKLEY, Mr. MCKINNEY, Mr. FROST, Mr. NEAL, Mr. LANTOS, Mr. FORD, of Tennessee, Mrs. SCHROEDER, and Mr. RANGEL, Mr. BEDELL, Mr. LEACH of Iowa, Mr. PORTER, Mr. PATTERSON, Mr. ZEFERETTI, Mr. LEHMAN, Mr. COURTER, Ms. OAKAR, Mr. SCHUMER, Mr. PHILIP M. CRANE, Mr. WIRTH, Mr. MATSUI, Mr. BONKER, and Mr. DIXON.

H. Con. Res. 121: Mr. ROTH, Mr. WOLPE, Mr. LANTOS, and Mr. MCGRATH.

H. Res. 93: Mr. PATTERSON and Mr. MCCOLLUM.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3519

By Mr. HILLIS:

—At the end of the bill, add the following new section:

RESTRICTION ON PURCHASE OF FOREIGN-MADE MOTOR VEHICLES

SEC. . (a) Chapter 141 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 2391. Restriction on purchase of foreign-made adminstrative motor vehicles

"The Secretary of a military department may not make a contract or agreement for the purchase of administrative motor vehicles that are manufactured outside the United States or Canada unless (1) the contract or agreement is for an amount less than $50,000, or (2) the Congress has specifically stated in law that it authorizes the purchase of such motor vehicles manufactured outside the United States or Canada.".

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"2391. Restriction on purchase of foreign-made administrative motor vehicles.".

By Mr. HOPKINS:

—Page 60, after line 17, add the following new section:

RESTRICTION ON PURCHASE OF FOREIGN-MADE MOTOR VEHICLES

SEC. 911. (a) Chapter 141 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 2391. Restriction on purchase of foreign-made administrative motor vehicles

"The Secretary of a military department may not make a contract of agreement during the fiscal year ending on September 30, 1982, for the purchase of any administrative motor vehicle that is manufactured outside the United States or Canada, unless the Secretary of Defense submits to the Armed Services Committees of the Senate and the House of Representatives a written statement that there is not available for such purchase a suitable motor vehicle manufactured in the United States or Canada.".

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"2391. Restriction on purchase of foreign-made administrative motor vehicles.".

H.R. 3982

By Mr. LATTA:

(Amendments to the amendment in the nature of a substitute (text H.R. 3964) to H.R. 3982, the Omnibus Reconciliation Act, 1981.)

TITLE I—HOUSE COMMITTEE ON AGRICULTURE

—Title I is amended by striking lines 10 through 23, page 2 and inserting in lieu thereof the following new sections 1001 through 1014 and redesignating existing sections 1002 and 1003 as sections 1015 and 1016:

Subtitle A—Food Stamp Program Reductions and Other Reductions in Authorizations for Appropriations

FOOD STAMP PROGRAM REDUCTIONS

HOUSEHOLD DEFINITION

SEC. 1001. Section 3(i) of the Food Stamp Act of 1977 is amended—

(1) by inserting before the period at the end of the first sentence "; except that parents and children who live together shall be treated as a group of individuals who customarily purchase and prepare meals together for home consumption even if they do not do so, unless one of the parents is 60 years of age or older";

(2) in paragraph (2) by striking out "live together" and inserting in lieu thereof "live as one economic unit"; and

(3) by striking "neither" in the second sentence and inserting "no" in lieu thereof.

BOARDERS

SEC. 1002. Section 3(i) of the Food Stamp Act of 1977 is amended by—

(1) striking in clause (1) of the first sentence "or else pays compensation to the others for such meals,";

(2) striking in clause (2) of the first sentence "or else live with others and pay compensation to the others for such meals"; and

(3) adding before the period at the end of the second sentence ", or else live with others and pay compensation to the others for meals".

ADJUSTMENT OF THE THRIFTY FOOD PLAN

SEC. 1003. Section 3(o) of the Food Stamp Act of 1977 is amended by striking "and" before clause (6) and all that follows down through the end of clause (6), and inserting in lieu thereof the following: "(6) on April 1, 1982, adjust the cost of such diet to the nearest dollar increment to reflect changes in the cost of the thrifty food plan for the fifteen months ending the preceding December 31, (7) on July 1, 1983, adjust the cost of such diet to the nearest dollar increment to reflect changes in the cost of the thrifty food plan for the fifteen months ending the preceding March 31, (8) on October 1, 1984, adjust the cost of such diet to the nearest dollar increment to reflect changes in the cost of the thrifty food plan for the fifteen months ending the preceding June 30, and (9) on October 1, 1985, and each October 1 thereafter, adjust the cost of such diet to the nearest dollar increment to reflect changes in the cost of the thrifty food plan for the twelve months ending the preceding June 30.".

GROSS INCOME ELIGIBILITY STANDARD

SEC. 1004. (a) Section 5 of the Food Stamp Act of 1977 is amended by—

(1) striking "subsections (c) and (e)" in subsection (b) and inserting in lieu thereof "subsection (c)";

(2) inserting in subsection (c) "130 per centum of" after "standards of eligibility shall be"; and

(3) striking from the first sentence of subsection (e) "In" and inserting in lieu thereof "Further, in", and inserting "for purposes of determining the household's benefits level only," after "household income,".

(b) Section 8(a) of the Food Stamp Act of 1977 is amended by inserting "(d) and (e)" after "section 5" in the first sentence.

REDUCTION IN DEDUCTION ADJUSTMENT

SEC. 1005. Section 5(e) of the Food Stamp Act of 1977 is amended by—

(1) in the second sentence, striking out everything after "January 1, 1982" and inserting in lieu thereof: "and every January 1 thereafter, shall be adjusted to the nearest $5 to reflect changes in the Consumer Price Index for all urban consumers of the Bureau of Labor Statistics for items other than food (exclusive of the home ownership portion of the shelter component of housing costs), for the twelve months ending the preceding September 30."; and

(2) in the fourth sentence, striking out everything after "January 1, 1982" through the end of clause (2), and inserting in lieu thereof: "and every January 1 thereafter, adjusted to the nearest $5 to reflect changes in the shelter (exclusive of the home ownership portion), fuel, and utilities components of housing costs in the Consumer Price Index for all urban consumers of the Bureau of Labor Statistics for the twelve months ending the preceding September 30, or".

RETROSPECTIVE ACCOUNTING

"SEC. 1006. (a) Section 5(f) of the Food Stamp Act of 1977 is amended to read:

"(f)(1)(A) Household income for those households that, by contract for other than an hourly or piecework basis or by self-employment, derive their annual income in a period of time shorter than one year, shall be calculated by averaging such income over a twelve-month period.

"(B) Household income for those households that received nonexcluded income of the type described in subsection (d)(3) of this section, shall be calculated by averaging such income over the period for which it is received.

"(2)(A) Household income for migrant farmworker households shall be calculated on a prospective basis, as provided in paragraph (3)(A).

"(B) Household income for all other households shall be calculated either on a prospective basis as provided in paragraph (3)(A) or on a retrospective basis as provided in paragraph (3)(B), as elected by the State agency under regulations prescribed by the Secretary.

"(3)(A) Calculation of household income on a prospective basis is the calculation of income on the basis of the income reasonably anticipated to be received by the household during the period for which eligibility or benefits are being determined. Such calculation shall be made in accordance with regulations prescribed by the Secretary which shall provide for taking into account both the income reasonably anticipated to be received by the household during the period for which eligibility or benefits are being determined and the income received by the household during the preceding thirty days.

"(B) Calculation of household income on a retrospective basis is the calculation of income for the period for which eligibility or benefits are being determined on the basis of income received in a previous period. Such calculation shall be made in accordance with regulations prescribed by the Secretary which may provide for the determination of eligibility on a prospective basis in some or all cases in which benefits are calculated under this paragraph. Such regulations shall provide for supplementing the initial allotments of newly applying households in those cases in which the determination of income under this paragraph causes serious hardship.

"(4) In promulgating regulations under this subsection, the Secretary shall consult with the Secretary of Health and Human Services in order to assure that, to the extent feasible and consistent with the purposes of this Act and the Social Security

Act, the income of households receiving benefits under this Act and title IV-A of the Social Security Act, is calculated on a comparable basis under the two Acts. The Secretary is authorized, upon the request of a State agency, to waive any of the provisions of this subsection to the extent necessary to permit the State agency to calculate income for purposes of this Act on the same basis that income is calculated under title IV-A of the Social Security Act in that State.".

(b) Effective October 1, 1983, paragraph (2)(B) of section 5(f) of the Food Stamp Act of 1977, as amended by subsection (a), is amended to read:

"(B) Household income for all other households shall be calculated on a retrospective basis as provided in paragraph (3)(B).".

(c) Section 5(d) of the Food Stamp Act of 1977 is amended by striking "5(f)(2)" and inserting "5(f)" in lieu thereof.

PERIODIC REPORTING

SEC. 1007. (a) Section 3(c) of the Food Stamp Act of 1977 is amended by inserting before the period at the end of the second sentence "except that the limit of twelve months may be waived by the Secretary to improve the administration of the program".

(b) Section 6(c) of the Food Stamp Act of 1977 is amended by—

(1) inserting after "households" in the first sentence of paragraph (1) ", including all households with earned income, except migrant farmworker households, all households with potential earners, including individuals receiving unemployment compensation benefits and individuals required by section 6(d) of this Act to register for work, and all households required to file a similar report under title IV-A of the Social Security Act, but not including households that have no earned income and in which all members are sixty years of age or over or receive supplemental security income benefits under title XVI of the Social Security Act or disability and blindness payments under titles I, II, X, XIV, and XVI of the Social Security Act,";

(2) striking "5(f)(2)" in paragraph (1) and inserting "5(f)" in lieu thereof; and

(3) inserting after paragraph (3) the following new paragraph:

"(4) Any household that fails to submit periodic reports required by paragraph (1) shall not receive an allotment for the payment period to which the unsubmitted report applies until such report is submitted.".

(c) Effective October 1, 1983, section 6(c)(1) of the Food Stamp Act of 1977 is further amended by—

(1) striking in the first sentence "that elect to use a system of retrospective accounting in accordance with section 5(f) of this Act"; and

(2) striking the second sentence.

ELIGIBILITY OF STRIKERS

SEC. 1008. (a) Section 6(d)(4) of the Food Stamp Act of 1977 is amended by—

(1) inserting before the colon at the end of the first proviso the following: ", however, such household shall not receive an increased allotment as the result of a decrease in the income of the striking member or members of the household";

(2) inserting a period in lieu of the colon at the end of the second proviso; and

(3) striking the third proviso.

(b) Section 6(i) of the Food Stamp Act of 1977 is repealed.

VALUE OF ALLOTMENT

SEC. 1009. (a) Effective October 1, 1982, section 8(a) of the Food Stamp Act of 1977 is amended by striking out "30 per centum" and inserting in lieu thereof "31.5 per centum".

(b) Effective October 1, 1983, section 8(a) of the Food Stamp Act of 1977 is amended by striking out "31.5 per centum" and insert in lieu thereof "32.5 per centum".

PRORATING FIRST MONTH BENEFITS

SEC. 1010. Section 8 of the Food Stamp Act of 1977 is amended by adding at the end thereof the following new subsection:

"(c) The value of the allotment issued to any eligible household for the initial month or other initial period for which an allotment is issued shall have a value which bears the same ratio to the value of the allotment for a full month or other initial period for which the allotment is issued as the number of days (from the date of application) remaining in the month or other initial period for which the allotment is issued bears to the total number of days in the month or other initial period for which the allotment is issued. As used in this subsection, the term 'initial month' means (1) the first month for which an allotment is issued to a household, and (2) the first month for which an allotment is issued to a household following any period of more than thirty days during which such household was not participating in the food stamp program under this Act after previous participation in such program.".

OUTREACH

SEC. 1011. (a) Section 11(e)(1) of the Food Stamp Act of 1977 is amended by striking clauses (A) and (B) and redesignating existing clause (C) as (B) and inserting the following new clause (A):

"(A) not conduct food stamp outreach activities with funds provided under this Act;".

(b) Section 16(a) of that Act is amended by—

(1) striking clause (1); and

(2) redesignating clauses (2), (3), (4), and (5) as clauses (1), (2), (3), and (4), respectively.

ELIGIBILITY DISQUALIFICATIONS AND CLAIMS COLLECTIONS

SEC. 1012. (a) Section 6(b) of the Food Stamp Act of 1977 is amended to read as follows:

"(b) No individual who is a member of a household which is otherwise eligible to participate in the food stamp program shall be eligible to participate in the program for (1) a period of three months after the date on which such individual has been found by a State agency, after notice and opportunity for hearing at the State level, or after failure to appeal a local hearing to the State level, to have intentionally made a false or misleading statement or misrepresented, concealed, or withheld facts for the purpose of using, presenting, transferring, acquiring, receiving, or possessing coupons or authorization cards in violation of this Act or the regulations issued thereunder, or to have fraudulently used, presented, transferred, acquired, received, possessed, or altered coupons or authorization cards; or (2) a period of not less than six and not more than twenty-four months, as determined by the court, after such individual has been found by a court of appropriate jurisdiction, with a State or a political subdivision thereof or the United States as prosecutor or plaintiff, to have committed criminal or civil fraud in the use, presentation, transfer, acquisition, receipt, possession, or alteration of coupons or authorization cards; or (3) both of the periods specified in clauses (1) and (2) of this subsection. Each State agency shall proceed against an individual alleged to have engaged in such activity either by way of administrative hearings in accordance with clause (1) of this subsection, or by referring such matters to appropriate legal authorities for civil or criminal action in accordance with clause (2) of the subsection, or both. Each period of ineligibility shall take effect immediately upon the relevant administrative or judicial finding and shall remain in effect, without possibility of administrative stay, unless and until the finding on which the ineligibility is based is subsequently reversed by a court of appropriate jurisdiction, but in no event shall the period of ineligibility be subject to judicial review."

(b)(1) Section 13 of the Food Stamp Act of 1977 is amended by redesignating current section 13 as subsection (b) and inserting before it the following new subsection:

"SEC. 13. (a)(1) In the case of any ineligibility determination under section 6(b), the household of which such ineligible individual is a member shall elect to (A) accept a reduction in the allotment of the household of which such individual is a member, or (B) pay in cash, in accordance with a schedule determined by the Secretary, an amount that will be sufficient to reimburse the Federal Government for any overissuance of coupons resulting from the conduct that was the basis of the finding of ineligibility. If a household refuses to make an election, or elects to make a payment in cash under the provisions of the preceding sentence and fails to do so, the household shall be subject to an allotment reduction.

"(2) Any claim against a household arising from the overissuance of coupons, other than claims the collection of which is provided for in paragraph (1) and claims arising from an error of the State agency, may be collected by reducing the monthly allotments of the household, but only in such cases and in such amounts as reasonable considering the income and resources of the household, as determined under regulations prescribed by the Secretary.".

(b)(2) The heading of section 13 of that Act is amended to "COLLECTION AND DISPOSITION OF CLAIMS".

(c) Section 16(a) of the Food Stamp Act of 1977 is amended by—

(1) striking out everything in the first sentence after "recovered or collected" and inserting in lieu thereof "pursuant to section 13(a)(1).";" and

(2) inserting in the second sentence after "determinations of" the word "ineligibility" in lieu of "fraud".

REPEAL OF INCREASES IN DEPENDENT CARE DEDUCTIONS FOR WORKING ADULTS AND MEDICAL DEDUCTIONS FOR THE ELDERLY AND DISABLED

SEC. 1013. Sections 104 and 105 of the Food Stamp Act Amendments of 1980 (Public Law 96-249) are repealed.

PUERTO RICO BLOCK GRANT

SEC. 1014. (a) Effective October 1, 1982 the Food Stamp Act of 1977 is amended by—

(A) striking "Puerto Rico," in section 3(m), clause (3) of section 3(o), section 5(b), wherever it appears in section 5(c) before the proviso, and wherever it appears in section 5(e) and striking "$50," and "$40," in section 5(e); and

(B) striking everything in section 5(c) after the first "forty-eight contiguous States" and inserting a period in lieu thereof.

(b) Effective October 1, 1982 that Act is further amended by adding at the end thereof the following new section:

"BLOCK GRANT

"SEC. 19. (a)(1)(A) From the sums appropriated under this Act the Secretary shall, subject to the provisions of this subsection and subsection (b), pay to the Commonwealth of Puerto Rico not to exceed $825,000,000 for each fiscal year to finance 100 per centum of the expenditures for food assistance provided to needy persons, and 50 per centum of the administrative expenses related to the provision of such assistance.

"(B) The payments to the Commonwealth for any fiscal year shall not exceed the expenditures by that jurisdiction during that year for the provision of the assistance the provision of which is included in the plan of the Commonwealth approved under subsection (b) and 50 per centum of the related administrative expenses.

"(2) The Secretary shall, subject to the provisions of subsection (b), pay to the Commonwealth for the applicable fiscal year, at such times and in such manner as the Secretary may determine, the amount estimated by the Commonwealth pursuant to subsection (b)(1)(A)(iv), reduced or increased to the extent of any prior overpayment or current underpayment which the Secretary determines has been made under this section and with respect to which adjustment has not already been made under this subsection.

"(b)(1)(A) In order to receive payments under this Act for any fiscal year, the Commonwealth shall have a plan for that fiscal year approved by the Secretary under this section. By July 1 of each year, if the Commonwealth wishes to receive payments, it shall submit a plan for the provision of the assistance described in subsection (a)(1)(A) for the following fiscal year which—

"(i) designates a single agency which shall be responsible for the administration, or supervision of the administration, of the program for the provision of such assistance;

"(ii) assesses the food and nutrition needs of needy persons residing in the Commonwealth;

"(iii) describes the program for the provision of such assistance, including the assistance to be provided and the persons to whom such assistance will be provided, and any agencies designated to provide such assistance, which program must meet such requirements as the Secretary may by regulation prescribe for the purpose of assuring that assistance is provided to the most needy persons in the jurisdiction;

"(iv) estimates the amount of expenditures necessary for the provision of the assistance described in the program and related administrative expenses, up to the amount provided for payment by subsection (a)(1)(A); and

"(v) includes such other information as the Secretary may require.

"(B)(i) The Secretary shall approve or disapprove any plan submitted pursuant to subparagraph (A) no later than August 1 of the year in which it is submitted. The Secretary shall approve any plan which complies with the requirements of subparagraph (A). If a plan is disapproved because it does not comply with any of the requirements of that paragraph the Secretary shall, except as provided in subparagraph (B)(ii), notify the appropriate agency in the Commonwealth that payments will not be made to it under subsection (a) for the fiscal year to which the plan applies until the Secretary is satisfied that there is no longer any such failure to comply, and until the Secretary is so satisfied, the Secretary will make no payments.

"(ii) The Secretary may suspend the denial of payments under subparagraph (B)(i) for such period as the Secretary determines appropriate and instead withhold payments provided for under subsection (a), in whole or in part, for the fiscal year to which the plan applies, until the Secretary is satisfied that there is no longer any failure to comply with the requirements, of subparagraph (A), at which time such withheld payments shall be paid.

"(2)(A) The Commonwealth shall provide for a biennial audit of expenditures under its program for the provision of the assistance described in subsection (a)(1)(A), and within 120 days of the end of each fiscal year in which the audit is made, shall report to the Secretary the findings of such audit.

"(B) Within 120 days of the end of the fiscal year, the Commonwealth shall provide the Secretary with a statement as to whether the payments received under subsection (a) for that fiscal year exceeded the expenditures by it during that year for which payment is authorized under this section, and if so, by how much, and such other information as the Secretary may require.

"(C)(1) If the Secretary finds that there is a substantial failure by the Commonwealth to comply with any of the requirements of subparagraphs (A) and (B), or to comply with the requirements of subsection (b)(1)(A) in the administration of a plan approved under subsection (b)(1)(B), the Secretary shall, except as provided in subparagraph (C)(ii), notify the appropriate agency in the Commonwealth that further payments will not be made to it under subsection (a) until the Secretary is satisfied that there will no longer be any such failure to comply, and until the Secretary is so satisfied, the Secretary shall make no further payments.

"(ii) The Secretary may suspend the termination of payments under subparagraph (C)(i) for such period as the Secretary determines appropriate, and instead withhold payments provided for under subsection (a), in whole or in part, until the Secretary is satisfied that there will no longer be any failure to comply with the requirements of subparagraphs (A) and (B) and subsection (b)(1)(A), at which time such withheld payments shall be paid.

"(iii) Upon a finding under subparagraph (C)(i) of a substantial failure to comply with any of the requirements of subparagraphs (A) and (B) and subsection (b)(1)(A), the Secretary may, in addition to or in lieu of any action taken under subparagraphs (C)(i) and (C)(ii), refer the matter to the Attorney General with a request that injunctive relief be sought to require compliance by the Commonwealth of Puerto Rico, and upon suit by the Attorney General in an appropriate district court of the United States and a showing that noncompliance has occurred, appropriate injunctive relief shall issue.

"(c)(1) The Secretary shall provide for the review of the programs for the provisions of the assistance described in subsection (a)(1)(A) for which payments are made under this Act.

"(2) The Secretary is authorized as the Secretary deems practicable to provide technical assistance with respect to the programs for the provision of the assistance described in subsection (a)(1)(A).

"(d) Whoever knowingly and willfully embezzles, misapplies, steals, or obtains by fraud, false statement, or forgery, any funds, assets, or property provided or financed under this section shall be fined not more than $10,000 or imprisoned for not more than five years, or both, but if the value of the funds, assets or property involved is not over $200, the penalty shall be a fine of not more than $1,000 or imprisonment for not more than one year, or both."

(Amendment to the amendment in the nature of a substitute by Mr. JONES of Oklahoma.)

Strike out all of title V of the amendment (relating to the House Committee on Education and Labor) and insert in lieu thereof the following:

TITLE V—HOUSE COMMITTEE ON EDUCATION AND LABOR

SHORT TITLE

SEC. 5001. This title may be cited as the "Omnibus Education and Labor Reconciliation Act of 1981".

Subtitle A—Restrictions on Appropriations

EFFECT ON OTHER LAWS

SEC. 5101. (a) Any provision of law which is not consistent with the provisions of this subtitle hereby is superseded and shall have only such force and effect during each of the fiscal years 1982, 1983, and 1984 which is consistent with this subtitle.

(b) Notwithstanding any authorization of appropriations for fiscal year 1982, 1983, or 1984 contained in any provision of law which is specified in this subtitle (including any authorization of appropriations contained in subtitle B of this title), no funds are authorized to be appropriated in excess of the limitations imposed upon appropriations by the provisions of this subtitle.

ACT OF MARCH 2, 1867 (HOWARD UNIVERSITY)

SEC. 5102. The total amount of appropriations to carry out the Act of March 2, 1867 (14 Stat. 439) shall not exceed $153,199,000 for each of the fiscal years 1982, 1983, and 1984.

ACT OF MARCH 3, 1879 (AMERICAN PRINTING HOUSE FOR THE BLIND)

SEC. 5103. The total amount of appropriations to carry out the Act of March 3, 1879 (20 Stat. 468) shall not exceed $5,595,000 for each of the fiscal years 1982, 1983, and 1984.

ACT OF SEPTEMBER 23, 1950 (IMPACT AID)

SEC. 5104. The total amount of appropriations to carry out the Act of September 23, 1950 (Public Law 815, 81st Congress) shall not exceed $20,000,000 for each of the fiscal years 1982, 1983, or 1984.

ACT OF SEPTEMBER 30, 1950 (IMPACT AID)

SEC. 5105. (a)(1) The total amount of appropriations to make payments on the basis of entitlements established under section 3 of the Act of September 30, 1950 (Public Law 874, 81st Congress) shall not exceed $371,000,000 for each of the fiscal years 1982, 1983, and 1984.

(2) None of the funds appropriated for such fiscal years to make such payments shall be paid to any local educational agency unless—

(A)(i) the local educational agency is an agency with respect to which the sum of the number of children determined for such fiscal year under subsections (a) and (b) of section 3 of such Act is equal to or exceeds 50 per centum of the total number of children who were in average daily attendance at the schools of such agency during such fiscal year and for whom such agency provided free public education; or

(ii) the local educational agency is an agency with respect to which the sum of the number of children determined for such fiscal year under subsection (a) of section 3 of such Act is equal to or exceeds 20 per centum of the total number of children who were in average daily attendance at the schools of such agency during such fiscal year and for whom such agency provided free public education;

(B) the local educational agency is an agency with respect to which the sum of—

(i) the number of children determined for such fiscal year under subsection (a) of section 3 of such Act;

(ii) the number of children determined for such fiscal year under subsection (b)(3) of section 3 of such Act; and

(iii) one-half of the number of children determined for such fiscal year under subsection (b) of section 3 of such Act;

is equal to or exceeds 25 per centum of the total number of children who were in average daily attendance at the schools of such agency during such fiscal year and for whom such agency provided free public education; or

(C) the local educational agency is an agency not otherwise described in subparagraphs (A) and (B) of this paragraph and such agency received a payment for fiscal year 1981 on the basis of the number of children determined for such fiscal year under subsection (a) of section 3 of such Act.

(3) Any provision of such Act to the contrary notwithstanding, any funds appropriated for fiscal year 1982 for the purpose of making payments on the basis of entitlements established under section 3 of such Act shall be allocated as follows:

(A) The Secretary shall first allocate to each local educational agency which is described in subparagraph (A) or (B) of paragraph (2) of this subsection an amount equal to (i) the number of children determined with respect to such agency for such fiscal year under subsection (a) of section 3 of such Act, multiplied by (ii) 100 percent of the amount paid to such agency for each of such children for fiscal year 1981.

(B) The Secretary shall next allocate to each local educational agency which is described in subparagraph (A) or (B) of paragraph (2) of this subsection an amount equal to (i) the number of children determined with respect to such agency for such fiscal year under subsection (b) of section 3 of such Act, multiplied by (ii) 80 percent of the amount paid to such agency for each of such children for fiscal year 1981.

(C) Any sums remaining after allocations are made pursuant to subparagraphs (A) and (B) of this paragraph shall be allocated to local educational agencies which are described in subparagraph (C) of paragraph (2) of this subsection. Subject to subparagraph (D) of this paragraph, each such agency shall be allocated an amount which bears the same ratio to the sums remaining for allocation as the number of children determined with respect to such agency for such fiscal year under subsection (a) of section 3 of such Act bears to the sum of the number of children determined under subsection (a) of section 3 of such Act for such fiscal year with respect to all the local educational agencies described in such subparagraph (C), except that no payment shall be made under this subparagraph at a rate in excess of the rate described in subparagraph (D)(ii).

(D)(i) If the amount appropriated for making such payments for fiscal year 1982 is not sufficient to pay in full the allocations required by subparagraphs (A) and (B) of this paragraph, then the amount of each such allocation shall be ratably reduced. If, after such a reduction is required, additional amounts are made available for making such payments, then such allocations shall be increased on the same basis as they were reduced.

(ii) If the amount appropriated for making such payments for fiscal year 1982 exceeds the amount necessary to pay in full the allocations required by such subparagraphs plus the amount necessary to make payments under subparagraph (C) at a rate, for each child determined under subsection (a) of section 3, equal to the rate paid for such children for fiscal year 1981, then the amount of each allocation under subparagraphs (A), (B), and (C) shall be ratably increased.

(4) Any provision of such Act to the contrary notwithstanding, any funds appropriated for fiscal year 1983 for the purpose of making payments on the basis of entitlements established under section 3 of such Act shall be allocated as follows:

(A) The Secretary shall first allocate to each local educational agency which is described in subparagraph (A) or (B) of paragraph (2) of this subsection an amount equal to (i) the number of children determined with respect to such agency for such fiscal year under subsection (a) of section 3 of such Act, multiplied by (ii) 100 percent of the amount paid to such agency for each of such children for fiscal year 1981.

(B) The Secretary shall next allocate to each local educational agency which is described in subparagraph (A) or (B) of paragraph (2) of this subsection an amount equal to (i) the number of children determined with respect to such agency for such fiscal year under subsection (b)(3) of section 3 of such Act, multiplied by (ii) 70 percent of the amount paid to such agency for each of such children for fiscal year 1981.

(C) Any sums remaining after allocations are made pursuant to subparagraphs (A) and (B) of this paragraph shall be allocated to local educational agencies which are described in subparagraph (C) of paragraph (2) of this subsection. Subject to subparagraph (D) of this paragraph, each such agency shall be allocated an amount which bears the same ratio to the sums remaining for allocation as the number of children determined with respect to such agency for such fiscal year under subsection (a) of section 3 of such Act, bears to the sum of the number of children determined under subsection (a) of section 3 of such Act for such fiscal year with respect to all the local educational agencies described in such subparagraph (C), except that no payment shall be made under this subparagraph at a rate in excess of the rate described in subparagraph (D)(ii).

(D)(i) If the amount appropriated for making such payments for fiscal year 1983 is not sufficient to pay in full the allocations required by subparagraphs (A) and (B) of this paragraph, then the amount of each such allocation shall be ratably reduced. If, after such a reduction is required, additional amounts are made available for making such payemnts, then such allocations shall be increased on the same basis as they were reduced.

(ii) If the amount appropriated for making such payments for fiscal year 1983 exceeds the amount necessary to pay in full the allocations required by such subparagraphs plus the amount necessary to make payments under subparagraph (C) at a rate, for each child determined under subsection (a) of section 3, equal to the rate paid for such children for fiscal year 1981, then the amount of each allocation under subparagraphs (A), (B), and (C) shall be ratably increased.

(5) Any provision of such Act to the contrary notwithstanding, any funds appropriated for fiscal year 1984 for the purpose of making payments on the basis of entitlements established under section 3 of such Act shall be allocated as follows:

(A) The Secretary shall first allocate to each local educational agency which is described in subparagraph (A) or (B) of paragraph (2) of this subsection an amount equal to (i) the number of children determined with respect to such agency for such fiscal year under subsection (a) of section 3 of such Act, multiplied by (ii) 100 percent of the amount paid to such agency for each of such children for fiscal year 1981.

(B) The Secretary shall next allocate to each local educational agency which is described in subparagraph (A) or (B) of paragraph (2) of this subsection an amount equal to (i) the number of children determined with respect to such agency for such fiscal year under subsection (b)(3) of section 3 of such Act, multiplied by (ii) 50 percent of the amount paid to such agency for each of such children for fiscal year 1981.

(C) Any sums remaining after allocations are made pursuant to subparagraphs (A) and (B) of this paragraph shall be allocated to local educational agencies which are described in subparagraph (C) of paragraph (2) of this subsection. Subject to subparagraph (D) of this paragraph, each such agency shall be allocated an amount which bears the same ratio to the sums remaining for allocation as the number of children determined with respect to such agency for such fiscal year under subsection (a) of section 3 of such Act, bears to the sum of the number of children determined under subsection (a) of section 3 of such Act for such fiscal year with respect to all the local educational agencies described in such subparagraph (C), except that no payment shall be made under this subparagraph at a rate in excess of the rate described in subparagraph (D)(ii).

(D)(i) If the amount appropriated for making such payments for fiscal year 1984 is not sufficient to pay in full the allocations required by subparagraphs (A) and (B) of this paragraph, then the amount of each such allocation shall be ratably reduced. If, after such a reduction is required, additional amounts are made available for making such payments, then such allocations shall be increased on the same basis as they were reduced.

(ii) If the amount appropriated for making such payments for fiscal year 1984 exceeds the amount necessary to pay in full the allocations required by such subparagraphs plus the amount necessary to make payments under subparagraph (C) at a rate, for each child determined under subsection (a) of section 3, equal to the rate paid for such children for fiscal year 1981, then the amount of each allocation under subparagraphs (A), (B), and (C) shall be ratably increased.

(6) For any fiscal year beginning on or after October 1, 1984, no funds available under such Act shall be paid to local educational agencies with respect to children determined under subsection (b) of section 3 of such Act.

(b)(1) The total amount of appropriations authorized to be appropriated to make payments on the basis of entitlements established under section 2 of the Act of September 30, 1950 (Public Law 874, 81st Congress) shall not exceed $10,000,000 for each of the fiscal years 1982, 1983, and 1984.

(2) If the amount appropriated for making such payments for fiscal year 1982, 1983, or 1984 is not sufficient to pay in full the sum of the entitlements established under section 2 of such Act, then the amount of each such entitlement shall be ratably reduced. If, for any fiscal year in which such a reduction is required, additional amounts are made available for making such payments, then such entitlements shall be increased on the same basis as they were reduced.

(c) No funds are authorized to be appropriated for fiscal year 1982, 1983, or 1984 for the purpose of making payments—

(1) on the basis of entitlements determined under section 3(e) or 4 of such Act; or

(2) under sections 4A, 6, or 7 of such Act.

(d) Subsection (d) of section 402 of the Act of September 30, 1950 (Public Law 874, 81st Congress) shall not apply during fiscal year 1982, 1983, or 1984.

ACT OF JUNE 18, 1954 (GALLAUDET COLLEGE)

SEC. 5106. The total amount of appropriations to carry out the Act of June 18, 1954 (68 Stat. 265) shall not exceed $61,532,000 for each of the fiscal years 1982, 1983, and 1984.

ACT OF DECEMBER 24, 1970 (KENDALL SCHOOL)

SEC. 5107. The total amount of appropriations to carry out the Act of December 24, 1970 (84 Stat. 1579) shall not exceed $5,800,000 for each of the fiscal years 1982, 1983, and 1984.

ACT OF JANUARY 2, 1975 (HERBERT HOOVER MEMORIAL)

SEC. 5108. No funds are authorized to be appropriated to carry out the Act of January 2, 1975 (88 Stat. 1919) for fiscal year 1982, 1983, or 1984.

ADULT EDUCATION ACT

SEC. 5109. The total amount of appropriations to carry out the Adult Education Act shall not exceed $100,000,000 for each of the fiscal years 1982, 1983, and 1984.

ALCOHOL AND DRUG ABUSE EDUCATION ACT

SEC. 5110. The total amount of appropriations to carry out the Alcohol and Drug Abuse Education Act shall not exceed $3,000,000 for fiscal year 1982, $3,240,000 for fiscal year 1983, and $3,499,000 for fiscal year 1984.

ARTS AND ARTIFACTS INDEMNITY ACT

SEC. 5111. No funds are authorized to be appropriated to carry out the Arts and Artifacts Indemnity Act for fiscal year 1982, 1983, or 1984.

BANKHEAD-JONES ACT

SEC. 5112. No funds are authorized to be appropriated to carry out section 22 of the Act of June 29, 1935, commonly referred to as the Bankhead-Jones Act, for fiscal years 1982, 1983, or 1984.

CAREER EDUCATION INCENTIVE ACT

SEC. 5113. The total amount of appropriations to carry out the Career Education Incentive Act shall not exceed $10,000,000 for each of the fiscal years 1982, 1983, and 1984.

CIVIL RIGHTS ACT OF 1964

SEC. 5114. (a) The total amount of appropriations to carry out sections 403, 404, and 405 of title IV of the Civil Rights Act of 1964 (42 U.S.C. 2000c et seq.) shall not exceed $37,100,000 for each of the fiscal years 1982, 1983, and 1984.

COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

SEC. 5115. (a)(1) The total amount of appropriations to carry out parts A, B, and C of title II of the Comprehensive Employment and Training Act shall not exceed $1,335,000,000 for fiscal year 1982, $3,084,000,000 for fiscal year 1983, and $2,811,000,000 for fiscal year 1984.

(2) Funds available for such parts for fiscal years 1982, 1983, and 1984 shall be allocated under section 202 of such Act in the same manner as funds available for such parts for fiscal year 1981. Funds available for such parts for fiscal years 1983 and 1984 shall be available for carrying out programs previously funded under parts A and C of title IV of such Act.

(b) No funds are authorized to be appropriated to carry out part D of title II or title VI of the Comprehensive Employment and Training Act for fiscal year 1982, 1983, or 1984.

(c) The total amount of appropriations to carry out title III of the Comprehensive Employment and Training Act shall not exceed $213,000,000 for fiscal year 1982, $234,000,000 for fiscal year 1983, and $257,000,000 for fiscal year 1984.

(d)(1) The total amount of appropriations to carry out part A of title IV of the Comprehensive Employment and Training Act shall not exceed $600,000,000 for fiscal year 1982. No funds are authorized to be appropriated for such part for fiscal year 1983 or 1984.

(2) The total amount of appropriations to carry out part B of title IV of such Act shall not exceed $607,000,000 for fiscal year 1982, $649,000,000 for fiscal year 1983, and $690,000,000 for fiscal year 1984.

(3) The total amount of appropriations to carry out part C of title IV of such Act shall not exceed $865,000,000 for fiscal year 1982. No funds are authorized to be appropriated for such part for fiscal year 1983 or 1984.

(e) The total amount of appropriations to carry out title VII of the Comprehensive Employment and Training Act shall not exceed $192,500,000 for fiscal year 1982, $222,000,000 for fiscal year 1983, and $239,000,000 for fiscal year 1984.

(f) No funds are authorized to be appropriated to carry out title VIII of the Comprehensive Employment and Training Act for fiscal year 1982, 1983, or 1984.

COMPREHENSIVE OLDER AMERICANS ACT AMENDMENTS OF 1978

SEC. 5116. The total amount of appropriations to carry out title II of the Comprehensive Older Americans Act Amendments of 1978 shall not exceed $3,200,000 for fiscal years 1982, 1983, and 1984.

DEPARTMENT OF EDUCATION

SEC. 5117. The total amount of appropriations for salaries and expenses of the Department of Education shall not exceed $308,000,000 for each of the fiscal years 1982, 1983, and 1984.

DOMESTIC VOLUNTEER SERVICE ACT OF 1973

SEC. 5118. The total amount of appropriations to carry out title I of the Domestic Volunteer Service Act of 1973 shall not exceed $25,763,000 for fiscal year 1982, $15,391,000 for fiscal year 1983, and $9,000,000 for fiscal year 1984.

ECONOMIC OPPORTUNITY ACT OF 1964

SEC. 5119. No funds are authorized to be appropriated to carry out title VII of the Economic Opportunity Act of 1964 for fiscal year 1982, 1983, or 1984.

EDUCATION AMENDMENTS OF 1972

SEC. 5120. No funds are authorized to be appropriated to carry out section 506 of the Education Amendments of 1972 for fiscal year 1982, 1983, or 1984.

EDUCATION AMENDMENTS OF 1978

SEC. 5121. (a) No funds are authorized to be appropriated to carry out section 1015 of the Education Amendments of 1978 for fiscal year 1982, 1983, or 1984.

(b)(1) No funds are authorized to be appropriated to carry out part A of title XV of the Education Amendments of 1978 for fiscal year 1982, 1983, or 1984.

(2) No funds are authorized to be appropriated to carry out part B of title XV of the Education Amendments of 1978 for fiscal year 1982, 1983, or 1984.

(3) No funds are authorized to be appropriated to carry out section 1524 of the Education Amendments of 1978 for fiscal year 1982, 1983, or 1984.

(4) No funds are authorized to be appropriated to carry out section 1525 of the Education Amendments of 1978 for fiscal year 1982, 1983, or 1984.

(5) No funds are authorized to be appropriated to carry out section 1526 of the Education Amendments of 1978 for fiscal year 1982, 1983, or 1984.

EDUCATION AMENDMENTS OF 1980

SEC. 5122. (a) No funds are authorized to be appropriated to carry out section 1303 of the Education Amendments of 1980 for fiscal year 1982, 1983, or 1984.

(b) No funds are authorized to be appropriated to carry out part D of title XIII of the Education Amendments of 1980 for fiscal year 1982, 1983, or 1984.

(c) No funds are authorized to be appropriated to carry out part H of title XIII of the Education Amendments of 1980 for fiscal year 1982, 1983, or 1984.

EDUCATION OF THE HANDICAPPED ACT

SEC. 5123. (a)(1) The total amount of appropriations to carry out part B of the Education of the Handicapped Act, other than sections 618 and 619, shall not exceed $932,000,000 for each of the fiscal years 1982, 1983, and 1984.

(2) The total amount of appropriations to carry out section 618 of such Act shall not exceed $2,300,000 for each of the fiscal years 1982, 1983, and 1984.

(3) The total amount of appropriations to carry out section 619 of such Act shall not exceed $25,000,000 for each of the fiscal years 1982, 1983, and 1984.

(b)(1) The total amount of appropriations to carry out section 621 of the Education of the Handicapped Act (pertaining to regional resource centers) shall not exceed $9,800,000 for each of the fiscal years 1982, 1983, and 1984.

(2) The total amount of appropriations to carry out section 622 of such Act shall not exceed $16,000,000 for each of the fiscal years 1982, 1983, and 1984.

(3) The total amount of appropriations to carry out section 623 of such Act shall not exceed $20,000,000 for each of the fiscal years 1982, 1983, and 1984.

(4) The total amount of appropriations to carry out section 621 and 624 of such Act (pertaining to projects for severely handicapped children) shall not exceed $5,000,000 for each of the fiscal years 1982, 1983, and 1984.

(5) The total amount of appropriations to carry out section 625 of such Act shall not exceed $4,000,000 for each of the fiscal years 1982, 1983, and 1984.

(c)(1) The total amount of appropriations to carry out section 631, 632, and 634 of the Education of the Handicapped Act shall not exceed $58,000,000 for each of the fiscal years 1982, 1983, and 1984.

(2) The total amount of appropriations to carry out section 633 of such Act shall not exceed $1,000,000 for each of the fiscal years 1982, 1983, and 1984.

(d) The total amount of appropriations to carry out part E of the Education of the Handicapped Act shall not exceed $20,000,000 for each of the fiscal years 1982, 1983, and 1984.

(e) The total amount of appropriations to carry out part F of the Education of the Handicapped Act shall not exceed $19,000,000 for each of the fiscal years 1982, 1983, and 1984.

ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 5124. (a) The total amount of appropriations to carry out title I of the Elementary and Secondary Education Act of 1965 shall not exceed $3,544,343,000 for fiscal year 1982. From the amount appropriated in accordance with the preceding sentence, not more 14.6 percent of such amount for fiscal year 1982 shall be available to carry out sections 141, 146, and 151, of such Act.

(b) The total amount of appropriations to carry out title II of the Elementary and Secondary Education Act of 1965 shall not exceed $31,500,000 for fiscal year 1982.

(c)(1) The total amount of appropriations to carry out section 303 of the Elementary and Secondary Education Act of 1965 shall not exceed $25,500,000 for fiscal year 1982.

(2) The total amount of appropriations to carry out part B of title III of such Act shall not exceed $1,380,000 for fiscal year 1982.

(3) The total amount of appropriations to carry out part C of title III of such Act shall not exceed $3,150,000 for fiscal year 1982.

(4) No funds are authorized to be appropriated to carry out part D of title III of such Act for fiscal year 1982.

(5) The total amount of appropriations to carry out part E of title III of such Act shall not exceed $3,600,000 for fiscal year 1982.

(6) No funds are authorized to be appropriated to carry out part F of title III of such Act for fiscal year 1982.

(7) The total amount of appropriations to carry out part G of title III of such Act shall not exceed $1,000,000 for fiscal year 1982.

(8) No funds are authorized to be appropriated to carry out part H of title III of such Act for fiscal year 1982.

(9) No funds are authorized to be appropriated to carry out part I of title III of such Act for fiscal year 1982.

(10) No funds are authorized to be appropriated to carry out part J of title III of such Act for fiscal year 1982.

(11) No funds are authorized to be appropriated to carry out part K of title III of such Act for fiscal year 1982.

(12) The total amount of appropriations to carry out part L of title III of such Act shall not exceed $3,000,000 for fiscal year 1982.

(13) No funds are authorized to be appropriated to carry out part M of title III of such Act for fiscal year 1982.

(14) No funds are authorized to be appropriated to carry out part N of title III of such Act for fiscal year 1982.

(d)(1) The total amount of appropriations to carry out part B of title IV of the Elementary and Secondary Education Act of 1965 shall not exceed $161,000,000 for fiscal year 1982.

(2) The total amount of appropriations to carry out part C of title IV of such Act shall not exceed $66,130,000 for fiscal year 1982.

(3) The total amount of appropriations to carry out part D of title IV of such Act shall not exceed $15,000,000 for fiscal year 1982.

(e)(1) The total amount of appropriations to carry out part B of title V of the Elementary and Secondary Education Act of 1965 shall not exceed $42,075,000 for fiscal year 1982.

(2) No funds are authorized to be appropriated to carry out part C of title V of such Act for fiscal year 1982.

(f) No funds are authorized to be appropriated to carry out title VI of the Elementary and Secondary Education Act of 1965 for fiscal year 1982.

(g) The total amount of appropriations to carry out title VII of the Elementary and Secondary Education Act of 1965 shall not exceed $85,340,000 for fiscal year 1982.

(h) The total amount of appropriations to carry out title VIII of the Elementary and Secondary Education Act of 1965 shall not exceed $3,138,000 for fiscal year 1982.

(i)(1) The total amount of appropriations to carry out part A of title IX of the Elementary and Secondary Education Act of 1965 shall not exceed $5,652,000 for fiscal year 1982.

(2) No funds are authorized to be appropriated to carry out part B of title IX of such Act for fiscal year 1982.

(3) The total amount of appropriations to carry out part C of title IX of such Act shall not exceed $8,125,000 for fiscal year 1982.

(4) No funds are authorized to be appropriated to carry out part D of title IX of such Act for fiscal year 1982.

(5) The total amount of appropriations to carry out part E of title IX of such Act shall not exceed $2,250,000 for fiscal year 1982.

(j) No funds are authorized to be appropriated to carry out the Elementary and Secondary Education Act of 1965 for fiscal year 1983 or 1984.

EDUCATION CONSOLIDATION AND IMPROVEMENT ACT OF 1981

SEC. 5125. (a) The total amount of appropriations to carry out part I of the Education Consolidation and Improvement Act of 1981 (section 5343 of this title, et seq.) shall not exceed $3,544,343,000 for each of the fiscal years 1983 and 1984.

(b) The total amount of appropriations to carry out part II of the Education Consolidation and Improvement Act of 1981 (section 5351 of this title, et seq.) shall not exceed $584,368,000 for each of the fiscal years 1983 and 1984.

GENERAL EDUCATION PROVISIONS ACT

SEC. 5126. (a) The total amount of appropriations to carry out section 405 of the General Education Provisions Act shall not exceed $55,614,000 for each of the fiscal years 1982, 1983, and 1984.

(b) The total amount of appropriations to carry out section 406 of the General Education Provisions Act shall not exceed $8,947,000 for each of the fiscal years 1982, 1983, and 1984.

(c) The total amount of appropriations to carry out section 406A(2) of the General Education Provisions Act shall not exceed $5,000,000 for each of the fiscal years 1982, 1983, and 1984.

(d) The total amount of appropriations to carry out section 426A(1) of the General Education Provisions Act shall not exceed $1,875,000 for fiscal year 1982, 1983, or 1984.

HARRY S TRUMAN MEMORIAL SCHOLARSHIP ACT

SEC. 5127. No funds are authorized to be appropriated to carry out the Harry S Truman Memorial Scholarship Act for fiscal year 1982, 1983, or 1984.

HEADSTART-FOLLOW THROUGH ACT

SEC. 5128. The total amount of appropriations to carry out part B of the Headstart-Follow Through Act shall not exceed $44,300,000 for each of the fiscal years 1982, 1983, and 1984.

HIGHER EDUCATION ACT OF 1965

SEC. 5129. (a)(1) No funds are authorized to be appropriated to carry out part A of title I of the Higher Education Act of 1965 for fiscal year 1982, 1983, or 1984.

(2) The total amount of appropriations to carry out part B of title I of such Act shall not exceed $10,200,000 for fiscal year 1982, 1983, or 1984.

(b)(1) No funds are authorized to be appropriated to carry out part A of title II of the Higher Education Act of 1965 for fiscal year 1982, 1983, or 1984.

(2) The total amount of appropriations to carry out part B of title II of such Act shall not exceed $10,200,000 for each of the fiscal years 1982, 1983, and 1984.

(3) The total amount of appropriations to carry out part C of title II of such Act shall not exceed $5,000,000 for each of the fiscal years 1982, 1983, and 1984.

(4) No funds are authorized to be appropriated to carry out part D of title II of such Act for fiscal year 1982, 1983, or 1984.

(5) No funds available for carrying out parts A and B of such title for any such fiscal year shall be made available to any institution, organization, or agency which is eligible for assistance under part C of such title.

(c) The total amount of appropriations to carry out title III of the Higher Education Act of 1965 shall not exceed $129,600,000 for each of the fiscal years 1982, 1983, and 1984.

(d)(1)(A) The total amount of appropriations to carry out subpart 1 of part A of title IV of the Higher Education Act of 1965 shall not exceed $2,466,000,000 for fiscal year 1982, $2,353,000,000 for fiscal year 1983, and $1,965,000,000 for fiscal year 1984.

(B) Notwithstanding section 411(a)(2)(A)(i) of such Act, the amount of the Pell grant for a student eligible under such part shall be $1,800 for academic years 1982-83, 1983-84, and 1984-85, less an amount equal to the amount determined under section 482 of such Act to be the expected family contribution with respect to that student for that year.

(C) Notwithstanding section 411(a)(2)(B) of such Act, the amount of the Pell Grant for such academic years shall not exceed 50 per centum of the cost of attendance (as defined under section 482 of such Act) at the institution at which the student is in attendance for that year.

(2) The total amount of appropriations to carry out subpart 2 of part A of title IV of such Act shall not exceed $370,000,000 for each of the fiscal years 1982, 1983, and 1984.

(3) The total amount of appropriations to carry out subpart 3 of part A of title IV of such Act shall not exceed $76,800,000 for each of the fiscal years 1982, 1983, and 1984.

(4) The total amount of appropriations to carry out subpart 4 of part A of title IV of such Act shall not exceed $159,500,000 for each of the fiscal years 1982, 1983, and 1984.

(5) The total amount of appropriations to carry out subpart 5 of part A of title IV of such Act shall not exceed $7,500,000 for each of the fiscal years 1982, 1983, and 1984.

(6)(A) No funds are authorized to be appropriated to carry out section 419 of such Act for fiscal year 1982, 1983, or 1984.

(B) The total amount of appropriations to carry out section 420 of such Act shall not exceed $12,000,000 for each of the fiscal years 1982, 1983, and 1984.

(7) The total amount of appropriations to carry out part C of title IV of such Act shall not exceed $550,000,000 for each of the fiscal years 1982, 1983, and 1984.

(8) The total amount of appropriations to carry out part E of title IV of such Act shall not exceed $286,000,000 for each of the fiscal years 1982, 1983, and 1984.

The total amount of appropriations to carry out section 491 of such Act shall not exceed $1,000,000 for fiscal year 1982 and $2,000,000 for fiscal year 1983.

(e)(1) The total amount of appropriations to carry out part A of title V of the Higher Education Act of 1965 shall not exceed $22,500,000 for each of the fiscal years 1982, 1983, and 1984.

(2)(A) The total amount of appropriations to carry out part B of title V of such Act shall not exceed $9,100,000 for each of the fiscal years 1982, 1983, and 1984.

(B) The last sentence of section 531 of such Act shall not apply to the funds appropriated to carry out part B of title V of such Act for fiscal year 1982, 1983, or 1984.

(3) No funds are authorized to be appropriated to carry out part C of title V of such Act for fiscal year 1982, 1983, or 1984.

(4) No funds are authorized to be appropriated to carry out part D of title V of such Act for fiscal year 1982, 1983, or 1984.

(f) The total amount of appropriations to carry out title VI of the Higher Education Act of 1965 shall not exceed $30,600,000 for each of the fiscal years 1982, 1983, and 1984.

(g) No funds are authorized to be appropriated to carry out part A or B of title VII of the Higher Education Act of 1965 for fiscal year 1982, 1983, or 1984.

(h) The total amount of appropriations to carry out title VIII of the Higher Education Act of 1965 shall not exceed $23,000,000 for each of the fiscal years 1982, 1983, and 1984.

(i)(1) No funds are authorized to be appropriated to carry out part A of title IX of the Higher Education Act of 1965 for fiscal year 1982, 1983, or 1984.

(2) No funds are authorized to be appropriated to carry out part B of title IX of such Act for fiscal year 1982, 1983, or 1984.

(3) No funds are authorized to be appropriated to carry out part C of title IX of such Act for fiscal year 1982, 1983, or 1984.

(4) The total amount of appropriations to carry out part D of title IX of such Act shall not exceed $1,000,000 for each of the fiscal years 1982, 1983, and 1984.

(5) The total amount of appropriations to carry out part E of title IX of such Act shall not exceed $3,000,000 for each of the fiscal years 1982, 1983, and 1984.

(j) The total amount of appropriations to carry out title X of the Higher Education Act of 1965 shall not exceed $13,500,000 for each of the fiscal years 1982, 1983, and 1984.

(k) No funds are authorized to be appropriated to carry out title XI of the Higher Education Act of 1965 for fiscal year 1982, 1983, or 1984.

INDIAN EDUCATION ACT

SEC. 5130. The total amount of appropriations to carry out the Indian Education Act of 1965 shall not exceed $81,700,000 for each of the fiscal years 1982, 1983, and 1984.

JOHNSON-O'MALLEY ACT; SNYDER ACT; NAVAJO COMMUNITY COLLEGE ACT; TRIBALLY CONTROLLED COMMUNITY COLLEGE ASSISTANCE ACT OF 1978

SEC. 1531. The total amount of appropriations—

(1) to carry out the Act of April 16, 1934, commonly referred to as the Johnson-O'Malley Act;

(2) to carry out all education programs under the direction of the Office of Indian Education Programs in the Bureau of Indian Affairs of the Department of the Interior authorized under the Act of November 2, 1921, commonly referred to as the Snyder Act (and not otherwise expressly authorized by law);

(3) to carry out the Navajo Community College Act; and

(4) to carry out the Tribally Controlled Community College Assistance Act of 1978;

shall not exceed $200,000,000 for each of the fiscal years 1982, 1983, and 1984.

JOINT RESOLUTION OF OCTOBER 19, 1972 (ELLENDER FELLOWSHIP PROGRAM)

SEC. 5132. The total amount of appropriations to carry out the joint resolution of October 19, 1972, shall not exceed $1,000,000 for each of the fiscal years 1982, 1983, and 1984.

JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974

SEC. 5133. The total amount of appropriations to carry out title I and title II of the Juvenile Justice and Delinquency Prevention Act of 1974 shall not exceed $70,000,000 for each of the fiscal years 1982, 1983, and 1984.

LIBRARY SERVICES AND CONSTRUCTION ACT

SEC. 5134. (a) The total amount of appropriations to carry out title I of the Library Services and Construction Act shall not exceed $62,500,000 for each of the fiscal years 1982, 1983, and 1984.

(b) No funds are authorized to be appropriated to carry out title II of the Library Services and Construction Act for fiscal years 1982, 1983, or 1984.

(c) The total amount of appropriations to carry out title III of the Library Services and Construction Act shall not exceed $12,000,000 for each of the fiscal years 1982, 1983, and 1984.

MODEL SECONDARY SCHOOL FOR THE DEAF ACT

SEC. 5135. The total amount of appropriations to carry out the Model Secondary School for the Deaf Act shall not exceed $10,600,000 for each of the fiscal years 1982, 1983, and 1984.

MUSEUM SERVICES ACT

SEC. 5136. The total amount of appropriations to carry out the Museum Services Act shall not exceed $12,900,000 for each of the fiscal years 1982, 1983, and 1984.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE ACT

SEC. 5137. The total amount of appropriations to carry out the National Commission on Libraries and Information Science Act shall not exceed $700,000 for each of the fiscal years 1982, 1983, and 1984.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES ACT OF 1965

SEC. 5138. The total amount of appropriations to carry out the National Foundation on the Arts and the Humanities Act of 1965 shall not exceed $223,080,000 for each of the fiscal years 1982, 1983, and 1984.

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF ACT

SEC. 5139. The total amount of appropriations to carry out the National Technical Institute for the Deaf Act shall not exceed $32,811,000 for each of the fiscal years 1982, 1983, and 1984.

OLDER AMERICANS ACT OF 1965

SEC. 5140. The total amount of appropriations to carry out title IV of the Older American Act of 1965 shall not exceed $24,700,000 for each of the fiscal years 1982, 1983, and 1984.

REFUGEE EDUCATION CONSOLIDATION

SEC. 5141. The total amount of appropriations to carry out the Consolidation Refugee Education Assistance Act (section 5441 et seq.) shall not exceed $50,000,000 for each of the fiscal years 1981, 1982, and 1983.

REHABILITATION ACT OF 1973

SEC. 5142. (a) The total amount of appropriations to carry out section 14 of the Rehabilitation Act of 1973 shall not exceed $2,200,000 for fiscal year 1982, $2,300,000 for fiscal year 1983, and $2,400,000 for fiscal year 1984.

(b) The total amount of appropriations to carry out section 15 of the Rehabilitation Act of 1973 shall not exceed $500,000 for each of the fiscal years 1982, 1983, and 1984.

(c)(1) The total amount of appropriations to carry out part A of title I of the Rehabilitation Act of 1973 shall not exceed $714,500,000 for fiscal year 1982, $774,500,000 fiscal year 1983, and $755,200,000 for fiscal year 1984.

(2) The total amount of appropriations to carry out part B of title I of such Act shall not exceed $13,400,000 for fiscal year 1982, $14,300,000 for fiscal year 1983, and $14,900,000 fiscal year 1984.

(3) No funds are authorized to be appropriated to carry out section 120(a)(1) of such Act of fiscal year 1982, 1983, or 1984.

(4) The total amount of appropriations to carry out part D of title I of such Act shall not exceed $700,000 for each of the fiscal years 1982, 1983, or 1984.

(d) The total amount of appropriations to carry out section 202 of the Rehabilitation Act of 1973 shall not exceed $38,000,000 for fiscal year 1982, $40,500,000 for fiscal year 1983, and $36,000,000 for fiscal year 1984.

(e)(1) No funds are authorized to be appropriated to carry out section 301 of the Rehabilitation Act of 1973 for fiscal year 1982, 1983, or 1984.

(2) The total amount of appropriations to carry out section 302 of such Act shall not exceed $3,200,000 for fiscal year 1982, $3,200,000 for fiscal year 1983, and $3,200,000 for fiscal year 1984.

(3) The total amount of appropriations to carry out section 304 of such Act shall not exceed $27,400,000 for fiscal year 1982, $29,300,000 for fiscal year 1983, and $33,800,000 for fiscal year 1984.

(4) The total amount of appropriations to carry out section 305 of such Act shall not exceed $2,200,000 for fiscal year 1982, $2,300,000 for fiscal year 1983, and $2,300,000 for fiscal year 1984.

(5) The total amount of appropriations to carry out part B of title III of such Act (other than section 313) shall not exceed $4,800,000 for fiscal year 1982, $5,100,000 for fiscal year 1983, and $5,300,000 for fiscal year 1984.

(6) The total amount of appropriations to carry out section 313 of such Act shall not exceed $3,800,000 for fiscal year 1982, $4,000,000 for fiscal year 1983, and $4,000,000 for fiscal year 1984.

(f) The total amount of appropriations to carry out title IV of the Rehabilitation Act of 1973 shall not exceed $300,000 for each of the fiscal years 1982, 1983, and 1984.

(g)(1) The total amount of appropriations to carry out section 502 of the Rehabilita-

tion act of 1973 shall not exceed $2,800,000 for fiscal year 1982. No funds are authorized to be appropriated to carry out such section for fiscal year 1983 or 1984.

(2) The total amount of appropriations to carry out section 506 of such Act shall not exceed $300,000 for each of the fiscal years 1982, 1983, and 1984.

(h)(1) No funds are authorized to be appropriated to carry out part A of title VI of the Rehabilitation Act of 1973 for fiscal year 1982, 1983, or 1984.

(2) The total amount of appropriations to carry out part B of title VII of the Rehabilitation Act of 1973 shall not exceed $19,400,000 for fiscal year 1982, $20,000,000 for fiscal year 1983, and $15,000,000 for fiscal year 1984.

(i) The total amount of appropriations to carry out part B of title VI of such Act shall not exceed $11,400,000 for fiscal year 1982, $12,100,000 for fiscal year 1983, and $12,800,000 for fiscal year 1984.

VOCATIONAL EDUCATION ACT OF 1963

SEC. 5143. The total amount of appropriations to carry out the Vocational Education Act of 1963 shall not exceed $791,200,000 for each of the fiscal years 1982, 1983, and 1984.

YOUTH CONSERVATION CORPS ACT OF 1970

SEC. 5144. No funds are authorized to be appropriated to carry out the Act of August 13, 1970, commonly referred to as the Youth Conservation Corps Act of 1970, for fiscal year 1982, 1983, or 1984.

Subtitle B—Reauthorization of Certain Programs

GENERAL EXTENSION OF AUTHORIZATIONS

SEC. 5211. Subject to the limitations contained in subtitle A of this title, there are authorized to be appropriated for fiscal years 1982, 1983, and 1984 such sums as may be necessary to carry out each of the following provisions of law:

(1) parts C, D, E, and F of the Education of the Handicapped Act;

(2) the Act of September 30, 1950 (Public Law 874, 81st Congress);

(3) the Act of September 23, 1950 (Public Law 815, 81st Congress);

(4) the General Education Provisions Act;

(5) the Indian Education Act;

(6) titles XI, XIV, and XV of the Education Amendments of 1978 and part H of title XIII of the Education Amendments of 1980;

(7) the Adult Education Act;

(8) section 342 of the Education Amendments of 1976;

(9) the Asbestos School Hazards Detection and Control Act;

(10) the Joint Resolution of October 19, 1972 (86 Stat. 907);

(11) the Vocational Education Act of 1963;

(12) the Career Education Incentive Act;

(13) title IV of the Civil Rights Act of 1964;

(14) the Comprehensive Employment and Training Act;

(15) the Library Services and Construction Act;

(16) the Navajo Community College Act and the Tribally Controlled Community College Assistance Act of 1978;

(17) the Rehabilitation Act of 1973;

(18) title VII of the Economic Opportunity Act of 1964;

(19) the Older Americans Act of 1965;

(20) the Domestic Volunteer Service Act of 1973; and

(21) the Alcohol and Drug Abuse Education Act.

Subtitle C—Program Modifications

Chapter 1—AMENDMENTS TO NON-ENTITLEMENT PROGRAMS

Subchapter A—Social Service Block Grants

SHORT TITLE

SEC. 5311. This subchapter may be cited as the "Social Services Block Grant Act".

FINDINGS

SEC. 5312. The Congress finds and declares that—

(1) during the past 20 years, the Federal Government has established numerous programs to assist each State, its local governments and private service organizations, to provide social services to its citizens;

(2) with the growth in the number of Federal assistance programs and in the associated requirements imposed upon recipients, Federal decisions have displaced State and local determinations of what services, in what amounts, are required by the residents of each State;

(3) the proliferation of Federal programs has resulted in substantial inefficiencies in the way services are provided, in burdensome administrative costs, and in spending patterns that frequently do not reflect the priorities and service needs of the residents of the States;

(4) the best use of resources in meeting the social services needs of the Nation requires that the Federal Government support and not displace the State role in determining which services to provide and how best to provide them;

(5) allowing the States substantial flexibility in the use of Federal financial assistance and eliminating many Federal requirements will help insure a proper governmental balance and more effective use of the resources of the Nation; and

(6) this can be accomplished through consolidation of related assistance programs into a single grant, with minimum requirements.

STATEMENT OF PURPOSES

SEC. 5313. (a) The purposes of this subchapter are to consolidate Federal assistance to States for social services into a single grant, to increase State flexibility in using social service grants, and to assist States in—

(1) fostering individual self-sufficiency and economic self-support;

(2) preserving families and promoting family stability;

(3) reducing neglect, abuse, or mistreatment of vulnerable persons;

(4) promoting independent living where possible and assuring appropriate institutional care where needed; and

(5) stimulating improved use of public and private resources, including resources available from private nonprofit organizations, in the delivery of social services.

(b) To accomplish the purposes specified in subsection (a), States are authorized to provide social services to individuals and families (particularly those most in need), including child care, day care, services for individuals in foster care, protective services, foster care maintenance payments, adoption assistance payments, emergency room and board, home management and maintenance services, preparation and delivery of meals, health support services, family planning, transportation, rehabilitation, training and related services, employment services, legal services, delinquency prevention services, services to minors in the justice system, information, referral, and counseling services, and such other community and social services as may be appropriate and consistent with the purposes of this subchapter.

(c) Expenditures for accomplishing the purposes specified in subsection (a) may include expenditures for administration (including planning and evaluation) and personnel training and retraining directly related to the provision of services designed to carry out such purposes (including both short-term and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions). Such services shall include conferences or workshops, and training or retraining through grants to nonprofit organizations within the meaning of section 501(c)(3) of the Internal Revenue Code of 1954 or to individuals with social services expertise, or through financial assistance to individuals participating in such conferences, workshops, and training or retraining. The preceding sentence shall apply to all persons involved in the delivery of services under this subchapter.

AUTHORIZATION OF APPROPRIATIONS

SEC. 5314. For the purpose of making grants to States for provision of social services in accordance with the provisions of this subchapter, there are authorized to be appropriated $3,123,000,000 for fiscal year 1982 and each of the 3 succeeding fiscal years.

ALLOTMENTS

SEC. 5315. (a) From the amounts appropriated under section 5314 for any fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to the total amount appropriated as the total amount allotted or obligated to the State or to a grantee within the State (or, in the absence of such an allotment or obligation, the total amount paid, as determined by the Secretary on the basis of claims for payment submitted by the State on or before April 1, 1982) to the State for fiscal year 1981 under authorities specified in section 5323, under the authority for foster care maintenance payments under part A of title IV of the Social Security Act, and for social services in accordance with section 1108(a) of the Social Security Act, bears to the total amount appropriated for payments to all States under such authorities for fiscal year 1981.

PAYMENTS TO STATES

SEC. 5316. (a) The Secretary shall make payments in accordance with section 203 of the Intergovernmental Cooperation Act of 1968 to each State from its allotment under section 5315 for use under this subchapter.

(b) Payments to a State from its allotment for any fiscal year shall be expended by the State in such fiscal year or in the succeeding fiscal year.

(c)(1) A State may transfer not more than 10 percent of its allotment under section 5315 for any fiscal year for its use for such year under other provisions of Federal law providing block grants for support of health services, health promotion and disease prevention activities, or energy assistance (or any combination of such activities).

(2) For fiscal years 1982 and 1983, a State may transfer not more than an amount equal to its pro rata share of $255,000,000 for its use for the fiscal year involved under other provisions of Federal law providing block grants for energy assistance.

(3) Amounts allotted to a State under any provisions of Federal law referred to in this

subsection and transferred by a State for use in carrying out the purposes of this subchapter shall be treated as if they were paid to the State under this subchapter but shall not affect the computation of the allotment of the State under this subchapter. The State shall inform the Secretary of any such transfer of funds.

(d)(1) A State may use a portion of the amounts described in subsection (a) for the purpose of purchasing technical assistance from public or private entities if the State determines that such assistance is required in developing, implementing, or administering programs funded under this subchapter.

(2) In using payments received under this subchapter, a State may, in addition to reallocating funds to units of local government, give consideration to community-based self-help organizations of demonstrated effectiveness.

STATE ADMINISTRATION

SEC. 5317. (a) Prior to expenditure by a State of payments made to it under section 5316 for any fiscal year, the chief executive officer of the State shall report on the intended use of the payments the State is to receive under this subchapter, including information on the types of activities to be supported and the categories or characteristics of individuals to be served. The report shall be made public within the State in such manner as to facilitate comment by any person (including any Federal or other public agency) during development of the report and after its completion. The report shall be revised throughout the year involved as may be necessary to reflect substantial changes in the activities assisted under this subchapter, and any revision shall be subject to the requirements of the preceding sentence.

(b) In addition to expenditures by the State for the purposes described in section 5313, the State may use so much of the amount allotted to it as may be necessary for the costs of administration of the grants made under this subchapter. Such administrative costs may include the cost of planning, operating, evaluating, and conducting fiscal and substantive reviews of the programs supported by grants under this subchapter, and for training directly related to the provision of social services under this subchapter.

LIMITATIONS ON USE OF GRANTS

SEC. 5318. (a) Except as provided in subsection (b), grants made under this subchapter may not be used by the State, or by any other person with which the State makes arrangements to carry out the purposes of this subchapter—

(1) for the purchase or improvement of land, or the purchase, construction, or permanent improvement (other than minor remodeling) of any building or other facility;

(2) for the provision of cash payments for costs of subsistence or for the provision of room and board (other than foster care maintenance payments, adoption assistance payments, costs of subsistence during rehabilitation, room and board provided for a short term as an integral but subordinate part of a social service, or temporary emergency shelters provided as a protective service);

(3) for payment of the wages of any individual as a social service (other than payment of the wages of welfare recipients employed in the provision of child day care services);

(4) for foster care maintenance payments for foster care provided by a public foster care institution which accommodates more than 25 children;

(5) for the provision of medical care (other than family planning services, rehabilitation services, or initial detoxification of an alcoholic or drug dependent individual) unless it is an integral but subordinate part of a social service for which grants may be used under this subchapter;

(6) for social services (except services to an alcoholic or drug dependent individual, or rehabilitation services) provided in, and by employees of, any hospital, skilled nursing facility, intermediate care facility, or prison, to any individual living in such institution;

(7) for public education (other than vocational and other training services for the handicapped, or information and referral activities); or

(8) for the provision of cash payments as a service (except as otherwise provided in this section).

(b) The Secretary may waive the limitations contained in subsection (a)(1) and subsection (a)(5) upon the request of a State for such a waiver if he finds that the request describes extraordinary circumstances to justify the waiver and that permitting the waiver will contribute to the ability of the State to carry out the purposes of this subchapter.

REPORTS AND AUDITS

SEC. 5319. (a) Each State shall prepare reports on its activities under this subchapter. Reports shall be in such form, contain such information, and be of such frequency (but not less often then every 2 years) as the State finds necessary to provide an accurate description of such activities, to secure a complete record of the purposes for which funds were spent, and to determine the extent to which funds were spent consistently with the reports required by section 5317(a). The State shall make copies of the reports required by this section available for public inspection within the State. Copies shall also be provided, upon request, to any interested public agency, and each such agency may provide its views on such reports to the Congress.

(b) Each State shall, not less often than every 2 years, audit its expenditures from amounts received (or transferred for use) under this subchapter. Such State audits shall be conducted by an entity independent of any agency administering activities funded under this subchapter, in accordance with generally accepted accounting principles. Within 30 days following the completion of each audit, the chief executive officer of the State shall submit a copy of such audit to the legislature of the State and to the Secretary. Each State shall repay to the United States amounts found not to have been expended in accordance with this subchapter, or the Secretary may offset such amounts against any other amount to which the State is or may become entitled under this subchapter.

(c) Section 202 of the Intergovernmental Cooperation Act of 1968 shall apply to grants made under this subchapter.

NONDISCRIMINATION PROVISION

SEC. 5320. (a) No person shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this subchapter. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity.

(b) Whenever the Secretary determines that there has been a failure to comply with subsection (a) or an applicable regulation, he shall notify the chief executive officer of the State involved and shall request him to secure compliance. If within a reasonable period of time, not to exceed 60 days, the chief executive officer fails or refuses to secure compliance, the Secretary is authorized to (1) refer the matter to the Attorney General of the United States with a recommendation that an appropriate civil action be instituted; (2) exercise the powers and functions provides by title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, or section 504 of the Rehabilitation Act of 1973, as may be applicable; or (3) take such other action as may be provided by law.

(c) When a matter is referred to the Attorney General pursuant to subsection (b), or whenever he has reason to believe that there has occurred a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

TRAINING AND ONGOING PROJECTS

SEC. 5321. (a)(1) The Secretary is authorized, either directly or through grants to States and public and other nonprofit organizations and agencies or contracts or jointly financed cooperative arrangements with States and public and other organizations and agencies, to provide for training related to the purposes of this subchapter, and for ongoing activities of national or regional significance related to the purposes of this subchapter, which may include operation of a national communications system for the purpose of assisting runaway and homeless youth in communicating with their families and with service providers, operation of a national center to collect and disseminate information on child abuse and neglect, and operation of a national adoption information exchange system to facilitate the adoptive placement of children.

(b) Payments of grants or under contracts or cooperative arrangements under this section may be made in advance or by way of reimbursement, and in such installments, as the Secretary may determine. Such payments shall be made on such conditions as the Secretary finds necessary to carry out the purposes of the grants, contracts, or other arrangements.

DEFINITIONS

SEC. 5322. For purposes of this subchapter:

(1) The term "Secretary" means the Secretary of Health and HIuman Services.

(2) The term "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

REPEALERS

SEC. 5323. The following provisions of law hereby are repealed:

(1) title XX of the Social Security Act;

(2) the Child Abuse Prevention and Treatment Act of 1974;

(3) the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978;

(4) the Runaway and Homeless Youth Act (title III of the Juvenile Justice and Delinquency Prevention Act of 1974); and

(5) titles I, II, III, IV, VI, VII, and IX of the Community Services Act of 1974.

CONFORMING AMENDMENTS TO THE SOCIAL SECURITY ACT

SEC. 5324. (a)(1) Section 1 of the Social Security Act is amended—

(A) by inserting "and" before "(b)" the first place it appears therein; and

(B) by striking out "and (c)" and all that follows through "self-care".

(2) Section 3(a) of the Social Security Act is amended—

(A) by amending paragraph (4) to read as follows:

"(4) in the case of any State, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health and Human Services for the proper and efficient administration of the State plan—

"(A) 75 per centum of so much of such expenditures as are for the training (including both short-term and long-term training at educational institutions through grants to such institutions or by direct finanacial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus

"(B) one-half of the remainder of such expenditures."; and

(B) by striking out paragraph (5).

(3) Section 3(c) of the Social Security Act is repealed.

(b)(1) Section 402(a)(5), 402(a)(13), 402(a)(14), 402(a)(15), 403(a)(3), 403(e), and 406(d) of the Social Security Act, as in effect with respect to Puerto Rico, Guam, and the Virgin Islands, are repealed.

(2) Sections 402(a)(5) and 403(a)(3) of the Social Security Act, as such provisions apply to the several States and the District of Columbia, are made applicable also to Puerto Rico, Guam, and the Virgin Islands.

(3) Section 403(a)(3)(A) of the Social Security Act is amended by inserting "(or, in the case of Puerto Rico, Guam, and the Virgin Islands, 60 per centum)" after "75 per centum".

(4) Section 248(b) of the Social Security Amendments of 1967 is repealed.

(c) Section 402(a)(9) of the Social Security Act is amended by striking out "XVI, XIX, or XX" and inserting in lieu thereof "XVI, or XIX".

(d) Section 402(a)(15) of the Social Security Act is repealed.

(e) Section 403(a)(3) of the Social Security Act is amended—

(1) in subparagraph (B), by striking out "and State programs with respect to which there is Federal financial participation under title XX,";

(2) in subparagraph (C), by striking out the comma and inserting in lieu thereof "; and"; and

(3) in the matter that follows subparagraph (C), by striking out "service described in section 2002(a)(1) of this Act" and inserting in lieu thereof "social services".

(f) Section 403(f) of the Social Security Act is repealed.

(g)(1) Section 1001 of the Social Security Act is amended by striking out "and of encouraging each State" and all that follows through "self-care".

(2) Section 1003(a) of the Social Security Act is amended—

(A) by amending paragraph (3) to read as follows:

"(3) in the case of any State, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health and Human Services for the proper and efficient administration of the State plan—

"(A) 75 per centum of so much of such expenditures as are for the training (including both short-term and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus

"(B) one-half of the remainder of such expenditures."; and

(B) by striking out paragraph (4).

(3) Section 1003(c) of the Social Security Act is repealed.

(h) Section 1108(a) of the Social Security Act is amended in the matter preceding paragraph (1) to read as follows:

"SEC. 1108. (a) The total mount certified by the Secretary of Health and Human Services under titles I, X, XIV, and XVI, and under part A of title IV (exclusive of any amounts on account of services and items to which subsection (b) applies)—".

(i) Section 1115(a) of the Social Security Act is amended—

(1) in the matter preceding paragraph (1), by striking out "XIX, or XX" and inserting in lieu thereof "or XIX";

(2) in paragraph (1), by striking out "1902, 2002, 2003, or 2004" and inserting in lieu thereof "or 1902"; and

(3) in paragraph (2)—

(A) by striking out "1903, or 2002" and inserting in lieu thereof "or 1903"; and

(B) by striking out "or expenditures with respect to which payment shall be made under section 2002,".

(j) Section 1116 of the Social Security Act is amended—

(1) in subsections (a)(1), (b), and (d), by striking out "XIX, or XX" and inserting in lieu thereof "or XIX"; and

(2) in subsection (a)(3), by striking out "1904, or 2003" and inserting in lieu thereof "or 1904".

(k) Section 1124(a) of the Social Security Act is amended—

(1) in paragraph (1), by striking out "XIX, and XX" each place it appears and inserting in lieu thereof "and XIX"; and

(2) in paragraph (2)—

(A) by inserting "or" after the semicolon at the end of subparagraph (B);

(B) by striking out "; or" at the end of subparagraph (C) and inserting a period in lieu thereof; and

(C) by striking out subparagraph (D).

(l) Section 1126(a) of the Social Security Act is amended by striking out "XIX, and XX" and inserting in lieu thereof "and XIX".

(m) Section 1128(a) of the Social Security Act is amended—

(1) in paragraph (2)(A), by striking out "or title XX,"; and

(2) in paragraph (2)(B), by striking out "or title XX".

(n)(1) Section 1401 of the Social Security Act is amended by striking out "and of encouraging each State" and all that follows through "self-care".

(2) Section 1403(a) of the Social Security Act is amended—

(A) by amending paragraph (3) to read as follows:

"(3) in the case of any State, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health and Human Services for the proper and efficient administration of the State plan—

"(A) 75 per centum of so much of such expenditures as are for the training (including both short-term and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus

"(B) one-half of the remainder of such expenditures."; and

(B) by striking out paragraph (4).

(3) Section 1403(c) of the Social Security Act is repealed.

(o)(1) Section 1601 of the Social Security Act is amended—

(A) by inserting "and" before "(b)" the first place it appears; and

(B) by striking out "and (c)" and all that follows through "self-care,".

(2) Section 1603(a) of the Social Secutity Act is amended—

(A) by amending paragraph (4) to read as follows:

"(4) in the case of any State, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health and Human Services for the proper and efficient administration of the State plan—

"(A) 75 per centum of so much of such expenditures as are for the training (including both short-term and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus

"(B) one-half of the remainder of such expenditures."; and

(B) by striking out paragraph (5).

(3) Section 1603(c) of the Social Security Act if repealed.

(p) Section 1616(e)(2) of the Social Security Act is amended by striking out ", as a part of the services program planning procedures established pursuant to section 2004 of this Act,".

(q) Section 1619 of the Social Security Act is amended—

(1) by striking out "titles XIX and XX" each place it appears and inserting in lieu thereof "title XIX"; and

(2) by striking out "title XIX or XX" and inserting in lieu thereof "title XIX".

(r) Section 1620(c) of the Social Security Act is amended—

(1) in paragraph (3), by striking out "titles XIX and XX" and inserting in lieu thereof "title XIX";

(2) by amending paragraph (6) to read as follows:

"(6) describes the manner in which the medical and social services involved are to be provided, and specifies the particular mechanisms and procedures to be used in providing such services (or, with respect to medical services, specifies that they are to be provided through the State's medical assistance program under title XIX, with the Federal payments being made under subsection (d) of this section rather than under that title); and"; and

(3) by striking out the matter following the end of paragraph (7).

(s)(1) Section 1902(a)(10)(A) of the Social Security Act is amended by inserting before the semicolon "or who is an individual specified in subsection (j)".

(2) Section 1902 of the Social Security Act is amended by adding at the end the following new subsection:

"(j) Individuals specified in section 1902(a)(10)(A) shall include every individual—

"(1) in the case of a child on whose behalf foster care maintenance payments are being made under any program administered by or administered under the supervision of the State—

"(A) who would meet the requirements of section 406(a) or of section 407 but for his removal from the home of a relative specified in section 406(a), and

"(B) whose removal from the home occurred pursuant to a voluntary placement agreement entered into by the child's parent or legal guardian or was the result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child, and

"(C)(i) who received aid under the State plan approved under section 402 in or for the month in which such agreement was entered into or court proceedings leading to the removal of the child from the home were initiated,

"(ii) who would have received such aid in or for such month if application had been made therefor, or

"(iii) who had been living with a relative specified in section 406(a) within six months prior to the month in which such agreement was entered into or such proceedings were initiated, and would have received such aid in or for such month if in such month he had been living with such a relative and application therefor had been made; and

"(2) in the case of a child on whose behalf adoption assistance payments are being made under any program administered by or administered under the supervision of the State—

"(A) who but for adoption would meet the requirements specified in paragraph (1), or

"(B) who but for adoption would meet the requirements of title XVI with respect to eligibility for supplemental security income benefits.".

OTHER CONFORMING AMENDMENTS

SEC. 5325. (a) Section 3(f) of the Social Security Amendments of 1974 is repealed.

(b) Section 50B(i) of the Internal Revenue Code of 1954 is amended by striking out "pursuant to section 2007 of the Social Security Act" and inserting in lieu thereof "to the State under the Social Services Block Grant Act".

(c)(1) Section 202(b)(2) of the Mental Health Systems Act is amended by striking out "titles IV" and all that follows through the end thereof and inserting in lieu thereof "title V, XVIII, and XIX of the Social Security act and under the United States Housing Act, the Comprehensive Employment and Training Act, the Older Americans Act of 1965, and other Federal and State statutes.".

(2) Section 203(b) of the Mental Health Systems Act is amended by striking out "title IV" and all that follows through the end thereof and inserting in lieu thereof "titles V, XVIII, and XIX of the Social Security Act and under the Education for All Handicapped Children Act of 1975 and other Federal and State statutes.".

(3) Section 204(a)(2)(B) of the Mental Health Systems Act is amended by striking out "XIX, and XX" and inserting in lieu thereof "and XIX".

(4) Section 302(2)(K) of the Mental Health Systems Act is amended by striking out "titles IV" and all that follows through "and under".

(d) Section 201(b) of the Indian Child Welfare Act of 1978 is amended—

(1) in the first sentence, by striking out "titles IV-B and XX" and inserting in lieu thereof "title IV-B"; and

(2) in the second sentence, by striking out "titles IV-B and XX" and inserting in lieu thereof "title IV-B".

(e)(1) The first sentence of section 507 of the Rehabilitation Act of 1973 is amended by striking out all that follows "composed of" and inserting in lieu thereof "the Secretary of Health and Human Services, the Secretary of Education, the Secretary of Labor, the Attorney General, the Director of the Office of Personnel Management, the Chairman of the Equal Employment Opportunity Commission, and any other person designated by the President.".

(2) The third sentence of that section is amended to read as follows: "On or before July 1 of every other year, the Council shall transmit to the President and to the Congress a report of its activities.".

(f) Section 2(e) of the Randolph-Sheppard Act is repealed.

POVERTY LINE

SEC. 5326. (a) The Office of Management and Budget is authorized to define poverty and to revise the definition of poverty for each year. The Office of Management and Budget shall make and issue such definitions and revisions in a timely manner after consumer price index information becomes available.

(b) Any references in statutes or regulations in effect on the effective date of this subchapter to section 624 of the Economic Opportunity Act of 1964 shall be considered to be references to subsection (a) of this section.

TRANSITION PROVISIONS

SEC. 5327. (a) The Director of the Office of Management and Budget shall assume the responsibilities of the Director of the Community Services Administration, is authorized to provide for the termination of the affairs of the Community Services Administration and any other entities terminated by section 5323(a)(7), and shall provide for the transfer or other disposition of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with implementation of the authorities terminated by section 5323(a)(7) as necessary to effectuate the purposes of this subchapter.

(b) The provisions of subsection (a) shall take effect 90 days after the date of the enactment of this Act or, if earlier, October 1, 1981.

EFFECTIVE DATE

SEC. 5328. Except as otherwise provided in this subchapter, the provisions of this subchapter, and the repeals and amendments made by this subchapter, shall take effect on October 1, 1981.

Subchapter B—Consolidation of Education Programs

SHORT TITLE

SEC. 5341. This subchapter be cited as the "Education Consolidation and Improvement Act of 1981".

PART I—FINANCIAL ASSISTANCE TO MEET SPECIAL EDUCATIONAL NEEDS OF CHILDREN

DECLARATION OF POLICY

SEC. 5343. The Congress declares it to be the policy of the United States to continue to provide financial assistance to State and local educational agencies to meet the special needs of educationally deprived children, on the basis of entitlements calculated under title I of the Elementary and Secondary Education Act of 1965, but to do so in a manner which will eliminate burdensome and unproductive paperwork and free the schools of Federal supervision, direction, and control. Further, the Congress recognizes the special educational needs of children of low-income families, and that concentrations of such children in local educational agencies adversely affect their ability to provide educational programs which will meet the needs of such children, and finds that Federal assistance for this purpose will be more effective if education officials, principals, teachers, and supporting personnel are freed from detailed regulations and administrative burdens which are not necessary for fiscal accountability and make no contribution to the instructional program.

DURATION OF ASSISTANCE

SEC. 5344. During the period beginning October 1, 1982, and ending September 30 1987, the Secretary shall, in accordance with the provisions of this part, make payments to State educational agencies for grants made on the basis of entitlements created under title I of the Elementary and Secondary Education Act of 1965 and calculated in accordance with provisions of that title as in effect on September 30, 1982.

APPLICABILITY OF REPEALED PROVISIONS

SEC. 5345. (a) Except as otherwise provided in this part, the Secretary shall make payments based upon the amount of and eligibility for grants as determined under the following provisions of title I of the Elementary and Secondary Education Act in effect on September 30, 1982:

(1) Part A—"Programs Operated by Local Education Agencies":

(A) Subpart 1—"Basic Grants"; and

(B) Subpart 2—"Special Grants".

(2) Part B—"Programs Operated by State Agencies":

(A) Subpart 1—"Programs for Migratory Children";

(B) Subpart 2—"Programs for Handicapped Children";

(C) Subpart 3—"Programs for Neglected and Delinquent Children"; and

(D) Subpart 4—"General Provisions for State Operated Programs".

(b) The Secretary, in making the payments and determinations specified in subsection (a), shall continue to utilize the following provisions of title I of the Elementary and Secondary Education Act as in effect on September 30, 1982:

(1) Part E—"Payments":

(A) Section 191—"Payment Methods";

(B) Section 192—"Amount of Payments to Local Educational Agencies";

(C) Section 193—"Adjustments Where Necessitated by Appropriations"; and

(D) Section 194—"Payments for State Administration", except that paragraph (1) of subsection (a) is amended by striking out "1.5 per centum" and inserting in lieu thereof "1 per centum".

(2) Part F—"General Provisions":

(A) Section 197—"Limitation on Grants to Puerto Rico"; and

(B) Section 198—"Definitions" and conforming amendments to other Acts, except that only those definitions applicable to this subchapter shall be used.

AUTHORIZED PROGRAMS

SEC. 5346. (a) State and local educational agencies shall use the payments under this part for programs and projects (including the acquisition of equipment and, where necessary, the construction of school facilities) which are designed to meet the special educational needs of educationally deprived children.

(b) State agency programs shall be designed to serve those categories of children counted for eligibility for grants under section 5345(a)(2) in accordance with the requirements of this part.

(c) A local education agency may use funds received under this part only for programs and projects which are designed to meet the special educational needs of educationally deprived children identified in accordance with section 5347(a)(2), and which are included in an application for assistance approved by the State educational agency. Such programs and projects may include the acquisition of equipment and instructional materials, employment of special instructional and counseling and guidance personnel, employment and training of teacher aides, payments to teachers of amounts in excess of regular salary schedules as a bonus for service in schools serving project areas, the training of teachers, the construction, where necessary, of school facilities, other expenditures authorized under title I of the Elementary and Secondary Education Act as in effect September 30, 1982 and planning for such programs and projects.

APPROVAL OF APPLICATIONS

SEC. 5347. (a) A local educational agency may receive a grant under this part for any fiscal year if it has on file with the State educational agency an application which describes the programs and projects to be conducted with such assistance for a period of not more than three years, and such application has been approved by the State educational agency.

(b) The application described in subsection (a) shall be approved if it provides assurances satisfactory to the State educational agency that the programs and projects described—

(1)(A) are conducted in attendance areas of such agency having the highest concentrations of children from low-income families; or

(B) are located in all attendance areas of an agency which has a uniformly high concentration of such children; or

(C) are designed to utilize part of the available funds for services which promise to provide significant help for all such children served by such agency;

(2) are based upon an annual assessment of educational needs which identifies educationally deprived children in all eligible attendance areas, permits selection of those who have the greatest need for special assistance, and determines the needs of participating children with sufficient specificity to ensure concentration on those needs;

(3) are of sufficient size, scope, and quality to give reasonable promise of substantial progress toward meeting the special educational needs of the children being served and are designed and implemented in consultation with parents and teachers of such children;

(4) will be evaluated in terms of their effectiveness in achieving the goals set for them, and that such evaluations shall include objective measurements of educational achievement in basic skills and a determination of whether improved performance is sustained over a period of more than one year; and

(5) make provision for services to educationally deprived children attending private elementary and secondary schools in accordance with section 5348.

PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS

SEC. 5348. (a) GENERAL REQUIREMENTS.—To the extent consistent with the number of educationally deprived children in the school district of the local educational agency who are enrolled in private elementary and secondary schools, such agency shall make provisions for including special educational services and arrangements (such as dual enrollment, educational radio and television, and mobile educational services and equipment) in which such children can participate and which meet the requirements of sections 5346(c), 5347(b) (2), (3), and (4), and 5349(c). Expenditures for educational services and arrangements pursuant to this section for educationally deprived children in private schools shall be equal (taking into account the number of children to be served and the special educational needs of such children) to expenditures for children enrolled in the public schools of the local educational agency.

(b) BYPASS PROVISION.—(1) If a local educational agency is prohibited by law from providing for the participation in special programs for educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), the Secretary shall waive such requirements, and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a).

(2) If the Secretary determines that a local educational agency has substantially failed to provide for the participation on an equitable basis of educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), he shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a), upon which determination the provisions of subsection (a) shall be waived.

(3)(A) When the Secretary arranges for services pursuant to this subsection, he shall, after consultation with the appropriate public and private school officials, pay to the provider the cost of such services, including the administrative cost of arranging for such services, from the appropriate allocation or allocations under this part.

(B) Pending final resolution of any investigation or complaint that could result in a determination under this subsection, the Secretary may withhold from the allocation of the affected State or local educational agency the amount he estimates would be necessary to pay the cost of such services.

(C) Any determination by the Secretary under this section shall continue in effect until the Secretary determines that there will no longer be any failure or inability on the part of the local educational agency to meet the requirements of subsection (a).

(4)(A) The Secretary shall not take any final action under this subsection until the State educational agency and local educational agency affected by such action have had an opportunity, for at least forty-five days after receiving written notice thereof, to submit written objections and to appear before the Secretary or his designee to show cause why such action should not be taken.

(B) If a State or local educational agency is dissatisfied with the Secretary's final action after a proceeding under subparagraph (A) of this paragraph, it may within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(C) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(D) Upon the filing of a petition under subparagraph (B), the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgement of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(5) Any bypass determination by the Secretary under title I of the Elementary and Secondary Education Act of 1965 prior to the effective date of this subchapter shall remain in effect to the extent consistent with the purposes of this part.

GENERAL PROVISIONS

SEC. 5349. (a) MAINTENANCE OF EFFORT.—(1) Except as provided in paragraph (2), a local educational agency may receive funds under this part for any fiscal year only if the State educational agency finds that either the combined fiscal effort per student or the aggregate expenditures of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was not less than 90 per centum of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

(2) The State educational agency shall reduce the amount of the allocation of funds under this part in any fiscal year in the exact proportion to which a local educational agency fails to meet the requirement of paragraph (1) by falling below 90 per centum of both the combined fiscal effort per student and aggregate expenditures (using the measure most favorable to such local agency), and no such lesser amount shall be used for computing the effort required under paragraph (1) for subsequent years.

(3) The State educational agency may waive, for one fiscal year only, the requirements of this subsection if it determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency.

(b) FEDERAL FUNDS TO SUPPLEMENT, NOT SUPPLANT REGULAR NON-FEDERAL FUNDS.—A local educational agency may use funds re-

ceived under this part only so as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of pupils participating in programs and projects assisted under this part, and in no case may such funds be so used as to supplant such funds from such non-Federal sources, except that this subsection shall not be construed to require the provision of services to eligible children outside the regular classroom or school program.

(c) COMPARABILITY OF SERVICES.—(1) A local educational agency may receive funds under this part only if State and local funds will be used in the district of such agency to provide services in project areas which, taken as a whole, are at least comparable to services being provided in areas in such district which are not receiving funds under this part. Where all school attendance areas in the district of the agency are designated as project areas, the agency may receive such funds only if State and local funds are used to provide services which, taken as a whole, are substantially comparable in each project area.

(2) A local educational agency shall be deemed to have met the requirements of paragraph (1) if it has filed with the State educational agency a written assurance that it has established—

(A) a districtwide salary schedule;

(B) a policy to ensure equivalence among schools in teachers, administrators, and auxiliary personnel; and

(C) a policy to ensure equivalence among schools in the provision of curriculum materials and instructional supplies.

Unpredictable changes in student enrollments or personnel assignments which occur after the beginning of a school year shall not be included as a factor in determining comparability of service.

(d) EXCLUSION OF SPECIAL STATE AND LOCAL PROGRAM FUNDS.—For the purposes of determining compliance with the requirements of subsections (b) and (c) a local educational agency may exclude State and local funds expended for carrying out special programs to meet the educational needs of educationally deprived children, if such programs are consistent with the purposes of this part.

(e) ALLOCATION OF FUNDS IN CERTAIN STATES.—In any State in which a large number of local educational agencies overlap county boundaries, the State educational agency is authorized to make allocations of basic grants and special incentive grants directly to local educational agencies without regard to counties, if such allocations were made during the fiscal year ending September 30, 1982, and if precisely the same factors are used to determine the amount of such grants to counties. Any local educational agency dissatisfied with such determination shall be afforded an opportunity for a hearing on the matter by the State educational agency.

PART II—CONSOLIDATION OF FEDERAL PROGRAMS FOR ELEMENTARY AND SECONDARY EDUCATION

STATEMENT OF PURPOSE

SEC. 5351. (a)(1) It is the purpose of this part to consolidate the program authorizations contained in titles II through VI and VIII and IX of the Elementary and Secondary Education Act of 1965, and supporting authorizations contained in other Acts, into a single authorization of grants to States for the same purposes set forth in those titles, but to be used in accordance with the educational needs and priorities of State and local educational agencies as determined by such agencies. Further, it is the purpose and intent of Congress to financially assist State and local educational agencies to improve elementary and secondary education (including preschool education) for children attending both public and private schools, and to do so in a manner designed to greatly reduce the enormous administrative and paperwork burden imposed on schools at the expense of their ability to educate children.

(2) The basic responsibility for the administration of funds made available under this part is vested in the State educational agencies, but it is the intent of Congress that this responsibility be carried out with a minimum of paperwork and that the responsibility for the design and implementation of programs assisted under this part shall be mainly that of local boards of education, school superintendents and principals, and classroom teachers and supporting personnel, because they have the most direct contact with students and are most directly responsible to parents.

AUTHORIZATION OF APPROPRIATIONS

SEC. 5352. There is hereby authorized to be appropriated for the fiscal year 1983, and for each of the four succeeding fiscal years, such sums as may be necessary to carry out the purposes of this part.

ALLOTMENTS TO STATES

SEC. 5353. (a)(1) From the sums appropriated to carry out this part in any fiscal year, the Secretary shall reserve not to exceed 1 per centum for payments to Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, to be allotted in accordance with their respective needs. The Secretary shall reserve an additional amount, not to exceed 5 per centum of the sums appropriated, to carry out the purposes of section 5367. From the remainder of such sums the Secretary shall allot to each State an amount which bears the same ratio to the amount of such remainder as the school-age population of the States bears to the school-age population of the United States, except that no State shall receive less than an amount equal to 0.4 percent of the amount of such remainder.

(2) For the purposes of this section:

(A) The term "school-age population" means the population aged five through seventeen.

(B) The terms "States" and "United States" includes the fifty States, the District of Columbia, and Puerto Rico.

STATE APPLICATIONS

SEC. 5354. (a) Any State which desires to receive grants under this part shall file an application with the Secretary which—

(1) designates the State educational agency as the State agency responsible for the administration and supervision of programs assisted under this part;

(2) provides for a process of active and continuing consultation with the State educational agency of an advisory committee, appointed by the Governor and determined by the Governor to be broadly representative of the educational interests and the general public in the State, including persons representative of—

(A) public and private elementary and secondary schoolchildren;

(B) classroom teachers;

(C) parents of elementary and secondary schoolchildren;

(D) local boards of education;

(E) local school administrators (including principals and superintendents);

(F) institutions of higher education;

(G) the State legislature, and

to advise the State educational agency on the allocation among authorized functions of those funds (not to exceed 20 per centum of the amount of the State grant) reserved for State use under section 5355(a), on the formula for the allocation of funds to local educational agencies, and on the planning, development, support, implementation, and evaluation of State programs assisted under this part;

(3) sets forth the planned allocation of funds among subparts A, B, and C of this part and among the authorized programs and projects which are to be implemented, and the allocation of such funds required to implement section 5366, including administrative costs of carrying out the responsibilities of the State educational agency programs;

(4) provides for timely public notice and dissemination of the information provided pursuant to paragraphs (2) and (3);

(5) beginning with fiscal year 1985, provides for an annual evaluation of the effectiveness of programs assisted under this part, which shall include comments of the advisory committee, and shall be made available to the public; and

(6) contains assurances that there is compliance with the specific requirements of this part.

(b) An application filed by the State under subsection (a) shall be for a period not to exceed three fiscal years, and may be amended annually as may be necessary to reflect changes without filing a new application.

ALLOCATION TO LOCAL EDUCATIONAL AGENCIES

SEC. 5355. (a) From the sums made available each year under section 5353, the State educational agencies within such State according to the relative enrollments in public and nonpublic schools within the school districts of those agencies, adjusted, in accordance with criteria approved by the Secretary, to provide higher per pupil allocations to local educational agencies which have the greatest numbers of percentages of children whose education imposes a higher than average cost per child, such as—

(1) children from low-income families, and

(2) children living in sparsely populated areas.

(b) The Secretary shall approve criteria proposed by the State educational agency for adjusting allocations under subsection (a) if such criteria are reasonably calculated to produce an equitable distribution of funds with references to the factors set forth in subsection (a).

(c) From the funds paid to it pursuant to sections 5353 and 5354 during each fiscal year, the State educational agency shall distribute to each local educational agency which has submitted an application as required in section 5356 the amount of its allocation as determined under subsection (a).

LOCAL APPLICATIONS

SEC. 5356. (a) A local educational agency may receive its allocation of funds under this part for any year in which it has on file with the State educational agency an application, which—

(1) sets forth the planned allocation of funds among subparts A, B, and C of this part and for the programs authorized by such parts which it intends to support, including the allocation of such funds required to implement section 5366;

(2) provides assurances of compliance with provisions of this part relating to such programs, including the participation of children enrolled in private, nonprofit schools in accordance with section 5366;

(3) agrees to keep such records, and provide such information to the State educational agency as reasonably may be required for fiscal audit and program evaluation, consistent with the responsibilities of the State agency under this part; and

(4) in the allocation of funds for programs authorized by this part, and in the design, planning, and implementation of such programs, provides for systematic consultations with parents of children attending elementary and secondary schools in the area served by the local agency, with teachers and administrative personnel in such schools, and with other groups as may be deemed appropriate by the local educational agency.

(b) An application filed by a local educational agency under subsection (a) shall be for a period not to exceed three fiscal years, may provide for the allocation of funds among programs and purposes authorized by this part for a period of three years, and may be amended annually as may be necessary to reflect changes without filing a new application.

(c) Local educational agencies shall have complete discretion, subject only to the provisions of this part, in determining how funds they receive under this section shall be divided among the purposes of this part in accordance with the application submitted under this section.

Subpart A—Basis Skill Development Programs and Projects Authorized

SEC. 5357. Funds allocated for use under this subpart shall be used by State and local educational agencies to develop and implement a comprehensive and coordinated program designed to improve elementary and secondary school instruction in the basic skills of reading, mathematics, and written and oral communication, as formerly authorized by title II ("Basic Skills Improvement") of the Elementary and Secondary Education Act.

STATE LEADERSHIP AND SUPPORT SERVICES

SEC. 5358. (a) In order to achieve the purposes of this subpart, State educational agencies may use funds reserved for State programs to make grants to and enter into contracts with local educational agencies, institutions of higher education, and other public and private agencies, organizations, and institutions to carry out planning, research and development, demonstration projects, training of leadership personnel, short term and regular session teaching training institutes, and for the development of instructional materials, the dissemination of information, and technical assistance to local educational agencies.

(b) State educational agencies may support activities designed to enlist the assistance of parents and volunteers working with schools to improve the performance of children in the basic skills. Such activities may include—

(1) the development and dissemination of materials that parents may use in the home to improve their children's performance in those skills; and

(2) voluntary training activities for parents to encourage and assist them to help their children in development basic skills,

but such activities conducted in local areas shall be with the approval of and in conjunction with programs of local educational agencies.

SCHOOL LEVEL PROGRAMS

SEC. 5359. (a) In planning for the utilization of funds it allocates for this subpart (from its allotment under section 5355) a local educational agency shall provide for the participation of children enrolled in private elementary and secondary schools (and of teachers in such schools) in accordance with section 5366. Such plans shall be developed in conjunction with and involve continuing consultation with teachers and principals in such district. Such planning shall include a systematic strategy for improving basic skills instruction for all children which provides for planning and implementation at the school building level, involving teachers, administration, and (to the extent practicable) parents, and utilizing all available resources in a comprehensive program. Such programs shall include—

(1) diagnostic assessment to identify the needs of all children in the school;

(2) the establishment of learning goals and objectives for children and for the school;

(3) to the extent practicable, pre-service and in-service training and development programs for teachers, administrators, teachers aides and other support personnel, designed to improve instruction in the basic skills;

(4) activities designed to enlist the support and participation of parents to aid in the instruction of their children; and

(5) procedures for testing students and for evaluation of the effectiveness for programs for maintaining a continuity of effort for individual children.

(b) Such programs may include such areawide or districtwide activities as learning centers accessible to students and parents, demonstration and training programs for parents, and other activities designed to promote more effective instruction in the basic skills.

Subpart B—Educational Improvement and Support Services

STATEMENT OF PURPOSE

SEC. 5361. It is the purpose of this subpart to permit State and local educational agencies to use Federal funds (directly, and through grants to or contracts with educational agencies, institutions of higher education, and other public and private agencies, organizations, and institutions) to carry out selected activities from among the full range of programs and projects formerly authorized under title IV ("Educational Improvement, Resources, and Support"), title V ("State Leadership"), and title VI ("Emergency School Aid") of the Elementary and Secondary Education Act of 1965, in accordance with the planned allocation of funds set forth in the applications under sections 5354 and 5355, in conformity with the other requirements of this subpart.

AUTHORIZED ACTIVITIES

SEC. 5362. Programs and projects are authorized involving the following activities—

(1) for the acquisition and utilization—

(A) of school library resources, textbooks, and other printed and published instructional materials for the use of children and teachers in public and private elementary and secondary schools which shall be used for instructional purposes only, and

(B) of instructional equipment and materials suitable for use in providing education in academic subjects for use by children and teachers in elementary and secondary schools which shall be used for instructional purposes only,

which takes into account the needs of children in both public and private schools based upon periodic consultation with teachers, librarians, media specialists, and private school officials;

(2) the development of programs designed to improve local educational practices in elementary and secondary schools, and particularly activities designed to address educational problems such as the education of children with special needs (educationally deprived children, gifted and talented children, and handicapped children, including children in private schools);

(3) programs designed to assist local educational agencies, upon their request, to more effectively address educational problems caused by the isolation or concentration of minority group children in certain schools, but such assistance shall not be conditioned upon any requirement that a local educational agency which assigns students to schools on the basis of geographic attendance areas adopt any other method of student assignment, and such assistance shall not be made available for the transportation of students or teachers or for the acquisition of equipment for such transportation;

(4) comprehensive guidance, counseling, and testing programs in elementary and secondary school and State and local support services necessary for the effective implementation and evaluation of such programs (including those designed to help prepare students for employment); and

(5) programs and projects to improve the planning, management and implementation of educational programs, including fiscal management, by both State and local educational agencies, and the cooperation of such agencies with other public agencies.

Subpart C—Special Projects

STATEMENT OF PURPOSE

SEC. 5363. It is the purpose of this subpart to permit State and local educational agencies to use Federal funds (directly and through grants to or contracts with educational agencies, institutions of higher education, and other public and private agencies, organizations, and institutions) to carry out selected activities from among the full range of programs and projects formerly authorized under title III ("Special Projects"), title VIII ("Community Schools"), and title IX ("Additional Programs") of the Elementary and Secondary Education Act of 1965, and supporting authorizations contained in other Acts, in accordance with the planned allocation of funds set forth in the applications under sections 5354 and 5355, in conformity with the other requirements of this subpart.

PROGRAMS AND PROJECTS

SEC. 5364. Programs and projects are authorized involving the following activities—

(1) special projects (as may be determined to be desirable by the State educational agencies) in such areas as—

(A) preparation of students to use metric weights and measurements when such use is needed;

(B) emphasis on the arts as an integral part of the curriculum;

(C) preschool partnership programs in which the schools work with parents of preschool children in cooperation with programs funded under the Headstart-Follow Through Act;

(D) consumer education;

(E) preparation for employment, the relationship between basic academic skill devel-

opment and work experience, and coordination with youth employment programs carried out under the Comprehensive Employment and Training Act;

(F) environmental education, health education, education about American systems of law and legal institutions, and studies on population and the effects of population changes;

(G) academic and vocational education of juvenile delinquents, youth offenders, and adult criminal offenders; and

(H) programs to introduce disadvantaged secondary school students to the possibilities of careers in the biomedical and medical sciences, and to encourage, motivate, and assist them in the pursuit of such careers;

(2) the use of public education facilities as community centers operated by a local education agency in conjunction with other local governmental agencies and community organizations and groups to provide educational, recreational, health care, cultural, and other related community and human services for the community served in accordance with the needs, interests, and concerns of the community and the agreement and conditions of the governing board of the local educational agency; and

(3) additional programs, including—

(A) special programs to identify, encourage, and meet the special educational needs of children who give evidence of high performance capability in areas such as intellectual, creative, artistic, leadership capacity, or specific academic fields, and who require services or activities not ordinarily provided by the school in order to fully develop such capabilities;

(B) establishment of educational proficiency standards for reading, writing, mathematics, or other subjects, the administration of examinations to measure the proficiency of students, and implementation of programs (coordinated with those under subpart A of this part) designed to assist students in achieving levels of proficiency compatible with established standards;

(C) programs designed to ensure equity for women in educational opportunities at all educational levels (including adult women who desire further education or are unemployed or underemployed);

(D) programs designed to promote safety in the schools and to reduce the incidence of crime and vandalism in the school environment;

(E) planning, developing, and implementing ethnic heritage studies programs to provide all persons with an opportunity to learn about and appreciate the unique contributions to the American national heritage made by the various ethnic groups, and to enable students better to understand their own cultural heritage as well as the cultural heritage of others;

(F) the Pre-college Teacher Development in Science program administered by the Secretary under the National Science Foundation Act of 1950;

(G) the Teacher Center program under section 532 of the Higher Education Act and the Teacher Corps program under part A of title V of the Higher Education Act of 1965 (except evaluation activities); and

(H) programs involving training and advisory services under title IV of the Civil Rights Act of 1964.

Subpart D—General Provisions

MAINTENANCE OF EFFORT; FEDERAL FUNDS SUPPLEMENTARY

SEC. 5365. (a)(1) Except as provided in paragraph (2), a State is entitled to receive its full allocation of funds under this subpart for any fiscal year if the Secretary finds that either the fiscal effort per student or the aggregate expenditures within the State with respect to the provision of free, public education for the preceding fiscal year was not less than 90 per centum of such combined fiscal effort per student or aggregate expenditures for the second preceding fiscal year.

(2) The Secretary shall reduce the amount of the allocation of funds under this subpart in any fiscal year in the exact proportion to which the State fails to meet the requirements of paragraph (1) by falling below 90 per centum of both the fiscal effort per student and aggregate expenditures (using the measure most favorable to the State), and no such lesser amount shall be used for computing the effort required under paragraph (1) for subsequent years.

(3) The Secretary may waive, for one fiscal year only, the requirements of this subsection if he determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State.

(b) A State or local educational agency may use and allocate funds received under this subpart only so as to supplement and, to the extent practical, increase the level of funds that would, in the absence of Federal funds made available under this subpart, be made available from non-Federal sources, and in no case may such funds be used so as to supplant funds from non-Federal sources.

(c) The Secretary is specifically authorized to issue regulations to enforce the provisions of this section.

PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS

SEC. 5366. (a)(1) To the extent consistent with the number of children in the school district of a local educational agency which is eligible to receive funds under this subpart or which serves the area in which funds are made available for programs or projects assisted under this subpart is located who are enrolled in private nonprofit elementary and secondary schools, or with respect to instructional or personnel training programs funded by the State educational agency from funds reserved for the State under section 5355, such agency, after consultation with appropriate private school officials, shall provide for the benefit of such children in such schools secular, neutral, and nonideological services, materials, and equipment including the participation of the teachers of such children (and other educational personnel serving such children) in training programs, and the repair, minor remodeling, or construction of public facilities as may be necessary for their provision (consistent with subsection (c) of this section), or, if such service, materials, and equipment are not feasible or necessary in one or more such private schools as determined by such agency after consultation with the appropriate private school officials, shall provide such other arrangements as will assure equitable participation of such children in the purposes and benefits of this subpart.

(2) If no program or project is carried out under this subpart in the school district of a local educational agency, the State educational agency shall make arrangements, such as through contracts with nonprofit agencies or organizations, under which children in private schools in that district are provided with services and materials under this subpart to the extent that would have occurred if the local educational agency had received funds under this subpart.

(3) The requirements of this section relating to the participation of children, teachers, and other personnel serving such children shall apply to programs and projects carried out under this part by a State or local educational agency, whether directly or through grants to or contracts with other public or private agencies, institutions, or organizations.

(b) Expenditures for programs pursuant to subsection (a) shall be equal (consistent with the number of children to be served) to expenditures for programs under this subpart for children enrolled in the public schools of the local educational agency, taking into account the needs of the individual children and other factors which relate to such expenditures, and when funds available to a local educational agency under this subpart are used to concentrate programs or projects on a particular group, attendance area, or grade or age level, children enrolled in private schools who are included within the group, attendance area, or grade or age level selected for such concentration shall, after consultation with the appropriate private school officials, be assured equitable participation in the purposes and benefits of such programs or projects.

(c)(1) The control of funds provided under this subpart and title to materials, equipment, and property repaired, remodeled, or constructed therewith shall be in a public agency for the uses and purposes provided in this subpart, and a public agency shall administer such funds and property.

(2) The provision of services pursuant to this section shall be provided by employees of a public agency or through contract by such public agency with a person, an association, agency, or corporation who or which, in the provision of such services, is independent of such private school and of any religious organizations, and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this subpart shall not be commingled with State or local funds.

(d) If by any provision of law a State or local educational agency fails or refuses to provide for the participation in programs of children enrolled in private elementary and secondary schools, as required by this section, the Secretary shall waive such requirements and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

(e)(1) If the Secretary determines that a State or a local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of children enrolled in private elementary and secondary schools as required by this section, he may waive such requirements and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

(2) Pending final resolution of any investigation or complaint that could result in a determination under this subsection or subsection (d), the Secretary may withhold from the allocation of the affected State or local educational agency the amount he estimated would be necessary to pay the cost of those services.

(f) Any determination by the Secretary under this section shall continue in effect until the Secretary determines that there will no longer be any failure or inability on

the part of the State or local educational agency to meet the requirements of subsections (a) and (b).

(g) When the Secretary arranges for services pursuant to this section, he shall, after consultation with the appropriate public and private school officials, pay the cost of such services, including the administrative costs of arranging for those services, from the appropriate allotment of the State under this subpart.

(h)(1) The Secretary shall not take any final action under this section until the State educational agency and the local educational agency affected by such action have had an opportunity, for at least forty-five days after receiving written notice thereof, to submit written objections and to appear before the Secretary or his designee to show cause why that action should not be taken.

(2) If a State or local educational agency is dissatisfied with the Secretary's final action after a proceeding under paragraph (1) of this subsection, it may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which he based this action, as provided in section 2112 of title 28, United States Code.

(3) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(4) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(i) Any bypass determination by the Secretary under titles II through VI and VIII and IX of the Elementary and Secondary Education Act of 1965 prior to the effective date of this subchapter shall remain in effect to the extent consistent with the purposes of this subpart.

Subpart E—Secretary's Discretionary Funds

PROGRAMS AND PROJECTS

SEC. 5367. (a) From the sums reserved by the Secretary pursuant to the second sentence of section 5353(a)(1), the Secretary is authorized to carry out directly or through grants to or contracts with State and local educational agencies, institutions of higher education, and other public and private agencies, organizations, and institutions, programs and projects which—

(1) provide a national source for gathering and disseminating information on the effectiveness of programs designed to meet the special educational needs of educationally deprived children, children of limited English proficiency, and other individuals served by this subchapter, and for assessing the needs of such individuals;

(2) carry out research and demonstrations related to the purposes of this subchapter;

(3) are designed to improve the training of teachers and other instructional personnel needed to carry out the purposes of this subchapter; or

(4) are designed to assist State and local educational agencies in the implementation of programs under this subchapter.

(b) From the funds reserved for the purposes of this section, the Secretary shall first fund the inexpensive book distribution program (as carried out through "Reading Is Fundamental"), the special mathematics program, the national programs of arts in education, the national diffusion network, the Women's Educational Equity Act programs, as formerly authorized by part C of title II, part C of title III, and section 376 of title III, and part C of title IX of the Elementary and Secondary Education Act of 1965, respectively, at least in amounts necessary to sustain these activities at the level of operations during fiscal year 1981, and then utilize the remainder of such funds for other authorized activities.

PART III—GENERAL PROVISIONS

FEDERAL REGULATIONS

SEC. 5371. (a) The Secretary is authorized to issue regulations—

(1) relating to the discharge of duties specifically assigned to the Secretary under this subchapter;

(2) relating to proper fiscal accounting for funds appropriated under this Act and the method of making payments authorized under this subchapter; and

(3) which are deemed necessary to reasonably insure that there is compliance with the specific requirements and assurances required by this subchapter.

(b) In all other matters relating to the details of planning, developing, implementing, and evaluating programs and projects by State and local educational agencies the Secretary shall not issue regulations, but may consult with appropriate State, local, and private educational agencies and, upon request, provide technical assistance, information, and suggested guidelines designed to promote the development and implementation of effective instructional programs and to otherwise assist in carrying out the purposes of this subchapter.

(c) Regulations issued pursuant to this subchapter shall not have the standing of a Federal statute for the purposes of judicial review.

WITHHOLDING OF PAYMENTS

SEC. 5372. (a) WITHHOLDING.—Whenever the Secretary after reasonable notice to any State educational agency and an opportunity for a hearing on the record, finds that there has been a failure to comply substantially with any assurances required to be given or conditions required to be met under this subchapter the Secretary shall notify such agency of these findings and that beginning sixty days after the date of such notification, further payments will not be made to the State under this subchapter, or the affected title thereof (or, in his discretion, that the State educational agency shall reduce or terminate further payments under the Act or the affected title thereof, to specified local educational agencies or State agencies affected by the failure) until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, (1) no further payments shall be made to the State under the Act or affected title thereof, or (2) payments by the State educational agency under the Act or affected title thereof shall be limited to local educational agencies and State agencies not affected by the failure, or (3) payments to particular local educational agencies shall be reduced, as the case may be.

(b) NOTICE TO PUBLIC OF SECRETARY WITHHOLDING.—Upon submission to a State of a notice under subsection (a) that the Secretary is withholding payments, the Secretary shall take such action as may be necessary to bring his action to the attention of the public within the State.

JUDICIAL REVIEW

SEC. 5373. (a) FILING APPEALS.—If any State is dissatisfied with the Secretary's action under section 5372(a), such State may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The filing of such petition shall act to suspend any withholding of funds by the Secretary pending the judgment of the court and prior to a final action on any review of such judgment. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(b) BASIS OF REVIEW.—A State educational agency shall be presumed to have complied with this subchapter, but the findings of fact by the Secretary, if supported by the weight of evidence, may overcome such presumption. The court may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings.

(c) JUDICIAL APPEALS.—Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

DEFINITIONS

SEC. 5374. (a) Except as otherwise provided herein, as used in this subchapter—

(1) the term "State" means a State, Puerto Rico, Guam, the District of Columbia, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands;

(2) the term "Secretary" means the Secretary of Education;

(3) the term "State educational agency" means the officer or agency primarily responsible for the State supervision of public elementary and secondary schools;

(4) the term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary and secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school;

(5) the term "parent" includes a legal guardian or other person standing in loco parentis;

(6) the term "free public education" means education which is provided at public expense, under public supervision and direction, and without tuition charge, and which is provided as elementary or secondary school education in the applicable State, except that such term does not include any education provided beyond grade twelve;

(7) the term "elementary school" means a day or residential school which provides elementary education, as determined under State law, and the term "secondary school" means a day or residential school which provides secondary education, as determined under State law, except that it does not include an education provided beyond grade twelve;

(8) the term "construction" includes the preparation of drawings and specifications for school facilities; erecting, building, acquiring, altering, remodeling, improving, or extending school facilities; and the inspection and supervision of the construction of school facilities;

(9) the term "equipment" includes machinery, utilities, and building equipment and any necessary enclosure or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including such items such as instructional equipment and necessary furniture, printed, published, and audiovisual instructional materials, and books, periodicals, documents, and other related materials; and

(10) the term "school facilities" means classrooms and related facilities (including initial equipment) for free public education and interests in land (including site, grading, and improvements) on which such facilities are constructed, except that such term does not include those gymnasiums and similar facilities intended primarily for exhibitions for which admission is to be charged to the general public.

(b) Terms used in provisions referred to in section 5345 ("Applicability of repealed provisions") and not defined in this section shall have the same meaning that they were given in title I of the Elementary and Secondary Education Act of 1965 as in effect prior to October 1, 1982.

APPLICATION OF OTHER LAWS

SEC. 5375. Sections 434, 435, and 436 of the General Education Provisions Act (relating to "State Educational Agency Monitoring and Agency Application") shall not apply to programs authorized under this subchapter except to the extent that they relate to fiscal control and fund accounting procedures (including the title to property acquired with Federal funds), and shall not be construed to authorize the Secretary to require any reports or take any actions not specifically authorized by this subchapter.

EFFECTIVE DATE

SEC. 5376. (a) The provisions of this subchapter shall take effect October 1, 1982.

(b)(1) Effective at the close of September 30, 1982, the Elementary and Secondary Education Act of 1965 is hereby repealed.

(2) Effective at the close of September 30, 1982, part A and section 532 of title V of the Higher Education Act of 1965 are hereby repealed.

(c)(1) Funds appropriated in fiscal year 1982 pursuant to authorizations repealed by this section and intended for use in school year 1982 through 1983, shall be utilized in accordance with the provisions of and to carry out the purposes of this subchapter.

(2) Notwithstanding any other provision of law, unless expressly in limitation of this section, funds appropriated for any fiscal year to carry out activities under this subchapter shall become available for obligation on July 1 of such fiscal year and shall remain available for obligation until the end of the succeeding fiscal year.

Subchapter C—Federal Employees Compensation

SHORT TITLE; FINDINGS AND POLICY; GENERAL REFERENCE

SEC. 5391. (a) This subchapter may be cited as the "Federal Employees' Reemployment and Compensation Amendments of 1981".

(b)(1) The Congress finds that few incentives exist under the current provisions of the Federal Employees' Compensation Act to encourage employees who are injured or disabled in the course of their employment to return to gainful work. The Congress further finds that few incentives are provided to employing agencies to seek ways and means to return such employees to gainful work. As a result, the costs of compensation benefits paid to such employees and the costs of productivity lost to the Government have reached unacceptable levels.

(2) The Congress further finds that the effects of the current provisions of the Federal Employees' Compensation Act has been contrary to one of the central principles of workers' compensation, that of protecting workers against wage loss resulting from work-related injury or disability. The wage loss principle, which is intended to pay income benefits only for periods during which there has been an actual reduction or loss of a worker's earnings, needs to be fully restored to the Federal Employees' Compensation Act.

(3) It is, therefore, the policy and purpose of this subchapter to provide the needed incentives that will give the greatest possible encouragement for the return to gainful work of injured or disabled workers and to restore the injured or disabled workers as soon as possible and as near as possible to condition of self-support and maintenance as an able-bodied worker. It is further the policy of this subchapter that Federal employing agencies shall fully participate in and be responsible for achieving these purposes through constructive measures such as occupational safety and health protection programs, timely assistance in the resolution of compensation claims, and maximum reemployment of recovered and rehabilitated workers.

(c) Except as otherwise expressly provided, whenever in this subchapter an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 5 of the United States Code.

DISABILITY BENEFITS; WAITING PERIOD AND ADVANCE COMPENSATION

SEC. 5392. (a)(1) Section 8105(a) is amended by striking out "66⅔ percent of his monthly pay," and inserting in lieu thereof "80 percent of his spendable income,".

(2) Section 8106(a) is amended by striking out "66⅔ percent" and inserting in lieu thereof "80 percent of the spendable income that results when spendable income is computed on the basis".

(3) Section 8101 is amended by striking out "and" at the end of paragraph (19), by striking out the period at the end of paragraph (20) and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraph:

"(21) 'spendable income' means the monthly pay less amounts withheld for purposes of Federal and State income taxes, and less deductions for contributions under section 3102 of the Internal Revenue Code of 1954, if applicable.".

(4)(A) Section 8110 is repealed.

(B) Section 8104(b) is amended by striking out "section 8105s and 8110" and inserting in lieu thereof "section 8105".

(5) Section 8111 is amended—

(A) in subsection (a), by striking out "$500" and inserting in lieu thereof "$850"; and

(B) in subsection (b), by striking out "$200" and inserting in lieu thereof "$350".

(6) Section 8112 is amended by striking out ", including augmented compensation under section 8110 of this title but" and inserting in lieu thereof "under section 8105 or 8196 of this title,".

(b)(1) Section 8117 is amended to read as follows:

"§ 8117. Waiting period

"(a) Except as provided in subsection (b) of this section, an employee is not entitled to compensation for disability under section 8105, 8106, or 8118 of this chapter for the first 7 work days of disability. Sick leave or annual leave available or advanceable or leave without pay shall, as requested by the employee, be granted for use during this waiting period.

"(b) If the disability exceeds 14 calendar days, 5 days of sick or annual leave used for a waiting period shall be restored in accordance with applicable law, or 5 days of pay for leave without pay provided, at the applicable rate of compensation under section 8105 or 8106 with respect to such employee's leave or pay.".

(2) The table of sections for subchapter I of chapter 81 is amended by striking out the item relating to section 8117 and inserting in lieu thereof the following:

"8117. Waiting period.".

(c) Section 8118 is amended to read as follows:

"§ 8118. Advance compensation; election to use annual or sick leave

"(a) An agency or instrumentality may, in the exercise of management discretion without regard to chapter 71 of this title, if in its view the medical evidence clearly establishes that total disability from a work-related traumatic injury will be of at least four weeks duration, and if the agency or instrumentality does not controvert or contest any essential element of the claim, advance the injured individual compensation at the applicable rate of compensation established by section 8105 of this title. Such advance compensation may commence on the third work day after injury, notwithstanding section 8117 of this subchapter, and may continue until the initial determination of the employee's claim for compensation under section 8124(a) of this subchapter or, if sooner, the cessation of total disability. The agency or instrumentality shall be reimbursed from its account in the compensation fund established by section 8147 of this subchapter by the Secretary if it transmits the injury report, medical evidence, claim, and any such other information as the Secretary may require by regulation to the Secretary within 15 days from the date the agency or instrumentality authorizes such advance compensation, or such later time as the Secretary may permit for good cause shown. Such compensation shall be treated as any other compensation under this subchapter for the purpose of overpayment and recovery.

"(b) An employee may use annual or sick leave to his credit during any period prior to the commencement of compensation under this subchapter.

"(c) The decision by an employing agency to advance or not advance compensation under this section shall not be admissible evidence per se in the consideration by the Secretary of Labor of any claim filed for compensation under this subchapter.".

(2) The table of sections for subchapter I of chapter 81 is amended by striking out the item relating to section 8118 and inserting *in lieu* thereof the following:

"8118. Advance compensation; election to use annual or sick leave.".

DEATH BENEFITS

SEC. 5393. (a)(1) Section 8133(a) is amended by striking out paragraphs (1), (2), and (3) and inserting in lieu thereof the following:

"(1) To the surviving spouse, if there is no child, the amount to which the employee would have been entitled were the employee receiving compensation under section 8105 of this subchapter.

"(2) To the surviving spouse if there is a child, one-half of the amount referred to in paragraph (1) and one-half for the child or children divided equally among the children.

"(3) To the children, if there is no surviving spouse, the full amount to which such surviving spouse would be entitled under paragraph (1), divided equally among the children.".

(2) Paragraphs (4) and (5) of section 8133 are each amended by striking out the last sentence thereof.

(b)(1) Paragraph (6) of section 8101 is amended to read as follows:

"(6) 'surviving spouse' means the husband or wife living with, or dependent for support on, the decedent at the time of the decedent's death, or living apart for reasonable cause or because of the decedent's desertion;".

(2) Section 8101 is further amended by striking out paragraph (11).

(3) Sections 8133 and 8135 are each amended by striking out "widow or widower" each place it appears and inserting in lieu thereof "surviving spouse".

(c) Section 8116(b) is amended by inserting "(1)" immediately after "(b)" and by adding at the end thereof the following new paragraph:

"(2) Benefits to which an individual is entitled under this subchapter on account of the death of an employee shall be reduced by any amounts received by such an individual pursuant to section 202 of the Social Security Act on account of the same death.".

(d) Section 8134(a) is amended by striking out "$800" and inserting in lieu thereof "$1,100".

COMPENSATION SCHEDULE

SEC. 5394. (a). Section 8107 is amended to read as follows:

"§ 8107. Compensation schedule

"(a) If an injury results in the permanent loss, or permanent loss of use, of a member or function of the body, or involves disfigurement, the employee is entitled to compensation as provided by this section. The compensation is—

"(1) payable regardless of whether the cause of the loss or loss of use originates in a part of the body other than that member;

"(2) payable regardless of whether the loss or loss of use also involves another loss or loss of use of the body; and

"(3) in addition to compensation for total or partial disability under section 8105 or 8106.

"(b) The amount of compensation for any loss or loss of use compensable under this section shall be the product of—

"(1) 66⅔ percent of the minimum rate of basic pay for grade GS–8 established by section 5332 of this title on the date of the injury which results in the award of compensation, and

"(2) the value of the loss as prescribed under subsection (c) of this section.

Such amounts shall be computed in dollar amounts, and shall be paid in a lump-sum without regard to the provisions of section 8135 of this subchapter.

"(c) The permanent losses or losses of use compensable under this section, and the values for 100 percent loss in each case, are—

"(1) arm lost, 6.0;
"(2) leg lost, 5.5;
"(3) hand lost, 4.7;
"(4) foot lost, 3.9;
"(5) eye lost, 3.1;
"(6) thumb lost, 1.4;
"(7) first finger lost, 0.9;
"(8) great toe lost, 0.7;
"(9) second finger lost, 0.6;
"(10) third finger lost, 0.5;
"(11) toe, other than great toe lost, 0.3;
"(12) fourth finger lost, 0.3;
"(13)(A) complete loss of hearing in one ear, 1.0; or

"(B) complete loss of hearing in both ears, 3.9;

"(14) compensation for loss of binocular vision or for loss of 80 percent or more of the vision of an eye is to be the same as for loss of the eye;

"(15) compensation for loss of more than one phalanx of a digit is to be the same as for the loss of the entire digit, with loss of the first phalanx worth half the compensation for loss of the entire digit;

"(16) in the case of an arm or leg, amputation above the wrist or ankle, respectively, shall be compensated as for loss of the whole arm or leg;

"(17) compensation for loss of use of two or more digits, or one or more phalanges of each of two or more digits, of a hand or foot, is to be proportioned to the loss of use of the hand or foot occasioned thereby;

"(18) compensation for permanent total loss of use of a member is to be the same as for loss of the member;

"(19) compensation for permanent loss of use of a member may be for the proportionate degree of loss of use of the member, and the degree of loss of vision or hearing is to be determined without regard to correction;

"(20) in the case of loss of use of more than one member or parts of more than one member as enumerated by this schedule, the compensation is to be for loss of use of each member or part thereof, cumulatively; but when the injury affects only two or more digits of the same hand or foot, paragraph (17) of this subsection applies, and when partial bilateral loss of hearing is involved, compensation is to be computed on the loss as affecting both ears;

"(21) for serious disfigurement of the face, head, hands, or neck of a character likely to handicap the employee in securing or maintaining employment, proper and equitable compensation at a value not to exceed 3.1 shall be awarded in addition to any other compensation payable under this schedule; and

"(22) for permanent loss or permanent loss of use of any other important external or internal organ of the body, as determined by the Secretary, proper and equitable compensation at a value not to exceed 6.0 for each organ so determined shall be paid in addition to any other compensation payable under this schedule.".

(b) Section 8108 is amended to read as follows:

"§ 8108. Reduction of compensation for subsequent injury to same member

"The compensation payable under section 8107 of this title is reduced by the compensation paid or payable under that section for an earlier injury if—

"(1) compensation in both cases is for loss or loss of use of the same member or function or different parts of the same member or function or for disfigurement; and

"(2) the Secretary of Labor finds that compensation payable for the later loss or loss of use in whole or in part would duplicate the compensation payable for the preexisting loss or loss of use.".

(c) Section 8109 is amended—

(1) in subsection (a)(3), by striking out "the end or the period" and inserting in lieu thereof "full payment of the amount";

(2) in clause (B) of subsection (a), by striking out "for the period" and inserting in lieu thereof "in an amount"; and

(3) by striking out subsections (b) and (d).

(d) Section 8102(b) is amended by striking out "for a period for" and inserting in lieu thereof "to the extent to".

(e) Section 8115(a) is amended by striking out ", except permanent partial disability compensable under sections 8107–8109 of this title" and inserting in lieu thereof "under section 8106".

REHABILITATION

SEC. 5395. (a) The first sentence of section 8103(a) is amended—

(1) by inserting "including physical rehabilitation," after "physician,"; and

(2) by striking out "monthly".

(b) The first sentence of section 8104(a) is amended by striking out "a permanently disabled individual" and inserting in lieu thereof "an individual".

(c) Subsection (b) of section 8113 is amended to read as follows:

"(b) If an individual without good cause fails to apply for and undergo vocational rehabilitation when so directed under section 8104 of this title, the Secretary shall, in accordance with procedures established by regulation, cease the disability compensation payable to such employee until the individual in good faith complies with the direction of the Secretary.".

FINDINGS; APPEALS; MODIFICATION

SEC. 5396. (a) Section 8124 is amended to read as follows:

"§ 8124. Findings and award; hearings

"(a) The Secretary of Labor shall determine and make a finding of facts and make an award for or against payment of compensation which shall constitute an initial decision under this subchapter after—

"(1) considering the claim presented by the claimant and the report furnished by the immediate superior; and

"(2) completing such investigation as the Secretary considers necessary.

The claimant and the employing agency shall promptly be provided with a full written copy of the initial decision of the Secretary.

"(b) In cases where the report of the immediate supervisor is filed within 30 calendar days of the date of notice under section

8119 of this subchapter, and such report controverts any particulars of the claim in the detail set forth in regulations of the Secretary, the Secretary shall, as part of his initial decision under subsection (a) of this section, provide the employing agency with an explanation of the reasons for rejection of any part of such controversion. The Secretary shall further, upon the request of any agency entitled to and dissatisfied with such explanation, reconsider the initial decision and inform the agency and the claimant of any changes he makes thereto.

"(c) A claimant for compensation dissatisfied with an initial decision issued by the Secretary pursuant to subsection (a) of this section, or a decision pursuant to subsection (c) of section 8128 of this subchapter, may, within 30 days after such decision is issued, request that it be reconsidered. The claimant requesting reconsideration shall be entitled to present evidence during such proceeding in further support of the claim.

"(d)(1) A claimant for compensation dissatisfied with a decision of the Secretary under subsection (a), (b), or (c) of this section, or a decision pursuant to subsection (c) of section 8128 of this subchapter, shall, prior to seeking review under section 8149 of this title and within 30 days after any such decision is issued, request that a hearing be held before a representative of the Secretary.

"(2) In conducting a hearing under this subsection, the representative of the Secretary is not bound by common law or statutory rules of evidence, by technical or formal rules of procedure, or by section 554 of this title, but may conduct the hearing in such a manner as to best ascertain the rights of the claimant. The representative shall receive such relevant evidence as the claimant adduces and such other evidence as may be necessary or useful in evaluating the claim or resolving the issues. Within 30 days after the hearing ends, the Secretary shall notify the claimant in writing of the Secretary's order in the matter, the basis thereof, and any modifications of the award in connection therewith. Any order of the Secretary shall become final within 90 days thereafter unless review proceedings over which the Employees' Compensation Appeals Board has jurisdiction under section 8149 of this title have been instituted.".

(b)(1) Section 8149 is amended—

(A) by inserting "(a)" immediately before "The Secretary of Labor may prescribe";

(B) by inserting "as set forth in subsection (b) of this section" before the period at the end of the second sentence; and

(C) by adding at the end thereof the following new subsection:

"(b) The Employees' Compensation Appeals Board established pursuant to subsection (a) of this section shall be authorized to hear and, subject to applicable law and the rules and regulations of the Secretary, issue final decisions on appeals raising a substantial question of fact or law taken from orders issued under section 8124(c) of this title. The Board's decision shall be based on the record. The findings of fact in the decision under review by the Board shall be conclusive if supported by substantial evidence on the record considered as a whole. The decision of the Board shall be conclusive and binding upon the Secretary in the absence of new evidence of probative force and value.".

(2) The heading for section 8149 is amended to read as follows:

"§ 8149. Regulation; appeals".

(3) The table of sections for subchapter I of chapter 81 is amended by striking out the item relating to section 8149 and inserting in lieu thereof the following:

"8149. Regulations; appeals.".

(c)(1) Section 8128 is amended to read as follows:

"§ 8128. Modification; finality

"(a) The Secretary may modify an award for or against the payment of compensation at any time on the Secretary's own motion.

"(b) The Secretary shall consider a request for modification of a final decision under section 8142 of this subchapter for or against the payment of compensation on the application of a claimant on the ground of a change in condition or a a mistake in a finding of fact if the application is filed prior to the expiration of one year after the date of the last payment of compensation or the rejection of a claim.

"(c) In accordance with the facts found upon consideration under this section, the Secretary may—

"(1) terminate, continue, increase, or decrease compensation previously awarded;

"(2) award compensation previously denied; or

"(3) reinstate compensation previously discontinued.

Credit shall be allowed in the account of a certifying or delivering official for payment in accordance with that action. Review of decisions by the Secretary under this subsection shall be available exclusively through the procedures set forth in section 8124 of this subchapter, consistent with the issues reviewable under this subsection.

"(d) The action of the Secretary, a designee of the Secretary, or the Employees' Compensation Appeals Board with respect to any matter arising under this subchapter is—

"(1) final and conclusive for all purposes and with respect to all questions of law and fact; and

"(2) not subject to review by another official of the United States or by any court by mandamus or otherwise.".

(2) The table of sections for subchapter I of chapter 81 is amended by striking out the item relating to section 8128 and inserting in lieu thereof the following:

"§ 8128. Modification; finality.".

(d) Section 8127(b) is amended by adding at the end thereof the following new sentence: "An approved attorney's fee may be made a lien upon the compensation due under an award.".

INTEGRATION WITH RETIREMENT BENEFITS

SEC. 5397. (a)(1) Section 8116 (as amended by this subchapter) is further amended by adding at the end thereof the following new subsection:

"(d)(1)(A) The eligibility of any employee for disability compensation under section 8105 or 8106 of this title shall, after the date specified in paragraph (2) of this subsection, cease in the case of any such employee who is eligible to receive a retirement annuity under the programs specified in paragraph (3) of this subsection.

"(B) In the case of any employee who is not eligible for a retirement annuity specified in subparagraph (A) of this paragraph, compensation benefits under section 8105 or 8106 of this title shall, after the date specified in paragraph (2) of this subsection, be computed and paid on the basis of those factors which would be applicable were such employee eligible for and converted to a retirement annuity under chapter 83 of this title, except in the case of an employee not eligible solely because of inadequate service credit. In the latter case, compensation benefits under section 8105 or 8106 of this title shall continue for such time as is necessary to accumulate adequate service credits for a minimum retirement annuity. Employees to whom the first sentence of this subparagraph applies shall have the option of selecting a survivor annuity equivalent to that available to those converted to chapter 83, in which case the constructive annuity of such employee shall be reduced accordingly.

"(C) The eligibility of an employee's potential survivors for awards under sections 8133 and 8134 of this title shall cease after the date specified in paragraph (2) of this subsection.

"(D) The provisions of this paragraph shall not apply to benefits payable under section 8192 of this chapter.

"(2) The provisions of paragraph (1) of this subsection shall apply after the last day in any month during which an employee reaches age 65 or, if later, has received disability compensation under section 8105 or 8106 of this title for one year or such additional time as is necessary to accumulate the minimum service necessary for the annuity plan for which the employee is eligible.

"(3) The programs to which paragraph (1)(A) of this subsection applies include those established under chapter 83 of this title, subchapter VIII of chapter 14 of title 22, United States Code, section 403 of title 50, United States Code, and such other programs as retirement based upon Federal employment as the Secretary determines by rule to be comparable to these programs in terms of accumulation of retirement credits, minimum benefits, and related factors. For purposes of paragraph (1)(A), an employee shall be considered eligible to receive a retirement annuity under any of these programs if the employee is not able to receive such annuity solely because the employee exercised an election, prior to the date of enactment of the Federal Employees' Reemployment and Compensation amendments of 1981, to withdraw the contributions made by such employee to the annuity program.

"(4) The Office of Personnel Management and other authorities that administer annuity programs for Federal employees shall make such arrangements as are necessary, consistent with existing authority, to ensure that there shall be no interruption of income as a result on the operation of paragraph (1)(A) of this subsection, and shall consult with the Secretary of Labor in this regard.".

(2) Within 90 days after the date of the enactment of this section, with respect to the programs of retirement established under subchapter VIII of chapter 14 of title 22, United States Code, section 403 of title 50, United States Code, and such other programs of retirement based upon Federal employment as the Secretary determines to be comparable to these programs for purposes of section 8116 as amended by paragraph (1) of this subsection, the President shall issue an Executive order instituting changes in those programs comparable to and with the effective date of the amendments to chapter 83 of title 5, United States Code, made by subsection (c) of this section.

(3) Within 1 year after the date of the enactment of this section, with respect to programs of retirement based upon Federal employment not covered under paragraph (2) of this subsection, other than the program established pursuant to chapter 83 of title 5, United States code, the Secretary and the

head of the agency, instrumentality, or Government corporation involved shall jointly recommend to the Congress such legislation as is appropriate to provide for the integration of such systems with the Federal Employees' Compensation Act program, and where this is not feasible, legislation to provide appropriate employee contributions toward compensation paid after age 65 by the Federal Employees' Compensation Act program. Such legislation shall address relevant issues concerning survivor rights.

(b)(1) Section 8105(a) is further amended by inserting immediately before the period at the end thereof the following: ", except as provided in section 8116(c) of this title".

(2) Section 8106(a) is further amended by inserting, immediately before the period at the end thereof the following: ", except as provided in section 8116(d) of this title".

(3) Section 8135(a) (as amended by this subchapter) is further amended—

(A) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) the periodic payment to the beneficiary is less than $50 a period;"; and

(B) by striking out the second sentence thereof and inserting in lieu thereof the following:

"The probability of the death of the beneficiary before the expiration of the period during which such beneficiary is entitled to compensation on account of death shall be determined according to the most current United States Life Tables, as developed by the Department of Health and Human Services, which shall be updated from time to time, but the lump-sum payment to a surviving spouse of the deceased employee may not exceed 60 months' compensation. The probability of the death of an employee before the expiration of the period during which such employee is entitled to compensation on account of disability shall be computed on the basis of life expectancy not to exceed age 65.".

(4) Section 8114 is amended by adding at the end thereof the following new subsection:

"(f)(1) For the purposes of calculating retirement benefits in connection with conversion under section 8116(d) of this subchapter, contributions in connection therewith under section 8334(a) of this title or equivalent authorities, and life insurance amounts in connection with section 8704(c) of this title, the Secretary shall compute for each employee receiving compensation under this chapter, the 'assumed average annual earnings' and the 'assumed basic pay attributable to disability' of each such employee. The 'assumed average annual earnings' shall be the rate of pay during any fiscal year for the grade and step of the employee at the time of disability, or similar figure calculated by the Secretary of Labor pursuant to regulations for pay systems where pay is not based upon grade and step. The 'assumed basic pay attributable to disability' shall be the figure calculated for each month of that year by multiplying the extent of lost wage earning capacity compensated and the 'assumed average annual earnings' applicable.

"(2) The Secretary shall maintain a record of the figures computed under this subsection for the duration of any period of disability, and they shall become part of the official records of any employee receiving compensation. In addition, the Secretary shall, as necessary, make such computations and records with respect to periods of time preceding the date of the enactment of this subsection.".

(5) The second sentence of section 8147(a) is amended by inserting after "application thereof," the following: "and for payments required by section 8348(j) of this title or equivalent authorities with respect to contributions to retirement programs".

(c) Section 8331 is amended—

(1) in paragraph (1), by striking out "and" at the end of subparagraph (I), by inserting "and" at the end of subparagraph (J), and by inserting immediately thereafter the following new subparagraph:

"(K) an individual (other than a partially disabled individual who has voided all annuity rights under this subchapter by electing to receive a lump-sum credit under section 8342(a) of this subchapter) receiving compensation pursuant to subchapter I of chapter 81 of this title on account of disability incurred while serving in a position as an employee for purposes of this subchapter, notwithstanding that such individual has been separated from such position;";

(2) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) 'basic pay'—

"(A) includes the amount a Member received from April 1, 1954, to February 28, 1955, as expense allowance under section 601(b) of the Legislative Reorganization Act of 1946 (60 Stat. 850), as amended; and that amount from January 3, 1953, to March 31, 1954, if deposit is made therefor as provided by section 8334 of this title;

"(B) includes additional pay provided by—

"(i) subsection (a) of section 60e-7 of title 2 in the provisions of law referred to by that subsection; and

"(ii) sections 60e-8, 60e-9, 60e-10, 60e-11, 60e-12, 60e-13, and 60e-14 of title 2;

"(C) includes premium pay under section 5545(c)(1) of this title;

"(D) with respect to a law enforcement officer, includes premium pay under section 5545(c)(2) of this title;

"(E) with respect to an employee receiving compensation during any year under subchapter I of chapter 81 of this title for disability, is deemed, for any such year, to be the sum of—

"(i) any basic pay otherwise specified by this paragraph during such year; and

"(ii) the assumed basic pay attributable to disability for such year calculated for an employee by summing the monthly figures for each year calculated pursuant to section 8114(f) of this title; and

"(F) does not include bonuses, allowances, overtime pay, military pay, pay given in addition to the base pay of the position as fixed by law or regulation except as provided in subparagraphs (B), (C), and (D) of this paragraph, retroactive pay under section 5344 of this title in the case of a retired or deceased employee, uniform allowances under section 5901 of this title, or lump-sum leave payments under subchapter VI of chapter 55 of this title; and for an employee paid on a fee basis, the maximum amount of basic pay which may be used is $10,000;"; and

(3) by striking out "and" at the end of paragraph (21), by striking out the period at the end of paragraph (22) and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraph:

"(23) 'converted FECA beneficiary' means an employee as otherwise defined by this section whose receipt of compensation on account of disability pursuant to subchapter I of chapter 81 of this title was terminated in accordance with section 8116(d) of that subchapter.".

(d)(1) The second sentence of section 8332(b) is amended by inserting immediately before the period the following: ", except that credit shall in all cases be provided to employees receiving compensation for disability under subchapter I of chapter 81 of this title whether or not separated from service".

(2) Section 8332(f) is amended by striking out the first two sentences and inserting in lieu thereof the following: "Credit shall be allowed for leaves of absence without pay granted an employee while performing military service.".

(e)(1) Section 8334(a)(1) is amended—

(A) by inserting immediately after the first sentence the following new sentence: "In the case of an employee receiving monthly compensation pursuant to chapter 81 of this title on account of disability, and who has not elected to receive a lump-sum credit under section 8342 of this title, the Secretary of Labor shall deduct and withhold from such monthly compensation 7 percent of the assumed basic pay attributable to disability for such month calculated for an employee pursuant to section 8114(f) of this title."; and

(B) at the beginning of the second sentence, by striking out "An equal amount" and inserting in lieu thereof "An amount equal to the sum of the amounts deducted under the preceding sentences".

(2) the last sentence of section 8334(d) is amended by inserting before the period at the end thereof the following: "; except that in the case of a converted FECA beneficiary, credit shall be allowed for such service without redeposit by the employee or member where refund was made prior to date of the enactment of the Federal Employees' Reemployment and Compensation Amendments of 1981 during a period of separation from service prior to such date as a result of disability compensable under subchapter I of chapter 81 of this title".

(f) Section 8336 is amended by adding at the end thereof the following new subsection:

"(1) A converted FECA beneficiary is entitled to an annuity.".

(g) Section 8342 is amended—

(1) by inserting before the period at the end of the first sentence the following: "; except that an employee shall not be deemed separated for this purpose during any period of disability for which compensation is being paid under subchapter I of chapter 81 of this title, other than a partially disabled employee otherwise separated who elects to be considered separated for this purpose"; and

(2) by inserting before the period at the end of the second sentence the following: ", except that in the case of a converted FECA beneficiary, such rights shall not be voided with respect to a lump-sum credit paid to such employee prior to the date of the enactment of the Federal Employees' Reemployment and Compensation Amendments of 1981 during a period of separation from service as a result of disability compensable under subchapter I of chapter 81 of this title".

(h) Section 8348 is amended by adding at the end thereof the following new subsection:

"(j) At the end of each fiscal year, the Office shall notify the Secretary of Labor of the amount equivalent to that portion of disbursement for annuities for that year in which the Office estimates is attributable to periods credited to converted FECA beneficiaries and which is not covered by funds created as a result of accumulated contributions under section 8334 of this title by or on behalf of such beneficiaries. The Secre-

tary of Labor shall authorize payment to the Fund for such amount from the fund established pursuant to section 8147 of chapter 81 of this title. Pursuant to section 8147, and using data provided by the Office, the Secretary of Labor shall charge to individual agencies liabilities accrued in this regard with respect to former employees of those agencies.".

EFFECTIVE DATES; MISCELLANEOUS

SEC. 5398. (a)(1) The amendments made by this subchapter, except where provided otherwise, shall take effect on the first day of the first full biweekly pay period established for employees of the Department of Labor in accordance with section 5504 of title 5, United States Code, which commences after 180 days have expired from the date of the enactment of this subchapter as follows:

(A) For the amendments made by subsections (b) and (c) of section 5392, with respect to disabilities occurring on or after such date.

(B) For the amendments made by subsection (a) of section 5392, section 5393, and subsections (a) and (b) of section 5397, with respect to compensation payable on or after that date.

(C) For the amendments made by subsection (c) of section 5397, with respect to any determinations of eligibility for and amount of annuity to be paid which are made after that date, including credits for years of disability prior to that date, and any contributions, calculations, compensation, or lump-sum amounts payable in connection therewith.

(D) For the amendments made by section 5394, with respect to claims finally adjudicated on or after that date.

(E) For the amendments made by subsections (a) and (b) of section 5395, section 5396, and subsections (b) through (i) of this section, with respect to any actions taken after that date. The Employee's Compensation Appeals Board shall retain jurisdiction after the effective date of section 5396 of cases of which it has taken jurisdiction before that date.

(2) The amendments made by paragraph (5) of section 5397(c) of this subchapter shall take effect on the date of the enactment of this subchapter with respect to any payment of a lump-sum credit on or after that date.

(b)(1) Section 8139 is hereby repealed.

(2) Paragraph (1) of section 8101 is amended—

(A) by striking out subparagraph (D); and

(B) by inserting "or" at the end of clause (ii), by striking out "; or" at the end of clause (iii) and inserting in lieu thereof a period, and by striking out clause (iv).

(c)(1) Section 8131(d) is amended by striking out "Panama Canal Company" each place it appears and inserting in lieu thereof "Panama Canal Commission".

(2) Section 8138(b) is amended by striking out "Canal Zone Government or the Panama Canal Company" and inserting in lieu thereof "Panama Canal Commission".

(d)(1) Section 8104(a) is amended by striking out "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Secretary of Health and Human Services".

(2) Section 8141(b)(5) is amended by striking out "Secretary of Health, Education, and Welfare" each place it appears and inserting in lieu thereof "Secretary of Health and Human Services".

(e) Section 8105 (as amended by this subchapter) is further amended by adding at the end thereof the following new subsection:

"(c) The Secretary of Labor may require a totally disabled employee to report any earnings from employment or self-employment, by affidavit or otherwise, in the manner and at the times the Secretary specifies. The employee shall include in the affidavit or report the value of housing, board, lodging, and other advantages which are part of his earnings in employment or self-employment and which can be estimated in money. An employee who—

"(1) fails to make an affidavit or report when required; or

"(2) knowingly omits or understates any part of his earnings;

forfeits his right to compensation with respect to any period for which the affidavit or report was required. Compensation forfeited under this subsection, if already paid, shall be recovered by a deduction from the compensation payable to the employee or otherwise recovered under section 8129 of this title, unless recovery is waived under that section.".

(f) Section 8123(a) is amended by adding at the end thereof the following new sentence: "Such examinations do not preclude other medical examinations of employees that may be authorized by law or by regulation of appropriate authority, and the records of any such other examinations shall, in accordance with regulations of the Secretary, be made a part of the record of any claim under this subchapter.".

(g) Section 8129(a) is amended by adding at the end thereof the following new sentences: "If the individual resumes employment before the adjustment is completed, the Secretary of Labor may take such action as may be appropriate to recover the remainder, including directing the agency employing such individual to withhold specified amounts from the individual's wages subject only to the limitations provided in section 1673(a) of title 15, United States Code. Any overpayments recovered shall be paid over to the Secretary by the agency employing such individual and shall be credited against the compensation fund billing under section 8147 of this subchapter of the employing agency against which the overpayment was originally charged.".

(h) Section 8116(c) is amended by striking out "and instead of all other liability of the United States or the instrumentality" and inserting in lieu thereof the following: "of any other civil action or proceeding by reason of the same subject matter against the United States or an instrumentality thereof or against a Federal employee or his estate whose act or omission, within the scope of his employment, gave rise to the claim, and instead of all other liability of such entities and persons".

(i)(1) Section 8704(c) is amended—

(A) by striking out "and" at the end of paragraph (1);

(B) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(3) in the case of an employee whose insurance is continued under section 8706(b)(2) of this chapter, 'annual pay' means the assumed average annual earnings computed under section 8114(f) of this title during the period for which any such figure is applicable.".

(2) Section 8706(b)(3) is amended by striking out "or is receiving such compensation for disease or injury" and inserting in lieu thereof ", or after the date an employee receiving compensation under subchapter I of chapter 81 of this title for disease or injury has such compensation terminated or reduced pursuant to section 8116(d) of this title".

(3) Section 8707(b)(1) is amended by inserting before the period at the end thereof the following: "and is retired, or if later, after the month in which such compensation is terminated or reduced pursuant to section 8116(d) of this title".

(4) Section 8714a(c)(2)(C) is amended by striking out "or is receiving compensation for disease or injury" and inserting in lieu thereof ", or after the date an employee receiving compensation under subchapter I of chapter 81 of this title for disease or injury has such compensation terminated or reduced pursuant to section 8116(d) of this title".

(5) Section 8714a(d)(1) is amended by inserting ", or, if later, the end of the calendar month such compensation is terminated or reduced pursuant to section 8116(d) of this title" after "65 years of age".

(6) Section 8901(3)(D)(ii) is amended by striking out "who is separated after having completed 5 or more years of service and".

Subchapter D—Home Energy Assistance Block Grants

SHORT TITLE

SEC. 5411. This subchapter may be cited as the "Home Energy Assistance Block Grant Act".

HOME ENERGY GRANTS AUTHORIZED

SEC. 5412. (a) The Secretary of Health and Human Services is authorized to make grants, in accordance with the provisions of this subchapter, to States to assist eligible households to meet the costs of home energy. Not more than 10 percent of the funds available to each State under this subchapter may be used by the State for low-income residential weatherization or other energy-related home repair.

(b) There are authorized to be appropriated to carry out the purposes of this subchapter $1,875,000,000 for each of the fiscal years 1982, 1983, and 1984.

DEFINITIONS

SEC. 5413. As used in this subchapter:

(1) The term "household" means any individual or group of individuals who are living together as one economic unit for whom residential energy is customarily purchased in common or who make undesignated payments for energy in the form of rent.

(2) The term "home energy" means a source of heating or cooling in residential dwellings.

(3) The term "lower living standard income level" means the income level, adjusted for (A) family size; and (B) regional, metropolitan, and nonmetropolitan differences (or, as the State at its option may select, a single level from among the levels adjusted under this paragraph as applicable to such State), determined annually by the Secretary of Labor based upon the most recent lower living standards family budget issued by the Secretary of Labor.

(4) The term "Secretary" means the Secretary of Health and Human Services.

(5) The term "State" means each of the several States and the District of Columbia.

(6) The term "energy crisis intervention" means weather-related and supply shortage emergencies.

STATE ALLOCATIONS

SEC. 5414. (a)(1)(A) Except as provided in subparagraph (B), the Secretary shall, from 99 percent of the amount appropriated

under section 5412 for each fiscal year, allot to each State an amount equal to 99 percent multiplied by the State's allotment percentage.

(B) For fiscal year 1983 and subsequent fiscal years, no State shall receive an allotment under subparagraph (A) in an amount which exceeds 80 percent of the amount expened by such State from State funds for the fiscal year involved to assist eligible households to meet the costs of home energy.

(2)(A) For purposes of paragraph (1), a State's allotment percentage is the percentage which the amount the State was eligible to receive under the allotment formulas of the Home Energy Assistance Act of 1980 bears to the total amount available for allotment under such formulas.

(B) For purposes of subparagraph (A), the allotment formulas of the Home Energy Assistance Act of 1980 shall be treated as including the rules provided by, and the rules referred to in, section 101(j) of the Act of December 16, 1980 (Public Law 96-536).

(3) If the sums appropriated for any fiscal year for making block grants under this subchapter are not sufficient to pay in full the total amount allocated to a State under paragraph (1) for each fiscal year, the amount which all States will receive under this subchapter for such year shall be ratably reduced.

(b)(1) The Secretary shall apportion the 1 percent remaining in each fiscal year on the basis of need between the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(2) Each jurisdiction to which paragraph (1) applies may receive grants under this subchapter upon an application submitted to the Secretary containing provisions which describe the programs for which assistance is sought under this subchapter, and which are consistent with the requirements of section 5416.

(c) Of the funds available to each State under subsection (a), a reasonable amount based on data from prior years shall be reserved by each State for energy crisis intervention.

(d)(1) If, with respect to any State, the Secretary—

(A) receives a request from the governing body of an Indian tribe or tribal organization within the State that assistance under this subchapter be made directly to such tribe or organization; and

(B) determines that the members of such tribe or tribal organization would be better served by means of grants made directly to provide benefits under this subchapter,

the Secretary shall reserve from amounts which would otherwise be allotted to such State under this subchapter for the fiscal year the amount determined under paragraph (2).

(2) The Secretary shall reserve for the purpose of paragraph (1) from sums that would otherwise be allotted to such State not less than 100 percent of an amount which bears the same ratio to the State's allotment for the fiscal year involved as the population of all eligible Indians for whom a determination under this paragraph has been made bears to the population of all eligible households in such State.

(3) The sums reserved by the Secretary on the basis of a determination under this subsection shall be granted to the Indian tribe or tribal organization serving the individuals for whom such a determination has been made.

(4) In order for an Indian tribe or tribal organization to be eligible for an award for a fiscal year under this subsection, it shall submit to the Secretary a plan for such fiscal year which meets such criteria as the Secretary may prescribe by regulation.

(5) For purposes of this subsection, the terms "Indian tribe" and "tribal organization" have the same meaning given such terms in section 4(b) and section 4(c) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

APPLICATIONS AND REQUIREMENTS

SEC. 5415. (a) Each State desiring to receive an allotment for a fiscal year under this subchapter shall submit an application to the Secretary. Each such application shall be in such form as the Secretary shall require. Each such application shall contain—

(1) assurances that the State has established procedures under which the legislature of the State may disapprove the receipt by the State of any payment under this subchapter; and

(2) assurances by the chief executive officer of the State that the State has complied with subsection (b) and will meet the conditions enumerated in subsection (c).

(b) After the expiration of the first fiscal year in which a State received funds under this subchapter, no funds shall be allotted to such State for any fiscal year under this subchapter unless the legislature of the State conducts public hearings on the proposed use and distribution of funds to be provided under this subchapter for such fiscal year.

(c) As part of the annual application required by subsection (a), the chief executive officer of each State shall certify that the State agrees to—

(1) use the funds available under this subchapter for the purposes described in section 5412 and otherwise in accordance with the requirements of this subchapter;

(2) describe households in the State eligible for assistance and give priority to households with incomes equal to or less than the lower living standard income level or, in the case of a one-person household, with an income equal to or less than 125 percent of poverty;

(3) conduct outreach activities designed to assure that eligible households, especially households with elderly individuals or handicapped individuals, or both, are made aware of the assistance available under this subchapter;

(4) coordinate its activities under this subchapter with similar and related programs run by the Federal Government and such State, particularly low-income weatherization programs;

(5) describe the amount of assistance to be provided to or on behalf of participating households assuring (A) that priority is given to households with lowest incomes and to eligible households having at least one elderly or handicapped individual; and (B) that the highest level of assistance is provided to households with lowest incomes and the highest energy costs in relation to income;

(6) give special consideration in the designation of local administrative agencies to any local public or private nonprofit agency which is receiving Federal funds under any low-income energy assistance program or weatherization program on the date of the enactment of this Act, except that (A) the State shall, before giving such special consideration, determine that the agency involved meets program and fiscal requirements established by the State; and (B) if there is no such agency because of a change in the assistance furnished to programs for economically disadvantaged persons, then the State shall give special consideration in the designation of local administrative agencies to any successor agency which is operated in substantially the same manner as the predecessor agency which did receive funds in the fiscal year preceding the fiscal year for which the determination is made;

(7) if the State chooses to pay home energy suppliers directly, establish precedures to—

(A) notify each participating household of the amount of assistance paid on its behalf;

(B) assure that the home energy supplier will charge the eligible household, in the normal billing process, the difference between the actual cost of the home energy and the amount of the payment made by the State under this subchapter;

(C) assure that the home energy supplier will provide assurances that any agreement entered into with a home energy supplier under this paragraph will contain provisions to assure that no household receiving assistance under this subchapter will be treated any differently because of such assistance under applicable provisions of State law or public regulatory requirements; and

(D) assure that any home energy supplier receiving direct payments agrees not to discriminate, either in the cost of the goods supplied or the services provided, against the eligible household on whose behalf payments are made;

(8) provide assurances that the State will treat owners and renters equitably under the program assisted under this subchapter;

(9) provide that—

(A) in each fiscal year, the State may use for planning and administering the funds available under this subchapter an amount not to exceed 10 percent of its allotment under this subchapter for such year; and

(B) the State will pay from non-Federal sources the remaining costs of planning and administering the plan and will not use Federal funds for such remaining costs;

(10) provide that such fiscal control and fund accounting procedures will be established as may be necessary to assure the proper disbursal of an accounting for Federal funds paid to the State under this subchapter, including procedures for monitoring the assistance provided under this subchapter, and provide that at least every year each State shall prepare an audit of its expenditures of amounts received under this subchapter and amounts transferred to carry out the purposes of this subchapter; and

(11) permit and cooperate with Federal investigations undertaken in accordance with section 5419.

The Secretary may not prescribe the manner in which the States will comply with the provisions of this subsection.

(d)(1) In addition to the requirements of subsection (c), the chief executive of each State shall prepare and furnish to the Secretary a plan which contains provisions describing how the State will carry out the assurances contained in subsection (c). The chief executive officer of each State may revise any plan prepared under this paragraph and shall furnish the revised plan to the Secretary.

(2) Each plan prepared under paragraph (a) shall be made available for public inspection within the State in such a manner as

will facilitate review of, and comment on, the plan.

(3) The Secretary shall approve any plan furnished under paragraph (1) which reasonably carries out the assurances contained in subsection (c).

(e) Each audit required by subsection (c)(9) shall be conducted by an entity independent of any agency administering activities or services carried out under this subchapter and shall be conducted in accordance with generally accepted accounting principles. Within 30 days after the completion of each audit, the chief executive officer of the State shall submit a copy of such audit to the legislature of the State and to the Secretary.

(f) Notwithstanding any other provision of law, the amount of any home energy assistance payments or allowances provided to an eligible household under this subchapter shall not be considered income or resources of such household (of any member thereof) for any purpose under any Federal or State law, including any law relating to taxation, food stamps, public assistance, or welfare programs.

(g) The State shall repay to the United States amounts found not to have been expended in accordance with this subchapter or the Secretary may offset such amounts against any other amount to which the State is or may become entitled under this subchapter.

(h) The Comptroller General of the United States shall, from time to time, evaluate the expenditures by States of grants under this subchapter in order to assure that expenditures are consistent with the provisions of this subchapter and to determine the effectiveness of the State in accomplishing the purposes of this subchapter.

NONDISCRIMINATION PROVISIONS

SEC. 5416. (a) No person shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this subchapter. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity.

(b) Whenever the Secretary determines that a State that has received a payment under this subchapter has failed to comply with subsection (a) or an applicable regulation, he shall notify the chief executive officer of the State and shall request him to secure compliance. If within a reasonable period of time, not to exceed 60 days, the chief executive officer fails or refuses to secure compliance, the Secretary is authorized to (1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted; (2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, or section 504 of the Rehabilitation Act of 1973, as may be applicable; or (3) take such other action as may be provided by law.

(c) When a matter is referred to the Attorney General pursuant to subsection (b), or whenever he has reason to believe that the State is engaged in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

PAYMENTS TO STATES

SEC. 5417. (a) From its allotment under section 5414, the Secretary shall make payments to each State in accordance with section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213), for use under this subchapter.

(b) Payments to a State from its allotment for any fiscal year shall be expended by the State in such fiscal year or in the succeeding fiscal year.

WITHHOLDING

SEC. 5418. (a)(1) The Secretary shall, after adequate notice and an opportunity for a hearing conducted within the affected State, withhold funds from any State which does not utilize its allotment in accordance with the provisions of this subchapter and the assurances such State provided under section 5415.

(2) The Secretary shall respond in an expeditious and speedy manner to complaints of a substantial or serious nature that a State has failed to use funds in accordance with the provisions of this subchapter or the assurances provided by the State under section 5415. For purposes of this paragraph, a violation of any one of the assurances contained in section 5415(c) that constitutes a disregard of that assurance shall be considered a serious complaint.

(3) The Secretary may not withhold funds under this subsection from a State for a minor failure to comply with the provisions of this subchapter.

(b)(1) The Secretary shall conduct in several States in each fiscal year investigations of the use of funds received by the States under this subchapter in order to evaluate compliance with the provisions of this subchapter.

(2) Whenever the Secretary determines that there is a pattern of complaints from any State in any fiscal year, he shall conduct an investigation of the use of funds received under this subchapter by that State in order to ensure compliance with the provisions of this subchapter.

(3) The Comptroller General of the United States may conduct an investigation of the use of funds received under this subchapter by a State in order to ensure compliance with the provisions of this subchapter.

(c) Pursuant to an investigation conducted under subsection (b), a State shall make appropriate books, documents, papers, and records available to the Secretary or the Comptroller General of the United States, or any of their only authorized representatives, for examination, copying, or mechanical reproduction on or off the premises of the appropriate entity upon a reasonable request therefor.

(d) In conducting any investigation under subsection (b), the Secretary or the Comptroller General of the United States may not request any information not readily available to such State or require that any information be compiled, collected, or transmitted in any new form not already available.

LIMITATION ON USE OF GRANTS FOR CONSTRUCTION

SEC. 5419. (a) Except as provided in subsection (b), grants made under this subchapter may not be used by the State, or by any other person with which the State makes arrangements to carry out the purposes of this subchapter, for the purchase or improvement of land, or the purchase, construction, or permanent improvement (other than low-cost residential weatherization or other energy related home repairs) of any building or other facility.

(B) The Secretary may waive the limitation contained in subsection (a) upon the State's request for such a waiver if he finds that the request describes extraordinary circumstances to justify the purchase of land or the construction of facilities (or the making of permanent improvements) and that permitting the waiver will contribute to the State's ability to carry out the purposes of this subchapter.

STUDIES

SEC. 5420. The Secretary,. after consultation with the Secretary of Energy, shall provide for the collection of data, including—

(1) information concerning home energy consumption;

(2) the cost and type of fuels used;

(3) the type of fuel used by various income groups;

(4) the number and income levels of households assisted by this subchapter; and

(5) any other information which the Secretary determines to be reasonably necessary to carry out the provisions of this subchapter.

REPEAL

SEC. 5421. Effective October 1, 1981, the Home Energy Assistance Act of 1980 is repealed.

Subchapter E—Refugee Education Consolidation

SHORT TITLE

SEC. 5441. This subchapter may be cited as the "Consolidated Refugee Education Assistance Act".

REPEALER

SEC. 5442. The following provisions are hereby repealed:

(1) Section 4A of the Act of September 30, 1950 (Public Law 81-874).

(2) Titles I and II of the Indochina Refugee Children Assistance Act of 1976.

(3) Section 317 of the Adult Education Act.

AMENDMENTS TO TITLE I OF THE REFUGEE EDUCATION ASSISTANCE ACT OF 1980

SEC. 5443. (a)(1) Section 101 of the Refugee Education Assistance Act of 1980 is amended—

(A) by striking out paragraph (1) and by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively; and

(B) by amending paragraph (3) (as so redesignated) to read as follows:

"(3) The term 'refugee' means an alien who—

"(A) has been admitted into the United States as a refugee under section 207 of the Immigration and Nationality Act;

"(B) has been paroled into the United States as a refugee by the Attorney General pursuant to section 212(d)(5) of such Act; or

"(C) is an applicant for asylum, or has been granted asylum, in the United States; or

"(D) has fled from the alien's country of origin and has, pursuant to an Executive order of the President, been permitted to enter the United States and remain in the United States indefinitely for humanitarian reasons;

but only during the 3-year period beginning on the date the alien first entered the United States as such a refugee or otherwise acquired the status of such a refugee.".

(2) For purposes of the Refugee Education Assistance Act of 1980, an alien who entered the United States on or after November 1, 1979, and is in the United States with the immigration status of a Cuban-Haitian entrant (status pending) shall be considered to be a refugee (within the meaning of section 101(3) of such Act), but only during the 3-year period beginning on the date the alien first entered the United States as such an entrant or otherwise first acquired such status.

(b) Section 103(b)(1)(A) of the Refugee Education Assistance Act of 1980 is amended by striking out "aggregate of the amounts to which all States are entitled" and inserting in lieu thereof "amount authorized to be appropriated".

(c) Section 104 of the Refugee Education Assistance Act of 1980 is amended by striking out "1 percent of the amounts which that State educational agency is entitled to receive for that period under this Act" and inserting in lieu thereof "2 percent of the amount which that State educational agency receives for that period under this Act".

(d) Title I of the Refugee Education Assistance Act of 1980 is amended by adding at the end thereof the following new section:

"CONSULTATION WITH OTHER AGENCIES

"SEC. 106. To the extent that may be appropriate to facilitate the determination of the amount of any reductions under sections 201(b)(2), 301(b)(3), and 401(b)(2), the Secretary shall consult with the heads of other agencies providing assistance to refugees in order to secure information concerning the disbursement of funds for educational purposes under programs administered by them and provide, wherever feasible, for coordination among those programs and the programs under titles II through IV of this Act.".

AMENDMENTS TO TITLE II OF THE REFUGEE EDUCATION ASSISTANCE ACT OF 1980

SEC. 5444. (a) Section 201 of the Refugee Education Assistance Act is amended—

(1) by amending the first sentence of subsection (a)(1) to read as follows: "The Secretary shall, in accordance with the provisions of this title, make grants to State educational agencies for fiscal year 1981, and for each subsequent fiscal year, for the purposes of assisting local educational agencies of that State in providing basic education for refugees enrolled in elementary or secondary public schools.";

(2) in the second sentence of subsection (a)(1), by striking out "Cuban and Haitian refugee children" and inserting in lieu thereof "refugees";

(3) by amending subsection (b)(1) to read as follows:

"(b)(1) As soon as possible after the date of the enactment of the Consolidated Refugee Education Assistance Act, the Secretary shall establish a formula (reflecting the availability of the full amount authorized for this title under section 203(b)) by which to determine the amount of the grant which each State educational agency is entitled to receive under this title for any fiscal year. The formula established by the Secretary shall take into account the number of years that a refugee assisted under this title has resided within the United States and the relative costs, by grade level, of providing education for elementary and secondary school children. On the basis of the formula the Secretary shall allocate among the State educational agencies, for each fiscal year, the amounts available to carry out this title, subject to such reductions or adjustments as may be required under paragraph (2) or subsection (c). Funds shall be allocated among State educational agencies pursuant to the formula without regard to variations in educational costs among different geographical areas.";

(4) by amending the first sentence of subsection (b)(2) to read as follows: "The amount of the grant to which a State educational agency is otherwise entitled for any fiscal year, as determined under paragraph (1), shall be reduced by the amounts made available for such fiscal year under any other Federal law (other than section 303 of the Elementary and Secondary Education Act of 1965) for expenditure within the State for the same purposes as those for which funds are made available under this title, except that the reduction shall be made only to the extent that (A) such amounts are made available for such purposes specifically because of the refugee, parolee, or asylee status of the individuals to be served by such funds, and (B) such amounts are made available to provide assistance to individuals eligible for services under this title."; and

(5) in subsection (c), by striking out "Cuban and Haitian refugee children" and inserting in lieu thereof "refugees".

(b) Section 202(a) of the Refugee Education Assistance Act of 1980 is amended—

(1) by amending paragraph (2) to read as follows:

"(2) provide assurances that such payments will be distributed among local educational agencies within that State in accordance with the formula established by the Secretary under section 201, subject to any reductions in payments for those local educational agencies identified under paragraph (3) to which funds described by section 201(b)(2) are made available for the same purposes under other Federal laws;";

(2) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(3) by inserting after paragraph (2) the following:

"(3) specify the amount of funds described by section 201(b)(2) which are made available under other Federal laws for expenditure within the State for the same purposes as those for which funds are made available under this title and the local educational agencies to which such funds are made available;".

(c) Section 203 of the Refugee Education Assistance Act of 1980 is amended—

(1) by amending the section heading to read as follows: "payments and authorizations";

(2) by inserting "(a)" after the section designation; and

(3) by adding at the end the following new subsection:

(d) For fiscal year 1981 and for each subsequent fiscal year, there is authorized to be appropriated, in the manner specified under section 102, to make payments under this title an amount equal to the product of—

"(1) the total number of refugees enrolled in elementary or secondary public schools under the jurisdiction of local educational agencies within all the States (other than the jurisdictions to which section 103 is applicable) during the fiscal year for which the determination is made;

multiplied by—

"(2) $400.".

AMENDMENTS TO TITLE III OF THE REFUGEE EDUCATION ASSISTANCE ACT OF 1980

SEC. 5445. (a) Section 301 of the Refugee Education Assistance Act of 1980 is amended—

(1) in subsection (a) by striking out "for each of the fiscal years 1981, 1982, and 1983" and inserting in lieu thereof "for fiscal year 1981, and for each subsequent fiscal year,";

(2) by amending subsection (b)(1) to read as follows:

"(b)(1) Except as provided in paragraph (3) of this subsection and in subsections (c) and (d) of this section, the amount of the grant to which a State educational agency is entitled under this title for any fiscal year shall be equal to the sum of—

"(A) the amount equal to the product of (i) the number of refugees enrolled during the period for which the determination is made in elementary or secondary public schools under the jurisdiction of each local educational agency described under paragraph (2) within that State, or in any elementary or secondary nonpublic school within the district served by each such local educational agency, who were not enrolled in schools in any State during any preceding school year, multiplied by (ii) $700;

"(B) the amount equal to the product of (i) the number of refugees enrolled during the period for which the determination is made in elementary or secondary public schools under the jurisdiction of each local educational agency described under paragraph (2) within that State, or in any elementary or secondary nonpublic school within the district served by each such local educational agency, who were enrolled in schools in any State during only one preceding school year, multiplied by (ii) $500; and

"(C) the product of (i) the number of refugees enrolled during the period for which the determination is made in elementary or secondary public schools under the jurisdiction of each local educational agency described under paragraph (2) within that State, or in any elementary or secondary nonpublic school within the district served by each such local educational agency, who were enrolled in schools in any State during not more than two preceding school years (other than any refugees described by subparagraph (B)(i)), multiplied by (ii) $300.

(3) in subsection (b)(2) by striking out "Cuban and Haitian refugee children and Indochinese refugee children" and inserting in lieu thereof "refugees"; and

(4) in subsection (b)(3)—

(A) by striking out "Cuban and Haitian refugee children and Indochinese refugee children" and inserting in lieu thereof "refugees"; and

(B) in the first sentence, by striking out "except that" and all that follows through the period and inserting in lieu thereof "except that no reduction under this paragraph shall be made for any funds made available to the State under section 303 of the Elementary and Secondary Education Act of 1965."; and

(5) in subsection (b)(5), by striking out "Cuban and Haitian refugee children who meet the requirements of section 101(1)" and inserting in lieu thereof "refugees who meet the requirements of section 101(4)"; and

(6) in subsection (c), by striking out "Cuban and Haitian refugee children and Indochinese refugee children" and inserting in lieu thereof "refugees".

(b) Section 302 of the Refugee Education Assistance Act of 1980 is amended by striking out "Cuban and Haitian refugee children and Indochinese refugee children" each place it appears and inserting in lieu thereof "refugees".

(c) Section 303 of the Refugee Education Assistance Act of 1980 is amended—

(1) in paragraph (3), by inserting before the semicolon ", subject to any reductions in payments for local educational agencies identified under paragraph (5) to take into account the funds described by section 301(b)(3) that are made available for educational, or education-related, services or activities for refugees enrolled in elementary or secondary public schools under the jurisdiction of such agencies or elementary or secondary nonpublic schools within the districts served by such agencies;";

(2) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively;

(3) by inserting after paragraph (4) the following:

"(5) specify (A) the amount of funds described by section 301(b)(3) that are made available under other Federal laws to agencies or other entities for educational, or education-related, services or activities within the State because of a significant concentration of refugees, and (B) the local educational agencies within whose districts are refugees provided services from such funds who are enrolled in elementary or secondary schools under the jurisdiction of such agencies, or in elementary or secondary nonpublic schools served by such agencies;"; and

(4) in paragraph (7) as so redesignated, by striking out "Cuban and Haitian refugee children and Indochinese refugee children" and inserting in lieu thereof "refugees".

AMENDMENTS TO TITLE IV OF THE REFUGEE EDUCATION ASSISTANCE ACT OF 1980

SEC. 5446. (a) Title IV of the Refugee Education Assistance Act of 1980 is amended by striking out "Cuban and Haitian refugee adults" and "Haitian and Cuban refugee adults" each place such terms appear and inserting in lieu thereof "refugees".

(b)(1) Section 401(a) is amended by striking out "for each of the fiscal years 1982 and 1983" and inserting in lieu thereof "for fiscal year 1982, and for each subsequent fiscal year".

(2) The first sentence of section 401(b)(2) of the Refugee Education Assistance Act of 1980 is amended to read as follows: "The amount of the grant to which a State educational agency is otherwise entitled for any fiscal year, as determined under paragraph (1), shall be reduced by the amounts made available for such fiscal year under any other Federal law (other than section 303 of the Elementary and Secondary Education Act of 1965) for expenditure within the State for the same purposes as those for which funds are made available under this title, except that the reduction shall be made only to the extent that (A) such amounts are made available for such purposes specifically because of the refugee, parolee, or asylee status of the individuals to be served by such funds, and (B) such amounts are made available to provide assistance to individuals eligible for services under this title.".

(c) Section 403 of the Refugee Education Assistance Act of 1980 is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by inserting after paragraph (1) the following:

"(2) specify the amount of reduction required under section 401(b)(2);".

EFFECTIVE DATE

SEC. 5447. This subchapter shall take effect on October 1, 1981.

Chapter 2—AMENDMENTS TO ENTITLEMENT PROGRAMS

Subchapter A—Reductions in Child Nutrition Programs

SHORT TITLE OF SUBCHAPTER

SEC. 5611. This subchapter may be cited as the "Child Nutrition Amendments of 1981".

CHANGES IN REIMBURSEMENT FOR SCHOOL LUNCHES AND BREAKFASTS

SEC. 5612. (a) Section 4 of the National School Lunch Act is amended—

(1) by inserting "(a)" after "SEC. 4.";

(2) in subsection (a) (as so designated), by striking out the second sentence; and

(3) by adding at the end thereof the following new subsection:

"(b)(1) For each fiscal year the Secretary shall make food assistance payments, at such times as he may determine, from the sums appropriated therefor, to each State educational agency, in an amount equal to the sum of the following:

"(A) The amount equal to the product of—

"(i) the number of lunches (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary under section 9(a) of this Act) served during such fiscal year to children eligible for free or reduced price meals in schools in such State which participate in the school lunch program under this Act under agreements with such State educational agency;

multiplied by

"(ii) the national average free or reduced price lunch payment.

"(B) The amount equal to the product of—

"(i) the number of lunches (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary under section 9(a) of this Act) served during such fiscal year to children in schools in such State (other than those children who are eligible for free or reduced price meals) which participate in the school lunch program under this Act under agreements with such State educational agency;

multiplied by

"(ii) the national average paid lunch payment.

"(2) The national average lunch payment for each free or reduced price lunch served shall be 18.5815 cents, less 2.5 cents, which payment shall be adjusted in accordance with section 11(a) on July 1, 1981, and annually thereafter.

"(3) The national average paid lunch payment for each paid lunch served shall be 8.0407 cents, which payment shall be adjusted in accordance with section 11(a) on July 1, 1981, and annually thereafter.".

(b) Section 11(a) of the National School Lunch Act is amended—

(1) by inserting "(1)" after "SEC. 11. (a)";

(2) in the third sentence, by striking out "(1)" and inserting in lieu thereof "(A)" and by striking out "(2)" and inserting in lieu thereof "(B)"; and

(3) by striking out the fifth sentence and all that follows through the end thereof and inserting in lieu thereof the following:

"(2) The special-assistance factor prescribed by the Secretary for free lunches shall be 83.6165 cents and the special-assistance factor for reduced-price lunches shall be 40 cents less than the special-assistance factor for free lunches.

"(3)(A) The Secretary shall prescribe on July 1, 1981, and on each subsequent July 1, an annual adjustment in the following:

"(i) The national average payment rates for lunches (as established under section 4 of this Act).

"(ii) The special assistance factor for lunches (as established under paragraph (2) of this subsection).

"(iii) The national average payment rates for breakfasts (as established under section 4(b) of the Child Nutrition Act of 1966).

"(iv) The national average payment rates for supplements (as established under section 17(c) of this Act).

"(B) The annual adjustment under this paragraph shall reflect changes in the cost of operating meal programs under this Act and the Child Nutrition Act of 1966, as indicated by the change in the series for food away from home of the Consumer Price Index for all Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor. Each annual adjustment shall reflect the changes in the series for food away from home for the most recent 12-month period for which such data are available. The adjustments made under this paragraph shall be computed to the nearest one-fourth cent."

(c)(1) Section 4(b)(1) of the Child Nutrition Act of 1966 is amended to read as follows:

"(b)(1)(A) For each fiscal year the Secretary shall make breakfast assistance payments, at such times as he may determine, from the sums appropriated therefor, to each State educational agency, in an amount equal to the sum of the following:

"(i) The amount equal to the product of—

"(I) the number of breakfasts served during such fiscal year to children eligible for free breakfasts in schools in such State which participate in the school breakfast program under this section under agreements with such State educational agency;

multipled by

"(II) the national average free breakfast payment.

"(ii) The amount equal to the product of—

"(I) the number of breakfasts served during such fiscal year to children eligible for reduced-price breakfasts in schools in such State which participate in the school breakfast program under this section under agreements with such State educational agency;

multiplied by

"(II) the national average reduced-price breakfast payment.

"(iii) The amount equal to the product of—

"(I) the number of breakfasts served during such fiscal year to children in schools in such State (other than those children who are eligible for free or reduced price lunches) which participate in the school breakfast program under this section under agreements with such State educational agency;

multipled by

"(II) the national average paid-breakfast payment.

"(B) The national average payment for each free breakfast shall be 52.027 cents, the national average payment for each reduced price breakfast shall be 25.9 cents, and the national average payment for each paid breakfast shall be 7.5 cents. These payment factors shall be adjusted in accordance with section 11(a) of the National School

Lunch Act on July 1, 1981, and annually thereafter.

"(C) No breakfast assistance payment may be made under this subsection for any breakfast served by a school unless such breakfast consists of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary under subsection (e) of this section.".

(2) Section 4(b)(2) of the Child Nutrition Act of 1966 is amended—

(A) in subparagraph (B)(ii)—

(i) by striking out "on a semi-annual basis each July 1 and January 1" and inserting in lieu thereof "on an annual basis each July 1"; and

(ii) by striking out "six-month" and inserting in lieu thereof "twelve-month"; and

(B) in subparagraph (C), by striking out "five cents less than" and inserting in lieu thereof "one-half of".

(3) Section 4(d) of the Child Nutrition Act of 1966 is amended—

(A) in the first sentence, by striking out "Each state educational agency shall establish eligibility standards for providing additional assistance to schools in severe need, which shall include" and inserting in lieu thereof "Eligibility standards for providing additional assistance to schools in severe need under subsection (b)(2) shall include only"; and

(B) by striking out the second and third sentences thereof.

REDUCTION IN COMMODITY ASSISTANCE FOR LUNCHES

SEC. 5613. Section 6(e) of the National School Lunch Act is amended by striking out the first sentence and inserting in lieu thereof the following: "The national average value of donated foods, or cash payments in lieu thereof, for free or reduced-price lunches served to children eligible for such lunches shall be 15.54 cents, less 2 cents, adjusted on July 1, 1981, and each July 1 thereafter to reflect changes in the Price Index for Food Used in Schools and Institutions. The national average value of donated foods, or cash payments in lieu thereof, for lunches served to children eligible for paid lunches shall be 7.23 cents, adjusted on July 1, 1981, and each July 1 thereafter to reflect changes in the Price Index for Food Used in Schools and Institutions.".

REVISION OF INCOME ELIGIBILITY GUIDELINES

SEC. 5614. (a) Section 9(b) of the National School Lunch Act is amended—

(1) by amending paragraph (1) to read as follows:

"(b)(1) Not later than June 1 of each fiscal year, the Secretary shall prescribe income guidelines for determining eligibility for free and reduced-price lunches during the 12-month period beginning July 1 of such fiscal year and ending June 30 of the following fiscal year. The income guidelines for determining eligibility for free lunches during any such 12-month period shall be 130 percent of the applicable family-size income levels contained in the poverty guidelines prescribed by the Office of Management and Budget, adjusted annually pursuant to section 625 of the Economic Opportunity Act of 1964, except that beginning July 1, 1983, the income guidelines for determining eligibility for free lunches shall be the same as the gross-income guidelines announced by the Secretary for any such fiscal year for eligibility for participation in the food stamp program under the Food Stamp Act of 1977. The income guidelines for determining eligibility for reduced-price lunches during any such 12-month period shall be 185 percent of the applicable family-size income levels contained in the poverty guidelines prescribed by the Office of Management and Budget, adjusted annually pursuant to section 625 of the Economic Opportunity Act of 1964.";

(2) by redesignating paragraph (2) (and any references thereto) as paragraph (5) and by inserting after paragraph (1) the following new paragraphs:

"(2)(A) Following the determination by the Secretary under paragraph (1) of the income eligibility guidelines for any 12-month period, each State educational agency shall notify the local school food authorities in such State of these guidelines, which shall be used by the school food authorities in making determinations of eligibility for free and reduced-price lunches. At the beginning of each school year, local school food authorities shall make a public announcement specifying, by family size, such income eligibility guidelines for free or reduced-price lunches.

"(B) Local school food authorities shall in a timely manner make available to the parents of children in attendance at their schools applications for free and reduced-price lunches in such form as the Secretary may prescribe, together with any descriptive material relating to the school lunch program. The applications shall specify the income eligibility guidelines, by family size, for reduced-price lunches (as determined by the Secretary under paragraph (1)) and shall contain an explanation that households with incomes not exceeding the incomes specified in the guidelines shall be eligible for either free lunches or reduced-price lunches. Neither the applications, nor any descriptive material provided to such households with the application, shall contain the income eligibility guidelines for free lunches. Nothing contained in the preceding sentence shall be construed to affect the requirement contained in subparagraph (A) of this paragraph that the public announcements made by local school food authorities shall specify the income eligibility guidelines for both free and reduced-price lunches.

"(C) Eligibility determinations shall be made on the basis of a complete application executed by an adult member of the household. Local school food authorities shall undertake such verification of the information contained in these applications as the Secretary may by regulation prescribe and, in accordance with such regulations, make appropriate changes in the eligibility determinations on the basis of such verification.

"(3) Any child who is a member of a household whose income, at the time the application is submitted, is at an annual rate (as estimated by the applicant for the school year for which the application is submitted) which does not exceed the applicable family-size income level prescribed under the eligibility guidelines for free lunches, as determined under paragraph (1), shall be served a free lunch. Any child who is a member of a household whose income, at the time the application is submitted, is at an annual rate which exceeds the applicable family-size income level of the income eligibility guidelines for free lunches, as determined under paragraph (1), but which does not exceed the applicable family-size income level of the income eligibility guidelines for reduced-price lunches, as determined under paragraph (1), shall be served a reduced-price lunch. The price charged by a local school food authority for a reduced-price lunch shall not exceed 40 cents.

"(4) No physical segregation of or other discrimination against any child eligible for a free lunch or a reduced-price lunch under this subsection shall be made by the school nor shall there by any overt identification of any child by special tokens or tickets, announced or published lists of names, or by other means."; and

(3) in the second sentence of paragraph (5), as so redesignated by paragraph (2) of this subsection, by striking out "solely".

(b) Section 9 of the National School Lunch Act is further amended by adding at the end thereof the following new subsection:

"(d)(1) The Secretary shall require, as a condition of eligibility for receipt of free or reduced-price school meals under programs under this Act and the Child Nutrition Act of 1966, that the member of the household who executes the application for participation in the program furnish the social security account numbers of all adult members of the household of which such person is a member.

"(2) Notwithstanding any other provision of law, as a condition for receipt of free or reduced-price school meals under this Act and the Child Nutrition Act of 1966 by any member of a household, the Secretary shall require that appropriate documentation, as prescribed by the Secretary, of the income of such household has been provided to the appropriate local school food authority. The information which the Secretary may require for purposes of verifying a child's eligibility for free or reduced-price school meals may include pay stubs, documentation of the current status of household members who are recipients of public assistance, unemployment insurance documents, and written statements from employers. Documentation showing that a household is participating in the food stamp program under the Food Stamp Act of 1977 shall be considered to be adequate verification that a child who is a member of such household is eligible for such meals.".

(c) For the school year ending June 30, 1982, the Secretary may prescribe procedures for implementing the revisions made by the amendments contained in this section to the income eligibility guidelines for free and reduced-price lunches under section 9 of the National School Lunch Act. Such procedures may allow school food authorities to (1) use applications distributed at the beginning of the school year when making eligibility determinations based on the revised income eligibility guidelines, or (2) distribute new applications and make determinations using such applications.

REVISION OF STATE REVENUE MATCHING REQUIREMENTS

SEC. 5615. (a) Section 7 of the National School Lunch Act is amended to read as follows:

"SEC. 7. (a)(1) Funds appropriated to carry out section 4 of this Act during any fiscal year shall be available for payment to the States for disbursement by State educational agencies in accordance with such agreements, not inconsistent with the provisions of this Act, as may be entered into by the Secretary and such State educational agencies for the purpose of assisting schools within the States in obtaining agricultural commodities and other foods for consumption by children in furtherance of the school lunch program authorized under this Act. For any school year, such payments shall be made to a State only if, during such school year, the amount of the State reve-

nues (excluding State revenues derived from the operation of the program) appropriated for, or used in connection with, food service in schools participating in the school lunch program under this Act (other than any State revenues expended for salaries and administrative expenses of the program at the State level) is not less than 30 percent of the funds made available to such State under section 4 of this Act for the preceding school year.

"(2) If, for any school year, the per capita income of a State is less than the average per capita income of all the States, the amount required to be expended by a State under paragraph (1) for such year shall be an amount bearing the same ratio to the amount equal to 30 percent of the funds made available to such State under section 4 of this Act for the preceding school year as the per capita income of such State bears to the average per capita income of all the States.

"(b) No State in which the State educational agency is prohibited by law from disbursing State appropriated funds to private schools shall be required to match Federal funds made available for meals served in such schools, or to disburse, to such schools, any of the State revenues required to meet the requirements of subsection (a).

"(c) The Secretary shall certify to the Secretary of the Treasury, from time to time, the amounts to be paid to any State under this section and shall specify when such payments are to be made. The Secretary of the Treasury shall pay to the State, at the time or times fixed by the Secretary, the amounts so certified.".

(b) Section 10 of the National School Lunch Act is amended to read as follows:

"DISBURSEMENT TO SCHOOLS BY THE SECRETARY

"SEC. 10. If, in any State, the State educational agency is not permitted by law to disburse the funds paid to it under this Act to any of the schools in the State, the Secretary shall disburse the funds directly to such schools within the State for the same purposes and subject to the same conditions as are authorized or required with respect to the disbursement to schools within the State by the State educational agency.".

TERMINATION OF FOOD SERVICE EQUIPMENT ASSISTANCE

SEC. 5616. (a) Section 5 of the National School Lunch Act is repealed.

(b) Section 5 of the Child Nutrition Act of 1966 is repealed.

NUTRITION EDUCATION AND TRAINING PROGRAM

SEC. 5617. The second sentence of section 19(j)(2) of the Child Nutrition Act of 1966 is amended to read as follows: "There is authorized to be appropriated for the grants referred to in the preceding sentence not more than $15,000,000 for fiscal year 1981, and not more than $2,500,000 for each subsequent fiscal year.".

REVISION OF THE SPECIAL MILK PROGRAM

SEC. 5618. Section 3 of the Child Nutrition Act of 1966 is amended—

(1) in the first sentence, by inserting ", which do not participate in a meal service program authorized under this Act or the National School Lunch Act" after "under" in clause (1) and after "training of children" in clause (2);

(2) in the fourth sentence, by inserting "which does not participate in a meal service program authorized under this Act or the National School Lunch Act" after "institution"; and

(3) by striking out the eighth sentence.

LIMITATION ON PRIVATE SCHOOL PARTICIPATION

SEC. 5619. (a) Section 12 of the National School Lunch Act is amended by inserting in the first sentence of subsection (d)(6) "except private schools whose average yearly tuition exceeds $1,500 per child" after "under".

(b) Section 15(c) of the Child Nutrition Act of 1966 is amended by inserting in the first sentence "except private schools whose average yearly tuition exceeds $1,500 per child" after "such school,".

SUMMER FOOD SERVICE PROGRAM

SEC. 5620. Section 13 of the National School Lunch Act is amended—

(1) in clause (B) of subsection (a)(1), by striking out "nonresidential public or private nonprofit institutions," and inserting in lieu thereof "public or private nonprofit school food authorities, local, municipal, or county governments,";

(2) by adding at the end of subsection (a) the following new paragraph:

"(5) Service institutions that are local, municipal, or county governments shall be eligible for reimbursement for meals served in programs under this section only if such programs are operated directly by such governments."; and

(3) by amending subsection (b)(2) to read as follows:

"(2) Any service institution may only serve lunch and either breakfast or a meal supplement during each day of operation, except that any service institution that is a camp or that serves meals primarily to migrant children may serve up to four meals during each day of operation if (A) the service institution has the administrative capacity and the food preparation and food holding capabilities (where applicable) to serve more than one meal per day, and (B) the service period of different meals does not coincide or overlap. The meals that camps and migrants' programs may serve shall include a breakfast, a lunch, a supper, and meal supplements.".

REVISION OF CHILD CARE FOOD PROGRAM

SEC. 5621. (a) Section 17(a) of the National School Lunch Act is amended—

(1) in the third sentence—

(A) by inserting "not over 12 years of age (except that such age limitation shall not be applicable for handicapped children or children of migrant workers)" after "schoolchildren"; and

(B) by inserting before the period at the end thereof the following: ", in which at least one-third of the children are from families with incomes not greater than 185 percent of the poverty guidelines of the Office of Management and Budget".

(b) Section 17(b) of the National School Lunch Act is amended by striking out "served in the manner specified in subsection (c)" and inserting in lieu thereof "as provided in subsection (f)".

(c) Section 17(c) of the National School Lunch Act is amended to read as follows:

"(c)(1) For purposes of this section, the national average payment rate for free lunches and suppers, the national average payment rate for reduced-price lunches and suppers, and the national average payment rate for paid lunches and suppers shall be the same as the national average payment rates for free lunches, reduced-price lunches, and paid lunches, respectively, under section 4 of this Act (as adjusted pursuant to section 11 of this Act).

"(2) For purposes of this section, the national average payment rate for free breakfasts, the national average payment rate for reduced-price breakfasts, and the national average payment rate for paid breakfasts shall be the same as the national average payment rates for free breakfasts, reduced-price breakfasts, and paid breakfasts, respectively, under section 4(b) of the Child Nutrition Act of 1966 (as adjusted pursuant to section 11 of this Act).

"(3) For purposes of this section, the national average payment rate for free supplements shall be 27.5 cents, the national average payment rate for reduced-price supplements shall be one-half the rate for free supplements, and the national average payment rate for paid supplements shall be 2.50 cents. The Secretary shall adjust such national average payment rates in accordance with section 11(a) of this Act.".

(d) Section 17(f) of the National School Lunch Act is amended—

(1) by amending paragraph (2) to read as follows:

"(2)(A) Subject to subparagraph (B) of this paragraph, the disbursement for any fiscal year to any institution, other than family or group day care home sponsoring organizations, for meals provided under this section shall be equal to the sum of the products obtained by multiplying the total number of each type of meal (breakfast, lunch or supper, or supplement) served in such institution in that fiscal year by the applicable national average payment rate for each such type of meal, as determined under subsection (c).

"(B) No reimbursement may be provided to an institution under this paragraph, or to family or group day care home sponsoring organizations under paragraph (4) of this subsection, for meals served to a child to the extent that the institution to which the reimbursement is made served to such child more than two meals and one meal supplement in one day.";

(2) in the first sentence of paragraph (3), by striking out "may elect to" and inserting in lieu thereof "shall"; and

(3) in the first sentence of paragraph (4), by adding at the end thereof before the period the following: ", except that meals and supplements served to children of family day care home providers whose annual income exceeds 185 percent of the poverty guidelines of the Office of Management and Budget shall not be eligible to receive reimbursement under this section for meals or supplements served to their children".

(e) Section 17(g) of the National School Lunch Act is amended by striking out paragraph (2) and by redesignating paragraphs (3) and (4) (and any references thereto) as paragraphs (2) and (3), respectively.

(f) Section 17 of the National School Lunch Act is further amended—

(1) by striking out subsections (i) and (n); and

(2) by redesignating subsection (j) as subsection (i), subsection (k) as subsection (j), subsection (l) as subsection (k), subsection (m) as subsection (l), subsection (o) as subsection (m), subsection (p) as subsection (n), subsection (q) as subsection (o), and subsection (r) as subsection (p), and by redesignating any references to such subsections accordingly.

(g) Section 17(m) of the National School Lunch Act (as so redesignated) is amended in the second sentence by striking out "the availability of food service equipment funds under the program".

REVISION OF SPECIAL SUPPLEMENTAL FOOD PROGRAM

SEC. 5622. The first sentence of subsection 17(g) of the Child Nutrition Act of 1966 is amended by striking "such sums as may be necessary for the three subsequent fiscal years" and inserting in lieu thereof "1,037,000,000 for each of the fiscal years ending September 30, 1982, September 30, 1983, and September 30, 1984".

COST SAVINGS REVISIONS BY THE SECRETARY

SEC. 5623. As soon as possible after the date of the enactment of this Act, the Secretary of Agriculture shall review regulations promulgated under section 10 of the Child Nutrition Act of 1966 (including regulations pertaining to nutritional requirements for meals) for the purposes of determining ways in which cost savings might be accomplished at the local level in the operation of meal programs under the National School Lunch Act and the Child Nutrition Act of 1966 without impairing the nutritional value of such meals. Not later than 90 days after the date of the enactment of this Act, on the basis of such review, the Secretary of Agriculture shall promulgate such regulations as the Secretary considers appropriate to effectuate such cost savings.

TERMINATION OF STATE PLAN REQUIREMENTS

SEC. 5624. Section 11(e) of the National School Lunch Act is amended by striking out paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

EFFECTIVE DATE

SEC. 5625. The provisions of this subchapter shall take effect on August 15, 1981.

Subchapter B—Amendments to the Higher Education Act of 1965

SHORT TITLE

SEC. 5631. This subchapter may be cited as the "Postsecondary Student Assistance Amendments of 1981".

NEED BASED LOANS

SEC. 5632. (a) Section 425(a) of the Higher Education Act of 1965 (hereafter in this subchapter referred to as "the Act") is amended—

(1) by striking out "The total of loans" and inserting in lieu thereof "Subject to the limitations contained in paragraph (3), the total of loans"; and

(2) by adding at the end thereof the following new paragraph:

"(3)(A) The amount of any loan made on or after October 1, 1981, which may be covered by Federal loan insurance under this part shall be limited to the student's financial need for the period of instruction to be covered by the loan, except that in the case of a student whose financial need is determined to be equal to or less than $1,000, the amount of the loan to such student which may be covered by Federal loan insurance under this part shall be $1,000.

"(B) For the purposes of this paragraph, the term 'financial need' means the estimated cost of attendance less estimated financial assistance and the expected family contribution. The eligible institution at which he is in attendance shall determine the student's financial need in accordance with a needs analysis method determined by the Secretary.".

(b) Section 428(o)(1) of the Act is amended by striking out "and" at the end of division (ii), by inserting "and" at the end of division (iii), and by inserting after division (iii) the following new division:

"(iv) that, in the case of any loan made on or after October 1, 1981, the program may not authorize the insurance of any loan in excess of the student's financial need, determined in accordance with section 425(a)(3)(B), for the period of instruction to be covered by the Loan, but in the case of a student whose financial need is determined to be equal to or less than $1,000, the amount of the loan to such student which is authorized to be covered by such insurance shall be $1,000.".

(c) Section 439B of the Act is repealed.

(d) Section 482(a)(1) of the Act is amended by striking out "and under part B".

(e) Section 428B(b)(3) of the Act is amended by striking out "No" and inserting in lieu thereof the following: "Any loan under this section may be counted as part of the student's expected family contribution in the determination of need under this title, but no".

NEED ANALYSIS AMENDMENTS

SEC. 5633. (a)(1) Section 482(b)(3) of the Act is amended by striking out ", and includes any amount paid under the Social Security Act to, or on account of, the student which would not be paid if he were not a student and one-half of any amount paid the student under chapters 34 and 35 of title 38, United States Code".

(2) Section 482(b)(1) of the Act is amended by inserting immediately before the period at the end of the first sentence thereof the following: ", and includes (A) any amount paid under the Social Security Act to, or on account of, the student which would not be paid if he were not a student, and (B) any amount paid the student under chapters 34 and 35 of title 38, United States Code".

(b) Section 482(b)(4) of the Act is amended to read as follows:

"(4) In determining the expected family contribution under this section for any academic year after academic year 1980–1981, the Secretary shall set an assessment rate or a series of assessment rates to be applied to parental discretionary income.".

(c) Section 482(b)(5) of the Act is amended—

(1) by striking out clause (A);

(2) by redesignating clauses (B) and (C) as clauses (A) and (B), respectively;

(3) by striking out "$10,000" in clause (A) (as redesignated by this subsection) and inserting in lieu thereof "$25,000"; and

(4) by striking out "$50,000" in clause (B) (as redesignated by this subsection) and inserting in lieu thereof "$100,000".

(d) Section 482(d) of the Act is amended—

(1) in paragraph (2) by inserting "as determined by the Secretary" immediately before the semicolon at the end thereof;

(2) by inserting immediately before the semicolon at the end of subparagraphs (A), (C), and (D) of paragraph (3) a comma and the following: "except that for purposes of subpart 1 of part A this allowance shall be determined by the Secretary"; and

(3) by striking out paragraphs (4), (5), (6), and (7) and inserting in lieu thereof the following:

"(4) for a student engaged in a program of study by correspondence, only tuition and fees and an allowance, as determined by the Secretary, for required books, supplies, travel, and room-and-board costs incurred specifically in fulfilling a required period of residential training;

"(5) for a student enrolled in an academic program which normally includes a formal program of study abroad, an allowance for reasonable costs as determined by the Secretary;

"(6) for a student with dependent children, an allowance for child-care expenses as determined by the Secretary; and

"(7) for a handicapped student, an allowance as determined by the Secretary for those expenses related to the handicap, including special services, transportation, equipment, and supplies that are reasonably incurred and not provided for by other assisting agencies.".

INTEREST RATES ON PARENT LOANS

SEC. 5634. (a) Section 428B(c)(3) of the Act is amended to read as follows:

"(3) Interest on loans made pursuant to this section shall be at the rate of 9 per centum per annum on the unpaid principal balance of the loan, except that for any loan made pursuant to this section on or after October 1, 1981, the interest shall be at the rate of 14 per centum per annum on the unpaid principal balance of the loan.".

(b) Section 438(b)(2) of the Act is amended—

(1) by striking out "subparagraph (D)" in subparagraphs (A), (B), and (C), and inserting in lieu thereof "subparagraph (E)";

(2) by redesignating subparagraph (D) as subparagraph (E);

(3) by inserting after subparagraph (C) the following new subparagraph:

"(D) Subject to subparagraph (E) and paragraph (4), the special allowance paid pursuant to this subsection on loans for which the applicable interest rate is 14 per centum per annum shall be computed (i) by determining the average of the bond equivalent rates of the ninety-one-day Treasury bills auctioned for such three-month period, (ii) by subtracting 10.5 per centum from such average, and (iii) by dividing the resultant per centum by four."; and

(4) by striking out "subparagraph (A), (B), or (C)" in subparagraph (E) (as redesignated by paragraph (2) of this subsection) and inserting in lieu thereof "subparagraph (A), (B), (C), or (D)".

INDEPENDENT STUDENT LOAN LIMITATIONS

SEC. 5635. (a) Section 425(a)(1) of the Act is amended—

(1) by striking out clause (A) and by redesignating clauses (B), (C), and (D) as clauses (A), (B), and (C), respectively; and

(2) by striking out "clause (C)" in the last sentence of such section and inserting in lieu thereof "clause (B)".

(b) Section 425(a)(2) of the Act is amended—

(1) by striking out "(other than an independent student)"; and

(2) by striking out "$15,000 in the case of any independent student who has not successfully completed a program of undergraduate education,".

(c) The matter preceding subdivision (i) of section 428(b)(1)(A) of the Act is amended—

(1) by striking out "(other than an independent student)"; and

(2) by striking out "or not more than $3,000 in the case of an independent student (defined in accordance with section 482(c)(2)) who has not successfully completed a program of undergraduate education,".

(d) Section 428(b)(1)(B) of the Act is amended—

(1) by striking out "(other than an independent student)"; and

(2) by striking out "$15,000 in the case of any independent student who has not successfully completed a program of undergraduate education,".

(e) Section 428A of the Act is amended—

(1) by striking out ", other than an independent student," in subsection (a)(1)(A) and in subsection (a)(2)(A);

(2) by striking out "$3,000 (in the case of an independent student (as defined in section 482(c)(2)) who has not successfully completed a program of undergraduate education)," in each such subsection;

(3) by striking out "(other than an independent student)" in each such subsection; and

(4) by striking out "$15,000 in the case of any independent student who has not successfully completed a program of undergraduate education," in each such subsection.

(f)(1) Section 428(a) of the Act is amended by inserting "and independent students (as defined in section 482(c)(2))" before "shall be eligible".

(2) Section 428B(b) of the Act is amended by adding at the end thereof the following new paragraph:

"(4)(A) Notwithstanding the first sentence of paragraph (3) but subject to subparagraph (B) of this paragraph, the maximum amount an independent student may borrow under this section in any academic year or its equivalent (as defined by regulation by the Secretary) is equal to (i) $2,500, minus (ii) the amount of all other loans under this part to such student for such academic year or its equivalent.

"(B) The aggregate insured principal amount for insured loans made to an independent student under this part (including loans made under this section) shall not exceed $12,500.".

(3) Section 439(o) of the Act is amended by adding at the end thereof the following new paragraph:

"(5) No loan may be made under this section for the purpose of consolidating a loan or loans made under section 428B with a loan or loans made under any other provision of this part.".

ELIMINATION OF GRACE PERIODS AFTER DEFERMENTS

SEC. 5636. (a) Section 427(a)(2)(C) of the Act is amended—

(1) by striking out "that any such period" and inserting in lieu thereof "and any such period"; and

(2) by striking out ", that no repayment of principal of any loan for any period of study, training, service, or unemployment described in this clause or any combination thereof shall begin until six months after completion of such period or combination thereof".

(b) Section 428(b)(1)(M) of the Act is amended by striking out ", and that no repayment of principal of any loan for any period of study, training, service, or unemployment described in this clause or any combination thereof shall begin until six months after completion of such period or combination thereof".

RESTRICTION OF DEFERMENTS OF REPAYMENT

SEC. 5637. (a) Section 427(a)(2)(C) of the Act is amended by striking out clauses (iii) through (vi) and by redesignating clauses (vii) and (viii) as clauses (iii) and (iv), respectively.

(b) Section 428(b)(1)(M) of the Act is amended by striking out clauses (iii) through (vi) and by redesignating clauses (vii) and (viii) as clauses (iii) and (iv), respectively.

PROCESSING COSTS

SEC. 5638. (a) Section 428(e) of the Act is amended to read as follows:

"(e) Each eligible institution is authorized to collect from any student for which it provides assistance in obtaining any loan described in paragraph (1) or made under section 428B for any academic year a reasonable fee solely for the purpose of offsetting the costs to the institution for the program under this part."

(b)(1) Section 489(a) of the Act is amended by striking out the first sentence and by striking out "In addition, an" and inserting in lieu thereof "An".

(2) Section 411 of the Act is amended by adding at the end thereof the following new subsection:

"(d) Each institution of higher education is authorized to collect from any student for which it provides assistance in obtaining any grant under this section for any academic year a reasonable fee solely for the purpose of offsetting the costs to the institution for the program under this section.".

REDUCTION OF INTEREST SUBSIDY BY AMOUNT OF AUTHORIZED ORIGINATION FEES

SEC. 5639. (a) Section 428(a)(3)(A) of the Act is amended by inserting "(i)" after "(3)(A)" and by adding at the end thereof the following:

"(ii) Notwithstanding division (i) of this subparagraph, the total amount of the portion of the interest which shall be paid to any holder with respect to loans made on or after July 1, 1981, shall be reduced by an amount equal to the maximum amount which the lender was authorized to charge as an origination fee with respect to such loans in accordance with section 427A(d).".

(b) Section 427A of the Higher Education Act of 1965 is amended by adding at the end thereof the following:

"(d) With respect to any loan made to a student on or after July 1, 1981, each eligible lender under this part is authorized to charge the borrower an origination fee in amount not to exceed 4 per centum of the principal amount of the loan, which may be deducted from the proceeds of the loan prior to payment to the borrower. Such origination fee shall not be taken into account for purposes of determining compliance with subsection (a) of this section. The lender shall disclose to the borrower the amount and method of calculating the origination fee, but this disclosure need not meet the requirements of the Truth in Lending Act (15 U.S.C. 1601 et seq.) until April 1, 1982."

MINIMUM ANNUAL REPAYMENT

SEC. 5640. (a) Section 427(c) of the Act is amended by striking out "$360" each place it appears and inserting in lieu thereof "$600".

(b) Section 428(b)(1)(L) of the Act is amended by striking out "$360" each place it appears and inserting in lieu thereof "$600".

ASSIGNMENT OF COLLECTIONS

SEC. 5641. (a) Section 428(c) of the Act is amended—

(1) in paragraph (2)(D) by striking out "but shall not otherwise provide for subrogation of the United States to the rights of any insurance beneficiary" and inserting in lieu thereof "but shall provide for subrogation of the United States to the rights of any insurance beneficiary only to the extent required for purposes of paragraph (8)"; and

(2) by adding at the end thereof the following new paragraph:

"(8) If the Secretary determines that the protection of the fiscal interest of the United States so requires, a State or nonprofit private institution or organization with which the Secretary has an agreement under subsection (b) shall assign to the Secretary any loan of which it is the holder and for which the Secretary has made a payment pursuant to paragraph (1) of this subsection.".

AMENDMENTS CONCERNING THE STUDENT LOAN MARKETING ASSOCIATION

SEC. 5642. (a) Section 439(a) of the Act is amended by striking out "insured" wherever it appears, and by inserting after "student loans," the first time it appears the following: "including loans which are insured".

(b) Section 439(a) of the Act is further amended by striking out "and" at the end of clause (1), and by striking the period at the end of clause (2) and inserting in lieu thereof the following: "; (3) to assure nationwide the establishment of adequate loan insurance programs for students, to provide for an additional program of loan insurance to be covered by agreements with the Secretary.".

(c) Section 439(d)(1) of the Act is amended to read as follows:

"(d)(1) The Association is authorized, subject to the provisions of this section—

"(A) pursuant to commitments or otherwise to make advances on the security of, purchase, or repurchase, service, sell or resell, offer participations, or pooled interests or otherwise deal in, at prices and on terms and conditions determined by the Association, student loans which are insured by the Secretary under this part or by a State or nonprofit private institution or organization with which the Secretary has an agreement under section 428(b);

"(B) to buy, sell, hold, underwrite, and otherwise deal in obligations, if such obligations are issued, for the purpose of making or purchasing insured loans, by a State or nonprofit private institution or organization which has an agreement with the Secretary under section 428(b) or by an eligible lender in a State described in section 435(b)(1) (D) or (F);

"(C) to undertake a program of loan insurance pursuant to agreements with the Secretary under sections 428 and 428A, except that, with respect to loans under section 439(o), the Secretary may enter into an agreement with the Association for such purpose only if the Secretary determines that (i) eligible borrowers are seeking and unable to obtain loans under this part, and (ii) no State or nonprofit private institution or organization having an agreement with the Secretary for a program of loan insurance under this part is capable of or willing to provide a program of loan insurance for such borrowers; and

"(D) to undertake any other activity which the Board of Directors of the Association determines to be in furtherance of the programs of insured student loans authorized under this part or will otherwise support the credit needs of students.

The Association is further authorized to undertake any activity with regard to student loans which are not insured or guaranteed as provided for in this subsection as it may undertake with regard to insured or guaranteed student loans. Any warehousing advance made on the security of such loans shall be subject to the provisions of paragraph (2) of this subsection to the same extent as a warehousing advance made on the security of insured loans.".

(d) Section 439(1) of the Act is amended by adding at the end thereof the following: "The obligations of the Association shall be deemed to be obligations of the United States for purposes of section 3701 of the Revised Statutes (31 U.S.C. 742). For the purpose of the distribution of its property pursuant to section 726 of the title 11,

United States Code, the Association shall be deemed a person within the meaning of such title.".

EFFECTIVE DATE

SEC. 5643. (a) Except as provided in subsection (b), the amendments made by this subchapter shall take effect on October 1, 1981.

(b)(1) Except as provided in paragraph (2), the amendments made by this subchapter to part B of title IV of the Higher Education Act of 1965 shall apply to loans made on or after October 1, 1981.

(2) The amendments made by section 5633(d) of this Act to section 482(d) of the Higher Education Act of 1965 and by sections 5639 and 5642 shall take effect on the date of the enactment of this Act.

TITLE III, HOUSE COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

On page 21, strike out line 17 and all that follows through line 35 on Page 22—and insert in lieu thereof the following and redesignate the following sections accordingly.

Chapter I—COMMUNITY AND ECONOMIC DEVELOPMENT AUTHORIZATIONS

SEC. 3101. Section 103 of the Housing and Community Development Act of 1974 is amended to read as follows:

"SEC. 103. The Secretary is authorized to make grants to States, units of general local government and Indian tribes to carry out activities in accordance with the provisions of this title. There are authorized to be appropriated for these purposes not to exceed $4,166,000,000 for each of fiscal years 1982 and 1983. Sums appropriated pursuant to this section shall remain available until expended.".

STATEMENT OF ACTIVITIES AND REVIEW

SEC. 3102. (a) The caption of section 104 of the Housing and Community Development Act of 1974 is amended to read as follows: "STATEMENT OF ACTIVITIES AND REVIEW".

(b) Sections 104 (a), (b) and (c) of such Act are amended to read as follows:

"SEC. 104. (a) Prior to the receipt in any fiscal year of a grant by any metropolitan city or ubran county or by any State under section 106, the grantee shall have prepared a final statement of community development objectives and projected use of funds and shall have provided the Secretary with the certifications required in subsection (b) and, where appropriate, subsection (c). In the case of metropolitan cities and urban counties receiving grants pursuant to section 106(b), the statement of projected use of funds shall consist of proposed community development activities. In the case of States receiving grants pursuant to section 106(d), the statement of projected use of funds shall consist of the method by which the States will distribute funds to units of general local government. In order to permit public examination and appraisal of such statements, to enhance the public accountability of grantees, and to facilitate coordination of activities with different levels of government, a proposed statement shall be published in such manner to afford affected citizens or, as appropriate, units of general local government an opportunity to examine its content and to submit comments on the proposed statement. In preparing the final statement, the grantee shall consider any such comments and may, if deemed appropriate by the grantee, modify the proposed statement. The final statement shall be made available to the public, and a copy shall be furnished to the Secretary together with the certifications required under subsection (b) and, where appropriate, subsection (c).

"(b) Any grant under section 106 shall be made only on condition that the grantee certify to the satisfaction of the Secretary that—

"(1) the grantee is in full compliance with the publication requirements of subsection (a);

"(2) the grant will be conducted and administered in conformity with Public Law 88-352 and Public Law 90-284;

"(3) the projected use of funds has been developed so as to give maximum feasible priority to activities which will benefit low- and moderate-income families or aid in the prevention or elimination of slums or blight; the projected use of funds may also include activities which the grantee certifies are designed to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community, and other financial resources are not available; and

"(4) the grantee will comply with the other provisions of this title and with other applicable laws.

"(c)(1) Any grant made under section 106(b) shall be made only on condition that the unit of general local government certifies that it is following a current housing assistance plan which has been approved by the Secretary and which—

"(A) accurately surveys the condition of the housing stock in the community and assesses the housing assistance needs of lower-income persons (including elderly and handicapped persons, large families, owners of homes requiring rehabilitation assistance and persons displaced or to be displaced) residing in or expected to reside in the community as a result of existing or projected employment opportunities in the community (and those elderly persons residing in or expected to reside in the community), or as estimated in a community accepted State or regional housing opportunity plan approved by the Secretary, and identifies housing stock which is in a deteriorated condition, including the impact of conversion of rental housing to condominium or cooperative ownership on such needs;

"(B) specifies a realistic annual goal for the number of dwelling units or lower-income persons to be assisted, including (i) the relative proportion of new, rehabilitated, and existing dwelling units, including existing rental and owner occupied dwelling units to be upgraded and thereby preserved, (ii) the sizes and types of housing projects and assistance best suited to the needs of lower-income persons in the community, and (iii) in the case of subsidized rehabilitation, adequate provisions to assure that a preponderance of persons assisted should be of low and moderate income; and

"(C) indicates the general locations of proposed housing for lower-income persons, with the objective of (i) furthering the revitalization of the community, including the restoration and rehabilitation of stable neighborhoods to the maximum extent possible, and the reclamation of the housing stock where feasible through the use of a broad range of techniques for housing restoration by local government, the private sector, or community organizations, including provision of a reasonable opportunity for tenants displaced as a result of such activities to relocate in their immediate neighborhood, (ii) promoting greater choice of housing opportunities and avoiding undue concentrations of assisted persons in areas containing a high proportion of low-income persons, and (iii) assuring the availability of public facilities and services adequate to serve proposed housing projects.

"(2) The Secretary shall establish such dates and manner for the submission of housing assistance plans described in paragraph (1) as the Secretary may prescribe.".

(c)(1) Section 104(d) of such Act is amended to read as follows:

"(d) Each grantee shall submit to the Secretary, at a time determined by the Secretary, a performance report concerning the use of funds made available under section 106, together with an assessment by the grantee of the relationship of such use to the objectives identified in the grantee's statement under subsection (a). The Secretary shall, at least on an annual basis, make such reviews and audits as may be necessary or appropriate to determine—

"(1) in the case of grants made under section 106(b), whether the grantee has carried out its activities and its housing assistance plan in a timely manner, whether the grantee has carrried out those activities and its certifications in compliance with the requirements of this title and other applicable laws, and whether the grantee has a continuing capacity to carry out those activities in a timely manner; and

"(2) in the case of grants made under section 106(d), whether the State has distributed funds to units of general local government in a timely manner and in conformance to the method of distribution described in its statement, whether the State has carried out its certifications in compliance with the requirements of this title and other applicable laws, and whether the State has made such reviews and audits of the units of general local government as may be necessary or appropriate to determine whether they have satisfied the performance criteria described in paragraph (1) of this subsection.

"The Secretary may make appropriate adjustments in the amount of the annual grants in accordance with the Secretary's findings under this subsection. With respect to assistance made available to units of general local government under section 106(d), the Secretary may adjust, reduce, or withdraw such assistance, or take other action as appropriate in accordance with the Secretary's reviews and audits under this subsection, except that funds already expended on eligible activities under this title shall not be recaptured or deducted from future assistance to such units of general local government.".

(2) The amendment made by paragraph (1) shall take effect on October 1, 1982, except that, in the case of grants under section 106(d)(3)(B) of the Housing and Community Development Act of 1974, as amended by this Act, such amendment shall take effect on October 1, 1983.

(d) Section 104 of such Act is amended by striking out subsections (e) and (f) and redesignating subsections (g), (h), (i), and (j) as subsections (e), (f), (g), and (h).

(e) Section 104(f) of such Act, as redesignated by subsection (d) of this section, is amended by—

(1) striking out "applicants" in paragraph (1) and inserting in lieu thereof "recipients of assistance under this title";

(2) striking out "applicant" wherever it appears and inserting in lieu thereof "recipient of assistance under this title";

(3) striking out "applications and" in the last sentence of paragraph (2); and

(4) adding the following new paragraph at the end thereof:

"(4) In the case of grants made to States pursuant to section 106(d), the State shall perform those actions of the Secretary described in paragraph (2) and the performance of such actions shall be deemed to satisfy the Secretary's responsibilities referred to in the second sentence of such paragraph.".

(f) Section 104(g) of such Act, as redesignated by subsection (d) of this section, is amended by—

(1) striking out paragraph (1) and inserting in lieu thereof the following:

"(1) Units of general local government receiving assistance under this title may receive funds, in one payment, in an amount not to exceed the total amount designated in the grant (or, in the case of a unit of general local government receiving a distribution from a State pursuant to section 106(d), not to exceed the total amount of such distribution) for use in establishing a revolving loan fund which is to be established in a private financial institution and which is to be used to finance rehabilitation activities assisted under this title. Rehabilitation activities authorized under this section shall begin within 45 days after receipt of such payment."; and

(2) striking out the last two sentences of paragraph (2).

ELIGIBLE ACTIVITIES

SEC. 3103. (a) Section 105(a) of the Housing and Community Development Act of 1974 is amended by—

(1) striking out paragraph (8) and inserting in lieu thereof the following:

"(8) provision of public services, including but not limited to those concerned with employment, crime prevention, child care, health, drug abuse, education, energy conservation, welfare or recreation needs, if such services have not been provided by the unit of general local government (through funds raised by such unit, or received by such unit from the State in which it is located) during any part of the twelve-month period immediately preceding the date of submission of the statement with respect to which funds are to be made available under this title, and which are to be used for such services, unless the Secretary finds that the discontinuation of such services was the result of events not within the control of the unit of general local government: *Provided*, That not more than ten percent of the amount of any assistance to a unit of general local government under this title may be used for activities under this paragraph;";

(2) striking out "and" at the end of paragraph (15);

(3) striking out the period at the end of paragraph (16) and inserting in lieu thereof "; and ";

(4) adding the following new paragraph at the end thereof:

"(17) provision of assistance to private, for-profit entities, when the assistance is necessary or appropriate to carry out an economic development project."; and

(5) inserting the following before the semicolon at the end of paragraph (13) ", and including the carrying out of activities as described in Section 701(e) of the Housing Act of 1954 on the date prior to the date of enactment of the Housing & Community Development Amendments of 1981.

(b) In fiscal years 1982, 1983 and 1984, the Secretary may waive the limitation on the amount of funds which may be used for public services activities under section 105(a)(8) of the Housing and Community Development Act of 1974, as amended by this Act, in the case of a unit of general local government which, during fiscal year 1981, allocated more than ten percent of funds received under title I of the Housing Community Development Act of 1974 for such activities.

ALLOCATION AND DISTRIBUTION OF FUNDS

SEC. 3104. (a) Section 106(a) of such Act is amended to read follows:

"SEC. 106. (a) Of the amount approved in an appropriation Act under section 103 for grants in any year (excluding the amounts provided for use in accordance with section 107), 70 percent shall be allocated by the Secretary to metropolitan cities and urban counties. Except as otherwise specifically authorized, each metropolitan city and urban county shall be entitled to annual grants from such allocation in an amount not exceeding its basic amount computed pursuant to paragraph (1) or (2) of subsection (b).".

(b) Section 106 of such Act is amended by striking out subsection (c) and redesignating subsections (d), (e), (f) and (g) as subsections (c), (d), (e) and (f), respectively.

(c) Section 106(c), as redesignated by subsection (b) of this section, is amended to read as follows:

"(c) Any amounts allocated to a metropolitan city or urban county pursuant to the preceding provisions of this section which are not received by the city or county for a fiscal year or which become available as a result of actions under section 104(d) or section 111 shall be added to amounts available for allocation under section 106(a) in the succeeding fiscal year.".

(d) Section 106(d)(1) of such Act, as redesignated by subsection (b) of this section, is amended by—

(1) striking out "section 103(a)" and all that follows through "nonmetropolitan areas of each State" in the first sentence and inserting in lieu thereof the following:

"section 103 for grants in any year (excluding the amounts provided for use in accordance with section 107), 30 percent shall be allocated to States. The allocation for each State shall be"; and

(2) striking out "nonmetropolitan" wherever it appears and inserting in lieu thereof "nonentitlement".

(e) Section 106(d) of such Act, as redesignated by subsection (b) of this section, is amended by striking out paragraphs (2) and (3) and inserting in lieu thereof the following:

"(2) Amounts allocated under paragraph (1) shall be available for distribution by the State to units of general local government which are located in nonentitlement areas of the State to carry out activities in accordance with the provisions of this title. These amounts may also be used for administrative expenses incurred by the State in carrying out its responsibilities under this title. The State shall distribute amounts allocated to it consistent with the statement submitted under section 104(a) and shall be responsible for the administration of funds so distributed.

"(3)(A) Except as provided in subparagraph (B), any amounts allocated to a State under paragraph (1) which are not received by the State for a fiscal year or which become available as a result of actions under section 104(d) or section 111 shall be added to amounts available for allocation under this subsection in the succeeding fiscal year.

"(B) States may elect not to receive an allocation under paragraph (1) for fiscal year 1982. This election shall be made in such manner and before such time as the Secretary may prescribe. The Secretary shall administer the allocation for any State exercising such an election in accordance with the provisions of this title which governed grants to units of general local government in nonentitlement areas, as such provisions (except section 104(a)(4)) existed prior to the effective date of the Housing and Community Development Amendments of 1981. Any amounts under this subparagraph (except amounts for which preapplications have been approved by the Secretary prior to October 1, 1982 and which have been obligated by January 1, 1983) which are or become available for obligation after fiscal year 1982 shall be available for use by the State for which the allocation was made.

"(4) In computing amounts under paragraph (1), Indian tribes shall be excluded.".

(f) Section 106(f), as redesignated by subsection (b) of this section, is amended by striking out "(1)" and all that follows through "106(e)" and inserting in lieu thereof "all basic grant entitlement amounts".

DISCRETIONARY FUND AND URBAN DEVELOPMENT ACTION GRANTS

SEC. 3105 (a) The caption of section 107 of the Housing and Community Development Act of 1974 is amended to read as follows:

"DISCRETIONARY FUND AND URBAN DEVELOPMENT ACTION GRANTS".

(b) Subsections (a) and (b) of section 107 of such Act are amended to read as follows:

"SEC. 107 (a) Of total amount approved in appropriation Acts under section 103 for each of the fiscal years 1982 and 1983, (1) not more than $60,000,000 for each of fiscal years 1982 and 1983 may be set aside in a special discretionary fund for grants under subsection (b), and (2) not more than $500,000,000 for fiscal year 1982 may be set aside for urban development action grants under section 119 (until the effective date of section 105(c)(1)—(5) of the Housing and Community Development Amendments of 1981) and thereafter under subsection (c) of this section. Grants under this section are in addition to any other grants which may be made under this title to the same entities for the same purposes.

"(b) From amounts set aside under subsection (a)(1), the Secretary is authorized to make grants—

"(1) in behalf of new communities assisted under title VII of the Housing and Urban Development Act of 1970 or title IV of the Housing and Urban Development Act of 1968 or in behalf of new community projects assisted under title X of the National Housing Act which meet the eligibility standards set forth in title VII of the Housing and Urban Development Act of 1970 and which were the subject of an application or preapplication under such title prior to January 14, 1975;

"(2) in Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands;

"(3) to Indian tribes; and

"(4) to States, units of general local government, Indian tribes, or areawide planning organizations for the purpose of providing technical assistance in planning, developing, and administering assistance under this title, and to State and units of general local government for implementing special projects otherwise authorized under this title. The Secretary may also provide, directly or through contracts, technical assistance under this paragraph to such gov-

ernmental units, or to a group designated by such a governmental unit for the purpose of assisting that governmental unit to carry out assistance under this title.".

(c)(1) Section 107 of such Act is amended by striking out subsections (c) and (d) and inserting in lieu thereof the following:

"(c)(1) From amounts set aside under subsection (a)(2), the Secretary is authorized to make urban development action grants to cities and urban counties which are experiencing severe economic distress to help stimulate economic development activity needed to aid in economic recovery.

"(2)(A) Urban development action grants shall be made only to cities and urban counties that have, in the determination of the Secretary, demonstrated results in providing housing for persons of low- and moderate-income and in providing equal opportunity in housing and employment for low- and moderate-income persons and members of minority groups. The Secretary shall issue regulations establishing criteria in accordance with the preceding sentence and setting forth minimum standards for determining the level of economic distress of cities and urban counties for eligibility for such grants. These standards shall take into account factors such as the age of housing; the extent of poverty; the extent of population lag; growth of per capita income; and, where data are available, the extent of unemployment and job lag.

"(B) A city or urban county which fails to meet the minimum standards established pursuant to subparagraph (A) shall be eligible for assistance under this subsection if it meets the requirements of the first sentence of such subparagraph and—

"(i) in the case of a city with a population of fifty thousand persons or more or an urban county, contains an area (I) composed of one or more contiguous census tracts, enumeration districts, or block groups, as defined by the United States Bureau of Census, having at least a population of ten thousand persons or 10 percent of the population of the city or urban county; (II) in which at least 70 percent of the residents have incomes below 80 percent of the median income of the city or urban county; and (III) in which at least 30 percent of the residents have incomes below the national poverty level; or

"(ii) in the case of a city with a population of less than fifty thousand persons, contains an area (I) composed of one or more contiguous census tracts, enumeration districts, or block groups or other areas defined by the United States Bureau of Census or for which data certified by the United States Bureau of Census are available having at least a population of two thousand five hundred persons or 10 percent of the population of the city, whichever is greater; (II) in which at least 70 percent of the residents have incomes below 80 percent of the median income of the city; and (III) in which at least 30 percent of the residents have incomes below the national poverty level.

The Secretary shall use up to, but not more than, 20 percent of the funds appropriated for use in any fiscal year under this subsection for the purpose of making grants to cities and urban counties eligible under this subparagraph.

"(3) Applications for assistance under this subsection shall—

"(A) in the case of an application for a grant under paragraph (2)(B), include documentation of grant eligibility in accordance with the standards described in that paragraph;

"(B) set forth the activities for which assistance is sought, including (i) an estimate of the costs and general location of the activities; (ii) a summary of the public and private resources which are expected to be made available in connection with the activities, including how the activities will take advantage of unique opportunities to attract private-investment; and (iii) an analysis of the economic benefits which the activities are expected to produce;

"(C) contain a certification satisfactory to the Secretary that the applicant, prior to submission of its application, (i) has held public hearings to obtain the views of citizens, particularly residents of the areas in which the proposed activities are to be carried out and (ii) has analyzed the impact of these proposed activities on the residents, particularly those of low and moderate income, of the residential neighborhood, and on the neighborhood in which they are to be carried out; and

"(D) contain a certification satisfactory to the Secretary that the applicant, prior to submission of its application, (i) has identified all properties, if any, which are included on the National Register of Historic Places and which, as determined by the applicant, will be affected by the project for which the application is made; (ii) has identified all other properties, if any, which will be affected by such project and which, as determined by the applicant, may meet the criteria established by the Secretary of the Interior for inclusion on such Register, together with documentation relating to the inclusion of such properties on the Register; (iii) has determined the effect, as determined by the applicant, of the project on the properties identified pursuant to clauses (i) and (ii); and (iv) will comply with the requirements of section 120.

"(4)(A) Except in the case of a city or urban county eligible under paragraph (2)(B), the Secretary shall establish selection criteria for grants under this subsection which must include (i), as the primary criterion, the comparative degree of economic distress among applicants, as measured (in the case of a metropolitan city or urban county) by the differences in the extent of growth lag, the extent of poverty, and the adjusted age of housing in the metropolitan city or urban county; (ii) other factors determined to be relevant by the Secretary in assessing the comparative degree of economic deterioration in cities and urban counties; and (iii) at least the following other criteria: demonstrated performance of the city or urban county in housing and community development programs; the extent to which the grant will stimulate economic recovery by leveraging private investment; the number of permanent jobs to be created and their relation to the amount of grant funds requested; the proportion of permanent jobs accessible to lower-income persons and minorities, including persons who are unemployed; the impact of the proposed activities on the fiscal base of the city or urban county and its relation to the amount of grant funds requested; the extent to which State or local government funding or special economic incentives have been committed; and the feasibility of accomplishing the proposed activities in a timely fashion within the grant amount available.

"(B) For the purpose of making grants with respect to areas described in paragraph (2)(B), the Secretary shall establish selection criteria, which must include (i) factors determined to be relevant by the Secretary in assessing the comparative degree of economic deterioration among eligible areas, and (ii) such other criteria as the Secretary may determine, including at a minimum the criteria listed in subparagraph (A)(iii) of this paragraph.

"(5) The Secretary may not approve any grant to a city or urban county eligible under paragraph (2)(B) unless—

"(A) the grant will be used in connection with a project located in an area described in paragraph (2)(B), except that the Secretary may waive this requirement where the Secretary determines (i) that there is no suitable site for the project within that area, (ii) the project will be located directly adjacent to that area, and (iii) the project will contribute substantially to the economic development of that area;

"(B) the city or urban county has demonstrated to the satisfaction of the Secretary that basic services supplied by the city or urban county to the area described in paragraph (2)(3) are at least equivalent, as measured by per capita expenditures, to those supplied to other areas within the city or urban county which are similar in population size and physical characteristics and which have median incomes above the median income for the city or urban county;

"(C) the grant will be used in connection with a project which will directly benefit the low- and moderate-income families and individuals residing in the area described in paragraph (2)(B); and

"(D) the city or urban county makes available, from its own funds or from funds received from the State or under any Federal program which permits the use of financial assistance to meet the non-Federal share requirements of Federal grant-in-aid programs, an amount equal to 20 percent of the grant to be available under this subsection to be used in carrying out the activities described in the application.

"(6) Activities assisted under this subsection may include such activities, in addition to those authorized under section 105(a), as the Secretary determines to be consistent with the purposes of this subsection.

"(7) The Secretary shall, at least on an annual basis, make reviews and audits of recipients of grants under this subsection as necessary to determine the progress made in carrying out activities substantially in accordance with approved plans and timetables. The Secretary may adjust, reduce, or withdraw grant funds, or take other action as appropriate in accordance with the findings of these reviews and audits, except that funds already expended on eligible activities under this title shall not be recaptured or deducted from future grants made to the recipient.

"(8) No assistance may be provided under this subsection for projects intended to facilitate the relocation of industrial or commercial plants or facilities from one area to another, unless the Secretary finds that the relocation does not significantly and adversely affect the unemployment or economic base of the area from which the industrial or commercial plant or facility is to be relocated.

"(9) Not less than 25 percent of the funds made available for grants under this subsection shall be used for cities under fifty thousand population which are not central cities of a metropolitan statistical area.

"(10) A grant may be made under this subsection only where the Secretary determines that there is a strong probability that (A) the non-Federal investment in the project would not be made without the grant and (B) the grant would not substitute for

non-Federal funds which are otherwise available to the project.

"(11) In making grants under this subsection, the Secretary shall take such steps as the Secretary deems appropriate to assure that the amount of the grant provided is the least necessary to make the project feasible.

"(12) For purposes of this subsection, the Secretary may reduce or waive the requirement in section 102(a)(5)(B)(ii) that a town or township be closely settled.

"(13) In the case of any application which identifies any property in accordance with paragraph (3)(D)(ii), the Secretary may not commit funds with respect to an approved application unless the applicant has certified to the Secretary that the appropriate State historic preservation officer and the Secretary of the Interior have been provided an opportunity to take action in accordance with the provisions of section 120(b).

"(14)(A) For the purposes of this subsection, the term 'city' includes Guam, the Virgin Islands, and Indian tribes.

"(B) The Secretary may not approve a grant to an Indian tribe unless the tribe (i) is located on a reservation or in an Alaskan Native Village and (ii) is an eligible recipient under the State and Local Fiscal Assistance Act of 1972.

"(15) In the event that no amounts are set aside under, or precluded from being appropriated for, subsection (a)(2) for fiscal years after fiscal year 1982, any amount which is or becomes available for use under this subsection after fiscal year 1982 shall be added to amounts appropriated under section 103.

"(d) Amounts set aside for use under subsection (b) in any fiscal year but not used in that year shall remain available for use in subsequent fiscal years in accordance with the provisions of that subsection.

"(e)(1) Except as provided in paragraph (2), no grant may be made under this section unless the applicant provides satisfactory assurances that its program will be conducted and administered in conformity with Public Law 88-352 and Public Law 90-284.

"(2) No grant may be made to an Indian tribe unless the applicant provides satisfactory assurances that its program will be conducted and administered in conformity with title II of Public Law 90-284. The Secretary may waive, in connection with grants to Indian tribes, the provisions of section 109 and section 110.

"(3) The Secretary may accept a certification from the applicant that it has complied with the requirements of paragraph (1) or (2), as appropriate.".

(2) The third sentence of section 102(b) of such Act is amended by striking out "section 119" and inserting in lieu thereof "section 107(c)".

(3) Section 113(a)(3) of such Act is amended by striking out "section 119" and inserting in lieu thereof "this title".

(4) Title I of such Act is amended by striking out section 119 and redesignating sections 120 and 121, as sections 119 and 120, respectively.

(5) Section 120 of such Act, as redesignated by paragraph (4) of this subsection, is amended by—

(A) striking out "section 119" wherever it appears and inserting in lieu thereof "section 107(c)"; and

(B) striking out "subsection (c)(7)(B)" in subsection (b) and inserting in lieu thereof "paragraph (3)(D)(ii)".

(6) The amendments made by paragraphs (1) through (5) of this subsection shall become effective on the effective date of regulations implementing such paragraphs. As soon as practicable, but not later than January 1, 1982, the Secretary shall issue such final rules and regulations as the Secretary determines are necessary to carry out paragraphs (1) through (5).

(7) References to urban development action grants in section 103(b)(6)(I) of the Internal Revenue Code of 1954 shall include urban development action grants made under section 107(c) of the Housing and Community Development Act of 1974 when section 107(c) becomes effective.

NONDISCRIMINATION

SEC. 3106. Section 109(a) of the Housing and Community Development Act of 1974 is amended by adding the following new sentence at the end thereof:

"Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity.".

CHANGE IN ANNUAL CDBG REPORT SUBMISSION DATE

SEC. 3107. Section 113(a) of the Housing and Community Development Act of 1974 is amended by striking out "180" and inserting in lieu thereof "300".

TRANSITION PROVISIONS

SEC. 3108. (a) Any amounts appropriated for any fiscal year before fiscal year 1982 in a Department of Housing and Urban Development-Independent Agencies Appropriation Act or a Supplemental Appropriation Act under the head "COMMUNITY DEVELOPMENT GRANTS" or "URBAN DEVELOPMENT ACTION GRANTS" which are or become available for obligation shall remain available as provided by law, and shall be used in accordance with the following:

(1) funds authorized for use under section 119 of the Housing and Community Development Act of 1974 ("such Act") before the effective date of section 107(c) of such Act shall be available for use as provided by such section 107(c);

(2) funds authorized for use under section 106(a) of such Act before the effective date of this title shall be available for use as provided by section 106(c) of such Act;

(3) funds authorized for use under section 107 of such Act before the effective date of this title shall be available for use as provided by section 107(d) of such Act; and

(4) funds authorized for use under section 106(c) or (e) of such Act before the effective date of this title shall be available for use as provided by section 106(d)(3)(A) of such Act.

(b) Any grant or loan which, prior to the effective date of any provision of this title, was obligated and governed by any authority stricken by any provision of this title shall continue to be governed by the provisions of such authority as they existed immediately before such effective date.

URBAN HOMESTEADING

SEC. 3109. The first sentence of section 810(h) of the Housing and Community Development Act of 1974 is amended by striking out "and not to exceed $26,000,000 for the fiscal year 1979" and inserting in lieu thereof "Not to exceed $26,000,000 for the fiscal year 1979, and such sums as may be necessary for the fiscal year 1983".

REPEALERS

SEC. 3110. (a) Title VII of the Housing and Community Development Amendments of 1978 is hereby repealed.

(b) Section 701 of the Housing Act of 1954 is hereby repealed.

(c) Section 312 of the Housing Act of 1964 is hereby repealed, except that the first and second sentences of subsection (d) of such section shall remain in effect until September 30, 1982, or until such earlier time as the assets and liabilities of such fund are transferred to the revolving fund for liquidating programs established pursuant to title II of the Independent Offices Appropriation Act of 1955. All monies in the revolving fund for liquidating programs shall be available for necessary expenses of servicing and liquidating loans made pursuant to section 312, including reimbursement or payment for services and facilities of the Government National Mortgage Association and of any public or private agency for the servicing or liquidation of such loans.

(d) Part A of title IV of the Energy Conservation and Production Act is hereby repealed.

TECHNICAL AMENDMENTS

SEC. 3111. (a) Section 102(a) of the Housing and Community Development Act of 1974 is amended by—

(1) striking out paragraphs (18) and (19);

(2) inserting immediately after paragraph (6) the following:

"(7) The term 'nonentitlement area' means an area which is not a metropolitan city or part of an urban county."; and

(3) redesignating the remaining paragraphs accordingly.

(b) Section 102(c) of such Act is amended by striking out "a Community Development Program in whole or in part" and inserting in lieu thereof "activities assisted under this title".

(c) Section 102(d) of such Act is amended by striking out "103(a)(1)" and inserting in lieu thereof "103".

(d) The caption of section 105 of such Act is amended to read as follows: "ELIGIBLE ACTIVITIES".

(e) Section 105(a) of such Act is amended by—

(1) striking out the first sentence and the words "These activities" in the second sentence and inserting in lieu thereof "Activities assisted under this title";

(2) striking out in paragraph (6) the word "program";

(3) striking out in paragraph (9) "the Community Development Program" and inserting in lieu thereof "activities assisted under this title";

(4) striking out in paragraph (11) "to the community development program";

(5) striking out in paragraph (14) "(as specifically" and all that follows through "104(a)(1)" and inserting in lieu thereof "which are carried out by public or private nonprofit entities)"; and

(6) striking out in paragraph (15) "(as specifically described in the application submitted pursuant to section 104)".

(f) Section 105(b) of such Act is amended by striking out "a grant" and inserting in lieu thereof "assistance".

(g) The second sentence of 106(b)(4) of such Act is amended by striking out "for a grant under subsection (c) or (e)" and inserting in lieu thereof the following: "to receive assistance under subsection (d)".

(h) Section 108(d)(2) of such Act is amended by striking out "approved or".

(i) The first sentence of section 110 of such Act is amended by striking out "grants" and inserting in lieu thereof "assistance".

(j) The first sentence of section 112(a) of such Act is amended by striking out "103(a)" and inserting in lieu thereof "103".

(k) Section 113(a)(2) of such Act is amended by striking out "as approved by the Secretary".

(l) Section 116(b) of such Act is amended to read as follows:

"(b) In the case of funds available for any fiscal year, the Secretary shall not consider any statement under section 104(a), unless such statement is submitted on or prior to such date (in that fiscal year) as the Secretary shall establish as the final date for submission of statements in that year."."

MISCELLANEOUS AMENDMENTS

SEC. 3112. (a) ELIGIBILITY OF METROPOLITAN CITIES.—Section 102(a)(4) of the Housing and Community Development Act of 1974 is amended by inserting the following before the period at the end thereof: "or until September 30, 1983, whichever is later".

(b) ELIGIBILITY OF URBAN COUNTIES.—Section 102(a)(6) of such Act is amended by inserting the following before the period at the end thereof: "; except that any county which has been classified as an urban county under this paragraph shall be considered as meeting the population requirements of this paragraph until a decennial census indicates that the population of such county is below the amount required by this paragraph or until September 30, 1983, whichever is later".

(c) NEIGHBORHOOD REINVESTMENT.—Section 608(a) of the Neighborhood Reinvestment Corporation Act is amended—

(1) by striking out "and" after "1980,"; and

(2) by inserting the following before the period at the end thereof: ", and not to exceed $13,514,000 for fiscal year 1983".

On page 22 strike out line 38 and all that follows through line 40 on page 23 and insert in lieu thereof the following:

SEC. 3201. (a)(1) The first sentence of section 5(c)(1) of the United States Housing Act of 1937 is amended by inserting immediately after "1980" the following: ", by $922,469,430 on October 1, 1981, and by such sums as may be necessary on October 1, 1982".

(2) The second sentence of section 5(c)(1) of such Act is amended by striking out "Acts;" and all that follows through the period and inserting in lieu thereof the following:

"Acts. In addition, the aggregate amount which may be obligated over the duration of the contracts may not exceed $31,200,000,000 with respect to the additional authority provided on October 1, 1980 and $18,359,638,525 with respect to the additional authority provided on October 1, 1981.".

(3) Section 5(c) of such Act is amended by—

(A) redesignating paragraphs (3), (4) and (5) as paragraphs (4), (5) and (6), respectively; and

(B) inserting immediately after paragraph (2) the following:

"(3)(A) Of the additional authority approved in appropriation Acts and made available on October 1, 1981, the Secretary shall make available $75,000,000 for assistance to projects under section 14.

"(B) Of the balance of the additional authority referred to in the preceding subparagraph which remains after deducting the amount to be provided for assistance to projects under section 14, the Secretary may not enter into contracts aggregating—

"(i) more than 45.4 percent of such balance for existing units assisted under this Act; and

"(ii) more than 54.6 percent of such balance for newly constructed and substantially rehabilitated units assisted under this Act.".

TENANT RENTAL PAYMENTS

(4)(A) Section 3 of the United States Housing Act of 1937 is amended to read as follows:

"RENTAL PAYMENTS—DEFINITIONS

"SEC. 3. (a) Dwelling units assisted under this Act shall be rented only to families who are lower-income families at the time of their initial occupancy of such units. A family shall pay as rent for a dwelling unit assisted under this Act the highest of the following amounts, rounded to the nearest dollar:

"(1) 30 percent of the family's monthly adjusted income; or

"(2) 10 percent of the family's monthly income; or

"(3) If the family is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the family's actual housing costs, is specifically designated by such agency to meet the family's housing costs, the portion of such payments which is so designated.

"(b) When used in this Act—

"(1) The term 'lower-income housing' means decent, safe, and sanitary dwellings assisted under this Act. The term 'public housing' means lower-income housing, and all necessary appurtenances thereto, assisted under this Act other than under section 8. When used in reference to public housing, the term 'lower-income housing project' or 'project' means (A) housing developed, acquired, or assisted by a public housing agency under this Act, and (B) the improvement of any such housing.

"(2) The term 'lower-income families' means those families whose incomes do not exceed 80 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs, unusually high or low family incomes, or other factors. The term 'very lower-income families' means lower-income families whose incomes do not exceed 50 percent of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families.

"(3) The term 'families' includes families consisting of a single person in the case of (A) a person who is at least sixty-two years of age or is under a disability as defined in section 223 of the Social Security Act or in section 102 of the Developmental Disabilities Services and Facilities Construction Amendments of 1970, or is handicapped, (B) a displaced person, (C) the remaining member of a tenant family and (D) other single persons in circumstances described in regulations of the Secretary. In no event shall more than 15 percent of the units under the jurisdiction of any public housing agency be occupied by single persons under clause (D). In determining priority for admission to housing under this Act, the Secretary shall give preference to those single persons who are elderly, handicapped, or displaced before those eligible under clause (D). The term 'elderly families' means families whose heads (or their spouses), or whose sole members, are persons described in clause (A). A person shall be considered handicapped if such person is determined, pursuant to regulations issued by the Secretary, to have an impairment which is expected to be of long-continued and indefinite duration, substantially impedes such person's ability to live independently, and is of such a nature that such ability could be improved by more suitable housing conditions. The term 'displaced person' means a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws. Notwithstanding the preceding provisions of this subsection, the term 'elderly families' includes two or more elderly, disabled, or handicapped individuals living together, or one or more such individuals living with one or more persons determined under regulations of the Secretary to be essential to their care or well being.

"(4) The term 'income' means income from all sources of each member of the household, as determined in accordance with criteria prescribed by the Secretary.

"(5) The term 'adjusted income' means the income which remains after excluding such amounts or types of income as the Secretary may prescribe. In determining amounts to be excluded from income, the Secretary may, in the Secretary's discretion, take into account the number of minor children in the household and such other factors as the Secretary may determine are appropriate.

"(6) The term 'public housing agency' means any State, county, municipality, or other governmental entity or public body (or agency or instrumentality thereof) which is authorized to engage in or assist in the development or operation of lower-income housing.

"(7) The term "State' includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions of the United States, the Trust Territory of the Pacific Islands, and Indian tribes, bands, groups, and Nations, including Alaska Indians, Aleuts and Eskimos, of the United States.

"(8) The term 'Secretary' means the Secretary of Housing and Urban Development.

"(c) When used in reference to public housing—

"(1) The term 'development' means any or all undertakings necessary for planning, land acquisition, demolition, construction, or equipment, in connection with a lower-income housing project. The term 'development cost' comprises the costs incurred by a public housing agency in such undertakings and their necessary financing (including the payment of carrying charges), and in otherwise carrying out the development of such project. Construction activity in connection with a lower-income housing project may be confined to the reconstruction, remodeling, or repair of existing buildings.

"(2) The term 'operation' means any or all undertakings appropriate for management, operation, services, maintenance, security (including the cost of security personnel), or financing in connection with a lower-income housing project. The term also means the financing of tenant programs and services for families residing in lower-income housing projects, particularly where there is maximum feasible participation of the tenants in the development and operation of such

tenant programs and services. As used in this paragraph, the term 'tenant programs and services' includes the development and maintenance of tenant organizations which participate in the management of lower-income housing projects; the training of tenants to manage and operate such projects and the utilization of their services in project management and operation; counseling on household management, housekeeping, budgeting, money management, child care, and similar matters; advice as to resources for job training and placement, education, welfare, health, and other community services; services which are directly related to meeting tenant needs and providing a wholesome living environment; and referral to appropriate agencies in the community when necessary for the provision of such services. To the maximum extent available and appropriate, existing public and private agencies in the community shall be used for the provision of such services.

"(3) The term 'acquisition cost' means the amount prudently required to be expended by a public housing agency in acquiring property for a lower-income housing project.

"(d) At least 30 percent of the dwelling units made available for initial occupancy in a public housing project in any fiscal year shall be occupied by very low-income families, and at least 30 percent of the families assisted under section 8 of this Act with annual allocations of contract authority shall be very low-income families at the time of the initial renting of dwelling units.".

(B) Sections 4, 5, 9, and 11 of such Act are amended by striking out "LOW-INCOME" where it appears in the caption accompanying each such section and by inserting in lieu thereof "LOWER-INCOME".

(C) Sections 2, 4, 5, 6, 9, 11, 12, 13 and 14 of such Act are amended by striking out "low-income" wherever it appears and inserting in lieu thereof "lower-income".

(D) Section 6(c)(2) of such Act is amended by striking out the phrase "at intervals of two years (or at shorter intervals where the Secretary deems it desirable)" and inserting in lieu thereof "no less frequently than annually".

(E) Section 8 of such Act is amended by:

(i) striking out paragraph (3) of subsection (c) and inserting in lieu thereof the following:

"(3) The amount of the monthly assistance payment with respect to any dwelling unit shall be the difference between the maximum monthly rent which the contract provides that the owner is to receive for the unit and the rent the family is required to pay under Section 3(a) of this Act. Reviews of family income shall be made no less frequently than annually.";

(ii) striking out paragraph (7) of subsection (c) and redesignating paragraph (8) of such subsection as paragraph (7);

(iii) striking out paragraphs (1), (2) and (3) of subsection (f) and redesignating paragraphs (4), (5) and (6) of such subsection as paragraphs (1), (2) and (3), respectively;

(iv) striking out the phrase "The provisions of section 3(l), 5(e), and 6, "in subsection (h) and inserting in lieu thereof "Sections 5(e) and 6,";

(v) striking out the comma after the word "Act" in subsection (h); and

(vi) striking out "25 per centum of one-twelfth of the annual income of such family and the sum of —" in paragraph (3) of subsection (j) and inserting in lieu thereof "the rent the family is required to pay under section 3(a) of this Act and the sum of—".

(F) Section 236 of the National Housing Act is amended by:

(i) striking out "two years" in subsection (e) and inserting in lieu thereof "one year";

(ii) striking out "25 per centum of the tenant's income" in the second sentence of subsection (f) and inserting in lieu thereof "30 percent of the tenant's adjusted income";

(iii) striking out clause (ii) in the third sentence of subsection (f) and inserting in lieu thereof the following:

"(ii) to permit the charging of a rental for such dwelling units at such an amount less than 30 percent of a tenant's adjusted income as the Secretary determines represents a proportionate decrease for the utility charges to be paid by such tenant, but in no case shall such rental be lower than 25 percent of a tenant's adjusted income.";

(iv) striking out "25 per centum of their income" in paragraph (2) of subsection (f) and inserting in lieu thereof "30 percent of their adjusted income";

(v) striking out "25 per centum of the tenant's income" in paragraph (2) of subsection (f) and inserting in lieu thereof "the highest of the following amounts, rounded to the nearest dollar:

"(A) 30 percent of the tenant's monthly adjusted income; or

"(B) 10 percent of the tenant's monthly income; or

"(C) if the family is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the family's actual housing costs, is specifically designated by such agency to meet the family's housing costs, the portion of such payments which is so designated";

(vi) striking out the third sentence in paragraph (2) of subsection (f);

(vii) striking out subparagraph (A) of subsection (f)(3) and redesignating subsection (f)(3)(B) as subsection (f)(3); and

(viii) striking out all of subsection (m) and inserting in lieu thereof the following:

"(m) For the purpose of this section the term 'income' means income from all sources of each member of the household, as determined in accordance with criteria prescribed by the Secretary. The term 'adjusted income' means the income which remains after excluding such amounts or types of income as the Secretary may prescribe. In determining amounts to be excluded from income, the Secretary may, in the Secretary's discretion, take into account the number of minor children in the household and such other factors as the Secretary may determine are appropriate.".

(G) Section 101 of the Housing and Urban Development Act of 1965 is amended by:

(i) striking out paragraphs (1) and (2) in subsection (c) and inserting in lieu thereof the following:

"(1) 'qualified tenant' means any individual or family having an income which does not exceed 80 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs, unusually high or low family incomes, or other factors; and

"(2) 'income' means income from all sources of each member of the household, as determined in accordance with criteria prescribed by the Secretary. The term 'adjusted income' means the income which remains after excluding such amounts or types of income as the Secretary may prescribe. In determining amounts to be excluded from income, the Secretary may, in the Secretary's discretion, take into account the number of minor children in the household and such other factors as the Secretary may determine are appropriate.";

(ii) striking out the first sentence in subsection (d) and inserting in lieu thereof the following:

"The amount of the annual payment with respect to any dwelling unit shall be the lesser of (1) 70 percent of the fair market rent, or (2) the amount by which the fair market rental for such unit exceeds 30 percent of the tenant's adjusted income.";

(iii) striking out the phrase ", except the elderly, at intervals of two years (or at shorter intervals in cases where the Secretary may deem it desirable)" in paragraph (2) of subsection (e), and by inserting in lieu thereof "no less frequently than annually".

(H) The Housing and Community Development Amendments of 1979 are amended by:

(i) striking out subsection (c) in section 202; and

(ii) striking out subsection (c) in section 203.

(I)(i) In determining the rent to be paid by tenants who are occupying housing assisted under the authorities amended by this section on the effective date of this Act, the Secretary, notwithstanding any other provision of this section, may provide for delayed applicability, or for staged implementation, of the procedures for determining rent required by the provisions of subsections (a) through (h) of this section if the Secretary determines that immediate application of such procedures would be impracticable, would violate the terms of existing leases, or would result in extraordinary hardship for any class of tenants. Notwithstanding any provision of this section, application of the procedures for determining rent contained in this section shall not result in a reduction in the amount of rent paid by any tenant below the amount paid by such tenant immediately preceding the effective date of this Act.

(ii) Tenants of housing assisted under the statutes amended by this section whose occupancy begins after the effective date of this Act shall be subject to immediate rent payment determinations in accordance with the amendments contained in subsections (a) through (h), except that the Secretary may provide for delayed applicability, or for staged implementation, of these requirements for such tenants if the Secretary determines that immediate application of the requirements of this section would be impracticable, or that uniform procedures for assessing rents would significantly decrease administrative costs and burdens.

(iii) The Secretary's actions and determinations and the procedures for making determinations pursuant to this subsection (i) shall not be reviewable in any court. The provisions of subsections (a) through (h) shall be implemented and fully applicable to all affected tenants no later than five years following the date of enactment of this Act, except that the Secretary may extend the time for implementation if the Secretary determines that full implementation would result in extraordinary hardship for any class of tenants.

Strike out line 6 on page 25 and all that follows through line 15 and insert in lieu thereof the following:

(c)(1)(A) Section 101 (1) of the Housing and Urban Development Act of 1965 is amended to read as follows:

"(1) Notwithstanding the provisions of subsection (a) and any other provision of law, the Secretary may utilize additional authority under Section 5(c) of the United States Housing Act of 1937 made available by appropriation Acts on or after October 1, 1979, to supplement assistance authority available for that purpose under this Section.".

(B) The second sentence of Section 101(d) of such Act is deleted.

On Page 46, strike lines 22 through 29 and insert the following new section:

"SEC. 3676. Section 7(a) of the Export-Import Bank Act of of 1945 (23 USC 635e) is amended—

(1) by inserting "(1)" after "Sec. 7 (a)"; and (2) by adding at the end thereof the following:

"(2) The aggregate principal amount of direct loans made by the Bank shall not exceed $5,065,000,000 for fiscal year 1982, $5,413,000,000 for fiscal year 1983, and $5,737,000,000 for fiscal year 1984."

TITLE X—HOUSE COMMITTEE ON POST OFFICE AND CIVIL SERVICE

In Sec. 10001. On pages 341 through 343, strike lines 25 through 7 and insert the following:

"PAY CAPS ON FEDERAL EMPLOYEES

"SEC. 10001. (a) Notwithstanding any other provision of law, the overall percentage of the adjustment of the rates of pay under the General Schedule or any other statutory pay system under section 5305 of title 5, United States Code, which is to become effective with the first applicable pay period commencing on or after October 1, 1981, shall not exceed 4.8 percent.

(b)(1) Notwithstanding any other provision of law, in the case of a prevailing rate employee described in section 5342(a)(2) of title 5, United States Code, or an employee covered by section 5348 of that title—

(A) any increase in the rate of pay payable to such employee which would result from the expiration of the limitation contained in section 114(a)(2) of Public Law 96-369 shall not take effect, and

(B) any adjustment under subchapter IV of chapter 53 of such title to any wage schedule or rate applicable to such employee which results from a wage survey and which is to become effective during the fiscal year beginning October 1, 1981, shall not exceed the amount which is 4.8 percent above the schedule or rate payable on September 30, 1981 (determined with regard to the limitation contained in section 114(a)(2) of Public Law 96-369).

(2) Notwithstanding the provisions of section 9(b) of Public Law 92-392 or section 704(b) of the Civil Service Reform Act of 1978, the provisions of subsection (a) shall apply (in such manner as the Office of Personnel Management shall prescribe) to prevailing rate employees to whom such section 9(b) applies, except that the provisions of subsection (a) shall not apply to any increase in a wage schedule or rate which is required by the terms of a contract entered into before the date of the enactment of this Act.

(c) Notwithstanding any other provision of law, the overall percentage increase in the rates of pay of the General Schedule and the other statutory pay systems under section 5305 of title 5, United States code, shall not exceed—

(1) in the case of the increase which is to become effective as of the beginning of the first applicable pay period commencing on or after October 1, 1982, 7 percent; and

(2) in the case of the increase which is to become effective as of the beginning of the first applicable pay period commencing on or after October 1, 1983, 7 percent.

(d)(1) Notwithstanding any other provision of law, in the case of a prevailing rate employee described in section 5342(a)(2) of title 5, United States Code, or an employee covered by section 5348 of that title, any adjustment under subchapter IV of chapter 53 of that title to any wage schedule or rate applicable to such employee which results from a wage survey shall not exceed—

(A) in the case of an adjustment which is to become effective in the fiscal year beginning October 1, 1982, the percentage increase provided General Schedule employees for that fiscal year in accordance with paragraph (c)(1) of this section; and

(B) in the case of an adjustment which is to become effective in the fiscal year beginning October 1, 1983, the percentage increase provided General Schedule employees for that fiscal year in accordance with paragraph (c)(1) of this section.

(2) Notwithstanding the provisions of section 9(b) of Public Law 92-392 or section 704(b) of the Civil Service Reform Act of 1978, the provisions of paragraph (1) of this subsection shall apply (in such manner as the Office of Personnel Management shall prescribe) to prevailing rate employees to whom such section 9(b) applies, except that the provisions of paragraph (1) shall not apply to any increase in a wage schedule or rate which is required by the terms of a contract entered into before the date of the enactment of this Act."

In Sections 10002 and 10003. On pages 343 through 344, strike lines 8 through 38 and redesignate the following sections accordingly and insert the following new section 10002 as follows:

"ANNUALIZATION OF COST OF LIVING ADJUSTMENT FOR FEDERAL EMPLOYEES

SEC. 10002. (a) Section 8340(b) of title 5, United States Code, is amended to read as follows:

"(b) Except as provided in subsection (c) of this section, effective March 1 of each year each annuity payable from the Fund having a commencing date not later than such March 1 shall be increased by the percent change in the price index published for December of the preceding year over the price index published for December of the year prior to the preceding year, adjusted to the nearest 1/10 of 1 percent.".

(b) Section 8340(c)(1) of title 5, United States Code, is amended to read as follows:

"(1) The first increase (if any) made under subsection (b) of this section to an annuity which is payable from the Fund to an employee or Member who retires, to the widow or widower of a deceased employee or Member, or to the widow or widower of a deceased annuitant whose annuity has not been increased under this subsection or subsection (b) of this section, shall be equal to the product (adjusted to the nearest 1/10 of 1 percent) of—

"(A) 1/12 of the applicable percent change computed under subsection (b) of this section, multiplied by

"(B) the number of months (counting any portion of a month as a month)—

"(i) for which the annuity was payable from the Fund before the effective date of the increase, or

"(ii) in the case of a widow or widower of a deceased annuitant whose annuity has not been so increased, since the annuity was first payable to the deceased annuitant.".

(c) The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to annuities which commence before, on, or after such date."

In section 10004. On page 345, strike line 1 and all that follows through line 25 on page 350, and redesignate the following sections accordingly.

In section 10103, On page 355, strike line 1 though line 12 and redesignate the following sections accordingly.

TITLE XII—HOUSE COMMITTEE ON SCIENCE AND TECHNOLOGY

On page 362, strike out line 18, and all that follows through page 388 line 9 and insert in lieu thereof the following.

SUBTITLE A

SEC. 12001. This subtitle may be cited as the "Department of Energy Civilian Research and Development Programs and Project 1982 Authorization Act".

OPERATING EXPENSES

SEC. 12002. (a) There are authorized to be appropriated for fiscal year 1982 in accordance with section 660 of the Department of Energy Organization Act, for operating expenses for each of the research and development programs referred to in subsection (b), a sum of dollars equal to the applicable percentage (as specified in such subsection) of the total amount which was made available for fiscal year 1981 for research, development, and demonstration activities under the appropriations account for that program pursuant to—

(1) title II of the Act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1981, and for other purposes (Public Law 96-514), under the heading "Department of Energy" and the subheadings "Fossil energy research and development" and "Energy conservation";

(2) title I of the Energy and Water Development Appropriation Act, 1981 (Public Law 96-367), under the heading "Department of Energy (Operating Expenses)" and the subheadings "Energy supply, research and development activities", "General science and research activities", and "Geothermal Resources Development Fund"; and

(3) section 101(5)(f) of (A) the joint resolution making continuing appropriations for the fiscal year 1981, and for other purposes (Public Law 96-369), and (B) the joint resolution making further continuing appropriations for the fiscal year 1981, and for other purposes (Public Law 96-536).

(b) The percentage (of the total amount made available for the program involved for fiscal year 1981, as more particularly described in subsection (a)) which is applicable with respect to each of the research and development programs for which appropriations are authorized by this section for fiscal year 1982 is as follows:

(1) 60 percent in the case of fossil energy (the sum of $422,950,000);

(2) 49 percent in the case of solar energy (the sum of $265,850,000);

(3) 28 percent in the case of geothermal energy (the sum of $38,636,000);

(4) 16 percent in the case of the Geothermal Resources Development Fund (the sum of $200,000);

(5) 46 percent in the case of energy conservation (the sum of $127,095,000);

(6) 116 percent in the case of general science and research (the sum of $437,160,000);

(7) 109 percent in the case of basic energy research (the sum of $265,411,000);

(8) 112 percent in the case of nuclear fission (the sum of $928,201,000);
(9) 117 percent in the case of magnetic fusion (the sum of $302,200,000);
(10) 17 percent in the case of hydropower (the sum of $2,000,000);
(11) 58 percent in the case of electric energy systems and storage (the sum of $62,500,000);
(12) 97 percent in the case of environmental research and development (the sum of $210,100,000); and
(13) 116 percent in the case of advanced isotope separation (the sum of $74,292,000).

PLANT AND CAPITAL EQUIPMENT

SEC. 12003. (a) There are authorized to be appropriated for fiscal year 1982 in accordance with section 660 of the Department of Energy Organization Act for construction (including planning, construction, acquisition, and modification of facilities, including land acquisition), and for acquisition and fabrication of capital equipment not related to construction, with respect to each prior year project listed in the budget documents submitted to the Congress in support of the fiscal year 1982 budget (other than a project for which appropriations are authorized by section 4), amounts not to exceed the Federal share of the total estimated cost of such project as set forth in such budget documents, except as otherwise provided (in the case of specific projects) under subsection (b).

(b) The amounts otherwise authorized by subsection (a) to be appropriated for fiscal year 1982 with respect to projects listed in the budget documents are increased or decreased as follows:

(1) In the case of acquisition and fabrication of capital equipment not related to construction, the amount so authorized for fossil energy research and development is decreased by $800,000;
(2) in the case of acquisition and fabrication of capital equipment not related to construction, the amount so authorized for energy conservation is increased by $326,000;
(3) in the case of acquisition and fabrication of capital equipment not related to construction, the amount so authorized for energy supply, research, and development activities is decreased by $850,000;
(4) in the case of Project 81-E-218, Tevatron I, Fermilab, the amount so authorized is decreased by $25,000,000, for a total project authorization of $16,500,000;
(5) in the case of Project 81-ES-1, OTEC Pilot Plant, the amount so authorized is increased by $6,300,000, for a total project authorization of $36,300,000;
(6) in the case of Project 81-T-314, Impurity Studies Experiment Modification (ISX-C), Oak Ridge, Tennessee, the amount so authorized is increased by $2,500,000, for a total project authorization of $7,000,000;
(7) in the case of Project 80-ES-19, Small Community Solar Thermal Power Experiment, the amount so authorized is increased by $5,000,000, for a total project authorization of $9,180,000;
(8) in the case of Project 80-G-2, Second 50 MWe Demonstration Power Plant, Heber, Imperial Valley, Georgia, the amount so authorized is increased by $7,000,000, for a total project authorization of $19,000,000;
(9) in the case of Project 80-GS-5, National Superconducting Cyclotron Laboratory, Michigan State University, Michigan, the amount so authorized is decreased by $11,600,000, for a total project authorization of $18,400,000;
(10) in the case of Project 80-MF-3, Elmo Bumpy Torus, Oak Ridge, Tennessee, the amount so authorized is decreased by $55,000,000, for a total project authorization $21,400,000;
(11) in the case of Project 78-3-a, Mirror Fusion Test Facility, Lawrence Livermore Laboratory, California, the amount so authorized is decreased by $65,000,000, for a total project authorization of $148,700,000;
(12) in the case of Project 78-10-B, Intersecting Storage Accelerator (ISABELLE), Brookhaven National Laboratory, Brookhaven, New York, the amount so authorized is decreased by $149,500,000, for a total project authorization of $125,500,000 (including the $5,500,000 remaining under section 102(a)(8)(B) of Public Law 95-238); and
(13) in the case of multi-program general purpose facilities, the amount so authorized is decreased by such sum as may be necessary for a total project authorization of $19,700,000.
(14) in the case of Project 78-6-C, Safety Research Experimental Facility, Idaho National Engineering Laboratory, Idaho, the amount so authorized is decreased by $10,100,000, for a total project authorization of $34,200,000; and
(15) in the case of Project 76-5-A, Tokamak Fusion Test Reactor, Princeton, New Jersey, the amount so authorized is decreased by $4,900,000, for a total project authorization of $313,600,000.

(c) For purposes of this section, the terms "budget documents submitted to the Congress in support of the fiscal year 1982 budget" and "budget documents" mean the Department of Energy Congressional Budget Request, Fiscal Year 1982 (February 1981; DOE/CR-0011-3).

NEW CONSTRUCTION

SEC. 12004. There are authorized to be appropriated for fiscal year 1982 in accordance with section 660 of the Department of Energy Organization Act for plant and capital equipment (including planning, construction, acquisition, and modification of facilities, including land acquisition), with respect to each of the following projects, the amount specified for that project:

(1) Project 82-F-505, General Plant Projects for Technology Centers, six locations, $6,000,000;
(2) Project 82-F-506, Surface Water Containment and Waste Water Treatment Facility, Bruceton, Pennsylvania, $1,000,000;
(3) Project 82-ES-1, Central Receiver Utility Repowering Project, $6,000,000;
(4) Project 82-N-315, General Plant Projects, Richland, Washington, $1,100,000;
(5) Project 82-N-312, General Plant Projects, $8,914,000;
(6) Project 82-N-310, Modifications to Reactors, $2,000,000;
(7) Project 82-E-321, Accelerator Improvement Modifications, various locations, $300,000;
(8) Project 82-E-320, General Plant Projects, $300,000;
(9) Project 82-E-301, 300 Area Utilities, Hanford, Washington, $1,000,000;
(10) Project 82-E-302, Security Facilities, Argonne Laboratory, Argonne, Illinois, $1,060,000;
(11) Project 82-E-305, Traffic Safety Improvements, Hanford Engineering Development Laboratory, Hanford, Washington, $3,240,000;
(12) Project 82-E-306, Railroad Modification, INEL, Idaho, $2,000,000;
(13) Project 82-GPP-1, General Plant Projects, $3,000,000;
(14) Project 82-V-305, Modifications and Additions to Environmental Research Facilities, various locations, $1,000,000;
(15) Project 82-E-221, Accelerator Improvements, $2,000,000;
(16) Project 82-E-222, General Plant Projects, $2,400,000;
(17) Project 82-E-223, Argonne Tandem/Linac Accelerator System, $400,000;
(18) Project 82-E-204, General Plant Projects, $5,000,000;
(19) Project 82-E-205, Accelerator Improvement Projects, various locations, $6,000,000;
(20) Project 82-E-206, Tevatron II, Fermilab, $6,000,000;
(21) Project GPP-82, General Plant Projects, Princeton, New Jersey, and Oak Ridge, Tennessee, $5,700,000;
(22) Project 82-N-402, General Plant Projects, $650,000; and
(23) Project 82-N-403, Development Module, $6,000,000.

AUTHORIZATIONS LIMITED TO RESEARCH AND DEVELOPMENT PURPOSES

SEC. 12005. Nothing in sections 12002 through 12004 shall be construed to authorize commercial or remedial action activities.

SUBTITLE B

SEC. 12101. This Act may be cited as the "Department of Energy Civilian Programs Authorization Act for Fiscal Years 1982 and 1983".

OTHER RENEWABLE RESOURCES AND CONSERVATION ACTIVITIES

SEC. 12102. Funds are authorized to be appropriated for fiscal year 1982 in accordance with section 660 of the Department of Energy Organization Act for the following fossil energy, solar energy, and conservation programs:

(A) Operating expenses for solar information systems, $5,000,000;
(B) Operating expenses for conservation activities:
(1) Buildings and Community Systems, $6,500,000;
(2) Industrial Energy Conservation, $1,400,000;
(3) Energy Extension Service, $15,000,000;
(4) Multi-Sector Appropriate Technology, $5,000,000;
(C) Operating expenses for small-scale hydropower demonstration, $1,000,000; and
(D) Capital equipment not related to construction for conservation activities, Buildings and Community Systems, $100,000.

SEC. . Any State receiving financial assistance for energy extension service activities pursuant to the National Energy Extension Service Act shall be required to provide funds from non-Federal sources for such activities in an amount no less than 20 per centum of the amount allocated to such State under such Act during any fiscal year.

SEC. . Within six months after the date of the enactment of this Act, the Secretary shall transmit to both Houses of Congress a detailed description of the comprehensive program and management plan for the conservation and renewable energy technology transfer programs in the Department of Energy, including the Energy Extension Service, the National Solar Heating and Cooling Information Center, and the Regional Solar Energy Centers. Such plan shall include a detailed description of the roles, division of responsibilities, and relationships of such Centers with other technology transfer activities of the Department of Energy, including the Energy Extension Service, the Solar Energy Information Data

Bank, and the National Solar Heating and Cooling Information Center. Such plan shall also include a detailed description of how the information dissemination activities and services of the Department of Energy in the fields of renewable energy resources and energy conservation are being coordinated with similar or related activities and services of other Federal agencies.

URANIUM ENRICHMENT, OTHER COMMERCIAL WASTE MANAGEMENT ACTIVITIES, WEST VALLEY DEMONSTRATION PROJECT ACTIVITIES, AND THREE MILE ISLAND ACTIVITIES

SEC. 12103. Funds are authorized to be appropriated for fiscal year 1982 in accordance with section 660 of the Department of Energy Organization Act for:

(A) Operating expenses for uranium enrichment:

(1) Gaseous Diffusion Operations and Support, $961,825,000;

(2) Gas Centrifuge Operations and Support, $5,200,000; and

(3) Uranium enrichment process development, $93,075,000;

(4) Program Administration, $3,100,000.

(B) Uranium enrichment activities plant and capital equipment, including planning, construction, acquisition, or modification of facilities, including land acquisition, as follows:

(1) Project 82-R-410, General plant projects, various locations, $17,500,000;

(2) Project 82-R-411, UF_6 cylinders and storage yards, gaseous diffusion plants, $11,000,000;

(3) Project 82-R-412, Cooling tower modifications, Oak Ridge, Tennessee and Portsmouth, Ohio, gaseous diffusion plants, $8,000,000;

(4) Project 82-R-413, Improved UF_6 containment and gaseous diffusion plants, $7,100,000;

(5) Project 82-R-414, Purge and cascade withdrawal modifications, gaseous diffusion plant, Paducah, Kentucky, $9,000,000;

(6) Project 82-R-415, Fire alarm system replacement, gaseous diffusion plants, $4,700,000;

(7) Project 82-R-416, Environmental protection and safety modifications, Phase II, gaseous diffusion plants, $2,000,000;

(8) Project 82-R-417, Air distribution system upgrading, gaseous diffusion plant, Paducah, Kentucky, $2,700,000;

(9) Project 81-R-503, Utilities upgrading, gaseous diffusion plants, and additional sum of $17,000,000 for a total project authorization of $27,000,000;

(10) Project 81-R-504, Supervisory control and data acquisition systems, Paducah, Kentucky and Portsmouth, Ohio, gaseous diffusion plants, an additional sum of $7,000,000 for a total project authorization of $13,000,000;

(11) Project 81-R-506, Environmental protection and safety improvements, Phase I, gaseous diffusion plants, $7,000,000;

(12) Project 80-UE-2, Control of water pollution, gaseous diffusion plants, an additional sum of $4,000,000 for a total project authorization of $17,000,000;

(13) Project 80-UE-3, Plant facilities security improvements, gaseous diffusion plants, an additional sum of $4,000,000 for a total project authorization of $17,000,000;

(14) Project 80-UE-5, Motor and switchgear upgrading, gaseous diffusion plants, an additional sum of $6,600,000 for a total project authorization of $26,500,000; and

(15) Project 76-8-g, Enriched uranium production facilities Portsmouth, Ohio, an additional sum of $601,000,000 for a total project authorization of $1,552,845,000.

(16) Project 82-R-418, Advanced Centrifuge Test Facilities, Oak Ridge, Tennessee, $6,000,000.

(C) Capital equipment not related to construction for uranium enrichment, $27,200,000.

SEC. 12104. Funds are authorized to be appropriated for fiscal year 1982 in accordance with section 660 of the Department of Energy Organization Act for operating expenses for other commercial waste management activities:

(A) Repository licensing activities in the terminal isolation program, $2,000,000;

(B) Assistance to States in the waste system evaluation program, $500,000; and

(C) Assistance to States for low-level waste management, $1,000,000.

SEC. 12105. Funds are authorized to be appropriated for fiscal year 1982 in accordance with section 660 of the Department of Energy Organization Act for the following West Valley Demonstration Project activities:

(A) Operating expenses for the West Valley Demonstration Project, $9,800,000; and

(B) Capital equipment not related to construction for the West Valley Demonstration Project, $200,000.

DEPARTMENTAL ADMINISTRATION

SEC. 12106. Funds are authorized to be appropriated for fiscal year 1982 in accordance with section 660 of the Department of Energy Organization Act for:

(A) Operating expenses for departmental administration activities:

(1) Office of the Secretary, $3,616,000;

(2) General management, $62,004,000;

(3) Program administration, $6,249,000;

(4) Field offices, $56,688,000;

(5) Other salary expenses, travel, and services, $131,506,000;

(6) Policy analysis and systems studies, $10,678,000;

(7) International policy studies, $250,000;

(8) Intergovernmental affairs, $9,365,000;

(9) Public affairs, $900,000;

(10) In-house energy management, $5,400,000;

(11) Cost of work for others, and changes in inventories, $55,214,000;

(12) Consumer affairs, $168,000; and

(13) Technical information services, $14,830,000.

(B) Departmental administration activities plant and capital equipment, including planning, construction, acquisition, or modification of facilities, including land acquisition, as follows:

(1) Project 82-A-601, Modifications for energy management, various locations, $14,100,000;

(2) Project 82-A-602, Advanced Test Reactor (ATR) waste heat recovery, Idaho National Engineering Laboratory, Idaho, $4,900,000;

(3) Project 82-A-603, High temperature water distribution system, Los Alamos Scientific Laboratory, New Mexico, $5,000,000;

(4) Project 81-A-602; Energy monitoring and control system, Y-12 Plant, Oak Ridge, Tennessee, and additional sum of $2,500,000 for a total project authorization of $5,000,000;

(5) Project 81-A-603, Energy monitoring and control system, Oak Ridge National Laboratory, and additional sum of $2,000,000 for a total project authorization of $4,000,000;

(6) Project 81-A-605, Automated energy management system, Argonne National Laboratory, Argonne, Illinois, and additional sum of $1,900,000 for a total project authorization of $3,800,000;

(7) Project 80-DA-06, Alternate energy source, Pantex Plant, Amarillo, Texas, an additional sum of $3,000,000 for a total project authorization of $6,000,000; and

(8) Project 82-C-601, Plant engineering and design, various locations, $2,000,000.

(C) Capital equipment not related to construction for departmental administration activities, $5,563,000.

TITLE XV—HOUSE COMMITTEE ON WAYS AND MEANS

In section 15004. On page 414, line 27, strike out the word "shall" and insert in lieu thereof the word "may"; on line 28, before the words "the worker" insert the following: "the Secretary shall provide and".

In Section 15201. On pages 425 through 426, strike out lines 1 through 30 and insert in lieu thereof the following:

ELIMINATION OF CHILD'S INSURANCE BENEFITS IN THE CASE OF CHILDREN AGE 18 THROUGH 22 WHO ATTEND POSTSECONDARY SCHOOLS

Sec. (a)(1) Section 202(d) of the Social Security Act is amended in paragraphs (1)(B), (1)(E)(ii), (1)(F)(i), (1)(G)(III), (6)(A)(i), (6)(D)(i), (6)(E)(i), (7)(A) (three places), (7)(B), and (7)(D), by striking out "full-time student" each place it appears and inserting in lieu thereof "full-time elementary or secondary school student".

(2)(A) Section 202(d) of such Act is further amended in paragraphs (7)(A) (two places), (7)(B) (three places), and (7)(D), by striking out "educational institution" each place it appears and inserting in lieu thereof "elementary or secondary school".

(B) Section 202(d)(7)(A) of such Act is further amended by striking out "institutions involved" and inserting in lieu thereof "schools involved".

(3) Subparagraph (C) of section 202(d)(7) of such Act is amended to read as follows:

"(C)(i) An 'elementary or secondary school' is a school which provides elementary or secondary education, respectively, as determined under the law of the State or other jurisdiction in which it is located.

"(ii) For the purpose of determining whether a child is a 'full-time elementary or secondary school student' or 'intends to continue to be in full-time attendance at an elementary or secondary school', within the meaning of this subsection, there shall be disregarded any education provided, or to be provided, beyond grade 12.".

(4) Section 202(d)(7)(D) of such Act is further amended by striking out "degree from a four-year college or university" and inserting in lieu thereof "diploma or equivalent certificate from a secondary school (as defined in subparagraph (C)(i))".

(5)(A) Section 202(d) of such Act is further amended in paragraphs (1)(B)(i), (1)(F)(ii), (1)(G)(IV), (6)(D)(ii), (6)(E)(ii), and (7)(D) by striking out "22" each place it appears in each of those paragraphs and inserting in lieu thereof "19".

(B) Section 202(d)(6)(A) of such Act (as amended by paragraph (1)) is further amended to read as follows:

"(A)(i) is a full-time elementary or secondary school student and has not attained the age of 19, or (ii) is under a disability (as defined in section 223(d)) and has not attained the age of 22, or".

(b) Except as provided in subsection (c), the amendments made by subsection (a) shall apply to child's insurance benefits under section 202(d) of the Social Security Act for months after July 1982.

(c)(1) Notwithstanding the provisions of section 202(d) of the Social Security Act (as

in effect prior to or after the amendments made by subsection (a)), any individual who—

(A) has attained the age of 18;

(B) is not under a disability (as defined in section 223(d) of such Act);

(C) is entitled to a child's insurance benefit for August 1981; and

(D) is a full time student at a postsecondary school, college, or university that is an educational institution (as such terms are defined in section 202(d)(7) (A) and (C) of such Act as in effect prior to the amendments made by subsection (a)) for any month prior to May 1982;

shall be entitled to a child's benefit under section 202(d) of such Act for any month after July 1981 and prior to August 1985 if such individual would be entitled to such child's benefit for such month under such section 202(d) as in effect prior to the amendments made by subsection (a), but such benefits shall be subject to the limitations set forth in this subsection.

(2) No benefit under section 202(d) of such Act shall be paid to an individual to whom paragraph (1) applies for the months of May, June, July, and August, beginning with benefits otherwise payable for May 1982.

(3) The amount of the monthly benefit payable under section 202(d) of such Act to an individual to whom paragraph (1) applies for any month after July 1982 (prior to deductions on account of work required by section 203) shall not exceed the amount of the benefit to which such individual was entitled for August 1981 (prior to deductions on account of work required by section 203), less an amount—

(A) during the months after July 1982 and before August 1983, equal to 25 percent of such benefit for August 1981;

(B) during the months after July 1983 and before August 1984, equal to 50 percent of such benefit for August 1981; and

(C) during the months after July 1984 and before August 1985, equal to 75 percent of such benefit for August 1981.

(4) Any individual to whom the provisions of paragraph (1) apply and whose entitlement to benefits under section 202(d) of the Social Security Act ended after July 1982 shall not subsequently become entitled, or reentitled, to benefits under such section 202(d) unless he meets the requirements of section 202(d)(1)(B)(ii) of that Act."

In section 15203, on pages 427 through 429, strike lines 4 through 13 and insert in lieu thereof the following:

"REPEAL OF MINIMUM BENEFIT PROVISION

SEC. . (a) Section 215(a)(1)(C)(i) of the Social Security Act is amended to read as follows:

"(C)(i) No primary insurance amount computed under subparagraph (A) may be less than an amount equal to $11.50 multiplied by the individual's years of coverage in excess of 10, or the increased amount determined for purposes of this clause under subsection (i).".

(b)(1) Section 215(a)(1)(C)(ii) of such Act is amended by striking out "For purposes of clause (i)(II)" and inserting in lieu thereof "For purposes of clause (i)".

(2) Section 215(a)(3)(A) of such Act is amended by striking out "subparagraph (C)(i)(II)" and inserting in lieu thereof "subparagraph (C)(i)".

(3) Section 215(a)(4) of such Act is amended—

(A) by striking out "subparagraph (C)(i)(II)" and inserting in lieu thereof "subparagraph (C)(i)"; and

(B) in subclause (I) thereof, by striking out "but without regard to clauses (iv) and (v) thereof".

(4) Section 215(f)(8) of such Act is amended by striking out "subsection (a)(1)(C)(i)(II)" and inserting in lieu thereof "subsection (a)(1)(C)(i)".

(5) Section 215(i)(2)(A)(ii)(II) of such Act is amended by striking out "(including a primary insurance amount determined under subsection (a)(1)(C)(i)(I), but subject to the provisions of such subsection (a)(1)(C)(i) and clauses (iv) and (v) of this subparagraph)".

(6) Section 215(i)(2)(A)(ii) of such Act is amended in the matter following subclause (III) by striking out "subparagraph (C)(i)(II)" and inserting in lieu thereof "subparagraph (C)(i)".

(7) Section 215(i)(2)(A)(iii) of such Act is amended by striking out "and, with respect to a primary insurance amount determined under subsection (a)(1)(C)(i)(I), subject to the provisions of subsection (a)(1)(C)(i) and clauses (iv) and (v) of this subparagraph".

(8) Section 215(i)(2)(A) of such Act is amended by striking out clauses (iv) and (v) thereof.

(9) Section 215(i)(2)(D) of such Act is amended by striking out "subparagraph (C)(i)(II)" each place it appears and inserting in lieu thereof in each instance "subparagraph (C)(i)".

(10) Section 202(m) of such Act is repealed.

(11) Paragraphs (1) and (5) of section 202 (w) of such Act are each amended by striking out "section 215(a)(1)(C)(i)(II)" and inserting in lieu thereof in each instance "section 215(a)(1)(C)(i)".

(12) Section 233(c)(2) of such Act is amended to read as follows:

"(2) Any such agreement may provide that an individual who is entitled to cash benefits under this title shall, notwithstanding the provisions of section 202(t), receive such benefits while he resides in a foreign country which is a party to such agreement.".

(c)(1) Section 215(a) of such Act is amended by adding at the end thereof the following new paragraph:

"(6)(A) The table of benefits in effect in December 1978 under this section, referred to in paragraph (4) in the matter following subparagraph (B) and in paragraph (5), revised as provided by subsection (i), as applicable, shall be extended for average monthly wages of less than $76.00 and primary insurance benefits (as determined under subsection (d)) of less than $16.20.

"(B) The Secretary shall determine and promulgate in regulations the methodology for extending the table under subparagraph (A).".

(2) Section 215(a)(4) of such Act is amended, in the matter following subparagraph (B), by inserting ", as modified by paragraph (6) as in effect for August 1981," after "table of benefits in effect in December 1978".

(3) Section 215(a)(5) of such Act is amended—

(A) by inserting before the period at the end of the first sentence the following: ", and, effective for months after July 1981, the table for determining primary insurance amounts and maximum family benefits contained in this section in December 1978 shall be modified as specified in paragraph (6)"; and

(B) in the last sentence by inserting ", modified by the application of paragraph (6) as in effect in August 1981," after "December 1978".

(4) Section 215(f)(7) of such Act is amended by adding at the end thereof the following new sentence: "Effective August 1981, the recomputation shall be modified by the application of section 215(a)(6) as in effect in August 1981, where applicable.".

(5) Section 215(i)(4) of such Act is amended by inserting ", modified by the application of subsection (a)(6) as in effect in August 1981," after "December 1978" each place it appears.

(6) Section 203(a)(8) of such Act is amended by inserting ", modified by the application of section 215(a)(6) as in effect August 1981" before ", except that".

(7) Section 217(b)(1) of such Act is amended by inserting before the period at the end of the first sentence the following: ", and as modified by the application of section 215(a)(6) as in effect in August 1981".

(d)(1) Section 202(q)(4) of such Act is amended by striking out "increased" and "increase" each place they appear and inserting in lieu thereof "changed" and "change", respectively.

(2) Section 202(q)(10) of such Act is amended in the matter preceding subparagraph (A) by striking out "increased", 'increase", and "increases" each place they appear and inserting in lieu thereof "changed", "change", and "changes", respectively.

(e)(1) The Secretary of Health and Human Services shall recalculate the primary insurance amounts applicable to—

(A) beneficiaries whose benefits are based on a primary insurance amount that was computed under section 215(a)(1)(C)(i)(I) of the Social Security Act, and

(B) beneficiaries with average monthly wages of less than $76.00 and primary insurance benefits of less than $16.20 whose benefits are based on primary insurance amounts computed under section 215(a)(4) or section 215(a)(5) of such Act.

(2) In the case of individuals to whom section 215(a)(1) and 215(a)(4) of such Act as in effect after December 1978 do not apply, the Secretary shall recalculate the primary insurance amount based on section 215 as in effect in December 1978 as though the individual had first become entitled in December 1978; except that—

(A) the table in, or deemed to be in, the law as the result of the amendments made by subsection (c)(1) of this section shall be used in lieu of the table in effect in December 1978;

(B) in the case of individuals who were born after January 1, 1913, the first sentence of section 215(b)(3) of the law as so in effect shall be deemed to read: "For purposes of paragraph (2), the number of an individual's elapsed years is the number of calendar years after 1950 (or, if later, after the year of attainment of age 21) and before 1961 or, if later, the earlier of the year in which such individual died or attained age 62.";

(C) in the case of individuals who were born prior to January 2, 1913, the first sentence of section 215(b)(3) of the law as so in effect shall be deemed to read: "For purposes of paragraph (2), the number of an individual's elapsed years is the number of calendar years after 1950 and before 1961 or, if later, the earlier of the year in which such individual died or attained, in the case of a man (except as provided by section 104(j) of Public Law 92-603) age 65, or in the case of a women, age 62.";

(D) section 215(b)(4) as so in effect shall be disregarded;

(E) section 215(d)(2)(C) as so in effect shall be disregarded;

(F) section 215(d)(4) shall be deemed, for purposes of such recalculation, to read:

"(4) The provisions of this subsection as in effect in December 1977 (but without regard to paragraph (2)(C)) shall be applicable to individuals who became eligible for old-age or disability insurance benefits or died prior to 1978.";

(G) in the case of individuals who became disabled, died, or attained age 65 prior to 1951, the Secretary shall by regulations provide an alternative computation in lieu of the computation provided by the law as so in effect (as provided by this paragraph); and

(H) in no event may the recalculated primary insurance amount exceed the primary insurance amount that is based on an average monthly wage of $76.00 or the primary insurance amount that is based on a primary insurance benefit of $16.20.

(3) In the case of individuals to whom either section 215(a) (1) or (4) of such Act apply, the primary insurance amount shall be recalculated under section 215 as in effect after December 1978; except that the table in or deemed to be in the law as a result of the amendments made by subsection (c)(1) of this section shall be used (where appropriate) in lieu of the table in effect in December 1978.

(f) The first sentence of section 202(i) of such Act is amended by inserting after "primary insurance amount" the following: "(as determined without regard to the amendments made by section 02 of the Omnibus Reconciliation Act of 1981 relating to the elimination of the minimum benefit)".

(g) Part A of title XVI of the Social Security Act is amended by adding at the end thereof the following new section:

"BENEFITS FOR INDIVIDUALS FORMERLY RECEIVING MINIMUM BENEFITS UNDER TITLE II

"SEC. 1622. (a) Any individual who—

"(1) is 60 years of age or older but has not attained the age of 65;

"(2) would be an eligible individual or eligible spouse under section 1611 if such individual were 65 years of age;

"(3) is not otherwise eligible for a benefit under section 1611;

"(4) for the month of July 1981 was entitled to a monthly benefit under title II of this Act for which he made application prior to August 1, 1981, as determined without regard to any deductions on account of work required by section 203, which entitlement amount (as so determined) was reduced for any month by reason of the amendments made by section 702 of the Omnibus Reconciliation Act of 1981 (relating to the elimination of the minimum benefit); and

"(5) is not entitled under title II to a monthly benefit, as determined without regard to any deductions on account of work required by section 203, in an amount equal to or greater than such entitlement amount (as so determined) for July 1981;

shall be eligible for a benefit for each month in which he meets the requirements of this subsection in an amount determined under subsection (b) or (c).

"(b) The amount of the monthly benefit payable under subsection (a) shall be the amount of the monthly benefit which would otherwise be payable to such individual under this title if he were 65 years of age; except that—

"(1) the amount of such monthly benefit shall not exceed—

"(A) in the case of an individual described in subsection (a) who does not have an eligible spouse, an amount equal to the amount by which such individual's monthly benefit entitlement under title II for such month as determined without regard to any deductions on account of work required by section 203, is less than the amount of such individual's monthly benefit entitlement under title II for July 1981 (as so determined); or

"(B) in the case of an individual and his spouse, both of whom are individuals described in subsection (a), an amount equal to the amount by which the combined amount of their monthly benefit entitlements under title II for such month (as so determined), is less than the combined amount of their monthly benefit entitlements under title II for July 1981 (as so determined);

"(2) the benefit amount shall be determined on the basis of the dollar amounts applicable under this title for July 1981 (without regard to cost-of-living adjustments made after July 1981 under section 1617) in the case of any individuals described in paragraph (1); and

"(3) in the case of an individual described in subsection (a) who has a spouse eligible for benefits under this title, other than by reason of this section, the amount of such monthly benefit for such individual (described in subsection (a)) shall be determined under subsection (c), and the amount of the monthly benefit for such spouse shall be determined in the same manner as for an individual who does not have an eligible spouse.

"(c) The amount of the monthly benefit for an individual described in subsection (b) (3) shall be an amount equal to the amount by which—

"(1) the monthly benefit amount for which such individual and his spouse would be eligible for such month under this title if both he and his spouse were 65 years of age, determined on the basis of the dollar amounts applicable under this title for July 1981 (without regard to cost-of-living adjustments made after July 1981 under section 1617); exceeds

"(2) the monthly benefit amount under this title for which his spouse is eligible for such month;

except that the amount of such monthly benefit shall not exceed the amount by which such individual's monthly benefit entitlement under title II for such month, as determined without regard to deductions on account of work under section 203, is less than his monthly benefit entitlement under title II (as so determined) for July 1981.

"(d) An individual who is entitled to a benefit under this section shall not be considered to be an individual receiving supplemental security income benefits under this title for purposes of section 1616 of this title or of any provision of law other than this title.".

(h) This section and the amendments made thereby shall be effective with respect to benefits payable for months after November 1981 in the case of individuals who initially become eligible for benefits under title II of the Social Security Act after November 1981, and with respect to benefits payable for months after February 1982 in the case of all other individuals. For the purpose of the preceding sentence, eligibility shall be determined in accordance with the provisions of section 215(a)(3)(B) and section 215(a)(2)(A) of that Act."

In section 15206, on pages 430 through 433, strike lines 27 through 20 and redesignate the following sections accordingly:

In section 15481, on page 473, line 6, strike out lines 6 through 17 and insert in lieu thereof the following:

Chapter 5—SOCIAL SERVICE BLOCK GRANTS

SHORT TITLE

SEC. 15481. This subchapter may be cited as the "Social Services Block Grant Act".

FINDINGS

SEC. 15482. The Congress finds and declares that—

(1) during the past 20 years, the Federal Government has established numerous programs to assist each State, its local governments and private service organizations, to provide social services to its citizens;

(2) with the growth in the number of Federal assistance programs and in the associated requirements imposed upon recipients, Federal decisions have displaced State and local determinations of what services, in what amounts, are required by the residents of each State;

(3) the proliferation of Federal programs has resulted in substantial inefficiencies in the way services are provided, in burdensome administrative costs, and in spending patterns that frequently do not reflect the priorities and service needs of the residents of the States;

(4) the best use of resources in meeting the social services needs of the Nation requires that the Federal Government support and not displace the State role in determining which services to provide and how best to provide them;

(5) allowing the States substantial flexibility in the use of Federal financial assistance and eliminating many Federal requirements will help insure a proper governmental balance and more effective use of the resources of the Nation; and

(6) this can be accomplished through consolidation of related assistance programs into a single grant, with minimum requirements.

STATEMENT OF PURPOSES

SEC. 15483. (a) The purposes of this subchapter are to consolidate Federal assistance to States for social services into a single grant, to increase State flexibility in using social service grants, and to assist States in—

(1) fostering individual self-sufficiency and economic self-support;

(2) preserving families and promoting family stability;

(3) reducing neglect, abuse, or mistreatment of vulnerable persons;

(4) promoting independent living where possible and assuring appropriate institutional care where needed; and

(5) stimulating improved use of public and private resources, including resources available from private nonprofit organizations, in the delivery of social services.

(b) To accomplish the purposes specified in subsection (a), States are authorized to provide social services to individuals and families (particularly those most in need), including child care, day care, services for individuals in foster care, protective services, foster care maintenance payments, adoption assistance payments, emergency room and board, home management and maintenance services, preparation and delivery of meals, health support services, family planning, transportation, rehabilitation, training and related services, employment services, legal services, delinquency prevention services, services to minors in the justice system, information, referral, and coun-

seling services, and such other community and social services as may be appropriate and consistent with the purposes of this subchapter.

(c) Expenditures for accomplishing the purposes specified in subsection (a) may include expenditures for administration (including planning and evaluation) and personnel training and retraining directly related to the provision of services designed to carry out such purposes (including both short-term and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions. Such services shall include conferences or workshops, and training or retraining through grants to nonprofit organizations within the meaning of section 501(c)(3) of the Internal Revenue Code of 1954 or to individuals with social services expertise, or through financial assistance to individuals participating in such conferences, workshops, and training or retraining. The preceding sentence shall apply to all persons involved in the delivery of services under this subchapter.

AUTHORIZATION OF APPROPRIATIONS

SEC. 15484. For the purpose of making grants to States for provision of social services in accordance with the provision of this subchapter, there are authorized to be appropriated $3,123,000,000 for fiscal year 1982 and each of the 3 succeeding fiscal years.

ALLOTMENTS

SEC. 15485. (a) From the amounts appropriated under section 5314 for any fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to the total amount appropriated as the total amount allotted or obligated to the State or to a grantee within the State (or, in the absence of such an allotment or obligation, the total amount paid, as determined by the Secretary on the basis of claims for payment submitted by the State on or before April 1, 1982) to the State for fiscal year 1981 under authorities specified in section 5323, under the authority for foster care maintenance payments under part A of title IV of the Social Security Act, and for social services in accordance with section 1108(a) of the Social Security Act, bears to the total amount appropriated for payments to all States under such authorities for fiscal year 1981.

PAYMENTS TO STATES

SEC. 15486. (a) The Secretary shall make payments in accordance with section 203 of the Intergovernmental Cooperation Act of 1968 to each State from its allotment under section 5315 for use under this subchapter.

(b) Payments to a State from its allotment for any fiscal year shall be expended by the State in such fiscal year or in the succeeding fiscal year.

(c)(1) A State may transfer not more than 10 percent of its allotment under section 5315 for any fiscal year for its use for such year under other provisions of Federal law providing block grants for support of health services, health promotion and disease prevention activities, or energy assistance (or any combination of such activities).

(2) For fiscal years 1982 and 1983, a State may transfer not more than an amount equal to its pro rata share of $255,000,000 for its use for the fiscal year involved under other provisions of Federal law providing block grants for energy assistance.

(3) Amounts allotted to a State under any provisions of Federal law referred to in this subsection and transferred by a State for use in carrying out the purposes of this subchapter shall be treated as if they were paid to the State under this subchapter but shall not affect the computation of the allotment of the State under this subchapter. The State shall inform the Secretary of any such transfer of funds.

(d)(1) A State may use a portion of the amounts described in subsection (a) for the purpose of purchasing technical assistance from public or private entities if the State determines that such assistance is required in developing, implementing, or administering programs funded under this subchapter.

(2) In using payments received under this subchapter, a State may, in addition to reallocating funds to units of local government, give consideration to community-based self-help organizations of demonstrated effectiveness.

STATE ADMINISTRATION

SEC. 15487. (a) Prior to expenditure by a State of payments made to it under section 5316 for any fiscal year, the chief executive officer of the State shall report on the intended use of the payments the State is to receive under this subchapter, including information on the types of activities to be supported and the categories or characteristics of individuals to be served. The report shall be made public within the State in such manner as to facilitate comment by any person (including any Federal or other public agency) during development of the report and after its completion. The report shall be revised throughout the year involved as may be necessary to reflect substantial changes in the activities assisted under this subchapter, and any revision shall be subject to the requirements of the preceding sentence.

(b) In addition to expenditures by the State for the purposes described in section 5313, the State may use so much of the amount allotted to it as may be necessary for the costs of administration of the grants made under this subchapter. Such administrative costs may include the cost of planning, operating, evaluating, and conducting fiscal and substantive reviews of the programs supported by grants under this subchapter, and for training directly related to the provision of social services under this subchapter.

LIMITATIONS ON USE OF GRANTS

SEC. 15488. (a) Except as provided in subsection (b), grants made under this subchapter may not be used by the State, or by any other person with which the State makes arrangements to carry out the purposes of this subchapter—

(1) for the purchase or improvement of land, or the purchase, construction, or permanent improvement (other than minor remodeling) of any building or other facility;

(2) for the provision of cash payments for costs of subsistence or for the provision of room and board (other than foster care maintenance payments, adoption assistance payments, costs of subsistence during rehabilitation, room and board provided for a short term as an integral but subordinate part of a social service, or temporary emergency shelters provided as a protective service);

(3) for payment of the wages of any individual as a social service (other than payment of the wages of welfare recipients employed in the provision of child day care services);

(4) for foster care maintenance payments for foster care provided by a public foster care institution which accommodates more than 25 children;

(5) for the provision of medical care (other than family planning services, rehabilitation services, or initial detoxification of an alcoholic or drug dependent individual) unless it is an integral but subordinate part of a social service for which grants may be used under this subchapter;

(6) for social services (except services to an alcoholic or drug dependent individual, or rehabilitation services) provided in, and by employees of, any hospital, skilled nursing facility, intermediate care facility, or prison, to any individual living in such institution;

(7) for public education (other than vocational and other training services for the handicapped, or information and referral activities); or

(8) for the provision of cash payments as a service (except as otherwise provided in this section).

(b) The Secretary may waive the limitations contained in subsection (a)(1) and subsection (a)(5) upon the request of a State for such a waiver if he finds that the request describes extraordinary circumstances to justify the waiver and that permitting the waiver will contribute to the ability of the State to carry out the purposes of this subchapter.

REPORTS AND AUDITS

SEC. 15489. (a) Each State shall prepare reports on its activities under this subchapter. Reports shall be in such form, contain such information, and be of such frequency (but not less often than every 2 years) as the State finds necessary to provide an accurate description of such activities, to secure a complete record of the purposes for which funds were spent, and to determine the extent to which funds were spent consistently with the reports required by section 5317(a). The State shall make copies of the reports required by this section available for public inspection within the State. Copies shall also be provided, upon request, to any interested public agency, and each such agency may provide its views on such reports to the Congress.

(b) Each State shall, not less often than every 2 years, audit its expenditures from amounts received (or transferred for use) under this subchapter. Such State audits shall be conducted by an entity independent of any agency administering activities funded under this subchapter, in accordance with generally accepted accounting principles. Within 30 days following the completion of each audit, the chief executive officer of the State shall submit a copy of such audit to the legislature of the State and to the Secretary. Each State shall repay to the United States amounts found not to have been expended in accordance with this subchapter, or the Secretary may offset such amounts against any other amount to which the State is or may become entitled under this subchapter.

(c) Section 202 of the Intergovernmental Cooperation Act of 1968 shall apply to grants made under this subchapter.

NONDISCRIMINATION PROVISION

SEC. 15490. (a) No person shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this subchapter. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of

1975 or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity.

(b) Whenever the Secretary determines that there has been a failure to comply with subsection (a) or an applicable regulation, he shall notify the chief executive officer of the State involved and shall request him to secure compliance. If within a reasonable period of time, not to exceed 60 days, the chief executive officer fails or refuses to secure compliance, the Secretary is authorized to (1) refer the matter to the Attorney General of the United States with a recommendation that an appropriate civil action be instituted; (2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, or section 504 of the Rehabilitation Act of 1973, as may be applicable; or (3) take such other action as may be provided by law.

(c) When a matter is referred to the Attorney General pursuant to subsection (b), or whenever he has reason to believe that there has occurred a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

TRAINING AND ONGOING PROJECTS

SEC. 15491. (a)(1) The Secretary is authorized, either directly or through grants to States and public and other nonprofit organizations and agencies or contracts or jointly financed cooperative arrangements with States and public and other organizations and agencies, to provide for training related to the purposes of this subchapter, and for ongoing activities of national or regional significance related to the purposes of this subchapter, which may include operation of a national communications system for the purpose of assisting runaway and homeless youth in communicating with their families and with service providers, operation of a national center to collect and disseminate information on child abuse and neglect, and operation of a national adoption information exchange system to facilitate the adoptive placement of children.

(b) Payments of grants or under contracts or cooperative arrangements under this section may be made in advance or by way of reimbursement, and in such installments, as the Secretary may determine. Such payments shall be made on such conditions as the Secretary finds necessary to carry out the purposes of the grants, contracts, or other arrangements.

DEFINITIONS

SEC. 15492. For purposes of this subchapter:

(1) The term "Secretary" means the Secretary of Health and Human Services.

(2) The term "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

REPEALERS

SEC. 15493. The following provisions of law hereby are repealed:

(1) title XX of the Social Security Act;

(2) the Child Abuse Prevention and Treatment Act of 1974;

(3) the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978;

(4) the Runaway and Homeless Youth Act (title III of the Juvenile Justice and Delinquency Prevention Act of 1974); and

(5) titles I, II, III, IV, VI, VII, and IX of the Community Services Act of 1974.

CONFORMING AMENDMENTS TO THE SOCIAL SECURITY ACT

SEC. 15494. (a)(1) Section 1 of the Social Security Act is amended—

(A) by inserting "and" before "(b)" the first place it appears therein; and

(B) by striking out "and (c)" and all that follows through "self-care".

(2) Section 3(a) of the Social Security Act is amended—

(A) by amending paragraph (4) to read as follows:

"(4) in the case of any State, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health and Human Services for the proper and efficient administration of the State plan—

"(A) 75 per centum of so much of such expenditures as are for the training (including both short-term and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus

"(B) one-half of the remainder of such expenditures."; and

(B) by striking out paragraph (5).

(3) Section 3(c) of the Social Security Act is repealed.

(b)(1) Section 402(a)(5), 402(a)(13), 402(a)(14), 402(a)(15), 403(a)(3), 403(e), and 406(d) of the Social Security Act, as in effect with respect to Puerto Rico, Guam, and the Virgin Islands, are repealed.

(2) Sections 402(a)(5) and 403(a)(3) of the Social Security Act, as such provisions apply to the several States and the District of Columbia, are made applicable also to Puerto Rico, Guam, and the Virgin Islands.

(3) Section 403(a)(3)(A) of the Social Security Act is amended by inserting "(or, in the case of Puerto Rico, Guam, and the Virgin Islands, 60 per centum)" after "75 per centum".

(4) Section 248(b) of the Social Security Amendments of 1967 is repealed.

(c) Section 402(a)(9) of the Social Security Act is amended by striking out "XVI, XIX, or XX" and inserting in lieu thereof "XVI, or XIX".

(d) Section 402(a)(15) of the Social Security Act is repealed.

(e) Section 403(a)(3) of the Social Security Act is amended—

(1) in subparagraph (B), by striking out "and State programs with respect to which there is Federal financial participation under title XX,";

(2) in subparagraph (C), by striking out the comma and inserting in lieu thereof "; and "; and

(3) in the matter that follows subparagraph (C), by striking out "service described in section 2002(a)(1) of this Act" and inserting in lieu thereof "social services".

(f) Section 403(f) of the Social Security Act is repealed.

(g)(1) Section 1001 of the Social Security Act is amended by striking out "and of encouraging each State" and all that follows through "self-care".

(2) Section 1003(a) of the Social Security Act is amended—

(A) by amending paragraph (3) to read as follows:

"(3) in the case of any State, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health and Human Services for the proper and efficient administration of the State plan—

"(A) 75 per centum of so much of such expenditures as are for the training (including both short-term and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus

"(B) one-half of the remainder of such expenditures."; and

(B) by striking out paragraph (4).

(3) Section 1003(c) of the Social Security Act is repealed.

(h) Section 1108(a) of the Social Security Act is amended in the matter preceding paragraph (1) to read as follows:

"SEC. 1108. (a) The total amount certified by the Secretary of Health and Human Services under titles I, X, XIV, and XVI, and under part A of title IV (exclusive of any amounts on account of services and items to which subsection (b) applies)—".

(i) Section 1115(a) of the Social Security Act is amended—

(1) in the matter preceding paragraph (1), by striking out "XIX, or XX" and inserting in lieu thereof "or XIX";

(2) in paragraph (1), by striking out "1902, 2002, 2003, or 2004" and inserting in lieu thereof "or 1902"; and

(3) in paragraph (2)—

(A) by striking out "1903, or 2002" and inserting in lieu thereof "or 1903"; and

(B) by striking out "or expenditures with respect to which payment shall be made under section 2002,".

(j) Section 1116 of the Social Security Act is amended—

(1) in subsections (a)(1), (b), and (d), by striking out "XIX, or XX" and inserting in lieu thereof "or XIX"; and

(2) in subsection (a)(3), by striking out "1904, or 2003" and inserting in lieu thereof "or 1904".

(k) Section 1124(a) of the Social Security Act is amended—

(1) in paragraph (1), by striking out "XIX, and XX" each place it appears and inserting in lieu thereof "and XIX"; and

(2) in paragraph (2)—

(A) by inserting "or" after the semicolon at the end of subparagraph (B);

(B) by striking out "; or" at the end of subparagraph (C) and inserting a period in lieu thereof; and

(C) by striking out subparagraph (D).

(l) Section 1126(a) of the Social Security Act is amended by striking out "XIX, and XX" and inserting in lieu thereof "and XIX".

(m) Section 1128(a) of the Social Security Act is amended—

(1) in paragraph (2)(A), by striking out "or title XX,"; and

(2) in paragraph (2)(B), by striking out "or title XX".

(n)(1) Section 1401 of the Social Security Act is amended by striking out "and of encouraging each State" and all that follows through "self-care".

(2) Section 1403(a) of the Social Security Act is amended—

(A) by amending paragraph (3) to read as follows:

"(3) in the case of any State, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health and Human Services for the proper and efficient administration of the State plan—

"(A) 75 per centum of so much of such expenditures as are for the training (including both short-term and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus

"(B) one-half of the remainder of such expenditures."; and

(B) by striking out paragraph (4).

(3) Section 1403(c) of the Social Security Act is repealed.

(o)(1) Section 1601 of the Social Security Act is amended—

(A) by inserting "and" before "(b)" the first place it appears; and

(B) by striking out "and (c)" and all that follows through "self-care,".

(2) Section 1603(a) of the Social Security Act is amended—

(A) by amending paragraph (4) to read as follows:

"(4) in the case of any State, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health and Human Services for the proper and efficient administration of the State plan—

"(A) 75 per centum of so much of such expenditures as are for the training (including both short-term and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus

"(B) one-half of the remainder of such expenditures."; and

(B) by striking out paragraph (5).

(3) Section 1603(c) of the Social Security Act is repealed.

(p) Section 1616(e)(2) of the Social Security Act is amended by striking out ", as a part of the services program planning procedures established pursuant to section 2004 of this Act,".

(q) Section 1619 of the Social Security Act is amended—

(1) by striking out "titles XIX and XX" each place it appears and inserting in lieu thereof "title XIX"; and

(2) by striking out "title XIX or XX" and inserting in lieu thereof "title XIX".

(r) Section 1620(c) of the Social Security Act is amended—

(1) in paragraph (3), by striking out "titles XIX and XX" and inserting in lieu thereof "title XIX";

(2) by amending paragraph (6) to read as follows:

"(6) describes the manner in which the medical and social services involved are to be provided, and specifies the particular mechanisms and procedures to be used in providing such services (or, with respect to medical services, specifies that they are to be provided through the State's medical assistance program under title XIX, with the Federal payments being made under subsection (d) of this section rather than under that title); and"; and

(3) by striking out the matter following the end of paragraph (7).

(s)(1) Section 1902(a)(10)(A) of the Social Security Act is amended by inserting before the semicolon "or who is an individual specified in subsection (j)".

(2) Section 1902 of the Social Security Act is amended by adding at the end the following new subsection:

"(j) Individuals specified in section 1902(a)(10)(A) shall include every individual—

"(1) in the case of a child on whose behalf foster care maintenance payments are being made under any program administered by or administered under the supervision of the State—

"(A) who would meet the requirements of section 406(a) or of section 407 but for his removal from the home of a relative specified in section 406(a), and

"(B) whose removal from the home occurred pursuant to a voluntary placement agreement entered into by the child's parent or legal guardian or was the result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child, and

"(C)(i) who received aid under the State plan approved under section 402 in or for the month in which such agreement was entered into or court proceedings leading to the removal of the child from the home were initiated,

"(ii) who would have received such aid in or for such month if application had been made therefor, or

"(iii) who had been living with a relative specified in section 406(a) within six months prior to the month in which such agreement was entered into or such proceedings were initiated, and would have received such aid in or for such month if in such month he had been living with such a relative and application therefor had been made; and

"(2) in the case of a child on whose behalf adoption assistance payments are being made under any program administered by or administered under the supervision of the State—

"(A) who but for adoption would meet the requirements specified in paragraph (1), or

"(B) who but for adoption would meet the requirements of title XVI with respect to eligibility for supplemental security income benefits.".

OTHER CONFORMING AMENDMENTS

SEC. 15495. (a) Section 3(f) of the Social Security Amendments of 1974 is repealed.

(b) Section 50B(i) of the Internal Revenue Code of 1954 is amended by striking out "pursuant to section 2007 of the Social Security Act" and inserting in lieu thereof "to the State under the Social Services Block Grant Act".

(c)(1) Section 202(b)(2) of the Mental Health Systems Act is amended by striking out "titles IV" and all that follows through the end thereof and inserting in lieu thereof "titles V, XVIII, and XIX of the Social Security Act and under the United States Housing Act, the Comprehensive Employment and Training Act, the Older Americans Act of 1965, and other Federal and State statutes.".

(2) Section 203(b) of the Mental Health Systems Act is amended by striking out "title IV" and all that follows through the end thereof and inserting in lieu thereof "titles V, XVIII, and XIX of the Social Security Act and under the Education for All Handicapped Children Act of 1975 and other Federal and State Statutes.".

(3) Section 204(a)(2)(B) of the Mental Health Systems Act is amended by striking out "XIX, and XX" and inserting in lieu thereof "and XIX".

(4) Section 302(2)(K) of the Mental Health System Act is amended by striking out "titles IV" and all that follows through "and under".

(d) Section 201(b) of the Indian Child Welfare Act of 1978 is amended—

(1) in the first sentence, by striking out "titles IV-B and XX" and inserting in lieu thereof "title IV-B"; and

(2) in the second sentence, by striking out "titles IV-B and XX" and inserting in lieu thereof "title IV-B".

(e)(1) The first sentence of section 507 of the Rehabilitation Act of 1973 is amended by striking out all that follows "composed of" and inserting in lieu thereof "the Secretary of Health and Human Services, the Secretary of Education, the Secretary of Labor, the Attorney General, the Director of the Office of Personnel Management, the Chairman of the Equal Employment Opportunity Commission, and any other person designated by the President.".

(2) The third sentence of that section is amended to read as follows: "on or before July 1 of every other year, the Council shall transmit to the President and to the Congress a report of its activities.".

(f) Section 2(e) of the Randolph-Sheppard Act is repealed.

POVERTY LINE

SEC. 15496. (a) The Office of Management and Budget is authorized to define poverty and to revise the definition of poverty for each year. The Office of Management and Budget shall make and issue such definitions and revisions in a timely manner after consumer price index information becomes available.

(b) Any references in statutes or regulations in effect on the effective date of this subchapter to section 624 of the Economic Opportunity Act of 1964 shall be considered to be references to subsection (a) of this section.

TRANSITION PROVISIONS

SEC. 15497. (a) The Director of the Office of Management and Budget shall assume the responsiblity of the Director of the Community Services Administration, is authorized to provide for the termination of the affairs of the Community Services Administration and any other entities terminated by section 5323(a)(7), and shall provide for the transfer or other disposition of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with implementation of the authorities terminated by section 5323(a)(7) as necessary to effectuate the purposes of this subchapter.

(b) The provisions of subsection (a) shall take effect 90 days after the date of the enactment of this Act or, if earlier, October 1, 1981.

EFFECTIVE DATE

SEC. 15498. Except as otherwise provided in this subchapter, the provisions of this subchapter, and the repeals and amendments made by this subchapter, shall take effect on October 1, 1981.

SEC. . On page 440 strike out line 22 through line 14 on page 463 and insert in lieu thereof the following and number and designate such sections accordingly;

"AID TO FAMILIES WITH DEPENDENT CHILDREN DISREGARDS FROM EARNED INCOME FOR AFDC

SEC. . Section 402(a)(8) of the Social Security Act is amended to read as follows:

"(8)(A) provided that, with respect to any month, in making the determination under paragraph (7), the State agency—

"(i) shall disregard all of the earned income of each dependent child receiving aid to families with dependent children who is (as determined by the State in accordance with standards prescribed by the Secretary) a full-time student or a part-time student who is not a full-time employee attending a school, college, or university, or a course of vocational or technical training designed to fit him for gainful employment;

"(ii) shall disregard from the earned income of any child or relative applying for or receiving aid to families with dependent children, or of any other individual (living in the same home as such relative and child) whose needs are taken into account in making such determination, the first $75 of the total of such earned income for such month (or such lesser amount as the Secretary may prescribe in the case of an individual not engaged in full-time employment or not employed throughout the month);

"(iii) shall disregard from the earned income of any child, relative, or other individual specified in clause (ii), an amount equal to expenditures for care in such month for a dependent child, or an incapacitated individual living in the same home as the dependent child, receiving aid to families with dependent children and requiring such care for such month, to the extent that such amount (for each such dependent child or incapacitated individual) does not exceed $160 (or such lesser amount as the Secretary may prescribe in the case of an individual not engaged in full-time employment or not employed throughout the month); and

"(iv) shall disregard from the earned income of any child or relative receiving aid to families with dependent children, or of any other individual (living in the same home as such relative and child) whose needs are taken into account in making such determination, an amount equal to the first $30 of the total of such earned income not already disregarded under the preceding provisions of this paragraph plus one-third of the remainder thereof (but excluding, for purposes of this subparagraph, earned income derived from participation on a project maintained under the programs established by section 432(b) (2) and (3)); and

"(B) provide that (with respect to any month) the State agency—

"(i) shall not disregard, under clause (ii), (iii), or (iv) of subparagraph (A), any earned income of any one of the persons specified in subparagraph (A)(ii) if such person—

"(I) terminated his employment or reduced his earned income without good cause within such period (of not less than thirty days) preceding such month as may be prescribed by the Secretary;

"(II) refused without good cause, within such period preceding such month as may be prescribed by the Secretary, to accept employment in which he is able to engage which is offered through the public employment offices of the State, or is otherwise offered by an employer if the offer of such employer is determined by the State or local agency administering the State plan, after notification by the employer, to be a bona fide offer of employment; or

"(III) failed without good cause to make a timely report (as prescribed by the State plan pursuant to paragraph (14)) to the State agency of earned income received in such month; and

"(ii)(I) shall not disregard, under subparagraph (A)(iv), any earned income of any of the persons specified in subparagraph (A)(ii), if, with respect to such month, the income of the persons so specified was in excess of their need, as determined by the State agency pursuant to paragraph (7) (without regard to subparagraph (A)(iv) of this paragraph), unless the persons received aid under the plan in one or more of the four months preceding such month and subparagraph (A)(iv) has not already been applied to their income for four consecutive months while they were receiving aid under the plan; and

"(II) in the case of earned income of a person with respect to whom subparagraph (A)(iv) has been applied for four consecutive months, shall not apply the provisions of subparagraph (A)(iv) for so long as he continues to receive aid under the plan and shall not apply such provisions to any month thereafter until the expiration of an additional period of twelve consecutive months during which he is not a recipient of such aid;".

DETERMINATION OF INCOME AND RESOURCES FOR AFDC

SEC. . Section 402(a)(7) of the Social Security Act is amended to read as follows:

"(7) except as may be otherwise provided in paragraph (8) or (31), provided that the State agency—

"(A) shall, in determining need, take into consideration any other income and resources of any child or relative claiming aid to families with dependent children, or of any other individual (living in the same home as such child and relative) whose needs the State determines should be considered in determining the need of the child or relative claiming such aid;

"(B) shall determine ineligible for aid any family the combined value of whose resources (reduced by any obligations or debts with respect to such resources) exceeds $1,000 or such lower amount as the State may determine, but not including as a resource for purposes of this subparagraph a home owned and occupied by such child, relative, or other individual and so much of the family member's ownership interest in one automobile as does not exceed such amount as the Secretary may prescribe; and

"(C) may, in the case of a family claiming or receiving aid under this part for any month, take into consideration as income (to the extent the State determines appropriate, as specified in such plan, and notwithstanding any other provision of law)—

"(i) an amount not to exceed the value of the family's monthly allotment of food stamp coupons, to the extent such value duplicates the amount for food included in the maximum amount that would be payable under the State plan to a family of the same composition with no other income; and

"(ii) an amount not to exceed the value of any rent or housing subsidy provided to such family, to the extent such value duplicates the amount for housing included in the maximum amount that would be payable under the State plan to a family of the same composition with no other income;".

INCOME LIMIT FOR AFDC ELIGIBILITY

SEC. . Section 402(a) of the Social Security Act is amended by inserting before paragraph (19) the following new paragraph:

"(18) provide that no family shall be eligible for aid under the plan for any month if, for that month, the total income of the family (other than payments under the plan), without application of paragraph (8), exceeds 150 percent of the State's standard of need for a family of the same composition;".

TREATMENT OF INCOME IN EXCESS OF THE STANDARD OF NEED; LUMP SUM PAYMENTS

SEC. . Section 402(a) of the Social Security Act is amended by inserting after paragraph (16) the following new paragraph:

"(17) provide that if a person specified in paragraph (8)(A) (i) or (ii) receives in any month an amount of income which, together with all other income for that month not excluded under paragraph (8), exceeds the State's standard of need applicable to the family of which he is a member—

"(A) such amount of income shall be considered income to such individual in the month received, and the family of which such person is a member shall be ineligible for aid under the plan for the whole number of months that equals (i) the sum of such amount and all other income received in such month, not excluded under paragraph (8), divided by (ii) the standard of need applicable to such family, and

"(B) any income remaining (which amount is less than the applicable monthly standard) shall be treated as income received in the first month following the period of ineligibility specified in subparagraph (A);".

TREATMENT OF EARNED INCOME ADVANCE AMOUNT UNDER AFDC

SEC. . Section 403(d)(1) of the Social Security Act is amended to read as follows:

"(d)(1) For purposes of this part, an individual's 'income' shall also include, to the extent and under the circumstances prescribed by the Secretary, an amount (which shall be treated as earned income for purposes of this part) equal to the earned income advance amount (under section 3507(a) of the Internal Revenue Code of 1954) that is (or, upon the filing of an earned income eligibility certificate, would be) payable to such individual.".

INCOME OF STEPPARENTS LIVING WITH DEPENDENT CHILD

SEC. . (a) Section 402(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (29);

(2) by striking out the period at the end of paragraph (30) and inserting in lieu thereof "; and"; and

(3) by adding after paragraph (30) the following new paragraph:

"(31) provide that, in making the determination for any month under paragraph (7), the State agency shall take into consideration so much of the income of the dependent child's stepparent living in the same home as such child as exceeds the sum of (A) the first $75 of the total of such stepparent's earned income for such month (or such lesser amount as the Secretary may prescribe in the case of an individual not engaged in full-time employment or not employed throughout the month), (B) the State's standard of need under such plan for a family of the same composition as the stepparent and those other individuals living in the same household as the dependent child and claimed by such stepparent as dependents for purposes of determining his Federal personal income tax liability but whose needs are not taken into account in making the determination under paragraph (7), (C) amounts paid by the stepparent to

individuals not living in such household and claimed by him as dependents for purposes of determining his Federal personal income tax liability, and (D) payments by such stepparent of alimony or child support with respect to individuals not living in such household.".

(b) Section 412(b) of the Social Security Act is amended by striking out "does not include any such relative" and inserting in lieu thereof "does not include a stepparent whose income is taken into consideration under section 402(a)(31) (regardless of whether such income exceeds the sum specified in such section) or any other such relative".

COMMUNITY WORK EXPERIENCE PROGRAMS

SEC. . (a) Section 409 of the Social Security Act is amended to read as follows:

"COMMUNITY WORK EXPERIENCE PROGRAMS

"SEC. 409. (a)(1) Any State which chooses to do so may establish a community work experience program in accordance with this section. The purpose of the community work experience program is to provide experience and training for individuals not otherwise able to obtain employment, in order to assist them to move into regular employment. Community work experience programs shall be designed to improve the employability of participants through actual work experience and training and to enable individuals employed under community work experience programs to move promptly into regular public or private employment. The facilities of the State public employment offices may be utilized to find employment opportunities for recipients under this program. Community work experience programs shall be limited to projects which serve a useful public purpose in fields such as health, social service, environmental protection, education, urban and rural development and redevelopment, welfare, recreation, public facilities, public safety, and day care. To the extent possible, the prior training, experience, and skills of a recipient shall be utilized in making appropriate work experience assignments. A community work experience program established under this section shall provide—

"(A) appropriate standards for health, safety, and other conditions applicable to the performance of work;

"(B) that the program does not result in displacement of persons currently employed, or the filling of established unfilled position vacancies;

"(C) reasonable conditions of work, taking into account the geographic region, the residence of the participants, and the proficiency of the participants;

"(D) that participants will not be required, without their consent, to travel an unreasonable distance from their homes or remain away from their homes overnight;

"(E) that the maximum number of hours in any month that a participant may be required to work is that number which equals the amount of aid payable with respect to the family of which such individual is a member under the State plan approved under this part, divided by the greater of the Federal or the applicable State minimum wage; and

"(F) that provision will be made for transportation and other costs, not in excess of an amount established by the Secretary, reasonably necessary and directly related to participation in the program.

The Secretary shall prescribe rules for determining, in cases to which subparagraph (E) applies and in which the members of the household receiving a food stamp allotment are not all members of the family with respect to which aid under this part is payable, the portion of a household's food stamp allotment that, for purposes of subparagraph (E), may be considered to be the food stamp allotment provided to the family.

"(2) Nothing contained in this section shall be construed as authorizing the payment of aid under this part as compensation for work performed, nor shall a participant be entitled to a salary or to any other work or training expense provided under any other provision of law by reason of his participation in a program under this section.

"(3) Nothing in this part or part C, or in any State plan approved under this part, shall be construed to prevent a State from operating (on such terms and conditions and in such cases as the State may find to be necessary or appropriate, whether or not such terms, conditions, and cases are consistent with section 402(a)(19) or part (C)) a community work experience program in accordance with this section.

"(b)(1) Each recipient of aid under the plan who is registered under section 402(a)(19) shall participate, upon referral by the State agency, in a community work experience program unless such recipient is currently employed for no fewer than 80 hours a month and is earning an amount not less than the applicable minimum wage for such employment.

"(2) In addition to an individual described in paragraph (1), the State agency may also refer, for participation in programs under this section, an individual who would be required to register under section 402(a)(19)(A) but for the exception contained in clause (v) of such section (but only if the child for whom the parent or relative is caring is not under the age of three and child care is available for such child), or in clause (iii) of such section.

"(3) The chief executive officer of the State shall provide coordination between a community work experience program operated pursuant to this section and the work incentive program operated pursuant to part C so as to insure that job placement will have priority over participation in the community work experience program, and that individuals eligible to participate in both such programs are not denied aid under the State plan on the grounds of failure to participate in one such program if they are actively and satisfactorily participating in the other. The chief executive officer of the State may provide that part-time participation in both such programs may be required where appropriate.

"(c) The provisions of section 402(a)(19)(F) shall apply to any individual referred to a community work experience program who fails to participate in such program in the same manner as they apply to an individual to whom section 402(a)(19) applies.

"(d) In the case of any State which makes expenditures in the form described in subsection (a) under its State plan approved under section 402, expenditures for the proper and efficient administration of the State plan, for purposes of section 403(a)(3), may not include the cost of making or acquiring materials or equipment in connection with the work performed under a program referred to in subsection (a) or the cost of supervision of work under such program, and may include only such other costs attributable to such programs as are permitted by the Secretary.".

(b) Section 403(a)(3) of such Act is amended by inserting before the semicolon at the end thereof the following: ", or which is a service provided in connection with a community work experience program or work supplementation program under section 409 or 414".

(c) Section 204(c)(2) of the Social Security Amendments of 1957 (Public Law 90-248) is repealed.

PROVIDING JOBS AS ALTERNATIVE TO AFDC

SEC. . Part A of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

"WORK SUPPLEMENTATION PROGRAM

"SEC. . 414. (a) It is the purpose of this section to allow a State to institute a work supplementation program under which such State, to the extent such State determines to be appropriate, may make jobs available, on a voluntary basis, as an alternative to aid otherwise provided under the State plan approved under this part.

"(b)(1) Notwithstanding the provisions of section 406 or any other provision of law, Federal funds may be paid to a State under this part, subject to the provisions of this section, with respect to expenditures incurred in operating a work supplementation program under this section.

"(2) Nothing in this part or part C, or in any State plan approved under this part, shall be construed to prevent a State from operating (on such terms and conditions and in such cases as the State may find to be necessary or appropriate, whether or not such terms, conditions, and cases are consistent with section 402(a)(19) or part C) a work supplementation program in accordance with this section.

"(3) Notwithstanding section 402(a)(23) or any other provision of law, a State may adjust the levels of the standards of need under the State plan as the State determines to be necessary and appropriate for carrying out a work supplementation program under this section.

"(4) Notwithstanding section 402(a)(1) or any other provision of law, a State operating a work supplementation program under this section may provide that the needs standards in effect in those areas of the State in which such program is in operation may be different from the needs standards in effect in the areas in which such program is not in operation, and such State may provide that the needs standards for categories of recipients of aid may vary among such categories as the State determines to be appropriate on the basis of ability to participate in the work supplementation program.

"(5) Notwithstanding any other provision of law, a State may make further adjustments in the amounts of aid paid under the plan to different categories of recipients (as determined under paragraph (4)) in order to offset increases in benefits from needs related programs (other than the State plan approved under this part) as the State determines to be necessary and appropriate to further the purposes of the work supplementation program.

"(6) Notwithstanding section 402(a)(8) or any other provision of law, a State operating a work supplementation program under this section may reduce or eliminate the amount of earned income to be disregarded under the State plan as the State determines to be necessary and appropriate to further the purposes of the work supplementation program.

"(c)(1) A work supplementation program operated by a State under this section shall

provide that any individual who is an eligible individual (as determined under paragraph (2)) may choose to take a supplemented job (as defined in paragraph (3)) to the extent supplemented jobs are available under the program. Payments by the State to individuals or to employers under the program shall be expenditures incurred by the State for aid to families with dependent children, except as limited by subsection (d).

"(2) For purposes of this section, an eligible individual is an individual who is in a category which the State determines shall be eligible to participate in the work supplementation program, and who would, at the time of his placement in such job, be eligible for assistance under the State plan if such State did not have a work supplementation program in effect and had not altered its State plan accordingly, as such State plan was in effect in May 1981, or as modified thereafter as required by Federal law.

"(3) For purposes of this section, a supplemented job is—

"(A) a job position provided to an eligible individual by the State or local agency administering the State plan under this part;

"(B) a job position provided to an eligible individual by a public or nonprofit entity for which all or part of the wages are paid by such State or local agency; or

"(C) a job position provided to an eligible individual by a proprietary entity involving the provision of child day care services for which all or part of the wages are paid by such State or local agency, but only if such entity does not claim a credit for any part of the wages paid to such eligible individual under section 40 of the Internal Revenue Code of 1954 (relating to credit for expenses of the work incentive program) or section 44B of such Code (relating to credit for employment of certain new employees).

A State may provide or subsidize any job position under the program as such State determines to be appropriate, but acceptance of any such position shall be voluntary.

"(d) The amount of the Federal payment to a State under section 403 for any quarter for expenditures incurred in operating a work supplementation program shall not exceed an amount equal to the difference between—

"(1) the amount which would have been paid under section 403 to such State for such quarter under the State plan if it did not have a work supplementation program in effect and had not altered its State plan accordingly, as such State plan was in effect in May 1981, or as modified thereafter as required by Federal law; and

"(2) the amount paid to such State under section 403 for such quarter exclusive of the amount so paid for such quarter for the work supplementation program.

"(e)(1) Nothing in this section shall be construed as requiring a State or local agency administering the State plan to provide employee status to any eligible individual to whom it provides a job position under the work supplementation program, or with respect to whom it provides all or part of the wages paid to such individual by another entity under such program.

"(2) Nothing in this section shall be construed as requiring such State or local agency to provide that eligible individuals filling job positions provided by other entities under such program be provided employee status by such entity during the first 13 weeks during which they fill such position.

"(13) Wages paid under a work supplementation program shall be considered to be earned income for purposes of any provision of law.

"(f) Any work supplementation program operated by a State shall be administered by—

"(1) the agency designated to administer or supervise the administration of the State plan under section 402(a)(3); or

"(2) the agency (if any) designated to administer the community work experience program under section 409.

"(g) Any State which chooses to operate a work supplementation program under this section may choose to provide that any individual who participates in such program, and any child or relative of such individual (or other individual living in the same household as such individual) who would be eligible for aid under the State plan approved under this part if such State did not have a work supplementation program, shall be considered individuals receiving aid under the State plan approved under this part for purposes of eligibility for medical assistance under the State plan approved under title XIX.

"(h) No individual receiving a grant under the State plan shall be excused, by reason of the fact that such State has a work supplementation program, from any requirement of this part or part C relating to work requirements.".

WORK INCENTIVE DEMONSTRATION PROGRAM

SEC. . Part C of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

"WORK INCENTIVE DEMONSTRATION PROGRAM

"SEC. 445. (a) Notwithstanding any other provision of this part and part A of this title, any State may elect as an alternative to the work incentive program otherwise provided in this part, and subject to the provisions of this section, to operate a work incentive demonstration program for the purpose of demonstrating single agency administration of the work-related objectives of this Act, and to receive payments under the provisions of this section.

"(b)(1) Not later than sixty days following the date of the enactment of this section, the Governor of a State which desires to operate a work incentive demonstration program under this section shall submit to the Secretary of Health and Human Services a letter of application stating such intent. Accompanying the letter of application shall be a State program plan which must—

"(A) provide that agency conducting the demonstration program within the State shall be the single State agency which administers or supervises the administration of the State plan under part A of this title;

"(B) provide that all persons eligible for or receiving assistance under the aid to families with dependent children program shall be eligible to participate in, and shall be required to participate in, the work incentive demonstration program, subject to the same criteria for participation in such demonstration program as are in effect under this part and part A during the month before the month in which the demonstration program commences;

"(C) provide that the criteria for participation in the work incentive demonstration program shall be uniform throughout the State;

"(D) provide a statement of the objectives which the State expects to meet through operation of a work incentive demonstration program, with emphasis on how the State expects to maximize client placement in nonsubsidized private sector employment;

"(E) describe the techniques to be used to achieve the objectives of the work incentive demonstration program, which may include but shall not be limited to: maximum periods of participation, job training, job find clubs, grant diversion to either public or private sector employers, services contracts with State employment services, prime sponsors under the Comprehensive Employment and Training Act of 1973, or private placement agencies, targeted jobs tax credit outreach campaigns, and performance-based placement incentives; and

"(F) set forth the format and frequency of reporting of information regarding operation of the work incentive demonstration program.

"(2) A State's application to participate in the work incentive demonstration program shall be deemed approved unless the Secretary of Health and Human Services notifies the State in writing of disapproval within forty-five days of the date of application. The Secretary of Health and Human Services shall set forth the reasons for disapproval and provide an opportunity for resubmission of the plan within forty-five days of the receipt of the notice of disapproval. An application shall not be finally disapproved unless the Secretary of Health and Human Services determines that the State's program plan would be less effective than the requirements set forth in this title, other than this section.

"(3) The Secretary of Health and Human Services shall furnish copies of approved plans, statistical reports, and evaluation reports to the Secretary of Labor.

"(c) Subject to the statement of objectives and description of techniques to be used in implementing its work incentive demonstration program, as set forth in its program plan, a State shall be free to design a program which best addresses its individual needs, makes best use of its available resources, and recognizes its labor market conditions. Other than criteria for participation in the State's work incentive demonstration project, which shall be uniform throughout the State, the components of the program may vary by geographic area or by political subdivision.

"(d) A State's work incentive demonstration program, if initially approved, shall be in force for a three-year period. During this period, the State may elect to use up to six months for planning purposes. During such planning period, all requirements of part A and this part C shall remain in full force and effect.

"(e) The Secretary of Health and Human Services shall conduct two evaluations of a State's work incentive demonstration program. The first evaluation shall be conducted at the conclusion of the first twelve months of operation of the demonstration program. The second evaluation shall be conducted at the conclusion of the demonstration program. Both evaluations shall compare placement rates during the demonstration program with placement rates achieved during a number of previous years, to be determined by the Secretary of Health and Human Services.

"(f)(1) For each year of its demonstration program, a State which is operating such program shall be funded in an amount equal to its initial annual 1981 allocation under the work incentive program set forth in this part, plus any other Federal funds which the State may properly receive under any statute for establishing work programs for recipients of aid to families with dependent children.

"(2) Such funds shall only be used by the State for administering and operating its work incentive demonstration program. These funds shall not be used for direct grants of assistance under the aid to families with dependent children program.

"(g) Earnings derived from participation in a State's work incentive demonstration program shall not result 'n a determination of financial ineligibility for assistance under the aid to families with dependent children program.".

EFFECT OF PARTICIPATION IN A STRIKE ON ELIGIBILITY FOR AFDC

SEC. . Section 402(a) of the Social Security Act is amended by inserting after paragraph (20) the following new paragraph:

"(21) provide—

"(A) that, for purposes of this part, participation in a strike shall not constitute good cause to leave, or to refuse to seek or accept employment; and

"(3)(i) that aid to families with dependent children is not payable to a family for any month in which any caretaker relative with whom the child is living is, on the last day of such month, participating in a strike, and (ii) that no individual's needs shall be included in determining the amount of aid payable for any month to a family under the plan if, on the last day of such month, such individual is participating in a strike;".

AGE LIMIT OF DEPENDENT CHILD

SEC. . Section 406(a)(2) of the Social Security Act is amended to read as follows: "(2) who is (A) under the age of eighteen, or (B) at the option of the State, under the age of nineteen and a full-time student in a secondary school (or in the equivalent level of vocational or technical training), if, before he attains age nineteen, he may reasonably be expected to complete the program of such secondary school (or such training);".

LIMITATION ON AFDC TO PREGNANT WOMEN

SEC. . (a) Section 406(b) of the Social Security Act is amended by striking out "dependent children" the second place it appears in the matter that precedes clause (1) and inserting in lieu thereof "dependent children, or, at the option of the State, a pregnant woman but only if it has been medically verified that the child is expected to be born in the month such payments are made or within the three-month period following such month of payment, and who, if such child had been born and was living with her in the month of payment, would be eligible for aid to families with dependent children".

(b) Section 406 of such Act is amended by adding at the end thereof the following new subsection:

"(g)(1) Notwithstanding the provisions of subsection (b), the term 'aid to families with dependent children' does not mean any—

"(A) amount paid to meet the needs of an unborn child; or

"(B) amount paid (or by which a payment is increased) to meet the needs of a woman occasioned by or resulting from her pregnancy, unless, as has been medically verified, the woman's child is expected to be born in the month such payments are made (or increased) or within the three-month period following such month of payment.

"(2) Notwithstanding paragraph (1), a State may provide that for purposes of title XIX a pregnant woman shall be deemed to be a recipient of aid to families with dependent children under this part if she would be eligible for such aid if such child had been born and was living with her in the month of payment, and such pregnancy has been medically verified.".

AID TO FAMILIES WITH DEPENDENT CHILDREN BY REASON OF UNEMPLOYMENT OF A PARENT

SEC. . (a) Section 407 of the Social Security Act is amended as follows:

(1) the heading is amended to read "DEPENDENT CHILDREN OF UNEMPLOYED PARENTS";

(2) subsection (a) is amended by striking out "his father" and inserting in lieu thereof "the parent who is the principal earner";

(3) subsection (b)(1) is amended—

(A) by striking out "such child's father" in subparagraph (A) and inserting in lieu thereof "whichever of such child's parents is the principal earner", and

(B) by striking out "father" in subparagraph (B) and inserting in lieu thereof "parent";

(4) subsection (b)(2) is amended—

(A) by striking out "fathers" in subparagraph (A) and inserting in lieu thereof "unemployed parents", and

(B) by striking out "father" in subparagraph (C) (i) and (ii) and in subparagraph (D) and inserting in lieu thereof "parent described in paragraph (i)(A)";

(5) subsection (c) is amended by striking out "father" both times it appears and inserting in lieu thereof "parent";

(6) subsection (d) is amended—

(A) by striking out "and" at the end of paragraph (2);

(B) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(4) the phrase 'whichever of such child's parents is the principal earner', in the case of any child, means whichever parent, in a home in which both parents of such child are living, earned the greater amount of income in the 24-month period the last month of which immediately precedes the month in which an application is filed for aid under this part on the basis of the unemployment of a parent, for each consecutive month for which the family receives such aid on that basis."; and

(7) subsection (e) is amended by striking out "fathers" and inserting in lieu thereof "parents".

(b) Section 402(a)(19)(A) of such Act is amended—

(1) by striking out "mother" in clause (v) and inserting in lieu thereof "parent";

(2) by striking out "mother or other female caretaker of a child, if the father or another adult male relative" in clause (vi) and inserting in lieu thereof "parent or other caretaker of a child who is deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent, if another adult relative";

(3)(A) by striking out "or" at the end of clause (vi);

(B) by striking out the semicolon at the end of clause (vii) and inserting in lieu thereof "; or"; and

(C) by adding at the end thereof the following new clause:

"(viii) the parent of a child who is deprived of parental support or care by reason of the unemployment of a parent, if the other parent (who is the principal earner, as defined in section 407(d)) is not excluded by the preceding clauses of this subparagraph;"; and

(4) in the matter following the numbered clauses—

(A) by striking out "her option" and inserting in lieu thereof "his or her option";

(B) by striking out "if she so desires" and inserting in lieu thereof "if he or she so desires";

(C) by striking out "to her" and inserting in lieu thereof "to him or her"; and

(D) by striking out "she should decide" and inserting in lieu thereof "he or she should decide".

(c)(1) Section 402(a)(19)(F) of such Act is amended by redesignating clauses (ii) through (iv) as clauses (iii) through (v), respectively, and by inserting after clause (i) the following new clause:

"(ii) if the parent who has been designated as the principal earner, for purposes of section 407, makes such refusal, aid will be denied to all members of the family;".

(2) Section 407(b)(2)(C)(i) of such Act is amended by striking out "not registered" and inserting in lieu thereof "not currently registered".

WORK REQUIREMENTS FOR AFDC RECIPIENTS

SEC. . (a) Section 402(a)(19)(A)(i) of the Social Security Act is amended to read as follows:

"(i) a child who is under age 16 or attending, full-time, an elementary, secondary, or vocational (or technical) school;".

(b) Section 402(a)(19)(A)(v) of such Act is amended to read as follows:

"(v) the parent or other relative of a child under the age of six who is personally providing care for the child with only very brief and infrequent absences from the child;".

RETROSPECTIVE BUDGETING AND MONTHLY REPORTING

SEC. . (a) Section 402(a) of the Social Security Act in amended by inserting after paragraph (12) the following new paragraphs:

"(13) provide that—

"(A) except as provided in subparagraph (B), the State agency (i) will determine a family's eligibility for aid for a month on the basis of the family's income, composition, resources, and other similar relevant circumstances during such month, and (ii) will determine the amount of such aid on the basis of the income and other relevant circumstances in the first or, at the option of the State but only where the Secretary determines it to be appropriate, second month preceding such month; and

"(B) in the case of the first month, or at the option of the State but only where the Secretary determines it to be appropriate, the first and second months, in a period of consecutive months for which aid is payable, the State agency will determine the amount of aid on the basis of the family's income and other relevant circumstances in such first or second month;

"(14) provide that the State agency will require each family to which it furnishes aid to families with dependent children (or to which it would provide such aid but for paragraph (22) or (32) to report, as a condition to the continued receipt of such aid (or to continue to be deemed to be a recipient of such aid), each month to the State agency on—

(A) the income received, family composition, and other relevant circumstances during the prior month; and

"(B) the income and resources it expects to receive, or any changes in circumstances affecting continued eligibility or benefit amount, that it expects to occur, in that month (or in future months); except that with the prior approval of the Secretary the State may select categories of recipients who may report at specified less frequent intervals upon the State's showing to the satisfaction of the Secretary that to require individuals in such categories to report monthly would result in unwarranted ex-

penditures for administration of this paragraph; and that, in addition to whatever action may be appropriate based on other reports or information received by the State agency, the State agency will take prompt action to adjust the amount of assistance payable, as may be appropriate, on the basis of the information contained in the report (or upon the failure of the family to furnish a timely report), and will give an appropriate explanatory notice, concurrent with its action, to the family;".

(b) Section 403(a) of such Act is amended by adding at the end thereof the following sentence: "No payment shall be made under this subsection with respect to amounts paid to supplement or otherwise increase the amount of aid to families with dependent children found payable in accordance with section 402(a)(13) if such amount is determined to have been paid by the State in recognition of the current or anticipated needs of a family (other than with respect to the first or first and second months of eligibility).".

PROHIBITION AGAINST PAYMENT OF AID IN AMOUNTS BELOW TEN DOLLARS

SEC. . Section 402(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (30);

(2) by striking out the period at the end of paragraph (31) and inserting in lieu thereof "; and"; and

(3) by adding after paragraph (31) the following new paragraph:

"(32) provide that no payment of aid shall be made under the plan for any month if the amount of such payment, as determined in accordance with the applicable provisions of the plan and of this part, would be less than $10, but an individual with respect to whom a payment of aid under the plan is denied solely by reason of this paragraph is deemed to be a recipient of aid but shall not be eligible to participate in a community work experience program.".

REMOVAL OF LIMIT ON RESTRICTED PAYMENTS IN A STATE'S AFDC PROGRAM

SEC. . (a) Section 403(a) of the Social Security Act is amended by striking out the first unnumbered paragraph following paragraph (5).

(b) Section 406(b) of such Act is amended by adding at the end thereof the following new sentence: "Payments of the type described in clause (2) shall not be subject to the requirements of clauses (A) through (E) of such clause (2), when they are made in the manner described in clause (2) at the request of the family member to whom payment would otherwise be made in an unrestricted manner.".

ADJUSTMENT FOR INCORRECT PAYMENTS

SEC. . Section 402(a) of the Social Security Act is amended by inserting after paragraph (21) the following new paragraph:

"(22) provide that the State agency will promptly take all necessary steps to correct any overpayment or underpayment of aid under the State plan, and, in the case of—

"(A) an overpayment to an individual who is a current recipient of such aid, recovery will be made by repayment by the individual or by reducing the amount of any future aid payable to the family of which he is a member, except that such recovery shall not result in the reduction of aid payable for any month, such that the aid, when added to such family's liquid resources and to its income (without application of paragraph (8)), is less than 90 percent of the amount payable under the State plan to a family of the same composition with no other income (and, in the case of an individual to whom no payment is made for a month solely by reason of recovery of an overpayment, such individual shall be deemed to be a recipient of aid for such month);

"(B) an overpayment to any individual who is no longer receiving aid under the plan, recovery shall be made by appropriate action under State law against the income or resources of the individual or the family; and

"(C) an underpayment, the corrective payment shall be disregarded in determining the income of the family, and shall be disregarded in determining its resources in the month the corrective payment is made and in the following month;".

REDUCED FEDERAL MATCHING OF STATE AND LOCAL AFDC TRAINING COSTS

SEC. . (a) Section 403 (a)(3)(A) of the Social Security Act, as in effect in the fifty States and the District of Columbia, is repealed.

(b) Section 403 (a)(3)(A)(iii) of such Act, as in effect in Puerto Rico, Guam, and the Virgin Islands, is repealed.

(c) The repeals made by this section shall apply to expenditures made after September 30, 1981.

EFFECTIVE DATE

SEC. . (a) Except as otherwise specifically provided in the preceding sections of this part or in subsection (b), the provisions of this part and the amendments and repeals made by this part shall become effective on October 1, 1981.

(b) If a State agency administering a plan approved under part A of title IV of the Social Security Act demonstrates, to the satisfaction of the Secretary of Health and Human Services, that it cannot, by reason of State law, comply with the requirements of an amendment made by this part to which the effective date specified in subsection (a) applies, the Secretary may prescribe that, in the case of such State, the amendment will become effective beginning with the first month beginning after the close of the first session of such State's legislature ending on or after Octoer 1, 1981. For purposes of the preceding sentence, the term "session of a State's legislature" includes any regular, special, budget, or other session of a State legislature.

CHILD SUPPORT ENFORCEMENT

COLLECTION OF PAST-DUE CHILD AND SPOUSAL SUPPORT FROM FEDERAL TAX REFUNDS

SEC. . (a) Part D of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

"COLLECTION OF PAST-DUE SUPPORT FROM FEDERAL TAX REFUNDS

"SEC. 464. (a) Upon receiving notice from a State agency administering a plan approved under this part that a named individual owes past-due support which has been assigned to such State pursuant to section 402 (a)(26), the Secretary of the Treasury shall determine whether any amounts, as refunds of Federal taxes paid, are payable to such individual (regardless of whether such individual filed a tax return as a married or unmarried individual). If the Secretary of the Treasury finds that any such amount is payable, he shall withhold from such refunds an amount equal to the past-due support, and pay such amount to the State agency (together with notice of the individual's home address) for distribution in accordance with section 457 (b)(3).

"(b) The Secretary of the Treasury shall issue regulations, approved by the Secretary of Health and Human Services, prescribing the time or times at which States must submit notices of past-due support, the manner in which such notices must be submitted, and the necessary information that must be contained in or accompany the notices. The regulations shall specify the minimum amount of past-due support to which the offset procedure established by subsection (a) may be applied, and the fee that a State must pay to reimburse the Secretary of the Treasury for the full cost of applying the offset procedure, and provide that the Secretary of the Treasury will advise the Secretary of Health and Human Services, not less frequently than annually, of the States which have furnished notices of past-due support under subsection (a), the number of cases in each State with respect to which such notices have been furnished, the amount of support sought to be collected under this subsection by each State, and the amount of such collections actually made in the case of each State.

"(c) As used in this part the term 'past-due support' necessary to satisfy his obligation for past-due support has been paid to the State. This subsection shall be applied to an overpayment prior to its being credited to a person's future liability for an internal revenue tax.".

COLLECTION OF SUPPORT FOR CERTAIN ADULTS

SEC. . (a) Section 451 of the Social Security Act is amended by striking out "children" and inserting in lieu thereof "children and the spouse (or former spouse) with whom such children are living" and by striking out "child support" and inserting in lieu thereof "child and spousal support".

(b)(1) Section 452 (a) of such Act is amended—

(A) in paragraph (1), by inserting "and support for the spouse (or former spouse) with whom the absent parent's child is living" after "child support";

(B) in paragraph (7), by inserting "and spousal" after "child"; and

(1) by striking out in subsection (a) thereof "shall refund" and inserting in lieu thereof "shall, subject to subsection (c), refund"; and

(2) by adding at the end thereof the following new subsection:

"(C) Offset of Past-due Support Against Overpayments.—The amount of any overpayment to be refunded to the person making the overpayment shall be reduced by the amount of any past-due support (as defined in section 464 (d) of the Social Security Act) owed by that person of which the Secretary has been notified by a State in accordance with section 464 of the Social Security Act. The Secretary shall remit the amount by which the overpayment is so reduced to the State to which such support has been assigned and notify the person making the overpayment that so much of the overpayment as was—

(C) in paragraph (10)(C), by inserting "(with separate identification of the number in which collection of spousal support was involved)" after "child support cases".

(2) Section 452(b) of such Act is amended—

(A) by inserting ", including any support obligation with respect to the parent who is living with the child and receiving aid under the State plan approved under part A," after "assigned to the State" in the first sentence; and

(B) by striking out "court order" in the second sentence and inserting in lieu thereof "court or administrative order".

(c) Section 453(c)(1) of such Act is amended by striking out "child support" and inserting in lieu thereof "child and spousal support".

(d) Section 454 of such Act is amended—

(1) by striking out "CHILD SUPPORT" in the leading and inserting in lieu thereof "CHILD AND SPOUSAL SUPPORT";

(2) by striking out "child support" in the matter preceding paragraph (1) and inserting in lieu thereof "child and spousal support";

(3) in paragraph (4)(B), by striking out the comma immediately following the first, parenthetical phrase and inserting in lieu thereof "and, at the option of the State, from such parent for his spouse (or former spouse) receiving aid to families with dependent children (but only if a support obligation has been established with respect to such spouse),";

(4) in paragraph (5), by striking out "child support payments" and inserting in lieu thereof "support payments" and by striking out "collected for a child" and inserting in lieu thereof "collected for an individual";

(5) in paragraph (9) (C), by striking out "of a child or children" and inserting in lieu thereof "of the child or children or the parent of such child or children";

(6) in paragraph (11), by striking out "child"; and

(7) in paragraph (16), by striking out "child" each place it appears.

(e) Section 457 of such Act is amended—

(1) by striking out "child" in the portion of subsection (b) that precedes paragraph (1); and

(2) by striking out "child" each place it appears in subsection (c).

(f) The heading of section 460 of such Act is amended by striking out "CHILD".

COST OF COLLECTION AND OTHER SERVICES FOR NON-AFDC FAMILIES

SEC. . (a) Section 454 (6) of the Social Security Act is amended—

(1) by striking out "such services" in clause (B) and inserting in lieu thereof "services under the State plan (other than collection of support)"; and

(2) by amending clause (C) to read as follows: "(C) the State will retain, but only if it is the State which makes the collection, the fee imposed under State law as required under paragraph (19);".

(b) Section 454 of such Act (as amended by section 761 of this part) is further amended—

(1) by striking out "and" at the end of paragraph (17);

(2) by striking out the period at the end of paragraph (18) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(19) provide that a fee shall be imposed on the individual who owes a child or spousal support obligation, in accordance with State law, with respect to all such child and spousal support obligations for which collection is made by the State agency under this part on behalf of an individual not otherwise eligible for collection services (as determined for purposes of paragraph (6)) in an amount equal to 10 percent of the amount so owed (and for purposes of this part, no part of the amount collected shall be considered to be a fee collected except amounts which exceed the actual amount of support owed).".

(c) Section 455(a) of such Act is amended by adding at the end thereof the following new sentence: "In determining the total amounts expended by any State during a quarter, for purposes of this subsection, there shall be excluded an amount equal to the total of any fees collected or other income resulting from services provided under the plan approved under this part.".

CHILD SUPPORT OBLIGATIONS NOT DISCHARGED BY BANKRUPTCY

SEC. 764. (a) Section 456 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(b) A debt which is a child support obligation assigned to a State under section 402(a)(26) is not released by a discharge in bankruptcy under title 11, United States Code.".

(b) Section 523(a)(5)(A) of title 11, United States Code, is amended by inserting before the semicolon the following: "(other than debts assigned pursuant to section 402(a)(26) of the Social Security Act)".

(c) The amendments made by this section shall become effective on the date of the enactment of this Act.

EFFECTIVE DATE

SEC. . (a) Except as otherwise specifically provided in the preceding sections of this part or in subsection (b), the provisions of this part and the amendments and repeals made by this part shall become effective on October 1, 1981.

(b) If a State agency administering a plan approved under part D of title IV of the Social Security Act demonstrates, to the satisfaction of the Secretary of Health and Human Services, that it cannot, by reason of State law, comply with the requirements of an amendment made by this part to which the effective date specified in subsection (a) applies, the Secretary may prescribe that, in the case of such State, the amendment will become effective beginning with the first month beginning after the close of the first session of such State's legislature" ending on or after October 1, 1981. For purposes of the preceding sentence, the term "session of a State legislature" includes any regular, special, budget, or other session of a State legislature."

ELIGIBILITY OF ALIENS FOR AFDC

SEC. . (a) Section 402(a) of the Social Security Act (as amended by section 15422(a) of this Act) is further amended—

(1) by striking out "and" at the end of paragraph (30).

(2) by striking out the period at the end of paragraph (31) and inserting in lieu thereof "; and"; and

(3) by adding immediately after paragraph (31) the following new paragraph:

"(32) provide that in order for any individual to be considered a dependent child, a caretaker relative whose needs are to be taken into account in making the determination under paragraph (7), or any other person whose needs should be taken into account in making such a determination with respect to the child or relative, such individual must be either (A) a citizen, or (B) an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 207(c) of the Immigration and Nationality Act (or of section 203(a)(7) of such Act prior to April 1, 1980), or as a result of the application of the provisions of section 208 or 212(d)(5) of such Act.)".

(b)(1) Section 402(a)(7) of such Act (as amended by section 15422(b) of this Act) is further amended by inserting "and section 415" after "paragraph (31)".

(2) Part A of title IV of such Act (as amended by section 15424(a) of this Act) is further amended by adding at the end thereof the following new section:

"ATTRIBUTION OF SPONSOR'S INCOME AND RESOURCES TO ALIEN

"SEC. 415. (a) For purposes of determining eligibility for and the amount of benefits under a State plan approved under this part of an individual who is an alien described in clause (B) of section 402(a)(32), the income and resources of any person who (as a sponsor of such individual's entry into the United States) executed an affidavit of support or similar agreement with respect to such individual, and the income and resources of the sponsor's spouse, shall be deemed to be the unearned income and resources of such individual (in accordance with subsections (b) and (c)) for a period of three years after the individual's entry into the United States, except that this section is not applicable if such individual is a dependent child and such sponsor (or such sponsor's spouse) is the parent of such child.

"(b)(1) The amount of income of a sponsor (and his spouse) which shall be deemed to be the unearned income of an alien for any month shall be determined as follows:

"(A) the total amount of earned and unearned income of such sponsor and such sponsor's spouse (if such spouse is living with the sponsor) shall be determined for such month;

"(B) the amount determined under subparagraph (A) shall be reduced by an amount equal to the sum of—

"(i) the lesser of (I) 20 percent of the total of any amounts received by the sponsor and his spouse in such month as wages or salary or as net earnings from self-employment, plus the full amount of any costs incurred by them in producing self-employment income in such month, or (II) $175;

"(ii) the cash needs standard established by the State under its plan for a family of the same size and composition as the sponsor and those other individuals living in the same household as the sponsor who are claimed by him as dependents for purposes of determining his Federal personal income tax liability but whose needs are not taken into account in making a determination under section 402(a)(7);

"(iii) any amounts paid by the sponsor (or his spouse) to individuals not living in such household who are claimed by him as dependents for purposes of determining his Federal personal income tax liability; and

"(iv) any payments of alimony or child support with respect to individuals not living in such household.

"(2) The amount of resources of a sponsor (and his spouse) which shall be deemed to be the resources of an alien for any month shall be determined as follows:

"(A) the total amount of the resources (determined as if the sponsor were applying for aid under the State plan approved under this part) of such sponsor and such sponsor and such sponsor's spouse (if such spouse is living with the sponsor) shall be determined; and

"(B) the amount determined under subparagraph (A) shall be reduced by $1,500.

"(c)(1) Any individual who is an alien shall, during the period of three years after entry into the United States, in order to be eligible for aid under a State plan approved under this part, be required to provide to the State agency administering such plan

such information and documentation with respect to his sponsor as may be necessary in order for the State agency to make any determination required under this section, and to obtain any cooperation from such sponsor necessary for any such determination. Such alien shall also be required to provide to the State agency such information and documentation as it may request and which such alien or his sponsor provided in support of such alien's immigration application.

"(2) The Secretary shall enter into agreements with the Secretary of State and the Attorney General whereby any information available to them and required in order to make any determination under this section will be provided by them to the Secretary (who may, in turn, make such information available, upon request, to a concerned State agency), and whereby the Secretary of State and Attorney General will inform any sponsor of an alien, at the time such sponsor executes an affidavit of support or similar agreement, of the requirements imposed by this section.

"(d) Any sponsor of an alien, and such alien, shall be jointly and severally liable for an amount equal to any overpayment of aid under the State plan made to such alien during the period of three years after such alien's entry into the United States, on account of such sponsor's failure to provide correct information under the provisions of this section, except where such sponsor was without fault, or where good cause of such failure existed. Any such overpayment which is not repaid to the State or recovered in accordance with the procedures generally applicable under the State plan to the recoupment of overpayments shall be withheld from any subsequent payment to which such alien or such sponsor is entitled under any provision of this Act.

"(e)(1) In any case where a person is the sponsor of two or more alien individuals who are living in the same home, the income and resources of such sponsor (and his spouse), to the extent they would be deemed the income and resources of any one of such individuals under the preceding provisions of this section, shall be divided into two or more equal shares (the number of shares being the same as the number of such aliens individuals) and the income and resources of each such individual shall be deemed to include one such share.

"(2) Income and resources of a sponsor (and his spouse) which are deemed under this section to be the income and resources of any alien individual in a family shall not be considered in determining the need of other family members except to the extent such income or resources are actually available to such other members.

"(f) The provisions of this section shall not apply with respect to any alien who is—

"(1) admitted to the United States as a result of the application, prior to April 1, 1980, of the provisions of section 203(a)(7) of the Immigration and Nationality Act;

"(2) admitted to the United States as a result of the application, after March 31, 1980, of the provisions of section 207(c) of such act;

"(3) paroled into the United States as a refugee under section 212(d)(5) of such Act;

"(4) granted political asylum by the Attorney General under section 208 of such Act; or

"(5) a Cuban and Haitian entrant, as defined in section 501(e) of the Refugee Education Assistance Act of 1980 (Public Law 96-422).".

(c) The amendments made by subsection (a) shall be effective on the date of the enactment of this Act. The amendments made by subsection (b) shall be effective with respect to individuals applying for aid to families with dependent children under any approved State plan for the first time after September 30, 1981.

CHILD SUPPORT INTERCEPT OF UNEMPLOYMENT BENEFITS

SEC. 15435. (a) Section 454 of the Social Security Act is amended by striking out "and" at the end of paragraph (16), by striking out the period at the end of paragraph (17) and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraph:

"(18) provide that the agency administering the plan—

"(A) shall determine on a periodic basis, from information supplied pursuant to section 508 of the Unemployment Compensation Amendments of 1976, whether any individuals receiving compensation under the State's unemployment compensation law (including amounts payable pursuant to any agreement under any Federal unemployment compensation law) owe child support obligations which are being enforced by such agency, and

"(B) shall enforce any such child support obligations which are owed by such an individual but are not being met—

"(i) through an agreement with such individual to have specified amounts withheld from compensation otherwise payable to such individual and by submitting a copy of any such agreement to the State agency administering the unemployment compensation law, or

"(ii) in the absence of such an agreement, by bringing legal process (as defined in section 462(e) of this Act) to require the withholding of amounts from such compensation.".

(b)(1) Subsection (e) of section 303 of the Social Security Act is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph: "(2)(A) The State agency charged with the administration of the State law—

"(i) shall require each new applicant for unemployment compensation to disclose whether or not such applicant owes child support obligations (as defined in the last sentence of this subsection),

"(ii) shall notify the State or local child support enforcement agency enforcing such obligations, if any applicant discloses under clause (i) that he owes child support obligations and he is determined to be eligible for unemployment compensation, that such applicant has been so determined to be eligible,

"(iii) shall deduct and withhold from any unemployment compensation otherwise payable to an individual—

"(I) the amount specified by the individual to the State agency to be deducted and withheld under this clause,

"(II) the amount (if any) determined pursuant to an agreement submitted to the State agency under section 454(18)(B)(i) of this Act, or

"(III) any amount otherwise required to be so deducted and withheld from such unemployment compensation through legal process (as defined in section 462(c)), and

"(iv) shall pay any amount deducted and withheld under clause (III) to the appropriate State of local child support enforcement agency.

Any amount deducted and withheld under clause (iii) shall for all purposes be treated as if it were paid to the individual as unemployment compensation and paid by such individual to the State or local child support enforcement agency in satisfaction of his child support obligations.

"(B) For purposes of this paragraph, the term 'unemployment compensation' means any compensation payable under the State law (including amounts payable pursuant to agreements under any Federal unemployment compensation law).

"(C) Each State or local child support enforcement agency shall reimburse the State agency charged with the administration of the State unemployment compensation law for the administrative costs incurred by such State agency under this paragraph which are attributable to child support obligations being enforced by the State or local child support enforcement agency."

(2) Paragraph (3) of section 303(c) of such Act (as redesignated by paragraph (1)) is amended by striking out "paragraph (1)" and inserting in lieu thereof "paragraph (1) or (2)".

(3) The last sentence of paragraph (1) of such section 303(e) is amended by striking out "the preceding sentence" and inserting in lieu thereof "this subsection".

(c) The amendments made by this section shall take effect on the date of the enactment of this Act, except that such amendments shall not be requirements under section 454 of 303 of the Social Security Act before October 1, 1982.

Page 497, insert after line 8 the following:

TITLE XVI—BLOCK GRANTS

DISTRIBUTION OF BLOCK GRANT FUNDS

SEC. 1601. (a) Notwithstanding any other provision of this Act, a State which receives funds under this Act or any other Federal law—

(1) which provides for the distribution of funds to States only; and

(2) which prescribes the amount to be distributed to a State on the basis of the amount the State or political subdivisions or other entities in the State received under Federal programs—

(A) which are repealed by this Act or other Federal law, and

(B) which provided funds to political subdivisions of States and to other entities in the States,

shall establish a method and formula for the distribution of such funds on a equitable basis in accordance with subsection (b) and shall make the report prescribed by subsection (c).

(b) In distributing funds described in subsection (a), the State shall—

(1) assure the continuation of funding of effective programs which are servicing demonstrated needs and which were funded under programs described in subsection (a)(2),

(2) assure parity for rural areas and small cities of funds available for distribution, and

(3) assure fairness of competition in the application and bidding for funds available for distribution.

REPORTING

SEC. 1602. (a) Prior to expenditures by a State of funds described in subsection (a) of section 1601, the chief executive officer of the State shall prepare a public report on the intended use of the funds, including information on the types of activities to be supported, the geographic areas to be served, the categories or characteristics of

individuals to receive the services, and the method and formula established under section 1601 for distribution of funds.

(b) The report shall be made public within the State in such manner as to facilitate comment from any person (including any Federal or other public agency) during development of the report and after its completion. The report shall describe a process (as developed by the State) to allow for public review, appeal of program selection, and appeal of the selection of entities to deliver program services. The report shall be revised throughout the year as may be necessary to reflect substantial changes in the activities assisted with such funds, and any revision shall be subject to the requirements of this subsection.

(c) The report shall contain sufficient documentation to substantiate (1) the funding of recommended programs and that the amount provided the programs is adequate to carry out their purposes, (2) the selection of entities to receive funds, (3) if the State discontinues funding or reduces by more than one-half the amount of funds provided a program which received financial assistance under provision of law referred to in subsection (a)(2) of section 1601, that the program has not proven effective, and (4) if the State discontinues funding an existing entity which has been carrying out a program which received financial assistance under a provision of law referred to in subsection (a)(2) of section 1601, that the entity has not proven effective in carrying out such program.

Amendment to H.R. 3982, as amended:

Strike out title VI and insert in lieu thereof:

TITLE VI—HOUSE COMMITTEE ON ENERGY AND COMMERCE

SUBTITLE A—DIRECT SPENDING REDUCTIONS

Chapter 1—RAILROAD RETIREMENT REDUCTIONS

PART A—RAILROAD RETIREMENT REDUCTIONS

SEC. 6001. (a) Section 3(h) of the Railroad Retirement Act of 1974 is amended by adding at the end thereof the following new subdivision:

"(6) No amount shall be payable to an individual under subdivision (3) or (4) of this subsection unless the entitlement of such individual to such amount had been determined prior to the later of June 1, 1981 and the date of the enactment of this subdivision.".

(b) Section 4(e) of the Railroad Retirement Act of 1974 is amended by adding at the end thereof the following new subdivision:

"(5) No amount shall be payable to a person under subdivision (1), (2), or (3) of this subsection unless the entitlement of such person to such amount had been determined prior to the later of June 1, 1981 and the date of the enactment of this subdivision.".

(c) Section 4(h) of the Railroad Retirement Act of 1974 is amended by inserting "(1)" after "(h)" and by adding at the end thereof the following new subdivision:

"(2) No amount shall be payable to a person under subdivision (1) of this subsection unless the entitlement of such person to such amount had been determined prior to the later of June 1, 1981 and the date of the enactment of this subdivision.".

(d) The amendments made by this chapter shall take effect on the later of June 1, 1981, and the date of the enactment of this Act.

Chapter 2—MEDICARE AND MEDICAID CHANGES

SHORT TITLE AND REFERENCES IN CHAPTER

SEC. 6010. This chapter may be cited as the "Health Care Financing Amendments of 1981".

Subchapter A—Medicaid Changes

LIMITATION ON AUTHORIZATION OF APPROPRIATIONS; ALLOTMENTS TO STATES

SEC. 6011. (a) The heading of section 1901 of the Social Security Act is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS; ALLOTMENTS TO STATES".

(b) Section 1901 of that Act is amended—

(1) by striking out "a sum sufficient to carry out the purposes of this title" and inserting in lieu thereof "a sum determined in accordance with this section",

(2) by inserting "(a)" after "Sec. 1901.", and

(3) by adding at the end the following new subsections:

"(b) There are authorized to be appropriated to carry out the purposes of this title—

"(1) for each fiscal year ending before October 1, 1980, a sum sufficient to carry out the purposes of this title;

"(2) for fiscal year 1981, $16,399,914,000;

"(3) for fiscal year 1982, $17,371,000,000; and

"(4) for fiscal year 1983 and each succeeding fiscal year, an amount equal to the amount authorized to be appropriated under this subsection for the preceding fiscal year, increased or decreased, as appropriate, by a percentage equal to percentage increase or decrease in the Gross National Product Implicit Price Deflator for that fiscal year published by the United States Department of Commerce as it appears in the President's budget for that fiscal year.

"(c)(1) From the sum appropriated under subsection (b) for fiscal year 1981, each of the fifty States and the District of Columbia shall be allotted, for purposes of carrying out its program under this title for the fourth quarter of fiscal year 1981, an amount determined as follows:

"(A) The Secretary shall determine for each such State (using the latest version received by the Secretary before the end of December 1980 of the State's estimate of the Federal share of expenditures under this title in fiscal year 1981) the total amount of the State's estimated expenditures which do not represent amounts to which the State would be entitled to reimbursement from sums appropriated under subsection (d) or (f).

"(B) The Secretary shall determine for each such State the amount which bears the same ratio to $16,367,814,000 as the amount determined under subparagraph (A) bears to the total of amounts determined for all such States under subparagraph (A).

"(C) The Secretary shall determine for each such State the total amount paid to the State before July 1, 1981, for the purpose of carrying out its program under this title for the first three quarters of fiscal year 1981, reduced by any amounts for which the State is entited to reimbursement from sums appropriated under subsections (d) and (f).

"(D) Each such State shall be allotted under this paragraph the amount, if any, by which the amount determined for that State under subparagraph (B) exceeds the amounts determined for that State under subparagraph (C).

"(2) From the sums appropriated under subsection (b) for fiscal year 1982, each of the fifty States and the District of Columbia shall be allotted an amount which bears the same ratio to the total amount appropriated under that subsection (reduced by the sum of the amounts specified in paragraph (3)) as the latest version received by the Secretary before the end of December 1980 of the State's estimate of the Federal share of expenditures under this title in fiscal year 1981 (reduced by the amounts for which the State would be entitled to reimbursement from sums appropriated under subsections (d), (e), and (f)) bears to the sum of all States' estimates of expenditures for such purpose (reduced by all amounts for which the States would be entitled to reimbursement from sums appropriated under subsections (d), (e), and (f)).

"(3) From the sums appropriated under subsection (b) for each of fiscal years 1981 and 1982, Puerto Rico shall be allotted $30,000,000, the Virgin Islands shall be allotted $1,000,000, Guam shall be allotted $900,000, and the Northern Mariana Islands shall be allotted $200,000.

"(4) From the sums appropriated under subsection (b) for fiscal year 1983 and each succeeding fiscal year, each State shall be allotted an amount which bears the same ratio to the total amount appropriated under subsection (b) as the State's allotment for fiscal year 1982 bore to the total appropriation for fiscal year 1982.

"(5) Sums allotted to a State under this subsection for any fiscal year shall remain available until expended.

"(d) In addition to sums authorized to be appropriated under subsection (b), there are authorized to be appropriated, for fiscal year 1981 and each succeeding fiscal year, such sums as are necessary to make payments to States under section 1903(a)(6).

"(e)(1) In addition to sums authorized to be appropriated under subsection (b), there are authorized to be appropriated—

"(A) $210,000,000 for fiscal year 1982, and

"(B) such sums as may be necessary and appropriate for fiscal year 1983 and each succeeding fiscal year,

for payment to States under section 1903(a)(3). The Secretary shall allocate to the States amounts appropriated under this subsection in accordance with the remaining provisions of this subsection.

"(2) At the beginning of each fiscal year the Secretary shall set aside, for payment to States under section 1903(a)(3)(A), an amount equal to the lesser of (A) 25 per centum of the amount appropriated under this subsection, or (B) an amount he determines, in accordance with paragraph (6), on the basis of States' estimates of expenditures under plans approved by the Secretary under section 1903(a)(3)(A), to be sufficient to make payments to States under section 1903(a)(3)(A). The Secretary shall allocate the amount set aside among those States which reasonably expect to perform during the fiscal year the activities specified in section 1903(a)(3)(A). If the amount set aside is less than 100 percent of States' estimates of expenditures under section 1903(a)(3)(A), he shall allocate to each State an amount bearing the same ratio to the total amount set aside as the State's estimate of expenditures under section 1903(a)(3)(A) for that fiscal year bears to the total of all States' estimates of expenditures under section 1903(a)(3)(A) for that fiscal year.

"(3) The Secretary shall allocate the remainder among States which have (or reasonably expect to have before the end of

the fiscal year) a system specified under section 1903(a)(3)(B) which is approved by the Secretary, as follows: He shall allot to each such State a share of the remainder equal to the State's share of the total of all such States' estimates of expenditures under section 1903(a)(3)(B), adjusted in accordance with paragraph (6).

"(4) Each State receiving an allotment under paragraph (2) or (3) shall certify to the Secretary, before the end of the second allotment which will not be required by the State under section 1903(a)(3) for such fiscal year.

"(5) Amounts which States certify under paragraph (4) that they will not be able to use shall be available for allotment to other States which the Secretary determines, in accordance with paragraph (6), will be able to use such excess amounts during such fiscal year for the purposes specified in section 1903(a)(3). If the amount available for reallotment is less than 100 percent of the additional amounts that the Secretary determines could be used by States under section 1903(a)(3), he shall allocate to each State an amount bearing the same ratio to the total amount available for reallotment as the additional amount which the Secretary determines that the State will be able to use for that fiscal year bears to the total additional amounts which the Secretary determines that all States will be able to use for that fiscal year.

"(6) The Secretary may adjust each State's estimates of expenditures for purpose of allocations under this subsection as necessary to assure that payments to States under section 1903(a)(3) do not exceed amounts adequate to pay the Federal share of reasonable cost of development and of costs of efficient and economical operation of information systems.

"(7) Sums allotted to a State pursuant to subsection (c) shall be available to the State to pay the Federal share of expenditures specified in section 1903(a)(3) to the extent that the State's allotment under this subsection is insufficient to pay the Federal share of such expenditures.

"(f)(1) In addition to sums authorized to be appropriated under subsection (b), there are authorized to be appropriated such sums as are necessary to pay (subject to paragraph (2)) claims of States for expenditures in carrying out programs under this title before October 1, 1980.

"(2) Notwithstanding the provisions of section 1132 or any other provision of law, payment shall not be made under this title to any State with respect to any expenditure made by the State during fiscal year 1980, unless a claim therefor has been filed, in the form and manner prescribed by the Secretary, on or before October 1, 1981 (or, where the Secretary grants a waiver under paragraph (3), on or before January 1, 1982).

"(3) The Secretary shall waive the requirement imposed under paragraph (2) with respect to the filing of any claim if he determines that exceptional circumstances justified the State's failure to file a claim within the period prescribed under paragraph (2).

"(g)(1) In addition to the sums authorized to be appropriated under subsection (b), there are authorized to be appropriated for each fiscal year such sums as are necessary to provide for allotments to States which did not have plans approved under this title as of January 1981 but which have such a plan approved under this title during such fiscal year.

"(2) In the case of States referred to in paragraph (1) and from the amounts appropriated under paragraph (1) for a fiscal year, each such State which has a plan approved under this title in the fiscal year shall be allotted, for purposes of carrying out its program under this title, an amount determined by the Secretary as follows: The Secretary shall estimate the amount that the Federal share of expenditures under the State's plan under this title (other than expenditures for purposes described in section 1903(a)(3) or section 1903(a)(6)) would have been with respect to fiscal year 1981, under the terms of the plan as first in operation, if the plan was in operation during that entire fiscal year. The allotment to the State shall be equal to such amount adjusted to reflect (A) the percentage increase (or decrease) in the amounts of allotments to other States under subsection (c) between fiscal year 1981 and the fiscal year involved, and (B) if the plan is not in operation for the entire fiscal year, the portion of the fiscal year in which it is in operation.

"(3) Sums allotted to a State under this subsection for any fiscal year shall remain available until expended.".

(c) Section 1903(a) of that Act is amended by adding at the end the following new sentence: "Notwithstanding any other provision of this section, the total payment to a State under this section for any fiscal year shall not exceed the total amount to which that State is entitled from sums appropriated under section 1901 for that fiscal year.".

(d) Subsection (c) of section 1108 of that Act is repealed.

(e) The amendments made by this section shall be effective on July 1, 1981.

WAIVERS AND MODIFICATIONS OF FEDERAL REQUIREMENTS

SEC. 6012. (a) Section 1901(a) of the Social Security Act, as amended by section 6011(b) of this chapter, is further amended—

(1) by striking out "and" after "dependent children" and inserting in lieu thereof a comma, and

(2) by inserting "and other individuals," after "disabled individuals,".

(b) Section 1902(a) of that Act is amended by striking out "(a) A" and inserting in lieu thereof "(a) Except as provided in subsection (b), a".

(c) Paragraph (10) of that section is amended—

(1) by amending subparagraphs (B) and (C) to read as follows:

"(B) with respect to the items and services specified in paragraph (13)(B), that the medical assistances made available to any individual described in paragraph (A) shall not be less in amount, duration, or scope than the medical assistance made available to any other such individual; and

"(C) if medical assistance is included for any group of individuals who are not described in subparagraph (A), whose income and resources are insufficient to meet the cost of necessary medical services, a description with respect to each such group of the criteria for determining eligibility for and the extent of medical assistance under the State plan;", and

(2) by striking out all that follows subparagraph (C).

(d) Paragraph (14)(A) of that section is amended—

(1) by striking out ", and no deduction, cost sharing, or similar charge with respect to the care and services listed in paragraph (1) through (5), (7), and (17) of section 1905(a)," in clause (i), and

(2) by striking out "with respect to other care and services" in clause (ii).

(e) Paragraph (13) of that section is amended—

(1) by striking out "(i)" and all that follows through "(ii)" in subparagraph (A),

(2) by striking out ", and" at the end of subparagraph (B) and inserting in lieu thereof a semicolon, and

(3) by striking out subparagraphs (C) through (F).

(f) Paragraph (17) of that section is amended—

(1) by striking out "(which shall be comparable" and all that follows through "in rural areas)",

(2) by striking out "(B)" and all that follows through ", and (D)" and inserting in lieu thereof "(B) provide for reasonable evaluation of any income and resources, and (C)", and

(3) by striking out the first semicolon and all that follows up to the second semicolon.

(g) Paragraph (21) of that section is repealed.

(h) Paragraph (23) of that section is amended to read as follows:

"(23) provide that methods and standards (including standards for participation of providers) as can reasonably be expected (as determined by the Secretary) to afford, to individuals eligible for benefits under the plan, health care of adequate quality with respect to those items and services for which they are entitled to medical assistance under the plan;".

(i) Paragraph (25)(C) of that section is amended by inserting ", if the amount of such reimbursement can reasonably be expected to exceed the costs of recovery" before the semicolon.

(j) Paragraph (30) of that section is amended—

(1) by striking out "(including but not limited to utilization review plans as provided for in section 1903(i)(4))", and

(2) by striking out "(including payments for any drugs provided under the plan)" and "not in excess of reasonable charges".

(k) Paragraph (43) of that section is repealed.

(l)(1) The second unnumbered paragraph (which begins "For purposes") after the end of paragraph (42) of that section is amended by striking out "shall" and inserting in lieu thereof "may".

(2) Section 503 of Public Law 94-566 (relating to preservation of medicaid eligibility for certain individuals subject to Social Security cost-of-living increases) is amended—

(A) by striking out all that precedes "for any month after June 1977" in the first sentence and inserting in lieu thereof "A State plan under title XIX of the Social Security Act may provide medical assistance to any individual,", and

(B) by striking out "shall" in the second sentence and inserting in lieu thereof "may".

(m)(1) Section 1902(b) of the Social Security Act is amended—

(A) by striking out paragraphs (1) and (2), and redesignating paragraphs (3) and (4) as subparagraphs (A) and (B), respectively.

(B) by inserting "(1)" after "(b)", and

(C) by adding at the end the following new paragraphs:

"(2) In approving a plan under this section, the Secretary may waive any of the requirments specified in subsection (c), in accordance with the provisions of that subsection. The Secretary's decision to grant or deny a waiver under subsection (c) shall not

be subject to judicial review under any provision of title 28 of the United States Code.

"(3) Within 90 days after receiving from a State a proposed State plan or plan amendment, or a request for waiver of a State plan requirement, the Secretary shall either approve or disapprove the proposed plan or amendment or waiver request, or shall inform the State agency in writing what additional information is needed to enable him to make a final determination. Within 90 days after receiving such additional information, the Secretary shall either approve or disapprove the proposed plan or plan amendment or waiver request.".

(2) Subsection (c) of section 1902 of that Act is amended to read as follows:

"(c)(1) The Secretary may waive any of the requirements specified in paragraphs (1) and (2) of subsection (a) where the State agency demonstrates to his satisfaction that the purpose for which a waiver is sought is reasonably related to the purposes of this title.

"(2) The Secretary may waive any of the requirements specified in paragraphs (11), (12), (22)(C), (24), (26), (29), and (31) of subsection (a) where the State agency demonstrates to his satisfaction that it has established alternative methods and procedures which can reasonably be expected to achieve more efficiently or effectively the goals of the requirement for which a waiver is sought.

"(3) The Secretary may waive the requirement specified in subsection (a)(14)(A) to permit imposition of a nominal copayment for hospital emergency room services and outpatient hospital services, where the State agency demonstrates to his satisfaction that the copayment requirement for which the waiver is sought can reasonably be expected to promote more cost-effective utilization of health care services covered under the State plan, and that it will not be inconsistent with the requirement of subsecton (a)(23).

"(4) The Secretary may waive any requirements of this title with respect to provision of or payment for medical care in order to permit the State agency to share with recipients of medical assistance under the State plan cost savings resulting from use by the recipients of more cost-effective medical care, where the State agency demonstrates to his satisfaction that granting the waiver is not inconsistent with the purposes of this title. Any payment to an individual under a waiver granted under this paragraph shall not be treated as income or resources for purposes of eligibility for cash assistance under any title of this Act.".

(n) Subsection (e) of section 1902 of that Act is repealed.

(o) Section 1902(f) of that Act is amended—

(1) by striking out "no State" and all that precedes it and inserting in lieu thereof "No State",

(2) by striking out "as determined in accordance with section 1903(f)", and

(3) by striking out all that follows the first sentence and inserting in lieu thereof "An individual who is eligible for medical assistance by reason of the requirements of this section concerning the deduction of incurred medical expenses from income shall be considered an individual eligible for medical assistance under subsection (a)(10)(A).".

(p) Subsection (h) of section 1902 of that Act is repealed.

(q) Section 1903(a)(3)(B) of that Act is amended by striking out "approved by the Secretary" and all that follows up to the semicolon.

(r)(1) Subsections (f), (g), (h), and (m) of section 1903 of that Act are repealed.

(2) Section 1903(a)(1) of that Act is amended by striking out "subsections (g), (h), and (j)" and inserting in lieu thereof "subsection (j)".

(3) The repeal of section 1903(g) of the Social Security Act shall be effective on and after October 30, 1972.

(s)(1) Section 1903(i) of that Act is amended—

(A) by striking out "; or" at the end of paragraph (2) and inserting in lieu thereof a period,

(B) by striking out "—" and all that follows through "(2)", and

(C) by striking out paragraphs (3) and (4).

(2) The second sentence after the end of paragraph (42) of section 1902(a) of that Act is amended by striking out "(31), and (33), and section 1903(i)(4)," and inserting in lieu thereof "(26), and (33),".

(t)(1)(A) Subparagraph (A) of section 1903(r)(2) of that Act is amended to read as follows:

"(A) A State must have its mechanized claims processing and information retrieval systems initially approved by the Secretary in accordance with paragraph (4) in order to receive payments under clause (i) of subsection (a)(3)(B), and must have its mechanized eligibility assessment systems initially approved by the Secretary in accordance with paragraph (4) in order to receive payments under clause (ii) of subsection (a)(3)(B).".

(B) Subparagraph (D) of that section is amended by striking out "the date of the enactment of this subsection" and inserting in lieu thereof "October 7, 1980".

(C) Subparagraphs (B) and (C) of that section are repealed and subparagraph (D) of that section is redesignated as subpargarph (B).

(2) Section 1903(r)(3) of that Act is amended—

(A) by striking out "(A)",

(B) by striking out subparagraph (B), and

(C) by striking out all that follows "operational" and inserting in lieu thereof "(but not earlier than October 1, 1982, in the case of eligibility assessment systems).".

(3)(A) Section 1903(r)(4)(A) of that Act is amended—

(i) by inserting "mechanized claims processing and information retrieval" in the first sentence after "approved",

(ii) by striking out "paragraph (6)" in the second sentence and inserting in lieu thereof "paragraph (5)", and

(iii) by inserting after the first sentence the following new sentence: "Beginning not later than October 1, 1986, the Secretary shall review all approved mechanized eligibility assessment systems not less often than once each fiscal year, and shall reapprove or disapprove any such systems.".

(B) The first sentence of section 1903(r)(4)(B) of that Act is amended—

(i) by striking out "reduce the per centum" and all that follows through "70 per centum" and inserting in lieu thereof "reduce by a factor of not less than 5 percent and not more than 25 percent the amount of the State's allotment pursuant to section 1901(e)(3) which the State may spend for the activities described in section 1903(a)(3)(B)", and

(ii) by striking out "except that such per centum may not be reduced by more than 10 percentage points" and inserting in lieu thereof "except that such reduction may not exceed 10 per centum".

(C) Section 1903(r)(5) of that Act is amended—

(i) in subparagraph (A), in the matter preceding clause (i), by striking out "claims processing and information retrieval" and inserting in lieu thereof "information processing",

(ii) by striking out "The" in subparagraph (A)(i) and inserting in lieu thereof "Mechanized claims processing and information retrieval",

(iii) in paragraph (A)(ii)—

(I) by striking out "performance standards and other", and

(II) by striking out "paragraph (6)" and inserting in lieu thereof "paragraph (5)",

(iv) by redesignating clauses (ii) and (iii) of subparagraph (A) as clauses (iii) and (iv), respectively,

(v) by inserting after clause (i) the following new clause:

"(ii) mechanized eligibility assessment systems must be capable of accumulating and assessing information concerning applicants' and beneficiaries' income, resources and other relevant characteristics so as to control and perform eligibility determinations and reviews.", and

(vi) by striking out "claims processing and information retrieval" in subparagraph (B) and inserting in lieu thereof "information processing".

(4) Section 1903(r)(6) of that Act is amended—

(A) in subparagraph (A)—

(i) by inserting "(i) in the case of claims processing and information retrieval systems," after "(A)", and

(ii) by inserting before the semicolon at the end of the following clause: ", and (ii) in the case of eligibility assessment systems, by not later than October 1, 1982, develop systems requirements and other conditions for approval for use in initially approving such State systems";

(B) by inserting "(in the case of claims processing and information retrieval systems), and October 1, 1986 (in the case of eligibility assessment systems)," in subparagraph (B) after "October 1, 1980,"; and

(C) by inserting "claims processing and information retrieval" after "State" in subparagraph (H) in the matter preceding clause (i).

(5) Section 1903(r)(8) of that Act is amended—

(A) by striking out "and on the modification" and all that follows through "subparagraph (C)" in subparagraph (B), and

(B) by striking out subparagraph (C).

(6) Section 1903(r) of that Act is further amended by striking out paragraphs (1) and (7), redesignating paragraphs (2) through (6) as paragraphs (1) through (5), respectively, and redesignating paragraph (8) as paragraph (6).

(u) Section 1905(a) of that Act is amended—

(1) by amending the matter preceding paragraph (1) to read as follows:

"(a) The term 'medical assistance' means payment (by reimbursement or by any other reasonable method, including prepayment on a capitation basis) of part of all of the cost of the following care and services for individuals, and, with respect to physicians' or dentists' services, at the option of the State, to individuals eligible under the State plan to have payment made for such care and services—",

(2) by striking out the last sentence, and

(3) by adding at the end the following new sentence:

"With respect to physicians' or dentists' services, at the options of the State, the

term 'medical assistance' includes payment to individuals eligible for medical assistance under this title, other than—

"(A) individuals described in section 1902(a)(10)(A), and

"(B) individuals with respect to whom there is being paid, or who are eligible, or would be eligible if they were not in a medical institution, to have paid with respect to them a State supplementary payment, and who are eligible for medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in section 1902(a)(10)(A).".

(v) Section 1905(a) of that Act is further amended—

(1) by striking out "and" at the end of paragraph (17),

(2) by redesignating paragraph (18) as paragraph (19), and

(3) by inserting after paragraph (17) the following new paragraph:

"(18) personal care services and any other services (other than room and board) as approved by the Secretary, provided pursuant to a plan of care to an individual who, but for such services, may require institutionalization in a medical institution in which the cost of his care could be reimbursed under the State plan; and".

(w) Subsection (e) of section 1905 of that Act is repealed.

INCREASED FEDERAL MATCHING FOR AUTOMATED ELIGIBILITY ASSESSMENT SYSTEMS

SEC. 6013. (a) Clause (ii) of section 1903(a)(3)(A) of the Social Security Act is amended to read as follows:

"(ii) 90 per centum of so much of the sums expended during such quarter as are attributable to the design, development, or installation of such mechanized eligibility assessment systems as the secretary determines are likely to provide more efficient, economical, and effective administration of the plan and to be compatible with any such systems in use under State plans under titles I, X, XIV, XVI, and part A of title IV, and under the supplemental security income program under title XVI, and".

(b) Section 1903(a)(3)(B) of that Act is amended—

(1) by inserting "(i)" after "(B)",

(2) by striking out "; plus" and inserting in lieu thereof ", and", and

(3) by adding at the end the following new clause:

"(ii) 75 per centum of so much of the sums expended during such quarter as are attributable to the operation of systems (whether such systems are operated directly by the State or by another person under a contract with the State) of the type described in subparagraph (A)(ii) (whether or not designed, developed, or installed with assistance under such subparagraph) which are approved by the Secretary; plus".

RECOVERY OF DISPUTED CLAIMS

SEC. 6014. Section 1903(d)(5)(a) of the Social Security Act is amended—

(1) by striking out "shall, at the option of the State, be retained by such State or recovered" in the first sentence and inserting in lieu thereof "shall be recovered", and

(2) by striking out the second sentence.

ATTRIBUTION OF SPONSOR'S INCOME AND RESOURCES TO ALIEN

SEC. 6015. Section 1902(a)(17)(C) of the Social Security Act, as amended by section 6012(f)(2) of this chapter, is amended by inserting before the semicolon the following: ", or is an alien legally residing in the United States who entered the United States within three years prior to the date of the application for medical assistance and whose entry was sponsored by the individual whose income and resources are attributed to him".

Subchapter B—Medicare Part B Changes

CONTRACTS FOR THE ADMINISTRATION OF BENEFITS

SEC. 6021. (a) The heading of section 1842 of the Social Security Act is amended by striking out "CARRIERS" and inserting in lieu thereof "PUBLIC AND PRIVATE ENTITIES".

(b)(1) The matter in subsection (a) of that section preceding paragraph (1) is amended—

(A) by striking out "and with a view to furthering coordination of the administration of the benefits under part A and under this part,",

(B) by striking out "carriers, including carriers with which agreements under section 1816 are in effect," and inserting in lieu thereof "public and private entities", and

(C) by striking out the semicolon and all that follows up to the colon.

(2) Paragraph (1)(A) of that subsection is amended—

(A) by inserting "(subject to the provisions of section 1878 and to such review by the Secretary as may be provided for by the contract)" after "determinations", and

(B) by striking out "or reasonable charge" and inserting in lieu thereof ", reasonable charge, or other".

(3) That subsection is further amended by striking out "part" each place it occurs and inserting in lieu thereof "title".

(4) That subsection is further amended—

(A) by striking out "and" at the end of paragraph (3),

(B) by redesignating paragraph (4) as paragraph (5), and

(C) by inserting after paragraph (3) the following paragraph:

"(4) provide consultative services to entities furnishing health services to enable them to establish and maintain fiscal records necessary for purposes of this title and otherwise to become or remain eligible for payments under this title; and"

(c)(1) Subsection (b) of that section is amended by striking out paragraphs (1) and (4).

(2) Paragraph (3) of that subsection is amended—

(A) by inserting ", as appropriate," in the matter preceding paragraph (A) after "provide";

(B) by striking out "part" in subparagraph (A) and inserting in lieu thereof "title";

(C) by inserting "(if any)" in the matter in subparagraph (B) preceding clause (i) after "subscribers";

(D) by striking out "this part" each place it occurs in subparagraph (C) and inserting in lieu thereof "part B";

(E) by striking out "part" in subparagraph (D) and inserting in lieu thereof "title";

(F) in subparagraph (E)—

(i) by inserting "(and to its claims processing operations)" after "thereto", and

(ii) by striking out "part" and inserting in lieu thereof "title";

(G) in subparagraph (F)—

(i) by striking out "this part" and inserting in lieu thereof "part B", and

(ii) by striking out "this section" and inserting in lieu thereof "this title";

(H) by striking out "for purposes of this paragraph" in the second sentence;

(I) in the third sentence—

(i) by striking out "this part" each place it occurs and inserting in lieu thereof "part B",

(ii) by striking out "(i)" and inserting in lieu thereof "(1)",

(iii) by striking out "the carrier" and inserting in lieu thereof "an entity under section 1868", and

(iv) by striking out "(ii)" and inserting in lieu thereof "(2)";

(J) by striking out "(ii)" each place it occurs in the fourth sentence and inserting in lieu thereof "(2)";

(K) by striking out "fiscal intermediary, carrier" in the seventh sentence and inserting in lieu thereof "entity under this section"; and

(L) by striking out "third and fourth sentences preceding this sentence" in the eighth sentence and inserting in lieu thereof "second and third sentences of this subsection".

(3) The first sentence of paragraph (5) of that subsection is amended by striking out "this part" and inserting in lieu thereof "part B".

(4) Paragraph (6) of that subsection is amended by striking out "this part" each place it occurs and inserting in lieu thereof "part B".

(5) That subsection is amended by striking out "carrier" each place it occurs and inserting in lieu thereof "entity".

(d) Subsection (c) of that section is amended to read as follows:

"(c) Any contract entered into with an entity under this section may provide for advances of funds to the entity for the making of payments by it under this title.".

(e) Subsection (d) of that section is amended—

(1) by striking out "a carrier" and inserting in lieu thereof "an entity",

(2) by striking out "such carrier" and inserting in lieu thereof "the entity", and

(3) by striking out "surety" and inserting in lieu thereof "fidelity".

(f) Subsection (f) of that section is repealed.

(g) Subsection (g) of that section is amended—

(1) by striking out "a carrier or carriers" and inserting in lieu thereof "an entity or entities", and

(2) by inserting "in relation to part B" after "this section".

(h) Subsection (h) of that section is amended by striking out "this part" each place it occurs and inserting in lieu thereof "part B".

(i) The second, third, fourth, fifth, sixth, and eighth sentences of subsection (b)(3) of that section are consolidated into a new subsection, designated as subsection (dd), assigned the heading "Reasonable Charge", and transferred and inserted at the end of section 1861.

(j) The remainder of section 1842 of the Social Security Act is redesignated as section 1868 of that Act and inserted into part C of title XVIII of the Social Security Act after section 1867.

(k) Section 1816 of the Social Security Act is repealed.

(l) Sections 1832(a)(2)(F)(i), 1833(a)(1)(B), 1833(a)(1)(F), 1833(b)(2), 1833(i)(3), 1877(d), 1878(a)(1), and 1914(a)(2) of that Act are each amended by striking out "section 1842(b)(3)(B)(ii)" and inserting in lieu thereof "section 1868(b)(3)(B)(ii)".

(m) The first sentence of section 1841(i) of that Act is amended by striking out "section 1842(g)" and inserting in lieu thereof "section 1868(g)".

(n) Subsection (f) of section 1843 of that Act is repealed.

(o) Section 1876(a)(3)(A)(iv) of that Act is amended by striking our "organizations described in sections 1816 and 1842" and inserting in lieu thereof "entities described in section 1868".

(p)(1) Subsection (a) of section 1878 of that Act is amended—

(A) by striking out "the organization serving as its fiscal intermediary pursuant to section 1816" in paragraph (1)(A) and inserting in lieu thereof "an entity under section 1868",

(B) by striking out "intermediary" in paragraph (1)(B) and inserting in lieu thereof "entity", and

(C) by striking out "intermediary's" in paragraph (3) and inserting in lieu thereof "entity's".

(2) Subsection (d) of that section is amended—

(A) by striking out "intermediary" each place it occurs and inserting in lieu thereof "entity", and

(B) by striking out "fiscal".

(3) Subsection (g) of that section is amended by striking out "a fiscal intermediary" and inserting in lieu thereof "an entity under section 1868".

(q) Section 1879(d) of that Act is amended by striking out "section 1842(b)(3)(C)" and inserting in lieu thereof "section 1868(b)(3)(C)".

(r) Section 1124(a)(2)(C) of that Act is amended—

(1) by striking out "a carrier or other agency or organization" and inserting in lieu thereof "an entity", and

(2) by striking out "(i) an agreement under section 1816, (ii) a contract under section 1842, or (iii)" and inserting in lieu thereof "(i) a contract under section 1868 or (ii)".

(s) Section 1158(c) of that Act is amended by striking out "by agencies and organizations which are parties to agreements entered into by the Secretary pursuant to section 1816, carriers which are parties to contracts entered into by the Secretary pursuant to section 1842," and inserting in lieu thereof "by entities which are parties to contracts entered into by the Secretary pursuant to section 1868".

(t) Section 1165 of that Act is amended—

(1) by redesignating paragraph (b) as paragraph (2), and

(2) by redesignating paragraph (a) as paragraph (1) and amending it to read as follows:

"(a)(A) entities which are parties to contracts entered into pursuant to section 1868, and (B) any other entities (other than Professional Standards Review Organizations) having review or control functions, or proved relevant data-gathering procedures and experience, and".

(u) Section 918(a)(3) of the Omnibus Reconciliation Act of 1980 is amended by striking out "section 1842(h)" each place it occurs and inserting in lieu thereof "section 1868(h)".

(v)(1) The amendments made by this section are effective as of the fourth month beginning after the date of the enactment of this Act.

(2) Contracts with entities under section 1868 of the Social Security Act may be entered into during the five year period beginning with the fourth month beginning after the date of the enactment of this Act without regard to section 3709 of the Revised Statutes or any other provision of law requiring competitive bidding.

WITHHOLDING OF PAYMENTS FOR CERTAIN MEDICAID PROVIDERS

SEC. 6023. Part C of title XVIII of the Social Security Act is amended by adding at the end the following new section:

"WITHHOLDING OF PAYMENTS FOR CERTAIN MEDICAID PROVIDERS

"SEC. 1884. (a) The Secretary may adjust, in accordance with this section, payments under parts A and B to any institution which has in effect an agreement with the Secretary under section 1866, and any person who has accepted payment on the basis of an assignment under section 1842(b)(3)(B)(ii), where such institution or person (1) has (or previously had) in effect an agreement with a State agency to furnish medical care and services under title XIX, and (2) from which (or from whom) such State agency (A) has been unable to recover overpayments made under the State plan, or (B) has been unable to collect the information necessary to enable it to determine the amount (if any) of the overpayments made to such institution or person under the State plan.

"(b) The Secretary shall by regulation provide procedures for implementation of this section, which procedures shall—

"(1) assure that the authority under this section is exercised only on behalf of a State agency which demonstrates to the Secretary's satisfaction that it has provided adequate notice of a determination or of a need for information, and an opportunity to appeal such determination or to provide such information,

"(2) determine the amount of the payment to which the institution or person would otherwise be entitled under this title which shall be treated as a setoff against overpayments under title XIX, and

"(3) assure the restoration to the institution or person of amounts withheld under this section which are ultimately determined to be in excess of overpayments under title XIX and to which the institution or person would otherwise be entitled under this title.

"(c) Notwithstanding any other provision of this Act, from the trust funds established under sections 1817 and 1841, as appropriate, the Secretary shall pay to the appropriate State agency amounts recovered under this section to offset the State agency's overpayment under title XIX. Such payments shall be accounted for by the State agency as recoveries of overpayments under the State plan.".

ANNUAL LIMIT OF TWO HUNDRED VISITS FOR HOME HEALTH SERVICES

SEC. 6024. (a)(1) Section 1812(a)(3) of the Social Security Act is amended by inserting "for up to 100 visits during a calendar year" before the period.

(2) Section 1812 of that Act is amended by inserting after subsection (c) the following subsection:

"(d) Payment under this part may be made for home health services furnished an individual during a calendar year only for 100 visits during that year. The number of visits to be charged for purposes of the limitation in the preceding sentence, in connection with items or services described in section 1861(m), shall be determined in accordance with regulations.".

ELIMINATION OF PART B COVERAGE OF OUTPATIENT REHABILITATION

(3) Section 1812(e) of that Act is amended—

(A) by striking out "(b) and (c)" and inserting in lieu thereof "(b), (c), and (d)", and

(B) by striking out "and post-hospital extended care services" and inserting in lieu thereof ", post-hospital extended care services, and home health services".

(4) Section 1832(a)(2)(A) of that Act is amended by inserting "for up to 100 visits during a calendar year" before the semicolon.

(5) Title XVIII of that Act is amended by inserting after section 1833 the following section:

"LIMITATION ON HOME HEALTH SERVICES

"SEC. 834. (a) Payment under this part may be made for home health services furnished an individual during a calendar year only for 100 visits during that year. The number of visits to be charged for purposes of the limitation in the preceding sentence, in connection with items and services described in section 1861(m), shall be determined in accordance with regulations.

"(b) For purposes of subsection (a), home health services shall be taken into account only if payment under this part is or would be, except for this section or the failure to comply with the request and certification requirements of or under section 1835(a), made with respect to such services.".

(b) The amendments made by this section shall apply to services furnished after the third month beginning after the date of the enactment of this Act.

(c) The number of visits to be charged under section 1812(d) of the Social Security Act (as enacted by subsection (a)(2) of this section) or under section 1834 of that Act (as enacted by subsection (a)(5) of this section) during the calendar year in which those sections as enacted are effective include the number of visits made during that calendar year but before the effective date, except that an individual shall be entitled under part A of title XVIII of that Act to at least 100 visits in calendar year 1981 after the beginning of each spell of illness (as defined in section 1861(a) of that Act) that begins in that year, but before July 1, 1981.

ELIMINATION OF NEED FOR OCCUPATIONAL THERAPY AS A BASIS FOR ENTITLEMENT TO HOME HEALTH SERVICES

SEC. 6025. (a) Sections 1814(a)(2)(D) and 1835(a)(2)(A) of the Social Security Act are each amended by striking out ", occupational,".

(b) The amendments made by this section shall apply to services furnished after the third month beginning after the date of the enactment of this Act.

FACILITY SERVICES

SEC. 6026. (a)(1) Section 1832(a)(2) of the Social Security Act is amended—

(A) by adding "and" at the end of subparagraph (D),

(B) by striking out subparagraph (E), and

(C) by redesignating subparagraph (F) as subparagraph (E).

(2) Section 1833(i)(1)(A), the first sentence of section 1863, and the first sentence of section 1864(a) of that Act are each amended by striking out "1832(a)(2)(F)(i)" and inserting in lieu thereof "1832(a)(2)(E)(i)".

(3) Section 1835(a)(2) of that Act is amended—

(A) by striking out the semicolon at the end of subparagraph (D) and inserting in lieu thereof a period, and

(B) by striking out subparagraph (E).

(4) Sections 1861(u) and 1861(z) of that Act are each amended by striking out "comprehensive outpatient rehabilitation facility,".

(5) Subsection (cc) of section 1861 of that Act is repealed.

(6) The first sentence of section 1863 of that Act is amended by striking out "(o)(6), and (cc)(2)(I)" and inserting in lieu thereof "and (o)(6)".

(7) Section 1864(a) of that Act is amended—

(A) by striking out "or a comprehensive outpatient rehabilitation facility as defined in section 1861(cc)(2)" in the first sentence, and

(B) by striking out "comprehensive outpatient rehabilitation facility," each place it occurs in the second and fifth sentences.

(8) Section 1833(a) of that Act is amended—

(A) by striking out ", (E), and (F)" in the matter in paragraph (2) preceding subparagraph (A) and inserting in lieu thereof "and (E)",

(B) by striking out "subparagraphs (D) and (E)" in paragraph (3) and inserting in lieu thereof "subparagraph (D)", and

(C) by striking out "(F)" in paragraph (4) and inserting in lieu thereof "(E)".

(b) The amendments made by this section shall apply to services furnished after the third month beginning after the date of the enactment of this Act.

REDUCTION IN LIMIT FOR OUTPATIENT PHYSICAL THERAPY SERVICES

SEC. 6027. (a) Section 1833(g) of the Social Security Act is amended by striking out "$500" and inserting in lieu thereof "$100".

(b) The amendment made by subsection (a) applies to expenses incurred after the calendar year in which this Act is enacted.

ELIMINATION OF ADDITIONAL DENTAL COVERAGE

SEC. 6028. (a)(1) Section 1814(a)(2)(E) of the Social Security Act is amended by striking out "or because of the severity of the dental procedure".

(2) Clause (2) of the first sentence of section 1861(r) of that Act is amended by striking out everything after "such function" and inserting in lieu thereof ", but only with respect to (A) surgery related to the jaw or any structure contiguous to the jaw, (B) the reduction of any fracture of the jaw or any facial bone, or (C) the certification required by section 1814(a)(2)(E),".

(3) Section 1862(a)(12) of that Act is amended by striking out "or because of the severity of the dental procedure,".

(b) The amendments made by this section shall apply to services furnished after the third month beginning after the date of the enactment of this Act.

ELIMINATION OF UNLIMITED OPEN ENROLLMENT

SEC. 6029. (a) Subsection (e) of section 1837 of the Social Security Act is amended to read as follows:

"(e) There shall be a general enrollment period during the period beginning on January 1 and ending on March 31 of each year.".

(b) Section 1837(g)(3) of that Act is amended by striking out "the month in which the individual files an application establishing such entitlement" and inserting in lieu thereof "the earlier of the then current or immediately succeeding general enrollment period (as defined in subsection (e) of this section)".

(c) Section 1838(a)(2)(E) of that Act is amended by striking out "the first day of the third month" and inserting in lieu thereof "the July 1".

(d) The second sentence of section 1838(d) of that Act is amended by striking out "the month after the month in which he reenrolled" and inserting in lieu thereof "the close of the enrollment period in which he reenrolled".

(e) The amendments made by this section shall apply to enrollments occurring after the month of the enactment of this Act.

RESTRICTIONS ON NEW BUY-IN AGREEMENTS

SEC. 6030. (a) Section 1843 of the Social Security Act is amended by adding at the end the following new subsection:

"(i) Coverage extended to additional groups of individuals under an agreement (or a modification of an agreement) requested by a State during 1981 shall not extend to items and services furnished under this part after the second month beginning after the date of the enactment of the Health Care Financing Amendments of 1981.".

(b) For purposes of section 1843(e) of the Social Security Act, an individual's coverage period that is terminated by subsection (i) of that section shall be treated as terminated under subsection (d)(3) of that section as of the last day of the second month beginning after the date of the enactment of this Act.

REPEAL OF REQUIREMENT FOR END-STAGE RENAL DISEASE NETWORKS

SEC. 6031. (a)(1) Paragraph (1) of section 1881(c) of the Social Security Act is amended to read as follows:

"(1) For the purposes of assuring effective and efficient administration of the benefits provided under this section, the Secretary shall establish a national end-stage renal disease medical information system.".

(2) Paragraphs (2) through (5) of that section are repealed.

(3) Paragraph (6) of that section is amended—

(A) by striking out "and network" in the second sentence, and

(B) by redesignating that paragraph as paragraph (2).

(b) Section 1881(g) of that Act is amended—

(1) by striking out ", nationally and by renal disease network," in paragraph (1),

(2) by adding "and" at the end of paragraph (13),

(3) by striking out paragraph (14), and

(4) by redesignating paragraph (15) as paragraph (14).

(c) The amendments made by this section are effective as of the fourth month beginning after the date of the enactment of this Act.

REPEAL OF UTILIZATION REVIEW REQUIREMENTS

SEC. 6032. (a) Section 1814(a) of the Social Security Act is amended—

(1) by striking out "paragraphs (6) and (9)" in paragraph (2)(C) and inserting in lieu thereof "paragraph (9)",

(2) by adding "and" at the end of paragraph (4),

(3) by striking out the semicolon at the end of paragraph (5) and inserting in lieu thereof a period, and

(4) by striking out paragraphs (6) and (7).

(b) Section 1815 of that Act is amended by striking out subsection (b).

(c) Section 1842(a)(2) of that Act is amended—

(1) by striking out "(2)(A)" and all that follows through "(B)" and inserting in lieu thereof "(2)",

(2) by inserting "and" after "improvement,", and

(3) by striking out ", and provide procedures for" and all that follows through "to make reviews of utilization".

(d) Section 1861 of that Act is amended—

(1) by striking out paragraph (6) of subsection (e);

(2) by striking out paragraph (8) of subsection (j);

(3) by striking out subsection (k);

(4) by striking out "subsections (k) and (m)" each place it appears in subsection (r)(3) and inserting in lieu thereof "subsection (m)";

(5) by striking out paragraph (2) of subsection (w) and by striking out "(1)" in that subsection; and

(6) in subsection (aa)(2) by striking out subparagraph (I), adding "and" at the end of subparagraph (H), and redesignating subparagraph (J) as subparagraph (I).

(e) Section 1865(a) of the Act is amended—

(1) by striking out "(6)" in paragraph (3) and inserting in lieu thereof "(8)",

(2) by striking out "a utilization review plan" and inserting in lieu thereof "an overall plan and budget described in section 1861(z)", and

(3) by striking out "section 1861(e)(6)" and inserting in lieu thereof "section 1861(e)(8)".

(f) Section 1866 of that Act is amended by striking out subsection (d).

Subchapter C—Other Provisions

CIVIL MONETARY PENALTIES FOR MEDICARE AND MEDICAID FRAUD

SEC. 6041. (a) Section 1107 of the Social Security Act is amended by adding at the end the following new subsection:

"(c)(1) Any individual who presents or causes to be presented to an officer, employee, or agent of the United States, or of any department or agency thereof, or of any State agency, a claim (as defined in paragraph (10)(B)) that the Secretary determines is for a medical or other item or service—

"(A) that he knows or has reason to know was not provided as claimed, or

"(B) that was provided while he was barred from participation in the program under which such claim was made, pursuant to a determination by the Secretary under this section or section 1128, 1160, 1862(d), or 1866,

shall be subject, in addition to any other penalties that may be prescribed by law, to a civil penalty of not more than $2,000 for each item or service. In addition, such a person shall be subject to an assessment of not more than twice the amount claimed for each such item or service in lieu of damages sustained by the United States or a State agency because of such claim.

"(2) The Secretary shall not make a determination adverse to any person under paragraph (1) until such person has been given written notice and an opportunity for a hearing on the record at which he is entitled to be represented by counsel, to present witnesses, and to cross-examine witnesses against him.

"(3) In determining the amount of any penalty assessed pursuant to paragraph (1) of this subsection, the Secretary shall take into account (A) the nature of claims and the circumstances under which they were presented, (B) the degree of culpability, history of prior offenses, and financial condition of the person presenting the claims, and (C) such other matters as justice may require.

"(4) Any person adversely affected by a determination of the Secretary under this subsection may obtain a review of such determination in the United States court of appeals for the circuit in which the person resides, or in which the claim was presented, by filing in such court within sixty days fol-

lowing notification to the person of the Secretary's final determination a written petition praying that the determination be modified or set aside. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary, and thereupon the Secretary shall file in the court the record in the proceeding as provided in section 2112 of title 28, United States Code. Upon such filing, the court shall have jurisdiction of the proceeding and of the question determined therein, and shall have the power to make and enter upon the pleadings, testimony, and proceedings set forth in such record a decree affirming, modifying, remanding for further consideration, or setting aside, in whole or in part, the determination of the Secretary and enforcing the same to the extent that such order is affirmed or modified. No objection that has not been urged before the Secretary shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances. The findings of the Secretary with respect to questions of fact, is supported by substantial evidence on the record considered as a whole, shall be conclusive. If any party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Secretary, the court may order such additional evidence to be taken before the Secretary and to be made a part of the record. The Secretary may modify his findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and he shall file such modified or new findings, which findings with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive, and his recommendations, if any, for the modification or setting aside of his original order. Upon the filing of the record with it, the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the Supreme Court of the United States, as provided in section 1254 of title 28, United States Code.

"(5) Civil penalties and assessments imposed under this subsection may be compromised by the Secretary and may be recovered in a civil action in the name of the United States brought in United States district court for the district where the claim was presented, or where the claimant resides, as determined by the Secretary. Amounts recovered shall be paid to the Secretary, and disposed of as follows: (A) a portion of amounts recovered arising out of a claim under title XIX equal to the amount paid by the State agency for such claim shall be paid to the State agency and shall be accounted for by the State agency as a recovery of an overpayment under the State plan; (B) such portion of amounts recovered as is determined to have been paid out of the trust funds under sections 1817 and 1841 shall be repaid to such trust funds; and (C) the remainder shall be deposited as miscellaneous receipts of the Treasury of the United States. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sum then or later owing by the United States or a State agency to the person against whom the penalty has been assessed.

"(6) A determination by the Secretary to assess a penalty under paragraph (1) of this subsection shall be final upon the expiration of the sixty-day period referred to in paragraph (4) unless the person against whom the penalty has been assessed files an appeal as provided in that paragraph. Matters that were raised or that could have been raised in a hearing before the Secretary or in an appeal pursuant to paragraph (4) may not be raised as a defense to a civil action by the United States to collect a penalty or damages assessed under this subsection.

"(7) The Secretary may refuse to make any further payment under title XVIII of this Act, or order a State agency to deny any further payment under title XIX of this Act, to any person with respect to whom a final determination has been made to assess a penalty under this subsection for any item or service rendered during such period as the Secretary may deem appropriate. If the Secretary intends to exercise the authority in this subparagraph, he shall give written notice thereof to such person and to the State agency of each State which he has reason to believe does or may use the services of such person in providing medical assistance under title XIX of the Act.

"(8) Whenever the Secretary makes a final determination to impose a penalty under paragraph (1), he shall notify the appropriate State or local medical agency or organization, and appropriate Professional Standards Review Organization, and the appropriate State or local licensing agency or organization (including the agency specified in section 1864(a) and 1902(a)(33)) that such a penalty has been imposed and the reasons therefor.

"(9) The Secretary shall initiate a proceeding to determine whether to impose a civil penalty under paragraph (1) under this subsection only as authorized by the Attorney General pursuant to procedures agreed upon by them.

"(10) For the purposes of this subsection—

"(A) the term 'State agency' means the agency established or designated to administer or supervise the administration of the State plan under title XIX of this Act;

"(B) the term 'claim' means an application submitted by—

"(i) a provider of services or other person, agency, or organization that furnishes services under title XVIII of this Act, or

"(ii) a person, agency, or organization that provides medical assistance under title XIX of this Act, to the United States or a State agency for payment for health care services under title XVIII or XIX of this Act;

"(C) the term 'item or service' includes (i) any particular item, device, medical supply, or service claimed to have been provided to a patient and listed in an itemized claim for payment, and (ii) in the case of a claim based on costs, any entry in the cost report, books of account or other documents supporting such claim; and

"(D) the term 'ageny of the United States' includes any contractor acting as a fiscal entity, as defined under section 1868, or any other claims processing agent for a health insurance or medical services program under title XVIII or XIX of this Act.".

(b) The heading of section 1107 of that Act is amended to read "PENALTIES".

(c) Section 1903 of that Act is amended by adding at the end the following new subsection:

"(t)(1) Notwithstanding the preceding provisions of this section, no payment shall be made to a State (except as provided under this subsection) with respect to expenditures incurred by it for services provided by any person during any period that an order for denial of payment (as authorized by section 1107(c)(7)) is effective with respect to such person.

"(2) Any order for denial of payment issued with respect to any person under section 1107(c)(7) shall become effective, in the case of any State plan approved under this title, on the sixtieth day after the date on which the Secretary gives notice of such order to the State agency. Upon the determination of the Secretary that any such order shall cease to be effective, he shall forthwith notify each State agency to which he has theretofore submitted notice under section 1107(c)(7) with respect to such person.

"(3) Whenever any order which has been issued by the Secretary under section 1107(c)(7) ceases to be effective, any payment to which any State would (except for the preceding provisions of this subsection) have been entitled under this section on account of services provided by such person shall be made to such State for the month in which such order ceases to be effective.".

REPEAL OF REQUIREMENT TO NOTIFY FAMILIES WITH DEPENDENT CHILDREN OF AVAILABILITY OF EARLY AND PERIODIC SCREENING, DIAGNOSIS, AND TREATMENT

SEC. 6042. Subsection (g) of section 403 of the Social Security Act is repealed.

NOTICE, HEARING, AND JUDICIAL REVIEW REQUIREMENTS FOR TERMINATION OF A PROFESSIONAL STANDARDS REVIEW ORGANIZATION AGREEMENT; AGREEMENTS OF LESS THAN A YEAR

SEC. 6043. (a) Section 1152(d)(2) of the Social Security Act is amended—

(1) by striking out "at such time and upon such reasonable notice to the organization as may be prescribed in regulations" and inserting in lieu thereof "upon 90 days notice to the organization", and

(2) by striking out "(after providing such organization with an opportunity for a formal hearing on the matter)".

(b) Sections 1152(d) and 1154(d) of that Act are each amended by adding at the end the following sentence: "A termination by the Secretary under this subsection shall not be subject to judicial review.".

(c) The matter in section 1152(d) of that Act preceding paragraph (1) is amended by inserting "not more than" before "12 months".

ABOLITION OF STATEWIDE PROFESSIONAL STANDARDS REVIEW COUNCILS

SEC. 6044. (a) Section 1157 of the Social Security Act is amended—

(1) by striking out everything after "report the matter to the" in the first sentence and inserting in lieu thereof "Secretary, together with the recommendations of such Organization as to the action which should be taken with respect to the matter.", and

(2) by striking out the second sentence.

(b)(1) Section 1159(a) of that Act is amended by striking out everything after "Professional Standards Review Organization" the second place it occurs and inserting in lieu thereof a period.

(2) The first sentence of section 1159(b) of that Act is amended by striking out everything before "by the Secretary" and inserting in lieu thereof "Where the determination of the Professional Standards Review Organization is adverse to the beneficiary or recipient and the amount in controversy is $100 or more, the beneficiary or recipient

shall be entitled to a hearing on the matter".

(c)(1) Section 1160(b) of that Act is amended by striking out "(which report and recommendations shall be submitted through the Statewide Professional Standards Review Council, if such Council has been established, which shall promptly transmit such report and recommendations together with any additional comments and recommendations thereon as it deems appropriate)".

(2) Section 1160(c) of that Act is amended by striking out "and each Statewide Professional Standards Review Council".

(d) Section 1162 of that Act is repealed.

(e) Paragraphs (2) and (3) of section 1163(e) of that Act are each amended by striking out "Statewide Professional Standards Review Councils and".

(f)(1) Section 1166(d) of that Act is amended by striking out ", a Statewide Professional Standards Review Council,".

(2) A patient record that was subject to the provisions of section 1166(d) of the Social Security Act (as in effect before the date of the enactment of this Act) because the record was in the possession of a Statewide Professional Standards Review Council shall remain subject to those provisions until it is returned to the entity that provided the record to the Council.

(g)(1) Section 1167(a) of that Act is amended—

(A) by striking out "or to any Statewide Professional Standards Review Council", and

(B) by striking out "or such Council" in clause (1).

(2) Section 1167(b)(1) of that Act is amended—

(A) by striking out "or of any Statewide Professional Standards Review Council",

(B) by striking out "or Council", and

(C) by striking out "or of Statewide Professional Standards Review Councils".

(3) The heading to section 1167 of that Act is amended by striking out "AND STATEWIDE PROFESSIONAL STANDARDS REVIEW COUNCILS".

(4) The provisions of section 1167 of the Social Security Act (as in effect before the date of the enactment of this Act) concerning activities related to Statewide Professional Standards Review Councils shall continue to apply with respect to activities carried out before such date.

DISCRETION OF SECRETARY IN FUNDING PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

SEC. 6045. (a) Section 1155(f)(2) of the Social Security Act is amended by striking out "shall" and inserting in lieu thereof "may".

(b)(1) The first sentence of section 1168 of that Act is amended to read as follows: "Expenses incurred in the administration of this part may be paid from—

"(1) funds in the Federal Hospital Insurance Trust Fund,

"(2) funds in the Federal Supplementary Medical Insurance Trust Fund, and

"(3) funds appropriated to carry out the health care provisions of the several titles of this Act,

in such proportion from each of the sources of funds (referred to in paragraphs (1) through (3)) as the Secretary may deem to be fair and equitable after taking into consideration the costs attributable to the administration of this part with respect to each of such plans and programs.".

(2) The second sentence of that section is amended—

(A) by striking out "clauses" each place it occurs and inserting in lieu thereof "paragraphs".

(B) by striking out "clause" and inserting in lieu thereof "paragraph", and

(C) by striking out "(a), (b), and (c)" and inserting in lieu thereof "(1), (2), and (3)".

(3) The third sentence of that section is amended by striking out "shall" and inserting in lieu thereof "may".

VOLUNTARY PARTICIPATION BY STATE MEDICAID PROGRAMS IN PROFESSIONAL STANDARDS REVIEW

SEC. 6046. (a) Section 1158 of the Social Security Act is amended by adding at the end the following subsection:

"(f) Any State may transmit a written notification to the Secretary that the State no longer wishes professional standards review under this part to affect payments to the State under title XIX. Such review shall not affect payments to that State under title XIX as of the sixtieth day after the date the Secretary receives that written notification.".

(b) Section 1158(a) of that Act is amended in the matter preceding paragraph (1) by striking out "title V" and inserting in lieu thereof "under title V, or under title XIX as provided in subsection (f) of this section".

(c) Section 1158(c) of that Act is amended—

(1) by inserting "and subsection (f) of this section" after "1171(d)(3)", and

(2) by inserting "(unless professional standards review under this part no longer affects payments to that State as provided in subsection (f) of this section)" before the period.

REPEAL OF PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

SEC. 6047. (a) Part B of title XI of the Social Security Act (relating to professional standards review) is repealed.

(b)(1) Title XI of that Act is amended by striking out the heading to part A.

(2) The second sentence of section 1101(a)(1) of that Act is amended by striking out "and in part B of this title".

(3) Section 1107(c)(1)(B) of that Act, added by section 6041 of this subchapter, is amended by striking out "1160(b),".

(4) Section 1107(c)(8) of that Act, added by section 6041 of this subchapter, is amended by striking out ", and the appropriate Professional Standards Review Organizations,".

(c)(1) Section 1861(v)(1)(G) of that Act is amended by striking out "and a Professional Standards Review Organization" and all that follows through "determines that inpatient" and inserting in lieu thereof "and the Secretary (or an agent designated by the Secretary) determines that inpatient".

(2) Section 1862(d)(1)(C) of that Act is amended by striking out "reports transmitted" and all that follows through "the program under this title)" and inserting in lieu thereof "such data as he acquires in the administration of the program under this title".

(d) Section 1902(h) of that Act is amended by striking out "and a Professional Standards Review Organization" and all that follows through "determines that inpatient" and inserting in lieu thereof "and the Secretary (or an agent designated by the Secretary) determines that inpatient".

(e)(1) Except as provided in paragraph (2), the repeals and amendments made by this section shall apply beginning with fiscal year 1984 and shall apply to review of services furnished on or after October 1, 1983.

(2) The repeal made by subsection (a) of this section shall not affect—

(A) the denial of payment under section 1158(a) of the Social Security Act for which a notification has been made before October 1, 1983;

(B) the conclusiveness, under section 1158(c) of that Act, of determinations made by a Professional Standards Review Organization (hereinafter in this subsection referred to as a "PSRO") before October 1, 1983;

(C) the right of a beneficiary, recipient, provider, or organization to a hearing under section 1159 of that Act (as in effect before October 1, 1983), except that such a person is entitled, in lieu of any reconsideration of a determination by a PSRO or review by a Statewide Professional Standards Review Council under subsection (a) of that section, where the matter in controversy is $100 or more, to a hearing thereon by the Secretary of Health and Human Services (hereinafter in this subsection referred to as the "Secretary") to the same extent as is provided in section 205(b) of the Social Security Act, and such person is entitled to judicial review of the Secretary's final decision in accordance with subsection (b) of section 1159 of that Act (as in effect before October 1, 1983), and the second sentence of that subsection and subsection (c) of that section shall apply to reviews and appeals conducted in accordance with this paragraph;

(D) the authority of the Secretary to take actions under section 1160(b)(1) of that Act (as in effect before October 1, 1983) on the basis of reports submitted by PSROs before October 1, 1983, under section 1157 of that Act (as in effect before such date); any such reports which have been submitted to a Statewide Professional Standards Review Council before such date and not transmitted to the Secretary shall be immediately transmitted to the Secretary for action in accordance with this paragraph; and the provisions of paragraphs (2) through (4) of section 1160(b) of that Act (as in effect before such date) shall apply to determinations made by the Secretary under this paragraph;

(E) the confidentiality of data and information acquired before October 1, 1983, under section 1166 of that Act (or any penalties under subsection (c) of that section in the case of improper disclosure of data or information under that section), and the Secretary shall provide by regulation for the appropriate disposition of such data and information;

(F) the limitation on liability under section 1167 of that Act (as in effect before October 1, 1983) for activities undertaken before such date; and

(G) payment under section 1168 of that Act (as in effect before October 1, 1983) for expenses incurred before such date.

REPEAL OF CERTAIN REQUIREMENTS FOR STUDIES AND DEMONSTRATIONS

SEC. 6048. (a) Section 1129 of the Social Security Act is amended—

(1) by striking out subsection (b), and

(2) by striking "(a)".

(b) Section 919 of the Omnibus Reconciliation Act of 1980 is repealed.

(c)(1) Subsection (f) of section 1154 of the Social Security Act is repealed.

(2) Section 1155(a) of that Act is amended—

(A) by striking out "under section 1154(f)" in the matter in paragraph (1) preceding subparagraph (A),

(B) by striking out ", consistent with section 1154(f)," in paragraph (7)(A), and

(C) by striking out "(consistent with section 1154(f))" in paragraph (7)(B).

(d) Section 929 of the Omnibus Reconciliation Act of 1980 is repealed.

(e) Subsection (f) of section 931 of the Omnibus Reconciliation Act of 1980 is repealed.

(f) Section 958 of the Omnibus Reconciliation Act of 1980 is amended—

(1) by striking out subsection (a) and subsections (c) through (j),

(2) by striking out "(b)" in subsection (b), and

(3) by amending the heading to read: "REPORT ON SURGICAL SECOND OPINIONS DEMONSTRATION."

(g) The matter in section 904(c) of the Omnibus Reconciliation Act of 1980 preceding paragraph (1) is amended by striking out "three" and inserting in lieu thereof "four".

REPEAL OF OBSOLETE AUTHORITY FOR MEDICAL ASSISTANCE

SEC. 6049. (a)(1) The heading of title I of the Social Security Act is amended by striking out "AND MEDICAL ASSISTANCE".

(2) Section 1 of that Act is amended—

(A) by striking out "(a)" the first place it appears in the first sentence,

(B) by striking out ", (b) of enabling" and all that follows through "for self-care" in the first sentence, and

(C) by striking out ", or for medical assistance for the aged, or for old-age assistance and medical assistance for the aged" in the second sentence.

(3) Section 2 of that Act is amended—

(A) by striking out "AND MEDICAL ASSISTANCE" in the heading;

(B) by striking out ", or for medical assistance for the aged, or for old-age assistance and medical assistance for the aged" in subsection (a) before paragraph (1);

(C) by striking out "; and" at the end of subsection (a)(10) and inserting in lieu thereof a period; and

(D) by striking out paragraphs (11), (12), and (13) of subsection (a).

(4) Section 3 of that Act is amended—

(A) by striking out paragraphs (1) and (3) of subsection (a);

(B) by amending paragraph (2) of subsection (a) to read as follows:

"(2) in the case of Puerto Rico, the Virgin Islands, and Guam, an amount equal to one-half of the total of the sums expended during such quarter as old-age assistance under the State plan, not counting so much of any expenditure with respect to any month as exceeds $37.50 multiplied by the total number of recipients of old-age assistance for such month; plus"; and

(C) by striking out subsection (d).

(5) Section 6 of that Act is amended by striking out subsections (b) and (c).

(b)(1) Section 403 of that Act is amended—

(A) by striking out "(including expenditures for premiums" and all that follows through "the cost thereof)" is subsection (a)(1) in the matter before subparagraph (A);

(B) by striking out "plus (ii)" and all that follows through "clause (i) or (ii)" in subsection (a)(1)(A) and inserting in lieu thereof "plus (ii) the number of individuals, not counted under clause (i)"; and

(C) by striking out "(including expenditures" and all that follows through "the cost thereof)" in subsection (a)(2).

(2) Section 406 of that Act is amended—

(A) by striking out ", or (if provided" and all that follows through "under State law in behalf of," and "or medical care or any type of remedial care recognized under State law" in subsection (b) in the matter preceding subparagraph (A), and

(B) by inserting "(for which such individual is not entitled to medical assistance under the State plan under title XIX)" in subsection (e)(1)(A) after "recognized under State law".

(c)(1) Sections 1001 and 1401 of that Act are each amended by striking out "and of encouraging each State" and all that follows through "self-care".

(2) Sections 1003(a) and 1403(a) of that Act are each amended—

(A) by striking out paragraph (1), and

(B) by striking out "(including expenditures for" and all that follows through "the cost thereof)" in paragraph (2).

(3) Sections 1006 and 1405 of that Act are each amended by striking out ", or (if provided" and all that follows through "under State law in behalf of," in the matter before paragraph (1).

(e)(1) The amendments made by this subsection are to the title XVI of the Social Security Act which only applies in the case of Puerto Rico, Guam, and the Virgin Islands under section 303(b) of the Social Security Amendments of 1972 (P.L. 92-603).

(2) The heading of that title is amended by striking out "AND MEDICAL ASSISTANCE".

(3) Section 1601 of that title is amended—

(A) by striking out "(a)" the first place it appears in the first sentence,

(B) by striking out", (b) of enabling" and all that follows through "or self-care" in the first sentence, and

(C) by striking out ", or for aid to the aged, blind, or disabled and medical assistance for the aged" in the second sentence.

(4) Section 1602 of that title is amended—

(A) by striking out ", OR FOR SUCH AID AND MEDICAL ASSISTANCE FOR THE AGED" in the heading;

(B) by striking out ", or for aid to the aged, blind, or disabled and medical assistance for the aged" in subsection (a) in the matter before paragraph (1);

(C) by inserting "and" at the end of paragraph (13) of subsection (a);

(D) by striking out the semicolon at the end of paragraph (14) of subsection (a) and inserting in lieu thereof a period;

(E) by striking out paragraphs (15), (16), and (17) of subsection (a);

(f) by striking out "(or for aid to the aged, blind, or disabled and medical assistance for the aged)" in the second sentence of subsection (a);

(G) by striking out "(A) in the case of applicants for aid to the aged, blind, or disabled" in subsection (b)(2);

(H) by striking out "and (B)" and all that follows through "who resides in the State" in subsection (b)(2); and

(I) by striking out "(or for aid to the aged, blind, or disabled and medical assistance for the aged)" each place it appears in the third sentence of subsection (b). (5) Section 1603 of that title is amended—

(A) by striking out paragraphs (1) and (3) of subsection (a);

(B) by striking out "(including expenditures for premiums" and all that follows through "cost thereof)" in paragraph (2)(A);

(C) by striking out "the larger of the following amounts: (i)", "(I)", and ", or (II)" and all that follows before the semicolon, in paragraph (2)(B); and

(D) by striking out subsection (d).

(6) Section 1605 of that title is amended—

(A) by striking out ", or (if provided" and all that follows through "under State law in behalf of," in subsection (a) in the matter before paragraph (1), and

(B) by striking out subsection (b).

CONTINUATION OF DEMONSTRATION PROJECT FUNDING AND EVALUATION OF MEDICAID CAP DISTRIBUTION FORMULA

SEC. 6050. (a)(1) In the case of an experimental, demonstration, or pilot project which is operating under section 1115 of the Social Security Act as of the date of the enactment of this Act, which relates to title XIX of such Act, and which the Secretary of Health and Human Services determines—

(A) is (i) assisting in the development of alternative methods of prospective reimbursement of providers, (ii) assisting in the development of cost containment programs under such title, (iii) providing more efficient methods of program management under such title, (iv) providing other innovative concepts which may result in substantial savings in Federal and State expenditures under such title, or (v) likely to assist the Secretary in development program alternatives, methods, or devices that can permit the Secretary to provide the several States (as defined for purposes of such title) and

(B) will require substantial expenditures, in addition to those normally reimbursable under such title, in order to be continued.

There are authorized to be appropriated, for each fiscal year (beginning with fiscal year 1981 and in addition to amounts otherwise appropriated to carry out plans approved under title XIX of the Social Security Act, such sums as may be necessary to continue funding of such projects.

(2) The Secretary shall periodically review each of the projects with funding continued under paragaph (1) to determine if the project continues to meet the condition under such paragraph for the continuation of such funding.

(b) The Secretary of Health and Human Services shall conduct an evaluation of the impact of the formula provided under subsection (c) of section 1901 of the Social Security Act (as added by section 6101(b)(1)(C) of this chapter) for the allotment of funds to States and of the feasibility, desirability, and necessity of substituting, for such formula, a formula which takes into account the factors of population growth, extraordinary short-term urban or regional growth, cost-of-living rates, unemployment rates, and increases in indigent and alien populations. The Secretary shall report to Congress on such evaluation not later than June 30, 1982, and shall include in such report a recommendation as to whether or not any such formula should be substituted for the formula contained in section 1901(c) of the Social Security Act.

Chapter 3—MERCHANT SEAMAN HEALTH SERVICES REPEAL

SHORT TITLE

SEC. 6081. This chapter may be cited as the "Merchant Seaman Health Services Repeal Act".

ELIMINATION OF ENTITLEMENT TO HEALTH SERVICES FOR MERCHANT SEAMEN

SEC. 6082. (a)(1) Sections 2(h), 322(a), and 322(b) of the Public Health Service Act are repealed.

(2) Section 322(e) of that Act is amended by striking out "entitled to care and treatment under subsection (a) of this section and persons".

(3) The heading to section 322 of that Act is amended by striking out "SEAMEN" and inserting in lieu thereof "PERSONS UNDER QUARANTINE".

(4) Section 332(a)(2)(C) of that Act is amended by striking out "seamen" and inserting in lieu thereof "persons under quarantine".

(b) The amendments made by this section are effective on October 1, 1981.

ELIMINATION OF REQUIREMENT FOR MAINTAINING PUBLIC HEALTH SERVICE HOSPITALS

SEC. 6083. Subsections (a) and (b) of section 818 of the Department of Defense Appropriation Authorization Act, 1974, are repealed.

STUDY OF TRANSFER FEASIBILITY

SEC. 6084. (a) The Secretary of Health and Human Services may, without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529, 41 U.S.C. 5), enter into contracts with public or private entities to conduct feasibility studies as to the acquisition and continued operation by non-Federal or Federal entities of hospitals and clinics currently part of the Public Health Service. Any such contract shall provide for a report not later than September 15, 1981, to the Secretary on the feasibility of such acquisition and continued operations. The authority of the Secretary to enter into contracts under this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

(b) If the Secretary of Health and Human Services determines, based on a feasibility study conducted under subsection (a), that the acquisition and continued operation of a Public Health Service hospital or clinic by a non-Federal or Federal entity is financially viable, the Secretary shall take such steps, within the amounts available through appropriations, as may be necessary and proper—

(1) to operate (or participate or assist in the operation of) the hospital or clinic by the Public Health Service until the acquisition is accomplished,

(2) to bring the hospital or clinic into compliance with applicable licensure, accreditation, and local medical practice standards, and

(3) to provide for such other legal, administrative, personnel, and financial arrangements (including allowing payments made with respect to services provided by the hospital or clinic to be made directly to that hospital or clinic) as may be necessary to effect a timely and orderly transfer of such hospital or clinic (including the land, building, and equipment thereof) from the Public Health Service not later than September 30, 1982.

Subtitle B—Matters Under the Jurisdiction of the Subcommittees on Energy Conservation and Power and Fossil and Synthetic Fuel

Chapter 1—STRATEGIC PETROLEUM RESERVE

SHORT TITLE

SEC. 6101. This chapter may be cited as the "Strategic Petroleum Reserve Amendments Act of 1981".

FINDINGS

SEC. 6102. The Congress finds that—

(1) the Strategic Petroleum Reserve should be regarded as a national security asset of paramount importance; and

(2) plans for enlarging the capacity of and filling the Strategic Petroleum Reserve should be accelerated (to the extent technically and economically practicable) in accordance with the provisions of the Energy Policy and Conservation Act to take advantage of any increased availability of crude oil in the world market from time to time.

RATE OF FILLING THE STRATEGIC PETROLEUM RESERVE

SEC. 6103. (a) Paragraph (1) of section 160(c) of the Energy Policy and Conservation Act (42 U.S.C. 6240(c)) is amended by striking out all after "fiscal year 1981" and inserting in lieu thereof a period.

(b) Paragraph (2) of section 160(c) of such Act is amended to read as follows:

"(2) The President shall immediately seek to undertake, and thereafter continue (subject to paragraph (3)), crude oil acquisition, transportation, and injection activities at a level sufficient to assure that crude oil in storage in the Strategic Petroleum Reserve will be increased at an average annual rate of at least 300,000 barrels per day for fiscal year 1982 and for each fiscal year thereafter.".

(c) Section 160 of such Act is further amended by inserting at the end thereof the following new paragraph:

"(3) The requirements in paragraphs (1) and (2) shall cease to apply when the quantity of petroleum products stored within the Strategic Petroleum Reserve is at least 750,000,000 barrels.".

FINANCING OF THE STRATEGIC PETROLEUM RESERVE

SEC. 6104. (a) The Energy Policy and Conservation Act is amended by inserting after section 166 the following new sections:

"STRATEGIC PETROLEUM RESERVE ACCOUNT

"SEC. 167. (a) The Secretary of the Treasury shall establish in the Treasury of the United States a special account which shall be known as the 'Strategic Petroleum Reserve Account' and into such account shall be deposited:

"(1) the funds provided under section 168, and

"(2) the receipts from the sale of petroleum products in any drawdown and distribution of the Strategic Petroleum Reserve under section 161.

"(b)(1) The Secretary of Energy may obligate funds from such account for the acquisition and delivery of petroleum products for, and drawdown and delivery of petroleum products from, the Strategic Petroleum Reserve, except that—

"(A) the aggregate amount obligated from the account may not exceed $9,000,000,000 plus any proceeds deposited under subsection (a)(2); and

"(B) funds may not be obligated from the account after September 30, 1984.

"(2) The portion of the funds credited to the account as of September 30, 1984, which represent funds unobligated as of that date shall be transferred to the general fund of the Treasury.

"PROVISION OF FUNDS

"SEC. 168. (a) The Secretary of the Treasury is directed to provide such funds to the Strategic Petroleum Reserve Account as are necessary to meet the obligations created under section 167(b).

"(b) Notwithstanding any other provision of law, the transactions under this section and section 167 and the receipts, obligations, and outlays created by such transactions shall be presented annually in the Budget of the United States government, but shall not be included in the totals of the budget and shall be exempt from any general limitation imposed by statute on expenditures (budget outlays) of the United States.

"(c) Unexpended balances of appropriations made available and obligated for the acquisition and delivery of petroleum products for the Strategic Petroleum Reserve at the end of fiscal year 1981, shall be credited to the Strategic Petroleum Reserve Account established by section 167 and orders or contracts which provide documentation for the obligation of those appropriations pursuant to section 1311 of the Act of August 26, 1954, as amended (31 U.S.C. 200; 68 Stat. 830) shall be liquidated from the Strategic Petroleum Reserve Account. This transfer shall be a transaction under section 167 for the purposes of section 168(b).".

(b) The table of sections for such Act is amended by inserting after the item relating to section 166 the following new items:

"Sec. 167. Strategic Petroleum Reserve Account.

"Sec. 168. Provision of funds.".

STORAGE OF STATE ROYALTY OIL

SEC. 6105. Section 160 of the Energy Policy and Conservation Act is amended by adding at the end thereof the following new subsection:

"(f) In addition to other authority made available by law, the President is authorized to contract, upon such terms and conditions necessary to protect the interests of the United States and without regard to any procurement law or regulation, with any State of the United States to store petroleum products in the Strategic Petroleum Reserve.".

QUARTERLY REPORTING REQUIREMENTS

SEC. 6106. (a) Subject to subsection (c), on or before the 15th day of the calendar quarter which begins after the date of the enactment of this section and every 90 days thereafter the Secretary of Energy shall report to Congress on activities undertaken with respect to the Strategic Petroleum Reserve under the amendments made by this chapter, including—

(1) the amounts of petroleum stored in the Reserve, under contract and in transit at the end of the previous calendar quarter;

(2) the projected fill rate for the Strategic Petroleum Reserve for such calendar quarter;

(3) the average price of the petroleum acquired during the previous calendar quarter;

(4) existing and projected Strategic Petroleum Reserve storage capacity and plans to accelerate the acquisition or construction of such capacity;

(5) an analysis of any existing or anticipated problems associated with acquisition, transportation, and storage of petroleum in the Reserve and with the expansion of storage capacity for the Reserve; and

(6) the amount of funds transferred to the Secretary of Energy from the Strategic Petroleum Reserve Account during the previous calendar quarter and in total under the amendments made by this chapter.

(b) The first report submitted under subsection (a) shall include a description of the current Strategic Petroleum Reserve Plan, including any proposed or anticipated amendments to the Plan.

(c) The report otherwise required under subsection (a) to be submitted in a calendar quarter in which an annual report is required to be submitted to the Congress under section 165 of the Energy Policy and Conservation Act may be combined and submitted with that annual report.

STUDY OF ALTERNATIVE FINANCING

SEC. 6107. Not later than 1 year after the date of the enactment of this chapter, the

Secretary of the Treasury shall review and report to the Congress on alternative methods for financing purchases of petroleum products for the Strategic Petroleum Reserve which are not based on conventional debt financing by the Federal Government.

Chapter 2—OTHER ENERGY PROGRAMS

Subchapter A—Department of Energy Civilian Program Savings

PART 1—CONSERVATION

SEC. 6111. Funds are authorized to be appropriated for fiscal year 1982 and fiscal year 1983 in accordance with section 660 of the Department of Energy Organization Act for operating expenses for the following conservation and related activities:

(1) Transportation, $1,000,000 for each fiscal year.

(2) State energy block grant established under subchapter B of this chapter, for fiscal year 1982, $272,900,000 plus $22,100,000 of the amount appropriated for buildings and community systems, and $5,000,000 of the amount appropriated for economic regulation, which amounts were deferred until fiscal year 1982 by the Act entitled "An Act making supplemental and further continuing appropriations for the fiscal year ending September 30, 1981", approved June 5, 1981 (Public Law 97-12), and for fiscal year 1983, $300,000,000. Funds appropriated under this paragraph may remain available until expended.

PART 2—REGULATORY AND RELATED FUNCTIONS

SEC. 6112. Funds are authorized to be appropriated for fiscal year 1982 and fiscal year 1983 in accordance with section 660 of the Department of Energy Organization Act for the following regulatory and related functions:

(1) Economic Regulatory Administration, $12,000,000 for fiscal year 1982 and $24,000,000 for fiscal year 1983;

(2) Office of Hearings and Appeals, $4,500,000 for fiscal year 1982 and $4,500,000 for fiscal year 1983;

(3) Federal Energy Regulatory Commission, $82,173,000 for each fiscal year;

(4) Energy Information Administration, $56,523,000 for each fiscal year;

(5) Strategic Petroleum Reserve, $1,100,000,000 for fiscal year 1982 and $719,000,000 for fiscal year 1983; and

(6) Mineral fuels and petroleum and natural gas gathering and analysis programs data, $23,477,000 for each fiscal year.

PART 3—NUCLEAR ASSESSMENT, INTERIM SPENT NUCLEAR FUEL MANAGEMENT, AND COMMERCIAL WASTE REMEDIAL ACTION

SEC. 6113. Funds are authorized to be appropriated for fiscal year 1982 and fiscal year 1983 in accordance with section 660 of the Department of Energy Organization Act for the following:

(1) operating expenses for uranium resource assessment, $9,700,000 for each fiscal year;

(2) Capital equipment not related to construction for uranium resource assessment, $200,000 for each fiscal year;

(3) Plant and capital equipment including planning, construction, acquisition, or modification of facilities, including land acquisition of the uranium resource assessment program, project 82-R-410, General plant projects, Grand Junction, Colorado, $100,000 for fiscal year 1982;

(4) Operating expenses for interim spent nuclear fuel management and remedial action:

(A) Interim spent nuclear fuel management expenses, $6,417,000 for each fiscal year; and

(B) Remedial action program expenses, $55,070,000 for each fiscal year; and

(5) Capital equipment not related to construction for interim spent nuclear fuel management and remedial action, $1,775,000 for fiscal year 1982.

PART 4—OTHER RENEWABLE RESOURCES AND CONSERVATION ACTIVITIES

SEC. 6114. For the operating expenses for fossil energy program administration, $2,500,000 is authorized to be appropriated for each of the fiscal years 1982 and 1983 in accordance with section 660 of the Department of Energy Organization Act.

PART 5—URANIUM ENRICHMENT, OTHER COMMERCIAL WASTE MANAGEMENT ACTIVITIES, WEST VALLEY DEMONSTRATION PROJECT ACTIVITIES, AND THREE MILE ISLAND ACTIVITIES

SEC. 6115. Funds are authorized to be appropriated for fiscal year 1982 and fiscal year 1983 in accordance with section 660 of the Department of Energy Organization Act for:

(1) Operating expenses for uranium enrichment:

(A) Gaseous diffusion operations and support, $961,825,000 for each fiscal year;

(B) Gaseous centrifuge operations and support, $5,200,000 for each fiscal year; and

(C) Program administration, $3,100,000 for each fiscal year.

(2) Uranium enrichment activities plant and capital equipment, including planning, construction, acquisition, or modification of facilities, including land acquisition, for fiscal year 1982, as follows:

(A) Project 82-R-410, General plant projects, various locations, $17,500,000;

(B) Project 82-R-411, UF6 cylinders and storage yards, gaseous diffusion plants, $11,000,000;

(C) Project 82-R-412, Cooling tower modifications, Oak Ridge, Tennessee and Portsmouth, Ohio, gaseous diffusion plants, $8,000,000;

(D) Project 82-R-413, Improved UF6 containment and gaseous diffusion plants, $7,100,000;

(E) Project 82-R-414, Purge and cascade withdrawal modifications, gaseous diffusion plant, Paducah, Kentucky, $9,000,000;

(F) Project 82-R-415, Fire alarm system replacement, gaseous diffusion plants, $4,700,000;

(G) Project 82-R-416, Environmental protection and safety modifications, Phase II, gaseous diffusion plants, $2,000,000;

(H) Project 82-R-417, Air distribution system upgrading, gaseous diffusion plant, Paducah, Kentucky, $2,700,000;

(I) Project 81-R-503, Utilities upgrading, gaseous diffusion plants, an additional sum of $17,000,000 for a total project authorization of $27,000,000;

(J) Project 81-R-504, Supervisory control and data acquisition systems, Paducah, Kentucky and Portsmouth, Ohio, gaseous diffusion plants, an additional sum of $7,000,000 for a total project authorization of $13,000,000;

(K) Project 81-R-506, Environmental protection and safety improvements, Phase I, gaseous diffusion plants, $7,000,000;

(L) Project 80-UE-2, Control of water pollution, gaseous diffusion plants, an additional sum of $4,000,000 for a total project authorization of $17,000,000;

(M) Project 80-UE-3, Plant facilities security improvements, gaseous diffusion plants, an additional sum of $4,000,000 for a total project authorization of $17,000,000;

(N) Project 80-UE-5, Motor and switchgear upgrading, gaseous diffusion plants, an additional sum of $6,600,000 for a total project authorization of $26,500,000; and

(O) Project 76-8-g, Enriched uranium production facilities, Portsmouth, Ohio, an additional sum of $669,000,000 for a total project authorization of $1,620,845,000.

(3) Capital equipment not related to construction for uranium enrichment, $23,100,000 for fiscal year 1982.

SEC. 6116. Funds are authorized to be appropriated for fiscal year 1982 and fiscal year 1983 in accordance with section 660 of the Department of Energy Organization Act for operating expenses for other commercial waste management activities:

(1) Repository licensing activities in the terminal isolation program, $2,000,000 for each fiscal year;

(2) Assistance to States in the waste system evaluation and public interaction program, $1,000,000 for each fiscal year; and

(3) Assistance to States for low-level waste management, $1,000,000 for each fiscal year.

SEC. 6117. Funds are authorized to be appropriated for fiscal year 1982 and fiscal year 1983 in accordance with section 660 of the Department of Energy Organization Act for the following West Valley Demonstration project activities:

(1) Operating expenses for the West Valley Demonstration project, $12,800,000 for each fiscal year; and

(2) Capital equipment not related to construction for the West Valley Demonstration project, $200,000 for fiscal year 1982.

SEC. 6118. Funds are authorized to be appropriated for fiscal year 1982 in accordance with section 660 of the Department of Energy Organization Act for the following:

(1) Operating expenses for Three Mile Island activities, $29,000,000; and

(2) Capital equipment not related to construction for Three Mile Island activities, $8,000,000.

PART 6—DEPARTMENTAL ADMINISTRATION

SEC. 6119. Funds are authorized to be appropriated for fiscal year 1982 and fiscal year 1983 in accordance with section 660 of the Department of Energy Organization Act for:

(1) Operating expenses for departmental administration activities:

(A) Office of the Secretary, $3,616,000 for each fiscal year;

(B) General management, $67,054,000 for each fiscal year;

(C) Program administration, $44,599,000 for each fiscal year, except that no funds authorized to be appropriated under this subparagraph shall be available for the Office of Consumer Affairs or related activities;

(D) Field offices, $58,738,000 for each fiscal year;

(E) Other salary expenses, travel, and services, $143,406,000 for each fiscal year;

(F) Policy analysis and system studies, $9,678,000 for each fiscal year;

(G) Intergovernmental affairs, $9,365,000 for each fiscal year;

(H) Public affairs, $900,000 for each fiscal year;

(I) In-house energy management, $5,400,000 for each fiscal year;

(J) Cost of work for others, and changes in inventories, $54,214,000 for each fiscal year; and

(K) Technical information services, $11,830,000 for each fiscal year;

(2) Departmental administration activities plant and capital equipment, including planning, construction, acquisition, or modification of facilities, including land acquisition, for fiscal year 1982, as follows:

(A) Project 82-A-601, Modifications for energy management, various locations, $22,200,000;

(B) Project 82-A-602, Advanced Test Reactor (ATR) waste heat recovery, Idaho National Engineering Laboratory, Idaho, $4,900,000;

(C) Project 82-A-603, High temperature water distribution system, Los Alamos Scientific Laboratory, New Mexico, $5,000,000;

(D) Project 81-A-602, Energy monitoring and control system, Y-12 Plant, Oak Ridge, Tennessee, and additional sum of $2,500,000 for a total project authorization of $5,000,000;

(E) Project 81-A-603, Energy monitoring and control system, Oak Ridge National Laboratory, an additional sum of $2,000,000 for a total project authorization of $4,000,000;

(F) Project 81-A-605, Automated energy management system, Argonne National Laboratory, Argonne, Illinois, an additional sum of $1,900,000 for a total project authorization of $3,800,000;

(G) Project 80-DA-06, Alternate energy source, Pantex Plant, Amarillo, Texas, an additional sum of $3,000,000 for a total project authorization of $6,000,000; and

(H) Project 82-C-601, Plant engineering and design, various locations, $2,000,000; and

(3) Capital equipment not related to construction for departmental administration activities, $5,563,000 for fiscal year 1982.

PART 7—AGGREGATE AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1983

SEC. 6120. Notwithstanding any other provision of this chapter, or any other provision of law, there is authorized to be appropriated to the Department of Energy for the civilian programs and activities of the Department for the fiscal year 1983, in accordance with section 660 of the Department of Energy Organization Act, not to exceed the aggregate amount authorized to be appropriated to the Department for such programs and activities for the fiscal year 1982.

PART 8—UNITED STATES ENERGY PROJECTIONS

SEC. 6121. Pursuant to title III of the Energy Security Act, the following are the United States energy projections:

ENERGY PROJECTIONS

[Quadrillion Btu's per year]

	1985	1990	1995	2000
Domestic production:				
Oil and NGL	18	17	18	18
Natural gas	18	18	16	15
Coal	21	27	32	41
Nuclear	5	7	8	9
Hydro/geothermal	3	4	4	4
Renewables	2	3	5	6
Subtotal	67	76	83	93
Imports:				
Oil	18	14	11	7
Natural gas	2	3	3	2
Coal	−1.8	−2.1	−2.2	−2.4
Subtotal	18	15	11	7
Total supply	85	90	94	100
End-use consumption:				
Petroleum liquids	32	29	28	27
Gas	17	18	18	18
Direct coal	5	6	6	7
Electricity	9	10	11	12

ENERGY PROJECTIONS—Continued

[Quadrillion Btu's per year]

	1985	1990	1995	2000
Decentralized solar	2	3	4	5
Subtotal	64	66	67	68
Conversion losses	21	25	28	32
Stock increase				
Total consumption	85	91	94	100

Subchapter E—State Energy Block Grants

SHORT TITLE

SEC. 6131. This subchapter may be cited as the "State Energy Block Grant Act".

FINDINGS

SEC. 6132. The Congress finds that—

(1) during the last several years the Federal Government has established numerous programs for energy-related assistance for States and local governments,

(2) despite the growth in Federal funding of energy-related activities, State and local governments retain primary responsibility for a significant portion of such activities,

(3) with the growth in the number of Federal assistance programs and in the associated requirements imposed on recipients, Federal decisions have replaced State and local determinations of what energy-related activities should be undertaken through publicly financed programs,

(4) the proliferation of Federal programs has resulted in substantial inefficiencies in the way energy programs are conducted, in burdensome administrative costs, and in spending patterns that frequently do not reflect the priorities and needs of the residents of each State,

(5) the best use of governmental resources in meeting the Nation's energy needs requires that the Federal Government support and not displace the State role in determining which energy conservation or supply development activities to engage in and how best to carry them out, and

(6) allowing the States substantial flexibility in the use of Federal financial assistance through consolidation of related assistance programs into a single grant with minimum requirements will help ensure a proper governmental balance, will permit coordinated planning at the State level, and will help ensure the effective use of the Nation's resources in the energy area.

ALLOCATION OF FUNDS

SEC. 6133. (a) For the purposes of providing the financial assistance authorized by this subchapter, the Secretary shall allocate annually the sums available for financial assistance under this subchapter among the States in the following manner—

(1) 75 percent shall be allocated on the basis of the resident population of the States; and

(2) 25 percent shall be allocated equally among the States.

(b) Notwithstanding subsection (a), the Secretary may prescribe a maximum allocation for the Virgin Islands, Guam, American Samoa, the Government of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

PAYMENTS TO STATES; STATE SHARE

SEC. 6134. (a) The Secretary shall make payments as provided by section 203 of the Intergovermental Cooperation Act of 1968 (42 U.S.C. 4213) to each State from its allotment under section 6133 from amounts appropriated for any fiscal year for its use under section 6135 or for grants to local units of government under section 6137 (to the extent provided in such section).

(b) Any State receiving assistance under this subchapter shall provide matching funds from non-Federal sources in an amount equal to—

(1) in the case of awards in fiscal year 1982, 30 percent of the amount awarded to the State under this subchapter; and

(2) in the case of awards in fiscal years thereafter, 50 percent of the amount awarded to the State under this subchapter.

USE OF GRANT MONEY

SEC. 6135. (a) A State may use amounts paid to it under section 6134 for energy conservation and supply activities, including but not limited (except as limited under subsection (b), or as provided under subsection (c)) to—

(1) energy conservation,

(2) energy conservation measures and weatherization in public or nonprofit institutional buildings, including schools, hospitals, public care institutions, and local governmental buildings,

(3) weatherization for low-income families,

(4) residential weatherization,

(5) residential and commercial energy audits and technical assistance,

(6) energy emergency preparedness,

(7) renewable energy applied research and development,

(8) energy supply applied research and development,

(9) transportation energy efficiency, including traffic management and mass transportation,

(10) coastal and inland energy impact assistance,

(11) energy conservation and supply development in the agricultural sector, and

(12) applied research and development of energy efficiency in buildings.

(b) Amounts described in subsection (a) may not be used—

(1) by any State during any fiscal year if the costs for planning, data collection, forecasting, policy analysis, and personnel and administration associated with State programs funded under this subchapter exceed 25 percent of the amount of the total costs of such programs for such year;

(2) for costs of applying for a grant under this subchapter;

(3) for promoting energy conservation or supply development through the use of television, radio, newspapers, or other mass media; or

(4) for satisfying any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds.

In applying the limitation of paragraph (1), there shall not be taken into account any direct labor costs associated with weatherization activities.

(c) A State shall expend amounts described in subsection (a) by the end of the fiscal year following the fiscal year for which they were appropriated.

ALLOCATION OF FUNDS FOR CATEGORIES OF COMMUNITIES WITHIN A STATE

SEC. 6136. (a) The Secretary shall allocate 20 percent of the funds available to each State under section 6133 to each of the following three categories based on the respective population of each category within that State—

(1) metropolitan cities and urban counties in metropolitan areas;

(2) units of local government within metropolitan areas (other than metropolitan cities and urban counties); and

(3) nonmetropolitan areas.

(b)(1) Metropolitan cities and urban counties in metropolitan areas shall be entitled to annual grants from the portion allocated to them under subsection (a)(1). The Secretary shall determine the amount of the grant to be made by the Governor of the State to each metropolitan city and urban county, and such grants shall be the greater of an amount that bears the same ratio to the total available funding for all metropolitan areas as either—

(A) the average of the ratios between—

(i) the population of that metropolitan city (or urban county) and the population of all metropolitan areas;

(ii) the extent of poverty in that metropolitan city (or urban county) and the extent of poverty in all metropolitan areas; and of

(iii) the extent of housing overcrowding in that metropolitan city (or urban county) and the extent of housing overcrowding in all metropolitan areas; or

(B) the average of the ratios between—

(i) the age of housing in that metropolitan city (or urban county) and the age of housing in all metropolitan areas; and

(ii) the extent of poverty in that metropolitan city (or urban county) and the extent of poverty in all metropolitan areas.

In determining the average of the rations under subparagraph (A) the ratio involving the population shall be counted once, the ratio involving the extent of poverty shall be counted twice, and the ratio involving housing overcrowding shall be counted once; and in determining the average of the ratios under subparagraph (B) the ratio involving extent of poverty shall be counted one and one-half times, and the ratio involving the age of the housing shall be counted two and one-half times.

(2) The Governor shall make grants to units of local government within metropolitan areas (other than metropolitan cities and urban counties) from the portion of funds allocated to them under subsection (a)(2) and to non-metropolitan areas from the portion of funds allocated to them under subsection (a)(3) through either an existing or newly developed process acceptable to both the Governor and the statewide organizations representing units of local government. The Governor shall, in consultation with the statewide organizations representing units of local government, develop selection criteria and a system for managing the solicitation, application, and selection process. Grants shall be made based on applications submitted to the Governor.

(3) The Secretary shall in order to compensate for the discrepancy between the total of the amounts to be allocated under paragraph (1) and the total of the amounts available, make a pro rata reduction of each amount allocated for the metropolitan cities (or urban counties) so that the metropolitan city (or urban county) in each State will be allocated an amount which represents the same percentage of the total amount available under paragraph (1) as the percentage which metropolitan cities (or urban counties) of the same State would have been allocated under such paragraph if the total amount available under this paragraph had equalled the total amount which was allocated under such paragraph.

(4) Any funds under this subchapter to which a metropolitan city or urban county in a metropolitan area is entitled, but which are not requested or disbursed, shall be made available to other eligible units of local government within that same metropolitan area. If no such recipients are available, then the funds shall be made available to the other metropolitan areas of the State under paragraph (2). If no such recipients are available in that State then the funds shall be made available to eligible recipients in other States.

(5) Any unit of local government receiving assistance under this subchapter from a State shall provide matching funds from non-Federal sources in an amount equal to—

(A) in the case of awards in fiscal year 1982, 30 percent of the amount awarded to the local government under this subchapter; and

(B) in the case of awards in fiscal years thereafter, 50 percent of the amount awarded to the local government under this subchapter.

REPORT ON INTENDED EXPENDITURES

SEC. 6137. (a) Prior to expenditure by a State of payments made to it under section 6134, the chief executive officer of the State shall prepare a report on the intended use of payments the State is to receive under this subchapter, including—

(1) information on the types of services to be provided and the categories of characteristics of individuals to be served;

(2) the intergovernmental process applicable to the administration of the program;

(3) a description of the needs in such State for weatherization for low-income families and energy conservation measures and weatherization in public and nonprofit institutional buildings or nonprofit institutional buildings (including schools, hospitals, public care institutions, and local governmental buildings), and a statement of the priority intended to be given to meeting such needs through assistance under this subchapter; and

(4) a description of any low-income assistance program covered by such payments.

(b) The report shall be made public within the State in such manner as to facilitate comment from any person (including any Federal or other public agency) during development of the report and after its completion. The report shall be revised throughout the year as may be necessary to reflect substantial changes in the activities assisted under this subchapter, and any revision shall be subject to the requirements of the preceding sentence.

(c) The Secretary shall review each report and revision submitted under subsection (a). If the Secretary finds that the intended use of payments under section 6135 or 6136 by a State is not in accordance with the purposes of this subchapter or that the State has not provided for an equitable distribution of funds or of services within the State, the Secretary shall disapprove such report or revision. Any such disapproval shall not be subject to judicial review. If a report or revision is disapproved the State which submitted it shall, within 30 days of the date of such disapproval, make such revisions in its use of such payments or its distribution of funds or services (consistent with the express provisions of this subchapter) so that such use is in accordance with the purposes of this subchapter or such distribution is equitable and shall report such revisions to the Secretary within 30 days after disapproval.

REPORTS AND AUDITS

SEC. 6138. (a)(1) Each State shall prepare reports on its activities under this subchapter. Reports shall be in such form, contain such information, and be of such frequency as the State finds necessary to secure an accurate description of those activities (including identification of contracts entered into), to secure a complete record of the purposes for which funds were spent, to determine the extent to which funds were expended consistently with the reports required by section 6137, and to obtain an accurate financial statement of the programs funded under this subchapter.

(2) The State shall make copies of the reports required by this section available for public inspection within the State. Copies shall also be provided to the Congress, the Department of Energy, the Comptroller General, and, upon request, to any interested public agency which may provide its views on such reports to the Congress.

(b) Each State shall periodically audit its expenditures from amounts received under (or transferred to) this subchapter. Such State audits shall be conducted by an entity independent of any agency administering a program funded under this subchapter, in accordance with generally accepted accounting principles. Within 30 days following the completion of each audit, the chief executive officer of the State shall submit a copy of that audit to the legislature of the State and to the Secretary. Each State shall repay to the United States amounts found not to have been expended in accordance with this subchapter or the Secretary may offset such amounts against any other amount to which the State is or may become entitled under this subchapter.

(c) The Comptroller General, or any duly authorized representative, shall have access to pertinent books, documents, papers, records, and reports of any recipient of funds under this subchapter.

TERMINATION

SEC. 6139. On or after October 1, 1984, the preceding provisions of this subchapter shall cease to be effective.

Subchapter C—Other Changes to Existing Law

SEC. 6141. The Energy Security Act is amended—

(1) by striking out "target" and "targets" each place such terms appear and inserting in lieu thereof "projection" and "projections", respectively, in sections 301 through 304 (42 U.S.C. 7361-7364), relating to energy targets and in the items in the table of contents relating thereto;

(2) by striking out sections 401 through 404, 406, and section 409 (42 U.S.C. 7371-7374, 7375, and 7376) relating to renewable energy initiatives;

(3) in title V, by striking out subtitles B through F, and H, relating to the residential conservation service, residential energy efficiency program, the commercial and apartment conservation service, the weatherization assistance program, energy auditor training and certification, and coordination of Federal energy conservation factors and data; and

(4) by striking out the items in the table of contents relating to—

(A) sections 401 through 404, 406, and 409; and

(B) subtitles B through F and H of title V.

SEC. 6142. (a) Section 30 of the Federal Power Act is amended to read as follows:

"SEC. 30. Any facility (excluding any dam or other impoundment or facility located on Federal lands) constructed, operated, or maintained for the generation of electric power which utilizes for such generation

only the hydroelectric potential of a man-made conduit operated for the distribution of water for agricultural, municipal, or industrial consumption and not primarily for the generation of the electricity is exempt from the requirements of sections 4 through 24 and 26 of this part.".

(b) The Federal Power Act (16 U.S.C. 792 et seq.) is amended by inserting after section 30 the following new section:

"SEC. 31. In order to simplify, promote, and expedite the development of a non-Federal hydroelectric power project, and consistent with the public interest and safety, the Commission, by rule or order, may waive any provision of this part, in connection with an application for, or amendment or notice of, any permit, license, or exemption for an existing or proposed water project and appurtenant project works, if the total installed capacity of the project upon completion is equal to or less than 15 megawatts, subject to terms and conditions that the Commission considers appropriate.".

SEC. 6143. (a) The National Energy Conservation Policy Act is amended—

(1) in title II, by striking out parts 1 and 5, relating to residential energy conservation and weatherization assistance for low-income persons;

(2) in part 2 of title II, by striking out section 231, and in section 233, by striking out "part A of the Energy Conservation in Existing Buildings Act of 1976,";

(3) by striking out title III, relating to energy conservation programs for schools and hospitals and buildings owned by units of local governments and public care institutions;

(4) in title VI, by striking out part 2, relating to State energy conservation plans;

(5) by striking out title VII, relating to the commercial and apartment conservation service; and

(6) in the table of contents, by striking out the items relating to—

(A) parts 1 and 5 and section 231 of part 2 of title II;

(B) titles III and VII; and

(C) part 2 of title VI.

(b) Paragraphs (3) and (4) of section 504(c) of the Housing Act of 1949 is amended by inserting "as in effect immediately before the date of the enactment of the Omnibus Budget Reconciliation Act of 1981)" after "Existing Buildings Act of 1976" each place it appears.

SEC. 6144. (a) The National Energy Extension Service Act (42 U.S.C. 7001-7011) is hereby repealed.

(b)(1) Section 103 of the Energy Reorganization Act of 1974 (42 U.S.C. 5801) is amended by striking out paragraph (7), and by redesignating paragraphs (8) through (12) as paragraphs (7) through (11), respectively.

(2) Section 108 of the Energy Reorganization Act of 1974 (42 U.S.C. 5818) is amended—

(A) in subsection (b), by inserting "and" at the end of paragraph (2), by striking out "; and" at the end of paragraph (3) and inserting a period in lieu thereof, and by striking out paragraph (4); and

(B) by striking out subsection (e).

SEC. 6145. The Energy Research and Development Administration Appropriation Authorization Act of 1977 is amended by striking out section 112 (42 U.S.C. 5907-a), relating to the appropriate technology grants program.

SEC. 6146. The Energy Policy and Conservation Act is amended—

(1) by striking out parts D, G, and H of title III, relating to State energy conservation programs and energy conservation programs for schools and hospitals and buildings owned by units of local government and public care institutions; and

(2) in the table of contents, by striking out the items relating to parts D, G, and H of title III.

SEC. 6147. The Energy Conservation and Production Act is amended—

(1) by striking out title III, relating to building energy performance standards;

(2) by striking out parts A, B, and C of title IV, relating to weatherization assistance for low-income persons, State energy conservation plans, and national energy conservation demonstration; and

(3) in the table of contents by striking out the items relating to title III, and parts A, B, and C of title IV.

SEC. 6148. (a)(1) Title II of the Powerplant and Industrial Fuel Use Act of 1978 is amended by striking out section 202 (42 U.S.C. 8312), relating to fuel use prohibitions on new major fuel-burning installations.

(2) Section 103(a) of such Act (42 U.S.C. 8302) is amended—

(A) by striking out paragraph (11);

(B) in paragraph (12), by striking out subparagraph (C) and by amending paragraph (12)(A) to read as follows:

"(12)(A) The term 'existing major fuel-burning installation' means any installation on which construction or acquisition began on a date before the date of the enactment of this Act.";

(C) in paragraph (13)(B)(ii), by inserting "or" at the end of subclause (I), by striking out "; or" at the end of subclause (II) and inserting a period, and by striking out subclause (III).

(3) Section 211 of such Act (42 U.S.C. 8321) is amended by striking out subsection (d) and by striking out "or 202" where it appears in subsection (a)(3).

(4)(A) Section 212(a)(2) of such Act (42 U.S.C. 8322(a)(2)) is amended to read as follows:

"(2) The demonstration required to be made by a petitioner under paragraph (1) shall be made with respect to the site of the powerplant and reasonable alternative sites.".

(B) Section 212(d) of such Act (42 U.S.C. 8322(d)) is amended by striking out paragraph (2), by striking out "(1)" in paragraph (1), and by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively.

(C) Section 212 of such Act (42 U.S.C. 8322) is amended by striking out subsections (i) and (j).

(5) The following provisions are each amended by striking out "or installation" each place it appears therein:

(A) subsections (a), (b), (c), and (e) of section 211;

(B) subsections (a), (b), (d), and (e) of section 212;

(C) subsection (a) of section 213; and

(D) subsection (a) of section 214.

(6) The table of contents for such Act is amended by striking out the item relating to section 202.

(b)(1) Section 301 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8341) is amended by striking out subsections (a), (b), and (c), and by inserting in lieu thereof the following:

(a) Authority of Secretary to Prohibit Where Coal or Alternate Fuel Capability Exists.—The Secretary may prohibit, in accordance with section 303 (a), or (b), the use of petroleum or natural gas, or both, as a primary energy source in any existing powerplant, if the owner and operator of that powerplant certify to the Secretary that—

"(1) such powerplant has or previously had the technical capability to use coal or another alternate fuel as a primary energy source;

"(2) such powerplant has the technical capability to use coal or another alternate fuel as a primary energy source, or it could have such capability without—

"(A) substantial physical modification of the powerplant, or

"(B) substantial reduction in the rated capacity of the powerplant; and

"(3) it is financially feasible to use coal or another alternate fuel as a primary energy source in such powerplant.

"(b) Authority of Secretary To Prohibit Excessive Use in Mixtures.—In the case of any existing electric powerplant for which the owner and operator of that powerplant certify to the Secretary that it is technically and financially feasible to use a mixture of petroleum or natural gas and coal or an alternate fuel as a primary energy source, the Secretary may prohibit, in accordance with section 303(a), the use of petroleum or natural gas, or both, in such powerplant in amounts in excess of the minimum amount necessary to maintain reliability of operation of the unit consistent with maintaining reasonable fuel efficiency of such mixture.

"(c) Certification Under Subsection (a) or (b) May be Modified in Certain Circumstances.—The owner and operator of any such powerplant may amend any certification under subsection (a) or (b) at any time in order to take into account changes in relevant facts and circumstances; except that no amendment to such a certification may be made after the date of any final prohibition under subsection (a) or (b) based on that certification.".

(2) Section 303(a)(1) of such Act is amended by striking out "section 301 (b) or (c)" and inserting in lieu thereof "section 301 (a) or (b)".

(3) Section 303(b)(1) of such Act is amended by striking out "section 301(b)" and inserting in lieu thereof "section 301(a)".

(4)(A) Except with respect to any powerplant subject to an election under subparagraph (B), the amendments made by paragraphs (1), (2), and (3) shall take effect on the date of the enactment of this Act and shall apply, subject to section 762 of such Act, with respect to any powerplant whether or not an order has been proposed or made final before such date of enactment which covers that powerplant.

(B) The owner and operator of any powerplant issued a proposed or final order under the provisions of subsections (b) and (c) of section 301 of such Act before the date of the enactment of this Act may elect to have such provisions, as in effect before such date of enactment, continue to apply with respect to such powerplant, notwithstanding the amendments made by paragraphs (1), (2), and (3) of this subsection.

(C) An election under subparagraph (B) shall be made in such form and manner as the Secretary of Energy shall, within 90 days after such date of enactment, prescribe. Such an election shall be made not later than 60 days after the date on which the Secretary of Energy prescribes the form and manner of making such election.

(c) Section 402(b)(1) of such Act is amended—

(1) by inserting "(other than any outdoor lighting fixture which was installed before

the date of the enactment of this Act for use in connection with a residence and for which natural gas was being provided on such date of enactment)" after "use in outdoor lighting", and

(2) in subparagraph (C), by striking out the dash and all that follows through "residence," and inserting in lieu thereof "any municipal outdoor lighting fixture".

Subchapter D—Nuclear Regulatory Commission Program Savings

SEC. 6151. (a) There is hereby authorized to be appropriated to the Nuclear Regulatory Commission in accordance with the provisions of section 261 of the Atomic Energy Act of 1954 (42 U.S.C. 2017) and section 305 of the Energy Reorganization Act of 1974 (42 U.S.C. 5875), for the fiscal years 1982 and 1983 to remain available until expended $486,572,600 for fiscal year 1982 and $514,665,400 for fiscal year 1983 to be allocated as follows:

(1) Not more than $74,797,800 for fiscal year 1982 and $78,280,000 for fiscal year 1983, may be used for "Nuclear Regulatory Regulation".

(2) Not more than $61,513,000 for fiscal year 1982 and $62,564,600 for fiscal year 1983, may be used for "Inspection and Enforcement".

(3) Not more than $17,591,000 for fiscal year 1982 and $17,630,000 for fiscal year 1983, may be used for "Standards Development".

(4) Not more than $45,766,000 for fiscal year 1982 and $47,059,600 for fiscal year 1983, may be used for "Nuclear Material Safety and Safeguards".

(5) Not more than $227,301,200 for fiscal year 1982 and $247,136,400 for fiscal year 1983, may be used for "Nuclear Regulatory Research".

(6) Not more than $18,757,200 for fiscal year 1982 and $20,197,800 for fiscal year 1983, may be used for "Program Technical Support".

(7) Not more than $40,846,400 for fiscal year 1982 and $41,797,000 for fiscal year 1983, may be used for "Program Direction and Administration".

(b) The Commission may use not more than 1 per centum of the amounts authorized to be appropriated under paragraph (5) of subsection (a) to exercise its authority under section 31 a. of the Atomic Energy Act of 1954 to enter into grants and cooperative agreements with universities pursuant under that section. Such grants should be made with the Commission paying close attention to opportunities for entering into agreements with appropriate historically predominantly minority universities and research centers. Grants made by the Commission shall be made in accordance with the Federal Grants and Cooperative Agreements Act of 1977 and other applicable law.

(c)(1) Not more than $500,000 of the amount appropriated for a fiscal year to the Nuclear Regulatory Commission under any paragraph of subsection (a) for purposes of the program specified in that paragraph may be used by the Commission in that fiscal year for purposes of a program referred to in any other paragraph of subsection (a), and the amount available for appropriations for a fiscal year for purposes of any program specified in any paragraph of subsection (a) may not be reduced for that fiscal year by more than $500,000.

(2) The limitations on reprogramming contained in paragraph (1) shall not apply where the Commission submits to the Committee on Interior and Insular Affairs and the Committee on Energy and Commerce of the United States House of Representatives and to the Committee on Environment and Public Works of the United States Senate a notification containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied on in support of such proposed action, and if—

(A) each such committee, before the expiration of a 30-day period, transmits to the Commission a written notification that the committee does not object to the proposed action; or

(B) a 30-day period passes during which no such committee transmits to the Commission a written notification that the committee disapproves of the proposed action.

The 30-day period referred to in this paragraph shall commence upon the receipt by each such committee of the notice referred to in the preceding sentence. In computing such period there shall not be taken into account any day in which either House of Congress is not in session because of an adjournment of more than three calendar days to a day certain or an adjournment sine die. Each committee referred to in this paragraph may approve or disapprove a proposal of the Commission under this paragraph in such manner as such committee deems appropriate.

SEC. 6152. Moneys received by the Commission for the cooperative nuclear research programs may be retained and used for salaries and expenses associated with those programs, notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484), and shall remain available until expended.

SEC. 6153. During the fiscal years 1982 and 1983, transfers of sums from salaries and expenses of the Nuclear Regulatory Commission may be made to other agencies of the United States Government for the performance of work for which the appropriation is made, and in such cases the sums so transferred may be merged with the appropriation so transferred.

SEC. 6154. Notwithstanding any other provison of this subchapter, no authority to make payments hereunder shall be effective except to the extent or in such amounts as are provided in advance in appropriation Acts.

SEC. 6155. (a) Of the amounts authorized to be appropriated pursuant to paragraph (7) of subsection (a) of section 6151, such sums as may be necessary shall be available for interim consolidation of Nuclear Regulatory Commission headquarters staff offices in the District of Columbia and, to the extent necessary, in Bethesda, Maryland.

(b) No amount authorized to be appropriated under this Act may be used, in connection with the interim consolidation of Nuclear Regulatory Commission offices, to relocate the offices of members of the Commission outside of the District of Columbia.

SEC. 6156. Of the amounts authorized to be appropriated under section 6151, the Nuclear Regulatory Commission may use such sums as may be necessary to issue temporary operating licenses for nuclear power reactors as provided in section 192 of the Atomic Energy Act of 1954, as amended, except that such temporary operating licenses may be issued—

(1) in advance of the conduct or completion of any hearing required by section 192 or by section 189 of such Act, and

(2) without regard to subsection (d) of such section 192 and the findings required by subsection (b)(3) of that section.

SEC. 6157. Of the amounts authorized to be appropriated under section 6151, the Nuclear Regulatory Commission may use such sums as may be necessary to issue and make immediately effective amendments to licenses for nuclear power reactors where the Commission determines that an amendment involves no significant hazards consideration. Such an amendment may be issued and made immediately effective—

(1) in advance of the conduct and completion of any required hearing, and

(2) without providing the prior notice and publication in the Federal Register referred to in section 189 of the Atomic Energy Act of 1954.

In all other respects the amendment shall meet the requirements of the Atomic Energy Act of 1954.

SEC. 6158. Of the amounts authorized to be appropriated by section 6151, such sums as may be necessary shall be used by the Nuclear Regulatory Commission to recommend legislation and regulations which if taken together would reduce by one-half the time for the filing, review and issuance of construction permits, operating licenses and license amendments for a facility for which an application is filed on or after October 1, 1981, under sections 103, 104(b), or 189 of the Atomic Energy Act of 1954, as amended.

(b) The recommended regulations and legislation shall be transmitted to Congress pursuant to this section on or before December 31, 1981, along with a report on each of the proposed regulations and legislation which describes their expected impact on reducing and stabilizing the time required to issue construction permits, operating licenses, license amendments, safety assurance, judicial review, staff resources, and public participation.

SEC. 6159. Of the amounts authorized to be appropriated under section 6151 for the Office of Nuclear Materials, Safety and Safeguards, such sums as may be necessary shall be used by the Nuclear Regulatory Commission to promptly enter into a memorandum of understanding with the Department of Energy specifying interagency procedures for the disposition of radioactive materials resulting from the cleanup of Three Mile Island Unit 2, except those materials approved for disposition prior to the effective date of this Act.

SEC. 6160. Of the amount authorized to be appropriated under section 6151, the Nuclear Regulatory Commission may use such sums as may be necessary, in the absence of a State or local emergency preparedness plan which has been approved by the Federal Emergency Management Agency, to issue an operating license for a nuclear power reactor, if it determines that there exists a State, local or utility plant which provides reasonable assurance that public health and safety is not endangered by operation of the facility concerned.

SEC. 6161. No funds authorized to be appropriated under this subchapter may be used by the Commission to promulgate or publish a safety goal for nuclear reactor regulation until public hearings have been conducted by the Commission respecting the establishment of such safety goal. Development of a safety goal for nuclear reactor regulation should be expedited, to the maximum extent practicable, so as to allow for the establishment of a safety goal by the Commission no later than December 31, 1981.

Subtitle C—Matters Under the Jurisdiction of the Subcommittee on Health and the Environment

Chapter 1—OMNIBUS HEALTH PROGRAMS AMENDMENTS

SHORT TITLE AND REFERENCES IN CHAPTER

SEC. 6201. (a) This chapter may be cited as the "Health Amendments of 1981".

(b) Whenever in this chapter an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act unless otherwise specifically stated.

TRANSFER OF HEALTH CARE TECHNOLOGY ACTIVITIES TO THE NATIONAL CENTER FOR HEALTH CARE TECHNOLOGY AND HEALTH SERVICES RESEARCH

Sec. 6202. (a) Section 309 is repealed.

(b) Section 305(b) is amended—

(1) by redesignating paragraphs (1) through (4) as subparagrahs (A) through (D),

(2) by inserting the paragraph designation "(1)" after the subsection designation "(b)", and

(3) by adding at the end the following paragraphs:

"(2) The Center shall make recommendations to the Secretary respecting health care technology issues in the administration of the laws under the Secretary's jurisdiction, including recommendations with respect to reimbursement policy.

"(3) In carrying out section 304(a), the Secretary, acting through the Center, may undertake and support research, evaluation, and demonstration projects respecting—

"(A) the factors that affect the use of health care technology in the United States;

"(B) methods for disseminating information on health care technologies; and

"(C) the effectiveness, cost effectiveness, and social, ethical, and economic impacts of particular medical technologies.

"(4)(A) In carrying out paragraph (2), the Center shall consult with appropriate public and private entities.

"(B) In carrying out section 304(a)(2)(E) and paragraph (3) of this subsection, the Secretary shall consult with appropriate public and private entities.

"(5) No activity or project described in section 304(a)(2)(E) or paragraph (3) of this subsection may be conducted, undertaken, or supported unless the Secretary determines that such activity or project is not substantially similar to an activity or project of a Federal entity other than the Center.".

(c)(1) Section 304 is amended by striking out "the National Center for Health Services Research, the National Center for Health Statistics, and the National Center for Health Care Technology" each place it occurs and inserting instead "the National Center for Health Care Technology and Health Services Research and the National Center for Health Statistics".

(2) Section 304(a)(3) is amended by striking out "305, 306, and 309" and inserting instead "305 and 306".

(3) Section 305(a) is amended by inserting "Health Care Technology and" after "National Center for".

(4) The first sentence of section 305(d)(1) is amended by striking out "health services," and inserting instead "health services and health care technology".

(5) The heading to section 305 is amended by inserting "health care technology and" after "national center for".

(6) Section 308(a)(1) is amended by striking out "and section 309".

(7) The matter in section 308(a)(2) preceding subparagraph (A) is amended by inserting "Health Care Technology and" before "Health Services Research".

(8) Section 308(b)(1) is amended by striking out "307, and 309" and inserting instead "and 307".

(9) The first sentence of section 308(b)(2) is amended by inserting "or health care technology" after "health services".

(10) Subsections (d) and (e) of section 308 are each amended by striking out "307, or 309" each place it occurs and inserting instead "or 307".

(11) Section 308(f) is amended by striking out "306, or 309" and inserting instead "or 306".

(12) Section 308(g)(2) is amended by striking out "306, and 309" and inserting instead "and 306".

(13) Section 308(h)(1) is amended by striking out "306, or 309" each place it occurs and inserting instead "or 306".

(14) the second sentence of section 308(i)(1) is amended—

(A) by inserting "and health care technology" after "health services", and

(B) by inserting "Health Care Technology and" after "National Center for".

(15) The heading to section 308 is amended by striking out "307, and 309" and inserting instead "and 307".

(d)(1) Section 307(a) is amended by striking out "and statistical" and inserting instead ", statistical, and health care technology".

(2) Section 307(b) is amended—

(A) in paragraph (5), by striking out "or health statistics" and inserting instead ", health statistics, or health care technology", and

(B) in paragraph (6), by striking out "and programs of biomedical research, health services research, and health statistical activities" and inserting instead "or programs of biomedical research, health services research, health statistical activities, or health care technology activities".

(e) Section 308(d)(2) is amended by inserting "or health care technology" after "health services".

APPROPRIATION AUTHORIZATIONS FOR HEALTH SERVICES RESEARCH AND HEALTH CARE TECHNOLOGY ACTIVITIES AND AMENDMENTS TO HEALTH SERVICES RESEARCH AUTHORITIES

SEC. 6203. (a) The first sentence of section 308(i)(1) is amended to read as follows: "For health services and health care technology research, demonstration, and evaluation activities undertaken or supported under section 304 or 305, there are authorized to be appropriated $13,449,000 for fiscal year 1982 and such sums as may be necessary for each of the two succeeding fiscal years.".

(b) Section 305(d)(1) is amended—

(1) in the first sentence, by striking out "shall" and inserting instead "may", and

(2) by striking out the second sentence.

(c) Section 308(d)(2) is amended by striking out "$35,000" and inserting instead "$50,000".

APPROPRIATION AUTHORIZATIONS FOR AND AMENDMENTS CONCERNING HEALTH STATISTICS ACTIVITIES

SEC. 6204. (a) Section 308(i)(2) is amended—

(1) by striking out "and" after "1980,", and

(2) by inserting ", $35,532,000 for the fiscal year ending September 30. 1982, and such sums as may be necessary for each of the two succeeding fiscal years" after "1981".

(b) The first sentence of section 304(d)(1) is amended—

(1) by striking out ", with funds appropriated under section 308(i)(2),", and

(2) by striking out "the Council on Wage and Price Stability.".

(c)(1) Section 306(e) is repealed.

(2) Section 306(k)(4)(D) is amended by striking out ", with respect to the Cooperative Health Statistics System established under subsection (e),".

(d)(1) Section 306(l) is repealed.

(2) The matter is section 308(d) preceding clause (1) is amended by striking out "by guidelines in effect under section 306(1)(2) or".

SECRETARIAL DISCRETION IN DETERMINING EXTENT AND MEANS OF TRAINING SUPPORT IN THE AREAS OF HEALTH STATISTICS, HEALTH SERVICES RESEARCH, AND HEALTH CARE TECHNOLOGY

SEC. 6205. Section 304(a)(3) is amended—

(1) by striking out "shall" and inserting instead "may", and

(2) by striking out "and" the first three places it occurs and inserting instead "cc".

INCREASED PROTECTION FOR HEALTH SERVICES RESEARCH, HEALTH CARE TECHNOLOGY, AND HEALTH STATISTICS INFORMATION

SEC. 6206. The matter in section 308(a) preceding clause (1) (as amended by section 6204 (d)(2) of this chapter) is amended by striking out "unless authorized under regulations of the Secretary".

APPROPRIATION AUTHORIZATIONS FOR AND AMENDMENTS CONCERNING NATIONAL RESEARCH SERVICE AWARDS

SEC. 6207. (a) The first sentence of section 472(d) is amended—

(1) by striking out "and" after "1980,", and

(2) by inserting ", $147,321,000 for fiscal year ending September 30, 1982, and such sums as may be necessary for each of the two succeeding fiscal years" after "1981".

(b)(1) Section 472(a)(3) is amended to read as follows:

"(3) In awarding National Research Service Awards under this section, the Secretary shall take account of the Nation's overall need for biomedical research personnel by giving special consideration to physicians who agree to undertake a minimum of two years biomedical research.".

(2) Section 473 is repealed.

(c) The first sentence of section 472(b)(5) is amended by inserting ", tuition, fees," after "stipends".

(d) Section 472(b)(5) is amended by striking out the last two sentences.

(e) Paragraphs (1)(A) and (2) of section 472(c) are each amended by inserting "(other than for undergraduate training)" after "National Research Service Award".

(f)(1) Section 472(c)(1) is amended—

(A) in subparagraph (A)(ii), by striking out "serve as a member of the National Health Service Corps or serve in his specialty" and inserting instead "engage in full-time professional activities for any Federal agency, engage in the full-time clinical practice of his specialty as may be requested by a State or local governmental entity, or provide services in his specialty for a health maintenance organization", and

(B) in subparagraph (B)—

(i) in the matter preceding clause (i), by inserting "as specified" after "authorized",

(ii) by striking out the text of clause (i) and inserting instead "engage in full-time

professional activities for any Federal agency; or engage in the full-time practice of his specialty as may be requested by a State or local governmental entity,".

(iii) by adding "or" at the end of clause (ii), and

(iv) by adding after clause (ii) the following clause:

"(iii) engage in the full-time private clinical practice (including service as a salaried employee in an entity directly providing health services) of his specialty in a health manpower shortage area designated under section 332 pursuant to a written agreement as specified in section 753(b),".

(2) Section 472(c)(2) is amended—

(A) in the matter preceding subparagraph (A), by striking out "three" and inserting "twelve" instead, and

(B) in subparagraph (A), by striking out "or, if so authorized, serve as a member of the National Health Service Corps,".

(3) The second sentence of section 472(c)(3) is amended—

(A) by striking out "(A)",

(B) by striking out all that follows "he deems necessary" and inserting a period instead, and

(C) by striking out "(i)" and "(ii)" and inserting instead "(A)" and "(B)", respectively.

EMERGENCY AND OTHER PUBLIC HEALTH RESPONSIBILITIES OF THE SECRETARY OF HEALTH AND HUMAN SERVICES

SEC. 6208. (a) Section 104(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended—

(1) in the matter preceding paragraph (1) in the third sentence, by striking out "said Administrator" and inserting instead "the Secretary",

(2) by striking out the last sentence, and

(3) by striking out the first two sentences and inserting instead the following: "The Secretary of Health and Human Services shall provide the Administrator technical assistance and advice as to the health matters involved in effectuating and implementing the provisions of this part.".

(b)(1) The second sentence of section 311(a) is amended—

(A) by striking out "shall" the first place it occurs and inserting instead "may",

(B) by inserting "and other entities" after "political subdivisions",

(C) by inserting "and with respect to other public health matters" after "diseases", and

(D) by striking out "and in carrying out the purposes of section 314".

(2) The first sentence of section 311(b) is amended by striking out "the purposes of section 314" and inserting instead "public health activities".

(3) The first sentence of section 311(c)(1) is amended by striking out "or condition referred to in section 317(f)" and "involving or resulting from disasters or any such disease".

(4) The second sentence of section 311(c)(1) is amended by striking out "resulting from disasters or any disease or condition referred to in section 317(f)".

(c) Section 311(c)(2) is amended—

(1) in the first sentence, by striking out "forty-five days" and inserting instead "six months", and

(2) by inserting the following after the first sentence: "The Secretary, in determining the amount of such assistance to be provided, shall take into consideration State, local, and private resources which are (or could have been, with reasonable foresight) available for meeting the emergency.".

APPROPRIATION AUTHORIZATIONS FOR IMMUNIZATION PROGRAMS

SEC. 6209. Section 317(j)(1)(A) is amended—

(1) by striking out "and" after "1980,", and

(2) by inserting ", $26,000,000 for the fiscal year ending September 30, 1982, $29,000,000 for the fiscal year ending September 30, 1983, and $32,000,000 for the fiscal year ending September 30, 1984" after "1981,".

APPROPRIATION AUTHORIZATIONS FOR PREVENTION AND CONTROL OF VENEREAL DISEASE

SEC. 6210. The first sentence of section 318(d)(1) is amended by striking out "and" after "1980," and by inserting before the period a comma and the following: "$40,000,000 for the fiscal year ending September 30, 1982, $40,000,000 for the fiscal year ending September 30, 1983, and $40,000,000 for the fiscal year ending September 30, 1984".

APPROPRIATION AUTHORIZATIONS FOR AND AMENDMENTS CONCERNING ASSISTANCE FOR MEDICAL LIBRARIES

SEC. 6211. (a) Section 390(c) is amended—

(1) by striking out "and" after "1980,", and

(2) by inserting ", $8,925,000 for the fiscal year ending September 30, 1982, and such sums as may be necessary for each of the two succeeding fiscal years" after "1981".

(b)(1) Section 393(a) is amended to read as follows:

"SEC. 393. (a) To carry out the purposes of section 390(b)(1), the Secretary shall make grants to individuals or to public or private nonprofit institutions to assist in training individuals in information sciences related to health.".

(2) The heading to section 393 is amended by striking out "medical library" and inserting instead "information".

(3) Section 390(b)(1) is amended by striking out "medical librarians and other information specialists in the health sciences" and inserting instead "individuals in information sciences as related to health".

(c) Section 394(b) and the first sentence of section 394(a) are each amended by striking out "shall" and inserting instead "may".

LIMITED APPLICABILITY OF CERTAIN ADDITIONAL SPECIAL PAY TO PHYSICIANS IN THE PUBLIC HEALTH SERVICE COMMISSIONED CORPS

SEC. 6212. (a) Section 208(a) is amended—

(1) by inserting the subparagraph designation "(A)" after the paragraph designation "(2)",

(2) by inserting ", except as otherwise provided in subparagraph (B)" before the period, and

(3) by adding at the end the following:

"(B) A commissioned medical officer in the Regular or Reserve Corps may not receive additional special pay under paragraph (4) of 37 U.S.C. 302(a) for any period during which the officer is providing obligated service under section 752 (or under former section 225(e)). Such an officer serving during any other period may be provided additional special pay under that paragraph at the discretion of the Secretary up to the amounts described in that paragraph. The Secretary, in exercising his discretion under the preceding sentence, shall take into consideration the recruitment and retention problems of the Public Health Service, the level of performance of the officer concerned, and provisions of law relating to additional pay for Government physicians not in the uniformed services.".

(b) The amendments made by subsection (a) of this section do not apply to any period of service covered by an agreement, entered into by an officer under 37 U.S.C. 302(c)(1) before the date of enactment of this part.

HANSEN'S DISEASE PROGRAM

SEC. 6213. Section 320 is amended to read as follows:

"HANSEN'S DISEASE PROGRAM

"SEC. 320. (a) The Secretary shall provide for the care and treatment without charge of any person suffering from Hansen's disease who requests care and treatment.

"(b) The Secretary shall make payments to the Board of Health of Hawaii for the care and treatment in its facilities of persons suffering from Hansen's disease at a per diem rate, determined from time to time by the Secretary, which shall, subject to the availability of appropriations, be approximately equal to the per diem operating cost per patient of those facilities, except that the per diem rate shall not be greater than the comparable per diem operating cost per Hansen's disease patient at the Public Health Service hospital in Carville, Louisiana.".

ELIMINATION OR DECREASED FREQUENCY OF CERTAIN REPORTS

SEC. 6214. (a)(1) Sections 227, 316(f), 317(h), 336, 360D, 511, 751(i), 788(g)(4), 1106, 1210, and 1315; section 1200 of the Comprehensive Drug Abuse Prevention and Control Act of 1970; section 302 of the Health Planning and Resources Development Amendments of 1979; and the Marihuana and Health Reporting Act are repealed.

(2) Section 306(k)(4) is amended—

(A) by adding "and" at the end of subparagraph (E),

(B) by striking out "; and" at the end of subparagraph (F) and substituting a period, and

(C) by striking out subparagraph (G).

(3) Section 308(a)(1) is amended—

(A) by striking out clause (A), and

(B) by striking out the clause designation "(B)".

(4) Section 329(f)(5) is amended by striking out the last sentence.

(5) Section 27 of the Toxic Substances Control Act is amended—

(A) by striking out paragraph (1),

(B) by striking out the paragraph designation "(2)", and

(C) in the side heading, by striking out "Annual".

(b)(1) The matter preceding subparagraph (A) of section 308(a)(2) is amended—

(A) by striking out "not later than September 1 of each year", and

(B) by inserting "biennially" after "submit".

(2) Section 434(e) is amended—

(A) in the first sentence—

(i) by striking out "each" and inserting instead "every other", and

(ii) by striking out "an annual" and inserting instead "a biennial", and

(B) in the second sentence, by striking out "annual" and inserting instead "biennial".

(3) Section 435(b) is amended—

(A) by striking out "an annual" and inserting instead "a biennial", and

(B) by striking out "each" and inserting instead "every other".

(4) Section 436(c) is amended—

(A) in the matter preceding paragraph (1), by striking out "an annual" and inserting instead "a biennial", and

(B) by striking out the last sentence.

(5) Section 437(j) is amended—

(A) in the matter preceding paragraph (1), by striking out "an annual" and inserting instead "a biennial", and

(B) by striking out "year" each place it occurs and inserting instead "years".

(6) Section 439(e) is amended—

(A) by striking out "an annual" and inserting instead "a biennial", and

(B) by striking out "each" and inserting instead "every other".

(7) Section 5(h) of the International Health Research Act of 1960 is amended by striking out "each" and inserting instead "every other".

(8) Section 8(a) of the Federal Cigarette Labeling and Advertising Act is amended by striking out "annually" and inserting instead "biennially".

(9) Section 305 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act is amended by striking out "each" and inserting instead "every other".

MISCELLANEOUS

SEC. 6215. Section 434(d)(1) is amended by inserting "musculoskeletal and skin diseases," after "arthritis,".

REPEALS

SEC. 6216. Effective October 1, 1983, titles XV and XVI of the Public Health Service Act are repealed.

CONFORMING PROVISION

SEC. 6127. (a) The repeals made by section 2591 shall not affect (1) the obligations of any entity under a loan made under the Public Health Service Act, or (2) the obligations of the United States under any loan guarantee made under such Act.

(b)(1) If any facility constructed, modernized, or converted with funds provided under title XVI of the Public Health Service Act is, at any time within twenty years after the completion of such construction, modernization, or conversion with such funds, not used as a medical facility, and the Secretary has not determined that there is good cause for termination of such use, the United States shall be entitled to recover from either the transferor or the transferee in the case of a sale or transfer or from the owner in case of termination of use an amount bearing the same ratio to the then value (as determined by the agreement of the parties or by action brought in the district court of the United States for the district in which the facility is situated) of so much of such facility as constituted an approved project or projects, as the amount of the Federal participation bore to the cost of the construction, modernization, or conversion of such project of projects. Such right of recovery shall not constitute a lien upon such facility prior to judgment.

(2) The Secretary may waive the recovery rights of the United States under subsection (a) with respect to a facility in any State if the Secretary determines, in accordance with regulations, that there is good cause for waiving such requirement with respect to such facility. If the amount which the United States is entitled to recover under subsection (a) exceeds 90 per centum of the total cost of the construction or modernization project for a facility, a waiver under this subsection shall only apply with respect to an amount which is not more than 90 per centum of such total cost.

Chapter 2—NATIONAL HEALTH SERVICE CORPS AND HEALTH PROFESSIONS EDUCATION AND NURSE TRAINING

SHORT TITLE AND REFERENCES IN CHAPTER

SEC. 6220. (a) This chapter may be cited as the "Health Professions Personnel Amendments of 1981".

(b) Unless otherwise specifically stated, whenever in this chapter an amendment is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

Subchapter A—National Health Service Corps Programs

REVISION AND EXTENSION OF NATIONAL HEALTH SERVICE CORPS

SEC. 6221. (a)(1) Section 331(a)(1) (42 U.S.C. 254d(a)(1)) is amended to read as follows: "(1) shall consist of—

"(A) such officers of the Regular and Reserve Corps of the Service as the Secretary may designate,

"(B) such civilian employees of the United States as the Secretary may appoint, and

"(C) such other individuals who are not employees of the United States,

(such officers, employees, and individuals hereinafter in this subpart referred to as 'corps members'), and".

(2)(A) Section 331(d)(1) is amended by inserting after "each member of the Corps" the following: "(other than a member described in subsection (a)(1)(C))".

(B) Section 331(d) is amended by adding at the end the following:

"(3) A member of the Corps described in subparagraph (C) of subsection (a)(1) shall when assigned to an entity under section 333 be subject to the personnel system of such entity, except that such member shall receive during the period of assignment the income that the member would receive if the member was a member of the Corps described in subparagraph (B) of such subsection.".

(3) Section 331(h)(1) is amended by striking out ", Education, and Welfare" and inserting in lieu thereof "and Human Services".

(4) Section 331 is amended by redesignating subsections (g) and (h) as subsections (h) and (i), respectively, and by adding after subsection (f) the following new subsection:

"(g)(1) The Secretary shall, by rule, prescribe conversion provisions applicable to any individual who, within a year after completion of service as a member of the Corps described in subsection (a)(1)(C), becomes a commissioned officer in the Regular or Reserve Corps of the Service.

"(2) The rules prescribed under paragraph (1) shall provide that in applying the appropriate provisions of this Act which relate to retirement, any individual who becomes such an officer shall be entitled to have credit for any period of service as a member of the Corps described in subsection (a)(1)(C).".

(b)(1) Section 332(a)(1) (42 U.S.C. 254e(1)) is amended by striking out "which the Secretary determines" each place it occurs and inserting in lieu thereof "which as determined under this section".

(2) Section 332(c) is repealed.

(3) Section 333(c) is amended by adding after paragraph (4) the following: "At least ninety days before approving such an application, the Secretary shall provide the appropriate health professions societies in the area to which an assignment would be made under the application the opportunity to submit comments on the assignment.".

(c) Section 332(h) is amended (1) by inserting "(1)" before "to inform", and (2) by inserting before the period a comma and the following: "and (2) to inform such entities and other individuals and entities who may be interested in the availability of health professions personnel of the provisions of section 753 which allow an individual to satisfy a National Health Service Corps Scholarship Program service obligation through the private practice of the individual's health profession".

(d)(1) Subsection (a) of section 333 (42 U.S.C. 254f) is amended by adding at the end the following:

"(3) In approving applications for assignment of members of the Corps the Secretary shall not discriminate against applications from entities which are not receiving Federal financial assistance under this Act.".

(2) Effective October 1, 1981, section 333 is amended by redesignating subsections (d) through (h) as subsections (e) through (i), respectively, and by adding after subsection (c) the following new subsection:

"(d)(1) The Secretary may not approve an application for the assignment of a member of the Corps described in subparagraph (C) of section 331(a)(1) to an entity unless the application of the entity contains assurances satisfactory to the Secretary that the entity (A) has sufficient financial resources to provide the member of the Corps with an income of not less than the income to which the member would be entitled if the member was a member described in subparagraph (B) of section 331(a)(1), or (B) would have such financial resources if a grant was made to the entity under paragraph (2).

"(2)(A) If in approving an application of an entity for the assignment of a member of the Corps described in subparagraph (C) of section 331(a)(1) the Secretary determines that the entity does not have sufficient financial resources to provide the member of the Corps with an income of not less than the income to which the member would be entitled if the member was a member described in subparagraph (B) of section 331(a)(1), the Secretary may make a grant to the entity to assure that the member of the Corps assigned to it will receive during the period of assignment to the entity such an income.

"(B) The amount of any grant under subparagraph (A) shall be determined by the Secretary. Payments under such a grant may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary. No grant may be made unless an application therefor is submitted to and approved by the Secretary. Such an application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.".

(e)(1) Section 334(a) (42 U.S.C. 254g(a)) is amended by inserting "for the assignment of a member of the Corps" after "section 333".

(2) Section 334(a)(3)(A) is amended by inserting "from the United States" after "received by such member".

(3) Section 334(a)(3)(C) is amended (A) by inserting "or a grant under section 333(d)(2)" after "section 335(c)", and (B) by inserting "or grant" after "such loan" each time it occurs.

(4) Section 334(b) is amended by adding at the end the following:

"(4) In determining whether to grant a waiver under paragraph (1) or (2), the Secretary shall not discriminate against a public entity.".

(5) Subsection (e) of section 334 is amended to read as follows:

"(e)(1) There is established in the Treasury of the United States a revolving fund to be called the National Health Service Corps Fund (hereinafter in this subsection referred to as the 'Fund') which shall be available to the Secretary, without fiscal year limitation, to carry out this subpart.

"(2) There shall be deposited in the Fund, subject to withdrawal by check by the Secretary—

"(A) funds received by the Secretary after September 30, 1981, under an agreement entered into under subsection (a), and

"(B) interest which may be earned on investments of the Fund.

"(3) If the Secretary determines that the moneys of the Fund are in excess of current needs, the Secretary may request the investment of such amounts as the Secretary deems advisable by the Secretary of the Treasury in obligations of, or obligations guaranteed by, the Government of the United States, and, with the approval of the Secretary of the Treasury, in such other obligations or securities as it deems appropriate.

"(4) With the approval of the Secretary of the Treasury, the Secretary of Health and Human Services may deposit moneys in the Fund in any Federal Reserve bank, any depository for public funds, or in such other places and in such manner as the Secretary of Health and Human Services and the Secretary of the Treasury may mutually agree.

"(5) The Fund and the funds credited to it shall not be subject to apportionment under section 3679 of the Revised Statutes (31 U.S.C. 665).".

(f) Section 338(a) (42 U.S.C. 254k) is amended (1) by striking out "and" after "1979;", and (2) by adding before the period a semicolon and the following: "$85,000,000 for the fiscal year ending September 30, 1982; $85,000,000 for the fiscal year ending September 30, 1983; and $85,000,000 for the fiscal year ending September 30, 1984".

REVISION AND EXTENSION OF NATIONAL HEALTH SERVICE CORPS SCHOLARSHIP PROGRAM

SEC. 6222. (a)(1) Paragraphs (1) through (4) of section 752(b) (42 U.S.C. 294u(b)) are amended to read as follows:

"(b)(1) If an individual is required under subsection (a) to provide service as specified in section 751(f)(1)(B)(iv) (hereinafter in this subsection referred to as 'obligated service'), the Secretary shall, not later than ninety days before the date described in paragraph (5), determine if the individual shall provide such service—

"(A) as a member of the Corps who is a commissioned officer in the Regular or Reserve Corps of the Service or who is a civilian employee of the United States, or

"(B) as a member of the Corps who is not such an officer or employee,

and shall notify such individual of such determination.

"(2) If the Secretary determines that an individual shall provide obligated service as a member of the Corps who is a commissioned officer in the Service or a civilian employee of the United States, the Secretary shall, not later than sixty days before the date described in paragraph (5), provide such individual with sufficient information regarding the advantages and disadvantages of service as such a commissioned officer or civilian employee to enable the individual to make a decision on an informed basis. To be eligible to provide obligated service as a commissioned officer in the Service, an individual shall notify the Secretary, not later than thirty days before the date described in paragraph (5), of the individual's desire to provide such service as such an officer. If an individual qualifies for an appointment as such an officer, the Secretary shall, as soon as possible after the date described in paragraph (5), appoint the individual as a commissioned officer of the Regular or Reserve Corps of the Service and shall designate the individual as a member of the Corps.

"(3) If an individual provided notice by the Secretary under paragraph (2) does not qualify for appointment as a commissioned officer in the Service, the Secretary shall, as soon as possible after the date described in paragraph (5), appoint such individual as a civilian employee of the United States and designate the individual as a member of the Corps.

"(4) If the Secretary determines that an individual shall provide obligated service as a member of the Corps who is not an employee of the United States, the Secretary shall, as soon as possible after the date described in paragraph (5), designate such individual as a member of the Corps to provide such service.".

(2)(A) Subsection (c)(1) of section 752 is amended by striking out "or as a member of the Corps" and inserting in lieu thereof "or is designated as a member of the Corps under subsection (b)(3) or (b)(4)".

(B) The second sentence of subsection (d) of section 752 is amended by inserting after "written contract" the following: "and if such individual is an officer in the Service or a civilian employee of the United States".

(b) Subsection (e) of section 752 is amended to read as follows:

"(e) Notwithstanding any other provision of this title, service of an individual under a National Research Service Award awarded under subparagraph (A) or (B) of section 472(a)(1) shall be counted against the period of obligated service which the individual is required to perform under the scholarship program.".

(c)(1) Section 752 is amended by adding at the end the following:

"(f) The Secretary may permit an individual to satisfy all or part of his service obligation under this subpart by engaging in the clinical practice of his profession in any location (whether or not in a health manpower shortage area as defined in section 332(a))—

"(1) for the Department of Health and Human Services,

"(2) for the Department of Defense,

"(3) for the Veterans' Administration, or

"(4) as may be requested by a State or local governmental entity

for a period of full-time practice equal to (or a longer period of other than full-time practice equivalent to) the remaining period of obligated service. Funds appropriated under this subpart may not be used to pay for services performed under this subsection.

"(g) The Secretary may from time to time release up to a specified number of individuals from their service obligation under this subpart who have reached the date described in section 752(d)(5) but who have not yet begun their period of obligated service. He shall require as a condition for a release that an individual agree to pay to the United States, within such time as the Secretary may specify, the sum of the amounts paid under this subpart to or on behalf of the individual and the interest on such amounts which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum legal prevailing rate as determined by the Secretary of the Treasury. If more eligible individuals apply for such a release than the number specified by the Secretary, the Secretary shall select by lottery those to be released.".

(2) Section 752(a) is amended by inserting "in subsection (e), (f), or (g) or" before "in section 753".

(3) Section 752(D)(4) is amended by striking out "and" and inserting in lieu thereof ", in subsection (e), (f), or (g), or".

(4) Section 754(d) is amended by striking out "of damages" each place it occurs.

(d)(1) Section 753(b)(1)(B) (42 U.S.C. 294v(b)(1)(B)) is amended (A) by inserting "(i)" before "shall not", and (B) by inserting before the semicolon a comma and the following: "and (ii) shall agree to accept an assignment under section 1842(b)(3)(B)(ii) of such Act for all services for which payment may be made under part B of title XVIII of such Act and enter into an appropriate agreement with the State agency which administers the State plan for medical assistance under title XIX of such Act to provide services to individuals entitled to medical assistance under the plan".

(2) Section 753 is amended by adding the following new subsections:

"(c) If an individual breaches the contract entered into under section 751 by failing (for any reason) to begin his service obligation in accordance with an agreement entered into under subsection (a) or to complete such service obligation, the Secretary may permit such individual to perform such service obligation as a member of the Corps.

"(d) The Secretary shall, upon request, provide technical assistance to individuals who are considering entering into an agreement under subsection (a) or have entered into such an agreement to assist them in the establishment of their clinical practice under the agreement.".

(3) Section 751(c)(2) is amended by inserting "information respecting meeting a service obligation through private practice under an agreement under section 753 and" after "(2)".

(4)(A) Subsection (a) of section 753 is amended by inserting "or under section 225 (as in effect on September 30, 1977)" after "section 752(a)".

(B) Section 754(c) (42 U.S.C. 294w(c)) is amended (i) by striking out "(c) If" and inserting in lieu thereof "(c)(1) Except as provided in paragraph (2), if", and (ii) by adding at the end the following:

"(2) If an individual is released under section 753 from a service obligation under section 225 (as in effect on September 30, 1977) and if the individual does not meet the service obligation incurred under section 753, subsection (f) of such section 225 shall apply to such individual in lieu of paragraph (1) of this subsection.".

(C) Section 735(c)(1) (42 U.S.C. 294h(c)(1)) is amended by striking out "clauses (A) and (B) of".

(e)(1) The first sentence of section 756(a) is amended (A) by striking out "and" after "1979," and (B) by inserting before the period a comma and the following: "$38,000,000 for the fiscal year ending September 30, 1982, $38,000,000 for the fiscal year ending September 30, 1983, and $38,000,000 for the fiscal year ending September 30, 1984".

(2) The second sentence of such section is repealed.

(3) Such section is amended by striking out "(a)" after "756." and by striking out subsection (b).

(f) The amendments made by subsection (a) shall apply with respect to contracts entered into under the National Health Service Corps scholarship program under subpart III of part C of title VII of the Public Health Service Act after the date of the enactment of this Act. An individual who before such date has entered into such a contract and who has not begun the period of obligated service required under such contract shall be given the opportunity to revise such contract to permit the individual to serve such period as a member of the National Health Service Corps who is not an employee of the United States.

Subchapter B—Health Professions Programs

GENERAL PROVISIONS

SEC. 6225. Section 700 (42 U.S.C. 292) (relating to limitation of use of appropriations) is repealed.

REPEAL OF CAPITATION

SEC. 6226. (a)(1) Paragraph (2) of section 770(c) is amended—

(A) in the first sentence, by striking out "For purposes of this section, the" and inserting instead "The", and

(B) in the last sentence, by striking out "and for purposes of section 771, students enrolled in the first of the last four years of such programs shall be considered as first-year students".

(2) That paragraph is renumbered as paragraph (11) and is transferred to the end of section 701.

Section 731(a)(1)(A)(ii) is amended by striking out "770(C)(2)" and inserting instead "701(11)".

(b) Part E of title VII is repealed.

(c)(1) Sections 331(g) and 751(j) are repealed.

(2) Section 703 is amended—

(A) by striking out subsection (b), and

(B) by striking out the subsection designation "(a)".

(3) Section 708(c) is amended—

(A) by striking out the first sentence, and

(B) by striking out "additional" in the second sentence.

(4) Section 710(1) is amended by striking out "except for grants under section 770,".

(5) Section 737 is amended—

(A) by striking out paragraph (2), and

(B) by amending paragraph (1) to read as follows:

"(1) The term 'eligible institution' means, with respect to a fiscal year, a school of medicine, osteopathy, dentistry, optometry, pharmacy, podiatry, veterinary medicine, or public health within the United States that is accredited by a recognized body or bodies approved for such purpose by the Secretary of Education, except that a new school which (by reason of no, or an insufficient, period of operation) is not, at the time of application for insurance for a loan under this subpart, eligible for accreditation by such a recognized body or bodies, shall be deemed accredited for purposes of this part if the Secretary of Education finds, after consultation with the appropriate accreditation body or bodies, that there is reasonable assurance that the school will meet the accreditation standards of such body or bodies prior to the beginning of the academic year following the normal graduation date of the first entering class in such school.".

(6) The first sentence of section 853(6) is amended by striking out clause (B).

REPEAL OF CONSTRUCTION AUTHORITIES

SEC. 6227. (a) Section 722 is amended to read as follows:

"PAYMENTS

"SEC. 722. The Secretary shall reserve, from any appropriation available for a grant for a construction project under this part, the amount of such grant; the amount so reserved may be paid in advance or by way of reimbursement, and in such installments consistent with construction progress, as the Secretary may determine. The Secretary's reservation of any amount under this section may be amended by him, either upon approval of an amendment of the application or upon revision of the estimated cost of construction of the facility.".

(b) Section 803 is amended to read as follows:

"PAYMENTS

"SEC. 803. The Secretary shall reserve, from any appropriation available for a grant for a construction project under this subpart, the amount of such grant; the amount so reserved may be paid in advance or by way of reimbursement, and in such installments consistent with construction progress, as the Secretary may determine. The Secretary's reservation of any amount under this section may be amended by him, either upon approval of an amendment of the application or upon revision of the estimated cost of construction of the facility.".

(c) Section 723 is amended—

(1) by inserting "former" before "section 720(a)(1)" and "section 720(a)(2)",

(2) by striking out "section 722" and inserting instead "former section 722(d)",

(3) in subsection (a)(2), by inserting "(including the lack of further need for the teaching, research, or other capacity)" after "good cause", and

(4) in subsection (b)(2), by inserting "(including the lack of further need for the training capacity)" after "good cause".

(d) Section 804 is amended by inserting "(including the lack of further need for the training capacity)" after "good cause".

(e) Section 724 is amended to read as follows:

"REGULATIONS

"SEC. 724. The Secretary may make such regulations as he finds necessary to carry out the provisions of this part.".

(f) Sections 720, 721, 725, 801, and 802, subsections (a), (b), (c), and (f) of section 726, and subsection (a), (b), (c), and (f) of section 805 are repealed.

(g)(1) Section 701(3) is amended by striking out "which meets the eligibility conditions set forth in section 721(b)(1)."

(2) The first sentence of section 853(6) is amended by striking out clause (A).

(h)(1) No entity shall be required to continue to implement assurances given under former section 721(c)(2)(D).

(2) The Secretary may waive the enforcement of assurances given by any school under former section 802(b)(2)(D).

REPEAL OF START-UP ASSISTANCE AUTHORITY

SEC. 6228. Section 788(a) is repealed.

FINANCIAL DISTRESS

SEC. 6229. (a) Section 788 (42 U.S.C. 295g-8) is amended as follows:

(1) Subsections (c), (d), (e), (f), and (g) are repealed.

(2) Subsection (b) is amended—

(A) by striking out "(b)(1)" and inserting in lieu thereof "(a)",

(B) by redesignating subparagraphs (A) and (B) of paragraph (1) as paragraphs (1) and (2), respectively, and by redesignating clauses (i) and (ii) of paragraph (1) (as so redesignated) as subparagraphs (A) and (B), respectively,

(C) by striking out paragraph (5) and by redesignating paragraphs (2), (3), and (4) as subsections (b), (c), and (d), respectively,

(D) by redesignating subparagraphs (A), (B), and (C) of subsection (b) (as so redesignated) as paragraphs (1), (2), and (3), respectively, and

(E) by striking out "this subsection" each place it occurs and inserting in lieu thereof "subsection (a)".

(3) The following subsection is inserted after subsection (d) (as so redesignated):

"(e) For purposes of grants under subsection (a), there are authorized to be appropriated such sums as may be necessary for the fiscal year ending September 30, 1982, and the next two fiscal years.".

(4) The heading for the section is amended to read as follows:

"FINANCIAL DISTRESS GRANTS"

(b)(1) Subsection (b) of section 772 is (A) transferred to the end of section 788 and redesignated as subsection (f), and (B) amended by striking out "section 770 or subsection (a) or (b) of section 788" and inserting in lieu thereof "subsection (a)".

(2) Section 788(f) (as so redesignated) is further amended—

(A) by striking out "(1)",

(B) by striking out ", and (2) be" and inserting instead "that is",

(C) by inserting "or a public or other nonprofit school of nursing," after "Commissioner of Education,",

(D) by striking out "requirement of this clause" and inserting instead "accreditation requirements", and

(E) by striking out "(A)" and "(B)" and inserting instead "(1)" and "(2)", respectively.

EXTENSION OF AND AMENDMENTS CONCERNING THE HEALTH EDUCATION ASSISTANCE LOANS PROGRAM

SEC. 6230. (a)(1) The first sentence of section 728(a) is amended—

(A) by striking out "and" after "1979;", and

(B) by inserting "; and $100,000,000 for the fiscal year ending September 30, 1982, and each of the two succeeding fiscal years" before the period.

(2) The second sentence of section 728(a) is amended by striking out "1982" and inserting instead "1986".

(b)(1) The first sentence of section 701(11) (as amended and redesignated by section 6226(a) of this chapter) is further amended by inserting ", or to a degree, diploma, or equivalent in nursing, or to a degree in the allied health professions" before the period.

(2) Section 737(1) (as amended by section 6226(c) of this chapter) is further amended by inserting "or a school of nursing or training center for allied health professions" before ", except".

(c)(1) The first sentence of section 729(a) is amended by striking out "$10,000" and all that follows up to the period and inserting instead the following: "$20,000 in the case of a student enrolled in a school of medicine, osteopathy, or dentistry, or $15,000 in the case of a student enrolled in a school of veterinary medicine, optometry, podiatry, public health, pharmacy, or nursing or a training center for allied health professions".

(2) The second sentence of section 729(a) is amended by striking out "$50,000" and all that follows up to the period and inserting instead the following: "$80,000 in the case of

a borrower who is or was a student enrolled in a school of medicine, osteopathy, or dentistry, or $60,000 in the case of a borrower who is or was a student enrolled in a school of veterinary medicine, optometry, podiatry, public health, pharmacy, or nursing or a training center for allied health professions".

(d) Section 735(c)(1) is amended by striking out "which is described in clauses (A) and (B) of section 753(a)(2)" and inserting instead "specified by the Secretary".

(e) Section 739(b) is amended to read as follows:

"(b) The Secretary shall by regulation require an eligible institution to record, and make available to a lender and to the Secretary upon request, the name, address, social security number, postgraduate destination, and other reasonable identifying information for each student of such institution who has a loan insured under this subpart.".

(f) The heading to subpart I of part C of title VII is amended to read as follows:

"Subpart I—Health Education Assistance Loans"

AMENDMENTS TO HEALTH PROFESSIONS SCHOOLS LOAN FUNDS AUTHORITIES

SEC. 6231. (a)(1) Sections 740(a), 835(a), and 841 are repealed.

(2) The first sentence of section 853(6) is amended by striking out ", except" and all that follows up to the period.

(b)(1) The matter in section 743(a) preceding paragraph (1) is amended to read as follows:

"SEC. 743. (a) Upon request of a school with which an agreement was entered into under section 740, there shall be a capital distribution of the balance of the loan fund established under that agreement as follows:".

(2) The matter in section 839(a) preceding paragraph (1) is amended to read as follows:

"SEC. 839. (a) Upon request of a school with which an agreement was entered into under 835, there shall be a capital distribution of the balance of the loan fund established under that agreement as follows:".

(3) Section 743(b) and 839(b) are each amended to read as follows:

"(b) The school shall subsequently pay to the Secretary, not less often than quarterly, the same proportionate share of amounts received by the school after the capital distribution in payment of principal or interest on loans made from the loan fund as was determined for the Secretary under subsection (a).".

(c)(1) Section 741(f)(1)(C) is amended—

(A) by striking out "who enters into an agreement with the Secretary" and inserting instead "with whom the Secretary chooses to enter into an agreement for the individual", and

(B) by striking out "designated under section 332" and inserting instead "(designated under section 332) specified by the Secretary".

(2) Section 741(f)(5) is repealed.

(3) Section 836(h)(1)(C) is amended to read as follows:

"(C) with whom the Secretary chooses to enter into an agreement for the individual to practice his profession (as a member of the National Health Service Corps or otherwise) for a period of at least two years in a health manpower shortage area (designated under section 332) specified by the Secretary);".

(4) Section 836(i) is repealed.

(d) Section 835(b)(4) is amended by striking out ", and that while the agreement remains in effect no such student who has attended such school before October 1, 1980, shall receive a loan from a loan fund established under section 204 of the National Defense Education Act of 1958".

(e)(1) Section 741 is amended by adding at the end the following:

"(m) The Secretary is authorized to attempt to collect any loan which was made under this subpart and which is in default, referred to him by a school with which he had an agreement under this subpart, on behalf of that school under such terms and conditions as the Secretary may prescribe, including reimbursement for expenses he may reasonably incur in attempting collection.".

(2) Section 836 is amended by adding at the end the following:

"(k) The Secretary is authorized to attempt to collect any loan which was made under this part and which is in default, referred to him by a school with which he has an agreement under this part, on behalf of that school under such terms and conditions as the Secretary may prescribe, including reimbursement for expenses he may reasonably incur in attempting collection.".

(g) The second sentence of section 741(j) and the second sentence of section 836(f) are each amended to read as follows: "The amount of any such charge may not exceed any limit prescribed by applicable State law.".

REPEAL OF UNNEEDED SCHOLARSHIP AND TRAINEESHIP PROVISIONS

SEC. 6232. Subpart V of part C of title VII and section 783(c) are repealed.

REPEAL OF UNNEEDED AND OBSOLETE ASSISTANCE AUTHORITIES

SEC. 6233. Section 701(8), part D of title VII, and sections 782, 785, and 789 are repealed.

EXTENSION AND REVISION OF PUBLIC HEALTH AND HEALTH ADMINISTRATION AUTHORITIES

SEC. 6234. (a)(1) Section 748(c) is amended by striking out "and" after "1979;" and by inserting before the period a semicolon and the following: "$2,500,000 for the fiscal year ending September 30, 1982; $2,500,000 for the fiscal year ending September 30, 1983; and $2,500,000 for the fiscal year ending September 30, 1984.".

(2) Section 749(c) is amended by striking out "and" after "1979;" and by inserting before the period a semicolon and the following: "$2,000,000 for the fiscal year ending September 30, 1982; and $2,000,000 for the fiscal year ending September 30, 1983; and $2,000,000 for the fiscal year ending September 30, 1984".

(3) Section 791(d) is amended by striking out "and" after "1979," and by inserting before the period a comma and the following: "$3,000,000 for the fiscal year ending September 30, 1982, $3,000,000 for the fiscal year ending September 30, 1983, and $3,000,000 for the fiscal year ending September 30, 1984. At least one-third of the amount appropriated under this subsection for any fiscal year shall be obligated for grants under subsection (a) to support the graduate educational programs in health administration of educational entities other than schools of public health".

(4) Section 792(c) is amended by striking out "and" after "1979;" and by inserting before the period a semicolon and the following: "$500,000 for the fiscal year ending September 30, 1982; $500,000 for the fiscal year ending September 30, 1983; and $500,000 for the fiscal year ending September 30, 1984".

(b)(1) Section 791(a) (42 U.S.C. 295h(a)) is amended by striking out "and excluding accredited schools of public health".

(2) Section 791(c)(2)(B) is amended (A) by striking out "health planning" and inserting in lieu thereof "health planning and evaluation", and (B) by striking out "Commissioner of Education" and inserting in lieu thereof "Secretary of Education".

(c) Subpart I of part G of title VII is amended by adding after section 793 the following new section:

"GRANTS TO DEPARTMENTS OF PREVENTIVE OR COMMUNITY MEDICINE

"SEC. 794. (a) The Secretary may make grants to schools of medicine, osteopathy, and public health for the costs of projects—

"(1) to establish, maintain, and improve academic administrative units in preventive or community medicine;

"(2) to improve predoctoral and postdoctoral instruction in preventive, community, or occupational medicine;

"(3) to plan, develop, and operate joint programs between academic administrative units in preventive or community medicine and such units in other clinical specialties, which programs integrate the teaching of clinical preventive, community, or occupational medicine within clinical programs for other medical disciplines; and

"(4) to plan, develop, and operate special programs to train teachers and researchers in the fields of preventive, community, or occupational medicine.

"(b)(1) The amount of any grant under subsection (a) shall be determined by the Secretary. No grant may be made under subsection (a) unless an application therefor is submitted to and approved by the Secretary. Such an application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

"(2) To be eligible for a grant under subsection (a), an applicant school must have, or demonstrate an intention to establish, an academic administrative unit in preventive or community medicine or an academic or administrative unit which has the primary responsibility, within the school, for teaching the principles of preventive or community medicine.

"(c) For the purposes of grants under subsection (a), there are authorized to be appropriated $3,000,000 for the fiscal year ending September 30, 1982, $3,000,000 for the fiscal year ending September 30, 1983, and $3,000,000 for the fiscal year ending September 30, 1984.".

FAMILY MEDICINE

SEC. 6235. (a) Section 780(c) (45 U.S.C. 295g(c)) is amended by striking out "and" after "1979," and by inserting after "1980," the following: "$10,000,000 for the fiscal year ending September 30, 1982, $10,000,000 for the fiscal year ending September 30, 1983, and $10,000,000 for the fiscal year ending September 30, 1984,".

(b)(1) Section 780(a) is amended by striking out "establish and".

(2) Section 780(b) is amended—

(A) by striking out "will (A) be" and inserting in lieu thereof "(A) is",

(B) by striking out "(B) be" and inserting in lieu thereof "(B) is",

(C) by striking out "(C) have a number of full-time faculty which is determined by the Secretary" and inserting in lieu thereof "(C) has a number of full-time faculty certified",

(D) by striking out "(D) have control over" and inserting in lieu thereof "(D) has

control over or a major affiliation with", and

(E) by striking out "twelve interns or" and inserting in lieu thereof "six".

(3) The heading for section 780 is amended by striking out "Establishment of".

(c) Section 786(d) (45 U.S.C. 295g-6(d)) is amended by striking out "and" after "1979," and by inserting after "1980," the following: "$25,000,000 for the fiscal year ending September 30, 1982, $25,000,000 for the fiscal year ending September 30, 1983, and $25,000,000 for the fiscal year ending September 30, 1984,".

SPECIAL PROJECTS

SEC. 6236. (a)(1) Section 781(g) (42 U.S.C. 295g-1(g)) (relating to area health education centers) is amended by striking out "and" after "1979," and by inserting before the period a comma and the following: "$21,000,000 for the fiscal year ending September 30, 1982, $21,000,000 for the fiscal year ending September 30, 1983, and $21,000,000 for the fiscal year ending September 30, 1984".

(2) Section 781(b) is amended to read as follows:

"(b) An area health education center program shall be a cooperative program offered by one or more medical or osteopathic schools or a university medical center operating one or several geographically dispersed education centers, and one or more affiliated or contractually linked community health care agencies.".

(3) Section 781(c)(2) is amended by inserting ", except to the extent that the Secretary, for good cause shown, may modify or waive the requirement of this paragraph" before the semicolon.

(4) Section 781(d)(1) is amended (A) by striking out "such center" and inserting in lieu thereof "the area health education center program", and (B) by striking out "from the main site" and all that follows in that section and inserting in lieu thereof "from the academic headquarters and principal teaching site of the school or schools participating in the program.".

(5) Section 781(d)(2)(E) is amended by inserting "educational" before "support".

(6)(A) Section 781(d)(2)(B) is amended to read as follows:

"(B) assist in the planning and development of training programs to meet the health manpower needs of the area served by the center;".

(B) Section 781(d) is amended by adding at the end the following:

"(3) Each area health education center program shall assist in the assessment of the health manpower needs of the area served by the program.".

(7) Section 781(e) is amended—

(A) by amending paragraph (1) to read as follows:

"(1) at least 75 percent of the total funds provided to any entity under a contract under subsection (a) for an area health education center program shall be expended by the program in the regions served by the program;", and

(B) by amending paragraph (3) to read as follows:

"(3) priority shall be given to entities which have a documented ability to secure at least one half of the funds required for the area health education center program from non-Federal sources.".

(8)(A) The first sentence of section 781(f) is amended by striking out "subsection (d)(2)" and inserting instead "paragraphs (2) and (3) of subsection (d)".

(B) Section 781(f) is amended by adding after the first sentence the following new sentence: "Such term includes a program which received funds under section 802 of the Health Professions Educational Assistance Act of 1976 or section 774 as in effect before October 1, 1977.".

(9) Subsections (a) and (e) of section 781 are each amended by inserting "or cooperative agreements" after "contracts" each place it occurs.

(10) The Secretary may vest title in an entity which before the date of enactment of this Act entered into a contract with the Secretary under section 781 of the Public Health Service Act to any property acquired on behalf of the Government by that entity (or furnished to that entity by the Government) under that contract.

(b) Section 782 (42 U.S.C. 295g-2) (relating to students from foreign medical schools) is repealed.

(c) Section 784(b) (42 U.S.C. 295g-4(b)) (relating to general internal medicine and general pediatrics) is amended by striking out "and" after "1979," and by inserting before the period a comma and the following: "$13,000,000 for the fiscal year ending September 30, 1982, $13,000,000 for the fiscal year ending September 30, 1983, and $13,000,000 for the fiscal year ending September 30, 1984".

(d) Section 787(b) (42 U.S.C. 295g-7(b)) (relating to individuals from disadvantaged backgrounds) is amended by striking out "and" after "1979," and by inserting after "1980," the following: "$14,000,000 for the fiscal year ending September 30, 1982, $14,000,000 for the fiscal year ending September 30, 1983, and $14,000,000 for the fiscal year ending September 30, 1984".

(e)(1) Section 787(a)(1) is amended by adding at the end the following: "The Secretary shall give special consideration to applications for projects to assist in the admission into or retention in health professions schools of such individuals or for projects to assist the recruitment activities for such individuals or entities with formal ties to health professions schools.".

(2) Section 787(a)(2)(D) is amended by striking out "for a period prior to the entry of such individuals" and inserting in lieu thereof "for such individuals who have demonstrated an ability to pursue successfully an undergraduate program and who have indicated an intention to pursue a health professions career, for a period prior to their entry".

APPROPRIATION AUTHORIZATIONS FOR PHYSICIAN ASSISTANT TRAINING PROGRAMS

SEC. 6237. Section 783(e) is amended—

(1) by striking out "and" after "1979,", and

(2) by inserting ", $5,000,000 for the fiscal year ending September 30, 1982, $5,000,000 for the fiscal year ending September 30, 1983, $5,000,000 for the fiscal year ending September 30, 1984" before the period.

ALLIED HEALTH PERSONNEL

SEC. 6238. (a) Section 795(2)(a) (42 U.S.C. 295h-4(2)(A)) is amended (1) by striking out "medical technology, optometric technology, dental hygiene, or in any of such other of", and (2) by striking out "optometric technology, dental hygiene, or such other" and inserting in lieu thereof "such".

(b)(1) Paragraphs (1) through (6) of section 796(a) (42 U.S.C. 295h-5(a)) are amended to read as follows:

"(1) Demonstration of methods for increasing the efficiency of health care delivery through more effective use of allied health personnel.

"(2) Demonstration of educational improvements and cost efficiency from arrangements among training centers for allied health professions for the sharing of educational and administrative responsibilities.

"(3) Development of educational programs which permit individuals to become proficient in more than one specialty.

"(4) Basic research in the scientific and clinical areas in which allied health personnel are involved.

"(5) Demonstration of ways to meet changing needs in health care delivery without creating new allied health occupations or specialties.

"(6) Identifying, recruiting, selecting, facilitating the entry into training centers for allied health professions of, and assisting in the successful completion of the programs of such centers of, individuals who because of socioeconomic factors, are financially or otherwise disadvantaged.".

(2) Section 796(c) is amended—

(A) by inserting "or" at the end of paragraph (1),

(B) by striking out paragraphs (2) and (3), and

(C) by redesignating paragraph (4) as paragraph (2).

(3) Section 796(d)(1) is amended by striking out "and" after "1979;" and by inserting before the period a semicolon and the following: "$4,500,000 for the fiscal year ending September 30, 1982; $4,500,000 for the fiscal year ending September 30, 1983; and $4,500,000 for the fiscal year ending September 30, 1984".

VETERINARY MEDICINE CURRICULUM DEVELOPMENT

SEC. 6239. Title VII is amended by adding after section 789 the following:

"VETERINARY MEDICINE CURRICULUM DEVELOPMENT

"SEC. 789A. (a) The Secretary may make grants to, and enter into contracts with, schools of veterinary medicine for designing and implementing improved clinical curricula relating to the care of food producing or fiber producing animals.

"(b) To carry out this section there are authorized to be appropriated $1,000,000 for fiscal year 1982, $1,000,000 for fiscal year 1983, and $1,000,000 for fiscal year 1984.".

SPECIAL HEALTH PROFESSIONS INITIATIVES

SEC. 6240. Section 789 is amended to read as follows:

"SPECIAL HEALTH PROFESSIONS INITIATIVES

"SEC. 789. (a) The Secretary may make grants to schools of medicine, osteopathy, and podiatry to plan and operate centers to evaluate and to demonstrate the effective and efficient application of health care technology.

"(b) The Secretary may make grants to schools of podiatry for innovative projects to increase the number of podiatrists who will practice in medically underserved areas.

"(c) No grant may be made under subsection (a) or (b) unless an application therefor has been submitted to and approved by the Secretary. The application shall be submitted in such form and manner and contain such information as the Secretary may require. An application for a grant under subsection (a) shall contain assurances satisfactory to the Secretary that the center for which the application is submitted will be operated in conjunction with at least one other academic department other than the applicant.

"(d) For grants under subsections (a) and (b) there are authorized to be appropriated $3,500,000 for the fiscal year ending Sep-

tember 30, 1982, $3,500,000 for the fiscal year ending September 30, 1983, and $3,500,000 for the fiscal year ending September 30, 1984.".

CONSOLIDATION OF THE NATIONAL ADVISORY COUNCILS ON HEALTH PROFESSIONS EDUCATION, NURSE TRAINING, AND THE NATIONAL HEALTH SERVICE CORPS

SEC. 6241. (a) Sections 337 and 851 are repealed.

(b)(1) The first sentence of section 702(a) is amended—

(A) by striking out "parts B, C, D, E, F, and G of" and

(B) by inserting ", title VIII, and subpart II of part D of title III" before the period.

(2) The second sentence of section 702(a) is amended—

(A) in clause (1), by (i) inserting "or title VIII" after "this title", (ii) inserting "nursing," after "podiatry,", and (iii) inserting "training centers for allied health professions," before "and entities",

(B) by striking out "and" at the end of clause (2),

(C) in clause (3), by striking out "six" and inserting instead "four", and

(D) by inserting the following before the period: ", and (4) two shall be individuals who are knowledgeable about the National Health Service Corps and the National Health Service Corps Scholarship Program".

(3) Section 702(a) is amended by adding at the end the following: "Each member of the Council, while engaged in the performance of his duties while away from his home or regular place of business, shall be entitled to travel or transportation expenses under subchapter I of chapter 57 of title 5, United States Code. Each member of the Council who is not an employee of the United States shall receive compensation at a daily rate equivalent to the rate specified for grade GS-18 of the General Schedule under 5 U.S.C. 5332 for each day he is engaged in the performance of his duties (including traveltime).".

(4) Subsections (b) and (c) of section 702 are each amended by striking out "(other than subpart II of part G thereof)" and inserting instead ", title VIII, and subpart II of part D of title III".

(5) Subsections (b) and (c) of section 820 and section 856(1) are each amended by striking out "Nurse Training" and inserting instead "Health Professions Education".

REPEAL OF ADVISORY COUNCIL REVIEW REQUIREMENTS

SEC. 6242. (a) Section 790(1) is amended by striking out the last sentence.

(b) Section 820(c) is amended by striking out the second sentence.

REPEAL OF REQUIREMENT FOR ESTABLISHING CRITERIA FOR ALLOWABLE INCREASES IN EDUCATIONAL COSTS

SEC. 6243. Section 711 is repealed.

TECHNICAL ASSISTANCE

SEC. 6244. Title VII is amended by adding after section 710 the following:

"TECHNICAL ASSISTANCE

"SEC. 711. Funds appropriated under this title or title VIII may be used to provide technical assistance in relation to any of the authorities under either of those titles.".

DISCLOSURE OF LOCATION OF BORROWERS WHO HAVE DEFAULTED ON STUDENT LOANS

SEC. 6245. Paragraph (4) of section 6103(m) of the Internal Revenue Code of 1954 is amended—

(1) by inserting "or the Secretary of Health and Human Services" after "Secretary of Education" in the matter in subparagraph (A) preceding clause (i) and in the matter in subparagraph (B) preceding clause (i),

(2) by striking out "or" at the end of clause (i) of subparagraph (A) and of subparagraph (B),

(3) by adding "or" at the end of clause (ii) of subparagraph (A) and of subparagraph (B),

(4) by inserting the following after clause (ii) of subparagraph (A):

"(iii) made under part C of title VII or part B of title VIII of the Public Health Service Act,",

(5) by inserting the following after clause (ii) of subparagraph (B):

"(iii) any lender participating under part C of title VII or part B of title VIII of the Public Health Service Act,", and

(6) by inserting "or the Department of Health and Human Services" after "Department of Education" in the matter in subparagraph (A) following clause (iii) (as added by paragraph (4) of this section).

ELIMINATION OF CERTAIN REQUIREMENTS FOR THE PROMULGATION OF REGULATIONS

SEC. 6246. (a) Section 701(7) is amended to read as follows:

"(7) The term 'program for the training of physician assistants' means an educational program which has as its objective the education of individuals who will, upon completion of their studies in the program, be qualified to provide effectively health care under the supervision of a physician.".

(b) Section 780(b)(2) is amended by striking out "by regulation".

(c) Section 781(f) is amended by striking out the last sentence.

(d) The second sentence of section 790(1) is amended by striking out "by regulation".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 6247. (a)(1) Section 701 is amended—

(A) by striking out paragraph (9), and

(B) in paragraph (10), by striking out ", Education, and Welfare" and inserting instead "and Human Services".

(2) Section (2)(f) is amended by striking out "701(9),".

(b) The first sentence of section 704 is amended by inserting "nursing," after "podiatry,".

(c) The first sentence of sections 735(c)(2) and 754(c) are each amended—

(1) by striking out "maximum legal prevailing rate" and inserting instead "private consumer rates of interest", and

(2) by striking out "Treasurer of the United States" and inserting instead "Secretary of the Treasury".

(d) Section 853 is amended by striking out paragraph (1).

(e)(1) Sections 753, 788(f) (as amended and redesignated by section 6229(b) of this chapter), and 853(6) are each amended by striking out "Commissioner of Education" each place it occurs and inserting instead "Secretary of Education".

(2) Section 788(f) (as amended by paragraph (1) of this section) is further amended by striking out "Commissioner" each place it occurs and inserting instead "Secretary of Education".

(f) The heading to title VII is amended by striking out "HEALTH RESEARCH AND TEACHING FACILITIES AND".

(g) Section 403(f) of the Health Professions Educational Assistance Act of 1976 is—

(1) amended by striking out "Section 741 of the Public Health Service Act" and inserting instead "this section",

(2) redesignated as subsection (m), and

(3) transferred to the end of section 741 of the Public Health Service Act.

(h)(1) Section 331(h) is amended by striking out paragraph (3).

(2) Section 2(f) is amended by striking out "331(h)(3),".

Subchapter C—Nursing Training

CAPITATION

SEC. 6250. Subpart II of part A of title VIII is repealed.

SPECIAL PROJECTS

SEC. 6251. (a)(1) Section 820(a) (42 U.S.C. 296k(a)) is amended—

(A) by amending paragraph (1) to read as follows:

"(1) conduct basic research in the scientific and clinical areas in which nurses practice;",

"(B) by striking out paragraphs (2), (4), (7), and (8).

(C) in paragraph (5), by inserting "(including licensed vocational and practical nurses)" after "nurses" and by inserting "or" at the end of the paragraph,

(D) by striking out "; or" at the end of paragraph (6) and inserting in lieu thereof a period, and

(E) by redesignating paragraphs (3), (5), and (6) as paragraphs (2), (3), and (4), respectively.

(2) Notwithstanding the amendment made by paragraph (1), any entity which received a grant or contract under section 820(a) of the Public Health Service Act for the fiscal year ending September 30, 1981, for a project described in paragraph (1), (2), (4), (7), or (8) of such section (as in effect when it received the grant or contract) may receive one additional grant or contract under such section for such project.

(b) Section 820(d) is amended—

(1) by striking out "and" after "1978,", and by inserting after "1980" a comma and the following: "$8,000,000 for the fiscal year ending September 30, 1982, $8,000,000 for the fiscal year ending September 30, 1983, and $8,000,000 for the fiscal year ending September 30, 1984"; and

(2) by amending the last sentence to read as follows: "Of the funds appropriated under this subsection for any fiscal year beginning after September 30, 1981, not less than 20 percent of the funds shall be obligated for payments under grants and contracts for special projects described in subsection (a)(2) and not less than 20 percent of the funds shall be obligated for payments under grants and contracts for special projects described in subsection (a)(4).".

ADVANCED NURSE TRAINING

SEC. 6252. (a) Section 821(a)(1) (42 U.S.C. 2961(a)(1)) is amended—

(1) by striking out "(1)",

(2) by inserting "and other public or nonprofit private entities" after "schools of nursing",

(3) by striking out "to each" and inserting in lieu thereof "to teach",

(4) by redesignating subparagraphs (A), (B), and (C), as paragraphs (1), (2), and (3), respectively, and

(5) by inserting "to serve as nurse anesthetists," before "or to serve".

(b) Section 821(b) is amended (1) by striking out "and" after "1978,", and (2) by inserting after "1980" a comma and the following: "$10,000,000 for the fiscal year ending September 30, 1982, $10,000,000 for the fiscal year ending September 30, 1983, and $10,000,000 for the fiscal year ending September 30, 1984".

NURSE PRACTITIONER PROGRAMS

SEC. 6253. (a) Section 822(b)(1) (42 U.S.C. 296m(b)(1)) is amended by striking out "who are residents of a health manpower shortage area (designated under section 332)" and inserting in lieu thereof a period and the following: "In considering applications for a grant or contract under this subsection, the Secretary shall give special consideration to applications for traineeships to train individuals who are residents of health manpower shortage areas designated under section 332.".

(b)(1) Section 822(b)(3) is amended by inserting before the period the following: "for a period equal to one month for each month for which the recipient receives such a traineeship".

(2) Section 822(b) is amended by adding after paragraph (3) the following:

"(4)(A) If, for any reason, an individual who received a traineeship under paragraph (1) fails to complete a service obligation under paragraph (3), such individual shall be liable for the payment of an amount equal to the cost of tuition and other education expenses and other payments paid under the traineeship, plus interest at the maximum legal prevailing rate.

"(B) When an individual who received a traineeship is academically dismissed or voluntarily terminates academic training, such individual shall be liable for repayment to the Government for an amount equal to the cost of tuition and other educational expenses paid to or for such individual from Federal funds plus any other payments which were received under the traineeship.

"(C) Any amount which the United States is entitled to recover under subparagraph (A) or (B) shall, within the three-year period beginning on the date the United States becomes entitled to recover such amount, be paid to the United States.

"(D) The Secretary shall by regulation provide for the waiver or suspension of any obligation under subparagraph (A) or (B) applicable to any individual whenever compliance by such individual is impossible or would involve extreme hardship to such individual and if enforcement of such obligation with respect to any individual would be against equity and good conscience.".

(3) The amendments made by paragraphs (1) and (2) shall apply with respect to traineeships which are awarded under section 822(b) of the Public Health Service Act after the date of the enactment of this Act.

(c) Section 822(e) is amended (1) by striking out "and" after "1978,", and (2) by inserting after "1980" a comma and the following: "$8,000,000 for the fiscal year ending September 30, 1982, $8,000,000 for the fiscal year ending September 30, 1983, and $8,000,000 for the fiscal year ending September 30, 1984".

TRAINEESHIPS

SEC. 6254. (a)(1) Subparagraph (C) of section 830(a)(1) (42 U.S.C. 297(a)(1)) is amended to read as follows:

"(C) to serve as nurse midwives, or nurse anesthetists, or".

(2) An individual who received a traineeship under section 830(a) of the Public Health Service Act for the fiscal year ending September 30, 1981, to receive training to serve as a nurse practitioner may, notwithstanding the amendment made by paragraph (1), receive additional traineeships under that section to complete the training to be a nurse practitioner.

(b) Section 830(b) is amended—

(1) by striking out "and" after "1978,", and by inserting after "1980" a comma and the following: "$9,000,000 for the fiscal year ending September 30, 1982, $9,000,000 for the fiscal year ending September 30, 1983, and $9,000,000 for the fiscal year ending September 30, 1984"; and

(2) by adding at the end the following: "Not less than 50 percent of the funds appropriated under this subsection for any fiscal year shall be obligated for traineeships described in subsection (a)(1)(A), except that if the obligation of that amount of the funds appropriated under this subsection will prevent the Secretary from continuing a traineeship to an individual who received a traineeship under subsection (a) for the fiscal year ending September 30, 1981, the Secretary shall reduce the amount to be obligated for traineeships described in subsection (a)(1)(A) by such amount as may be necessary for the continuation of traineeships first awarded in such fiscal year.".

FINANCIAL DISTRESS GRANTS

SEC. 6255. Subsection (c) of section 815 (42 U.S.C. 296j) is amended to read as follows:

"(c) For grants under subsection (a), there are authorized to be appropriated $5,000,000 for the fiscal year ending 1982, $5,000,000 for the fiscal year ending 1983, and $5,000,000 for the fiscal year ending 1984.".

NURSE ANESTHETISTS

SEC. 6256. Section 831 is repealed.

STUDENT LOANS

SEC. 6257. Section 839 (42 U.S.C. 297e) is amended by striking out "1983" each place it occurs and inserting in lieu thereof "1987".

TECHNICAL

SEC. 6258. Section 851(a) (42 U.S.C. 298(a)) is amended by striking out "and the Commissioner of Education, both of whom shall be ex officio members" and inserting in lieu thereof "and an ex officio member".

Subchapter D—Effective Date

EFFECTIVE DATE

SEC. 6260. (a) The amendments made by this chapter shall not apply to appropriation authorizations for any fiscal year before fiscal year 1982.

(b) The amendments made by this chapter shall not adversely affect the contractual rights of any individual or other entity that has entered into an agreement before the date of enactment of this Act.

Chapter 3—CATEGORICAL PROGRAM BLOCK GRANTS

Subchapter A—Health Services Block Grants

SHORT TITLE

SEC. 6265. This subchapter may be cited as the "Health Services Block Grant Act".

PURPOSE OF SUBPART

SEC. 6266. The purpose of this subchapter is to assist each State in—

(1) assuring its residents (in particular, individuals with limited means or in areas with limited availability of health services) access to quality health services at reasonable cost,

(2) encouraging the use of ambulatory health services,

(3) assuring the most appropriate, effective, and efficient utilization of health care facilities and personnel,

(4) exercising its health responsibilities in a flexible manner and with a minimum of Federal requirements, and

(5) providing health services to migratory and seasonal agricultural workers, medically underserved populations, coal miners, and individuals at home, and providing health services related to medical emergencies, mental health, alcoholism and alcohol abuse, and drug abuse, all of which were formerly supported by specific Federal assistance efforts.

HEALTH SERVICES BLOCK GRANT

SEC. 6267. (a) Subpart I of part D of title III of the Public Health Service Act is repealed and a new subpart I is enacted as follows:

"Subpart I—Health Services Block Grant

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 328. For the purpose of carrying out the provisions of this subpart, there are authorized to be appropriated $882,000,000 for fiscal year 1982, and for each of the three succeeding fiscal years.

"INTERIM ALLOTMENTS AND STUDY

"SEC. 329. (a) From the amounts appropriated under section 328 for any fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to the amounts appropriated under section 328 for that fiscal year as the amounts provided or allotted by the Secretary to the State and to entities in the State under section 301 for State mental health services demonstrations and former sections 328, 329, 330, 339, 340, 340A, 1202, 1203, and 1204; former sections 302, 310, and 311 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970; former sections 409 and 410 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act; and sections 202, 203, 204, and 211 of the former Community Mental Health Centers Act bore to the amounts provided or allotted by the Secretary under those provisions to all States and to entities in all States from appropriations for fiscal year 1981.

"(b) The Secretary shall conduct a study for the purpose of devising a formula for equitable distribution of funds available for allotment to the States under this subpart. In conducting the study, the Secretary shall take into account—

"(1) the financial resources of the various States,

"(2) the populations of the States, and

"(3) any other factor which the Secretary may consider appropriate.

Prior to January 1, 1983, the Secretary shall submit a report to the Congress regarding the development of such formula and make such recommendations as he may deem appropriate in order to insure the most equitable distribution of such funds to the States.

"PAYMENT TO STATES

"SEC. 330. (a) The Secretary shall make payments as provided by section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213) to each State from its allotment under section 329 from amounts appropriated for any fiscal year.

"(b) The Secretary, at the request of a State, may reduce the amount of payments under subsection (a) by—

"(1) the fair market value of any supplies or equipment furnished the State, and

"(2) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the State and the amount of any other costs incurred in connection with the detail of such officer or employee,

when the furnishing of supplies or equipment or the detail of an officer or employee is for the convenience of and at the request of the State and for the purpose of conducting activities described in section 330A. The

amount by which any payment is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment or in detailing the personnel, on which the reduction of the payment is based, and the amount shall be deemed to be part of the payment and shall be deemed to have been paid to the State.

"USE OF GRANT MONEY

"SEC. 330A. (a) A State may use amounts paid to it under section 330 (and amounts transferred under other provisions of law for use under this subpart) for the provision of health services and related activities, including planning, administration, education, and evaluation (except as limited under subsection (b), (c), or (d) or as provided under subsection (e))—

"(1) for migratory and seasonal agricultural workers, medically underserved populations, coal miners, and individuals at home, and

"(2) related to medical emergencies, mental health, alcoholism and alcohol abuse, and drug abuse

"(b) Amounts described in subsection (a) may not be used for—

"(1) inpatient services, other than inpatient services prescribed by the Secretary,

"(2) cash payments to intended recipients of health services,

"(3) the purchase or improvement of land, or the purchase, construction, or permanent improvement (other than minor remodeling) of any building or other facility, or

"'(4) satisfying any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds.

The Secretary may waive the limitation contained in paragraph (3) upon the request of a State if the Secretary finds that there are extraordinary circumstances to justify the waiver and that granting the waiver will assist in carrying out this subpart.

"(c)(1) From the amounts paid to it by the Secretary under section 330 for fiscal year 1982, a State shall use an amount for services provided to medically underserved populations through primary health care centers equal to or greater than the product of—

"(A) the sum of the amounts the Secretary provided to the State or entities in the State under former sections 328, 330, and 340 from appropriations for fiscal year 1981, and

"(B) the ratio of the amount appropriated under section 328 for fiscal year 1982 to the amounts provided or allotted by the Secretary under the provisions listed in section 329(a) to all States and to entities in all States from appropriations for fiscal year 1981.

"(2) From the amounts paid to it by the Secretary under section 330 for fiscal year 1983, a State shall use an amount for services provided to medically underserved populations through primary health care centers equal to or greater than two-thirds of the minimum amount required under paragraph (1) of this subsection.

"(3) From the amounts paid to it by the Secretary under section 330 for fiscal year 1984, a State shall use an amount for services provided to medically underserved populations through primary health care centers equal to or greater than one-third of the minimum amount required under paragraph (1) of this subsection.

"(d)(1) From the amounts paid to it by the Secretary under section 330 for fiscal year 1982, a State shall use an amount for services provided to migratory and seasonal agricultural workers through migrant health centers equal to or greater than the product of—

"(A) the amount the Secretary provided to the State or entities in the State under former section 329 from appropriations for fiscal year 1981, and

"(B) the ratio of the amount appropriated under section 328 for fiscal year 1982 to the amounts provided or allotted by the Secretary under the provisions listed in section 329(a) to all States and to entities in all States from appropriations for fiscal year 1981.

"(2) From the amounts paid to it by the Secretary under section 330 for fiscal year 1983, a State shall use an amount for services provided to migrant and seasonal agricultural workers through migrant health centers equal to or greater than two-thirds of the minimum amount required under paragraph (1) of this subsection.

"(3) From the amounts paid to it by the Secretary under section 330 for fiscal year 1984, a State shall use an amount for services provided to migratory and seasonal agricultural workers through migrant health centers equal to or greater than one-third of the minimum amount required under paragraph (1) of this subsection.

"(e)(1) From the amounts paid to it by the Secretary under section 330 for fiscal year 1982, a State shall use an amount for the operation of community mental health centers within the State and for the provision of the mental health services (including services for rape victims) authorized under the Mental Health Systems Act equal to or greater than the product of—

"(A) the amount the Secretary provided to the State or entities in the State under former parts A and B of the Community Mental Health Centers Act and section 602 of the Mental Health Systems Act from appropriations for fiscal year 1981, and

"(B) the ratio of the amount appropriated under section 328 for fiscal year 1982 to the amounts provided or allotted by the Secretary under the provisions listed in section 329(a) to all States and to entities in all States from appropriations for fiscal year 1981.

"(2) From the amounts paid to it by the Secretary under section 330 for fiscal year 1983, a State shall use an amount for the operation of community mental health centers within the State and for the provision of the mental health services (including services for rape victims) authorized under the Mental Health Systems Act equal to or greater than two-thirds of the minimum amount required under paragraph (1) of this subsection.

"(3) From the amounts paid to it by the Secretary under section 330 for fiscal year 1984, a State shall use an amount for the operation of community mental health centers within the State and for the provision of the mental health services (including services for rape victims) authorized under the Mental Health Systems Act equal to or greater than one-third of the minimum amount required under paragraph (1) of this subsection.

"(f) A State shall use amounts paid to it under section 330 for programs for alcohol abuse and programs for drug abuse in such a manner that the ratio of the amounts made available for alcohol abuse programs to the amounts made available for drug abuse programs is the same as the ratio of the appropriations for alcohol abuse programs for fiscal year 1981 to the appropriations for drug abuse programs for such fiscal year.

"(g) From the amounts paid to it under section 330 from amounts appropriated for a fiscal year, a State may transfer up to ten percent for use under other provisions of Federal law providing for support of health promotion and disease prevention or health or social services, or for meeting home energy and emergency assistance needs. The State shall inform the Secretary of any such transfer of funds.

"(h) A State shall expend amounts described in subsection (a) by the end of the fiscal year following the fiscal year for which they were appropriated.

"(i) A State may use a portion of the amounts described in subsection (a) for the purpose of purchasing technical assistance from public or private entities if the State determines that such assistance is required in developing, implementing, and administering programs funded under this subpart.

"REPORT ON INTENDED EXPENDITURES

"SEC. 330B. (a) Prior to expenditure by a State of payments made to it under section 330 for any fiscal year, the State shall prepare a report on the intended use of payments the State is to receive under this subpart, including information on the types of services to be provided, the categories or characteristics of individuals to be served, and the geographical areas within the State in which such services will be provided. The report shall be made public within the State in such manner as to facilitate comment from any person (including any Federal, State, local, or other public agency) during development of the report and after its completion. The report shall be revised throughout the year as may be necessary to reflect substantial changes in the activities assisted under this subpart, and any revision shall be subject to the requirements of the preceding sentence.

"(b) The Secretary shall review each report and revision submitted under subsection (a). If the Secretary finds that the intended use of payments under section 330 by a State is not in accordance with the purposes of this subpart or that the State has not provided for an equitable distribution of funds under such payments or of services within the State, the Secretary shall disapprove such report or revision. If a report or revision is disapproved, the State which submitted it shall, within 30 days of the date of such disapproval, make such revisions in its use of such payments or its distribution of funds or services so that such use is in accordance with the purposes of this subpart or such distribution is equitable and shall report such revisions to the Secretary.

"REPORTS AND AUDITS

"SEC. 330C. (a) Each State shall prepare reports on its activities under this subpart. Reports shall be in such form, contain such information, and be of such frequency (not less often than every two years) as the State finds necessary to secure an accurate description of those activities, to secure a complete record of the purposes for which funds were spent, and to determine the extent to which funds were expended consistently with the reports required by section 330B. The State shall make copies of the reports required by this section available for public inspection within the State. Copies shall also be provided, upon request, to any interested public agency, and each such agency may provide its views on these reports to the Congress.

"(b) Each State shall, not less often than every year, audit its expenditures from amounts received under (or transferred to)

this subpart. Such State audits shall be conducted by an entity independent of any agency administering a program funded under this subpart, in accordance with generally accepted accounting principles. Within 30 days following the completion of each audit, a copy of that audit shall be submitted to the legislature of the State and to the Secretary. Each State shall repay to the United States amounts found not to have been expended in accordance with this subpart or the Secretary may offset such amounts against any other amount to which the State is or may become entitled under this subpart.

"(c) For other provisions requiring States to account for Federal grants, see section 202 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4212).

"NONDISCRIMINATION PROVISION

"SEC. 330D. (a) No person shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this subpart. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity.

"(b) Whenever the Secretary determines that there has been a failure to comply with subsection (a) of this section or an applicable regulation, he shall notify the chief executive officer of the State and shall request him to secure compliance. If within a reasonable period of time, not to exceed sixty days, the chief executive officer fails or refuses to secure compliance, the Secretary is authorized to (1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted, (2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, or section 504 of the Rehabilitation Act of 1973, as may be applicable, or (3) take such other action as may be provided by law.

"(c) When a matter is referred to the Attorney General pursuant to subsection (b) of this section, or whenever he has reason to believe that there has occurred a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.".

REPEALS AND CONFORMING AMENDMENTS

SEC. 6268. (a) Section 217(g), subparts III and IV of part D of title III, sections 1201, 1202, 1203, 1204, 1205(d), 1206, 1207(a), 1208, 1209, and 1210, and part B of title XII of the Public Health Service Act; section 427(a) of the Federal Mine Safety and Health Act of 1977; section 102 and parts A and B of title III of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970; sections 405, 409, 410, and 411 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act; the Community Mental Health Centers Act; and section 101, part B of title I, titles II and III, and sections 502, 602, 801, and 806 of the Mental Health Systems Act are repealed.

(b)(1) Section 2(f) of the Public Health Service Act is amended by striking out "1201(2),".

(2) Title XII of that Act is amended by striking out "Part A—Assistance for Emergency Medical Services Systems".

(3) The second sentence of section 455(a) of that Act is amended by striking out ", the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 (other than part C of title II), and the Mental Health Systems Act".

(4) Section 507 of that Act is amended by striking out "appropriations available under the Community Mental Health Centers Act for construction and staffing of community mental health centers and alcoholism and narcotic addiction, drug abuse, and drug dependence facilities,".

(5) Section 513 of that Act is amended by striking out "the Mental Retardation Facilities Construction Act, the Community Mental Health Centers Act, the Mental Health Systems Act,".

(6) Section 1513(e)(1)(A)(i) of that Act is amended by striking out ", the Community Mental Health Centers Act, the Mental Health Systems Act, sections 409 and 410 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act, or the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970".

(7) Section 1521(d)(2)(A) of that Act is amended—

(A) by striking out ", the Community Mental Health Centers Act," and inserting instead "or", and

(B) by striking out ", and the Drug Abuse Office and Treatment Act of 1972".

(8) Section 1524(c)(6)(A) of that Act is amended by striking out "the Community Mental Health Centers Act, section 409 or 410 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act, or the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970,".

(9) Section 427(c) of the Federal Mine Safety and Health Act of 1977 is amended by striking out the first sentence.

(10) Section 2(b)(1) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 is amended by striking out "and direct Federal assistance to community-based programs to meet the urgent needs of special populations,".

(11) The first sentence of section 101(a) of that Act is amended by striking out "and part C of the Community Mental Health Centers Act".

(12) Section 201(b)(2) of that Act is amended—

(A) by striking out subparagraph (B), and

(B) by striking out subparagraph designation "(A)".

(13) Section 102 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act is amended—

(A) in paragraph (1), by striking out "and to community-based programs to meet the urgent needs of special populations", and

(B) by striking out paragraph (2).

(14) Section 406(a) of that Act is amended—

(A) by adding "and" at the end of paragraph (2),

(B) by striking out "; and" at the end of paragraph (3) and substituting a period, and

(C) by striking out paragraph (4).

(15) Section 413(b)(2) of that Act is amended—

(A) by striking out subparagraph (B), and

(B) by striking out the subparagraph designation "(A)".

(16) The table of sections of title IV of that Act is amended by striking out the listings for sections 405, 409, 410, and 411.

(17) Title I of the Mental Health Systems Act is amended—

(A) by striking out "Part A—Definitions",

(B) in the heading to section 102, by striking out "other", and

(C) in section 102, by striking out paragraphs (3), (4), (6), and (7).

(18) Section 601(a) of that Act is amended—

(A) in paragraph (5), by striking out "community mental health centers and", and

(B) by striking out paragraph (6).

(19) The table of contents of that Act is amended—

(A) by revising the listing for section 102 to read "SEC. 102. Definitions.",

(B) by striking out the listings for all parts and sections of title I (except section 102),

(C) by striking out the listings for titles II and III (and for their parts and sections), and

(D) by striking out the listings for sections 502, 602, 801, and 806.

EFFECTIVE DATE

SEC. 6269. The amendments made by sections 6267 and 6268 do not apply to any grant made, or contract entered into, before October 1, 1981.

Subchapter B—Preventive Health Block Grants

SHORT TITLE

SEC. 6271. This subchapter may be cited as the "Preventive Health Block Grant Act".

PURPOSE OF SUBCHAPTER

SEC. 6272. The purpose of this subchapter is to assist each State in—

(1) assuring access to preventive health services for its residents (in particular, individuals with limited means),

(2) providing comprehensive public health services, controlling rodents, fluoridating water supplies, undertaking hypertension activities, detecting and treating tuberculosis, providing family planning services, deterring smoking and the use of alcohol among children and adolescents and carrying out adolescent pregnancy activities, all of which were formerly supported by specific Federal assistance efforts, and

(3) otherwise undertaking health promotion and disease prevention efforts to reduce preventable morbidity and mortality and improve the quality of life.

PREVENTIVE HEALTH BLOCK GRANT

SEC. 6273. Part B of title III of the Public Health Service Act is amended—

(1) by inserting the heading "Subpart I—Special Programs" after the heading to that part,

(2) by repealing sections 314 and 315,

(3) by renumbering section 316 as 312, section 317 as 313, section 318 as 314, and section 320 as 315, and

(4) by adding the following after section 314:

"Subpart II—Preventive Health Block Grant

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 316. For the purpose of carrying out the provisions of this subpart, there are authorized to be appropriated $216,000,000 for fiscal year 1982 and for each of the three succeeding fiscal years.

"INTERIM ALLOTMENTS AND STUDY

"SEC. 317. (a) From the amounts appropriated under section 316 for any fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to the amounts appropriated under section 316 for

that fiscal year as the amounts provided or allotted by the Secretary to the State and to entities in the State under former sections 314(d) and 317 for comprehensive health services (including the detection and treatment of tuberculosis), rodent control, hypertension and fluoridation activities 1001, 1003, and 1005 of this Act and former sections 401 and 402 and title VI of the Health Services and Centers Amendments of 1978 bore to the amounts provided or allotted by the Secretary under those provisions to all States and to entities in all States from appropriations for fiscal year 1981.

"(b) The Secretary shall conduct a study for the purpose of devising a formula for the equitable distribution of funds available for allotments to the States under this subpart. In conducting the study, the Secretary shall take into account—

"(1) the financial resources of the various states,

"(2) the populations of the States, and

"(3) any other factor which the Secretary may consider appropriate.

Prior to January 1, 1983, the Secretary shall report to the Congress regarding the development of such a formula and make such recommendations as he may deem appropriate in order to insure the most equitable distribution of such funds to the States.

"PAYMENTS TO STATES

SEC. 318. (a) The Secretary shall make payments as provided by section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213) to each State from its allotment under section 317 from amount appropriated for any fiscal year.

"(b) the Secretary, at the request of a State, may reduce the amount of payments under subsection (a) by—

"(1) the fair market value of any supplies (including vaccines and other preventive agents) or equipment furnished the State, and

"(2) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the State and the amount of any other costs incurred in connection with the detail of such officer or employee,

when the furnishing of supplies or equipment or the detail of an officer or employee is for the convenience of and at the request of the State and for the purpose of conducting activities described in section 319. The amount by which any payment is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment or in detailing the personnel, on which the reduction of the payment is based, and the amount shall be deemed to be part of the payment and shall be deemed to have been paid to the State.

"USE OF GRANT MONEY

"SEC. 319. (a) A State may use amounts paid to it by the Secretary under section 318 (and amounts transferred under other provisions of law for use under this subpart) for health promotion and disease prevention activities, including planning, administration, education, and evaluation, except as limited under subsection (b) or (c) or as provided under subsection (d).

"(b) Amounts described in subsection (a) may not be used for—

"(1) cash payments to intended recipients of health services,

"(2) the purchase or improvement of land, or the purchase, construction or permanent improvement (other than minor remodeling) of any building or other facility, or

"(3) satisfying any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds.

The Secretary may waive the limitation contained in paragraph (2) upon the request of a State if the Secretary finds that there are extraordinary circumstances to justify the waiver and that granting the waiver will assist in carrying out this subpart.

"(c)(1) From the amounts paid to it by the Secretary under section 318 for fiscal year 1982, a State shall use an amount for family planning services equal to or greater than the product of—

"(A) the amount the Secretary provided to the State or entities in the State under former section 1001 from appropriations for fiscal year 1981, or

"(B) the ratio of the amount appropriated under section 316 for fiscal year 1982 to the amounts provided or allotted by the Secretary under the provisions listed in section 317(a) to all States and to entities in all States from appropriations for fiscal year 1981.

"(2) From the amounts paid to it by the Secretary under section 318 for fiscal year 1983, a State shall use an amount for family planning services equal to or greater than one-third of the minimum amount required under paragraph (1) of this subsection.

"(d) From the amounts paid to it under section 318 from amounts appropriated for a fiscal year, a State may transfer up to ten percent for use under other provisions of Federal law providing for support of health or social services, or for meeting home energy and emergency assistance needs. The State shall inform the Secretary of any such transfer of funds.

"(e) A State shall expend amounts described in subsection (a) by the end of the fiscal year following the fiscal year for which they were appropriated.

"(f) A State may use a portion of the amounts described in subsection (a) for the purpose of purchasing technical assistance from public or private entities if the State determines that such assistance is required in developing, implementing, and administering programs funded under this subpart.

"REPORT ON INTENDED EXPENDITURES

"SEC. 320. (a) Prior to expenditures by a State of payments made to it under section 318 for any fiscal year, the State shall prepare a report on the intended use of payments the State is to receive under this subpart, including information on the types of activities to be supported, the categories or characteristics of individuals to be served, and the geographical areas within the State in which such services will be provided. The report shall be made public within the State in such manner as to facilitate comment from any person (including any Federal, State, local, or other public agency) during development of the report and after its completion. The report shall be revised throughout the year as may be necessary to reflect substantial changes in the activities assisted under this subpart, and any revision shall be subject to the requirements of the previous sentence.

"(b) The Secretary shall review each report and revision submitted under subsection (a). If the Secretary finds that the intended use of payments under section 318 by a State is not in accordance with the purposes of this subpart or that the State has not provided for an equitable distribution of funds under such payments or of services within the State, the Secretary shall disapprove such report or revision. If a report or revision is disapproved, the State which submitted it shall, within 30 days of the date of such disapproval, make such revisions in its use of such payments or its distribution of funds or services so that such use is in accordance with the purposes of this subpart or such distribution is equitable and shall report such revisions to the Secretary.

"REPORTS AND AUDITS

"SEC. 320A. (a) Each State shall prepare reports on its activities under this subpart. Reports shall be in such form, contain such information, and be of such frequency (not less often than every two years) as the State finds necessary to secure an accurate description of those activities, to secure a complete record of the purposes for which funds were spent, and to determine the extent to which funds were expended consistently with the reports required by section 320. The State shall make copies of the reports required by this section available for public inspection within the State. Copies shall also be provided, upon request, to any interested public agency, and each such agency may provide its views on these reports to the Congress.

"(b) Each State shall, not less often than every year, audit its expenditures from amounts received under (or transferred to) this subpart. Such State audits shall be conducted by an entity independent of any agency administering a program funded under this subpart, in accordance with generally accepted accounting principles. Within 30 days following the completion of each audit, a copy of that audit shall be submitted to the legislature of the State and to the Secretary. Each State shall repay to the United States amounts found not to have been expended in accordance with this subpart or the Secretary may offset such amounts against any other amount to which the State is or may become entitled under this subpart.

"(c) For other provisions requiring States to account for Federal grants, see section 202 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4212).

"NONDISCRIMINATION PROVISION

SEC. 320B. (a) No person shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this subpart. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity.

"(b) Whenever the Secretary determines that there has been a failure to comply with subsection (a) of this section or an applicable regulation, he shall notify the chief executive officer of the State and shall request him to secure compliance. If within a reasonable period of time, not to exceed sixty days, the chief executive officer fails or refuses to secure compliance, the Secretary is authorized to (1) refer the matter to the Attorney General with a recommendation that an appropriate civil action by instituted, (2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, or section 504 of the Rehabilitation Act of 1973, as may be applicable, or (3) take such other action as may be provided by law.

"(c) When a matter is referred to the Attorney General pursuant to subsection (b)

of this section, or whenever he has reason to believe that there has occurred a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriated, including injunctive relief.".

REPEALS AND CONFORMING AMENDMENTS

SEC. 6274. (a) Title X of the Public Health Service Act and sections 401 and 402 and titles VI and VII of the Health Services and Centers Amendments of 1978 are repealed.

(b)(1) Section 2(f) of the Public Health Service Act is amended by striking out "314(g)(4)(B)," and "1002(c),".

(2)(A) The second sentence of section 311(a) of that Act is amended—

(i) by inserting "and with respect to other public health matters" after "diseases", and

(ii) by striking out "and in carrying out the purposes of section 314".

(B) The first sentence of section 311(b) of that Act is amended by striking out "the purposes of section 314" and inserting in lieu thereof "public health activities".

(C) The first sentence of section 311(c)(1) of that Act is amended by striking out "or condition referred to in section 317(f)" and "involving or resulting from disasters or any such disease".

(D) The second sentence of section 311(c)(1) of that Act is amended by striking out "resulting from disasters or any disease or condition referred to in section 317(f)".

(3)(A) Section 313(a) (as renumbered by section 6274(3) of this subchapter) is amended to read as follows:

"SEC. 313. (a) The Secretary may make grants to States and, in consultation with State authorities, to political subdivisions of States and to other public entities to assist them in meeting the costs of establishing and maintaining preventive health programs to immunize individuals against immunizable diseases.".

(B) Section 313(b)(3) of that Act is amended by striking out everything after "1524(c)" up to the semicolon.

(C) Section 313(h) of that Act is amended—

(i) by striking out "and conditions" each place it occurs, and

(ii) by striking out "for each of the programs listed in subsection (j)".

(D) Section 313(j) of that Act is amended by striking out paragraphs (2) through (5).

(E) The heading to section 313 of that Act is amended by striking out "Preventive Health Services" and inserting in lieu thereof "Immunizations".

EFFECTIVE DATE

SEC. 6275. The amendments made by sections 6273 and 6274 do not apply to any grant made, or contract entered into, before October 1, 1981.

Subchapter C—Maternal and Child Health Block Grants

SHORT TITLE

SEC. 6281. This subchapter may be cited as the "Maternal and Child Health Block Grant Act".

PURPOSE OF SUBCHAPTER

SEC. 6282. The purpose of this subchapter is to assist each State to—

(1) assure mothers and children (in particular those living in poverty or with limited availability of health services) access to quality maternal and child health services at a reasonable cost,

(2) provide services for reducing infant mortality and handicapping conditions, reducing the costs of inpatient or long-term care services, and otherwise promoting the health of mothers and children (especially by providing preventive and primary care services for children, and prenatal, delivery, and postpartum care for mothers),

(3) provide services for locating, and for medical, surgical, corrective, and other services, and care for, and facilities for, diagnosis, hospitalization, and aftercare for, children who are crippled or who are suffering from conditions leading to crippling,

(4) provide services related to hemophilia (without regard to age), lead-based paint poisoning prevention, genetic diseases, and sudden infant death syndrome,

(5) provide rehabilitation services for blind and disabled individuals under the age of 16 receiving benefits under tile XVI of the Social Security Act, and

(6) provide appropriate services to developmentally disabled individuals and to handicapped infants and handicapped preschool children, in order to increase their capacity for independent living and work, and to lessen their dependence on assistance from their families and private or public services.

MATERNAL AND CHILD HEALTH AND RELATED ACTIVITIES BLOCK GRANT

SEC. 6283. Title V of the Social Security Act is repealed and replaced with the following new title:

"TITLE V—MATERNAL AND CHILD HEALTH AND RELATED ACTIVITIES BLOCK GRANT

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 501. For the purpose of carrying out the provisions of this subpart, there are authorized to be appropriated $393,000,000 for fiscal year 1982 and for each of the three succeeding fiscal years.

"INTERIM ALLOTMENTS AND STUDY

"SEC. 502. (a) From the amounts appropriated under section 501 for any fiscal year, the Secretary shall use 15 percent of such amounts (through grants, contracts, or otherwise)—

"(1) for special projects of regional or national significance which may contribute to the advancement of maternal and child health or the advancement of services for handicapped children,

"(2) for research projects relating to maternal and child health services or handicapped children's services which show promise of substantial contribution to the advancement thereof, and

"(3) for the contribution of funding of—

"(A) grants to public or nonprofit private institutions of higher learning for training personnel for health care and related services for mothers and children (particularly mentally retarded children and children with multiple handicaps) previously funded under section 511 of this title, and

"(B) comprehensive hemophilia diagnostic and treatment centers previously funded under section 1131 of the Public Health Service Act,

as such sections were in effect before the enactment of the Maternal and Child Health Block Grant Act.

The authority of the Secretary to enter into any contracts under this title is effective for any fiscal year only to such extent or in such amounts as are provided in appropriations Acts.

"(b) From the remainder of the amounts appropriated under section 501 for any fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to the amounts appropriated under section 501 for that fiscal year as the amounts provided or allotted by the Secretary to the State and to entities in the State under former title V and former section 1615(e) of this Act; former sections 316, 1101, 1121, and 1131 of the Public Health Service Act; and the former Developmental Disabilities Assistance and Bill of Rights Act bore to the amounts provided or alloted by the Secretary under those provisions to all States and entities in all States from appropriations for fiscal year 1981.

"(c) The Secretary shall conduct a study for the purpose of devising a formula for equitable distribution of funds available for allotment to the States under this title. In conducting the study, the Secretary shall take into account—

"(1) the number of live births in the States,

"(2) the number of handicapped children in the States,

"(3) the number of low-income mothers and children in the States,

"(4) the financial resources of the various States,

"(5) the populations of the States, and

"(6) any other factors which the Secretary may consider appropriate.

Prior to January 1, 1983, the Secretary shall report to the Congress regarding the development of such a formula and make such recommendations as he may deem appropriate in order to insure the most equitable distribution of such funds to the States.

"PAYMENT TO STATES

"SEC. 503. (a) The Secretary shall make payments as provided by section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213) to each State from its allotment under section 502 from amounts appropriated for any fiscal year.

"(b) The Secretary, at the request of a State, may reduce the amount of payments under subsection (a) by—

"(1) the fair market value of any supplies (including vaccines and other preventive agents) or equipment furnished the State, and

"(2) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the State and the amount of any other costs incurred in connection with the detail of such officer or employee,

when the furnishing of supplies or equipment or the detail of an officer or employee is for the convenience of and at the request of the State and for the purpose of conducting activities described in section 504. The amount by which any payment is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment or in detailing the personnel, on which the reduction of the payment is based, and the amount shall be deemed to be part of the payment and shall be deemed to have been paid to the State.

"USE OF GRANT MONEY

"SEC. 504. (a) A State may use amounts paid to it under section 503 (and amounts transferred under other provisions of law for use under this title) for the provision of health services (and other services, for individuals specified in paragraph (3)) and related activities, including planning, administration, education, and evaluation (except as limited under subsection (b) or as provided under subsection (c))—

"(1) for pregnant women, mothers, and children,

"(2) related to sudden infant death syndrome, hemophilia, genetic diseases, and the prevention of lead-based paint poisoning, and

"(3) for developmentally disabled individuals, handicapped infants, and handicapped pre-school children.

"(b) Amounts described in subsection (a) may not be used for—

"(1) in patient services, other than inpatient services prescribed by the Secretary,

"(2) cash payments to intended recipients of health services,

"(3) the purchase or improvement of land, or the purchase, construction, or permanent improvement (other than minor remodeling) of any building or other facility,

"(4) satisfying any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds.

The Secretary may waive the limitation contained in paragraph (3) upon the request of a State if the Secretary finds that there are extraordinary circumstances to justify the waiver and that granting the waiver will assist in carrying out this title.

"(c) From the amounts paid to it under section 503 from amounts appropriated for a fiscal year, a State may transfer up to 10 percent for use under other provisions of Federal law providing for support of health promotion and disease prevention or health or social services, or for meeting home energy and emergency assistance needs. The State shall inform the Secretary of any such transfer of funds.

"(d) A State shall expend amounts described in subsection (a) by the end of the fiscal year following the fiscal year for which they were appropriated.

"(e) A State may use a portion of the amounts described in subsection (a) for the purpose of purchasing technical assistance from public or private entities if the State determines that such assistance is required in developing, implementing, and administering programs funded under this title.

"REPORT ON INTENDED EXPENDITURES

"SEC. 505. (a) Prior to expenditure by a State of payments made to it under section 503 for any fiscal year, the State shall prepare a report on the intended use of payments the State is to receive under this title, information on the types of services to be provided the categories or characteristics of individuals to be served, and the geographical areas within the State in which such services will be provided. The report shall be made public within the State in such a manner as to facilitate comment from any person (including any Federal, State, local, or other public agency) during development of the report and after its completion. The report shall be revised throughout the year as may be necessary to reflect substantial changes in the activities assisted under this title, and any revision shall be subject to the requirements of the preceding sentence.

"(b) The Secretary shall review each report and revision submitted under subsection (a). If the Secretary finds that the intended use of payments under section 503 by a State is not in accordance with the purposes of this subpart or that the State has not provided for an equitable distribution of funds under such payments or of services within the State, the Secretary shall disapprove such report or revision. If a report of revision is disapproved, the State which submitted it shall, within 30 days of the date of such disapproval, make such revisions in its use of such payments or its distribution of funds or services so that such use is in accordance with the purposes of this subpart or such distribution is equitable and shall report such revisions to the Secretary.

"REPORTS AND AUDITS

"SEC. 506. (a) Each State shall prepare reports on its activities under this title. Report shall be in such form, contain such information, and be of such frequency (not less often than every two years) as the State finds necessary to secure an accurate description of those activities, to secure a complete record of the purposes for which funds were spent, and to determine the extent to which funds were expended consistently with the report required by section 505. The State shall make copies of the reports required by this section available for public inspection within the State. Copies shall also be provided, upon request, to any interested public agency, and each such agency may provide its reviews on these reports to the Congress.

"(b) Each State shall, not less often than every year, audit its expenditures from amounts received under (or transferred to) this title. Such State audits shall be conducted by an entity independent of the State agency administering a program funded under this title, in accordance with generally accepted accounting principles. Within 30 days following the completion of each audit, a copy of that audit shall be submitted to the State legislature and to the Secretary. Each State shall repay to the United States amounts found not to have been expended in accordance with this title or the Secretary may offset such amounts against any other amount to which the State is or may become entitled under this title.

"(c) For other provisions requiring States to account for Federal grants, see section 202 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4212).

"NONDISCRIMINATION PROVISIONS

"Sec. 509. (a) No person shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this title. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity.

"(b) Wherever the Secretary determines that there has been a failure to comply with subsection (a) of this section or an applicable regulation, he shall notify the chief executive officer of the State and shall request him to secure compliance. If within a reasonable period of time, the chief executive officer fails or refuses to secure compliance, the Secretary is authorized to (1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted, (2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, or section 504 of the Rehabilitaton Act of 1973, as may be applicable, or (3) take such other action as may be provided by law.

"(c) When a matter is referred to the Attorney General pursuant to subsection (b) of this section, or whenever he has reason to believe that there has occurred a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

"DEFINITION

"SEC. 510. As used in this title, the term 'developmental disability' means a severe, chronic disability of an individual which—

"(1) is attributable to a mental or physical impairment or combination of mental and physical impairments,

"(2) is manifested before the individual attains age twenty-two,

"(3) is likely to continue indefinitely,

"(4) results in substantial functional limitations in three or more of the following areas of major life activity:

"(A) self-care,

"(B) receptive and expressive language,

"(C) learning,

"(D) mobility,

"(E) self-direction,

"(F) capacity for independent living, and

"(G) economic self-sufficiency, and

"(5) reflects the individual's need for a combination and sequence of special interdisciplinary, or generic care, treatment, or other services which are of life-long or extended duration and are individually planned and coordinated.".

REPEALS AND CONFORMING AMENDMENTS

SEC. 6284. (a) Section 316, part A of title XI, section 1121, and part C of title XI of the Public Health Service Act and the Developmental Disabilities Assistance and Bill of Rights Act are repealed.

(b)(1) Title XI of the Public Health Service Act is amended—

(A) by striking out the heading to part B, and

(B) by amending the heading to the title to read as follows: "TITLE XI—SUDDEN INFANT DEATH SYNDROME RESEARCH AND RESEARCH REPORTS".

(2) Section 471(a)(8) of the Social Security Act is amended by striking out "V,".

(3) Section 1101(a)(9)(D) of that Act is amended by striking out "V, XVIII, and XIX" and inserting instead "XVIII and XIX".

(4) Section 1108(d) of that Act is amended by striking out "section 502(a) and 512(a) of this Act, and the provisions of sections 421, 503(1), and 504(1)" and inserting instead "section 421".

(5) Section 1122 of that Act is amended—

(A) by striking out "V, XVIII, and XIX" each place it occurs and inserting instead "XVIII and XIX", and

(B) in subsection (d)(2), by striking out "V, XVIII, or X" and inserting instead "XVIII or XIX".

(6) Section 1124(a)(1) of that Act is amended by striking out "V," each place it occurs.

(7) Section 1124(a)(2)(B) of that Act is amended by striking out "pursuant to title V or".

(8) Section 1129(a) of that Act is amended by striking out "V or" each place it occurs.

(9) Section 1129(b)(2) of that Act is amended by striking out "V, XVIII, or" and inserting instead "XVIII or".

(10) Section 1132(a)(1) of that Act is amended by striking out "V,".

(11) Section 1134 of that Act is amended by striking out "V, XVIII," and inserting instead "XVIII".

(12) Section 1172(4) of that Act is amended by striking out "V,".

(13) Section 1615(a) of that Act is amended to read as follows:

"SEC. 1615. (a) In the case of any blind or disabled individual who—

(1) has not attained age 65, and

(2) is receiving benefits (or with respect to whom benefits are paid) under this title, the Secretary shall make provision for referral of such individual (if he is age 16 or over) to the appropriate State agency administering the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act, and (except in such cases as the Secretary may determine) for a review not less often than quarterly of such individual's blindness or disability and (if he is age 16 or over) his need for and utilization of the services made available to him under such plan".

(14) Section 1861(w)(2) of that Act is amended by striking out "V or".

(15) Section 1902(a)(11) of that Act is amended—

(A) by striking out ", and" at the end of clause (A),

(B) by striking out clause (B), and

(C) by striking out the clause designation "(A)".

(16) Section 222(a)(1) of the Social Security Amendments of 1972 is amended by striking out "titles XIX and V" and inserting instead "title XIX".

(17) The first sentence of section 222(a)(3) of that Act is amended by striking out ", XIX, and V" and inserting instead "and XIX".

(18) Section 222(a)(4) of that act is amended by striking out "titles V and XIX" each place it occurs and inserting instead "title XIX".

(19) The matter in section 402(a)(1) of the Social Security Amendments of 1967 following paragraph (J) is amended—

(A) by striking out the second comma and inserting instead "and", and

(B) by striking out the third comma and everything following up to the period.

(20) Section 402(a)(2) of that Act is amended by striking out "titles V and XIX" each place it occurs and inserting instead "title XIX".

(21) Section 402(b) of that Act is amended by striking out ", XIX, and V" and inserting instead "and XIX".

(22) Section 914(d) of the Omnibus Reconciliation Act of 1980 is amended by striking out "V, XVIII," and inserting instead "XVIII".

(23) Sections 202(b)(2), 203(b), and 302(2)(K) of the Mental Health Systems Act are each amended by striking out "the Developmental Disabilities Assistance and Bill of Rights Act,".

EFFECTIVE DATE

SEC. 6285. The amendments made by sections 6283 and 6284 do not apply to any grant made, or contract entered into, before October 1, 1981.

Chapter 4—CONSUMER PRODUCT SAFETY AMENDMENTS

SHORT TITLE; REFERENCE TO ACT

SEC. 6301. (a) This chapter may be cited as the "Consumer Product Safety Amendments of 1981".

(b) Except as otherwise specifically provided, whenever in this chapter an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Consumer Product Safety Act.

DEVELOPMENT OF CONSUMER PRODUCT SAFETY STANDARDS, BANNED HAZARDOUS SUBSTANCES REGULATIONS, AND FLAMMABILITY STANDARDS

SEC. 6302. (a) Section 7 (15 U.S.C. 2056) is amended—

(1) in subsection (b)—

(A) by striking out the matter preceding subparagraph (A) and inserting in lieu thereof the following: "Before commencing a proceeding for the development of a consumer product safety standard, the Commission shall by notice in the Federal Register—";

(B) by striking out "determination" in paragraph (1)(B) and inserting in lieu thereof "preliminary determination";

(C) by striking out the semicolon in paragraph (1)(C) and inserting in lieu thereof the following: "(including information explaining why the Commission believes such standard does not eliminate or adequately reduce the risk of injury identified under subparagraph (A)); and";

(D) by amending paragraph (1)(D) to read as follows:

"(D) provide an invitation for any person (other than the Commission) to submit to the Commission, within 60 days after the date of publication of the notice, an existing standard as the proposed consumer product safety standard; and";

(E) by striking out paragraph (1)(E);

(F) by striking out "(1)" after "(b)", by striking out paragraph (2) and by redesignating subparagraphs (A) through (D) as paragraphs (1) through (4), respectively; and

(G) by adding at the end the following:

"(5) provide an invitation for the submission to the Commission, within 60 days after the date of publication of the notice, of comments on the existence and nature of the risk of injury identified in the notice and on the necessity for a consumer product safety standard to eliminate or reduce the injury.";

(2) in subsection (c)—

(A) by striking out "determines" and all that follows through "paragraph (1) or (2)" and inserting in lieu thereof "determines that any standard submitted to it in response to an invitation in a notice published under subsection (b) if promulgated (in whole, in part, or in combination with any other standard submitted to the Commission"; and

(B) by striking out "reduce" and inserting in lieu thereof "adequately reduce";

(3) in subsection (d)—

(A) by amending paragraph (1) to read as follows:

"(1)(A) If the Commission publishes a notice under subsection (b) respecting a risk of injury from a consumer product and—

"(i) no standard is submitted to the Commission in response to the invitation in the notice, or

"(ii) one or more standards is submitted and the Commission determines—

"(I) compliance with such standard is not likely to result in the elimination or adequate reduction of such risk or injury, or

"(II) it is unlikely that there will be substantial compliance with any such standard,

the Commission shall publish a notice in the Federal Register stating that either no standard was submitted or the Commission's determination respecting any standard submitted, and inviting the development and submission to the Commission, within 150 days or such greater period as the Commission may determine is reasonable, of a voluntary standard to eliminate or adequately reduce the risk of injury identified in the subsection (b) notice.

"(B) If the Commission determines that any voluntary standard submitted to it in response to the invitation in the notice published under subparagraph (A) is likely to eliminate or adequately reduce the risk of injury identified in the subsection (b) notice, the Commission shall terminate any proceeding to promulgate a consumer product safety rule respecting such risk of injury and shall publish in the Federal Register a notice which includes the determination of the Commission and which notifies the public that the Commission will rely on the voluntary standard to eliminate or reduce the risk of injury and which defines the preemption to be accorded the standard under section 26.

"(C) If no voluntary standard is submitted in response to an invitation in a notice published under subparagraph (A) within the period prescribed by the notice or if one or more voluntary standards is submitted to the Commission and the Commission determines—

"(i) compliance with such voluntary standard is not likely to result in the elimination or adequate reduction of the risk of injury identified in the subsection (b) notice, or

"(ii) it is unlikely that there will be substantial compliance with any such voluntary standard,

the Commission may develop and publish a proposed consumer product safety standard for such risk of injury.",

(B) by striking out "If an offer is accepted under this subsection or if" in paragraph (2) and inserting in lieu thereof "If",

(C) by striking out "under subsection (b)(2)(A) or subsection (e)" in such paragraph,

(D) by striking out "the offeror's cost in developing a proposed consumer product safety standard or the person's cost with respect to such participation," in such paragraph and inserting in lieu thereof "the person's cost of developing a proposed consumer product safety standard",

(E) by striking out "offeror or" in such paragraph, and

(F) by striking out paragraphs (3) and (4); and

(4) by striking out subsections (e) and (f).

(b) Section 7(a)(1) (15 U.S.C. 2056(a)(1)) is amended—

(1) by amending subparagraph (A) to read as follows:

"(A) Requirements as to the performance of a consumer product."; and

(2) by striking out the last sentence.

(c) Section 7(a) (15 U.S.C. 2056(a)) is amended—

(1) by striking out paragraph (2),

(2) by striking out "(1)", and

(3) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively.

(d)(1) Section 3 of the Federal Hazardous Substances Act (15 U.S.C. 1262) is amended by adding at the end the following new subsection:

"(f)(1) Before commencing a proceeding for the promulgation of a regulation under section 2(q)(1) classifying an article or substance as a banned hazardous substance, the Commission shall by notice in the Federal Register—

"(A) identify the article or substance and the nature of the hazard associated with the article or substance;

"(B) state the Commission's preliminary determination that a regulation classifying the article or substance as a banned hazardous substance is necessary to eliminate or adequately reduce the hazard;

"(C) provide an invitation for the submission to the Commission, within 60 days after the date of publication of the notice, of comments on the existence and nature of

the hazard identified in the notice and on the necessity for a regulation under section 2(q)(1) to eliminate or reduce the hazard; and

"(D) provide an invitation for any person (other than the Commission) to submit to the Commission, within 60 days after the date of publication of the notice, an existing standard in lieu of a regulation under section 2(q)(1).

"(2)(A) If the Commission publishes a notice under paragraph (1) respecting a hazard from an article or substance and—

"(i) no standard is submitted to the Commission in response to the invitation in the notice, or

"(ii) one or more standards is submitted and the Commission determines—

"(I) compliance with such standard is not likely to result in the elimination or adequate reduction of such hazard, or

"(II) it is unlikely that there will be substantial compliance with any such standard,

the Commission shall publish a notice in the Federal Register stating that either no standard was submitted or the Commission's determination respecting any standard submitted, and inviting the development and submission to the Commission, within 150 days or such greater period as the Commission may determine is reasonable, of a voluntary standard to eliminate or adequately reduce the hazard identified in the paragraph (1) notice.

"(B) If the Commission determines that any voluntary standard submitted to it in response to the invitation in the notice published under subparagraph (A) is likely to eliminate or adequately reduce the hazard identified in the paragraph (1) notice, the Commission shall terminate any proceeding to promulgate a regulation under section 2(q)(1) respecting such hazard and shall publish in the Federal Register a notice which includes the determination of the Commission and which notifies the public that the Commission will rely on the voluntary standard to eliminate or reduce the hazard and which defines the preemption to be accorded the standard under section 18.

"(C) If no voluntary standard is submitted in response to an invitation in a notice published under subparagraph (A) within the period prescribed by the notice or if one or more voluntary standards is submitted to the Commission and the Commission determines—

"(i) compliance with such voluntary standard is not likely to result in the elimination or adequate reduction of the hazard identified in the paragraph (1) notice, or

"(ii) it is unlikely that there will be substantial compliance with any such voluntary standard, the Commission may develop and publish a proposed regulation under section 2(q)(1) for such hazard.".

(2) Section 4 of the Flammable Fabrics Act (15 U.S.C. 1193) is amended by adding at the end the following new subsection:

"(g)(1) Before commencing a proceeding for the promulgation of a regulation under this section for a fabric, related material, or product, the Commission shall by notice in the Federal Register—

"(A) identify the fabric, related material, or product, and the nature of the risk of fire associated with the fabric, related material, or product;

"(B) state the Commission's preliminary determination that a regulation under this section is necessary to eliminate or adequately reduce the risk of fire associated with the fabric, related material, or product;

"(C) provide an invitation for the submission to the Commission, within 60 days after the date of publication of the notice, of comments on the existence and nature of the risk of fire identified in the notice and on the necessity for a regulation under this section to eliminate or reduce the risk of fire; and

"(D) provide an invitation for any person (other than the Commission) to submit to the Commission, within 60 days after the date of publication of the notice, an existing standard in lieu of a regulation under this section.

"(2)(A) If the Commission publishes a notice under paragraph (1) respecting a risk of fire from a fabric, related material, or product and—

"(i) no standard is submitted to the Commission in response to the invitation in the notice, or

"(ii) one or more standards is submitted and the Commission determines—

"(I) compliance with such standard is not likely to result in the elimination or adequate reduction of such risk of fire, or

"(II) it is unlikely that there will be substantial compliance with any such standard,

the Commission shall publish a notice in the Federal Register stating that either no standard was submitted or the Commission's determination respecting any standard submitted, and inviting the development and submission to the Commission, within 150 days or such greater period as the Commission may determine is reasonable, of a voluntary standard to eliminate or adequately reduce the risk of fire identified in the paragraph (1) notice.

"(B) If the Commission determines that any voluntary standard submitted to it in response to the invitation in the notice published under subparagraph (A) is likely to eliminate or adequately reduce the risk of fire identified in the paragraph (1) notice, the Commission shall terminate any processing to promulgate a regulation under this section respecting such risk of fire and shall publish in the Federal Register a notice which includes the determination of the Commission and which notifies the public that the Commission will rely on the voluntary standard to eliminate or reduce the risk of fire and which defines the preemption to be accorded the standard under section 16.

"(C) If no voluntary standard is submitted in response to an invitation in a notice published under subparagraph (A) within the period prescribed by the notice or if one or more voluntary standards is submitted to the Commission and the Commission determines—

"(i) compliance with such voluntary standard is not likely to result in the elimination or adequate reduction of the risk of fire identified in the paragraph (1) notice, or

"(ii) it is unlikely that there will be substantial compliance with any such voluntary standard, the Commission may develop and publish a proposed regulation under this section for such risk of fire.".

REGULATORY IMPACT ANALYSIS

SEC. 6303. (a)(1) Section 9(c) (15 U.S.C. 2058(c)) is amended by redesignating paragraph (2) as paragraph (3) and by adding after paragraph (1) the following:

"(2) The Commission may not publish a proposed consumer product safety rule or promulgate a consumer product safety rule unless it has prepared, on the basis of the findings of the Commission under paragraph (1) and on other information before the Commission, a regulatory impact analysis of the rule containing the following information:

"(A) A description of the potential benefits of the rule, including any beneficial effects that cannot be quantified in monetary terms, and the identification of those likely to receive the benefits.

"(B) A description of the potential costs of the rule, including any adverse effects that cannot be quantified in monetary terms, and the identification of those likely to bear the costs.

"(C) A determination of the potential net benefits of the rule, including an evaluation of effects that cannot be quantified in monetary terms.

"(D) A description of major alternative approaches (including voluntary consumer product safety standards) that could substantially achieve the same regulatory goal at lower cost, together with an analysis of the potential benefits and costs of the alternative approaches and a brief explanation of the reasons why such alternatives, if proposed, could not be adopted.".

(2) Section 9(a)(1)(A) (15 U.S.C. 2058(a)(1)(A)) is amended by inserting before the comma the following: "and prepares the regulatory impact analysis required by such subsection".

(b) Section 3 of the Federal Hazardous Substances Act (15 U.S.C. 1262) is amended by adding after subsection (f) (added by section 6302(d) of this chapter) the following new subsection:

"(g) The Consumer Product Safety Commission may not publish a proposed regulation under section 2(q)(1) or subsection (a), (b), or (e) of this section or promulgate a regulation under such section or subsection unless it has prepared a regulatory impact analysis of the regulation containing the following information:

"(1) A description of the potential benefits of the regulation, including any beneficial effects that cannot be quantified in monetary terms, and the identification of those likely to receive the benefits.

"(2) A description of the potential costs of the regulation, including any adverse effects that cannot be quantified in monetary terms, and the identification of those likely to bear the costs.

"(3) A determination of the potential net benefits of the regulation, including an evaluation of effects that cannot be quantified in monetary terms.

"(4) A description of major alternative approaches that could substantially achieve the same regulatory goal at lower cost, together with an analysis of the potential benefits and costs of the alternative approaches and a brief explanation of the reasons why such alternatives, if proposed, could not be adopted.".

(c) Section 4 of the Flammable Fabrics Act (15 U.S.C. 1193) is amended by adding after subsection (g) (added by section 6302(d) of this chapter) the following new subsection:

"(h) The Consumer Product Safety Commission may not publish a proposed regulation under this section or promulgate a regulation under this section unless it has prepared a regulatory impact analysis of the regulation containing the following information:

"(1) A description of the potential benefits of the regulation, including any beneficial effects that cannot be quantified in monetary terms, and the identification of those likely to receive the benefits.

"(2) A description of the potential costs of the regulation, including any adverse effects that cannot be quantified in monetary

terms, and the identification of those likely to bear the costs.

"(3) A determination of the potential net benefits of the regulation, including an evaluation of effects that cannot be quantified in monetary terms.

"(4) A description of major alternative approaches that could sustantially achieve the same regulatory goal at lower cost, together with an analysis of the potential benefits and costs of the alternative approaches and a brief explanation of the reasons why such alternatives, if proposed, could not be adopted.".

REQUIRED COMMISSION FINDINGS; ASSISTANCE FOR VOLUNTARY STANDARDS

SEC. 6304. (a) Section 9(c)(3) (15 U.S.C. 2058(c)(2)) (as so redesignated by section 3(a)(1)) is amended—

(1) by striking out "and" at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new subparagraphs:

"(D) in the case of a rule which relates to a risk of injury with respect to which persons who would be subject to such rule have adopted a voluntary consumer product safety standard, that—

"(i) compliance with such voluntary consumer product safety standard is not likely to result in the elimination or adequate reduction of such risk of injury; or

"(ii) it is unlikely that there will be substantial compliance with such voluntary consumer product safety standard;

"(E) the rule imposes the least burdensome requirement which prevents or adequately reduces the risk of injury for which the rule is being promulgated; and

"(F) the costs of compliance with the rule are justified by the benefits resulting from the application of the rule.".

(b) Section 3 of the Federal Hazardous Substances Act (15 U.S.C. 1262) is amended by adding after subsection (g) (added by section 6303 of this chapter) the following new subsection:

"(h) The Consumer Product Safety Commission may not promulgate a regulation under section 2(q)(1) or subsection (a), (b), or (e) of this section unless it finds (and includes such finding in the regulation) that—

"(1) in the case of a regulation which relates to a risk of injury or illness with respect to which persons who would be subject to such regulation have adopted a voluntary standard to prevent or reduce such risk—

"(A) compliance with such voluntary standard is not likely to result in the elimination or adequate reduction of such risk; or

"(B) it is unlikely that there will be substantial compliance with such standard;

"(2) the regulation imposes the least burdensome requirement which prevents or adequately reduces the risk of personal injury or illness for which the regulation is being promulgated; and

"(3) the costs of compliance with the regulation are justified by the benefits resulting from the application of the regulation."

(c) Section 4 of the Flammable Fabrics Act (15 U.S.C. 1193) is amended by adding after subsection (h) (added by section 6303 of this chapter) the following new subsection:

"(i) The Consumer Product Safety Commission may not promulgate a regulation under this section unless it finds (and includes such finding in the regulation) that—

"(1) in the case of a regulation which relates to a risk of the occurrence of fire with respect to which persons who would be subject to such regulation have adopted a voluntary standard to prevent or reduce such risk—

"(A) compliance with such voluntary standard is not likely to result in the elimination or adequate reduction of such risk; or

"(B) it is unlikely that there will be substantial compliance with such standard;

"(2) the regulation imposes the least burdensome requirement which prevents or adequately reduces the risk of the occurrence of fire for which the regulation is being promulgated; and

"(3) the costs of compliance with the regulation are justified by the benefits resulting from the application of the regulation.".

(d) Section 5(b) (15 U.S.C. 2054) is amended by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) offer training in product safety investigation and test methods.

The Commission, to the extent feasible, shall assist public and private organizations, administratively and technically, in the development of safety standards and test methods.".

REPORTS

SEC. 6305. (a) Section 27(b)(1) (15 U.S.C. 2076(b)(1)) is amended by inserting "to carry out a specific regulatory or enforcement function of the Commission" after "may prescribe".

(b) Section 27(b) is amended by adding after and below paragraph (9) the following: "An order issued under paragraph (1) shall contain a complete statement of the reason the Commission requires the report or answers specified in the order to carry out a specific regulatory or enforcement function of the Commission. Such an order shall be designed to place the least burden on the person subject to the order as is practicable taking into account the purpose for which the order was issued.".

ADVISORY COUNCILS

SEC. 6306. (a)(1) Section 28 (15 U.S.C. 2077) is repealed.

(2) Subsection (d) of section 12 (15 U.S.C. 2061) is repealed and subsections (e) and (f) are redesignated as subsections (d) and (e), respectively.

(b) Section 17 of the Flammable Fabrics Act (15 U.S.C. 1204) is repealed.

(c) Section 6 of the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1475) is repealed and sections 7, 8, and 9 of such Act are redesignated as sections 6, 7, and 8, respectively.

CONGRESSIONAL VETO

SEC. 6307. (a) The Consumer Product Safety Act is amended by adding at the end the following new section:

"CONGRESSIONAL VETO OF CONSUMER PRODUCT SAFETY RULES

"Sec. 36. (a) The Commission shall transmit to the Secretary of the Senate and the Clerk of the House of Representatives a copy of any consumer product safety rule promulgated by the Commission under section 9.

"(b) Any rule specified in subsection (a) shall not take effect if—

"(1) within the 90 calendar days of continuous session of the Congress which occur after the date of the promulgation of such rule, both Houses of the Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows (with the blank spaces appropriately filled): 'That the Congress disapproves the consumer product safety rule which was promulgated by the Consumer Product Safety Commission with respect to and which was transmitted to the Congress on and disapproves the rule for the following reasons: .'; or

"(2) within the 60 calendar days of continuous session of the Congress which occur after the date of the promulgation of such rule, one House of the Congress adopts such concurrent resolution and transmits such resolution to the other House and such resolution is not disapproved by such other House within the 30 calendar days of continuous session of the Congress which occur after the date of such transmittal.

"(c) Congressional inaction on, or rejection of, a concurrent resolution of disapproval under this section shall not be construed as an expression of approval of the rule involved, and shall not be construed to create any presumption of validity with respect to such rule.

"(d) For purposes of this section—

"(1) continuity of session is broken only by an adjournment of the Congress sine die; and

"(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the periods of continuous session of the Congress specified in subsection (b).".

(b) Section 27(l)(1) (15 U.S.C. 2076(l)(1)) is amended—

(1) by striking out "; and" at the end of subparagraph (A) and inserting in lieu thereof a period and by striking out subparagraph (B); and

(2) by striking out "paragraph (2)—" and all that follows through "the Commission shall transmit" and inserting in lieu thereof "paragraph (2), the Commission shall transmit".

(c) The Federal Hazardous Substances Act is amended by adding at the end the following new section:

"CONGRESSIONAL VETO OF REGULATIONS

"SEC. 21. (a) The Consumer Product Safety Commission shall transmit to the Secretary of the Senate and the Clerk of the House of Representatives a copy of any regulation promulgated by the Commission under section 2(q)(1) or subsection (a), (b), or (e) of section 3.

"(b) Any regulation specified in subsection (a) shall not take effect if—

"(1) within the ninety calendar days of continuous session of the Congress which occur after the date of the promulgation of such regulation, both Houses of the Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows (with the blank spaces appropriately filled): 'That the Congress disapproves the regulation which was promulgated under the Federal Hazardous Substances Act by the Consumer Product Safety Commission with respect to and which was transmitted to the Congress on and disapproves the regulation for the following reasons: .'; or

"(2) within the sixty calendar days of continuous session of the Congress which occur after the date of the promulgation of such regulation, one House of the Congress adopts such concurrent resolution and transmits such resolution to the other House and such resolution is not disapproved by such other House within the thirty calendar days of continuous session

of the Congress which occur after the date of such transmittal.

"(c) Congressional inaction on, or rejection of, a concurrent resolution of disapproval under this section shall not be construed as an expression of approval of the regulation involved, and shall not be construed to create any presumption of validity with respect to such regulation.

"(d) For purposes of this section—

"(1) continuity of session is broken only by an adjournment of the Congress sine die; and

"(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the periods of continuous session of the Congress specified in subsection (b).".

(d) The Flammable Fabrics Act is amended by adding at the end the following new section:

"CONGRESSIONAL VETO OF FLAMMABILITY REGULATIONS

"SEC. 18. (a) The Consumer Product Safety Commission shall transmit to the Secretary of the Senate and the Clerk of the House of Representatives a copy of any flammability regulation promulgated by the Commission under section 4.

"(b) Any regulation specified in subsection (a) shall not take effect if—

"(1) within the ninety calendar days of continuous session of the Congress which occur after the date of the promulgation of such regulation, both Houses of the Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows (with the blank spaces appropriately filled): 'That the Congress disapproves the flammability regulation which was promulgated under the Flammable Fabrics Act by the Consumer Product Safety Commission with respect to and which was transmitted to the Congress on and disapproves the regulation for the following reasons: .'; or

"(2) within the sixty calendar days of continuous session of the Congress which occur after the date of the promulgation of such regulation, one House of the Congress adopts such concurrent resolution and transmits such resolution to the other House and such resolution is not disapproved by such other House within the thirty calendar days of continuous session of the Congress which occur after the date of such transmittal.

"(c) Congressional inaction on, or rejection of, a concurrent resolution of disapproval under this section shall not be construed as an expression of approval of the regulation involved, and shall not be construed to create any presumption of validity with respect to such regulation.

"(d) For purposes of this section—

"(1) continuity of session is broken only by an adjournment of the Congress sine die; and

"(2) The days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the periods of continuous session of the Congress specified in subsection (b).".

PUBLIC DISCLOSURE

SEC. 6308. (a) The first sentence of section 6(a)(2) (15 U.S.C. 2055(a)(2)) is amended to read as follows: "Information reported to or otherwise obtained by the Commission or its representative—

"(A) which contains or relates to a trade secret or other matter referred to in section 1905 of title 18, United States Code,

"(B) which is information (other than information submitted under section 15(b)) which the person submitting the information certifies is not available to the public from such person and is not customarily disclosed to the public by such person, or

"(C) which the Commission has in good faith obligated itself not to disclose,

shall be considered confidential and shall not be disclosed, except that such information may be disclosed to other officers or employees concerned with carrying out any Act administered by the Commission or when relevant in any proceeding under such an Act."

(b) Section 6(b) (15 U.S.C. 2055(b)) is amended—

(1) by striking out "paragraph (2)" in paragraph (1) and inserting in lieu thereof "paragraphs (2) and (3)"; and

(2) by adding after paragraph (2) the following new paragraph:

"(3) In addition to the requirements of paragraph (1), the Commission shall not disclose to the public information submitted under section 15(b) respecting a consumer product unless—

"(A) the Commission has issued a complaint under section 15(c) or 15(d) alleging that such product presents a substantial product hazard;

"(B) in lieu of proceeding against such product under section 15(c) or 15(d), the Commission has accepted a remedial settlement agreement dealing with such product; or

"(C) the person who submitted the information under section 15(b) agrees to its public disclosure.

This paragraph does not apply to the public disclosure of any information with respect to a consumer product which is the subject of an action brought under section 12 or which the Commission has reasonable cause to believe is in violation of section 19.".

(c) Section 19(a) (15 U.S.C. 2068(a)) is amended—

(1) by striking out "or" at the end of paragraph (9),

(2) by striking out the period at the end of the first paragraph (10) and inserting in lieu thereof a semicolon,

(3) by striking out the period at the end of the second paragraph (10) and inserting in lieu thereof "; or" and by redesignating that paragraph as a paragraph (11), and

(4) by adding at the end the following:

"(12) issue a false certificate under section 6 or disclose information in violation of section 6.".

PETITIONS TO COMMISSION

SEC. 6309. Section 10 (15 U.S.C. 2059) is repealed.

INSPECTIONS

SEC. 6310. (a) Section 16 (15 U.S.C. 2065) is amended by redesignating subsection (b) as subsection (c) and inserting after subsection (a) the following:

"(b) If consent is not given for an entry or inspection authorized by subsection (a), such entry and inspection may only be made after a search warrant is obtained from a judicial officer who shall issue such warrant upon proper oath or affirmation showing probable cause. For purposes of this subsection, the term 'probable cause' means that a proposed entry of a structure or inspection of a conveyance or area is necessary because the structure, conveyance, or area is involved in a violation of section 19 or that the inspection will be conducted pursuant to a reasonable administrative plan for the enforcement of this Act.".

(b) Section 11 of the Federal Hazardous Substances Act (15 U.S.C. 1270) is amended by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following:

"(c) If consent is not given for an entry or inspection authorized by subsection (b), such entry and inspection may only be made after a search warrant is obtained from a judicial officer who shall issue such warrant upon proper oath or affirmation showing probable cause. For purposes of this subsection, the term 'probable cause' means that a proposed entry of a structure or inspection of a conveyance or area is necessary because the structure, conveyance, or area is involved in a violation of section 4 or that the inspection will be conducted pursuant to a reasonable administrative plan for the enforcement of this Act.".

CHRONIC HAZARDS

SEC. 6311. (a) The following section is inserted after section 27:

"CHRONIC HAZARDS ADVISORY PANEL

"SEC. 28. (a) The Commission shall establish a Chronic Hazards Advisory Panel to advise the Commission under section 31(b) respecting the chronic hazards of cancer, birth defects, and gene mutations presented by consumer products.

"(b)(1) The Panel shall consist of 12 members appointed by the Commission as follows:

"(A) Nine members shall be appointed from individuals who are nominated by the Director of the National Institutes of Health, who are not officers or employees of the United States, and who do not receive compensation or have any substantial financial interest in any manufacturer, distributor, or retailer of a consumer product. The Director of the National Institutes of Health shall nominate a number of individuals equal to twice the number of members to the appointed.

"(B) One member shall be appointed from each of the following: the Department of Health and Human Services, the Environmental Protection Agency, and the Occupational Safety and Health Administration.

The members of the Panel shall be scientists who have demonstrated the ability to critically assess chronic hazards and risks to human health presented by the exposure of humans and animals to toxic substances. Appointments shall be made under subparagraphs (A) and (B) in such a manner so that there is at least one toxicologist, one pathologist, one epidemiologist, one geneticist, and one biostatistician on the Panel at all times.

"(2) The members appointed under paragraph (1)(A) shall be appointed for a term of office of three years, except that of the members first appointed—

"(A) three members shall be appointed for terms of one year, and

"(B) three members shall be appointed for terms of two years,

as designated by the Commission at the time of appointment. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

"(c) The Chairman of the Panel and Vice Chairman shall be elected from among the members. The term of office of the Chairman and Vice Chairman is one year.

"(d) Seven members of the Panel shall constitute a quorum. Decisions of the Panel

shall be made by majority vote of the Panel, a quorum being present.

"(e) The Commission shall provide the Panel with such administrative support services as it may require to carry out its duties under section 31.

"(f) The Commission, the Environmental Protection Agency, the Secretary of Health and Human Services, and the Secretary of Labor shall provide the Panel such information and data as the Panel may request to carry out its duties under section 31. Section 6 shall apply to the disclosure of information by the Panel but shall not apply to the disclosure of information to members of the Panel.

"(g) A member of the Panel appointed under subsection (b)(1)(A) shall be paid the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including travel time) during which the member is engaged in the actual performance of the duties of the Panel.

"(h) The Federal Advisory Committee Act shall not apply with respect to the duration of the Panel.".

(b) Section 31 (15 U.S.C. 2080) is amended by inserting "(a)" after "Sec. 31." and by adding at the end the following:

"(b)(1) The Commission may not issue a notice of proposed rulemaking for—

"(A) a consumer product safety rule,

"(B) a rule under section 27(e), or

"(C) a regulation under section 2(q)(1) of the Federal Hazardous Substances Act,

relating to a risk of cancer, birth defects, or gene mutations from a consumer product unless the Chronic Hazard Advisory Panel, established under section 28, has in accordance with paragraph (2) reported to the Commission that a substance contained in such product is a carcinogen, mutagen, or a teratogen.

"(2)(A) If the Commission proposes to issue a notice of proposed rulemaking for—

"(i) a consumer product safety rule,

"(ii) a rule under section 27(e), or

"(iii) a regulation under section 2(q)(1) of the Federal Hazardous Substances Act,

relating to a risk of cancer, birth defects, or gene mutations from a consumer product, the Commission shall request the Panel to review the scientific data relating to such risk to determine, on the basis of available scientific data, if any substance in the product is a carcinogen, mutagen, or a teratogen and to report its determination to the Commission.

"(B) If the Commission makes such a request of the Panel, the Chairman of the Panel shall convene the Panel within thirty days of the date the request is made. The Panel shall report its determination to the Commission within ninety days of the date the Panel is convened or, if the Panel requests additional time, within one hundred and eighty days of such date. If the determination reported to the Commission states that a substance in a product is a carcinogen, mutagen, or a teratogen, the Panel shall include in its report a detailed estimate of the probable harm to human health that will result from exposure to the substance.

"(C) A report of the Panel shall be published in the Federal Register and shall contain a complete statement of the basis for the Panel's determination.".

LAWN MOWER STANDARD

SEC. 6312. (a)(1) Not later than 30 days after the date of the enactment of this Act, the Consumer Product Safety Commission shall commence a proceeding to determine on the record after agency opportunity for hearing if the requirements of the consumer product safety standard for walk-behind power lawn mowers (hereinafter in this section referred to as the "lawn mower standard") relating to blade control (16 C.F.R. 1205.5) were amended to permit a blade control system that stops the engine and requires a manual restart of the engine, the standard, as so amended, would be likely to eliminate or adequately reduce the risk of injury associated with such lawn mowers. The Commission shall conclude such proceeding, make the required determination not later than March 30, 1982, and have the determination published in the Federal Register. The determination made by the Commission in accordance with this paragraph shall constitute final agency action for the purpose of judicial review.

(2) Unless the Commission determines under paragraph (1) that the lawn mower standard, amended as described in paragraph (1), would not be likely to eliminate or adequately reduce the risk of injury associated with lawn mowers, the Commission shall promulgate such amendment to the lawn mower standard. The Consumer Product Safety Act shall not apply with respect to the promulgation of the amendment prescribed by this paragraph.

(3) The provisions of the lawn mower standard respecting walk-behind rotary power mower controls shall take effect on June 30, 1982, or 120 days after the date of final agency action under paragraph (1), whichever date is later.

(b) Judicial review of a determination of the Commission under subsection (a)(1) shall be in accordance with section 11 of the Consumer Product Safety Act, except as follows:

(1) The record shall consist of the materials, data, and testimony compiled by the Commission in the proceeding held under subsection (a)(1) and the determination made by the Commission on the basis of such proceeding.

(2) A petition for judicial review of such a determination shall be filed not later than 30 days after the determination is made and published in the Federal Register.

(3) Any court of appeals of the United States which receives a petition for judicial review of such a determination shall take steps to insure that such petition is assigned for hearing and completed at the earliest possible date, and is expedited in every way by the court. The court shall render a final decision within 120 days of the filing of any petition for review. The court may set page limits for briefs and time limits for the filing of briefs, motions, and other actions which are shorter than the limits specified in the Federal Rules of Appellate Procedure.

AMUSEMENT PARKS

SEC. 6313. Section 3(a)(1) (15 U.S.C. 2052(a)(1)) is amended by inserting before the sentence following subparagraph (I) the following: "Such term includes any mechanical device which carries or conveys passengers along, around, or over a fixed or restricted route or course or within a defined area for the purpose of giving its passengers amusement, which is customarily controlled or directed by an individual who is employed for that purpose and who is not a consumer with respect to such device, and which is not permanently fixed to a site. Such term does not include such a device which is permanently fixed to a site.".

PREEMPTION FOR VOLUNTARY STANDARDS

SEC. 6314. (a) Section 26 (15 U.S.C. 2075) is amended as follows:

(1) Subsection (a) is amended by inserting "(1)" after "(a)" and by inserting at the end the following:

"(2) If the Commission publishes a notice under section 7(d)(1)(B) stating that the Commission will rely on a voluntary standard to eliminate or reduce a risk of injury associated with a consumer product, no State or political subdivision of a State shall have any authority either to establish or to continue in effect any provision of a safety standard or regulation which prescribes any requirements as to the performance, composition, contents, design, finish, construction, packaging, or labeling of such product which are designed to deal with the same risk of injury associated with such consumer product, unless such requirements are identical to the requirements of the standard identified in the notice or as amended in accordance with subsection (d).".

(2) The following subsections are added at the end:

"(d) If the Commission publishes a notice under section 7(d)(1)(B) stating that the Commission will rely on a voluntary standard to eliminate or reduce a risk of injury associated with a consumer product and if the person who submitted the standard to the Commission proposes to amend the standard, such person shall notify the Commission of the proposed amendment and include in the notice a complete statement of the reasons for the amendment. The Commission shall publish a notice in the Federal Register identifying the standard and the proposed amendment and providing a reasonable opportunity for interested persons to submit views, either orally or in writing, respecting the amendment. Such an amendment shall take effect only if within 120 days after the Commission receives such notice the Commission determines that the standard as proposed to be amended is likely to eliminate or adequately reduce the risk of injury associated with the standard. If an amendment takes effect under this subsection, the Commission shall by notice in the Federal Register inform the public of the amendment.

"(e) For purposes of subsections (b) and (c), the term 'consumer product safety standard' includes a standard identified under section 7(d)(1)(B).".

(b) Section 18 of the Federal Hazardous Substances Act (15 U.S.C. 1261(n)) is amended as follows:

(1) Subsection (b)(1)(B) is amended by inserting "(i)" after "(B)" and by inserting at the end the following:

"(ii) If the Commission publishes a notice under section 3(f)(2)(B) stating that the Commission will rely on a voluntary standard to eliminate or reduce a hazard associated with an article or substance, no State or political subdivision of a State shall have any authority either to establish or to continue in effect a requirement applicable to such article or substance and designed to protect against the same hazard unless such requirement is identical to the requirement of the standard identified in the notice or as amended in accordance with subsection (c).".

(2) The following subsection is added at the end:

"(c) If the Commission publishes a notice under section 3(f)(2)(B) stating that the Commission will rely on a voluntary standard to eliminate or reduce a hazard associat-

ed with an article or substance and if the person who submitted the standard to the Commission proposes to amend the standard, such person shall notify the Commission of the proposed amendment and include in the notice a complete statement of the reasons for the amendment. The Commission shall publish a notice in the Federal Register identifying the standard and the proposed amendment and providing a reasonable opportunity for interested persons to submit views, either orally or in writing, respecting the amendment. Such an amendment shall take effect only if within 120 days after the Commission receives such notice the Commission determines that the standard as proposed to be amended is likely to eliminate or adequately reduce the risk of injury associated with the standard. If an amendment takes effect under this subsection, the Commission shall by notice in the Federal Register inform the public of the amendment.".

(c)(1) Section 16 of the Flammable Fabrics Act (15 U.S.C. 1203) is amended as follows:

(A) Subsection (a) is amended by inserting "(1)" after "(a)" and by inserting at the end the following:

"(2) If the Commission publishes a notice under section 4(g)(2)(B) stating that the Commission will rely on a voluntary standard to eliminate or reduce a risk of occurrence of fire from a fabric, related material, or product, no State or political subdivision of a State shall have any authority either to establish or to continue in effect any provision of a flammability standard or other regulation for such fabric, related material, or product if the standard or other regulation is designed to protect against the same risk of occurrence of fire with respect to which the standard identified in the notice is in effect unless the State or political subdivision standard or other regulation is identical to the standard identified in the notice or as amended under subsection (e).".

(B) The following subsection is added at the end:

"(e) If the Commission publishes a notice under section 4(g)(2)(B) stating that the Commission will rely on a voluntary standard to eliminate or reduce a risk of occurrence of fire from a fabric, related material, or product, and if the person who submitted the standard to the Commission proposes to amend the standard, such person shall notify the Commission of the proposed amendment and include in the notice a complete statement of the reasons for the amendment. The Commission shall publish a notice in the Federal Register identifying the standard and the proposed amendment and providing a reasonable opportunity for interested persons to submit views, either orally or in writing, respecting the amendment. Such an amendment shall take effect only if within 120 days after the Commission receives such notice the Commission determines that the standard as proposed to be amended is likely to eliminate or adequately reduce the risk of injury associated with the standard. If an amendment takes effect under this subsection, the Commission shall by notice in the Federal Register inform the public of the amendment.".

(2) Subsection (d)(1) is amended by inserting before the semicolon the following: "and a standard identified under section 4(g)(2)(B)".

MISCELLANEOUS

SEC. 6315. (a) Section 20(b) (15 U.S.C. 2069(b)) is amended by inserting ", the occurrence or absence of injury, the number of products distributed," after "person charged".

(b) The first sentence of section 24 (15 U.S.C. 2073) is amended by inserting "(including any individual or nonprofit, business, or other entity)" after "interested person".

(c) Section 25 (15 U.S.C. 2074) is amended by striking out subsection (a) and by redesignating subsections (b) and (c) as subsections (a) and (b), respectively.

(d) Section 27 (15 U.S.C. 2076 is amended by striking out subsection (m).

(e) The last sentence of section 14(a) of the Flammable Fabrics Act (15 U.S.C. 1201(a)) is repealed.

(f)(1) Section 15 of the Federal Hazardous Substances Act (15 U.S.C. 1274) is amended to read as follows:

"NOTICE AND REPAIR, REPLACEMENT, OR REFUND

SEC. 15. (a) If any article or substance distributed in commerce is a banned hazardous substance (whether or not it was such at the time of its distribution) and the Commission determines (after affording interested persons, including consumers and consumer organizations, an opportunity for a hearing) that notification is required to adequately protect the public from such article or substance, the Commission may order the manufacturer or any distributor or retailer of the article or substance to take any one or more of the following actions:

"(1) To give public notice of the designation of the article or substance as a banned hazardous substance.

"(2) To mail notice of such designation to each person who is a manufacturer, distributor, or retailer of such article or substance.

"(3) To mail notice of such designation to every person to whom the person giving the notice knows such article or substance was delivered or sold.

An order under this subsection shall specify the form and content of any notice required to be given under the order.

"(b) If any article or substance sold by its manufacturer, distributor, or dealer is a banned hazardous substance (whether or not it was such at the time of its sale) and the Commission determines (after affording interested persons, including consumers and consumer organizations, an opportunity for a hearing) that action under this subsection is in the public interest, the Consumer Product Safety Commission may order the manufacturer, distributor, or retailer to take whichever of the following actions the person to whom the order is directed elects:

"(1) If repairs to or changes in the article or substance may be made so that it will not be a banned hazardous substance, to make such repairs or changes.

"(2) To replace such article or substance with a like or equivalent article or substance which is not a banned hazardous substance.

"(3) To refund the purchase price of the article or substance (less a reasonable allowance for use, if the article or substance has been in the possession of the consumer for one year or more—

"(A) at the time of public notice under subsection (a), or

"(B) at the time the consumer receives actual notice that the article or substance is a banned hazardous substance,

whichever first occurs).

An order under this subsection may also require the person to whom it applies to submit a plan, satisfactory to the Commission, for taking the action which such person has elected to take. The Commission shall specify in the order the persons to whom refunds must be made if the person to whom the order is directed elects to take the action described in paragraph (3). If an order under this subsection is directed to more than one person, the Commission shall specify which person has the election under this subsection. An order under this subsection may prohibit the person to whom it applies from manufacturing for sale, offering for sale, distributing in commerce, or importing into the customs territory of the United States (as defined in general headnote 2 to the Tariff Schedules of the United States), or from doing any combination of such actions, with respect to the article or substance with respect to which the order was issued.

"(c)(1) No charge shall be made to any person (other than a manufacturer, distributor, or dealer) who avails himself of any remedy provided under an order issued under subsection (b), and the person subject to the order shall reimburse each person (other than a manufacturer, distributor, or dealer) who is entitled to such a remedy for any reasonable and foreseeable expenses incurred by such person in availing himself of such remedy.

"(2) An order issued under subsection (b) with respect to an article or substance may require any person who is a manufacturer, distributor, or dealer of the article or substance to reimburse any other person who is a manufacturer, distributor, or dealer of such article or substance for such other person's expenses in connection with carrying out the order, if the Commission determines such reimbursement to be in the public interest.

"(d) An order under subsection (a) or (b) may be issued only after an opportunity for a hearing in accordance with section 554 of title 5, United States Code, except that, if the Commission determines that any person who wishes to participate in such hearing is a part of a class of participants who share an identity of interest, the Commission may limit such person's participation in such hearing to participation through a single representative designated by such class (or by the Commission if such class fails to designate such a representative).".

(2) Section 4 of the Federal Hazardous Substances Act (15 U.S.C. 1263) is amended by adding at the end the following:

"(j) The failure to comply with an order issued under section 15.".

(g)(1) Subsection (k) of section 27 (15 U.S.C. 2076) is repealed.

(2)(A) Paragraph (7) of section 27(b) (15 U.S.C. 2076(b)) is repealed.

(B) Section 15(g)(1) (15 U.S.C. 2064(g)(1)) is amended by striking out "(without regard to section 27(b)(7))".

(C) Section 22(a)(3) (15 U.S.C. 2071(a)(3)) is amended by striking out "(without regard to section 27(b)(7)(A))".

(D) Section 27(c) is amended by striking out "(subject to subsection (b)(7))".

EXTENSION OF ACT

SEC. 6316. Section 32(a) (15 U.S.C. 2081(a)) is amended (1) by striking out "and" at the end of paragraph (6), (2) by striking out the period at the end of paragraph (7) and inserting a semicolon, and (3) by adding at the end the following:

"(8) $33,000,000 for the fiscal year ending September 30, 1982;

"(9) $33,000,000 for the fiscal year ending September 30, 1983; and

"(10) $33,000,000 for the fiscal year ending September 30, 1984.

For payment of accumulated and accrued leave under section 5551 of title 5, United States Code, and severance pay under section 5595 under such title, there are authorized to be appropriated such sums as may be necessary.".

TRANSFER OF FUNCTIONS

SEC. 6317. (a) The functions, powers, and duties of the Consumer Product Safety Commission are transferred to and vested in the Secretary of Commerce who shall exercise such functions, powers, and duties through the Director of the Bureau of Consumer Product Safety established under subsection (b).

(b)(1) There is established in the Department of Commerce a Bureau of Consumer Product Safety which shall be headed by a Director appointed by the President, by and with the advice and consent of the Senate. The Director of the Bureau shall report to the Secretary of Commerce through the Assistant Secretary for Productivity, Technology, and Innovation.

(2) Section 5316 of title 5, United States Code, is amended by adding at the end the following:

"Director, Bureau of Consumer Product Safety, Department of Commerce.".

(c)(1) The personnel, assets, liabilities, contracts, property, and records of, and, in accordance with the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c) the unexpended balances of appropriations, authorizations, allocations, and other funds available to or to be made available to, the Consumer Product Safety Commission are transferred to the Secretary of Commerce for proper allocation. Unexpended funds transferred pursuant to this paragraph may only be used for the purposes for which the funds were originally authorized and appropriated.

(2) The Director of the Office of Management and Budget, in consultation with the Secretary of Commerce, shall make such determinations and incidental dispositions as may be necessary with respect to the transfer of functions, powers, and duties under subsection (a) and the transfers under paragraph (1) of this subsection as the Director may deem necessary to carry out the transfer prescribed by subsection (a).

(d)(1) When the transfer of functions, powers, and duties prescribed by subsection (a) has been executed and the transfers prescribed by subsection (c) have been executed, the Consumer Product Safety Commission shall terminate and the Office of Members of the Commission shall terminate.

(2)(A) Effective on the date the Consumer Product Safety Commission is terminated, section 5314 of title 5, United States Code, is amended by striking out "Chairman, Consumer Product Safety Commission.".

(B) Effective on the date the Consumer Product Safety Commission is terminated, section 5315 of title 5 United States Code, is amended by striking out "Members, Consumer Product Safety Commission (4).".

(e)(1) All orders, determinations, rules, regulations, and contracts—

(A) which have been issued, made, or allowed to become effective by the Consumer Product Safety Commission or by a court of competent jurisdiction with respect to a function, power, or duty transferred under subsection (a), and

(B) which are in effect on the date of the enactment of this chapter,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the Secretary of Commerce, a court of competent jurisdiction, or by operation of law.

(2) The transfer prescribed by subsection (a) shall not affect any proceeding pending on the date of the enactment of this chapter before the Consumer Product Safety Commission; but such proceeding shall be continued before the Secretary of Commerce after such date. The Secretary of Commerce shall promulgate regulations providing for the orderly transfer of such proceedings to the Secretary.

(3)(A) Except as provided in Subparagraph (C)—

(i) the transfer prescribed by subsection (a) shall not affect suits commenced before the date of enactment of this chapter, and

(ii) in all such suits, proceedings shall be had, appeals taken, and judgements rendered in the same manner and effect as if this chapter had not been enacted.

(B) No suit, action, or other proceeding commenced by or against any officer in an official capacity as an officer of the Consumer Product Safety Commission shall abate by reason of the enactment of this chapter. No cause of action by or against the Consumer Product Safety Commission shall abate by reason of the enactment of this chapter.

(C) If, before the date of the enactment of this chapter, the Consumer Product Safety Commission or any officer thereof, is party to a suit, such suit shall be continued with the Secretary of Commerce substituted.

(f) With respect to any function, power, or duty transferred by subsection (a), that is exercised after the date of the enactment of this chapter, reference in any other Federal law to the Consumer Product Safety Commission or any officer or office of the Commission shall be deemed a reference to the Secretary of Commerce.

EFFECTIVE DATE

SEC. 6318. (a) Except as provided in subsection (b), the amendments made by this chapter shall take effect on the date of the enactment of this chapter.

(b) The amendments made by section 6307 shall apply with respect to consumer product safety rules under the Consumer Product Safety Act and regulations under the Federal Hazardous Substances Act and the Flammable Fabrics Act promulgated by the Consumer Product Safety Commission after the date of the enactment of this chapter; and the amendments made by sections 6302, 6303, 6304, and 6311 of this chapter shall apply with respect to regulations under the Consumer Product Safety Act, the Federal Hazardous Substances Act, and the Flammable Fabrics Act for which notices of proposed rulemaking are issued after May 8, 1981.

Subtitle D—Matters Under the Jurisdiction of the Subcommittee on Commerce, Transportation, and Tourism

Chapter 1—CONRAIL

SHORT TITLE

SEC. 6401. This chapter may be cited as the "Rail Service Improvement Act of 1981".

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Subchapter A—General Provisions

FINDINGS

SEC. 6411. The Congress finds and declares that—

(1) current arrangements for the provision of rail freight and commuter services in the northeast and midwest regions of the United States are inadequate to meet the transportation needs of the public and the needs of national security;

(2) the process set in motion by the Regional Rail Reorganization Act of 1973 has failed to create a profitable railroad system in the northeast and midwest regions of the United States and has cost United States taxpayers billions of dollars over original estimates;

(3) although the Federal Government has provided billions of dollars in assistance for Conrail and its employees, the Federal interest in ensuring the flow of interstate commerce through rail service in the private sector has not been achieved, and the protection of interstate commerce requires Federal intervention to preserve essential rail service in the private sector;

(4) the orderly integration of Conrail's freight service into the Nation's private rail system can be successful only if an orderly process is followed and adequate and equitable protections are provided for affected

railroad employees and if acquiring railroads are not required to assume Conrail's commuter operations;

(5) the funds originally authorized for the protection of employees adversely affected by the consolidation of the bankrupt rail carriers into Conrail have been exhausted, and the additional funding authorized by the Staggers Rail Act of 1980 will be exhausted in the near future;

(6) since holding the Corporation liable for employee protection payments would destroy its prospects of becoming a profitable carrier and further injure its employees, an alternative employee protection system must be developed and funded;

(7) States, shippers, and consumers in the northeast and midwest must be included in the private sector improvements in rail service that are occurring throughout the national rail system; and

(8) an orderly transfer of the functions of the United States Railway Association to the Secretary of Transportation and the Attorney General of the United States will facilitate the exercise of those functions by the appropriate Federal officials.

PURPOSE

SEC. 6412. It is therefore declared to be the purpose of the Congress in this chapter to provide for—

(1) the removal by a date certain of the Federal Government's obligation to subsidize the freight operations of Conrail;

(2) transfer of Conrail commuter service responsibilities to one or more entities whose principal purpose is the provision of commuter service;

(3) adequate and equitable labor protection for employees deprived of employment by service transfers;

(4) the mechanism to ensure that Conrail freight service is performed in the private sector; and

(5) transfer of the functions of the United States Railway Association.

DEFINITIONS

SEC. 6413. As used in this chapter, unless the context otherwise requires, the term:

(1) "Amtrak" means the National Railroad Passenger Corporation created under title III of the Rail Passenger Service Act (45 U.S.C. 541 et seq.).

(2) "Commission" means the Interstate Commerce Commission.

(3) "Commuter authority" means any State, local, or regional authority, corporation, or other entity established for purposes of providing commuter service, and includes the Metropolitan Transportation Authority, the Connecticut Department of Transportation, the Maryland Department of Transportation, the Southeastern Pennsylvania Transportation Authority, the New Jersey Transit Corporation, the Massachusetts Bay Transportation Authority, the Port Authority Trans-Hudson Corporation, any successor agencies, and any entity created by one or more such agencies for the purpose of operating, or contracting for the operation of, commuter services.

(4) "Commuter services" means short-haul rail passenger service operated in metropolitan and suburban areas, usually characterized by reduced fare, multiple-ride, and commutation tickets, and by morning and evening peak period operations.

(5) "Conrail" means the Consolidated Rail Corporation created under title III of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741 et seq.).

(6) "Profitable carrier" means a carrier that generates sufficient revenues to meet its expenses, including reasonable maintenance of necessary equipment and facilities, without funding from the Federal Government.

(7) "Rail carrier" means a common carrier engaged in interstate or foreign commerce by rail subject to subtitle IV of title 49, United States Code.

(8) "Secretary" means the Secretary of Transportation or the representative authorized by the Secretary to carry out the responsibilities of the Secretary under this chapter.

(9) "Special court" means the judicial panel established under section 209 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 719).

Subchapter B—Transfer of Rail Service Responsibilities

PART I—TRANSFER OF CONRAIL COMMUTER SERVICES

SEPARATION OF COMMUTER FUNCTIONS

SEC. 6421. (a) Title III of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741 et seq.) is amended by adding at the end thereof the following new section:

"SEPARATION OF COMMUTER FUNCTIONS

"SEC. 308. (a) ESTABLISHMENT OF SUBSIDIARY.—The Corporation shall, within 30 days after the effective date of this section, establish a subsidiary for purposes of operating the commuter services which the Corporation is obligated to operate under this Act (hereinafter referred to as the 'commuter subsidiary').

"(b) STATUS.—(1) The provisions of this Act relating to the operation of commuter service shall apply to the commuter subsidiary as if it were the Corporation.

"(2) The commuter subsidiary shall be deemed to be a contract operator of commuter service on behalf of the commuter authorities for which the Corporation operates commuter service under this Act, and shall have no common carrier obligation to operate either passenger or freight service.

"(3) The provisions of section 10 of the Clayton Act (15 U.S.C. 20) shall not apply to transactions between the Corporation and the commuter subsidiary.

"(4) Financial statements of the commuter subsidiary shall not be consolidated in or included with those of the Corporation.

"(5) The commuter subsidiary shall be exempt from the payment of taxes to the same extent as Amtrak Commuter is exempt under section 501(c)(3) of the Rail Passenger Service Act.

"(c) COLLECTIVE BARGAINING AGREEMENTS.—The commuter subsidiary shall assume and apply the collective bargaining agreements in effect between the Corporation and its employees on the effective date of this section.

"(d) CAPITALIZATION.—The commuter subsidiary is authorized to issue common stock to the Corporation.

"(e) RELIEF FROM OBLIGATIONS.—Effective 540 days after the effective date of this section, the Corporation shall be relieved of all obligations to operate commuter service, whether as a common carrier of passengers or under its subsidy agreements with commuter authorities pursuant to this Act.

"(f) FUTURE COMMUTER SERVICE.—At the time the corporation is relieved of its obligation to operate commuter service under this Act, the commuter authorities for which such service was operated may contract with any other entity, including Amtrak Commuter, for the operation of such service.

"(g) PROPERTY TRANSFER.—(1) After the Corporation is relieved of its obligation to operate commuter service, the Corporation and its subsidiary shall transfer to Amtrak Commuter, or to any commuter authority or other entity that will operate the commuter service, such rail properties, rights, or interests as may be necessary for Amtrak Commuter or such authority or other entity to operate commuter services.

"(2) The Corporation shall retain appropriate trackage rights for freight operations over any rail properties which are transferred under this subsection.

"(3) Consideration for inventory transferred under this subsection shall be based on book value. The transfer of fixed facilities, rolling stock, and other equipment under this subsection shall be without consideration.

"(h) CONTRACT PROVISIONS.—Notwithstanding any provision of any lease, contract, or other agreement, any transfer, assignment, or other disposition of such lease, contract, or other agreement by the Corporation pursuant to this title shall not be deemed a breach, an event of default, or a violation of any covenant.

"(i) CONCERTED ECONOMIC ACTION.—(1) Any person engaging in concerted economic action over disputes with Amtrak Commuter or any commuter authority shall not be entitled to engage in any strike against, or otherwise to induce any employee of, the Corporation, where an effect thereof is to interfere with rail freight services provided by the Corporation.

"(2) Any person engaging in concerted economic action over disputes arising out of freight operations provided by the Corporation shall not be entitled to engage in any strike against, or otherwise to induce any employee of, Amtrak Commuter or any commuter authority, where an effect thereof is to interfere with rail passenger services.

"(3) Any concerted action in violation of this subsection shall be deemed to be a violation of the Railway Labor Act.

"(j) DEFINITIONS.—As used in this section—

"(1) 'Amtrak Commuter' means the Amtrak Commuter Services Corporation created under title V of the Rail Passenger Service Act;

"(2) 'commuter authority' means any State, local, or regional authority, corporation, or other entity established for purposes of providing commuter service; and

"(3) 'commuter service' means short-haul rail passenger service operated in metropolitan and suburban areas, usually characterized by reduced fare, multiple-ride, and commutation tickets and by morning and evening peak period operations.

"(k) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated to the commuter subsidiary for purposes of establishing a working capital revolving fund not to exceed $50,000,000 for the fiscal year ending September 30, 1982. Such revolving fund shall be used by the commuter subsidiary for purposes of meeting periodic expenses connected with the operation of commuter service until such expenses have been reimbursed by the appropriate commuter authorities.

"(2) After the Corporation is relieved of its obligation to operate commuter services, the working capital revolving fund established under paragraph (1) of this subsection (including any outstanding liabilities of commuter authorities to such fund) shall be transferred to Amtrak Commuter for purposes of carrying out title V of the Rail Passenger Service Act.

"(3) Amounts appropriated under this subsection are authorized to remain available until expended.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 307 the following new item:

"Sec. 308. Separation of commuter functions.".

Establishment of Amtrak Commuter

SEC. 6422. (a) The Rail Passenger Service Act (45 U.S.C. 507 et seq.) is amended by inserting immediately after title IV thereof the following new title:

"TITLE V—AMTRAK COMMUTER SERVICES

"Sec. 501. Establishment of Amtrak Commuter.

"(a) There shall be established within 240 days after the effective date of this title a wholly-owned subsidiary of the Corporation to be known as the Amtrak Commuter Services Corporation (hereinafter referred to as "Amtrak Commuter").

"(b)(1) Amtrak Commuter shall not be an agency or instrumentality of the Federal Government. Amtrak Commuter shall be subject to the provisions of this Act and, to the extent not inconsistent with this Act, to the District of Columbia Business Corporation Act.

"(2) Amtrak Commuter shall be deemed to be a contract operator of commuter service on behalf of the commuter authorities that contract with Amtrak Commuter for the operation of commuter service under this title. Amtrak Commuter shall have no common carrier obligation to operate either passenger or freight service.

"(c)(1) Amtrak Commuter shall not be subject to the jurisdiction of the Commission under chapter 105 of title 49, United States Code, but it shall (treated as a separate rail carrier) be subject to the same laws and regulations with respect to safety and with respect to the representation of its employees for purposes of collective bargaining, the handling of disputes between carriers and their employees, employee retirement, annuity, and unemployment systems, and other dealings with its employees as any rail carrier providing transportation subject to the jurisdiction of the Commission under chapter 105 of such title 49.

"(2) Amtrak Commuter shall not be subject to any State or other law relating to the transportation of passengers by railroad insofar as such law relates to rates, routes, or service, including any modification or discontinuance thereof.

"(3) Amtrak Commuter shall be exempt from the payment of taxes to the same extent as the Corporation is exempt under section 306(n) of this Act.

"(4) The provisions of section 10 of the Clayton Act (15 U.S.C. 20) shall not apply to transactions between Amtrak Commuter and the Corporation.

"(d) The Board of Directors of the Corporation shall be the incorporators of Amtrak Commuter and shall take whatever steps are necessary to establish Amtrak Commuter, including filing articles of incorporation.

"Sec. 502. Directors and Officers.

"(a)(1) Amtrak Commuter shall have a Board of Directors consisting of six individuals, as follows:

"(A) The President of Amtrak Commuter, ex officio.

"(B) Two members who are selected by commuter authorities to serve on the Board of Directors of the Corporation in accordance with section 303(a)(1) of this Act.

"(C) Two members selected by the Board of Directors of the Corporation (in addition to those members described in subparagraph (B)).

"(D) One member from a commuter authority (in addition to those members described in subparagraph (B)), as follows:

"(i) During the period prior to the commencement of the operation of commuter service by Amtrak Commuter, such member shall be selected by commuter authorities for which the Consolidated Rail Corporation operates commuter service under the Regional Rail Reorganization Act of 1973.

"(ii) Beginning 540 days after the effective date of this title, such member shall be selected by commuter authorities for which Amtrak Commuter operates commuter service pursuant to this title, but such member shall serve only if Amtrak Commuter enters into contracts with two or more commuter authorities for the operation of commuter service.

"(2)(A) Except as provided in paragraph (1)(D)(i) of this section, members of the Board of Directors of Amtrak Commuter shall serve terms of two years, and any vacancy in the membership of the Board shall be filled in the same manner as in the case of the original selection.

"(B) The Board shall elect one of its members annually to serve as Chairman.

"(C) Each member of the Board shall receive compensation and reimbursement in accordance with section 303(a)(5) of this Act.

"(b) The provisions of section 303 (b) and (d) of this Act shall apply to Amtrak Commuter.

"Sec. 503. General Powers of Amtrak Commuter.

"(a)(1) Amtrak Commuter is authorized to own, manage, operate, or contract for the operation of commuter service; to conduct research and development related to its mission; and to acquire by construction, purchase, or gift, or to contract for the use of, physical facilities, equipment, and devices necessary to commuter service operations.

"(2) Amtrak Commuter shall, to the extent consistent with this Act and the agreements with the commuter authorities, directly operate and control all aspects of its commuter service.

"(b) To carry out its functions and purposes, Amtrak Commuter shall have the usual powers conferred upon a stock corporation by the District of Columbia Business Corporation Act.

"(c) Amtrak Commuter is authorized to issue common stock to the Corporation.

"Sec. 504. Commuter Service.

"(a) Amtrak Commuter is authorized to operate commuter service under an agreement with a commuter authority. Effective 540 days after the effective date of this title, any commuter service operated by Amtrak Commuter under an agreement with a commuter authority shall be operated solely pursuant to the provisions of subsections (b) through (i) of this section.

"(b) Amtrak Commuter shall operate commuter service which the Consolidated Rail Corporation was obligated to provide on the effective date of this title under section 303(b)(2) or 304(e) of the Regional Rail Reorganization Act of 1973, and may operate any other commuter service, if the commuter authority for which such service is to be operated agrees to provide—

"(1) a commuter service operating payment which is designed to cover the difference between the revenue attributable to the operation of such service and the avoidable costs of operating such service, including the avoidable cost of any capital improvements necessary to operate such service; or

"(2) a commuter service operating payment which is payable pursuant to a lease or agreement with a commuter authority under which financial support was being provided on January 2, 1974, for the continuation of rail passenger service.

"(c) Any agreement to provide a commuter service operating payment under subsection (b) of this section shall be made in accordance with regulations issued by the Rail Services Planning Office pursuant to section 205(d)(5) of the Regional Rail Reorganization Act of 1973. The Office may revise and update such regulations as may be necessary to carry out the provisions of this section.

"(d)(1) If a commuter authority offers to provide payment for the provision of additional commuter service, Amtrak Commuter may provide such service pursuant to this section if such payment is designed to avoid any additional costs to Amtrak Commuter or the Corporation arising from the construction or modification of capital facilities or from any additional operating delays or costs arising from the absence of such construction or modification. Any additional manpower requirements shall be satisfied through existing seniority arrangements as agreed to in the implementing agreement negotiated pursuant to section 506 of this Act.

"(2) Any commuter authority making an offer under this paragraph shall demonstrate that—

"(A) such commuter authority has acquired, leased, or otherwise obtained access to all rail properties necessary to provide such additional commuter service; and

"(B) such commuter authority has completed, or will complete prior to the inception of such additional commuter service, all capital improvements necessary to avoid significant costs which cannot be avoided by improved scheduling or other means on other existing rail services (including rail freight service) and to assure that the additional commuter service will not significantly detract from the level and quality of existing rail passenger and freight service.

"(e)(1) Amtrak Commuter may discontinue commuter service provided under this section upon 60 days' notice if—

"(A) a commuter authority does not offer a commuter service operating payment in accordance with subsection (b) of this section; or

"(B) an applicable commuter service operating payment is not paid when it is due.

"(2) The notice required under this subsection shall be determined pursuant to regulations issued by the Rail Services Planning Office.

"(f) Notwithstanding any other provision of law, compensation to the Corporation or Amtrak Commuter for right-of-way related costs for service over the Northeast Corridor and other properties owned by the Corporation shall be determined in accordance with the methodology determined by the Commission or agreed upon by the parties pursuant to section 6498 of the Rail Service Improvement Act of 1981.

"(g) If a commuter authority fails to offer a commuter service operating payment pursuant to subsection (b)(2) of this section,

then any lease or agreement under which financial support was being provided on January 2, 1974, for the continuation of rail passenger service shall not apply to Amtrak Commuter, but the Corporation and the Consolidated Rail Corporation shall retain appropriate trackage rights (for freight and passenger operations respectively) over any rail properties owned or leased by such commuter agency. Compensation for such trackage rights shall be fair and equitable.

(h) Notwithstanding any other provision of this section, Amtrak Commuter is not obligated to provide commuter service if a commuter authority contracts for the provision of such service by an operator other than Amtrak Commuter. In any such case, Amtrak Commuter shall, where appropriate, provide the operator of such service with access to the rail properties needed to operate such service.

"(i) If the Board of Directors of Amtrak Commuter determines that the amount in the revolving fund transferred to Amtrak Commuter pursuant to section 300(k) of the Regional Rail Reorganization Act of 1973 is in excess of the amount needed as a revolving fund for purposes of this title, the Board shall allocate a proportionate share of such excess amount to any commuter authority that, after being provided commuter service under an agreement with Amtrak Commuter service under this title, has elected to operate its own commuter service. The Board shall determine the amount of such proportionate allocation on the basis of the ridership of such commuter authority and the ridership of those commuter authorities remaining under contract with Amtrak commuter.

"Sec. 505. Northeast Corridor Coordination

"(a) The Board of Directors of Amtrak Commuter shall develop and recommend to the Corporation—

"(1) policies which ensure equitable access to the Northeast Corridor, taking into account the need for equitable access by commuter and intercity services and the requirements of section 402(e) of this Act; and

"(2) equitable policies for the Northeast Corridor with respect to dispatching, public information, maintenance of equipment and facilities, major capital facility investments, and harmonization of equipment acquisitions, fares, tariffs, and schedules.

"(b) The Board of Directors of Amtrak Commuter may recommend to the President and Board of Directors of the Corporation such actions as are necessary to resolve differences of opinions regarding operations (among or between the Corporation, Amtrak Commuter, other railroads, commuter authorities, and other State, local, and regional agencies responsible for the provision of commuter rail, rapid rail, or rail freight services), with respect to all matters except those conferred on the Commission in section 402(a) of this Act.".

PROHIBITION OF CROSS-SUBSIDIZATION

SEC. 6423. Section 601 of the Rail Passenger Service Act (45 U.S.C. 601) is amended by adding at the end thereof the following new subsection:

"(c) None of the funds appropriated under this section for the payment of operating and capital expenses of intercity rail passenger service shall be used for the operation of commuter service by Amtrak Commuter.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 6424. Section 601 of the Rail Passenger Service Act (45 U.S.C. 601), as amended by this chapter, is further amended by adding at the end thereof the following new subsection:

"(d) There is authorized to be appropriated to the Secretary for the benefit of the Corporation not to exceed $20,000,000 for the fiscal year ending September 30, 1982, to be allocated to any commuter authority that was providing commuter service, operated by a railroad that entered reorganization after calendar year 1974, as of January 1, 1979.".

PART II—ADDITIONAL FINANCING OF CONRAIL

Additional Financing of Conrail

SEC. 6431. (a) Title II of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721 et seq.) is amended by adding at the end thereof the following new section:

"ADDITIONAL PURCHASES OF SERIES A PREFERRED STOCK

"SEC. 217. (a) FEDERAL INVESTMENT.—Notwithstanding any other provision of this Act, any investment by the Federal Government in the securities of the Corporation after October 1, 1981, shall be by the purchase of series A preferred stock in accordance with this section.

"(b) TIMING AND AMOUNT OF PURCHASES.—(1) The Association shall determine, in accordance with this section, whether to purchase the following amounts of series A preferred stock and accounts receivable of the Corporation on the following purchase dates:

"(A) On October 1, 1981, the purchase of $125,000,000 of stock, accounts receivable of the Corporation attributable to the dispute over the right-of-way related costs described in section 6498(a)(1) of the Rail Service Improvement Act of 1981, and accounts receivable of the Corporation attributable to delays in reimbursement from commuter agencies.

"(B) On April 1, 1982, the purchase of $125,000,000 of stock and accounts receivable described in subparagraph (A) of this paragraph.

"(C) On October 1, 1982, the purchase of $100,000,000 of stock.

"(D) On April 1, 1983, the purchase of $75,000,000 of stock.

"(E) On September 30, 1983, the purchase of $50,000,000 of stock.

"(2) Any request by the Corporation for the purchase of stock (or accounts receivable if applicable) under this section shall be filed with the Association not less than 30 days prior to the purchase date, and shall describe how the conditions set forth in subsection (c) have been met.

"(3) Any purchases not requested by the Corporation or approved by the Association on any particular purchase date may be deferred by the Association.

"(4) On each purchase date the Association shall make a determination whether the Corporation will be a profitable carrier. The Association shall immediately notify the Secretary of its determination. For the purpose of making such determination, the Association shall assume that the interest of the United States in any debt or preferred stock of the Corporation is limited as required under section 402 of this Act.

"(c) CONDITIONS.—The Association shall purchase shares of series A preferred stock and accounts receivable on the purchase dates set forth in subsection (b) of this section only if the Corporation demonstrates to the satisfaction of the Association that the following conditions have been met:

"(1) Non-agreement personnel.—(A) Employees who are not subject to collective-bargaining agreements (hereinafter in this section referred to as 'non-agreement personnel') are forgoing wage increases and benefits in an amount proportionately equivalent to the amount forgone by agreement employees pursuant to paragraph (5) of this subsection, adjusted annually to reflect inflation.

"(B) The number of non-agreement personnel is reduced proportionately to any reduction in agreement employees (excluding reductions pursuant to the termination program under section 702 of this Act). Any reduction in non-agreement personnel or agreement employees which occurs after May 1, 1981, shall be included for purposes of this subparagraph.

"(2) Suppliers.—Materials and services continue to be available to the Corporation, under normal business practices, which shall include the provision of credit and normal financing arrangements.

"(3) Shippers.—(A) The Corporation, on each purchase date, submits to the Association a projection for the next six-month period and a report for the previous six-month period, which establishes that the Corporation has maximized and will continue to maximize its opportunities to generate revenues under the provisions of this Act, the Staggers Rail Act of 1980, and subtitle IV of title 49, United States Code.

"(B) Shippers of goods transported by the Corporation are not unduly interfering in the maximization of revenues by the Corporation.

"(4) Financial plan.—(A) The Corporation, by October 1, 1981, submits to the Association a financial plan which (i) indicates how the Corporation will become a profitable carrier within the funding limitations and timetable of this Act, and (ii) establishes projected financial needs of the Corporation and sets forth a schedule for reducing its losses.

"(B) The Corporation, on each purchase date, substantially complies with the financial plan filed under subparagraph (A).

"(C) The Corporation may amend its financial plan on any purchase date, but the plan as amended must meet the requirements of subparagrah (A).

"(5) Agreement employees.—(A)(i) The Corporation enters into collective bargaining agreements with its employees which provide the Corporation benefits equal to $200,000,000 a year, beginning April 1, 1981, adjusted annually to reflect inflation.

"(ii) Agreements under this subparagraph may provide for reductions in wage increases and for changes in fringe benefits common to agreement employees, including vacations and holidays.

"(iii) The benefits required under this subparagraph in the first year of the agreement may be deferred until the second year of the agreement, but any benefits so deferred must be provided no later than the end of such second year (in addition to the benefits otherwise required in such year).

"(iv) The amount of benefits provided under this paragraph shall be calculated by subtracting the cost of an agreement entered into under this paragraph from (I) the cost that would otherwise result from the application of the national agreement reached by railroad industry and its employees, or (II) until such national agreement is reached, the cost which the Association estimates would result from the application of such a national agreement.

"(B)(i) The Corporation enters into collective bargaining agreements with its employees which provide for the establishment of one or more advisory factfinding panels,

chaired by a neutral expert industrial relations, for purposes of recommending changes in operating practices and procedures which result in greater productivity to the maximum extent practicable.

"(ii) The National Mediation Board shall appoint public members to any panel established under this subparagraph, and shall perform such functions contained in the agreement as are consistent with the duties of such Board under the Railway Labor Act.

"(iii) The factfinding panel may, before making its report to the parties, provide mediation, conciliation, and other assistance to the parties.

"(C) Any savings resulting from any of the following shall not be included as benefits for purposes of this paragraph:

"(i) The implementation of any crew consist agreement or fireman manning agreement in effect on the effective date of this section.

"(ii) The provision of benefits under section 701 or the termination of employees under section 702 of this Act.

"(iii) The separation of employees under any other provision of law or agreement.

"(iv) Any collective bargaining agreement signed or any procedures agreed to prior to January 1, 1981.

"(v) The assignment of work under section 706 or any single collective bargaining agreement entered into under section 708 of this Act.

"(D)(i) Notwithstanding any other provision of this section, if an agreement is not reached under this paragraph by the initial purchase date, the Association shall still purchase additional shares of stock of the Corporation if the Association determines that there is a substantial likelihood that an agreement providing the benefits required by this paragraph will be reached by the end of the six-month period beginning on such initial purchase date.

"(ii) The benefits received by the Corporation during the period beginning on the initial purchase date and ending on the effective date of any agreement subsequently reached which result from the lack of retroactivity of wage increases shall be included as benefits to the Corporation for purposes of this paragraph.

"(6) SUBSIDIARIES.—(A) The Corporation, by January 1, 1982, provides the Association with a list of all subsidiaries of the Corporation (other than the Conrail Equity Corporation and any commuter subsidiary), identifying those subsidiaries which did not operate at a profit during the preceding 12-month period.

"(B) The Association shall, within 12 months after the effective date of this section, order the Corporation to sell any subsidiary identified as not profitable under subparagraph (A) unless the Association determines that the benefits to the Corporation of maintaining ownership of such subsidiary outweigh the financial loss to the Corporation resulting from such ownership.

"(d) MODIFICATION OF CONDITIONS.—(1) The Association may increase the conditions required under subsection (c) of this section, on a proportionate basis to the maximum extent practicable, if it determines that the Corporation needs additional benefits in order to become profitable. The Association may also require the Corporation to demonstrate productivity increase if it determines that such increases are necessary to enable the Corporation to become profitable.

(2) Any modified conditions adopted by the Association under this subsection shall become the conditions which must be met in order for the Association to purchase additional stock of the Corporation under this section.

"(e) DETERMINATIONS AND AMENDED REQUESTS.—(1) If the Association determines that the conditions of subsection (c) have not been met as of any purchase date, it shall notify the Corporation no later than 15 days after such purchase date of the specific conditions that have not been met.

"(2) The Corporation may request the Association to reconsider its determination under this subsection if the Corporation is able to present new evidence that the conditions have been met or is able to present an amended request for a purchase pursuant to this section. If the Association determines, on the basis of such new evidence or such amended request, that the conditions have been met, the Association shall purchase the additional stock (or accounts receivable if applicable) of the Corporation.

"(f) WORKER PARTICIPATION AND SELF-MANAGEMENT DEMONSTRATION PROGRAMS.—(1) The Corporation shall, within 180 days after the effective date of this section, enter into agreements with representatives of the various classes and crafts of employees for the establishment, on a demonstration basis, of worker participation and self-management programs at one or more facilities or locations, for purposes of fostering employee job satisfaction, job flexibility, and quality assurance.

"(2) Agreements under this subsection may provide for separate or combined programs for major groups of crafts or classes such as train and engine service, shopcraft, clerical, and maintenance of way.

"(3) If the agreements under this subsection so provide, collective bargaining agreements then in force at the facility or location involved (other than any dues check-off provision of such an agreement), shall be suspended for the duration of the demonstration program and employees covered by the program shall be represented in accordance with the worker participation agreement, notwithstanding any provision of the Railway Labor Act.

"(4) Agreements under this subsection may include provisions relating to (A) the resolution of disputes under section 3 of the Railway Labor Act, (B) the election of agreement personnel to serve in supervisory jobs, (C) the election of agreement personnel to negotiate performance goals and, (D) such other matters as may be agreed upon by the Corporation and its agreement employees.

"(5) Nothing in this subsection shall be construed to interfere with the application of rates of pay provided for in the agreements required by subsection (c)(5)(A) of this section or with the implementation of the negotiation and factfinding procedures required by subsection (c)(5)(B).

"(g) STATES AND LOCALITIES.—Until such time as the United States sells its interest in the Corporation under section 401 or 403 of this Act, the Corporation shall be exempt from liability for any State or local tax for the period of three years from the effective date of this section.

"(h) PROJECTIONS.—At the time of a request by the Corporation for the purchase of additional stock, the Corporation shall present to the Association (1) its projections of expenditures for the next six-month period for services of individuals or firms not on the payroll of the Corporation, and (2) its expenditures for the preceding six-month period for the services of such individuals or firms.

"(i) WORK STOPPAGES.—In the event of any work stoppage by employees of the Corporation which directly results from the conditions required under subsection (c) of this section and substantially impairs the operation of the Corporation's rail system, the Association shall make no further purchases of stock of the Corporation.

"(j) DEBENTURES.—The Association shall return debentures to the Corporation in an amount equal to the value of the properties conveyed by the Corporation to its commuter subsidiary.

"(k) RIGHTS RETAINED.—The Corporation shall retain the right to collect and shall collect any accounts receivable attributable to delays in reimbursement from commuter agencies that are purchased by the Association under this section.

"(l) DEFINITION.—As used in this section, the term 'profitable carrier' means a carrier that generates sufficient revenues to meet its expenses, including reasonable maintenance of necessary equipment and facilities without funding from the Federal Government.

"(m) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated to the Association for purposes of purchasing securities and accounts receivable of the Corporation under this section not to exceed $150,000,000 for the fiscal year ending September 30, 1982, and not to exceed $225,000,000 for the fiscal year ending September 30, 1983. In addition, any amounts appropriated under section 216(g) of this Act are authorized to be available for the purchase of securities and accounts receivable under this section. All sums received on account of the holding or disposition of any such securities shall be deposited in the general fund of the Treasury.".

"(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 216 the following new item:

"SEC. 217. Additional purchases of Series A preferred stock.".

ORGANIZATION AND STRUCTURE OF CONRAIL

SEC. 6432. (a) Section 301(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(d)) is amended—

(1) by striking out "(other than resignations pursuant to this subsection)" in the second sentence; and

(2) by striking out the third, fourth, and fifth sentences.

(b) Section 301(e)(1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(e)) is amended by striking out "In order to carry out the final system plan, the" and inserting in lieu thereof "The".

(c) Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by striking out subsection (j) and inserting in lieu thereof the following new subsection:

"(j) SIGNAL SYSTEMS.—If, within two years after the effective date of this subsection, the Corporation applies for the permission of the Secretary to substitute manual block signal systems for automatic block signal systems on lines on which less than 20,000,000 gross tons of freight are carried annually, the Secretary shall approve or disapprove such application within 90 days of its submission.".

PART III—TRANSFER OF FREIGHT SERVICE RESPONSIBILITIES

TRANSFER OF FREIGHT SERVICE

SEC. 6441. (a) The Regional Rail Reorganization Act of 1973 is amended by inserting

immediately after title III the following new title:

"TITLE IV—TRANSFER OF FREIGHT SERVICE

"INTEREST OF UNITED STATES

"SEC. 401. (a) SALE OF COMMON STOCK.—During the period beginning on July 1, 1982, and ending December 31, 1983, the Association notifies the Secretary that it has made a determination under section 217(b)(4) of this Act that the Corporation will be a profitable carrier, the Secretary shall sell in block or by general offering, the interest of the United States in the common stock of the Corporation. In making such sale the Secretary shall attempt to—

"(1) ensure continued rail service;

"(2) promote competitive bidding for such common stock; and

"(3) maximize the return to the United States on its investment.

"(b) CANCELLATION.—In making any sale under subsection (a), the Secretary may cancel some shares of the common stock of the Corporation and sell only the remaining shares.

"(c) REPLACEMENT OF BOARD OF DIRECTORS.—When all common stock of the Corporation held by the United States (or any agent or instrumentality thereof) is sold under subsection (a) or cancelled under subsection (b), the Corporation shall elect a new Board of Directors. Only holders of shares of common stock may vote in such election, and each such share shall entitle its holder to one vote.

"(d) RAILROAD PURCHASERS.—Any railroad which purchases common stock of the Corporation shall vote such stock in the same proportion as all other common stock of the Corporation is voted unless the Commission determines that such railroad has purchased a controlling interest in the Corporation.

"(e) In making any sale under subsection (a), the Secretary shall first offer, to any employees whose wages are reduced pursuant to any agreement entered into under section 217(c)(5) of this Act, stock in amounts equal to the extent of such wage reduction.

"DEBT AND PREFERRED STOCK

"SEC. 402. (a) LIMITATION.—Prior to any sale of the common stock of the Corporation under section 401, the interest of the United States in any debt or preferred stock of the Corporation held by the United States (or any agent or instrumentality thereof, including the Association) shall be limited to any interest which attaches to such debt or preferred stock in the event of bankruptcy, or substantial sale, or liquidation of the assets of the Corporation. The Secretary shall substitute for the evidence of such debt or preferred stock held by the United States (or any such agent or instrumentality) contingency notes conforming to the limited terms set forth in this subsection.

"(b) SUBSEQUENT ISSUE.—If the interest of the United States is limited under subsection (a) the Corporation may issue new debt or preferred stock subsequent to the issuance of the debt or preferred stock described in subsection (a) which shall have higher priority in the event of bankruptcy, liquidation, or abandonment of the assets of the Corporation than the debt or preferred stock described in subsection (a).

"TRANSFER PLAN

"SEC. 403. (a) DEVELOPMENT.—The Secretary shall develop a plan for the sale of the rail properties of the Corporation. Such plan shall—

"(1) ensure that at least 75 percent of the rail service operated by the Corporation as of December 31, 1983, shall be maintained;

"(2) promote competitive bidding for such rail properties; and

"(3) maximize the return to the United States on its investment.

"(b) CONFERENCES.—The Secretary may, in developing a transfer plan under this section, hold conferences with officers and directors of affected rail carriers, representatives of employees of the Corporation and other affected rail carriers, the Commission, suppliers, appropriate State and local officials, shippers and consumer representatives, potential purchasers or operators other than rail carriers, representatives of the Federal Trade Commission, the Attorney General of the United States, or any combination thereof. Persons attending or represented at any such conference shall not be liable under the antitrust laws of the United States with respect to any discussion at such conference or with respect to any agreement reached at such conference.

"(C) APPROVAL OF TRANSFER COMMITTEE.—If there is no sale under section 401(a) of this Act, any plan developed by the Secretary under subsection (a) of this section shall be submitted to the Transfer Committee for approval.

"(2) The Transfer Committee shall be composed of five persons as follows:

"(A) The Secretary of Transportation.

"(B) The Secretary of the Treasury.

"(C) The Chairman of the Commission.

"(D) The Director of the Office of Management and Budget.

"(E) The Chairman of the Board of Directors of the Corporation.

"(d) CONGRESSIONAL REVIEW.—Within 180 days after December 31, 1983, the Secretary shall submit any plan developed under subsection (a) and approved by the Transfer Committee under subsection (c) to the Congress for review in accordance with this section. Any such transfer proposal shall be deemed approved at the end of the first period of 90 calendar days of continuous session of the Congress after the date of such submittal unless one or both of the Houses of the Congress adopts a concurrent resolution during such period stating that they do not approve such transfer proposal. For purposes of this section—

"(1) continuity of session of the Congress is broken only by an adjournment sine die; and

"(2) the days on which either House is not in session because of adjournment of more than 3 days to a day certain are excluded in the computation of the 90 day period.

"(e) TRANSFER.—If any transfer plan developed by the Secretary is approved by the Transfer Committee and the Congress under this section, the Corporation shall enter into agreements for the transfer the rail properties involved in accordance with the terms of such transfer plan.

"(f) TERMINATION.—When all agreements entered into under subsection (e) have been implemented the Corporation shall be relieved of any obligation to provide rail service, either as a common carrier or under any contract. The Corporation shall retain the power to dispose of any rail properties not transferred under subsection (e).

"(g) ASSIGNMENT.—(1) If an interest in rail properties is conveyed pursuant to this section, and if such conveyance is in accordance with the requirements of paragraph (2) of this subsection, the conveyance of such properties shall be deemed an assignment. Any such assignment shall relieve Conrail of liability for any breach which occurs after the date of such conveyance, except that Conrail shall remain liable for any breach, even to default, or violation of covenant which occurred (and any charges or obligations which accrued) prior to the date of such conveyance, regardless of whether the assignee thereof assumes such liabilities, charges, or obligations. If any such liabilities, charges, or obligations (accrued prior to the date of such conveyance) are paid by or on behalf of any person or entity other than Conrail, such person or entity shall have a claim to direct reimbursement from Conrail, together with interest on the amount so paid.

"(2)(A) A conveyance referred to in paragraph (1) of this subsection may be effected only if—

"(i) the assignee to whom such conveyance is made assumes all of the obligations under any applicable conditional sale agreement, equipment trust agreement, or lease with respect to such rail properties (including any obligations which accrued prior to the date on which such rail properties are conveyed),

"(ii) such conveyance is made subject to such obligations, and

"(iii) such conveyance has been approved by any party who is a co-obligor with Conrail on any debt instrument imposing a lien or encumbrance on, or otherwise affecting the title or interest in, the rail properties to be conveyed.

As used in this subparagraph, the term 'rail properties' means assets or rights owned, leased, or otherwise controlled by Conrail, other than real property, which are used or useful in rail transportation service.

"(B) Subject to the provisions of this paragraph, the provisons of this Act shall not affect the title and interests of any lessor, equipment trust trustee, or conditional sale vendor under any conditional sale agreement, equipment trust agreement, or lease under section 1168 of the Bankruptcy Act (11 U.S.C. 1168). An assignee to whom such a conveyance is made shall assume all liability under such conditional sale agreement, equipment trust agreement, or lease. Such an assignment or conveyance to, and such an assumption of liability by, such an assignee shall not be deemed a breach, an event of default, or a violation of any covenant of any such conditional sale agreement, equipment trust agreement, or lease so assigned or conveyed, notwithstanding any provisions of any such agreement or lease.

"PROHIBITION ON CERTAIN TRANSFERS

"SEC. 404. Notwithstanding any other provision of this Act, rail properties of the Corporation may not be transferred under this Act to any railroad in reorganization under this Act which transferred property to the Corporation or is the successor in interest to such a railroad in reorganization.".

Subchapter C—Protection for Conrail Employees

PROTECTION OF CONRAIL EMPLOYEES

SEC. 6451. (a) The Regional Rail Reorganization Act of 1973 is amended by adding at the end thereof the following new title:

"TITLE VII—PROTECTION OF EMPLOYEES

"EMPLOYEE PROTECTION AGREEMENT

"SEC. 701. (a) GENERAL.—(1) The Secretary of Labor and the representatives of the vari-

ous classes and crafts of employees of the Corporation shall, not later than 90 days after the effective date of this title, enter into an agreement providing protection for (A) employees of the Corporation who were protected by the provisions of title V of this Act prior to such effective date, (B) employees of the Corporation adversely affected by an abandonment under section 309 of this Act, and (C) employees of the Corporation adversely affected by the transfer of rail properties under section 305(f) of this Act.

"(2) If the parties are unable to reach agreement within 90 days, the Secretary of Labor shall, within 30 days, prescribe the benefit schedule.

"(b) USE OF FUNDS.—The agreement entered into under this section may provide for the use of funds made available under section 712 of this Act for the following purposes:

"(1) Allowances to employees deprived of employment.

"(2) Moving expenses for employees who must move to another place of employment.

"(3) Retraining expenses for employees who are seeking employment in new areas.

"(4) Termination allowances for employees.

"(5) Such other purposes as may be agreed upon by the Secretary of Labor and representatives of the various classes and crafts of employees.

"(c) APPLICABILITY.—Any employee of the Corporation who is eligible for benefits under this section and who is transferred to the commuter subsidiary of the Corporation or to the Amtrak Commuter Services Corporation pursuant to title IV of this Act shall remain eligible for such benefits.

"(d) LIMITATION.—The agreement of the parties under this section may not require the expenditure of funds in excess of the amount authorized to be appropriated under section 713 of this Act.

"TERMINATION ALLOWANCE

"SEC. 702. (a) GENERAL.—The Corporation may terminate the employment of certain employees, in accordance with this section, upon the payment of an allowance of $500 for each month of active service with the Corporation or with a railroad in reorganization but in no event may any such termination allowance exceed $25,000.

"(b) EMPLOYMENT NEEDS.—Within 90 days after the effective date of this title, the Corporation shall determine, for each location, the number of employees that the Corporation needs to separate under subsection (a) of this section.

"(c) NOTIFICATION AND SEPARATION PROCEDURE.—(1) Within 90 days after the effective date of this title, the Corporation shall notify its employees of their rights and responsibilities under this section.

"(2) Within 90 days after the effective date of this title, the Corporation shall notify each train and engine service employee eligible to be separated under paragraph (3) that such employee may be entitled to receive a separation payment under this section if such employee files a written request to be separated. Such notice may be revised from time to time.

"(3) If the number of employees who request to be separated pursuant to paragraph (2) of this subsection is greater, in engine service at any location, than the number of excess firemen at the location, and in train service at the location than the number of excess second and third brakemen, as determined by the Corporation, the Corporation shall separate the employees described in paragraph (2) of this subsection in order of seniority beginning with the most senior employee, until the excess firemen and second and third brakemen positions at that location, as determined by the Corporation, have been eliminated.

"(d) DESIGNATED SEPARATIONS.—If the number of employees who are separated pursuant to subsection (c)(3) is less at any location than the number of excess firemen and second and third brakemen in freight service at such location, as determined by the Corporation, the Corporation may, within 210 days after the effective date of this title, designate for separation employees in engine service or train service respectively in inverse order of seniority, beginning with the most junior employee in active service at such location until the excess firemen, and second and third brakemen in freight service, at that location have been eliminated. An employee designated under this paragraph may choose (1) to furlough himself voluntarily, in which case the junior employee protected under the fireman manning or crew consist agreements or any other agreement or law, in the same craft or class at such location may be separated instead and receive the separation allowance, or (2) to exercise his seniority to another location, in which case the Corporation may separate, under the provisions of this paragraph, the junior protected employee in active service at the location to which seniority ultimately is exercised.

"(e) EFFECT ON POSITIONS.—(1) The Corporation shall refrain from filling one fireman (helper) position for each employee in engine service separated in accordance with this section.

"(2) The Corporation shall have the right to refrain from filling one brakeman position in excess of one conductor and one brakeman on one crew in freight service for each employee in train service who is separated in accordance with this section.

"(3) Positions permitted to be not filled under this subsection shall be not filled in different types of freight service actually operated at or from the location in a sequence to be agreed upon between the Corporation and the general chairman representative of classes or crafts of employees having jurisdiction over the positions to be not filled. If no such agreement is reached, the Corporation may designate the position to be not filled.

"(4) Notwithstanding paragraphs (1) and (2) of this subsection, the Corporation shall retain all rights it has under any provision of law or agreement to refrain from filling any position of employment.

"(f) PROCEDURES.—The Corporation and representatives of the various classes and crafts of employees to be separated may agree on procedures to implement this section, but the absence of such agreement shall not interfere with implementation of the separations authorized by this section.

"(g) PASSENGER EMPLOYEES.—The provisions of this section shall apply to the separation of fireman in commuter service, except that with respect to such employees the Corporation is required to make the separations authorized by this section.

"PREFERENTIAL HIRING

"SEC. 703. (a) GENERAL.—Any employee who is deprived of employment shall have the first right of hire by any other rail carrier for a vacancy in a class or craft (or in the case of a non-agreement employee, for a non-agreement vacancy for which he is qualified) in which such employee was employed by the Corporation or a predecessor carrier for not less than one year, except where such a vacancy is covered by (1) an affirmative action plan, or a hiring plan designed to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this section, a rail carrier shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.

"(b) STATUS.—The rights afforded to employees under this section shall be coequal to the rights afforded under section 8 of the Milwaukee Railroad Restructing Act (45 U.S.C. 907) and section 105 of the Rock Island Transition and Employee Assistance Act (45 U.S.C. 1004).

"CENTRAL REGISTER OF RAILROAD EMPLOYMENT

"SEC. 704. (a) REGISTER.—(1) The Railroad Retirement Board (hereinafter in this section referred to as the 'Board') shall prepare and maintain a register of persons separated from railroad employment after at least one year of completed service with a rail carrier who have declared their current availability for employment in the railroad industry. The register shall be subdivided by class and craft of prior employment and shall be updated periodically to reflect current availability.

"(2) Each entry in the register shall include, or provide access to, basic information concerning the individual's experience and qualifications.

"(3) The Board shall place at the top of the register those former railroad employees entitled to priority under applicable provisions of law, including this Act.

"(b) CORPORATION EMPLOYEES.—As soon as is practicable after the effective date of this title, the Corporation shall provide to the Board the names of its former employees who elect to appear on the register and who have not been offered employment with acquiring railroads.

"(c) VACANCY NOTICES.—Each rail carrier shall timely file with the Board a notice of vacancy with respect to any position for which the railroad intends to accept applications from persons other than current employees of that carrier.

"(d) PLACEMENT.—The Board shall, through distribution of copies of the central register (or portions thereof) to rail carriers and representatives of classes or crafts of employees and through publication of employment information derived from vacancy notices filed with the Board, promote the placement of former railroad employees possessing requisite skills and experience in appropriate positions with other rail carriers.

"(e) EMPLOYMENT APPLICATIONS.—In addition to its responsibilities under subsections (a) through (d) of this section, the Board shall facilitate the filing of employment applications with respect to current vacancies in the industry by former railroad employees entitled to priority under applicable provisions of law, including this Act.

"(f) EXPIRATION.—The provisions of this section shall cease to be effective on the expiration of the 3-year period beginning on the effective date of this title.

"(g) INJUNCTIVE RELIEF.—Any employee eligible for listing on the central register under this section or eligible for preferential hiring under section 703 may bring an action for injunctive relief in his own name in the United States district court for the district in which he resides or for the District in which the defendant may be found,

against the Board or any rail carrier for violation of this section or section 703 of this Act.

"ELECTION AND TREATMENT OF BENEFITS

"SEC. 705. (a) ELECTION.—(1) Any employee who accepts any benefits under an agreement entered into under section 701 of this Act or a termination allowance under section 702 of this Act, shall, except as provided in paragraph (2) of this subsection, be deemed to waive any employee protection benefits otherwise available under any other provision of law or any contract or agreement in effect on the effective date of this title, and shall be deemed to waive any cause of action for any alleged loss of benefits resulting from the provisions of or the amendments made by the Rail Service Improvement Act of 1981.

"(2) Nothing in paragraph (1) of this subsection shall affect the right of any employee described in such paragraph to benefits under the Railroad Retirement Act of 1974 or the Railroad Unemployment Insurance Act.

"(b) TREATMENT OF BENEFITS.—Any benefits received by an employee under an agreement entered into pursuant to section 701 of this Act and any termination allowance received under section 702 of this Act shall be considered compensation solely for purposes of—

"(1) the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.); and

"(2) determining the compensation received by such employee in any base year under the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.).

"ASSIGNMENT OF WORK

"SEC. 706. (a) GENERAL.—The Corporation shall have the right to assign, allocate, reassign, reallocate, and consolidate work formerly performed on the rail properties acquired pursuant to the provisions of this Act from a railroad in reorganization to any location, facility, or position on its system if it does not remove such work from coverage of a collective-bargaining agreement and does not infringe upon the existing classification of work rights of any craft or class of employees at the location or facility to which such work is assigned, allocated, reassigned, reallocated, or consolidated.

"(b) EXPIRATION.—The authority granted by this section shall apply only for as long as benefits are provided under this title with funds made available under section 713 of this Act.

CONTRACTING OUT

"SEC. 707. All work in connection with the operation or services provided by the Corporation on the rail lines, properties, equipment, or facilities acquired pursuant to the provisions of this Act and the maintenance, repair, rehabilitation, or modernization of such lines, properties, equipment, or facilities which has been performed by practice or agreement in accordance with provisions of the existing contracts in effect with the representatives of the employees of the classes or crafts involved shall continue to be performed by the Corporation's employees, including employees on furlough. Should the corporation lack a sufficient number of employees, including employees on furlough, and be unable to hire additional employees, to perform the work required, it shall be permitted to subcontract that part of such work which cannot be performed by its employees, including those on furlough, except where agreement by the representatives of the employees of the classes or crafts involved is required by applicable collective-bargaining agreements. The term 'unable to hire additional employees' as used in this section contemplates establishment and maintenance by the Corporation of an apprenticeship, training, or recruitment program to provide an adequate number of skilled employees to perform the work.

"NEW COLLECTIVE-BARGAINING AGREEMENTS

"SEC. 708. (a) AGREEMENT.—Not later than 60 days after the effective date of any conveyance pursuant to the provisions of this Act, the representatives of the various classes of crafts of the employees of a railroad in reorganization involved in a conveyance and representatives of the Corporation shall commence negotiation of a new single collective-bargaining agreement for each class and craft of employees covering the rate of pay, rules, and working conditions of employees who are the employees of the Corporation. Such collective-bargaining agreement shall include appropriate provisions concerning rates of pay, rules, and working conditions, but shall not, for as long as benefits are provided under this title with funds made available under section 713 of this Act, include any provisions for job stabilization resulting from any transaction effected pursuant to this Act which may exceed or conflict with those established herein. Negotiations with respect to such single collective-bargaining agreement, and any successor thereto, shall be conducted systemwide.

"(b) PROCEDURE.—(1) Any procedure for finally determining the components of the first single collective bargaining agreement for any class or craft, agreed upon before the effective date of this title, shall be completed no later than 45 days after such effective date. Such agreed upon procedure shall be deemed to satisfy the requirements of sections 7 and 8 of the Railway Labor Act. The National Mediation Board shall appoint any person as provided for by such agreements.

"(2) Nothing in this section shall be construed to require the parties to enter into a new single collective-bargaining agreement if the agreement between the parties in effect immediately prior to the effective date of this title, complied with section 504(d) of this Act, as in effect immediately prior to such date.

"EMPLOYEE AND PERSONAL INJURY CLAIMS

"SEC. 710. (a) LIABILITY FOR EMPLOYEE CLAIMS. In all cases of claims by employees, arising under the collective-bargaining agreements of the railroads in reorganization in the region, and subject to section 3 of the Railway-Labor Act (45 U.S.C. 153), the Corporation, the National Railroad Passenger Corporation, or an acquiring carrier, as the case may be, shall assume responsibility for the processing of any such claims, and payment of those which are sustained or settled on or subsequent to the date of conveyance, under section 303(b)(1) of this Act, and shall be entitled to direct reimbursement from the Association pursuant to section 211(h) of this Act, to the extent that such claims are determined by the Association to be the obligation of a railroad in reorganization in the region. Any liability of an estate of a railroad in reorganization to its employees which is assumed, processed, and paid, pursuant to this subsection, by the Corporation, the National Railroad Passenger Corporation, or an acquiring carrier shall remain the preconveyance obligation of the estate of such railroad for purposes of section 211(h)(1) of this Act. The Corporation, the National Railroad Passenger Corporation, an acquiring carrier, or the Association, as the case may be, shall be entitled to a direct claim as a current expense of administration, in accordance with the provisions of section 211(b) of this Act (other than paragraph (4)(A) thereof), for reimbursement (including costs and expenses of processing such claims) from the estate of the railroad in reorganization on whose behalf such obligations are discharged or paid. In those cases in which claims for employees were sustained or settled prior to such date of conveyance, it shall be the obligation of the employees to seek satisfaction against the estate of the railroads in reorganization which were their former employers.

"(b) ASSUMPTION OF PERSONAL INJURY CLAIMS.—All cases or claims by employees or their personal representatives for personal injuries or death against a railroad in reorganization in the region arising prior to the date of conveyance of rail properties, pursuant to section 303 of this Act, shall be assumed by the Corporation or an acquiring railroad, as the case may be. The Corporation or the acquiring railroad shall process and pay any such claims that are sustained or settled, and shall be entitled to direct reimbursement from the Association pursuant to section 211(h) of this Act, to the extent that such claims are determined by the Association or its successor authority to be the obligation of such railroad. Any liability of an estate of a railroad in reorganization which is assumed, processed, and paid, pursuant to this subsection, by the Corporation or an acquiring railroad shall remain the preconveyance obligation of the estate of such railroad for purposes of section 211(h)(1) of this Act. The Corporation, an acquiring railroad, or the Association, as the case may be, shall be entitled to a direct claim as a current expense of administration, in accordance with the provisions of section 211(h) of this Act (other than paragraph (4)(A) thereof), for reimbursement (including costs and expenses of processing such claims) from the estate of the railroad in reorganization on whose behalf such obligations were discharged or paid.

"LIMITATIONS ON LIABILITY

"SEC. 711. (a) FEDERAL GOVERNMENT.—The liability of the United States under an agreement entered into under section 701 of this Act or for payment of a termination allowance under section 702 of this Act shall be limited to amounts appropriated under section 713 of this Act.

"(b) THE CORPORATION.—The Corporation shall incur no liability under an agreement entered into under section 701 of this Act or for the payment of a termination allowance under section 702 of this Act.

"PREEMPTION

"SEC. 712. No State may adopt or continue in force any law, rule, regulation, order, or standard requiring the Corporation, its commuter subsidiary, the National Railroad Passenger Corporation, or the Amtrak Commuter Services Corporation to employ any specified number of persons to perform any particular task, function, or operation, or requiring the Corporation to pay protective benefits to employees.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 713. There are authorized to be appropriated to carry out the provisions of this title not to exceed $165,000,000 for the fiscal year ending September 30, 1982, and not to exceed $150,000,000 for the fiscal year ending September 30, 1983. Of the amounts authorized to be appropriated for

fiscal year 1982, not more than $115,000,000 shall be available solely for termination allowances under section 702 of this Act. Any amounts not expended for termination allowances under section 702 shall be available for purposes of section 701 of this Act. Any funds appropriated under section 509(b)(1) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 8299(b)(1)) for use under section 216(b)(3) of the Regional Rail Reorganization Act of 1973 shall be available for the purposes of this title. Amounts appropriated under this section are authorized to remain available until expended.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by adding at the end thereof the following new items:

"TITLE VII—PROTECTION OF EMPLOYEES

"Sec. 701. Employee protection agreement.
"Sec. 702. Termination allowance.
"Sec. 703. Preferential hiring.
"Sec. 704. Central register of railroad employment.
"Sec. 705. Election and treatment of benefits.
"Sec. 706. Assignment of work.
"Sec. 707. Contracting out.
"Sec. 708. New collective bargaining agreements.
"Sec. 710. Employee and personal injury claims.
"Sec. 711. Limitations on liability.
"Sec. 712. Preemption.
"Sec. 713. Authorization of appropriations.".

REPEALS

SEC. 6452. (a)(1) Title V of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 771 et seq.) and the items in the table of contents of such Act relating to such title V, are repealed.

(2) Notwithstanding the repeal made by paragraph (1) of this subsection—

(A) benefits accrued as of October 1, 1981, as a result of events that occurred wholly prior to October 1, 1981, shall be disbursed;

(B) any dispute or controversy regarding such benefits shall be determined under the terms of the law in effect on September 30, 1981; and

(C) the authorization contained in section 509 of the Regional Rail Reorganization Act of 1973 shall remain available for such purposes.

(b) Section 11 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 910) and section 107 of the Rock Island Transition and Employee Assistance Act (45 U.S.C. 1006) (relating to maintenance of certain employee lists) are repealed.

Subchapter D—Terms of Labor Assumption

PART I—PASSENGER EMPLOYEES

TRANSFER OF PASSENGER SERVICE EMPLOYEES

SEC. 6461. Title V of the Rail Passenger Service Act, as added by this chapter, is amended by adding at the end thereof the following new sections.

SEC. 506. TRANSFER OF EMPLOYEES.

"(a) Within 420 days after the effective date of this title, the Consolidated Rail Corporation (hereinafter referred to as 'Conrail'), its commuter subsidiary, Amtrak Commuter, and the representatives of the various crafts of classes of employees of Conrail's commuter subsidiary shall commence implementing agreement negotiations. Such negotiations shall—

"(1) determine the number of employees to be transferred to Amtrak Commuter, based on the existing contracts between the Corporation and the commuter authorities and the applicable bargaining agreements;

"(2) identify the specific employees of the Corporation and its commuter subsidiary to whom Amtrak Commuter offers employment;

"(3) determine the procedure by which such employees may elect to accept employment with Amtrak Commuter;

"(4) determine the procedure for acceptance of such employees into Amtrak Commuter's employment;

"(5) determine the procedure for determining the seniority of such employees in their respective crafts or classes in Amtrak Commuter's system, which shall, to the extent possible, preserve their prior passenger seniority rights;

"(6) ensure that all such employees are transferred to Amtrak Commuter no later than 540 days after the effective date of this title; and

"(7) determine the extent to which employees of Conrail's commuter subsidiary transferred to Amtrak Commuter shall retain freight seniority rights with Conrail. Such determination shall ensure the maximum separation of the freight and passenger work forces and shall (A) provide employees transferred to Amtrak Commuter who are subsequently deprived of employment at least one opportunity to exercise previous freight seniority rights, (B) maximize employment opportunities for employees on furlough, (C) maintain the ability to recall experienced employees, and (D) ensure that under no circumstances are seniority rights exercised in any manner which results in a position being filled which would otherwise not be filled under the terms of any crew consist, fireman manning, or other similar agreement.

"(b)(1) If no agreement with respect to the matters being negotiated pursuant to subsection (a) is reached within 30 days after the date such negotiations are commenced, the parties to the negotiations shall, within an additional 10 days, select a neutral referee. If the parties are unable to agree upon the selection of such a referee, the National Mediation Board shall promptly appoint a referee.

"(2) The referee shall commence hearings on the matters being negotiated pursuant to subsection (a) not later than 10 days after the date he is selected or appointed, and shall render a decision within 30 days after the date of commencement of such hearings. All parties may participate in the hearings, but the referee shall have the only vote.

"(3) The referee shall resolve and decide all matters in dispute with respect to the negotiation of the implementing agreement of agreements. The referee's decision shall be final and binding to the same extent as an award of an adjustment board under section 3 of the Railway Labor Act, and shall constitute the implementing agreement or agreements between the parties. The salary and expenses of the referee shall be paid pursuant to the provision of the Railway Labor Act.

"(c) EMPLOYEE PROTECTION.—Any employee of the Corporation or its commuter subsidiary who is not offered employment with Amtrak Commuter under this section shall be provided employee protection under section 701 of the Regional Rail Reorganization Act of 1973 to the same extent as if such employee had remained in the employ of the Corporation.

"SEC. 507. COLLECTIVE BARGAINING AGREEMENT FOR AMTRAK COMMUTER.

"(a) Prior to the date Amtrak Commuter commences operation of commuter service previously operated by Conrail or its commuter subsidiary, Amtrak Commuter and the representatives of the various classes or crafts of employees to be transferred to Amtrak Commuter pursuant to section 507 of this Act shall enter into new collective bargaining agreements with respect to rates of pay, rules, and working conditions.

"(b)(1) Amtrak Commuter and the representatives of the various classes and crafts of employees to be transferred to Amtrak Commuter shall, within 270 days after the effective date of this title, establish a fact-finding panel, chaired by a neutral expert in industrial relations, for purposes of recommending changes in operating practices and procedures which result in greater productivity to the maximum extent practicable.

"(2) The National Mediation Board shall appoint public members to the panel established under paragraph (1) of this subsection, and shall perform such functions contained in the agreement as are consistent with the duties of such Board under the Railway Labor Act.

"(3) The fact-finding panel shall, within 90-days after the date it is established, submit a report to the parties setting forth its recommendations for changes in operating practices and procedures.

"(4) The fact-finding panel may provide mediation, conciliation, and other assistance to the parties.".

PART II—FREIGHT EMPLOYEES

LABOR TRANSFER

SEC. 6471. (a) Title IV of the Regional Rail Reorganization Act of 1973, as added by this chapter, is amended by adding at the end thereof the following new sections:

"LABOR TRANSFER AGREEMENTS

SEC. 405. (a) Implementing Agreement.—Within 30 days after the date any transfer agreement is entered into under this title, the rail carrier or other entity purchasing rail properties and the representatives of the various crafts or classes of employees of the Corporation to be transferred to such rail carrier or other entity shall commence implementing agreement negotiations. Such negotiations shall—

"(1) determine the number of employees to be transferred to such rail carrier or other entity;

"(2) identify the specific employees of the Corporation to whom such rail carrier or other entity offer employment;

"(3) determine the procedure by which such employees may elect to accept employment with such rail carrier or other entity;

"(4) determine the procedure for acceptance of such employees into employment with such rail carrier or other entity;

"(5) determine the procedure for determining the seniority of such employees in their respective crafts or classes in the system of such rail carrier or other entity, which shall, to the extent possible, preserve their prior freight seniority rights; and

"(6) ensure that all such employees are transferred to such rail carrier or other entity no later than 120 days after the date the transfer agreement is entered into under this title.

"(b) DECISION OF REFEREE.—(1) If no agreement with respect to the matters being negotiated pursuant to subsection (a) is reached within 30 days after the date such negotiations are commenced, the parties to the negotiations shall, within an additional 10 days, select a neutral referee. If the par-

ties are unable to agree upon the selection of such a referee, the National Mediation Board shall promptly appoint a referee.

"(2) The referee shall commence hearing within 10 days, and shall on the matters being negotiated pursuant to subsection (a) after the date he is selected or appointed, and shall render a decision within 30 days after the date of commencement of such hearings, but the referee shall have the only vote.

"(3) The referee shall resolve and decide all matters in dispute with respect to the negotiation of the implementing agreement or agreements. The referee's decision shall be final and binding to the same extent as an award of an adjustment board under section 3 of the Railway Labor Act, and shall constitute the implementing agreement or agreements between the parties. The salary and expenses of the referee shall be paid pursuant to the provision of the Railway Labor Act.

"LABOR CONDITIONS

"SEC. 406. The Commission shall determine the labor conditions to apply to employees affected by any transfer under this title as if such transfer were made under the Interstate Commerce Act.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by striking out the items relating to title IV and inserting in lieu thereof the following new items:

"TITLE IV—TRANSFER OF FREIGHT SERVICE

"Sec. 401. Interest of United States.
"Sec. 402. Debt and preferred stock.
"Sec. 403. Transfer plan.
"Sec. 404. Prohibition on certain transfers.
"Sec. 405. Labor transfer agreements.
"Sec. 406. Labor conditions.".

Subchapter E—United States Railway Association

ORGANIZATION OF USRA

SEC. 6481. (a) Section 201 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721) is amended by striking out subsections (d) through (i), by redesignating subsections (j) and (k) as subsections (g) and (h), respectively, and by inserting after subsection (c) the following new subsections:

"(d) BOARD OF DIRECTORS.—(1) The Board of Directors of the Association shall consist of 3 individuals, as follows:

"(A) The Chairman, who shall be selected by the previous Chairman and the other members of the Board.

"(B) The Secretary of Transportation.

"(C) The Comptroller General of the United States.

"(2) No member of the Board of Directors may have any employment or other direct financial relationship with any railroad. The Chairman may receive $300 per diem when engaged in the actual performance of his duties plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties.

"(e) TERM OF OFFICE.—The term of office of the Chairman of the Board of Directors of the Association shall be 6 years.

"(f) QUORUM.—Three members of the Board of Directors shall constitute a quorum for the transaction of any function of the Association.".

(b) The amendment made by this subsection shall not affect the term of the individual serving as Chairman of the United States Railway Association on the effective date of this chapter.

FUNCTIONS OF USRA

SEC. 6482. (a) Section 202 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 722) is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following new subsections:

"SEC. 202. (a) AUTHORITY.—The Association is authorized to—

"(1) monitor the financial performance of the Corporation;

"(2) determine whether the conditions and requirements of this Act are met;

"(3) purchase or otherwise acquire or receive, and hold and dispose of securities (whether debt or equity) of the Corporation under sections 216 and 217 of this Act and exercise all of the rights, privileges, and powers of a holder of any such securities;

"(4) purchase accounts receivable of the Corporation in accordance with section 217 of this Act; and

"(5) appoint and fix the compensation of such personnel as the Association considers necessary and appropriate.

"(b) STOCK PURCHASE REPORTS.—The Association shall, within 30 days after each purchase date set forth in section 217(b) of this Act, submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report setting forth the amount of additional funds made available to the Corporation, the progress of the Corporation in meeting the requirements and goals of this Act, and the funds remaining available for the purchase of stock of the Corporation.".

(b) Section 202 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 722) is amended by adding at the end thereof the following new subsection:

"(k) TERMINATION.—No later than 30 days after the Association makes its last purchase of series A preferred stock of the Corporation under section 217 of this Act, the Association shall cease to exist, and all assets and liabilities of the Association shall be transferred to the Director of the Office of Management and Budget.".

(c) The section heading of section 202 of the Regional Rail Reorganization Act of 1973 is amended by striking out "general powers and duties" and inserting in lieu thereof "functions".

(d) The item relating to section 202 in the table of contents of the Regional Rail Reorganization Act of 1973 is amended to read as follows:

"Sec. 202. Functions of the Association.".

ACCESS TO INFORMATION

SEC. 6483. Section 203 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 723) is amended to read as follows:

"ACCESS TO INFORMATION

"SEC. 203. The Corporation shall make available to the Association such information as the Association determines necessary for the Association to carry out its functions under this Act. The Association shall request from other parties which are affected by this Act information which will enable the Association to determine if the conditions of this Act are met.".

TRANSFER OF LITIGATION

SEC. 6484. (a) The responsibility for representing the United States in any civil action brought by the estate of a railroad in reorganization against the United States under the Regional Rail Reorganization Act of 1973 shall be transferred from the United States Railway Association to the Attorney General of the United States no later than November 1, 1981.

(b) The Attorney General may establish an independent office within the Department of Justice with responsibility for the civil actions described in subsection (a) of this section. The retention of private legal counsel to conduct any such civil action shall not create a conflict of interest for the Department of Justice or such legal counsel with respect to other cases being handled by such legal counsel.

USRA AUTHORIZATION

SEC. 6485. Section 214(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724(c)) is amended to read as follows:

"(c) ASSOCIATION.—There are authorized to be appropriated to the Association for purposes of carrying out its administrative expenses under this Act not to exceed $1,000,000 for the fiscal year ending September 30, 1982, not to exceed $1,100,000 for the fiscal year ending September 30, 1983, and not to exceed $1,200,000 for the fiscal year ending September 30, 1984. Sums appropriated under this subsection are authorized to remain available until expended.".

Subchapter F—Miscellaneous Provisions

JUDICIAL REVIEW

SEC. 6491. (a) Notwithstanding any other provision of law, the special court shall have original and exclusive jurisdiction over any civil action—

(1) for injunctive, declaratory, or other relief relating to the enforcement, operation, execution, or interpretation of any provision of or amendment made by this chapter, or administrative action taken thereunder to the extent such action is subject to judicial review;

(2) challenging the constitutionality of any provision of or amendment made by this chapter;

(3) to obtain, inspect, copy, or review any document in the possession or control of the Secretary, Conrail, or Amtrak that would be discoverable in litigation under any provision of or amendment made by this chapter; or

(4) seeking judgment upon any claim against the United States founded upon the Constitution and resulting from the operation of any provision of or amendment made by this chapter.

(b) A judgment of the Special Court in any action referred to in this section shall be reviewable only upon petition for a writ of certiorari to the Supreme Court of the United States, except that any order or judgment enjoining the enforcement, or declaring or determining the unconstitutionality of invalidity, of any provision of this chapter shall be reviewable by direct appeal to the Supreme Court of the United States. Such review is exclusive and any petition or appeal shall be filed not more than 20 days after entry of such order or judgment.

(c) Administrative action under the provisions of or amendments made by this chapter which is subject to review shall be upheld unless such action is found to be unlawful under standards established for review of informal agency action under paragraphs (2) (A), (B), (C), and (D) of section 706, title 5, United States Code. The requirements of this chapter shall constitute the exclusive procedures required by law for such administrative action.

(d) If the volume of civil actions under subsection (a) of this section so requires, the United States Railway Association shall apply to the judicial panel on multidistrict litigation authorized by section 1407 of title 28, United States Code, for the assignment

of additional judges to the special court. Within 30 days after the date of such application, the panel shall assign to the special court such additional judges as may be necessary to exercise the jurisdiction described in subsection (a) of this section.

TRANSFER TAXES AND FEES, RECORDATION

SEC. 6492. (a)(1) All transfers or conveyances of any interest in rail property (whether real, personal, or mixed) which are made under any provision of or amendment made by this chapter shall be exempt from any taxes, imposts, or levies now or hereby imposed, by the United States or by any State or any political subdivision of a State, on or in connection with such transfers or conveyance or on the recording of deeds, bills of sale, liens, encumbrances, easements, or other instruments evidencing, effectuating, or incident to any such transfers or conveyances, whether imposed on the transferor or on the transferee. Such transferors and transferees shall be entitled to record any such deeds, bills of sale, liens, encumberances, easements, or other instruments and, to record the release or removal of any pre-existing liens or encumbrances of record with respect to properties so transferred or conveyed, upon payment of any appropriate and generally applicable charges to compensate for the cost of the service performed.

(2) This section shall not apply to Federal income tax laws.

(b) Transfer of designated real property (including any interest in real property) authorized by the amendments made by subchapter B of this chapter shall have the same effect for purposes of rights and priorities with respect to such property as recordation on the transfer date of appropriate deeds, or other appropriate instruments, in offices appointed under State law for such recordation, except that acquiring rail carriers and other entities shall proffer such deeds or other instruments for recordation within 36 months after the transfer date as a condition of preserving such rights and priorities beyond the expiration of that period. Conrail shall cooperate in effecting the timely preparation, execution, and proffering for recordation of such deeds and other instruments.

SHIPPER NOTIFICATION

SEC. 6493. Within 60 days after the effective date of this chapter, Conrail shall provide written notice to shippers describing the provisions of and amendments made by this chapter and the likely impact that such provisions and amendments will have.

SATISFACTION OF CLAIMS

SEC. 6494. No distribution of the assets of Conrail shall be made with respect to any claims of the United States, including the securities issued pursuant to section 216 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726), until all other valid claims, including loss, damage, and overcharge claims, against Conrail have been satisfied, or provision has been made for satisfying such claims.

ABANDONMENTS

SEC. 6495. (a) Title III of the Regional Rail Reorganization Act of 1973, as amended by this chapter, is further amended by adding at the end thereof the following new section:

"ABANDONMENTS

"SEC. 309. (a) GENERAL.—The Corporation may, in accordance with this section, file with the Commission an application for a certificate of abandonment for any line which is part of the system of the Corporation. Any such application shall be governed by this section and shall not, except as specifically provided in this section, be subject to the provisions of chapter 109 of title 49, United States Code.

"(b) APPLICATIONS FOR ABANDONMENT.—Any application for abandonment that is filed by the Corporation under this section before November 1, 1981, shall be granted by the Commission within 30 days after the date such application is filed unless, within such 30-day period, an offer of financial assistance is made in accordance with subsection (d) of this section with respect to the line to be abandoned.

"(c) NOTICE OF INSUFFICIENT REVENUES.—(1) The Corporation may, prior to November 1, 1981, file with the Commission a notice of insufficient revenues for any line which is part of the system of the Corporation.

"(2) Any application for abandonment that is filed by the Corporation under this section before October 1, 1983, for a line for which a notice of insufficient revenues was filed under paragraph (1) shall be granted by the Commission within 30 days after the date such application is filed unless, within such 30-day period, an offer of financial assistance is made in accordance with subsection (d) of this section with respect to such line.

"(d) OFFERS OF FINANCIAL ASSISTANCE.—(1) The provisions of section 10905(d)-(f) of title 49, United States Code (including the timing requirements of subsection (d)), shall apply to any offer of financial assistance under subsection (b) or (c) of this section.

"(2) The Corporation shall provide any person that intends to make an offer of financial assistance under subsection (b) or (c) of this section with such information as the Commission may require.

"(e) EMPLOYEE PROTECTION.—The provisions of section 10903(b)(2) of title 49, United States Code, shall not apply to any abandonment granted under this section. Any employee adversely affected by such an abandonment shall be eligible for employee protection under section 701 of this Act.".

(b) The table of contents of Regional Rail Reorganization Act of 1973, as amended by this chapter, is further amended by inserting immediately after the item relating to section 308 the following new item:

"Sec. 309. Abandonments.".

INSURANCE COVERAGE

SEC. 6496. (a) Section 303(b)(6) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(b)(6)) is amended by adding at the end thereof the following new subparagraphs:

"(c) The Corporation shall be entitled to a loan pursuant to section 211(h) of this Act in an amount required for the cost of the insurance coverage and benefits described in subparagraph (B) of this paragraph. Any successor corporation to a railroad in reorganization (i) which was authorized and directed, by an order of its reorganization court issued prior to the effective date of this subparagraph, to continue life and medical programs for nonagreement employees who retired prior to April 1, 1976, or (ii) which had, prior to the effective date of this subparagraph, entered into an agreement with the Corporation to acknowledge, if necessary, that the obligations then described in section 211(h)(1)(A)(viii) of this Act constituted obligations of such railroad if such acknowledgment would have been necessary under this Act to have permitted the Corporation to have obtained section 211(h) loan funds with which to pay such obligations, shall be deemed to have conclusively acknowledged that the costs of such continued programs or coverage or benefits constitute valid pre-conveyance administration obligations of such railroad in reorganization. The Corporation shall be entitled to a direct claim as a current expense of administration, in accordance with the provisions of section 211(h) of this Act, for reimbursement (including costs and expenses of processing such claims) from the estate of the railroad in reorganization (or successor corporation) on whose behalf such medical or life insurance was maintained or such benefits were paid. In the case of a railroad in reorganization which is not subject to a bankruptcy proceeding, such amounts shall be deemed to be obligations of such railroad, due and payable as of April 1, 1976, and shall be reimbursable in accordance with the procedures set forth in paragraphs (4), (5), and (6) of such section 211(h).

"(D) As used in subparagraphs (B) and (C) of this paragraph—

"(i) 'railroad in reorganization' includes (I) any railroad which is controlled by a railroad in reorganization but is not itself subject to a bankruptcy proceeding, if such railroad conveyed substantially all of its rail properties to the Corporation pursuant to paragraph (1) of this subsection and conducted operations over such rail properties prior to the date of such conveyance; and (II) any corporation which, pursuant to a plan of reorganization under section 77 of the Bankruptcy Act, is the successor in interest to a railroad in reorganization; and

"(ii) 'employee' does not include a member of a board of directors, a president, vice president, general counsel, treasurer, secretary, comptroller, or any other person who performed functions corresponding to those performed by such officers immediately prior to his retirement.

"(E) Any action or claim for benefits or premium payments related to any medical or life insurance coverage described in subparagraph (B) of this paragraph which is not required to be paid by the corporation under the provisions of such subparagraph shall not be brought or maintained against the Corporation, the National Railroad Passenger Corporation, the Association, or the United States.".

(b) Section 211(h)(1)(A)(viii) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(h)(1)(A)(viii)) is amended by inserting "through (D)" immediately after "section 303(b)(6)(B)".

(C) Section 2 and section 3 of the Act of November 4, 1978 (Public Law 95-597; 92 Stat. 2548), are hereby repealed.

(d) The amendments made by this section shall be effective as of the date of enactment of Public Law 95-597.

AMENDMENT OF THE RAILWAY LABOR ACT

SEC. 6497. The Railway Labor Act is amended by inserting immediately after section 9 the following new section:

"SPECIAL PROCEDURE FOR COMMUTER SERVICE

"SEC. 9A. (a) The provisions of this section shall apply to any dispute between a publicly funded and publicly operated carrier providing rail commuter service (including the Consolidated Rail Corporation's commuter subsidiary established under section 308 of the Regional Rail Reorganization Act of 1973 and the Amtrak Commuter Services Corporation) and its employees.

"(b) If a dispute between the parties described in subsection (a) is not adjusted under the foregoing provisions of this Act

and the President does not, under section 10 of this Act. create an emergency board to investigate and report on such dispute, then any party to the dispute or the Governor of any State through which the service that is the subject of the dispute is operated may request the President to establish such an emergency board.

"(C)(1) Upon the request of a party or a Governor under subsection (b), the President shall create an emergency board to investigate and report on the dispute in accordance with section 10 of this Act. For purposes of this subsection, the period during which no change, except by agreement, shall be made by the parties in the conditions out of which the dispute arose shall be 120 days.

"(2) If the President, in his discretion, creates a board to investigate and report on a dispute between the parties described in subsection (a), the provisions of this section shall apply to the same extent as if such board had been created pursuant to paragraph (1) of this subsection.

"(d) Within 60 days after the creation of the board under this section, the National Mediation Board shall conduct a public hearing on the dispute at which each party shall appear and provide testimony setting forth the reasons it has not accepted the recommendations of the emergency board for settlement of the dispute.

"(e) If no settlement in the dispute is reached at the end of the 120-day period beginning on the date of the creation of the emergency board, any party to the dispute or the Governor of any State through which the service that is the subject of the dispute is operated may request the President to establish another emergency board.

"(f) Within 30 days after creation of the board under subsection (e), the parties to the dispute shall submit to the board final offers for settlement of the dispute.

"(g) Within 30 days after the submission of final offers, the board shall submit a report to the President setting forth its selection of the most reasonable offer.

"(h) For 60 days after the board makes its report under subsection (g), no change, except by agreement, shall be made by the parties in the conditions out of which the dispute arose.

"(i) If the board selects the final offer submitted by the carrier and, after the expiration of the 60-day period described in subsection (h), the employees of such carrier engage in any work stoppage arising out of the dispute, such employees shall not be eligible during the period of such work stoppage for benefits under the Railroad Unemployment Insurance Act.

"(j) If the board selects the final offer submitted by the employees and, after the expiration of the 60-day period described in subsection (h), the carrier refuses to accept the final offer submitted by the employees and the employees of such carrier engage in any work stoppage arising out of the dispute, the carrier shall not participate in any benefits of any agreement between carriers which is designed to provide benefits to such carriers during a work stoppage.".

NORTHEAST CORRIDOR COST DISPUTE

SEC. 6498. (a)(1) Within 120 days after the effective date of this chapter, the Commission shall determine an appropriate costing methodology for compensation to Amtrak for the right-of-way related costs for the operation of commuter rail passenger service over the Northeast Corridor and other properties owned by Amtrak, unless Conrail, Amtrak, and affected commuter authorities have otherwise agreed on such a methodology by that date. In making its determination, the Commission shall consider all relevant factors, including the standards of sections 205(d) and 304(c) of the Regional Rail Reorganization Act of 1973, section 701(a)(6) of the Railroad Revitalization and Regulatory Reform Act of 1976, and section 402(a) of the Rail Passenger Service Act.

(2) Within 120 days after the effective date of this chapter, the Commission shall determine a fair and equitable costing methodology for compensation to Amtrak by Conrail for the right-of-way related costs for the operation of rail freight service over the Northeast Corridor, unless Conrail and Amtrak have otherwise agreed on such a methodology by that date. In making its determination, the Commission shall take into consideration the industry-wide average compensation for freight trackage rights and any additional costs associated with high-speed service provided over the Northeast Corridor.

(b) Any determination by the Commission under this section shall be effective on the date of such determination, and any agreement of the parties under this section shall be effective on the date specified in such agreement. Any such determination or agreement shall not apply to any compensation paid to Amtrak prior to the date of such determination or the date so specified, as the case may be, for the right-of-way related costs described in subsection (a) of this section.

(c) Nothing in this section shall preclude parties from entering into an agreement, after the determination of the Commission or their initial agreement under this section, with respect to the right-of-way related costs described in subsection (a) of this section.

(d) Any determination by the Commission under this section shall be final and shall not be reviewable in any court.

UNITED STATES RAILWAY ASSOCIATION FUNDS

SEC. 6499. (a) Section 216(b) of the Regional Rail Reorganization Act of 1973 is amended—

(1) by striking out paragraph (3); and

(2) by redesignating paragraph (4) as paragraph (3).

(b) Section 509(b) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 8299(b)) is amended—

(1) by striking out paragraph (1);

(2) in paragraph (2) by striking out "(excluding funds transferred under paragraph (1) of this subsection)"; and

(3) by redesignating paragraphs (2) and (3) as paragraph (1) and (2), respectively.

CONSTRUCTION AND EFFECT OF CERTAIN PROVISIONS

SEC. 6500. (a) Any cost reductions resulting from the provisions of or the amendments made by this chapter shall not be used to limit the maximum level of any rate charged by Conrail for the provision of rail services, to limit the amount of any increase in any such rate (including rates maintained jointly by Conrail and other rail carriers), or to limit a surcharge or cancellation otherwise lawful under chapter 107 of title 49, United States Code.

(b) Notwithstanding any provision of any contract, lease, or other agreement, and transfer, assignment, or other disposition of such lease, contract, or other agreement by Conrail pursuant to the provisions of or the amendments made by this chapter shall not be deemed a breach, and event of default, or a violation of any covenant.

LOAN GUARANTEES

SEC. 6501. Section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831) is amended by adding at the end thereof the following new subsection:

"(o) Commuter Service.—(1) The Secretary shall, under the authority of this section, guarantee obligations of the commuter subsidiary of the Corporation and obligations of the Amtrak Commuter Services Corporation for the purposes described in paragraph (2) of this subsection.

"(2) The proceeds of obligations guaranteed under this subsection shall be used by the Corporation's commuter subsidiary and Amtrak Commuter to operate commuter services prior to initial reimbursement by the commuter authorities and to cover any subsequent cash flow problems arising from delays in reimbursement from such authorities.

"(3) The aggregate unpaid principal amount of obligations guaranteed by the Secretary under this subsection shall not exceed $50,000,000.

"(4) Subsection (g) of this section and section 516 of this Act shall not apply to any obligation guaranteed under this section.".

EFFECTIVE DATE

SEC. 6502. The provisions of and the amendments made by this chapter shall take effect on October 1, 1981.

Chapter 2—AMTRAK

SHORT TITLE

SEC. 6511. This chapter may be cited as the "Amtrak Improvement Act of 1981".

FINDINGS

SEC. 6512. Section 101 of the Rail Passenger Service Act (45 U.S.C. 501) is amended by adding at the end thereof the following new subsection:

"(c) The Congress further finds that—

"(1) modern, efficient commuter rail passenger service is essential to the viability and well-being of major urban areas;

"(2) efficient and economical provision of commuter service is essential to national goals of energy conservation and energy self-sufficiency;

"(3) Amtrak, as a passenger service entity, should be available to operate commuter service through its subsidiary Amtrak Commuter under contract with commuter agencies which do not choose to operate such service themselves as a part of the governmental functions of the State;

"(4) the Northeast Corridor is a valuable national resource used by intercity passenger, commuter passenger, and freight services; and

"(5) greater coordination between intercity and commuter passenger services are required.".

ADDITIONAL GOALS FOR AMTRAK

SEC. 6513. Section 102 of the Rail Passenger Service Act (45 U.S.C. 501) is amended—

(1) by striking out paragraph (1) and redesignating paragraphs (2) through (6) as paragraphs (7) through (11), respectively;

(2) by inserting immediately before paragraph (7), as so redesignated, the following new paragraphs:

"(1) Improvement of the number of passenger miles generated systemwide per dollar of Federal investment by at least 30 percent within the two-year period beginning on the effective date of the Amtrak Improvement Act of 1981.

"(2) Reduction of the cost of service on long-distance routes which are less fuel effi-

cient and have lower ridership than short-distance routes connecting major urbans areas.

"(3) Elimination of the deficit associated with food and beverage services by September 30, 1982.

"(4) Implementation of strategies to achieve immediately maximum productivity and efficiency consistent with safe and efficient service.

"(5) Operation of Amtrak trains, to the maximum extent feasible, to all station stops within 5 minutes of the time established in public timetables for such operation.

"(6) Development of service on rail corridors, subsidized by States or private parties, or both.";

(3) in paragraph (7), as redesignated, by striking out "55" and inserting in lieu thereof "60";

(4) in paragraph (8), as redesignated, by striking out "44" and inserting in lieu thereof "50" and by striking out "50" and inserting in lieu thereof "55"; and

(5) by adding at the end thereof the following new paragraphs:

"(12) Operation of commuter service, through the Amtrak Commuter Services Corporation, on an equal priority with intercity service.

"(13) Implementation of policies ensuring equitable access to the Northeast Corridor by both intercity and commuter services.

"(14) Coordination among the various users of the Northeast Corridor, particularly intercity and commuter passenger services.".

DEFINITIONS

SEC. 6514. Section 103 of the Rail Passenger Service Act (45 U.S.C. 502) is amended—

(1) by redesignating paragraphs (2) through (6) as paragraphs (3) through (7), respectively, and by redesignating paragraphs (7) through (14) as paragraphs (10) through (17), respectively;

(2) by inserting immediately after paragraph (1) the following new paragraph:

"(2) 'Amtrak Commuter' means the Amtrak Commuter Services Corporation created under title V of this Act.".

(3) by inserting immediately after paragraph (7), as redesignated, the following new paragraphs:

"(8) 'Commuter authority' means a State, local, or regional authority, corporation, or other entity established for the purpose of providing commuter service.

"(9) 'Commuter service' means short-haul rail passenger service operated in metropolitan and suburban areas, usually characterized by reduced fare, multiple-ride, and commutation tickets and by morning and evening peak period operations."; and

(4) in paragraph (11), as redesignated, by striking out "commuter and other" and all that follows through "operations" and inserting in lieu thereof "commuter service".

CHANGES IN BOARD OF DIRECTORS

SEC. 6515. (a) Section 303(a) of the Rail Passenger Service Act (45 U.S.C. 543(a)) is amended—

(1) by striking out paragraphs (1) through (4) and inserting in lieu thereof the following new paragraphs:

"(a)(1) The Corporation shall have a board of directors consisting of eleven individuals who are citizens of the United States, as follows:

"(A) The Secretary of Transportation, ex officio, and the President of the Corporation, ex officio.

"(B) Seven members appointed by the President, by and with the advice and consent of the Senate, on the following basis:

"(i) One to be selected from a list of three qualified individuals recommended by the American Federation of Labor and Congress of Industrial Organizations or its successor who are representatives of railroad labor.

"(ii) One to be selected from a list of three qualified individuals recommended by the National Governors Association.

"(iii) One to be selected from a list of three individuals qualified by virtue of their advocacy of rail passenger service who are recommended by the business community and who are recognized business leaders.

"(iv) One to be selected from a list of three qualified individuals recommended by the National Association of Railroad Passengers or its successor who are representatives of users of intercity rail passenger service.

"(v) One to be selected from a list of three qualified individuals recommended by organizations representing users of commuter services operated by the Corporation.

"(vi) One to be selected from a list of three qualified individuals recommended by organizations representing the elderly who are recognized leaders of the elderly community.

"(vii) One to be selected from a list of three qualified individuals recommended by the Association of American Railroads or its successor who are recognized leaders of the railroad industry and who are familiar with railroad operations and committed to rail passenger service.

"(C) Two members selected by commuter authorities, on the following basis:

"(i) During the 540-day period beginning on the effective date of the Amtrak Improvement Act of 1981, the two members under this subparagraph shall be selected by the commuter authorities for which the Consolidated Rail Corporation (or its commuter subsidiary) operates commuter service under the Regional Rail Reorganization Act of 1973.

"(ii) Beginning 540 days after the effective date of the Amtrak Improvement Act of 1981, the two members under this subparagraph shall be selected by the commuter authorities for which Amtrak Commuter operates commuter service under title V of this Act, except that—

"(I) if Amtrak Commuter operates commuter service for only one commuter authority, one member shall be selected by that authority and one member shall be selected by other commuter authorities operating service over rail properties owned by Amtrak; and

"(II) if Amtrak Commuter does not operate commuter service for any commuter authority, two members shall be selected by commuter authorities operating service over rail properties owned by Amtrak.

"(2)(A) Members appointed by the President under paragraph (1)(B) shall serve for terms of four years or until their successors have been appointed and qualified, except that any member appointed by the President under such subparagraph to fill a vacancy shall be appointed only for the unexpired term of the member he is appointed to succeed. Not more than four of the members appointed under such subparagraph shall be from the same political party.

"(B) Members selected under paragraph (1)(C) shall serve for terms of two years or until their successors have been appointed and qualified, except that members selected under paragraph (1)(C)(i) shall serve for the 540-day period described in that subparagraph.

"(3) Except as provided in paragraph (2)(A) of this subsection, any vacancy in the membership of the board shall be filled in the same manner as in the case of the original selection.

"(4) The President of the Corporation shall serve as chairman of the board of directors.";

(2) in paragraph (8), by striking out "Pending the election of the four members by the preferred stockholders of the Corporation under paragraph (1)(D) of this subsection, seven" and inserting in lieu thereof "Six"; and

(3) by adding at the end thereof the following new paragraph:

"(10) No one other than the members of the board specified in paragraph (1) of this subsection is authorized to vote at meetings of the board and to exercise the authority and responsibility which is otherwise conveyed on members of the board.".

(b) The term of office of any member of the Amtrak board of directors serving on such board immediately before the date of enactment of this Act pursuant to section 303(a)(1) (B), (C), or (D) of the Rail Passenger Services Act shall be deemed to have expired on such date of enactment, except that—

(1) such members shall continue to serve for a period not to exceed 90 days during which time the President shall appoint members of the board in accordance with section 303(a)(1) of such Act, as amended by this section; and

(2) if any position on such board remains vacant after the expiration of such 90-day period, the president of Amtrak may designate any such member to continue to serve in such position until the President fills such position by appointment in accordance with such section 303(a)(1).

CHARGE FOR CUSTOMS AND IMMIGRATION SERVICE

SEC. 6516. Section 305(i) of the Rail Passenger Service Act (45 U.S.C. 545) is amended by adding at the end thereof the following new sentence: "The Corporation shall not be obligated to pay any amount to any agency of the Federal Government for the cost of customs inspection or immigration procedures in connection with the provision of services by the Corporation.".

FOOD AND BEVERAGE SERVICE

SEC. 6517. (a) Section 305 of the Rail Passenger Service Act (45 U.S.C. 545) is amended by adding at the end thereof the following new subsection:

"(n) The Corporation shall implement policies which will eliminate the deficit in its on-board food and beverage operations no later then September 30, 1982. Beginning October 1, 1982, food and beverage services shall be provided on-board Amtrak trains during any fiscal quarter only if, during the preceding fiscal quarter, the revenues from such service were equal to or greater than the total costs of such services.".

(b) Section 405(e) of the Rail Passenger Service Act (45 U.S.C. 565(e)) is amended—

(1) by striking out "The Corporation" and inserting in lieu thereof "(1) Except as provided in paragraph (2) of this subsection, the Corporation"; and

(2) by adding at the end thereof the following new paragraph:

"(2) The provisions of this subsection shall not apply to food and beverage services provided on-board Amtrak trains.".

STATE AND LOCAL TAX EXEMPTION

SEC. 6518. Section 306 of the Rail Passenger Service Act (45 U.S.C. 546) is amended by adding at the end thereof the following new subsection:

"(n) The Corporation shall be exempt from the payment of all taxes or other fees imposed by any State, political subdivision of a State, or special taxing authority (including but not limited to property taxes, income and franchise taxes, sales taxes, gross revenue taxes, fuel taxes, licenses, and other fees) to the same extent as the United States is exempt from the payment of such taxes or other fees.".

ELIMINATION OF UNNECESSARY REPORTS

SEC. 6519. (a) Section 308(a)(1) of the Rail Passenger Service Act (45 U.S.C. 548(a)(1)) is amended by striking out subparagraph (C).

(b) Section 308(c) of the Rail Passenger Service Act (45 U.S.C. 548(c)) is amended—

(1) by striking out "and the Commission"; and

(2) by striking out "reports (or, in their discretion, a joint report)" and inserting in lieu thereof "a report".

SECTION 403(b) SERVICE

SEC. 6520. (a) Section 403(b)(1) of the Rail Passenger Service Act (45 U.S.C. 653(b)(1)) is amended—

(1) by striking out subparagraph (B) and redesignating subparagraph (C) as subparagraph (B);

(2) by amending subparagraph (B)(iii), as redesignated, to read as follows:

"(iii) a statement by such State or agency that it agrees to provide 60 percent of the short-term avoidable loss of service operated under this subsection in the first year of operation, and 80 percent of the short-term avoidable loss in each year of operation thereafter (including each year of renewal of an agreement entered into under this subsection); and "; and

(3) by adding at the end thereof the following new subparagraph:

"(C) Any application submitted by a group of States shall be considered in the same manner as an application submitted by a single State, and not on the basis of whether each State that is a party of such application meets the requirements of subparagraph (B) of this paragraph.".

(b) Section 403(b) of the Rail Passenger Service Act (45 U.S.C. 563(b)) is further amended by striking out paragraphs (2), (3), and (4) and inserting in lieu thereof the following new paragraphs:

"(2)(A) The Corporation shall perform a preliminary evaluation of the market potential and cost of each service proposed under this subsection in order to determine the performance that can reasonably be expected from such service. A proposed rail passenger service shall not be eligible for operation under this subsection unless it is reasonably expected that such service will, when the payment by the State or agency is excluded, achieve on an annual basis 60 percent of the goal set forth in section 102(8) of this Act with respect to the ratio of revenues to operating expenses.

"(B) Notwithstanding subparagraph (A) of this paragraph, the Corporation shall operate service which is projected to fail to meet the standards set forth in such subparagraph if (i) a State or agency agrees to pay 100 percent of the annual loss (including associated capital costs) of such service, and (ii) sufficient equipment is available for such service, after meeting the reasonable equipment requirements of all other services to be provided under this Act.

"(C) If a State or agency provides 100 percent funding for service pursuant to subparagraph (B) of this paragraph and such service then meets the threshold standard of economic performance set forth in subparagraph (A) in its first full year of operation, the Corporation shall pay to the State or agency the difference between the amount such State or agency paid and the amount it would have paid, in accordance with paragraph (1)(B) of this subsection, if the service were being provided pursuant to paragraph (3).

"(3) The Corporation may enter into an agreement with a State or agency for the institution of service requested under this subsection in accordance with the funding formula set forth in paragraph (1)(B) of this subsection if—

"(A) such service is projected to meet the threshold standard of economic performance set forth in paragraph (2)(A) of this subsection; and

"(B) the Corporation determines that such service can be provided with resources available to the Corporation.

"(4) An agreement entered into pursuant to this section may by mutual agreement be renewed for one or more additional terms of not more than 2 years. An agreement shall not be renewed for a train which fails to meet the threshold standard of economic performance set forth in subparagraph (2)(A) for a full year, unless the State or agency agrees to pay 100 percent of the annual loss (including associated capital costs) of the service.".

(c) Section 403(b) of the Rail Passenger Service Act (45 U.S.C. 563(b)) is further amended—

(1) in paragraph (5), by inserting "(A)" immediately after "(5)"; and

(2) by adding at the end of paragraph (5) the following new subparagraph:

"(B)(i) A proposed fare increase described in subparagraph (A) shall take effect 90 days after the date the Corporation first consults with the affected States pursuant to such subparagraph, unless any such State notifies the Corporation, within 30 days after the date of such consultation, that it objects to such proposed fare increase. If any State makes a timely objection, the effective date of the proposed fare increase shall be postponed for an additional 30 days.

"(ii) A State making a timely objection under clause (i) may, prior to the expiration of the additional 30-day period, submit proposals to the Corporation for reducing costs and increasing revenues other than through the proposed fare increase. At the end of such additional 30-day period, the Corporation, after taking into consideration any proposals from a State, shall decide whether to implement the proposed fare increase in whole or in part.";

(3) in paragraph (6)(C), by striking out "paragraph (1)(C)" and all that follows through "existing route" and inserting in lieu thereof "paragraph (1)(B)";

(4) by amending paragraph (7)(C) to read as follows:

"(C) The board of directors shall, after consultation with the appropriate officials of each State that contributes to the operation of service under this subsection, establish the basis for determining the short-term avoidable loss and associated capital costs of service operated under this subsection and the total revenues from such service. In addition, the Corporation shall provide appropriate State officials with the basis for determining such loss, costs, and revenues for each route on which service is operated under this subsection."; and

(5) in paragraph (8), by striking out "Not" and inserting in lieu thereof "At least one but not".

(d) The amendments made by subsection (a) of this section shall apply to any agreement entered into under section 403(b) of the Rail Passenger Service Act after the date of enactment of this Act and to any renewal after such date of enactment of an agreement entered into under such section 403(b) prior to such date.

APPLICATION OF CRITERIA

SEC. 6521. (a) Section 404(c)(3) of the Rail Passenger Service Act (45 U.S.C. 564(c)(3)) is amended—

(1) by inserting "(A)" immediately after "(3)"; and

(2) by adding at the end thereof the following new subparagraph:

"(B) Whenever the Corporation determines that an amendment to the Route and Service Criteria is necessary or appropriate, it shall submit a draft of such amendment to the Congress. Such amendment shall take effect at the end of the first period of 120 calendar days of continuous session of the Congress after the date of its submission, unless either the Senate or the House of Representatives adopts a resolution during such period stating that it does not approve such amendment.".

(b) Section 404(c)(4) of the Rail Passenger Service Act (45 U.S.C. 564(c)(4)) is amended—

(1) by amending subparagraph (A) to read as follows:

"(4)(A) The Corporation shall conduct an annual review of each route in the basic system to determine if such route meets the criteria set forth in paragraph (1) or paragraph (2) of subsection (d), whichever is applicable to such route, as adjusted to reflect constant 1979 dollars. If the Corporation determines, on the basis of such review, that such route fails to meet the criteria set forth in the applicable paragraph, the Corporation shall discontinue the operation of rail passenger service over such route.";

(2) in subparagraph (B), by striking out "long-distance"; and

(3) by adding at the end thereof the following new subparagraphs:

"(C)(i) No later than 30 days after the beginning of each fiscal year, the Corporation shall evaluate the financial requirements for operating the basic system and service under section 403 of this Act during such fiscal year. If the Corporation determines that the funds to be available for such fiscal year are insufficient to meet the projected operating costs, the Corporation shall, in accordance with this subparagraph, take such action as may be necessary to reduce such costs.

"(ii) Any action taken by the Corporation to reduce costs pursuant to this subparagraph shall be designed to continue the maximum level of service practicable, and shall include—

"(I) changes in frequency of service;

"(II) increases in fares;

"(III) elimination of sleeper car service on certain routes;

"(IV) elimination of dining car service on certain routes;

"(V) increases in the passenger capacity of cars used on certain routes; and

"(VI) restructuring of routes.

"(iii) If the Corporation determines that the actions described in clause (ii) of this subparagraph will not result in the neces-

sary cost reductions, it shall reduce or discontinue service on remaining routes, in descending order beginning with that route on which the short-term avoidable loss is closest to the short-term avoidable loss maximum under paragraph(1)(A) or paragraph (2)(A) of subsection (d), whicever is applicable, after taking into consideration the number of passengers served by trains on such route.

"(D)(i) Notice of any discontinuance of service pursuant to this paragraph shall be posted at least 14 days before such discontinuance in all stations served by the train to be discontinued.

"(ii) Notice of any discontinuance of service pursuant to this paragraph shall be given in such a manner as the Corporation determines will afford an opportunity for any State or group of States, or any regional or local agency or other person, to agree to share the cost of such route, train, or service, or some portion of such route, train, or service. Such notice shall be given at least 90 days prior to such discontinuance.".

(c) Section 404(c)(5) of the Rail Passenger Service Act (45 U.S.C. 564(c)(5)) is amended by striking out "and" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following new subparagraphs:

"(C) discontinuance of service under paragraph (4)(A) of this subsection; and

"(D) reductions in frequency of service or discontinuance of service necessary to comply with paragraph (4)(C) of this subsection.".

(d) Section 404(e) of the Rail Passenger Service Act (45 U.S.C. 564(e)) is repealed.

(e) Section 404 of the Rail Passenger Service Act (45 U.S.C. 564) is amended by adding at the end thereof the following new subsection:

"(h) Any change in the basic system made by the Corporation shall be subject to review as provided in this section, and shall not be reviewable in any court.".

(f) Section 403(d) of the Rail Passenger Service Act (45 U.S.C. 563(d)) is amended to read as follows:

"(d) Beginning October 1, 1981, the Corporation shall continue to operate high frequency intercity rail passenger service operated under this subsection prior to the effective date of the Amtrak Improvement Act of 1981 if such service meets the criteria set forth in section 404(d)(2)(B) of this Act, after taking into account projected fare increases and any State or local contributions to such service. Any service continued under this subsection shall be funded in accordance with the method of funding in effect on the effective date of the Amtrak Improvement Act of 1981.".

LIMITATION ON PAYMENTS

SEC. 6522. Section 405(c) of the Rail Passenger Service Act (45 U.S.C. 565(c)) is amended by adding at the end thereof the following new sentence: "During fiscal year 1982, the obligation of the Corporation to provide protective arrangements for its employees under this section as a result of action taken pursuant to the amendments made by the Amtrak Improvement Act of 1981 shall not exceed the amount appropriated for such purposes under section 601(b)(1)(C) of this Act.".

EXTENSION OF COMPENSATION FOR PASS RIDERS

SEC. 6523. The third sentence of section 405(f) of the Rail Passenger Service Act (45 U.S.C. 565) is amended by striking out ", during the 2-year period beginning on the effective date of the Amtrak Reorganization Act of 1979,".

AUTHORIZATION OF APPROPRIATIONS

SEC. 6524. (a) Section 601(b) of the Rail Passenger Service Act (45 U.S.C. 601(b)) is amended—

(1) by striking out paragraph (3); and

(2) by redesignating paragraph (2) as paragraph (3) and inserting after paragraph (1) the following new paragraph:

"(2) There are authorized to be appropriated to the Secretary for the benefit of the Corporation—

"(A) not to exceed $625,000,000 for the fiscal year ending September 30, 1982, of which not more than $24,000,000 shall be used for the payment of operating and capital expenses of rail passenger service provided pursuant to section 403(b) of this Act; and

"(B) not to exceed $654,000,000 for the fiscal year ending September 30, 1983; and

"(C) not to exceed $593,000,000 for the fiscal year ending September 30, 1984.";

(3) in paragraph (3), as redesignated, by striking out "(A)" and by striking out ", and (B) guidelines established by the Secretary"; and

(4) by adding at the end thereof the following new paragraph:

"(4) Of the amounts appropriated under this subsection for fiscal year 1982, the Corporation may not spend for onboard food and beverage services an amount greater than 50 percent of the amount by which the costs of such services in fiscal year 1981 exceeded the revenues from such services in such fiscal year.".

(b) Section 601(b)(1) of the Rail Passenger Service Act (45 U.S.C. 601(b)(1)) is amended—

(1) in subparagraph (B), by striking out "$254,000,000" and inserting in lieu thereof "$100,000,000", and by inserting "and" immediately after the semicolon;

(2) by striking out subparagraphs (C) and (E) and redesignating subparagraph (D) as subparagraph (C);

(3) in subparagraph (C), as redesignated, by striking out "$20,000,000" and inserting in lieu thereof "$10,000,000" and by striking out "; and" at the end thereof and inserting in lieu thereof a period.

LOAN GUARANTEES

SEC. 6525. (a) Section 602(d) of the Rail Passenger Service Act (45 U.S.C. 602(d)) is amended—

(1) by striking out "$900,000,000" each place it appears and inserting in lieu thereof "$930,000,000";

(2) by striking out the last sentence.

(b) Section 602 of the Rail Passenger Service Act (45 U.S.C. 602) is amended by adding at the end thereof the following new subsection:

"(j) The Corporation may defer interest payments to the Federal Financing Bank during fiscal years 1982, 1983, and 1984, and such deferral shall not constitute a default under any note or other obligation of the Corporation. Notwithstanding the deferral of interest provided for under this subsection, the Federal Financing Bank shall continue to make funds available to the Corporation to meet commitments under previously approved capital programs and to repay existing notes and equipment obligations.".

RAIL CORRIDOR DEVELOPMENT

SEC. 6526. Not later than January 15, 1982, the National Railroad Passenger Corporation shall transmit to the Congress a report containing its recommendations for the development of rail corridors. Such report shall contain—

(1) recommendations for reducing the costs of service in the basic system by not less than $100,000,000 on an annual basis, including recommendations for reducing, discontinuing, and restructuring routes presently operated by the Corporation;

(2) an identification of those rail corridors which the Corporation would propose to develop, taking into consideration factors such as (A) the projected cost-effectiveness, energy efficiency, and ridership of rail corridors recommended for development, (B) the need to preserve regional balance in rail passenger service, (C) the share of intercity passengers that data projects would be attracted by rail corridor service, and (D) the willingness of private sector interests or State and local governments, or both, to contribute to the development of rail corridors;

(3) a timetable for the period beginning January 1, 1982, and ending September 30, 1985, for the development of rail corridors, including schedules for (A) the negotiation of agreements with the rail carriers, private interests, and State and local governments, (B) the acquisition of equipment, (C) the improvement of fixed facilities, and (D) the implementation of service; and

(4) a financial plan for the funding of rail corridor development during the period covered by the timetable described in paragraph (3).

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 6527. (a) Section 301 of the Rail Passenger Service Act (45 U.S.C. 531) is amended by inserting "and commuter" immediately after "intercity" each place it appears.

(b) Section 305(a) of the Rail Passenger Service Act (45 U.S.C. 535(a)) is amended by inserting "and commuter" immediately after "intercity" each place it appears.

(c) Section 402(e)(1) of the Rail Passenger Service Act (45 U.S.C. 562(e)(1)) is amended by inserting "or commuter" immediately after "intercity".

(d) Section 405 of the Rail Passenger Service Act (45 U.S.C. 565) is amended by adding at the end thereof the following new subsection:

"(g) The provisions of subsections (a), (b), and (c) of this section shall not apply to Amtrak commuters.".

(e) Section 702 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 852), and the item relating to such section in the table of contents of such Act, are repealed.

EFFECTIVE DATE

SEC. 6528. The provisions of and amendments made by this chapter shall take effect on October 1, 1981.

Chapter 3—LOCAL RAIL SERVICE ASSISTANCE PROGRAM

LOCAL RAIL SERVICE

SEC. 6531. (a) Section 5(f) of the Department of Transportation Act (49 U.S.C. 1654(f)) is amended by striking out paragraph (1) and redesignating paragraphs (2), (3), (4), and (5) as paragraphs (1), (2), (3), and (4), respectively.

(b) The first sentence of section 5(g) of the Department of Transportation Act (49 U.S.C. 1654(g)) is amended by striking out "80 per centum, except that" and all that follows in that sentence and inserting in lieu thereof "70 per centum.".

(c) Section 5(h) of the Department of Transportation Act (49 U.S.C. 1654(h)) is amended—

(1) by striking our paragraph (1) and redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2) and (3), respectively;

(2) in paragraph (1), as redesignated, by striking out "October 1, 1979" and inserting in lieu thereof "October 1, 1981";

(3) in paragraph (1)(B), as redesignated, by striking out "(including" and all that follows through "under this section)" both places it appears; and

(4) by amending paragraph (2), as redesignated, to read as follows:

"(2)(A) The Interstate Commerce Commission shall, no later than July 1 of the year preceding the fiscal year funds are made available under this section, provide the Secretary with the sum of the rail mileage in each State that meets the description set forth in subparagraphs (A) and (B) of paragraph (1). The Secretary shall, no later than the first day of each fiscal year, notify each State of the funds to which such State is entitled under this subsection during such fiscal year.

"(B)(i) Entitlement funds shall remain available to a State for the first 6 months after the end of the fiscal year for which funds have been made available for use under this section.

"(ii) Any funds which have not been applied for under this section shall be made available to the Secretary for use during the remainder of the current fiscal year for rail service assistance projects meeting the requirements of this section. The Secretary shall, no later than 30 days after the end of the first six months of a fiscal year, notify each State with respect to any funds still available for rail service assistance projects under this section.

"(C) In considering applications for rail service assistance to be provided with funds described in subparagraph (B)(ii), the Secretary shall consider the following:

"(i) The percentage of lines filed with the Interstate Commerce Commission for abandonment or potential abandonment within a State.

"(ii) The likelihood of future abandonments within a State.

"(iii) The ratio of benefits to costs (which are included in the State rail plan) for a proposed project.

"(iv) The likelihood that the line will continue operating with rail freight assistance.

(v) The impact of rail bankruptcies, rail restructuring, and rail mergers on the State applying for assistance.".

(d) Section 5(i) of the Department of Transportation Act (49 U.S.C. 1654(i)) is amended to read as follows:

"(i) on the first day of the fiscal year, each State shall be entitled to $100,000 of the funds available for expenditure under subsection (q) of this section during the fiscal year to meet the cost of establishing, implementing, revising, and updating the State rail plan required by subsection (j) of this section. Each State must apply for such funds on or before the first day of the fiscal year. Any funds which have not been applied for under this subsection shall be made available to the Secretary under subsection (h)(3)(B) of this section.".

(e) Section 5(k) of the Department of Transportation Act (49 U.S.C. 1654(k)) is amended—

(1) by striking out paragraph (1) and redesignating paragraphs (2), (3), (4), and (5) as paragraphs (1), (2), (3), and (4), respectively;

(2) in paragraph (1), as redesignated, by striking out "paragraph (2)" and inserting in lieu thereof "paragraph (1)", by striking out "; or" at the end of subparagraph (B) and inserting in lieu thereof a period, and by striking out subparagraph (C); and

(3) by striking out the period at the end of paragraph (2), as redesignated, and at the end of paragraph (3)(B), as redesignated, and inserting in lieu thereof the following: "unless such a project has been receiving assistance under this subsection but did not receive all the funds to which the State was entitled at the beginning of the fiscal year ending September 30, 1981, in which case such project shall continue to be eligible until September 30, 1982.".

(f) Section 5(l) of the Department of Transportation Act (49 U.S.C. 1654(l)) is amended by adding at the end thereof the following new sentence: "Upon receipt of an application for rail freight assistance, the Secretary shall consider the application and notify the State submitting such an application as to its approval or disapproval within 45 days. If the Secretary fails to consider and notify the State applying for rail freight assistance under subsection (k) within 45 days, then the project shall be considered approved and the State shall receive the Federal share up to the amount to which it is entitled.".

(g) Section 5(n) of the Department of Transportation Act (49 U.S.C. 1654(n)) is amended to read as follows:

"(n) As used in this section, the term 'State' means any State in which a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of title 49, United States Code, maintains any line of railroad.".

(h) Section 5(o) of the Department of Transportation Act (49 U.S.C. 1654(o)) is amended by adding at the end thereof the following new paragraph:

"(5) The State, to the maximum extent possible shall encourage the participation of shippers, railroads, and local communities in providing the State share of rail freight assistance funds.".

SEC. 6532. Section 5(p) of the Department of Transportation Act (49 U.S.C. 1654(p)) is amended—

(1) by striking out ", without fiscal year limitation" in the first sentence; and

(2) by inserting after the second sentence the following new sentence:

"Of the funds authorized to be appropriated under the first sentence of this subsection, not more than $40,000,000 is authorized to be appropriated for the fiscal year ending September 30, 1982; not more than $40,000,000 is authorized to be appropriated for the fiscal year ending September 30, 1983; and not more than $40,000,000 is authorized to be appropriated for the fiscal year ending September 30, 1984.".

Chapter 4—NORTHEAST CORRIDOR

NORTHEAST CORRIDOR

SEC. 6541. (a) Section 703(1)(A)(i) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 853(1)(A)(i)) is amended by striking out "3-hour-and-40-minute" and inserting in lieu thereof "3-hour-and-55-minute", and by striking out "2-hour-and-40-minute" and inserting in lieu thereof "2-hour-and-55-minute".

(b) Section 703(7) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 853(7)) is amended by striking out subparagraph (B) and inserting in lieu thereof the following new subparagraph:

"(B) the segment of the corridor project between Washington, District of Columbia, and New York, New York, should be completed before the segment of the corridor project between New York, New York, and Boston, Massachusetts, in order to achieve better service for the largest number of passengers in the shortest period of time.".

LIMITATIONS

SEC. 6542. Section 704(a) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 854(a)) is amended by adding at the end the following new paragraph:

"(5) Of the funds authorized to be appropriated under paragraphs (1) and (2) combined, not more than $200,000,000 are authorized to be appropriated for the fiscal year ending September 30, 1982, not more than $185,000,000 are authorized to be appropriated for the fiscal year ending September 30, 1983, and no funds are authorized to be appropriated for the fiscal year ending September 30, 1984."

Chapter 5—TOXIC SUBSTANCES CONTROL ACT

AUTHORIZATIONS

SEC. 6601. (a) The first sentence of section 28(d) of the Toxic Substances Control Act is amended to read as follows: "For the purpose of making grants under subsection (a), there are authorized to be appropriated $1,500,000 for each of the fiscal years 1982 and 1983.".

(b) Section 29 of the Toxic Substances Control Act is amended by striking out "$10,000,000" and all that follows through "1979" and inserting in lieu thereof the following: "$62,000,000 for each of the fiscal years 1982 and 1983".

Chapter 6—NOISE CONTROL ACT

PROGRAM REVISION

"SEC. 6701. The Noise Control Act of 1972 is amended as follows:

"(1) Section 1 is amended to read as follows:

"SHORT TITLE

"Section 1. This Act may be cited as the 'Quiet Communities Act'.".

"(2) Section 2(a)(3) is amended by striking out "deal with major noise sources" and all that follows down through the period at the end thereof and substituting: "assure uniform treatment of certain carriers engaged in interstate commerce and certain transportation equipment distributed in interstate commerce which are major noise sources.".

"(3) Section 2(b) is amended by striking out "for products distributed in commerce," and substituting: "for certain carriers engaged in interstate commerce and certain transportation equipment distributed in interstate commerce.".

"(4) Section 3(5) is amended by striking out "or section 8".

"(5) Section 5(b) is amended by inserting "are referred to in section 6(a)(1) and which" after "which".

"(6)(A) section 6(a)(1)(C) is amended by striking out clauses (i) and (iv), by redesignating clauses (ii) and (iii) as (i) and (ii) respectively, and by inserting the following before the period at the end of clause (ii), as so redesignated: "designed for use in transportation equipment".

"(B) Section 6(a)(1) is amended by adding the following at the end thereof: "Such regulations shall not apply to the products to which subpart F of part 205 of title 40 of the Code of Federal Regulations (as promul-

gated before the date of the enactment of this sentence) applies."

"(C) Except as provided in subparagraph (B), any rule or regulation under section 6 of the Noise Control Act of 1972 which was promulgated in final form before the date of the enactment of this Act and which is applicable to products referred to in section 6(a)(1) of that Act, as amended by this subsection, shall remain in force and effect after the date of the enactment of this Act until such time as the rule or regulation is amended or otherwise modified under such section 6, as amended by this Act. Nothing in this subparagraph shall be construed to validate any otherwise invalid rule or regulation under such section 6 which was promulgated in final form before the date of the enactment of this Act, and nothing in this subparagraph shall be construed to provide that any unlawful aspect of such rule or regulation shall be treated as lawful.

(7) Section 8 is repealed.

(8) Section 10 is amended by striking out paragraphs (3) and (4),

(9) Section 10(b) is amended by striking out "(3)," in paragraph (1) and by striking out "(1), (2), (3), and (4)" in paragraph (2) and substituting "(1) and (2)".

(10) Section 11(a) is amended by striking out "(3)," in each place it appears.

(11) Section 11(a)(2) is amended by inserting the following after "$10,000": "(reduced by the amount of any penalty imposed under subsection (f))".

(12) Section 11 is amended by adding the following at the end thereof:

"(f) The Attorney General of any State may bring a civil action, in the name of such State, in the appropriate district court of the United States to impose a civil penalty against any person who violates any provision of section 10. In any such action the court may impose a civil penalty of not more than $10,000 per day of such violation (reduced by the amount of any penalty imposed under subsection (a)(2)). The provisions of section 12(b) shall apply for purposes of actions brought under this subsection in the same manner as such provisions apply for purposes of section 12.".

(13) Section 12 is amended—

(A) by striking out "(e)" in subsection (a)(1) and substituting "(f)"; and

(B) by striking out "(3), (4)," in subsection (f).

(14) Section 13 (a) is amended by striking out "or section 8".

(15) Section 14(b)(2) is amended by striking out "under sections 6, 7, and 8 of this Act" and substituting "under section 6 or 7 of this Act."

(16) Section 16(a) is amended by striking out "or any labeling regulation under section 8 of this Act".

AUTHORIZATIONS

SEC. 6702. Section 19 of the Noise Control Act of 1972 is amended by striking out "$15,000,000 for the fiscal year ending September 30, 1979" and substituting "$7,300,000 for each of the fiscal years 1982, 1983, and 1984".

Chapter 7—TOURISM

SHORT TITLE

SEC. 6801. This chapter may be cited as the "National Tourism Policy Act"

NATIONAL TOURISM POLICY

SEC. 6802. (a) The International Travel Act of 1961 (hereinafter in this chapter referred to as the "Act") is amended by striking out the first section and inserting in lieu thereof the following: "That this Act may be cited as the 'Tourism Promotion Act of 1981'.

"TITLE I—NATIONAL TOURISM POLICY

"SEC. 101. (a) The Congress finds that—

"(1) the tourism and recreation industries are important to the United States, not only because of the numbers of people they serve and the vast human, financial, and physical resources they employ, but because of the great benefits tourism, recreation, and related activities confer on individuals and on society as a whole;

"(2) the Federal Government for many years has encouraged tourism and recreation implicitly in its statutory commitments to the shorter workyear and to the national passenger transportation system, and explicitly in a number of legislative enactments to promote tourism and support development of outdoor recreation, cultural attractions, and historic and natural heritage resources;

"(3) as incomes and leisure time continue to increase, and as our economic and political systems develop more complex global relationships, tourism and recreation will become ever more important aspects of our daily lives;

"(4) the existing extensive Federal Government involvement in tourism, recreation, and other related activities needs to be better coordinated to effectively respond to the national interest in tourism and recreation and, where appropriate, to meet the needs of State and local governments and the private sector;

"(6) the orderly growth and development of tourism depend on the efforts of government and the tourism industry to assure that the objectives of the national tourism policy (established by subsection (b)) are achieved to the maximum extent consistent with other public policy objectives;

"(7) orderly growth and development of tourism, while matters for regional, State, local, and private development, are also of appropriate and important concern to the Federal Government;

"(8) the national interest requires that the extensive Federal policy and programmatic involvement in tourism be responsive to the needs of the tourism industry; and

"(9) in view of the importance of travel and tourism to the economy of the United States, and the pervasive Federal policy and programmatic involvement in tourism, it is necessary and appropriate for the Federal Government to complement, assist, and support mechanisms that will most effectively assure implementation of the national tourism policy.

"(b) There is established a national tourism policy to—

"(1) optimize the contribution of the tourism and recreation industries to economic prosperity, full employment, and the international balance of payments of the United States;

"(2) make the opportunity for and benefits of tourism and recreation in the United States universally accessible to residents of the United States and foreign countries and insure that present and future generations are afforded adequate tourism and recreation resources;

"(3) contribute to personal growth, health, education, and intercultural appreciation of the geography, history, and ethnicity of the United States;

"(4) encourage the free and welcome entry of individuals traveling to the United States, in order to enhance international understanding and goodwill, consistent with immigration laws, the laws protecting the public health, and laws governing the importation of goods into the United States;

"(5) eliminate unnecessary trade barriers to the United States tourism industry operating throughout the world;

"(6) encourage competition in the tourism industry and maximum consumer choice through the continued viability of the retail travel agent industry and the independent tour operator industry;

"(7) promote the continued development and availability of alternative personal payment mechanisms which facilitate national and international travel;

"(8) promote quality, integrity, and reliability in all tourism and tourism-related services offered to visitors to the United States;

"(9) preserve the historical and cultural foundations of the Nation as a living part of community life and development, and insure future generations an opportunity to appreciate and enjoy the rich heritage of the Nation;

"(10) insure the compatibility of tourism and recreation with other national interests in energy development and conservation, environmental protection, and the judicious use of natural resources;

"(11) assist in the collection, analysis, and dissemination of data which accurately measure the economic and social impact of tourism to and within the United States, in order to facilitate planning in the public and private sectors; and

"(12) harmonize, to the maximum extent possible, all Federal activities in support of tourism and recreation with the needs of the general public and the States, territories, local governments, and the tourism and recreation industry, and to give leadership to all concerned with tourism, recreation, and national heritage preservation in the United States.".

DUTIES

SEC. 6803. (a) The following heading is inserted before section 2 of the Act:

"TITLE II—DUTIES".

(b) Section 2 of the Act (22 U.S.C. 2122) is amended by striking out "purposes of this Act" and inserting in lieu thereof "the national tourism policy established by section 101(b)".

(c) Section 3(a) of the Act (22 U.S.C. 2123(a)) is amended—

(1) by inserting "(A)" after "(4)" and by adding after paragraph (4) the following:

"(B) shall establish nine offices in foreign countries which are in addition to the offices established under subparagraph (A);";

(2) by striking out "and" at the end of paragraph (6), by striking out the period at the end of paragraph (7) and inserting in lieu thereof a semicolon, and by adding after paragraph (7) the following new paragraphs:

"(8) shall establish facilitation services at major ports-of-entry of the United States;

"(9) shall consult with foreign governments on travel and tourism matters and, in accordance with applicable law, represent United States travel and tourism interests before international and intergovernmental meetings;

"(10) shall develop and administer a comprehensive program relating to travel industry information, data service, training and education, and technical assistance;

"(11) shall develop a program to seek and to receive information on a continuing basis from the tourism industry, including consumer and travel trade associations, regarding needs and interests which should be met by a Federal agency or program and to

direct that information to the appropriate agency or program;

"(12) shall encourage to the maximum extent feasible travel to and from the United States on United States carriers;

"(13) shall assure coordination within the Department of Commerce so that, to the extent practicable, all the resources of the Department are used to effectively and efficiently carry out the national tourism policy; and

"(14) shall develop and submit annually to the Congress, within six weeks of transmittal to the Congress of the President's recommended budget for implementing this Act, a detailed marketing plan to stimulate and encourage travel to the United States during the fiscal year for which such budget is submitted and include in the plan the estimated funding and personnel levels required to implement the plan and alternate means of funding activities under this Act.".

(d)(1) Paragraph (5) of section 3(a) is amended (A) by striking out "foreign countries." and inserting in lieu thereof "foreign countries;", (B) by striking out "this clause;" and inserting in lieu thereof "this clause.", (C) by inserting the last two sentences before the first sentence of subsection (c), and (D) by striking out "this clause" in such sentences and inserting in lieu thereof "paragraph (5) of subsection (a)".

(2) Section 3 of the Act is amended by striking out "clause (5)" each place it appears and inserting in lieu thereof "paragraph (5)".

(e) sections 2 and 3 of the Act are redesignated as sections 201 and 202, respectively, and section 5 is inserted after section 202 (as so redesignated) and redesignated as section 203.

(f) The following section is inserted after section 203:

"SEC. 204. (a) The Secretary is authorized to provide, in accordance with subsections (b) and (c), financial assistance to a region of not less than two States or portions of two States to assist in the implementation of a regional tourism promotional and marketing program. Such assistance shall include—

"(1) technical assistance for advancing the promotion of travel to such region by foreign visitors;

(2) expert consultants; and

"(3) marketing and promotional assistance.

"(b) Any program carried out with assistance under subsection (a) shall serve as a demonstration project for future program development for regional tourism promotion.

"(c) The Secretary may provide assistance under subsection (a) for a region if the applicant for the assistance demonstrates to the satisfaction of the Secretary that—

"(1) such region has in the past been an area that has attracted foreign visitors, but such visits have significantly decreased;

"(2) facilities are being developed or improved to reattract such foreign visitors;

"(3) a joint venture in such region will increase the travel to such region by foreign visitors;

"(4) such regional program will contribute to the economic well-being of the region;

"(5) such region is developing or has developed a regional transportation system that will enhance travel to the facilities and attractions within such region; and

"(6) a correlation exists between increased tourism to such region and the lowering of the unemployment rate in such region.".

ADMINISTRATION

SEC. 6804. (a)(1) The first sentence of section 4 of the Act (22 U.S.C. 2124) is amended to read as follows: "There is established in the Department of Commerce a United States Travel and Tourism Administration which shall be headed by an Under Secretary of Commerce for Travel and Tourism who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall report directly to the Secretary.".

(2) Section 4 is amended by striking out the last sentence and inserting in lieu thereof the following: "The Secretary shall designate an Assistant Secretary of Commerce for Tourism Marketing who shall be under the supervision of the Under Secretary of Commerce for Travel and Tourism. The Secretary shall delegate to the Assistant Secretary responsibility for the development and submission of the marketing plan required by section 202(a)(14)."

(3) Section 5314 of title 5, United States Code, is amended by striking out "Under Secretary of Commerce" and inserting in lieu thereof "Under Secretary of Commerce and Under Secretary of Commerce for Travel and Tourism".

(b)(1) The following heading is inserted before section 4:

"TITLE III—ADMINISTRATION".

(2) Section 4 is redesignated as section 301 and the following new sections are inserted after the section:

"SEC. 302. (a) In order to assure that the national interest in tourism is fully considered in Federal decisionmaking, there is established an interagency coordinating council to be known as the Tourism Policy Council (hereinafter in this section referred to as the 'Council').

"(b)(1) The Council shall consist of—

"(A) the Secretary of Commerce, who shall serve as the Chairman of the Council;

"(B) the Under Secretary for Travel and Tourism, who shall serve as the Vice Chairman of the Council and who shall act as Chairman of the Council in the absence of the Chairman;

"(C) the Director of the Office of Management and Budget or the individual designated by the Director from the Office;

"(D) an individual designated by the Secretary of Commerce from the International Trade Administration of the Department of Commerce;

"(E) the Secretary of Energy or the individual designated by such Secretary from the Department of Energy;

"(F) the Secretary of State or the individual designated by such Secretary from the Department of State;

"(G) the Secretary of the Interior, or the individual designated by such Secretary from the National Park Service or the Heritage Conservation and Recreation Service of the Department of the Interior;

"(H) the Secretary of Labor, or the individual designated by such Secretary from the Department of Labor; and

"(I) the Secretary of Transportation, or the individual designated by such Secretary from the Department of Transportation.

"(2) Members of the Council shall serve without additional compensation, but shall be reimbursed for actual and necessary expenses, including travel expenses, incurred by them in carrying out the duties of the Council.

"(3) Each member of the Council, other than the Vice Chairman, may designate an alternate, who shall serve as a member of the Council whenever the regular member is unable to attend a meeting of the Council or any committee of the Council. The designation by a member of the Council of an alternate under the preceding sentence shall be made for the duration of the member's term on the Council. Any such designated alternate shall be selected from individuals who exercise significant decisionmaking authority in the Federal agency involved and shall be authorized to make decisions on behalf of the member for whom he or she is serving.

"(c)(1) Whenever the Council, or a committee of the Council, considers matters that affect the interests of Federal agencies that are not represented on the Council or the committee, the Chairman may invite the heads of such agencies, or their alternates, to participate in the deliberations of the Council or committee.

"(2) The Council shall conduct its first meeting not later than 90 days after the date of enactment of this section. Thereafter the Council shall meet not less than four times each year.

"(3) All meetings of the Council, including any committee of the Council, shall be open to the public.

"(d)(1) The Council shall coordinate policies, programs, and issues relating to tourism, recreation, or national heritage resources involving Federal departments, agencies, or other entities. Among other things, the Council shall—

"(A) coordinate the policies and programs of member agencies that have a significant effect on tourism, recreation, and national heritage preservation;

"(B) develop areas of cooperative program activity;

"(C) assist in resolving interagency program and policy conflicts; and

"(D) seek and receive concerns and views of State and local governments and the private sector with respect to Federal programs and policies deemed to conflict with the orderly growth and development of tourism.

"(2) To enable the Council to carry out its functions—

"(A) the Council may request directly from any Federal department or agency such personnel, information, services, or facilities, on a compensated or uncompensated basis, as he determines necessary to carry out the functions of the Council;

"(B) each Federal department or agency shall furnish the Council with such information, services, and facilities as it may request to the extent permitted by law and within the limits of available funds; and

"(C) Federal agencies and departments may, in their discretion, detail to temporary duty with the Council, such personnel as the Council may request for carrying out the functions of the Council, each such detail to be without loss of seniority, pay, or other employee status; and

"(3) The Administrator of the General Services Administration shall provide administrative services for the Council on a reimbursable basis.

"(e) The Council shall establish such policy committees as it considers necessary and appropriate, each of which shall be comprised of any or all of the members of the Council and representatives from Federal departments, agencies, and instrumentalities not represented on the Council. Each such policy committee shall be designed—

"(1) to monitor a specific area of Federal Government activity, such as transportation, energy and natural resources, econom-

ic development, or other such activities related to tourism; and

"(2) to review and evaluate the relation of the policies and activities of the Federal Government in that specific area to tourism, recreation, and national heritage conservation in the United States.

"(f) The Council shall submit an annual report for the preceding fiscal year to the President for transmittal to Congress on or before the 31st day of December of each year. The report shall include—

"(1) a comprehensive and detailed report of the activities and accomplishments of the council and its policy committees;

"(2) the results of Council efforts to coordinate the policies and programs of member agencies that have a significant effect on tourism, recreation, and national heritage preservation, resolve interagency conflicts, and develop areas of cooperative program activity;

"(3) an analysis of problems referred to the Council by State and local governments, the tourism industry, the Secretary of Commerce, or any of the Council's policy committees along with a detailed statement of any actions taken or anticipated to be taken to resolve such problems; and

"(4) such recommendations as the Council deems appropriate.".

"SEC. 303. (a) There is established the Travel and Tourism Advisory Board (hereinafter in this section referred to as the 'Board') to be composed of fifteen members appointed by the Secretary. The members of the Board shall be appointed as follows:

"(1) Not more than eight members of the Board shall be appointed from the same political party.

"(2) The members of the Board shall be appointed from among citizens of the United States who are not regular full-time employees of the United States and shall be selected for appointment so as to provide as nearly as practicable a broad representation of different geographical regions within the United States and of the diverse and varied segments of the tourism industry.

"(3) Twelve of the members shall be appointed from senior executive officers of organizations engaged in the travel and tourism industry. Of such members—

"(A) at least one shall be a senior representative from a labor organization representing employees of the tourism industry; and

"(B) at least one shall be a representative of the States who is knowledgeable of tourism promotion.

"(4) of the remaining three members of the Board—

"(A) one member shall be a consumer advocate or ombudsman from the organized public interest community;

"(B) one member shall be an economist, statistician, or accountant; and

"(C) one member shall be an individual from the academic community who is knowledgeable in tourism, recreation, or national heritage conservation.

The Secretary shall serve as an ex officio member of the Board. The duration of the Board shall not be subject to the Federal Advisory Committee Act. A list of the members appointed to the Board shall be forwarded by the Secretary to the Senate Committee on Commerce, Science, and Transportation and the House Committee on Energy and Commerce.

"(b) The members of the Board shall be appointed for a term of office of three years, except that of the members first appointed—

"(1) four members shall be appointed for terms of one year, and

"(2) four members shall be appointed for terms of two years,

as designated by the Secretary at the time of appointment. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office. Vacancies on the Board shall be filled in the same manner in which the original appointments were made. No member of the Board shall be eligible to serve in excess of two consecutive terms of three years each.

"(c) The Chairman and Vice Chairman and other appropriate officers of the Board shall be elected by and from members of the Board other than the Secretary.

"(d) The members of the Board shall receive no compensation for their services as such, but shall be allowed such necessary travel expenses and per diem as are authorized by section 5703 of title 5, United States Code. The Secretary shall pay the reasonable and necessary expenses incurred by the Board in connection with the coordination of Board activities, announcement and reporting of meetings, and preparation of such reports as are required by subsection (f).

"(e) The Board shall meet at least quarterly and shall hold such other meetings at the call of the Chairman, the Administrator, or a majority of its members.

"(f) The Board shall advise the Secretary with respect to the implementation of this Act and shall advise the Assistant Secretary for Tourism Marketing with respect to the preparation of the marketing plan under section 202(a)(14). The Board shall prepare an annual report concerning its activities and include therein such recommendations as it deems appropriate with respect to the performance of the Secretary under this Act and the operation and effectiveness of programs under this Act. Each annual report shall cover a fiscal year and shall be submitted on or before the thirty-first day of December following the close of the fiscal year.".

AUTHORIZATIONS

SEC. 6805. (a) Section 6 of the Act (22 U.S.C. 2126) is redesignated as section 304 and is amended by striking out the first sentence and inserting in lieu thereof the following: "For the purpose of carrying out this Act (other than section 202(a)(4)(B)), there is authorized to be appropriated an amount not to exceed $6,500,000 for each of the fiscal years 1982, 1983, and 1984. The Secretary shall carry out section 202(a)(4)(B) with funds appropriated for the International Trade Administration.".

(b) Section 7 of the Act (22 U.S.C. 2127) is redesignated as section 305 and sections 8 and 9 of the Act (22 U.S.C. 2127, 2128) are repealed.

EFFECTIVE DATE

SEC. 6806. The amendments made by this chapter shall take effect October 1, 1981.

EXTENSIONS OF REMARKS

LESSONS OF IRAN

HON. LEE H. HAMILTON
OF INDIANA
IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1981

● Mr. HAMILTON. Mr. Speaker, I would like to bring to the attention of my colleagues an excellent speech delivered by former Deputy Secretary of State Warren Christopher on the lessons of Iran.

Mr. Christopher, who was intimately involved in the negotiations through Algeria to end the hostage crisis, discusses the downfall of the Shah, the Iranian revolution, the hostage crisis, and the lesson of the experience for our dealing with developing countries, our international strategy, the role of our diplomats, our stake in international law, and the role of American values in relations with other countries.

The speech follows:

LESSONS OF IRAN

(By Warren Christopher)

"Bad times have scientific value," Emerson wrote. "These are occasions a good learner would not miss."

All of us, especially the people directly affected, would have preferred to miss the hostage ordeal in Iran. But it is there, sitting squarely astride our collective memory. We had best learn from it what we can.

Perhaps we are now ready to begin that process. The hostages have been home for some four months. The national sense of relief is dispersing; the celebrations have ended. Possibly even our sense of outrage toward the Iranians is beginning to abate. We may be approaching the level of detachment necessary to comprehend the crisis more fully.

There are five broad areas in which I think the Iran crisis holds valuable lessons.

First, the Iran experience should encourage a sense of realism in our dealings with developing countries. For their internal politics are shaped almost wholly by internal forces, and very little by external pressures. A wise nation, however powerful, understands the peril it invites in confronting the will of another people. Outside powers have an effect, if any, only at the margins.

The reasons the late Shah's regime shattered so swiftly are complex and cumulative. While there were impressive economic achievements, deep inequities remained and corruption was rampant. Too little attention was paid to religion and tradition. Political rights were limited so rigidly for so long that people throughout the country—directly or through family or friends—had been personally touched by official repression the Shah was seen to have sponsored. And the gap between the governing group and those governed remained awesome.

Whatever the cause, by 1978 the Shah's collapse had become inexorable. By then there was probably nothing that he or we could do to prevent it.

Some argue that the hostage crisis would never have happened if we had, in the first place, "stood by our friend," the Shah. But there was no way to do that, short of shooting our way in and occupying the country with full military force.

Alternatively, there were suggestions that we should have encouraged repressive action by the Iranian military, in the context of a military coup against the Shah.

Either course would have caused widespread bloodshed. And neither would have worked. For such policies would have meant siding against most of the Iranian people, who then had the idyllic expectation, and not the subsequent reality, of Khomeini's rule.

We should be thankful President Carter had the wisdom to reject such options. They retain some adherents only because they were not selected and we were spared their consequences.

There is also a lesson here for our broader approach in the developing world. We must take care to recall that our relations are with countries, not just with leaders. We need to broaden our contacts, to make sure that all elements of the population understand our purposes. We must guard against the tendency to identify so narrowly with the personalities in power that we neglect cross-currents of opinion taking sway among the people they rule. Unfortunately, there are too many examples of that tendency in U.S. policy around the world today.

In a second broad area, the Iran crisis offers lessons for our international strategy, in similar conditions and also more generally.

I take sharp issue with those who claim our country lost face because we did not somehow "force" Iran to surrender the hostages. The most common formulation is that we should have issued an ultimatum: if the hostages were not released by a certain date, Iran would have been bombed or invaded.

But consider the probable effects:

The murder of the hostages;

Greater internal and international sympathy, even prestige, for Khomeini;

An end to the international condemnation of Iran, and perhaps a shift of international opinion in Iran's favor;

Disruption of petroleum exports from the Middle East;

And to crown all of these, a probable American entanglement in an Iranian civil war.

However satisfying it might have felt to follow our stormier impulses, I fail to see how such results would have served American interests.

Speaking more broadly, I have yet to see a coherent alternative plan or proposal that would have been likely to force the Iranians to release the hostages.

I also take issue with those who contend we should never negotiate over hostages.

It is a mistake to equate talking with making concessions. On the contrary, we can and should refuse, as we did in this case, to make concessions that imply any form of victory for the kidnappers. We must resolutely resist the kind of outcome that could invite similar acts in the future.

But a presentation that shows our resolve can produce an agreement that withholds concessions and still saves lives.

Circumstances will differ from case to case. Sometimes a bold and skillful strike can be successful, as at Entebbe. But there will be other less propitious times as well. We must be prepared to adapt our strategy to suit the circumstances. A rigid "never negotiate" posture limits the government's ability to find an acceptable outcome. Any predetermined strategy, slavishly followed, could draw us to nightmarish results.

I believe we should grasp, as a central lesson of the crisis, the wisdom in seeking negotiated settlements to international disputes.

That principle was sorely tested in Iran. Khomeini had called the United States the "Great Satan" and had forbidden any diplomatic contact with us. We had enormously complex and painful issues, and no one with whom to raise them.

Nevertheless, in the end it was not the force of our arms, but the force of our arguments—and our economic and diplomatic leverage—that ultimately prevailed.

I recall this not to credit any person, least of all myself, but to celebrate the importance of negotiation. To be sure, the Algerian willingness to mediate, the continuing internal turmoil in Iran, the political evolution there, the Iran-Iraq war—these and other factors had a bearing. But the policy of steady, methodical probing for a negotiated result is what brought this crisis to an end.

This is a fact worth recalling when we weigh our national budgets. Most diplomacy is conducted out of the public eye, and is neither glamorous nor sensational. As we build our defenses, we must also maintain the strength of the American Foreign Service where our national policies are designed and placed in effect. In a world where most things are done by persuasion, even the strongest arms cannot substitute for a clear, convincing voice.

Unfortunately, our budgets do not now reflect this truth. As the military threat grows, our defense budget rises accordingly. But as diplomatic challenges multiply, our professional Foreign Service remains the same or declines. In 1960, we had diplomatic relations with 81 countries; now we deal with 53 more—but with the same number of professional diplomats in the State Department that we had two decades ago. And they must deal not only with 53 more countries, but on a wider range of harder issues than ever before.

We also must take care to retain the people—the men and women of the Foreign Service—whose wisdom and experience have been at the heart of our foreign policy successes, including the resolution of the hostage issue. I have never worked with a more capable, devoted and imaginative group of professionals. Therefore, I am concerned by reports that some of our best career officers, who served prominently during the last Administration, have yet to be assigned to new posts commensurate with their abilities and stature. This trend may lead to the early retirement of many of the ablest professionals in the Foreign Service, depriving

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

the country of incomparable experience and intellectual talent.

In short, it is foolish policy and false economy to fail to give strong support to this indispensable national asset.

Along with the worth of diplomacy, the Iran negotiations underscored the importance of persistence and steadiness in foreign policy—of being prepared to wait, if necessary, until an issue is ripe for resolution.

Over the early months of the crisis it became clear that the hostage timetable would depend, in large part, upon the march of events in Iran that were wholly beyond our control. The most important was the emergence of authoritative leaders who could speak for Iran. It was not until August 1980, 10 months after the hostages were seized, that Iran had a Parliament with power to act on the issue, and it was many weeks more before the lines of authority were clear enough for serious talks. During those long, painful months it was crucial not to be goaded by frustration into an unwise course of action.

There are a number of lessons here:

In a turbulent world, there will inevitably be other instances where problems urgently need solving but we can only see the faintest glimmer of how it might be done. It is right to be impatient over such things as human suffering, war, and injustice. But we need to develop a capacity for steadiness, not in the sense that we accept things as they are, but to bring a constancy to the effort to change them.

In difficult specific circumstances, like those in Iran, government should avoid building up expectations of early success—lest the pressure to act quickly, even if improvidently, become irresistible. We must not let the calendar be an ally of the opposite camp.

At the same time the press and public need to understand that a shortage of news does not necessarily signify an absence of progress. The economic and diplomatic sanctions we and others applied on Iran had a cumulative effect. They played a vital role in the growth of a consensus in Iran that a settlement would serve Iran's interests. So on that score we were making headway even when we appeared to be dead in the water.

A wide understanding of such a phenomenon could lead to greater national steadiness, and thus to more realistic and effective diplomacy.

In a third area, the Iran crisis reminded us of the perilous circumstances in which our diplomats often must perform. Are there better ways to protect them, to prevent takeovers like that in Iran?

Certainly there are ways to improve our posture:

Structural improvements and tightened procedures can make embassies more defensible, and a program of that kind is underway.

Marine guard contingents can be reinforced.

We can thin down embassy staffs, or evacuate, in times of crisis. In Iran, our official staff was cut from over 1400 personnel before the revolution to about 70 in November of 1979.

We can work through international institutions for rules that make sanctions automatic when governments either condone terrorism or engage in such conduct themselves.

But we cannot reduce the risks to zero. Under international law, the ultimate responsibility for the security of diplomatic missions rests with the host country. That is the only practical course. Transforming our embassies into fortresses, or attempting to ring them with massive defenses of our own, would defeat much of their purpose.

So as we do what we can to improve security, we should also pay special tribute to the gallantry of our Marine guards around the world. And we should recognize that it takes courage—as well as skill—to be a diplomat in today's world.

Fourth, the Iran hostage crisis also brought home—in a very tangible and immediate way—our stake in global institutions and in the structure of international law.

It has become the fashion to belittle the United Nations as a constructive force in world affairs. Indeed, the shortcomings of the U.N. system were all too apparent in the hostage ordeal. U.N. sanctions against Iran were thwarted by an opportunistic Soviet veto. There was no effective way to enforce the orders of the World Court that the hostages had been seized illegally and should be released immediately. Missions to Iran by Secretary General Waldheim and by a special five-member U.N. commission also proved futile.

Yet for all of these failings, the international community still played an indispensable role.

At the practical level, the solutions to complex aspects of the negotiations were found in established international practice, such as the rules of the U.N. Commission on International Trade Law. The existence of settled, neutral procedures was a great help in expediting the negotiations.

Even more fundamentally, the political influence of the United Nations was felt at crucial times. From the outset, the General Assembly and Security Council resolutions and the International Court of Justice rulings deprived Iran of any pretense that it was pursuing just claims in a legitimate way against the United States. The resulting isolation contributed to the pressure on the Iranian government.

By the same token, our pursuit of the issue through the United Nations legal machinery stirred international sympathy for our cause. Our course strengthened the inclination of scores of countries—some in public, some very quietly—to help us with diplomacy of their own. In addition, when we imposed sanctions in April of 1980, most countries treated those as legitimate steps. By pursuing all lawful means, we built increased respect both for the law and for ourselves.

The United Nations environment ultimately produced a crucial turning point. In mid-October, Prime Minister Rajai visited the United Nations and sought to focus world attention on Iran's grievances in its conflict with Iraq. But he played to a cold house at the U.N. He was told repeatedly that Iran could expect no support from the world community as long as the American hostages remained in confinement. Impressed by the U.N. experience, he took back to Iran a new appreciation of Iran's isolation and its stake in ending the crisis.

These are events to keep in mind as we contemplate the worth of the United Nations and our participation in it. I do not suggest by any means that criticism ought to be silenced. But we also ought to see beyond the dreary sameness of General Assembly debates. We ought to recognize that the United Nations and its affiliated institutions do far more than vent the anger of the developing world. Indeed, they serve our interest in world stability, grounded on the rule of law.

Finally, I believe the crisis in Iran demonstrated the continuing role of our values in our relations with the rest of the world.

It was our system's inherent concern for human life that caused the government to undertake a massive effort in 1979 to evacuate tens of thousands of private Americans from Iran, and to reduce sharply the diplomatic contingent there.

From the beginning, our values at home also helped define the boundaries of the negotiations. For example, our government could not agree simply to seize any of the Shah's assets we could find and turn them over to Iran. On that issue our bottom line was due process of law. It was immovable.

Indeed, it was largely our respect for individual lives that made this a crisis.

Had we cared less about individual human lives, the holding of fifty-three hostages would not have held the entire nation's attention. Had we cared less, we might simply have written off the people and looked for ways to punish their captors. But our concern about the hostages made it unthinkable for us to deal with the crisis in a callous or cynical manner.

Our respect for human life also provides the essential context for any dealing with terrorists in the future.

We must never be overanxious. The hand of terrorists should not be strengthened. We must be prepared to wait for a settlement as long as it takes—making it clear all the while where the responsibility lies for the safety of people held captive.

But beyond that, I do not believe we can, or should, pretend complacency about the lives involved. For such a choice would trade a principle—and a sacred one—for a tactic.

This can be an excruciating issue. Our values make it harder to operate in situations where others are not so constrained, where the adversary is often cruel and inhumane.

But our values also define us. For our own sake, and also to foster the kind of understanding we want among the people of the world, I think we want to keep and protect our unique definition.

There are compensations as well as costs to a foreign policy built on ideals. In Southwest Asia, the world had been presented a striking contrast between our approach and that of the Soviet Union, whose forces continue still to spill the blood of nationalists in Afghanistan. While we have been restrained, the Soviets have inflicted their bloody preference in dictators on a nonaligned neighbor. Where we have abided by the rule of law, the Soviets have attempted to impose the rule of raw power on a weaker state.

That message has not been lost on other countries and peoples. The Soviet star in the Third World plummeted in the months following the invasion, and ours, correspondingly, has risen. Again, the message for us in this surely is not that we should copy the tactics and standards of our rivals, but that we should spotlight and celebrate the difference. From such a comparison, we can only emerge the stronger and more respected.

Using the sharpened vision of hindsight—and the cooling influence of time—I offer these few thoughts as a tentative assessment of the hostage crisis. What is their sum?

The crisis gave us the chance to grow wiser in our dealings with the developing world.

It underscored for us the importance of steady diplomacy in pursuit of our interests, in contrast to the impetuous resort to force where its use would damage our interests.

It drew our attention to the great contributions, and the legitimate needs, of our diplomatic service.

It brought back to us a tangible return from the international community we have supported.

And in more ways than one, for us and others, the hostage crisis displayed and tested American ideals—and they were found worthy.

As I have reflected on that last night in Algiers, remembering the relief and exhilaration as the hostages came down the ramp alive and remarkably healthy, I have been reinforced in the conviction that the long, difficult, and often frustrating course we followed was the right course for America.

Now I hope we will examine that experience, honestly and carefully, neither to claim credit nor to cast blame. For it holds lessons that will make our society stronger and our foreign policy more successful.

That is the right course for America, too. And there could be no better tribute to those who suffered long months of torment in the service of their country than to learn the lessons of Iran.●

PERSONAL EXPLANATION

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1981

● Mr. HOYER. Mr. Speaker, I was absent yesterday during two votes on the Public Broadcasting Act amendments, H.R. 3238. On rollcall No. 101, the amendment offered by Mr. BLILEY of Virginia, I would have voted "nay." On rollcall No. 102, final passage of the bill, I would have voted "aye."●

SILVER RATES A HOLD—THE UNITED STATES SHOULD NOT SELL AN OUNCE FROM THE STOCKPILE

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1981

● Mr. McDONALD. Mr. Speaker, if present plans hold, the United States must sell most if not all the silver it presently has in our national stockpile. The silver will be sold in the name of budget reconciliation, directly contrary to Public Law 96-41, the Strategic and Critical Material Stockpiling Revision Act of 1979, which states:

The purpose of the stockpile is to serve the interest of national defense only and is not to be used for economic or budgetary purposes.

We are not only moving to violate the law of the land, but we are going against the decision of the responsible subcommittee—Seapower and Strategic and Critical Materials Subcommittee of the House Armed Services Committee, which voted unanimously not to sell silver prior to this action.

Barron's Financial Weekly in its June 22, 1981, issue ran an excellent editorial on this subject. I strongly commend it to the attention of my colleagues.

SILVER RATES A HOLD—THE UNITED STATES SHOULD NOT SELL AN OUNCE FROM THE STOCKPILE

Long before the Hunt brothers surfaced, silver, so a top executive of the American Smelting & Refining Co. (now Asarco) once observed, perennially suffered from a bad press. During the heyday of William Jennings Bryan, it became not only the standard of bimetallism but also the symbol of demagoguery and currency debasement. Several decades later, the spiritual heirs of the Populist movement further tarnished its lustre by making it the object of an unabashed, and oft-criticized, subsidy to Western mining interests. Since January 1980, when the precious metal confounded foe and friend alike by soaring to nearly $50 an ounce, silver, of course, has come down to earth with a crash. Early this month, it briefly broke below $10 an ounce, at which point it was off a shocking 75 percent from the peak. The Hunts have plunged heavily into hock, and sterling silver flatware, once worth a king's ransom, is going begging.

Lately, however, silver also has had its share of ups as well as downs. In particular, after more than a year of investigation, an official inquiry into the Hunt fiasco, including representatives of the Commodity Futures Trading Commission, Federal Reserve Board, SEC and Treasury, has pointed the finger of blame at no one. Instead of trying to engineer a squeeze on the shorts, let alone to corner the market, as had been widely rumored, the Hunts and their associates, so the study found, time and again did the opposite. By the same token, the powers-that-be at the Commodity Exchange and Chicago Board of Trade, under attack for taking steps that seemed designed to further private financial interests rather than the public weal, also received relatively high grades. True, such findings by no means constitute the last word: both CFTC and SEC continue to pursue probes of their own, and charges may still be brought. Nonetheless, for the present at least, the Hunts et al. stand accused of nothing worse than seeking, perhaps over-zealously, to protect their fortunes against the ravages of inflation. Miscalculation, but no crime.

Even on that score, the outlook strikes those in the trade as no longer wholly bleak. Since hitting the low a few weeks ago, silver has failed to show further weakness. Moreover, at least one astute observer, Charles Stahl of *Green's Commodity Market Comments*, has turned unabashedly bullish. True, unlike its glittering record in gold, where for more than a year it succeeded in calling all the turns, *Greens'* has been prematurely positive on silver: for some weeks its readers have been long on the metal, at an average price of $11.49, somewhat above the current market. Nonetheless, it makes a plausible case for the upside, including the steady climb in consumption during the past 81 months, the likelihood that millions of silver coins will be turned out next year to commemorate the 1984 Olympic Games, and the plans of Sunshine Mining Co. to mint one-ounce silver medallions known as "sunshines." Weighing the prospects, *Green's* last week flatly advised its followers: "On June 5, spot silver on Comex closed at . . . $9,8950. In our opinion, that will be the low for the year. . . ."

That's what makes markets. As to the politics of silver, an element that assays as high today as a century ago, we hold stronger views. The issue currently before Congress is whether or not to dispose of 139.5 million ounces of the metal, the total board now held in the U.S. stockpile. On June 4, the Seapower and Strategic and Critical Materials Subcommittee of the House Armed Services Committee, by unanimous vote, rejected the proposed sale. A week later, the full Committee approved it. Further hearings were held by the Senate last week.

What will finally emerge from the legislative mill remains to be seen, but a few points are clear. The purported aim of the transaction is to help finance the purchase of other raw materials deemed more strategic, a goal which seems laudable enough. Yet over the years, bureaucracy repeatedly has changed its views on this critical issue, a perennial uncertainty that has tended to result in a series of badly timed purchases and sales. In silver—where the Treasury in the Sixties liquidated millions of ounces at bargain-basement prices—official judgment and timing have proven notoriously bad. In mid-1981, at around $10 an ounce, silver may or may not be a buy, but it's surely not a sale.

By the same token, whatever the future may hold in store price-wise can scarcely begin to rival the incredible past. As the CFTC report to Congress points out, silver took six years, or from 1973 to early 1979, to go from $3 an ounce to $6. It proceeded to triple by August 1979, sextuple by November. Then, triggered by such powerful forces as the revolution in Iran, the seizure of the Grand Mosque in Saudi Arabia and the Soviet invasion of Afghanistan, quotations exploded, topping $30 by year-end and surging in mid-January 1980 to a peak settlement price (on the CBOT and Comex) of $48.70.

Thereupon, the market abruptly reversed, falling more than 30 percent in the following week and continuing to plunge until the end of March, when the metal changed hands at $10.80 an ounce, barely 25 percent of the peak price. The Hunts missed a $100 million-plus margin call, and for a day or so, the financial community stood poised on the brink of disaster. Today, of course, all that seems like ancient history. Bache & Co. (which sent out the margin call and looked to be in deep trouble at the time) has seen its shares recover from a low of $7⅜ to the $32 recently offered by Prudential Insurance Co. The stock market has staged a robust advance across-the-board. Apart from the Hunts, who dropped billions of dollars and wound up in hock, silver rates was the major casualty of the whole affair.

Here, too, recovery may be shaping up. Back in January, in the pages of *Barron's*, Dennis A. Suskind and Irwin Shishko, vice presidents of J. Aron & Co. Inc., dealers in precious metals, took a hard look at the long-range prospects. According to their statistical work, throughout 1979, production persistently fell short of industrial demand at $7–$9 an ounce. "If silver ever drops below $10 again," the two concluded, "[it] is likely to shift back to chronic shortage." *Green's Commodity Market Comments* as noted, has turned short-term bullish. Observing that the Bureau of Mines recently revised upward its estimate of 1980 domestic consumption, from 117.7 million ounces to 125.2 million, the firm went on to say that

in the first quarter of 1981, usage stood at the highest level in 18 months. "It is our expectation," it added, "that consumption of silver this year will be 10-15 percent higher than in 1980, and that in 1982, consumption will increase drastically because of the proposed Olympic coins, the minting of which should start by the end of this year or beginning of next. . . . We expect a sustained move which should carry the price of silver to the $16 level within a reasonable time."

Such a rise, of course, would undoubtedly delight the Hunts, who still hold a minimum of 63 million ounces. Win or lose, however, they should be pleased with what the CFTC report had to say about their controversial dealings. By taking delivery of the physical metal, the buyers probably accelerated the upswing in prices. However, add the investigators: "From a surveillance perspective, the actions of the Hunts and other major long position holders were in several respects inconsistent with conduct normally attributable to a market squeeze on a maturing futures contract." Specifically, "the largest position concentrations were in deferred rather than nearby delivery months. Also, the major buyers—the Hunts and several foreign interests—appeared to want to acquire physical silver bullion. To this end, [they] were willing to accept non-certificated silver in other locations and forms, rather than insist that the shorts fully meet their contractual obligations to make delivery in accordance with the terms of the futures market. They also exchanged warehouse receipts covering deliverable silver for silver located outside the U.S. In addition, the CFTC and the exchanges had also received assurances that, consistent with their historical trading practices, the Hunts and other major longs would liquidate or roll forward at least part of their positions in the maturing futures contracts." So far, so good.

As to the proposed liquidation of the stockpiled silver, Barron's takes a dim view. For one thing, as Simon D. Strauss (formerly vice chairman of Asarco and now a consultant to the company) told the Senate Armed Services Committee on Friday, over the years stockpile targets have gyrated wildly. Thus, from 3½ million tons early on, the goal for copper was whittled in stages to zero, before restored to one million tons. Aluminum, nickel, lead and zinc have shown comparable swings. As to cobalt, most of it was sold at $2-$4 per pound, compared to a current quotation of $20. The same, of course, holds true of silver, which the U.S. Treasury, with its customary sagacity in this realm, largely disposed of in the Fifties and Sixties, at prices ranging from 91 cents per pound to $1.29. To judge by the record, in short, official judgment on whether or when to buy and sell inspires scant confidence. Let's rate silver a hold.●

COMMENDING VOLUNTEER FIREFIGHTERS AND PARAMEDICS

HON. ROBERT S. WALKER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1981

● Mr. WALKER. Mr. Speaker, on Saturday, June 13, a grave tragedy fell upon the community of Lancaster, Pa., in my district. A young boy, 8-year-old Benjamin Walker, crawled into and became trapped in an abandoned septic tank in his front yard.

Responding to what was thought to be a routine call—a boy trapped in a sewer; no serious injuries—paramedics from St. Joseph Hospital in Lancaster and volunteer firefighters from the Bausman Fire Co. were immediately dispatched to the scene. "Jamie," as he is fondly addressed by his family, was rescued through the heroic efforts of these rescue squads. But in their attempts to retrieve the boy from the 8-foot hole, three brave, selfless, young men lost their lives.

Mr. Speaker, I rise today to pay tribute to these self-sacrificing men, 24-year-old Bruce Ditlow of Lancaster, 22-year-old Kevin Weatherlow of Willow Street, and 18-year-old Jeffrey Jones of Lancaster.

Bruce Ditlow and Kevin Weatherlow were best friends as well as partners on the St. Joseph Hospital rescue squad. They attended Penn Manor High School together. They trained to become paramedics together. Bruce served as best man at Kevin's wedding.

When Bruce descended into the hole, to bring Jamie Walker to safety, neither he nor anyone else at the scene knew that the pit was completely absent of oxygen. Bruce was immediately overcome by what was thought to be highly combustible methane gas, but was later determined to be a deadly concentration of carbon dioxide. Kevin, recognizing that his friend was in trouble, equipped himself with breathing apparatus and life lines and entered the small opening. Finding Bruce unconscious, Kevin removed his oxygen mask to revive his friend; and he too was felled by the gases, but not before he had tied a lifeline around Jamie, who was then pulled to safety.

A third volunteer, fireman Jeff Jones crawled into the tank opening in an effort to rescue the two paramedics. The three were pulled out after firemen, police, and volunteers smashed through a foot-thick-wall of the tank with sledgehammers. Each man was pronounced dead from cardiac arrest, due to a lack of oxygen.

This kind of heart-rending tragedy could have occurred anywhere in this country, at any time. But only when this kind of routine call does turn into such a devastating calamity are we reminded of the courage and dedication of these men and women who face danger and life threatening situations daily in the performance of their jobs.

We need not look further than our own communities to find heroes. They are the men and women who commit themselves to learning lifesaving and firefighting techniques, who volunteer to train others and who fearlessly risk their lives attempting to save the lives of others.

Mr. Speaker, I am today introducing a resolution expressing the sense of the Congress that volunteer firefighters, paramedics, and rescue team members be commended for their service. I hope that each of us will reflect upon the dangerous duties performed by these men and women in communities throughout this great nation and will approve this resolution.●

FLOOR STATEMENT ON SBA PHYSICAL DISASTER LOANS

HON. E. THOMAS COLEMAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1981

● Mr. COLEMAN. Mr. Speaker, last year much of the Midwest suffered recordbreaking temperatures and drought. In midwestern cities, people died of the heat. In the rural areas, folks were more fortunate, but agriculture was devastated as crops literally burned up in the fields. Corn and soybean yields were cut to fractions of normal harvest.

Appropriately, the Federal Government provided relief to those in our cities suffering from the heat wave. The Government was committed to this effort and carried out its obligation to city dwellers. But the Federal Government did not meet all of last summer's crises so well. In fact, the Government shirked its duties in one vital area. I speak of the Small Business Administration's physical disaster loans. Let me explain what occurred:

Until mid-March of this year, SBA was making loans to farmers who lost crops and livestock to the drought and intense heat. But, it is apparent now that while SBA was telling rural bankers it had money for this program, it also was deciding to stop making any more loans. The devastation created a large demand, but SBA was not prepared for it. Farmers were making decisions based on information received in good faith from their friend, the local banker, who obviously had not conjured up this loan program. Bankers in my district had not imagined such a loan program. SBA was telling them about the program.

The fact is SBA decided without warning not to meet the financial needs of farmers who were hurt by the disastrous weather. First, SBA said that demand was too great, so the loans should not be fully funded; then, SBA said these farmers did not really need the assistance and could get their credit needs met elsewhere.

But, in the meantime, some farmers in no greater need than those denied loans were loaned money under this program. This is an incredible state of affairs in which some receive a government benefit and others do not based on a set of rules and regulations that contradict definition. The application procedure and deadline were clearly

set forth and then suddenly they were different.

I certainly support the President's economic recovery program, and I have advocated and worked for it. But I must condemn SBA's action. We must meet our commitments. We must carry out our obligations. If we do not, we undermine faith in our Government, and through arbitrary decisions like these, in the middle of the game we sort out winners and losers. Let us finish the game; then change the rules.

American agriculture, the prime mover in our economy, has suffered because of this. I am outraged, as many of the farmers and bankers in my district are outraged, at this situation. Many, indeed most, of these producers will continue providing food for us and the world, but an irreversible breach of faith has been committed. Farmers in my district now feel the Government's rules and regulations can be changed at any moment to satisfy the whims of policymakers. This kind of action is not good government any longer. It supersedes the Congress and through such opinions written by the Attorney General of this Nation regarding this situation intentionally seeks to supervene the Constitution.

Thank you Mr. Speaker.●

THE 75TH ANNIVERSARY OF THE FEDERAL MEAT INSPECTION ACT

HON. GLENN ENGLISH

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1981

● Mr. ENGLISH. Mr. Speaker, June 10, marked the 75th anniversary of the Federal Meat Inspection Act. This law, enacted in 1906, instituted a system of Federal inspection that assures consumers the meat products produced in this country come from healthy animals prepared under sanitary conditions. This legislation marked the beginning of an era in which the U.S. Government and the meat industry would work cooperatively to provide safe, wholesome, and properly labeled meat products.

I would like to enter in the RECORD a speech presented at the U.S. Department of Agriculture's 75th anniversary celebration for the Federal Meat Inspection Act by Mr. Hugo Slotkin, chairman of the board, John Morrell & Co., Chicago, Ill.

REMARKS BY HUGO SLOTKIN OF JOHN MORRELL & CO.

Mr. Secretary, Congressman Foley, distinguished speakers, ladies and gentlemen.

It is an honor for me to represent the American meat industry on this historic occasion. Since 1906, the Department of Agriculture and the American meat industry have been engaged in one of the most effective partnerships ever put together between Government and the private sector—the American system of meat inspection.

While the regulatory system has hundreds of requirements, rules and regulations, it depends fundamentally on each party having a mutual respect for the obligations of the other. While we have had some disagreements over the years, the industry and the Government have made the system work.

Today we celebrate 75 years of a joint venture between the meat industry and the Federal Inspection Service in working together to make the American meat supply the most wholesome in the world. They say the proof of the pudding is in the eating. Well, Americans last year consumed $65 billion worth of red meat products—all that was produced. How well the industry has performed is made clear when we recognize that 85 percent of the audited plants were graded good to excellent and that less than ½ of 1 percent of 37 billion pounds of federally inspected meat produced was subject to any regulatory action. We can readily conclude that industry and Government have made a sometimes cumbersome and sometimes onerous system work for the public good.

When the meat industry and the meat inspection services began this long association back in 1906, the American consumer went to the corner grocery and chose from a very limited selection of fresh meat cuts and a few sausages. Today, through 75 years of research and innovation, the meat industry provides the modern American supermarket with over 1,000 different types of processed meat products, each neatly packaged and attractively displayed in a refrigerated showcase.

The consumer of 1906 would be amazed at our 1981 variety, and he or she might be even more amazed to know that every one of those products was prepared under Government inspection and that diseases prevelent in 1906 are virtually unknown today.

We have met the challenges together, but today, when the consumer demands even greater variety and quality, and with control of the Federal budget presenting us with even greater challenges, our ingenuity and our management ability will be put to a new test.

We in the industry are anxious to work with the Department in exploring new methods and new ways to accomplish our work more efficiently, more effectively, while, at the same time, assuring the consumer of high standards of wholesomeness, we recognize that we are entering a period of change in the way our industry will be regulated. We stand ready to act as a constructive partner with the Department in bringing about these changes. The environment today—one of teamwork rather than as adversaries—will help insure that both the needs of Government and industry can be met while meeting our responsibility to the public interest.

For 75 years our joint efforts have assured the American public of the safest food supply on the face of the earth. Let us today renew our determination to continue to pursue our mutual goal of a wholesome meat supply in a spirit of partnership and cooperation.●

CONGRESS SHOULD IMPROVE ECONOMIC CLIMATE FOR HEAVY OIL PRODUCTION

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1981

● Mr. THOMAS. Mr. Speaker, I recently introduced legislation that will aid our Nation's efforts to reduce our reliance upon costly and politically unreliable foreign oil. My legislation, H.R. 3912 and H.R. 3913, would expand the definition of heavy oil under the windfall profit tax, and it would exempt heavy oil from the windfall profit tax.

Perhaps the greatest promise in the immediate future for cutting down on imported oil lies in producing more of our own oil. Much of that new U.S. oil production will be so-called heavy oil. Heavy oil is present in untold billions of barrels in estimated reserves in California, but it is extremely difficult and expensive to produce. Heavy oil can mean anything from molasses-like crude to solid tar, and getting it out of the ground and into pipelines requires expensive heating techniques, including costly pollution controls on steam generators used to produce the heat.

Heavy oil costs a great deal to produce, yet it commands a much lower price than lighter crude. When the costs are coupled with the added burden of the windfall profit tax, the incentive to produce this oil is further dampened.

Current domestic heavy oil production recovered by thermal techniques is about 300,000 barrels per day. It has been estimated by the Congressional Budget Office and the National Petroleum Council that heavy oil production should at least double by 1990 if it were not burdened by the windfall profit tax. Loss of tax revenues from the exemption of heavy oil would total only $3.3 billion over the decade from 1981–1990, yet the value of lifting the windfall profit tax from producers of heavy oil would be far greater for our national energy independence.

Mr. Speaker, if we want to achieve self-reliance in energy production, it clearly makes little sense to tax away the incentive for that production. Our Nation's energy producers have shown ingenuity and perseverance in developing new ways to recover oil in difficult-to-exploit reservoirs. Congress should help improve the economic climate for heavy oil production, because heavy oil will play an increasingly important role in solving our oil supply problems.

I urge my colleagues to join me in cosponsoring H.R. 3912 and H.R. 3913, and I also urge early action by the Congress in this important energy concern.●

WALTER EICHINGER: A MAN DEDICATED TO EQUALITY

HON. ROBERT W. DAVIS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1981

● Mr. DAVIS. Mr. Speaker, I would like to submit the following statement by one of my constituents, Mr. Walter Eichinger of Ontonagon, Mich., concerning his view on the administration of the medicare program.

Anyone having a business today has a responsibility to themselves and also the employee. In the event the employee does not perform efficiently and effectively, it becomes the responsibility of the employer to replace the negligent individual.

We Senior Citizens, and those of you who will be someday, plus all of you involved in the big Medical spectrum, are, indeed, a very potent group. All we need do is collectively recognize it by team play, dedication and sticking together. We will be able to send a message to our employees, the Politicians and the bureaucrats he employs, with teeth in it.

We, the aging group, are still capable in solving our own problems and do not need a host of outsiders telling us what they think is right for us. We know what is right . . . and also what is wrong and we believe we know of those intending to do wrong.

Medicare should not be entered into the Political Arena because this has been where it has laid dormant for years. Nothing . . . absolutely nothing has been done to help solve the problems of the Medicare "Monster" until the introduction of the Michigan White House Conference on Aging Resolution at Dearborn, Michigan, April 29 and 30, 1981.

If the Congressman would be generous enough to admit in his press releases his willingness to get behind the White House Conference on Aging "wagon of equality", it would relieve a great deal of indecision.

We cannot settle for less than what the resolution states and here is why:

People who have not reached the age of retirement or who are not in the field of geriatrics cannot provide themselves enough time away from their way of life to help research the results of the study being conducted, nor do they realize the impact the problems that Medicare has caused the participating recipient as well as the entire medical field. Most people are just too busy earning a living to make these necessary studies. Here is one important observation: irrespective of who it may be, nobody has presented anything effective toward solving the problems of Medicare, the recipient, the doctors, hospitals and others in the field, prior to the action enforced by the Michigan White House Conference on Aging.

Any attempt now to change the package the White House Conference is submitting will be ineffective, complicated, bureaucratically controlled and very costly. The Medicare program was designed to take care of the sick, the elderly, and those unable to provide for themselves; certainly, not to create jobs for the ones involved in paper shuffling, the talented, and those having sufficient ability or resources to provide for themselves.

The White House Conference on Aging should stress this: Anyone challenging the intent of the Resolution is most likely being paid in salary or supported in some way by tax dollars and by doing so delays making Medicare work for what it was originally designed to do.

Here is the Resolution: We respectfully request action either administratively or legislatively to determine the proper, equal and reasonable charges used by Medicare in the State of Michigan. We believe that the "approved amount" should be equal statewide as is the premium and that the geographical locality should not determine the quality of medical expertise rendered nor should it regulate the changeable values of professional diagnosis and treatment.

Remember that five of the National Delegates, those going to Washington in November and December signed the petition for presentation of the Resolution and that more that 20 required signers willfully signed . . . most importantly, the 480-member general assembly passed it without one opposing vote. That is quite a record. This is no time to make changes.

Medicare must be equalized straight across the board, totally, without reservation; here is why:

(1) If Medicare is equal, all printed forms could be uniform; all claims be standardized; no need to have the human element of greed enter into the dilemma nor have anyone make an adjusted decision based on geographical qualifications.

(2) With time, bureaucratic graft, bureaucratic decision-making would be cut, hopefully eliminated; and now comes a new light in making Medicare work . . . the American tradition of an award for making it work.

(3) Give Medicare a chance to cut billions of dollars of waste and mishandling and add to the beneficiary a renewed confidence as well as the provisions to provide the services intended. This will automatically permit a higher level of professionalism to each medical facility, to each person holding the highest academic degree awarded to any practice, and it will give the confused medical field the opportunity to seek its own level. This is the history of our great nation . . . it isn't new. Let's go back and do it right.

(4) The same Medicare premium deserves the same privileges, status or rights.

(5) Privileged areas, and the Resolutions states, "changeable values" tends to produce a bleeding of medical expertise, one locale to another affecting the medical facilities and the desire for some doctors to move to areas where "approved amounts" are more liberal; also a sequel effect, a chain reaction, a linkage effect involving suppliers, transportation, energy, motel-hotels, restaurants, garages, gift shops . . . others.

(6) The "approved amount" is the standard for whatever the charge may be. The supplemental insurance, Medigap Insurance, carried as a separate policy, in most cases, yields the sum based on the "approved amount"; the geographical difference, at times, amounts to a considerable sum.

(7) We would be derelict of our obligation and guilty of abandonment to those who trusted us; the White House Conference on Aging cannot change its course; if given the facts, the people will understand that the Washington White House Conference on Aging is the most effective group to assure fulfillment of the needs of the aging and restore the dignity and security of Medicare.●

A TRIBUTE TO LILLIAN KATZ

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1981

● Mr. OTTINGER. Mr. Speaker, I would ask my colleagues to join me in paying tribute to one of my constituents, Lillian Katz, founder and president of the Lillian Vernon Corp. of Mount Vernon, N.Y. Lillian Vernon is celebrating its 30th anniversary this year.

Lillian Katz was born in Leipzig, Germany. She lived in Holland for 4 years and emigrated to the United States in 1937 to escape from the impending Nazi invasion. She began her business in 1951 with $2,000. Today, her company is a major employer in my district.

Lillian Katz has long been active in her community. Her company has donated a room to Mount Vernon Hospital and sponsored programs for the benefit of various local and national charities.

I am pleased to add my voice to those commending Lillian Katz on the 30th anniversary of her company's operation in Westchester.●

CANADIAN ATTEMPT TO TAKE OVER CONOCO OIL CO.

HON. MANUEL LUJAN, JR.

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1981

● Mr. LUJAN. Mr. Speaker, I have in recent months expressed my concern about a deterioration in the reciprocity between Canada and the United States in the energy investment field. Yesterday I expressed my concern about the most recent Canadian attempt to take over Conoco Oil Co. Last week I placed the State Department's response to my concerns in the RECORD. Today I am placing in the RECORD the response from the Department of the Interior:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., June 20, 1981.

Hon. MANUEL LUJAN, Jr.,
House of Representatives,
Washington, D.C.

DEAR MR. LUJAN: Please excuse the lateness of this reply to your letter of March 30, 1981, in which you state your concerns of foreign takeovers of U.S. mineral resource companies in the wider and longer view of impacts on adequate and secure mineral supplies for the U.S. Specifically, you suggested that the Department of the Interior undertake a review under the reciprocity provision of the Mineral Leasing Act of 1920 to determine what impacts foreign acquisitions have on domestic mineral capacity.

You are aware that the $2.03 billion tender offer for St. Joe Minerals Corporation by the Canadian firm, Seagram Compa-

ny, was never consummated. The American-owned Fluor Corporation has been reported to have offered St. Joe a $2.9 billion package to acquire 45 percent of St. Joe's common stock at $60 per share and the remaining shares through a stock exchange.

The Secretary of the Interior has the responsibility under the "similar or like privileges" provision of the 1920 Act to review foreign citizen ownership of U.S. firms applying for leases under that Act. Understandably, management of the leasing program in compliance with that provision has sometimes created problems. A publicly traded U.S. corporation with a large amount of outstanding shares may be unaware of certain stock ownership that can change daily in the market especially when small blocks of stock are involved. Because of the almost impossible task of ascertaining the nationality of foreign citizens holding minor ownership in U.S. companies, the Department of the Interior as a matter of policy does not inquire into the nationality of those holding less than 10 percent of such stock. In no event, however, is foreign ownership in U.S. companies allowed to exceed the limiting percentage for foreign ownership prescribed in the laws of reciprocal countries.

As you also are aware, there has been increasing concern in the Congress over the last half of the 1970s about the obviously increasing rate of foreign investments in the U.S. and their potential implications. This concern has resulted in a series of laws that require more complete disclosures of foreign investments and improved Federal monitoring. The policy of the U.S. has been generally one of noninterference in the flow of capital across international borders except where the national security or sensitive sectors of the economy may be compromised. Likewise, our international commodity policy is based on the principle that government intervention in markets should be minimal. Nevertheless, the GAO in its latest report, "Foreign Direct Investment in the United States—the Federal Role," stressed the need for improving the analyses of impacts of such investments.

Most would agree that the international setting that affects the flow of minerals is becoming more intense and complex. For instance, the governments of Australia and Canada, countries that provide major shares of U.S. mineral imports, have moved toward more intervention in their resource producing sectors, particularly with respect to foreign interests. While there has not been a major shift away from the open-door investment policies of these two countries, any shift of consequence could have a major impact on U.S. investments there. It is therefore important, we believe, that the U.S. not take actions that would increase the uneasiness on the part of foreign governments toward their inward investments.

This is not meant to infer that a study should not be done. The very evident concern of Congress would indicate the opposite. However, a study by the Department of the Interior of the impacts of foreign acquisitions on U.S. mineral productive capacity—more particularly as it might affect the economy and national security—would need to be far more encompassing than a study of just those companies that have foreign ownership involved in lease rights under the 1920 Act. As you know, the minerals that are of concern to the national security are primarily certain hard rock minerals, which in the case of public lands come under the mining laws rather than the mineral leasing laws. Moreover, the interrelationship of ownership to mineral production and supply extends beyond our borders. The fact that the U.S. has become increasingly attractive to foreign investors needs also to be reconciled from the perspective that the U.S. remains the largest investor in foreign minerals and that this has been possible under international rules that support free and open trade and investment.

We know and appreciate your interest in this aspect of mineral policy. We intend to keep you informed as we look further into this problem.

Sincerely,

DONALD PAUL HODEL,
Under Secretary.

Enclosure.

MINERAL LEASING ACT OF 1920—RECIPROCAL COUNTRIES

The following countries are considered as being reciprocal within the meaning of the Mineral Leasing Act of February 25, 1920 (41 Stat. 437; 30 U.S.C. 181 et seq.) as amended.

Anguilla, Argentina, Australia, Austria, Bahamas, Belgium, Bermuda, Brazil, Canada, Cayman Islands, Denmark, Federal Republic of Germany, Formosa (Taiwan), France, Great Britain, Greece, Hong Kong, Ireland, Israel, Italy, Luxembourg.

Jamaica, Japan, Lebanon, Liberia, Liechtenstein, Malaysia, Mexico, Netherlands, Netherlands Antilles, New Zealand, Norway, Panama, Singapore, Sweden (limited 20 percent), Switzerland, Trinidad and Tobago, Venezuela, Spain, South Africa, Philippines (40 percent), and British Virgin Islands.●

STATEMENT BY HON. PETER W. RODINO, JR., ON PRESIDENTIAL PROTECTION COMMISSION

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1981

● Mr. RODINO. Mr. Speaker, ever since President John Quincy Adams chose to ignore the threat on his life by a court-martialed Army sergeant, American Presidents have shown little interest in taking precautions to insure their physical safety. But the history of our Nation—especially our recent history—demonstrates a compelling need to reassess the steps we take to protect our Presidents.

In the 205 years of our Nation's existence, there have been 13 attempts to assassinate our Chief Executives. Six of these assaults have come in the last two decades. In fact, four of our last eight Presidents have been targets of attempted assassinations. So, when President Reagan was wounded by a would-be assassin on March 30, it seemed more like the continuation of a terrible trend than an unthinkable event.

Too often we have heard the comment, "If someone really wants to get to the President, there is nothing anyone can do to prevent it." This notion accepts the unacceptable. I think we can do better.

That is why I am introducing a bill to authorize a Presidential Protection Commission to make recommendations on ways that we, as a nation, can better protect our Chief Executive.

It is true that the general level of violence in America has been increasing over the last 20 years. But there is more behind the assaults on our Presidents than this general phenomenon. There are special conditions, such as greater length of Presidential campaigns and more extensive travel, that make a President or Presidential candidate in the 1980's more vulnerable than his predecessors.

Despite these factors, and a growing public concern for the safety of the President, there has not been a formal study of Presidential protection since 1963 when President Johnson initiated Project Star in the aftermath of President Kennedy's assassination.

The Presidential Protection Commission proposed by this legislation has one basic objective—to recommend ways to better protect the President from physical harm. To do this, the Commission will take a close look at the adequacy of Secret Service procedures; the statutory authority given to our protection agencies; the character of political campaigning; and other types of public activity by the President.

The Commission will have former Presidents Jimmy Carter and Gerald Ford as its cochairmen. Both these men faced long campaigns and hundreds of public appearances as our Nation's Chief Executive. President Ford was the target of two would-be assassins in 1975. I expect both Presidents Carter and Ford to offer valuable insights and opinions on reducing the risks of assaults during Presidential appearances, and on general policies that will better protect our present and future Presidents.●

WELCOME TO OUR NEWLY NATURALIZED AMERICANS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1981

● Mr. GILMAN. Mr. Speaker, it is with sincere pleasure that I congratulate the 57 Orange County residents of New York's 26th Congressional District who have recently chosen to become citizens of the United States, with all of the privileges, freedoms, and responsibilities that American citizenship entails.

Our Hudson Valley region in New York State is proud of its newest citizens and I invite my colleagues to join me in welcoming the following newly naturalized Americans and extending to them our best wishes for a happy

and prosperous life in their new homeland:

NEW CITIZENS

Lambros Adamis, Alberta Barren, Anne Bradford Bell, Bernard Bercu, Rosario Bologna, Hector Britos, Elisa Britos, Angella Burton, Blanca R. Caballero, Armando Caballero, Enore Campana, Gloria Campana, Maria C. R. Catizone, Joanna Choo, Kathleen Clark, Luigi Costagliola, Florencia Enriquez, Rebecca Farrell, Rachael Garland, Sotirios Giagiakos, Patrick Gilligan, Isaak Gluck, Rodrigo Miguel Hernandez, Huon Huynh, Abraham Kaufman, Eileen Killeen, Corazon Laput, Juliana Last, and Sheila McIntyre.

Regina Mendlovits, Jennifer Ann Molesworth, Jesus Navarro, Phuong-Lan Nguyen, Khang Nguyen, Maria Nunez, Irmgard G. Papagianakis, Sapna Parikh, Melinda Rutkowsky, Marco Sachez, Sergiu Schapira, Erna Schepers, Maria Scumaci, Shu May Sein, Zbigniew Serkowski, Chung K. Shum, Pik Ying Shum, Catherine Simpson, Ines Acurantes Sison, Sarah Spilman, Aizik Spilman, Juda Steinmetz, Palmerino Svizzero, Blanca Valdebenito, Marina Vargas, Teresa Vasquez, Estela Veloso, Norma May Wilson.●

THE STATE AND LOCAL GOVERNMENT REGULATORY COST ESTIMATES ACT

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1981

● Mr. MINETA. Mr. Speaker, today I join my colleagues Mr. LUNDINE and Mr. ZEFERETTI to introduce the State and Local Government Regulatory Cost Estimates Act. This legislation would require Federal agencies to issue a notice of proposed rulemaking listing estimates of the costs that new rules and regulations will pass on to State and local governments.

The conditions necessitating this legislation were intensified by recent efforts to cut back and eliminate many Federal programs, consequently placing the burden on State and local governments to carry out these programs. The Federal Government has the responsibility to recognize the consequences that a minor change in regulations can have on State and local revenues and spending. This legislation would direct agencies of the U.S. Government to give State and local governments notice of any plans to enact rules and regulations which would impact State and local governments who devote many man-hours to meet federally imposed requirements.

For instance, in my own district, section 504 of the Rehabilitation Act will cost San Jose $100,000 in unanticipated costs in fiscal year 1981 to meet the regulations requiring access for the handicapped to public buildings. I strongly support section 504 and am not objecting to this requirement, but the point I wish to make is that the city had not planned or budgeted for this contingency. Under this legislation, State and local governments will have some indication in advance of proposed regulations and can plan for them.

This legislation closely corresponds to the State and Local Government Cost Estimate Act—H.R. 1465—which Mr. LUNDINE, Mr. ZEFERETTI, and I introduced a few months ago. The State and Local Government Cost Estimates Act would require the Congressional Budget Office—CBO—to estimate the costs incurred by State and local governments in carrying out every significant bill or resolution reported in the House or Senate. Under current law, CBO prepares estimates of the costs to the Federal Government only.

As communities try to cope with inflation, growing demands for services, and dwindling revenue sources, we at the Federal level must be much more cognizant of the intergovernmental ramifications of our legislation and of Federal agencies' rules and regulations. Enactment of the State and Local Government Cost Estimates Act and the State and Local Government Regulatory Cost Estimates Act would better equip State and local governments for their fiscal decisionmaking. I strongly urge all of my colleagues to support these bills.●

GREGORY FACILITY MUCH NEEDED

HON. CLINT ROBERTS

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1981

● Mr. ROBERTS of South Dakota. Mr. Speaker, today I am introducing legislation to authorize construction of a pumped storage hydropower facility to be located adjacent to Lake Francis Case in Gregory County, S. Dak.

The Gregory facility would have a peak capacity of 1,180 megawatts. This peakload capacity cannot be efficiently met by conventional power sources. Coal-fired plants and nuclear facilities operate on constant rates and fail to meet extreme peakload needs. The future needs of the Midwest and West in energy consumption will need to be met.

Public support in South Dakota for this facility is high, with the anticipation that concurrent facilities can be based off the pumped storage such as dependable water supplies for rural, municipal, and industrial use.

A pumped storage plant acts much the same way a giant storage battery would—that is, energy generated by other sources during periods of low demand can be stored for later use. Pumped storage hydropower is dependent on other powerplants for its energy source, but is approximately 70-percent efficient as a peak energy source.

The Western Area Power Administration estimates that peak demands will increase from 19,300 megawatts in 1979 to approximately 50,000 megawatts by the year 2000. Significant growth in energy and peak demands will occur in the next 20 years and now is the time to prepare for these needs.

At this time, pumped storage is the only known method of storing large amounts of energy. It is attractive because it can fit easily into the operation of conventional hydro and thermal power resources. By utilizing available offpeak thermal and nuclear energy to pump water into an upper reservoir, cheaper offpeak baseload energy can be converted into more valuable peaking power.

Mr. Speaker, I am hopeful that the Congress will believe as I do that now is the time to utilize our energy potential for our energy independence.●

THE REMARKABLE TRANSFORMATION IN JAMAICA

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1981

● Mr. LAGOMARSINO. Mr. Speaker, some recent newspaper reports indicate there may be a slowing down in the administration's commitment to develop a program to help the Caribbean basin. I hope those reports are incorrect. I believe it is vital to present an alternative to the leftist forces in the region and to encourage the development and expansion of the free market forces in that area.

I have urged the administration to support those democratic governments in the Caribbean basin by encouraging those programs that will promote private investment and development. The example of Jamaica is particularly impressive for the turnaround it has achieved during the past year.

The following newspaper report by Georgie Anne Geyer vividly describes the dramatic transformation in Jamaica that has marked the first months of the government of Prime Minister Edward Seaga. I urge my colleagues and the administration to pursue a coordinated program that will advance the cause of development, closer relations, and U.S. interests in the Caribbean region.

REMARKABLE TRANSFORMATION IN JAMAICA

(By Georgie Anne Geyer)

Fourteen months ago, Edward Seaga sat in his law office in Kingston and coolly and deliberately related the way the pro-Cuban government of his country was destroying Jamaica and even possibly attempting to assassinate him.

Today the efficient Mr. Seaga, now prime minister, smiles a lot. In barely nine months of his leadership, he not only has turned Ja-

maica around, away from Cuban-style communism, he has also come forward as the force behind the new Marshall-style plan designed to turn around the entire Caribbean.

Interviewed recently in Washington, the prime minister pleaded that this moment be seized. "Last year the Caribbean basin came through six elections, and all reinforced the moderate side of the electoral spectrum," he said. "The mood exists at present and is an opportunity that ought not to be lost."

OPPORTUNITY KNOCKS

"Now the shift has been made by the people, politically; but the region does not have the wherewithal to lift itself up economically. If we lose this opportunity, we will cause a shift back to the leftist side—the Reagan administration recognizes that and has shown responsibility in taking the lead."

Only a year ago, the then lawyer and opposition leader was a dour and dogged man, his beautiful island torn asunder. The leftist but charismatic government of Prime Minister Michael Manley had, in eight years in power, brought the economy to total bankruptcy.

Violence reigned everywhere. The Cubans were training 1,000 young men to the ideological spearhead of the new order that would spread from there around the Caribbean. Even if Seaga won the election—as he did solidly last autumn—it looked as though it would take years to bring things even remotely back to normal.

But it has not taken years, a lesson that might be useful elsewhere. He points out: violent crimes are down 39 percent over last November; after his first six months in office an annual inflation rate of 25 percent is now down to 1.2 percent; the blackmarket in foodstuffs is virtually destroyed and the independent food market is thriving; foreign investment, which many thought totally dead, is responding remarkably well.

"We have had a fantastic response from foreign investment," he said, looking a little surprised himself. "We set up a special unit to handle it and that is one of the reasons for the flood of investment. They find it easy to operate in Jamaica."

After years of squabbling between the Manley government and the International Monetary Fund over money for the nearly bankrupt island, the Seaga people have settled nicely with the IMF—and done it with a new, supply-side strategy.

The prime minister sees the entire mood as changed. "First there is the wave of confidence in the government," he said. "As a result of that, the country is more stable and people are applying themselves to projects. Before, there was no purpose in doing so because there was no hope."

Even the 1,000 young men who were being trained in Cuba to be the ideological and paramilitary shock troops of the "second Cuba" in the hemisphere have just "melded themselves into society," he said.

"They were supposed to be the forward thrust, the strong hand. They would be rewarded with economic contracts. Since none of that has been forthcoming, they have melted away. But that doesn't mean they don't constitute some kind of potential."

What Seaga's Jamaica has shown so dramatically is that even a rich but bankrupt island, "gone" as far as Jamaica was, can still return, with the right management and leadership. "It is very important that Jamaica be successful, because Jamaica's example is the most dramatic, classic case of the turnaround, an example of what can be done with the market system and popular elections and a strong protection of human rights."

ALTERED LEADERSHIP STYLE

That is why he is now pushing to extend, in effect, the Jamaican experience through a Marshall-type plan for the area. It would require between $1 billion and $3 billion a year from many sources in order to create the public infrastructure on which to build good market economies and democracies.

But what is perhaps most interesting is the way in which leadership styles have also changed. Michael Manley was the epitome of the charismatic, personalistic, macho leader, a type that has taken the attention of so much of the world for so long. He spoke to the guts and to the emotions.

Seaga, on the other hand, represents the cool, managerial leader, the dour doer who speaks to the rational mind. We are leaving the turbulent, violent world of Manley's machismo. The world we are entering is going to need many more of Seaga's type of leader if countries are really to develop and not simply wither away.●

OPERATION YOUTH

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1981

● Mr. GRADISON. Mr. Speaker, I would like to take this opportunity to recognize an outstanding program—Operation Youth—which recently took place in my district. Operation Youth is a week-long conference during which interested young men and women learn about our system of government.

This year's conference, the 31st edition, was held June 6-13 at Xavier University in Cincinnati, and 95 selected Ohio high school students participated in the program. The agenda included speeches by leaders in government, education, and the media on topics such as "America's World Affairs," "Science, Energy and Society," and "Free Enterprise Economics." Forums were then set up so the students could discuss these topics and other current issues. In addition, the students formed political parties and elected officials to a mock municipal government. I am extremely proud to recognize those who were elected to office as well as those who participated in all other aspects of this valuable program.

They are as follows: Mayor, Stephen J. Cook, Moeller High School; vice mayor, Beth Stallbaumer, Goshen High School; city manager, Greg Schildmeyer, Roger Bacon High School; clerk of council, Jim Barone, Moeller High School; and city council members: Marty Berning, Elder High School; Tom Breitenbach, Moeller High School; Beth A. Donabedian, McNicholas High School; Joe Sabato, Elder High School; Bill Telles, Elder High School; Barry Tiemeier, Elder High School; and Stephanie Young, London High School.

Also participating in the conference were: Jeff Arling, Minster High School; Mark Arnold, Greenhills High School; Daniel R. Baker, Goshen High School; Leon D. Baranovsky, Wyoming High School; Christoper Barton, Cardinal Stritch High School; Gregory G. Bernardo, St. John High School; Michelle Boehl, Lockland High School; Paul D. Brown, Greenville High School; Victoria R. Brown, Shelby Senior High School; Melissa Buschelmann, Reading High School; Mike Callahan, Deer Park High School; Doris Cannon, Hughes High School; Rebecca Cherry, Notre Dame Academy; Lisa Clark, Lima C. Catholic High School; Christopher L. Cloran, Bishop Fenwick High School; Colleen Cullers, Greenville High School; Richard D. Davis, Jr., Northmont High School; Charles Delahunt, Wyoming High School; Steve Dinkins, Newcomerstown High School; Noreen Donovan, Our Lady of Angels High School; Walter Engle, Miami Trace High School; Gail Enright, Mother Seton High School.

Debra Fogle, Shelby Senior High School; Sherry Forste, Deer Park High School; Kathy Funderburg, Greenville High School; Jeannie Gravenkemper, Southeastern High School; Brenda Green, Loveland Hurst High School; Mary T. Green, St. Ursula Academy; Thomas E. Gremling, Lima C. Catholic High School; Karen Grimm, Mother Seton High School; Gabrielle Gundrum, McNicholas High School; Derek Hart, Oak Hills High School; Maureen Hennie, Mother of Mercy High School; Jeffrey Hensley, Loveland Hurst High School; Martha Homan, Marion Local High School; Robert J. Hughes, Elder High School; John Janning, Roger Bacon High School; Kimberly M. Jones, Eaton High School; Stephen E. Kauffman, Findlay High School; Scott Kinnison, Sidney Lehman High School; Jerome E. Klems, Purcell High School; Janet A. Koch, Bishop Fenwick High School; Dough Kremer, Marion Local High School; Andy Kress, Toledo C. Catholic High School; Bill Lehmkuhl, Minster High School; Jennifer Lewis, Bishop Rosecrans High School; Jeff Logsdon, Findlay High School; Lynn Marggrander, Loveland Hurst High School.

Erik Mattes, Madeira High School; Esther Mattick, Taylor High School; LuAnn Mayle, Notre Dame Academy; Forrest G. McClain, Talawanda High School; Melissa McDonald, St. Ursula Academy; Linda McKenzie, McAuley High School; Andrea L. Metz, Mt. Healthy High School; Nancy Minning, Mother Seton High School; Joanie Mooney, New Lexington High School; Annette Morris, Indian Lake High School; Christine Muller, Wyoming

High School; Michael O'Hearn, Todedo C. Catholic High School; Maria T. Ollier, Ursuline Academy; Holly Ann Parnell, Oak Hills High School; Thomas L. Pommering, Loveland Hurst High School; Tricia Powers, McNicholas High School; Betsy Roth, Mother of Mercy High School; Susan E. Schmid, Madeira High School; Gregory J. Sertell, Arlington High School; Terry Siebel, Norwood High School.

Kelly Lyn Smith, Western Hills High School; Stephen S. Smith, Mason High School; Steven Sokoloski, Columbus DeSales High School; Ronald J. Steinbrunner, Coldwater High School; Cindy Sullivan, New Lexington High School; Tim Taylor, Moeller High School; Cheryl L. Thielmeyer, Princeton High School; Richard C. Vandewalle, Taylor High School; Michael D. Watson, St. Bernard High School; Dawn M. Wilbers, Western Hills High School; Wayne C. Wilkey, Oak Hills High School; Marie Wurzelbacher, McAuley High School; Donald P. Zimmerman, Norwood High School; Douglas Zink, Turpin High School; Mary A. Zocolo, Salem Senior High School; Sharon K. Cannedy, Aiken Sr. High School.

I would especially like to honor William E. Smith, director of Operation Youth and Professor of Accounting and Finance at Xavier University. His dedication in insuring the success of this program has been unsurpassed. His efforts, as well as those of his staff: Tom, Gardner, Maureen Murphy, Rev. Lee J. Bennish, Kevin M. Bien, Lisa Bruemmer, Bill Maly, Glen Napolitano, Jean C. Bolen, Dan Eddingfield, Pam Ehrman, Karen Fahlbusch, Karen Schilling, and Rob Semmel, enabled 95 young citizens to gain new insight into the workings of democracy.●

CRIME

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1981

● Ms. OAKAR. Mr. Speaker, crime has become a nationwide problem. It affects the cities, towns and, increasingly, the rural areas of our country. The rising rate of crime robs Americans of their security and freedom. That is why we must give crime prevention the same priority we have given national defense, for indeed, national security has domestic dimensions as well as international ones.

The city of Cleveland—which includes the 20th District of Ohio which I represent—has not been spared the blight of crime. The experience of the citizens there mirrors that of so many other areas in our country. The Plain Dealer of Ohio recently ran a weeklong series analyzing the problem in its many dimensions. The introduction, "A Nation Afraid" shows how much crime does rob Americans of the freedom we cherish. The introduction, printed below, and the entire series show how crime makes many millions of our citizens victims every day of their lives.

The following is an excerpt from the first article of this important series.

[From the Plain Dealer, June 7, 1981]

WE, THE PEOPLE: LOCKED BEHIND BARS OF FEAR

(By Alan A. A. Siefullah and W. C. Miller)

"The decent people are living behind bars, threatened by criminal terrorists who seem to be roaming the streets with immunity from punishment," said Police Chief Joseph D. McNamara of San Jose, Calif.

The shootings of public figures—Pope John Paul II, President Reagan, John Lennon, Vernon Jordan—magnify the pervasive, sickening feeling that anyone and everyone in America is a target.

In Atlanta, the unsolved slayings of 28 black children and young adults provide constant reminders of how vulnerable people are. These are the well-publicized cases. Thousands of other senseless, violent crimes—murder, rape, aggravated assault and robbery—occur each day.

"We all have a fantasy, a fear of this happening to us," said Michael B. Leach, a Cleveland psychologist who counsels crime victims and their families. "When it does happen, people talk about it over and over again."

Soon, Leach said, a dozen people are afraid, a dozen lives affected. "People who never have anything happen to them become terrified they might."

On America's crime clock, someone is slain every 24 minutes. A rape takes place each seven minutes. A robbery comes each 68 seconds, an assault each 51 seconds.

In Cleveland last year a slaying was committed every 32 hours. A rape took place every 12½ hours. A robbery occurred nearly every hour, and an assault every 12½ hours.

Nationally, in two-thirds of these violent crimes, the victims did not know their assailants. This is perhaps the most terrifying fact of all.

"It's spooky talking to some of these guys," said Cleveland homicide detective Robert Shankland. "Killers today are different, unfeeling. I had a half-dozen guys fall asleep on me last year while I was interviewing them."

A Cleveland ice cream vendor, shot and killed in a holdup. An old East Cleveland man, dead after a robber pushed him to the ground. A young woman, raped by a "Good Samaritan-type" who offered to help her change a tire on the freeway.

And then there was the witness to a grocery store stickup who was chased, then fatally shot in the head by a robber eager to eliminate a witness. Many of these stories make headlines.

"We all read and hear about these kinds of crimes," said David Ward, a University of Minnesota sociologist. "And we think, 'Good God! Things are going to hell. It's not safe to be on the streets.' "

Many suburbanites fear increases in property crimes will lead to increases in violent crimes.

Charles Silberman, a New York writer who has spent 10 years studying crime, said "What we're discovering is that no one is immune, and the places to hide are fewer and fewer."

A recent Gallup poll, conducted for the National League of Cities, showed crime has emerged as the No. 1 concern of Americans. Twenty-five years ago, crime was not even among the top 10 problems named.

The FBI says crime has climbed steadily each year since the early 1960s, except for a slight decrease in 1976. According to the FBI, the numbers of violent crimes reported to police jumped 80% during the past decade.

FBI statistics take on an added dimension when considering that two out of three violent crimes are not even reported to police.

Despite this increase in reported crimes, the National Crime Survey, a semiannual report by the Bureau of Justice Statistics, shows no indication of a crime boom.

The National Crime Surveys maintain that crime rates have been unchanged since the mid-1970s, though their findings give little solace.

Each year, one of 17 households experiences a murder, rape, robbery or assault, the survey says. One of every 13 households is burglarized.

"When everyone on your block can expect to be victimized by a violent crime or burglary at least once during the coming decade, then you have a massive problem of crime," said Harry A. Scarr, director of the statistics bureau.

As fast as crime spreads, fear of crime spreads faster. Surveys show that four of 10 Americans are highly fearful they will become victims of violent crimes. Yet less than one-half of 1% will.

Skyrocketing sales of guns, guard dogs, burglar alarms, locks and chemical repellant are only the superficial signs of the fear that seems to paralyze America. Other, behavioral signs are much more subtle.

Fearful Americans are less likely to go shopping or to movies at night. Many downtowns and urban parks are deserted. "You used to see couples strolling their neighborhoods at night," a Houston policeman said. "Not anymore." Indeed, polls show, three of five urban Americans are afraid to walk in their own neighborhoods at night.

The Figgie Report, a nationwide survey of 1,000 people, last year found more than half of American women make sure they have companions when going out at night. Seven of 10 women telephone friends to report they have arrived home safely.

The study, commissioned by Figgie International of Cleveland (formerly A-T-O), said nine of 10 Americans always lock their doors when leaving home, and almost everyone identifies visitors before letting them inside.

This fear is especially intense among the elderly and women, though statistically they are among the least likely victims of violence.

"Figures scare people," said Gary Mendez, a National Urban League official, "because they don't understand them. But whose lives are actually in danger?

"Young black males. That's who is getting killed and that is who has been getting killed over the years. The leading cause of death for young black males is homicide."

Northwestern University researcher Wesley G. Skogan said the fear of being a crime victim is understandable.

"We react to almost every fear in life by comparing ourselves to people near us," Skogan said. "Crime should be no different.

"In the cities we surveyed, 60 percent of the people knew someone in their neighbor-

hood who had been burglarized. People should be afraid. That's a strong reality base."

There is debate at times over the accuracy of crime statistics, but most law enforcement officials say the number of homicides provides the best yardstick.

"You can't argue with the bodies," said Patrick V. Murphy, president of the Police Foundation, of Washington, D.C., "and those numbers have been going off the chart."

Homicides and other violent crimes were at all-time highs last year, but it is the changing pattern of slayings that is most alarming. In the mid-1970s, four of five victims knew their assailants; now nearly half are killed by strangers.

Police say the increase in killings—particularly those taking place during rapes, robberies and other crimes—proves their contention that criminals are becoming more violent.

"It's almost a fetish," lamented Miami Police Sgt. Robert D. Love. "They actually have a fetish about hurting people, about seeing blood."

How did these violent times develop? Some experts blame a decline in values traditionally nurtured by family, neighborhoods and church. Others say violent television shows and movies have conditioned youngsters to bloodshed.

"Violence has become a habit of youth," said Dr. Samuel R. Gerber, in his 45th year here as Cuyahoga County coroner. "They begin to believe this is the natural way to react. We've lost two generations."

There are also the handguns—60 million of them in the United States, uncounted thousands in Greater Cleveland. Narcotics, many believe, is a major breeder of crime. And the post-World War II baby boom is blamed. It brought an influx during the '60s and '70s of 18- to 24-year-olds—the crime-prone age.

The Figgie report found the American public, too, has plenty of ideas about reasons for the crime surge.●

CELEBRATION OF THE 200TH ANNIVERSARY OF THE TOWN OF GOSHEN, MASS.

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1981

● Mr. CONTE. Mr. Speaker, it is with great pride that I call to the attention of my colleagues today the ongoing celebration of the 200th birthday of the town of Goshen, Mass., in my home district. This celebration marks the anniversary of a town whose citizens epitomize the independent spirit that made America the great Nation that it is.

Goshen's long and distinguished history began on May 14, 1781, when it was incorporated after splitting from the neighboring town of Chesterfield in a border dispute. It took its biblical name from the fact that Goshen was the best part of ancient Egypt. This year the town celebrates its incorporation with a summer long series of festivities and events designed to provide opportunities for all to participate.

Last month, on May 14, the citizens of Goshen kicked off their celebration with a dramatization of their first town meeting. The festivities included a reading of the bicentennial proclamation by Selectman Mitchell Cichy, and the raising of a new U.S. flag in front of the Goshen Central School.

These activities will continue throughout the summer months through the dedication of Goshen's Bicentennial Committee. Its members, Harold Mollison, Anthony Thomas, Jr., and Eileen Fuller have planned dances, a flower show, and many other events, including a parade on Sunday, August 2, to properly celebrate this great occasion.

Goshen has much to celebrate. It is blessed with areas of unspoiled woodland and the beautiful Highland Lakes known for their excellent fishing and swimming areas. Goshen is the home of the first DAR forest as well, and offers camping and recreational areas unsurpassed in natural beauty.

The spirit that is being celebrated in Goshen's bicentennial year is the spirit of America. The pioneers who built this great Nation sought places like Goshen in their pursuit of freedom, peace, and prosperity. Today, Goshen offers the same attraction in its land and people—but especially its people. Their spirit of volunteerism and dedication to the principles and ideals that made this country the greatest on Earth continues today and is celebrated this year in Goshen's bicentennial.

I urge my respected colleagues to join me today in honoring this spirit and dedication and congratulating the citizens of Goshen on their first 200 years as an independent township. Let us recognize Goshen as an example of one of America's greatest assets and wish it many more years of success as a place to live and work in peace and prosperity.●

THE KOREAN WAR—HOW SOON THEY FORGET

HON. JAMES K. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1981

● Mr. JAMES K. COYNE. Mr. Speaker, 31 years ago today war erupted on the Korean peninsula. Tens of thousands of brave Americans soon found themselves embroiled in a conflict a long way from home.

One of those brave Americans was Mr. Robert E. Gicker, now of Fairless Hills, Pa. Mr. Gicker spent 14 months in Korea, half of which was spent in active duty against the communist invaders.

Mr. Speaker, much has been written about the plight of the Vietnam veteran recently—and deservedly so. The Korean veteran, however, has been all but forgotten in recent years.

Mr. Gicker wants to bring the Korean conflict back into America's consciousness—and I applaud him for it. He has written a revealing article entitled "The Korean War—How Soon They Forget" that I would like to insert into today's RECORD.

Mr. Speaker, Robert Gicker deserves much credit for his commitment to the Korean veteran. I am proud to call him a constituent.

THE KOREAN WAR—HOW SOON THEY FORGET

(By Robert E. Gicker)

On this date, June 25, 1950, the Korean War began, with a bang. It ended 27 July 1953 with a tenuous, oft broken armistice.

Before the South Koreans knew what hit them the north was rolling south on their way to Taegu and Pusan and a complete sweep of the peninsula.

Had the North Koreans succeeded they would have jeopardized Japan and Southeast Asia. The communists would have been in good position to chase the U.S. out of the Pacific basin, severely damaging our prestige and trade in that vital area of the world.

Quick thinking, by President Truman and superb generalship by General Douglas MacArthur, turned a rout into victory. Because of General MacArthur's brilliant Inchon Landing tactic, the American Forces were able to push the enemy all the way to the Yalu River, and almost consolidated the Korean Peninsula into one political entity, on Democracy's side.

Poor judgment on the part of the politicians resulted in another reversal for anti-communist forces. A little sabotage and backstabbing from the United Nations helped encourage the Chinese to aid their North Korean brethren, resulting in a retreat back to the 38th parallel.

Again the military prowess of General MacArthur saved the day. The allies were able to regroup and set up an effective military defense at the 38th parallel.

From that time to the end of the war, the allies and chinese were stalemated, in the vicinity of the 38th parallel with no serious attempt made to gain ground.

The war ended in a qualified loss, by the allies, and paved the way for the Vietnam debacle.

Because of the no win Korean War, the allies have been on the defensive against communist and terrorist aggression ever since. A total of 33,629 military personnel were killed in the Korean Police Action, 103,284 were wounded and 3,597 were POW's in the brutal North Korean prison camps (some are still missing). A total of 5,720,000 men of the United States armed forces plus a few thousand from our allies fought the Korean war.

All that sacrifice was in vain. Today the Korean War has all but been forgotten, except, by the people who fought it, or who suffered as a result of it.

Check any bookstore and try to find a book on the Korean War. World Wars I and II are represented, as is the Vietnam War. There are a significant number of history books on the war machines and personalities on other historical events, during the period prior to and after the Korean War but nothing, absolutely nothing, about the Korean War.

After years of search I have been able to purchase exactly three out of print books on the Korean war. Others, very few have been written but do not find their way to library shelves.

Why am I reiterating this old history, of so little concern to America and Americans?

Because I fought there, my comrades were injured and died there and millions of men had serious interruptions in their lives because of the Korean War. Some like myself reenlisted for other countries rather than return home a loser.

We can identify with the Vietnam Vets. We were idealistic and wanted to prove ourselves like our brothers, who comprised the victorious American armed forces during the second world war.

What a waste! Perhaps we should have done our thing by evading the draft, or been selfish enough to consider our own future instead of gambling on Democracy. We did nothing but spin our wheels, in an Asian rice paddy, while other, less patriotic or more cunning, souls, were moving ahead in their career fields.

America you forgot about our sacrifice. You could care less about the idealistic youth who succumbed to the battle cry of "Let's make the world safe from tyranny." After the last shot is fired, American leaders are only willing to deal and trade with the tyrants, they so vociferously denounced. After all, what's a little blood between adversaries, when there is money to be made.

When the Korean War Vets returned they weren't even accorded the freedoms for which we allegedly fought. Some were forced into gangster run unions, under the guise of the Union Shop. Some who resisted were terrorized by union goon squads. Others were denied free choice of residence (the blacks) until they began demonstrating in the 1960's. All the goodies of our society, were reserved for the politicians and their friends, for big business and their kind, for the slackers and hustlers who wait like vultures to grab the bounty of this great land.

To me the anniversary of the Korean War is a time to remember. I will never forget our foolish idealism and the unconcern of the people, whose so called Democratic principles, we were supposed to be defending.

To my comrades of the 14th Infantry Regiment, 25th Division, I want to say thanks. I will always remember the thrill of being part of a noble force, who held their ground until the politicians capitulated. Too bad our efforts were in vain.●

NYSE DECISION RUNS COUNTER TO WISHES OF CONTINENTAL EMPLOYEES

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1981

● Mr. AuCOIN. Mr. Speaker, yesterday, the New York Stock Exchange effectively threw up a major hurdle to the creation of the Nation's largest employee stock ownership plan (ESOP) by the employees of Continental Airlines. The Exchange now stands as the only obstacle to fulfilling the wishes of more that 10,000 Continental employees.

In April, 41 members of the House Task Force on Industrial Innovation and Productivity—Democrats and Republicans, liberals and conservatives—joined me in writing to the Civil Aeronautics Board on behalf of the Continental Airlines employee stock ownership plan. We hailed the plan of Continental's employees as a significant milestone in the renewal of American business through increased productivity and capital formation.

Since that time, the CAB and the Securities and Exchange Commission have rejected repeated attempts by Texas International Airlines to block the plan of Continental's employees. Moreover, the U.S. District Court in Los Angeles, the U.S. Court of Appeals for the Ninth Circuit and the Superior Court for the State of California have all refused the request of Texas International to enjoin the plan.

Now, by demanding a vote of stockholders before listing the new Continental stock for the ESOP, the New York Stock Exchange is standing squarely in the way of this plan. On behalf of the House Task Force on Industrial Innovation and Productivity, I strongly urge NYSE to reconsider its decision and join in this partnership for renewing American business by approving without condition the listing of the shares to this historic employee stock ownership plan.●

INTRODUCTION OF THE FOOD SAFETY AMENDMENTS OF 1981

HON. WILLIAM C. WAMPLER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1981

● Mr. WAMPLER. Mr. Speaker, I am pleased to join with my colleagues from both sides of the aisle and in the other body today in cosponsoring the Food Safety Amendments of 1981.

On an increasing number of occasions during the past 20 years, our food safety laws have shown that they have not withstood the test of time. Yes, we do have the finest and most abundant food supply in the world. But will we continue to meet the needs of our people if our "no risk" food safety policies are adhered to? I do not think so, and I fear the consequences.

My inquiry into the proposed nitrite ban, commencing in 1978 has led me to believe that we must make changes in our food safety laws now. My experience in the nitrite matter has given me ample opportunity to examine the consequences of inflexible regulation and the oftentimes failure to utilize good scientific procedures in regulatory decisionmaking on the whole meat industry, a subject which I would like to address first.

Livestock and poultry production, and meatpacking and processing are the largest segments of America's food industry. Close to 40 billion pounds of meat are produced, packed, and processed every year by farmers, ranchers, and companies large and small. While the product volume is substantial, net earnings are small—with packers earning less than 1 percent of total sales—and regulatory burdens heavy. In addition to the requirements of the Department of Agriculture and the Food and Drug Administration which directly regulate food processing and marketing, meatpackers and processors must comply with the disparate regulatory requirements of other Federal agencies and State and local governments. But it is the food safety regulatory activities of the Department of Agriculture and the Food and Drug Administration which must be modified if we are to create a less burdensome regulatory environment that will allow the public health to be protected and insure public confidence in the food system.

Although the United States indisputably has the world's safest, most wholesome, and most abundant food supply, there is a misguided fear among some well-meaning Americans that much of our food and food ingredients are dangerous to the public health.

This misapprehension stems from a virtually constant barrage of episodes over the past two decades in which various foods and food ingredients have been implicated. These highly publicized episodes and others that certainly will occur unless our food safety laws are modernized will cause an erosion of public confidence in the food industry and in the regulatory agencies—both of which share the common goal of insuring a safe food supply. The food industry is perceived collectively as "profiteers." The regulatory agencies are viewed as either not fulfilling their mission or being overzealous in their efforts to do so. Against this background, a widespread consensus has developed among academia, industry, regulatory agencies, and, in some instances, consumer organizations that the present body of food safety laws are scientifically outmoded, inconsistently implemented, and unnecessarily inflexible. These problems have resulted in unduly restrictive regulatory decisions.

Former Food and Drug Administration Commissioner Donald Kennedy, now provost of Stanford University, has stated that changes in food safety laws are necessary to recognize that "some level of risk is acceptable if there are significant benefits from the use of the substance, as long as the benefits accrue to the people experiencing the risk."

Now is the appropriate time for developing a rational approach to the food safety laws which would benefit the industry, the regulatory agencies, and the consuming public. Impedi-

ments in the current food safety laws harm the farmer-producer by fostering an unstable marketplace for his products.

The present state of the law concerning food safety can be characterized as complex, confusing, irrational, arbitrary, and in dire need of rethinking and rewriting. There exists a host of legally distinct categories of food substances. Placement of a food or food ingredient into one or another of these distinct categories can result in radically different regulatory treatment with dramatically different ultimate effects.

Food safety is an area that is ripe for regulatory revamping. The basic laws and concepts which regulate the safety of food are over 20 years old. The Food, Drug, and Cosmetic Act was enacted in 1938 after that agency was split off from the Department of Agriculture. The food and color additives amendments, each containing the Delaney clause, were adopted in 1958 and 1960 respectively. However, the greatest real change over recent years has been the scientist's ability to detect low-level traces of substances or discern low levels of potential risk. This technological advance has increased our capability to detect particles 1 million times smaller than when the Delaney clause was enacted. These same technological advances have led some to use this new information to create greater inferences and sensationalism regarding the possible risks which may result from the finding of these miniscule amounts of chemicals in foods, food packages, and food additives. Included within this group are aflotoxins, acrylonitrile, saccharin, and nitrites. For example, meatpackers have had to defend the use of the preservation dosium nitrite against allegations drawn from fundamentally faulty research. Packaging materials have been suspect where a single molecule of a suspected contaminant migrated from package to product. This process has needlessly eroded consumer confidence in the food supply.

Safety legislation administered by the Consumer Produce Safety Commission does not adopt the no-risk standard which FDA seems to accept for food safety legislation. Instead, each of the consumer product safety acts under CPSC jurisdiction specifies a lesser standard than absolute elimination of risk and lists balancing criteria which the Commission must consider in promulgating product safety rules.

Another example, as fundamental as food, is the Safe Drinking Water Act which seeks to insure that public water supplies meet minimum national standards for the protection of public health.

While EPA's position is that carcinogen contamination should theoretically be reduced to zero, it has promulgated a regulation setting maximum contaminant level for trihalomethanes, a known carcinogen, in drinking water. The agency established this regulation after balancing the adverse health effects resulting from a ban on TTHM and the technological infeasibility of such a standard against the potential health hazard of setting standards greater than zero.

It is time for a revision of food safety policy—one that will benefit consumers by increasing consumer health and safety, while at the same time, provide clearer guidelines for approving or disapproving the use of ingredients in foods. Such a policy should be consistent with other health and safety Government policies and should take into consideration questions of risk assessment, scientific peer review, and regulatory flexibility which prevents precipitous Government action that fosters instability in our food system.

Such action on the part of Congress will help producers by insuring that precipitous Government action against their product could not occur, help by providing stability to the processor, but most importantly this change is needed to insure the continued confidence of the American consumer in the food system.

A new food safety policy is needed to protect the public against unwarranted scares and fears and to insure that the public is not deprived of a sound and healthful food supply due to outmoded and inflexible regulatory policies.

The legislation which we are introducing today is a major step in the process of reforming our outdated food safety laws. I look forward to our expeditious consideration of this legislation in the Agriculture Committee.●

COST-OF-LIVING ADJUSTMENT FOR FEDERAL RETIREES

HON. STAN PARRIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1981

● Mr. PARRIS. Mr. Speaker, I strongly believe in retaining the twice-a-year cost-of-living adjustment for Federal retirees. A reduction in this allowance places an extreme burden on those who deserve the needed benefits they have earned.

I was outraged at the action taken by the House Post Office and Civil Service Committee, a committee controlled by the Democrats, which pitted one group of deserving citizens against another. The twice-a-year cost-of-living adjustment for Federal retirees was matched against the proposal to offset military retirement income for those military retirees now holding Government jobs. The committee's maneuver was unfair, unjust, and politically motivated. Its sole purpose was to deprive one group or the other of benefits which were not only deserved, but which the Federal Government is required to honor.

Unfortunately, the situation in the House today is one which has been forced on Members by the partisan political actions of the leadership. The votes I have made in the House this afternoon were a result of the parliamentary maneuvering which took place in the House. I voted in support of the President's economic package because of the concern I have for our Nation's economy—and because I believe that all Americans will achieve great benefits if inflation can be brought under control and the recent rapid rises in the cost of living contained.●

LeBOUTILLIER SUPPORTS ACTION DIRECTOR; OPPOSES SPLIT WITH PEACE CORPS

HON. JOHN LeBOUTILLIER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1981

● Mr. LeBOUTILLIER. Mr. Speaker, I rise to speak against the efforts being made to separate Peace Corps from ACTION. An amendment to accomplish this separation was passed, by a close vote, in the Senate and we may soon have an opportunity to consider the issue. The administration opposes the proposed separation and I agree—the separation is unwise and against the best interests of both ACTION and the Peace Corps.

The impetus for this effort at splitting ACTION and Peace Corps is the appointment of Thomas Pauken as Director of ACTION. Twelve years ago Tom Pauken served in Vietnam as a lieutenant in the U.S. Army—his assignment was in military intelligence. In this 12 months in Vietnam he participated in the collection of low level order of battle information; his principal duty was to write analyses, reporting on the various elements of Vietnamese society. Since he left Vietnam, Tom Pauken has had nothing to do with military or civilian intelligence operations. Both in Vietnam and at home he has had no contact whatsoever with the Central Intelligence Agency.

While in Vietnam, Tom Pauken served his country with distinction; he has done so in this country both before and since that conflict. The quality of that service is the reason the President chose Tom Pauken to head the agency which develops Federal policy on mobilizing the creative energies of the vast numbers of Americans who seek ways to help their fellow citizens who may be in need. As

the Federal Government returns the means to effect social change back to the people, as the burden of taxation is reduced and the intrusions of Government into the lives of our people are ended, the task will fall to the people themselves, through their voluntary efforts, to contribute to each others' well-being. It is important that a man of Tom Pauken's caliber be available to focus attention on the reemphasizing personal commitment that is once again to be the foundation of our society.

The opponents of Tom Pauken's nomination urged in the Senate, unsuccessfully, that Tom Pauken's service as a lieutenant in the Vietnam war 12 years ago would lead to the widespread misperception that the Peace Corps would now be used to gather intelligence for the United States. Averring always that this was not the case in fact, and that neither Tom Pauken nor the President intended the Peace Corps to function in such a manner, the opponents nonetheless insisted that around the globe people in countries served by the Peace Corps would have a dramatic and otherwise unexplainable change-of-heart with respect to the sincerity of the volunteers who worked among them. Suddenly, the Peace Corps volunteer would be viewed as a spy and his life might be in jeopardy.

The notion that Tom Pauken as Director of ACTION will make any practical difference in the conduct of Peace Corps volunteers or in the perception of the volunteers by the host countries, is absurd. Tom Pauken is Director of ACTION, the parent agency of Peace Corps. As such, he has no authority at all over Peace Corps policy, which is established by the Peace Corps Director. Program development and implementation, planning and volunteer selection and placement likewise remain in the sole province of the Director of the Peace Corps. ACTION provides the Peace Corps with certain limited support functions, which do not involve policymaking; even with respect to the authority over these support functions, Tom Pauken has delegated all power to his deputy.

Furthermore, the official policy of the Peace Corps would allow Tom Pauken to be employed in any position in Peace Corps. Its Order 300.5 provides that only if an applicant has ever been in the employ of the CIA or has served in an intelligence agency in the last 10 years, is the applicant ineligible for Peace Corps employment. Tom Pauken meets the Peace Corps criteria for employment. If he applied, Tom Pauken could not be turned down by reason of his intelligence background for any Peace Corps position, including any position that directly establishes policy or runs operations. It follows that the Peace Corps must be assumed to have hired, and to currently have in its employ, people at the highest levels of the agency, people with military and civilian intelligence experience, and experience of far greater breadth and responsibility than Tom Pauken's. Such experience could well include work in covert operations, not merely in gathering intelligence, and not at the behest of an ally in wartime. As Fred F. Fielding, Counsel to the President, wrote to Senator CHARLES PERCY, on April 3, 1981:

> Since 1975, by Order 300.5, it has been public knowledge that the Peace Corps stands ready to employ persons who have worked for a non-CIA intelligence agency more than 10 years before their application.

The reality is that Tom Pauken as Director of ACTION in no way jeopardizes the safety of Peace Corps volunteers or the effectiveness of the Peace Corps operations overseas. The perception of the Peace Corps is in no way altered by Tom Pauken's selection as ACTION Director. It is a distortion of the truth to argue otherwise. To fully understand how distorted this argument is, it is important to put the Peace Corps program in perspective. Examining the reality of the Peace Corps as an arm of the U.S. Government places in clear perspective how little Tom Pauken as Director of ACTION means to the perception of the Peace Corps as an intelligence-gathering agency.

Senator ORRIN HATCH put the issue well when, in debate on Tom Pauken's nomination, he stated:

> For instance, it is my understanding that the Peace Corps country directors meet with and report to the respective Ambassador on a regular basis. Our Ambassadors are certainly not restricted from communicating all they know, including their communications with Peace Corps country directors, to the appropriate intelligence agencies. Does this represent a perception of an intelligence connection that threatens the safety of Peace Corps volunteers? If so, what should we do about it?
>
> It is also my understanding that the Peace Corps uses the State Department's cable system when communicating from the host country to the Washington Peace Corps office. These cables use classifications developed by the State Department. Indeed, Secretary of State, Alexander Haig's name is printed and appears on each cable. Does this mean that the State Department—which has its own intelligence gathering bureau (the Bureau of Intelligence and Research)—is using the Peace Corps for intelligence purposes? Surely, if we accept the so-called perception argument, then this is a legitimate conclusion. But, of course, such arguments are not credible—just as the opposition to Mr. Pauken's nomination on military intelligence grounds, is not credible.

The Peace Corps Act makes plain that the Peace Corps is not only an arm of the U.S. Government, but that it is to serve the foreign policy of the United States under the ultimate direction and coordination of the Secretary of State. In each country in which Peace Corps volunteers serve, their activities shall be coordinated "with other activities of the U.S. Government in each country, under the leadership of the U.S. diplomatic mission." Section 4(2). Furthermore, the Secretary of State shall continuously supervise and generally direct the Peace Corps programs "to the end that such programs are effectively integrated both at home and abroad and the foreign policy of the United States is best served thereby." Section 4(3). Peace Corps volunteers may be motivated by idealism, but in the field they operate by and for the interests of this country; if they follow the dictates of their idealism and not those of the Secretary of State, they violate the law of this Nation, and must be dismissed from service.

The training and recruitment of the Peace Corps volunteer emphasizes the position of the Peace Corps as a foreign policy adjunct of this Government.

> All volunteers must swear an oath of loyalty to the United States, section 5(j), and all volunteers must receive "instruction in the philosophy, strategy, tactic, and menace of communism." Section 8(c). Furthermore, all Peace Corps employees must be investigated for loyalty to the United States, and to insure that they are not security risks. Section 22.

The Peace Corps Act clearly contemplates that the Peace Corps shall serve the needs and interests of this country. As long as this Congress continues to fund the Peace Corps, we will, I am confident, require such fealty from every employee and volunteer in this country and abroad.

The argument made by Tom Pauken's opponents, who make up the proponents of Peace Corps separation, is plainly specious. It ignores the reality of the real connections between Peace Corps and the other branches of the U.S. Government. The proponents of separation claim that Tom Pauken as Director of ACTION creates a perception of Peace Corps involvement in intelligence activities, when the Peace Corps publicly advertises the fact that people with far greater involvement in intelligence activity can be hired to posts with vastly more influence over Peace Corps policy and programs than Tom Pauken will ever have.

I note, Mr. Speaker, that the people the Peace Corps volunteers serve have failed to take the separation proponents' argument seriously. Since Tom Pauken was confirmed as ACTION Director almost 2 months ago, there has been no uprising, no new surge of attacks on Peace Corps volunteers abroad. Now is the time to reject the canards, to destroy the myths, to reject once and for all the lightly-veneered attacks on the competence and patriotism of a great American, and the highest ranking Vietnam veteran in this administration. Tom Pauken is

rightly Director of ACTION, and Peace Corps is rightly in ACTION.●

LARRY HOLMES

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1981

● Mr. RITTER. Mr. Speaker, I would like to share with my colleagues the great enthusiasm I feel for my constituent and good friend, Larry Holmes of Easton, Pa.

Once again, Larry has shown us his remarkable boxing talents with his recent third round TKO against Leon Spinks. Thus, Larry has successfully defended his heavyweight title for the 10th time, boosting his boxing record to an impressive 38 wins without a loss.

Larry is a fighter in the true sense of the word. As 1 of 12 children, he worked hard to support his family and, at the same time, found opportunities to develop his boxing skills. Today, much of his time outside the ring is spent working with children in local boys clubs and youth centers throughout Pennsylvania's Lehigh Valley.

Not only is Larry a champ inside the ring, but he's one outside as well. Many times I have had the pleasure to join with him in community charity events. He always comes through for the Lehigh Valley. People look up to Larry, because they see a man who has fought hard to earn success, a man who understands the obstacles one must overcome to be called a champion. He is truly an inspiration to all of us. I'll never forget the time he was instrumental in helping to raise funds for a Greek children's orphanage in my congressional district.

Mr. Speaker, I am proud to be among the many friends—and fans—of Larry Holmes. Larry has never forgotten those of us in the Lehigh Valley. Although he is known inside the ring as the Easton Assassin, I think of him more as one big-hearted guy surrounded by throngs of loving kids. Larry, thanks a lot for being the great guy you are. All of us in the Lehigh Valley wish you the best of luck in your brilliant career.●

REASONS TO OPPOSE SEPARATING THE PEACE CORPS FROM ACTION

HON. DANIEL B. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1981

● Mr. DANIEL B. CRANE. Mr. Speaker, on June 17, 1981, a slim majority in the Senate voted in favor of Senator ALAN CRANSTON'S amendment to S. 1193, the Department of State authorizations bill for fiscal year 1982 and 1983, to separate the Peace Corps from the ACTION agency. I submit that this action is actually a thinly disguised attack not only upon the President's choice for Director of ACTION, Thomas W. Pauken, but also all of us veterans who served in Vietnam.

I should note here that in 1979, when the issue of whether to separate the Peace Corps from ACTION came before the House floor, I was one of only a handful of Republicans to vote against the proposed separation. When the matter comes up again in this Congress, I will once again vote against separation.

This time, however, I feel it is necessary to briefly discuss some of the events surrounding the recent Senate action.

In late February of this year, President Reagan nominated Thomas W. Pauken for the post of ACTION Director. Mr. Pauken was quickly and routinely approved by the Senate Labor and Human Resources Committee without dissent. His nomination was ready to proceed to the Senate floor; however, an unusual request was made by the chairman of the Senate Foreign Relations Committee for sequential referral of the nomination.

This request was most peculiar, since the only possible connection the ACTION Director has with the jurisdiction of the Senate Foreign Relations Committee is that the Peace Corps is a component of the ACTION agency. But that is little more than a technical connection which allows the ACTION agency to supply support services to the Peace Corps. Indeed, Executive Order 12137, issued by President Carter on May 16, 1979, transformed the Peace Corps from a program within ACTION to a semiautonomous agency within ACTION. Consequently, there is no doubt that the Senate Foreign Relations Committee had jurisdiction to advise on the nomination of the Peace Corps Director, but it is still questionable in my mind if it had authority to advise on the nomination of the ACTION Director in light of the issuance of Executive Order 12137 on May 16, 1979.

It soon became apparent that there were those who simply could not tolerate the thought of Thomas W. Pauken—a Vietnam veteran who served his Nation honorably and with distinction—replacing antiwar advocate and new left activist Sam Brown as the Director of ACTION.

It should be noted that Sam Brown's confirmation process was completed about one month after his name was placed in nomination by President Carter. It wasn't until approximately 10 weeks after his nomination that Tom Pauken was finally approved by the Senate. It is significant that once Mr. Pauken's nomination reached the full Senate, he was confirmed without objection.

But what was it in Mr. Pauken's background that raised alleged doubts, in the mind of a small minority, about his ability to serve as ACTION Director? After all, he had volunteered to serve his Nation in the Vietnam war and was even the recipient of the Joint Service Commendation Medal for:

> Analysis provided the Commander, United States Military Assistance the Intelligence Community with intelligence information of great value in the counter-insurgency effort in Vietnam.

Mr. Speaker, as remarkable as it may seem, that was the alleged flaw in this nominee's background. He had served his country too well by volunteering to serve the cause of liberty when many of his peers chose to flee from their responsibilities, or even worse, chose to undermine our efforts by organizing internal unrest.

Mr. Speaker, it is very clear that Tom Pauken's service in Army Intelligence for less than 1 year, over 12 years ago, in no way prevented him from serving as the Director of ACTION. In fact, it would not have prevented him from serving as the Director of the Peace Corps or even as a Peace Corps volunteer. There simply are no statutory or ACTION/Peace Corps policy bars—and so the Senate concluded when it confirmed Mr. Pauken.

The Cranston amendment to S. 1193 as well as the language contained in S. 1015, the Peace Corps Autonomy Act, and S. 1196, the International Security and Development Cooperation Act of 1981, which all call for the separation of the Peace Corps from ACTION make no reference to "intelligence" or "intelligence-related activities." Quite clearly, even with the adoption of the separation language, any nominee for Peace Corps Director who has an extensive background in intelligence is in no way barred or prevented from serving in that capacity. In addition, none of the language which appears in H.R. 3566, the House version of International Security and Development Act of 1981, restricts a nominee for Peace Corps Director from serving in that capacity.

There is no doubt that separating the Peace Corps from ACTION will result in duplicating services and increased costs to both the Peace Corps and ACTION. In this regard, I would like to submit for the record a letter from David Stockman, Director of the Office of Management and Budget, to Senator CHARLES PERCY, chairman of the Senate Foreign Relations Committee, wherein Mr. Stockman states his strong opposition to the proposed split for reasons of efficiency and cost:

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., May 14, 1981.

Hon. CHARLES PERCY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PERCY: I am taking this opportunity to provide you with the Administration's view that S. 1015, the Peace Corps Autonomy Act, should not be enacted.

Section 2 of S. 1015 provides that, effective on the date of enactment, the Peace Corps shall become an independent agency within the executive branch of the Federal Government and shall not be an agency within the ACTION Agency or any other department or agency of the United States. Section 4 of the bill would restrict the President's authority to delegate functions under the Peace Corps Act to the Director of the Peace Corps. Section 5 of the bill provides that references in statutes, reorganization plans, executive orders and other official documents to the ACTION agency or the Director of ACTION which affect functions or activities relating to the Peace Corps shall be deemed references to the Peace Corps. This section also requires that within 60 days after enactment of S. 1015, the Directors of ACTION, the Peace Corps and the Office of Management and Budget must submit a report to appropriate Committees of the Congress concerning the steps taken to implement S. 1015.

The administration strongly opposes the passage of the bill on the grounds that it would create inefficiencies that would disadvantage both ACTION and the Peace Corps in carrying out their missions and would produce duplication of Federal Government services inconsistent with administration policy. Our analysis indicates that there are significant functions now jointly serving the Peace Corps and ACTION (e.g., recruitment, volunteer payroll, accounting, health services and computer services) that would have to be duplicated at substantial cost if Peace Corps were to become an independent agency. We have estimated this additional cost at up to $3 million. Under the budget discipline imposed by the Congress in cooperation with the administration, the imposition of needless administrative expense on any agency of the Government would be unwise. In the current budgetary environment, it would be a disservice to the taxpayers to incur this additional expense for no measurable program improvement.

The administration is committed to restraining the rate of growth of the Federal Government and, where possible, to cutting back on the number of Federal employees and Federal programs. In this time of austerity, separate new Federal agencies should not be created except on a showing of the most urgent need. Where, as in the case of the Peace Corps, no such urgent need exists, formation of a separate new agency is a needless extravagance.

Additionally, it is apparent that the precipitating factor for introduction of this legislation has been the appointment of Thomas Pauken as the Director of ACTION. To tie the nomination of Mr. Pauken—an entirely separate issue and one which has been resolved by Senate confirmation—to the legislation at hand is inappropriate.

Establishing Peace Corps as a separate agency will not deter those who persist in suggesting that the Peace Corps engages in intelligence activities. The Peace Corps is an arm of the U.S. Government and operates in foreign countries in part through support facilities provided by the State Department. While the Peace Corps Country Director meets with the Ambassador as part of the "country team," this relationship does not in any way implicate the Peace Corps in intelligence-gathering activities.

For the above-stated reasons, I urge that S. 1015 be opposed as not in accord with the program of the President.

Sincerely,

DAVID A. STOCKMAN,
Director.

The administration has strongly stated its opposition to the proposed separation. I would also like to submit for the RECORD a letter from Max L. Friedersdorf, Assistant to the President, to Senator CHARLES PERCY, chairman of the Senate Foreign Relations Committee, which further emphasizes the administration's view that ACTION and the Peace Corps should not be separated.

THE WHITE HOUSE,
Washington, April 27, 1981.

Hon. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PERCY: This letter provides further information in response to questions on the Peace Corps raised in your letter of April 2.

A quick analysis of the jointly supported services of Peace Corps and ACTION has been done by OMB, in consultation with Peace Corps and ACTION staff. This analysis, a copy of which is attached, indicates savings of up to $3 million as a result of joint operations in 1981. While there is some uncertainty about the exact magnitude of the savings, the analysis only reinforces the Administration view that the agencies should not be separated.

I am sorry for the delay in getting this additional information to you.

Sincerely,

MAX L. FRIEDERSDORF,
Assistant to the President.

Enclosure.

AN ANALYSIS OF THE SAVINGS FROM ACTION/PEACE CORPS JOINTLY SUPPORTED SERVICES

ACTION staff have prepared estimates of additional costs associated with dividing certain of the offices providing services to both ACTION and Peace Corps. These have been refined by OMB to indicate the rough magnitude of the total costs of such a move. The analysis is based on the present configuration of offices and on the assumption that only a minimum number of additional managerial staff would be added for the Peace Corps offices. It is assumed in each case that only relevant supervisory personnel would be duplicated in a new Peace Corps operation, along with necessary space and equipment. No attempt has been made to factor the effects of possible agency responses to a shift, such as major reorganizations or space reallocations into the analysis.

The analysis involved examination of three support offices that account for $8.3 million (30 percent) of the total 1981 budget of $29 million for jointly supported services, and computer services. Within those operations, the minimal assumptions about duplication of management-level personnel mentioned above were made. These additional personnel were assumed paid at slightly above the office-average salary for 1981 and provided with roughly the agency-average amount of space, furniture, phone services, etc. All of these assumptions appear to be conservative given the likely grade of these staff. Staff-level personnel and associated space and equipment were assumed divided between the agencies.

On a base of 150 staff, this methodology led to a conclusion that 26 senior staff would be duplicated resulting in an increase of roughly $1 million in operating costs on the base of $8.3 million for 1981. This would represent an 11 percent increase for these three offices. Substantial uncertainty is introduced in attempting to project total costs from this sample estimate. A simple linear projection of the savings to the full $29 million joint services budget would indicate an increase of $3 million. This figure is likely to be too large, however, because Peace Corps does not buy the same level of services in all areas. While it buys significant recruitment and health services from ACTION, Peace Corps would not duplicate positions from the Office of Policy and Planning since it already has its own independent offices. Therefore, the $3 million figure should be viewed as an outside estimate for additional operating costs.

Both Ms. Loret Miller Ruppe, the Director of the Peace Corps, and Tom Pauken have testified at their respective confirmation hearings that they support the status quo; that is, they oppose any attempt to separate the Peace Corps from ACTION. We can legitimately and properly assume that they do so on behalf of program efficiency and in order that they may carry out their legal responsibilities.

If separating the Peace Corps from ACTION does not prevent an individual with intelligence experience from serving in that position; if separating the Peace Corps from ACTION will result in the duplication of services, inefficiences and likely larger budgets for both the Peace Corps and ACTION in the future; and, if the administration—including the Directors of Peace Corps and ACTION—oppose separation, then why is its adoption being urged so agressively?

To those of us who have been following this issue in the Senate, the tenor of the debate of the proseparation advocates appears to be not only a veiled slap in the face to Mr. Pauken, but a deep and penetrating blow to Vietnam veterans of which I am one. I say this because at no time during Mr. Pauken's confirmation process did those few who spoke out in opposition to him ever speak of or look at his individual commitment to peace; his desire to help those in need; or his outlook for the future.

In truth, the debate over his confirmation, and the attempt to separate the Peace Corps from ACTION which will soon confront us all, results from a stereotyping of the Vietnam veteran which is simply dead wrong.

By voting to separate the Peace Corps from ACTION, are we not

saying that virtually any Vietnam veteran involved in "covert" operations (what military operations are not covert), even for a short period, will be greatly handicapped by the Congress when appointed to public office?

Soldiers are like the rest of us. They want peace, they are prepared to sacrifice—to a greater degree than most, and they recognize their responsibility to their country, family, and fellow citizens.

To call on these outstanding citizens to sacrifice their lives for liberty, and then to deny them the opportunity to fully serve their Nation during a period of peace, is unconscionable and an absolute abomination.

I hope this body will reverse the unfortunate action taken by the Senate and vote against any attempt to separate the Peace Corps from ACTION.●

ROUSSELOT PAYS TRIBUTE TO THE CITY OF SIERRA MADRE

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1981

● Mr. ROUSSELOT. Mr. Speaker, it was back in 1881 that Sierra Madre's founder, Nathaniel Carter, purchased the land that he called the Sierra Madre tract and began subdividing. This tract comprised 1,103 acres, a little more than 3 square miles, and this became the city of Sierra Madre.

Resting in the shadows of the Sierra Madre mountain range, at the foot of Mount Wilson, lies the lively little city. Here one can meet people from all parts of the country who were drawn to Sierra Madre for its beautiful surroundings, its quietude, and the health giving quality of its climate.

In fact it was for just those reasons that Nathaniel Carter bought the land 100 years ago. He, a former resident of the East, promoted the Sierra Madre area for health, recreation, and investment as a result of his own return to good health after settling there.

One of the proudest claims of Sierra Madre citizens is the extent to which residents get involved in their community. An example of this participation can be seen each year on the Fourth of July when Sierra Madre presents its Independence Day parade and festivities that are considered by many to be beyond compare.

This Fourth of July pageant marks the 100th anniversary. It is for this reason that I bring Sierra Madre's attributes to the attention of my colleagues, because I am proud to represent this fine city in the 26th Congressional District of California.

President Reagan wrote to the citizens of Sierra Madre, "The spirit which has built your community is a reflection of the energy which has forged America into a land of wonder." I am sure that my colleagues join the President in congratulating Sierra Madre on its 100th birthday.●

SOCIAL SECURITY AND UNCERTAINTY IN RETIREMENT

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1981

● Mr. FASCELL. Mr. Speaker, I wish to call to our colleagues' attention an article by Paul Brookshire which appeared in the South Dade News-Leader on June 17, 1981, which, simply but forcefully, describes the unsure future awaiting the middle-aged work force as we reexamine the programs of the social security system. Mr. Brookshire, editor of the News-Leader, has shown how the rages of inflation and high tax rates are fostering growing doubts and frustrations on the part of those who have participated in the social security system for 30 to 40 years, and who may now find that the rules of the game are to be changed just at the time when they hope to reap the benefits of contributions made in good faith.

DANGER! POVERTY AHEAD

(By Paul Brookshire)

The closer I get to retirement age the more pronounced the urge gets to retire. But the fear continues to grow that I cannot afford to retire when the time comes.

Those of us who have paid into the Social Security program all of our lives become more fearful every day that there won't be anything there to collect when our time comes.

And now we have a President who is telling us that he wants us to work longer—and wait longer to collect our benefits.

He would not let us retire at say 62 and collect 80 percent of our Social Security as is now possible. The retirement age would eventually be moved up to 68 and we would not be able to retire until 65 to get 80 percent.

I have no quarrel with the President's efforts to do something to save the Social Security system. But workers like me who have been taxed every since we went into the work force at the age of 18, should be able to collect their Social Security benefits as promised.

There are millions of dependents and other persons eligible for Social Security benefits—and who are receiving them—who never paid a single dime into the system.

Of course Social Security was never initiated with the idea that it would be an "old age pension." Social Security was merely to supplement your income.

However, millions are now living on Social Security—some benefits run into several hundred dollars a month.

I can remember during the 1930s when some of the states began "old age pensions." Personal property had to be signed over to the state in many cases to make a person eligible to receive these checks.

Many people were too proud to sign up for old age pensions. They were the same people who were too proud to stand in soup lines and receive government handouts. But those days are over.

No one living today that I know of is too proud to receive a government check. In fact, the more government checks we get, the better we like it. Even millionaries, I suppose, get their government checks like everyone else.

But my government check may never come. That is my fear.

In fact, according to a recent poll, over half of U.S. workers fear they won't be able to afford to retire. Their current savings for retirement are inadequate and with inflation being what it is, they simply cannot save more.

Here we are at the peak of our careers—and our earnings—but we cannot afford to put anything aside for the proverbial "rainy day." That will be the day after the day of retirement for most of us.

And next year won't be any better.

We know already that our property taxes will go up because our homes are going to be assessed at a higher evaluation. We know that either the sales tax will be increased or we will have to pay more for gasoline.

We know that our utilities—water, electric, telephones—will cost us more next year than they did this year.

So, I ask you, how is saving for retirement a possibility?

Most economists estimate that for retirees to maintain their preretirement lifestyle within reasonable limits, they will need a retirement income equal to 60 to 70 percent of their earnings immediately preceding retirement.

Even if Social Security is "saved" and improved, this is a goal beyond the reach of most older Americans who, on the average, have half the income of their younger counterparts.

One seventh of the over 65 population now lives below the poverty level.

Most of the aged poor did not become poor until they retired—and their incomes dropped by 50 to 60 percent.

I haven't been "poor" since 1935 and it is going to be extremely hard for me to cope with my newfound poverty the day I retire.

So, it appears President Reagan will have his way—we cannot retire. Not because we do not want to but because we don't want to live in poverty.

If we grow tired of our current jobs, we simply must seek new careers. That is our only hope.

Instead of taking our retirement check month by month, many of us will have to get a bulk settlement and invest it in a new career or perhaps a small business. Looks like we may have to die with our boots on.

No more of quitting jobs at 60 or 65, buying a little home in Florida, and going fishing the rest of our days.

No, we are going to have to work 'til the rocking chair really gets us.

It is not a pleasant outlook for those who have been in the work stream for 40 or 50 years.

I am galloping toward that so-called retirement age so fast that I feel like "Pleasant Colony" in the Belmont Stakes.

But, unlike the horse, I haven't banked a half-million. There is no way I can be turned out to pasture.

Looks like I will just have to keep on racing to meet those deadlines until I pick up the paper one day and read my obituary.●

INTRODUCTION OF FOOD SAFETY LEGISLATION

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1981

● Mr. DE LA GARZA. Mr. Speaker, today, in partnership with Mr. WAMPLER of Virginia, the ranking minority member of the House Agriculture Committee, I am joining a number of our colleagues in introducing the Food Safety Amendments of 1981. This is the first step toward what I believe will be one of the most important congressional decisions in decades.

The issues we are raising in the bill we are introducing today will affect the welfare of every American. Our object is to create a food safety system which gives our people continued assurance that their food supply is safe and free from substances which could do harm—but which also takes account of the fact that the consumer has a great stake in the adequacy and cost of the food supply. We want a system which recognizes that harmful contaminants must be avoided; but which also recognizes that people suffer harm when they cannot get enough food, or when food is priced beyond their ability to pay.

The bill we are introducing does not represent a determination that this measure in its current form has the best and final answers to the problems which currently exist. This bill is, instead, a starting point for considering all the complex issues involved in food safety and finding, in consultation with all interested parties, a workable solution to a serious national problem. We appreciate the need for thorough consideration of all facets of this legislation and of any alternatives which may be advanced in what is certain to be a comprehensive and careful hearing process in several congressional committees.

Our colleagues in the House, and the public, should note this point which I wish to stress:

We do not intend any reduction in safety. On the contrary, it is our intent to give the public a greater degree of protection by seeking insurance against disruption in the food supply along with insurance against the presence of harmful ingredients in food.

We need an overhaul of our system of food safety law, however, because the current system is too complex, too rigid, and could under some circumstances result in actions which seriously reduce food supplies without—and I underline without—making any real contribution to food safety.

For example, our present system is based on what scientists call a no risk policy when dealing with substances which could cause cancer. But this policy, which reaches for a goal on which we all agree, was drafted in a period when the ability of technologists to detect substances in food was crude by today's standards. Today, laboratories can measure components of food in amounts of 10 parts per billion. They can tell us that substances are present and, under existing law, they can pose the possibility of serious disruption in food production. But these detection devices cannot tell us whether a trace residue which would have been reported as a zero with the technology of the past is, in fact, a real danger to health.

The American system of food safety and quality assurance gives our people better protection than any other similar system in the world. But it has had problems in the past which could erode public confidence in the regulatory agencies which protect our food supply, and in the food industry. And as serious as the past problems may have been—involving cases like the controversy over saccharin and over nitrites in meat—the most serious problems could lie ahead of us. As the ability of science to detect increasingly small traces of possibly meaningless residues continues to grow, the possibility of a tragically disruptive and needless action affecting our food supply continues to increase.

We are living today with a network of law which is full of contradictions and conflicts. For example, Government regulators under existing law may allow the marketing of foods which contain unavoidable contaminants due to natural environmental factors. Yet, the presence of certain additive materials in food can produce a ban even if the materials are used in amounts too small to cause cancer in man.

The bill we are introducing proposes to move toward an improved food safety system by setting a standard of safety which takes account of changing technology, and by requiring that food safety decisions must be based on the best available scientific judgments. The legislation seeks to make it clear that food safety decisions are to be based on protecting the American people against significant risks which pose real dangers, not on maintaining a zero risk policy which many scientists now agree can lead to more problems than it solves.

If we can succeed in improving our food safety law, we will be helping consumers and we will also be helping farmers who are faced under existing law with constant threats of unrealistic and unnecessary regulatory actions.

Our bill would retain the basic structure of current laws—the Federal Food, Drug, and Cosmetic Act, the Meat Inspection Act, the Poultry Products Inspection Act, and the Egg Products Inspection Act. Provisions in these acts would, in the new bill, be made consistent with each other so that the same kinds of standards and procedures would apply to all foods.●

THE 40TH ANNIVERSARY OF PROCLAIMING UKRAINIAN STRUGGLE FOR INDEPENDENCE

HON. JOSEPH G. MINISH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1981

● Mr. MINISH. Mr. Speaker, June 30, 1981, marks the 40th anniversary of the date when the Ukraine proclaimed the renewal of its independence against the German occupation. This is a very important date, not only to the people in Ukraine or to Americans of Ukrainian descent, but for all those who cherish the values of freedom and independence. Unfortunately, since 1941, the civil liberties of the Ukrainian population have been severely repressed and those people have not enjoyed the values of freedom and independence.

The day celebrating the renewal of Ukrainian independence presents an opportunity for commemoration and reflection by us in the United States. First, as a day of commemoration, we offer a tribute to the strength and courage of the Ukrainian people who have endured hardships for many years now.

Moreover, as Americans who enjoy guaranteed constitutional rights, we reflect upon the fact that not all people everywhere in the world are as privileged as we. Until human rights are the reality for all, let us not waiver in our commitment to human freedom and dignity.

Mr. Speaker, I am proud to know of the bravery and determination exhibited by the Ukrainians. These people stand as an example to those of us who have not known such suffering. I am also proud to know of organizations in the United States, such as the Organization for Defense of the Four Freedoms of the Ukraine, who have accomplished much fine work in reminding us of the past and present conditions of those living in the Ukraine.●

STATEMENT OF LINDSAY ROUX

HON. THOMAS A. DASCHLE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1981

● Mr. DASCHLE. Mr. Speaker, yesterday I inserted in the RECORD the June 15, 1981, testimony of Mrs. Donna Stamey before the Subcommittee on Hospitals and Health Care of the

Committee on Veterans' Affairs. Today, I would like to share with my colleagues the testimony of Mr. Lindsay Roux. As you will read in his statement, Mr. Roux firmly believes that his life was saved by the excellent counseling he received from the staff of the Atlanta Vet Center.

STATEMENT OF LINDSAY ROUX

Mr. Chairman, members of the committee and fellow vets, I would like to take this opportunity to thank you for allowing me to testify before you today.

My name is Lindsay Roux and I served in the Vietnam Theater in 1969 and 1970 in the United States Air Force for eleven months when I was rotated and discharged. My unit was a special operations outfit based in Thailand but operating in Laos. My duties were as an insurgent carrying out covert operations. While in Laos I wore civilian clothes and most of the time carried no identification. I was informed that due to the nature of the operations, its success was based on total secrecy both in Theater and at home. While in Laos we were also very much on our own, in so much as there was not vast U.S. military backups to support us or come to our aid as in Vietnam.

The reason I have mentioned the above is because, during my tour of duty, I was under tremendous pressure, both in physical danger and mentally from the alienation from my peers and family. I had to learn, and practice daily, being cold and unfeeling about human values and life. I had to hide and mask what feelings I did have as well as control my communications with others in all forms. All of this was carried over into civilian life due to my rapid transfer from operational status to stateside release in a matter of three days with no decompression or debriefing time. To make matters worse, I left, participated in, was injured, and started home with the pride of having served my country and was welcomed back with a spit in the face and ridicule for being over there. Don't get me wrong, I am proud that I served, but to this date I am confused as to why our nation couldn't and generally still can't separate the war from the warrior. These things were instrumental in cementing my inability to readjust.

Shortly after my return home I went to work and three years later I was married. The memories, confusion and learned traits remained even though my wife, family and friends told me to put it out of my mind and forget it. Because of my inability to communicate and my controlled communication trait I was unable to put it out of my mind or forget it. Because I could not adjust to civilian life, my wife asked me for a divorce. The pressure of loosing the only person I had been able to gain any feeling for after my return home, including my family and my own daughter, plus the pressure of eleven years ago was more than I could handle. I tried going to a psychologist and a minister for counseling and treatment. They felt my war experiences were the main factor to my problems and state of depression. I was given a choice of being committed to a psychiatric institution or coming to Atlanta and going to the VA Hospital. They recommended I go to the Vet Center, something I had never heard of before, rather than coming there. I arrived at the Vet Center shaking so hard I could hardly get a cigarette in my mouth much less light it. At that point I was taking over 80 milligrams of valium daily, could keep nothing but milk in my stomach, and was crying uncontrollably for no reason. One of the Vet Center counselors, Willie Chappell, spent three days almost continuously with me, talking, wiping tears, reasoning, and trying to help me gain control. Thanks to Willie's and Dr. Steve Levenberg's help and getting involved in the peer rap groups at the center, I was able to overcome many of my problems.

In order to continue my recovery, I have had to remain in Atlanta to go to the Vet Center leaving my wife, six year old daughter, and home in Savannah. This, in itself, has caused me to make a serious decision; to remain here and loose any chance of reconciliation, or, go home and loose the only chance I have had of straightening out my life.

If the Vet Center had not existed I would have taken my own life by now. I have tried. Unfortunately, there are many more veterans that are in the shape I was once in and they have not been informed of this program. The program is now in danger before it has even done its job, thus, endangering the lives and well being of many thousands more men and women who served in good faith. I hope the government can now understand that, unlike any other program, the Vet Center is working to bring many people like myself home and give us back our feelings. I only hope the program can continue and be expanded to reach the many other veterans not yet informed.

Gentlemen, thank you for letting me testify before the committee today and I will be glad to answer any questions you might have.●

INCREASING CRIME RATE

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1981

● Mr. FOGLIETTA. Mr. Speaker, the two issues that concern Americans most are the rising cost of living and the ever-increasing crime rate. A great deal has been said recently of the former, but not nearly enough of the latter.

The tense atmosphere that has enveloped the Nation in response to the crimes against black children in Atlanta has been expressed in the Congress in the form of seven bills expressing outrage and offering Federal assistance to the authorities in Atlanta. These steps need to be taken, as the horrendous series of murders is never far from our minds.

The Atlanta murders are particularly poignant because all of the victims are black and young. Their tragic deaths, and the information which media coverage has revealed about their lives and the atmosphere of fear and racial tension which this situation has created in Atlanta, has given us reason to reflect upon the issue of crime, and the impact it has on all of our communities.

A short while ago, I sent a newsletter to my constituents in Philadelphia, and of the responses I received, crime was listed at the No. 1 concern. Crime is not a localized problem; it affects all people, nationwide. Living in fear has done inestimable damage to the spirit of our communities.

Recently, I received a letter from the members of the Alpha Kappa Alpha Sorority, Omega Omega Chapter, a predominately black organization in Philadelphia. They made suggestions which I feel are concise and address the problem of crime from a black perspective, in a forthright and novel manner. I would like to share them with my colleagues today.

1. Encourage legislation which will develop mechanisms by which there will be close collaboration among Federal, State, and local law enforcement agencies in cases of violent crime where there is a reasonable basis to presume racial motivation.

2. Support legislation which requires those connected with violent crimes to compensate victims of those crimes (or their survivors) from their own personal resources or through work for which they would be remunerated.

3. Support efforts which foster more positive relationships between various ideologies within the community, while at the same time speaking out against racism.

4. Actively campaign against random acts of violence perpetuated against blacks which are racially motivated.

5. Declare your support for all economic policies that serve to close the gap between the "haves and have nots" in American society.

We do not know if the person or persons behind the Atlanta killings is racially motivated, but two facts have been highlighted as a result of the national focus on the murders. The first is that fear of crime is almost as crippling as being the victim of a criminal act. The second is that, across the country, the number of blacks who are victims of crime is disproportionately high.

These are problems that must be addressed in any attempt by the Government to respond to the issue of crime as a whole.●

DEINSTITUTIONALIZATION FOR OUR MENTALLY DISABLED CITIZENS

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1981

● Mr. McKINNEY. Mr. Speaker, I would like to share with my colleagues the testimony of Ms. Jeanne Farrell, who is the commissioner of social services for the town of Greenwich, Conn. Ms. Farrell presented her thoughtful and incisive remarks at the annual meeting of the President's Committee on the Employment of the Handicapped last month here in Washington. Her comments outline the many problems the national goal of deinstitutionalization has created for all citizens.

Ms. Farrell's remarks graphically illustrate the practical problems com-

munities experience when they are called upon to implement a policy without adequate local resources. The current method of deinstitutionalization for our mentally disabled citizens creates undue hardship for these communities and causes needless suffering among the special citizens the system intends to serve. Ms. Farrell's testimony further indicates that the current policy of systematic neglect must be promptly replaced by one which provides for the optimum therapeutic treatment setting for all mentally disabled citizens.

Ms. Farrell's remarks follow:

DEINSTITUTIONALIZING MENTALLY ILL: SHOULDN'T IT WORK IN GREENWICH?

(By Jeanne Farrell)

Two unrelated events—the discovery of the miracle drug Thorazine in the 1950s, and the Kennedy family's campaign for the rights of the retarded in the 1960s—paved the way for deinstitutionalization of retarded and mentally ill people. People with different handicaps, but similar problems.

No longer would mentally ill or retarded people be confined to large, impersonal institutions which generally were located far from the patient's family, friends, and community.

No longer would handicapped citizens be "warehoused," sometimes for life, when they could return to their home towns where they could live, work and play—like the rest of us—and be helped by caring communities.

Miracle drugs would help the mentally ill modify their behavior to "acceptable" norms. They'd walk the same streets as their neighbors, go to school, hold a job, socialize as they wished, vote. Acceptable. Just like you and me. The same would hold true for the retarded. The Kennedy's said so. After all, those were the days of Camelot.

No longer would the mentally ill and the retarded be detained in big institutions which were "bad." They would go home. And this, of course, was "good."

As the years went by, more miracle drugs were discovered. They were given in bigger doses to the mentally ill. Many of them began to feel better. It was easier to get through the day. To think again about school. Jobs. Ball games. Dancing. Walking through the fields on a summer day. Above all—leaving the hospital. Going home.

For the retarded, the late 1960s and 70s saw tremendous grass roots support—mostly from relatives—for deinstitutionalization. There was no reason, as the theory went, why retarded people could not go home, attend neighborhood schools, work, and lead productive lives. For those who had no family, there would be group homes and apartments. The frosting on the cake? Community care would be cheaper than institutions. In other words, as deinstitutionalization took hold throughout the land, everyone would live happily ever after.

It was a new era.

Or was it?

Let me tell you what happened in Greenwich, Connecticut as theory came into conflict with reality. But first, may I suggest that if deinstitutionalization should have worked anywhere, it should have worked in my town. An attractive community of 62,000 people, located 35 miles from Manhattan Island, Greenwich is sophisticated, affluent, knowledgeable. It cares about people and it has many services.

Greenwich also has problems: drug abuse, poor people, traffic jams, a zero housing vacancy rate. Trains run late, the aging population has grown beyond our resources, and, last year, our water reserve dwindled to a 19-day supply. But Greenwich is a nice place to live despite these annoyances.

It should have been easy for us to absorb handicapped people into our community. Easier than for larger, more troubled cities or rural areas with fewer services.

In fact, neither the retarded nor the mentally ill has fared well with deinstitutionalization—in relation to need—although the former group has made more progress than discharged mental patients. Perhaps, because mental retardation is a bit more acceptable than mental illness which remains shrouded not only in secrecy, guilt, and suspicion, but also within a widespread and inherent fear of the disease and the people it afflicts. Madness and spookiness go together, as story tellers such as Poe, Horrman and Wilkie Collins well knew.

Perhaps it was the widespread support for the deinstitutionalization of the retarded. Or maybe it was an organization called the Greenwich Association for Retarded Citizens. Founded 27 years ago, this agency has helped many retarded people lead productive lives. It also sponsors a residence for women with a capacity for eight. Two of the residents came from an institution, 10 more are waiting to come home but there's no space, and four more people returned to their families with the Association's help. A few others, unknown to the Association for Retarded Citizens, also returned to Greenwich but we don't know how they are doing. Let's hope all is well.

Progress? Certainly. But, all told only 20 people have come home in five years.

Of course, if we measured the benefits of deinstitutionalization in purely humane terms and not in numbers, we should consider a comment made recently by a Greenwich woman who had spent 30 years in an institution. As she and some friends sat around one evening after dinner, she said, "You have no idea how wonderful it is to be able to decide what you want to eat." Something the rest of us take for granted.

The story of deinstitutionalization for mentally ill people is different. There is no Greenwich Association for Mentally Ill Citizens. I suspect there is no such organization anyplace in the United States. I hope I'm wrong.

Here's what's happened to some of these people in Greenwich.

Sam is 26. He's been in and out of mental hospitals since he was 16. He's a floater, has no skills, no family, no income, no home. Several weeks ago the state hospital called. Sam had readmitted himself, was considered for the Alcoholic Unit but rejected. The reason? He needed long-term treatment, and, as the theory of deinstitutionalization goes, Sam's community should provide this care. Sam was put on a bus for Greenwich. No plan. No money. He ended up on welfare at a commercial boarding house in a nearby town with an assortment of drug addicts, ex-convicts and other "misfits." He came to see us on Christmas Eve and asked to be sent to Boston to stay with friends. We called Boston and then we put Sam on a train. He hasn't been seen since.

Rosita is 36. She was divorced, has three children, ages 10, 12 and 14. A schizophrenic, Rosita has been hospitalized 14 times in 18 years. The police called at 2 a.m. when they found her and the children in a stalled car on U.S. 1 in central Greenwich. The children were put in an Emergency Shelter. Rosita "went berserk" at police headquarters and was brought to the local hospital. Next day, she was committed to the state hospital, 45 miles away. The children stayed at the Shelter, Rosita improved a bit, and three days later she was discharged. Again, no money. No plan. She disappeared. We sent her children to Pennsylvania to be with their father. Later the state hospital told us that "community care" was the answer for Rosita.

Another case. Heidi is 22. She's a beautiful young woman whose mother committed suicide when Heidi was 14. Her father then deserted his four children. Heidi had been hospitalized on six different occasions in five years because she is "dangerous" to herself and others. Last month she was hospitalized for the seventh time but was promptly sent back to Greenwich. Again, on a bus. The reason? She is "chronically ill, needs community care."

Community Care. It sounds as if it comes in a bottle and can be purchased at the drug store. Translated, it means food, clothing, shelter, medical and rehabilitation services, transportation, training, a job, and someone to talk to, not to mention bolstering family ties where one exists. So far we've been able to provide Heidi with food—a meal ticket at a local restaurant—and a lonely room in a boarding house.

Medical care? Training? A job? Heidi says, "What's the use?" But we're trying and, with the help of a new mental health coordinator, funded with a Housing and Urban Development grant, we believe we can help Heidi, and Sam, and Rosita and all the others. Perhaps we even can help Anna who is 62, and Perry who is almost 50. Anna was sent to the state hospital after her husband's death two years ago. She was reclusive, wrote strange letters to the F.B.I., refused to pay bills, and sometimes threatened neighborhood children. She improved considerably while hospitalized and was discharged to a nursing home upstate. She's unhappy and wants to return to Greenwich but there's no place for Anna.

Perry is epileptic; has an I.Q. of 65, and is chronically depressed. He's wrecked three cars over several years. He's injured people in fits of anger and his family doesn't want him. Neither does the state hospital.

My assignment today was to tell you how Greenwich is helping people sent home from institutions to reenter the community and to lead productive lives. As I reviewed several cases, I found that we are struggling just to help these people with food, shelter, medical care. Employment is pretty far down the road in the order of priorities.

Why? Why such a struggle? Why isn't deinstitutionalization working in Greenwich except for the few retarded people I mentioned?

First, no one asked us if we could absorb these people into our community. It seems that no one even thought about our ability, our readiness, or even our desire to do so—questions that surely were researchable if mental health leaders had remembered to talk to us. Instead, they decided that salvation was to be found for the retarded and the mentally ill at home.

Second, since Greenwich had no say about deinstitutionalization, we had no opportunity to ensure smoother sailing for people coming home from institutions. More importantly, when the movement began, no one really knew—and we still don't know—precisely what's needed to help people reenter the community successfully. Too much em-

phasis has been placed too soon on the dominant role of social factors. Apparently policy makers have not observed that maybe these factors are important in some kinds of mental illness and mental retardation but not so much in others.

Third? Our society believes that everybody is equal . . . on the surface; but we don't like people who are different. And most of us tend to think of people who are retarded as "different." We also don't like unexpected behavior and most of us associate mental illness with danger. We don't like that. It upsets us. So we sweep it all under the rug. Along comes deinstitutionalization. Not only must we face up to reality, but we have to deal with it in our own backyard. That hasn't been easy for Greenwich. We're not so different from everyone else.

Perhaps we still can find the answers for Sam and Rosita and Heidi. And maybe for Anna and Perry. For the retarded people who are waiting to come home. And for all the others. But we can't do it alone nor should we try to do so. All of the pieces must be put together for each person—food, shelter, medical care, transportation—the whole package.

This means cutting across community lines to mobilize all available resources, not just those in Greenwich.

My conclusion is that no one—retarded or mentally ill—not one single person—should be deinstitutionalized until an individual plan has been made to ensure a successful reentry into the community. Otherwise, vulnerable people are hurt in the name of progress.●

SUPPORT OF FEDERAL STUDENT AID PROGRAMS

HON. AUSTIN J. MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1981

● Mr. MURPHY. Mr. Speaker, on Wednesday, June 16, the House Education and Labor Committee agreed to restore funding for guaranteed student loans (GSL). The House committe would add $250 million back to the 1982 GSL budget by lifting its proposed income cap, but would cut $125 million by raising its proposed loan fee from 3.5 percent of a loan to 4 percent. This action would put the GSL budget at $2.702 billion in fiscal year 1982, saving $380 million instead of the original $505 million. Under the new GSL plan, students would have to pay a fee up front to get a maximum $2,500 loans, whereas, they would have only had to pay $87.50 under earlier proposals. That fee compares with the $125 a student would have to pay under money-saving plans approved by the Senate Labor and Human Resources Committee. The Senate committee also proposed a $25,000 income cap; whereas, the House committee would place no restrictions on those wishing to apply for the loan.

Testimony received by the Senate Labor and Human Resources Committee indicated that loan proposals advanced by the administration would have resulted in no guaranteed loans made this fall. More than 2 million students would have found that they could not obtain a loan. It is further estimated that college enrollments would have declined by 500,000 to 750,000 students. Needless to say, this occurrence would have turned Mr. Reagan's so-called program for economic recovery into a national tragedy.

Relatively speaking, the administration's cost reduction proposals in Federal student aid programs would have a dramatic impact on Pennsylvanians. From recently conducted research by the Pennsylvania Higher Education Assistance Agency (PHEAA), it has been estimated that a total reduction of at least $161 million in loans would occur. Almost 43 percent of the total GSL loans expected to be received by Pennsylvania students to attend Pennsylvania institutions would be forfeited in 1981-82. Within this total, full-time dependent undergraduate borrowers would lose at least $123 million, or 46 percent of the loan moneys made accessible to them in 1980-81. Full-time independent undergraduate borrowers would lose at least $9 million, or 26 percent of the loan moneys.

Another survey taken in my home State indicates that 90 percent of the Pennsylvania lenders might possibly participate in the current parent loans for undergraduate students (PLUS) program, as it was written into law by the Higher Education Act of 1980. However, less than 5 percent of the surveyed lenders said that their banks were likely to participate if the administration's proposal to eliminate special allowances paid to lenders and extend repayment terms from 10 to 20 years were enacted. About 40 percent of the lenders said they would not participate in PLUS under these conditions and about half said they were very unlikely to participate. Therefore, the administration's proposal would obviously make the loans to parents inoperative in Pennsylvania.

Another proposal by the administration would give the lender an option to collect the interest from the student as the interest becomes due payable during the in-school and grace period. Of the lenders surveyed, 31 percent indicated that they would not participate in the program under this condition and 42 percent expected a decrease in their participation in the GSL under the same condition. In other words, these loans would simply become unavailable in Pennsylvania because of their unattractiveness to the lender, thus making it nearly impossible for parents to receive loans to help meet their children's needs.

The administration's proposed revisions in the GSL program, along with other changes in the Federal student aid programs (Pell grants and the Student Loan Marketing Association), would be a detriment to all those seeking an education. Administrative recommendations regarding GSL's would place an increased burden on the American family, particularly the middle-class families. The contributions of the GSL program are too vital to be lost unnecessarily, therefore, it is my belief that we should be doing all we can to insure educational equity to our future professional.●

THE NEOVANDALS IN THE REAGAN ADMINISTRATION

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1981

● Mrs. SCHROEDER. Mr. Speaker, the Nashville Tennessean had some rather harsh words to say May 28 and June 17 on the Secretary of the Interior's plan to dismantle the Office of Surface Mining.

[From the Nashville Tennessean, May 28, 1981]

REAGAN ADMINISTRATION'S CONTEMPT FOR ENVIRONMENT

The Reagan administration has begun its expected move to gut the stripmining regulatory process in the nation by eliminating half of the federal offices which enforce stripmine regulations.

The administration claims it wants to protect the environment and see that strip miners are prevented from abusing the landscape. But it would be difficult for anyone to perceive this from the administration's actions.

Interior Secretary James Watt said last week he was closing down the Office of Surface Mining's regional office in Knoxville, which oversees regulations in a five-state area, and the federal inspections offices at Crossville and Norris.

These are the only offices the OSM has in the state to patrol the vast stripmining area of East Tennessee. In their place, the Interior secretary said, he will establish a "state liaison office" in Nashville, far from the site of stripmine operations.

It is a mystery what the OSM needs with a liaison office in Nashville. This is an indication of the Reagan administration's seriousness about controlling stripmine abuses. The federal officers in East Tennessee are about the only ones that have ever enforced regulations against strip miners. The idea now seems to be to get them out of the way and turn the strip miners loose to do what they please to the mountain landscape.

The administration says it wants to turn the duty of enforcing stripmine regulations over to the states. This has a certain shallow appeal to some. But too often "turning authority over to the states" is just an excuse for doing nothing in some field where action is called for.

Few states have ever done much of anything to prevent stripminers from butchering the land, polluting water supplies and leaving vast regions a wasteland. And Tennessee is among the states doing the least.

Anyone who has seen the Tennessee legislature bend to the will of the strip-mine lobby on almost every pertinent mining issue coming before it has some idea of what state regulation of strip mines will be like.

The OSM was created by Congress in 1977 because state governments failed to enforce a 1972 law designed to halt abuses in the coal stripmining industry. Nothing has happened since then to lead anyone to believe the states will be any more inclined to enforce the regulations now than they were in 1972.

Understandably, the mining industry in Tennessee was delighted with the administration's announcement. Members of the industry who want to stripmine the land as they please without any interference from anyone know they have little to fear from state mining inspectors. And if some inspector should get conscientious and try to enforce the regulations, some miners know how he can be handled.

The administration's course is inviting anarchy in the coal fields. Inspectors have been chased away from mining sites by guns and threats of violence, and it is likely to happen again unless the inspectors are backed up by the police power of the state.

The Reagan administration is callously destroying a regulatory agency created by Congress to serve a vital public need. It is sickening to see the public good sacrificed to greed and political expediency and legitimate environmental concerns held in contempt by the nation's highest leadership.

[From the Nashville Tennessean, June 17, 1981]

STRIPMINE LAW SHOULD BE ENFORCED

The U.S. Supreme Court—in a strong, unanimous decision—has upheld the stripmine-control law passed by Congress in 1977.

The high court struck down two lower court rulings that provisions of the bill requiring surface coal miners to restore land to its original contours when they finish mining violate the Constitution.

The Supreme Court held that the law did not violate the Constitution and that Congress had acted within its authority to regulate interstate commerce. The lower court decisions were appealed by the Justice Deparment while former President Carter was still in office.

The law, which took five years for Congress to pass, began to be attacked on constitutional grounds almost as soon as it was signed. Some suits are still pending, but the positive quality of the high court's ruling this week gives hope that the law will stand up under all challenges.

The Supreme Court's opinion would be a landmark in the long, hard fight to protect the environment from the ravages of surface mining but for the fact that the Reagan administration and especially its Secretary of Interior, Mr. James Watt, have little interest in enforcing it.

If the lower court rulings had been made after Mr. Reagan became president, there is little likelihood they would have been appealed. Now that the Supreme Court has said the law is constitutional and a valid exercise of congressional authority, there is little likelihood that Mr. Reagan and Mr. Watt will enforce it.

It seems that Mr. Reagan's and Mr. Watt's main interest is not in protecting the environment or in serving the public, but in pleasing the big business interests—in this case the mining industry.

Thousands of Americans—frustrated by the refusal of the states to protect their landscapes from the stripminer's bulldozer—have worked many years to obtain a strong, effective federal stripmine-control law. Now that this goal has been achieved, the present occupant of the White House and his Secretary of Interior want to turn the job of stripmine regulation back to the states. This would be a return to the condition which existed before—no protection at all for the environment.

Those who have fought so hard to obtain this protection for the environment should not accept this. They should fight a little longer to see that the stripmine law is enforced. The law has been passed by Congress and upheld by the Supreme Court. It should be enforced just as any other law is. Mr. Reagan and Mr. Watt should not be able to just decide not to enforce it. Those who are concerned for the environment should demand that it be enforced.●

W. E. MICHAEL

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1981

● Mr. DUNCAN. Mr. Speaker, there are those who continue to serve long after they have paid their dues to their profession and fellow man. Fifty-five years of service in the legal profession would seem to be enough for anyone, but for W. E. Michael the years are simply markers showing where he has been and showing an open road of discoveries yet to be made.

On Independence Day those many friends he has accumulated in his years of service will gather at 701 North Oak Street in Sweetwater, Tenn., and honor him on the anniversary of 55 years spent in the practice of law. It will be a time to recall the many contributions he has made to Monroe County and its citizens over the last half-century.

Lawyer, author, legislator, developer; though each of these are titles W. E. Michael has carried they describe him only in part. He has also been a good father and teacher; a man willing to contribute his time and experience in the promotion of his community and improving its quality of life.

W. E. Michael began his long career of legal service as a 21-year-old. Born in Wilkes County, N.C., he attended the schools in McMinn County, Tenn., near his present home. He went on to what is now East Tennessee State University in Johnson City and Carson-Newman College in Jefferson City. By the time he was 19 years old he was a professor teaching Spanish at Cumberland College in Lebanon, Tenn., and at Carson-Newman.

From these roots a legal career grew. With the career came a devotion to civic duty. W. E. Michael was the city attorney for 25 years in Sweetwater. He served three terms in the Tennessee General Assembly as a State legislator. Since 1968 he has served as chairman of the Cherohala Commission aimed at regional planning for the Cherokee and Nantahala National Forests area.

Politically he is a Republican, but his friends come from both sides of the aisle. Estes Kefauver, the former Tennessee Senator and Democratic Party nominee for Vice President in 1956 was a neighbor of Michael's from Madisonville. In a Senate hearing on the Tellico Plains-Robbinsville Road project Kefauver referred to Michael as one of his "best friends." He also became close friends with the man who defeated him in his run for the Third Congressional District seat in Tennessee. He may have lost the election, but he won a friend in J. B. Frazier during that campaign.

Somehow during these years of legal and civic activities he found time to write "The Age of Error," a study of Supreme Court decisions and their impact on society. W. E. Michael also took part in the development of tourism in Monroe County through the promotion of Lost Sea, "The World's Largest Underground Lake." He also was responsible for the establishment of a tobacco market in Sweetwater to serve the region's farmers.

The law is not W. E. Michael's only love of the past 55 years. Only 6 months after going into practice he married Claudia Reeves. From this marriage came two children, Jean Michael Summitt and Van R. Michael. Van is following in his father's footsteps and is his law partner in the firm of Michael & Michael.

This anniversary provides an opportunity for those of us who know W. E. Michael to reflect on the accomplishments he has made. He has paid his dues and earned his rest, yet he continues to work for the people of Monroe County and I for one am glad he does.●

THE STATE AND LOCAL GOVERNMENT REGULATORY COST ESTIMATE ACT OF 1981

HON. STANLEY N. LUNDINE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1981

● Mr. LUNDINE. Mr. Speaker, I am pleased to join today with my colleagues from California (Mr. MINETA) and New York (Mr. ZEFERETTI) in introducing the State and Local Government Regulatory Cost Estimate Act of 1981. This legislation requires Federal agencies to provide estimates of costs to State and local governments of all proposed rules and regulations.

I offer this legislation because I believe that the Federal Government has failed to fully assess the consequences of its actions on States and localities. In our increasingly complex economy, even minor changes in Federal programs and policies can impose significant burdens on local govern-

ments, burdens which are often unexpected and usually unintended.

It is important that both Federal and local officials have the opportunity and the means to assess all potential costs and consequences of Federal actions. The legislation we are introducing provides the means for making such assessments by requiring Federal agencies to include in notices of proposed rulemaking an estimate of the costs to State and local governments resulting from the proposed rule or regulation. The proposal would also require agencies, whenever possible, to identify available sources of funding to pay such costs, or to indicate that no such funding is available. Finally, the proposal would require Federal agencies to include in notices a statement requesting comments from State and local governments regarding the cost estimates and the identified sources of funding to meet these costs. These proposals are similar to legislation introduced in the Senate (S. 1225) by Senators SPECTER, SASSER, and D'AMATO.

I believe there is a very clear need for such a procedure. During the past decade we have witnessed an unprecedented expansion in Federal assistance and a corresponding growth in Federal regulations and controls. Power has shifted from local elected officials to Federal bureaucrats. State and local governments have had their traditional policy and funding priorities disrupted and their operations so encumbered with the details of responding to Federal agencies that many have lost their capacity to respond to the concerns of local citizens.

During the 1970's more than 150 new categorical aid programs were enacted by Congress, bringing the total number of such programs to nearly 500. Each program has come with its own set of requirements and regulations and its own set of hidden costs. In addition, Congress enacted numerous regulatory measures requiring State and local jurisdictions to engage or refrain from certain actions deemed to be in the public interest. These measures imposed new costs on local governments with little or no reimbursement for these costs.

A recent study conducted by the National Science Foundation found that local officials in the jurisdiction surveyed are required to comply at any given time with a minimum of 1,000 Federal and State requirements. These requirements may appear beneficial on paper, but many prove extremely costly to implement. A study of 10 local jurisdictions sponsored by the Joint Economic Committee found that in 1978 the additional cost to these jurisdictions of just 10 Federal laws amounted to $52 million in incremental operating costs and $113 million in additional long-term capital costs. These jurisdictions were required to spend an average of $25 per capita to meet the additional costs imposed by the legislation.

This expansion in Federal assistance and regulation has not had the intended effect of making Government more responsive to social needs and public concerns. In fact, the opposite has occurred. The uncentralized and uncoordinated administration of hundreds of Federal programs has increased the overall cost of Government, has made it less efficient and, most important, has made it less responsive than ever before.

It has become clear that Federal legislation and rulemaking can no longer be considered in isolation. Federal objectives cannot be achieved, nor current programs simplified by merely shifting a greater burden of the cost to State and local governments. The public's growing resistance to higher taxes and new public expenditures should serve to remind us that the cost of government, whether at the Federal, State or local level, ultimately falls on the same taxpayers.

The cost estimate provisions we are introducing would require Federal agencies to identify early in the rulemaking process, all the significant costs associated with a proposed rule or procedure. This can result, I believe, in more responsive, less costly regulations, while encouraging greater participation by State and local officials in the rulemaking process.

This proposal complements a bill we introduced earlier in the session. The State and Local Government Cost Estimate Act (H.R. 1465), which requires the Congressional Budget Office to prepare estimates of costs to States and localities resulting from legislation reported out of congressional committees. H.R. 1465 is designed to permit Congress to identify, early in its deliberations, the costs that could be passed on to local jurisdictions as a result of specific legislative actions. Our new proposal would take this concept one step further by requiring estimates of costs to States and local governments of all rules or regulations issued to implement or modify existing programs and to carry out the decisions of regulatory bodies.

In both instances, the cost estimates would serve as warning signals. They would provide Federal agencies and Congress with an indication that proposed actions may have harmful fiscal consequences for State and local governments. If Congress or a Federal agency decide to proceed with the new law or rule, they can do so with a clear idea of the fiscal implications and can adapt these measures accordingly.

The idea of requiring cost estimates for legislation and regulations is not a new one. Cost estimate procedures have operated at the State level since the late 1950's. Given the constitutional limitations on the taxing and budgetary powers of many States, providing cost estimates, or fiscal notes, has proven to be an excellent means of anticipating all the costs associated with new legislative or executive actions. Currently, 47 States employ some method for estimating the costs resulting from State actions. Thirty-five of these States specifically provide estimates of costs to local jurisdictions. In States where these systems have operated for many years, local officials are convinced the process has provided substantial savings to local governments and to taxpayers.

I think it is time for Congress to adopt some of the cost-savings measures that have been developed by local officials in response to inceasingly tight budgetary conditions. This legislation, and the cost estimate proposal in H.R. 1465, offer important steps toward achieving the kind of fiscal responsibility at the Federal level the American people have been demanding of all levels of government. I urge my colleagues to support these proposals.●

LIMITED CONGRESSIONAL TERMS, 4-YEAR HOUSE TERMS

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1981

● Mr. McCOLLUM. Mr. Speaker, recently I introduced two separate and alternative resolutions proposing a constitutional amendment to change the terms of office for Members of Congress. The first resolution, House Joint Resolution 264, limits Members of the U.S. House of Representatives to six 2-year terms and Members of the U.S. Senate to two 6-year terms. It is a companion bill to Senate Joint Resolution 25. According to the Library of Congress, since the Legislative Reorganization Act of 1946, no single proposal to limit terms has received as many cosponsors as House Joint Resolution 264.

The second resolution, House Joint Resolution 267 increases the length of terms of Members of the House of Representatives from 2 to 4 years with staggered elections being held so that half of the House will be elected every 2 years and limits the number of terms which can be served by House and Senate Members.

This resolution comes the closest possible to providing three 4-year terms for House Members under the staggered term concept. In my judgment, staggered terms, whereby as close as possible to half the Membership of the House is up for election every 2 years, are essential to maintaining the House as that body of Congress closest to the people. If all House elections coincided with that of the

President, there is a greater likelihood for setting a pattern of straight ticket voting. Providing for off year elections will protect against coattail sweeps. This way an important check in the great system of checks and balances created by our Founding Fathers would be maintained. Lengthening terms of House Members is an important supplement to limiting the terms to correct the problems which have clearly arisen, but it should not be done in a manner which could threaten the checks and balances system which forms the bulwark of our constitutional government.

Since reapportionment requires a redistribution of congressional seats among the States every 10 years and a redrawing of district lines, it is impossible to have a staggered system of electing House Members to three consecutive 4-year terms. The resolution I have introduced takes this into account and provides for the election of all House Members once every 10 years following reapportionment and thereafter a resumption of staggered 4-year terms. As a result a Member could conceivably serve 2-year terms on two occasions and remain a Member for as long as 14 years, although 12 years is the common base of the limitation. The Senate elections do not pose this problem and the limitation is for two 6-year terms.

My overriding concern in introducing two alternative resolutions is with gaining a reasonable limitation on terms of office in both Houses of Congress and stimulating the debate in the legislative process necessary to achieve this. My personal preference is for the amendment which includes a modified lengthening of the terms of office of House Members to 4 years.

The present 2-year term of Members of the U.S. House came from a compromise by those who wanted a 1-year term and those who wanted a 3-year term at the Constitutional Convention in 1787. When the 2-year term was approved on June 21, 1787, it was so much of a compromise that the only person who spoke in favor of it was George Mason.

During the first 39 Congresses there was little challenge to the 2-year term. On February 8, 1869, during the 40th session of Congress, the first recorded resolution to lengthen the House term to 4 years was introduced. Since 1869, only five Congresses have not seen the introduction of at least one proposal to alter the House terms. Altogether there have been over 200 constitutional amendments introduced to lengthen the House term. The closest Congress has come to such a decision was a vote in 1906 of 89 in favor to 86 opposed, but the effort to gain a 4-year House term failed to achieve the two-thirds majority required for passage.

In 1951 President Harry S. Truman proposed a 4-year term for Members of the House and later urged a limit of 12 years of service on each body of Congress. In 1955 President Dwight Eisenhower supported the 4-year term for House Members and also later advocated a limit of 12 years of service. In 1966 President Lyndon B. Johnson urged the lengthening of House terms to 4 years, and in 1973 President Richard Nixon advocated the same.

The idea of limiting terms of Congressmen is not new either, but only modern political realities have made its enactment a necessity and sparked public and congressional interest. The earliest proposed constitutional amendment to limit terms was introduced in the First Congress in 1789. The resolution stipulated that no person could serve more than 6 years in an 8-year period. Actually the concept predated our Constitution; the Continential Congress adopted a proposal by John Dickinson of Delaware in 1777 limiting delegates under the Articles of Confederation to serving 3 years in any 6-year period. However, after the First Congress, the issue of limiting terms lay dormant until the mid-1940's. The primary reason for this dormancy was the tradition in the early years of our country to serve only two terms in the U.S. House and then retire. As late as the 1840's, 40 percent to 50 percent of the Congress left office at each election. From 1860 to 1920 the average length of service doubled from 4 to 8 years. By 1901 when the 57th Congress convened, for the first time less than 30 percent of its Members were freshmen. In 1981, when the 97th Congress convened, only 17 percent of the U.S. House of Representatives were freshmen.

Perhaps the most significant development in recent times has been the tremendous growth in public support for both lengthening terms of House Members to 4 years and limiting terms of all Members of Congress. A 1946 Gallup poll showed 40 percent of the American public favoring lengthening terms of House Members to 4 years. By 1961, 51 percent of the public supported 4-year terms and this was approximately the same in 1977. However, in the most recent Gallup poll published in the Washington Post on May 17, 1981, a clear 59 percent of the American people support the lengthening of terms of House Members to 4 years. That same poll shows that by a margin of 2 to 1 the American public wants to limit U.S. Senators and Representatives to a maximum of 12 years in office. The degree of support was similar in all population groups studied by the poll including both political parties and all levels of education.

The American people have spoken, and it is time to both limit terms of Senators and Representatives and to lengthen the terms of the House Members. The two go hand-in-hand.

Congress has become a career for many, which was never envisioned by our Founding Fathers. In the early days Congress would meet for 2 months a year or so, and meeting for 3 months was a really big year. A Congressman was a citizen legislator who would go home after a session and spend most of his time running business or practicing law or whatever. In modern times the sheer size and volume of the business of the Federal Government has made service in Congress a full-time job, and many who have come to Washington have given up their jobs back home and with each passing year of congressional service are more reluctant to go back home and reenter the job market. As a result, the tendency for a great many is to stay as long as possible, and they have been very successful as evidenced by the fact that since World War II more than 90 percent of incumbents seeking reelection have been returned to Congress.

The simple fact is that the concern of most Congressmen for getting reelected causes them to spend a good deal of their time and energy on matters related to that and often influences their decisionmaking away from what would otherwise be the course of their better judgment. A limitation on terms would assure that a substantial portion of Congress at any one time would be ineligible for reelection and virtually unfettered by the constraints of reelection concerns. If in addition to limiting terms, there were a lengthening of the terms of House Members from 2 to 4 years, there would be even more relief from the effects of reelection concerns on the actions, effectiveness, and efficiency of individual Congressmen. At the present time a Member of the House feels compelled to almost literally start reelection efforts as soon as he is elected since, in the world of politics, 2 years go by very quickly. Under those circumstances the career politician is bound to be worried most of the time about reelection and this can easily be to the detriment of performing his legislative duties.

One of the most time-consuming parts of the reelection campaign process for Members is fundraising. The cost and expense of running campaigns in the era of electronic media is staggering. To offset as much of the cost as possible, Members tend to play to both the print and electronic media on a regular basis during sessions of Congress in hopes of gaining such high name recognition among the voters that challengers will be few and far between and unsuccessful. Certainly the public needs a constant line of communication open to elected representatives and no one advocates restricting this interplay in the print and electronic media. However, there

needs to be a restriction on the motivating factors which cause too many Congressmen to spend too much time creating opportunities for media exposure, not to communicate but to insulate themselves from reelection challenges.

Then there is the work schedule dictated largely by reelection considerations which affects the efficiency of the individual Congressman. It is not uncommon for a Congressman to work until 9 or 10 o'clock each night, board a plane on Friday to go back to the district and work equally as hard meeting with groups and individuals throughout the district. He then flies back on Monday morning expected to be fit and ready for a serious hearing or the other important business of Congress. The workload is enormous and is compounded by the relentless pressure of reelection considerations.

On the other side of the coin are those Congressmen who have been in office so long that they have truly insulated themselves from reelection challenges and may only occasionally return to the district. They generally take legislative business seriously, but without the needed sense of urgency that can fade over the years, even for those who return to their districts regularly, and without the exposure to fresh ideas that come only from direct contact with the people. Both extremes are bad and both extremes are what dominate Congress today.

The result is an often stagnant and inefficient Congress. The result is many long-term legislators who have become Washingtonians who have a tendency to lose touch with life back home. The result is that the longer one remains in Washington, the more likely one becomes convinced that society's problems can or should be solved by the Federal Government. The result is many Members of Congress who are more interested in getting reelected than acting in the best interests of the country and devoting the time necessary to excel at public policymaking.

We need a much larger turnover in Congress on a regular basis to revitalize representative government, bringing into service men and women with more diverse backgrounds who have a fresh impression of what it is like living back home under the conditions created in large measure by the Federal Government and who have the fire burning in them to motivate Congress to make the changes necessary if the Federal Government is to work. Further, if terms were limited there would be created a perception among the people that one does not have to be in Congress for many years in order to play a significant role in the process, and undoubtedly more men and women would be willing to make the sacrifice of temporarily leaving careers in businesses and professions which hold the promise of great financial success to make a try for Congress, and the total number of high quality candidates and the level of debate of the issues for each office would improve. The combination of the seniority system and unlimited terms by its very nature often deters new blood from running for Congress.

Now none of this is to say that we do not have good, talented men and women presently serving in Congress. We do. In fact, all that is accomplished, given the pressures involved, is a tribute to the exceptional quality of those serving in the House and Senate as a whole. But the system is riddled with problems that most Members of Congress will admit privately, if not publicly, which are in large measure derived from the forces at work when you have full time career Congressmen who are either constantly concerned with reelection to save those careers, or are so removed from reelection concerns and the people that they have lost the sense of urgency and have few fresh ideas.

The essential constitutional duty of the Congress is to legislate on behalf of the American people. The sensible thing to do is to free as many Congressmen from as many nonlegislative pressures as possible while still keeping them responsive to the public. The best way to do this is by limiting terms, and in the case of the House by lengthening the term and staggering the elections. It is not enough to simply limit the terms.

In his book, "Waging Peace," Dwight D. Eisenhower wrote that each person serving under term limitation—

> would tend to think of his congressional career as an important and exciting interlude in his life, as a period dedicated to the entire public rather than as a way of making a living or making a career of exercising continuous political power * * *. More rapid turnover of the membership in both houses with its constant infusion of new blood would largely eliminate the "career" politician in Congress, but I can see little damage that would result from such a change except possibly to personal ambitions of particular individuals.

He went on to say that:

> Experience may produce greater skill in political maneuvering in the legislative process, but does not necessarily produce better statesmen.

Many of his observations apply as well to the need to lengthen terms of House Members.

The price of a free society is the eternal vigilance of the people. As clearly stated in the recent Gallup poll, the people have spoken, and the cavalier manner with which the issues of limiting terms of Congressman and lengthening House terms have been treated for the most part in past Congresses is directly contrary to the very essence of liberty and representative government upon which this Nation was founded. I call upon my colleagues to join in a concerted effort to bring about the debate and hearings necessary to resolve the differences among the Members and the people and meld together an appropriate constitutional amendment that both limits terms of Congressmen and lengthens those of the House as well.●

FINANCING THE RURAL ELECTRIC COOPERATIVES

HON. DONALD JOSEPH ALBOSTA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1981

● Mr. ALBOSTA. Mr. Speaker, the Reagan administration's budget package includes proposals to end the traditional Federal participation in the financing of rural electric cooperatives. This Federal participation has taken several forms including access for the co-ops to the Federal Financing Bank and low-interest guaranteed loans. The justification for this change is that the co-ops supposedly should be able to compete in the market for capital and that this move away from Government participation would reduce Federal spending.

I would like to provide some information that casts considerable doubt on that presumption. In fact, it appears that eliminating these financial arrangements would end up costing both the Federal Government and the consumers more.

It would be helpful for those who are interested to consider the statements made on May 14, before the Subcommittee on Agricultural Credit and Rural Electrification of the Senate Agriculture Committee by investment banker Jerome Katzin and finance expert and executive H. Russell Fraser. They conclude that the present system is the most cost-effective.

The following analysis contrasts the financial structure of the electric cooperatives with that of other utilities and concludes that the Federal Financing Bank represents the only proven source of long-term financing for the generating and transmission cooperatives of the rural electric system.

I include in the RECORD the following analysis by Donald Smith, chief economist of the National Rural Electric Cooperative Association:

FINANCIAL COMPARISONS OF RURAL ELECTRIC G&T COOPERATIVES AND OTHER ELECTRIC UTILITIES

FINANCIAL COMPARISONS

Major financial characteristics of Generation and Transmission (G&T) cooperatives are listed in Table I. Equity as a percent of assets, a common market ratio, averages only 3.7 percent for the G&T cooperatives. A favorable financial level, attractive to investors, would be in excess of 40 percent, as

is the industry average for investor-owned electric utilities.

Profitability of the G&T cooperatives is reflected by the excess of revenues over expenses (including interest), termed "net margins and patronage capital." Margins averaged $803,000 for the G&T's in 1979 and eight of the co-ops incurred deficits. Margins as a percent of total income or revenue were similarily low for the G&T co-ops. These averaged a slight 1.4 percent in 1979 or only about one-tenth the industry average.

A common Wall Street financial standard is interest coverage, or the Times Interest Earned Ratio (TIER). This is calculated simply by dividing margins (profit) plus interest by interest. The average TIER for G&T systems in 1979 was only 1.2, exactly one-half the industry average.

Another common financial ratio, Debt Service Coverage (DSC), was only 1.3 for the G&T cooperatives. DSC levels for the other utility sectors are substantially higher, due in part to the differences in the amortization of debt.

By all accounts, the key financial ratios of the rural electric Generation and Transmission cooperatives are substantially lower than those of the investor-owned and publicly-owned electric utilities. These utility sectors, although more attractive financially than the G&T utilities, are experiencing serious difficulties in securing long-term financing. Interest rates are exorbitant, currently in excess of 16 percent for the average rated investor-owned utility.

By contrast with the G&T co-ops, the lowest rated utility, a single B (Moody's), has the following financial characteristics: 40 percent equity, 1979 profit of $105 million, TIER of 3.4.[1] Although these financial ratios are superior to those of the G&T co-ops, the B rated utility would probably pay at least 20 percent interest on new financing *if* such financing could be obtained at all.

[1] Department of Energy, "Statistics of Privately-Owned Electric Utilities in the U.S.," 1979, Metropolitan Edison Company.

CONCLUSIONS

A comparison of the financial characteristics of G&T cooperatives with those of the privately and publicly-owned electric utilities (Table II) provides conclusive evidence of the following:

(1) G&T financial characteristics are significantly lower than those of other utilities.

(2) G&T financing would not be considered attractive by private financial investors.

(3) REA loan guarantees are essential to enable G&T financing, given their financial characteristics.

(4) The Federal Financing Bank (FFB) represents the only proven source of long-term G&T financing.

TABLE I.—FINANCIAL CHARACTERISTICS OF G&T COOPERATIVES

[Dollars in thousands]

State and G&T co-op	Equity—percent assets	Margins	Margins—percent revenue	TIER [1]	DSC [2]
Alabama: Alabama EC	0.8	$267	0.4	1.01	1.10
Arizona: Arizona EPC	−.1	−1,490	−.2	.93	1.06
Arkansas:					
KAMO EC	11.4	1,615	3.0	2.42	1.69
Arkansas ECC	−.7	−3,847	−4.7	.82	.94
Colorado:					
Colorado–UTE	.8	4,570	9.1	1.22	1.42
Tri-State G&T	3.3	6,576	8.3	1.20	1.22
Florida: Seminole EC	1.1	162	2.2	1.18	1.80
Georgia: Oglethorpe EMC	4.0	11,043	5.1	1.18	1
Illinois:					
Southern Illinois Power	2.6	−221	−1.1	.97	1.24
Western Illinois	1.1	−243	−1.2	.96	.98
Indiana: Hoosier Energy	1.5	1,116	2.3	1.06	.22
Iowa:					
Central IA	7.6	3,547	9.6	1.59	1.60
Corn Belt PC	6.6	265	.9	1.06	.99
Northwestern Iowa PC	6.0	934	5.4	1.17	1.70
L&O PC	29.6	311	12.8	5.13	3.08
Kansas: Sunflower EC	−3.9	−887	−2.7	.49	.71
Kentucky:					
East Kentucky PC	1.1	−2,511	−2.8	.90	1.01
Big Rivers EC	2.5	8,072	6.5	1.40	1.24
Louisiana: Cajun EPC	2.0	9,309	11.1	1.23	1.41
Michigan:					
Wolverine EC	−.7	200	1.3	1.03	5.92
Northern Michigan EC	1.5	−54	−.2	.99	.09
Minnesota:					
Cooperative Power Association	1.5	1,966	2.9	1.04	1.33
United Power Association	3.4	6,276	8.6	1.19	1.19
Mississippi: South Mississippi EPA	1.4	3,413	3.5	1.20	1.43
Missouri:					
Sho-Me Power	9.1	296	.7	1.20	1.13
M&A EPC	18.6	1,265	7.5	2.97	1.87
Northeastern Missouri EPC	44.3	2,597	11.9	10.58	3.33
Central EPC	11.8	1,295	4.4	2.63	1.52
Northwestern EPC	25.8	1,966	8.7	4.69	1.83
Assoc. EC	1.9	14,752	8.6	1.48	5.94
Montana: Upper Montana G&T	32.1	135	1.5	4.89	5.61
Nebraska: Nebraska Electric G&T	1.0	−8	0	.93	.99
New Mexico: Plains Electric	19.2	1,537	4.5	2.78	2.02
North Dakota:					
Minnkota PC	12.0	5,681	10.1	1.73	1.25
Central Power	18.3	718	5.1	2.53	1.97
Basin EPC	.3	4,560	5.6	1.08	1.25
Square Butte	.2	283	.5	1.01	1.02
Ohio: Buckeye Power	10.8	3,488	2.9	1.11	1.47
Oklahoma: Western Farmers	7.9	1,711	2.2	1.18	1.23
Pennsylvania: Allegheny EC	4.2	2,122	4.9	1.16	1.17
South Carolina: Central EPC	2.7	336	.5	1.13	1
South Dakota:					
East River EPC	16.1	1,034	4.5	1.84	1.65
Rushmore EPC	33.2	463	2.8	12.61	1.98
Texas:					
Brazos EPC	9.6	1,714	2.6	1.44	1.20
South Texas EC	7.9	703	3.0	1.74	1.31
Wisconsin: Dairyland Power	13.9	3,430	3.4	1.22	1.20

[1] Times interest earned ratio: interest plus margins divided by interest.

[2] Debt service coverage: margins plus interest plus depreciation divided by debt service.

Source: REA, Annual Statistical Report, 1979.

TABLE II.—FINANCIAL COMPARISONS

[Dollars in thousands]

	Equity—percent assets	Average profit	Profit—percent revenue	TIER	DSC
G&T cooperatives	4	$803	1.4	1.2	1.3
Investor-owned utilities	41	45,710	11.2	2.4	3.1
Municipal electric utilities	24	5,012	13.0	1.9	2.4

Sources: REA, Annual Statistical Report, 1979. DOE, Statistics of Publicly Owned Electric Utilities, 1979. DOE, Statistics of Privately Owned Electric Utilities, 1979.●

SECTION 406 SUBSIDY

HON. THOMAS A. DASCHLE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1981

● Mr. DASCHLE. Mr. Speaker, today I was honored to testify before the House Aviation Subcommittee regarding the proposal by the Civil Aeronautics Board to terminate section 406 subsidies to certain airlines.

Since this issue may have a most significant impact on my State, I insert my testimony in the RECORD:

Mr. Chairman and members of the committee, I wish to express my gratitude to you for the opportunity to appear here before you today. I commend you for your interest in resolving the issues pertaining to section 406 subsidy termination.

If I were to be completely candid with you, I would be forced to admit that the testimony which I am about to give would have been significantly different 6 months ago. But a great deal has happened since then.

Six months ago all that most of South Dakota knew about the airline industry was found on the seat insert in front of us as we sat in the plane.

Six months ago, all that most of South Dakota knew about the future of airline service in our State was that the price of that service was likely to increase . . . but with at least some certainty that the level of service would stay the same.

Six months ago, it was generally believed that whatever subsidy was being given the airlines by the Federal Government to serve South Dakota was money well spent.

That money was, of course, provided through the 406 subsidy. And I, not knowing any viable alternative, was a believer.

But as I said, Mr. Chairman, a lot of things have happened in these last 6 months.

In February, it was announced that one of our most important airlines, would be pulling out of at least four cities in eastern South Dakota, as soon as some viable replacement could be found. At least two other major commercial centers in my state may also soon find themselves with little or no service.

There are nine certificated points in South Dakota, seven of which are receiving air service from Republic subsidized under section 406. While Republic's service in the State, primarily with 48-seat Convair-580 aircraft, has attempted to meet the needs of these communities in the past, I am not optimistic about the prospects for the carrier continuing its service in the future, even with the continuation of section 406 subsidy. One need only look at the low load factors Republic has achieved recently on its operations in South Dakota to recognize the reasons for Republic's plans. The load factors on Republic's South Dakota operations averaged only 43 percent in fiscal 1980, a level well below break even. The four cities which will soon lose Republic service generated an average of 7 to 12 enplanements per day last year. These traffic levels cannot support service with the Convair aircraft, let alone with the larger DC-9 aircraft that constitutes the bulk of Republic's fleet.

And it was during these months that the Civil Aeronautics Board first proposed the termination of the 406 subsidy and the enhanced utilization of the 419 program.

With these new realizations now clear, the last 6 months have been a time when the people of my State have been introduced to a whole new world of airline service through the commuter industry. And the more they see, the more they like. The more they learn, the more they are excited about the prospects of not only comparable service to which they have become accustomed, but even improved service in those cities which had almost given up on quality air travel in recent years.

They are impressed, as I am impressed, with the fact that commuter passenger traffic has increased almost 40 percent in just the last 2 years. They share the enthusiasm, now, which is evident in nearly 90 percent of all cities receiving scheduled air service for this new mode of air travel, now growing at a rate unprecedent in the airline industry.

Unlike Republic, these carriers are largely reliant on the development of air traffic in communities just like these for their overall success, and this mutual interest is beneficial to the communities. At present, no commuter air carrier operates in the State of South Dakota, and this in part may be a result of our maintaining Republic's service by subsidizing it under section 406. More importantly, the notice by Republic to suspend service in these communities has brought forth a number of commuter air carriers who are anxious to enter South Dakota once Republic leaves. I believe this is a healthy sign and affords us the opportunity to develop service suited to the size and needs of these communities, with assistance under the section 419 program to the extent necessary. It also suggests that to prolong Republic's service at other small communities by continuing section 406 when we could be developing new carriers and service is not in the long-term public interest, particularly when it is likely that Republic will ultimately suspend services at these points regardless.

In 1980, Republic received an annual rate of over $4.5 million to serve the seven communities in South Dakota. In 1981 the rate increased 18 percent. For Brookings, Huron, Mitchell, and Yankton, they received approximately $1.9 million in 1980. While it is too early in the section 419 process to know what the cost will be under section 419, the CAB believes, based on other similar cases already completed, that it will be substantially less than the current 406 cost. More importantly, the funds spent under section 419 will probably have more long-term benefit for the South Dakota communities in that they will help to foster the development of new carriers and service suited to the size and needs of these communities.

This is really what the question here today is really all about. The genuine concern of each of the members of this subcommittee, Mr. Chairman, is surely that which asks whether or not we can actually phase out the huge subsidy to the large airlines and yet protect those communities which are now being served by those airlines.

I believe that the answer from the communities in eastern South Dakota is a resounding "Yes."

Yes; we can not only survive but improve with commuters.

Yes; we can cut costs and improve service.

Yes; we can make the airline industry work better through the efficient use of the 419 program.

This approach of eliminating section 406 and relying solely on section 419 to meet the service needs of small communities raises the question of how successful the CAB has been in implementing the section 419 program in terms of working with the communities and in attracting replacement carriers. Here again the evidence in South Dakota is extremely revealing. Since Republic notified Brookings, Huron, Mitchell, and Yankton of its intent to terminate its service there has been a cooperative and concerted effort by all of the communities in the State, the South Dakota Department of Transportation, and the CAB to analyze the overall air service requirements of each community in the State, to seek carriers interested in providing service to the communities and to effectuate a smooth transition in service. The CAB office in Kansas City has done one of the finest jobs of providing top quality Government service that I have seen in my years in public office.

Meetings have been held with local and State officials, air carrier representatives, and CAB staff to discuss the plans and prospects. The State has commissioned an air service study to evaluate the needs of the communities and the opportunities for carriers. The CAB, in cooperation with this effort, extended the normal time period for filing of service proposals until mid-July to enable the State to complete this study for use by prospective carriers in formulating their proposals. One proposal, already filed to serve the four communities, offers a comprehensive pattern of air service with 29-seat Nord aircraft.

The CAB advises me that they will be carefully reviewing all proposals filed and the fitness and reliability of the prospective carriers to insure that both the quantity and quality of service meet the requirements of the essential air service program. In examining a carrier's ability to provide essential air service, the Board expends considerable effort to assess the operational capabilities and financial position of the carriers.

Mr. Chairman, we probably never will be airline experts. And the commuter airlines are not yet serving in our State. We aren't even certain which of the airlines will be. But we are encouraged. We are encouraged because no less than five different airlines have already expressed an interest in coming to our State. We are encouraged because already most of those airlines and others have visited our State, have talked to our people and have begun making plans.

Having had these experiences, however, we are becoming experts on air travel in South Dakota. The old beliefs no longer have the same validity they once had. And having begun to develop this expertise, I can say without hesitation that the communities of my State, the CAB proposal to terminate the 406 subsidy is not only a proposal which makes budgetary sense, it may be a

key to the new world of travel to which we now look with great anticipation. That anticipation, however, should not blind us to the fact that there will be some temporary confusions and dislocations of service. In particular, I refer to the possibility of carriers presently serving under 406 subsidy being able to continue their service under the 419 program. I have the assurances of the CAB that every effort will be made to see that these carriers, including Republic, will be given every opportunity to establish their eligibility for 419 subsidy, if they can show that such a determination will, in fact be the most cost-effective way to provide essential service. I certainly would encourage such a process, and hope that the affected carriers would pursue it with diligence.

Thank you.●

SALUTE TO SAM FREEMAN OF CINCINNATI, OHIO, UPON HIS BEING NAMED NATIONAL BIG BROTHER OF THE YEAR BY THE BIG BROTHERS/BIG SISTERS OF AMERICA

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1981

● Mr. LUKEN. Mr. Speaker, on June 18, 1981, Sam Freeman of my congressional district was recognized for his outstanding service to our community by being named National Big Brother of the Year by the Big Brothers/Big Sisters of America.

Sam Freeman has been a member of the Big Brother movement for the past 12 years and has worked with five consecutive Little Brothers. He has been a patient friend and adviser to these boys, sharing their triumphs and helping them through their difficult times. His expectations for each boy were high, but within reach of their individual potentialities.

He is also an active member of the Agency's Board of Trustees as chairman of the Investment Committee and a hard-working fundraiser.

Sam Freeman is a special man. He lives by the high standards he has set for himself. He leads a full productive life and has blended his energies admirably between his family, his Little Brothers, his profession, and the community. Through his work with Big Brothers, Sam Freeman becomes a living example of the words, "it is in giving that we receive."

Mr. Speaker, it is my pleasure to share this man's accomplishments with my colleagues and to seek national recognition for this unselfish man.●

A TRIBUTE TO CHARLES WHITE

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1981

● Mr. DIXON. Mr. Speaker, I would like to take a minute to share with you and my colleagues some of the outstanding accomplishments of the late Charles White, who died last year at the age of 62. This fine American distinguished himself in the field of art and is well known in art circles for his murals and graphic art work, having won fellowships, grants, awards, and gold medals from academies and museums all over the United States and Germany. Mr. White's life was dedicated to capturing on canvas the dignity and heroism of blacks. Many have called him the Diego Rivera of Black people. During his lifetime he was cited many times, including a White House citation from President Carter.

Mr. Speaker, Mr. White's paintings have been exhibited at countless American museums, including the Metropolitan and Smithsonian, as well as at the Hermitage Gallery in Leningrad, and in museums in Paris, Moscow, Leipzig, Czechoslovakia, and Switzerland. Much of White's work was devoted to sketching children and he always found time to accept teaching assignments, which provided many of today's artists with the inspiration we all must have to succeed. It seems only fitting that Otis-Parsons Art Institute, Los Angeles City College, and Southside Art Center in Chicago have set up scholarships in his name, and this year's National Conference of Artists was dedicated to him. A documentary film has been made of his life, and a biography is now in print.

Mr. White lived a quiet life in Altadena, Calif., with his devoted wife, Frances, where a new Charles White Community Park was christened in his honor recently with special dedication ceremonies. Many artists, community leaders, and dignitaries paid tribute to this remarkable man.

I know that my colleagues here in Congress will want to join with me in honoring this distinguished citizen whose contributions have truly enriched our lives.●

UKRANIAN INDEPENDENCE DAY

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1981

● Mr. OTTINGER. Mr. Speaker, June 30, 1981, marks the 40th anniversary of the renewal of Ukranian independence. This date symbolizes the continuity of the struggle of the Ukranian people for freedom.

The history of the Ukranian people is filled with outstanding achievement and includes a long record of opposition to Soviet dominance and Soviet human rights abuses. Upon the collapse of the Tsarist Russian Empire, the Ukranian National Republic was established on January 22, 1918. By 1920, that independent republic was destroyed by Russian aggression. Yet the Ukranian people remained unwaivering in their commitment to freedom and independence. On June 30, 1941, they proclaimed their independence again, and denounced both their Soviet and Nazi enemies. On June 30, we will celebrate that valiant yet short-lived renewal of independence.

In the past 40 years, the Ukranian people have withstood a barrage of Soviet religious persecution, KGB terror, and intensified russification of Ukranian economy, industry, and education. Indeed, a special spirit of freedom lives on in the hearts and minds of all Ukranians.

As a member of the Ad Hoc Congressional Committee on the Baltic States and Ukraine, I believe it is vital to focus public attention on the quest for liberty for these gallant people. That is why I have cosponsored a resolution introduced by Congressman William Green, to designate June 30, 1981 as Ukranian Independence Day. Passage of this resolution will demonstrate America's support for the aspirations for freedom of peoples and nations throughout the world.

I commend to the attention of my colleagues the resolution for Ukranian Independence Day.●

TRIBUTE TO CLAUDE O. ALLEN

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1981

● Mr. DELLUMS. Mr. Speaker, I would like to bring to the attention of my colleagues the fine work and community dedication of Mr. Claude O. Allen. This contribution to the bay area community will be honored at a testimonial on the 28th of June, 1981.

Mr. Allen was born on July 29, 1916, in Lumberton, Miss. He attended grade school in Brookhaven, Miss., and Cleveland, Ohio, returning to Brookhaven to attend high school. He commenced his college education at Jackson College, Jackson, Miss., graduating form Alcorn A. & M., Alcorn, Miss., in 1936. After several years, he attended the Lincoln University Law School, graduating in 1953. In 1954 he was admitted to the State bar of California.

Mr. Allen has been central to the foundation of several key organizations in the Oakland community. As a lawyer, he helped organize the Trans-

Bay Engineers & Builders and the Minority Contractors Association. He was one of the charter members of the Charles Houston Law Club, now the Charles Houston Bar Association. As a citizen, he has served in such organizations as the Men of Tomorrow, the NAACP, California Democratic Club, Oakland Voters League, Alameda County Bar Association, and the California State Bar Association. He served two terms on the Alameda County Democratic Central Committee. As a church man, he has been a member of the Church of All Faiths and has served as its legal adviser during its organization.

Mr. Allen is recognized as a skilled practitioner, who has given considerably to the community. During the course of his law work, he has formed association with many capable trial lawyers, some of whom are now legislators, judges, or other public officials. He is a person who has helped spawn creativity and participation in the black community.

With those who will be assembled on the 28th, I join in paying tribute to a great man who has given much to the community.●

HEALTH RESEARCH GROUPS SUPPORT BUDGET COMMITTEE BILL

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1981

● Mr. DINGELL. Mr. Speaker, today, I received a letter regarding research and research training programs at the National Institutes of Health, signed by a very impressive array of biomedical research organizations. The letter comments upon the various provisions of the Budget Reconciliation Act of 1981, as they relate to the biomedical research field. The letter supports the Budget Committee bill, which incorporates the reconciliation recommendation of the Committee on Energy and Commerce and I would like to bring its cogent and compelling arguments and the names of signers to the attention of my colleagues.

The letter comments on two provisions of legislation now under consideration by the Congress. The first is research training, and the second is the proposed authorization and appropriation restriction on the National Institutes of Health proposed in the Senate legislation.

JUNE 24, 1981.

Hon. JOHN D. DINGELL,

Chairman, Energy and Commerce Committee, House of Representatives, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: As the House of Representatives approaches its final decisions on the Budget Reconciliation Act of 1981, the organizations listed below, all of whom have been deeply concerned and heavily engaged with the health and medical programs of this nation, have carefully studied the two contending proposals in this area. One was drafted by Representative Waxman and is included in the "Dingell package;" the other will probably closely reflect the views of the Administration.

The spending ceilings in the First Concurrent Budget Resolution have been dictated by the tenor of the times. It is noteworthy that both the Dingell/Waxman and the competing proposal fall within those Gramm-Latta targets. But here the similarity in the two proposals ends. The Dingell/Waxman provisions are thoughtfully considered accommodations to an unhappy circumstance, structured in such a way that unavoidable short-term sacrifices will not compromise long-range program objectives. The substitute proposal appears, whether so intended or not, to be severely harmful to critically important health programs that have been built slowly, with the painstaking care and careful nurture, over the last three decades.

The major element that unites this group of organizations is their deep and lasting concern about funding for biomedical and behavioral research training, because of its importance to the future vigor of the nation's research endeavor. The primary responsibility of the federal government for sponsorship of the nation's biomedical research enterprise is both well established and unquestioned. An essential derivative of that responsibility involves the assurance of an adequate research manpower pool, as measured in terms of quantity, quality and diversity. This is not to say that the federal government necessarily should bear the total costs of training all of the nation's biomedical scientists; indeed, significant numbers of trainees receive their stipends from other than federal sources. But, as with the research program itself, the federal government is the only potential sponsor able to assure the otherwise unmet needs. Arising from that federal research manpower responsibility has been recognition of the importance of establishing and subsequently maintaining a high quality in the scientific environment in which research training takes place. Thus, the NIH, for almost forty years, and the NIMH have purposefully provided funds over and above those necessary to support individual trainees so as to assure a proper institutional training capability. Furthermore, those agencies intended that all trainees in these locales should benefit from this augmented funding, regardless of the source of their stipends.

Dingell/Waxman recognized fiscal stringency by substantially reducing the authorization ceilings for these research training programs. At the same time, it preserves the basic character of the programs, including retention of support components that have been responsible for the creation and maintenance of high quality training environments in virtually all of the disciplines of biology and medicine. In contrast, the substitute proposal couples an excessive reduction in funding with a deletion of the authority for institutional elements of these programs that, in part, have made them so productive. (The Dingell/Waxman proposal authorized $194 million for fiscal year 1982, down from $222.5 million in fiscal year 1981, and provides for 10,000 research trainees and institutional support to assist in the training. The other would cut the funding to $147 million for fiscal year 1982 and provides for no institutional support.) This is in direct contrast to the action of the Congress just two weeks ago in rejecting most of the rescissions for fiscal year 1981 appropriations for NIH. That action endorsed full support for a high number of stipends as well as institutional support and indirect costs.

All things considered, in the area of health, the Dingell/Waxman proposal is far more in the public interest than its competitor. For this reason, all of the undersigned organizations and their constituents endorse the "Dingell package" and are communicating that position to your colleagues in the House.

Soon after passage of this legislation, the Senate-House Conference will be held to reconcile differences. The research training program will be at issue there also and, additionally, the Senate version likely will contain a provision profoundly damaging to the National Institutes of Health and the National Institute of Mental Health. Again, on the crucially important issues related to biomedical and behavioral research and research training, the undersigned organizations hope that you will succeed in retaining the Dingell/Waxman authorization level and in eliminating the arbitrary, uprecedented and unnecessary funding "cap" that the Senate Committee on Labor and Human Resources proposes be placed on the entire National Institutes of Health and the National Institute of Mental Health operation and the research and research training programs in mental health. This latter provision would terminate a tradition of unusual but strikingly effective Congressional treatment of agencies of the federal government, the National Institutes of Health and the National Institute of Mental Health, that have, as result, emerged as the most important force in medical science that the world has ever seen.

In your many years on the Committee which has overseen the work of these agencies. You have been a major advocate of their objectives and programs, and you know, as well as we, that support for all of that time has been full and bipartisan in the Congress. We believe that such a provision would profoundly and adversely affect these agencies, and we plead with you that you do your best to prevent it from being enacted.

We deeply appreciate your leadership and that of Congressman Waxman in these vital matters.

ORGANIZATIONS ENDORSING THE LETTER

Endocrine Society.
American Surgical Association.
American Academy of Neurology.
American Academy of Ophthalmology.
American Academy of Orthopedic Surgeons.
American Association of Chairmen of Departments of Psychiatry.
American Celiac Society.
American College of Gastroenterology.
American College of Physicians.
American Council on Education.
American Association for Thoracic Surgery.
American Association for Dental Research.
American Gastroenterlogical Association.
American Federation for Clinical Research.
American Physiological Society.
American Psychiatric Association.
American Society of Biological Chemists.
American Society for Clinical Investigation.

American Neurological Association.
American Liver Foundation.
American Society for Parenteral and Enteral Nutrition.
American Society of Hematology.
American Society for Gastrointestinal Endoscopy.
Association of American Universities.
Association of American Medical Colleges.
Association of Anatomy Chairmen.
Association of Advanced Technology and Biomedical Science.
Association of Medical School Microbiology Chairmen.
Association of Medical Schools of New York.
Association of Orthopedic Chairmen.
Association of Professors of Gynecology and Obstetrics.
Association of Professors of Medicine.
Association of Program Directors in Internal Medicine.
Association of University Professors of Neurology.
Association for Academic Psychiatry.
Association for the Study of Liver Disease.
Center for Ulcer Research and Education Foundation.
Central Society for Clinical Research.
Child Neurology Society.
Children's Liver Foundation.
Cystic Fibrosis Foundation.
Friends of Eye Research, Rehabilitation and Treatment.
Gluten Intolerance Group.
International Association of Enterostomal Therapy.
International Foundation for Ileitis and Colitis.
North American Society for Pediatric Gastroenterology.
National Association of State Universities and Land-Grant Colleges.
Pediatric Liver Research Foundation.
Public & Scientific Affairs Board, American Society for Microbiology.
Society for Gastrointestinal Assistance.
Society for Investigative Dermatology.
Society for Neuroscience.
Society for Critical Care Medicine.
Society of Teachers of Family Medicine.
United Ostomy Association.
Western Institute for Occupational and Environmental Science.
Society for Pediatric Research.
Infectious Disease Society.●

BIAGGI BILL TO GIVE CREDIT TO SOCIAL SECURITY SYSTEM FOR UNCASHED CHECKS

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1981

● Mr. BIAGGI. Mr. Speaker, yesterday I introduced legislation aimed at correcting a little known but serious problem affecting the social security system. The Social Security Administration estimated that their trust funds have lost over $200 million and will lose an additional $28 million over the next 4 years because of one simple reason—uncashed checks.

The Social Security Administration certifies to the Department of the Treasury, the amount of benefits (checks) paid to social security recipients. At the time of certification, Treasury transfers that amount from the social security trust funds to a Treasury transfer account. Treasury then mails the recipients their checks.

Under existing law, Treasury is not authorized to cancel uncashed Government checks and credit the value of those checks for the trust accounts upon which they were originally drawn. In fact, one provision of law illustrates the dilemma under the terms of title 31 United States Code, sec. 132—Payment of Checks—it reads "Government checks are payable forever."

Consequently, the social security trust fund throughout its 46-year history has been unable to be credited for either the value or the interest of an uncashed check. In most cases, these checks revert back into General Treasury accounts and have no relationship with the trust fund.

The bill I have authored would rectify this situation in two ways: First, it would authorize a one-time payment to the social security trust fund for the value, including interest of all uncashed checks. Second, my bill would credit the trust fund for the value of any check which goes uncashed for 3 years.

The concept involved with my legislation has been considered before. Both the Social Security Administration and the Department of the Treasury have agreed that legislation is needed to enable the trust fund to be credited for uncashed checks but they differ on specific provisions. I believe my bill provides for a sensible solution to this problem.

In recent months, many older Americans have been anxious about proposed cuts in social security benefits as proposed by the President. I believe my legislation gives Congress a unique opportunity to enact a needed reform in social security which could help to replenish the dwindling reserves in the old age and survivors trust fund to help avert any reductions in benefits. I hope this can be offered as an amendment to H.R. 3207 or whatever social security reform bill comes before the House.●

MANATT CRITICAL OF WHITE HOUSE INACTION ON HUMAN RIGHTS POST

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1981

● Mr. HARKIN. Mr. Speaker, Mr. Charles Manatt, chairman of the Democratic National Committee, recently voiced his concern about statements from the administration that the President might not send up a new nomination for the post of Assistant Secretary of State for Human Rights and Humanitarian Affairs.

I urge my colleagues to take note of Mr. Manatt's call for the President to fill the post as soon as possible.

MANATT CRITICAL OF WHITE HOUSE INACTION ON HUMAN RIGHTS POST

LOS ANGELES.—The Chairman of the Democratic National Committee has termed the apparent decision of the Reagan Administration not to fill the post of Assistant Secretary of State for Human Rights, "petulant" and "unseemly," and said such a decision would send out the "worst possible signal to friends and allies about how U.S. foreign policy is made."

Charles T. Manatt, speaking before a meeting of Los Angeles political writers and correspondents, responded to suggestions by the top White House officials and recent newspaper columns indicating the White House would consider abolishing the post and not nominating a replacement for rejected nominee Ernest W. Lefever.

"A full week has passed since the Senate Foreign Relations Committee defeated the Lefever nomination, yet the only indication we have from the White House is a series of trial balloons and whispered asides to columnists that President Reagan may scrap the important Human Rights job," said Manatt.

"While it is understandable that the President is disappointed at the rejection of his nominee by the Senate, it would demean the Office of the President to refuse to fill the position of Assistant Secretary of State for Human Rights out of presidential pique. Such an attitude is equivalent to the playgrounder's threat to 'take one's bat and ball and go home' when an umpire's decision goes the other way and is unseemly for the President of the United States," Manatt said.

"Such a decision would also send the worst possible signal to our friends and allies abroad about how U.S. foreign policy is made. It would suggest that U.S. foreign policy depends on personalities instead of a strategic calculus of U.S. interests. It would convey a continued impression of inconsistency in the Administration's foreign policy apparatus—just when the opposite impression is badly needed."

"Finally, to refuse to fill the most important government position responsible for human rights would send a signal abroad that America is abandoning its ideals and its commitment to the defense of human rights—a signal the Administration claims it does not want to send."

"If it was sound policy to fill this position before the Foreign Relations Committee vote—and it was—nothing has changed to make it any less compelling today. It is petulance, not policy, to send up scarcely concealed trial balloons by top Administration spokesmen suggesting that President Reagan intends to drag his feet on finding a new candidate for Assistant Secretary of State.

"And it is hypocritical to meet with the wife of Anatolyi Scharanski last week—as President Reagan did—and turn around the very next week and threaten to abolish the most visible symbol of America's commitment to freedom and human rights—the post of Assistant Secretary," Manatt continued.

"The decision of the Foreign Relations Committee was a bipartisan decision on the merits, made by Republicans and Democrats alike. It should not be turned into a partisan test of strength by the Administration. The clear duty of the President, both to the

Nation and the millions of human beings struggling for freedom around the world who look to America for support, is to fill the position of Assistant Secretary of State for Human Rights with a qualified and fitting representative of our Nation as soon as possible."●

PETER BENSINGER, A GREAT ADMINISTRATOR OF DEA

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1981

● Mr. McCLORY. Mr. Speaker, July 10 marks the end of an outstanding term of office for a longtime friend of mine, the Administrator of the Drug Enforcement Administration, Peter B. Bensinger.

Mr. Speaker, I have known the Bensinger family on a personal and business basis for approximately 15 years, as they come from Highland Park, Ill., which was, for many years, within the boundaries of my congressional district.

Almost from the beginning Peter has centered his career on fighting crime. Prior to his appointment as Administrator of the DEA, he was chief of the crime victims division of the Illinois attorney general's office.

Before that, he was executive director of the Chicago Crime Commission, the first director of the Illinois Department of Corrections, and the chairman of the Illinois Youth Commission.

Mr. Speaker, during his 5½ years at DEA, Peter has been devoted to reducing drug-related crimes and curtailing drug trafficking and addiction—with no task being too large or too small.

For instance, in 1979 Peter took time from his busy schedule to appear at the Lake-McHenry Criminal Justice Conference in my congressional district. There, he called on parents and teachers to join together to fight the use of marihuana by teenagers.

Mr. Speaker, Peter's contributions to our country's ongoing battle to eliminate drug abuse will not be forgotten. My wife, Doris, joins me in wishing Peter and his family the best of luck in their future endeavors.●

U.S. POLICY TOWARD SOUTH AFRICA

HON. GEO. W. CROCKETT, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1981

● Mr. CROCKETT. Mr. Speaker, the Detroit Free Press, one of my district's most respected newspapers, has recently taken an editorial stand in opposition to the Reagan administration's policies toward South Africa. The editorial, which I insert into the RECORD for the benefit of my colleagues, examines the long-term implications for the United States if we continue with the policies endorsed thus far by the Reagan administration and its officials.

I commend this editorial to the attention of my colleagues:

[From the Detroit Free Press, June 14, 1981]

AFRICA: THE U.S. STANDS TO LOSE A LOT AS IT COZIES UP TO RACIST SOUTH AFRICA

It turns out that black Africa's fears about a growing coziness between South Africa and the U.S. weren't paranoid delusions. Apparently, they reflected a real trend.

According to purported State Department documents, the administration wants more "friendship and co-operation" with South Africa, a country it views as a potential defender of Western interests. The U.S., according to the memos, will work to end South Africa's "polecat status" in the world if Pretoria works out an acceptable settlement for the independence of South West Africa, also known as Namibia.

The papers containing this information were made available by Randall Robinson, director of TransAfrica, an anti-apartheid private research group based in Washington. Mr. Robinson did not disclose how he got the documents. If they are, indeed, accurate, they raise major questions about the political sophistication of key administration officials.

Can the administration really fail to recognize the consequences it would pay in the Third World for a shift toward South Africa? Is it ready to risk losing oil from Nigeria, the second largest U.S. supplier, for pursuing such policies? Does it truly believe South Africa deserves major concessions for freeing a territory it illegally holds?

Feedback from the administration so far suggests the answer may be "yes" on all points. The State Department reportedly has launched an investigation to determine who leaked the documents but no probe is planned of the launching of such wrongheaded policies.

The final unanswered question is why conservative U.S. elements continue trumpeting the cause of the racist African regime. The need for Pretoria's vital minerals is the reason most often cited. But a new major study suggests the West really needn't fear any long-term loss of strategic resources from South Africa. According to the Rockefeller Foundation study, "South Africa: Time Running Out," the West is the prime market for South Africa's minerals. Moreover, black Africa could provide some of the strategic materials Pretoria provides, particularly if aided in building better transportation systems.

The report, which also urges maintaining sanctions against South Africa, is not likely to have much effect upon current U.S. Africa policy. Jeane Kirkpatrick, U.S. ambassador to the UN, has called sanctions an unrealistic way of pushing South Africa to grant independence to Namibia. And the U.S. is boycotting a UN-sponsored conference now underway on the question of sanctions against South Africa.

Meanwhile, efforts are under way to repeal the Clark amendment prohibiting covert aid to anti-government forces in Angola. The U.S. also recently cast the only vote against a World Health Organization code urging an end to promotion of infant formula, which is blamed for increasing infant health problems in many underdeveloped nations.

The truth seems to be that when it comes to an Africa policy, there is nothing too farfetched for this administration. As a result, increasing numbers of Third World nations are starting to view the U.S. as a country more concerned with profits and power than any moral imperatives. The time is running out for Washington, as well as Pretoria, to change its mind.●

ANNUAL QUESTIONNAIRE RESULTS FROM MICHIGAN'S 15TH DISTRICT

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1981

● Mr. FORD of Michigan. Mr. Speaker, I am pleased to submit for the RECORD the results of my annual questionnaire survey of the residents in Michigan's 15th Congressional District, which I have the distinct honor to represent.

These percentage results represent the tabulation of the first 14,000 replies, a considerable increase over previous years' returns. This high response, no doubt, is an indication of the intense interest my constituents have in the issues currently before the Congress.

This annual survey, is one of the most valuable projects which we carry out each year. It has proven to be an effective way of obtaining a broad cross-section of opinion among my constituents.

In addition to a number of questions on specific areas of national concern, I have asked my constituents each year to tell me what they consider the most important problems facing our Nation. Over the years, several items have consistently appeared in the top four or five—crime, inflation, unemployment, energy, and drugs.

For the fourth year in a row, inflation heads the list, chosen by half of the respondents as the single most important problem facing our Nation. Unemployment ranked as the foremost problem for 24 percent, while taxes was chosen by 20 percent and energy and national defense were each chosen by 10 percent of the respondents.

I also asked my constituents areas of the budget they would increase and/or decrease. As in past years, an overwhelming majority—69 percent—recommended the United States spend less in foreign aid. Although my constituents for the most part prefer the same level of expenditure in Federal programs which they now benefit from, there was some sentiment for cutting jobs programs, 37 percent, home mortgage and other housing programs, 38 percent, and agriculture and rural development programs, 32

percent. Interesting, the category in which the largest percentage prefer level funding is in the area of defense at 48 percent.

In the areas which my constituents want more Federal spending, crime control topped the list at 49 percent, while increased aid to the elderly garnered 42 percent. Forty-one percent of the respondents would prefer more attention for energy research, and 34 percent want higher funding levels for defense.

I know I found the results from my questionnaire this year very revealing. I am sure they will be of interest to you, Mr. Speaker, and to our colleagues here in the Congress.

QUESTIONNAIRE RESULTS

1. Inflation: If the economic situation fails to improve, would you favor mandatory wage and price controls? Yes, 50 percent; no, 33 percent.

2. Foreign policy: Do you agree with the administration's plan to expand military aid to El Salvador? Yes, 28 percent, no, 52 percent. Do you favor the President's announced plans to send additional military advisers to El Salvador? Yes, 29 percent; no, 50 percent.

3. Trade and imports: Because of economic slumps in American industry—especially in the automobile industry—approaches are being considered to help U.S. manufacturers compete with foreign producers. If you were making trade and economic policy, would you? a. Place legal limits on imports to protect American jobs, 38 percent; b. Help American industry to compete better through loans and subsidies, 15 percent; c. Negotiate flexible, voluntary trade agreements with our trading partners and concentrate on increasing American productivity through tax and regulatory policy, 33 percent; d. Let the international market work without Government interference, 23 percent.

4. Environment: Protection of our environment still remains a major concern for many Americans. Some contend that we should press even harder in this area, while others fear that we have been moving too fast, and are sacrificing jobs and economic progress. How do you feel? a. Work harder for environmental protection, 25 percent; b. Cut back our efforts on environmental protection, 20 percent; c. Maintain our efforts at the same level, 33 percent; d. other, 5 percent.

5. Important issues: What do you consider our Nation's most serious problem? a. Inflation, 50 percent; b. Taxes, 22 percent; c. National defense, 10 percent; d. Energy, 3 percent; e. Unemployment, 24 percent.

6. Social security: The Reagan administration has asked Congress to eliminate three social security benefit programs, and tighten eligibility on a fourth. The programs are listed below. Should they be cut or saved? a. Eliminate the minimum benefits program, which provides a base payment of $122 a month to anyone eligible for social security, cut, 26 percent; save, 49 percent; b. Eliminate payments made to adult students—aged 18–22—who are children of retired, disabled or deceased workers, cut, 54 percent; save, 23 percent; c. Eliminate the lump sum death benefit of $255 if the deceased had no surviving spouse or children, cut, 57 percent; save, 27 percent; d. Tighten eligibility requirements for disability benefits by requiring that beneficiaries must have worked in employment covered by social security for 1½ out of the 3 years preceding disability, cut, 53 percent; save, 24 percent.

7. Federal spending: Do you think the Federal Government's budget should spend more, less, or about the same in the following areas?

a. Aid to the elderly, more, 42 percent; less, 7 percent; same, 33 percent;

b. Assistance to the poor, more, 14 percent; less, 33 percent; same, 32 percent;

c. Jobs programs, more, 24 percent; less, 37 percent; same, 20 percent;

d. Home mortgage and other housing programs, more, 16 percent; less, 38 percent; same, 25 percent;

e. Health care, more, 29 percent; less, 20 percent; same, 30 percent;

f. Social security, more, 27 percent; less, 19 percent; same, 34 percent;

g. Education, more, 23 percent; less, 29 percent; same, 30 percent;

h. Crime control, more, 49 percent; less, 11 percent; same, 24 percent;

i. Defense, more, 34 percent; less, 16 percent; same, 48 percent;

j. Foreign aid, more, 2 percent; less, 69 percent; same, 10 percent;

k. Agriculture and rual development programs, more, 16 percent; less, 32 percent; same, 32 percent;

l. Veterans benefits, more, 25 percent; less, 15 percent; same, 43 percent;

m. Energy research, more, 41 percent; less, 14 percent; same, 24 percent;

n. Environment, more, 17 percent; less, 29 percent; same, 35 percent;

o. Highway construction and improvement, more, 17 percent; less, 24 percent; same, 40 percent.●

AMENDMENT TO CUT OFF FUNDING TO UNESCO

HON. ROBIN L. BEARD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1981

● Mr. BEARD. Mr. Speaker, earlier today I sent a letter to the chairman of the House Foreign Affairs Committee, Mr. ZABLOCKI, regarding an amendment I intend to offer when the House considers the Department of State authorization bill.

My amendment will prohibit funding to UNESCO if that organization implements any policies or procedures designed to regulate news content and formulate rules and regulations for the operation of the world press.

For some time there has been considerable discussion over the concept of the so-called new world information order, which represents a direct assault on the right we Americans so highly cherish—freedom of the press. It is vital that Congress send a clear signal to the member states of UNESCO that expresses the seriousness of our purpose. Under no circumstances will we tolerate efforts by that body that are inconsistent with the notion of free dissemination of the news.

We can expect the State Department authorizing legislation to incorporate an amendment expressing disapproval of the new world information order. But the question is, isn't it time that this House assert its will with more resolve than mere words? My amendment accomplishes this goal.

I am inserting for the RECORD a copy of my letter to Chairman ZABLOCKI and an excellent editorial which appeared on June 12 in the Washington Star.

HOUSE OF REPRESENTATIVES,
Washington, D.C., June 25, 1981.

Hon. CLEMENT J. ZABLOCKI,
Chairman, Committee on Foreign Affairs, Rayburn House Office Building, Washington, D.C.

DEAR CHAIRMAN ZABLOCKI: I have been advised that the House will be considering the State Department Authorization bill shortly after we return from the July 4th period recess.

This letter is to inform you that I intend to offer an amendment to prohibit funding to the United Nations Educational, Scientific, and Cultural Organization (UNESCO) should that body implement any policies or procedures designed to regulate news content and formulate rules and regulations for the operation of the world press.

Sincerely,

ROBIN BEARD,
Member of Congress.

[From the Washington Star, June 12, 1981]

UNESCO's "NEW ORDER"

Freedom of the press—above all the freedom of reporters, editors and publications to work without government control or manipulation—is an embattled principle in the world, as always. Its strengthening should be the goal of the U.N. Economic and Social Council's new International Program for the Development of Communication (IPDC), whose 35-member governing council convenes a first meeting in Paris next week (June 15–22). After all, it is among UNESCO's chartered assignments to "promote the free flow of ideas by word and image."

Unfortunately, that may not be the objective of IPDC. Some of its members and sponsors, in the so-called "developing world" and the Soviet bloc are promoting what they call "a new international information order," whose implications are in too many ways dangerously authoritarian.

A UNESCO official, Mr. Doudou Diene of Senegal, speaking recently of the communication-development program, cited "the important dimension of the cultural identities and the proper values of each nationality." Such "dimensions" and "values" might be variously defined. But we suspect Mr. Diene of using typical UNESCO-ese to telegraph his sympathy, and that of his organization's leadership, for the dilution of free press values for nationalistic or political purposes. The middle ground, after all, is narrow. Either you believe that the service of "cultural identities" and "proper values" is only incidental to the valid purposes of the press or you don't.

The so-called "developing nations" have legitimate complaints about the way their affairs are sometimes reported by the dominant publications and wire services of the West. They also need Western help in the development of communications technology. Those complaints and needs have a place on the IPDC agenda. The validity of the discussion crucially depends on whether it is assumed to be the business of the press

to correct distortions, voluntarily, or whether it is assumed that governments may legitimately reshape the information flow by coercion.

At Talloires, France, in mid-May, representatives of the press from 24 nations with free press traditions met to frame a declaration insisting, in essence, on the duty of the U.N. member agencies to promote valid free-press principles. The Talloires declaration rejects the double standard so often invoked to justify repressive practices "in countries * * * insufficiently developed to enjoy (press) freedom."

UNESCO officials and others who aspire to use IPDC as a forum for the legitimation of a double standard, or of the manipulation of information by licensing, economic barriers or other means, should take heed. The Talloires declaration says, in clear terms, that subscribers to the free-press tradition will resist its perversion by IPDC, whatever form the perversion may take.

The new administration in Washington is sympathetic to the principles stated at Talloires. It is in no mood to temporize with, or indulge, the imposition of a crypto-authoritarian "information order." A recent New York Speech by Elliot Abrams, assistant secretary of state for international organization affairs, makes that clear. The U.S. is for the first time actively cognizant of the dangers of the UNESCO initiative—as both Mr. Abrams's speech and the high-level nature of the delegation to the Paris meeting show.

It is rumored, incidentally, that some of those who are being considered now for the post of ambassador to UNESCO are novices in international and UNESCO affairs, including the international information order issue. The Reagan administration can and should do better. It should seek serious and able representation to UNESCO, where so many critical issues of freedom find an international forum. It is no place for a patronage appointment.

The Star not only subscribes to the principles of the Talloires declaration of mid-May, we also believe, as do others represented at the Talloires meeting, that the information issue is important enough to merit drastic action if basic UNESCO principles are compromised by IPDC.

If necessary, U.S. participation in and financial backing for the IPDC governing body should be withdrawn. And if that doesn't sober the dispensers of "new world information order" mumbo-jumbo, serious consideration should be given to full withdrawal from all UNESCO activities.

The United States cannot countenance by compromise or meek submission any international "order" that degrades or negates the central values of democracy, whether those of the free press or any other institution.●

NEW YORK POST EDITORIAL PROVIDES EXCELLENT BLUEPRINT FOR PEACE INITIATIVE IN NORTHERN IRELAND

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1981

● Mr. BIAGGI. Mr. Speaker, as chairman of the 121 member—bi-partisan ad hoc congressional committee for Irish Affairs, I wish to bring to the attention of my colleagues an excellent editorial from the New York Post of Friday, June 19, on Northern Ireland.

Central to the editorial is the Post's advocacy of a United States role in trying to resolve the conflict in Northern Ireland. They believe that solutions should be proposed not imposed by outsiders. They support economic aid as an incentive for negotiations. The philosophy of the editorial is best captured in the following statement:

For political, economic and strategic reasons, neither the United States nor Europe can any longer afford to ignore the situation in Northern Ireland.

It is time for us to join to try to end the violence and promote the dialogue of common sense.

I commend the Post for their editorial and urge all of my colleagues who share my hope for peace, justice, and freedom for Ireland to read it carefully. At this point in the RECORD I wish to insert the editorial as well as my response to the editorial as printed in the June 22 edition of the Post.

THE IRISH AGONY: WHAT THE UNITED STATES CAN DO

The angry outbursts inside and outside the Metropolitan Opera House during Prince Charles' visit once again draw attention to the very broad American interest in Northern Ireland and to the larger role that the United States should be seeking to discharge in this protracted conflict.

"I hope that people in all parts of Ireland will be able to resolve their differences one day," Prince Charles told Mayor Koch, "and that there will be no need for the English presence in Ireland."

You can be sure that this is exactly the innermost feeling of the British government.

And that is exactly the goal the United States should be pursuing. The friendship that has for so long enhanced the special American relationship with Britain and the profound ties we have through 20 million Irish-Americans with all the Irish people demands that we provide the opportunity to end the bitterness, the sadness and the bloodshed.

As long ago as 1977 the so-called Four Horsemen—Senators Moynihan and Kennedy, House Speaker O'Neill and Gov. Carey—foresaw this need in their joint statement condemning IRA terrorism and proposing political movement. President Carter's response was on the right lines but it was half-hearted.

Carter's promise of U.S. economic assistance was conditional on the achievement of a settlement between North and South. Further, he evaded the real challenge by insisting that the U.S. would not advise the parties how to reach that settlement, saying there were no solutions that outsiders could impose.

Of course there are solutions—not to be imposed by outsiders, but most certainly to be proposed for discussion—together with the political and economic assistance to insure their success.

President Reagan should now take over where Carter left off. He should offer economic aid as the starting point of negotiations aimed at a united Ireland.

As long as Britain remains the victim of a permanent Protestant veto on any political movement, a united Ireland will never be in prospect. That veto must be bypassed.

The doomsday scenario that a British withdrawal would provoke the Protestants to rise up in arms in the North is misleading. Reagan must provide the means by which Britain can declare its interest in an all-Ireland solution.

To this endeavor the United States comes as no stranger. We did this for Europe after World War II with the Marshall plan. We did this for Japan. We do this now to maintain the fragile Israeli-Egyptian peace and we do this, also, for the Vietnamese boat people. We should offer the same good offices and financial assistance to the Irish people.

Under this international umbrella British Prime Minister Mrs. Thatcher and Ireland's Prime Minister Haughey could build on their promising talks last year which recognized the fundamental Irish dimension of the problem.

From the Irish government a reciprocal move is essential, particularly in a new constitution dwelling rather less on religious dogma. The elements for this all-Ireland compromise already exist. The special position of the Catholic Church was removed from the constitution in 1972.

Indeed, the churches, the trade unions and many sporting teams now operate on an all-Ireland basis. Half the players on the Ireland rugby team are Protestants from the North.

Intelligent opinion in the Republic is moving in this direction. Contraception has been legalized. The censorship of books and newspapers is no longer an offensive joke. The drive for divorce reform stems from a middle class long frustrated by life in a non-secular state and anxious to make the Republic attractive to the Protestants.

The delivery of a new American factory each week is industrializing the South and building a base for real prosperity. The Republic's youthful population—half are under 25 years of—shows less interest in the past than in a prosperous future. There is a longing in both North and South, as members of the EEC, to look to development together rather than to regard each other with baleful eye across a religious border.

Peace in Northern Ireland is in all Ireland's interest, in Britain's interest, in Europe's interest.

For political, economic and strategic reasons, neither the United States nor Europe can any longer afford to ignore the situation in Northern Ireland.

It is time to join to try to end the violence and promote the dialogue of common sense.

And it is time for the Four Horsemen to press President Reagan into action. They can have no interest in becoming the Four Horsemen of the Apocalypse.

U.S. AND NORTHERN IRELAND—WE HAVE A ROLE TO PLAY

As chairman of the 4-year-old, bi-partisan, 121-Member Ad Hoc Congressional Committee for Irish Affairs, I applaud the Post editorial on Northern Ireland. It represents a significant departure for a major American newspaper—too many of whom have been silent on this issue for too long.

Our Committee was formed because we advocate that the U.S. does have a role to play in advancing the cause of peace, justice and freedom in Northern Ireland. I have proposed, and still believe today, that the U.S. should sponsor an "Irish Peace Summit" in Washington, where all segments of political thought in Northern Ire-

land could come to discuss and debate various proposals for a political solution.

I thoroughly agree with your statement that economic aid should be offered as a starting point of negotiations. With the millions that this nation doles out in foreign aid annually, surely we could reserve some to help rebuild Northern Ireland.

It is imperative that the U.S. have full control over the aid to avoid its usage as a tool to perpetuate the rampant economic discrimination against Catholics which exists today in the North.

We have long advocated that the British Government, as a gesture of good faith to achieve a political solution, declare their intention to withdraw their entire presence, including forces, from Northern Ireland. It should be a gradual and phased withdrawal, perhaps monitored by U.N. peacekeeping forces.

President Reagan, in his St. Patrick's Day message offered his "personal prayers and the good offices of the U.S. for those who wish fervently for peace in Ireland." It is high time to transform this from rhetoric to reality.

The Post editorial would serve as an excellent blueprint for new Administration initiative in Northern Ireland.

MARIO BIAGGI, M.C.,
Chairman, Ad Hoc Congressional Committee for Irish Affairs.●

ANNIVERSARY OF SOVIET INVASION OF AFGHANISTAN

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1981

● Mr. RITTER. Mr. Speaker, yesterday, June 24, marked the 18-month anniversary of the Soviet invasion of Afghanistan * * * 1½ years. Although this conflict is not on the front pages of the newspapers, the destruction and suffering still goes on. Whole villages have been razed, crops destroyed, and thousands more killed and made homeless. In Kabul, the Soviet-installed government of Babrak Karmal has virtually no popular support and only clings to power through the strong Soviet military presence.

Mr. Speaker, as a recent traveler to the Afghanistan-Pakistan border, I have seen some of the destruction wrought by this war. I have seen women and children who lost an arm or a leg, the victims of Soviet-made booby traps. I visited some of the refugee camps where over 1.5 million Afghans live. For these people, their only wish is to return to their homeland and live in peace without foreign masters.

On this 1½ year anniversary, today we must call attention to these brave people, to these dedicated human beings who are fighting armored divisions, helicopter gunships with the most limited, small arms. The Afghan Freedom Fighters need more than words—they need help to give them a fighting chance in their struggle to free their homeland. I believe the free and non-Communist world must wake up to the realities of the defense and energy implications of the situation in Afghanistan. Time is on our side if we act now.

As recently as yesterday, I met with a former top official of the Karmal regime, Mr. Farhang Saddiq. Asked to be an economic development adviser shortly after Karmal's takeover in December 1979, Mr. Farhang soon found his policies to aid his country's development thwarted by Soviet advisers. Babrak Karmal, he realized, was merely a spokesman for Kremlin policy. In April of this year, M. Farhang left Afghanistan.

Since his arrival in the United States, Mr. Farhang has kept close contact with the various Freedom Fighter groups both in and out of Afghanistan and has worked to mobilize support for these groups in this country. Mr. Farhang related to me how the Soviets exert no real control in certain areas of the country. In the mountainous areas of Central and Northeastern Afganistan, the Soviets have been ineffective in controlling guerrilla activities. Mr. Farhang noted:

The Soviets know what would happen if they sent their armies into these mountains . . . they would disappear just like the other armies who, throughout history, have tried to conquer Afghanistan.

He further commended that only the Mi-24 Helicopter gunship has proven an effective weapon in these mountainous regions and that if the Afghans had the backpack Surface to Air Missile (SAM) the Soviets advantage would be greatly diminished. The message that came out in our conversation was the need to organize the resistance elements and supply them with effective weapons to fight with.

On this, the 18-month anniversary of the invasion of Afghanistan, I am enclosing two authoritative articles on the situation in Afghanistan. The first article was written by a constituent of mine, Dr. Robert Pearson, and views the conflict from a historical perspective. Dr. Pearson, from 1962 to 1964, served as a Peace Corps volunteer in Afghanistan and later served as Afghanistan desk officer for this organization. He is currently an English professor at Muhlenberg College in Allentown, Pa. This article appeared in the spring edition of the Muhlenberg. The second article, written by free lance journalist and BBC correspondent John Bierman, appeared in the New Republic on June 6, 1981. This article explains some recent developments in the conflict.

I have enclosed both of these articles for the benefit of my colleagues.

[From the Muhlenberg, Spring 1981]

AFGHANISTAN CODE OF HONOR THWARTS RUSSIAN INVASION

(By Dr. Robert P. Pearson)

Much of the free world has been greatly disturbed by the Russian invasion of Afghanistan, and has questioned the Soviet Union's expansionist policies in that area of the world. Some indications of the outcome of the invasion may be found in Afghanistan's history and culture.

Afghanistan is an extremely rugged and desolate country almost totally mountainous in the central and northeastern parts, with hostile deserts around the fringes. It shares a 1200-mile border with Russia on the north and is bounded by Iran on the west, Pakistan on the south and east and China at its northwest tip. Throughout history, what is now known as Afghanistan has always been a place people went through in order to get somewhere else. It is the gateway to the Indian subcontinent on the east, to Persia and the Arab world on the west, to Russia on the north and, at present, it could become a gateway to the Arabian Sea and, indirectly, to the Persian Gulf on the south.

Afghan history rings with the names of the great ancient conquerors: Darius the Great, Alexander, Genghis Khan, Tamerlane, and Babur, the first Moghul emperor of India. In the late 1800's modern Afghanistan was created as a buffer state by a Tsarist Russia expanding southward and a British India expanding northward so that the two powers would have no border in common. For this reason, northeast Afghanistan was extended eastward until it touched China.

A historical survey reveals that no conqueror has ever stopped in Afghanistan. They may have married an Afghan, as did Alexander, or they may have loved the country, as did Babur, but they were always on their way somewhere else. And this is why the recent Russian invasion is so worrisome to the world.

In 1907, as a result of the British and Russian agreement that Afghanistan was to be a buffer state, Russia formally declared Afghanistan to be outside her sphere of influence and promised not to annex or invade that country. This agreement enabled the Afghans to forge, over the next 70 years, a policy of neutrality, called in Persian "bitarafi" or "without sides."

From about 1900 to the Afghan communist coup d'etat in 1978, Afghanistan was to follow cleverly this policy of neutrality, playing first Russia and Britain, and then, after the British departure from India in 1947, Russia and the U.S., off against one another for Afghanistan's own benefit.

In 1947, with the specter of a huge power vacuum in India as a result of the British departure, the Afghans moved quickly to fill that void with American aid. As a result, the Afghans and the U.S. struck a series of economic agreements which left western and Soviet influence about equal in Afghanistan during the 1940's and 1950's. The Russians built roads in the north, the Americans built roads in the south; the Russians built the Kabul Airport, the Americans the Kandahar Airport. It was during the 1950's that the U.S. tried to tilt Afghanistan toward the west by pressuring the king to join CENTO in order to help contain Russian expansion in that area. The Afghans refused, preferring to maintain their cherished neutrality, and the U.S., in turn, refused to sell them American arms. As a result, Afghanistan felt compelled to turn to Russia for military equipment and training, and Russian influence in Afghanistan increased dramatically.

In 1973, the world's oldest monarch, a monarchy that had been in place since 1747, was overthrown and a cousin of the king, Daoud, who had been prime minister from 1953 to 1963, declared Afghanistan to be a

republic and took over its presidency. By 1978, however, genuine dissatisfaction with Daoud's regime led to demonstrations in the capital, Kabul, and two communist groups momentarily united and seized power.

Within a year it became evident that what was possible or bearable in Kabul was unacceptable to the rest of the country. The hated atheists, the communists, had taken over, and the rural population feared that it would not be long before the Russians would be controlling the country. By the fall of 1979, Moslem rebels, as a result of revolts throughout the country, had captured 22 of the 28 provinces and were moving in on Kabul, the capital.

The series of events which led to the Russian takeover were as follows. Nur M. Taraki, the leftist president of Afghanistan, on return home from a non-aligned conference in Cuba, stopped in Russia and was warmly feted by Brezhnev. On his return to Kabul, he found that his chief assistant, Hafizullah Amin, had set the stage for Amin's own takeover. Taraki summoned Amin to his headquarters, a shoot-out between the two men's body guards ensued, and Taraki was killed. For the next three months, Amin ruled ruthlessly and erratically and, significantly, refused Russian military aid and advice in an attempt to maintain Afghan independence. By December 1979, the Russians decided they had had enough, and they invaded, killing Amin and bringing one of his communist rivals, Babrak Karmal, back from Eastern Europe where he had been exiled by Amin.

There are now 80,000 Russian troops in Afghanistan; the currency is the ruble and defections have dropped the Afghan army from a high of 100,000 to 25,000.

Why did the Russians do it? Here are what appear to be the major factors in the Soviet Union's decision:

(1) Afghanistan was one of only four non-communist states bordering on Russia (besides Finland, Iran, and Turkey); having a ring of friendly, controllable socialist states on its borders is important to Russia's sense of internal security.

(2) the increased access to warm water seaports;

(3) the fear that an Islamic fanatic, such as Iran's Khomeini, would take over in Kabul and that the spread of Islamic fundamentalism would cross the border into Russia's own Islamic provinces.

(4) in the event of dismemberment of Iran and Pakistan, Russia would be ready to move in quickly;

(5) the Soviet Union had invested too much in Afghanistan to give up;

(6) as a demonstration to the world that Russia would fight to keep socialist regimes in place.

Will the Russians meet their objectives? All this remains to be seen. If the major Russian goal was and is, as it was with other "conquerors," to get elsewhere, then whether or not they eventually get the spoils of warm water ports in Pakistan and oil in Iran remains to be seen. Certainly they have paid a big price already, not only in terms of the estimated 10,000 Soviet soldiers killed since the invasion, but in terms of a probable permanent loss of credibility in the Moslem world. No longer will the Soviets be able to pretend that they are anything but enemies of Islam.

Russia's "internal" goal of making Afghanistan a friendly socialist buffer state and containing Islam on soviet borders, will almost certainly fail.

Afghanistan will never become a Czechoslovakia, or a Hungary or an East Germany. Afghanistan has never been successfully invaded. The land is too fierce, the people too proud and independent for that.

There is a code of living in Afghanistan called Pushtun Wali, a code of the Pushtun Hills which most Afghans subscribe to in one way or another, which extols the virtues of warfare and revenge.

Although Pushtun Wali is a complex code of living, the essence of it is that if one's honor is stained, one is duty-bound to avenge it. If it is not avenged by the father, the debt passes on to the son, to the grandson, to the great grandson, and so on.

The depth of this feeling that soiled honor to one's family, must be avenged, can be felt in the following excerpt from an Afghan short story called *Feud*, in which a father anticipates the day when his son will avenge his mother's death.

"Look" he said, baring carefully the head of the new-born infant. "See the eagle profile, the hooded brow, the creamy skin, the black, curly hair! An Afghan of Afghans! And see—he opens his right eye—has he not the eye of a killer?"

The child twisted and gave a little cry. Ali-Khan took a long, lean knife from the wall, offering its hilt to his son. The tiny hand gripped it, while the blade, point down, shone in the rays of the afternoon sun."

Blood must be avenged. Only blood or blood-money can erase the crime of murder, and what the Russians have done with their brutality in Afghanistan, with their napalm, and bombing of villages, with their helicopter gunships, is to create a situation where practically every family in Afghanistan is honor-bound to avenge themselves.

[From the New Republic, June 6, 1981]

RUSSIA'S AFGHAN ENEMY

(By John Bierman)

The grain embargo is gone, but the low intensity war in Afghanistan grinds on. Since the return of spring to the snowy mountain passes and stony uplands, the pace has quickened. Western news organizations have been excluded from the country since December 1979. Little firsthand information is coming out about the progress of the fight against the Soviet invaders. But analysis of what objective evidence does exist makes it apparent that the Soviets have little hope of inflicting a decisive defeat on the rebel forces.

After 17 months of fighting, the countryside still belongs to the mujahiddin and even in the major cities the Russians' grip is uncertain. In Kabul, the capital, they lose men steadily in twos and threes to sneak grenade attacks and sniper fire from the rooftops. Intelligence reports say Soviet troops dare not enter the city's labyrinthine bazaar district, even in daylight. In the southern city of Kandahar, attrition has reportedly forced the withdrawal of the Soviet garrison, and across on the relatively quiet western side of the country, near the Iranian border, a number of Soviet soldiers were murdered in their sleep recently by guerrillas who sneaked into their barracks in the city of Herat. Similarly, Soviet control of the country's main roads is far from complete after dark. Even in daylight there are occasional forays by mujahiddin on the highway between Kabul and Jalalabad. The fighters come down from the surrounding hills, ambush a Soviet convoy, and make off with arms and other supplies.

It is mainly through captured weapons that they keep the war going, but recent reports say that the mujahiddin are now receiving recoilless rifles which they use to great effect against Soviet tanks, and that they also have acquired some British-made heavy mortars. The source of these weapons is presumed to be Egypt, whose attempts to arm the mujahiddin have been hampered, but by no means halted, by the Pakistanis, who are understandably nervous about allowing too great a flow of war material to cross their territory into Afghanistan. (Other weapons are apparently trickling in across the Chinese border, including Chinese Army fragmentation grenades.) Substantial reinforcements are expected to join the mujahiddin forces soon from the refugee camps in Pakistan. One indication of this is that the inventories of the Kohat gun factories in Pakistan's Northwest Frontier Province have been cleaned out by Afghans going back to fight.

Against these poorly armed guerrillas, the Russians have deployed a formidable fleet of helicopter gunships. The gunships are at once the Soviet army's greatest strength and its greatest potential vulnerability. Guerrillas caught in the open are easily annihilated; catching them in the open, however, is no easy task. Much has been made of the fact that Afghanistan, unlike Vietnam, offers no lush jungle cover in which to hide. But the Afghans have had centuries of practice in melting into the rocks and crevices of their craggy landscape. Every Western traveler in Afghanistan has had the experience of driving for hundreds of miles and not seeing a soul, then stopping and immediately drawing a large crowd of people as if from nowhere. The high ground where the Afghan fighters camp is full of places to hide. The Soviet helicopter gunships do not fly well at high altitudes. None of the sporadic reports of gunships having been shot down has been confirmed; but if the Afghans should ever obtain even a small supply of shoulder-launched surface-to-air missiles, the Russians could be in serious trouble in the countryside.

Soviet efforts to put some backbone into the puppet Afghan army, now reportedly down to some 25,000 men from its pre-invasion peak of 90,000, have met with no success. Desertions continue to drain the army, entire platoons and companies often going over to the mujahiddin with their weapons. Those who do not actually desert show a distinct reluctance to go into battle against their countrymen, and recruiting teams come back empty-handed from the countryside.

Unlike the French and the Americans in Vietnam, the Russians have held back from pumping ever-increasing amounts of men and materiel into an unwinnable war. Their numbers have not increased significantly since the invasion in December 1979 and, according to the best information, remain at about 85,000 men inside Afghanistan and another 30,000 just across the Soviet border in a support role.

But also unlike Vietnam, the resistance to the superpower remains completely fragmented. The mujahiddin are broken up into something like 200 separate fighting groups, often based only on clan or village affiliation, seldom with effective liaison and with no common ethos except love of war and hatred of foreign intruders. The six or seven organizations based across the Pakistan frontier in Peshawar form alliances that last a few days before breaking up and reforming in some new configuration. So if the Russians can scarcely hope for a victory in Afghanistan they may well be spared the humiliating defeat the U.S. suffered against a cohesive enemy in Vietnam.

From all indications the Russians went into Afghanistan with very little understanding of the kind of people they would be up against. They should perhaps have taken note of the experience of the British, who fought three wars against the Afghans between 1848 and 1930 and were trounced each time. The Russians might have learned not only that the Afghans are consummate and cruel guerrilla fighters, but that war is a circumstance they positively relish.

Pathans are the people who are doing most of the fighting today, in the eastern provinces of Afghanistan. There are nearly nine million of them, some 40 percent of the population, with another four million across the frontier in Pakistan. Since the invasion they have killed, by some informed estimates, perhaps 12,000 Soviet soldiers. It is common to hear of clashes in which up to 100 Russians are killed and wounded.

War and honor are the Pathans' proper business, and if they had not been invaded by the Russians they would doubtless be busy killing each other, though on a lesser scale, in the innumerable and interminable blood-feuds that always have characterized the Pathan lifestyle.

Pakhtoonwali—the way of the Pathan, the harsh code by which these people live—contains an overriding first commandment: to wipe out dishonor by revenge. Disputes over land, livestock, women, personal injury, and insult can only be settled by bloodshed, and these feuds involve not just individuals and families but often clans and whole tribes, and continue for generations. The concept of bardal, or revenge, is so deeply ingrained that a loving Pathan mother will sing her baby to sleep by chanting a litany of the names of the men killed by the child's father or grandfather.

The names of the Pathan tribes—the Afridi, the Yusufzai, the Wazirs, the Shinwaris, the Mahsuds, the Mohmands—are a kind of wild poetry, and the Pathans, though largely illiterate, breed poets as they breed warriors. Their poetry is distinctive, shot through with images of violence even when speaking of love: "Your eyes are two loaded pistols/You have murdered me with your smile." The 17th-century tribal chief Khushal Khan Khattak is considered the Pathans' greatest warrior-poet. He used martial images to celebrate the beauties of nature: "The tulips are bright as flashes from the huntsmen's guns/The roses stand, a warrior phalanz, spears by their sides." He had no illusions about the innate goodness of his people: "Let but one lift his head a bit/Another quickly lays him low." Yet the Pathans had an overriding redeeming feature: "But still, O Khushal Khan, thank God for this/That they are not slaves but free-born men."

Khushal Khan had 57 sons. He didn't bother to keep count of his daughters, which says all that needs to be said about the place of women among the Pathans, then as now. Chattels they certainly are, as in most traditional Moslem societies. An unfaithful wife or an unchaste daughter will be put to death as a matter of course. Perhaps this has something to do with the tendency of Pathan women to commit unspeakable atrocities on enemy wounded. The women uphold the Pathan way as fiercely as the men.

A year from now it is not likely that much will have changed. If the Afghans get their portable missiles, the Russians will be doing somewhat worse; if not, they may be doing somewhat better. But the war will not be over. Even if their casualties mount, the Russians will be able to keep on fighting at whatever level and for whatever duration they choose. There will be no antiwar marches in Red Square, no dispatches from anguished young reporters in the Moscow papers. But the Pathans and their countrymen will not give up, even if a rational calculation of their chances dictates it. Against such people the Russians, for all their overwhelming firepower, can scarcely hope for much better than a long, bloody, and expensive standoff.●

FIRST INTERNATIONAL GATHERING OF HOLOCAUST SURVIVORS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1981

● Mr. LANTOS. Mr. Speaker, the first international gathering of holocaust survivors has just taken place in Israel, 36 years after the crematoria of Dachau, Bergen-Belsen, and Auschwitz were extinguished. The few survivors of the great Jewish communities of Europe—that small "remnant plucked from the fire"—gathered in Jerusalem, the spiritual center of the Jewish people, to mourn the 6 million who were murdered, to remind the world of the dangers of hate and bigotry, and to affirm life.

We Americans can be proud of our role in putting an end to Nazi tyranny and opening the gates of the death camps. Israel, in the infancy of its statehood, surrounded by hostile neighbors, absorbed most of the survivors of the death camps. Similarly, the United States admitted over 100,000 of those who returned from the ashes and gave then the opportunity to become proud and productive citizens.

As President Reagan said at a recent White House ceremony recalling the horrors of the holocaust, "We need always guard against that kind of tyranny and inhumanity. Our spirit is strengthened by remembering and our hope is in our strength." We as a people are committed to learn from the past so that it might guide our futures.

At the conclusion of the gathering in Jerusalem last week, aging holocaust survivors, scattered to the four corners of the Earth, passed on the responsibility for remembering to the next generation. There is some cause for anxiety on this count. As Elie Wiesel, eminent author and chairman of the U.S. Holocaust Memorial Council said in the reunion's closing moments, "Something went wrong with our testimony. It was not received. Otherwise, things would have been different. Look, look at the world around us: suspicion again, violence everywhere, organized state-sponsored terror, racism, fascism, fanaticism, anti-Semitism."

Nevertheless, the American people may again view their commitment with pride. Through public bodies such as the U.S. Holocaust Memorial Council in Washington, D.C., through the Wiesenthal Center in Los Angeles, and through other groups of citizens committed to the perpetuation of the memory of the holocaust, we will secure our futures and strengthen our spirits by insuring that such cruelty can never happen again.●

CONTRACT REVIEW AT THE NATIONAL CANCER INSTITUTE

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1981

● Mr. MOFFETT. Mr. Speaker, I am introducing legislation today to amend the Public Health Service Act. My bill would direct the National Cancer Institute's Director to consult with appropriate scientific and technical staff, and with the National Cancer Advisory Board, When letting contracts and awarding grants.

Forty-three years after the creation of the National Cancer Institute; 10 years and $10 billion after President Nixon declared his "war on cancer," the cure for, or control of cancer still seems like elusive goals. Despite our modest success in this area—in the cure rate of some forms of childhood leukemia for example—Congress continues to be generous to NCI. Our commitment to effective and fully funded biomedical research remains unfaltering.

But this commitment would not be diminished by better oversight of contracts, grants, and cooperative arrangements let by NCI. During the hearings for the 1980 NCI appropriations, questions were raised for the first time in committee about the resources consumed by the research institutes. The Health Subcommittee, in 1979, began hearings on legislation to rewrite the authorization for the National Institutes of Health. This legislation, the Health Research Act, contained tighter controls on NCI's activities that has existed in the past.

Such controls, while resisted by Congress and members of the research community in the past, should be reexamined. Last July, articles appeared in the New York Times and the Boston Globe which brought to our attention news of falsified cancer research paid for by NCI dollars. More recently, the Senate Labor and Human Resources Committee has been inquiring into how NCI spends its money.

Unfortunately, this inquiry has been characterized by personal attacks against the leadership of NCI—its management. I believe that such at-

tacks are unwarranted, and many cancer experts agree. Benno Schmitt, for example, who retired last year from the National Cancer Advisory Board, issued a statement last year praising the leadership of Dr. DeVita. Sheldon Samuels, the director of the Industrial Union Department and National Cancer Advisory Board member, agrees with my position that we must institutionalize some changes to make the contracting process better capable of handling the massive requests for funding. It was the testimony of Mr. Samuels, before the Health Subcommittee, which lead our Commerce Committee to adopt language affecting contracting in the Health Research Act.

The Senate never acted upon the House-passed bill last year. Therefore, I have decided to introduce the language involving scientific, technical, and National Cancer Advisory Board input into the contracting process. For grants and cooperative agreements under $50,000, the Director of NCI would be required to seek technical and scientific advice before awarding the funds. For grants over $50,000, the National Cancer Advisory Board would have to express its approval. For research grants over $500,000, the NCAB would be similarly involved.

As we seek to establish meaningful oversight at NCI, let this debate focus on the kinds of institutional improvements we can make. Our national effort to control cancer will not be served by personalizing attacks against the professional scientists and managers at NCI. They are the heroes of this very important scientific endeavor and public policy commitment.

The legislation follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 405(b) of the Public Health Service Act (42 U.S.C. 286(b)) is amended to read as follows:

"(b) Under procedures approved by the Director of the National Institutes of Health, the Director of the National Cancer Institute—

"(1) may approve any contract for resources for research conducted at or through the Institute, except that if the total cost of the contract to be approved exceeds $500,000, the contract to be approved only after the National Cancer Advisory Board has recommended approval of the contract;

"(2) may approve other contracts for research or training, except that—

"(A) if the total cost of the contract to be approved does not exceed $500,000, the contract may be approved only after appropriate technical and scientific review, and

"(B) if the total cost of the contract to be approved exceeds $500,000, the contract may be approved only after appropriate technical and scientific review and recommendation for approval by the National Cancer Advisory Board; and

"(3) may approve grants and cooperative agreements for research or training, except that—

"(A) if the direct cost of the grant or cooperative agreement to be approved does not exceed $50,000, such grant or cooperative agreement may be approved only after appropriate technical and scientific review, and

"(B) if the direct cost of the grant or cooperative agreement to be approved exceeds $50,000, such grant or cooperative agreement may be approved only after appropriate technical and scientific review and recommendation for approval by the National Cancer Advisory Board.".●

PROFESSOR TOM FARER RE-ELECTED PRESIDENT OF THE INTER-AMERICAN HUMAN RIGHTS COMMISSION

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1981

● Mr. BONKER. Mr. Speaker, last Monday, Prof. Tom Farer, who was the first American to be elected as the president of the Inter-American Human Rights Commission of the Organization of American States, was reelected for a second term by acclamation.

This is an occurrence that must be applauded and given great recognition. The United States should be honored that an American has been reelected by his Latin colleagues to this important and distinguished post.

In its work the Commission has the reputation for being fair, objective, and an effective instrument in advancing human rights in the hemisphere. The Inter-American Human Rights Commission should be a shining example for the other regions of the world.

Professor Farer, a specialist in the field of international law and foreign policy, recently wrote:

In this Hemisphere what binds peoples together into nations and the nations into a great regional compact is a shared aspiration to freedom, justice and order: That is, to human rights. In empowering the Commission to defend and promote human rights and in accepting the corresponding legal obligation to cooperate with the Commission, the Member States reconfirm their commitment to the progressive enhancement of just order. Thus the effective operation of the Commission and the ongoing support it receives from the great majority of Member States have the net effect of strengthening governmental authority within every cooperating state. Practically all governments, therefore, understand the broad and profound complementarity between their support for the Commission and the promotion of their particular interests.

Tom Farer and the entire membership of the Inter-American Human Rights Commission deserve the congratulations of all my distinguished colleagues for a job well done.●

AFL-CIO COMMENTS ON TAX BILLS

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1981

● Mr. GUARINI. Mr. Speaker, today I am placing in the RECORD a copy of a letter sent to members of the Ways and Means Committee by Lane Kirkland, president of the AFL-CIO. His letter raises a number of provocative questions about the direction in which our deliberations on tax reductions may be taking us.

I would particulary note the endorsement of H.R. 3218 which would target tax relief to hard-pressed low- and middle-income families and which would also provide appropriate levels of relief to ailing American industries through the creation of a Reconstruction Finance Corporation.

The cosponsors of H.R. 3218 include WILLIAM BRODHEAD, JAMES BLANCHARD, JOHN CONYERS, HAROLD FORD, WILLIAM FORD, PARREN MITCHELL, ROBERT GARCIA, GEORGE CROCKETT, PETER RODINO, DON BAILEY, and RICHARD OTTINGER.

I commend Mr. Kirkland's letter to you for your consideration.

DEAR CONGRESSMAN: The AFL-CIO urges you to reconsider the business tax decisions made yesterday.

The Committee is structuring a tax cut bill that combines the most regressive proposals of Republicans and Democrats and would saddle middle income Americans with the share of taxes now borne by corporations and wealthy Americans.

The Committee's "tentative" decision to slash corporate tax responsibility is a major disaster that would cost the Treasury more than $180 billion over the next five years and shrink the corporate share of the cost of government to only 7 percent—a 70 percent reduction from their 1960 share. This corporate share will become even less as the full effects take hold in future years. The effective business tax rate under this decision would be slashed from 29 percent currently to 14 percent by 1986 before the future reductions scheduled for 1987 and beyond take effect. (See attached table.)

The bipartisan giveaways—those voted and those anticipated—will virtually wipe the corporate income tax off the books, and heap most of the nation's tax burden onto the backs of working people who have only their wages and salaries to sustain them.

In order to present the facade of equity bonanzas to the corporations and the wealthy then will be coupled with tax reductions to individuals. But even if moderate and middle income Americans are given a more equitable tax rate cut than the Administration's three-year, 25 percent across-the-board giveaway, they will pay heavily from the tax responsibility and burdens they will be forced to shoulder as the government struggles to meet its domestic responsibilities and provide for the national defense.

Equally disturbing is the bipartisan support for other costly and long-resisted attempts to raid the U.S. Treasury, including

the virtual elimination of estate and gift taxes, added tax breaks for oil royalty owners, slashes in the top tax rate on unearned income, and a variety of inequitable devices touted as "savings" incentives.

The AFL–CIO is also concerned that because of the across-the-board nature of the Committee's business tax cut, and the unfocused manner in which the benefits would be distributed, huge amounts of foregone revenue would be wasted in subsidizing investments that would take place anyway, and would provide cash to buy other companies, increase dividends, invest overseas, speculate, or to finance shutdowns and relocations that destroy jobs and blight local communities.

The only certainty is that corporate cash flow will increase and federal revenues will diminish. The portion of the additional cash flow that will go to productive, economy-building investment is at most speculative.

What is needed is a carefully-defined package which would help restore buying power lost to inflation without causing inflationary pressures, while encouraging economic growth, jobs and productivity improvements in basic industries and geographic areas characterized by outmoded public and private facilities and high unemployment levels.

We believe that the concept incorporated in H.R. 3218 would meet these objectives. At a cost of only $30 billion this measure would provide more than the Reagan Administration in tax cuts for Americans with incomes of $30,000 per year or less in the first year and would help revitalize corporations and industries in economic distress, many of which would not be helped by the Committee's business proposal.

Either Reagan Administration's corporate tax reduction proposal or the Committee's resultant product would destroy whatever fairness that now exists in the tax structure. The Committee is relegating to the scrap heap the principle of a progressive tax system based on ability to pay.

The AFL–CIO urges you to adopt a program of targeted tax cuts in a fair and equitable package that will not transfer the corporate tax burden to the nation's wage and salary earners.

EFFECT OF BUSINESS TAX CUT DECISION [1]

[By House Ways and Means Committee on June 17, 1981]

	Revenue loss (billions)	Effective corporate income tax rate (percent)
1960		43
1970		41
1980		29
1981	$3.2	28
1982	13.6	25
1983	21.7	23
1984	33.6	20
1985	45.0	18
1986	66.3	14
1987	75.1	NA
1988	80.7	NA
1989	88.1	NA
1990	96.7	NA
Totals:		
1981–86	$183.4	
10 yr. total	524.0	

[1] Immediate expensing and corporate rate cuts.

NA = Not available.

Source: AFL–CIO Department of Economic Research estimates based on Joint Committee on Taxation staff data and economic projections of CBO and OMB.

Corporate income tax share of Federal budget: 1960, 23 percent; 1970, 17 percent; 1980, 12 percent; 1986, 7 percent.●

HONORING HAROLD ROITENBERG

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1981

● Mr. LANTOS. Mr. Speaker, America's strength has been greatly augmented by the industrious idealism and commitment of generations whose forebears came to these shores fleeing the persecution and poverty of their native lands. Harold Roitenberg is such an American. His parents came to this country as penniless immigrants from Russia and struggled to raise their four sons with strong values and high aspirations. Life was tough and kids were rough on the wrong side of the tracks in Minsk, but by the time of his early graduation from high school, Harold Roitenberg had earned the title of "Godfather." He could never refuse a request for help and he always delivered on his promises. Today he is still the same man; no charity and no worthy cause is ever turned away without being uplifted and enriched by his generosity and compassion.

Upon graduation from high school, he immediately enlisted in the Navy. His ship, the *Mississippi*, was the first to arrive in Tokyo. Once back in the United States he completed college on the GI bill. After college, working tirelessly, Harold Roitenberg evolved a new idea—shopping through mail order catalogs and showrooms. His creative development of this concept has enabled millions of consumers to shop far more conveniently and economically than before. It has made Harold Roitenberg a classic example of the American dream.

Harold is married to Ruthie and is the father of four children. Today Harold Roitenberg is—as he always has been—a very busy man. He only has time for those who need him. For them he is always available. I wish to preserve in this CONGRESSIONAL RECORD the gratitude and appreciation of thousands whose lives have been touched by the generosity, humanity, and understanding of this great American, Harold Roitenberg.●

ISRAEL'S STRIKE AGAINST THE OSIRAK REACTOR

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1981

● Mr. WEISS. Mr. Speaker, the Israeli strike against an Iraqi powerplant on June 7 was an unavoidable defensive maneuver. The strike eliminated, for the immediate future, the development of an Iraqi nuclear weapon intended for use against Israel. This weapons program posed an unacceptable threat to Israel's national survival.

I recognize the seriousness of the current situation in the Middle East, and the tension injected by the raid. I hope that the Israeli Government will continue to support diplomatic efforts for a peaceful solution to the many disputes in that complicated area.

But I must point out that the conventional methods of minimizing the potential for conflict failed to deter France and Italy from supplying weapons-grade uranium and nuclear weapons technology to Iraq. Iraq itself has violated, for all practical purposes, the Non-Proliferation Treaty by repeatedly asserting its plan to develop a nuclear bomb with which to attack Israel.

Iraq has considered itself in a state of war with Israel since 1948. Iraq has supported terrorists against Israel. And it clearly was readying itself for an atomic attack against Israel.

Under these circumstances, the Israeli Government had no choice.

Perhaps, even more important than as a necessary act of self-survival, the Israeli action may serve as a last clear warning to the nations of the world of the danger which nuclear proliferation poses to the survival of humanity.

This year the source of danger was Iraq; next year it may be Pakistan; the year after Libya and so on through 175 nations. Unless the major powers assume greater responsibility now humanity is doomed. By underscoring the gravity of the situation Israel has served not only itself but all of humanity.●

WAR HERO HONORED

HON. GERALD B. H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1981

● Mr. SOLOMON. Mr. Speaker, I am proud to have the privilege of calling the attention of my colleagues to the outstanding achievements of Lt. Col. Matt Urban, U.S. Army—retired. Lieutenant Colonel Urban, the most decorated soldier in our country today, deserves our sincere thanks and highest respect for the services he has rendered the country, often at the greatest peril to his life.

Mr. Speaker, I insert this excerpt from an article about Lieutenant Colonel Urban, appearing in the Hudson Register Star on June 19, 1981, in the RECORD, for the interest of my colleagues in the Congress and others who may read the following:

[From the Hudson (New York) Register Star, June 19, 1981]

Lt. Col. Urban enlisted in the Army in 1941 and served through World War II with the 60th Infantry Regiment in the Mediter-

ranean Theatre of Operations and the European Theatre of Operations.

He has been decorated with The Silver Star, Legion of Merit, Bronze Star Medal for Valor, Purple Heart, American Defense Service Medal, American Campaign Medal and the European-African-Middle Eastern Campaign Medal.

Also, the World War II Victory Medal, Combat Infantryman Badge, Presidential Unit Citation, Croix de Guerre with a Bronze Star, Croix de Guerre and the Belgian Fourragere.

He was presented the Medal of Honor in July, 1980, by then President Jimmy Carter for his heroic actions with the 2nd Battalion, 60th Infantry Regiment, 9th Infantry Division.

In June, 1944, Lt. Col. Urban's company encountered an enemy attack at Renouf, France. Realizing that his company was in danger, he armed himself with a bazooka and worked his way to an ammo carrier through a barrage of enemy fire and destroyed the tanks.

Later that day in an attack near Orglandes, he was wounded in the leg by a tank gun. The next day, although badly wounded, he directed his company in another attack. An hour later, he again was wounded and evacuated to England.

In mid-July, learning of his unit's severe losses in Normandy, he voluntarily left the hospital and hitched-hiked his way back to his unit near St. Lo, France.

Still limping from his leg wound, he retook command, he directed a plan of attack to eliminate the enemy strongpoint.

He was wounded again Aug. 2 and Aug.15, both times ignoring physical trauma and led his troops to victory.

During the Battle of the Meuse, on Sept. 15, he led a charge on the enemy and was seriously wounded in the neck. He refused to be evacuated until his troops had secured the crossing point on the Meuse River.●

HUMAN RIGHTS—SOVIET UNION AND VIKTOR BRAILOVSKY

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1981

● Mr. BONKER. Mr. Speaker, both Houses of the Congress have passed resolutions concerning the plight of Viktor Brailovsky. He is one of the many whose human rights are being denied in the Soviet Union. In 1976, Brailovsky was granted permission to leave the Soviet Union; however, he told the authorities that he would not go without his wife and two children. Ever since then he has faced 5 years of continuous harassment, interrogation, intimidation and numerous imprisonments, culminating in his arrest on November 13, 1980, charged with "slandering the Soviet State." Despite all efforts to secure his release and permission for him to emigrate to the State of Israel, he was sentenced last week to 39 months of internal exile.

How can the Soviet authorities justify calling themselves civilized when they imprison a man because of his active work on behalf of independent scholarship, free thought in the Soviet Union and the right to emigrate? Furthermore, Brailovsky is suffering from a serious liver ailment. Humanitarian consideration alone demands that he be released.

The resolution that passed the House and Senate called upon the President "to inform the Soviet Union the the United States, in evaluating its relations with other countries, will take into account the extent to which these countries honor their commitments under international law, particularly with respect to the protection of human rights."

As the administration conducts further negotiations with the Soviet Union concerning grain sales, I hope that it will remember Viktor Brailovsky and all the other Soviet dissidents. In the meantime, the Congress must continue to express its concern about the thousands of Soviet dissidents and reaffirm our support for the Helsinki Accords, the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, all of which are being violated by the Soviet Union.●

EXPLANATION AS TO MISSED VOTE

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1981

● Mr. LANTOS. Mr. Speaker, due to official business away from the House of Representatives on Thursday, June 18, and Wednesday, June 24, I was unable to be present for the rollcall votes. Had I been present I would have voted "yes" on the passage of H.R. 3480, the reauthorization of the Legal Services Corporation Act. I arranged in advance to pair my "yes" vote with a colleague who planned to vote "no."

I would have voted as follows on the recorded votes:

Rollcall No. 85, "no" on the McDonald amendment to prohibit the use of Legal Service Corporation funds to provide legal assistance on any issue relating to homosexuality (my "no" vote was paired on No. 85);

Rollcall No. 86, "no" on the Sensenbrenner amendment which would have prohibited Legal Services from offering legal advice on abortion laws;

Rollcall No. 87, "no" on the Ashbrook amendment prohibiting legal assistance relating to the desegregation of any elementary or secondary school;

Rollcall No. 88, "yes" on the Fish amendment to the McCollum amendment to permit certain aliens who are legally in the United States to continue to avail themselves of Legal Services assistance;

Rollcall No. 89, "no" on the Kramer amendment requiring budget analysis of Legal Services by the OMB; and

Rollcall No. 90, "no" on the motion to recommit the bill to the committee without final consideration and passage.

Rollcall No. 98, "yes" on the conference report on H.R. 31, to amend the Truth in Lending Act to encourage cash discounts;

Rollcall No. 101, "no" on the amendment to retain quarterly (instead of annual) disbursement of funds to the Public Broadcasting Corporation; and

Rollcall No. 102, "yes" on H.R. 3238, Public Broadcasting authorization.●

LIMITING CASEIN IMPORTS

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1981

● Mr. GUNDERSON. Mr. Speaker, yesterday I was informed by the Department of Agriculture that Secretary Block has recommended that an International Trade Commission (ITC) investigation be conducted to determine the extent to which casein imports are interfering with the domestic dairy price support program.

This recommendation comes after a finding by the USDA in its recent study on casein that the Commodity Credit Corporation could save up to $300 million each year on purchases of nonfat dry milk through the dairy price support program if casein imports were eliminated.

While an ITC investigation of casein may be considered by many to be just another study, there is one important difference in this case. At the conclusion of this investigation the ITC can recommend and the President may impose quotas on casein imports. I applaud this probable conclusion to the ITC investigation.

This morning's Washington Post reported that the administration is recommending restrictions on foreign tobacco imports because of expected losses in the tobacco support program this year in the amount of $123 million due to domestic overproduction. The theory behind such a limitation is, of course, that every bit of foreign tobacco imported into the United States replaces domestically produced tobacco which is, then, entered into the tobacco support program.

Accordingly, I hope that the adminstration will also look favorably on quotas on casein imports that similarly displace domestic dairy products. To fail to do so would create a double standard in the treatment of the commodity programs.●

HOUSE OF REPRESENTATIVES—*Friday, June 26, 1981*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

In this moment of quiet at the beginning of another day, our hearts reach out in prayer for ourselves and for all those who seek the refreshment of Your forgiveness and grace. May the beauty of this day remind us of the majesty of Your creation and may the needs of our world remind us of our responsibility to be wise stewards of the gifts we have received. Impress upon us our obligation to use our talents and strength to care for the weak and afflicted, the hungry, and those forgotten. As we look to the vision of Your righteous Kingdom, where justice and peace are the standard, make us worthy of the tasks to which we are committed. In Your name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. WALKER. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 346, nays 37, answered "present" 3, not voting 45, as follows:

[Roll No. 108]

YEAS—346

Addabbo	Bailey (PA)	Bingham
Akaka	Barnard	Blanchard
Albosta	Barnes	Bliley
Alexander	Beard	Boland
Anderson	Bedell	Bolling
Annunzio	Benedict	Boner
Anthony	Benjamin	Bonior
Archer	Bennett	Bouquard
Ashbrook	Bereuter	Bowen
Badham	Bethune	Brinkley
Bafalis	Bevill	Brooks
Bailey (MO)	Biaggi	Broomfield
Brown (CA)	Goldwater	McClory
Brown (CO)	Gonzalez	McCollum
Brown (OH)	Goodling	McCurdy
Broyhill	Gore	McDonald
Burgener	Gradison	McEwen
Burton, John	Gramm	McGrath
Burton, Phillip	Gray	McKinney
Butler	Green	Mica
Byron	Gregg	Michel
Campbell	Grisham	Mikulski
Carman	Guarini	Miller (OH)
Carney	Gunderson	Mineta
Chappell	Hagedorn	Minish
Chappie	Hall (OH)	Mitchell (NY)
Cheney	Hall, Ralph	Moakley
Chisholm	Hall, Sam	Molinari
Clausen	Hamilton	Mollohan
Clinger	Hammerschmidt	Montgomery
Coats	Hance	Moore
Coleman	Hansen (ID)	Moorhead
Collins (IL)	Hartnett	Morrison
Collins (TX)	Hatcher	Mottl
Conable	Hawkins	Murtha
Conte	Heckler	Myers
Corcoran	Hefner	Napier
Coughlin	Hendon	Natcher
Courter	Hertel	Neal
Coyne, James	Hightower	Nelligan
Coyne, William	Hiler	Nelson
Craig	Hillis	Nichols
Crane, Daniel	Holland	Nowak
Crane, Philip	Holt	Oakar
Crockett	Hopkins	Oberstar
D'Amours	Horton	Obey
Daniel, Dan	Howard	Panetta
Daniel, R. W.	Hoyer	Parris
Dannemeyer	Hubbard	Pashayan
Daub	Huckaby	Patman
Davis	Hunter	Paul
de la Garza	Hutto	Pepper
Deckard	Hyde	Perkins
Dellums	Ireland	Petri
Derrick	Jeffords	Peyser
Derwinski	Jeffries	Pickle
Dicks	Jenkins	Porter
Donnelly	Jones (NC)	Price
Dornan	Jones (TN)	Pursell
Dreier	Kastenmeier	Quillen
Duncan	Kazen	Rahall
Dwyer	Kemp	Railsback
Dyson	Kildee	Rangel
Early	Kindness	Regula
Edwards (AL)	Kogovsek	Reuss
Edwards (CA)	Kramer	Rhodes
Edwards (OK)	LaFalce	Rinaldo
Emerson	Lagomarsino	Ritter
Emery	Lantos	Roberts (KS)
English	Latta	Roberts (SD)
Erdahl	Leach	Robinson
Erlenborn	Leath	Rodino
Ertel	LeBoutillier	Roemer
Evans (DE)	Lee	Rogers
Evans (GA)	Lehman	Rose
Evans (IN)	Leland	Rosenthal
Fary	Lent	Roth
Fascell	Levitas	Roukema
Fenwick	Lewis	Rousselot
Fiedler	Livingston	Roybal
Fields	Loeffler	Rudd
Findley	Long (MD)	Russo
Fish	Lott	Santini
Flippo	Lowery	Sawyer
Foley	Lujan	Scheuer
Ford (TN)	Luken	Schulze
Fowler	Lungren	Sensenbrenner
Frank	Madigan	Shamansky
Frost	Marks	Shannon
Fuqua	Marlenee	Sharp
Gaydos	Marriott	Shaw
Gejdenson	Martin (IL)	Shelby
Gibbons	Martin (NC)	Shumway
Gilman	Martin (NY)	Shuster
Gingrich	Matsui	Siljander
Ginn	Mattox	Skeen
Glickman	Mazzoli	Skelton
Smith (AL)	Synar	Whitten
Smith (IA)	Tauke	Williams (OH)
Smith (NE)	Tauzin	Wilson
Smith (NJ)	Taylor	Winn
Smith (OR)	Thomas	Wirth
Snowe	Traxler	Wolf
Snyder	Trible	Wolpe
Solomon	Volkmer	Wortley
Spence	Walgren	Wright
Stangeland	Wampler	Wyden
Stanton	Washington	Wylie
Stark	Watkins	Yates
Staton	Waxman	Yatron
Stenholm	Weber (MN)	Young (FL)
Stokes	Weber (OH)	Young (MO)
Stratton	White	Zablocki
Studds	Whitehurst	Zeferetti
Stump	Whitley	
Swift	Whittaker	

NAYS—37

Beilenson	Forsythe	Ratchford
Brodhead	Hughes	Sabo
Clay	Jacobs	Schroeder
Dickinson	Johnston	Schumer
Dorgan	Jones (OK)	Seiberling
Downey	Lowry	Simon
Dunn	Markey	St Germain
Eckart	Mavroules	Vento
Edgar	Miller (CA)	Walker
Evans (IA)	Mitchell (MD)	Weaver
Fazio	Moffett	Weiss
Ferraro	Murphy	
Fithian	Patterson	

ANSWERED "PRESENT"—3

Frenzel	Ottinger	Pease

NOT VOTING—45

Andrews	Dixon	McCloskey
Applegate	Dougherty	McDade
Aspin	Dymally	McHugh
Atkinson	Florio	O'Brien
AuCoin	Foglietta	Pritchard
Boggs	Ford (MI)	Richmond
Bonker	Fountain	Roe
Breaux	Garcia	Rostenkowski
Coelho	Gephardt	Savage
Conyers	Hansen (UT)	Schneider
Cotter	Harkin	Solarz
Danielson	Heftel	Udall
Daschle	Hollenbeck	Vander Jagt
DeNardis	Long (LA)	Williams (MT)
Dingell	Lundine	Young (AK)

□ 1015

Messrs. SEIBERLING, HUGHES, BEILENSON, ST GERMAIN, VENTO, and WEISS changed their votes from "yea" to "nay."

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 3991. An act to amend the Food Stamp Act of 1977 to increase the authorization for appropriations for fiscal year 1981, and to amend Public Law 93-233 to continue, through August 1, 1981, the cash-out of food stamp program benefits of certain recipients of supplemental security income.

The message also announced that the Senate has passed a bill of the following title, in which the concurrence of the House is requested:

S. 1278. An act entitled the "Saccharin Study and Labeling Act Amendment of 1981."

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to make the following announcement:

There are a considerable number of requests for 1-minute speeches. Following the doctrine of fairness, the Chair will recognize one Member from the Democratic side and then one from the Republican side, and at the hour of 11 o'clock will recognize the chairman of the Budget Committee to offer a motion to resolve into the Committee of the Whole.

Let the Chair say this: It is the intent of the leadership to finish the reconciliation bill today. If there are stalling tactics on the part of any Member, the House would hopefully recess at a reasonable hour, and then the House would continue into tomorrow. As the Members know, the adopted adjournment resolution says that after completion of this legislative day, the House will be in adjournment until July 8, but the House can remain in session under the adjournment resolution until its business is completed.

PARLIAMENTARY INQUIRIES

The SPEAKER. For what purpose does the gentleman from Oklahoma (Mr. JONES) rise?

Mr. JONES of Oklahoma. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. JONES of Oklahoma. Mr. Speaker, I am told that the Republican substitute still is not before the House and perhaps will not be before the House until sometime this afternoon.

What would the Chair's intention be if the Republican substitute has not been printed and presented to the Members at the time we go into the Committee?

The SPEAKER. It is the Chair's understanding that 2 hours of debate will be held on the Broyhill amendment, if offered. The Chair believes that the Committee would be able to go into the debate on the amendment starting at 11 o'clock.

It is the Chair's understanding that there are some photostatic copies of the Latta amendments.

Mr. LATTA. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. LATTA. Mr. Chairman, my parliamentary is along the same line that the gentleman from Oklahoma (Mr. JONES) raised about the Republican substitute.

Let me say that the reason it is not available—we do have a summary at the desk—is that it was submitted last night, and through no fault of ours, apparently the Printer has not delivered it. We have no control over the Public Printer, and the Printer has promised us we will have it as soon as possible.

Mr. PHILLIP BURTON. Mr. Speaker, may I be recognized for a parliamentary inquiry?

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. PHILLIP BURTON. Mr. Speaker, can the gentleman suggest——

Mr. LATTA. That we fire the Printer?

Mr. PHILLIP BURTON. No. Can the gentleman suggest our appropriate position this morning? My staff got a 3½-inch-thick version of what I gather will be the Education and Labor section. He gave it to me, and in carrying it to my desk, it was so thick and so heavy that I got a hernia.

Mr. WRIGHT. Mr. Speaker, may I be recognized?

The SPEAKER. The Chair recognizes the majority leader for 1 minute, without objection.

THE CONTENTS OF THE GRAMM-LATTA SUBSTITUTE

(Mr. WRIGHT asked and was given permission to address the House for 1 minute.)

Mr. WRIGHT. Mr. Speaker, I have something to say which I think will be of considerable interest to the membership. The discussion we have just heard about the unavailability of the substitute being offered today under the rule that was adopted yesterday has a distinct relevance to what I am about to disclose.

Yesterday afternoon for the very first time there was made available a copy of a committee print comprising 350 pages which purports to be the Gramm-Latta substitute. We are told now that additional changes are being made. But let me disclose to you one or two sneaky provisions. Wait until you hear them, and then let us hear your comments.

Did any of you dream or were any of you told or was any hint given to any Member of this House that the Gramm-Latta provisions would grant totally and unilaterally to Mr. Stockman in the Office of Management and Budget the hitherto legal determination of deciding what the poverty line is or is not? Did we know that?

Well, stop and contemplate that. Contemplate the power. Think of the power that this would repose in the hands of one man, virtually to demolish all that array of programs so carefully constructed by the Congress. Simply by determining that the poverty line was arbitrarily set at a certain low level, he would render almost everyone ineligible for the benefits that we as a Congress should determine.

Mr. Speaker, if I still have time, let me suggest this.

The SPEAKER. The Chair would state that the gentleman may reserve his time for debate until a time later in the day.

The Chair recognizes the gentlewoman from Ohio (Ms. OAKAR).

THE CONTENTS OF THE GRAMM-LATTA SUBSTITUTE

(Ms. OAKAR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. OAKAR. Mr. Speaker, I yield to the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Speaker, I thank the gentlewoman for yielding.

I should like to ask how many of the Members were aware that the so-called Gramm-Latta substitute, contrary to these summaries that have been handed out, repeals section 2(E) of the Randolph-Sheppard Act, a long-standing law which grants preference to the blind to operate concessions in Federal buildings. The substitute would repeal it outright. Did any of you know that? Was Mr. LATTA aware of that?

I wonder how many of you know, if the gentlewoman yields further——

Ms. OAKAR. I am happy to yield.

Mr. WRIGHT. If the gentlewoman yields further, I wonder how many Members are aware of a provision contained in this newly disclosed document which terminates—terminates entirely—the Community Services Administration.

Well, I ask my colleagues on this side of the aisle who so willingly handed to David Stockman the power to write their laws for them and to repeal laws written by Congress, if they knew that. I want them to answer to their public if they knew that this law repeals the Community Services Administration.

Now, if the gentlewoman still has time and still yields, I really honestly wonder if the gentleman from Ohio (Mr. LATTA) whose name it bears is aware that it outright repeals section 3(F) of the Social Security Amendments of 1974. Was that in any of the addenda handed out to us as descriptive?

Finally, if the gentlewoman yields for one more question, I simply wonder: How many more jokers are in this deck?

THE AMERICAN PEOPLE WILL NOT BE FOOLED

Ms. OAKAR. Mr. Speaker, there is an old adage you can fool some of the people some of the time, but you cannot fool all of the people all of the

time. Why do some Members fear individual votes of social security cuts, a reduction in Federal employee benefits, cuts in medicaid and health care, cuts in loans available for the education of our Nation's greatest resource—our children? Why do Members fear voting on nutrition programs for our elderly and our children? Mr. Speaker, I believe the good eventually wins out. When the American people fully understand the ramifications of yesterday's vote on the rule, they will not be fooled and they will remember.

THE BIG DEMOCRATIC BAILOUT

(Mr. MOORE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOORE. Mr. Speaker, yesterday the House agreed that we would ask the American people to tighten their belts in the battle to control inflation and revitalize our economy. It was the right vote, but it was a difficult vote just the same.

There is, however, one small group of Americans who will not be tightening their belts next year. Instead, they will still be gorging themselves at the table of budget excess. Those who will not be sacrificing are a select group of big businesses who will profit from a $3.3 billion bailout adopted by the Democrats on the House Ways and Means Committee last week.

The bailout will allow certain select industries to apply any unused investment tax credits from the last 18 years to their taxes over the next 4 years. These select industries will be entitled to this windfall profit, this cash subsidy out of the Treasury, no matter what their economic condition, no matter how much money they are making, no matter how large the multinational conglomerate they are a part of.

Mr. Speaker, if this is a time for sacrifice, it is a time for sacrifice for all Americans. It is not a time for a Fortune 500 slush fund.

TODAY DECIDES WHO CONTROLS THE HOUSE

(Mr. PEYSER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEYSER. Mr. Speaker, this is a 1-minute speech that I wish I did not feel that I had to make, because today, Mr. Speaker, we are finally going to decide whether the Democrats in the House and their leadership have control in the House of Representatives. Twenty-nine Members, who in the past have been elected under the Democratic Party's banner, yesterday on a procedural vote turned their backs on the party and their colleagues. If at least five of these Democrats do not support us today in defeating the Republican proposal before us, the principles that our party has fought for over the years will be destroyed.

There is a price to pay for everything. The President has paid that price by offering goodies like dams and sugar bills and so forth. We cannot compete in that area, but we certainly in the Democratic caucus can decide who sits with us and who does not. Rank and file Democrats in the House have had it. We have been abused and betrayed by those who have accepted and benefited by this party's support. We are really mad as hell, Mr. Speaker, and we are not going to roll over and play dead any more.

MONO LAKE IS DYING

(Mr. SHUMWAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHUMWAY. Mr. Speaker, for entirely too long, the growing water demands of the city of Los Angeles have contributed to the destruction of a precious natural resource, and have threatened the viability of a fragile ecosystem: Mono Lake, and the Mono Basin. I hold in my hand the most recent issue of Life magazine, the cover of which offers vivid evidence that Mono Lake is dying. National media attention has been drawn to the relentless draining of this, one of the Nation's oldest continuously existing lakes. As Los Angeles water consumption reduces the lake's water level by an average of some 2 feet per year, a national treasure is becoming a national disgrace. The time has come to end this impasse. Today, I am introducing two bills: One, to establish the Mono Lake National Monument; the other to cancel outdated Federal authority to convey some public lands in the Mono Basin to Los Angeles for $1.25 per acre. These efforts will place Mono Lake under the protective management of the National Park Service, and will authorize important scientific research and essential water conservation studies. These will be the first critical steps toward reducing the present threat, and insuring that Mono Lake is preserved for future generations.

CARDINGTON TORNADO/SBA RELIEF

(Mr. SHAMANSKY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHAMANSKY. Mr. Speaker, I want to bring to the attention of the House a serious problem concerning disaster relief.

On March 19 of this year the Small Business Administration adopted—without prior public discussion or notice—a regulation reducing the amount of disaster loan coverage. After that date the amount available to new applicants was reduced from 100 percent of verifiable loss to just 60 percent. SBA officials said claims caused by the unexpectedly large number of natural disasters which already had occurred this year exceeded the agency's cash reserves.

Regardless of SBA's cash-flow situation—the result of the regulation is to hand the victims of disasters which happen after March 19 a double penalty. Not only must they struggle to rebuild, they learn that because "too many disasters" struck before theirs, less assistance is available to them.

This is hardly an abstract matter. On June 13 I visited Cardington, Ohio, several hours after a devastating tornado hit. The village of 1,700 people suffered 4 dead, more than 50 injured, and millions of dollars worth of property damage—including all 28 businesses in the village center.

Nature's volatility insures that there will be more disasters and more disaster victims. Congress should urge the administration to reverse the loan coverage regulation, and be ready to act if the administration does not.

Thank you.

PRESIDENT REAGAN'S CLARITY

(Mr. MOFFETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOFFETT. Mr. Speaker, one of the things that President Reagan has brought to the Presidency, and I think we should be appreciative for this, is clarity. There is no question that with the former President we did not have the clarity that we do today. One of the things that Ronald Reagan did throughout his career before being President was to campaign against programs like social security, student loans, environmental protection, conservation, and in favor of a hemorrhaging Defense Department and tax breaks for the oil companies.

Yesterday with the vote on the rule and most likely today with the vote on the Reagan substitute, we will have even more clarity brought to this debate. The President will achieve what he regards and what our colleagues on the Republican side of the aisle regard as a great victory.

I think many of us Democrats, while we are sad about the apparent results and while we think there is a great deal of damage to be done by them, are glad that this kind of clarity is here, that the American people can see the difference between the two parties.

THE STOCKMAN PLAN TO ELIMINATE POVERTY

(Mr. DOWNEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOWNEY. Mr. Speaker, the majority leader has stolen much of my thunder, but it is clear that our Republican friends and particularly Mr. Stockman has a plan to eliminate poverty in America. If you thought the war on poverty was effective, wait until you see what Mr. Stockman can do by defining it.

The only analogy I can think of for allowing David Stockman to define poverty is a lot like allowing the Ayatollah Khomeini to give us a working definition of human rights.

NEW CONSERVATISM IS REALLY OLD CONSERVATISM WITH NEW CLOTHES

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORGAN of North Dakota. Mr. Speaker, I have been listening with amazement to the discussion about budget cuts and the new economic program the last day or so.

Our President and his followers are trying to define a new vision of what America is all about, but some of us, I think, remember that that vision has not always been good.

This new conservatism is really old conservatism with new clothes. These are people who oppose everything for the first time.

Social security—radical they said.

A medicaid and medicare program—socialism they cried.

Voting rights, civil rights, and women's rights—meddling they complained.

Everything new they called radical, but that which is right has always been called radical by those who have a vested interest in that which is wrong. Their description of the new American dream describes better than I can what is wrong with the new right.

Tax cuts that give the cake to the rich and the crumbs to the rest.

An energy program that gives America's energy policy to big oil.

An expensive and dangerous arms race.

If this is really the President's dream, then I do not think he is resting well. One final point, these two-fisted, tough-talking budget cutters still want bigger government for themselves. The President and Mr. Stockman asked for a 17-percent increase in budget authority for the Office of Management and Budget. Maybe that is because it takes more people to sell a dream like this one.

THE REPUBLICAN MYSTERY PACKAGE

(Ms. FERRARO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. FERRARO. Mr. Speaker, in the early mail this morning I received from the Democratic Study Group its report on the Gramm-Latta substitute that will be on the floor today.

It was, in its entirety, two paragraphs long. Let me quote the opening statement.

DSG is unable to provide information about the Gramm-Latta package of amendments to the reconciliation bill, H.R. 3982, because the Republicans made available only one copy and that had to be sent to GPO to be printed.

The report goes on to say that the Republican leadership refused to make additional copies available to the Democratic leadership or DSG, so no one on this side knows what is in the bill.

This is a terrible way to legislate, Mr. Speaker. First we force the House committees to do 1 year's work in about 6 weeks, and then we throw out what they have done to vote on a 400-page bill that almost nobody has even seen. On top of that, we consider the "mystery package" under a rule—and when the Republicans draw up a gag rule, they mean for the whole Congress to choke on it—that allows no amendments at all from the floor except a package of technical amendments that are not subject to any points of order regarding germaneness or anything else.

I am going to vote "no" on Gramm-Latta. I am voting "no" because the proposal—what little is known of it—is heartless, but even more completely, the process tramples 200 years of legislative traditions.

□ 1045

VOTE ON RULE A VOTE OF PRINCIPLE

(Mr. RAILSBACK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAILSBACK. Mr. Speaker, yesterday I had occasion to visit with a friend from the other side of the aisle, one of the Members that voted with the minority on the rule. I mentioned to him that: "I imagine that it might help you politically in your district, the fact that you voted with a President that is very popular." Without any hesitation he responded to me, "Yes, but that is not why I did it. I did it because I believed that we have to start changing the direction of the country."

I just want to mention to some of my friends on the other side that are questioning the motives of those on their side that may have voted with us, that I think there comes a time in this body when we may have to disagree with our own party leadership. I was very impressed that without any hesitation this Member indicated to me that he was voting on his principles, and I commend him for that.

BUDGET RULE

(Mr. VENTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VENTO. Mr. Speaker, today I rise to express my dismay at the actions of this House on the budget rule yesterday. I feel that the pig-in-the-poke rule this House opted for yesterday is an insult to the deliberative process and to elementary fairness.

I am deeply disturbed that 29 Democrats were the margin of victory in terms of this particular incident, but that is life. I guess we know we have a diverse party.

But what I think is absolutely amazing is that not one Republican had the courage to stray from the doctrine or the Republican line.

Today, less than 6 hours before we are expected to vote upon the most dramatic and far-reaching public policy changes in recent history, the principal amendment is still not available to the Members for review. This strategy may serve as a political heat shield, but it is really unfair and the people will not be deceived by it. Congress this past week has forsaken its role as a deliberative body and submitted not to the will of the American people but to a narrow group with self-interest manifested in the faulty Stockman Reaganomics.

AMERICANS IN CAPTIVITY IN INDOCHINA

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, there is a heart-rending issue that may not have been noticed by some of my colleagues on last night's news because of all of the discussion about the budget fight—Live Americans imprisoned in Southeast Asia. To those that are suffering so terribly in this House today, on the other side of the aisle, may I point out that you suffer far less than these fellow Americans who are alive as POW's in Laos and Vietnam. They are used as slave laborers.

In case some of my colleagues did not see or hear the latest on this tragic nightmare, listen carefully to this:

The Director of our Defense Intelligence Agency, a three-star general, Gen. Eugene Tighe—and that is the

highest rank that an officer can achieve in the military intelligence field—said at a hearing before our Foreign Affairs Subcommittee on Asian and Pacific Affairs, joined with the Task Force on American Prisoners and Missing in Southeast Asia, which I chair, that it is his, General Tighes, firm conviction, after 39 years of military service, most of that in intelligence, with over 10 years of his service working on this issue, of Americans left behind in Indochina, that he believes strongly that, yes—there are live Americans there—now—at this minute.

Those American heroes are being ordered into their hovels to sleep now. This evening when we are going to bed, they will be waking up to begin another day as slave laborers for the Communist conquerors of Asia. I believe that this is the most painful issue before this Congress of the United States and not the important budget issue. I think it is about time we put the proper burning focus on this nightmare and resolve it. Sixteen years in Communist captivity—a horror unknown in American military history. Unthinkable. Intolerable. Mindnumbing. Let us act, and I mean soon.

LACK OF SUPPORT FOR THE BROYHILL AMENDMENT

(Mr. DINGELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DINGELL. Mr. Speaker, I am very happy to see my good friend and colleague from North Carolina (Mr. BROYHILL) on the floor because the comments I am about to make relate very directly to a communication which he sent to the House today as a dear colleague letter. In that he says:

> For your information, I have listed below some of the organizations which endorse my amendment: Edison Electric Institute and the American Public Power Association.

I took the trouble to call each of these two agencies today on the telephone and was advised by them that they are aggressively neutral and do not support the Broyhill amendment.

I have here in my hand further a letter from the American Public Power Association advising that they are not in favor of the proposal that the gentleman from North Carolina, (Mr. BROYHILL) would offer.

Ordinarily my friend and colleague is exquisitely careful with the truth. In this instance it appears that he has not been so and has either intentionally or unintentionally misinformed the House.

Mr. BROYHILL. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from North Carolina.

Mr. BROYHILL. Mr. Speaker, I think the gentleman did not read this dear colleague with his glasses on because if he would look at the "Dear Colleague" it says that these associations that have been named support the Broyhill language on section 301. It did not say they support the Broyhill amendment.

Mr. DINGELL. No, that is not correct. I will read directly to the gentleman from his dear colleague letter. It says, "For your information, I have listed some of the organizations which endorse my amendment: Edison Electric Institute, American Public Power Association."

The gentleman has either knowingly or otherwise misinformed the House.

Mr. Speaker, pursuant to permission granted, I insert the full text of the letter referred to by me from the American Public Power Association indicating they do not support the Broyhill amendment.

AMERICAN PUBLIC POWER ASSOCIATION,
Washington, D.C., June 26, 1981.

Hon. JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce, Washington, D.C.

DEAR MR. CHAIRMAN: I have been advised that various Dear Colleague letters circulated earlier today state that the American Public Power Association supports the Broyhill amendment to the budget reconciliation bill. These letters further state that the Association strongly opposes the energy conservation provisions which are a part of your proposal as it relates to section 301 of the Powerplant and Industrial Fuel Use Act. Neither statement is correct.

As you know, APPA does support the repeal of section 301 of the Fuel Use Act. The Association, however, has taken no position on the conservation language. You should know that APPA's members had ample opportunity to establish a policy with respect to this issue. Our policy committee met in San Francisco on June 20 and the Dingell and Broyhill alternatives were extensively discussed. The committee evaluated the alternatives as they related to the Fuel Use Act and did not endorse either. We do not oppose your proposals relating to the repeal of section 301(a).

With respect to the Broyhill alternative as a package, the Association is extremely concerned over the inclusion of language allowing the Federal Energy Regulatory Commission to exempt from FERC licensing hydroelectric projects of 15 megawatts or less. This provision would, as a practical matter, eliminate the State and municipal licensing preference granted under the Federal Power Act over 60 years ago. We strongly oppose this proposition. Its inclusion was one of the principal reasons why this policy committee declined to endorse the Broyhill package.

I am extremely distressed that APPA has been identified as having taken a position with respect to these issues. The majority of the Association's staff, including of course Alex Radin, the Executive Director, have been out of town during the past week attending APPA's annual conference in San Francisco. We were not contacted in advance of the publication of these letters to ascertain the accuracy of the statements contained therein. Anything you can do to set the record straight concerning APPA's position with respect to these issues would be sincerely appreciated.

Yours truly,

ALAN H. RICHARDSON,
Legislative Director,
Legal Counsel.

SUPPORT FOR THE BROYHILL AMENDMENT

(Mr. BROYHILL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROYHILL. Mr. Speaker, I must disagree with my good friend, the gentleman from Michigan (Mr. DINGELL) because the dear colleague is specific in that there is an addendum in the dear colleague which specifically spells out that these two organizations are only supporting the language in section 301 and they strongly oppose the Dingell language which imposes a mandatory conservation scheme. That is the only reference these two organizations in the bill are concerned with. They are not concerned with the rest of the bill at all.

Mr. DINGELL. Mr. Speaker, will the gentleman yield to me as I yielded to him?

Mr. BROYHILL. I yield to my colleague from Michigan (Mr. DINGELL).

Mr. DINGELL. Strangely, all of the top officials of the EEI advised me on the telephone that they are aggressively neutral and take no position on either the Broyhill or the Dingell package.

Mr. BROYHILL. I would agree with the gentleman. That is correct. All my dear colleague says is that they support the Broyhill language in section 301. It does not say they support the bill. At this point, I would like to insert a letter I have received from the Edison Electric Institute.

Mr. DINGELL. That is not what the gentleman says in his letter. His letter says:

> For your information, I have listed below some of the organizations which endorse my amendment.

My good friend then claims support of Edison Electric Institute and American Public Power Association. Those two institutions do not support the amendment of my dear friend from North Carolina.

VOLUMINOUS REPUBLICAN ALTERNATIVE

(Mr. MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker, I would like the opportunity to address the House and to call their attention to the fact that we have finally just been delivered the document which will be under consideration the rest of this afternoon, and I assume up

for a vote prior to 5 o'clock. Not even Evelyn Wood could get through this document prior to 5 o'clock if she started today.

I think it is very important that the American people understand that the entire Federal Government is, in fact, open for amendment. This document, which is some 500 pages thick, includes portions of law scribbled out, written in in pencil, changes in directions, projects have been added, and one does not know if they are new or existing projects. Authorizations have been moved from one year to another. Changes are made as to when programs are going to take effect. Page 18 comes at the end and page 450 comes at the front.

I think people who want to vote for this, conscientious people who like to tell their constitutents that they really do their homework, that they study the law, will find it impossible to vote for this package under this closed rule.

VOTE ON BUDGET RULE A DISGRACE

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, I think yesterday's actions have taught me and, I think, the American people, something. The President sold this day the Gramm-Latta bill on one basis and one basis alone, that the Federal Government had spent too much and spending ought to be cut.

Our committees labored diligently to meet those guidelines once the House, a few months ago, passed the Gramm-Latta bill. Now the President has bared his teeth. He has shown us what he really wants. He does not care about cuts alone; he cares about rewarding his friends and punishing his enemies. His friends are those who do not need help and his enemies are those who do need help, but to the White House, that does not matter.

What happened yesterday, what is happening today in this House is a disgrace and the American people I think are going to realize that.

REPUBLICAN GAG RULE ON THE BUDGET

(Mr. BINGHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BINGHAM. Mr. Speaker, these are gloomy hours for those of us who believe in the dignity of the Congress of the United States. Not only are vital programs being gutted with little or no review, but the deliberative processes of the Congress are being destroyed. The Republicans in the House whose shrill screams yesterday protested a procedure for considering budget cuts that would have allowed them six amendments and a motion to recommit with instructions have now combined with renegade Democrats to impose a plan that permits the Democrats no amendments. This gag rule is designed to give the Congress almost no choice—we have to accept or reject what the President wants in its entirety. This Member of Congress refuses to be a nullity. I will not agree to simply transfer to the White House all powers for making policy decisions. The budget process has become a travesty, and it must be changed so that this kind of railroading of billions of dollars of program changes cannot happen again.

EFFECTS ON EDUCATION OF REPUBLICAN ALTERNATIVE

(Mr. PHILLIP BURTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PHILLIP BURTON. Mr. Speaker, it was just a few moments ago that our distinguished majority leader asked the rhetorical question: "How many more jokers are in this bill?"

I would like to inform our distinguished majority leader and our colleagues that in the Education and Labor changes this proposal gives a $500 million windfall to the big coal companies of the country by eliminating the requirement that we increase a user fee to the extent that the black lung trust fund will be self-sustaining. Under this alternative, the taxpayers will pick up that $500 million, and they balance it out by cutting back on school lunch programs, cutting back on scholarship grants and the rest; is that what we want to do?

UNFAIR RULE ON THE BUDGET

(Mr. PEASE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEASE. Mr. Speaker, I join my colleagues this morning in being alarmed at the procedures under which we are going for the budget consideration. All of us who have served in a legislative body are used to closed rules. We have had them from time to time, but this one is particularly dangerous.

I am especially unhappy that the minority has refused to provide the Democratic side with a copy of the Gramm-Latta package so that we can at least have the Democratic Study Group examine and summarize those statements for us.

We now have at long last the copies of the proposal. I am told we have a grand total of 12 copies so far, which are incorrectly collated. It does not seem to me that is any way to run either a railroad or a legislative body.

BOTH PARTIES ARE GUILTY OF A GAG RULE

(Mr. ROEMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROEMER. Mr. Speaker, I might say as to the point of process that the gentlemen who preceded me discusssed so well, last night on the floor of this House, about a quarter to 10, our colleague from Wisconsin, DAVE OBEY, made what I thought was the best address on the issue of process. Those of us who were not here, and I think there was a grand total of eight Congressmen on the floor at 10 o'clock last night, I refer them to the RECORD this morning for what Congressman OBEY had to say. It is worth reading.

I am a member of the Conservative Democratic Forum, and yesterday, like the Speaker, I wanted an open rule. And yesterday, I ended up voting against both rules.

I believe it is unfair to deprive the American people of knowing exactly where any of us stand on what budget cuts. Debate on the subject of the economic revitalization of this country should never be limited. Nor should votes be contrived to make some of us look bad unfairly, or to allow others to escape the consequences of their actions.

Both sides accused each other of a gag rule, and both are guilty.

□ 1100

THE PEOPLE WHO LIVE IN RURAL AMERICA

(Mr. WATKINS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WATKINS. Mr. Speaker, I would like to change our debate just a little bit. I have just introduced a bill that I think all of us can unite and help a group of people that are the forgotten people, the one-third of the people of this country who live in rural America.

I must say, Mr. Speaker, the bill I just introduced allows the jurisdiction of the small cities and rural communities to remain under HUD, but it transfers the delivery system, the administration, of the small cities and rural communities activities to the Farmers Home Administration so we will have a delivery system of the programs. It is a fraud on the citizens of rural America to tell them these programs include them when in reality a delivery system does not even expect to get the program to them.

I would like to address this to both sides of the aisle because at this time over 50 percent of the programs under Farmers Home Administration have been wiped out by the administration.

If we are concerned about the citizens who live in rural America, who live in small cities and rural communities, being able to even compete for the programs, then I ask Members from both sides of the aisle, from the urban as well as the rural areas, to join with me in coauthoring this piece of legislation.

THEY HAD TO MAKE A CHOICE

(Mr. MARKEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARKEY. Mr. Speaker, I think, when they chronicle the history of this Congress, the most significant event will be that the moderate and liberal Republicans, so-called, of the Northeast and Midwest had to make a choice. That choice was between their party and the people they represent.

I think it is becoming very clear, in their decision not just to gag us but also to blindfold us as we vote upon programs that are going to have a very significant impact upon their constituents across the Northeast and Midwest, that they will have lost the ability to really contend that they represent the interests of the people who live in those regions of our country.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will remind the Members that the Speaker indicated that at the hour of 11 o'clock there would be a termination of the 1-minute speeches.

PARLIAMENTARY INQUIRY

Mr. LEVITAS. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. LEVITAS. Mr. Speaker, if the House resolves itself into the Committee of the Whole House on the State of the Union, is it in order while the Committee is sitting for a recess to take place to give Members time to read the 500-page document we have just received?

The SPEAKER pro tempore. The Speaker would indicate that a motion for a recess is not in order.

Mr. LEVITAS. It is not in order once we go into the Committee?

The SPEAKER pro tempore. That is correct.

Mr. LEVITAS. I thank the Speaker.

OMNIBUS BUDGET RECONCILIATION ACT OF 1981

Mr. PANETTA. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3982) to provide for reconciliation pursuant to section 301 of the first concurrent resolution on the budget for the fiscal year 1982.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. PANETTA).

The question was taken; and on a division (demanded by Mr. LEVITAS), there were—yeas 65, nays 35.

Mr. LEVITAS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 316, nays 84, not voting 31, as follows:

[Roll No. 109]

YEAS—316

Addabbo	de la Garza	Hiler
Akaka	Deckard	Holland
Albosta	DeNardis	Hollenbeck
Alexander	Derrick	Holt
Anderson	Derwinski	Hopkins
Andrews	Dickinson	Horton
Annunzio	Dornan	Howard
Archer	Dreier	Hoyer
Ashbrook	Duncan	Hubbard
Aspin	Dunn	Huckaby
Atkinson	Dyson	Hunter
Badham	Edwards (AL)	Hutto
Bafalis	Edwards (OK)	Hyde
Bailey (MO)	Emerson	Ireland
Barnard	Emery	Jeffries
Beard	English	Jenkins
Benedict	Erdahl	Johnston
Benjamin	Erlenborn	Jones (TN)
Bennett	Evans (DE)	Kazen
Bereuter	Evans (GA)	Kemp
Bethune	Evans (IA)	Kildee
Bevill	Evans (IN)	Kindness
Biaggi	Fary	Kramer
Bliley	Fazio	Lagomarsino
Boland	Fenwick	Lantos
Boner	Fiedler	Latta
Bonior	Fields	Leach
Bonker	Findley	Leath
Bouquard	Fish	LeBoutillier
Bowen	Flippo	Lee
Breaux	Foglietta	Lent
Brinkley	Foley	Lewis
Brodhead	Ford (TN)	Livingston
Brooks	Forsythe	Loeffler
Broomfield	Frenzel	Long (MD)
Brown (CA)	Fuqua	Lott
Brown (CO)	Gejdenson	Lowery
Brown (OH)	Gibbons	Lujan
Broyhill	Gilman	Luken
Burgener	Gingrich	Lungren
Burton, John	Ginn	Madigan
Butler	Glickman	Marks
Byron	Goldwater	Marlenee
Campbell	Gonzalez	Marriott
Carman	Goodling	Martin (NC)
Carney	Gradison	Martin (NY)
Chappell	Gramm	Mattox
Cheney	Green	Mazzoli
Clausen	Gregg	McClory
Clinger	Grisham	McCloskey
Coats	Guarini	McCollum
Coleman	Gunderson	McCurdy
Collins (TX)	Hagedorn	McDade
Conable	Hall (OH)	McDonald
Conte	Hall, Ralph	McEwen
Corcoran	Hall, Sam	McGrath
Coughlin	Hamilton	McKinney
Courter	Hammerschmidt	Mica
Coyne, James	Hansen (ID)	Michel
Craig	Hansen (UT)	Mikulski
Crane, Daniel	Hartnett	Miller (OH)
Crane, Philip	Hatcher	Mineta
D'Amours	Heckler	Minish
Daniel, Dan	Hefner	Mitchell (NY)
Daniel, R. W.	Heftel	Molinari
Dannemeyer	Hendon	Mollohan
Daub	Hertel	Montgomery
Davis	Hightower	Moore
Moorhead	Roe	Stump
Morrison	Roemer	Swift
Mottl	Rogers	Synar
Murphy	Rosenthal	Tauke
Murtha	Roth	Tauzin
Myers	Roukema	Taylor
Napier	Rousselot	Thomas
Natcher	Roybal	Traxler
Nelligan	Rudd	Trible
Nelson	Russo	Udall
Nichols	Santini	Vander Jagt
O'Brien	Sawyer	Walgren
Oakar	Scheuer	Walker
Ottinger	Schneider	Wampler
Panetta	Schulze	Watkins
Parris	Seiberling	Weber (MN)
Pashayan	Sensenbrenner	Weber (OH)
Paul	Shamansky	White
Pease	Sharp	Whitehurst
Perkins	Shelby	Whitley
Petri	Shumway	Whittaker
Peyser	Shuster	Whitten
Pickle	Siljander	Williams (OH)
Porter	Simon	Wilson
Price	Skeen	Winn
Pritchard	Smith (AL)	Wirth
Pursell	Smith (NE)	Wolf
Quillen	Smith (NJ)	Wortley
Railsback	Smith (OR)	Wright
Rangel	Snowe	Wyden
Regula	Snyder	Wylie
Rhodes	Solomon	Yates
Rinaldo	Spence	Yatron
Ritter	Stangeland	Young (MO)
Roberts (KS)	Stanton	Zablocki
Roberts (SD)	Stark	Zeferetti
Robinson	Staton	
Rodino	Stenholm	

NAYS—84

Anthony	Ford (MI)	Mitchell (MD)
Bailey (PA)	Fountain	Moakley
Barnes	Fowler	Neal
Bedell	Frank	Oberstar
Bellenson	Frost	Obey
Bingham	Garcia	Patman
Blanchard	Gaydos	Patterson
Bolling	Gephardt	Rahall
Burton, Phillip	Gore	Ratchford
Chisholm	Gray	Reuss
Collins (IL)	Hawkins	Rose
Coyne, William	Hughes	Sabo
Crockett	Jacobs	Schroeder
Daschle	Jeffords	Schumer
Dellums	Jones (NC)	Shannon
Dicks	Jones (OK)	Smith (IA)
Dingell	Kastenmeier	St Germain
Donnelly	Kogovsek	Stokes
Dorgan	LaFalce	Stratton
Downey	Leland	Studds
Dwyer	Levitas	Vento
Early	Lowry	Volkmer
Eckart	Lundine	Washington
Edgar	Markey	Waxman
Edwards (CA)	Matsui	Weaver
Ertel	Mavroules	Weiss
Ferraro	McHugh	Wolpe
Fithian	Miller (CA)	Young (FL)

NOT VOTING—31

Applegate	Dymally	Pepper
AuCoin	Fascell	Richmond
Boggs	Florio	Rostenkowski
Chappie	Hance	Savage
Clay	Harkin	Shaw
Coelho	Hillis	Skelton
Conyers	Lehman	Solarz
Cotter	Long (LA)	Williams (MT)
Danielson	Martin (IL)	Young (AK)
Dixon	Moffett	
Dougherty	Nowak	

□ 1115

Mr. BINGHAM and Mr. DWYER changed their votes from "yea" to "nay."

Mr. SCHEUER changed his vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3982, with Mr. BOLAND in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Thursday, June 25, all time for general debate had expired.

Pursuant to the rule, the bill is considered as having been read for amendment under the 5-minute rule. No amendments are in order except an amendment in the nature of a substitute (the text of H.R. 3964), which shall be considered as an original bill for the purpose of amendment, and shall be considered as having been read, and the following amendments to said substitute:

(1) A substitute amendment to title VI by Representative Broyhill, if offered, and said amendment shall be considered as having been read and shall not be subject to amendment or to a division of the question; and

(2) The amendments of Representative Latta of Ohio, which shall be considered en bloc and shall be considered as having been read and shall not be subject to amendment or to a division of the question.

The Clerk will designate the amendment in the nature of a substitute.

The Clerk designated the amendment in the nature of a substitute.

The amendment in the nature of a substitute reads as follows:

H.R. 3964

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Omnibus Budget Reconciliation Act of 1981".

PURPOSE

SEC. 2. It is the purpose of this Act to implement the recommendations which were made by specified committees of the House of Representatives pursuant to directions contained in section 301 of the first concurrent resolution on the budget for the fiscal year 1982 (H. Con. Res. 115, 97th Congress), and pursuant to the reconciliation requirements which were imposed by such concurrent resolution as provided in section 310 of the Congressional Budget Act of 1974.

TITLE I—HOUSE COMMITTEE ON AGRICULTURE

Subtitle A—Reductions in Authorizations for Appropriations

FOOD STAMP FUNDING AND PROGRAM EXTENSION

SEC. 1001. Section 18(a) of the Food Stamp Act of 1977 is amended in the first sentence thereof by—

(1) striking out "and" after "September 30, 1980";

(2) striking out "$9,739,276,000" and inserting in lieu thereof "$11,480,000,000"; and

(3) inserting before the period at the end thereof the following: "; not in excess of $10,846,000,000 for the fiscal year ending September 30, 1982; not in excess of $10,628,000,000 for the fiscal year ending September 30, 1983; not in excess of $10,620,000,000 for the fiscal year ending September 30, 1984; and not in excess of $10,898,000,000 for the fiscal year ending September 30, 1985".

OTHER REDUCTIONS IN AUTHORIZATIONS FOR APPROPRIATIONS FOR PROGRAMS

SEC. 1002. Notwithstanding any other provision of law, (1) there are hereby authorized to be appropriated for the programs designated below not to exceed the sums shown for each of the fiscal years 1982, 1983, and 1984; and (2) outlays for such programs shall not exceed the sums shown for each of such fiscal years.

AGRICULTURAL PROGRAMS

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

DAIRY AND BEEKEEPER INDEMNITY PROGRAMS

For necessary expenses involved in making indemnity payments to dairy farmers under the Act of August 13, 1968, as amended (7 U.S.C. 450j): authorizations of $200,000 for fiscal year 1982, $200,000 for fiscal year 1983, and $200,000 for fiscal year 1984; outlays of $187,000 for fiscal year 1982, $182,000 for fiscal year 1983, and $179,000 for fiscal year 1984.

AGRICULTURAL MARKETING SERVICE

PAYMENTS TO STATES AND POSSESSIONS

For payments to departments of agriculture, bureaus and departments of markets, and similar agencies for marketing activities under section 204(b) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1623(b)): authorizations of $1,571,000 for fiscal year 1982, $1,651,000 for fiscal year 1983, and $1,723,000 for fiscal year 1984; outlays of $1,616,000 for fiscal year 1982, $1,688,000 for fiscal year 1983, and $1,749,000 for fiscal year 1984.

RURAL DEVELOPMENT PROGRAMS

RURAL DEVELOPMENT ASSISTANCE

FARMERS HOME ADMINISTRATION

RURAL WATER AND WASTE DISPOSAL GRANTS

For grants pursuant to sections 306(a)(2) and 306(a)(6) of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1926): authorizations of $197,944,000 for fiscal year 1982, $211,404,000 for fiscal year 1983, and $214,795,000 for fiscal year 1984; outlays of $241,860,000 for fiscal year 1982, $205,653,000 for fiscal year 1983, and $201,602,000 for fiscal year 1984.

RURAL COMMUNITY FIRE PROTECTION GRANTS

For grants pursuant to section 7 of the Cooperative Forestry Assistance Act of 1978 (Public Law 95-313): authorizations of $3,565,000 for fiscal year 1982, $3,821,000 for fiscal year 1983, and $4,038,000 for fiscal year 1984; outlays of $3,519,000 for fiscal year 1982, $4,039,000 for fiscal year 1983, and $3,990,000 for fiscal year 1984.

RURAL DEVELOPMENT PLANNING GRANTS

For rural development planning grants pursuant to section 306(a)(11) of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1926(a)(11)): authorizations of $4,767,000 for fiscal year 1982, $4,959,000 for fiscal year 1983, and $5,155,000 for fiscal year 1984; outlays of $4,992,000 for fiscal year 1982, $5,522,000 for fiscal year 1983, and $5,571,000 for fiscal year 1984.

RURAL DEVELOPMENT GRANTS

For grants pursuant to section 310B(c) of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1932): authorizations of $5,007,000 for fiscal year 1982, $5,280,000 for fiscal year 1983, and $5,553,000 for fiscal year 1984; outlays of $9,069,000 for fiscal year 1982, $4,332,000 for fiscal year 1983, and $4,741,000 for fiscal year 1984.

CONSERVATION

SOIL CONSERVATION SERVICE

For necessary expenses for carrying out the programs administered by the Soil and Conservation Service: authorizations of $558,875,000 for fiscal year 1982, $566,767,000 for fiscal year 1983, and $572,865,000 for fiscal year 1984; outlays of $586,586,000 for fiscal year 1982, $573,797,000 for fiscal year 1983, and $576,006,000 for fiscal year 1984.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

AGRICULTURAL CONSERVATION PROGRAM

For necessary expenses to carry into effect the program authorized in sections 7 to 15, 16(a), and 17 of the Soil Conservation and Domestic Allotment Act, approved February 29, 1936, as amended and supplemented (16 U.S.C. 590g-590o, 590p(a), and 590q), and sections 1001-1008, and 1010 of the Agricultural Act of 1970, as added by the Agriculture and Consumer Protection Act of 1973 (16 U.S.C. 1501-1508, and 1510): authorizations of $191,325,000 for fiscal year 1982, $199,647,000 for fiscal year 1983, and $208,216,000 for fiscal year 1984; outlays of $196,329,000 for fiscal year 1982, $195,471,000 for fiscal year 1983, and $203,252,000 for fiscal year 1984.

RURAL CLEAN WATER PROGRAM

For necessary expenses for carrying out an experimental Rural Clean Water Program: authorizations of $19,811,000 for fiscal year 1982, $21,106,000 for fiscal year 1983, and $22,104,000 for fiscal year 1984; outlays of $11,325,000 for fiscal year 1982, $16,087,000 for fiscal year 1983, and $19,468,000 for fiscal year 1984.

FORESTRY INCENTIVES PROGRAM

For necessary expenses, not otherwise provided for, to carry out the program of forestry incentives, as authorized in the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101): authorizations of $13,090,000 for fiscal year 1982, $14,913,000 for fiscal year 1983, and $16,314,000 for fiscal year 1984; and outlays of $13,730,000 for fiscal year 1982, $12,299,000 for fiscal year 1983, and $13,679,000 for fiscal year 1984.

WATER BANK PROGRAM

For necessary expenses to carry into effect the provisions of the Water Bank Act (16 U.S.C. 1301-1311): authorizations of $9,876,000 for fiscal year 1982, $9,854,000 for fiscal year 1983, and $9,813,000 for fiscal year 1984; outlays of $9,396,000 for fiscal year 1982, $10,157,000 for fiscal year 1983, and $9,995,000 for fiscal year 1984.

EMERGENCY CONSERVATION PROGRAM

For necessary expenses to carry into effect the program authorized in sections 401, 402, and 404 of title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201-2205): authorizations of $10,069,000 for fiscal year 1982, $10,507,000 for fiscal year 1983, and $10,958,000 for fiscal year 1984; outlays of $19,329,000 for fiscal year 1982, $14,612,000 for fiscal year 1983, and $10,501,000 for fiscal year 1984.

INTERNATIONAL PROGRAMS

PUBLIC LAW 480

For expenses during the current fiscal year, not otherwise recoverable, and unrecovered prior years' costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1701–1715, 1721–1726, 1727–1727f, 1731–1736g): authorizations of $1,304,836,000 for fiscal year 1982, $1,354,844,000 for fiscal year 1983, and $1,424,982,000 for fiscal year 1984; outlays of $1,311,557,000 for fiscal year 1982, $1,355,966,000 for fiscal year 1983, and $1,415,849,000 for fiscal year 1984.

FOREST SERVICE

FOREST RESEARCH

For necessary expenses of forest research: authorizations of $123,346,000 for fiscal year 1982, $125,263,000 for fiscal year 1983, and $126,882,000 for fiscal year 1984; outlays of $126,016,000 for fiscal year 1982, $127,020,000 for fiscal year 1983, and $127,779,000 for fiscal year 1984.

STATE AND PRIVATE FORESTRY

For necessary expenses of cooperating with, and providing technical and financial assistance to, States, territories, possessions, and others; and for forest insect and disease activities: authorizations of $64,354,000 for fiscal year 1982, $65,355,000 for fiscal year 1983, and $66,199,000 for fiscal year 1984; outlays of $65,747,000 for fiscal year 1982, $66,272,000 for fiscal year 1983, and $66,667,000 for fiscal year 1984.

NATIONAL FOREST SYSTEM

For necessary expenses of the Forest Service not otherwise provided for, for management, protection, improvement, and utilization of the national forest system, and for liquidation of obligations incurred in the preceding fiscal year for forest fire protection and emergency rehabilitation: authorizations of $884,876,000 for fiscal year 1982, $898,631,000 for fiscal year 1983, and $910,245,000 for fiscal year 1984, including, for reforestation and timber stand improvement not less than $102,270,000 for fiscal year 1982, $105,943,000 for fiscal year 1983, and $109,847,000 for fiscal year 1984: *Provided,* That none of the funds authorized to be appropriated hereby may be used for carrying out the Bald Mountain road and timber sale in the Siskiyou National Forest; outlays of $904,029,000 for fiscal year 1982, $911,240,000 for fiscal year 1983, and $916,681,000 for fiscal year 1984.

CONSTRUCTION AND LAND ACQUISITION

For necessary expenses of the Forest Service, not otherwise provided for, for construction and land acquisition: authorizations of $372,999,000 for fiscal year 1982, $385,989,000 for fiscal year 1983, and $397,687,000 for fiscal year 1984: *Provided,* That there are hereby authorized to be appropriated for forest road construction not more than $185,940,000 for fiscal year 1982, $194,237,000 for fiscal year 1983, and $202,949,000 for fiscal year 1984: *Provided further,* That none of the funds authorized to be appropriated hereby may be used for carrying out the Bald Mountain road and timber sale in the Siskiyou National Forest; outlays of $397,194,000 for fiscal year 1982, $400,724,000 for fiscal year 1983, and $399,921,000 for fiscal year 1984.

OTHER REDUCTIONS IN AUTHORIZATIONS FOR APPROPRIATIONS FOR SALARIES AND EXPENSES

SEC. 1003. Notwithstanding any other provision of law, there are hereby authorized to be appropriated for salaries and expenses for operating and administering the programs of the following agencies, offices and functions of the Department of Agriculture, not to exceed $1,348,032,000 for fiscal year 1982, $1,364,186,000 for fiscal year 1983, and $1,419,352,000 for fiscal year 1984: Office of the Secretary, offices funded under the account "Department Administration", activities funded under the account "Governmental and Public Affairs", Office of the Inspector General, Office of the General Counsel, Federal Grain Inspection Service, Animal and Plant Health Inspection Service, Food Safety and Quality Service, Economics and Statistics Service, Agricultural Cooperative Service, World Food and Agricultural Outlook and Situation Board, Agricultural Marketing Service, including the Transportation Office, Agricultural Stabilization and Conservation Service, Federal Crop Insurance Corporation, Farmers Home Administration, Rural Electrification Administration, and Office of International Cooperation and Development.

Subtitle B—Reduction in Direct Spending

MILK PRICE SUPPORT

SEC. 1021. Section 201 of the Agricultural Act of 1949, as amended, is amended by—

(1) striking out the second sentence of subsection (c) and inserting in lieu thereof the following: "Notwithstanding the foregoing, effective for the period beginning October 1, 1981, and ending September 30, 1985, the price of milk for the marketing year beginning on October 1 of each year shall be supported at a level determined according to the following procedure: The Secretary shall estimate Government price support purchases net of sales for unrestricted use for the marketing year using the amount of such purchases made during the most recent six-month period adjusted to an annual level on the basis of the most recent ten year experience. The Secretary shall adjust this estimate of net Government purchases to reflect the effect of current and expected availability of feed, feed prices, milk-feed price ratio, utility cow prices, dairy cow numbers and dairy heifer replacement stocks on milk production during the marketing year. After making this final estimate, the Secretary shall support the price of milk at not less than the level indicated by the following schedule:

"Price as percent of parity	The higher of anticipated annual rate of net Government purchases	
	Nonfat dry milk (million pounds)	Milk equivalent (butterfat basis) of butter and cheese (billion pounds)
75..	more than 500	
76..	450–499.9	5.0–5.499.
77..	400–449.9	4.5–4.999.
78..	350–399.9	4.0–4.499.
79..	300–349.9	3.5–3.999.
80..	250–299.9	3.0–3.499.
81..	200–249.9	2.5–2.999.
82..	150–199.9	2.0–2.499.
83..	100–149.9	1.5–1.999.
84..	50–99.9	1.0–1.499.
85–90..	less than 50	less than 1.0.

In no event shall the support price be less than the dollar amount of the support price then currently in effect for milk: *Provided,* That if the Secretary determines that the inventory of dairy products, at the end of the marketing year, exceeds five hundred million pounds of nonfat dry milk or five and one-half billion pounds milk equivalent of butter and cheese, the support price for the next marketing year shall be established at the minimum level indicated by this schedule based upon estimated Government price support purchases net of sales for unrestricted use for such year. The Secretary shall notify, in writing, the chairman of the Senate Committee on Agriculture, Nutrition, and Forestry and the chairman of the House Committee on Agriculture of the Secretary's decision and reasons therefor, thirty days prior to the effective date of the new support level. Notwithstanding the foregoing, if during any marketing year dairy product imports into the United States are increased as the result of an expansion of imports or termination of import restraints established pursuant to section 22 of the Agricultural Adjustment Act, the support price shall be redetermined by reducing the final estimate of net Government purchases by the milk equivalent of butterfat of dairy products or nonfat dry milk or its equivalent of other products derived from milk from such increased imports. The increased support price so determined shall become effective simultaneously with the announcement of the expansion of dairy product imports. A similar reduction in the net Government purchases for the marketing year in which the imports are entered into the United States shall be made when determining the support price level for subsequent years."; and

(2) inserting a new subsection (d) as follows:

"(d) Effective for the period beginning October 1, 1982, and ending on September 30, 1985, the support price of milk shall be adjusted by the Secretary at the beginning of each semiannual period to reflect any estimated change in the parity index during said semiannual period. If a review of net Government purchases as provided for in subsection (c) indicates that purchases during the most recent six-month period are being made at an annual rate exceeding five and one-half billion pounds milk equivalent (butterfat basis), or five hundred million pounds of nonfat dry milk, the support price of milk need not be adjusted unless such adjustment is necessary to prevent a support price at less than 75 per centum of parity as determined at the beginning of the semiannual period. The Secretary shall notify, in writing, the chairman of the Senate Committee on Agriculture, Nutrition, and Forestry and the chairman of the House Committee on Agriculture of the Secretary's decision and the reasons therefor thirty days prior to the effective date of such semiannual adjustment.".

GRAIN INSPECTION

SEC. 1022. Effective for the period October 1, 1981, through September 30, 1984, inclusive, the United States Grain Standards Act is amended by—

(1) amending section 7(j) (7 U.S.C. 79) as follows:

"(j)(1) The Administrator shall, under such regulations as he may prescribe, charge and collect reasonable inspection fees to cover the estimated cost to the Service incident to the performance of official inspection except when the official inspection is performed by a designated official agency or by a State under a delegation of authority. The fees authorized by this subsection shall, as nearly as practicable and after taking into consideration any proceeds from the sale of samples, cover the costs of the Service incident to its performance of official inspection services in the United States and on United States grain in Canadian ports, including administrative and su-

pervisory costs related to such official inspection of grain. Such fees, and the proceeds from the sale of samples obtained for purposes of official inspection which become the property of the United States, shall be deposited into a fund which shall be available without fiscal year limitation for the expenses of the Service incident to providing services under this Act.

"(2) Each designated official agency and each State agency to which authority has been delegated under subsection (e) of this section shall pay to the Administrator fees in such amount as the Administrator determines fair and reasonable and as will cover the estimated costs incurred by the Service relating to supervision of official agency personnel and supervision by Service personnel of its field office personnel, except costs incurred under paragaph (3) of subsection (g) of this section and sections 9, 10, and 14 of this Act. The fees shall be payable after the services are performed at such times as specified by the Administrator and shall be deposited in the fund created in paragraph (1) of this subsection. Failure to pay the fee within thirty days after it is due shall result in automatic termination of the delegation or designation, which shall be reinstated upon payments, within such period as specified by the Administrator, of the fee currently due plus interest and any further expenses incurred by the Service because of such termination. The interest rate on overdue fees shall be prescribed by the Secretary of Agriculture, but not less than the current average market yield on outstanding marketable obligations of the United States of comparable maturity, plus an additional charge of not to exceed 1 per centum per annum as determined by the Secretary of Agriculture and adjusted to the nearest one-eighth of 1 per centum.";

(2) amending section 7A(l) (7 U.S.C. 79a) as follows:

"(l)(1) The Administrator shall, under such regulations as he may prescribe, charge and collect reasonable fees to cover the estimated costs to the Service incident to the performance of the functions provided for under this section except as otherwise provided in paragraph (2) of this subsection. The fees authorized by this paragraph shall, as nearly as practicable, cover the costs of the Service incident to performance of its functions related to weighing, including administrative and supervisory costs directly related thereto. Such fees shall be deposited into the fund created in section 7(j) of this Act.

"(2) Each agency to which authority has been delegated under this section and each agency or other person which has been designated to perform functions related to weighing under this section shall pay to the Administrator fees in such amount as the Administrator determines fair and reasonable and as will cover the costs incurred by the Service relating to supervision of the agency personnel and supervision by Service personnel of its field office personnel incurred as a result of the functions performed by such agencies, except costs incurred under sections 7(g)(3), 9, 10, and 14 of this Act. The fees shall be payable after the services are performed at such times as specified by the Administrator and shall be deposited in the fund created in section 7(j) of this Act. Failure to pay the fee within thirty days after it is due shall result in automatic termination of the delegation or designation, which shall be reinstated upon payment, within such period as specified by the Administrator, of the fee currently due plus interest and any further expenses incurred by the Service because of such termination. The interest rate on overdue fees shall be prescribed by the Secretary of Agriculture, but not less than the current average market yield on outstanding marketable obligations of the United States of comparable maturity, plus an additional charge of not to exceed 1 per centum per annum as determined by the Secretary of Agriculture, and adjusted to the nearest one-eighth of 1 per centum.";

(3) adding a new section 7C as follows:

"LIMITATION ON ADMINISTRATIVE AND SUPERVISORY COSTS

"SEC. 7C. The total administrative and supervisory costs which may be incurred under this Act for inspection and weighing (excluding standardization, compliance and foreign monitoring activities) for each of the fiscal years 1982 through 1985 shall not exceed 35 per centum of the total costs for such activities carried out by the Federal Grain Inspection Service for such year.";

(4) amending section 19 (7 U.S.C. 87h) as follows:

"APPROPRIATIONS

"SEC. 19. There are hereby authorized to be appropriated such sums as are necessary for standardization and compliance activities, monitoring in foreign ports grain officially inspected and weighed under this Act, and any other expenses necessary to carry out the provisions of this Act for each of the fiscal years during the period beginning October 1, 1981, and ending September 30, 1985, to the extent that financing is not obtained from fees and sales of samples as provided for in sections 7, 7A, and 17A of this Act."; and

(5) adding a new section 20 as follows:

"ADVISORY COMMITTEE

"SEC. 20. (a) In order to assure the normal movement of grain in an orderly and timely manner, the Secretary of Agriculture shall establish an advisory committee to provide advice to the Administrator of the Federal Grain Inspection Service with respect to the efficient and economical implementation of the United States Grain Standards Act of 1976. The advisory committee shall consist of not more than twelve members, appointed by the Secretary, representing the interests of all segments of the grain industry, including grain inspection and weighing agencies. Members of the advisory committee shall be appointed not later than thirty days after the date of enactment of this section.

"(b) The advisory committee shall be governed by the provisions of the Federal Advisory Committee Act.

"(c) The Administrator of the Federal Grain Inspection Service shall provide the advisory committee with necessary clerical assistance and staff personnel.

"(d) Members of the advisory committee shall serve without compensation, if not otherwise officers or employees of the United States, except that members shall, while away from their homes or regular places of business in the performance of services under this title, be allowed travel expenses, including per diem in lieu of subsistence, as authorized under section 5703 of title 5 of the United States Code.

"(e) There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this section.".

COTTON CLASSING AND RELATED SERVICES

SEC. 1023. The United States Cotton Standards Act is amended by—

(1) amending section 5 (7 U.S.C. 55) as follows:

"SEC. 5. The Secretary of Agriculture shall cause to be collected such fees and charges for licenses issued to classifiers of cotton under section 3 of this Act, for determinations made under section 4 of this Act and for the establishment of standards and sale of copies of standards under section 6 of this Act, as will cover, as nearly as practicable, and after taking into consideration net proceeds from any sale of samples, the costs incident to providing services and standards under such sections, including administrative and supervisory costs. Such fees and charges shall be credited to the current appropriation that incurs the cost and shall remain available until expended to pay the expenses of the Secretary incident to providing services and standards under this Act, the Cotton Statistics and Estimates Act (7 U.S.C. 471 et seq.) and the United States Cotton Futures Act (7 U.S.C. 15b). The Secretary may provide by regulation conditions under which cotton samples submitted or used in the performance of services authorized by this Act shall become the property of the United States and may be sold with the proceeds credited to the foregoing account: *Provided,* That such cotton samples shall not be subject to the provisions of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.)."; and

(2) amending section 6(a) (7 U.S.C. 56, 57) by adding at the end thereof a new sentence as follows: "The price established by the Secretary under the foregoing provisions of this subsection for practical forms representing the official cotton standards of the United States shall cover, as nearly as practicable, the estimated actual cost to the Department for developing and preparing such forms.".

SEC. 1024. Section 3a of the Cotton Statistics and Estimates Act (7 U.S.C. 473a) is amended effective for the fiscal years 1982 to 1984, inclusive, as follows:

"SEC. 3a. Effective for the fiscal years 1982 through 1984, inclusive, the Secretary of Agriculture shall make cotton classification services available to producers of cotton. The Secretary shall further provide for appropriate agencies of the Department of Agriculture to collect directly from participating producers reasonable fees which, together with the proceeds of samples submitted under this section, shall cover as nearly as practicable the cost of the service provided under this section, including administrative and supervisory costs: *Provided,* That the Secretary's net cost estimate (after taking into account the proceeds from the sale of samples) used to calculate the uniform per-bale fee to be collected from producers for such classification services shall not exceed $12,000,000 in fiscal year 1982, $12,400,000 in fiscal year 1983 and $13,000,000 in fiscal year 1984. All samples of cotton submitted for classification under this section shall become the property of the United States, and shall be sold: *Provided,* That such cotton samples shall not be subject to the provisions of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.). Fees collected under this section and section 3d and proceeds from sales of samples shall be credited to the current appropriation that incurs the cost and shall remain available until expended to pay the expenses of the Secretary incident to providing classing services under this section. The Secretary may deposit such funds in an interest bearing account with a financial institution. If any interest is earned on this

account, such interest so earned shall be credited to the account for use by the Secretary in providing such services. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this section to the extent that financing is not available from fees and the proceeds from the sale of samples.".

SEC. 1025. Subsection (f)(1)(G), of the United States Cotton Futures Act (7 U.S.C. 15b(f)(1)(G)), is amended by striking out "in such regulations" and inserting in lieu thereof "in such regulations and shall be credited to the account referred to in section 5 of the Cotton Standards Act (7 U.S.C. 55). The Secretary may provide by regulation conditions under which cotton samples submitted or used in the performance of services authorized by this Act shall become the property of the United States and may be sold with the proceeds credited to the foregoing account: *Provided*, That such cotton samples shall not be subject to the provisions of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).".

SEC. 1026. The Secretary shall hold annual meetings with representatives of the cotton industry to review (1) activities and operations under the Cotton Standards Act, and the Cotton Statistics and Estimates Act, (2) activities and operations relating to cotton under the United States Warehouse Act, and (3) the effect of such activities and operations on prices received by producers and sales to domestic and foreign users, for the purpose of improving procedures for financing and administering such activities and operations for the benefit of the industry and the Government. Notwithstanding any other provision of law, the Secretary shall take such action as may be necessary to insure that the universal cotton standards system and the licensing and inspection procedures for cotton warehouses are preserved and that the Government cotton classification system continues to operate so that the United States cotton crop is provided an official quality description.

TOBACCO INSPECTION AND RELATED SERVICES

SEC. 1027. The Tobacco Inspection Act is amended by—

(1) in section 5 (7 U.S.C. 511d), striking out the last two sentences and inserting in lieu thereof the following: "The Secretary shall by regulation fix and collect fees and charges for inspection and certification, the establishment of standards, and other services under this section at designated auction markets. The fees and charges authorized by this section shall, as nearly as practicable, cover the costs of the services, including the administrative and supervisory costs customarily included by the Secretary in user fee calculations. The fees and charges, when collected, shall be credited to the current appropriation that incurs the cost and shall be available without fiscal year limitation for the expenses of the Secretary incident to providing services under this Act. Such fees and charges shall be assessed against the warehouse operator, irrespective of ownership or interest in the tobacco, and shall be collected by the warehouse operator from the sellers of the tobacco. The inspection and related services under this section shall be suspended or denied if the warehouse operator fails to collect or otherwise pay the fees and charges imposed under this section. Tobacco inspection or certification services provided to such designated auction markets shall take precedence over such services, other than reinspection, requested under the authority contained in section 6 of this Act or any other provision of law. In accordance with the Federal Advisory Committee Act, the Secretary shall establish a national advisory committee of tobacco producers, and advisory subcommittees for each major kind of tobacco, to advise the Secretary with regard to the level of inspection and related services and the fees and charges therefor. The advisory committee and subcommittees established under this section shall be of permanent duration. The committees shall meet at the call of the Secretary."; and

(2) in section 6 (7 U.S.C. 511e), amending the first sentence of the second paragraph as follows: "The Secretary shall fix and collect such fees or charges in the administration of this section as will cover, as nearly as practicable, the costs of the services provided, including administrative and supervisory costs. Such fees and charges shall be credited to the account referred to in section 5 of this Act.".

WAREHOUSE EXAMINATION, INSPECTION, AND LICENSING

SEC. 1028. The United States Warehouse Act is amended by—

(1) amending section 10 (7 U.S.C. 251) as follows:

"SEC. 10. The Secretary of Agriculture, or his designated representative, shall charge, assess, and cause to be collected a reasonable fee for (a) each examination or inspection of a warehouse (including the physical facilities and records thereof and the agricultural products therein) under this Act; (b) each license issued to any person to classify, inspect, grade, sample, or weigh agricultural products stored or to be stored under provisions of this Act; (c) each annual warehouse license issued to a warehouseman to conduct a warehouse under this Act; and (d) each warehouse license amended, modified, extended, or reinstated under this Act: *Provided*, That the amount of such fees collected for cotton warehouse inspection shall not exceed $400,000 in fiscal year 1982, $415,000 in fiscal year 1983, and $430,000 in fiscal year 1984. Such fees shall cover, as nearly as practicable, the costs of providing such services and licenses; including the administrative and supervisory costs. All fees collected shall be credited to the current appropriation that incurs the costs and shall be available without fiscal year limitation for the expenses of the Secretary incident to providing services under the Act: *Provided*, That the Secretary may deposit such funds in an interest bearing account with a financial institution, and if any interest is earned on this account, such interest so earned shall be credited to the account for use by the Secretary in providing such services."; and

(2) amending section 31 (7 U.S.C. 271) as follows:

"SEC. 31. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act other than those services for which fees are authorized pursuant to section 10. Such appropriated funds may be used by the Secretary to employ qualified persons not regularly in the service of the United States for temporary assistance in carrying out the provisions of this Act.".

SEC. 1029. The provisions of sections 123, 125, 126, and 127 of this subtitle shall become effective October 1, 1981.

NAVAL STORES

SEC. 1030. The Naval Stores Act (7 U.S.C. 91-99) is repealed effective upon the date of enactment of this Act.

INTEREST RATES ON FARMERS HOME ADMINISTRATION WATER AND WASTE DISPOSAL AND COMMUNITY FACILITY LOANS, LOANS TO LOW-INCOME LIMITED RESOURCE BORROWERS, AND LOANS FOR NONFARM FACILITIES ON PRIME FARMLANDS

SEC. 1031. (a) Section 307(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927(a)) is amended by—

(1) in paragraph (2), striking out "and (5)" and inserting in lieu thereof "(5), and (6)";

(2) in paragraph (4), striking out "The" and inserting in lieu thereof "Except as provided in paragraph (6), the";

(3) amending paragraph (3) as follows:

"(3)(A) Except as provided in paragraph (6), the interest rates on loans (other than guaranteed loans), to public bodies or nonprofit associations (including Indian tribes on Federal and State reservations and other federally recognized Indian tribal groups) for water and waste disposal facilities and essential community facilities shall be set by the Secretary at rates not to exceed the current market yield for outstanding municipal obligations with remaining periods to maturity comparable to the average maturity for such loans, and adjusted to the nearest one-eighth of 1 per centum; and not in excess of 5 per centum per annum for any such loans which are for the upgrading of existing facilities or construction of new facilities as required to meet applicable health or sanitary standards in areas where the median family income of the persons to be served by such facility is below the poverty line prescribed by the Office of Management and Budget as adjusted under section 625 of the Economic Opportunity Act of 1964 (42 U.S.C. 2971d) and in other areas as the Secretary may provide where a significant portion of the persons to be served by such facilities are of low income, as determined by the Secretary.

"(B) Except as provided in paragraph (6), the interest rates on loans (other than guaranteed loans) under section 310D of this title shall be as determined by the Secretary, but not in excess of one-half of the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, nor less than 5 per centum per annum."; and

(4) adding at the end thereof a new paragraph (6) as follows:

"(6)(A) Notwithstanding any other provision of this section, in the case of loans (other than guaranteed loans) made or insured under the authorities of this Act specified in subparagraph (B) for activities that involve the use of prime farmland as defined in subparagraph (C), the interest rates shall be the interest rates otherwise applicable under this section increased by 2 per centum per annum. Wherever practicable, construction by a State, municipality, or other political subdivision of local government that is supported by loans described in the preceding sentence shall be placed on land that is not prime farmland, in order to reserve the maximum practicable amount of those prime and unique lands for production of food and fiber. Where other options exist for the siting of such construction and where the governmental authority still desires to carry out such construction on prime farmland, the 2 per centum interest rate increase provided by this clause shall apply, but such increased interest rate shall not apply where such other options do not exist.

"(B) The authorities referred to in subparagraph (A) are—

"(i) clauses (2) and (3) of section 303(a),

"(ii) the provisions of section 304(a) relating to the financing of outdoor recreational enterprises or the conversion of farming or ranching operations to recreational uses,

"(iii) section 304(b),

"(iv) the provisions of section 306(a)(1) relating to loans for recreational developments and essential community facilities,

"(v) section 306(a)(15),

"(vi) clause (1) of section 310B(a),

"(vii) subsections (d) and (e) of section 310B, and

"(viii) section 310D(a) as it relates to the making or insuring of loans under clauses (2) and (3) of section 303(a).

"(C) For purposes of this paragraph, the term 'prime farmland' means prime farmlands and unique farmland as those terms are defined in sections 657.5 (a) and (b) of title 7, Code of Federal Regulations (1980).".

(b) Section 316(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1946(a)) is amended by—

(1) inserting "(1)" after "(a)";

(2) inserting "and loans as provided in paragraphs (2) and (3)" after "except for guaranteed loans"; and

(3) adding at the end thereof new paragraphs (2) and (3) as follows:

"(2) The interest rate on any loan (other than a guaranteed loan) to a low-income, limited resource borrower under this subtitle shall be as determined by the Secretary, but not in excess of one-half of the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, nor less than 5 per centum per annum.

"(3) In the case of any loan, other than a guaranteed loan, made or insured under clause (5) of section 312(a) for activities that involve the use of prime farmland as defined in section 307(a)(6)(C), the interest rate shall be the interest rate otherwise applicable under this section increased by 2 per centum per annum.".

(c) The amendments made by this section shall apply to loans made after September 30, 1981.

EMERGENCY LOANS OF FARMERS HOME ADMINISTRATION COVERING PRODUCTION LOSSES

SEC. 1032. Section 329 of the Consolidated Farm and Rural Development Act is amended as follows:

"ELIGIBILITY FOR ASSISTANCE BASED ON PRODUCTION LOSS

"SEC. 329. The Secretary shall make financial assistance under this subtitle available to any applicant seeking assistance based on production losses if the applicant shows that a single enterprise which constitutes a basic part of the applicant's farming, ranching, or aquaculture operation has sustained at least a 20 per centum loss of normal per acre or per animal production as a result of the disaster based upon the average monthly price in effect for the previous year and the applicant otherwise meets the conditions of eligibility prescribed under this subtitle. Such loans shall be made available based upon 90 per centum of the total calculated actual production loss sustained by the applicant.".

RURAL DEVELOPMENT LOANS

SEC. 1033. Section 346(b)(2) of the Consolidated Farm and Rural Development Act is amended by inserting immediately before the period at the end thereof the following: ": *Provided*, That for the fiscal year 1982, water and sewer facility loans are authorized to be insured in an amount not to exceed $300,000,000, and community facility loans are authorized to be insured in an amount not to exceed $130,000,000".

ELIMINATION OF THE WAIVER OF INTEREST ON LOANS MADE ON THE 1980 AND 1981 CROPS OF GRAIN PLACED IN THE FARMER-HELD RESERVE

SEC. 1034. Section 110(b) of the Agricultural Act of 1949 (7 U.S.C. 1445e(b)) is amended by—

(1) striking out in clause (3) of the second sentence the phrase ", and the Secretary shall waive such interest on loans made on the 1980 and 1981 crops of wheat and feed grains"; and

(2) adding at the end thereof a new sentence as follows: "Producers of the 1981 crop of wheat and feed grains shall have the option to obtain a price support loan under the producer storage program immediately after such grain is harvested.".

REDUCTION IN CCC ADMINISTRATIVE EXPENSE LIMITATION

SEC. 1035. Not to exceed $52,000,000 for fiscal year 1982 shall be available for administrative expenses of the Commodity Credit Corporation, within the limits of funds and borrowing authority available to the Corporation as may be necessary in carrying out the programs set forth in the budget for the Corporation.

TITLE II—HOUSE COMMITTEE ON ARMED SERVICES

Subtitle A—Strategic and Critical Materials

AUTHORIZATION OF DISPOSALS

SEC. 2001. (a) Effective on October 1, 1981, the President is authorized to dispose of the following quantities of materials currently held in the National Defense Stockpile established by section 3 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98b), such quantities having been determined to be excess to the current requirements of the stockpile:

(1) 1,000,000 pounds of iodine.

(2) 1,500,000 carats of diamonds, industrial crushing bort.

(3) 710,253 pounds of mercuric oxide.

(4) 50,000 flasks of mercury.

(5) 6,000,000 pounds of mica, muscovite splittings.

(6) 25,000 pounds of mica, phlogopite splittings.

(7) 46,537,000 troy ounces of silver.

(8) 1,000 short tons of antimony.

(9) 2,000 short tons of asbestos chrysotile.

(10) 50,000 pounds of mica muscovite film, first and second qualities.

(11) 50,000 pounds of mica muscovite block, stained and lower.

(12) 700 long tons of vegetable tannin extract, wattle.

(b) Effective on October 1, 1982, the President is authorized to dispose of the following quantities of materials currently held in the National Defense Stockpile, such quantities having been determined to be excess to the current requirements of the stockpile:

(1) 44,682,000 troy ounces of silver.

(2) 1,000 short tons of antimony.

(3) 2,000 short tons of asbestos chrysotile.

(4) 1,500,000 carats of diamond stones.

(5) 1,000,000 pounds of iodine.

(6) 50,000 pounds of mica muscovite film, first and second qualities.

(7) 50,000 pounds of mica muscovite block, stained and lower.

(8) 697 long tons of vegetable tannin extract, wattle.

(c) Effective on October 1, 1983, the President is authorized to dispose of the following quantities of materials currently held in the National Defense Stockpile, such quantities having been determined to be excess to the current requirements of the stockpile:

(1) 13,900,000 troy ounces of silver.

(2) 1,000 short tons of antimony.

(3) 6,000 short tons of asbestos amosite.

(4) 2,000 short tons of asbestos chrysotile.

(5) 1,500,000 carats of diamond stones.

(6) 197,465 carats of diamonds, industrial crushing bort.

(7) 213,000 pounds of iodine.

(8) 50,000 pounds of mica muscovite film, first and second qualities.

(9) 50,000 pounds of mica muscovite block, stained and lower.

(d)(1) The disposal authorizations contained in paragraphs (7) through (12) of subsection (a) expire on September 30, 1982.

(2) The disposal authorizations contained in subsection (b) expire on September 30, 1983.

(3) The disposal authorizations contained in subsection (c) expire on September 30, 1984.

(e) Any disposal under the authority of subsection (a), (b), or (c) shall be carried out in accordance with the provisions of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.).

AUTHORIZATION OF APPROPRIATIONS

SEC. 2002. (a) Effective on October 1, 1981, there is authorized to be appropriated the sum of $2,140,000,000 for the acquisition of strategic and critical materials under section 6(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98e(a)).

(b) Any acquisition using funds appropriated under the authorization of subsection (a) shall be carried out in accordance with the provisions of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.).

IMPROVEMENTS IN STOCKPILE MANAGEMENT

SEC. 2003. (a) Section 5(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98d(a)) is amended—

(1) by inserting "(1)" after "(a)";

(2) by inserting "and other incidental expenses" after "transportation";

(3) by striking out "for a period of five fiscal years, if so provided in appropriation Acts" and inserting in lieu thereof "until expended, unless otherwise provided in appropriation Acts"; and

(4) by adding at the end thereof the following new paragraph:

"(2) Except as otherwise provided by law, no amount appropriated pursuant to an authorization of appropriations under paragraph (1) may be obligated or expended for acquisition of any quantity of any material if a full and complete statement of the proposed acquisition of that quantity of such material has not been transmitted to the appropriate committees of the Congress. Such actions may not then be taken until the end of the 30-day period beginning on the date of the receipt of such notice by the committees or until each committee, before the expiration of such period, notifies the President that it has no objection to the proposed action. In computing any 30-day period for the purposes of the preceding sentence, there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than three days to a day certain.".

(b) Section 5(b) of such Act (50 U.S.C. 98d(b)) is amended—

(1) by inserting "(1)" after "from the stockpile"; and

(2) by striking out the period at the end and inserting in lieu thereof ", or (2) if the disposal would result in there being a balance in the National Defense Stockpile Transaction Fund in excess of $1,000,000,000 or, in the case of a disposal to be made after September 30, 1983, if the disposal would result in there being a balance in the fund in excess of $500,000,000.".

(c) Section 6(a)(6) of such Act (50 U.S.C. 98e(a)(6)) is amended by inserting "subject to the provisions of section 5(b)," after "(6)".

(d)(1) Section 9(b)(1) of such Act (50 U.S.C. 98h(b)(1)) is amended by striking out "or until" and all that follows in such section and inserting in lieu thereof a period.

(2) Section 9(b)(3) of such Act (50 U.S.C. 98h(b)(3)) is amended to read as follows:

"(3) Moneys in the fund, when appropriated, shall remain available until expended, unless otherwise provided in appropriation Acts.".

(e) The amendments made by paragraphs (2) and (3) of subsection (a) and paragraph (2) of subsection (d) shall apply with respect to funds appropriated for fiscal years beginning after September 30, 1981.

(f) Section 11 of such Act (50 U.S.C. 98h-2) is amended by inserting "(a)" after "SEC. 11." and by adding at the end thereof the following new subsection:

"(b) Not later than 30 days after the date of the enactment of the law making general appropriations for any fiscal year for the operation of the stockpile, the President shall submit to the appropriate committees of the Congress a report containing a detailed plan for the operation of the stockpile during such fiscal year and the succeeding four fiscal years. Each such report shall include details of planned expenditures for acquisition of strategic and critical materials during such period (including expenditures to be made from appropriations from the general fund of the Treasury) and of anticipated receipts from proposed disposals of stockpile materials during such period.".

Subtitle B—Military Compensation

ONCE ANNUAL COST-OF-LIVING INCREASES IN MILITARY RETIRED PAY

SEC. 2101. For cost savings achieved through elimination of one of the present semiannual increases in military retired and retainer pay, contingent upon a similar change in law being made with respect to the civil service retirement system, see section 812 of the Department of Defense Authorization Act, 1981 (Public Law 96-342; 94 Stat. 1098).

OPEN ENROLLMENT PERIOD FOR SURVIVOR BENEFIT PLAN

SEC. 2102. (a)(1) Any eligible member who on the date of the enactment of this Act is not a participant in the Survivor Benefit Plan may elect to participate in the Plan during the open enrollment period specified in subsection (b).

(2) Any eligible member who on the date of the enactment of this Act is a participant in the Plan but elected not to participate in the Plan at the maximum level or (in the case of an eligible member who is married) elected to provide an annuity under the Plan for a dependent child and not for the member's spouse may during the open enrollment period elect to participate in the Plan at a higher level or to provide an annuity under the Plan for the eligible member's spouse at a level not less than the level provided for the dependent child.

(3) Any such election shall be made in the same manner as an election under section 1448 of such title and shall be effective when received by the Secretary concerned.

(b) The open enrollment period is the period beginning on October 1, 1981, and ending on September 30, 1982.

(c) If an individual making an election under subsection (a) dies before the end of the one-year period beginning on the date of that election, the election is void and the amount of any reduction in the retired or retainer pay of such individual that is attributable to the election shall be paid in a lump sum to such individual's beneficiary under the Plan (as designated under the election).

(d) Sections 1449, 1453, and 1454 of title 10, United States Code, are applicable to individuals making elections and to elections under this section.

(e) For the purposes of this section:

(1) The term "eligible member" means a member or former member of the uniformed services who on the date of the enactment of this Act is entitled to retired or retainer pay.

(2) The term "Survivor Benefit Plan" or "Plan" means the program established under subchapter II of chapter 73 of title 10, United States Code.

(3) The term "Secretary concerned" has the meaning given such term in section 101(5) of title 37, United States Code.

TITLE III—HOUSE COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

Subtitle A—Housing, Community Development, and Related Programs

SHORT TITLE

SEC. 3001. This subtitle may be cited as the "Housing and Community Development Amendments of 1981".

CHAPTER 1—COMMUNITY AND NEIGHBORHOOD DEVELOPMENT AND CONSERVATION

AUTHORIZATION ADJUSTMENTS

SEC. 3101. (a) COMMUNITY DEVELOPMENT GRANTS.—Section 103(a)(1) of the Housing and Community Development Act of 1974 is amended by striking out "not to exceed $3,960,000,000 for the fiscal year 1982, and not to exceed $4,110,000,000 for the fiscal year 1983" in the second sentence and inserting in lieu thereof "not to exceed $3,640,000,000 for the fiscal year 1982, and not to exceed $3,979,200,000 for the fiscal year 1983".

(b) UDAG.—Section 103(c) of such Act is amended by striking out "not to exceed $675,000,000 for each of the fiscal years 1981, 1982, and 1983" and inserting in lieu thereof "not to exceed $675,000,000 for the fiscal year 1981, not to exceed $425,000,000 for the fiscal year 1982, and not to exceed $425,000,000 for the fiscal year 1983".

(c) GUARANTEE OF LOANS.—Section 108(a) of such Act is amended by striking out "1981" and "$300,000,000" in the third sentence and inserting in lieu thereof "1982" and "$250,000,000", respectively.

(d) REHABILITATION LOANS.—Section 312(d) of the Housing Act of 1964 is amended—

(1) by striking out "$129,000,000 for the fiscal year beginning on October 1, 1981" in the first sentence; and

(2) by striking out "$210,000,000" and "1980" in the third sentence and inserting in lieu thereof "$85,173,000" and "1981", respectively.

(e) PLANNING GRANTS.—Section 701(p) of the Housing Act of 1954 is amended by striking out ", and not to exceed $40,000,000 for the fiscal year 1982".

(f) NEIGHBORHOOD REINVESTMENT.—Section 608(a) of the Neighborhood Reinvestment Corporation Act is amended—

(1) by striking out "and" after "1980,"; and

(2) by inserting the following before the period at the end thereof: ", and not to exceed $13,514,000 for fiscal year 1982".

(g) NEIGHBORHOOD SELF-HELP DEVELOPMENT.—Section 705 of the Neighborhood Self-Help Development Act of 1978 is amended—

(1) by striking out "and" after "1980," in the first sentence; and

(2) by inserting the following before the period at the end of such sentence: ", and not to exceed $6,622,000 for the fiscal year 1982".

COMMUNITY DEVELOPMENT AMENDMENTS

SEC. 3102. (a) METRO SET-ASIDE.—Section 103(a)(2) of the Housing and Community Development Act of 1974 is amended by inserting after "fiscal year 1981" the following: "and $265,500,000 for the fiscal year 1982".

(b) SECTION 107 DISCRETIONARY FUND.—Section 107(a) of such Act is amended by striking out "not more than $104,000,000 for fiscal year 1982, and not more than $107,000,000 for fiscal year 1983," and inserting in lieu thereof "and not more than $60,000,000 for each of the fiscal years 1982 and 1983".

(c) ELIGIBILITY OF METROPOLITAN CITIES.—Section 102(a)(4) of such Act is amended by inserting the following before the period at the end thereof: "or until September 30, 1983, whichever is later".

(d) ELIGIBILITY OF URBAN COUNTIES.—Section 102(a)(6) of such Act is amended by inserting the following before the period at the end thereof: "; except that any county which has been classified as an urban county under this paragraph shall be considered as meeting the population requirements of this paragraph until a decennial census indicates that the population of such county is below the amount required by this paragraph or until September 30, 1983, whichever is later".

(e) ELIGIBLE ACTIVITIES.—Section 105(a)(13) of such Act is amended by inserting the following before the semicolon at the end thereof: ", and including the carrying out of activities described in section 701(e) of the Housing Act of 1954".

CHAPTER 2—ASSISTED HOUSING

AUTHORIZATION ADJUSTMENTS

SEC. 3201. (a) ANNUAL CONTRIBUTIONS CONTRACTS.—Section 5(c) of the United States Housing Act of 1937 is amended—

(1) by inserting the following before the period at the end of the first sentence of paragraph (1): "and by $1,019,922,000 on October 1, 1981";

(2) by inserting the following before the period at the end of the second sentence of paragraph (1): ", and the aggregate amount which may be obligated, with respect to the additional authority provided on October 1, 1981, over the duration of the contracts may not exceed $20,537,100,000";

(3) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively; and

(4) by adding the following new paragraph after paragraph (2):

"(3)(A) Of the additional authority approved in appropriation Acts and made available on October 1, 1981, the Secretary

shall enter into contracts aggregating at least $100,000,000 for assistance to projects under section 14. Such amount shall not include authority utilized under section 14 as a result of subparagraph (C) of this paragraph.

"(B) Of the balance of such additional authority approved in appropriation Acts and made available on October 1, 1981, which remains after deducting—

"(i) the amount to be provided for assistance to projects under section 14;

"(ii) the amount to be utilized to amend contracts entered into in prior fiscal years; and

"(iii) the amount to be utilized to convert assistance made available under section 23 of this Act (as in effect prior to the effective date of section 201(a) of the Housing and Community Development Act of 1974), section 101 of the Housing and Urban Development Act of 1965, or section 236(f)(2) of the National Housing Act to assistance made available under section 8 of this Act,

the Secretary may not enter into contracts aggregating—

"(I) more than 47.9 per centum of such balance for existing units assisted under section 8; and

"(II) more than 52.1 per centum of such balance for newly constructed and substantially rehabilitated units assisted under this Act, of which not more than $157,392,000 shall be made available for such units assisted under this Act other than section 8.

"(C) In the case of any additional authority which becomes available on or after October 1, 1981, and is allocated under section 213(d) of the Housing and Community Development Act of 1974 to a public housing agency with respect to units assisted other than under section 8 or section 14, the public housing agency may use part or all of such authority for comprehensive improvement assistance under section 14 if the agency, after consultation with the unit of general local government, determines that such authority or portion thereof will be more effectively used under section 14 and if the Secretary approves of such use.".

(b) OPERATING SUBSIDIES.—Section 9(c) of such Act is amended—

(1) by striking out "and" after "1979,"; and

(2) by inserting before the period at the end thereof the following: ", and not to exceed $1,640,700,000 on or after October 1, 1981".

(c) TROUBLED PROJECTS.—Section 201(h) of the Housing and Community Development Amendments of 1978 is amended—

(1) by striking out "Act," in the first sentence and inserting in lieu thereof "Act)";

(2) by striking out "and" in the first sentence after "1980,"; and

(3) by inserting the following before the period at the end of such sentence: ", and not to exceed $4,000,000 for the fiscal year 1982".

(d) PURCHASE OF PHA OBLIGATIONS.—In addition to any authority provided before October 1, 1981, the Secretary of Housing and Urban Development may, on and after October 1, 1981, enter into contracts for periodic payments to the Federal Financing Bank to offset the costs to the Bank of purchasing obligations (as described in the first sentence of section 16(b) of the Federal Financing Bank Act of 1973) issued by local public housing agencies for purposes of financing public housing projects authorized by section 5(c) of the United States Housing Act of 1937. Notwithstanding any other provision of law, such contracts may be entered into only to the extent approved in appropriation Acts, and the aggregate amount which may be obligated over the duration of such contracts may not exceed $400,000,000. There are hereby authorized to be appropriated any amounts necessary to provide for such payments. The authority to enter into contracts under this subsection shall be in lieu of any authority (except for authority provided specifically to the Secretary before October 1, 1981) of the Secretary to enter into contracts for such purposes under section 16(b) of the Federal Financing Bank Act of 1973.

ASSISTED HOUSING AMENDMENTS AND EXTENSIONS

SEC. 3202. (a) SINGLE ROOM OCCUPANCY.—Section 8(e)(5) of the United States Housing Act of 1937 is amended—

(1) by inserting "(A)" after "(5)"; and

(2) by adding the following new subparagraph at the end thereof:

"(B) In making assistance available under this paragraph, the Secretary may provide assistance with respect to residential properties in which some or all of the dwelling units do not contain bathroom or kitchen facilities, if—

"(i) the property is located in an area in which there is a significant demand for such units, as determined by the Secretary; and

"(ii) the unit of general local government in which the property is located and the local public housing agency approve of such units being utilized for such purpose.

The assistance made available under this paragraph with respect to such units may be made available for the benefit of lower income single individuals without regard to the limitation and priority described in the provisos of the third sentence of section 3(2).".

(b) FIRE SAFETY.—Section 14(i)(1) of such Act is amended by inserting the following before the period at the end of the first sentence thereof: ", especially emergency and special purpose needs which relate to fire-safety standards".

(c) TROUBLED PROJECTS.—(1) Section 201 of the Housing and Community Development Amendments of 1978 is amended by adding the following new subsection at the end thereof:

"(j) The Secretary may not utilize any of the assistance available under this section during any fiscal year beginning on or after October 1, 1981, to remedy operating deficits which are present or may occur during such fiscal year in projects assisted under section 101 of the Housing and Urban Development Act of 1965 and which result from the failure to amend the contracts (in order to cover allowable rent increases in such projects) entered into under such section with respect to those projects.".

(2) Section 236(f)(3)(B) of the National Housing Act is amended by striking out "September 30, 1981" in the third sentence and inserting in lieu thereof "September 30, 1982".

(d) TENANT PARTICIPATION.—Section 202(b)(1) of the Housing and Community Development Amendments of 1978 is amended by striking out "owner's action" and inserting in lieu thereof "owner's request for rent increase, conversion of residential rental units to any other use (including commercial use or use as a unit in any condominium or cooperative project), partial release of security, or major physical alterations".

(e) SECTION 235 AMENDMENTS.—(1) Section 235(c)(2)(A) of the National Housing Act is amended by striking out "ceases for a period of 90 continuous days or more making payments required under the mortgage, loan, or advance of credit secured by such a property, or".

(2) Section 235(q)(14) of such Act is amended by striking out "ceases for a period of 90 continuous days or more making payments on the mortgage, loan, or advance of credit secured by the property, or".

(f) SECTION 8 ASSISTANCE FOR MANUFACTURED HOMES.—(1) Section 8(j) of the United States Housing Act of 1937 is amended by adding the following new paragraphs at the end thereof:

"(6) The Secretary may carry out this subsection without regard to whether the manufactured home park and the manufactured home units located therein are existing, substantially rehabilitated, or newly constructed.

"(7) In the case of any substantially rehabilitated or newly constructed manufactured home park containing units with respect to which assistance is made under this subsection, the principal amount of the mortgage attributable to the rental spaces within the park may not exceed an amount established by the Secretary which is equal to or less than the limitation for manufactured home parks described in section 207(c)(3) of the National Housing Act, and the Secretary may increase such limitation in high cost areas in the manner described in such section.".

(2) Section 8(j)(1) of such Act is amended by inserting "or rented" after "which is owned" in the first sentence.

(3) Section 8(j)(3) of such Act is amended—

(A) by inserting "(A)" after "(3)";

(B) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively;

(C) by inserting after "to any family" the following: "which owns its manufactured home and is"; and

(D) by adding the following new subparagraph at the end thereof:

"(B) The amount of any monthly assistance payment with respect to any family which rents its manufactured home and is assisted under this subsection shall be the difference between 25 per centum of one-twelfth of the annual income of such family and the sum of—

"(i) the monthly utility payments made by such family, subject to reasonable limitations prescribed by the Secretary; and

"(ii) the maximum monthly rent permitted with respect to the manufactured home and the real property on which it is located;

except that in no case may such assistance exceed the total amount of such maximum monthly rent."

(4) Section 8(j)(4) of such Act is amended by striking out the period at the end and inserting in lieu thereof the following: "(except that in any case in which the manufactured home park is substantially rehabilitated or newly constructed, such term may not be less than 240 months and not more than 360 months).".

(g) RESTRICTION ON USE OF ASSISTED HOUSING.—(1) Section 214(a) of the Housing and Community Development Act of 1980 is amended by inserting the following before the period at the end thereof: "or for the benefit of any other alien who was not lawfully admitted for permanent residence or is not otherwise permanently residing in the United States under color of law".

STUDIES

SEC. 3203. (a) HOMEOWNERSHIP OPPORTUNITIES.—(1) The Secretary of Housing and Urban Development shall conduct a study of—

(1) the extent, if any, to which section 8(c)(8) of the United States Housing Act of 1937 has been utilized;

(2) the results of any such utilization;

(3) if such section has not been utilized or utilized only on a very restricted basis, the reasons why it has not been utilized more extensively; and

(4) different methods by which such section could be utilized for increasing homeownership opportunities for lower income families.

(2) As a result of such study, the Secretary shall, not later than January 1, 1982, transmit to the Congress a legislative proposal establishing a demonstration project in which the Secretary would use section 8(c)(8) of such Act for the purpose of increasing homeownership opportunities for lower income families. Such proposal shall include, but not be limited to, provisions for—

(A) targeting such project so that existing housing may be preserved to the maximum extent practicable; and

(B) recovering assistance in the case of resale of the property or in other appropriate cases.

(b) FIRE SAFETY.—The Secretary shall conduct a study of the extent to which low-income housing projects do not meet applicable fire-safety standards and report to the Congress with respect to such study not later than six months after the date of the enactment of this Act.

CHAPTER 3—PROGRAM AUTHORIZATIONS, EXTENSIONS, AND AMENDMENTS

AUTHORIZATION ADJUSTMENTS

SEC. 3301. (a) ELDERLY HOUSING.—(1) Section 202(a)(4)(B)(i) of the Housing Act of 1959 is amended by striking out "and to $5,752,500,000 on October 1, 1981" and inserting in lieu thereof "and to $5,551,348,000 on October 1, 1981".

(2) Section 202(a)(4)(C) of such Act is amended by inserting the following before the period at the end of the second sentence: ", and not more than $850,848,000 may be approved in appropriation Acts for such loans with respect to fiscal year 1982".

(b) RESEARCH.—Section 501 of the Housing and Urban Development Act of 1970 is amended—

(1) by striking out "and" after "1980," in the second sentence; and

(2) by inserting the following before the period at the end of such sentence: ", and not to exceed $25,000,000 for the fiscal year 1982".

(c) GENERAL INSURANCE FUND.—Section 519(f) of the National Housing Act is amended by inserting the following before the period at the end thereof: ", which amount shall be increased by $127,248,000 on October 1, 1981".

(d) LIMITATION ON INSURANCE AUTHORITY.—Title V of the National Housing Act is amended by adding the following new section at the end thereof:

"LIMITATION ON INSURANCE AUTHORITY

"SEC. 531. During fiscal year 1982, the Secretary may not enter into commitments to insure under this Act loans and mortgages with an aggregate principal amount in excess of $41,000,000,000.".

(e) GNMA SECONDARY FINANCING.—(1) Section 305(c) of the Federal National Mortgage Association Charter Act is amended—

(A) by striking out "and" after "1978,"; and

(B) by inserting the following before the period at the end thereof: ", and by $1,100,000,000 on October 1, 1981".

(2) Section 305 of such Act is amended by adding the following new subsection at the end thereof:

"(k) During fiscal year 1982, the Association may not enter into commitments to purchase under this section mortgages with an aggregate principal amount in excess of $1,973,000,000, except that such amount shall not include any authority to enter into commitments which was authorized for use during fiscal year 1981 but was not utilized during such year.".

(3) Section 306(g) of such Act is amended—

(A) by inserting "(1)" after "(g)"; and

(B) by striking out "(1)" and "(2)" in the first sentence and inserting in lieu thereof "(i)" and "(ii)", respectively; and

(C) by adding the following new paragraph at the end thereof:

"(2) During fiscal year 1982, the Association may not enter into commitments to issue guarantees under this subsection in an aggregate amount in excess of $69,542,000,000.".

(4) Notwithstanding any other provision of law, the Government National Mortgage Association shall, during fiscal year 1982, sell mortgages which were purchased under section 305 of the Federal National Mortgage Association Charter Act and which have an aggregate principal amount of not less than $2,000,000,000.

(f) WEATHERIZATION.—Section 422 of the Energy Conservation in Existing Buildings Act of 1976 is amended—

(1) by striking out "and" after "1980,"; and

(2) by inserting after "1981," the following: ", and the sum of $193,436,000 for the fiscal year ending on September 30, 1982,".

(g) SOLAR BANK.—In lieu of the amounts authorized by subsections (a) and (b) of section 522 of the Solar Energy and Energy Conservation Act of 1980 to be appropriated for fiscal years 1982, 1983, and 1984, there is authorized to be appropriated for each such fiscal year not to exceed $132,000,000 to provide financial assistance under subtitle A of such Act for the purchase and installation of residential and commercial energy conserving improvements and of solar energy systems.

(h) COUNSELING.—Section 106(a)(3) of the Housing and Urban Development Act of 1968 is amended by inserting the following before the period at the end of the first sentence: "; except that for the fiscal year 1982 there is authorized to be appropriated not to exceed $6,000,000 for such purposes".

(i) NATIONAL INSTITUTE OF BUILDING SCIENCES.—Section 809(h) of the Housing and Community Development Act of 1974 is amended by striking out "through 1982 (with" and inserting in lieu thereof "through 1985 (with not more than $500,000 to be appropriated in each of the fiscal years 1982, 1983, and 1984 and with".

(j) HUD SALARIES AND ADMINISTRATIVE EXPENSES.—In lieu of any authorization of appropriations for fiscal year 1982 in section 502 of the Housing Act of 1949, the Department of Housing and Urban Development Act, or any other provision of law, there is authorized to be appropriated for administrative and nonadministrative expenses of the Department of Housing and Urban Development not to exceed $513,037,000 for such fiscal year, of which not to exceed $266,752,000 may be made available from the various funds of the Federal Housing Administration.

(k) NEW COMMUNITIES.—Section 717(b) of the National Urban Policy and New Community Development Act of 1970 is amended by adding the following new sentence at the end thereof: "With respect to fiscal year 1982, the Secretary may not issue obligations under this section in an aggregate amount in excess of $30,000,000."

(l) CONGREGATE SERVICES.—Section 411(a) of the Congregate Housing Services Act of 1978 is amended by inserting "and" after the semicolon at the end of paragraph (2), by striking out "; and" at the end of paragraph (3) and inserting in lieu thereof a period, and by striking out paragraph (4).

PROGRAM EXTENSIONS

SEC. 3302. (a) TITLE I LOANS.—Section 2(a) of the National Housing Act is amended by striking out "October 1, 1981" in the first sentence and inserting in lieu thereof "October 1, 1982".

(b) GENERAL MORTGAGE INSURANCE AUTHORITY.—Section 217 of such Act is amended by striking out "September 30, 1981" and inserting in lieu thereof "September 30, 1982".

(c) SECTION 221 AUTHORITY.—Section 221(f) of such Act is amended by striking out "September 30, 1981" in the fifth sentence and inserting in lieu thereof "September 30, 1982".

(d) SECTION 235 AUTHORITY.—(1) Section 235(m) of such Act is amended by striking out "September 30, 1981" and inserting in lieu thereof "September 30, 1982".

(2) Section 235(q)(1) of such Act is amended by striking out "June 1, 1981," in the fourth sentence thereof and inserting in lieu thereof "September 30, 1982,".

(e) SECTION 236 AUTHORITY.—Section 236(n) of such Act is amended by striking out "September 30, 1981" and inserting in lieu thereof "September 30, 1982".

(f) CO-INSURANCE.—Section 244(d) of such Act is amended—

(1) by striking out "September 30, 1981" in the first sentence and inserting in lieu thereof "September 30, 1982"; and

(2) by striking out "October 1, 1981" in the second sentence and inserting in lieu thereof "October 1, 1982".

(g) GRADUATED PAYMENT MORTGAGES.—Section 245(a) of such Act is amended by striking out "September 30, 1981" and inserting in lieu thereof "September 30, 1982".

(h) ARMED SERVICES HOUSING.—(1) Section 809(f) of such Act is amended by striking out "September 30, 1981" in the second sentence and inserting in lieu thereof "September 30, 1982".

(2) Section 810(k) of such Act is amended by striking out "September 30, 1981" in the second sentence and inserting in lieu thereof "September 30, 1982".

(i) LAND DEVELOPMENT.—Section 1002(a) of such Act is amended by striking out "September 30, 1981" in the second sentence and inserting in lieu thereof "September 30, 1982".

(j) GROUP PRACTICE FACILITIES.—Section 1101(a) of such Act is amended by striking out "September 30, 1981" in the second sentence and inserting in lieu thereof "September 30, 1982".

(k) FLEXIBLE INTEREST RATE AUTHORITY.—Section 3(a)(1) of Public Law 90-301 is amended by striking out "October 1, 1981" and inserting in lieu thereof "October 1, 1982".

(l) EMERGENCY HOME PURCHASE ASSISTANCE.—Section 3(b) of the Emergency Home

Purchase Assistance Act of 1974 is amended by striking out "October 1, 1981" and inserting in lieu thereof "October 1, 1982".

PROGRAM AMENDMENTS

SEC. 3303. (a) BUYER-BROKER ARRANGEMENT.—Title V of the National Housing Act is amended by adding the following new section at the end thereof:

"BUYER-BROKER ARRANGEMENT

"SEC. 532. In carrying out the provisions of title II of this Act with respect to insuring mortgages secured by a one- to four-family dwelling unit, the Secretary may not exclude from the principal amount which may be insured under such title any sum solely on the basis that such sum is to be paid by the buyer to a broker who has been the agent of the buyer in the purchase of such dwelling unit.".

(b) NATIONAL INSTITUTE OF BUILDING SCIENCES.—Section 809(c)(4) of the Housing and Community Development Act of 1974 is amended by inserting the following before the period at the end thereof: "; except that, notwithstanding any such rules and procedures as may be adopted by the Institute, the President of the United States, by and with the advice and consent of the Senate, shall appoint, as representative of the public interest, two of the members of the Board of Directors selected each year for terms commencing in that year".

(c) WEATHERIZATION.—Section 413(d)(1) of the Energy Conservation in Existing Buildings Act of 1976 is amended by inserting the following new sentence at the end thereof: "The Secretary shall accept an application meeting the requirements set forth in section 414 from a tribal organization or other entity and consider such application when making determinations under this subsection.".

(d) MANUFACTURED HOME LOANS.—Section 2(b) of the National Housing Act is amended—

(1) by striking out in the first sentence "$20,000 ($30,000 in the case of a manufactured home composed of two or more modules);" and inserting in lieu thereof "$22,500 ($35,000 in the case of a manufactured home composed of two or more modules);";

(2) by striking out subparagraph (A) of the third paragraph and inserting in lieu thereof the following:

"(A) involve an amount not exceeding $35,000 ($47,500 in the case of a manufactured home composed of two or more modules); and";

(3) by striking out subparagraph (A) of the fourth paragraph and inserting in lieu thereof the following:

"(A) involve such an amount as may be necessary, but not exceeding $12,500, for the purpose of financing the purchase of a suitably developed lot on which to place that manufactured home; and";

(4) by striking out the last sentence and inserting in lieu thereof "In other areas where needed to meet higher costs of land acquisition, site development, and construction of a permanent foundation in connection with the purchase of a manufactured home and lot or lot only, the Secretary may, by regulation, increase any dollar amount limitation otherwise applicable by an amount not exceeding $7,500.";

(5) by striking out "fifteen years" in the proviso of clause (2) of the first sentence and inserting in lieu thereof "twenty years"; and

(6) by adding the following new sentence before the last sentence of the first paragraph: "The owner of a manufactured home lot purchased without assistance under this section, but otherwise meeting the requirements of this section, may refinance such lot under this section in connection with the purchase of a manufactured home if the borrower certifies that the home and lot is or will be his or her principal residence within six months after the date of the loan.".

(e) MANUFACTURED HOME PARKS.—Section 207(c)(3) of the National Housing Act is amended by striking out "$8,000" and inserting in lieu thereof "$9,000".

(f) TANDEM PLAN MORTGAGES.—(1) In entering into commitments to purchase below-market, tandem plan mortgages (during the period beginning June 15, 1981, and ending October 1, 1982) under section 305 of the Federal National Mortgage Association Charter Act, the Government National Mortgage Association may enter into such commitments only with respect to multifamily projects for which firm commitments for mortgage insurance under title II of the National Housing Act have been made by the Secretary of Housing and Urban Development before the expiration of the 90-day period beginning on the date of the enactment of this Act. Commitments by the Association shall be made with respect to such projects in the order in which such projects received such firm commitments from the Secretary.

(2) In making commitments to purchase mortgages described in paragraph (1) and in processing firm commitments for mortgage insurance for such mortgages, the Association and the Secretary, respectively, shall not (during the period beginning June 15, 1981, and ending October 1, 1982) make any distinction, based on the receipt of a conditional commitment for such insurance, between applicants who have received such a conditional commitment and applicants who received notification from the Secretary that receipt of such a conditional commitment was not a prerequisite to their obtaining a firm commitment for such insurance.

(3) Notwithstanding the provisions of section 3551 of this subtitle, the provisions of paragraphs (1) and (2) of this subsection shall be considered to have become effective on June 15, 1981.

(g) MORTGAGE LIMITS.—Section 203(b)(2) of the National Housing Act is amended by striking out "(A) 133⅓ per centum of the dollar amount specified," and inserting in lieu thereof "(A) 148 per centum of the dollar amount specified".

(h) TECHNICAL CORRECTIONS.—(1) Section 101(l) of the Housing and Urban Development Act of 1965 is amended—

(A) by striking out "the" the fourth time it appears in the last sentence; and

(B) by striking out "sentence" the second time it appears in the last sentence.

(2) Section 223(f) of the National Housing Act is amended—

(A) by inserting "and" at the end of paragraph (2)(A); and

(B) by redesignating paragraph (5) as paragraph (4).

(3) For purposes of paragraphs (1) and (4) of section 308(c) of the Housing and Community Development Act of 1980, the term "mobile home" and the term "manufactured home" shall include the term "mobile homes" and the term "manufactured homes", respectively.

(4)(A) The material preceding the proviso in clause (2) of the first sentence of section 234(c) of the National Housing Act is amended to read as follows: "(2) the project is or has been covered by a mortgage insured under any section (except section 213(a) (1) and (2)) of this Act or the project was approved for a guarantee, insurance, or a direct loan under chapter 37 of title 38, United States Code, notwithstanding any requirements in any such section that the project be constructed or rehabilitated for the purpose of providing rental housing:".

(B) Section 318 of the Housing and Community Development Act of 1980 is repealed.

(5) The last sentence of section 207(c)(3), section 213(p), the last proviso in section 220(d)(3)(B)(iii), section 221(k), the proviso in section 231(c)(2), and section 234(j) of the National Housing Act are amended—

(A) by inserting "therein" after "installation" wherever it appears; and

(B) by striking out "therein" before the punctuation at the end thereof.

(6) Section 2(b) of the National Housing Act is amended by striking out "more than two modules" in subparagraph (A) of the second paragraph and inserting in lieu thereof "two or more modules".

CHAPTER 4—FLOOD, CRIME, AND RIOT INSURANCE

AUTHORIZATION ADJUSTMENT

SEC. 3401. FLOOD INSURANCE STUDIES.—Section 1376(c) of the National Flood Insurance Act of 1968 is amended—

(1) by striking out "and" after "1980,"; and

(2) by inserting the following before the period at the end thereof ", and not to exceed $42,600,000 for the fiscal year 1982".

AMENDMENTS AND EXTENSIONS

SEC. 3402. (a) FLOOD INSURANCE EXTENSIONS.—(1) Section 1319 of the National Flood Insurance Act of 1968 is amended by striking out "September 30, 1981" and inserting in lieu thereof "September 30, 1982".

(2) Section 1336(a) of such Act is amended by striking out "September 30, 1981" and inserting in lieu thereof "September 30, 1982".

(b) LIMITATION ON FLOOD INSURANCE FUND.—(1) Section 1310(a) of such Act is amended by inserting "as described in subsection (f)" after "which shall be available".

(2) Section 1310 of such Act is amended by adding the following new subsection at the end thereof:

"(f) The fund shall be available, with respect to any fiscal year beginning on or after October 1, 1981, only to the extent approved in appropriation Acts; except that the fund shall be available for the purpose described in subsection (d)(1) without such approval.".

(c) PURCHASE AND ELEVATION OF CERTAIN FLOOD INSURANCE STRUCTURES.—(1) Section 1362(b) of such Act is amended by inserting the following before the period at the end thereof: "; except that any such purchase may not be made unless the property is utilized as the principal place of residence of such owner".

(2) Section 1362(c) of such Act is amended by inserting the following before the period at the end of the first sentence: "; except that such loan may not be made unless the structure is the principal place of residence of such owner".

(d) PROHIBITION OF FLOOD INSURANCE.—Chapter I of such Act is amended by adding the following new section at the end thereof:

"UNDEVELOPED COASTAL BARRIERS

"SEC. 1321. (a) No new flood insurance coverage shall be provided under this title for any new construction or substantial improvements of structures located on unde-

veloped coastal barriers as designated by the Secretary of Interior.

"(b) For purposes of this section—

"(1) the term 'coastal barrier' means—

"(A) a depositional geologic feature (such as a bay barrier, tombolo, barrier spit, or barrier island) which—

"(i) consists of unconsolidated sedimentary materials,

"(ii) is subject to wave, tidal, and wind energies, and

"(iii) protects landward aquatic habitats from direct wave attack; and

"(B) all associated aquatic habitats including the adjacent wetlands, marshes, estuaries, inlets, and nearshore waters; and

"(2) a coastal barrier or any portion thereof shall be treated as an undeveloped coastal barrier for purposes of subsection (a) only if there are few manmade structures on the barrier or portion thereof and these structures and man's activities on the barrier do not significantly impede geomorphic and ecological processes.

"(c) The Secretary of Interior shall make such designations as are required in subsection (a) within 90 days of the date of enactment of this section."

(e) CRIME AND RIOT INSURANCE.—Section 1201(b) of the National Housing Act is amended—

(1) by striking out "September 30, 1981" in paragraph (1) and inserting in lieu thereof "September 30, 1982"; and

(2) by striking out "September 30, 1984" in paragraph (1)(A) and inserting in lieu thereof "September 30, 1985".

CHAPTER 5—RURAL HOUSING

AUTHORIZATION ADJUSTMENTS AND PROGRAM AMENDMENTS AND EXTENSIONS

SEC. 3501. (a) AUTHORIZATIONS.—Section 513 of the Housing Act of 1949 is amended—

(1) by striking out "not to exceed $3,797,600,000 with respect to the fiscal year ending September 30, 1981" in subsection (a) and inserting in lieu thereof "not to exceed $3,700,600,000 with respect to the fiscal year ending September 30, 1982";

(2) by striking out "not less than $3,120,000,000" in subsection (a)(1) and inserting in lieu thereof "not less than $3,170,000,000";

(3) by striking out "not more than $100,000,000" in subsection (a)(4) and inserting in lieu thereof "none";

(4) by striking out subsection (b)(2) and inserting in lieu thereof the following:

"(2) not to exceed $50,000,000 for loans and grants pursuant to section 504 for the fiscal year ending September 30, 1982, of which not more than $25,000,000 shall be available for grants;";

(5) by striking out "September 30, 1981" in subsection (b)(3) and inserting in lieu thereof "September 30, 1982"; and

(6) by striking out "September 30, 1981" in subsection (b)(4) and inserting in lieu thereof "September 30, 1982".

(b) SECTION 515 LOANS.—Section 515(b)(5) of such Act is amended by striking out "September 30, 1981" and inserting in lieu thereof "September 30, 1982".

(c) SECTION 517 INSURED LOANS.—Section 517(a)(1) of such Act is amended by striking out "September 30, 1981" and inserting in lieu thereof "September 30, 1982".

(d) INTEREST CREDITS.—Section 521(a)(1)(B) of such Act is amended by striking out "shall" each place it appears therein and inserting in lieu thereof "may".

(e) RENTAL ASSISTANCE.—Section 521(a)(2)(D) of such Act is amended—

(1) by striking out "$493,000,000" and inserting in lieu thereof "$398,000,000"; and

(2) by striking out "1981, except that" and all that follows through the period at the end thereof and inserting in lieu thereof "1982.".

(f) MUTUAL AND SELF-HELP HOUSING.—Section 523 of such Act is amended—

(1) by striking out "September 30, 1981" each place it appears in subsection (f) and inserting in lieu thereof "September 30, 1982";

(2) by striking out "not to exceed $2,500,000 for fiscal year 1981" in the first sentence of subsection (g) and inserting in lieu thereof "not to exceed $3,000,000 for fiscal year 1982"; and

(3) by inserting the following after "shall be available" in the second sentence of subsection (g): ", to the extent approved in appropriation Acts,"; and

(4) by inserting the following before the period at the end of the second sentence of subsection (g): "; except that not more than $5,000,000 may be made available during fiscal year 1982".

CHAPTER 6—EFFECTIVE DATE

SEC. 3551. The provisions of this subtitle shall become effective on October 1, 1981.

Subtitle B—International Development Banks

CHAPTER 1—INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

INCREASE IN SUBSCRIPTION OF STOCK

SEC. 3601. The Bretton Woods Agreements Act (22 U.S.C. 286 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 39. (a) The United States Governor of the Bank is authorized—

"(1) to vote to increase by three hundred and sixty-five thousand shares the authorized capital stock of the Bank; and

"(2) to subscribe on behalf of the United States to not more than seventy-three thousand and ten shares of the capital stock of the Bank: *Provided, however,* That not more than seven and one-half percent ($658,305,195) of the price of the shares subscribed may be paid in to the Bank on subscription, with the remainder of that price ($8,149,256,155) being subject to call only when a call on unpaid subscriptions is required to meet obligations of the Bank for funds borrowed or on loans guaranteed by it and not for use by the Bank in its lending activities or for administrative expenses: *Provided further,* That any subscription to such additional shares shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

"(b) In order to pay for the paid-in portion of the United States subscription to the Bank provided for in this section, there is authorized to be appropriated, without fiscal year limitation, $658,305,195 for payment by the Secretary of the Treasury: *Provided, however,* That not more than $109,720,549 of such sum may be made available for each of the fiscal years 1982, 1983, and 1984.".

FUTURE SUBSCRIPTIONS OF STOCK

SEC. 3602. Section 27(a)(2) of the Bretton Woods Agreements Act (22 U.S.C. 286e-1f(a)(2)) is amended by striking out "That any subscription to additional shares shall be made only after the amount required for such subscription has been appropriated" and inserting in lieu thereof "That any subscription to additional shares shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts".

CHAPTER 2—INTERNATIONAL DEVELOPMENT ASSOCIATION

SIXTH REPLENISHMENT

SEC. 3611. The International Development Association Act (22 U.S.C. 284 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 17. (a) The United States Governor is authorized to agree on behalf of the United States to pay to the Association $3,240,000,000 as the United States contribution to the sixth replenishment of the resources of the Association: *Provided, however,* That any commitment to make such contributions shall be made subject to obtaining the necessary appropriations.

"(b) In order to pay for the United States contributions provided for in this section, there is authorized to be appropriated, without fiscal year limitation, $3,240,000,000 for payment by the Secretary of the Treasury: *Provided, however,* That not more than $298,129,000 of such sum may be made available for the fiscal year 1982 and not more than $540,000,000 of such sum may be made available for each of the fiscal years 1983 and 1984.".

CHAPTER 3—AFRICAN DEVELOPMENT BANK

SHORT TITLE

SEC. 3621. This chapter may be cited as the "African Development Bank Act".

ACCEPTANCE OF MEMBERSHIP

SEC. 3622. The President is hereby authorized to accept membership for the United States in the African Development Bank (hereinafter in this subpart referred to as the "Bank") provided for by the agreement establishing the Bank (hereinafter in this subpart referred to as the "agreement") deposited in the archives of the United Nations.

GOVERNOR AND ALTERNATE GOVERNOR

SEC. 3623. (a) The President, by and with the advice and consent of the Senate, shall appoint a Governor and an Alternate Governor of the Bank. The term of office for the Governor and the Alternate Governor shall be five years, subject at any time to termination of appointment or to reappointment. The Governor and Alternate Governor shall remain in office until a successor has been appointed.

(b) No person shall be entitled to receive any salary or other compensation from the United States for services as a Governor or Alternate Governor, except for reasonable expenses to attend meetings of the Board of Governors.

(c) The Governor, or in the Governor's absence the Alternate Governor, on the instructions of the President, shall cast the votes of the United States for the Director to represent the United States in the Bank.

DIRECTOR OR ALTERNATE DIRECTOR; ALLOWANCES

SEC. 3624. The Director or Alternate Director representing the United States, if citizens of the United States, may, in the discretion of the President, receive such compensation, allowances, and other benefits as, together with those received from the Bank and from the African Development Fund, may not exceed those authorized for a chief of mission under the Foreign Service Act of 1980.

APPLICABILITY OF BRETTON WOODS AGREEMENTS ACT

SEC. 3625. The provisions of section 4 of the Bretton Woods Agreements Act (22

U.S.C. 286b) shall apply with respect to the Bank to the same extent as with respect to the International Bank for Reconstruction and Development and the International Monetary Fund. Reports with respect to the Bank under paragraphs (5) and (6) of section 4 of that Act shall be included in the first and subsequent reports made thereunder after the United States accepts membership in the Bank.

RESTRICTIONS

SEC. 3626. (a) Unless authorized by law, neither the President, nor any person or agency, shall, on behalf of the United States—

(1) subscribe to additional shares of stock of the Bank;

(2) vote for or agree to any amendment of the agreement which increases the obligations of the United States, or which changes the purpose or functions of the Bank; or

(3) make a loan or provide other financing to the Bank, except that funds for technical assistance may be provided to the Bank by a United States agency created pursuant to an Act of Congress which is authorized by law to provide funds to international organizations.

FEDERAL RESERVE BANKS AS DEPOSITORIES

SEC. 3627. Any Federal Reserve bank which is requested to do so by the Bank shall act as its depository or as its fiscal agent, and the Board of Governors of the Federal Reserve System shall supervise and direct the carrying out of these functions by the Federal Reserve banks.

SUBSCRIPTION OF STOCK

SEC. 3628. (a) The President is authorized to agree to subscribe on behalf of the United States to twenty-nine thousand eight hundred and twenty shares of the capital stock of the Bank: *Provided, however,* That the subscription shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

(b) There is authorized to be appropriated, without fiscal year limitation, for payment by the Secretary of the Treasury of the initial United States subscription to twenty-nine thousand eight hundred and twenty shares of the capital stock of the African Development Bank, $359,733,570: *Provided, however,* That not more than $17,986,678 of such sum may be made available for paid in subscriptions to the Bank for each of the fiscal years 1982, 1983, and 1984.

(c) Any payment or distributions of moneys from the Bank to the United States shall be covered into the Treasury as a miscellaneous receipt.

JURISDICTION OF UNITED STATES COURTS

SEC. 3629. For the purposes of any civil action which may be brought within the United States, its territories or possessions, or the Commonwealth of Puerto Rico, by or against the Bank in accordance with the agreement, the Bank shall be deemed to be an inhabitant of the Federal judicial district in which its principal office within the United States or its agent appointed for the purpose of accepting service or notice of service is located, and any such action to which the Bank shall be a party shall be deemed to arise under the laws of the United States, and the district courts of the United States, including the courts enumerated in section 460 of title 28, United States Code, shall have original jurisdiction of any such action. When the Bank is defendant in any action in a State court, it may at any time before the trial thereof remove the action into the appropriate district court of the United States by following the procedure for removal provided in section 1446 of title 28, United States Code.

EFFECTIVENESS OF AGREEMENT

SEC. 3630. Paragraph 5 of article 49, articles 50 through 59, and the other provisions of the agreement shall have full force and effect in the United States, its territories and possessions, and the Commonwealth of Puerto Rico, upon acceptance of membership by the United States in the Bank. The President, at the time of deposit of the instrument of acceptance of membership by the United States in the Bank, shall also deposit a declaration as provided in article 64, paragraph 3, of the agreement that the United States retains for itself and its political subdivisions the right to tax salaries and emoluments paid by the Bank to United States citizens or nationals.

SECURITIES ISSUED BY THE BANK

SEC. 3631. (a) Any securities issued by the Bank (including any guarantee by the Bank, whether or not limited in scope) in connection with raising of funds for inclusion in the Bank's ordinary capital resources as defined in article 9 of the agreement and any securities guaranteed by the Bank as to both principal and interest to which the commitment in article 7, paragraph 4(a), of the agreement is expressly applicable, shall be deemed to be exempted securities within the meaning of section 3(a)(2) of the Securities Act of 1933 (15 U.S.C. 77c), and section 3(a)(12) of the Securities Exchange Act of 1934 (15 U.S.C. 78c). The Bank shall file with the Securities and Exchange Commission such annual and other reports with regard to such securities as the Commission shall determine to be appropriate in view of the special character of the Bank and its operations as necessary in the public interest or for the protection of investors.

(b) The Securities and Exchange Commission, acting in consultation with such agency or officer as the President shall designate, is authorized to suspend the provisions of subsection (a) at any time as to any or all securities issued or guaranteed by the Bank during the period of such suspension. The Commission shall include in its annual reports to Congress such information as it shall deem advisable with regard to the operations and effect of this section and in connection therewith shall include any views submitted for such purpose by any association of dealers registered with the Commission.

TECHNICAL AMENDMENTS

SEC. 3632. (a) The seventh sentence of paragraph 7 of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24) is amended by striking out "or" after "the Inter-American Development Bank" and inserting in lieu thereof a comma, and by inserting "or the African Development Bank" after "the Asian Development Bank".

(b) Section 701(a) of Public Law 95-118 (22 U.S.C. 262d(a)) is amended by striking out "and" after "the African Development Fund," and inserting "and the African Development Bank," after "the Asian Development Bank,".

(c) Section 801(a) of Public Law 95-118 (22 U.S.C. 262f(a)) is amended by striking out "and" after "the African Development Fund," and inserting "and the African Development Bank," after "the Asian Development Bank,".

(d) Section 51 of Public Law 91-599 (22 U.S.C. 276c-2) is amended by striking out "and" after "the Asian Development Bank," and inserting "and the African Development Bank," after "the African Development Fund,".

CHAPTER 4—INTER-AMERICAN DEVELOPMENT BANK AND ASIAN DEVELOPMENT BANK

CONTRIBUTIONS TO THE INTER-AMERICAN DEVELOPMENT BANK

SEC. 3641. (a) The Inter-American Development Bank Act (22 U.S.C. 283 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 30. (a) The United States Governor of the Bank is authorized on behalf of the United States to contribute to the Fund for Special Operations $70,000,000: *Provided, however,* That any commitment to make such contribution shall be made subject to obtaining the necessary appropriations.

"(b) In order to pay for a portion of the increase in the United States subscription to the capital stock of the Bank provided for in section 29(a) and for the United States contribution to the Fund for Special Operations provided for in this section, there are authorized to be appropriated, without fiscal year limitation, for payment by the Secretary of the Treasury, (1) $274,920,799 for the United States subscription, and (2) $70,000,000 for the United States contribution to the Fund for Special Operations: *Provided, however,* That no funds may be made available for such contribution to the Fund for Special Operations for the fiscal year 1982, 1983, or 1984.".

(b) Section 29(b) of the Inter-American Development Bank Act (22 U.S.C. 283z-1(b)) is amended by striking out the period and inserting in lieu thereof the following: ": *Provided, however,* That for contributions to the Fund for Special Operations, not more than $26,000,000 may be made available for the fiscal year 1982, not more than $97,700,000 may be made available for the fiscal year 1983, and not more than $113,000,000 may be made available for the fiscal year 1984.".

(c) Section 26(b) of the Inter-American Development Bank Act (22 U.S.C 283w(b)) is amended by striking out the period and inserting in lieu thereof the following: ": *Provided, however,* That no funds may be made available to the Fund for Special Operations for the fiscal year 1982.".

CONTRIBUTIONS TO THE ASIAN DEVELOPMENT FUND

SEC. 3642. (a) The Asian Development Bank Act (22 U.S.C. 285 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 26. (a) The United States Governor of the Bank is authorized to contribute on behalf of the United States $66,750,000 to the Asian Development Fund, a special fund of the Bank: *Provided, however,* That any commitment to make such contribution shall be made subject to obtaining the necessary appropriations.

"(b) In order to pay for the United States contribution to the Asian Development Fund provided for in this section, there is authorized to be appropriated, without fiscal year limitation, $66,750,000 for payment by the Secretary of the Treasury: *Provided, however,* That no funds may be made available for such contribution for the fiscal year 1982, 1983, or 1984.".

(b) Section 24(b) of the Asian Development Bank Act (22 U.S.C. 285u(b)) is amended by striking out the period and inserting in lieu thereof the following: ": *Provided, however,* That not more than

$26,000,000 of such sum may be made available for the fiscal year 1982, and not more than $64,100,000 of such sum may be made available for each of the fiscal years 1983 and 1984.".

(c) Section 23(b) of the Asian Development Bank Act (22 U.S.C. 285t(b)) is amended by striking out the period and inserting in lieu thereof the following: ": *Provided, however,* That no funds may be made available for such contribution for the fiscal year 1982.".

FUTURE SUBSCRIPTIONS OF STOCK TO THE ASIAN DEVELOPMENT BANK

SEC. 3643. Section 22(a) of the Asian Development Bank Act (22 U.S.C. 285s(a)) is amended by striking out "That any subscription to additional shares shall be made only after the amount required for such subscription has been appropriated" and inserting in lieu thereof "That any subscription to additional shares shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts".

CHAPTER 5—OPPOSITION TO ASSISTANCE TO CERTAIN COUNTRIES

DEFINITION

SEC. 3651. For purposes of this chapter, the term "World Bank" means the International Bank for Reconstruction and Development, the International Development Association, and the International Finance Corporation.

ASSISTANCE TO AFGHANISTAN

SEC. 3652. The United States Executive Directors of the World Bank and the Asian Development Bank shall actively oppose any new extensions of assistance by those respective institutions to Afghanistan unless—

(1) the President determines and reports to the Congress that Afghanistan is free from military domination by the Soviet Union or that all Soviet troops have been withdrawn from that country; and

(2) the Secretary of the Treasury, in consultation with the Secretary of State, determines and reports to the Congress that such assistance will be used for the benefit of Afghanistan and not to provide indirect assistance to the Soviet Union.

ASSISTANCE TO VIETNAM

SEC. 3653. The United States Executive Directors of the World Bank and the Asian Development Bank shall actively oppose any new extensions of assistance by those respective institutions to the Socialist Republic of Vietnam unless the President determines and reports to the Congress that—

(1) the Socialist Republic of Vietnam has withdrawn its troops from Laos and Kampuchea and that such assistance will not be used to finance Vietnamese military activities outside of Vietnam;

(2) the Socialist Republic of Vietnam is not threatening the stability and the security of Southeast Asia; and

(3) the Socialist Republic of Vietnam is cooperating with the United States in helping to account for United States military personnel missing in Southeast Asia.

CUBA

SEC. 3654. The United States Governor and the United States Executive Directors of the World Bank and the Inter-American Development Bank shall actively oppose any applications for membership by Cuba in those respective institutions and any extension of assistance to Cuba by those institutions unless the President determines and reports to the Congress that—

(1) Cuba is not threatening the international stability and the national security of the United States through its support for foreign revolutionary activities or its military involvement in Africa or elsewhere; and

(2) Cuba has demonstrated its creditworthiness by negotiating and executing an agreement with the United States providing adequate and effective compensation for claims, certified under title V of the International Claims Settlement Act of 1949, of nationals of the United States against Cuba, arising since January 1, 1959, for losses resulting from properties nationalized, expropriated, or otherwise taken.

COUNTRIES WHICH IMPOSE ECONOMIC SANCTIONS AGAINST THE UNITED STATES

SEC. 3655. The United States Executive Directors of the World Bank, the African Development Bank, the African Development Fund, the Inter-American Development Bank, and the Asian Development Bank shall actively oppose any new extensions of assistance by those respective institutions to any member country which the President determines is attempting to influence United States domestic or foreign policy through the imposition of oil embargoes, trade embargoes, boycotts, or other forms of economic sanctions or economic warfare directed at the United States.

CHAPTER 6—TARGETING ASSISTANCE TO THE NEEDY

FINDINGS

SEC. 3661. (a) The Congress finds that there is a need for concerted international efforts to deal with the problems of malnutrition, low life expectancy, childhood disease, underemployment, and low productivity in developing countries.

(b) The Congress notes with approval that the Inter-American Development Bank, under the terms of its Fifth Replenishment, has adopted the target that 50 percent of its lending benefit the poorest groups and has developed a usable methodology for determining the proportion of its lending which benefits such groups.

CONSULTATIONS BY SECRETARY OF THE TREASURY

SEC. 3662. (a) The Secretary of the Treasury shall consult with representatives of other member countries of the International Bank for Reconstruction and Development, the International Development Association, the Asian Development Bank, the African Development Fund, and the African Development Bank, for the purpose of establishing guidelines, not later than October 1, 1982, for the annual lending by each of those multilateral development institutions so that priority is given to sound, efficient, productive, self-sustaining projects designed to benefit needy people in developing countries, thus helping poor people improve their conditions of life.

(b) The Congress finds that projects to construct basic infrastructure, to expand productive capacity (including private enterprise), and to address social problems can all meet the objectives of this section if they are designed and implemented properly. For the purposes of this chapter, "needy people" means those people living in "absolute" or "relative" poverty as determined under the standards employed by the International Bank for Reconstruction and Development and the International Development Association, which specify that the incomes of those people are insufficient to provide adequate food, shelter, and the other essential requirements for achieving a basic minimum standard of living in their respective countries.

REPORTS

SEC. 3663. The Secretary of the Treasury shall, not later than May 1 of 1982, 1983, and 1984, report to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate on the progress being made toward achieving the goals of section 3662, and shall include in each such report, for each of the institutions referred to in section 3662, as accurate an estimate as is practicable of the proportion of the lending by that institution which benefits needy people in its borrower countries.

CHAPTER 7—MISCELLANEOUS PROVISIONS

COORDINATING ASSISTANCE

SEC. 3671. (a) It is the sense of the Congress that the resources of the multilateral development banks to which the United States contributes should be channeled to the maximum extent feasible toward those countries (1) which are important to the achievement of United States foreign policy and security objectives, (2) which generally support United States policy objectives, and (3) which have domestic economic and political structures that are conducive to economic growth and are compatible with the growth of market-oriented economies.

(b) In furtherance of the policy set forth in subsection (a) and in order to assist those countries described in such subsection in increasing the levels of assistance received from the multilateral development banks, the Secretary of the Treasury shall work with officials of the Department of State and the Agency for International Development and with officials of the multilateral development banks to help those countries described in subsection (a) to identify new projects and prepare project proposals for consideration by the boards of executive directors of the multilateral development banks.

REEXAMINING BASIC FUNDING MECHANISMS

SEC. 3672. It is the sense of the Congress that the United States and other countries should reexamine the financing procedures applied in programs of the multilateral development banks in order to determine whether the budgetary costs of the programs can be lessened without seriously reducing overall levels of assistance to developing countries. The Secretary of the Treasury shall, not later than six months after the date of the enactment of this Act, report to the Congress regarding the feasibility and desirability of alternative mechanisms for changing the financing procedures of the multilateral development banks. The report shall include the following:

(1) An assessment of the proposal adopted in December 1979 by the Independent Commission on International Development Issues (commonly known as the "Brandt Commission") that the borrowing-to-capital ratios for the International Bank for Reconstruction and Development and the regional development banks should be increased from the current requirement that there be one dollar of subscribed bank capital stock for every dollar loaned by multilateral development banks.

(2) An assessment of whether future capital expansions by the multilateral development banks could be made on the basis of callable capital only.

(3) An assessment of whether it is feasible to alter the procedures used by the International Development Association in carrying out its functions, so that—

(A) the Association would continue to provide no-interest loans (credits) from its own resources only to the poorest developing countries, and

(B) the Association would provide, to other countries eligible before the date of enactment of this Act for loans from the Association, full or partial interest subsidies to reduce the interest costs on loans which those countries would receive from the International Bank for Reconstruction and Development in lieu of loans from the Association.

CONGRESSIONAL CONSULTATIONS

SEC. 3673. The Secretary of the Treasury or his designee shall consult with the Chairman and the Ranking Minority Member of—

(1) the Committee on Banking, Finance and Urban Affairs of the House of Representatives, the Committee on Appropriations of the House of Representatives, and the appropriate subcommittee of each such committee, and

(2) the Committee on Foreign Relations of the Senate, the Committee on Appropriations of the Senate, and the appropriate subcommittee of each such committee,

for the purpose of discussing the position of the executive branch and the views of the Congress with respect to any international negotiations being held to consider future replenishments or capital expansions of any multilateral development bank. Such consultation shall be made (A) not later than 30 days before the initiation of such international negotiations, (B) during the period in which such negotiations are being held, in a frequent and timely manner, and (C) before a session of such negotiations is held at which the United States representatives may agree to such a replenishment or capital expansion.

REPORT ON NEW LENDING FACILITY

SEC. 3674. The Secretary of the Treasury shall submit to the Congress, not later than six months after the date of enactment of this Act, a report assessing the nature, the prospects, and the possible value of establishing a new lending facility, affiliated with the International Bank for Reconstruction and Development, for the development of new energy resources in developing countries.

REPORT ON LENDING PROCEDURES

SEC. 3675. The Secretary of the Treasury shall submit to the Congress, not later than six months after the date of enactment of this Act, a report containing the assessment of the Secretary of whether—

(1) the practice of the multilateral development banks of establishing targets for levels of assistance to be furnished to a country in a fiscal year may have resulted in those targets being considered as quotas or entitlements and may have resulted in the issuance of loans designed to meet targeted levels of assistance rather than to respond to essential development needs;

(2) the large number of loans approved by the multilateral development banks in the last quarter of the fiscal year may have impeded the ability of the staff and the executive directors of the banks to scrutinize fully all aspects of some loan proposals prior to approval of those proposals; and

(3) legislation or administrative action is required to insure that the multilateral development banks approve only necessary and financially sound projects and examine all loan proposals closely enough to insure that the proposals meet the proper standards.

EXPORT-IMPORT BANK

SEC. 3676. Section 7(a) of the Export-Import Bank Act of 1945 (12 U.S.C. 635e) is amended—

(1) by inserting "(1)" after "SEC. 7. (a)"; and

(2) by adding at the end thereof the following:

"(2) The aggregate principal amount of direct loans made by the Bank shall not exceed $3,961,000,000 for fiscal year 1982.".

(b) Section 8 of such Act (12 U.S.C. 635f) is amended by striking out "September 30, 1983" and inserting in lieu thereof "September 30, 1982".

ELIMINATION OF CERTAIN REPORTS

SEC. 3677. (a)(1) Section 31 of the Bretton Woods Agreements Act (22 U.S.C. 286e-10) is repealed.

(2) Section 35 of that Act (22 U.S.C. 286u) is amended by striking out ", and shall report" and all that follows through "goal".

(b)(1) Section 801 of Public Law 95-118 (22 U.S.C. 262f) is amended—

(A) by striking out "(a)"; and

(B) by repealing subsection (b).

(2) Section 901 of that Act (22 U.S.C. 262g) is amended—

(1) by striking out "(a)"; and

(2) by repealing subsection (b).

(c) Section 602 of Public Law 96-259 (22 U.S.C. 262j) is amended by repealing subsection (c).

EFFECTIVE DATE AND AVAILABILITY OF FUNDS

SEC. 3678. This subtitle shall take effect upon its enactment, except that funds authorized to be appropriated by any provision contained in chapter 1 or chapter 4 shall not be available for use or obligation prior to October 1, 1981.

Subtitle C—Banking and Related Programs

SHORT TITLE

SEC. 3701. This subtitle may be cited as the "Banking and Related Programs Authorization Adjustment Act".

DEPARTMENT OF THE TREASURY

SEC. 3702. (a) Notwithstanding any other provision of law, there are authorized to be appropriated for salaries and expenses of the Office of the Secretary of the Treasury not to exceed—

(1) $32,760,000 for fiscal year 1982;

(2) $33,516,000 for fiscal year 1983; and

(3) $34,252,000 for fiscal year 1984.

(b)(1) Section 5 of the Act of November 8, 1978 (92 Stat. 3092; Public Law 95-612), is amended—

(A) in subsection (a), by striking out "$24,000,000 for fiscal year 1979 and $22,375,000 for fiscal year 1980," and inserting in lieu thereof "$21,962,000 for fiscal year 1982"; and

(B) in subsection (b), by striking out "for fiscal year 1980 not to exceed $800,000" and inserting in lieu thereof "for fiscal year 1982 not to exceed $1,000,000".

(2) On or before March 1, 1982, the Secretary of the Treasury shall transmit a report to both Houses of the Congress regarding the status of negotiations within the Organization of Economic Cooperation and Development on improving the International Arrangement on Guidelines for Officially Supported Export Credits and on the status of any other multilateral or bilateral negotiations or discussions for the purpose of improving any other arrangements, standstills, minutes, and practices involving official export financing in which the United States participates. Such report shall include—

(A) an assessment of the progress, if any, that has been made in these negotiations, and of the prospects for a successful conclusion to these negotiations within a reasonable time; and

(B) a recommendation by the Secretary of the Treasury as to whether the Congress, in order to improve the prospects for a successful conclusion to these negotiations, should enact legislation for the purpose of enhancing the ability of the Export-Import Bank of the United States to offer or support export credit fully competitive with the subsidized official export credit offered or supported by other governments.

(c) Notwithstanding any other provision of law, there are authorized to be appropriated for salaries and expenses of the Bureau of Government Financial Operations not to exceed—

(1) $154,869,000 for fiscal year 1982;

(2) $162,837,000 for fiscal year 1983; and

(3) $170,610,000 for fiscal year 1984.

(d) Section 111(a) of the New York City Loan Guarantee Act of 1978 (31 U.S.C. 1531(a)) is amended by inserting ", except that for expenses for the administration of this title there are authorized to be appropriated not more than $891,000 for fiscal year 1982, $963,900 for fiscal year 1983, and $1,028,700 for fiscal year 1984" after "to carry out this title".

(e) Section 15(a) of the Chrysler Corporation Loan Guarantee Act of 1979 (15 U.S.C. 1874(a)) is amended by inserting ", except that for the administration of this Act there are authorized to be appropriated not more than $1,291,000 for fiscal year 1982, $1,319,400 for fiscal year 1983, and $1,347,300 for fiscal year 1984" after "to carry out the provisions of this Act".

(f)(1) The last sentence of section 3552 of the Revised Statutes (31 U.S.C. 369) is amended to read as follows: "There are authorized to be appropriated for fiscal year 1982 not to exceed $52,206,000 for all expenditures (salaries and expenses) of the mints and assay offices not herein otherwise provided for.".

(2) The amendment made by paragraph (1) shall take effect on October 1, 1981.

NATIONAL CONSUMER COOPERATIVE BANK

SEC. 3703. (a) The first sentence of section 104(a) of the National Consumer Cooperative Bank Act (12 U.S.C. 3014(a)) is amended by inserting "and other investors" after "the United States".

(b)(1) The first sentence of section 202 of such Act (12 U.S.C. 3042) is amended by striking out "$10,000,000 for the fiscal year ending September 30, 1979, and for the next two succeeding fiscal years an aggregate amount not to exceed $65,000,000, for the purpose of making advances under section 203 of this Act." and by inserting in lieu thereof "for the purpose of making advances under section 203 of this Act, not to exceed $14,000,000 for fiscal year 1982, $25,000,000 for fiscal year 1983, and $25,000,000 for fiscal year 1984.".

(2) The amendments made by paragraph (1) shall take effect on October 1, 1981.

(c) The third sentence of section 202 of such Act (12 U.S.C. 3042) is amended by striking out "shall also be deposited in the Account" and by inserting in lieu thereof "shall be available to the Bank for use as directed by the Board of Directors of the Bank".

(d) The second sentence of section 104(a) of such Act (12 U.S.C. 3014(a)) is amended

by inserting ", except that not more than $47,000,000 of such amount is authorized to be appropriated for fiscal year 1982" after "in the aggregate".

COUNCIL ON WAGE AND PRICE STABILITY

SEC. 3704. Section 6 of the Council on Wage and Price Stability Act (12 U.S.C. 1904 note) is hereby repealed.

TITLE IV—HOUSE COMMITTEE ON THE DISTRICT OF COLUMBIA

LIMITATION ON THE AMOUNT OF FUNDS AUTHORIZED AND EXPENDED FOR LOANS FOR CAPITAL PROJECTS

SEC. 4001. (a) Subsection (c) of section 723 of the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code, sec. 47-241 note) is amended to read as follows:

"(c)(1) Subject to the limitations contained in section 603(b), there is authorized to be appropriated to make loans under this section the sum of $155,000,000 for the fiscal year ending on September 30, 1982, the sum of $155,000,000 for the fiscal year ending on September 30, 1983, and the sum of $155,000,000 for the fiscal year ending on September 30, 1984.

"(2) Subject to the limitations contained in section 603(b), the United States may expend to make loans under this section no more than the sum of $145,000,000 during the fiscal year ending on September 30, 1982, no more than the sum of $145,000,000 during the fiscal year ending on September 30, 1983, and no more than the sum of $145,000,000 during the fiscal year ending on September 30, 1984.".

(b) The amendment made by this section shall take effect on October 1, 1981.

TITLE V—HOUSE COMMITTEE ON EDUCATION AND LABOR

SHORT TITLE

SEC. 5001. This title may be cited as the "Omnibus Education and Labor Reconciliation Act of 1981".

Subtitle A—Restrictions on Appropriations

EFFECT ON OTHER LAWS

SEC. 5101. (a) Any provision of law which is not consistent with the provisions of this subtitle hereby is superseded and shall have only such force and effect during each of the fiscal years 1982, 1983, and 1984 which is consistent with this subtitle.

(b) Notwithstanding any authorization of appropriations for fiscal year 1982, 1983, or 1984 contained in any provision of law which is specified in this subtitle (including any authorization of appropriations contained in the provisions of subtitle B of this title and in the amendments made by the provisions of subtitle B of this title), no funds are authorized to be appropriated in excess of the limitations imposed upon appropriations by the provisions of this subtitle.

ACT OF MARCH 2, 1867 (HOWARD UNIVERSITY)

SEC. 5102. The total amount of appropriations to carry out the Act of March 2, 1867 (14 Stat. 439) shall not exceed $145,800,000 for each of the fiscal years 1982, 1983, and 1984.

ACT OF MARCH 3, 1879 (AMERICAN PRINTING HOUSE FOR THE BLIND)

SEC. 5103. The total amount of appropriations to carry out the Act of March 3, 1879 (20 Stat. 468) shall not exceed $4,900,000 for each of the fiscal years 1982, 1983, and 1984.

ACT OF SEPTEMBER 23, 1950 (IMPACT AID)

SEC. 5104. No funds are authorized to be appropriated to carry out the Act of September 23, 1950 (Public Law 815, 81st Congress) for fiscal year 1982, 1983, or 1984.

ACT OF SEPTEMBER 30, 1950 (IMPACT AID)

SEC. 5105. (a)(1) The total amount of appropriations to make payments on the basis of entitlements established under sections 3 of the Act of September 30, 1950 (Public Law 874, 81st Congress) shall not exceed $404,600,000 for each of the fiscal years 1982, 1983, and 1984.

(2) Any provision of such Act to the contrary notwithstanding, any funds appropriated for fiscal year 1982, 1983, or 1984 for the purpose of making payments on the basis of entitlements established under section 3 of such Act shall be allocated as follows:

(A) The Secretary shall allocate to each local educational agency an amount equal to (i) the number of children who, while in attendance at such agency during the applicable fiscal year, resided on Indian lands (as described in clause (A) of section 403(1) of such Act), multiplied by (ii) 80 percent of the amount paid to such agency for each such child for fiscal year 1981.

(B) The Secretary shall allocate to each local educational agency an amount equal to (i) the number of children determined with respect to such agency under section 3(a) of such Act for the applicable fiscal year (exclusive of any children with respect to whom a payment is made under subparagraph (A)), multiplied by (ii) 65 percent of the amount paid to such agency for each such child for fiscal year 1981.

(C) The Secretary shall allocate to each local educational agency an amount equal to (i) the number of children determined with respect to such agency under section 3(b) of such Act for the applicable fiscal year (exclusive of any children with respect to whom a payment is made under subparagraph (A)), multiplied by (ii) 55 percent of the amount paid to such agency for each such child for fiscal year 1981.

(3) If the amount appropriated for making such payments for fiscal year 1982, 1983, or 1984 is not sufficient to pay in full the allocations required by paragraph (2), then the amount of each such allocation shall be ratably reduced. If, for any fiscal year in which such a reduction is required, additional amounts are made available for making such payments, then such allocations shall be increased on the same basis as they were reduced. If the amount appropriated for making such payments for fiscal year 1982, 1983, or 1984 exceeds the amount necessary to pay in full the allocations required by paragraph (2), then the amount of each such allocation shall be ratably increased.

(b)(1) The total amount of appropriations authorized to be appropriated to make payments on the basis of entitlements established under section 2 of the Act of September 30, 1950 (Public Law 874, 81st Congress) shall not exceed $10,000,000 for each of the fiscal years 1982, 1983, and 1984.

(2) If the amount appropriated for making such payments for fiscal year 1982, 1983, or 1984 is not sufficient to pay in full the sum of the entitlements established under section 2 of such Act, then the amount of each such entitlement shall be ratably reduced. If, for any fiscal year in which such a reduction is required, additional amounts are made available for making such payments, then such entitlements shall be increased on the same basis as they were reduced.

(c) No funds are authorized to be appropriated for fiscal year 1982, 1983, or 1984 for the purpose of making payments—

(1) on the basis of entitlements determined under section 3(e) or 4 of such Act; or

(2) under sections 4A, 6, or 7 of such Act.

ACT OF JUNE 18, 1954 (GALLAUDET COLLEGE)

SEC. 5106. The total amount of appropriations to carry out the Act of June 18, 1954 (68 Stat. 265) shall not exceed $38,100,000 for each of the fiscal years 1982, 1983, and 1984.

ACT OF DECEMBER 24, 1970 (KENDALL SCHOOL)

SEC. 5107. The total amount of appropriations to carry out the Act of December 24, 1970 (84 Stat. 1579) shall not exceed $5,800,000 for each of the fiscal years 1982, 1983, and 1984.

ACT OF JANUARY 2, 1975 (HERBERT HOOVER MEMORIAL)

SEC. 5108. No funds are authorized to be appropriated to carry out the Act of January 2, 1975 (88 Stat. 1919) for fiscal year 1982, 1983, or 1984.

ADULT EDUCATION ACT

SEC. 5109. The total amount of appropriations to carry out the Adult Education Act shall not exceed $100,000,000 for each of the fiscal years 1982, 1983, and 1984.

ALCOHOL AND DRUG ABUSE EDUCATION ACT

SEC. 5110. The total amount of appropriations to carry out the Alcohol and Drug Abuse Education Act for each of the fiscal years 1982, 1983, and 1984 shall not exceed the amounts authorized by the amendments made by chapter 3 of subtitle B of this title.

ARTS AND ARTIFACTS INDEMNITY ACT

SEC. 5111. No funds are authorized to be appropriated to carry out the Arts and Artifacts Indemnity Act for fiscal year 1982, 1983, or 1984.

ASBESTOS SCHOOL HAZARD DETECTION AND CONTROL ACT OF 1980

SEC. 5112. No funds are authorized to be appropriated to carry out the Asbestos School Hazard Detection and Control Act of 1980 for fiscal year 1982, 1983, or 1984.

BANKHEAD-JONES ACT

SEC. 5113. No funds are authorized to be appropriated to carry out section 22 of the Act of June 29, 1935, commonly referred to as the Bankhead-Jones Act, for fiscal year 1982, 1983, or 1984.

CAREER EDUCATION INCENTIVE ACT

SEC. 5114. The total amount of appropriations to carry out the Career Education Incentive Act shall not exceed $10,000,000 for each of the fiscal years 1982, 1983, and 1984.

CHILD ABUSE PREVENTION AND TREATMENT ACT

SEC. 5115. The total amount of appropriations to carry out the Child Abuse Prevention and Treatment Act for each of the fiscal years 1982, 1983, and 1984 shall not exceed the amounts authorized by the amendments made by chapter 5 of subtitle B of this title.

CHILD ABUSE PREVENTION AND TREATMENT AND ADOPTION REFORM ACT OF 1978

SEC. 5116. The total amount of appropriations to carry out title II of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 for each of the fiscal years 1982, 1983, and 1984 shall not exceed the amounts authorized by the amendments made by chapter 5 of subtitle B of this title.

CHILD NUTRITION ACT OF 1966

SEC. 5117. (a) The total amount of appropriations to carry out section 5 of the Child Nutrition Act of 1966 shall not exceed $1,000,000 for each of the fiscal years 1982, 1983, and 1984.

(b) The total amount of appropriations to carry out section 19 of the Child Nutrition

Act of 1966 shall not exceed $1,000,000 for each of the fiscal years 1982, 1983, and 1984.

CIVIL RIGHTS ACT OF 1964

SEC. 5118. The total amount of appropriations to carry out sections 403, 404, and 405 of title IV of the Civil Rights Act of 1964 shall not exceed $37,000,000 for each of the fiscal years 1982, 1983, and 1984.

COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

SEC. 5119. (a)(1) The total amount of appropriations to carry out parts A, B, and C of title II of the Comprehensive Employment and Training Act shall not exceed $1,371,000,000 for fiscal year 1982.

(2) Funds available for such parts for fiscal years 1982, 1983, and 1984 shall be allocated under section 202 of such Act in the same manner as funds available for such parts for fiscal year 1981, except that—

(A) notwithstanding subsection (a) of such section, 88.5 percent of such funds shall be allocated among prime sponsors in accordance with subsection (a)(2) of such section, but subject to paragraph (3) of this subsection;

(B) notwithstanding the provisions of subsections (b), (c), (d), and (e) of such section, not more than 10.5 percent of such funds shall be available for the purposes specified in such subsections, but the Governor of each State may, in his discretion, determine the amount of the funds provided under such subsections to be used for each of the functions so specified; and

(C) except for funds necessary to carry out paragraphs (2)(B)(i) and (2)(C) of subsection (f), none of such funds shall be available to the Secretary of Labor under such subsection of such section.

(3) Funds available for parts A, B, and C of title II of such Act for fiscal years 1982, 1983, and 1984 shall be allocated in the manner required by section 202 of such Act, except that—

(A) no allocation shall be made to any prime sponsor unless such prime sponsor has provided to the Secretary of Labor adequate assurances that it will provide, from non-Federal sources, an amount equal to—

(i) 12.5 percent of the amount of such allocation, in the case of any prime sponsor for which the number of unemployed persons who reside within the jurisdiction of such prime sponsor is equal to or exceeds 7 percent of the labor force in the jurisdiction of that prime sponsor;

(ii) 25 percent of the amount of such allocation, in the case of any prime sponsor for which the number of unemployed persons who reside within the jurisdiction of such prime sponsor is less than 7 percent, but is equal to or exceeds 6.5 percent, of the labor force in the jurisdiction of that prime sponsor;

(iii) 37.5 percent of the amount of such allocation, in the case of any prime sponsor for which the number of unemployed persons who reside within the jurisdiction of such prime sponsor is less than 6.5 percent, but is equal to or exceeds 6 percent, of the labor force in the jurisdiction of that prime sponsor; and

(iv) 50 percent of the amount of such allocation, in the case of any prime sponsor for which the number of unemployed persons who reside within the jurisdiction of such prime sponsor is less than 6 percent of the labor force in the jurisdiction of that prime sponsor; and

(B) the Secretary shall make such adjustments in the allocation of each prime sponsor as may be necessary to ensure that the sum of (i) the amounts provided under parts A, B, and C of title II, plus (ii) the amounts which prime sponsors are required to provide by subparagraph (A) of this paragraph will be available to prime sponsors on an equitable basis, taking into account the factors set forth in section 202(a)(2).

The Secretary of Labor shall have the same authority to enforce compliance with the requirements of this paragraph as the Secretary would have if this paragraph were a provision of the Comprehensive Employment and Training Act.

(b) No funds are authorized to be appropriated to carry out part D of title II or title VI of the Comprehensive Employment and Training Act for fiscal year 1982, 1983, or 1984.

(c) The total amount of appropriations to carry out titles III and V of the Comprehensive Employment and Training Act shall not exceed $213,000,000 for fiscal year 1982.

(d)(1) The total amount of appropriations to carry out part A of title IV of the Comprehensive Employment and Training Act shall not exceed $600,000,000 for fiscal year 1982.

(2) Funds available for subpart 2 of such part for fiscal years 1982, 1983, and 1984 shall be allocated in accordance with section 423 of such Act, except that—

(A) 96 percent of such funds shall be allocated in accordance with subsection (a) of such section; and

(B) none of such funds shall be allocated under subsection (c) of such section.

(3) Funds available for subpart 3 of such part for such fiscal years shall be allocated in accordance with section 433 of such Act, except that—

(A) notwithstanding subsection (a)(1) of such section, 91 percent of such funds shall be allocated to prime sponsors for programs authorized under section 432 of such Act; and

(B) notwithstanding subsection (a)(5) of such section, none of such funds shall be available for the discretionary projects authorized under section 438 of such Act.

(e) The total amount of appropriations to carry out parts B and C of title IV of the Comprehensive Employment and Training Act shall not exceed $1,472,000,000 for fiscal year 1982.

(f)(1) The total amount of appropriations to carry out title VII of the Comprehensive Employment and Training Act shall not exceed $154,400,000 for fiscal year 1982.

(2) Funds available for such title for fiscal years 1982, 1983, and 1984 shall be allocated in accordance with section 702 of such Act, except that—

(A) no allocation shall be made to any prime sponsor unless such prime sponsor has provided to the Secretary of Labor adequate assurances that it will provide, from non-Federal sources, an amount equal to—

(i) 12.5 percent of the amount of such allocation, in the case of any prime sponsor for which the number of unemployed persons who reside within the jurisdiction of such prime sponsor is equal to or exceeds 7 percent of the labor force in the jurisdiction of that prime sponsor;

(ii) 25 percent of the amount of such allocation, in the case of any prime sponsor for which the number of unemployed persons who reside within the jurisdiction of such prime sponsor is less than 7 percent, but is equal to or exceeds 6.5 percent, of the labor force in the jurisdiction of that prime sponsor;

(iii) 37.5 percent of the amount of such allocation, in the case of any prime sponsor for which the number of unemployed persons who reside within the jurisdiction of such prime sponsor is less than 6.5 percent, but is equal to or exceeds 6 percent, of the labor force in the jurisdiction of that prime sponsor; and

(iv) 50 percent of the amount of such allocation, in the case of any prime sponsor for which the number of unemployed persons who reside within the jurisdiction of such prime sponsor is less than 6 percent of the labor force in the jurisdiction of that prime sponsor; and

(B) the Secretary shall make such adjustments in the allocation of each prime sponsor as may be necessary to ensure that the sum of (i) the amounts provided under title VII, plus (ii) the amounts which prime sponsors are required to provide by subparagraph (A) of this paragraph will be available to prime sponsors on an equitable basis, taking into account the factors set forth in section 202(a)(2).

The Secretary of Labor shall have the same authority to enforce compliance with the requirements of this paragraph as the Secretary would have if this paragraph were a provision of the Comprehensive Employment and Training Act.

(g) No funds are authorized to be appropriated for title VIII of the Comprehensive Employment and Training Act for fiscal year 1982, 1983, or 1984.

(h) The total amount of appropriations to the Department of Labor for program administration by the Employment and Training Administration shall not exceed $49,200,000 for fiscal year 1982.

(i) The total amount of appropriations to carry out the Comprehensive Employment and Training Act shall not exceed $3,810,400,000 for fiscal year 1983 and $3,810,400,000 for fiscal year 1984.

COMPREHENSIVE OLDER AMERICANS ACT AMENDMENTS OF 1978

SEC. 5120. The total amount of appropriations to carry out title II of the Comprehensive Older Americans Act Amendments of 1978 shall not exceed $1,600,000 for fiscal years 1982, 1983, and 1984.

DEPARTMENT OF EDUCATION

SEC. 5121. The total amount of appropriations for salaries and expenses of the Department of Education shall not exceed $261,200,000 for each of the fiscal years 1982, 1983, and 1984, except that the amount available for salaries and expenses of the Office for Civil Rights and the Office of the Inspector General of the Department of Education shall not be reduced below the fiscal year 1981 level.

DOMESTIC VOLUNTEER SERVICE ACT OF 1973

SEC. 5122. (a)(1) The total amount of appropriations to carry out part A of title I of the Domestic Volunteer Service Act of 1973 shall not exceed $15,000,000 for each of the fiscal years 1982, 1983, and 1984.

(2) No funds are authorized to be appropriated to carry out part B of title I of such Act for fiscal year 1982, 1983, or 1984.

(3) No funds are authorized to be appropriated to carry out part C of title I of such Act for fiscal year 1982, 1983, or 1984.

(b)(1) The total amount of appropriations to carry out part A of title II of the Domestic Volunteer Service Act of 1973 shall not exceed $30,800,000 for each of the fiscal years 1982, 1983, and 1984.

(2) The total amount of appropriations to carry out part B of title II of such Act shall not exceed $58,100,000 for each of the fiscal years 1982, 1983, and 1984.

(c) The total amount of appropriations under section 504 of the Domestic Volunteer Service Act of 1973 shall not exceed $10,500,000 for each of the fiscal years 1982, 1983, and 1984.

ECONOMIC OPPORTUNITY ACT OF 1964

SEC. 5123. (a) The total amount of appropriations to carry out title I of the Economic Opportunity Act of 1964 shall not exceed $4,000,000 for each of the fiscal years 1982, 1983, and 1984.

(b) The total amount of appropriations to carry out title II of the Economic Opportunity Act of 1964 shall not exceed $335,150,000 for each of the fiscal years 1982, 1983, and 1984.

(c) The total amount of appropriations to carry out title III of the Economic Opportunity Act of 1964 shall not exceed $2,000,000 for each of the fiscal years 1982, 1983, and 1984.

(d) The total amount of appropriations to carry out title IV of the Economic Opportunity Act of 1964 shall not exceed $2,000,000 for each of the fiscal years 1982, 1983, and 1984.

(e) The total amount of appropriations to carry out title VI of the Economic Opportunity Act of 1964 shall not exceed $29,200,000 for each of the fiscal years 1982, 1983, and 1984.

(f) The total amount of appropriations to carry out title VII of the Economic Opportunity Act of 1964 shall not exceed $32,000,000 for each of the fiscal years 1982, 1983, and 1984.

(g) The total amount of appropriations to carry out title VIII of the Economic Opportunity Act of 1964 shall not exceed $29,300,000 for each of the fiscal years 1982, 1983, and 1984.

(h) The total amount of appropriations to carry out title IX of the Economic Opportunity Act of 1964 shall not exceed $750,000 for each of the fiscal years 1982, 1983, and 1984.

EDUCATION AMENDMENTS OF 1976

SEC. 5124. No funds are authorized to be appropriated to carry out part D of title III of the Education Amendments of 1976 for fiscal year 1982, 1983, or 1984.

EDUCATION AMENDMENTS OF 1978

SEC. 5125. (a) No funds are authorized to be appropriated to carry out section 1015 of the Education Amendments of 1978 for fiscal year 1982, 1983, or 1984.

(b) The total amount of appropriations authorized to carry out in any manner the operation and administration of the Department of Defense Overseas Dependents Schools, which schools are authorized under title XIV of the Education Amendments of 1978, shall not exceed $378,500,000 for each of the fiscal years 1982, 1983, and 1984.

(c)(1) No funds are authorized to be appropriated to carry out part A of title XV of the Education Amendments of 1978 for fiscal year 1982, 1983, or 1984.

(2) No funds are authorized to be appropriated to carry out part B of title XV of the Education Amendments of 1978 for fiscal year 1982, 1983, or 1984.

(3) The total amount of appropriations to carry out section 1524 of the Education Amendments of 1978 shall not exceed $2,700,000 for each of the fiscal years 1982, 1983, and 1984.

(4) The total amount of appropriations to carry out section 1525 of the Education Amendments of 1978 shall not exceed $1,800,000 for each of the fiscal years 1982, 1983, and 1984.

(5) No funds are authorized to be appropriated to carry out section 1526 of the Education Amendments of 1978 for fiscal year 1982, 1983, or 1984.

EDUCATION AMENDMENTS OF 1980

SEC. 5126. (a) No funds are authorized to be appropriated to carry out part D of title XIII of the Education Amendments of 1980 for fiscal year 1982, 1983, or 1984.

(b) No funds are authorized to be appropriated to carry out part H of title XIII of the Education Amendments of 1980 for fiscal year 1982, 1983, or 1984.

EDUCATION OF THE HANDICAPPED ACT

SEC. 5127. (a)(1) The total amount of appropriations to carry out part B of the Education of the Handicapped Act, other than sections 618 and 619, shall not exceed $1,005,000,000 for each of the fiscal years 1982, 1983, and 1984.

(2) The total amount of appropriations to carry out section 618 of such Act shall not exceed $1,300,000 for each of the fiscal years 1982, 1983, and 1984.

(3) No funds are authorized to be appropriated to carry out section 619 of such Act for fiscal year 1982, 1983, or 1984.

(b)(1) The total amount of appropriations to carry out section 621 of the Education of the Handicapped Act shall not exceed $7,600,000 for each of the fiscal years 1982, 1983, and 1984.

(2) The total amount of appropriations to carry out section 622 of such Act shall not exceed $8,700,000 for each of the fiscal years 1982, 1983, and 1984.

(3) The total amount of appropriations to carry out section 623 of such Act shall not exceed $21,800,000 for each of the fiscal years 1982, 1983, and 1984.

(4) The total amount of appropriations to carry out section 624 of such Act shall not exceed $2,200,000 for each of the fiscal years 1982, 1983, and 1984.

(5) The total amount of appropriations to carry out section 625 of such Act shall not exceed $1,900,000 for each of the fiscal years 1982, 1983, and 1984.

(c)(1) The total amount of appropriations to carry out sections 631, 632, and 634 of the Education of the Handicapped Act shall not exceed $31,600,000 for each of the fiscal years 1982, 1983, and 1984.

(2) The total amount of appropriations to carry out section 633 of such Act shall not exceed $1,100,000 for each of the fiscal years 1982, 1983, and 1984.

(d) The total amount of appropriations to carry out part E of the Education of the Handicapped Act shall not exceed $13,000,000 for each of the fiscal years 1982, 1983, and 1984.

(e) The total amount of appropriations to carry out part F of title VI of the Education of the Handicapped Act shall not exceed $13,000,000 for each of the fiscal years 1982, 1983, and 1984.

ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 5128. (a) The total amount of appropriations to carry out title I of the Elementary and Secondary Education Act of 1965 shall not exceed $3,504,300,000 for each of the fiscal years 1982, 1983, and 1984. From the amount appropriated in accordance with the preceding sentence, not more 14.6 percent of such amount for any of such fiscal years shall be available to carry out sections 141, 146, and 151 of such Act.

(b)(1) The total amount of appropriations to carry out title II of the Elementary and Secondary Education Act of 1965 shall not exceed $26,500,000 for each of the fiscal years 1982, 1983, and 1984.

(2) Of the amounts appropriated to carry out title II of such Act for each of the fiscal years 1982, 1983, and 1984, a portion of such amounts shall be reserved (for each such fiscal year) for purposes of carrying out section 231 of such Act. Each such portion shall be equal to the amount of funds allocated for carrying out section 231 of such Act for fiscal year 1981.

(c)(1) The total amount of appropriations to carry out section 303 of the Elementary and Secondary Education Act of 1965 shall not exceed $18,200,000 for each of the fiscal years 1982, 1983, and 1984.

(2) The total amount of appropriations to carry out part B of title III of such Act shall not exceed $1,300,000 for each of the fiscal years 1982, 1983, and 1984.

(3) The total amount of appropriations to carry out part C of title III of such Act shall not exceed $3,100,000 for each of the fiscal years 1982, 1983, and 1984.

(4) No funds are authorized to be appropriated to carry out part D of title III of such Act for fiscal year 1982, 1983, or 1984.

(5) The total amount of appropriations to carry out part E of title III of such Act shall not exceed $1,300,000 for each of the fiscal years 1982, 1983, and 1984.

(6) No funds are authorized to be appropriated to carry out part F of title III of such Act for fiscal year 1982, 1983, or 1984.

(7) The total amount of appropriations to carry out part G of title III of such Act shall not exceed $1,000,000 for each of the fiscal years 1982, 1983, and 1984.

(8) No funds are authorized to be appropriated to carry out part H of title III of such Act for fiscal year 1982, 1983, or 1984.

(9) No funds are authorized to be appropriated to carry out part I of title III of such Act for fiscal year 1982, 1983, or 1984.

(10) No funds are authorized to be appropriated to carry out part J of title III of such Act for fiscal year 1982, 1983, or 1984.

(11) No funds are authorized to be appropriated to carry out part K of title III of such Act for fiscal year 1982, 1983, or 1984.

(12) The total amount of appropriations to carry out part L of title III of such Act shall not exceed $3,000,000 for each of the fiscal years 1982, 1983, and 1984.

(13) No funds are authorized to be appropriated to carry out part M of title III of such Act for fiscal year 1982, 1983, or 1984.

(14) No funds are authorized to be appropriated to carry out part N of title III of such Act for fiscal year 1982, 1983, or 1984.

(d)(1) The limitation contained in paragraphs (2)(A) and (3) of subsections (a), (b), and (c) of section 402 of the Elementary and Secondary Education Act of 1965 shall not apply to the appropriation of funds for fiscal years 1982, 1983, and 1984.

(2) The total amount of appropriations to carry out part B of title IV of such Act shall not exceed $161,000,000 for each of the fiscal years 1982, 1983, and 1984.

(3) The total amount of appropriations to carry out part C of title IV of such Act shall not exceed $66,100,000 for each of the fiscal years 1982, 1983, and 1984.

(4) No funds are authorized to be appropriated to carry out part D of title IV of such Act for fiscal year 1982, 1983, or 1984.

(e)(1) The total amount of appropriations to carry out part B of title V of the Elementary and Secondary Education Act of 1965 shall not exceed $42,100,000 for each of the fiscal years 1982, 1983, and 1984.

(2) No funds are authorized to be appropriated to carry out part C of title V of such Act for fiscal year 1982, 1983, or 1984.

(f)(1) Except as provided in paragraph (2), no funds are authorized to be appropriated to carry out title VI of the Elementary and

Secondary Education Act of 1965 for fiscal year 1982, 1983, or 1984.

(2) The total amount of appropriations to carry out section 608(a)(1) of such Act shall not exceed $30,000,000 for each of the fiscal years 1982, 1983, and 1984.

(g) The total amount of appropriations to carry out title VII of the Elementary and Secondary Education Act of 1965 shall not exceed $157,500,000 for each of the fiscal years 1982, 1983, and 1984.

(h) The total amount of appropriations to carry out title VIII of the Elementary and Secondary Education Act of 1965 shall not exceed $3,100,000 for each of the fiscal years 1982, 1983, and 1984.

(i)(1) The total amount of appropriations to carry out part A of title IX of the Elementary and Secondary Education Act of 1965 shall not exceed $5,700,000 for each of the fiscal years 1982, 1983, and 1984.

(2) No funds are authorized to be appropriated to carry out part B of title IX of such Act for fiscal year 1982, 1983, or 1984.

(3) The total amount of appropriations to carry out part C of title IX of such Act shall not exceed $8,100,000 for each of the fiscal years 1982, 1983, and 1984.

(4) No funds are authorized to be appropriated to carry out part D of title IX of such Act for fiscal year 1982, 1983, or 1984.

(5) The total amount of appropriations to carry out part E of title IX of such Act shall not exceed $2,200,000 for each of the fiscal years 1982, 1983, and 1984.

GENERAL EDUCATION PROVISIONS ACT

SEC. 5129. (a) The total amount of appropriations to carry out section 405 of the General Education Provisions Act shall not exceed $25,000,000 for each of the fiscal years 1982, 1983, and 1984.

(b) The total amount of appropriations to carry out section 406 of the General Education Provisions Act shall not exceed $8,900,000 for each of the fiscal years 1982, 1983, and 1984.

(c) The total amount of appropriations to carry out section 406A(2) of the General Education Provisions Act shall not exceed $5,000,000 for each of the fiscal years 1982, 1983, and 1984.

(d) No funds are authorized to be appropriated to carry out section 426A of the General Education Provisions Act for fiscal year 1982, 1983, or 1984.

HARRY S TRUMAN MEMORIAL SCHOLARSHIP ACT

SEC. 5130. No funds are authorized to be appropriated to carry out the Harry S Truman Memorial Scholarship Act for fiscal year 1982, 1983, or 1984.

HEADSTART-FOLLOW THROUGH ACT

SEC. 5131. (a) The total amount of appropriations to carry out part A of the Headstart-Follow Through Act shall not exceed $950,000,000 for each of the fiscal years 1982, 1983, and 1984.

(b) The total amount of appropriations to carry out part B of the Headstart-Follow Through Act shall not exceed $26,300,000 for each of the fiscal years 1982, 1983, and 1984.

HIGHER EDUCATION ACT OF 1965

SEC. 5132. (a)(1) No funds are authorized to be appropriated to carry out part A of title I of the Higher Education Act of 1965 for fiscal year 1982, 1983, or 1984.

(2) No funds are authorized to be appropriated to carry out part B of title I of such Act for fiscal year 1982, 1983, or 1984.

(b)(1)(A) The total amount of appropriations to carry out parts A and B of title II of the Higher Education Act of 1965 shall not exceed $3,900,000 for each of the fiscal years 1982, 1983, and 1984, except that (i) not less than 60 percent of the amount so appropriated for any such fiscal year shall be available for carrying out functions under subpart A, (ii) not less than 10 percent of such amount shall be available to carry out section 222, (iii) not less than 10 percent of such amount shall be available to carry out section 223, and (iv) not less than 10 percent of such amount shall be available to carry out section 224(a).

(B) Notwithstanding section 224(b) of such Act, the Secretary of Education shall not promulgate any rule or regulation revising or altering the criteria, as in effect on June 1, 1981, used for approval of applications under such section.

(2) The total amount of appropriations to carry out part C of title II of such Act shall not exceed $5,000,000 for each of the fiscal years 1982, 1983, and 1984.

(3) No funds are authorized to be appropriated to carry out part D of title II of such Act for fiscal year 1982, 1983, or 1984.

(4) No funds available for carrying out parts A and B of such title for any such fiscal year shall be made available to any institution, organization, or agency which is eligible for assistance under part C of such title.

(c) The total amount of appropriations to carry out title III of the Higher Education Act of 1965 shall not exceed $129,600,000 for each of the fiscal years 1982, 1983, and 1984.

(d)(1)(A) The total amount of appropriations to carry out subpart 1 of part A of title IV of the Higher Education Act of 1965 shall not exceed $2,635,000,000 for fiscal year 1982, $2,566,000,000 for fiscal year 1983, and $2,231,000,000 for fiscal year 1984.

(B) Notwithstanding section 411(a)(2)(A)(i) of such Act, the amount of the Pell Grant for a student eligible under such part shall be $1,800 for academic years 1982–1983, 1983–1984, and 1984–1985, less an amount equal to the amount determined under section 482 of such Act to be the expected family contribution with respect to that student for that year.

(2) The total amount of appropriations to carry out subpart 2 of part A of title IV of such Act shall not exceed $370,000,000 for each of the fiscal years 1982, 1983, and 1984.

(3) No funds are authorized to be appropriated to carry out subpart 3 of part A of title IV of such Act for fiscal year 1982, 1983, or 1984.

(4) The total amount of appropriations to carry out subpart 4 of part A of title IV of such Act shall not exceed $159,500,000 for fiscal year 1982, $166,000,000 for fiscal year 1983, and $172,900,000 for fiscal year 1984.

(5) The total amount of appropriations to carry out subpart 5 of part A of title IV of such Act shall not exceed $7,500,000 for each of the fiscal years 1982, 1983, and 1984.

(6)(A) No funds are authorized to be appropriated to carry out section 419 of such Act for fiscal year 1982, 1983, or 1984.

(B) The total amount of appropriations to carry out section 420 of such Act shall not exceed $6,200,000 for each of the fiscal years 1982, 1983, and 1984.

(7) The total amount of appropriations to carry out part C of title IV of such Act shall not exceed $500,000,000 for each of the fiscal years 1982, 1983, and 1984.

(8)(A) The total amount of appropriations to carry out part E of title IV of such Act (other than section 465) shall not exceed $286,000,000 for each of the fiscal years 1982, 1983, and 1984.

(B) No funds are authorized to be appropriated to carry out section 465 of such Act (relating to cancellation of loans for certain public service) for fiscal year 1982, 1983, or 1984.

(9) The total amount of appropriations to carry out section 491 of such Act shall not exceed $1,000,000 for fiscal year 1982 and $2,000,000 for fiscal year 1983.

(10) Any provision of section 482 of such Act to the contrary notwithstanding, for the purpose of determining a student's need for financial assistance under title IV of such Act (other than under subpart 3 of part A and under part B) the schedules of expected family contributions for the academic years 1982–1983, 1983–1984, and 1984–1985 shall meet the following requirements:

(A) The offset for family size shall be annually adjusted to reflect changes in the Consumer Price Index.

(B) The term "cost of attendance" shall have the meaning given such term by section 428(a)(2)(B)(i) of such Act as in effect prior to the effective date of the Education Amendments of 1980.

(C) Notwithstanding section 482(b)(4) of such Act, in determining such contributions for such academic years, parental discretionary income shall be assessed at the following rates:

(i) a rate of 10 percent shall be applied to so much of such income as exceeds $1,000, but does not exceed $5,000;

(ii) a rate of 20 percent shall be applied to so much of such income as exceeds $5,000, but does not exceed $15,000;

(iii) a rate of 25 percent shall be applied to so much of such income as exceeds $15,000, but does not exceed $20,000;

(iv) a rate of 30 percent shall be applied to so much of such income as exceeds $20,000, but does not exceed $25,000; and

(v) a rate of 35 percent shall be applied to so much of such income as exceeds $25,000.

(e)(1) No funds are authorized to be appropriated to carry out part A of title V of the Higher Education Act of 1965 for fiscal year 1982, 1983, or 1984.

(2)(A) The total amount of appropriations to carry out part B of title V of such Act shall not exceed $9,900,000 for each of the fiscal years 1982, 1983, and 1984.

(B) The last sentence of section 531 of such Act shall not apply to the funds appropriated to carry out part B of title V of such Act for fiscal year 1982, 1983, or 1984.

(3) No funds are authorized to be appropriated to carry out part C of title V of such Act for fiscal year 1982, 1983, or 1984.

(4) No funds are authorized to be appropriated to carry out part D of title V of such Act for fiscal year 1982, 1983, or 1984.

(f) The total amount of appropriations to carry out title VI of the Higher Education Act of 1965 shall not exceed $23,800,000 for each of the fiscal years 1982, 1983, and 1984.

(g)(1) No funds are authorized to be appropriated to carry out part A or B of title VII of the Higher Education Act of 1965 for fiscal year 1982, 1983, or 1984.

(2) The total amount of appropriations to carry out part C of title VII of such Act (other than section 734) shall not exceed $1,400,000 for each of the fiscal years 1982, 1983, and 1984.

(3) No funds are authorized to be appropriated to carry out section 734 of such Act for fiscal year 1982, 1983, or 1984.

(h) The total amount of appropriations to carry out title VIII of the Higher Education Act of 1965 shall not exceed $12,000,000 for each of the fiscal years 1982, 1983, and 1984.

(i)(1) No funds are authorized to be appropriated to carry out part A of title IX of the

Higher Education Act of 1965 for fiscal year 1982, 1983, or 1984.

(2) The total amount of appropriations to carry out part B of title IX of such Act shall not exceed $14,000,000 for each of the fiscal years 1982, 1983, and 1984.

(3) No funds are authorized to be appropriated to carry out part C of title IX of such Act for fiscal year 1982, 1983, or 1984.

(4) The total amount of appropriations to carry out part D of title IX of such Act shall not exceed $1,000,000 for each of the fiscal years 1982, 1983, and 1984.

(5) The total amount of appropriations to carry out part E of title IX of such Act shall not exceed $1,500,000 for each of the fiscal years 1982, 1983, and 1984.

(j) The total amount of appropriations to carry out title X of the Higher Education Act of 1965 shall not exceed $15,000,000 for each of the fiscal years 1982, 1983, and 1984.

(k) No funds are authorized to be appropriated to carry out title XI of the Higher Education Act of 1965 for fiscal year 1982, 1983, or 1984.

HIGHER EDUCATION AMENDMENTS OF 1968

SEC. 5133. No funds are authorized to be appropriated to carry out the Higher Education Amendments of 1968 (Public Law 90-575) for fiscal year 1982, 1983, or 1984.

INDIAN EDUCATION ACT

SEC. 5134. The total amount of appropriations to carry out the Indian Education Act shall not exceed $81,700,000 for each of the fiscal years 1982, 1983, and 1984.

INDOCHINA REFUGEE CHILDREN ASSISTANCE ACT OF 1976

SEC. 5135. No funds are authorized to be appropriated to carry out the Indochina Refugee Children Assistance Act of 1976 for fiscal year 1982, 1983, or 1984.

JOHNSON-O'MALLEY ACT; SNYDER ACT; NAVAJO COMMUNITY COLLEGE ACT; TRIBALLY CONTROLLED COMMUNITY COLLEGE ASSISTANCE ACT OF 1978

SEC. 5136. The total amount of appropriations—

(1) to carry out the Act of April 16, 1934, commonly referred to as the Johnson-O'Malley Act;

(2) to carry out all education programs under the direction of the Office of Indian Education Programs in the Bureau of Indian Affairs of the Department of the Interior authorized under the Act of November 2, 1921, commonly referred to as the Snyder Act (and not otherwise expressly authorized by law),

(3) to carry out the Navajo Community College Act; and

(4) to carry out the Tribally Controlled Community College Assistance Act of 1978; shall not exceed $270,200,000 for each of the fiscal years 1982, 1983, and 1984.

JOINT RESOLUTION OF OCTOBER 19, 1972 (ELLENDER FELLOWSHIP PROGRAM)

SEC. 5137. The total amount of appropriations to carry out the Joint Resolution of October 19, 1972 shall not exceed $1,000,000 for each of the fiscal years 1982, 1983, and 1984.

JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974

SEC. 5138. The total amount of appropriations to carry out title I and title II of the Juvenile Justice and Delinquency Prevention Act of 1974 shall not exceed $86,500,000 for each of the fiscal years 1982, 1983, and 1984.

LIBRARY SERVICES AND CONSTRUCTION ACT

SEC. 5139. (a) The total amount of appropriations to carry out title I of the Library Services and Construction Act shall not exceed $45,200,000 for each of the fiscal years 1982, 1983, and 1984.

(b) No funds are authorized to be appropriated to carry out title II of the Library Services and Construction Act for fiscal year 1982, 1983, or 1984.

(c) The total amount of appropriations to carry out title III of the Library Services and Construction Act shall not exceed $12,000,000 for each of the fiscal years 1982, 1983, and 1984.

MODEL SECONDARY SCHOOL FOR THE DEAF ACT

SEC. 5140. The total amount of appropriations to carry out the Model Secondary School for the Deaf Act shall not exceed $10,900,000 for each of the fiscal years 1982, 1983, and 1984.

MUSEUM SERVICES ACT

SEC. 5141. The total amount of appropriations to carry out the Museum Services Act shall not exceed $6,900,000 for each of the fiscal years 1982, 1983, and 1984.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE ACT

SEC. 5142. The total amount of appropriations to carry out the National Commission on Libraries and Information Science Act shall not exceed $700,000 for each of the fiscal years 1982, 1983, and 1984.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES ACT OF 1965

SEC. 5143. The total amount of appropriations to carry out the National Foundation on the Arts and the Humanities Act of 1965 shall not exceed—

(1) $126,900,000 to the National Endowment for the Arts for each of the fiscal years 1982, 1983, and 1984;

(2) $121,000,000 to the National Endowment for the Humanities for each of the fiscal years 1982, 1983, and 1984; and

(3) $9,500,000 to the National Endowment for the Humanities for gifts and donations for each of the fiscal years 1982, 1983, and 1984.

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF ACT

SEC. 5144. The total amount of appropriations to carry out the National Technical Institute for the Deaf Act shall not exceed $22,100,000 for each of the fiscal years 1982, 1983, and 1984.

OLDER AMERICANS ACT OF 1965

SEC. 5145. (a) The total amount of appropriations to carry out section 204 of the Older Americans Act of 1965, as so redesignated in section 5306(a), shall not exceed $700,000 for each of the fiscal years 1982, 1983, and 1984.

(b)(1) The total amount of appropriations to carry out part B of title III of the Older Americans Act of 1965 shall not exceed $297,800,000 for each of the fiscal years 1982, 1983, and 1984.

(2) The total amount of appropriations to carry out subpart 1 of part C of title III of such Act shall not exceed $319,100,000 for each of the fiscal years 1982, 1983, and 1984.

(3) The total amount of appropriations to carry out subpart 2 of part C of title III of such Act shall not exceed $55,000,000 for each of the fiscal years 1982, 1983, and 1984.

(c) The total amount of appropriations to carry out title IV of the Older Americans Act of 1965 shall not exceed $23,000,000 for each of the fiscal years 1982, 1983, and 1984.

(d) The total amount of appropriations to carry out title V of the Older Americans Act of 1965 shall not exceed $302,300,000 for each of the fiscal years 1982, 1983, and 1984.

(e) The total amount of appropriations to carry out title VI of the Older Americans Act of 1965 shall not exceed $5,000,000 for each of the fiscal years 1982, 1983, and 1984.

REFUGEE EDUCATION ASSISTANCE ACT OF 1980

SEC. 5146. The total amount of appropriations to carry out the Refugee Education Assistance Act of 1980 (other than title V of such Act) shall not exceed $50,000,000 for fiscal years 1982, 1983, and 1984.

REHABILITATION ACT OF 1973

SEC. 5147. (a) No funds are authorized to be appropriated to carry out section 14 of the Rehabilitation Act of 1973 for fiscal year 1982, 1983, or 1984.

(b)(1)(A) The total amount of appropriations to carry out section 100(b)(1) of the Rehabilitation Act of 1973 shall not exceed $854,300,000 for each of the fiscal years 1982, 1983, and 1984.

(B) For the purpose of computing the entitlements of States under paragraph (1) of section 110(a) of such Act, the amount stated in subparagraph (A) of this paragraph shall be deemed to be the amount authorized to be appropriated under section 100(b)(1).

(2) The total amount of appropriations to carry out section 100(b)(3) of such Act shall not exceed $800,000 for each of the fiscal years 1982, 1983, and 1984.

(3)(A) The total amount of appropriations to carry out section 112 of such Act shall not exceed $3,500,000 for each of the fiscal years 1982, 1983, and 1984.

(B) The requirement for the setting aside of funds established in the first sentence of section 112(a) of such Act shall not have any force or effect for each of the fiscal years 1982, 1983, and 1984.

(c) The total amount of appropriations to carry out title II of the Rehabilitation Act of 1973 shall not exceed $27,800,000 for each of the fiscal years 1982, 1983, and 1984.

(d)(1) The total amount of appropriations to carry out section 304 of the Rehabilitation Act of 1973 shall not exceed $21,700,000 for each of the fiscal years 1982, 1983, and 1984.

(2)(A) The total amount of appropriations to carry out sections 305, 311, 312, 313, and 316 of such Act shall not exceed $15,400,000 for each of the fiscal years 1982, 1983, and 1984.

(B) The requirement for the setting aside of funds established in the first sentence of section 310(b) of such Act shall not have any force or effect for each of the fiscal years 1982, 1983, and 1984.

(e) The total amount of appropriations to carry out title IV of the Rehabilitation Act of 1973 shall not exceed $200,000 for each of the fiscal years 1982, 1983, and 1984.

(f)(1) The total amount of appropriations to carry out section 502 of the Rehabilitation Act of 1973 shall not exceed $2,400,000 for each of the fiscal years 1982, 1983, and 1984.

(2) The total amount of appropriations to carry out section 506 of such Act shall not exceed $300,000 for each of the fiscal years 1982, 1983, and 1984.

(g) The total amount of appropriations to carry out part B of title VI of the Rehabilitation Act of 1973 shall not exceed $5,500,000 for each of the fiscal years 1982, 1983, and 1984.

(h) The total amount of appropriations under part E of title VII of the Rehabilitation Act of 1973 shall not exceed $18,000,000 for each of the fiscal years 1982, 1983, and 1984.

RUNAWAY AND HOMELESS YOUTH ACT

SEC. 5148. The total amount of appropriations to carry out the Runaway and Homeless Youth Act shall not exceed $9,300,000 for each of the fiscal years 1982, 1983, and 1984.

SOCIAL SECURITY ACT (WORK INCENTIVE PROGRAM)

SEC. 5149. (a) The total amount of appropriations to carry out part C of title IV of the Social Security Act shall not exceed $364,900,000 for each of the fiscal years 1982, 1983, and 1984.

(b) Notwithstanding section 431(b) of such Act, no funds available for part C of title IV of such Act shall be expended for carrying out the program of public service employment referred to in section 432(b)(3) of such Act.

VOCATIONAL EDUCATION ACT OF 1963

SEC. 5150. (a) The total amount of appropriations to carry out the Vocational Education Act of 1963 shall not exceed $791,200,000 for each of the fiscal years 1982, 1983, and 1984.

(b) Of the amounts appropriated to carry out the Vocational Education Act of 1963 for each of the fiscal years 1982, 1983, and 1984, not more than $5,500,000 shall be available to carry out section 171(a)(2) of such Act for each such fiscal year.

YOUTH CONSERVATION CORPS ACT OF 1970

SEC. 5151. No funds are authorized to be appropriated to carry out the Act of August 13, 1970, commonly referred to as the Youth Conservation Corps Act of 1970, for fiscal year 1982, 1983, or 1984.

Subtitle B—Reauthorization of Certain Programs

CHAPTER 1—AMENDMENTS TO ECONOMIC OPPORTUNITY ACT OF 1964

SHORT TITLE

SEC. 5201. This chapter may be cited as the "Economic Opportunity Act Amendments of 1981".

DEFINITIONS

SEC. 5202. Section 4(1) of the Economic Opportunity Act of 1964 (42 U.S.C. 2706(1)) is amended to read as follows:

"(1) the term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands;".

Subchapter A—Research and Demonstrations

RESEARCH, DEMONSTRATION, AND PILOT PROJECTS

SEC. 5211. (a) Section 102(a) of the Economic Opportunity Act of 1964 (42 U.S.C. 2712(a)) is amended by inserting ", title II, and title VII" before the period at the end thereof.

(b)(1) The first sentence of section 102(b) of the Economic Opportunity Act of 1964 (42 U.S.C. 2712(b)) is amended by inserting ", title II, and title VII" before the period at the end thereof.

(2) Section 102(b) of the Economic Opportunity Act of 1964 (42 U.S.C. 2712(b)) is amended by adding at the end thereof the following new sentence: "As part of the annual report required in section 607, the Director shall submit a description for each fiscal year of the current plan required by this section, of activities subject to the plan, and of the findings derived from such activities, together with a statement indicating the time and, to the extent feasible, the manner in which the benefits of such activities and findings are expected to be realized.".

(c) Section 102 of the Economic Opportunity Act of 1964 (42 U.S.C. 2712) is amended by adding at the end thereof the following new subsections:

"(e) The Director shall develop and carry out pilot projects which (1) aid low-income elderly persons to achieve greater self-sufficiency, (2) focus upon the problems of rural poverty, (3) are designed to develop new techniques and community-based efforts to prevent narcotics addiction or to rehabilitate narcotic addicts, (4) are designed to encourage the participation of private organizations other than nonprofit organizations, in programs under this Act, or (5) are designed to strengthen and maintain the family unit.

"(f) The Director shall conduct, either directly or through grants or other arrangements, research and pilot projects designed to assure a more effective use of the human and natural resources of rural America and to slow the migration from rural areas due to lack of economic opportunity, thereby reducing population pressures in urban centers. Such projects may be operated jointly or in cooperation with other federally assisted programs, particularly programs authorized under the Public Works and Economic Development Act of 1965, in the area to be served by the project.

"(g) The Director shall conduct, either directly or through grants or other arrangements, research and demonstration projects designed to suggest new programs and policies to achieve the purposes of title VII in such ways as to provide opportunities for employment, ownership, and a better quality of life for low-income community residents.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 5212. Section 106 of the Economic Opportunity Act of 1964 (42 U.S.C. 2716) is amended by striking out "and", and by inserting before the period at the end thereof the following: ", $5,500,000 for the fiscal year 1982, and such sums as may be necessary for each of the fiscal years 1983 and 1984".

Subchapter B—Urban and Rural Community Action Programs

STATEMENT OF PURPOSE

SEC. 5221. Section 201(a) of the Economic Opportunity Act of 1964 (42 U.S.C. 2781(a)) is amended by striking out "and" at the end of paragraph (4), by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraph:

"(6) the strengthening and support of the low-income family unit.".

COMMUNITY ACTION PROGRAMS

SEC. 5222. Section 210(a) of the Economic Opportunity Act of 1964 (42 U.S.C. 2790(a)) is amended—

(1) by striking out "designated" and inserting in lieu thereof "recognized";

(2) by striking out "(1)" the last place it appears therein and inserting in lieu thereof "(A)";

(3) by striking out "(2)" the last place it appears therein and inserting in lieu thereof "(B)"; and

(4) by striking out "(3)" and inserting in lieu thereof "(C)".

GENERAL PROVISIONS FOR FINANCIAL ASSISTANCE

SEC. 5223. Section 221(a) of the Economic Opportunity Act of 1964 (42 U.S.C. 2808(a)) is amended by inserting after "elderly poor" the following: "and individuals receiving supplemental security income under title XVI of the Social Security Act".

SPECIAL PROGRAMS AND ASSISTANCE

SEC. 5224. (a) Section 222(a)(5) of the Economic Opportunity Act of 1964 (42 U.S.C. 2809(a)(5)) is amended by inserting "(A)" after "(5)", and by adding at the end thereof the following new subparagraph:

"(B)(i) There hereby is established, as part of the program established in subparagraph (A), a national laboratory to be known as the National Center for Appropriate Technology (hereinafter in this subparagraph referred to as the 'Center').

"(ii) The Center shall operate as a private, nonprofit organization and shall perform appropriate functions, including research, the dissemination of information, economic development, technical assistance, outreach, the awarding of grants, and other related functions, designed to further the adoption, extension, and use of appropriate energy technology for the primary purpose of meeting the needs of low-income individuals and community groups.

"(iii) The Center shall be available as a resource to Federal agencies and State and local public agencies. The Center is authorized to receive assistance from, and enter into contracts with, such agencies, and private organizations, for purposes of assisting the Center to carry out the functions specified in this subparagraph.".

(b) Section 222(a)(6) of the Economic Opportunity Act of 1964 (42 U.S.C. 2809(a)(6)) is amended to read as follows:

"(6) A program to be known as 'Youth and Family Development' designed to strengthen and maintain low-income families and assist economically disadvantaged children and youth. The Director may make grants under this paragraph available to community action agencies or other community-based public or private nonprofit agencies. Eligible categories of activity under this program include (A) the development of family support services designed to strengthen and maintain the low-income family unit; (B) the development of the group home concept for displaced youth designed to reverse the destructive living environment of troubled low-income children and youth faced with incarceration or institutionalization because of dependency, neglect, abuse, or abandonment; and (C) the development of summer youth recreation programs designed to provide recreation for low-income children during the summer months.".

ALLOTMENT OF FUNDS

SEC. 5225. Section 225(a) of the Economic Opportunity Act of 1964 (42 U.S.C. 2812(a)) is amended—

(1) by striking out "Guam" and all that follows through "Virgin Islands" and inserting in lieu thereof "the Trust Territory of the Pacific Islands, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands";

(2) by striking out "20 per centum" and inserting in lieu thereof "5 per centum"; and

(3) by striking out "1970" and inserting in lieu thereof "1980".

DESIGN AND PLANNING ASSISTANCE PROGRAMS

SEC. 5226. Part B of title II of the Economic Opportunity Act of 1964 (42 U.S.C. 2808 et seq.) is amended by striking out section 226, and by redesignating section 227 and section 228 as section 226 and section 227, respectively.

RESEARCH AND PILOT PROGRAMS

SEC. 5227. (a) Part C of title II of the Economic Opportunity Act of 1964 (42 U.S.C. 2823 et seq.) is amended by striking out section 232, and by redesignating section 234 as section 232.

(b)(1) Section 222(b) of the Economic Opportunity Act of 1964 (42 U.S.C. 2809(b)) is amended—

(A) by striking out "sections 230 and 232 (a), (b), and (c)" and inserting in lieu thereof "section 230"; and

(B) by striking out ", research," each place it appears therein.

(2) Section 227 of the Economic Opportunity Act of 1964, as so redesignated in section 5226, is amended by striking out subsection (c) thereof.

(3) Section 241(a) of the Economic Opportunity Act of 1964 (42 U.S.C. 2833(a)) is amended by striking out paragraph (2) thereof, and by redesignating paragraph (3) and paragraph (4) as paragraph (2) and paragraph (3), respectively.

(4) Section 601(c) of the Economic Opportunity Act of 1964 (42 U.S.C. 2941(c)) is amended by striking out "(except section 232)".

DEMONSTRATION COMMUNITY PARTNERSHIP AGREEMENTS

SEC. 5228. (a) Part C of title II of the Economic Opportunity Act of 1964 (42 U.S.C. 2823 et seq.) is amended by striking out section 235 and section 236.

(b) Section 102(d) of the Economic Opportunity Act of 1964 (42 U.S.C. 2712(d)) is amended by striking out "or 235".

SPECIAL LIMITATIONS

SEC. 5229. (a) Section 244(1) of the Economic Opportunity Act of 1964 (42 U.S.C. 2836(1)) is amended to read as follows:

"(1) Financial assistance under this title may include funds to provide reimbursement of actual expenses for attendance at meetings of any community action governing board, neighborhood council, or committee meeting in accordance with the purposes of this title.".

(b) Section 244(2) of the Economic Opportunity Act of 1964 (42 U.S.C. 2836(2)) is amended by striking out "$18,000" each place it appears therein and inserting in lieu thereof "$22,275".

AUTHORIZATION OF APPROPRIATIONS

SEC. 5230. Section 245 of the Economic Opportunity Act of 1964 (42 U.S.C. 2837) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 245. There is authorized to be appropriated for carrying out the provisions of this title $397,200,000 for the fiscal year 1982, and such sums as may be necessary for each of the fiscal years 1983 and 1984.".

Subchapter C—Special Programs To Combat Poverty in Rural Areas

AUTHORIZATION OF APPROPRIATIONS

SEC. 5231. Section 307 of the Economic Opportunity Act of 1964 (42 U.S.C. 2856) is amended by striking out "and" and by inserting before the period at the end thereof the following: ", $3,000,000 for the fiscal year 1982, and such sums as may be necessary for each of the fiscal years 1983 and 1984".

Subchapter D—Assistance for Migrant and Other Seasonally Employed Farmworkers and Their Families

SPECIAL RESPONSIBILITIES

SEC. 5235. Section 405 of the Economic Opportunity Act of 1964 (42 U.S.C. 2905) is amended by inserting "the Office of Economic Development and" after "with" the first place it appears therein.

AUTHORIZATION OF APPROPRIATIONS

SEC. 5236. Section 406 of the Economic Opportunity Act of 1964 (42 U.S.C. 2906) is amended by inserting before the period at the end thereof the following: ", $3,000,000 for the fiscal year 1982, and such sums as may be necessary for each of the fiscal years 1983 and 1984".

Subchapter E—Head Start and Follow Through

AUTHORIZATION OF APPROPRIATIONS FOR PART A OF TITLE V

SEC. 5241. Section 512 of the Economic Opportunity Act of 1964 (42 U.S.C. 2928a) is amended by inserting before the period at the end thereof the following: ", $950,000,000 for the fiscal year 1982, and such sums as may be necessary for each of the fiscal years 1983, 1984, 1985, and 1986".

ALLOTMENT OF FUNDS

SEC. 5242. Section 513(a)(3)(A)(i)(II) of the Economic Opportunity Act of 1964 (42 U.S.C. 2928b(a)(3)(A)(i)(II)) is amended to read as follows:

"(II) the percentage of such reserved amount which is available for such Indian and migrant Head Start programs for any fiscal year shall be increased or decreased to the same extent as any percentage change in the sums appropriated pursuant to section 512 for such fiscal year (as compared to the sums so appropriated for the preceding fiscal year), except that any increase in such percentage of funds available for such Indian and migrant Head Start programs shall not exceed adjustments which reflect changes in the Consumer Price Index published by the Bureau of Labor Statistics of the United States Department of Labor;".

DESIGNATION OF HEAD START AGENCIES

SEC. 5243. Section 514(c) of the Economic Opportunity Act of 1964 (42 U.S.C. 2928c(c)) is amended by inserting before the second comma appearing therein the following: "; to a delegate agency which is operating on the date of the enactment of the Economic Opportunity Act Amendments of 1981 and to which a community action agency has delegated the operation of all or part of a Head Start program; or, in any case in which there is no such current delegate agency, to any current Head Start director and policy council, both operating on the date of the enactment of the Economic Opportunity Act Amendments of 1981, which have jointly formed a nonprofit corporation for the purpose of meeting the requirements of this section".

AUTHORIZATION OF APPROPRIATIONS FOR PART B OF TITLE V

SEC. 5244. The first sentence of section 552(a) of the Economic Opportunity Act of 1964 (42 U.S.C. 2929a(a)) is amended by striking out "and", and by inserting before the period at the end thereof the following: ", $34,500,000 for the fiscal year 1982, and such sums as may be necessary for each of the fiscal years 1983, 1984, 1985, and 1986".

DEFINITIONS

SEC. 5245. Section 571(2) of the Economic Opportunity Act of 1964 (42 U.S.C. 2930(2)) is amended by striking out "the Commonwealth" and all that follows through "Pacific Islands" and inserting in lieu thereof the following: "the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands".

DURATION OF PROGRAMS

SEC. 5246. Section 583 of the Economic Opportunity Act of 1964 (42 U.S.C. 2933) is amended by striking out "thirteen" and inserting in lieu thereof "18".

Subchapter F—Administration and Coordination

NATIONAL ADVISORY COUNCIL ON ECONOMIC OPPORTUNITY

SEC. 5251. (a) Part A of title VI of the Economic Opportunity Act of 1964 (42 U.S.C. 2941 et seq.) is amended by striking out section 605, and by redesignating section 606 through section 615 as section 605 through section 614, respectively.

(b)(1) Section 582(e) of the Economic Opportunity Act of 1964 (42 U.S.C. 2932(e)) is amended by striking out "section 608" and inserting in lieu thereof "section 607".

(2) Section 602(c) of the Economic Opportunity Act of 1964 (42 U.S.C. 2942(c)) is amended by striking out "(including the National Advisory Council established in section 605)".

(3) Section 608 of the Economic Opportunity Act of 1964, as so redesignated in subsection (a), is amended by striking out "section 608" and inserting in lieu thereof "section 607".

(4) Section 901(b) of the Economic Opportunity Act of 1964 (42 U.S.C. 2995(b)) is amended by striking out "section 608" and inserting in lieu thereof "section 607".

AUTHORIZATION OF APPROPRIATIONS

SEC. 5252. Section 614 of the Economic Opportunity Act of 1964, as so redesignated in section 5251(a), is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 614. There is authorized to be appropriated for carrying out the provisions of this title $36,400,000 for the fiscal year 1982, and such sums as may be necessary for each of the fiscal years 1983 and 1984.".

TRANSFER OF FUNDS

SEC. 5253. (a) Part A of title VI of the Economic Opportunity Act of 1964, as amended in section 5251(a), is further amended by striking out section 616, and by redesignating section 617 through section 627 as section 615 through section 625, respectively.

(b)(1) Section 211(f) of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5011(f)) is amended by striking out "section 625" and inserting in lieu thereof "section 622".

(2) Section 421(4) of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5061(4)) is amended by striking out "section 625" and inserting in lieu thereof "section 622".

(3) Section 9(b)(1) of the National School Lunch Act (42 U.S.C. 1758(b)(1)) is amended by striking out "section 625" and inserting in lieu thereof "section 622".

(4) Section 5(c) of the Food Stamp Act of 1977 (7 U.S.C. 2014(c)) is amended by striking out "section 625" and inserting in lieu thereof "section 622".

(5) Section 1425(b) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3175(b)) is amended by striking out "section 625" and inserting in lieu thereof "section 622".

FISCAL RESPONSIBILITY AND AUDIT

SEC. 5254. Part A of title VI of the Economic Opportunity Act of 1964, as amended in section 5251(a) and section 5253(a), is further amended by adding at the end thereof the following new section:

"FISCAL RESPONSIBILITY AND AUDIT

"SEC. 626. (a) No funds shall be released to any agency receiving financial assistance under titles I, III, IV, VI, and VII of this Act until it has submitted to the Director a statement certifying that the assisted agency and its delegate agencies (or subcontractors for performance of any major portion of the assisted program) have established an accounting system with internal controls adequate to safeguard their assets, check the accuracy and reliability of the accounting data, promote operating efficiency and encourage compliance with prescribed management policies and such additional fiscal responsibility and accounting requirements as the Director may establish. The statement may be furnished by a certified public accountant, a duly licensed public accountant or, in the case of a public agency, the appropriate public financial officer who accepts responsibility for providing required financial services to such agency.

"(b) Within 3 months after the effective date of a grant to or contract of assistance with an organization or agency, the Director shall make or cause to be made a preliminary audit survey to review and evaluate the adequacy of the accounting system and internal controls established under such system to meet the standards set forth in the statement referred to in subsection (a). Promptly after the completion of the survey, the Director shall determine on the basis of findings and conclusions resulting from the survey whether the accounting systems and internal controls meet such standards, and, if not, whether to suspend the grant or contract. In the event of suspension, the assisted agency shall be given not more than 6 months within which to establish the necessary systems and controls, and, in the event of failure to do so within such time period, the assistance shall be terminated by the Director.

"(c) Not less frequently than every 2 years the Director shall make or cause to be made an audit of each organization receiving grants or contracts of assistance under this Act. Promptly after the completion of any such audit, the Director shall determine on the basis of resulting findings and conclusions whether any of the costs or expenditures incurred shall be disallowed. In the event of disallowance, the Director shall seek recovery of the sums involved by appropriate means, including court action or a commensurate increase in the required non-Federal share of the costs of any grant or contract with the same agency or organization which is then in effect or which is entered into within 12 months after the date of disallowance.

"(d) The Director shall establish such other requirements and take such actions as the Director may deem necessary and appropriate to carry out the provisions of this section and to ensure fiscal responsibility and accountability, and the effective and efficient handling of funds in connection with programs assisted under titles I, III, IV, VI, and VII of this Act. Such requirements and actions shall include (1) necessary action to assure that the rate of expenditure of any agency receiving financial assistance does not exceed the rate contemplated under its approved program; and (2) coordination of all projects or components of programs receiving financial assistance under titles I, III, IV, VI, and VII of this Act, including provisions for the periodic reprogramming and supplementation of assistance previously provided.".

Subchapter G—Community Economic Development

AUTHORIZATION OF APPROPRIATIONS

SEC. 5261. The first sentence of section 703 of the Economic Opportunity Act of 1964 (42 U.S.C. 2981b) is amended by striking out "and", and by inserting before the period at the end thereof the following: ", and $39,000,000 for each of the fiscal years 1982, 1983, and 1984".

MANAGEMENT CAPABILITY REQUIREMENTS

SEC. 5262. (a)(1) Section 704(b) of the Economic Opportunity Act of 1964 (42 U.S.C. 2981c(b)) is amended—

(A) in paragraph (2) thereof, by striking out "and" at the end thereof;

(B) in paragraph (3) thereof, by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(4) advising the Director regarding the development of management capability standards for use in community development corporations.".

(2) Section 704(c) of the Economic Opportunity Act of 1964 (42 U.S.C. 2981c(c)) is amended—

(A) in paragraph (2) thereof, by striking out "and" at the end thereof;

(B) in paragraph (3) thereof, by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(4) advising the governing body regarding the development of management capability standards for use in community development corporations.".

(b) Section 711(3) of the Economic Opportunity Act of 1964 (42 U.S.C. 2982(3)) is amended by inserting after "part" the following: "through the establishment of such programs based upon sound management and financial structures".

(c)(1) Section 713(a) of the Economic Opportunity Act of 1964 (42 U.S.C. 2982b(a)) is amended—

(A) by redesignating paragraph (3) through paragraph (14) as paragraph (5) through paragraph (16), respectively; and

(B) by inserting after paragraph (2) the following new paragraphs:

"(3) the applicant has demonstrated management capabilities sufficient to create a probability that the program will operate in a manner which minimizes the prospect of financial failure of the program or of any part or subsidiary of the program;

"(4) the applicant has demonstrated to the satisfaction of the Director that adequate restraints on excessive administrative or expense accounts are in place;".

(2) Section 713(d) of the Economic Opportunity Act of 1964 (42 U.S.C. 2982b(d)) is amended by adding at the end thereof the following new sentence: "Any program which fails to meet such development timetables because of deficiencies in management shall not receive any further funding under this part.".

(d) Section 714(b) of the Economic Opportunity Act of 1964 (42 U.S.C. 2982c(b)) is amended by adding at the end thereof the following new sentence: "The Federal Government also retains the right to seek recovery of such assets if the Director determines that the grantee has utilized such assets in a manner substantially inconsistent with this Act.".

(e) Section 723(a) of the Economic Opportunity Act of 1964 (42 U.S.C. 2983b(a)) is amended—

(1) in paragraph (3) thereof, by striking out "and" at the end thereof;

(2) in paragraph (4) thereof, by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(5) the applicant possesses adequate managerial expertise to operate the proposed project.".

(f) Section 731(a) of the Economic Opportunity Act of 1964 (42 U.S.C. 2984(a)) is amended—

(1) by redesignating paragraph (2) and paragraph (3) as paragraph (3) and paragraph (4), respectively; and

(2) by inserting after paragraph (1) the following new paragraph:

"(2) the applicant possesses adequate managerial expertise to effectively utilize the loan funds;".

STATEMENT OF PURPOSE FOR TITLE VII

SEC. 5263. Section 711 of the Economic Opportunity Act of 1964 (42 U.S.C. 2982) is amended by redesignating paragraph (3) and paragraph (4) as paragraph (4) and paragraph (5), respectively, and by inserting after paragraph (2) the following new paragraph: "(3) are designed to operate in communities with high concentrations of low income persons without utilizing funds received under this title for establishing an unfair competitive advantage over private sector businesses operating in the same community;".

FINANCIAL ASSISTANCE REQUIREMENTS

SEC. 5264. (a) Section 713(a)(9) of the Economic Opportunity Act of 1964, as so redesignated in section 5262(c)(1)(A), is amended by striking out ", where feasible,".

(b) Section 713(a)(12) of the Economic Opportunity Act of 1964, as so redesignated in section 5262(c)(1)(A), is amended by inserting after "workers" the following: "through activities which result in the complete or partial termination of private sector businesses in the same area,".

(c) Section 713(a)(14) of the Economic Opportunity Act of 1964, as so redesignated in section 5262(c)(1)(A), is amended by striking out ", to the maximum extent feasible,".

(d) Section 713 of the Economic Opportunity Act of 1964 (42 U.S.C. 2982b) is amended by redesignating subsection (c) and subsection (d) as subsection (d) and subsection (e), respectively, and by inserting after subsection (b) the following new subsection:

"(c) Financial assistance under this section shall not be extended for commercial development under this part if the Director determines that the proposed activities of the community development program are similar to, or duplicative of, existing private sector businesses in the same area.".

MODEL COMMUNITY ECONOMIC DEVELOPMENT FINANCE CORPORATION

SEC. 5265. Part C of title VII of the Economic Opportunity Act of 1964 (42 U.S.C. 2984 et seq.) is amended by striking out section 732.

EVALUATION AND RESEARCH

SEC. 5266. Section 746 of the Economic Opportunity Act of 1964 (42 U.S.C. 2985e) is amended by striking out "(a)" after the section designation, and by striking out subsection (b) thereof.

Subchapter H—Native American Programs

AUTHORIZATION OF APPROPRIATIONS

SEC. 5271. Section 814 of the Economic Opportunity Act of 1964 (42 U.S.C. 2992d) is amended by inserting before the period at

the end thereof the following: ", $33,800,000 for the fiscal year 1982, and such sums as may be necessary for each of the fiscal years 1983 and 1984".

Subchapter I—Evaluation

AUTHORIZATION OF APPROPRIATIONS

SEC. 5281. Section 904 of the Economic Opportunity Act of 1964 (42 U.S.C. 2995c) is amended by striking out "and", and by inserting before the period at the end thereof the following: ", $900,000 for the fiscal year 1982, and such sums as may be necessary for each of the fiscal years 1983 and 1984".

Subchapter J—Miscellaneous Provisions

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 5291. (a)(1) Section 4(3) of the Economic Opportunity Act of 1964 (42 U.S.C. 2706(3)) is amended by striking out "part B of title III" and inserting in lieu thereof "title III, title IV".

(2) Section 4(4) of the Economic Opportunity Act of 1964 (42 U.S.C. 2706(4)) is amended by striking out ", Education, and Welfare" and inserting in lieu thereof "and Human Services".

(b) Section 104(b) of the Economic Opportunity Act of 1964 (42 U.S.C. 2714(b)) is amended—

(1) by striking out "subsection (a)" the first place it appears therein and inserting in lieu thereof "subsection (a)(1)"; and

(2) by striking out "subsection (a)" the last place it appears therein and inserting in lieu thereof "subsection (a)(2)".

(c)(1) Section 213(c) of the Economic Opportunity Act of 1964 (42 U.S.C. 2796(c)) is amended by striking out "and or" and inserting in lieu thereof "or", and by inserting ", or both" before the period at the end thereof.

(2) Section 222(a)(1) of the Economic Opportunity Act of 1964 (42 U.S.C. 2809(a)(1)) is amended by striking out ", Education, and Welfare" and inserting in lieu thereof "and Human Services".

(3) Section 222(a)(2) of the Economic Opportunity Act of 1964 (42 U.S.C. 2809(a)(2)) is amended—

(A) by striking out ", Education, and Welfare" and inserting in lieu thereof "and Human Services"; and

(B) by striking out ", V, and VII" and inserting in lieu thereof "and V".

(4) Section 222(a)(4) of the Economic Opportunity Act of 1964 (42 U.S.C. 2809(a)(4)) is amended by striking out "of 1973".

(5) Section 222(a)(7) of the Economic Opportunity Act of 1964 (42 U.S.C. 2809(a)(7)) is amended by striking out "of 1973".

(6) Section 244(3) of the Economic Opportunity Act of 1964 (42 U.S.C. 2836(3)) is amended by striking out "Office of Economic Opportunity" and inserting in lieu thereof "Community Services Administration".

(7) Section 244(7) of the Economic Opportunity Act of 1964 (42 U.S.C. 2836(7)) is amended by striking out "Bureau of the Budget" and inserting in lieu thereof "Office of Management and Budget".

(d)(1) The heading for title V of the Economic Opportunity Act of 1964 (42 U.S.C. 2921 et seq.) is amended by striking out "HEADSTART" and inserting in lieu thereof "HEAD START".

(2) Section 501 of the Economic Opportunity Act of 1964 (42 U.S.C. 2921) is amended by striking out "Headstart" and inserting in lieu thereof "Head Start".

(3) Section 502 of the Economic Opportunity Act of 1964 (42 U.S.C. 2922) is amended by striking out "Headstart" and inserting in lieu thereof "Head Start".

(4) The heading for part A of title V of the Economic Opportunity Act of 1964 (42 U.S.C. 2928 et seq.) is amended by striking out "HEADSTART" and inserting in lieu thereof "HEAD START".

(5) The heading for section 511 of the Economic Opportunity Act of 1964 (42 U.S.C. 2928) is amended by striking out "HEADSTART" and inserting in lieu thereof "HEAD START".

(6) Section 511 of the Economic Opportunity Act of 1964 (42 U.S.C. 2928) is amended by striking out "Headstart" each place it appears therein and inserting in lieu thereof "Head Start".

(7) Section 513(a)(3)(A) of the Economic Opportunity Act of 1964 (42 U.S.C. 2928b(a)(3)(A)) is amended by striking out "Headstart" each place it appears therein and inserting in lieu thereof "Head Start".

(8) Section 513(c) of the Economic Opportunity Act of 1964 (42 U.S.C. 2928b(c)) is amended by striking out "Headstart" and inserting in lieu thereof "Head Start".

(9) Section 513(e) of the Economic Opportunity Act of 1964 (42 U.S.C. 2928b(e)) is amended by striking out "Headstart" and inserting in lieu thereof "Head Start".

(10) The heading for section 514 of the Economic Opportunity Act of 1964 (42 U.S.C. 2928c) is amended by striking out "headstart" and inserting in lieu thereof "head start".

(11) Section 514 of the Economic Opportunity Act of 1964 (42 U.S.C. 2928c) is amended by striking out "Headstart" each place it appears therein and inserting in lieu thereof "Head Start".

(12) The heading for section 515 of the Economic Opportunity Act of 1964 (42 U.S.C. 2928d) is amended by striking out "headstart" and inserting in lieu thereof "head start".

(13) Section 515 of the Economic Opportunity Act of 1964 (42 U.S.C. 2928d) is amended by striking out "Headstart" each place it appears therein and inserting in lieu thereof "Head Start".

(14) Section 516 of the Economic Opportunity Act of 1964 (42 U.S.C. 2928e) is amended by striking out "Headstart" and inserting in lieu thereof "Head Start".

(15) Section 517 of the Economic Opportunity Act of 1964 (42 U.S.C. 2928f) is amended by striking out "Headstart" each place it appears therein and inserting in lieu thereof "Head Start".

(16) The heading for section 518 of the Economic Opportunity Act of 1964 (42 U.S.C. 2928g) is amended by striking out "headstart" and inserting in lieu thereof "head start".

(17) Section 518 of the Economic Opportunity Act of 1964 (42 U.S.C. 2928g) is amended by striking out "Headstart" each place it appears therein and inserting in lieu thereof "Head Start".

(18) Section 519(1) of the Economic Opportunity Act of 1964 (42 U.S.C. 2928h(1)) is amended by striking out "Headstart" and inserting in lieu thereof "Head Start".

(19) Section 521 of the Economic Opportunity Act of 1964 (42 U.S.C. 2928j) is amended by striking out "Headstart" and inserting in lieu thereof "Head Start".

(20) Section 524 of the Economic Opportunity Act of 1964 (42 U.S.C. 2928m) is amended by striking out "Headstart" each place it appears therein and inserting in lieu thereof "Head Start".

(21) Section 525(a) of the Economic Opportunity Act of 1964 (42 U.S.C. 2928n(a)) is amended by striking out "Headstart" and inserting in lieu thereof "Head Start".

(22) Section 551(a)(1) of the Economic Opportunity Act of 1964 (42 U.S.C. 2929(a)(1)) is amended by striking out "Headstart" and inserting in lieu thereof "Head Start".

(23) Section 571(1) of the Economic Opportunity Act of 1964 (42 U.S.C. 2930(1)) is amended by striking out ", Education, and Welfare" and inserting in lieu thereof "and Human Services".

(24) Section 573 of the Economic Opportunity Act of 1964 (42 U.S.C. 2930b) is amended by striking out "(a)" after the section designation.

(25) Section 575 of the Economic Opportunity Act of 1964 (42 U.S.C. 2930d) is amended by striking out "Headstart" each place it appears therein and inserting in lieu thereof "Head Start".

(26) Section 576(a) of the Economic Opportunity Act of 1964 (42 U.S.C. 2930e(a)) is amended by striking out "Headstart" and inserting in lieu thereof "Head Start".

(27) Section 576(b) of the Economic Opportunity Act of 1964 (42 U.S.C. 2930e(b)) is amended by striking out "Civil Service Commission" and inserting in lieu thereof "Office of Personnel Management".

(28) Section 582(d) of the Economic Opportunity Act of 1964 (42 U.S.C. 2932(d)) is amended by striking out ", Education, and Welfare" and inserting in lieu thereof "and Human Services".

(29) Section 582(e) of the Economic Opportunity Act of 1964 (42 U.S.C. 2932(e)) is amended by striking out "Director" each place it appears therein and inserting in lieu thereof "Secretary".

(e)(1) Section 601(c) of the Economic Opportunity Act of 1964 (42 U.S.C. 2941(c)) is amended by striking out "III-B" each place it appears therein and inserting in lieu thereof "III".

(2) Section 603(b) of the Economic Opportunity Act of 1964 (42 U.S.C. 2943(b)) is amended by striking out "Civil Service Commission" and inserting in lieu thereof "Office of Personnel Management".

(3) Section 603(c) of the Economic Opportunity Act of 1964 (42 U.S.C. 2943(c)) is amended by striking out ", subpart (1) of part B of title V of the Higher Education Act of 1965,".

(4) Section 604(2) of the Economic Opportunity Act of 1964 (42 U.S.C. 2944(2)) is amended by striking out "part B of title III" and inserting in lieu thereof "title IV", and by striking out "212" and inserting in lieu thereof "402".

(5) Section 604(3) of the Economic Opportunity Act of 1964 (42 U.S.C. 2944(3)) is amended by striking out "part B of title III" and inserting in lieu thereof "title IV".

(6) Section 637 of the Economic Opportunity Act of 1964 (42 U.S.C. 2979) is amended by striking out ", Education, and Welfare" each place it appears therein and inserting in lieu thereof "and Human Services".

(f)(1) Section 712(a)(3) of the Economic Opportunity Act of 1964 (42 U.S.C. 2982a(a)(3)) is amended by striking out "of 1973".

(2) Section 731(c)(2) of the Economic Opportunity Act of 1964 (42 U.S.C. 2984(c)(2)) is amended by striking out "part A of".

(3) Section 742(a)(1) of the Economic Opportunity Act of 1964 (42 U.S.C. 2985a(a)(1)) is amended by striking out "and 502" and inserting in lieu thereof "502, and 503".

CHAPTER 2—AMENDMENTS TO OLDER AMERICANS ACT OF 1965

SHORT TITLE

SEC. 5301. This chapter may be cited as the "Older Americans Act Amendments of 1981".

DEFINITIONS

SEC. 5302. Section 102(3) of the Older Americans Act of 1965 (42 U.S.C. 3002(3)) is amended by inserting "the Commonwealth of the Northern Mariana Islands," after "Samoa,".

ADMINISTRATION ON AGING

SEC. 5303. (a) The third sentence of section 201(a) of the Older Americans Act of 1965 (42 U.S.C. 3011(a)) is amended by striking out "the Office of".

(b) The last sentence of section 201(a) of the Older Americans Act of 1965 (42 U.S.C. 3011(a)) is amended by inserting after "Commissioner" the first place it appears therein the following: "under section 202 (including policymaking, programmatic, regional, fiscal, administrative, and personnel responsibilities)".

FUNCTIONS OF COMMISSIONER

SEC. 5304. (a) The heading for section 202 of the Older Americans Act of 1965 (42 U.S.C. 3012) is amended by striking out "ADMINISTRATION" and inserting in lieu thereof "COMMISSIONER".

(b) Section 202(a) of the Older Americans Act of 1965 (42 U.S.C. 3012(a)) is amended—

(1) by striking out "Administration" and inserting in lieu thereof "Commissioner";

(2) in paragraph (5) thereof, by inserting "education and training services including" after "hospitalization,", by inserting "and" after "training,", and by inserting a closing parenthetical mark after "education";

(3) in paragraph (8) thereof, by inserting before the semicolon at the end thereof the following: ", and take whatever action is necessary to achieve coordination of activities carried out or assisted by all departments, agencies, and instrumentalities of the Federal Government with respect to the collection, preparation, and dissemination of information relevant to older individuals";

(4) in paragraph (12) thereof, by striking out "nonprofit"; and

(5) in paragraph (16) thereof, by striking out "nonprofit".

FEDERAL AGENCY CONSULTATION

SEC. 5305. Section 203(b) of the Older Americans Act of 1965 (42 U.S.C. 3013(b)) is amended—

(1) by striking out "and" at the end of paragraph (9) thereof;

(2) by striking out the period at the end of paragraph (10) thereof and inserting in lieu thereof a comma; and

(3) by adding at the end thereof the following new paragraphs:

"(11) title I of the Higher Education Act of 1965, and

"(12) the Adult Education Act.".

NATIONAL INFORMATION AND RESOURCE CLEARING HOUSE FOR THE AGING

SEC. 5306. (a) Title II of the Older Americans Act of 1965 (42 U.S.C. 3011 et seq.) is amended by striking out section 204, and by redesignating section 205 through section 214 as section 204 through section 213, respectively.

(b)(1) Section 204(d) of the Older Americans Act of 1965, as so redesignated in subsection (a), is amended—

(A) by inserting "and" at the end of paragraph (4) thereof;

(B) by striking out paragraph (5) thereof; and

(C) by redesignating paragraph (6) as paragraph (5).

(2) Section 206(b) of the Older Americans Act of 1965, as so redesignated in subsection (a), is amended by striking out "section 208" and inserting in lieu thereof "section 207".

FEDERAL COUNCIL ON THE AGING

SEC. 5307. (a) Section 204(c) of the Older Americans Act of 1965, as so redesignated in section 5306(a), is amended by striking out "but not less often than four times a year" and inserting in lieu thereof "at least quarterly".

(b) Section 204(g)(1) of the Older Americans Act of 1965, as so redesignated in section 5306(a), is amended by adding at the end thereof the following new sentence: "Such study shall be submitted to the Congress not later than March 31, 1982.".

(c) Section 204(h) of the Older Americans Act of 1965, as so redesignated in section 5306(a), is amended by striking out "and", and by inserting "1982, 1983, and 1984," after "1981,".

ADMINISTRATION

SEC. 5308. (a) Section 205 of the Older Americans Act of 1965, as so redesignated in section 5306(a), is amended by striking out subsection (b) thereof, and by redesignating subsection (c) and subsection (d) as subsection (b) and subsection (c), respectively.

(b) Section 205(c) of the Older Americans Act of 1965, as so redesignated in section 5306(a) and in subsection (a), is amended by inserting "to the Commissioner" after "appropriated".

APPLICATION OF OTHER LAWS

SEC. 5309. Section 210(a) of the Older Americans Act of 1965, as so redesignated in section 5306(a), is amended by striking out ", and of title V of the Act of October 15, 1977 (Public Law 95-134; 91 Stat. 1164),".

CONTRACTING AND GRANT AUTHORITY

SEC. 5310. Section 212 of the Older Americans Act of 1965, as so redesignated in section 5306(a), is amended by striking out ", where such organization" and all that follows through "such contract".

TECHNICAL ASSISTANCE AND COOPERATION

SEC. 5311. Section 301(b)(2) of the Older Americans Act of 1965 (42 U.S.C. 3021(b)(2)) is amended by inserting "the Department of Education," after "cooperation of".

DEFINITIONS FOR TITLE III

SEC. 5312. Section 302 of the Older Americans Act of 1965 (42 U.S.C. 3022) is amended by adding at the end thereof the following new paragraph:

"(9) The term 'education and training service' means a social service designed to assist older individuals to better cope with their economic, health, and personal needs through services such as consumer education, continuing education, health education, preretirement education, financial planning, and other education and training services which will advance the objectives of this Act.".

AUTHORIZATION OF APPROPRIATIONS FOR TITLE III PROGRAMS

SEC. 5313. (a) Section 303(a) of the Older Americans Act of 1965 (42 U.S.C. 3023(a)) is amended by inserting "each of the" after "for" the third place it appears therein, by striking out "year" the last place it appears therein and inserting in lieu thereof "years", and by inserting "and 1982, and such sums as may be necessary for each of the fiscal years 1983 and 1984," after "1981".

(b) Section 303(b)(1) of the Older Americans Act of 1965 (42 U.S.C. 3023(b)(1)) is amended by inserting "each of the" after "for" the third place it appears therein, by striking out "year" the last place it appears therein and inserting in lieu thereof "years", and by inserting "and 1982, and such sums as may be necessary for each of the fiscal years 1983 and 1984," after "1981".

(c) Section 303(b)(2) of the Older Americans Act of 1965 (42 U.S.C. 3023(b)(2)) is amended by inserting "each of the" after "for" the third place it appears therein, by striking out "year" the last place it appears therein and inserting in lieu thereof "years", and by inserting "and 1982, and such sums as may be necessary for each of the fiscal years 1983 and 1984," after "1981".

ALLOTMENT; FEDERAL SHARE

SEC. 5314. (a) Section 304(a)(1) of the Older Americans Act of 1965 (42 U.S.C. 3024(a)(1)) is amended by striking out "and" the second place it appears therein, and by inserting "1982, 1983, and 1984," after "1981,".

(b) Section 304(d)(1)(B) of the Older Americans Act of 1965 (42 U.S.C. 3024(d)(1)(B)) is amended by striking out "year" and inserting in lieu thereof "years", and by inserting "1982, 1983, and 1984," after "1981,".

AREA PLANS

SEC. 5315. Section 306(a)(2) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)(2)) is amended by striking out "at least 50 percent" and inserting in lieu thereof "an adequate proportion".

STATE PLANS

SEC. 5316. (a) Section 307(a)(13)(A) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)(13)(A)) is amended by striking out the comma, and by inserting before the semicolon at the end thereof the following: ", and may be made available to handicapped or disabled individuals who have not attained 60 years of age but who reside in senior citizen centers at which congregate nutrition services are provided".

(b) Section 307(a)(13)(B) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)(13)(B)) is amended to read as follows:

"(B) such plan shall give primary consideration to the provision of meals in a congregate setting, except that each area agency (i) shall have authority to award funds made available under this title to organizations for the provision of home delivered meals to older individuals in accordance with the provisions of subpart 2 of part C, based upon a determination of need made by the recipient of a grant or contract entered into under this title, without requiring that such organizations also provide meals to older individuals in a congregate setting; and (ii) shall, in awarding such funds, select such organizations in a manner which complies with the provisions of subparagraph (H);".

(c) Section 307(a)(13)(C)(ii) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)(13)(C)(ii)) is amended by inserting ", and access to such meals when the use of such charges for access is deemed appropriate" before the semicolon at the end thereof.

(d) Section 307(a)(13) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)(13)) is amended—

(1) by adding "and" at the end of subparagraph (G) thereof;

(2) by striking out "and" at the end of subparagraph (H) thereof; and

(3) by striking out subparagraph (I) thereof.

(e) Section 307(a) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)) is amended—

(1) by striking out "and" at the end of paragraph (15) thereof;

(2) by redesignating paragraph (16) thereof as paragraph (17); and

(3) by inserting after paragraph (15) the following new paragraph:

"(16) provide that area agencies on aging may enter into grants and contracts with providers of education and training services which can demonstrate the experience or capacity to provide such services; and".

AVAILABILITY OF FUNDS FOR SOCIAL SERVICES AND NUTRITION SERVICES

SEC. 5317. Section 308(b) of the Older Americans Act of 1965 (42 U.S.C. 3028(b)) is amended by adding at the end thereof the following new paragraph:

"(6) Notwithstanding any other provision of this title, with respect to funds received under subsection (a) and subsection (b) of section 303, a State may elect to transfer not more than 20 percent of the funds appropriated for any fiscal year between programs under part B and part C of this title, for use as the State considers appropriate. The State shall notify the Commissioner of any such election.".

AVAILABILITY OF SURPLUS COMMODITIES

SEC. 5318. (a) The first sentence of section 311(a)(4) of the Older Americans Act of 1965 (42 U.S.C. 3030a(a)(4)) is amended by striking out "three" and inserting in lieu thereof "six".

(b) Section 311(b)(1) of the Older Americans Act of 1965 (42 U.S.C. 3030a(b)(1)) is amended by striking out "1981" and inserting in lieu thereof "1984".

SOCIAL SERVICES PROGRAMS

SEC. 5319. Section 321(a) of the Older Americans Act of 1965 (42 U.S.C. 3030d(a)) is amended—

(1) in paragraph (1) thereof, by striking out "continuing education,";

(2) by striking out "or" at the end of paragraph (11) thereof;

(3) by redesignating paragraph (12) thereof as paragraph (13); and

(4) by inserting after paragraph (11) the following new paragraph:

"(12) education and training services; or".

REVISION OF TRAINING, RESEARCH, AND DISCRETIONARY PROJECTS AND PROGRAMS

SEC. 5320. (a) Title IV of the Older Americans Act of 1965 (42 U.S.C. 3031 et seq.) is amended to read as follows:

"TITLE IV—TRAINING, RESEARCH, AND DISCRETIONARY PROJECTS AND PROGRAMS

"PART A—EDUCATION AND TRAINING

"TRAINING AND RECRUITING PERSONNEL FOR THE FIELD OF AGING

"SEC. 411. The Commissioner may make grants to any public or nonprofit private agency, organization, or institution, and may enter into contracts with any agency, organization, or institution, to assist the Commissioner in recruiting persons to enter the field of aging, training volunteers and persons employed in or preparing for employment in the field of aging (including such stipends to persons participating in training programs as the Commissioner may find appropriate), technical assistance, and other activities related to such training.

"MULTIDISCIPLINARY CENTERS OF GERONTOLOGY

"SEC. 412. The Commissioner may make grants to public and private nonprofit agencies, organizations, and institutions for the purpose of establishing or supporting multidisciplinary centers of gerontology, and gerontology centers of special emphasis.

"PART B—RESEARCH, DEMONSTRATIONS, AND OTHER ACTIVITIES

"RESEARCH AND DEVELOPMENT PROJECTS

"SEC. 421. The Commissioner may make grants to any public or nonprofit private agency, organization, or institution, and may enter into contracts with any agency, organization, institution, or individual to support research and development related to the purposes of this Act, evaluation of the results of such research and development activities, and collection and dissemination of information concerning research findings, demonstration results, and other materials developed in connection with activities assisted under this title, and conducting of conferences and other meetings for purposes of exchange of information and other activities related to the purposes of this title.

"DEMONSTRATION PROJECTS

"SEC. 422. The Commissioner may make grants to any public agency or nonprofit private organization, and may enter into contracts with any agency or organization to pay part or all of the cost of developing or operating model projects to demonstrate methods to improve or expand services to or otherwise promote the well-being of older individuals. Such projects may include projects for the development of comprehensive, coordinated systems of social services, community long-term care for older individuals, projects to meet the special housing needs of older individuals (including weatherization improvements), and other priority projects determined appropriate by the Commissioner.

"SPECIAL PROJECTS IN COMPREHENSIVE LONG-TERM CARE

"SEC. 423. (a)(1) The Commissioner may—

"(A) make grants to selected State agencies, designated under section 305(a)(1), and, in consultation with State agencies, selected area agencies on aging designated under section 305(a)(2)(A), institutions of higher education, and other public agencies and nonprofit private organizations; and

"(B) enter into contracts with any agency, organization, or institution;

to support the development of comprehensive, coordinated systems of community long-term care for older individuals, with special emphasis upon services designed to support alternatives to institutional living and the assessment of need, the development of a plan of care, and the referral of individuals, in the delivery of long-term care services, including noninstitutional and institutional services, where appropriate.

"(2) A grant under this section may be made to pay part or all of the estimated cost of the program (including startup cost) for a period of not more than 3 years, except that no funds may be used to pay for direct services which are eligible for reimbursement under title XVIII, title XIX, or title XX of the Social Security Act.

"(3) A grant made under this section shall be used for the development of programs which provide a full continuum of services. Such services may include adult day health care; monitoring and evaluation of service effectiveness; supported living in public and private nonprofit housing; family respite services; preventive health services; home health, homemaker, and other rehabilitative and maintenance in-home services; services provided by geriatric health maintenance organizations; and other services which the Commissioner determines are appropriate, and which, at a minimum, provide for identification and assessment of the long-term care needs of older individuals, referral of such individuals to the appropriate services, and follow-up and evaluation of the continued appropriateness of such services with provision for re-referral as appropriate.

"(b)(1) In making grants to States under this section, preference shall be given to applicants which demonstrate that—

"(A) adequate State standards have been developed to ensure the quality of services provided;

"(B) the State has made a commitment to carry out the program assisted under this section with the State agency responsible for the administration of title XIX of the Social Security Act or title XX of the Social Security Act, or both such agencies;

"(C) the State will develop plans to finance the comprehensive program assisted under this section; and

"(D) the State agency has a plan for statewide or designated regions of the State containing provisions designed to maximize access by older individuals to long-term care services.

"(2) In awarding grants to or entering into contracts with agencies and organizations under this section, preference shall be given to applicants that possess the capability to establish community-based long-term care programs and demonstrate that a need exists for the establishment of such programs in the area to be served.

"(3) Agencies and organizations assisted under this section shall establish procedures for evaluating the program assisted under this section, with respect to the benefits accruing to persons receiving assistance, the feasibility of the administrative model used for comprehensive coordination of services including coordination with other local programs, and the comparative costs and quality of services provided, and shall submit such evaluation to the Commissioner on a periodic basis.

"(c) The Secretary shall involve appropriate Federal departments and agencies in carrying out the provisions of this section in order to assure coordination at the Federal level and to avoid duplication and shall include in the annual report to the Congress required by section 207, a report on the impact of grants made, or contracts entered into, on the experiences of grantees and contractors in meeting the requirements of this section, and on the comparative benefits and costs of projects assisted under this section.

"(d) Sums appropriated to carry out this section shall, to the extent feasible, be used to support programs equitably distributed throughout the Nation between urban and rural areas.

"SPECIAL PROJECTS IN MENTAL HEALTH CARE

"SEC. 424. (a) The Commissioner, after consultation with the Director of the National Institute of Mental Health and the Center for Studies of the Mental Health of the Aging, may make grants to, and enter into contracts with, any public or private nonprofit entity for projects under this section. Each such project shall include—

"(1) the location of older individuals who are in need of mental health services;

"(2) the provision of, or arrangement for the provision of, medical differential diagnoses of older individuals to distinguish between their need for mental health services and other medical care;

"(3) the specification of the mental health needs of older individuals, and the mental health and support services required to meet such needs; and

"(4) the provision of—

"(A) the mental health and support services specified in paragraph (3) in the communities; or

"(B) such services for older individuals in nursing homes and intermediate care facilities, and training of the employees of such homes and facilities in the provision of such services.

"(b) Funds may not be obligated to carry out this section for any fiscal year if funds are appropriated to carry out section 204 of the Mental Health Systems Act for such fiscal year.

"(c) For purposes of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1982, 1983, and 1984.

"NATIONAL IMPACT ACTIVITIES

"SEC. 425. The Commissioner may carry out directly or through grants or contracts—

"(1) innovation and development projects and activities of national significance which show promise of having substantial impact on the expansion or improvement of social services, nutrition services, or multipurpose senior centers, or otherwise promoting the well-being of older individuals; and

"(2) dissemination of information activities related to such programs.

"(b) An amount not to exceed 15 percent of any sums appropriated under section 431 may be used for carrying out this section.

"PART C—GENERAL PROVISIONS

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 431. (a) There are authorized to be appropriated to carry out the provisions of this title $45,000,000 for fiscal year 1982, and such sums as may be necessary for each of the fiscal years 1983 and 1984.

"(b) No funds appropriated under this title—

"(1) may be transferred to any office or other authority of the Federal Government which is not directly responsible to the Commissioner; or

"(2) may be used for any program or activity which is not specifically authorized by this title.

"PAYMENTS OF GRANTS

"SEC. 432. (a) To the extent he deems it appropriate, the Commissioner shall require the recipient of any grant or contract under this title to contribute money, facilities, or services for carrying out the project for which such grant or contract was made.

"(b) Payments under this title pursuant to a grant or contract may be made (after necessary adjustment, in the case of grants, on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments and on such conditions, as the Commissioner may determine.

"(c) The Commissioner shall make no grant or contract under this title in any State which has established or designated a State agency for purposes of title III unless the Commissioner has consulted with such State agency regarding such grant or contract.".

(b)(1) Section 204(d)(2) of the Older Americans Act of 1965, as so redesignated in section 5306(a), is amended by striking out "the appraisal of needs required by section 402" and inserting in lieu thereof "an appraisal of needs pursuant to the functions carried out by the Commissioner under section 411".

(2) Section 310 of the Older Americans Act of 1965 (42 U.S.C. 3030) is amended by striking out "section 421" each place it appears therein and inserting in lieu thereof "section 422".

EQUITABLE DISTRIBUTION OF ASSISTANCE

SEC. 5321. (a) Section 506(a)(3) of the Older Americans Act of 1965 (42 U.S.C. 3056d(a)(3)) is amended by inserting "the Commonwealth of the Northern Mariana Islands," after "Samoa," each place it appears therein.

(b) Section 506(a)(4)(A) of the Older Americans Act of 1965 (42 U.S.C. 3056d(a)(4)(A)) is amended by inserting "the Commonwealth of the Northern Mariana Islands," after "Samoa,".

DEFINITIONS FOR TITLE V

SEC. 5322. (a) Section 507(1) of the Older Americans Act of 1965 (42 U.S.C. 3056e(1)) is amended by inserting "the Commonwealth of the Northern Mariana Islands," after "Samoa,".

(b) Section 507(3) of the Older Americans Act of 1965 (42 U.S.C. 3056e(3)) is amended by inserting "weatherization activities;" after "efforts;".

AUTHORIZATION OF APPROPRIATIONS FOR TITLE V PROGRAMS

SEC. 5323. Section 508 of the Older Americans Act of 1965 (42 U.S.C. 3056f) is amended by striking out "and" the last place it appears therein, and by inserting before the period at the end thereof the following: ", $350,000,000 for fiscal year 1982, and such sums as may be necessary for each of the fiscal years 1983 and 1984".

GRANTS AUTHORIZED UNDER TITLE VI

SEC. 5324. Section 603 of the Older Americans Act of 1965 (42 U.S.C. 3057b) is amended by striking out "Indians who are aged 60 and older" and inserting in lieu thereof "older Indians".

APPLICATIONS UNDER TITLE VI

SEC. 5325. (a) Section 604(a)(4) of the Older Americans Act of 1965 (42 U.S.C. 3057c(a)(4)) is amended by striking out "that" and all that follows through "conduct" and inserting in lieu thereof "for".

(b) Section 604(a)(10) of the Older Americans Act of 1965 (42 U.S.C. 3057c(a)(10)) is amended to read as follows:

"(10) provide that any legal or ombudsman services made available to older Indians represented by the tribal organization will be substantially in compliance with the provisions of title III relating to the furnishing of similar services; and".

(c) Section 604 of the Older Americans Act of 1965 (42 U.S.C. 3057c) is amended by striking out subsection (d) thereof, and by redesignating subsection (e) and subsection (f) as subsection (d) and subsection (e), respectively.

ADMINISTRATION OF TITLE VI

SEC. 5326. Section 605 of the Older Americans Act of 1965 (42 U.S.C. 3057d) is amended by striking out "(a)", and by striking out subsection (b) thereof.

AUTHORIZATION OF APPROPRIATIONS FOR TITLE VI

SEC. 5327. (a) Section 608(a) of the Older Americans Act of 1965 (42 U.S.C. 3057g(a)) is amended to read as follows:

"SEC. 608. (a) There are authorized to be appropriated $6,000,000 for fiscal year 1982, $6,400,000 for fiscal year 1983, and $6,800,000 for fiscal year 1984, to carry out the provisions of this title (other than section 606).".

(b) Section 608(c) of the Older Americans Act of 1965 (42 U.S.C. 3057g(c)) is amended by striking out "and", and by inserting "1982, 1983, and 1984," after "1981,".

HOME MAINTENANCE AND REPAIR SERVICES

SEC. 5328. (a) The Older Americans Act of 1965 (42 U.S.C. 3001 et seq.) is amended by adding at the end thereof the following new title:

"TITLE VII—HOME MAINTENANCE AND REPAIR SERVICES

"CONGRESSIONAL FINDINGS

"SEC. 701. The Congress hereby finds that—

"(1) of the 25,000,000 older individuals living in the United States today, approximately one-third are housed in substandard, deteriorating, or dilapidated housing;

"(2) while 70 percent of such older individuals living in the United States reside in their own homes, most Federal housing assistance programs for older individuals focus on the problems of such individuals who rent their housing, and insufficient funding has been made available to assist such individuals who are homeowners;

"(3) 58 percent of older individuals who are homeowners own homes that were built before 1939;

"(4) continually increasing maintenance and energy costs have forced many older individuals to forgo necessary home repairs, thereby causing the condition of the homes of such individuals to deteriorate significantly and creating serious health and safety hazards;

"(5) upon retirement, older individuals generally undergo a reduction of income of one-third to one-half and are therefore less able to afford necessary home repairs; and

"(6) mobility and health are important determinants of the ability to undertake repairs, and, in light of the increasingly large segment of the population that is composed of older individuals, greater numbers of Americans become physically unable to make necessary home repairs each year.

"HOME MAINTENANCE AND REPAIR PROGRAM

"SEC. 702. (a) The Commissioner is authorized to make grants to, and enter into contracts with, any State agency designated under section 305(a)(1) for purposes of providing home maintenance and repair services to older individuals.

"(b) The Commissioner shall administer the program established in subsection (a) in accordance with regulations prescribed by the Commissioner and in a manner that ensures that—

"(1) in the provision of services under such program, a preference shall be given to low-income older individuals;

"(2) to an extent that the Commissioner determines to be appropriate, there shall be coordination with other Federal programs designed to provide home maintenance and repair services;

"(3) home maintenance and repair services provided under this section shall be accomplished by teams composed of individuals who are specialists in maintenance and repair and who are, to the maximum extent practicable, older individuals; and

"(4) older individuals receiving home maintenance and repair services under this section shall be provided with sufficient information to enable them to perform their own simple repairs in the future.

"HOUSING COUNSELING

"SEC. 703. The Commissioner shall administer, in coordination with the program established in section 702(a), a program of housing counseling for older individuals, which shall provide such individuals with information concerning home energy con-

servation, weatherization, and crime prevention programs and techniques.

"ANNUAL REPORT

"SEC. 704. The Commissioner shall annually prepare and submit to the Congress a comprehensive report concerning the housing needs of older individuals and the effectiveness of Federal housing programs in addressing such housing needs.

"DEFINITIONS

"SEC. 705. For purposes of this title—

"(1) the term 'home maintenance and repair services' means maintenance and repair of particular defects and hazards in any housing owned by, and serving as the primary residence of, any older individual, including maintenance and repair, and weatherization, designed to improve the health and safety conditions and increase the livability of such housing, but not including substantial remodeling of such housing;

"(2) the term 'low-income' means income that is not more than 125 percent of the poverty guidelines established periodically under section 624 of the Economic Opportunity Act of 1964; and

"(3) the term 'older individual' means any individual 60 years of age or older.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 706. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title for each of the fiscal years 1982, 1983, and 1984.".

NATIONAL OLDER AMERICANS VOLUNTEER PROGRAMS

SEC. 5329. (a) Section 502(a) of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5082(a)) is amended by striking out "and" after "1980," and by inserting after "1981," the following: "$28,691,000 for the fiscal year ending September 30, 1982, and such sums as may be necessary for the fiscal year ending September 30, 1983,".

(b) The last sentence of section 502(b)(2) of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5082(b)(2)) is amended by striking out "and" after "1980," and by inserting after "1981," the following: "$62,380,000 for the fiscal year ending September 30, 1982, and such sums as may be necessary for the fiscal year ending September 30, 1983,".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 5330. (a) Section 102(1) of the Older Americans Act of 1965 (42 U.S.C. 3002(1)) is amended by striking out ", Education, and Welfare" and inserting in lieu thereof "and Human Services".

(b)(1) Section 202(a)(1) of the Older Americans Act of 1965 (42 U.S.C. 3012(a)(1)) is amended by striking out ", Education, and Welfare" and inserting in lieu thereof "and Human Services".

(2) Section 202(c) of the Older Americans Act of 1965 (42 U.S.C. 3012(c)) is amended by striking out "Action" and inserting in lieu thereof "the ACTION Agency".

(c)(1) The last sentence of section 203(a) of the Older Americans Act of 1965 (42 U.S.C. 3013(a)) is amended by striking out "purpose" and inserting in lieu thereof "purposes".

(2) Section 203(b) of the Older Americans Act of 1965 (42 U.S.C. 3013(b)) is amended—

(A) by striking out "purpose" and inserting in lieu thereof "purposes";

(B) in paragraph (1) thereof, by striking out "of 1973"; and

(C) in paragraph (8) thereof, by striking out "section 222(a)(8)" and inserting in lieu thereof "section 222(a)(2)".

(d) Section 206(b) of the Older Americans Act of 1965, as so redesignated in section 5306(a), is amended by striking out "section 308 or", and by striking out "section or".

(e) Section 209(b) of the Older Americans Act of 1965, as so redesignated in section 5306(a), is amended by striking out "the amendment made by".

(f) Section 337 of the Older Americans Act of 1965 (42 U.S.C. 3030g) is amended by striking out "National Association of Title VII Project Directors" and inserting in lieu thereof "National Association of Nutrition and Aging Services Programs".

(g) Section 503(b) of the Older Americans Act of 1965 (42 U.S.C. 3056a(b)) is amended by striking out "of 1973" each place it appears therein.

(h) Section 505(b) of the Older Americans Act of 1965 (42 U.S.C. 3056c(b)) is amended—

(1) by striking out ", Education, and Welfare" and inserting in lieu thereof "and Human Services"; and

(2) by striking out the second sentence thereof.

CHAPTER 3—AMENDMENTS TO ALCOHOL AND DRUG ABUSE EDUCATION ACT

SHORT TITLE

SEC. 5341. This chapter may be cited as the "Alcohol and Drug Abuse Education Act Amendments of 1981".

EXTENSION OF PROGRAMS

SEC. 5342. (a) The first sentence of section 3(i)(1) of the Alcohol and Drug Abuse Education Act (21 U.S.C. 1002(i)(1)) is amended by striking out "and" the last place it appears therein, and by inserting before the period at the end thereof the following: "; $3,000,000 for the fiscal year 1982; $3,240,000 for the fiscal year 1983; $3,499,000 for the fiscal year 1984; and $3,779,000 for the fiscal year 1985".

(b) Section 3(i)(3) of the Alcohol and Drug Abuse Education Act (21 U.S.C. 1002(i)(3)) is amended by striking out "1981" and inserting in lieu thereof "1985".

STATEMENT OF PURPOSE

SEC. 5343. Section 2(b) of the Alcohol and Drug Abuse Education Act (21 U.S.C. 1001(b)) is amended by inserting "and related deviant and destructive behavior" after "abuse" the first place it appears therein.

EVALUATION OF PROGRAMS; REPORTS TO CONGRESS

SEC. 5344. Section 3(h) of the Alcohol and Drug Abuse Education Act (21 U.S.C. 1002(h)) is amended—

(1) by striking out "(h)(1)" and inserting in lieu thereof "(h)";

(2) by striking out "shall use funds in an amount of 3 per centum" and inserting in lieu thereof "may use funds in an amount not exceeding 5 per centum"; and

(3) by striking out paragraph (2) thereof.

ELIGIBILITY OF INDIAN TRIBES FOR ASSISTANCE

SEC. 5345. (a)(1) The first sentence of section 3(a) of the Alcohol and Drug Abuse Education Act (21 U.S.C. 1002(a)) is amended by inserting "Indian tribes, Indian organizations, urban Indian centers," after "educational agencies,".

(2) The first sentence of section 3(d) of the Alcohol and Drug Abuse Education Act (21 U.S.C. 1002(d)) is amended by inserting "Indian tribes, Indian organizations, urban Indian centers," after "education,".

(b) The first sentence of section 5 of the Alcohol and Drug Abuse Education Act (21 U.S.C. 1004) is amended by inserting "Indian tribes, Indian organizations, urban Indian centers," after "nonprofit organizations,".

(c) Section 8 of the Alcohol and Drug Abuse Education Act, as amended in section 5346(d)(2), is amended by adding at the end thereof the following new paragraph:

"(c) The term 'Indian' has the meaning given it in section 453 of the Indian Education Act.".

TECHNICAL AMENDMENTS

SEC. 5346. (a)(1) Section 3(a) of the Alcohol and Drug Abuse Education Act (21 U.S.C. 1002(a)) is amended—

(A) by striking out "Commissioner of Education" each place it appears therein and inserting in lieu thereof "Secretary"; and

(B) by striking out "Commissioner" and inserting in lieu thereof "Secretary".

(2) Section 3(d) of the Alcohol and Drug Abuse Education Act (21 U.S.C. 1002(d)) is amended by striking out "Commissioner" and inserting in lieu thereof "Secretary".

(3) Section 3(e) of the Alcohol and Drug Abuse Education Act (21 U.S.C. 1002(e)) is amended—

(A) by striking out "Office of Education" each place it appears therein and inserting in lieu thereof "Department of Education"; and

(B) by striking out "Commissioner" and inserting in lieu thereof "Secretary".

(4) Section 3(f) of the Alcohol and Drug Abuse Education Act (21 U.S.C. 1002(f)) is amended by striking out the last sentence thereof.

(5) Section 3(g)(1) of the Alcohol and Drug Abuse Education Act (21 U.S.C. 1002(g)(1)) is amended—

(A) by striking out "Commissioner" each place it appears therein and inserting in lieu thereof "Secretary"; and

(B) by striking out "and" at the end of subparagraph (D).

(6) Section 3(g)(2) of the Alcohol and Drug Abuse Education Act (21 U.S.C. 1002(g)(2)) is amended by striking out "Commissioner" and inserting in lieu thereof "Secretary".

(7) Section 3(g)(3) of the Alcohol and Drug Abuse Education Act (21 U.S.C. 1002(g)(3)) is amended—

(A) by striking out "Commissioner" and inserting in lieu thereof "Secretary"; and

(B) by striking out "subsections (d)(1) and (d)(2)" and inserting in lieu thereof "paragraphs (1) and (2)".

(8) Section 3(h) of the Alcohol and Drug Abuse Education Act, as so redesignated in section 5344(1), is amended by striking out "Commissioner" and inserting in lieu thereof "Secretary".

(b) Section 4(a) of the Alcohol and Drug Abuse Education Act (21 U.S.C. 1003(a)) is amended by striking out "Commissioner" and inserting in lieu thereof "Secretary".

(c) The first sentence of section 5 of the Alcohol and Drug Abuse Education Act (21 U.S.C. 1004) is amended—

(1) by inserting "Secretary, the" after "The"; and

(2) by striking out "the Secretary of Education".

(d)(1) Section 8(a) of the Alcohol and Drug Abuse Education Act (21 U.S.C. 1007(a)) is amended to read as follows:

"(a) The term 'Secretary' means the Secretary of Education.".

(2) Section 8 of the Alcohol and Drug Abuse Education Act (21 U.S.C. 1007) is amended by striking out paragraph (b) and redesignating paragraph (c) as paragraph (b).

CHAPTER 4—AMENDMENTS TO DOMESTIC VOLUNTEER SERVICE ACT OF 1973

SHORT TITLE

SEC. 5351. This chapter may be cited as the "Domestic Volunteer Service Act Amendments of 1981".

AUTHORIZATION OF APPROPRIATIONS

SEC. 5352. (a)(1) The first sentence of section 501(a) of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5081(a)) is amended by striking out "and" the first place it appears therein, and by inserting after "1981," the following: "and such sums as may be necessary for each of the fiscal years 1982, 1983, and 1984,".

(2) Section 501(a) of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5081(a)) is amended by striking out the last sentence thereof.

(3) Section 501(c) of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5081(c)) is amended to read as follows:

"(c) Of the funds appropriated for any fiscal year for the purpose of carrying out title I of this Act, not less than 83 percent of such sums shall first be available for carrying out the VISTA program under part A of such title.".

(b) Section 504 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5084) is amended by striking out "and", and by inserting after "1981," the following: "September 30, 1982, September 30, 1983, and September 30, 1984,".

SPECIAL SERVICE-LEARNING PROGRAMS

SEC. 5353. Section 114(a) of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4974(a)) is amended to read as follows:

"SEC. 114. (a) The Director is authorized to make grants and contracts for projects and programs which encourage and enable students in secondary, secondary vocational, and post-secondary schools to participate in service-learning programs on an in-school or out-of-school basis in assignments similar to assignments specified in subsections (a) and (c) of section 103, and on the same terms and conditions as are applicable to assignments under subsections (a) and (c) of section 103.".

CHAPTER 5—AMENDMENTS TO CHILD ABUSE PREVENTION AND TREATMENT ACT AND CHILD ABUSE PREVENTION AND TREATMENT AND ADOPTION REFORM ACT OF 1978

SHORT TITLE

SEC. 5361. This chapter may be cited as the "Child Abuse Prevention and Treatment Amendments of 1981".

EXTENSION OF CHILD ABUSE PREVENTION AND TREATMENT PROGRAM

SEC. 5362. (a) The first sentence of section 5(a) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5104(a)) is amended by striking out "and" after "1979," and by inserting before the period at the end thereof the following: ", $19,200,000 for the fiscal year ending September 30, 1982, $19,612,000 for the fiscal year ending September 30, 1983, $21,016,000 for the fiscal year ending September 30, 1984, $28,883,000 for the fiscal year ending September 30, 1985, and $31,193,000 for the fiscal year ending September 30, 1986".

(b) The last sentence of section 5(a) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5104(a)) is amended by striking out "each of the fiscal years" and all that follows through the end thereof and inserting in lieu thereof "the fiscal year ending September 30, 1980, and for each of the six succeeding fiscal years.".

(c) Section 5(b)(1) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5104(b)(1)) is amended by striking out "and" after "1979," and by inserting after "respectively," the following: "$3,000,000 for the fiscal year ending September 30, 1982, $4,157,000 for the fiscal year ending September 30, 1983, $4,532,000 for the fiscal year ending September 30, 1984, $5,039,000 for the fiscal year ending September 30, 1985, and $5,442,000 for the fiscal year ending September 30, 1986,".

EXTENSION OF ADOPTION REFORM PROGRAM

SEC. 5363. Section 204 of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, as so redesignated in section 5366(e), is amended by striking out "and" after "1978," and by inserting after "fiscal years" the following: ", $3,500,000 for the fiscal year ending September 30, 1982, $3,900,000 for the fiscal year ending September 30, 1983, $4,300,000 for the fiscal year ending September 30, 1984, $4,409,000 for the fiscal year ending September 30, 1985, and $4,762,000 for the fiscal year ending September 30, 1986,".

ASSISTANCE FOR LOCATION OF MISSING CHILDREN

SEC. 5364. (a) Section 2(b) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101(b)) is amended—

(1) in paragraph (1) thereof, by inserting ", and on missing children" after "neglect";

(2) in paragraph (2) thereof, by inserting ", and for the location of missing children" after "neglect";

(3) in paragraph (3) thereof, by inserting ", or in the location of missing children" after "neglect";

(4) in paragraph (4) thereof, by inserting ", or relating to the location of missing children" after "neglect";

(5) in paragraph (5) thereof, by inserting ", and conduct research relating to methods and techniques which may be utilized in the location of missing children" after "thereof";

(6) in paragraph (6) thereof, by inserting "and of the scope of the problem of missing children" after "neglect" the first place it appears therein, by inserting "and incidents of missing children" after "neglect" the last place it appears therein, and by striking out "and" at the end thereof;

(7) in paragraph (7) thereof, by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(8) by adding at the end thereof the following new paragraph:

"(8) provide technical assistance and coordinate activities with other appropriate Federal, State, and local departments and agencies, including law enforcement and social service agencies, for the purpose of aiding efforts to locate missing children.".

(b)(1) Section 3 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5102) is amended by striking out "SEC. 3. For purposes of this Act the" and inserting in lieu thereof the following:

"SEC. 3. For purposes of this Act:

"(1) The".

(2) Section 3 of the Child Abuse Prevention and Treatment Act, as amended in paragraph (1), is further amended by adding at the end thereof the following new paragraph:

"(2) The term 'missing children' means any children who are less than 18 years of age and who have been reported missing to any law enforcement officer or other governmental authority.".

(3) The heading for section 3 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5102) is amended to read as follows:

"DEFINITIONS".

REPORTING OF CHILD ABUSE OR NEGLECT IN RESIDENTIAL INSTITUTIONS

SEC. 5365. Section 4(b)(2)(A) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5103(b)(2)(A)) is amended—

(1) by inserting "(i)" after "include"; and

(2) by inserting before the semicolon at the end thereof the following: "; and (ii) provisions which prohibit any person responsible for the administration of any public or private residential institution (or an agent of any such person) from discharging or otherwise discriminating against, or taking any other adverse employment action against, any individual as a result of any report made by such individual relating to any occurrence of child abuse or neglect at any such institution".

ELIMINATION OF CERTAIN SUPERSEDED AUTHORITY

SEC. 5366. (a) Title II of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (42 U.S.C. 5111 et seq.) is amended by striking out section 202.

(b) Section 202 of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, as so redesignated in section 5367, is amended by striking out the dash and all that follows through the end thereof and inserting in lieu thereof the following: "providing a mechanism for the Department of Health and Human Services to—

"(1) promote quality standards for adoption services (including preplacement, postplacement, and postadoption counseling and standards to protect the rights of children in need of adoption);

"(2) provide for a national adoption and foster care information data gathering and analysis system and a national adoption information exchange system to bring together children who would benefit from adoption and qualified prospective adoptive parents who are seeking such children; and

"(3) facilitate implementation of the goals and purposes specified in the Adoption Assistance and Child Welfare Act of 1980 and in the amendments made by such Act.".

(c) Section 203(a) of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (42 U.S.C. 5113(a)) is amended by inserting after "foster care" the following: ", including those mandated under the Adoption Assistance and Child Welfare Act of 1980 and the amendments made by such Act,".

(d) Section 203(b)(1) of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (42 U.S.C. 5113(b)(1)) is amended by inserting before the semicolon at the end thereof the following: ", including the requirements established in the Adoption Assistance and Child Welfare Act of 1980 and in the amendments made by such Act".

(e) Title II of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (42 U.S.C. 5111 et seq.) is amended by striking out section 204 thereof, and by redesignating section 205 as section 204.

TECHNICAL AMENDMENTS

SEC. 5367. (a)(1) Section 2(a) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101(a)) is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

(2) Section 5(a) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5104(a)) is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

(3) Section 6(a) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5105(a)) is amended by striking out "Office of Education" and inserting in lieu thereof "Department of Education".

(b)(1) Title II of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (42 U.S.C. 5111 et seq.) is amended by redesignating section 201 as section 202 and by inserting before section 202 (as so redesignated) the following new section:

"SHORT TITLE

"SEC. 201. This title may be cited as the 'Adoption Opportunities Act of 1978'.".

(2) Section 203(a) of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (42 U.S.C. 5113(a)) is amended—

(A) by inserting "of Health and Human Services (hereinafter in this title referred to as the 'Secretary')" after "Secretary" the first place it appears therein; and

(B) by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

(3) Section 203(b)(5) of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (42 U.S.C. 5113(b)(5)) is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

CHAPTER 6—OTHER REAUTHORIZATION PROVISIONS

GENERAL EXTENSION OF AUTHORIZATIONS

SEC. 5381. (a) Subject to the limitations contained in subtitle A of this title, there are authorized to be appropriated for fiscal years 1982, 1983, and 1984 such sums as may be necessary to carry out each of the following provisions of law:

(1) parts C, D, E, and F of the Education of the Handicapped Act;

(2) the Elementary and Secondary Education Act of 1965;

(3) the Act of September 30, 1950 (Public Law 874, 81st Congress);

(4) the Act of September 23, 1950 (Public Law 815, 81st Congress);

(5) the General Education Provisions Act;

(6) the Indian Education Act;

(7) titles XI, XIV, and XV of the Education Amendments of 1978 and part H of title XIII of the Education Amendments of 1980;

(8) the Adult Education Act;

(9) the Indochina Refugee Children Assistance Act of 1976;

(10) section 342 of the Education Amendments of 1976;

(11) the Asbestos School Hazards Detection and Control Act;

(12) the Joint Resolution of October 19, 1972 (86 Stat. 907);

(13) the Vocational Education Act of 1963;

(14) the Career Education Incentive Act;

(15) title IV of the Civil Rights Act of 1964;

(16) the Comprehensive Employment and Training Act;

(17) the Library Services and Construction Act;

(18) the Navajo Community College Act and the Tribally Controlled Community College Assistance Act of 1978; and

(19) the Rehabilitation Act of 1973.

(b) Subject to the limitations contained in subtitle A of this title, there are authorized to be appropriated for fiscal year 1984 such sums as may be necessary to carry out title II of the Domestic Volunteer Service Act of 1973.

USE OF APPROPRIATED FUNDS UNDER EDUCATION OF THE HANDICAPPED ACT

SEC. 5382. (a) Of the amounts appropriated to carry out section 623 of the Education of the Handicapped Act for each of the fiscal years 1982, 1983, and 1984, not less than 8 percent of such amounts shall be used for programs and activities relating to children aged 3 years old or younger.

(b) Of the amounts appropriated to carry out part D of the Education of the Handicapped Act, other than section 633, for each of the fiscal years 1982, 1983, and 1984, not less than 95 percent of such amounts shall be used for the training of individuals preparing to engage in employment as teachers of handicapped children, as supervisors of such teachers, as speech correctionists, as physical educators or recreational personnel, or as related specialists.

(c) Of the amounts appropriated to carry out part E of the Education of the Handicapped Act, for each of the fiscal years 1982, 1983, and 1984, not less than 75 percent of such amounts shall be used for research programs and activities.

GRANTS AND CONTRACTS MADE BY NATIONAL INSTITUTE OF EDUCATION

SEC. 5383. (a) Section 405(f) of the General Education Provisions Act is amended by adding at the end thereof the following new paragraph:

"(4) The Director, in making grants and entering into contracts under this subsection, shall establish rules and procedures under which grants and contracts shall be awarded on a competitive basis.".

(b) Section 405(j) of the General Education Provisions Act is amended by adding at the end thereof the following new paragraph:

"(3) The Director shall not be required to set aside, for grants or contracts under subsection (f), any portion of amounts appropriated under this subsection for any fiscal year.".

Subtitle C—Savings in Entitlement Programs

CHAPTER 1—REVISION OF STUDENT LOAN PROGRAM

NEEDS ASSESSMENT ADJUSTMENT FOR OTHER FEDERAL STUDENT BENEFITS

SEC. 5411. (a) Section 482(b)(3) of the Higher Education Act of 1965 is amended by striking out ", and includes any amount paid under the Social Security Act to, or on account of, the student which would not be paid if he were not a student and one-half of any amount paid the student under chapters 34 and 35 of title 38, United States Code".

(b) Section 482(b)(1) of the Act is amended by inserting before the period at the end of the first sentence thereof the following: ", and includes (A) any amount paid under the Social Security Act to, or on account of, the student which would not be paid if he were not a student, and (B) any amount paid the student under chapters 34 and 35 of title 38, United States Code".

(c) Section 481(a) of the Act is amended by adding at the end thereof the following new paragraph:

"(4) The Secretary may not, by rule, regulation, or otherwise, withdraw or amend any schedule of expected family contributions for any academic year after the submission of such schedule to the President of the Senate and the Speaker of the House of Representatives under paragraph (2) except as required by such paragraph following the adoption of a resolution of disapproval of such schedule. Any withdrawl of or amendment to such a schedule made in violation of this paragraph shall have no force and effect.".

(d) Section 428(a)(2)(B)(ii) of the Higher Education Act of 1965 is amended by inserting after "this title," the following: "any amount paid under the Social Security Act to, or on the account of, the student which would not otherwise be paid if he were not a student, any amount paid the student under chapters 34 and 35 of title 38, United States Code,".

INTEREST RATES ON PARENT LOANS; ADJUSTMENT OF, AND ELIMINATION OF ROUNDING FROM, SPECIAL ALLOWANCE

SEC. 5412. (a) Section 428B(c)(3) of the Act is amended to read as follows:

"(3) Interest on loans made pursuant to this section shall be at the rate of 9 per centum per annum on the unpaid principal balance of the loan, except that for any loan made pursuant to this section on or after October 1, 1981, the interest shall be at the rate of 14 per centum per annum on the unpaid prinicpal balance of the loan.".

(b) Section 438(b)(2) of the Act is amended—

(1) by striking out subparagraphs (A), (B), and (C) and inserting in lieu thereof the following:

"(2)(A) Subject to subparagraph (B) and paragraph (4), the special allowance paid pursuant to this subsection on loans shall be computed (i) by determining the average of the bond equivalent rates of ninety-one-day Treasury bills auctioned for such three month period, (ii) by subtracting the applicable interest rate on such loans from such average, (iii) by adding 3.5 per centum to the resultant per centum, and (iv) by dividing the resultant per centum by four.";

(2) by redesignating subparagraph (D) as subparagraph (B); and

(3) by striking out "subparagraph (A), (B), or (C)" in subparagraph (B) (as so redesignated) and inserting in lieu thereof "subparagraph (A)".

INDEPENDENT STUDENT LOAN LIMITATIONS

SEC. 5413. (a) Section 425(a)(1) of the Act is amended—

(1) by striking out clause (A) and by redesignating clauses (B), (C), and (D) as clauses (A), (B), and (C), respectively; and

(2) by striking out "clause (C)" in the last sentence of such section and inserting in lieu thereof "clause (B)".

(b) Section 425(a)(2) of such Act is amended—

(1) by striking out "(other than an independent student)"; and

(2) by striking out "$15,000 in the case of any independent student who has not successfully completed a program of undergraduate education,".

(c) The matter preceding subdivision (i) of section 428(b)(1)(A) of the Act is amended—

(1) by striking out "(other than an independent student)"; and

(2) by striking out "or not more than $3,000 in the case of an independent student (defined in accordance with section 482(c)(2)) who has not successfully completed a program of undergraduate education,".

(d) Section 428(b)(1)(B) of the Act is amended—

(1) by striking out "(other than an independent student)"; and

(2) by striking out "$15,000 in the case of any independent student who has not suc-

cessfully completed a program of undergraduate education,".

(e) Section 428A of the Act is amended—

(1) by striking out ", other than an independent student," in subsection (a)(1)(A) and in subsection (a)(2)(A);

(2) by striking out "$3,000 (in the case of an independent student (as defined in section 482(c)(2)) who has not successfully completed a program of undergraduate education)," in each such subsection;

(3) by striking out "(other than an independent student)" in each such subsection; and

(4) by striking out "$15,000 in the case of any independent student who has not successfully completed a program of undergraduate education," in each such subsection.

ELIMINATION OF GRACE PERIODS AFTER DEFERMENTS

SEC. 5414. (a) Section 427(a)(2)(C) of the Act is amended—

(1) by striking out "that any such period" and inserting in lieu thereof "and any such period"; and

(2) by striking out ", that no repayment of principal of any loan for any period of study, training, service, or unemployment described in this clause or any combination thereof shall begin until six months after completion of such period or combination thereof".

(b) Section 428(b)(1)(M) of the Act is amended by striking out ", and that no repayment of principal of any loan for any period of study, training, service, or unemployment described in this clause or any combination thereof shall begin until six months after completion of such period or combination thereof".

RESTRICTION OF DEFERMENTS OF REPAYMENT

SEC. 5415. (a) Section 427(a)(2)(C) of the Act is amended by striking out clauses (ii) through (vii), by redesignating clause (viii) as clause (ii), and by inserting "or" before such clause.

(b) Section 428(b)(1)(M) of the Act is amended by striking out clauses (ii) through (vii), by redesignating clause (viii) as clause (ii), and by inserting "or" before such clause.

MINIMUM ANNUAL REPAYMENT

SEC. 5416. (a) Section 427(c) of the Act is amended by striking out "$360" each place it appears and inserting in lieu thereof "$600".

(b) Section 428(b)(1)(L) of the Act is amended by striking out "$360" each place it appears and inserting in lieu thereof "$600".

RESTRICTION OF INSURANCE PREMIUMS

SEC. 5417. Section 428(b)(1)(H) of the Act is amended to read as follows:

"(H) does not provide for the collection of an insurance premium in excess of 1 per centum of the principal balance of the loan, except to the extent permitted by regulation prescribed by the Secretary (after taking into consideration such factors as duration of the operations of the institution or organization and the amount of accumulated insurance premiums, anticipated default claims, and unexpended advances), and insures that the proceeds of the premium will not be used for incentive payments to lenders;".

ASSIGNMENT OF COLLECTIONS

SEC. 5418. (a) Section 428(c) of the Act is amended—

(1) in paragraph (2)(D) by striking out "but shall not otherwise provide for subrogation of the United States to the rights of any insurance beneficiary" and inserting in lieu thereof "but shall provide for subrogation of the United States to the rights of any insurance beneficiary only to the extent required for purposes of paragraph (8)"; and

(2) by adding at the end thereof the following new paragraph:

"(8) If the Secretary determines that the protection of the fiscal interest of the United States so requires, a State or nonprofit private institution or organization with which the Secretary has an agreement under subsection (b) shall assign to the Secretary any loan of which it is the holder and for which the Secretary has made a payment pursuant to paragraph (1) of this subsection.".

(b) Section 463(a)(5) of the Act is amended by striking out "may assign" and inserting in lieu thereof "shall assign".

REDUCTION OF SPECIAL ALLOWANCES BY AMOUNT OF AUTHORIZED ORIGINATION FEES

SEC. 5419. (a) Section 438 of the Higher Education Act of 1965 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) Notwithstanding subsection (b), the amount of the special allowance which shall be paid on the dates specified in subsection (b)(1) to any holder with respect to loans made on or after July 1, 1981, shall be reduced by an amount equal to—

"(1) the maximum amount which the lender was authorized to charge as an origination fee with respect to such loans in accordance with section 427A(d), minus

"(2) the sum of the amounts by which preceding payments of the special allowance with respect to such loans under this section were reduced in accordance with this paragraph.".

(b) Section 427A of the Higher Education Act of 1965 is amended by adding at the end thereof the following:

"(d) With respect to any loan made on or after July 1, 1981, other than a loan made under section 439(o) for purposes of consolidation, each eligible lender under this part is authorized to charge the borrower an origination fee in an amount not to exceed 4 per centum of the principal amount of the loan, which may be deducted from the proceeds of the loan prior to payment to the borrower. Such origination fee shall not be taken into account for purposes of determining compliance with subsection (a) of this section, but shall be disclosed to the borrower as a finance charge in accordance with the Truth in Lending Act (15 U.S.C. 1601 et seq.).".

ADMINISTRATIVE ALLOWANCE

SEC. 5420. Subsection (e) of section 428 of the Act is repealed.

EFFECTIVE DATE

SEC. 5421. (a) Except as provided in subsection (b), the amendments made by this chapter shall apply to loans made under part B of title IV of the Higher Education Act of 1965 on or after October 1, 1981.

(b)(1) The amendments made by sections 5412(b) and 5418 shall take effect on October 1, 1981, and shall apply to outstanding loans as well as to loans made after that date.

(2) The amendments made by section 5419 shall take effect on July 1, 1981, and shall apply to loans made on or after that date.

(3) The repeal made by section 5420 shall be effective on the date of the enactment of this Act.

CHAPTER 2—REDUCTIONS IN CHILD NUTRITION PROGRAMS

SHORT TITLE

SEC. 5431. This chapter may be cited as the "Child Nutrition Amendments of 1981".

REDUCTION IN GENERAL REIMBURSEMENT

SEC. 5432. Section 4 of the National School Lunch Act is amended—

(1) by inserting "(a)" after "SEC. 4.";

(2) in subsection (a) (as so designated), by striking out the second sentence; and

(3) by adding at the end thereof the following new subsection:

"(b)(1) For each fiscal year the Secretary shall make food assistance payments, from the sums appropriated therefor, at such times as he may determine, to each State educational agency, in an amount equal to the sum of the following:

"(A) The product of—

"(i) the number of lunches served during such fiscal year to children in schools in such State by school food authorities under which less than 60 percent of the lunches served in the school lunch program were served free or at a reduced price during the second preceding school year;

multiplied by

"(ii) the appropriate national average lunch payment specified under paragraph (2) of this subsection.

"(B) The amount equal to the product of—

"(i) the number of lunches served during such fiscal year to children in schools in such State by school food authorities under which at least 60 percent of the lunches served in the school lunch program were served free or at a reduced price during the second preceding school year;

multiplied by

"(ii) the appropriate national average lunch payment specified under paragraph (2).

"(2)(A) The national average lunch payment for each lunch described by paragraph (1)(A) shall be 12.5815 cents, which payment shall be adjusted in accordance with section 11(a) of this Act on July 1, 1981, and annually thereafter.

"(B) The national average lunch payment for each lunch described by paragraph (1)(B) shall be 15.0815 cents, which payment shall be adjusted in accordance with section 11(a) of this Act on July 1, 1981, and annually thereafter.

"(3) As used in this subsection, the term 'school food authority' means the governing body that is responsible for the administration of one or more schools in a State and that has the legal authority to operate a school lunch program under this Act pursuant to an agreement with the State educational agency of the State.

"(c) Payments shall be made under this section only for those lunches which consist of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary under section 9(a) of this Act.".

REDUCTION IN REDUCED PRICE LUNCH SUBSIDY; ANNUAL ADJUSTMENT IN PAYMENT RATES

SEC. 5433. Section 11(a) of the National School Lunch Act is amended—

(1) by inserting "(1)" after "SEC. 11. (a)";

(2) in the third sentence of subsection (a)(1) (as so redesignated), by striking out "(1)" and inserting in lieu thereof "(A)", and by striking out "(2)" and inserting in lieu thereof "(B)"; and

(3) by striking out the fifth sentence of such subsection and all that follows

through the end thereof and inserting in lieu thereof the following new paragraphs:

"(2) The special-assistance factor prescribed by the Secretary for free lunches shall be 92.1165 cents, adjusted on July 1, 1981, and annually thereafter in accordance with this subsection. The special-assistance factor for reduced-price lunches shall be 35 cents less than the special assistance factor for free lunches.

"(3)(A) The Secretary shall prescribe on July 1, 1981, and on each subsequent July 1, an annual adjustment in—

"(i) the national average payment rates for lunches under section 4 of this Act;

"(ii) the special-assistance factor for lunches (under paragraph (2) of this subsection);

"(iii) the national average payment rates for breakfasts (under section 4(b) of the Child Nutrition Act of 1966); and

"(iv) the national average payment rates for supplements (under section 17(c) of this Act).

"(B) The annual adjustment under this paragraph shall reflect changes in the cost of operating meal programs under this Act and the Child Nutrition Act of 1966, as indicated by the change in the series for food away from home of the Consumer Price Index for all Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor. Each annual adjustment shall reflect the changes in the series for food away from home for the most recent 12-month period for which such data are available. The adjustments made under this paragraph shall be computed to the nearest one-fourth cent.".

REDUCTION IN BREAKFAST SUBSIDIES

SEC. 5434. (a) Section 4(b)(1) of the Child Nutrition Act of 1966 is amended to read as follows:

"(b)(1)(A) For each fiscal year the Secretary shall make breakfast assistance payments, from the sums appropriated therefor, at such times as he may determine, to each State educational agency, in an amount equal to the sum of the following:

"(i) The amount equal to the product of—

"(I) the number of breakfasts served during such fiscal year to children eligible for free breakfasts in schools in such State which participate in the school breakfast program under this section under agreements with such State educational agency;

multiplied by

"(II) the national average free breakfast payment.

"(ii) The amount equal to the product of—

"(I) the number of breakfasts served during such fiscal year to children eligible for reduced-price breakfasts in schools in such State which participate in the school breakfast program under this section under agreements with such State educational agency;

multiplied by

"(II) the national average reduced-price breakfast payment.

"(iii) The amount equal to the product of—

"(I) the number of breakfasts served during such fiscal year to children in schools in such State (other than those children who are eligible for free or reduced-price breakfasts) which participate in the school breakfast program under this section under agreements with such State educational agency;

multiplied by

"(II) the national average paid breakfast payment.

"(B) The national average payment for each free breakfast shall be 52.027 cents, the national average payment for each reduced price breakfast shall be 37.737 cents, and the national average payment for each paid breakfast shall be 9.8655 cents. These payment factors shall be adjusted in accordance with section 11(a) of the National School Lunch Act on July 1, 1981, and annually thereafter.

"(C) No breakfast assistance payment may be made under this subsection for any breakfast served by a school unless such breakfast consists of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary under subsection (e) of this section.".

(b) Section 4(b)(2) of the Child Nutrition Act of 1966 is amended—

(1) in subparagraph (B)(ii)—

(A) by striking out "on a semi-annual basis each July 1 and January 1" and inserting in lieu thereof "on an annual basis each July 1"; and

(B) by striking out "six-month" and inserting in lieu thereof "twelve-month"; and

(2) in subparagraph (C), by striking out "five cents less" and inserting in lieu thereof "ten cents less".

REDUCTION IN COMMODITY ASSISTANCE FOR LUNCHES

SEC. 5435. The first sentence of section 6(e) of the National School Lunch Act is amended to read as follows: "The national average value of donated foods, or cash payments in lieu thereof, shall be 8.54 cents, adjusted on July 1, 1981, and each July 1 thereafter, to reflect changes in the Price Index for Food Used in Schools and Institutions.".

REVISION OF INCOME ELIGIBILITY GUIDELINES

SEC. 5436. (a) Section 9(b) of the National School Lunch Act is amended:

(1) by redesignating paragraph (2) as paragraph (5);

(2) by amending all that precedes paragraph (5) (as so redesignated) to read as follows:

"(b)(1) Not later than June 1 of each fiscal year, the Secretary shall prescribe income guidelines, by family size, for determining eligibility for free and reduced-price lunches during the 12-month period beginning July 1 of such fiscal year and ending June 30 of the following fiscal year. The income eligibility guidelines for free lunches during any such 12-month period shall be prescribed at an amount equal to the sum of 125 percent of the applicable family size income levels contained in the nonfarm income poverty guidelines prescribed by the Office of Management and Budget, adjusted annually pursuant to section 625 of the Economic Opportunity Act of 1964, plus the standard deduction for each household provided under paragraph (2)(A). The income eligibility guidelines for reduced-price lunches during any such 12-month period shall be prescribed at an amount equal to the sum of 185 percent of the applicable family size income levels contained in such guidelines, plus the standard deduction for each household provided under paragraph (2)(B).

"(2)(A) For purposes of computing eligibility for free lunches under paragraph (1), the Secretary shall provide for a monthly standard deduction—

"(i) in the amount of $60 for households in each State (other than Alaska, Hawaii, and Guam), which amount shall be adjusted to the nearest $5 on July 1, 1981, to reflect changes in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics, for items other than food for the period September 1977 through March 1981, and adjusted to the nearest $5 on each subsequent July 1 to reflect such changes in the index for the 12-month period beginning April 1 of the fiscal year before such adjustment is made and ending March 31 of the fiscal year in which the adjustment is made;

"(ii) for households in Alaska in any school year, in an amount which bears the same ratio to the standard deduction allowed in the contiguous States for such year as the applicable income eligibility guidelines for Alaska for such year bear to the applicable income eligibility guidelines for such States for such year; and

"(iii) for households in Hawaii and Guam in any school year, in an amount which bears the same ratio to the standard deduction allowed in the contiguous States for such year as the applicable income eligibility guidelines for Hawaii for such year bear to the applicable income eligibility guidelines for such States for such year.

"(B) For purposes of computing eligibility for reduced-price lunches under paragraph (1), the Secretary shall provide for a monthly standard deduction—

"(i) in the amount of $50 for households in each State (other than Alaska, Hawaii, and Guam), which amount shall be adjusted to the nearest $5 on July 1, 1982, and on each subsequent July 1, to reflect changes in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics, for items other than food for the 12 month period beginning April 1 of the fiscal year before such adjustment is made and ending March 31 of the fiscal year in which the adjustment is made;

"(ii) for households in Alaska in any school year, in an amount which bears the same ratio to the standard deduction allowed in the contiguous States for such year as the applicable income eligibility guidelines for Alaska bear to the applicable income eligibility guidelines for such States for such year; and

"(iii) for households in Hawaii and Guam in any school year, in an amount which bears the same ratio to the standard deduction allowed in the contiguous States for such year as the applicable income eligibility guidelines for Hawaii for such year bear to the applicable income eligibility guidelines for such States for such year.

"(3)(A) Before the beginning of each school year, local school food authorities shall publicly announce the income eligibility guidelines, by family size, for free and reduced-price lunches as established by the Secretary under paragraph (1). The Secretary shall make determinations with respect to the annual incomes of any household solely on the basis of an application executed by an adult member of the household, in such form as the Secretary may prescribe. Local school food authorities may, for cause, seek verification of the data contained in the application.

"(B) Local school food authorities shall provide—

"(i) free lunches to each child whose household income, at the time the application is submitted under subparagraph (A), is at an annual rate which does not exceed the income eligibility guidelines for free lunches as established under paragraph (1); and

"(ii) reduced-price lunches (at a charge of not to exceed 35 cents) to each child whose household income, at the time the application is submitted under subparagraph (A), is

at an annual rate which does not exceed the income eligibility guidelines for reduced-price lunches as established under paragraph (1).

"(4) No physical segregation of or other discrimination against any child eligible for a free lunch or a reduced price lunch under this subsection shall be made by the school nor shall there be any overt identification of any child by special tokens or tickets, announced or published lists of names, or by other means."; and

(3) in paragraph (5) (as so redesignated), by striking out the last sentence.

(b) For the school year ending June 30, 1982, the Secretary may prescribe procedures for implementing the revisions in the income eligibility guidelines for free and reduced-price lunches made by the amendments under subsection (a) of this section. Such procedures may allow school food authorities to (1) use applications distributed at the beginning of the school year when making eligibility determinations based on the revised income eligibility guidelines, or (2) distribute new applications containing the revised income eligibility guidelines and make determinations using the new applications.

REVISION OF STATE REVENUE MATCHING REQUIREMENTS

SEC. 5437. (a) Section 7 of the National School Lunch Act is amended to read as follows:

"SEC. 7. (a) Funds appropriated to carry out section 4 of this Act during any fiscal year shall be available for payment to the States for disbursement by State educational agencies, in accordance with such agreements, not inconsistent with the provisions of this Act, as may be entered into by the Secretary and such State educational agencies, for the purpose of assisting schools within the States in obtaining agricultural commodities and other foods for consumption by children in furtherance of the school lunch program authorized under this Act. For any school year, such payments shall be made to a State only if, during such school year, the amount of the State revenues (excluding State revenues derived from the operation of the program) appropriated for, or used in connection with, food service in schools participating in the school lunch program under this Act (other than any State revenues expended for salaries and administrative expenses of the program at the State level) is not less than 30 percent of the funds made available to such State under section 4 of this Act for the school year beginning July 1, 1980.

"(2) If, for any school year, the per capita income of a State is less than the average per capita income of all the States, the amount required to be expended by a State under paragraph (1) for such year shall be an amount bearing the same ratio to the amount equal to 30 percent of the funds made available to such State under section 4 of this Act for the school year beginning July 1, 1980, as the per capita income of such State bears to the average per capita income of all the States.

"(b) No State in which the State educational agency is prohibited by law from disbursing State appropriated funds to private schools shall be required to match Federal funds made available for meals served in such schools, or to disburse, to such schools, any of the State revenues required to meet the requirements of subsection (a).

"(c) The Secretary shall certify to the Secretary of the Treasury, from time to time, the amounts to be paid to any State under this section and shall specify when such payments are to be made. The Secretary of the Treasury shall pay to the State, at the time or times fixed by the Secretary, the amounts so certified.".

(b) Section 10 of the National School Lunch Act is amended to read as follows:

"DISBURSEMENT TO SCHOOLS BY THE SECRETARY

"SEC. 10. If, in any State, the State educational agency is not permitted by law to disburse the funds paid to it under this Act to any of the schools in the State, the Secretary shall disburse the fund directly to such schools within the State for the same purposes and subject to the same conditions as are authorized or required with respect to the disbursements to schools within the State by the State educational agency.".

REDUCTION OF EQUIPMENT ASSISTANCE

SEC. 5438. (a) The first sentence of section 5(a) of the Child Nutrition Act of 1966 is amended by striking out "There is authorized" and all that follows through "to assist" and inserting in lieu thereof: "Of the sums appropriated for any fiscal year pursuant to the authorization contained in section 3 of the National School Lunch Act, $1,000,000 shall be made available to and apportioned by the Secretary in accordance with this section for the purpose of assisting".

(b) Section 5(b) of the Child Nutrition Act of 1966 is amended—

(1) by striking out "Except for the funds" and all that follows through "the purposes of this section" and inserting in lieu thereof: "Funds made available under this section, and not used pursuant to subsection (e), shall be apportioned"; and

(2) by striking out the second, fourth, and fifth sentences.

(c) The first sentence of section 5(e) of the Child Nutrition Act of 1966 is amended by striking out "For the fiscal years" and all that follows through "for the purposes of this section" and inserting in lieu thereof: "The funds made available under subsection (a) of this section".

REVISION OF THE SPECIAL MILK PROGRAM

SEC. 5439. Section 3 of the Child Nutrition Act is amended by—

(1) in the first sentence by inserting ", which do not participate in a meal service program authorized under this Act or the National School Lunch Act" after "under" in clause (1) and after "training of children" in clause (2);

(2) in the fourth sentence by inserting "which does not participate in a meal service program authorized under this Act or the National School Lunch Act" after "institution"; and

(3) by striking out the eighth sentence.

LIMITATION ON PRIVATE SCHOOL PARTICIPATION

SEC. 5440. (a) Section 12(d)(6) of the National School Lunch Act is amended by inserting in the first sentence "except private schools whose average yearly tuition exceeds $1,500 per child" after "under".

(b) Section 15(c) of the Child Nutrition Act of 1966 is amended by inserting in the first sentence "except private schools whose average yearly tuition exceeds $1,500 per child" after "such school,".

REVISION OF SUMMER FOOD SERVICE PROGRAM

SEC. 5441. (a) Section 13(a)(1) of the National School Lunch Act is amended in clause (B) by striking out "or private nonprofit institutions" and inserting in lieu thereof the following: "institutions, nonresidential private nonprofit institutions serving not more than 1,000 children each day at not more than 10 sites".

(b) Section 13(b)(2) of the National School Lunch Act is amended by striking out "and either breakfast or a meal supplement".

REVISION OF CHILD CARE FOOD PROGRAM

SEC. 5442. (a) Section 17 of the National School Lunch Act is amended—

(1) in subsection (a)—

(A) by striking out "and such term" and all that follows through "Act"; and

(B) by inserting after the third sentence the following: "The term 'children' means any individual less than 14 years of age (except that in the case of handicapped children or children of migrant workers such age limitation is inapplicable).";

(2) in subsection (b), by striking out "served in the manner specified in subsection (c)" and inserting in lieu thereof "as provided in subsection (f)";

(3) by amending subsection (c) to read as follows:

"(c) For purposes of determining reimbursement under subsection (f)(2) (for institutions other than family or group day care home sponsoring organizations), the national average payment rates for meals under this section shall be as follows:

"(1) The national average payment rates for free lunches and suppers, reduced-price lunches and suppers, and paid lunches and suppers shall be the same as the national average payment rates for free lunches under section 11 of this Act, the national average payment rates for reduced-price lunches under section 11 of this Act, and the national average payment rates for paid lunches under section 4(b)(2)(A) of this Act, respectively, as adjusted pursuant to section 11 of this Act.

"(2) The national average payment rates for free breakfasts, reduced-price breakfasts, and paid breakfasts shall be the same as the national average payment rates under section 4(b) of the Child Nutrition Act of 1966 for free breakfasts, reduced-price breakfasts, and paid breakfasts, respectively, as adjusted pursuant to section 11 of this Act.

"(3)(A) The national average payment rate for free supplements shall be 30.50 cents, the national average payment rate for reduced-price supplements shall be 23.25 cents, and the national average payment rate for paid supplements shall be 7.75 cents. The Secretary shall adjust such national average payment rates on July 1, 1981, and annually thereafter, in accordance with section 11(a) of this Act. Determinations with regard to eligibility for free supplements and reduced-price supplements shall be made in accordance with the income eligibility guidelines for free lunches and reduced price lunches, respectively, under section 9 of this Act.

"(B) Notwithstanding the provisions of subparagraph (A), the national average payment rates for free supplements, reduced-price supplements, and paid supplements shall each be 3 cents lower than the adjusted national average payment rates for such supplements as determined by the Secretary under subparagraph (A).";

(4) by amending subsection (f)(2) to read as follows:

"(2)(A) Subject to subparagraph (B) of this paragraph, the disbursement for any fiscal year to any institution, other than family or group day care home sponsoring organizations, for meals provided under this section shall be equal to the sum of the products obtained by multiplying the total

number of each type of meal (breakfast, lunch, supper, or supplement) served in such institution in that fiscal year by the applicable national average payment rate for such meal as determined under subsection (c).

"(B) For meals served to any child at any institution eligible for reimbursement under this section (including family or group day care home sponsoring organizations), no reimbursement to any such institution may be provided under this section for more than two supplements and two meals (other than supplements) served to any such child in one day.";

(5) in subsection (f)(3), by striking out "may elect to" and inserting in lieu thereof "shall";

(6) in subsection (f)(4)—

(A) by inserting "(A)(i)" after "(4)";

(B) by redesignating the fourth sentence and all that follows through the end of the paragraph as subparagraph (B);

(C) in subparagraph (A)(i) (as so redesignated), by striking out the second and third sentences and inserting in lieu thereof the following: "The reimbursement factor shall be adjusted on July 1, 1981, and on each subsequent July 1, to reflect changes in the Consumer Price Index for food at home for the most recent twelve-month period for which such data are available. No reimbursement shall be provided under this paragraph for meals served to the children of a person acting as a family or group day care home provider, unless such children meet the eligibility standards for free or reduced-price meals under section 9 of this Act. Such institutions shall also receive reimbursement for their administrative expenses in amounts not exceeding the maximum allowable levels prescribed by the Secretary. Such levels shall be adjusted on July 1, 1981, and on each subsequent July 1, to reflect changes in the Consumer Price Index for food at home for the most recent twelve-month period for which such data are available."; and

(D) by adding at the end of subparagraph (A) (as so redesignated) the following:

"(ii) The maximum allowable levels for administrative expense payments in effect as of the date of the enactment of this clause shall be adjusted by the Secretary so as to effect a 10 percent reduction in the total amount of reimbursement provided to institutions for administrative expenses under this paragraph. In carrying out the reduction required by the preceding sentence, the Secretary shall reduce reimbursement rates for such administrative expenses for institutions that sponsor a large number of family or group day care homes.";

(7) by striking out subsection (n);

(8) in subsection (o), by striking out in the second sentence "the availability of food service equipment funds under the program"; and

(9) by redesignating subsections (o), (p), (q), and (r) (and any references thereto) as subsections (n), (o), (p), and (q), respectively.

CLAIMS ADJUSTMENT AUTHORITY

SEC. 5443. Section 16 of the Child Nutrition Act of 1966 is amended—

(1) by inserting "(a)" after "SEC. 16."; and

(2) by adding at the end thereof the following new subsection:

"(b) With regard to any claim arising under this Act or the Child Nutrition Act of 1966, the Secretary shall have the power to determine the amount of, to settle, and to adjust any such claim, and to compromise or deny any such claim (or part thereof). The Secretary shall also have the power to waive such claims if the Secretary determines that to do so would serve the purpose of such Acts. Nothing contained in this subsection shall be construed to diminish the authority of the Attorney General under section 516 of title 28, United States Code, to conduct litigation on behalf of the United States.".

NUTRITION EDUCATION AND TRAINING

SEC. 5444. Section 19(j)(2) of the Child Nutrition Act of 1966 is amended by striking "$15,000,000" and inserting in lieu thereof "$1,000,000".

CONFORMING AND MISCELLANEOUS AMENDMENTS

SEC. 5445. (a) Section 11 of the National School Lunch Act is amended—

(1) in the first sentence of subsection (b), by striking out "financing the cost of"; and

(2) in subsection (e)—

(A) by striking out the second sentence of paragraph (2); and

(B) by striking out the second sentence of paragraph (3).

(b) Section 4(c) of the Child Nutrition Act is amended by striking out in the first sentence "financing the costs of".

(c) Section 12 of the National School Lunch Act is amended by striking out subsection (h).

(d) Section 8 of the National School Lunch Act is amended—

(1) in the second sentence by striking out "to finance the cost of obtaining" and inserting in lieu thereof "to obtain";

(2) by striking out the fourth sentence; and

(3) in the fifth and sixth sentences, by striking out "Federal food cost contribution rate" each place it appears and inserting in lieu thereof "per meal reimbursement rate".

(e) Section 15(f) of the National School Lunch Act is amended by striking out "annually" and inserting in lieu thereof "biennially".

(f) Section 17(f) of the National School Lunch Act is amended—

(1) in paragraph (1), by striking out "financing the cost of"; and

(2) in paragraph (2), by striking out ", unless the resulting sum exceeds the cost to the institution of providing such meals".

THREE-YEAR REPEAL PROVISION

SEC. 5446. The amendments made by this chapter (other than the amendments made by sections 5442(a)(1), 5443, and 5445) shall be effective only during the period beginning October 1, 1981, and ending September 30, 1984. Effective October 1, 1984, the provisions of section 5432 through section 5445 of this chapter, and the provisions of section 5447 of this chapter, shall be repealed, other than the provisions of sections 5442(a)(1), 5443, and 5445.

ADJUSTMENT FOR REIMBURSEMENT RATES FOR FISCAL YEAR 1982

SEC. 5447. (a)(1) During the period beginning October 1, 1981, and ending June 30, 1982, notwithstanding any other provision of law, the funds available to the Secretary of Agriculture (hereinafter in this section referred to as the "Secretary") for making payments under any program specified under subsection (b) shall be reduced, for each such program, by the amount of the reduction in funding for such program that would have been achieved if the provisions of this chapter were made effective beginning September 1, 1981. The reductions shall be made by the Secretary by adjusting, in accordance with subsection (c), the reimbursement rates under each such program for the period beginning October 1, 1981, and ending June 30, 1982. The payments which school food authorities and other entities are entitled to receive for such period under the programs specified in subsection (b) shall be made in accordance with the adjusted rates determined under subsection (c). Nothing contained in this section shall be construed to authorize the Secretary to modify the eligibility standards for participation in any such program.

(2) The authority to make payments under each of the programs specified in subsection (b) shall be considered to be spending authority within the meaning of section 401(c)(2)(C) of the Congressional Budget Act of 1974, notwithstanding any adjustments in rates required to be made under such programs for the period beginning October 1, 1981, and ending June 30, 1982.

(b) The programs subject to reductions under subsection (a) are the following:

(1) The general reimbursement payments to States under section 4 of the National School Lunch Act, providing for the base reimbursement for all lunches served under the school lunch program.

(2) The special assistance payments for free and reduced-price lunches under section 11 of the National School Lunch Act.

(3) The special milk program under section 3 of the Child Nutrition Act of 1966.

(4) Commodity assistance under section 6(e) of the National School Lunch Act.

(5) The school breakfast program under section 4 of the Child Nutrition Act of 1966.

(6) The child care food program under section 17 of the National School Lunch Act.

(c)(1) Each of the payment rates applicable under any program specified in subsection (b) during the period beginning October 1, 1981, and ending June 30, 1982, shall be reduced by an amount equal to—

(A) the payment rate which would be in effect for such period without regard to this section;

multiplied by

(B) a fraction, the numerator of which is the total amount of the reduction required for such program under subsection (a) and the denominator of which is the total amount which would have been expended by the Secretary (without regard to this section) under such program during the period beginning October 1, 1981, and ending June 30, 1982 (as estimated by the Secretary).

(2) Not later than September 1, 1981, the Secretary shall notify school food authorities and other entities participating in the programs specified in subsection (b) of the reduction in the payment rates made by the Secretary under this subsection for the period beginning October 1, 1981, and ending June 30, 1982 (as required by subsection (a)). Such notification may be made by publication of notice thereof in the Federal Register, or by such other means as the Secretary may consider appropriate.

(d) For purposes of making adjustments in payment rates under any of the programs specified in subsection (b) for periods after June 30, 1982, the payment rates in effect for such programs for the period beginning October 1, 1981 and ending June 30, 1982, shall be considered to be the payment rates which would have been in effect for such programs for such period without regard to this section.

CHAPTER 3—REVISION OF BLACK LUNG BENEFITS PROGRAM

ELIGIBILITY FOR BLACK LUNG BENEFITS; PAYMENTS FROM BLACK LUNG DISABILITY TRUST FUND

SEC. 5461. (a)(1) Section 422(c) of the Black Lung Benefits Act (30 U.S.C. 932(c)) is amended—

(A) by inserting "(1)" after "pneumoconiosis"; and

(B) by inserting before the period at the end thereof the following: "; (2) which was the subject of a claim which was denied before March 1, 1978, and which was approved in accordance with the provisions of section 435; or (3) which was the subject of a claim which (A) was filed during the period beginning March 1, 1978, and ending February 28, 1981; and (B) involves a claimant with respect to whom an award of compensation was made before March 1, 1978, under or pursuant to any State workers' compensation law because of death or disability due to pneumoconiosis".

(2) Section 422(j) of the Black Lung Benefits Act (30 U.S.C. 932(j)) is amended—

(A) by striking out "or" at the end of paragraph (1);

(B) by striking out the period at the end of paragraph (2) and inserting in lieu thereof a semicolon; and

(C) by adding at the end thereof the following new paragraphs:

"(3) in which a claim for benefits was denied before March 1, 1978, and such claim is approved in accordance with the provisions of section 435; or

"(4) in which a claim for benefits was filed during the period beginning March 1, 1978, and ending February 28, 1981, and such claim involves a claimant with respect to whom an award of compensation was made before March 1, 1978, under or pursuant to any State workers' compensation law because of death or disability due to pneumoconiosis.".

(b) For purposes of the amendments made by the foregoing provisions of this section, any claim filed under the Black Lung Benefits Act (30 U.S.C. 901 et seq.) before March 1, 1978, shall be considered to be a denied claim if—

(1) such claim has been denied by the Social Security Administration;

(2) the Secretary of Labor certifies that such claim has been denied by a Department of Labor adjudication officer pursuant to such Act and regulations issued under such Act, or that the claimant's entitlement to black lung benefits was informally or administratively denied based upon an initial finding by the Office of Workers' Compensation Programs of the Department of Labor; or

(3) such claim has been denied by any court of law.

RETROACTIVE PAYMENT OF BLACK LUNG BENEFITS

SEC. 5462. Part C of the Black Lung Benefits Act (30 U.S.C. 931 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 436. (a) In the case of any claim under this part which involves the lump sum payment of benefits on a retroactive basis, no such lump sum payment may be made until such claim no longer is subject to any further adjudication. In any case in which there is any final adjudication of eligibility with respect to any such claim, the claimant involved shall be entitled to receive such lump sum payment, together with the interest which accrues in accordance with the requirements established in subsection (b).

"(b)(1) In the case of any claim specified in subsection (a), the operator involved shall, as soon as practicable after an initial determination of eligibility is made with respect to such claim, deposit in an interest-bearing escrow account in a depository institution insured by the Federal Deposit Insurance Corporation or by the Federal Savings and Loan Insurance Corporation an amount equal to the amount of the lump sum payment of benefits involved in such claim.

"(2) Such operator shall certify to the Secretary, not later than 30 days after making the deposit required in paragraph (1), that such operator has complied with the requirements of paragraph (1). Such certification shall include such information as the Secretary may require with respect to the amount of the deposit, the institution at which such deposit is made, the rate of interest applicable to such deposit, and the terms under which the escrow account is administered.

"(3)(A) In any case in which there has been a refusal or neglect to make any deposit required in paragraph (1), the operator involved shall be subject to a liability in an amount equal to 50 percent of the lump sum payment involved.

"(B)(i) Such liability shall be payable to the claimant in the proceeding involved. The Secretary, on behalf of such claimant, may bring a civil action in a district court of the United States to collect the liability imposed in subparagraph (A). Such liability may be collected at a proceeding in court if the proceeding is commenced not later than 6 years after the date on which the liability was finally determined, or before the expiration of any period for collection agreed upon in writing by the operator and the United States before the expiration of such 6-year period.

"(ii) The running of the period of limitation provided under this subparagraph shall be suspended for any period during which the assets of the operator are in the custody or control of any court of the United States, or of any State, or the District of Columbia, and for 6 months thereafter, and for any period during which the operator is outside the United States if such period of absence is for a continuous period of at least 6 months.

"(C) The liability imposed in subparagraph (A) shall be payable by the operator involved regardless of whether the claimant in the proceeding giving rise to such liability prevails in such proceeding.

"(c) The provisions of this section shall not affect the payment of interim monthly benefits on a prospective basis to claimants after an initial determination of eligibility.".

INTEREST PAYMENTS BY OPERATORS

SEC. 5463. Section 422(a) of the Black Lung Benefits Act (30 U.S.C. 934(b)(1)) is amended by adding at the end thereof the following new sentences: "Regulations with respect to liability shall include provisions for the payment of interest upon the amount of such benefits in the event of failure by the operator to make prompt payment of such liability. The rate of such interest shall be the adjusted prime rate of interest established by the Secretary of the Treasury under section 6621 of the Internal Revenue Code of 1954 (relating to determination of rate of interest) and in effect on the date of the first payment out of the fund relating to such liability.".

TITLE VI—HOUSE COMMITTEE ON ENERGY AND COMMERCE

Subtitle A—Matters Under the Jurisdiction of the Subcommittees on Energy Conservation and Power and on Fossil and Synthetic Fuels

DEPARTMENT OF ENERGY AUTHORIZATION

SEC. 6101. (a) Not to exceed $5,600,000,000 is authorized to be appropriated to the Department of Energy for the civilian programs and activities of the Department for the fiscal year ending September 30, 1982.

(b) The amount authorized to be appropriated under subsection (a) of this section does not include receipts from the uranium enrichment program of the Department of Energy or other receipts authorized to be retained pursuant to section 111(h) of the Energy Reorganization Act of 1974 (42 U.S.C. 5821(h)).

APPLICABILITY OF FUEL USE RESTRICTIONS TO CERTAIN EXISTING ELECTRIC POWERPLANTS

SEC. 6102. (a) Title III of the Powerplant and Industrial Fuel Use Act of 1978 is amended by striking out section 301 (42 U.S.C. 8341) and inserting in lieu thereof the following:

"SEC. 301. EXISTING ELECTRIC POWERPLANTS.

"(a) CERTIFICATION BY POWERPLANTS OF COAL CAPABILITY.—Not later than 1 year after the date of the enactment of this subsection, the owner and operator of each existing electric powerplant shall certify to the Secretary, for purposes of subsection (b)—

"(1) whether or not such powerplant has at the time of certification the technical capability to use coal or another alternate fuel as a primary energy source;

"(2) whether or not such powerplant could have the technical capability to use coal or another alternate fuel as a primary energy source without having—

"(A) substantial physical modification of the powerplant, or

"(B) substantial reduction in the rated capacity of the powerplant; and

"(3) whether or not it is financially feasible to use coal or another alternate fuel as a primary energy source in such a powerplant. The owner and operator of any such powerplant may amend such certification at any time in order to take into account changes in relevant facts and circumstances; except that no such amendment to a certification under paragraph (1), (2), or (3) may be made after the date of any final prohibition under subsection (b) based on that certification.

"(b) AUTHORITY OF SECRETARY TO PROHIBIT WHERE COAL OR ALTERNATE FUEL CAPABILITY EXISTS.—The Secretary may prohibit, in accordance with section 303 (a) or (b), the use of petroleum or natural gas, or both, as a primary energy source in any existing electric powerplant, if an affirmative certification under subsection (a) (1), (2), and (3) is in effect with respect to such powerplant.

"(c) CONSERVATION PLAN.—(1) The Secretary shall require each electric utility which owns or operates any electric powerplant that uses natural gas as a primary energy source at any time after the date of the enactment of this Act to submit, within 1 year after the enactment of this subsection, and to implement a conservation plan which meets the requirements of paragraph (2) and which is approved under paragraph (3). Such plan shall be updated, reviewed, and approved in accordance with this subsection at 5 year intervals after the date of its initial approval.

"(2)(A) Any conservation plan under this subsection shall—

"(i) set forth means determined by the utility to achieve, and maintain, 5 years after its initial implementation, the conservation of electric energy by an amount at least equal to 10 percent of the current annual power production of that utility attributable to natural gas;

"(ii) set forth a program for the use of renewable energy sources (other than hydroelectric power); and

"(iii) contain procedures to permit the amounts expended by such utility in developing and implementing the plan to be recovered in a manner specified by the appropriate State regulatory authority (or by the utility in the case of a nonregulated utility).

"(B) The conservation plan shall include—

"(i) all activities required for such utility by part 1 of title II of National Energy Conservation Policy Act;

"(ii) an effective public information program for conservation; and

"(iii) such other measures as the utility may consider appropriate.

"(3) The Secretary shall approve, by order, the utility conservation plan, after providing an opportunity for a public hearing thereon, for 5 years upon a finding that such plan meets the requirements of paragraph (2).".

(b) Section 711 of such Act (42 U.S.C. 8421) is amended by adding at the end thereof the following new subsection:

"(c) NATURAL GAS USAGE BY ELECTRIC UTILITIES.—(1) For purposes of section 404(b) and other emergency authorities, the Secretary shall require each electric utility to report—

"(A) within 6 months after the date of the enactment of this subsection, the total quantities of natural gas used by that utility during calendar year 1977, and

"(B) on a semiannual basis, the total quantities of natural gas used by that utility during the period covered by the report.

"(2) The Secretary shall include in each annual report to the Congress under section 806 a summary of information received by the Secretary under this subsection.".

(c) Section 712 of such Act (42 U.S.C. 8422) is amended by inserting "(a) GENERALLY.—" before "Any person" and by adding at the end thereof the following new subsection:

"(b) REPORT ON IMPLEMENTATION OF SECTION 301(c) PLAN.—Any electric utility required to submit a conservation plan under section 301(c) shall annually submit to the Secretary a report identifying the steps taken during the preceding year to implement such plan.".

(d) Section 303(a)(1) of such Act is amended by striking out "section 301 (b) or (c)" and inserting in lieu thereof "section 301(b)".

APPLICABILITY OF RESTRICTIONS RELATING TO NATURAL GAS OUTDOOR LIGHTING

SEC. 6103. (a) Section 402(b)(1) of the Powerplant and Industrial Fuel Use Act of 1978 (Public Law 95-620) is amended—

(1) by inserting "(other than any outdoor lighting fixture which was installed before the date of the enactment of this Act for use in connection with a residence and for which natural gas was being provided on such date of enactment)" after "use in outdoor lighting", and

(2) in subparagraph (C), by striking out the dash and all that follows through "residence," and inserting in lieu thereof "any municipal outdoor lighting fixture".

(b) Section 402 of such Act is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f)(1) For the purpose of discouraging the use of natural gas for outdoor lighting, each local distribution company which is subject to subsection (a) or (b) shall, in accordance with rules promulgated by the Secretary—

"(A) establish a reasonable and simple method, as determined by each such company, by which the company shall periodically inform its customers about the amount of natural gas consumed by outdoor lighting and the annual cost of such gas for such lighting; and

"(B) report to the Secretary the method established under subparagraph (A).

A company may establish a method which provides for reporting such information on the basis of estimates where actual information is not readily available.

"(2) The Secretary shall propose the rules referred to in paragraph (1) as promptly as possible after the date of the enactment of this subsection, and such rules shall take effect not later than the ninetieth day after they are proposed. In promulgating such rules, the Secretary shall, to the greatest extent feasible, consult with the appropriate regulatory authority of the States and the local distribution companies who will be subject to the rules.".

Subtitle B—Matters Under the Jurisdiction of the Subcommittee on Energy Conservation and Power

BUILDING ENERGY PERFORMANCE STANDARDS

SEC. 6131. (a) The Energy Conservation Standards for New Buildings Act of 1976 is amended by striking out sections 305 and 307 (42 U.S.C. 6834 and 6836).

(b) Section 304(a) of the Energy Conservation Standards for New Buildings Act of 1976 (42 U.S.C. 6833(a)) is amended—

(1) by adding at the end thereof the following new paragraph:

"(4) Performance standards under this subsection shall be developed solely as guidelines for the purpose of providing technical assistance for the design and construction of energy efficient buildings.";

(2) by striking out "the effective date of final performance standards promulgated pursuant to this paragraph" where it appears in paragraphs (1) and (2) and inserting in lieu thereof "April 1, 1984,"; and

(3) by striking out ", and shall become effective within a reasonable time not to exceed 1 year after the date of promulgation, as specified by the Secretary" where it appears in paragraphs (1) and (2).

(c) Section 306 of such Act (42 U.S.C. 6835) is amended by striking out "Upon the effective date of the final performance standards promulgated pursuant to such section," and inserting in lieu thereof "Not later than April 1, 1984,".

(d) Section 308 of such Act (42 U.S.C. 6837) is amended by striking out "meeting the requirements of this title" and inserting in lieu thereof "furthering the design and construction of energy efficient buildings".

(e) The table of sections for such Act is amended by striking out the item relating to sections 305 and 307.

Subtitle C—Matters Under the Jurisdiction of the Subcommittee on Fossil and Synthetic Fuels

STRATEGIC PETROLEUM RESERVE

SEC. 6141. (a) Part B of title I of the Energy Policy and Conservation Act (42 U.S.C. 6231-6246) is amended by adding at the end thereof the following:

"SPR PETROLEUM ACQUISITION ACCOUNT

"SEC. 167. (a) There is established in the Treasury of the United States an account to be known as the 'SPR Petroleum Acquisition Account' (hereinafter in this part referred to as the 'Account').

"(b)(1) The Secretary of the Treasury shall provide and deposit into the Account such funds, taking into account funds deposited into the Account pursuant to paragraph (2), as are necessary—

"(A) for acquisition, transportation, and injection of petroleum products for the Reserve, and

"(B) for carrying out any drawdown and distribution from the Reserve.

"(2) The Secretary of the Treasury shall deposit into the Account—

"(A) any funds which were appropriated for petroleum acquisition for the Reserve before the effective date of this section and which are unexpended as of such date (including the unexpended balance of the special account established under section 805(c) of the Energy Security Act);

"(B) the receipts from the sale of petroleum products in any drawdown and distribution of the Strategic Petroleum Reserve under section 161;

"(C) any proceeds from the sale of Federal royalty oil directed to be transferred to the Account under section 805 (b) and (c) of the Energy Security Act; and

"(D) any interest earned on funds in the Account pursuant to subsection (d) of this Act.

"(c)(1) Subject to paragraphs (2) and (3), funds in the Account shall be available to the Secretary of Energy for purposes of carrying out petroleum product acquisition, transportation, and injection activities for the Reserve and for the operating and administrative costs of carrying out any drawdown and distribution of the Reserve, in accordance with this part.

"(2)(A) In the case of fiscal year 1982, there is authorized to be appropriated to the Secretary of Energy from the Account for such purposes, without fiscal year limitation, not to exceed $3,900,000,000.

"(B) In the case of any fiscal year after 1982, amounts in the Account shall be available to the Secretary for such purposes only to the extent provided in advance in appropriation Acts which are pursuant to authorizations of appropriations enacted after the date of the enactment of this section.

"(3) Funds in the Account may not be used for acquisition or construction of storage or related facilities, for planning, or for operation or administration (except the carrying out of any drawdown and distribution).

"(d) In the case of amounts in the Account representing receipts for petroleum products sold from the Reserve during any drawdown, it shall be the duty of the Secretary of the Treasury to invest such amounts as are not, in the judgment of the Secretary of Energy, required to meet current withdrawal of funds from the Account. Such investments shall be in public debt securities with maturities suitable for the needs of such Account and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities. The income on such investments shall be credited to and form a part of such Account.

"(e) The Account, the deposits and withdrawals from the Account, and the transac-

tions, receipts, obligations, and outlays associated with such deposits and withdrawals (including petroleum product purchases and related transactions)—

"(1) shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States; and

"(2) shall not be deemed to be budget authority, spending authority, budget outlays, or Federal revenues for purposes of title III of Public Law 93-344, as amended.".

(b) Section 805 of the Energy Security Act (42 U.S.C. 6240 note) is amended—

(1) in subsection (b)(3), by striking out "established under subsection (c)" and inserting in lieu thereof "established under section 167 of Energy Policy and Conservation Act";

(2) in subsection (c), by striking out "(1)";

(3) in subsection (c), by striking out paragraph (2) and by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and

(4) in subsection (c), by striking out "deposited in a special account which the Secretary of the Treasury shall establish on the books of the Treasury of the United States" and inserting in lieu thereof "deposited into the account established under section 167 of the Energy Policy and Conservation Act".

(c)(1) Section 165 of the Energy Policy and Conservation Act (42 U.S.C. 6245) is amended by inserting "(a)" before "The Secretary" and by adding at the end thereof the following new subsection:

"(b) Each annual report submitted after the date of the enactment of this subsection shall include a detailed statement regarding the financial status of the Account.".

(2) The first annual report submitted after the date of the enactment of this Act pursuant to section 165 of such Act shall include an analysis of the costs and benefits to the Government (and the nation) which are associated with achieving the final storage level set forth in the Strategic Petroleum Reserve Plan.

(d) Section 166(2) of the Energy Policy and Conservation Act (42 U.S.C. 6245), relating to authorization of appropriations for costs of construction and administration of the Reserve, is amended by inserting before "to carry out the provisions" the following: ", plus, for the fiscal year ending September 30, 1982, not to exceed $190,000,000,".

(e) The table of contents for the Energy Policy and Conservation Act is amended by adding after the item relating to section 166 the following new item:

"Sec. 167. SPR Petroleum Acquisition Account.".

EFFECTIVE DATE

SEC. 6142. The amendments made by section 6141 shall take effect October 1, 1981.

Subtitle D—Matters Under the Jurisdiction of the Subcommittee on Health and the Environment

CHAPTER 1—COMPREHENSIVE AND PREVENTIVE HEALTH SERVICE PROGRAMS

COMPREHENSIVE HEALTH SERVICE PROGRAMS

SEC. 6201. Subsection (d) of section 314 of the Public Health Service Act (42 U.S.C. 246(d)) is amended to read as follows:

"(d)(1) For the purpose of allotments under paragraph (2), there is authorized to be appropriated $45,000,000 for fiscal year 1982; $45,000,000 for fiscal year 1983; and $45,000,000 for fiscal year 1984.

"(2)(A) From the amounts appropriated under paragraph (1) for any fiscal year, the Secretary shall allot to each State, which has transmitted an acceptable description of activities and statement of assurances under paragraph (6), an amount which bears the same ratio to the amount appropriated under paragraph (1) for that fiscal year as the amounts allotted or granted for fiscal year 1980 by the Secretary to the State and to entities in the State, under this subsection and sections 317(j)(2) and 317(j)(4), bore to the amounts allotted or granted for such fiscal year by the Secretary under this subsection and those sections to all States and to entities in all States from appropriations for such fiscal year.

"(B) The Secretary, in consultation with the Comptroller General, shall recommend to the Congress a formula for the allotment of funds under subparagraph (A) which formula is a substitute for the allotment formula prescribed by such subparagraph, which provides for the equitable distribution of funds to States, and which takes into account the populations and per capita income of these States.

"(3)(A) To the extent that all the funds appropriated under paragraph (1) for a fiscal year and available for allotment in such fiscal year are not otherwise allotted to States either because all the States have not qualified for such allotments under paragraph (6) for the fiscal year or because some States have indicated in their descriptions of activities under paragraph (6) that they do not intend to use the full amount of such allotments, such excess shall be allotted among each of the remaining States in proportion to the amount otherwise allotted to such State for the fiscal year without regard to this subparagraph.

"(B) To the extent that all the funds appropriated under paragraph (1) for a fiscal year and available for allotment in such fiscal year are not otherwise allotted to States because some State allotments are offset under paragraph (7), such excess shall be allotted among each of the remaining States in proportion to the amount otherwise allotted to such State for the fiscal year without regard to this subparagraph.

"(4)(A)(i) For each fiscal year, the Secretary shall make payments, as provided by section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213), to each State from its allotment under paragraph (2) from amounts appropriated for that fiscal year.

"(ii) Any amount paid to a State in a fiscal year and remaining unobligated at the end of such year shall remain available to such State for the purposes for which it was made for the next fiscal year.

"(B) The Secretary, at the request of a State, may reduce the amount of payments under subparagraph (A) by—

"(i) the fair market value of any supplies or equipment furnished the State, and

"(ii) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the State and the amount of any other costs incurred in connection with the detail of such officer or employee,

when the furnishing of supplies or equipment or the detail of an officer or employee is for the convenience of and at the request of the State and for the purpose of conducting activities described in paragraph (5). The amount by which any payment is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment or in detailing the personnel, on which the reduction of the payment is based, and the amount shall be deemed to be part of the payment and shall be deemed to have been paid to the State.

"(5)(A) A State may use the amounts paid to it under paragraph (4) for costs of preventive health service programs for control of rodents, community and school-based fluoridation, and other preventive health service programs.

"(B) A State may not use amounts paid to it under paragraph (4) to—

"(i) provide inpatient services,

"(ii) make cash payments to intended recipients of health services,

"(iii) purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment, or to fund depreciation respecting such a purchase or improvement or interest expenses respecting the purchase of such equipment,

"(iv) satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds, or

"(v) provide financial assistance to any entity other than a public or nonprofit private entity.

"(C) Of the amount paid to any State under paragraph (4), at least 80 percent will be used directly for the provision of preventive health services with special consideration given (where appropriate) to the continuation of the funding of special projects in the State which were previously funded under this subsection and sections 317(j)(2) and 317(j)(4). Of the amount to be used for the provision of preventive health services, a State shall pay at least one-third to the local public health entities of the State for the provision of such services.

"(6) To be entitled to payments from allotments under paragraph (2) for a fiscal year, a State must—

"(A) transmit to the Secretary (in accordance with such form as the Secretary shall provide) a description of the intended use of the payments the State will receive under paragraph (4) for that fiscal year, including detailed information on the programs and activities to be supported and services to be provided and the categories or characteristics of individuals to be served and data the State intends to collect respecting activities conducted with funds received under paragraph (4); and

"(B) transmit to the Secretary a statement of assurances satisfactory to the Secretary that represents to the Secretary that—

"(i) the State has identified those populations, areas, and localities in the State with a need for preventive health services;

"(ii) the State will provide a fair method for allocating funds paid to the State under paragraph (4) in accordance with the needs of its population, areas, and localities as determined under the assessment referred to in clause (i); and

"(iii) that Federal funds made available under this subsection for any period will be so used as to supplement and increase the level of State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the programs and activities for which funds are provided under this subsection and will in no event supplant such State, local, and other non-Federal funds.

The description and statement shall be made public within the State in such manner as to facilitate comment from any person (including any Federal or other

public agency) during development of the description and statement and after its transmittal. The description and statement shall be revised (consistent with this paragraph) throughout the year as may be necessary to reflect substantial changes in the programs and activities assisted under this subsection, and any revision shall be subject to the requirements of the preceding sentence.

"(7)(A) Each State shall prepare and submit to the Secretary annual reports on its activities under this subsection in order to properly evaluate and compare the performance of different States assisted under this subsection and to assure the proper expenditure of funds under this subsection. Such reports shall be in such form and contain such information as the Secretary determines (after consultation with the States and the Comptroller General) to be necessary (i) to secure an accurate description of the activities under this subsection, (ii) to secure a complete record of the purposes for which funds were spent, of the recipients of such funds, and of the progress made toward achieving the purposes for which the funds were provided, (iii) to determine the extent to which funds were expended consistent with the State's description and statement transmitted under paragraph (6), and (iv) to determine the efforts of the State to secure non-Federal funding for the programs and activities funded under this subsection. Copies of the report shall be provided, upon request, to any interested person (including any public agency) and each such person may provide its views on these reports to the Congress.

"(B)(i) Each State shall annually audit its expenditures from amounts received under paragraph (4). Such State audits shall be conducted by an entity independent of any agency administering a program funded under this subsection and in accordance with the Comptroller General's standards for auditing governmental organizations, programs, activities, and functions. Within 30 days following the date each audit is completed, the chief executive officer of the State shall transmit a copy of that audit to the Secretary.

"(ii) Each State shall repay to the United States amounts found not to have been expended in accordance with this subsection or, if such repayment is not made, the Secretary shall offset such amounts against the amount of any allotment to which the State is or may become entitled under this subsection.

"(C) The State shall make copies of the reports and audits required by this paragraph available for public inspection within the State.

"(D) For other provisions requiring States to account for Federal grants, see section 202 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4212).

"(8)(A) For provisions which prohibit—

"(i) exclusion from participation in any program or activity funded in whole or in part with funds made available under this subsection,

"(ii) denial of the benefits of any such program or activity, or

"(iii) discrimination under any such program or activity,

on the basis of race, color, national origin, age, or physical or mental impairment, see title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, and section 504 of the Rehabilitation Act of 1973.

"(B) No person shall on the ground of sex or religion be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this subsection.

"(C) Whenever the Secretary determines that a State that has received a payment under paragraph (4) (or any entity which has received funds from a State under this subsection) has failed to comply with a provision of law referred to in subparagraph (A), with subparagraph (B), or with an applicable regulation, he shall notify the chief executive officer of the State and shall request him to secure compliance. If within a reasonable period of time, not to exceed sixty days, the chief executive officer fails or refuses to secure compliance, the Secretary may—

"(i) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted,

"(ii) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, or section 504 of the Rehabilitation Act of 1973, as may be applicable, or

"(iii) take such other action as may be provided by law.

"(D) When a matter is referred to the Attorney General pursuant to subparagraph (C), or whenever he has reason to believe that the State (or any entity which has received funds from a State under this subsection) is engaged in a pattern or practice in violation of a provision of law referred to in subparagraph (A) or in violation of subparagraph (B), the Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.".

PREVENTIVE HEALTH SERVICE PROGRAMS

SEC. 6202. (a) Subsection (a) of section 317(a) of the Public Health Service Act (42 U.S.C. 247b) is amended to read as follows:

"(a) The Secretary may make grants to States, and in consultation with State health authorities, to political subdivisions of States and to other public entities to assist them in meeting the costs of establishing and maintaining preventive health service programs.".

(b) Subsection (j) of such section (42 U.S.C. 247b(j)(1)(A)) is amended to read as follows:

"(j)(1) For grants under subsection (a) for preventive health service programs to immunize children against immunizable diseases there are authorized to be appropriated $29,500,000 for the fiscal year ending September 30, 1982, $32,000,000 for the fiscal year ending September 30, 1983, and $34,500,000 for the fiscal year ending September 30, 1984.

"(2) For grants under subsection (a) for preventive health service programs for hypertension there are authorized to be appropriated $15,500,000 for the fiscal year ending September 30, 1982, $17,000,000 for the fiscal year ending September 30, 1983, and $18,500,000 for the fiscal year ending September 30, 1984.

"(3) For grants under subsection (a) for preventive health service programs for tuberculosis there are authorized to be appropriated $9,000,000 for the fiscal year ending September 30, 1982, $10,000,000 for the fiscal year ending September 30, 1983, and $11,000,000 for the fiscal year ending September 30, 1984.".

PREVENTION AND CONTROL OF VENEREAL DISEASES

SEC. 6203. The first sentence of section 318(d)(1) of the Public Health Service Act (42 U.S.C. 247c(d)(1)) is amended by striking out "and" after "1980," and by inserting before the period a comma and the following: "$43,000,000 for the fiscal year ending September 30, 1982, $46,500,000 for the fiscal year ending September 30, 1983, and $50,000,000 for the fiscal year ending September 30, 1984".

MISCELLANEOUS AMENDMENTS

SEC. 6204. (a) Section 402(c) of the Health Services and Centers Amendments of 1978 is amended to read as follows:

"(c) No funds may be appropriated to carry out subsection (a).".

(b) Section 328(e) of the Public Health Service Act (42 U.S.C. 254a-1(e)) is amended to read as follows:

"(e) No funds may be appropriated to carry out subsection (a) or (c).".

(c)(1) Section 339(a)(5) of the Public Health Service Act (42 U.S.C. 255(a)(5)) is amended to read as follows:

"(5) No funds may be appropriated to carry out this subsection.".

(2) Section 339(b)(4) is amended to read as follows:

"(4) No funds may be appropriated to carry out this subsection.".

CHAPTER 2—MATERNAL AND CHILD HEALTH SERVICES BLOCK GRANT

SHORT TITLE OF CHAPTER

SEC. 6211. This chapter may be cited as the "Maternal and Child Health Services Block Grant Act".

MATERNAL AND CHILD HEALTH SERVICES BLOCK GRANT

SEC. 6212. (a) Title V of the Social Security Act is amended to read as follows:

"TITLE V—MATERNAL AND CHILD HEALTH SERVICES BLOCK GRANT

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 501. (a) For the purpose of enabling each State to—

"(1) reduce infant mortality,

"(2) reduce the incidence of preventable diseases and handicapping conditions among low income children,

"(3) increase the availability of prenatal, delivery, and post-partum care to low income women,

"(4) increase the number of children (especially preschool children) appropriately immunized against disease,

"(5) increase the number of low income children receiving health assessments and follow-up diagnostic and treatment services, and

"(6) provide medically necessary services to children who are handicapped or who are suffering from conditions leading to handicapping,

and for the purpose of enabling the Secretary to provide for special projects and research of regional and national significance with respect to maternal and child health and handicapped children, for grants for training personnel, and for grants relating to hemophilia (without regard to age), there are authorized to be appropriated (A) for fiscal year 1982, an amount equal to the sum of the amounts authorized to be appropriated for fiscal year 1982 to carry out the consolidated health programs (as defined in subsection (b)(1)), and (B) for each succeeding fiscal year, an amount equal to the amount authorized to be appropriated under this section for the previous fiscal year increased by a percentage equal to one-half of the percentage increase in the Consumer Price Index for All Urban Consumers (published by the Bureau of Labor Statistics

of the Department of Labor) between the April before the beginning of the previous fiscal year to the following April.

"(b) For purposes of this title:

"(1) The term 'consolidated health programs' means the programs administered under the provisions of—

"(A) this title (relating to maternal and child health and crippled children's services),

"(B) section 1615(c) of this Act (relating to SSI for disabled children),

"(C) sections 316 (relating to lead-based paint poisoning prevention programs), 1121 (relating to sudden infant death syndrome (SIDS) programs) and 1131 (relating to hemophilia treatment centers) of the Public Health Service Act, and

"(D) title IV of the Health Services and Centers Amendments of 1978 (Public Law 95-626; relating to adolescent pregnancy grants),

as such provisions were in effect before the date of the enactment of the Maternal and Child Health Services Block Grant Act.

"(2) The term 'low income' means, with respect to an individual or family, such an individual or family with an income determined to be below the nonfarm income official poverty line defined by the Office of Management and Budget and revised annually in accordance with section 624 of the Economic Opportunity Act of 1964.

"ALLOTMENTS

"SEC. 502. (a) From the amounts appropriated under section 501 for any fiscal year, the Secretary shall use 15 percent of such amounts (through grants, contracts, or otherwise)—

"(1) for special projects of regional or national significance which may contribute to the advancement of maternal and child health or the advancement of services for handicapped children,

"(2) for research projects and for training projects relating to maternal and child health services or handicapped children's services which show promise of substantial contribution to the advancement thereof, and

"(3) for the continuation of funding of—

"(A) grants to public or nonprofit private institutions of higher learning for training personnel for health care and related services for mothers and children (particularly mentally retarded children and children with multiple handicaps) and for multistate regional resource centers and similar programs which have the specific purpose of making available new and improved methods of serving handicapped children and treating mental retardation and other severely handicapped children previously funded under section 511 of this title, and

"(B) comprehensive hemophilia diagnostic and treatment centers previously funded under section 1131 of the Public Health Service Act,

as such sections were in effect before the date of the enactment of the Maternal and Child Health Services Block Grant Act.

The authority of the Secretary to enter into any contracts under this title is effective for any fiscal year only to such extent or in such amounts as are provided in appropriations Acts.

"(b) The remainder of such amounts appropriated for a fiscal year shall be allotted, to each State which has transmitted an acceptable description of activities and statement of assurances under section 505, as follows:

"(1) The Secretary shall determine—

"(A) for each State—

"(i)(I) the amount provided or allotted by the Secretary to the State and to entities in the State under the provisions of the consolidated health programs (as defined in section 501(b)(1)), other than for any of the projects or programs described in subsection (a), from appropriations for fiscal year 1980,

"(II) the proportion that such amount for that State bears to the total of such amounts for all the States, and

"(ii)(I) the number of low income children in the State, and

"(II) the proportion that such number of children for that State bears to the total of such numbers of children for all the States; and

"(B) the total of the amounts determined under subparagraph (A)(i)(I) for all the States.

"(2)(A) If the amount available for allotment under this subsection for a fiscal year does not exceed the total described in paragraph (1)(B), each such State shall be alloted for that fiscal year an amount equal to the State's proportion (determined under paragraph (1)(A)(i)(II)) of the amounts available for allotment to all the States under this subsection for that fiscal year.

"(B) If the amount available for allotment under this subsection for a fiscal year exceeds the total described in paragraph (1)(B), each such State shall be alloted for that fiscal year an amount equal to the sum of—

"(i) the amount determined under paragraph (1)(A)(i)(I) for the State, and

"(ii) the State's proportion (determined under paragraph (1)(A)(ii)(II)) of the amount by which the allotment available under this subsection for all the States exceeds the total described in paragraph (1)(B).

"(3) To the extent that all the funds appropriated under this title for a fiscal year are not otherwise allotted to States either because all the States have not qualified for such allotments under section 505 for the fiscal year or because some States have indicated in their descriptions of activities under section 505 that they do not intend to use the full amount of such allotments, such excess shall be allotted among the remaining States in proportion to the amount otherwise allotted to such States for the fiscal year without regard to this paragraph.

"(4) To the extent that all the funds appropriated under this title for a fiscal year are not otherwise allotted to States because some State allotments are offset under section 506(b)(2), such excess shall be allotted among the remaining States in proportion to the amount otherwise allotted to such States for the fiscal year without regard to this paragraph.

"PAYMENTS TO STATES

"SEC. 503. (a) From the sums appropriated therefor and the allotments available under section 502(b), the Secretary shall make payments as provided by section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213) to the State health agency of each State provided such an allotment under section 502(b), for each quarter, of an amount equal to one-half of the total sum expended by the State during such quarter for carrying out this title.

"(b) Any amount paid to a State under this title from allotments for a fiscal year which remains unobligated at the end of such year shall remain available to such State for obligation during the next fiscal year. No payment may be made to a State under this title from allotments for a fiscal year for expenditures made after the following fiscal year.

"USE OF GRANT MONEY

"SEC. 504. (a) Except as otherwise provided under this section, a State may use amounts paid to it under section 503 for the provision of health services and related activities consistent with its description of activities and statement of assurances transmitted under section 505 and shall pay one-third of such amounts to the political subdivisions of such State for the provision of such services and related activities.

"(b) Amounts described in subsection (a) may not be used for—

"(1) inpatient services, other than inpatient services provided to handicapped children and such other inpatient services as the Secretary may approve,

"(2) cash payments to intended recipients of health services,

"(3) the purchase or improvement of land, the purchase, construction, or permanent improvement (other than minor remodeling) of any building or other facility, or the purchase of major medical equipment, or for the funding of depreciation respecting such a purchase or improvement or for interest expenses respecting the purchase of such equipment,

"(4) satisfying any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds, or

"(5) providing financial assistance to any entity other than a public or nonprofit private entity.

"(c) Of the amount paid to any State under section 503 for a fiscal year—

"(1) no more than 15 percent will be used for program administration, training, technical assistance, and program evaluation,

"(2) at least 85 percent will be used for the provision of health services to mothers and children, with special consideration given (where appropriate) to the continuation of the funding of special projects in the State previously funded under this title (as in effect before the date of the enactment of the Maternal and Child Health Services Block Grant Act), and

"(3) a reasonable proportion (based upon the State's previous use of funds under this title) of such funds will be used to carry out the purposes described in paragraphs (1) through (5) of section 501(a).

"(d) A State may use a portion of the amounts described in subsection (a) for the purpose of purchasing technical assistance from public or private entities if the State determines that such assistance is required in developing, implementing, and administering programs funded under this title.

"(e) No funds may be made available by the Secretary under section 502(a) unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and containing and accompanied by such information as the Secretary may specify. No such application may be approved unless it contains assurances that the applicant will use the funds provided only for the purposes specified in the approved application and will establish such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement and accounting of Federal funds paid to the applicant under this title.

"DESCRIPTION OF ACTIVITIES

"SEC. 505. In order to be entitled to payments from allotments under section 502 for a fiscal year, a State must—

"(1) transmit to the Secretary (in accordance with such form as the Secretary shall provide) a description of the intended use of payments the State will receive under this title for that fiscal year, including information on the types of activities to be supported and services to be provided and the categories or characteristics of individuals to be served and data the State intends to collect respecting activities conducted with funds received under this title; and

"(2) transmit to the Secretary a statement of assurances that represents to the Secretary that—

"(A) the State health agency of the State (or other State agency designated by the State) will be responsible for the administration of funds allotted to the State under this title;

"(B) the State has identified (or will undertake to identify) those populations, areas, and localities in the State with a need for maternal and child health services, and the State will provide a fair method (as determined by the State) for allocating funds allotted to the State under this title among such individuals, areas, and localities;

"(C) funds allotted to the State under this title will only be used, consistent with section 508, to carry out the purposes of this title or to continue activities previously conducted under the consolidated health programs (described in section 502(b)(1));

"(D) if the State imposes any charges for the provision of health services assisted by the State under this title, such charges (i) will be pursuant to a public schedule of charges, (ii) will not be imposed with respect to services provided to low income mothers or children, and (iii) will be adjusted to reflect the income, resources, and family size of the individual provided the services; and

"(E) the State will identify and apply (i) guidelines for the appropriate frequency and content of, and appropriate referral and followup with respect to, health care assessments and services financially assisted by the State under this title and (ii) methods for assuring the quality of such assessments and services.

The Secretary shall promptly determine, upon receipt of such a description and statement from a State, whether or not the description and statement meet the requirements of the previous sentence. The description and statement shall be made public within the State in such manner as to facilitate comment from any person (including any Federal or other public agency) during development of the description and statement and after its transmittal. The description and statement shall be revised (consistent with this section) throughout the year as may be necessary to reflect substantial changes in the activities assisted under this title, and any revision shall be subject to the requirements of the preceding sentence.

"REPORTS AND AUDITS

"SEC. 506. (a)(1) Each State shall prepare and submit to the Secretary annual reports on its activities under this title. In order to properly evaluate and compare the performance of different States assisted under this title and to assure the proper expenditure of funds under this title, such reports shall be in such form and contain such information as the Secretary determines (after consultation with the States and the Comptroller General) to be necessary (1) to secure an accurate description of those activities, (2) to secure a complete record of the purposes for which funds were spent, of the recipients of such funds, and of the progress made toward achieving the purposes of this title, and (3) to determine the extent to which funds were expended consistent with the State's description and statement transmitted under section 505. Copies of the report shall be provided, upon request, to any interested public agency, and each such agency may provide its views on these reports to the Congress.

"(2) The Secretary shall annually report to the Congress on activities funded under section 502(a).

"(b)(1) Each State shall annually audit its expenditures from amounts received under this title. Such State audits shall be conducted by an entity independent of any agency administering a program funded under this title and in accordance with the Comptroller General's standards for auditing governmental organizations, programs, activities, and functions. Within 30 days following the date each audit is completed, the chief executive officer of the State shall transmit a copy of that audit to the Secretary.

"(2) Each State shall repay to the United States amounts found not to have been expended in accordance with this title or, if such repayment is not made, the Secretary shall offset such amounts against the amount of any allotment to which the State is or may become entitled under this title.

"(c) The State shall make copies of the reports and audits required by this section available for public inspection within the State.

"(d) For other provisions relating to accounting and auditing with respect to Federal grants to States, see section 202 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4212).

"CRIMINAL PENALTY FOR FALSE STATEMENTS

"SEC. 507. Whoever—

"(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in connection with the furnishing of items or services for which payment may be made by a State from funds allotted to the State under this title, or

"(2) having knowledge of the occurrence of any event affecting his initial or continued right to any such payment conceals or fails to disclose such event with an intent fraudulently to secure such payment either in a greater amount than is due or when no such payment is authorized,

shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

"NONDISCRIMINATION

"SEC. 508. (a)(1) For the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975, on the basis of handicap under section 504 of the Rehabilitation Act of 1973, on the basis of sex under title IX of the Education Amendments of 1972, or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964, programs and activities funded in whole or in part with funds made available under this title are considered to be programs and activities receiving Federal financial assistance.

"(2) No person shall on the ground of sex or religion be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this title.

"(b) Whenever the Secretary finds that an entity, that has received a payment from an allotment to a State under section 502(b), has failed to comply with a provision of law referred to in subsection (a)(1), with subsection (a)(2), or with an applicable regulation (including one prescribed to carry out subsection (a)(2)), he shall notify the chief executive officer of the State and shall request him to secure compliance. If within a reasonable period of time, not to exceed sixty days, the chief executive officer fails or refuses to secure compliance, the Secretary may—

"(1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted,

"(2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, or section 504 of the Rehabilitation Act of 1973, as may be applicable, or

"(3) take such other action as may be provided by law.

"(c) When a matter is referred to the Attorney General pursuant to subsection (b)(1), or whenever he has reason to believe that the entity is engaged in a pattern or practice in violation of a provision of law referred to in subsection (a)(1) or in violation of subsection (a)(2), the Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.

"ADMINISTRATION OF TITLE

"SEC. 509. (a) The Secretary shall administer the program under this title through an identifiable administrative unit with expertise in maternal and child health within the Department of Health and Human Services.

"(b) Such administrative unit also shall be responsible for—

"(1) coordination of activities under this title with other Federal efforts relating to maternal and child health, and

"(2) providing technical assistance and information to the States.

The unit may, in cooperation with the National Center for Health Statistics, collect, maintain, and disseminate information relating to the health status and health service needs of mothers and children in the United States.".

(b)(1) The Secretary of Health and Human Services shall, no later than October 1, 1984, report to the Congress on the activities of States receiving allotments under title V of the Social Security Act (as amended by this section) and include in such report any recommendations for appropriate changes in legislation.

(2) The Secretary of Health and Human Services, in consultation with the Comptroller General, shall examine alternative formulas, for the allotment of funds to States under section 502(b) of the Social Security Act (as amended by this section) which might be used as a substitute for the method of allotting funds described in such section, which provide for the equitable distribution of such funds to States (as defined for purposes of such section), and which take into account—

(A) the populations of the States,

(B) the number of live births in the States,

(C) the number of handicapped children in the States,

(D) the number of low income mothers and children in the States, and

(E) the financial resources of the various States,

and shall report to the Congress on such formula not later than January 1, 1983.

REPEALS AND CONFORMING AMENDMENTS

SEC. 6213. (a)(1)(A) Section 316(g) of the Public Health Service Act is amended by inserting ", and, subject to section 6214(b)(3) of the Maternal and Child Health Services Block Grant Act, $9,000,000 for the fiscal year ending September 30, 1982" before the period.

(B) Section 1121(d)(1) of that Act is amended by inserting "; and, subject to section 6214(b)(3) of the Maternal and Child Health Services Block Grant Act, $2,250,000 for fiscal year 1982" before the period.

(C) Section 1131(f) of that Act is amended by inserting ", and, subject to section 6214(b)(3) of the Maternal and Child Health Services Block Grant Act, $3,000,000 for the fiscal year ending September 30, 1982" before the period.

(2) Section 607 of the Health Services and Centers Amendments of 1978 (Public Law 95-626) is amended by inserting ", and, subject to section 6214(b)(3) of the Maternal and Child Health Services Block Grant Act, $9,250,000 for the fiscal year ending September 30, 1982" before the period.

(3) Section 501 of the Social Security Act (as in effect before the date the amendment made by section 2(a) becomes effective) is amended by striking out "for each fiscal year thereafter" and inserting in lieu thereof "and for each of the next three fiscal years, and, subject to section 6214(b)(3) of the Maternal and Child Health Services Block Grant Act, $344,400,000 for the fiscal year ending September 30, 1982".

(4)(A) Section 1615(e)(1) of the Social Security Act is amended by inserting "and subject to section 6214(b)(3) of the Maternal and Child Health Services Block Grant Act" after "paragraphs (2) and (3)".

(B) Effective for fiscal year 1982, section 1615(e)(3) of such Act is amended by striking out "$30,000,000" and inserting in lieu thereof "$26,100,000".

(b) Sections 316, 1121 and 1131 of the Public Health Service Act are repealed.

(c)(1) Section 1108(d) of the Social Security Act is amended by striking out "section 502(a)" and all that follows through "1967" and inserting in lieu thereof "section 421".

(2) Section 1122 of that Act is amended—

(A) by striking out "V, XVIII, and XIX" and inserting in lieu thereof "XVIII and XIX" each place it occurs, and

(B) in subsection (d)(2), by striking out "V, XVIII, or X" and inserting in lieu thereof "XVIII or XIX".

(3) Section 1129 of that Act is amended—

(A) by striking out "V or" each place it occurs in subsection (a), and

(B) by striking out "V, XVIII, or" in subsection (b)(2) and inserting in lieu thereof "XVIII or".

(4) Section 1132(a)(1) of that Act is amended by striking out "V,".

(5) Section 1134 of that Act is amended by striking out "V, XVIII," and inserting in lieu thereof "XVIII".

(6) Section 1172(4) of that Act is amended by striking out "V,".

(7)(A) Subsection (a) of section 1615 of that Act is amended by striking out "appropriate State agency administering the State plan under subsection (b) of this section, and (except in such cases" and inserting in lieu thereof "State agency administering the State program under title V for the provision of needed health services, and (except for individuals who have not attained age 16 and except in such other cases".

(B) Subsections (b) and (e) of such section are repealed.

(8) Section 1861(w)(2) of that Act is amended by striking out "V or".

(9) Section 1902(a)(11)(B) of that Act is amended by striking out "for part or all of the cost of plans or projects" and "under such plan or project".

(d)(1) The second sentence of section 402(a)(1) of the Social Security Amendments of 1967 is amended—

(A) by striking out "title XVIII of such Act," and inserting in lieu thereof "title XVIII of such Act and", and

(B) by striking out the ", and a program established by a plan of a State approved under title V of such Act".

(2) Section 402(a)(2) of that Act is amended by striking out "titles V and XIX" and inserting in lieu thereof "title XIX" both places it occurs.

(3) Section 402(b) of that Act is amended by striking out ", XIX, and V" and inserting in lieu thereof "and XIX".

(e)(1) Section 222(a)(1) of the Social Security Amendments of 1972 is amended by striking out "titles XIX and V" and inserting in lieu thereof "title XIX".

(2) The first sentence of section 222(a)(3) of that Act is amended by striking out ", XIX, and V" and inserting in lieu thereof "and XIX".

(3) Section 222(a)(4) of that Act is amended by striking out "titles V and XIX" and inserting in lieu thereof "title XIX" both places it occurs.

(f) Titles VI and VII of the Health Services and Centers Amendments of 1978 (P.L. 95-626) are repealed.

(g) Section 914(d) of the Omnibus Reconciliation Act of 1980 (94 Stat. 2622) is amended by striking out "V, XVIII," and inserting in lieu thereof "XVIII".

EFFECTIVE DATE; TRANSITION

SEC. 6214. (a) Except as otherwise provided in this section, the amendments made by sections 6212 and 6213 of this chapter do not apply to any grant made, or contract entered into, or amounts payable to States under State plans before the earlier of—

(1) October 1, 1982, or

(2)(A) in the case of such grants, contracts, or payments under consolidated State programs (as defined in subsection (c)(2)(C)) to a State (or entities in the State), the date the State is first entitled to an allotment under title V of the Social Security Act (as amended by this chapter), or

(B) in the case of grants and contracts under consolidated Federal programs (as defined in subsection (c)(2)(B)), October 1, 1981, or such later date (before October 1, 1982) as the Secretary determines to be appropriate.

(b)(1) The Secretary of Health and Human Services (hereinafter in this section referred to as the "Secretary") may not provide for any allotment to a State under title V of the Social Security Act (as amended by this chapter) until the later of—

(A) the first day of the first calendar quarter that begins more than three months after the date of the enactment of this chapter, or

(B) the date by which the Secretary has established a form for the annual reports described in section 506(a) of the Social Security Act (as so amended).

(2)(A) Any grants or contracts entered into under the authorities of the consolidated State programs (as defined in subsection (c)(2)(C)) after the date of the enactment of this chapter shall permit the termination of such grant or contract upon three months notice by the State in which the grantee or contractor is located.

(B) The Secretary shall not make or renew any grants or contracts under the provisions of the consolidated State programs (as defined in subsection (c)(2)(C)) to a State (or an entity in the State) after the date the State becomes entitled to an allotment of funds under title V of the Social Security Act (as amended by this chapter).

(3)(A) In the case of funds appropriated for fiscal year 1982 for consolidated health programs (as defined in subsection (c)(2)(A)), such funds shall (notwithstanding any other provision of law) be available for use under title V of the Social Security Act (as amended by this chapter), subject to subparagraphs (B) and (C).

(B) Notwithstanding any other provision of law—

(i) the amount that may be made available for expenditures for the consolidated Federal programs for fiscal year 1982 and for projects and programs under section 502(a) of the Social Security Act (as amended by this chapter) may not exceed the amount provided for projects and programs under such section 502(a) for that fiscal year, and

(ii) the amount that may be made available to a State (or entities in the State) for carrying out the consolidated State programs for fiscal year 1982 and for allotments to the State under section 502(b) of the Social Security Act (as amended by this chapter) may not exceed the amount which is allotted to the State for that fiscal year under such section (without regard to paragraphs (3) and (4) thereof).

(C) For fiscal year 1982, the Secretary shall reduce the amount which would otherwise be available—

(i) for expenditures by the Secretary under section 502(a) of the Social Security Act (as amended by this chapter) by the amounts payable for consolidated Federal programs (as defined in subsection (c)(2)(B)) for funds from fiscal year 1982, and

(ii) for allotment to each of the States under section 502(b) of such Act (as so amended) by the amounts payable to that State (or entities in the State) under the consolidated State programs (as defined in subsection (c)(2)(C)) for funds for fiscal year 1982.

(c) For purposes of this section:

(1) The term "State" has the meaning given such term for purposes of title V of the Social Security Act.

(2)(A) The term "consolidated health programs" has the meaning given such term in section 501(b) of the Social Security Act (as amended by this chapter).

(B) The term "consolidated Federal programs" means the consolidated health programs—

(i) of special projects grants under sections 503 and 504, and training grants under section 511, of the Social Security Act, and

(ii) of grants or contracts for comprehensive hemophilia diagnostic and treatment centers under section 1131 of the Public Health Service Act,

as such sections are in effect before the date of the enactment of this chapter.

(C) The term "consolidated State programs" means the consolidated health programs, other than consolidated Federal programs.

CHAPTER 3—FAMILY PLANNING AND GENETIC DISEASES

FAMILY PLANNING PROGRAMS

SEC. 6221. Section 1001(c) of the Public Health Service Act (42 U.S.C. 300(c)) is amended by striking out "and" after "1980," and by inserting before the period a comma and the following: "$129,500,000 for the

fiscal year ending September 30, 1982; $139,900,000 for the fiscal year ending September 30, 1983; $151,100,000 for the fiscal year ending September 30, 1984; and $163,200,000 for the fiscal year ending September 30, 1985".

(b) Section 1003(b) of such Act (42 U.S.C. 300a-1(b)) is amended by striking out "and" after "1980," and by inserting before the period a comma and the following: "$2,920,000 for the fiscal year ending September 30, 1982; $3,200,000 for the fiscal year ending September 30, 1983; $3,500,000 for the fiscal year ending September 30, 1984; and $3,900,000 for the fiscal year ending September 30, 1985".

(c) Section 1004(b)(1) of such Act (42 U.S.C. 300a-2(b)(1)) is amended by striking out "and" after "1980," and by inserting before the period a comma and the following: "$73,500,000 for the fiscal year ending September 30, 1982, $79,400,000 for the fiscal year ending September 30, 1983, $85,800,000 for the fiscal year ending September 30, 1984, and $92,700,000 for the fiscal year ending September 30, 1985".

(d) Section 1005(b) of such Act (42 U.S.C. 300a-3(b)) is amended by striking out "and" after "1980," and by inserting before the period a comma and the following: "$570,000 for the fiscal year ending September 30, 1982; $620,000 for the fiscal year ending September 30, 1983; $670,000 for the fiscal year ending September 30, 1984; and $720,000 for the fiscal year ending September 30, 1985".

GENETIC DISEASES

SEC. 6222. (a) Section 1101(b) of such Act (42 U.S.C. 300b(b)) is amended by striking out "and" after "1980," and by inserting before the period a comma and the following: "$10,500,000 for the fiscal year ending September 30, 1982; $11,300,000 for the fiscal year ending September 30, 1983; $12,200,000 for the fiscal year ending September 30, 1984; and $13,200,000 for the fiscal year ending September 30, 1985".

CHAPTER 4—ALCOHOL AND DRUG ABUSE

Subchapter A—Alcohol and Drug Abuse Block Grants

BLOCK GRANT

SEC. 6231. The Public Health Service Act is amended by adding at the end the following new title:

"TITLE XIX—ALCOHOL AND DRUG ABUSE BLOCK GRANTS

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1901. For the purpose of allotments under section 1902, there is authorized to be appropriated $245,000,000 for fiscal year 1982; $265,000,000 for fiscal year 1983; $286,000,000 for fiscal year 1984, and $309,000,000 for fiscal year 1985.

"ALLOTMENTS

"SEC. 1902. (a) From the amounts appropriated under section 1901 for fiscal year 1982 the Secretary shall allot to each State, which has transmitted an acceptable description of activities and statement of assurances under section 1905, an amount which bears the same ratio to the amount appropriated under section 1901 for that fiscal year as the amounts allotted or granted for fiscal year 1980 by the Secretary to the State and to entities in the State, under sections 301 and 312 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 and sections 409 and 410 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act, bore to the amounts allotted or granted for such fiscal year by the Secretary under those sections to all States and to entities in all States from appropriations for such fiscal year.

"(b) For fiscal year 1983 and each succeeding fiscal year, the Secretary shall allot the amounts appropriated under section 1901 for such fiscal year to each State on the same basis as allotments are to be made under subsection (a); except that, if the amount appropriated for such fiscal year exceeds the amount appropriated for fiscal year 1982 the amount which is in excess of the amount appropriated for fiscal year 1982 shall be allotted to each State on the basis of its population.

"(c)(1) To the extent that all the funds appropriated under section 1901 for a fiscal year are not otherwise allotted to States either because all the States have not qualified for such allotments under section 1905 for the fiscal year or because some States have indicated in their descriptions of activities under section 1905 that they do not intend to use the full amount of such allotments, such excess shall be allotted among each of the remaining States in proportion to the amount otherwise allotted to such State for the fiscal year without regard to this paragraph.

"(2) To the extent that all the funds appropriated under section 1901 for a fiscal year are not otherwise allotted to States because some State allotments are offset under section 1906(b)(2) such excess shall be allotted among each of the remaining States in proportion to the amount otherwise allotted to such State for the fiscal year without regard to this paragraph.

"PAYMENTS TO STATES

"SEC. 1903. (a)(1) For each fiscal year, the Secretary shall make payments, as provided by section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213), to each State from its allotment under section 1902 from amounts appropriated for that fiscal year.

"(2) Any amount paid to a State in a fiscal year and remaining unobligated at the end of such year shall remain available to such State for the purposes for which it was made for the next fiscal year.

"(b) The Secretary, at the request of a State, may reduce the amount of payments under subsection (a) by—

"(1) the fair market value of any supplies or equipment furnished the State, and

"(2) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the State and the amount of any other costs incurred in connection with the detail of such officer or employee,

when the furnishing of supplies or equipment or the detail of an officer or employee is for the convenience of and at the request of the State and for the purpose of conducting activities described in section 1904. The amount by which any payment is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment or in detailing the personnel, on which the reduction of the payment is based, and the amount shall be deemed to be part of the payment and shall be deemed to have been paid to the State.

"USE OF ALLOTMENTS

"SEC. 1904. (a) A State may use amounts paid to it under section 1903 for planning, establishing, maintaining, coordinating, and evaluating projects for the development of more effective prevention, treatment, and rehabilitation programs and activities to deal with alcohol and drug abuse.

"(b) A State may not use amounts paid to it under section 1903 to—

"(1) provide inpatient hospital services;

"(2) make cash payments to intended recipients of health services,

"(3) purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment, or to fund depreciation respecting such a purchase or improvement or interest expenses respecting the purchase of such equipment,

"(4) satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds, or

"(5) provide financial assistance to any entity other than a public or nonprofit private entity.

"(c) Of the amount paid to any State under section 1903—

"(1) not more than 10 percent of such amount or $50,000, whichever is less, may be used for administrative expenses;

"(2) not less than 25 percent of such amount shall be used for prevention programs or activities designed to discourage the abuse of alcohol and drugs; and

"(3) at least 35 percent of such amount shall be used for programs and activities relating to alcohol abuse and at least 35 percent of such amount shall be used for programs and activities relating to drug abuse. In considering which drug and alcohol abuse treatment and rehabilitation programs and activities to assist, a State shall give, where appropriate, special consideration to programs and activities for which grants were made for fiscal year 1981 under section 312 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 or section 410 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act.

"DESCRIPTION OF ACTIVITIES

"SEC. 1905. To be entitled to payments from allotments under section 1902 for a fiscal year, a State must—

"(1) transmit to the Secretary (in accordance with such form as the Secretary shall provide) a description of the intended use of the payments the State will receive under section 1903 for that fiscal year, including detailed information on the programs and activities to be supported and services to be provided and the categories or characteristics of individuals to be served and data the State intends to collect respecting activities conducted with funds received under section 1903; and

"(2) transmit to the Secretary a statement of assurances satisfactory to the Secretary that represents to the Secretary that—

"(A) the State has a current assessment of the needs of the population and areas of the State for alcohol and drug abuse treatment, prevention, and rehabilitation services;

"(B) the State will provide a fair method for allocating funds paid to the State under section 1903 in accordance with the needs of its population and areas as determined under the assessment referred to in subparagraph (A); and

"(C) that Federal funds made available under this title for any period will be so used as to supplement and increase the level of State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the programs and activities for which funds are provided under this title and will in no event supplant such State, local, and other non-Federal funds.

The description and statement shall be made public within the State in such manner as to facilitate comment from any person (including any Federal or other public agency) during development of the description and statement and after its transmittal. The description and statement shall be revised (consistent with this section) throughout the year as may be necessary to reflect substantial changes in the programs and activities assisted under this title, and any revision shall be subject to the requirements of the preceding sentence.

"REPORTS AND AUDITS

"SEC. 1906. (a) Each State shall prepare and submit to the Secretary annual reports on its activities under this title in order to properly evaluate and compare the performance of different States assisted under this title and to assure the proper expenditure of funds under this title. Such reports shall be in such form and contain such information as the Secretary determines (after consultation with the States and the Comptroller General) to be necessary (1) to secure an accurate description of the activities under this title, (2) to secure a complete record of the purposes for which funds were spent, of the recipients of such funds, and of the progress made toward achieving the purposes for which the funds were provided, (3) to determine the extent to which funds were expended consistent with the State's description and statement transmitted under section 1905, and (4) to determine the efforts of the State to secure non-Federal funding for the programs and activities funded under this title. Copies of the report shall be provided, upon request, to any interested public agency, and each such agency may provide its views on these reports to the Congress.

"(b)(1) Each State shall annually audit its expenditures from amounts received under section 1903. Such State audits shall be conducted by an entity independent of any agency administering a program funded under this title and in accordance with the Comptroller General's standards for auditing governmental organizations, programs, activities, and functions. Within 30 days following the date each audit is completed, the chief executive officer of the State shall transmit a copy of that audit to the Secretary.

"(2) Each State shall repay to the United States amounts found not to have been expended in accordance with this title or, if such repayment is not made, the Secretary shall offset such amounts against the amount of any allotment to which the State is or may become entitled under this title.

"(c) The State shall make copies of the reports and audits required by this section available for public inspection within the State.

"(d) For other provisions requiring States to account for Federal grants, see section 202 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4212).

"TECHNICAL ASSISTANCE

"SEC. 1907. On the request of any State, the Secretary shall, to the extent feasible, make available technical assistance for the purposes of developing and improving systems for data collection; program management, accountability, and evaluation; certification, accreditation, or licensure of treatment facilities and personnel; monitoring compliance with the requirements of section 321 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 and section 407 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act by hospitals and other facilities; and eliminating exclusions in health insurance coverage offered in the State which are based on alcoholism or alcohol abuse.

"NONDISCRIMINATION

"SEC. 1908. (a)(1) For provisions which prohibit—

"(A) exclusion from participation in any program or activity funded in whole or in part with funds made available under this title,

"(B) denial of the benefits of any such program or activity, or

"(C) discrimination under any such program or activity,

on the basis of race, color, national origin, age, or physical or mental impairment, see title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, and section 504 of the Rehabilitation Act of 1973.

"(2) No person shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this title.

"(b) Whenever the Secretary determines that a State that has received a payment under this section 1903 has failed to comply with a provision of law referred to in subsection (a)(1), with subsection (a)(2), or with an applicable regulation, he shall notify the chief executive officer of the State and shall request him to secure compliance. If within a reasonable period of time, not to exceed sixty days, the chief executive officer fails or refuses to secure compliance, the Secretary may—

"(1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted,

"(2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, or section 504 of the Rehabilitation Act of 1973, as may be applicable, or

"(3) take such other action as may be provided by law.

"(c) When a matter is referred to the Attorney General pursuant to subsection (b) of this section, or whenever he has reason to believe that the State is engaged in a pattern or practice in violation of a provision of law referred to in subsection (a)(1) or in violation of subsection (a)(2), the Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.".

ALCOHOL ABUSE RESEARCH AND RESEARCH CENTERS

SEC. 6232. (a)(1) Section 503 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (42 U.S.C. 4587) is amended—

(A) by inserting "(a)" after "503.",

(B) by striking out "the purposes of sections 501 and 502" and inserting in lieu thereof "this title",

(C) by striking out "and" after "1980,", and

(D) by striking out the period and inserting in lieu thereof a comma and the following: "$25,000,000 for the fiscal year ending September 30, 1982, and $27,000,000 for the fiscal year ending September 30, 1983. Of the funds appropriated under this section for any fiscal year beginning after September 30, 1981, not more than 35 per centum may be obligated for grants under section 503.".

(2) Section 503 of such Act is amended by adding at the end the following:

"(b) No funds appropriated under section 301 of the Public Health Service Act may be used for a purpose for which appropriations are authorized by this section.".

(b) Section 504(b) of such Act (42 U.S.C. 4588(b)) is amended by adding at the end the following: "The Secretary shall include in the grants made under this section for fiscal years beginning after September 30, 1981, a grant to a designated Center for research on the effects of alcohol on the elderly.".

(c) Section 503 of such Act is inserted after section 504 of such Act and is redesignated as section 504 and the section 504 of such Act relating to National Alcohol Research Centers is redesignated as section 503.

DRUG ABUSE RESEARCH

SEC. 6233. (a) Section 503 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act (21 U.S.C. 1193) is amended (1) by inserting "(a)" before "The Director shall", (2) by striking out "this section" in the last sentence and inserting in lieu thereof "this subsection", and (3) by inserting at the end the following:

"(b) The Director may—

"(1) make grants or enter into contracts with individuals and public and nonprofit entities for the purpose of determining the causes of drug abuse in a particular area, and

"(2) make grants to and enter into contracts with individuals and public and private nonprofit entities for research respecting improved drug maintenance and detoxification techniques and programs.

"(c) For the purposes of subsections (a) and (b), there are authorized to be appropriated $45,000,000 for the fiscal year ending September 30, 1982, and $48,000,000 for the fiscal year ending September 30, 1983. No funds appropriated under section 301 of the Public Health Service Act may be used for a purpose for which appropriations are authorized by this subsection.".

(b) The heading for section 503 of such Act is amended by striking out "certain research and development" and inserting in lieu thereof "research".

REPEALS AND MISCELLANEOUS AMENDMENTS

SEC. 6234. (a)(1) Parts A, B, and D of title III of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 are repealed.

(2) Sections 409, 410, and 411 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act are repealed.

(b)(1) Section 205 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act (21 U.S.C. 1115) is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

(2) Section 302 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act (21 U.S.C. 1162) is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

(3) The table of sections for title IV of the Drug Abuse Prevention, Treatment, and Rehabilitation Act is amended by striking out "Health, Education, and Welfare" in the items relating to sections 405 and 406 and inserting in lieu thereof "Health and Human Services".

(4)(A) Section 405 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act (21 U.S.C. 1172) is amended by striking out

"Health, Education, and Welfare" each place it occurs and inserting in lieu thereof "Health and Human Services".

(B) The heading for section 405 of such Act is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

(5)(A) Section 406(a)(4) of the Drug Abuse Prevention, Treatment, and Rehabilitation Act (21 U.S.C. 1173(a)(4)) is amended (i) by inserting "and" before "section 1902(a)", and (ii) by striking out ", and section 204(a) of part A of the Community Mental Health Centers Act".

(B) The heading for section 406 of such Act is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

(6) Section 408(g) of the Drug Abuse Prevention, Treatment, and Rehabilitation Act (21 U.S.C. 1175(g)) is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

(7) Subsection (d) of section 412 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act (21 U.S.C. 1179) is repealed.

(8) Section 509(a) of the Drug Abuse Prevention, Treatment, and Rehabilitation Act (21 U.S.C. 1191(a)) is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

Subchapter B—Technical Amendment

AUTHORIZATIONS UNDER THE CONTROLLED SUBSTANCES ACT

SEC. 6241. Section 709 of the Controlled Substances Act (21 U.S.C. 904) is repealed and the item relating to such section in the table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is repealed.

CHAPTER 5—COMMUNITY AND MIGRANT HEALTH CENTERS

EXTENSION OF COMMUNITY HEALTH CENTERS PROGRAM

SEC. 6245. (a) Section 330(g) of the Public Health Service Act (42 U.S.C. 254c(g)) is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(g)(1) For grants under subsections (c) and (d), there are authorized to be appropriated $284,000,000 for the fiscal year ending September 30, 1982, $309,000,000 for the fiscal year ending September 30, 1983, and $334,000,000 for the fiscal year ending September 30, 1984. The Secretary may not obligate for grants under subsection (c) in any fiscal year an amount which exceeds 2 per centum of the funds appropriated under this paragraph for that fiscal year and the Secretary may not obligate for grants under subsection (d)(1)(C) in any fiscal year an amount which exceeds 5 per centum of such funds.".

(b) Paragraph (3) of section 330(g) is redesignated as paragraph (2).

CRITERIA FOR DETERMINING AREAS AND POPULATION GROUPS IN NEED OF SERVICES OF COMMUNITY HEALTH CENTERS

SEC. 6246. (a) Section 330(b)(3) of such Act is amended by adding at the end the following: "The Secretary shall prescribe criteria for determining the specific shortages of personal health services of an area or population group. Such criteria shall include infant mortality in an area or population group, other factors indicative of the health status of a population group or residents of an area, the ability of the residents of an area or of a population group to pay for health services and their accessibility to them, and the availability of health professionals to residents of an area or to a population group.".

(b) Section 330(e)(2) of such Act is amended by inserting before the second sentence the following: "Such an application shall also include a demonstration by the applicant that the area or a population group to be served by the applicant has a shortage of personal health services and that the center will be located so that it will provide services to the greatest number of persons residing in such area or included in such population group. Such a demonstration shall be made on the basis of the criteria prescribed by the Secretary under subsection (b)(3) and on additional criteria which the Secretary shall prescribe to determine if the area or population group to be served by the applicant has a shortage of personal health services.".

AUDITS OF GRANTS TO COMMUNITY HEALTH CENTERS

SEC. 6247. Section 330 of such Act is amended by adding at the end the following:

"(h)(1) Each entity which receives a grant under subsection (d) shall provide for an independent annual financial audit of any books, accounts, financial records, files, and other papers and property which relate to the disposition or use of the funds received under such grant and such other funds received by or allocated to the project for which such grant was made. For purposes of assuring accurate, current, and complete disclosure of the disposition or use of the funds received, each such audit shall be conducted in accordance with generally accepted accounting principles. Each audit shall evaluate—

"(A) the entity's implementation of the guidelines established by the Secretary respecting cost accounting,

"(B) the processes used by the entity to meet the financial and program reporting requirements of the Secretary, and

"(C) the billing and collection procedures of the entity and the relation of the procedures to its fee schedule and schedule of discounts and to the availability of health insurance and public programs to pay for the health services it provides.

A report of each such audit shall be filed with the Secretary at such time and in such manner as the Secretary may require.

"(2) Each entity which receives a grant under subsection (d) shall establish and maintain such records as the Secretary shall by regulation require to facilitate the audit required by paragraph (1). The Secretary may specify by regulation the form and manner in which such records shall be established and maintained.

"(3) Each entity which is required to establish and maintain records or to provide for an audit under this subsection shall make such books, documents, papers, and records available to the Secretary or the Comptroller General of the United States, or any of their duly authorized representatives, for examination, copying, or mechanical reproduction on or off the premises of such entity upon a reasonable request therefor. The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have the authority to conduct such examination, copying, and reproduction.".

SERVICES TO MIGRANTS BY COMMUNITY HEALTH CENTERS

SEC. 6248. The Secretary of Health and Human Services shall review the performance of community health centers which have received grants under section 329 of the Public Health Service Act (relating to migrant health centers) to determine if the community health centers have provided services to migrants in a manner which is consistent with the needs of the migrants. In determining if the services have been provided in such a manner, the Secretary shall consider the hours of operation of a center, the bilingual capabilities of a center's staff, and the ability of the center's staff to detect, report, and treat adverse health effects resulting from exposure to pesticides. The Secretary shall report the results of the review conducted under this section to the Congress not later than six months after the date of the enactment of this section and shall include in the report actions taken by the Secretary to assure that community health centers receiving grants under such section 329 will provide services to migrants in a manner consistent with their needs.

EXTENSION OF PROGRAM FOR MIGRANT HEALTH CENTERS

SEC. 6249. (a) Section 329(h) of the Public Health Service Act (42 U.S.C. 247d(h)) is amended by striking out paragraphs (1), (2), and (3) and inserting in lieu thereof the following:

"(h)(1) For the purposes of subsections (c), (d), and (e), there are authorized to be appropriated $43,000,000 for the fiscal year ending September 30, 1982, $47,500,000 for the fiscal year ending September 30, 1983, and $51,000,000 for the fiscal year ending September 30, 1984. The Secretary may not obligate for grants and contracts under subsection (c)(1) in any fiscal year an amount which exceeds 2 per centum of the funds appropriated under this paragraph for that fiscal year, the Secretary may not obligate for grants under subsection (d)(1)(C) in any fiscal year an amount which exceeds 5 per centum of such funds, and the Secretary may not obligate for contracts under subsection (e) in any fiscal year an amount which exceeds 10 per centum of such funds.".

(b) Paragraph (4) of section 329(h) is redesignated as paragraph (2).

PRIMARY CARE RESEARCH AND DEMONSTRATION PROJECTS

SEC. 6250. Section 340(g) of the Public Health Service Act (42 U.S.C. 256(g)) is amended by adding at the end the following:

"(5) For purposes of this section, there are authorized to be appropriated $3,000,000 for the fiscal year ending September 30, 1982.".

CHAPTER 6—MENTAL HEALTH PROGRAMS

TERMINATION OF FUNDING UNDER TITLE I OF THE MENTAL HEALTH SYSTEMS ACT

SEC. 6253. Section 107(c) of the Mental Health Systems Act (42 U.S.C. 9423(c) (hereinafter in this chapter referred to as the "Act") is amended to read as follows:

"(c) No funds may be appropriated for purposes of subsection (a).".

FUNDING UNDER TITLE II OF THE MENTAL HEALTH SYSTEMS ACT

SEC. 6254. (a) Paragraphs (1) and (2) of section 201(d) of the Act (42 U.S.C. 9431(d)) are amended to read as follows:

"(d)(1) For initial grants under subsection (a) there are authorized to be appropriated $14,000,000 for fiscal year 1982, $15,000,000 for fiscal year 1983, and $16,000,000 for fiscal year 1984.

"(2) For continuation grants for community mental health centers which received an initial grant for operations under the Community Mental Health Centers Act or this Act, there are authorized to be appropriated $190,000,000 for fiscal year 1982, $205,000,000 for fiscal year 1983, and $222,000,000 for fiscal year 1984.".

(b) Subsection (e) of section 202 of the Act (42 U.S.C. 9432) is amended to read as follows:

"(e) For grants under subsections (a) and (b) there are authorized to be appropriated $15,000,000 for fiscal year 1982, $16,000,000 for fiscal year 1983, and $17,500,000 for fiscal year 1984.".

(c) Subsection (e) of section 203 of the Act (42 U.S.C. 9433) is amended to read as follows:

"(e) For grants under subsections (a) and (b) there are authorized to be appropriated $3,500,000 for fiscal year 1982, $3,800,000 for fiscal year 1983, and $4,100,000 for fiscal year 1984.".

(d) The first sentence of subsection (e) of section 204 of the Act (42 U.S.C. 9434) is amended to read as follows: "For grants under this section, there are authorized to be appropriated $10,000,000 for fiscal year 1982, $10,800,000 for fiscal year 1983, and $11,700,000 for fiscal year 1984.".

(e) Subsection (d) of section 205 of the Act (42 U.S.C. 9435) is amended to read as follows:

"(d) For grants under subsection (a) there are authorized to be appropriated $500,000 for fiscal year 1982, $500,000 for fiscal year 1983, and $600,000 for fiscal year 1984.".

(f) Subsection (d) of section 206 of the Act (42 U.S.C. 9436) is amended to read as follows:

"(d) For grants under subsection (a) there are authorized to be appropriated $1,500,000 for fiscal year 1982, $1,600,000 for fiscal year 1983, and $1,700,000 for fiscal year 1984.".

(g) Subsection (e) of section 208 of the Act (42 U.S.C. 9438) is amended to read as follows:

"(e) For grants under subsection (a) there are authorized to be appropriated $3,000,000 for fiscal year 1982, $3,200,000 for fiscal year 1983, and $3,500,000 for fiscal year 1984.".

FUNDING UNDER TITLE III OF THE MENTAL HEALTH SYSTEMS ACT

SEC. 6255. The second sentence of subsection (d) of section 305 of the Act (42 U.S.C. 9461) is amended to read as follows: "For grants under this subsection there are authorized to be appropriated $1,500,000 for fiscal year 1982, $1,600,000 for fiscal year 1983, and $1,700,000 for fiscal year 1984.".

FUNDING UNDER TITLE V OF THE MENTAL HEALTH SYSTEMS ACT

SEC. 6256. The first sentence of subsection (d) of section 502 of the Act (42 U.S.C. 9502) is amended to read as follows: "For grants under subsections (a) and (b) there are authorized to be appropriated $4,000,000 for fiscal year 1982, $4,300,000 for fiscal year 1983, and $4,700,000 for fiscal year 1984.".

FUNDING UNDER TITLE VI OF THE MENTAL HEALTH SYSTEMS ACT

SEC. 6257. (a) Subsection (d) of section 601 of the Act (42 U.S.C. 9511) is amended to read as follows:

"(d) No funds may be appropriated to carry out subsection (a).".

(b) Subsection (d)(1) of section 602 of the Act (42 U.S.C. 9512) is amended to read as follows:

"(d)(1) For grants under subsection (a) there are authorized to be appropriated $3,000,000 for fiscal year 1982, $3,200,000 for fiscal year 1983, and $3,500,000 for fiscal year 1984.".

CHAPTER 7—HEALTH SERVICES RESEARCH, STATISTICS, AND TECHNOLOGY; MEDICAL LIBRARIES; AND NATIONAL RESEARCH SERVICE AWARDS

AUTHORIZATIONS FOR HEALTH SERVICES RESEARCH, STATISTICS, AND TECHNOLOGY

SEC. 6261. (a) The first sentence of section 308(i)(1) of the Public Health Service Act (42 U.S.C. 242m(i)(1)) is amended by striking out "and" after "1980," and by inserting before the period a comma and the following: "$20,000,000 for the fiscal year ending September 30, 1982, $22,000,000 for the fiscal year ending September 30, 1983, and $24,000,000 for the fiscal year ending September 30, 1984".

(b) Section 308(i)(2) of such Act is amended by striking out "and" after "1980," and by inserting before the period a comma and the following: "$39,000,000 for the fiscal year ending September 30, 1982, $39,000,000 for the fiscal year ending September 30, 1983, and $39,000,000 for the fiscal year ending September 30, 1984".

(c) The first sentence of section 309(i) of such Act (42 U.S.C. 242n(i)) is amended by striking out "and" after "1980," and by inserting before the period a comma and the following: "$3,000,000 for the fiscal year ending September 30, 1982, $4,000,000 for the fiscal year ending September 30, 1983, and $5,000,000 for the fiscal year ending September 30, 1984".

GENERAL AUTHORITIES

SEC. 6262. (a) Section 304(a)(3) of the Public Health Service Act (42 U.S.C. 242b(a)(3)) is amended—

(1) by striking out "shall" and inserting in lieu thereof "may", and

(2) by striking out "and" the first three places it occurs and inserting in lieu thereof "or".

(b)(1) The first sentence of section 304(d)(1) of such Act is amended by striking out "and the National Academy of Sciences (acting through the Institute of Medicine and other appropriate units) shall, jointly and" and inserting in lieu thereof ", with the advice and assistance of the National Academy of Sciences (acting through the Institute of Medicine and other appropriate units), shall,".

(2) The second sentence of such section is amended by striking out "and the National Academy of Sciences (hereinafter in this subsection referred to as the 'Academy')".

(3) Section 304(d)(3) of such Act is amended by striking out "and the Academy" each place it appears.

(c) Section 304(d)(3) of such Act is amended by striking out "every two years" and inserting in lieu thereof "every three years".

(d)(1) Subsections (b)(1) and (c)(1) of section 304 of such Act are each amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

(2) Subsection (d)(3) of such section is amended by striking out "Committee on Interstate and Foreign Commerce" and inserting in lieu thereof "Committee on Energy and Commerce".

NATIONAL CENTER FOR HEALTH SERVICES RESEARCH

SEC. 6263. (a)(1) The first sentence of section 305(d)(1) of such Act (42 U.S.C. 242c(d)(1)) is amended by striking out "health services, research, evaluations" and inserting in lieu thereof "health services research, evaluations, training, policy analysis,".

(2) The second sentence of such section is amended (A) by striking out "six of such centers" and inserting in lieu thereof "four of such centers", and (B) by striking out "three national special emphasis centers" and all that follows through "health care delivery;" and inserting in lieu thereof "two national special emphasis centers,".

(3) Section 305(d)(2)(B)(iv) of such Act is amended by striking out "demonstrations, and evaluations" and inserting in lieu thereof "evaluations, policy analysis, and demonstrations".

(b)(1) Paragraph (4) of section 305(b) of such Act is amended to read as follows:

"(4) the role of market forces in the health care system and the appropriate role they may play in restraining cost increases and improving the availability and quality of care.".

(2) The amendment made by paragraph (1) shall apply with respect to grants made under section 305(b) of the Public Health Service Act for fiscal years beginning after September 30, 1981, except that if an entity received a grant under paragraph (4) of such section, as in effect before the date of the enactment of this Act, for the fiscal year ending September 30, 1981, the Secretary may, until the fiscal year beginning October 1, 1983, make an additional grant or grants to such entity for the purposes prescribed by such paragraph as so in effect.

(c) Section 305(b) of such Act is amended by adding after and below paragraph (4) the following: "No grant or contract shall be made under this subsection for the purpose of funding clinical research that is directly related to determining the cause of any disease or disorder or clinical research that is directly and principally designed to evaluate the efficacy of any therapeutic, diagnostic, or preventive health measure.".

(d) Subsections (a) and (c) of section 305 of such Act are each amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

NATIONAL CENTER FOR HEALTH STATISTICS

SEC. 6264. (a) Section 306(e)(3) of the Public Health Service Act (42 U.S.C. 242k(e)(3)) is amended by inserting "and other activities" after "data collection".

(b) The first sentence of section 306(l)(2)(A) of such Act is amended by striking out "the Center" and inserting in lieu thereof "the Center and in cooperation with the Office of Federal Statistical Policy and Standards".

(c) Section 306(l)(2)(D) of such Act is amended by striking out all after "subparagraph (A)" and inserting in lieu thereof a period.

(d)(1) Subsections (a), (e)(4), (j), (k)(4)(C), (k)(4)(D), and (l)(2)(B)(v) of section 306 of such Act are each amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

(2) Subsection (c) of such section is amended by striking out "Committee on Interstate and Foreign Commerce" and inserting in lieu thereof "Committee on Energy and Commerce".

INTERNATIONAL COOPERATION

SEC. 6265. (a) Section 307(a) of the Public Health Service Act (42 U.S.C. 2421(a)) is amended (1) by striking out "and the" and inserting in lieu thereof ", health care technology, and", and (2) by striking out "and

306" and inserting in lieu thereof "306, and 309".

(b) Section 307(b) of such Act is amended—

(1) in paragraph (5), by striking out "or health statistics" and inserting in lieu thereof ", health statistics, or health care technology", and

(2) in paragraph (6), by striking out "and programs of biomedical research, health services research, and health statistical activities" and inserting in lieu thereof "or programs of biomedical research, health services research, health statistical activities, or health care technology activities".

GENERAL PROVISIONS

SEC. 6266. (a) Section 308(b)(2) of the Public Health Service Act (42 U.S.C. 242m(b)(2)) is amended by striking out "$35,000" and inserting in lieu thereof "$50,000".

(b) Section 308(d)(2) of such Act is amended by inserting "or in the course of health care technology activities under section 309" after "305".

NATIONAL CENTER FOR HEALTH CARE TECHNOLOGY

SEC. 6267. (a) Section 309(e) of the Public Health Service Act (42 U.S.C. 242n(e)) is amended by inserting before the period a comma and the following: "and, to the extent practicable, shall take into consideration the viewpoints and information about health care technologies that interested groups and individuals in the public and private sectors might wish to submit to the Center".

(b) Sections 309(d) and 309(f)(1)(B) of such Act are each amended by striking out "$35,000" and inserting in lieu thereof "$50,000".

(c) Section 309(f)(1)(B) of such Act is amended by striking out "in excess of" and inserting in lieu thereof "the direct costs of which will exceed".

(d) Section 309(f)(2)(A) of such Act is amended by striking out "and the head of the Health Care Financing Administration (or the successor to such entity) who (or their designees) shall be ex officio members" and inserting in lieu thereof "the head of the Health Care Financing Administration (or the successor to such entity), and such other Federal officials as the Secretary may specify, who (or their designees) shall be nonvoting ex officio members".

(e)(1) Clauses (1) and (2) of section 309(f)(6) of such Act are redesignated as clauses (A) and (B), respectively.

(2) Subsections (a) and (g) of section 309 of such Act are each amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

(f) Subparagraphs (D) and (E) of section 309(f)(1) of such Act are amended by striking out "standards, norms, and criteria" and inserting in lieu thereof "information".

EXTENSION OF ASSISTANCE FOR LIBRARIES

SEC. 6268. Section 390(c) of the Public Health Service Act (42 U.S.C. 280b(c)) is amended by striking out "and" after "1980," and by inserting before the period a comma and the following: "and $9,000,000 for the fiscal year ending September 30, 1982".

EXTENSION OF AWARDS

SEC. 6269. (a) The first sentence of section 472(d) of the Public Health Service Act (42 U.S.C. 2891-1(d)) is amended by striking out "and" after "1980," and by inserting before the period a comma and the following: "and $194,000,000 for the fiscal year ending September 30, 1982".

(b) Section 472(c)(2) of such Act is amended by striking out "three months" and inserting in lieu thereof "twelve months".

CHAPTER 8—DEVELOPMENTAL DISABILITIES

EXTENSION OF PROGRAMS

SEC. 6271. (a) The first sentence of section 113(b)(2) of the Developmental Disabilities Assistance and Bill of Rights Act (hereinafter in this chapter referred to as the "Act") (42 U.S.C. 6012(b)(2)) is amended by striking out "and" after "1980," and by inserting before the period a comma and the following: "$7,000,000 for the fiscal year ending September 30, 1982, $7,500,000 for the fiscal year ending September 30, 1983, and $8,000,000 for the fiscal year ending September 30, 1984".

(b) Section 123(a) of the Act (42 U.S.C. 6033(a)) is amended by striking out "and" after "1980," and by inserting before the period a comma and the following: "$6,000,000 for the fiscal year ending September 30, 1982, $6,500,000 for the fiscal year ending September 30, 1983, and $7,000,000 for the fiscal year ending September 30, 1984".

(c) Section 131 of the Act (42 U.S.C. 6061) is amended by striking out "and" after "1980," and by inserting before the period a comma and the following: "$35,000,000 for the fiscal year ending September 30, 1982, $38,000,000 for the fiscal year ending September 30, 1983, and $41,000,000 for the fiscal year ending September 30, 1984".

MANAGEMENT INFORMATION AND EVALUATION SYSTEMS

SEC. 6272. (a) Section 110 of the Act (42 U.S.C. 6009) is amended to read as follows:

"MANAGEMENT INFORMATION AND EVALUATION SYSTEMS

"SEC. 110. (a) From funds reserved under subsection (d), the Secretary may make allotments to the States to design, initiate, test, and operate comprehensive management information and evaluation systems for programs within their jurisdictions for persons with developmental disabilities which are receiving financial assistance under this title. Such systems shall—

"(1) provide a method of evaluating such programs,

"(2) include effective procedures for such programs to protect the confidentiality of records of, and information describing, persons with developmental disabilities, and

"(3) provide a means of measuring the developmental progress of persons with developmental disabilities.

"(b) No allotment may be made to a State under subsection (a) unless an application for the allotment is submitted to and approved by the Secretary and the State has included in its State plan submitted under section 133 a plan for a management information and evaluation system which meets the requirements of subsection (a). Such application shall be in such form, submitted in such manner, and contain such information as the Secretary shall by regulation prescribe.

"(c) The amount of an allotment to a State in a fiscal year shall be proportional to the allotment the State is eligible to receive in such fiscal year under section 132. The amount of an allotment to a State for a fiscal year which the Secretary determines will not be required by the State during the period for which it is available may be realloted by the Secretary to other States in the manner specified in section 132(d).

"(d) For allotments under subsection (a), the Secretary may reserve not more than 10 per centum of the funds appropriated under section 131 in any fiscal year beginning after September 30, 1981, if the total amount of allotments under section 132 in such fiscal year exceeds the total amount of allotments made in the fiscal year ending September 30, 1981.

"(e) The Secretary may not prescribe requirements for management information and evaluation systems for which allotments may be made under subsection (a) if the requirements are in addition to the requirements of subsection (a).".

(b) Section 131 (42 U.S.C. 6061) is amended by striking out "section 132" and inserting in lieu thereof "sections 110 and 132".

SPECIAL PROJECT GRANTS

SEC. 6273. Section 145 of the Act (42 U.S.C. 6081) is amended to read as follows:

"GRANT AUTHORITY

"SEC. 145. (a) The Secretary may make grants to public or nonprofit private entities for—

"(1) demonstration projects—

"(A) which are conducted in more than one State,

"(B) which involve the participation of two or more Federal departments or agencies, or

"(C) which are otherwise of national significance,

and which hold promise of expanding or otherwise improving services to persons with developmental disabilities (especially those who are disadvantaged or multihandicapped); and

"(2) demonstration projects (including research, training, and evaluation in connection with such projects) which hold promise of expanding or otherwise improving protection and advocacy services relating to the State protection and advocacy system described in section 113.

Projects for the evaluation and assessment of the quality of services provided persons with developmental disabilities which meet the requirements of subparagraphs (A), (B), and (C) of paragraph (1) may be included as projects for which grants are authorized under such paragraph.

"(b) No grant may be made under subsection (a) unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information as the Secretary shall by regulation prescribe. The Secretary may not approve such an application unless each State in which the applicant's project will be conducted has a State plan approved under section 133. The Secretary shall provide to the State Planning Council (established under section 137) for each State in which an applicant's project will be conducted an opportunity to review the application for such project and to submit its comments on the application.

"(c) Payments under grants under subsection (a) may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary. The amount of any grant under subsection (a) shall be determined by the Secretary.

"(d) For the purpose of grants under subsection (a), there are authorized to be appropriated $3,000,000 for the fiscal year ending September 30, 1982, $3,000,000 for the fiscal year ending September 30, 1983, and $3,500,000 for the fiscal year ending September 30, 1984.".

CONTRACT AUTHORITY

SEC. 6274. The Act is amended by adding at the end the following new part:

"PART 3—CONTRACT AUTHORITY

"SEC. 151. (a) In lieu of providing funds under a grant under this title, the Secretary may provide such funds under a contract, and all requirements which would apply with respect to such a grant shall apply to the contract.

"(b) The authority of the Secretary to enter into contracts under this title shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.".

CHAPTER 9—NATIONAL HEALTH SERVICE CORPS; HEALTH PROFESSIONS EDUCATION; AND NURSE TRAINING

SHORT TITLE; REFERENCE TO ACT

SEC. 6277. (a) This chapter may be cited as the "Health Professions Educational Assistance and Nurse Training Amendments of 1981".

(b) Unless otherwise specifically stated, whenever in this chapter an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

Subchapter A—National Health Service Corps Programs

REVISION AND EXTENSION OF NATIONAL HEALTH SERVICE CORPS

SEC. 6278. (a)(1) Section 331(a)(1) (42 U.S.C. 254d(a)(1)) is amended to read as follows: "(1) shall consist of—

"(A) such officers of the Regular and Reserve Corps of the Service as the Secretary may designate,

"(B) such civilian employees of the United States as the Secretary may appoint, and

"(C) such other individuals who are not employees of the United States,

(such officers, employees, and individuals hereinafter in this subpart referred to as 'Corps members'), and".

(2)(A) Section 331(d)(1) is amended by inserting after "each member of the Corps" the following: "(other than a member described in subsection (a)(1)(C))".

(B) Section 331(d) is amended by adding at the end the following:

"(3) A member of the Corps described in subparagraph (C) of subsection (a)(1) shall when assigned to an entity under section 333 be subject to the personnel system of such entity, except that such member shall receive during the period of assignment the income that the member would receive if the member was a member of the Corps described in subparagraph (B) of such subsection.".

(3) Section 331(h)(1) is amended by striking out ", Education, and Welfare" and inserting in lieu thereof "and Human Services".

(4) Section 331 is amended by redesignating subsections (g) and (h) as subsections (h) and (i), respectively, and by adding after subsection (f) the following new subsection:

"(g)(1) The Secretary shall, by rule, prescribe conversion provisions applicable to any individual who, within a year after completion of service as a member of the Corps described in subsection (a)(1)(C), becomes a commissioned officer in the Regular or Reserve Corps of the Service.

"(2) The rules prescribed under paragraph (1) shall provide that in applying the appropriate provisions of this Act which relate to retirement, any individual who becomes such an officer shall be entitled to have credit for any period of service as a member of the Corps described in subsection (a)(1)(C).".

(5) Section 331(c) is amended by inserting "or for a release under section 753" after "Corps".

(b)(1) Paragraph (1) of subsection (a) of section 333 (42 U.S.C. 254f) is amended by adding after and below subparagraph (D) the following: "An application for assignment of a Corps member to a health manpower shortage area shall include a demonstration by the applicant that the area or a population group to be served by the applicant has a shortage of personal health services and that the Corps member will be located so that the member will provide services to the greatest number of persons residing in such area or included in such population group. Such a demonstration shall be made on the basis of the criteria prescribed by the Secretary under section 332(b) and on additional criteria which the Secretary shall prescribe to determine if the area or population group to be served by the applicant has a shortage of personal health services.".

(2) Subsection (a) of section 333 is amended by adding at the end the following:

"(3) In approving applications for assignment of members of the Corps the Secretary shall not discriminate against applications from entities which are not receiving Federal financial assistance under this Act.".

(3) Effective October 1, 1981, section 333 is amended by redesignating subsections (d) through (h) as subsections (e) through (i), respectively, and by adding after subsection (c) the following new subsection:

"(d)(1) The Secretary may not approve an application for the assignment of a member of the Corps described in subparagraph (C) of section 331(a)(1) to an entity unless the application of the entity contains assurances satisfactory to the Secretary that the entity (A) has sufficient financial resources to provide the member of the Corps with an income of not less than the income to which the member would be entitled if the member was a member described in subparagraph (B) of section 331(a)(1), or (B) would have such financial resources if a grant was made to the entity under paragraph (2).

"(2)(A) If in approving an application of an entity for the assignment of a member of the Corps described in subparagraph (C) of section 331(a)(1) the Secretary determines that the entity does not have sufficient financial resources to provide the member of the Corps with an income of not less than the income to which the member would be entitled if the member was a member described in subparagraph (B) of section 331(a)(1), the Secretary may make a grant to the entity to assure that the member of the Corps assigned to it will receive during the period of assignment to the entity such an income.

"(B) The amount of any grant under subparagraph (A) shall be determined by the Secretary. Payments under such a grant may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary. No grant may be made unless an application therefor is submitted to and approved by the Secretary. Such an application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.".

(4) Subsection (g) (as so redesignated) of section 333 is amended by adding at the end of paragraph (1) the following: "Assistance provided under this paragraph shall include assistance to an entity in (A) analyzing the potential use of health professions personnel in defined health services delivery areas by the residents of such areas, (B) determining the need for such personnel in such areas, (C) determining the extent to which such areas will have a financial base to support the practice of such personnel and the extent to which additional financial resources are needed to adequately support the practice, and (D) determining the types of inpatient and other health services that should be provided by such personnel in such areas.".

(5) Subsection (g) (as so redesignated) of section 333 is amended by adding at the end the following:

"(4)(A) The Secretary shall undertake to demonstrate the improvements that can be made in the assignment of members of the Corps to health manpower shortage areas and in the delivery of health care by Corps members in such areas through coordination with States, political subdivisions of States, agencies of States and political subdivisions, and other public and nonprofit private entities which have expertise in the planning, development, and operation of centers for the delivery of primary health care. In carrying out this subparagraph, the Secretary shall enter into agreements with qualified entities which provide that if—

"(i) the entity places in effect a program for the planning, development, and operation of centers for the delivery of primary health care in health manpower shortage areas which reasonably addresses the need for such care in such areas, and

"(ii) under the program the entity will perform the functions described in subparagraph (B),

the Secretary will assign under this section members of the Corps in accordance with the program.

"(B) For purposes of subparagraph (A), the term 'qualified entity' means a State, political subdivision of a State, an agency of a State or political subdivision, or other public or nonprofit private entity operating solely within one State, which the Secretary determines is able—

"(i) to analyze the potential use of health professions personnel in defined health services delivery areas by the residents of such areas;

"(ii) to determine the need for such personnel in such areas and to recruit, select, and retain health professions personnel (including members of the National Health Service Corps) to meet such need;

"(iii) to determine the extent to which such areas will have a financial base to support the practice of such personnel and the extent to which additional financial resources are needed to adequately support the practice;

"(iv) to determine the types of inpatient and other health services that should be provided by such personnel in such areas;

"(v) to assist such personnel in the development of their clinical practice and fee schedules and in the management of their practice;

"(vi) to assist in the planning and development of facilities for the delivery of primary health care; and

"(vii) to assist in establishing the governing bodies of centers for the delivery of such

care and to assist such bodies in defining and carrying out their responsibilities.".

(c)(1) Section 334(a) (42 U.S.C. 254g(a)) is amended by inserting "for the assignment of a member of the Corps" after "section 333".

(2) Section 334(a)(3)(A) is amended by inserting "from the United States" after "received by such member".

(3) Section 334(a)(3)(C) is amended (A) by inserting "or a grant under section 333(d)(2)" after "section 335(c)", and (B) by inserting "or grant" after "such loan" each time it occurs.

(4) Section 334(b) is amended by adding at the end the following:

"(4) In determining whether to grant a waiver under paragraph (1) or (2), the Secretary shall not discriminate against a public entity.".

(5) Subsection (e) of section 334 is amended to read as follows:

"(e)(1) There is established in the Treasury of the United States a revolving fund to be called the National Health Service Corps Fund (hereinafter in this subsection referred to as the 'Fund') which shall be available to the Secretary, without fiscal year limitation, to carry out this subpart.

"(2) There shall be deposited in the Fund, subject to withdrawal by check by the Secretary—

"(A) funds received by the Secretary after September 30, 1981, under an agreement entered into under (i) subsection (a), (ii) section 754, and (iii) section 225 as in effect on September 30, 1977, and

"(B) interest which may be earned on investments of the Fund.

"(3) If the Secretary determines that the moneys of the Fund are in excess of current needs, the Secretary may request the investment of such amounts as the Secretary deems advisable by the Secretary of the Treasury in obligations of, or obligations guaranteed by, the Government of the United States, and, with the approval of the Secretary of the Treasury, in such other obligations or securities as it deems appropriate.

"(4) With the approval of the Secretary of the Treasury, the Secretary of Health and Human Services may deposit moneys in the Fund in any Federal Reserve bank, any depository for public funds, or in such other places and in such manner as the Secretary of Health and Human Services and the Secretary of the Treasury may mutually agree.

"(5) The Fund and the funds credited to it shall not be subject to apportionment under section 3679 of the Revised Statutes (31 U.S.C. 665).".

(d)(1) Effective October 1, 1981, subpart II of part D of title III is amended by redesignating sections 336, 337, and 338 as sections 338, 338A, and 338B, respectively; by transferring section 755 to the subpart, inserting such section after section 335, and redesignating it as section 336; and by adding after section 336 (as so redesignated) the following new section:

"PREPARATION FOR PRACTICE

"SEC. 337. (a) The Secretary may make grants to and enter into contracts with public and private nonprofit entities for the conduct of programs which are designed to prepare individuals subject to a service obligation under the National Health Service Corps scholarship program to effectively provide health services in the health manpower shortage area to which they are assigned.

"(b) No grant may be made or contract entered into under subsection (a) unless an application therefor is submitted to and approved by the Secretary. Such an application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.".

(2) Subsection (a)(1) of section 336 (as so redesignated) is amended by inserting "at least two years of" after "completed".

(e) Section 338B(a) (as so redesignated) (42 U.S.C. 254k) is amended (1) by striking out "and" after "1979;", and (2) by adding before the period a semicolon and the following: "$110,000,000 for the fiscal year ending September 30, 1982; $120,000,000 for the fiscal year ending September 30, 1983; and $130,000,000 for the fiscal year ending September 30, 1984".

(f) Effective October 1, 1981, the Secretary of Health and Human Services shall—

(1) evaluate the criteria used under section 332(b) of the Public Health Service Act to determine if the use of the criteria has resulted in areas which do not have a shortage of health professions personnel being designated as health manpower shortage areas; and

(2) consider different criteria (including the actual use of health professions personnel in an area by the residents of an area taking into account their health status) which may be used to designate health manpower shortage areas.

Not later than April 1, 1983, the Secretary shall report to the Congress the results of the activities undertaken under this subsection.

REVISION AND EXTENSION OF NATIONAL HEALTH SERVICE CORPS SCHOLARSHIP PROGRAM

SEC. 6279. (a)(1) Paragraphs (1) through (4) of section 752(b) (42 U.S.C. 294u(b)) are amended to read as follows:

"(b)(1) If an individual is required under subsection (a) to provide service as specified in section 751(f)(1)(B)(iv) (hereinafter in this subsection referred to as 'obligated service'), the Secretary shall, not later than ninety days before the date described in paragraph (5), determine if the individual shall provide such service—

"(A) as a member of the Corps who is a commissioned officer in the Regular or Reserve Corps of the Service or who is a civilian employee of the United States, or

"(B) as a member of the Corps who is not such an officer or employee,

and shall notify such individual of such determination.

"(2) If the Secretary determines that an individual shall provide obligated service as a member of the Corps who is a commissioned officer in the Service or a civilian employee of the United States, the Secretary shall, not later than sixty days before the date described in paragraph (5), provide such individual with sufficient information regarding the advantages and disadvantages of service as such a commissioned officer or civilian employee to enable the individual to make a decision on an informed basis. To be eligible to provide obligated service as a commissioned officer in the Service, an individual shall notify the Secretary, not later than thirty days before the date described in paragraph (5), of the individual's desire to provide such service as such an officer. If an individual qualifies for an appointment as such an officer, the Secretary shall, as soon as possible after the date described in paragraph (5), appoint the individual as a commissioned officer of the Regular or Reserve Corps of the Service and shall designate the individual as a member of the Corps.

"(3) If an individual provided notice by the Secretary under paragraph (2) does not qualify for appointment as a commissioned officer in the Service, the Secretary shall, as soon as possible after the date described in paragraph (5), appoint such individual as a civilian employee of the United States and designate the individual as a member of the Corps.

"(4) If the Secretary determines that an individual shall provide obligated service as a member of the Corps who is not an employee of the United States, the Secretary shall, as soon as possible after the date described in paragraph (5), designate such individual as a member of the Corps to provide such service.".

(2)(A) Subsection (c)(1) of section 752 is amended by striking out "or as a member of the Corps" and inserting in lieu thereof "or is designated as a member of the Corps under subsection (b)(3) or (b)(4)".

(B) The second sentence of subsection (d) of section 752 is amended by inserting after "written contract" the following: "and if such individual is an officer in the Service or a civilian employee of the United States".

(b) Subsection (e) of section 752 is amended to read as follows:

"(e) Notwithstanding any other provision of this title, service of an individual under a National Research Service Award awarded under subparagraph (A) or (B) of section 472(a)(1) shall be counted against the period of obligated service which the individual is required to perform under the scholarship program.".

(c)(1) Section 753(b)(1)(B) (42 U.S.C. 294v(b)(1)(B)) is amended (A) by inserting "(i)" before "shall not", and (B) by inserting before the semicolon a comma and the following: "and (ii) shall agree to accept an assignment under section 1842(b)(3)(B)(ii) of such Act for all services for which payment may be made under part B of title XVIII of such Act and enter into an appropriate agreement with the State agency which administers the State plan for medical assistance under title XIX of such Act to provide services to individuals entitled to medical assistance under the plan".

(2) Section 753 is amended by adding the following new subsections:

"(c) If an individual breaches the contract entered into under section 751 by failing (for any reason) to begin his service obligation in accordance with an agreement entered into under subsection (a) or to complete such service obligation, the Secretary may permit such individual to perform such service obligation as a member of the Corps.

"(d) The Secretary may pay an individual who has entered into an agreement with the Secretary under subsection (a) an amount to cover all or part of the individual's expenses reasonably incurred in transporting himself, his family, and his possessions to the location of his private clinical practice.

"(e) The Secretary shall, upon request, provide technical assistance to individuals who are considering entering into an agreement under subsection (a) or have entered into such an agreement to assist them in the establishment of their clinical practice under the agreement.".

(3) Section 751(c)(2) is amended by inserting "information respecting meeting a service obligation through private practice under an agreement under section 753 and" after "(2)".

(4)(A) Subsection (a) of section 753 is amended (i) by inserting "or under section 225 (as in effect on September 30, 1977)" after "section 752(a)", and (ii) by striking

out "which has a priority for the assignment of Corps members under section 333(c)" in paragraph (2).

(B) Section 754(c) (42 U.S.C. 294w(c)) is amended (i) by striking out "(c) If" and inserting in lieu thereof "(c)(1) Except as provided in paragraph (2), if", and (ii) by adding at the end the following:

"(2) If an individual is released under section 753 from a service obligation under section 225 (as in effect on September 30, 1977) and if the individual does not meet the service obligation incurred under section 753, subsection (f) of such section 225 shall apply to such individual in lieu of paragraph (1) of this subsection.".

(C) Section 735(c)(1) (42 U.S.C. 294h(c)(1)) is amended by striking out "clauses (A) and (B) of".

(d) Section 751(a) is amended by inserting "clinical psychologists," after "pharmacists,".

(e) Section 754(d)(2) is amended by inserting "partial or total" before "waiver".

(f)(1) The first sentence of section 756(a) is amended (A) by striking out "and" after "1979," and (B) by inserting before the period a comma and the following: "$55,000,000 for the fiscal year ending September 30, 1982, $50,000,000 for the fiscal year ending September 30, 1983, and $55,000,000 for the fiscal year ending September 30, 1984".

(2) The second sentence of such section is amended (A) by striking out "1981" and inserting in lieu thereof "1985", and (B) by striking out "1980" and inserting in lieu thereof "1984".

(g) The amendments made by subsection (a) shall apply with respect to contracts entered into under the National Health Service Corps scholarship program under subpart III of part C of title VII of the Public Health Service Act after the date of the enactment of this Act. An individual who before such date has entered into such a contract and who has not begun the period of obligated service required under such contract shall be given the opportunity to revise such contract to permit the individual to serve such period as a member of the National Health Service Corps who is not an employee of the United States.

Subchapter B—Health Professions Programs Under Title VII

Part I—Construction Assistance

REPEAL OF ENROLLMENT INCREASE REQUIREMENT

SEC. 6280. (a) Paragraph (2) of section 721(c) (42 U.S.C. 293a(c)(2)) is amended (1) by inserting "and" after "the facility,", and (2) by striking out ", and (D)" and all that follows in that paragraph and inserting in lieu thereof a semicolon.

(b) The amendment made by subsection (a) shall apply with respect to any entity which received a grant under section 720 of the Public Health Service Act irrespective of the date of the grant.

CONSTRUCTION ASSISTANCE FOR CONVERSIONS

SEC. 6281. (a) Section 720(a) (42 U.S.C. 293(a)) is amended by adding at the end the following:

"(3) The Secretary may make grants to schools providing the first two years of education leading to the degree of doctor of medicine to assist in the construction of the teaching facilities which the schools require to become schools of medicine.".

(b) Subsection (b) of such section is amended to read as follows:

"(b) For the purpose of grants under subsection (a)(3), there are authorized to be appropriated $15,000,000 for the fiscal year ending September 30, 1983, to remain available until expended.".

(c) Section 721(b)(1) (42 U.S.C. 293a(b)) is amended (1) by inserting after "(1)" the following: "To be eligible to apply for a grant under section 720(a)(3) the applicant must be a public or nonprofit school providing the first two years of education leading to the degree of doctor of medicine and be accredited by a recognized body or bodies approved for such purpose by the Secretary of Education.", and (2) by striking out "under this part" and inserting in lieu thereof "under paragraph (1) or (2) of section 720(a)".

(d) Subsection 721(g)(1) is amended by striking out "section 720(a)(2)" and inserting in lieu thereof "paragraph (2) or (3) of section 720(a)".

(e) Subsection (a) of section 722 (42 U.S.C. 293b(a)) is amended by adding at the end the following:

"(3) The amount of any grant under section 720(a)(3) shall be such amount as the Secretary determines to be appropriate after obtaining advice from the Council, except that no grant for any project may exceed 80 percent of the necessary costs of construction, as determined by the Secretary.".

(f) Section 723(a) (42 U.S.C. 293c(a)) is amended by striking out "section 720(a)(1)" and inserting in lieu thereof "paragraph (1) or (3) of section 720(a)".

INTEREST SUBSIDIES

SEC. 6282. Section 726(b) (42 U.S.C. 293i(b)) is amended (1) by inserting "before October 1, 1981," after "loan has been made", and (2) by striking out ", during the period beginning July 1, 1971, and ending with the close of September 30, 1980,".

Part II—Student Assistance

EXTENSION AND REVISION OF INSURED STUDENT LOAN PROGRAM

SEC. 6283. (a)(1) The second sentence of section 728(a) (42 U.S.C. 294a(a)) is amended by striking out "and for the next fiscal year" and inserting in lieu thereof "and for each of the next four fiscal years".

(2) The second sentence of such section is amended by striking out "1982" and inserting in lieu thereof "1986".

(b) Section 728(c) is amended by striking out the period at the end and inserting in lieu thereof a comma and the following: "except that if any loan made under this subpart is included in a consolidated loan pursuant to the authority of the Association under part B of title IV of the Higher Education Act of 1965, the interest rate on such consolidated loan shall be set at the weighted average interest rate of all loans offered for consolidation and the resultant per centum shall be rounded downward to the nearest one-eighth of 1 per centum, except that the interest rate shall be no less than the applicable interest rate of the guaranteed student loan program established under part B of title IV of the Higher Education Act of 1965. In the case of such a consolidated loan, the borrower shall be responsible for any interest which accrues prior to the beginning of the repayment period of the loan, or which accrues during a period in which principal need not be paid (whether or not such principal is in fact paid) by reason of any provision of the Higher Education Act of 1965. Special allowances payable with respect to consolidated loans made by the Association pursuant to the terms of this subsection—

"(1) shall be computed in accordance with section 438(b)(2)(A) of the Higher Education Act of 1965, and

"(2) shall be reduced (A) by subtracting 7 percent from the weighted average interest rate of a loan computed according to this subsection, and (B) by subtracting the resultant remainder from such special allowance."

(c) Section 729(a) (42 U.S.C. 294b(a)) is amended (1) by striking out "$15,000" and inserting in lieu thereof "$20,000", and (2) by striking out "$60,000" and inserting in lieu thereof "$80,000".

(d)(1) Section 731(a)(2) is amended (A) by striking out "installments of principal need not be paid, but interest shall accrue and be paid" in subparagraph (C) and inserting in lieu thereof "installments of principal and interest need not be paid, but interest shall accrue", (B) by striking out "three years" in subparagraph (C)(ii) and inserting in lieu thereof "four years", (C) by inserting "except as provided in subparagraph (C)" after "period of the loan" in subparagraph (D), and (D) by striking out "otherwise payable (i) before the beginning of the repayment period, (ii) during any period described in subparagraph (C), or (iii) during any other period of forbearance of payment of principal," in subparagraph (D).

(2) Section 731(a)(2) is amended (A) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively, and (B) by inserting after subparagraph (D) the following:

"(E) offers, in accordance with criteria prescribed by regulation by the Secretary, a schedule for repayment of principal and interest under which payment of a portion of the principal and interest otherwise payable at the beginning of the repayment period (as defined in such regulations) is deferred until a later time in the period;".

(3) Section 731(c) is amended by striking out "The total" and inserting in lieu thereof "Except as provided in subsection (a)(2)(C), the total".

(e) Paragraph (1) of section 737 (42 U.S.C. 294j(1)) is amended to read as follows:

"(1) The term 'eligible institution' means a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, or public health within the United States which is accredited by a recognized body or bodies approved for such purpose by the Secretary of Education.".

(f)(1) Section 739(b) is amended to read as follows:

"(b) The Secretary shall require an eligible institution to record, and to make available to the lender and to the Secretary upon request, the name, address, postgraduate destination, and other reasonable identifying information for each student of such institution who has a loan insured under this subpart.".

(2) Section 731(a)(1)(A) (42 U.S.C. 294d(a)(1)(A)) is amended (A) by striking out clause (iii), and (B) by redesignating clauses (iv) and (v) as clauses (iii) and (iv), respectively.

(3) Section 731(a)(2) is amended (A) by striking out "15 years" in subparagraph (B) and inserting in lieu thereof "25 years", (B) by striking out "23 years" in such subparagraph and inserting in lieu thereof "33 years", and (C) by striking out "the 15-year period or the 23-year period" in subparagraph (C) and inserting in lieu thereof "the 25-year period or the 33-year period".

EXTENSION OF STUDENT LOAN PROGRAM

SEC. 6284. (a)(1) The first sentence of section 742(a) (42 U.S.C. 294b(a)) is amended (1) by striking out "and" after "1979,", and (2) by inserting before the period a comma and the following: "$16,500,000 for the fiscal year ending September 30, 1982, $18,000,000 for the fiscal year ending September 30, 1983, and $19,500,000 for the fiscal year ending September 30, 1984".

(2) The second sentence of such section is amended (A) by striking out "1981" and inserting in lieu thereof "1985", and (B) by striking out "1980" and inserting in lieu thereof "1984".

(b) Section 743 (42 U.S.C. 294c) is amended by striking out "1983" each place it occurs and inserting in lieu thereof "1987".

EXTENSION OF SCHOLARSHIPS FOR STUDENTS OF EXCEPTIONAL FINANCIAL NEED

SEC. 6285. (a) Section 758(d) (42 U.S.C. 294z(d)) is amended (1) by striking out "and" after "1979,", and (2) by inserting before the period a comma and the following: "$10,000,000 for the fiscal year ending September 30, 1982, $11,000,000 for the fiscal year ending September 30, 1983, and $12,000,000 for the fiscal year ending September 30, 1984".

(b) Section 758(c) is amended (1) by striking out "distribute grants under this section among all schools of the health professions, but shall", and (2) by striking out "such grants" and inserting in lieu thereof "grants under subsection (a)".

PART III—PROJECT GRANTS AND CONTRACTS

DEPARTMENTS OF FAMILY MEDICINE

SEC. 6286. (a) Section 780(c) (42 U.S.C. 295g(c)) is amended (1) by striking out "and" after "1979,", and (2) by inserting after "1980" a comma and the following: "$8,000,000 for the fiscal year ending September 30, 1982, $9,000,000 for the fiscal year ending September 30, 1983, and $10,000,000 for the fiscal year ending September 30, 1984".

(b) Section 780(b)(1)(D) is amended by striking out "have control over" and inserting in lieu thereof "have control over or affiliation with".

AREA HEALTH EDUCATION CENTERS

SEC. 6287. (a) Section 781(g) (42 U.S.C. 295g-1(g)) is amended (1) by striking out "and" after "1979,", and (2) by inserting a comma before the period and the following: "$19,000,000 for the fiscal year ending September 30, 1982, $21,000,000 for the fiscal year ending September 30, 1983, and $23,000,000 for the fiscal year ending September 30, 1984,".

(b) The last sentence of section 781(c) is amended by striking out "paragraph (3)" and inserting in lieu thereof "paragraph (2) or (3)".

(c)(1) Section 781(d)(2)(C) is amended by inserting "(including interns and osteopathic internships)" after "six individuals".

(2) Section 781(d)(2)(E) is amended by striking out "support services" and inserting in lieu thereof "educational support services".

(d)(1) Effective October 1, 1981, subsection (a) of section 781 is amended to read as follows:

"SEC. 781. (a)(1) The Secretary may enter into contracts with schools of medicine and osteopathy for the planning, development, and operation of area health education center programs.

"(2) The Secretary may enter into contracts with schools of medicine and osteopathy, which have previously received Federal financial assistance for an area health education center program under section 802 of the Health Professions Educational Assistance Act of 1976 or this section, to carry out under area health education center programs—

"(A) projects to improve the distribution, supply, quality, utilization, and efficiency of health personnel in the health services delivery system;

"(B) projects to encourage the regionalization of educational responsibilities of the health professions schools; and

"(C) projects designed to prepare, through preceptorships and other programs, individuals subject to a service obligation under the National Health Service Corps scholarship program to effectively provide health services in health manpower shortage areas.".

(2) The first sentence of subsection (e) is repealed.

(3) Subsection (e) is amended by adding after paragraph (3) the following: "The Secretary may vest in entities which have received contracts under section 802 of the Health Professions Educational Assistance Act of 1976, section 774 as in effect before October 1, 1977, or under subsection (a) of this section for area health education centers programs title to any property acquired on behalf of the United States by that entity (or furnished to that entity by the United States) under that contract.".

(4) The first sentence of subsection (f) is amended to read as follows: "For purposes of this section, the term 'area health education center program' means a program which is organized as provided in subsection (b) and under which the participating medical and osteopathic schools and the area health education centers meet the requirements of subsections (c) and (d).".

(5) Subsection (g) of such section is amended by adding at the end the following: "The Secretary may obligate not more than 10 percent of the amount appropriated under this subsection for any fiscal year for contracts under subsection (a)(2).".

PHYSICIAN ASSISTANTS

SEC. 6288. (a) Section 783(e) (42 U.S.C. 295g-3(e)) is amended (1) by striking out "and" after "1979,", and (2) by inserting after "1980" a comma and the following: "$7,000,000 for the fiscal year ending September 30, 1982, $8,000,000 for the fiscal year ending September 30, 1983, and $9,000,000 for the fiscal year ending September 30, 1984".

(b) Section 783(c) is amended by striking out "830" and inserting in lieu thereof "822".

(c)(1) Subsection (a) of section 783 is amended to read as follows:

"(a) The Secretary may make grants to and enter into contracts with public or nonprofit private schools of medicine and osteopathy and other public or nonprofit private entities to meet the costs of projects to plan, develop, and operate or maintain programs for the training of physician assistants (as defined in section 701(7)).".

(2) The heading for section 783 is amended to read as follows:

"PROGRAMS FOR PHYSICIAN ASSISTANTS"

(d) Section 783 is amended by striking out subsection (d) and by redesignating subsection (e) as subsection (d).

GENERAL INTERNAL MEDICINE AND GENERAL PEDIATRICS

SEC. 6289. (a) Section 784(b) (42 U.S.C. 295g-4(b)) is amended (1) by striking out "and" after "1979,", and (2) by inserting after "1980" a comma and the following: "$20,000,000 for the fiscal year ending September 30, 1982, $22,000,000 for the fiscal year ending September 30, 1983, and $24,000,000 for the fiscal year ending September 30, 1984".

(b) Section 784(a) is amended by inserting ", public or private nonprofit hospital, or any other public or private nonprofit entity" after "osteopathy".

FAMILY MEDICINE AND GENERAL PRACTICE OF DENTISTRY

SEC. 6290. (a) Section 786(d) (42 U.S.C. 295g-6(d)) is amended (1) by striking out "and" after "1979,", and (2) by inserting after "1980" a comma and the following: "$35,000,000 for the fiscal year ending September 30, 1982, $37,500,000 for the fiscal year ending September 30, 1983, and $40,000,000 for the fiscal year ending September 30, 1984".

(b) Section 786(a) is amended—

(1) by striking out "a continuing education program or" in paragraph (1), and

(2) by inserting "and" at the end of paragraph (1), by striking out the semicolon at the end of paragraph (2) and inserting a period, and by striking out paragraphs (3) and (4).

(c) Section 786 is amended by striking out subsection (c) and by redesignating subsection (d) as subsection (c).

(d) Effective October 1, 1981, the Secretary of Health and Human Services shall conduct a study to determine the most effective and efficient means of providing financial assistance to graduate medical education programs in the United States in primary internal medicine, primary pediatrics, and family medicine. The Secretary shall complete such study and report, not later than October 1, 1982, to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate the results of the study and recommendations, if any, for legislation.

ASSISTANCE TO INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS

SEC. 6291. Effective with respect to fiscal years beginning after September 30, 1981, section 787 (42 U.S.C. 295g-7) is amended—

(1) by inserting "nursing," after "dentistry," in subsection (a)(1),

(2) by inserting "training centers for allied health professions," after "pharmacy," in subsection (a)(1), and

(3) by amending subsection (b) to read as follows:

"(b)(1) There are authorized to be appropriated for grants and contracts under subsection (a)(1), $20,000,000 for the fiscal year ending September 30, 1982, $22,000,000 for the fiscal year ending September 30, 1983, and $24,000,000 for the fiscal year ending September 30, 1984. Not less than 80 percent of the funds appropriated in any fiscal year shall be obligated for grants or contracts to institutions of higher education and not more than 5 percent of such funds may be obligated for grants and contracts for activities described in paragraph (1)(E) of subsection (a).

"(2) Funds provided under grants and contracts under subsection (a)(1) may be used to provide traineeships to students receiving the education described in subsection (a)(2)(D) if such students would not otherwise be able to receive such education.".

FINANCIAL DISTRESS, CONVERSION, AND CURRICULUM GRANTS

SEC. 6292. (a)(1) Subsection (a) of section 788 (42 U.S.C. 295g-8) is repealed.

(2) Notwithstanding the amendment made by paragraph (1), a school which received a grant under section 788(a) of the Public Health Service Act for the fiscal year ending September 30, 1981, may continue to receive grants under such section (as in effect on the day before the date of the enactment of this Act) for each year such school is a new school as determined under such section. For purposes of making such grants, there are authorized to be appropriated such sums as may be necessary.

(b)(1) Subsection (b) of such section is redesignated as subsection (a) and effective with respect to fiscal years beginning after September 30, 1981, paragraph (5) of such subsection is amended to read as follows:

"(5) For the purpose of making grants and entering into contracts and cooperative agreements under paragraph (1) for schools which received a grant or contract under paragraph (1) for the fiscal year ending September 30, 1981, there are authorized to be appropriated such sums as may be necessary for the fiscal year ending September 30, 1982, and the two succeeding fiscal years.".

(1) Paragraph (1) of subsection (a) (as so redesignated) is amended (A) by inserting "and cooperative agreements" after contracts, and (B) by inserting "(for periods not to exceed three years)" after "or public health".

(c) Subsection (c) of such section is redesignated as subsection (b) and effective with respect to fiscal years beginning after September 30, 1981, is amended to read as follows:

"(b)(1) The Secretary may make grants to schools which provide the first two years of education leading to the degree of doctor of medicine to assist the schools in accelerating the date they will become schools of medicine.

"(2) The amount of a grant under paragraph (1) to a school shall be equal to the product of $25,000 and the number of full-time, third-year students which the Secretary estimates will enroll in the school in the school year beginning in the fiscal year in which such grant is made. Estimates by the Secretary under this paragraph of the number of full-time, third-year students to be enrolled in the school may be made on assurances provided by the school.

"(3) No grant may be made under paragraph (1) unless an application for such grant is submitted to, and approved by, the Secretary. Such application shall be in such form, be submitted in such manner, and shall contain such information, as the Secretary may by regulation prescribe. To be eligible to apply for a grant under paragraph (1), the applicant must be a public or nonprofit school providing the first two years of education leading to the degree of doctor of medicine and be accredited by a recognized body or bodies approved for such purpose by the Secretary of Education.".

(d) Subsection (d) of such section is redesignated as subsection (c) and is amended—

(1) by inserting "dentistry," before "optometry" in paragraph (6).

(2) by striking out "and" at the end of paragraph (20),

(3) by striking out the period at the end of paragraph (21) and inserting in lieu thereof a semicolon, and

(4) by adding at the end the following:

"(22) training of health professionals in the diagnosis, treatment, and prevention of diabetes and other severe chronic diseases and their complications; and

"(23) dental education, the training of expanded function dental auxiliaries, and dental team practice.".

(e) Subsection (e) of such section is redesignated as subsection (d) and effective with respect to fiscal years beginning after September 30, 1981, is amended to read as follows:

"(d) For purposes of this section (other than subsection (a)) there are authorized to be appropriated $5,000,000 for the fiscal year ending September 30, 1982, $5,500,000 for the fiscal year ending September 30, 1983, and $6,000,000 for the fiscal year ending September 30, 1984.".

(f)(1) Subsections (f) and (g) of such section are repealed.

(2) The heading for section 788 is amended by striking out "FOR START-UP ASSISTANCE,".

PART IV—PUBLIC HEALTH PERSONNEL

INSTITUTIONAL SUPPORT, TRAINEESHIPS, AND OTHER PROGRAMS

SEC. 6293. (a) Section 770(e)(4) (42 U.S.C. 295f(e)(4))is amended by striking out "and" after "1979," and by inserting after "1980," the following: "$6,500,000 for the fiscal year ending September 30, 1982, $7,000,000 for the fiscal year ending September 30, 1983, and $7,500,000 for the fiscal year ending September 30, 1984,".

(b) Section 791 (42 U.S.C. 295h) is amended as follows:

(1) Subsection (c)(2)(A)(i)(II) is amended by striking out "$100,000" and inserting in lieu thereof "$150,000".

(2) Subsection (c)(2)(A)(ii) is amended—

(A) by striking out "1978" and inserting in lieu thereof "1981"; and

(B) by striking out "1976" and inserting in lieu thereof "1980".

(3) Subsection (c)(2)(B) is amended by striking out "Commissioner" and inserting in lieu thereof "Secretary".

(4) Subsection (d) is amended—

(A) by striking out "and" after "1979,"; and

(B) by inserting after "1980" a comma and the following: "$3,000,000 for the fiscal year ending September 30, 1982, $3,500,000 for the fiscal year ending September 30, 1983, and $4,000,000 for the fiscal year ending September 30, 1984".

(c) Section 792 (42 U.S.C. 295h-1) is repealed.

(d) Section 748 (42 U.S.C. 294r) is inserted after section 791, redesignated as section 792, and is amended (1) by striking out "749" in subsection (a)(2) and inserting in lieu thereof "793", (2) by striking out "post-baccalaureate" in subsection (b)(3)(A)(i) and inserting in lieu thereof "baccalaureate", (3) by striking out "and" after "1979;" in subsection (c), and (4) by inserting before the period in such subsection a semicolon and the following: "$3,500,000 for the fiscal year ending September 30, 1982; $4,000,000 for the fiscal year ending September 30, 1983; and $4,500,000 for the fiscal year ending September 30, 1984".

(e) Section 749 (42 U.S.C. 294s) is inserted after the section inserted by subsection (d), redesignated as section 793, and is amended (1) by striking out "postbaccalaureate" in subsection (b)(3)(A) and inserting in lieu thereof "baccalaureate", (2) by striking out "and" after "1979;" in subsection (c), and (C) by inserting before the period in such subsection a semicolon and the following: "$1,000,000 for the fiscal year ending September 30, 1982; $1,100,000 for the fiscal year ending September 30, 1983; and $1,200,000 for the fiscal year ending September 30, 1984".

(f) The following new section is inserted after section 793 (as so redesignated):

"TRAINING IN PREVENTIVE MEDICINE

"SEC. 794. (a) The Secretary may make grants to schools of medicine and schools of public health to meet the costs of projects—

"(1) to plan and develop new residency training programs and to develop and expand accredited residency training programs in preventive medicine; and

"(2) to provide financial assistance to residency trainees enrolled in such programs.

"(b)(1) The amount of any grant under subsection (a) shall be determined by the Secretary. No grant may be made under subsection (a) unless an application therefor is submitted to and approved by the Secretary. Such an application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

"(2) To be eligible for a grant under subsection (a), the applicant must demonstrate to the Secretary that it has or will have available full-time faculty members with training and experience in the fields of preventive medicine and support from other faculty members trained in public health and other relevant specialties and disciplines.

"(c) For the purpose of grants under subsection (a), there are authorized to be appropriated $3,000,000 for the fiscal year ending September 30, 1982, and $3,500,000 for the fiscal year ending September 30, 1983, and $4,000,000 for the fiscal year ending September 30, 1984.".

(7) The section 793 entitled "Statistics and Annual Report" is inserted after section 794 and redesignated as section 794A.

PART V—ALLIED HEALTH PERSONNEL

PROJECT GRANTS

SEC. 6294. Section 796(d)(1) (42 U.S.C. 295h-5) is amended (1) by striking out "and" after "1979;", and (2) by inserting after "1980" a semicolon and the following: "$5,000,000 for the fiscal year ending September 30, 1982; $5,500,000 for the fiscal year ending September 30, 1983; and $6,000,000 for the fiscal year ending September 30, 1984".

PART VI—PHYSICIAN STUDY

PHYSICIAN STUDY

SEC. 6295. (a) The Secretary of Health and Human Services shall arrange, in accordance with subsection (c), for a study to determine—

(1) the implications of the increase in the supply of physicians and the projected distribution of the increased number of physicians in the various medical specialties on—

(A) the cost of health care,

(B) the distribution of all physicians by geographic area, and

(C) the quality of health care; and

(2) the implications of the patterns of payments of physicians by Federal and other public and private third-party payers (including differences in the levels of payments to physicians in various medical specialties and geographic areas and differences in the amount of payments which support post-graduate training programs in such specialties) on—

(A) the distribution of physicians in the various medical specialties,

(B) the cost of health care,

(C) the distribution of physicians by geographic area, and

(D) the quality of health care.

(b) An interim report on such study shall be completed not later than March 30, 1983. A final report of such study shall be completed not later than September 30, 1984. Both reports shall be submitted to the Secretary, the Committee on Labor and Human Resources of the Senate, and the Committee on Energy and Commerce of the House of Representatives.

(c)(1) The Secretary shall enter into a contract with the Institute of Medicine of the National Academy of Sciences to conduct the study described in subsection (a). If the Institute of Medicine is unwilling to enter into a contract to conduct such study, then the Secretary shall enter into a contract with another appropriate nonprofit private entity to conduct such study and prepare and submit the reports thereon as provided in subsection (b).

(2) The authority of the Secretary to enter into a contract under paragraph (1) shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.

Subchapter C—Nurse Training

INSTITUTIONAL SUPPORT

SEC. 6297. (a) Effective with respect to appropriations under section 810(f) of the Public Health Service Act for fiscal years beginning after September 30, 1981, section 810(a) (42 U.S.C. 296e(a)) is amended by striking out paragraphs (1), (2), and (3) and inserting in lieu thereof the following:

"(1)(A) For the fiscal year ending September 30, 1982, each collegiate school of nursing shall receive an amount equal to the product of—

"(i) $200, and

"(ii) the sum of (I) the number of full-time students enrolled in each of the last two years of such school in the fiscal year for which the grant is to be made, and (II) the number of full-time equivalents of part-time students for such school for such fiscal year.

"(B) For the fiscal year ending September 30, 1983, each collegiate school of nursing shall receive an amount equal to the product of $210 and the sum described in subparagraph (A)(ii).

"(C) For the fiscal year ending September 30, 1984, each collegiate school of nursing shall receive an amount equal to the product of $220 and the sum described in subparagraph (A)(ii).

"(2)(A) For the fiscal year ending September 30, 1982, each associate degree school of nursing and each diploma school of nursing shall receive an amount equal to the product of—

"(i) $200, and

"(ii) the sum of (I) the number of full-time students enrolled in such school in the fiscal year for which the grant is to be made, and (II) the number of full-time equivalents of part-time students for such school for such fiscal year.

"(B) For the fiscal year ending September 30, 1983, each such school of nursing shall receive an amount equal to the product of $210 and the sum described in subparagraph (A)(ii).

"(C) For the fiscal year ending September 30, 1984, each such school of nursing shall receive an amount equal to the product of $220 and the sum described in subparagraph (A)(ii).".

(b) Section 810(c)(2) is amended—

(1) in subparagraph (A), by striking out "June 30, 1975" and all that follows in that subparagraph and inserting in lieu thereof "September 30, 1979, by 15 percent or 10 students, whichever is greater.";

(2) by amending subparagraph (B) to read as follows:

"(B) In the case of a collegiate school of nursing, the school has provided reasonable assurances to the Secretary that it will carry out, in accordance with a plan submitted by the school to the Secretary and approved by the Secretary, in the school year beginning in the fiscal year in which such grant is to be made and in each school year thereafter beginning in a fiscal year in which such a grant is made, a program for the training of nurse practitioners (as defined in section 822).''; and

(3) by adding after subparagraph (B) the following:

"(C) The application of the school for such grant contains or is supported by reasonable assurances satisfactory to the Secretary that (i) it will carry out, in accordance with a plan submitted by the school to the Secretary and approved by the Secretary, in the school year beginning in the fiscal year in which such grant is to be made and in each school year thereafter beginning in a fiscal year in which such a grant is made, a program to identify, recruit, enroll, retain, and graduate individuals from disadvantaged backgrounds (as determined in accordance with criteria prescribed by the Secretary), and (ii) under such program at least 20 percent of each year's entering full-time students (or 10 students, whichever is greater) will be comprised of such individuals.

"(D) In the case of a collegiate school of nursing, the application of the school for such grant contains or is supported by reasonable assurances satisfactory to the Secretary that in the school year beginning in the fiscal year in which such grant is to be made and in each school year thereafter beginning in a fiscal year in which such a grant is made at least 20 percent of each year's entering full-time students (or 10 students, whichever is greater) shall be comprised of individuals who have a degree from an associate degree school of nursing or a diploma or equivalent indicia from a diploma school of nursing.

"(E) In the case of an associate degree school of nursing or a diploma school of nursing, the application of the school for such grant contains or is supported by reasonable assurances satisfactory to the Secretary that in the school year beginning in the fiscal year in which such grant is to be made and in each school year thereafter beginning in a fiscal year in which such a grant is made at least 20 percent of each year's entering full-time students (or 10 students, whichever is greater) shall be comprised of individuals who are licensed practical or vocational nurses.

"(F) The application of the school for such grant contains or is supported by reasonable assurances satisfactory to the Secretary that in the school year beginning in the fiscal year in which such grant is to be made and in each school year thereafter beginning in a fiscal year in which such a grant is made the number of part-time students enrolled in the school in its program leading to the degree or diploma or equivalent indicia which it awards will be at least 20 percent of all the students enrolled in the school in such program.".

(c) Section 810(d) is amended (1) by striking out "part D" each place it occurs and inserting in lieu thereof "part B", and (2) by adding after paragraph (2) the following:

"(3) The number of full-time equivalents of part-time students for a school of nursing for any school year is a number equal to—

"(A) the total number of credit hours of instruction in such year for which part-time students of such school, who are pursuing a course of study leading to a degree or diploma or equivalent indicia, have enrolled, divided by

"(B) the number of credit hours of instruction which a full-time student of such school was required to take in such year,

rounded to the next highest whole number, except that in the case of a collegiate school of nursing, only the credit hours of instruction in courses offered to students who are enrolled in the third or fourth year program of instruction of such school shall be considered in making the computation under subparagraph (A).".

(d) Section 810(f) is amended (1) by striking out "and" after "1978,", and (2) by inserting after "1980" a comma and the following: "$24,000,000 for the fiscal year ending September 30, 1982, $26,000,000 for the fiscal year ending September 30, 1983, and $28,000,000 for the fiscal year ending September 30, 1984".

(e) The heading for section 810 is amended to read as follows:

"INSTITUTIONAL SUPPORT".

SPECIAL PROJECTS

SEC. 6298. (a)(1) Section 820(a) (42 U.S.C. 296k(a)) is amended (A) by striking out paragraphs (1), (2), and (8), (B) by inserting "or" at the end of paragraph (6), (C) in paragraph (7) by striking out ", nursing assistants, and other paraprofessional nursing personnel; or" and inserting in lieu thereof a period, and (D) by redesignating paragraphs (3), (4), (5), (6), and (7) as paragraphs (1), (2), (3), (4), and (5), respectively.

(2) Notwithstanding the amendment made by paragraph (1), an entity which received a grant or contract under section 820(a) of the Public Health Service Act for the fiscal year ending September 30, 1981, for a project described in paragraph (1), (2), or (8) of such section (as in effect when it received the grant or contract) may receive one additional grant or contract under such section for such project.

(b) Section 820(d) is amended—

(1) by striking out "and" after "1978,", and by inserting after "1980" a comma and the following: "$10,000,000 for the fiscal year ending September 30, 1982, $11,000,000 for the fiscal year ending September 30, 1983, and $12,000,000 for the fiscal year ending September 30, 1984"; and

(2) by amending the last sentence to read as follows: "Of the funds appropriated under this subsection for any fiscal year beginning after September 30, 1981, not less than 20 percent of the funds shall be obligated for payments under grants and contracts for special projects described in subsection (a)(1), not less than 20 percent of the funds shall be obligated for payments under grants and contracts for special projects described in subsection (a)(4), and not less than 10 percent of the funds shall be obligated for payments under grants and contracts for special projects described in subsection (a)(5).".

ADVANCED NURSE TRAINING

SEC. 6299. (a) Section 821(a)(1) (42 U.S.C. 296l(a)(1)) is amended by striking out "to each" and inserting in lieu thereof "to teach".

(b) Section 821(b) is amended (1) by striking out "and" after "1978,", and (2) by inserting after "1980" a comma and the following: "$15,000,000 for the fiscal year ending September 30, 1982, $16,500,000 for the fiscal year ending September 30, 1983,

and $18,000,000 for the fiscal year ending September 30, 1984".

(c) Section 821(a) is amended (1) by striking out "(1)" after "(a)", and (2) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively.

NURSE PRACTITIONER PROGRAMS

SEC. 6300. (a) Section 822(b)(1) (42 U.S.C. 296m(b)(1)) is amended by striking out "who are residents of a health manpower shortage area (designated under section 332)" and inserting in lieu thereof a period and the following: "In considering applications for a grant or contract under this subsection, the Secretary shall give special consideration to applications for traineeships to train individuals who are residents of health manpower shortage areas designated under section 332.".

(b)(1) Section 822(b)(3) is amended by inserting before the period the following: "for a period equal to one month for each month for which the recipient receives such a traineeship".

(2) Section 822(b) is amended by adding after paragraph (3) the following:

"(4)(A) If, for any reason, an individual who received a traineeship under paragraph (1) fails to complete a service obligation under paragraph (3), such individual shall be liable for the payment of an amount equal to the cost of tuition and other education expenses and other payments paid under the traineeship, plus interest at the maximum legal prevailing rate.

"(B) When an individual who received a traineeship is academically dismissed or voluntarily terminates academic training, such individual shall be liable for repayment to the Government for an amount equal to the cost of tuition and other educational expenses paid to or for such individual from Federal funds plus any other payments which were received under the traineeship.

"(C) Any amount which the United States is entitled to recover under subparagraph (A) or (B) shall, within the three-year period beginning on the date the United States becomes entitled to recover such amount, be paid to the United States.

"(D) The Secretary shall by regulation provide for the waiver or suspension of any obligation under subparagraph (A) or (B) applicable to any individual whenever compliance by such individual is impossible or would involve extreme hardship to such individual and if enforcement of such obligation with respect to any individual would be against equity and good conscience.".

(3) The amendments made by paragraphs (1) and (2) shall apply with respect to traineeships which are awarded under section 822(b) of the Public Health Service Act after the date of the enactment of this Act.

(c) Section 822(e) is amended (1) by striking out "and" after "1978,", and (2) by inserting after "1980" a comma and the following: "$15,000,000 for the fiscal year ending September 30, 1982, $16,500,000 for the fiscal year ending September 30, 1983, and $18,000,000 for the fiscal year ending September 30, 1984".

TRAINEESHIPS

SEC. 6301. (a)(1) Subparagraph (C) of section 830(a)(1) (42 U.S.C. 297(a)(1)) is amended to read as follows:

"(C) to serve as nurse midwives, or".

(2) An individual who received a traineeship under section 830(a) of the Public Health Service Act for the fiscal year ending September 30, 1981, to receive training to serve as a nurse practitioner may, notwithstanding the amendment made by paragraph (1), receive additional traineeships under that section to complete the training to be a nurse practitioner.

(b) Section 830(b) is amended—

(1) by striking out "and" after "1978,", and by inserting after "1980" a comma and the following: "$13,000,000 for the fiscal year ending September 30, 1982, $14,500,000 for the fiscal year ending September 30, 1983, and $16,000,000 for the fiscal year ending September 30, 1984"; and

(2) by adding at the end the following: "Not less than 50 percent of the funds appropriated under this subsection for any fiscal year shall be obligated for traineeships described in subsection (a)(1)(A), except that if the obligation of that amount of the funds appropriated under this subsection will prevent the Secretary from continuing a traineeship to an individual who received a traineeship under subsection (a) for the fiscal year ending September 30, 1981, the Secretary shall reduce the amount to be obligated for traineeships described in subsection (a)(1)(A) by such amount as may be necessary for the continuation of traineeships first awarded in such fiscal year.".

NURSE ANESTHETISTS

SEC. 6302. Section 831(b) (42 U.S.C. 297-1(b)) is amended by inserting after "1980" a comma and the following: "$1,000,000 for the fiscal year ending September 30, 1982, $1,000,000 for the fiscal year ending September 30, 1983, and $1,000,000 for the fiscal year ending September 30, 1984".

STUDENT LOANS

SEC. 6303. (a) Section 835(b)(4) (42 U.S.C. 297a(b)(4)) is amended by striking out "1980" and inserting in lieu thereof "1984".

(b)(1) Section 836(b)(1)(A) is amended by inserting after "(A)" the following: "is in exceptionally needy circumstances or is from a low-income or disadvantaged family (as those terms are defined by regulations under subsection (j)) and".

(2) The amendment made by paragraph (1) shall not apply with respect to any loan under subpart II of part B of title VIII of the Public Health Service Act to students who received such a loan before the date of the enactment of this Act.

(3) Section 836(b)(5) is amended by striking out "3" and inserting in lieu thereof "6".

(c) Section 837 (42 U.S.C. 297c) is amended (1) by striking out "and" after "1978,", (2) by inserting after "September 30, 1980" a comma and the following: "$14,500,000 for the fiscal year ending September 30, 1982, $16,000,000 for the fiscal year ending September 30, 1983, and $17,500,000 for the fiscal year ending September 30, 1984", (3) by striking out "1981" in the second sentence and inserting in lieu thereof "1985", (4) by striking out "October 1, 1980" and inserting in lieu thereof "October 1, 1984", and (5) by adding at the end the following: "Of the amount appropriated under the first sentence for the fiscal year ending September 30, 1982, and the two succeeding fiscal years, $1,000,000 shall be obligated in each such fiscal year for loans from student loan funds established under section 835 to individuals who are qualified to receive such loans and who, on the date they receive the loan, have not been employed on a full-time basis or been enrolled in any educational institution on a full-time basis for at least seven years. A loan to such an individual may not exceed $500 for any academic year.".

(d) Section 839 (42 U.S.C. 297e) is amended by striking out "1983" each place it occurs and inserting in lieu thereof "1987".

SCHOLARSHIPS

SEC. 6304. Section 845 (42 U.S.C. 297j) is amended (1) by striking out "next four fiscal years" in subsections (b) and (c)(1)(A) and inserting in lieu thereof "next eight fiscal years", (2) by striking out "1981" in subsections (b) and (c)(1)(B) and inserting in lieu thereof "1985", (3) by striking out "1980" in subsections (b) and (c)(1)(B) and inserting in lieu thereof "1984", and (4) by adding at the end of subsection (b) the following: "Of the amount appropriated for the fiscal year ending September 30, 1982, and the two succeeding fiscal years for grants under subsection (a), $1,000,000 shall be obligated in each such fiscal year for grants to schools for scholarships to students who are qualified to receive such scholarships and who, on the date they receive the scholarship, have not been employed on a full-time basis or been enrolled in any educational institution on a full-time basis for at least seven years. A scholarship to such a student may not exceed $500 for any academic year.".

TECHNICAL

SEC. 6305. Section 851(a) (42 U.S.C. 298(a)) is amended by striking out "and the Commissioner of Education, both of whom shall be ex officio members" and inserting in lieu thereof "and an ex officio member".

CHAPTER 10—HEALTH MAINTENANCE ORGANIZATIONS

SHORT TITLE; REFERENCE TO ACT

SEC. 6310. (a) This chapter may be cited as the "Health Maintenance Organization Amendments of 1981".

(b) Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

EXTENSIONS

SEC. 6311. (a) Subsection (a) of section 1309 (42 U.S.C. 300e-8(a)) is amended to read as follows:

"(a) There are authorized to be appropriated such sums as may be necessary for the fiscal year ending September 30, 1982, and the two succeeding fiscal years for grants and contracts under sections 1304(a) and 1304(b). No funds appropriated under this subsection may be obligated for a grant or contract under section 1304(a) for an entity unless that entity received a grant or contract under section 1303 or section 1304(a) which provided funds for the fiscal year ending September 30, 1981, and no funds appropriated under this subsection may be obligated for a grant or contract under section 1304(b) for an entity unless that entity received a grant or contract under section 1303 or section 1304(a) or 1304(b) which provided funds for such fiscal year. For grants and contracts under section 1317 there are authorized to be appropriated $1,000,000 for the fiscal year ending September 30, 1982, $1,000,000 for the fiscal year ending September 30, 1983, and $1,000,000 for the fiscal year ending September 30, 1984.".

(b) Subsection (b) of section 1309 is amended to read as follows:

"(b) To assure that the loan fund established under section 1308(e) has a balance of at least $5,000,000 at the end of each fiscal year and to meet the obligations of the loan fund resulting from defaults on loans made from the fund and to meet the other obligations of the fund, there is authorized to be appropriated to the loan fund for the fiscal

year ending September 30, 1982, and for the next two fiscal years $40,000,000 or such greater amount as may be necessary to assure such balance and meet such obligations.".

(c) Section 1304(j) (42 U.S.C. 300e-3(j)) is amended by striking out "1981" and inserting in lieu thereof "1984".

REVISION OF REQUIREMENTS FOR HEALTH MAINTENANCE ORGANIZATIONS

SEC. 6312. (a) Section 1301(a) (42 U.S.C. 300e(a)) is amended by striking out "a legal entity which (1) provides" and inserting in lieu thereof "a legal entity which (1) as its primary purpose provides".

(b)(1) Section 1301(b)(3) is amended (A) by striking out subparagraph (C), and (B) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively.

(2) Section 1301(b)(3)(A)(iv) is amended by striking out "subject to subparagraph (C),".

(3)(A) Section 1310(b)(1) (42 U.S.C. 300e-9(b)(1)) is amended by striking out "provides basic health services" and inserting in lieu thereof "provides more than one-half of its basic health services which are provided by physicians".

(B) Section 1310(b)(2) is amended by striking out "basic health services" and inserting in lieu thereof "its basic health services which are provided by physicians".

(4) Section 1310(b)(2) (42 U.S.C. 300e-9(b)(2)) is amended by striking out "or (B)" and inserting in lieu thereof "(B) individual physicians and other health professionals under contract with the organization, or (C)".

(c) The first sentence of section 1301(b)(4) (42 U.S.C. 300e(b)(4)) is amended by inserting before the period a comma and the following: "except that a health maintenance organization which has a service area located wholly in a nonmetropolitan area may make a basic health service available outside its service area if that basic health service is not a primary care or emergency health care service and if there is an insufficient number of providers of that basic health service within the service area who will provide such service to members of the health maintenance organization".

(d)(1) Section 1301(c) is amended by striking out paragraphs (4) and (6) and by redesignating paragraph (5) and paragraphs (7) through (11) as paragraphs (4) through (9), respectively.

(2) Subsection (d) of section 1301 is repealed.

(3) Section 1306(b)(3) (42 U.S.C. 300e-5(b)(3)) is amended (A) by striking out clause (J), and (B) by redesignating clauses (K) and (L) as clauses (J) and (K), respectively.

(e) Section 1301(c)(2) (42 U.S.C. 300e(c)(2)) is amended—

(1) by striking out "obtain insurance or make other arrangements",

(2) by inserting "obtain insurance or make other arrangements" after "(A)", "(B)", and "(C)",

(3) by striking out "and (C)" and inserting in lieu thereof "(C)", and

(4) by inserting before the semicolon a comma and the following: "and (D) make arrangements with physicians or other health professionals, health care institutions, or any combination of such individuals or institutions to assume all or part of the financial risk on a prospective basis for the provision of basic health services by the physicians or other health professionals or through the institutions".

(f) Section 1302(1) (42 U.S.C. 300e-1(1)) is amended—

(1) by striking out subparagraphs (D) and (E) and redesignating subparagraphs (F), (G), and (H) as subparagraphs (D), (E), and (F), respectively, and

(2) by adding at the end the following: "An employer subject to section 1310 may require as a condition to the offering pursuant to such section of membership in a health maintenance organization that the health maintenance organization offer, for such payments determined by the health maintenance organization, short-term (not to exceed twenty visits), out-patient evaluative and crisis intervention mental health services and medical treatment and referral services (including referral services to appropriate ancillary services) for the abuse of or addiction to alcohol and drugs.".

(g)(1) The first sentence of section 1302(2) (42 U.S.C. 300e-1(2)) is amended to read as follows: "The term 'supplemental health services' means any health service which is not included as a basic health service under paragraph (1) of this section.".

(2) The second sentence of such section is amended by striking out "If a service of a physician described in the preceding sentence" and inserting in lieu thereof "If a health service provided by a physician".

(h) Section 1302(8) (42 U.S.C. 300e-1(8)) is amended to read as follows:

"(8)(A) The term 'community rating system' means the systems, described in subparagraphs (B) and (C), of fixing rates of payments for health services. A health maintenance organization may fix its rates of payments under the system described in subparagraph (B) or (C) but not under both systems.

"(B) A system of fixing rates of payment for health services may provide that the rates shall be fixed on a per-person or per-family basis and may authorize the rates to vary with the number of persons in a family, but, except as authorized in subparagraph (D), such rates must be equivalent for all individuals and for all families of similar composition.

"(C) A system of fixing rates of payment for health services may provide that the rates shall be fixed for individuals and families by groups. Except as authorized in subparagraph (D), such rates must be equivalent for all individuals in the same group and for all families of similar composition in the same group. If a health maintenance organization is to fix rates of payment for individuals and families by groups, it shall—

"(i) classify all of the members of the organization into classes based on factors which the health maintenance organization determines predict the differences in the use of health services by the individuals or families in each class and which have not been disapproved by the Secretary,

"(ii) determine its revenue requirements for providing services to the members of each class established under clause (i), and

"(iii) fix the rates of payment for the individuals and families of a group on the basis of a composite of the organization's revenue requirements determined under clause (ii) for providing services to them as members of the classes established under clause (i).

The Secretary shall review the factors used by each health maintenance organization to establish classes under clause (i). If the Secretary determines that any such factor may not reasonably be used to predict the use of the health services by individuals and families, the Secretary shall disapprove such factor for such purpose.

"(D) The following differentials in rates of payments may be established under the systems described in subparagraphs (B) and (C):

"(i) Nominal differentials in such rates may be established to reflect differences in marketing costs and the different administrative costs of collecting payments from the following categories of members:

"(I) Individual members (including their families).

"(II) Small groups of members (as determined under regulations of the Secretary).

"(III) Large groups of members (as determined under regulations of the Secretary).

"(ii) Nominal differentials in such rates may be established to reflect the compositing of the rates of payment in a systematic manner to accommodate group purchasing practices of the various employers.

"(iii) Differentials in such rates may be established for members enrolled in a health maintenance organization pursuant to a contract with a governmental authority under section 1079 or 1086 of title 10, United States Code, or under any other governmental program (other than the health benefits program authorized by chapter 89 of title 5, United States Code) or any health benefits program for employees of States, political subdivision of States, and other public entities.".

INITIAL OPERATION COSTS

SEC. 6313. (a) Section 1305(a) (42 U.S.C. 300e-4) is amended—

(1) by striking out "nonprofit" in paragraphs (1) and (2), and

(2) by amending paragraph (3) to read as follows:

"(3) guarantee to non-Federal lenders payment of the principal of and the interest on loans made to private health maintenance organizations for the amounts referred to in paragraphs (1) and (2).".

(b) Section 1305(b)(1) is amended to read as follows:

"(b)(1) Except as provided in paragraph (2), the aggregate amount of principal of loans made or guaranteed, or both, under subsection (a) for a health maintenance organization may not exceed $7,000,000. In any twelve-month period the amount disbursed to a health maintenance organization under this section (either directly by the Secretary, by an escrow agent under the terms of an escrow agreement, or by a lender under a guaranteed loan) may not exceed $3,000,000.".

(c) Section 1305(d) is amended by striking out "1981" and inserting in lieu thereof "1986".

(d) Subsection (e) of section 1307 (42 U.S.C. 300e-6) is repealed.

AMBULATORY FACILITIES

SEC. 6314. (a) Section 1305A(a) (42 U.S.C. 300e-4a(a)) is amended—

(1) by striking out "nonprofit" in paragraph (1), and

(2) by amending paragraph (2) to read as follows:

"(2) guarantee to non-Federal lenders for their loans to private health maintenance organizations for projects described in paragraph (1) the payment of principal and interest on such loans.".

(b) Subsections (b) and (c) of section 1305A are redesignated as subsections (c) and (d), respectively, and the following is inserted after subsection (a):

"(b) No loan may be made to a health maintenance organization and no loan to a health maintenance organization may be guaranteed under subsection (a) unless the application of the health maintenance orga-

nization for such loan or loan guarantee contains—

"(1) certification by an independent auditor that, at the time the application is made, the revenues of the health maintenance organization exceed its costs of operation;

"(2) assurances satisfactory to the Secretary that—

"(A) if the application is for a loan, the health maintenance organization is unable to secure a loan, at the rate of interest prevailing in the area in which the organization is located, from non-Federal lenders for the project with respect to which the application is submitted, or, if the application is for a loan guarantee, the health maintenance organization would be unable to secure a loan from such lenders for such project without the loan guarantee; and

"(B) during the period of the loan or loan guarantee the revenues of the health maintenance organization will exceed its costs of operation (including the cost of repaying the loan made or guaranteed under this section).".

LOANS

SEC. 6315. Section 1308(b)(2) (42 U.S.C. 300e-7(b)(2)) is amended—

(1) by amending clause (D) to read as follows:

"(D) on the date the loan is made, bear interest at a rate comparable to the rate of interest prevailing on such date with respect to marketable obligations of the United States of comparable maturities, adjusted to provide for appropriate administrative charges, and"; and

(2) by adding at the end the following: "On the date disbursements are made under a loan after the initial disbursement under the loan, the Secretary may change the rate of interest on the amount of the loan disbursed on that date to a rate which is comparable to the rate of interest prevailing on the date the subsequent disbursement is made with respect to marketable obligations of the United States of comparable maturities, adjusted to provide for appropriate administrative charges.".

HEALTH BENEFITS PLANS

SEC. 6316. (a) Section 1310(b) (42 U.S.C. 300e-9(b)) is amended—

(1) by inserting "(1)" after "(b)",

(2) by redesignating clauses (A), (B), and (C) of paragraph (2) (as amended by section 3(b)(3) of this Act) as clauses (i), (ii), and (iii), respectively,

(3) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively,

(4) by striking out "clause (1)" and inserting in lieu thereof "subparagraph (A)" and by striking out "clause (2)" and inserting in lieu thereof "subparagraph (B)", and

(5) by adding at the end the following:

"(2) If an employer subject to subsection (a) includes in a health benefits plan a health maintenance organization—

"(A) which is owned or controlled by—

"(i) a commercial insurance carrier which provides health insurance to, or

"(ii) a nonprofit carrier which provides hospital service benefits or medical or surgical benefits, or both benefits, to,

a substantial percentage of the residents of the service area of the health maintenance organization who have health insurance with a commercial insurance carrier or arrangements to receive such benefits from such a nonprofit carrier, and

"(B) which provides basic health services through an organizational arrangement described in subparagraph (A) or (B) of paragraph (1),

the employer shall include in the plan an additional health maintenance organization which has residing in its service area at least 25 of the employees of the employer, which is not so owned or controlled, and which provides basic health services through an organizational arrangement described in the subparagraph descriptive of the owned or controlled health maintenance organization unless there is not such an additional organization.".

(b) Section 1310(f)(1) is amended by inserting before the semicolon a comma and the following: "except that such term includes a nonappropriated fund instrumentality described by section 2105(c) of title 5, United States Code".

REPEAL OF SPECIAL CONSIDERATIONS

SEC. 6317. (a) Section 1303 (42 U.S.C. 300e-2) is amended by striking out subsections (c) and (i), and by redesignating subsections (d) through (h) as subsections (c) through (g), respectively.

(b) Section 1304 (42 U.S.C. 300e-3) is amended by striking out subsections (d) and (k) and by redesignating subsections (e) through (j) as subsections (d) through (i), respectively.

(c) Section 1305 (42 U.S.C. 300e-4) is amended by striking out subsections (e) and (f).

(d) Section 1307(c) (42 U.S.C. 300e-6(c)) is amended by striking out ", after applying the applicable priorities under sections 1303 and 1304,".

(e) Section 1302 (42 U.S.C. 300e-1) is amended by striking out paragraph (7) and by redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively.

FINANCIAL DISCLOSURE

SEC. 6318. (a) Subsection (a)(2) of section 1318 (42 U.S.C. 300e-17) is amended to read as follows:

"(2) A copy of the report, if any, filed with the Health Care Financing Administration containing the information required to be reported under section 1124 of the Social Security Act by disclosing entities and the information required to be supplied under section 1902(a)(38) of such Act.".

(b) Subsection (a)(3)(B) of such section is amended to read as follows:

"(B) any furnishing for consideration of goods, services (including management services), or facilities between the health maintenance organization and a party in interest, but not including salaries paid to employees for services provided in the normal course of their employment and health services provided to members by hospitals and other providers and by staff, medical group (or groups), individual practice association (or associations), or any combination thereof; and".

(c) Subsection (b)(1) of such section is amended by striking out "employee" and inserting in lieu thereof "managing employee".

(d) Subsection (b)(4) of such section is amended to read as follows:

"(4) any spouse, child, or parent of an individual described in paragraph (1).".

MISCELLANEOUS

SEC. 6319. (a) Section 1314 (42 U.S.C. 300e-13) is repealed.

(b) Section 1527(b)(1) (42 U.S.C. 300m-6(b)(1)) is amended—

(1) by striking out clause (i) in subparagraph (A) and by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively,

(2) by striking out "such enrolled individuals" in subparagraph (A) and inserting in lieu thereof "individuals enrolled in such organization or organizations",

(3) by striking out "which has, in the service area of the organization or service areas of the organizations in the combination, an enrollment of at least 50,000 individuals" in subparagraph (B)(ii),

(4) by striking out "such enrolled individuals" in subparagraph (B)(iii) and inserting in lieu thereof "individuals enrolled in such organization or organizations",

(5) by striking out "which has, in the service area of the organization or service areas of the organizations in the combination, an enrollment of at least 50,000 individuals" in subparagraph (C)(i), and

(6) by striking out "such enrolled individuals" in subparagraph (C)(ii) and inserting in lieu thereof "individuals enrolled in such organization or organizations".

(c) The amendments made by subsection (b) shall take effect July 1, 1982.

CHAPTER 11—MEDICAID AND MEDICARE SAVINGS

SHORT TITLE OF CHAPTER; TABLE OF CONTENTS OF CHAPTER

SEC. 6320. This chapter may be cited as the "Medicaid and Medicare Reconciliation Amendments of 1981".

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Subchapter A—Medicaid Changes Only

REDUCTION IN MEDICAID PAYMENTS TO STATES

SEC. 6321. (a) Section 1903 of the Social Security Act is amended by adding at the end the following new subsection:

"(s)(1) Notwithstanding any other provision of this section (except as otherwise provided in this subsection), the amount of payments which a State is otherwise entitled to receive for any quarter in—

"(A) fiscal year 1982, shall be reduced by 3 percent,

"(B) fiscal year 1983, shall be reduced by 2 percent, and

"(C) fiscal year 1984, shall be reduced by 1 percent,

of the amount to which the State is otherwise entitled. Such reduction shall be made after the application of section 1108(c).

"(2) The amount of the reduction imposed by paragraph (1) for a State for a quarter shall be reduced—

"(A) by one-third if the State has a qualified hospital cost review program (described in paragraph (3)) for the quarter,

"(B) by one-third if the State has a high unemployment rate (as determined under paragraph (4)) for the quarter, and

"(C) by one-third if the total amount of the State's third party and fraud and abuse recoveries (as defined in paragraph (5)(A)) for the previous quarter is equal to or exceeds one percent of the amount of Federal payments that the Secretary estimates are due the State under this title for that previous quarter.

Subparagraph (B) shall not apply to Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

"(3) For purposes of paragraph (2)(A), a State has a qualified hospital cost review program for a calendar quarter if such program meets the following requirements:

"(A) The program must have been established by statute and in effect at the beginning of the quarter.

"(B) The program must be operated directly by the State and must apply (i) to substantially all nonfederal acute care hospitals (as defined by the Secretary) in the State and (ii) to the review of either all revenues or expenses for inpatient hospital services (other than revenues under title XVIII of this Act, unless approved by the Secretary) or at least 75 percent of all revenues or expenses for inpatient hospital services (including revenues under title XVIII of this Act).

"(C) The State must provide the Secretary with satisfactory assurances as to the equitable treatment under the program of all entities (including Federal and State programs) that pay hospitals for inpatient hospital services, of hospital employees, and of hospital patients.

"(D) Either—

"(i) the Secretary determines that the annual rate of increase in aggregate hospital inpatient costs per capita (as defined by the Secretary) in the State during the most recent calendar year ending at least nine months before such quarter (or, at the State's option, during the 2 or 3 calendar-year period ending with that calendar year) is at least two percentage points less than the annual rate of increase during that calendar year (or that period, as the case may be) in such costs per capita for hospitals located in the States (excluding from such computation, with respect to any calendar year in any period, any State which had in existence a qualified hospital cost review program during that entire calendar year), or

"(ii) in the case of a State which has not had its program in existence long enough to provide the data to make the determination described in clause (i) for a single calendar year, the State provides assurances, satisfactory to the Secretary, that under its program the rate of increase in hospital inpatient costs per capita in the State will not exceed (by more than four percentage points) the projected rate of increase in the implicit price deflator for gross national product (as set forth by the President in his most recent annual Budget message transmitted to the Congress under section 201(a) of the Budget and Accounting Act, 1921 (31 U.S.C. 11(a))) for the fiscal year in which the calendar quarter occurs and that the State will provide to the Secretary (promptly after the end of each quarter) data respecting such rate of increase in costs in that State.

"(4)(A) For purposes of paragraph (2)(B), a State has a high unemployment rate with respect to a quarter if the average of the monthly unemployment rates (as determined by the Bureau of Labor Statistics) for the State for the three months immediately before such quarter is equal to or greater than 150 percent of the average of such rates for all the States for such months.

"(B) For purposes of subparagraph (A), the term 'State' only includes the fifty States and the District of Columbia.

"(5)(A) For purposes of paragraph (2)(C), the term 'third party and fraud and abuse recoveries' means, for a State for a previous quarter—

"(i) the total amount that State demonstrates to the Secretary that it has recovered or diverted in the quarter on the basis of (I) third-party payments (described in section 1902(a)(25)), (II) its operation of its State medicaid fraud control unit (defined in subsection (q)), and (III) other fraud or abuse control activities, plus

"(ii) any amount carried forward from the previous quarter under subparagraph (B).

"(B) If the total amount of the State's third party and fraud and abuse recoveries (defined in subparagraph (A)) for a quarter (beginning on or after October 1, 1981) exceeds one percent of the amount of Federal payments that the Secretary estimates are due the State under this title for that quarter, the amount of such excess shall be carried forward to the following quarter for purposes of clause (ii) of subparagraph (A).".

(b) Section 903 of Public Law 96-499 is amended by striking out subsection (c).

(c)(1) The third sentence of section 1101(a) of the Social Security Act is amended by striking out "title V" and inserting in lieu thereof "titles V and XIX" and by striking out "American Samoa" and inserting in lieu thereof "the Northern Mariana Islands, American Samoa,".

(2) Subsection (c) of section 1108 of such Act is amended to read as follows:

"(c) The total amount certified by the Secretary under title XIX with respect to a fiscal year for payment to—

"(1) Puerto Rico shall not exceed $35,000,000,

"(2) the Virgin Islands shall not exceed $1,500,000,

"(3) Guam shall not exceed $1,400,000,

"(4) the Northern Mariana Islands shall not exceed $350,000,

"(5) American Samoa shall not exceed $350,000, and

"(6) the Trust Territory of the Pacific Islands shall not exceed $1,400,000.".

(3) The amendments made by this subsection shall apply to fiscal years beginning with fiscal year 1982.

HOSPITAL REIMBURSEMENT RATE DETERMINATIONS

SEC. 6322. (a) Clause (i) of section 1902(a)(13)(D) of the Social Security Act is amended to read as follows:

"(i) that payment for inpatient hospital services under the plan (I) shall be reasonable and necessary in the efficient and economical delivery of such services and shall not exceed (in the aggregate for all hospitals in the State) the amount which would be determined under section 1861(v) as the reasonable cost of such services for purposes of title XVIII, (II) shall take into account the special costs of hospitals whose patient populations are disproportionately composed of individuals who either are provided medical assistance under the plan or who have no source of third-party payment for such services, (III) shall be sufficient to assure that individuals eligible for medical assistance have reasonable access (taking into account geographic location and reasonable travel time) to inpatient hospital services of adequate quality, and (IV) shall, not later than October 1, 1983, utilize a system (which may be the system developed by the Secretary under section 1135) under which payment amounts are set on a prospective basis, or".

(b) Part A of title XI of such Act is amended by adding after section 1134 the following new section:

"DEVELOPMENT OF PROSPECTIVE RATE METHODOLOGY

"SEC. 1135. (a) The Secretary shall develop a system for the payment of hospitals for inpatient hospital services on a prospective basis using case-mix groupings, which system takes into account the special costs of hospitals whose patient populations are disproportionally composed of individuals who either are provided medical assistance under a State plan approved under title XIX of this Act or who have no source of third-party payment for such services.

"(b) The Secretary shall report to the Congress on the development of such system not later than March 31, 1982.".

COMPETITIVE ARRANGEMENTS FOR PAYMENT FOR LABORATORY SERVICES, MEDICAL DEVICES, AND DRUGS

SEC. 6323. (a) Section 1902(a)(23) of the Social Security Act is amended by inserting "(A)" before "has entered into" and by inserting before the semicolon at the end the following: ", or (B) has made arrangements (which, notwithstanding paragraph (1), need not be in effect in all subdivisions of the State) through a competitive bidding process or otherwise for the purchase of laboratory services referred to in section 1905(a)(3), medical devices, or drugs, if the Secretary has found that (i) adequate services, devices, or drugs, will be available under such arrangements, (ii) any such laboratory services will be provided only through laboratories (I) which meet the applicable requirements of section 1861(e)(9) or paragraphs (11) and (12) of section 1861(s), and such additional requirements as the Secretary may require, (II) no more than 75 percent of whose charges for such services are for services provided to individuals who are entitled to benefits under this title or under part A or part B of title XVIII, and (iii) charges for services, devices, or drugs provided under such arrangements are made at the lowest rate charged for such services, devices, or drugs available in the locality (determined without regard to administrative costs which are related solely to the method of reimbursement for such services, devices, or drugs) for comparable services, devices, or drugs by the provider of such services, devices, or drugs, or, if charged for on a unit price basis, such charges result in aggregate expenditures not in excess of expenditures that would be made if charges were at the lowest rate charged for comparable services, devices, or drugs by the provider of such services, devices, or drugs".

(b) Section 1902(a)(9) of such Act is amended—

(1) by striking out "and" at the end of subparagraph (A),

(2) by striking out the semicolon at the end of subparagraph (B) and inserting in lieu thereof ", and", and

(3) by adding after subparagraph (B) the following new subparagraph:

"(C) that any laboratory services paid for under such plan must be provided by a laboratory which meets the requirements of section 1861(e)(9) or paragraphs (11) and (12) of section 1861(s), or, in the case of a laboratory which is in a rural health clinic, of section 1861(aa)(2)(G);".

(c)(1) The amendments made by subsection (b) shall (except as provided under paragraph (2)) be effective with respect to payments under title XIX of the Social Security Act for calendar quarters beginning on or after October 1, 1981.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by subsection (b), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar year beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

ELIMINATION OF EPSDT PENALTY

SEC. 6324. (a)(1) Section 403 of the Social Security Act is amended by striking out subsection (g).

(2) Section 1902(a) of such Act is amended—

(A) by striking out "and" at the end of paragraph (42),

(B) by striking out the period at the end of paragraph (43) and inserting in lieu thereof "; and", and

(C) by inserting after paragraph (43) the following new paragraph:

"(44) provide for—

"(A) informing all persons in the State who are under the age of 21 and and who have been determined to be eligible for medical assistance, of the availability of early and periodic screening, diagnostic, and treatment services as described in section 1905(a)(4)(B),

"(B) providing or arranging for the provision of such screening services in all cases where they are requested, and

"(C) arranging for (directly or through referral to appropriate agencies, organizations, or individuals) corrective treatment the need for which is disclosed by such child health screening services.".

(b) The amendments made by subsection (a) shall take effect on October 1, 1981, and the amendment made by subsection (a)(1) shall apply to reductions for calendar quarters beginning on or after June 30, 1974.

REPEAL OF REQUIRED MEDICAID COVERAGE OF INDIVIDUALS AGED 18 TO 21

SEC. 6325. (a) Section 1902(b)(2) of the Social Security Act is amended by striking out "or would, except for the provisions of section 406(a)(2), be".

(b) Section 1905(a)(ii) of such Act is amended by striking out ", except for section 406(a)(2),".

(c) The amendments made by this section shall take effect on October 1, 1981, or, if later, the date of the enactment of this Act.

WAIVER OF MEDICAID REQUIREMENTS

SEC. 6326. (a) Section 1902 of the Social Security Act is amended by adding at the end the following new subsection:

"(k)(1) For the purpose of demonstrating improvements in the provision of services under this title, the Secretary, subject to paragraph (3) and to the extent he finds it to be cost-effective and efficient, may waive such requirements of this section as may be necessary for a State—

"(A) to restrict—

"(i) the provider from (or through) whom an individual (eligible for medical assistance under this title) can obtain primary care services (other than in emergency circumstances) to the extent necessary to implement a case-management system,

"(ii) in the case of such an individual who the State finds has utilized specified services at a frequency not justified by medical indications (as determined in accordance with utilization guidelines approved by the Secretary), the provider or providers from which the individual can receive services for a reasonable period of time, or

"(iii) through suspension or otherwise, the participation of a provider under the State plan under this title, if the State determines (after notice and opportunity for a hearing) that the provider has, in a substantial number of cases, provided services (I) when such services were not medically necessary or to an extent not medically necessary, or (II) of a quality which does not meet professionally recognized standards of health care, if such restriction does not substantially impair access to such services of adequate quality where medically necessary;

"(B) to allow a locality to act as a central broker in assisting individuals (eligible for medical assistance under this title) in selecting among competing health care plans, and

"(C) to share (through direct payments or other services) with recipients of medical assistance under the State plan cost savings resulting from use by the recipient of more cost-effective medical care.

Any payment to an individual under a waiver described in subparagraph (C) shall not be treated as income or resources for purposes of eligibility for cash or medical assistance under any title of this Act.

"(2) A request for a waiver under this subsection shall be deemed granted unless the Secretary, within 90 days after the date of its submission to the Secretary, either denies such request in writing or informs the State agency in writing what additional information is needed to enable him to make a final determination. Within 90 days after receiving such additional information, the Secretary shall either approve or disapprove the requested waiver. No waiver under this subsection may extend over a period of longer than two years unless the State requests continuation of such waiver, and such continuation shall be deemed granted unless the Secretary denies such request in writing within 90 days after the date of its submission to the Secretary.

"(3) No waiver may be granted under this subsection for a period ending after September 30, 1985.".

(b) The Secretary of Health and Human Services shall report, not later than September 30, 1984, to Congress on waivers granted (or deemed granted) under section 1902(k) of the Social Security Act and shall include in such report any recommendations for continuation or extension of such waiver authority as may be appropriate.

REMOVAL OF MEDICARE REASONABLE CHARGE LIMITATION

SEC. 6327. (a) Section 1902(a)(30) of the Social Security Act is amended by striking out "(including payments" and all that follows through "reasonable charges" and inserting in lieu thereof "are".

(b) Section 1903(i) of such Act is amended by striking out paragraph (1).

(c) The amendments made by this section shall apply to services furnished on or after October 1, 1981, or, if later, the date of the enactment of this Act.

PERMITTING MEDICAID MATCHING FOR PAYMENTS TO PROMOTE CLOSING AND CONVERSION OF UNDERUTILIZED HOSPITAL FACILITIES

SEC. 6328. (a) Section 1902 of the Social Security Act is amended by adding after subsection (k), added by section 6326 of this subchapter, the following new subsection:

"(l)(1) Except as provided in paragraph (2), a State may include, as a cost with respect to hospital services under its plan under this title, periodic expenditures made to assist hospitals (other than those located in, or serving residents of, underserved areas) in (A) eliminating excess bed capacity, (B) discontinuing an underutilized service for which there are adequate alternative sources in the area, or (C) substituting for the underutilized service some other service which is needed in the area, except that, with respect to the closure of a hospital, such expenditures may be in the form of a lump-sum payment where such payment

would constitute a more efficient and economic alternative to periodic expenditures.

"(2) No such expenditures may be included unless—

"(A) in the case of a State that has a State statutory program for reduction of the number of hospital beds in the State, such expenditures are consistent with such program, and

"(B) fair and equitable arrangements have been made to protect the interests of employees affected by any discontinuance of hospital services against worsening of their positions with respect to their employment, including arrangements to preserve the rights and benefits of such employees and to provide retraining.

"(3) To the extent that the Secretary determines that such expenditures are reasonable in relation to the savings achieved under this title and under title XVIII through the reduction of hospital services, the limitation on reimbursement for inpatient hospital services under subsection (a)(13)(D)(i) to the reasonable cost of such services (as determined for purposes of title XVIII) shall not apply to such expenditures.".

(b) The amendments made by subsection (a) shall apply to expenditures made to hospitals on or after October 1, 1981.

OPTIONS FOR THE PROVISION OF HOME AND COMMUNITY-BASED CARE AND REQUIREMENT OF PREADMISSION SCREENING FOR LONG-TERM CARE PATIENTS

SEC. 6329. (a) Title XIX of the Social Security Act is amended by adding at the end the following new section:

"STATE COMMUNITY CARE PLAN

"SEC. 1915. (a) A State with a plan approved under this title may apply to the Secretary to have Federal payments made for comprehensive assessments and for services described in subsection (b)(2) for which payment may not otherwise be made under the plan. The Secretary may not approve such an application unless—

"(1) the application is accompanied by a plan for assessments for long-term care services and for the provision of medical assistance under this title with respect to some or all of the care and services described in subsection (b)(2)(B),

"(2) such plan meets the requirements of subsection (b), and

"(3) the State provides the Secretary with satisfactory assurances that the implementation of such plan will not result in a level of expenditures for institutional and noninstitutional long-term care services (including services described in subsection (b)(2)(B)) under the State plan under this title above the level of such expenditures if the plan under this section were not approved.

Assurances referred to in paragraph (3) may include an agreement, between the State and the Secretary, providing a limitation on the amount of expenditures that may be recognized, for purposes of payment to the State under section 1903(a) with respect to long-term care services, during a quarter or fiscal year.

"(b) The requirements referred to in subsection (a)(2) are that the plan under this section will provide as follows:

"(1)(A) The State will provide for a timely comprehensive assessment of each individual who is eligible or applying for assistance under the State plan and who is in need of long-term skilled nursing facility or intermediate care facility services under the plan.

"(B) Except in the case of individuals residing in a health manpower shortage area (designated under section 332 of the Public Health Service Act) and such other special circumstances as the Secretary may approve, such an assessment may not be made by a non-public entity which—

"(i) directly or indirectly provides or benefits from the provision of home health care or skilled nursing facility or intermediate care facility services under this title, or

"(ii) is a person with an ownership or control interest (as defined in section 1124(a)(3)) in, or has a contract to provide services with respect to, a home health agency, skilled nursing facility, or intermediate care facility that provides services under this title.

"(C) Such an assessment shall consist of a direct, personal assessment, by trained individuals, of all factors (which may include, among others, financial resources, medical, psychological, and social needs, architectural barriers and other environmental factors, family and community support, and ability to live independently with appropriate in-home services) relating to the likelihood of the individual's requiring long-term skilled nursing facility or intermediate care facility services, and such assessment shall determine whether or not the individual is in need of such services.

"(D) The individual shall be informed of such determination and, if determined to be in need of long-term skilled nursing facility or intermediate care facility services, shall be informed of the feasible alternatives, available at the choice of the individual, to the provision of such services.

"(2) With respect to individuals determined pursuant to a comprehensive assessment under paragraph (1) to be in need of long-term skilled nursing facility or intermediate care facility services and for whom the furnishing of medical assistance with respect to the services described in subparagraph (B) of this paragraph is a feasible alternative to such assistance with respect to long-term skilled nursing facility or intermediate care facility services—

"(A) the State plan will provide for the development (either by the persons preparing the assessment described in paragraph (1) or by others under arrangements made by the State) of a written plan of care for the provision of services to the individual (which plan is approved, and periodically reviewed, by the State or by others under contract with the State);

"(B) the State plan will provide for making medical assistance available, pursuant to such plan, with respect to—

"(i) case-management services,

"(ii) nursing services on a part-time, intermittent, or short-term full-time basis,

"(iii) homemaker/home health aide services and personal care services,

"(iv) medical supplies, equipment, and appliances suitable for use in the home,

"(v) physical therapy, occupational therapy, and speech pathology and audiology services,

"(vi) adult day health and habilitation services,

"(vii) respite care, and

"(viii) other services requested by the State and approved by the Secretary,

furnished by providers who meet such standards (including State licensure, where applicable and appropriate) and enter into such participation agreement with the State as the State establishes (in accordance with regulations of the Secretary), without limitation as to amount, duration, or scope, except that the State may establish a dollar limit on the total amount of medical assistance provided with respect to such services for an individual for any 12-month period; and

"(C) the State plan establishes (with the approval of the Secretary) minimum and maximum payment levels (whether determined prospectively or retrospectively on a fee-for-service, capitation, cost, or other basis) with respect to the care and services described in subparagraph (B).

"(3) The State will provide to the Secretary annually, in conjunction with reports provided under section 1902(a)(6) and consistent with a data collection plan designed by the Secretary, information on assistance provided under the community care plan under this section and on the plan's impact on the amount and type of medical assistance provided under the State plan with respect to skilled nursing facility and intermediate care facility services.

"(c) During the 12-quarter period beginning October 1, 1981, the Secretary may waive the requirement of section 1902(a)(1) as it applies to the administration of community care plans approved under this section.

"(d) The Secretary shall annually report to the Congress, in conjunction with any other annual reports required to be made to the Congress with respect to the program under this title, on the plans approved under this section.".

(b)(1) Section 1902(a)(10) of such Act is amended—

(A) by striking out "and" before "(III)", and

(B) by inserting before the semicolon at the end the following: ", and (IV) the making available of services described in section 1915(b)(2)(B) to individuals pursuant to a State community care plan approved under such section shall not, by reason of this paragraph (10), require the making available of any such services, or the making available of such services of the same amount, duration, and scope, to any other individuals".

(2) Section 1902(a)(14) of such Act is amended—

(A) by inserting "or with respect to comprehensive assessments described in section 1915(b)(1)" in subparagraph (A)(i) after "section 1905(a)"; and

(B) by inserting ", except that no such charge will be imposed with respect to comprehensive assessments described in section 1915(b)(1)" in subparagraph (B)(i) after "individual's income".

(3)(A) Section 1903(i) of such Act is amended—

(i) by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; or", and

(ii) by adding after paragraph (4) the following new paragraph:

"(5) in the case of a State with a plan approved under section 1915, with respect to any amount expended for skilled nursing facility or intermediate care facility services with respect to an individual unless there has been a comprehensive assessment (described in section 1915(b)(1)(A)) made with respect to the individual, except in such urgent circumstances as the Secretary may provide.".

(B) Effective October 1, 1982, paragraph (5) of such section, added by subparagraph (A) of this paragraph, is amended by striking out "in the case of a State with a plan approved under section 1915,".

(c) Section 1903(q)(3) of such Act is amended by inserting before the period at the end the following: ", particularly focusing on providers of services described in section 1915(b)(2)(B)".

(d) Except as provided in subsection (b)(3)(B), the amendments made by this section shall apply to medical assistance provided, under a State plan approved under title XIX of the Social Security Act, on or after October 1, 1981.

ENCOURAGING HMO PARTICIPATION IN STATE MEDICAID PLANS

SEC. 6330. (a) Paragraph (2)(A) of section 1903(m) of the Social Security Act is amended by striking out "and" at the end of clause (i), by striking out the period at the end of clause (ii) and inserting in lieu thereof a semicolon, and by adding at the end the following new clauses:

"(iii) such services are provided for the benefit of individuals eligible for benefits under this title in accordance with a contract between the State and the entity;

"(iv) such contract provides that the Secretary and the State (or any person or organization designated by either) shall have the right to audit and inspect any books and records of the entity (and of any subcontractor) that pertain (I) to the ability of the entity to bear the risk of potential financial losses, and (II) to services performed or determinations of amounts payable under the contract;

"(v) such contract provides that in the entity's enrollment of individuals who are eligible for benefits under this title and eligible to enroll with the entity pursuant to the contract, the entity will not discriminate among such individuals on the basis of their health status or requirements for health care services; and

"(vi) such contract (I) permits individuals who have elected under the plan to enroll with the entity for provision of such benefits to terminate such enrollment without cause as of the beginning of the first calendar month following a full calendar month after the request is made for such termination, and (II) provides for notification of each such individual, at the time of the individual's enrollment, of such right to terminate such enrollment.".

(2) Paragraph (2)(A)(ii) of such section is amended by striking out "one-half" and inserting in lieu thereof "three-quarters".

(3) Paragraph (2) of such section is further amended by adding after subparagraph (C) the following new subparagraph:

"(D) In the case of a health maintenance organization that is a public entity, the Secretary may modify or waive the requirement described in subparagraph (A)(ii) but only if the Secretary determines that (i) special circumstances warrant such modification or waiver, and (ii) the organization has taken and is taking reasonable efforts to enroll individuals who are not entitled to benefits under the State plan approved under this title or under title XVIII.".

(b) Section 1902(e) of such Act is amended by inserting "(1)" after "(e)" and by adding at the end the following new paragraph:

"(2)(A) In the case of an individual who is enrolled with a health maintenance organization (under a contract described in section 1903(m)(2)(A)) and who would (but for this paragraph) lose eligibility for benefits under this title before the end of the minimum enrollment period (defined in subparagraph (B)), the State plan may provide, notwithstanding any other provision of this title, that the individual shall be deemed to continue to be eligible for such benefits until the end of such minimum period, but only with respect to such benefits provided to the individual as an enrollee of such organization.

"(B) For purposes of subparagraph (A), the term 'minimum enrollment period' means, with respect to an individual's enrollment with a health maintenance organization under a State plan, a period, established by the State, of not more than six months beginning on the date the individual's enrollment with the organization becomes effective.".

(c) The amendments made by this section shall apply with respect to services furnished, under a State plan approved under title XIX of the Social Security Act, on or after the first day of the first quarter which begins after the date of the enactment of this Act; except that such amendments shall not apply with respect to services furnished by a health maintenance organization under a contract with a State entered into under such title before such effective date unless the organization requests that such amendments apply and the Secretary of Health and Human Services and the single State agency (administering or supervising the administration of the State plan under such title) agree to such request.

(d) The Secretary of Health and Human Services shall conduct a study evaluating the extent of, and reasons for, the termination by medicaid beneficiaries of their memberships in health maintenance organizations. In conducting such study, the Secretary shall place special emphasis on the quantity and quality of medical care provided in health maintenance organizations and the quality of such care when provided on a fee-for-service basis. The Secretary shall submit an interim report to the Congress, within two years after the date of the enactment of this Act, and a final report within five years from such date containing, respectively, the interim and final findings and conclusions made as a result of such study.

ELIMINATING FEDERAL MATCHING FOR EXCESSIVE PRE-OPERATIVE STAYS AND UNNECESSARY TESTS

SEC. 6331. (a) Section 1903(i) of the Social Security Act, as amended by section 6329 of this subchapter, is further amended by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; or" and by adding at the end the following new paragraph:

"(6) with respect to any amount expended—

"(A) in the case of a patient admitted to a hospital for an elective surgical procedure (as defined by the Secretary in regulations), for care and services furnished to the patient during that stay in the hospital more than one day before the date of the procedure, or

"(B) for inpatient hospital tests (other than in emergency situations) not specifically ordered by the attending physician or other responsible practitioner.".

(b) The amendments made by subsection (a) shall apply to pre-operative stays and tests occurring on or after October 1, 1981, or, if later, the date of the enactment of this Act.

PERMITTING PHYSICIAN ASSISTANTS AND NURSE PRACTITIONERS TO PROVIDE CERTAIN RECERTIFICATIONS

SEC. 6332. (a) Section 1903(g)(1)(A) of the Social Security Act is amended—

(1) by striking out "(and recertifies" and inserting in lieu thereof "(and the physician, or a physician assistant or nurse practitioner under the supervision of a physician, recertifies", and

(2) by inserting "(or, in the case of services that are intermediate care facility services described in section 1905(d), every year)" after "every 60 days".

(b) The amendments made by subsection (a) shall apply to payments made to States for calendar quarters beginning on or after October 1, 1981, or, if later, the date of the enactment of this Act.

LIMITATION ON REQUIREMENT FOR COLLECTION OF THIRD-PARTY PAYMENTS

SEC. 6333. Section 1902(a)(25)(C) of the Social Security Act is amended by inserting before the semicolon the following: "and where the amount of reimbursement the State can reasonably expect to recover exceeds the costs of such recovery" after "of the individual".

REPEAL OF OBSOLETE AUTHORITY FOR MEDICAL ASSISTANCE

SEC. 6334. (a)(1) The heading of title I of the Social Security Act is amended by striking out "and medical assistance".

(2) Section 1 of such Act is amended—

(A) by striking out "(a)" the first place it appears in the first sentence,

(B) by striking out ", (b) of enabling" and all that follows through "for self-care" in the first sentence, and

(C) by striking out ", or for medical assistance for the aged, or for old-age assistance and medical assistance for the aged" in the second sentence.

(3) Section 2 of such Act is amended—

(A) by striking out "AND MEDICAL ASSISTANCE" in the heading;

(B) by striking out ", or for medical assistance for the aged, or for old-age assistance and medical assistance for the aged" in subsection (a) before paragraph (1);

(C) by striking out "; and" at the end of subsection (a)(10) and inserting in lieu thereof a period; and

(D) by striking out paragraphs (11), (12), and (13) of subsection (a).

(4) Section 3 of such Act is amended—

(A) by striking out paragraphs (1) and (3) of subsection (a);

(B) by amending paragraph (2) of subsection (a) to read as follows:

"(2) in the case of Puerto Rico, the Virgin Islands, and Guam, an amount equal to one-half of the total of the sums expended during such quarter as old-age assistance under the State plan, not counting so much of any expenditure with respect to any month as exceeds $37.50 multiplied by the total number of recipients of old-age assistance for such month; plus"; and

(C) by striking out subsection (d).

(5) Section 6 of such Act is amended by striking out subsections (b) and (c).

(b)(1) Section 403 of such Act is amended—

(A) by striking out "(including expenditures for premiums" and all that follows through "the cost thereof)" in subsection (a)(1) in the matter before subparagraph (A);

(B) by striking out "plus (ii)" and all that follows through "clause (i) or (ii)" in subsection (a)(1)(A) and inserting in lieu thereof "plus (ii) the number of individuals, not counted under clause (i)"; and

(C) by striking out "(including expenditures" and all that follows through "the cost thereof)" in subsection (a)(2).

(2) Section 406 of such Act is amended—

(A) by striking out ", or (if provided" and all that follows through "under State law in behalf of," and "or medical care or any type

of remedial care recognized under State law" in subsection (b) in the matter preceding subparagraph (A), and

(B) by inserting "(for which such individual is not entitled to medical assistance under the State plan under title XIX)" in subsection (e)(1)(A) after "recognized under State law".

(c)(1) Sections 1001 and 1401 of such Act are each amended by striking out "and of encouraging each State" and all that follows through "self-care".

(2) Sections 1003(a) and 1403(a) of such Act are each amended—

(A) by striking out paragraph (1), and

(B) by striking out "(including expenditures for" and all that follows through "the cost thereof)" in paragraph (2).

(3) Sections 1006 and 1405 of such Act are each amended by striking out ", or (if provided" and all that follows through "under State law in behalf of," in the matter before paragraph (1).

(e)(1) The amendments made by this subsection are to the title XVI of the Social Security Act which only applies in the case of Puerto Rico, Guam, and the Virgin Islands under section 303(b) of the Social Security Amendments of 1972 (Public Law 92-603).

(2) The heading of such title is amended by striking out "AND MEDICAL ASSISTANCE".

(3) Section 1601 of such title is amended—

(A) by striking out "(a)" the first place it appears in the first sentence,

(B) by striking out ", (b) of enabling" and all that follows through "or self-care" in the first sentence, and

(C) by striking out ", or for aid to the aged, blind, or disabled and medical assistance for the aged" in the second sentence.

(4) Section 1602 of such title is amended—

(A) by striking out ", or for such aid and medical assistance for the aged" in the heading;

(B) by striking out ", or for aid to the aged, blind, or disabled and medical assistance for the aged" in subsection (a) in the matter before paragraph (1);

(C) by inserting "and" at the end of paragraph (13) of subsection (a);

(D) by striking out the semicolon at the end of paragraph (14) of subsection (a) and inserting in lieu thereof a period;

(E) by striking out paragraphs (15), (16), and (17) of subsection (a);

(F) by striking out "(or for aid to the aged, blind, or disabled and medical assistance for the aged)" in the second sentence of subsection (a);

(G) by striking out "(A) in the case of applicants for aid to the aged, blind, or disabled" in subsection (b)(2);

(H) by striking out "and (B)" and all that follows through "who resides in the State" in subsection (b)(2); and

(I) by striking out "(or for aid to the aged, blind, or disabled and medical assistance for the aged)" each place it appears in the third sentence of subsection (b).

(5) Section 1603 of such title is amended—

(A) by striking out paragraphs (1) and (3) of subsection (a);

(B) by striking out "(including expenditures for premiums" and all that follows through "cost thereof)" in paragraph (2)(A);

(C) by striking out "the larger of the following amounts: (i)", "(I)", and ", or (II)" and all that follows before the semicolon, in paragraph (2)(B); and

(D) by striking out subsection (d).

(6) Section 1605 of such title is amended—

(A) by striking out ", or (if provided" and all that follows through "under State law in behalf of," in subsection (a) in the matter before paragraph (1), and

(B) by striking out subsection (b).

STUDY OF FEDERAL MEDICAL ASSISTANCE PERCENTAGE FORMULA

SEC. 6335. (a) The Comptroller General, in consultation with the Advisory Committee for Intergovermental Relations, shall conduct a study of the fairness and appropriateness of the formula, under section 1905(b) of the Social Security Act, defining the Federal medical assistance percentage, as it applies to distribution of Federal funds to States under that Act. Specifically, the Comptroller General shall examine whether or not such formula should be revised so as to take into account the relative economic positions of the different States (other than on the basis of per capita income), the different amounts of support and income payments made by different States under the Social Security Act, the relative cost of living and the unemployment rates in the different States, the relative amount of taxes raised per capita by the different States, and other relevant factors bearing on an equitable distribution of Federal funds to States under that Act.

(b) The Comptroller General shall report to the Congress on such study not later than March 31, 1982, and shall include in such report such recommendations for changes in legislation as he deems appropriate.

Subchapter B—Medicare and Medicaid Changes

PART I—IN GENERAL

ELIMINATION OF OCCUPANCY TEST FOR HOSPITAL LONG-TERM CARE IN NONPUBLIC HOSPITALS

SEC. 6336. (a) Section 1861(v)(1)(G)(i) of the Social Security Act is amended—

(1) by inserting "(in the case of a public hospital)" after "except that if the Secretary determines", and

(2) by inserting "or if the Secretary determines that there is no excess of hospital beds in the area in which the hospital is located" after "80 percent or more".

(b) Section 1902(h)(1) of the Social Security Act is amended by inserting "(in the case of a public hospital)" after "except that if the Secretary determines".

(c) The amendments made by this section shall apply to services provided by a hospital on or after the first day of the first month beginning after the date of the enactment of this Act.

CIVIL MONETARY PENALTIES

SEC. 6337. (a) Part A of title XI of the Social Security Act is amended by inserting after section 1128 the following new section:

"CIVIL MONETARY PENALTIES

"SEC. 1128A. (a)(1) Any person (including an organization, agency, or other entity) that presents or causes to be presented to an officer, employee, or agent of the United States, or of any department or agency thereof, or of any State agency (as defined in subsection (h)(1)), a claim (as defined in subsection (h)(2)) that the Secretary determines—

"(1) is for a medical or other item or service—

"(A) that the person knows or has reason to know was not provided as claimed, or

"(B) payment for which may not be made under the program under which such claim was made, pursuant to a determination by the Secretary under section 1128, 1160(b), 1862(d), or 1866(b)(2), or

"(2) is submitted in violation of an agreement between the person and the United States or a State agency,

shall be subject, in addition to any other penalties that may be prescribed by law, to a civil money penalty of not more than $2,000 for each item or service. In addition, such a person shall be subject to an assessment of not more than twice the amount claimed for each such item or service in lieu of damages sustained by the United States or a State agency because of such claim.

"(b)(1) The Secretary may initiate a proceeding to determine whether to impose a civil money penalty or assessment under subsection (a) only as authorized by the Attorney General pursuant to procedures agreed upon by them.

"(2) The Secretary shall not make a determination adverse to any person under subsection (a) until the person has been given written notice and an opportunity for the determination to be made on the record after a hearing at which the person is entitled to be represented by counsel, to present witnesses, and to cross-examine witnesses against the person.

"(c) In determining the amount or scope of any penalty or assessment imposed pursuant to subsection (a), the Secretary shall take into account—

"(1) the nature of claims and the circumstances under which they were presented,

"(2) the degree of culpability, history of prior offenses, and financial condition of the person presenting the claims, and

"(3) such other matters as justice may require.

"(d)(1) Except as provided in paragraph (2), any person adversely affected by a determination of the Secretary under this section may obtain a review of such determination in the United States Court of Appeals for the circuit in which the person resides, or in which the claim was presented, by filing in such court (within sixty days following the date the person is notified of the Secretary's determination) a written petition praying that the determination be modified or set aside. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary, and thereupon the Secretary shall file in the Court the record in the proceeding as provided in section 2112 of title 28, United States Code. Upon such filing, the court shall have jurisdiction of the proceeding and of the question determined therein, and shall have the power to make and enter upon the pleadings, testimony, and proceedings set forth in such record a decree affirming, modifying, remanding for further consideration, or setting aside, in whole or in part, the determination of the Secretary and enforcing the same to the extent that such order is affirmed or modified. No objection that has not been urged before the Secretary shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances. The findings of the Secretary with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. If any party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Secretary, the court may order such additional evidence to be taken before the Secretary and to be made a part of the record.

The Secretary may modify his findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and he shall file with the court such modified or new findings, which findings with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive, and his recommendations, if any, for the modification or setting aside of his original order. Upon the filing of the record with it, the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the Supreme Court of the United States, as provided in section 1254 of title 28, United States Code.

"(2) In any case in which the civil money penalties and assessments imposed by the Secretary under this section on any person exceed $25,000 with respect to—

"(A) services or items furnished during a one-year period, or

"(B) in the case of providers, reimbursement on a cost or cost-related basis for cost reports filed for any one cost reporting period,

the person may obtain a review of such penalties and assessments in the appropriate United States district court by filing in such court, within sixty days following the date the person is notified of the Secretary's determination with respect to the most recent imposition of such penalty or assessment, a written petition praying that such penalty or assessment be modified or set aside. Such court shall make a de novo determination with respect to all of the facts and conclusions of law under consideration in such case.

"(e) Civil money penalties and assessments imposed under this section may be compromised by the Secretary and may be recovered in a civil action in the name of the United States brought in United States district court for the district where the claim was presented, or where the claimant resides, as determined by the Secretary. Amounts recovered under this section shall be paid to the Secretary and disposed of as follows:

"(1)(A) In the case of amounts recovered arising out of a claim under title XIX, there shall be paid to the State agency an amount equal to the State's share of the amount paid by the State agency for such claim.

"(B) In the case of amounts recovered arising out of a claim under title V, there shall be paid to the State agency an amount equal to the amount recovered.

"(2) Such portion of the amounts recovered as is determined to have been paid out of the trust funds under sections 1817 and 1841 shall be repaid to such trust funds.

"(3) The remainder of the amounts recovered shall be deposited as miscellaneous receipts of the Treasury of the United States. The amount of such penalty or assessment, when finally determined, or the amount agreed upon in compromise, may be deducted from any sum then or later owing by the United States or a State agency to the person against whom the penalty or assessment has been assessed.

"(f) A determination by the Secretary to impose a penalty or assessment under subsection (a) shall be final upon the expiration of the sixty day period referred to in subsection (d), unless the person against whom the penalty or assessment has been assessed files an appeal as provided in that subsection. Matters that were raised or that could have been raised in a hearing before the Secretary or in an appeal pursuant to subsection (d) may not be raised as a defense to a civil action by the United States to collect a penalty or assessment assessed under this section.

"(g) Whenever the Secretary makes a final determination to impose a penalty or assessment under subsection (a), he shall notify the appropriate State or local medical or professional organization, and the appropriate Professional Standards Review Organization, and the appropriate State or local licensing agency or organization (including the agency specified in section 1864(a) and 1902(a)(33)) that such a penalty or assessment has been imposed and the reasons therefor.

"(h) For the purposes of this subsection:

"(1) The term 'State agency' means the agency established or designated to administer or supervise the administration of the State plan under title XIX of this Act or designated to administer the State's program under title V of this Act.

"(2) The term 'claim' means an application submitted by—

"(A) a provider of services or other person, agency, or organization that furnishes an item or service under title XVIII of this Act, or

"(B) a person, agency, or organization that furnishes an item or service for which medical assistance is provided under title XIX of this Act, or

"(C) a person, agency, or organization that provides an item or service for which payment is made from an allotment to a State under title V of this Act,

to the United States or a State agency, or agent thereof, for payment for health care services under title XVIII or XIX of this Act or for any item or service under title V of this Act.

"(3) The term 'item or service' includes (A) any particular item, device, medical supply, or service claimed to have been provided to a patient and listed in an itemized claim for payment, and (B) in the case of a claim based on costs, any entry in the cost report, books of account or other documents supporting such claim.

"(4) The term 'agency of the United States' includes any contractor acting as a fiscal intermediary, carrier, or fiscal agent or any other claims processing agent for a health insurance or medical services program under title XVIII or XIX of this Act.".

(b) Section 1128 of such Act is amended—

(1) by striking out "subsection (a)" in subsection (c) and inserting in lieu thereof "subsection (a) or (b)",

(2) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and

(3) by inserting after subsection (a) the following new subsection:

"(b) Whenever the Secretary has assessed a civil money penalty or assessment against a person (including an organization, agency, or other entity) under section 1128A relating to a claim under title XVIII or XIX, the Secretary—

"(1) may bar the person from participation in the program under title XVIII, for such period as he may deem appropriate, and

"(2)(A) shall promptly notify each appropriate State agency administering or supervising the administration of a State plan approved under title XIX of the fact and circumstances of such determination, and (except as provided in subparagraph (B)) may require each such agency to bar the person from participation in the program established by such plan for such period as he shall specify, which in the case of an individual shall be the period established pursuant to paragraph (1), and

"(B) may waive the requirement of subparagraph (A) to bar a person from participation in such program where he receives and approves a request for such waiver with respect to that person from the State agency referred to in that subparagraph.".

LIMITATION ON MEDICARE AND MEDICAID PAYMENTS FOR CERTAIN DRUGS

SEC. 6338. (a)(1) Section 1862 of the Social Security Act is amended by inserting after subsection (b) the following new subsection:

"(c) No payment may be made under part B for any expenses incurred for—

"(1) a drug product—

"(A) which is described in section 107(c)(3) of the Drug Amendments of 1962,

"(B) which may be dispensed only upon prescription,

"(C) for which the Secretary has issued a notice of an opportunity for a hearing under subsection (e) of section 505 of the Federal Food, Drug, and Cosmetic Act on a proposed order of the Secretary to withdraw approval of an application for such drug product under such section because the Secretary has determined that the drug is less than effective for all conditions of use prescribed, recommended, or suggested in its labeling, and

"(D) for which the Secretary has not determined there is a compelling justification for its medical need; and

"(2) any other drug product—

"(A) which is identical, related, or similar (as determined in accordance with section 310.6 of title 21 of the Code of Federal Regulations) to a drug product described in paragraph (1), and

"(B) for which the Secretary has not determined there is a compelling justification for its medical need,

until such time as the Secretary withdraws such proposed order.".

(2) The amendment made by paragraph (1) shall apply with respect to expenses incurred on or after October 1, 1981.

(b)(1) Section 1903(i) of such Act, as amended by sections 6329 and 6330 of this chapter, is further amended by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; or" and by adding after such paragraph the following new paragraph:

"(7) with respect to any amount expended for any drug product for which payment may not be made under part B of title XVIII because of section 1862(c).".

(2) The amendment made by paragraph (1) shall apply to amounts expended on or after October 1, 1981.

WITHHOLDING OF PAYMENTS FOR CERTAIN MEDICAID PROVIDERS

SEC. 6339. Part C of title XVIII of the Social Security Act is amended by adding at the end the following new section:

"WITHHOLDING OF PAYMENTS FOR CERTAIN MEDICAID PROVIDERS

"SEC. 1884. (a) The Secretary may adjust, in accordance with this section, payments under parts A and B to any institution which has in effect an agreement with the Secretary under section 1866, and any person who has accepted payment on the basis of an assignment under section 1842(b)(3)(B)(ii), where such institution or person—

"(1) has (or previously had) in effect an agreement with a State agency to furnish

medical care and services under a State plan approved under title XIX, and

"(2) from which (or from whom) such State agency (A) has been unable to recover overpayments made under the State plan, or (B) has been unable to collect the information necessary to enable it to determine the amount (if any) of the overpayments made to such institution or person under the State plan.

"(b) The Secretary shall by regulation provide procedures for implementation of this section, which procedures shall—

"(1) assure that the authority under this section is exercised only on behalf of a State agency which demonstrates to the Secretary's satisfaction that it has provided adequate notice of a determination or of a need for information, and an opportunity to appeal such determination or to provide such information,

"(2) determine the amount of the payment to which the institution or person would otherwise be entitled under this title which shall be treated as a setoff against overpayments under title XIX, and

"(3) assure the restoration to the institution or person of amounts withheld under this section which are ultimately determined to be in excess of overpayments under title XIX and to which the institution or person would otherwise be entitled under this title.

"(c) Notwithstanding any other provision of this Act, from the trust funds established under sections 1817 and 1841, as appropriate, the Secretary shall pay to the appropriate State agency amounts recovered under this section to offset the State agency's overpayment under title XIX. Such payments shall be accounted for by the State agency as recoveries of overpayments under the State plan.".

TECHNICAL CORRECTIONS FOR ERRORS MADE BY THE MEDICARE AND MEDICAID AMENDMENTS OF 1980

SEC. 6340. (a) Section 1833(a)(2) of the Social Security Act (as amended by section 942 of the Medicare and Medicaid Amendments of 1980, P.L. 96-499) is amended by amending subparagraphs (A) and (B) to read as follows:

"(A) with respect to home health services and to items and services described in section 1861(s)(10), the lesser of—

"(i) the reasonable cost of such services, as determined under section 1861(v), or

"(ii) the customary charges with respect to such services,

or, if such services are furnished by a public provider of services free of charge or at nominal charges to the public, the amount determined in accordance with section 1814(b)(2);

"(B) with respect to other services (except those described in subparagraph (C) of this paragraph)—

"(i) the lesser of (I) the reasonable cost of such services, as determined under section 1861(v), or (II) the customary charges with respect to such services,

"(ii) if such services are furnished by a public provider of services free of charge or at nominal charges to the public, the amount determined in accordance with section 1814(b)(2), or

"(iii) if (and for so long as) the conditions described in section 1814(b)(3) are met, the amounts determined under the reimbursement system described in such section,

less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A), but in no case may the payment for such other services exceed 80 percent of the amounts described in clause (i), (ii), or (iii) (as appropriate) of this subparagraph;".

(b)(1) Section 1835(a)(2) of such Act is amended—

(A) by adding "and" at the end of subparagraph (D), and

(B) by striking out "; and" at the end of subparagraph (E) and inserting in lieu thereof a period.

(2) The paragraph after section 1838(b) of such Act is amended by striking out "and such notice shall not be considered a disenrollment for the purposes of section 1837(b)".

(3) Section 1903(n) of such Act is amended by striking out "of this section" after "section 1866".

(c) The amendment made by subsection (a) is effective as of December 5, 1980, and the amendment made by subsection (b)(2) is effective as of April 1, 1981.

PART II—AMENDMENTS RELATING TO PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS (PSROs)

MAKING DELEGATED REVIEW OPTIONAL

SEC. 6341. Section 1155(e) of the Social Security Act is amended by striking out "shall utilize" and inserting in lieu thereof "may utilize".

ASSESSMENT OF PSRO PERFORMANCE

SEC. 6342. (a)(1) Section 1154 of the Social Security Act is amended by adding at the end the following new subsection:

"(g)(1) The Secretary shall, not later than September 30, 1981, identify and specify those requirements imposed by the Secretary with respect to the performance of Professional Standards Review Organizations which the Secretary will use for the assessment of the performance of such Organizations under this subsection. Such requirements shall include requirements relating to the effectiveness of such Organizations in (A) monitoring the quality of patient care, (B) reducing unnecessary utilization, and (C) managing its activities efficiently.

"(2) Based on such requirements, the Secretary shall assess and determine the relative performance of each of such Organizations designated, conditionally or otherwise, as of September 30, 1981.

"(3) If the Secretary determines that such an Organization has a relatively ineffective or inefficient performance, the Secretary may refuse to renew an agreement with the Organization under this part, except that, in exercising the Secretary's authority under this paragraph in fiscal year 1982, the sum of the number of Organizations with respect to which agreements are not renewed under this paragraph and under any other provision of this Act in the fiscal year may not exceed one-half of the number of such Organizations with agreements under this part on May 1, 1981.".

(2)(A) Section 1152(d) of such Act is amended—

(i) by striking out "for a term of 12 months" and inserting in lieu thereof "for a term of not longer than 12 months";

(ii) by striking out "at such time and upon such reasonable notice to the organization as may be prescribed in regulations" and inserting in lieu thereof "upon 90 days notice to the organization"; and

(iii) by striking out "(after providing such organization with an opportunity for a formal hearing on the matter)".

(B) Sections 1152(d) and 1154(d) of such Act are each amended by adding at the end the following sentence: "A termination of an agreement by the Secretary under this subsection shall not be subject to judicial review.".

(C) The amendment made by subparagraph (A)(iii) shall apply to agreements entered into on or after the date of the enactment of this Act.

(D) The Secretary of Health and Human Services shall, not later than September 30, 1982, report to the Congress on his assessment (under section 1154(g) of the Social Security Act) of the relative performance of Professional Standards Review Organizations and on any determinations made not to renew agreements with such Organizations on the basis of such performance.

(b)(1) The first sentence of subsection (b) of section 1154 of such Act is amended—

(A) by striking out "(other than ancillary, ambulatory care, and long-term care services)" and

(B) by striking out "under subsection (f)(2) or subsection (f)(4)" and inserting in lieu thereof "under subsection (f)".

(2) Subsection (f) of such section is amended—

(A) by striking out the parenthetical phrase in paragraph (1);

(B) by striking out paragraphs (2) and (3);

(C) by redesignating paragraph (4) as paragraph (2) and amending it to read as follows:

"(2) Where the Secretary finds that the review of particular health care services is cost-effective or yields other significant benefits, the Secretary may require Professional Standards Review Organizations (either generally or under such conditions and circumstances as the Secretary may specify) to review such services under this part."; and

(D) by striking out the parenthetical phrase in paragraph (5) and redesignating such paragraph as paragraph (3).

OPTIONAL USE OF PSROS UNDER STATE MEDICAID PLANS

SEC. 6343. (a) Section 1151 of the Social Security Act is amended—

(1) by striking out "under this Act" and inserting in lieu thereof "under title XVIII of this Act"; and

(2) by striking out "the Social Security Act" and inserting in lieu thereof "title XVIII of this Act".

(b) Section 1152(e) of such Act is amended by inserting "title XVIII of" before "this Act" each place it appears.

(c) Section 1152 of such Act is amended by striking out subsection (h), and section 1154 of such Act is amended by striking out subsection (e).

(d)(1) Section 1155(a) of such Act is amended by inserting "title XVIII of" before "this Act" each place it appears in paragraphs (1) and (2).

(2) Section 1155(a)(1) of such Act is amended by adding after and below subparagraph (C) the following new sentence: "Each agreement with an Organization under this part shall require the Organization, if requested by a State with a plan approved under title XIX, to enter into a contract with the State, for the performance of review functions in the case of health care services and items provided under such State plan under terms and conditions similar to those contained in the agreement between the Organization and the Secretary under this part.".

(3) Section 1155(a) of such Act is amended by striking out paragraph (7).

(4) Section 1155(e)(1) of such Act is amended by striking out ", or intermediate

care facility, as defined in section 1905(c)" and "or intermediate care facility".

(e)(1) Section 1158(a) of such Act is amended by striking out "under any title of this Act (other than title V)" and inserting in lieu thereof "under title XVIII" and by striking out "or any program established pursuant thereto".

(2) Section 1158(c) of such Act is amended—

(A) by striking out "(subject to sections 1159, 1171(a)(1), and 1171(d)(3)) for purposes of payment under this Act" and inserting in lieu thereof "(subject to section 1159) for purposes of payment under title XVIII"; and

(B) by striking out "or single State agencies" and all that follows through "under title XIX".

(3) Section 1158(d) of such Act is amended by striking out "or section 1902(h)".

(f) Section 1159(a) of such Act is amended by striking out "under this Act (other than title V)" and inserting in lieu thereof "under title XVIII".

(g)(1) Section 1160(a)(1) of such Act is amended by striking out "under this Act" the first place it appears and inserting in lieu thereof "under title XVIII (or under a State plan approved under title XIX, where the services furnished by the person are subject to review under a contract between the State and an Organization under section 1155(a))", and by striking out "under this Act" the second place it appears and inserting in lieu thereof "under such title (or such State plan)".

(2) Section 1160(b)(1) of such Act is amended by striking out "under this Act" and inserting in lieu thereof "under title XVIII".

(h) Section 1162(e)(1) of such Act is amended by striking out "any program established by or pursuant to this Act" and inserting in lieu thereof "title XVIII".

(i) Section 1164 of such Act is repealed.

(j) Section 1168 of such Act is amended—

(1) by inserting "and" at the end of paragraph (a);

(2) by striking out "and" at the end of paragraph (b);

(3) by striking out paragraph (c) and redesignating paragraphs (a) and (b) as paragraphs (1) and (2), respectively;

(4) by striking out "subsections (a), (b), and (c)" and inserting in lieu thereof "paragraphs (1) and (2)";

(5) by amending the second sentence to read as follows: "The Secretary shall make such transfers of moneys between such funds as may be appropriate to settle accounts between them."; and

(6) by striking out the second parenthetical phrase in the third sentence.

(k) Section 1171 of such Act is repealed.

(l) Section 1172(4) of such Act is amended by striking out "V, XI, XVIII, and XIX" and inserting in lieu thereof "XI and XVIII".

(m) Section 1902 of such Act is amended by inserting after subsection (c) the following new subsection:

"(d) If a State contracts with a Professional Standards Review Organization designated, conditionally or otherwise, under part B of title XI for the performance of medical or utilization review functions required under this title of a State plan with respect to specific services or providers (or services or providers in a geographic area of the State), such requirements shall be deemed to be met for those services or providers (or services or providers in that area) by delegation to such Organization (or Organizations) under the contract of the State's authority to conduct such review activities if the contract provides for the performance of activities not inconsistent with part B of title XI and provides for such assurances of satisfactory performance by such Organization (or Organizations) as the Secretary may prescribe.".

(n) Section 1903(a)(3) of such Act is amended—

(1) by striking out "plus" at the end of subparagraph (B) and inserting in lieu thereof "and", and

(2) by adding after subparagraph (B) the following new subparagraph:

"(C) 75 per centum of the sums expended with respect to costs incurred during such quarter (as found necessary by the Secretary for the proper and efficient administration of the State plan) as are attributable to the performance of medical and utilization review by a Professional Standards Review Organization under a contract entered into under section 1902(d); plus"

(o) The amendments made by this section apply to agreements with Professional Standards Review Organizations entered into on or after October 1, 1981.

SECRETARIAL DETERMINATION IN LIEU OF PSRO CERTIFICATION

SEC. 6344. Sections 1861(v)(1)(G)(1) and 1902(h)(1) of the Social Security Act are each amended by striking out "an organization or agency with review responsibility as is otherwise provided for under part A of title XI" and inserting in lieu thereof "the Secretary or such agent as the Secretary may designate".

REDESIGNATION OF PSRO AREAS

SEC. 6345. Section 1152(a) of the Social Security Act is amended—

(1) by redesignating clauses (1) and (2) as clauses (A) and (B), respectively;

(2) by inserting "(1)" immediately after "(a)"; and

(3) by adding at the end the following new paragraph:

"(2)(A) The Secretary shall, not later than October 1, 1982, provide for the reestablishment of areas described in paragraph (1)(A) in accordance with this paragraph.

"(B)(i) Except as provided in clause (ii), each State shall constitute an appropriate area with respect to which a Professional Standards Review Organization may be designated.

"(ii) The Secretary may establish appropriate areas within a State, but not more than 5 areas within any one State, for the designation of such Organizations only if, on the basis of the population of that State, designation of such number of Organizations is necessary for the effective and efficient performance of such Organizations' duties under this part.".

Subchapter C—Medicare Changes Only

ELIMINATION OF CARRYOVER FROM PREVIOUS YEAR OF INCURRED EXPENSES FOR MEETING THE PART B DEDUCTIBLE

SEC. 6346. (a) The first sentence of section 1833(b) of the Social Security Act is amended by striking out "the amount of the deductible for such calendar year" and all that follows through "(2)", and by redesignating clauses (3) and (4) as clauses (2) and (3), respectively.

(b) The amendments made by subsection (a) first apply to the deductible for calendar year 1982.

INCREASE IN, AND INDEXING OF, PART B DEDUCTIBLE

SEC. 6347. Section 1833(b) of the Social Security Act, as amended by section 6346 of this subchapter, is further amended—

(1) by redesignating clauses (1) through (3) as clauses (A) through (C), respectively,

(2) by inserting "or (for calendar years after 1981) the amount determined under paragraph (2)" after "deductible of $60",

(3) by inserting "(1)" after "(b)", and

(4) by adding at the end the following new paragraph:

"(2)(A) For expenses incurred by an individual during calendar year 1982, the deductible shall be $70.

"(B)(i) For expenses incurred by an individual during a calendar year (beginning with 1983), the deductible shall (subject to clause (ii)) be equal to the deductible amount established under this paragraph with respect to the previous calendar year increased by a percentage equal to the percentage by which benefit amounts under title II were increased in that previous year pursuant to section 215(i).

"(ii) If a deductible determined under the preceding sentence is not a multiple of $1, such deductible shall be rounded to the nearest multiple of $1, or if midway between multiples of $1 to the next higher multiple of $1.

"(iii) The Secretary shall determine and publish in the Federal Register the deductible amount computed under this subparagraph at the same time as the Secretary publishes a determination respecting a cost-of-living computation quarter under section 215(i)(2)(D).".

INCENTIVE REIMBURSEMENT RATE FOR RENAL DIALYSIS SERVICES

SEC. 6348. (a) Section 1881(b) of the Social Security Act is amended—

(1) by inserting "and consistent with any regulations promulgated under paragraph (7)" in paragraph (2)(B) after "section 1861(v))";

(2) by striking out the second sentence of paragraph (2)(B);

(3) by inserting "(which effectively encourages the efficient delivery of dialysis services and provides incentives for the increased use of home dialysis)" in paragraph (3)(B) after "or other basis";

(4) by inserting "or on the basis of a method established under paragraph (7)" before the period at the end of paragraph (4);

(5) by inserting "(except as may be provided in regulations under paragraph (7))" in the second sentence of paragraph (6) after "in no event" and by striking out "70 percent" in such sentence and inserting in lieu thereof "75 percent";

(6) by inserting "(including methods established under paragraph (7))" in the fifth sentence of paragraph (6) after "any other procedure";

(7) by redesignating paragraphs (7) through (9) as paragraphs (8) through (10), respectively; and

(8) by inserting after paragraph (6) the following new paragraph:

"(7) The Secretary shall provide by regulation (first promulgated not later than October 1, 1981) for a method (or methods) for determining prospectively the amounts of payments to be made for dialysis services furnished by providers of services and renal dialysis facilities to individuals in a facility and to such individuals at home. Such method (or methods) shall provide for the prospective determination of a rate (or

rates) for each mode of care based on a single composite weighted formula (which takes into account the mix of patients who receive dialysis services at a facility or at home and the relative costs of providing such services in such settings) or based on such other method or combination of methods as the Secretary determines, after detailed analysis, will more effectively encourage the more efficient delivery of dialysis services and will provide greater incentives for increased use of home dialysis than through the single composite weighted formula and shall provide for such exceptions as may be warranted by unusual circumstances. The Secretary may provide that such method will serve in lieu of any target reimbursement rate that would otherwise be established under paragraph (6).".

(b) The amendments made by subsection (a) apply to services furnished on or after October 1, 1981.

LIMITS ON REIMBURSEMENT TO HOME HEALTH AGENCIES

SEC. 6349. (a) Section 1861(v)(1) of the Social Security Act is amended by adding at the end the following new subparagraph:

"(J) The Secretary, in determining the amount of the payments that may be made under this title with respect to home health services, may not recognize as reasonable (in the efficient delivery of health services) costs for the provision of home health services by an agency to the extent these costs exceed (on the aggregate for the agency) the 75th percentile of such costs per visit for home health agencies, or, in the judgment of the Secretary, such lower percentile or such comparable or lower limit (based on or related to the mean of the costs of such agencies or otherwise) as the Secretary may determine.".

(b)(1) Subject to paragraph (2), the amendment made by subsection (a) shall apply to cost reporting periods ending after September 30, 1981.

(2) In the case of a cost reporting period beginning before October 1, 1981, any reduction in payments resulting from the amendment made by subsection (a) shall be imposed only in proportion to the part of the period that occurs after September 30, 1981.

NUTRITIONAL THERAPY UNDER END-STAGE RENAL DISEASE PROGRAM

SEC. 6350. (a) Section 226A(b)(1)(A) of the Social Security Act is amended—

(1) by inserting "the earlier of (i)" after "after", and

(2) by inserting "or (ii) the month in which such regular course of renal dialysis would have been initiated but was not initiated because nutritional therapy was provided (as determined pursuant to rules established by the Secretary)" after "renal dialysis is initiated".

(b) Section 1861(s)(2)(F) of such Act is amended by inserting "(i)" after "(F)" and by inserting before the semicolon the following: ", and (ii) in the case of individuals medically determined to have end-stage renal disease, nutritional therapy (as defined by the Secretary)".

(c) Section 1862(a) of such Act is amended—

(1) by striking out "or" at the end of paragraph (12),

(2) by striking out the period at the end of paragraph (13) and inserting in lieu thereof "; or", and

(3) by adding at the end the following new paragraph:

"(14) where such expenses are for nutritional therapy described in section 1861(s)(2)(F)(ii) unless there has been a determination by a physician (within such period of time and based on such facts as the Secretary establishes by regulation) that such therapy is an effective and efficient means of delaying or substituting for the provision of dialysis.".

(d)(1) The first sentence of section 1881(b)(1) of such Act is amended by striking out "and" before "(B)", and by inserting before the period the following: ", and (C) payments to or on behalf of such individuals for nutritional therapy".

(2) Section 1881(b) of such Act is amended by adding at the end the following new paragraph:

"(11) With respect to payments for nutritional therapy furnished to individuals determined to have end-stage renal disease, the Secretary shall establish a methodology for determining what amounts will be recognized as reasonable under this title with respect to the furnishing of such nutritional therapy.".

(e)(1)(A) The amendments made by this section shall apply to nutritional therapy furnished on or after October 1, 1981.

(B) No individual can establish an entitlement to benefits under part A (or eligibility to enroll under part B) of title XVIII of the Social Security Act under clause (ii) of section 226A(b)(1)(A) of such Act on the basis of nutritional therapy furnished before October 1, 1981.

(2) The Secretary of Health and Human Services shall establish, after consultation with experts in the fields of nephrology and nutrition (especially nutritional therapy) and with suppliers of nutritional therapy supplies, such regulations and guidelines (including standards respecting coverage and reimbursement with respect to nutritional therapy under title XVIII of the Social Security Act) as may be necessary to implement the amendments made by this section on a timely basis consistent with paragraph (1).

CHAPTER 12—ORDERLY CLOSURE, TRANSFER, AND FINANCIAL SELF-SUFFICIENCY OF PUBLIC HEALTH SERVICE HOSPITALS AND CLINICS

FINDINGS AND PURPOSES

SEC. 6361. (a) Congress finds that—

(1) because of national budgetary considerations, it has become necessary to terminate Federal appropriations for Public Health Service hospitals and clinics,

(2) with proper planning and coordination, some of these hospitals and clinics could be transferred to State, local, or private control or become financially self-sufficient and continue to provide effective and efficient health care to individuals in the areas in which they are located,

(3) a precipitous closure of these hospitals and clinics will preclude the possibility of such orderly transfer to entities which are willing and able to take over operations at such facilities and will cause unnecessary and costly hardships on the patients and staffs at such facilities and on the communities in which the facilities are located, and

(4) it is in the national interest, consistent with sound budgetary considerations, to assist in the orderly and prompt transfer of such operations to State, local, or private operation or in the achievement of financial self-sufficiency where feasible.

(b) It is the purpose of this chapter to provide for the prompt and orderly closure by October 31, 1981, of Public Health Service hospitals and clinics which cannot reasonably be transferred to State, local, or private operation or become financially self-sufficient and for the transfer or achievement of financial self-sufficiency by September 30, 1982, of those hospitals and clinics which can be so transferred or which can achieve such financial self-sufficiency.

PROPOSALS FOR TRANSFER OR FINANCIAL SELF-SUFFICIENCY OF PHS HOSPITALS

SEC. 6362. (a) Effective October 1, 1982, section 322(a) of the Public Health Service Act (42 U.S.C. 249(a)) is amended by striking out "at hospitals and other stations of the Service" before paragraph (1).

(b) Section 321 of such Act (42 U.S.C. 248) is amended—

(1) by redesignating paragraphs (a) through (e) as paragraphs (1) through (5),

(2) by inserting "(a)" after "321.", and

(3) by adding at the end the following new subsection:

"(b)(1) The Secretary shall, in accordance with this subsection and notwithstanding section 818 of Public Law 93-155, provide for the closure, transfer, or financial self-sufficiency of all hospitals and other stations of the Service not later than September 30, 1982.

"(2) Not later than July 1, 1981, the Secretary shall notify each Service hospital and other station, and the chief executive officer of each State and of each locality in which such a hospital or other station is located, that the Secretary will accept proposals for the transfer of each such hospital and station from the Service to a public or nonprofit private entity or for the achievement of financial self-sufficiency of each such hospital and station not later than September 30, 1982. No such proposal shall be considered by the Secretary if it is submitted later than September 1, 1981.

"(3) The Secretary shall promptly evaluate each proposal submitted under paragraph (2) with respect to a hospital or other station and determine, not later than September 30, 1981, whether or not under such proposal the hospital or station—

"(A) will be maintained as a general health care facility providing a range of services to the population within its service area,

"(B) will continue to make services available to existing patient populations, and

"(C) has a reasonable expectation of financial viability and, in the case of a hospital or station that is not proposed to be transferred, of financial self-sufficiency.

Subparagraph (A) shall not apply in the case of a proposal for the transfer of a discrete, minor, freestanding part of a hospital or station to a local public entity for the purpose of continuing the provision of services to refugees.

"(4)(A) If the Secretary determines that a proposal for a hospital or other station does not meet the standards of paragraph (3) or if there is no proposal submitted under paragraph (2) with respect to a hospital or other station, the Secretary shall provide for the closure of the hospital or station by not later than October 31, 1981.

"(B) If the Secretary determines that a proposal for a hospital or other station meets the standards of paragraph (3), the Secretary shall take such steps, within the amounts available through appropriations, as may be necessary and proper—

"(i) to operate (or participate or assist in the operation of) the hospital or station by the Service until the transfer is accomplished or financial self-sufficiency is achieved,

"(ii) to bring the hospital or station into compliance with applicable licensure, ac-

creditation, and local medical practice standards, and

"(iii) to provide for such other legal, administrative, personnel, and financial arrangements (including allowing payments made with respect to services provided by the hospital or station to be made directly to that hospital or station) as may be necessary to effect a timely and orderly transfer of such hospital or station (including the land, building, and equipment thereof) from the Service or for the financial self-sufficiency of the hospital or station not later than September 30, 1982.

"(5) There is established, within the Office of the Assistant Secretary for Health, an identifiable administrative unit which shall have direct responsibility and authority for overseeing the activities under this subsection.

"(6) For purposes of this section, a hospital or station can not be found to be financially self-sufficient if the hospital or station is relying, in whole or in part, on direct appropriated funds for its continued operations.".

CHAPTER 13—OFFICE OF THE SECRETARY OF HEALTH AND HUMAN SERVICES

APPROPRIATIONS FOR IMMEDIATE OFFICE OF SECRETARY OF HEALTH AND HUMAN SERVICES

SEC. 6365. The appropriations for the immediate office of the Secretary of Health and Human Services and the Under Secretary of Health and Human Services for the executive direction of the Department of Health and Human Services may not exceed $4,125,000 for fiscal year 1982, may not exceed $4,485,000 for fiscal year 1983, and may not exceed $4,875,000 for fiscal year 1984. Before the Secretary may request additional funds for the office of the Secretary or the Under Secretary or request the reprograming to such offices of appropriated funds, the Secretary shall consult with the Committee on Energy and Commerce of the House of Representatives.

CHAPTER 14—HEALTH PLANNING

AUTHORIZATIONS

SEC. 6371. (a) Section 1516(d)(1) of the Public Health Service Act (42 U.S.C. 300l-5(d)(1)) is amended by striking out "$185,000,000" and inserting in lieu thereof "$90,000,000".

(b) Section 1516(c)(1)(C) of such Act is amended (1) by inserting "and" at the end of clause (ii), (2) by striking out ", and" at the end of clause (iii) and inserting in lieu thereof a period, and (3) by striking out clause (iv).

(c)(1) During the period beginning June 1, 1981, and ending September 30, 1982, the Secretary of Health and Human Services may not—

(A) terminate a designation agreement of a health systems agency under section 1515 of the Public Health Service Act, or

(B) return a health systems agency to a conditionally designated status under such section,

because the agency discontinued the performance of a function prescribed by section 1513 which the agency performed on June 1, 1981, and which the agency discontinued because of a reduction in the funds made available to it under section 1516 of such Act. This paragraph does not apply to the termination of designation agreements in a jurisdiction in which health systems agencies are not required because of section 1536.

(2) The Secretary of Health and Human Services may, upon application, waive the application of the requirements of subsection (e), (g), or (h) of section 1513 of the Public Health Service Act or any combination of such subsections to a health systems agency if the Secretary determines that the Federal funds made available to the agency are not sufficient to enable it to meet such requirements.

HEALTH SYSTEMS AGENCIES

SEC. 6372. (a) Section 1536 of the Public Health Service Act (42 U.S.C. 300n-5) is amended (1) by striking out subsection (a), (2) by amending the matter in subsection (b) preceding paragraph (1) to read as follows: "Upon request of the chief executive officer of a State or the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, or Puerto Rico, it shall be considered to be a State for purposes of this title and", and (3) by striking out "sections 1516 and 1640" and inserting in lieu thereof "section 1640".

(b) The last sentence of section 1512(b)(5) of the Public Health Service Act (42 U.S.C. 300l-1(b)(5)) is amended by inserting before the period the following: "or health insurance".

CERTIFICATE OF NEED REVIEW

SEC. 6373. (a) Section 1531 of the Public Health Service Act (42 U.S.C. 300n) is amended—

(1) by striking out "$75,000" each place it occurs in paragraph (5) and inserting in lieu thereof "$150,000";

(2) by striking out "$150,000" each place it occurs in paragraph (6) and inserting in lieu thereof "$500,000"; and

(3) by striking out "$150,000" each place it occurs in paragraph (7) and inserting in lieu thereof "$300,000".

(b) Section 1521(d)(1)(B) of the Public Health Service Act (42 U.S.C. 300m(d)(1)(B)(ii)) is amended—

(1) by striking out "twelve months" the second time it appears in clause (i) and inserting in lieu thereof "thirty-six months", and

(2) by striking out "twelve months" the second time it appears in clause (ii) and inserting in lieu thereof "thirty-six months".

CHAPTER 15—CONSUMER PRODUCT SAFETY COMMISSION

SHORT TITLE; REFERENCE TO ACT

SEC. 6381. (a) This subtitle may be cited as the "Consumer Product Safety Amendments of 1981".

(b) Except as otherwise specifically provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Consumer Product Safety Act.

DEVELOPMENT OF CONSUMER PRODUCT SAFETY STANDARDS, BANNED HAZARDOUS SUBSTANCES REGULATIONS, AND FLAMMABILITY STANDARDS

SEC. 6382. (a) Section 7 (15 U.S.C. 2056) is amended—

(1) in subsection (b)—

(A) by striking out the matter preceding subparagraph (A) and inserting in lieu thereof the following: "Before commencing a proceeding for the development of a consumer product safety standard, the Commission shall by notice in the Federal Register—";

(B) by striking out "determination" in paragraph (1)(B) and inserting in lieu thereof "preliminary determination";

(C) by striking out the semicolon in paragraph (1)(C) and inserting in lieu thereof the following: "(including information explaining why the Commission believes such standard does not eliminate or adequately reduce the risk of injury identified under subparagraph (A)); and";

(D) by amending paragraph (1)(D) to read as follows:

"(D) provide an invitation for any person (other than the Commission) to submit to the Commission, within 60 days after the date of publication of the notice, an existing standard as the proposed consumer product safety standard; and";

(E) by striking out paragraph (1)(E);

(F) by striking out "(1)" after "(b)", by striking out paragraph (2) and by redesignating subparagraphs (A) through (D) as paragraphs (1) through (4), respectively; and

(G) by adding at the end the following:

"(5) provide an invitation for the submission to the Commission, within 60 days after the date of publication of the notice, of comments on the existence and nature of the risk of injury identified in the notice and on the necessity for a consumer product safety standard to eliminate or reduce the injury.";

(2) in subsection (c)—

(A) by striking out "determines" and all that follows through "paragraph (1) or (2)" and inserting in lieu thereof "determines that any standard submitted to it in response to an invitation in a notice published under subsection (b) if promulgated (in whole, in part, or in combination with any other standard submitted to the Commission"; and

(B) by striking out "reduce" and inserting in lieu thereof "adequately reduce";

(3) in subsection (d)—

(A) by amending paragraph (1) to read as follows:

"(1)(A) If the Commission publishes a notice under subsection (b) respecting a risk of injury from a consumer product and—

"(i) no standard is submitted to the Commission in response to the invitation in the notice, or

"(ii) one or more standards is submitted and the Commission determines—

"(I) compliance with such standard is not likely to result in the elimination or adequate reduction of such risk of injury, or

"(II) it is unlikely that there will be substantial compliance with any such standard,

the Commission shall publish a notice in the Federal Register stating that either no standard was submitted or the Commission's determination respecting any standard submitted, and inviting the development and submission to the Commission, within 150 days or such greater period as the Commission may determine is reasonable, of a voluntary standard to eliminate or adequately reduce the risk of injury identified in the subsection (b) notice.

"(B) If the Commission determines that any voluntary standard submitted to it in response to the invitation in the notice published under subparagraph (A) is likely to eliminate or adequately reduce the risk of injury identified in the subsection (b) notice, the Commission shall terminate any proceeding to promulgate a consumer product safety rule respecting such risk of injury and shall publish in the Federal Register a notice which includes the determination of the Commission and which notifies the public that the Commission will rely on the voluntary standard to eliminate or reduce the risk of injury and which defines the preemption to be accorded the standard under section 26.

"(C) If no voluntary standard is submitted in response to an invitation in a notice published under subparagraph (A) within the period prescribed by the notice or if one or more voluntary standards is submitted to the Commission and the Commission determines—

"(i) compliance with such voluntary standard is not likely to result in the elimination or adequate reduction of the risk of injury identified in the subsection (b) notice, or

"(ii) it is unlikely that there will be substantial compliance with any such voluntary standard,

the Commission may develop and publish a proposed consumer product safety standard for such risk of injury.",

(B) by striking out "If an offer is accepted under this subsection or if" in paragraph (2) and inserting in lieu thereof "If",

(C) by striking out "under subsection (b)(2)(A) or subsection (e)" in such paragraph,

(D) by striking out "the offeror's cost in developing a proposed consumer product safety standard or" in such paragraph,

(E) by striking out "offeror or" in such paragraph, and

(F) by striking out paragraphs (3) and (4); and

(4) by striking out subsections (e) and (f).

(b) Section 7(a)(1) (15 U.S.C. 2056(a)(1)) is amended—

(1) by amending subparagraph (A) to read as follows:

"(A) Requirements as to the performance of a consumer product."; and

(2) by striking out the last sentence.

(c) Section 7(a) (15 U.S.C. 2056(a)) is amended—

(1) by striking out paragraph (2),

(2) by striking out "(1)", and

(3) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively.

(d)(1) Section 3 of the Federal Hazardous Substances Act (15 U.S.C. 1262) is amended by adding at the end the following new subsection:

"(f)(1) Before commencing a proceeding for the promulgation of a regulation under section 2(q)(1) classifying an article or substance as a banned hazardous substance, the Commission shall by notice in the Federal Register—

"(A) identify the article or substance and the nature of the hazard associated with the article or substance;

"(B) state the Commission's preliminary determination that a regulation classifying the article or substance as a banned hazardous substance is necessary to eliminate or adequately reduce the hazard;

"(C) provide an invitation for the submission to the Commission, within 60 days after the date of publication of the notice, of comments on the existence and nature of the hazard identified in the notice and on the necessity for a regulation under section 2(q)(1) to eliminate or reduce the hazard; and

"(D) provide an invitation for any person (other than the Commission) to submit to the Commission, within 60 days after the date of publication of the notice, an existing standard in lieu of a regulation under section 2(q)(1).

"(2)(A) If the Commission publishes a notice under paragraph (1) respecting a hazard from an article or substance and—

"(i) no standard is submitted to the Commission in response to the invitation in the notice, or

"(ii) one or more standards is submitted and the Commission determines—

"(I) compliance with such standard is not likely to result in the elimination or adequate reduction of such hazard, or

"(II) it is unlikely that there will be substantial compliance with any such standard,

the Commission shall publish a notice in the Federal Register stating that either no standard was submitted or the Commission's determination respecting any standard submitted, and inviting the development and submission to the Commission, within 150 days or such greater period as the Commission may determine is reasonable, of a voluntary standard to eliminate or adequately reduce the hazard identified in the paragraph (1) notice.

"(B) If the Commission determines that any voluntary standard submitted to it in response to the invitation in the notice published under subparagraph (A) is likely to eliminate or adequately reduce the hazard identified in the paragraph (1) notice, the Commission shall terminate any proceeding to promulgate a regulation under section 2(q)(1) respecting such hazard and shall publish in the Federal Register a notice which includes the determination of the Commission and which notifies the public that the Commission will rely on the voluntary standard to eliminate or reduce the hazard and which defines the preemption to be accorded the standard under section 18.

"(C) If no voluntary standard is submitted in response to an invitation in a notice published under subparagraph (A) within the period prescribed by the notice or if one or more voluntary standards is submitted to the Commission and the Commission determines—

"(i) compliance with such voluntary standard is not likely to result in the elimination or adequate reduction of the hazard identified in the paragraph (1) notice, or

"(ii) it is unlikely that there will be substantial compliance with any such voluntary standard,

the Commission may develop and publish a proposed regulation under section 2(q)(1) for such hazard.".

(2) Section 4 of the Flammable Fabrics Act (15 U.S.C. 1193) is amended by adding at the end the following new subsection:

"(g)(1) Before commencing a proceeding for the promulgation of a regulation under this section for a fabric, related material, or product, the Commission shall by notice in the Federal Register—

"(A) identify the fabric, related material, or product, and the nature of the risk of fire associated with the fabric, related material, or product;

"(B) state the Commission's preliminary determination that a regulation under this section is necessary to eliminate or adequately reduce the risk of fire associated with the fabric, related material, or product;

"(C) provide an invitation for the submission to the Commission, within 60 days after the date of publication of the notice, of comments on the existence and nature of the risk of fire identified in the notice and on the necessity for a regulation under this section to eliminate or reduce the risk of fire; and

"(D) provide an invitation for any person (other than the Commission) to submit to the Commission, within 60 days after the date of publication of the notice, an existing standard in lieu of a regulation under this section.

"(2)(A) If the Commission publishes a notice under paragraph (1) respecting a risk of fire from a fabric, related material, or product and—

"(i) no standard is submitted to the Commission in response to the invitation in the notice, or

"(ii) one or more standards is submitted and the Commission determines—

"(I) compliance with such standard is not likely to result in the elimination or adequate reduction of such risk of fire, or

"(II) it is unlikely that there will be substantial compliance with any such standard,

the Commission shall publish a notice in the Federal Register stating that either no standard was submitted or the Commission's determination respecting any standard submitted, and inviting the development and submission to the Commission, within 150 days or such greater period as the Commission may determine is reasonable, of a voluntary standard to eliminate or adequately reduce the risk of fire identified in the paragraph (1) notice.

"(B) If the Commission determines that any voluntary standard submitted to it in response to the invitation in the notice published under subparagraph (A) is likely to eliminate or adequately reduce the risk of fire identified in the paragraph (1) notice, the Commission shall terminate any proceeding to promulgate a regulation under this section respecting such risk of fire and shall publish in the Federal Register a notice which includes the determination of the Commission and which notifies the public that the Commission will rely on the voluntary standard to eliminate or reduce the risk of fire and which defines the preemption to be accorded the standard under section 16.

"(C) If no voluntary standard is submitted in response to an invitation in a notice published under subparagraph (A) within the period prescribed by the notice or if one or more voluntary standards is submitted to the Commission and the Commission determines—

"(i) compliance with such voluntary standard is not likely to result in the elimination or adequate reduction of the risk of fire identified in the paragraph (1) notice, or

"(ii) it is unlikely that there will be substantial compliance with any such voluntary standard,

the Commission may develop and publish a proposed regulation under this section for such risk of fire.".

REGULATORY IMPACT ANALYSIS

SEC. 6383. (a)(1) Section 9(c) (15 U.S.C. 2058(c)) is amended by redesignating paragraph (2) as paragraph (3) and by adding after paragraph (1) the following:

"(2) The Commission may not publish a proposed consumer product safety rule or promulgate a consumer product safety rule unless it has prepared, on the basis of the findings of the Commission under paragraph (1) and on other information before the Commission, a regulatory impact analysis of the rule containing the following information:

"(A) A description of the potential benefits of the rule, including any beneficial effects that cannot be quantified in monetary terms, and the identification of those likely to receive the benefits.

"(B) A description of the potential costs of the rule, including any adverse effects that cannot be quantified in monetary terms, and the identification of those likely to bear the costs.

"(C) A determination of the potential net benefits of the rule, including an evaluation of effects that cannot be quantified in monetary terms.

"(D) A description of major alternative approaches (including voluntary industry consumer product safety standards) that could substantially achieve the same regulatory goal at lower cost, together with an analysis of the potential benefits and costs of the alternative approaches and a brief explanation of the reasons why such alternatives, if proposed, could not be adopted.".

(2) Section 9(a)(1)(A) (15 U.S.C. 2058(a)(1)(A)) is amended by inserting before the comma the following: "and prepares the regulatory impact analysis required by such subsection".

(b) Section 3 of the Federal Hazardous Substances Act (15 U.S.C. 1262) is amended by adding after subsection (f) (added by section 6382(d) of this subtitle) the following new subsection:

"(g) The Consumer Product Safety Commission may not publish a proposed regulation under section 2(q)(1) or subsection (a), (b), or (e) of this section or promulgate a regulation under such section or subsection unless it has prepared a regulatory impact analysis of the regulation containing the following information:

"(1) A description of the potential benefits of the regulation, including any beneficial effects that cannot be quantified in monetary terms, and the identification of those likely to receive the benefits.

"(2) A description of the potential costs of the regulation, including any adverse effects that cannot be quantified in monetary terms, and the identification of those likely to bear the costs.

"(3) A determination of the potential net benefits of the regulation, including an evaluation of effects that cannot be quantified in monetary terms.

"(4) A description of major alternative approaches that could substantially achieve the same regulatory goal at lower cost, together with an analysis of the potential benefits and costs of the alternative approaches and a brief explanation of the reasons why such alternatives, if proposed, could not be adopted.".

(c) Section 4 of the Flammable Fabrics Act (15 U.S.C. 1193) is amended by adding after subsection (g) (added by section 6382(d) of this subtitle) the following new subsection:

"(h) The Consumer Product Safety Commission may not publish a proposed regulation under this section or promulgate a regulation under this section unless it has prepared a regulatory impact analysis of the regulation containing the following information:

"(1) A description of the potential benefits of the regulation, including any beneficial effects that cannot be quantified in monetary terms, and the identification of those likely to receive the benefits.

"(2) A description of the potential costs of the regulation, including any adverse effects that cannot be quantified in monetary terms, and the identification of those likely to bear the costs.

"(3) A determination of the potential net benefits of the regulation, including an evaluation of effects that cannot be quantified in monetary terms.

"(4) A description of major alternative approaches that could substantially achieve the same regulatory goal at lower cost, together with an analysis of the potential benefits and costs of the alternative approaches and a brief explanation of the reasons why such alternatives, if proposed, could not be adopted.".

REQUIRED COMMISSION FINDINGS; ASSISTANCE FOR VOLUNTARY STANDARDS

SEC. 6384. (a) Section 9(c)(3) (15 U.S.C. 2058(c)(2)) (as so redesignated by section 3(a)(1)) is amended—

(1) by striking out "and" at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new subparagraphs:

"(D) in the case of a rule which relates to a risk of injury with respect to which persons who would be subject to such rule have adopted a voluntary consumer product safety standard, that—

"(i) compliance with such voluntary consumer product safety standard is not likely to result in the elimination or adequate reduction of such risk of injury; or

"(ii) it is unlikely that there will be substantial compliance with such voluntary consumer product safety standard;

"(E) the rule imposes the least burdensome requirement which prevents or adequately reduces the risk of injury for which the rule is being promulgated; and

"(F) the costs of compliance with the rule are justified by the benefits resulting from the application of the rule.".

(b) Section 3 of the Federal Hazardous Substances Act (15 U.S.C. 1262) is amended by adding after subsection (g) (added by section 6383 of this subtitle) the following new subsection:

"(h) The Consumer Product Safety Commission may not promulgate a regulation under section 2(q)(1) or subsection (a), (b), or (e) of this section unless it finds (and includes such finding in the regulation) that—

"(1) in the case of a regulation which relates to a risk of injury or illness with respect to which persons who would be subject to such regulation have adopted a voluntary standard to prevent or reduce such risk—

"(A) compliance with such voluntary standard is not likely to result in the elimination or adequate reduction of such risk; or

"(B) it is unlikely that there will be substantial compliance with such standard;

"(2) the regulation imposes the least burdensome requirement which prevents or adequately reduces the risk of personal injury or illness for which the regulation is being promulgated; and

"(3) the costs of compliance with the regulation are justified by the benefits resulting from the application of the regulation.".

(c) Section 4 of the Flammable Fabrics Act (15 U.S.C. 1193) is amended by adding after subsection (h) (added by section 6383 of this subtitle) the following new subsection:

"(i) The Consumer Product Safety Commission may not promulgate a regulation under this section unless it finds (and includes such finding in the regulation) that—

"(1) in the case of a regulation which relates to a risk of the occurrence of fire with respect to which persons who would be subject to such regulation have adopted a voluntary standard to prevent or reduce such risk—

"(A) compliance with such voluntary standard is not likely to result in the elimination or adequate reduction of such risk; or

"(B) it is unlikely that there will be substantial compliance with such standard;

"(2) the regulation imposes the least burdensome requirement which prevents or adequately reduces the risk of the occurrence of fire for which the regulation is being promulgated; and

"(3) the costs of compliance with the regulation are justified by the benefits resulting from the application of the regulation.".

(d) Section 5(b) (15 U.S.C. 2054) is amended by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) offer training in product safety investigation and test methods.

The Commission, to the extent feasible, shall assist public and private organizations, administratively and technically, in the development of safety standards and test methods.".

REPORTS

SEC. 6385. (a) Section 27(b)(1) (15 U.S.C. 2076(b)(1)) is amended by inserting "to carry out a specific regulatory or enforcement function of the Commission" after "may prescribe".

(b) Section 27(b) is amended by adding after and below paragraph (9) the following: "An order issued under paragraph (1) shall contain a complete statement of the reason the Commission requires the report or answers specified in the order to carry out a specific regulatory or enforcement function of the Commission. Such an order shall be designed to place the least burden on the person subject to the order as is practicable taking into account the purpose for which the order was issued.".

ADVISORY COUNCILS

SEC. 6386. (a)(1) Section 28 (15 U.S.C. 2077) is repealed.

(2) Subsection (d) of section 12 (15 U.S.C. 2061) is repealed and subsections (e) and (f) are redesignated as subsections (d) and (e), respectively.

(b) Section 17 of the Flammable Fabrics Act (15 U.S.C. 1204) is repealed.

(c) Section 6 of the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1475) is repealed and sections 7, 8, and 9 of such Act are redesignated as sections 6, 7, and 8, respectively.

CONGRESSIONAL VETO

SEC. 6387. (a) The Consumer Product Safety Act is amended by adding at the end the following new section:

"CONGRESSIONAL VETO OF CONSUMER PRODUCT SAFETY RULES

"SEC. 36. (a) The Commission shall transmit to the Secretary of the Senate and the Clerk of the House of Representatives a copy of any consumer product safety rule promulgated by the Commission under section 9.

"(b) Any rule specified in subsection (a) shall not take effect if—

"(1) within the 90 calendar days of continuous session of the Congress which occur after the date of the promulgation of such rule, both Houses of the Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows (with the blank spaces appropriately filled): 'That the Congress disapproves the consumer product safety rule which was promulgated by the Consumer Product Safety Commission with respect to and which was transmitted to the Congress on and disapproves the rule for the following reasons: .'; or

"(2) within the 60 calendar days of continuous session of the Congress which occur after the date of the promulgation of such rule, one House of the Congress adopts such concurrent resolution and transmits such

resolution to the other House and such resolution is not disapproved by such other House within the 30 calendar days of continuous session of the Congress which occur after the date of such transmittal.

"(c) Congressional inaction on, or rejection of, a concurrent resolution of disapproval under this section shall not be construed as an expression of approval of the rule involved, and shall not be construed to create any presumption of validity with respect to such rule.

"(d) For purposes of this section—

"(1) continuity of session is broken only by an adjournment of the Congress sine die; and

"(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the periods of continuous session of the Congress specified in subsection (b).".

(b) Section 27(l)(1) (15 U.S.C. 2076(l)(1)) is amended—

(1) by striking out "; and" at the end of subparagraph (A) and inserting in lieu thereof a period and by striking out subparagraph (B); and

(2) by striking out "paragraph (2)—" and all that follows through "the Commission shall transmit" and inserting in lieu thereof "paragraph (2), the Commission shall transmit".

(c) The Federal Hazardous Substances Act is amended by adding at the end the following new section:

"CONGRESSIONAL VETO OF REGULATIONS

"SEC. 21. (a) The Consumer Product Safety Commission shall transmit to the Secretary of the Senate and the Clerk of the House of Representatives a copy of any regulation promulgated by the Commission under section 2(q)(1) or subsection (a), (b), or (e) of section 3.

"(b) Any regulation specified in subsection (a) shall not take effect if—

"(1) within the ninety calendar days of continuous session of the Congress which occur after the date of the promulgation of such regulation, both Houses of the Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows (with the blank spaces appropriately filled): 'That the Congress disapproves the regulation which was promulgated under the Federal Hazardous Substances Act by the Consumer Product Safety Commission with respect to and which was transmitted to the Congress on and disapproves the regulation for the following reasons: .'; or

"(2) within the sixty calendar days of continuous session of the Congress which occur after the date of the promulgation of such regulation, one House of the Congress adopts such concurrent resolution and transmits such resolution to the other House and such resolution is not disapproved by such other House within the thirty calendar days of continuous session of the Congress which occur after the date of such transmittal.

"(c) Congressional inaction on, or rejection of, a concurrent resolution of disapproval under this section shall not be construed as an expression of approval of the regulation involved, and shall not be construed to create any presumption of validity with respect to such regulation.

"(d) For purposes of this section—

"(1) continuity of session is broken only by an adjournment of the Congress sine die; and

"(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the periods of continuous session of the Congress specified in subsection (b).".

(d) The Flammable Fabrics Act is amended by adding at the end the following new section:

"CONGRESSIONAL VETO OF FLAMMABILITY REGULATIONS

"SEC. 18. (a) The Consumer Product Safety Commission shall transmit to the Secretary of the Senate and the Clerk of the House of Representatives a copy of any flammability regulation promulgated by the Commission under section 4.

"(b) Any regulation specified in subsection (a) shall not take effect if—

"(1) within the ninety calendar days of continuous session of the Congress which occur after the date of the promulgation of such regulation, both Houses of the Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows (with the blank spaces appropriately filled): 'That the Congress disapproves the flammability regulation which was promulgated under the Flammable Fabrics Act by the Consumer Product Safety Commission with respect to and which was transmitted to the Congress on and disapproves the regulation for the following reasons: .'; or

"(2) within the sixty calendar days of continuous session of the Congress which occur after the date of the promulgation of such regulation, one House of the Congress adopts such concurrent resolution and transmits such resolution to the other House and such resolution is not disapproved by such other House within the thirty calendar days of continuous session of the Congress which occur after the date of such transmittal.

"(c) Congressional inaction on, or rejection of, a concurrent resolution of disapproval under this section shall not be construed as an expression of approval of the regulation involved, and shall not be construed to create any presumption of validity with respect to such regulation.

"(d) For purposes of this section—

"(1) continuity of session is broken only by an adjournment of the Congress sine die; and

"(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the periods of continuous session of the Congress specified in subsection (b).".

PUBLIC DISCLOSURE

SEC. 6388. (a) The first sentence of section 6(a)(2) (15 U.S.C. 2055(a)(2)) is amended to read as follows: "Information reported to or otherwise obtained by the Commission or its representative—

(A) which contains or relates to a trade secret or other matter referred to in section 1905 of title 18, United States Code,

"(B) which is information (other than information submitted under section 15(b)) which the person submitting the information certifies is not available to the public from such person and is not customarily disclosed to the public by such person, or

"(C) which the Commission has in good faith obligated itself not to disclose,

shall be considered confidential and shall not be disclosed, except that such information may be disclosed to other officers or employees concerned with carrying out any Act administered by the Commission or when relevant in any proceeding under such an Act."

(b) Section 6(b) (15 U.S.C. 2055(b)) is amended—

(1) by striking out "paragraph (2)" in paragraph (1) and inserting in lieu thereof "paragraphs (2) and (3)"; and

(2) by adding after paragraph (2) the following new paragraph:

"(3) In addition to the requirements of paragraph (1), the Commission shall not disclose to the public information submitted under section 15(b) respecting a consumer product unless—

"(A) the Commission has issued a complaint under section 15(c) or 15(d) alleging that such product presents a substantial product hazard;

"(B) in lieu of proceeding against such product under section 15(c) or 15(d), the Commission has accepted a remedial settlement agreement dealing with such product; or

"(C) the person who submitted the information under section 15(b) agrees to its public disclosure.

This paragraph does not apply to the public disclosure of any information with respect to a consumer product which is the subject of an action brought under section 12 or which the Commission has reasonable cause to believe is in violation of section 19.".

(c) Section 19(a) (15 U.S.C. 2068(a)) is amended—

(1) by striking out "or" at the end of paragraph (9),

(2) by striking out the period at the end of the first paragraph (10) and inserting in lieu thereof a semicolon,

(3) by striking out the period at the end of the second paragraph (10) and inserting in lieu thereof "; or" and by redesignating that paragraph as paragraph (11), and

(4) by adding at the end the following:

"(12) issue a false certificate under section 6 or disclose information in violation of section 6.".

PETITIONS TO COMMISSION

SEC. 6389. Section 10 (15 U.S.C. 2059) is repealed.

INSPECTIONS

SEC. 6390. (a) Section 16 (15 U.S.C. 2065) is amended by redesignating subsection (b) as subsection (c) and inserting after subsection (a) the following:

"(b) If consent is not given for an entry or inspection authorized by subsection (a), such entry and inspection may only be made after a search warrant is obtained from a judicial officer who shall issue such warrant upon proper oath or affirmation showing probable cause. For purposes of this subsection, the term 'probable cause' means that a proposed entry of a structure or inspection of a conveyance or area is necessary because the structure, conveyance, or area is involved in a violation of section 19 or that the inspection will be conducted pursuant to a reasonable administrative plan for the enforcement of this Act.".

(b) Section 11 of the Federal Hazardous Substances Act (15 U.S.C. 1270) is amended by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following:

"(c) If consent is not given for an entry or inspection authorized by subsection (b), such entry and inspection may only be made after a search warrant is obtained from a judicial officer who shall issue such warrant upon proper oath or affirmation showing probable cause. For purposes of this subsection, the term 'probable cause' means that a proposed entry of a structure or inspection

of a conveyance or area is necessary because the structure, conveyance, or area is involved in a violation of section 4 or that the inspection will be conducted pursuant to a reasonable administrative plan for the enforcement of this Act.".

CHRONIC HAZARDS

SEC. 6391. (a) The following section is inserted after section 27:

"CHRONIC HAZARDS ADVISORY PANEL

"SEC. 28. (a) The Commission shall establish a Chronic Hazards Advisory Panel to advise the Commission under section 31(b) respecting the chronic hazards of cancer, birth defects, and gene mutations presented by consumer products.

"(b)(1) The Panel shall consist of 12 members appointed by the Commission as follows:

"(A) Nine members shall be appointed from individuals who are nominated by the Director of the National Institutes of Health, who are not officers or employees of the United States, and who do not receive compensation or have any substantial financial interest in any manufacturer, distributor, or retailer of a consumer product. The Director of the National Institutes of Health shall nominate a number of individuals equal to twice the number of members to be appointed.

"(B) One member shall be appointed from each of the following: the Department of Health and Human Services, the Environmental Protection Agency, and the Occupational Safety and Health Administration.

The members of the Panel shall have demonstrated the ability to critically assess chronic hazards and risks to human health presented by the exposure of humans and animals to toxic substances. Appointments shall be made under subparagraphs (A) and (B) in such a manner so that there is at least one pathologist, one epidemiologist, one geneticist, and one biostatistician on the Panel at all times.

"(2) The members appointed under paragraph (1)(A) shall be appointed for a term of office of three years, except that of the members first appointed—

"(A) three members shall be appointed for terms of one year, and

"(B) three members shall be appointed for terms of two years,

as designated by the Commission at the time of appointment. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

"(c) The Chairman of the Panel and Vice Chairman shall be elected from among the members. The term of office of the Chairman and Vice Chairman is one year.

"(d) Seven members of the Panel shall constitute a quorum. Decisions of the Panel shall be made by majority vote of the Panel, a quorum being present.

"(e) The Commission shall provide the Panel with such administrative support services as it may require to carry out its duties under section 31.

"(f) The Commission, the Environmental Protection Agency, the Secretary of Health and Human Services, and the Secretary of Labor shall provide the Panel such information and data as the Panel may request to carry out its duties under section 31. Section 6 shall apply to the disclosure of information by the Panel but shall not apply to the disclosure of information to members of the Panel.

"(g) A member of the Panel appointed under subsection (b)(1)(A) shall be paid the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including traveltime) during which the member is engaged in the actual performance of the duties of the Panel.

"(h) The Federal Advisory Committee Act shall not apply with respect to the duration of the Panel.".

(b) Section 31 (15 U.S.C. 2080) is amended by inserting "(a)" after "SEC. 31." and by adding at the end the following:

"(b)(1) The Commission may not issue a notice of proposed rulemaking for—

"(A) a consumer product safety rule,

"(B) a rule under section 27(e), or

"(C) a regulation under section 2(q)(1) of the Federal Hazardous Substances Act,

relating to a risk of cancer, birth defects, or gene mutations from a consumer product unless the Chronic Hazard Advisory Panel, established under section 28, has in accordance with paragraph (2) reported to the Commission that a substance contained in such product is a carcinogen, mutagen, or a teratogen.

"(2)(A) If the Commission proposes to issue a notice of proposed rulemaking for—

"(i) a consumer product safety rule,

"(ii) a rule under section 27(e), or

"(iii) a regulation under section 2(q)(1) of the Federal Hazardous Substances Act,

relating to a risk of cancer, birth defects, or gene mutations from a consumer product, the Commission shall request the Panel to review the scientific data relating to such risk to determine, on the basis of available scientific data, if any substance in the product is a carcinogen, mutagen, or a teratogen and to report its determination to the Commission.

"(B) If the Commission makes such a request of the Panel, the Chairman of the Panel shall convene the Panel within thirty days of the date the request is made. The Panel shall report its determination to the Commission within ninety days of the date the Panel is convened or, if the Panel requests additional time, within one hundred and eighty days of such date. If the determination reported to the Commission states that a substance in a product is a carcinogen, mutagen, or a teratogen, the Panel shall include in its report a detailed estimate of the probable harm to human health that will result from exposure to the substance.

"(C) A report of the Panel shall be published in the Federal Register and shall contain a complete statement of the basis for the Panel's determination.".

LAWN MOWER STANDARD

SEC. 6392. (a) Not later than 90 days after the date of the enactment of this Act, the Consumer Product Safety Commission shall amend its consumer product safety standard for walk-behind power lawn mowers to provide that a manually started rotary type lawn mower which has a blade control system which meets the requirements of the standard relating to blade controls (16 CFR 1205.5) except that the system stops the engine and requires a manual restart of the engine shall be considered in compliance with such requirements if the engine starting controls for the lawn mower are located within twenty-four inches from the top of the mower's handles or the mower has a protective foot shield which extends three hundred and sixty degrees around the mower housing. The Consumer Product Safety Act shall not apply with respect to the promulgation of the amendment prescribed by this subsection

(b) The Commission shall conduct a study of the effect on consumers of the amendment prescribed by subsection (a) and shall report the results of such study two years after the date the standard, as amended in accordance with subsection (a), takes effect. The Commission may not amend the amendment prescribed by subsection (a) before the report is filed under this subsection.

AMUSEMENT PARKS

SEC. 6393. Section 3(a)(1) (15 U.S.C. 2052(a)(1)) is amended by inserting before the sentence following subparagraph (I) the following: "Such term includes any mechanical device which carries or conveys passengers along, around, or over a fixed or restricted route or course or within a defined area for the purpose of giving its passengers amusement, which is customarily controlled or directed by an individual who is employed for that purpose and who is not a consumer with respect to such device, and which is not permanently fixed to a site. Such term does not include such a device which is permanently fixed to a site.".

PREEMPTION FOR VOLUNTARY STANDARDS

SEC. 6394. (a) Section 26 (15 U.S.C. 2075) is amended as follows:

(1) Subsection (a) is amended by inserting "(1)" after "(a)" and by inserting at the end the following:

"(2) If the Commission publishes a notice under section 7(d)(1)(B) stating that the Commission will rely on a voluntary standard to eliminate or reduce a risk of injury associated with a consumer product, no State or political subdivision of a State shall have any authority either to establish or to continue in effect any provision of a safety standard or regulation which prescribes any requirements as to the performance, composition, contents, design, finish, construction, packaging, or labeling of such product which are designed to deal with the same risk of injury associated with such consumer product, unless such requirements are identical to the requirements of the standard identified in the notice or as amended in accordance with subsection (d).".

(2) The following subsections are added at the end:

"(d) If the Commission publishes a notice under section 7(d)(1)(B) stating that the Commission will rely on a voluntary standard to eliminate or reduce a risk of injury associated with a consumer product and if the person who submitted the standard to the Commission proposes to amend the standard, such person shall notify the Commission of the proposed amendment and include in the notice a complete statement of the reasons for the amendment. The Commission shall publish a notice in the Federal Register identifying the standard and the proposed amendment and providing a reasonable opportunity for interested persons to submit views, either orally or in writing, respecting the amendment. Such an amendment shall take effect only if within 120 days after the Commission receives such notice the Commission determines that the standard as proposed to be amended is likely to eliminate or adequately reduce the risk of injury associated with the standard. If an amendment takes effect under this subsection, the Commission shall by notice in the Federal Register inform the public of the amendment.

"(e) For purposes of subsections (b) and (c), the term 'consumer product safety standard' includes a standard identified under section 7(d)(1)(B).".

(b) Section 18 of the Federal Hazardous Substances Act (15 U.S.C. 1261(n)) is amended as follows:

(1) Subsection (b)(1)(B) is amended by inserting "(i)" after "(B)" and by inserting at the end the following:

"(ii) If the Commission publishes a notice under section 3(f)(2)(B) stating that the Commission will rely on a voluntary standard to eliminate or reduce a hazard associated with an article or substance, no State or political subdivision of a State shall have any authority either to establish or to continue in effect a requirement applicable to such article or substance and designed to protect against the same hazard unless such requirement is identical to the requirement of the standard identified in the notice or as amended in accordance with subsection (c).".

(2) The following subsection is added at the end:

"(c) If the Commission publishes a notice under section 3(f)(2)(B) stating that the Commission will rely on a voluntary standard to eliminate or reduce a hazard associated with an article or substance and if the person who submitted the standard to the Commission proposes to amend the standard, such person shall notify the Commission of the proposed amendment and include in the notice a complete statement of the reasons for the amendment. The Commission shall publish a notice in the Federal Register identifying the standard and the proposed amendment and providing a reasonable opportunity for interested persons to submit views, either orally or in writing, respecting the amendment. Such an amendment shall take effect only if within 120 days after the Commission receives such notice the Commission determines that the standard as proposed to be amended is likely to eliminate or adequately reduce the risk of injury associated with the standard. If an amendment takes effect under this subsection, the Commission shall by notice in the Federal Register inform the public of the amendment.".

(c)(1) Section 16 of the Flammable Fabrics Act (15 U.S.C. 1203) is amended as follows:

(A) Subsection (a) is amended by inserting "(1)" after "(a)" and by inserting at the end the following:

"(2) If the Commission publishes a notice under section 4(g)(2)(B) stating that the Commission will rely on a voluntary standard to eliminate or reduce a risk of occurrence of fire from a fabric, related material, or product, no State or political subdivision of a State shall have any authority either to establish or to continue in effect any provision of a flammability standard or other regulation for such fabric, related material, or product if the standard or other regulation is designed to protect against the same risk of occurrence of fire with respect to which the standard identified in the notice is in effect unless the State or political subdivision standard or other regulation is identical to the standard identified in the notice or as amended under subsection (e).".

(B) The following subsection is added at the end:

"(e) If the Commission publishes a notice under section 4(g)(2)(B) stating that the Commission will rely on a voluntary standard to eliminate or reduce a risk of occurrence of fire from a fabric, related material, or product, and if the person who submitted the standard to the Commission proposes to amend the standard, such person shall notify the Commission of the proposed amendment and include in the notice a complete statement of the reasons for the amendment. The Commission shall publish a notice in the Federal Register identifying the standard and the proposed amendment and providing a reasonable opportunity for interested persons to submit views, either orally or in writing, respecting the amendment. Such an amendment shall take effect only if within 120 days after the Commission receives such notice the Commission determines that the standard as proposed to be amended is likely to eliminate or adequately reduce the risk of injury associated with the standard. If an amendment takes effect under this subsection, the Commission shall by notice in the Federal Register inform the public of the amendment.".

(2) Subsection (d)(1) is amended by inserting before the semicolon the following: "and a standard identified under section 4(g)(2)(B)".

MISCELLANEOUS

SEC. 6395. (a) Section 20(b) (15 U.S.C. 2069(b)) is amended by inserting ", the occurrence or absence of injury, the number of products distributed," after "person charged".

(b) The first sentence of section 24 (15 U.S.C. 2073) is amended by inserting "(including any individual or nonprofit, business, or other entity)" after "interested person".

(c) Section 25 (15 U.S.C. 2074) is amended by striking out subsection (a) and by redesignating subsections (b) and (c) as subsections (a) and (b), respectively.

(d) Section 27 (15 U.S.C. 2076) is amended by striking out subsection (m).

(e) The last sentence of section 14(a) of the Flammable Fabrics Act (15 U.S.C. 1201(a)) is repealed.

(f)(1) Section 15 of the Federal Hazardous Substances Act (15 U.S.C. 1274) is amended to read as follows:

"NOTICE AND REPAIR, REPLACEMENT, OR REFUND

"SEC. 15. (a) If any article or substance distributed in commerce is a banned hazardous substance (whether or not it was such at the time of its distribution) and the Commission determines (after affording interested persons, including consumers and consumer organizations, an opportunity for a hearing) that notification is required to adequately protect the public from such article or substance, the Commission may order the manufacturer or any distributor or retailer of the article or substance to take any one or more of the following actions:

"(1) To give public notice of the designation of the article or substance as a banned hazardous substance.

"(2) To mail notice of such designation to each person who is a manufacturer, distributor, or retailer of such article or substance.

"(3) To mail notice of such designation to every person to whom the person giving the notice knows such article or substance was delivered or sold.

An order under this subsection shall specify the form and content of any notice required to be given under the order.

"(b) If any article or substance sold by its manufacturer, distributor, or dealer is a banned hazardous substance (whether or not it was such at the time of its sale) and the Commission determines (after affording interested persons, including consumers and consumer organizations, an opportunity for a hearing) that action under this subsection is in the public interest, the Consumer Product Safety Commission may order the manufacturer, distributor, or retailer to take whichever of the following actions the person to whom the order is directed elects:

"(1) If repairs to or changes in the article or substance may be made so that it will not be a banned hazardous substance, to make such repairs or changes.

"(2) To replace such article or substance with a like or equivalent article or substance which is not a banned hazardous substance.

"(3) To refund the purchase price of the article or substance (less a reasonable allowance for use, if the article or substance has been in the possession of the consumer for one year or more—

"(A) at the time of public notice under subsection (a), or

"(B) at the time the consumer receives actual notice that the article or substance is a banned hazardous substance,

whichever first occurs).

An order under this subsection may also require the person to whom it applies to submit a plan, satisfactory to the Commission, for taking the action which such person has elected to take. The Commission shall specify in the order the persons to whom refunds must be made if the person to whom the order is directed elects to take the action described in paragraph (3). If an order under this subsection is directed to more than one person, the Commission shall specify which person has the election under this subsection. An order under this subsection may prohibit the person to whom it applies from manufacturing for sale, offering for sale, distributing in commerce, or importing into the customs territory of the United States (as defined in general headnote 2 to the Tariff Schedules of the United States), or from doing any combination of such actions, with respect to the article or substance with respect to which the order was issued.

"(c)(1) No charge shall be made to any person (other than a manufacturer, distributor, or dealer) who avails himself of any remedy provided under an order issued under subsection (b), and the person subject to the order shall reimburse each person (other than a manufacturer, distributor, or dealer) who is entitled to such a remedy for any reasonable and foreseeable expenses incurred by such person in availing himself of such remedy.

"(2) An order issued under subsection (b) with respect to an article or substance may require any person who is a manufacturer, distributor, or dealer of the article or substance to reimburse any other person who is a manufacturer, distributor, or dealer of such article or substance for such other person's expenses in connection with carrying out the order, if the Commission determines such reimbursement to be in the public interest.

"(d) An order under subsection (b) may be issued only after an opportunity for a hearing in accordance with section 554 of title 5, United States Code, except that, if the Commission determines that any person who wishes to participate in such hearing is a part of a class of participants who share an identity of interest, the Commission may limit such person's participation in such hearing to participation through a single representative designated by such class (or by the Commission if such class fails to designate such a representative).".

(2) Section 4 of the Federal Hazardous Substances Act (15 U.S.C. 1263) is amended by adding at the end the following:

"(j) The failure to comply with an order issued under section 15.".

EXTENSION OF ACT

SEC. 6396. Section 32(a) (15 U.S.C. 2081(a)) is amended (1) by striking out "and" at the end of paragraph (6), (2) by striking out the period at the end of paragraph (7) and inserting a semicolon, and (3) by adding at the end the following:

"(8) $33,000,000 for the fiscal year ending September 30, 1982;

"(9) $35,000,000 for the fiscal year ending September 30, 1983; and

"(10) $37,000,000 for the fiscal year ending September 30, 1984.

For payment of accumulated and accrued leave under section 5551 of title 5, United States Code, and severance pay under section 5595 under such title, there are authorized to be appropriated such sums as may be necessary.".

EFFECTIVE DATE

SEC. 6397. (a) Except as provided in subsection (b), the amendments made by this subtitle shall take effect on the date of the enactment of this Act.

(b) The amendments made by section 6807 shall apply with respect to consumer product safety rules under the Consumer Product Safety Act and regulations under the Federal Hazardous Substances Act and the Flammable Fabrics Act promulgated by the Consumer Product Safety Commission after the date of the enactment of this Act; and the amendments made by sections 6802, 6803, 6804, and 6811 of this subtitle shall apply with respect to regulations under the Consumer Product Safety Act, the Federal Hazardous Substances Act, and the Flammable Fabrics Act for which notices of proposed rulemaking are issued after May 8, 1981.

Subtitle E—Matters Under the Jurisdiction of the Subcommittee on Commerce, Transportation, and Tourism

CHAPTER 1—SAVINGS UNDER RAILROAD LAW

Subchapter A—Conrail

SEC. 6401. This subchapter may be cited as the "Rail Service Improvement Act of 1981".

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PART I—GENERAL PROVISIONS

FINDINGS

SEC. 6411. The Congress finds and declares that—

(1) current arrangements for the provision of rail freight and commuter services in the northeast and midwest regions of the United States are inadequate to meet the transportation needs of the public and the needs of national security;

(2) the process set in motion by the Regional Rail Reorganization Act of 1973 has failed to create a profitable railroad system in the northeast and midwest regions of the United States and has cost United States taxpayers billions of dollars over original estimates;

(3) although the Federal Government has provided billions of dollars in assistance for Conrail and its employees, the Federal interest in ensuring the flow of interstate commerce through rail service in the private sector has not been achieved, and the protection of interstate commerce requires Federal intervention to preserve essential rail service in the private sector;

(4) the orderly integration of Conrail's freight service into the Nation's private rail system can be successful only if an orderly process is followed and adequate and equitable protections are provided for affected railroad employees and if acquiring railroads are not required to assume Conrail's commuter operations;

(5) the funds originally authorized for the protection of employees adversely affected by the consolidation of the bankrupt rail carriers into Conrail have been exhausted, and the additional funding authorized by the Staggers Rail Act of 1980 will be exhausted in the near future;

(6) since holding the Corporation liable for employee protection payments would destroy its prospects of becoming a profitable carrier and further injure its employees, an alternative employee protection system must be developed and funded;

(7) States, shippers, and consumers in the northeast and midwest must be included in the private sector improvements in rail service that are occurring throughout the national rail system; and

(8) an orderly transfer of the functions of the United States Railway Association to the Secretary of Transportation and the Attorney General of the United States will facilitate the exercise of those functions by the appropriate Federal officials.

PURPOSE

SEC. 6412. It is therefore declared to be the purpose of the Congress in this subchapter to provide for—

(1) the removal by a date certain of the Federal Government's obligation to subsidize the freight operations of Conrail;

(2) transfer of Conrail commuter service responsibilities to one or more entities whose principal purpose is the provision of commuter service;

(3) adequate and equitable labor protection for employees deprived of employment by service transfers;

(4) the mechanism to ensure that Conrail freight service is performed in the private sector; and

(5) transfer of the functions of the United States Railway Association.

DEFINITIONS

SEC. 6413. As used in this subchapter, unless the context otherwise requires, the term:

(1) "Amtrak" means the National Railroad Passenger Corporation created under title III of the Rail Passenger Service Act (45 U.S.C. 541 et seq.).

(2) "Commission" means the Interstate Commerce Commission.

(3) "Commuter authority" means any State, local, or regional authority, corporation, or other entity established for purposes of providing commuter service, and includes the Metropolitan Transportation Authority, the Connecticut Department of Transportation, the Maryland Department of Transportation, the Southeastern Pennsylvania Transportation Authority, the New Jersey Transit Corporation, the Massachusetts Bay Transportation Authority, the Port Authority Trans-Hudson Corporation, any successor agencies, and any entity created by one or more such agencies for the purpose of operating, or contracting for the operation of, commuter services.

(4) "Commuter services" means short-haul rail passenger service operated in metropolitan and suburban areas, usually characterized by reduced fare, multiple-ride, and commutation tickets, and by morning and evening peak period operations.

(5) "Conrail" means the Consolidated Rail Corporation created under title III of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741 et seq.).

(6) "Profitable carrier" means a carrier that generates sufficient revenues to meet its expenses, including reasonable maintenance of necessary equipment and facilities, without funding from the Federal Government.

(7) "Rail carrier" means a common carrier engaged in interstate or foreign commerce by rail subject to subtitle IV of title 49, United States Code.

(8) "Secretary" means the Secretary of Transportation or the representative authorized by the Secretary to carry out the responsibilities of the Secretary under this subchapter.

(9) "Special court" means the judicial panel established under section 209 of the

Regional Rail Reorganization Act of 1973 (45 U.S.C. 719).

PART II—TRANSFER OF RAIL SERVICE RESPONSIBILITIES

Subpart A—Transfer of Conrail Commuter Services

SEPARATION OF COMMUTER FUNCTIONS

SEC. 6421. (a) Title III of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741 et seq.) is amended by adding at the end thereof the following new section:

"SEPARATION OF COMMUTER FUNCTIONS

"SEC. 308. (a) ESTABLISHMENT OF SUBSIDIARY.—The Corporation shall, within 30 days after the effective date of this section, establish a subsidiary for purposes of operating the commuter services which the Corporation is obligated to operate under this Act (hereinafter referred to as the 'commuter subsidiary').

"(b) STATUS.—(1) The provisions of this Act relating to the operation of commuter service shall apply to the commuter subsidiary as if it were the Corporation.

"(2) The commuter subsidiary shall be deemed to be a contract operator of commuter service on behalf of the commuter authorities for which the Corporation operates commuter service under this Act, and shall have no common carrier obligation to operate either passenger or freight service.

"(3) The provisions of section 10 of the Clayton Act (15 U.S.C. 20) shall not apply to transactions between the Corporation and the commuter subsidiary.

"(4) Financial statements of the commuter subsidiary shall not be consolidated in or included with those of the Corporation.

"(5) The commuter subsidiary shall be exempt from the payment of taxes to the same extent as Amtrak Commuter is exempt under section 501(c)(3) of the Rail Passenger Service Act.

"(c) COLLECTIVE BARGAINING AGREEMENTS.—The commuter subsidiary shall assume and apply the collective bargaining agreements in effect between the Corporation and its employees on the effective date of this section.

"(d) CAPITALIZATION.—The commuter subsidiary is authorized to issue common stock to the Corporation.

"(e) RELIEF FROM OBLIGATIONS.—Effective 540 days after the effective date of this section, the Corporation shall be relieved of all obligations to operate commuter service, whether as a common carrier of passengers or under its subsidy agreements with commuter authorities pursuant to this Act.

"(f) FUTURE COMMUTER SERVICE.—At the time the Corporation is relieved of its obligation to operate commuter service under this Act, the commuter authorities for which such service was operated may contract with any other entity, including Amtrak Commuter, for the operation of such service.

"(g) PROPERTY TRANSFER.—(1) After the Corporation is relieved of its obligation to operate commuter service, the Corporation and its subsidiary shall transfer to Amtrak Commuter, or to any commuter authority or other entity that will operate the commuter service, such rail properties, rights, or interests as may be necessary for Amtrak Commuter or such authority or other entity to operate commuter services.

"(2) The Corporation shall retain appropriate trackage rights for freight operations over any rail properties which are transferred under this subsection.

"(3) Consideration for inventory transferred under this subsection shall be based on book value. The transfer of fixed facilities, rolling stock, and other equipment under this subsection shall be without consideration.

"(h) CONTRACT PROVISIONS.—Notwithstanding any provision of any lease, contract, or other agreement, any transfer, assignment, or other disposition of such lease, contract, or other agreement by the Corporation pursuant to this title shall not be deemed a breach, an event of default, or a violation of any covenant.

"(i) CONCERTED ECONOMIC ACTION.—(1) Any person engaging in concerted economic action over disputes with Amtrak Commuter or any commuter authority shall not be entitled to engage in any strike against, or otherwise to induce any employee of, the Corporation, where an effect thereof is to interfere with rail freight services provided by the Corporation.

"(2) Any person engaging in concerted economic action over disputes arising out of freight operations provided by the Corporation shall not be entitled to engage in any strike against, or otherwise to induce any employee of, Amtrak Commuter or any commuter authority, where an effect thereof is to interfere with rail passenger services.

"(3) Any concerted action in violation of this subsection shall be deemed to be a violation of the Railway Labor Act.

"(j) DEFINITIONS.—As used in this section—

"(1) 'Amtrak Commuter' means the Amtrak Commuter Services Corporation created under title V of the Rail Passenger Service Act;

"(2) 'commuter authority' means any State, local, or regional authority, corporation, or other entity established for purposes of providing commuter service; and

"(3) 'commuter service' means short-haul rail passenger service operated in metropolitan and suburban areas, usually characterized by reduced fare, multiple-ride, and commutation tickets and by morning and evening peak period operations.

"(k) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated to the commuter subsidiary for purposes of establishing a working capital revolving fund not to exceed $50,000,000 for the fiscal year ending September 30, 1982. Such revolving fund shall be used by the commuter subsidiary for purposes of meeting periodic expenses connected with the operation of commuter service until such expenses have been reimbursed by the appropriate commuter authorities.

"(2) After the Corporation is relieved of its obligation to operate commuter services, the working capital revolving fund established under paragraph (1) of this subsection (including any outstanding liabilities of commuter authorities to such fund) shall be transferred to Amtrak Commuter for purposes of carrying out title V of the Rail Passenger Service Act.

"(3) Amounts appropriated under this subsection are authorized to remain available until expended.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 307 the following new item:

"Sec. 308. Separation of commuter functions.".

ESTABLISHMENT OF AMTRAK COMMUTER

SEC. 6422. (a) The Rail Passenger Service Act (45 U.S.C. 507 et seq.) is amended by inserting immediately after title IV thereof the following new title:

"TITLE V—AMTRAK COMMUTER SERVICES

"SEC. 501. ESTABLISHMENT OF AMTRAK COMMUTER.

"(a) There shall be established within 240 days after the effective date of this title a wholly-owned subsidiary of the Corporation to be known as the Amtrak Commuter Services Corporation (hereinafter referred to as "Amtrak Commuter").

"(b)(1) Amtrak Commuter shall not be an agency or instrumentality of the Federal Government. Amtrak Commuter shall be subject to the provisions of this Act and, to the extent not inconsistent with this Act, to the District of Columbia Business Corporation Act.

"(2) Amtrak Commuter shall be deemed to be a contract operator of commuter service on behalf of the commuter authorities that contract with Amtrak Commuter for the operation of commuter service under this title. Amtrak Commuter shall have no common carrier obligation to operate either passenger or freight service.

"(c)(1) Amtrak Commuter shall not be subject to the jurisdiction of the Commission under chapter 105 of title 49, United States Code, but it shall (treated as a separate rail carrier) be subject to the same laws and regulations with respect to safety and with respect to the representation of its employees for purposes of collective bargaining, the handling of disputes between carriers and their employees, employee retirement, annuity, and unemployment systems, and other dealings with its employees as any rail carrier providing transportation subject to the jurisdiction of the Commission under chapter 105 of such title 49.

"(2) Amtrak Commuter shall not be subject to any State or other law relating to the transportation of passengers by railroad insofar as such law relates to rates, routes, or service, including any modification or discontinuance thereof.

"(3) Amtrak Commuter shall be exempt from the payment of taxes to the same extent as the Corporation is exempt under section 306(n) of this Act.

"(4) The provisions of section 10 of the Clayton Act (15 U.S.C. 20) shall not apply to transactions between Amtrak Commuter and the Corporation.

"(d) The Board of Directors of the Corporation shall be the incorporators of Amtrak Commuter and shall take whatever steps are necessary to establish Amtrak Commuter, including filing articles of incorporation.

"SEC. 502. DIRECTORS AND OFFICERS.

"(a)(1) Amtrak Commuter shall have a Board of Directors consisting of six individuals, as follows:

"(A) The President of Amtrak Commuter, ex officio.

"(B) Two members who are selected by commuter authorities to serve on the Board of Directors of the Corporation in accordance with section 303(a)(1) of this Act.

"(C) Two members selected by the Board of Directors of the Corporation (in addition to those members described in subparagraph (B)).

"(D) One member from a commuter authority (in addition to those members described in subparagraph (B)), as follows:

"(i) During the period prior to the commencement of the operation of commuter service by Amtrak Commuter, such member shall be selected by commuter authorities for which the Consolidated Rail Corporation operates commuter service under the Regional Rail Reorganization Act of 1973.

"(ii) Beginning 540 days after the effective date of this title, such member shall be selected by commuter authorities for which Amtrak Commuter operates commuter service pursuant to this title, but such member shall serve only if Amtrak Commuter enters into contracts with two or more commuter authorities for the operation of commuter service.

"(2)(A) Except as provided in paragraph (1)(D)(i) of this section, members of the Board of Directors of Amtrak Commuter shall serve terms of two years, and any vacancy in the membership of the Board shall be filled in the same manner as in the case of the original selection.

"(B) The Board shall elect one of its members annually to serve as Chairman.

"(C) Each member of the Board shall receive compensation and reimbursement in accordance with section 303(a)(5) of this Act.

"(b) The provisions of section 303(b) and (d) of this Act shall apply to Amtrak Commuter.

"SEC. 503. GENERAL POWERS OF AMTRAK COMMUTER.

"(a)(1) Amtrak Commuter is authorized to own, manage, operate, or contract for the operation of commuter service; to conduct research and development related to its mission; and to acquire by construction, purchase, or gift, or to contract for the use of, physical facilities, equipment, and devices necessary to commuter service operations.

"(2) Amtrak Commuter shall, to the extent consistent with this Act and the agreements with the commuter authorities, directly operate and control all aspects of its commuter service.

"(b) To carry out its functions and purposes, Amtrak Commuter shall have the usual powers conferred upon a stock corporation by the District of Columbia Business Corporation Act.

"(c) Amtrak Commuter is authorized to issue common stock to the Corporation.

"SEC. 504. COMMUTER SERVICE.

"(a) Amtrak Commuter is authorized to operate commuter service under an agreement with a commuter authority. Effective 540 days after the effective date of this title, any commuter service operated by Amtrak Commuter under an agreement with a commuter authority shall be operated solely pursuant to the provisions of subsections (b) through (i) of this section.

"(b) Amtrak Commuter shall operate commuter service which the Consolidated Rail Corporation was obligated to provide on the effective date of this title under section 303(b)(2) or 304(e) of the Regional Rail Reorganization Act of 1973, and may operate any other commuter service, if the commuter authority for which such service is to be operated agrees to provide—

"(1) a commuter service operating payment which is designed to cover the difference between the revenue attributable to the operation of such service and the avoidable costs of operating such service, including the avoidable cost of any capital improvements necessary to operate such service; or

"(2) a commuter service operating payment which is payable pursuant to a lease or agreement with a commuter authority under which financial support was being provided on January 2, 1974, for the continuation of rail passenger service.

"(c) Any agreement to provide a commuter service operating payment under subsection (b) of this section shall be made in accordance with regulations issued by the Rail Services Planning Office pursuant to section 205(d)(5) of the Regional Rail Reorganization Act of 1973. The Office may revise and update such regulations as may be necessary to carry out the provisions of this section.

"(d)(1) If a commuter authority offers to provide payment for the provision of additional commuter service, Amtrak Commuter may provide such service pursuant to this section if such payment is designed to avoid any additional costs to Amtrak Commuter or the Corporation arising from the construction or modification of capital facilities or from any additional operating delays or costs arising from the absence of such construction or modification. Any additional manpower requirements shall be satisfied through existing seniority arrangements as agreed to in the implementing agreement negotiated pursuant to section 506 of this Act.

"(2) Any commuter authority making an offer under this paragraph shall demonstrate that—

"(A) such commuter authority has acquired, leased, or otherwise obtained access to all rail properties necessary to provide such additional commuter service; and

"(B) such commuter authority has completed, or will complete prior to the inception of such additional commuter service, all capital improvements necessary to avoid significant costs which cannot be avoided by improved scheduling or other means on other existing rail services (including rail freight service) and to assure that the additional commuter service will not significantly detract from the level and quality of existing rail passenger and freight service.

"(e)(1) Amtrak Commuter may discontinue commuter service provided under this section upon 60 days' notice if—

"(A) a commuter authority does not offer a commuter service operating payment in accordance with subsection (b) of this section; or

"(B) an applicable commuter service operating payment is not paid when it is due.

"(2) The notice required under this subsection shall be determined pursuant to regulations issued by the Rail Services Planning Office.

"(f) Notwithstanding any other provision of law, compensation to the Corporation or Amtrak Commuter for right-of-way related costs for service over the Northeast Corridor and other properties owned by the Corporation shall be determined in accordance with the methodology determined by the Commission or agreed upon by the parties pursuant to section 6500 of the Rail Service Improvement Act of 1981.

"(g) If a commuter authority fails to offer a commuter service operating payment pursuant to subsection (b)(2) of this section, then any lease or agreement under which financial support was being provided on January 2, 1974, for the continuation of rail passenger service shall not apply to Amtrak Commuter, but the Corporation and the Consolidated Rail Corporation shall retain appropriate trackage rights (for freight and passenger operations respectively) over any rail properties owned or leased by such commuter agency. Compensation for such trackage rights shall be fair and equitable.

"(h) Notwithstanding any other provision of this section, Amtrak Commuter is not obligated to provide commuter service if a commuter authority contracts for the provision of such service by an operator other than Amtrak Commuter. In any such case, Amtrak Commuter shall, where appropriate, provide the operator of such service with access to the rail properties needed to operate such service.

"(i) If the Board of Directors of Amtrak Commuter determines that the amount in the revolving fund transferred to Amtrak Commuter pursuant to section 308(k) of the Regional Rail Reorganization Act of 1973 is in excess of the amount needed as a revolving fund for purposes of this title, the Board shall allocate a proportionate share of such excess amount to any commuter authority that, after being provided commuter service under an agreement with Amtrak Commuter under this title, has elected to operate its own commuter service. The Board shall determine the amount of such proportionate allocation on the basis of the ridership of such commuter authority and the ridership of those commuter authorities remaining under contract with Amtrak Commuter.

"SEC. 505. NORTHEAST CORRIDOR COORDINATION.

"(a) The Board of Directors of Amtrak Commuter shall develop and recommend to the Corporation—

"(1) policies which ensure equitable access to the Northeast Corridor, taking into account the need for equitable access by commuter and intercity services and the requirements of section 402(e) of this Act; and

"(2) equitable policies for the Northeast Corridor with respect to dispatching, public information, maintenance of equipment and facilities, major capital facility investments, and harmonization of equipment acquisitions, fares, tariffs, and schedules.

"(b) The Board of Directors of Amtrak Commuter may recommend to the President and Board of Directors of the Corporation such actions as are necessary to resolve differences of opinions regarding operations (among or between the Corporation, Amtrak Commuter, other railroads, commuter authorities, and other State, local, and regional agencies responsible for the provision of commuter rail, rapid rail, or rail freight services), with respect to all matters except those conferred on the Commission in section 402(a) of this Act.".

PROHIBITION OF CROSS-SUBSIDIZATION

SEC. 6423. Section 601 of the Rail Passenger Service Act (45 U.S.C. 601) is amended by adding at the end thereof the following new subsection:

"(c) None of the funds appropriated under this section for the payment of operating and capital expenses of intercity rail passenger service shall be used for the operation of commuter service by Amtrak Commuter.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 6424. Section 601 of the Rail Passenger Service Act (45 U.S.C. 601), as amended by this subchapter, is further amended by adding at the end thereof the following new subsection:

"(d) There is authorized to be appropriated to the Secretary for the benefit of the Corporation not to exceed $20,000,000 for the fiscal year ending September 30, 1982, to be allocated to any commuter authority that was providing commuter service, operated by a railroad that entered reorganization after calendar year 1974, as of January 1, 1979.".

Subpart B—Additional Financing of Conrail

ADDITIONAL FINANCING OF CONRAIL

SEC. 6431. (a) Title II of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721 et seq.) is amended by adding at the end thereof the following new section:

"ADDITIONAL PURCHASES OF SERIES A PREFERRED STOCK

"SEC. 217. (a) FEDERAL INVESTMENT.—Notwithstanding any other provision of this Act, any investment by the Federal Government in the securities of the Corporation after October 1, 1981, shall be by the purchase of series A preferred stock in accordance with this section.

"(b) TIMING AND AMOUNT OF PURCHASES.—(1) The Association shall determine, in accordance with this section, whether to purchase the following amounts of series A preferred stock and accounts receivable of the Corporation on the following purchase dates:

"(A) On October 1, 1981, the purchase of $125,000,000 of stock, accounts receivable of the Corporation attributable to the dispute over the right-of-way related costs described in section 6500(a)(1) of the Rail Service Improvement Act of 1981, and accounts receivable of the Corporation attributable to delays in reimbursement from commuter agencies.

"(B) On April 1, 1982, the purchase of $125,000,000 of stock and accounts receivable described in subparagraph (A) of this paragraph.

"(C) On October 1, 1982, the purchase of $100,000,000 of stock.

"(D) On April 1, 1983, the purchase of $75,000,000 of stock.

"(E) On October 1, 1983, the purchase of $50,000,000 of stock.

"(2) Any request by the Corporation for the purchase of stock (or accounts receivable if applicable) under this section shall be filed with the Association not less than 30 days prior to the purchase date, and shall describe how the conditions set forth in subsection (c) have been met.

"(3) Any purchases not requested by the Corporation or approved by the Association on any particular purchase date may be deferred by the Association.

"(4) On each purchase date the Association shall make a determination whether the Corporation will be a profitable carrier. The Association shall immediately notify the Secretary of its determination. For the purpose of making such determination, the Association shall assume that the interest of the United States in any debt or preferred stock of the Corporation is limited as required under section 402 of this Act.

"(c) CONDITIONS.—The Association shall purchase shares of series A preferred stock and accounts receivable on the purchase dates set forth in subsection (b) of this section only if the Corporation demonstrates to the satisfaction of the Association that the following conditions have been met:

"(1) NON-AGREEMENT PERSONNEL.—(A) Employees who are not subject to collective-bargaining agreements (hereinafter in this section referred to as 'non-agreement personnel') are foregoing wage increases and benefits in an amount proportionately equivalent to the amount forgone by agreement employees pursuant to paragraph (5) of this subsection, adjusted annually to reflect inflation.

"(B) The number of non-agreement personnel is reduced proportionately to any reduction in agreement employees (excluding reductions pursuant to the termination program under section 702 of this Act). Any reduction in non-agreement personnel or agreement employees which occurs after May 1, 1981, shall be included for purposes of this subparagraph.

"(2) SUPPLIERS.—Materials and services continue to be available to the Corporation, under normal business practices, which shall include the provision of credit and normal financing arrangements.

"(3) SHIPPERS.—(A) The Corporation, on each purchase date, submits to the Association a projection for the next six-month period and a report for the previous six-month period, which establishes that the Corporation has maximized and will continue to maximize its opportunities to generate revenues under the provisions of this Act, the Staggers Rail Act of 1980, and subtitle IV of title 49, United States Code.

"(B) Shippers of goods transported by the Corporation are not unduly interfering in the maximization of revenues by the Corporation.

"(4) FINANCIAL PLAN.—(A) The Corporation, by October 1, 1981, submits to the Association a financial plan which (i) indicates how the Corporation will become a profitable carrier within the funding limitations and timetable of this Act, and (ii) establishes projected financial needs of the Corporation and sets forth a schedule for reducing its losses.

"(B) The Corporation, on each purchase date, substantially complies with the financial plan filed under subparagraph (A).

"(C) The Corporation may amend its financial plan on any purchase date, but the plan as amended must meet the requirements of subparagraph (A).

"(5) AGREEMENT EMPLOYEES.—(A)(i) The Corporation enters into collective bargaining agreements with its employees which provide the Corporation benefits equal to $200,000,000 a year, beginning April 1, 1981, adjusted annually to reflect inflation.

"(ii) Agreements under this subparagraph may provide for reductions in wage increases and for changes in fringe benefits common to agreement employees, including vacations and holidays.

"(iii) The benefits required under this subparagraph in the first year of the agreement may be deferred until the second year of the agreement, but any benefits so deferred must be provided no later than the end of such second year (in addition to the benefits otherwise required in such year).

"(iv) The amount of benefits provided under this paragraph shall be calculated by subtracting the cost of an agreement entered into under this paragraph from (I) the cost that would otherwise result from the application of the national agreement reached by railroad industry and its employees, or (II) until such national agreement is reached, the cost which the Association estimates would result from the application of such a national agreement.

"(B)(i) The Corporation enters into collective bargaining agreements with its employees which provide for the establishment of one or more advisory fact-finding panels, chaired by a neutral expert in industrial relations, for purposes of recommending changes in operating practices and procedures which result in greater productivity to the maximum extent practicable.

"(ii) The National Mediation Board shall appoint public members to any panel established under this subparagraph, and shall perform such functions contained in the agreement as are consistent with the duties of such Board under the Railway Labor Act.

"(iii) The fact-finding panel may, before making its report to the parties, provide mediation, conciliation, and other assistance to the parties.

"(C) Any savings resulting from any of the following shall not be included as benefits for purposes of this paragraph:

"(i) The implementation of any crew consist agreement or fireman manning agreement in effect on the effective date of this section.

"(ii) The provision of benefits under section 701 or the termination of employees under section 702 of this Act.

"(iii) The separation of employees under any other provision of law or agreement.

"(iv) Any collective bargaining agreement signed or any procedures agreed to prior to January 1, 1981.

"(v) The assignment of work under section 706 or any single collective bargaining agreement entered into under section 708 of this Act.

"(D)(i) Notwithstanding any other provision of this section, if an agreement is not reached under this paragraph by the initial purchase date, the Association shall still purchase additional shares of stock of the Corporation if the Association determines that there is a substantial likelihood that an agreement providing the benefits required by this paragraph will be reached by the end of the six-month period beginning on such initial purchase date.

"(ii) The benefits received by the Corporation during the period beginning on the initial purchase date and ending on the effective date of any agreement subsequently reached which result from the lack of retroactivity of wage increases shall be included as benefits to the Corporation for purposes of this paragraph.

"(6) SUBSIDIARIES.—(A) The Corporation, by January 1, 1982, provides the Association with a list of all subsidiaries of the Corporation (other than the Conrail Equity Corporation and any commuter subsidiary), identifying those subsidiaries which did not operate at a profit during the preceding 12-month period.

"(B) The Association shall, within 12 months after the effective date of this section, order the Corporation to sell any subsidiary identified as not profitable under subparagraph (A) unless the Association determines that the benefits to the Corporation of maintaining ownership of such subsidiary outweigh the financial loss to the Corporation resulting from such ownership.

"(d) MODIFICATION OF CONDITIONS.—(1) The Association may increase the conditions required under subsection (c) of this section, on a proportionate basis to the maximum extent practicable, if it determines that the Corporation needs additional benefits in order to become profitable. The Association may also require the Corporation to demonstrate productivity increase if it determines that such increase are necessary to enable the Corporation to become profitable.

"(2) Any modified conditions adopted by the Association under this subsection shall become the conditions which must be met in order for the Association to purchase additional stock of the Corporation under this section.

"(e) DETERMINATIONS AND AMENDED REQUESTS.—(1) If the Association determines that the conditions of subsection (c) have not been met as of any purchase date, it shall notify the Corporation no later than 15 days after such purchase date of the specific conditions that have not been met.

"(2) The Corporation may request the Association to reconsider its determination under this subsection if the Corporation is able to present new evidence that the conditions have been met or is able to present an amended request for a purchase pursuant to this section. If the Association determines, on the basis of such new evidence or such

amended request, that the conditions have been met, the Association shall purchase the additional stock (or accounts receivable if applicable) of the Corporation.

"(f) WORKER PARTICIPATION AND SELF-MANAGEMENT DEMONSTRATION PROGRAMS.—(1) The Corporation shall, within 180 days after the effective date of this section, enter into agreements with representatives of the various classes and crafts of employees for the establishment, on a demonstration basis, of worker participation and self-management programs at one or more facilities or locations, for purposes of fostering employee job satisfaction, job flexibility, and quality assurance.

"(2) Agreements under this subsection may provide for separate or combined programs for major groups of crafts or classes such as train and engine service, shopcraft, clerical, and maintenance of way.

"(3) If the agreements under this subsection so provide, collective bargaining agreements then in force at the facility or location involved (other than any dues check-off provision of such an agreement), shall be suspended for the duration of the demonstration program and employees covered by the program shall be represented in accordance with the worker participation agreement, notwithstanding any provision of the Railway Labor Act.

"(4) Agreements under this subsection may include provisions relating to (A) the resolution of disputes under section 3 of the Railway Labor Act, (B) the election of agreement personnel to serve in supervisory jobs, (C) the election of agreement personnel to negotiate performance goals and, (D) such other matters as may be agreed upon by the Corporation and its agreement employees.

"(5) Nothing in this subsection shall be construed to interfere with the application of rates of pay provided for in the agreements required by subsection (c)(5)(A) of this section or with the implementation of the negotiation and fact finding procedures required by subsection (c)(5)(B).

"(g) STATES AND LOCALITIES.—Until such time as the United States sells its interest in the Corporation under section 401 or 403 of this Act, the Corporation shall be exempt from liability for any State or local tax for the period of three years from the effective date of this section.

"(h) PROJECTIONS.—At the time of a request by the Corporation for the purchase of additional stock, the Corporation shall present to the Association (1) its projections of expenditures for the next six-month period for services of individuals or firms not on the payroll of the Corporation, and (2) its expenditures for the preceding six-month period for the services of such individuals or firms.

"(i) WORK STOPPAGES.—In the event of any work stoppage by employees of the Corporation which directly results from the conditions required under subsection (c) of this section and substantially impairs the operation of the Corporation's rail system, the Association shall make no further purchases of stock of the Corporation.

"(j) DEBENTURES.—The Association shall return debentures to the Corporation in an amount equal to the value of the properties conveyed by the Corporation to its commuter subsidiary.

"(k) RIGHTS RETAINED.—The Corporation shall retain the right to collect and shall collect any accounts receivable attributable to delays in reimbursement from commuter agencies that are purchased by the Association under this section.

"(l) DEFINITION.—As used in this section, the term 'profitable carrier' means a carrier that generates sufficient revenues to meet its expenses, including reasonable maintenance of necessary equipment and facilities without funding from the Federal Government.

"(m) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated to the Association for purposes of purchasing securities and accounts receivable of the Corporation under this section not to exceed $150,000,000 for the fiscal year ending September 30, 1982, and not to exceed $225,000,000 for the fiscal year ending September 30, 1983. In addition, any amounts appropriated under section 216(g) of this Act are authorized to be available for the purchase of securities and accounts receivable under this section. All sums received on account of the holding or disposition of any such securities shall be deposited in the general fund of the Treasury.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 216 the following new item:

"Sec. 217. Additional purchases of Series A preferred stock.".

ORGANIZATION AND STRUCTURE OF CONRAIL

SEC. 6432. (a) Section 301(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(d)) is amended—

(1) by striking out "(other than resignations pursuant to this subsection)" in the second sentence; and

(2) by striking out the third, fourth, and fifth sentences.

(b) Section 301(e)(1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(e)) is amended by striking out "In order to carry out the final system plan, the" and inserting in lieu thereof "The".

(c) Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by striking out subsection (j) and inserting in lieu thereof the following new subsection:

"(j) SIGNAL SYSTEMS.—If, within two years after the effective date of this subsection, the Corporation applies for the permission of the Secretary to substitute manual block signal systems for automatic block signal systems on lines on which less than 20,000,000 gross tons of freight are carried annually, the Secretary shall approve or disapprove such application within 90 days of its submission.".

Subpart C—Transfer of Freight Service Responsibilities

TRANSFER OF FREIGHT SERVICE

SEC. 6441. (a) The Regional Rail Reorganization Act of 1973 is amended by inserting immediately after title III the following new title:

"TITLE IV—TRANSFER OF FREIGHT SERVICE

"INTEREST OF UNITED STATES

"SEC. 401. (a) SALE OF COMMON STOCK.—During the period beginning on July 1, 1982, and ending December 31, 1983, if the Association notifies the Secretary that it has made a determination under section 217(b)(4) of this Act that the Corporation will be a profitable carrier, the Secretary shall sell in block or by general offering, the interest of the United States in the common stock of the Corporation. In making such sale the Secretary shall attempt to—

"(1) ensure continued rail service;

"(2) promote competitive bidding for such common stock; and

"(3) maximize the return to the United States on its investment.

"(b) CANCELLATION.—In making any sale under subsection (a), the Secretary may cancel some shares of the common stock of the Corporation and sell only the remaining shares.

"(c) REPLACEMENT OF BOARD OF DIRECTORS.—When all common stock of the Corporation held by the United States (or any agent or instrumentality thereof) is sold under subsection (a) or canceled under subsection (b), the Corporation shall elect a new Board of Directors. Only holders of shares of common stock may vote in such election, and each such share shall entitle its holder to one vote.

"(d) RAILROAD PURCHASERS.—Any railroad which purchases common stock of the Corporation shall vote such stock in the same proportion as all other common stock of the Corporation is voted unless the Commission determines that such railroad has purchased a controlling interest in the Corporation.

"(e) In making any sale under subsection (a), the Secretary shall first offer, to any employees whose wages are reduced pursuant to any agreement entered into under section 217(c)(5) of this Act, stock in amounts equal to the extent of such wage reduction.

"DEBT AND PREFERRED STOCK

"SEC. 402. (a) LIMITATION.—Prior to any sale of the common stock of the Corporation under section 401, the interest of the United States in any debt or preferred stock of the Corporation held by the United States (or any agent or instrumentality thereof, including the Association) shall be limited to any interest which attaches to such debt or preferred stock in the event of bankruptcy, or substantial sale, or liquidation of the assets of the Corporation. The Secretary shall substitute for the evidence of such debt or preferred stock held by the United States (or any such agent or instrumentality) contingency notes conforming to the limited terms set forth in this subsection.

"(b) SUBSEQUENT ISSUE.—If the interest of the United States is limited under subsection (a) the Corporation may issue new debt or preferred stock subsequent to the issuance of the debt or preferred stock described in subsection (a) which shall have higher priority in the event of bankruptcy, liquidation, or abandonment of the assets of the Corporation than the debt or preferred stock described in subsection (a).

"TRANSFER PLAN

"SEC. 403. (a) DEVELOPMENT.—The Secretary shall develop a plan for the sale of the rail properties of the Corporation. Such plan shall—

"(1) ensure that at least 75 percent of the rail service operated by the Corporation as of December 31, 1983, shall be maintained;

"(2) promote competitive bidding for such rail properties; and

"(3) maximize the return to the United States on its investment.

"(b) CONFERENCES.—The Secretary may, in developing a transfer plan under this section, hold conferences with officers and directors of affected rail carriers, representatives of employees of the Corporation and other affected rail carriers, the Commission, suppliers, appropriate State and local officials, shippers and consumer representatives, potential purchasers or operators other than rail carriers, representatives of the Federal Trade Commission, the Attor-

ney General of the United States, or any combination thereof. Persons attending or represented at any such conference shall not be liable under the antitrust laws of the United States with respect to any discussion at such conference or with respect to any agreement reached at such conference.

"(c) APPROVAL OF TRANSFER COMMITTEE.—(1) If there is no sale under section 401(a) of this Act, any plan developed by the Secretary under subsection (a) of this section shall be submitted to the Transfer Committee for approval.

"(2) The Transfer Committee shall be composed of five persons as follows:

"(A) The Secretary of Transportation.

"(B) The Secretary of the Treasury.

"(C) The Chairman of the Commission.

"(D) The Director of the Office of Management and Budget.

"(E) The Chairman of the Board of Directors of the Corporation.

"(d) CONGRESSIONAL REVIEW.—Within 180 days after December 31, 1983, the Secretary shall submit any plan developed under subsection (a) and approved by the Transfer Committee under subsection (c) to the Congress for review in accordance with this section. Any such transfer proposal shall be deemed approved at the end of the first period of 90 calendar days of continuous session of the Congress after the date of such submittal unless one or both of the Houses of the Congress adopts a concurrent resolution during such period stating that they do not approve such transfer proposal. For purposes of this section—

"(1) continuity of session of the Congress is broken only by an adjournment sine die; and

"(2) the days on which either House is not in session because of adjournment of more than 3 days to a day certain are excluded in the computation of the 90-day period.

"(e) TRANSFER.—If any transfer plan developed by the Secretary is approved by the Transfer Committee and the Congress under this section, the Corporation shall enter into agreements for the transfer the rail properties involved in accordance with the terms of such transfer plan.

"(f) TERMINATION.—When all agreements entered into under subsection (e) have been implemented the Corporation shall be relieved of any obligation to provide rail service, either as a common carrier or under any contract. The Corporation shall retain the power to dispose of any rail properties not transferred under subsection (e).

"(g) ASSIGNMENT.—(1) If an interest in rail properties is conveyed pursuant to this section, and if such conveyance is in accordance with the requirements of paragraph (2) of this subsection, the conveyance of such properties shall be deemed an assignment. Any such assignment shall relieve Conrail of liability for any breach which occurs after the date of such conveyance, except that Conrail shall remain liable for any breach, event of default, or violation of convenant which occurred (and any charges or obligations which accrued) prior to the date of such conveyance, regardless of whether the assignee thereof assumes such liabilities, charges, or obligations. If any such liabilities, charges, or obligations (accrued prior to the date of such conveyance) are paid by or on behalf of any person or entity other than Conrail, such person or entity shall have a claim to direct reimbursement from Conrail, together with interest on the amount so paid.

"(2)(A) A conveyance referred to in paragraph (1) of this subsection may be effected only if—

"(i) the assignee to whom such conveyance is made assumes all of the obligations under any applicable conditional sale agreement, equipment trust agreement, or lease with respect to such rail properties (including any obligations which accrued prior to the date on which such rail properties are conveyed),

"(ii) such conveyance is made subject to such obligations, and

"(iii) such conveyance has been approved by any party who is a co-obligor with Conrail on any debt instrument imposing a lien or encumbrance on, or otherwise affecting the title or interest in, the rail properties to be conveyed.

As used in this subparagraph, the term 'rail properties' means assets or rights owned, leased, or otherwise controlled by Conrail, other than real property, which are used or useful in rail transportation service.

"(B) Subject to the provisions of this paragraph, the provisions of this Act shall not affect the title and interests of any lessor, equipment trust trustee, or conditional sale vendor under any conditional sale agreement, equipment trust agreement, or lease under section 1168 of the Bankruptcy Act (11 U.S.C. 1168). An assignee to whom such a conveyance is made shall assume all liability under such conditional sale agreement, equipment trust agreement, or lease. Such an assignment or conveyance to, and such an assumption of liability by, such an assignee shall not be deemed a breach, an event of default, or a violation of any covenant of any such conditional sale agreement, equipment trust agreement, or lease so assigned or conveyed, notwithstanding any provisions of any such agreement or lease.

"PROHIBITION ON CERTAIN TRANSFERS

"SEC. 404. (a) GENERAL.—Notwithstanding any other provision of this Act, rail properties of the Corporation may not be transferred under this Act to any railroad in reorganization under this Act which transferred property to the Corporation or is the successor in interest to such a railroad in reorganization.

"(b) TRACKAGE RIGHTS.—Trackage rights granted under the final system plan to a profitable railroad in the Region that received a loan under section 211(a) of this Act shall not be transferred.".

PART III—PROTECTION FOR CONRAIL EMPLOYEES

PROTECTION OF CONRAIL EMPLOYEES

SEC. 6451. (a) The Regional Rail Reorganization Act of 1973 is amended by adding at the end thereof the following new title:

"TITLE VII—PROTECTION OF EMPLOYEES

"EMPLOYEE PROTECTION AGREEMENT

"SEC. 701. (a) GENERAL.—(1) The Secretary of Labor and the representatives of the various classes and crafts of employees of the Corporation shall, not later than 90 days after the effective date of this title, enter into an agreement providing protection for (A) employees of the Corporation who were protected by the provisions of title V of this Act prior to such effective date, (B) employees of the Corporation adversely affected by an abandonment under section 309 of this Act, and (C) employees of the Corporation adversely affected by the transfer of rail properties under section 305(f) of this Act.

"(2) If the parties are unable to reach agreement within 90 days, the Secretary of Labor shall, within 30 days, prescribe the benefit schedule.

"(b) USE OF FUNDS.—The agreement entered into under this section may provide for the use of funds made available under section 712 of this Act for the following purposes:

"(1) Allowances to employees deprived of employment.

"(2) Moving expenses for employees who must move to another place of employment.

"(3) Retraining expenses for employees who are seeking employment in new areas.

"(4) Termination allowances for employees.

"(5) Such other purposes as may be agreed upon by the Secretary of Labor and representatives of the various classes and crafts of employees.

"(c) APPLICABILITY.—Any employee of the Corporation who is eligible for benefits under this section and who is transferred to the commuter subsidiary of the Corporation or to the Amtrak Commuter Services Corporation pursuant to title IV of this Act shall remain eligible for such benefits.

"(d) LIMITATION.—The agreement of the parties under this section may not require the expenditure of funds in excess of the amount authorized to be appropriated under section 713 of this Act.

"TERMINATION ALLOWANCE

"SEC. 702. (a) GENERAL.—The Corporation may terminate the employment of certain employees, in accordance with this section, upon the payment of an allowance of $500 for each month of active service with the Corporation or with a railroad in reorganization, but in no event may any such termination allowance exceed $25,000.

"(b) EMPLOYMENT NEEDS.—Within 90 days after the effective date of this title, the Corporation shall determine, for each location, the number of employees that the Corporation needs to separate under subsection (a) of this section.

"(c) NOTIFICATION AND SEPARATION PROCEDURE.—(1) Within 90 days after the effective date of this title, the Corporation shall notify its employees of their rights and responsibilities under this section.

"(2) Within 90 days after the effective date of this title, the Corporation shall notify each train and engine service employee eligible to be separated under paragraph (3) that such employee may be entitled to receive a separation payment under this section if such employee files a written request to be separated. Such notice may be revised from time to time.

"(3) If the number of employees who request to be separated pursuant to paragraph (2) of this subsection is greater, in engine service at any location, than the number of excess firemen at the location, and in train service at the location than the number of excess second and third brakemen, as determined by the Corporation, the Corporation shall separate the employees described in paragraph (2) of this subsection in order of seniority beginning with the most senior employee, until the excess firemen and second and third brakemen positions at that location, as determined by the Corporation, have been eliminated.

"(d) DESIGNATED SEPARATIONS.—If the number of employees who are separated pursuant to subsection (c)(3) is less at any location than the number of excess firemen and second and third brakemen in freight service at such location, as determined by the Corporation, the Corporation may, within 210 days after the effective date of this title, designate for separation employees in engine service or train service respec-

tively in inverse order of seniority, beginning with the most junior employee in active service at such location until the excess firemen, and second and third brakemen in freight service, at that location have been eliminated. An employee designated under this paragraph may choose (1) to furlough himself voluntarily, in which case the junior employee protected under the fireman manning or crew consist agreements or any other agreement or law, in the same craft or class at such location may be separated instead and receive the separation allowance, or (2) to exercise his seniority to another location, in which case the Corporation may separate, under the provisions of this paragraph, the junior protected employee in active service at the location to which seniority ultimately is exercised.

"(e) EFFECT ON POSITIONS.—(1) The Corporation shall refrain from filling one fireman (helper) position for each employee in engine service separated in accordance with this section.

"(2) The Corporation shall have the right to refrain from filling one brakeman position in excess of one conductor and one brakeman on one crew in freight service for each employee in train service who is separated in accordance with this section.

"(3) Positions permitted to be not filled under this subsection shall be not filled in different types of freight service actually operated at or from the location in a sequence to be agreed upon between the Corporation and the general chairman representative of classes or crafts of employees having jurisdiction over the positions to be not filled. If no such agreement is reached, the Corporation may designate the position to be not filled.

"(4) Notwithstanding paragraphs (1) and (2) of this subsection, the Corporation shall retain all rights it has under any provision of law or agreement to refrain from filling any position of employment.

"(f) PROCEDURES.—The Corporation and representatives of the various classes and crafts of employees to be separated may agree on procedures to implement this section, but the absence of such agreement shall not interfere with implementation of the separations authorized by this section.

"(g) PASSENGER EMPLOYEES.—The provisions of this section shall apply to the separation of fireman in commuter service, except that with respect to such employees the Corporation is required to make the separations authorized by this section.

"PREFERENTIAL HIRING

"SEC. 703. (a) GENERAL.—Any employee who is deprived of employment shall have the first right of hire by any other rail carrier for a vacancy in a class or craft (or in the case of a non-agreement employee, for a non-agreement vacancy for which he is qualified) in which such employee was employed by the Corporation or a predecessor carrier for not less than one year, except where such a vacancy is covered by (1) an affirmative action plan, or a hiring plan designed to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this section, a rail carrier shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.

"(b) STATUS.—The rights afforded to employees under this section shall be coequal to the rights afforded under section 8 of the Milwaukee Railroad Restructing Act (45 U.S.C. 907) and section 105 of the Rock Island Transition and Employee Assistance Act (45 U.S.C. 1004).

"CENTRAL REGISTER OF RAILROAD EMPLOYMENT

"SEC. 704. (a) REGISTER.—(1) The Railroad Retirement Board (hereinafter in this section referred to as the 'Board') shall prepare and maintain a register of persons separated from railroad employment after at least one year of completed service with a rail carrier who have declared their current availability for employment in the railroad industry. The register shall be subdivided by class and craft of prior employment and shall be updated periodically to reflect current availability.

"(2) Each entry in the register shall include, or provide access to, basic information concerning the individual's experience and qualifications.

"(3) The Board shall place at the top of the register those former railroad employees entitled to priority under applicable provisions of law, including this Act.

"(b) CORPORATION EMPLOYEES.—As soon as is practicable after the effective date of this title, the Corporation shall provide to the Board the names of its former employees who elect to appear on the register and who have not been offered employment with acquiring railroads.

"(c) VACANCY NOTICES.—Each rail carrier shall timely file with the Board a notice of vacancy with respect to any position for which the railroad intends to accept applications from persons other than current employees of that carrier.

"(d) PLACEMENT.—The Board shall, through distribution of copies of the central register (or portions thereof) to rail carriers and representatives of classes or crafts of employees and through publication of employment information derived from vacancy notices filed with the Board, promote the placement of former railroad employees possessing requisite skills and experience in appropriate positions with other rail carriers.

"(e) EMPLOYMENT APPLICATIONS.—In addition to its responsibilities under subsections (a) through (d) of this section, the Board shall facilitate the filing of employment applications with respect to current vacancies in the industry by former railroad employees entitled to priority under applicable provisions of law, including this Act.

"(f) EXPIRATION.—The provisions of this section shall cease to be effective on the expiration of the 3-year period beginning on the effective date of this title.

"(g) INJUNCTIVE RELIEF.—Any employee eligible for listing on the central register under this section or eligible for preferential hiring under section 703 may bring an action for injunctive relief in his own name in the United States district court for the district in which he resides or for the District in which the defendant may be found, against the Board or any rail carrier for violation of this section or section 703 of this Act.

"ELECTION AND TREATMENT OF BENEFITS

"SEC. 705. (a) ELECTION.—(1) Any employee who accepts any benefits under an agreement entered into under section 701 of this Act or a termination allowance under section 702 of this Act, shall, except as provided in paragraph (2) of this subsection, be deemed to waive any employee protection benefits otherwise available under any other provision of law or any contract or agreement in effect on the effective date of this title, and shall be deemed to waive any cause of action for any alleged loss of benefits resulting from the provisions of or the amendments made by the Rail Service Improvement Act of 1981.

"(2) Nothing in paragraph (1) of this subsection shall affect the right of any employee described in such paragraph to benefits under the Railroad Retirement Act of 1974 or the Railroad Unemployment Insurance Act.

"(b) TREATMENT OF BENEFITS.—Any benefits received by an employee under an agreement entered into pursuant to section 701 of this Act and any termination allowance received under section 702 of this Act shall be considered compensation solely for purposes of—

"(1) the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.); and

"(2) determining the compensation received by such employee in any base year under the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.).

"ASSIGNMENT OF WORK

"SEC. 706. (a) GENERAL.—The Corporation shall have the right to assign, allocate, reassign, reallocate, and consolidate work formerly performed on the rail properties acquired pursuant to the provisions of this Act from a railroad in reorganization to any location, facility, or position on its system if it does not remove such work from coverage of a collective-bargaining agreement and does not infringe upon the existing classification of work rights of any craft or class of employees at the location or facility to which such work is assigned, allocated, reassigned, reallocated, or consolidated.

"(b) EXPIRATION.—The authority granted by this section shall apply only for as long as benefits are provided under this title with funds made available under section 713 of this Act.

"CONTRACTING OUT

"SEC. 707. All work in connection with the operation or services provided by the Corporation on the rail lines, properties, equipment, or facilities acquired pursuant to the provisions of this Act and the maintenance, repair, rehabilitation, or modernization of such lines, properties, equipment, or facilites which has been performed by practice or agreement in accordance with provisions of the existing contracts in effect with the representatives of the employees of the classes or crafts involved shall continue to be performed by the Corporation's employees, including employees on furlough. Should the Corporation lack a sufficient number of employees, including employees on furlough, and be unable to hire additional employees, to perform the work required, it shall be permitted to subcontract that part of such work which cannot be performed by its employees, including those on furlough, except where agreement by the representatives of the employees of the classes or crafts involved is required by applicable collective-bargaining agreements. The term 'unable to hire additional employees' as used in this section contemplates establishment and maintenance by the Corporation of an apprenticeship, training, or recruitment program to provide an adequate number of skilled employees to perform the work.

"NEW COLLECTIVE-BARGAINING AGREEMENTS

"SEC. 708. (a) AGREEMENT.—Not later than 60 days after the effective date of any conveyance pursuant to the provisions of this Act, the representatives of the various classes of crafts of the employees of a railroad i

reorganization involved in a conveyance and representatives of the Corporation shall commence negotiation of a new single collective-bargaining agreement for each class and craft of employees covering the rate of pay, rules, and working conditions of employees who are the employees of the Corporation. Such collective-bargaining agreement shall include appropriate provisions concerning rates of pay, rules, and working conditions, but shall not, for as long as benefits are provided under this title with funds made available under section 713 of this Act, include any provisions for job stabilization resulting from any transaction effected pursuant to this Act which may exceed or conflict with those established herein. Negotiations with respect to such single collective-bargaining agreement, and any successor thereto, shall be conducted systemwide.

"(b) PROCEDURE.—(1) Any procedure for finally determining the components of the first single collective bargaining agreement for any class or craft, agreed upon before the effective date of this title, shall be completed no later than 45 days after such effective date. Such agreed upon procedure shall be deemed to satisfy the requirements of sections 7 and 8 of the Railway Labor Act. The National Mediation Board shall appoint any person as provided for by such agreements.

"(2) Nothing in this section shall be construed to require the parties to enter into a new single collective-bargaining agreement if the agreement between the parties in effect immediately prior to the effective date of this title, complied with section 504(d) of this Act, as in effect immediately prior to such date.

"EMPLOYEE AND PERSONAL INJURY CLAIMS

"SEC. 710. (a) LIABILITY FOR EMPLOYEE CLAIMS.—In all cases of claims by employees, arising under the collective-bargaining agreements of the railroads in reorganization in the region, and subject to section 3 of the Railway Labor Act (45 U.S.C. 153), the Corporation, the National Railroad Passenger Corporation, or an acquiring carrier, as the case may be, shall assume responsibility for the processing of any such claims, and payment of those which are sustained or settled on or subsequent to the date of conveyance, under section 303(b)(1) of this Act, and shall be entitled to direct reimbursement from the Association pursuant to section 211(h) of this Act, to the extent that such claims are determined by the Association to be the obligation of a railroad in reorganization in the region. Any liability of an estate of a railroad in reorganization to its employees which is assumed, processed, and paid, pursuant to this subsection, by the Corporation, the National Railroad Passenger Corporation, or an acquiring carrier shall remain the preconveyance obligation of the estate of such railroad for purposes of section 211(h)(1) of this Act. The Corporation, the National Railroad Passenger Corporation, an acquiring carrier, or the Association, as the case may be, shall be entitled to a direct claim as a current expense of administration, in accordance with the provisions of section 211(h) of this Act (other than paragraph (4)(A) thereof), for reimbursement (including costs and expenses of processing such claims) from the estate of the railroad in reorganization on whose behalf such obligations are discharged or paid. In those cases in which claims for employees were sustained or settled prior to such date of conveyance, it shall be the obligation of the employees to seek satisfaction against the estate of the railroads in reorganization which were their former employers.

"(b) ASSUMPTION OF PERSONAL INJURY CLAIMS.—All cases or claims by employees or their personal representatives for personal injuries or death against a railroad in reorganization in the region arising prior to the date of conveyance of rail properties, pursuant to section 303 of this Act, shall be assumed by the Corporation or an acquiring railroad, as the case may be. The Corporation or the acquiring railroad shall process and pay any such claims that are sustained or settled, and shall be entitled to direct reimbursement from the Association pursuant to section 211(h) of this Act, to the extent that such claims are determined by the Association or its successor authority to be the obligation of such railroad. Any liability of an estate of a railroad in reorganization which is assumed, processed, and paid, pursuant to this subsection, by the Corporation or an acquiring railroad shall remain the preconveyance obligation of the estate of such railroad for purposes of section 211(h)(1) of this Act. The Corporation, an acquiring railroad, or the Association, as the case may be, shall be entitled to a direct claim as a current expense of administration, in accordance with the provisions of section 211(h) of this Act (other than paragraph (4)(A) thereof), for reimbursement (including costs and expenses of processing such claims) from the estate of the railroad in reorganization on whose behalf such obligations were discharged or paid.

"LIMITATIONS ON LIABILITY

"SEC. 711. (a) FEDERAL GOVERNMENT.—The liability of the United States under an agreement entered into under section 701 of this Act or for payment of a termination allowance under section 702 of this Act shall be limited to amounts appropriated under section 713 of this Act.

"(b) THE CORPORATION.—The Corporation shall incur no liability under an agreement entered into under section 701 of this Act or for the payment of a termination allowance under section 702 of this Act.

"PREEMPTION

"SEC. 712. No State may adopt or continue in force any law, rule, regulation, order, or standard requiring the Corporation, its commuter subsidiary, the National Railroad Passenger Corporation, or the Amtrak Commuter Services Corporation to employ any specified number of persons to perform any particular task, function, or operation, or requiring the Corporation to pay protective benefits to employees.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 713. There are authorized to be appropriated to carry out the provisions of this title not to exceed $165,000,000 for the fiscal year ending September 30, 1982, and not to exceed $150,000,000 for the fiscal year ending September 30, 1983. Of the amounts authorized to be appropriated for fiscal year 1982, not more than $115,000,000 shall be available solely for termination allowances under section 702 of this Act. Any amounts not expended for termination allowances under section 702 shall be available for purposes of section 701 of this Act. Any funds appropriated under section 509(b)(1) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 8299(b)(1)) for use under section 216(b)(3) of the Regional Rail Reorganization Act of 1973 shall be available for the purposes of this title. Amounts appropriated under this section are authorized to remain available until expended.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by adding at the end thereof the following new items:

"TITLE VII—PROTECTION OF EMPLOYEES

"Sec. 701. Employee protection agreement.
"Sec. 702. Termination allowance.
"Sec. 703. Preferential hiring.
"Sec. 704. Central register of railroad employment.
"Sec. 705. Election and treatment of benefits.
"Sec. 706. Assignment of work.
"Sec. 707. Contracting out.
"Sec. 708. New collective bargaining agreements.
"Sec. 710. Employee and personal injury claims.
"Sec. 711. Limitations on liability.
"Sec. 712. Preemption.
"Sec. 713. Authorization of appropriations.".

REPEALS

SEC. 6452. (a)(1) Title V of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 771 et seq.), and the items in the table of contents of such Act relating to such title V, are repealed.

(2) Notwithstanding the repeal made by paragraph (1) of this subsection—

(A) benefits accrued as of October 1, 1981, as a result of events that occurred wholly prior to October 1, 1981, shall be disbursed;

(B) any dispute or controversy regarding such benefits shall be determined under the terms of the law in effect on September 30, 1981; and

(C) the authorization contained in section 509 of the Regional Rail Reorganization Act of 1973

shall remain available for such purposes.

(b) Section 11 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 910) and section 107 of the Rock Island Transition and Employee Assistance Act (45 U.S.C. 1006) (relating to maintenance of certain employee lists) are repealed.

PART IV—TERMS OF LABOR ASSUMPTION

Subpart A—Passenger Employees

TRANSFER OF PASSENGER SERVICE EMPLOYEES

SEC. 6461. Title V of the Rail Passenger Service Act, as added by this subchapter, is amended by adding at the end thereof the following new sections:

"SEC. 506. TRANSFER OF EMPLOYEES.

"(a) Within 420 days after the effective date of this title, the Consolidated Rail Corporation (hereinafter referred to as 'Conrail'), its commuter subsidiary, Amtrak Commuter, and the representatives of the various crafts or classes of employees of Conrail's commuter subsidiary shall commence implementing agreement negotiations. Such negotiations shall—

"(1) determine the number of employees to be transferred to Amtrak Commuter, based on the existing contracts between the Corporation and the commuter authorities and the applicable bargaining agreements;

"(2) identify the specific employees of the Corporation and its commuter subsidiary to whom Amtrak Commuter offers employment;

"(3) determine the procedure by which such employees may elect to accept employment with Amtrak Commuter;

"(4) determine the procedure for acceptance of such employees into Amtrak Commuter's employment;

"(5) determine the procedure for determining the seniority of such employees in

their respective crafts or classes in Amtrak Commuter's system, which shall, to the extent possible, preserve their prior passenger seniority rights;

"(6) ensure that all such employees are transferred to Amtrak Commuter no later than 540 days after the effective date of this title; and

"(7) determine the extent to which employees of Conrail's commuter subsidiary transferred to Amtrak Commuter shall retain freight seniority rights with Conrail. Such determination shall ensure the maximum separation of the freight and passenger work forces and shall (A) provide employees transferred to Amtrak Commuter who are subsequently deprived of employment at least one opportunity to exercise previous freight seniority rights, (B) maximize employment opportunities for employees on furlough, (C) maintain the ability to recall experienced employees, and (D) ensure that under no circumstances are seniority rights exercised in any manner which results in a position being filled which would otherwise not be filled under the terms of any crew consist, fireman manning, or other similar agreement.

"(b)(1) If no agreement with respect to the matters being negotiated pursuant to subsection (a) is reached within 30 days after the date such negotiations are commenced, the parties to the negotiations shall, within an additional 10 days, select a neutral referee. If the parties are unable to agree upon the selection of such a referee, the National Mediation Board shall promptly appoint a referee.

"(2) The referee shall commence hearings on the matters being negotiated pursuant to subsection (a) not later than 10 days after the date he is selected or appointed, and shall render a decision within 30 days after the date of commencement of such hearings. All parties may participate in the hearings, but the referee shall have the only vote.

"(3) The referee shall resolve and decide all matters in dispute with respect to the negotiation of the implementing agreement or agreements. The referee's decision shall be final and binding to the same extent as an award of an adjustment board under section 3 of the Railway Labor Act, and shall constitute the implementing agreement or agreements between the parties. The salary and expenses of the referee shall be paid pursuant to the provision of the Railway Labor Act.

"(c) EMPLOYEE PROTECTION.—Any employee of the Corporation or its commuter subsidiary who is not offered employment with Amtrak Commuter under this section shall be provided employee protection under section 701 of the Regional Rail Reorganization Act of 1973 to the same extent as if such employee had remained in the employ of the Corporation.

"SEC. 507. COLLECTIVE BARGAINING AGREEMENT FOR AMTRAK COMMUTER.

"(a) Prior to the date Amtrak Commuter commences operation of commuter service previously operated by Conrail or its commuter subsidiary, Amtrak Commuter and the representatives of the various classes or crafts of employees to be transferred to Amtrak Commuter pursuant to section 507 of this Act shall enter into new collective bargaining agreements with respect to rates of pay, rules, and working conditions.

"(b)(1) Amtrak Commuter and the representatives of the various classes and crafts of employees to be transferred to Amtrak Commuter shall, within 270 days after the effective date of this title, establish a fact-finding panel, chaired by a neutral expert in industrial relations, for purposes of recommending changes in operating practices and procedures which result in greater productivity to the maximum extent practicable.

"(2) The National Mediation Board shall appoint public members to the panel established under paragraph (1) of this subsection, and shall perform such functions contained in the agreement as are consistent with the duties of such Board under the Railway Labor Act.

"(3) The fact-finding panel shall, within 90 days after the date it is established, submit a report to the parties setting forth its recommendations for changes in operating practices and procedures.

"(4) The fact-finding panel may provide mediation, conciliation, and other assistance to the parties.".

Subpart B—Freight Employees

LABOR TRANSFER

SEC. 6471. (a) Title IV of the Regional Rail Reorganization Act of 1973, as added by this subchapter, is amended by adding at the end thereof the following new sections:

"LABOR TRANSFER AGREEMENTS

"SEC. 405. (a) IMPLEMENTING AGREEMENT.—Within 30 days after the date any transfer agreement is entered into under this title, the rail carrier or other entity purchasing rail properties and the representatives of the various crafts or classes of employees of the Corporation to be transferred to such rail carrier or other entity shall commence implementing agreement negotiations. Such negotiations shall—

"(1) determine the number of employees to be transferred to such rail carrier or other entity;

"(2) identify the specific employees of the Corporation to whom such rail carrier or other entity offer employment;

"(3) determine the procedure by which such employees may elect to accept employment with such rail carrier or other entity;

"(4) determine the procedure for acceptance of such employees into employment with such rail carrier or other entity;

"(5) determine the procedure for determining the seniority of such employees in their respective crafts or classes in the system of such rail carrier or other entity, which shall, to the extent possible, preserve their prior freight seniority rights; and

"(6) ensure that all such employees are transferred to such rail carrier or other entity no later than 120 days after the date the transfer agreement is entered into under this title.

"(b) DECISION OF REFEREE.—(1) If no agreement with respect to the matters being negotiated pursuant to subsection (a) is reached within 30 days after the date such negotiations are commenced, the parties to the negotiations shall, within an additional 10 days, select a neutral referee. If the parties are unable to agree upon the selection of such a referee, the National Mediation Board shall promptly appoint a referee.

"(2) The referee shall commence hearing within 10 days, and shall on the matters being negotiated pursuant to subsection (a) after the date he is selected or appointed, and shall render a decision within 30 days after the date of commencement of such hearings, but the referee shall have the only vote.

"(3) The referee shall resolve and decide all matters in dispute with respect to the negotiation of the implementing agreement or agreements. The referee's decision shall be final and binding to the same extent as an award of an adjustment board under section 3 of the Railway Labor Act, and shall constitute the implementing agreement or agreements between the parties. The salary and expenses of the referee shall be paid pursuant to the provision of the Railway Labor Act.

"LABOR CONDITIONS

"SEC. 406. The Commission shall determine the labor conditions to apply to employees affected by any transfer under this title as if such transfer were made under the Interstate Commerce Act.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by striking out the items relating to title IV and inserting in lieu thereof the following new items:

"TITLE IV—TRANSFER OF FREIGHT SERVICE

"Sec. 401. Interest of United States.
"Sec. 402. Debt and preferred stock.
"Sec. 403. Transfer plan.
"Sec. 404. Prohibition on certain transfers.
"Sec. 405. Labor transfer agreements.
"Sec. 406. Labor conditions.".

PART V—UNITED STATES RAILWAY ASSOCIATION

ORGANIZATION OF USRA

SEC. 6481. (a) Section 201 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721) is amended by striking out subsections (d) through (i), by redesignating subsections (j) and (k) as subsections (g) and (h), respectively, and by inserting after subsection (c) the following new subsections:

"(d) BOARD OF DIRECTORS.—(1) The Board of Directors of the Association shall consist of 3 individuals, as follows:

"(A) The Chairman, who shall be selected by the previous Chairman and the other members of the Board.

"(B) The Secretary of Transportation.

"(C) The Comptroller General of the United States.

"(2) No member of the Board of Directors may have any employment or other direct financial relationship with any railroad. The Chairman may receive $300 per diem when engaged in the actual performance of his duties plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties.

"(e) TERM OF OFFICE.—The term of office of the Chairman of the Board of Directors of the Association shall be 6 years.

"(f) QUORUM.—Three members of the Board of Directors shall constitute a quorum for the transaction of any function of the Association.".

(b) The amendment made by this subsection shall not affect the term of the individual serving as Chairman of the United States Railway Association on the effective date of this subchapter.

FUNCTIONS OF USRA

SEC. 6482. (a) Section 202 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 722) is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following new subsections:

"SEC. 202. (a) AUTHORITY.—The Association is authorized to—

"(1) monitor the financial performance of the Corporation;

"(2) determine whether the conditions and requirements of this Act are met;

"(3) purchase or otherwise acquire or receive, and hold and dispose of securities (whether debt or equity) of the Corporation

under sections 216 and 217 of this Act and exercise all of the rights, privileges, and powers of a holder of any such securities;

"(4) purchase accounts receivable of the Corporation in accordance with section 217 of this Act; and

"(5) appoint and fix the compensation of such personnel as the Association considers necessary and appropriate.

"(b) STOCK PURCHASE REPORTS.—The Association shall, within 30 days after each purchase date set forth in section 217(b) of this Act, submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report setting forth the amount of additional funds made available to the Corporation, the progress of the Corporation in meeting the requirements and goals of this Act, and the funds remaining available for the purchase of stock of the Corporation.".

(b) Section 202 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 722) is amended by adding at the end thereof the following new subsection:

"(k) TERMINATION.—No later than 30 days after the Association makes its last purchase of series A preferred stock of the Corporation under section 217 of this Act, the Association shall cease to exist, and all assets and liabilities of the Association shall be transferred to the Director of the Office of Management and Budget.".

(c) The section heading of section 202 of the Regional Rail Reorganization Act of 1973 is amended by striking out "General Powers and Duties" and inserting in lieu thereof "Functions".

(d) The item relating to section 202 in the table of contents of the Regional Rail Reorganization Act of 1973 is amended to read as follows:

"Sec. 202. Functions of the Association.".

ACCESS TO INFORMATION

SEC. 6483. Section 203 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 723) is amended to read as follows:

"ACCESS TO INFORMATION

"SEC. 203. The Corporation shall make available to the Association such information as the Association determines necessary for the Association to carry out its functions under this Act. The Association shall request from other parties which are affected by this Act information which will enable the Association to determine if the conditions of this Act are met.".

TRANSFER OF LITIGATION

SEC. 6484. (a) The responsibility for representing the United States in any civil action brought by the estate of a railroad in reorganization against the United States under the Regional Rail Reorganization Act of 1973 shall be transferred from the United States Railway Association to the Attorney General of the United States no later than November 1, 1981.

(b) The Attorney General may establish an independent office within the Department of Justice with responsibility for the civil actions described in subsection (a) of this section. The retention of private legal counsel to conduct any such civil action shall not create a conflict of interest for the Department of Justice or such legal counsel with respect to other cases being handled by such legal counsel.

USRA AUTHORIZATION

SEC. 6485. Section 214(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724(c)) is amended to read as follows:

"(c) ASSOCIATION.—There are authorized to be appropriated to the Association for purposes of carrying out its administrative expenses under this Act not to exceed $1,000,000 for the fiscal year ending September 30, 1982, not to exceed $1,100,000 for the fiscal year ending September 30, 1983, and not to exceed $1,200,000 for the fiscal year ending September 30, 1984. Sums appropriated under this subsection are authorized to remain available until expended.".

PART VI—MISCELLANEOUS PROVISIONS

JUDICIAL REVIEW

SEC. 6491. (a) Notwithstanding any other provision of law, the special court shall have original and exclusive jurisdiction over any civil action—

(1) for injunctive, declaratory, or other relief relating to the enforcement, operation, execution, or interpretation of any provision of or amendment made by this subchapter, or administrative action taken thereunder to the extent such action is subject to judicial review;

(2) challenging the constitutionality of any provision of or amendment made by this subchapter;

(3) to obtain, inspect, copy, or review any document in the possession or control of the Secretary, Conrail, or Amtrak that would be discoverable in litigation under any provision of or amendment made by this subchapter; or

(4) seeking judgment upon any claim against the United States founded upon the Constitution and resulting from the operation of any provision of or amendment made by this subchapter.

(b) A judgment of the Special Court in any action referred to in this section shall be reviewable only upon petition for a writ of certiorari to the Supreme Court of the United States, except that any order or judgment enjoining the enforcement, or declaring or determining the unconstitutionality or invalidity, of any provision of this subchapter shall be reviewable by direct appeal to the Supreme Court of the United States. Such review is exclusive and any petition or appeal shall be filed not more than 20 days after entry of such order or judgment.

(c) Administrative action under the provisions of or amendments made by this subchapter which is subject to review shall be upheld unless such action is found to be unlawful under standards established for review of informal agency action under paragraphs (2) (A), (B), (C), and (D) of section 706, title 5, United States Code. The requirements of this subchapter shall constitute the exclusive procedures required by law for such administrative action.

(d) If the volume of civil actions under subsection (a) of this section so requires, the United States Railway Association shall apply to the judicial panel on multi-district litigation authorized by section 1407 of title 28, United States Code, for the assignment of additional judges to the special court. Within 30 days after the date of such application, the panel shall assign to the special court such additional judges as may be necessary to exercise the jurisdiction described in subsection (a) of this section.

LOAN GUARANTEES

SEC. 6492. Section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831) is amended by adding at the end thereof the following new subsection:

"(o) COMMUTER SERVICE.—(1) The Secretary shall, under the authority of this section, guarantee obligations of the commuter subsidiary of the Corporation and obligations of the Amtrak Commuter Services Corporation for the purposes described in paragraph (2) of this subsection.

"(2) The proceeds of obligations guaranteed under this subsection shall be used by the Corporation's commuter subsidiary and Amtrak Commuter to operate commuter services prior to initial reimbursement by the commuter authorities and to cover any subsequent cash flow problems arising from delays in reimbursement from such authorities.

"(3) The aggregate unpaid principal amount of obligations guaranteed by the Secretary under this subsection shall not exceed $50,000,000.

"(4) Subsection (g) of this section and section 516 of this Act shall not apply to any obligation guaranteed under this section.".

TRANSFER TAXES AND FEES, RECORDATION

SEC. 6493. (a)(1) All transfers or conveyances of any interest in rail property (whether real, personal, or mixed) which are made under any provision of or amendment made by this subchapter shall be exempt from any taxes, imposts, or levies now or hereby imposed, by the United States or by any State or any political subdivision of a State, on or in connection with such transfers or conveyance or on the recording of deeds, bills of sale, liens, encumbrances, easements, or other instruments evidencing, effectuating, or incident to any such transfers or conveyances, whether imposed on the transferor or on the transferee. Such transferors and transferees shall be entitled to record any such deeds, bills of sale, liens, encumbrances, easements, or other instruments and, to record the release or removal of any preexisting liens or encumbrances of record with respect to properties so transferred or conveyed, upon payment of any appropriate and generally applicable charges to compensate for the cost of the service performed.

(2) This section shall not apply to Federal income tax laws.

(b) Transfer of designated real property (including any interest in real property) authorized by the amendments made by part II of this subchapter shall have the same effect for purposes of rights and priorities with respect to such property as recordation on the transfer date of appropriate deeds, or other appropriate instruments, in offices appointed under State law for such recordation, except that acquiring rail carriers and other entities shall proffer such deeds or other instruments for recordation within 36 months after the transfer date as a condition of preserving such rights and priorities beyond the expiration of that period. Conrail shall cooperate in effecting the timely preparation, execution, and proffering for recordation of such deeds and other instruments.

SHIPPER NOTIFICATION

SEC. 6494. Within 60 days after the effective date of this subchapter, Conrail shall provide written notice to shippers describing the provisions of and amendments made by this subchapter and the likely impact that such provisions and amendments will have.

SATISFACTION OF CLAIMS

SEC. 6495. No distribution of the assets of Conrail shall be made with respect to any claims of the United States, including the securities issued pursuant to section 216 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726), until all other valid

claims, including loss, damage, and overcharge claims, against Conrail have been satisfied, or provision has been made for satisfying such claims.

EXPEDITED SUPPLEMENTAL TRANSACTIONS

SEC. 6496. (a) Section 305(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 745(f)) is amended—

(1) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2)(A) Within 10 days after the effective date of the Conrail Private Sector Ownership Act of 1981, the Secretary shall initiate discussions and negotiations for the transfer of all of the Corporation's rail properties and freight service obligations in the States of Connecticut and Rhode Island to another railroad in the Region.

"(B) Within 60 days after the effective date of the Conrail Private Sector Ownership Act of 1981, the Secretary shall petition the special court for an order to transfer all of the Corporation's rail properties and freight service obligations in the States of Connecticut and Rhode Island to another railroad in the Region—

"(i) which has under subparagraph (A) of this paragraph completed negotiations and submitted to the Secretary a proposal to assume all of the freight operations and freight service obligations of the Corporation in such States on a financially self-sustaining basis for a period of at least five years; or

"(ii) which has developed a proposal to assume all of the freight operations and freight service obligations of the Corporation in such States under an agreement by and between the Corporation and such railroad; or

"(iii) which has, prior to May 1, 1981, submitted a proposal to the Secretary for such a transfer.

"(C) To permit efficient and effective rail operations consistent with the public interest, as a part of any transfer under paragraph (2)(B) of this subsection, the Secretary shall promote the transfer of additional non-mainline Corporation properties in adjoining States that connect with properties that are the subject of such transfer.

"(D) The special court shall determine a fair and equitable price for the rail properties to be transferred under this subsection, and shall, unless the parties otherwise agree, establish divisions of joint rates for through routes over such properties which are fair and equitable to the parties. The special court may establish a method to ensure that such divisions are promptly paid.

"(E) Notwithstanding any other provision of law or agreement in effect on May 1, 1981, the special court shall require that the railroad to which properties are to be transferred under this subsection assume all charges payable by the Corporation to Amtrak for the carriage of property by rail over those portions of the Northeast Corridor in Connecticut and Rhode Island. If the Corporation operates any rail freight service over those portions of the Northeast Corridor in Connecticut and Rhode Island after the date of such transfer, the Corporation shall pay Amtrak any compensation that may be separately agreed upon by the Corporation and Amtrak, and the railroad to which properties are transferred under this subsection shall not be obligated to pay any compensation owed by the Corporation to Amtrak for such post-transfer operations by the Corporation."; and

(2) by striking out paragraph (4) and inserting in lieu thereof the following new paragraph:

"(4)(A) Any employee deprived of employment as a result of the transfer of rail properties under this subsection shall be eligible for benefits under section 701 of this Act.

"(B) As used in this paragraph, 'employee deprived of employment' means any employee who is unable to secure employment through the normal exercise of seniority rights, but does not include any employee who refuses an offer of employment with a rail carrier acquiring properties under this subsection."

(b) Section 305(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 745(d)) is amended by striking out paragraph (7).

ABANDONMENTS

SEC. 6497. (a) Title III of the Regional Rail Reorganization Act of 1973, as amended by this subchapter, is further amended by adding at the end thereof the following new section:

"ABANDONMENTS

"SEC. 309. (a) GENERAL.—The Corporation may, in accordance with this section, file with the Commission an application for a certificate of abandonment for any line which is part of the system of the Corporation. Any such application shall be governed by this section and shall not, except as specifically provided in this section, be subject to the provisions of chapter 109 of title 49, United States Code.

"(b) APPLICATIONS FOR ABANDONMENT.—Any application for abandonment that is filed by the Corporation under this section before November 1, 1981, shall be granted by the Commission within 30 days after the date such application is filed unless, within such 30-day period, an offer of financial assistance is made in accordance with subsection (d) of this section with respect to the line to be abandoned.

"(c) NOTICE OF INSUFFICIENT REVENUES.—(1) The Corporation may, prior to November 1, 1981, file with the Commission a notice of insufficient revenues for any line which is part of the system of the Corporation.

"(2) Any application for abandonment that is filed by the Corporation under this section before October 1, 1983, for a line for which a notice of insufficient revenues was filed under paragraph (1) shall be granted by the Commission within 30 days after the date such application is filed unless, within such 30-day period, an offer of financial assistance is made in accordance with subsection (d) of this section with respect to such line.

"(d) OFFERS OF FINANCIAL ASSISTANCE.—(1) The provisions of section 10905(d)-(f) of title 49, United States Code (including the timing requirements of subsection (d)), shall apply to any offer of financial assistance under subsection (b) or (c) of this section.

"(2) The Corporation shall provide any person that intends to make an offer of financial assistance under subsection (b) or (c) of this section with such information as the Commission may require.

"(e) EMPLOYEE PROTECTION.—The provisions of section 10903(b)(2) of title 49, United States Code, shall not apply to any abandonment granted under this section. Any employee adversely affected by such an abandonment shall be eligible for employee protection under section 701 of this Act.".

(b) The table of contents of Regional Rail Reorganization Act of 1973, as amended by this subchapter, is further amended by inserting immediately after the item relating to section 308 the following new item:

"Sec. 309. Abandonments.".

INSURANCE COVERAGE

SEC. 6498. (a) Section 303(b)(6) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(b)(6)) is amended by adding at the end thereof the following new subparagraphs:

"(C) The Corporation shall be entitled to a loan pursuant to section 211(h) of this Act in an amount required for the cost of the insurance coverage and benefits described in subparagraph (B) of this paragraph. Any successor corporation to a railroad in reorganization (i) which was authorized and directed, by an order of its reorganization court issued prior to the effective date of this subparagraph, to continue life and medical programs for nonagreement employees who retired prior to April 1, 1976, or (ii) which had, prior to the effective date of this subparagraph, entered into an agreement with the Corporation to acknowledge, if necessary, that the obligations then described in section 211(h)(1)(A)(viii) of this Act constituted obligations of such railroad if such acknowledgment would have been necessary under this Act to have permitted the Corporation to have obtained section 211(h) loan funds with which to pay such obligations, shall be deemed to have conclusively acknowledged that the costs of such continued programs or coverage or benefits constitute valid pre-conveyance administration obligations of such railroad in reorganization. The Corporation shall be entitled to a direct claim as a current expense of administration, in accordance with the provisions of section 211(h) of this Act, for reimbursement (including costs and expenses of processing such claims) from the estate of the railroad in reorganization (or successor corporation) on whose behalf such medical or life insurance was maintained or such benefits were paid. In the case of a railroad in reorganization which is not subject to a bankruptcy proceeding, such amounts shall be deemed to be obligations of such railroad, due and payable as of April 1, 1976, and shall be reimbursable in accordance with the procedures set forth in paragraphs (4), (5), and (6) of such section 211(h).

"(D) As used in subparagraphs (B) and (C) of this paragraph—

"(i) 'railroad in reorganization' includes (I) any railroad which is controlled by a railroad in reorganization but is not itself subject to a bankruptcy proceeding, if such railroad conveyed substantially all of its rail properties to the Corporation pursuant to paragraph (1) of this subsection and conducted operations over such rail properties prior to the date of such conveyance; and (II) any corporation which, pursuant to a plan of reorganization under section 77 of the Bankruptcy Act, is the successor in interest to a railroad in reorganization; and

"(ii) 'employee' does not include a member of a board of directors, a president, vice president, general counsel, treasurer, secretary, comptroller, or any other person who performed functions corresponding to those performed by such officers immediately prior to his retirement.

"(E) Any action or claim for benefits or premium payments related to any medical or life insurance coverage described in subparagraph (B) of this paragraph which is not required to be paid by the Corporation under the provisions of such subparagraph shall not be brought or maintained against the Corporation, the National Railroad Passenger Corporation, the Association, or the United States.".

(b) Section 211(h)(1)(A)(viii) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(h)(1)(A)(viii)) is amended by inserting "through (D)" immediately after "section 303(b)(6)(B)".

(c) Section 2 and section 3 of the Act of November 4, 1978 (Public Law 95-597; 92 Stat. 2548), are hereby repealed.

(d) The amendments made by this section shall be effective as of the date of enactment of Public Law 95-597.

AMENDMENT TO THE RAILWAY LABOR ACT

SEC. 6499. The Railway Labor Act is amended by inserting immediately after section 9 the following new section:

"SPECIAL PROCEDURE FOR COMMUTER SERVICE

"SEC. 9A. (a) The provisions of this section shall apply to any dispute between a publicly funded and publicly operated carrier providing rail commuter service (including the Consolidated Rail Corporation's commuter subsidiary established under section 308 of the Regional Rail Reorganization Act of 1973 and the Amtrak Commuter Services Corporation) and its employees.

"(b) If a dispute between the parties described in subsection (a) is not adjusted under the foregoing provisions of this Act and the President does not, under section 10 of this Act, create an emergency board to investigate and report on such dispute, then any party to the dispute or the Governor of any State through which the service that is the subject of the dispute is operated may request the President to establish such an emergency board.

"(c)(1) Upon the request of a party or a Governor under subsection (b), the President shall create an emergency board to investigate and report on the dispute in accordance with section 10 of this Act. For purposes of this subsection, the period during which no change, except by agreement, shall be made by the parties in the conditions out of which the dispute arose shall be 120 days.

"(2) If the President, in his discretion, creates a board to investigate and report on a dispute between the parties described in subsection (a), the provisions of this section shall apply to the same extent as if such board had been created pursuant to paragraph (1) of this subsection.

"(d) Within 60 days after the creation of the board under this section, the National Mediation Board shall conduct a public hearing on the dispute at which each party shall appear and provide testimony setting forth the reasons it has not accepted the recommendations of the emergency board for settlement of the dispute.

"(e) If no settlement in the dispute is reached at the end of the 120-day period beginning on the date of the creation of the emergency board, any party to the dispute or the Governor of any State through which the service that is the subject of the dispute is operated may request the President to establish another emergency board.

"(f) Within 30 days after creation of the board under subsection (e), the parties to the dispute shall submit to the board final offers for settlement of the dispute.

"(g) Within 30 days after the submission of final offers, the board shall submit a report to the President setting forth its selection of the most reasonable offer.

"(h) For 60 days after the board makes its report under subsection (g), no change, except by agreement, shall be made by the parties in the conditions out of which the dispute arose.

"(i) If the board selects the final offer submitted by the carrier and, after the expiration of the 60-day period described in subsection (h), the employees of such carrier engage in any work stoppage arising out of the dispute, such employees shall not be eligible during the period of such work stoppage for benefits under the Railroad Unemployment Insurance Act.

"(j) If the board selects the final offer submitted by the employees and, after the expiration of the 60-day period described in subsection (h), the carrier refuses to accept the final offer submitted by the employees and the employees of such carrier engage in any work stoppage arising out of the dispute, the carrier shall not participate in any benefits of any agreement between carriers which is designed to provide benefits to such carriers during a work stoppage.".

NORTHEAST CORRIDOR COST DISPUTE

SEC. 6500. (a)(1) Within 120 days after the effective date of this subchapter, the Commission shall determine an appropriate costing methodology for compensation to Amtrak for the right-of-way related costs for the operation of commuter rail passenger service over the Northeast Corridor and other properties owned by Amtrak, unless Conrail, Amtrak, and affected commuter authorities have otherwise agreed on such a methodology by that date. In making its determination, the Commission shall consider all relevant factors, including the standards of sections 205(d) and 304(c) of the Regional Rail Reorganization Act of 1973, section 701(a)(6) of the Railroad Revitalization and Regulatory Reform Act of 1976, and section 402(a) of the Rail Passenger Service Act.

(2) Within 120 days after the effective date of this subchapter, the Commission shall determine a fair and equitable costing methodology for compensation to Amtrak by Conrail for the right-of-way related costs for the operation of rail freight service over the Northeast Corridor, unless Conrail and Amtrak have otherwise agreed on such a methodology by that date. In making its determination, the Commission shall take into consideration the industry-wide average compensation for freight trackage rights and any additional costs associated with high-speed service provided over the Northeast Corridor.

(b) Any determination by the Commission under this section shall be effective on the date of such determination, and any agreement of the parties under this section shall be effective on the date specified in such agreement. Any such determination or agreement shall not apply to any compensation paid to Amtrak prior to the date of such determination or the date so specified, as the case may be, for the right-of-way related costs described in subsection (a) of this section.

(c) Nothing in this section shall preclude parties from entering into an agreement, after the determination of the Commission or their initial agreement under this section, with respect to the right-of-way related costs described in subsection (a) of this section.

(d) Any determination by the Commission under this section shall be final and shall not be reviewable in any court.

LOAN MODIFICATIONS

SEC. 6501. (a) Section 211(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(d)) is amended—

(1) in the first sentence, by inserting "(other than a loan to a railroad in the region)" immediately after "this section"; and

(2) by striking out the second and third sentences.

(b) The Secretary may not modify the terms of any loan made under title V of the Railroad Revitalization and Regulatory Reform Act of 1976 to a rail carrier in the Region (as that term is defined in section 102 of the Regional Rail Reorganization Act of 1973) that has also received a loan under section 211(a) of the Regional Rail Reorganization Act of 1973.

UNITED STATES RAILWAY ASSOCIATION FUNDS

SEC. 6502. (a) Section 216(b) of the Regional Rail Reorganization Act of 1973 is amended—

(1) by striking out paragraph (3); and

(2) by redesignating paragraph (4) as paragraph (3).

(b) Section 509(b) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 8299(b)) is amended—

(1) by striking out paragraph (1);

(2) in paragraph (2) by striking out "(excluding funds transferred under paragraph (1) of this subsection)"; and

(3) by redesignating paragraphs (2) and (3) as paragraph (1) and (2), respectively.

CONSTRUCTION AND EFFECT OF CERTAIN PROVISIONS

SEC. 6503. (a) Any cost reductions resulting from the provisions of or the amendments made by this subchapter shall not be used to limit the maximum level of any rate charged by Conrail for the provision of rail services, to limit the amount of any increase in any such rate (including rates maintained jointly by Conrail and other rail carriers), or to limit a surcharge or cancellation otherwise lawful under chapter 107 of title 49, United States Code.

(b) Notwithstanding any provision of any contract, lease, or other agreement, any transfer, assignment, or other disposition of such lease, contract, or other agreement by Conrail pursuant to the provisions of or the amendments made by this subchapter shall not be deemed a breach, an event of default, or a violation of any covenant.

EFFECTIVE DATE

SEC. 6504. The provisions of and the amendments made by this subchapter shall take effect on October 1, 1981.

Subchapter B—Local Rail Assistance

AUTHORIZATION OF APPROPRIATIONS

SEC. 6521. Section 5(p) of the Department of Transportation Act is amended by striking out "without fiscal year limitation. Of the foregoing sums, not to exceed $5,000,000 shall be made available for planning grants during each of the 3 fiscal years ending June 30, 1976; September 30, 1977; and September 30, 1978" and inserting in lieu thereof the following: "of which $40,000,000 shall be made available in the fiscal year ending September 30, 1982, $44,000,000 shall be made available in the fiscal year ending September 30, 1983 and $49,000,000 shall be made available in the fiscal year ending September 30, 1984.".

RAIL FREIGHT ASSISTANCE

SEC. 6522. (a) Section 5(f) of the Department of Transportation Act (49 U.S.C. 1654(f)) is amended by striking out paragraph (1) and redesignating paragraphs (2), (3), (4), and (5) as paragraphs (1), (2), (3), and (4), respectively.

(b) The first sentence of section 5(g) of the Department of Transportation Act (49 U.S.C. 1654(g)) is amended by striking out "80 per centum, except that" and all that follows in that sentence and inserting in lieu thereof "70 per centum.".

(c) Section 5(h) of the Department of Transportation Act (49 U.S.C. 1654(h)) is amended—

(1) by striking out paragraph (1) and redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2) and (3), respectively;

(2) in paragraph (1), as redesignated, by striking out "October 1, 1979" and inserting in lieu thereof "October 1, 1981";

(3) in paragraph (1)(B), as redesignated, by striking out "(including" and all that follows through "under this section)" both places it appears; and

(4) by amending paragraph (2), as redesignated, to read as follows:

"(2)(A) The Interstate Commerce Commission shall, no later than July 1 of the year preceding the fiscal year funds are made available under this section, provide the Secretary with the sum of the rail mileage in each State that meets the description set forth in subparagraphs (A) and (B) of paragraph (1). The Secretary shall, no later than the first day of each fiscal year, notify each State of the funds to which such State is entitled under this subsection during such fiscal year.

"(B)(i) Entitlement funds shall remain available to a State for the first 6 months after the end of the fiscal year for which funds have been made available for use under this section.

"(ii) Any funds which have not been applied for under this section shall be made available to the Secretary for use during the remainder of the current fiscal year for rail service assistance projects meeting the requirements of this section. The Secretary shall, no later than 30 days after the end of the first six months of a fiscal year, notify each State with respect to any funds still available for rail service assistance projects under this section.

"(C) In considering applications for rail service assistance to be provided with funds described in subparagraph (B)(ii), the Secretary shall consider the following:

"(i) The percentage of lines filed with the Interstate Commerce Commission for abandonment or potential abandonment within a State.

"(ii) The likelihood of future abandonments within a State.

"(iii) The ratio of benefits to costs (which are included in the State rail plan) for a proposed project.

"(iv) The likelihood that the line will continue operating with rail freight assistance.

"(v) The impact of rail bankruptcies, rail restructuring, and rail mergers on the State applying for assistance.".

(d) Section 5(i) of the Department of Transportation Act (49 U.S.C. 1654(i)) is amended to read as follows:

"(i) on the first day of the fiscal year, each State shall be entitled to $100,000 of the funds available for expenditure under subsection (q) of this section during the fiscal year to meet the cost of establishing, implementing, revising, and updating the State rail plan required by subsection (j) of this section. Each State must apply for such funds on or before the first day of the fiscal year. Any funds which have not been applied for under this subsection shall be made available to the Secretary under subsection (h)(3)(B) of this section.".

(e) Section 5(k) of the Department of Transportation Act (49 U.S.C. 1654(k)) is amended—

(1) by striking out paragraph (1) and redesignating paragraphs (2), (3), (4), and (5) as paragraphs (1), (2), (3), and (4), respectively;

(2) in paragraph (1), as redesignated, by striking out "paragraph (2)" and inserting in lieu thereof "paragraph (1)", by striking out "; or" at the end of subparagraph (B) and inserting in lieu thereof a period, and by striking out subparagraph (C); and

(3) by striking out the period at the end of paragraph (2), as redesignated, and at the end of paragraph (3)(B), as redesignated, and inserting in lieu thereof the following: "unless such a project has been receiving assistance under this subsection but did not receive all the funds to which the State was entitled at the beginning of the fiscal year ending September 30, 1981, in which case such project shall continue to be eligible until September 30, 1982.".

(f) Section 5(l) of the Department of Transportation Act (49 U.S.C. 1654(l)) is amended by adding at the end thereof the following new sentence: "Upon receipt of an application for rail freight assistance, the Secretary shall consider the application and notify the State submitting such an application as to its approval or disapproval within 45 days. If the Secretary fails to consider and notify the State applying for rail freight assistance under subsection (k) within 45 days, then the project shall be considered approved and the State shall receive the Federal share up to the amount to which it is entitled.".

(g) Section 5(n) of the Department of Transportation Act (49 U.S.C. 1654(n)) is amended to read as follows:

"(n) As used in this section, the term 'State' means any State in which a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of title 49, United States Code, maintains any line of railroad.".

(h) Section 5(o) of the Department of Transportation Act (49 U.S.C. 1654(o)) is amended by adding at the end thereof the following new paragraph:

"(5) The State, to the maximum extent possible shall encourage the participation of shippers, railroads, and local communities in providing the State share of rail freight assistance funds.".

(i) Section 5 of the Department of Transportation Act (49 U.S.C. 1654) is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

"(p) Each State shall retain a contingent interest (redeemable preference shares) for the Federal share of funds in any line receiving rail freight assistance under this section and shall exercise the right to collect its share of the funds used for such a line, if an application for abandonment of such line is filed under chapter 109 of title 49, United States Code, or if such line is sold or disposed of in any way after it has received Federal assistance.".

Subchapter C—Northeast Corridor

NORTHEAST CORRIDOR

SEC. 6525. Title VII of the Railroad Revitalization and Regulatory Reform Act of 1976 is amended—

(1) by striking out "goals to the extent compatible with the amount of authorizations specified in section 704 of this title" in the first sentence of section 703;

(2) by striking out ", in the following order" in paragraph (7) of section 703; and

(3) by striking out "to remain available until expended" in section 704(a)(1) and inserting at the end of section 704(a) the following new paragraph:

"(5) of the funds authorized to be appropriated under this section, not more than $200,000,000 is authorized to be appropriated to the Secretary for the fiscal year ending September 30, 1982; and not more than $185,000,000 is authorized to be appropriated to the Secretary for the fiscal year ending September 30, 1983.".

Subchapter D—Department of Transportation

AUTHORIZATION OF APPROPRIATIONS

SEC. 6531. (a) The Department of Transportation Act is amended by inserting at the end thereof the following new section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 17. There are authorized to be appropriated—

"(1)(A) for necessary expenses of the Secretary of Transportation, including not to exceed $27,000 for allocation within the Department of official reception and representation expenses as the Secretary may determine, not to exceed $29,000,000 for the fiscal year ending September 30, 1982, $29,223,000 for the fiscal year ending September 30, 1983, and $30,726,000 for the fiscal year ending September 30, 1984; and

"(B) for necessary expenses for conducting transportation planning, research, and development activities, including the collection of national transportation statistics to remain available until expended, $9,200,000 for the fiscal year ending September 30, 1982, $9,500,000 for the fiscal year ending September 30, 1983, and $9,500,000 for the fiscal year ending September 30, 1984;

"(2) for necessary expenses of the Office of Federal Railroad Administrator not otherwise provided for, not to exceed $4,315,000 for the fiscal year ending September 30, 1982, $4,833,000 for the fiscal year ending September 30, 1983, and $5,000,000 for the fiscal year ending September 30, 1984;

"(3) for necessary expenses for railroad research and development, not to exceed $34,000,000 to remain available until expended for the fiscal year ending September 30, 1982, $37,000,000 to remain available until expended for the fiscal year ending September 30, 1983, and $38,650,000 to remain available until expended for the fiscal year ending September 30, 1984;

"(4) for necessary expenses of the Minority Business Resource Center not otherwise provided for, not to exceed $10,000,000 for each of the fiscal years ending September 30, 1982, 1983, and 1984; and

"(5) for necessary expenses for administration and special projects of the Federal Railroad Administration's rail service assistance program, not to exceed $6,000,000 for each of the fiscal years ending September 30, 1982, 1983, and 1984.

The Secretary may not utilize any appropriated funds for the Office of the Secretary other than those which are authorized for that purpose by this section. The Administrator of the Federal Railroad Administration may not utilize any appropriated funds for the Office of the Federal Railroad Administrator other than those which are authorized for that purpose by this section.".

(b) Section 509(b) of the Railroad Revitalization and Regulatory Reform Act of 1976 is amended by adding at the end thereof the following new paragraph:

"(4) Of the funds authorized to be appropriated under this section (other than funds described in paragraphs (1) and (2) of this subsection) not more than $6,500,000 are authorized to be appropriated in fiscal year 1982.".

(c)(1) The Secretary of Transportation may not utilize for any purpose transporta-

tion provided by the United States Coast Guard or the Federal Aviation Administration.

(2) The United States Coast Guard may not operate any private dining facility for the Secretary of Transportation, and the Secretary of Transportation may not utilize any appropriated funds to operate any private dining facility.

Subchapter E—Railroad Safety

AUTHORIZATION OF APPROPRIATIONS

SEC. 6532. Section 214(a) of the Federal Railroad Safety Act of 1970 is amended by striking out "$40,000,000" and inserting in lieu thereof "$27,650,000".

Subchapter F—Labor Payments

AUTHORIZATION OF APPROPRIATIONS

SEC. 6533. There is authorized to be appropriated to the Secretary of Transportation for the fiscal year ending September 30, 1982, not to exceed $25,000,000 for the payment of allowances, expenses, and costs that protected employees are entitled to receive under any provision of title 5 of the Regional Rail Reorganization Act of 1973 as in effect on September 30, 1981.

Subchapter G—Alaska Railroad Revolving Fund

AUTHORIZATION OF APPROPRIATIONS

SEC. 6535. For the fiscal years ending September 30, 1982, September 30, 1983, and September 30, 1984, no monies are authorized to be appropriated to the Alaska Railroad Revolving Fund.

Subchapter H—Amtrak

SHORT TITLE

SEC. 6536. This subchapter may be cited as the "Amtrak Improvement Act of 1981".

FINDINGS

SEC. 6537. Section 101 of the Rail Passenger Service Act (45 U.S.C. 501) is amended by adding at the end thereof the following new subsection:

"(c) The Congress further finds that—

"(1) modern, efficient commuter rail passenger service is essential to the viability and well-being of major urban areas;

"(2) efficient and economical provision of commuter service is essential to national goals of energy conservation and energy self-sufficiency;

"(3) Amtrak, as a passenger service entity, should be available to operate commuter service through its subsidiary Amtrak Commuter under contract with commuter agencies which do not choose to operate such service themselves as a part of the governmental functions of the State;

"(4) the Northeast Corridor is a valuable national resource used by intercity passenger, commuter passenger, and freight services; and

"(5) greater coordination between intercity and commuter passenger services are required.".

ADDITIONAL GOALS FOR AMTRAK

SEC. 6538. Section 102 of the Rail Passenger Service Act (45 U.S.C. 501) is amended—

(1) by striking out paragraph (1) and redesignating paragraphs (2) through (6) as paragraphs (7) through (11), respectively;

(2) by inserting immediately before paragraph (7), as so redesignated, the following new paragraphs:

"(1) Improvement of the number of passenger miles generated systemwide per dollar of Federal investment by at least 30 percent within the two-year period beginning on the effective date of the Amtrak Improvement Act of 1981.

"(2) Reduction of the cost of service on long-distance routes which are less fuel efficient and have lower ridership than short-distance routes connecting major urban areas.

"(3) Elimination of the deficit associated with food and beverages services by September 30, 1982.

"(4) Implementation of strategies to achieve immediately maximum productivity and efficiency consistent with safe and efficient service.

"(5) Operation of Amtrak trains, to the maximum extent feasible, to all station stops within 5 minutes of the time established in public timetables for such operation.

"(6) Development of service on rail corridors, subsidized by States or private parties, or both.";

(3) in paragraph (7), as redesignated, by striking out "55" and inserting in lieu thereof "60";

(4) in paragraph (8), as redesignated, by striking out "44" and inserting in lieu thereof "50" and by striking out "50" and inserting in lieu thereof "55"; and

(5) by adding at the end thereof the following new paragraphs:

"(12) Operation of commuter service, through the Amtrak Commuter Services Corporation, on an equal priority with intercity service.

"(13) Implementation of policies ensuring equitable access to the Northeast Corridor by both intercity and commuter services.

"(14) Coordination among the various users of the Northeast Corridor, particularly intercity and commuter passenger services.".

DEFINITIONS

SEC. 6539. Section 103 of the Rail Passenger Service Act (45 U.S.C. 502) is amended—

(1) by redesignating paragraphs (2) through (6) as paragraphs (3) through (7), respectively, and by redesignating paragraphs (7) through (14) as paragraphs (10) through (17), respectively;

(2) by inserting immediately after paragraph (1) the following new paragraph:

"(2) 'Amtrak Commuter' means the Amtrak Commuter Services Corporation created under title V of this Act.".

(3) by inserting immediately after paragraph (7), as redesignated, the following new paragraphs:

"(8) 'Commuter authority' means a State, local, or regional authority, corporation, or other entity established for the purpose of providing commuter service.

"(9) 'Commuter service' means short-haul rail passenger service operated in metropolitan and suburban areas, usually characterized by reduced fare, multiple-ride, and commutation tickets and by morning and evening peak period operations."; and

(4) in paragraph (11), as redesignated, by striking out "commuter and other" and all that follows through "operations" and inserting in lieu thereof "commuter service".

CHANGES IN BOARD OF DIRECTORS

SEC. 6540. (a) Section 303(a) of the Rail Passenger Service Act (45 U.S.C. 543(a)) is amended—

(1) by striking out paragraphs (1) through (4) and inserting in lieu thereof the following new paragraphs:

"(a)(1) The Corporation shall have a board of directors consisting of eleven individuals who are citizens of the United States, as follows:

"(A) The Secretary of Transportation, ex officio, and the President of the Corporation, ex officio.

"(B) Seven members appointed by the President, by and with the advice and consent of the Senate, on the following basis:

"(i) One to be selected from a list of three qualified individuals recommended by the American Federation of Labor and Congress of Industrial Organizations or its successor who are representatives of railroad labor.

"(ii) One to be selected from a list of three qualified individuals recommended by the National Governors Association.

"(iii) One to be selected from a list of three individuals qualified by virtue of their advocacy of rail passenger service who are recommended by the business community and who are recognized business leaders.

"(iv) One to be selected from a list of three qualified individuals recommended by the National Association of Railroad Passengers or its successor who are representatives of users of intercity rail passenger service.

"(v) One to be selected from a list of three qualified individuals recommended by organizations representing users of commuter services operated by the Corporation.

"(vi) One to be selected from a list of three qualified individuals recommended by organizations representing the elderly who are recognized leaders of the elderly community.

"(vii) One to be selected from a list of three qualified individuals recommended by the Association of American Railroads or its successor who are recognized leaders of the railroad industry and who are familiar with railroad operations and committed to rail passenger service.

"(C) Two members selected by commuter authorities, on the following basis:

"(i) During the 540-day period beginning on the effective date of the Amtrak Improvement Act of 1981, the two members under this subparagraph shall be selected by the commuter authorities for which the Consolidated Rail Corporation (or its commuter subsidiary) operates commuter service under the Regional Rail Reorganization Act of 1973.

"(ii) Beginning 540 days after the effective date of the Amtrak Improvement Act of 1981, the two members under this subparagraph shall be selected by the commuter authorities for which Amtrak Commuter operates commuter service under title V of this Act, except that—

"(I) if Amtrak Commuter operates commuter service for only one commuter authority, one member shall be selected by that authority and one member shall be selected by other commuter authorities operating service over rail properties owned by Amtrak; and

"(II) if Amtrak Commuter does not operate commuter service for any commuter authority, two members shall be selected by commuter authorities operating service over rail properties owned by Amtrak.

"(2)(A) Members appointed by the President under paragraph (1)(B) shall serve for terms of four years or until their successors have been appointed and qualified, except that any member appointed by the President under such subparagraph to fill a vacancy shall be appointed only for the unexpired term of the member he is appointed to succeed. Not more than four of the members appointed under such subparagraph shall be from the same political party.

"(B) Members selected under paragraph (1)(C) shall serve for terms of two years or until their successors have been appointed and qualified, except that members selected under paragraph (1)(C)(i) shall serve for the

540-day period described in that subparagraph.

"(3) Except as provided in paragraph (2)(A) of this subsection, any vacancy in the membership of the board shall be filled in the same manner as in the case of the original selection.

"(4) The President of the Corporation shall serve as chairman of the board of directors.";

(2) in paragraph (8), by striking out "Pending the election of the four members by the preferred stockholders of the Corporation under paragraph (1)(D) of this subsection, seven" and inserting in lieu thereof "Six"; and

(3) by adding at the end thereof the following new paragraph:

"(10) No one other than the members of the board specified in paragraph (1) of this subsection is authorized to vote at meetings of the board and to exercise the authority and responsibility which is otherwise conveyed on members of the board.".

(b) The term of office of any member of the Amtrak board of directors serving on such board immediately before the date of enactment of this Act pursuant to section 303(a)(1)(B), (C), or (D) of the Rail Passenger Service Act shall be deemed to have expired on such date of enactment, except that—

(1) such members shall continue to serve for a period not to exceed 90 days during which time the President shall appoint members of the board in accordance with section 303(a)(1) of such Act, as amended by this section; and

(2) if any position on such board remains vacant after the expiration of such 90-day period, the President of Amtrak may designate any such member to continue to serve in such position until the President fills such position by appointment in accordance with such section 303(a)(1).

CHARGE FOR CUSTOMS AND IMMIGRATION SERVICE

SEC. 6541. Section 305(i) of the Rail Passenger Service Act (45 U.S.C. 545) is amended by adding at the end thereof the following new sentence: "The Corporation shall not be obligated to pay any amount to any agency of the Federal Government for the cost of customs inspection or immigration procedures in connection with the provision of services by the Corporation.".

FOOD AND BEVERAGE SERVICE

SEC. 6542. (a) Section 305 of the Rail Passenger Service Act (45 U.S.C. 545) is amended by adding at the end thereof the following new subsection:

"(n) The Corporation shall implement policies which will eliminate the deficit in its on-board food and beverage operations no later than September 30, 1982. Beginning October 1, 1982, food and beverage services shall be provided on-board Amtrak trains during any fiscal quarter only if, during the preceding fiscal quarter, the revenues from such service were equal to or greater than the total costs of such services.".

(b) Section 405(e) of the Rail Passenger Service Act (45 U.S.C. 565(e)) is amended—

(1) by striking out "The Corporation" and inserting in lieu thereof "(1) Except as provided in paragraph (2) of this subsection, the Corporation"; and

(2) by adding at the end thereof the following new paragraph:

"(2) The provisions of this subsection shall not apply to food and beverage services provided on-board Amtrak trains.".

STATE AND LOCAL TAX EXEMPTION

SEC. 6543. Section 306 of the Rail Passenger Service Act (45 U.S.C. 546) is amended by adding at the end thereof the following new subsection:

"(n) The Corporation shall be exempt from the payment of all taxes or other fees imposed by any State, political subdivision of a State, or special taxing authority (including but not limited to property taxes, income and franchise taxes, sales taxes, gross revenue taxes, fuel taxes, licenses, and other fees) to the same extent as the United States is exempt from the payment of such taxes or other fees.".

ELIMINATION OF UNNECESSARY REPORTS

SEC. 6544. (a) Section 308(a)(1) of the Rail Passenger Service Act (45 U.S.C. 548(a)(1)) is amended by striking out subparagraph (C).

(b) Section 308(c) of the Rail Passenger Service Act (45 U.S.C. 548(c)) is amended—

(1) by striking out "and the Commission"; and

(2) by striking out "reports (or, in their discretion, a joint report)" and inserting in lieu thereof "a report".

SECTION 403(b) SERVICE

SEC. 6545. (a) Section 403(b)(1) of the Rail Passenger Service Act (45 U.S.C. 563(b)(1)) is amended—

(1) by striking out subparagraph (B) and redesignating subparagraph (C) as subparagraph (B);

(2) by amending subparagraph (B)(iii), as redesignated, to read as follows:

"(iii) a statement by such State or agency that it agrees to provide 60 percent of the short-term avoidable loss of service operated under this subsection in the first year of operation, and 80 percent of the short-term avoidable loss in each year of operation thereafter (including each year of renewal of an agreement entered into under this subsection); and"; and

(3) by adding at the end thereof the following new subparagraph:

"(C) Any application submitted by a group of States shall be considered in the same manner as an application submitted by a single State, and not on the basis of whether each State that is a party to such application meets the requirements of subparagraph (B) of this paragraph.".

(b) Section 403(b) of the Rail Passenger Service Act (45 U.S.C. 563(b)) is further amended by striking out paragraphs (2), (3), and (4) and inserting in lieu thereof the following new paragraphs:

"(2)(A) The Corporation shall perform a preliminary evaluation of the market potential and cost of each service proposed under this subsection in order to determine the performance that can reasonably be expected from such service. A proposed rail passenger service shall not be eligible for operation under this subsection unless it is reasonably expected that such service will, when the payment by the State or agency is excluded, achieve on an annual basis 60 percent of the goal set forth in section 102(8) of this Act with respect to the ratio of revenues to operating expenses.

"(B) Notwithstanding subparagraph (A) of this paragraph, the Corporation shall operate service which is projected to fail to meet the standards set forth in such subparagraph if (i) a State or agency agrees to pay 100 percent of the annual loss (including associated capital costs) of such service, and (ii) sufficient equipment is available for such service, after meeting the reasonable equipment requirements of all other services to be provided under this Act.

"(C) If a State or agency provides 100 percent funding for service pursuant to subparagraph (B) of this paragraph and such service then meets the threshold standard of economic performance set forth in subparagraph (A) in its first full year of operation, the Corporation shall pay to the State or agency the difference between the amount such State or agency paid and the amount it would have paid, in accordance with paragraph (1)(B) of this subsection, if the service were being provided pursuant to paragraph (3).

"(3) The Corporation may enter into an agreement with a State or agency for the institution of service requested under this subsection in accordance with the funding formula set forth in paragraph (1)(B) of this subsection if—

"(A) such service is projected to meet the threshold standard of economic performance set forth in paragraph (2)(A) of this subsection; and

"(B) the Corporation determines that such service can be provided with resources available to the Corporation.

"(4) An agreement entered into pursuant to this section may by mutual agreement be renewed for one or more additional terms of not more than 2 years. An agreement shall not be renewed for a train which fails to meet the threshold standard of economic performance set forth in subparagraph (2)(A) for a full year, unless the State or agency agrees to pay 100 percent of the annual loss (including associated capital costs) of the service.".

(c) Section 403(b) of the Rail Passenger Service Act (45 U.S.C. 563(b)) is further amended—

(1) in paragraph (5), by inserting "(A)" immediately after "(5)"; and

(2) by adding at the end of paragraph (5) the following new subparagraph:

"(B)(i) A proposed fare increase described in subparagraph (A) shall take effect 90 days after the date the Corporation first consults with the affected States pursuant to such subparagraph, unless any such State notifies the Corporation, within 30 days after the date of such consultation, that it objects to such proposed fare increase. If any State makes a timely objection, the effective date of the proposed fare increase shall be postponed for an additional 30 days.

"(ii) A State making a timely objection under clause (i) may, prior to the expiration of the additional 30-day period, submit proposals to the Corporation for reducing costs and increasing revenues other than through the proposed fare increase. At the end of such additional 30-day period, the Corporation, after taking into consideration any proposals from a State, shall decide whether to implement the proposed fare increase in whole or in part.";

(3) in paragraph (6)(C), by striking out "paragraph (1)(C)" and all that follows through "existing route" and inserting in lieu thereof "paragraph (1)(B)";

(4) by amending paragraph (7)(C) to read as follows:

"(C) The board of directors shall, after consultation with the appropriate officials of each State that contributes to the operation of service under this subsection, establish the basis for determining the short-term avoidable loss and associated capital costs of service operated under this subsection and the total revenues from such service. In addition, the Corporation shall provide appropriate State officials with the basis for determining such loss, costs, and

revenues for each route on which service is operated under this subsection."; and

(5) in paragraph (8), by striking out "Not" and inserting in lieu thereof "At least one but not".

(d) The amendments made by subsection (a) of this section shall apply to any agreement entered into under section 403(b) of the Rail Passenger Service Act after the date of enactment of this Act and to any renewal after such date of enactment of an agreement entered into under such section 403(b) prior to such date.

APPLICATION OF CRITERIA

SEC. 6546. (a) Section 404(c)(3) of the Rail Passenger Service Act (45 U.S.C. 564(c)(3)) is amended—

(1) by inserting "(A)" immediately after "(3)"; and

(2) by adding at the end thereof the following new subparagraph:

"(B) Whenever the Corporation determines that an amendment to the Route and Service Criteria is necessary or appropriate, it shall submit a draft of such amendment to the Congress. Such amendment shall take effect at the end of the first period of 120 calendar days of continuous session of the Congress after the date of its submission, unless either the Senate or the House of Representatives adopts a resolution during such period stating that it does not approve such amendment.".

(b) Section 404(c)(4) of the Rail Passenger Service Act (45 U.S.C. 564(c)(4)) is amended—

(1) by amending subparagraph (A) to read as follows:

"(4)(A) The Corporation shall conduct an annual review of each route in the basic system to determine if such route meets the criteria set forth in paragraph (1) or paragraph (2) of subsection (d), whichever is applicable to such route, as adjusted to reflect constant 1979 dollars. If the Corporation determines, on the basis of such review, that such route fails to meet the criteria set forth in the applicable paragraph, the Corporation shall discontinue the operation of rail passenger service over such route.";

(2) in subparagraph (B), by striking out "long-distance"; and

(3) by adding at the end thereof the following new subparagraphs:

"(C)(i) No later than 30 days after the beginning of each fiscal year, the Corporation shall evaluate the financial requirements for operating the basic system and service under section 403 of this Act during such fiscal year. If the Corporation determines that the funds to be available for such fiscal year are insufficient to meet the projected operating costs, the Corporation shall, in accordance with this subparagraph, take such action as may be necessary to reduce such costs.

"(ii) Any action taken by the Corporation to reduce costs pursuant to this subparagraph shall be designed to continue the maximum level of service practicable, and shall include—

"(I) changes in frequency of service;

"(II) increases in fares;

"(III) elimination of sleeper car service on certain routes;

"(IV) elimination of dining car service on certain routes;

"(V) increases in the passenger capacity of cars used on certain routes; and

"(VI) restructuring of routes.

"(iii) If the Corporation determines that the actions described in clause (ii) of this subparagraph will not result in the necessary cost reductions, it shall reduce or discontinue service on remaining routes, in descending order beginning with that route on which the short-term avoidable loss is closest to the short-term avoidable loss maximum under paragraph (1)(A) or paragraph (2)(A) of subsection (d), whichever is applicable, after taking into consideration the number of passengers served by trains on such route.

"(D)(i) Notice of any discontinuance of service pursuant to this paragraph shall be posted at least 14 days before such discontinuance in all stations served by the train to be discontinued.

"(ii) Notice of any discontinuance of service pursuant to this paragraph shall be given in such a manner as the Corporation determines will afford an opportunity for any State or group of States, or any regional or local agency or other person, to agree to share the cost of such route, train, or service, or some portion of such route, train, or service. Such notice shall be given at least 90 days prior to such discontinuance.".

(c) Section 404(c)(5) of the Rail Passenger Service Act (45 U.S.C. 564(c)(5)) is amended by striking out "and" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following new subparagraphs:

"(C) discontinuance of service under paragraph (4)(A) of this subsection; and

"(D) reductions in frequency of service or discontinuance of service necessary to comply with paragraph (4)(C) of this subsection.".

(d) Section 404(e) of the Rail Passenger Service Act (45 U.S.C. 564(e)) is repealed.

(e) Section 404 of the Rail Passenger Service Act (45 U.S.C. 564) is amended by adding at the end thereof the following new subsection:

"(h) Any change in the basic system made by the Corporation shall be subject to review as provided in this section, and shall not be reviewable in any court.".

(f) Section 403(d) of the Rail Passenger Service Act (45 U.S.C. 563(d)) is amended to read as follows:

"(d) Beginning October 1, 1981, the Corporation shall continue to operate high frequency intercity rail passenger service operated under this subsection prior to the effective date of the Amtrak Improvement Act of 1981 if such service meets the criteria set forth in section 404(d)(2)(B) of this Act, after taking into account projected fare increases and any State or local contributions to such service. Any service continued under this subsection shall be funded in accordance with the method of funding in effect on the effective date of the Amtrak Improvement Act of 1981.".

LIMITATION ON PAYMENTS

SEC. 6547. Section 405(c) of the Rail Passenger Service Act (45 U.S.C. 565(c)) is amended by adding at the end thereof the following new sentence: "During fiscal year 1982, the obligation of the Corporation to provide protective arrangements for its employees under this section as a result of action taken pursuant to the amendments made by the Amtrak Improvement Act of 1981 shall not exceed the amount appropriated for such purposes under section 601(b)(1)(C) of this Act.".

EXTENSION OF COMPENSATION FOR PASS RIDERS

SEC. 6548. The third sentence of section 405(f) of the Rail Passenger Service Act (45 U.S.C. 565) is amended by striking out ", during the 2-year period beginning on the effective date of the Amtrak Reorganization Act of 1979,".

AUTHORIZATION OF APPROPRIATIONS

SEC. 6549. (a) Section 601(b) of the Rail Passenger Service Act (45 U.S.C. 601(b)) is amended—

(1) by striking out paragraph (3); and

(2) by redesignating paragraph (2) as paragraph (3) and inserting after paragraph (1) the following new paragraph:

"(2) There are authorized to be appropriated to the Secretary for the benefit of the Corporation—

"(A) not to exceed $625,000,000 for the fiscal year ending September 30, 1982, of which not more than $24,000,000 shall be used for the payment of operating and capital expenses of rail passenger service provided pursuant to section 403(b) of this Act; and

"(B) not to exceed $842,000,000 for the fiscal year ending September 30, 1983, of which—

"(i) not less than $170,000,000 shall be used for the payment of the costs of capital acquisition or improvements to the basic system; and

"(ii) not more than $26,000,000 shall be used for the payment of operating and capital expenses of rail passenger service provided pursuant to section 403(b) of this Act.";

(3) in paragraph (3), as redesignated, by striking out "(A)" and by striking out ", and (B) guidelines established by the Secretary"; and

(4) by adding at the end thereof the following new paragraph:

"(4) Of the amounts appropriated under this subsection for fiscal year 1982, the Corporation may not spend for on-board food and beverage services an amount greater than 50 percent of the amount by which the costs of such services in fiscal year 1981 exceeded the revenues from such services in such fiscal year.".

(b) Section 601(b)(1) of the Rail Passenger Service Act (45 U.S.C. 601(b)(1)) is amended—

(1) in subparagraph (B), by striking out "$254,000,000" and inserting in lieu thereof "$100,000,000", and by inserting "and" immediately after the semicolon;

(2) by striking out subparagraphs (C) and (E) and redesignating subparagraph (D) as subparagraph (C);

(3) in subparagraph (C), as redesignated, by striking out "$20,000,000" and inserting in lieu thereof "$10,000,000" and by striking out "; and" at the end thereof and inserting in lieu thereof a period.

LOAN GUARANTEES

SEC. 6550. (a) Section 602(d) of the Rail Passenger Service Act (45 U.S.C. 602(d)) is amended—

(1) by striking out "$900,000,000" each place it appears and inserting in lieu thereof "$930,000,000";

(2) by striking out the last sentence.

(b) Section 602 of the Rail Passenger Service Act (45 U.S.C. 602) is amended by adding at the end thereof the following new subsection:

"(j) The Corporation may defer interest payments to the Federal Financing Bank during fiscal years 1982 and 1983, and such deferral shall not constitute a default under any note or other obligation of the Corporation. Notwithstanding the deferral of interest provided for under this subsection, the Federal Financing Bank shall continue to make funds available to the Corporation to meet commitments under previously ap-

proved capital programs and to repay existing notes and equipment obligations.".

RAIL CORRIDOR DEVELOPMENT

SEC. 6551. Not later than January 15, 1982, the National Railroad Passenger Corporation shall transmit to the Congress a report containing its recommendations for the development of rail corridors. Such report shall contain—

(1) recommendations for reducing the costs of service in the basic system by not less than $100,000,000 on an annual basis, including recommendations for reducing, discontinuing, and restructuring routes presently operated by the Corporation;

(2) an identification of those rail corridors which the Corporation would propose to develop, taking into consideration factors such as (A) the projected cost-effectiveness, energy efficiency, and ridership of rail corridors recommended for development, (B) the need to preserve regional balance in rail passenger service, (C) the share of intercity passengers that data projects would be attracted by rail corridor service, and (D) the willingness of private sector interests or State and local governments, or both, to contribute to the development of rail corridors;

(3) a timetable for the period beginning January 1, 1982, and ending September 30, 1985, for the development of rail corridors, including schedules for (A) the negotiation of agreements with the rail carriers, private interests, and State and local governments, (B) the acquisition of equipment, (C) the improvement of fixed facilities, and (D) the implementation of service; and

(4) a financial plan for the funding of rail corridor development during the period covered by the timetable described in paragraph (3).

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 6552. (a) Section 301 of the Rail Passenger Service Act (45 U.S.C. 531) is amended by inserting "and commuter" immediately after "intercity" each place it appears.

(b) Section 305(a) of the Rail Passenger Service Act (45 U.S.C. 535(a)) is amended by inserting "and commuter" immediately after "intercity" each place it appears.

(c) Section 402(e)(1) of the Rail Passenger Service Act (45 U.S.C. 562(e)(1)) is amended by inserting "or commuter" immediately after "intercity".

(d) Section 405 of the Rail Passenger Service Act (45 U.S.C. 565) is amended by adding at the end thereof the following new subsection:

"(g) The provisions of subsections (a), (b), and (c) of this section shall not apply to Amtrak commuter.".

(e) Section 702 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 852), and the item relating to such section in the table of contents of such Act, are repealed.

EFFECTIVE DATE

SEC. 6553. The provisions of and amendments made by this subchapter shall take effect on October 1, 1981.

Subchapter I—Railroad Retirement

PART I—RAILROAD RETIREMENT ACT AMENDMENTS

SEC. 6601. (a) The last sentence of section 1(f)(1) of the Railroad Retirement Act of 1974 is amended to read as follows: "Ultimate fractions shall be taken at their actual value.".

(b) Section 1(o) of the Railroad Retirement Act of 1974 is amended—

(1) by inserting "the National Transportation Safety Board," after "the National Mediation Board,"; and

(2) by inserting after the first sentence the following sentence: "For purposes of section 2(b) and section 2(d) only, an individual shall be deemed also to have 'a current connection with the railroad industry' if, after having completed twenty-five years of service, such individual involuntarily and without fault ceased rendering service as an employee under this Act and did not thereafter decline an offer of employment in the same class or craft as the individual's most recent employee service.".

SEC. 6602. (a) Section 2(b) of the Railroad Retirement Act of 1974 is amended—

(1) by striking out "(1) An individual" and inserting in lieu thereof "An individual";

(2) by striking out "in subdivision (2) of this subsection and" from such redesignated subdivision (b);

(3) by striking out subdivision (2); and

(4) by striking out subdivision (3).

(b) Section 2(c) of the Railroad Retirement Act of 1974 is amended—

(1) by inserting "or a divorced wife who would be entitled to an annuity under subdivision (4)" after "under subdivision (1)" in subdivision (2);

(2) by striking out "1/180" and inserting in lieu thereof "1/144" in subdivision (2);

(3) by striking out "spouse" the second place it appears in subdivision (2) and adding in lieu thereof "spouse or divorced wife"; and

(4) by adding at the end thereof the following new subdivision (4):

"(4) The 'divorced wife' (as defined in section 216(d) of the Social Security Act) of an individual, if—

"(i) such individual (A) is entitled to an annuity under subsection (a)(1) and (B) has attained the age 62; and

"(ii) such divorced wife (A) has attained the age of 65 and (B) is not married

shall, subject to the conditions set forth in subsections (e), (f), and (h), be entitled to a divorced wife's annuity, if she has filed an application therefor, in an amount under section 4 of this Act.".

(c) Section 2(d) of the Railroad Retirement Act of 1974 is amended—

(1) by striking out "and" at the end of subdivision (1)(iii);

(2) by striking out the period at the end of subdivision (1)(iv) and inserting in lieu thereof "; and"; and

(3) by adding at the end of subdivision (1) the following new paragraph:

"(v) The widow (as defined in section 216(c) of the Social Security Act), who is married, or has been married after the death of the employee, the surviving divorced wife (as defined in section 216(d) of the Social Security Act), and a surviving divorced mother (as defined in section 216(d) of the Social Security Act) if such widow, surviving divorced wife, or surviving divorced mother would have been entitled to a benefit under section 202(e) or 202(g) of the Social Security Act as the widow, surviving divorced wife, or surviving divorced mother of the employee if all of his service as an employee after December 31, 1936, had been included in the term 'employment' as defined in that Act. For the purpose of this paragraph, the reference in section 202(e)(3) and 202(g)(3) of the Social Security Act to an individual entitled under section 202(f) of that Act shall include an individual entitled to an annuity under section 2(d)(1)(i) of this Act and an individual entitled to an annuity under section 2(d)(1)(ii) of this Act, and the reference in section 202(e)(3) and section 202(g)(3) of the Social Security Act to an individual entitled under section 202(d) of that Act shall include an individual entitled to an annuity under section 2(d)(1)(iii) of this Act, and the references in section 202(g)(3) of the Social Security Act to an individual entitled under section 202(a), section 202(h), and section 223(a) of that Act shall include an individual entitled to an annuity under section 2(a)(1) or 2(d)(1)(iv) of this Act.".

(d) Section 2(e)(5) of the Railroad Retirement Act of 1974 is amended by striking out "spouse" each place it appears and inserting in lieu thereof "spouse or divorced wife".

(e) Section 2(f)(2) of the Railroad Retirement Act of 1974 is amended by inserting "or divorced wife's" after "spouse's" each place (other than the second place) it appears.

(f) Section 2(h) of the Railroad Retirement Act of 1974 is amended—

(1) by striking out "spouse" in subdivision (1) and inserting in lieu thereof "spouse or divorced wife", and

(2) by striking out "spouse" the first place it appears in subdivision (3) and inserting in lieu thereof "spouse or divorced wife".

SEC. 6603. (a) Subsection (b) of section 3 of the Railroad Retirement Act of 1974 is amended to read as follows:

"(b)(1) The amount of the annuity of an individual provided under subsection (a) shall be increased by an amount equal to seven-tenths of 1 per centum of the product which is obtained by multiplying such individual's 'years of service' by his 'average monthly compensation' as determined under this subsection. The annuity amount payable to the individual under this subsection shall be reduced by 25 per centum of the annuity amount to which such individual is entitled under subsection (h)(1) or (h)(2) of this section. An individual's 'average monthly compensation' for purposes of this subsection shall be the quotient obtained by dividing by 60 such individual's total compensation for the 60 months, consecutive or otherwise, during which such individual received that individual's highest monthly compensation, except that no part of any month's compensation in excess of the maximum amount creditable for any individual for such month under subsection (j) of this section shall be recognized. In determining the months of compensation to be used for purposes of this subsection, the total compensation reported for the individual under section 9 of this Act or credited to such individual under section 3(j) of this Act for a year divided by the number of months of service credited to such individual under subsection (i) of this section with respect to such year shall be considered the monthly compensation of the individual for each month of service in any year for which records of the Board do not show the amount of compensation paid to the individual on a monthly basis. If the 'average monthly compensation' computed under this subsection is not a multiple of $1, it shall be rounded to the next lower multiple of $1.

"(2) For purposes of subdivision (1) of this subsection, in determining 'average monthly compensation' for an individual who has not engaged in employment for an employer in the 60-month period preceding the month in which such individual's annuity began to accrue, and whose major employment during such 60-month period was for a United States department or agency named in section 1(o) of this Act, the amount of

compensation used with respect to each month used in making such determination shall be the product of—

"(i) the compensation credited to such individual for such month under paragraph (1) of this subsection; and

"(ii) the quotient obtained by dividing—

"(I) the average of total wages (as determined under section 215(b)(3)(A)(ii)(I) of the Social Security Act) for the second calendar year preceding the earliest of the year of the individual's death or the year in which an annuity begins to accrue to such individual (disregarding an annuity based on disability which is terminated because such individual has recovered from such disability if such individual engages in any regular employment after such termination); by

"(II) the average of total wages (as determined under section 215(b)(3)(A)(ii)(II) of the Social Security Act) for the calendar year during which such month occurred.

In no event shall 'average monthly compensation' determined for an individual under this subdivision exceed the maximum 'average monthly compensation' which can be determined under subdivision (1) of this subsection for any person retiring January 1 of the year in which such individual's annuity began to accrue.".

(b) Subsections (c) and (d) of section 3 of the Railroad Retirement Act of 1974 are repealed.

(c) Section 3(f)(1) is amended by striking out "subsections (b), (c), and (d)" each place it appears and inserting in lieu thereof "subsection (b)".

(d) Subsection (g) of section 3 of the Railroad Retirement Act of 1974 is amended to read as follows:

"(g) Effective with the month of June for any year after 1981, that portion of the annuity of an individual which is computed under subsection (b) of this section shall, if such individual's annuity under section 2(a)(1) of this Act began to accrue on or before June 1 of such year, be increased by 32.5 per centum of the percentage increase, if any (rounded to the nearest one-tenth of 1 per centum), obtained by comparing (A) the unadjusted Consumer Price Index for the calendar quarter ending March 31 of such year with (B) the higher of (i) such index for the calendar quarter ending March 31 of the year immediately preceding such year or (ii) such index for the calendar quarter ending March 31 of any preceding year after 1980. The unadjusted Consumer Price Index for any calendar quarter shall be the arithmetical mean of such index for the three months in such quarter.".

(e) Section 3(h) of the Railroad Retirement Act of 1974 is amended—

(1) by striking out "subsections (a) through (d)" each place it appears and inserting in lieu thereof "subsections (a) and (b)", and

(2) by inserting after "individual" where it first appears in section 3(h)(3) the following: "whose annuity was first awarded before January 1, 1987, and";

(3) by inserting after "individual" where it first appears in section 3(h)(4) the following: "whose annuity was awarded before January 1, 1987, and",

(4) by striking out all after, "January 1, 1975," in section 3(h)(5) and inserting in lieu thereof "to the earlier of the date on which the individual's annuity under section 2(a)(1) of this Act began to accrue or January 1, 1982.", and

(5) by adding at the end thereof the following new subdivision:

"(6) Notwithstanding any other provision of law, no amount shall be payable under subdivision (3) or (4) of this subsection to any individual who does not meet the requirements for a wife's, husband's, widow's, or widower's benefit under the Social Security Act as it was in effect and being administered on December 31, 1974, unless such amount was awarded prior to June 1, 1981.".

(f) Subsection (j) of section 3 of the Railroad Retirement Act is amended

(1) by striking out "the average compensation paid to an employee with respect to calendar months included in his 'years of service' " the first place it appears in the first sentence thereof and inserting in lieu thereof the following: "computed in the manner specified in section 3(b) of this Act"; and

(2) by striking out "If the 'average monthly compensation' computed under this subsection is not a multiple of $1, it shall be rounded to the next lower multiple $1.".

(g) Subsection (l) of section 3 of the Railroad Retirement Act of 1974 is amended to read as follows:

"(l) In cases where an annuity awarded under paragraph (iii) of section 2(a)(1) or under section 2(c)(2) of this Act is increased or decreased either by a change in the law or by a recomputation, the reduction on account of age in the amount of such increase shall be computed as though such increased annuity amount had been in effect for and after the month in which the annuitant first became entitled to such annuity under section 2(a)(1)(iii) or section 2(c)(2), except that, the percentage reduction in the amount of any such increase which becomes payable to an individual who was entitled to an annuity prior to January 1982 shall be equal to the percentage reduction on account of age in the total annuity amount which accrued to such individual for the month of December 1981 under section 2(a)(1)(iii) or section 2(c)(2).".

(h) Section 3(m) of the Railroad Retirement Act of 1974 is amended by inserting ", after any reduction pursuant to paragraph (iii) of section 2(a)(1)," after "shall".

SEC. 6604. (a) Section 4(a)(1) of the Railroad Retirement Act of 1974 is amended by striking out "spouse" each place it appears and inserting in lieu thereof "spouse or divorced wife".

(b) Section 4(b) of the Railroad Retirement Act of 1974 is amended—

(1) by striking out "subsections (b), (c) and (d)" and inserting in lieu thereof "subsection (b)",

(2) by striking out "50" and inserting in lieu thereof "45", and

(3) by striking out of the first sentence all after "was reduced by reason of the provisions of subsection (i)(2) of this section" and inserting in lieu thereof a period.

(c) Section 4(e) of the Railroad Retirement Act of 1974 is amended—

(1) by striking out all after "January 1, 1975," in section 4(e)(4) and inserting in lieu thereof "to the earlier of the date on which the individual's annuity under section 2(a)(1) of this Act began to accrue or January 1, 1982."; and

(2) by adding at the end thereof the following new subdivisions:

"(5) Notwithstanding any other provision of law, no amount shall be payable under subdivision (1), (2), or (3) of this subsection to a spouse who does not meet the requirements for a wife's or husband's benefit under the Social Security Act as it was in effect and being administered on December 31, 1974 unless such amount was awarded prior to June 1, 1981.

"(6) Notwithstanding any other provision of law, no amount shall be payable under subdivision (1), (2), or (3) of this subsection unless the annuity to which such amount would be added were awarded prior to January 1, 1987.".

(d) Section 4(f)(2) of the Railroad Retirement Act of 1974 is amended—

(1) by striking out "and" at the end of paragraph (i);

(2) striking out the period at the end of paragraph (ii) and inserting in lieu thereof ", and"; and

(3) by adding at the end thereof the following new paragraph:

"(iii) The provisions of paragraphs (i) and (ii) of this subdivision shall not apply to the annuity of a widow, surviving divorced wife, or surviving divorced mother who is entitled to such annuity on the basis of the provisions of section 2(d)(1)(v) of this Act.".

(e) Section 4(g) of the Railroad Retirement Act of 1974 is amended to read as follows:

"(g)(1) The amount of the annuity provided under subsection (f) for a survivor of a deceased individual shall, with respect to any month, be increased by an amount equal to one of the following percentages of that portion of the annuity computed under section 3(b) of this Act, before any reduction on account of age, to which such deceased individual would have been entitled for such month if such individual were living (deeming for this purpose that if such individual died before becoming entitled to an annuity under section 2(a)(1) of this Act, such individual became entitled to an annuity under subdivision (i) of such section 2(a)(1) in the month in which such individual died):

"(i) In the case of a widow or widower, the increase shall be equal to 50 per centum of such portion of the deceased individual's annuity, but the amount of the annuity so determined shall be subject to reduction on account of age in the same manner as is applicable to the annuity amount determined for the widow or widower under subsection (f) and shall be subject to increase as provided in paragraph (4) of this subsection.

"(ii) In the case of a parent, the increase shall be equal to 35 per centum of such portion of the deceased individual's annuity.

"(iii) In the case of a child, the increase shall be equal to 15 per centum of such portion of the deceased individual's annuity.

"(2) Whenever the total amount of the increases based on the deceased individual's portion of the annuity under section 3(b) of this Act as determined under the preceding provisions of this subsection for all survivors of a deceased employee is—

"(i) less than an amount equal to 35 per centum of such portion of the deceased individual's annuity, the total increase shall, before any deductions under section 2(g) of this Act, be increased proportionately until the total increase is equal to 35 per centum of such portion of the deceased individual's annuity; or

"(ii) more than an amount equal to 80 per centum of such portion of the deceased individual's annuity, the total increase shall, before any deductions under section 2(g) of this Act and before any reduction on account of age, be reduced proportionately until the total increase is equal to 80 per centum of such portion of the deceased individual's annuity.

"(3) An annuity determined under the provisions of this subsection for a month prior to the month in which application is filed, shall be reduced to any extent that

may be necessary so that it will not render erroneous any annuity which, before the filing of such application, the Board has certified for payment for such prior month.

"(4) If a widow or widower of a deceased employee is entitled to an annuity under section 2(a)(1) of this Act and if either such widow or widower or such deceased employee will have completed 10 years of service prior to January 1, 1975, the amount of the annuity of such widow or widower under the preceding provisions of this subsection shall be increased by an amount equal to the amount, if any, by which (A) the widow's or widower's insurance annuity to which such widow or widower would have been entitled, upon attaining age 65, under section 5(a) of the Railroad Retirement Act of 1937 as in effect on December 31, 1974 (without regard to the proviso of that section or the first proviso of section 3(e) of that Act) on the basis of the deceased employee's remuneration and service prior to January 1, 1975, increased by the same percentage, or percentages, as widow's and widower's insurance benefits under section 202 of the Social Security Act are increased during the period from January 1, 1975, to the later of the date on which such widow's or widower's annuity under section 2(a)(1) of this Act began to accrue or the date on which such widow's or widower's annuity under sections 2(d)(1) of this Act began to accrue, exceeds (B) the total of the annuity amounts to which such widow or widower was entitled (after any reductions pursuant to subsection (i)(2) of this section but before any deductions on account of work) under the preceding provisions of this subsection and subsection (f) of this section as of the later of the date on which such widow's or widower's annuity under section 2(a)(1) of this Act began to accrue or the date on which such widow's or widower's annuity under section 2(d)(1) of this Act began to accrue: *Provided further,* That, if a widow or widower of a deceased employee is not entitled to an annuity under section 2(a)(1) of this Act or to an old-age insurance benefit or a disability insurance benefit under the Social Security Act, the amount of the annuity to which such widow or widower is entitled under this subsection shall not be less than an amount which would cause the total of the annuity amounts to which such widow or widower is entitled (before any deductions on account of work) under this subsection and subsection (f) of this section to equal the total of the annuity amounts to which such widow or widower was entitled (or would have been entitled except for the provisions of sections 2(e) and 2(f) of this Act) as a spouse under subsections (a), (b), and (e)(3) of this section (after any reduction on account of age) in the month preceding the employee's death: *Provided further,* That, if a widow or widower of a deceased employee is entitled to an annuity under section 2(a)(1) of this Act or to an old-age insurance benefit or a disability insurance benefit under the Social Security Act, the amount of the annuity to which such widow or widower is entitled under this subsection shall not be less than an amount which would cause (A) the total of the annuity amounts to which such widow or widower is entitled (after any reductions pursuant to section 202(k) or 202(q) of the Social Security Act or subsection (i)(2) of this section but before any deductions on account of work) under this subsection and subsection (f) of this section to equal (B)(i) the total of the annuity amounts, if any, to which such widow or widower was entitled (or would have been entitled except for the provisions of sections 2(e) and 2(f) of this Act) as a spouse under subsections (a), (b), and (e)(3) of this section (after any reduction on account of age) in the month preceding the employee's death less (ii), if such widow or widower is entitled to an old-age insurance benefit or a disability insurance benefit under the Social Security Act but was not entitled to such a benefit in the month preceding the employee's death, the amount by which the annuity amount payable under subsection (a) of this section to such widow or widower as a spouse in the month preceding the employee's death would have been reduced by reason of section 202(k) or 202(q) of the Social Security Act if such widow or widower had been entitled to an old-age insurance benefit or a disability insurance benefit under the Social Security Act in the month preceding the employee's death in an amount equal to the amount of such benefit at the time such benefit first began to accrue to such widow or widower.

"(5) This subsection shall not apply to the annuity of a widow, surviving divorced wife, or surviving divorced mother who is entitled to such annuity on the basis of the provisions of section 2(d)(1)(v) of this Act.".

(f) Section 4(h) of the Railroad Retirement Act is amended—

(1) by inserting "(1)" after "(h)", and

(2) by striking out the period at the end and inserting in lieu thereof the following: ", but, notwithstanding any other provision of law, no amount shall be paid under this subsection to a widow or widower who does not meet the requirements for a widow's or widower's benefit under the Social Security Act as it was in effect and being administered on December 31, 1974, unless such amount was awarded prior to June 1, 1981. Notwithstanding any other provision of law, no amount shall be payable under this subsection unless the annuity to which such amount would be added were awarded prior to January 1, 1987."; and

(3) by adding at the end the following new subdivision:

"(2) Subdivision (1) of this subsection shall not apply to the annuity of a widow, surviving divorced wife, or surviving divorced mother who is entitled to such annuity on the basis of the provisions of section 2(d)(1)(v) of this Act.".

(g) Section 4(i) of the Railroad Retirement Act of 1974 is amended—

(1) by striking out "spouse" each place it appears in subdivision (1) and subdivision (2) and inserting in lieu thereof "spouse or divorced wife", and

(2) by inserting ", after a reduction pursuant to section 2(c)(2)" after "shall" in subdivision (1).

SEC. 6605. Section 5(c)(3) of the Railroad Retirement Act of 1974 is amended by adding at the end thereof the following new sentence: "The entitlement of the divorced wife of an individual to an annuity under section 2(c) shall end on the last day of the month preceding the month in which (A) the divorced wife or the individual dies or (B) the divorced wife remarries.".

SEC. 6606. (a) Section 6(a)(3) of the Railroad Retirement Act of 1974 is amended by striking out "spouse" each place it appears and inserting in lieu thereof "spouse or divorced wife".

(b) Section 6(b)(2) of the Railroad Retirement Act of 1974 is amended by inserting "surviving divorced wife," after "widow," the first place it appears.

(c) Section 6(c) of the Railroad Retirement Act of 1974 is amended—

(1) by inserting "surviving divorced wife," after "widow," the first place it appears in subdivision (1), and

(2) by striking out "spouse" the first place it appears in subdivision (2) and inserting in lieu thereof "spouse or divorced wife".

SEC. 6607. (a) Section 7(b)(2)(B) of the Railroad Retirement Act of 1974 is amended by striking out "wife" and inserting in lieu thereof "wife or divorced wife".

(b) Section 7(d)(2) of the Railroad Retirement Act of 1974 is amended by striking out "spouse" and inserting in lieu thereof "spouse or divorced wife".

SEC. 6608. Section 7(c) of the Railroad Retirement Act of 1974 is amended by striking out the period at the end of subdivision (1) and by inserting in lieu thereof the following: ", and payments of annuity amounts made pursuant to provisions of sections 3(h), 4(e), and 4(h) of this Act and pursuant to the provisions of sections 204(a)(3), 204(a)(4), 206(3), and 207(3) of Public Law 93-445 shall be made from the Dual Benefits Payments Account. The Board shall have the authority to prescribe regulations for allocation of annuity amounts which would without regard to such regulations be payable under sections 3(h), 4(e), and 4(h) of this Act and sections 204(a)(3), 204(a)(4), 206(3), and 207(3) of Public Law 93-445 so that each annual appropriation to the Dual Benefits Payments Account, so far as practicable, is expended in equal monthly installments throughout the fiscal year for which such appropriation is made, and is distributed so that recipients are paid annuity amounts which bear the same ratio to the annuity amounts such recipients would have received but for such regulations as the ratio of the total sums appropriated to pay such annuity amounts bears to the total sums necessary to pay such annuity amounts without regard to such regulations.".

SEC. 6609. (a) Section 15(d) of the Railroad Retirement Act of 1974 is amended by striking out the first two sentences and inserting in lieu thereof the following: "There is hereby created an account in the Treasury of the United States to be known as the Dual Benefits Payments Account. There is hereby authorized to be appropriated to such account for each fiscal year beginning with the fiscal year ending September 30, 1982, such sums as are necessary to pay during such fiscal year the amounts of annuities estimated by the Board to be paid pursuant to the provisions of sections 3(h), 4(e), and 4(h) of this Act and pursuant to the provisions of sections 204(a)(3), 204(a)(4), 206(3), and 207(3) of Public Law 93-445. Not more than 30 days prior to each fiscal year beginning with the fiscal year ending September 30, 1982, the Board may request the Secretary of the Treasury to transfer from the Railroad Retirement Account to the credit of the Dual Benefits Payments Account any amount not exceeding the amount which the Board has determined will be the amount of the appropriation to be made to the Dual Benefits Payments Account under the applicable Public Law making such appropriation for such fiscal year, and the Secretary of the Treasury shall make such transfer. Not more than 10 days after the funds appropriated to the Dual Benefits Payments Account for each such fiscal year are received into such Account, the Board shall request the Secretary of the Treasury to retransfer from the Dual Benefits Payments Account to the credit of the Railroad Retirement Account an amount equal to the amount transferred

to the Dual Benefits Payments Account prior to such fiscal year under the preceding sentence, together with such additional amount determined by the Board to be equal to the loss of interest to the Railroad Retirement Account resulting from such transfer, and the Secretary of the Treasury shall make such retransfer.".

(b) Section 15(e) of the Railroad Retirement Act of 1974 is amended by inserting ", the Dual Benefits Payments Account" after "Railroad Retirement Account" in the first sentence thereof.

(c) Section 15(g) of the Railroad Retirement Act of 1974 is amended by striking out the period at the end of the first sentence and inserting in lieu thereof the following: ", and the Dual Benefits Payments Account.".

SEC. 6610. Section 18(2) of the Railroad Retirement Act of 1974 is amended by inserting "and section 216(i)" immediately after "203".

PART II—EFFECTIVE DATES

SEC. 6641. (a) Except as otherwise provided in this section, the amendments made by this subchapter shall take effect October 1, 1981, and shall apply only with respect to annuities based on awards made on or after that date.

(b)(1) The amendment made by section 6601(a) of this Act shall take effect October 1, 1981, except that the years of service of an individual shall not be considered less after enactment of this Act than such individual had during the month of September 1981.

(2) The amendment made by section 6601(b)(1) and section 6610 of this Act shall take effect January 1, 1975. The amendment made by section 6601(b)(2) of this Act shall take effect October 1, 1981, and shall apply only with respect to individuals who did not die before that date.

(c) The amendment made by section 6602(a) of this Act shall take effect October 1, 1981, and shall apply only with respect to individuals whose supplemental annuity closing date under section 2(b) of the Railroad Retirement Act of 1974 before the effective date of the amendment to such section by this Act did not occur before October 1, 1981.

(d)(1) The amendments made by sections 6603(e)(5), 6604(c)(2), 6604(f)(1), and 6604(f)(2) of this Act shall take effect June 1, 1981, but if any of the provisions added to the Railroad Retirement Act of 1974 by such sections of this Act are held invalid as to any person or circumstance, then in lieu of the provision so held invalid, the following provision shall apply: No amounts under the provision to which applies the limitation which this sentence replaces shall be paid to a person who was not awarded before June 1, 1981, an amount under the provisions to which such limitation applies.

(2) The amendments made by sections 6603(d) and 6603(g) of this Act shall apply with respect to annuity increases which become effective on or after October 1, 1981.

(e) Section 4(g) as amended by this Act (except subdivision (5) of such section 4(g)) shall take effect October 1, 1981, with respect to awards made on or after that date in cases in which the employee did not begin receiving an annuity under section 2(a)(1) of the Railroad Retirement Act of 1974 before October 1, 1981, and did not die before such date. In all other awards made on or after October 1, 1981, for purposes of determining the initial annuity amount only, the provisions of section 4(g) of the Railroad Retirement Act of 1974, as in effect before amendment by this Act, shall be applicable. Annuities in cases in which the determination of the initial annuity amount was made under the preceding sentence, and annuities amounts awarded under section 4(g) of the Railroad Retirement Act of 1974 prior to amendment by this Act, shall not be automatically increased, after September 30, 1981, as a result on any increase in social security benefits made pursuant to section 215(i) of the Social Security Act, but such annuity amounts shall be increased by the same percentage, or percentages, as an employee's annuity amount payable under section 3(b) of the Railroad Retirement Act of 1974 is increased pursuant to section 3(g) of the Railroad Retirement Act of 1974 on or after October 1, 1981. Section 4(g)(5) of the Railroad Retirement Act of 1974, as amended by this Act, shall take effect on October 1, 1981.

(f) The amendments made by sections 6608 and 6609 of this Act shall take effect October 1, 1981.

CHAPTER 2—SAVINGS UNDER MISCELLANEOUS LAWS

Subchapter A—Noise Control

CHANGES IN ACT

SEC. 6651. The Noise Control Act of 1972 is amended as follows:

(1) Section 1 is amended to read as follows:

"SHORT TITLE

"SECTION 1. This Act may be cited as the 'Quiet Communities Act'.".

(2) Section 2(a)(3) is amended by striking out "deal with major noise sources" and all that follows down through the period at the end thereof and substituting: "assure uniform treatment of certain carriers engaged in interstate commerce and certain transportation equipment distributed in interstate commerce which are major noise sources.".

(3) Section 2(b) is amended by striking out "for products distributed in commerce," and substituting: "for certain carriers engaged in interstate commerce and certain transportation equipment distributed in interstate commerce.".

(4) Section 3(5) is amended by striking out "or section 8".

(5) Section 5(b) is amended by inserting "are referred to in section 6(a)(1) and which" after "which".

(6)(A) Section 6(a)(1)(C) is amended by striking out clauses (i) and (iv), by redesignating clauses (ii) and (iii) as (i) and (ii) respectively, and by inserting the following before the period at the end of clause (ii), as so redesignated: "designed for use in transportation equipment".

(B) Section 6(a)(1) is amended by adding the following at the end thereof: "Such regulations shall not apply to the products to which subpart F of part 205 of title 40 of the Code of Federal Regulations (as promulgated before the date of the enactment of this sentence) applies."

(C) Except as provided in subparagraph (B), any rule or regulation under section 6 of the Noise Control Act of 1972 which was promulgated in final form before the date of the enactment of this Act and which is applicable to products referred to in section 6(a)(1) of that Act, as amended by this subsection, shall remain in force and effect after the date of the enactment of this Act until such time as the rule or regulation is amended or otherwise modified under such section 6, as amended by this Act. Nothing in this subparagaph shall be construed to validate any otherwise invalid rule or regulation under such section 6 which was promulgated in final form before the date of the enactment of this Act, and nothing in this subparagraph shall be construed to provide that any unlawful aspect of such rule or regulation shall be treated as lawful.

(7) Section 8 is repealed.

(8) Section 10 is amended by striking out paragraphs (3) and (4).

(9) Section 10(b) is amended by striking out "(3)," in paragraph (1) and by striking out "(1), (2), (3), and (4)" in paragraph (2) and substituting "(1) and (2)".

(10) Section 11(a) is amended by striking out "(3)," in each place it appears.

(11) Section 11(a)(2) is amended by inserting the following after "$10,000": "(reduced by the amount of any penalty imposed under subsection (f))".

(12) Section 11 is amended by adding the following at the end thereof:

"(f) The Attorney General of any State may bring a civil action, in the name of such State, in the appropriate district court of the United States to impose a civil penalty against any person who violates any provision of section 10. In any such action the court may impose a civil penalty of not more than $10,000 per day of such violation (reduced by the amount of any penalty imposed under subsection (a)(2)). The provisions of section 12(b) shall apply for purposes of actions brought under this subsection in the same manner as such provisions apply for purposes of section 12.".

(13) Section 12 is amended—

(A) by striking out "(e)" in subsection (a)(1) and substituting "(f)"; and

(B) by striking out "(3), (4)," in subsection (f).

(14) Section 13(a) is amended by striking out "or section 8".

(15) Section 14(b)(2) is amended by striking out "under sections 6, 7, and 8 of this Act" and substituting "under section 6 or 7 of this Act."

(16) Section 16(a) is amended by striking out "or any labeling regulation under section 8 of this Act".

AUTHORIZATIONS

SEC. 6652. Section 19 of the Noise Control Act of 1972 is amended by striking out "$15,000,000 for the fiscal year ending September 30, 1979" and substituting "$7,300,000 for each of the fiscal years 1982 and 1983".

Subchapter B—Toxic Substances Control

SEC. 6655. (a) The first sentence of section 28(d) of the Toxic Substances Control Act is amended to read as follows: "For the purpose of making grants under subsection (a), there are authorized to be appropriated $1,500,000 for each of the fiscal years 1982 and 1983.".

(b) Section 29 of the Toxic Substances Control Act is amended by striking out "$10,100,000" and all that follows through "1979" and inserting in lieu thereof the following: "$62,000,000 for each of the fiscal years 1982 and 1983".

Subchapter C—Department of Commerce

SEC. 6660. (a) There are authorized to be appropriated to the Secretary of Commerce for expenses necessary for the general administration of the Department of Commerce not to exceed $28,407,000 for fiscal year 1982, $28,958,000 for fiscal year 1983, and $29,491,000 for fiscal year 1984.

(b) Not more than $400,000 of the moneys authorized to be appropriated to the Secretary of Commerce under subsection (a) may

be expended for travel and transportation in any fiscal year.

(c) Not more than $13,000 of the moneys authorized to be appropriated to the Secretary of Commerce under subsection (a) may be expended for the printing and reproduction of press releases in any fiscal year.

(d) No moneys authorized to be appropriated to the Secretary of Commerce under subsection (a) may be expended for the operation of dining and cooking facilities within the Office of the Secretary of Commerce.

TITLE VII—HOUSE COMMITTEE ON FOREIGN AFFAIRS

FISCAL YEAR 1982

SEC. 7001. In order to reduce appropriations for the fiscal year 1982 for programs authorized by the Committee on Foreign Affairs of the House of Representatives so as to achieve savings of $250,000,000 in budget authority and $130,000,000 in outlays, the following ceilings are hereby established:

(1) AMERICAN SCHOOLS AND HOSPITALS ABROAD: The amount authorized to be appropriated for the fiscal year 1982 to carry out section 214 of the Foreign Assistance Act of 1961 shall not exceed $20,000,000.

(2) INTERNATIONAL ORGANIZATIONS AND PROGRAMS: The amount authorized to be appropriated for the fiscal year 1982 under section 302(a)(1) of the Foreign Assistance Act of 1961 shall not exceed $255,650,000.

(3) INTERNATIONAL NARCOTICS CONTROL: The amount authorized to be appropriated for the fiscal year 1982 to carry out section 481 of the Foreign Assistance Act of 1961 shall not exceed $37,700,000.

(4) INTERNATIONAL DISASTER ASSISTANCE: The amount authorized to be appropriated for the fiscal year 1982 under section 492 of the Foreign Assistance Act of 1961 to carry out section 491 of that Act shall not exceed $27,000,000.

(5) AFRICAN DEVELOPMENT FOUNDATION: The amount made available for the fiscal year 1982 under section 510 of the International Security and Development Cooperation Act of 1980 to carry out title V of that Act shall not exceed $2,000,000.

(6) INTER-AMERICAN FOUNDATION: The amount authorized to be appropriated for the fiscal year 1982 to carry out section 401 of the Foreign Assistance Act of 1969 shall not exceed $12,000,000.

(7) PEACE CORPS: The amount authorized to be appropriated for the fiscal year 1982 under section 3(b) of the Peace Corps Act to carry out that Act shall not exceed $105,000,000.

(8) INTERNATIONAL ORGANIZATIONS AND CONFERENCES—ASSESSED CONTRIBUTIONS: The amount authorized to be appropriated for the fiscal year 1982 for assessed contributions to international organizations under "International Organizations and Conferences" shall not exceed $494,591,000.

(9) BOARD FOR INTERNATIONAL BROADCASTING: The amount authorized to be appropriated for the fiscal year 1982 under section 8(a)(1)(A) of the Board for International Broadcasting Act of 1973 to carry out that Act shall not exceed $98,317,000.

(10) INTERNATIONAL COMMUNICATION AGENCY—SALARIES AND EXPENSES: The amount authorized to be appropriated for the fiscal year 1982 for salaries and expenses for the International Communication Agency, excluding amounts authorized by section 704 of the United States Information and Educational Exchange Act of 1948 (relating to nondiscretionary personnel costs and currency fluctuations), shall not exceed $452,187,000.

(11) ARMS CONTROL AND DISARMAMENT AGENCY: The amount authorized to be appropriated for the fiscal year 1982 under section 49(a)(1) of the Arms Control and Disarmament Act to carry out the purposes of that Act (other than the amounts necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs, and to offset adverse fluctuations in foreign currency exchange rates) shall not exceed $18,268,000.

(12) PUBLIC LAW 480: The expenses not otherwise recoverable and unrecovered prior years' costs (including interest thereon) for the fiscal year 1982 under the Agricultural Trade Development and Assistance Act of 1954 shall not exceed $1,856,400,000.

FISCAL YEAR 1983

SEC. 7002. In order to reduce appropriations for the fiscal year 1983 for programs authorized by the Committee on Foreign Affairs of the House of Representatives so as to achieve savings of $275,000,000 in budget authority and $200,000,000 in outlays, the following ceilings are hereby established:

(1) AMERICAN SCHOOLS AND HOSPITALS ABROAD: The amount authorized to be appropriated for the fiscal year 1983 to carry out section 214 of the Foreign Assistance Act of 1961 shall not exceed $20,000,000.

(2) INTERNATIONAL ORGANIZATIONS AND PROGRAMS: The amount authorized to be appropriated for the fiscal year 1983 under section 302(a)(1) of the Foreign Assistance Act of 1961 shall not exceed $278,403,000.

(3) INTERNATIONAL NARCOTICS CONTROL: The amount authorized to be appropriated for the fiscal year 1983 to carry out section 481 of the Foreign Assistance Act of 1961 shall not exceed $41,055,000.

(4) INTERNATIONAL DISASTER ASSISTANCE: The amount authorized to be appropriated for the fiscal year 1983 under section 492 of the Foreign Assistance Act of 1961 to carry out section 491 of that Act shall not exceed $27,000,000.

(5) AFRICAN DEVELOPMENT FOUNDATION: The amount made available for the fiscal year 1983 under section 510 of the International Security and Development Cooperation Act of 1980 to carry out title V of that Act shall not exceed $2,178,000.

(6) PEACE CORPS: The amount authorized to be appropriated for the fiscal year 1983 under section 3(b) of the Peace Corps Act to carry out that Act shall not exceed $114,345,000.

(7) INTERNATIONAL ORGANIZATIONS AND CONFERENCES—ASSESSED CONTRIBUTIONS: The amount authorized to be appropriated for the fiscal year 1983 for assessed contributions to international organizations under "International Organizations and Conferences" shall not exceed $491,159,000.

(8) BOARD FOR INTERNATIONAL BROADCASTING: The amount authorized to be appropriated for the fiscal year 1983 under section 8(a)(1)(A) of the Board for International Broadcasting Act of 1973 to carry out that Act shall not exceed $115,031,000.

(9) ARMS CONTROL AND DISARMAMENT AGENCY: The amount authorized to be appropriated for the fiscal year 1983 under section 49(a) of the Arms Control and Disarmament Act to carry out the purposes of that Act shall not exceed $19,893,852.

(10) PUBLIC LAW 480: The expenses not otherwise recoverable and unrecovered prior years' costs (including interest thereon) for the fiscal year 1983 under the Agricultural Trade Development and Assistance Act of 1954 shall not exceed $1,949,000,000.

FISCAL YEAR 1984

SEC. 7003. In order to reduce appropriations for the fiscal year 1984 for programs authorized by the Committee on Foreign Affairs of the House of Representatives so as to achieve savings of $300,000,000 in budget authority and $300,000,000 in outlays, the following ceilings are hereby established:

(1) AMERICAN SCHOOLS AND HOSPITALS ABROAD: The amount authorized to be appropriated for the fiscal year 1984 to carry out section 214 of the Foreign Assistance Act of 1961 shall not exceed $20,000,000.

(2) INTERNATIONAL ORGANIZATIONS AND PROGRAMS: The amount authorized to be appropriated for the fiscal year 1984 under section 302(a)(1) of the Foreign Assistance Act of 1961 shall not exceed $295,831,000.

(3) INTERNATIONAL NARCOTICS CONTROL: The amount authorized to be appropriated for the fiscal year 1984 to carry out section 481 of the Foreign Assistance Act of 1961 shall not exceed $43,625,000.

(4) INTERNATIONAL DISASTER ASSISTANCE: The amount authorized to be appropriated for the fiscal year 1984 under section 492 of the Foreign Assistance Act of 1961 to carry out section 491 of that Act shall not exceed $27,000,000.

(5) AFRICAN DEVELOPMENT FOUNDATION: The amount made available for the fiscal year 1984 under section 510 of the International Security and Development Cooperation Act of 1980 to carry out title V of that Act shall not exceed $2,314,000.

(6) PEACE CORPS: The amount authorized to be appropriated for the fiscal year 1984 under section 3(b) of the Peace Corps Act to carry out that Act shall not exceed $121,507,000.

(7) INTERNATIONAL ORGANIZATIONS AND CONFERENCES—ASSESSED CONTRIBUTIONS: The amount authorized to be appropriated for the fiscal year 1984 for assessed contributions to international organizations under "International Organizations and Conferences" shall not exceed $493,100,000.

(8) BOARD FOR INTERNATIONAL BROADCASTING: The amount authorized to be appropriated for the fiscal year 1984 under section 8(a)(1)(A) of the Board for International Broadcasting Act of 1973 to carry out that Act shall not exceed $122,232,000.

(9) PUBLIC LAW 480: The expenses not otherwise recoverable and unrecovered prior years' costs (including interest thereon) for the fiscal year 1984 under the Agricultural Trade Development and Assistance Act of 1954 shall not exceed $2,071,600,000.

TITLE VIII—HOUSE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Fiscal Years 1982, 1983, and 1984

SEC. 8001. Notwithstanding any other provision of law, there shall not be appropriated for programs of the Advisory Council on Historic Preservation in excess of $1,865,000 for the fiscal year ending on September 30, 1982, in excess of $1,920,000 for the fiscal year ending on September 30, 1983, or in excess of $2,000,000 for the fiscal year ending on September 30, 1984.

DEPARTMENT OF AGRICULTURE

Forest Service

Fiscal Years 1982, 1983, and 1984

SEC. 8002. Notwithstanding any other provision of law, there shall not be appropriated to the Secretary of Agriculture for

Forest Service programs wholly or partially within the jurisdiction of the House Committee on Interior and Insular Affairs in excess of $1,081,000 for the fiscal year ending on September 30, 1982, in excess of $1,399,000 for the fiscal year ending on September 30, 1983, or in excess of $1,487,000 for the fiscal year ending on September 30, 1984.

DEPARTMENT OF DEFENSE

Fiscal Years 1982, 1983, and 1984

SEC. 8003. Notwithstanding any other provision of law, there shall not be appropriated to the Secretary of Defense for special recreation user fees programs of the Corps of Engineers in excess of $5,200,000 for the fiscal year ending on September 30, 1982, in excess of $6,000,000 for the fiscal year ending on September 30, 1983, or in excess of $6,000,000 for the fiscal year ending September 30, 1984.

DEPARTMENT OF ENERGY

Fiscal Years 1982, 1983, and 1984

SEC. 8004. Notwithstanding any other provision of law, there shall not be appropriated to the Secretary of Energy for programs of the Department of Energy, except for the Power Marketing Administrations, wholly or partially within the jurisdiction of the House Committee on Interior and Insular Affairs in excess of $267,694,000 for the fiscal year ending on September 30, 1982, in excess of $272,559,000 for the fiscal year ending on September 30, 1983, or in excess of $241,393,000 for the fiscal year ending September 30, 1984: *Provided*, That the authorization for obligation and appropriations for the Department of Energy may exceed the amounts specified above to the extent receipts collected from sales of uranium enrichment services are obligated for said uranium enrichment: *Provided further*, That subsection v. of section 161 of the Atomic Energy Act of 1954, as amended, is amended—

(1) by striking out "Commission" each time it appears and inserting in lieu thereof "Secretary of Energy" or "Department of Energy", as appropriate;

(2) by striking out clause (iii) in the first proviso of such subsection and inserting in lieu thereof the following: "(iii) any prices established under this subsection shall be on such a basis as will assure the recovery of not less than the Government's costs over a reasonable period of time, and when combined with a percentage of such costs, will result in the recovery of revenues no greater than the sum of all Government costs and the normal and ordinary business expenses, taxes, and return on equity which would otherwise be reflected in the prices charged by a private operator providing similar services:", and

(3) by striking out the third proviso in such subsection and inserting in lieu thereof the following: ": *Provided*, That before the Secretary establishes such criteria, the Secretary shall transmit the proposed criteria to the appropriate committees of the Congress and allow a period of forty-five days to elapse (not including any day in which either House of Congress is not in session because of adjournment of more than 3 days), unless before the expiration of such period each such committee has transmitted to the Secretary written notice stating in substance that such committee has no objection to the proposed action".

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Fiscal Years 1982, 1983, and 1984

SEC. 8005. Notwithstanding any other provision of law, there shall not be appropriated to the Secretary of Health and Human Services for Indian Health Service programs in excess of $725,900,000 for the fiscal year ending on September 30, 1982, in excess of $781,881,000 for the fiscal year ending on September 30, 1983, or in excess of $853,919,900 for the fiscal year ending on September 30, 1984.

DEPARTMENT OF THE INTERIOR

Fiscal Years 1982, 1983, and 1984

SEC. 8006. (a) Notwithstanding any other provision of law, there shall not be appropriated to the Secretary of the Interior for Department of the Interior programs wholly or partially within the jurisdiction of the House Committee on Interior and Insular Affairs in excess of $5,081,909,000 for the fiscal year ending on September 30, 1982, in excess of $5,838,323,000 for the fiscal year ending on September 30, 1983, or in excess of $5,856,649,000 for the fiscal year ending on September 30, 1984: *Provided*, That such appropriations shall include not less than $275,000,000 to be appropriated annually for said fiscal years pursuant to the provisions of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897, as amended, 16 U.S.C. 460z): *Provided further*, That such appropriations shall include not less than $30,000,000 to be appropriated annually for said fiscal years pursuant to the provisions of the National Historic Preservation Act of 1966 (80 Stat. 915, as amended 16 U.S.C. 470): *Provided further*, That such appropriations shall include not less than $10,000,000 to be appropriated annually for said fiscal years pursuant to the provisions of the Urban Park and Recreation Recovery Act of 1978 (92 Stat. 3538, 16 U.S.C. 2501, et seq.): *Provided further*, That such appropriations shall include not less than $105,000,000 to be appropriated annually for said fiscal years to be used for the restoration and rehabilitation of units of the National Park System, as authorized by law: *Provided further*, That such appropriations shall include no less than the amounts recommended to the Committee on the Budget on March 15, 1981, by the Committee on Interior and Insular Affairs of the House of Representatives for the Office of Territorial and International Affairs (including the amounts for Trust Territory of the Pacific Islands): *Provided further*, That such appropriations shall include not less than $6,200,000 to be appropriated annually for said fiscal years to be used to carry out the provisions of title III of the Surface Mining Control and Reclamation Act of 1977 (91 Stat. 445): *Provided further*, That such appropriations shall include not less than $100,000,000 to be appropriated annually for said fiscal years pursuant to the Act of October 20, 1976 (90 Stat. 2662, as amended, 31 U.S.C. 1601, et seq.), said appropriations shall include not less than $5,000,000 annually to carry out the purposes of section 3 of said Act.

(b) Notwithstanding the limitation otherwise imposed by paragraph (a) of this section, (A) the authorization for obligation and appropriations for the Department of the Interior may exceed the amount specified in said paragraph (a) by such amount as permanent and annual indefinite appropriations exceed the estimates for such appropriations as contained in "The Budget of the United States Government, Fiscal Year 1982," as revised by the March 1981, publication of the Office of Management and Budget entitled "Fiscal Year 1982 Budget Revisions", when receipts available to be appropriated equal or exceed such appropriations, and (B) the authorization for obligation and appropriations for the Department of the Interior may exceed the amount specified in paragraph (a) by such amounts as may be required for emergency firefighting and for increased pay costs authorized by law.

(c)(1) Notwithstanding any other provision of law, effective October 1, 1981, all offers for noncompetitive oil and gas leases shall be accompanied by a filing fee of $25 for each application or offer. Such fees shall be retained as a service charge even though the application or offer may be rejected or withdrawn in whole or in part.

(2) Notwithstanding any other provision of law, the annual rental on all noncompetitive oil and gas leases issued or reissued on or after October 1, 1981, for lands which on the day on which the rental falls due lie wholly outside of the known geologic structure of a producing oil and gas field shall be $3 per acre or fraction thereof for each lease year, payable in advance, for a period of three years and shall be $5 per acre or fraction thereof for each lease year thereafter unless the lessee establishes, to the satisfaction of the Secretary, that he is, in fact, pursuing a program of diligent exploration in which case the Secretary shall reduce the annual rental to $3 per acre or fraction thereof for each lease year so long as the lessee continues to pursue a program of diligent exploration. All money received from such rentals shall be paid into the Treasury of the United States and $1 per acre or fraction thereof shall be paid by the Secretary of the Treasury as soon as practicable after March 31 and September 30 of each year to the State within the boundaries of which the leased lands are located.

(d) For the purposes of this section, the term "Department of the Interior programs wholly or partially within the jurisdiction of the House Committee on Interior and Insular Affairs" means—

Bureau of Indian Affairs other than Indian Education programs;

Bureau of Land Management programs;

Bureau of Mines, other than Minerals Health and Safety Technology in the Minerals Research programs;

Bureau of Reclamation;

National Park Service programs, other than the John F. Kennedy Center for the Performing Arts, including all programs formerly administered by the Heritage Conservation and Recreation Service as of October 1, 1980;

Office of Water Policy;

Office of the Solicitor;

Office of the Secretary, other than Youth Conservation Corps;

Office of Surface Mining Reclamation and Enforcement programs;

Office of Territorial and International Affairs programs;

Office of Water Research and Technology; and

United States Geological Survey.

NATIONAL BOARD ON WATER RESOURCES POLICY

SEC. 8007. Notwithstanding any other provision of law, there shall not be appropriated for programs of the National Board on Water Resources Policy in excess of $12,500,000 for the fiscal year ending on September 30, 1982, in excess of $12,500,000 for the fiscal year ending on September 30,

1983, or in excess of $12,500,000 for the fiscal year ending on September 30, 1984.

NAVAJO AND HOPI INDIAN RELOCATION COMMISSION

Fiscal Years 1982, 1983, and 1984

SEC. 8008. Notwithstanding any other provision of law, there shall not be appropriated for programs of the Navajo and Hopi Indian Relocation Commission in excess of $15,601,000 for the fiscal year ending on September 30, 1982, in excess of $25,315,000 for the fiscal year ending on September 30, 1983, or in excess of $27,960,000 for the fiscal year ending on September 30, 1984.

NUCLEAR REGULATORY COMMISSION

Fiscal Years 1982, 1983, and 1984

SEC. 8009. Notwithstanding any other provision of law, there shall not be appropriated for programs of the Nuclear Regulatory Commission in excess of $485,873,000 for the fiscal year ending on September 30, 1982, in excess of $513,100,000 for the fiscal year ending on September 30, 1983, or in excess of $544,900,000 for the fiscal year ending on September 30, 1984.

OFFICE OF FEDERAL INSPECTOR FOR ALASKA NATURAL GAS TRANSPORTATION SYSTEM

Fiscal Years 1982, 1983, and 1984

SEC. 8010. Notwithstanding any other provision of law, there shall not be appropriated for programs of the Office of Federal Inspector for Alaska Natural Gas Transportation System in excess of $36,568,000 for the fiscal year ending on September 30, 1982, in excess of $45,532,000 for the fiscal year ending on September 30, 1983, or $46,908,000 for the fiscal year ending on September 30, 1984.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

Fiscal Years 1982, 1983, and 1984

SEC. 8011. Notwithstanding any other provision of law, there shall not be appropriated for programs of the Pennsylvania Avenue Development Corporation in excess of $19,040,000 for the fiscal year ending on September 30, 1982, in excess of $19,500,000 for the fiscal year ending on September 30, 1983, or in excess of $19,300,000 for the fiscal year ending on September 30, 1984.

UNITED STATES HOLOCAUST MEMORIAL COUNCIL

Fiscal Years 1982, 1983, and 1984

SEC. 8012. Notwithstanding any other provision of law, there shall not be appropriated for programs of the United States Holocaust Memorial Council in excess of $900,000 for the fiscal year ending on September 30, 1982, in excess of $950,000 for the fiscal year ending on September 30, 1983, or in excess of $1,000,000 for the fiscal year ending on September 30, 1984.

TITLE IX—HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES

Subtitle A—Maritime Programs

SEC. 9001. Funds are authorized to be appropriated without fiscal year limitation as the appropriation Act may provide for the use of the Department of Commerce for fiscal year 1982, as follows:

(1) for payment of obligations incurred for operating-differential subsidy, $417,148,000;

(2) for research and development, $8,491,000;

(3) for operations and training, $76,898,000 including—

(A) $8,006,000 for reserve fleet expenses;

(B) $35,683,000 for maritime education and training expenses, including $19,211,000 for maritime training at the Merchant Marine Academy at Kings Point, New York, $13,380,000 for financial assistance to State maritime academies, $1,100,000 for fuel oil assistance to State maritime academy training vessels, and $1,992,000 for expenses necessary for additional training; and

(C) $33,209,000 for other operating and training expenses.

SEC. 9002. There are authorized to be appropriated for the fiscal year 1982, in addition to the amounts authorized by section 9001, such supplemental amounts for the activities for which appropriations are authorized under section 9001, as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law.

SEC. 9003. The Merchant Marine Act, 1936 (46 U.S.C. 1101 et seq.) is amended by adding a new section 512 to read as follows:

"SEC. 512. The construction differential subsidy rate otherwise applicable under this title may be reduced by 5 per centum unless the Secretary, in his discretion, determines that the vessel to be constructed is part of an existing or future vessel series.".

SEC. 9004. The Merchant Marine Act, 1936, as amended (46 U.S.C. 1101-1294), is further amended by adding a new section 614 to read as follows:

"SEC. 614. (a) Any operator receiving operating differential subsidy funds may elect, for all or a portion of its ships, to suspend its operating differential subsidy contract with all attendant statutory and contractual restrictions, except as to those pertaining to the domestic intercoastal or coastwise service, including any agreement providing for the replacement of vessels, if—

"(1) the vessel is less than ten years of age;

"(2) the suspension period is not less than twelve months;

"(3) the operator's financial condition is maintained at a level acceptable to the Secretary of Commerce; and

"(4) the owner agrees to pay to the Secretary, upon such terms and conditions as he may prescribe, an amount which bears the same proportion to the construction differential subsidy paid by the Secretary as the portion of the suspension period during which the vessel is operated in any preference trade from which a subsidized vessel would otherwise be excluded by law or contract bears to the entire economic life of the vessel.

"(b) Any operator making an election under this section is entitled to full reinstatement of the suspended contract on request. The Secretary of Commerce may prescribe rules and regulations consistent with the purpose of this section.".

SEC. 9005. Section 809(a) of the Merchant Marine Act, 1936 (46 U.S.C. 1213(a)) is amended by inserting after the second sentence the following: "For the purposes of this section and section 211(a), the Secretary shall establish trade routes, services, or lines that take into account the seasonal closure of the Saint Lawrence Seaway and provide for alternate routing of ships via a different range of ports during that closure so as to maintain continuity of service on a year-round basis. For the purposes of section 605(c), such an alternative routing via a different range of ports shall be deemed to be service from Great Lakes ports, provided such alternative routing is based upon receipt or delivery of cargo at Great Lakes-Saint Lawrence Seaway ports under through intermodal bills of lading.".

SEC. 9006. (a) Section 905(a) of the Merchant Marine Act, 1936 (49 Stat. 2016), as amended (46 U.S.C. 1244(a)), is amended by striking the word "Act." at the end thereof and inserting: "Act: *Provided further*, That the words 'foreign commerce' or 'foreign trade' shall also include the employment of a methanol-producing barge without the waters of the United States or, if employed within the waters of the United States, whose product is transported to a foreign port or place.".

(b) Section 905 of the Merchant Marine Act, 1936 is amended by adding at the end thereof the following new subsection:

"(h) The term 'methanol-producing barge' shall mean any vessel that processes natural gas by converting it into methanol (methyl alcohol), and includes any installed equipment to produce, process, or transfer methanol, and all other associated equipment and appurtenances of the vessel.".

(c) Section 1101(b) of the Merchant Marine Act, 1936 (52 Stat. 953), as amended (46 U.S.C. 1271(b)), is amended by striking "dredges" and inserting in lieu thereof "dredges, methanol-producing barges,".

SEC. 9007. (a) Section 905 of the Merchant Marine Act, 1936 (49 Stat. 2016), as amended (46 U.S.C. 1244), is amended by adding the following subsection at the end thereof:

"(i) The term 'noncontiguous domestic trade' means (1) trade between the contiguous forty-eight States on the one hand and Alaska, Hawaii, Puerto Rico, and the insular territories and possessions of the United States on the other hand; (2) trade from any points in Alaska, Hawaii, Puerto Rico, and such territories and possessions to any other point in Alaska, Hawaii, Puerto Rico, and such territories and possessions; and (3) carriage from the United States to offshore burn sites of chemical wastes for incineration at sea.".

"(b) Section 607(k)(8) of the Merchant Marine Act, 1936, (49 Stat. 2005), as amended (46 U.S.C. 1177), is repealed.

SEC. 9008. The Merchant Marine Act, 1936 is amended by adding a new section 909 to read as follows:

"SEC. 909. No vessel may receive construction differential subsidy or operating differential subsidy if it is not offered for enrollment in a sealift readiness program approved by the Secretary of Defense.".

SEC. 9009. (a) Section 1103(f) of the Merchant Marine Act, 1936 (52 Stat. 969), as amended (46 U.S.C. 1273), is amended by striking the figure "$2,000,000,000" and inserting in lieu thereof the figure "$500,000,000".

(b) The last sentence of section 1110(c) of the Merchant Marine Act, 1936 (94 Stat. 994), as amended (46 U.S.C. 1279c), is amended by striking "$2,000,000,000." and inserting in lieu thereof "$500,000,000.".

(c) Section 203(b)(2) of Public Law 96-320 (94 Stat. 994) is repealed.

(d) The Secretary of Commerce may, during fiscal year 1982, waive those provisions of section 1103(f) of the Merchant Marine Act, 1936 added by section 220(2) of Public Law 96-561 (94 Stat. 3275) if the Secretary determines that such obligations reserved will not be utilized by fishing vessels or fishery facilities during such fiscal year.

SEC. 9010. Section 1303(h)(2)(D) of the Merchant Marine Act, 1936 (46 U.S.C. 1295b(h)(2)(D)), is amended by striking "1 Member" and inserting in lieu thereof "2 Members".

SEC. 9011. (a) Section 1 of the Shipping Act, 1916 (39 Stat. 728), as amended (46 U.S.C. 801), is amended by striking at the end thereof the paragraph defining an independent ocean freight forwarder and inserting in lieu thereof the following: "The term 'independent ocean freight forwarder'

means a person that is carrying on the business of forwarding for a consideration who is not a shipper, consignee, seller, or purchaser of shipments to foreign countries.".

(b) Section 44 of the Shipping Act, 1916 (75 Stat. 552; 46 U.S.C. 841(b)), is amended by adding at the end thereof the following new subsection:

"(f) A forwarder may not receive compensation from a common carrier with respect to any shipment in which the forwarder has a beneficial interest or with respect to any shipment in which any holding company, subsidiary, affiliate, officer, director, agent, or executive of such forwarder has a beneficial interest.".

SEC. 9012. The Secretary of Commerce shall conduct a study comparing the relative costs of repairing and outfitting the training vessel Bay State with the costs of reactivating and converting the steamship Tulare of the United States Naval Reserve Fleet, in order to aid in the determination of the appropriate vessel for use as the training ship of the Massachusetts Maritime Academy. This study shall be completed and submitted to the Congress within ninety days of enactment of this Act.

SEC. 9013. The Merchant Marine Act, 1936 (46 U.S.C. 1101 et seq.), is amended by adding a new section 615 to read as follows:

"SEC. 615. (a) The Secretary of Commerce may, until September 30, 1983, authorize an operator receiving or applying for operating differential subsidy under this title to construct, reconstruct, or acquire its vessels of over five thousand deadweight tons in a foreign shipyard if the Secretary finds and certifies in writing that such operator's application for construction differential subsidy cannot be approved due to the unavailability of funds in the construction differential subsidy account. Vessels constructed, reconstructed, or modified pursuant to this section shall be deemed to have been United States built for the purposes of this title, section 901(b) of this Act, and section 5(7) of the Port and Tanker Safety Act of 1978 (46 U.S.C. 391(a)(7)): *Provided*, That the provisions of section 607 of this Act shall not apply to vessels constructed, reconstructed, modified, or acquired pursuant to this section.

"(b) If the Secretary makes the determination and certification set forth in subsection (a) of this section, he shall report to the Congress at least thirty days prior to the effective date of any action taken pursuant to such determination and certification on the effect that such action will have on the shipyard mobilization base.

"(c) The provisions of this section shall be effective for fiscal year 1982 only if funds in the fiscal year 1981 construction differential subsidy account are carried forward for commitment in fiscal year 1982 and, only for those subsequent fiscal years in which at least $100,000,000 is requested by the President in his annual budget message for construction differential subsidy for each of those fiscal years.".

SEC. 9014. Section 501 of the Merchant Marine Act, 1936 (46 U.S.C. 1151 et seq.), is amended by adding the following new subsection:

"(d)(1) Notwithstanding the provisions of subsection (c), any owner or charter of a vessel (A) built in a shipyard of the United States with or without construction differential subsidy pursuant to this title, (B) documented under the laws of the United States, and (C) operated in the foreign commerce of the United States, or any shipyard of the United States, may make an application to the Secretary of Commerce for construction differential subsidy to aid in the reconstruction or reconditioning of such vessel consisting of the replacement or upgrading of such vessel's existing propulsion machinery to make it more energy efficient. Reconstruction or reconditioning pursuant to this subsection shall include, but not be limited to, all work, materials, and services necessary for the replacement or upgrading of such vessel's existing propulsion system, including all components thereof and related auxiliaries or equipment, or for addition of windpowered or other propulsion systems, which will result in a more energy efficient propulsion system. If the Secretary of Commerce determines that such reconstruction or reconditioning is technically and economically feasible given the age, design, and other characteristics of the applicant's vessel and that replacing or upgrading the existing propulsion machinery would result in a savings in fuel costs of not less than 10 percent, the Secretary of Commerce shall approve such application and enter into a contract or contracts with a shipbuilder for such reconstruction or reconditioning of the applicant's vessel and for payment by the Secretary of Commerce to the shipyard, on terms to be agreed upon in the contract, of the contract price for such reconstruction or reconditioning. The Secretary of Commerce is authorized to accept a price for the reconstruction or reconditioning of the vessel which has been negotiated between a shipyard and the applicant pursuant to the provisions of the first paragraph of section 502(a). If the Secretary of Commerce determines that the price is not fair and reasonable, the Secretary of Commerce is authorized to negotiate directly with any shipyard to secure a contract price which is fair and reasonable. Concurrently with entering into such contract with the shipyard, the Secretary of Commerce shall enter into a contract with the applicant for the payment by the applicant to the Secretary of Commerce of a sum corresponding to the price of the reconstruction or reconditioning pursuant to the contract between the Secretary of Commerce and the shipyard less the amount of construction differential subsidy. The amount of construction differential subsidy shall be determined in accordance with section 502(b). In such contract between the Secretary of Commerce and the applicant, the applicant shall pay the sum agreed upon therein in accordance with the provisions of section 502(c) except that the applicant shall be required to make a cash payment of not less than 12½ percent of the contract sum. Except as provided in this subsection, no restrictions or agreements imposed or required by this Act with respect to vessels constructed or reconstructed with construction differential subsidy shall be applied to vessels solely by reason of reconstruction pursuant to this subsection.

"(2) For the purposes of this subsection and starting two years after the effective date of this subsection, the propulsion machinery proposed in the application to replace or upgrade the existing propulsion machinery shall be of United States origin as provided in section 505, unless the Secretary of Commerce certifies to the Congress that suitable, reliable, and efficient propulsion machinery of domestic manufacture is not available, in which event the propulsion machinery proposed in the application may be of foreign origin. The Secretary of Commerce shall publish notice of his intention to so certify and shall give interested persons an opportunity to file written statements. The Secretary of Commerce's consideration shall include, but not be limited to, all revelant matters so filed, and his certification shall include or be accompanied by a concise explanation of the basis therefor. During the two-year period commencing on the effective date of this subsection, the propulsion machinery referred to above may be of foreign origin until the Secretary of Commerce certifies to the Congress that suitable propulsion machinery is available in the quantity and at the time required by prospective applicants.

"(3) Notwithstanding any other provision of law or contract, any vessel reconstructed pursuant to this subsection shall (A) be the equivalent of a new vessel within the meaning and for purposes of section 510, and be a reconstructed vessel within the meaning and for purposes of title XI, section 603 and section 607(f); and (B) have its age reduced by a period of ten calendar years for purposes of the obligation to replace it under any operating differential subsidy, capital construction fund program or contract, and section 605(b).".

SEC. 9015. (a) During fiscal year 1982, no funds appropriated to or for the use of the Department of Commerce may be expended or committed for acquisition, construction, or reconstruction of vessels and construction differential subsidy and cost of national defense features incident to the construction, reconstruction, or reconditioning of ships, unless those funds were appropriated before January 1, 1981.

(b) No funds appropriated to aid in the acquisition, construction, or reconstruction of vessels pursuant to Title V of the Merchant Marine Act, 1936 (46 U.S.C. 1151 et seq.) for fiscal year 1981 may be obligated during fiscal year 1981 after June 10, 1981.

Subtitle B—Merchant Seamen Entitlement to Medical Care

SEC. 9051. Section 322(a) of the Public Health Service Act (42 U.S.C. 249(a)) is amended—

(1) by redesignating paragraphs (1), (2), (3), (4), (5), (6), (7), and (8) as subparagraphs (A), (B), (C), (D), (E), (F), (G), and (H); respectively;

(2) by inserting "(1)" after "SEC. 322. (a)";

(3) by striking out "without charge" after "treatment and hospitalization"; and

(4) by adding at the end of the subsection the following new paragraph:

"(2) Any person receiving medical, surgical, or dental treatment or hospitalization because of the entitlement contained in this subsection shall reimburse the Service for such treatment or hospitalization in an amount determined in accordance with regulations prescribed by the Secretary."

(b) Section 322(e) of the Public Health Service Act (42 U.S.C. 249(e)) is amended by striking out "entitled to care and treatment under subsection (a) of this section and persons".

SEC. 9052. The Secretary of Health and Human Services shall provide medical, surgical, dental treatment, or hospitalization, without charge, until October 1, 1982, to any person who for a single spell of illness as defined in Title XVIII of the Social Security Act, Sec. 1861 (42 U.S.C. 1395x(a))—

(1) is receiving treatment of hospitalization at a hospital or station of the Public Health Service on September 30, 1981; and

(2) is receiving treatment or hospitalization because of the entitlement contained in section 322(a) of the Public Health Service Act (42 U.S.C. 249(a)); and

(3) has no other source of treatment or hospitalization available, as determined by the Secretary of Health and Human Services; and

(4) needs treatment or hospitalization, as determined by the Secretary of Health and Human Services.

SEC. 9053. This subtitle shall take effect on October 1, 1981.

Subtitle C—Ocean Dumping Fees

SEC. 9401. Section 102 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1412) is amended by redesignating sections 102(b), (c), (d) and (e) as sections 102(c), (d), (e) and (f), respectively, and inserting the following new subsection 102(b):

"(b)(1) To become effective on October 1, 1982, the Administrator shall establish a system for the imposition of ocean dumping fees to be paid by the permittee or, in the case of a water resources navigation project of the Army Corps of Engineers, by the nonfederal interest, for materials which are ocean dumped including, but not limited to, sewage sludge, industrial wastes, and dredged materials.

"(2) The ocean dumping fee shall be established at an amount not greater than five dollars per wet ton of materials dumped. The Administrator may, however, establish a fee less than this amount for materials dumped based on the following factors:

"(A) The extent to which the dumping of such materials results in a risk of degrading the marine environment; and

"(B) The area of the ocean in which such materials are dumped, and the assimilative capacity of such ocean areas.

"(3) The Administrator may waive ocean dumping fees in the event that it can be demonstrated by the permittee, or in the case of a water resources navigation project of the Army Corps of Engineers, by the nonfederal interest, that it will incur an undue economic burden as a result of such fees.

"(4) Fees collected pursuant to this subsection shall be deposited in the Treasury as offsetting receipts.

"(5) This legislation shall in no way be used to sanction or demonstrate the intent of Congress that ocean dumping activities as addressed by the Marine Protection, Research and Sanctuaries Act of 1972, as amended, be permitted to continue beyond those dates and deadlines as established by said Act for the cessation of the ocean disposal of sewage sludge and harmful industrial wastes.".

TITLE X—HOUSE COMMITTEE ON POST OFFICE AND CIVIL SERVICE

Subtitle A—Civil Service Provisions

FEDERAL EMPLOYEE PAY COMPARABILITY ADJUSTMENTS

SEC. 10001. (a) Notwithstanding any other provision of law (other than subsections (d) and (e)), the rates of pay under the General Schedule and the rates of pay under the other statutory pay systems shall be increased under the provisions of section 5305 of title 5, United States Code, by—

(1) 5.8 percent, in lieu of any adjustment which may otherwise be made under such provisions during fiscal year 1982;

(2) 7.4 percent, in lieu of any adjustment which may otherwise be made under such provisions during fiscal year 1983; and

(3) 7.0 percent, in lieu of any adjustment which may otherwise be made under such provisions during fiscal year 1984.

(b) Notwithstanding any other provision of law (other than subsections (d) and (e)), in the case of any prevailing rate employee described in section 5342(a)(2) of title 5, United States Code, or any employee covered by section 5348 or 5349 of such title 5—

(1) any increase in the rate of pay payable to such employee which would result from the expiration of the limitation contained in section 114(a)(2) of Public Law 96-369 shall not take effect; and

(2) in lieu of any adjustment which may otherwise be made in the wage schedules and rates under the provisions of subchapter IV of chapter 53 of such title 5 during fiscal years 1982, 1983, and 1984, such schedules and rates shall be increased under such provisions each such year by the percentage prescribed under subsection (a) for the fiscal year involved.

(c) Each increase in a pay rate or schedule under subsection (a) or (b) shall be of the same percentage, except to the extent necessary to comply with the requirement of subsection (e). Each such increase shall take effect—

(1) in the case of increases under section 5305 of title 5, United States Code, on the first day of the first applicable pay period commencing on or after October 1 of the applicable year; and

(2) in the case of increases under subchapter IV of chapter 53 of such title 5, on the date on which an adjustment would otherwise occur pursuant to such subchapter during the fiscal year involved.

(d)(1) If the overall percentage of the pay increase recommended by the President's pay agent under section 5305 (a) of title 5, United States Code, for fiscal year 1982, 1983, or 1984, exceeds the assumed full comparability increase for that year, then the percentage increase otherwise applicable under subsections (a) and (b) for that fiscal year shall be increased by the amount by which such recommended pay increase exceeds the assumed full comparability increase.

(2) For purposes of this subsection, the assumed full comparability increase is—

(A) in the case of fiscal year 1982, 13.5 percent;

(B) in the case of fiscal year 1983, 8.9 percent (increased to take into account the extent by which the increase that takes effect under section 5305 during fiscal year 1982 is less than the assumed full comparability increase for such fiscal year); and

(C) in the case of fiscal year 1984, 7.9 percent (increased to take into account the extent by which the increases that take effect under section 5305 during fiscal years 1982 and 1983 are less than the respective assumed full comparability increases for such fiscal years).

(e) Any rate of pay resulting from any adjustment made in accordance with subsection (a) or (b) shall not be less than the appropriate minimum wage rate provided for under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 and following), except to the extent provided in section 13(f) of that Act.

(f)(1) Section 5305(c)(1) of title 5, United States Code, relating to alternative pay plans, is amended by striking out "or economic conditions affecting the general welfare," and inserting in lieu thereof "or because of mandatory wage and price controls of general application,".

(2) Section 5305(c)(1) of title 5, United States Code, is further amended by adding at the end thereof the following new sentence: "If such mandatory wage and price controls are in existence, the overall percentage of any pay increase under this subsection may not be less than the wage increase generally permitted under the controls.".

SALARY OF FORMER MEMBERS OF UNIFORMED SERVICES TO BE REDUCED BY AMOUNT OF RETIRED PAY

SEC. 10002. (a)(1) Section 5532 of title 5, United States Code, is amended to read as follows:

"§ 5532. Employment of Retired Members of the Uniformed Services; Reduction in Pay

"(a) In the case of any member or former member of a uniformed service who is receiving retired or retainer pay and who holds a position, an amount equal to the retired or retainer pay which is allocable to the period of actual employment shall be deducted from the individual's pay for that position, except for lump-sum leave payment purposes under section 5551 of this title. The amounts so deducted shall be deposited into the general fund of the Treasury of the United States, except that no such deposit shall be required of deductions from the pay of individuals employed by the United States Postal Service.

"(b) The reduction in pay required by this section does not apply to a member or former member of a uniformed service receiving retired or retainer pay whose retired or retainer pay is computed, in whole or in part, based on disability—

"(1) resulting from injury or disease received in line of duty as a direct result of armed conflict; or

"(2) caused by an instrumentality of war and incurred in line of duty during a period of war as defined by sections 101 and 301 of title 38.

"(c) The Office of Personnel Management may authorize exceptions to subsection (a) of this section only when necessary to meet special or emergency employment needs which result from a severe shortage of well qualified candidates for positions which otherwise cannot be readily filled. An exception granted by the Office with respect to any individual shall terminate upon a break in service of 3 days or more.

"(d) This section shall not apply to reduce the salary of any person whose compensation may not, under section 1 of article III of the Constitution of the United States, be diminished during such individual's continuance in office. However, in any such case, the provisions of this section as in effect before the date of the enactment of the Omnibus Budget Reconciliation Act of 1981, and the provisions of section 308(g) of the Civil Service Reform Act of 1978, shall apply to the same extent and in the same manner as if the amendments made by the Omnibus Budget Reconciliation Act of 1981 had not been enacted.

"(e) The Office of Personnel Management may prescribe regulations necessary for the administration of this section insofar as this section applies to positions in the executive branch.".

(2) Section 8116(a) of title 5, United States Code, is amended by inserting before the period at the end thereof the following "(as in effect before the date of the enactment of the Omnibus Budget Reconciliation Act of 1981)".

(3) The table of sections for chapter 55 of title 5, United States Code, is amended by striking out the item relating to section 5532 and inserting in lieu thereof the following:

"§ 5532. Employment of Retired Members of the Uniformed Services; Reduction in Pay

(b)(1) The Comptroller General shall conduct a review to identify instances in which individuals concurrently receive—

(A) annuities or other retired pay under retirement systems for civilian employees of the Government, or the government of the District of Columbia, or any territory or possession of the United States; and

(B) pay for positions (as defined in section 5531 of title 5, United States Code).

(2) Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall complete the review required under paragraph (1) and prepare and submit a report on the results of such review to the Committee on Post Office and Civil Service of the House of Representatives and the Committee on Governmental Affairs of the Senate.

(c)(1) The amendments made by this section shall take effect with respect to pay periods beginning on or after October 1, 1981, and shall apply to any member or former member of a uniformed service, whether appointed or elected to a position (as defined in section 5531 of title 5, United States Code) before, on, or after October 1, 1981.

(2) Nothing in this section (or section 410 of title 39, United States Code) shall be construed to exempt the United States Postal Service or its employees or officers from the amendments made by this section.

ELIMINATION OF CERTAIN DUAL PAY

SEC. 10003. (a) Section 5519 of title 5, United States Code, relating to crediting of pay for certain amounts received for Reserve or National Guard service, is amended by striking out "section 6323 (c) or (d)" and inserting in lieu thereof "section 6323 (a) or (b)".

(b) The amendment made by subsection (a) shall take effect on the first day of the first applicable pay period beginning on or after October 1, 1981.

PERSONNEL CEILINGS AND CONTRACTING OUT OF FEDERAL FUNCTIONS

SEC. 10004. (a)(1) Part III of title 5, United States Code, is amended by inserting after chapter 35 the following new chapter:

"CHAPTER 37—PERSONNEL CEILINGS

"Sec.
"3701. Policy.
"3702. Definitions.
"3703. Determinations of cost effectiveness.
"3704. Adjustments to personnel ceilings.
"3705. Administration in case of part-time career employees.
"3706. Reports and budget identification.
"3707. Exemption of certain contracts.

"§ 3701. Policy.

"It is the policy of the Congress that—

"(1) to be effective, personnel ceilings should take into account both the size of the Federal work force and the extent to which functions which could be performed by the Federal work force are performed under contract by non-Federal personnel;

"(2) the establishment and administration of personnel ceilings should reflect the principles that—

"(A) functions which are inherently governmental should be performed by Federal employees,

"(B) products and services which only the private sector may feasibly provide should be obtained by contract, and

"(C) in all other cases, determinations to obtain products or services for the Government should be based on cost effectiveness;

"(3) Federal executives and managers should be responsible for enforcing personnel ceilings and contracting-out requirements; and

"(4) the cost effectiveness of having Federal employees perform functions, as compared to having the functions contracted out, should be reevaluated when the costs of contracting out significantly increase.

"§ 3702. Definitions

"For the purpose of this chapter—

"(1) 'agency' means an Executive agency, as defined in section 105 of this title, other than the General Accounting Office;

"(2) 'personnel ceiling' means any limitation on the maximum number of employees which may be appointed or employed in any agency (or any unit within an agency), whether that limitation is established by statute or by administrative action;

"(3) 'contract involving personal services' means any contract providing for the performance of any function which would be feasible for any agency to perform;

"(4) 'renewal', when used with respect to any contract, includes (A) any renewal or extension of the contract (whether or not pursuant to the provisions of the contract) and (B) the entering into of any other contract which has the same or substantially the same parties and involves the same or substantially the same functions which is entered into within a reasonable period of time following the expiration of the earlier contract; and

"(5) 'part-time career employment' has the meaning given that term in section 3401 of this title.

"§ 3703. Determinations of cost effectiveness

"(a)(1) Subject to paragraph (2) of this subsection, any comparison of the costs of having a function performed by an agency and the costs of having it performed under a contract that is conducted in connection with determining whether that function should be performed under a contract may only be made if the head of the agency involved certifies to the Office of Management and Budget—

"(A) that the organizational unit in that agency which is performing the function (or would perform it if it were not contracted for) is organized and staffed for the most cost-effective performance of its functions; or

"(B) if not so organized and staffed, that (i) the comparison was conducted as if it were and (ii) all steps necessary to assure that the organizational unit will be so organized and staffed will be taken as soon as is practicable and in accordance with applicable laws, regulations, directives, and collective-bargaining agreements.

"(2) Paragraph (1) of this subsection shall only apply with respect to contracts involving personal services.

"(b)(1) Except as provided in paragraph (3) of this subsection, in the case of the renewal of any contract involving personal services for which there was previously conducted a cost comparison between having the function involved performed directly by the agency and having it performed under a contract, the head of the agency involved shall certify to the Office of Management and Budget that—

"(A) a new cost comparison has been performed in connection with the renewal, and

"(B) the renewal is consistent with applicable laws, regulations, directives, and collective-bargaining agreements.

"(2) The requirements of subsection (a) of this section shall apply to any new cost comparison under this subsection.

"(3) The Office of Management and Budget may provide, by regulation, for exemptions from the certification requirements of paragraph (1) of this subsection in the case of contract renewals for which there will not be a significant increase in the annual rate of expenditures of the United States.

"§ 3704. Adjustments to personnel ceilings

"(a)(1) Within 30 days after any agency enters into any contract involving personal services with any person or unit of State or local government, the agency shall submit to the Office of Management and Budget a report setting forth the number of employees which would be required to perform the functions contracted for if those functions were performed directly by the agency.

"(2) Within 30 days after any agency reviews any function and determines, in accordance with applicable laws, regulations, directives, and collective-bargaining agreements, that the performance of that function directly by the agency—

"(A) could not be undertaken or continued because of any personnel ceiling,

"(B) would be feasible (determined without regard to any personnel ceiling), and

"(C) would be more cost effective than if performed under a contract involving personal services,

the agency shall submit to the Office of Management and Budget a report setting forth the number of employees which would be required for the agency to directly perform that function.

"(3) The number of employees reported under paragraph (1) or (2) shall be—

"(A) the number of employees determined appropriate in a cost comparison, if one was conducted for the function involved; or

"(B) if a cost comparison was not conducted, the number of employees which would perform the function if the agency directly performed it.

"(b) Any personnel ceiling applicable to an agency shall be increased or decreased, as appropriate, by the Office of Management and Budget to reflect the number of employees reported to the Office under subsection (a) of this section within 30 days after the submission of the report, unless the Office finds that the determinations made by the agency involved were not in accordance with applicable laws, regulations, directives, and collective-bargaining agreements.

"(c) The provisions of subsection (a)(1) of this section shall not apply with respect to—

"(1) any contract involving personal services entered into before the effective date of this section, and

"(2) the renewal of any such contract on or after the effective date of this section which was initially entered into before that date.

"§ 3705. Administration in case of part-time career employees

"In administering any personnel ceiling applicable to an agency (or unit therein) or any provision of this chapter, an employee employed by such agency on a part-time career employment basis shall be counted as a fraction which is determined by dividing 40 hours into the average number of hours of such employee's regularly scheduled workweek.

"§ 3706. Reports and budget identification

"(a) Within 90 days after the close of each fiscal year, the Office of Management and Budget shall submit a report to the Congress regarding personnel ceilings and contracts involving personal services for that fiscal year. Each such report shall include—

"(1) the number of contracts involving personal services entered into by each agency for the fiscal year covered by the report;

"(2) the number of employees which would have been employed by the agency in the absence of the contracts; and

"(3) a statement of the adjustments made by the Office to personnel ceilings applicable to each agency.

"(b)(1) The head of each agency shall include with the request for regular appropriations for each fiscal year submitted to the Director of the Office of Management and Budget pursuant to section 215 of the Budget and Accounting Act, 1921 (31 U.S.C. 23), an itemized statement of the amounts requested by the agency for procurement in such fiscal year. The statement shall identify such amounts according to the same subfunctional categories to be used by the President in the submission of the Budget for such fiscal year pursuant to section 201(a) of such Act (31 U.S.C. 11), and, within each such category, shall identify such amounts according to classifications for—

"(A) procurement of consulting services, management and professional services, and special studies and analyses; and

"(B) other contracts involving personal services.

"(2) The Budget transmitted by the President to the Congress for each fiscal year under section 201(a) of the Budget and Accounting Act, 1921 (31 U.S.C. 11) shall set forth separately, within each subfunctional category used in such Budget—

"(A) requests for new budget authority for, and estimates of outlays by, each agency for—

"(i) procurement of consulting services, management and professional services, and special studies and analyses; and

"(ii) other contracts involving personal services.

"(B) an analysis of each request for new budget authority, and of the estimates of outlays, referred to in subparagraph (A); and

"(C) a statement justifying the need for each such request and estimate.

"(3) Any revision of any request or estimate included in the Budget for any fiscal year pursuant to paragraph (2)(A) shall be promptly transmitted to the Congress, and shall be accompanied by an analysis and statement required by paragraph (2)(B) which reflects the revision made by the President.

"§ 3707. Exemption of certain contracts

"The requirements of section 3704 and section 3706(a)(2) and (3) of this title shall not apply with respect to any contract if the head of the agency involved certifies to the Office of Management and Budget—

"(1) that the total aggregate expenditure of the United States under the provisions of the contract does not exceed $100,000 over the term of that contract (including any period of renewal provided for under the contract provisions); and

"(2) that no other contract or contracts exist or are to be entered into by that agency (A) which involve the performance of the same function during any fiscal year in which the contract is in effect and (B) under which the total expenditure of the United States (when aggregated with the contract involved) would exceed $100,000.".

(2)(A) Section 3404 of title 5, United States Code, is repealed.

(B) The analysis for chapter 34 of title 5, United States Code, is amended by striking out the item relating to section 3404.

(3) The analysis for part III of title 5, United States Code, is amended by inserting after the item relating to chapter 35 the following new item:

"37. Personnel ceilings".

(b)(1) Part II of title 5, United States Code, is amended by inserting after chapter 15 the following new chapter:

"CHAPTER 17—PERSONNEL ACTIONS BASED ON THE CONTRACTING-OUT OF FEDERAL FUNCTIONS

"Sec.
"1701. Definitions.
"1702. Limitation on personnel actions.
"1703. Administration.

"§ 1701. Definitions

"For the purpose of this chapter—

"(1) 'agency' means any Executive agency, as defined in section 105 of this title, other than the General Accounting Office;

"(2) 'employee' means an employee in or under an agency;

"(3) 'personnel action' means any removal or personnel action, as described in section 2302(a)(2)(A)(i)-(x) of this title; and

"(4) 'contracting-out', when used with respect to any Federal function, means having that function performed by contract rather than directly by an agency.

"§ 1702. Limitation on personnel actions

"(a) A personnel action may not be taken against any employee in connection with the contracting-out of any Federal function unless—

"(1) a cost comparison has been made in accordance with section 3703 of this title, and

"(2) the agency entering into the contract involved has determined, in accordance with applicable laws, regulations, directives, and collective-bargaining agreements, that the contracting out of the function concerned would be more cost effective than if performed directly by an agency.

"(b) An employee is entitled to appeal to the Merit Systems Protection Board under section 7701 of this title any personnel action in violation of subsection (a) of this section.

"§ 1703. Administration

"The Office of Personnel Management may prescribe regulations to carry out the purpose of this chapter.".

(2) The analysis for part II of title 5, United States Code, is amended by inserting after the item relating to chapter 15 the following new item:

"17. Personnel actions based on the contracting-out of Federal functions".

(c)(1) Section 4313 of title 5, United States Code, is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) compliance with laws, regulations, and directives applicable to contracting-out of agency functions, and furtherance of the policy set forth in section 3701 of this title;".

(2) Section 5402(b)(2)(B) of title 5, United States Code, is amended by striking out "and" at the end of clause (iii), by redesignating clause (iv) as clause (v), and by inserting after clause (iii) the following new clause:

"(iv) compliance with laws, regulations, and directives applicable to contracting out of agency functions, and furtherance of the policy set forth in section 3701 of this title; and".

(d) The provisions of this section shall take effect October 1, 1981.

COORDINATION OF FEDERAL EMPLOYEE HEALTH BENEFITS PROGRAM AND MEDICARE

SEC. 10005. (a) Section 8902 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(n) Notwithstanding any other provision of law or regulation, any contract under this chapter may not make payment for or provide any item or service for any individual who is covered under title XVIII of the Social Security Act if payment would be made for such item or service under title XVIII of such Act if the individual were not covered under a health benefits plan under this chapter and proper application were made for such payment.".

(b) The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

AWARDS FOR THE DISCLOSURE OF WASTE, FRAUD, AND MISMANAGEMENT

SEC. 10006. (a) Chapter 45 of title 5, United States Code, is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER II—AWARDS FOR COST SAVINGS DISCLOSURES

"§ 4511. Definition and general provisions

"(a) For purposes of this subchapter, the term 'agency' means any Executive agency.

"(b) A cash award under this subchapter is in addition to the regular pay of the recipient. Acceptance of a cash award under this subchapter constitutes an agreement that the use by the Government of an idea, method, or device for which the award is made does not form the basis of a further claim of any nature against the Government by the employee, his heirs, or assigns.

"§ 4512. Agency awards for cost savings disclosures

"(a) The Inspector General of an agency, or any other agency employee designated under subsection (b), may pay a cash award to any employee of such agency whose disclosure of fraud, waste, or mismanagement to the Inspector General of the agency, or to such other designated agency employee, has resulted in cost savings for the agency. The amount of an award under this section may not exceed the lesser of—

"(1) $10,000; or

"(2) an amount equal to 1 percent of the agency's cost savings which the Inspector General, or other employee designated under subsection (b), determines to be the total savings attributable to the employee's disclosure.

For purposes of paragraph (2), the Inspector General or other designated employee may take into account agency cost savings projected for subsequent fiscal years which will be attributable to such disclosure.

"(b) In the case of an agency for which there is no Inspector General, the head of the agency shall designate an agency employee who shall have the authority to make the determinations and grant the awards permitted under this section.

"§ 4513. Presidential awards for cost savings disclosures

"The President may pay a cash award in the amount of $20,000 to any employee whose disclosure of fraud, waste, or mismanagement has resulted in substantial cost savings for the Government. In evaluating the significance of a cost savings disclosure made by an employee for purposes of determining whether to make an award to such employee under this section, the President

may take into account cost savings projected for subsequent fiscal years which will be attributable to the disclosure. During any fiscal year, the President may not make more than 50 awards under this section.".

(b)(1) Chapter 45 of title 5, United States Code, is amended by inserting immediately before section 4501 the following new subchapter heading:

"SUBCHAPTER I—AWARDS FOR SUPERIOR ACCOMPLISHMENTS".

(2) Chapter 45 of title 5, United States Code, is amended in sections 4501, 4502, 4505, and 4506, by striking out "chapter" each place it appears and inserting in lieu thereof "subchapter".

(3) The analysis for chapter 45 of title 5, United States Code, is amended—

(A) by inserting immediately after the chapter heading the following new item:

"SUBCHAPTER I—AWARDS FOR SUPERIOR ACCOMPLISHMENTS";

and

(B) by inserting after the item relating to section 4507 the following:

"SUBCHAPTER II—AWARDS FOR COST SAVINGS DISCLOSURES

"4511. Definition and general provisions.
"4512. Agency awards for cost savings disclosures.
"4513. Presidential awards for cost savings disclosures.".

(c) The amendments made by this section shall take effect on October 1, 1981.

REDUCTIONS IN FORCE OF CAREER SENIOR EXECUTIVES

SEC. 10007. (a)(1) Chapter 35 of title 5, United States Code, relating to retention preference, restoration, and reemployment, is amended by redesignating section 3595 as section 3596 and by inserting after section 3594 the following new section:

"§ 3595. Reduction in force in the Senior Executive Service

"(a) Except as provided in subsection (d), a career appointee covered by this section may not be removed from the Senior Executive Service due to a reduction in force within an agency.

"(b) A career appointee who is covered by this section and who, but for this section, would be removed from the Senior Executive Service due to a reduction in force within an agency is entitled—

"(1) to be assigned by the head of that agency to another Senior Executive Service position for which the career appointee is qualified; or

"(2) if the agency head certifies that no such position is available in the agency, to be placed by the Office of Personnel Management in any agency in any Senior Executive Service position for which the career appointee is qualified.

"(c)(1) This section applies to any career appointee who—

"(A) has completed the probationary period prescribed under section 3393(d) of this title; or

"(B) was covered by the provisions of subchapter II of chapter 75 of this title immediately before appointment to the Senior Executive Service.

"(2) For purposes of this section, 'reduction in force' includes the elimination or modification of a position due to a reorganization, due to a lack of funds or curtailment of work, or due to any other factor.

"(d) A career appointee who is not assigned under subsection (b)(1) of this section and who declines a reasonable offer for placement in a Senior Executive Service position under subsection (b)(2) of this section may be removed from the Senior Executive Service and the civil service.

"(e) The Office of Personnel Management may require any agency to take any action which the Office considers necessary to carry out any placement under subsection (b)(2) of this section.

"(f) A career appointee is entitled to appeal any removal under subsection (d) to the Merit Systems Protection Board under section 7701 of this title.".

(2) The table of sections for chapter 35 of title 5, United States Code, is amended by striking out the item relating to section 3595 and inserting in lieu thereof the following:

"3595. Reduction in force in the Senior Executive Service.
"3596. Regulations.".

(b) Section 3393 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) A career appointee may not be removed from the Senior Executive Service or civil service except in accordance with the applicable provisions of sections 1207, 3592, 3595, 7532, or 7543 of this title.".

(c)(1) Section 7542 of title 5, United States Code, is amended by inserting "or 3595" after "3592".

(c) Section 7543(a) of title 5, United States Code, is amended by striking out "such cause" and all that follows down through the period and inserting in lieu thereof "misconduct, neglect of duty, or malfeasance.".

(d)(1) Subject to paragraph (2), the amendments made by this section shall be effective as of June 1, 1981.

(2) The amendments made by this section shall apply to any career appointee removed from the civil service after May 31, 1981, and before the date of the enactment of this section if, not later than 14 days after such date of enactment, application therefor is made to the Office of Personnel Management and to the head of the agency in which the appointee was employed.

(3) The effectiveness of the amendments made by this section shall be subject to section 415(b) of the Civil Service Reform Act of 1978 (5 U.S.C 3131 note) to the same extent and manner as the amendments made by title IV of that Act.

VOLUNTARY STATE INCOME TAX WITHHOLDING FOR ANNUITANTS

SEC. 10008. (a) Section 8345 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(k)(1) The Office shall, in accordance with this subsection, enter into an agreement with any State within 120 days of a request for agreement from the proper State official. The agreement shall provide that the Office shall withhold State income tax in the case of the monthly annuity of any annuitant who voluntarily requests, in writing, such withholding. The amounts withheld during any calendar quarter shall be disbursed to the States during the month following that calendar quarter.

"(2) An annuitant may have in effect at any time only one request for withholding under this subsection, and an annuitant may not have more than two such requests in effect with respect to different States during any one calendar year.

"(3) An annuitant may change the State designated by that annuitant for purposes of having withholdings made, and may request that the withholdings be remitted in accordance with such change. An annuitant also may revoke any request of that annuitant for withholding. Any change in the State designated or revocation is effective on the first day of the month in which the request or the revocation is processed by the Office, but in no event later than on the first day of the first month beginning after the day on which such request or revocation is received by the Office.

"(4) This subsection does not give the consent of the United States to the application of a statute which imposes more burdensome requirements on the United States than on employers generally, or which subjects the United States or any annuitant to a penalty or liability because of this subsection. The Office may not accept pay from a State for services performed in withholding State income taxes from annuities.

"(5) For the purpose of this subsection, 'State' means a State, the District of Columbia, or any territory or possession of the United States.".

(b) The amendment made by subsection (a) shall take effect October 1, 1981.

Subtitle B—Savings Under the Postal Service Program

AUTHORIZATIONS FOR PUBLIC SERVICE APPROPRIATIONS

SEC. 10101. Section 2401(b)(1) of title 39, United States Code, is amended—

(1) in subparagraph (D), by striking out "an amount equal to 7 percent of such sum for fiscal year 1971" and inserting in lieu thereof "$200,000,000";

(2) in subparagraph (E), by striking out "an amount equal to 6 percent of such sum for fiscal year 1971" and inserting in lieu thereof "$100,000,000"; and

(3) in subparagraph (F), by striking out "an amount equal to 5 percent of such sum for fiscal year 1971" and inserting in lieu thereof "no funds are authorized to be appropriated".

CONTINUATION OF SIX-DAY MAIL DELIVERY

SEC. 10102. During fiscal years 1982 through 1984, the Postal Service shall take no action to reduce or to plan to reduce the number of days each week for regular mail delivery.

RATEMAKING CONSIDERATIONS

SEC. 10103. In establishing rates and fees under subchapters II or III of chapter 36 of title 39, United States Code, the Postal Service, the Postal Rate Commission, and the Board of Governors shall, in determining the total estimated costs of the Postal Service (as required under section 3621 of such title), take into consideration—

(1) the savings to the Postal Service resulting from the amendments made by section 10002 of subtitle A of this chapter (requiring the salary of former members of the uniformed services to be reduced by the amount of retired pay received by such individuals); and

(2) the savings to the Postal Service resulting from the closing or consolidation of any post offices pursuant to section 10103 of this subtitle.

REDUCTION OF AUTHORIZATION FOR REVENUE FOREGONE

SEC. 10104. (a) Paragraph (1) of section 3626(a) of title 39, United States Code, is amended to read as follows:

"(1)(A) the revenues received from rates for mail under former sections 4358 (other than former subsections (a) through (c) thereof), 4554(b), and 4554(c) shall not, on and after the first day of the sixteenth year following the effective date of the first rate

decision applicable to that class or kind, exceed the direct and indirect postal costs attributable to mail of such class or kind (excluding all other costs of the Postal Service); and

"(B) the revenue received from rates for mail under former sections 4358(a) through 4358(c) and former sections 4452(b) and 4452(c) shall not, on and after the first day of the tenth year following the effective date of the first rate decision applicable to that class or kind, exceed the direct and indirect postal costs attributable to mail of such class or kind (excluding all other costs of the Postal Service);".

(b) Notwithstanding the provisions of sections 2401(c) and 3626 of title 39, United States Code, the authorization for appropriations for revenue foregone for mail matter described in paragraph (1)(A) of such section 3626 (as amended by subsection (a) of this section) shall—

(1) for fiscal year 1982, be 10 percent less than would be authorized if this section were not enacted;

(2) for fiscal year 1983, be 10 percent less than would be authorized if this section were not enacted; and

(3) for fiscal year 1984, be 20 percent less than would be authorized if this section were not enacted.

REDUCTION OF TRANSITIONAL APPROPRIATIONS

SEC. 10105. (a) Notwithstanding the authorization contained in section 2004 of title 39, United States Code, no sums are authorized to be appropriated to the Fund for the purposes of such section during fiscal years 1982 through 1984. During fiscal year 1985, there are authorized to be appropriated to the Fund such amounts as may be necessary to carry out such section during such fiscal year, together with such amounts as would have been available to the Fund for fiscal years 1982 through 1984 were this section not enacted.

(b) From amounts available to the Postal Service from the Fund, during fiscal years 1982 through 1984 the Postal Service shall meet the transitional expenses referred to under section 2004 of title 39, United States Code, to the same extent as the Postal Service would have met such expenses were subsection (a) of this section not enacted.

QUARTERLY PAYMENTS OF APPROPRIATIONS TO THE POSTAL SERVICE FUND

SEC. 10106. Section 2003(e) of title 39, United States Code, is amended—

(1) by inserting "(1)" after "(e)"; and

(2) by adding at the end thereof the following:

"(2) Funds appropriated to the Postal Service under sections 2401 and 2004 of this title shall be apportioned as provided in this paragraph. From the total amounts appropriated to the Postal Service for any fiscal year under the authorizations contained in sections 2401 and 2004 of this title, the Secretary of the Treasury shall make available to the Postal Service 25 percent of such amount at the beginning of each quarter of such fiscal year.".

PROHIBITION OF 9-DIGIT ZIP CODE

SEC. 10107. (a) During the period beginning on the date of the enactment of this Act and ending September 30, 1983, the Postal Service shall take no action to implement any ZIP code system using more than 5 digits.

(b) During the period beginning on the date of the enactment of this Act and ending September 30, 1983, no Executive agency shall take any action to conform its mailing procedures to those appropriate for use under any ZIP code system using more than 5 digits. As used in this subsection, the term "Executive agency" has the same meaning given such term by section 105 of title 5, United States Code.

EFFECTIVE DATE

SEC. 10108. The provisions of this subtitle (other than section 10107) shall take effect on October 1, 1981. Section 10107 shall take effect on the date of the enactment of this Act.

TITLE XI—HOUSE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

Subtitle A—Transportation Programs

CHAPTER 1—AVIATION

SEC. 11001. If the Senate and the House of Representatives approve a conference report on the Airport and Airway Improvement Act of 1981 which includes new budget authority for fiscal year 1982 for airport development and airport planning and for grants under section 103(b) and section 104(c) of the Aviation Safety and Noise Abatement Act of 1979 which in total exceeds $650,000,000, then before the bill which is the subject of such conference report is enrolled, the Secretary of the Senate or the Clerk of the House of Representatives, as the case may be, is directed to include the following provision in the bill: "Notwithstanding any other provision of law, the total amount which may be obligated for airport development and airport planning and for grants under sections 103(b) and 104(c) of the Aviation Safety and Noise Abatement Act of 1979 during the fiscal year ending September 30, 1982, from amounts in the Airport and Airway Trust Fund which were not available for obligation during any previous fiscal year shall not exceed $650,000,000.".

SEC. 11002. The Civil Aeronautics Board shall fix and determine rates of compensation under section 406 of the Federal Aviation Act of 1958 and shall establish rates of compensation under section 419 of such Act so that the total amount of compensation payable by such Board under such sections for service performed during the fiscal year ending September 30, 1982, does not exceed $75,000,000.

CHAPTER 2—HIGHWAYS AND HIGHWAY SAFETY

SEC. 11021. (a) Notwithstanding any other provision of law, the total of all obligations for Federal-aid highways and highway safety construction programs for fiscal year 1982 shall not exceed $8,200,000,000. This limitation shall not apply to obligations for emergency relief under section 125 of title 23, United States Code, or projects covered under section 147 of the Surface Transportation Assistance Act of 1978, or any ongoing emergency project for replacement or rehabilitation of a bridge the Federal share of the costs of which is obligated at the discretion of the Secretary under section 144 of such title 23. No obligation constraints shall be placed upon any ongoing emergency project carried out under section 125 of title 23, United States Code, or section 147 of the Surface Transportation Assistance Act of 1978 or upon any ongoing emergency project for replacement or rehabilitation of a bridge the Federal share of the costs of which is obligated at the discretion of the Secretary under section 144 of such title 23.

(b) For fiscal year 1982, the Secretary of Transportation shall distribute the limitation imposed by subsection (a) by allocation in the ratio which sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to each State for fiscal year 1982 bears to the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to all the States for such fiscal year.

(c) During the period October 1 through December 31, 1981, no State shall obligate more than 35 per centum of the amount distributed to such State under subsection (b), and the total of all State obligations during such period shall not exceed 25 per centum of the total amount distributed to all States under such subsection.

(d) Notwithstanding subsections (b) and (c), the Secretary shall—

(1) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways and highway safety construction which have been apportioned or allocated to a State, except in those instances in which a State indicates its intention to lapse sums apportioned under section 104(b)(5)(A) of title 23, United States Code;

(2) after August 1, 1982, revise a distribution of the funds made available under subsection (b) if a State will not obligate the amount distributed during fiscal year 1982 and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during fiscal year 1982; and

(3) not distribute amounts authorized for administrative expenses and forest highways.

SEC. 11022. Notwithstanding any other provision of law, the total of all obligations for highway safety programs and school bus driver training carried out by the National Highway Traffic Safety Administration under sections 402 and 406 of title 23, United States Code, for the fiscal year 1982 shall not exceed $100,000,000, and the total of all obligations for highway safety programs carried out by the Federal Highway Administration under section 402 of title 23, United States Code, for the fiscal year 1982 shall not exceed $10,000,000.

SEC. 11023. (a) Of the funds authorized to be appropriated by section 202(1) of the Highway Safety Act of 1978 for any fiscal year ending before October 1, 1981, which have not been obligated for expenditure before such date, $133,000,000 shall not be available for obligation, and shall no longer be authorized, on and after such date.

(b) Of the funds authorized to be appropriated by section 202(3) of the Highway Safety Act of 1978 for any fiscal year ending before October 1, 1981, which have not been obligated for expenditure before such date, $40,000,000 shall not be available for obligation, and shall no longer be authorized, on and after such date.

(c) Section 202 of the Highway Safety Act of 1978 is amended as follows:

(1) Paragraph (1) is amended by striking out "and $200,000,000 per fiscal year for each of the fiscal years ending September 30, 1981, and September 30, 1982." and inserting in lieu thereof "$200,000,000 for the fiscal year ending September 30, 1981, and $100,000,000 for the fiscal year ending September 30, 1982.".

(2) Paragraph (3) is amended by striking out "September 30, 1981, and September 30, 1982." and inserting in lieu thereof "and September 30, 1981, and $10,000,000 for the fiscal year ending September 30, 1982.".

(3) The first sentence of paragraph (4) is amended by striking out "September 30,

1981, and September 30, 1982." and inserting in lieu thereof "and September 30, 1981, and $20,000,000 for the fiscal year ending September 30, 1982.". The second sentence of such paragraph is amended by striking out "September 30, 1981, and September 30, 1982." and inserting in lieu thereof "and September 30, 1981.".

(4) Paragraph (10) is amended by inserting "and" after "September 30, 1980," and by striking out ", and $15,000,000 for the fiscal year ending September 30, 1982".

CHAPTER 3—PUBLIC MASS TRANSPORTATION

SEC. 11031. The Urban Mass Transportation Act of 1964 is amended as follows:

(1) Section 4(c)(3)(A) is amended by striking out "$1,600,000,000" and inserting in lieu thereof "$1,515,000,000".

(2) Section 4(e) is amended by striking out "$120,000,000" and inserting in lieu thereof "$75,000,000".

(3) Section 4(f) is amended by striking out "$105,000,000" and inserting in lieu thereof "$100,000,000".

(4) Section 4(g) is amended by striking out the period at the end thereof and inserting in lieu thereof ", except that there are authorized to be appropriated not to exceed $600,000,000 for such projects for the fiscal year ending September 30, 1982.".

(5) Section 5(a)(1)(B) is amended by striking out "$900,000,000 in each fiscal year ending September 30, 1981, and September 30, 1982." and inserting in lieu thereof "$900,000,000 for the fiscal year ending September 30, 1981, and $850,000,000 for the fiscal year ending September 30, 1982.".

(6) Section 5(a)(2)(B) is amended by striking out "$250,000,000" the last place it appears and inserting in lieu thereof "$165,000,000".

(7) Section 5(a)(3)(B) is amended by striking out "$160,000,000" and inserting in lieu thereof "$90,000,000".

(8) Section 5(a)(4)(B) is amended by striking out "$455,000,000" and inserting in lieu thereof "$375,000,000".

Subtitle B—Water Resource Development Programs

CHAPTER 1—WATER POLLUTION CONTROL

SEC. 11101. (a) Section 207 of the Federal Water Pollution Control Act is amended by striking out "September 30, 1981, and September 30, 1982," and inserting in lieu thereof "and September 30, 1981,".

(b) There is authorized to be appropriated to the Administrator of the Environmental Protection Agency for the fiscal year ending September 30, 1982, not to exceed $100,000,000 to carry out section 205(g) of the Federal Water Pollution Control Act. The Administrator shall make such authorization available to the States in accordance with such section 205(g) in the same manner and to the same extent as would be the case if $5,000,000,000 had been authorized under section 207 of such Act, using the same allotment table as was applicable to the fiscal year ending September 30, 1981.

SEC. 11102. Notwithstanding any other provision of law, the total amount authorized to be appropriated for the fiscal year ending September 30, 1982, to the Administrator of the Environmental Protection Agency for non-energy research and development activities and for abatement, control, and compliance activities shall not exceed $540,000,000.

CHAPTER 2—RIVER AND HARBOR, FLOOD CONTROL, AND RELATED PROJECTS

SEC. 11121. Notwithstanding any other provision of law, the total amount authorized to be appropriated for the fiscal year ending September 30, 1982, to the Secretary of the Army, acting through the Chief of Engineers, for construction of river and harbor, flood control, shore protection, and related authorized projects (other than the project for the Mississippi River and tributaries) and detailed studies, and plans and specifications, of projects authorized or made eligible for selection by law, shall not exceed $1,588,000,000.

CHAPTER 3—TVA PROJECT

SEC. 11131. No amount shall be authorized to be appropriated for the fiscal year ending September 30, 1982, to the Tennessee Valley Authority to carry out the North Alabama Coal Gasification Project at Murphy Hill, Alabama.

CHAPTER 4—FEES

SEC. 11141. No fees may be charged by the Secretary of the Army, acting through the Chief of Engineers, the Administrator of the Environmental Protection Agency, or by any other officer of the Federal Government for the transportation for the purpose of dumping, or the dumping, of any material into the oceans.

Subtitle C—Economic Development Programs

CHAPTER 1—PUBLIC WORKS AND ECONOMIC DEVELOPMENT

SEC. 11201. The Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 et seq.) is amended as follows:

(1) Section 105 is amended by striking out "September 30, 1981, and September 30, 1982." at the end of the first sentence and inserting in lieu thereof "and September 30, 1982, and not to exceed $175,000,000 for the fiscal year ending September 30, 1982.".

(2) Section 201(c) is amended by striking out "September 30, 1981, and September 30, 1982." at the end thereof and inserting in lieu thereof "and September 30, 1981, and not to exceed $70,000,000 for the fiscal year ending September 30, 1982.".

(3) Section 204(c) is amended by striking out "September 30, 1981, and September 30, 1982." and inserting in lieu thereof "and September 30, 1981.".

(4) Section 303(a) is amended by striking out "September 30, 1981, and September 30, 1982." and inserting in lieu thereof "and September 30, 1981, and not to exceed $53,000,000 for the fiscal year ending September 30, 1982.".

(5) The first sentence of section 304(a) is amended by striking out "September 30, 1981, and September 30, 1982," and inserting in lieu thereof "and September 30, 1981,".

(6) Section 403(g) is amended by striking out "September 30, 1981, and September 30, 1982," and inserting in lieu thereof "and September 30, 1981,".

(7) Section 404 is amended by striking out "September 30, 1981, and September 30, 1982," and inserting in lieu thereof "and September 30, 1981,".

(8) Section 509(d)(1) is amended by striking out "September 30, 1981, and September 30, 1982," and inserting in lieu thereof "and September 30, 1981,". Section 509(d)(2) is amended by striking out "September 30, 1981, and September 30, 1982," and inserting in lieu thereof "and September 30, 1981,".

(9) Section 709 is amended by inserting ", except that there are hereby authorized to be appropriated to carry out those provisions of the Act for which specific authority for appropriations is not otherwise provided in this Act not to exceed $27,000,000 for the fiscal year ending September 30, 1982" before the period at the end of the first sentence.

(10) Title VIII is amended by striking out section 806.

(11) Section 905 is amended by striking out "September 30, 1981, and September 30, 1982." and inserting in lieu thereof "and September 30, 1981, and not to exceed $35,000,000 for the fiscal year ending September 30, 1982.".

(12) Section 1007 is amended by striking out "September 30, 1982." and inserting in lieu thereof "and September 30, 1981.".

CHAPTER 2—APPALACHIAN REGIONAL DEVELOPMENT

SEC. 11221. (a) The Appalachian Regional Development Act of 1965 is amended as follows:

(1) Section 105(b) is amended by striking out "$3,350,000 for the fiscal year ending September 30, 1982 (of such amount not to exceed $550,000 shall be available for expenses of the Federal cochairman, his alternate, and his staff)." and inserting in lieu thereof "$2,900,000 for the fiscal year ending September 30, 1982 (of such amount not to exceed $400,000 shall be available for expenses of the Federal cochairman, his alternate, and his staff).".

(2) Section 401 is amended by striking out "$140,000,000 for the fiscal year ending September 30, 1982." and inserting in lieu thereof "$72,100,000 for the fiscal year ending September 30, 1982.".

(b) Notwithstanding any other provision of law, the total amount authorized to be appropriated for the fiscal year ending September 30, 1982, to the Appalachian Regional Commission under section 105(b) of the Appalachian Regional Development Act of 1965, as amended by subsection (a) of this section, and to the President under section 201(g) of such Act and under section 401 of such Act, as amended by subsection (a) of this section, shall not exceed $215,000,000.

TITLE XII—HOUSE COMMITTEE ON SCIENCE AND TECHNOLOGY

Subtitle A—Department of Energy Civilian Research and Development Authorization

SEC. 12001. This subtitle may be cited as the "Department of Energy Civilian Research and Development Programs and Projects 1982 Authorization Act".

OPERATING EXPENSES

SEC. 12002. (a) There are authorized to be appropriated for fiscal year 1982 in accordance with section 660 of the Department of Energy Organization Act, for operating expenses for each of the research and development programs referred to in subsection (b), a sum of dollars equal to the applicable percentage (as specified in such subsection) of the total amount which was made available for fiscal year 1981 for research, development, and demonstration activities under the appropriations account for that program pursuant to—

(1) title II of the Act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1981, and for other purposes (Public Law 96-514), under the heading "Department of Energy" and the subheadings "Fossil energy research and development" and "Energy conservation";

(2) title I of the Energy and Water Development Appropriation Act, 1981 (Public Law 96-367), under the heading "Department of Energy (Operating Expenses)" and the subheadings "Energy supply, research and development activities", "General science and research activities", "Geothermal Resources Development Fund", and "Uranium Supply and Enrichment Activities"; and

(3) section 101(5)(f) of (A) the joint resolution making continuing appropriations for the fiscal year 1981, and for other purposes (Public Law 96-369), and (B) the joint resolution making further continuing appropriations for the fiscal year 1981, and for other purposes (Public Law 96-536).

(b) The percentage (of the total amount made available for the program involved for fiscal year 1981, as more particularly described in subsection (a)) which is applicable with respect to each of the research and development programs for which appropriations are authorized by this section for fiscal year 1982 is as follows:

(1) 62 percent ($437,950,000) (of the amount so made available) in the case of fossil energy;

(2) 52 percent ($283,550,000) in the case of solar energy;

(3) 30 percent ($40,636,000) in the case of geothermal energy;

(4) 16 percent ($200,000) in the case of the Geothermal Resources Development Fund;

(5) 55 percent ($153,095,000) in the case of energy conservation;

(6) 116 percent ($437,760,000) in the case of general science and research;

(7) 109 percent ($265,411,000) in the case of basic energy research;

(8) 85 percent ($700,701,000) in the case of nuclear fission;

(9) 120 percent ($311,200,000) in the case of magnetic fusion;

(10) 17 percent ($2,000,000) in the case of hydropower;

(11) 67 percent ($72,500,000) in the case of electric energy systems and storage;

(12) 99 percent ($212,500,000) in the case of environmental research and development; and

(13) 116 percent ($74,292,000) in the case of advanced isotope separation technology.

PLANT AND CAPITAL EQUIPMENT

SEC. 12003. (a) There are authorized to be appropriated for fiscal year 1982 in accordance with section 660 of the Department of Energy Organization Act for construction (including planning, construction, acquisition, and modification of facilities, including land acquisition), and for acquisition and fabrication of capital equipment not related to construction, with respect to each prior year project listed in the budget documents submitted to the Congress in support of the fiscal year 1982 budget (other than a project for which appropriations are authorized by section 12004), amounts not to exceed the Federal share of the total estimated cost of such project as set forth in such budget documents, except as otherwise provided (in the case of specific projects) under subsection (b).

(b) The amounts otherwise authorized by subsection (a) to be appropriated for fiscal year 1982 with respect to projects listed in the budget documents are increased or decreased as follows:

(1) In the case of acquisition and fabrication of capital equipment not related to construction, the amount so authorized for fossil energy research and development is decreased by $800,000;

(2) in the case of acquisition and fabrication of capital equipment not related to construction, the amount so authorized for energy conservation is increased by $326,000;

(3) in the case of acquisition and fabrication of capital equipment not related to construction, the amount so authorized for energy supply, research, and development activities is decreased by $850,000;

(4) in the case of Project 81-E-218, Tevatron I, Fermilab, the amount so authorized is decreased by $21,500,000, for a total project authorization of $20,000,000;

(5) in the case of Project 81-E-308, Energy Systems Research Laboratory, Oak Ridge, Tennessee, the amount so authorized is increased by $500,000; except that (A) none of the authorized funds shall be utilized for this project until the Secretary seeks, and provides the authorizing committees of Congress with a report on the potential for, private financing of the construction of such facility (subject to the same restrictions as those set forth in clause (B)) conditioned upon a firm Government lease extending over a period of time, after which the Government would acquire title to such facility; and (B) the authorized amount shall, if not utilized for the subsequent leasing pursuant to subparagraph (A), be utilized for the continuation of the design and construction of a laboratory facility having not less than 49,046 net usable square feet accommodating at least 225 permanent persons and costing no more than $13,000,000, including all engineering, construction, collateral equipment, utilities, and site work from inception through completion;

(6) in the case of Project 81-ES-1, OTEC Pilot Plant, the amount so authorized is increased by $6,300,000, for a total project authorization of $36,300,000;

(7) in the case of Project 81-T-314, Impurity Studies Experiment Modification (ISX-C), Oak Ridge, Tennessee, the amount so authorized is increased by $3,500,000, for a total project authorization of $8,000,000;

(8) in the case of Project 80-ES-19, Small Community Solar Thermal Power Experiment, the amount so authorized is increased by $5,000,000, for a total project authorization of $9,180,000;

(9) in the case of Project 80-G-2, Second 50 MWe Demonstration Powerplant, Heber, Imperial Valley, California, the amount so authorized is increased by $7,000,000, for a total project authorization of $19,000,000;

(10) in the case of Project 80-GS-5, National Superconducting Cyclotron Laboratory, Michigan State University, Michigan, the amount so authorized is decreased by $11,600,000, for a total project authorization of $18,400,000;

(11) in the case of Project 80-MF-3, Elmo Bumpy Torus, Oak Ridge, Tennessee, the amount so authorized is decreased by $55,000,000, for a total project authorization of $21,400,000;

(12) in the case of Project 78-3-a, Mirror Fusion Test Facility, Lawrence Livermore Laboratory, California, the amount so authorized is decreased by $65,000,000, for a total project authorization of $148,700,000;

(13) in the case of Project 78-10-B, Intersecting Storage Accelerator (ISABELLE), Brookhaven National Laboratory, Brookhaven, New York, the amount so authorized is decreased by $149,500,000, for a total project authorization of $125,500,000 (including the $5,500,000 remaining under section 102(a)(8)(B) of Public Law 95-238); and

(14) in the case of multi-program general purpose facilities, the amount so authorized is decreased by such sum as may be necessary for a total project authorization of $19,700,000.

(15) in the case of Project 78-6-C, Safety Research Experimental Facility, Idaho National Engineering Laboratory, Idaho, the amount so authorized is decreased by $10,100,000, for a total project authorization of $34,200,000; and

(16) in the case of Project 76-5-A, Tokamak Fusion Test Reactor, Princeton, New Jersey, the amount so authorized is decreased by $4,900,000, for a total project authorization of $313,600,000.

(c) For purposes of this section, the terms "budget documents submitted to the Congress in support of the fiscal year 1982 budget" and "budget documents" mean the Department of Energy Congressional Budget Request, Fiscal Year 1982 (February 1981; DOE/CR-0011-3).

NEW CONSTRUCTION

SEC. 12004. There are authorized to be appropriated for fiscal year 1982 in accordance with section 660 of the Department of Energy Organization Act for plant and capital equipment (including planning, construction, acquisition, and modification of facilities, including land acquisition), with respect to each of the following projects, the amount specified for that project:

(1) Project 82-F-505, General Plant Projects for Technology Centers, six locations, $6,000,000;

(2) Project 82-F-506, Surface Water Containment and Waste Water Treatment Facility, Bruceton, Pennsylvania, $1,000,000;

(3) Project 82-ES-1, Central Receiver Utility Repowering Project, $6,000,000;

(4) Project 82-N-318, Nuclear Test and Evaluation Facility, site undetermined, $1,100,000;

(5) Project 82-N-312, General Plant Projects, $8,914,000;

(6) Project 82-N-310, Modifications to Reactors, $2,000,000;

(7) Project 82-E-321, Accelerator Improvement Modifications, various locations, $300,000;

(8) Project 82-E-320, General Plant Projects, $300,000;

(9) Project 82-E-301, 300 Area Utilities, Hanford, Washington, $1,000,000;

(10) Project 82-E-302, Security Facilities, Argonne Laboratory, Argonne, Illinois, $1,060,000;

(11) Project 82-E-305, Traffic Safety Improvements, Hanford Engineering Development Laboratory, Hanford, Washington, $3,240,000;

(12) Project 82-E-306, Railroad Modification, INEL, Idaho, $2,000,000;

(13) Project 82-GPP-1, General Plant Projects, $3,000,000;

(14) Project 82-V-305, Modifications and Additions to Environmental Research Facilities, various locations, $1,000,000;

(15) Project 82-E-221, Accelerator Improvements, $2,000,000;

(16) Project 82-E-222, General Plant Projects, $2,400,000;

(17) Project 82-E-223, Argonne Tandem/Linac Accelerator System, $2,000,000;

(18) Project 82-E-204, General Plant Projects, $5,000,000;

(19) Project 82-E-205, Accelerator Improvement Projects, various locations, $6,000,000; and

(20) Project 82-E-206, Tevatron II, Fermilab, $6,000,000.

(21) Project GPP-82, General Plant Projects, Princeton, New Jersey, and Oak Ridge, Tennessee, $5,700,000.

(22) Project 82-ES-2, Solar/Hybrid Electric Power Project (AE and long lead procurement only), $4,000,000, provided that no

funds are authorized to be obligated or expended for this project unless the fossil-fired portion of the project, including the fuel costs during the operational period, is privately funded.

(23) Project 82-N-402, General Plant Projects, $650,000.

(24) Project 82-N-403, Development Module, $6,000,000.

SEC. 12005. (a) Section 106 of Public Law 91-273, as amended, is repealed.

(b) The Secretary of Energy is directed to take such action with respect to contractual instruments previously entered into in connection with the Clinch River Breeder Reactor Project (pursuant to section 106 of Public Law 91-273), as in his judgment are necessary or appropriate to carry out this section; but nothing in this section is intended in any way to prejudice any existing rights of any party affected by modification of any such contractual instrument.

(c) The Secretary is directed to report to the appropriate committees of Congress within 30 days after the date of the enactment of this Act regarding his plan for logical termination of the Clinch River Breeder Reactor Project, including projections of costs and schedules for repayment.

SEC. 12006. (a) There is hereby authorized to be appropriated or reappropriated not to exceed $44,500,000 to carry out the purposes of section 12005.

(b) There is hereby authorized to be appropriated an additional amount, not to exceed $50,000,000, for the purpose of refined conceptual design activities for a liquid metal fast breeder Large Development Plant.

SEC. 12007. (a) With respect to Department of Energy civilian research and development programs, the Federal share of each plant and capital equipment construction project, other than a construction project for which funds are authorized under section 12002(b)(8) of this Act, shall be funded exclusively from an account separate from operating expenses; and, for purposes of the President's annual budget submission and of related reports submitted by the Secretary to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, each plant and capital equipment construction project shall be assigned or reassigned to one of the following categories:

(1) MAJOR CONSTRUCTION PROJECTS.—(A) All construction projects having a total estimated Federal cost of $5,000,000 or more. Each such project shall be set forth by name, location, total estimated cost, total estimated Federal cost, description, justification, cost details, and outlays for pertinent fiscal years. Appropriate documentation shall also be provided.

(B) No major construction project authorized by this subtitle shall, after title I design is completed, be substantially reduced in scope in order to stay within the current total estimated cost unless (i) a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after the receipt by the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate of notice given by the Secretary containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or (ii) each such committee before the expiration of such period has transmitted to the Secretary written notice to the effect that such committee has no objection to the proposed action.

(2) MINOR CONSTRUCTION PROJECTS.—All construction projects having a total estimated Federal cost between $1,000,000 and $5,000,000. These projects within each program area may be submitted in combined form. Accompanying documentation shall include the name, location, description, total estimated cost, and total estimated Federal cost of each project. By December 1 of each year, the Secretary shall issue a report to each such committee describing all changes in the list of these projects and in the funding among them.

(3) GENERAL PLANT PROJECTS.—All general plant construction projects having a total estimated Federal cost of up to $1,000,000. These projects within each program area may be consolidated into one item.

(4) PLANNING AND DESIGN.—The architect and engineering phase for construction projects (title I design and title II design) within each program area may be combined into one item. Site work or other construction activities may not be included. Accompanying documentation shall include a description by subprogram of the effect, purpose, and estimated cost of such planning and design.

Notwithstanding the preceding provisions of this section, operating expenses may be used for (A) any construction project having a total estimated Federal cost of $500,000 or less, (B) the conceptual design of any project, (C) the procurement and installation of individual components fabricated for research and development or testing when such components are not an integral part of a basic facility or construction project, (D) experimental test equipment to conduct specific investigations but not for long-term research and development use, and (E) solar heating and cooling demonstrations.

(b) For major construction projects where it is in the national interest to initiate construction in advance of the next annual budget cycle, the Secretary or Under Secretary shall notify the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate 60 days in advance of commencing construction under this section, shall provide those committees with a detailed justification for commencing construction in advance of such cycle, shall (subject to any application limitations) reprogram necessary funding from other major construction projects, and shall inform those committees of the sources of the funding and of the effect on the particular projects from which the funding was taken.

(c) For purposes of this section—

(1) the term "total estimated Federal cost" with respect to a construction project means the most current estimate of the cost which will be borne by the United States Government of all activities ultimately constituting a part of the project;

(2) the term "total estimated cost" with respect to a construction project means the most current estimate of the cost of all activities ultimately constituting a part of the project;

(3) the term "construction project" means the design, construction, or modification of a Department of Energy civilian research and demonstration facility, including buildings, test facilities, pilot and demonstration plants, processing and reprocessing plants, utilities, and improvements; and for this purpose (A) only facilities uniquely related to a larger construction project may be combined with that project, and (B) when minor construction projects or general plant projects are submitted in combined form, completed projects including all dedicated equipment must always be used in these submissions;

(4) the term "conceptual design" means the formative stage in the design of a facility leading to preliminary estimates of size, capabilities, and design criteria and an initial understanding of the interrelationships among the facility's significant features;

(5) the term "title I design" means the refinement of the design concept by means of preliminary engineering drawings, outline specifications, cost estimates, and schedules, the identification of long-lead procurement, site improvements, and applicable code standards, and the consideration of structural, hydraulic, chemical, mechanical, and electric constraints and capabilities; and

(6) the term "title II design" means the development of the details of each aspect of title I design to the point where a contractor can order the components and proceed with construction, including complete engineering calculations considering all applicable codes, standards, and contract provisions, detailed specifications, dimensioned drawings, and procurement data, a precise cost estimate, and a firm-construction schedule.

(d) As used in this section, the term "program" includes any of the categories listed in subsection (a), and any construction project included in the category of major construction projects as described in paragraph (1) of such subsection: *Provided*, That if the current total estimated Federal cost of any major construction project exceeds the original estimated Federal cost by more than 10 percent, such funds may be acquired from other major construction projects upon written notice to the Committee on Science and Technology of the House of Representatives and the Energy and Natural Resources Committee of the Senate.

(e) Whenever the provisions of this section conflict or are inconsistent with any other provision of this subtitle or the Energy Reorganization Act of 1974 (Public Law 93-438, as amended), the provisions of this section shall govern.

SEC. 12008. The Secretary of Energy is directed to establish a new separate activity at the headquarters level, to be known as the Research and Development Construction and Facilities Office. The activity is established for the purpose of providing technical and management facility design and construction services for the Department, including establishing and maintaining design standards, setting construction and maintenance policies, performing continuous project reviews and evaluations, and coordinating 5-year maintenance plans for institutional maintenance, modification, and construction. The sum of $400,000 is authorized within departmental administration for this specific purpose.

SEC. 12009. No funds authorized under this subtitle shall be used for the purpose of releasing any radioactive contaminated water into the Susquehanna River or its watershed.

AUTHORIZATIONS LIMITED TO RESEARCH AND DEVELOPMENT PURPOSES

SEC. 12010. Nothing in this subtitle shall be construed to authorize commercial or remedial action activities.

Subtitle B—Department of Energy Civilian Programs Authorization

CHAPTER 1—CONSERVATION, COMMERCIALIZATION, AND RELATED ACTIVITIES

SEC. 12101. Funds are authorized to be appropriated for fiscal year 1982 in accordance with section 660 of the Department of Energy Organization Act for operating expenses for the following conservation, commercialization, and related activities programs:

(A) Conservation activities:

(1) Buildings and community systems, $1,000,000;

(2) Transportation, $1,000,000; and

(3) State and local, $106,965,000.

CHAPTER 2—REGULATORY AND RELATED FUNCTIONS

SEC. 12111. Funds are authorized to be appropriated for fiscal year 1982 in accordance with section 660 of the Department of Energy Organization Act for the following regulatory and related functions:

(A) Economic Regulatory Administration, $24,000,000;

(B) Office of Hearings and Appeals, $4,500,000;

(C) Federal Energy Regulatory Commission, $82,173,000;

(D) Energy Information Administration, $56,523,000; and

(E) Strategic Petroleum Reserve, $3,883,408,000.

CHAPTER 3—POWER MARKETING AND FEDERAL LEASING

SEC. 12121. Funds are authorized to be appropriated for fiscal year 1982 in accordance with section 660 of the Department of Energy Organization Act for expenses for the following power marketing programs;

(A) Alaska Power Administration, including expenses for engineering and economic investigation to promote the development and utilization of the water, power, and related resources of Alaska, $3,538,000;

(B) Southeastern Power Administration, including continuing fund, $7,237,000;

(C) Southwestern Power Administration, including continuing fund, $21,569,000;

(D) Western Area Power Administration, for construction, rehabilitation, operation, and maintenance of electric power transmission facilities, and power marketing activities, $210,774,000, of which $138,374,000 shall be derived from the Department of the Interior Reclamation Fund and $680,000 shall be derived from the Colorado River Dam Fund; and

(E) Western Area Power Administration, for the emergency fund established pursuant to the Act of June 26, 1948 (43 U.S.C. 502), to assure continuous operations during unusual or emergency conditions, $500,000, all of which shall be derived from the Department of the Interior Reclamation Fund.

SEC. 12122. Funds are authorized to be appropriated for fiscal year 1982 in accordance with section 660 of the Department of Energy Organization Act for expenses for the following fuel data gathering and analysis programs:

(A) Mineral fuels and petroleum and natural gas data, $23,477,000.

CHAPTER 4—NUCLEAR ASSESSMENT, INTERIM SPENT NUCLEAR FUEL MANAGEMENT, AND COMMERCIAL WASTE REMEDIAL ACTION

SEC. 12131. Funds are authorized to be appropriated for fiscal year 1982 in accordance with section 660 of the Department of Energy Organization Act for:

(A) Operating expenses for uranium resource assessment, $9,700,000;

(B) Capital equipment not related to construction for uranium resource assessment, $200,000;

(C) Plant and capital equipment including planning, construction, acquisition, or modification of facilities, including land acquisition for the following uranium resource assessment program:

(1) Project 82-R-410, General plant projects, Grand Junction, Colorado, $100,000;

(D) Operating expenses for remedial action:

(1) Remedial action program expenses, $55,070,000; and

(E) Capital equipment not related to construction, $775,000.

CHAPTER 5—OTHER RENEWABLE RESOURCES AND CONSERVATION ACTIVITIES

SEC. 12141. Funds are authorized to be appropriated for fiscal year 1982 in accordance with section 660 of the Department of Energy Organization Act for the following fossil energy, solar energy, and conservation programs:

(A) Operating expenses for solar information systems, $5,000,000;

(B) Operating expenses for conservation activities;

(1) Buildings and Community Systems, $6,500,000;

(2) Industrial Energy Conservation, $1,400,000;

(3) Energy Extension Service, $15,000,000;

(4) Multi-Sector Appropriate Technology, $5,000,000;

(C) Operating expenses for small-scale hydropower demonstration, $1,000,000; and

(D) Capital equipment not related to construction for conservation activities, buildings, and community systems, $100,000.

SEC. 12142. Any State receiving financial assistance for energy extension service activities pursuant to the National Energy Extension Service Act shall be required to provide funds from non-Federal sources for such activities in an amount no less than 20 per centum of the amount allocated to such State under such Act during any fiscal year.

SEC. 12143. Within six months after the date of the enactment of this Act, the Secretary shall transmit to both Houses of Congress a detailed description of the comprehensive program and management plan for the conservation and renewable energy technology transfer programs in the Department of Energy, including the Energy Extension Service, the National Solar Heating and Cooling Information Center, and the Regional Solar Energy Centers. Such plan shall include a detailed description of the roles, division of responsibilities, and relationships of such Centers with other technology transfer activities of the Department of Energy, including the Energy Extension Service, the Solar Energy Information Data Bank, and the National Solar Heating and Cooling Information Center. Such plan shall also include a detailed description of how the information dissemination activities and services of the Department of Energy in the fields of renewable energy resources and energy conservation are being coordinated with similar or related activities and services of other Federal agencies.

CHAPTER 6—URANIUM ENRICHMENT, OTHER COMMERCIAL WASTE MANAGEMENT ACTIVITIES, WEST VALLEY DEMONSTRATION PROJECT ACTIVITIES, AND THREE MILE ISLAND ACTIVITIES

SEC. 12151. Funds are authorized to be appropriated for fiscal year 1982 in accordance with section 660 of the Department of Energy Organization Act for:

(A) Operating expenses for uranium enrichment:

(1) Gaseous diffusion operations and support, $961,825,000;

(2) Gas centrifuge operations and support, $5,200,000;

(3) Uranium enrichment process development, $93,075,000; and

(4) Program administration, $3,100,000.

(B) Uranium enrichment activities plant and capital equipment, including planning, construction, acquisition, or modification of facilities, including land acquisition, as follows:

(1) Project 82-R-410, General plant projects, various locations, $17,500,000;

(2) Project 82-R-411, UF_6 cylinders and storage yards, gaseous diffusion plants, $11,000,000;

(3) Project 82-R-412, Cooling tower modifications, Oak Ridge, Tennessee and Portsmouth, Ohio, gaseous diffusion plants, $8,000,000;

(4) Project 82-R-413, Improved UF_6 containment and gaseous diffusion plants, $7,100,000;

(5) Project 82-R-414, Purge and cascade withdrawal modifications, gaseous diffusion plant, Paducah, Kentucky, $9,000,000;

(6) Project 82-R-415, Fire alarm system replacement, gaseous diffusion plants, $4,700,000;

(7) Project 82-R-416, Environmental protection and safety modifications, Phase II, gaseous diffusion plants, $2,000,000;

(8) Project 82-R-417, Air distribution system upgrading, gaseous diffusion plant, Paducah, Kentucky, $2,700,000;

(9) Project 82-R-418, Advanced Centrifuge Test Facilities, Oak Ridge, Tennessee, $6,000,000;

(10) Project 81-R-503, Utilities upgrading, gaseous diffusion plants, an additional sum of $17,000,000 for a total project authorization of $27,000,000;

(11) Project 81-R-504, Supervisory control and data acquisition systems, Paducah, Kentucky and Portsmouth, Ohio, gaseous diffusion plants, an additional sum of $7,000,000 for a total project authorization of $13,000,000;

(12) Project 81-R-506, Environmental protection and safety improvements, Phase I, gaseous diffusion plants, $7,000,000;

(13) Project 80-UE-2, Control of water pollution, gaseous diffusion plants, an additional sum of $4,000,000 for a total project authorization of $17,000,000;

(14) Project 80-UE-3, Plant facilities security improvements, gaseous diffusion plants, an additional sum of $4,000,000 for a total project authorization of $17,000,000;

(15) Project 80-UE-5, Motor and switchgear upgrading, gaseous diffusion plants, an additional sum of $6,600,000 for a total project authorization of $26,500,000; and

(16) Project 76-8-g, Enriched uranium production facilities, Portsmouth, Ohio, an additional sum of $601,000,000 for a total project authorization of $1,552,845,000.

(C) Capital equipment not related to construction for uranium enrichment, $27,200,000.

SEC. 12152. Funds are authorized to be appropriated for fiscal year 1982 in accordance with section 660 of the Department of Energy Organization Act for operating expenses for other commercial waste management activities:

(A) Repository licensing activities in the terminal isolation program, $2,000,000;

(B) Assistance to States in the waste system evaluation program, $1,000,000; and

(C) Assistance to States for low-level waste management, $500,000.

SEC. 12153. Funds are authorized to be appropriated for fiscal year 1982 in accordance with section 660 of the Department of Energy Organization Act for the following West Valley Demonstration project activities:

(A) Operating expenses for the West Valley Demonstration project, $9,800,000; and

(B) Capital equipment not related to construction for the West Valley Demonstration project, $200,000.

CHAPTER 7—DEPARTMENTAL ADMINISTRATION

SEC. 12161. Funds are authorized to be appropriated for fiscal year 1982 in accordance with section 660 of the Department of Energy Organization Act for:

(A) Operating expenses for departmental administration activities:

(1) Office of the Secretary, $3,616,000;

(2) General management, $62,004,000;

(3) Program administration, $6,249,000;

(4) Field offices, $56,688,000;

(5) Other salary expenses, travel, and services, $131,506,000;

(6) Policy analysis and systems studies, $10,678,000;

(7) International policy studies, $250,000;

(8) Intergovernmental affairs, $9,365,000;

(9) Public affairs, $900,000;

(10) In-house energy management, $5,400,000;

(11) Cost of work for others, and changes in inventories, $55,214,000;

(12) Consumer affairs, $168,000; and

(13) Technical information services, $14,830,000.

(B) Departmental administration activities plant and capital equipment, including planning, construction, acquisition, or modification of facilities, including land acquisition, as follows:

(1) Project 82-A-601, Modifications for energy management, various locations, $14,100,000;

(2) Project 82-A-602, Advanced Test Reactor (ATR) waste heat recovery, Idaho National Engineering Laboratory, Idaho, $4,900,000;

(3) Project 82-A-603, High temperature water distribution system, Los Alamos Scientific Laboratory, New Mexico, $5,000,000;

(4) Project 81-A-602, Energy monitoring and control system, Y-12 Plant, Oak Ridge, Tennessee, an additional sum of $2,500,000 for a total project authorization of $5,000,000;

(5) Project 81-A-603, Energy monitoring and control system, Oak Ridge National Laboratory, an additional sum of $2,000,000 for a total project authorization of $4,000,000;

(6) Project 81-A-605, Automated energy management system, Argonne National Laboratory, Argonne, Illinois, an additional sum of $1,900,000 for a total project authorization of $3,800,000;

(7) Project 80-DA-06, Alternate energy source, Pantex Plant, Amarillo, Texas, an additional sum of $3,000,000 for a total project authorization of $6,000,000; and

(8) Project 82-C-601, Plant engineering and design, various locations, $2,000,000.

(C) Capital equipment not related to construction for departmental administration activities, $5,563,000.

CHAPTER 8—UNITED STATES ENERGY PROJECTIONS

SEC. 12171. United States energy projections:

[Quads/Year]

	Actual 1979	Projected							
		1985		1990		1995		2000	
		Low	High	Low	High	Low	High	Low	High
Domestic production:									
Oil and NGL	20.5	16	20	15	21	15	21	15	21
Natural gas	19.9	17	19	16	19	15	18	14	17
Coal	17.5	20	24	24	32	29	41	35	53
Nuclear	2.8	5	5.5	7	8	7	10	7	12
Hydro/geothermal	3.1	3.3	3.6	3.4	4.3	4	5	4	6
Renewables and other	1.8	1.9	2.7	2.4	4.0	3.5	6	4	9
Subtotal	65.7		63–74		69–87		75–99		82–113
Imports:									
Oil	16.9	20	15	18	8	16	3	15	0
Natural gas	1.2	2	2	3	3	3	3	2	2
Coal	(1.7)	(1.8)	(3)	(2.2)	(4)	(3)	(6)	(4)	(8)
Subtotal	16.4	20	14	19	7	16	0	13	(6)
Total supply	82.1		84–87		88–93		92–99		95–107
End-use consumption:									
Petroleum liquids	33.5	33	32	31	28	30	26	30	25
Natural gas	17.2	16	18	16	19	16	19	16	20
Direct coal	3.8	4	5	5	7	5	8	5	9
Electricity	7.0	8	9	10	11	11	12	12	13
Decentralized renewables	1.8	1.8	2.6	2.3	3.9	3	5	3.5	8
Subtotal	63.3		63–65		65–67		66–69		67–72
Conversion losses	17.4		20–22		24–26		26–30		28–35
Stock increase	1.4								
Total consumption	82.1		84–87		88–93		92–99		95–107

Subtitle C—National Science Foundation Authorization

SEC. 12201. This subtitle may be cited as the "National Science Foundation Authorization Act for Fiscal Year 1982".

SEC. 12202. There are authorized to be appropriated to the National Science Foundation, for the fiscal year 1982, the sums indicated for the following categories:

(1) Mathematical and Physical Sciences, $295,400,000.

(2) Engineering, $102,600,000.

(3) Biological, Behavioral, and Social Sciences, $198,100,000.

(4) Astronomical, Atmospheric, Earth and Ocean Sciences, $253,200,000.

(5) Ocean Drilling Programs, $14,000,000.

(6) Antarctic Research Programs, $69,600,000.

(7) Scientific, Technological, and International Affairs, $56,400,000.

(8) Cross-Directorate Programs, $13,200,000.

(9) Program Development and Management, $63,200,000.

(10) Science and Engineering Education, $75,000,000.

SEC. 12203. Appropriations made under authority provided in sections 12202, 12204, and 12207 shall remain available for obligation, for expenditure, or for obligation and expenditure for periods specified in the Acts making the appropriations.

SEC. 12204. Besides the sums authorized in sections 12202 and 12207, there are authorized to be appropriated to the National Science Foundation, $16,500,000 for the fiscal year 1982 for a special program for modernization of research equipment and facilities.

SEC. 12205. If the total amount of appropriations made by any Act for program activities included in section 12202 and section 12204 for the fiscal year 1982 is less than the total amount authorized to be appropriated for those activities by section 12202 and section 12204, the amount available from such appropriations for any particular program activity shall bear the same ratio to the amount authorized to be appropriated for that activity by section 12202 and section 12204 as the total amount of the appropriations made by such appropriation Act for all included program activities bears to the total amount authorized to be appropriated for those activities by section 12202 and section 12204, except to the extent specifically otherwise provided in the text of the Act making the appropriations for the program activities involved.

SEC. 12206. From appropriations made under this subtitle, not more than $5,000 for fiscal year 1982 may be used for official con-

sultation, representation, or other extraordinary expenses at the discretion of the Director of the National Science Foundation. His determination will be final and conclusive upon the accounting officers of the Government.

SEC. 12207. Besides the sums authorized by sections 12202 and 12204, not more than $3,500,000 for fiscal year 1982 are authorized to be appropriated for expenses of the National Science Foundation incurred outside the United States, to be drawn from foreign currencies that the Treasury Department determines to be excess to the normal requirements of the United States.

SEC. 12208. Funds may be transferred among the categories listed in section 12202, so long as the net funds transferred to or from any category do not exceed 10 per centum of the amount authorized for that category in section 12202. The Director of the Foundation may propose transfers to or from any category exceeding 10 per centum of the amounts authorized for that category in section 12202. An explanation of any such proposed transfer must be transmitted in writing to the Speaker of the House, the President of the Senate, the Senate Committee on Labor and Human Resources, and the House Committee on Science and Technology. The proposed transfer may be made only when—

(1) thirty calendar days have passed after submission of the written proposal, or

(2) the chairman of the House Committee on Science and Technology and the chairman of the Senate Committee on Labor and Human Resources have each written the Director to the effect that the respective committee has no objection to the proposed transfer.

SEC. 12209. (a) The text of section 12209 of the National Science Foundation Act of 1950 is amended to read as follows:

"(a) Each special commission established under section 4(h) shall be appointed by the Board and shall consist of such members as the Board considers appropriate.

"(b) Special commissions may be established to study and make recommendations to the Foundation on issues relating to research and education in science and engineering.".

(b) Section 6 of Public Law 95-99, the National Science Foundation Authorization Act, fiscal year 1978, is deleted.

Subtitle D—Atmospheric, Climatic, and Ocean Pollution Authorization

SHORT TITLE

SEC. 12301. This subtitle may be cited as the "Atmospheric, Climatic, and Ocean Pollution Act of 1982".

PROGRAM AUTHORIZATIONS

SEC. 12302. (a) There are authorized to be appropriated to the National Oceanic and Atmospheric Administration of the Department of Commerce for atmospheric, climatic, and ocean pollution programs for the fiscal year 1982 for the following activities:

(1) Marine Ecosystems and Ocean Dumping Research, $18,324,000.

(2) Basic Environmental Services, $159,830,000.

(3) Environmental Satellite Services, $122,236,000.

(4) Public Forecast and Warning Services, $98,856,000.

(5) Specialized Environmental Services, $44,543,000.

(6) Environmental Data and Information Services, $25,041,000.

(7) Global Monitoring of Climatic Change, $4,141,000.

(8) Weather Modification, $9,245,000.

(9) International Projects, $9,027,000.

(b) Funds may be transferred between categories listed in subsection (a), except that no funds may be transferred from any particular category or categories listed in such subsection if the total of the funds so transferred from that particular category would exceed 10 per centum thereof, and no funds may be transferred to any particular category or categories listed in subsection (a) from any other category or categories listed in subsection (a) if the total of the funds so transferred to that particular category would exceed 10 per centum thereof, unless—

(1) a period of thirty legislative days has passed after the Administrator of the National Oceanic and Atmospheric Administration or his designee has transmitted to the Speaker of the House of Representatives and to the President of the Senate a written report containing a full and complete statement concerning the nature of the transfer involved and the reason therefor; or

(2) each committee of the House of Representatives and the Senate having jurisdiction over the subject matter involved, before the expiration of such period, has transmitted to the Administrator written notice to the effect that each committee has no objection to the proposed action.

(c) Of the Weather Service offices authorized under section 12302(a), (2), (4), or (5), the station at Williamsport, Pennsylvania shall be accorded priority status within this group.

OTHER AUTHORIZATIONS

SEC. 12303. (a) There are authorized to be appropriated to the Secretary of Commerce for the fiscal year 1982 for use by the National Climate Program Office—

(1) $1,200,000, in addition to any other funds authorized to be appropriated for the purpose of conducting climate-related programs, for the purpose of administering the National Climate Program Office;

(2) $700,000 to carry out intergovernmental climate program activities authorized in section 6 of the National Climate Program Act; and

(3) $300,000 to establish experimental climate forecast centers as authorized in section 5(d)(8) of the National Climate Program Act.

CIVILIAN LAND OBSERVING SYSTEM

SEC. 12304. (a) The National Oceanic and Atmospheric Administration of the Department of Commerce is hereby authorized to plan for, develop, and operate a civilian land observing system.

(b) The Administrator of the National Oceanic and Atmospheric Administration shall report through the Secretary of Commerce to the President and the Congress not later than January 15, 1982, on all activities undertaken pursuant to this subsection during the preceding calendar year, together with such recommendations for additional legislation as the Administrator deems necessary or desirable.

(c) In addition to any other funds authorized to be appropriated for the purpose of planning for, developing, and operating a civilian land observing system, there are authorized to be appropriated to the National Oceanic and Atmospheric Administration, for the fiscal year 1982, $5,100,000 for the purpose of carrying out the provisions of this section.

REPORTING

SEC. 12305. (a) The Administrator of the National Oceanic and Atmospheric Administration shall keep the appropriate committees of the House of Representatives and the Senate fully and currently informed about all aspects of the atmospheric, climatic, and ocean pollution activities for such Administration.

(b) Each year, at the time of the submission of the President's annual budget request, the Administrator shall make available to the appropriate committees of Congress sufficient copies of a report fully describing the funds requested and the atmospheric, climatic, and ocean pollution activities to be carried out with these funds.

Subtitle E—Environmental Research, Development, and Demonstration Authorization

SHORT TITLE

SEC. 12401. This subtitle may be cited as the "Environmental Research, Development, and Demonstration Act of 1982".

PROGRAM AUTHORIZATIONS

SEC. 12402. (a) There are authorized to be appropriated to the Environmental Protection Agency for environmental research, development, and demonstration activities for the fiscal year 1982 for the following activities:

(1) for air quality activities authorized under the Clean Air Act—

(A) in the Oxidants research program, $19,076,000;

(B) in the Hazardous Air Pollutants research program, $10,768,000;

(C) in the Mobile Sources research program, $6,253,000;

(D) in the Gases and Particles research program, $30,332,000;

(2) for water quality activities authorized under the Clean Water Act—

(A) in the Water Quality research program, $20,906,000: *Provided,* That of the funds appropriated pursuant to this paragraph $2,000,000 shall be obligated and expended on the Great Lakes research program through the Environmental Protection Agency's Large Lakes Research Station, Grosse Ile, Michigan: *Provided further,* That of the funds appropriated pursuant to this paragraph, $1,000,000 shall be obligated and expended on research to develop environmentally sound methods to control aquatic weeds;

(B) in the Municipal Wastewater research program, $19,585,000: *Provided,* That of the funds appropriated pursuant to this paragraph, $3,200,000 shall be obligated and expended on the Sludge Management research program;

(C) in the Industrial Wastewater research program, $10,598,000;

(3) for water supply activities authorized under the Safe Drinking Water Act, $29,713,000: *Provided,* That of the funds appropriated pursuant to this paragraph, $5,000,000 shall be obligated and expended on the Groundwater research program through the Robert S. Kerr Laboratory in Ada, Oklahoma: *Provided further,* That of the funds appropriated pursuant to this paragraph, $500,000 shall be obligated and expended on a study of ground water protection and quality enhancement in the Long Island Pine Barrens in Suffolk County, New York;

(4) for solid and hazardous waste activities authorized under the Resource Conservation and Recovery Act, $27,046,000: *Provided,* That of the funds appropriated pursuant to this authorization, $1,200,000 shall be obligated and expended for environmental studies and a demonstration project for

cleanup of hazardous wastes at one or more of the following sites: Coventry, Rhode Island; North Smithfield, Rhode Island; and Wood River Junction, Rhode Island;

(5) for pesticide activities authorized under the Federal Insecticide, Fungicide, and Rodenticide Act, $6,876,000;

(6) for radiation activities authorized under the Public Health Service Act, $2,982,000;

(7) for interdisciplinary activities, $6,484,000;

(8) for toxic substances activities authorized under the Toxic Substances Control Act, $34,008,000;

(9) for energy activities—

(A) in the Energy Control Technology program, $40,987,000;

(B) in the Energy Health Effects program, $7,057,000;

(C) in the Energy Ecological Effects program, $16,335,000;

(D) in the Energy Monitoring Systems program, $480,000;

(E) in the Acid Rain program, $9,037,000.

(b) There are authorized to be appropriated to the Environmental Protection Agency, Office of Research and Development, for fiscal year 1982, for program management and support, $8,712,000.

(c) When he finds it in the public interest, the Administrator of the Environmental Protection Agency is authorized to utilize funds authorized in subsection (a) or (b) for appropriate scientific and professional review of research and development grant, contract, and cooperative agreement applications.

(d) Funds may be transferred between the categories listed in subsections (a) and (b) except that no funds may be transferred from any particular category listed in subsection (a) or (b) to any other category or categories listed in any such subsection if the total of the funds so transferred from that particular category would exceed 10 per centum thereof, and no funds may be transferred to any particular category listed in subsection (a) or (b) from any other category or categories listed in any such subsection if the total of the funds so transferred to that particular category would exceed 10 per centum thereof, unless—

(1) a period of thirty legislative days has passed after the Administrator of the Environmental Protection Agency or his designee has transmitted to the Speaker of the House of Representatives and to the President of the Senate a written report containing a full and complete statement concerning the nature of the transfer involved and the reason therefor; or

(2) each committee of the House of Representatives and the Senate having jurisdiction over the subject matter involved, before the expiration of such period, has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

(e) The Administrator shall establish a separately identified program of continuing, long-term environmental research and development for each activity listed in subsection (a) of this section. Unless otherwise specified by law, at least 15 per centum of funds appropriated to the Administrator for environmental research and development for each activity listed in subsection (a) of this section shall be obligated and expended for such long-term environmental research and development under this subsection.

SEC. 12403. Appropriations made pursuant to the authority provided in section 12402 of this Act shall remain available for obligation for expenditures, or for obligation and expenditure, for such period or periods as may be specified in the Acts making such appropriations.

ENCOURAGING HIGH QUALITY RESEARCH

SEC. 12404. (a) PEER REVIEW IN PLANNING.—(1) The Administrator of the Environmental Protection Agency shall conduct a study of the use of peer review in research planning by means of a pilot project.

(2)(A) The pilot project shall involve peer review of research planning documents for one or two areas of research at an appropriate time in the Agency planning cycle.

(B) Peer review panels shall be selected by the principal research official of the Agency in accordance with general criteria which shall be developed by the Science Advisory Board (established in section 8 of Public Law 95-155). Members of the panels shall be outstanding members of the scientific or engineering community in areas related to the research plan being reviewed.

(C) The peer review panels shall comment on the technical and scientific quality of the research plans and shall assign relative priorities on the components constituting the research plans in accordance with general criteria established by the Agency and the Science Advisory Board.

(D) The Administrator is authorized to pay to non-Federal members of the peer review panels reasonable and justified expenses incurred by them in carrying out the provisions of this subsection.

(3) The Administrator shall report to the Congress and inform the Science Advisory Board on the results of this study within one year after the date of the enactment of this Act. The report shall include recommendations for future use of peer review in Agency research planning.

(b) REVIEWS OF THE SCIENTIFIC LITERATURE.—(1) Based upon recommendations made pursuant to paragraph (2) of this subsection, the principal research official of the Agency shall commission annually several critical reviews of the scientific, technical, or engineering literature in various fields of importance to the Agency's mission.

(2) The Science Advisory Board shall establish and publish general criteria for use by the principal research official of the Agency in (A) selecting technical areas for review; (B) defining the scope of the review; (C) selecting review processes or reviewers; and (D) determining when a review should be updated.

(3) The principal research official of the Agency shall solicit advice from relevant non-Federal scientific and technical groups in arranging for these critical reviews.

(4) The reviews shall be prepared with the intent of publication in high quality technical journals or as monographs.

(c) ASSURANCE OF DATA QUALITY.—(1) Within one hundred and eighty days after the enactment of this Act the Administrator shall develop and promulgate straightforward procedures, which are accurate and understandable to the nonprofessional for assuring that Agency research programs (whether in-house or by contract or cooperative agreement) produce data that are of verifiable accuracy. Such procedures shall contain data quality assurance protocols including provisions for (A) appropriate, scientifically dependable (and where appropriate standardized); well-characterized sampling plans; (B) well characterized (and where available, standardized) measurement methods including measurement assurance methods; (C) clearly defined data-reduction schemes; and (D) description of the experiment in sufficient detail to permit replication.

(2) Reports of research work supported by the Agency shall state plainly and prominently whether or not the work was performed and reported in accordance with the procedures promulgated pursuant to paragraph (1) of this subsection.

(d) EFFECTIVE DATE.—This section shall take effect on October 1, 1981.

INTEGRATION OF RESEARCH AND DISSEMINATION OF INFORMATION

SEC. 12405. (a) The Administrator of the Environmental Protection Agency shall conduct a study on (1) coordination of the Federal Government's efforts in environmental research, development, and demonstration, (2) the application of the results of such efforts to environmental problems, and (3) opportunities for improved dissemination of information generated from such efforts and for better cost effectiveness of environmentally related research through integration of environmental, health, and other data systems operated by various Federal agencies.

(b) The study shall (1) be developed and managed by the Science Advisory Board in consultation with the program offices of the Environmental Protection Agency and with an interagency advisory committee whose membership includes representatives of the Office of Management and Budget and of all agencies conducting, collecting, or using the results of environmental research, and (2) provide for an oversight and review role by the National Academy of Sciences.

(c) The study shall conclude with a report to be submitted to the President and the Congress eighteen months after the date of the enactment of this Act. The report shall include recommendations for action by the President, the Administrator, other agencies, or the Congress, as may be appropriate.

Subtitle F—Federal Aviation Administration Research, Engineering, Development, and Demonstration Authorization

SEC. 12501. (a) The Secretary is authorized to carry out under section 312(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1353) such demonstration projects as the Secretary determines necessary in connection with research and development activities under such section 312(c). For research, engineering and development, and demonstration projects and activities under such section 312(c) there is authorized to be appropriated from the Airport and Airway Trust Fund—

(1) for the fiscal year ending September 30, 1981:

(A) $58,415,000 for air traffic control purposes;

(B) $11,335,000 for navigation purposes;

(C) $7,050,000 for aviation weather purposes;

(D) $1,200,000 for aviation medicine purposes;

(E) $7,000,000 for air traffic control computer modernization;

(F) such amounts as may be necessary for increases in salary, pay retirement, and other employee benefits authorized by law; and

(2) for the fiscal year ending September 30, 1982:

(A) $51,660,000 for air traffic control purposes;

(B) $9,775,000 for navigation purposes;

(C) $6,715,000 for aviation weather purposes;

(D) $1,250,000 for aviation medicine purposes;

(E) $15,600,000 for air traffic control computer modernization;

(F) such amounts as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law. Funds appropriated pursuant to this subsection shall remain available until expended.

(b) Notwithstanding the purposes for which funds are authorized in subparagraphs (A) through (E) of paragraphs (1) and (2), funds authorized by such paragraphs may be used for any such other program or project for research, development, or demonstration under section 312(c) of the Federal Aviation Act of 1958 if notice of such program or project has been given to the Speaker of the House of Representatives, the Committees on Science and Technology and Appropriations of the House of Representatives, the President of the Senate, and the Committees on Commerce, Science and Transportation, and Appropriations of the Senate in a manner containing a full and complete statement of the proposed program or project and the facts and circumstances relied on in support of such program or project and (1) a period of thirty days has passed after the date such notice was received, or (2) each such committee has transmitted to the Secretary before the expiration of such period written notice that such committee has no objection to the proposed action.

Subtitle G—Federal Emergency Management Agency Authorization

CHAPTER 1—EARTHQUAKE HAZARDS REDUCTION PROGRAM

SEC. 12601. (a) Section 7(a) of the Earthquake Hazards Reduction Act of 1977 is amended by adding at the end thereof the following new paragraph:

"(3) There are authorized to be appropriated to the Director for the fiscal year ending September 30, 1982, $2,000,000 to carry out the provisions of sections 5 and 6 of this Act.".

(b) Section 7(b) of such Act is amended by striking out "and" after "1980;", and by inserting "; and $35,925,000 for the fiscal year ending September 30, 1982" before the period at the end thereof.

(c) Section 7(c) of such Act is amended by striking out "and" after "1980;", and by inserting "; and $27,150,000 for the fiscal year ending September 30, 1982" before the period at the end thereof.

(d) Section 7(d) of such Act is amended by inserting "; and $425,000 for the fiscal year ending September 30, 1982" before the period at the end thereof.

(e) Section 7 of such Act is further amended by adding at the end thereof the following new subsection:

"(e) FUNDS FOR CERTAIN REQUIRED ADJUSTMENTS.—For the fiscal year ending September 30, 1982, there are authorized to be appropriated such further sums as may be necessary for adjustments required by law in salaries, pay, retirement, and employee benefits incurred in the conduct of activities for which funds are authorized by the preceding provisions of this section.".

CHAPTER 2—FIRE PREVENTION AND CONTROL

SEC. 12611. Section 17 of the Federal Fire Prevention and Control Act of 1974 is amended by adding at the end thereof the following new subsection:

"(d) Except as otherwise specifically provided with respect to the payment of claims under section 11 of this Act, to carry out the purposes of this Act for the fiscal year ending September 30, 1982, there are authorized to be appropriated—

"(1) $21,115,000, which amount shall include—

"(A) such sums as may be necessary for the support of research and development at the Fire Research Center of the National Bureau of Standards under section 18 of this Act, which sums shall be in addition to those funds authorized to be appropriated under the National Bureau of Standards Authorization Act for Fiscal Years 1981 and 1982, and

"(B) $654,000 for executive direction by the Federal Emergency Management Agency of program activities for which appropriations are authorized by this subsection; and

"(2) such further sums as may be necessary for adjustments required by law in salaries, pay, retirement, and employee benefits incurred in the conduct of activities for which funds are authorized by paragraph (1) of this subsection.".

CHAPTER 3—MULTIHAZARD RESEARCH, PLANNING, AND MITIGATION

SEC. 12621. (a) Pursuant to the Earthquake Hazards Reduction Act of 1977, the Federal Fire Prevention and Control Act of 1974, and title III of Public Law 96-472 (which recognized that "natural and manmade hazards may not be independent of one another in any given disaster"), and further recognizing that emergency personnel are often called upon to meet emergencies outside of their primary field of service, section 301 of Public Law 96-472 is amended—

(1) by inserting before the period at the end of the first sentence the following: ", and it is also recognized that emergency personnel are often called upon to meet emergencies outside of their primary field of service"; and

(2) by striking out "and" after the semicolon at the end of paragraph (5), by striking out the period at the end of paragraph (6) and inserting in lieu thereof a semicolon, and by adding after paragraph (6) the following new paragraphs:

"(7) conduct emergency first response programs so as to better train and prepare emergency personnel to meet emergencies outside of their primary field of service; and

"(8) conduct a program of planning, preparedness, and mitigation related to the multiple direct and indirect hazards resulting from the occurrence of large earthquakes.".

(b) Section 302 of Public Law 96-472 is amended—

(1) by inserting "(a)" after "SEC. 302."; and

(2) by adding at the end thereof the following new subsection:

"(b) For the fiscal year ending September 30, 1982, there are authorized to be appropriated to the Director—

"(1) not less than $4,939,000 to carry out section 301, which amount shall include—

"(A) not less than $700,000 to carry out the purposes of paragraphs (1) through (6) of such section,

"(B) such sums as may be necessary, but in any case not less than $939,000, for use by the United States Fire Administration in carrying out paragraph (7) of such section, and

"(C) not less than $3,300,000 to carry out paragraph (8) of such section with respect to those large California earthquakes which were identified by the National Security Council's Ad Hoc Committee on Assessment of Consequences and Preparations for a Major California Earthquake; and

"(2) such further sums as may be necessary for adjustments required by law in salaries, pay, retirement, and employee benefits incurred in the conduct of activities for which funds are authorized by paragraph (1) of this subsection.".

CHAPTER 4—GENERAL PROVISIONS

SEC. 12631. Funds authorized to be appropriated by chapter 1, chapter 2, or chapter 3 may be transferred among the program categories listed in that chapter, except that neither the total funds transferred from any such program category nor the total funds transferred to any such program category may exceed 10 per centum of the amount authorized for that program category (or of the amount available for that program category after the application of section 12632) unless—

(1) thirty calendar days have passed after the Director or his designee has transmitted to the Speaker of the House of Representatives, to the President of the Senate, to the chairman of the Committee on Science and Technology of the House of Representatives, and to the chairman of the Committee on Commerce, Science, and Transportation of the Senate a written report containing a full and complete explanation of the transfer involved and the reason for it, or

(2) before the expiration of such thirty days both chairmen have written to the Director stating that they have no objection to the proposed transfer.

For purposes of this section, the program activity or activities for which funds are authorized by each of the following provisions of law as amended by this subtitle shall be deemed to constitute one "program category": Subsections (a), (b), (c), (d), and (e) of section 7 of the Earthquake Hazards Reduction Act of 1977, paragraphs (1)(A), (1)(B), and (2) of section 17(d) of the Federal Fire Prevention and Control Act of 1974, and paragraphs (1)(A), (1)(B), (1)(C), and (2) of section 302(b) of Public Law 96-472.

SEC. 12632. If the total amount of the appropriations made by any appropriation Act for program activities within chapter 1, within chapter 2, or within chapter 3, for the fiscal year ending September 30, 1982, is less than the total amount authorized to be appropriated for those activities by this subtitle, the amount available from such appropriations for any particular activity shall bear the same ratio to the amount authorized to be appropriated for that activity by this subtitle as the total amount of the appropriations made by such appropriations Act for all included activities bears to the total amount authorized to be appropriated for all such program activities by this subtitle (with each ceiling and floor set forth within each title of this Act being reduced in the same ratio for purposes of determining the amounts so available), except to the extent specifically otherwise provided in the text of the Act making the appropriations for the program activities involved.

TITLE XIII—HOUSE COMMITTEE ON SMALL BUSINESS

SEC. 13001. This title may be cited as the "Small Business Budget Reconciliation and Loan Consolidation/Improvement Act of 1981".

SEC. 13002. Subsection (a) of section 7 of the Small Business Act is amended to read as follows:

"(a) The Administration is empowered to the extent and in such amounts as provided in advance in appropriation Acts to make loans for plant acquisition, construction, conversion, or expansion, including the acquisition of land, material, supplies, equip-

ment, and working capital, and to make loans to any qualified small business concern, including those owned by qualified Indian tribes, for the purposes of this Act. Such financings may be made either directly or in cooperation with banks or other financial institutions through agreements to participate on an immediate or deferred (guaranteed) basis. These powers shall be subject, however, to the following restrictions, limitations, and provisions:

"(1) No financial assistance shall be extended pursuant to this subsection unless the financial assistance applied for is not otherwise available on reasonable terms from non-Federal sources. No immediate participation may be purchased unless it is shown that a deferred participation is not available; and no direct financing may be made unless it is shown that a participation is not available.

"(2) In agreements to participate in loans on a deferred basis under this subsection, such participation by the Administration, except as provided in paragraph (6), shall be—

"(A) not less than 90 per centum of the balance of the financing outstanding at the time of disbursement if such financing does not exceed $100,000; and

"(B) subject to the limitation in paragraph (3)—

"(i) not less than 70 per centum nor more than 90 per centum of the financing outstanding at the time of disbursement if such financing exceeds $100,000 but is less than $714,285, and

"(ii) less than 70 per centum of the financing outstanding at the time of disbursement if such financing exceeds $714,285:

Provided, That the Administration shall not use the per centum of guarantee requested as a criterion to establish priorities in approving guarantee requests nor shall the Administration reduce the per centum guaranteed to less than 90 per centum pursuant to subparagraph (B) other than by a determination made on each application.

"(3) No loan under this subsection shall be made if the total amount outstanding and committed (by participation or otherwise) to the borrower from the revolving fund established by this Act would exceed $500,000: *Provided,* That no such loan made or effected either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate basis shall exceed $350,000.

"(4) The rate of interest on financings made on a deferred basis shall be legal and reasonable and the rate of interest for the Administration's share of any direct or immediate participation loan shall be the average annual interest rate on all interest-bearing obligations of the United States then forming a part of the public debt as computed at the end of the fiscal year next preceding the date of the loan and adjusted to the nearest one-eighth of 1 per centum plus an additional amount as determined by the Administration, but not to exceed one-fourth of 1 per centum per annum: *Provided,* That those loans to assist any public or private organization for the handicapped or to assist any handicapped individual as provided in paragraph (12) of this subsection, shall be 3 per centum per annum.

"(5) No such loans including renewals and extensions thereof may be made for a period or periods exceeding twenty-five years, except that such portion of a loan made for the purpose of acquiring real property or constructing, converting or expanding facilities may have a maturity of twenty-five years plus such additional period as is estimated may be required to complete such construction, conversion, or expansion.

"(6) All loans made under this subsection shall be of such sound value or so secured as reasonably to assure repayment: *Provided, however,* That—

"(A) for loans to assist any public or private organization or to assist any handicapped individual as provided in paragraph (12) of this subsection any reasonable doubt shall be resolved in favor of the applicant;

"(B) recognizing that greater risk may be associated with loans for energy measures as provided in paragraph (14) of this subsection, factors in determining 'sound value' shall include, but not be limited to, quality of the product or service; technical qualifications of the applicant or his employees; sales projections; and the financial status of the business concern: *Provided further,* That such status need not be as sound as that required for general loans under this subsection; and

"(C) the Administration shall not decline to participate in a loan on a deferred basis under this subsection solely because such loan will be used to refinance all or any part of the existing indebtedness of a small business concern, unless the Administration determines that—

"(i) the holder of such existing indebtedness is in a position likely to sustain a loss if such refinancing is not provided, and

"(ii) if the Administration provides such refinancing through an agreement to participate on a deferred basis, it will be in a position likely to sustain part or all of any loss which would have otherwise been sustained by the holder of the original indebtedness: *Provided further,* That the Administration may decline to approve such refinancing if it determines that the loan will not benefit the small business concern:

Provided, That on that portion of the loan used to refinance existing indebtedness held by a bank or other lending institution, the Administration shall limit the amount of deferred participation to 80 per centum of the amount of the loan at the time of disbursement: *Provided further,* That any authority conferred by this subparagraph on the Administration shall be exercised solely by the Administration and shall not be delegated to other than Administration personnel.

"(7) The Administration may defer payments on the principal of such loans for a grace period and use such other methods as it deems necessary and appropriate to assure the successful establishment and operation of such concern.

"(8) No amount of any guarantee fee shall be paid by a small business receiving any loan pursuant to this subsection.

"(9) Any loan made under this subsection (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) may, upon the joint election of the borrower, Administration, and lender, as the case may be, provide for the payment of interest only during the—

"(A) first two years of its term if such term is at least eight years;

"(B) first three years of its term if such term is at least ten years; and

"(C) first four years of its term if such term is at least fifteen years.

At the conclusion of the period of interest only payments, the loan agreement shall provide for amortization of the loan principal in equal payments of principal and interest during the remainder of the term of the loan. With respect to loans made under this paragraph, a bank or lending institution may charge, in addition to any interest, fee, or service charge otherwise permissable pursuant to this Act and relevant regulations promulgated pursuant thereto, a one-time fee of 1 per centum of the total amount of such loan, which amount may be paid from the proceeds of such loan.

"(10)(A) Any loan made under the authority of this subsection by the Administration in cooperation with a bank or other lending institution through an agreement to participate on a deferred basis may, upon the concurrence of the Administration, borrower, and such bank or institution, have the term of such loan extended or such loan refinanced with an extension of its term: *Provided,* That the aggregate term of such extended or refinanced loan does not exceed the term permitted pursuant to paragraph (5) and: *Provided further,* That such extended loans, or refinancings shall be repaid in equal installments of principal and interest, except as provided in paragraph (9).

"(B) An additional service fee not exceeding 1 per centum of the outstanding amount of the principal may be paid by the borrower to the lender in consideration for such lender extending the term or refinancing such borrower's indebtedness if such extension or refinancing results in the term of such indebtedness exceeding ten years.

"(C) The authority provided in this paragraph and in paragraph (9) shall not be construed to otherwise limit the authority of the Administration to set terms and conditions of the loan.

"(11) The Administration may provide under this subsection loans to finance residential or commercial construction or rehabilitation for sale: *Provided, however,* That such loans shall not be used primarily for the acquisition of land.

"(12) The Administration may provide under this subsection loans to assist any public or private organization for the handicapped or to assist any handicapped individual in establishing, acquiring, or operating a small business concern.

"(13) The Administration may provide under this subsection loans to any small business concern, or to any qualified person seeking to establish such a concern when it determines that such loan will further the policies established in section 2(c) of this Act, with particular emphasis on the preservation or establishment of small business concerns located in urban or rural areas with high proportions of unemployed or low-income individuals, or owned by low-income individuals.

"(14) The Administration may provide under this subsection loans to assist any small business concern, including start up, to enable such concern to design architecturally or engineer, manufacture, distribute, market, install, or service energy measures: *Provided, however,* That such loan proceeds shall not be used primarily for research and development.

"(15) The Administration may provide under this subsection financings to State and local development companies for the purposes of, and subject to the restrictions in, title V of the Small Business Investment Act of 1958.

"(16) The Administration may provide under this subsection extensions and revolving lines of credit for export purposes to enable small business concerns to develop foreign markets and for preexport financing: *Provided, however,* That no such extension or revolving line of credit may be made for a period or periods exceeding eighteen

months. A bank or participating lending institution may establish the rate of interest on extensions and revolving lines of credit as may be legal and reasonable.

"(17)(A) The Administration may guarantee under this subsection loans to qualified employee trusts with respect to a small business concern for the purpose of purchasing stock of the concern under a plan approved by the Administrator which, when carried out, results in the qualified employee trust owning at least 51 per centum of the stock of the concern.

"(B) The plan requiring the Administrator's approval under subparagraph (A) shall be submitted to the Administration by the trustee of such trust with its application for the guarantee. Such plan shall include an agreement with the Administrator which is binding on such trust and on the small business concern and which provides that—

"(i) not later than the date the loan guaranteed under subparagraph (A) is repaid (or as soon thereafter as is consistent with the requirements of section 401(a) of the Internal Revenue Code of 1954), at least 51 per centum of the total stock of such concern shall be allocated to the accounts of at least 51 per centum of the employees of such concerns who are entitled to share in such allocation,

"(ii) there will be periodic reviews of the role in the management of such concern of employees to whose accounts stock is allocated, and

"(iii) there will be adequate management to assure management expertise and continuity.

"(C) In determining whether to guarantee any loan under this paragraph, the individual business experience or personal assets of employee-owners shall not be used as criteria, except inasmuch as certain employee-owners may assume managerial responsibilities, in which case business experience may be considered.

"(D) For purposes of this paragraph, a corporation which is controlled by any other person shall be treated as a small business concern if such corporation would, after the plan described in subparagraph (B) is carried out, be treated as a small business concern.

"(E) The Administration shall compile a separate list of applications for assistance under this paragraph, indicating which applications were accepted and which were denied, and shall report periodically to the Congress on the status of employee-owned firms assisted by the Administration.".

SEC. 13003. Section 3 of the Small Business Act is amended by adding thereto the following subsections:

"(d) For purposes of section 7 of this Act, the term 'qualified Indian tribe' means an Indian tribe as defined in section 4(a) of the Indian Self-Determination and Education Assistance Act, which owns and controls 100 per centum of a small business concern.

"(e) For purposes of section 7 of this Act, the term 'public or private organization for the handicapped' means one—

"(1) which is organized under the laws of the United States or of any State, operated in the interest of handicapped individuals, the net income of which does not inure in whole or in part to the benefit of any shareholder or other individual;

"(2) which complies with any applicable occupational health and safety standard prescribed by the Secretary of Labor; and

"(3) which, in the production of commodities and in the provision of services during any fiscal year in which it received financial assistance under this subsection, employs handicapped individuals for not less than 75 per centum of the man-hours required for the production or provision of the commodities or services.

"(f) For purposes of section 7 of this Act, the term 'handicapped individual' means a person who has a physical, mental, or emotional impairment, defect, ailment, disease, or disability of a permanent nature which in any way limits the selection of any type of employment for which the person would otherwise be qualified or qualifiable.

"(g) For purposes of section 7 of this Act, the term 'energy measures' includes—

"(1) solar thermal energy equipment which is either of the active type based upon mechanically forced energy transfer or of the passive type based on convective, conductive, or radiant energy transfer or some combination of these types;

"(2) photovoltaic cells and related equipment;

"(3) a product or service the primary purpose of which is conservation of energy through devices or techniques which increase the energy efficiency of existing equipment, methods of operation, or systems which use fossile fuels, and which is on the Energy Conservation Measures List of the Secretary of Energy or which the Administrator determines to be consistent with the intent of this subsection;

"(4) equipment the primary purpose of which is production of energy from wood, biological waste, grain, or other biomass source of energy;

"(5) equipment the primary purpose of which is industrial cogeneration of energy, district heating, or production of energy from industrial waste;

"(6) hydroelectric power equipment;

"(7) wind energy conversion equipment; and

"(8) engineering, architectural, consulting, or other professional services which are necessary or appropriate to aid citizens in using any of the measures described in paragraphs (1) through (7).".

SEC. 13004. Section 10(b) of the Small Business Act is amended by striking the word "subsection" and all that follows through the end of subsection (b) and by inserting in lieu thereof the following: "this Act. Such report shall provide such information separately on each type of loan made under paragraphs (12) through (17) of section 7(a) and separately for all other loan programs. In addition, the information on loans shall be supplied on a monthly basis to the Committee on Small Business of the Senate and the Committee on Small Business of the House of Representatives.".

SEC. 13005. Effective October 1, 1981, section 20 of the Small Business Act is amended by striking all after subsection (a) and inserting in lieu thereof the following:

"(b) The following program levels are authorized for fiscal year 1982:

"(1) For the programs authorized by section 7(a) of this Act, the Administration is authorized to make $225,000,000 in direct and immediate participation loans; and of such sum, the Administration is authorized to make $15,000,000 in loans as provided in paragraph (12), $45,000,000 in loans as provided in paragraph (13), and $10,000,000 in loans as provided in paragraph (14).

"(2) For the programs authorized by section 7(a) of this Act and section 503 of the Small Business Investment Act of 1958, the Administration is authorized to make $3,005,000,000 in deferred participation loans and guarantees of debentures; and of such sum, the Administration is authorized to make $5,000,000 in loans as provided in paragraph (12), $50,000,000 in loans as provided in paragraph (13), $15,000,000 in loans as provided in paragraph (14), and $150,000,000 in loans as provided in paragraph (15) and guarantees of debentures as provided in section 503.

"(3) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $35,000,000 in direct purchases of debentures and preferred securities and to make $145,000,000 in guarantees of debentures.

"(4) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $1,200,000,000.

"(5) For the program authorized by section 7(b)(3) of this Act, the Administration is authorized to enter into $40,000,000 in loans, guarantees, and other obligations or commitments. There are authorized to be transferred from the disaster loan revolving fund such sums as may be necessary and appropriate for administrative expenses of sections 7(b)(1) through 7(b)(3).

"(6) For the programs authorized in sections 404 and 405 of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $250,000,000.

"(c) There are authorized to be appropriated to the Administration for fiscal year 1982, $623,228,000. Of such sum, $272,000,000 shall be available for the purpose of carrying out the programs referred to in paragraphs (1) through (3); $32,610,000 shall be available for the purpose of carrying out the program referred to in paragraph (4); $87,000,000 shall be available for the purpose of carrying out the programs referred to in paragraph (5) and sections 7(b)(1) and 7(b)(2) of this Act; $4,000,000 shall be available for the purpose of carrying out the provisions of section 403 of the Small Business Investment Act of 1958; and $227,618,000 shall be available for salaries and expenses of the Administration of which amount—

"(1) $12,526,000 shall be available for procurement and technical assistance; of which amount not less than $2,318,000 shall be available for technical assistance, and of this amount not less than $903,000 shall be used to pay for the continued development of a procurement automated source system, and not less than $175,000 shall be used to develop and maintain technology assistance centers which shall have direct or indirect access to a minimum of thirty technology data banks to define the technology problems or needs of small businesses by searching technology data banks or other sources to locate, obtain, and interpret the appropriate technology for such small business.

"(2) $27,876,000 shall be available for management assistance of which amount not less than $1,460,000 shall be used to sustain the small business export development program and to employ not less than seventeen staff people for the Office of International Trade, ten of whom shall serve as export development specialists with each of the Administration's regional offices being assigned one such specialist.

"(3) $5,668,000 shall be available for economic research and analysis and advocacy, of which amount not less than $2,818,000 shall be used to employ at least sixty-nine staff people for the Office of the Chief Counsel for Advocacy to carry out research

and those functions prescribed by Public Law 94-305; not less than $1,000,000 shall be used to develop an external small business data bank and small business index; not less than $850,000 shall be used for research; and not less than $1,000,000 shall be used to pay for development and maintenance of an indicative small business data base comprised of names and addresses and related information.

"(4) $22,566,000 shall be available for the Office of Minority Small Business and Capital Ownership Development, $10,000,000 of which shall be used to carry out those functions, including administrative expenses, prescribed by section 7(j) of this Act.

"(5) $11,546,000 shall be available for program evaluation and data management with priority given to the development of an automated internal Administration management data base, to the enhancement of the Administration's document tracking system, to the installation of terminals in Administration field offices.

"(d) The Administrator may transfer no more than 10 per centum of each of the total levels for salaries and expenses authorized in paragraphs (1) through (5) of section 20(c) of this Act: *Provided, however,* That no level authorized in such paragraphs may be increased more than 20 per centum by any such transfers.

"(e) The following program levels are authorized for fiscal year 1983:

"(1) For the programs authorized by section 7(a) of this Act, the Administration is authorized to make $225,000,000 in direct and immediate participation loans; and of such sum, the Administration is authorized to make $15,000,000 in loans as provided in paragraph (12), $45,000,000 in loans as provided in paragraph (13), and $10,000,000 in loans as provided in paragraph (14).

"(2) For the programs authorized by section 7(a) of this Act and section 503 of the Small Business Investment Act of 1958, the Administration is authorized to make $3,005,000,000 in deferred participation loans and guarantees of debentures; and of such sum, the Administration is authorized to make $5,000,000 in loans as provided in paragraph (12), $50,000,000 in loans as provided in paragraph (13), $15,000,000 in loans as provided in paragraph (14), and $150,000,000 in loans as provided in paragraph (15) and guarantees of debentures as provided in section 503.

"(3) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $35,000,000 in direct purchases of debentures and preferred securities and to make $145,000,000 in guarantees of debentures.

"(4) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $1,200,000,000.

"(5) For the program authorized by section 7(b)(3) of this Act, the Administration is authorized to enter into $40,000,000 in loans, guarantees, and other obligations or commitments. There are authorized to be transferred from the disaster loan revolving fund such sums as may be necessary and appropriate for administrative expenses of sections 7(b)(1) through 7(b)(3).

"(6) For the programs authorized in sections 404 and 405 of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $250,000,000.

"(f) There are authorized to be appropriated to the Administration for fiscal year 1983, $689,193,000. Of such sum, $364,000,000 shall be available for the purposes of carrying out the programs referred to in paragraphs (1) through (3); $34,980,000 shall be available for the purpose of carrying out the program referred to in paragraph (4); $53,000,000 shall be available for the purpose of carrying out the programs referred to in paragraph (5) and sections 7(b)(1) and 7(b)(2) of this Act; $4,000,000 shall be available for the purpose of carrying out the provisions of section 403 of the Small Business Investment Act of 1958; and $233,213,000 shall be available for salaries and expenses of the Administration of which amount—

"(1) $12,526,000 shall be available for procurement and technical assistance; of which amount not less than $2,318,000 shall be available for technical assistance, and of this amount not less than $903,000 shall be used to pay for the continued development of a procurement automated source system, and not less than $175,000 shall be used to develop and maintain technology assistance centers which shall have direct or indirect access to a minimum of thirty technology data banks to define the technology problems or needs of small businesses by searching technology data banks or other sources to locate, obtain and interpret the appropriate technology for such small business.

"(2) $33,876,000 shall be available for management assistance of which amount not less than $1,460,000 shall be used to sustain the small business export development program and to employ not less than seventeen staff people for the Office of International Trade, ten of whom shall serve as export development specialists with each of the Administration's regional offices being assigned one such specialist.

"(3) $5,668,000 shall be available for economic research and analysis and advocacy, of which amount not less than $2,818,000 shall be used to employ at least sixty-nine staff people for the office of the Chief Counsel for Advocacy to carry out research and those functions prescribed by Public Law 94-305; not less than $1,000,000 shall be used to develop an external small business data bank and small business index; not less than $850,000 shall be used for research; and not less than $1,000,000 shall be used to pay for development and maintenance of an indicative small business data base comprised of names and addresses and related information.

"(4) $22,566,000 shall be available for the Office of Minority Small Business and Capital Ownership Development, $10,000,000 of which shall be used to carry out those functions, including administrative expenses, prescribed by section 7(j) of this Act.

"(5) $11,546,000 shall be available for program evaluation and data management with priority given to the development of an automated internal Administration management data base, to the enhancement of the Administration's document tracking system, and to the installation of terminals in Administration field offices.

"(g) The Administrator may transfer no more than 10 per centum of each of the total levels for salaries and expenses authorized in paragraphs (1) through (5) of section 20(f) of this Act: *Provided, however,* That no level authorized in such paragraphs may be increased more than 20 per centum by any such transfers.

"(h) The following program levels are authorized for fiscal year 1984:

"(1) For the programs authorized by section 7(a) of this Act, the Administration is authorized to make $225,000,000 in direct and immediate participation loans; and of such sum, the Administration is authorized to make $15,000,000 in loans as provided in paragraph (12), $45,000,000 in loans as provided in paragraph (13), and $10,000,000 in loans as provided in paragraph (14).

"(2) For the programs authorized by section 7(a) of this Act and section 503 of the Small Business Investment Act of 1958, the Administration is authorized to make $3,005,000,000 in deferred participation loans and guarantees of debentures; and of such sum, the Administration is authorized to make $5,000,000 in loans as provided in paragraph (12), $50,000,000 in loans as provided in paragraph (13), $15,000,000 in loans as provided in paragraph (14), and $150,000,000 in loans as provided in paragraph (15) and guarantees of debentures as provided in section 503.

"(3) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $35,000,000 in direct purchases of debentures and preferred securities and to make $145,000,000 in guarantees of debentures.

"(4) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $1,200,000,000.

"(5) For the program authorized by section 7(b)(3) of this Act, the Administration is authorized to enter into $40,000,000 in loans, guarantees, and other obligations or commitments. There are authorized to be transferred from the disaster loan revolving fund such sums as may be necessary and appropriate for administrative expenses of sections 7(b)(1) through 7(b)(3).

"(6) For the programs authorized in sections 404 and 405 of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $250,000,000.

"(i) There are authorized to be appropriated to the Administration for fiscal year 1984, $837,816,000. Of such sum, $484,000,000 shall be available for the purpose of carrying out the programs referred to in paragraphs (1) through (3); $37,170,000 shall be available for the purpose of carrying out the program referred to in paragraph (4); $74,000,000 shall be available for the purpose of carrying out the programs referred to in paragraph (5) and sections 7(b)(1) and 7(b)(2) of this Act; $4,000,000 shall be available for the purpose of carrying out the provisions of section 403 of the Small Business Investment Act of 1958; and $238,646,000 shall be available for salaries and expenses of the Administration of which amount—

"(1) $12,526,000 shall be available for procurement and technical assistance; of which amount not less than $2,318,000 shall be available for technical assistance, and of this amount not less than $903,000 shall be used to pay for the continued development of a procurement automated source system, and not less than $175,000 shall be used to develop and maintain technology assistance centers which shall have direct or indirect access to a minimum of thirty technology data banks to define the technology problems or needs of small businesses by searching technology data banks or other sources to locate, obtain, and interpret the appropriate technology for such small business.

"(2) $38,876,000 shall be available for management assistance of which amount not less than $1,460,000 shall be used to sustain

the small business export development program and to employ not less than seventeen staff people for the Office of International Trade, ten of whom shall serve as export development specialists with each of the Administration's regional offices being assigned one such specialist.

"(3) $5,668,000 shall be available for economic research and analysis and advocacy, of which amount not less than $2,818,000 shall be used to employ at least sixty-nine staff people for the Office of the Chief Counsel for Advocacy to carry out research and those functions prescribed by Public Law 94-305; not less than $1,000,000 shall be used to develop an external small business data bank and small business index; not less than $850,000 shall be used for research; and not less than $1,000,000 shall be used to pay for development and maintenance of an indicative small business data base comprised of names and addresses and related information.

"(4) $22,566,000 shall be available for the Office of Minority Small Business and Capital Ownership Development, $10,000,000 of which shall be used to carry out those functions, including administrative expenses, prescribed by section 7(j) of this Act.

"(5) $11,546,000 shall be available for program evaluation and data management with priority given to the development of an automated internal Administration management data base, to the enhancement of the Administration's document tracking system, to the installation of terminals in Administration field offices.

"(j) The Administrator may transfer no more than 10 per centum of each of the total levels for salaries and expenses authorized in paragraphs (1) through (5) of section 20(i) of this Act: *Provided, however,* That no level authorized in such paragraphs may be increased more than 20 per centum by any such transfers.".

SEC. 13006. Not later than February 28, 1984, and February 28, 1985, the Small Business Administration shall submit to the Committee on Small Business of the Senate and the Committee on Small Business of the House of Representatives, a report which shall contain—

(1) with respect to section 7(a)(5) of the Small Business Act—

(A) the aggregate number, dollar value, and default rate of all loans (other than for the acquisition of real property or for construction) having a maturity not in excess of ten years, and the aggregate number, dollar value, and default rate of all loans made for the purpose of acquiring real property or for construction having a maturity of between ten years and twenty years plus such additional period as is estimated may be required to complete such construction; and

(B) the aggregate number, dollar value, and default rate of all loans (other than for the acquisition of real property or for construction) made since the effective date of this section, having a maturity in excess of ten years, and the aggregate number, dollar value, and default rate of all loans made for the purpose of acquiring real property or for construction made since the effective date of this section, having a maturity in excess of twenty years plus such additional period as is estimated may be required to complete such construction;

(2) with respect to section 7(a)(9), of the Small Business Act, the aggregate number, dollar value, default rate, and geographic location of recipients of loans made subject to the election described in section 7(a)(9)(A) of such Act;

(3) with respect to section 7(a)(10)(A) of the Small Business Act—

(A) the aggregate number, dollar value, and default rate of loans extended or refinanced pursuant to such section; and

(B) the average term of loans before such extension or refinancing and the average term of such loans after such extension or refinancing; and

(4) with respect to section 7(a)(6)(C) of the Small Business Act, the aggregate number, dollar value, and default rate of all loans refinanced pursuant to such provision.

SEC. 13007. Sections 7(e), 7(h), 7(i), and 7(l) of the Small Business Act are hereby repealed.

SEC. 13008. Section 4(c)(1)(B) of the Small Business Act is amended by deleting "7(e), 7(h), 7(i), 7(l),".

SEC. 13009. Section 502 of the Small Business Investment Act of 1958 is amended by striking paragraphs (1) and (5) and by renumbering paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively.

SEC. 13010. Sections 7(a)(6)(C), 7(a)(9), and 7(a)(10) of the Small Business Act as enacted herein are repealed October 1, 1985.

SEC. 13011. Sections 13007, 13008, 13009, and 13013 of this title shall be effective October 1, 1981, and sections 13010, 13012, and 13014 of this title shall be effective as provided therein. All other provisions of this title shall be effective immediately but shall not affect any financing made, obligated, or committed under the Small Business Act or the Small Business Investment Act of 1958 prior to the effective date thereof.

SEC. 13012. Effective October 1, 1981, section 7(a)(4) of the Small Business Act is amended to read as follows:

"(4) The rate of interest on financings made on a deferred basis shall be legal and reasonable and the rate of interest for the Administration's share of any direct or immediate participation loan shall not exceed the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans as computed at the end of the fiscal year next preceding the date of the loan and adjusted to the nearest one-eighth of 1 per centum, and an additional amount as determined by the Administration, but not to exceed 1 per centum per annum: *Provided,* That for those loans to assist any public or private organization for the handicapped or to assist any handicapped individual as provided in paragraph (12) of this subsection, the interest rate shall be 3 per centum per annum.".

SEC. 13013. (a) Section 7(b) of the Small Business Act is amended by striking paragraphs (3) through (9) and inserting in lieu thereof the following:

"(3) to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration may determine to be necessary or appropriate to assist any small business concern in effecting additions to, alterations in, or reestablishment in the same or a new location of its plant, facilities, or methods of operation made necessary by direct action of the Federal Government or as a consequence of Federal Government action or to meet requirements or restrictions imposed on such concern under any Federal law heretofore or hereafter enacted or any State law enacted in conformity therewith, or any regulation or order of a duly authorized Federal, State, regional, or local agency issued in conformity with such Federal law, if the Administration determines that such concern is likely to suffer substantial economic injury or be unable to market a product without assistance under this paragraph: *Provided,* That the maximum loan made to any small business concern under this paragraph shall not exceed $500,000 and the amount thereof shall be based solely on a determination made on each application.".

(b) Section 4(c)(1) of the Small Business Act is amended by striking all of subparagraph (A) after "7(b)(3)," and by inserting in lieu thereof "and 7(c)(2) of this Act; and".

(c) Section 7(g) of the Small Business Act is hereby repealed.

SEC. 13014. Section 7(c) of the Small Business Act is amended—

(1) by striking from paragraph (3)(A) "3 percent" and by inserting "5 percent";

(2) by striking from paragraph (3)(B) the words "5 percent per annum; and" and by inserting the following: "7 percent per annum: *Provided,* That such loans shall be made in amounts not to exceed to 85 per centum of the amount determined pursuant to subparagraph (D);";

(3) by striking from paragraph (3)(C) "*Provided,* That three" and by inserting the following: "*Provided,* That such loans shall be limited to $100,000 to each borrower for each disaster and shall be made in amounts equal to 85 per centum of the amount determined pursuant to subparagraph (D): *Provided further,* That two"; and

(4) by striking the period at the end of paragraph (3)(C) and inserting "; and" and by adding the following:

"(D) Subject to the dollar and per centum limitations in paragraphs (A) through (C), loans made to repair or replace damaged or destroyed property shall be made in amounts equal to the entire amount of the injury, loss or damage not compensated for by insurance or otherwise unless the applicant requests a lesser amount. All such loans shall be subject, however, to the extent and in such amounts as are provided in advance in appropriations Acts.".

(b) The amendments made by this section shall be effective October 1, 1981, as to disasters commencing on or after such date. This section shall not apply to any loans made or to be made on account of disasters commencing prior to such date.

SEC. 13015. Section 4(c)(5)(B)(i) of the Small Business Act is amended to read as follows:

"(B)(i) The Administration shall sell notes or certificates evidencing beneficial ownership in blocks of notes for loans made under this Act which, in addition to funds appropriated pursuant to section 20 of this Act, will provide sufficient amounts for the Administration to carry out disaster loan programs under section 7(b) of $733,500,000 in fiscal year 1982, $770,500,000 in fiscal year 1983 and $817,500,000 in fiscal year 1984 and to carry out all other programs at the full amounts provided for each year in section 20 of this Act. Sale of such notes or certificates by the Administration shall be treated as a sale of assets for the purposes of the Budget and Accounting Act of 1921. The Administration shall transfer from the disaster loan fund to the business loan and investment fund such sums as may be necessary to carry out the full amounts provided in section 20 of this Act for programs funded from the business loan and investment fund.".

SEC. 13016. Section 504 of title 5, United States Code, is amended—

(1) by adding at the end of subsection (a)(1) the following: "No award shall be made under this section unless—

"(A) the prevailing party would have suffered a pecuniary loss in excess of $500 in his individual capacity and not as a member or representative of an organization or group; or

"(B) the prevailing party was engaged in carrying on a trade or business for profit where the amount in controversy is in excess of $500 in an adversary adjudication and was directly related to the conduct of such trade or business; or

"(C) the prevailing party was engaged in carrying on a trade or business for profit and the adjudication involves a violation of the Regulatory Flexibility Act (Public Law 96-354).";

(2) by inserting in subsection (a)(2) after the first sentence the following: "An itemized statement for an attorney's fees shall be accompanied by an affidavit of the attorney affirming that the fees charged were computed in accordance with his routine and customary rates for work of a similar nature.";

(3) by inserting in subsection (a)(3) after the first sentence the following: "The amount to be awarded in any instance, however, shall not be disproportionate to the amount in controversy.";

(4) by inserting at the end of subsection (a) the following new paragraph:

"(4) Any award under this section shall be limited to the amount of any legally enforceable obligation that the party would have been required to pay in the absence of an award under the Equal Access to Justice Act.";

(5) by striking clauses (i) and (ii) from subsection (b)(1)(B) and inserting the following: "(i) any individual whose net worth exceeded $1,000,000 at the time the adversary adjudication was initiated, and any owner of an unincorporated business, or any partnership, corporation, association, or organization whose net worth exceeded $5,000,000 at the time the adversary adjudication was initiated; and (ii) any owner of an unincorporated business, or a partnership, corporation, association, or organization having more than 500 employees at the time the adversary adjudication was initiated."; and

(6) by striking subsection (d)(1) and inserting the following:

"(d)(1) Fees and other expenses awarded under this section shall be paid by the particular agency over which the party prevails from any sums appropriated to such agency, except that no sums may be appropriated to any such agency specifically for the purpose of paying fees and other expenses awarded under this section.".

SEC. 13017. Section 2412 of title 28, United States Code, is amended—

(1) by striking from subsections (a) and (b) "or any agency and any official of the United States" each place it appears and inserting "or any agency or any official of the United States";

(2) by adding at the end of subsection (d)(1)(A) the following: "No award shall be made under this subsection unless—

"(i) The prevailing party would have suffered a pecuniary loss in excess of $500 in his individual capacity and not as a member or represenative of an organization or group; or

"(ii) the prevailing party was engaged in carrying on a trade or business for profit where the amount in controversy in the adversary adjudication was directly related to the conduct of such trade or business; or

"(iii) the prevailing party was engaged in carrying on a trade or business for profit and the action involves a violation of the Regulatory Flexibility Act (Public Law 96-354).";

(3) by inserting after the first sentence in subsection (d)(1)(B) the following: "An itemized statement for an attorney's fees shall be accompanied by an affidavit of the attorney affirming that the fees charged were computed in accordance with his routine and customary rates for work of a similar nature.";

(4) by adding at the end of subsection (d)(1)(C) the following: "The amount to be awarded in any instance, however, shall not be disproportionate to the amount in controversy.";

(5) by striking all of subparagraph (B) of subsection (d)(2) after the word "filed," in clause (i) and inserting in lieu thereof the following: "or (ii) any owner of an incorporated business or any partnership, corporation, association, or organization whose net worth did not exceed $5,000,000 at the time the civil action was filed, but 'party' does not include any owner of an unincorporated business, or a partnership, corporation, association, or organization having more than five hundred employees at the time the civil action was filed; and"; and

(6) by striking all of subparagraph (A) of subsection (d)(4) and inserting the following:

"(4)(A) Fees and other expenses awarded under this subsection shall be paid by any agency issuing an order over which the party prevails from any funds made available to the agency, by appropriation or otherwise, except that no sums may be appropriated to any such agency specifically for the purpose of paying fees and other expenses under this subsection.".

TITLE XIV—HOUSE COMMITTEE ON VETERANS' AFFAIRS

REPEAL OF AUTHORITY FOR PURSUIT OF FLIGHT TRAINING AND TRAINING BY CORRESPONDENCE

SEC. 14001. (a)(1) Section 1631 of title 38, United States Code, is amended by striking out subsection (c).

(2) Section 1641 of such title is amended to read as follows:

"§ 1641. Requirements

"The provisions of sections 1663, 1670, 1671, 1673, 1674, 1676, 1683, and 1691(a)(1) of this title and the provisions of chapter 36 of this title (with the exception of sections 1777, 1780(b), 1787, and 1798) shall be applicable to the program.".

(b)(1) Section 1652(c) of such title is amended by striking out "correspondence school,".

(2) Section 1662(c) of such title is amended by striking out "or flight training within the provisions of section 1677 of this chapter,".

(3) Section 1673(b) of such title is amended by striking out "Except as provided in section 1677 of this title, the" and inserting in lieu thereof "The".

(4)(A) Section 1677 of such title, relating to flight training, is repealed.

(B) The table of sections at the beginning of chapter 34 of such title is amended by striking out the item relating to section 1677.

(5) Section 1681 of such title is amended—

(A) in subsection (b), by striking out ", other than a program exclusively by correspondence or a program of flight training,"; and

(B) by striking out subsection (c) (including the center heading preceding such subsection).

(6) Section 1682(a)(1) of such title is amended by striking out "1677 or".

(7)(A) Section 1684 of such title is amended to read as follows:

"§ 1684. Apprenticeship or other on-job training

"Any eligible veteran may pursue a program of apprenticeship or other on-job training and be paid a training assistance allowance as provided in section 1787 of this title.".

(B) The item relating to such section in the table of sections at the beginning of chapter 34 of such title is amended to read as follows:

"1684. Apprenticeship or other on-job training.".

(c)(1) Section 1701(a)(6) of such title is amended by striking out "correspondence school,".

(2)(A) Section 1734 of such title is amended—

(i) by striking out "(a)"; and

(ii) by striking out subsection (b).

(B) The heading for such section is amended to read as follows:

"§ 1734. Apprenticeship or other on-job training".

(C) The item relating to such section in the table of sections at the beginning of chapter 35 of such title is amended to read as follows:

"1734. Apprenticeship or other on-job training.".

(d)(1) Section 1780 of such title is amended—

(A) in subsection (a)—

(i) by striking out ", other than a program by correspondence or a program of flight training,";

(ii) by inserting "or" at the end of clause (4);

(iii) by striking out clause (5); and

(iv) by redesignating clause (6) as clause (5);

(B) by striking out subsection (b) (including the center heading preceding such subsection);

(C) by redesignating subsections (c), (d), (e), (f), and (g) as subsections (b), (c), (d), (e), and (f), respectively; and

(D) by striking out "subsection (d)" in subsection (d) (as so redesignated) and inserting in lieu thereof "subsection (c)".

(2) Section 1784 of such title is amended—

(A) by striking out "or, in the case of correspondence training, the last date a lesson was serviced by the school" in subsection (a); and

(B) by striking out "section 1780(d)(4)" in subsection (c) and inserting in lieu thereof "section 1780(c)(4)".

(3)(A) Section 1786 of such title, relating to correspondence courses, is repealed.

(B) The table of sections at the beginning of chapter 36 is amended by striking out the item relating to section 1786.

(4) Section 1798 of such title is amended—

(A) by striking out "correspondence, or" in subsection (c); and

(B) by striking out "section 1780(d)(4)" in subsection (f)(2) and inserting in lieu thereof "section 1780(c)(4)".

(e) Section 604(a) of the Vietnam Era Veterans' Readjustment Assistance Act of 1972 (38 U.S.C. 1712 note) is amended by striking out "(1) eligible to pursue a program of education exclusively by correspondence by virtue of the provisions of section 1786 of such title (as added by section 316 of this Act) or (2)".

(f) The amendments made by this section shall take effect on October 1, 1981.

REPEAL OF EDUCATION LOAN PROGRAM

SEC. 14002. (a) Section 1631 of title 38, United States Code, is amended by striking out subsection (d).

(b) Section 1662(a) of such title is amended—

(1) by striking out "(1)"; and

(2) by striking out paragraph (2).

(c)(1) Section 1686 of such title is repealed.

(2) The table of sections at the beginning of chapter 34 of such title is amended by striking out the item relating to section 1686.

(d) Section 1712 of such title is amended—

(1) by striking out subsection (f); and

(2) by redesignating subsection (g) as subsection (f).

(e)(1) Section 1737 of such title is repealed.

(2) The table of sections at the beginning of chapter 35 of such title is amended by striking out the item relating to section 1737.

(f) Section 1798(a) of such title is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end the following new paragraph:

"(2) No loan may be made under this subchapter after September 30, 1981.".

(g) Section 1799 of such title is amended—

(1) by striking out subsection (b);

(2) by redesignating subsection (c) as subsection (b) and by striking out "(1)" in such subsection and all that follows through "(2)";

(3) by redesignating subsection (d) as subsection (c); and

(4) by striking out subsection (e).

(h) The amendments made by this section shall take effect on October 1, 1981.

TERMINATION OF CERTAIN OUTPATIENT DENTAL TREATMENT

SEC. 14003. (a) Section 612(b) of title 38, United States Code, is amended by striking out clause (2) and by redesignating clauses (3) through (8) as clauses (2) through (7), respectively.

(b) The amendments made by subsection (a) shall apply with respect to the furnishing of outpatient dental services and treatment after September 30, 1981.

LIMITATION ON PAYMENT OF BURIAL ALLOWANCES FOR VETERANS DYING DURING FISCAL YEARS 1982, 1983, AND 1984

SEC. 14004. Benefits may not be paid under either section 902(a) or 903 of title 38, United States Code, in the case of an individual who dies during the period beginning on October 1, 1981, and ending on September 30, 1984, and with respect to whose death benefits under either such section may otherwise be paid if the individual's income during the twelve-month period immediately preceding the individual's death exceeded $20,000. If the individual was married during such twelve-month period, the income of the individual's spouse during such period shall be included in determining the income of the individual for the purposes of this section.

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CHAPTER 1—ADJUSTMENT ASSISTANCE FOR WORKERS

SEC. 15001. GROUP ELIGIBILITY REQUIREMENTS FOR ADJUSTMENT ASSISTANCE.

Section 222 of the Trade Act of 1974 (19 U.S.C. 2272) is amended—

(1) by striking out "contributed importantly to" in paragraph (3) and inserting in lieu thereof "were a substantial cause of"; and

(2) by amending the last sentence to read as follows:

"For purposes of paragraph (3), the term 'substantial cause' means a cause which is important and not less than any other cause.".

SEC. 15002. BENEFIT INFORMATION TO WORKERS.

Subchapter A of chapter 2 of title II of the Trade Act of 1974 is amended by adding at the end thereof the following new section:

"SEC. 225. BENEFIT INFORMATION TO WORKERS.

"The Secretary shall provide full information to workers about the benefit allowances, training, and other employment services available under this chapter and about the petition and application procedures, and the appropriate filing dates, for such allowances, training, and services. The Secretary shall provide whatever assistance is necessary to enable groups of workers to prepare petitions or applications for program benefits. The Secretary shall make every effort to insure that cooperating State agencies fully comply with the agreements entered into under section 239(a) and shall periodically review such compliance. The Secretary shall inform the State board for vocational education or equivalent agency and other public or private agencies, institutions, and employers, as appropriate, of each certification issued under section 223 and of projections, if available, of the needs for training under section 236 as a result of such certification.".

SEC. 15003. TRADE READJUSTMENT ALLOWANCES.

Sections 231, 232, and 233 of the Trade Act of 1974 (19 U.S.C. 2291, 2292, and 2293) are amended to read as follows:

"SEC. 231. QUALIFYING REQUIREMENTS FOR WORKERS.

"(a) Payment of a trade readjustment allowance shall be made to an adversely affected worker covered by a certification under subchapter A who files an application for such allowance for any week of unemployment which begins more than 60 days after the date on which the petition that resulted in such certification was filed under section 221, if the following conditions are met:

"(1) Such worker's last total or partial separation before his application under this chapter occurred—

"(A) on or after the date, as specified in the certification under which he is covered, on which total or partial separation began or threatened to begin in the adversely affected employment,

"(B) before the expiration of the 2-year period beginning on the date on which the determination under section 223 was made, and

"(C) before the termination date (if any) determined pursuant to section 223(d).

"(2) Such worker had, in the 52-week period ending with the week in which such total or partial separation occurred, at least 26 weeks of employment at wages of $30 or more a week in adversely affected employment with one or more firms or appropriate subdivisions thereof with respect to each of which a certification has been made under section 223, or if data with respect to weeks of employment with a firm are not available, equivalent amounts of employment computed under regulations prescribed by the Secretary. For the purposes of this paragraph, any week in which such worker—

"(A) is on employer-authorized leave for purposes of vacation, sickness, injury, maternity, inactive duty, or active duty military service for training,

"(B) does not work because of a disability that is compensable under a workmen's compensation law or plan of a State or the United States, or

"(C) had his employment interrupted in order to serve as a full-time representative of a labor organization in such firm or subdivision,

shall be treated as a week of employment at wages of $30 or more, but not more than the following number of weeks may be treated as such weeks of employment under this sentence:

"(i) 6 weeks if no weeks described in subparagraph (B) occurred during the 52-week period concerned.

"(ii) 13 weeks if all are weeks described in subparagraph (B).

"(iii) 13 weeks in the case of weeks described in subparagraphs (B) and (A) or (C), or both, except that not more than 6 of such weeks may be other than weeks described in subparagraph (B).

"(3) Such worker—

"(A) with respect to the weeks preceding such week of unemployment, has received credit for any waiting period that was required under the State law, or the Federal

unemployment insurance law, applicable to such worker,

"(B) has exhausted all rights to unemployment insurance in his most recent benefit period by reason of—

"(i) having received all unemployment insurance to which he was entitled under the applicable State law or Federal law with respect to that period, or

"(ii) the expiration of that period, and

"(C) is not entitled, with respect to such week of unemployment, to any unemployment insurance or waiting period credit under any State law or Federal unemployment insurance law.

In applying subparagraph (B), if such worker is determined, with respect to a certification under which he is covered, to have exhausted all of his rights to unemployment insurance, then such worker may not be determined to have a subsequent exhaustion of such rights with respect to that certification.

"(4) Such worker shall be subject to the provisions of section 202(a)(3) of the Federal-State Extended Unemployment Compensation Act of 1970 and subsection (b).

"(b) If the Secretary determines with respect to any labor market area that—

"(1) a high level of unemployment exists,

"(2) suitable employment opportunities are not available, and

"(3) there are facilities available for the provision of training under section 236 in new or related job classifications,

the Secretary may, in accordance with such regulations as he shall prescribe, require all adversely affected workers who were totally or partially separated in such area and for whom such training is approved under section 236—

"(A) to accept such training, or

"(B) to search actively for work outside such area;

except that no worker may be required (i) to accept training or undertake a job search under this subsection until after the first 8 weeks of his eligibility for trade readjustment allowances has expired, or (ii) to accept, or to participate in, such training for a period longer than the remaining period to which he is entitled to such allowances. For purposes of this subsection, the term 'labor market area' has the same meaning as is given such term in the Introduction to the Directory of Important Labor Areas, 1980 edition, published by the Department of Labor.

"SEC. 232. WEEKLY AMOUNTS.

"(a) Subject to subsections (b) and (c), the trade readjustment allowance payable to an adversely affected worker for a week of total unemployment shall be an amount equal to the most recent weekly benefit amount of the unemployment insurance payable to the worker for a week of total unemployment during the period preceding the worker's exhaustion of all rights to unemployment insurance (as determined for purposes of section 231(a)(3)(B)) reduced (but not below zero) by—

"(1) any training allowance deductible under subsection (c); and

"(2) income that is deductible from unemployment insurance under the disqualifying income provisions of the applicable State law or Federal unemployment insurance law.

"(b) Any adversely affected worker who is entitled to trade readjustment allowances and who is undergoing training approved by the Secretary, including on-the-job training, shall receive for each week in which he is undergoing any such training a trade readjustment allowance in an amount (computed for such week) equal to the amount computed under subsection (a) or (if greater) the amount of any weekly allowance for such training to which he would be entitled under any other Federal law for the training of workers, if he applied for such allowance. Such trade readjustment allowance shall be paid in lieu of any training allowance to which the worker would be entitled under such other Federal law.

"(c) If a training allowance under any Federal law is paid to an adversely affected worker for any week of unemployment with respect to which he would be entitled (determined without regard to any disqualification under section 236(c)) to a trade readjustment allowance if he applied for such allowance, each such week shall be deducted from the total number of weeks of trade readjustment allowance otherwise payable to him under section 233(a) when he applies for a trade readjustment allowance and is determined to be entitled to such allowance. If the training allowance paid to such worker for any week of unemployment is less than the amount of the trade readjustment allowance to which he would be entitled if he applied for such allowance, he shall receive, when he applies for a trade readjustment allowance and is determined to be entitled to such allowance, a trade readjustment allowance for such week equal to such difference.

"SEC. 233. LIMITATIONS ON TRADE READJUSTMENT ALLOWANCES.

"(a) Except as provided in subsection (b)—

"(1) the total amount of all trade readjustment allowances payable to an adversely affected worker may not exceed the amount determined by—

"(A) multiplying by 52 the trade readjustment allowance payable under section 232(a) to such worker for a week of total unemployment, and

"(B) subtracting from the product derived under subparagraph (A) the total amount of the unemployment insurance payable to the worker in that benefit period that was treated as his most recent benefit period for the purposes of section 231(a)(3)(B), and

"(2) a trade readjustment allowance may not be paid to an adversely affected worker for any week which begins after the 52-week period beginning with the first week following the week with respect to which the worker exhausted all of his rights to regular compensation (as determined pursuant to section 231(a)(3)(B)).

"(b)(1) Notwithstanding subsection (a) and in accordance with regulations prescribed by the Secretary, trade readjustment allowances may be paid for up to 26 additional weeks in the 26-week period following the last week of entitlement to trade readjustment allowances otherwise payable under this chapter to an adversely affected worker in order to assist the worker to complete training approved for the worker under section 236.

"(2) Payment of a trade readjustment allowance for any week under paragraph (1) may only be made if the individual is engaged in such training during the week and is determined under section 236(c) not to be failing to make satisfactory progress in the training.

"(3) A trade readjustment allowance may not be paid for an additional week specified in paragraph (1) if the adversely affected worker who would receive such allowance did not make a bona fide application to a training program approved by the Secretary under section 236 within 210 days after the date of the worker's first certification of eligibility to apply for adjustment assistance issued by the Secretary, or, if later, within 210 days after the date of the worker's first total or partial separation.

"(c) The amount of trade readjustment allowances payable to an adversely affected worker as determined under subsection (a)(1) or (b)(1), as the case may be, shall be subject to adjustment on a week-to-week basis as may be required by section 232(b).

"(d)(1) Notwithstanding any other provision of this Act or other Federal law, if the benefit year of a worker ends within an extended benefit period, the number of weeks that would, but for this subsection, be in that extended benefit period after the close of the benefit year shall be reduced (but not below zero) by the number of weeks for which the worker was entitled, during such benefit year, to trade readjustment allowances under section 232(a). For purposes of this paragraph, the terms 'benefit year' and 'extended benefit period' shall have the same respective meanings given to them in the Federal-State Extended Unemployment Compensation Act of 1970.

"(2) The Secretary of Labor may not certify any State law for purposes of section 3304 of the Internal Revenue Code of 1954 unless he determines that such law is in compliance with paragraph (1).".

SEC. 15004. TRAINING AND OTHER EMPLOYMENT SERVICES.

Subchapter B of chapter 2 of title II of the Trade Act of 1974 is amended—

(1) by amending the center heading for part II of such subchapter to read as follows:

"PART II—TRAINING, OTHER EMPLOYMENT SERVICES, AND ALLOWANCES";

(2) by amending section 235 to read as follows:

"SEC. 235. EMPLOYABILITY PLANS AND SERVICES.

"(a) If the Secretary determines that there is no suitable employment available for an adversely affected worker covered by a certification under subchapter A of this chapter who is unemployed (as defined in the applicable State law or Federal unemployment insurance law) or underemployed, and who has registered with the State job service or equivalent agency, the Secretary shall develop in cooperation with the worker, and with the State board for vocational education or equivalent agency, prime sponsors under the Comprehensive Employment and Training Act, and other public or private agencies and employers, as appropriate, an employability plan appropriate for such worker setting forth—

"(1) such counseling, testing, placement, supportive, and other services to be furnished to and utilized by such worker, and

"(2) such training, job search, and relocation under sections 236, 237, and 238 as may be utilized beneficially by such worker.

The Secretary shall, whenever appropriate, procure or provide training and the services referred to in paragraph (1) through agreements with cooperating State agencies, or through other appropriate governmental agencies or private sources.

"(b) For purposes of subsection (a) and section 236—

"(1) The term 'suitable employment' means, with respect to a worker, work of a substantially equal or higher skill level than the worker's past adversely affected employment and wages for such work at not less

than 80 percent of the worker's average weekly wage.

"(2) The term 'underemployed' means, with respect to a worker, that the worker—

"(A) is working below his skill capacity,

"(B) is in partial separation status, or

"(C) has received a notice of layoff or reduction in hours of work that is expected to result in a total or partial separation and is within 60 days of such expected total or partial separation.";

(3) by amending subsections (a) and (b) of section 236 to read as follows:

"(a)(1) If the Secretary determines that—

"(A) there is no suitable employment (which may include technical and professional employment) available for a worker for whom an employability plan is developed under section 235,

"(B) the worker would benefit from appropriate training,

"(C) there is a reasonable expectation of employment following completion of such training,

"(D) training approved by the Secretary is available to the worker from either governmental agencies or private sources (which may include area vocational education schools, as defined in section 195(2) of the Vocational Education Act of 1963, and employers), and

"(E) the worker is qualified to undertake and complete such training,

the Secretary shall approve such training for the worker. Upon such approval, the worker shall be entitled to have payment of the costs of such training paid on his behalf by the Secretary. Insofar as possible, the Secretary shall provide or assure the provision of such training on the job, which shall include related education necessary for the acquisition of skills needed for a position within a particular occupation. If institutional training is appropriate, the Secretary shall give priority to the provision of that training in public area vocational education schools (as defined in section 195(2) of the Vocational Education Act of 1963) if he determines that such schools are at least as effective and efficient as other institutional alternatives.

"(2) A worker may not be determined to be ineligible or disqualified for unemployment insurance or program benefits under this subchapter because the individual is in training approved under paragraph (1), because of leaving work which is not suitable employment to enter such training, or because of the application to any such work in training of provisions of State law or Federal unemployment insurance law relating to availability for work, active search for work, or refusal to accept work. The Secretary shall submit to the Congress a quarterly report regarding the amount of funds expended during the quarter concerned to provide training under paragraph (1) and the anticipated demand for such funds for any remaining quarters in the fiscal year concerned.

"(b) The Secretary may, where appropriate, authorize supplemental assistance necessary to defray reasonable transportation and subsistence expenses for separate maintenance when training is provided in facilities which are not within commuting distance of a worker's regular place of residence. The Secretary may not authorize—

"(1) payments for subsistence that exceed whichever is the lesser of (A) the actual per diem expenses for subsistence, or (B) payments at 50 percent of the prevailing per diem allowance rate authorized under the Federal travel regulations, or

"(2) payments for travel expenses exceeding the prevailing mileage rate authorized under the Federal travel regulations."; and

(4) by striking out the following:

"PART III—JOB SEARCH AND RELOCATION ALLOWANCES".

SEC. 15005. INCREASED JOB SEARCH ALLOWANCES.

Section 237 of the Trade Act of 1974 (19 U.S.C. 2297) is amended as follows:

(1) Subsection (a) thereof is amended to read as follows:

"(a) Any adversely affected worker covered by a certification under subchapter A of this chapter may file an application with the Secretary for a job search allowance. Such allowance, if granted, shall provide reimbursement to the worker of 90 percent of the cost of necessary job search expenses as prescribed by regulations of the Secretary; except that—

"(1) such reimbursement may not exceed $600 for any worker, and

"(2) reimbursement may not be made for subsistence and transportation expenses at levels exceeding those allowable under section 236(b) (1) and (2).".

(2) Subsection (b) thereof is amended—

(A) by amending paragraph (1) to read as follows:

"(1) to assist an adversely affected worker who has been totally separated in securing a job within the United States;"; and

(B) by amending paragraph (3) to read as follows:

"(3) where the worker has filed an application for such allowance with the Secretary before—

"(A) the later of—

"(i) the 365th day after the date of the certification under which the worker is eligible, or

"(ii) the 365th day after the date of the worker's last total separation; or

"(B) the 182d day after the concluding date of any training received by the worker, if the worker was referred to such training by the Secretary.".

SEC. 15006. INCREASED RELOCATION ALLOWANCES.

Section 238 of the Trade Act of 1974 (19 U.S.C. 2298) is amended—

(1) by amending subsection (a)—

(A) by striking out "who has been totally separated"; and

(B) by striking out the period and inserting in lieu thereof the following: ", if such worker files such application before—

"(1) the later of—

"(A) the 425th day after the date of the certification, or

"(B) the 425th day after the date of the worker's last total separation; or

"(2) the 182d day after the concluding date of any training received by such worker, if the worker was referred to such training by the Secretary.";

(2) by amending subsection (b) by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", and", and by adding at the end thereof the following:

"(3) is totally separated from employment at the time relocation commences.";

(3) by amending subsection (c) to read as follows:

"(c) A relocation allowance shall not be granted to such worker unless his relocation occurs within 182 days after the filing of the application therefor or (in the case of a worker who has been referred to training by the Secretary) within 182 days after the conclusion of such training."; and

(4) by amending subsection (d)—

(A) by amending paragraph (1) to read as follows:

"(1) 90 percent of the reasonable and necessary expenses (including, but not limited to, subsistence and transportation expenses at levels not exceeding those allowable under section 236(b) (1) and (2)) specified in regulations prescribed by the Secretary, incurred in transporting a worker and his family, if any, and household effects, and", and

(B) by striking out "$500" in paragraph (2) and inserting in lieu thereof "$600".

SEC. 15007. FRAUD AND RECOVERY OF OVERPAYMENTS.

Section 243 of the Trade Act of 1974 (19 U.S.C. 2315) is amended to read as follows:

"SEC. 243. FRAUD AND RECOVERY OF OVERPAYMENTS.

"(a)(1) If a cooperating State agency, the Secretary, or a court of competent jurisdiction determines that any person has received any payment under this chapter to which the person was not entitled, including a payment referred to in subsection (b), such person shall be liable to repay such amount to the State agency or the Secretary, as the case may be, except that the State agency or the Secretary may waive such repayment if such agency or the Secretary determines, in accordance with guidelines prescribed by the Secretary, that—

"(A) the payment was made without fault on the part of such individual, and

"(B) requiring such repayment would be contrary to equity and good conscience.

"(2) Unless an overpayment is otherwise recovered, or waived under paragraph (1), the State agency or the Secretary shall recover the overpayment by deductions from any sums payable to such person under this chapter, under any Federal unemployment compensation law administered by the State agency or the Secretary, or under any other Federal law administered by the State agency or the Secretary which provides for the payment of assistance or an allowance with respect to unemployment, and, notwithstanding any other provision of State law or Federal law to the contrary, the Secretary may require the State agency to recover any overpayment under this chapter by deduction from any unemployment insurance payable to such person under the State law, except that no single deduction under this paragraph shall exceed 50 percent of the amount otherwise payable.

"(b) If a cooperating State agency, the Secretary, or a court of competent jurisdiction finds that an individual—

"(1) knowingly has made, or caused another to make, a false statement or representation of a material fact, or

"(2) knowingly has failed, or caused another to fail, to disclose a material fact,

and as a result of such false statement or representation, or of such nondisclosure, such individual has received any payment under this chapter to which the individual was not entitled, such individual shall, in addition to any other penalty provided by law, be ineligible for any further payments under this chapter.

"(c) Except for overpayments determined by a court of competent jurisdiction, no repayment may be required, and no deduction may be made, under this section until a determination is made under subsection (a)(1) by the State agency or the Secretary (as the case may be), notice of the determination and an opportunity for a fair hearing thereon has been given to the individual con-

cerned, and the determination has become final.

"(d) Any amount recovered under this section shall be returned to the Treasury of the United States.".

SEC. 15008. AUTHORIZATION OF APPROPRIATIONS.

Section 245 of the Trade Act of 1974 (19 U.S.C. 2317) is amended to read as follows:

"SEC. 245. AUTHORIZATION OF APPROPRIATIONS.

"(a) Except as provided in subsection (b), there are authorized to be appropriated to the Department of Labor for purposes of carrying out this chapter such sums as may be necessary.

"(b) There are authorized to be appropriated to the Department of Labor, for purposes of carrying out part II (other than section 235) of subchapter B of this chapter and an evaluation of the effectiveness of this chapter, for each of fiscal years 1982 and 1983 not less than $112,000,000, of which 5 percent of such sum is authorized for purposes of such evaluation.".

SEC. 15009. DEFINITIONS.

Section 247 of the Trade Act of 1974 (19 U.S.C. 2319) is amended—

(1) by striking out paragraphs (3) and (7);

(2) by amending paragraph (12) to read as follows:

"(12) The term 'unemployment insurance' means the unemployment compensation payable to an individual under any State law or Federal unemployment compensation law, including chapter 85 of title 5, United States Code, and the Railroad Unemployment Insurance Act. The terms 'regular compensation', 'additional compensation', and 'extended compensation' have the same respective meanings that are given them in section 205 (2), (3), and (4) of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).";

(3) by amending paragraph (14) to read as follows:

"(14) The term 'week of unemployment' means a week of total, part-total, or partial unemployment as determined under the applicable State law or Federal unemployment insurance law."; and

(4) by adding at the end thereof the following:

"(15) The term 'benefit period' means, with respect to an individual—

"(A) the benefit year and any ensuing period, as determined under applicable State law, during which the individual is eligible for regular compensation, additional compensation, or extended compensation, or

"(B) the equivalent to such a benefit year or ensuing period provided for under the applicable Federal unemployment insurance law.".

SEC. 15010. CONFORMING AMENDMENTS.

(a)(1) Subsection (c) of section 224 of the Trade Act of 1974 (19 U.S.C. 2274(c)) is repealed.

(2) The section heading for such section 224 is amended by striking out "; ACTION WHERE THERE IS AFFIRMATIVE FINDING".

(b) Section 241 of such Act (19 U.S.C. 2313) is amended by striking out the last sentence in subsection (a), and by striking out "and credited to Adjustment Assistance Trust Fund" in subsection (b).

(c) Section 246 of such Act of 1974 (19 U.S.C. 2318) is repealed.

(d) The table of contents to such Act of 1974 is amended—

(1) by striking out "; action where there is affirmative finding" in the reference to section 224;

(2) by inserting after the reference to section 224 the following:

"Sec. 225. Benefit information to workers.";

(3) by striking out "Time limitations" in the reference to section 233 and inserting in lieu thereof "Limitations";

(4) by amending the center heading to part II of subchapter B of title II to read as follows:

"PART II—TRAINING, OTHER EMPLOYMENT SERVICES AND ALLOWANCES";

(5) by amending the reference to section 235 to read as follows:

"Sec. 235. Employability plans and services.";

(6) by repealing the following:

"PART III—JOB SEARCH AND RELOCATION ALLOWANCES";

(7) by striking out "Recovery" in the reference to section 243 and inserting in lieu thereof "Fraud and recovery";

(8) by amending the reference to section 245 to read as follows:

"Sec. 245. Authorization of appropriations."; and

(9) by striking out the reference to section 246.

SEC. 15011. EFFECTIVE DATES AND TRANSITIONAL PROVISIONS.

(a)(1) Except as provided in paragraph (2), this part shall take effect on the date of the enactment of this Act.

(2)(A) The amendments made by section 101 shall apply with respect to petitions for certification filed under section 221 of the Trade Act of 1974 on or after the date of the enactment of this Act.

(B) The amendments made by sections 103 and 109 shall apply with respect to trade readjustment allowances payable for weeks of unemployment which begin after September 30, 1981.

(C) The amendments made by sections 104, 105, and 106 shall take effect with respect to registrations for services and applications for allowances under sections 235, 236, 237, and 238 of the Trade Act of 1974 that are made or filed after September 30, 1981.

(b) An adversely affected worker who is receiving or is entitled to receive payments of trade readjustment allowances under chapter 2 of the Trade Act of 1974 for weeks of unemployment beginning before October 1, 1981, shall be entitled to receive—

(1) with respect to weeks of unemployment beginning before October 1, 1981, payments of trade readjustment allowances determined under such chapter 2 without regard to the amendments made by this subtitle; and

(2) with respect to weeks of unemployment beginning after September 30, 1981, payments of trade readjustment allowances as determined under such chapter 2 as amended by this subtitle, except that the maximum amount of trade readjustment allowances payable to such an individual for such weeks of unemployment shall be an amount equal to the product of the trade readjustment allowance payable to the individual for a week of total unemployment (as determined under section 232(a) as so amended) multiplied by a factor determined by subtracting from fifty-two the sum of—

(A) the number of weeks preceding the first week which begins after September 30, 1981, for which the individual was paid or is entitled to be paid a trade readjustment allowance or unemployment insurance, and

(B) the number of weeks preceding such first week that are deductible under section 232(d) (as in effect before the amendment made by section 103);

except that the amount of trade readjustment allowances payable to an adversely affected worker under this paragraph shall be subject to adjustment on a week-to-week basis as may be required by section 232(b).

CHAPTER 2—ADJUSTMENT ASSISTANCE FOR FIRMS

SEC. 15021. ELIGIBILITY REQUIREMENT FOR ADJUSTMENT ASSISTANCE.

Section 251(c) of the Trade Act of 1974 (19 U.S.C. 2341(c)) is amended—

(1) by striking out "contributed importantly to" in paragraph (3) and inserting in lieu thereof "were a substantial cause of"; and

(2) by amending the last sentence to read as follows: "For purposes of paragraph (3), the term 'substantial cause' means a cause which is important and not less than any other cause.".

SEC. 15022. TECHNICAL ASSISTANCE.

Section 253 of the Trade Act of 1974 (19 U.S.C. 2343) is amended to read as follows:

"SEC. 253. TECHNICAL ASSISTANCE.

"(a) The Secretary may provide a firm, on terms and conditions as the Secretary determines to be appropriate, with such technical assistance as in his judgment will carry out the purposes of this chapter with respect to the firm. The technical assistance furnished under this chapter may consist of one or more of the following:

"(1) Assistance to a firm in preparing its petition for certification of eligibility under section 251 of this chapter.

"(2) Assistance to a certified firm in developing a proposal for its economic adjustment.

"(3) Assistance to a certified firm in the implementation of such a proposal.

"(b)(1) The Secretary shall furnish technical assistance under this chapter through existing agencies and through private individuals, firms, or institutions (including private consulting services), or by grants to intermediary organizations (including Trade Adjustment Assistance Centers).

"(2) In the case of assistance furnished through private individuals, firms, or institutions (including private consulting services), the Secretary may share the cost thereof (but not more than 75 per cent of such cost may be borne by the United States).

"(3) The Secretary may make grants to intermediary organizations in order to defray up to 100 percent of administrative expenses incurred in providing such technical assistance to a firm.".

SEC. 15023. LIMITATION ON PROVISION OF DIRECT LOANS.

Section 254(c) of the Trade Act of 1974 (19 U.S.C. 2344(c)) is amended to read as follows:

"(c) No direct loan may be provided to a firm under this chapter if the firm can obtain loan funds from private sources (with or without a guarantee) at a rate no higher than the maximum interest per annum that a participating financial institution may establish on guaranteed loans made pursuant to section 7(a) of the Small Business Act.".

SEC. 15024. CONDITIONS FOR FINANCIAL ASSISTANCE.

Section 255 of the Trade Act of 1974 (19 U.S.C. 2345) is amended—

(1) by amending subsection (b) to read as follows:

"(b)(1) The rate of interest on direct loans made under this chapter shall be—

"(A) a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods of maturity that are comparable to the average maturities of such loans, adjusted to the nearest one-eighth of 1 percent, plus

"(B) an amount adequate in the judgment of the Secretary of Commerce to cover administrative costs and probable losses under the program.

"(2) The Secretary may not guarantee any loan under this chapter if—

"(A) the rate of interest on either the portion to be guaranteed, or the portion not to be guaranteed, is determined by the Secretary to be excessive when compared with other loans bearing Federal guarantees and subject to similar terms and conditions, and

"(B) the interest on the loan is exempt from Federal income taxation under section 103 of the Internal Revenue Code of 1954.";

(2) by amending subsection (c)—

(A) by amending the first sentence to read as follows: "The Secretary shall make no loan or guarantee of a loan under section 254(b)(1) having a maturity in excess of 25 years or the useful life of the fixed assets (whichever period is shorter), including renewals and extensions; and shall make no loan or guarantee of a loan under section 254(b)(2) having a maturity in excess of 10 years, including extensions and renewals.";

(B) by amending the second sentence by striking out "limitation" and inserting in lieu thereof "limitations"; and

(C) by amending paragraph (2) by inserting "or servicing" immediately after "liquidation";

(3) by amending subsection (d)—

(A) by inserting "(1)" immediately after "(d)"; and

(B) by adding at the end thereof the following:

"(2) For any direct loan made, or any loan guaranteed, under the authority of this chapter, the Secretary may enter into arrangements for the servicing, including foreclosure, of such loans or evidences of indebtedness on terms which are reasonable and which protect the financial interests of the United States."; and

(4) by amending subsection (e) to read as follows:

"(e) The following conditions apply with respect to any loan guaranteed under this chapter:

"(1) No guarantee may be made for an amount which exceeds 90 percent of the outstanding balance of the unpaid principal and interest on the loan.

"(2) The loan may be evidenced by multiple obligations for the guaranteed and nonguaranteed portions of the loan.

"(3) The guarantee agreement shall be conclusive evidence of the eligibility of any obligation guaranteed thereunder for such guarantee, and the validity of any guarantee agreement shall be incontestable, except for fraud or misrepresentation by the holder.".

SEC. 15025. AUTHORIZATION OF APPROPRIATIONS.

Section 256(b) of the Trade Act of 1974 (19 U.S.C. 2346(b)) is amended—

(1) by striking out "firms," and inserting in lieu thereof "firms (including, but not limited to, the payment of principal, interest, and reasonable costs incident to default on loans guaranteed by the Secretary under the authority of this chapter),"; and

(2) by adding at the end thereof the following new sentence: "Direct loans and commitments to guarantee loans may be made under this chapter during any fiscal year only to such extent and in such amounts as are provided in advance in appropriation Acts.".

SEC. 15026. ADMINISTRATION OF FINANCIAL ASSISTANCE.

Section 257 of the Trade Act of 1974 (19 U.S.C. 2347) is amended by adding at the end thereof the following new subsections:

"(d) To the extent the Secretary deems it appropriate, and consistent with the provisions of section 552(b)(4) and section 552b(c)(4) of title 5, United States Code, that portion of any record, material or data received by the Secretary in connection with any application for financial assistance under this chapter which contains trade secrets or commercial or financial information regarding the operation or competitive position of any business shall be deemed to be privileged or confidential within the meaning of those provisions.

"(e) Direct loans made, or loans guaranteed, under this chapter for the acquisition or development of real property or other capital assets shall ordinarily be secured by a first lien on the assets to be financed and shall be fully amortized. To the extent that the Secretary finds that exceptions to these standards are necessary to achieve the objectives of this chapter, he shall develop appropriate criteria for the protection of the interests of the United States.".

SEC. 15027. REPEAL OF TRANSITIONAL PROVISIONS.

Section 263 of the Trade Act of 1974 (19 U.S.C. 2353) is repealed.

SEC. 15028. ASSISTANCE TO INDUSTRIES.

Chapter 3 of title II of the Trade Act of 1974 is amended by adding at the end thereof the following:

"SEC. 265. ASSISTANCE TO INDUSTRIES.

"(a) The Secretary may provide technical assistance, on such terms and conditions as the Secretary deems appropriate, for the establishment of industrywide programs for new product development, new process development, export development, or other uses consistent with the purposes of this chapter. Such technical assistance may be provided through existing agencies, private individuals, firms, universities and institutions, and by grants, contracts, or cooperative agreements to associations, unions, or other nonprofit industry organizations in which a substantial number of firms have been certified as eligible to apply for adjustment assistance under section 251.

"(b) Expenditures for technical assistance under this section may be up to $2,000,000 annually per industry and shall be made under such terms and conditions as the Secretary deems appropriate.".

SEC. 15029. CONFORMING AMENDMENTS.

The table of contents of the Trade Act of 1974 is amended—

(1) by striking out the reference to section 263; and

(2) by inserting after the reference to section 264 the following:

"Sec. 265. Assistance to industries.".

SEC. 15030. EFFECTIVE DATE.

(a) Subject to subsection (b), the amendments made by this part shall take effect on the date of the enactment of this Act.

(b) Applications for adjustment assistance under chapter 3 of title II of the Trade Act of 1974 which the Secretary of Commerce accepted for processing before the date of the enactment of this Act shall continue to be processed in accordance with the requirements of such chapter as in effect before such date of enactment. The amendments made by section 121 apply with respect to any petition for certification under section 251 of the Trade Act of 1974 that is filed on or after such date of enactment, or filed before such date if a determination regarding certification was not made by the Secretary of Commerce before such date.

CHAPTER 3—REPEAL OF ADJUSTMENT ASSISTANCE PROGRAM FOR COMMUNITIES; EXTENSION OF PROGRAM FOR WORKERS AND FIRMS TO SEPTEMBER 30, 1983

SEC. 15041. REPEAL OF ADJUSTMENT ASSISTANCE PROGRAM FOR COMMUNITIES.

(a) Chapter 4 of title II of the Trade Act of 1974 (19 U.S.C. 2371-2374) is repealed.

(b) The table of contents to such Act of 1974 is amended by striking out the references to such chapter 4 and the sections therein.

SEC. 15042. EXTENSION OF TERMINATION DATE OF ADJUSTMENT ASSIST ANCE PROGRAM FOR WORKERS AND FIRMS.

Section 284 of the Trade Act of 1974 (19 U.S.C. 2771) is amended—

(1) by striking out "2, 3, and 4" and inserting in lieu thereof "2 and 3"; and

(2) by striking out "September 30, 1982" and inserting in lieu thereof "September 30, 1983".

Subtitle B—Federal Old Age, Survivors, and Disability Insurance Program

SHORT TITLE; TABLE OF CONTENTS OF SUBTITLE

SEC. 15200. This subtitle may be cited as the "Social Security Spending Reduction Amendments of 1981".

TABLE OF CONTENTS OF SUBTITLE

Sec. 15200. Short title; table of contents of title.
Sec. 15201. Phaseout of postsecondary student benefits.
Sec. 15202. Termination of mother's and father's benefits when child attains age 16.
Sec. 15203. Prospective elimination of minimum benefit.
Sec. 15204. Rounding of benefits.
Sec. 15205. Requests for information; cost reimbursement.
Sec. 15206. Transition to cost-of-living increases on a fiscal year basis.
Sec. 15207. Reimbursement of States for successful rehabilitation services.
Sec. 15208. Temporary extension of earnings limitation to include all persons aged less than 72.
Sec. 15209. Restrictions on the lump-sum death payment.
Sec. 15210. Payment of certain benefits only for months after month in which entitlement conditions are fulfilled.

PHASEOUT OF POSTSECONDARY STUDENT BENEFITS

SEC. 15201. (a)(1) Section 202(d) of the Social Security Act is amended by striking out "full-time student" each place it appears in paragraphs (1)(B), (1)(E)(ii), (1)(F)(i), (1)(G)(III), (6)(A)(i), (6)(D)(i), (6)(E)(i), (7)(A), (7)(B), and (7)(D) and inserting in lieu thereof "full-time elementary or secondary school student".

(2)(A) Section 202(d) of such Act is further amended by striking out "educational institution" each place it appears in paragraphs (7)(A), (7)(B), and (7)(D) and inserting in lieu thereof "elementary or secondary school".

(B) Section 202(d)(7)(A) of such Act is further amended by striking out "institutions involved" and inserting in lieu thereof "schools involved".

(3) Section 202(d)(7)(C) of such Act is amended to read as follows:

"(C)(i) An 'elementary or secondary school' is a school that provides elementary or secondary education, respectively, as determined under the law of the State or other jurisdiction in which it is located.

"(ii) For purposes of determining whether a child is a 'full-time elementary or secondary school student' or 'intends to continue to be in full-time attendance at an elementary or secondary school', within the meaning of this subsection, there shall be disregarded any education provided, or to be provided, beyond the twelfth grade.".

(4) Section 202(d)(7)(D) of such Act is further amended by striking out "degree from a four-year college or university" and inserting in lieu thereof "diploma or equivalent certificate from a secondary school (as defined in subparagraph (C)(i))".

(b) Section 202(d)(2) of such Act is amended by inserting "(A)" after "(2)", and by adding at the end thereof the following new subparagraph:

"(B) Notwithstanding subparagraph (A), the amount of the child's insurance benefit which is payable to a particular individual for the month in which such individual attains age 18 or any subsequent month, if such individual is entitled to such benefit by reason of his full-time attendance at an educational institution (within the meaning of paragraph (7)(C) of this subsection as in effect without regard to the amendments to such paragraph made by the Social Security Spending Reduction Amendments of 1981) at a level above the twelfth grade, shall be determined without regard to any increase under section 215(i) (or section 206(e) of such Amendments), or any general benefit increase under this title (within the meaning of section 215(i)(3)), in the primary insurance amount of the person on the basis of whose wages and self-employment income such benefit is payable if such increase under section 215(i) (or such section 206(e)) or such general benefit increase becomes effective after the later of May 1982 or the month in which such individual attains age 18.".

(c)(1) The amendments made by subsection (a) shall apply with respect to child's insurance benefits for months after December 1982; except that such amendments shall not apply in the case of any individual who in December 1982 or in a prior month was in full-time attendance at an educational institution (within the meaning of section 202(d)(7) of the Social Security Act as in effect without regard to the amendments made by this Act) at a level above the twelfth grade.

(2) The amendments made by subsection (b) shall apply with respect to child's insurance benefits payable for months after May 1982.

(3)(A) With respect to child's insurance benefits payable for months after May 1982 and before January 1983, section 202(d)(7)(B) of the Social Security Act shall apply only to individuals who are students at elementary or secondary schools (within the meaning of section 202(d)(7)(C)(i) of such Act as amended by subsection (a)(3) of this section).

(B) No individual who has attained the age of 18 shall be entitled to a benefit under section 202(d) of the Social Security Act by reason of his being a full-time student at an educational institution (within the meaning of section 202(d)(7)(C) of such Act as in effect without regard to the amendments made by subsection (a)(3) of this section) at a level above the twelfth grade for the month of June, July, or August of any year unless during that month such individual is attending such an institution as a student enrolled in a full-time school program (as determined in accordance with regulations prescribed by the Secretary of Health and Human Services).

TERMINATION OF MOTHER'S AND FATHER'S BENEFITS WHEN CHILD ATTAINS AGE SIXTEEN

SEC. 15202. (a)(1) Section 202(s)(1) of the Social Security Act is amended by striking out "the age of 18" and inserting in lieu thereof "the age of 16".

(2) The heading of section 202(s) of such Act is amended by striking out "Child Aged 18 or Over Attending School" and inserting in lieu thereof "Child Over Specified Age to be Disregarded for Certain Benefit Purposes Unless Disabled".

(b) The amendments made by subsection (a) shall apply with respect to wife's and mother's insurance benefits for months after the month in which this Act is enacted; except that, in the case of an individual who is entitled to such a benefit (on the basis of having a child in her care) for the month in which this Act is enacted, such amendments shall not take effect until the first day of the first month which begins 2 years or more after the date of the enactment of this Act.

PROSPECTIVE ELIMINATION OF MINIMUM BENEFIT

SEC. 15203. (a) Section 215(a)(1)(C)(i) of the Social Security Act is amended to read as follows:

"(i) No primary insurance amount computed under subparagraph (A) may be less than an amount equal to $11.50 multiplied by the individual's years of coverage in excess of 10, or the increased amount determined for purposes of this clause under subsection (i).".

(b)(1) Section 215(a)(1)(C)(ii) of such Act is amended by striking out "For purposes of clause (i)(II) and inserting in lieu thereof "For purposes of clause (i)".

(2) Section 215(a)(3)(A) of such Act is amended by striking out "(except for subparagraph (C)(i)(II) thereof)" and inserting in lieu thereof "(except for subparagraph (C)(i) thereof)".

(3) Section 215(a)(4) of such Act is amended—

(A) by striking out "(except for subparagraph (C)(i)(II) thereof)" in the matter preceding subparagraph (A) and inserting in lieu thereof "(except for subparagraph (C)(i) thereof)"; and

(B) by inserting "as modified by paragraph (6) of this subsection" after "the table of benefits in effect in December 1978", and striking out "but without regard to clauses (iv) and (v) thereof", in the matter following subparagraph (B).

(4) Section 215(a) of such Act is further amended by adding at the end thereof the following new paragraph:

"(6)(A) The table of benefits in effect in December 1978 under this section, as referred to in paragraph (4) (in the matter following subparagraph (B)) and revised pursuant to subsection (i) as applicable, shall be extended for average monthly wages of less than $76 and primary insurance benefits (as determined under subsection (d)) of less than $16.20.

"(B) The Secretary shall determine and promulgate in regulations the methodology for extending the table under subparagraph (A).".

(5) Section 215(f)(7) of such Act is amended (effective for months after December 1981) by striking out the period at the end of the second sentence and inserting in lieu thereof ", and (effective January 1982) the recomputation shall be modified by the application of section 215(a)(6) where applicable.".

(6) The second sentence of section 215(f)(8) of such Act is amended by striking out "(a)(1)(C)(i)(II)" and inserting in lieu thereof "(a)(1)(C)(i)".

(7) Section 215(i)(2)(A)(ii)(II) of such Act is amended by striking out "(including a primary insurance amount determined under subsection (a)(1)(C)(i)(I), but subject to the provisions of such subsection (a)(1)(C)(i) and clauses (iv) and (v) of this subparagraph)".

(8) The last sentence of section 215(i)(2)(A)(ii) of such Act is amended by striking out "(C)(i)(II)" and inserting in lieu thereof "(C)(i)".

(9) Section 215(i)(2)(A)(iii) of such Act is amended—

(A) by inserting "in the case of an individual to whom that section (as in effect in December 1981) applied" after "under subsection (a)(1)(C)(i)(I)", and

(B) by inserting "(as then in effect)" after "clauses (iv) and (v) of this subparagraph".

(10) Section 215(i)(2)(A) of such Act is further amended by striking out clauses (iv) and (v).

(11) Section 215(i)(2)(D) of such Act is amended by striking out "subparagraph (C)(i)(II)" each place it appears and inserting in lieu thereof "subparagraph (C)(i)".

(c) Section 202(m) of such Act is amended by striking out "(1)" after "(m)", and by striking out "shall not be less" and all that follows and inserting in lieu thereof "shall not be less than—

"(1) such deceased individual's primary insurance amount, increased under section 215(i) for months after August of the year in which such individual died as though such individual were still living, or

"(2) the amount which would be provided by section 215(a)(1)(C)(i)(I) (as in effect in December 1981), increased under section 215(i) for months after the year in which such deceased individual died, as though such benefit were a primary insurance amount and such section 215(a)(1)(C)(i)(I) had continued in effect through those months,

whichever amount is smaller.".

(d)(1) Section 202(w)(1) of such Act is amended by striking out "or section 215(a)(1)(C)(i)(II)" in the matter preceding subparagraph (A) and inserting in lieu thereof "or section 215(a)(1)(C)(i)".

(2) Section 202(w)(5) of such Act is amended by striking out "or section 215(a)(1)(C)(i)(II)" and inserting in lieu thereof "or section 215(a)(1)(C)(i)".

(e) The first sentence of section 202(i) of such Act is amended by striking out "an amount equal to three times such individual's primary insurance amount, or" and ", whichever is the smaller,".

(f) Section 233(c)(2) of such Act is amended by striking out subparagraph (B).

(g)(1) The amendments made by subsections (a) through (d) and (f) shall apply only with respect to benefits for months after December 1981 in the case of an individual who, after that month, first becomes eligible (as defined in section 215(a)(3)(B) of the Social Security Act) for an old-age in-

surance benefit, an individual who first became eligible (as so defined) for a disability insurance benefit after 1978, was not age sixty-two before 1979, and becomes entitled to that disability insurance benefit after December 1981, or an individual who dies after December 1981. Eligibility for this purpose is defined by paragraphs (3)(B) and (2)(A) of section 215(a) of the Social Security Act. The amendment made by subsection (e) shall apply with respect to deaths occurring after December 1981.

(2) In applying subsection (m) of section 202 of the Social Security Act (as amended by this section) in the case of any deceased individual referred to in such subsection on the basis of whose wages and self-employment income an individual is entitled to a monthly benefit under such section for the month of June, July, or August 1982, the phrase "(and increased under section 206(e) of the Social Security Spending Reduction Amendments of 1981 for the months of June, July, and August 1982, if such individual died in 1982)" shall be inserted after "died" in paragraphs (1) and (2), respectively.

ROUNDING OF BENEFITS

SEC. 15204. (a) The text of section 215(g) of the Social Security Act is amended to read as follows:

"(g) The amount of any monthly benefit computed under section 202 or 223 which (after any reduction under sections 203(a) and 224 and any deduction under section 203(b), and after any deduction under section 1840(a)(1)) is not a multiple of $1 shall be rounded to the next lower multiple of $1.".

(b)(1) Section 202(q)(8) of such Act is amended—

(A) in the first sentence, by striking out "after application of section 215(g)" and inserting in lieu thereof "before application of section 215(g)"; and

(B) in the last sentence, by striking out "reduced to the next lower" and inserting in lieu thereof "increased to the next higher".

(2) Section 203(a)(1) of such Act is amended in the last sentence by striking out "increased to the next higher" and inserting in lieu thereof "decreased to the next lower".

(3) Section 203(a)(3)(B)(iii) of such Act is amended in the parenthetical phrase immediately preceding the semicolon at the end thereof by striking out "higher" and inserting in lieu thereof "lower".

(4) Section 203(a)(8) of such Act is amended by inserting at the end the following new sentence: "For purposes of the preceding sentence, the phrase 'rounded to the next higher multiple of $0.10', as it appeared in subsection (a)(2)(C) of this section as in effect in December 1978, shall be deemed to read 'rounded to the next lower multiple of $0.10' ".

(5) Section 215(a)(1)(A) of such Act is amended by striking out "rounded in accordance with subsection (g)," and inserting in lieu thereof "rounded, if not a multiple of $0.10, to the next lower multiple of $0.10,".

(6) Section 215(i)(2)(A)(ii) of such Act is amended in the sentence immediately following clause (III) by striking out "increased to the next higher" and inserting in lieu thereof "decreased to the next lower".

(7) Section 215(i)(4) of such Act is amended by inserting before the period at the end of the first sentence the following: ", except that for this purpose, in applying paragraphs (2)(A)(ii), (2)(D)(iv), and (2)(D)(v) of this subsection as in effect in December 1978, the phrase 'increased to the next higher multiple of $0.10' shall be deemed to read 'decreased to the next lower multiple of $0.10' ".

(c) The amendments made by this section shall apply only with respect to initial calculations and adjustments of primary insurance amounts and benefit amounts which are attributable to periods after August 1981.

REQUESTS FOR INFORMATION; COST REIMBURSEMENT

SEC. 15205. Section 1106 of the Social Security Act is amended—

(1) by striking out "as provided in part D of title IV of this Act" in the first sentence of subsection (a) and inserting in lieu thereof "as otherwise provided by Federal law"; and

(2) by inserting after subsection (b) the following new subsection:

"(c) Notwithstanding sections 552 and 552a of title 5, United States Code, or any other provision of law, whenever the Secretary determines that a request for information is made in order to assist a party in interest (as defined in section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002)) with respect to the administration of an employee benefit plan (as so defined), or is made for any other purpose not directly related to the administration of the program or programs under this Act to which such information relates, the Secretary may require the requester to pay the full cost, as determined by the Secretary, of providing such information.".

TRANSITION TO COST-OF-LIVING INCREASES ON A FISCAL YEAR BASIS

SEC. 15206. (a) Section 215(i) of the Social Security Act is amended by striking out "base quarter" and "cost-of-living computation quarter" each place they appear and inserting in lieu thereof "base period" and "cost-of-living computation period", respectively.

(b)(1) Section 215(i)(1)(A) of such Act is amended to read as follows:

"(A) the term 'base period' means (i) the three-month period ending on May 31 in each year after 1981, or (ii) any other three-month period ending on the last day of August, November, or February, in which occurs the effective month of a general benefit increase under this title;".

(2) Section 215(i)(1)(B)(ii) of such Act is amended by striking out "most recent calendar quarter" and inserting in lieu thereof "most recent three-month period specified in subparagraph (A)(ii)".

(3) Section 215(i)(1)(C) of such Act is amended to read as follows:

"(C) the Consumer Price Index for a base period, a cost-of-living computation period, or any other three-month period shall be the arithmetical mean of such index for the three months in such period.".

(c)(1) Section 215(i)(2)(A)(ii) of such Act is amended—

(A) in the matter preceding subdivision (I), by striking out "effective with the month of June" and inserting in lieu thereof "effective with the month of September"; and

(B) in the second sentence, by striking out "calendar quarter" and inserting in lieu thereof "three-month period".

(2) Section 215(i)(2)(A)(iii) of such Act is amended by striking out "months after May" and inserting in lieu thereof "months after August".

(3) Section 215(i)(2)(B) of such Act is amended by striking out "after May" each place it appears and inserting in lieu thereof "after August".

(4) Section 215(i)(2)(C)(ii) of such Act is amended—

(A) by inserting "beginning" immediately before "in a calendar year"; and

(B) by striking out "such quarter" and inserting in lieu thereof "such period".

(5) Section 215(i)(2)(D) of such Act is amended—

(A) by inserting "beginning" immediately before "in a calendar year"; and

(B) by striking out "such quarter" and inserting in lieu thereof "such period".

(d)(1) The amendments made by the preceding provisions of this section shall apply with respect to increases in benefits under section 215(i) of the Social Security Act after 1982.

(2) The amendments made by such provisions shall also apply with respect to the increase in benefits under such section 215(i) in 1982; except that the "base period" in 1981 for purposes of computing such increase shall be the "base quarter" in such year determined without regard to such amendments.

(3) Section 215(i)(4) of the Social Security Act is amended—

(A) by striking out "This subsection" and inserting in lieu thereof "(A) Except as provided in subparagraph (B), this subsection"; and

(B) by adding at the end thereof the following new subparagraph:

"(B) Under regulations of the Secretary, in applying this subsection as in effect in December 1978 pursuant to subparagraph (A), the amendments to paragraphs (1) and (2) made by section 206 of the Social Security Spending Reduction Amendments of 1981 shall apply to this subsection as then in effect with respect to benefit increases thereunder as provided in paragraphs (1) and (2) of subsection (d) of such section 206.".

(e)(1)(A) The Secretary of Health and Human Services (hereinafter in this subsection referred to as the "Secretary") shall, in accordance with the provisions of this subsection, increase each monthly benefit payable under title II of the Social Security Act by the amount specified in paragraph (2)(A) of this subsection. Any amount so increased that is not a multiple of $0.10 shall be decreased to the next lower multiple of $0.10. Any increase under this subsection shall be applied before the application of section 215(g) of the Social Security Act (as amended by section 104(a) of this Act).

(B) The provisions of this subsection (and the increase in benefits made hereunder) shall be effective only for months after May 1982 and prior to September 1982.

(2) The increase in social security benefits authorized under this subsection shall be provided, and any determinations by the Secretary in connection with the provision of such increase in benefits shall be made, in the manner prescribed in section 215(i) of the Social Security Act, without regard to the amendments made by this section, for the implementation of cost-of-living increases authorized under title II of such Act, except that—

(A) the amount of such increase, expressed as a percentage increase, shall be equal to one-half the amount of the percentage increase which would, but for this subparagraph, be applied under the preceding provisions of this paragraph to the primary insurance amounts and amounts of total monthly benefits described in section 215(i)(2)(A)(ii) of such Act;

(B) in the case of any individual entitled to monthly insurance benefits payable pur-

suant to section 202(e) of such Act for May 1982 (without the application of section 202(j)(1) or 223(b) of such Act), including such benefits based on a primary insurance amount determined under section 215(a)(1)(C)(i)(II) of such Act, such increase shall be determined without regard to paragraph (2)(B) of such section 202(e); and

(C) in the case of any individual entitled to monthly insurance benefits payable pursuant to section 202(f) of such Act for May 1982 (without the application of section 202(j)(1) or 223(b) of such Act), including such benefits based on a primary insurance amount determined under section 215(a)(1)(C)(i)(II) of such Act, such increase shall be determined without regard to paragraph (3)(B) of such section 202(f).

(3) The increase in social security benefits provided by this subsection—

(A) shall not be considered to be an increase in benefits made under or pursuant to section 215(i) of the Social Security Act, and

(B) shall not (except for purposes of section 203(a)(3)(B)(iii) of such Act) be considered to be a "general benefit increase under this title" (as such term is defined in section 215(i)(3) of such Act);

and nothing in this subsection shall be construed as authorizing any increase in the "contribution and benefit base" (as such term is used in section 230 of such Act), or any increase in the "exempt amount" (as such term is used in section 203(f)(8) of such Act).

(4) Nothing in this subsection shall be construed to authorize (directly or indirectly) any increase in monthly benefits under title II of the Social Security Act for any month after August 1982, or any increase in lump-sum death payments payable under such title in the case of deaths occurring after August 1982. The recognition of the existence of the increase in benefits authorized by the preceding provisions of this subsection (during the period it was in effect) in the application, after August 1982, of the provisions of sections 202(q) and 203(a) of such Act shall not, for purposes of the preceding sentence, be considered to be an increase in a monthly benefit for a month after August 1982.

(5) In the case of an individual to whom monthly benefits are payable under title II of the Social Security Act for May 1982 (without the application of section 202(j)(1) or 223(b) of such Act), and to whom section 202(m) of such Act is applicable for such month, such section shall continue to be applicable to such benefits for the months of June through August 1982 for which such individual remains the only individual entitled to a monthly benefit on the basis of the wages and self-employment income of the deceased insured individual.

REIMBURSEMENT OF STATES FOR SUCCESSFUL REHABILITATION SERVICES

SEC. 15207. (a) Section 222(d) of the Social Security Act is amended to read as follows:

"Costs of Rehabilitation Services From Trust Funds

"(d)(1) For purpose of making vocational rehabilitation services more readily available to disabled individuals who are—

"(A) entitled to disability insurance benefits under section 223,

"(B) entitled to child's insurance benefits under section 202(d) after having attained age 18 (and are under a disability),

"(C) entitled to widow's insurance benefits under section 202(e) prior to attaining age 60, or

"(D) entitled to widower's insurance benefits under section 202(f) prior to attaining age 60,

to the end that savings will accrue to the Trust Funds as a result of rehabilitating such individuals into substantial gainful activity, there are authorized to be transferred from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund each fiscal year such sums as may be necessary to enable the Secretary to reimburse the State for the reasonable and necessary costs of vocational rehabilitation services furnished such individuals (including services during their waiting periods), under a State plan for vocational rehabilitation services approved under title I of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), which result in their performance of substantial gainful activity which lasts for a continuous period of nine months. The determination that the vocational rehabilitation services contributed to the successful return of such individuals to substantial gainful activity and the determination of the amount of costs to be reimbursed under this subsection shall be made by the Commissioner of Social Security in accordance with criteria formulated by him.

"(2) Payments under this subsection shall be made in advance or by way of reimbursement, with necessary adjustments for overpayments and underpayments.

"(3) Money paid from the Trust Funds under this subsection for the reimbursement of the costs of providing services to individuals who are entitled to benefits under section 223 (including services during their waiting periods), or who are entitled to benefits under section 202(d) on the basis of the wages and self-employment income of such individuals, shall be charged to the Federal Disability Insurance Trust Fund, and all other money paid from the Trust Funds under this subsection shall be charged to the Federal Old-Age and Survivors Insurance Trust Fund. The Secretary shall determine according to such methods and procedures as he may deem appropriate—

"(A) the total amount to be reimbursed for the cost of services under this subsection, and

"(B) subject to the provisions of the preceding sentence, the amount which should be charged to each of the Trust Funds.

"(4) For purposes of this subsection the term 'vocational rehabilitation services' shall have the meaning assigned to it in title I of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), except that such services may be limited in type, scope, or amount in accordance with regulations of the Secretary designed to achieve the purpose of this subsection.".

(b) The amendment made by subsection (a) shall apply with respect to services rendered on or after October 1, 1981.

TEMPORARY EXTENSION OF EARNINGS LIMITATION TO INCLUDE ALL PERSONS AGED LESS THAN SEVENTY-TWO

SEC. 15208. (a) Notwithstanding subsection (e) of section 302 of the Social Security Amendments of 1977 (91 Stat. 1531), the amendments made to section 203 of the Social Security Act by subsections (a) through (d) of such section 302 shall, except as provided in subsection (b) of this section, apply only with respect to monthly insurance benefits payable under title II of the Social Security Act for months after December 1982.

(b) In the case of any individual whose first taxable year ending after December 31, 1981, begins before January 1, 1982, the amendments made by section 302 of the Social Security Amendments of 1977 shall apply with respect to taxable years beginning with such taxable year.

RESTRICTIONS ON THE LUMP-SUM DEATH PAYMENT

SEC. 15209. (a) Section 202(i) of the Social Security Act is amended—

(1) in the second sentence, by striking out paragraphs (1), (2), (3), and (4) and inserting in lieu thereof the following:

"(1) to a widow (as defined in section 216(c)) or widower (as defined in section 216(g)) who is entitled (or would have been so entitled had a timely application been filed), on the basis of the wages and self-employment income of such insured individual, to benefits under subsection (e), (f), or (g) of this section for the month in which occurred such individual's death; or

"(2) if no person qualifies for payment under paragraph (1), or if such person dies before receiving payment, in equal shares to each person who is entitled (or would have been so entitled had a timely application been filed), on the basis of the wages and self-employment income of such insured individual, to benefits under subsection (d) of this section for the month in which occurred such individual's death."; and

(2) in the third sentence, by striking out "(except a payment as authorized pursuant to clause (1)(A) of the preceding sentence)".

(b) The amendments made by subsection (a) shall apply only with respect to deaths occurring after August 1981.

PAYMENT OF CERTAIN BENEFITS ONLY FOR MONTHS AFTER MONTH IN WHICH ENTITLEMENT CONDITIONS ARE FULFILLED

SEC. 15210. (a) Section 202(a) of the Social Security Act is amended by striking out so much of the first sentence as follows paragraph (3) and inserting in lieu thereof the following:

"shall be entitled to an old-age insurance benefit for each month, beginning with—

"(A) in the case of an individual who has attained age 65, the first month in which such individual meets the criteria specified in paragraphs (1), (2), and (3), or

"(B) in the case of an individual who has attained age 62, but has not attained age 65, the first month throughout which such individual meets the criteria specified in paragraphs (1) and (2) (if in that month he meets the criterion specified in paragraph (3)),

and ending with the month preceding the month which he dies.".

(b)(1) Section 202(b)(1) of such Act is amended by striking out the matter that follows subparagraph (D) and precedes subparagraph (E) and inserting in lieu thereof the following:

"shall (subject to subsection (s)) be entitled to a wife's insurance benefit for each month, beginning with—

"(i) in the case of a wife or divorced wife (as so defined) of an individual entitled to old-age benefits, if such wife or divorced wife has attained age 65, the first month in which she meets the criteria specified in subparagraphs (A), (B), (C), and (D), or

"(ii) in the case of a wife or divorced wife (as so defined) of—

"(I) an individual entitled to old-age insurance benefits, if such wife or divorced wife has not attained age 65, or

"(II) an individual entitled to disability insurance benefits,

the first month throughout which she is such a wife or divorced wife and meets the criteria specified in subparagraphs (B), (C), and (D) (if in such month she meets the criterion specified in subparagraph (A)),

whichever is earlier, and ending with the month preceding the month in which any of the following occurs—".

(2) Section 216(b) of such Act is amended by adding at the end thereof the following new sentences: "For purposes of clause (2), a wife shall be deemed to have been married to an individual for a period of one year throughout the month in which occurs the first anniversary of her marriage to such individual. For purposes of subparagraph (C) of section 202(b)(1), a divorced wife shall be deemed not to be married throughout the month in which she becomes divorced."

(c)(1) Section 202(c)(1) of such Act is amended by striking out the matter that follows paragraph (C) and precedes the colon and inserting in lieu thereof the following:

"shall be entitled to a husband's insurance benefit for each month, beginning with—

"(i) in the case of a husband (as so defined) of an individual who is entitled to an old-age insurance benefit, if such husband has attained age 65, the first month in which he meets the criteria specified in paragraphs (A), (B), and (C), or

"(ii) in the case of a husband (as so defined) of—

"(I) an individual entitled to old-age insurance benefits, if such husband has not attained age 65, or

"(II) an individual entitled to disability benefits,

the first month throughout which he is such a husband and meets the criteria specified in paragraphs (B) and (C) (if in such month he meets the criterion specified in paragraph (A)),

whichever is earlier, and ending with the month preceding the month in which any of the following occurs".

(2) Section 216(f) of such Act is amended by adding at the end thereof the following new sentence: "For purposes of clause (2), a husband shall be deemed to have been married to an individual for a period of one year throughout the month in which occurs the first anniversary of his marriage to her.".

(d)(1) Section 202(d)(1) of such Act is amended by striking out so much of the first sentence as follows subparagraph (C) and precedes subparagraph (D) and inserting in lieu thereof the following:

"shall be entitled to a child's insurance benefit for each month, beginning with—

"(i) in the case of a child (as so defined) of such an individual who has died, the first month in which such child meets the criteria specified in subparagraphs (A), (B), and (C), or

"(ii) in the case of a child (as so defined) of an individual entitled to an old-age insurance benefit or to a disability insurance benefit, the first month throughout which such child is a child (as so defined) and meets the criteria specified in paragraphs (B) and (C) (if in such month he meets the criterion specified in paragraph (A)),

whichever is earlier, and ending with the month preceding whichever of the following first occurs—".

(2) Section 202(d)(7) of such Act is amended by adding at the end of subparagraph (A) the following new sentence: "An individual who is determined to be a full-time elementary or secondary school student shall be deemed to be such a student throughout the month with respect to which such determination is made."

(3) Section 216(e) of such Act is amended by adding at the end thereof the following new sentences: "For purposes of clause (2), a child shall be deemed to have been the stepchild of an individual for a period of one year throughout the month in which occurs the expiration of such one year. For purposes of clause (3), a person shall be deemed to have no natural or adoptive parent living (other than a parent who was under a disability) throughout the most recent month in which a natural or adoptive parent (not under a disability) dies."

(4) Section 216(h) of such Act is amended by adding at the end of paragraph (3) the following new sentence: "For purposes of subparagraph (A)(i), an acknowledgement, court decree, or court order shall be deemed to have occurred on the first day of the month in which it actually occurred."

(e) Section 226(a)(2) of such Act is amended—

(1) by striking out "or" after "section 202,"; and

(2) by inserting, immediately after "therefor)" the following: ", or would be entitled to such benefits but for the failure of another individual, who meets all the criteria of entitlement to monthly insurance benefits, to meet such criteria throughout a month,".

(f)(1) The amendments made by subsections (a), (b), and (c) of this section shall apply only to monthly insurance benefits payable to individuals who attain age 62 after August 1981.

(2) The amendments made by subsection (d) of this section shall apply to monthly insurance benefits for months after August 1981, and only in the case of individuals who were not entitled to such insurance benefits for August 1981 or any preceding month; except that, in applying the last sentence of section 202(d)(7)(A) of the Social Security Act (as amended by subsection (d) of this section) with respect to months following August 1981 and preceding January 1982, the term "full-time elementary or secondary school student" shall be replaced by the term "full-time student".

(3) The amendments made by subsection (e) of this section shall apply only to hospital insurance benefits payable to individuals who attain age 65 after August 1981.

Subtitle C—Unemployment Compensation, Public Assistance, and Low-Income Energy Assistance

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CHAPTER 1—UNEMPLOYMENT COMPENSATION AMENDMENTS

ELIMINATION OF NATIONAL TRIGGER

SEC. 15401. (a) GENERAL RULE.—Paragraphs (1) and (2) of section 203(a) of the Federal-State Extended Unemployment Compensation Act of 1970 are amended to read as follows:

"(1) shall begin with the third week after the first week for which there is a State 'on' indicator; and

"(2) shall end with the third week after the first week for which there is a State 'off' indicator.".

(b) TECHNICAL AMENDMENTS.—

(1) Section 203 of such Act is amended by striking out subsection (d) and by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

(2) Paragraph (2) of section 203(b) of such Act is amended by striking out "(or all the States)".

(3) Subsection (e) of section 203 of such Act (as redesignated by paragraph (1)) is amended—

(A) by striking out "subsections (d) and (e)" in paragraph (1) and inserting in lieu thereof "subsection (d)",

(B) by striking out "all State agencies (or, in the case of subsection (e), by the State agency)" in paragraph (1)(A) and inserting in lieu thereof "the State agency", and

(C) by striking out paragraphs (2) and (3) and inserting in lieu thereof the following:

"(2) Determinations under subsection (d) shall be made by the State agency in accord-

ance with regulations prescribed by the Secretary."

(4) Subsection (a) of section 204 of such Act is amended—

(A) by striking out paragraph (3), and

(B) by redesignating paragraph (4) as paragraph (3).

(c) EFFECTIVE DATES.—The amendments made by this section shall apply to weeks beginning after the date of the enactment of this Act.

CLAIMS FOR EXTENDED OR ADDITIONAL COMPENSATION NOT INCLUDED IN DETERMINING RATE OF INSURED UNEMPLOYMENT

SEC. 15402. (a) GENERAL RULE.—Subparagraph (A) of section 203(e)(1) of the Federal-State Extended Unemployment Compensation Act of 1970 (as redesignated by section 301(b)(1) of this Act) is amended by striking out "individuals filing claims" and inserting in lieu thereof "individuals filing claims for regular compensation".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply for purposes of determining whether there are State "on" or "off" indicators for weeks beginning after the date of the enactment of this Act. For purposes of making such determinations for such weeks, such amendment shall be deemed to be in effect for all weeks whether beginning before, on, or after such date of enactment.

LIMITATIONS ON UNEMPLOYMENT BENEFITS PAID TO EX-SERVICEMEN

SEC. 15403. (a) INCREASE IN REQUIRED LENGTH OF SERVICE.—Subparagraph (A) of section 8521(a)(1) of title 5 of the United States Code is amended by striking out "365 days" and inserting in lieu thereof "730 days".

(b) PERIOD FOR WHICH BENEFITS PAYABLE.—Section 8521 of title 5 of the United States Code is amended by adding at the end thereof the following new subsection:

"(c)(1) An individual shall not be entitled to compensation under this subchapter for any week before the fifth week beginning after the week in which the individual's last discharge or release from Federal service occurred.

"(2) The aggregate amount of compensation payable under this subchapter to any individual with respect to any benefit year shall not exceed 13 times the individual's weekly benefit amount for total unemployment."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to individuals filing claims for unemployment compensation after September 30, 1981.

CHAPTER 2—AID TO FAMILIES WITH DEPENDENT CHILDREN; CHILD SUPPORT ENFORCEMENT

Subchapter A—Aid to Families With Dependent Children

LIMITATION AND STANDARDIZATION OF EARNINGS DISREGARDS

SEC. 15421. (a)(1) Section 402(a)(7) of the Social Security Act is amended by striking out ", as well as any expenses reasonably attributable to the earning of any such income".

(2) Section 402(a)(8) of such Act is amended to read as follows:

"(8) provide that, in making the determination under paragraph (7) with respect to any month, the State agency—

"(A) shall disregard all of the earned income of each dependent child receiving aid to families with dependent children who is (as determined by the State in accordance with standards prescribed by the Secretary) a full-time student, or a part-time student who is not a full-time employee, attending a school, college, or university or a course of vocational or technical training designed to fit him for gainful employment;

"(B) shall disregard from the total earned income of any child not included under subparagraph (A) who is claiming aid to families with dependent children, any relative who is claiming such aid, and any other individual (living in the same home as such relative and child) whose needs are taken into account in making such determination, the first $50 of such total earned income for such month;

"(C) shall disregard from the total earned income of the persons specified in subparagraph (B) an amount equal to the lesser of (i) 20 percent of the total (determined prior to the application of subparagraph (B)) of any amounts received by such persons in such month as wages or salary or as net earnings from self-employment, plus the full amount of any costs incurred by them in producing self-employment income in such month, or (ii) $175;

"(D) shall disregard from the total earned income of the persons specified in subparagraph (B) an amount equal to the cost of care in such month for a dependent child, or an incapacitated individual living in the same home as the dependent child, receiving aid to families with dependent children and requiring such care for such month, to the extent that such amount does not exceed $200 for any one such child or individual and does not exceed $400 for all such children and individuals living in the same home; and

"(E) shall disregard from the total earned income of the persons specified in subparagraph (B) an amount equal to one-third of the amount of such earned income not already disregarded under subparagraph (B), (C), or (D);

except that (with respect to any month) the State agency—

"(F) shall not disregard, under subparagraph (B) or (E), any earned income of any one of the persons specified in subparagraph (B) if such person—

"(i) terminated his employment or reduced his earned income without good cause within such period (of not less than thirty days) preceding such month as may be prescribed by the Secretary;

"(ii) refused without good cause, within such period preceding such month as may be prescribed by the Secretary, to accept employment in which he is able to engage which is offered through the public employment offices of the State, or is otherwise offered by an employer if the offer of such employer is determined by the State or local agency administering the State plan, after notification by him, to be a bona fide offer of employment; or

"(iii) failed without good cause to make a timely report (as prescribed by the State plan) to the State agency of earned income received in such month;

"(G) shall not disregard, under subparagraph (B) or (E), any income derived from participation in a project maintained under the programs established by section 432(b)(2) and (3); and

"(H) shall not disregard, under subparagraph (B) or (E), any earned income of any of the persons specified in subparagraph (B) if with respect to such month the income of the persons so specified was in excess of their need as determined by the State agency pursuant to paragraph (7) (without regard to subparagraphs (A), (B), and (E) of this paragraph), unless, for any one of the four months preceding such month, the needs of such person were met by the furnishing of aid under the plan;".

(b) Section 402 of such Act is further amended by adding at the end thereof the following new subsection:

"(f)(1) Notwithstanding any other provision of this part, the State agency at its option (to such extent and under such conditions as it finds to be appropriate, but subject to paragraph (3)) may terminate or modify the application of subparagraphs (B) and (E) of subsection (a)(8) in the case of any family, and may accordingly terminate or reduce the disregarding of the family's earned income under either or both of such subparagraphs, if the State plan provides for such termination or modification (and sets forth the procedures and criteria to be used or applied in connection therewith), whenever—

"(A) any portion of such family's earned income has been disregarded pursuant to subparagraph (E) of subsection (a)(8) (in determining the family's need) for each month in a period of 12 or more consecutive months, and

"(B) such family's total earned income exceeds the poverty level, or (at the option of the State) exceeds a level equal to 200 percent of the monthly cash needs standard established by the State under its plan for families of the size and composition involved.

"(2) For purposes of paragraph (1)(B), the term 'poverty level' means (with respect to a family in any State) the income poverty guidelines for the nonfarm population of the United States as prescribed by the Office of Management and Budget (and adjusted annually pursuant to section 624 of the Economic Opportunity Act of 1964), as applicable to such State.

"(3) When a State agency has taken action to terminate or reduce the disregarding of a family's earned income under paragraph (1), it may continue such termination or reduction—

"(A) for a period extending for so long as the family continues to receive aid under the plan, except that such termination or reduction shall not be effective with respect to any month (during such period) in which the family's total earned income is at or below the applicable level specified in paragraph (1)(B) if the family's total earned income has theretofore been at or below that level in any four months during such period; and

"(B) for a period of not more than 4 consecutive months beginning with the first month (after such action is taken) in which the family no longer receives such aid, but only if and for so long as the family's total earned income is above the applicable level specified in paragraph (1)(B).

"(4) Any individual who ceases to receive aid under a State plan approved under this part as of the close of any month, solely because of the termination or reduction (under paragraph (1)) of the disregarding of earned income of the family of which such individual is a member, shall nevertheless be considered for all of the purposes of this Act other than this part to be an individual receiving such aid for a period of 12 months after such month, so long as the total earned income of such family does not exceed the level at which such individual would cease to receive such aid even if the disregarding of the family's earned income had not been so terminated or reduced.".

(c) The amendments made by this section shall become effective October 1, 1981.

INCOME OF STEPPARENTS

SEC. 15422. (a) Section 402(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (29),

(2) by striking out the period at the end of paragraph (30) and inserting in lieu thereof "; and", and

(3) by adding after and below paragraph (30) the following new paragraph:

"(31) provide that in making the determination under paragraph (7) for a month the State agency shall (subject to paragraph (24)) take into consideration so much of the income of the dependent child's stepparent (living in the same home as such child) for such month as exceeds the sum (with respect to such month) of—

"(A) 20 percent of the stepparent's earned income,

"(B) the State's standard of need under such plan for a family of the same composition as the stepparent and those other individuals who are living in the same household as the stepparent and claimed by him as dependents for purposes of determining his Federal personal income tax liability but whose needs are not taken into account in making the determination under section 402(a)(7),

"(C) amounts paid by the stepparent to individuals not living in such household who are claimed by him as dependents under subtitle A of the Internal Revenue Code of 1954 for purposes of determining his Federal personal income tax liability, and

"(D) payments of alimony or child support with respect to individuals not living in such household,

except to the extent that the State agency, having elected to establish procedures and conditions for determining whether or to what extent a stepparent's income is available to a child, determines in accordance with such procedures and conditions that such stepparent's income is not actually so available.".

(b) Section 402(a)(7) of such Act is amended by inserting "(but subject to paragraph (31))" after "clause (8)".

(c) Section 412(b) of such Act is amended by striking out "or" before "(2)", and by inserting before the period at the end thereof the following: ", or (3) any of whose income is taken into consideration under section 402(a)(31)".

(d) The amendments made by this section shall be effective October 1, 1981.

RETROSPECTIVE BUDGETING AND MONTHLY REPORTING

SEC. 15423. (a) Section 402(a) of the Social Security Act is amended by inserting after paragraph (12) the following new paragraphs:

"(13) provide that—

"(A) except as provided in subparagraph (B), the State agency (i) will determine a family's eligibility for aid for a month on the basis of the family's income during such month, and the family's composition, resources, and other similar relevant circumstances as they existed on the last day of the preceding month, and (ii) will determine the amount of such aid on the basis of the income and other relevant circumstances in the month preceding such month (except that if payments of aid under the plan are made within the first ten days of each month the amount of such aid for any month may be determined on the basis of the income in, and other relevant circumstances as of the last day of, the second month preceding such month), and

"(B) the State agency will determine the amount of aid, for the first month in a period of consecutive months for which aid is payable, on the basis of the family's income and other relevant circumstances in such first month;

"(14) provide that (A) the State agency will require each family to which it furnishes aid to families with dependent children (or to whom it would provide such aid but for paragraph (18) or subsection (f)) to report each month to the State agency, as a condition to the continued receipt (or deemed receipt) of such aid, on—

"(i) the income received during the prior month and the family composition and other relevant circumstances as they existed in such prior month,

"(ii) the income and resources it expects to receive, and any changes in the circumstances affecting continued eligibility or benefit amount that it expects to occur, in that month (or in future months);

except that with the prior approval of the Secretary the State may select categories of recipients who may report at specified less frequent intervals upon the State's showing to the satisfaction of the Secretary that to require individuals in such categories to report monthly would result in unwarranted expenditures for the administration of this paragraph; and (B) the State agency will take prompt action to adjust or terminate assistance, as may be appropriate, on the basis of the information contained in the report (or upon the failure of the family to furnish a timely report), and will give an appropriate explanatory notice, concurrent with its action, to the family;".

(b) Section 402(a) of such Act is further amended by inserting after paragraph (16) the following new paragraph:

"(17) provide that—

"(A) in any case where a determination is made to terminate, suspend, adjust (for overpayment), withhold, or reduce payment to a recipient family, such family shall be mailed a written notice that such action is to occur at least ten days before the date such action is to become effective (except as provided in subsection (g)), which notice shall include a statement of the action to be taken, the reasons for and specific legal basis (including citation of applicable law and regulation) for such action, the family's right to and the manner in which it can request a hearing pursuant to subparagraph (B), and the circumstances under which payment will be continued if a hearing is requested;

"(B) a hearing pursuant to paragraph (4) of this subsection (which may be a hearing before the State agency, or an evidentiary hearing at the local level with a right of appeal to a State agency hearing) shall be granted to any family that requests a hearing by way of a clear expression in writing, or orally (confirmed in writing), by a member of that family or its representative to the effect that the family wants the opportunity to contest the determination, if that expression occurs within ninety days after notice of the determination is mailed to the family or after a determination affecting the manner of payment under this title, unless that request for hearing is withdrawn in writing by the family or its representative or the hearing is abandoned because the family or its representative fails, without good cause, to appear at the time scheduled for such hearing, or the sole issue for hearing is one of State or Federal law (or change therein) requiring automatic action for classes of recipient families and not one of incorrect payment computation; and

"(C) if the family requests a hearing based on the notice referred to in subparagraph (A) no later than ten days after the date on which the adverse action is taken, payment shall be either continued in full (where the request is made on or before that date) or reinstated in full in as short a time as is possible but in any event within five days, and the action shall be revoked, until the hearing decision is issued and subject to recovery or adjustment of any overpayment if such action is sustained thereafter in the hearing process, unless, prior to the hearing, there is a determination that the sole issue for hearing is one of State or Federal law (or change therein) and not one of incorrect payment computation;".

(c) Section 402 of such Act (as amended by section 15421(b) of this Act) is further amended by adding at the end thereof the following new subsection:

"(g) The notice referred to in subsection (a)(17)(A) need not be mailed at least ten days before the date on which the action involved is to become effective, as would be otherwise required by such subsection, and may instead be sent so as to arrive no later than the date regularly designated for delivery of the payment affected by such action, if—

"(1) such action is taken by reason of a report provided by the recipient or another member of the recipient's family or by reason of his failure to file timely a requested report;

"(2) the State agency has factual information confirming the death of the recipient or of the payee when there is no relative available to serve as a new payee;

"(3) the State agency receives a clear written statement signed by the recipient that he no longer wishes assistance, or that gives information which requires termination or reduction of assistance, and the recipient has indicated in writing that he understands that this must be the consequence of supplying such information;

"(4) the recipient has been admitted or committed to an institution, and further payments to that individual do not qualify for Federal financial participation under the State plan;

"(5) the recipient has been placed in skilled nursing care, intermediate care, or long-term hospitalization;

"(6) the claimant's whereabouts are unknown and agency mail directed to him has been returned by the post office indicating no known forwarding address;

"(7) the recipient has been accepted for assistance in a new jurisdiction and that fact has been established by the jurisdiction previously providing assistance;

"(8) the dependent child with respect to whom the payment is being made has been removed from the home as a result of a judicial determination, or voluntarily placed in foster care by his legal guardian; or

"(9) a special allowance granted for a specific period is terminated at the end of the period and the recipient has been informed in writing at the time of initiation that the allowance will automatically terminate at the end of the specified period.".

(d) The amendments made by this section shall become effective October 1, 1981; except that a State plan approved under part A of title IV of the Social Security Act shall not, prior to October 1, 1983, be regarded as failing to comply with the re-

quirements contained in section 402(a) (13) or (14) of such Act, and the amount payable to any State shall not be decreased solely because the plan fails to comply with such requirements, if the Secretary determines that the State is taking all necessary steps to adjust the time at which determinations of eligibility and payment amount are made and that the State will have completed such adjustments with respect to all recipients of aid under such plan by October 1, 1983.

(e) Each State agency administering (or supervising the administration of) a State plan approved under part A of title IV of the Social Security Act may, under conditions determined by the Secretary to be necessary and appropriate, make a transitional payment or payments during the first two months for which the amendment made by subsection (a) of this section (requiring that determinations of aid under the plan for a month be made after the close of that month) is effective in that State. A transitional payment made under this subsection shall be deemed to be a payment of aid to families with dependent children.

ASSISTANCE TO FAMILIES PARTICIPATING IN STATE WORK EXPERIENCE PROGRAMS

SEC. 15424. (a) Part A of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

"ASSISTANCE TO FAMILIES PARTICIPATING IN STATE WORK EXPERIENCE PROGRAMS

"SEC. 414. (a) Except to the extent otherwise provided in this section, aid to families with dependent children under the State plan of any State which has a qualified work experience program may be paid with respect to families that include one or more individuals participating in such program, and the provisions of section 402(a) shall apply with respect to such families and such individuals, if the State plan so provides, in the same way that such aid is paid and such provisions apply with respect to other families and individuals under such plan.

"(b) A State work experience program is qualified for purposes of this section only if (as determined by the Secretary)—

"(1) the State has a work experience program director who is responsible for the implementation and management of the program in all of the subdivisions in the State in which the program is in effect;

"(2) the State provides for the designation of such local work experience program directors as may be necessary to carry out the program;

"(3) the program provides for the selection and development of work experience assignments, for individuals participating in the program as described in subsection (a) (hereinafter referred to as 'participants' or 'eligible participants'), that satisfy the requirements of this section;

"(4) the program specifies the procedures which are to be used in determining, evaluating, assigning, and supervising eligible participants, and such procedures must insure that—

"(A) individuals who are ineligible or exempt under this section will not be required to participate in any work experience assignment;

"(B) individuals who are determined to be eligible and not exempt will be required to participate to the extent that work experience assignments satisfying the requirements of subparagraph (C) are available;

"(C) the work experience assignments of those who are determined to be eligible will (i) take into account their physical capacity, skills, and experience and (ii) be appropriate in terms of their health, their family responsibilities, their places of residence, the availability of child care, and other relevant circumstances;

"(D) participants will, to the extent feasible, be treated in the same manner as are permanent employees with whom they are working;

"(E) there is adequate monitoring of all work experience assignments and adequate supervision of all participants in such assignments; and

"(F) any child care which may be required to enable individuals to participate in such assignments will meet the same requirements as those which relate to child care in the case of individuals participating in the programs under part C of this title;

"(5) the program provides for the development of a job search and work experience plan for each eligible participant, in order to assure that—

"(A) each participant, while participating in a work experience assignment, will be allowed a reasonable period of time (beyond the time spent actually working) for the purpose of seeking permanent employment or training to qualify him or her for permanent employment, and will be required to utilize such period of time for that purpose;

"(B) each participant will receive necessary and available counseling and assistance in searching for permanent employment while participating in a work experience assignment; and

"(C) participants will be referred to permanent employment opportunities which become available during their participation in a work experience assignment;

"(6) the program provides for necesssary coordination with the State and local work incentive programs established under part C, with programs established under the Comprehensive Employment and Training Act, with the State employment services agencies, with the State title XX social services program and other social services programs, and with other educational, employment, and training programs, in order to assure maximum utilization of such programs and the services provided thereunder; and

"(7) the State has a procedure (including all the fair hearing procedures provided for under this part) for the adjudication of any dispute concerning an individual's eligibility to participate in the work experience program, the correctness or appropriateness of a particular assignment in light of the considerations referred to in paragraph (4) of this subsection, the adjustment of payments on the basis of an individual's refusal to participate in the program without good cause, or the payment of compensation for work expenses by the State under subsection (f).

"(c) A work experience assignment under a program assisted under this section meets the requirements of this subsection only if the work is performed by the individual involved for a State or local public agency or a nonprofit organization, and only if the work experience involved—

"(1) takes into account the physical capacity, skills, and experience of such individual and is appropriate in terms of such individual's health, family responsibilities, and place of residence, the availability of child care, and other relevant circumstances;

"(2) meets appropriate health and safety standards as specified by the Secretary;

"(3) is adequately supervised by a permanent employee of the agency or organization where the work is performed, with such employee being designated by the agency or organization in a written agreement between it and the State or local work experience program director;

"(4) is adequately monitored by the State or local work experience program director, in order to insure that the assignment continues to meet all the conditions specified in this subsection and subsection (b);

"(5) serves a useful public purpose, consists of work which would not otherwise be performed, and does not displace permanent employees or jobs or otherwise result in a violation of the next to last sentence of this subsection;

"(6) does not exceed 8 hours of work spent in such assignment during any day; and does not exceed in terms of the number of hours of work spent in such assignment in any month (or cause the number of hours of work spent in assignments under the program in any month by members of the family to exceed) the lesser of (A) 96 hours or (B) the number of hours obtained by dividing the total amount of the monthly aid payable under the plan to the family of which the individual is a member by the highest of the wage rates provided by applicable Federal, State, or local minimum wage laws or, if no such law is applicable, by the wage rate set forth in section 6(a)(1) of the Fair Labor Standards Act of 1938;

"(7) is performed in conjunction with counseling, and assisted job search and placement activities, as specified in the job search and work experience plan required under subsection (b)(5); and

"(8) is certified by the State or local work experience program director as meeting these conditions.

No individual shall fill a job opening as a participant in a work experience assignment (A) when any other person not participating in such an assignment is on layoff from the same job or from a substantially equivalent job with the same employer, or (B) when the job opening exists because the employer has terminated the employment of a regular employee or otherwise reduced its work force with the intention of filling the opening so created with an individual participating in a work experience assignment. If a labor organization represents employees who are engaged in performing work in any area which is similar to the work proposed to be performed in that area under a State or local work experience program, such organization shall be notified by the State of the work proposed to be performed under such program and shall be afforded a reasonable time prior to the implementation of such program or the commencement of such work in which to make comments to the agency or organization for which the work is to be performed and to the State.

"(d) No individual (not exempted by law from mandatory registration under the work incentive program established by part C) shall be an eligible participant in a work experience assignment unless, prior to his or her referral to such assignment, such individual has been appraised and an employability plan developed as part of the work incentive program established under part C or of a State-established program having substantially the same conditions and requirements.

"(e) An individual who is otherwise an eligible participant shall be exempt from participation in the program if he or she is—

"(1) enrolled in and attending full-time a school, college, or university or a course of vocational or technical training designed to qualify him or her for gainful employment,

or participating in a program referred to in subsection (d);

"(2) incapacitated as determined by a physician or by a licensed certified psychologist;

"(3) 65 years of age or older;

"(4) a caretaker in the home where another member of the household requires the caretaker's presence on a substantially continuous basis because of such member's illness or incapacity, as determined by a physician or by a licensed or certified psychologist, and where no other appropriate member of the household is available; or

"(5) currently employed for more than 20 hours a week.

"(f) Expenses incurred by an individual in connection with a work experience assignment under this section shall not be deducted or otherwise taken into account under section 402(a)(7) in determining the family's need; but in any case where the individual incurs reasonable and necessary expenses in connection with such an assignment, or with job search activities in accordance with subsection (b)(5), the State (directly or through the agency or organization for which the work involved is being performed) shall promptly compensate such individual for such expenses.

"(g) In applying section 403(a)(3) with respect to expenditures made in carrying out a work experience program under this section, the amount expended 'for the proper and efficient administration of the State plan' shall include only—

"(1) costs of expenses for which compensation is made under subsection (f), and

"(2) such other costs of the program under this section as the Secretary shall specify,

and shall not include any amounts expended in making or acquiring materials or equipment in connection with work performed in a work experience assignment.

"(h) In any case where a participant in the program (within the meaning of subsection (b)(3)) refuses to accept a work experience assignment, or fails to report to or carry out such assignment, or fails to participate in job search as a part of or in addition to such assignment, without good cause, the needs of such participant shall not be taken into account (as a relative or otherwise) in making a determination under section 402(a)(7) with respect to the family of which such participant is a member during such period as the Secretary (or the State in accordance with regulations of the Secretary) may specify in light of the nature and duration of such refusal or failure and the circumstances of the participant.".

(b) Section 403(a)(3) of such Act is amended—

(1) by inserting "(including amounts expended in carrying out a work experience program under section 414)" after "administration of the State plan" in the matter preceding subparagraph (A);

(2) by inserting "(i)" after "other than services" in the matter following subparagraph (C); and

(3) by inserting before the semicolon at the end thereof the following: ", or (ii) the costs of which are included pursuant to section 414(g) as amounts expended for the proper and efficient administration of the plan".

(c) The amendments made by this section shall apply only with respect to quarters beginning after the date of the enactment of this Act and before October 1, 1987.

ELIGIBILITY FOR AFDC BY REASON OF UNEMPLOYMENT OF PARENT WHO IS FAMILY'S PRINCIPAL EARNER

SEC. 15425. (a) Section 407 of the Social Security Act is amended as follows:

(1) the heading is amended to read "DEPENDENT CHILDREN OF UNEMPLOYED PARENTS";

(2) subsection (a) is amended by striking out "his father" and inserting in lieu thereof "whichever of his parents is the principal earner";

(3) subsection (b)(1) is amended (A) by striking out "such child's father" in subparagraph (A) and inserting in lieu thereof "whichever of such child's parents is the principal earner", and (B) by striking out "father" in subparagraphs (B) and (C) and inserting in lieu thereof "parent";

(4) subsection (b)(2) is amended (A) by striking out "fathers" in subparagraph (A) and inserting in lieu thereof "unemployed parents", and (B) by striking out "father" in subparagraphs (C)(i) and (C)(ii) and in subparagraph (D) and inserting in lieu thereof "parent described in paragraph (1)(A)";

(5) subsection (c) is amended by striking out "father" both times it appears and inserting in lieu thereof "parent"; and

(6) subsection (e) is amended by striking out "fathers" and inserting in lieu thereof "parents".

(b) Section 407(d) of such Act is amended—

(1) by striking out "and" at the end of paragraph (2),

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and", and

(3) by adding at the end thereof the following new paragraph:

"(4) For purposes of this section, the term 'parent who is the principal earner', in the case of any child, means whichever parent, in a home in which both parents of such child are living, earned the greater amount of income in the twenty-four-month period the last month of which immediately precedes the month in which an application is filed for aid under this part (with respect to such child) on the basis of the unemployment of a parent, for each consecutive month for which the family receives (or would but for section 402(f) receive) such aid on that basis.".

(c) Section 402(a)(19)(A) of such Act is amended—

(1) by striking out "mother" in clause (v) and inserting in lieu thereof "parent";

(2) by striking out "the mother or other female caretaker of a child," in clause (vi) and inserting in lieu thereof "the parent or other caretaker of a child who is deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent,", and by striking out "the father or another adult male relative" in such clause and inserting in lieu thereof "another adult relative";

(3)(A) by striking out "or" at the end of clause (vi),

(B) by striking out the semicolon at the end of clause (vii) and inserting in lieu thereof "; or", and

(C) by adding at the end thereof the following new clause:

"(viii) the parent of a child who is deprived of parental support or care by reason of the unemployment of a parent, if the other parent (who is the principal earner, as defined in section 407(d)) is not excluded by this paragraph;"; and

(4) in the matter following the numbered clauses—

(A) by striking out "her option" and inserting in lieu thereof "his or her option",

(B) by striking out "if she so desires" and inserting in lieu thereof "if he or she so desires",

(C) by striking out "to her" and inserting in lieu thereof "to him or her", and

(D) by striking out "she should decide" and inserting in lieu thereof "he or she should decide".

(d)(1) Section 402(a)(19)(F) of such Act is amended by redesignating clauses (ii) through (iv) as clauses (iii) through (v), respectively, and by inserting after clause (i) the following new clause:

"(ii) if the parent who is the principal earner for purposes of section 407 makes such refusal, aid will be denied to all members of the family;".

(2) Section 407(b)(2)(C)(i) of such Act is amended by striking out "is not registered" and inserting in lieu thereof "is not currently registered".

(e)(1) Section 407 of such Act is further amended by adding at the end thereof the following new subsection:

"(f) Notwithstanding any other provision of this part, in the case of any family which is or may be eligible for aid under the State plan solely because the needy child involved has been deprived of parental support or care by reason of the unemployment of a parent as described in subsection (a), the State agency may at its option elect to treat subparagraphs (D) and (E) of section 402(a)(8) as inapplicable (and to apply subparagraph (H) of such section as though the references therein to 'subparagraph (B) or (E)' and 'subparagraphs (B) and (E)' each included a reference to subparagraph (D)).".

(2) Section 402(a)(8) of such Act (as amended by section 15421(a)(2) of this Act) is further amended by inserting immediately after "State agency" in the matter preceding subparagraph (A) the following: "(subject to section 407(f))".

(f) The amendments made by this section shall be effective October 1, 1981.

ADJUSTMENTS FOR INCORRECT PAYMENTS

SEC. 15426. (a) Section 402(a) of the Social Security Act (as amended by section 15423(b) of this Act) is further amended by inserting after paragraph (17) the following new paragraph:

"(18) provide that the State agency will promptly take all necessary steps to correct any overpayment or underpayment of aid under the State plan, and—

"(A) in the case of an overpayment to an individual who is a current recipient of such aid, that recovery will be made by repayment by the individual or by reduction of the amount of any future aid payable to the family of which he is a member, except that such recovery shall not result in the reduction of aid payable for any month such that the aid, when added to such family's income (without application of paragraph (8)), is less than 90 percent of the amount payable under the State plan to a family of the same composition with no other income (and, in the case of an individual to whom no payment is made for a month solely by reason of recovery of an overpayment, such individual is deemed to be a recipient of aid for such month),

"(B) in the case of an overpayment to any individual who is no longer receiving aid under the plan, that recovery will be made by appropriate action under State law against the income or resources of the individual or family, and

"(C) in the case of an underpayment, that the corrective payment will be disregarded in determining the income of the family, and will be disregarded in determining its resources in the month in which the corrective payment is made and in the following month;".

(b) The amendment made by subsection (a) shall be effective October 1, 1981.

BENEFITS FOR DEPENDENT CHILDREN WHO ARE AGE EIGHTEEN OR OVER AND IN SCHOOL

SEC. 15427. (a)(1) Section 406(a)(2) of the Social Security Act is amended by striking out "under the age of twenty-one" in clauses (B) and (C) and inserting in lieu thereof "under such higher age (not above age 21) as the State may specify".

(2) Section 406(a) of such Act is further amended by striking out the semicolon and inserting in lieu thereof a period, and by adding at the end thereof the following new sentence: "The standards prescribed by the Secretary under clauses (2)(B) and (2)(C) shall permit the State to specify different ages with respect to students at different types of institutions and otherwise to limit the application of either or both of such clauses to particular types or levels of institutions or courses, and shall permit the State to provide special conditions for the completion of educational or training activities which are in progress upon a child's attainment of the applicable age so specified.".

(b) The amendments made by subsection (a) shall be effective October 1, 1981.

ELIGIBILITY OF ALIENS FOR AFDC

SEC. 15428. (a) Section 402(a) of the Social Security Act (as amended by section 15422(a) of this Act) is further amended—

(1) by striking out "and" at the end of paragraph (30);

(2) by striking out the period at the end of paragraph (31) and inserting in lieu thereof "; and"; and

(3) by adding immediately after paragraph (31) the following new paragraph:

"(32) provide that in order for any individual to be considered a dependent child, a caretaker relative whose needs are to be taken into account in making the determination under paragraph (7), or any other person whose needs should be taken into account in making such a determination with respect to the child or relative, such individual must be either (A) a citizen, or (B) an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 207(c) of the Immigration and Nationality Act (or of section 203(a)(7) of such Act prior to April 1, 1980), or as a result of the application of the provisions of section 208 or 212(d)(5) of such Act).".

(b)(1) Section 402(a)(7) of such Act (as amended by section 15422(b) of this Act) is further amended by inserting "and section 415" after "paragraph (31)".

(2) Part A of title IV of such Act (as amended by section 15424(a) of this Act) is further amended by adding at the end thereof the following new section:

"ATTRIBUTION OF SPONSOR'S INCOME AND RESOURCES TO ALIEN

"SEC. 415. (a) For purposes of determining eligibility for and the amount of benefits under a State plan approved under this part for an individual who is an alien described in clause (B) of section 402(a)(32), the income and resources of any person who (as a sponsor of such individual's entry into the United States) executed an affidavit of support or similar agreement with respect to such individual, and the income and resources of the sponsor's spouse, shall be deemed to be the unearned income and resources of such individual (in accordance with subsections (b) and (c)) for a period of three years after the individual's entry into the United States, except that this section is not applicable if such individual is a dependent child and such sponsor (or such sponsor's spouse) is the parent of such child.

"(b)(1) The amount of income of a sponsor (and his spouse) which shall be deemed to be the unearned income of an alien for any month shall be determined as follows:

"(A) the total amount of earned and unearned income of such sponsor and such sponsor's spouse (if such spouse is living with the sponsor) shall be determined for such month;

"(B) the amount determined under subparagraph (A) shall be reduced by an amount equal to the sum of—

"(i) the lesser of (I) 20 percent of the total of any amounts received by the sponsor and his spouse in such month as wages or salary or as net earnings from self-employment, plus the full amount of any costs incurred by them in producing self-employment income in such month, or (II) $175;

"(ii) the cash needs standard established by the State under its plan for a family of the same size and composition as the sponsor and those other individuals living in the same household as the sponsor who are claimed by him as dependents for purposes of determining his Federal personal income tax liability but whose needs are not taken into account in making a determination under section 402(a)(7);

"(iii) any amounts paid by the sponsor (or his spouse) to individuals not living in such household who are claimed by him as dependents for purposes of determining his Federal personal income tax liability; and

"(iv) any payments of alimony or child support with respect to individuals not living in such household.

"(2) The amount of resources of a sponsor (and his spouse) which shall be deemed to be the resources of an alien for any month shall be determined as follows:

"(A) the total amount of the resources (determined as if the sponsor were applying for aid under the State plan approved under this part) of such sponsor and such sponsor's spouse (if such spouse is living with the sponsor) shall be determined; and

"(B) the amount determined under subparagraph (A) shall be reduced by $1,500.

"(c)(1) Any individual who is an alien shall, during the period of three years after entry into the United States, in order to be eligible for aid under a State plan approved under this part, be required to provide to the State agency administering such plan such information and documentation with respect to his sponsor as may be necessary in order for the State agency to make any determination required under this section, and to obtain any cooperation from such sponsor necessary for any such determination. Such alien shall also be required to provide to the State agency such information and documentation as it may request and which such alien or his sponsor provided in support of such alien's immigration application.

"(2) The Secretary shall enter into agreements with the Secretary of State and the Attorney General whereby any information available to them and required in order to make any determination under this section will be provided by them to the Secretary (who may, in turn, make such information available, upon request, to a concerned State agency), and whereby the Secretary of State and Attorney General will inform any sponsor of an alien, at the time such sponsor executes an affidavit of support or similar agreement, of the requirements imposed by this section.

"(d) Any sponsor of an alien, and such alien, shall be jointly and severally liable for an amount equal to any overpayment of aid under the State plan made to such alien during the period of three years after such alien's entry into the United States, on account of such sponsor's failure to provide correct information under the provisions of this section, except where such sponsor was without fault, or where good cause of such failure existed. Any such overpayment which is not repaid to the State or recovered in accordance with the procedures generally applicable under the State plan to the recoupment of overpayments shall be withheld from any subsequent payment to which such alien or such sponsor is entitled under any provision of this Act.

"(e)(1) In any case where a person is the sponsor of two or more alien individuals who are living in the same home, the income and resources of such sponsor (and his spouse), to the extent they would be deemed the income and resources of any one of such individuals under the preceding provisions of this section, shall be divided into two or more equal shares (the number of shares being the same as the number of such alien individuals) and the income and resources of each such individual shall be deemed to include one such share.

"(2) Income and resources of a sponsor (and his spouse) which are deemed under this section to be the income and resources of any alien individual in a family shall not be considered in determining the need of other family members except to the extent such income or resources are actually available to such other members.

"(f) The provisions of this section shall not apply with respect to any alien who is—

"(1) admitted to the United States as a result of the application, prior to April 1, 1980, of the provisions of section 203(a)(7) of the Immigration and Nationality Act;

"(2) admitted to the United States as a result of the application, after March 31, 1980, of the provisions of section 207(c) of such Act;

"(3) paroled into the United States as a refugee under section 212(d)(5) of such Act;

"(4) granted political asylum by the Attorney General under section 208 of such Act; or

"(5) a Cuban and Haitian entrant, as defined in section 501(e) of the Refugee Education Assistance Act of 1980 (Public Law 96-422).".

(c) The amendments made by subsection (a) shall be effective on the date of the enactment of this Act. The amendments made by subsection (b) shall be effective with respect to individuals applying for aid to families with dependent children under any approved State plan for the first time after September 30, 1981.

LIMITATION ON RESOURCES

SEC. 15429. (a) Section 402(a)(7) of the Social Security Act (as amended by the preceding provisions of this part) is amended to read as follows:

"(7) except as may be otherwise provided by paragraph (8) (but subject to paragraph

(31) and section 415), provide that the State agency shall—

"(A) in determining need, take into consideration any other income of any child or relative claiming aid to families with dependent children, or of any other individual (living in the same home as such child and relative) whose needs the State determines should be considered in determining the need of the child or relative claiming such aid; and

"(B) determine that any family is ineligible for aid if the combined value of its resources (considered on the basis of the family's equity interest therein) exceeds $1,500 or such lower amount as the State may determine; except that the State may at its option exclude from 'resources' for purposes of this subparagraph all or any part of the equity value of the family's ownership interest in—

"(i) a home owned and occupied by such child, relative, or other individual (including the land that appertains thereto),

"(ii) one automobile,

"(iii) household goods and personal effects,

"(iv) tools, equipment, livestock, and other income-producing property, and

"(v) any other noncash items which the State was excluding from such term under this part on the day before the date of the enactment of this subparagraph,

as well as the cash value (to the extent determined by the State) of life insurance, burial insurance, and prepaid contracts covering burial expenses;".

(b) The amendment made by subsection (a) shall apply with respect to aid for months after September 1981.

Subchapter B—Child Support Enforcement

COLLECTION OF SUPPORT FOR CERTAIN ADULTS RECEIVING AFDC

SEC. 15431. (a) Section 451 of the Social Security Act is amended by striking out "children" and inserting in lieu thereof "children and the spouse (or former spouse) with whom such children are living", and by striking out "child support" and inserting in lieu thereof "child and spousal support".

(b)(1) Section 452(a) of such Act is amended—

(A) by inserting "and support for the spouse (or former spouse) with whom the absent parent's child is living" after "child support" in paragraph (1);

(B) by inserting "and spousal" after "child" in paragraph (7);

(C) by inserting "(with separate identification of the number in which collection of spousal support was involved)" after "child support cases" in paragraph (10)(C); and

(D) by inserting "and spousal" after "child" in the last sentence of paragraph (10).

(2) Section 452(b) of such Act is amended by striking out "child support obligation" in the first sentence and inserting in lieu thereof "child support obligation, including any support obligation with respect to the parent with whom the child is living,".

(c) Section 453(c)(1) of such Act is amended by striking out "child support" and inserting in lieu thereof "child support or support for the parent with whom the child is living".

(d) Section 454 of such Act is amended—

(1) by striking out "child support" in the matter preceding paragraph (1) and inserting in lieu thereof "child and spousal support";

(2) by inserting before the comma immediately following the first parenthetical phrase in paragraph (4)(B) the following: "and, at the option of the State, from such parent for his spouse (or former spouse) with whom such child is living (but only if a support obligation has been established with respect to such spouse)";

(3) by striking out "child support payments collected for a child" in paragraph (5) and inserting in lieu thereof "support payments collected for an individual";

(4) by striking out "of a child or children of such parent" in paragraph (9)(C) and inserting in lieu thereof "of either the child or children or the parent of such child or children"; and

(5) by striking out "child" in paragraph (11).

(e) Section 457 of such Act is amended—

(1) by striking out "child" in the portion of subsection (b) that precedes paragraph (1) thereof; and

(2) by striking out "child" wherever it appears in subsection (c).

COST OF COLLECTION AND OTHER SERVICES FOR NON-AFDC FAMILIES

SEC. 15432. (a) Section 454(6) of the Social Security Act is amended—

(1) by striking out "such services" in clause (B) and inserting in lieu thereof "services under the State plan (other than collection of support)", and

(2) by striking out clause (C) and inserting in lieu thereof the following: "(C) the State will retain, as a fee to defray the costs of its collection activities, an amount equal to 10 percent of the amount collected on behalf of each such individual;".

(b) Section 455(a) of such Act is amended by adding at the end thereof the following new sentence: "In determining the total amounts expended by any State during a quarter, for purposes of this subsection, there shall be excluded an amount equal to the total of any fees charged or other income resulting from services provided under the plan approved pursuant to this part.".

(c) The amendments made by this section shall become effective October 1, 1981.

SOURCE OF INCENTIVE PAYMENTS TO COOPERATING JURISDICTIONS

SEC. 15433. (a) Section 458(a) of the Social Security Act is amended—

(1) by striking out "from amounts which would otherwise represent the Federal share of assistance to the family of the absent parent" and inserting in lieu thereof "an incentive payment in"; and

(2) by adding at the end thereof the following new sentence: "Such incentive payment shall be made from the total amount required to be so distributed prior to making any of the distributions provided for in section 457.".

(b) The amendments made by subsection (a) shall become effective October 1, 1981.

CHILD SUPPORT OBLIGATIONS NOT DISCHARGED BY BANKRUPTCY

SEC. 15434. (a) Section 456 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(b) Notwithstanding any other provision of law, a debt which is a child support obligation assigned to a State under section 402(a)(26) is not released by a discharge in bankruptcy under title 11 of the United States Code.".

(b) The amendment made by subsection (a) shall become effective upon enactment.

CHILD SUPPORT INTERCEPT OF UNEMPLOYMENT BENEFITS

SEC. 15435. (a) Section 454 of the Social Security Act is amended by striking out "and" at the end of paragraph (16), by striking out the period at the end of paragraph (17) and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraph:

"(18) provide that the agency administering the plan—

"(A) shall determine on a periodic basis, from information supplied pursuant to section 508 of the Unemployment Compensation Amendments of 1976, whether any individuals receiving compensation under the State's unemployment compensation law (including amounts payable pursuant to any agreement under any Federal unemployment compensation law) owe child support obligations which are being enforced by such agency, and

"(B) shall enforce any such child support obligations which are owed by such an individual but are not being met—

"(i) through an agreement with such individual to have specified amounts withheld from compensation otherwise payable to such individual and by submitting a copy of any such agreement to the State agency administering the unemployment compensation law, or

"(ii) in the absence of such an agreement, by bringing legal process (as defined in section 462(e) of this Act) to require the withholding of amounts from such compensation.".

(b)(1) Subsection (e) of section 303 of the Social Security Act is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2)(A) The State agency charged with the administration of the State law—

"(i) shall require each new applicant for unemployment compensation to disclose whether or not such applicant owes child support obligations (as defined in the last sentence of this subsection),

"(ii) shall notify the State or local child support enforcement agency enforcing such obligations, if any applicant discloses under clause (i) that he owes child support obligations and he is determined to be eligible for unemployment compensation, that such applicant has been so determined to be eligible,

"(iii) shall deduct and withhold from any unemployment compensation otherwise payable to an individual—

"(I) the amount specified by the individual to the State agency to be deducted and withheld under this clause,

"(II) the amount (if any) determined pursuant to an agreement submitted to the State agency under section 454(18)(B)(i) of this Act, or

"(III) any amount otherwise required to be so deducted and withheld from such unemployment compensation through legal process (as defined in section 462(e)), and

"(iv) shall pay any amount deducted and withheld under clause (iii) to the appropriate State or local child support enforcement agency.

Any amount deducted and withheld under clause (iii) shall for all purposes be treated as if it were paid to the individual as unemployment compensation and paid by such individual to the State or local child support enforcement agency in satisfaction of his child support obligations.

"(B) For purposes of this paragraph, the term 'unemployment compensation' means any compensation payable under the State law (including amounts payable pursuant to

agreements under any Federal unemployment compensation law).

"(C) Each State or local child support enforcement agency shall reimburse the State agency charged with the administration of the State unemployment compensation law for the administrative costs incurred by such State agency under this paragraph which are attributable to child support obligations being enforced by the State or local child support enforcement agency.".

(2) Paragraph (3) of section 303(e) of such Act (as redesignated by paragraph (1)) is amended by striking out "paragraph (1)" and inserting in lieu thereof "paragraph (1) or (2)".

(3) The last sentence of paragraph (1) of such section 303(e) is amended by striking out "the preceding sentence" and inserting in lieu thereof "this subsection".

(c) The amendments made by this section shall take effect on the date of the enactment of this Act, except that such amendments shall not be requirements under section 454 or 303 of the Social Security Act before October 1, 1982.

INTERNAL REVENUE SERVICE COLLECTION OF CHILD SUPPORT AND ALIMONY

SEC. 15436. (a) Section 452(b) of the Social Security Act (as amended by section 15431(b)(2) of this Act) is amended—

(1) by striking out "including any support obligation with respect to the parent with whom the child is living" in the first sentence and inserting in lieu thereof ", including any support obligation in lieu of child support with respect to the parent who is living with the child and receiving aid under the State plan approved pursuant to part A";

(2) by striking out "court order" in the second sentence and inserting in lieu thereof "court or administrative order";

(3) by striking out "United States" in the second sentence and inserting in lieu thereof "Secretary of the Treasury"; and

(4) by inserting immediately after the second sentence the following new sentence: "All reimbursements shall be credited to the appropriations which bore all or part of the costs involved in making the collections.".

(b) Section 6305(a)(4) of the Internal Revenue Code of 1954 (relating to collection of certain liability) is amended by striking out "court order" and inserting in lieu thereof "court or administrative order".

(c) The amendments made by this section shall become effective upon enactment.

CHAPTER 3—SUPPLEMENTAL SECURITY INCOME BENEFITS

RETROSPECTIVE BUDGETING FOR SSI BENEFITS

SEC. 15441. (a) Section 1611(c) of the Social Security Act is amended to read as follows:

"PERIOD FOR DETERMINATION OF BENEFITS

"(c)(1) Except as provided in paragraph (2), an individual's eligibility for a benefit under this title for a month shall be determined on the basis of the individual's (and eligible spouse's, if any) income, resources, and other relevant characteristics in such month, and the amount of such benefit shall be determined for such month on the basis of income and other characteristics in the month preceding such month or, if the Secretary so determined, on the basis of income and other characteristics in the second month preceding such month. Eligibility for and the amount of such benefits shall be redetermined at such time or times as may be provided by the Secretary.

"(2) The amount of the supplemental security income benefit for the month in which the application is filed, or for the first month following a month of ineligibility, or for any month in which a significant change occurs (as determined by the Secretary) in the living arrangements of the individual (and eligible spouse if any), or (if the Secretary so determines) for that month and the following month, shall be determined on the basis of the individual's (and eligible spouse's, if any) income and other relevant circumstances in the month for which the benefit is being determined.

"(3) For purposes of this subsection, an application is effective as of the first day of the month in which it is filed.

"(4) The Secretary may waive (under such circumstances as he shall prescribe) the limitations specified in subsections (e)(1) (A) and (B) on an individual's eligibility and benefit amount for a month (to the extent either such limitation is applicable by reason of such individual's presence throughout such month in a hospital, extended care facility, nursing home, or intermediate care facility) if he finds that such waiver would promote the individual's removal in the following month from such institution or facility to a less restrictive living arrangement appropriate to his situation. Upon waiver of such limitations, the Secretary shall apply, to the month of removal and the preceding month, the benefit rate that is appropriate to such individual's living arrangement subsequent to his removal from such institution or facility.".

(b) Section 1612(b)(3) of such Act is amended—

(1) by striking out "calendar quarter" and "quarter" each place they appear and inserting in lieu therof in each instance "month";

(2) by striking out "$60" in subparagraph (A) and inserting in lieu thereof "$20"; and

(3) by striking out "$30" in subparagraph (B) and inserting in lieu thereof "$10".

(c)(1) the amendments made by this section shall be effective for months after the last month in the first calendar quarter ending at least five months after the month in which this Act is enacted.

(2) The Secretary of Health and Human Services may, under conditions determined by him to be necessary and appropriate, make a transitional payment or payments during the first two months for which the amendments made by this section are effective. A transitional payment made under this section shall be deemed to be a payment of supplemental security income benefits.

ELIGIBILITY OF SSI RECIPIENTS FOR FOOD STAMPS

SEC. 15442. (a) Section 8(d) of Public Law 93-233 is amended to read as follows:

"(d) Upon the request of a State, the Secretary shall find, for purposes of the provisions specified in subsection (c), that the level of such State's supplementary payments of the type described in section 1616(a) of the Social Security Act has been specifically increased for any month so as to include the bonus value of food stamps (and that such State meets the applicable requirements of subsection (c)(1)) if—

"(1) the Secretary has found (under this subsection or subsection (c), as in effect in December 1980) that such State's supplementary payments in December 1980 were increased to include the bonus value of food stamps; and

"(2) such State continues without interruption to meet the requirements of section 1618 of such Act for each month after the month referred to in paragraph (1) and up to and including the month for which the Secretary is making the determination.".

(b) The amendment made by subsection (a) shall become effective July 1, 1981.

NEGOTIABILITY OF SUPPLEMENTAL SECURITY INCOME BENEFIT CHECKS

SEC. 15443. (a) Section 1631 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"Negotiability of Checks; Notice to States

"(i)(1) No benefit check issued under this title shall be honored for payment after one hundred and eighty days have elapsed following the day on which it was issued.

"(2) The Secretary of the Treasury shall, on a monthly basis, notify the Secretary of all such benefit checks which have not been presented for payment within one hundred and eighty days after the day on which they were issued.

"(3) The Secretary shall from time to time determine the amount representing the total of the State supplementary payments made pursuant to agreements under section 1616(a) of this Act and under section 212(b) of Public Law 93-66 which is included in all checks payable to individuals entitled to benefits under this title but not presented for payment within one hundred and eighty days after the day on which they were issued, and shall pay each State (or credit each State with) an amount equal to that State's share of all such amount. Amounts not paid to the States shall be returned to the appropriation from which they were originally paid.

"(4) The Secretary, upon notice from the Secretary of the Treasury under paragraph (2), shall notify any State having an agreement described in paragraph (3) of all such benefit checks issued under that State's agreement which were not presented for payment within one hundred and eighty days after the day on which they were issued.

"(5) The Secretary shall, to the maximum extent feasible, investigate the whereabouts and eligibility of the individuals whose benefit checks were not presented for payment within one hundred and eighty days after the day on which they were issued.".

(b) The amendments made by subsection (a) shall become effective October 1, 1981.

SPECIAL INTERIM COST-OF-LIVING INCREASE IN SSI BENEFITS

SEC. 15444. For purposes of section 1617 of the Social Security Act, any temporary increase in monthly benefits under title II of such Act which is made for specified months in 1982 pursuant to section 15206(e) of this Act shall be deemed (with respect to those months) to have resulted from a determination made under section 215(i) of the Social Security Act (whether or not it is considered to have resulted from such a determination for purposes of such title II).

CHAPTER 4—ENERGY ASSISTANCE TO LOW-INCOME HOUSEHOLDS

PROGRAM OF LOW-INCOME ENERGY ASSISTANCE

SEC. 15461. The Social Security Act is amended by adding at the end thereof the following new title:

"TITLE XXI—ENERGY ASSISTANCE TO LOW-INCOME HOUSEHOLDS

"APPROPRIATION AUTHORIZED

"SEC. 2101. (a) For the purpose of encouraging each State to provide low-income energy assistance in order to offset costs of home energy which are excessive in relation to household income, there is authorized to be appropriated to carry out this title—

"(1) $1,400,000,000 for fiscal year 1982, and

"(2) $1,600,000,000 for fiscal year 1983.

"(b) The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Secretary, State plans for low-income energy assistance.

"(c) Funds appropriated pursuant to this section shall remain available until expended.

"ALLOTMENTS TO STATES

"SEC. 2102. (a)(1) The Secretary shall allot to each State for each fiscal year an amount equal to the amount appropriated to carry out this title for such year multiplied by the State's allotment percentage.

"(2)(A) For purposes of paragraph (1), a State's allotment percentage is the percentge which the amount the State was eligible to receive under the allotment formulas of the Home Energy Assistance Act of 1980 bears to the total amount available for allotment under such formulas.

"(B) For purposes of subparagraph (A), the allotment formulas of the Home Energy Assistance Act of 1980 shall be treated as including the rules provided by, and the rules referred to in, section 101(j) of Public Law 96-536.

"(b)(1) If—

"(A) the Secretary determines that, as of September 1 of any fiscal year, an amount allotted to a State under subsection (a) for such fiscal year will not be used by such State during such year.

"(B) the Secretary—

"(i) notifies the chief executive officer of such State, and

"(ii) publishes a timely notice in the Federal Register.

that, after the 30-day period beginning on the date of the notice to such chief executive officer, such amount may be reallotted, and

"(C) the State does not request, under paragraph (2) of this subsection, that such amount be held available for such State for the following year.

then such amount shall be treated by the Secretary for purposes of this title as an amount appropriated for the following fiscal year to be allotted under subsection (a) for such following fiscal year.

"(2)(A) Any State may request that an amount allotted to such State for a fiscal year be held available for such State for the following fiscal year. Any amount so held available for the following fiscal year shall not be taken into account in computing the allotment of such State for such year under this title.

"(B) No amount may be held available under this paragraph for a State from a prior fiscal year to the extent such amount exceeds 25 percent of the amount allotted to such State for such prior year. For purposes of the preceding sentence, the amount allotted to a State for a fiscal year shall be determined without regard to any amount held available under this paragraph for such State for such year from the prior fiscal year.

"(3) During the 30-day period described in paragraph (1)(B), comments may be submitted to the Secretary. After considering such comments, the Secretary shall notify the chief executive officer of the State of any decision to reallot funds, and shall publish such decision in the Federal Register.

"(c)(1) If, with respect to any State, the Secretary—

"(A) receives a request from the governing organization of an Indian tribe within the State that assistance under this title be made directly to such organization, and

"(B) determine that the members of such tribe would be better served by means of grants made directly to provide benefits under this title,

the Secretary shall reserve from amounts which would otherwise be paid to such State from amounts allotted to it under this title for the fiscal year the amount determined under paragraph (2).

"(2) The amount determined under this paragraph for a fiscal year is the amount which bears the same ratio to the amount which would (but for this subsection) be allotted to such State under this title for such year (other than by reason of subsection (b)(2)) as the number of Indian households described in paragraphs (1) and (2) of section 2104(b) in such State with respect to which a determination under this subsection is made bears to the number of all households described in paragraphs (1) and (2) of section 2104(b) in such State.

"(3) The sums reserved by the Secretary on the basis of a determination under this subsection shall be granted to—

"(A) the tribal organization serving the individuals for whom such a determination has been made, or

"(B) in any case where there is no tribal organization serving an individual for whom such a determination has been made, such other entity as the Secretary determines has the capacity to provide assistance pursuant to this title.

"(4) In order for a tribal organization or other entity to be eligible for an amount under this subsection for a fiscal year, it shall submit to the Secretary a plan (in lieu of being under the State plan) for such fiscal year which meets such criteria as the Secretary may by regulations prescribe.

"(d) At the option of a State, any portion of such State's allotment under this title may be reserved by the Secretary for the purpose of making direct payments to households described in section 2104(b)(1)(B) (taking into account the application of section 2104(c)) for low-income energy assistance in accordance with guidelines issued by the Secretary.

"STATE PLANS

"SEC. 2103. (a) As a condition of receiving any amount under this title, a State shall submit a plan to the Secretary.

"(b) Each such plan shall—

"(1) be submitted to the Secretary—

"(A) at such time, in such manner, and accompanied by such information, as the Secretary deems necessary, and

"(B) in accordance with the procedures and timetables established by the Secretary,

"(2)(A) designate an agency of the State (determined by the chief executive officer of such State) to administer such plan, and

"(B) describe the administrative arrangements for carrying out the plan,

"(3) provide for a State program for furnishing assistance in meeting home energy costs of households through payments made in accordance with the plan to one or more of the following:

"(A) households,

"(B) home energy suppliers under agreements developed by the State with such suppliers, and

"(C) building operators with respect to—

"(i) housing projects assisted under—

"(I) section 221(d)(3) or 236 of the National Housing Act,

"(II) section 202 of the Housing Act of 1959,

"(III) section 515 of the Housing Act of 1949,

"(IV) the United States Housing Act of 1937, or

"(V) section 101 of the Housing and Urban Development Act of 1965, or

"(ii) similar State or local government-operated low-income housing projects,

"(4) at the option of the State, provide for the State agency designated under paragraph (2), either directly or through agreements with public or private organizations, to purchase, provide, and install conservation/weatherization materials, devices to utilize renewable resources, and improvements in heating or cooling systems designed to improve the heating or cooling efficiency of the housing unit of the household (as such materials, devices, and improvements are defined by the State),

"(5) at the option of the State, provide for assistance (including inkind assistance) in meeting energy-related emergency needs of households,

"(6) provide, in a manner consistent with the efficient and timely payment of benefits, that the highest level of assistance will be furnished to those households which have the lowest incomes and the highest energy costs in relation to income,

"(7) provide assurances that the State will treat owners and renters equitably under the program assisted by this title,

"(8) provide for public participation in the development of the plan,

"(9) provide an opportunity for a fair hearing before the State agency designated under paragraph (2) to any individual whose claim for assistance under the plan is denied or is not acted upon with reasonable promptness,

"(10) provide assurance that there will be, to the maximum extent possible, referral of individuals to, and coordination with, Federal, State, and local weatherization and energy conservation efforts,

"(11) provide for appropriate and necessary outreach activities,

"(12) establish procedures for monitoring assistance provided under the plan, including the monitoring and auditing of agreements entered into under paragraphs (3) and (4).

"(13) provide that fiscal control and fund accounting procedures will be established as may be necessary to assure the proper disbursement of, and accounting for, Federal funds provided to the State under this title, and

"(14) provide that reports will be furnished with respect to the plan, in such form and containing such information, as the Secretary may reasonably require.

"(c) Upon the request of any State, the Secretary shall, on a timely basis, assist the State in developing its plan for assistance under this title (or any modification thereof) or in overcoming any deficiencies in such plan (or modification).

"(d)(1) The Secretary shall approve any State plan, or modification thereof, which meets the requirements of subsection (b).

"(2) The Secretary shall not finally disapprove, in whole or in part, any plan or modification thereof for assistance under this title unless such State is first afforded a reasonable notice and opportunity for a hearing to be held within the State.

"(e) Whenever the Secretary, after reasonable notice and opportunity for hearing, finds that there has been a substantial failure to comply with any provision set forth in the State plan of such State approved under subsection (d)—

"(1) no further payments will be made under this title to such State, and

"(2) such plan shall not be treated as a plan approved under subsection (d),

until the Secretary is satisfied that there is no longer any such failure to comply. The chief executive officer of the State shall be notified of the Secretary's decisions under this subsection.

"(f) Whenever the Secretary determines that a waiver of any requirement in subsection (b) is likely to assist in promoting the objectives of this title, the Secretary may waive such requirement to the extent and for the period the Secretary finds necessary to enble such State to carry out the program under the plan.

"(g)(1) Any State may use amounts provided under this title for the purpose of providing credits against State tax to energy suppliers who supply home energy at reduced rates to low-income households.

"(2) Any such credit provided by a State shall not exceed the amount of the loss of revenue to such supplier on account of such reduced rate.

"(3) Any certification for such tax credits shall be made by the State, but such State may use Federal data available to such State with respect to recipients of supplemental security income benefits if timely delivery of benefits to households described in section 2104(b) and suppliers will not be impeded by the use of such data.

"LOW-INCOME ENERGY GRANTS TO STATES

"SEC. 2104. (a)(1) From the sums appropriated therefor, if for any period a State has a plan which is approved under section 2103, the Secretary shall pay to such State an amount equal to 80 percent (100 percent in the case of periods during fiscal year 1982) of the expenditures of such State made during such period in carrying out such plan, including administrative costs, with respect to households described in paragraphs (1) and (2) of subsection (b).

"(2) The amount which may be paid under this title to a State for a fiscal year shall not exceed the excess of—

"(A) the sum of—

"(i) the amount allotted to such State under this title for such year, plus

"(ii) the amount held available for such State for such year under section 2102(b)(2), over

"(B) the aggregate amount reserved by the Secretary under subsections (c) and (d) of section 2102 for such year.

"(b) Notwithstanding subsection (a), no payment may be made under this title with respect to any expenditure in carrying out any plan, including administrative costs, with respect to any household other than—

"(1) a household in which 1 or more individuals are receiving—

"(A) aid to families with dependent children under the State's plan approved under part A or title IV (other than such aid in the form of foster care in accordance with section 408),

"(B) supplemental security income payments under title XVI,

"(C) food stamps under the Food Stamp Act of 1977, or

"(D) payments under section 415, 521, 541, or 542 of title 38, United States Code (relating to certain veterans' benefits) or under section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978; or

"(2) a household with an income which does not exceed the greater of—

"(A) an amount equal to 150 percent of the poverty level for such State, or

"(B) an amount equal to 60 percent of the State median income.

"(c) A household which is described in subsection (b)(1) solely by reason of subparagraph (b) thereof shall not be treated as a household described in subsection (b) if the eligibility of the household is dependent upon—

"(1) an individual whose annual supplemental security income benefit rate is reduced pursuant to section 1611(e)(1) by reason of being in an institution receiving payments under title XIX with respect to such individual,

"(2) an individual to whom the reduction specified in section 1612(a)(2)(A)(i) applies, or

"(3) a child described in section 1614(f)(2) who is living together with a parent, or the spouse of a parent, of the child.

"(d) In verifying income eligibility for purposes of subsection (b)(2), the State may apply procedures and policies consistent with procedures and policies used by the State agency administering programs under part A of title IV, or other income assistance or service program (as determined by the State).

"DEFINITIONS

"SEC. 2105. For purposes of this title:

"(1)(A) The term 'household' means all individuals who occupy a housing unit.

"(B) For purposes of subparagraph (A), 1 or more rooms shall be treated as a housing unit when occupied as a separate living quarters.

"(2) The term 'home energy' means a source of heating or cooling in residential dwellings.

"(3) The term 'poverty level' means, with respect to a household in any State, the income poverty guidelines for the nonfarm population of the United States as prescribed by the Office of Management and Budget (and adjusted annually pursuant to section 624 of the Economic Opportunity Act of 1964) as applicable to such State.

"(4) The term 'State median income' means the State median income promulgated by the Secretary under section 2002(a)(6) and adjusted, in accordance with regulations prescribed by the Secretary, to take into account the number of individuals in the household.

"(5) The term 'Secretary' means the Secretary of Health and Human Services.

"(6) The term 'State' means each State, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

"ADMINISTRATION

"SEC. 2106. (a) Payments under this title may be made in installments in advance or by way of reimbursement, with necessary adjustments on account of overpayments and underpayments.

"(b)(1) The Secretary may delegate any function under this title, except the making of regulations, to any officer or employee of the Department of Health and Human Services.

"(2) The Secretary shall issue regulations under this title within 60 days after the date of the enactment of this title.

"(c) In administering the provisions of this title, the Secretary is authorized to utilize the services and facilities of any agency of the Federal Government and of any other public agency or institution, to the extent such services and facilities are otherwise authorized to be made available for such purpose, in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement as may be agreed upon.

"(d) The Secretary shall establish procedures for Federal monitoring of State administration of programs assisted under this title.

"(e) The Secretary shall coordinate the administration of the program established under this title with appropriate programs authorized by the Economic Opportunity Act of 1964 and any other existing Federal energy programs which provide related assistance programs.

"(f) Notwithstanding any other provision of law, the amount provided under this title to any household described in section 2104(b) shall not be considered income or resources of such household (or of any member thereof) for any purpose under any Federal or State law, including any law relating to taxation or to programs providing cash or in-kind benefits based on need.".

CHAPTER 5—SOCIAL SERVICES

LIMITATION ON AGGREGATE TITLE XX TRAINING EXPENDITURES IN 1982

SEC. 15481. Section 2002(a)(2)(A)(iii) of the Social Security Act is amended—

(1) by striking out "and" after the semicolon at the end of subclause (I);

(2) by redesignating subclause (II) as subclause (III); and

(3) by inserting after subclause (I) the following new subclause:

"(II) payments to all States with respect to such expenditures for fiscal year 1982 shall not exceed the aggregate sum of $75,000,000; and the portion of such aggregate sum which may be paid to any particular State (for fiscal year 1982) shall be equal to the amount which was allaocated to that State for fiscal year 1981 from the sums actually appropriated for payments under this clause in that fiscal year,".

Subtitle D—Medicare Program

SHORT TITLE; TABLE OF CONTENTS OF SUBTITLE

SEC. 15600. This subtitle may be cited as the "Medicare Spending Reduction Amendments of 1981".

TABLE OF CONTENTS OF SUBTITLE

Sec. 15600. Short title; table of contents of subtitle.

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CHAPTER 6—MEDICARE AS SECONDARY PAYOR TO FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM (FEHBP)

Sec. 15651. Medicare as secondary payor to FEHBP.

CHAPTER 1—CHANGES IN BENEFITS

ELIMINATION OF PART A COVERAGE OF ALCOHOL DETOXIFICATION FACILITY SERVICES

SEC. 15601. (a) Section 1812(a) of the Social Security Act is amended—

(1) by inserting "and" at the end of paragraph (2),

(2) by striking out "; and" at the end of paragraph (3) and inserting in lieu thereof a period, and

(3) by striking out paragraph (4).

(b) Section 1814(a)(2) of such Act is amended—

(1) by inserting "or" at the end of subparagraph (D),

(2) by striking out "or" at the end of subparagraph (E), and

(3) by striking out subparagraph (F).

(c) Section 1861(u) of such Act is amended by striking out "detoxification facility,".

(d) Section 1861 of such Act is further amended by striking out subsection (bb).

(e) The first sentence of section 1154(b) of such Act is amended by striking out "and to review of alcohol detoxification facility services".

(f) Section 1155 of such Act is amended by striking out subsection (i).

(g) Section 1158 of such Act is amended—

(1) by striking out "subsections (d) and (e)" in subsection (a) and inserting in lieu thereof "subsection (d)", and

(2) by striking out subsection (e).

(h) Section 931 of the Medicare and Medicaid Amendments of 1980 (94 Stat. 2634) is amended by striking out subsection (f) (relating to a study of medicare coverage of certain additional detoxification-related services).

(i) The amendments made by this section (other than by subsection (h)) shall apply to services furnished in detoxification facilities for inpatient stays beginning on or after the tenth day after the date of the enactment of this Act.

NUTRITIONAL THERAPY UNDER END-STAGE RENAL DISEASE PROGRAM

SEC. 15602. (a) Section 226A(b)(1)(A) of the Social Security Act is amended—

(1) by inserting "the earlier of (i)" after "after", and

(2) by inserting "or (ii) the month in which such regular couse of renal dialysis would have been initiated but was not initiated because nutritional therapy was provided (as determined pursuant to rules established by the Secretary)" after "renal dialysis is initiated".

(b) Section 1861(s)(2)(F) of such Act is amended by inserting "(i)" after "(F)" and by inserting before the semicolon the following: ", and (ii) in the case of individuals medically determined to have end-stage renal disease, nutritional therapy (as defined by the Secretary)".

(c) Section 1862(a) of such Act is amended—

(1) by striking out "or" at the end of paragraph (12),

(2) by striking out the period at the end of paragraph (13) and inserting in lieu thereof "; or", and

(3) by adding at the end the following new paragraph:

"(14) where such expenses are for nutritional therapy described in section 1861(s)(2)(F)(ii) unless there has been a determination by a physician (within such period of time and based on such facts as the Secretary establishes by regulation) that such therapy is an effective and efficient means of delaying or substituting for the provision of dialysis.".

(d)(1) The first sentence of section 1881(b)(1) of such Act is amended by striking out "and" before "(B)", and by inserting before the period the following: ", and (C) payments to or on behalf of such individuals for nutritional therapy".

(2) Section 1881(b) of such Act is amended by adding at the end the following new paragraph:

"(11) With respect to payments for nutritional therapy furnished to individuals determined to have end-stage renal disease, the Secretary shall establish a methodology for determining what amounts will be recognized as reasonable under this title with respect to the furnishing of such nutritional therapy.".

(e)(1)(A) The amendments made by this section shall apply to nutritional therapy furnished on or after October 1, 1981.

(B) No individual can establish an entitlement to benefits under part A (or eligibility to enroll under part B) of title XVIII of the Social Security Act under clause (ii) of section 226A(b)(1)(A) of such Act on the basis of nutritional therapy furnished before October 1, 1981.

(2) The Secretary of Health and Human Services shall establish, after consultation with experts in the fields of nephrology and nutrition (especially nutritional therapy) and with suppliers of nutritional therapy supplies, such regulations and guidelines (including standards respecting coverage and reimbursement with respect to nutritional therapy under title XVIII of the Social Security Act) as may be necessary to implement the amendments made by this section on a timely basis consistent with paragraph (1).

CHAPTER 2—CHANGES IN COINSURANCE, DEDUCTIBLES, AND PREMIUM

$1 COPAYMENT FOR EACH OF FIRST SIXTY DAYS IN HOSPITAL

SEC. 15611. (a)(1) Section 1813(a)(1) of the Social Security Act is amended by inserting after the first sentence the following new sentence: "Such amount shall be further reduced by a copayment of $1 for each day (before the 61st day) on which such individual is furnished inpatient hospital services during a spell of illness.".

(2) The heading to section 1813 of such Act is amended to read as follows:

"DEDUCTIBLES, COPAYMENTS, AND COINSURANCE".

(b) The first sentence of section 1866(a)(2)(A) of such Act is amended by inserting ", copayment," after "deduction".

(c) The amendments made by subsections (a)(1) and (b) shall apply to inpatient hospital services furnished on or after October 1, 1981.

MAKING PART A COINSURANCE CURRENT WITH THE YEAR IN WHICH SERVICES FURNISHED

SEC. 15611. (a) The first sentence of section 1813(b)(2) of the Social Security Act is amended by striking out "any spell of illiness beginning" and inserting in lieu thereof "any inpatient hospital services or post-hospital extended care services furnished".

(b) The amendment made by subsection (a) is effective for inpatient hospital services or post-hospital extended care services furnished on or after January 1, 1982.

MAKING PART A COINSURANCE AND DEDUCTILE MORE CURRENT

SEC. 15612. (a) Section 1813(b)(2) of the Social Security Act is amended by striking out "$40" and inserting in lieu thereof "$45".

(b) The amendment made by subsection (a) shall apply to inpatient hospital services and post-hospital extended care services furnished in calendar years beginning with calendar year 1982.

ELIMINATION OF CARRYOVER FROM PREVIOUS YEAR OF INCURRED EXPENSES FOR MEETING THE PART B DEDUCTIBLE

SEC. 15614. (a) The first sentence of section 1833(b) of the Social Security Act is amended by striking out "the amount of the deductible for such calendar year" and all that follows through "(2)", and by redesignating clauses (3) and (4) as clauses (2) and (3), respectively.

(b) The amendments made by subsection (a) first apply to the deductible for calendar year 1982.

INCREASE IN, AND INDEXING OF, PART B DEDUCTIBLE

SEC. 15615. Section 1833(b) of the Social Security Act, as amended by section 15614, of this subtitle, is further amended—

(1) by redesignating clauses (1) through (3) as clauses (A) through (C), respectively,

(2) by inserting "or (for calendar years after 1981) the amount determined under paragraph (2)" after "deductible of $60",

(3) by inserting "(1)" after "(b)", and

(4) by adding at the end the following new paragraph:

"(2)(A) For expenses incurred by an individual during calendar year 1982, the deductible shall be $70.

"(B)(i) For expenses incurred by an individual during a calendar year (beginning with 1983), the deductible shall (subject to clause (ii)) be equal to the deductible amount established under this paragraph with respect to the previous calendar year increased by a percentage equal to the percentage by which benefit amounts under title II were increased in that previous year pursuant to section 215(i).

"(ii) If a deductible determined under the preceding sentence is not a multiple of $1, such deductible shall be rounded to the nearest multiple of $1, or if midway between multiples of $1 to the next higher multiple of $1.

"(iii) The Secretary shall determine and publish in the Federal Register the deductile amount computed under this subparagraph at the same time as the Secretary publishes a determination respecting a cost-of-living computation quarter under section 215(i)(2)(D).".

CHANGES TO PART B PREMIUM TO CONFORM TO TITLE II CHANGES

SEC. 15616. (a)(1) The first sentence of section 1839(c)(1) of the Social Security Act is amended to read as follows: "The Secretary shall, before July 15, 1982, and before July 15 of each year thereafter, determine the monthly actuarial rate for enrollees age 65 and over which shall be applicable for the 12-month period commencing October 1 of that year.".

(2) The first sentence of section 1839(c)(3) of such Act is amended to read as follows: "The Secretary shall, before July 15, 1982, and before July 15 of each year thereafter, determine and promulgate the monthly premium applicable for the individuals enrolled under this part for the 12-month period commencing October 1 of that year.".

(3) The first sentence of section 1839(c)(4) of such Act is amended to read as follows: "The Secretary shall also, before July 15, 1982, and before July 15 of each year thereafter, determine the monthly actuarial rate for disabled enrollees under age 65 which shall be applicable for the 12-month period commencing October 1 of that year.".

(4) The amendments made by this subsection shall apply to determinations made under section 1839(c) of the Social Security Act after November 1981.

(b)(1) Subparagraph (B) of section 1839(c)(3) of such Act is amended to read as follows:

"(B) the monthly premium rate most recently promulgated by the Secretary under this paragraph, increased by a percentage equal to the percentage by which benefit amounts under title II will be increased in that year pursuant to section 215(i).".

(2) The amendment made by paragraph (1) shall apply with respect to premiums for months beginning with October 1982.

(c)(1) The monthly premium applicable for individuals enrolled in part B of title XVIII of the Social Security Act for the months of July, August, and September of 1982 shall be the same as the monthly premium applicable to such individuals during the 12-month period commencing July 1, 1981.

(2) In computing the amount of Government contributions under section 1844(a) of the Social Security Act for the months of July, August, and September of 1982, a reference to an actuarially adequate rate (determined under a provision of section 1839(c) of such Act) shall be deemed a reference to that rate as in effect for any month in the 12-month period commencing July 1, 1981.

(d)(1) Section 1818(d)(2) of such Act is amended—

(A) by striking out "during the last calendar quarter of each year, beginning in 1973" and insert in lieu thereof "before July 15 of each year, beginning in 1982",

(B) by striking out "commencing July 1 of the next year" and inserting in lieu thereof "commencing October 1 of that year", and

(C) by striking out "for such next year" in clause (A) and inserting in lieu thereof "for that year".

(2) The amendments made by paragraph (1) shall first apply to premiums for months beginning with October 1982 and no determination and promulgation shall be made under section 1818(d)(2) of the Social Security Act during 1981.

(3) The monthly premium applicable for individuals enrolled in part A of title XVIII of the Social Security Act pursuant to section 1818 of such Act for the months of July, August, and September of 1982, shall be the same as the monthly premium applicable to such individuals during the 12-month period commencing July 1, 1981.

CHAPTER 3—CHANGES IN REIMBURSEMENT

PERMITTING OFFSET OF INTEREST AND OTHER INCOME ON FUNDED DEPRECIATION

SEC. 15621. (a) Section 1861(v)(1)(A) of the Social Security Act is amended by adding at the end the following new sentence: "Such regulations shall treat as investment income, to be offset against allowable interest expenses, interest and other income earned on funded depreciation accounts.".

(b) The amendment made by subsection (a) shall apply to interest and other income earned on or after October 1, 1981.

ELIMINATION OF OCCUPANCY TEST FOR HOSPITAL LONG-TERM CARE IN NONPUBLIC HOSPITALS

SEC. 15622. (a)(1) Section 1861(v)(1)(G)(i) of the Social Security Act is amended by inserting "and the hospital derived (in the hospital's accounting period ending in such preceding calendar year) less than 30 percent of its total income from nongovernmental sources or if the Secretary determines that there is no excess of hospital beds in the area in which the hospital is located" after "80 percent or more".

(2) Section 1902(h)(1) of such Act is amended by inserting "and the hospital derived (in the hospital's accounting period ending in such preceding calendar year) less than 30 percent of its total income from nongovernmental sources or if the Secretary determines that there is no excess of hospital beds in the area in which the hospital is located" after "80 percent or more".

(b) The amendments made by subsection (a) shall apply to services provided by a hospital on or after the first day of the first month beginning after the date of the enactment of this Act.

INCENTIVE REIMBURSEMENT RATE FOR RENAL DIALYSIS SERVICES

SEC. 15623. (a) Section 1881(b) of the Social Security Act is amended—

(1) by inserting "and consistent with any regulations promulgated under paragraph (7)" in paragraph (2)(B) after "section 1861(v))";

(2) by striking out the second sentence of paragraph (2)(B);

(3) by inserting "(which effectively encourages the efficient delivery of dialysis services and provides incentives for the increased use of home dialysis)" in paragraph (3)(B) after "or other basis";

(4) by inserting "or on the basis of a method established under paragraph (7)" before the period at the end of paragraph (4);

(5) by inserting "(except as may be provided in regulations under paragraph (7))" in the second sentence of paragraph (6) after "in no event" and by striking out "70 percent" in such sentence and inserting in lieu thereof "75 percent";

(6) by inserting "(including methods established under paragraph (7))" in the fifth sentence of paragraph (6) after "any other procedure";

(7) by redesignating paragraphs (7) through (9) as paragraphs (8) through (10), respectively; and

(8) by inserting after paragraph (6) the following new paragraph:

"(7) The Secretary shall provide by regulation (first promulgated not later than October 1, 1981) for a method (or methods) for determining prospectively the amounts of payments to be made for dialysis services furnished by providers of services and renal dialysis facilities to individuals in a facility and to such individuals at home. Such method (or methods) shall provide for the prospective determination of a rate (or rates) for each mode of care based on a single composite weighted formula (which takes into account the mix of patients who receive dialysis services at a facility or at home and the relative costs of providing such services in such settings) or based on such other method or combination of methods as the Secretary determines, after detailed analysis, will more effectively encourage the more efficient delivery of dialysis services and will provide greater incentives for increased use of home dialysis than through the single composite weighted formula and shall provide for such exceptions as may be warranted by unusual circumstances. The Secretary may provide that such method will serve in lieu of any target reimbursement rate that would otherwise be established under paragraph (6).".

(b) The amendments made by subsection (a) apply to services furnished on or after October 1, 1981.

LIMITS ON REIMBURSEMENT TO HOME HEALTH AGENCIES

SEC. 15624. (a) Section 1861(v)(1) of the Social Security Act is amended by adding at the end the following new subparagraph:

"(J) The Secretary, in determining the amount of the payments that may be made under this title with respect to home health services, may not recognize as reasonable (in the efficient delivery of health services) costs for the provision of home health services by an agency to the extent these costs exceed (on the aggregate for the agency) the 75th percentile of such costs per visit for home health agencies, or, in the judgment of the Secretary, such lower percentile or such comparable or lower limit (based on or related to the mean of the costs of such agencies or otherwise) as the Secretary may determine.".

(b)(1) Subject to paragraph (2), the amendment made by subsection (a) shall apply to cost reporting periods ending after September 30, 1981.

(2) In the case of a cost reporting period beginning before October 1, 1981, any reduction in payments resulting from the amend-

ment made by subsection (a) shall be imposed only in proportion to the part of the period that occurs after September 30, 1981.

LIMITS ON REIMBURSEMENT TO HOSPITALS

SEC. 15625. (a) Section 1861(v)(1)(J) of the Social Security Act, as added by section 15624 of this subtitle, is amended by inserting "(i)" after "(J)" and by adding at the end the following new clause:

"(ii) The Secretary, in determining the amount of the payments that may be made under this title with respect to routine operating costs for the provision of general inpatient hospital services, may not recognize as reasonable (in the efficient delivery of health services) routine operating costs for the provision of general inpatient hospital services by a hospital to the extent these costs exceeds 108 percent of the mean of such routine operating costs per diem for hospitals; or, in the judgment of the Secretary, such lower percentage or such comparable or lower limit as the Secretary may determine.".

(b)(1) Subject to paragraph (2), the amendment made by subsection (a) shall apply to costs reporting periods ending after September 30, 1981.

(2) In the case of a cost reporting period beginning before October 1, 1981, any reduction in payments resulting from the amendment made by subsection (a) shall be imposed only in proportion to the part of the period that occurs after September 30, 1981.

CHAPTER 4—MISCELLANEOUS CHANGES

CIVIL PENALTIES

SEC. 15631. (a) Part A of title XI of the Social Security Act is amended by inserting after section 1128 the following new section:

"CIVIL PENALTIES

"SEC. 1128A. (a)(1) Any person (including an organization, agency, or other entity) that presents or causes to be presented to an officer, employee, or agent of the United States, or of any department or agency thereof, or of any State agency (as defined in subsection (h)(1)), a claim (as defined in subsection (h)(2)) that the Secretary determines is an improper claim (described in paragraph (2)) shall be subject, in addition to any other penalties that may be prescribed by law, to any (or all) of the following civil penalties:

"(A) A civil money penalty of not more than $2,000 for each item or service referred to in paragraph (2)(A).

"(B) An assessment of not more than twice the amount claimed for each such item or service in lieu of damages sustained by the United States or a State agency because of such claim.

"(C) Refusal to make any payment, during such period as the Secretary may deem appropriate, under title XVIII or XIX (or both) with respect to any item or service rendered by the person.

"(2) For purposes of this section, a claim is an improper claim if it—

"(A) is for a medical or other item or service—

"(i) that the person presenting the claim (or causing the claim to be presented) knows or has reason to know was not provided as claimed, or

"(ii) payment for which may not be made under the program under which such claim was made, pursuant to a determination by the Secretary under this subsection or section 1128, 1160(b), 1862(d), or 1866(b)(2), or

"(B) is submitted in violation of an agreement between the person and the United States or a State agency.

"(b)(1) The Secretary may initiate a proceeding to determine whether to impose a penalty under subsection (a) only as authorized by the Attorney General pursuant to procedures agreed upon by them.

"(2) The Secretary shall not make a determination adverse to any person under subsection (a) until the person has been given written notice and an opportunity for the determination to be made on the record after a hearing at which the person is entitled to be represented by counsel, to present witnesses, and to cross-examine witnesses against the person.

"(3) Before the Secretary imposes any penalty described in subsection (a)(1)(C), the Secretary shall give written notice thereof to the State agency of each State which the Secretary has reason to believe does or may use the services of such person under title XIX.

"(c) In determining the amount or scope of any penalty imposed pursuant to subsection (a), the Secretary shall take into account—

"(1) the nature of claims and the circumstances under which they were presented,

"(2) the degree of culpability, history of prior offenses, and financial condition of the person presenting the claims, and

"(3) such other matters as justice may require.

"(d)(1) Except as provided in paragraph (2), any person adversely affected by a determination of the Secretary under this section may obtain a review of such determination in the United States court of appeals for the circuit in which the person resides, or in which the claim was presented, by filing in such court (within sixty days following the date the person is notified of the Secretary's determination) a written petition praying that the determination be modified or set aside. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary, and thereupon the Secretary shall file in the court the record in the proceeding as provided in section 2112 of title 28, United States Code. Upon such filing, the court shall have jurisdiction of the proceeding and of the question determined therein, and shall have the power to made and enter upon the pleadings, testimony, and proceedings set forth in such record a decree affirming, modifying, remanding for further consideration, or setting aside, in whole or in part, the determination of the Secretary and enforcing the same to the extent that such order is affirmed or modified. No objection that has not been urged before the Secretary shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances. The findings of the Secretary with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. If any party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Secretary, the court may order such additional evidence to be taken before the Secretary and to be made a part of the record. The Secretary may modify his findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and he shall file with the court such modified or new findings, which findings with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive, and his recommendations, if any, for the modification or setting aside of his original order. Upon the filing of the record with it, the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the Supreme Court of the United States, as provided in section 1254 of title 28, United States Code.

"(2) In any case in which the civil money penalties and assessments imposed by the Secretary under this section on any person exceed $15,000 with respect to—

"(A) services or items furnished during a two-year period, or

"(B) in the case of providers, reimbursement on a cost or cost-related basis for cost reports filed for any two consecutive cost reporting periods,

or in which a refusal to make payments (described in subsection (a)(1)(C) of longer than five years has been imposed, the person may obtain a review of such penalties, assessments, and refusal in the appropriate United States district court by filing in such court, within sixty days following the date the person is notified of the Secretary's determination with respect to the most recent imposition of such penalty, assessment, or refusal a written petition praying that such penalty, assessment, or refusal be modified or set aside. Such court shall make a de novo determination with respect to all of the facts and conclusions of law under consideration in such case.

"(e) Civil money penalties and assessments imposed under this section may be compromised by the Secretary and may be recovered in a civil action in the name of the United States brought in United States district court for the district where the claim was presented, or where the claimant resides, as determined by the Secretary. Amounts recovered under this section shall be paid to the Secretary and disposed of as follows:

"(1) In the case of amounts recovered arising out of a claim under title XIX, there shall be paid to the State agency an amount equal to the State's share of the amount paid by the State agency for such claim.

"(2) Such portion of the amounts recovered as is determined to have been paid out of the trust funds under sections 1817 and 1841 shall be repaid to such trust funds.

"(3) The remainder of the amounts recovered shall be deposited as miscellaneous receipts of the Treasury of the United States. The amount of such civil penalty or assessment, when finally determined, or the amount agreed upon in compromise, may be deducted from any sum then or later owing by the United States or a State agency to the person against whom the penalty has been assessed.

"(f) A determination by the Secretary to impose a penalty under subsection (a) shall be final upon the expiration of the sixty-day period referred to in subsection (d), unless the person against whom the penalty has been assessed files an appeal as provided in that subsection, in which case the determination shall become final upon the exhaustion of such appeal. When such determination involving a penalty described in subsection (a)(1)(C) becomes final, the Secretary shall provide reasonable notice to the public that such a penalty has been imposed. Matters that were raised or that could have been raised in a hearing before the Secretary or in an appeal pursuant to subsection (d) may not be raised as a de-

fense to a civil action by the United States to collect a penalty or damages assessed under this section or in reply to a defense argued by the United States to a suit for recovery of moneys based on services for which payment may not be made because of a determination under subsection (a)(1)(C).

"(g) Whenever the Secretary makes a final determination to impose a penalty under subsection (a), he shall notify the appropriate State or local medical or professional organization, and the appropriate Professional Standards Review Organization, and the appropriate State or local licensing agency or organization (including the agency specified in section 1864(a) and 1902(a)(33)) that such a penalty has been imposed and the reasons therefor.

"(h) For the purposes of this subsection:

"(1) The term 'State agency' means the agency established or designated to administer or supervise the administration of the State plan under title XIX of this Act.

"(2) The term 'claim' means an application submitted by—

"(A) a provider of services or other person, agency, or organization that furnishes an item or service under title XVIII of this Act, or

"(B) a person, agency, or organization that furnishes an item or service for which medical assistance is provided under title XIX of this Act,

to the United States or a State agency, or agent thereof, for payment for health care services under title XVIII or XIX of this Act.

"(3) The term 'item or service' includes (A) any particular item, device, medical supply, or service claimed to have been provided to a patient and listed in an itemized claim for payment, and (B) in the case of a claim based on costs, any entry in the cost report, books of account or other documents supporting such claim.

"(4) The term 'agency of the United States' includes any contractor acting as a fiscal intermediary, carrier, or fiscal agent or any other claims processing agent for a health insurance or medical services program under title XVIII or XIX of this Act.".

(b) Section 1903(i)(2) of such Act is amended by inserting "or if payment may not be made with respect to services furnished by such provider or person under this title during such period of time by reason of a determination of the Secretary under section 1128A(a)(1)(C)" before the semicolon at the end.

UTILIZATION GUIDELINES FOR PROVISION OF HOME HEALTH SERVICES

SEC. 15632. (a) Section 1862 of the Social Security Act is amended by adding at the end the following new subsection:

"(f) The Secretary shall establish utilization guidelines for the determination of whether or not payment may be made, consistent with paragraph (1) of subsection (a), under part A or part B for expenses incurred with respect to the provision of home health services, and shall provide for the implementation of such guidelines through a process of selective postpayment coverage review by intermediaries or otherwise.".

(b) The Secretary of Health and Human Services shall establish, and provide for the implementation of, the guidelines described in section 1862(f) of the Social Security Act not later than October 1, 1981.

REPEAL OF STATUTORY TIME LIMITATION ON AGREEMENTS WITH SKILLED NURSING FACILITIES

SEC. 15633. The second sentence of section 1866(a)(1) of the Social Security Act is repealed.

TECHNICAL CORRECTIONS FOR ERRORS MADE BY THE MEDICARE AND MEDICAID AMENDMENTS OF 1980

SEC. 15634. (a) Section 1833(a)(2) of the Social Security Act (as amended by section 942 of the Medicare and Medicaid Amendments of 1980, Public Law 96-499) is amended by amending subparagraphs (A) and (B) to read as follows:

"(A) with respect to home health services and to items and services described in section 1861(s)(10), the lesser of—

"(i) the reasonable cost of such services, as determined under section 1861(v), or

"(ii) the customary charges with respect to such services,

or, if such services are furnished by a public provider of services free of charge or at nominal charges to the public, the amount determined in accordance with section 1814(b)(2);

"(B) with respect to other services (except those described in subparagraph (C) of this paragraph)—

"(i) the lesser of (I) the reasonable cost of such services, as determined under section 1861(v), or (II) the customary charges with respect to such services,

"(ii) if such services are furnished by a public provider of services free of charge or at nominal charges to the public, the amount determined in accordance with section 1814(b)(2), or

"(iii) if (and for so long as) the conditions described in section 1814(b)(3) are met, the amounts determined under the reimbursement system described in such section,

less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A), but in no case may the payment for such other services exceed 80 percent of the amounts described in clause (i), (ii), or (iii) (as appropriate) of this subparagraph;".

(b)(1) Section 1835(a)(2) of such Act is amended—

(A) by adding "and" at the end of subparagraph (D), and

(B) by striking out "; and" at the end of subparagraph (E) and inserting in lieu thereof a period.

(2) The paragraph after section 1838(b) of such Act is amended by striking out "and such notice shall not be considered a disenrollment for the purposes of section 1837(b)".

(3) Section 1903(n) of such Act is amended by striking out "of this section" after "section 1866".

(c) The amendment made by subsection (a) is effective as of December 5, 1980, and the amendment made by subsection (b)(2) is effective as of April 1, 1981.

REPEAL OF TEMPORARY DELAY IN PERIODIC INTERIM PAYMENTS (PIP)

SEC. 15635. Section 959 of the Medicare and Medicaid Amendments of 1980 (Public Law 96-499; 94 Stat. 2650) is repealed.

STATUTORY DEADLINES FOR IMPLEMENTING AFDC HOME HEALTH AIDE DEMONSTRATION PROJECTS

SEC. 15636. Section 966 of the Medicare and Medicaid Amendments of 1980 (Public Law 96-499; 94 Stat. 2652) is amended—

(1) by adding at the end of subsection (c)(2) the following new sentence: "The Secretary shall, not later than October 1, 1981, establish such guidelines and establish such regulations as may be necessary to assure that agreements are entered into under this section by not later than January 1, 1982.", and

(2) by striking out "The Secretary" in subsection (h) and inserting in lieu thereof "The Secretary shall, during January 1982, submit to the Congress a report on steps taken by January 1, 1982, to enter into agreements under this section, including a general description of each of such agreements entered into by such date and the timetable under which he anticipates other such agreements will be entered into. Thereafter, the Secretary".

CHAPTER 5—AMENDMENTS RELATING TO PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS (PSRO'S) AND UTILIZATION REVIEW

Subchapter A—Interim Changes in PSRO Program

MAKING DELEGATED REVIEW OPTIONAL

SEC. 15641. Section 1155(e) of the Social Security Act is amended by striking out "shall utilize" and inserting in lieu thereof "may utilize".

ASSESSMENT OF PSRO PERFORMANCE

SEC. 15642. (a)(1) Section 1154 of the Social Security Act is amended by adding at the end the following new subsection:

"(g)(1) The Secretary shall, not later than September 30, 1981, identify and specify those requirements imposed by the Secretary with respect to the performance of Professional Standards Review Organizations which the Secretary will use for the assessment of the performance of such Organizations under this subsection. Such requirements shall include requirements relating to the effectiveness of such Organizations in (A) monitoring the quality of patient care, (B) reducing unnecessary utilization, and (C) managing its activities efficiently.

"(2) Based on such requirements, the Secretary shall assess and determine the relative performance of each of such Organizations designated, conditionally or otherwise, as of September 30, 1981.

"(3) If the Secretary determines that such an Organization has a relatively ineffective or inefficient performance, the Secretary may refuse to renew an agreement with the Organization under this part, except that, in exercising the Secretary's authority under this paragraph in fiscal year 1982, the sum of the number of Organizations with respect to which agreements are not renewed under this paragraph and under any other provision of this Act in the fiscal year may not exceed one-half of the number of such Organizations with agreements under this part on May 1, 1981.".

(2)(A) Section 1152(d) of such Act is amended—

(i) by striking out "for a term of 12 months" and inserting in lieu thereof "for a term or not longer than 12 months";

(ii) by striking out "at such time and upon such reasonable notice to the organization as may be prescribed in regulations" and inserting in lieu thereof "upon 90 days notice to the organization"; and

(iii) by striking out "(after providing such organization with an opportunity for a formal hearing on the matter)".

(B) Sections 1152(d) and 1154(d) of such Act are each amended by adding at the end the following sentence: "A termination of an agreement by the Secretary under this subsection shall not be subject to judicial review.".

(C) The amendment made by subparagraph (A)(iii) shall apply to agreements entered into on or after the date of the enactment of this Act.

(D) The Secretary of Health and Human Services shall, not later than September 30, 1982, report to the Congress on his assessment (under section 1154(g) of the Social Security Act) of the relative performance of Professional Standards Review Organizations and on any determinations made not to renew agreements with such Organizations on the basis of such performance.

(b)(1) The first sentence of subsection (b) of section 1154 of such Act is amended—

(A) by striking out "(other than ancillary, ambulatory care, and long-term care services)" and

(B) by striking out "under subsection (f)(2) or subsection (f)(4)" and inserting in lieu thereof "under subsection (f)".

(2) Subsection (f) of such section is amended—

(A) by striking out the parenthetical phrase in paragraph (1);

(B) by striking out paragraphs (2) and (3);

(C) by redesignating paragraph (4) as paragraph (2) and amending it to read as follows:

"(2) Where the Secretary finds that the review of particular health care services is cost-effective or yields other significant benefits, the Secretary may require Professional Standards Review Organizations (either generally or under such conditions and circumstances as the Secretary may specify) to review such services under this part."; and

(D) by striking out the parenthetical phrase in paragraph (5) and redesignating such paragraph as paragraph (3).

OPTIONAL USE OF PSRO'S UNDER STATE MEDICAID PLANS

SEC. 15643. (a) Section 1151 of the Social Security Act is amended—

(1) by striking out "under this Act" and inserting in lieu thereof "under title XVIII of this Act"; and

(2) by striking out "the Social Security Act" and inserting in lieu thereof "title XVIII of this Act".

(b) Section 1152(e) of such Act is amended by inserting "title XVIII of" before "this Act" each place it appears.

(c) Section 1152 of such Act is amended by striking out subsection (h), and section 1154 of such Act is amended by striking out subsection (e).

(d)(1) Section 1155(a) of such Act is amended by inserting "title XVIII of" before "this Act" each place it appears in paragraphs (1) and (2).

(2) Section 1155(a)(1) of Act is amended by adding after and below subparagraph (C) the following new sentence: "Each agreement with an Organization under this part shall require the Organization, if requested by a State with a plan approved under title XIX, to enter into a contract with the State, for the performance of review functions in the case of health care services and items provided under such State plan under terms and conditions similar to those contained in the agreement between the Organization and the Secretary under this part.".

(3) Section 1155(a) of such Act is amended by striking out paragraph (7).

(4) Section 1155(e)(1) of such Act is amended by striking out ", or intermediate care facility, as defined in section 1905(c)" and "or intermediate care facility".

(e)(1) Section 1158(a) of such Act is amended by striking out "under any title of this Act (other than title V)" and inserting in lieu thereof "under title XVIII" and by striking out "or any program estabished pursuant thereto".

(2) Section 1158(c) of such Act is amended—

(A) by striking out "(subject to sections 1159, 1171(a)(1), and 1171(d)(3)) for purposes of payment under this Act" and inserting in lieu thereof "(subject to section 1159) for purposes of payment under title XVIII"; and

(B) by striking out "or single State agencies" and all that follows through "under title XIX".

(3) Section 1158(d) of such Act is amended by striking out "or section 1902(h)".

(f) Section 1159(a) of such Act is amended by striking out "under this Act (other than title V)" and inserting in lieu thereof "under title XVIII".

(g)(1) Section 1160(a)(1) of such Act is amended by striking out "under this Act" the first place it appears and inserting in lieu thereof "under title XVIII (or under a State plan approved under title XIX, where the services furnished by the person are subject to review under a contract between the State and an Organization under section 1155(a))", and by striking out "under this Act" the second place it appears and inserting in lieu thereof "under such title (or such State plan)".

(2) Section 1160(b)(1) of such Act is amended by striking out "under this Act" and inserting in lieu thereof "under title XVIII".

(h) Section 1162(e)(1) of such Act is amended by striking out "any program established by or pursuant to this Act" and inserting in lieu thereof "title XVIII".

(i) Section 1164 of such Act is repealed.

(j) Section 1168 of such Act is amended—

(1) by inserting "and" at the end of paragraph (a);

(2) by striking out "and" at the end of paragraph (b);

(3) by striking out paragraph (c) and redesignating paragraphs (a) and (b) as paragraphs (1) and (2), respectively;

(4) by striking out "subsections (a), (b), and (c)" and inserting in lieu thereof "paragraphs (1) and (2)";

(5) by amending the second sentence to read as follows: "The Secretary shall make such transfers of moneys between such funds as may be appropriate to settle accounts between them."; and

(6) by striking out the second parenthetical phrase in the third sentence.

(k) Section 1171 of such Act is repealed.

(l) Section 1172(4) of such Act is amended by striking out "V, XI, XVIII, and XIX" and inserting in lieu thereof "XI and XVIII".

(m) Section 1902 of such Act is amended by inserting after subsection (c) the following new subsection:

"(d) If a State contracts with a Professional Standards Review Organization designated, conditionally or otherwise, under part B ot title XI for the performance of medical or utilization review functions required under this title of a State plan with respect to specific services or providers (or services or providers in a geographic area of the State), such requirements shall be deemed to be met for those services or providers (or services or providers in that area) by delegation to such Organization (or Organizations) under the contract of the State's authority to conduct such review activities if the contract provides for the performance of activities not inconsistent with part B of title XI and provides for such assurances of satisfactory performance by such Organization (or Organizations) as the Secretary may prescribe.".

(n) Section 1903(a)(3) of such Act is amended—

(1) by striking out "plus" at the end of subparagraph (B) and inserting in lieu thereof "and", and

(2) by adding after subparagraph (B) the following new subparagraph:

"(C) 75 per centum of the sums expended with respect to costs incurred during such quarter (as found necessary by the Secretary for the proper and efficient administration of the State plan) as are attributable to the performance of medical and utilization review by a Professional Standards Review Organization under a contract entered into under section 1902(d); plus"

(o) The amendments made by this section apply to agreements with Professional Standards Review Organizations entered into on or after October 1, 1981.

SECRETARIAL DETERMINATION IN LIEU OF PSRO CERTIFICATION

SEC. 15644. (a) Section 1861(v)(1)(G) of the Social Security Act is amended by striking out "an organization or agency with review responsibility as is otherwise provided for under part A of title XI" and inserting in lieu thereof "the Secretary or such agent as the Secretary may designate".

(b) Section 1902(h) of such Act is amended by striking out "an organization or agency with review responsibility as is otherwise provided for under part A of title XI" and inserting in lieu thereof "the Secretary or such agent as the Secretary may designate".

Subchapter B—Utilization Review

REPEAL OF UTILIZATION REVIEW REQUIREMENTS

SEC. 15645. (a) Section 1814(a) of the Social Security Act is amended—

(1) by striking out "paragraphs (6) and (9)" in paragraph (2)(C) and inserting in lieu thereof "paragraph (9)",

(2) by adding "and" at the end of paragraph (4),

(3) by striking out the semicolon at the end of paragraph (5) and inserting in lieu thereof a period, and

(4) by striking out paragraphs (6) and (7).

(b) Section 1815 of such Act is amended by striking out subsection (b).

(c) Section 1842(a)(2) of such Act is amended—

(1) by striking out "(2)(A)" and all that follows through "(B)" and inserting in lieu thereof "(2)",

(2) by inserting "and" after "improvement,", and

(3) by striking out ", and provide procedures for" and all that follows through "to make reviews of utilization".

(d) Section 1861 of such Act is amended—

(1) by striking out paragraph (6) of subsection (e);

(2) by striking out paragraph (8) of subsection (j);

(3) by striking out subsection (k);

(4) by striking out "subsections (k) and (m)" each place it appears in subsection (r)(3) and inserting in lieu thereof "subsection (m)";

(5) by striking out paragraph (2) of subsection (w) and by striking out "(1)" in such subsection; and

(6) in subsection (aa)(2) by striking out subparagraph (I), adding "and" at the end of subparagraph (H), and redesignating subparagraph (J) as subparagraph (I).

(e) Section 1865(a) of such Act is amended—

(1) by striking out "(6)" in paragraph (3) and inserting in lieu thereof "(8)",

(2) by striking out "a utilization review plan" and inserting in lieu thereof "an overall plan and budget described in section 1861(z)", and

(3) by striking out "section 1861(e)(6)" and inserting in lieu thereof "section 1861(e)(8)".

(f) Section 1866 of such Act is amended by striking out subsection (d).

(g) Sections 506(f) and 1903(i) of such Act are each amended—

(1) by striking out "; or" at the end of paragraph (3) and inserting in lieu thereof a period, and

(2) by striking out paragraph (4).

(h) The amendments made by this section apply on and after the date of the enactment of this Act.

Subchapter C—Delayed Repeal of the Professional Standards Review Program

REPEAL

SEC. 15647. Part B of title XI of the Social Security Act (relating to professional standards review) is repealed.

CONFORMING AMENDMENTS

SEC. 15648. (a)(1) Title XI of the Social Security Act is amended by striking out the heading to part A.

(2) The second sentence of section 1101(a)(1) of such Act is amended by striking out "and in part B of this title".

(3) Section 1128A(a)(2)(A)(ii) of such Act, inserted by section 15631 of this subtitle, is amended by striking out "1160(b),".

(4) Section 1128A(g) of such Act, inserted by section 15631 of this subtitle, is amended by striking out ", and the appropriate Professional Standards Review Organizations,".

(b)(1) Section 1861(v)(1)(G) of such Act is amended by striking out "and a Professional Standards Review Organization" and all that follows through "determines that inpatient" and inserting in lieu thereof "and the Secretary (or an agent designated by the Secretary) determines that inpatient".

(2) Section 1862(d)(1)(C) of such Act is amended by striking out "reports transmitted" and all that follows through "the program under this title)" and inserting in lieu thereof "such data as he acquires in the administration of the program under this title".

(c)(1) Section 1902 of such Act, as amended by section 15643(m) of this subtitle, is amended by striking out subsection (d).

(2) Section 1902(h) of such Act is amended by striking out "and a Professional Standards Review Organization" and all that follows through "determines that inpatient" and inserting in lieu thereof "and the Secretary (or an agent designated by the Secretary) determines that inpatient".

(3) Section 1903(a)(3) of such Act, as amended by section 15643(n) of this subtitle, is amended—

(A) by striking out "and" at the end of subparagraph (B) and inserting in lieu thereof "plus", and

(B) by striking out subparagraph (C).

EFFECTIVE DATE AND TRANSITION

SEC. 15649. (a) Except as provided in subsection (b), the repeals and amendments made by this subchapter shall apply beginning with fiscal year 1984 and shall apply to review of services furnished on or after October 1, 1983.

(b) The repeal made by section 15647 of this subchapter shall not affect—

(1) the denial of payment under section 1158(a) of the Social Security Act for which a notification has been made before October 1, 1983;

(2) the conclusiveness, under section 1158(c) of such Act, of determinations made by a Professional Standards Review Organization (hereinafter in this subsection referred to as a "PSRO") before October 1, 1983;

(3) the right of a beneficiary, recipient, provider, or organization to a hearing under section 1159 of such Act (as in effect before October 1, 1983), except that such a person is entitled, in lieu of any reconsideration of a determination by a PSRO or review by a Statewide Professional Standards Review Council under subsection (a) of such section, where the matter in controversy is $100 or more, to a hearing thereon by the Secretary of Health and Human Services (hereinafter in this subsection referred to as the "Secretary") to the same extent as is provided in section 205(b) of the Social Security Act, and such person is entitled to judicial review of the Secretary's final decision in accordance with subsection (b) of section 1159 of such Act (as in effect before October 1, 1983), and the second sentence of such subsection and subsection (c) of such section shall apply to reviews and appeals conducted in accordance with this paragraph;

(4) the authority of the Secretary to take actions under section 1160(b)(1) of such Act (as in effect before October 1, 1983) on the basis of reports submitted by PSRO's before October 1, 1983, under section 1157 of such Act (as in effect before such date); any such reports which have been submitted to a Statewide Professional Standards Review Council before such date and not transmitted to the Secretary shall be immediately transmitted to the Secretary for action in accordance with this paragraph; and the provisions of paragraphs (2) through (4) of section 1160(b) of such Act (as in effect before such date) shall apply to determinations made by the Secretary under this paragraph;

(5) the confidentiality of data information acquired before October 1, 1983, under section 1166 of such Act (or any penalties under subsection (c) of such section in the case of improper disclosure of data or information under such section), and the Secretary shall provide by regulation for the appropriate disposition of such data and information;

(6) the limitation on liability under section 1167 of such Act (as in effect before October 1, 1983) for activities undertaken before such date; and

(7) payment under section 1168 of such Act (as in effect before October 1, 1983) for expenses incurred before such date.

CHAPTER 6—MEDICARE AS SECONDARY PAYOR TO FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM (FEHBP)

MEDICARE AS SECONDARY PAYOR TO FEHBP

SEC. 15651. (a) Section 1862(b) of the Social Security Act is amended—

(1) by striking out "subsection" in the third sentence and inserting in lieu thereof "paragraph",

(2) by inserting "(1)" after "(b)", and

(3) by adding at the end the following new paragraph:

"(2)(A) Payment under this title may not be made with respect to an item or service furnished to an individual who is 65 years of age or older to the extent that payment has been made, or can reasonably be expected to be made (as determined in accordance with regulations), with respect to the item or service under a health benefits plan with a contract under chapter 89 of title 5, United States Code. Any payment under this title with respect to any item or service furnished to such an individual shall be conditioned on reimbursement to the appropriate Trust Fund established by this title when notice or other information is received that payment for such item or service has been made under such a plan.

"(B) The Secretary may waive the provisions of subparagraph (A) in the case of an individual claim if he determines that the probability of recovery or amount involved in such claim does not warrant the pursuing of the claim.

"(C) In carrying out subparagraph (A)—

"(i) there shall be a computation of the amount (if any) which would otherwise be payable with respect to items and services without regard to any payments under a plan described in subparagraph (A) for those items and services, and

"(ii) in the case of items and services for which payment may (without regard to subparagraph (A)) be made under this title—

"(I) on the basis described in section 1833(a)(1), subparagraph (A) shall be administered in a manner that assures that in no case may the amount paid under this title for those items and services, in addition to the amount paid with respect to those items and services under the plan, exceed the amount that is recognized by the plan as reasonable with respect to those items and services;

"(II) on the basis of reasonable cost described in section 1861(v), subparagraph (A) shall be administered in a manner that assures that in no case may the amount paid under this title for those items and services, in addition to the amount paid with respect to those items and services under the plan, exceed the amount of the reasonable cost for those items and services under this title; and

"(III) on any other basis, subparagraph (A) shall be administered in a manner that assures that in no case will the amount paid under this title for those items and services, in addition to the amount paid with respect to those items and services under the plan, exceed an amount that the Secretary determines to be reasonable and appropriate,

and in no case may the amount paid under this title for those items and services exceed the amount determined under clause (i) with respect to those items and services.".

(b) Section 1866(a)(2) of such Act is amended by adding at the end the following new subparagraphs:

"(E) Where a provider of services may receive payment both under this title and under a health benefits plan with a contract under chapter 89 of title 5, United States Code, for items and services furnished to an individual who is 65 years of age or older, the provider of services may only impose a charge under this paragraph with respect to those items and services as the Secretary determines in regulations. In such regulations, the Secretary shall provide that such a charge may be imposed under subparagraph (A) only to the extent that the Secretary estimates that the sum of the amounts payable to the provider under this title and under the plan with respect to those items and services is less than the amount which is recognized as reasonable under this title.".

(c)(1) Except as provided in paragraph (2), the amendments made by this section shall apply to services furnished on or after January 1, 1982, or, if later in the case of an em-

ployee, the first day of the first pay period which begins after January 1, 1982.

(2) The amendments made by this section shall not apply to payments made under part A of title XVIII of the Social Security Act with respect to services furnished to an individual who, on December 31, 1981, is sixty-five years of age or older.

Subtitle E—Black Lung Benefits Program

TEMPORARY USER FEE ON COAL

SEC. 15801. (a) Section 424 of the Black Lung Benefits Act (30 U.S.C. 934) is amended by adding at the end thereof the following new subsection:

"(c)(1) There is hereby imposed on coal sold by a producer a temporary user fee at the rates of—

"(A) 50 cents per ton in the case of coal from underground mines located in the United States; and

"(B) 75 cents per ton in the case of coal from surface mines located in the United States.

"(2) The user fee shall be collected by the producer of the coal involved for direct deposit into the fund on a monthly basis by such producer.

"(3) Amounts deposited into the fund in accordance with this subsection shall be available only for repayments (and interest payments) under subsection (a)(4) with respect to advances to the fund which were made under section 3 of the Black Lung Benefits Revenue Act of 1977 before the date of the enactment of the Omnibus Education and Labor Reconciliation Act of 1981.

"(4) The user fee established in paragraph (1) shall not apply in the case of lignite.

"(5) If any producer who is required to collect any user fees in accordance with paragraph (2) fails or refuses to make such collections, then there shall be a lien in favor of the United States for the amount of such fees upon all property and rights to property, whether real or personal, belonging to such operator. The provisions of paragraphs (2), (3), and (4) of subsection (b) shall apply to any such lien. For purposes of subsection (b)(3)(A), any such lien shall be considered to be a lien arising under subsection (b)(2).

"(6) For purposes of paragraph (1)—

"(A) coal shall be treated as produced from a surface mine if all of the geological matter above the coal being mined is removed before the coal is extracted from the earth;

"(B) coal extracted by auger shall be treated as coal from a surface mine; and

"(C) coal shall be treated as produced from an underground mine if it is not produced from a surface mine.

"(7) For purposes of this subsection:

"(A) The term 'ton' means 2,000 pounds.

"(B) The term 'United States' includes the seabed and subsoil of those submarine areas which are adjacent to the territorial waters of the United States and over which the United States has exclusive rights, in accordance with international law, with respect to the exploration and exploitation of natural resources.

"(C) The term 'user fee' means the temporary user fee established in paragraph (1).".

(b) The amendment made in subsection (a) shall be effective only during the period beginning October 1, 1981, and ending September 30, 1984. Effective October 1, 1984, such amendment shall be repealed.

PAYMENTS FROM BLACK LUNG DISABILITY TRUST FUND

SEC. 15802. Section 424(a) of the Black Lung Benefits Act (30 U.S.C. 934(a)) is amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof ", and"; and

(3) by adding at the end thereof the following new paragraph:

"(7) the reimbursement of operators and insurers for amounts paid by such operators and insurers (other than amounts paid as penalties or interest) at any time in satisfaction (in whole or in part) of claims of miners or their survivors which were denied before March 1, 1978, and which are approved in accordance with the provisions of section 435.".

(By unanimous consent, Mr. LOTT was allowed to proceed out of order for 1 minute.)

LEGISLATIVE PROCEDURE

Mr. LOTT. Mr. Chairman, if I may proceed just for the information of the membership so they will know where they can get copies of the committee print or explanations of the bills that we are considering. There is a committee print, a copy of which I have, that the Members can obtain from the Committee on Rules or from the floor at the page desk, or from the document room. This document is available at those three locations.

In addition, in the back of the Chamber, at the page desks, the Members will find side by side explanations of the Jones substitute versus the Gramm-Latta substitute, an explanation of Gramm-Latta itself, and an explanation in the form of summary and overview.

Mr. PEYSER. Mr. Chairman, will the gentleman yield for a question?

Mr. LOTT. I yield to the gentleman from New York (Mr. PEYSER).

Mr. PEYSER. I thank the gentleman for yielding.

Is there an index on this? I am trying to go through trying to find sections. There does not appear to be any indexing of where anything is. Is there a master sheet that shows something?

Mr. LOTT. There is a side by side explanation or summary of what is in these various titles. I do no know that there is an index at this point.

Mr. PEYSER. Mr. Chairman, what I am trying to get at is at this point I thought maybe someone on the gentleman's side could tell us what sections were in what place in this bill?

Mr. LOTT. If the gentleman requests, I will do my best momentarily to get an outline of that.

The CHAIRMAN. The time of the gentleman from Mississippi (Mr. LOTT) has expired.

(At the request of Mr. GORE and by unanimous consent, Mr. LOTT was allowed to proceed for 1 additional minute.)

Mr. GORE. Mr. Chairman, will the gentleman yield for a question?

Mr. LOTT. I yield to the gentleman from Tennessee.

Mr. GORE. Mr. Chairman, I would ask the gentleman, who prepared the document entitled "Overview and Summary"?

Mr. LOTT. I presume that was done by the staff of the Republican Members in conjunction with the Republican committee members in an effort to be of assistance to the general membership.

Mr. GORE. I am just looking at some of the proposals that I am familiar with by virtue of my committee assignment. For example, at the bottom of page 3 it says, "The Gramm-Latta amendment increases funding for solar programs," and yet, the figures seem to indicate precisely the opposite.

I would simply caution Members not to put too much confidence in the document entitled "Overview and Summary." I understand it was prepared in a hurried fashion, but it should be taken with a grain of salt.

Mr. LOTT. If I could reclaim my time, I did not comment on the authorship of these papers. I am just telling the Members where they can get the committee print or the various explanations of the bills as seen by the authors of those documents.

Mr. JONES of Oklahoma. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. JONES of Oklahoma. Mr. Chairman, could I inquire whether the gentleman from North Carolina (Mr. BROYHILL) is going to offer his amendment?

Mr. LOTT. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. The Chair will state that that is not a parliamentary inquiry, but the gentleman may respond.

(By unanimous consent, Mr. LOTT was allowed to proceed out of order for 1 minute.)

Mr. LOTT. Mr. Chairman, I would be happy to yield very slowly to the gentleman from Oklahoma (Mr. JONES) and I will try to answer any questions the gentleman from Oklahoma (Mr. JONES) may have.

Mr. JONES of Oklahoma. All right.

Mr. Chairman, my concern is we have just received a copy of the printed document that purports to be the Gramm-Latta substitute. We are trying to find out if this is the same as the printed document we received yesterday entitled committee print which also purported to be the Gramm-Latta substitute which I understand is somewhat different.

□ 1130

If the gentleman from North Carolina is not going to offer his amendment, it would be very helpful to us to have some time to try to find out what is in this document, since none of us have read it, and to at least find out

whether there are some questions that ought to be asked in debate.

Mr. LOTT. Well, I would like to take just a moment to say again that I appreciate the very fine job that the chairman of the Budget Committee has done. I know some of us were upset about the way the results turned out yesterday, but it was one of the better days, I think, in the 13 years I have been here. The debate was some of the best I have ever seen.

The CHAIRMAN. The time of the gentleman from Mississippi (Mr. LOTT) has again expired.

(By unanimous consent, Mr. LOTT was allowed to proceed for 1 additional minute.)

Mr. LOTT. In direct answer to the gentleman's question, as best I can, I understand that it is largely the same as to the specific differences, and I understand it is just one or two, I think that that question would properly be addressed to the gentleman from Ohio (Mr. LATTA).

As to the question of whether or not the gentleman from North Carolina is going to offer his amendment, as the gentleman obviously can see, there have been a lot of discussions here in the aisle in front of me, and I know for a fact that there is a lot of discussion now underway in trying to find some way that perhaps an agreement could be reached on the Broyhill-Dingell differences.

I cannot tell the gentleman exactly what these discussions entail, but an effort of good faith is being made by Members on both sides of the aisle to discuss the issue and reconcile at least the parliamentary manner in which it will be handled.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate my colleague yielding.

There have been several complaints that the Gramm-Latta substitute has not been available.

The CHAIRMAN. The time of the gentleman from Mississippi (Mr. LOTT) has again expired.

(On request of Mr. ROUSSELOT and by unanimous consent, Mr. LOTT was allowed to proceed for 1 additional minute.)

Mr. ROUSSELOT. My understanding is that actually copies of the Gramm-Latta substitute were given to the Rules Committee; is that not correct?

Mr. LOTT. For printing on Monday night; that is correct.

Mr. ROUSSELOT. And where does the gentleman suppose those copies are?

Mr. LOTT. Well, they are now available to the Members in this form from the Rules Committee or also from the page desk in the back of the Chamber, along with explanations which we have made as we see them.

I would be glad to yield further to the gentleman from Oklahoma (Mr. JONES) if the gentleman has a question.

Mr. JONES of Oklahoma. The question I have is whether or not the gentleman from North Carolina is going to offer his substitute. If he is not, I would like to understand that now. And it would be my intention to seek recognition to ask that the Committee rise for approximately an hour, during which time a conference report could be taken up, and also during that time we would have an opportunity to read what is in the Gramm-Latta substitute that we have just received.

So what we would like to do is get an agreement. If the gentleman from North Carolina does not intend to offer his substitute, we would like to get an agreement to that effect now. If he does, we would like to move on with it.

The CHAIRMAN. The time of the gentleman from Mississippi (Mr. LOTT) has again expired.

(By unanimous consent, Mr. LOTT was allowed to proceed for 2 additional minutes.)

Mr. LOTT. Mr. Chairman, I am seeking an opportunity to respond directly to the gentleman's proposed arrangement so that we could look further into what the situation is; and while I am finding that, I will be glad to yield to the gentleman from California for a question or comment.

Mr. PANETTA. I thank the gentleman for yielding.

Mr. Chairman, it is my understanding that the gentleman from North Carolina has not in fact made the decision whether he would proceed with offering his amendment or not, and that there are some negotiations going on to that effect, and that to allow an hour for the purpose of those negotiations to go on, we would consider a conference report in the interim, and then come back to the bill.

Mr. LOTT. I yield to the gentleman from North Carolina to respond directly to the question.

Mr. BROYHILL. Mr. Chairman, the conference report is a bill that is needed, it is supported, I think, by an overwhelming majority of this House, at least evidenced by the vote when it was in the House, and I would urge that we rise temporarily. I do not think it will take an hour to finish the conference report. I do not think it will take but a few minutes. Then we could come back to the bill.

Mr. LOTT. Then I might respond to the gentleman from Oklahoma that seems like a very reasonable and logical recommendation, and we would like to join him in that recommendation.

Mr. JONES of Oklahoma. Will the gentleman yield?

Mr. LOTT. I will be glad to yield.

Mr. JONES of Oklahoma. Mr. Chairman, could we get some information as to whether or not the Commerce package is going to be offered by the gentleman from North Carolina (Mr. BROYHILL)?

The reason I ask that is that we do not want to get into a delay. If it is going to be offered, I would suggest that it be offered right now; if not, I suggest that we rise so that we can study this document.

Mr. LOTT. I would yield to the gentleman from North Carolina, if he would like me to.

Mr. BROYHILL. Mr. Chairman, the decision, of course, has not been made yet, I might say to the gentleman from Oklahoma. The gentleman from Michigan, in his usual way, has offered to sit down and perhaps work out something here; but I do not know whether it is something we can agree to.

Mr. LOTT. I think the answer to the gentleman is that it would depend on the conference. Maybe we could just recess, subject to the call of the chair. It might not take but 20 or 30 minutes.

The CHAIRMAN. The time of the gentleman from Mississippi (Mr. LOTT) has again expired.

(On request of Mr. PANETTA and by unanimous consent, Mr. LOTT was allowed to proceed for 1 additional minute.)

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. LOTT. I will be glad to yield to the gentleman from California.

Mr. PANETTA. I thank the gentleman for yielding.

Mr. Chairman, as I understand the discussions, the question is that the gentleman from North Carolina has not made a decision whether or not he would proceed with offering his amendment and that there are some negotiations that are still pending; in the interim, we would take up a conference report in that area, in order to permit that time, but at that point, once the conference report is completed, we would return to the bill, and the gentleman would make a decision at that point whether he offers his amendment or not.

Mr. LOTT. That is my understanding of what has been recommended, and we concur.

(By unanimous consent, Mr. JONES of Oklahoma was allowed to proceed for 2 minutes out of order.)

Mr. JONES of Oklahoma. Mr. Chairman, I would like to first pose a question to the Chair, and that is: If we do not rise, what is the parliamentary situation? If the gentleman from North Carolina (Mr. BROYHILL) does not want to offer his substitute at this time, is the gentleman precluded from doing so later?

The CHAIRMAN. The Chair will respond in the negative. The rule does not dictate the order of amendments.

Mr. JONES of Oklahoma. So at any time in these proceedings, the gentleman from North Carolina (Mr. BROYHILL) could offer his substitute?

The CHAIRMAN. The Broyhill amendment cannot be offered if the Latta amendments are pending.

Mr. JONES of Oklahoma. But if the Latta amendment is pending and disposed of, could the Broyhill amendment be offered after that?

The CHAIRMAN. The Chair will respond in the affirmative, yes.

Mr. JONES of Oklahoma. Does the gentleman want to go ahead and offer it?

(By unanimous consent, Mr. LOTT was allowed to speak out of order for 1 minute.)

Mr. LOTT. Mr. Chairman, was the gentleman from Oklahoma propounding a question at the conclusion of his time? Did the gentleman have a question?

Mr. JONES of Oklahoma. Well, I was trying to determine what kind of orderly process we have under this rule. I am finding we have less and less.

Mr. LOTT. Well, if I might respond to that, I think that the recommendation originally made, or the suggestion by the gentleman from Oklahoma and the gentleman from California seemed like the logical thing to do, and we could go ahead and proceed quickly in an orderly fashion.

Mr. JONES of Oklahoma. If the gentleman will yield, I do not want to rise and recess for an hour or so and then come back and find that we are going to have to take up the Commerce substitute. I would rather ask the gentleman to go ahead and offer it, and if he wants to withdraw it while he is negotiating, that could be done at that time. We do not want to be guilty of delay.

Mr. LOTT. As the gentleman well knows, I am not a party to those negotiations. I am not sure the gentleman is. I think it depends on how these conferences go, as to what would be the decision on the part of the gentleman from North Carolina or, for that matter, the gentleman from Michigan.

(By unanimous consent, Mr. MICHEL was allowed to speak out of order for 1 minute.)

Mr. MICHEL. Mr. Chairman, might I inquire of the distinguished gentleman from Oklahoma what his preference is here?

It was my understanding that, in view of the suggestion here of the gentleman from North Carolina (Mr. BROYHILL) that he might not even offer the amendment, we can count votes, we concede, in a sense, the point to the gentleman from Michigan (Mr. DINGELL). In the interest of trying to save time, rather than gassing it all up with gyrations here on which way to go, I thought we had agreed that if we needed a little bit more time to find out that there was a negotiating posture here, to have the Committee move to whatever order of business might be in order by way of some conference report, and then come back to this within a reasonable period of time.

The object here is to save some time and not to extend the time.

Mr. JONES of Oklahoma. If the gentleman will yield, it is my understanding—and I have not been in all of the negotiations—that the Broyhill amendment would not be offered. And at that point I was hoping that we could rise and take up the conference report. During that time we could study what is in the Gramm-Latta substitute.

But I keep hearing now that perhaps the Commerce substitute will be offered after we rise. And that is just delaying what we are doing. I would just like to get to a decision.

If it is not going to be offered, let us rise and let us study this.

(By unanimous consent, Mr. WRIGHT was allowed to speak out of order for 1 minute.)

Mr. WRIGHT. Mr. Chairman, I seek this time in order that I might inquire of the distinguished minority leader or such other person as would be familiar with the document which has just been circulated.

As the gentleman is aware, it is extremely difficult for Members to understand the contents or even to track the major provisions of the document, because the pages are not numbered sequentially. Many of them are not numbered at all. In many cases there is handwritten material appended to the document and some provisions contained in it—I fear numerous provisions contained in it—are not covered by the summary sheet that has been passed out.

For example, I wonder if I could ask either the distinguished minority leader or the gentleman from Ohio (Mr. LATTA), the author of the substitute—perhaps the gentleman from Ohio (Mr. LATTA)—if the gentleman could identify for me what is section 22 of the Bankhead-Jones Act of June 29, 1935.

I know that it applies to land grant colleges. But all of the appropriations are denied for carrying out section 22 of that act, and I was just wondering if the gentleman could identify for us what that act is.

I have not found any reference to that in the summary sheets.

The CHAIRMAN. The time of the gentleman from Texas (Mr. WRIGHT) has expired.

(By unanimous consent, Mr. WRIGHT was allowed to proceed for 1 additional minute.)

Mr. WRIGHT. Mr. Chairman, I yield to the distinguished Speaker.

Mr. O'NEILL. Mr. Chairman, there is no doubt that there is utter confusion. And why should there not be? Copies of the amendment are now available for the first time, and most of the Members have not even seen the bill. The truth of the matter is, the front page of the Star today says that the author of the bill has not seen it himself.

Now, I think, in fairness to both sides of the aisle, the Committee ought to rise at this particular time.

The gentleman from Michigan (Mr. DINGELL), the chairman of the Committee on Energy and Commerce, has a conference report. I will ask the gentleman if it has been cleared on both sides of the aisle.

□ 1145

Mr. DINGELL. We are here ready to call up the bill, which is of great importance to the steel industry and which has been reported unanimously from the conference. It needs unanimous consent.

Mr. O'NEILL. But can it come to the floor with unanimous consent?

Mr. DINGELL. It is my understanding that it can come to the floor with unanimous consent; that is correct.

Mr. O'NEILL. It has to have unanimous consent?

Mr. DINGELL. That is correct.

Mr. O'NEILL. If it does not have unanimous consent, if somebody objects, the House will go back into the authorization bill of the Department of Defense, and at 1 o'clock the House could resume consideration of the reconciliation bill.

Mr. JONES of Oklahoma. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. BOLAND, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3982) to provide for reconciliation pursuant to section 301 of the first concurrent resolution on the budget for the fiscal year 1982, had come to no resolution thereon.

The SPEAKER. It is the understanding of the Chair that the committee will return to this legislation at 1 p.m.

CONFERENCE REPORT ON H.R. 3520, STEEL INDUSTRY COMPLIANCE EXTENSION ACT OF 1981

Mr. DINGELL. Mr. Speaker, I call up the conference report on the bill (H.R. 3520) to amend the Clean Air Act to provide compliance date extensions for steelmaking facilities on a case-by-case basis to facilitate modernization, and ask unanimous consent for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that the statement of the managers be read in lieu of the report.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of June 25, 1981.)

Mr. DINGELL (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the statement.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The SPEAKER. The gentleman from Michigan (Mr. DINGELL) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. MADIGAN) will be recognized for 30 minutes.

In the event the House concludes consideration of this conference report within the required time, we will go on to the Department of Defense authorization.

The Chair recognizes the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conference report provides the authority for the Administrator of the Environmental Protection Agency to extend on a case-by-case basis the deadlines for compliance with the Clean Air Act by the steel industry until December 31, 1985. I seek to utilize this unusual procedure because several of these companies will in a few days be required under existing court orders to expend large sums of money unless this report is enacted before then. After the recess may be too late.

The conference report is agreed to by all conferees, even those who dissented earlier; I urge its approval.

Mr. Speaker, I want to commend the distinguished chairman of the subcommittee, Mr. WAXMAN, for his leadership in steering this bill through the House and conference. I also want to express particular appreciation to the minority, particularly Mr. MADIGAN, Mr. BROYHILL, and Mr. BROWN of Ohio for their support.

The Steel Caucus, headed by Congressman GAYDOS with the strong efforts of Congressmen BENJAMIN and O'BRIEN, were also very helpful in urging early passage.

I want to express particular thanks to Congressmen WALGREN and LUKEN who were conferees and who worked very diligently to insure that the conference agreement reflected the needs of workers in this industry. They, together with Senator RANDOLPH, helped fashion an acceptable compromise in this very difficult area of the Senate bill in a manner that clearly expresses the intent of the conferees that the bill provide job security and not result in significant unemployment locally.

Modernization is extremely important to the steel industry because the industry has been short of capital during most of the past decade. The objective of any modernization plan is to incorporate the most advanced technology and equipment into the design of the facility. The additional capital dollars for investment that will be realized from the stretchout legislation must be spent in such a way to achieve maximum modernization for each dollar. To maximize total capital expenditures the industry must have the flexibility to either rebuild existing facilities or construct new ones. In many cases rebuilding is more economical and accomplishes the modernization objectives. The extent to which an existing facility can be modernized depends on the condition of that facility. The existing auxiliary and structural parts of any facility that can be utilized should be used. To do so will allow the industry to obtain the state of the art in terms of modernization. Examples of projects which can be modernized through rebuilding are coke ovens and blast furnaces. Such modernized facilities can effectively improve efficiency and productivity.

Mr. Speaker, the bill before us is the House bill. The House conferees were able to convince the other body that several of their amendments were unnecessary and possibly could cause delay in gaining the bill's objectives. The basic substantive provisions of the Tripartite Agreement are intact as worked out by the steel companies, the steel workers, the environmentalists, and EPA. No changes in their agreement have been made. As the House has always urged. The parties worked out the agreement in good faith. We do not want to undo it.

In regard to intervention by persons, including States, the House retained the position set forth in the House committee report of May 22, 1981, that section 304 of the act applies to these court proceedings and consent orders. The conference agreement restates this. It does not change the law on intervention. A person has a right to intervene in court. The conferees agree that the EPA and the DOJ should support such intervention. We expect the steel industry to also be supportive. However, EPA and DOJ and the applicant are not required to support any position of the intervenor. They can oppose all or part of any such position.

I believe intervention can help to speed up consideration of an application in the courts. The conferees intend this. They do not intend that intervention cause delay or be used as a dilatory tactic.

The new paragraph at the end of section 113(e) merely restates the commitments made by the industry to our committee and reflected in House Report 97-121 at page 11 to comply with the requirements of the act by the end of 1985. It is a commitment that I will insist on.

Mr. Speaker, this legislation is an excellent example of vast cooperation between workers, industry, environmentalists, and Government, and the minority and majority to obtain needed amendments to the Clean Air Act. I hope it will continue as we proceed to consider—soon I hope—other changes in the act.

Our committee is ready to consider those changes. Unfortunately, the administration is not. It is moving slow. This slowness is delaying the committee because Administrator Gorsuch will not testify until the administration gets its proposals together and sends them to Congress. June 30 is the stated date, but I hear it may be delayed until later. I hope not. Indeed, I have urged a faster pace as shown in the following correspondence with the White House:

COMMITTEE ON ENERGY AND COMMERCE,
Washington, D.C., June 5, 1981.

Hon. RONALD W. REAGAN,
The President,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: On May 21, 1981 I sent the enclosed letter to you requesting that the Administration significantly accelerate its timetable for submitting legislative proposals for amending the Clean Air Act in order to provide a better opportunity for Congressional consideration in the first session of the 97th Congress, and that EPA Administrator Gorsuch, not Secretary of the Interior Watt, have the "lead role" in developing these proposals.

Enclosed for your information is a copy of your Assistant's May 29 reply. I believe you will agree with me that it is not responsive. It provides none of the requested "assurances", and in fact, could be interpreted as indicating that even the June 30 date announced by others in the Administration as the date for such submittal may be soft. He states that "the proposals will be submitted as soon as possible".

I would appreciate your reviewing the matter and providing a reply that is fully responsive to my requests.

The nation's urgent interest in ensuring protection of the public's health and in improving the economy and preserving and enhancing job opportunities is deeply involved in the early and careful resolution of Clean Air Act issues of concern to many. While these issues remain unresolved, the nation will continue to be faced with uncertainty about the Act. This uncertainty is delaying major decisions in various industries, such as the auto and utility industries, with resultant increases in costs, drain of needed cash, loss of job opportunities, and delays in improving public health. This uncertainty is increased by the Administration's delay in submitting its recommendations. The longer the Administration delays such submittals,

the smaller the likelihood of a resolution of this question in the House. Even if the recommendations were submitted next week, the legislative days remaining in this session leave in doubt whether legislation could pass both Houses to Conference this year.

With best wishes,

Sincerely,

JOHN D. DINGELL,
Chairman.

COMMITTE ON ENERGY AND COMMERCE,
Washington, D.C., May 21, 1981.

Hon. RONALD W. REAGAN,
The President,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: A few days ago the Acting Administrator of the Environmental Protection Agency, Mr. Walter C. Barber, Jr., informed the Committee that the Administration has set June 30, 1981 as the target date for submission to Congress of proposed legislation to amend titles I, II, and III of the Clean Air Act.

While I appreciate the need for the new EPA Administrator and other top officials in the Administration to have time to acquaint themselves with the Act, implementing regulations, and the program in general, delaying the submission of the Administration's legislative recommendations until June 30 gives me great concern. Vice President Bush's March 4 letter to Congressman Clarence J. Brown concerning the steel tripartite legislation states that the Administration was at that time "in the process of preparing legislation." My impression was that it would be ready in a manner of weeks, not months.

In the first place, the House will be in the middle of the Independence Day recess on June 30 and will not return until July 7. Thus, hearings on the Administration's proposals could not begin until after July 7. They will certainly require several days. This delay will put off Subcommittee markup until mid-July or later and would probably ensure that full Committee markup would not occur until after Labor Day.

This is unfortunate because at the urging of the Ranking Minority Members of the Committee and the Subcommittee on Health and the Environment a hearing schedule has been initiated which I support that in general contemplates completion of hearings in June. Such hearings have already begun. Adhering to this schedule would permit markup to began early in the summer and make it possible to move the needed legislation through the House this year.

At the Joint House-Senate hearing in March on the National Commission on Air Quality's report, Senator Stafford, the Chairman of the Senate Committee on Environment and Public Works, expressed the desire to adhere to a similar schedule.

The Administration's announcement jeopardizes that House-Senate schedule and makes it difficult to act "expeditiously" on its proposals as urged on March 4 by the Vice President.

Clearly, such a delay is not in the interests of the affected industries, their workers, or the public in general. Indeed, it may prove very detrimental to the environment and the economy. Both stationary and mobile source industries have serious time constraints placed on them which affect manufacturing and construction planning and costs and, of course, jobs.

I strongly urge that the Administration revise its schedule and transmit its proposals to Congress early in June. Such an acceleration should not be difficult, particularly now that the new EPA Administrator has been confirmed.

I am also concerned about reports that the Administration's legislative proposals regarding the Clean Air Act and the policies on which those proposals are based are being developed by the Secretary of the Interior and his Council on Natural Resources and Environment and not the EPA Administrator, who lacks cabinet status. She is not even a member of equal status on that Council. Recent Administration memoranda indicate that even at the working level the Office of Management and Budget and the Cabinet Council's Executive Secretary, Mr. Danny J. Boggs, apparently are having a greater input into the development of these legislative proposals than the EPA Administrator.

Clearly, the President is free to seek advice from his Cabinet and other Administration officials. However, responsibility for the administration of the EPA and the Clean Air Act is vested in the head of EPA, not Secretary Watt and his Cabinet Council. It is my hope that with Administrator Gorsuch confirmed, our Committee can look to her as the principal architect of the Administration's proposals and not be required to question Secretary Watt and the full Cabinet Council as well when the Administration's proposal is finally available.

I would appreciate your providing to me by June 1, 1981 assurances that the schedule will be significantly accelerated and that the EPA Administrator, not Secretary Watt, will have the lead role in developing Administration proposals.

With best wishes,

Sincerely,

JOHN D. DINGELL,
Chairman.

THE WHITE HOUSE
Washington, May 29, 1981.

Hon. JOHN D. DINGELL,
House of Representatives,
Washington, D.C.

DEAR JOHN: On behalf of the President, I would like to thank you for your May 21 letter in which you urged the Administration to accelerate its schedule for the proposal of legislation to amend title I, II, and III of the Clear Air Act.

As I am sure you are aware, the Administration is actively preparing legislative recommendations in order to meet the announced target date for submission to the Congress. It was determined that June 30 was a realistic date to expect to be able to submit the proposals relative to the Clean Air Act. Although the Administration is not willing to compromise the quality of its proposals by setting an unrealistic target date, the proposals will be submitted as soon as possible.

Your interest in contacting me on this matter is appreciated.

With cordial regard, I am,

Sincerely,

MAX L. FRIEDERSDORF,
Assistant to the President.

Mr. MADIGAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on the steel stretchout bill. The bill previously had passed the House of Representatives by a vote of 375 to 3, which I think clearly signifies the extreme measure of support that exists here in the House for providing this relief from the provisions of the Clean Air Act for the steel industry in the United States so that it will have the opportunity to invest the money that otherwise would have been spent on compliance with the act in much needed productivity improvements within the respective plants.

The conference report as agreed to by the House conferees with the Senate is very similar to the bill as it originally passed the House. No change was made there that would in any way undo the intent of the House-passed bill. As the gentleman from Michigan has noted, this is an issue that has been very important to a great number of our colleagues on both sides of the aisle who represent areas where the steel industry is very important to the local economies.

I think the conference report we have before us now represents the culmination of a lot of hard work done by Members on both sides of the aisle, all of whom should be congratulated, most notably Mr. BENJAMIN of Indiana, Mr. O'BRIEN of Illinois, and others who were in the forefront of starting this process at the beginning of this session of Congress.

I want to congratulate Mr. DINGELL and Mr. WAXMAN for the careful and deliberate manner in which their committee and subcommittee respectively conducted the procedure on this bill, and urge that my colleagues support the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. DINGELL. Mr. Speaker, I yield 5 minutes to my distinguished friend from California (Mr. WAXMAN), chairman of the subcommittee.

Mr. WAXMAN. Mr. Speaker, I am pleased to have the opportunity to recommend passage of H.R. 3520, the Steel Industry Compliance Extension Act of 1981. The bill, as modified in conference, amends the Clean Air Act to provide compliance date extensions for steelmaking facilities on a case-by-case basis.

The House and Senate versions were quite similar, thus only a few changes have been made in H.R. 3520 since its passage by the full House by an overwhelming margin of 322 to 3 on May 28, 1981.

Mr. Speaker, the conferees agreed unanimously to the following important changes in H.R. 3520. A provision was added which codifies the steel industry's commitment to meet existing clean air requirements by 1985. This amendment formalizes the steel industry's promise to comply with the existing Clean Air Act and regulations. The steel industry has stated that this commitment is unqualified and absolute. Thus, by the end of 1985, the steel industry will have completed a

15-year program to clean up the air in areas which exceeded clean air standards.

The conferees also added a provision underscoring the importance of public participation in decisions involving public health and the environment. Any person, including State and local governments, may intervene as a matter of right in any judicial proceeding and judicial decree under this bill. The provision also makes clear that citizen groups are to be treated as welcome participants in formulating environmental requirements affecting the steel industry. Public participation is being encouraged to insure the inclusion of all views in the decisionmaking process.

Broad public participation with early access to information and plans concerning modernization should actually foster rapid consideration of extensions by the administrator and the courts. For example, the requirement that the steel industry specify projects representing additional capital investments along with binding schedules for completion of these projects should help job security and thereby provide added support for extensions under this bill.

Mr. Speaker, H.R. 3520 is an excellent example of how all parties—industry, the Government, unions, environmental groups, Democrats and Republicans—can work together to finetune the Clean Air Act to facilitate modernization of one of the Nation's most basic industries. It is my hope that we can continue in this moderate approach when considering other changes to this law which protects us all. I would like to commend and thank all of those individuals who worked so hard for passage of this legislation.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the gentlewoman from Maryland (Ms. MIKULSKI).

Ms. MIKULSKI. Mr. Speaker, I rise as both a member of the committee and a member of the Steel Caucus to lend my endorsement to this legislation, which literally and legislatively provides the steel industry with a much-needed breather, without forsaking the goals of clean air.

For someone who represents a community such as mine, where we have both unemployed steelworkers and yet one of the highest rates of lung disease in the country, we needed to find a way to keep our people working, and also a way to keep our people breathing. I think this legislation shows the kind of partnership and substance that enables that to happen. I wholeheartedly endorse it.

Mr. Speaker, in these rancorous times within this House, where there is bitterness and even folly, where people are putting party above substance and not even bothering to read what is being proposed for the American people, this legislation should serve as a model that people with adversarial interests can come together and work in a way that meets both national goals and values of both employment and quality of life.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. WALGREN) who has been most helpful in this matter.

Mr. WALGREN. Mr. Speaker, I am pleased to support the conference report on H.R. 3520, which would extend for 3 years the 1982 deadlines for compliance under the Clean Air Act. This bill would allow case-by-case extensions for the steel industry through judicial decrees contingent on the industry meeting certain environmental responsibilities.

Mr. Speaker, I think that this bill has in it seeds that are much more important for our country than it may appear from the piece of legislation itself. It represents what I hope is one of the first examples of the kind of cooperative coordination we need between Government, management, and labor—and in this case also the environmental groups—that is necessary for our country to balance the interests that we all have in living together and maintain a vibrant economy at the same time.

The bill before us represents a finely crafted and unprecedented agreement reached by the Steel Tripartite Advisory Committee, a group formed by the Carter administration over 2 years ago and composed of representatives of government, labor, management, and environmental groups. These groups agreed that a stretchout of certain deadlines would help the industry modernize its facilities and become more productive, while not backtracking on environmental goals.

As we pass this legislation today, we should look back and give credit to the Tripartite Committee, and as we look around the country today and see the lack of appreciation for the last 4 years, we must recognize that this is one of the very good things that came out from that administration.

It is important to understand that this legislation represents a reasonable balance of regulation that is important if we are both to secure investment and also protect the environment.

I come from a community where some people wear little buttons that say, "Remember Donora," with a skull and crossbones on them. Donora is a little mill town down on the Monongahela River where some 20 or so people lost their lives due to respiratory ailments when there was an atmospheric inversion which trapped dangerous pollutants in the air back in 1950. That is often not remembered, but in this kind of legislation we do meet our commitment to the health of the country at no expense to the investment and productivity of the future of the steel industry.

As a member of the House Subcommittee on Health and the Environment, I have worked to see that Congress act expeditiously on this bill. I fully believe that the bill represents a reasonable balance of often conflicting goals—the need to preserve jobs in steel communities, the need to keep our air clean, the need to keep the steel industry healthy.

I would like to highlight a few key features of the steel stretchout bill:

The conferees agreed to report language stating our intent that deadlines extensions should not result in major job losses in existing steelmaking communities, that extensions should contribute to the long-run stability of employment in the steel industry.

The bill requires companies that receive extensions to make commitments that the air will get no dirtier and that existing consent decrees will be complied with. As a condition for receiving an extension, the steel industry agrees to make continual progress toward achieving clean air requirements by 1985 and to continue installing pollution control technology.

The industry must guarantee that funds saved by the extension be devoted to modernization of our steel plants which is critically needed to make American steel competitive with foreign steel.

The public's right to participate in the process of considering and granting extensions is protected by language similar to that I suggested in my bill.

Local and State communities must be notified when an industry requests an extension thus providing local citizens the opportunity to provide their views to EPA.

Mr. Speaker, I congratulate the Congress. We often view ourselves as an unwieldy body, and yet in this instance we have completed and approved legislation within a matter of over several months, a time limit required to be met if the industry was to avoid requirements for nonproductive environmental investment.

I thank the chairman for yielding to me. I hope President Reagan will quickly sign this bill into law.

□ 1200

Mr. MADIGAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. O'BRIEN), an original sponsor of the bill.

Mr. O'BRIEN. Mr. Speaker, I thank the gentleman for yielding this time to me.

The merits of the case have been stated very well by others who are perhaps more articulate than I. I would just like to say that we have helped a major American industry get back on its feet. We will be preserving and ex-

tending job opportunities beyond what they are today and giving some people hope for a better tomorrow.

I, being one of those who were involved literally in the merits of the case, would like to say this: That when we talk to those people whose jobs have been preserved and those who will get new ones and the companies that will be aided by this legislation, let us kindly remember to identify Messrs. DINGELL, MADIGAN, and WAXMAN as being the front-runners who piloted the legislation through difficult paths, who carefully managed its course all the way to the floor of the House, and who indeed, are responsible for its passage.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Indiana (Mr. SHARP).

Mr. SHARP. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I am delighted to join with the Members in supporting this legislation which the subcommittee chairman, the gentleman from California (Mr. WAXMAN), and others have worked out.

I think it is important that we have reached an agreement that will support both the value of clean air and the value of having a productive economy in this country. I think it does show that it is possible to find agreement among labor, management, and environmentalists in this country who can support the goals that I think most people share.

It is regrettable that we have to do this for one industry at this time, because that is not the best way, in my judgment, to proceed with national policy, but I think it is a step we must take because of the needs of this particular industry. I would hope that we can find that kind of working relationship among these three vital sectors of our society in terms of other changes.

Mr. MADIGAN. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. RITTER).

Mr. RITTER. Mr. Speaker, I rise in support of this legislation, and I would like to call attention to the cooperation among the industrial sector, the environmentalists, and the Government in working out this arrangement.

I echo the thoughts of my colleague, the gentleman from Indiana (Mr. SHARP), when he calls for cooperative efforts like this on behalf of flexibility in dealing with problems in the Clean Air Act. I think the steel industry has been very fortunate in order to gain the kind of agreement that we see in this legislation.

There are other industries that perhaps have similar problems but do not have the kind of agreement arrived at by the steel industry, and while we are not saying that this is an example that must be followed throughout the economy, it does serve somewhat as a model for other situations where flexibility in the Clean Air Act is required. Again, the steel industry has been fortunate to have both the cooperation of labor and the cooperation of the environmental groups, but there are many other industries, along with their workers, out across this country that also deserve such flexibility in order to meet the standards and not needlessly lose jobs or waste precious resources.

Mr. Speaker, this agreement does point the way toward some arrangements with some of these other groups that employ many thousands of American workers to better work out their problems with the Clean Air Act.

Mr. MADIGAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DINGELL. Mr. Speaker, I have no further requests for time, and I move the previous questions on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. (Mr. MCHUGH). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WAXMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 412, nays 4, not voting 15 as follows:

[Roll No. 110]

YEAS—412

Addabbo	Bowen	Coyne, William	Erdahl	Kramer	Railsback
Akaka	Breaux	Craig	Erlenborn	LaFalce	Rangel
Albosta	Brinkley	Crane, Daniel	Ertel	Lagomarsino	Ratchford
Alexander	Brodhead	Crane, Philip	Evans (DE)	Lantos	Regula
Anderson	Brooks	Crockett	Evans (GA)	Latta	Reuss
Andrews	Broomfield	D'Amours	Evans (IA)	Leach	Rhodes
Annunzio	Brown (CA)	Daniel, Dan	Evans (IN)	Leath	Rinaldo
Anthony	Brown (CO)	Daniel, R. W.	Fary	LeBoutillier	Ritter
Applegate	Brown (OH)	Daschle	Fascell	Lee	Roberts (KS)
Archer	Broyhill	Daub	Fazio	Lehman	Roberts (SD)
Ashbrook	Burgener	Davis	Fenwick	Leland	Robinson
Aspin	Burton, John	de la Garza	Ferraro	Levitas	Rodino
Atkinson	Burton, Phillip	Deckard	Fiedler	Lewis	Roe
AuCoin	Butler	DeNardis	Fields	Livingston	Roemer
Badham	Byron	Derrick	Findley	Loeffler	Rogers
Bafalis	Campbell	Derwinski	Fish	Long (MD)	Rose
Bailey (MO)	Carman	Dickinson	Fithian	Lott	Rosenthal
Bailey (PA)	Carney	Dicks	Flippo	Lowery	Rostenkowski
Barnard	Chappell	Dingell	Florio	Lowry	Roth
Barnes	Chappie	Donnelly	Foglietta	Lujan	Roukema
Beard	Cheney	Dorgan	Foley	Luken	Rousselot
Bedell	Chisholm	Dornan	Ford (TN)	Lundine	Roybal
Beilenson	Clausen	Dougherty	Forsythe	Lungren	Rudd
Benedict	Clay	Downey	Fountain	Madigan	Russo
Benjamin	Clinger	Dreier	Fowler	Markey	Sabo
Bennett	Coats	Duncan	Frank	Marks	Santini
Bereuter	Coelho	Dunn	Frenzel	Marlenee	Sawyer
Bevill	Coleman	Dwyer	Frost	Marriott	Scheuer
Biaggi	Collins (IL)	Dyson	Fuqua	Martin (IL)	Schneider
Bingham	Collins (TX)	Early	Garcia	Martin (NC)	Schroeder
Blanchard	Conable	Eckart	Gaydos	Martin (NY)	Schulze
Boggs	Conte	Edgar	Gejdenson	Matsui	Schumer
Boland	Conyers	Edwards (AL)	Gephardt	Mattox	Seiberling
Boner	Corcoran	Edwards (CA)	Gibbons	Mavroules	Sensenbrenner
Bonior	Coughlin	Edwards (OK)	Gingrich	Mazzoli	Shamansky
Bonker	Courter	Emerson	Ginn	McClory	Shannon
Bouquard	Coyne, James	Emery	Glickman	McCloskey	Sharp
			Goldwater	McCollum	Shaw
			Gonzalez	McCurdy	Shelby
			Goodling	McDade	Shumway
			Gore	McDonald	Shuster
			Gradison	McEwen	Siljander
			Gray	McGrath	Simon
			Green	McHugh	Skeen
			Gregg	McKinney	Skelton
			Grisham	Mica	Smith (AL)
			Guarini	Michel	Smith (IA)
			Gunderson	Mikulski	Smith (NE)
			Hagedorn	Miller (CA)	Smith (NJ)
			Hall (OH)	Miller (OH)	Smith (OR)
			Hall, Ralph	Mineta	Snowe
			Hall, Sam	Minish	Snyder
			Hamilton	Mitchell (MD)	Solarz
			Hammerschmidt	Mitchell (NY)	Solomon
			Hance	Moakley	Spence
			Hansen (ID)	Moffett	St Germain
			Hansen (UT)	Molinari	Stangeland
			Hartnett	Mollohan	Stanton
			Hatcher	Montgomery	Stark
			Hawkins	Moore	Staton
			Heckler	Moorhead	Stenholm
			Hefner	Morrison	Stokes
			Heftel	Mottl	Stratton
			Hendon	Murphy	Studds
			Hertel	Murtha	Swift
			Hightower	Myers	Synar
			Hiler	Napier	Tauke
			Hillis	Natcher	Tauzin
			Holland	Neal	Taylor
			Hollenbeck	Nelligan	Thomas
			Holt	Nelson	Traxler
			Hopkins	Nichols	Trible
			Horton	Nowak	Udall
			Howard	O'Brien	Vander Jagt
			Hoyer	Oakar	Vento
			Hubbard	Oberstar	Volkmer
			Huckaby	Obey	Walgren
			Hughes	Ottinger	Walker
			Hunter	Panetta	Wampler
			Hutto	Parris	Washington
			Hyde	Pashayan	Watkins
			Ireland	Patman	Waxman
			Jacobs	Patterson	Weaver
			Jeffords	Paul	Weber (MN)
			Jeffries	Pease	Weber (OH)
			Jenkins	Pepper	Weiss
			Johnston	Perkins	White
			Jones (NC)	Petri	Whitehurst
			Jones (OK)	Peyser	Whitley
			Jones (TN)	Pickle	Whittaker
			Kastenmeier	Porter	Whitten
			Kazen	Price	Williams (MT)
			Kemp	Pritchard	Williams (OH)
			Kildee	Pursell	Wilson
			Kindness	Quillen	Winn
			Kogovsek	Rahall	Wirth

Wolf	Wylie	Young (MO)
Wolpe	Yates	Zablocki
Wortley	Yatron	Zeferetti
Wright	Young (AK)	
Wyden	Young (FL)	

NAYS—4

Bliley	Gramm
Dannemeyer	Stump

NOT VOTING—15

Bethune	Dixon	Harkin
Bolling	Dymally	Lent
Cotter	English	Long (LA)
Danielson	Ford (MI)	Richmond
Dellums	Gilman	Savage

□ 1215

The Clerk announced the following pairs:

Mr. Richmond with Mr. Bethume.
Mr. Long of Louisiana with Mr. Gilman.
Mr. Danielson with Mr. English.
Mr. Dellums with Mr. Dymally.
Mr. Dixon with Mr. Savage.
Mr. Ford of Michigan with Mr. Harkin.

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 3380, ARMED FORCES PAY ACT OF 1981

Mr. ZEFERETTI. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 162 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 162

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3380) to increase the pay and allowances of members of the Armed Forces, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services, and one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations, the bill shall be read for amendment under the five minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from New York (Mr. ZEFERETTI) is recognized for 1 hour.

Mr. ZEFERETTI. Mr. Speaker, for purposes of debate, I yield 30 minutes to the gentleman from Missouri (Mr. TAYLOR), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 162 provides for the consideration of H.R. 3380, the Armed Forces Pay Act of 1981. The Rules Committee has granted an open rule, allowing 2 hours of general debate, 1 hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services and 1 hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations.

At the conclusion of the amendment process the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

I would like to point out that ordinarily this measure would only have been referred to the Committee on Armed Services. However, due to a revision in the projection for the military pay raise made by the Gramm-Latta substitute, this measure, as reported by the Committee on Armed Services, exceeded the entitlement authority allocated to that committee by the first fiscal year 1982 budget resolution. This being the case, pursuant to section 401(b) of the Congressional Budget Act, H.R. 3380 was sequentially referred to the Committee on Appropriations.

Mr. Speaker, both the Armed Services and Appropriations Committees agree to the need for increased pay for our uniformed services. The only area of disagreement lies in section 2 of the bill. The Armed Services Committee has recommended an across-the-board 14.3-percent military pay raise, whereas the Appropriations Committee feels the military pay raise should be targeted and averaged out to 14.3 percent. Pursuant to section 401(b) of the Budget Act, the Appropriations Committee's jurisdiction is confined to spending authority and the committee would be exceeding their mandate in reporting an amendment outlining a targeted pay raise. To avoid this jurisdictional problem and to register their disagreement with the Armed Services Committee's approach, the Appropriations Committee reported an amendment providing for an across-the-board 9.1-percent increase. However, as indicated in the committee's report and in testimony before the Rules Committee, the Appropriations Committee plans to offer a substitute amendment encompassing a targeted 14.3-percent pay raise proposal.

Mr. Speaker, I believe both committees should be commended for bringing this measure to the floor. Report after report, witness after witness has indicated the need for increases in pay to attract and retain the individuals required to perform critical services. H.R. 3380 will help insure that our uniformed services will have the personnel available to keep our Armed Services at peak efficiency.

I urge the adoption of House Resolution 162, so that the House consider H.R. 3380, the Armed Forces Act of 1981.

□ 1230

Mr. TAYLOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 162 is an open rule providing 2 hours of general debate for the consideration of the Armed Forces Pay Act of 1981.

The 2 hours of debate on the legislation to increase the pay and allowances for members of the Armed Forces will be divided between the Committee on Armed Services and the Committee on Appropriations, and the bill will be read for amendment under the 5-minute rule.

In addition, one motion to recommit is provided for.

As reported by the Committee on Armed Services, H.R. 3380 contains a 14.3-percent across-the-board pay raise to members of the uniformed services on October 1, 1981.

An amendment reported by the Committee on Appropriations, now printed in italics in the bill, reduces the across-the-board pay increase to 9.1 percent.

Mr. Speaker, the testimony we received in the Committee on Rules about H.R. 3380 was that the Committee on Appropriations reported its amendment to register its disagreement with the across-the-board nature of the pay raise recommended by the Committee on Armed Services.

The only area of disagreement, we were told, relates to how much of the pay raise should be targeted to specific grades and skill categories where the military currently faces severe manpower shortages.

For this reason, when the Appropriations Committee amendment is reported, the gentleman from New York (Mr. ADDABBO) will offer a substitute committee amendment which will provide a pay raise approaching that of the originally proposed 14.3 percent in terms of aggregate dollars, but will target this raise to those sectors of the military where increased manpower is most critical.

The House will have ample opportunity, under this rule, for debate and discussion of the conflicting points of view from the two committees.

There was no controversy about the rule in the Committee on Rules, and

we reported this resolution by a voice vote.

Mr. Speaker, I urge adoption of the rule so that the House may proceed to consideration of this very important matter of increasing the pay and allowances of our military personnel.

Mr. Speaker, I yield 10 minutes to the distinguished ranking minority member of the Committee on Armed Services, the gentleman from Alabama (Mr. DICKINSON).

Mr. DICKINSON. Mr. Speaker, this is a very important matter. The rule is not controversial, but I think, as has been pointed out both by the Armed Services Committee and the Appropriations Committee, we are interested in and involved in a proposed pay increase. The difference is the House Armed Services Committee has authorized a 14.3-percent across-the-board raise. The Appropriations Committee, and they will speak for themselves, have authorized a pay increase but they have designated different amounts for certain areas making it not equal across the board but making certain categories different from other categories.

Let me say initially, Mr. Speaker, as a member of the House Armed Services Committee I also served on the NATO Subcommittee last year and the year before. During my service on the NATO Subcommittee, our committee, under the leadership of the gentleman from Virginia (Mr. DAN DANIELS) went and visited the northern flank of the NATO countries. One of the countries which we visited was Great Britain.

We met with their Minister of Defense and were discussing a problem that was common to both the United Kingdom and the United States in recruiting and retention of our military personnel. I was very interested, and all of us were very interested and surprised—perhaps I should say astounded—that since the Thatcher government has been in office they have granted two pay increases to their military personnel. One was 32 percent and one was 18 percent. We were told that with a 50-percent pay increase, and they were far behind the economic level of their peers in the civilian sector, but with the pay increases that they were granted, their retention problems fell to almost zero. They really solved their problems.

With this in mind, and also recognizing the fact that we are very much in trouble in this country so far as the manning levels of our armed services, we decided in the Congress last year to grant a pay increase of over 10 percent, which we did. Now this year we are trying to further close the gap so that those who actually serve on active duty are more adequately compensated and are more equal to their civilian counterparts so that we will not have the turbulence and the loss of personnel we have experienced in the past.

We hear a great deal of discussion as to whether or not we must go to the draft or does the All-Volunteer Army work. The fact is that it has not worked in the past for several reasons, at least not adequately.

But I have said, and I am firmly convinced, we do not need to go to a draft to meet our military requirements if we will adequately compensate those who are on active duty and treat them fairly and let them know that they are appreciated by the American public.

With last year's pay increase, and, incidentally, we were told by many commanders, Admiral Train being one, who is head of the Atlantic Fleet, that 10.4 percent, I believe it was that, was granted last year, made a dramatic difference in being able to retain people in the service. Not only that, just the prospect of another pay increase has caused people to withdraw their retirement papers that have already been submitted. I am speaking specifically now about aviators.

Mrs. HOLT. Mr. Speaker, will the gentleman yield?

Mr. DICKINSON. I am very pleased to yield to the gentlewoman from Maryland (Mrs. HOLT).

Mrs. HOLT. I thank the gentleman for yielding. Is it not true that when the Gates Commission made its recommendations about our going to the all-volunteer service that they said we should keep the pay comparable to that on the outside in the economy? And is it not true that our studies have shown that we have fallen far behind that and this would bring us up to that level?

Mr. DICKINSON. That is absolutely true.

I think there is one thing we all ought to recognize, both in the Congress and out. Recruitment is a problem, but we can meet our problem there. The biggest problem we have, though, the thing that causes the most heartburn, so to speak, to the services is retention, because when we take a person in, and he gets to be midcareer, he has been in 10 years, 12 years or so, and he is looking at another 10 years ahead of him, he is making a decision as to whether or not he really wants to make this his career or is he going to go into the civilian world, go home every night and not have to worry about going to sea or being stationed at some hardship post or will he be with his wife.

He has to compare this to being uprooted and transferred around the world quite often. He looks at what he is able to take home each payday and the standard of living of his family. He decides he is not getting adequate compensation, and when he goes out the gate, Mr. Speaker, he not only takes that warm body of his out the gate, he also takes with him hundreds of thousands of dollars' worth of training.

It has been estimated that a jet pilot, an experienced jet pilot, has about $1 million worth of training, training now invested in him, and whether he is a keypunch operator, computer specialist, whether he is an aircraft mechanic, he has thousands and thousands of dollars' worth of training and experience invested in him. So when he goes out the gate we not only have to replace him physically but we have to get someone else and spend thousands and thousands of dollars to bring them up to just where that fellow was when he went out in terms of experience, competence, and ability.

I submit that whether we have the armed services version of the pay bill or the Appropriations Committee version, whatever the version, we need a pay bill to give comparability to our men in the armed services. I think it is past due. I think it is more than justified.

I would urge not only support of the rule but certainly support of the bill when it comes to the floor.

Mr. ROEMER. Mr. Speaker, will the gentleman yield?

Mr. DICKINSON. I am very pleased to yield to the gentleman from Louisiana.

Mr. ROEMER. I appreciate the gentleman's comments and thank him for yielding.

As a point of information, does the gentleman personally feel we can construct adequate economic incentives to allow the Volunteer Army to work? Does the gentleman believe that?

Mr. DICKINSON. I very definitely believe it. There are several areas, if the gentleman is interested in that. One thing we could do is to devise a type of a GI bill. I do not say it should be exactly as it was following World War II, but that is one area.

A second thing we could do is, if we granted tax incentives, and this is one thing that I have my staff looking at. We could tailor a tax incentive, say, to the first $10,000 of earned income, and this would retain the type of people we are talking about, not the generals and the colonels, but within that income they would benefit. It would really be an attraction and a retention device for the mid-career people, the sergeants, the majors, and so forth.

There are a number of financial incentives that I think we can and should offer that will answer the problem without having to resort to a draft.

Mr. ROEMER. One final point if the gentleman will continue to yield. I agree with the gentleman if he is talking about targeting for the middle range of the military. But I refer the gentleman to a recent book by James Fallows called "National Defense"

which I do not know if the gentleman has been able to read. It has just come out in the last month. In that book he makes the point that the economic incentives required to make the Volunteer Army adequate and well trained would actually break this Nation and we might ought to look at going back to a draft situation. I just wonder how the gentleman feels about that draft as proposed by James Fallows and how it fits into the gentleman's economic view of the Army.

□ 1245

Mr. DICKINSON. Speaking for this Member only, it does not fit at all, I think we can do it without going to the draft, and I think we are working in that direction.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Missouri.

Mr. VOLKMER. I thank the gentleman for yielding. Giving instances of legislation or ideas that would help us to make the voluntary service better for people to stay in, does the gentleman believe that elimination of the twice-a-year cost-of-living increase for retired military in the future would help us with the voluntary service?

Mr. DICKINSON. I do not think that would be any plus, but I do not think it would be nearly as detrimental as, say, to the retired person that the retirement he has earned is going to be taken away from him. They see this as another erosion of benefits. I know what the gentleman is alluding to.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. TAYLOR. I yield 3 additional minutes to the gentleman from Alabama (Mr. DICKINSON).

Mr. MONTGOMERY. Mr. Speaker, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. I thank the gentleman for yielding. The gentleman mentioned about a GI education bill. I want to point out to the House that the Committee on Veterans' Affairs has already voted out a GI education bill for the 1980's that we think will help in attracting high school persons. It is now before the House Committee on Armed Services. It is a good bill and we think it is workable.

Mr. BEARD. Mr. Speaker, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Tennessee.

Mr. BEARD. I thank the gentleman for yielding.

The gentleman asked the question about: "Do you personally believe that we can fund the All-Volunteer Army to the extent that we can make it work?" I would just remind the gentleman—and we have talked about this in the past—that it is a total-force concept. We have got active duty forces where the major attention is being placed at this time, but those active duty forces cannot conduct any type of sustained operation in a campaign scenario without the support of the Reserves and the National Guard.

I just seriously question, and I think it is time we started dealing with the personnel program as far as a total-force concept and start asking the question: "Can we buy a Reserve. Can we buy a National Guard?" And where do we reach that point of diminishing returns? We are already approaching 60 percent of our total defense budget as personnel-related costs. If we continue to look at that problem, I just seriously question whether we can buy an individual Ready Reserve and National Guard or a Reserve today because of all the costs that are going to personnel, costs which need to be addressed without any question.

I just returned from serving with the Tennessee National Guard. They are not getting ammunition down there for their 2 weeks training. They are not getting the equipment.

Mr. DICKINSON. I understand. Let me interrupt by saying the gentleman is exactly right, but this is not people pay. They need weapons. They need material, and they need things with which to train, and this is something that needs to be addressed in addition to salaries.

Mr. BEARD. Yes. My point was, though, when you are going to spend close to 60 percent of the total defense budget on personnel-related costs, you are going to have these shortfalls in the proper equipment, training facilities, et cetera. I would like to have people start addressing the medical situation in the Rapid Deployment Forces in our Active Duty Forces. Today if we were to have an outbreak in hostilities, I feel we will have committed a terrible moral injustice by not having available proper medical facilities and proper medical personnel to give our troops and our casualties top-notch medical care.

I think we are sticking our heads in the sand. I say, let us give the administration a chance to make it work. But I have gone through this scenario for the last 8 years, and I say we have got a sales job to do. We have got to go out and get kids who can read and write, and as a result we have had to establish remedial reading schools at our bases.

I just hope we start looking at the major problems facing our defense.

Mr. STRATTON. Mr. Speaker, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from New York.

Mr. STRATTON. I thank the gentleman for yielding. In response to the question raised by my friend, the gentleman from Louisiana (Mr. ROEMER) quoting Fallon, that if we really wanted to get an A No. 1 force, it would bust the country, I think there may be something to what he has said.

The SPEAKER pro tempore. The time of the gentleman from Alabama (Mr. DICKINSON) has expired.

Mr. STRATTON. I wonder if my friend, the gentleman from New York (Mr. ZEFERETTI) would yield to the gentleman from Alabama (Mr. DICKINSON) just a couple more minutes so I could explore this.

Mr. ZEFERETTI. I yield 2 minutes to the gentleman from Alabama (Mr. DICKINSON).

Mr. DICKINSON. I yield to the gentleman from New York.

Mr. STRATTON. The fact of the matter is that if we are realistic, we are not going to get any kind of a draft or a limited draft or a Reserve draft through this Congress at this particular time. The President of the United States has indicated that he is opposed to it, and so the only way that we can keep our Armed Forces together is to support the additional pay bill that the gentleman is recommending.

Mr. DICKINSON. I thank the gentleman. I might observe that, as the gentleman is well aware, the Supreme Court yesterday cut down at least 50 percent of our draft-available people in this country by saying that they did not have to register women for the draft. So that limits our resources considerably.

Mr. STRATTON. I support the Supreme Court.

Mr. HILLIS. Mr. Speaker, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Indiana.

Mr. HILLIS. I thank the gentleman for yielding.

In line with what my colleague, the gentleman from New York (Mr. STRATTON) was just saying, a draft would go to bring first-time new recruits to the service. What we need here today is the retention of skilled people, as the gentleman has pointed out, and a draft is not going to help that. In fact, it may aggravate some of the problems we have. We do not have the leadership that we need to train these people. What we need is the pay to keep middle-category people. That is why I think this bill is so essential at this time. We have got to keep the noncommissioned officer corps in the Army, the Navy, and the Marine Corps intact or we will really be in a bad situation.

Mr. BEARD. Mr. Speaker, will the gentleman yield on that point?

Mr. DICKINSON. I yield to the gentleman from Tennessee.

Mr. BEARD. I agree. I support the package, but let me just point out that last year 46 percent of the enlistees that joined the Army were mental category IV's. Now the reenlistment trend is improving in the Army, but I

think one would find it interesting to ask the Army who are the people that are reenlisting. I think it would concern you a great deal to see who the people are who are reenlisting. In many cases we are having many good people reenlist, but many are those people in mental categories that really I would question as to whether we want them as NCO's of the future Active Duty Forces.

Mr. DICKINSON. I thank the gentleman.

Mr. ZEFERETTI. Mr. Speaker, I yield 5 minutes to the gentleman from Alabama (Mr. NICHOLS) chairman of the Subcommittee on Military Personnel and Compensation of the Committee on Armed Services.

Mr. NICHOLS. Mr. Speaker, I appreciate the gentleman's yielding to me this time.

The purpose of H.R. 3380 is threefold. First, the bill would authorize a 14.3-percent increase in basic pay and in quarters and subsistence allowances for all personnel in the uniformed services. The increase would restore, in current dollars, the relative relationship of military compensation to pay in the private sector that existed in 1972. Second, it would provide certain increases in special pays and bonuses that are designed to assist in attracting and retaining individuals in critical skills in the uniformed services. Third, it would provide certain travel and transportation allowances that are designed to assist in alleviating hardships and financial irritants occasioned by military service.

Mr. Speaker, there has been a great deal of controversy about whether it would be proper and whether it would serve a purpose to provide an across-the-board pay raise to all members of the armed services, or whether this money should instead be targeted to certain areas within the armed services. On Tuesday of this week Secretary Weinberger, the distinguished Secretary of Defense, appeared before the Armed Services Committee, and I would like to read into the RECORD a question that I put to the Secretary. I said to the Secretary:

Mr. Secretary, you recently stated in a letter to Chairman Price that you remain committed to a substantial pay increase for all military personnel in October.

To clarify your position for members of the committee, can I infer from your letter that this Administration and you, particularly, Mr. Secretary, strongly support a 14.3 percent, across-the-board increase in October, as included in H.R. 3380, as opposed to the targeted increase of approximately the same amount which is what the Appropriations Committee may be proposing?

This is the Secretary's response to my inquiry:

Yes, Congressman. You cannot only infer it, that is absolutely the fact. I do remain fully committed to that figure. To my mind, nothing is more important than this in the things we are doing now. If I might say just a word or two, I will say why we think it is so important.

We had, as a result of this committee and other committees' actions, a pay increase voted last October. That had a very good effect on increasing enlistments and even more important, in increasing retention—the middle management, so to speak, the noncommissioned officers, and field grade officers who do a lot of the training in the actual operation of the armed services.

There was also widespread understanding at that time, fueled by expectations of the new Administration's requests that there would be additional pay increases, one in July and one in October, totaling the 14.3 percent contained in your bill.

We strongly supported it then; we strongly support it now. We think it is essential because at the moment the enlistment, the recruitment, the retention figures were all running substantially ahead of previous years, and I am convinced that a good part of that is due both to the pay increase and the expectation, which I think is fully justified, based on the failure to keep up with inflation, and the other matters that have occurred in the past few years, that there would be another pay increase voted, and I think it would have a very bad effect on morale, I think it would be basically quite unfair.

Mr. Speaker, this bill was passed out of the Committee on Armed Services by a 36-to-1 vote, and I would strongly urge its adoption by the Members.

Mr. DICKS. Mr. Speaker, will the gentleman yield?

Mr. NICHOLS. I yield to the gentleman from Washington.

Mr. DICKS. First of all, I want to compliment the gentleman, particularly for the work he did last year in helping us achieve an 11.7-percent pay increase for the military and the so-called Nunn-Warner package, both of which I think contributed vitally to an improvement in the retention rate. I would just like to share with the gentleman—I am sure he knows this—that the Chief of Staff of the Army, General Meyer, has said publicly that he favors the targeted approach rather than the so-called across-the-board approach, because he feels that the targeted approach will help keep the NCO's in the Army, and from his perspective that is the most crucial advance we could make. Also the Congressional Budget Office has given us data that indicates that over 19,000 additional NCO's would be retained between now and 1986 if we go with a targeted approach instead of the across-the-board approach.

As I said, I want to compliment the gentleman for his work in the past. I think we can improve upon what the Committee on Armed Services has done, which is very important here, in helping us keep the critical middle management of our services.

Mr. NICHOLS. I thank the gentleman for his statement. I would remind the gentleman of this, that the Secretary of Defense has the authority now to target 25 percent of the proposed 14.3-percent pay raise.

Mr. DICKS. But they have refused to do it.

Mr. NICHOLS. I say let us give the Department that responsibility rather than take it on ourselves to determine that this man ought to get a lesser percent and that man ought to get a larger percent. I think it makes a lot of sense to give that discretion to the people who know more about the specific impact on the military.

Mr. DICKS. It seems to me General Meyer ought to know something about it, and he supports it.

Mr. TAYLOR. Mr. Speaker, I yield 5 minutes to the ranking minority member of the Subcommittee on Military Personnel and Compensation of the Committee on Armed Services, the gentleman from New York (Mr. MITCHELL).

□ 1300

Mr. MITCHELL of New York. Mr. Speaker, I am going to support the rule fully and I am also going to support the House version of the pay raise bill.

We promised the members of the armed services a 14.3-percent across-the-board pay raise. We promised it several years ago when we went along with the comparability philosophy that people in the armed services should not make sacrifices in the pay they receive because they are defending our Nation. They are expecting it. The perception is important. We understand that some of them have it spent already. They are counting on that 14.3-percent raise.

Through the years on the Subcommittee on Military Personnel and Compensation, Mr. Speaker, our two biggest obstacles to attracting and retaining quality people have been two factors: One is called erosion of benefits and the other is called breach of contract. Many of the people in the armed services see that the Congress has not lived up to what it has promised in the past. They do claim that their benefits are eroding and Congress is doing it. They do state that we have breached the contracts we have made.

I am afraid if we go along with the Senate version that that will be viewed in the light of another breach of contract. We have just begun turning this situation around. We have just begun building momentum in attracting and retaining quality people to operate our highly technical weapons. We have made dramatic improvements in several areas in enlistments and reenlistments. The Army has especially benefited greatly by this turnaround and enthusiasm for serving in our armed services.

The appropriations bill, as I understand it, would just as soon as possible substitute the Senate version which does target more extensively than the

House version. I say to my colleagues here, we do not have any need to further target. We already target a huge amount of our funds up to nearly $2 billion worth right now. We pay special pay for situations like sea pay, flight pay, submarine pay, combat arms pay, hazardous duty pay, nuclear duty pay—nearly $2 billion worth.

Further, as my good friend and the chairman of our Subcommittee on Military Personnel and Compensation just stated, the Secretary of Defense in the law right now has the option, the flexibility, of targeting another 25 percent of this $3.2 billion package.

So, more targeting we do not need. I think it will just further confuse the situation.

All the Secretaries in the services support the House bill. The Secretary of Defense supports the House bill. The 14.3-percent House version sends a clear signal to our military personnel all over the world that the Congress and the American people are behind them, that we do care, and that we do appreciate the sacrifices they make on our behalf.

In conclusion, Mr. Speaker, both bills will cost the same amount of money. The House version, in my estimation, will continue the momentum we have been building. We do not need further targeting. We already target pretty nearly every target there is to target.

I would urge my colleagues to stick with the 14.3-percent across-the-board pay raise, stick with the version that the military personnel want and expect, stick with the House version.

Mr. TAYLOR. Mr. Speaker, I yield 1 minute to the ranking minority member of the Subcommittee on Defense of the Committee on Appropriations, the gentleman from Alabama (Mr. EDWARDS).

Mr. EDWARDS of Alabama. Mr. Speaker, I shall not prolong this. I know we need to get on with the budget reconciliation bill.

We have been sitting here now for about 45 minutes listening to the Committee on Armed Services tell us all the reasons why their bill is better than the view of the Committee on Appropriations, and I think that the Members ought to know there is another view.

We, in the Committee on Appropriations, do support the rule, but we have a little different approach. At the time the bill comes up for debate, I think my colleagues will find another view that they should listen to.

Mr. ZEFERETTI. Mr. Speaker, I yield 1 minute to the chairman of the Subcommittee on Defense of the Committee on Appropriations, the gentleman from New York (Mr. ADDABBO).

Mr. ADDABBO. Mr. Speaker, the Committee on Appropriations supports virtually all of H.R. 3380 as reported out by the Armed Services Committee. Of the total of 11 different sections in the bill, the committee fully agrees with 10.

I applaud the distinguished chairman from Alabama and the members of his Subcommittee on Military Personnel and Compensation for producing a bill that provides thoughtful solutions to such various and difficult personnel problems as: A shortage of science and engineering officers; adequate reimbursement for temporary lodging when changing duty stations; emergency home leave for those stationed overseas; consolidation of authority for hazardous duty pay; and an increase in the ceiling for enlistment bonuses which will be of particular help to the Army in its recruiting effort.

Mr. Speaker, the only area of disagreement concerns section 2 in which the Armed Services Committee recommended an across-the-board 14.3-percent military pay raise on October 1, 1981, in lieu of a 5.3-percent raise on July 1, and a separate 9.1-percent raise on October 1 as proposed by the President.

The Appropriations Committee held detailed hearings on H.R. 3380 with witnesses from the Office of the Secretary of Defense, the military services, and the General Accounting Office. The overwhelming substance of the testimony clearly dictates that the military pay raise for October 1 should be targeted. The committee believes that a pay raise as high as 22 percent should be granted to certain highly skilled and experienced enlisted personnel who are in short supply with others receiving raises in varying lesser amounts but with no one receiving a raise of less than 7 percent. The net effect of our proposal is to give a pay raise that will average 14.3 percent as opposed to the across-the-board proposal of 14.3 percent recommended by the Armed Services Committee.

I am committed to making the All-Volunteer Force work. However, the approach recommended by the Armed Services Committee would leave the pay tables in the proportion that was designed in the early 1970's without making any adjustments by pay grade based upon almost a decade of experience. Just as field testing is used to make needed adjustments in the design of tank or aircraft before they are put into long-term production, we should use the accumulated evidence of nearly 10 years' experience to make military compensation support the All-Volunteer Force in the most economic manner possible.

Mr. Speaker, I would only make one final comment with regard to procedure. The Appropriations Committee amendment calls for a 9.1-percent pay raise on October 1 as originally proposed by the President. However, when this amendment comes up for consideration on the floor, it is my intention to offer in the name of the Appropriations Committee a substitute amendment which would restore the raise to an average 14.3 percent, but would be targeted as I mentioned previously. This is fully laid out on pages 9 through 19 in part 2 of the report accompanying H.R. 3380. I include a copy of my amendment at the end of my remarks.

Mr. Speaker, I support the proposed rule on H.R. 3380.

SUBSTITUTE AMENDMENT OFFERED BY THE COMMITTEE ON APPROPRIATIONS

On page 2, beginning on line 6 through line 11 on page 3, delete all of section 2, and insert in lieu thereof a revised Section 2, as follows:

PAY INCREASE FOR MEMBERS OF THE UNIFORMED SERVICES

SEC. 2. (a) Any adjustment required under the provisions of section 1009 of title 37, United States Code, relating to adjustments in the compensation of members of the uniformed services, that would otherwise first become effective beginning with any pay period in fiscal year 1982 shall not become effective.

(b) Effective with the first pay period after September 30, 1981, the monthly basic pay for members of the uniformed services within each pay grade, based on years of service computed under section 205 of title 37, United States, Code, shall be as follows:

COMMISSIONED OFFICERS [1]

Pay grade	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 26	Over 30
0–10 [2]	$4,416.00	$4,571.40	$4,571.40	$4,571.40	$4,571.40	$4,746.00	$4,746.00	$5,110.20	$5,110.20	$5,475.00	$5,475.00	$5,842.20	$5,842.20	$6,206.70	$6,206.70
0–9	3,913.80	4,016.40	4,101.90	4,101.90	4,101.90	4,206.00	4,206.00	4,381.20	4,381.20	4,746.00	4,746.00	5,110.20	5,110.20	5,475.00	5,475.00
0–8	3,544.80	3,651.00	3,737.70	3,737.70	3,737.70	4,016.40	4,016.40	4,206.00	4,206.00	4,381.20	4,571.40	4,746.00	4,936.80	4,936.80	4,936.80
0–7	2,945.40	3,146.10	3,146.10	3,146.10	3,286.80	3,286.80	3,477.00	3,477.00	3,651.00	4,016.40	4,292.40	4,292.40	4,292.40	4,292.40	4,292.40
0–6	2,184.00	2,399.10	2,555.70	2,555.70	2,555.70	2,555.70	2,555.70	2,555.70	2,760.00	3,060.00	3,217.20	3,286.80	3,477.00	3,771.00	3,771.00
0–5	1,761.00	2,068.80	2,211.60	2,211.60	2,211.60	2,211.60	2,329.50	2,411.70	2,573.10	2,765.70	2,924.70	3,013.20	3,118.20	3,118.20	3,118.20
0–4	1,485.00	1,807.80	1,929.00	1,929.00	2,025.00	2,115.00	2,239.80	2,355.00	2,463.00	2,526.00	2,573.40	2,573.40	2,573.40	2,573.40	2,573.40
0–3 [3]	1,380.00	1,542.00	1,649.10	1,841.10	1,928.70	1,998.60	2,106.00	2,191.20	2,225.40	2,265.00	2,292.00	2,320.80	2,320.80	2,320.80	2,320.80
0–2 [3]	1,160.40	1,267.80	1,522.80	1,602.90	1,636.50	1,636.50	1,636.50	1,636.50	1,636.50	1,636.50	1,636.50	1,636.50	1,636.50	1,636.50	1,636.50
0–1 [3]	1,007.40	1,048.50	1,267.50	1,267.50	1,267.50	1,267.50	1,267.50	1,267.50	1,267.50	1,267.50	1,267.50	1,267.50	1,267.50	1,267.50	1,267.50

[1] Basic pay is limited to the rate of basic pay payable for level V of the executive schedule.
[2] While serving as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, basic pay for this grade is $6,848.10 regardless of cumulative years of service computed under sec. 205 of title 37 of the United States Code.
[3] Does not apply to commissioned officers who have been credited with over 4 years active service as enlisted members or warrant officers.

COMMISSIONED OFFICERS WHO HAVE BEEN CREDITED WITH OVER 4 YEARS ACTIVE SERVICE AS ENLISTED MEMBERS OR WARRANT OFFICERS

Pay grade	Over 4	Over 6	Over 8	Over 10	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 26	Over 30
O–3	$1,829.70	$1,917.00	$1,986.00	$2,093.10	$2,197.20	$2,285.10	$2,325.00	$2,353.80	$2,379.00	$2,379.00	$2,379.00	$2,379.00
O–2	1,603.20	1,636.50	1,723.20	1,812.00	1,882.50	1,934.10	1,934.10	1,934.10	1,934.10	1,934.10	1,934.10	1,934.10
O–1	1,267.50	1,379.10	1,459.50	1,512.00	1,564.80	1,636.20	1,636.20	1,636.20	1,636.20	1,636.20	1,636.20	1,636.20

WARRANT OFFICERS

Pay grade	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 26	Over 30
W–4	$1,409.40	$1,512.00	$1,512.00	$1,546.80	$1,617.70	$1,688.70	$1,759.20	$1,882.20	$1,969.50	$2,039.10	$2,093.10	$2,161.50	$2,233.80	$2,407.50	$2,407.50
W–3	1,281.00	1,389.00	1,389.00	1,407.00	1,424.10	1,528.20	1,617.00	1,670.40	1,723.20	1,774.80	1,829.70	1,900.50	1,969.50	2,039.10	2,039.10
W–2	1,079.70	1,167.00	1,167.00	1,223.70	1,290.90	1,389.00	1,442.10	1,495.20	1,546.80	1,600.80	1,653.00	1,706.10	1,775.10	1,775.10	1,775.10
W–1	889.40	1,031.10	1,031.10	1,137.00	1,189.20	1,266.00	1,317.00	1,372.20	1,424.10	1,476.00	1,528.20	1,582.80	1,582.80	1,582.80	1,582.80

ENLISTED MEMBERS

Pay grade	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 24	Over 26	Over 28	Over 30
E–9 [1]	0	0	0	0	0	0	$1,682.40	$1,720.50	$1,759.50	$1,800.00	$1,840.20	$1,875.90	$1,974.60	$2,025.00	$2,166.30	$2,221.50	$2,221.50
E–8	0	0	0	0	0	$1,416.00	1,455.90	1,494.60	1,533.60	1,573.80	1,615.20	1,664.10	1,746.60	1,785.00	1,941.60	1,941.60	1,941.60
E–7	$977.10	$1,054.50	$1,093.80	$1,149.90	$1,180.20	1,217.40	1,256.70	1,297.80	1,354.50	1,394.70	1,436.40	1,479.90	1,547.70	1,587.60	1,740.00	1,740.00	1,740.00
E–6	843.90	920.10	958.50	1,009.50	1,047.60	1,086.00	1,125.60	1,183.50	1,221.00	1,260.30	1,279.20	1,279.20	1,279.20	1,279.20	1,279.20	1,279.20	1,279.20
E–5	734.70	799.50	838.20	885.00	952.80	987.30	1,020.30	1,046.10	1,050.90	1,050.90	1,050.90	1,050.90	1,050.90	1,050.90	1,050.90	1,050.90	1,050.90
E–4	663.90	726.90	769.20	821.70	854.10	854.10	854.10	854.10	854.10	854.10	854.10	854.10	854.10	854.10	854.10	854.10	854.10
E–3	632.70	667.50	715.20	715.20	715.20	715.20	715.20	715.20	715.20	715.20	715.20	715.20	715.20	715.20	715.20	715.20	715.20
E–2	603.30	603.30	603.30	603.30	603.30	603.30	603.30	603.30	603.30	603.30	603.30	603.30	603.30	603.30	603.30	603.30	603.30
E–1	536.40	536.40	536.40	536.40	536.40	536.40	536.40	536.40	536.40	536.40	536.40	536.40	536.40	536.40	536.40	536.40	536.40

[1] While serving as Sergeant Major of the Army, Master Chief Petty Officer of the Navy or Coast Guard, Chief Master Sergeant of the Air Force, or Sergeant Major of the Marine Corps, basic pay for this grade is $2,633.10 regardless of cumulative years of service computed under sec. 205 of title 37 of the United States Code.

(c) the basic allowance for subsistence authorized enlisted members and officers by section 402 of title 37, United States Code, shall be as follows:

"Officers	$94.39 per month
"Enlisted members when on leave or authorized to mess separately.	$4.50 per day
"When rations in-kind are not available.	$5.09 per day
"When assigned to duty under emergency conditions where no messing facilities of the United States are available.	$6.73 per day";

and

(d) the basic allowances for quarters authorized members of the uniformed services by section 403(a) of title 37, United States Code, shall be as follows:

"Pay grade	Without dependents: Full rate	Without dependents: Partial rate [1]	With dependents
"Commissioned officers:			
O–10	$489.00	$50.70	$611.70
O–9	489.00	50.70	611.70
O–8	489.00	50.70	611.70
O–7	489.00	50.70	611.70
O–6	438.90	39.60	535.50
O–5	404.70	33.00	487.20
O–4	360.30	26.70	434.70
O–3	316.80	22.20	390.90
O–2	275.10	17.70	348.00
O–1	214.80	13.20	279.60
"Warrant officers:			
W–4	347.10	25.20	419.10
W–3	309.60	20.70	381.60
W–2	269.10	15.90	342.60
W–1	243.00	13.80	314.70
"Enlisted members:			
E–9	268.20	18.60	377.40
E–8	247.20	15.30	348.60
E–7	210.30	12.00	324.30
E–6	191.10	9.90	298.20
E–5	183.60	8.70	274.20
E–4	158.10	8.10	235.50
E–3	141.30	7.80	205.50
E–2	124.80	7.20	205.50
E–1	117.90	6.90	205.50

[1] Payable to a member without dependents who, under section 403 (b) or (c) of title 37, United States Code, is not entitled to receive a basic allowance for quarters.".

(e) Section 203(c)(1) of title 37, United States Code, authorizing the monthly pay of cadets and midshipmen is amended by striking out "$313.20" and inserting in lieu thereof "$448.80".

Mr. ZEFERETTI. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

OMNIBUS BUDGET RECONCILIATION ACT OF 1981

Mr. PANETTA. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3982) to provide for reconciliation pursuant to section 301 of the first concurrent resolution on the budget for the fiscal year 1982.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. PANETTA).

The question was taken; and on a division (demanded by Mr. LEVITAS) there were—yeas 51, nays 3.

So the motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3982, with Mr. BOLAND in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole House rose earlier today, all time for general debate had expired.

Pursuant to the rule, the bill is considered as having been read for amendment under the 5-minute rule.

No amendments are in order except an amendment in the nature of a substitute, the text of H.R. 3964, which shall be considered as an original bill for the purpose of amendment and shall be considered as having been read and the following amendments to said substitute:

(1) A substitute amendment to title VI by Representative Broyhill, if offered, and said

amendment shall be considered as having been read and shall not be subject to amendment or a division of the question; and

(2) The amendments of Representative Latta of Ohio which shall be considered en bloc and shall be considered as having been read and shall not be subject to amendment or to a division of the question.

The Chair now recognizes the gentleman from Ohio (Mr. LATTA).

Mr. LATTA. Mr. Chairman, I yield myself 10 minutes.

The CHAIRMAN. Does the gentleman offer an amendment?

AMENDMENTS OFFERED BY MR. LATTA

Mr. LATTA. Mr. Chairman, I offer amendments.

The CHAIRMAN. Under the rule, the amendments are considered as having been read.

The amendments are as follows:

TITLE I—HOUSE COMMITTEE ON AGRICULTURE

Title I is amended by striking lines 10 through 23, page 2 and inserting in lieu thereof the following new sections 1001 through 1014 and redesignating existing sections 1002 and 1003 as sections 1015 and 1016:

Subtitle A—Food Stamp Program Reductions and Other Reductions in Authorizations for Appropriations

FOOD STAMP PROGRAM REDUCTIONS

HOUSEHOLD DEFINITION

SEC. 1001. Section 3(i) of the Food Stamp Act of 1977 is amended—

(1) by inserting before the period at the end of the first sentence "; except that parents and children who live together shall be treated as a group of individuals who customarily purchase and prepare meals together for home consumption even if they do not do so, unless one of the parents is 60 years of age or older";

(2) in paragraph (2) by striking out "live together" and inserting in lieu thereof "live as one economic unit"; and

(3) by striking "neither" in the second sentence and inserting "no" in lieu thereof.

BOARDERS

SEC. 1002. Section 3(i) of the Food Stamp Act of 1977 is amended by—

(1) striking in clause (1) of the first sentence "or else pays compensation to the others for such meals,";

(2) striking in clause (2) of the first sentence "or else live with others and pay compensation to the others for such meals"; and

(3) adding before the period at the end of the second sentence ", or else live with others and pay compensation to the others for meals".

ADJUSTMENT OF THE THRIFTY FOOD PLAN

SEC. 1003. Section 3(o) of the Food Stamp Act of 1977 is amended by striking "and" before clause (6) and all that follows down through the end of clause (6), and inserting in lieu thereof the following: "(6) on April 1, 1982, adjust the cost of such diet to the nearest dollar increment to reflect changes in the cost of the thrifty food plan for the fifteen months ending the preceding December 31, (7) on July 1, 1983, adjust the cost of such diet to the nearest dollar increment to reflect changes in the cost of the thrifty food plan for the fifteen months ending the preceding March 31, (8) on October 1, 1984, adjust the cost of such diet to the nearest dollar increment to reflect changes in the cost of the thrifty food plan for the fifteen months ending the preceding June 30, and (9) on October 1, 1985, and each October 1 thereafter, adjust the cost of such diet to the nearest dollar increment to reflect changes in the cost of the thrifty food plan for the twelve months ending the preceding June 30.".

GROSS INCOME ELIGIBILITY STANDARD

SEC. 1004. (a) Section 5 of the Food Stamp Act of 1977 is amended by—

(1) striking "subsections (c) and (e)" in subsection (b) and inserting in lieu thereof "subsection (c)";

(2) inserting in subsection (c) "130 per centum of" after "standards of eligibility shall be"; and

(3) striking from the first sentence of subsection (e) "In" and inserting in lieu thereof "Further, in", and inserting "for purposes of determining the household's benefits level only," after "household income,".

(b) Section 8(a) of the Food Stamp Act of 1977 is amended by inserting "(d) and (e)" after "section 5" in the first sentence.

REDUCTION IN DEDUCTION ADJUSTMENT

SEC. 1005. Section 5(e) of the Food Stamp Act of 1977 is amended by—

(1) in the second sentence, striking out everything after "January 1, 1982" and inserting in lieu thereof: "and every January 1 thereafter, shall be adjusted to the nearest $5 to reflect changes in the Consumer Price Index for all urban consumers of the Bureau of Labor Statistics for items other than food (exclusive of the home ownership portion of the shelter component of housing costs), for the twelve months ending the preceding September 30."; and

(2) in the fourth sentence, striking out everything after "January 1, 1982" through the end of clause (2), and inserting in lieu thereof: "and every January 1 thereafter, adjusted to the nearest $5 to reflect changes in the shelter (exclusive of the home ownership portion), fuel, and utilities components of housing costs in the Consumer Price Index for all urban consumers of the Bureau of Labor Statistics for the twelve months ending the preceding September 30, or".

RETROSPECTIVE ACCOUNTING

SEC. 1006. (a) Section 5(f) of the Food Stamp Act of 1977 is amended to read:

"(f)(1)(A) Household income for those households that, by contract for other than an hourly or piecework basis or by self-employment, derive their annual income in a period of time shorter than one year, shall be calculated by averaging such income over a twelve-month period.

"(B) Household income for those households that received nonexcluded income of the type described in subsection (d)(3) of this section, shall be calculated by averaging such income over the period for which it is received.

"(2)(A) Household income for migrant farmworker households shall be calculated on a prospective basis, as provided in paragraph (3)(A).

"(B) Household income for all other households shall be calculated either on a prospective basis as provided in paragraph (3)(A) or on a retrospective basis as provided in paragraph (3)(B), as elected by the State agency under regulations prescribed by the Secretary.

"(3)(A) Calculation of household income on a prospective basis is the calculation of income on the basis of the income reasonably anticipated to be received by the household during the period for which eligibility or benefits are being determined. Such calculation shall be made in accordance with regulations prescribed by the Secretary which shall provide for taking into account both the income reasonably anticipated to be received by the household during the period for which eligibility or benefits are being determined and the income received by the household during the preceding thirty days.

"(B) Calculation of household income on a retrospective basis is the calculation of income for the period for which eligibility or benefits are being determined on the basis of income received in a previous period. Such calculation shall be made in accordance with regulations prescribed by the Secretary which may provide for the determination of eligibility on a prospective basis in some or all cases in which benefits are calculated under this paragraph. Such regulations shall provide for supplementing the initial allotments of newly applying households in those cases in which the determination of income under this paragraph causes serious hardship.

"(4) In promulgating regulations under this subsection, the Secretary shall consult with the Secretary of Health and Human Services in order to assure that, to the extent feasible and consistent with the purposes of this Act and the Social Security Act, the income of households receiving benefits under this Act and title IV-A of the Social Security Act, is calculated on a comparable basis under the two Acts. The Secretary is authorized, upon the request of a State agency, to waive any of the provisions of this subsection to the extent necessary to permit the State agency to calculate income for purposes of this Act on the same basis that income is calculated under title IV-A of the Social Security Act in that State.".

(b) Effective October 1, 1983, paragraph (2)(B) of section 5(f) of the Food Stamp Act of 1977, as amended by subsection (a), is amended to read:

"(B) Household income for all other households shall be calculated on a retrospective basis as provided in paragraph (3)(B).".

(c) Section 5(d) of the Food Stamp Act of 1977 is amended by striking "5(f)(2)" and inserting "5(f)" in lieu thereof.

PERIODIC REPORTING

SEC. 1007. (a) Section 3(c) of the Food Stamp Act of 1977 is amended by inserting before the period at the end of the second sentence "except that the limit of twelve months may be waived by the Secretary to improve the administration of the program".

(b) Section 6(c) of the Food Stamp Act of 1977 is amended by—

(1) inserting after "households" in the first sentence of paragraph (1) ", including all households with earned income, except migrant farmworker households, all households with potential earners, including individuals receiving unemployment compensation benefits and individuals required by section 6(d) of this Act to register for work, and all households required to file a similar report under title IV-A of the Social Security Act, but not including households that have no earned income and in which all members are sixty years of age or over or receive supplemental security income benefits under title XVI of the Social Security Act or disability and blindness payments under titles I, II, X, XIV, and XVI of the Social Security Act,";

(2) striking "5(f)(2)" in paragraph (1) and inserting "5(f)" in lieu thereof; and

(3) inserting after paragraph (3) the following new paragraph:

"(4) Any household that fails to submit periodic reports required by paragraph (1) shall not receive an allotment for the payment period to which the unsubmitted report applies until such report is submitted.".

(c) Effective October 1, 1983, section 6(c)(1) of the Food Stamp Act of 1977 is further amended by—

(1) striking in the first sentence "that elect to use a system of retrospective accounting in accordance with section 5(f) of this Act"; and

(2) striking the second sentence.

ELIGIBILITY OF STRIKERS

SEC. 1008. (a) Section 6(d)(4) of the Food Stamp Act of 1977 is amended by—

(1) inserting before the colon at the end of the first proviso the following: ", however, such household shall not receive an increased allotment as the result of a decrease in the income of the striking member or members of the household";

(2) inserting a period in lieu of the colon at the end of the second proviso; and

(3) striking the third proviso.

(b) Section 6(i) of the Food Stamp Act of 1977 is repealed.

VALUE OF ALLOTMENT

SEC. 1009. (a) Effective October 1, 1982, section 8(a) of the Food Stamp Act of 1977 is amended by striking out "30 per centum" and inserting in lieu thereof "31.5 per centum".

(b) Effective October 1, 1983, section 8(a) of the Food Stamp Act of 1977 is amended by striking out "31.5 per centum" and insert in lieu thereof "32.5 per centum".

PRORATING FIRST MONTH BENEFITS

SEC. 1010. Section 8 of the Food Stamp Act of 1977 is amended by adding at the end thereof the following new subsection:

"(c) The value of the allotment issued to any eligible household for the initial month or other initial period for which an allotment is issued shall have a value which bears the same ratio to the value of the allotment for a full month or other initial period for which the allotment is issued as the number of days (from the date of application) remaining in the month or other initial period for which the allotment is issued bears to the total number of days in the month or other initial period for which the allotment is issued. As used in this subsection, the term 'initial month' means (1) the first month for which an allotment is issued to a household, and (2) the first month for which an allotment is issued to a household following any period of more than thirty days during which such household was not participating in the food stamp program under this Act after previous participation in such program.".

OUTREACH

SEC. 1011. (a) Section 11(e)(1) of the Food Stamp Act of 1977 is amended by striking clauses (A) and (B) and redesignating existing clause (C) as (B) and inserting the following new clause (A):

"(A) not conduct food stamp outreach activities with funds provided under this Act;".

(b) Section 16(a) of that Act is amended by—

(1) striking clause (1); and

(2) redesignating clauses (2), (3), (4), and (5) as clauses (1), (2), (3), and (4), respectively.

ELIGIBILITY DISQUALIFICATIONS AND CLAIMS COLLECTIONS

SEC. 1012. (a) Section 6(b) of the Food Stamp Act of 1977 is amended to read as follows:

"(b) No individual who is a member of a household which is otherwise eligible to participate in the food stamp program shall be eligible to participate in the program for (1) a period of three months after the date on which such individual has been found by a State agency, after notice and opportunity for hearing at the State level, or after failure to appeal a local hearing to the State level, to have intentionally made a false or misleading statement or misrepresented, concealed, or withheld facts for the purpose of using, presenting, transferring, acquiring, receiving, or possessing coupons or authorization cards in violation of this Act or the regulations issued thereunder, or to have fraudulently used, presented, transferred, acquired, received, possessed, or altered coupons or authorization cards; or (2) a period of not less than six and not more than twenty-four months, as determined by the court, after such individual has been found by a court of appropriate jurisdiction, with a State or a political subdivision thereof or the United States as prosecutor or plaintiff, to have committed criminal or civil fraud in the use, presentation, transfer, acquisition, receipt, possession, or alteration of coupons or authorization cards; or (3) both of the periods specified in clauses (1) and (2) of this subsection. Each State agency shall proceed against an individual alleged to have engaged in such activity either by way of administrative hearings in accordance with clause (1) of this subsection, or by referring such matters to appropriate legal authorities for civil or criminal action in accordance with clause (2) of the subsection, or both. Each period of ineligibility shall take effect immediately upon the relevant administrative or judicial finding and shall remain in effect, without possibility of administrative stay, unless and until the finding on which the ineligibility is based is subsequently reversed by a court of appropriate jurisdiction, but in no event shall the period of ineligibility be subject to judicial review."

(b)(1) Section 13 of the Food Stamp Act of 1977 is amended by redesignating current section 13 as subsection (b) and inserting before it the following new subsection:

"SEC. 13. (a)(1) In the case of any ineligibility determination under section 6(b), the household of which such ineligible individual is a member shall elect to (A) accept a reduction in the allotment of the household of which such individual is a member, or (B) pay in cash, in accordance with a schedule determined by the Secretary, an amount that will be sufficient to reimburse the Federal Government for any overissuance of coupons resulting from the conduct that was the basis of the finding of ineligibility. If a household refuses to make an election, or elects to make a payment in cash under the provisions of the preceding sentence and fails to do so, the household shall be subject to an allotment reduction.

"(2) Any claim against a household arising from the overissuance of coupons, other than claims the collection of which is provided for in paragraph (1) and claims arising from an error of the State agency, may be collected by reducing the monthly allotments of the household, but only in such cases and in such amounts as reasonable considering the income and resources of the household, as determined under regulations prescribed by the Secretary.".

(b)(2) The heading of section 13 of that Act is amended to "COLLECTION AND DISPOSITION OF CLAIMS".

(c) Section 16(a) of the Food Stamp Act of 1977 is amended by—

(1) striking out everything in the first sentence after "recovered or collected" and inserting in lieu thereof "pursuant to section 13(a)(1).".; and

(2) inserting in the second sentence after "determinations of" the word "ineligibility" in lieu of "fraud".

REPEAL OF INCREASES IN DEPENDENT CARE DEDUCTIONS FOR WORKING ADULTS AND MEDICAL DEDUCTIONS FOR THE ELDERLY AND DISABLED

SEC. 1013. Sections 104 and 105 of the Food Stamp Act Amendments of 1980 (Public Law 96-249) are repealed.

PUERTO RICO BLOCK GRANT

SEC. 1014. (a) Effective October 1, 1982 the Food Stamp Act of 1977 is amended by—

(A) striking "Puerto Rico," in section 3(m), clause (3) of section 3(o), section 5(b), wherever it appears in section 5(c) before the proviso, and wherever it appears in section 5(e) and striking "$50," and "$40," in section 5(e); and

(B) striking everything in section 5(c) after the first "forty-eight contiguous States" and inserting a period in lieu thereof.

(b) Effective October 1, 1982 that Act is further amended by adding at the end thereof the following new section:

"BLOCK GRANT

"SEC. 19. (a)(1)(A) From the sums appropriated under this Act the Secretary shall, subject to the provisions of this subsection and subsection (b), pay to the Commonwealth of Puerto Rico not to exceed $825,000,000 for each fiscal year to finance 100 per centum of the expenditures for food assistance provided to needy persons, and 50 per centum of the administrative expenses related to the provision of such assistance.

"(B) The payments to the Commonwealth for any fiscal year shall not exceed the expenditures by that jurisdiction during that year for the provision of the assistance the provision of which is included in the plan of the Commonwealth approved under subsection (b) and 50 per centum of the related administrative expenses.

"(2) The Secretary shall, subject to the provisions of subsection (b), pay to the Commonwealth for the applicable fiscal year, at such times and in such manner as the Secretary may determine, the amount estimated by the Commonwealth pursuant to subsection (b)(1)(A)(iv), reduced or increased to the extent of any prior overpayment or current underpayment which the Secretary determines has been made under this section and with respect to which adjustment has not already been made under this subsection.

"(b)(1)(A) In order to receive payments under this Act for any fiscal year, the Commonwealth shall have a plan for that fiscal year approved by the Secretary under this section. By July 1 of each year, if the Commonwealth wishes to receive payments, it shall submit a plan for the provision of the assistance described in subsection (a)(1)(A) for the following fiscal year which—

"(i) designates a single agency which shall be responsible for the administration, or supervision of the administration, of the program for the provision of such assistance;

"(ii) assesses the food and nutrition needs of needy persons residing in the Commonwealth;

"(iii) describes the program for the provision of such assistance, including the assistance to be provided and the persons to whom such assistance will be provided, and any agencies designated to provide such assistance, which program must meet such requirements as the Secretary may by regulation prescribe for the purpose of assuring that assistance is provided to the most needy persons in the jurisdiction;

"(iv) estimates the amount of expenditures necessary for the provision of the assistance described in the program and related administrative expenses, up to the amount provided for payment by subsection (a)(1)(A); and

"(v) includes such other information as the Secretary may require.

"(B)(i) The Secretary shall approve or disapprove any plan submitted pursuant to subparagraph (A) no later than August 1 of the year in which it is submitted. The Secretary shall approve any plan which complies with the requirements of subparagraph (A). If a plan is disapproved because it does not comply with any of the requirements of that paragraph the Secretary shall, except as provided in subparagraph (B)(ii), notify the appropriate agency in the Commonwealth that payments will not be made to it under subsection (a) for the fiscal year to which the plan applies until the Secretary is satisfied that there is no longer any such failure to comply, and until the Secretary is so satisfied, the Secretary will make no payments.

"(ii) The Secretary may suspend the denial of payments under subparagraph (B)(i) for such period as the Secretary determines appropriate and instead withhold payments provided for under subsection (a), in whole or in part, for the fiscal year to which the plan applies, until the Secretary is satisfied that there is no longer any failure to comply with the requirements, of subparagraph (A), at which time such withheld payments shall be paid.

"(2)(A) The Commonwealth shall provide for a biennial audit of expenditures under its program for the provision of the assistance described in subsection (a)(1)(A), and within 120 days of the end of each fiscal year in which the audit is made, shall report to the Secretary the findings of such audit.

"(B) Within 120 days of the end of the fiscal year, the Commonwealth shall provide the Secretary with a statement as to whether the payments received under subsection (a) for that fiscal year exceeded the expenditures by it during that year for which payment is authorized under this section, and if so, by how much, and such other information as the Secretary may require.

"(C)(1) If the Secretary finds that there is a substantial failure by the Commonwealth to comply with any of the requirements of subparagraphs (A) and (B), or to comply with the requirements of subsection (b)(1)(A) in the administration of a plan approved under subsection (b)(1)(B), the Secretary shall, except as provided in subparagraph (C)(ii), notify the appropriate agency in the Commonwealth that further payments will not be made to it under subsection (a) until the Secretary is satisfied that there will no longer be any such failure to comply, and until the Secretary is so satisfied, the Secretary shall make no further payments.

"(ii) The Secretary may suspend the termination of payments under subparagraph (C)(i) for such period as the Secretary determines appropriate, and instead withhold payments provided for under subsection (a), in whole or in part, until the Secretary is satisfied that there will no longer be any failure to comply with the requirements of subparagraphs (A) and (B) and subsection (b)(1)(A), at which time such withheld payments shall be paid.

"(iii) Upon a finding under subparagraph (C)(i) of a substantial failure to comply with any of the requirements of subparagraphs (A) and (B) and subsection (b)(1)(A), the Secretary may, in addition to or in lieu of any action taken under subparagraphs (C)(i) and (C)(ii), refer the matter to the Attorney General with a request that injunctive relief be sought to require compliance by the Commonwealth of Puerto Rico, and upon suit by the Attorney General in an appropriate district court of the United States and a showing that noncompliance has occurred, appropriate injunctive relief shall issue.

"(c)(1) The Secretary shall provide for the review of the programs for the provisions of the assistance described in subsection (a)(1)(A) for which payments are made under this Act.

"(2) The Secretary is authorized as the Secretary deems practicable to provide technical assistance with respect to the programs for the provision of the assistance described in subsection (a)(1)(A).

"(d) Whoever knowingly and willfully embezzles, misapplies, steals, or obtains by fraud, false statement, or forgery, any funds, assets, or property provided or financed under this section shall be fined not more than $10,000 or imprisoned for not more than five years, or both, but if the value of the funds, assets or property involved is not over $200, the penalty shall be a fine of not more than $1,000 or imprisonment for not more than one year, or both."

(Amendment to the amendment in the nature of a substitute by Mr. JONES of Oklahoma.)

Strike out all of title V of the amendment (relating to the House Committee on Education and Labor) and insert in lieu thereof the following:

TITLE V—HOUSE COMMITTEE ON EDUCATION AND LABOR

SHORT TITLE

SEC. 5001. This title may be cited as the "Omnibus Education and Labor Reconciliation Act of 1981".

Subtitle A—Restrictions on Appropriations

EFFECT ON OTHER LAWS

SEC. 5101. (a) Any provision of law which is not consistent with the provisions of this subtitle hereby is superseded and shall have only such force and effect during each of the fiscal years 1982, 1983, and 1984 which is consistent with this subtitle.

(b) Notwithstanding any authorization of appropriations for fiscal year 1982, 1983, or 1984 contained in any provision of law which is specified in this subtitle (including any authorization of appropriations contained in subtitle B of this title), no funds are authorized to be appropriated in excess of the limitations imposed upon appropriations by the provisions of this subtitle.

ACT OF MARCH 2, 1867 (HOWARD UNIVERSITY)

SEC. 5102. The total amount of appropriations to carry out the Act of March 2, 1867 (14 Stat. 439) shall not exceed $153,199,000 for each of the fiscal years 1982, 1983, and 1984.

ACT OF MARCH 3, 1879 (AMERICAN PRINTING HOUSE FOR THE BLIND)

SEC. 5103. The total amount of appropriations to carry out the Act of March 3, 1879 (20 Stat. 468) shall not exceed $5,595,000 for each of the fiscal years 1982, 1983, and 1984.

ACT OF SEPTEMBER 23, 1950 (IMPACT AID)

SEC. 5104. The total amount of appropriations to carry out the Act of September 23, 1950 (Public Law 815, 81st Congress) shall not exceed $20,000,000 for each of the fiscal years 1982, 1983, or 1984.

ACT OF SEPTEMBER 30, 1950 (IMPACT AID)

SEC. 5105. (a)(1) The total amount of appropriations to make payments on the basis of entitlements established under section 3 of the Act of September 30, 1950 (Public Law 874, 81st Congress) shall not exceed $371,000,000 for each of the fiscal years 1982, 1983, and 1984.

(2) None of the funds appropriated for such fiscal years to make such payments shall be paid to any local educational agency unless—

(A)(i) the local educational agency is an agency with respect to which the sum of the number of children determined for such fiscal year under subsections (a) and (b) of section 3 of such Act is equal to or exceeds 50 per centum of the total number of children who were in average daily attendance at the schools of such agency during such fiscal year and for whom such agency provided free public education; or

(ii) the local educational agency is an agency with respect to which the sum of the number of children determined for such fiscal year under subsection (a) of section 3 of such Act is equal to or exceeds 20 per centum of the total number of children who were in average daily attendance at the schools of such agency during such fiscal year and for whom such agency provided free public education;

(B) the local educational agency is an agency with respect to which the sum of—

(i) the number of children determined for such fiscal year under subsection (a) of section 3 of such Act;

(ii) the number of children determined for such fiscal year under subsection (b)(3) of section 3 of such Act; and

(iii) one-half of the number of children determined for such fiscal year under subsection (b) of section 3 of such Act;

is equal to or exceeds 25 per centum of the total number of children who were in average daily attendance at the schools of such agency during such fiscal year and for whom such agency provided free public education; or

(C) the local educational agency is an agency not otherwise described in subparagraphs (A) and (B) of this paragraph and such agency received a payment for fiscal year 1981 on the basis of the number of children determined for such fiscal year under subsection (a) of section 3 of such Act.

(3) Any provision of such Act to the contrary notwithstanding, any funds appropriated for fiscal year 1982 for the purpose of making payments on the basis of entitlements established under section 3 of such Act shall be allocated as follows:

(A) The Secretary shall first allocate to each local educational agency which is described in subparagraph (A) or (B) of paragraph (2) of this subsection an amount equal to (i) the number of children determined with respect to such agency for such fiscal year under subsection (a) of section 3 of such Act, multiplied by (ii) 100 percent of the amount paid to such agency for each of such children for fiscal year 1981.

(B) The Secretary shall next allocate to each local educational agency which is described in subparagraph (A) or (B) of paragraph (2) of this subsection an amount equal to (i) the number of children determined with respect to such agency for such fiscal year under subsection (b) of section 3 of such Act, multiplied by (ii) 80 percent of the amount paid to such agency for each of such children for fiscal year 1981.

(C) Any sums remaining after allocations are made pursuant to subparagraphs (A) and (B) of this paragraph shall be allocated to local educational agencies which are described in subparagraph (C) of paragraph (2) of this subsection. Subject to subparagraph (D) of this paragraph, each such agency shall be allocated an amount which bears the same ratio to the sums remaining for allocation as the number of children determined with respect to such agency for such fiscal year under subsection (a) of section 3 of such Act bears to the sum of the number of children determined under subsection (a) of section 3 of such Act for such fiscal year with respect to all the local educational agencies described in such subparagraph (C), except that no payment shall be made under this subparagraph at a rate in excess of the rate described in subparagraph (D)(ii).

(D)(i) If the amount appropriated for making such payments for fiscal year 1982 is not sufficient to pay in full the allocations required by subparagraphs (A) and (B) of this paragraph, then the amount of each such allocation shall be ratably reduced. If, after such a reduction is required, additional amounts are made available for making such payments, then such allocations shall be increased on the same basis as they were reduced.

(ii) If the amount appropriated for making such payments for fiscal year 1982 exceeds the amount necessary to pay in full the allocations required by such subparagraphs plus the amount necessary to make payments under subparagraph (C) at a rate, for each child determined under subsection (a) of section 3, equal to the rate paid for such children for fiscal year 1981, then the amount of each allocation under subparagraphs (A), (B), and (C) shall be ratably increased.

(4) Any provision of such Act to the contrary notwithstanding, any funds appropriated for fiscal year 1983 for the purpose of making payments on the basis of entitlements established under section 3 of such Act shall be allocated as follows:

(A) The Secretary shall first allocate to each local educational agency which is described in subparagraph (A) or (B) of paragraph (2) of this subsection an amount equal to (i) the number of children determined with respect to such agency for such fiscal year under subsection (a) of section 3 of such Act, multiplied by (ii) 100 percent of the amount paid to such agency for each of such children for fiscal year 1981.

(B) The Secretary shall next allocate to each local educational agency which is described in subparagraph (A) or (B) of paragraph (2) of this subsection an amount equal to (i) the number of children determined with respect to such agency for such fiscal year under subsection (b)(3) of section 3 of such Act, multiplied by (ii) 70 percent of the amount paid to such agency for each of such children for fiscal year 1981.

(C) Any sums remaining after allocations are made pursuant to subparagraphs (A) and (B) of this paragraph shall be allocated to local educational agencies which are described in subparagraph (C) of paragraph (2) of this subsection. Subject to subparagraph (D) of this paragraph, each such agency shall be allocated an amount which bears the same ratio to the sums remaining for allocation as the number of children determined with respect to such agency for such fiscal year under subsection (a) of section 3 of such Act, bears to the sum of the number of children determined under subsection (a) of section 3 of such Act for such fiscal year with respect to all the local educational agencies described in such subparagraph (C), except that no payment shall be made under this subparagraph at a rate in excess of the rate described in subparagraph (D)(ii).

(D)(i) If the amount appropriated for making such payments for fiscal year 1983 is not sufficient to pay in full the allocations required by subparagraphs (A) and (B) of this paragraph, then the amount of each such allocation shall be ratably reduced. If, after such a reduction is required, additional amounts are made available for making such payments, then such allocations shall be increased on the same basis as they were reduced.

(ii) If the amount appropriated for making such payments for fiscal year 1983 exceeds the amount necessary to pay in full the allocations required by such subparagraphs plus the amount necessary to make payments under subparagraph (C) at a rate, for each child determined under subsection (a) of section 3, equal to the rate paid for such children for fiscal year 1981, then the amount of each allocation under subparagraphs (A), (B), and (C) shall be ratably increased.

(5) Any provision of such Act to the contrary notwithstanding, any funds appropriated for fiscal year 1984 for the purpose of making payments on the basis of entitlements established under section 3 of such Act shall be allocated as follows:

(A) The Secretary shall first allocate to each local educational agency which is described in subparagraph (A) or (B) of paragraph (2) of this subsection an amount equal to (i) the number of children determined with respect to such agency for such fiscal year under subsection (a) of section 3 of such Act, multiplied by (ii) 100 percent of the amount paid to such agency for each of such children for fiscal year 1981.

(B) The Secretary shall next allocate to each local educational agency which is described in subparagraph (A) or (B) of paragraph (2) of this subsection an amount equal to (i) the number of children determined with respect to such agency for such fiscal year under subsection (b)(3) of section 3 of such Act, multiplied by (ii) 50 percent of the amount paid to such agency for each of such children for fiscal year 1981.

(C) Any sums remaining after allocations are made pursuant to subparagraphs (A) and (B) of this paragraph shall be allocated to local educational agencies which are described in subparagraph (C) of paragraph (2) of this subsection. Subject to subparagraph (D) of this paragraph, each such agency shall be allocated an amount which bears the same ratio to the sums remaining for allocation as the number of children determining with respect to such agency for such fiscal year under subsection (a) of section 3 of such Act, bears to the sum of the number of children determined under subsection (a) of section 3 of such Act for such fiscal year with respect to all the local educational agencies described in such subparagraph (C), except that no payment shall be made under this subparagraph at a rate in excess of the rate described in subparagraph (D)(ii).

(D) If the amount appropriated for making such payments for fiscal year 1984 is not sufficient to pay in full the allocations required by subparagraphs (A) and (B) of this paragraph, then the amount of each such allocation shall be ratably reduced. If, after such a reduction is required, additional amounts are made available for making such payments, then such allocations shall be increased on the same basis as they were reduced. If the amount appropriated for making such payments for fiscal year 1984 exceeds the amount necessary to pay in full the allocations required by such subparagraphs plus the amount necessary to make payments under subparagraph (C) at a rate, for each child determined under subsection (a) of section 3, equal to the rate paid for such children for fiscal year 1981, then the amount of each allocation under subparagraphs (A), (B), and (C) shall be ratably increased.

(6) For any fiscal year beginning on or after October 1, 1984, no funds available under such Act shall be paid to local educational agencies with respect to children determined under subsection (b) of section 3 of such Act.

(b)(1) The total amount of appropriations authorized to be appropriated to make payments on the basis of entitlements established under section 2 of the Act of September 30, 1950 (Public Law 874, 81st Congress) shall not exceed $10,000,000 for each of the fiscal years 1982, 1983, and 1984.

(2) If the amount appropriated for making such payments for fiscal year 1982, 1983, or 1984 is not sufficient to pay in full the sum of the entitlements established under section 2 of such Act, then the amount of each such entitlement shall be ratably reduced. If, for any fiscal year in which such a reduction is required, additional amounts are made available for making such payments, then such entitlements shall be increased on the same basis as they were reduced.

(c) No funds are authorized to be appropriated for fiscal year 1982, 1983, or 1984 for the purpose of making payments—

(1) on the basis of entitlements determined under section 3(e) or 4 of such Act; or

(2) under sections 4A, 6, or 7 of such Act.

(d) Subsection (d) of section 402 of the Act of September 30, 1950 (Public Law 874, 81st Congress) shall not apply during fiscal year 1982, 1983, or 1984.

ACT OF JUNE 18, 1954 (GALLAUDET COLLEGE)

SEC. 5106. The total amount of appropriations to carry out the Act of June 18, 1954 (68 Stat. 265) shall not exceed $61,532,000 for each of the fiscal years 1982, 1983, and 1984.

ACT OF DECEMBER 24, 1970 (KENDALL SCHOOL)

SEC. 5107. The total amount of appropriations to carry out the Act of December 24, 1970 (84 Stat. 1579) shall not exceed $5,800,000 for each of the fiscal years 1982, 1983, and 1984.

ACT OF JANUARY 2, 1975 (HERBERT HOOVER MEMORIAL)

SEC. 5108. No funds are authorized to be appropriated to carry out the Act of January 2, 1975 (88 Stat. 1919) for fiscal year 1982, 1983, or 1984.

ADULT EDUCATION ACT

SEC. 5109. The total amount of appropriations to carry out the Adult Education Act shall not exceed $100,000,000 for each of the fiscal years 1982, 1983, and 1984.

ALCOHOL AND DRUG ABUSE EDUCATION ACT

SEC. 5110. The total amount of appropriations to carry out the Alcohol and Drug Abuse Education Act shall not exceed $3,000,000 for fiscal year 1982, $3,240,000 for fiscal year 1983, and $3,499,000 for fiscal year 1984.

ARTS AND ARTIFACTS INDEMNITY ACT

SEC. 5111. No funds are authorized to be appropriated to carry out the Arts and Artifacts Indemnity Act for fiscal year 1982, 1983, or 1984.

BANKHEAD-JONES ACT

SEC. 5112. No funds are authorized to be appropriated to carry out section 22 of the Act of June 29, 1935, commonly referred to as the Bankhead-Jones Act, for fiscal years 1982, 1983, or 1984.

CAREER EDUCATION INCENTIVE ACT

SEC. 5113. The total amount of appropriations to carry out the Career Education Incentive Act shall not exceed $10,000,000 for each of the fiscal years 1982, 1983, and 1984.

CIVIL RIGHTS ACT OF 1964

SEC. 5114. (a) The total amount of appropriations to carry out sections 403, 404, and 405 of title IV of the Civil Rights Act of 1964 (42 U.S.C. 2000c et seq.) shall not exceed $37,100,000 for each of the fiscal years 1982, 1983, and 1984.

COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

SEC. 5115. (a)(1) The total amount of appropriations to carry out parts A, B, and C of title II of the Comprehensive Employment and Training Act shall not exceed $1,335,000,000 for fiscal year 1982, $3,084,000,000 for fiscal year 1983, and $2,811,000,000 for fiscal year 1984.

(2) Funds available for such parts for fiscal years 1982, 1983, and 1984 shall be allocated under section 202 of such Act in the same manner as funds available for such parts for fiscal year 1981. Funds available for such parts for fiscal years 1983 and 1984 shall be available for carrying out programs previously funded under parts A and C of title IV of such Act.

(b) No funds are authorized to be appropriated to carry out part D of title II or title VI of the Comprehensive Employment and Training Act for fiscal year 1982, 1983, or 1984.

(c) The total amount of appropriations to carry out title III of the Comprehensive Employment and Training Act shall not exceed $213,000,000 for fiscal year 1982, $234,000,000 for fiscal year 1983, and $257,000,000 for fiscal year 1984.

(d)(1) The total amount of appropriations to carry out part A of title IV of the Comprehensive Employment and Training Act shall not exceed $600,000,000 for fiscal year 1982. No funds are authorized to be appropriated for such part for fiscal year 1983 or 1984.

(2) The total amount of appropriations to carry out part B of title IV of such Act shall not exceed $607,000,000 for fiscal year 1982, $649,000,000 for fiscal year 1983, and $690,000,000 for fiscal year 1984.

(3) The total amount of appropriations to carry out part C of title IV of such Act shall not exceed $865,000,000 for fiscal year 1982. No funds are authorized to be appropriated for such part for fiscal year 1983 or 1984.

(e) The total amount of appropriations to carry out title VII of the Comprehensive Employment and Training Act shall not exceed $192,500,000 for fiscal year 1982, $222,000,000 for fiscal year 1983, and $239,000,000 for fiscal year 1984.

(f) No funds are authorized to be appropriated to carry out title VIII of the Comprehensive Employment and Training Act for fiscal year 1982, 1983, or 1984.

COMPREHENSIVE OLDER AMERICANS ACT AMENDMENTS OF 1978

SEC. 5116. The total amount of appropriations to carry out title II of the Comprehensive Older Americans Act Amendments of 1978 shall not exceed $3,200,000 for fiscal years 1982, 1983, and 1984.

DEPARTMENT OF EDUCATION

SEC. 5117. The total amount of appropriations for salaries and expenses of the Department of Education shall not exceed $308,000,000 for each of the fiscal years 1982, 1983, and 1984.

DOMESTIC VOLUNTEER SERVICE ACT OF 1973

SEC. 5118. The total amount of appropriations to carry out title I of the Domestic Volunteer Service Act of 1973 shall not exceed $25,763,000 for fiscal year 1982, $15,391,000 for fiscal year 1983, and $9,000,000 for fiscal year 1984.

ECONOMIC OPPORTUNITY ACT OF 1964

SEC. 5119. No funds are authorized to be appropriated to carry out title VII of the Economic Opportunity Act of 1964 for fiscal year 1982, 1983, or 1984.

EDUCATION AMENDMENTS OF 1972

SEC. 5120. No funds are authorized to be appropriated to carry out section 506 of the Education Amendments of 1972 for fiscal year 1982, 1983, or 1984.

EDUCATION AMENDMENTS OF 1978

SEC. 5121. (a) No funds are authorized to be appropriated to carry out section 1015 of the Education Amendments of 1978 for fiscal year 1982, 1983, or 1984.

(b)(1) No funds are authorized to be appropriated to carry out part A of title XV of the Education Amendments of 1978 for fiscal year 1982, 1983, or 1984.

(2) No funds are authorized to be appropriated to carry out part B of title XV of the Education Amendments of 1978 for fiscal year 1982, 1983, or 1984.

(3) No funds are authorized to be appropriated to carry out section 1524 of the Education Amendments of 1978 for fiscal year 1982, 1983, or 1984.

(4) No funds are authorized to be appropriated to carry out section 1525 of the Education Amendments of 1978 for fiscal year 1982, 1983, or 1984.

(5) No funds are authorized to be appropriated to carry out section 1526 of the Education Amendments of 1978 for fiscal year 1982, 1983, or 1984.

EDUCATION AMENDMENTS OF 1980

SEC. 5122. (a) No funds are authorized to be appropriated to carry out section 1303 of the Education Amendments of 1980 for fiscal year 1982, 1983, or 1984.

(b) No funds are authorized to be appropriated to carry out part D of title XIII of the Education Amendments of 1980 for fiscal year 1982, 1983, or 1984.

(c) No funds are authorized to be appropriated to carry out part H of title XIII of the Education Amendments of 1980 for fiscal year 1982, 1983, or 1984.

EDUCATION OF THE HANDICAPPED ACT

SEC. 5123. (a)(1) The total amount of appropriations to carry out part B of the Education of the Handicapped Act, other than sections 618 and 619, shall not exceed $932,000,000 for each of the fiscal years 1982, 1983, and 1984.

(2) The total amount of appropriations to carry out section 618 of such Act shall not exceed $2,300,000 for each of the fiscal years 1982, 1983, and 1984.

(3) The total amount of appropriations to carry out section 619 of such Act shall not exceed $25,000,000 for each of the fiscal years 1982, 1983, and 1984.

(b)(1) The total amount of appropriations to carry out section 621 of the Education of the Handicapped Act (pertaining to regional resource centers) shall not exceed $9,800,000 for each of the fiscal years 1982, 1983, and 1984.

(2) The total amount of appropriations to carry out section 622 of such Act shall not exceed $16,000,000 for each of the fiscal years 1982, 1983, and 1984.

(3) The total amount of appropriations to carry out section 623 of such Act shall not exceed $20,000,000 for each of the fiscal years 1982, 1983, and 1984.

(4) The total amount of appropriations to carry out section 621 and 624 of such Act (pertaining to projects for severely handicapped children) shall not exceed $5,000,000 for each of the fiscal years 1982, 1983, and 1984.

(5) The total amount of appropriations to carry out section 625 of such Act shall not exceed $4,000,000 for each of the fiscal years 1982, 1983, and 1984.

(c)(1) The total amount of appropriations to carry out section 631, 632, and 634 of the Education of the Handicapped Act shall not exceed $58,000,000 for each of the fiscal years 1982, 1983, and 1984.

(2) The total amount of appropriations to carry out section 633 of such Act shall not exceed $1,000,000 for each of the fiscal years 1982, 1983, and 1984.

(d) The total amount of appropriations to carry out part E of the Education of the Handicapped Act shall not exceed $20,000,000 for each of the fiscal years 1982, 1983, and 1984.

(e) The total amount of appropriations to carry out part F of the Education of the Handicapped Act shall not exceed $19,000,000 for each of the fiscal years 1982, 1983, and 1984.

ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 5124. (a) The total amount of appropriations to carry out title I of the Elementary and Secondary Education Act of 1965 shall not exceed $3,544,343,000 for fiscal year 1982. From the amount appropriated in accordance with the preceding sentence, not more 14.6 percent of such amount for fiscal year 1982 shall be available to carry out sections 141, 146, and 151, of such Act.

(b) The total amount of appropriations to carry out title II of the Elementary and Secondary Education Act of 1965 shall not exceed $31,500,000 for fiscal year 1982.

(c)(1) The total amount of appropriations to carry out section 303 of the Elementary and Secondary Education Act of 1965 shall not exceed $25,500,000 for fiscal year 1982.

(2) The total amount of appropriations to carry out part B of title III of such Act shall not exceed $1,380,000 for fiscal year 1982.

(3) The total amount of appropriations to carry out part C of title III of such Act shall not exceed $3,150,000 for fiscal year 1982.

(4) No funds are authorized to be appropriated to carry out part D of title III of such Act for fiscal year 1982.

(5) The total amount of appropriations to carry out part E of title III of such Act shall not exceed $3,600,000 for fiscal year 1982.

(6) No funds are authorized to be appropriated to carry out part F of title III of such Act for fiscal year 1982.

(7) The total amount of appropriations to carry out part G of title III of such Act shall not exceed $1,000,000 for fiscal year 1982.

(8) No funds are authorized to be appropriated to carry out part H of title III of such Act for fiscal year 1982.

(9) No funds are authorized to be appropriated to carry out part I of title III of such Act for fiscal year 1982.

(10) No funds are authorized to be appropriated to carry out part J of title III of such Act for fiscal year 1982.

(11) No funds are authorized to be appropriated to carry out part K of title III of such Act for fiscal year 1982.

(12) The total amount of appropriations to carry out part L of title III of such Act shall not exceed $3,000,000 for fiscal year 1982.

(13) No funds are authorized to be appropriated to carry out part M of title III of such Act for fiscal year 1982.

(14) No funds are authorized to be appropriated to carry out part N of title III of such Act for fiscal year 1982.

(d)(1) The total amount of appropriations to carry out part B of title IV of the Elementary and Secondary Education Act of 1965 shall not exceed $161,000,000 for fiscal year 1982.

(2) The total amount of appropriations to carry out part C of title IV of such Act shall not exceed $66,130,000 for fiscal year 1982.

(3) The total amount of appropriations to carry out part D of title IV of such Act shall not exceed $15,000,000 for fiscal year 1982.

(e)(1) The total amount of appropriations to carry out part B of title V of the Elementary and Secondary Education Act of 1965 shall not exceed $42,075,000 for fiscal year 1982.

(2) No funds are authorized to be appropriated to carry out part C of title V of such Act for fiscal year 1982.

(f) No funds are authorized to be appropriated to carry out title VI of the Elementary and Secondary Education Act of 1965 for fiscal year 1982.

(g) The total amount of appropriations to carry out title VII of the Elementary and Secondary Education Act of 1965 shall not exceed $85,340,000 for each of the fiscal years 1982, 1983 and 1984.

(h) The total amount of appropriations to carry out title VIII of the Elementary and Secondary Education Act of 1965 shall not exceed $3,138,000 for fiscal year 1982.

(i)(1) The total amount of appropriations to carry out part A of title IX of the Elementary and Secondary Education Act of 1965 shall not exceed $5,652,000 for fiscal year 1982.

(2) No funds are authorized to be appropriated to carry out part B of title IX of such Act for fiscal year 1982.

(3) The total amount of appropriations to carry out part C of title IX of such Act shall not exceed $8,125,000 for fiscal year 1982.

(4) No funds are authorized to be appropriated to carry out part D of title IX of such Act for fiscal year 1982.

(5) The total amount of appropriations to carry out part E of title IX of such Act shall not exceed $2,250,000 for fiscal year 1982.

(j) No funds are authorized to be appropriated to carry out the Elementary and Secondary Education Act of 1965 for fiscal year 1983 or 1984.

EDUCATION CONSOLIDATION AND IMPROVEMENT ACT OF 1981

SEC. 5125. (a) The total amount of appropriations to carry out part I of the Education Consolidation and Improvement Act of 1981 (section 5343 of this title, et seq.) shall not exceed $3,544,343,000 for each of the fiscal years 1983 and 1984.

(b) The total amount of appropriations to carry out part II of the Education Consolidation and Improvement Act of 1981 (section 5351 of this title, et seq.) shall not exceed $584,368,000 for each of the fiscal years 1983 and 1984.

GENERAL EDUCATION PROVISIONS ACT

SEC. 5126. (a) The total amount of appropriations to carry out section 405 of the General Education Provisions Act shall not exceed $55,614,000 for each of the fiscal years 1982, 1983, and 1984.

(b) The total amount of appropriations to carry out section 406 of the General Education Provisions Act shall not exceed $8,947,000 for each of the fiscal years 1982, 1983, and 1984.

(c) The total amount of appropriations to carry out section 406A(2) of the General Education Provisions Act shall not exceed $5,000,000 for each of the fiscal years 1982, 1983, and 1984.

(d) The total amount of appropriations to carry out section 426A(1) of the General Education Provisions Act shall not exceed $1,875,000 for fiscal year 1982, 1983, or 1984.

HARRY S TRUMAN MEMORIAL SCHOLARSHIP ACT

SEC. 5127. No funds are authorized to be appropriated to carry out the Harry S Truman Memorial Scholarship Act for fiscal year 1982, 1983, or 1984.

HEADSTART-FOLLOW THROUGH ACT

SEC. 5128. The total amount of appropriations to carry out part B of the Headstart-Follow Through Act shall not exceed $44,300,000 for each of the fiscal years 1982, 1983, and 1984.

HIGHER EDUCATION ACT OF 1965

SEC. 5129. (a)(1) No funds are authorized to be appropriated to carry out part A of title I of the Higher Education Act of 1965 for fiscal year 1982, 1983, or 1984.

(2) The total amount of appropriations to carry out part B of title I of such Act shall not exceed $10,200,000 for fiscal year 1982, 1983, or 1984.

(b)(1) No funds are authorized to be appropriated to carry out part A of title II of the Higher Education Act of 1965 for fiscal year 1982, 1983, or 1984.

(2) The total amount of appropriations to carry out part B of title II of such Act shall not exceed $10,200,000 for each of the fiscal years 1982, 1983, and 1984.

(3) The total amount of appropriations to carry out part C of title II of such Act shall not exceed $5,000,000 for each of the fiscal years 1982, 1983, and 1984.

(4) No funds are authorized to be appropriated to carry out part D of title II of such Act for fiscal year 1982, 1983, or 1984.

(5) No funds available for carrying out parts A and B of such title for any such fiscal year shall be made available to any institution, organization, or agency which is eligible for assistance under part C of such title.

(c) The total amount of appropriations to carry out title III of the Higher Education Act of 1965 shall not exceed $129,600,000 for each of the fiscal years 1982, 1983, and 1984.

(d)(1)(A) The total amount of appropriations to carry out subpart 1 of part A of title IV of the Higher Education Act of 1965 shall not exceed $2,466,000,000 for fiscal year 1982, $2,353,000,000 for fiscal year 1983, and $1,965,000,000 for fiscal year 1984.

(B) Notwithstanding section 411(a)(2)(A)(i) of such Act, the amount of the Pell grant for a student eligible under such part shall be $1,800 for academic years 1982–83, 1983–84, and 1984–85, less an amount equal to the amount determined under section 482 of such Act to be the expected family contribution with respect to that student for that year.

(C) Notwithstanding section 411(a)(2)(B) of such Act, the amount of the Pell Grant for such academic years shall not exceed 50 per centum of the cost of attendance (as defined under section 482 of such Act) at the institution at which the student is in attendance for that year.

(2) The total amount of appropriations to carry out subpart 2 of part A of title IV of such Act shall not exceed $370,000,000 for each of the fiscal years 1982, 1983, and 1984.

(3) The total amount of appropriations to carry out subpart 3 of part A of title IV of such Act shall not exceed $76,800,000 for each of the fiscal years 1982, 1983, and 1984.

(4) The total amount of appropriations to carry out subpart 4 of part A of title IV of such Act shall not exceed $159,500,000 for each of the fiscal years 1982, 1983, and 1984.

(5) The total amount of appropriations to carry out subpart 5 of part A of title IV of such Act shall not exceed $7,500,000 for each of the fiscal years 1982, 1983, and 1984.

(6)(A) No funds are authorized to be appropriated to carry out section 419 of such Act for fiscal year 1982, 1983, or 1984.

(B) The total amount of appropriations to carry out section 420 of such Act shall not exceed $12,000,000 for each of the fiscal years 1982, 1983, and 1984.

(7) The total amount of appropriations to carry out part C of title IV of such Act shall not exceed $550,000,000 for each of the fiscal years 1982, 1983, and 1984.

(8) The total amount of appropriations to carry out part E of title IV of such Act shall not exceed $286,000,000 for each of the fiscal years 1982, 1983, and 1984.

The total amount of appropriations to carry out section 491 of such Act shall not exceed $1,000,000 for fiscal year 1982 and $2,000,000 for fiscal year 1983.

(e)(1) The total amount of appropriations to carry out part A of title V of the Higher Education Act of 1965 shall not exceed $22,500,000 for each of the fiscal years 1982, 1983, and 1984.

(2)(A) The total amount of appropriations to carry out part B of title V of such Act shall not exceed $9,100,000 for each of the fiscal years 1982, 1983, and 1984.

(B) The last sentence of section 531 of such Act shall not apply to the funds appropriated to carry out part B of title V of such Act for fiscal year 1982, 1983, or 1984.

(3) No funds are authorized to be appropriated to carry out part C of title V of such Act for fiscal year 1982, 1983, or 1984.

(4) No funds are authorized to be appropriated to carry out part D of title V of such Act for fiscal year 1982, 1983, or 1984.

(f) The total amount of appropriations to carry out title VI of the Higher Education Act of 1965 shall not exceed $30,600,000 for each of the fiscal years 1982, 1983, and 1984.

(g) No funds are authorized to be appropriated to carry out part A or B of title VII of the Higher Education Act of 1965 for fiscal year 1982, 1983, or 1984.

(h) The total amount of appropriations to carry out title VIII of the Higher Education Act of 1965 shall not exceed $23,000,000 for each of the fiscal years 1982, 1983, and 1984.

(i)(1) No funds are authorized to be appropriated to carry out part A of title IX of the Higher Education Act of 1965 for fiscal year 1982, 1983, or 1984.

(2) No funds are authorized to be appropriated to carry out part B of title IX of such Act for fiscal year 1982, 1983, or 1984.

(3) No funds are authorized to be appropriated to carry out part C of title IX of such Act for fiscal year 1982, 1983, or 1984.

(4) The total amount of appropriations to carry out part D of title IX of such Act shall not exceed $1,000,000 for each of the fiscal years 1982, 1983, and 1984.

(5) The total amount of appropriations to carry out part E of title IX of such Act shall not exceed $3,000,000 for each of the fiscal years 1982, 1983, and 1984.

(j) The total amount of appropriations to carry out title X of the Higher Education Act of 1965 shall not exceed $13,500,000 for each of the fiscal years 1982, 1983, and 1984.

(k) No funds are authorized to be appropriated to carry out title XI of the Higher Education Act of 1965 for fiscal year 1982, 1983, or 1984.

INDIAN EDUCATION ACT

SEC. 5130. The total amount of appropriations to carry out the Indian Education Act of 1965 shall not exceed $81,700,000 for each of the fiscal years 1982, 1983, and 1984.

JOHNSON-O'MALLEY ACT; SNYDER ACT; NAVAJO COMMUNITY COLLEGE ACT; TRIBALLY CONTROLLED COMMUNITY COLLEGE ASSISTANCE ACT OF 1978

SEC. 1531. The total amount of appropriations—

(1) to carry out the Act of April 16, 1934, commonly referred to as the Johnson-O'Malley Act;

(2) to carry out all education programs under the direction of the Office of Indian Education Programs in the Bureau of Indian Affairs of the Department of the Interior authorized under the Act of November 2, 1921, commonly referred to as the Snyder Act (and not otherwise expressly authorized by law);

(3) to carry out the Navajo Community College Act; and

(4) to carry out the Tribally Controlled Community College Assistance Act of 1978;

shall not exceed $200,000,000 for each of the fiscal years 1982, 1983, and 1984.

JOINT RESOLUTION OF OCTOBER 19, 1972 (ELLENDER FELLOWSHIP PROGRAM)

SEC. 5132. The total amount of appropriations to carry out the joint resolution of October 19, 1972, shall not exceed $1,000,000 for each of the fiscal years 1982, 1983, and 1984.

JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974

SEC. 5133. The total amount of appropriations to carry out title I and title II of the Juvenile Justice and Delinquency Prevention Act of 1974 shall not exceed $70,000,000 for each of the fiscal years 1982, 1983, and 1984.

LIBRARY SERVICES AND CONSTRUCTION ACT

SEC. 5134. (a) The total amount of appropriations to carry out title I of the Library Services and Construction Act shall not exceed $62,500,000 for each of the fiscal years 1982, 1983, and 1984.

(b) No funds are authorized to be appropriated to carry out title II of the Library Services and Construction Act for fiscal years 1982, 1983, or 1984.

(c) The total amount of appropriations to carry out title III of the Library Services and Construction Act shall not exceed $12,000,000 for each of the fiscal years 1982, 1983, and 1984.

MODEL SECONDARY SCHOOL FOR THE DEAF ACT

SEC. 5235. The total amount of appropriations to carry out the Model Secondary School for the Deaf Act shall not exceed $10,600,000 for each of the fiscal years 1982, 1983, and 1984.

MUSEUM SERVICES ACT

SEC. 5136. The total amount of appropriations to carry out the Museum Services Act shall not exceed $12,900,000 for each of the fiscal years 1982, 1983, and 1984.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE ACT

SEC. 5137. The total amount of appropriations to carry out the National Commission on Libraries and Information Science Act shall not exceed $700,000 for each of the fiscal years 1982, 1983, and 1984.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES ACT OF 1965

SEC. 5138. The total amount of appropriations to carry out the National Foundation on the Arts and the Humanities Act of 1965 shall not exceed $223,080,000 for each of the fiscal years 1982, 1983, and 1984.

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF ACT

SEC. 5139. The total amount of appropriations to carry out the National Technical Institute for the Deaf Act shall not exceed $32,811,000 for each of the fiscal years 1982, 1983, and 1984.

OLDER AMERICANS ACT OF 1965

SEC. 5140. The total amount of appropriations to carry out title IV of the Older Americans Act of 1965 shall not exceed $24,700,000 for each of the fiscal years 1982, 1983, and 1984.

REFUGEE EDUCATION CONSOLIDATION

SEC. 5141. The total amount of appropriations to carry out the Consolidation Refugee Education Assistance Act (section 5441 et seq.) shall not exceed $50,000,000 for each of the fiscal years 1981, 1982, and 1983.

REHABILITATION ACT OF 1973

SEC. 5142. (a) The total amount of appropriations to carry out section 14 of the Rehabilitation Act of 1973 shall not exceed $2,200,000 for fiscal year 1982, $2,300,000 for fiscal year 1983, and $2,400,000 for fiscal year 1984.

(b) The total amount of appropriations to carry out section 15 of the Rehabilitation Act of 1973 shall not exceed $500,000 for each of the fiscal years 1982, 1983, and 1984.

(c)(1) The total amount of appropriations to carry out part A of title I of the Rehabilitation Act of 1973 shall not exceed $714,500,000 for fiscal year 1982, $774,500,000 fiscal year 1983, and $755,200,000 for fiscal year 1984.

(2) The total amount of appropriations to carry out part B of title I of such Act shall not exceed $13,400,000 for fiscal year 1982, $14,300,000 for fiscal year 1983, and $14,900,000 for fiscal year 1984.

(3) No funds are authorized to be appropriated to carry out section 120(a)(1) of such Act for fiscal year 1982, 1983, or 1984.

(4) The total amount of appropriations to carry out part D of title I of such Act shall not exceed $700,000 for each of the fiscal years 1982, 1983, and 1984.

(d) The total amount of appropriations to carry out section 202 of the Rehabilitation Act of 1973 shall not exceed $38,000,000 for fiscal year 1982, $40,500,000 for fiscal year 1983, and $36,000,000 for fiscal year 1984.

(e)(1) No funds are authorized to be appropriated to carry out section 301 of the Rehabilitation Act of 1973 for fiscal year 1982, 1983, or 1984.

The total amount of appropriations to carry out section 302 of such Act shall not exceed $3,200,000 for fiscal year 1982, $3,200,000 for fiscal year 1983, and $3,200,000 for fiscal year 1984.

(3) The total amount of appropriations to carry out section 304 of such Act shall not exceed $27,400,000 for fiscal year 1982, $29,300,000 for fiscal year 1983, and $33,800,000 for fiscal year 1984.

(4) The total amount of appropriations to carry out section 305 of such Act shall not exceed $2,200,000 for fiscal year 1982, $2,300,000 for fiscal year 1983, and $2,300,000 for fiscal year 1984.

(5) The total amount of appropriations to carry out part B of title III of such Act (other than section 313) shall not exceed $4,800,000 for fiscal year 1982, $5,100,000 for fiscal year 1983, and $5,300,000 for fiscal year 1984.

(6) The total amount of appropriations to carry out section 313 of such Act shall not exceed $3,800,000 for fiscal year 1982, $4,000,000 for fiscal year 1983, and $4,000,000 for fiscal year 1984.

(f) The total amount of appropriations to carry out title IV of the Rehabilitation Act of 1973 shall not exceed $300,000 for each of the fiscal years 1982, 1983, and 1984.

(g)(1) The total amount of appropriations to carry out section 502 of the Rehabilitation act of 1973 shall not exceed $2,800,000 for fiscal year 1982. No funds are authorized to be appropriated to carry out such section for fiscal year 1983 or 1984.

(2) The total amount of appropriations to carry out section 506 of such Act shall not exceed $300,000 for each of the fiscal years 1982, 1983, and 1984.

(h)(1) No funds are authorized to be appropriated to carry out part A of title VI of the Rehabilitation Act of 1973 for fiscal year 1982, 1983, or 1984.

(2) The total amount of appropriations to carry out part B of title VII of the Rehabilitation Act of 1973 shall not exceed $19,400,000 for fiscal year 1982, $20,000,000 for fiscal year 1983, and $15,000,000 for fiscal year 1984.

(i) The total amount of appropriations to carry out part B of title VI of such Act shall not exceed $11,400,000 for fiscal year 1982, $12,100,000 for fiscal year 1983, and $12,800,000 for fiscal year 1984.

VOCATIONAL EDUCATION ACT OF 1963

SEC. 5143. The total amount of appropriations to carry out the Vocational Education Act of 1963 shall not exceed $791,200,000 for each of the fiscal years 1982, 1983, and 1984.

YOUTH CONSERVATION CORPS ACT OF 1970

SEC. 5144. No funds are authorized to be appropriated to carry out the Act of August 13, 1970, commonly referred to as the Youth Conservation Corps Act of 1970, for fiscal year 1982, 1983, or 1984.

Subtitle B—Reauthorization of Certain Programs

GENERAL EXTENSION OF AUTHORIZATIONS

SEC. 5211. Subject to the limitations contained in subtitle A of this title, there are authorized to be appropriated for fiscal years 1982, 1983, and 1984 such sums as may be necessary to carry out each of the following provisions of law:

(1) parts C, D, E, and F of the Education of the Handicapped Act;

(2) the Act of September 30, 1950 (Public Law 874, 81st Congress);

(3) the Act of September 23, 1950 (Public Law 815, 81st Congress);

(4) the General Education Provisions Act;

(5) the Indian Education Act;
(6) titles XI, XIV, and XV of the Education Amendments of 1978 and part H of title XIII of the Education Amendments of 1980;
(7) the Adult Education Act;
(8) section 342 of the Education Amendments of 1976;
(9) the Asbestos School Hazards Detection and Control Act;
(10) the Joint Resolution of October 19, 1972 (86 Stat. 907);
(11) the Vocational Education Act of 1963;
(12) the Career Education Incentive Act;
(13) title IV of the Civil Rights Act of 1964;
(14) the Comprehensive Employment and Training Act;
(15) the Library Services and Construction Act;
(16) the Navajo Community College Act and the Tribally Controlled Community College Assistance Act of 1978;
(17) the Rehabilitation Act of 1973;
(18) title VII of the Economic Opportunity Act of 1964;
(19) the Older Americans Act of 1965;
(20) the Domestic Volunteer Service Act of 1973; and
(21) the Alcohol and Drug Abuse Education Act.

Subtitle C—Program Modifications

Chapter 1—AMENDMENTS TO NON-ENTITLEMENT PROGRAMS

Subchapter A—Social Service Block Grants

SHORT TITLE

SEC. 5311. This subchapter may be cited as the "Social Services Block Grant Act".

FINDINGS

SEC. 5312. The Congress finds and declares that—
(1) during the past 20 years, the Federal Government has established numerous programs to assist each State, its local governments and private service organizations, to provide social services to its citizens;
(2) with the growth in the number of Federal assistance programs and in the associated requirements imposed upon recipients, Federal decisions have displaced State and local determinations of what services, in what amounts, are required by the residents of each State;
(3) the proliferation of Federal programs has resulted in substantial inefficiencies in the way services are provided, in burdensome administrative costs, and in spending patterns that frequently do not reflect the priorities and service needs of the residents of the States;
(4) the best use of resources in meeting the social services needs of the Nation requires that the Federal Government support and not displace the State role in determining which services to provide and how best to provide them;
(5) allowing the States substantial flexibility in the use of Federal financial assistance and eliminating many Federal requirements will help insure a proper governmental balance and more effective use of the resources of the Nation; and
(6) this can be accomplished through consolidation of related assistance programs into a single grant, with minimum requirements.

STATEMENT OF PURPOSES

SEC. 5313. (a) The purposes of this subchapter are to consolidate Federal assistance to States for social services into a single grant, to increase State flexibility in using social service grants, and to assist States in—
(1) fostering individual self-sufficiency and economic self-support;
(2) preserving families and promoting family stability;
(3) reducing neglect, abuse, or mistreatment of vulnerable persons;
(4) promoting independent living where possible and assuring appropriate institutional care where needed; and
(5) stimulating improved use of public and private resources, including resources available from private nonprofit organizations, in the delivery of social services.

(b) To accomplish the purposes specified in subsection (a), States are authorized to provide social services to individuals and families (particularly those most in need), including child care, day care, services for individuals in foster care, protective services, foster care maintenance payments, adoption assistance payments, emergency room and board, home management and maintenance services, preparation and delivery of meals, health support services, family planning, transportation, rehabilitation, training and related services, employment services, legal services, delinquency prevention services, services to minors in the justice system, information, referral, and counseling services, and such other community and social services as may be appropriate and consistent with the purposes of this subchapter.

(c) Expenditures for accomplishing the purposes specified in subsection (a) may include expenditures for administration (including planning and evaluation) and personnel training and retraining directly related to the provision of services designed to carry out such purposes (including both short-term and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions). Such services shall include conferences or workshops, and training or retraining through grants to nonprofit organizations within the meaning of section 501(c)(3) of the Internal Revenue Code of 1954 or to individuals with social services expertise, or through financial assistance to individuals participating in such conferences, workshops, and training or retraining. The preceding sentence shall apply to all persons involved in the delivery of services under this subchapter.

AUTHORIZATION OF APPROPRIATIONS

SEC. 5314. For the purpose of making grants to States for provision of social services in accordance with the provisions of this subchapter, there are authorized to be appropriated $3,123,000,000 for fiscal year 1982 and each of the 3 succeeding fiscal years.

ALLOTMENTS

SEC. 5315. (a) From the amounts appropriated under section 5314 for any fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to the total amount appropriated as the total amount allotted or obligated to the State or to a grantee within the State (or, in the absence of such an allotment or obligation, the total amount paid, as determined by the Secretary on the basis of claims for payment submitted by the State on or before April 1, 1982) to the State for fiscal year 1981 under authorities specified in section 5323, under the authority for foster care maintenance payments under part A of title IV of the Social Security Act, and for social services in accordance with section 1108(a) of the Social Security Act, bears to the total amount appropriated for payments to all States under such authorities for fiscal year 1981.

PAYMENTS TO STATES

SEC. 5316. (a) The Secretary shall make payments in accordance with section 203 of the Intergovernmental Cooperation Act of 1968 to each State from its allotment under section 5315 for use under this subchapter.

(b) Payments to a State from its allotment for any fiscal year shall be expended by the State in such fiscal year or in the succeeding fiscal year.

(c)(1) A State may transfer not more than 10 percent of its allotment under section 5315 for any fiscal year for its use for such year under other provisions of Federal law providing block grants for support of health services, health promotion and disease prevention activities, or energy assistance (or any combination of such activities).

(2) For fiscal years 1982 and 1983, a State may transfer not more than an amount equal to its pro rata share of $255,000,000 for its use for the fiscal year involved under other provisions of Federal law providing block grants for energy assistance.

(3) Amounts allotted to a State under any provisions of Federal law referred to in this subsection and transferred by a State for use in carrying out the purposes of this subchapter shall be treated as if they were paid to the State under this subchapter but shall not affect the computation of the allotment of the State under this subchapter. The State shall inform the Secretary of any such transfer of funds.

(d)(1) A State may use a portion of the amounts described in subsection (a) for the purpose of purchasing technical assistance from public or private entities if the State determines that such assistance is required in developing, implementing, or administering programs funded under this subchapter.

(2) In using payments received under this subchapter, a State may, in addition to reallocating funds to units of local government, give consideration to community-based self-help organizations of demonstrated effectiveness.

STATE ADMINISTRATION

SEC. 5317. (a) Prior to expenditure by a State of payments made to it under section 5316 for any fiscal year, the chief executive officer of the State shall report on the intended use of the payments the State is to receive under this subchapter, including information on the types of activities to be supported and the categories or characteristics of individuals to be served. The report shall be made public within the State in such manner as to facilitate comment by any person (including any Federal or other public agency) during development of the report and after its completion. The report shall be revised throughout the year involved as may be necessary to reflect substantial changes in the activities assisted under this subchapter, and any revision shall be subject to the requirements of the preceding sentence.

(b) In addition to expenditures by the State for the purposes described in section 5313, the State may use so much of the amount allotted to it as may be necessary for the costs of administration of the grants made under this subchapter. Such administrative costs may include the cost of planning, operating, evaluating, and conducting fiscal and substantive reviews of the programs supported by grants under this subchapter, and for training directly related to

the provision of social services under this subchapter.

LIMITATIONS ON USE OF GRANTS

SEC. 5318. (a) Except as provided in subsection (b), grants made under this subchapter may not be used by the State, or by any other person with which the State makes arrangements to carry out the purposes of this subchapter—

(1) for the purchase or improvement of land, or the purchase, construction, or permanent improvement (other than minor remodeling) of any building or other facility;

(2) for the provision of cash payments for costs of subsistence or for the provision of room and board (other than foster care maintenance payments, adoption assistance payments, costs of subsistence during rehabilitation, room and board provided for a short term as an integral but subordinate part of a social service, or temporary emergency shelters provided as a protective service);

(3) for payment of the wages of any individual as a social service (other than payment of the wages of welfare recipients employed in the provision of child day care services);

(4) for foster care maintenance payments for foster care provided by a public foster care institution which accommodates more than 25 children;

(5) for the provision of medical care (other than family planning services, rehabilitation services, or initial detoxification of an alcoholic or drug dependent individual) unless it is an integral but subordinate part of a social service for which grants may be used under this subchapter;

(6) for social services (except services to an alcoholic or drug dependent individual, or rehabilitation services) provided in, and by employees of, any hospital, skilled nursing facility, intermediate care facility, or prison, to any individual living in such institution;

(7) for public education (other than vocational and other training services for the handicapped, or information and referral activities); or

(8) for the provision of cash payments as a service (except as otherwise provided in this section).

(b) The Secretary may waive the limitations contained in subsection (a)(1) and subsection (a)(5) upon the request of a State for such a waiver if he finds that the request describes extraordinary circumstances to justify the waiver and that permitting the waiver will contribute to the ability of the State to carry out the purposes of this subchapter.

REPORTS AND AUDITS

SEC. 5319. (a) Each State shall prepare reports on its activities under this subchapter. Reports shall be in such form, contain such information, and be of such frequency (but not less often than every 2 years) as the State finds necessary to provide an accurate description of such activities, to secure a complete record of the purposes for which funds were spent, and to determine the extent to which funds were spent consistently with the reports required by section 5317(a). The State shall make copies of the reports required by this section available for public inspection within the State. Copies shall also be provided, upon request, to any interested public agency, and each such agency may provide its views on such reports to the Congress.

(b) Each State shall, not less often than every 2 years, audit its expenditures from amounts received (or transferred for use) under this subchapter. Such State audits shall be conducted by an entity independent of any agency administering activities funded under this subchapter, in accordance with generally accepted accounting principles. Within 30 days following the completion of each audit, the chief executive officer of the State shall submit a copy of such audit to the legislature of the State and to the Secretary. Each State shall repay to the United States amounts found not to have been expended in accordance with this subchapter, or the Secretary may offset such amounts against any other amount to which the State is or may become entitled under this subchapter.

(c) Section 202 of the Intergovernmental Cooperation Act of 1968 shall apply to grants made under this subchapter.

NONDISCRIMINATION PROVISION

SEC. 5320. (a) No person shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this subchapter. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity.

(b) Whenever the Secretary determines that there has been a failure to comply with subsection (a) or an applicable regulation, he shall notify the chief executive officer of the State involved and shall request him to secure compliance. If within a reasonable period of time, not to exceed 60 days, the chief executive officer fails or refuses to secure compliance, the Secretary is authorized to (1) refer the matter to the Attorney General of the United States with a recommendation that an appropriate civil action be instituted; (2) exercise the powers and functions provides by title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, or section 504 of the Rehabilitation Act of 1973, as may be applicable; or (3) take such other action as may be provided by law.

(c) When a matter is referred to the Attorney General pursuant to subsection (b), or whenever he has reason to believe that there has occurred a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

TRAINING AND ONGOING PROJECTS

SEC. 5321. (a)(1) The Secretary is authorized, either directly or through grants to States and public and other nonprofit organizations and agencies or contracts or jointly financed cooperative arrangements with States and public and other organizations and agencies, to provide for training related to the purposes of this subchapter, and for ongoing activities of national or regional significance related to the purposes of this subchapter, which may include operation of a national communications system for the purpose of assisting runaway and homeless youth in communicating with their families and with service providers, operation of a national center to collect and disseminate information on child abuse and neglect, and operation of a national adoption information exchange system to facilitate the adoptive placement of children.

(b) Payments of grants or under contracts or cooperative arrangements under this section may be made in advance or by way of reimbursement, and in such installments, as the Secretary may determine. Such payments shall be made on such conditions as the Secretary finds necessary to carry out the purposes of the grants, contracts, or other arrangements.

DEFINITIONS

SEC. 5322. For purposes of this subchapter:

(1) The term "Secretary" means the Secretary of Health and Human Services.

(2) The term "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

REPEALERS

SEC. 5323. The following provisions of law hereby are repealed:

(1) title XX of the Social Security Act;

(2) the Child Abuse Prevention and Treatment Act of 1974;

(3) the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978;

(4) the Runaway and Homeless Youth Act (title III of the Juvenile Justice and Delinquency Prevention Act of 1974); and

(5) titles I, II, III, IV, VI, VII, and IX of the Community Services Act of 1974.

CONFORMING AMENDMENTS TO THE SOCIAL SECURITY ACT

SEC. 5324. (a)(1) Section 1 of the Social Security Act is amended—

(A) by inserting "and" before "(b)" the first place it appears therein; and

(B) by striking out "and (c)" and all that follows through "self-care".

(2) Section 3(a) of the Social Security Act is amended—

(A) by amending paragraph (4) to read as follows:

"(4) in the case of any State, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health and Human Services for the proper and efficient administration of the State plan—

"(A) 75 per centum of so much of such expenditures as are for the training (including both short-term and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus

"(B) one-half of the remainder of such expenditures."; and

(B) by striking out paragraph (5).

(3) Section 3(c) of the Social Security Act is repealed.

(b)(1) Section 402(a)(5), 402(a)(13), 402(a)(14), 402(a)(15), 403(a)(3), 403(e), and 406(d) of the Social Security Act, as in effect with respect to Puerto Rico, Guam, and the Virgin Islands, are repealed.

(2) Sections 402(a)(5) and 403(a)(3) of the Social Security Act, as such provisions apply to the several States and the District of Columbia, are made applicable also to Puerto Rico, Guam, and the Virgin Islands.

(3) Section 403(a)(3)(A) of the Social Security Act is amended by inserting "(or, in the case of Puerto Rico, Guam, and the Virgin Islands, 60 per centum)" after "75 per centum".

(4) Section 248(b) of the Social Security Amendments of 1967 is repealed.

(c) Section 402(a)(9) of the Social Security Act is amended by striking out "XVI, XIX, or XX" and inserting in lieu thereof "XVI, or XIX".

(d) Section 402(a)(15) of the Social Security Act is repealed.

(e) Section 403(a)(3) of the Social Security Act is amended—

(1) in subparagraph (B), by striking out "and State programs with respect to which there is Federal financial participation under title XX,";

(2) in subparagraph (C), by striking out the comma and inserting in lieu thereof "; and"; and

(3) in the matter that follows subparagraph (C), by striking out "service described in section 2002(a)(1) of this Act" and inserting in lieu thereof "social services".

(f) Section 403(f) of the Social Security Act is repealed.

(g)(1) Section 1001 of the Social Security Act is amended by striking out "and of encouraging each State" and all that follows through "self-care".

(2) Section 1003(a) of the Social Security Act is amended—

(A) by amending paragraph (3) to read as follows:

"(3) in the case of any State, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health and Human Services for the proper and efficient administration of the State plan—

"(A) 75 per centum of so much of such expenditures as are for the training (including both short-term and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus

"(B) one-half of the remainder of such expenditures."; and

(B) by striking out paragraph (4).

(3) Section 1003(c) of the Social Security Act is repealed.

(h) Section 1108(a) of the Social Security Act is amended in the matter preceding paragraph (1) to read as follows:

"SEC. 1108. (a) The total amount certified by the Secretary of Health and Human Services under titles I, X, XIV, and XVI, and under part A of title IV (exclusive of any amounts on account of services and items to which subsection (b) applies)—".

(i) Section 1115(a) of the Social Security Act is amended—

(1) in the matter preceding paragraph (1), by striking out "XIX, or XX" and inserting in lieu thereof "or XIX";

(2) in paragraph (1), by striking out "1902, 2002, 2003, or 2004" and inserting in lieu thereof "or 1902"; and

(3) in paragraph (2)—

(A) by striking out "1903, or 2002" and inserting in lieu thereof "or 1903"; and

(B) by striking out "or expenditures with respect to which payment shall be made under section 2002,".

(j) Section 1116 of the Social Security Act is amended—

(1) in subsections (a)(1), (b), and (d), by striking out "XIX, or XX" and inserting in lieu thereof "or XIX"; and

(2) in subsection (a)(3), by striking out "1904, or 2003" and inserting in lieu thereof "or 1904".

(k) Section 1124(a) of the Social Security Act is amended—

(1) in paragraph (1), by striking out "XIX, and XX" each place it appears and inserting in lieu thereof "and XIX"; and

(2) in paragraph (2)—

(A) by inserting "or" after the semicolon at the end of subparagraph (B);

(B) by striking out "; or" at the end of subparagraph (C) and inserting a period in lieu thereof; and

(C) by striking out subparagraph (D).

(l) Section 1126(a) of the Social Security Act is amended by striking out "XIX, and XX" and inserting in lieu thereof "and XIX".

(m) Section 1128(a) of the Social Security Act is amended—

(1) in paragraph (2)(A), by striking out "or title XX,"; and

(2) in paragraph (2)(B), by striking out "or title XX".

(n)(1) Section 1401 of the Social Security Act is amended by striking out "and of encouraging each State" and all that follows through "self-care".

(2) Section 1403(a) of the Social Security Act is amended—

(A) by amending paragraph (3) to read as follows:

"(3) in the case of any State, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health and Human Services for the proper and efficient administration of the State plan—

"(A) 75 per centum of so much of such expenditures as are for the training (including both short-term and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus

"(B) one-half of the remainder of such expenditures."; and

(B) by striking out paragraph (4).

(3) Section 1403(c) of the Social Security Act is repealed.

(o)(1) Section 1601 of the Social Security Act is amended—

(A) by inserting "and" before "(b)" the first place it appears; and

(B) by striking out "and (c)" and all that follows through "self-care,".

(2) Section 1603(a) of the Social Security Act is amended—

(A) by amending paragraph (4) to read as follows:

"(4) in the case of any State, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health and Human Services for the proper and efficient administration of the State plan—

"(A) 75 per centum of so much of such expenditures as are for the training (including both short-term and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus

"(B) one-half of the remainder of such expenditures."; and

(B) by striking out paragraph (5).

(3) Section 1603(c) of the Social Security Act is repealed.

(p) Section 1616(e)(2) of the Social Security Act is amended by striking out ", as a part of the services program planning procedures established pursuant to section 2004 of this Act,".

(q) Section 1619 of the Social Security Act is amended—

(1) by striking out "titles XIX and XX" each place it appears and inserting in lieu thereof "title XIX"; and

(2) by striking out "title XIX or XX" and inserting in lieu thereof "title XIX".

(r) Section 1620(c) of the Social Security Act is amended—

(1) in paragraph (3), by striking out "titles XIX and XX" and inserting in lieu thereof "title XIX";

(2) by amending paragraph (6) to read as follows:

"(6) describes the manner in which the medical and social services involved are to be provided, and specifies the particular mechanisms and procedures to be used in providing such services (or, with respect to medical services, specifies that they are to be provided through the State's medical assistance program under title XIX, with the Federal payments being made under subsection (d) of this section rather than under that title); and"; and

(3) by striking out the matter following the end of paragraph (7).

(s)(1) Section 1902(a)(10)(A) of the Social Security Act is amended by inserting before the semicolon "or who is an individual specified in subsection (j)".

(2) Section 1902 of the Social Security Act is amended by adding at the end the following new subsection:

"(j) Individuals specified in section 1902(a)(10)(A) shall include every individual—

"(1) in the case of a child on whose behalf foster care maintenance payments are being made under any program administered by or administered under the supervision of the State—

"(A) who would meet the requirements of section 406(a) or of section 407 but for his removal from the home of a relative specified in section 406(a), and

"(B) whose removal from the home occurred pursuant to a voluntary placement agreement entered into by the child's parent or legal guardian or was the result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child, and

"(C)(i) who received aid under the State plan approved under section 402 in or for the month in which such agreement was entered into or court proceedings leading to the removal of the child from the home were initiated,

"(ii) who would have received such aid in or for such month if application had been made therefor, or

"(iii) who had been living with a relative specified in section 406(a) within six months prior to the month in which such agreement was entered into or such proceedings were initiated, and would have received such aid in or for such month if in such month he had been living with such a relative and application therefor had been made; and

"(2) in the case of a child on whose behalf adoption assistance payments are being made under any program administered by or administered under the supervision of the State—

"(A) who but for adoption would meet the requirements specified in paragraph (1), or

"(B) who but for adoption would meet the requirements of title XVI with respect to

eligibility for supplemental security income benefits.".

OTHER CONFORMING AMENDMENTS

SEC. 5325. (a) Section 3(f) of the Social Security Amendments of 1974 is repealed.

(b) Section 50B(i) of the Internal Revenue Code of 1954 is amended by striking out "pursuant to section 2007 of the Social Security Act" and inserting in lieu thereof "to the State under the Social Services Block Grant Act".

(c)(1) Section 202(b)(2) of the Mental Health Systems Act is amended by striking out "titles IV" and all that follows through the end thereof and inserting in lieu thereof "title V, XVIII, and XIX of the Social Security Act and under the United States Housing Act, the Comprehensive Employment and Training Act, the Older Americans Act of 1965, and other Federal and State statutes.".

(2) Section 203(b) of the Mental Health Systems Act is amended by striking out "title IV" and all that follows through the end thereof and inserting in lieu thereof "titles V, XVIII, and XIX of the Social Security Act and under the Education for All Handicapped Children Act of 1975 and other Federal and State statutes.".

(3) Section 204(a)(2)(B) of the Mental Health Systems Act is amended by striking out "XIX, and XX" and inserting in lieu thereof "and XIX".

(4) Section 302(2)(K) of the Mental Health Systems Act is amended by striking out "titles IV" and all that follows through "and under".

(d) Section 201(b) of the Indian Child Welfare Act of 1978 is amended—

(1) in the first sentence, by striking out "titles IV-B and XX" and inserting in lieu thereof "title IV-B"; and

(2) in the second sentence, by striking out "titles IV-B and XX" and inserting in lieu thereof "title IV-B".

(e)(1) The first sentence of section 507 of the Rehabilitation Act of 1973 is amended by striking out all that follows "composed of" and inserting in lieu thereof "the Secretary of Health and Human Services, the Secretary of Education, the Secretary of Labor, the Attorney General, the Director of the Office of Personnel Management, the Chairman of the Equal Employment Opportunity Commission, and any other person designated by the President.".

(2) The third sentence of that section is amended to read as follows: "On or before July 1 of every other year, the Council shall transmit to the President and to the Congress a report of its activities.".

POVERTY LINE

SEC. 5326. (a) The Office of Management and Budget is authorized to define poverty and to revise the definition of poverty for each year. The Office of Management and Budget shall make and issue such definitions and revisions in a timely manner after consumer price index information becomes available.

(b) Any references in statutes or regulations in effect on the effective date of this subchapter to section 624 of the Economic Opportunity Act of 1964 shall be considered to be references to subsection (a) of this section.

TRANSITION PROVISIONS

SEC. 5327. (a) The Director of the Office of Management and Budget shall assume the responsibilities of the Director of the Community Services Administration, is authorized to provide for the termination of the affairs of the Community Services Administration and any other entities terminated by section 5323(a)(7), and shall provide for the transfer or other disposition of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with implementation of the authorities terminated by section 5323(a)(7) as necessary to effectuate the purposes of this subchapter.

(b) The provisions of subsection (a) shall take effect 90 days after the date of the enactment of this Act or, if earlier, October 1, 1981.

EFFECTIVE DATE

SEC. 5328. Except as otherwise provided in this subchapter, the provisions of this subchapter, and the repeals and amendments made by this subchapter, shall take effect on October 1, 1981.

Subchapter B—Consolidation of Education Programs

SHORT TITLE

SEC. 5341. This subchapter be cited as the "Education Consolidation and Improvement Act of 1981".

Part I—Financial Assistance To Meet Special Educational Needs of Children

DECLARATION OF POLICY

SEC. 5343. The Congress declares it to be the policy of the United States to continue to provide financial assistance to State and local educational agencies to meet the special needs of educationally deprived children, on the basis of entitlements calculated under title I of the Elementary and Secondary Education Act of 1965, but to do so in a manner which will eliminate burdensome and unproductive paperwork and free the schools of Federal supervision, direction, and control. Further, the Congress recognizes the special educational needs of children of low-income families, and that concentrations of such children in local educational agencies adversely affect their ability to provide educational programs which will meet the needs of such children, and finds that Federal assistance for this purpose will be more effective if education officials, principals, teachers, and supporting personnel are freed from detailed regulations and administrative burdens which are not necessary for fiscal accountability and make no contribution to the instructional program.

DURATION OF ASSISTANCE

SEC. 5344. During the period beginning October 1, 1982, and ending September 30 1987, the Secretary shall, in accordance with the provisions of this part, make payments to State educational agencies for grants made on the basis of entitlements created under title I of the Elementary and Secondary Education Act of 1965 and calculated in accordance with provisions of that title as in effect on September 30, 1982.

APPLICABILITY OF REPEALED PROVISIONS

SEC. 5345. (a) Except as otherwise provided in this part, the Secretary shall make payments based upon the amount of and eligibility for grants as determined under the following provisions of title I of the Elementary and Secondary Education Act in effect on September 30, 1982:

(1) Part A—"Programs Operated by Local Education Agencies":

(A) Subpart 1—"Basic Grants"; and

(B) Subpart 2—"Special Grants".

(2) Part B—"Programs Operated by State Agencies":

(A) Subpart 1—"Programs for Migratory Children";

(B) Subpart 2—"Programs for Handicapped Children";

(C) Subpart 3—"Programs for Neglected and Delinquent Children"; and

(D) Subpart 4—"General Provisions for State Operated Programs".

(b) The Secretary, in making the payments and determinations specified in subsection (a), shall continue to utilize the following provisions of title I of the Elementary and Secondary Education Act as in effect on September 30, 1982:

(1) Part E—"Payments":

(A) Section 191—"Payment Methods";

(B) Section 192—"Amount of Payments to Local Educational Agencies";

(C) Section 193—"Adjustments Where Necessitated by Appropriations"; and

(D) Section 194—"Payments for State Administration", except that paragraph (1) of subsection (a) is amended by striking out "1.5 per centum" and inserting in lieu thereof "1 per centum".

(2) Part F—"General Provisions":

(A) Section 197—"Limitation on Grants to Puerto Rico"; and

(B) Section 198—"Definitions" and conforming amendments to other Acts, except that only those definitions applicable to this subchapter shall be used.

AUTHORIZED PROGRAMS

SEC. 5346. (a) State and local educational agencies shall use the payments under this part for programs and projects (including the acquisition of equipment and, where necessary, the construction of school facilities) which are designed to meet the special educational needs of educationally deprived children.

(b) State agency programs shall be designed to serve those categories of children counted for eligibility for grants under section 5345(a)(2) in accordance with the requirements of this part.

(c) A local education agency may use funds received under this part only for programs and projects which are designed to meet the special educational needs of educationally deprived children identified in accordance with section 5347(a)(2), and which are included in an application for assistance approved by the State educational agency. Such programs and projects may include the acquisition of equipment and instructional materials, employment of special instructional and counseling and guidance personnel, employment and training of teacher aides, payments to teachers of amounts in excess of regular salary schedules as a bonus for service in schools serving project areas, the training of teachers, the construction, where necessary, of school facilities, other expenditures authorized under title I of the Elementary and Secondary Education Act as in effect September 30, 1982 and planning for such programs and projects.

APPROVAL OF APPLICATIONS

SEC. 5347. (a) A local educational agency may receive a grant under this part for any fiscal year if it has on file with the State educational agency an application which describes the programs and projects to be conducted with such assistance for a period of not more than three years, and such application has been approved by the State educational agency.

(b) The application described in subsection (a) shall be approved if it provides assurances satisfactory to the State education-

al agency that the programs and projects described—

(1)(A) are conducted in attendance areas of such agency having the highest concentrations of children from low-income families; or

(B) are located in all attendance areas of an agency which has a uniformly high concentration of such children; or

(C) are designed to utilize part of the available funds for services which promise to provide significant help for all such children served by such agency;

(2) are based upon an annual assessment of educational needs which identifies educationally deprived children in all eligible attendance areas, permits selection of those who have the greatest need for special assistance, and determines the needs of participating children with sufficient specificity to ensure concentration on those needs;

(3) are of sufficient size, scope, and quality to give reasonable promise of substantial progress toward meeting the special educational needs of the children being served and are designed and implemented in consultation with parents and teachers of such children;

(4) will be evaluated in terms of their effectiveness in achieving the goals set for them, and that such evaluations shall include objective measurements of educational achievement in basic skills and a determination of whether improved performance is sustained over a period of more than one year; and

(5) make provision for services to educationally deprived children attending private elementary and secondary schools in accordance with section 5348.

PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS

SEC. 5348. (a) GENERAL REQUIREMENTS.—To the extent consistent with the number of educationally deprived children in the school district of the local educational agency who are enrolled in private elementary and secondary schools, such agency shall make provisions for including special educational services and arrangements (such as dual enrollment, educational radio and television, and mobile educational services and equipment) in which such children can participate and which meet the requirements of sections 5346(c), 5347(b) (2), (3), and (4), and 5349(c). Expenditures for educational services and arrangements pursuant to this section for educationally deprived children in private schools shall be equal (taking into account the number of children to be served and the special educational needs of such children) to expenditures for children enrolled in the public schools of the local educational agency.

(b) BYPASS PROVISION.—(1) If a local educational agency is prohibited by law from providing for the participation in special programs for educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), the Secretary shall waive such requirements, and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a).

(2) If the Secretary determines that a local educational agency has substantially failed to provide for the participation on an equitable basis of educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), he shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a), upon which determination the provisions of subsection (a) shall be waived.

(3)(A) When the Secretary arranges for services pursuant to this subsection, he shall, after consultation with the appropriate public and private school officials, pay to the provider the cost of such services, including the administrative cost of arranging for such services, from the appropriate allocation or allocations under this part.

(B) Pending final resolution of any investigation or complaint that could result in a determination under this subsection, the Secretary may withhold from the allocation of the affected State or local educational agency the amount he estimates would be necessary to pay the cost of such services.

(C) Any determination by the Secretary under this section shall continue in effect until the Secretary determines that there will no longer be any failure or inability on the part of the local educational agency to meet the requirements of subsection (a).

(4)(A) The Secretary shall not take any final action under this subsection until the State educational agency and local educational agency affected by such action have had an opportunity, for at least forty-five days after receiving written notice thereof, to submit written objections and to appear before the Secretary or his designee to show cause why such action should not be taken.

(3) If a State or local educational agency is dissatisfied with the Secretary's final action after a proceeding under subparagraph (A) of this paragraph, it may within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(C) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(D) Upon the filing of a petition under subparagraph (B), the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(5) Any bypass determination by the Secretary under title I of the Elementary and Secondary Education Act of 1965 prior to the effective date of this subchapter shall remain in effect to the extent consistent with the purposes of this part.

GENERAL PROVISIONS

Sec. 5349. (a) Maintenance of Effort.—(1) Except as provided in paragraph (2), a local educational agency may receive funds under this part for any fiscal year only if the State educational agency finds that either the combined fiscal effort per student or the aggregate expenditures of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was not less than 90 per centum of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

(2) The State educational agency shall reduce the amount of the allocation of funds under this part in any fiscal year in the exact proportion to which a local educational agency fails to meet the requirement of paragraph (1) by falling below 90 per centum of both the combined fiscal effort per student and aggregate expenditures (using the measure most favorable to such local agency), and no such lesser amount shall be used for computing the effort required under paragraph (1) for subsequent years.

(3) The State educational agency may waive, for one fiscal year only, the requirements of this subsection if it determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency.

(b) Federal Funds To Supplement, Not Supplant Regular Non-Federal Funds.—A local educational agency may use funds received under this part only so as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of pupils participating in programs and projects assisted under this part, and in no case may such funds be so used as to supplant such funds from such non-Federal sources, except that this subsection shall not be construed to require the provision of services to eligible children outside the regular classroom or school program.

(c) Comparability of Services.—(1) A local educational agency may receive funds under this part only if State and local funds will be used in the district of such agency to provide services in project areas which, taken as a whole, are at least comparable to services being provided in areas in such district which are not receiving funds under this part. Where all school attendance areas in the district of the agency are designated as project areas, the agency may receive such funds only if State and local funds are used to provide services which, taken as a whole, are substantially comparable in each project area.

(2) A local educational agency shall be deemed to have met the requirements of paragraph (1) if it has filed with the State educational agency a written assurance that it has established—

(A) a districtwide salary schedule;

(B) a policy to ensure equivalence among schools in teachers, administrators, and auxiliary personnel; and

(C) a policy to ensure equivalence among schools in the provision of curriculum materials and instructional supplies.

Unpredictable changes in student enrollments or personnel assignments which occur after the beginning of a school year shall not be included as a factor in determining comparability of service.

(d) Exclusion of Special State and Local Program Funds.—For the purposes of determining compliance with the requirements of subsections (b) and (c) a local educational agency may exclude State and local funds expended for carrying out special programs to meet the educational needs of educationally deprived children, if such programs are consistent with the purposes of this part.

(e) Allocation of Funds in Certain States.—In any State in which a large number of local educational agencies overlap county boundaries, the State educational agency is authorized to make allocations of basic grants and special incentive grants directly to local educational agencies without regard to counties, if such allocations were made during the fiscal year ending September 30, 1982, and if precisely the same factors are used to determine the amount of such grants to counties. Any local educational agency dissatisfied with such determination shall be afforded an opportunity for a hearing on the matter by the State educational agency.

PART II—CONSOLIDATION OF FEDERAL PROGRAMS FOR ELEMENTARY AND SECONDARY EDUCATION

STATEMENT OF PURPOSE

SEC. 5351. (a)(1) It is the purpose of this part to consolidate the program authorizations contained in titles II through VI and VIII and IX of the Elementary and Secondary Education Act of 1965, and supporting authorizations contained in other Acts, into a single authorization of grants to States for the same purposes set forth in those titles, but to be used in accordance with the educational needs and priorities of State and local educational agencies as determined by such agencies. Further, it is the purpose and intent of Congress to financially assist State and local educational agencies to improve elementary and secondary education (including preschool education) for children attending both public and private schools, and to do so in a manner designed to greatly reduce the enormous administrative and paperwork burden imposed on schools at the expense of their ability to educate children.

(2) The basic responsibility for the administration of funds made available under this part is vested in the State educational agencies, but it is the intent of Congress that this responsibility be carried out with a minimum of paperwork and that the responsibility for the design and implementation of programs assisted under this part shall be mainly that of local boards of education, school superintendents and principals, and classroom teachers and supporting personnel, because they have the most direct contact with students and are most directly responsible to parents.

AUTHORIZATION OF APPROPRIATIONS

SEC. 5352. There is hereby authorized to be appropriated for the fiscal year 1983, and for each of the four succeeding fiscal years, such sums as may be necessary to carry out the purposes of this part.

ALLOTMENTS TO STATES

SEC. 5353. (a)(1) From the sums appropriated to carry out this part in any fiscal year, the Secretary shall reserve not to exceed 1 per centum for payments to Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, to be allotted in accordance with their respective needs. The Secretary shall reserve an additional amount, not to exceed 5 per centum of the sums appropriated, to carry out the purposes of section 5367. From the remainder of such sums the Secretary shall allot to each State an amount which bears the same ratio to the amount of such remainder as the school-age population of the States bears to the school-age population of the United States, except that no State shall receive less than an amount equal to 0.4 percent of the amount of such remainder.

(2) For the purposes of this section:

(A) The term "school-age population" means the population aged five through seventeen.

(B) The terms "States" and "United States" includes the fifty States, the District of Columbia, and Puerto Rico.

STATE APPLICATIONS

SEC. 5354. (a) Any State which desires to receive grants under this part shall file an application with the Secretary which—

(1) designates the State educational agency as the State agency responsible for the administration and supervision of programs assisted under this part;

(2) provides for a process of active and continuing consultation with the State educational agency of an advisory committee, appointed by the Governor and determined by the Governor to be broadly representative of the educational interests and the general public in the State, including persons representative of—

(A) public and private elementary and secondary schoolchildren;

(B) classroom teachers;

(C) parents of elementary and secondary schoolchildren;

(D) local boards of education;

(E) local school administrators (including principals and superintendents);

(F) institutions of higher education;

(G) the State legislature, and

to advise the State educational agency on the allocation among authorized functions of those funds (not to exceed 20 per centum of the amount of the State grant) reserved for State use under section 5355(a), on the formula for the allocation of funds to local educational agencies, and on the planning, development, support, implementation, and evaluation of State programs assisted under this part;

(3) sets forth the planned allocation of funds among subparts A, B, and C of this part and among the authorized programs and projects which are to be implemented, and the allocation of such funds required to implement section 5366, including administrative costs of carrying out the responsibilities of the State educational agency programs;

(4) provides for timely public notice and dissemination of the information provided pursuant to paragraphs (2) and (3);

(5) beginning with fiscal year 1985, provides for an annual evaluation of the effectiveness of programs assisted under this part, which shall include comments of the advisory committee, and shall be made available to the public; and

(6) contains assurances that there is compliance with the specific requirements of this part.

(b) An application filed by the State under subsection (a) shall be for a period not to exceed three fiscal years, and may be amended annually as may be necessary to reflect changes without filing a new application.

ALLOCATION TO LOCAL EDUCATIONAL AGENCIES

SEC. 5355. (a) From the sums made available each year under section 5353, the State educational agencies shall distribute not less than 80 per centum to local educational agencies within such State according to the relative enrollments in public and nonpublic schools within the school districts of those agencies, adjusted, in accordance with criteria approved by the Secretary, to provide higher per pupil allocations to local educational agencies which have the greatest numbers of percentages of children whose education imposes a higher than average cost per child, such as—

(1) children from low-income families, and

(2) children living in sparsely populated areas.

(b) The Secretary shall approve criteria proposed by the State educational agency for adjusting allocations under subsection (a) if such criteria are reasonably calculated to produce an equitable distribution of funds with references to the factors set forth in subsection (a).

(c) From the funds paid to it pursuant to sections 5353 and 5354 during each fiscal year, the State educational agency shall distribute to each local educational agency which has submitted an application as required in section 5356 the amount of its allocation as determined under subsection (a).

LOCAL APPLICATIONS

SEC. 5356. (a) A local educational agency may receive its allocation of funds under this part for any year in which it has on file with the State educational agency an application, which—

(1) sets forth the planned allocation of funds among subparts A, B, and C of this part and for the programs authorized by such parts which it intends to support, including the allocation of such funds required to implement section 5366;

(2) provides assurances of compliance with provisions of this part relating to such programs, including the participation of children enrolled in private, nonprofit schools in accordance with section 5366;

(3) agrees to keep such records, and provide such information to the State educational agency as reasonably may be required for fiscal audit and program evaluation, consistent with the responsibilities of the State agency under this part; and

(4) in the allocation of funds for programs authorized by this part, and in the design, planning, and implementation of such programs, provides for systematic consultations with parents of children attending elementary and secondary schools in the area served by the local agency, with teachers and administrative personnel in such schools, and with other groups as may be deemed appropriate by the local educational agency.

(b) An application filed by a local educational agency under subsection (a) shall be for a period not to exceed three fiscal years, may provide for the allocation of funds among programs and purposes authorized by this part for a period of three years, and may be amended annually as may be necessary to reflect changes without filing a new application.

(c) Local educational agencies shall have complete discretion, subject only to the provisions of this part, in determining how funds they receive under this section shall be divided among the purposes of this part in accordance with the application submitted under this section.

Subpart A—Basis Skill Development Programs and Projects Authorized

SEC. 5357. Funds allocated for use under this subpart shall be used by State and local educational agencies to develop and implement a comprehensive and coordinated program designed to improve elementary and secondary school instruction in the basic skills of reading, mathematics, and written and oral communication, as formerly authorized by title II ("Basic Skills Improvement") of the Elementary and Secondary Education Act.

STATE LEADERSHIP AND SUPPORT SERVICES

SEC. 5358. (a) In order to achieve the purposes of this subpart, State educational agencies may use funds reserved for State programs to make grants to and enter into contracts with local educational agencies, institutions of higher education, and other public and private agencies, organizations, and institutions to carry out planning, research and development, demonstration projects, training of leadership personnel, short term and regular session teaching training institutes, and for the development of instructional materials, the dissemination of information, and technical assistance to local educational agencies.

(b) State educational agencies may support activities designed to enlist the assistance of parents and volunteers working with schools to improve the performance of children in the basic skills. Such activities may include—

(1) the development and dissemination of materials that parents may use in the home to improve their children's performance in those skills; and

(2) voluntary training activities for parents to encourage and assist them to help their children in development basic skills,

but such activities conducted in local areas shall be with the approval of and in conjunction with programs of local educational agencies.

SCHOOL LEVEL PROGRAMS

SEC. 5359. (a) In planning for the utilization of funds it allocates for this subpart (from its allotment under section 5355) a local educational agency shall provide for the participation of children enrolled in private elementary and secondary schools (and of teachers in such schools) in accordance with section 5366. Such plans shall be developed in conjunction with and involve continuing consultation with teachers and principals in such district. Such planning shall include a systematic strategy for improving basic skills instruction for all children which provides for planning and implementation at the school building level, involving teachers, administration, and (to the extent practicable) parents, and utilizing all available resources in a comprehensive program. Such programs shall include—

(1) diagnostic assessment to identify the needs of all children in the school;

(2) the establishment of learning goals and objectives for children and for the school;

(3) to the extent practicable, pre-service and in-service training and development programs for teachers, administrators, teachers aides and other support personnel, designed to improve instruction in the basic skills;

(4) activities designed to enlist the support and participation of parents to aid in the instruction of their children; and

(5) procedures for testing students and for evaluation of the effectiveness for programs for maintaining a continuity of effort for individual children.

(b) Such programs may include such areawide or districtwide activities as learning centers accessible to students and parents, demonstration and training programs for parents, and other activities designed to promote more effective instruction in the basic skills.

Subpart B—Educational Improvement and Support Services

STATEMENT OF PURPOSE

SEC. 5361. It is the purpose of this subpart to permit State and local educational agencies to use Federal funds (directly, and through grants to or contracts with educational agencies, institutions of higher education, and other public and private agencies, organizations, and institutions) to carry out selected activities from among the full range of programs and projects formerly authorized under title IV ("Educational Improvement, Resources, and Support"), title V ("State Leadership"), and title VI ("Emergency School Aid") of the Elementary and Secondary Education Act of 1965, in accordance with the planned allocation of funds set forth in the applications under sections 5354 and 5355, in conformity with the other requirements of this subpart.

AUTHORIZED ACTIVITIES

SEC. 5362. Programs and projects are authorized involving the following activities—

(1) for the acquisition and utilization—

(A) of school library resources, textbooks, and other printed and published instructional materials for the use of children and teachers in public and private elementary and secondary schools which shall be used for instructional purposes only, and

(B) of instructional equipment and materials suitable for use in providing education in academic subjects for use by children and teachers in elementary and secondary schools which shall be used for instructional purposes only,

which takes into account the needs of children in both public and private schools based upon periodic consultation with teachers, librarians, media specialists, and private school officials;

(2) the development of programs designed to improve local educational practices in elementary and secondary schools, and particularly activities designed to address educational problems such as the education of children with special needs (educationally deprived children, gifted and talented children, and handicapped children, including children in private schools);

(3) programs designed to assist local educational agencies, upon their request, to more effectively address educational problems caused by the isolation or concentration of minority group children in certain schools, but such assistance shall not be conditioned upon any requirement that a local educational agency which assigns students to schools on the basis of geographic attendance areas adopt any other method of student assignment, and such assistance shall not be made available for the transportation of students or teachers or for the acquisition of equipment for such transportation;

(4) comprehensive guidance, counseling, and testing programs in elementary and secondary school and State and local support services necessary for the effective implementation and evaluation of such programs (including those designed to help prepare students for employment); and

(5) programs and projects to improve the planning, management and implementation of educational programs, including fiscal management, by both State and local educational agencies, and the cooperation of such agencies with other public agencies.

Subpart C—Special Projects

STATEMENT OF PURPOSE

SEC. 5363. It is the purpose of this subpart to permit State and local educational agencies to use Federal funds (directly and through grants to or contracts with educational agencies, institutions of higher education, and other public and private agencies, organizations, and institutions) to carry out selected activities from among the full range of programs and projects formerly authorized under title III ("Special Projects"), title VIII ("Community Schools"), and title IX ("Additional Programs") of the Elementary and Secondary Education Act of 1965, and supporting authorizations contained in other Acts, in accordance with the planned allocation of funds set forth in the applications under sections 5354 and 5355, in conformity with the other requirements of this subpart.

PROGRAMS AND PROJECTS

SEC. 5364. Programs and projects are authorized involving the following activities—

(1) special projects (as may be determined to be desirable by the State educational agencies) in such areas as—

(A) preparation of students to use metric weights and measurements when such use is needed;

(B) emphasis on the arts as an integral part of the curriculum;

(C) preschool partnership programs in which the schools work with parents of preschool children in cooperation with programs funded under the Headstart-Follow Through Act;

(D) consumer education;

(E) preparation for employment, the relationship between basic academic skill development and work experience, and coordination with youth employment programs carried out under the Comprehensive Employment and Training Act;

(F) environmental education, health education, education about American systems of law and legal institutions, and studies on population and the effects of population changes;

(G) academic and vocational education of juvenile delinquents, youth offenders, and adult criminal offenders; and

(H) programs to introduce disadvantaged secondary school students to the possibilities of careers in the biomedical and medical sciences, and to encourage, motivate, and assist them in the pursuit of such careers;

(2) the use of public education facilities as community centers operated by a local education agency in conjunction with other local governmental agencies and community organizations and groups to provide educational, recreational, health care, cultural, and other related community and human services for the community served in accordance with the needs, interests, and concerns of the community and the agreement and conditions of the governing board of the local educational agency; and

(3) additional programs, including—

(A) special programs to identify, encourage, and meet the special educational needs of children who give evidence of high performance capability in areas such as intellectual, creative, artistic, leadership capacity, or specific academic fields, and who require services or activities not ordinarily provided by the school in order to fully develop such capabilities;

(B) establishment of educational proficiency standards for reading, writing, mathematics, or other subjects, the administration of examinations to measure the proficiency of students, and implementation of programs (coordinated with those under subpart A of this part) designed to assist students in achieving levels of proficiency compatible with established standards;

(C) programs designed to ensure equality for women in educational opportunities at all educational levels (including adult

women who desire further education or are unemployed or underemployed);

(D) programs designed to promote safety in the schools and to reduce the incidence of crime and vandalism in the school environment;

(E) planning, developing, and implementing ethnic heritage studies programs to provide all persons with an opportunity to learn about and appreciate the unique contributions to the American national heritage made by the various ethnic groups, and to enable students better to understand their own cultural heritage as well as the cultural heritage of others;

(F) the Pre-College Teacher Development in Science program administered by the Secretary under the National Science Foundation Act of 1950;

(G) the Teacher Center program under section 532 of the Higher Education Act and the Teacher Corps program under part A of title V of the Higher Education Act of 1965 (except evaluation activities); and

(H) programs involving training and advisory services under title IV of the Civil Rights Act of 1964.

Subpart D—General Provisions

MAINTENANCE OF EFFORT; FEDERAL FUNDS SUPPLEMENTARY

SEC. 5365. (a)(1) Except as provided in paragraph (2), a State is entitled to receive its full allocation of funds under this subpart for any fiscal year if the Secretary finds that either the fiscal effort per student or the aggregate expenditures within the State with respect to the provision of free, public education for the preceding fiscal year was not less than 90 per centum of such combined fiscal effort per student or aggregate expenditures for the second preceding fiscal year.

(2) The Secretary shall reduce the amount of the allocation of funds under this subpart in any fiscal year in the exact proportion to which the State fails to meet the requirements of paragraph (1) by falling below 90 per centum of both the fiscal effort per student and aggregate expenditures (using the measure most favorable to the State), and no such lesser amount shall be used for computing the effort required under paragraph (1) for subsequent years.

(3) The Secretary may waive, for one fiscal year only, the requirements of this subsection if he determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State.

(b) A State or local educational agency may use and allocate funds received under this subpart only so as to supplement and, to the extent practical, increase the level of funds that would, in the absence of Federal funds made available under this subpart, be made available from non-Federal sources, and in no case may such funds be used so as to supplant funds from non-Federal sources.

(c) The Secretary is specifically authorized to issue regulations to enforce the provisions of this section.

PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS

SEC. 5366. (a)(1) To the extent consistent with the number of children in the school district of a local educational agency which is eligible to receive funds under this subpart or which serves the area in which funds are made available for programs or projects assisted under this subpart is located who are enrolled in private nonprofit elementary and secondary schools, or with respect to instructional or personnel training programs funded by the State educational agency from funds reserved for the State under section 5355, such agency, after consultation with appropriate private school officials, shall provide for the benefit of such children in such schools secular, neutral, and nonideological services, materials, and equipment including the participation of the teachers of such children (and other educational personnel serving such children) in training programs, and the repair, minor remodeling, or construction of public facilities as may be necessary for their provision (consistent with subsection (c) of this section), or, if such service, materials, and equipment are not feasible or necessary in one or more such private schools as determined by such agency after consultation with the appropriate private school officials, shall provide such other arrangements as will assure equitable participation of such children in the purposes and benefits of this subpart.

(2) If no program or project is carried out under this subpart in the school district of a local educational agency, the State educational agency shall make arrangements, such as through contracts with nonprofit agencies or organizations, under which children in private schools in that district are provided with services and materials under this subpart to the extent that would have occurred if the local educational agency had received funds under this subpart.

(3) The requirements of this section relating to the participation of children, teachers, and other personnel serving such children shall apply to programs and projects carried out under this part by a State or local educational agency, whether directly or through grants to or contracts with other public or private agencies, institutions, or organizations.

(b) Expenditures for programs pursuant to subsection (a) shall be equal (consistent with the number of children to be served) to expenditures for programs under this subpart for children enrolled in the public schools of the local educational agency, taking into account the needs of the individual children and other factors which relate to such expenditures, and when funds available to a local educational agency under this subpart are used to concentrate programs or projects on a particular group, attendance area, or grade or age level, children enrolled in private schools who are included within the group, attendance area, or grade or age level selected for such concentration shall, after consultation with the appropriate private school officials, be assured equitable participation in the purposes and benefits of such programs or projects.

(c)(1) The control of funds provided under this subpart and title to materials, equipment, and property repaired, remodeled, or constructed therewith shall be in a public agency for the uses and purposes provided in this subpart, and a public agency shall administer such funds and property.

(2) The provision of services pursuant to this section shall be provided by employees of a public agency or through contract by such public agency with a person, an association, agency, or corporation who or which, in the provision of such services, is independent of such private school and of any religious organizations, and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this subpart shall not be commingled with State or local funds.

(d) If by any provision of law a State or local educational agency fails or refuses to provide for the participation in programs of children enrolled in private elementary and secondary schools, as required by this section, the Secretary shall waive such requirements and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

(e)(1) If the Secretary determines that a State or local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of children enrolled in private elementary and secondary schools as required by this section, he may waive such requirements and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

(2) Pending final resolution of any investigation or complaint that could result in a determination under this subsection or subsection (d), the Secretary may withhold from the allocation of the affected State or local educational agency the amount he estimated would be necessary to pay the cost of those services.

(f) Any determination by the Secretary under this section shall continue in effect until the Secretary determines that there will no longer be any failure or inability on the part of the State or local educational agency to meet the requirements of subsections (a) and (b).

(g) When the Secretary arranges for services pursuant to this section, he shall, after consultation with the appropriate public and private school officials, pay the cost of such services, including the administrative costs of arranging for those services, from the appropriate allotment of the State under this subpart.

(h)(1) The Secretary shall not take any final action under this section until the State educational agency and the local educational agency affected by such action have had an opportunity, for at least forty-five days after receiving written notice thereof, to submit written objections and to appear before the Secretary or his designee to show cause why that action should not be taken.

(2) If a State or local educational agency is dissatisfied with the Secretary's final action after a proceeding under paragraph (1) of this subsection, it may within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which he based this action, as provided in section 2112 of title 28, United States Code.

(3) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(4) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court

shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(i) Any bypass determination by the Secretary under titles II through VI and VIII and IX of the Elementary and Secondary Education Act of 1965 prior to the effective date of this subchapter shall remain in effect to the extent consistent with the purposes of this subpart.

Subpart E—Secretary's Discretionary Funds

PROGRAMS AND PROJECTS

SEC. 5367. (a) From the sums reserved by the Secretary pursuant to the second sentence of section 5353(a)(1), the Secretary is authorized to carry out directly or through grants to or contracts with State and local educational agencies, institutions of higher education, and other public and private agencies, organizations, and institutions, programs and projects which—

(1) provide a national source for gathering and disseminating information on the effectiveness of programs designed to meet the special educational needs of educationally deprived children, children of limited English proficiency, and other individuals served by this subchapter, and for assessing the needs of such individuals;

(2) carry out research and demonstrations related to the purposes of this subchapter;

(3) are designed to improve the training of teachers and other instructional personnel needed to carry out the purposes of this subchapter; or

(4) are designed to assist State and local educational agencies in the implementation of programs under this subchapter.

(b) From the funds reserved for the purposes of this section, the Secretary shall first fund the inexpensive book distribution program (as carried out through "Reading Is Fundamental"), the special mathematics program, the national programs of arts in education, the national diffusion network, the Women's Educational Equity Act programs, as formerly authorized by part C of title II, part C of title III, and section 376 of title III, and part C of title IX of the Elementary and Secondary Education Act of 1965, respectively, at least in amounts necessary to sustain these activities at the level of operations during fiscal year 1981, and then utilize the remainder of such funds for other authorized activities.

Part III—General Provisions

FEDERAL REGULATIONS

SEC. 5371. (a) The Secretary is authorized to issue regulations—

(1) relating to the discharge of duties specifically assigned to the Secretary under this subchapter;

(2) relating to proper fiscal accounting for funds appropriated under this Act and the method of making payments authorized under this subchapter; and

(3) which are deemed necessary to reasonably insure that there is compliance with the specific requirements and assurances required by this subchapter.

(b) In all other matters relating to the details of planning, developing, implementing, and evaluating programs and projects by State and local educational agencies the Secretary shall not issue regulations, but may consult with appropriate State, local, and private educational agencies and, upon request, provide technical assistance, information, and suggested guidelines designed to promote the development and implementation of effective instructional programs and to otherwise assist in carrying out the purposes of this subchapter.

(c) Regulations issued pursuant to this subchapter shall not have the standing of a Federal statute for the purposes of judicial review.

WITHHOLDING OF PAYMENTS

SEC. 5372. (a) WITHHOLDING.—Whenever the Secretary after reasonable notice to any State educational agency and an opportunity for a hearing on the record, finds that there has been a failure to comply substantially with any assurances required to be given or conditions required to be met under this subchapter the Secretary shall notify such agency of these findings and that beginning sixty days after the date of such notification, further payments will not be made to the State under this subchapter, or the affected title thereof (or, in his discretion, that the State educational agency shall reduce or terminate further payments under the Act or the affected title thereof, to specified local educational agencies or State agencies affected by the failure) until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, (1) no further payments shall be made to the State under the Act or affected title thereof, or (2) payments by the State educational agency under the Act or affected title thereof shall be limited to local educational agencies and State agencies not affected by the failure, or (3) payments to particular local educational agencies shall be reduced, as the case may be.

(b) NOTICE TO PUBLIC OF SECRETARY WITHHOLDING.—Upon submission to a State of a notice under subsection (a) that the Secretary is withholding payments, the Secretary shall take such action as may be necessary to bring his action to the attention of the public within the State.

JUDICIAL REVIEW

SEC. 5373. (a) FILING APPEALS.—If any State is dissatisfied with the Secretary's action under section 5372(a), such State may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The filing of such petition shall act to suspend any withholding of funds by the Secretary pending the judgment of the court and prior to a final action on any review of such judgment. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(b) BASIS OF REVIEW.—A State educational agency shall be presumed to have complied with this subchapter, but the findings of fact by the Secretary, if supported by the weight of evidence, may overcome such presumption. The court may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings.

(c) JUDICIAL APPEALS.—Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

DEFINITIONS

SEC. 5374. (a) Except as otherwise provided herein, as used in this subchapter—

(1) the term "State" means a State, Puerto Rico, Guam, the District of Columbia, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands;

(2) the term "Secretary" means the Secretary of Education;

(3) the term "State educational agency" means the officer or agency primarily responsible for the State supervision of public elementary and secondary schools;

(4) the term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary and secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school;

(5) the term "parent" includes a legal guardian or other person standing in loco parentis;

(6) the term "free public education" means education which is provided at public expense, under public supervision and direction, and without tuition charge, and which is provided as elementary or secondary school education in the applicable State, except that such term does not include any education provided beyond grade twelve;

(7) the term "elementary school" means a day or residential school which provides elementary education, as determined under State law, and the term "secondary school" means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education provided beyond grade twelve;

(8) the term "construction" includes the preparation of drawings and specifications for school facilities; erecting, building, acquiring, altering, remodeling, improving, or extending school facilities; and the inspection and supervision of the construction of school facilities;

(9) the term "equipment" includes machinery, utilities, and building equipment and any necessary enclosure or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including such items as instructional equipment and necessary furniture, printed, published, and audio-visual instructional materials, and books, periodicals, documents, and other related materials; and

(10) the term "school facilities" means classrooms and related facilities (including initial equipment) for free public education and interests in land (including site, grading, and improvements) on which such facilities are constructed, except that such term does not include those gymnasiums and similar facilities intended primarily for exhibitions for which admission is to be charged to the general public.

(b) Terms used in provisions referred to in section 5345 ("Applicability of repealed provisions") and not defined in this section shall have the same meaning that they were given in title I of the Elementary and Secondary Education Act of 1965 as in effect prior to October 1, 1982.

APPLICATION OF OTHER LAWS

SEC. 5375. Sections 434, 435, and 436 of the General Education Provisions Act (relating to "State Educational Agency Monitoring and Agency Application") shall not apply to programs authorized under this subchapter except to the extent that they relate to fiscal control and fund accounting procedures (including the title to property acquired with Federal funds), and shall not be construed to authorize the Secretary to require any reports or take any actions not specifically authorized by this subchapter.

EFFECTIVE DATE

SEC. 5376. (a) The provisions of this subchapter shall take effect October 1, 1982.

(b)(1) Effective at the close of September 30, 1982, titles II-VI and titles VIII and IX of the Elementary and Secondary Education Act of 1965 are hereby repealed.

(2) Effective at the close of September 30, 1982, part A and section 532 of title V of the Higher Education Act of 1965 are hereby repealed.

(c)(1) Funds appropriated in fiscal year 1982 pursuant to authorizations repealed by this section and intended for use in school year 1982 through 1983, shall be utilized in accordance with the provisions of and to carry out the purposes of this subchapter.

(2) Notwithstanding any other provision of law, unless expressly in limitation of this section, funds appropriated for any fiscal year to carry out activities under this subchapter shall become available for obligation on July 1 of such fiscal year and shall remain available for obligation until the end of the succeeding fiscal year.

Subchapter C—Federal Employees Compensation

SHORT TITLE; FINDINGS AND POLICY; GENERAL REFERENCE

SEC. 5391. (a) This subchapter may be cited as the "Federal Employees' Reemployment and Compensation Amendments of 1981".

(b)(1) The Congress finds that few incentives exist under the current provisons of the Federal Employees' Compensation Act to encourage employees who are injured or disabled in the course of their employment to return to gainful work. The Congress further finds that few incentives are provided to employing agencies to seek ways and means to return such employees to gainful work. As a result, the costs of compensation benefits paid to such employees and the costs of productivity lost to the Government have reached unacceptable levels.

(2) The Congress further finds that the effects of the current provisions of the Federal Employees' Compensation Act has been contrary to one of the central principles of workers' compensation, that of protecting workers against wage loss resulting from work-related injury or disability. The wage loss principle, which is intended to pay income benefits only for periods during which there has been an actual reduction or loss of a worker's earnings, needs to be fully restored to the Federal Employees' Compensation Act.

(3) It is, therefore, the policy and purpose of this subchapter to provide the needed incentives that will give the greatest possible encouragement for the return to gainful work of injured or disabled workers and to restore the injured or disabled workers as soon as possible and as near as possible to condition of self-support and maintenance as an able-bodied worker. It is further the policy of this subchapter that Federal employing agencies shall fully participate in and be responsible for achieving these purposes through constructive measures such as occupational safety and health protection programs, timely assistance in the resolution of compensation claims, and maximum reemployment of recovered and rehabilitated workers.

(c) Except as otherwise expressly provided, whenever in this subchapter an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 5 of the United States Code.

DISABILITY BENEFITS; WAITING PERIOD AND ADVANCE COMPENSATION

SEC. 5392. (a)(1) Section 8105(a) is amended by striking out "66⅔ percent of his monthly pay," and inserting in lieu thereof "80 percent of his spendable income,".

(2) Section 8106(a) is amended by striking out "66⅔ percent" and inserting in lieu thereof "80 percent of the spendable income that results when spendable income is computed on the basis".

(3) Section 8101 is amended by striking out "and" at the end of paragraph (19), by striking out the period at the end of paragraph (20) and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraph:

"(21) 'spendable income' means the monthly pay less amounts withheld for purposes of Federal and State income taxes, and less deductions for contributions under section 3102 of the Internal Revenue Code of 1954, if applicable.".

(4)(A) Section 8110 is repealed.

(B) Section 8104(b) is amended by striking out "section 8105s and 8110" and inserting in lieu thereof "section 8105".

(5) Section 8111 is amended—

(A) in subsection (a), by striking out "$500" and inserting in lieu thereof "$850"; and

(B) in subsection (b), by striking out "$200" and inserting in lieu thereof "$350".

(6) Section 8112 is amended by striking out ", including augmented compensation under section 8110 of this title but" and inserting in lieu thereof "under section 8105 or 8196 of this title,".

(b)(1) Section 8117 is amended to read as follows:

"§ 8117. Waiting period.

"(a) Except as provided in subsection (b) of this section, an employee is not entitled to compensation for disability under section 8105, 8106, or 8118 of this chapter for the first 7 work days of disability. Sick leave or annual leave available or advanceable or leave without pay shall, as requested by the employee, be granted for use during this waiting period.

"(b) If the disability exceeds 14 calendar days, 5 days of sick or annual leave used for a waiting period shall be restored in accordance with applicable law, or 5 days of pay for leave without pay provided, at the applicable rate of compensation under section 8105 or 8106 with respect to such employee's leave or pay.".

(2) The table of sections for subchapter I of chapter 81 is amended by striking out the item relating to section 8117 and inserting in lieu thereof the following:

"8117. Waiting period.".

(c) Section 8118 is amended to read as follows:

"§ 8118. Advance compensation; election to use annual or sick leave.

"(a) An agency or instrumentality may, in the exercise of management discretion without regard to chapter 71 of this title, if in its view the medical evidence clearly establishes that total disability from a work- related traumatic injury will be of at least four weeks duration, and if the agency or instrumentality does not controvert or contest any essential element of the claim, advance the injured individual compensation at the applicable rate of compensation established by section 8105 of this title. Such advance compensation may commence on the third work day after injury, notwithstanding section 8117 of this subchapter, and may continue until the initial determination of the employee's claim for compensation under section 8124(a) of this subchapter or, if sooner, the cessation of total disability. The agency or instrumentality shall be reimbursed from its account in the compensation fund established by section 8147 of this subchapter by the Secretary if it transmits the injury report, medical evidence, claim, and any such other information as the Secretary may require by regulation to the Secretary within 15 days from the date the agency or instrumentality authorizes such advance compensation, or such later time as the Secretary may permit for good cause shown. Such compensation shall be treated as any other compensation under this subchapter for the purpose of overpayment and recovery.

"(b) An employee may use annual or sick leave to his credit during any period prior to the commencement of compensation under this subchapter.

"(c) The decision by an employing agency to advance or not advance compensation under this section shall not be admissible evidence per se in the consideration by the Secretary of Labor of any claim filed for compensation under this subchapter.".

(2) The table of sections for subchapter I of chapter 81 is amended by striking out the item relating to section 8118 and inserting in lieu thereof the following:

"8118. Advance compensation; election to use annual or sick leave.".

DEATH BENEFITS

SEC. 5393. (a)(1) Section 8133(a) is amended by striking out paragraphs (1), (2), and (3) and inserting in lieu thereof the following:

"(1) To the surviving spouse, if there is no child, the amount to which the employee would have been entitled were the employee receiving compensation under section 8105 of this subchapter.

"(2) To the surviving spouse if there is a child, one-half of the amount referred to in paragraph (1) and one-half for the child or children divided equally among the children.

"(3) To the children, if there is no surviving spouse, the full amount to which such surviving spouse would be entitled under paragraph (1), divided equally among the children.".

(2) Paragraphs (4) and (5) of section 8133 are each amended by striking out the last sentence thereof.

(b)(1) Paragraph (6) of section 8101 is amended to read as follows:

"(6) 'surviving spouse' means the husband or wife living with, or dependent for support on, the decedent at the time of the decedent's death, or living apart for reasonable cause or because of the decedent's desertion;".

(2) Section 8101 is further amended by striking out paragraph (11).

(3) Sections 8133 and 8135 are each amended by striking out "widow or widow-

er" each place it appears and inserting in lieu thereof "surviving spouse".

(c) Section 8116(b) is amended by inserting "(1)" immediately after "(b)" and by adding at the end thereof the following new paragraph:

"(2) Benefits to which an individual is entitled under this subchapter on account of the death of an employee shall be reduced by any amounts received by such an individual pursuant to section 202 of the Social Security Act on account of the same death.".

(d) Section 8134(a) is amended by striking out "$800" and inserting in lieu thereof "$1,100".

COMPENSATION SCHEDULE

SEC. 5394. (a) Section 8107 is amended to read as follows:

"§ 8107. Compensation schedule.

"(a) If an injury results in the permanent loss, or permanent loss of use, of a member or function of the body, or involves disfigurement, the employee is entitled to compensation as provided by this section. The compensation is—

"(1) payable regardless of whether the cause of the loss or loss of use originates in a part of the body other than that member;

"(2) payable regardless of whether the loss or loss of use also involves another loss or loss of use of the body; and

"(3) in addition to compensation for total or partial disability under section 8105 or 8106.

"(b) The amount of compensation for any loss or loss of use compensable under this section shall be the product of—

"(1) 66⅔ percent of the minimum rate of basic pay for grade GS-8 established by section 5332 of this title on the date of the injury which results in the award of compensation, and

"(2) the value of the loss as prescribed under subsection (c) of this section.

Such amounts shall be computed in dollar amounts, and shall be paid in a lump-sum without regard to the provisions of section 8135 of this subchapter.

"(c) The permanent losses or losses of use compensable under this section, and the values for 100 percent loss in each case, are—

"(1) arm lost, 6.0;

"(2) leg lost, 5.5;

"(3) hand lost, 4.7;

"(4) foot lost, 3.9;

"(5) eye lost, 3.1;

"(6) thumb lost, 1.4;

"(7) first finger lost, 0.9;

"(8) great toe lost, 0.7;

"(9) second finger lost, 0.6;

"(10) third finger lost, 0.5;

"(11) toe, other than great toe lost, 0.3;

"(12) fourth finger lost, 0.3;

"(13)(A) complete loss of hearing in one ear, 1.0; or

"(B) complete loss of hearing in both ears, 3.9;

"(14) compensation for loss of binocular vision or for loss of 80 percent or more of the vision of an eye is to be the same as for loss of the eye;

"(15) compensation for loss of more than one phalanx of a digit is to be the same as for the loss of the entire digit, with loss of the first phalanx worth half the compensation for loss of the entire digit;

"(16) in the case of an arm or leg, amputation above the wrist or ankle, respectively, shall be compensated as for loss of the whole arm or leg;

"(17) compensation for loss of use of two or more digits, or one or more phalanges of each of two or more digits, of a hand or foot, is to be proportioned to the loss of use of the hand or foot occasioned thereby;

"(18) compensation for permanent total loss of use of a member is to be the same as for loss of the member;

"(19) compensation for permanent loss of use of a member may be for the proportionate degree of loss of use of the member, and the degree of loss of vision or hearing is to be determined without regard to correction;

"(20) in the case of loss of use of more than one member or parts of more than one member as enumerated by this schedule, the compensation is to be for loss of use of each member or part thereof, cumulatively; but when the injury affects only two or more digits of the same hand or foot, paragraph (17) of this subsection applies, and when partial bilateral loss of hearing is involved, compensation is to be computed on the loss as affecting both ears;

"(21) for serious disfigurement of the face, head, hands, or neck of a character likely to handicap the employee in securing or maintaining employment, proper and equitable compensation at a value not to exceed 3.1 shall be awarded in addition to any other compensation payable under this schedule; and

"(22) for permanent loss or permanent loss of use of any other important external or internal organ of the body, as determined by the Secretary, proper and equitable compensation at a value not to exceed 6.0 for each organ so determined shall be paid in addition to any other compensation payable under this schedule.".

(b) Section 8108 is amended to read as follows:

§ 8108. Reduction of compensation for subsequent injury to same member.

"The compensation payable under section 8107 of this title is reduced by the compensation paid or payable under that section for an earlier injury if—

"(1) compensation in both cases is for loss or loss of use of the same member or function or different parts of the same member or function or for disfigurement; and

"(2) the Secretary of Labor finds that compensation payable for the later loss or loss of use in whole or in part would duplicate the compensation payable for the preexisting loss or loss of use.".

(c) Section 8109 is amended—

(1) in subsection (a)(3), by striking out "the end or the period" and inserting in lieu thereof "full payment of the amount";

(2) in clause (B) of subsection (a), by striking out "for the period" and inserting in lieu thereof "in an amount"; and

(3) by striking out subsections (b) and (d).

(d) Section 8102(b) is amended by striking out "for a period for" and inserting in lieu thereof "to the extent to".

(e) Section 8115(a) is amended by striking out ", except permanent partial disability compensable under sections 8107-8109 of this title" and inserting in lieu thereof "under section 8106".

REHABILITATION

SEC. 5395. (a) The first sentence of section 8103(a) is amended—

(1) by inserting "including physical rehabilitation," after "physician,"; and

(2) by striking out "monthly".

(b) The first sentence of section 8104(a) is amended by striking out "a permanently disabled individual" and inserting in lieu thereof "an individual".

(c) Subsection (b) of section 8113 is amended to read as follows:

"(b) If an individual without good cause fails to apply for and undergo vocational rehabilitation when so directed under section 8104 of this title, the Secretary shall, in accordance with procedures established by regulation, cease the disability compensation payable to such employee until the individual in good faith complies with the direction of the Secretary.".

FINDINGS; APPEALS; MODIFICATION

SEC. 5396. (a) Section 8124 is amended to read as follows:

"§ 8124. Findings and award; hearings.

"(a) The Secretary of Labor shall determine and make a finding of facts and make an award for or against payment of compensation which shall constitute an initial decision under this subchapter after—

"(1) considering the claim presented by the claimant and the report furnished by the immediate superior; and

"(2) completing such investigation as the Secretary considers necessary.

The claimant and the employing agency shall promptly be provided with a full written copy of the initial decision of the Secretary.

"(b) In cases where the report of the immediate supervisor is filed within 30 calendar days of the date of notice under section 8119 of this subchapter, and such report controverts any particulars of the claim in the detail set forth in regulations of the Secretary, the Secretary shall, as part of his initial decision under subsection (a) of this section, provide the employing agency with an explanation of the reasons for rejection of any part of such controversion. The Secretary shall further, upon the request of any agency entitled to and dissatisfied with such explanation, reconsider the initial decision and inform the agency and the claimant of any changes he makes thereto.

"(c) A claimant for compensation dissatisfied with an initial decision issued by the Secretary pursuant to subsection (a) of this section, or a decision pursuant to subsection (c) of section 8128 of this subchapter, may, within 30 days after such decision is issued, request that it be reconsidered. The claimant requesting reconsideration shall be entitled to present evidence during such proceeding in further support of the claim.

"(d)(1) A claimant for compensation dissatisfied with a decision of the Secretary under subsection (a), (b), or (c) of this section, or a decision pursuant to subsection (c) of section 8128 of this subchapter, shall, prior to seeking review under section 8149 of this title and within 30 days after any such decision is issued, request that a hearing be held before a representative of the Secretary.

"(2) In conducting a hearing under this subsection, the representative of the Secretary is not bound by common law or statutory rules of evidence, by technical or formal rules of procedure, or by section 554 of this title, but may conduct the hearing in such a manner as to best ascertain the rights of the claimant. The representative shall receive such relevant evidence as the claimant adduces and such other evidence as may be necessary or useful in evaluating the claim or resolving the issues. Within 30 days after the hearing ends, the Secretary shall notify the claimant in writing of the Secretary's order in the matter, the basis thereof, and any modifications of the award in connection therewith. Any order of the Secretary shall become final within 90 days thereafter unless review proceedings over which the

Employees' Compensation Appeals Board has jurisdiction under section 8149 of this title have been instituted.".

(b)(1) Section 8149 is amended—

(A) by inserting "(a)" immediately before "The Secretary of Labor may prescribe";

(B) by inserting "as set forth in subsection (b) of this section" before the period at the end of the second sentence; and

(C) by adding at the end thereof the following new subsection:

"(b) The Employees' Compensation Appeals Board established pursuant to subsection (a) of this section shall be authorized to hear and, subject to applicable law and the rules and regulations of the Secretary, issue final decisions on appeals raising a substantial question of fact or law taken from orders issued under section 8124(c) of this title. The Board's decision shall be based on the record. The findings of fact in the decision under review by the Board shall be conclusive if supported by substantial evidence on the record considered as a whole. The decision of the Board shall be conclusive and binding upon the Secretary in the absence of new evidence of probative force and value.".

(2) The heading for section 8149 is amended to read as follows:

"§ 8149. Regulation; appeals".

(3) The table of sections for subchapter I of chapter 81 is amended by striking out the item relating to section 8149 and inserting in lieu thereof the following:

"8149. Regulations; appeals.".

(c)(1) Section 8128 is amended to read as follows:

§ 8128. Modification; finality.

"(a) The Secretary may modify an award for or against the payment of compensation at any time on the Secretary's own motion.

"(b) The Secretary shall consider a request for modification of a final decision under section 8142 of this subchapter for or against the payment of compensation on the application of a claimant on the ground of a change in condition or a mistake in a finding of fact if the application is filed prior to the expiration of one year after the date of the last payment of compensation or the rejection of a claim.

"(c) In accordance with the facts found upon consideration under this section, the Secretary may—

"(1) terminate, continue, increase, or decrease compensation previously awarded;

"(2) award compensation previously denied; or

"(3) reinstate compensation previously discontinued.

Credit shall be allowed in the account of a certifying or delivering official for payment in accordance with that action. Review of decisions by the Secretary under this subsection shall be available exclusively through the procedures set forth in section 8124 of this subchapter, consistent with the issues reviewable under this subsection.

"(d) The action of the Secretary, a designee of the Secretary, or the Employees' Compensation Appeals Board with respect to any matter arising under this subchapter is—

"(1) final and conclusive for all purposes and with respect to all questions of law and fact; and

"(2) not subject to review by another official of the United States or by any court by mandamus or otherwise.".

(2) The table of sections for subchapter I of chapter 81 is amended by striking out the item relating to section 8128 and inserting in lieu thereof the following:

"§ 8128. Modification; finality.".

(d) Section 8127(b) is amended by adding at the end thereof the following new sentence: "An approved attorney's fee may be made a lien upon the compensation due under an award.".

INTEGRATION WITH RETIREMENT BENEFITS

SEC. 5397. (a)(1) Section 8116 (as amended by this subchapter) is further amended by adding at the end thereof the following new subsection:

"(d)(1)(A) The eligibility of any employee for disability compensation under section 8105 or 8106 of this title shall, after the date specified in paragraph (2) of this subsection, cease in the case of any such employee who is eligible to receive a retirement annuity under the programs specified in paragraph (3) of this subsection.

"(B) In the case of any employee who is not eligible for a retirement annuity specified in subparagraph (A) of this paragraph, compensation benefits under section 8105 or 8106 of this title shall, after the date specified in paragraph (2) of this subsection, be computed and paid on the basis of those factors which would be applicable were such employee eligible for and converted to a retirement annuity under chapter 83 of this title, except in the case of an employee not eligible solely because of inadequate service credit. In the latter case, compensation benefits under section 8105 or 8106 of this title shall continue for such time as is necessary to accumulate adequate service credits for a minimum retirement annuity. Employees to whom the first sentence of this subparagraph applies shall have the option of selecting a survivor annuity equivalent to that available to those converted to chapter 83, in which case the constructive annuity of such employee shall be reduced accordingly.

"(C) The eligibility of an employee's potential survivors for awards under sections 8133 and 8134 of this title shall cease after the date specified in paragraph (2) of this subsection.

"(D) The provisions of this paragraph shall not apply to benefits payable under section 8192 of this chapter.

"(2) The provisions of paragraph (1) of this subsection shall apply after the last day in any month during which an employee reaches age 65 or, if later, has received disability compensation under section 8105 or 8106 of this title for one year or such additional time as is necessary to accumulate the minimum service necessary for the annuity plan for which the employee is eligible.

"(3) The programs to which paragraph (1)(A) of this subsection applies include those established under chapter 83 of this title, subchapter VIII of chapter 14 of title 22, United States Code, section 403 of title 50, United States Code, and such other programs as retirement based upon Federal employment as the Secretary determines by rule to be comparable to these programs in terms of accumulation of retirement credits, minimum benefits, and related factors. For purposes of paragraph (1)(A), an employee shall be considered eligible to receive a retirement annuity under any of these programs if the employee is not able to receive such annuity solely because the employee exercised an election, prior to the date of enactment of the Federal Employees' Reemployment and Compensation amendments of 1981, to withdraw the contributions made by such employee to the annuity program.

"(4) The Office of Personnel Management and other authorities that administer annuity programs for Federal employees shall make such arrangements as are necessary, consistent with existing authority, to ensure that there shall be no interruption of income as a result of the operation of paragraph (1)(A) of this subsection, and shall consult with the Secretary of Labor in this regard.".

(2) Within 90 days after the date of the enactment of this section, with respect to the programs of retirement established under subchapter VIII of chapter 14 of title 22, United States Code, section 403 of title 50, United States Code, and such other programs of retirement based upon Federal employment as the Secretary determines to be comparable to these programs for purposes of section 8116 as amended by paragraph (1) of this subsection, the President shall issue an Executive order instituting changes in those programs comparable to and with the effective date of the amendments to chapter 83 of title 5, United States Code, made by subsection (c) of this section.

(3) Within 1 year after the date of the enactment of this section, with respect to programs of retirement based upon Federal employment not covered under paragraph (2) of this subsection, other than the program established pursuant to chapter 83 of title 5, United States Code, the Secretary and the head of the agency, instrumentality, or Government corporation involved shall jointly recommend to the Congress such legislation as is appropriate to provide for the integration of such systems with the Federal Employees' Compensation Act program, and where this is not feasible, legislation to provide appropriate employee contributions toward compensation paid after age 65 by the Federal Employees' Compensation Act program. Such legislation shall address relevant issues concerning survivor rights.

(b)(1) Section 8105(a) is further amended by inserting immediately before the period at the end thereof the following: ", except as provided in section 8116(c) of this title".

(2) Section 8106(a) is further amended by inserting immediately before the period at the end thereof the following: ", except as provided in section 8116(d) of this title".

(3) Section 8135(a) (as amended by this subchapter) is further amended—

(A) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) the periodic payment to the beneficiary is less than $50 a period;"; and

(B) by striking out the second sentence thereof and inserting in lieu thereof the following:

"The probability of the death of the beneficiary before the expiration of the period during which such beneficiary is entitled to compensation on account of death shall be determined according to the most current United States Life Tables, as developed by the Department of Health and Human Services, which shall be updated from time to time, but the lump-sum payment to a surviving spouse of the deceased employee may not exceed 60 months' compensation. The probability of the death of an employee before the expiration of the period during which such employee is entitled to compensation on account of disability shall be computed on the basis of life expectancy not to exceed age 65.".

(4) Section 8114 is amended by adding at the end thereof the following new subsection:

"(f)(1) For the purposes of calculating retirement benefits in connection with conversion under section 8116(d) of this subchapter, contributions in connection therewith

under section 8334(a) of this title or equivalent authorities, and life insurance amounts in connection with section 8704(c) of this title, the Secretary shall compute for each employee receiving compensation under this chapter, the 'assumed average annual earnings' and the 'assumed basic pay attributable to disability' of each such employee. The 'assumed average annual earnings' shall be the rate of pay during any fiscal year for the grade and step of the employee at the time of disability, or similar figure calculated by the Secretary of Labor pursuant to regulations for pay systems where pay is not based upon grade and step. The 'assumed basic pay attributable to disability' shall be the figure calculated for each month of that year by multiplying the extent of lost wage earning capacity compensated and the 'assumed average annual earnings' applicable.

"(2) The Secretary shall maintain a record of the figures computed under this subsection for the duration of any period of disability, and they shall become part of the official records of any employee receiving compensation. In addition, the Secretary shall, as necessary, make such computations and records with respect to periods of time preceding the date of the enactment of this subsection.".

(5) The second sentence of section 8147(a) is amended by inserting after "application thereof," the following: "and for payments required by section 8348(j) of this title or equivalent authorities with respect to contributions to retirement programs".

(c) Section 8331 is amended—

(1) in paragraph (1), by striking out "and" at the end of subparagraph (I), by inserting "and" at the end of subparagraph (J), and by inserting immediately thereafter the following new subparagraph:

"(K) an individual (other than a partially disabled individual who has voided all annuity rights under this subchapter by electing to receive a lump-sum credit under section 8342(a) of this subchapter) receiving compensation pursuant to subchapter I of chapter 81 of this title on account of disability incurred while serving in a position as an employee for purposes of this subchapter, notwithstanding that such individual has been separated from such position;";

(2) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) 'basic pay'—

"(A) includes the amount a member received from April 1, 1954, to February 28, 1955, as expense allowance under section 601(b) of the Legislative Reorganization Act of 1946 (60 Stat. 850), as amended; and that amount from January 3, 1953, to March 31, 1954, if deposit is made therefor as provided by section 8334 of this title;

"(B) includes additional pay provided by—

"(i) subsection (a) of section 60e-7 of title 2 in the provisions of law referred to by that subsection; and

"(ii) sections 60e-8, 60e-9, 60e-10, 60e-11, 60e-12, 60e-13, and 60e-14 of title 2;

"(C) includes premium pay under section 5545(c)(1) of this title;

"(D) with respect to a law enforcement officer, includes premium pay under section 5545(c)(2) of this title;

"(E) with respect to an employee receiving compensation during any year under subchapter I of chapter 81 of this title for disability, is deemed, for any such year, to be the sum of—

"(i) any basic pay otherwise specified by this paragraph during such year; and

"(ii) the assumed basic pay attributable to disability for such year calculated for an employee by summing the monthly figures for each year calculated pursuant to section 8114(f) of this title; and

"(F) does not include bonuses, allowances, overtime pay, military pay, pay given in addition to the base pay of the position as fixed by law or regulation except as provided in subparagraphs (B), (C), and (D) of this paragraph, retroactive pay under section 5344 of this title in the case of a retired or deceased employee, uniform allowances under section 5901 of this title, or lump-sum leave payments under subchapter VI of chapter 55 of this title; and for an employee paid on a fee basis, the maximum amount of basic pay which may be used is $10,000;"; and

(3) by striking out "and" at the end of paragraph (21), by striking out the period at the end of paragraph (22) and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraph:

"(23) 'converted FECA beneficiary' means an employee as otherwise defined by this section whose receipt of compensation on account of disability pursuant to subchapter I of chapter 81 of this title was terminated in accordance with section 8116(d) of that subchapter.".

(d)(1) The second sentence of section 8332(b) is amended by inserting immediately before the period the following: ", except that credit shall in all cases be provided to employees receiving compensation for disability under subchapter I of chapter 81 of this title whether or not separated from service".

(2) Section 8332(f) is amended by striking out the first two sentences and inserting in lieu thereof the following: "Credit shall be allowed for leaves of absence without pay granted an employee while performing military service.".

(e)(1) Section 8334(a)(1) is amended—

(A) by inserting immediately after the first sentence the following new sentence: "In the case of an employee receiving monthly compensation pursuant to chapter 81 of this title on account of disability, and who has not elected to receive a lump-sum credit under section 8342 of this title, the Secretary of Labor shall deduct and withhold from such monthly compensation 7 percent of the assumed basic pay attributable to disability for such month calculated for an employee pursuant to section 8114(f) of this title."; and

(B) at the beginning of the second sentence, by striking out "An equal amount" and inserting in lieu thereof "An amount equal to the sum of the amounts deducted under the preceding sentences".

(2) The last sentence of section 8334(d) is amended by inserting before the period at the end thereof the following: "; except that in the case of a converted FECA beneficiary, credit shall be allowed for such service without redeposit by the employee or member where refund was made prior to date of the enactment of the Federal Employees' Reemployment and Compensation Amendments of 1981 during a period of separation from service prior to such date as a result of disability compensable under subchapter I of chapter 81 of this title".

(f) Section 8336 is amended by adding at the end thereof the following new subsection:

"(l) A converted FECA beneficiary is entitled to an annuity.".

(g) Section 8342 is amended—

(1) by inserting before the period at the end of the first sentence the following: "; except that an employee shall not be deemed separated for this purpose during any period of disability for which compensation is being paid under subchapter I of chapter 81 of this title, other than a partially disabled employee otherwise separated who elects to be considered separated for this purpose"; and

(2) by inserting before the period at the end of the second sentence the following: ", except that in the case of a converted FECA beneficiary, such rights shall not be voided with respect to a lump-sum credit paid to such employee prior to the date of the enactment of the Federal Employees' Reemployment and Compensation Amendments of 1981 during a period of separation from service as a result of disability compensable under subchapter I of chapter 81 of this title".

(h) Section 8348 is amended by adding at the end thereof the following new subsection:

"(j) At the end of each fiscal year, the Office shall notify the Secretary of Labor of the amount equivalent to that portion of disbursement for annuities for that year in which the Office estimates is attributable to periods credited to converted FECA beneficiaries and which is not covered by funds created as a result of accumulated contributions under section 8334 of this title by or on behalf of such beneficiaries. The Secretary of Labor shall authorize payment to the Fund for such amount from the fund established pursuant to section 8147 of chapter 81 of this title. Pursuant to section 8147, and using data provided by the Office, the Secretary of Labor shall charge to individual agencies liabilities accrued in this regard with respect to former employees of those agencies.".

EFFECTIVE DATES; MISCELLANEOUS

SEC. 5398. (a)(1) The amendments made by this subchapter, except where provided otherwise, shall take effect on the first day of the first full biweekly pay period established for employees of the Department of Labor in accordance with section 5504 of title 5, United States Code, which commences after 180 days have expired from the date of the enactment of this subchapter as follows:

(A) For the amendments made by subsections (b) and (c) of section 5392, with respect to disabilities occurring on or after such date.

(B) For the amendments made by subsection (a) of section 5392, section 5393, and subsections (a) and (b) of section 5397, with respect to compensation payable on or after that date.

(C) For the amendments made by subsection (c) of section 5397, with respect to any determinations of eligibility for and amount of annuity to be paid which are made after that date, including credits for years of disability prior to that date, and any contributions, calculations, compensation, or lump-sum amounts payable in connection therewith.

(D) For the amendments made by section 5394, with respect to claims finally adjudicated on or after that date.

(E) For the amendments made by subsections (a) and (b) of section 5395, section 5396, and subsections (b) through (i) of this section, with respect to any actions taken after that date. The Employees' Compensation Appeals Board shall retain jurisdiction after the effective date of section 5396 of cases of which it has taken jurisdiction before that date.

(2) The amendments made by paragraph (5) of section 5397(c) of this subchapter shall take effect on the date of the enactment of this subchapter with respect to any payment of a lump-sum credit on or after that date.

(b)(1) Section 8139 is hereby repealed.

(2) Paragraph (1) of section 8101 is amended—

(A) by striking out subparagraph (D); and

(B) by inserting "or" at the end of clause (ii), by striking out "; or" at the end of clause (iii) and inserting in lieu thereof a period, and by striking out clause (iv).

(c)(1) Section 8131(d) is amended by striking out "Panama Canal Company" each place it appears and inserting in lieu thereof "Panama Canal Commission".

(2) Section 8138(b) is amended by striking out "Canal Zone Government or the Panama Canal Company" and inserting in lieu thereof "Panama Canal Commission".

(d)(1) Section 8104(a) is amended by striking out "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Secretary of Health and Human Services".

(2) Section 8141(b)(5) is amended by striking out "Secretary of Health, Education, and Welfare" each place it appears and inserting in lieu thereof "Secretary of Health and Human Services".

(e) Section 8105 (as amended by this subchapter) is further amended by adding at the end thereof the following new subsection:

"(c) The Secretary of Labor may require a totally disabled employee to report any earnings from employment or self-employment, by affidavit or otherwise, in the manner and at the times the Secretary specifies. The employee shall include in the affidavit or report the value of housing, board, lodging, and other advantages which are part of his earnings in employment or self-employment and which can be estimated in money. An employee who—

"(1) fails to make an affidavit or report when required; or

"(2) knowingly omits or understates any part of his earnings;

forfeits his right to compensation with respect to any period for which the affidavit or report was required. Compensation forfeited under this subsection, if already paid, shall be recovered by a deduction from the compensation payable to the employee or otherwise recovered under section 8129 of this title, unless recovery is waived under that section.".

(f) Section 8123(a) is amended by adding at the end thereof the following new sentence: "Such examinations do not preclude other medical examinations of employees that may be authorized by law or by regulation of appropriate authority, and the records of any such other examinations shall, in accordance with regulations of the Secretary, be made a part of the record of any claim under this subchapter.".

(g) Section 8129(a) is amended by adding at the end thereof the following new sentences: "If the individual resumes employment before the adjustment is completed, the Secretary of Labor may take such action as may be appropriate to recover the remainder, including directing the agency employing such individual to withhold specified amounts from the individual's wages subject only to the limitations provided in section 1673(a) of title 15, United States Code. Any overpayments recovered shall be paid over to the Secretary by the agency employing such individual and shall be credited against the compensation fund billing under section 8147 of this subchapter of the employing agency against which the overpayment was originally charged.".

(h) Section 8116(c) is amended by striking out "and instead of all other liability of the United States or the instrumentality" and inserting in lieu thereof the following: "of any other civil action or proceeding by reason of the same subject matter against the United States or an instrumentality thereof or against a Federal employee or his estate whose act or omission, within the scope of his employment, gave rise to the claim, and instead of all other liability of such entities and persons".

(i)(1) Section 8704(c) is amended—

(A) by striking out "and" at the end of paragraph (1);

(B) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(3) in the case of an employee whose insurance is continued under section 8706(b)(2) of this chapter, 'annual pay' means the assumed average annual earnings computed under section 8114(f) of this title during the period for which any such figure is applicable.".

(2) Section 8706(b)(3) is amended by striking out "or is receiving such compensation for disease or injury" and inserting in lieu thereof ", or after the date an employee receiving compensation under subchapter I of chapter 81 of this title for disease or injury has such compensation terminated or reduced pursuant to section 8116(d) of this title".

(3) Section 8707(b)(1) is amended by inserting before the period at the end thereof the following: "and is retired, or if later, after the month in which such compensation is terminated or reduced pursuant to section 8116(d) of this title".

(4) Section 8714a(c)(2)(C) is amended by striking out "or is receiving compensation for disease or injury" and inserting in lieu thereof ", or after the date an employee receiving compensation under subchapter I of chapter 81 of this title for disease or injury has such compensation terminated or reduced pursuant to section 8116(d) of this title".

(5) Section 8714a(d)(1) is amended by inserting ", or, if later, the end of the calendar month such compensation is terminated or reduced pursuant to section 8116(d) of this title" after "65 years of age".

(6) Section 8901(3)(D)(ii) is amended by striking out "who is separated after having completed 5 or more years of service and".

Subchapter D—Home Energy Assistance Block Grants

SHORT TITLE

SEC. 5411. This subchapter may be cited as the "Home Energy Assistance Block Grant Act".

HOME ENERGY GRANTS AUTHORIZED

SEC. 5412. (a) The Secretary of Health and Human Services is authorized to make grants, in accordance with the provisions of this subchapter, to States to assist eligible households to meet the costs of home energy. Not more than 10 percent of the funds available to each State under this subchapter may be used by the State for low-income residential weatherization or other energy-related home repair.

(b) There are authorized to be appropriated to carry out the purposes of this subchapter $1,875,000,000 for each of the fiscal years 1982, 1983, and 1984.

DEFINITIONS

SEC. 5413. As used in this subchapter:

(1) The term "household" means any individual or group of individuals who are living together as one economic unit for whom residential energy is customarily purchased in common or who make undesignated payments for energy in the form of rent.

(2) The term "home energy" means a source of heating or cooling in residential dwellings.

(3) The term "lower living standard income level" means the income level, adjusted for (A) family size; and (B) regional, metropolitan, and nonmetropolitan differences (or, as the State at its option may select, a single level from among the levels adjusted under this paragraph as applicable to such State), determined annually by the Secretary of Labor based upon the most recent lower living standards family budget issued by the Secretary of Labor.

(4) The term "Secretary" means the Secretary of Health and Human Services.

(5) The term "State" means each of the several States and the District of Columbia.

(6) The term "energy crisis intervention" means weather-related and supply shortage emergencies.

STATE ALLOCATIONS

SEC. 5414. (a)(1)(A) Except as provided in subparagraph (B), the Secretary shall, from 99 percent of the amount appropriated under section 5412 for each fiscal year, allot to each State an amount equal to 99 percent multiplied by the State's allotment percentage.

(B) For fiscal year 1983 and subsequent fiscal years, no State shall receive an allotment under subparagraph (A) in an amount which exceeds 80 percent of the amount expended by such State from State funds for the fiscal year involved to assist eligible households to meet the costs of home energy.

(2)(A) For purposes of paragraph (1), a State's allotment percentage is the percentage which the amount the State was eligible to receive under the allotment formulas of the Home Energy Assistance Act of 1980 bears to the total amount available for allotment under such formulas.

(B) For purposes of subparagraph (A), the allotment formulas of the Home Energy Assistance Act of 1980 shall be treated as including the rules provided by, and the rules referred to in, section 101(j) of the Act of December 16, 1980 (Public Law 96-536).

(3) If the sums appropriated for any fiscal year for making block grants under this subchapter are not sufficient to pay in full the total amount allocated to a State under paragraph (1) for each fiscal year, the amount which all States will receive under this subchapter for such year shall be ratably reduced.

(b)(1) The Secretary shall apportion the 1 percent remaining in each fiscal year on the basis of need between the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(2) Each jurisdiction to which paragraph (1) applies may receive grants under this subchapter upon an application submitted to the Secretary containing provisions which describe the programs for which assistance is sought under this subchapter, and which are consistent with the requirements of section 5416.

(c) Of the funds available to each State under subsection (a), a reasonable amount

based on data from prior years shall be reserved by each State for energy crisis intervention.

(d)(1) If, with respect to any State, the Secretary—

(A) receives a request from the governing body of an Indian tribe or tribal organization within the State that assistance under this subchapter be made directly to such tribe or organization; and

(B) determines that the members of such tribe or tribal organization would be better served by means of grants made directly to provide benefits under this subchapter,

the Secretary shall reserve from amounts which would otherwise be allotted to such State under this subchapter for the fiscal year the amount determined under paragraph (2).

(2) The Secretary shall reserve for the purpose of paragraph (1) from sums that would otherwise be allotted to such State not less than 100 percent of an amount which bears the same ratio to the State's allotment for the fiscal year involved as the population of all eligible Indians for whom a determination under this paragraph has been made bears to the population of all eligible households in such State.

(3) The sums reserved by the Secretary on the basis of a determination under this subsection shall be granted to the Indian tribe or tribal organization serving the individuals for whom such a determination has been made.

(4) In order for an Indian tribe or tribal organization to be eligible for an award for a fiscal year under this subsection, it shall submit to the Secretary a plan for such fiscal year which meets such criteria as the Secretary may prescribe by regulation.

(5) For purposes of this subsection, the terms "Indian tribe" and "tribal organization" have the same meaning given such terms in section 4(b) and section 4(c) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

APPLICATIONS AND REQUIREMENTS

SEC. 5415. (a) Each State desiring to receive an allotment for a fiscal year under this subchapter shall submit an application to the Secretary. Each such application shall be in such form as the Secretary shall require. Each such application shall contain—

(1) assurances that the State has established procedures under which the legislature of the State may disapprove the receipt by the State of any payment under this subchapter; and

(2) assurances by the chief executive officer of the State that the State has complied with subsection (b) and will meet the conditions enumerated in subsection (c).

(b) After the expiration of the first fiscal year in which a State received funds under this subchapter, no funds shall be allotted to such State for any fiscal year under this subchapter unless the legislature of the State conducts public hearings on the proposed use and distribution of funds to be provided under this subchapter for such fiscal year.

(c) As part of the annual application required by subsection (a), the chief executive officer of each State shall certify that the State agrees to—

(1) use the funds available under this subchapter for the purposes described in section 5412 and otherwise in accordance with the requirements of this subchapter;

(2) describe households in the State eligible for assistance and give priority to households with incomes equal to or less than the lower living standard income level or, in the case of a one-person household, with an income equal to or less than 125 percent of poverty;

(3) conduct outreach activities designed to assure that eligible households, especially households with elderly individuals or handicapped individuals, or both, are made aware of the assistance available under this subchapter;

(4) coordinate its activities under this subchapter with similar and related programs run by the Federal Government and such State, particularly low-income weatherization programs;

(5) describe the amount of assistance to be provided to or on behalf of participating households assuring (A) that priority is given to households with lowest incomes and to eligible households having at least one elderly or handicapped inidividual; and (B) that the highest level of assistance is provided to households with lowest incomes and the highest energy costs in relation to income;

(6) give special consideration in the designation of local administrative agencies to any local public or private nonprofit agency which is receiving Federal funds under any low-income energy assistance program or weatherization program on the date of the enactment of this Act, except that (A) the State shall, before giving such special consideration, determine that the agency involved meets program and fiscal requirements established by the State; and (B) if there is no such agency because of a change in the assistance furnished to programs for economically disadvantaged persons, then the State shall give special consideration in the designation of local administrative agencies to any successor agency which is operated in substantially the same manner as the predecessor agency which did receive funds in the fiscal year preceding the fiscal year for which the determination is made;

(7) if the State chooses to pay home energy suppliers directly, establish procedures to—

(A) notify each participating household of the amount of assistance paid on its behalf;

(B) assure that the home energy supplier will charge the eligible household, in the normal billing process, the difference between the actual cost of the home energy and the amount of the payment made by the State under this subchapter;

(C) assure that the home energy supplier will provide assurances that any agreement entered into with a home energy supplier under this paragraph will contain provisions to assure that no household receiving assistance under this subchapter will be treated any differently because of such assistance under applicable provisions of State law or public regulatory requirements; and

(D) assure that any home energy supplier receiving direct payments agrees not to discriminate, either in the cost of the goods supplied or the services provided, against the eligible household on whose behalf payments are made;

(8) provide assurances that the State will treat owners and renters equitably under the program assisted under this subchapter;

(9) provide that—

(A) in each fiscal year, the State may use for planning and administering the funds available under this subchapter an amount not to exceed 10 percent of its allotment under this subchapter for such year; and

(B) the State will pay from non-Federal sources the remaining costs of planning and administering the plan and will not use Federal funds for such remaining costs;

(10) provide that such fiscal control and fund accounting procedures will be established as may be necessary to assure the proper disbursal of an accounting for Federal funds paid to the State under this subchapter, including procedures for monitoring the assistance provided under this subchapter, and provide that at least every year each State shall prepare an audit of its expenditures of amounts received under this subchapter and amounts transferred to carry out the purposes of this subchapter; and

(11) permit and cooperate with Federal investigations undertaken in accordance with section 5419.

The Secretary may not prescribe the manner in which the States will comply with the provisions of this subsection.

(d)(1) In addition to the requirements of subsection (c), the chief executive of each State shall prepare and furnish to the Secretary a plan which contains provisions describing how the State will carry out the assurances contained in subsection (c). The chief executive officer of each State may revise any plan prepared under this paragraph and shall furnish the revised plan to the Secretary.

(2) Each plan prepared under paragraph (a) shall be made available for public inspection within the State in such a manner as will facilitate review of, and comment on, the plan.

(3) The Secretary shall approve any plan furnished under paragraph (1) which reasonably carries out the assurances contained in subsection (c).

(e) Each audit required by subsection (c)(9) shall be conducted by an entity independent of any agency administering activities or services carried out under this subchapter and shall be conducted in accordance with generally accepted accounting principles. Within 30 days after the completion of each audit, the chief executive officer of the State shall submit a copy of such audit to the legislature of the State and to the Secretary.

(f) Notwithstanding any other provision of law, the amount of any home energy assistance payments or allowances provided to an eligible household under this subchapter shall not be considered income or resources of such household (of any member thereof) for any purpose under any Federal or State law, including any law relating to taxation, food stamps, public assistance, or welfare programs.

(g) The State shall repay to the United States amounts found not to have been expended in accordance with this subchapter or the Secretary may offset such amounts against any other amount to which the State is or may become entitled under this subchapter.

(h) The Comptroller General of the United States shall, from time to time, evaluate the expenditures by States of grants under this subchapter in order to assure that expenditures are consistent with the provisions of this subchapter and to determine the effectiveness of the State in accomplishing the purposes of this subchapter.

NONDISCRIMINATION PROVISIONS

SEC. 5416. (a) No person shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this subchapter. Any prohi-

bition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity.

(b) Whenever the Secretary determines that a State that has received a payment under this subchapter has failed to comply with subsection (a) or an applicable regulation, he shall notify the chief executive officer of the State and shall request him to secure compliance. If within a reasonable period of time, not to exceed 60 days, the chief executive officer fails or refuses to secure compliance, the Secretary is authorized to (1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted; (2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, or section 504 of the Rehabilitation Act of 1973, as may be applicable; or (3) take such other action as may be provided by law.

(c) When a matter is referred to the Attorney General pursuant to subsection (b), or whenever he has reason to believe that the State is engaged in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

PAYMENTS TO STATES

SEC. 5417. (a) From its allotment under section 5414, the Secretary shall make payments to each State in accordance with section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213), for use under this subchapter.

(b) Payments to a State from its allotment for any fiscal year shall be expended by the State in such fiscal year or in the succeeding fiscal year.

WITHHOLDING

SEC. 5418. (a)(1) The Secretary shall, after adequate notice and an opportunity for a hearing conducted within the affected State, withhold funds from any State which does not utilize its allotment in accordance with the provisions of this subchapter and the assurances such State provided under section 5415.

(2) The Secretary shall respond in an expeditious and speedy manner to complaints of a substantial or serious nature that a State has failed to use funds in accordance with the provisions of this subchapter or the assurances provided by the State under section 5415. For purposes of this paragraph, a violation of any one of the assurances contained in section 5415(c) that constitutes a disregard of that assurance shall be considered a serious complaint.

(3) The Secretary may not withhold funds under this subsection from a State for a minor failure to comply with the provisions of this subchapter.

(b)(1) The Secretary shall conduct in several States in each fiscal year investigations of the use of funds received by the States under this subchapter in order to evaluate compliance with the provisions of this subchapter.

(2) Whenever the Secretary determines that there is a pattern of complaints from any State in any fiscal year, he shall conduct an investigation of the use of funds received under this subchapter by that State in order to ensure compliance with the provisions of this subchapter.

(3) The Comptroller General of the United States may conduct an investigation of the use of funds received under this subchapter by a State in order to ensure compliance with the provisions of this subchapter.

(c) Pursuant to an investigation conducted under subsection (b), a State shall make appropriate books, documents, papers, and records available to the Secretary or the Comptroller General of the United States, or any of their only authorized representatives, for examination, copying, or mechanical reproduction on or off the premises of the appropriate entity upon a reasonable request therefor.

(d) In conducting any investigation under subsection (b), the Secretary or the Comptroller General of the United States may not request any information not readily available to such State or require that any information be compiled, collected, or transmitted in any new form not already available.

LIMITATION ON USE OF GRANTS FOR CONSTRUCTION

SEC. 5419. (a) Except as provided in subsection (b), grants made under this subchapter may not be used by the State, or by any other person with which the State makes arrangements to carry out the purposes of this subchapter, for the purchase or improvement of land, or the purchase, construction, or permanent improvement (other than low-cost residential weatherization or other energy related home repairs) of any building or other facility.

(B) The Secretary may waive the limitation contained in subsection (a) upon the State's request for such a waiver if he finds that the request describes extraordinary circumstances to justify the purchase of land or the construction of facilities (or the making of permanent improvements) and that permitting the waiver will contribute to the State's ability to carry out the purposes of this subchapter.

STUDIES

SEC. 5420. The Secretary, after consultation with the Secretary of Energy, shall provide for the collection of data, including—

(1) information concerning home energy consumption;

(2) the cost and type of fuels used;

(3) the type of fuel used by various income groups;

(4) the number and income levels of households assisted by this subchapter; and

(5) any other information which the Secretary determines to be reasonably necessary to carry out the provisions of this subchapter.

REPEAL

SEC. 5421, Effective October 1, 1981, the Home Energy Assistance Act of 1980 is repealed.

Subchapter E—Refugee Education Consolidation

SHORT TITLE

SEC. 5441. This subchapter may be cited as the "Consolidated Refugee Education Assistance Act".

REPEALER

SEC. 5442. The following provisions are hereby repealed:

(1) Section 4A of the Act of September 30, 1950 (Public Law 81-874).

(2) Titles I and II of the Indochina Refugee Children Assistance Act of 1976.

(3) Section 317 of the Adult Education Act.

AMENDMENTS TO TITLE I OF THE REFUGEE EDUCATION ASSISTANCE ACT OF 1980

SEC. 5443. (a)(1) Section 101 of the Refugee Education Assistance Act of 1980 is amended—

(A) by striking out paragraph (1) and by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively; and

(B) by amending paragraph (3) (as so redesignated) to read as follows:

"(3) The term 'refugee' means an alien who—

"(A) has been admitted into the United States as a refugee under section 207 of the Immigration and Nationality Act;

"(B) has been paroled into the United States as a refugee by the Attorney General pursuant to section 212(d)(5) of such Act; or

"(C) is an applicant for asylum, or has been granted asylum, in the United States; or

"(D) has fled from the alien's country of origin and has, pursuant to an Executive order of the President, been permitted to enter the United States and remain in the United States indefinitely for humanitarian reasons;

but only during the 3-year period beginning on the date the alien first entered the United States as such a refugee or other wise acquired the status of such a refugee.".

(2) For purposes of the Refugee Education Assistance Act of 1980, an alien who entered the United States on or after November 1, 1979, and is in the United States with the immigration status of a Cuban-Haitian entrant (status pending) shall be considered to be a refugee (within the meaning of section 101(3) of such Act), but only during the 3-year period beginning on the date the alien first entered the United States as such an entrant or otherwise first acquired such status.

(b) Section 103(b)(1)(A) of the Refugee Education Assistance Act of 1980 is amended by striking out "aggregate of the amounts to which all States are entitled" and inserting in lieu thereof "amount authorized to be appropriated".

(c) Section 104 of the Refugee Education Assistance Act of 1980 is amended by striking out "1 percent of the amounts which that State educational agency is entitled to receive for that period under this Act" and inserting in lieu thereof "2 percent of the amount which that State educational agency receives for that period under this Act".

(d) Title I of the Refugee Education Assistance Act of 1980 is amended by adding at the end thereof the following new section:

"CONSULTATION WITH OTHER AGENCIES

"SEC. 106. To the extent that may be appropriate to facilitate the determination of the amount of any reductions under sections 201(b)(2), 301(b)(3), and 401(b)(2), the Secretary shall consult with the heads of other agencies providing assistance to refugees in order to secure information concerning the disbursement of funds for educational purposes under programs administered by them and provide, wherever feasible, for coordination among those programs and the programs under titles II through IV of this Act.".

AMENDMENTS TO TITLE II OF THE REFUGEE EDUCATION ASSISTANCE ACT OF 1980

SEC. 5444. (a) Section 201 of the Refugee Education Assistance Act is amended—

(1) by amending the first sentence of subsection (a)(1) to read as follows: "The Secre-

tary shall, in accordance with the provisions of this title, make grants to State educational agencies for fiscal year 1981, and for each subsequent fiscal year, for the purposes of assisting local educational agencies of that State in providing basic education for refugees enrolled in elementary or secondary public schools.";

(2) in the second sentence of subsection (a)(1), by striking out "Cuban and Haitian refugee children" and inserting in lieu thereof "refugees";

(3) by amending subsection (b)(1) to read as follows:

"(b)(1) As soon as possible after the date of the enactment of the Consolidated Refugee Education Assistance Act, the Secretary shall establish a formula (reflecting the availability of the full amount authorized for this title under section 203(b)) by which to determine the amount of the grant which each State educational agency is entitled to receive under this title for any fiscal year. The formula established by the Secretary shall take into account the number of years that a refugee assisted under this title has resided within the United States and the relative costs, by grade level, of providing education for elementary and secondary school children. On the basis of the formula the Secretary shall allocate among the State educational agencies, for each fiscal year, the amounts available to carry out this title, subject to such reductions or adjustments as may be required under paragraph (2) or subsection (c). Funds shall be allocated among State educational agencies pursuant to the formula without regard to variations in educational costs among different geographical areas.";

(4) by amending the first sentence of subsection (b)(2) to read as follows: "The amount of the grant to which a State educational agency is otherwise entitled for any fiscal year, as determined under paragraph (1), shall be reduced by the amounts made available for such fiscal year under any other Federal law (other than section 303 of the Elementary and Secondary Education Act of 1965) for expenditure within the State for the same purposes as those for which funds are made available under this title, except that the reduction shall be made only to the extent that (A) such amounts are made available for such purposes specifically because of the refugee, parolee, or asylee status of the individuals to be served by such funds, and (B) such amounts are made available to provide assistance to individuals eligible for services under this title."; and

(5) in subsection (c), by striking out "Cuban and Haitian refugee children" and inserting in lieu thereof "refugees".

(b) Section 202(a) of the Refugee Education Assistance Act of 1980 is amended—

(1) by amending paragraph (2) to read as follows:

"(2) provide assurances that such payments will be distributed among local educational agencies within that State in accordance with the formula established by the Secretary under section 201, subject to any reductions in payments for those local educational agencies identified under paragraph (3) to which funds described by section 201(b)(2) are made available for the same purposes under other Federal laws;";

(2) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(3) by inserting after paragraph (2) the following:

"(3) specify the amount of funds described by section 201(b)(2) which are made available under other Federal laws for expenditure within the State for the same purposes as those for which funds are made available under this title and the local educational agencies to which such funds are made available;".

(c) Section 203 of the Refugee Education Assistance Act of 1980 is amended—

(1) by amending the section heading to read as follows: "payments and authorizations";

(2) by inserting "(a)" after the section designation; and

(3) by adding at the end the following new subsection:

(d) For fiscal year 1981 and for each subsequent fiscal year, there is authorized to be appropriated, in the manner specified under section 102, to make payments under this title an amount equal to the product of—

"(1) the total number of refugees enrolled in elementary or secondary public schools under the jurisdiction of local educational agencies within all the States (other than the jurisdictions to which section 103 is applicable) during the fiscal year for which the determination is made;

multiplied by—

"(2) $400.".

AMENDMENTS TO TITLE III OF THE REFUGEE EDUCATION ASSISTANCE ACT OF 1980

SEC. 5445. (a) Section 301 of the Refugee Education Assistance Act of 1980 is amended—

(1) in subsection (a) by striking out "for each of the fiscal years 1981, 1982, and 1983" and inserting in lieu thereof "for fiscal year 1981, and for each subsequent fiscal year,";

(2) by amending subsection (b)(1) to read as follows:

"(b)(1) Except as provided in paragraph (3) of this subsection and in subsections (c) and (d) of this section, the amount of the grant to which a State educational agency is entitled under this title for any fiscal year shall be equal to the sum of—

"(A) the amount equal to the product of (i) the number of refugees enrolled during the period for which the determination is made in elementary or secondary public schools under the jurisdiction of each local educational agency described under paragraph (2) within that State, or in any elementary or secondary nonpublic school within the district served by each such local educational agency, who were not enrolled in schools in any State during any preceding school year, multiplied by (ii) $700;

"(B) the amount equal to the product of (i) the number of refugees enrolled during the period for which the determination is made in elementary or secondary public schools under the jurisdiction of each local educational agency described under paragraph (2) within that State, or in any elementary or secondary nonpublic school within the district served by each such local educational agency, who were enrolled in schools in any State during only one preceding school year, multiplied by (ii) $500; and

"(C) the product of (i) the number of refugees enrolled during the period for which the determination is made in elementary or secondary public schools under the jurisdiction of each local educational agency described under paragraph (2) within that State, or in any elementary or secondary nonpublic school within the district served by each such local educational agency, who were enrolled in schools in any State during not more than two preceding school years (other than any refugees described by subparagraph (B)(i)), multiplied by (ii) $300.

(3) in subsection (b)(2) by striking out "Cuban and Haitian refugee children and Indochinese refugee children" and inserting in lieu thereof "refugees"; and

(4) in subsection (b)(3)—

(A) by striking out "Cuban and Haitian refugee children and Indochinese refugee children" and inserting in lieu thereof "refugees"; and

(B) in the first sentence, by striking out "except that" and all that follows through the period and inserting in lieu thereof "except that no reduction under this paragraph shall be made for any funds made available to the State under section 303 of the Elementary and Secondary Education Act of 1965."; and

(5) in subsection (b)(5), by striking out "Cuban and Haitian refugee children who meet the requirements of section 101(1)" and inserting in lieu thereof "refugees who meet the requirements of section 101(4)"; and

(6) in subsection (c), by striking out "Cuban and Haitian refugee children and Indochinese refugee children" and inserting in lieu thereof "refugees". (b) Section 302 of the Refugee Education Assistance Act of 1980 is amended by striking out "Cuban and Haitian refugee children and Indochinese refugee children" each place it appears and inserting in lieu thereof "refugees".

(c) Section 303 of the Refugee Education Assistance Act of 1980 is amended—

(1) in paragraph (3), by inserting before the semicolon ", subject to any reductions in payments for local educational agencies identified under paragraph (5) to take into account the funds described by section 301(b)(3) that are made available for educational, or education-related, services or activities for refugees enrolled in elementary or secondary public schools under the jurisdiction of such agencies or elementary or secondary nonpublic schools within the districts served by such agencies;";

(2) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively;

(3) by inserting after paragraph (4) the following:

"(5) specify (A) the amount of funds described by section 301(b)(3) that are made available under other Federal laws to agencies or other entities for educational, or education-related, services or activities within the State because of a significant concentration of refugees, and (B) the local educational agencies within whose districts are refugees provided services from such funds who are enrolled in elementary or secondary schools under the jurisdiction of such agencies, or in elementary or secondary nonpublic schools served by such agencies;"; and

(4) in paragraph (7) as so redesignated, by striking out "Cuban and Haitian refugee children and Indochinese refugee children" and inserting in lieu thereof "refugees".

AMENDMENTS TO TITLE IV OF THE REFUGEE EDUCATION ASSISTANCE ACT OF 1980

SEC. 5446. (a) Title IV of the Refugee Education Assistance Act of 1980 is amended by striking out "Cuban and Haitian refugee adults" and "Haitian and Cuban refugee adults" each place such terms appear and inserting in lieu thereof "refugees".

(b)(1) Section 401(a) is amended by striking out "for each of the fiscal years 1982 and 1983" and inserting in lieu thereof "for fiscal year 1982, and for each subsequent fiscal year".

(2) The first sentence of section 401(b)(2) of the Refugee Education Assistance Act of

1980 is amended to read as follows: "The amount of the grant to which a State educational agency is otherwise entitled for any fiscal year, as determined under paragraph (1), shall be reduced by the amounts made available for such fiscal year under any other Federal law (other than section 303 of the Elementary and Secondary Education Act of 1965) for expenditure within the State for the same purposes as those for which funds are made available under this title, except that the reduction shall be made only to the extent that (A) such amounts are made available for such purposes specifically because of the refugee, parolee, or asylee status of the individuals to be served by such funds, and (B) such amounts are made available to provide assistance to individuals eligible for services under this title.".

(c) Section 403 of the Refugee Education Assistance Act of 1980 is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by inserting after paragraph (1) the following:

"(2) specify the amount of reduction required under section 401(b)(2);".

EFFECTIVE DATE

SEC. 5447. This subchapter shall take effect on October 1, 1981.

Chapter 2—AMENDMENTS TO ENTITLEMENT PROGRAMS

Subchapter A—Reductions in Child Nutrition Programs

SHORT TITLE OF SUBCHAPTER

SEC. 5611. This subchapter may be cited as the "Child Nutrition Amendments of 1981".

CHANGES IN REIMBURSEMENT FOR SCHOOL LUNCHES AND BREAKFASTS

SEC. 5612. (a) Section 4 of the National School Lunch Act is amended—

(1) by inserting "(a)" after "SEC. 4.";

(2) in subsection (a) (as so designated), by striking out the second sentence; and

(3) by adding at the end thereof the following new subsection:

"(b)(1) For each fiscal year the Secretary shall make food assistance payments, at such times as he may determine, from the sums appropriated therefor, to each State educational agency, in an amount equal to the sum of the following:

"(A) The amount equal to the product of—

"(i) the number of lunches (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary under section 9(a) of this Act) served during such fiscal year to children eligible for free or reduced price meals in schools in such State which participate in the school lunch program under this Act under agreements with such State educational agency;

multiplied by

"(ii) the national average free or reduced price lunch payment.

"(B) The amount equal to the product of—

"(i) the number of lunches (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary under section 9(a) of this Act) served during such fiscal year to children in schools in such State (other than those children who are eligible for free or reduced price meals) which participate in the school lunch program under this Act under agreements with such State educational agency;

multiplied by

"(ii) the national average paid lunch payment.

"(2) The national average lunch payment for each free or reduced price lunch served shall be 18.5815 cents, less 2.5 cents, which payment shall be adjusted in accordance with section 11(a) on July 1, 1981, and annually thereafter.

"(3) The national average paid lunch payment for each paid lunch served shall be 8.0407 cents, which payment shall be adjusted in accordance with section 11(a) on July 1, 1981, and annually thereafter.".

(b) Section 11(a) of the National School Lunch Act is amended—

(1) by inserting "(1)" after "Sec. 11. (a)";

(2) in the third sentence, by striking out "(1)" and inserting in lieu thereof "(A)" and by striking out "(2)" and inserting in lieu thereof "(B)"; and

(3) by striking out the fifth sentence and all that follows through the end thereof and inserting in lieu thereof the following:

"(2) The special-assistance factor prescribed by the Secretary for free lunches shall be 83.6165 cents and the special-assistance factor for reduced-price lunches shall be 40 cents less than the special-assistance factor for free lunches.

"(3)(A) The Secretary shall prescribe on July 1, 1981, and on each subsequent July 1, an annual adjustment in the following:

"(i) The national average payment rates for lunches (as established under section 4 of this Act).

"(ii) The special assistance factor for lunches (as established under paragraph (2) of this subsection).

"(iii) The national average payment rates for breakfasts (as established under section 4(b) of the Child Nutrition Act of 1966).

"(iv) The national average payment rates for supplements (as established under section 17(c) of this Act).

"(B) The annual adjustment under this paragraph shall reflect changes in the cost of operating meal programs under this Act and the Child Nutrition Act of 1966, as indicated by the change in the series for food away from home of the Consumer Price Index for all Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor. Each annual adjustment shall reflect the changes in the series for food away from home for the most recent 12-month period for which such data are available. The adjustments made under this paragraph shall be computed to the nearest one-fourth cent."

(c)(1) Section 4(b)(1) of the Child Nutrition Act of 1966 is amended to read as follows:

"(b)(1)(A) For each fiscal year the Secretary shall make breakfast assistance payments, at such times as he may determine, from the sums appropriated therefor, to each State educational agency, in an amount equal to the sum of the following:

"(i) The amount equal to the product of—

"(I) the number of breakfasts served during such fiscal year to children eligible for free breakfasts in schools in such State which participate in the school breakfast program under this section under agreements with such State educational agency;

multipled by

"(II) the national average free breakfast payment.

"(ii) The amount equal to the product of—

"(I) the number of breakfasts served during such fiscal year to children eligible for reduced-price breakfasts in schools in such State which participate in the school breakfast program under this section under agreements with such State educational agency;

multiplied by

"(II) the national average reduced-price breakfast payment.

"(iii) The amount equal to the product of—

"(I) the number of breakfasts served during such fiscal year to children in schools in such State (other than those children who are eligible for free or reduced-price lunches) which participate in the school breakfast program under this section under agreements with such State educational agency;

multipled by

"(II) the national average paid breakfast payment.

"(B) The national average payment for each free breakfast shall be 52.027 cents, the national average payment for each reduced price breakfast shall be 25.9 cents, and the national average payment for each paid breakfast shall be 7.5 cents. These payment factors shall be adjusted in accordance with section 11(a) of the National School Lunch Act on July 1, 1981, and annually thereafter.

"(C) No breakfast assistance payment may be made under this subsection for any breakfast served by a school unless such breakfast consists of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary under subsection (e) of this section.".

(2) Section 4(b)(2) of the Child Nutrition Act of 1966 is amended—

(A) in subparagraph (B)(ii)—

(i) by striking out "on a semi-annual basis each July 1 and January 1" and inserting in lieu thereof "on an annual basis each July 1"; and

(ii) by striking out "six-month" and inserting in lieu thereof "twelve-month"; and

(B) in subparagraph (C), by striking out "five cents less than" and inserting in lieu thereof "one-half of".

(3) Section 4(d) of the Child Nutrition Act of 1966 is amended—

(A) in the first sentence, by striking out "Each state educational agency shall establish eligibility standards for providing additional assistance to schools in severe need, which shall include" and inserting in lieu thereof "Eligibility standards for providing additional assistance to schools in severe need under subsection (b)(2) shall include only"; and

(B) by striking out the second and third sentences thereof.

REDUCTION IN COMMODITY ASSISTANCE FOR LUNCHES

SEC. 5613. Section 6(e) of the National School Lunch Act is amended by striking out the first sentence and inserting in lieu thereof the following: "The national average value of donated foods, or cash payments in lieu thereof, for free or reduced price lunches served to children eligible for such lunches shall be 15.54 cents, less 2 cents, adjusted on July 1, 1981, and each July 1 thereafter to reflect changes in the Price Index for Food Used in Schools and Institutions. The national average value of donated foods, or cash payments in lieu thereof, for lunches served to children eligible for paid lunches shall be 7.23 cents, adjusted on July 1, 1981, and each July 1 thereafter to reflect changes in the Price Index for Food Used in Schools and Institutions.".

REVISION OF INCOME ELIGIBILITY GUIDELINES

SEC. 5614. (a) Section 9(b) of the National School Lunch Act is amended—

(1) by amending paragraph (1) to read as follows:

"(b)(1) Not later than June 1 of each fiscal year, the Secretary shall prescribe income guidelines for determining eligibility for free and reduced-price lunches during the 12-month period beginning July 1 of such fiscal year and ending June 30 of the following fiscal year. The income guidelines for determining eligibility for free lunches during any such 12-month period shall be 130 percent of the applicable family-size income levels contained in the poverty guidelines prescribed by the Office of Management and Budget, adjusted annually pursuant to section 625 of the Economic Opportunity Act of 1964, except that beginning July 1, 1983, the income guidelines for determining eligibility for free lunches shall be the same as the gross income guidelines announced by the Secretary for any such fiscal year for eligibility for participation in the food stamp program under the Food Stamp Act of 1977. The income guidelines for determining eligibility for reduced-price lunches during any such 12-month period shall be 185 percent of the applicable family-size income levels contained in the poverty guidelines prescribed by the Office of Management and Budget, adjusted annually pursuant to section 625 of the Economic Opportunity Act of 1964.";

(2) by redesignating paragraph (2) (and any references thereto) as paragraph (5) and by inserting after paragraph (1) the following new paragraphs:

"(2)(A) Following the determination by the Secretary under paragraph (1) of the income eligibility guidelines for any 12-month period, each State educational agency shall notify the local school food authorities in such State of these guidelines, which shall be used by the school food authorities in making determinations of eligibility for free and reduced-price lunches. At the beginning of each school year, local school food authorities shall make a public announcement specifying, by family size, such income eligibility guidelines for free or reduced-price lunches.

"(B) Local school food authorities shall in a timely manner make available to the parents of children in attendance at their schools applications for free and reduced-price lunches in such form as the Secretary may prescribe, together with any descriptive material relating to the school lunch program. The applications shall specify the income eligibility guidelines, by family size, for reduced-price lunches (as determined by the Secretary under paragraph (1)) and shall contain an explanation that households with incomes not exceeding the incomes specified in the guidelines shall be eligible for either free lunches or reduced-price lunches. Neither the applications, nor any descriptive material provided to such households with the application, shall contain the income eligibility guidelines for free lunches. Nothing contained in the preceding sentence shall be construed to affect the requirement contained in subparagraph (A) of this paragraph that the public announcements made by local school food authorities shall specify the income eligibility guidelines for both free and reduced-price lunches.

"(C) Eligibility determinations shall be made on the basis of a complete application executed by an adult member of the household. Local school food authorities shall undertake such verification of the information contained in these applications as the Secretary may by regulation prescribe and, in accordance with such regulations, make appropriate changes in the eligibility determinations on the basis of such verification.

"(3) Any child who is a member of a household whose income, at the time the application is submitted, is at an annual rate (as estimated by the applicant for the school year for which the application is submitted) which does not exceed the applicable family-size income level prescribed under the eligibility guidelines for free lunches, as determined under paragraph (1), shall be served a free lunch. Any child who is a member of a household whose income, at the time the application is submitted, is at an annual rate which exceeds the applicable family-size income level of the income eligibility guidelines for free lunches, as determined under paragraph (1), but which does not exceed the applicable family-size income level of the income eligibility guidelines for reduced-price lunches, as determined under paragraph (1), shall be served a reduced price lunch. The price charged by a local school food authority for a reduced-price lunch shall not exceed 40 cents.

"(4) No physical segregation of or other discrimination against any child eligible for a free lunch or a reduced price lunch under this subsection shall be made by the school nor shall there by any overt identification of any child by special tokens or tickets, announced or published lists of names, or by other means."; and

(3) in the second sentence of paragraph (5), as so redesignated by paragraph (2) of this subsection, by striking out "solely".

(b) Section 9 of the National School Lunch Act is further amended by adding at the end thereof the following new subsection:

"(d)(1) The Secretary shall require, as a condition of eligibility for receipt of free or reduced-price school meals under programs under this Act and the Child Nutrition Act of 1966, that the member of the household who executes the application for participation in the program furnish the social security account numbers of all adult members of the household of which such person is a member.

"(2) Notwithstanding any other provision of law, as a condition for receipt of free or reduced-price school meals under this Act and the Child Nutrition Act of 1966 by any member of a household, the Secretary shall require that appropriate documentation, as prescribed by the Secretary, of the income of such household has been provided to the appropriate local school food authority. The information which the Secretary may require for purposes of verifying a child's eligibility for free or reduced-price school meals may include pay stubs, documentation of the current status of household members who are recipients of public assistance, unemployment insurance documents, and written statements from employers. Documentation showing that a household is participating in the food stamp program under the Food Stamp Act of 1977 shall be considered to be adequate verification that a child who is a member of such household is eligible for such meals.".

(c) For the school year ending June 30, 1982, the Secretary may prescribe procedures for implementing the revisions made by the amendments contained in this section to the income eligibility guidelines for free and reduced-price lunches under section 9 of the National School Lunch Act. Such procedures may allow school food authorities to (1) use applications distributed at the beginning of the school year when making eligibility determinations based on the revised income eligibility guidelines, or (2) distribute new applications and make determinations using such applications.

REVISION OF STATE REVENUE MATCHING REQUIREMENTS

SEC. 5615. (a) Section 7 of the National School Lunch Act is amended to read as follows:

"SEC. 7. (a)(1) Funds appropriated to carry out section 4 of this Act during any fiscal year shall be available for payment to the States for disbursement by State educational agencies in accordance with such agreements, not inconsistent with the provisions of this Act, as may be entered into by the Secretary and such State educational agencies for the purpose of assisting schools within the States in obtaining agricultural commodities and other foods for consumption by children in furtherance of the school lunch program authorized under this Act. For any school year, such payments shall be made to a State only if, during such school year, the amount of the State revenues (excluding State revenues derived from the operation of the program) appropriated for, or used in connection with, food service in schools participating in the school lunch program under this Act (other than any State revenues expended for salaries and administrative expenses of the program at the State level) is not less than 30 percent of the funds made available to such State under section 4 of this Act for the preceding school year.

"(2) If, for any school year, the per capita income of a State is less than the average per capita income of all the States, the amount required to be expended by a State under paragraph (1) for such year shall be an amount bearing the same ratio to the amount equal to 30 percent of the funds made available to such State under section 4 of this Act for the preceding school year as the per capita income of such State bears to the average per capita income of all the States.

"(b) No State in which the State educational agency is prohibited by law from disbursing State appropriated funds to private schools shall be required to match Federal funds made available for meals served in such schools, or to disburse, to such schools, any of the State revenues required to meet the requirements of subsection (a).

"(c) The Secretary shall certify to the Secretary of the Treasury, from time to time, the amounts to be paid to any State under this section and shall specify when such payments are to be made. The Secretary of the Treasury shall pay to the State, at the time or times fixed by the Secretary, the amounts so certified.".

(b) Section 10 of the National School Lunch Act is amended to read as follows:

"DISBURSEMENT TO SCHOOLS BY THE SECRETARY

"SEC. 10. If, in any State, the State educational agency is not permitted by law to disburse the funds paid to it under this Act to any of the schools in the State, the Secretary shall disburse the funds directly to such schools within the State for the same purposes and subject to the same conditions as are authorized or required with respect to the disbursement to schools within the State by the State educational agency.".

TERMINATION OF FOOD SERVICE EQUIPMENT ASSISTANCE

SEC. 5616. (a) Section 5 of the National School Lunch Act is repealed.

(b) Section 5 of the Child Nutrition Act of 1966 is repealed.

NUTRITION EDUCATION AND TRAINING PROGRAM

SEC. 5617. The second sentence of section 19(j)(2) of the Child Nutrition Act of 1966 is amended to read as follows: "There is authorized to be appropriated for the grants referred to in the preceding sentence not more than $15,000,000 for fiscal year 1981, and not more than $2,500,000 for each subsequent fiscal year.".

REVISION OF THE SPECIAL MILK PROGRAM

SEC. 5618. Section 3 of the Child Nutrition Act of 1966 is amended—

(1) in the first sentence, by inserting ", which do not participate in a meal service program authorized under this Act or the National School Lunch Act" after "under" in clause (1) and after "training of children" in clause (2);

(2) in the fourth sentence, by inserting "which does not participate in a meal service program authorized under this Act or the National School Lunch Act" after "institution"; and

(3) by striking out the eighth sentence.

LIMITATION ON PRIVATE SCHOOL PARTICIPATION

SEC. 5619. (a) Section 12 of the National School Lunch Act is amended by inserting in the first sentence of subsection (d)(6) "except private schools whose average yearly tuition exceeds $1,500 per child" after "under".

(b) Section 15(c) of the Child Nutrition Act of 1966 is amended by inserting in the first sentence "except private schools whose average yearly tuition exceeds $1,500 per child" after "such school,".

SUMMER FOOD SERVICE PROGRAM

SEC. 5620. Section 13 of the National School Lunch Act is amended—

(1) in clause (B) of subsection (a)(1), by striking out "nonresidential public or private nonprofit institutions," and inserting in lieu thereof "public or private nonprofit school food authorities, local, municipal, or county governments,";

(2) by adding at the end of subsection (a) the following new paragraph:

"(5) Service institutions that are local, municipal, or county governments shall be eligible for reimbursement for meals served in programs under this section only if such programs are operated directly by such governments."; and

(3) by amending subsection (b)(2) to read as follows:

"(2) Any service institution may only serve lunch and either breakfast or a meal supplement during each day of operation, except that any service institution that is a camp or that serves meals primarily to migrant children may serve up to four meals during each day of operation if (A) the service institution has the administrative capacity and the food preparation and food holding capabilities (where applicable) to serve more than one meal per day, and (B) the service period of different meals does not coincide or overlap. The meals that camps and migrants' programs may serve shall include a breakfast, a lunch, a supper, and meal supplements.".

REVISION OF CHILD CARE FOOD PROGRAM

SEC. 5621. (a) Section 17(a) of the National School Lunch Act is amended—

(1) in the third sentence—

(A) by inserting "not over 12 years of age (except that such age limitation shall not be applicable for handicapped children or children of migrant workers)" after "schoolchildren"; and

(B) by inserting before the period at the end thereof the following: ", in which at least one-third of the children are from families with incomes not greater than 185 percent of the poverty guidelines of the Office of Management and Budget".

(b) Section 17(b) of the National School Lunch Act is amended by striking out "served in the manner specified in subsection (c)" and inserting in lieu thereof "as provided in subsection (f)".

(c) Section 17(c) of the National School Lunch Act is amended to read as follows:

"(c)(1) For purposes of this section, the national average payment rate for free lunches and suppers, the national average payment rate for reduced-price lunches and suppers, and the national average payment rate for paid lunches and suppers shall be the same as the national average payment rates for free lunches, reduced-price lunches, and paid lunches, respectively, under section 4 of this Act (as adjusted pursuant to section 11 of this Act).

"(2) For purposes of this section, the national average payment rate for free breakfasts, the national average payment rate for reduced-price breakfasts, and the national average payment rate for paid breakfasts shall be the same as the national average payment rates for free breakfasts, reduced-price breakfasts, and paid breakfasts, respectively, under section 4(b) of the Child Nutrition Act of 1966 (as adjusted pursuant to section 11 of this Act).

"(3) For purposes of this section, the national average payment rate for free supplements shall be 27.5 cents, the national average payment rate for reduced-price supplements shall be one-half the rate for free supplements, and the national average payment rate for paid supplements shall be 2.50 cents. The Secretary shall adjust such national average payment rates in accordance with section 11(a) of this Act.".

(d) Section 17(f) of the National School Lunch Act is amended—

(1) by amending paragraph (2) to read as follows:

"(2)(A) Subject to subparagraph (B) of this paragraph, the disbursement for any fiscal year to any institution, other than family or group day care home sponsoring organizations, for meals provided under this section shall be equal to the sum of the products obtained by multiplying the total number of each type of meal (breakfast, lunch or supper, or supplement) served in such institution in that fiscal year by the applicable national average payment rate for each such type of meal, as determined under subsection (c).

"(B) No reimbursement may be provided to an institution under this paragraph, or to family or group day care home sponsoring organizations under paragraph (4) of this subsection, for meals served to a child to the extent that the institution to which the reimbursement is made served to such child more than two meals and one meal supplement in one day.";

(2) in the first sentence of paragraph (3), by striking out "may elect to" and inserting in lieu thereof "shall"; and

(3) in the first sentence of paragraph (4), by adding at the end thereof before the period the following: ", except that meals and supplements served to children of family day care home providers whose annual income exceeds 185 percent of the poverty guidelines of the Office of Management and Budget shall not be eligible to receive reimbursement under this section for meals or supplements served to their children".

(e) Section 17(g) of the National School Lunch Act is amended by striking out paragraph (2) and by redesignating paragraphs (3) and (4) (and any references thereto) as paragraphs (2) and (3), respectively.

(f) Section 17 of the National School Lunch Act is further amended—

(1) by striking out subsections (i) and (n); and

(2) by redesignating subsection (j) as subsection (i), subsection (k) as subsection (j), subsection (l) as subsection (k), subsection (m) as subsection (l), subsection (o) as subsection (m), subsection (p) as subsection (n), subsection (q) as subsection (o), and subsection (r) as subsection (p), and by redesignating any references to such subsections accordingly.

(g) Section 17(m) of the National School Lunch Act (as so redesignated) is amended in the second sentence by striking out "the availability of food service equipment funds under the program".

REVISION OF SPECIAL SUPPLEMENTAL FOOD PROGRAM

SEC. 5622. The first sentence of subsection 17(g) of the Child Nutrition Act of 1966 is amended by striking "such sums as may be necessary for the three subsequent fiscal years" and inserting in lieu thereof "1,037,000,000 for each of the fiscal years ending September 30, 1982, September 30, 1983, and September 30, 1984".

COST SAVINGS REVISIONS BY THE SECRETARY

SEC. 5623. As soon as possible after the date of the enactment of this Act, the Secretary of Agriculture shall review regulations promulgated under section 10 of the Child Nutrition Act of 1966 (including regulations pertaining to nutritional requirements for meals) for the purposes of determining ways in which cost savings might be accomplished at the local level in the operation of meal programs under the National School Lunch Act and the Child Nutrition Act of 1966 without impairing the nutritional value of such meals. Not later than 90 days after the date of the enactment of this Act, on the basis of such review, the Secretary of Agriculture shall promulgate such regulations as the Secretary considers appropriate to effectuate such cost savings.

TERMINATION OF STATE PLAN REQUIREMENTS

SEC. 5624. Section 11(e) of the National School Lunch Act is amended by striking out paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

EFFECTIVE DATE

SEC. 5625. The provisions of this subchapter shall take effect on August 15, 1981.

Subchapter B—Amendments to the Higher Education Act of 1965

SHORT TITLE

SEC. 5631. This subchapter may be cited as the "Postsecondary Student Assistance Amendments of 1981".

NEED BASED LOANS

SEC. 5632. (a) Section 425(a) of the Higher Education Act of 1965 (hereafter in this subchapter referred to as "the Act") is amended—

(1) by striking out "The total of loans" and inserting in lieu thereof "Subject to the limitations contained in paragraph (3), the total of loans"; and

(2) by adding at the end thereof the following new paragraph:

"(3)(A) The amount of any loan made on or after October 1, 1981, which may be covered by Federal loan insurance under this part shall be limited to the student's financial need for the period of instruction to be covered by the loan, except that in the case of a student whose financial need is determined to be equal to or less than $1,000, the amount of the loan to such student which may be covered by Federal loan insurance under this part shall be $1,000.

"(B) For the purposes of this paragraph, the term 'financial need' means the estimated cost of attendance less estimated financial assistance and the expected family contribution. The eligible institution at which he is in attendance shall determine the student's financial need in accordance with a needs analysis method determined by the Secretary.".

(b) Section 428(o)(1) of the Act is amended by striking out "and" at the end of division (ii), by inserting "and" at the end of division (iii), and by inserting after division (iii) the following new division:

"(iv) that, in the case of any loan made on or after October 1, 1981, the program may not authorize the insurance of any loan in excess of the student's financial need, determined in accordance with section 425(a)(3)(B), for the period of instruction to be covered by the loan, but in the case of a student whose financial need is determined to be equal to or less than $1,000, the amount of the loan to such student which is authorized to be covered by such insurance shall be $1,000.".

(c) Section 439B of the Act is repealed.

(d) Section 482(a)(1) of the Act is amended by striking out "and under part B".

(e) Section 428B(b)(3) of the Act is amended by striking out "No" and inserting in lieu thereof the following: "Any loan under this section may be counted as part of the student's expected family contribution in the determination of need under this title, but no".

NEED ANALYSIS AMENDMENTS

SEC. 5633. (a)(1) Section 482(b)(3) of the Act is amended by striking out ", and includes any amount paid under the Social Security Act to, or on account of, the student which would not be paid if he were not a student and one-half of any amount paid the student under chapters 34 and 35 of title 38, United States Code".

(2) Section 482(b)(1) of the Act is amended by inserting immediately before the period at the end of the first sentence thereof the following: ", and includes (A) any amount paid under the Social Security Act to, or on account of, the student which would not be paid if he were not a student, and (B) any amount paid the student under chapters 34 and 35 of title 38, United States Code".

(b) Section 482(b)(4) of the Act is amended to read as follows:

"(4) In determining the expected family contribution under this section for any academic year after academic year 1980–1981, the Secretary shall set an assessment rate or a series of assessment rates to be applied to parental discretionary income.".

(c) Section 482(b)(5) of the Act is amended—

(1) by striking out clause (A);

(2) by redesignating clauses (B) and (C) as clauses (A) and (B), respectively;

(3) by striking out "$10,000" in clause (A) (as redesignated by this subsection) and inserting in lieu thereof "$25,000"; and

(4) by striking out "$50,000" in clause (B) (as redesignated by this subsection) and inserting in lieu thereof "$100,000".

(d) Section 482(d) of the Act is amended—

(1) in paragraph (2) by inserting "as determined by the Secretary" immediately before the semicolon at the end thereof;

(2) by inserting immediately before the semicolon at the end of subparagraphs (A), (C), and (D) of paragraph (3) a comma and the following: "except that for purposes of subpart 1 of part A this allowance shall be determined by the Secretary"; and

(3) by striking out paragraphs (4), (5), (6), and (7) and inserting in lieu thereof the following:

"(4) for a student engaged in a program of study by correspondence, only tuition and fees and an allowance, as determined by the Secretary, for required books, supplies, travel, and room-and-board costs incurred specifically in fulfilling a required period of residential training;

"(5) for a student enrolled in an academic program which normally includes a formal program of study abroad, an allowance for reasonable costs as determined by the Secretary;

"(6) for a student with dependent children, an allowance for child-care expenses as determined by the Secretary; and

"(7) for a handicapped student, an allowance as determined by the Secretary for those expenses related to the handicap, including special services, transportation, equipment, and supplies that are reasonably incurred and not provided for by other assisting agencies.".

INTEREST RATES ON PARENT LOANS

SEC. 5634. (a) Section 428B(c)(3) of the Act is amended to read as follows:

"(3) Interest on loans made pursuant to this section shall be at the rate of 9 per centum per annum on the unpaid principal balance of the loan, except that for any loan made pursuant to this section on or after October 1, 1981, the interest shall be at the rate of 14 per centum per annum on the unpaid principal balance of the loan.".

(b) Section 438(b)(2) of the Act is amended—

(1) by striking out "subparagraph (D)" in subparagraphs (A), (B), and (C), and inserting in lieu thereof "subparagraph (E)";

(2) by redesignating subparagraph (D) as subparagraph (E);

(3) by inserting after subparagraph (C) the following new subparagraph:

"(D) Subject to subparagraph (E) and paragraph (4), the special allowance paid pursuant to this subsection on loans for which the applicable interest rate is 14 per centum per annum shall be computed (i) by determining the average of the bond equivalent rates of the ninety-one-day Treasury bills auctioned for such three-month period, (ii) by subtracting 10.5 per centum from such average, and (iii) by dividing the resultant per centum by four."; and

(4) by striking out "subparagraph (A), (B), or (C)" in subparagraph (E) (as redesignated by paragraph (2) of this subsection) and inserting in lieu thereof "subparagraph (A), (B), (C), or (D)".

INDEPENDENT STUDENT LOAN LIMITATIONS

SEC. 5635. (a) Section 425(a)(1) of the Act is amended—

(1) by striking out clause (A) and by redesignating clauses (B), (C), and (D) as clauses (A), (B), and (C), respectively; and

(2) by striking out "clause (C)" in the last sentence of such section and inserting in lieu thereof "clause (B)".

(b) Section 425(a)(2) of the Act is amended—

(1) by striking out "(other than an independent student)"; and

(2) by striking out "$15,000 in the case of any independent student who has not successfully completed a program of undergraduate education,".

(c) The matter preceding subdivision (i) of section 428(b)(1)(A) of the Act is amended—

(1) by striking out "(other than an independent student)"; and

(2) by striking out "or not more than $3,000 in the case of an independent student (defined in accordance with section 482(c)(2)) who has not successfully completed a program of undergraduate education,".

(d) Section 428(b)(1)(B) of the Act is amended—

(1) by striking out "(other than an independent student)"; and

(2) by striking out "$15,000 in the case of any independent student who has not successfully completed a program of undergraduate education,".

(1) by striking out ", other than an independent student," in subsection (a)(1)(A) and in subsection (a)(2)(A);

(2) by striking out "$3,000 (in the case of an independent student (as defined in section 482(c)(2)) who has not successfully completed a program of undergraduate education)," in each such subsection;

(3) by striking out "(other than an independent student)" in each such subsection; and

(4) by striking out "$15,000 in the case of any independent student who has not successfully completed a program of undergraduate education," in each such subsection.

(f)(1) Section 428(a) of the Act is amended by inserting "and independent students (as defined in section 482(c)(2))" before "shall be eligible".

(2) Section 428B(b) of the Act is amended by adding at the end thereof the following new paragraph:

"(4)(A) Notwithstanding the first sentence of paragraph (3) but subject to subparagraph (B) of this paragraph, the maximum amount an independent student may borrow under this section in any academic year or its equivalent (as defined by regulation by the Secretary) is equal to (i) $2,500, minus (ii) the amount of all other loans under this part to such student for such academic year or its equivalent.

"(B) The aggregate insured principal amount for insured loans made to an independent student under this part (including loans made under this section) shall not exceed $12,500.".

(3) Section 439(o) of the Act is amended by adding at the end thereof the following new paragraph:

"(5) No loan may be made under this section for the purpose of consolidating a loan or loans made under section 428B with a loan or loans made under any other provision of this part.".

ELIMINATION OF GRACE PERIODS AFTER DEFERMENTS

SEC. 5636. (a) Section 427(a)(2)(C) of the Act is amended—

(1) by striking out "that any such period" and inserting in lieu thereof "and any such period"; and

(2) by striking out ", that no repayment of principal of any loan for any period of study, training, service, or unemployment described in this clause or any combination thereof shall begin until six months after

completion of such period or combination thereof".

(b) Section 428(b)(1)(M) of the Act is amended by striking out ", and that no repayment of principal of any loan for any period of study, training, service, or unemployment described in this clause or any combination thereof shall begin until six months after completion of such period or combination thereof".

RESTRICTION OF DEFERMENTS OF REPAYMENT

SEC. 5637. (a) Section 427(a)(2)(C) of the Act is amended by striking out clauses (iii) through (vi) and by redesignating clauses (vii) and (viii) as clauses (iii) and (iv), respectively.

(b) Section 428(b)(1)(M) of the Act is amended by striking out clauses (iii) through (vi) and by redesignating clauses (vii) and (viii) as clauses (iii) and (iv), respectively.

PROCESSING COSTS

SEC. 5638. (a) Section 428(e) of the Act is amended to read as follows:

"(e) Each eligible institution is authorized to collect from any student for which it provides assistance in obtaining any loan described in paragraph (1) or made under section 428B for any academic year a reasonable fee solely for the purpose of offsetting the costs to the institution for the program under this part."

(b)(1) Section 489(a) of the Act is amended by striking out the first sentence and by striking out "In addition, an" and inserting in lieu thereof "An".

(2) Section 411 of the Act is amended by adding at the end thereof the following new subsection:

"(d) Each institution of higher education is authorized to collect from any student for which it provides assistance in obtaining any grant under this section for any academic year a reasonable fee solely for the purpose of offsetting the costs to the institution for the program under this section.".

REDUCTION OF INTEREST SUBSIDY BY AMOUNT OF AUTHORIZED ORIGINATION FEES

SEC. 5639. (a) Section 428(a)(3)(A) of the Act is amended by inserting "(i)" after "(3)(A)" and by adding at the end thereof the following:

"(ii) Notwithstanding division (i) of this subparagraph, the total amount of the portion of the interest which shall be paid to any holder with respect to loans made on or after July 1, 1981, shall be reduced by an amount equal to the maximum amount which the lender was authorized to charge as an origination fee with respect to such loans in accordance with section 427A(d).".

(b) Section 427A of the Higher Education Act of 1965 is amended by adding at the end thereof the following:

"(d) With respect to any loan made to a student on or after July 1, 1981, each eligible lender under this part is authorized to charge the borrower an origination fee in amount not to exceed 4 per centum of the principal amount of the loan, which may be deducted from the proceeds of the loan prior to payment to the borrower. Such origination fee shall not be taken into account for purposes of determining compliance with subsection (a) of this section. The lender shall disclose to the borrower the amount and method of calculating the origination fee, but this disclosure need not meet the requirements of the Truth in Lending Act (15 U.S.C. 1601 et seq.) until April 1, 1982.

MINIMUM ANNUAL REPAYMENT

SEC. 5640. (a) Section 427(c) of the Act is amended by striking out "$360" each place it appears and inserting in lieu thereof "$600".

(b) Section 428(b)(1)(L) of the Act is amended by striking out "$360" each place it appears and inserting in lieu thereof "$600".

ASSIGNMENT OF COLLECTIONS

SEC. 5641. (a) Section 428(c) of the Act is amended—

(1) in paragraph (2)(D) by striking out "but shall not otherwise provide for subrogation of the United States to the rights of any insurance beneficiary" and inserting in lieu thereof "but shall provide for subrogation of the United States to the rights of any insurance beneficiary only to the extent required for purposes of paragraph (8)"; and

(2) by adding at the end thereof the following new paragraph:

"(8) If the Secretary determines that the protection of the fiscal interest of the United States so requires, a State or nonprofit private institution or organization with which the Secretary has an agreement under subsection (b) shall assign to the Secretary any loan of which it is the holder and for which the Secretary has made a payment pursuant to paragraph (1) of this subsection.".

AMENDMENTS CONCERNING THE STUDENT LOAN MARKETING ASSOCIATION

SEC. 5642. (a) Section 439(a) of the Act is amended by striking out "insured" wherever it appears, and by inserting after "student loans," the first time it appears the following: "including loans which are insured".

(b) Section 439(a) of the Act is further amended by striking out "and" at the end of clause (1), and by striking the period at the end of clause (2) and inserting in lieu thereof the following: "; (3) to assure nationwide the establishment of adequate loan insurance programs for students, to provide for an additional program of loan insurance to be covered by agreements with the Secretary.".

(c) Section 439(d)(1) of the Act is amended to read as follows:

"(d)(1) The Association is authorized, subject to the provisions of this section—

"(A) pursuant to commitments or otherwise to make advances on the security of, purchase, or repurchase, service, sell or resell, offer participations, or pooled interests or otherwise deal in, at prices and on terms and conditions determined by the Association, student loans which are insured by the Secretary under this part or by a State or nonprofit private institution or organization with which the Secretary has an agreement under section 428(b);

"(B) to buy, sell, hold, underwrite, and otherwise deal in obligations, if such obligations are issued, for the purpose of making or purchasing insured loans, by a State or nonprofit private institution or organization which has an agreement with the Secretary under section 428(b) or by an eligible lender in a State described in section 435(b)(1) (D) or (F);

"(C) to undertake a program of loan insurance pursuant to agreements with the Secretary under sections 428 and 428A, except that, with respect to loans under section 439(o), the Secretary may enter into an agreement with the Association for such purpose only if the Secretary determines that (i) eligible borrowers are seeking and unable to obtain loans under this part, and (ii) no State or nonprofit private institution or organization having an agreement with the Secretary for a program of loan insurance under this part is capable of or willing to provide a program of loan insurance for such borrowers; and

"(D) to undertake any other activity which the Board of Directors of the Association determines to be in furtherance of the programs of insured student loans authorized under this part or will otherwise support the credit needs of students.

The Association is further authorized to undertake any activity with regard to student loans which are not insured or guaranteed as provided for in this subsection as it may undertake with regard to insured or guaranteed student loans. Any warehousing advance made on the security of such loans shall be subject to the provisions of paragraph (2) of this subsection to the same extent as a warehousing advance made on the security of insured loans.".

(d) Section 439(1) of the Act is amended by adding at the end thereof the following: "The obligations of the Association shall be deemed to be obligations of the United States for purposes of section 3701 of the Revised Statutes (31 U.S.C. 742). For the purpose of the distribution of its property pursuant to section 726 of the title 11, United States Code, the Association shall be deemed a person within the meaning of such title.".

EFFECTIVE DATE

SEC. 5643. (a) Except as provided in subsection (b), the amendments made by this subchapter shall take effect on October 1, 1981.

(b)(1) Except as provided in paragraph (2), the amendments made by this subchapter to part B of title IV of the Higher Education Act of 1965 shall apply to loans made on or after October 1, 1981.

(2) The amendments made by section 5633(d) of this Act to section 482(d) of the Higher Education Act of 1965 and by sections 5639 and 5642 shall take effect on the date of the enactment of this Act.

TITLE III, HOUSE COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

On page 21, strike out line 17 and all that follows through line 35 on Page 22 and insert in lieu thereof the following and redesignate the following sections accordingly.

Chapter I—COMMUNITY AND ECONOMIC DEVELOPMENT AUTHORIZATIONS

SEC. 3101. Section 103 of the Housing and Community Development Act of 1974 is amended to read as follows:

"SEC. 103. The Secretary is authorized to make grants to States, units of general local government and Indian tribes to carry out activities in accordance with the provisions of this title. There are authorized to be appropriated for these purposes not to exceed $4,166,000,000 for each of fiscal years 1982 and 1983. Sums appropriated pursuant to this section shall remain available until expended.".

STATEMENT OF ACTIVITIES AND REVIEW

SEC. 3102. (a) The caption of section 104 of the Housing and Community Development Act of 1974 is amended to read as follows: "STATEMENT OF ACTIVITIES AND REVIEW".

(b) Sections 104 (a), (b) and (c) of such Act are amended to read as follows:

SEC. 104. (a) Prior to the receipt in any fiscal year of a grant by any metropolitan city or ubran county or by any State under section 106, the grantee shall have prepared

a final statement of community development objectives and projected use of funds and shall have provided the Secretary with the certifications required in subsection (b) and, where appropriate, subsection (c). In the case of metropolitan cities and urban counties receiving grants pursuant to section 106(b), the statement of projected use of funds shall consist of proposed community development activities. In the case of States receiving grants pursuant to section 106(d), the statement of projected use of funds shall consist of the method by which the States will distribute funds to units of general local government. In order to permit public examination and appraisal of such statements, to enhance the public accountability of grantees, and to facilitate coordination of activities with different levels of government, a proposed statement shall be published in such manner to afford affected citizens or, as appropriate, units of general local government an opportunity to examine its content and to submit comments on the proposed statement. In preparing the final statement, the grantee shall consider any such comments and may, if deemed appropriate by the grantee, modify the proposed statement. The final statement shall be made available to the public, and a copy shall be furnished to the Secretary together with the certifications required under subsection (b) and, where appropriate, subsection (c).

"(b) Any grant under section 106 shall be made only on condition that the grantee certify to the satisfaction of the Secretary that—

"(1) the grantee is in full compliance with the publication requirements of subsection (a);

"(2) the grant will be conducted and administered in conformity with Public Law 88-352 and Public Law 90-284;

"(3) the projected use of funds has been developed so as to give maximum feasible priority to activities which will benefit low- and moderate-income families or aid in the prevention or elimination of slums or blight; the projected use of funds may also include activities which the grantee certifies are designed to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community, and other financial resources are not available; and

"(4) the grantee will comply with the other provisions of this title and with other applicable laws.

"(c)(1) Any grant made under section 106(b) shall be made only on condition that the unit of general local government certifies that it is following a current housing assistance plan which has been approved by the Secretary and which—

"(A) accurately surveys the condition of the housing stock in the community and assesses the housing assistance needs of lower-income persons (including elderly and handicapped persons, large families, owners of homes requiring rehabilitation assistance and persons displaced or to be displaced) residing in or expected to reside in the community as a result of existing or projected employment opportunities in the community (and those elderly persons residing in or expected to reside in the community), or as estimated in a community accepted State or regional housing opportunity plan approved by the Secretary, and identifies housing stock which is in a deteriorated condition, including the impact of conversion of rental housing to condominium or cooperative ownership on such needs;

"(B) specifies a realistic annual goal for the number of dwelling units or lower-income persons to be assisted, including (i) the relative proportion of new, rehabilitated, and existing dwelling units, including existing rental and owner occupied dwelling units to be upgraded and thereby preserved, (ii) the sizes and types of housing projects and assistance best suited to the needs of lower-income persons in the community, and (iii) in the case of subsidized rehabilitation, adequate provisions to assure that a preponderance of persons assisted should be of low and moderate income; and

"(C) indicates the general locations of proposed housing for lower-income persons, with the objective of (i) furthering the revitalization of the community, including the restoration and rehabilitation of stable neighborhoods to the maximum extent possible, and the reclamation of the housing stock where feasible through the use of a broad range of techniques for housing restoration by local government, the private sector, or community organizations, including provision of a reasonable opportunity for tenants displaced as a result of such activities to relocate in their immediate neighborhood, (ii) promoting greater choice of housing opportunities and avoiding undue concentrations of assisted persons in areas containing a high proportion of low-income persons, and (iii) assuring the availability of public facilities and services adequate to serve proposed housing projects.

"(2) The Secretary shall establish such dates and manner for the submission of housing assistance plans described in paragraph (1) as the Secretary may prescribe.".

(c)(1) Section 104(d) of such Act is amended to read as follows:

"(d) Each grantee shall submit to the Secretary, at a time determined by the Secretary, a performance report concerning the use of funds made available under section 106, together with an assessment by the grantee of the relationship of such use to the objectives identified in the grantee's statement under subsection (a). The Secretary shall, at least on an annual basis, make such reviews and audits as may be necessary or appropriate to determine—

"(1) in the case of grants made under section 106(b), whether the grantee has carried out its activities and its housing assistance plan in a timely manner, whether the grantee has carried out those activities and its certifications in compliance with the requirements of this title and other applicable laws, and whether the grantee has a continuing capacity to carry out those activities in a timely manner; and

"(2) in the case of grants made under section 106(d), whether the State has distributed funds to units of general local government in a timely manner and in conformance to the method of distribution described in its statement, whether the State has carried out its certifications in compliance with the requirements of this title and other applicable laws, and whether the State has made such reviews and audits of the units of general local government as may be necessary or appropriate to determine whether they have satisfied the performance criteria described in paragraph (1) of this subsection.

"The Secretary may make appropriate adjustments in the amount of the annual grants in accordance with the Secretary's findings under this subsection. With respect to assistance made available to units of general local government under section 106(d), the Secretary may adjust, reduce, or withdraw such assistance, or take other action as appropriate in accordance with the Secretary's reviews and audits under this subsection, except that funds already expended on eligible activities under this title shall not be recaptured or deducted from future assistance to such units of general local government.".

(2) The amendment made by paragraph (1) shall take effect on October 1, 1982, except that, in the case of grants under section 106(d)(3)(B) of the Housing and Community Development Act of 1974, as amended by this Act, such amendment shall take effect on October 1, 1983.

(d) Section 104 of such Act is amended by striking out subsections (e) and (f) and redesignating subsections (g), (h), (i), and (j) as subsections (e), (f), (g), and (h).

(e) Section 104(f) of such Act, as redesignated by subsection (d) of this section, is amended by—

(1) striking out "applicants" in paragraph (1) and inserting in lieu thereof "recipients of assistance under this title";

(2) striking out "applicant" wherever it appears and inserting in lieu thereof "recipient of assistance under this title";

(3) striking out "applications and" in the last sentence of paragraph (2); and

(4) adding the following new paragraph at the end thereof:

"(4) In the case of grants made to States pursuant to section 106(d), the State shall perform those actions of the Secretary described in paragraph (2) and the performance of such actions shall be deemed to satisfy the Secretary's responsibilities referred to in the second sentence of such paragraph.".

(f) Section 104(g) of such Act, as redesignated by subsection (d) of this section, is amended by—

(1) striking out paragraph (1) and inserting in lieu thereof the following:

"(1) Units of general local government receiving assistance under this title may receive funds, in one payment, in an amount not to exceed the total amount designated in the grant (or, in the case of a unit of general local government receiving a distribution from a State pursuant to section 106(d), not to exceed the total amount of such distribution) for use in establishing a revolving loan fund which is to be established in a private financial institution and which is to be used to finance rehabilitation activities assisted under this title. Rehabilitation activities authorized under this section shall begin within 45 days after receipt of such payment."; and

(2) striking out the last two sentences of paragraph (2).

ELIGIBLE ACTIVITIES

SEC. 3103. (a) Section 105(a) of the Housing and Community Development Act of 1974 is amended by—

(1) striking out paragraph (8) and inserting in lieu thereof the following:

"(8) provision of public services, including but not limited to those concerned with employment, crime prevention, child care, health, drug abuse, education, energy conservation, welfare or recreation needs, if such services have not been provided by the unit of general local government (through funds raised by such unit, or received by such unit from the State in which it is located) during any part of the twelve-month period immediately preceding the date of submission of the statement with respect to which funds are to be made available under this title, and which are to be used for such

services, unless the Secretary finds that the discontinuation of such services was the result of events not within the control of the unit of general local government: *Provided*, That not more than ten percent of the amount of any assistance to a unit of general local government under this title may be used for activities under this paragraph;";

(2) striking out "and" at the end of paragraph (15);

(3) striking out the period at the end of paragraph (16) and inserting in lieu thereof "; and ";

(4) adding the following new paragraph at the end thereof:

"(17) provision of assistance to private, for-profit entities, when the assistance is necessary or appropriate to carry out an economic development project."; and

(5) inserting the following before the semicolon at the end of paragraph (13) ", and including the carrying out of activities as described in Section 701(e) of the Housing Act of 1954 on the date prior to the date of enactment of the Housing & Community Development Amendments of 1981.

(b) In fiscal years 1982, 1983 and 1984, the Secretary may waive the limitation on the amount of funds which may be used for public services activities under section 105(a)(8) of the Housing and Community Development Act of 1974, as amended by this Act, in the case of a unit of general local government which, during fiscal year 1981, allocated more than ten percent of funds received under title I of the Housing Community Development Act of 1974 for such activities.

ALLOCATION AND DISTRIBUTION OF FUNDS

SEC. 3104. (a) Section 106(a) of such Act is amended to read follows:

"SEC. 106. (a) Of the amount approved in an appropriation Act under section 103 for grants in any year (excluding the amounts provided for use in accordance with section 107), 70 percent shall be allocated by the Secretary to metropolitan cities and urban counties. Except as otherwise specifically authorized, each metropolitan city and urban county shall be entitled to annual grants from such allocation in an amount not exceeding its basic amount computed pursuant to paragraph (1) or (2) of subsection (b).".

(b) Section 106 of such Act is amended by striking out subsection (c) and redesignating subsections (d), (e), (f) and (g) as subsections (c), (d), (e) and (f), respectively.

(c) Section 106(c), as redesignated by subsection (b) of this section, is amended to read as follows:

"(c) Any amounts allocated to a metropolitan city or urban county pursuant to the preceding provisions of this section which are not received by the city or county for a fiscal year or which become available as a result of actions under section 104(d) or section 111 shall be added to amounts available for allocation under section 106(a) in the succeeding fiscal year.".

(d) Section 106(d)(1) of such Act, as redesignated by subsection (b) of this section, is amended by—

(1) striking out "section 103(a)" and all that follows through "nonmetropolitan areas of each State" in the first sentence and inserting in lieu thereof the following:

"section 103 for grants in any year (excluding the amounts provided for use in accordance with section 107), 30 percent shall be allocated to States. The allocation for each State shall be"; and

(2) striking out "nonmetropolitan" wherever it appears and inserting in lieu thereof "nonentitlement".

(e) Section 106(d) of such Act, as redesignated by subsection (b) of this section, is amended by striking out paragraphs (2) and (3) and inserting in lieu thereof the following:

"(2) Amounts allocated under paragraph (1) shall be available for distribution by the State to units of general local government which are located in nonentitlement areas of the State to carry out activities in accordance with the provisions of this title. These amounts may also be used for administrative expenses incurred by the State in carrying out its responsibilities under this title. The State shall distribute amounts allocated to it consistent with the statement submitted under section 104(a) and shall be responsible for the administration of funds so distributed.

"(3)(A) Except as provided in subparagraph (B), any amounts allocated to a State under paragraph (1) which are not received by the State for a fiscal year or which become available as a result of actions under section 104(d) or section 111 shall be added to amounts available for allocation under this subsection in the succeeding fiscal year.

"(B) States may elect not to receive an allocation under paragraph (1) for fiscal year 1982. This election shall be made in such manner and before such time as the Secretary may prescribe. The Secretary shall administer the allocation for any State exercising such an election in accordance with the provisions of this title which governed grants to units of general local government in nonentitlement areas, as such provisions (except section 104(a)(4)) existed prior to the effective date of the Housing and Community Development Amendments of 1981. Any amounts under this subparagraph (except amounts for which preapplications have been approved by the Secretary prior to October 1, 1982 and which have been obligated by January 1, 1983) which are or become available for obligation after fiscal year 1982 shall be available for use by the State for which the allocation was made.

"(4) In computing amounts under paragraph (1), Indian tribes shall be excluded.".

(f) Section 106(f), as redesignated by subsection (b) of this section, is amended by striking out "(1)" and all that follows through "106(e)" and inserting in lieu thereof "all basic grant entitlement amounts".

DISCRETIONARY FUND AND URBAN DEVELOPMENT ACTION GRANTS

SEC. 3105. (a) The caption of section 107 of the Housing and Community Development Act of 1974 is amended to read as follows:

"DISCRETIONARY FUND AND URBAN DEVELOPMENT ACTION GRANTS".

(b) Subsections (a) and (b) of section 107 of such Act are amended to read as follows:

"SEC. 107. (a) Of total amount approved in appropriation Acts under section 103 for each of the fiscal years 1982 and 1983, (1) not more than $60,000,000 for each of fiscal years 1982 and 1983 may be set aside in a special discretionary fund for grants under subsection (b), and (2) not more than $500,000,000 for fiscal year 1982 may be set aside for urban development action grants under section 119 (until the effective date of section 105(c)(1)—(5) of the Housing and Community Development Amendments of 1981) and thereafter under subsection (c) of this section. Grants under this section are in addition to any other grants which may be made under this title to the same entities for the same purposes.

"(b) From amounts set aside under subsection (a)(1), the Secretary is authorized to make grants—

"(1) in behalf of new communities assisted under title VII of the Housing and Urban Development Act of 1970 or title IV of the Housing and Urban Development Act of 1968 or in behalf of new community projects assisted under title X of the National Housing Act which meet the eligibility standards set forth in title VII of the Housing and Urban Development Act of 1970 and which were the subject of an application or preapplication under such title prior to January 14, 1975;

"(2) in Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands;

"(3) to Indian tribes; and

"(4) to States, units of general local government, Indian tribes, or areawide planning organizations for the purpose of providing technical assistance in planning, developing, and administering assistance under this title, and to State and units of general local government for implementing special projects otherwise authorized under this title. The Secretary may also provide, directly or through contracts, technical assistance under this paragraph to such governmental units, or to a group designated by such a governmental unit for the purpose of assisting that governmental unit to carry out assistance under this title.".

(c)(1) Section 107 of such Act is amended by striking out subsections (c) and (d) and inserting in lieu thereof the following:

"(c)(1) From amounts set aside under subsection (a)(2), the Secretary is authorized to make urban development action grants to cities and urban counties which are experiencing severe economic distress to help stimulate economic development activity needed to aid in economic recovery.

"(2)(A) Urban development action grants shall be made only to cities and urban counties that have, in the determination of the Secretary, demonstrated results in providing housing for persons of low- and moderate-income and in providing equal opportunity in housing and employment for low- and moderate-income persons and members of minority groups. The Secretary shall issue regulations establishing criteria in accordance with the preceding sentence and setting forth minimum standards for determining the level of economic distress of cities and urban counties for eligibility for such grants. These standards shall take into account factors such as the age of housing; the extent of poverty; the extent of population lag; growth of per capita income; and, where data are available, the extent of unemployment and job lag.

"(B) A city or urban county which fails to meet the minimum standards established pursuant to subparagraph (A) shall be eligible for assistance under this subsection if it meets the requirements of the first sentence of such subparagraph and—

"(i) in the case of a city with a population of fifty thousand persons or more or an urban county, contains an area (I) composed of one or more contiguous census tracts, enumeration districts, or block groups, as defined by the United States Bureau of Census, having at least a population of ten thousand persons or 10 percent of the population of the city or urban county; (II) in which at least 70 percent of the residents have incomes below 80 percent of the

median income of the city or urban county; and (III) in which at least 30 percent of the residents have incomes below the national poverty level; or

"(ii) in the case of a city with a population of less than fifty thousand persons, contains an area (I) composed of one or more contiguous census tracts, enumeration districts, or block groups or other areas defined by the United States Bureau of Census or for which data certified by the United States Bureau of Census are available having at least a population of two thousand five hundred persons or 10 percent of the population of the city, whichever is greater; (II) in which at least 70 percent of the residents have incomes below 80 percent of the median income of the city; and (III) in which at least 30 percent of the residents have incomes below the national poverty level.

The Secretary shall use up to, but not more than, 20 percent of the funds appropriated for use in any fiscal year under this subsection for the purpose of making grants to cities and urban counties eligible under this subparagraph.

"(3) Applications for assistance under this subsection shall—

"(A) in the case of an application for a grant under paragraph (2)(B), include documentation of grant eligibility in accordance with the standards described in that paragraph;

"(B) set forth the activities for which assistance is sought, including (i) an estimate of the costs and general location of the activities; (ii) a summary of the public and private resources which are expected to be made available in connection with the activities, including how the activities will take advantage of unique opportunities to attract private-investment; and (iii) an analysis of the economic benefits which the activities are expected to produce;

"(C) contain a certification satisfactory to the Secretary that the applicant, prior to submission of its application, (i) has held public hearings to obtain the views of citizens, particularly residents of the areas in which the proposed activities are to be carried out and (ii) has analyzed the impact of these proposed activities on the residents, particularly those of low and moderate income, of the residential neighborhood, and on the neighborhood in which they are to be carried out; and

"(D) contain a certification satisfactory to the Secretary that the applicant, prior to submission of its application, (i) has identified all properties, if any, which are included on the National Register of Historic Places and which, as determined by the applicant, will be affected by the project for which the application is made; (ii) has identified all other properties, if any, which will be affected by such project and which, as determined by the applicant, may meet the criteria established by the Secretary of the Interior for inclusion on such Register, together with documentation relating to the inclusion of such properties on the Register; (iii) has determined the effect, as determined by the applicant, of the project on the properties identified pursuant to clauses (i) and (ii); and (iv) will comply with the requirements of section 120.

"(4)(A) Except in the case of a city or urban county eligible under paragraph (2)(B), the Secretary shall establish selection criteria for grants under this subsection which must include (i), as the primary criterion, the comparative degree of economic distress among applicants, as measured (in the case of a metropolitan city or urban county) by the differences in the extent of growth lag, the extent of poverty, and the adjusted age of housing in the metropolitan city or urban county; (ii) other factors determined to be relevant by the Secretary in assessing the comparative degree of economic deterioration in cities and urban counties; and (iii) at least the following other criteria: demonstrated performance of the city or urban county in housing and community development programs; the extent to which the grant will stimulate economic recovery by leveraging private investment; the number of permanent jobs to be created and their relation to the amount of grant funds requested; the proportion of permanent jobs accessible to lower-income persons and minorities, including persons who are unemployed; the impact of the proposed activities on the fiscal base of the city or urban county and its relation to the amount of grant funds requested; the extent to which State or local government funding or special economic incentives have been committed; and the feasibility of accomplishing the proposed activities in a timely fashion within the grant amount available.

"(B) For the purpose of making grants with respect to areas described in paragraph (2)(B), the Secretary shall establish selection criteria, which must include (i) factors determined to be relevant by the Secretary in assessing the comparative degree of economic deterioration among eligible areas, and (ii) such other criteria as the Secretary may determine, including at a minimum the criteria listed in subparagraph (A)(iii) of this paragraph.

"(5) The Secretary may not approve any grant to a city or urban county eligible under paragraph (2)(B) unless—

"(A) the grant will be used in connection with a project located in an area described in paragraph (2)(B), except that the Secretary may waive this requirement where the Secretary determines (i) that there is no suitable site for the project within that area, (ii) the project will be located directly adjacent to that area, and (iii) the project will contribute substantially to the economic development of that area;

"(B) the city or urban county has demonstrated to the satisfaction of the Secretary that basic services supplied by the city or urban county to the area described in paragraph (2)(3) are at least equivalent, as measured by per capita expenditures, to those supplied to other areas within the city or urban county which are similar in population size and physical characteristics and which have median incomes above the median income for the city or urban county;

"(C) the grant will be used in connection with a project which will directly benefit the low- and moderate-income families and individuals residing in the area described in paragraph (2)(B); and

"(D) the city or urban county makes available, from its own funds or from funds received from the State or under any Federal program which permits the use of financial assistance to meet the non-Federal share requirements of Federal grant-in-aid programs, an amount equal to 20 percent of the grant to be available under this subsection to be used in carrying out the activities described in the application.

"(6) Activities assisted under this subsection may include such activities, in addition to those authorized under section 105(a), as the Secretary determines to be consistent with the purposes of this subsection.

"(7) The Secretary shall, at least on an annual basis, make reviews and audits of recipients of grants under this subsection as necessary to determine the progress made in carrying out activities substantially in accordance with approved plans and timetables. The Secretary may adjust, reduce, or withdraw grant funds, or take other action as appropriate in accordance with the findings of these reviews and audits, except that funds already expended on eligible activities under this title shall not be recaptured or deducted from future grants made to the recipient.

"(8) No assistance may be provided under this subsection for projects intended to facilitate the relocation of industrial or commercial plants or facilities from one area to another, unless the Secretary finds that the relocation does not significantly and adversely affect the unemployment or economic base of the area from which the industrial or commercial plant or facility is to be relocated.

"(9) Not less than 25 percent of the funds made available for grants under this subsection shall be used for cities under fifty thousand population which are not central cities of a metropolitan statistical area.

"(10) A grant may be made under this subsection only where the Secretary determines that there is a strong probability that (A) the non-Federal investment in the project would not be made without the grant and (B) the grant would not substitute for non-Federal funds which are otherwise available to the project.

"(11) In making grants under this subsection, the Secretary shall take such steps as the Secretary deems appropriate to assure that the amount of the grant provided is the least necessary to make the project feasible.

"(12) For purposes of this subsection, the Secretary may reduce or waive the requirement in section 102(a)(5)(B)(ii) that a town or township be closely settled.

"(13) In the case of any application which identifies any property in accordance with paragraph (3)(D)(ii), the Secretary may not commit funds with respect to an approved application unless the applicant has certified to the Secretary that the appropriate State historic preservation officer and the Secretary of the Interior have been provided an opportunity to take action in accordance with the provisions of section 120(b).

"(14)(A) For the purposes of this subsection, the term 'city' includes Guam, the Virgin Islands, and Indian tribes.

"(B) The Secretary may not approve a grant to an Indian tribe unless the tribe (i) is located on a reservation or in an Alaskan Native Village and (ii) is an eligible recipient under the State and Local Fiscal Assistance Act of 1972.

"(15) In the event that no amounts are set aside under, or precluded from being appropriated for, subsection (a)(2) for fiscal years after fiscal year 1982, any amount which is or becomes available for use under this subsection after fiscal year 1982 shall be added to amounts appropriated under section 103.

"(d) Amounts set aside for use under subsection (b) in any fiscal year but not used in that year shall remain available for use in subsequent fiscal years in accordance with the provisions of that subsection.

"(e)(1) Except as provided in paragraph (2), no grant may be made under this section unless the applicant provides satisfactory assurances that its program will be conducted and administered in conformity with Public Law 88-352 and Public Law 90-284.

"(2) No grant may be made to an Indian tribe unless the applicant provides satisfactory assurances that its program will be conducted and administered in conformity with title II of Public Law 90-284. The Secretary may waive, in connection with grants to Indian tribes, the provisions of section 109 and section 110.

"(3) The Secretary may accept a certification from the applicant that it has complied with the requirements of paragraph (1) or (2), as appropriate.".

(2) The third sentence of section 102(b) of such Act is amended by striking out "section 119" and inserting in lieu thereof "section 107(c)".

(3) Section 113(a)(3) of such Act is amended by striking out "section 119" and inserting in lieu thereof "this title".

(4) Title I of such Act is amended by striking out section 119 and redesignating sections 120 and 121, as sections 119 and 120, respectively.

(5) Section 120 of such Act, as redesignated by paragraph (4) of this subsection, is amended by—

(A) striking out "section 119" wherever it appears and inserting in lieu thereof "section 107(c)"; and

(B) striking out "subsection (c)(7)(B)" in subsection (b) and inserting in lieu thereof "paragraph (3)(D)(ii)".

(6) The amendments made by paragraphs (1) through (5) of this subsection shall become effective on the effective date of regulations implementing such paragraphs. As soon as practicable, but not later than January 1, 1982, the Secretary shall issue such final rules and regulations as the Secretary determines are necessary to carry out paragraphs (1) through (5).

(7) References to urban development action grants in section 103(b)(6)(I) of the Internal Revenue Code of 1954 shall include urban development action grants made under section 107(c) of the Housing and Community Development Act of 1974 when section 107(c) becomes effective.

NONDISCRIMINATION

SEC. 3106. Section 109(a) of the Housing and Community Development Act of 1974 is amended by adding the following new sentence at the end thereof:

"Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity.".

CHANGE IN ANNUAL CDBG REPORT SUBMISSION DATE

SEC. 3107. Section 113(a) of the Housing and Community Development Act of 1974 is amended by striking out "180" and inserting in lieu thereof "300".

TRANSITION PROVISIONS

SEC. 3108. (a) Any amounts appropriated for any fiscal year before fiscal year 1982 in a Department of Housing and Urban Development-Independent Agencies Appropriation Act or a Supplemental Appropriation Act under the head "COMMUNITY DEVELOPMENT GRANTS" or "URBAN DEVELOPMENT ACTION GRANTS" which are or become available for obligation shall remain available as provided by law, and shall be used in accordance with the following:

(1) funds authorized for use under section 119 of the Housing and Community Development Act of 1974 ("such Act") before the effective date of section 107(c) of such Act shall be available for use as provided by such section 107(c);

(2) funds authorized for use under section 106(a) of such Act before the effective date of this title shall be available for use as provided by section 106(c) of such Act;

(3) funds authorized for use under section 107 of such Act before the effective date of this title shall be available for use as provided by section 107(d) of such Act; and

(4) funds authorized for use under section 106(c) or (e) of such Act before the effective date of this title shall be available for use as provided by section 106(d)(3)(A) of such Act.

(b) Any grant or loan which, prior to the effective date of any provision of this title, was obligated and governed by any authority stricken by any provision of this title shall continue to be governed by the provisions of such authority as they existed immediately before such effective date.

URBAN HOMESTEADING

SEC. 3109. The first sentence of section 810(h) of the Housing and Community Development Act of 1974 is amended by striking out "and not to exceed $26,000,000 for the fiscal year 1979" and inserting in lieu thereof "Not to exceed $26,000,000 for the fiscal year 1979, and such sums as may be necessary for the fiscal year 1983".

REPEALERS

SEC. 3110. (a) Title VII of the Housing and Community Development Amendments of 1978 is hereby repealed.

(b) Section 701 of the Housing Act of 1954 is hereby repealed.

(c) Section 312 of the Housing Act of 1964 is hereby repealed, except that the first and second sentences of subsection (d) of such section shall remain in effect until September 30, 1982, or until such earlier time as the assets and liabilities of such fund are transferred to the revolving fund for liquidating programs established pursuant to title II of the Independent Offices Appropriation Act of 1955. All monies in the revolving fund for liquidating programs shall be available for necessary expenses of servicing and liquidating loans made pursuant to section 312, including reimbursement or payment for services and facilities of the Government National Mortgage Association and of any public or private agency for the servicing or liquidation of such loans.

(d) Part A of title IV of the Energy Conservation and Production Act is hereby repealed.

TECHNICAL AMENDMENTS

SEC. 3111. (a) Section 102(a) of the Housing and Community Development Act of 1974 is amended by—

(1) striking out paragraphs (18) and (19);

(2) inserting immediately after paragraph (6) the following:

"(7) The term 'nonentitlement area' means an area which is not a metropolitan city or part of an urban county."; and

(3) redesignating the remaining paragraphs accordingly.

(b) Section 102(c) of such Act is amended by striking out "a Community Development Program in whole or in part" and inserting in lieu thereof "activities assisted under this title".

(c) Section 102(d) of such Act is amended by striking out "103(a)(1)" and inserting in lieu thereof "103".

(d) The caption of section 105 of such Act is amended to read as follows: "ELIGIBLE ACTIVITIES".

(e) Section 105(a) of such Act is amended by—

(1) striking out the first sentence and the words "These activities" in the second sentence and inserting in lieu thereof "Activities assisted under this title";

(2) striking out in paragraph (6) the word "program";

(3) striking out in paragraph (9) "the Community Development Program" and inserting in lieu thereof "activities assisted under this title";

(4) striking out in paragraph (11) "to the community development program";

(5) striking out in paragraph (14) "(as specifically" and all that follows through "104(a)(1)" and inserting in lieu thereof "which are carried out by public or private nonprofit entities)"; and

(6) striking out in paragraph (15) "(as specifically described in the application submitted pursuant to section 104)".

(f) Section 105(b) of such Act is amended by striking out "a grant" and inserting in lieu thereof "assistance".

(g) The second sentence of 106(b)(4) of such Act is amended by striking out "for a grant under subsection (c) or (e)" and inserting in lieu thereof the following: "to receive assistance under subsection (d)".

(h) Section 108(d)(2) of such Act is amended by striking out "approved or".

(i) The first sentence of section 110 of such Act is amended by striking out "grants" and inserting in lieu thereof "assistance".

(j) The first sentence of section 112(a) of such Act is amended by striking out "103(a)" and inserting in lieu thereof "103".

(k) Section 113(a)(2) of such Act is amended by striking out "as approved by the Secretary".

(l) Section 116(b) of such Act is amended to read as follows:

"(b) In the case of funds available for any fiscal year, the Secretary shall not consider any statement under section 104(a), unless such statement is submitted on or prior to such date (in that fiscal year) as the Secretary shall establish as the final date for submission of statements in that year.".

MISCELLANEOUS AMENDMENTS

SEC. 3112. (a) ELIGIBILITY OF METROPOLITAN CITIES.—Section 102(a)(4) of the Housing and Community Development Act of 1974 is amended by inserting the following before the period at the end thereof: "or until September 30, 1983, whichever is later".

(b) ELIGIBILITY OF URBAN COUNTIES.—Section 102(a)(6) of such Act is amended by inserting the following before the period at the end thereof: "; except that any county which has been classified as an urban county under this paragraph shall be considered as meeting the population requirements of this paragraph until a decennial census indicates that the population of such county is below the amount required by this paragraph or until September 30, 1983, whichever is later".

(c) NEIGHBORHOOD REINVESTMENT.—Section 608(a) of the Neighborhood Reinvestment Corporation Act is amended—

(1) by striking out "and" after "1980,"; and

(2) by inserting the following before the period at the end thereof: ", and not to exceed $13,514,000 for fiscal year 1982".

On page 22 strike out line 38 and all that follows through line 40 on page 23 and insert in lieu thereof the following:

SEC. 3201. (a)(1) The first sentence of section 5(c)(1) of the United States Housing Act of 1937 is amended by inserting immedi-

ately after "1980" the following: ", by $922,469,430 on October 1, 1981, and by such sums as may be necessary on October 1, 1982".

(2) The second sentence of section 5(c)(1) of such Act is amended by striking out "Acts;" and all that follows through the period and inserting in lieu thereof the following:

"Acts. In addition, the aggregate amount which may be obligated over the duration of the contracts may not exceed $31,200,000,000 with respect to the additional authority provided on October 1, 1980 and $18,359,638,525 with respect to the additional authority provided on October 1, 1981.".

(3) Section 5(c) of such Act is amended by—

(A) redesignating paragraphs (3), (4) and (5) as paragraphs (4), (5) and (6), respectively; and

(B) inserting immediately after paragraph (2) the following:

"(3)(A) Of the additional authority approved in appropriation Acts and made available on October 1, 1981, the Secretary shall make available $75,000,000 for assistance to projects under section 14.

"(B) Of the balance of the additional authority referred to in the preceding subparagraph which remains after deducting the amount to be provided for assistance to projects under section 14, the Secretary may not enter into contracts aggregating—

"(i) more than 45.4 percent of such balance for existing units assisted under this Act; and

"(ii) more than 54.6 percent of such balance for newly constructed and substantially rehabilitated units assisted under this Act.".

TENANT RENTAL PAYMENTS

(4)(A) Section 3 of the United States Housing Act of 1937 is amended to read as follows:

"RENTAL PAYMENTS—DEFINITIONS

"SEC. 3. (a) Dwelling units assisted under this Act shall be rented only to families who are lower-income families at the time of their initial occupancy of such units. A family shall pay as rent for a dwelling unit assisted under this Act the highest of the following amounts, rounded to the nearest dollar:

"(1) 30 percent of the family's monthly adjusted income; or

"(2) 10 percent of the family's monthly income; or

"(3) If the family is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the family's actual housing costs, is specifically designated by such agency to meet the family's housing costs, the portion of such payments which is so designated.

"(b) When used in this Act—

"(1) The term 'lower-income housing' means decent, safe, and sanitary dwellings assisted under this Act. The term 'public housing' means lower-income housing, and all necessary appurtenances thereto, assisted under this Act other than under section 8. When used in reference to public housing, the term 'lower-income housing project' or 'project' means (A) housing developed, acquired, or assisted by a public housing agency under this Act, and (B) the improvement of any such housing.

"(2) The term 'lower-income families' means those families whose incomes do not exceed 80 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs, unusually high or low family incomes, or other factors. The term 'very lower-income families' means lower-income families whose incomes do not exceed 50 percent of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families.

"(3) The term 'families' includes families consisting of a single person in the case of (A) a person who is at least sixty-two years of age or is under a disability as defined in section 223 of the Social Security Act or in section 102 of the Developmental Disabilities Services and Facilities Construction Amendments of 1970, or is handicapped, (B) a displaced person, (C) the remaining member of a tenant family and (D) other single persons in circumstances described in regulations of the Secretary. In no event shall more than 15 percent of the units under the jurisdiction of any public housing agency be occupied by single persons under clause (D). In determining priority for admission to housing under this Act, the Secretary shall give preference to those single persons who are elderly, handicapped, or displaced before those eligible under clause (D). The term 'elderly families' means families whose heads (or their spouses), or whose sole members, are persons described in clause (A). A person shall be considered handicapped if such person is determined, pursuant to regulations issued by the Secretary, to have an impairment which is expected to be of long-continued and indefinite duration, substantially impedes such person's ability to live independently, and is of such a nature that such ability could be improved by more suitable housing conditions. The term 'displaced person' means a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws. Notwithstanding the preceding provisions of this subsection, the term 'elderly families' includes two or more elderly, disabled, or handicapped individuals living together, or one or more such individuals living with one or more persons determined under regulations of the Secretary to be essential to their care or well being.

"(4) the term 'income' means income from all sources of each member of the household, as determined in accordance with criteria prescribed by the Secretary.

"(5) The term 'adjusted income' means the income which remains after excluding such amounts or types of income as the Secretary may prescribe. In determining amounts to be excluded from income, the Secretary may, in the Secretary's discretion, take into account the number of minor children in the household and such other factors as the Secretary may determine are appropriate.

"(6) The term 'public housing agency' means any State, county, municipality, or other governmental entity or public body (or agency or instrumentality thereof) which is authorized to engage in or assist in the development or operation or lower-income housing.

"(7) The term 'State' includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions of the United States, the Trust Territory of the Pacific Islands, and Indian tribes, bands, groups, and Nations, including Alaska Indians, Aleuts and Eskimos, of the United States.

"(8) The term 'Secretary' means the Secretary of Housing and Urban Development.

"(c) When used in reference to public housing—

"(1) The term 'development' means any or all undertakings necessary for planning, land acquisition, demolition, construction, or equipment, in connection with a lower-income housing project. The term 'development cost' comprises the costs incurred by a public housing agency in such undertakings and their necessary financing (including the payment of carrying charges), and in otherwise carrying out the development of such project. Construction activity in connection with a lower-income housing project may be confined to the reconstruction, remodeling, or repair of existing buildings.

"(2) The term 'operation' means any or all undertakings appropriate for management, operation, services, maintenance, security (including the cost of security personnel), or financing in connection with a lower-income housing project. The term also means the financing of tenant programs and services for families residing in lower-income housing projects, particularly where there is maximum feasible participation of the tenants in the development and operation of such tenant programs and services. As used in this paragraph, the term 'tenant programs and services' includes the development and maintenance of tenant organizations which participate in the management of lower-income housing projects; the training of tenants to manage and operate such projects and the utilization of their services in project management and operation; counseling on household management, housekeeping, budgeting, money management, child care, and similar matters; advice as to resources for job training and placement, education, welfare, health, and other community services; services which are directly related to meeting tenant needs and providing a wholesome living environment; and referral to appropriate agencies in the community when necessary for the provision of such services. To the maximum extent available and appropriate, existing public and private agencies in the community shall be used for the provision of such services.

"(3) The term 'acquisition cost' means the amount prudently required to be expended by a public housing agency in acquiring property for a lower-income housing project.

"(d) At least 30 percent of the dwelling units made available for initial occupancy in a public housing project in any fiscal year shall be occupied by very low-income families, and at least 30 percent of the families assisted under section 8 of this Act with annual allocations of contract authority shall be very low-income families at the time of the initial renting of dwelling units.".

(B) Sections 4, 5, 9, and 11 of such Act are amended by striking out "LOW-INCOME" where it appears in the caption accompanying each such section and by inserting in lieu thereof "LOWER-INCOME".

(C) Sections 2, 4, 5, 6, 9, 11, 12, 13 and 14 of such Act are amended by striking out "low-income" wherever it appears and inserting in lieu thereof "lower-income".

(D) Section 6(c)(2) of such Act is amended by striking out the phrase "at intervals of

two years (or at shorter intervals where the Secretary deems it desirable)" and inserting in lieu thereof "no less frequently than annually".

(E) Section 8 of such Act is amended by:

(i) striking out paragraph (3) of subsection (c) and inserting in lieu thereof the following:

"(3) The amount of the monthly assistance payment with respect to any dwelling unit shall be the difference between the maximum monthly rent which the contract provides that the owner is to receive for the unit and the rent the family is required to pay under Section 3(a) of this Act. Reviews of family income shall be made no less frequently than annually".

(ii) striking out paragraph (7) of subsection (c) and redesignating paragraph (8) of such subsection as paragraph (7).

(iii) striking out paragraphs (1), (2) and (3) of subsection (f) and redesignating paragraphs (4), (5) and (6) of such subsection as paragraphs (1), (2) and (3), respectively;

(iv) striking out the phrase "The provisions of section 3(1), 5(e), and 6, "in subsection (h) and inserting in lieu thereof "Sections 5(e) and 6,";

(v) striking out the comma after the word "Act" in subsection (h); and

(vi) striking out "25 per centum of one-twelfth of the annual income of such family and the sum of—" in paragraph (3) of subsection (j) and inserting in lieu thereof "the rent the family is required to pay under section 3(a) of this Act and the sum of—".

(F) Section 236 of the National Housing Act is amended by:

(i) striking out "two years" in subsection (e) and inserting in lieu thereof "one year";

(ii) striking out "25 per centum of the tenant's income" in the second sentence of subsection (f) and inserting in lieu thereof "30 percent of the tenant's adjusted income";

(iii) striking out clause (ii) in the third sentence of subsection (f) and inserting in lieu thereof the following:

"(ii) to permit the charging of a rental for such dwelling units at such an amount less than 30 percent of a tenant's adjusted income as the Secretary determines represents a proportionate decrease for the utility charges to be paid by such tenant, but in no case shall such rental be lower than 25 percent of a tenant's adjusted income.";

(iv) striking out "25 per centum of their income" in paragraph (2) of subsection (f) and inserting in lieu thereof "30 percent of their adjusted income";

(v) striking out "25 per centum of the tenant's income" in paragraph (2) of subsection (f) and inserting in lieu thereof "the highest of the following amounts, rounded to the nearest dollar:

"(A) 30 percent of the tenant's monthly adjusted income; or

"(B) 10 percent of the tenant's monthly income; or

"(C) if the family is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the family's actual housing costs, is specifically designated by such agency to meet the family's housing costs, the portion of such payments which is so designated";

(vi) striking out the third sentence in paragraph (2) of subsection (f);

(vii) striking out subparagraph (A) of subsection (f)(3) and redesignating subsection (f)(3)(B) as subsection (f)(3); and

(viii) striking out all of subsection (m) and inserting in lieu thereof the following:

"(m) For the purpose of this section the term 'income' means income from all sources of each member of the household, as determined in accordance with criteria prescribed by the Secretary. The term 'adjusted income' means the income which remains after excluding such amounts or types of income as the Secretary may prescribe. In determining amounts to be excluded from income, the Secretary may, in the Secretary's discretion, take into account the number of minor children in the household and such other factors as the Secretary may determine are appropriate.".

(G) Section 101 of the Housing and Urban Development Act of 1965 is amended by:

(i) striking out paragraphs (1) and (2) in subsection (c) and inserting in lieu thereof the following:

"(1) 'qualified tenant' means any individual or family having an income which does not exceed 80 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs, unusually high or low family incomes, or other factors; and

"(2) 'income' means income from all sources of each member of the household, as determined in accordance with criteria prescribed by the Secretary. The term 'adjusted income' means the income which remains after excluding such amounts or types of income as the Secretary may prescribe. In determining amounts to be excluded from income, the Secretary may, in the Secretary's discretion, take into account the number of minor children in the household and such other factors as the Secretary may determine are appropriate.";

(ii) striking out the first sentence in subsection (d) and inserting in lieu thereof the following:

"The amount of the annual payment with respect to any dwelling unit shall be the lesser of (1) 70 percent of the fair market rent, or (2) the amount by which the fair market rental for such unit exceeds 30 percent of the tenant's adjusted income.";

(iii) striking out the phrase ", except the elderly, at intervals of two years (or at shorter intervals in cases where the Secretary may deem it desirable)" in paragraph (2) of subsection (e), and by inserting in lieu thereof "no less frequently than annually".

(H) The Housing and Community Development Amendments of 1979 are amended by:

(i) striking out subsection (c) in section 202; and

(ii) striking out subsection (c) in section 203.

(I)(i) In determining the rent to be paid by tenants who are occupying housing assisted under the authorities amended by this section on the effective date of this Act, the Secretary, notwithstanding any other provision of this section, may provide for delayed applicability, or for staged implementation, of the procedures for determining rent required by the provisions of subsections (a) through (h) of this section if the Secretary determines that immediate application of such procedures would be impracticable, would violate the terms of existing leases, or would result in extraordinary hardship for any class of tenants. Notwithstanding any provision of this section, application of the procedures for determining rent contained in this section shall not result in a reduction in the amount of rent paid by any tenant below the amount paid by such tenant immediately preceding the effective date of this Act.

(ii) Tenants of housing assisted under the statutes amended by this section whose occupancy begins after the effective date of this Act shall be subject to immediate rent payment determinations in accordance with the amendments contained in subsections (a) through (h), except that the Secretary may provide for delayed applicability, or for staged implementation, of these requirements for such tenants if the Secretary determines that immediate application of the requirements of this section would be impracticable, or that uniform procedures for assessing rents would significantly decrease administrative costs and burdens.

(iii) The Secretary's actions and determinations and the procedures for making determinations pursuant to this subsection (i) shall not be reviewable in any court. The provisions of subsections (a) through (h) shall be implemented and fully applicable to all affected tenants no later than five years following the date of enactment of this Act, except that the Secretary may extend the time for implementation if the Secretary determines that full implementation would result in extraordinary hardship for any class of tenants.

Strike out line 6 on page 25 and all that follows through line 15 and insert in lieu thereof the following:

(c)(1)(A) Section 101 (1) of the Housing and Urban Development Act of 1965 is amended to read as follows:

"(1) Notwithstanding the provisions of subsection (a) and any other provision of law, the Secretary may utilize additional authority under Section 5(c) of the United States Housing Act of 1937 made available by appropriation Acts on or after October 1, 1979, to supplement assistance authority available for that purpose under this Section.".

(B) The second sentence of Section 101(d) of such Act is deleted.

On Page 46, strike lines 22 through 29 and insert the following new section:

"SEC. 3676. Section 7(a) of the Export-Import Bank Act of of 1945 (23 USC 635e) is amended—

(1) by inserting "(1)" after "Sec. 7 (a)"; and (2) by adding at the end thereof the following:

"(2) The aggregate principal amount of direct loans made by the Bank shall not exceed $5,065,000,000 for fiscal year 1982, $5,413,000,000 for fiscal year 1983, and $5,737,000,000 for fiscal year 1984."

TITLE X—HOUSE COMMITTEE ON POST OFFICE AND CIVIL SERVICE

In Sec. 10001. On pages 341 through 343, strike lines 25 through 7 and insert the following:

"PAY CAPS ON FEDERAL EMPLOYEES

"SEC. 10001. (a) Notwithstanding any other provision of law, the overall percentage of the adjustment of the rates of pay under the General Schedule or any other statutory pay system under section 5305 of title 5, United States Code, which is to become effective with the first applicable pay period commencing on or after October 1, 1981, shall not exceed 4.8 percent.

(b)(1) Notwithstanding any other provision of law, in the case of a prevailing rate employee described in section 5342(a)(2) of title 5, United States Code, or an employee covered by section 5348 of that title—

(A) any increase in the rate of pay payable to such employee which would result

from the expiration of the limitation contained in section 114(a)(2) of Public Law 96-369 shall not take effect, and

(B) any adjustment under subchapter IV of chapter 53 of such title to any wage schedule or rate applicable to such employee which results from a wage survey and which is to become effective during the fiscal year beginning October 1, 1981, shall not exceed the amount which is 4.8 percent above the schedule or rate payable on September 30, 1981 (determined with regard to the limitation contained in section 114(a)(2) of Public Law 96-369).

(2) Notwithstanding the provisions of section 9(b) of Public Law 92-392 or section 704(b) of the Civil Service Reform Act of 1978, the provisions of subsection (a) shall apply (in such manner as the Office of Personnel Management shall prescribe) to prevailing rate employees to whom such section 9(b) applies, except that the provisions of subsection (a) shall not apply to any increase in a wage schedule or rate which is required by the terms of a contract entered into before the date of the enactment of this Act.

(c) Notwithstanding any other provision of law, the overall percentage increase in the rates of pay of the General Schedule and the other statutory pay systems under section 5305 of title 5, United States code, shall not exceed—

(1) in the case of the increase which is to become effective as of the beginning of the first applicable pay period commencing on or after October 1, 1982, 7 percent; and

(2) in the case of the increase which is to become effective as of the beginning of the first applicable pay period commencing on or after October 1, 1983, 7 percent.

(d)(1) Notwithstanding any other provision of law, in the case of a prevailing rate employee described in section 5342(a)(2) of title 5, United States Code, or an employee covered by section 5348 of that title, any adjustment under subchapter IV of chapter 53 of that title to any wage schedule or rate applicable to such employee which results from a wage survey shall not exceed—

(A) in the case of an adjustment which is to become effective in the fiscal year beginning October 1, 1982, the percentage increase provided General Schedule employees for that fiscal year in accordance with paragraph (c)(1) of this section; and

(B) in the case of an adjustment which is to become effective in the fiscal year beginning October 1, 1983, the percentage increase provided General Schedule employees for that fiscal year in accordance with paragraph (c)(1) of this section.

(2) Notwithstanding the provisions of section 9(b) of Public Law 92-392 or section 704(b) of the Civil Service Reform Act of 1978, the provisions of paragraph (1) of this subsection shall apply (in such manner as the Office of Personnel Management shall prescribe) to prevailing rate employees to whom such section 9(b) applies, except that the provisions of paragraph (1) shall not apply to any increase in a wage schedule or rate which is required by the terms of a contract entered into before the date of the enactment of this Act."

In Sections 10002 and 10003. On pages 343 through 344, strike lines 8 through 38 and redesignate the following sections accordingly and insert the following new section 10002 as follows:

"ANNUALIZATION OF COST OF LIVING ADJUSTMENT FOR FEDERAL EMPLOYEES

SEC. 10002. (a) Section 8340(b) of title 5, United States Code, is amended to read as follows:

"(b) Except as provided in subsection (c) of this section, effective March 1 of each year each annuity payable from the Fund having a commencing date not later than such March 1 shall be increased by the percent change in the price index published for December of the preceding year over the price index published for December of the year prior to the preceding year, adjusted to the nearest 1/10 of 1 percent.".

(b) Section 8340(c)(1) of title 5, United States Code, is amended to read as follows:

"(1) The first increase (if any) made under subsection (b) of this section to an annuity which is payable from the Fund to an employee or Member who retires, to the widow or widower of a deceased employee or Member, or to the widow or widower of a deceased annuitant whose annuity has not been increased under this subsection or subsection (b) of this section, shall be equal to the product (adjusted to the nearest 1/10 of 1 percent) of—

"(A) 1/12 of the applicable percent change computed under subsection (b) of this section, multiplied by

"(B) the number of months (counting any portion of a month as a month)—

"(i) for which the annuity was payable from the Fund before the effective date of the increase, or

"(ii) in the case of a widow or widower of a deceased annuitant whose annuity has not been so increased, since the annuity was first payable to the deceased annuitant.".

(c) The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to annuities which commence before, on, or after such date.

In section 10004. On page 345, strike line 1 and all that follows through line 25 on page 350, and redesignate the following sections accordingly.

In section 10103. On page 355, strike line 1 though line 12 and redesignate the following sections accordingly.

TITLE XII—HOUSE COMMITTEE ON SCIENCE AND TECHNOLOGY

On page 362, strike out line 18, and all that follows through page 388 line 9 and insert in lieu thereof the following.

SUBTITLE A

SEC. 12001. This subtitle may be cited as the "Department of Energy Civilian Research and Development Programs and Project 1982 Authorization Act".

OPERATING EXPENSES

SEC. 12002. (a) There are authorized to be appropriated for fiscal year 1982 in accordance with section 660 of the Department of Energy Organization Act, for operating expenses for each of the research and development programs referred to in subsection (b), a sum of dollars equal to the applicable percentage (as specified in such subsection) of the total amount which was made available for fiscal year 1981 for research, development, and demonstration activities under the appropriations account for that program pursuant to—

(1) title II of the Act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1981, and for other purposes (Public Law 96-514), under the heading "Department of Energy" and the subheadings "Fossil energy research and development" and "Energy conservation";

(2) title I of the Energy and Water Development Appropriation Act, 1981 (Public Law 96-367), under the heading "Department of Energy (Operating Expenses)" and the subheadings "Energy supply, research and development activities", "General science and research activities", and "Geothermal Resources Development Fund"; and

(3) section 101(5)(f) of (A) the joint resolution making continuing appropriations for the fiscal year 1981, and for other purposes (Public Law 96-369), and (B) the joint resolution making further continuing appropriations for the fiscal year 1981, and for other purposes (Public Law 96-536).

(b) The percentage (of the total amount made available for the program involved for fiscal year 1981, as more particularly described in subsection (a)) which is applicable with respect to each of the research and development programs for which appropriations are authorized by this section for fiscal year 1982 is as follows:

(1) 60 percent in the case of fossil energy (the sum of $422,950,000);

(2) 49 percent in the case of solar energy (the sum of $265,850,000);

(3) 28 percent in the case of geothermal energy (the sum of $38,636,000);

(4) 16 percent in the case of the Geothermal Resources Development Fund (the sum of $200,000);

(5) 46 percent in the case of energy conservation (the sum of $127,095,000);

(6) 116 percent in the case of general science and research (the sum of $437,160,000);

(7) 109 percent in the case of basic energy research (the sum of $265,411,000);

(8) 112 percent in the case of nuclear fission (the sum of $928,201,000);

(9) 117 percent in the case of magnetic fusion (the sum of $302,200,000);

(10) 17 percent in the case of hydropower (the sum of $2,000,000);

(11) 58 percent in the case of electric energy systems and storage (the sum of $62,500,000);

(12) 97 percent in the case of environmental research and development (the sum of $210,100,000); and

(13) 116 percent in the case of advanced isotope separation (the sum of $74,292,000).

PLANT AND CAPITAL EQUIPMENT

SEC. 12003(a) There are authorized to be appropriated for fiscal year 1982 in accordance with section 660 of the Department of Energy Organization Act for construction (including planning, construction, acquisition, and modification of facilities, including land acquisition), and for acquisition and fabrication of capital equipment not related to construction, with respect to each prior year project listed in the budget documents submitted to the Congress in support of the fiscal year 1982 budget (other than a project for which appropriations are authorized by section 4), amounts not to exceed the Federal share of the total estimated cost of such project as set forth in such budget documents, except as otherwise provided (in the case of specific projects) under subsection (b).

(b) The amounts otherwise authorized by subsection (a) to be appropriated for fiscal year 1982 with respect to projects listed in the budget documents are increased or decreased as follows:

(1) In the case of acquisition and fabrication of capital equipment not related to construction, the amount so authorized for fossil energy research and development is decreased by $800,000;

(2) in the case of acquisition and fabrication of capital equipment not related to construction, the amount so authorized for energy conservation is increased by $326,000;

(3) in the case of acquisition and fabrication of capital equipment not related to construction, the amount so authorized for energy supply, research, and development activities is decreased by $850,000;

(4) in the case of Project 81-E-218, Tevatron I, Fermilab, the amount so authorized is decreased by $25,000,000, for a total project authorization of $16,500,000;

(5) in the case of Project 81-ES-1, OTEC Pilot Plant, the amount so authorized is increased by $6,300,000, for a total project authorization of $36,300,000;

(6) in the case of Project 81-T-314, Impurity Studies Experiment Modification (ISX-C), Oak Ridge, Tennessee, the amount so authorized is increased by $2,500,000, for a total project authorization of $7,000,000;

(7) in the case of Project 80-ES-19, Small Community Solar Thermal Power Experiment, the amount so authorized is increased by $5,000,000, for a total project authorization of $9,180,000;

(8) in the case of Project 80-G-2, Second 50 MWe Demonstration Power Plant, Heber, Imperial Valley, Georgia, the amount so authorized is increased by $7,000,000, for a total project authorization of $19,000,000;

(9) in the case of Project 80-GS-5, National Superconducting Cyclotron Laboratory, Michigan State University, Michigan, the amount so authorized is decreased by $11,600,000, for a total project authorization of $18,400,000;

(10) in the case of Project 80-MF-3, Elmo Bumpy Torus, Oak Ridge, Tennessee, the amount so authorized is decreased by $55,000,000, for a total project authorization $21,400,000;

(11) in the case of Project 78-3-a, Mirror Fusion Test Facility, Lawrence Livermore Laboratory, California, the amount so authorized is decreased by $65,000,000, for a total project authorization of $148,700,000;

(12) in the case of Project 78-10-B, Intersecting Storage Accelerator (ISABELLE), Brookhaven National Laboratory, Brookhaven, New York, the amount so authorized is decreased by $149,500,000, for a total project authorization of $125,500,000 (including the $5,500,000 remaining under section 102(a)(8)(B) of Public Law 95-238); and

(13) in the case of multi-program general purpose facilities, the amount so authorized is decreased by such sum as may be necessary for a total project authorization of $19,700,000.

(14) in the case of Project 78-6-C, Safety Research Experimental Facility, Idaho National Engineering Laboratory, Idaho, the amount so authorized is decreased by $10,100,000, for a total project authorization of $34,200,000; and

(15) in the case of Project 76-5-A, Tokamak Fusion Test Reactor, Princeton, New Jersey, the amount so authorized is decreased by $4,900,000, for a total project authorization of $313,600,000.

(c) For purposes of this section, the terms "budget documents submitted to the Congress in support of the fiscal year 1982 budget" and "budget documents" mean the Department of Energy Congressional Budget Request, Fiscal Year 1982 (February 1981; DOE/CR-0011-3).

NEW CONSTRUCTION

SEC. 12004. There are authorized to be appropriated for fiscal year 1982 in accordance with section 660 of the Department of Energy Organization Act for plant and capital equipment (including planning, construction, acquisition, and modification of facilities, including land acquisition), with respect to each of the following projects, the amount specified for that project:

(1) Project 82-F-505, General Plant Projects for Technology Centers, six locations, $6,000,000;

(2) Project 82-F-506, Surface Water Containment and Waste Water Treatment Facility, Bruceton, Pennsylvania, $1,000,000;

(3) Project 82-ES-1, Central Receiver Utility Repowering Project, $6,000,000;

(4) Project 82-N-315, General Plant Projects, Richland, Washington, $1,100,000;

(5) Project 82-N-312, General Plant Projects, $8,914,000;

(6) Project 82-N-310, Modifications to Reactors, $2,000,000;

(7) Project 82-E-321, Accelerator Improvement Modifications, various locations, $300,000;

(8) Project 82-E-320, General Plant Projects, $300,000;

(9) Project 82-E-301, 300 Area Utilities, Hanford, Washington, $1,000,000;

(10) Project 82-E-302, Security Facilities, Argonne Laboratory, Argonne, Illinois, $1,060,000;

(11) Project 82-E-305, Traffic Safety Improvements, Hanford Engineering Development Laboratory, Hanford, Washington, $3,240,000;

(12) Project 82-E-306, Railroad Modification, INEL, Idaho, $2,000,000;

(13) Project 82-GPP-1, General Plant Projects, $3,000,000;

(14) Project 82-V-305, Modifications and Additions to Environmental Research Facilities, various locations, $1,000,000;

(15) Project 82-E-221, Accelerator Improvements, $2,000,000;

(16) Project 82-E-222, General Plant Projects, $2,400,000;

(17) Project 82-E-223, Argonne Tandem/Linac Accelerator System, $400,000;

(18) Project 82-E-204, General Plant Projects, $5,000,000;

(19) Project 82-E-205, Accelerator Improvement Projects, various locations, $6,000,000;

(20) Project 82-E-206, Tevatron II, Fermilab, $6,000,000;

(21) Project GPP-82, General Plant Projects, Princeton, New Jersey, and Oak Ridge, Tennessee, $5,700,000;

(22) Project 82-N-402, General Plant Projects, $650,000; and

(23) Project 82-N-403, Development Module, $6,000,000.

AUTHORIZATIONS LIMITED TO RESEARCH AND DEVELOPMENT PURPOSES

SEC. 12005. Nothing in sections 12002 through 12004 shall be construed to authorize commercial or remedial action activities.

SUBTITLE B

SEC. 12101. This Act may be cited as the "Department of Energy Civilian Programs Authorization Act for Fiscal Years 1982 and 1983".

OTHER RENEWABLE RESOURCES AND CONSERVATION ACTIVITIES

SEC. 12102. Funds are authorized to be appropriated for fiscal year 1982 in accordance with section 660 of the Department of Energy Organization Act for the following fossil energy, solar energy, and conservation programs:

(A) Operating expenses for solar information systems, $5,000,000;

(B) Operating expenses for conservation activities:

(1) Buildings and Community Systems, $6,500,000;

(2) Industrial Energy Conservation, $1,400,000;

(3) Energy Extension Service, $15,000,000;

(4) Multi-Sector Appropriate Technology, $5,000,000;

(C) Operating expenses for small-scale hydropower demonstration, $1,000,000; and

(D) Capital equipment not related to construction for conservation activities, Buildings and Community Systems, $100,000.

SEC. . Any State receiving financial assistance for energy extension service activities pursuant to the National Energy Extension Service Act shall be required to provide funds from non-Federal sources for such activities in an amount no less than 20 per centum of the amount allocated to such State under such Act during any fiscal year.

SEC. . Within six months after the date of the enactment of this Act, the Secretary shall transmit to both Houses of Congress a detailed description of the comprehensive program and management plan for the conservation and renewable energy technology transfer programs in the Department of Energy, including the Energy Extension Service, the National Solar Heating and Cooling Information Center, and the Regional Solar Energy Centers. Such plan shall include a detailed description of the roles, division of responsibilities, and relationships of such Centers with other technology transfer activities of the Department of Energy, including the Energy Extension Service, the Solar Energy Information Data Bank, and the National Solar Heating and Cooling Information Center. Such plan shall also include a detailed description of how the information dissemination activities and services of the Department of Energy in the fields of renewable energy resources and energy conservation are being coordinated with similar or related activities and services of other Federal agencies.

URANIUM ENRICHMENT, OTHER COMMERCIAL WASTE MANAGEMENT ACTIVITIES, WEST VALLEY DEMONSTRATION PROJECT ACTIVITIES, AND THREE MILE ISLAND ACTIVITIES

SEC. 12103. Funds are authorized to be appropriated for fiscal year 1982 in accordance with section 660 of the Department of Energy Organization Act for:

(A) Operating expenses for uranium enrichment:

(1) Gaseous Diffusion Operations and Support, $961,825,000;

(2) Gas Centrifuge Operations and Support, $5,200,000; and

(3) Uranium enrichment process development, $93,075,000;

(4) Program Administration, $3,100,000.

(B) Uranium enrichment activities plant and capital equipment, including planning, construction, acquisition, or modification of facilities, including land acquisition, as follows:

(1) Project 82-R-410, General plant projects, various locations, $17,500,000;

(2) Project 82-R-411, UF_6 cylinders and storage yards, gaseous diffusion plants, $11,000,000;

(3) Project 82-R-412, Cooling tower modifications, Oak Ridge, Tennessee and Portsmouth, Ohio, gaseous diffusion plants, $8,000,000;

(4) Project 82-R-413, Improved UF_6 containment and gaseous diffusion plants, $7,100,000;

(5) Project 82-R-414, Purge and cascade withdrawal modifications, gaseous diffusion plant, Paducah, Kentucky, $9,000,000;

(6) Project 82-R-415, Fire alarm system replacement, gaseous diffusion plants, $4,700,000;

(7) Project 82-R-416, Environmental protection and safety modifications, Phase II, gaseous diffusion plants, $2,000,000;

(8) Project 82-R-417, Air distribution system upgrading, gaseous diffusion plant, Paducah, Kentucky, $2,700,000;

(9) Project 81-R-503, Utilities upgrading, gaseous diffusion plants, and additional sum of $17,000,000 for a total project authorization of $27,000,000;

(10) Project 81-R-504, Supervisory control and data acquisition systems, Paducah, Kentucky and Portsmouth, Ohio, gaseous diffusion plants, an additional sum of $7,000,000 for a total project authorization of $13,000,000;

(11) Project 81-R-506, Environmental protection and safety improvements, Phase I, gaseous diffusion plants, $7,000,000;

(12) Project 80-UE-2, Control of water pollution, gaseous diffusion plants, an additional sum of $4,000,000 for a total project authorization of $17,000,000;

(13) Project 80-UE-3, Plant facilities security improvements, gaseous diffusion plants, an additional sum of $4,000,000 for a total project authorization of $17,000,000;

(14) Project 80-UE-5, Motor and switchgear upgrading, gaseous diffusion plants, an additional sum of $6,600,000 for a total project authorization of $26,500,000; and

(15) Project 76-8-g, Enriched uranium production facilities Portsmouth, Ohio, an additional sum of $601,000,000 for a total project authorization of $1,552,845,000.

(16) Project 82-R-418, Advanced Centrifuge Test Facilities, Oak Ridge, Tennessee, $6,000,000.

(C) Capital equipment not related to construction for uranium enrichment, $27,200,000.

SEC. 12104. Funds are authorized to be appropriated for fiscal year 1982 in accordance with section 660 of the Department of Energy Organization Act for operating expenses for other commercial waste management activities:

(A) Repository licensing activities in the terminal isolation program, $2,000,000;

(B) Assistance to States in the waste system evaluation program, $500,000; and

(C) Assistance to States for low-level waste management, $1,000,000.

SEC. 12105. Funds are authorized to be appropriated for fiscal year 1982 in accordance with section 660 of the Department of Energy Organization Act for the following West Valley Demonstration Project activities:

(A) Operating expenses for the West Valley Demonstration Project, $9,800,000; and

(B) Capital equipment not related to construction for the West Valley Demonstration Project, $200,000.

DEPARTMENTAL ADMINISTRATION

SEC. 12106. Funds are authorized to be appropriated for fiscal year 1982 in accordance with section 660 of the Department of Energy Organization Act for:

(A) Operating expenses for departmental administration activities:

(1) Office of the Secretary, $3,616,000;

(2) General management, $62,004,000;

(3) Program administration, $6,249,000;

(4) Field offices, $56,688,000;

(5) Other salary expenses, travel, and services, $131,506,000;

(6) Policy analysis and systems studies, $10,678,000;

(7) International policy studies, $250,000;

(8) Intergovernmental affairs, $9,365,000;

(9) Public affairs, $900,000;

(10) In-house energy management, $5,400,000;

(11) Cost of work for others, and changes in inventories, $55,214,000;

(12) Consumer affairs, $168,000; and

(13) Technical information services, $14,830,000..

(B) Departmental administration activities plant and capital equipment, including planning, construction, acquisition, or modification of facilities, including land acquisition, as follows:

(1) Project 82-A-601, Modifications for energy management, various locations, $14,100,000;

(2) Project 82-A-602, Advanced Test Reactor (ATR) waste heat recovery, Idaho National Engineering Laboratory, Idaho, $4,900,000;

(3) Project 82-A-603, High temperature water distribution system, Los Alamos Scientific Laboratory, New Mexico, $5,000,000;

(4) Project 81-A-602; Energy monitoring and control system, Y-12 Plant, Oak Ridge, Tennessee, and additional sum of $2,500,000 for a total project authorization of $5,000,000;

(5) Project 81-A-603, Energy monitoring and control system, Oak Ridge National Laboratory, and additional sum of $2,000,000 for a total project authorization of $4,000,000;

(6) Project 81-A-605, Automated energy management system, Argonne National Laboratory, Argonne, Illinois, and additional sum of $1,900,000 for a total project authorization of $3,800,000;

(7) Project 80-DA-06, Alternate energy source, Pantex Plant, Amarillo, Texas, an additional sum of $3,000,000 for a total project authorization of $6,000,000; and

(8) Project 82-C-601, Plant engineering and design, various locations, $2,000,000.

(C) Capital equipment not related to construction for departmental administration activities, $5,563,000.

TITLE XV—HOUSE COMMITTEE ON WAYS AND MEANS

In section 15004. On page 414, line 27, strike out the word "shall" and insert in lieu thereof the word "may"; on line 28, before the words "the worker" insert the following: "the Secretary shall provide and".

In Section 15201. On pages 425 through 426, strike out lines 1 through 30 and insert in lieu thereof the following:

ELIMINATION OF CHILD'S INSURANCE BENEFITS IN THE CASE OF CHILDREN AGE 18 THROUGH 22 WHO ATTEND POSTSECONDARY SCHOOLS

Sec. . (a)(1) Section 202(d) of the Social Security Act is amended in paragraphs (1)(B), (1)(E)(ii), (1)(F)(i), (1)(G)(III), (6)(A)(i), (6)(D)(i), (6)(E)(i), (7)(A) (three places), (7)(B), and (7)(D), by striking out "full-time student" each place it appears and inserting in lieu thereof "full-time elementary or secondary school student".

(2)(A) Section 202(d) of such Act is further amended in paragraphs (7)(A) (two places), (7)(B) (three places), and (7)(D), by striking out "educational institution" each place it appears and inserting in lieu thereof "elementary or secondary school".

(B) Section 202(d)(7)(A) of such Act is further amended by striking out "institutions involved" and inserting in lieu thereof "schools involved".

(3) Subparagraph (C) of section 202(d)(7) of such Act is amended to read as follows:

"(C)(i) An 'elementary or secondary school' is a school which provides elementary or secondary education, respectively, as determined under the law of the State or other jurisidiction in which it is located.

"(ii) For the purpose of determining whether a child is a 'full-time elementary or secondary school student' or 'intends to continue to be in full-time attendance at an elementary or secondary school', within the meaning of this subsection, there shall be disregarded any education provided, or to be provided, beyond grade 12.".

(4) Section 202(d)(7)(D) of such Act is further amended by striking out "degree from a four-year college or university" and inserting in lieu thereof "diploma or equivalent certificate from a secondary school (as defined in subparagraph (C)(i))".

(5)(A) Section 202(d) of such Act is further amended in paragraphs (1)(B)(i), (1)(F)(ii), (1)(G)(IV), (6)(D)(ii), (6)(E)(ii), and (7)(D) by striking out "22" each place it appears in each of those paragraphs and inserting in lieu thereof "19".

(B) Section 202(d)(6)(A) of such Act (as amended by paragraph (1)) is further amended to read as follows:

"(A)(i) is a full-time elementary or secondary school student and has not attained the age of 19, or (ii) is under a disability (as defined in section 223(d)) and has not attained the age of 22, or".

(b) Except as provided in subsection (c), the amendments made by subsection (a) shall apply to child's insurance benefits under section 202(d) of the Social Security Act for months after July 1982.

(c)(1) Notwithstanding the provisions of section 202(d) of the Social Security Act (as in effect prior to or after the amendments made by subsection (a)), any individual who—

(A) has attained the age of 18;

(B) is not under a disability (as defined in section 223(d) of such Act);

(C) is entitled to a child's insurance benefit for August 1981; and

(D) is a full time student at a postsecondary school, college, or university that is an educational institution (as such terms are defined in section 202(d)(7) (A) and (C) of such Act as in effect prior to the amendments made by subsection (a)) for any month prior to May 1982;

shall be entitled to a child's benefit under section 202(d) of such Act for any month after July 1981 and prior to August 1985 if such individual would be entitled to such child's benefit for such month under such section 202(d) as in effect prior to the amendments made by subsection (a), but such benefits shall be subject to the limitations set forth in this subsection.

(2) No benefit under section 202(d) of such Act shall be paid to an individual to whom paragraph (1) applies for the months of May, June, July, and August, beginning with benefits otherwise payable for May 1982.

(3) The amount of the monthly benefit payable under section 202(d) of such Act to an individual to whom paragraph (1) applies for any month after July 1982 (prior to deductions on account of work required by section 203) shall not exceed the amount of the benefit to which such individual was entitled for August 1981 (prior to deductions on account of work required by section 203), less an amount—

(A) during the months after July 1982 and before August 1983, equal to 25 percent of such benefit for August 1981;

(B) during the months after July 1983 and before August 1984, equal to 50 percent of such benefit for August 1981; and

(C) during the months after July 1984 and before August 1985, equal to 75 percent of such benefit for August 1981.

(4) Any individual to whom the provisions of paragraph (1) apply and whose entitlement to benefits under section 202(d) of the Social Security Act ended after July 1982 shall not subsequently become entitled, or reentitled, to benefits under such section 202(d) unless he meets the requirements of section 202(d)(1)(B)(ii) of that Act."

In section 15203, on pages 427 through 429, strike lines 4 through 13 and insert in lieu thereof the following:

"REPEAL OF MINIMUM BENEFIT PROVISION

SEC. . (a) Section 215(a)(1)(C)(i) of the Social Security Act is amended to read as follows:

"(C)(i) No primary insurance amount computed under subparagraph (A) may be less than an amount equal to $11.50 multiplied by the individual's years of coverage in excess of 10, or the increased amount determined for purposes of this clause under subsection (i).".

(b)(1) Section 215(a)(1)(C)(ii) of such Act is amended by striking out "For purposes of clause (i)(II)" and inserting in lieu thereof "For purposes of clause (i)".

(2) Section 215(a)(3)(A) of such Act is amended by striking out "subparagraph (C)(i)(II)" and inserting in lieu thereof "subparagraph (C)(i)".

(3) Section 215(a)(4) of such Act is amended—

(A) by striking out "subparagraph (C)(i)(II)" and inserting in lieu thereof "subparagraph (C)(i)"; and

(B) in subclause (I) thereof, by striking out "but without regard to clauses (iv) and (v) thereof".

(4) Section 215(f)(8) of such Act is amended by striking out "subsection (a)(1)(C)(i)(II)" and inserting in lieu thereof "subsection (a)(1)(C)(i)".

(5) Section 215(i)(2)(A)(ii)(II) of such Act is amended by striking out "(including a primary insurance amount determined under subsection (a)(1)(C)(i)(I), but subject to the provisions of such subsection (a)(1)(C)(i) and clauses (iv) and (v) of this subparagraph)".

(6) Section 215(i)(2)(A)(ii) of such Act is amended in the matter following subclause (III) by striking out "subparagraph (C)(i)(II)" and inserting in lieu thereof "subparagraph (C)(i)".

(7) Section 215(i)(2)(A)(iii) of such Act is amended by striking out "and, with respect to a primary insurance amount determined under subsection (a)(1)(C)(i)(I), subject to the provisions of subsection (a)(1)(C)(i) and clauses (iv) and (v) of this subparagraph".

(8) Section 215(i)(2)(A) of such Act is amended by striking out clauses (iv) and (v) thereof.

(9) Section 215(i)(2)(D) of such Act is amended by striking out "subparagraph (C)(i)(II)" each place it appears and inserting in lieu thereof in each instance "subparagraph (C)(i)".

(10) Section 202(m) of such Act is repealed.

(11) Paragraphs (1) and (5) of section 202 (w) of such Act are each amended by striking out "section 215(a)(1)(C)(i)(II)" and inserting in lieu thereof in each instance "section 215(a)(1)(C)(i)".

(12) Section 233(c)(2) of such Act is amended to read as follows:

"(2) Any such agreement may provide that an individual who is entitled to cash benefits under this title shall, notwithstanding the provisions of section 202(t), receive such benefits while he resides in a foreign country which is a party to such agreement.".

(c)(1) Section 215(a) of such Act is amended by adding at the end thereof the following new paragraph:

"(6)(A) The table of benefits in effect in December 1978 under this section, referred to in paragraph (4) in the matter following subparagraph (B) and in paragraph (5), revised as provided by subsection (i), as applicable, shall be extended for average monthly wages of less than $76.00 and primary insurance benefits (as determined under subsection (d)) of less than $16.20.

"(B) The Secretary shall determine and promulgate in regulations the methodology for extending the table under subparagraph (A).".

(2) Section 215(a)(4) of such Act is amended, in the matter following subparagraph (B), by inserting ", as modified by paragraph (6) as in effect for August 1981," after "table of benefits in effect in December 1978".

(3) Section 215(a)(5) of such Act is amended—

(A) by inserting before the period at the end of the first sentence the following: ", and, effective for months after July 1981, the table for determining primary insurance amounts and maximum family benefits contained in this section in December 1978 shall be modified as specified in paragraph (6)"; and

(B) in the last sentence by inserting ", modified by the application of paragraph (6) as in effect in August 1981," after "December 1978".

(4) Section 215(f)(7) of such Act is amended by adding at the end thereof the following new sentence: "Effective August 1981, the recomputation shall be modified by the application of section 215(a)(6) as in effect in August 1981, where applicable.".

(5) Section 215(i)(4) of such Act is amended by inserting ", modified by the application of subsection (a)(6) as in effect in August 1981," after "December 1978" each place it appears.

(6) Section 203(a)(8) of such Act is amended by inserting ", modified by the application of section 215(a)(6) as in effect in August 1981" before ", except that".

(7) Section 217(b)(1) of such Act is amended by inserting before the period at the end of the first sentence the following: ", and as modified by the application of section 215(a)(6) as in effect in August 1981".

(d)(1) Section 202(q)(4) of such Act is amended by striking out "increased" and "increase" each place they appear and inserting in lieu thereof "changed" and "change", respectively.

(2) Section 202(q)(10) of such Act is amended in the matter preceding subparagraph (A) by striking out "increased", "increase", and "increases" each place they appear and inserting in lieu thereof "changed", "change", and "changes", respectively.

(e)(1) The Secretary of Health and Human Services shall recalculate the primary insurance amounts applicable to—

(A) beneficiaries whose benefits are based on a primary insurance amount that was computed under section 215(a)(1)(C)(i)(I) of the Social Security Act, and

(B) beneficiaries with average monthly wages of less than $76.00 and primary insurance benefits of less than $16.20 whose benefits are based on primary insurance amounts computed under section 215(a)(4) or section 215(a)(5) of such Act.

(2) In the case of individuals to whom section 215(a)(1) and 215(a)(4) of such Act as in effect after December 1978 do not apply, the Secretary shall recalculate the primary insurance amount based on section 215 as in effect in December 1978 as though the individual had first become entitled in December 1978; except that—

(A) the table in, or deemed to be in, the law as the result of the amendments made by subsection (c)(1) of this section shall be used in lieu of the table in effect in December 1978;

(B) in the case of individuals who were born after January 1, 1913, the first sentence of section 215(b)(3) of the law as so in effect shall be deemed to read: "For purposes of paragraph (2), the number of an individual's elapsed years is the number of calendar years after 1950 (or, if later, after the year of attainment of age 21) and before 1961 or, if later, the earlier of the year in which such individual died or attained age 62.";

(C) in the case of individuals who were born prior to January 2, 1913, the first sentence of section 215(b)(3) of the law as so in effect shall be deemed to read: "For purposes of paragraph (2), the number of an individual's elapsed years is the number of calendar years after 1950 and before 1961 or, if later, the earlier of the year in which such individual died or attained, in the case of a man (except as provided by section 104(j) of Public Law 92-603) age 65, or in the case of a woman, age 62.";

(D) section 215(b)(4) as so in effect shall be disregarded;

(E) section 215(d)(2)(C) as so in effect shall be disregarded;

(F) section 215(d)(4) shall be deemed, for purposes of such recalculation, to read:

"(4) The provisions of this subsection as in effect in December 1977 (but without regard to paragraph (2)(C)) shall be applicable to individuals who became eligible for old-age or disability insurance benefits or died prior to 1978.";

(G) in the case of individuals who became disabled, died, or attained age 65 prior to 1951, the Secretary shall by regulations provide an alternative computation in lieu of the computation provided by the law as so in effect (as provided by this paragraph); and

(H) in no event may the recalculated primary insurance amount exceed the primary insurance amount that is based on an average monthly wage of $76.00 or the primary insurance amount that is based on a primary insurance benefit of $16.20.

(3) In the case of individuals to whom either section 215(a) (1) or (4) of such Act apply, the primary insurance amount shall be recalculated under section 215 as in effect after December 1978; except that the table in or deemed to be in the law as a result of the amendments made by subsection (c)(1) of this section shall be used (where appropriate) in lieu of the table in effect in December 1978.

(f) The first sentence of section 202(i) of such Act is amended by inserting after "primary insurance amount" the following: "(as determined without regard to the amendments made by section 202 of the Omnibus Reconciliation Act of 1981 relating to the elimination of the minimum benefit)".

(g) Part A of title XVI of the Social Security Act is amended by adding at the end thereof the following new section:

"BENEFITS FOR INDIVIDUALS FORMERLY RECEIVING MINIMUM BENEFITS UNDER TITLE II

"SEC. 1622. (a) Any individual who—

"(1) is 60 years of age or older but has not attained the age of 65;

"(2) would be an eligible individual or eligible spouse under section 1611 if such individual were 65 years of age;

"(3) is not otherwise eligible for a benefit under section 1611;

"(4) for the month of July 1981 was entitled to a monthly benefit under title II of this Act for which he made application prior to August 1, 1981, as determined without regard to any deductions on account of work required by section 203, which entitlement amount (as so determined) was reduced for any month by reason of the amendments made by section 702 of the Omnibus Reconciliation Act of 1981 (relating to the elimination of the minimum benefit); and

"(5) is not entitled under title II to a monthly benefit, as determined without regard to any deductions on account of work required by section 203, in an amount equal to or greater than such entitlement amount (as so determined) for July 1981;

shall be eligible for a benefit for each month in which he meets the requirements of this subsection in an amount determined under subsection (b) or (c).

"(b) The amount of the monthly benefit payable under subsection (a) shall be the amount of the monthly benefit which would otherwise be payable to such individual under this title if he were 65 years of age; except that—

"(1) the amount of such monthly benefit shall not exceed—

"(A) in the case of an individual described in subsection (a) who does not have an eligible spouse, an amount equal to the amount by which such individual's monthly benefit entitlement under title II for such month as determined without regard to any deductions on account of work required by section 203, is less than the amount of such individual's monthly benefit entitlement under title II for July 1981 (as so determined); or

"(B) in the case of an individual and his spouse, both of whom are individuals described in subsection (a), an amount equal to the amount by which the combined amount of their monthly benefit entitlements under title II for such month (as so determined), is less than the combined amount of their monthly benefit entitlements under title II for July 1981 (as so determined);

"(2) the benefit amount shall be determined on the basis of the dollar amounts applicable under this title for July 1981 (without regard to cost-of-living adjustments made after July 1981 under section 1617) in the case of any individuals described in paragraph (1); and

"(3) in the case of an individual described in subsection (a) who has a spouse eligible for benefits under this title, other than by reason of this section, the amount of such monthly benefit for such individual (described in subsection (a)) shall be determined under subsection (c), and the amount of the monthly benefit for such spouse shall be determined in the same manner as for an individual who does not have an eligible spouse.

"(c) The amount of the monthly benefit for an individual described in subsection (b)(3) shall be an amount equal to the amount by which—

"(1) the monthly benefit amount for which such individual and his spouse would be eligible for such month under this title if both he and his spouse were 65 years of age, determined on the basis of the dollar amounts applicable under this title for July 1981 (without regard to cost-of-living adjustments made after July 1981 under section 1617); exceeds

"(2) the monthly benefit amount under this title for which his spouse is eligible for such month;

except that the amount of such monthly benefit shall not exceed the amount by which such individual's monthly benefit entitlement under title II for such month, as determined without regard to deductions on account of work under section 203, is less than his monthly benefit entitlement under title II (as so determined) for July 1981.

"(d) An individual who is entitled to a benefit under this section shall not be considered to be an individual receiving supplemental security income benefits under this title for purposes of section 1616 of this title or of any provision of law other than this title.".

(h) This section and the amendments made thereby shall be effective with respect to benefits payable for months after November 1981 in the case of individuals who initially become eligible for benefits under title II of the Social Security Act after November 1981, and with respect to benefits payable for months after February 1982 in the case of all other individuals. For the purpose of the preceding sentence, eligibility shall be determined in accordance with the provisions of section 215(a)(3)(B) and section 215(a)(2)(A) of that Act."

In section 15206, on pages 430 through 433, strike lines 27 through 20 and redesignate the following sections accordingly:

In section 15481, on page 473, line 6, strike out lines 6 through 17 and insert in lieu thereof the following:

Chapter 5—SOCIAL SERVICE BLOCK GRANTS

SHORT TITLE

SEC. 15481. This subchapter may be cited as the "Social Services Block Grant Act".

FINDINGS

SEC. 15482. The Congress finds and declares that—

(1) during the past 20 years, the Federal Government has established numerous programs to assist each State, its local governments and private service organizations, to provide social services to its citizens;

(2) with the growth in the number of Federal assistance programs and in the associated requirements imposed upon recipients, Federal decisions have displaced State and local determinations of what services, in what amounts, are required by the residents of each State;

(3) the proliferation of Federal programs has resulted in substantial inefficiencies in the way services are provided, in burdensome administrative costs, and in spending patterns that frequently do not reflect the priorities and service needs of the residents of the States;

(4) the best use of resources in meeting the social services needs of the Nation requires that the Federal Government support and not displace the State role in determining which services to provide and how best to provide them;

(5) allowing the States substantial flexibility in the use of Federal financial assistance and eliminating many Federal requirements will help insure a proper governmental balance and more effective use of the resources of the Nation; and

(6) this can be accomplished through consolidation of related assistance programs into a single grant, with minimum requirements.

STATEMENT OF PURPOSES

SEC. 15483. (a) The purposes of this subchapter are to consolidate Federal assistance to States for social services into a single grant, to increase State flexibility in using social service grants, and to assist States in—

(1) fostering individual self-sufficiency and economic self-support;

(2) preserving families and promoting family stability;

(3) reducing neglect, abuse, or mistreatment of vulnerable persons;

(4) promoting independent living where possible and assuring appropriate institutional care where needed; and

(5) stimulating improved use of public and private resources, including resources available from private nonprofit organizations, in the delivery of social services.

(b) To accomplish the purposes specified in subsection (a), States are authorized to provide social services to individuals and families (particularly those most in need), including child care, day care, services for individuals in foster care, protective services, foster care maintenance payments, adoption assistance payments, emergency room and board, home management and maintenance services, preparation and delivery of meals, health support services, family planning, transportation, rehabilitation, training and related services, employment services, legal services, delinquency prevention services, services to minors in the justice system, information, referral, and counseling services, and such other community and social services as may be appropriate and consistent with the purposes of this subchapter.

(c) Expenditures for accomplishing the purposes specified in subsection (a) may include expenditures for administration (including planning and evaluation) and personnel training and retraining directly related to the provision of services designed to carry out such purposes (including both short-term and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions. Such services shall include conferences or workshops, and training or retraining through grants to nonprofit organizations within the meaning of section 501(c)(3) of the Internal Revenue Code of 1954 or to individuals with social services expertise, or through financial assistance to individuals participating in such conferences, workshops, and training or retraining. The preceding sentence shall apply to all persons involved in the delivery of services under this subchapter.

AUTHORIZATION OF APPROPRIATIONS

SEC. 15484. For the purpose of making grants to States for provision of social services in accordance with the provision of this subchapter, there are authorized to be appropriated $3,123,000,000 for fiscal year 1982 and each of the 3 succeeding fiscal years.

ALLOTMENTS

SEC. 15485. (a) From the amounts appropriated under section 5314 for any fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to the total amount appropriated as the total amount allotted or obligated to the State or

to a grantee within the State (or, in the absence of such an allotment or obligation, the total amount paid, as determined by the Secretary on the basis of claims for payment submitted by the State on or before April 1, 1982) to the State for fiscal year 1981 under authorities specified in section 5323, under the authority for foster care maintenance payments under part A of title IV of the Social Security Act, and for social services in accordance with section 1108(a) of the Social Security Act, bears to the total amount appropriated for payments to all States under such authorities for fiscal year 1981.

PAYMENTS TO STATES

SEC. 15486. (a) The Secretary shall make payments in accordance with section 203 of the Intergovernmental Cooperation Act of 1968 to each State from its allotment under section 5315 for use under this subchapter.

(b) Payments to a State from its allotment for any fiscal year shall be expended by the State in such fiscal year or in the succeeding fiscal year.

(c)(1) A State may transfer not more than 10 percent of its allotment under section 5315 for any fiscal year for its use for such year under other provisions of Federal law providing block grants for support of health services, health promotion and disease prevention activities, or energy assistance (or any combination of such activities).

(2) For fiscal years 1982 and 1983, a State may transfer not more than an amount equal to its pro rata share of $255,000,000 for its use for the fiscal year involved under other provisions of Federal law providing block grants for energy assistance.

(3) Amounts allotted to a State under any provisions of Federal law referred to in this subsection and transferred by a State for use in carrying out the purposes of this subchapter shall be treated as if they were paid to the State under this subchapter but shall not affect the computation of the allotment of the State under this subchapter. The State shall inform the Secretary of any such transfer of funds.

(d)(1) A State may use a portion of the amounts described in subsection (a) for the purpose of purchasing technical assistance from public or private entities if the State determines that such assistance is required in developing, implementing, or administering programs funded under this subchapter.

(2) In using payments received under this subchapter, a State may, in addition to reallocating funds to units of local government, give consideration to community-based self-help organizations of demonstrated effectiveness.

STATE ADMINISTRATION

SEC. 15487. (a) Prior to expenditure by a State of payments made to it under section 5316 for any fiscal year, the chief executive officer of the State shall report on the intended use of the payments the State is to receive under this subchapter, including information on the types of activities to be supported and the categories or characteristics of individuals to be served. The report shall be made public within the State in such manner as to facilitate comment by any person (including any Federal or other public agency) during development of the report and after its completion. The report shall be revised throughout the year involved as may be necessary to reflect substantial changes in the activities assisted under this subchapter, and any revision shall be subject to the requirements of the preceding sentence.

(b) In addition to expenditures by the State for the purposes described in section 5313, the State may use so much of the amount allotted to it as may be necessary for the costs of administration of the grants made under this subchapter. Such administrative costs may include the cost of planning, operating, evaluating, and conducting fiscal and substantive reviews of the programs supported by grants under this subchapter, and for training directly related to the provision of social services under this subchapter.

LIMITATIONS ON USE OF GRANTS

SEC. 15488. (a) Except as provided in subsection (b), grants made under this subchapter may not be used by the State, or by any other person with which the State makes arrangements to carry out the purposes of this subchapter—

(1) for the purchase or improvement of land, or the purchase, construction, or permanent improvement (other than minor remodeling) of any building or other facility;

(2) for the provision of cash payments for costs of subsistence or for the provision of room and board (other than foster care maintenance payments, adoption assistance payments, costs of subsistence during rehabilitation, room and board provided for a short term as an integral but subordinate part of a social service, or temporary emergency shelters provided as a protective service);

(3) for payment of the wages of any individual as a social service (other than payment of the wages of welfare recipients employed in the provision of child day care services);

(4) for foster care maintenance payments for foster care provided by a public foster care institution which accommodates more than 25 children;

(5) for the provision of medical care (other than family planning services, rehabilitation services, or initial detoxification of an alcoholic or drug dependent individual) unless it is an integral but subordinate part of a social service for which grants may be used under this subchapter;

(6) for social services (except services to an alcoholic or drug dependent individual, or rehabilitation services) provided in, and by employees of, any hospital, skilled nursing facility, intermediate care facility, or prison, to any individual living in such institution;

(7) for public education (other than vocational and other training services for the handicapped, or information and referral activities); or

(8) for the provision of cash payments as a service (except as otherwise provided in this section).

(b) The Secretary may waive the limitations contained in subsection (a)(1) and subsection (a)(5) upon the request of a State for such a waiver if he finds that the request describes extraordinary circumstances to justify the waiver and that permitting the waiver will contribute to the ability of the State to carry out the purposes of this subchapter.

REPORTS AND AUDITS

SEC. 15489. (a) Each State shall prepare reports on its activities under this subchapter. Reports shall be in such form, contain such information, and be of such frequency (but not less often than every 2 years) as the State finds necessary to provide an accurate description of such activities, to secure a complete record of the purposes for which funds were spent, and to determine the extent to which funds were spent consistently with the reports required by section 5317(a). The State shall make copies of the reports required by this section available for public inspection within the State. Copies shall also be provided, upon request, to any interested public agency, and each such agency may provide its views on such reports to the Congress.

(b) Each State shall, not less often than every 2 years, audit its expenditures from amounts received (or transferred for use) under this subchapter. Such State audits shall be conducted by an entity independent of any agency administering activities funded under this subchapter, in accordance with generally accepted accounting principles. Within 30 days following the completion of each audit, the chief executive officer of the State shall submit a copy of such audit to the legislature of the State and to the Secretary. Each State shall repay to the United States amounts found not to have been expended in accordance with this subchapter, or the Secretary may offset such amounts against any other amount to which the State is or may become entitled under this subchapter.

(c) Section 202 of the Intergovernmental Cooperation Act of 1968 shall apply to grants made under this subchapter.

NONDISCRIMINATION PROVISION

SEC. 15490. (a) No person shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this subchapter. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity.

(b) Whenever the Secretary determines that there has been a failure to comply with subsection (a) or an applicable regulation, he shall notify the chief executive officer of the State involved and shall request him to secure compliance. If within a reasonable period of time, not to exceed 60 days, the chief executive officer fails or refuses to secure compliance, the Secretary is authorized to (1) refer the matter to the Attorney General of the United States with a recommendation that an appropriate civil action be instituted; (2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, or section 504 of the Rehabilitation Act of 1973, as may be applicable; or (3) take such other action as may be provided by law.

(c) When a matter is referred to the Attorney General pursuant to subsection (b), or whenever he has reason to believe that there has occurred a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

TRAINING AND ONGOING PROJECTS

SEC. 15491. (a)(1) The Secretary is authorized, either directly or through grants to States and public and other nonprofit organizations and agencies or contracts or jointly financed cooperative arrangements with States and public and other organizations and agencies, to provide for training related to the purposes of this subchapter, and for

ongoing activities of national or regional significance related to the purposes of this subchapter, which may include operation of a national communications system for the purpose of assisting runaway and homeless youth in communicating with their families and with service providers, operation of a national center to collect and disseminate information on child abuse and neglect, and operation of a national adoption information exchange system to facilitate the adoptive placement of children.

(b) Payments of grants or under contracts or cooperative arrangements under this section may be made in advance or by way of reimbursement, and in such installments, as the Secretary may determine. Such payments shall be made on such conditions as the Secretary finds necessary to carry out the purposes of the grants, contracts, or other arrangements.

DEFINITIONS

SEC. 15492. For purposes of this subchapter:

(1) The term "Secretary" means the Secretary of Health and Human Services.

(2) The term "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

REPEALERS

SEC. 15493. The following provisions of law hereby are repealed:

(1) title XX of the Social Security Act;

(2) the Child Abuse Prevention and Treatment Act of 1974;

(3) the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978;

(4) the Runaway and Homeless Youth Act (title III of the Juvenile Justice and Delinquency Prevention Act of 1974); and

(5) titles I, II, III, IV, VI, VII, and IX of the Community Services Act of 1974.

CONFORMING AMENDMENTS TO THE SOCIAL SECURITY ACT

SEC. 15494. (a)(1) Section 1 of the Social Security Act is amended—

(A) by inserting "and" before "(b)" the first place it appears therein; and

(B) by striking out "and (c)" and all that follows through "self-care".

(2) Section 3(a) of the Social Security Act is amended—

(A) by amending paragraph (4) to read as follows:

"(4) in the case of any State, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health and Human Services for the proper and efficient administration of the State plan—

"(A) 75 per centum of so much of such expenditures as are for the training (including both short-term and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus

"(B) one-half of the remainder of such expenditures."; and

(B) by striking out paragraph (5).

(3) Section 3(c) of the Social Security Act is repealed.

(b)(1) Section 402(a)(5), 402(a)(13), 402(a)(14), 402(a)(15), 403(a)(3), 403(e), and 406(d) of the Social Security Act, as in effect with respect to Puerto Rico, Guam, and the Virgin Islands, are repealed.

(2) Sections 402(a)(5) and 403(a)(3) of the Social Security Act, as such provisions apply to the several States and the District of Columbia, are made applicable also to Puerto Rico, Guam, and the Virgin Islands.

(3) Section 403(a)(3)(A) of the Social Security Act is amended by inserting "(or, in the case of Puerto Rico, Guam, and the Virgin Islands, 60 per centum)" after "75 per centum".

(4) Section 248(b) of the Social Security Amendments of 1967 is repealed.

(c) Section 402(a)(9) of the Social Security Act is amended by striking out "XVI, XIX, or XX" and inserting in lieu thereof "XVI, or XIX".

(d) Section 402(a)(15) of the Social Security Act is repealed.

(e) Section 403(a)(3) of the Social Security Act is amended—

(1) in subparagraph (B), by striking out "and State programs with respect to which there is Federal financial participation under title XX,";

(2) in subparagraph (C), by striking out the comma and inserting in lieu thereof "; and "; and

(3) in the matter that follows subparagraph (C), by striking out "service described in section 2002(a)(1) of this Act" and inserting in lieu thereof "social services".

(f) Section 403(f) of the Social Security Act is repealed.

(g)(1) Section 1001 of the Social Security Act is amended by striking out "and of encouraging each State" and all that follows through "self-care".

(2) Section 1003(a) of the Social Security Act is amended—

(A) by amending paragraph (3) to read as follows:

"(3) in the case of any State, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health and Human Services for the proper and efficient administration of the State plan—

"(A) 75 per centum of so much of such expenditures as are for the training (including both short-term and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus

"(B) one-half of the remainder of such expenditures."; and

(B) by striking out paragraph (4).

(3) Section 1003(c) of the Social Security Act is repealed.

(h) Section 1108(a) of the Social Security Act is amended in the matter preceding paragraph (1) to read as follows:

"SEC. 1108. (a) The total amount certified by the Secretary of Health and Human Services under titles I, X, XIV, and XVI, and under part A of title IV (exclusive of any amounts on account of services and items to which subsection (b) applies)—".

(i) Section 1115(a) of the Social Security Act is amended—

(1) in the matter preceding paragraph (1), by striking out "XIX, or XX" and inserting in lieu thereof "or XIX";

(2) in paragraph (1), by striking out "1902, 2002, 2003, or 2004" and inserting in lieu thereof "or 1902"; and

(3) in paragraph (2)—

(A) by striking out "1903, or 2002" and inserting in lieu thereof "or 1903"; and

(B) by striking out "or expenditures with respect to which payment shall be made under section 2002,".

(j) Section 1116 of the Social Security Act is amended—

(1) in subsections (a)(1), (b), and (d), by striking out "XIX, or XX" and inserting in lieu thereof "or XIX"; and

(2) in subsection (a)(3), by striking out "1904, or 2003" and inserting in lieu thereof "or 1904".

(k) Section 1124(a) of the Social Security Act is amended—

(1) in paragraph (1), by striking out "XIX, and XX" each place it appears and inserting in lieu thereof "and XIX"; and

(2) in paragraph (2)—

(A) by inserting "or" after the semicolon at the end of subparagraph (B);

(B) by striking out "; or" at the end of subparagraph (C) and inserting a period in lieu thereof; and

(C) by striking out subparagraph (D).

(l) Section 1126(a) of the Social Security Act is amended by striking out "XIX, and XX" and inserting in lieu thereof "and XIX".

(m) Section 1128(a) of the Social Security Act is amended—

(1) in paragraph (2)(A), by striking out "or title XX,"; and

(2) in paragraph (2)(B), by striking out "or title XX".

(n)(1) Section 1401 of the Social Security Act is amended by striking out "and of encouraging each State" and all that follows through "self-care".

(2) Section 1403(a) of the Social Security Act is amended—

(A) by amending paragraph (3) to read as follows:

"(3) in the case of any State, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health and Human Services for the proper and efficient administration of the State plan—

"(A) 75 per centum of so much of such expenditures as are for the training (including both short-term and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus

"(B) one-half of the remainder of such expenditures."; and

(B) by striking out paragraph (4).

(3) Section 1403(c) of the Social Security Act is repealed.

(o)(1) Section 1601 of the Social Security Act is amended—

(A) by inserting "and" before "(b)" the first place it appears; and

(B) by striking out "and (c)" and all that follows through "self-care,".

(2) Section 1603(a) of the Social Security Act is amended—

(A) by amending paragraph (4) to read as follows:

"(4) in the case of any State, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health and Human Services for the proper and efficient administration of the State plan—

"(A) 75 per centum of so much of such expenditures as are for the training (including both short-term and long-term training at educational institutions through grants to

such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus

"(B) one-half of the remainder of such expenditures."; and

(B) by striking out paragraph (5).

(3) Section 1603(c) of the Social Security Act is repealed.

(p) Section 1616(e)(2) of the Social Security Act is amended by striking out ", as a part of the services program planning procedures established pursuant to section 2004 of this Act,".

(q) Section 1619 of the Social Security Act is amended—

(1) by striking out "titles XIX and XX" each place it appears and inserting in lieu thereof "title XIX"; and

(2) by striking out "title XIX or XX" and inserting in lieu thereof "title XIX".

(r) Section 1620(c) of the Social Security Act is amended—

(1) in paragraph (3), by striking out "titles XIX and XX" and inserting in lieu thereof "title XIX";

(2) by amending paragraph (6) to read as follows:

"(6) describes the manner in which the medical and social services involved are to be provided, and specifies the particular mechanisms and procedures to be used in providing such services (or, with respect to medical services, specifies that they are to be provided through the State's medical assistance program under title XIX, with the Federal payments being made under subsection (d) of this section rather than under that title); and"; and

(3) by striking out the matter following the end of paragraph (7).

(s)(1) Section 1902(a)(10)(A) of the Social Security Act is amended by inserting before the semicolon "or who is an individual specified in subsection (j)".

(2) Section 1902 of the Social Security Act is amended by adding at the end the following new subsection:

"(j) Individuals specified in section 1902(a)(10)(A) shall include every individual—

"(1) in the case of a child on whose behalf foster care maintenance payments are being made under any program administered by or administered under the supervision of the State—

"(A) who would meet the requirements of section 406(a) or of section 407 but for his removal from the home of a relative specified in section 406(a), and

"(B) whose removal from the home occurred pursuant to a voluntary placement agreement entered into by the child's parent or legal guardian or was the result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child, and

"(C)(i) who received aid under the State plan approved under section 402 in or for the month in which such agreement was entered into or court proceedings leading to the removal of the child from the home were initiated,

"(ii) who would have received such aid in or for such month if application had been made therefor, or

"(iii) who had been living with a relative specified in section 406(a) within six months prior to the month in which such agreement was entered into or such proceedings were initiated, and would have received such aid in or for such month if in such month he had been living with such a relative and application therefor had been made; and

"(2) in the case of a child on whose behalf adoption assistance payments are being made under any program administered by or administered under the supervision of the State—

"(A) who but for adoption would meet the requirements specified in paragraph (1), or

"(B) who but for adoption would meet the requirements of title XVI with respect to eligibility for supplemental security income benefits.".

OTHER CONFORMING AMENDMENTS

SEC. 15495. (a) Section 3(f) of the Social Security Amendments of 1974 is repealed.

(b) Section 50B(i) of the Internal Revenue Code of 1954 is amended by striking out "pursuant to section 2007 of the Social Security Act" and inserting in lieu thereof "to the State under the Social Services Block Grant Act".

(c)(1) Section 202(b)(2) of the Mental Health Systems Act is amended by striking out "titles IV" and all that follows through the end thereof and inserting in lieu thereof "title V, XVIII, and XIX of the Social Security Act and under the United States Housing Act, the Comprehensive Employment and Training Act, the Older Americans Act of 1965, and other Federal and State statutes.".

(2) Section 203(b) of the Mental Health Systems Act is amended by striking out "title IV" and all that follows through the end thereof and inserting in lieu thereof "titles V, XVIII, and XIX of the Social Security Act and under the Education for All Handicapped Children Act of 1975 and other Federal and State Statutes.".

(3) Section 204(a)(2)(B) of the Mental Health Systems Act is amended by striking out "XIX, and XX" and inserting in lieu thereof "and XIX".

(4) Section 302(2)(K) of the Mental Health System Act is amended by striking out "titles IV" and all that follows through "and under".

(d) Section 201(b) of the Indian Child Welfare Act of 1978 is amended—

(1) in the first sentence, by striking out "titles IV-B and XX" and inserting in lieu thereof "title IV-B"; and

(2) in the second sentence, by striking out "titles IV-B and XX" and inserting in lieu thereof "title IV-B".

(e)(1) The first sentence of section 507 of the Rehabilitation Act of 1973 is amended by striking out all that follows "composed of" and inserting in lieu thereof "the Secretary of Health and Human Services, the Secretary of Education, the Secretary of Labor, the Attorney General, the Director of the Office of Personnel Management, the Chairman of the Equal Employment Opportunity Commission, and any other person designated by the President.".

(2) The third sentence of that section is amended to read as follows: "on or before July 1 of every other year, the Council shall transmit to the President and to the Congress a report of its activities.".

(f) Section 2(e) of the Randolph-Sheppard Act is repealed.

POVERTY LINE

SEC. 15496. (a) The Office of Management and Budget is authorized to define poverty and to revise the definition of poverty for each year. The Office of Management and Budget shall make and issue such definitions and revisions in a timely manner after consumer price index information becomes available.

(b) Any references in statutes or regulations in effect on the effective date of this subchapter to section 624 of the Economic Opportunity Act of 1964 shall be considered to be references to subsection (a) of this section.

TRANSITION PROVISIONS

SEC. 15497. (a) The Director of the Office of Management and Budget shall assume the responsibility of the Director of the Community Services Administration, is authorized to provide for the termination of the affairs of the Community Services Administration and any other entities terminated by section 5323(a)(7), and shall provide for the transfer or other disposition of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with implementation of the authorities terminated by section 5323(a)(7) as necessary to effectuate the purposes of this subchapter.

(b) The provisions of subsection (a) shall take effect 90 days after the date of the enactment of this Act or, if earlier, October 1, 1981.

EFFECTIVE DATE

SEC. 15498. Except as otherwise provided in this subchapter, the provisions of this subchapter, and the repeals and amendments made by this subchapter, shall take effect on October 1, 1981.

SEC. . On page 440 strike out line 22 through line 14 on page 463 and insert in lieu thereof the following and number and designate such sections accordingly;

"AID TO FAMILIES WITH DEPENDENT CHILDREN

DISREGARDS FROM EARNED INCOME FOR AFDC

SEC. . Section 402(a)(8) of the Social Security Act is amended to read as follows:

"(8)(A) provide that, with respect to any month, in making the determination under paragraph (7), the State agency—

"(i) shall disregard all of the earned income of each dependent child receiving aid to families with dependent children who is (as determined by the State in accordance with standards prescribed by the Secretary) a full-time student or a part-time student who is not a full-time employee attending a school, college, or university, or a course of vocational or technical training designed to fit him for gainful employment;

"(ii) shall disregard from the earned income of any child or relative applying for or receiving aid to families with dependent children, or of any other individual (living in the same home as such relative and child) whose needs are taken into account in making such determination, the first $75 of the total of such earned income for such month (or such lesser amount as the Secretary may prescribe in the case of an individual not engaged in full-time employment or not employed throughout the month);

"(iii) shall disregard from the earned income of any child, relative, or other individual specified in clause (ii), an amount equal to expenditures for care in such month for a dependent child, or an incapacitated individual living in the same home as the dependent child, receiving aid to families with dependent children and requiring such care for such month, to the extent that such amount (for each such dependent child or incapacitated individual) does not exceed $160 (or such lesser amount as the Secretary may prescribe in the case of an individual not engaged in full-time employment or not employed throughout the month); and

"(iv) shall disregard from the earned income of any child or relative receiving aid to families with dependent children, or of any other individual (living in the same

home as such relative and child) whose needs are taken into account in making such determination, an amount equal to the first $30 of the total of such earned income not already disregarded under the preceding provisions of this paragraph plus one-third of the remainder thereof (but excluding, for purposes of this subparagraph, earned income derived from participation on a project maintained under the programs established by section 432(b) (2) and (3)); and

"(E) provide that (with respect to any month) the State agency—

"(i) shall not disregard, under clause (ii), (iii), or (iv) of subparagraph (A), any earned income of any one of the persons specified in subparagraph (A)(ii) if such person—

"(I) terminated his employment or reduced his earned income without good cause within such period (of not less than thirty days) preceding such month as may be prescribed by the Secretary;

"(II) refused without good cause, within such period preceding such month as may be prescribed by the Secretary, to accept employment in which he is able to engage which is offered through the public employment offices of the State, or is otherwise offered by an employer if the offer of such employer is determined by the State or local agency administering the State plan, after notification by the employer, to be a bona fide offer of employment; or

"(III) failed without good cause to make a timely report (as prescribed by the State plan pursuant to paragraph (14)) to the State agency of earned income received in such month; and

"(ii) (I) shall not disregard, under subparagraph (A)(iv), any earned income of any of the persons specified in subparagraph (A)(ii), if, with respect to such month, the income of the persons so specified was in excess of their need, as determined by the State agency pursuant to paragraph (7) (without regard to subparagraph (A)(iv) of this paragraph), unless the persons received aid under the plan in one or more of the four months preceding such month and subparagraph (A)(iv) has not already been applied to their income for four consecutive months while they were receiving aid under the plan; and

"(II) in the case of earned income of a person with respect to whom subparagraph (A)(iv) has been applied for four consecutive months, shall not apply the provisions of subparagraph (A)(iv) for so long as he continues to receive aid under the plan and shall not apply such provisions to any month thereafter until the expiration of an additional period of twelve consecutive months during which he is not a recipient of such aid;".

DETERMINATION OF INCOME AND RESOURCES FOR AFDC

SEC. . Section 402(a)(7) of the Social Security Act is amended to read as follows:

"(7) except as may be otherwise provided in paragraph (8) or (31), provide that the State agency—

"(A) shall, in determining need, take into consideration any other income and resources of any child or relative claiming aid to families with dependent children, or of any other individual (living in the same home as such child and relative) whose needs the State determines should be considered in determining the need of the child or relative claiming such aid;

"(B) shall determine ineligible for aid any family the combined value of whose resources (reduced by any obligations or debts with respect to such resources) exceeds $1,000 or such lower amount as the State may determine, but not including as a resource for purposes of this subparagraph a home owned and occupied by such child, relative, or other individual and so much of the family member's ownership interest in one automobile as does not exceed such amount as the Secretary may prescribe; and

"(C) may, in the case of a family claiming or receiving aid under this part for any month, take into consideration as income (to the extent the State determines appropriate, as specified in such plan, and notwithstanding any other provision of law)—

"(i) an amount not to exceed the value of the family's monthly allotment of food stamp coupons, to the extent such value duplicates the amount for food included in the maximum amount that would be payable under the State plan to a family of the same composition with no other income; and

"(ii) an amount not to exceed the value of any rent or housing subsidy provided to such family, to the extent such value duplicates the amount for housing included in the maximum amount that would be payable under the State plan to a family of the same composition with no other income;".

INCOME LIMIT FOR AFDC ELIGIBILITY

SEC. . Section 402(a) of the Social Security Act is amended by inserting before paragraph (19) the following new paragraph:

"(18) provide that no family shall be eligible for aid under the plan for any month if, for that month, the total income of the family (other than payments under the plan), without application of paragraph (8), exceeds 150 percent of the State's standard of need for a family of the same composition;".

TREATMENT OF INCOME IN EXCESS OF THE STANDARD OF NEED; LUMP SUM PAYMENTS

SEC. . Section 402(a) of the Social Security Act is amended by inserting after paragraph (16) the following new paragraph:

"(17) provide that if a person specified in paragraph (8)(A) (i) or (ii) receives in any month an amount of income which, together with all other income for that month not excluded under paragraph (8), exceeds the State's standard of needs applicable to the family of which he is a member—

"(A) such amount of income shall be considered income to such individual in the month received, and the family of which such person is a member shall be ineligible for aid under the plan for the whole number of months that equals (i) the sum of such amount and all other income received in such month, not excluded under paragraph (8), divided by (ii) the standard of need applicable to such family, and

"(B) any income remaining (which amount is less than the applicable monthly standard) shall be treated as income received in the first month following the period of ineligibility specified in subparagraph (A);".

TREATMENT OF EARNED INCOME ADVANCE AMOUNT UNDER AFDC

SEC. . Section 403(d)(1) of the Social Security Act is amended to read as follows:

"(d)(1) For purposes of this part, an individual's 'income' shall also include, to the extent and under the circumstances prescribed by the Secretary, an amount (which shall be treated as earned income for purposes of this part) equal to the earned income advance amount (under section 3507(a) of the Internal Revenue Code of 1954) that is (or, upon the filing of an earned income eligibility certificate, would be) payable to such individual.".

INCOME OF STEPPARENTS LIVING WITH DEPENDENT CHILD

SEC. . (a) Section 402(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (29);

(2) by striking out the period at the end of paragraph (30) and inserting in lieu thereof "; and"; and

(3) by adding after paragraph (30) the following new paragraph:

"(31) provide that, in making the determination for any month under paragraph (7), the State agency shall take into consideration so much of the income of the dependent child's stepparent living in the same home as such child as exceeds the sum of (A) the first $75 of the total of such stepparent's earned income for such month (or such lesser amount as the Secretary may prescribe in the case of an individual not engaged in full-time employment or not employed throughout the month), (B) the State's standard of need under such plan for a family of the same composition as the stepparent and those other individuals living in the same household as the dependent child and claimed by such stepparent as dependents for purposes of determining his Federal personal income tax liability but whose needs are not taken into account in making the determination under paragraph (7), (C) amounts paid by the stepparent to individuals not living in such household and claimed by him as dependents for purposes of determining his Federal personal income tax liability, and (D) payments by such stepparent of alimony or child support with respect to individuals not living in such household.".

(b) Section 412(b) of the Social Security Act is amended by striking out "does not include any such relative" and inserting in lieu thereof "does not include a stepparent whose income is taken into consideration under section 402(a)(31) (regardless of whether such income exceeds the sum specified in such section) or any other such relative".

COMMUNITY WORK EXPERIENCE PROGRAMS

SEC. . (a) Section 409 of the Social Security Act is amended to read as follows:

"COMMUNITY WORK EXPERIENCE PROGRAMS

"Sec. 409. (a)(1) Any State which chooses to do so may establish a community work experience program in accordance with this section. The purpose of the community work experience program is to provide experience and training for individuals not otherwise able to obtain employment, in order to assist them to move into regular employment. Community work experience programs shall be designed to improve the employability of participants through actual work experience and training and to enable individuals employed under community work experience programs to move promptly into regular public or private employment. The facilities of the State public employment offices may be utilized to find employment opportunities for recipients under this program. Community work experience programs shall be limited to projects which serve a useful public purpose in fields such as health, social service, environmental protection, education, urban and rural development and redevelopment, welfare, recreation, public facilities, public safety, and day care. To the extent possible, the prior training, experience, and skills of a recipient shall be utilized in making appropriate work experience assignments. A community work experience program established under this section shall provide—

"(A) appropriate standards for health, safety, and other conditions applicable to the performance of work;

"(B) that the program does not result in displacement of persons currently em-

ployed, or the filling of established unfilled position vacancies;

"(C) reasonable conditions of work, taking into account the geographic region, the residence of the participants, and the proficiency of the participants;

"(D) that participants will not be required, without their consent, to travel an unreasonable distance from their homes or remain away from their homes overnight;

"(E) that the maximum number of hours in any month that a participant may be required to work is that number which equals the amount of aid payable with respect to the family of which such individual is a member under the State plan approved under this part, divided by the greater of the Federal or the applicable State minimum wage; and

"(F) that provision will be made for transportation and other costs, not in excess of an amount established by the Secretary, reasonably necessary and directly related to participation in the program.

The Secretary shall prescribe rules for determining, in cases to which subparagraph (E) applies and in which the members of the household receiving a food stamp allotment are not all members of the family with respect to which aid under this part is payable, the portion of a household's food stamp allotment that, for purposes of subparagraph (E), may be considered to be the food stamp allotment provided to the family.

"(2) Nothing contained in this section shall be construed as authorizing the payment of aid under this part as compensation for work performed, nor shall a participant be entitled to a salary or to any other work or training expense provided under any other provision of law by reason of his participation in a program under this section.

"(3) Nothing in this part or part C, or in any State plan approved under this part, shall be construed to prevent a State from operating (on such terms and conditions and in such cases as the State may find to be necessary or appropriate, whether or not such terms, conditions, and cases are consistent with section 402(a)(19) or part (C)) a community work experience program in accordance with this section.

"(b)(1) Each recipient of aid under the plan who is registered under section 402(a)(19) shall participate, upon referral by the State agency, in a community work experience program unless such recipient is currently employed for no fewer than 80 hours a month and is earning an amount not less than the applicable minimum wage for such employment.

"(2) In addition to an individual described in paragraph (1), the State agency may also refer, for participation in programs under this section, an individual who would be required to register under section 402(a)(19)(A) but for the exception contained in clause (v) of such section (but only if the child for whom the parent or relative is caring is not under the age of three and child care is available for such child), or in clause (iii) of such section.

"(3) The chief executive officer of the State shall provide coordination between a community work experience program operated pursuant to this section and the work incentive program operated pursuant to part C so as to insure that job placement will have priority over participation in the community work experience program, and that individuals eligible to participate in both such programs are not denied aid under the State plan on the grounds of failure to participate in one such program if they are actively and satisfactorily participating in the other. The chief executive officer of the State may provide that part-time participation in both such programs may be required where appropriate.

"(c) The provisions of section 402(a)(19)(F) shall apply to any individual referred to a community work experience program who fails to participate in such program in the same manner as they apply to an individual to whom section 402(a)(19) applies.

"(d) In the case of any State which makes expenditures in the form described in subsection (a) under its State plan approved under section 402, expenditures for the proper and efficient administration of the State plan, for purposes of section 403(a)(3), may not include the cost of making or acquiring materials or equipment in connection with the work performed under a program referred to in subsection (a) or the cost of supervision of work under such program, and may include only such other costs attributable to such programs as are permitted by the Secretary.".

(b) Section 403(a)(3) of such Act is amended by inserting before the semicolon at the end thereof the following: ", or which is a service provided in connection with a community work experience program or work supplementation program under section 409 or 414".

(c) Section 204(c)(2) of the Social Security Amendments of 1957 (Public Law 90-248) is repealed.

PROVIDING JOBS AS ALTERNATIVE TO AFDC

SEC. . Part A of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

"WORK SUPPLEMENTATION PROGRAM

"SEC. . 414. (a) It is the purpose of this section to allow a State to institute a work supplementation program under which such State, to the extent such State determines to be appropriate, may make jobs available, on a voluntary basis, as an alternative to aid otherwise provided under the State plan approved under this part.

"(b)(1) Notwithstanding the provisions of section 406 or any other provision of law, Federal funds may be paid to a State under this part, subject to the provisions of this section, with respect to expenditures incurred in operating a work supplementation program under this section.

"(2) Nothing in this part or part C, or in any State plan approved under this part, shall be construed to prevent a State from operating (on such terms and conditions and in such cases as the State may find to be necessary or appropriate, whether or not such terms, conditions, and cases are consistent with section 402(a)(19) or part C) a work supplementation program in accordance with this section.

"(3) Notwithstanding section 402(a)(23) or any other provision of law, a State may adjust the levels of the standards of need under the State plan as the State determines to be necessary and appropriate for carrying out a work supplementation program under this section.

"(4) Notwithstanding section 402(a)(1) or any other provision of law, a State operating a work supplementation program under this section may provide that the needs standards in effect in those areas of the State in which such program is in operation may be different from the needs standards in effect in the areas in which such program is not in operation, and such State may provide that the needs standards for categories of recipients of aid may vary among such categories as the State determines to be appropriate on the basis of ability to participate in the work supplementation program.

"(5) Notwithstanding any other provision of law, a State may make further adjustments in the amounts of aid paid under the plan to different categories of recipients (as determined under paragraph (4)) in order to offset increases in benefits from needs related programs (other than the State plan approved under this part) as the State determines to be necessary and appropriate to further the purposes of the work supplementation program.

"(6) Notwithstanding section 402(a)(8) or any other provision of law, a State operating a work supplementation program under this section may reduce or eliminate the amount of earned income to be disregarded under the State plan as the State determines to be necessary and appropriate to further the purposes of the work supplementation program.

"(c)(1) A work supplementation program operated by a State under this section shall provide that any individual who is an eligible individual (as determined under paragraph (2)) may choose to take a supplemental job (as defined in paragraph (3)) to the extent supplemented jobs are available under the program. Payments by the State to individuals or to employers under the program shall be expenditures incurred by the State for aid to families with dependent children, except as limited by subsection (d).

"(2) For purposes of this section, an eligible individual is an individual who is in a category which the State determines shall be eligible to participate in the work supplementation program, and who would, at the time of his placement in such job, be eligible for assistance under the State plan if such State did not have a work supplementation program in effect and had not altered its State plan accordingly, as such State plan was in effect in May 1981, or as modified thereafter as required by Federal law.

"(3) For purposes of this section, a supplemented job is—

"(A) a job position provided to an eligible individual by the State or local agency administering the State plan under this part;

"(B) a job position provided to an eligible individual by a public or nonprofit entity for which all or part of the wages are paid by such State or local agency; or

"(C) a job position provided to an eligible individual by a proprietary entity involving the provision of child day care services for which all or part of the wages are paid by such State or local agency, but only if such entity does not claim a credit for any part of the wages paid to such eligible individual under section 40 of the Internal Revenue Code of 1954 (relating to credit for expenses of the work incentive program) or section 44B of such Code (relating to credit for employment of certain new employees).

A State may provide or subsidize any job position under the program as such State determines to be appropriate, but acceptance of any such position shall be voluntary.

"(d) The amount of the Federal payment to a State under section 403 for any quarter for expenditures incurred in operating a work supplementation program shall not exceed an amount equal to the difference between—

"(1) the amount which would have been paid under section 403 to such State for such quarter under the State plan if it did not have a work supplementation program in effect and had not altered its State plan accordingly, as such State plan was in effect in May 1981, or as modified thereafter as required by Federal law; and

"(2) the amount paid to such State under section 403 for such quarter exclusive of the amount so paid for such quarter for the work supplementation program.

"(e)(1) Nothing in this section shall be construed as requiring a State or local agency administering the State plan to provide employee status to any eligible individual to whom it provides a job position under the work supplementation program, or with respect to whom it provides all or part of the wages paid to such individual by another entity under such program.

"(2) Nothing in this section shall be construed as requiring such State or local agency to provide that eligible individuals filling job positions provided by other entities under such program be provided employee status by such entity during the first 13 weeks during which they fill such position.

"(13) Wages paid under a work supplementation program shall be considered to be earned income for purposes of any provision of law.

"(f) Any work supplementation program operated by a State shall be administered by—

"(1) the agency designated to administer or supervise the administration of the State plan under section 402(a)(3); or

"(2) the agency (if any) designated to administer the community work experience program under section 409.

"(g) Any State which chooses to operate a work supplementation program under this section may choose to provide that any individual who participates in such program, and any child or relative of such individual (or other individual living in the same household as such individual) who would be eligible for aid under the State plan approved under this part if such State did not have a work supplementation program, shall be considered individuals receiving aid under the State plan approved under this part for purposes of eligibility for medical assistance under the State plan approved under title XIX.

"(h) No individual receiving a grant under the State plan shall be excused, by reason of the fact that such State has a work supplementation program, from any requirement of this part or part C relating to work requirements.".

WORK INCENTIVE DEMONSTRATION PROGRAM

SEC. . Part C of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

"WORK INCENTIVE DEMONSTRATION PROGRAM

"SEC. 445. (a) Notwithstanding any other provision of this part and part A of this title, any State may elect as an alternative to the work incentive program otherwise provided in this part, and subject to the provisions of this section, to operate a work incentive demonstration program for the purpose of demonstrating single agency administration of the work-related objectives of this Act, and to receive payments under the provisions of this section.

"(b)(1) Not later than sixty days following the date of the enactment of this section, the Governor of a State which desires to operate a work incentive demonstration program under this section shall submit to the Secretary of Health and Human Services a letter of application stating such intent. Accompanying the letter of application shall be a State program plan which must—

"(A) provide that agency conducting the demonstration program within the State shall be the single State agency which administers or supervises the administration of the State plan under part A of this title;

"(B) provide that all persons eligible for or receiving assistance under the aid to families with dependent children program shall be eligible to participate in, and shall be required to participate in, the work incentive demonstration program, subject to the same criteria for participation in such demonstration program as are in effect under this part and part A during the month before the month in which the demonstration program commences;

"(C) provide that the criteria for participation in the work incentive demonstration program shall be uniform throughout the State;

"(D) provide a statement of the objectives which the State expects to meet through operation of a work incentive demonstration program, with emphasis on how the State expects to maximize client placement in nonsubsidized private sector employment;

"(E) describe the techniques to be used to achieve the objectives of the work incentive demonstration program, which may include but shall not be limited to: maximum periods of participation, job training, job find clubs, grant diversion to either public or private sector employers, services contracts with State employment services, prime sponsors under the Comprehensive Employment and Training Act of 1973, or private placement agencies, targeted jobs tax credit outreach campaigns, and performance-based placement incentives; and

"(F) set forth the format and frequency of reporting of information regarding operation of the work incentive demonstration program.

"(2) A State's application to participate in the work incentive demonstration program shall be deemed approved unless the Secretary of Health and Human Services notifies the State in writing of disapproval within forty-five days of the date of application. The Secretary of Health and Human Services shall set forth the reasons for disapproval and provide an opportunity for resubmission of the plan within forty-five days of the receipt of the notice of disapproval. An application shall not be finally disapproved unless the Secretary of Health and Human Services determines that the State's program plan would be less effective than the requirements set forth in this title, other than this section.

"(3) The Secretary of Health and Human Services shall furnish copies of approved plans, statistical reports, and evaluation reports to the Secretary of Labor.

"(c) Subject to the statement of objectives and description of techniques to be used in implementing its work incentive demonstration program, as set forth in its program plan, a State shall be free to design a program which best addresses its individual needs, makes best use of its available resources, and recognizes its labor market conditions. Other than criteria for participation in the State's work incentive demonstration project, which shall be uniform throughout the State, the components of the program may vary by geographic area or by political subdivision.

"(d) A State's work incentive demonstration program, if initially approved, shall be in force for a three-year period. During this period, the State may elect to use up to six months for planning purposes. During such planning period, all requirements of part A and this part C shall remain in full force and effect.

"(e) The Secretary of Health and Human Services shall conduct two evaluations of a State's work incentive demonstration program. The first evaluation shall be conducted at the conclusion of the first twelve months of operation of the demonstration program. The second evaluation shall be conducted at the conclusion of the demonstration program. Both evaluations shall compare placement rates during the demonstration program with placement rates achieved during a number of previous years, to be determined by the Secretary of Health and Human Services.

"(f)(1) For each year of its demonstration program, a State which is operating such program shall be funded in an amount equal to its initial annual 1981 allocation under the work incentive program set forth in this part, plus any other Federal funds which the State may properly receive under any statute for establishing work programs for recipients of aid to families with dependent children.

"(2) Such funds shall only be used by the State for administering and operating its work incentive demonstration program. These funds shall not be used for direct grants of assistance under the aid to families with dependent children program.

"(g) Earnings derived from participation in a State's work incentive demonstration program shall not result in a determination of financial ineligibility for assistance under the aid to families with dependent children program.".

EFFECT OF PARTICIPATION IN A STRIKE ON ELIGIBILITY FOR AFDC

SEC. . Section 402(a) of the Social Security Act is amended by inserting after paragraph (20) the following new paragraph:

"(21) provide—

"(A) that, for purposes of this part, participation in a strike shall not constitute good cause to leave, or to refuse to seek or accept employment; and

"(3)(i) that aid to families with dependent children is not payable to a family for any month in which any caretaker relative with whom the child is living is, on the last day of such month, participating in a strike, and (ii) that no individual's needs shall be included in determining the amount of aid payable for any month to a family under the plan if, on the last day of such month, such individual is participating in a strike;".

AGE LIMIT OF DEPENDENT CHILD

SEC. . Section 406(a)(2) of the Social Security Act is amended to read as follows: "(2) who is (A) under the age of eighteen, or (B) at the option of the State, under the age of nineteen and a full-time student in a secondary school (or in the equivalent level of vocational or technical training), if, before he attains age nineteen, he may reasonably be expected to complete the program of such secondary school (or such training);".

LIMITATION ON AFDC TO PREGNANT WOMEN

SEC. . (a) Section 406(b) of the Social Security Act is amended by striking out "dependent children" the second place it appears in the matter that precedes clause (1) and inserting in lieu thereof "dependent children, or, at the option of the State, a pregnant woman but only if it has been medically verified that the child is expected to be born in the month such payments are made or within the three-month period following such month of payment, and who, if such child had been born and was living with her in the month of payment, would be eligible for aid to families with dependent children".

(b) Section 406 of such Act is amended by adding at the end thereof the following new subsection:

"(g)(1) Notwithstanding the provisions of subsection (b), the term 'aid to families with dependent children' does not mean any—

"(A) amount paid to meet the needs of an unborn child; or

"(B) amount paid (or by which a payment is increased) to meet the needs of a woman occasioned by or resulting from her pregnancy, unless, as has been medically verified, the woman's child is expected to be born in the month such payments are made (or increased) or within the three-month period following such month of payment.

"(2) Notwithstanding paragraph (1), a State may provide that for purposes of title XIX a pregnant woman shall be deemed to be a recipient of aid to families with dependent children under this part if she would be eligible for such aid if such child had been born and was living with her in the month of payment, and such pregnancy has been medically verified.".

AID TO FAMILIES WITH DEPENDENT CHILDREN BY REASON OF UNEMPLOYMENT OF A PARENT

SEC. . (a) Section 407 of the Social Security Act is amended as follows:

(1) the heading is amended to read "DEPENDENT CHILDREN OF UNEMPLOYED PARENTS";

(2) subsection (a) is amended by striking out "his father" and inserting in lieu thereof "the parent who is the principal earner";

(3) subsection (b)(1) is amended—

(A) by striking out "such child's father" in subparagraph (A) and inserting in lieu thereof "whichever of such child's parents is the principal earner", and

(B) by striking out "father" in subparagraph (B) and inserting in lieu thereof "parent";

(4) subsection (b)(2) is amended—

(A) by striking out "fathers" in subparagraph (A) and inserting in lieu thereof "unemployed parents", and

(B) by striking out "father" in subparagraph (C) (i) and (ii) and in subparagraph (D) and inserting in lieu thereof "parent described in paragraph (i)(A)";

(5) subsection (c) is amended by striking out "father" both times it appears and inserting in lieu thereof "parent";

(6) subsection (d) is amended—

(A) by striking out "and" at the end of paragraph (2);

(B) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(4) the phrase 'whichever of such child's parents is the principal earner', in the case of any child, means whichever parent, in a home in which both parents of such child are living, earned the greater amount of income in the 24-month period the last month of which immediately precedes the month in which an application is filed for aid under this part on the basis of the unemployment of a parent, for each consecutive month for which the family receives such aid on that basis."; and

(7) subsection (e) is amended by striking out "fathers" and inserting in lieu thereof "parents".

(b) Section 402(a)(19)(A) of such Act is amended—

(1) by striking out "mother" in clause (v) and inserting in lieu thereof "parent";

(2) by striking out "mother or other female caretaker of a child, if the father or another adult male relative" in clause (vi) and inserting in lieu thereof "parent or other caretaker of a child who is deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent, if another adult relative";

(3)(A) by striking out "or" at the end of clause (vi);

(B) by striking out the semicolon at the end of clause (vii) and inserting in lieu thereof "; or"; and

(C) by adding at the end thereof the following new clause:

"(viii) the parent of a child who is deprived of parental support or care by reason of the unemployment of a parent, if the other parent (who is the principal earner, as defined in section 407(d)) is not excluded by the preceding clauses of this subparagraph;"; and

(4) in the matter following the numbered clauses—

(A) by striking out "her option" and inserting in lieu thereof "his or her option";

(B) by striking out "if she so desires" and inserting in lieu thereof "if he or she so desires";

(C) by striking out "to her" and inserting in lieu thereof "to him or her"; and

(D) by striking out "she should decide" and inserting in lieu thereof "he or she should decide".

(c)(1) Section 402(a)(19)(F) of such Act is amended by redesignating clauses (ii) through (iv) as clauses (iii) through (v), respectively, and by inserting after clause (i) the following new clause:

"(ii) if the parent who has been designated as the principal earner, for purposes of section 407, makes such refusal, aid will be denied to all members of the family;".

(2) Section 407(b)(2)(C)(i) of such Act is amended by striking out "not registered" and inserting in lieu thereof "not currently registered".

WORK REQUIREMENTS FOR AFDC RECIPIENTS

SEC. . (a) Section 402(a)(19)(A)(1) of the Social Security Act is amended to read as follows:

"(i) a child who is under age 16 or attending, full-time, an elementary, secondary, or vocational (or technical) school;".

(b) Section 402(a)(19)(A)(v) of such Act is amended to read as follows:

"(v) the parent or other relative of a child under the age of six who is personally providing care for the child with only very brief and infrequent absences from the child;".

RETROSPECTIVE BUDGETING AND MONTHLY REPORTING

SEC. . (a) Section 402(a) of the Social Security Act is amended by inserting after paragraph (12) the following new paragraphs:

"(13) provide that—

"(A) except as provided in subparagraph (B), the State agency (i) will determine a family's eligibility for aid for a month on the basis of the family's income, composition, resources, and other similar relevant circumstances during such month, and (ii) will determine the amount of such aid on the basis of the income and other relevant circumstances in the first or, at the option of the State but only where the Secretary determines it to be appropriate, second month preceding such month; and

"(B) in the case of the first month, or at the option of the State but only where the Secretary determines it to be appropriate, the first and second months, in a period of consecutive months for which aid is payable, the State agency will determine the amount of aid on the basis of the family's income and other relevant circumstances in such first or second month;

"(14) provide that the State agency will require each family to which it furnishes aid to families with dependent children (or to which it would provide such aid but for paragraph (22) or (32) to report, as a condition to the continued receipt of such aid (or to continue to be deemed to be a recipient of such aid), each month to the State agency on—

(A) the income received, family composition, and other relevant circumstances during the prior month; and

"(B) the income and resources it expects to receive, or any changes in circumstances affecting continued eligibility or benefit amount, that it expects to occur, in that month (or in future months); except that with the prior approval of the Secretary the State may select categories of recipients who may report at specified less frequent intervals upon the State's showing to the satisfaction of the Secretary that to require individuals in such categories to report monthly would result in unwarranted expenditures for administration of this paragraph; and that, in addition to whatever action may be appropriate based on other reports or information received by the State agency, the State agency will take prompt action to adjust the amount of assistance payable, as may be appropriate, on the basis of the information contained in the report (or upon the failure of the family to furnish a timely report), and will give an appropriate explanatory notice, concurrent with its action, to the family;".

(b) Section 403(a) of such Act is amended by adding at the end thereof the following sentence: "No payment shall be made under this subsection with respect to amounts paid to supplement or otherwise increase the amount of aid to families with dependent children found payable in accordance with section 402(a)(13) if such amount is determined to have been paid by the State in recognition of the current or anticipated needs of a family (other than with respect to the first or first and second months of eligibility).".

PROHIBITION AGAINST PAYMENT OF AID IN AMOUNTS BELOW TEN DOLLARS

SEC. . Section 402(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (30);

(2) by striking out the period at the end of paragraph (31) and inserting in lieu thereof "; and"; and

(3) by adding after paragraph (31) the following new paragraph:

"(32) provide that no payment of aid shall be made under the plan for any month if the amount of such payment, as determined in accordance with the applicable provisions of the plan and of this part, would be less than $10, but an individual with respect to whom a payment of aid under the plan is denied solely by reason of this paragraph is deemed to be a recipient of aid but shall not be eligible to participate in a community work experience program.".

REMOVAL OF LIMIT ON RESTRICTED PAYMENTS IN A STATE'S AFDC PROGRAM

SEC. . (a) Section 403(a) of the Social Security Act is amended by striking out the first unnumbered paragraph following paragraph (5).

(b) Section 406(b) of such Act is amended by adding at the end thereof the following new sentence: "Payments of the type described in clause (2) shall not be subject to the requirements of clauses (A) through (E) of such clause (2), when they are made in the manner described in clause (2) at the request of the family member to whom payment would otherwise be made in an unrestricted manner.".

ADJUSTMENT FOR INCORRECT PAYMENTS

SEC. . Section 402(a) of the Social Security Act is amended by inserting after paragraph (21) the following new paragraph:

"(22) provide that the State agency will promptly take all necessary steps to correct any overpayment or underpayment of aid under the State plan, and, in the case of—

"(A) an overpayment to an individual who is a current recipient of such aid, recovery will be made by repayment by the individual or by reducing the amount of any future aid payable to the family of which he is a member, except that such recovery shall not result in the reduction of aid payable for any month, such that the aid, when added to such family's liquid resources and to its income (without application of paragraph (8)), is less than 90 percent of the amount payable under the State plan to a family of the same composition with no other income (and, in the case of an individual to whom no payment is made for a month solely by reason of recovery of an overpayment, such individual shall be deemed to be a recipient of aid for such month);

"(B) an overpayment to any individual who is no longer receiving aid under the plan, recovery shall be made by appropriate action under State law against the income or resources of the individual or the family; and

"(C) an underpayment, the corrective payment shall be disregarded in determining the income of the family, and shall be disregarded in determining its resources in the month the corrective payment is made and in the following month;".

REDUCED FEDERAL MATCHING OF STATE AND LOCAL AFDC TRAINING COSTS

SEC. . (a) Section 403(a)(3)(A) of the Social Security Act, as in effect in the fifty States and the District of Columbia, is repealed.

(b) Section 403(a)(3)(A)(iii) of such Act, as in effect in Puerto Rico, Guam, and the Virgin Islands, is repealed.

(c) The repeals made by this section shall apply to expenditures made after September 30, 1981.

EFFECTIVE DATE

SEC. . (a) Except as otherwise specifically provided in the preceding sections of this part or in subsection (b), the provisions of this part and the amendments and repeals made by this part shall become effective on October 1, 1981.

(b) If a State agency administering a plan approved under part A of title IV of the Social Security Act demonstrates, to the satisfaction of the Secretary of Health and Human Services, that it cannot, by reason of State law, comply with the requirements of an amendment made by this part to which the effective date specified in subsection (a) applies, the Secretary may prescribe that, in the case of such State, the amendment will become effective beginning with the first month beginning after the close of the first session of such State's legislature ending on or after October 1, 1981. For purposes of the preceding sentence, the term "session of a State's legislature" includes any regular, special, budget, or other session of a State legislature.

CHILD SUPPORT ENFORCEMENT

COLLECTION OF PAST-DUE CHILD AND SPOUSAL SUPPORT FROM FEDERAL TAX REFUNDS

SEC. . (a) Part D of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

"COLLECTION OF PAST-DUE SUPPORT FROM FEDERAL TAX REFUNDS

"SEC. 464. (a) Upon receiving notice from a State agency administering a plan approved under this part that a named individual owes past-due support which has been assigned to such State pursuant to section 402 (a)(26), the Secretary of the Treasury shall determine whether any amounts, as refunds of Federal taxes paid, are payable to such individual (regardless of whether such individual filed a tax return as a married or unmarried individual). If the Secretary of the Treasury finds that any such amount is payable, he shall withhold from such refunds an amount equal to the past-due support, and pay such amount to the State agency (together with notice of the individual's home address) for distribution in accordance with section 457(b)(3).

"(b) The Secretary of the Treasury shall issue regulations, approved by the Secretary of Health and Human Services, prescribing the time or times at which States must submit notices of past-due support, the manner in which such notices must be submitted, and the necessary information that must be contained in or accompany the notices. The regulations shall specify the minimum amount of past-due support to which the offset procedure established by subsection (a) may be applied, and the fee that a State must pay to reimburse the Secretary of the Treasury for the full cost of applying the offset procedure, and provide that the Secretary of the Treasury will advise the Secretary of Health and Human Services, not less frequently than annually, of the States which have furnished notices of past-due support under subsection (a), the number of cases in each State with respect to which such notices have been furnished, the amount of support sought to be collected under this subsection by each State, and the amount of such collections actually made in the case of each State.

"(c) As used in this part the term 'past-due support' necessary to satisfy his obligation for past-due support has been paid to the State. This subsection shall be applied to an overpayment prior to its being credited to a person's future liability for an internal revenue tax.".

COLLECTION OF SUPPORT FOR CERTAIN ADULTS

SEC. . (a) Section 451 of the Social Security Act is amended by striking out "children" and inserting in lieu thereof "children and the spouse (or former spouse) with whom such children are living" and by striking out "child support" and inserting in lieu thereof "child and spousal support".

(b)(1) Section 452(a) of such Act is amended—

(A) in paragraph (1), by inserting "and support for the spouse (or former spouse) with whom the absent parent's child is living" after "child support";

(B) in paragraph (7), by inserting "and spousal" after "child"; and

(1) by striking out in subsection (a) thereof "shall refund" and inserting in lieu thereof "shall, subject to subsection (c), refund"; and

(2) by adding at the end thereof the following new subsection:

"(C) Offset of Past-Due Support Against Overpayments.—The amount of any overpayment to be refunded to the person making the overpayment shall be reduced by the amount of any past-due support (as defined in section 464(d) of the Social Security Act) owed by that person of which the Secretary has been notified by a State in accordance with section 464 of the Social Security Act. The Secretary shall remit the amount by which the overpayment is so reduced to the State to which such support has been assigned and notify the person making the overpayment that so much of the overpayment as was—

(C) in paragraph (10)(C), by inserting "(with separate identification of the number in which collection of spousal support was involved)" after "child support cases".

(2) Section 452(b) of such Act is amended—

(A) by inserting ", including any support obligation with respect to the parent who is living with the child and receiving aid under the State plan approved under part A," after "assigned to the State" in the first sentence; and

(B) by striking out "court order" in the second sentence and inserting in lieu thereof "court or administrative order".

(c) Section 453(c)(1) of such Act is amended by striking out "child support" and inserting in lieu thereof "child and spousal support".

(d) Section 454 of such Act is amended—

(1) by striking out "CHILD SUPPORT" in the heading and inserting in lieu thereof "CHILD AND SPOUSAL SUPPORT";

(2) by striking out "child support" in the matter preceding paragraph (1) and inserting in lieu thereof "child and spousal support";

(3) in paragraph (4)(B), by striking out the comma immediately following the first parenthetical phrase and inserting in lieu thereof "and, at the option of the State, from such parent for his spouse (or former spouse) receiving aid to families with dependent children (but only if a support obligation has been established with respect to such spouse),";

(4) in paragraph (5), by striking out "child support payments" and inserting in lieu thereof "support payments" and by striking out "collected for a child" and inserting in lieu thereof "collected for an individual";

(5) in paragraph (9)(C), by striking out "of a child or children" and inserting in lieu thereof "of the child or children or the parent of such child or children";

(6) in paragraph (11), by striking out "child"; and

(7) in paragraph (16), by striking out "child" each place it appears.

(e) Section 457 of such Act is amended—

(1) by striking out "child" in the portion of subsection (b) that precedes paragraph (1); and

(2) by striking out "child" each place it appears in subsection (c).

(f) The heading of section 460 of such Act is amended by striking out "CHILD".

COST OF COLLECTION AND OTHER SERVICES FOR NON-AFDC FAMILIES

SEC. . (a) Section 454(6) of the Social Security Act is amended—

(1) by striking out "such services" in clause (B) and inserting in lieu thereof "services under the State plan (other than collection of support)"; and

(2) by amending clause (C) to read as follows: "(C) the State will retain, but only if it is the State which makes the collection, the fee imposed under State law as required under paragraph (19);".

(b) Section 454 of such Act (as amended by section 761 of this part) is further amended—

(1) by striking out "and" at the end of paragraph (17);

(2) by striking out the period at the end of paragraph (18) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(19) provide that a fee shall be imposed on the individual who owes a child or spousal support obligation, in accordance with State law, with respect to all such child and spousal support obligations for which collection is made by the State agency under this part on behalf of an individual not otherwise eligible for collection services (as determined for purposes of paragraph (6) in an amount equal to 10 percent of the amount so owed (and for purposes of this part, no part of the amount collected shall be considered to be a fee collected except amounts which exceed the actual amount of support owed))".

(c) Section 455(a) of such Act is amended by adding at the end thereof the following new sentence: "In determining the total amounts expended by any State during a quarter, for purposes of this subsection, there shall be excluded an amount equal to the total of any fees collected or other income resulting from services provided under the plan approved under this part.".

CHILD SUPPORT OBLIGATIONS NOT DISCHARGED BY BANKRUPTCY

SEC. 764. (a) Section 456 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(b) A debt which is a child support obligation assigned to a State under section 402(a)(26) is not released by a discharge in bankruptcy under title 11, United States Code.".

(b) Section 523(a)(5)(A) of title 11, United States Code, is amended by inserting before the semicolon the following: "(other than debts assigned pursuant to section 402(a)(26) of the Social Security Act)".

(c) The amendments made by this section shall become effective on the date of the enactment of this Act.

EFFECTIVE DATE

SEC. . (a) Except as otherwise specifically provided in the preceding sections of this part or in subsection (b), the provisions of this part and the amendments and repeals made by this part shall become effective on October 1, 1981.

(b) If a State agency administering a plan approved under part D of title IV of the Social Security Act demonstrates, to the satisfaction of the Secretary of Health and Human Services, that it cannot, by reason of State law, comply with the requirements of an amendment made by this part to which the effective date specified in subsection (a) applies, the Secretary may prescribe that, in the case of such State, the amendment will become effective beginning with the first month beginning after the close of the first session of such State's legislature ending on or after October 1, 1981. For purposes of the preceding sentence, the term "session of a State legislature" includes any regular, special, budget, or other session of a State legislature."

ELIGIBILITY OF ALIENS FOR AFDC

SEC. . (a) Section 402(a) of the Social Security Act (as amended by section 15422(a) of this Act) is further amended—

(1) by striking out "and" at the end of paragraph (30);

(2) by striking out the period at the end of paragraph (31) and inserting in lieu thereof "; and"; and

(3) by adding immediately after paragraph (31) the following new paragraph:

"(32) provide that in order for any individual to be considered a dependent child, a caretaker relative whose needs are to be taken into account in making the determination under paragraph (7), or any other person whose needs should be taken into account in making such a determination with respect to the child or relative, such individual must be either (A) a citizen, or (B) an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 207(c) of the Immigration and Nationality Act (or of section 203(a)(7) of such Act prior to April 1, 1980), or as a result of the application of the provisions of section 208 or 212(d)(5) of such Act).)".

(b)(1) Section 402(a)(7) of such Act (as amended by section 15422(b) of this Act) is further amended by inserting "and section 415" after "paragraph (31)".

(2) Part A of title IV of such Act (as amended by section 15424(a) of this Act) is further amended by adding at the end thereof the following new section:

"ATTRIBUTION OF SPONSOR'S INCOME AND RESOURCES TO ALIEN

"SEC. 415. (a) For purposes of determining eligibility for and the amount of benefits under a State plan approved under this part of an individual who is an alien described in clause (B) of section 402(a)(32), the income and resources of any person who (as a sponsor of such individual's entry into the United States) executed an affidavit of support or similar agreement with respect to such individual, and the income and resources of the sponsor's spouse, shall be deemed to be the unearned income and resources of such individual (in accordance with subsections (b) and (c)) for a period of three years after the individual's entry into the United States, except that this section is not applicable if such individual is a dependent child and such sponsor (or such sponsor's spouse) is the parent of such child.

"(b)(1) The amount of income of a sponsor (and his spouse) which shall be deemed to be the unearned income of an alien for any month shall be determined as follows:

"(A) the total amount of earned and unearned income of such sponsor and such sponsor's spouse (if such spouse is living with the sponsor) shall be determined for such month;

"(B) the amount determined under subparagraph (A) shall be reduced by an amount equal to the sum of—

"(i) the lesser of (I) 20 percent of the total of any amounts received by the sponsor and his spouse in such month as wages or salary or as net earnings from self-employment, plus the full amount of any costs incurred by them in producing self-employment income in such month, or (II) $175;

"(ii) the cash needs standard established by the State under its plan for a family of the same size and composition as the sponsor and those other individuals living in the same household as the sponsor who are claimed by him as dependents for purposes of determining his Federal personal income tax liability but whose needs are not taken into account in making a determination under section 402(a)(7);

"(iii) any amounts paid by the sponsor (or his spouse) to individuals not living in such household who are claimed by him as dependents for purposes of determining his Federal personal income tax liability; and

"(iv) any payments of alimony or child support with respect to individuals not living in such household.

"(2) The amount of resources of a sponsor (and his spouse) which shall be deemed to be the resources of an alien for any month shall be determined as follows:

"(A) the total amount of the resources (determined as if the sponsor were applying for aid under the State plan approved under this part) of such sponsor and such sponsor and such sponsor's spouse (if such spouse is living with the sponsor) shall be determined; and

"(B) the amount determined under subparagraph (A) shall be reduced by $1,500.

"(c)(1) Any individual who is an alien shall, during the period of three years after entry into the United States, in order to be eligible for aid under a State plan approved under this part, be required to provide to the State agency administering such plan such information and documentation with respect to his sponsor as may be necessary in order for the State agency to make any determination required under this section, and to obtain any cooperation from such sponsor necessary for any such determination. Such alien shall also be required to provide to the State agency such information and documentation as it may request and which such alien or his sponsor provided in support of such alien's immigration application.

"(2) The Secretary shall enter into agreements with the Secretary of State and the Attorney General whereby any information available to them and required in order to make any determination under this section will be provided by them to the Secretary (who may, in turn, make such information available, upon request, to a concerned State agency), and whereby the Secretary of State and Attorney General will inform any sponsor of an alien, at the time such sponsor executes an affidavit of support or similar agreement, of the requirements imposed by this section.

"(d) Any sponsor of an alien, and such alien, shall be jointly and severally liable for an amount equal to any overpayment of aid under the State plan made to such alien during the period of three years after such alien's entry into the United States, on account of such sponsor's failure to provide correct information under the provisions of this section, except where such sponsor was without fault, or where good cause of such failure existed. Any such overpayment which is not repaid to the State or recovered in accordance with the procedures generally applicable under the State plan to the recoupment of overpayments shall be withheld from any subsequent payment to which such alien or such sponsor is entitled under any provision of this Act.

"(e)(1) In any case where a person is the sponsor of two or more alien individuals who are living in the same home, the income and resources of such sponsor (and his spouse), to the extent they would be deemed the income and resources of any one of such individuals under the preceding provisions of this section, shall be divided into two or more equal shares (the number of shares being the same as the number of such alien individuals) and the income and resources of each such individual shall be deemed to include one such share.

"(2) Income and resources of a sponsor (and his spouse) which are deemed under this section to be the income and resources of any alien individual in a family shall not be considered in determining the need of

other family members except to the extent such income or resources are actually available to such other members.

"(f) The provisions of this section shall not apply with respect to any alien who is—

"(1) admitted to the United States as a result of the application, prior to April 1, 1980, of the provisions of section 203(a)(7) of the Immigration and Nationality Act;

"(2) admitted to the United States as a result of the application, after March 31, 1980, of the provisions of section 207(c) of such act;

"(3) paroled into the United States as a refugee under section 212(d)(5) of such Act;

"(4) granted political asylum by the Attorney General under section 208 of such Act; or

"(5) a Cuban and Haitian entrant, as defined in section 501(e) of the Refugee Education Assistance Act of 1980 (Public Law 96-422).".

(c) The amendments made by subsection (a) shall be effective on the date of the enactment of this Act. The amendments made by subsection (b) shall be effective with respect to individuals applying for aid to families with dependent children under any approved State plan for the first time after September 30, 1981.

CHILD SUPPORT INTERCEPT OF UNEMPLOYMENT BENEFITS

SEC. 15435. (a) Section 454 of the Social Security Act is amended by striking out "and" at the end of paragraph (16), by striking out the period at the end of paragraph (17) and inserting in lieu thereof "; and", and by addding at the end thereof the following new paragraph:

"(18) provide that the agency administering the plan—

"(A) shall determine on a periodic basis, from information supplied pursuant to section 508 of the Unemployment Compensation Amendments of 1976, (whether any individuals receiving compensation under the State's unemployment compensation law including amounts payable pursuant to any agreement under any Federal unemployment compensation law) owe child support obligations which are being enforced by such agency, and

"(B) shall enforce any such child support obligations which are owed by such an individual but are not being met—

"(i) through an agreement with such individual to have specified amounts withheld from compensation otherwise payable to such individual and by submitting a copy of any such agreement to the State agency administering the unemployment compensation law, or

"(ii) in the absence of such an agreement, by bringing legal process (as defined in section 462(e) of this Act) to require the withholding of amounts from such compensation.".

(b)(1) Subsection (e) of section 303 of the Social Security Act is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph: "(2)(A) The State agency charged with the administration of the State law—

"(i) shall require each new applicant for unemployment compensation to disclose whether or not such applicant owes child support obligations (as defined in the last sentence of this subsection),

"(ii) shall notify the State or local child support enforcement agency enforcing such obligations, if any applicant discloses under clause (i) that he owes child support obligations and he is determined to be eligible for unemployment compensation, that such applicant has been so determined to be eligible,

"(iii) shall deduct and withhold from any unemployment compensation otherwise payable to an individual—

"(I) the amount specified by the individual to the State agency to be deducted and withheld under this clause,

"(II) the amount (if any) determined pursuant to an agreement submitted to the State agency under section 454(18)(B)(i) of this Act, or

"(III) any amount otherwise required to be so deducted and withheld from such unemployment compensation through legal process (as defined in section 462(c)), and

"(iv) shall pay any amount deducted and withheld under clause (III) to the appropriate State or local child support enforcement agency.

Any amount deducted and withheld under clause (iii) shall for all purposes be treated as if it were paid to the individual as unemployment compensation and paid by such individual to the State or local child support enforcement agency in satisfaction of his child support obligations.

"(B) For purposes of this paragraph, the term 'unemployment compensation' means any compensation payable under the State law (including amounts payable pursuant to agreements under any Federal unemployment compensation law).

"(C) Each State or local child support enforcement agency shall reimburse the State agency charged with the administration of the State unemployment compensation law for the administrative costs incurred by such State agency under this paragraph which are attributable to child support obligations being enforced by the State or local child support enforcement agency."

(2) Paragraph (3) of section 303(e) of such Act (as redesignated by paragraph (1)) is amended by striking out "paragraph (1)" and inserting in lieu thereof "paragraph (1) or (2)".

(3) The last sentence of paragraph (1) of such section 303(e) is amended by striking out "the preceding sentence" and inserting in lieu thereof "this subsection".

(c) The amendments made by this section shall take effect on the date of the enactment of this Act, except that such amendments shall not be requirements under section 454 or 303 of the Social Security Act before October 1, 1982.

Page 497, insert after line 8 the following:

TITLE XVI—BLOCK GRANTS

DISTRIBUTION OF BLOCK GRANT FUNDS

SEC. 1601. (a) Notwithstanding any other provision of this Act, a State which receives funds under this Act or any other Federal law—

(1) which provides for the distribution of funds to States only; and

(2) which prescribes the amount to be distributed to a State on the basis of the amount the State or political subdivisions or other entities in the State received under Federal programs—

(A) which are repealed by this Act or other Federal law, and

(B) which provided funds to political subdivisions of States and to other entities in the States,

shall establish a method and formula for the distribution of such funds on an equitable basis in accordance with subsection (b) and shall make the report prescribed by subsection (c).

(b) In distributing funds described in subsection (a), the State shall—

(1) assure the continuation of funding of effective programs which are servicing demonstrated needs and which were funded under programs described in subsection (a)(2),

(2) assure parity for rural areas and small cities of funds available for distribution, and

(3) assure fairness of competition in the application and bidding for funds available for distribution.

REPORTING

SEC. 1602. (a) Prior to expenditures by a State of funds described in subsection (a) of section 1601, the chief executive officer of the State shall prepare a public report on the intended use of the funds, including information on the types of activities to be supported, the geographic areas to be served, the categories or characteristics of individuals to receive the services, and the method and formula established under section 1601 for distribution of funds.

(b) The report shall be made public within the State in such manner as to facilitate comment from any person (including any Federal or other public agency) during development of the report and after its completion. The report shall describe a process (as developed by the State) to allow for public review, appeal of program selection, and appeal of the selection of entities to deliver program services. The report shall be revised throughout the year as may be necessary to reflect substantial changes in the activities assisted with such funds, and any revision shall be subject to the requirements of this subsection.

(c) The report shall contain sufficient documentation to substantiate (1) the funding of recommended programs and that the amount provided the programs is adequate to carry out their purposes, (2) the selection of entities to receive funds, (3) if the State discontinues funding or reduces by more than one-half the amount of funds provided a program which received financial assistance under provision of law referred to in subsection (a)(2) of section 1601, that the program has not proven effective, and (4) if the State discontinues funding an existing entity which has been carrying out a program which received financial assistance under a provision of law referred to in subsection (a)(2) of section 1601, that the entity has not proven effective in carrying out such program.

Mr. LEVITAS. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. Will the gentleman hold the point of order until the Clerk designates the proper amendment?

PARLIAMENTARY INQUIRY

Mr. LEVITAS, Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. Would the gentleman from Georgia (Mr. LEVITAS) like to ask the gentleman from Ohio (Mr. LATTA) to yield?

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, I would like to ask two questions with respect to the point of order.

The first is: Is the amendment which has been designated by the Clerk the document which was made

available earlier today and are there any changes in this?

Mr. LATTA. If the gentleman will yield, I will be glad to speak to that point immediately.

Mr. LEVITAS. The reason is the document I hold in my hand is designated as an amendment in the nature of a substitute and the rule does not provide for an amendment in the nature of a substitute. And I yield to the gentleman from Ohio.

Mr. LATTA. Let me say there was a printing error. At the top of the page it should read, "Amendments by Mr. LATTA to the amendment in the nature of a substitute." That is what is before the House at this moment.

Mr. LEVITAS. I want to find out—Is this the same document we received this morning?

Mr. LATTA. Permit me to speak to that, if I may.

The CHAIRMAN. Pursuant to House Resolution 169, the gentleman from Ohio (Mr. LATTA) will be recognized for 2 hours and the gentleman from Oklahoma (Mr. JONES) will be recognized for 2 hours.

The Chair now recognizes the gentleman from Ohio (Mr. LATTA).

Mr. LATTA. Mr. Chairman, in response to the question just raised, the amendment I sent to the desk does not—I repeat—does not contain the Broyhill amendment.

Second, this morning the majority leader called a matter to the attention of the House and to my attention that I certainly did not know was in the bill.

This was hurriedly assembled last night and through a printer's error, on page 63, it appears that section 2(e) of the Randolph-Sheppard Act is repealed. That was not intended and was stricken from the amendment that I submitted to the House. That deals with a State matter and we intend no reference to the blind in this amendment. So that is stricken.

Also the majority leader raised another question this morning and he had quite a bit to say about a provision in the law about the Office of Management and Budget being authorized to define poverty and to revise the definition of poverty for each year.

I heard a lot from my left saying, "Oh, that cannot be, that cannot be."

Well, the fact is that that is the law now and has been the law since 1972. I would hope the majority leader would take heed and correct his remarks.

Let me say further on page 81 of the Education and Labor section, that section 5355, there is a printer's omission. The sentence should read, "(a) from the sums made available each year under section 5353, the State educational agencies—" and these words are left out "shall distribute not less than 80 per centum to local educational agencies within such State according to the relative enrollments in public and nonpublic schools within the school districts of those agencies, adjusted in accordance with criteria approved by the Secretary," et cetera.

□ 1315

These probably could be taken care of as technical corrections, but in order to enlighten the committee, I think it is important to point them out now.

Under Education and Labor, page 22, about line 12, after "1982," that sentence should read "for each of the fiscal years of 1982, 1983 and 1984."

And on page 108, line 23, it should read: "Effective at the close of September 30, 1982"—this has been omitted—"Titles II through VI and titles VIII and IX of the Elementary and Secondary Education Act," et cetera.

Otherwise, this document that we sent to the reading clerk is as printed, with these minor corrections, minus the Broyhill amendment. Under the rule and under a ruling by the Chair, we will have an opportunity to offer the Broyhill amendment after this amendment has been disposed of.

Mr. ROEMER. Mr. Chairman, will the gentleman yield at that point for a question?

Mr. LATTA. I yield to the gentleman from Louisiana.

Mr. ROEMER. I thank the gentleman for yielding.

That means that in the Gramm-Latta package as submitted for the 4 hours of debate, there is no energy provision at all in it?

Mr. LATTA. There is no Broyhill energy provision in here, which means that the Dingell substitute, I suppose you call it a substitute, or the Dingell work in his committee, would still be intact in the committee bill until such time as the House has had an opportunity to act on the Broyhill amendment.

Mr. ROEMER. I understand that. If the gentleman will continue to yield, I would like to know, then, if a vote for Gramm-Latta II, as submitted here, is a vote for the Dingell provisions then.

Mr. LATTA. Well, no. We are offering an amendment. We are offering an amendment to the Jones package. So you would not be voting on Dingell. But later, a vote would occur, if the Latta amendment is adopted without Broyhill, and then you would vote as a package, which would include Dingell.

Mr. O'NEILL. Mr. Chairman, will the gentleman yield?

Mr. LATTA. I yield to the Speaker.

Mr. O'NEILL. I understand there could possibly be five people on the gentleman's side who would be voting against the Republican position, and the Chamber of Commerce has been put on alert. They are thinking of voting that way because they have not had an opportunity to look at the bill. I trust the gentleman will put the bill in more Members' hands.

But on the pages here, opposite title V, at the bottom of the page——

Mr. LATTA. Would the Speaker give me the page number?

Mr. O'NEILL. Rita Seymour and her telephone number, is that to be a part of the general law, or is that stricken? 225-4844.

Mr. LATTA. Let me say to the Speaker that I did not hear him, but if he would give me the page, I will try to follow him.

Mr. O'NEILL. The gentleman does not have it numbered. Sixteen, in about the middle of the book, 17, and then it says, "Source, CBO, Rita Seymour, June 5, 225-4844."

Mr. LATTA. Maybe that is the gentleman's golf score.

Mr. O'NEILL. Is that part of the permanent record?

Mr. LATTA. Let me tell the Speaker that that has all been crossed out.

Mr. O'NEILL. Oh, fine.

Mr. FUQUA. Mr. Chairman, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Florida.

Mr. FUQUA. In response to the question asked by the gentleman from Louisiana about there being no provisions for energy, there are, in title XII, relating to the Science and Technology Committee, which is a different and separate portion from that included in the Dingell provision.

Mr. LATTA. The gentleman is correct. But I think his question pertained to Dingell versus Broyhill.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from California.

Mr. PANETTA. I thank the gentleman for yielding.

I was informed that on the amendment as printed, there was a missing page that was not present. Is that correct? And if so, where can we refer to the information that is missing from that page?

Mr. LATTA. Let me say to the gentleman, that was called to my attention, and that was on page 20. They did not print a page 21. Is that what the gentleman is saying?

Mr. PANETTA. Could I ask where I could find the information that would have been contained on that page were it included in the amendments?

Mr. LATTA. I think the gentleman will probably have to look at another one of these documents. That is a printer's mistake, that is not ours, because in the copy that we have, we have page 21. I will be glad to give the gentleman a copy.

Mr. PANETTA. I understand that. But as I understand it, in other words, the amendment at the desk is the one that contains that missing page, but for other Members it is not present.

Mr. LATTA. Let me ask the gentleman, does he have a copy that has page 21 in it?

Mr. PANETTA. I have a page 20, although there are a number of page 20's contained in it.

Mr. LATTA. Maybe they just made an error in the binding and they gave the gentleman two page 20's in place of page 21, and that is very easy to figure out.

Mr. GRAMM. Mr. Chairman, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Texas.

Mr. GRAMM. The document is also printed in the CONGRESSIONAL RECORD in full, for those who would like to see it.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. LATTA. Mr. Chairman, I would prefer to go ahead and make my statement, and in the interest of orderly procedure we will be taking these things up by title. If the gentleman has any questions about the education and labor title, if he would wait and ask his questions at that time, perhaps we could proceed a little bit more orderly.

Mr. PERKINS. If the gentleman will yield at this time, there is considerable confusion about——

The CHAIRMAN. Does the gentleman from Ohio yield to the gentleman from Kentucky?

Mr. LATTA. Mr. Chairman, I think that, in the interest of time and orderly procedure, we ought to go by title and let me complete my statement, and then we will take it up. If the gentleman has any questions about his title, the gentleman can raise them at the time we are in his title.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. LATTA).

Mr. LATTA. Mr. Chairman, today the House faces a historic opportunity. We will decide on the question of runaway spending, bloated deficits, and the destructive inflation and interest rates they have created.

This amendment is targeted to the mainspring of the whole Federal spending, automatic, uncontrolled, ever-increasing outlays for entitlement programs that everybody realizes are totally out of hand.

Now, Mr. Chairman, we have all heard that saying "that we cannot do anything with 75 percent of the budget because it is in entitlements," we cannot do anything about them, so we will just go ahead and increase spending year after year.

Well, now is the time to do something about the entitlement programs.

Let me say, about the time I came to the Congress we spent $14 billion per year for all entitlement programs, AFDC, social security, housing, everything.

By 1970, that had increased fivefold, to $63 billion, and then the dam broke loose. By 1980, the entitlement spending was up to $67 billion, a 423-percent increase in one decade.

If we do not act today, these automatic spending programs, food stamps, medicaid, housing, social security, you name it, will rise to $406 billion—let me repeat that: $406 billion—in the next 36 months. This will be an increase of $139 billion in the next 3 years. That is an increase of $4 billion a month.

Now, let me repeat that. This is what we are considering now, and this is what the American people are concerned about.

This will be an increase of $139 billion in the next 3 years, an increase of $4 billion a month.

Those numbers spell just one message: More spending, more deficits, more inflation.

So the question is: Do we decide what we are going to do, or do we wait until next year? Do we say, once again, that these are entitlements, they are uncontrollable, we cannot do anything about them, and then pass the buck, without ever telling the people back home and the people of this country that this Congress created every single entitlement program and that this Congress has the duty and the responsibility either to continue them or to make adjustments when they are out of hand?

So let us not pass the buck to anybody else that we cannot do anything about entitlement programs, because we can. We put them in place, and we can change them when the occasion demands it. And I say to the Members that the occasion is now.

I would say we waited, actually, too long. I would say the taxpayer is tired of waiting. I would say the time to get started is here, right now, by voting for our amendment to the Jones bill.

Now, let us look at eight specific entitlement reform programs in this package. In contrast to the Jones bill, these provisions achieve real savings by making permanent reforms in our overgrown system of entitlement spending. We would be eliminating the unearned minimum benefit add-on. And let me stress that once again, because we have heard a lot about it and we have heard very little about what is in the committee package but, hopefully, during the next 2 hours that they have on the other side, we will find something of what is in the committee package. But we would be eliminating the unearned—unearned—minimum benefit add-on from the social security system, which will save $465 million in fiscal year 1982 and nearly $1 billion annually by 1984. And everybody knows that next year this social security system is going to go broke unless we do something about it.

Phasing out of the unearned social security benefits for adult students—adult students—will save an additional $220 million in fiscal year 1982 and more than $590 million in 1984.

By adopting a carefully crafted package of food stamp program reforms designed by the House Agriculture Committee minority members will save $1.8 billion in fiscal year 1982, with increased savings each year thereafter.

By refocusing child nutrition assistance on low-income children, we will save $550 million in fiscal year 1982, while preserving free school lunches for the Nation's needy youngsters.

So do not go around saying, "Well, they are taking the food away from the needy." They are not doing it at all. We are not proposing it. Free lunches remain intact. But the people who can pay for their lunches, those in the higher income brackets, will be asked by the taxpayer of lower means to pick up the tab for feeding their children.

Moderating of section 8 housing programs and adjusting rent subsidy rates will achieve $1.3 billion in outlay savings over the next 3 years. At the same time, it will withdraw more than $9.9 billion in budget authority from the program's long-term spending dream.

Now, what are we talking about here?

I remarked about Jack Anderson's column a few weeks back. He was reporting to the American people how foolish we have been with the taxpayers' money in this program by pointing out that in New York City the taxpayers—get this—the taxpayers of this country were picking up about $1,800 a month in subsidized housing rent while the individual paying the bill was paying $200.

□ 1330

Can you justify that? I cannot, I cannot. And that poor individual back in my district who goes to work every day, making $4, $5, $6 an hour, he is asking why he is paying taxes for a program that you fellows in Congress put in place to subsidize $1,800 a month rent in New York City. I cannot justify it, and that program needs adjusting, and adjusting now.

We talk about adjusting the eligibility for guaranteed student loans to reflect the true educational need, and it will save $1.3 billion more than the committee bill over the next 3 years by restricting loans to the highest income families. Now, what is wrong with that? You know, we had a good program here for a long time on guaranteed student loans. It had an income cap, but we said, "Oh my, we have got to do something great. We are going to take the income cap off and we are going to let everybody in on the gravy train. Even the millionaires' kids can get those guaranteed student loans—courtesy taxpayers' expense."

And do they need the money? No, they do not need the money. They do not need the money. They put it in CD's, buy a new car, while that little taxpayer out in my district and your district making $4 and $5 and $6 an hour is paying income taxes to subsidize that rich student's education. I say that has gone too far.

Mr. PEYSER. Mr. Chairman, I wonder if the gentleman would like to yield for a question.

Mr. LATTA. I know the gentleman's position. He supports that, and I welcome his opposition, but I will not yield.

By putting inflation indexing for Federal military and civilian retirees on a par with annual adjustment in the social security system, we will save $907 million in fiscal year 1982 and $2.8 billion over the next 3-year period. What do they do in the committee bill? They say, "We will have once a year COLA for the military retired if you have it for civilian employees," and they call that a saving? That is not a saving at all.

Restoring the safety net character of the aid to families with dependent children program will save $1.1 billion in fiscal year 1982, $454 million more than the weaker provisions contained in the committee bill. These entitlement reform proposals in this amendment are an essential element of Federal spending control. The committee provisions simply do not do the job. The Gramm-Latta budget resolution, which passed this House overwhelmingly, called for $7.2 billion in savings in this program in fiscal year 1982, rising to $11.8 billion in fiscal year 1984 and $29 billion for the 3 years combined; yet, the provisions crafted to deal with these eight programs fall far short of this mark. CBO estimates that the committee provisions will save only $2.3 billion in 1982, and only $9.9 billion for fiscal year 1982–84. In other words, the committee bill does only one-third of the job it was supposed to do, and I will say to my colleagues that one-third is not good enough. Only by adopting this amendment and finally bringing entitlement spending under control can we finish the task we have set out for ourselves, which is supported and backed by the great share of the American people.

Now, in recent weeks we have heard much weeping and wailing from the proponents of the uncontrolled entitlement spending that controlling entitlements is just too hard, that too much pain will be visited on the poor and the downtrodden. Yet, the Members of this House know in their hearts this is simply not true. The types of entitlement reforms proposed in this amendment will still leave in place a commonsense system of generous support to those who are truly in need of assistance, the sort of income security programs that the Congress designed when these programs began.

This amendment does not destroy basic income protections. Instead, it only cuts the abuses, and let me stress that once again. It only cuts the abuses that have crept into the Nation's entitlement system in the last two decades of uncontrolled entitlement spending.

Oh, it would be nice, it would be nice if we could do all of this, that is, if we could afford it. It would be nice if we could afford it, but we cannot afford it. It would be nice if we could do this for everybody, let everybody in on the gravy train, but we cannot afford it.

Inflation is eating us up. The incomes of poor people, and especially our senior citizens, are being eaten away by inflation. They cannot keep up. Income taxes keep increasing. You cannot keep up. Interest rates are out of sight. Why? Because the Federal Government must go out into the money market every week to finance this huge Federal debt.

Now, that does not make much sense, and until we have the nerve to stand up and do something about it we are not going to correct it.

We have heard recently, for example, that our proposal would eliminate the minimum benefit add-on in social security; it will cut 3 million retirees off social security. Anyone who makes that claim simply does not understand the social security system. Eliminating the so-called minimum benefit will simply eliminate the unearned benefit—and I stress that again—the unearned benefit add-on for those whose earned social security amount is below an arbitrary threshold, and that arbitrary threshold set by whom? The Congress.

No one—no one will have their benefits cut off. Instead, they will receive exactly what they have earned. They will receive exactly what they have earned under the social security system.

Now, the double-dippers whose benefits are low because they were too busy earning sizable Government pensions to work in social security to have the employment for more than a few years, this reduction will admittedly be an inconvenience. But, for the long-incomed retirees whose low benefits are due to low lifetime earnings, this change will be no hardship. Those with low retirement incomes are eligible for the SSI program. You know it and I know it, and this program provides them even more benefits than they receive under social security.

In fact, when their social security benefits are reduced, their income will be restored dollar for dollar by increased SSI payments.

Speaking about social security benefits for adult students, we have also heard that this amendment would strip orphans of the ability to go to school by cutting off their benefits after a few years when they reach the age of 18. Those who make that claim seem to have no knowledge of the extensive program of support for student financial aid that the Federal Government provides particularly for those with true financial needs. The Pell grant program, for example, will make up a substantial share of any lost benefits from those from low-income families, and I am sure that my colleagues will agree that this sort of program which takes educational need into account is a far better means of insuring support for higher education than the dwindling social security trust funds.

Mr. OBEY. Mr. Chairman, would the gentleman yield on that point?

Mr. LATTA. I will complete my statement, and as I mentioned earlier, will take this up in an orderly fashion, and will take it up title by title and will have any questions answered at that time.

By restoring the full inflation protection we have these two proposed changes in the social security benefits designed to eliminate unearned and unnecessary benefits without harming the truly needy. They stand in sharp contrast to the committee approach, which would strip away from every one of the Nation's social security recipients the inflation protection they have come to expect. How would they do it? By delay, by delaying the COLA, or cost-of-living increase, along the lines proposed by the bill before us which amounts to an across-the-board social security benefit cut, as I mentioned yesterday, for 36 million people on social security. That would not happen under our amendment.

Now, there are many on this side of the aisle who believe it may be necessary to examine the timing of the social security inflation adjustment in the context of saving the social security system from disaster. But, that is not the task before this House today. Today, we are reducing the budget, and to reduce the budget by robbing the Nation's 36 million social security beneficiaries of full inflation protection is a step for which even this determined budget cutter has no taste. The amendment would strike this misguided measure from the Jones proposal, or the committee proposal.

The food stamp program reforms proposed in the amendment provide a major program adjustment that has been needed to bring this runaway program under control. As recently as 1976, the food stamp program cost only $5 billion. Last Tuesday—Tuesday of this week—I would remind my colleagues that this House voted to allow the cost of the program to rise to nearly $12 billion, a 140-percent increase in 5 years. Do I need to remind you that we now have more than one-tenth—one-tenth of our total Ameri-

can population eligible for food stamps? Is that what this program was intended to do?

The Jones bill proposes to stop this spending surge by placing a cap on the program. I will say to my colleague that we have already had caps on food stamp programs. We have had many of them, and on Monday the cap stood at $9.7 billion. On Tuesday of this week the House voted to raise that amount $1.7 billion, because expanded eligibility and rising benefits built into the law forced spending over the limit, as they have done for the last 4 years.

On the sort of a major program reform proposed by the Agriculture Committee members from both sides of the aisle and contained in the amendment, we stand a chance of bringing this program under some control. The Jones bill, by contrast, does nothing at all about the program. A cap does not limit excessive eligibility and benefit levels. It does not eliminate program fraud and abuse. It does not even limit spending.

The only thing that the Jones food stamp provision limits is commonsense.

I do not believe there is a Member in this body who has failed to receive letters from constituents about their growing disgust with the Nation's welfare system. Over the years I have received thousands of letters complaining that those on welfare are better off than the average working family. I do not agree with that, but working mothers with children complain that the woman next door who was on welfare before she got a job is better off because she stayed on welfare after getting the job. Others complain about absent fathers getting off scot-free while the taxpayers pick up their tab for their acts of desertion or their refusal to pay child support.

The amendment will finally do something about all those complaints we have heard about over the years by limiting income disregards and other program setoffs that allow welfare payments to higher—and I stress that—to higher income families. We can restore welfare under an income support program for those with no other means of support rather than the massive income supplementation program it has become. By toughening enforcement of child support collections, we can be sure that absent fathers rather than the taxpayers pay mind to their lawful and legal and moral responsibilities.

□ 1345

The amendment does more than just save money. It finally gives Members a chance to vote for the sort of welfare reforms we have been promising our constituents for years.

There is the problem of school lunches. We have heard about that. The school lunch program is another program where this amendment fits in closely. With the high-minded rhetoric against subsidies for the rich, then, is the Jones bill the preferred vehicle, given that type of rhetoric?

Under the Jones proposal, a high-income student would continue to be subsidized by the taxpayer at 23 cents a meal. Under our proposal, they would still get a subsidy, even though I do not believe that the poor people making $4, $5, or $6 an hour ought to subsidize the high-income people's kids' meals. But we still give them 15 cents a meal as a subsidy, thanks to the taxpayers of this Nation.

But for the lower middle-income students, Jones provides a subsidy of 78 cents, while this amendment holds the subsidy to 77 cents. In both cases the lowest income child would continue to receive free school lunches, with breakfast. The only real difference in subsidies is for those with high incomes. Yet by focusing subsidies more directly on lower income children, this amendment will save the taxpayers of this Nation $550 million more than the Jones bill.

This amendment represents the first serious attempt to do something about section 8 housing. Because of the program's slow spendout stream, it has proved far too attractive to load up the spending pipeline without immediately suffering the outlay consequences. Yet the bill is beginning to come due.

Let us talk about outlays. Outlays under the program have risen from $3 billion in 1977 to $6.9 billion 4 years later, in 1981, and at the end of this fiscal year we will have an incredible $239 billion in unfunded IOU's in the housing pipeline. Let me repeat that. We have one-quarter of a trillion dollars of IOU's already in unfunded amounts in the pipeline. And the committee bill says—keep on spending more.

This amendment begins the process of bringing program growth to a more manageable level. Instead of the committee level of 176,000 new unit starts, it would hold growth to 162,500 units per year. In addition, it would begin to recognize the major disparity this program creates between the majority of low-income families and the lucky few who are able to obtain housing funds under this program by raising the expected rent contribution—not much, but from 25 to 30 percent of income over a 5-year period. By way of comparison, nonsubsidized low-income families typically pay more than 40 percent of their income for housing. My amendment would begin to remedy this inequity.

In all, this amendment represents a major step toward bringing the Federal's massive system of uncontrollable entitlements under some control. It does not resort to wishful thinking or accounting gimmicks. It makes the fundamental program changes necessary to actually achieve the savings claimed. At the same time the changes represent a careful restructuring of the entitlement programs toward those most in need, and this certainly cannot be termed as a meat-ax approach to any type of social welfare spending.

Mr. Chairman, the amendment offers the House its first opportunity for years to vote for real entitlement reform, and I would certainly hope that the House will adopt the amendment.

The CHAIRMAN. The Chair will state that the gentleman from Ohio (Mr. LATTA) has consumed 38 minutes.

Mr. LATTA. Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. GRAMM).

Mr. GRAMM. Mr. Chairman, I would like to thank my colleague and friend, the gentleman from Ohio (Mr. LATTA), for yielding this time to me.

I would like to say to the gentleman that I appreciate his efforts throughout this long process, in working on the budget and in fashioning the Gramm-Latta budget that gave us an opportunity to be here today to cast one of the most important votes in the history of the Congress. I would like to say simply to my colleague, the gentleman from Ohio (Mr. LATTA), that I admire him for this hard work and the effort he has put into making these two budget efforts possible.

I would like to address three issues here today. The first issue is: Why are we offering a substitute?

The second issue has to do with committee prerogatives and jurisdictions. Third, I would like to address the issue of entitlements and tough decisions.

I think it is important to note that the reason we are offering the substitute here is not that every committee shirked its responsibilities. We, in this amendment, are not altering what 9 of the 15 committees did. If we take a line-by-line comparison in this substitute, Gramm-Latta II, we see that we are altering less than 2 percent of the actions of the committees that have jurisdiction in the Congress.

What we are trying to do, however, is deal, not with the problem of nonvalue cuts, not with the problem of inoperative cuts, but with the problem of entitlements. In looking at committee action, the area where committees failed was in entitlements. Over 50 percent of the targeted cuts in entitlements were not made, and unless we can gain control of entitlements, we are going to lose our budget battle and be denied not only a balanced budget in 1984 but be faced with a whopping deficit.

There are those who say we are trampling on committee prerogatives, but I would like to remind my colleagues that no Member of this House

is a member of every committee. If committee actions were inviolable, we would have no consideration on the floor, and in the best tried and true constitutional process we are here today offering an amendment which affects marginally what committees have done.

Now, I have had a lot of Members come up to me and look at this substitute and say, "There are some things in this package that are tough. I'm having a hard time with this part or that part." But I would like to remind my colleagues that when we voted on the President's budget, with bipartisan revision, I stood here and pointed out that there were going to be hard decisions to be made and that we were shooting with real bullets.

So here we are today making those hard decisions. I do not have to tell the Members that it is hard to cut Federal programs.

In the last Congress the average appropriation bill we voted on was for about $50 million. The average beneficiary got about $500. There are 100 million taxpayers, and each of them paid about 50 cents. Needless to say, somebody who is getting $500 is a lot more interested than somebody who is paying 50 cents. So every time we vote on any bill the special interest beneficiaries are looking over their right shoulders, writing back home, and saying all kinds of things about the old, the sick, the tired, the bicycle rider, and so on. But the guy who is paying the 50 cents is busy at home working and pulling the wagon in which an ever-increasing number of Americans are riding.

What we have been able to do in the budget process is get the gains from fiscal responsibility up large enough that the workingman has gotten involved in the political process, and he is interested in what we are doing here.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. GRAMM. I will not yield at this point.

Mr. Chairman, I say to my colleagues that it is not going to be easy to cut entitlements; it is not going to be easy to rein them in. But I want to say to the Members that we have an opportunity to do that here today. We have the American people behind us. They recognize that there is a crisis. If we do not do it today, if we cannot muster the political support to gain control of entitlements with the American people overwhelmingly behind us, when are we going to do it?

I say that if we fail to do it today, we are not going to get the job done.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. GRAMM. Mr. Chairman, I urge my colleagues to vote "aye" on the Gramm-Latta substitute.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. GRAMM. I do not control the time. The gentleman from Ohio has the time.

Mr. DE LA GARZA. Mr. Chairman, the gentleman yielded time to the gentleman from Texas (Mr. GRAMM). Will the gentleman from Ohio yield him an additional minute?

The CHAIRMAN. The Chair will state that the gentleman from Texas (Mr. GRAMM) has 10 seconds left.

Mr. GRAMM. I yield to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Chairman, I just wanted to ask the gentleman a question. I have seen some figures that tell us that Gramm-Latta I had a higher deficit than the Jones bill.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. LATTA. Mr. Chairman, I yield 2 additional minutes to the gentleman from Texas (Mr. GRAMM).

Mr. GRAMM. I yield to the gentleman from Texas (Mr. DE LA GARZA).

Mr. DE LA GARZA. Mr. Chairman, as I said, I have seen figures wherein it appeared that the Gramm-Latta had a higher deficit than the Jones version for the first year and the second year, and the Jones version had a surplus the third year over the Gramm-Latta; is that correct?

Mr. GRAMM. Mr. Chairman, if the gentleman will yield back my time, the point that I made throughout that whole debate was that we were talking about spending, and the only relevant issue was reconciliation.

The Jones budget carried a different tax cut than the tax cut carried in Gramm-Latta, and as a result of it they were projecting a deficit that was different. But the point is—and the fact that we are here today proves it—that the only relevant factor was the reconciliation cuts.

Mr. DE LA GARZA. But, Mr. Chairman, if the gentleman will yield, that is not what the President was telling us. I understood that these were targets. What I have been told, as one who has been insisting on a balanced budget, was that the Jones version had a lesser deficit than the Gramm-Latta for the first 2 years.

Now, the gentleman tells us that the fact is that he has a lower deficit; is that correct?

Mr. GRAMM. Mr. Chairman, I do not know that it is important at this point to get back into a debate which has already taken place in which the Members of Congress, by a majority of 75, have spoken. The choice on Gramm-Latta I was a choice about reconciliation, whereby we mandated $36 billion worth of real cuts.

We will have a vote on the tax measure. Every Member of this body will have an opportunity to vote on at least two options, and a third option is, by voting against both, to vote against the tax cut altogether.

So, Mr. Chairman, what we are talking about is gaining control of spending and gaining control of entitlements.

Mr. ROEMER. Mr. Chairman, will the gentleman yield?

Mr. GRAMM. I yield to the gentleman from Louisiana.

Mr. ROEMER. Mr. Chairman, if what the gentleman says is true, and I presume it is, that the question here is how much spending is in these two budgets, we have heard it said that the Gramm-Latta II actually spends more in fiscal year 1982 than the Jones substitute.

Is that true, and what do the out years look like in terms of Federal spending?

Mr. GRAMM. Mr. Chairman, in terms of both 1982 and the outyears, we bring in binding cuts of $23 billion, and in the process we displace a myriad of cuts which in many cases would yield no savings whatsoever.

Mr. ROEMER. If the gentleman will yield further, I understand the answer is yes.

The CHAIRMAN. The time of the gentleman from Texas (Mr. GRAMM) has expired.

Mr. REGULA. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, Mr. LATTA, the distinguished Republican leader on the Budget Committee, has done an excellent job of explaining why this Nation needs the new fiscal responsibility his amendment will achieve. I would add, as a footnote, that we all owe him a debt of gratitude for leading the way to creating a new hope for a strong economy, a confidence that finally Congress is going to take some action.

Mr. Chairman, I also want to express my appreciation to the chairman of the Budget Committee, Mr. JONES, and to the chairman of the Task Force on Reconciliation, Mr. PANETTA, for their diligence and perseverance in carrying out the will of this body as expressed in the first budget resolution. I, for one, am immensely grateful for their yeoman service in support of a strong and meaningful congressional budget process. They said they would hold our feet to the fire, and they did.

Mr. Chairman, as we all know, both current events and history are subject to differing interpretations. We have seen diametrically opposed views as to how this "reconciliation process" should be construed. Some have argued that because of massive scale and short time frame of this year's reconciliation, the Congress has been manipulated by the executive branch, and that the entire, fragile congressional budget process is being pushed to, and perhaps beyond, its breaking point.

Others, myself included, see this quite differently. Reconciliation is not an abrogation of congressional prerogatives, but an historically significant assertion of those prerogatives, without which the congressional budget process would continue as a toothless institutional device noted more for providing an opportunity for political rhetoric than its ability to substantively influence the Federal budget.

Nor do I agree with those who say that this use of the reconciliation tool is a power grab by the Budget Committees who seek "super committee" status. I remind my colleagues that Budget Committees do not pass budget resolutions with or without reconciliation instructions; the House passes budget resolutions. The House Budget Committee has but 30 members, yet 244 Members of this body voted for the first budget resolution including reconciliation instructions, and only 16 of the Budget Committee members voted for it.

Failure on our part to carry forth with a tough reconciliation process is tantamount to going back to "business as usual" which means a reversal of the progess we have made under the Budget Act in regaining congressional control over the budget (which is what the Constitution intended). Going back to business as usual means reversion to a Federal budget dominated by the executive branch of Government.

Without a strong reconciliation process, the Congress has no effective tool for self-discipline. In effect, we would be telling the American people that the Congress has little interest in the struggle to regain control over Federal largess. Yet, without our participation, this goal cannot be reached.

We may have different views as to the nature and strength of various mandates given to this country's elected Representatives last November, but I fail to find a scintilla of evidence that would refute the contention that one mandate, uncontrovertible in its message and strength, is that the American people want and demand that we, working with the President, regain control over Federal spending and get this economy turned around.

The best policy to help the disadvantaged is to insure a strong, growing economy that will provide a continuing financial support for these programs; the best welfare program is a meaningful job in a productive private sector.

This year, the Congress decided to impose unprecedented discipline upon itself. Our ability to do so stems not from the Budget Act, but from our constitutional right to control legislative procedures. The Budget Act—itself primarily a compilation of House and Senate operating rules—just makes it easier. We had the political will to do what was right for this country—to move to recapture control over Federal spending—and we exercised our will with the help of the Budget Act.

To put this year's reconciliation into perspective, we should compare it with last year. Last year, the reconciliation bill produced first-year savings of $4.6 billion with 3-year savings of only $11 billion. This year, the comparable savings are first year $38 billion and in 3 years $140 billion, almost 14 times as much. This reconciliation bill represents a significant step toward regaining control over the Federal budget.

Having said that, I must caution my colleagues that this legislation is less than halfway home. The largest conference in U.S. history awaits. We must not relax and allow this effort to be lost in a conference quagmire. The potential mine field of a divided conference is moderated, however, by the opportunity that is afforded to improve what may be the largest single piece of budget reform legislation ever to come before any Congress.

Mr. Chairman, in this Member's opinion, passage of a major reconciliation bill is even more important than passage of tax cut legislation. Frankly, we need both, but in terms of relative importance, I am convinced that the reconciliation bill will do more to improve productive investment, create jobs, lower inflation, and lower interest rates.

I say this because I believe that people's expectations play a critical role in future economic events. Expectations are particularly important to the investing community. The question really is how to best increase total savings so that additional private investment capital is generated.

I have no doubt that cutting taxes—particularly cutting marginal tax rates—will increase personal and total savings just as other methods, such as direct saving incentives, would. People who know they are getting a tax cut would likely plan to save more based on their expectation.

My own judgment, however, is that reduced deficits will increase total saving even more than tax cuts will, and furthermore, that the expectation of lower deficits will carry more weight in the investment community than the expectation of lower personal marginal income tax rates. A dollar reduction in taxes will fall short of creating a dollar's worth of saving, while a dollar reduction in the deficit will necessarily free up totally a dollar for private investment capital.

All tax cuts create a revenue loss, at least in the short run, and thus result in larger deficits. Large deficits create private savings in Treasury bills rather than in private securities. Large deficits necessarily crowd out private investment and raise interest rates above what they would otherwise be. That alone is not the kind of saving we should be encouraging.

By passing a meaningful reconciliation bill, as provided in the Latta amendment, we can do more than send a "signal" to the American people—we can assure them that the Federal deficit will be smaller by $38 billion next fiscal year, and by $140 billion over the next 3 years. To me, that is the kind of message of which people can draw an expectation of a greatly improved economy, of lowered inflation, lowered interest rates, more job opportunities and lowered taxes for all taxpayers.

□ 1415

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Illinois (Mr. McCLORY).

Mr. McCLORY. Mr. Chairman, I want to compliment the gentleman on his statement and for his individual contribution to the subject matter that we have before us today. I want to commend the gentleman on his generous remarks in behalf of the chairman of the Budget Committee as well as the ranking minority member, the gentleman from Ohio (Mr. LATTA). I do indeed agree that the committee has been working diligently to try to bring Federal spending under control.

The gentleman has very well pointed out that a number of the most deserving programs are, indeed, retained and not only funded at present levels but there are actual increases in these levels.

I am interested in the subject of impact aid. I am interested in the subject of Head Start. I am interested in the subject of followthrough programs. All of these are provided for in this legislation.

There is no gutting legislation involved here, as I can see it. There are no meat ax attacks on the deserving Federal programs.

Let me just add that in the bloc grant concept that we have for the social programs we have, indeed, included legal aid, which is something I think should be continued and which this administration will continue in that form with responsibility reposed at the State and local level where it can be administered much more capably than by having one single small bureaucracy here in Washington.

Mr. REGULA. I thank the gentleman for his contribution and comments.

Mr. ERTEL. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Pennsylvania (Mr. ERTEL).

Mr. ERTEL. I thank the gentleman for yielding.

As I understand it, the gentleman is the ranking minority member on the reconciliation; is that correct?

Mr. REGULA. That is correct.

Mr. ERTEL. I have been going over the Gramm-Latta or the substitute that has been provided here and I have checked it at the desk. I was particularly interested in the House Committee on Science and Technology provisions, so I went to look at the substitute and I find the following language in the substitute. It states:

Title 12, House Committee on Science and Technology, on page 362 strike out line 18 and all that follows through page 388, line 9, and insert in lieu thereof the following:

Then I looked at the original bill that the gentleman is amending and I find he has struck the provisions on the House Committee on Science and Technology but also struck additional language. He went through the science and technology provisions and then struck part of the provisions on the House Committee on Small Business. There is no provision in his amendment to replace these provisions. The striking provision cut goes halfway through provision A in the House Committee on Small Business.

In addition, as I examine the document, I find that the gentleman strikes the authorization for the National Science Foundation, and the Atmospheric, Climatic and Ocean Pollution Administration, which means no weather stations in the United States. It also strikes the authorization for the Federal Emergency Management Administration which means that we have no provisions for taking care of disasters such as floods, fires, hurricanes or volcanoes.

Mr. REGULA. If I can reclaim my time——

Mr. ERTEL. There is no provision for these agencies and I wonder why he would do that.

Mr. REGULA. If the gentleman will reserve his question, we are going to have the ranking minority members of the various committees address those issues and I think the gentleman's question would be better directed to them.

Mr. GRAMM. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the the gentleman from Texas (Mr. GRAMM).

Mr. GRAMM. I thank the gentleman for yielding.

The distinguished chairman of the Budget Committee stood 1 minute ago and spoke about how unconscionable it was that we were giving the Office of Management and Budget in this bill the power to determine the poverty level and how shocked he was at this language. It seems to me that that is clear evidence of the kind of red herring action that we are seeing here.

I would like to read this body the language of Public Law 92-424 in defining the poverty level for programs. It has the following language:

(b) The revision required by subsection (a) of this section shall be accomplished by multiplying the official poverty line (as defined by the Office of Management and Budget) by the percentage change in the Consumer Price Index.

I also have a letter dated April 11, 1980, signed by James T. McIntyre, then Director of the Office of Management and Budget, to then Secretary of Agriculture Bergland.

DEAR MR. SECRETARY: The Office of Management and Budget is required by law to define the official poverty line which is used by a number of agencies to determine the eligibility of recipients of many programs.

Mr. Chairman, I submit that the Office of Management and Budget has, since 1972, had the mandate to determine poverty. It has carried that function out under four Presidents and we have no change in existing law.

I thank the gentleman for yielding.

Mr. REGULA. I thank the gentleman for his contribution and yield back the balance of my time.

Mr. PANETTA. Mr. Chairman, I yield 10 minutes to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Chairman, I wonder if I might have the attention of the gentleman from Ohio (Mr. LATTA).

Mr. Chairman, I wonder if I might have the attention of the gentleman from Ohio (Mr. LATTA) to propound some questions about the amendment he has just offered.

Mr. Chairman, evidently the author of the amendment does not feel prepared to answer questions on the amendment he has proposed. If he is, I will be happy to yield to him.

Mr. Chairman, I want to raise a number of questions and if the gentleman from Ohio (Mr. LATTA) cannot answer, perhaps the gentleman from Ohio (Mr. REGULA) can.

I do not know how to accomplish this. My first question comes about an eighth of an inch into the bill. We have so many different page 17's that I do not know how to tell you which one. But on page, the first page 17, I guess, it says in line 7, "No funds are authorized to be appropriated to carry out section 1524 of the Education Act of 1978."

Could the gentleman from Ohio (Mr. LATTA) tell me what those provisions are? Can the gentleman from Ohio (Mr. REGULA) tell me what those provisions are?

Mr. REGULA. Will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Ohio.

Mr. REGULA. Would the gentleman hold his question until the gentleman from Ohio (Mr. LATTA) gets back? He has worked on that particular section.

Mr. OBEY. Perhaps the gentleman could move to the next section. The gentleman is the ranking minority member of the Subcommittee on Reconciliation?

Mr. REGULA. That is correct. I worked with Mr. PANETTA, the chairman of the task force to collate the committee reports as required by the Budget Act.

Mr. OBEY. Let me go to section 5122, lines 17 to 19, "No funds are authorized to be appropriated to carry out section 1303 of the Education Amendments of 1980. No funds are authorized to be appropriated to carry out part B of title 13 of the Education Amendments of 1980."

To what does that refer?

Mr. REGULA. Would the gentleman give me the citation again, please?

Mr. OBEY. "No funds are authorized to be appropriated to carry out section 1303 of the Education Amendments of 1980 for fiscal years 1981, 1982, 1983, or 1984."

If that cannot be answered, under education for the handicapped section——

Mr. REGULA. Will the gentleman yield further?

Mr. OBEY. Surely.

Mr. REGULA. The minority will be offering in support of its amendments statements by each of the ranking members of each of the committees who helped prepare this amendment.

Mr. OBEY. I am interested in knowing what the author of the amendment can tell me about what is in this amendment. That is what I am interested in finding out.

Mr. REGULA. The gentleman should be directing his question to the author of the amendment who is not present here.

Mr. OBEY. Does the ranking Republican on the reconciliation task force know what is in the amendment? I assume he has worked on it.

Mr. REGULA. Only portions of it as affects my committees and obviously not on the entire document.

Mr. OBEY. Let me run through the questions and see which questions the gentleman can answer. What about under section 5123 under the Handicapped Act?

The total amount of appropriations to carry out part B of the Education of the Handicapped Act, other than sections 618 and 619, shall not exceed $932 million for each of the fiscal years.

Which portion of the Handicapped Act does that refer to?

Mr. REGULA. Will the gentleman yield?

Mr. OBEY. Surely.

Mr. REGULA. I would like to point out the gentleman is a member of the Budget Committee and I think as such the gentleman understands that the function on the reconciliation, as was pointed out by the chairman of the reconciliation task force, is to compile and submit to the House the reconciliation proposal. What I want to point out now to the gentleman, and there has been a lot of allegations on the other side——

Mr. OBEY. I am not interested in that.

Mr. REGULA. I want to point out to the gentleman that this was put together by the members of the various committees and the ranking members of each are the ones to address the questions with complete information.

Mr. OBEY. No, Mr. Chairman, I will take back my time. The gentleman is obfuscating. The fact is that the language in question is language contained in the amendment, not in the committee proposal, and I would like to know if the authors know what it means.

Mr. REGULA. Yes; I understand. If the gentleman will yield, I understand. But just as the committee proposal was a compilation of the committee actions, this amendment is the same.

Mr. OBEY. I have not voted for either; I am against both proposals, and I have been against those proposals from the beginning.

Mr. REGULA. If the gentleman will yield, I would point out once again that we have compiled this amendment in the same way that the reconciliation proposals that came from the committee were put together. The amendment came from the committee members that proposed these changes in the original markups and were rejected. These represent the minority positions on the various committees and, therefore, the gentleman from Ohio (Mr. ASHBROOK), the ranking member of the Education and Labor Committee, will address the gentleman's question on education issues.

Mr. OBEY. Mr. Chairman, let me take back my time to point out that that may be all well and good. There is one significant difference. While I have intended to vote against both proposals because I think the process required by Gramm-Latta is outrageous in that it means that we do not know what we are doing, whether we are dealing with the majority proposal or the minority proposal, there is one significant difference with the majority proposal. We have at least run those proposals through the safety valve of the committee system, whereas with the minority proposal we have run them through no safety valve.

I would like to continue some questions.

Mr. REGULA. Will the gentleman yield?

Mr. OBEY. If it is to answer a question.

Mr. REGULA. I would like to ask the gentleman a question.

Mr. OBEY. If it is to make a speech. The gentleman can get his own time.

Mr. REGULA. I would like to ask the gentleman if he is conversant with every detail in the education section of the committee reconciliation bill.

Mr. OBEY. Absolutely not.

Mr. REGULA. The gentleman is a member of the Education Committee.

Mr. OBEY. I am absolutely not conversant with every detail. I do not pretend to be. That is why I have opposed considering both bills, because the process under which we are doing this is ridiculous.

But I would like to raise some other questions.

Halfway through B, and, again, I do not know which page—this is page 1, believe it or not, and it is a third of the way through the budget. This is under eliminating child insurance benefits. "Section 232D of such Act is further amended by striking out 'institutions involved' and inserting in lieu thereof 'schools involved.' "

Can anyone tell me what that section means?

□ 1430

Mr. REGULA. Will the gentleman yield?

Mr. OBEY. I will be happy to.

Mr. REGULA. If the gentleman will withhold until the appropriate ranking member of the committee in question is here, his queries will be answered.

Mr. OBEY. Let me then turn to AFDC. Perhaps the proper ranking member is here for that. It is my understanding that the AFDC provisions in this bill change 22 basic laws; is that correct? I have misstated that. There are 22 changes in basic law in the AFDC recommendations in this bill; is that correct?

Mr. REGULA. Is that the gentleman's statement or a question?

Mr. OBEY. It is a question.

Mr. REGULA. If the gentleman will yield, as I pointed out before, the appropriate place is to submit that question to the ranking member who will address it.

Mr. OBEY. Mr. Chairman, I submit the proper place is when I have been given time to ask these questions. I would ask, Mr. Chairman, if we might go back again to the last half-inch of the bill. I do not know which page 33 it is. There are five page 33's in the bill. I notice that there is a section on lawnmower standards and another section on amusement parks. Can anyone tell me what those sections refer to and why it is necessary to change basic law in a reconciliation proposal?

Mr. Chairman, let me just say, then, that I think what this points out is that the main author of this amendment is not on the floor, is not evidently willing at this time, or able at this time, to answer some of the questions I raised, and the ranking minority member on the Reconciliation Subcommittee, the Subcommittee of the Budget Committee charged with knowing the most about reconciliation, is evidently not able to answer those questions without relying upon members of other committees.

I would suggest if the authors do not know what is in this amendment and if the engineers of this amendment do not know what is in this amendment, we should not be voting on it.

Mr. ERTEL. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Pennsylvania.

Mr. ERTEL. I thank the gentleman for yielding. I would like to point out that I have been examining this bill. I find out by looking at the Latta amendment that it has not only struck all of the provisions of the House Committee on Science and Technology but extended itself and struck part of the House bill on small business in line 9 of that, which probably makes it nugatory at this point. But in striking it, it strikes out the flood control portion; it strikes out the weather stations; it strikes out all the FEMA authorization; the emergency management; so, therefore, we have outlawed floods, fires, disasters. We have ruled out fire administration and all of those provisions. As I understand it, under this bill if it were to be passed right now, if we tried to authorize a National Science Foundation, which was struck, it would be subject to a point of order on the floor. Is that correct, I will ask the gentleman from California (Mr. PANETTA)?

Mr. PANETTA. If the gentleman will yield, the gentleman is correct that this would eliminate those authorizations in those sections, and, therefore, it would receive no funding if this were passed as it is.

Mr. ERTEL. In other words, we would not be able to fund FEMA; we would not be able to fund the National Science Foundation; we would not be able to fund fire administration or any of those provisions they struck, and in addition to that, part of the small business is being struck in this amendment; is that correct?

Mr. PANETTA. If the gentleman will yield, I think the great importance of reconciliation is that we are not just dealing with numbers; we are dealing with legislative changes, that is, changes once adopted by the House and by the Congress permanent changes and would eliminate the opportunity for any funding.

Mr. ERTEL. I would like to ask the gentleman from Ohio (Mr. REGULA) is that what he intended to strike—FEMA? Does he intend to strike the National Science Foundation? Does he intend to strike the weather stations? Is that what he intended in this bill? Are we abolishing those agencies?

The CHAIRMAN. The time of the gentleman from Wisconsin (Mr. OBEY) has expired.

Mr. PANETTA. I yield 1 additional minute to the gentleman from Wisconsin.

Mr. OBEY. Before the gentleman proceeds, let me simply suggest that at this point what follows is that we are not proceeding under a gag rule; we are proceeding under a blind rule; and there is not any person on the floor

who can say what is in this package we will be voting on.

Mr. ERTEL. Is that what the gentleman intended to strike, that the National Science Foundation does not operate? That FEMA does not operate? That we have no weather stations in the United States? That we have no fire administration, and that we intend to strike small business?

Mr. REGULA. If the gentleman will yield, I would point out that these are subject to authorizations that would be authorized in the normal course of legislative action in this Congress, and at any time that can be done.

Mr. ERTEL. I would differ with the gentleman that that is not correct.

Mr. OBEY. Let me point out that they would be subject to a point of order because they would have missed the May 15 deadline.

The CHAIRMAN. The time of the gentleman from Wisconsin (Mr. OBEY) has expired.

Does the gentleman from California (Mr. PANETTA) yield additional time to anyone?

Mr. PANETTA. No, Mr. Chairman.

The CHAIRMAN. The Chair recognies the gentleman from Ohio (Mr. REGULA).

Mr. REGULA. I yield to the distinguished Republican leader, the gentleman from Illinois (Mr. MICHEL) as much time as he may consume.

Mr. MICHEL. Mr. Chairman, I must say that I have been rather distressed, particularly earlier in the debate, when I heard the disparity between page numbers and one thing and another, knowing full well that last evening when we put together our substitute in form and sent it to the bill clerk, hoping that it would be printed by the Government Printing Office at an appropriate hour—very distressed to learn that there was a certain kind of interception that took place up there with the bill clerk before the messenger for the Government Printing Office picked up our amendment.

Word comes to me, I am just telling you, that a member of the Democratic Study Group asked for a copy of the amendment in the envelope and was denied it by the bill clerk because there was not sufficient time to have it reprinted or xeroxed in that it had to get down to the Government Printing Office immediately; whereupon, it is my understanding——

Mr. O'NEILL. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. I yield to the Speaker.

Mr. O'NEILL. I am happy that the gentleman yielded. I do not know if such a thing happened or not.

Mr. MICHEL. I have not even stated the facts. It is quite obvious from the Speaker's observation that he does not know what happened. I will tell him what happened.

Mr. O'NEILL. Will the gentleman just yield?

Mr. MICHEL. Not for a moment, for God's sake.

Mr. O'NEILL. It is your time.

Mr. MICHEL. It sure as heck is, and I will tell the Speaker I am rather distressed when I find out that maybe a rule of the House had been somewhat violated here. I am not altogether sure, but when there has been an interception by a member of the Democratic Study Group to take the envelope, on its way down to the Government Printing Office, and say, "We have got to see it," and they are denied it—I think the Member was the gentleman from California (Mr. FAZIO), chairman of the House Legislative Subcommittee—who comes up and demands it, takes it from his hand downstairs someplace where you have members of the Democratic Study Group, throws it out on the table and spreads it all around. However, they put it back together, I know that the messengers had to wait and wait.

Then we wonder why we got a product that looks like it does here today. That is wrong. Something is wrong, and I would like to know how the Speaker might respond to that.

Mr. PHILLIP BURTON. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from California.

Mr. PHILLIP BURTON. If there is a culpable party, I am the culpable party, and simply stated, it was this: There was only one copy of this amendment, not available to all the Members.

Mr. MICHEL. How do we ever get a copy that is available to the Members if we do not send it down to the Printing Office?

Mr. PHILLIP BURTON. If I may continue, I said I believed in the absence of having more than one copy we should see if the matter would lend itself to some kind of reproduction. Normally when a bill is presented, or a substitute, we are required to present three or six copies at the desk. The gentleman from California was only ascertaining as to its bulk whether or not it lent itself to reproduction.

That is when we learned it was several inches thick. Once it was ascertained it did not lend itself to reproduction, the papers were then forwarded. Those papers never left the hand of the officer of the House who had responsibility for them. There were no papers spread all over. The gentleman from California only tried to make one other assessment which was in this rather thick, 6 or 7 inches thick, sole copy proposal, whether it reflected anything that had previously been in print, and the gentleman from California discovered to his complete alarm there was not anything that had previously been in print. It was a hodgepodge of various legislative counsel individually typed, and what-have-you.

Once we assessed we could not in a ready way duplicate this—all this in the presence of the officer of the House or the employee of the House—we then got the papers forwarded.

The gentleman from California, if this be a culpable act, I will admit it. I affirm it was an act in an effort to ascertain on a matter affecting this country of this gravity, to ascertain to what extent the sweeping scope of this amendment was, because obviously when the people voted for the Latta substitute, they had no idea in the world what was in it, and we do not have today any idea of some of the barnacles on this "ship of state."

Mr. MICHEL. It is quite obvious from the explanation that the gentleman has given—I think it is my time, and I will reclaim my time.

I do not know if the gentleman is guilty of dirty tricks here. I am not sure. But it is quite obvious. You tell me that is an honorable thing to do.

I will tell you the leadership on this side would not stand for that. It is outrageous. It is wrong, and you might as well face up to it now. I can see the difference in the complexions on your faces of those who think it is an honorable thing on your side and those of you who think it is somewhat in question. What I am saying here is because there was such an extended conversation of what was in this package, obviously, you did not do that in 5 or 10 minutes. You got a pretty good idea of what was involved in this, and that all took time, and that denied us our right.

Mr. O'NEILL. Will the gentleman yield?

Mr. MICHEL. Yes, sir.

Mr. O'NEILL. The walls around here have ears, and we all hear certain things. I had not heard that story before.

Mr. MICHEL. I would hope that the Speaker, as honorable as he is, would not have agreed to anything like that, and I do not accuse the Speaker of being a party to that. But there are some Members who were, and that is what I resent.

Mr. O'NEILL. Let me ask the gentleman this.

Mr. MICHEL. Yes, sir.

Mr. O'NEILL. The walls have ears. It is my understanding that the gentleman just met with people from the White House and the staff people, who said this is such a mishmash, you ought to pull it off the floor. Is that what the gentleman is building up to?

Mr. MICHEL. I recall the days when the Speaker was giving us the same treatment, Brother, and we had to take it.

Mr. O'NEILL. Is that what the gentleman is leading to?

As I understand, the gentleman met with administration officials. As I understand it, they said this was such a

mishmash, you will be the laughingstock of America with this piece of legislation; the best thing to do is to pull it off the floor. Is that what the gentleman is leading up to?

Mr. MICHEL. I understand the Speaker suffered defeat yesterday and it was a pretty bitter pill to have to swallow.

Mr. O'NEILL. Now, BOB.

Mr. MICHEL. I have not been around here for 25 years and been oblivious of some of the things the Speaker has foisted on us over a period of time. I am really sorry.

Mr. O'NEILL. The gentleman knows a couple of people were responsible, and the rest of us had no knowledge of it. I say, let us go ahead to a vote on this as quickly as we possibly can.

Mr. MICHEL. I appreciate the Speaker's comments.

The CHAIRMAN. The Chair would appreciate it if the debate would be confined to the relevancy of the bill.

Mr. MICHEL. I might further make one final observation, Mr. Chairman, if I might. If you look at the disparity of the staff on the Committee on the Budget, 60-some members on the staff on the majority side, and 7 or 8 on our side, given the kind of situation where you were not absolutely sure whether or not you were going to prevail, I suspect if the tables were reversed and that kind of staff were available to one, yes, you can do a lot better job than what we were given with the minimum number.

Mr. ROEMER. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Louisiana.

Mr. ROEMER. I have not been here 25 years, barely 6 months, and I know that many on the gentleman's side of the aisle and mine who think I am going to vote for Gramm-Latta II, but I can tell you, Mr. Minority Leader, and take it from my heart to yours, this bill is not well prepared. It is not understood on either side of the aisle, and the gentleman had better examine his position. If he has 1 hour left in this debate, for the sake of this country, let us parade the ranking members on the committees so they can answer our questions as to what this bill actually does, as pretending and compared to what we were told it would do.

□ 1445

Mr. THOMAS. Mr. Chairman, will the distinguished minority leader yield? I thank the gentleman for yielding.

One of the things that concerns me is the bulk of the Democratic criticism and, in fact, the criticism of the gentleman from Wisconsin (Mr. OBEY) was over the form in which it was put together. Certainly it was the form which caused him problems with understanding the substance; but I think based upon the discussion that just took place, it is possible that the form was disturbed. It it was different than the form in which it was delivered to the Clerk, it is not the fault of the minority party.

The gentleman from California indicated that he reads pretty fast, that he actually looked at it. He said he reads pretty fast, meaning he actually looked at the pages.

To the degree the comments are over the form rather than the substance, there is clear blame enough for all. The gentleman from California would very much like to get to the substance of the matter rather than the form which has been the primary complaint thus far on the part of the majority.

Mr. REGULA. Mr. Chairman, I think it is quite clear that the important thing at this point is to hear from the ranking minority members of the committees that can speak to the language in this bill.

Therefore, I am going to yield 5 minutes to the distinguished gentleman from Virginia (Mr. WAMPLER), the ranking member on the Committee on Agriculture.

Mr. WAMPLER. Mr. Chairman, I support the bipartisan substitute amendment concerning the food stamp program. I do so for the following reasons. The language contained in the reconciliation bill merely sets a cap on food stamp spending—with no legislative underpinnings. A cap without legislative proposals to change the food stamp laws will result in one of two things. First, the Secretary of Agriculture would have to make nontargeted reductions in benefits to the poor, the elderly, and the disabled, or, second, this Congress will be presented with more requests for supplemental authorizations for appropriations for the food stamp program. There is no question that the food stamp program, as it is now designed, will cost more than the cap offered to achieve reconciliation savings. CBO says the program will cost $12.304 billion; the cap is set at $10.846 billion. A difference of $1.458 billion—which is the amount to be saved according to the Latta/Gramm budget instructions.

However, there are no legislative proposals to back up these savings.

The substitute contains these legislative underpinnings. In fact, much of what is contained in the substitute is already contained in H.R. 3603, the 1981 farm bill. However, the legislative proposals of the 1981 farm bill fall some $2 billion short of the reconciliation figures over the next 3 years—according to the Congressional Budget Office—our congressional scorekeepers.

According to Latta-Gramm first congressional budget resolution instructions, a total of $5.756 billion must be saved over the next 3 years. The food stamp provisions contained in the 1981 farm bill will save $3.656 billion—some $2 billion short of the Latta-Gramm levels.

There are a few major provisions in the food stamp substitute that differ from H.R. 3603. For instance, the thrifty food plan adjustment will be delayed for the next 3 years. Instead of taking place on January 1, the adjustment will occur on April 1, 1982; July 1, 1983; October 1, 1984; and every October 1 thereafter. This is contained in the Senate reconciliation bill.

Another example is that the benefit reduction rate will be increased to 31.5 percent in fiscal year 1983 and to 32.5 percent in fiscal year 1984 and subsequent years.

As I stated earlier, these proposals will save $5.768 billion over the next 3 years—the Latta-Gramm savings levels for the same period is $5.756 billion. So you can see the savings levels are met. They are met in a reasonable manner.

What results, if Gramm-Latta II is adopted, is that both the House and Senate versions of the reconciliation bills will meet the direct spending and authorization instructions contained in the conference report to the first concurrent budget resolution (H. Con. Res. 115). That is what I believe we all understood when we voted for the Gramm-Latta substitute.

Adoption of the House reconciliation bill as amended by Gramm-Latta II, as it is popularly referred to, is a consistent vote, it is supportive of the President's economic recovery program, it supports the position of the American people who are living in fear of inflation in double digits, it will help bring fiscal sanity back to our Federal Government.

The Washington Post editorial for June 25 states cogently the problems with the Jones bill:

> At its extreme, this would mean sending a bill to conference with the Senate, where the Reagan budget is sailing with the wind, that could not be reconciled. A stalemate would permit the Democrats publicly to proclaim, in the populist idiom Speaker O'Neill has been polishing, that a program tailored to the "selfish, the greedy and the affluent" would not be swallowed.
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> Most important, the Democratic bill hardly touches one of the most vital areas of budgetary discipline: entitlements. Next to that crucial omission, the cries of executive infringement on congressional prerogatives have a tinny sound. The House Agriculture Committee, for example, merely put a cap on food-stamp expenditures rather than tackling eligibility and benefit formulas.

The farm bill for 1981 may contain food stamp benefit reductions but that bill is not before us and that bill may

be changed before it gets to the floor or on the floor.

I greatly admire and respect my chairman, Mr. DE LA GARZA, and I commend him and other members of the committee—both Democrat and Republican—who worked hard to produce a reconciliation title to this bill for agriculture. However, I disagree with my chairman procedurally and philosophically on this issue and I support Gramm-Latta as it amends the Agriculture Committee title to the Jones bill.

It is vital, in my opinion, that we adopt these Gramm-Latta provisions to support President Reagan's economic recovery program and keep our faith and our vote consistent with the Gramm-Latta substitutes adopted in the first concurrent budget resolution.

I urge my colleagues to support the Gramm-Latta amendment.

Mr. ROEMER. Mr. Chairman, will the gentleman yield?

Mr. WAMPLER. I yield to the gentleman from Louisiana.

Mr. ROEMER. I thank the gentleman for yielding.

I have just a couple of questions on the food stamp portion. As the gentleman said in the side-by-side comparisons, the gentleman has—in what is here labeled the Gramm-Latta amendment side-by-side—a statement that says the Senate provisons contain eligibility and benefit changes necessary to achieve required savings and avoid massive supplemental requests in the future.

Could the gentleman explain that to us?

Mr. WAMPLER. Yes. I would ask the distinguished ranking minority member of the subcommittee of the Committee on Agriculture, the gentleman from Missouri (Mr. COLEMAN) to respond to your specific inquiry.

Mr. COLEMAN. Mr. Chairman, it might be better, rather than throwing this open to the $64,000 question and seeing which plateau I might reach this afternoon in showing my knowledge, if I might just go over the substance of what our amendment accomplishes.

I think it is very clearly understood. If there are specifics, we will try to answer them.

Mr. Chairman, the Agriculture Committee, in determining under reconciliation the savings that were necessary, frankly went through an exercise of arithmetic. They took the mandated savings that Gramm-Latta required and subtracted that from the amount of projected costs of the program for the next 4 years, and then put a cap on what was the remainder and called that the savings under Gramm-Latta. This constitutes only one typewritten page of the Agriculture Committee's proposal. It does not change one substantive law.

The problem is, we just saw this last week: that when we do not substantively change law, artificial caps by themselves are worthless. We had to add on $1.7 billion this week alone to catch up with the 1981 cap because of the runaway costs of the program. What we are trying to do is make significant substantive changes to accomplish this over the future years.

I might say that my colleagues on the Agriculture Committee, in the farm bill but not in the reconciliation bill, have addressed some of the issues on food stamp reform; but if you take the best scenario from the committee and look at the farm bill, which has not been heard on the House floor yet, they still have not reached reconciliation, they are short in 1983 and 1984 by $2 billion.

I am talking about the farm bill, which has not even come up, not the reconciliation proposals, because it is not substantive at all, still is short almost $2 billion in the out years.

What we have to do is make substantive changes in the reconciliation bill. The major changes occur in three places.

First of all, we are delaying the adjustment of the thrifty food plan for the next 3 years. The Agriculture Committee has already gone part of the way on that in the farm bill discussions. What we simply do is adjust it 3 months down the road for each of the next 3 years. This is going to save several hundreds of millions of dollars.

The Agriculture Committee has done some of this. We thought we needed to go further to make the savings. I might add, in the other body they have adopted this provision in a bipartisan effort.

The second thing we do is provide a block grant for Puerto Rico. We must remember that Puerto Ricans on that island, 58 percent of the population there, receive food stamps. In fact, 10 percent of the budget for the food stamp program is spent on the island of Puerto Rico.

We have provided a block grant for them beginning October 1, 1982. We have reduced by 25 percent the appropriations that would cover the operation of a food assistance program on the island of Puerto Rico.

The CHAIRMAN. The time of the gentleman from Virginia (Mr. WAMPLER) has expired.

(At the request of Mr. LATTA and by unanimous consent, Mr. WAMPLER was allowed to proceed for 2 additional minutes.)

Mr. WAMPLER. Mr. Chairman, I yield to the gentleman from Missouri.

Mr. COLEMAN. Mr. Chairman, what we want to do is allow Puerto Ricans to set up their own program for the island of Puerto Rico.

The third thing we do is to increase the benefit reduction rate in fiscal years 1983 and 1984. Under the current food stamp program 30 percent of disposable income, today under present law, is assumed to be spent on food. We are simply saying that 31.5 percent in fiscal year 1982 would be assumed to be spent on food; and 32.5 percent in fiscal year 1983 would be assumed to be spent on food. These proposals save about $2 billion in the out years.

Mr. PANETTA. Mr. Chairman, will the gentleman from Virginia (Mr. WAMPLER) yield?

Mr. WAMPLER. I yield to the gentleman from California.

Mr. PANETTA. I have just one point.

If I could have the attention of the gentleman, it was my understanding when we discussed this in the Agriculture Committee that the gentleman wanted to have hearings with regard to the block grant issue in Puerto Rico because of the impact it would have, and our lack of knowledge as to what exactly this would be implementing.

Was that not meant in the committee; that we would proceed with hearings to decide that issue?

Mr. COLEMAN. Mr. Chairman, will the gentleman from Virginia yield?

Mr. WAMPLER. I yield to the gentleman from Missouri.

Mr. COLEMAN. After the Agriculture Committee completed their deliberations and it appears as it does, in fact, by Congressional Budget Office estimates—these are not OMB figures; these are Congressional Budget Office figures—that they are going to fall short of the Gramm-Latta savings by almost $2 billion, we on the Republican side felt that we needed to make adjustments. Frankly, these are hard adjustments to make, but they are necessary to reach Gramm-Latta savings levels.

I would remind the gentleman, who is a member of our committee, too, we heard from the Governor of Puerto Rico. We heard from other people involved with the Puerto Rican issue. We do have knowledge about it. Frankly, I think it is an area where we can save $300 million in each year.

I might point out this provision is less onerous to the people of Puerto Rico that what the other body has put in place, In fact, my friend, the gentleman from the island of Puerto Rico (Mr. CORRADA), admitted on the record yesterday that between the two of them, ours was better. He did not like either one, but he likes ours more.

Mr. JONES of Oklahoma. Mr. Chairman, I yield 5 minutes to the chairman of the Agricuture Committee, the gentleman from Texas (Mr. DE LA GARZA).

Mr. DE LA GARZA. Mr. Chairman, I do not know who intercepted what, and I do not know who prepared the document. All I know is that at 11:30 this morning, this multipage docu-

ment came into my possession. I have looked at it as best I can. I have inquired from committee staff, from Mr. GRAMM, from Mr. LATTA, from anyone who would listen to me.

No one knows entirely what is in this document. I certainly do not know. I would abridge my constitutional oath as a good legislator—which I hope I am—I would abridge everything I have stood for in my legislative career if I were to vote for this today.

I understand that it has the possibility of affecting the poor, the crippled, the orphaned, the poorest of the poor, and I will not vote for it.

Now to the area related to agriculture, something has been passed out, I do not know who the author was, but this has been the theme throughout the process, and I wanted to read it to the Members. This instrument—prepared by whomever—is what I have read in the media, that our committee does not meet the eligibility and benefit changes necessary to prevent massive supplemental appropriation requests this year. This is not true. It is patently untrue. It is unjust. It is unfair. It is malicious if it is done by someone who knows better.

Our committee met its responsibility. We passed the cuts. We did everything necessary under the legislative process. To say that without these necessary reforms, any savings would be illusory is not right and it is not fair.

Mr. ANTHONY. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Arkansas.

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Mr. ANTHONY. I thank the chairman for yielding.

When the gentleman uses the word "illusory," I would like to commend for reading and I would ask that this be inserted in the RECORD at this point:

TITLE XIII—FOOD STAMPS

This bill would extend the food stamp and commodity distribution programs for four fiscal years through September 30, 1985 and would—

(1) repeal the October 1-December 31 update of the thrifty food plan based on projected food costs that was scheduled to take place as of January 1 of each year starting in 1982;

(2) reduce the gross income eligibility ceiling to 130 percent of the poverty level;

(3) repeal increases in dependent care deductions for working adults and medical deductions for the elderly, blind, and disabled scheduled to take effect on October 1, 1981;

(4) require retrospective accounting for determining ongoing program eligibility and allotments for all but migrant farmworker households on a nationwide basis by October 1, 1983;

(5) require monthly reporting to accompany implementation of retrospective accounting for all households with earned income (except migrant farmworker households) or receiving unemployment compensation or required to register for work or required to file monthly reports for AFDC, but not households in which all members are elderly, blind, or disabled or who reside in States with the lowest error rates;

(6) impose an authorization ceiling for fiscal years 1982, 1983, 1984, and 1985 fixed at $10.010 billion, $10.345 billion, $10.290 billion, and $10.480 billion, respectively;

(7) raise the authorization ceiling for fiscal year 1981 to $11.480 billion to accommodate program needs;

(8) require the Secretary to permit any political subdivision that wishes to do so in return for a 50-percent share of workfare administrative costs and that agrees to comply with the Secretary's guidelines, to administer a workfare program in which nonexempt food stamp recipients must work for the subdivision at the Federal minimum hourly wage rate (or State rate, if higher), payable in the form of food stamps.

(9) require parents and children who are living together to be treated as one household unless one parent is 60 years of age or older;

(10) eliminate all boarders from participation in the program;

(11) eliminate establishments that do only a marginal staple food business, such as bars, gas stations, party stores, and carryout shops, from the program unless they are the only food store in the immediate area;

(12) permit Alaska to have a distinct thrifty food plan for its rural areas;

(13) reduce the adjustment of the standard deduction and the dependent care/excess shelter deduction cap by deleting reliance upon the homeownership component in the housing costs of the Consumer Price Index.

(14) deny deductions for any expenses paid on a household's behalf by a third party and require the income and resources—over a floor of sponsors of certain aliens to be deemed available to those aliens in order to determine the aliens' eligibility and benefits;

(15) give the Secretary flexibility to alter the complex accounting standards for ascertaining the value of licensed vehicles;

(16) extend disqualification from the program after hearing from fraud to the making of false or misleading statements or misrepresentations or concealing or withholding facts; expand the use of allotment reduction to recover nonfraud overissuance arising from agency error; and permit States to retain 50 percent of all misrepresentation claims collected;

(17) extend program disqualification for voluntarily quitting a job to current program participants; extend sanctions for noncompliance with the food stamp work registration requirement to food stamp participants who fail to satisfy an AFDC-WIN or unemployment compensation work requirement; and make work registration an annual requirement;

(18) disqualify strikers and the households to which they belong from participating in the food stamp program (unless they were eligible to participate prior to the strike);

(19) make States strictly liable for issuance losses and provide liability for on the basis of negligence failures in certain other areas of State agency administrative responsibility;

(20) prevent households that apply to participate in the program and are declared to be eligible from receiving any stamps for that part of the month prior to the date on which they filed their application.

(21) end the 60-day transfer provision permitting benefits to follow a household moving from one political subdivision to another in an uninterrupted fashion.

(22) terminate the basic mandate to perform outreach;

(23) allow States flexibility to provide households with a notice of expiration of their certification periods up to 30 days before the start of the last month of a 6-month or longer certification period;

(24) limit provision for expedited food stamp benefits within three working days of application to applicant households with $150 or less in gross income a month and liquid assets of $100 or less and to applicant households whose only income for 10 days after filing an application is $25 or less from a new source of income and who also meet the $100 liquid assets test;

(25) end the Department's liability to restore food stamps to households that have wrongfully been denied them or terminated from the program if the benefits were lost more than 1 year prior to a household's request for restoration;

(26) require the State agency to request and utilize for certification purposes household members' wage and benefit information available from the Social Security Administration and State unemployment compensation agencies;

(27) require the Secretary to allow political subdivisions to use certified mail in issuing food stamps to reduce theft and loss;

(28) clarify the Secretary's authority to determine the amount of and settle or adjust any claim, including claims filed against State agences for issuance losses;

(29) end the imposition of staffing standards upon the State;

(30) require States to meet the Secretary's standard for improper denials and terminations in order to receive 55 percent Federal funding of administrative costs and further require all States with error rates over 5 percent to develop corrective action plans;

(31) mandate obtaining a household's social security number as a prerequisite to participation;

(32) extend pilot cash-out projects for 4 years at State option and expand possible cashouts to include AFDC families;

(33) provide contract and grant authority to develop means for continuous nutritional monitoring of high-risk populations;

(34) require certain studies of various accounting and reporting methods;

(35) provide penalties for the fraudulent misuse of commodities;

(36) provide authority for pilot projects using the commodity supplemental feeding program for low-income elderly persons; and

(37) prevent current supplemental security income cashout States from reverting to food stamps.

In title XIII of the farm bill under food stamps, we have made 1 through 37 different changes of eligibility requirements. There is nothing illusory about that. If my colleagues will look at No. 6, it puts a binding cap on it so we cannot exceed the money placed in that program. There is nothing illusory about that.

Mr. Chairman, I welcome the opportunity to highlight the Gramm-Latta II proposals for reconciliation in areas within the jurisdiction of the Committee on Agriculture. Since the only differences in this area between the Gramm-Latta II proposals and the reconciliation measures reported by our committee relate to the food stamp program, I shall confine my remarks to this matter.

I have said before, and because some misunderstanding persists, will say again that the reconciliation action taken by the Committee on Agriculture achieved to the penny the food stamp savings recommended by Gramm-Latta I. For each of the fiscal years involved—1982, 1983, and 1984, the committee adopted limitations on appropriations for the food stamp program which will cause savings precisely equal to those envisioned in Gramm-Latta I—namely, $1.458 billion for fiscal 1982; $1.971 billion for fiscal 1983, and $2.327 billion for fiscal 1984.

The Food Stamp Act explicitly provides that in any fiscal year the Secretary shall limit the value of stamps issued to an amount not in excess of the appropriation for such year. Therefore, the savings resulting from the action of our committee are absolutely real and genuine. In short, they force the program to be carried out within the limits or caps the committee has fashioned.

But the committee has not rested there. It has included in H.R. 3603, the Food and Agriculture Act of 1981 reported to the House in May, a series of amendments to the Food Stamp Act to reduce program costs. These proposals will, of course, be subject to full and careful consideration by the House when the bill comes to the floor. Let me say this about the proposals. They would, along with administrative action to be taken by the Department of Agriculture, result in savings for fiscal 1982 which approach the savings made by the cap I have referred to. The legislative proposals also would result in large savings in the out years. By current estimates, however, they would not, of themselves, achieve the savings which will be forced by the caps. However, the estimates we have received in these matters have shifted and varied by week, by day, and in some cases by the hour. They depend heavily upon projections of economic factors such as inflation and unemployment, which are at best imperfect. If it appears, as time passes, that additional program changes are necessary to meet circumstances then more clear, there will be ample time for their consideration and enactment. Indeed, if the Reagan economic program reaches its heralded goals, in terms of inflation and unemployment, the demands on the program should diminish sharply.

Notwithstanding all that I have said, the Gramm-Latta II proposals for food stamps undertake to make cuts in the program beyond anything contained in the carefully crafted 1981 farm bill. And they make them in precisely the wrong places. They do not supply or mend the safety net for the truly poor. To the contrary, they tear holes in the net through which even the most destitute will fall.

Before I explain the three areas in which the Gramm-Latta II proposals make unconscionable new slashes in the program, let me emphasize this. The food stamp program is based on what is called the thrifty food plan, which provides only the barest nutritional adequacy to program recipients. On the average, it provides about 46 cents per meal per person. It is, to put it mildly, not a lush program.

Because, as we all can testify, the prices of food have risen along with the general inflationary trend, an effort has been made to adjust program benefits to reflect food price increases. For example, the law once provided for semiannual adjustments in benefit levels; the Food Stamp Act Amendments of 1980, however, reduced the adjustment to a once-per-year basis.

In this regard, Deputy Secretary of Agriculture Richard Lyng proposed, before our committee, an annual adjustment in the cost of the thrifty food plan, to be effective January 1 of each year, based on actual food costs over a 12-month period ending each preceding September. Current law provides that, in addition to the October 1 to September 30 cost data, projections of changes in food costs for the final 3 months of the year be included in calculating the January 1 adjustment. The administration proposal was accepted unanimously by our Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition as a reasonable means of achieving program savings amounting to $278 million in fiscal year 1982. The provision is included in the 1981 farm bill.

Now, however, Gramm-Latta II prescribes a new calculation of the thrifty food plan which was never presented to or considered by our committee. It would move the adjustment from January 1, to April 1, 1982, July 1, 1983, and October 1, 1984. And the adjustment reflect the costs over a 15-month period ending 3 months before the adjustment is made. The committee's reluctant adoption of the administration's proposal this year will mean food stamp benefit levels will lag anywhere from 3 to 15 months behind inflation. Adoption of the Gramm-Latta II amendment would mean benefits could be even further behind actual food price inflation and future adjustments would not be made annually but no more often than every 15 months and the effect is across the board, thus hitting directly the poorest program recipients.

Mr. Chairman, those with limited income feel most sharply the impact of rising costs of food, in addition to other necessities such as housing, medical care, and energy expenses. Proposed reductions in benefits from medicare, social security, AFDC, energy, and several other Federal assistance programs for the poor, elderly, and disabled will reduce the amount of income now being added to food stamp coupons for food purchases. The combined effect of these actions and the proposed new food stamp slashes will inevitably fall upon those least able to withstand them.

Mr. Chairman, another of the Gramm-Latta II proposals is likewise devastating. It would significantly increase the amount deducted from a household's stamp allotment for each dollar of the household's income. Under current law the amount of stamps a household receives is reduced by 30 cents for each dollar of the household's income. Under the new proposal, the deduction would be established at 31.5 percent of net income beginning October 1, 1982, and 32.5 percent of net income beginning October 1, 1983. Let me illustrate the results of this proposal. It would result in cutting benefits for nearly all households on the program, including the elderly and disabled and many of

the poorest recipients. While at first glance this may not appear to be a large change, for many elderly and disabled couples, it would result in benefit cuts of about 15 to 30 percent. An elderly couple whose sole income is a $400 a month social security check would lose over 20 percent of their current food stamp benefits. The magnitude of this proposal, when fully effective, can also be shown by the estimate that it will reduce program costs by $435 million in fiscal year 1984.

This proposal would also increase disincentives to work, because for each additional dollar earned, a larger amount of benefits would be lost. Currently, a working mother receiving AFDC payment and food stamps who has earnings above the income tax threshold loses nearly 80 cents in benefits and taxes for each additional dollar earned. This precipitously high "marginal tax rate" is recognized as a significant work disincentive by most students of the welfare system. By contrast, the highest tax rate applied to the earnings of the weathiest individuals under the Federal income tax system is 70 percent, and the Reagan administration has proposed reducing it to 50 percent to enhance incentives and spur productivity.

The proposal would make the marginal tax rate for working mothers even higher than it already is, and make work disincentives even more severe.

Let me state that this amendment was not among those suggested changes submitted by the administration in its testimony before our committee. It is an oppressive and unneeded proposal which will reduce benefits for millions of our poor and neediest people.

Finally, the amendment before the House would replace the food stamp program in Puerto Rico beginning in fiscal 1983 with a block grant funded at $825,000,000—75 percent of the current food stamp levels. And the grant would cover not only food stamps, but other nutritional programs as well.

While such a proposal has been suggested by the Reagan administration, we were advised at our Agriculture Committee hearings on the food stamp program that a legislative package would later be sent to the Congress on this matter. To date we have not received such legislation. No changes in law of this kind have been presented to or considered by the committee. In fact, it is my understanding that the President has established a White House task force to study this and other issues affecting Puerto Rico. If this is indeed the case, then it is quite obviously premature for the House at this time to act on this amendment.

Admittedly the food stamp program in Puerto Rico is large—about 58 percent of the population participates currently. However, it is important to understand why the food stamp rolls are large. The two principal reasons are the high unemployment rate and high food costs. Presently the unemployment rate in Puerto Rico hovers close to 20 percent compared with 7.3 percent on the mainland. Food prices are exorbitant due to the fact 90 percent of all food consumed on the island is imported. The cost of food there is approximately 20 percent higher than in the United States, largely as a result of high maritime freight rates. Despite these high costs, food stamp benefit levels are already lower now in Puerto Rico than on the mainland.

There is excessive poverty in Puerto Rico. In March 1981, 92 percent of participating households in the food stamp program had gross monthly income of less than $600 per month. Most of those households, 77 percent, had gross monthly income below $400. Only 1 percent of participating households had gross incomes in excess of $800 per month and not one participating household had a gross income above $1,000 per month.

Migration from Puerto Rico to the mainland has slowed substantially since the advent of the food stamp program there. However, the magnitude of the effect of the proposed amendment would likely result in major across-the-board benefit reductions. It could trigger substantial migration to the mainland.

In view of these facts, what valid basis is there for treating our fellow citizens in Puerto Rico in such a discriminatory fashion? I know of none; and how will such treatment of the island people be viewed in the Caribbean areas, where efforts are underway to improve relationships and the image of this Nation? As I said yesterday, how can we, for the sake of saving a little money, place a second-class label on the needy citizens of the United States who reside in Puerto Rico?

There are other differences between the Gramm-Latta II amendment and those in the committee's farm bill. But they pale in significance when compared with the changes I have just described.

It is clear that the responsible action on reconciliation taken by our committee, and reflected in H.R. 3964, meets the requirements set out in Gramm-Latta I. I urge my colleagues to defeat the substitute which would put in place the unfair and cruel measures I have described.

Mr. RICHMOND. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from New York (Mr. RICHMOND), the chairman of the subcommittee, who has done an outstanding job in securing necessary legislative changes.

Mr. RICHMOND. I thank my chairman for yielding and I thank my chairman for his remarks.

I agree with my chairman that this document is the most disgraceful document I have seen in the 7 years I have been in Congress and the gentleman has been here a lot longer than I have.

Mr. Chairman, in 1967, when a team of doctors funded by the Field Foundation went across the country to examine the status of hunger and malnutrition among poor Americans, they returned to report that they had found hungry children suffering diseases caused by malnutrition that were well known in Africa and Central and South America, but not the United States. In 1979, after they had conducted a similar study, they were able to report that:

> Now in those same areas, there is nowhere the same evidence of gross malnutrition we saw then. In the Mississippi delta, in the coal fields of Appalachia and in coastal South Carolina—where visitors 10 years ago could quickly see large numbers of stunted, apathetic children with swollen stomachs and the dull eyes and poorly healing wounds characteristic of malnutrition—such children are not to be seen in such numbers today.

The primary reason for the dramatic difference, for the 33-percent decline in infant mortality and the greater than 50-percent reduction in infant deaths from diarrhea, influenza, pneumonia, and immaturity—all directly related to poverty and malnutrition—was, from their perspective, the existence and intervention of the food stamp program. They stated categorically that "The food stamp program does more to lengthen and strengthen the lives of disadvantaged Americans than any other noncategorical social program," and "is the most valuable health dollar spent by the Federal Government."

I understand that however generously motivated Americans may be to furnish resources to the poor to enable them to survive, particularly in the face of significant inflation and slowed economic growth, they understandably object, if they believe that those resources are being abused and wasted.

The Agriculture Committee agrees wholeheartedly with that concern and has tightened the rules continually since 1977.

The Food Stamp Act we passed in 1977 reduced the number of persons eligible for the program by 3.5 million. In addition to a number of cost-saving provisions, the committee made major strides toward improving program management and reducing the incidence of fraud and abuse. Elimination of the purchase requirement also eliminated vendor fraud related to the handling of the participants' cash payments.

The 1979 amendments to the Food Stamp Act provided additional tools to combat fraud and abuse.

The 1980 amendments to the 1977 Food Stamp Act were enacted May of 1980. With the passage of this third major piece of food stamp legislation within the past 4 years, a total of more than 6 million people are no longer eligible for food stamps.

In addition to the provisions which narrow the eligibility requirements, the 1980 act contains other cost savings and management improvement provisions. In fiscal year 1981 alone, the new act is saving well over $500 million. Among the cost-saving provisions are the following:

The food stamp allotment and the standard deduction are now adjusted annually on January 1 instead of twice yearly, saving $400 million in fiscal year 1981.

The update of the poverty line by more current CPI data to determine net income eligibility was eliminated. In fiscal year 1981, this provision reduced the net income limit for food stamps from approximately $8,200 to $7,450 for a four person household and saves $65 million. About 650,000 persons who otherwise would have participated in the program have been made ineligible by this provision.

Most postsecondary school students have been eliminated from program participation. Student rolls dropped from 250,000 to 47,000.

The assets limit for all households—except for households of two or more that include an elderly person—has been lowered from $1,750 to $1,500. This provision will save $20 million in fiscal year 1981.

In addition to the eligibility restrictions I have listed, the 1980 Food Stamp Act contained new antifraud, error and abuse measures. Many strong incentives and sanctions to lower the error rates below specified targets were authorized. For purposes of verification of information on household's income for eligibility to receive food stamp benefits, States are authorized to use computer matching systems, error-prone profiles, photo identification cards, and retrospective accounting. As a result of these provisions, the error rate has continued to decline.

Better management and enforcement of the existing rules can produce additional savings, but can do nothing about the recession-fueled rise in caseloads or the inflation-fed increase in food costs. The increasing price tag of the food stamp program is not because of fraud and abuse but because of the economic conditions of this country. With each 1-percent increase in unemployment add 1 to 1.3 million persons and $580 million in costs to the program. Each 1-percent increase in food price inflation adds $148 million to the cost of the program.

Let me take a moment to present the latest USDA figures from August 1980 which indicate that the food stamp program serves the neediest households: 95 percent of the households have a gross income of less than $8,400; 23 percent of households are elderly; 60 percent of households are children, 17 years of age or less; 11 percent of all heads of households work full time; 41 percent of food stamp households are from the South; and 35 percent of these households live entirely outside of metropolitan areas.

While it is unfortunate that 1 in 10 Americans are in need of some amount of food assistance to feed their families, the current participation rate does not warrant the great alarm that has been registered in some quarters. The true facts are that an estimated 25 million Americans have incomes below the poverty line.

In addition to the amendments to cut $1.4 billion from the food stamp program which are included in the 1981 farm bill, the Gramm-Latta substitute offers three additional provisions which strike severely at the poor, the elderly, and the disabled, those truly in need.

The first of these provisions further stretches the already limited resources of the poor. Gramm-Latta II would move the cost of living adjustment for the thrifty food plan from January 1 to April 1 in 1982, July 1 in 1983, and October 1 in 1984.

The food stamp allotments provide benefits based on the thrifty food plan. This plan represents the lowest level of expenditures for foods purchased for preparation. The average amount a food stamp recipient receives per day for food is $1.41 or 47 cents per meal. For example, a family of four with teenagers on the thrifty food plan receives $55.90 per month. Can you imagine feeding a family of two adults and two teenage children on $56 per month? Not per week, but per month. Clearly this paltry sum of money does not provide the nutrients needed to meet the recommended dietary allowances. If food stamp benefits based on the thrifty food plan already fail to meet the nutritional needs of Americans—are we not inviting widespread hunger and malnutrition if we accept the proposed Gramm-Latta substitute that delays the thrifty food plan update an additional 3 months? In other words, food stamp benefits would lag 3 to 18 months behind actual food prices.

A second provision of Gramm-Latta would reduce the benefits based on the thrifty food plan by an amount equal to 31.5 percent in fiscal year 1983 and by 32.5 percent in fiscal year 1984. Currently, a household's food stamp benefits are figured by subtracting 30 percent of the household's net monthly income from the cost of USDA's lowest cost food plan. The increase in benefit reductions affects almost all households, including the elderly and the disabled. Let's take an example: An elderly couple receiving $450 a month in SSI would lose under this provision $5 per month or approximately 30 percent of their annual benefit.

In addition, this proposal would also increase disincentives to work, because for each additional dollar earned, a larger amount of benefits would be lost. However, the person on SSI is penalized more severely than one who is earning income.

The third provision singles out a political jurisdiction within the United States and is inherently discriminatory against Puerto Rico and the U.S. citizens of that island. It assumes savings on an eventual "block grant" in the food stamp program by proposing, for Puerto Rico, an untested and deeper cutback than any State of the Union. It does so, of course, under the guise of "savings." The program it proposes has had no hearings, will be difficult to implement and is something that would not be tried if Puerto Rico had two Senators and seven Congressmen, the political representation it is presently denied.

Let me conclude by saying that the Agriculture Committee has met the guidelines on both the House and Senate Budget Committees by authorizing amendments to the food stamp legislation which would cut Federal spending by well over 10 percent or by $1.4 billion. This committee accepted their fiscal responsibility without unleasing the specter of hunger, malnutrition, and disease among our fellow citizens. We adhered to the President's initial recommendations to eliminate less needy households from participation and to limit the amount of future benefit increases to persons remaining eligible for the program. The specifications for cuts outlined by the initial Gramm-Latta budget substitute were met; however, I cannot support any additional cuts that balance the budget on the backs of this Nation's poor.

A vote for the Gramm-Latta substitute most assuredly is a vote to cut the bread out of the budget. These additional three provisions go far beyond controlling the runaway growth in this program, it robs the poor of bread, their staff of life. The question has nothing to do with fraud and abuse. It has to do with the fact that the public is unwilling to pay the price to prevent malnutrition among those less fortunate in America.

Mr. Chairman, I agree with the gentleman, we must vote down this Gramm-Latta substitute.

Mr. BEDELL. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Iowa.

Mr. BEDELL. I thank the gentleman for yielding.

I would ask that we make a part of the record the testimony of the administration. Under the questioning of the gentleman from Missouri (Mr. COLEMAN), the administration said, "This would bring the funding of the program down to $10.846 billion, if we are able to achieve the administrative savings."

This is the testimony of the administration before our committee that said we had met the cap. It was under the questioning of the gentleman from Missouri (Mr. COLEMAN) that we did it.

I ask that that be made a part of the record if we are going to go by what the administration says we have done. It seems to me that we have certainly clearly met the spending limit of $10.846 billion according to the administration witness.

The document follows:

Mr. COLEMAN. I am sorry I yielded to you. Let me say this. The roles are reversed here. The gentleman from New York is fighting to keep a lower cap than the gentleman from Missouri. This is pretty boggling to the mind. I understand that.

However, I want to make sure I am not breaking faith with the people on this program because I said all the way along the line that I want to make sure that the people who are qualified and eligible are going to receive benefits.

I do not want to have to the Administration—I might ask Mr. Hoagland to come back and ask him a question. Can he live with fully funding this program with $10.846 billion? Or is he going to come back here and ask for an increase in the ceiling?

I would like to know that. I do not know the answer to that question.

The CHAIRMAN. Mr. Hoagland, it is all yours.

Mr. HOAGLAND. Let me once again clarify what I think Mr. PANETTA was saying. Fully funded the program would be about $11.099 billion, using CBO's estimates. There is an additional administrative savings of approximately $171 million by the Administration, which is a different figure, I believe, than from the Budget Committee.

This would bring the funding of the program down to $10.846 billion, if we are able to achieve the administrative savings.

Mr. BEDELL. Mr. Chairman, I rise in strong opposition to the Latta substitute to the Omnibus Reconciliation Act. My opposition is based not solely on the magnitude of the funding cuts it proposes, or the callous nature of these reductions. I am opposed to the Latta substitute because I would view its passage as a total abdication on the part of the House of its responsibility to pass carefully on each program change recommended by the administration.

When the Congress approved a reduction in Federal spending with the passage of the first budget resolution a few weeks ago, each authorizing committee was instructed, under the procedure we now call reconciliation, to reduce spending for the various programs over which each committee has jurisdiction. Not only did the committees comply with this order by coming up with the mandated funding decreases, but the committees actually exceeded the required cuts by offering a total of $37.7 billion in spending reductions for fiscal year 1982—$2.6 billion more than what was required under the budget approved by the Congress.

The Latta substitute which is before us today—a voluminous publication that was made available only late this morning, after debate had begun, and which has unnumbered pages, certain portions written in longhand, numerous printing errors, and no accompanying explanation—would eliminate several major programs not targeted for extinction in the Budget Committee's original reconciliation measure. It would redirect several cuts in other areas, make drastic new reductions in programs already scheduled for a scale back, and even established new authority in yet additional areas—such as a new $6.5 million authorization to establish a national tourism council.

Mr. Speaker, I have said repeatedly that I support the President in his efforts to attack unnecessary Government spending and waste, as well as reduce regulatory and paperwork excess. I believe that my record makes clear this support. But I must vehemently oppose the administration's effort, supported by certain Members of the House, to reduce the legislative branch to a mere rubber stamp, and place all the authority for writing our legislation and overseeing our Federal programs in the Office of Management and Budget.

The substitute offered by Mr. LATTA—the contents of which Mr. LATTA himself said he is not fully aware—contains some proposals that I support, such as changing the nature of Federal assistance to Puerto Rico. However, the time to make such sweeping changes is not now, in the course of a few hours debate on the floor of the House. Significant Federal policy changes of this nature should be made only after those with an interest in these matters have been heard in the course of committee hearings, and the members of each committee have had the opportunity to analyze the full ramifications of proposed changes with great care.

We are constantly reminded of the mandate of the people as expressed last November. Just what was that mandate? Did the people demand that we cut the meat out of some of our basic programs—did they ask for reductions in the level of social security benefits? Did they ask for a sizable Federal deficit—a deficit of at least $45 billion next year? Did they demand that Congress be submissive to the executive branch, not give careful thought to the President's program, or grant him unchallenged authority to redirect our national priorities? I do not believe they did.

I believe the voters, last November, asked for the elimination of waste in our Government, a balanced reduction in the level of Federal intrusion into our business and personal activities, a reduction in inflation and a matching of Government receipts with expenditures. They will not get what they asked for with the Latta substitute or the President's budget and tax proposals.

The essential question before us today is not the level by which we will reduce Government expenditures. I am advised that Mr. LATTA himself says that his proposal calls for less of a total cut than the committee proposal. The questions we are faced with is where, specifically, we will choose to make these cuts, whether the Members of Congress will have the opportunity to go on record as against or in support of specific cuts, and whether the Congress, as an institution, will retain its full authority to author, review, and revise our Federal programs.

Mr. Chairman, I urge my colleagues to defeat the Latta substitute and support instead a responsible effort to reduce Federal spending as proposed by the various committees.

Mr. CORRADA. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Puerto Rico.

PARLIAMENTARY INQUIRY

Mr. COLEMAN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore (Mr. KAZEN). Does the gentleman from Texas (Mr. DE LA GARZA) yield for a parliamentary inquiry?

Mr. DE LA GARZA. If I have time I would be happy to yield to my colleague.

Mr. COLEMAN. I will yield to the chairman as much time as I take from him at this point in the RECORD.

The CHAIRMAN pro tempore. The gentleman from Texas (Mr. DE LA GARZA) has the floor. Does he yield for a parliamentary inquiry?

Mr. DE LA GARZA. I yield to the gentleman from Missouri (Mr. COLEMAN) for whatever purpose the gentleman desires to use the time.

Mr. COLEMAN. Mr. Chairman, in the meantime, since the Chair has gaveled us to attention, the gentleman from Iowa has retracted the papers he just sent and gave to the Clerk of the House while I was trying to make my parliamentary inquiry.

Is there a motion on the floor to submit information into the RECORD?

The CHAIRMAN pro tempore. The Chair advises that on June 25 at the request of Chairman JONES, general leave was granted all Members to in-

clude extraneous material with their remarks.

Mr. DE LA GARZA. If the gentleman will yield, that would have to be done in the House.

Mr. COLEMAN. I suggest we ask the Clerks what they are supposed to do instead of taking things from Members and putting them in the RECORD.

Mr. DE LA GARZA. I wish the gentleman would address the issue at hand and not worry about what everyone knows is a parliamentary situation.

Would the gentleman now yield me additional time?

Mr. COLEMAN. Yes.

Mr. DE LA GARZA. Mr. Chairman, I yield to the gentleman from Puerto Rico (Mr. CORRADA).

Mr. CORRADA. Mr. Chairman, I rise in strong opposition to the Latta substitute amendment being discussed here today.

In particular, I would like to call to the attention of my colleagues that portion of the Latta amendment which singles out the American citizens of Puerto Rico for exceptional and discriminatory treatment in the food stamp program by proposing a block grant for Puerto Rico and its people. This proposal has never been proffered, or suggested, for any State of the Union, or any other congressional district of the United States.

I will leave it to the judgment of the Members of this body as to why this proposal is even being suggested, or why the administration of President Reagan has discussed some ways to set a different standard for the U.S. citizens of Puerto Rico than any State or congressional district.

All of you here today will hopefully keep in mind that Puerto Ricans are U.S. citizens, that we fight in the common defense of the United States. For many years we have fought to attain equality with our fellow U.S. citizens no matter where they reside. We have done so without the help of two Senators or six Congressmen that we would have if we were a State of the Union.

That provision of the Gramm-Latta substitute that imposes a different standard for Puerto Rico is discriminatory, as I have said. The amendment before us says—both to men and to Puerto Ricans—that we are second class citizens, and that somehow we are not deserving of equal treatment.

While the countries in the Caribbean Basin so central to the foreign policy of the United States have languished in economic progress for years, Puerto Rico has prospered. It has done so in close association with the country to which we are inextricably bound.

Puerto Rico has progressed through successive administrations in Washington who have supported the concept of equal treatment, Republican and Democrat, and through successive Presidents who have realized that fair treatment for Puerto Rico in Federal assistance programs is a just and needed objective.

We are now being asked to turn back the hands of time and to reject that progress.

We are being asked to deny Hispanic-Americans who are U.S. citizens the food and nutrition benefits to which those who reside in the U.S. mainland are entitled.

I find these proposals to be ill conceived and unfair.

I want the American people to understand what this substitute means.

I want the Members of Congress to know that this provision is being offered without congressional hearings and that the House Agriculture Committee, in its reported version of the food stamp bill, rejected attempts to provide a different standard to the people of Puerto Rico that they do to the people in the U.S. mainland.

I want you to know that our island, suffering as it is from high unemployment while struggling for years to rise from the depths of poverty, has attained a standard of living higher than any country in Latin America or the Caribbean. And I want the Members of this body to know that any vote in favor of the Latta amendment providing deeper reductions in benefits for Puerto Rico in a program that reaches 56 percent of our people is so counterproductive that it may result in a resumption of massive migration to the U.S. mainland of Puerto Ricans who are uncertain of their future, and who are treated unfairly if they choose to remain in Puerto Rico. I urge you to reject the Latta amendment.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman from Missouri (Mr. COLEMAN) return the time he used?

Mr. COLEMAN. I do not have the time, but if I could get some, I will yield the 30 seconds which I took of the gentleman from Texas.

Mr. DE LA GARZA. But the gentleman promised to return the time.

Mr. LATTA. Mr. Chairman, I will yield 1 minute to the gentleman from Texas (Mr. DE LA GARZA).

The CHAIRMAN pro tempore. The gentleman from Texas (Mr. DE LA GARZA) is recognized for 1 minute.

Mr. DE LA GARZA. Mr. Chairman, a few minutes ago I received a telegram from a constituent of mine which said, "Support the President of the United States."

How can I support the President when I do not know what is in this package? I cannot do that. The only bill that has passed this House that has been signed by the President that saved any money was handled by myself out of our committee and it saved $160 million. No one can challenge that fact. We have met our responsibility.

The only bill which has saved money this year for President Reagan came out of our committee handled by the gentleman from Texas and the gentleman from Virginia and that is an uncontroverted fact.

So it is not a question of supporting the President or not. It is a question of whether we are going to be legislators or not. That is why I will vote against this package. I will not, I cannot fulfill my obligation and my duty to the people of my district if I were to vote for a cut in social security benefits, present benefits, for the first time ever in the history of the social security program. The cut on the minimum benefit would cut from the poor elderly, those 70 and 80 years old. I cannot and will not vote to cut from the widows and the orphans.

Mr. Chairman and my colleagues, our committee has met its responsibility, we have made our cuts, so have all the other committees. This procedure, this 11th hour attempt to undo the orderly work of our committees is wrong, it does not do justice to the Presidency, it does not bring honor to this House and its Members for which I have the highest respect. I have worked hard for a balanced budget. I have gone above and beyond my duty and responsibility to reduce expenditures. We agonized over some of the cuts we made, but we had to make them and we did.

Finally, Mr. Chairman, let me say there is only one Member of Congress from the 15th District of Texas, it is not Mr. GRAMM, it is not Mr. LATTA, it is not Mr. Stockman of OMB, it is not the President. I am the only one here who knows the area, who knows the people, who knows the needs, and I am sorry to say, who knows the suffering and the pain that this package could bring upon people who are my friends, who are my neighbors, good, honest people, hard-working people. I cannot, I will not let them down, when the only voice they have in this Chamber is mine. I have worked for reduction of expenditures, I will continue to do so, but not from the poor, the elderly, the widow, and the orphan.

Mr. JONES of Oklahoma. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri (Mr. SKELTON).

Mr. SKELTON. Mr. Chairman, a fellow Missourian by the name of Mark Twain once said, "The more you explain it to me, the more I don't understand it."

I am painfully aware of problems that are in this bill. I voted for Gramm-Latta I. My goals are to have a balanced budget, but we are rushing to judgment in this bill because this bill eliminates some of the very things that a number of us have worked hard for and bled for, friends from Georgia, New York, Alabama, and Virginia.

It eliminates entirely the opportunity to have a civil defense. It eliminates entirely the opportunity for a joint surveillance of any possible enemy aircraft because of doing away with the atmospheric, climatic, oceanic weather service in the FAA authorization. These are areas that are very, very vital to our Nation's defense.

I think that we should look at this again. It should be written properly. Let us not rush to judgment and do something we will be very sorry for in the days ahead.

Mr. JONES of Oklahoma. Mr. Chairman, how much time do we have left?

The CHAIRMAN pro tempore. The gentleman from Oklahoma has 1 hour and 32 minutes left.

Mr. JONES of Oklahoma. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Chairman, I rise and request the attention of my good friends and colleagues on the minority side of the aisle.

Like all of my other colleagues I have listened to this discussion with a great deal of attention and interest. These are the most extraordinary proceedings I have ever seen in this Chamber.

My concern that I would direct to the gentleman from Ohio (Mr. REGULA), the senior member of the committee now present, is: "Where does the Gramm-Latta package end and where does the Broyhill package begin in the document which has been submitted to us?" I would like to have the legislative history clear so that we could tell what we are voting for when we vote and what is in the package.

Now can the gentleman from Ohio (Mr. REGULA), please inform me?

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Ohio.

Mr. REGULA. I would think the gentleman from California (Mr. PHILLIP BURTON) might know how it was rearranged.

Mr. DINGELL. I am not interested in discussing it with the gentleman from California. I am asking the gentleman from Ohio.

Mr. REGULA. It is my understanding that it ends with title VI.

Mr. DINGELL. What page is that, if the gentleman please.

Mr. REGULA. MDB-15 in the copy I have.

Mr. DINGELL. That is right after PASHAY-017, page 3.

Mr. REGULA. That is right.

Mr. DINGELL. That is the end then of the Gramm-Latta package.

Mr. REGULA. That is right.

Mr. DINGELL. And the Broyhill package would begin on the following page.

Mr. REGULA. That is correct.

Mr. DINGELL. And the Broyhill package would persist then to the end; is that correct?

Mr. REGULA. That is correct.

Mr. DINGELL. We have had some discussion about one other point and if the gentleman would inform me, this package repeals the Randolph-Sheppard Act. Can the gentleman tell me where it does that?

Mr. REGULA. I think your question best be addressed by the ranking member on the Committee on Education and Labor who will soon be speaking. So if the gentleman would withhold his question he can submit it to the gentleman.

Mr. DINGELL. I will be glad to yield to the gentleman from Ohio (Mr. ASHBROOK).

Can the gentleman tell me where it repeals the Randolph-Sheppard Act?

Mr. ASHBROOK. Since we are on the gentleman's time, I will be glad to answer it. One, the statement was made this morning that it repealed the Randolph-Sheppard Act. If it is read carefully, it is one small section of the Randolph-Sheppard Act.

Mr. DINGELL. Does it repeal it or not?

Mr. ASHBROOK. It does not repeal it. Historically we were going to have block grants and it was going to be included. The gentleman from Ohio (Mr. LATTA) this morning, asked unanimous consent to take out that one line, and it was taken out.

The CHAIRMAN pro tempore. The time of the gentleman from Michigan (Mr. DINGELL) has expired.

Mr. JONES of Oklahoma. Mr. Chairman, I yield 1 additional minute to the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. I got it at page 63, ASHBRO-072, it says "(f) Section 2-E of the Randolph-Sheppard Act is repealed."

Now is that repealed or not?

Mr. LATTA. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Ohio.

Mr. LATTA. I am sure the gentleman was listening or he should have been listening this morning when I presented this package because I alluded to this very specifically.

Mr. DINGELL. I appreciate that, but I do not have much time.

Mr. LATTA. At the time I submitted it, I said that was stricken out.

Mr. DINGELL. That was stricken out at page 63; is that right? Is that the only place that the repealer took place?

Mr. LATTA. That is the only place that came to my attention. If the gentleman has some other place he would like to have stricken, we would be glad to do that because I did not intend for that——

Mr. DINGELL. I am not asking the gentleman what he intended. I am asking him was that the only place where the repealer——

The CHAIRMAN. The time of the gentleman from Michigan (Mr. DINGELL) has again expired.

Mr. JONES of Oklahoma. Mr. Chairman, I yield 1 additional minute to the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Is that the only place in which the repealer occurred?

Mr. LATTA. I understand that on the Ways and Means section there is a line on that.

Mr. DINGELL. There is another place?

Was that done by the unanimous-consent request of the gentleman from Ohio? Was that removed?

Mr. LATTA. When we get to it, it will be. We have not gotten to that section yet, but when we get to it, it will be.

Mr. DINGELL. Was that removed?

Mr. LATTA. No, not yet. We have not come to that section. If the gentleman would cease his dilatory tactics, we will get to that.

Mr. DINGELL. I am not being dilatory, I am asking questions to clarify a murky issue. The gentleman has said it has not been removed. Can the gentleman who sits on the Rules Committee inform me how he will remove that since he has already offered his amendment and it is not subject to an amendment or a point of order?

Mr. LATTA. We will ask unanimous consent to remove it.

Mr. DINGELL. The gentleman is telling us he is going to ask unanimous consent later on?

The CHAIRMAN. The time of the gentleman from Michigan (Mr. DINGELL) has again expired.

The Chair recognizes the gentleman from Ohio (Mr. REGULA).

Mr. REGULA. Mr. Chairman, I yield 8 minutes to the distinguished gentleman from Ohio, the ranking minority member on the Committee on Banking and Currency (Mr. STANTON).

□ 1515

Mr. STANTON. Mr. Chairman, the Latta substitute makes necessary and desirable changes in both the community development programs and the assisted housing programs.

The substitute would restructure title I of the Housing and Community Development Act of 1974. It is designed to increase local flexibility and minimize Federal involvement, consistent with the administration's philosophy of restoring decisionmaking to levels of government closest to the people.

The revised block grant program has four elements: An entitlement program for large cities and urban counties, a new block grant program for small cities to be administered by the States, a revised UDAG program as a new account in the section 107 fund, and a reduced Secretary's discretion-

ary fund. Under section 3101, the funding authorization for the revised block grant program would be $4.166 billion for each of fiscal years 1982 and 1983.

Section 3102 replaces existing law's complex and burdensome application requirements with a statement of community development objectives and a description of the proposed use of grant funds. This statement would not be subject to HUD approval. The proposed statement would have to be published for public comment, and the final statement would have to be made public. This assures citizen access to the decisionmaking process, while at the same time reducing cumbersome requirements. HUD would continue to monitor grantee performance and would require certifications of compliance with civil rights laws, the primary block grant program objectives and other applicable laws. Under this substitute, small, nonentitlement cities would not be required to submit a HAP plan.

Section 3103 of the substitute amendment includes a new block grant eligible activity which allows localities to use funds for assistance to private businesses in support of economic development projects. In this way, block grant funding could be used to carry out activities similar to those allowed under the UDAG program. Also, the substitute section 3103 clarifies the use of CDBG funds for 701 comprehensive planning program-type activities.

Under the substitute section 3103, the funding allocation between entitlement communities and States would operate in this way: after subtracting set-aside amounts for the discretionary fund and for UDAG, the remainder would be divided, with 70 percent for entitlement communities and 30 percent for States. The 70-30 allocation results in a funding shift of less than 5 percent between entitlement and nonentitlement communities, compared with that provided under the existing 80-20 split between SMSA's and non-SMSA's. The net percentage allocation during fiscal year 1981, was actually 74.24 percent for entitlement communities versus 25.76 percent for nonentitlement areas.

The small percentage increase proposed for nonentitled communities, over current levels, is in recognition of the fact that nonentitled communities are located largely in rural areas which will bear a heavy burden of budget cuts in related programs, such as the Economic Development Administration and the Farmers Home Administration (FmHA) community development programs. The increase in CDBG allocations will, therefore, ease this special hardship.

The entitlement program would remain largely unchanged. Metropolitan cities and urban counties would continue to receive entitlement amounts determined by the same dual formula.

In the State block grant program, each State would receive an amount based on the current dual formula. States would, under section 3104, distribute funds to nonentitlement recipients to carry out eligible title I activities. States would be free to establish their own distribution systems to be responsive to local needs. It is our intention, however, that the States honor existing multiyear commitments of small city grants. They would be responsible for overall administration of their programs, with HUD's role limited to review and audits. In fiscal year 1982, States would be given a choice as to whether to participate in the new program or to operate under the old small cities program. In 1983, all States would be required to assume responsibility for the new program.

This program allows for coordinated planning by States to meet the needs of their small communities. States are closer to their small localities, and therefore can be more aware of and responsive to their needs, and can adapt more quickly as needs change. By virtue of programs already in place, States have better capability to coordinate community development funds more effectively with other Federal or State resources they control, and can avoid conflicts with activities planned by other jurisdictions.

The results of a 1980 HUD demonstration State administration program support this transfer. For example, one State survey revealed that 82 percent of those participating in the survey felt that there would be better coordination between State and Federal funds if the State administered the program.

Additionally, the States' capacity to implement such a transfer is already evident. Each of the 50 States has both community development and economic development agencies; 47 States have housing finance agencies. At least 20 States have sophisticated programs in place for immediate implementation of the new program. Interim administration could be accomplished under existing statutes or Executive orders in other States, where necessary.

A lot of concern has been raised about the potential administrative costs for this program. States are estimating that no more than 4 percent of the total allocation would be needed to perform this function.

These facts show that States and small cities are ready, willing, and able to undertake this program. I think we should give them the opportunity to do so.

Under section 3105, the revised UDAG is to be funded through a $500 million set-aside in the Secretary's discretionary fund for fiscal year 1982. It would continue the core aspects of the current program, including eligible recipients, eligibility criteria and the leveraging of private resources. It would, however, concentrate the program solely on encouraging economic development activity to aid in economic recovery. This emphasis would channel scarce Federal dollars to the types of activities with the greatest economic payoffs, such as jobs and contributions to the tax base. A number of changes are also proposed to remove unnecessary application requirements and Federal redtape.

Section 3105 also proposes to reduce the current authorization amounts for the Secretary's discretionary fund to $60 million for each of fiscal year 1982 and 1983. This would limit the receipt of grants by those recipients whose unique circumstances or activities require special attention. These include Indian tribes, territories and possessions, and a technical assistance account which could be used to assist States in preparing for assumption of the State block grant program.

Section 3110 repeals four programs, whose activities would be incorporated into the community development block grant program. They are the neighborhood self-help program, the section 312 rehabilitation loan program, and the section 701 comprehensive planning assistance program and the Department of Energy's weatherization assistance program. In regard to the section 312 rehabilitation loan program, it is important to point out that along with many other activities, rehabilitation activities are eligible for funding under the CDBG program. In light of this, it makes little sense to maintain a separate categorical program for these loans.

Section 3112 provides a grandfather provision through fiscal year 1983, to provide for continued CDBG funding for certain counties or which, as a result of the population count from the 1980 census, no longer qualify for entitlement funding.

Now let turn to the assisted housing programs.

While it would be a very worthwhile goal to provide all of the funding for housing needed by the poor, the answer to meeting America's housing needs and other needs for sustaining an adequate standard of living is through economic recovery which can only be achieved by curing inflation. As a result of this amendment, we would be able to deliver a sound and reasonable level of services for the least amount of the taxpayers' dollars.

First, the amendment would change sections 3201(a)(1) and 3201(a)(2) to reduce contract and budget authority for the HUD-assisted housing programs to allow funding to cover 162,500 units as proposed in the

House-passed first budget resolution. The Budget Committee includes in its reconciliation bill the recommendations of the Banking Committee, requesting a level of funding to cover 176,000 units of HUD-assisted housing. The budget authority needed for funding this number of units is $20.5 billion—$2.2 billion more than proposed in the substitute.

The funds contained in this category are used for providing low-income housing under the section 8 and public housing programs. The costs of providing HUD-assisted housing has risen by staggering amounts since the section 8 program was enacted only 7 years ago. Some Members of Congress have even proposed to stop the escalating costs by terminating the section 8 program altogether, additionally the amendment would reduce from $100 million to $75 million funding for public housing modernization also the same level approved by Gramm-Latta.

I do not propose an extreme solution to the high costs of the section 8 program, such as eliminating the program without a viable alternative. If, in fact, the Congress and the executive branch were ignoring the problem, I might have adopted that extreme approach. I know, however, that Congress and the administration are looking critically at the problem. I am told that the administration is hoping to present some ideas to Congress for review next year that may later prove adequate alternatives for the costly programs now being offered. I think we should give the administration time to conduct an orderly review of the alternatives and propose a less expensive means of providing housing.

The amendment allows a continuation of funding for 162,500 HUD-assisted rental housing units—a level of funding that takes into consideration the Government's need to curtail Federal spending while providing a moderate number of Government-assisted housing units.

Section 3201(a)(4) establishes a phased-in rental increase from 25 percent to 30 percent of income for tenants in assisted housing projects to be phased in over a 5-year period; and provides a simplified approach to determine income deductions for the tenants in these units.

In regard to the increase in tenant contributions to rents, the proposal would increase over the next 5 years, maximum tenant rental payments in HUD-assisted housing from approximately 25 percent to 30 percent of adjusted income. It would also require minimum rental payments by tenants of 10 percent of their gross income.

This increase in maximum rents would reduce some of the inequity of providing very large subsidies to a small portion of the Nation's total eligible households, while the rest currently receive no subsidy at all. Even after 1986 when the phase-in is completed, the 3.3 million households currently living in subsidized housing would continue to pay, on the average, a much lower percentage of their incomes for housing of generally better quality than that available to the lower-income families living in unsubsidized housing.

The amendment would also allow a standard deduction for each minor, and for an elderly or handicapped head of household, in lieu of all current deductions in all assisted housing. It will assure that families in similar circumstances will have the same deductions, regardless of the programs under which they are assisted.

The amendment will significantly simplify the process of tenant income certification and recertification. Currently, tenants residing in different types of Government-assisted housing units are allowed different deductions simply because they reside in one type of unit or another. In all programs, the deductions benefit those at the higher end of the eligible tenant income range, because the size of the deductions is directly related to the amount of money a family has to spend. Further, in order to claim the deductions, families must provide various documentation as certification to the assisted housing manager—a laborious process, subject to fraud and error, and a costly and unnecessary administrative burden.

Section 3201(c) accomplished two things: First, it deletes the provision in the committee print which would restrict the Secretary of HUD from utilizing any of the assistance available under the flexible subsidy program to remedy operating deficits in rent supplement projects, where the deficits result from failure to amend contracts.

The amendment would reject this approach—which is designed to force rent supplement projects to amend in order to continue to secure badly needed subsidy assistance.

Second, the substitute language proposed in the amendment would remove the statutory requirement that HUD offer to amend all rent supplement contracts to augment existing subsidies with section 8 assistance.

This represents the administration's strategy for dealing with this issue, a strategy that calls for canceling rent supplement contracts and replacing them with 15-year section 8 assistance.

While I applaud the work of the majority of the Banking Committee in reaching their goal of cutting more than $13 billion from fiscal year 1982 authorizing measures, many of us were very unhappy with the major tradeoff that they made. In order to save 3,000 subsidized housing units—175,000 to 172,000—the majority cut back Eximbank's direct lending authority to $3.9 billion from the $5 billion level envisioned in Gramm-Latta I and in the package of amendments before you today. In doing this, the committee majority ignored its own rhetoric of the past few months. Back in March, the chairman of the Trade Subcommittee chided the administration for "unilaterally disarming" the Export-Import Bank by proposing a small reduction in its authority.

All Members should understand what this cut to the Eximbank means. If Eximbank is given a lending limit of only $3.9 billion, it will not be able to consider any new requests for financing in fiscal year 1982. It will reduce U.S. exports by $700 million. It could reduce employment in the export sector by 27,000 jobs.

The minority made several attempts in committee to repair the damage caused by the majority's amendment. The gentleman from Delaware, Mr. Evans, offered an amendment to restore Eximbank to the Gramm-Latta level. I offered an amendment to restore Eximbank to the President's level, which had majority support and lost by a single vote.

Mr. Speaker, it makes no sense to cut Eximbank. Our committee majority defended their cut by claiming that Eximbank only benefited large corporations. No one should be fooled by this myth. For every Boeing 747 aircraft financed by Eximbank, 2,600 smaller subcontractors get a piece of the action. When Westinghouse wins a $1 billion contract to build a foreign powerplant, 75 percent of the actual business goes to hundreds of subcontractors throughout the United States. The majority's cut in Eximbank may mean fewer profits for Boeing and Westinghouse, but, more importantly, it will cost 27,000 workers their jobs.

I don't want my colleagues to think that I am exaggerating the gravity of the situation. I have before me three letters from which I would like to cite as evidence. The acting Chairman of Eximbank points out that Eximbank will have to close its doors to all new business in fiscal 1982 if the majority's cut survives. A second letter signed by Secretary of the Treasury Donald T. Regan, Secretary of State Alexander M. Haig, Secretary of Commerce Malcolm Baldrige, Director of OMB David A. Stockman, and U.S. Trade Representative William E. Brock pleads with the committee not to make reductions in Eximbank's lending authority. Finally, Mr. Speaker, I have a letter from the chamber of commerce claiming that any reduction of lending authority would do serious and irreparable harm to U.S. exports.

One final point, Mr. Speaker, this is a particularly inopportune time to be cutting Eximbank's budget. The United States is engaged in negotiations with our major trading partners to end export trading subsidies. These negotiations have reached a critical

stage. If the French and Japanese learn that Congress has taken a meat ax to Exim's budget, they will feel little pressure to end their export subsidies. This is the wrong time for Congress to show a lack of support for U.S. exporters. During our markup, the leader of the U.S. delegation to those negotiations said that a reduction in Eximbank's authorization "would seriously jeopardize the outcome that the United States seeks."

If this amendment is not adopted, Mr. Speaker, the negotiations will fail, 27,000 export-related jobs will disappear, the competitiveness of the U.S. exporters will decline as Eximbank shuts its door to new business. I urge adoption of the amendment.

At this point I include the following:

EXPORT-IMPORT BANK
OF THE UNITED STATES,
Washington, D.C., June 9, 1981.

Hon. J. WILLIAM STANTON,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. STANTON: Yesterday's action of the House Banking Committee cutting Eximbank's loan authority from President Reagan's $4.4 billion request for fiscal year 1982 to $3.9 billion could have serious consequences for U.S. employment and exporters. The President's request was a 12 percent reduction in the Carter budget proposal of $5 billion. The Committee's action results in a total reduction from the Carter proposal of 22 percent, which will make it extremely difficult for Eximbank to allocate its loan authority equitably and effectively.

A cut from $4.4 billion to $3.9 billion would mean a potential loss of about 27,000 jobs and would leave Eximbank with little ability to handle effectively new applications for business in fiscal year 1982.

I have discussed this matter with William H. Draper, III, Chairman-Designate, and other Board members of Eximbank, and they join me in urging you to attempt to restore Eximbank's loan authority to the Administration's requested level of $4.4 billion.

Very truly yours,

MARGARET W. KAHLIFF,
Director.

THE SECRETARY OF THE TREASURY,
Washington, D.C., June 5, 1981.

Hon. FERNAND J. ST GERMAIN,
House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: As you and your colleagues consider authorization levels for FY 1982 and beyond, we wish to underscore the importance we attach to the multilateral development banks (MDBs) and the Export-Import Bank as part of President Reagan's overall foreign economic program.

The Administration is committed to a strong and coherent foreign policy. The funds requested by the Administration for the MDBs and the Export-Import Bank are necessary elements of this policy. These institutions are important to U.S. economic and strategic interests, and the President's request is commensurate with a responsible leadership role in the world. In the case of the MDBs, the funds are necessary to insure U.S. implementation of internationally negotiated agreements. The President has pledged to support these agreements and, in the eyes of our allies, U.S. credibility is at stake. In the case of the Export-Import Bank, the request is designed to continue assisting U.S. exporters to compete in world markets while we seek to negotiate reductions in officially subsidized export credit.

The Administration has given very careful consideration to insuring the proper balance among all of the components of our FY 1982 budget request. The President's budget request for the MDBs and the Export-Import Bank represents the levels of funding deemed necessary to advance our international interests, while meeting our domestic obligations to restrict budget outlays.

We urge all members of the Committee to work actively to assure that MDB and Export-Import Bank programs are funded at the levels requested and to oppose vigorously any proposals for funding increases, reductions, or substitutions. It is our considered judgment that such actions would be harmful to U.S. foreign policy interests and inconsistent with the Administration's efforts to maintain a credible foreign economic program.

Sincerely,

DONALD T. REGAN,
Secretary of the Treasury.
ALEXANDER M. HAIG, JR.,
Secretary of State.
MALCOLM BALDRIGE,
Secretary of Commerce.
DAVID A. STOCKMAN,
Director, OMB.
WILLIAM E. BROCK,
U.S. Trade Representative.

CHAMBER OF COMMERCE OF THE
UNITED STATES OF AMERICA,
Washington, D.C., June 8, 1981.

To: Members of the House Banking Committee.
From: Hilton Davis, Vice President; Legislative and Political Affairs.
Re Eximbank authorization for fiscal year 1982.

On behalf of the U.S. Chamber's over 135,000 members, I respectfully urge you to support the Reagan Administration's recommendations for the Export-Import Bank (Eximbank) authorization for fiscal-1982. Those recommendations include authorizing $4 billion for direct loans and $400 million for the Discount Loan Program.

The Administration-recommended figures are lower than some would like, but we recognize that all segments of the economy must share in the effort to reduce spending.

However, the Chamber is concerned that any reduction below those figures would do serious and, perhaps, irreparable harm to U.S. exports in certain markets. As competition increases for world export markets, it is imperative that Congress not lessen the ability of U.S. businesses to compete for much-needed export sales.

The Chamber is actively encouraging the conclusion of an international agreement on government-supported export credits that would take those rates to commercial levels. Such an agreement would remove the budgetary concerns that Eximbank's annual authorization generates. A direct loan authorization for fiscal year 1982 below $4 billion might be perceived by our trade competitors as a sign that the United States is not really serious about its efforts to end predatory financing practices in the world.

The United States continues to run up a substantial trade deficit each year. The consequent adverse impact on the domestic economy is significant. Let us do what we can to strengthen U.S. export performance, including supporting the Reagan Administration's recommendations for the fiscal-1982 Eximbank authorization.

POINT OF ORDER

Mr. GLICKMAN. Mr. Chairman, a point of order.

The CHAIRMAN pro tempore. The gentleman will state his point of order.

Mr. GLICKMAN. Mr. Chairman, I do not know what the rules of the House say, but there are an extraordinary number of staff on the floor that I think are contributing to the noise level in this House. I just would point that out to the Chair to perhaps encourage those who are not supposed to be here to leave.

The CHAIRMAN pro tempore. The Chair is going to insist, considering the unique nature of the pending bill and amendment, that only the staff of committees which are directly affected by the pending amendment should be on the floor in addition to the Budget Committee staff, and then only those limited number of staff persons requested to remain by the chairmen and ranking minority members of those committees.

The Chair would appreciate the cooperation of the chairmen and ranking minority members of the committees to see if we can keep this noise level down and proceed in an orderly fashion with the consideration of the legislation.

Mr. EVANS of Delaware. Mr. Chairman, will the gentleman yield?

Mr. STANTON of Ohio. I yield to my colleague from Delaware.

Mr. EVANS of Delaware. Mr. Chairman, I thank the distinguished gentleman from Ohio for yielding. I think it is important to point out that we are not talking about subsidies for large corporations in this country. We are talking about our ability to compete in the international markets effectively. We are also talking about thousands of small business firms that also employ tens of thousands of American workers. These small business firms are subcontractors of large corporations and they also are affected adversely when they cannot compete fairly with foreign corporations.

This particular amendment, the $1.1 billion restoration for the Export-Import Bank is vitally important if we are going to give American firms a chance to succeed in the increasingly intense international competition. Without this restoration of funding we will have no chance of ending unfair credit practices by foreign nations which we are attempting to accomplish at the present time in negotiations with France and other nations. Without the amendment we take the bargaining chips away from our negotiators in Paris who are now trying to end unfair credit practices. This amounts to unilateral economic disarmament. This would be wrong because it would deprive thousands of Ameri-

cans of jobs. Without this amendment we would weaken the American economy and therefore our Nation's ability to provide assisted housing or other assistance to those who are in need.

Mr. STANTON of Ohio. Mr. Chairman, at this time I yield to the gentleman from New York (Mr. CARMAN). As I stated earlier, we do reduce the section 8 housing subsidy program to $162,500. I know this is more than I think the gentleman from New York wanted.

Mr. CARMAN. Mr. Chairman, I want to thank the gentleman for yielding this time to me at this moment. I would specifically like to point out that while many of the members of the committee—and I think throughout the House there is a tremendous amount of support for senior citizen housing and public housing, the section 8 program has really been a total and unmitigated disaster.

I think the minority has made great and responsible efforts, while keeping in mind the importance of compassion in this area, simultaneously understanding that we are going to have to change this program so that finally we will be able to be in a position to make sure that housing in this country will be available for the public as a whole, but at a cost we can afford.

Mr. STANTON of Ohio. I thank the gentleman for his contribution.

Mr. JONES of Oklahoma. Mr. Chairman, I yield 10 minutes to the gentleman from Rhode Island (Mr. ST GERMAIN), chairman of the Committee on Banking, Finance and Urban Affairs.

Mr. ST GERMAIN. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I must agree that we did indeed have some very thorough hearings under the chairmanship of Mr. GONZALEZ on the Subcommittee on Housing on a good amount of this, but let us get the facts straight as to what this change does: 176,000 units of assisted housing down to 156,000, according to the Congressional Budget Office, and those funds are taken and they are put into the Eximbank. That is to fund the large corporations. Small corporations in my State have told me they cannot participate. This is to help out the Boeings of this world, so we say to senior citizens, "Live in tents and freeze."

We say to Eximbank, "We will fund you."

These same senior citizens, their rents will be going up. Let us not forget that. The people living in subsidized housing today are going to have their rents increased 1 percent per year for the next 5 years. Be prepared to answer their questions when they get the rent increases from the housing authorities.

You know, that is amusing because from the Republican side of the aisle last year there was almost a unanimous vote on an amendment that stated that when social security checks increase, you do not increase the rental for those poor senior citizens who can just about live on what they are getting today. And those are the senior citizens in Woonsocket and Providence and Johnstown and Newport, Fall River, in every community in this country.

As to rehab loans, the program is deauthorized. That is the money that people of low and moderate means use to keep their homes in livable condition, so the people of Woonsocket and Central Falls and Providence and Johnstown and Cranston and New Bedford and Fall River will no longer have the benefit of rehabilitation loans.

Neighborhood self-help centers around the States of Rhode Island and Massachusetts will be closed down because their funding is eliminated.

As to CDBG, there is a tremendous reduction. Every community in Rhode Island and Massachusetts will be affected because not only do we reduce the amount of funding, we fold UDAG in there. The mayors of our States are going to be very happy about that one.

In addition to that, we fold in quite a few other programs. As a result, there are communities in Rhode Island and Massachusetts who hoped to do something to revitalize their areas that are not going to be able to do it. And we fold EDA into CDBG. We allow now community development block grant funds to be used for profit—profit undertakings—which means that much less for our communities to use for the nonprofits in our communities.

□ 1530

Mr. ROEMER. Mr. Chairman, will the gentleman yield?

Mr. ST GERMAIN. Mr. Chairman, I will ask the gentleman to wait for a few more points, and then I will yield.

Mr. Chairman, I think that anyone who supports the Latta substitute has to understand that they will then be answerable to their senior citizens, to their neighborhood self-help groups, and to their mayors who want to see their economies move. This amendment, as I stated, takes the money from subsidized housing, putting it into the Eximbank and reduces the overall funding for CDBG.

Mr. WATKINS. Mr. Chairman, will the gentleman yield?

Mr. ST GERMAIN. I yield to the gentleman from Oklahoma who, I think, has an important matter with respect to this.

Mr. WATKINS. Mr. Chairman, is the gentleman saying to me that they are cutting one-third of the people in this country in rural America whose only source of revenue for housing—for a home—is in loan money from the Farmers Home Administration and they are giving it to subsidized Eximbank to subsidize the big corporations?

Mr. ST GERMAIN. That is what the thing reads like to me, I will say to my friend.

Mr. WATKINS. That is one-third of the people who have two-thirds of the dilapidated houses in this country.

Mr. ST GERMAIN. I know the gentleman is interested in rural housing, and he takes a bit of a bath on this one.

Mr. WATKINS. Mr. Chairman, two-thirds of the dilapidated housing is in rural America, and two-thirds of the people live in homes that are dilapidated; over 1 million without water.

Mr. ST GERMAIN. Rat infested, one electric light. Yes, I know the kind of place the gentleman is talking about. We have those in Rhode Island.

Mr. ROEMER. Mr. Chairman, will the gentleman yield?

Mr. ST GERMAIN. I am happy to yield to the gentleman from Louisiana, but first I yield myself additional time.

THE LATTA SUBSTITUTE MUST BE DEFEATED

The Republican substitute would reduce the budget authority for assisted housing by $2.2 billion, thereby reducing the number of additional assisted housing units provided for in the committee bill from 176,000 to 158,000. The Reagan budget recommended 175,000 units of assisted housing for fiscal year 1982, but the Republican substitute is not satisfied with this suggestion to take away 85,000 units from the previous administration's level of 260,000 units. This substitute would increase that cut to more that 100,000 units. The substitute is not proposed because the Banking Committee failed to meet its Gramm-Latta cut targets of $13 billion. The committee met and, in fact, surpassed those requirements. The Republican substitute is put forward to change the Gramm-Latta rules at the end of the game. Is it worth taking away shelter—thousands of units of shelter—simply because the Banking Committee chose to spread its required cuts throughout its jurisdiction rather than lumping it all on the backs of the poor, the elderly, and the disadvantaged? Should we punish needy citizens to feed the egos of the OMB computers? I rise to oppose any such action.

This substitute would cut public housing modernization funds, which are needed to renovate existing public housing projects, and to maintain the value of a tremendous amount of existing capital stock in this country. The substitute would take $500 million from this program, cutting the heart out of the modernization program and thwarting the committee's efforts to preserve housing assets which have been built up at great expense to the Federal Government. Does it make

any sense to save money by throwing away the investments of previous years, watching the housing stock of our Nation sink into disrepair, and losing billions of dollars of investments? Clearly it does not make sense.

The horrors of this substitute do not stop with depriving people of decent housing, and allowing our previous investments to wither away, it goes on to demand higher rents from the few remaining tenants of steadily deteriorating housing.

This substitute would increase tenant rent contributions from 25 percent of their adjusted income to 30 percent of their income, when the average renter pays only 20 percent of his income for housing. We are already demanding a 25-percent premium for living in housing that the administration wants to fall into disrepair, do we need to increase that to a 50-percent premium?

There is even no guarantee that the differential demanded of public housing tenants would stop at 50 percent, because this substitute also gives the HUD Secretary absolute discretion to determine what counts in determining adjusted income. This could cause substantial financial distress to many of the families who depend upon the Federal housing programs. These programs were designed to help people who from disability, age, or deprivation cannot afford safe, decent housing. This is a goal of all Americans, and should not be denied to people simply because nature, or our economy, has rendered them less fortunate than the majority of our citizens. I do not believe that the American people agree with OMB Czar Stockman when he says that no one is entitled to help from the Government. We do not live in the Dark Ages, and what civilization we can claim stems from a belief that the fortunate do not simply cast the unfortunate out of their sight and out into the cold.

Since these programs were designed to help people, what sense does it make to place restrictive and punitive conditions on the chances of finding safe and decent housing for the disadvantaged? This committee has met its Gramm-Latta targets without imposing any of those conditions on the low-income or elderly who live in assisted housing. Why demand that people use severely limited resources to choose between heat and food, between rats and proper care for their children? With the vise of OMB-dictated cuts closing in on the disadvantaged of this country, the committee felt that it should add to that squeeze as little as possible.

It may be said that the elderly, the low-income, the children, and the disabled are special interests which we should not cater to. But in saying that we are also saying we should cater to another special interest, the wealthy. All of these groups are part of the American citizenry, and the committee believes that they all must share in the pain of cuts dictated by Gramm-Latta. Perhaps some Members think that the people who live in assisted housing are lazy, able-bodied people who would work if only we forced them to. The facts are otherwise, as they are in so many fairy-tales.

Forty-four percent of section 8 tenants are elderly families, with incomes averaging a little over $4,000. That is less money than the Members of this House earn in a single month, and we are saying to the people who have paid their dues, who have worked for most of their lives, that the promise of safe, decent housing in their golden years is a lie. Of the remaining 55 percent, the vast majority are families headed by a female with average income of $4,400. Many of these families are headed by a working mother attempting to raise young children. Turning our backs on them, and their desire for housing, will only frustrate their attempts to climb out of poverty, and throw mother and children firmly back into the cycle of poverty that is so destructive to initiative and self-respect.

The Latta substitute would change not only matters of money, but also matters of policy, including policy that the Housing Subcommittee, and the Banking Committee itself have spent hundreds of hours reviewing, considering and voting on.

The Republican substitute would eliminate and fold into the community development block grant program section 312 rehabilitation loans, neighborhood development grants, low-income weatherization grants, urban development action grants, and 701 urban planning assistance grants. In addition, it would revise the basic approach such as to make it nothing more than a general revenue-sharing program. These programs were funded at an overall level of $4.795 billion in 1981 and under the substitute they would be funded at $4.166 billion for fiscal year 1982. This would represent an overall reduction of $629 million or 13.1 percent. Pursuant to the Gramm-Latta, the committee reduced budget authority and outlays for this same mix of programs to enable an overall $4.265 billion program level for fiscal year 1982, an amount only slightly higher than what the substitute proposes.

In doing so, it eliminated the 701 planning assistance program and reduced the 312 rehabilitation loan program to the level available from loan repayments. It would retain, however, the existing community development assistance structure as set forth after considerable debate and deliberation in the bipartisan Housing and Community Development Act of 1974. In the opinion of the majority of the committee, any sweeping restructuring of the programs, such as is included in the Republican substitute, warrants full congressional consideration—study, hearings and debate by both bodies of the Congress before being enacted. The full impact of its effect on the distressed cities of the Nation and on the low- and moderate-income and elderly citizens who are the beneficiaries of the existing community development programs should be taken fully into account. There have been no analytical studies, no public hearings to support the sweeping and far-reaching changes included in the substitute. It would be entirely irresponsible to legislate in this manner and is not at all necessary to achieve the spending reductions proposed by the administration.

In contrast to the areas in which the Banking Committee has made smaller cuts than those desired by the Reagan administration and the Latta amendment, the committee chose to take more money from the Export-Import Bank than they were requested to do. OMB computers have singled out this cut as "unrealistic and unwarranted." OMB asserts that the committee's 1982 cut of $2.4 billion "would be catastrophic for U.S. exports." But is it really credible that the $2 billion cut suggested by President Reagan is perfectly acceptable, while an additional $400 million taken away is a catastrophe? I suggest that this is not a major policy difference but a prime example of David Stockman's monumental hubris, which turns the slightest deviation from the OMB computer printouts into a disaster for our Nation.

This is not to say that the Banking Committee believed the funding for Eximbank, as passed, was acceptable. The members recognized a need for continued funding of this valuable program, but it was faced with the brick wall of reconciliation targets and had no choice.

In our report to the Budget Committee we wrote that our authorization was "inadequate and insufficient, in absolute terms, but quite generous in relative terms, that is, relative to the severe cutbacks it is forced to make in other programs within its jurisdiction."

The Members of this Congress must never forget, as the OMB computers present their heart-breaking story of how Congress asserted its constitutional mandate and made decisions that, taken individually, most cuts are cruel, unnecessary, and harmful to the national interest. Unfortunately, under administration pressure and Republican guidance, this Congress had to make the specific cuts. The money for these reductions must come out of individual programs, and no one will be pleased with each cut. The Eximbank direct loan level established by Banking Committee action would

allow the Bank to meet all of its preliminary loan commitments for fiscal year 1982, and was determined by the committee to be minimally sufficient for Eximbank to continue its support of our country's exporting industries and their job production efforts.

Even with all the cuts taken during the committee's meetings, the members recognized that we must assure our exporters of continued access to foreign markets. Thus, the committee, earlier this year, passed H.R. 3228, the competitive export subsidy fund. This bill would create a fund which would provide interest subsidies for our exports if negotiations with world trading partners do not produce real progress in eliminating their subsidized export promotion programs. These, as we know, create competitive inequalities for our exporters.

The committee has also recommended to the House Committee on Appropriations that the level of guarantees and insurance provided by the Eximbank be increased for fiscal year 1982. This would allow the Bank to leverage its leaner direct loan program by offering packages of assistance to exporters including direct loans and guarantees.

But the OMB criticism does not stop with savings from 1982. The OMB computers allege that the committee provides no new funding for Exim in fiscal years 1983 and 1984, and technically this is true. But it is a mere technicality. The committee chose to change the expiration date of the Export-Import Act from September 30, 1983, to September 30, 1982. We did not do this because no new funding for the Bank and its job-producing activities was desired. We made that change because the committee is determined to realistically assess the direct lending needs of this Bank in the international climate prevailing next year, not to lock us into specific funding through 1984.

If the last year and one-half has taught us anything about world affairs, it should have taught us that crystal ball gazing is an unsatisfactory way to make policy with respect to other nations' actions. Who would have predicted in December 1979 that Poland would have an independent trade union, that France would elect its first socialist government since World War II, or that there would be an oil glut sufficient to make prices edge downward? Yet each of those conditions has had a substantial influence on our financial, political, and economic dealings with the rest of the world.

The crystal ball of Eximbank's future role is more clouded by ongoing trade policy negotiations with other major exporting countries. While the OMB propagandists argue that Banking Committee action would completely destroy U.S. effort to negotiate international export credit restraints, the committee's action actually provides the best atmosphere for such negotiations. If the committee had followed OMB wishes and locked in funding for Eximbank for the next 3 years, until the end of fiscal year 1984, what negotiating position would our Government have? Would our promises to step up export aid be credible if other governments read in the New York Times that we have already set the funding levels for these programs—many years into the future?

The Banking Committee's report to the Budget Committee explicitly recognizes the need to hold out the carrot as well as the stick to trading competitors in these negotiations, saying that the early expiration of the Eximbank Act was designed to give the committee an opportunity to examine the need for a higher direct loan limit after fiscal year 1982.

Of course, in taking any action in the future that would affect the Eximbank funding levels, the Banking Committee recognizes its responsibilities under Gramm-Latta to keep spending at mandated levels, so that relative adjustments in program levels may have to be made. The Banking Committee will not violate its responsibilities, but we ask the House to allow us to make those decisions when the needs of the Export-Import Bank become clear, and proper adjustments between the requirements of our international trading sector and our domestic responsibilities can be made. We should not force the hands of our negotiators by locking them into certain funding levels before the negotiations get under way. These, and many other facets of the committee's bill represent a careful, and well-thought-out compromise among the many demands placed upon this committee.

In the end, the committee rejected administration suggestions to cut nearly 40 percent of the assisted housing budget, and in doing so had to take money from the programs that the OMB computers had not singled out for cuts. The audacity of a congressional committee fulfilling its constitutional mandate to authorize spending in ways that the administration did not want was evidently too much for the OMB computers to swallow, so they generated a series of criticisms and a substitute bill is now proposed.

This substitute has been circulated in the House by the gentleman from Ohio (Mr. LATTA) and he has called on all those who supported the administration before to do so in this new fight. But the gentleman must be forgetting that he told this House, and many supporters of the OMB/Gramm-Latta substitute in May, that the committees would be left to make specific cuts, as the legislative process has been done for centuries. In debate with my good friend, the gentleman from Kentucky (Mr. PERKINS), Mr. LATTA informed this House on May 4:

We—

By we he means OMB/Gramm-Latta—

do not designate programs to cut. We merely designate figures . . .

And further on in that debate he told Mr. PERKINS:

Once again, I remind the gentleman that it is within the jurisdiction of his committee to make the cuts that are recommended by the House. When the time comes and we vote on the matter of reconciliation, we will not be telling him what particular programs he must reduce.

I assume that Mr. LATTA remembers his assurance that he would not tell committees what particular programs to reduce, yet in the explanations for proposed amendments we find the same OMB/Gramm-Latta coalition chastising the Banking Committee's action because, the Banking Committee proposal basically maintains the status quo, largely ignoring the recommendations of the administration and those contained in the Gramm-Latta Amendments.

I believe Mr. LATTA and the OMB should stick by their original agreement, the one which a majority of Members of this House thought they were voting for in May. That agreement, as articulated by Mr. LATTA, was that he would not tell this committee, or any committee, how to do its job, and presume to have sat in on the hours of testimony, debate and briefings that went into drafting a bill such as the one before us. To say to this House, that we will go back on a firm agreement made only 1 month ago, that we will throw the entire notion of legislative oversight out the window, and that this body should become a rubber stamp—or rather, a high-speed printer—for the OMB computers, is to say that our process of government should be abandoned.

As if that were not enough to cause this House to reject any attempts to amend the work of our committees, I would note that, contrary to Mr. LATTA's assertion, the Banking Committee did not ignore the recommendations of himself and the OMB. The Republican members of the committee saw to it that all of those recommendations were presented to the committee—amendments to fold many separate programs into one gigantic free-for-all of a block grant, amendments to increase the amount of rent our low-wage earners and elderly pay in assisted housing, amendments to give more money to big business and take it from a program designed to help the elderly insulate their homes from the ravages of winter, and the administration's early oil profits decontrol. The committee considered all of those amendments, they voted on them, and those amendments lost. They were not

ignored, they were voted against by a majority of the members of the Banking Committee.

The bill that emerged pleased no one. No Democratic members of the committee approved the notion of trading jobs for shelter, or insulation for community redevelopment. Unfortunately, the cuts forced on us by the Gramm-Latta bill left the committee with no choice. For over 30 hours, the members met, debated and listened to testimony and evidence before deciding on the package submitted to the Budget Committee and before this House today. Given the drastic cuts mandated by OMB-Gramm-Latta, the committee believes its package is the best one it could have created.

I urge all Members to support the work of the Banking Committee, and the other committees of this House, and to reject the Latta substitute.

Mr. ROEMER. Mr. Chairman, is what the gentleman trying to tell this House that the Gramm-Latta substitute would increase the amount for Eximbank for 1983 by $5.4 billion and the figure for 1984 by $5.7 billion, for a total of $12 billion? And not only do they not do us the service of cutting it out of the budget but they put it back into these other programs and add it to Eximbank.

We would be better off, Mr. Chairman, if they took it away from other programs and left it out of the budget altogether, in my opinion.

Mr. ST GERMAIN. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. GONZALEZ).

The CHAIRMAN pro tempore. Without objection, the gentleman from Texas (Mr. GONZALEZ) is recognized for 3 minutes.

There was no objection.

Mr. GONZALEZ. Mr. Chairman, I have actually 3 minutes to speak and address myself to the most vital issue involved, which is a question involving the assistance housing programs and most of the HUD jurisdictional problems. I feel that that is quite unjust and unfair, but the Members are doing it to themselves, and it reminds me of an observation of Oscar Wilde's.

After he visited the United States, he was asked, "What do you think of this American democratic process?"

"Well," he said, "it is the bludgeoning of the people by the people for the people."

This is exactly what we are doing. We are bludgeoning each other into insensitivity.

There is no question that if this proposal is adopted sight unseen, unexamined, and still subject to change, this should be called the Stockman amendment. And it is still in the process of being changed.

If this is what the House has already opted to do it itself, there is not much we can do.

I oppose the Stockman substitute as it affects housing and community development programs.

We are being asked to buy a substitute whose contents are not known, and which are subject to change at the whim and command of Mr. Stockman. We are being asked to buy radical program changes, and not just dollar reductions. These are changes that have never seen the light of day, that have never been scrutinized in any forum outside the cellars of OMB, and that have been placed in the substitute without consultation even with the minority Members who are its theoretical creators and advocates.

What we do know of the Stockman substitute is all bad, and worse than bad. It takes from the poor in order to give to some of America's biggest corporations. It turns a carefully constructed, bipartisan community development program into another form of general revenue sharing. It will result in the rapid deterioration and probable bankruptcy of public housing authorities. And that is only the beginning. It destroys the only program we have to weatherize homes, thereby saving energy and precious money for poor people. It dismantles programs to rehabilitate existing housing. It destroys what little momentum we have to provide for the construction of any kind of housing. No one knows what else the substitute contains, no one except the geniuses at OMB who know nothing but contempt for the legislative process, as they demonstrated by their arrogant disregard for even asking Republicans what they wanted. The housing and community development title of this substitute is a true pig in a poke, and no Member should vote for it. Those who are loyal to the Republican Party are being asked to cast their votes out of total and blind obedience, to prove their true zeal. But those who understand that no wise adult signs a blank piece of paper should not vote for this substitute, which is simply a contract that nobody has read, a contract that Stockman has handed down and demanded with imperial majesty that all of us subscribe to.

What little we have been able to find out about this substitute suggests how bad it is.

Consider the community development block grant, which the substitute radically alters.

I remind the House that the existing program was established in a bipartisan effort in 1974 after some 25 years of experience with several categorical community development and neighborhood conservation programs. It represented the careful consideration of Members from both sides of the aisle as to how best important national objectives could be achieved while providing localities wide discretion as to the means for achieving them. Twice since its enactment, the Congress has reviewed and refined the existing program with overwhelming support of small and large communities throughout the Nation. These communities are not calling for a wholesale dismantling of the existing program nor of its underlying, bipartisan philosophy.

A second point to consider is that both in subcommittee and full committee this year almost identical amendments were offered and were soundly turned down. The committee could not accept the arguments offered in support of the administration proposal. They claim, in absence of supporting evidence, that the proposed restructuring of the program was necessary for the effective and efficient administration of Federal community development assistance. In fact, this is nothing more than a thinly veiled attempt to reduce drastically the overall amounts available for block grants and related community development activities and to make a general revenue sharing program out of anything left remaining. In response to Gramm-Latta I, the committee significantly reduced overall spending without gutting the underlying philosophy of the existing community development assistance program and without turning it away from the needs of distressed communities and disadvantaged, poor and elderly families.

As I understand it, the substitute provides for folding into the community development block grant program the activities that under existing law provide the following forms of community development assistance:

Low-income home repair loans under section 312—a program that since 1965, with the exception of the Nixon moratorium served well to assist families to make repairs to their homes so that they might be brought up to minimal standards in neighborhoods that are being revitalized. The substitute will terminate this program. It will not even allow the recaptured commitments nor the amounts that have been repaid by former borrowers—at no new cost to the Government—to be used for future home repair loans.

Urban development action grants would also be folded into the community block grant program—albeit, that the administration proposes a set-aside for this program for 1982. This set-aside was a sop—thrown out to buy votes for the substitute package. Remember that the administration originally did not advocate such a set-aside, but instead advocated the termination of this program. As soon as the President got an unfavorable reaction to this, he changed his tune. High principle, that he would have had us believe was the driving force behind his pro-

posals, went out the window in the place of political expediency.

What is the effect of this particular fold-in? Can we expect that with fewer dollars but with no less a demand for a variety of community development activities, local governments will be able to allocate substantial portions of their community development funds to the highly leveraged developments that the action grants funded? No way. If the choice lies between a neighborhood center for the elderly or street improvements for low-income housing areas and action grant-type activities, you can expect that the action grant activities will be dropped. Indeed, such a choice will be correct, but the economic development activity and the jobs that would result from the action grant activity will be lost. For every dollar of action grant lost, $7 to $9 of private investment will be lost. Is this result worth the no-strings-attached approach that seduces some local governments to support the fold-in concept? The answer, plainly, is "No."

Planning assistance under section 701 would also be folded in. This is an easy target because it lacks a constituency, but it is not any less important. The fold-in scenario suggest that even in the face of the extreme competition for more people-oriented community development activities, localities will use community development funds for comprehensive planning. Do you believe this? I do not. This program also funded planning activities at the regional level and the so-called A-95 review. This last element is overlooked in the chaos of the last few days. But let me remind you that this important review function has been killed by Crown Prince Stockman so that there will no longer be a means available to the States and local governments to assure that physical development activities proposed by the several governmental jurisdictions, including the Federal Government, will not be duplicative or will not result in having adverse effects on the other jurisdictions in the area that they will be constructed. We all know the price that has been paid because of unplanned growth and development. Are we now saying there is no need for planning? 701 provided a small but significant impetus to keep local planning, if not on the front burner, then at least on the stove. I suggest that it will cost us far more to kill 701 than the small amounts we would have spent on it under the original subcommittee proposal.

In addition, the substitute would, in effect, expect that the Economic Development Administration public works grant and low-income weatherization assistance activities also be funded through the revamped community development block grant program.

As I have pointed out, these fold-ins and expansions of community development block grants have serious substantive shortcomings, but what makes the proposal even more deplorable is that what was expected to be funded at more than a $5 billion level is now expected to be carried out at a $4.166 billion level. Early in the session, I pointed out that Mr. Stockman would have us believe that less is more. I repeat that today. But I say we know better.

In addition to the fold-in and cutback, the substitute would permit a major element of the existing community development program to be run by the States. This proposal suggests that the States are more responsive to the local governments than the Federal Government, and therefore, can better serve them. If this is the case, why is it that the subcommittee received more correspondence than at any other time pleading that the small cities program not be turned over to the States?

This small cities proposal was offered to the committee twice and resoundingly rejected twice. As with the entire proposal, this portion is no less than an attempt to gut the bipartisan targeted assistance philosophy of the existing community development assistance approach and turn it into general revenue sharing. I urge my colleagues to note that HUD Secretary Pierce testified to the committee that he believed that only a few States even had the capability of administering this program. Remarkably perhaps, these communities, that corresponded with us and those that testified before us, were not seduced by the promise of no-strings-attached funding. They did not find the strings in the existing program onerous; in fact they said that the existing system works well. They recognized that the expertise found in the HUD regional and area offices would be difficult to duplicate in the States. They were concerned that such duplication in each State would be costly and could perhaps reduce the amounts available for local allocation. Most importantly, all existing requirements would be dropped under the substitute. There would be no targeting requirements and no accountability. We should heed the advice of these small communities and not subject their funding proposals to the inevitable politics of 50 State houses. Let us be concerned that the funds we appropriate for this important program not become a slush fund for Governors.

I want to emphasize that any sweeping restructuring of the community development program warrants full congressional consideration—study, hearings and debate by both bodies of the Congress before being enacted. The full impact of its effect on the distressed cities of the Nation and on the low- and moderate-income and elderly beneficiaries of the programs must be taken fully into consideration before changing the existing approach. There have been no analytical studies, and little public testimony to support the sweeping and far-reaching changes proposed in behalf of Mr. Stockman. It would be entirely irresponsible to legislate in this manner.

Let us not turn our backs on all the bipartisan work over the years that has gone into developing a model program for our communities. Let us keep intact this good CDBG program that our cities and towns support. I urge that the House oppose the community development provisions contained in the substitute.

Assisted housing is drastically affected by the substitute.

I urge my colleagues to join me in defeating this substitute, which unconscionably cuts assisted housing funding and undermines this Nation's ability to provide decent housing for the low income and elderly. It will thwart efforts to preserve the existing public housing stock and result in substantial rent increases for the very poor and elderly, who perforce will become even more miserable than they already are.

I urge defeat of this substitute not only because of the havoc it will wreak upon the poor and elderly of this Nation, but because it destroys the rightful ability of the authorizing committees of this Congress to decide how to achieve the savings mandated by reconciliation. Let us be clear that the Banking Committee not only met, but exceeded, the spending reductions mandated by the budget resolution. It did so in a careful and conscientious manner. But now it is being, in effect, told that these reductions are not acceptable because every "i" and "t" are not dotted and crossed to OMB Director Stockman's satisfaction.

Let us be very clear that the housing programs have already taken a very substantial cut in this reconciliation process. Of the $13.2 billion in cuts achieved by the Banking Committee, nearly 70 percent, or $9.1 billion, was cut from the assisted housing programs. The committee level reduces these programs by 33 percent from last year's authorization levels. Yet, now we are being told this is not enough. The Republican substitute would cut an additional $2.2 billion, for a total reduction of $11.2 billion. It would reduce the number of units assisted in 1982 from 176,000 to 158,000. This amendment would ignore the fact that in some communities waiting lists for public housing are as long as 8 years, and that rental vacancy rates in many cities are as low as 2 to 3 percent. The additional cuts imposed by this amendment fly in the face of this Nation's demonstrated need for higher

levels of assisted housing. Despite the fact that this country spends the lowest proportion of its GNP of any industrialized nation on housing programs for lower income residents, this amendment would require even further cuts.

The Republican substitute would also further reduce by 25 percent funds to renovate existing public housing projects, many of which are 30 years or older. It would cut the heart out of the public housing modernization program, and thwart efforts made by this committee and this Congress to preserve existing housing resources that have been built up at a considerable cost to the Federal Government.

The Republican substitute would also increase tenant rents in assisted housing from 25 percent of adjusted income to 30 percent of adjusted income. It would provide the HUD Secretary with absolute discretion to determine what adjustments to income would be made. The effect of this increase would be to cause substantial financial distress to many of the families who depend upon Federal housing programs. The reason for establishing a Federal housing program for low-income families is that many poor people cannot find decent and sanitary housing at rents they can afford. The fact that poor families who are not participating in the Federal program are paying more than 25 percent of their income for housing is not a justifiable reason for raising rents for federally assisted families. The Federal programs were designed to help these families lower their housing costs so that their limited incomes may be used to cover other essential needs such as food and child care costs. Every shred of evidence shows that public housing needs to be expanded, not cut back and made more expensive.

Let me make clear that 40 percent of all public housing residents are elderly families whose mean adjusted income in 1979 was a grand $3,510; 44 percent of the section 8 tenants are elderly families whose average income in 1979 was $4,076; 74 percent of the section 8 families are headed by females, and in 1979 those families had an average income of a whopping $4,441. By giving the HUD Secretary absolute discretion to eliminate some of deductions to income presently allowed by law—such as extraordinary medical expense, and child care costs necessary for employment—and by raising the rent-to-income ratio to 30 percent, many families could be faced with a 15- to 25-percent rent increase in a single year! Actual data provided by the Public Housing Agency in San Antonio, Tex., reveal probable rental increases ranging from $5 to $36 per month. These increases would be in addition to any increases in rent due to increases in income that would occur under existing law. In addition, by eliminating the deduction for child care costs necessary to allow a family to work, the greatest rent increases would be imposed on working families with marginal incomes. Financially vulnerable as the families in assisted housing are, the increases resulting from this amendment could be devastating.

Although this substitute claims to achieve a cost savings, it is very important for Members to be aware that the administration's increase in tenant rents might well cause the cost of the assisted housing programs to increase. HUD has admitted that this could happen since those working poor families and the elderly who essentially pay the highest rent might opt to move out into cheaper, albeit substandard housing if their rents are increased. Thus, with projects losing their higher paying tenants, their subsidy requirements could actually escalate. This is a very real possibility that was brought to the attention of the committee during the testimony public housing tenants made before the Housing Subcommittee in April of this year.

Finally, this substitute would also delete the requirement in existing law that over the next 4 years HUD use assisted housing funds to amend rent supplement contracts to provide for rent increases. This provision was adopted in last year's housing bill after careful and thorough consideration. It represents a fair and reasonable approach for dealing with a problem that has plagued the rent supplement program since 1976.

The effect of this substitute would be to stretch out the resolution of the rent supplement problem not over 4 years, but over 12 years. This Republican substitute represents an extremely inefficient and costly means of solving a problem, whose resolution is long overdue. It is very ironic that our Republican colleagues, who are demanding significant budget reductions, are opposing this reasonable and cost-effective means for addressing the rent supplement problem.

I also must strongly oppose the effort to terminate the Department of Energy low-income weatherization grant program. This is the only Federal program that provides direct assistance to poor families who are trying to reduce their annual consumption of residential energy. Assistance is available only for families whose income is below 125 percent of poverty or $10,500 for a nonfarm family of four.

Between 1978 and April 1981, this DOE program has weatherized the homes of almost 656,000 poor families. Approximately 38 percent of those families were elderly families whose annual income was less than $7,000. After insulation, storm windows, and calking were installed for those families, their annual fuel consumption was reduced by 23 percent.

I fail to understand how the administration or how my colleague can justify terminating this program at a time when energy costs are accelerating through the roof and when the DOE bottlenecks that have hampered this program in the past have finally been removed. The program is now running smoothly. To terminate the program or replace it with a State energy block grant will assure that no additional homes will be weatherized for the next 2 years. Based on past experience with the Department of Energy, it will take at least 1 year for regulations to be promulgated and another year for a State to create an energy block grant program. Are you prepared to turn your back on our vulnerable poor and elderly families for those 2 years?

The Federal tax credits for energy conservation investments for middle- and upper-income families have been endorsed by the administration. In 1979 alone, 4.8 million of those families received over $435 million in tax credits. Equity demands the continuation of the primary energy conservation program designed to assist poor families who have a tax liability. With the $193.4 million program proposed in the Budget Committee's reconciliation measure, we will be able to assist 175,000 additional poor families. I, for one, cannot justify terminating that program; I cannot turn my back on a single family in need of weatherization assistance. I urge you to defeat the substitute, which embraces help for those who can pay and denies help for those who cannot.

President Reagan has promised the American people time and time again that he would not damage the safety net that he said would protect the poor from his budget cuts. Now we are looking at a Republican substitute that will drastically impact on the poorest in our Nation and make even further holes in the already fragile safety net. The truly needy will not be helped by this substitute. They will be crushed by it.

Mr. ST GERMAIN. Mr. Chairman, I yield myself 1½ minutes, and I yield to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Chairman, I appreciate the gentleman's yielding.

I just want to point out for the benefit of the House and the Members that the gentleman from Ohio is quite right. There are no surprises in here. These are all items that were considered in committee and they were defeated; as they should have been defeated.

I do want to commend the gentleman from Ohio Mr. STATON the ranking Minority Member for adding no provision in the banking title not con-

sidered in committee. This measure however, kicks out $200 million in the low-income weatherization program, and limits the consumer cooperative bank. It raises tenant income from 25 to 30 percent for assisted housing, whose benefits go 40 percent to people who are over 60 years of age.

Although it has been almost impossible to find out exactly what is in this total substitute, the provisions of which I am cognizant will make sweeping changes in programs. In some instances, Members will be voting on proposals that have not been discussed or studied by the relevant committees. In other cases, proposals have been included in this substitute which were rejected by a bipartisan majority of the committees of jurisdiction. While reasonable men can differ over policy matters, nobody can accuse the minority and their Democratic friend of not being good soldiers. When Commander in Chief Stockman says jump, you do not ask why. You do not even ask if the changes will be good for your district, you only ask how high and how often.

Supporters of this substitute have really acted in bad faith. During consideration of the first budget resolution, this House was told: "Don't worry about the specifics of Gramm-Latta; the budget figures are only targets and the committees can make the policy changes where their knowledge and expertise direct as long as the budget savings are realized." Every committee in this House took the authors of the substitute at their word. In an extraordinary action, the committee met the budget savings targets and in fact, went beyond those targets by $2 billion.

Now, the same Members that supported the first Gramm-Latta substitute, say that because they do not like the committee recommendations, they are going to cast aside a month's work by every Member of this body so that OMB gets exactly what it wants, down to the last comma.

Every Member of this body spent many agonizing hours in committee trying to determine the most fair and equitable way to reach the budget targets. Now the authors of this substitute are telling you that your work and your expertise are going to be ignored. This substitute is not merely an attack on the poor, the handicapped, the young, the elderly and the working people of this country. This substitute is an attack on the foundations of this Congress and on the nature of representative government itself.

To demonstrate this, I would like to examine what effect this substitute will have on the programs of the Banking Committee. This committee spent literally hundreds of man-hours to determine where we could cut one-third of our budget. Not a single program escaped the scrutiny of the committee as we cut $13.2 billion out of a $48 billion budget.

I sincerely wonder if the membership knows what they are being asked to support. Do you know that you are being asked to cut housing assistance by a greater amount than President Reagan requested and fund the Eximbank at a higher level than Reagan requested? So with this action, you effectively take money from housing programs for the poor, handicapped, and elderly and provide subsidies for corporations.

I wonder how many Members realize that this substitute dramatically changes the distribution formula for CDBG. The traditional 80 to 20 percent split between entitlement communities and nonmetropolitan small cities is changed to 70 to 30 percent. Under the guise of streamlining the administration of this program, this substitute will shift the administration of the small cities program to the States. Even though only a handful of States have any experience with community development programs, you are being asked to believe that 50 administrative structures will be able to perform more efficiently than a single administrative structure. And you are being asked to take this tremendous leap of faith over the objections of almost every single group that testified before our committee.

The substitute contains a provision rejected by the Banking Committee to allow CDBG funds to be used to directly benefit business and remove requirements for citizen participation and the current strong requirement that the primary purpose of these funds must be to assist low- and moderate-income persons.

I wonder how many of my friends from cold weather States realize that the substitute eliminates the low-income weatherization program.

How many of you have neighborhoods in your district that have improved dramatically by the neighborhood self-help development program and section 312 rehabilitation loans? This substitute eliminates those programs.

Finally, I wonder how many of you have voted in support of the Duncan amendment which would have prohibited rent increases after a COLA in social security. This substitute raises the rent for everyone in assisted housing, including the elderly, to 30 percent of income. And if that is not bad enough, it also changes the way in which a tenant's income is determined. I sent copies of this proposal to my housing authorities and asked them to determine what impact it will have on their tenants. The combination of the rent/income ration change and redefinition of income will mean that people in your district will have a rent increase of 20 to 30 percent and even 40 percent in the first year.

So the fact of the matter is that the money diverted goes to Eximbank, with the loss of 25,000 assisted housing units, I think, is a very severe loss indeed.

Based on what I read in this substitute, the destruction of the UDAG infrastructure will all but insure the loss of the UDAG program which I think has been one of the most successful programs, leaving it at the Secretary's discretion to use the funds for a variety of different purposes, but without the successful guidelines that we have developed in the last 4 years.

I urge my colleagues to defeat this substitute. You are being asked to vote for something you have not even seen, much less studied. You are being asked to throw out the work of every committee in this House. And you are being asked to dramatically change the priorities of this Government without a decent amount of study and knowledge.

Mr. Chairman, the committee accepted their responsibility under Gramm-Latta I. Now it is time for the supporters of that substitute to live up to their end of the bargain an recognize the knowledge, expertise and hard work of each committee in this House.

Ms. OAKAR. Mr. Chairman, will the gentleman yield?

The CHAIRMAN pro tempore. The Chair will state that the gentleman for Rhode Island (Mr. ST GERMAIN) has recovered his time, and his 3 minutes have expired. The gentleman from Rhode Island now has 1½ minutes remaining.

Mr. ST GERMAN. Mr. Chairman, I yield 30 seconds to the gentlewoman from Ohio (Ms. OAKAR).

The CHAIRMAN pro tempore. Without objection, the gentlewoman from Ohio (Ms. OAKAR) is recognized for 30 seconds.

There was no objection.

Ms. OAKAR. Mr. Chairman, I thank the gentleman for this time, and let me just quickly tell the Members that the part of the amendment that angers me the most is this: It happens to relate to the increase in rent for our elderly, 800,000 of whom live in subsidized housing.

These are the same people for whom, under the Gramm-Latta substitute, they want to reduce the minimum benefit by up to 40 percent. These are the people who are going to see their rent increased and their social security checks decreased. Where is the humanity in this substitute?

That is why, Mr. Chairman, I rise in strong opposition to President Reagan's Gramm-Latta budget proposal. Mr. Chairman, this proposal tests the conscience of this Congress. Mr. Chairman, parts of this proposal border, in my judgment, on being illegal. There

are many reasons why, but let me cite just one reason—the unconscionable cuts in social security benefits. There are over 1.6 million people in the State of Ohio now receiving social security—833,085 are retired workers; 132,675 are disabled workers; 170,663 spouse benefits; 209,838 are children and 256,687 are widows and widowers—almost 60 percent of these people are 72 and over.

Specifically, the elimination of the minimum benefit and student benefit will pose a severe hardship on hundreds and thousands of American families.

With respect to the elimination of the minimum benefit: This benefit is awarded to workers who would receive a lesser amount based on their low earnings record or short-term or sporadic work history. More than 3.1 million Americans will see their benefits taken away almost immediately. The average individual will see his or her minimum benefits cut back by 40 percent, and who are these people? Eighty-five percent of the individuals affected by this Reagan proposal are women who are the mothers, grandmothers and great grandmothers of this Nation. Twenty-five percent of those affected by the reduced minimum benefit are between the ages of 75 and 90 and, most do not qualify for SSI in which a person cannot have more than $1,500 in additional assets in order to qualify.

Indeed, most of these people getting the minimum benefit have no other sources of income and no opportunity for any other income—900,000 of these people are elderly women. The number of those getting a social security benefit and another form of pension is minimal—the Social Security Administration says that only 12 percent of minimum beneficiaries have public pensions and of these, only 6 percent have Federal pensions. SSA data shows that 22 percent are receiving a pension of less than $300 a month. Yet, they will not be eligible for SSI under the Reagan proposal. At least 2.5 million persons who are now receiving the minimum are presently ineligible for SSI, and no individual who receives more than $258 would get any SSI—they are not quite poor enough. Those who do qualify may well choose improverishment over the stigma of applying for welfare—currently, one-half of minimum beneficiaries eligible for SSI choose not to apply for welfare.

Now with respect to the elimination of the student benefit: This benefit is presently extended to children of retired, deceased, or disabled workers if they are in school full time. In Ohio, nearly 34,000 students received these benefits—6,300 are in Cuyahoga County. The administration's proposal would eliminate awards to new students starting in June 1982, and would reduce payment of the benefits to current students by 25 percent—this would mean that 700,000 current recipients would have their benefits reduced by 25 percent each year and 500,000 students who would be newly entitled would be totally eliminated. Almost two-thirds of all student benefits went to students last year in families with annual income under $15,000 and 32 percent of all benefits went to students of families with incomes under $5,000. Additionally, cuts by the administration to the chief student loan and grant programs will make it impossible—or near impossible—for these students to get a college education.

Let me remind my colleagues, the social security insurance plan is a contract between our Government and those who paid into the system. It is a sacred trust fund depended upon by millions of Americans. Mr. Chairman, this trust fund should not be commingled with the unified budget. Historically this was never the case until 1969, when changes allowed the trust fund to be included as part of an overall budget. Even so, that trust fund belongs to the contributors, not those Members of Congress, and the President, who would break the contributor's contract by removing billions of dollars' worth of funds in order to meet the cut desired by the President. It is an improper and, I believe, illegal means to an end. In effect, our older Americans who rely on this system and women who are living on social security and are attempting to send their children to college will be seeing their benefits reduced. Would any other trust fund or insurance policy in our country be dealt with so deviously?

Would any insurance company dare reduce benefits carte blanche without proper consultation with its customers? Our senior citizens are the lifelong customers of our social security system. They are being cut off without any input on their sacred trust fund.

Furthermore, I am disturbed that the administration is using more optimistic assumptions as a basis for the administration's tax proposals, while pessimistic assumptions are being made regarding social security. How do these economic assumptions interface with the social security proposals?

Earlier this month, the Aging Committee's Task Force on Social Security and Women, which I chair, held hearings on the impact of the administration's proposed social security cuts. The large majority of witnesses expressed the belief that the social security program was not in a state of bankruptcy—indeed, its problems are the short term.

Mr. Chairman, I am deeply distressed that Congress is willing to take money out of this trust fund which gives economic security for our people and take this money and put it into the hands of the armament industry. Our social security trust fund is being used to pay for guns, tanks, bombs, and carriers in amounts so tremendous that even the Defense Department acknowledges it will have a hard time spending the billions of dollars of increase it will receive from the checks of our elderly.

For those who vote for the Reagan Gramm-Latta substitute, remember: If you do this at the expense of people who built this great country and who ask for nothing more than to receive what their contract calls for—if you vote for Gramm-Latta, then, Mr. Chairman, something terrible has happened to the conscience of this Congress.

Mr. ST GERMAIN. Mr. Chairman, I yield 30 seconds to the gentleman from New York (Mr. GARCIA).

The CHAIRMAN pro tempore. Without objection, the gentleman from New York (Mr. GARCIA) is recognized for 30 seconds.

There was no objection.

Mr. GARCIA. Mr. Chairman, I thank the gentleman for yielding this time to me.

I would just like to say to my colleague, the gentleman from Ohio, that yesterday we received assurances from him that there would be no cutback in public housing subsidies. I know that he did not tell me a lie. He said that to me straightforwardly. And yet today we find that in fact there is a substantial cut.

Now, obviously the Members on this floor who are supposed to be the ranking minority members of the various committees are not being told what is in this package, and it is coming to us all at one time.

So it seems to me, Mr. Chairman, that even that Members on that side of the aisle have no idea of what is in this package.

Mr. ST GERMAIN. I yield 30 seconds to the gentleman from the District of Columbia (Mr. FAUNTROY).

The CHAIRMAN pro tempore. Without objection, the gentleman from the District of Columbia (Mr. FAUNTROY) is recognized for 30 seconds.

There was no objection.

Mr. FAUNTROY. Mr. Chairman, I appreciate the gentleman from Ohio asking us to lower our voices and to reflect upon the fact that there are only two short but substantial changes between the House Banking Committee version and the——

The CHAIRMAN pro tempore. The time of the gentleman form Rhode Island (Mr. ST GERMAIN) has expired.

Mr. REGULA. Mr. Chairman, I yield 8 minutes to the ranking minority member of the Committee on Education and Labor, the distinguished gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Chairman, I thank my colleague for yielding to me at this time.

Let me say at the outset that I have listened to the entire debate, and I note a certain amount of upsmanship. We are all trying to figure here and there where the majority got a couple of points here and where the minority got a couple of points.

Let me say as the ranking minority member of the Committee on Education and Labor that I would concede to my friends on the majority that there are a couple of areas where they have made points on us and there are a couple of areas where we have made points on them but in the aggregate we are very close to the same general figures.

We obviously do a few things that they do not. We have worked with the majority and have tried to answer their questions. I hope that the gentleman from Wisconsin (Mr. OBEY) is on the floor. The gentleman raised a question on page 13 of the Republican substitute, and he said, "What in the world are you doing to the Bankhead-Jones Act?" Obviously he had not referred to the Jones bill which is the Democratic recommendation, because I can answer by saying that the Jones bill does exactly the same thing on page 52 as the Republican substitute does on page 13. They read identically, word for word. The next question he raised, he jumped to the amendments to the Elementary and Secondary Education Act on pages 19 and 20 of the Latta substitute. All we have to do is refer to pages 58 and 59 of the Jones propsoal, where they have exactly the same lanaguage.

We cut $40 million more out of a $3.5 billion authorization for ESEA-I than they do. Our authorization figure is $3.544 billion; their authorization figure is $3.504 billion.

I would suggest to my colleagues on the Republican side that all they have to do, when the Democrats ask a question, is get out the basic model that we worked from; that is, the Jones bill. On the minority side we took the majority proposal. We went line-for-line, and in some cases obviously we changed figures.

Virtually every question that my friend, the gentleman from Wisconsin (Mr. OBEY), raised could be answered by comparing the substitute that the Republicans have with the original Jones language. And if they want to go line-for-line when they have some time, we will be glad to answer.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. We only have 8 minutes remaining, but I would be glad to answer on the gentleman's time.

Mr. STANTON of Ohio. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Ohio.

Mr. STANTON of Ohio. Mr. Chairman, I appreciate the gentleman's yielding, because the gentleman from New York made a statement a minute ago, and I think for the record he would like to correct it.

Mr. GARCIA. Mr. Chairman, If I may and if the gentleman will yield, I do owe the ranking minority member of the Committee on Banking and Housing an apology, because I was wrong. The money is there, and I apologize to the gentleman.

Mr. STANTON of Ohio. Mr. Chairman, I thank the gentleman from New York (Mr. GARCIA).

Mr. OBEY. Mr. Chairman, since the gentleman used my name, will the gentleman from Ohio (Mr. ASHBROOK) yield?

Mr. ASHBROOK. I will yield very briefly. I would be glad to discuss it on the gentleman's time—we only have 8 minutes remaining.

Mr. OBEY. Mr. Chairman, could the gentleman tell me by how much they have reduced the Pell grants which these students who are losing social security student benefits are supposed to be able to apply for?

Mr. ASHBROOK. We reduce it $711 million in fiscal year 1982.

Mr. OBEY. That is $711 million?

Mr. ASHBROOK. Right.

Mr. OBEY. You are reducing it by that amount in 1 year?

Mr. ASHBROOK. That is correct.

Mr. OBEY. Where are the students who are losing their social security benefits supposed to go? Where can they turn if they cannot get benefits they previously relied on and the Pell grants under the student aid programs are also reduced.

Mr. ASHBROOK. That is only $150 million more than the gentleman's side is reducing the same program.

Mr. OBEY. Over the 3-year period, is it not over $600 million that you reduce the Pell grants below the committee version?

Mr. ASHBROOK. Mr. Chairman, I thought that my colleague had some questions on what he had raised before.

Mr. OBEY. Mr. Chairman, I would settle for an answer to this question.

Mr. ASHBROOK. It is proper; they will be eligible for GSL.

Mr. OBEY. Is the gentleman not cutting GSL by $113 million?

Mr. ASHBROOK. Both sides are cutting GSL.

Mr. OBEY. And that is $113 million below the committee version?

Mr. ASHBROOK. Below the committee version; that is right.

Mr. OBEY. The gentleman is cutting below the committee version on GSL, below the committee version on Pell grants, and below the committee version on student benefits for social security. Where are these kids, 80 percent of whose parents are dead or disabled, supposed to go when they lose their social security benefits?

Mr. ASHBROOK. We feel we have covered all existing needs. We have made some changes that would apply to the loans—the needs test, the family needs test. We can feed about 100 different things into the computer and all come out with different figures.

Mr. Chairman, I absolutely think our version is the preferable one. I do not think it is that much different from the committee version. We are only a few hundred million dollars apart.

Mr. GRAMM. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. On my 8 minutes, let me yield to my friend, the gentleman from Texas.

Mr. GRAMM. Mr. Chairman, I thank the gentleman for yielding.

A rumor has been spreading like wildfire on my side that Gramm-Latta II knocks out the Bankhead-Jones provision for the research centers in the land grant colleges. I have related that to H.R. 3964, the Jones bill, and in fact that provision is identical—it is exactly the same.

Mr. ASHBROOK. It is exactly the same. We both have it.

Mr. GRAMM. Mr. Chairman, will the gentleman yield further?

Mr. ASHBROOK. Certainly.

Mr. GRAMM. And, Mr. Chairman, we are talking about a special fund, not the basic operative grant, but we are talking about a special fund for $4,360,000 established in 1972.

So is it not a fact that: First, this provision was in the committee bill? and second, that it does not cut the basic funding under the Bankhead-Jones bill for research in our great land grant universities? And I might say that I represent the largest one in America, by the way, Texas A&M.

Mr. ASHBROOK. Mr. Chairman, let me say to my colleague that we acceded to the original Democrat request, and the Republican version, as reflected here, is precisely the same, word for word. It is on page 52 in the Jones bill and on page 13 in the Latta substitute.

Mr. GRAMM. Mr. Chairman, if the gentleman will yield further, I would like to make one comment. It seems to me there is a concerted effort to spread misinformation. Obviously that assertion has been verified.

Mr. ASHBROOK. Mr. Chairman, in the remaining time, I want to discuss the education issues raised by the Committee on Education and Labor title in the Latta amendment, particularly those relating to education program consolidation, because that is the bill I authored and which already has been approved by the other body.

First of all, the consolidation in Gramm-Latta demonstrates just how

misinformed my friends on the other side were when they charged yesterday that these provisions were drafted by the administration. I introduced the basic consolidation bill last July in the 96th Congress, and reintroduced it the first day of this Congress as H.R. 54. That was redrafted after extensive consultation with school administrators and other interested parties from all parts of the Nation.

Numerous technical improvements were made in H.R. 54 as a result of this detailed review by experts in Federal education program operation. It was introduced with these changes on June 17 as H.R. 3941, and included among the cosponsors the ranking Republican members of our four subcommittees which deal with education and training programs. The most important of the changes was to require that at least 80 percent of the funds under the consolidated programs—the non-title-I funds—be distributed to local school districts on a formula basis. The formula takes into account conditions, such as concentration of poverty and sparse rural populations, which create extra costs for some school districts.

I said that this proposal, as it appears in Mr. LATTA's amendment to H.R. 3964, was extensively reviewed. I think that, in fact, school administrators and officials had more detailed input into this proposal than they would ever be given in the normal procedure of our committee. Let me be specific. Among those who reviewed this proposal line-by-line and made suggestions which are incorporated in it are the following:

The assistant superintendent of schools for Los Angeles and a special committee of the California Association of School Administrators.

The State-Federal programs director of the Ohio State Department of Education and the legislative director of the Buckeye Association of School Administrators.

The Colorado State Department of Education and a committee of local school administrators in Colorado.

Superintendents, deputy or assistant superintendents of the following school districts: Chicago; Detroit; Cleveland; Dayton; Hamilton County, Ohio; Norfolk, Va.; Memphis; and Philadelphia.

The U.S. Catholic Conference, which also consults with representatives of Lutheran and Orthodox Jewish schools.

This by no means exhausts the list of individuals and organizations consulted or who gave us a detailed review of the legislation.

My proposal, as found in the proposed amendment, has two parts. Title I of ESEA is kept completely separate and unchanged from the existing title in distribution formula, basic structure, and purposes. We do remove those sections of the present law which give detailed instructions to local school officials on procedures to implement the programs—instructions which add almost all of the estimated 5 million hours of useless paperwork required each year to administer the program.

We also retain provisions for the participation of private schoolchildren in title I exactly as in existing law. We retain—but with changes suggested by numerous school administrators—requirements for maintenance of State and local effort and for maintaining comparable non-Federal expenditures for title I schools and other schools within a district. We prohibit supplanting State and local funds with Federal funds.

Similar protective language is retained in the rest of the act. I stress these points because they are important to educators and also sharply distinguish this proposal from the administration bill.

The rest of the bill is a consolidation of all the rest of the titles of ESEA—except bilingual education in title VII—and three programs from other education acts. Those are the teacher corps and teacher centers programs from the Higher Education Act, the precollege science teacher training program administered by the National Science Foundation, and authority parallel to that in title IV of the Civil Rights Act for teacher training and advisory services for schools with desegregation problems. We do not, however, amend the Civil Rights Act in any way or transfer functions from it.

It does not amend or affect the Education of All Handicapped Children Act, the Adult Education Act, the Headstart-Follow Through Act, the Vocational Education Act, the Alcohol and Drug Abuse Education Act, the Indian Education Act, or the Bilingual Education Act, among others under which Federal funds flow to elementary and secondary schools. It is a modest proposal, but a well-constructed one which will make an important contribution to education in this country.

The allegation has been made by the majority leader that the Gramm-Latta substitute abolishes the community action program. This allegation is not accurate. What Gramm-Latta would do is to consolidate the community action program into the social services block grant. Under this block grant, funds corresponding to the current operations of the Community Services Administration would be available to State and local governments for use in several major social services areas. Included amongst these areas are title XX of the Social Security Act, the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, and the Runaway and Homeless Youth Act. We anticipate that State governments will be as sensitive to the needs of economically disadvantaged persons as has the Federal Government since 1965. We would anticipate that community action operations would continue at roughly their current level in most States. We note in passing, that the majority in its recommendations made significant reduction in budget authority for the Community Services Administration. Their cuts total $181 million and would reduce Community Services Administration from $524.7 million which the agency received in appropriations in 1981 to $406.1 million.

With regard to the majority leader's reference to the repeal of Randolph-Sheppard I want it understood that the Republican substitute does not repeal Randolph-Sheppard—it has never repealed Randolph-Sheppard. The reference to Randolph-Sheppard is a conforming amendment from an early draft of the social services block grant when vocational rehabilitation was included in the social services block grant. When vocational rehabilitation was dropped from the block grant, that conforming amendment should have been dropped also. You also need to know what the conforming amendment says so you will know that it was never our intention to repeal this act:

> In any state having approved plan for vocational rehabilitation pursuant to the Vocational Rehabilitation Act or the Rehabilitation Act of 1973, the State licensing agency designated under paragraph 5 of subsection (a) of this subsection shall be the state agency designated under section 101(a)(1)(A).

This very minor subsection of Randolph-Sheppard is all that was ever considered for removal from that act and when we removed vocational rehabilitation from the block grant, even that became unnecessary. This is a very good example of trying to make a mountain out of a mole hill.

Mr. COLEMAN. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to my colleague, the gentleman from Missouri, who has done so much work on this committee.

Mr. COLEMAN. Mr. Chairman, I would just like to clear up one statement. I have been waiting all this time to get a chance to address the chairman of the Budget Committee, the gentleman from Oklahoma (Mr. JONES). I would like to direct the question to him, because that is where the confusion came. The gentleman did make a statement, and I would like to have him get an opportunity to correct it. When the gentleman appeared in the well, he made the statement that the Bankhead-Jones bill under our subsititute was wiped out, as if there was nothing done in his bill. I would like to have him correct the record.

Does not the committee version on page 52, that is, of the gentleman's bill, have zero funds?

□ 1545

Mr. JONES of Oklahoma. It is eliminated in the substitute and the same provision is in the other.

Mr. COLEMAN. I thank the gentleman—that was where the confusion came.

Mr. Chairman, will the gentleman yield further?

Mr. ASHBROOK. I yield to the gentleman from Missouri.

Mr. COLEMAN. Mr. Chairman, the difference between the Jones proposal and the Republican substitute is contained in a riddle and the riddle goes like this: "What do the chairman of A.T. & T., the chief executive officer of Exxon and the president of General Motors have in common with a $20,000-a-year factory worker?"

The answer is, "All of them are eligible for guaranteed student loans for their sons and daughters that go to school under the Jones proposal."

Our substitute requires that they have need, that we actually show need before these people get a guaranteed student loan. That is the basis of the difference, but at the same time we are going to be able to save close to $1.3 billion more than what the committee proposal will do.

We feel there has to be a need shown. We cannot just let people walk in and get a $2,500 Government guaranteed 9-percent interest loan, while they can walk down the street and put it in the money market for 17 percent.

What do the chairman of A.T. & T., the president of GM and the chief executive officer of Exxon all have in common with a $20,000-a-year factory worker?

Under current law, and the student loan bill written by the House Education and Labor Committee, they all could receive a federally subsidized student loan to send their children to college.

Frankly, Mr. Chairman, is doesn't make sense to me, or to the millions of Americans who need assistance for college, to allow wealthy families to compete for a limited number of student assistance dollars. That is one of the major reasons why I am asking for the opportunity to substitute my recommendations to those made by the full committee.

In my view, the committee recommendation contains three major failings:

First, the committee proposal fails to make any reductions whatever in loan volume in the GSL program. Under the committee proposal, "convenience borrowing" will continue. No targeting of aid to students with need occurs.

Second, the cost of the committee proposal in fiscal years 1983 and 1984 is significantly higher than the minority proposal. The savings differential in these 2 years is $387 and $845 based on CB cost projections.

Third, the opportunity for abuse, such as the case of a student borrowing $2,500 with no need whatsoever and then investing the proceeds in a money market fund at a profit, will continue under the committee bill. Under the Republican proposal, the opportunity for such abuse will be virtually eliminated.

The substance of the minority proposal represents a sound, carefully thought-out approach. The major provisions of the Republican proposal are as follows:

First, the existing in-school interest subsidy and present interest rates are preserved.

Second, loan eligibility is limited to remaining need, which will be determined through a needs analysis approved by the Secretary of Education. Remaining need is detemined by subtracting the expected family contribution and all other types of student aid or scholarships—summer job earnings, et cetera—from the cost of attendance at the institution.

Third, a minimum loan level of $1,000 is established. Any student who has a small remaining need—of less than $1,000—will be able to get a loan for $1,000. Most banks will not make loans for less than $1,000, because they are not cost effective. This minimum level will insure that students who have a small remaining need will get their money.

Fourth, the needs analysis for the GSL program will be similar to that used for the Pell grant program but for the assessment rate applied to a family's discretionary income to determine the expected family contribution. The Pell program assumes a flat assessment rate to determine the 14 percent expected family contribution. The assessment rate for the GSL program, will be determined by the Secretary of Education at a later date. This need analysis will be more sensitive to the needs of the middle-class families who participate heavily in this program.

Fifth, set a 4-percent loan origination fee on the principal of a student's loan—much like points on a mortgage. This fee will be used solely for the purposes of offsetting the payments the Federal Government makes to the bank to cover the in-school interest subsidy—the Government pays the 9-percent interest on the student loan to the bank while the student is in school;

Sixth, raise the parent loan program interest rates from 9 percent to 14 percent.

Seventh, allow independent students—those with no family assistance—to borrow up to $2,500 under the GSL program—for remaining need—and under the parent loan program for the difference.

Eighth, make changes in the treatment of assets to allow a $10,000 asset reserve from net assets before determining expected family contribution, if assets include a farm or business. This will protect the farmers, who are rich on paper, poor in cash.

Mr. Chairman, this proposal has been fine tuned over the past few weeks to the point where I am confident that any student who has need will be able to borrow for that need. Our provision to set the minimum loan at $1,000 solves the problem of banks not making small loans. Our provisions to let independent students borrow under the parent loan program assures them access to funds over their demonstrated need. Our provision to use a separate need analysis for the GSL program which is more generally targeted toward the middle-class will allow these families to participate.

Under my proposal, it is likely that a student from a family with an adjusted gross income of $20,000 going to a public school—cost $3,600—would be eligible for a loan of $2,275; if the family income were $26,000 the loan amount would be $2,429—no Pell grant here; and if that family income were $35,000, the loan amount would be $1,650. Now, if that student were going to a private institution—cost $6,000—a student from a family with an adjusted gross income of up to $35,000 would be able to get a maximum loan of $2,500—figures from OMB.

Mr. Chairman, this proposal has the support of many people from the higher education community, including that of institutions in your State and mine, Missouri. We have taken the best of the administration's proposal, changed some elements, and added others to come up with a package that I can honestly say will appease the students and the colleges of this country. And we do it all in a way that still achieves significant savings in fiscal years 1982, 1983, and 1984. This proposal will save $1.321 billion more than the one the committee reported out last week. It is fiscally sound, sensitive to the needs of our institutions of higher education, and also sensitive to the needs of our students.

For this reason, I ask that the committee allow such a rule to consider alternatives such as the one being offered by Mr. ASHBROOK and the other ranking Republican members of the Committee on Education and Labor.

Mr. Chairman, I insert the following letter from Secretary Bell:

THE SECRETARY OF EDUCATION,
Washington, D.C., June 26, 1981.

Hon. THOMAS COLEMAN,
Ranking Minority Member, Subcommittee on Postsecondary Education, House of Representatives, Washington, D.C.

DEAR MR. COLEMAN: I am writing this letter to discuss the determination of financial need for the Guaranteed Student Loan program as amended by the Latta alternative.

Under the Latta Amendment, I would be required to promulgate a need analysis system for GSL for the first time. This need analysis will be subject to Congressional approval, as is true with other student aid need analysis systems. As we discussed previously, I intend to promulgate a need analysis for guaranteed loans which will continue to assure the eligibility of students from middle income families and which will be sensitive to various family circumstances.

A need analysis which would assure access to middle income families could be accomplished in a number of ways. I intend for the GSL need analysis to be as flexible and as generous as both the Pell Grant and campus-based need analysis systems. An educational institution could have the discretion to use the Pell Grant need analysis system, the Uniform Methodology system, or any other approved need analysis system as currently authorized in the campus-based programs. In addition to the systems currently approved, I intend to establish a system based on progressive assessment rates on parental discretionary income. This will widen the choice among these systems available to the financial aid administrators.

It is my understanding that there has been considerable discussion of a system which would progressively assess discretionary income at the rates of: 5 percent for incomes between $15,000 and $25,000; 10 percent between $26,000 and $35,000; and 15 percent for $36,000 and over. Based on our calculations, the GSL eligibility under this system would be very similar to the results from the other approved systems for Title IV student aid programs.

In addition to the flexibility of the approved need analysis systems, we will be very sensitive to insitututional costs, family size, and other family financial circumstances. For example:

A family with an income of $50,000, with two children in private colleges, would be eligible for a full GSL of $2,500 for each child. If the children were in public colleges, they would be eligible for a GSL of $1,698 for each child (using the Pell Grant system).

A family of 7, with an income of $80,000, but with no assessable assets, which had four children in postsecondary schools and one in a private secondary school (e.g., parochial school, $4,000 tuition), and had, for example, suffered extraordinary medical expenses of $11,000, would receive the full GSL for each student in private school and $1,800 for each child in public school (using the Pell Grant system).

Both families, of course, would be eligible to borrow an additional amount of up to $3,000 per postsecondary student under the new parent loan program.

It is important to note that certain other provisions in the Latta alternative will also benefit middle income students. I note in particular the provision for a $1,000 minimum loan even if the student has a remaining need of less than $1,000 and the provision to allow independent students to participate in the parent loan program. These changes will benefit students at all income levels.

I am sure that this clarifies the flexibility and equity this amendment will provide to middle income families. I hope this is helpful.

Sincerely,

T. H. BELL.

Mr. Chairman the following is a chart showing the amount of loan available and my proposal:

GUARANTEED STUDENT LOAN ELIGIBILITY UNDER THE LATTA ALTERNATIVE ASSUMING DIFFERENT NEED ANALYSIS SYSTEMS [1]

[In dollars]

Adjusted gross income	Need analysis system	
	Pell Grant	Uniform Methodology
$3,800 student budget		
15,000	2,120	2,275
25,000	2,120	1,635
30,000	2,120	1,310
35,000	1,925	1,000
40,000	1,603	0
45,000	1,300	0
$6,000 student budget		
15,000	2,500	2,500
25,000	2,500	2,500
30,000	2,500	2,500
35,000	2,500	2,500
40,000	2,500	2,500
45,000	2,500	0

[1] Assumes family of four with one child in college.

Mr. ASHBROOK. Let me say, Mr. Chairman, I think I have only 1 minute left, all the caps that my colleague, the gentleman from Wisconsin referred to, are the precise same caps that are in the original print of the Democrat-passed Education and Labor Committee bill, and they appear in the Jones bill.

I end where I started. I do not criticize the majority. I think they did a very reasonable job in committee of working out their bill.

I would say our substitute very closely parallels theirs. It goes almost line for line. We come up with a few hundred million dollars difference, but not enough that I think we should be fighting about that much.

Mr. JONES of Oklahoma. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Chairman, I would like to use my time to correct a statement just made by the gentleman from Ohio. The fact is the questions I raised were not on points which were identical in both versions. The committee version does not cut the basic grant in the Vocational Rehabilitation Act by $100 million, as does the gentleman's proposal. The committee version does not cut student aid by $761 million and then ask students who are being deprived of student benefits under social security, 80 percent of whose parents are dead or disabled, to apply for that reduced share of funds.

What the minority proposal does is to tell kids, "Do not go through door 'A.' Go through door 'B.'" And then they close door "B."

Mr. PEYSER. Mr. Chairman, will the gentleman yield?

Mr. OBEY. Surely.

Mr. PEYSER. Just one or two points, because I think it typifies where the inaccuracies are in saying the guaranteed student loan programs are always used by the rich.

I happened to call each of the officers that the gentleman mentioned, in Exxon, General Motors and A.T. & T., because the inference is plainly that these are the people who are using the loans. None of those people are using the loans and a minority of rich people use them anywhere.

The CHAIRMAN. For what purpose does the gentlewoman from New Jersey rise?

Mrs. ROUKEMA. Mr. Chairman, I rise in support of the amendment and would like to associate myself with the remarks of the gentleman from Ohio.

The CHAIRMAN. The Chair would advise the gentlewoman that the time is controlled by the gentleman from Ohio. He would have to yield time to the gentlewoman.

Mr. REGULA. Mr. Chairman, I yield 30 seconds to the gentlewoman from New Jersey.

Mrs. ROUKEMA. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Ohio and associate my remarks with my distinguished colleagues, the gentleman from Ohio (Mr. ASHBROOK) and the gentleman from Missouri (Mr. COLEMAN).

I think if there is anything that the minority has contributed to the Gramm-Latta substitute, it is a basic and fundamental and long overdue reform for guaranteed student loans which will make it possible for those who are in greatest need to get that need now, rather than an open-ended entitlement for which we cannot afford nor is it required.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Ohio.

Mr. Chairman, the rhetoric that has been coming from the other side of the aisle over the past day makes one wonder. We have heard repeated assertions about inflexibility on the part of the Office of Management and Budget and the minority leadership in moving the economic recovery program through the House and this is simply not borne out by the facts.

The only inflexibility and lack of cooperation I have seen in the past few months, most particularly on the Education and Labor Committee on which I serve, has occurred on the other side of the aisle. The majority package on both committees on which I serve, Education and Labor and Banking, were put together by the majority side with absolutely no input from myself or other members of the minority. Indeed, on the Education and Labor

Committee, we were given notice of markup—a misnomer considering how the deliberations proceeded—about 1 hour before the committee met. The history of the majority's performance on this bill has been lamentable in its shocking lack of good faith efforts to cooperatively work toward needed changes in Federal programs.

We can have honest disagreement, but let us try to restore intellectual honesty. An examination of the facts will show that the administration and the Republican leadership have indeed been the flexible parties and I would like to point out areas where their cooperative spirit has been most laudable.

In the administration's proposal, there were certain areas within the Education and Labor Committee's jurisdiction which caused considerable concern on the part of those of us in the minority. The proposal on the school lunch program was quickly shown to pose a threat to the survival of that program, with the nature of the proposed cuts threatening the program's ability to serve the truly needy children.

My colleague, BILL GOODLING, from Pennsylvania, the able ranking minority member of the subcommittee holding jurisdiction, quickly realized this and put together, in an incredibly expeditious and responsive fashion, an alternative proposal which would achieve comparable savings, but which maintained the integrity of the program. His proposal contained significant changes from the administration proposal. Where is that Goodling proposal today? It is right there in the Latta-Gramm amendment with the administration's support.

Another area of concern was the administration's original proposal to consolidate the categorical education grant programs. While this basic concept is something that is very near and dear to the hearts of those of us who want to restore local autonomy in this sensitive area, the administration proposal raised very serious questions in its handling of assistance to certain groups. Under that proposal, the handicapped, the disadvantaged students, and those served by adult education programs would have to compete at the local level for an adequate share of the funds. Under the present circumstances, this was desirable neither to those particular groups nor to the State and local education agencies who would have to make these crucial decisions. Once again, the minority side, under the leadership of JOHN ASHBROOK, the ranking minority member, acted and put together an alternative which maintained the sensitive programs but consolidated all of the small categorical programs into two block grants which will give the State and local agencies the resources and the flexibility to address their own unique priorities. Again, this alternative differed significantly from the original administration proposal. Where is that proposal today? It is right there in the Latta-Gramm amendment with the support of the administration.

Finally, an area of considerable concern to myself and most of my colleagues throughout the House was the administration proposal on the guaranteed student loan program. Clearly, the program which, in 1978, became an entitlement to all students for Government-subsidized loans was under needed scrutiny and great criticism since it enabled high-income families to borrow at low rates. Additionally, inflation and high interest rates had caused the program's costs to spiral and, in the absence of a restructuring and reform of the program, it threatened to be out of control by 1982.

The administration was clearly justified in focusing on this program in its effort to eliminate Federal assistance to those who do not need it. However, the original administration proposal clearly would result in several undesirable consequences.

The administration proposal would have instituted an effective date of July 1, 1981, on all changes in the program, thus casting considerable confusion on the financial situation of those preparing to go to school this fall. The Latta-Gramm amendment, would institute virtually all of the changes on October 1, 1981, thus protecting the loans for the coming school year.

The administration proposal also would have removed the in-school interest subsidy, thus imposing serious hardships upon students while in school and creating a very real danger that the banks would drop out of the program to avoid the administrative hassles in collecting the interest. The Latta-Gramm substitute retains the in-school interest subsidy.

Perhaps the cause of greatest concern in the original proposal was the institution of a so-called needs test which would base the amount of the loan upon the particular financial situation of the student. Unfortunately, the effect of the application of the intended test upon those from moderate-income families was feared to be unacceptably harsh. Surely, we are not to withdraw our commitment to those in the middle-income levels who, without some assistance, will face cash flow problems serious enough to jeopardize the attainment of their higher education goals.

Nevertheless, for all of the problems with the original administration proposal, the committee bill is grossly defective in its essential parts, in that it completely retains the open-ended nature of the program, ignoring the long-term cost implications of doing so. The dollar savings which the committee suggests it is making in the program are totally unrealistic when we realize that this lack of targeting of the program would continue. Besides, in doing this, we find ourselves telling the borderline AFDC or food stamp recipient that he or she must give up their assistance in the name of fiscal austerity while we continue to subsidize the higher education needs of those from families with incomes which can afford to meet those needs.

The Latta-Gramm amendment offers an intelligent basis to direct our limited financial resources to those students and families most in need, while maintaining our historic commitment to higher education. While accepting the need to curtail the program's current indiscriminate nature, it also provides for a significant adjustment in the test used to define need. Again, those of us on the committee who saw serious problems in the administration's approach, principally the ranking minority member TOM COLEMAN, LARRY DENARDIS, and myself, brought these concerns to the attention of the administration and the minority leadership and worked together with them to adopt a more acceptable approach. The Latta-Gramm amendment would provide for a needs test which more adequately reflects the financial situation of those in the moderate-income range. While those from families with the resources to afford higher education would be ineligible, students from families within the $25,000 to $40,000 range could continue to receive need-based loans ranging from the $1,000 minimum to the $2,500 maximum. This is a carefully crafted approach which takes a significant step in improving the program.

Mr. Chairman, I am not in any way suggesting that this approach will solve all of the problems surrounding the guaranteed student loan program. Further serious study must be paid to the needs test. Ultimately, it may be desirable to design a completely different test, or, if no acceptable test can be devised, adopt fixed income ceilings. Consequently, I have asked and received assurances from my distinguished colleague from Michigan, WILLIAM FORD, who will serve as the chairman of the recently funded National Commission on Student Financial Assistance, that the Commission will turn its immediate attention to the problem of adequately measuring need under the guaranteed student loan program and will report its findings and conclusions to the Congress to allow sufficient time to consider changes in time for fiscal year 1983. It is my hope that the committee will attempt within the next year to perfect this program.

In conclusion, I think that the Members of this body will find that in these and other areas the administra-

tion and the leadership have been most flexible in meeting the concerns of Members from both sides of the aisle. The end result is an amendment which is worthy of the support of the Members of this body. I would be less than truthful if I said that every single component of the amendment has my support. Indeed, it contains provisions which, if offered on their own, I would probably vote against. However, in closely examining the measure as a whole, I find it eminently preferable to the committee bill in providing a workable, realistic approach to meeting the need for control over the rampant Federal spending which we have witnessed over the past several years.

Mr. REGULA. Mr. Chairman, I yield 15 seconds to the gentleman from Connecticut (Mr. DENARDIS).

Mr. DENARDIS. Mr. Chairman, as one who has spent his adult life in higher education as well as in the Connecticut State Senate totally involved in the problems of educational funding, I rise in support of the guaranteed student loan (GSL) proposal that has been developed by Representatives TOM COLEMAN, MARGE ROUKEMA, and me—and which is now incorporated in the Education and Labor amendment of the Gramm-Latta II package.

The guaranteed student loan program was designed, at its inception in 1965, as a sound vehicle to help finance higher education. Its original purpose was to guarantee that students who needed to borrow for their education would be able to do so. Interest rates were kept low by Government subsidy and interest payments were made by the Government until students had completed school.

Starting in 1978, changes were made which have raised the cost of the program dramatically. The most radical change was the removal of the limit on family income for eligibility for GSL. This, in effect, enabled high income families to take advantage of the program as a source of low-cost loan capital for purposes unrelated to educating their children. These changes, coupled with inflation and high market interest rates, have contributed to the program's spiraling costs.

In the past 3 years alone, the volume of loans has more than tripled while school enrollments were holding about even. The annual Federal budget cost to the taxpayers has more than quadrupled since 1974, from $399 million to over $1.6 billion.

Without limitations on the program, its annual cost to the taxpayers would be more than $2.5 billion by fiscal year 1982. As the program exists now, rising GSL costs are virtually uncontrollable.

The Education and Labor Committee's proposal for the GSL program under the reconciliation bill, falls far short of the reconciliation instruction targets. It proposes only minor program tinkering as opposed to fundamental program reform. The committee has made no effort to limit the amount of assistance provided to students on the basis of educational financial need. The result is that high income students could continue to use the program as a cheap source of investment capital.

The purpose of the GSL program is to insure that financial need does not prevent anyone from getting the education he or she seeks. It has been misused and abused.

The establishment of a formula, under the Coleman-DeNardis-Roukema proposal, to define need will prevent continued abuse and misuse of taxpayers' money.

Under our proposal, the amount of loan received would be determined based on the student's financial need, balancing the student's cost of education against the student's ability to meet that cost from other assistance sources, including the contribution which the student's family is deemed able to make.

The family's contribution ability is determined through a formula which balances gross income against a schedule of estimated costs of necessities—such as food, housing, clothing, medical care, et cetera. The family's ability to contribute would also be assessed according to family size—number of children.

For example: A family of four with only one child in higher education, having an income of $26,000, would be eligible for the maximum GSL—$2,500—an average cost public or private college, as long as the student is receiving no aid other than a Pell grant.

A similar family with an income of $35,000 would be eligible for the maximum GSL if the student is enrolled in an average cost private college, and eligible for approximately two-thirds of the maximum GSL if the student were enrolled at an average cost public college.

This takes into consideration the difference in cost incurred at different educational institutions.

To explain the formula further, for example: A family with an income of $50,000, with two children in private colleges would be eligible for a full GSL for each child. If the children were in public colleges, they would be eligible for a GSL of $1,698 for each child.

To carry it even further, and to emphasize the flexibility of our formula, for example: A family of seven, with an income of $80,000, but with no assets, which had four children in postsecondary schools and one in a private secondary school—for example parochial school, $4,000 tuition—and had for example, suffered extraordinary medical expenses of $11,000, would receive the full GSL for each student in private school and $1,800 for each child in public school.

Any student with a demonstrated need for a GSL would be eligible for a minimum $1,000 loan. In addition, as suggested by Representative JOHN PORTER, independent students would be able to use the parent loan program to help finance education costs. The parent loan program guarantees loans for education at market interest rate. The independent student is one who is not eligible, under the formula, for the maximum GSL and does not have parents to participate in the parent loan program. This is generally the older student who either does not have parents or does not live with them.

With the inclusion of this provision, we can be sure that no one will be denied access to a guaranteed loan for educational purposes; some will get the loan at the subsidized rate and some at the market rate.

The Coleman-DeNardis-Roukema proposal provides a prudent basis for guaranteed student loan benefits by limiting these loans to students with demonstrated financial need. By so doing, it will prevent the program's resources from being diverted to noneducational purposes. In this way, it will almost double the savings of the committee proposal.

For your information, other provisions of the Coleman-DeNardis-Roukema proposal include:

Of the $125 million restored to the GSL, $100 million will be made available to middle-income families under the direction of the Secretary.

It reduces the interest subsidy by an amount collected in an origination fee, which is set at 4 percent.

It increases the uncounted assets for families to $25,000, and for farms and businesses to $100,000.

The Secretary is given the authority to set guidelines on how other education related expenses would be determined, an important cost control feature.

It eliminates both GSL and Pell grant administrative allowances, but allows schools to collect a reasonable fee from their students for processing costs associated with a Federal grant and/or loan.

I hope this explanation convinces you of the importance and merit of supporting our guaranteed student loan proposal and the Education and Labor amendment to the Budget Committee's reconciliation bill.

Mr. REGULA. Mr. Chairman, we do not plan to use any further time at this moment.

Mr. JONES of Oklahoma. Mr. Chairman, I yield 2 minutes to the distinguished majority leader, the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. I take this time, Mr. Chairman, simply to clarify the mean-

ing of a statement which I made earlier in light of a statement which I am sure was made in good faith by the gentleman from Ohio, the manager of the bill, subsequent to my making my original statement.

I declared this morning early that we had discovered a provision in the Gramm-Latta substitute which confers upon the Office of Management and Budget the power to define poverty and to revise the definition of poverty every year. It was alleged, and I am sure in total good faith by my friend, the gentleman from Ohio, at a later time when I was not on the floor, that I had misstated the fact to some degree, since in his view the Office of Management and Budget already possessed the power to define poverty.

There is, I submit, a very significant difference between the powers that inure to the Office of Management and Budget under the present law and the powers that would be granted singularly to that agency if Gramm-Latta were passed.

Under present law, the power reposed in the Office of Management and Budget is purely an administrative or ministerial function. The Census Department since 1964 has been required to provide statistics upon the basis of which a determination was to be made with respect to what constitutes poverty.

In 1972, the CPI, the Consumer Price Index, was applied as a portion of that formula and upon its application the determination was made on a rigid mathematical basis as to what actually constituted poverty under the meaning of the law.

The Office of Management and Budget was simply designated in that year as the agency to interpolate these statistics and to certify the figure. That is quite distinctly different from defining what constitutes poverty.

The CHAIRMAN. The time of the gentleman from Texas (Mr. WRIGHT) has expired.

Mr. JONES of Oklahoma. Mr. Chairman, I yield 1 additional minute to the gentleman from Texas.

Mr. WRIGHT. To certify the figure is entirely a different thing than the power which has been sought by the OMB, was sought by the OMB in that year 1972 in the Nixon administration and is being sought again, and which will be conferred upon that one agency if Gramm-Latta passes. That is the power to define poverty.

The poverty definition applies to many hundreds of thousands of American citizens, and to a large number of Federal programs. It is upon the basis of the definition of what constitutes poverty that American citizens are entitled or not entitled to participate in the benefits of these programs.

So I want to reiterate that the bill presently before us in the form of an amendment or a substitute, if enacted, in two separate places, in identical language, one appearing under the education provisions, one appearing under the Ways and Means provisions, would confer upon the one man who seems to be gaining most in power from this document, the right to determine unilaterally how we would define poverty. Of course, in so doing, he could reduce the number of recipients enormously.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield at that point?

Mr. WRIGHT. Yes, of course, I yield to my friend, the gentleman from California.

Mr. MILLER of California. I think the gentleman raises a very important point. When this was raised earlier by Mr. GRAMM earlier today, it was very clear that, in fact, OMB was an administrative task under current law.

My concern is also, and I do not know if the gentleman has the answer, but it may be that OMB has the ability to set one poverty level for educational programs and another poverty level for title XX or a block grant program.

The CHAIRMAN. The time of the gentleman from Texas has again expired.

Mr. JONES of Oklahoma. Mr. Chairman, I yield 1 additional minute to the gentleman from Texas.

Mr. WRIGHT. I yield to the gentleman from California.

Mr. MILLER of California. There is no provision for review of that decision. That decision is final. There is no review.

Mr. WRIGHT. The gentleman is exactly correct. There would be no review. In addition to that, I find no restriction that would prohibit the Office of Management and Budget from making such a definition differentiated with respect to different programs.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, I thank the gentleman for yielding.

To my fiscally conservative colleagues, I should point out the other side of that coin which is very dangerous. If there were to be a Director of the Office of Mangement and Budget who had very liberal ideas, he could so increase, or decrease the level of poverty as to include people who ought not to be included and thereby bankrupt the Nation simply by his determination.

It ought to be a statutory power and not one delegated for political reasons.

Mr. ASHBROOK. Mr. Chairman, will my friend, the gentleman from Texas, yield?

Mr. WRIGHT. Of course, I yield to my friend, the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I listened with interest to my friend. I know he wants to be exactly correct.

Could my friend tell me which agency in the administration of James Carter set this?

The CHAIRMAN. The time of the gentleman from Texas has again expired.

Mr. JONES of Oklahoma. Mr. Chairman, I yield 1 additional minute to the gentleman from Texas.

Mr. WRIGHT. I yield to my friend, the gentleman from Ohio.

Mr. ASHBROOK. I wonder if the majority leader could tell us what agency in the Carter administration set, as required by law, the official poverty line in 1979 and 1980?

Mr. WRIGHT. There was an interagency committee, composed of officials from the Department of Agriculture, the Social Security Administration, the Office of Economic Opportunity and the Bureau of the Budget, which jointly met to establish the formula.

Mr. ASHBROOK. Mr. Chairman, if my colleague would further yield, James T. MacIntyre in a letter of April 11, 1980, wrote the following to Secretary Bergland: "The Office of Management and Budget is required by law to define the official poverty line which is used by a number of agencies," et cetera.

Obviously, they had consultation, they had advice; but when the poverty line was set as required by law in the Carter administration, it was set by the Office of Management and Budget, I would say to my colleague.

Mr. WRIGHT. It was certified, I would say to the gentleman, by the Office of Management and Budget, and if the document from which the gentleman is quoting had been completed, rather than excerpted out in its reproduction, I dare say it would have been made clear that he was acting strictly in conformity with the formula that had been determined by law. That is all that exists today.

What the gentleman's bill would confer in two separate places is a new unrestricted power of definition to the OMB.

Mr. JONES of Oklahoma. Mr. Chairman, I yield 1 minute to the gentleman from Alabama (Mr. FLIPPO).

Mr. FLIPPO. Mr. Chairman, I supported the Gramm-Latta budget resolution. It was not an easy vote to cast.

I voted for Gramm-Latta because I believe this Nation desperately needs a balanced budget. We must take every step, however painful to restore the economic health of this country. I believe a balanced budget would help settle the financial markets, lead to lower interest rates, and help dampen the fires of inflation.

I want to help the President get this country on the road to economic re-

covery. My constituents want the President to succeed. My constituents want me to help the President.

I must confess, however, that I am having great difficulty in supporting the initiative of the minority today. I only received the 700-page Gramm-Latta II package 3 hours ago. I have not had sufficient time to fully comprehend and digest this massive document. It is not fair to ask me or anyone else in this House to vote on legislation that has not been fully analyzed and debated.

There is a need for a full examination of all the proposals of the minority. The American people expect and deserve that we perform our duties with care and deliberation. I urge my colleagues to let the representative democratic process work in full.

Mr. JONES of Oklahoma. Mr. Chairman, I yield 10 minutes to the distinguished chairman of the Committee on Education and Labor, the gentleman from Kentucky (Mr. PERKINS).

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Mr. PERKINS. Mr. Chairman, as late as 6 p.m. yesterday afternoon I heard the minority leader (Mr. MICHEL) make the statement that we definitely would be working from the June 25 document that was available yesterday. I would like to ask the gentleman from Ohio if it was a mistake or the intent of the Republican substitute to have the Office of Management and Budget phase out the Community Services Administration? Who can answer that question on the minority side?

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Chairman, I would say, as I would say to my friend as well, he knows there is a community service program that will go into the social services block grant and it is the intention that it be consolidated in the block grant.

Mr. PERKINS. Let me ask another question about the black lung provisions that were in the Democrat bill. It was in the bill that our committee reported. We provided a user fee on coal. As I understand, the user fee is still in the Gramm-Latta substitute but the title V transfer of claims to the trust fund and other changes in title IV of the Coal Mine Health and Safety Act have been dropped. Can anybody answer that question?

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Illinois (Mr. ERLENBORN).

Mr. ERLENBORN. The gentleman may be aware that the so-called users fee which was an additional tax on coal that was mined was in the version of the reconciliation bill that was reported by our Education and Labor Committee. It was, as I am informed and I think the gentleman was informed, transferred by the Budget Committee to the Ways and Means portion of the package. So I understand the Jones version, as reported to the floor, the so-called user fee is in the Ways and Means portion; and the other provisions, the provisions comparable to what our committee reported, were left in the Education and Labor portion.

The Gramm-Latta substitute that is pending, I am advised, and I have not read it, but the best advice I can get is first of all there is no reference to black lung in the education and labor portion, no reference whatsoever, so the reimbursement of claims already paid, the giveaway to the insurance companies and the coal mine companies is not in the Gramm-Latta portion.

I am advised that the so-called users fee is in the Ways and Means portion and that would be all.

Mr. PERKINS. Let me ask the gentleman another question. I understand that in the Broyhill amendment that will be offered, the black lung clinics will be eliminated. Does the gentleman from Illinois know anything about that amendment in the Broyhill proposal?

Mr. ERLENBORN. If the gentleman will yield further, I am afraid he will have to ask the gentleman from North Carolina (Mr. BROYHILL) that question. I had nothing to do with the forming of that amendment.

Mr. PERKINS. I understand that is so and I am just asking the question of the gentleman from Illinois. He has been the most outspoken authority on this program for the minority and has been leading the opposition to this program. In that, he has done a very able job. I do not know of anyone who knows more about the program on the minority side than the gentleman from Illinois (Mr. ERLENBORN). But the gentleman is telling me he does not know anything about that amendment in the Broyhill amendment that will be offered later?

Mr. ERLENBORN. Will the gentleman yield?

Mr. PERKINS. Yes.

Mr. ERLENBORN. I thank the gentleman for the accolades and I will accept them as being knowledgeable about the current black lung program and what I think should be done to make it a good and viable program. The gentleman knows what my desires are, which conflict with his, but that does not make me an expert on the Broyhill substitute and I again would suggest the gentleman ask the gentleman from North Carolina (Mr. BROYHILL) that question.

Mr. PERKINS. Let me say to my colleagues that I understand that is the case and that shows that the Members of the House are not only tinkering around with 20 or 30 laws, but we have amended some 50 or 60 laws in this substitute. I think that is a shameful way to legislate. I think we can all agree on that.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from California (Mr. MILLER).

Mr. MILLER of California. Mr. Chairman, one of the things that concerns me is yesterday there was a constant claim that the Gramm-Latta II provision did more for everything in education and labor than what our committee did. I have been given some tables that apparently have been prepared with the help of the CBO which indicates in the Rehabilitation Act—this is the act to rehabilitate handicapped individuals—in fact the Gramm-Latta cuts far more, about $100 million more for 1982, and about $40 million more in 1983 than, in fact, we did.

My concern is that by cutting State grants, as they have done, they are going to deny rehabilitative services to 322,000 disabled individuals. CBO says that they expect that this will cost the States and local governments an additional $196 million in lost taxes and revenues because these disabled people will not be able to get a job, because they will not have had the rehabilitative services. Now 75 percent of these people have incomes of less than $7,000; 28 percent have incomes of less than $150 a month; 23 percent are on some form of public assistance; 46 percent are totally dependent on their families and friends; and 55 percent are severely disabled.

So I would caution my colleagues not to be too quick to jump to the claims of our benevolent friends on the other side of the aisle that they have done more for the disenfranchised and have done more for the handicapped than what our committee tried to do while still cutting $128 million.

I suggest when you go back and you talk to handicapped people who want a job, who are able to have a job, can be trained to have a job, can be productive, that, in fact, they have been thrown out the window with the cuts that have been made in Gramm-Latta II, I would hope that we would respect that.

And I would say to the gentlewoman from California (Ms. FIEDLER) and others who have talked so desperately about the plight of the handicapped that they would take this into account when they cut this out of the State grants.

Mr. SIMON. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Illinois (Mr. SIMON).

Mr. SIMON. I thank the chairman for yielding.

I have two points. One, what has happened here today simply confirms what I said last night in debate, that we are acting like a national State legislative body rather than the most deliberative body that we should be. One area that I would like to point out particularly, Mr. Chairman, that I know there is great concern on, and that is with the student programs.

My colleague from Missouri (Mr. COLEMAN) to his credit has improved the program over the original administration program. But under the GSL program, the guaranteed student loan program, 1,300,000 students are going to be denied assistance in the next 3 years and you are going to pile up mountains of paperwork.

Second, on the basic opportunity grant program or the Pell grant programs, between 200,000 and 400,000 young people over the next 3 years are going to be denied assistance.

I would say to my colleagues we do not know who the Jonas Salks, who the George Washington Carvers are, who the young people are who might find that cure for cancer or lift the economy of this Nation.

I would add finally, Mr. Chairman, that every national higher education association is supporting my stand in opposition to Gramm-Latta.

Mr. Chairman, I want to take a few minutes to clarify and explain the differences between the legislative recommendations of the Education and Labor Committee which are included in the Budget Committee bill, and the drastic proposals contained in Gramm-Latta II and supported by several minority members of the Subcommittee on Postsecondary Education.

I want it to be clear to my colleagues in the House that the Gramm-Latta substitute, which was hurriedly drafted to address many of the concerns which I both have with regard to the guaranteed student loan program, makes certain changes in the GSL program and in the Pell grant program which I do not support. These changes are also opposed by the higher education community. Many of the changes in my colleague's substitute are logical and appear to be fair to student borrowers and to middle-income families.

While the Gramm-Latta II student assistance provisions seem fair and equitable—the GSL in-school interest subsidy is preserved—the substitute contains several provisions which are inequitable to low-income students, provides unnecessary discretion to the Secretary of Education, and will create additional hardships for low- and middle-income students who need Federal student aid to attend college. I urge my colleagues in the House to vote against the substitute and permit the House conferees to negotiate a reasonable student assistance package—which achieves the necessary savings, provides some restraints on the loan volume in the GSL program, but retains a viable structure for the Federal loan and grant program.

My problems with the substitute concern its effect on low- and middle-income families and their sons and daughters who attend college. Specifically, the Gramm-Latta II substitute would:

Substantially reduce funding for Pell grants to $2.466 billion in fiscal year 1982, $2.353 billion in fiscal year 1983 and $1.965 billion in fiscal year 1984. These reductions place the burden of balancing the budget on low- and middle-income students, many of whom will not be able to attend college without a Pell grant or with a smaller grant than they now receive. The substitute reduces Pell grant funds by $200-$400 million each year below the committee bill. For every $100 million saved 100,000 students will be denied a grant.

Repeal the Pell grant home equity exclusion adopted by the Congress in the Education Amendments of 1980 (Public Law 96-374). This means the one principal asset held by most low- and middle-income Americans would be included in the complex computation which determines how large a Pell grant each student is eligible for. The inclusion of home equity is a particular burden on divorced females with college-age dependents.

Permit the Secretary of Education to establish assessment rates to be applied to parental discretionary income—a responsibility which the Congress has historically exercised—thereby giving the Secretary absolute discretion to include or exclude students according to family income. Such discretion could result in the elimination of thousands of currently eligible students in order to achieve the administration's budgetary objectives.

Result in the denial of loans to many middle-income students who attend public postsecondary institutions with moderate tuition costs of $1,000-$2,500. About 1.3 million students who now qualify for loans, will be denied loans under the bill's "needs test."

Place a heavier burden of borrowing on low-income students. Lower income students, who are the primary beneficiaries of Pell grants, will be forced to borrow more money than in previous years in order to attend colleges which have raised their tuitions by an average of 13 percent for the 1981-82 school year. Increased borrowing will lead to increased indebtedness, potentially higher default rates and increased Federal subsidies to lending institutions.

Authorize postsecondary institutions to charge students a "reasonable fee" to process guaranteed student loan applications. Since the substitute increases paperwork burdens on institutions by imposing a remaining need test and deletes the present statutory provision authorizing a $10 payment to postsecondary institutions to cover GSL processing costs, the imposition of the fee on students is a particularly cruel hoax to play on student borrowers. Any fee institutions charge will be an additional hardship on low-income student borrowers.

Grant the Secretary the authority to draft regulations governing institutional determinations of remaining needs. These regulations could result in a lengthy needs analysis and the mountains of paperwork for parents and postsecondary institutions.

Permit students who could demonstrate only $100 in need to borrow up to $2,000. This provision in the substitute undercuts the entire "remaining need" concept and places the entire program in an untenable position. I can see the headlines in the January 24, 1983, Washington Post now—"Student Borrowers Receive Millions in Unneeded Federal Funds."

In addition, to the major student assistance reductions, the substitute also includes cuts in the following programs:

Eliminates funding for the graduate and professional opportunities program—GPOP—which provides fellowships for minorities and women seeking master and doctorate degrees in disciplines in which women, black Americans, and Hispanics are underrepresented.

Deletes funding for library resources—books, periodicals, microfilm—for small libraries.

Deletes funding for mining and public service fellowships.

Reduces funding for the national endowments by $34.4 million.

Mr. Chairman, Members of the House, the bottom line in our effort to reduce spending in the area of postsecondary student assistance programs should not be how much we can save, but how will the savings we achieve impact on the educational opportunities of millions of low- and middle-income students? Will we deprive one student borrower or needy Pell grant recipient of a postsecondary education and pay a higher price in the future because that student pays lower taxes, misses the opportunity to study chemistry and find a cure for cancer or contribute to the productive capacity of this great Nation? I think the answer is clear. Frankly, I will cast my vote against being penny wise and pound foolish and I urge my colleagues to vote against the substitute amendment.

I rise to express my concern about what I believe to be the ill-advised inclusion of programs authorized under the Child Abuse Prevention and Treatment Acts in the social services block grant proposal of Gramm-Latta

II. There are serious questions which have been raised and answered that indicate the block grant approach is not advisable for the child abuse program. There are additional questions that have been raised and unanswered which would assist my colleagues in understanding how such a program would serve the dual purpose of maintaining a Federal effort in the area of child abuse while increasing State flexibility to address the problem.

Earlier this year, in a communication from the Department of Health and Human Services, the Subcommittee on Select Education was informed that one of the shortcomings of the National Center on Child Abuse and Neglect's programs was that the States had demonstrated an inability to incorporate service improvement funds into their programs within a 2-year period. Now we are proposing to give them more service improvement money under a block grant. During reauthorization hearings, the distinguished chairman of the subcommittee was informed that unless funds under the block grant were earmarked for child abuse, it would be doubtful whether State agencies would see any of those funds. I am concerned because the witness rendering that testimony was the person responsible for administering the child abuse State grant funds for one of our States.

In my State of Illinois, because of increased methods of reporting cases of child abuse and neglect, we have discovered that twice as many children die each year under questionable circumstances as we believed 1 year ago. This Congress in now considering a proposal which would repeal the Child Abuse Prevention and Treatment Act.

I urge my colleagues to carefully consider the seriousness of repealing the Child Abuse Prevention and Treatment Act. In a very real sense children are this country's greatest resource for the future. We must not jeopardize the lives and well-being of millions of those children to gain temporary and shortsighted budgetary reductions.

One of the cruelest cuts of all—and one of the most shortsighted—of the Gramm/Latta substitute is its effect on handicapped persons who will seek rehabilitation services next year. The substitute cuts 30 percent from the fiscal year 1982 current service level for rehabilitation State grants.

The State grant rehabilitation entitlement is the heart of the vocational rehabilitation program. It provides Federal matching money to the States so that they can provide handicapped citizens with the training, physical restoration, and equipment they need to become productive, taxpaying citizens.

This program is already seriously underfunded. In the past 5 years its buying power has decreased by more than 24 percent and we have seen a consequent decrease in the number of handicapped persons State agencies have been able to serve. In 1979 only an estimated 1 out of 20 eligible handicapped persons was able to receive service from rehab State agencies.

This is not only a tragedy in personal terms for the handicapped persons who remain unable to live independently and productively in society, but it is a terrible waste in economic terms for the Government.

For every $1 a rehab client was earning before rehabilitation, his lifetime earnings will increase $11 to $13 after rehabilitation. And based on estimates from CBO, the Rehabilitation Services Administration, and the Council of State Administrators of Vocational Rehabilitation, we know that the Gramm/Latta cuts will mean the following:

Approximately 322,000 fewer handicapped persons will receive rehabilitation services.

One out of every three rehabilitation counselors across the country will lose his job—and it will take years to rebuild the lost base of knowledge and expertise.

Decreases in expenditures for rehabilitation will mean increases in other parts of State and Federal budgets. Based on 1979 ratios, the failure to serve 322,000 disabled persons will cost State, Federal, and local governments more than $196 million in lost taxes and increased public assistance in just 1 year. The loss to the Government will increase geometrically in the following years since the earning power of rehabilitated persons increases dramatically over time, according to CBO.

The potential lost lifetime earnings of the disabled persons who will not be rehabilitated next year is more than $2.3 billion. These estimates do not take into account the elimination of SSI and SSDI rehabilitation trust funds, a similarly shortsighted action we appear to be moving toward. The loss of those trust funds will put an additional burden of upward of $100 million each year on rehabilitation State agencies. So the picture is even more bleak.

Surprisingly, while cutting State grants so drastically, the Gramm/Latta proposal increases some rehab discretionary program funding above the amounts recommended in our Education and Labor Committee package. Those discretionary programs, however, are not the essential part of vocational rehabilitation. Without basic services for the vast majority of handicapped persons, there is little justification for trying to provide generously for a select few. No amount of funding for research can make up for a critical lack of service dollars, and no amount of personnel training money will help if the dollars are not there to hire the needed personnel.

In proclaiming 1981 as the "International Year of the Disabled," President Reagan referred to this Nation's disabled citizens as one of its greatest untapped resources. The Gramm/Latta funding level for this single most important program for handicapped adults will ensure that the majority of this Nation's disabled citizens remain an untapped resource—a tragic irony in the year that was to have given them hope.

I urge you to reject the Gramm/Latta amendments.

Mr. PEYSER. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from New York (Mr. PEYSER).

Mr. PEYSER. I thank the chairman for yielding. I just want to add to what the gentleman from Illinois (Mr. SIMON) just said. I have talked also to the Department of Education concerning the letter received by the gentleman from Missouri (Mr. COLEMAN) and there are no guarantees, Mr. Chairman, of what is going to happen to this guaranteed student loan program whatsoever. We have turned over the whole handling of a new means test—and, incidentally, this means test, this is the one currently being used in 1981-82 by the Pell grants, which is a good example of the paperwork that we are expecting to heap on the rest of the middle-income families——

Mr. COLEMAN. Will the gentleman yield?

Mr. PEYSER. I will not yield at this time.

Mr. COLEMAN. The gentleman has used my name.

Mr. PEYSER. I will yield when I am finished.

The facts are we are dealing with the lives of millions of young Americans and it is tough just to be very calm and quiet on this issue. This legislation in Gramm-Latta on guaranteed student loans is going to eliminate over a million students, and I think that is what the bottom line is. All of this talk about rich people is just a red herring that is being thrown across this whole program. It is a good program. Let these kids have a chance.

The CHAIRMAN pro tempore. The time of the gentleman from Kentucky has expired.

Mr. JONES of Oklahoma. Mr. Chairman, I yield the gentleman from Kentucky (Mr. PERKINS) 7 additional minutes.

Mr. PERKINS. Mr. Chairman, let me say in response to the gentleman from New York (Mr. PEYSER) that we enacted the means test in the law initially when we enacted the guaranteed student loan program. It never did work. The banks in many sections of the country would not make any loans and so we repealed the means test in 1972. If we reenact it again it means

that the banks will not fool with processing all of the paperwork.

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from New York.

Mr. WEISS. Mr. Chairman, if I may just say for one second, what has already come forward as to the lack of knowledge about what is in this legislation, not just on our side of the aisle, but on the other side of the aisle, it appears to me that any Member of this body, Republican or Democrat alike, who votes for this bill demonstrates that he thinks very little of himself.

Mr. Chairman, the Reagan Omnibus Reconciliation Amendments Act that we are debating today represents the culmination of a process that has gone totally out of control.

For only the second time since the passage of the Budget Control and Impoundment Act of 1974, the process of reconciliation is being used in conjunction with the first budget resolution. This drastically changes the nature of the budget process making the first resolution's spending figures into mandatory spending ceilings, instead of the targets or guidelines intended by the authors of the act.

The first budget resolution, the so-called Gramm-Latta budget, also mandates reductions in Federal spending not only for the coming fiscal year, 1982, but the next 3 fiscal years. It included instructions to reduce spending not only in entitlement programs, and appropriation measures, but authorizing legislation as well. When the Members of this body voted for the Gramm-Latta budget resolution, they voted for a fundamental shift not only in congressional procedure, but in the traditional roles of both the authorizing and appropriations committees.

The Committee on Education and Labor, for example, was mandated to realize savings in entitlement programs and authorizing legislation totaling $10.084 billion in 1982. This is almost one-third of the committee's entire annual budget for programs such as student financial assistance, children's feeding programs, employment and manpower programs, handicapped education and others. This committee and others were assured by both the minority and majority members of the Budget Committee that if these dollar savings were realized, the committee's package would not be revised.

It was, for me personally, a very difficult decision whether to engage in the committee's negotiations about where these agonizing cutbacks would be made. Because of the magnitude of the cuts the committee was left with little or no flexibility in which to minimize the damage of these reductions. I believed, however, that my colleagues and I on the Committee on Education and Labor had an expertise in the programs under the committe's jurisdiction. Through our years of service on the committee, we had become familiar with the programs, and the impact of the proposed reductions.

My prime concern during this process had been to insure that all the programs under the committee's jurisdiction would remain intact and the impact of these cuts be minimized. We were repeatedly advised that if the committee did not engage in this painful, deliberative process about programmatic cuts, the responsibility of making these reductions would be assumed by the House Budget Committee. The Budget Committee has been far more concerned with achieving certain dollar savings than the value of individual programs. I feared that the Budget Committee would have simply chosen to eliminate a number of our categorical programs, place the remainder into block grants, and then indiscriminately slash their funds.

So the Education and Labor Committee and others underwent this difficult and painful process. The members not only met the mandate of the reconciliation process, to make cuts totaling $35.116 billion but in fact exceeded the total by $2.6 billion. Substantive changes in authorization levels to effect these spending reductions were made by all the committees. Although these changes were not identical to those suggested by the President, the committees did in fact adopt about 85 percent of the administration's package, and exceeded the required overall dollar savings.

But because the programmatic changes are not identical to those of the President, the House is now being asked to consider not only his proposals, but also consider them in a manner which he finds acceptable. The President and members of the Republican Party have charged that by failing to incorporate the programmatic changes suggested by the Gramm-Latta II, their reconciliation package, the House committees have violated the Gramm-Latta budget. There has been no violation of the Gramm-Latta budget resolution, the programmatic proposals of the budget are simply recommendations, and are in no way binding.

According to Ronald Reagan, it is not sufficient that individual amendments implementing his proposals on a variety of issues such as the guaranteed student loan program, child feeding programs, cost-of-living adjustments for retirees and others would be voted upon on the House floor. The President demands that these and others be considered en bloc, with one up or down vote. And if this opportunity is denied, the President and members of the minority accuse the Democratic majority of imposing a gag rule.

For this President to claim that voting on individual amendments is legislating under a gag rule is complete hypocrisy. On the contrary, one vote on a package of amendments affecting millions and millions of Americans and billions of dollars in Federal spending is the real gag rule.

And now since the House has decided to consider the package of amendments as one vote there will be precious little if any time to review, consider and debate it. In fact, the package is still being rewritten and was not even available until a short time before the vote today. Is this any way to legislate? Although responsible Members of this body will attempt to understand and weigh the package that is before us today it is virtually impossible to grasp all the changes the will be made if it is adopted. What will the impact be on the poor, the middle class, the elderly, residents of the city and State of New York, and every other part of the Nation? Unfortunately, there seems to be few clear-cut answers to these questions.

The intent and impact of one part of the Gramm-Latta package is immediately apparent. This package includes block grants—consolidation of a number of categorical education, health, energy, community and economic development programs and social service programs into block grants, all with reductions in funding. One point is perfectly clear—this consolidation does in fact repeal existing programs. It also leaves broad discretion to the States and localities to fund certain programs. There is no assurance that States, or localities will provide the specific services which are now mandated under individual, categorical programs.

A general outline of the first Gramm-Latta reconciliation package gives us some idea of the impact. For example, the energy block grant would provide $200 million per year to States for use in unspecified energy programs. Existing individual Federal programs such as the Residential Conservation Service, hospitals and schools conservation and low-income home weatherization programs are repealed although States could fund these activities under the block grant. What if a State simply elects not to fund for example, the Residential Conservation Service program? This program now requires utility companies to offer energy audits and assists in the financing of necessary conservation measures. Are these services no longer needed now that the Reagan economic program is being adopted?

The Gramm-Latta package also repeals the building energy performance standards program, or BEPS, which requires the Department of Energy to promulgate energy efficiency standards for new structures.

The social services block grant proposed by Gramm-Latta mandates a 20-percent reduction in title XX social services programs. Preliminary estimates by the Committee on Ways and Means indicates that the State of New York will lose over $48 million in title XX moneys in the next fiscal year alone. But what does this cut mean when translated into program services? In New York State, 19,500 low-income children will be denied day care services, 25,500 senior citizens will lose the services of senior centers and services necessary to respond to the 23,000 cases of child abuse or neglect would be eliminated.

The Gramm-Latta reconciliation proposal will cause severe hardship for millions of college students across the country. Social security student benefits would be reduced annually by 25 percent, and all new student benefits will be eliminated after June 1982. Benefits for 800,000 students will be reduced. The impact of these reductions will be compounded by drastic changes in the two primary student financial assistance programs, the guaranteed student loan and the Pell grant program. The loan program is cut by $1.6 billion by imposing a strict "needs test." This may result in the denial of loans to about 1.35 million college students. By 1984, under the Gramm-Latta proposal, 2.2 million students will be denied Pell grants, and the eligibility will be limited to students from families who make under $20,000 a year. The proposal also eliminates loans and scholarships for health professions and nurse training.

The Gramm-Latta reconciliation proposal also caps funding for the WIC program, nutrition programs for low-income pregnant women, infants, and children, cutting participation in the program by 300,000 persons by 1984. Although the program currently serves 2.2 million women and children, over 9.7 million are eligible but are not served now because of the lack of funding.

And despite this administration's posture that their programs provide a safety net, about 3 million elderly social security recipients will have their benefits reduced in April. Under the medicaid program, the 5 percent cap that Gramm-Latta proposes will result in the denial of care to many of the 18.8 million persons whose health care is financed under the program. Initial estimates by the Congressional Research Service indicates that New York State would lose over $220 million under this proposal.

It is indeed ironic that an administration which wants to reduce the number of individuals on welfare is in fact advocating a program which creates work disincentives and financially penalizes working poor families. Their cuts in the Aid to Families with Dependent Children program could result in one-third of current recipients quitting their jobs and enrolling on welfare.

The proposal also makes dramatic changes in the subsidized housing program, cutting the number of newly assisted housing units by over 30 percent. In addition, the amount of the tenant contribution for rent would increase from 25 to 30 percent of the tenant's income. These reductions are being taken in a program where 40 percent of all public housing residents are elderly families whose adjusted income in 1979 was $3,510.

The Gramm-Latta reconciliation proposal also contains a provision for a once-a-year COLA, or cost-of-living adjustment in the pensions of civilian Federal and military retirees. This would adversely impact about 1.8 million civilian and 1.4 million military retirees.

The consideration of this proposal signals a sad day for the people of this Nation. Although the precise impact of these cutbacks may yet be unclear, certainly millions and millions of America's lives will be harmed. But this is also a sad day for our constitutional form of government in which the Congress, as one part of a three-part system serves as a check and balance between the executive and judiciary. We are in danger of losing that tradition, this Congress is in danger of becoming merely a "rubberstamp" Congress for whatever the President wants. I only hope that this dramatic shift of power from the congressional to the executive branch of Government can be reversed.

● Mr. CLAY. Mr. Chairman, I rise in opposition to the Gramm-Latta amendment reducing the twice-a-year cost-of-living adjustment for Federal retirees to once a year.

I want to remind the Members of this body that it was President Reagan who took to the campaign trail in his bid for the Presidency his promise to Federal retirees that he would preserve their biannual COLA. No sooner did he get sworn into office when he revealed his balancing the budget act which included eliminating one of two COLA's. So much for campaign promises.

Retention of the twice-a-year cost-of-living adjustment is not a new issue for the House to face. In 1976 the 1-percent add-on provision of the Federal retirement system was rescinded and Congress enacted the current biannual COLA system in its place. Last year, during consideration of the Omnibus Budget Reconciliation Act of 1980, the House debated this issue in depth, and overwhelmingly rejected, by a vote of 309 to 72, a proposal to eliminate the March 1981 cost-of-living adjustment. In March of this year, in its report to the House Budget Committee on the fiscal year 1982, the Committee on Post Office and Civil Service recommended retention of the existing system.

Although the Budget Committee recommended only one of the two COLA's, the Post Office and Civil Service Committee in reconciling the massive reductions required of it decided that Federal retirees not be made sacrificial lambs in the budget cutting process. The promise made to Federal employees back in 1976 must be kept today. Now is not the time to unfairly single out this group of individuals.

For too long now a comparison has been made between the Federal pension program and the social security system. That is like comparing apples and oranges—the social security system when it was established was never envisioned to be a retirement system. Let us not pick apart a system which is solvent, namely the Federal retirement program, to compare it with one which is encountering financial problems, such as the latter.

The fact is that the Post Office and Civil Service Committee met its responsibility in saving some $5.2 billion, although it did not agree with having to perform this onerous task, in meeting the budget reductions imposed upon it. However, what is at issue today is how those cuts should be effected. In having to make these painful choices, the Committee chose wisely, I believe, in retaining the twice-a-year COLA while eliminating double dipping. The Committee thus placed the financial burden required by the budget process on the group that can best afford it.

There are 142,000 double dippers. There are about 3.1 million military and civilian retirees and survivors who now receive twice-a-year COLA. The average double dipper, even after the Committee proposal goes into effect, will still receive $22,482 per year in combined salary and retired pay from the Government. Retired officers will receive almost $32,000 average. By comparison, the average retired Federal employee receives about $11,000, and the average survivor annuity is only $4,700. Certainly the pay cut the double dippers will suffer is unfortunate. But compared to many RIFed Federal employees who will have no job, no salary, and no pension to fall back on, the average double dipper is faring very well under the budget process.

The Congress should keep its promise to these people who are now in the twilight of their years, on fixed incomes, whose very existence may depend on this pension plan.●

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from California (Mr. DELLUMS).

Mr. DELLUMS. I thank the gentleman for yielding. I appreciate the

presentation by the chairman and would answer the question of whether this bill before us would repeal the Community Services Act or most of the provisions of the act.

The gentleman from Ohio stated that the provisions of that act and a number of other acts have been consolidated into the bloc grant approach. The precise answer to the gentleman's question is, "yes, this provision, this bill does indeed repeal virtually all of the provisions of the Community Service Act and there is no guarantee whatsoever that any State in this Union would ever have to carry out the program promulgated by this Congress and enacted into law and administered by the Community Services Agency."

I would simply add one last comment, Mr. Chairman. I think what this points out is the reconciliation process itself is an extremely dangerous one because we are not simply here talking about budgetary parameters. We are actually repealing law. We are rewriting legislation without ever engaging in the formal processes of legislative process. I would suggest we reject this process and go back to the reponsibilities that we have to protect the rights of the American people.

Mr. PERKINS. I would say in the Republican substitute they clearly give the authority to OMB to phase it out commencing October 1, 1981.

Mr. MURPHY of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Pennsylvania (Mr. MURPHY).

Mr. MURPHY of Pennsylvania. Mr. Chairman, one of the cruelest cuts of all—and one of the most shortsighted—of the Gramm/Latta substitute is its effect on handicapped persons who will seek rehabilitation services next year. The substitute cuts 30 percent from the fiscal year 1982 current service level for rehabilitation State grants.

The State grant rehabilitation entitlement is the heart of the vocational rehabilitation program. It provides Federal matching money to the States so that they can provide handicapped citizens with the training, physical restoration, and equipment they need to become productive, taxpaying citizens.

This program is already seriously underfunded. In the past 5 years its buying power has decreased by more than 24 percent and we have seen a consequent decrease in the number of handicapped persons State agencies have been able to serve. In 1979 only an estimated 1 out of 20 eligible handicapped persons was able to receive service from rehab State agencies.

This is not only a tragedy in personal terms for the handicapped persons who remain unable to live independently and productively in society, but it is a terrible waste in economic terms for the Government.

For every 1 dollar a rehab client was earning before rehabilitation, his lifetime earnings will increase $11 to $13 after rehabilitation. And based on estimates from CBO, the Rehabilitation Services Administration, and the Council of State Administrators of Vocational Rehabilitation, we know that the Gramm/Latta cuts will mean the following:

Approximately 322,000 fewer handicapped persons will receive rehabilitation services.

One out of every three rehabilitation counselors across the country will lose his job—and it will take years to rebuild the lost base of knowledge and expertise.

Decreases in expenditures for rehabilitation will mean increases in other parts of State and Federal budgets. Based on 1979 ratios, the failure to serve 322,000 disabled persons will cost State, Federal and local governments more than $196 million in lost taxes and increased public assistance in just 1 year. The loss to the Government will increase geometrically in the following years since the earning power of rehabilitated persons increases dramatically over time, according to CBO.

The potential lost lifetime earnings of the disabled persons who will not be rehabilitated next year is more than $2.3 billion. These estimates do not take into account the elimination of SSI and SSDI rehabilitation trust funds, a similarly shortsighted action we appear to be moving toward. The loss of those trust funds will put an additional burden of upward of $100 million each year on rehabilitation State agencies. So the picture is even more bleak.

Surprisingly, while cutting State grants so drastically, the Gramm/Latta proposal increases some rehab discretionary program funding above the amounts recommened in our Education and Labor Committee package. Those discretionary programs, however, are not the essential part of vocational rehabilitation. Without basic services for the vast majority of handicapped persons, there is little justification for trying to provide generously for a select few. No amount of funding for research can make up for a critical lack of service dollars, and no amount of personnel training money will help if the dollars are not there to hire the needed personnel.

In proclaiming 1981 as the International Year of the Disabled, President Reagan referred to this Nation's disabled citizens as one of its greatest untapped resources. The Gramm-Latta funding level for this single most important program for handicapped adults will insure that the majority of this Nation's disabled citizens remain an untapped resource—a tragic irony in the year that was to have given them hope.

I urge you to reject the Gramm-Latta amendments.

Effect of Gramm-Latta II on handicapped persons served by the Rehabilitation Act:

Approximately 322,000 fewer disabled persons will receive rehabilitation services next year.

One out of every three rehabilitation counselors across the country will lose his or her job.

Decreases in expenditures for rehab will mean increases in other parts of State and Federal Budgets, according to CBO.

Based on 1979 ratios, the failure to serve 322,000 disabled persons will cost State, Federal, and local governments more than $196,000,000 in lost taxes and increased public assistance in just 1 year.

The loss to the Government will increase geometrically in the following years since the earning power of rehabilitated persons increases over time.

The potential lost lifetime earnings of the disabled persons who will not be rehabilitated next year is more than $2.3 billion.

Those who will be hurt are among the poorest and most disadvantaged of our society: 75 percent have incomes of less than $7,000 per year; 28 percent have incomes of less than $150 per month; 32 percent are on some form of public assistance; 46 percent are totally dependent on family or friends; and 55 percent are severely disabled.

For humanitarian as well as economic reasons, I urge you to oppose the short-sighted rehab amendment in Gramm-Latta II.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. I know one point my friend from Kentucky (Mr. PERKINS) and I can agree on. You make cuts; we make cuts. Alice Rivlin shows your cuts at $10.983 billion. Alice Rivlin shows our cuts at $11.772 billion. So we are doing an awful lot of arguing over $700 or $800 million. Those are the bottom line figures which I am sure we can agree on.

Mr. PERKINS. Let me say to my distinguished colleague, in that particular respect you and I are just arguing over scraps.

Mr. Chairman, I would like to address the substitute before us. In this substitute I am especially concerned about the cutbacks for the school lunch and child nutrition programs and for the higher education student assistance programs.

As regards child nutrition, the Education and Labor Committee after much deliberation agreed upon a 20-percent cut in those programs. The Budget Committee had requested a

$1.5 billion cut but our committee could not justify a cut of such magnitude. It is certain that a cut in excess of $1 billion would greatly jeopardize the programs.

In that regard, I would like to insert in the RECORD a telegram from the American School Food Service Association and a recent editorial from The Arkansas Gazette.

[Mailgram]

The 65,000 members of the American School Food Service Association strongly urge your opposition to Gramm-Latta II. The child nutrition recommendations of the education and labor committee call for a $1 billion cut in Federal support—approximately a 20 percent decrease in Federal assistance.

By comparison, Gramm-Latta II calls for a $1.5 billion cut in child nutrition, a 30 percent cut in funding. The School Lunch Program—even with anticipated administrative savings—cannot reasonably be expected to absorb a cut that deep. If Gramm-Latta II is enacted, participation in the National School Lunch Program for thousands of schools throughout the country will be in jeopardy.

JANE WYNN,
Chairman, Legislation and Legislative Policy Development Committee.
MARSHALL L. MATZ,
Legislative Counsel, American School Food Service Association.

[From the Arkansas Gazette, June 13, 1981]

FAST FOOD OR NO FOOD

Not the least of the new or enlarged difficulties facing the public schools this fall is the prospect of hungry or undernourished children, adding fresh impediments to discipline and learning. If the President's reductions in federal assistance for child nutrition are enacted by Congress, it will be hard for schools to sustain their present lunch programs because the much higher cost per meal for paying students will reduce participation and make the programs less efficient.

Still, school districts can maintain good nutrition programs and they ought to do it, by whatever innovation. None should follow the example of the Pulaski County School Board, which this week dropped out of the federal lunch program at the secondary level rather than comply with nutrition standards. The district feared drastically reduced participation by students at the higher lunch prices. Huttig, at tiny South Arkansas lumber town, now runs the only school district that does not offer a full federal lunch program. The state's largest district will become the second.

Fewer youngsters in the big Pulaski district this fall will get well-rounded meals by buying in the fast-food program that the district will offer its high schools students a la carte. Others may not eat at all. Some 2,000 high school students in the district now qualify for free meals at reduced prices because of low family incomes. As long as the district operates a program that meets federal nutrition standards—and a fast-food program can qualify if it is run properly—the district can be reimbursed for the meals of poor students.

The County District intended for poor students to use their families' food stamps to buy fast-food lunches at school, but that use of food stamps is illegal and Congress is not likely to change the law. Poor students in the Pulaski County schools will have to do the best they can.

Congress, of course, has not yet adopted the President's nutrition cuts, and the reductions may yet not be as draconian as he proposes. The Senate is considering a proposal to restore some of the subsidy to students of middle- and upper-income families. The government now provides a subsidy of up to 50 cents a meal. Mr. Reagan is proposing to remove it, which would mean the loss of more than $12 million to Arkansas school lunch programs in the next school year and an increase in lunch prices of from 70 to 75 cents to $1.25 or $1.30. For a family with two children in school, the extra cost could be $180 to $200 a year. For many families, that would approximately equal the income-tax cuts that are proposed for them. For even larger families with marginal incomes it would prove to be more supply-side economics than they could stand.

The child nutrition recommendations of the Education and Labor Committee reluctantly called for a $1 billion cut in Federal support—approximately a 20-percent decrease in Federal assistance. By comparison the Republican substitute calls for a $1.5 billion cut in child nutrition, a 30-percent cut in Federal support. Although the Republican substitute lays claim that it achieves these greater savings while focusing assistance directly on the neediest students, all the testimony we had this year showed clearly that the child nutrition programs cannot absorb a cut that deep and program benefits to all children will be significantly reduced if not altogether eliminated.

First, the Committee bill cuts paid lunch subsidies by one-third whereas the Republican substitute cuts these subsidies by 56 percent. It is certain that a cut of this magnitude will force millions of children out of the program, closing thousands of lunchrooms across the country.

Based on USDA figures, every 1 cent cut in the paying subsidy means a 1-percent drop in participation. Under this direct proportion, the Republican substitute will result in three million paying students dropping out of the school lunch program this fall. This three million represents a loss of 21 percent of the paying student participation.

How can the supporters of the Republican substitute claim that its cuts are not aimed at the needy when the elimination of programs means that all children will be deprived of a school lunch.

Second, the Republican substitute, by significantly limiting the number of children eligible for a reduced price lunch, will force many needy children who now pay 20 cents for a school lunch this year to pay as much as a dollar next year. Again, this cut targets children with family incomes just a little over $15,630 a year. For the children who still are eligible to receive free and reduced price meals, schools are going to have to absorb a 5-percent decrease in Federal support for free children and a 23-percent decrease in Federal support for reduced price children.

Finally, the WIC program has distinguished itself as not only the most cost effective Federal program, but also the most critical, in terms of meeting the health needs of low income pregnant women, infants, and children.

The Republican substitute caps the WIC program through fiscal year 1984 at the fiscal year 1982 level. This means that next year there can be no expansion and in fiscal year 1983 140,000 individuals will have to be dropped followed by an additional 280,000 in fiscal year 1984.

Currently, the WIC program is reaching only 2.2 million of the 9.4 million women, infants, and children who are poor and undernourished. This cut indicates that the authors of the child nutrition portion of the Republican Substitute are not as concerned with the welfare of poor and underprivileged as they are with cutting back on the budget.

For all of these reasons, I feel the adoption of this substitute will cause severe harm to our children and to many infants and pregnant mothers. We should reject it.

I would like to digress for a moment to clarify an amendment which appears in both the Committee's recommendations and the Republican substitute. This involves the exclusion of private schools charging an average of $1,500 of tuition from the child nutrition programs.

In adopting this provision to eliminate those private schools from the school lunch program, the Committee did not intend to eliminate those private schools which operate a program on a system-wide basis. The Committee recognized that many nonpublic school systems conduct and administer school lunch programs for the institutions within their jurisdictions. This occurs most commonly within the Catholic school community where their institutions are concentrated in urban and inner-city areas, serving significant numbers of low-income and minority children. The Committee did not wish to eliminate the participation of such children from these vitally important programs as a result of the implementation of this provision.

In order to insure that the U.S. Agriculture Department does not inadvertently penalize these children, the Committee would like to make it clear that in these cases, the average tuition requirement should apply to these schools as a group.

As regards the cutbacks in the higher education student assistance programs as proposed in the substitute, these cuts will damage the eco-

nomic development of our country by discouraging thousands and thousands of citizens from furthering their education.

The substitute would eliminate $200 million in 1982, another $200 million in 1983, and nearly $400 million in 1984 from the Pell Grants. These grants are the very foundation upon which is built all Federal, State, and institutional aid programs for students. By eliminating these millions of dollars the best estimates are that between 200 and 400 thousand students a year will not be able to attend colleges and universities.

This substitute would also change the eligibility for receipt of guaranteed student loans. Instead of permitting any family to secure such a loan through their local bank as is now permitted, the substitute would require a "needs test" for receipt of such a loan.

On its face, such an amendment appears very attractive since it would seem that no student who could prove "need" would be denied funds. However, the problems are two-fold. First, "need" has to be determined using some type of national form for income assessment. This inevitably means that many families will not be able to qualify because they will not be able to satisfy rigid national guidelines to determine "need". The best predictions are that 1.3 million students will no longer be eligible for loans because of this need analysis. Some of these students may not "need" these funds but many others, I would venture to say, truly will have such a need.

The second problem with the amendment is that it was tried before and failed. In 1972 the Congress enacted such a change, but the process of determining "need" became so cumbersome that hundreds of banks simply refused to give out loans. When it became evident that the entire loan program would shut down, the Congress had to rush through a bill which repealed the needs requirement. I am afraid that the substitute before us would put us in the same situation with banks simply refusing to be bothered with all these Federal forms and guidelines.

For all these reasons I simply do not believe that the provisions of the substitute make sense in terms of improving the lives of millions of our citizens and in terms of improving the economic well-being of the entire country.

Several other points I would like to make about the substitute are—

(1) The education and social services block grants are being adopted without any hearings or review of the exact language by the appropriate committees. This is a total distortion of the legislative process.

(2) The impact aid changes will benefit only 1,700 school districts while the Education and Labor Committee's version would have benefited nearly 4,000 districts.

(3) The vocational rehabilitation program is cut back $100 million from current appropriations. We recommended instead level funding.

The last point I would like to make concerns this whole budgetary process. What we are involved in today was never contemplated by the drafters of the Budget Act.

The Budget and Rules Committees over the course of the last 2 years have distorted the original purpose of the Act in three regards.

First, the first budget resolution in the Spring was always meant to contain merely targets and not binding instructions. The second resolution in September was to be the binding resolution. By including reconciliation in the first resolution, we have turned the whole process around. Now there is no time for serious consideration or deliberation.

Second, the budget process was never meant to affect authorizations of appropriations. By requiring cutbacks this year in authorizations, the usual process of separate authorizations and appropriations bills has been rendered meaningless. Now the authorization committees have become the appropriations committees in carrying out the reconciliation instructions, and the appropriations committees have been rendered almost meaningless.

Third, the budget process was never intended to affect the so-called "outyears," that is the years beyond the year of the budget resolution. By requiring authorization and entitlement changes for 3 years, the budget resolution becomes the supreme legislative bill before the Congress every year, and no role is left for more deliberate consideration.

Mr. Chairman, I know that many are rejoicing today at yesterday's victory, but let me warn them that what they have devised to win this victory they may rue tomorrow. The Congress has become a mere rubber stamp for a strong President; and the genius of the American system of government, namely checks and balances, has been swept away.

I sincerely believe we will all live to regret these decisions and I urge my colleagues to reject the substitute.

For the information of the members, I would like to insert in the RECORD several charts comparing the recommendations made for its programs by the Committee on Education and Labor and those made in the Gramm-Latta substitute.

SUBCOMMITTEE ON ELEMENTARY, SECONDARY, AND VOCATIONAL EDUCATION, MAJOR PROGRAMS

	Education and Labor Committee recommendations	Gramm/Latta II recommendation
CHILD NUTRITION		
Cutbacks (in millions)	Fiscal year 1982: −$1,056; Fiscal year 1983: −$1,052; Fiscal year 1984: −$1,133	Fiscal year 1982: −$1,549; Fiscal year 1983: −$1,696; Fiscal year 1984: −$2,052.
Major legislative changes	Cuts the paid lunch subsidy by 13¢. Maintains an open-ended authorization for the WIC program. Maintains the income eligibility for free meals at 125 percent of poverty level with a standard deduction (fiscal year 1982—$11,580). Lowers eligibility for reduced price meals from 195 percent to 185 percent with a standard deduction (fiscal year 1982—$16,230).	Cuts the paid lunch subsidy by 18¢. Caps the WIC program through fiscal year 1984 at its fiscal year 1982 funding level ($1.037 b). Limits free meal eligibility by setting eligibility at 130 percent of poverty level and eliminating the standard deduction (fiscal year 1982—$10,980). Limits reduced price eligibility from 195 percent to 185 percent with no standard deduction (Fiscal year 1982—$15,630).
TITLE I, ESEA		
Funding (in millions)	Fiscal year 1982, 1983, and 1984: $3,504.3	Fiscal year 1982, 1983, and 1984: $3,544.3.
Extension of programs	Extends through fiscal year 1984	Amends and extends through fiscal year 1984.
Major legislative changes	None	Repeals many provisions of existing law. Major amendments: 1. Children most in need would not have to be selected for program. 2. Deletes requirement for parental advisory councils. 3. Weakens comparability, no comparability reporting required.
IMPACT AID		
Funding (in millions)	Fiscal year 1982, 1983, and 1984: $414.6 total (including $404.6 million for section 3)	Fiscal year 1982, 1983, and 1984: $401 total (including $371 million for section 3).
Extension of programs	Extends through fiscal year 1984	Extends through fiscal year 1984.
Major amendments	Section 3 formula: Indians—80 percent of fiscal year 1981 payment. "A" children—65 percent of fiscal year 1981 payment. "B" children—55 percent of fiscal year 1981 payment.	Section 3 formula: For fiscal year 1982—Heavily impacted districts will receive 100 percent of fiscal year 1981 "A" payment and 80 percent of fiscal year 1981 "B" payment. Other districts will receive ratably reduced payments for "A"s only. All "B" payments phased out over 3 years.
VOCATIONAL EDUCATION		
Funding (in millions)	Fiscal year 1982, 1983, and 1984: $791.2	Fiscal year 1982, 1983, and 1984: $791.2
Extensions	Through fiscal year 1984	Through fiscal year 1984.
Major amendments	None	None.

SUBCOMMITTEE ON ELEMENTARY, SECONDARY, AND VOCATIONAL EDUCATION, MAJOR PROGRAMS—Continued

	Education and Labor Committee recommendations	Gramm/Latta II recommendation
ELEMENTARY AND SECONDARY EDUCATION CONSOLIDATION		
Funding (in millions)	Total funding for categorical programs consolidated by Gramm-Latta: $579.7 for fiscal year 1982, 1983, and 1984.	Fiscal year 1983 and 1984: $584.4
Extensions	Extends categorical programs through fiscal year 1984	Consolidation takes effect in fiscal year 1983, expires at end of fiscal year 1987. ESEA repealed at end of fiscal year 1982.
Major amendments	Does not consolidate or amend existing ESEA programs	1. Consolidates Titles II, III, IV, V, VI, VIII, and IX of ESEA into block grants to 26 programs. 2. Title I, ESEA and education of handicapped not included in consolidation. 3. States and school districts can use funds for any of authorized activities.

SUBCOMMITTEE ON SELECT EDUCATION, MAJOR PROGRAMS

Program name	Committee on Education and Labor			Gramm/Latta II		
	Fiscal year 1982	Fiscal year 1983	Fiscal year 1984	Fiscal year 1982	Fiscal year 1983	Fiscal year 1984
REHABILITATION ACT:						
State grants (entitlement)	854.3	854.3	854.3	714.5	774.5	755.2
Other authorities	93.2	93.2	93.2	130.4	134.9	131.5
Total	947.5	947.5	947.5	844.9	909.4	886.7
Committee: Extends entire act for 3 years. No legislative change. Gramm/Latta II: Extends act for 3 years. Reduction in State grants means 322,000 disabled unserved in 1982.						
EDUCATION OF HANDICAPPED						
State grants	1,005.0	1,005.0	1,005.0	932.0	932.0	932.0
Other authorities (including preschool incentive grants)	102.2	102.2	102.2	180.1	180.1	180.1
Total:	1,107.2	1,107.2	1,107.2	1,112.1	1,112.1	1,112.2
Committee: Extends act for 3 years. Makes legislative changes requiring specific percent allocation of funds for priority areas; e.g. early childhood and preservice training. Gramm/Latta II: Extends act for 3 years No known legislative changes.						
Child Abuse and Adoption Opportunities	25.7	27.7	29.8			
Committee: Extends act for 5 years with legislative change as reported by committee prior to May 15. Gramm/Latta II: Places the programs in social service block grants with assumed 25 percent reduction						
DOMESTIC VOLUNTEER SERVICE ACT						
Title I	15.0	15.0	15.0	25.8	15.4	9.0
Committee: Extends the act for 3 years with set-aside for VISTA as reported by committee in May. Gramm/Latta II: Extends act for 3 years. Makes no known legislative change. Phases out VISTA in fiscal year 1983.						
National Institute of Education	25.0	25.0	25.0	55.6	55.6	55.6
Committee: Makes legislative change requiring future grants be competed and eliminates set-aside for labs and centers. Gramm/Latta II: No known legislative change. Would allow continued earmark of 40 percent of NIE funds for noncompeted grants to labs and centers.						
Alcohol and Drug Abuse Education	3.0	3.2	3.5	3.0	3.0	3.0
Committee: Extends the act for 4 years as reported by the committee prior to May 15. Gramm/Latta II: Makes no known legislative change. Extends act for 3 years.						

SUBCOMMITTEE ON HUMAN RESOURCES, MAJOR PROGRAMS

Program name	Committee on Education and Labor recommendation			Gramm/Latta II recommendation		
	Fiscal year 1982	Fiscal year 1983	Fiscal year 1984	Fiscal year 1982	Fiscal year 1983	Fiscal year 1984
White House Conference on Aging	$1.6			$1.6		
Older Americans Volunteer Program	$88.9	$88.9	$88.9	$88.9	$88.9	$88.9
Community Services Administration	$406.1	$406.1	$40.6.1	(1)	(1)	(1)
Major points of legislative change: Committee: Retains program at the Federal level. Gramm/Latta II: Local self-help groups may apply to State for Social Service grants.						
Head Start	$950	$950	$950	$950	$950	$950
Extension of program: Committee: 5 years (through fiscal year 1986). Gramm/Latta: 5 years (through fiscal year 1986).						
Follow Through	$26.3	$26.3	$26.3	$26.3	$26.3	$26.3
Extension of Program: Committee: 5 years (through fiscal year 1986). Gramm/Latta: 5 years (through fiscal year 1986).						
Native Americans Programs	$29.3	$29.3	$29.3	$29.3	$29.3	$29.3
Community Service Employment	$302.3	$302.3	$302.3	$302.3	$302.3	$302.3
Runaway Homeless Youth	$9.3	$9.3	$9.3	(2)	(2)	(2)
Major points of legislative change: Committee: Maintained as a Federal initiative. Gramm/Latta: A purpose of social service block grants is to provide emergency shelter. No mention of care of runaway as a purpose.						
Juvenile Justice	$86.5	$86.5	$86.5	$86.5	$86.5	$86.5
Administration on Aging	$695.6	$695.6	$695.6	$695.6	$695.6	$695.6

[1] Repealed and dismantled.
[2] Repealed.

SUBCOMMITTEE ON EMPLOYMENT OPPORTUNITIES COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Program	Committee on Education and Labor recommendation			Gramm/Latta II recommendation		
	Fiscal year 1982	Fiscal year 1983	Fiscal year 1984	Fiscal year 1982	Fiscal year 1983	Fiscal year 1984
TITLE II ABC						
Funding	$1.371			$1.335	$3.084	$2.811
Program Changes:						
Committee: Requires sliding scale non-Federal match. Reduces Secretary's discretion to 1 percent. Reduces Governor's grants to 10.5 percent.						
Gramm/Latta II: No matching requirement. No change in Secretary's discretionary funds. No Change in Governor's grants.						
TITLE II–D (PSE) [1]						
TITLE III (NATIONAL PROGRAM)						
Funding	213			213	234	257
Committee: Includes authorization for Title V (National Committee for Employment Policy).						
Gramm/Latta II: No specific authorization for National Committee for Employment Policy.						
TITLE IV–A (YOUTH PROGRAMS)						
Funding	600			600	0	0
Program Changes:						
Committee: Eliminates Secretary's direction.						
Gramm/Latta II: No change in Secretary's discretion.						
TITLE IV–B (JOB CORPS)						
Funding	([2])	([2])	([2])	607	649	690
TITLE IV–C (SUMMER YOUTH)						
Funding	([3])	([3])	([3])	865	0	0
TITLE VI (PSE)						
Funding	([1])	([1])	([1])	([1])	([1])	([1])
TITLE VII (PRIVATE SECTOR PROGRAMS)						
Funding	154.4			192.5	222	237
Program changes:						
Committee: Requires sliding scale non-Federal match.						
Gramm/Latta II: No matching requirement.						
TITLE VIII (YACC)						
Funding	([1])	([1])	([1])	([1])	([1])	([1])
Total CETA	$3.810	$3.810	$3.810	3.812	$4.189	$3.995
Extension	([4])	([4])	([4])	([4])	([4])	([4])
DOL program Administration:						
Committee: Reduces DOL/ETA program administration to $49.2 million in fiscal year 1982.						
Gramm/Latta II: No change in DOL/ETA program administration.						

[1] Committee and Gramm/Latta II authorize no funds for fiscal years 1982–1984.
[2] Combined with IV–C at level of $1.472.
[3] Combined with IV–B at level of $1.472.
[4] Extends authorizations through fiscal year 1984.

SUBCOMMITTEE ON POSTSECONDARY EDUCATION, MAJOR PROGRAMS

[In billions]

Program	Committee on Education and Labor recommendation			Gramm-Latta II recommendation		
	Fiscal year 1982	Fiscal year 1983	Fiscal year 1984	Fiscal year 1982	Fiscal year 1983	Fiscal year 1984
PELL GRANTS						
Funding	$2.635	$2.566	$2.231	$2.466	$2.353	$1.965
Extension of Program:						
Committee: Extended in 1980 by Public Law 96–374.						
Gramm/Latta: Extended in 1980 by Public Law 96–374.						
Major Points of Legislative Change:						
Committee: Provide for an $1,800 maximum grant over the next 3 fiscal years. Index the family size offset according to the Consumer Price Index (CPI) each year. Defer the cost of attendance provisions contained in the Education Amendments of 1980 for the next 3 years. Count social security and VA benefits as student aid rather than income. Establish a graduated contribution rate which taxes discretionary family income at progressively higher rates according to income.						
Gramm/Latta: Provide for an $1,800 maximum grant over the next 3 fiscal years. The maximum amount of an individual grant cannot exceed 50 percent of the recipient's cost of attendance figure. Social security benefits are counted as part of the family contribution rather than as income. Home equity is used in computing family and student assets. The Secretary is given the authority to set allowances for each item in the cost of attendance schedule. The Secretary is given the authority to establish assessment rates to be applied to parental discretionary income						
GUARANTEED STUDENT LOAN PROGRAM						
Funding	$2.701	$3.133	$3.401	$2.588	$2.646	$2.456
Extension of Program:						
Extended in 1980 by Public Law 96–374.						
Gramm/Latta: Extended in 1980 by Public Law 96–374.						
Major Points of Legislative Change:						
Committee: Establish a 4.0 percent assessment fee to be applied against the special allowance. Count social security and VA benefits as student aid rather than income. Increase the Parent Loan interest rate from 9 percent to 14 percent. Eliminate the institutional allowance for colleges and universities. Eliminate independent student eligibility for larger loans. Eliminate all grace periods except the grace period following the in-school deferment. Delete rounding up provisions on all loans. Increase the minimum annual repayment to $600 per year. Allow the Secretary to collect on defaulted guaranteed agency loans. Reduce the insurance premium guarantee to one percent of the amount borrowed. Eliminate all deferments except the in-school period.						
Gramm/Latta: Establish a 4 percent assessment fee to be applied against the special allowance. Count social security benefits as student aid rather than income. Increase the Parent Loan interest rate from 9 percent to 14 percent. Place a $1,000 minimum on the amount a student can borrow. All loans must be granted on a need basis. Eliminates all grace periods except the one following the in-school deferment. Grants the Secretary the authority to determine the needs analysis method. Eliminate independent student eligibility for larger loans. Allow independent student to borrow under the parent loan program. Eliminate the majority of deferments for repayment of loans. Allow institutions to charge a processing fee on loans and grants to be paid by the student. Increase the minimum annual repayment to $600 per year.						

□ 1615

Mr. KRAMER. Mr. Chairman, the House has before it today the opportunity to take the second major step toward fiscal responsibility, increased productivity, economic recovery and most importantly, responsiveness by the Federal Government to the expressed wishes of the American people.

Today we can enact meaningful and significant changes in our economic policy changes which, when combined with the administration's tax-cut package, will enable the economy to do an about face, changes which are essential if we are to be free from the stultifying economic practices of past Keynesian economic policies. Individual taxpayers are forced to spend their after-tax income on living expenses as rising inflation and interest rates have eaten away at the value of the dollar. With individuals increasingly unable to set aside money in savings or investments, capital formation, productivity, and the GNP are suffering.

President Reagan's economic recovery policy provides a Federal budget and a program which restore faith in private enterprise as the root of our economic strength rather than the Federal Government. This policy formulates a budget which allows State and local governments to regain control over decisions and responsibilities affecting their citizenry which have been assumed by the Federal Government to the detriment of local public services.

Responding to the collective votes of the American people, the Reagan plan, as exemplified in the Gramm-Latta amendment to the omnibus reconciliation bill, will protect the interests of the truly needy while administering the budget reductions mandated by the first budget resolution.

In addition to curbing extravagant spending and improving the condition of the economy, the administration's proposals will redirect many Federal programs, improve the delivery of Federal funds, and reduce Federal regulations—thus decreasing the size of the Federal Government.

After the bipartisan Gramm-Latta positive approach of hope, the House Democratic leadership approach is a poor second. Once again, the House leadership has taken its business-as-usual approach to meeting the spending reductions as required by the first budget resolution. The omnibus reconciliation bill would result in further growth in Federal spending, further increases in the money supply, and a continually rising tax burden and inflation rate. The omnibus reconciliation bill will simply not provide the necessary spending cuts for the administration's tax plan to be implemented. The Budget Committee's reconciliation bill demonstrates the total lack of faith in the ability of individuals to chart their own course. This bill declares that the American people cannot function without the domination of the Federal Government.

Opponents of Gramm-Latta have charged that it is heartless and that it consists only of cuts. This is simply not true. Rather, Gramm-Latta takes a look at the real needs of Americans and is often better suited to the needs of the local communities that the omnibus reconciliation bill developed by the committee.

Let me illustrate. Initially the Education and Labor Committee decided to zero out the $866 million impact aid program under which school districts are compensated for educating children whose parent live or work on Federal property. Members of the majority party supported this cut in committee.

When it became apparent that such an approach was totally unacceptable, the committee quickly assembled for another vote on its portion of the reconciliation package, at which point $414.6 million was restored for impact aid. Even so, adoption of the omnibus reconciliation bill would mean one of several things: First, the property taxes of our residents in the school district would have to be raised to compensate for this reduction in funds; second, Federal funding would have to be provided through another department, such as DOD; third, the parents of the children would have to pay tuition, which would negate our efforts to make an All-Volunteer Army more attractive; or fourth, teacher layoffs or reduced services.

In contrast, for example, in El Paso County, Colo., which is in my congressional district, the Gramm-Latta amendment will mean nearly 30 percent more impact aid money next year, a difference of between three-quarters and $1 million, depending on next year's enrollment.

The first budget resolution instructed House committees to effect fiscal year 1982 savings of $50.7 billion. H.R. 3982, the omnibus reconciliation bill, claims savings of $4.4 billion more than required by the budget resolution. A careful analysis of these so-called savings reveals cuts in programs and departments which will jeopardize the delivery of services to the truly needy, the poor, and the elderly. In addition, there are no enforcement measures and contradictions in programs which overlap committee jurisdictions will result in much less savings than reported by the Budget Committee.

In contrast to the reconciliation bill, the Gramm-Latta amendment, including the Broyhill amendment, would restore many of the program changes and budget savings implicit in the first budget resolution. Gramm-Latta also proposes additional savings above the committee-approved bill—an additional real savings of $6.4 billion for a savings of $60.8 billion in budget authority for fiscal year 1982 and even greater savings for fiscal years 1983 and 1984.

We must not accept the business-as-usual approach of the omnibus reconciliation bill.

Adoption of the Gramm-Latta amendment will eliminate many sharp differences between the House and Senate that would impede prompt conference agreement with the Senate. It will help us to insure a balanced budget by 1984—a goal I frankly would like to see us reach sooner than 1984. That is why I have introduced legislation in the Congress to amend the Constitution and require Congress to balance the Federal budget and limit Federal spending. As a consistent proponent of a balanced Federal budget to curb the growth of the Federal deficit spending policies, I urge adoption of the Gramm-Latta amendment.

The House will not just be voting on an amendment to a reconciliation bill. The House will be voting on whether or not it is willing to take this country in a new direction—into a new era. This vote will determine the economic and political principles which this country will follow for years to come. Will we continue to heed the voice of the electorate? Will we deliver on the message sent to us last November? Or will we pay lipservice to the wishes of the American people and proceed with business-as-usual, enacting a reconciliation bill which only perpetuates the failed policies of the past?

Let us respond to the call of the people and our President. It is time for a complete change. Let us seize this moment and this opportunity to make America proud and great again.

The CHAIRMAN. The time of the gentleman from Kentucky (Mr. PERKINS) has expired.

The gentleman from Oklahoma (Mr. JONES) has 53 minutes remaining and the gentleman from Ohio (Mr. REGULA) has 27½ minutes remaining.

Mr. JONES of Oklahoma. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. Mr. Chairman, I rise in opposition to the Republican substitute. This is an appalling proposal we are about to vote on. The Gramm-Latta substitute amendment would make $40.8 billion in spending cuts for the fiscal year which begins on October 1, 1982. The text of this amendment, which runs for hundreds of pages, was only distributed to Members of Congress this morning. It will take weeks for all of us to learn exactly what we are being asked to vote on this afternoon. This is a travesty. Hundreds of changes are being proposed in almost every program the Federal Government runs with just a few

hours for Members of Congress to try to find out what those changes are and who will be hurt by them. We are not going to be allowed to suggest amendments or alternatives if we find program cuts which are so brutal and unnecessary that they should not be made.

As the Representative in Washington of almost half a million people who have a right to have their views registered, I must protest this procedure which asked me to take Reagan's entire program or leave it—it is not subject to adjustment or amendment at any point. From what little I and my staff have been able to figure out about this hastily drafted proposal, which was only sent to the printers last night, I can safely say this is a proposal that I will leave and not take. Millions of deserving and needy people are going to lose services and financial assistance which they desperately need if this Republican amendment is agreed to by the Congress. In the name of cutting back the size of Government, callous, and heartless cutbacks in vital programs would be made by this amendment. Generous provisions in the tax laws which give away billions of dollars to highly profitable businesses like the oil companies are not even touched, while school lunches, student loans, and social security benefits are slashed. The following are just some of the outrageous spending cuts which the Gramm-Latta amendment would make in my State of New York:

Reduce Federal funds for elementary and secondary education by approximately $180 million.

Reduce Federal funds for postsecondary education loans and grants by approximately $420 million. Roughly 145,000 students would be eliminated from the guaranteed student loan program and 50,000 from the Pell grant program, and 40 percent of all students who receive help under this program would lose some or all of their assistance.

Reduce Federal funds for school and hospital energy conservation programs by $8 million.

Remove funding for State outdoor recreation program grants in fiscal year 1981. There would also be a $2,715 million cut in historic preservation, with the result that New York State would get $675,000 less than it would have under President Carter.

Endanger the ability of 250,000 aged, blind, and disabled social services recipients to continue in their social services programs; 80,000 elderly and disabled persons could lose needed homemaker and meals-on-wheels services; 120,000 children could lose day care services; and 29 senior citizen centers could be forced to close as $43 million in social services would be lost to the city.

Reduce New York State's child nutrition funds from between $40 million to $60 million. Approximately 225,000 children would lose free and reduced-price meals immediately.

Reduce or eliminate the AFDC benefits of approximately 35,000 families in New York.

Eliminate the Young Adult Conservation Corps and Youth Conservation Corps. New York would lose $55 million in youth employment training and $75 million in summer jobs for young people.

End all funding for drug and alcohol abuse programs. New York would lose $20 million.

New York-New Jersey metropolitan areas might have to pay as much as $70 million in ocean dumping fees.

Reduce the civilian pay levels in fiscal years 1982, 1983, and 1984 for over 2 million Federal civilian employees.

Reduce New York's subsidized housing funds by $180 million.

Severe impact on New York's economy as a result of reductions in rail freight service. Continuation of rail passenger service over the State's Buffalo-New York route would be jeopardized.

Reduce New York mass transit funds by approximately $36 million.

Cost New York approximately $51.77 million in discretionary capital grants for mass transit.

Reduce the number of Federal aid highway programs from 44 to 7.

Result in a $167 million drop in section 402 highway safety grants.

Change twice-a-year cost-of-living adjustments for Federal retirees to a once-a-year adjustment.

Reduce social security student benefits by 25 percent annually for the 800,000 current beneficiaries and eliminate all new student benefits after June 1982, compounding the financial problems that already exist because of reductions in Pell grants and guaranteed student loan programs.

Reduce the social security benefits of about 3 million elderly persons in April 1982 with the result that many of them would live just above the poverty level.

Cut the school lunch program by $600 million. As many as 3 million paying children would have to stop buying school lunches.

Permanently fund Puerto Rico's food stamp program at 75 percent of the current program levels in Puerto Rico, which could force tens of thousands of Puerto Rican residents to leave the island and come to New York and other cities.

Finally, New York and every other community would face incredible disruption and uncertainty from the requirements for elimination of dozens of special, separate health, education, and welfare programs, and replacement block grants at reduced levels.

Finally, I have to note that the Latta amendment does not just cut, but it also adds, funds to some of the Republicans' favorite programs, and it is very difficult to find out just which ones are so blessed. One that has become known is the Clinch River breeder reactor, which the Science and Technology Committee had proposed to terminate, saving $254 million, but which the Republicans now want to restore.

I hope this listing of some of the real cuts in important services will help some of the Members of Congress who worship at the shrine of reduced Federal spending to realize that such reductions cannot be made painlessly. It is a myth to think that billions of dollars are being wasted on undeserving people who are enriching themselves at taxpayers' expense. Many of these programs mean life itself to their participants. When the real impact of these kinds of spending slashes begins to be felt this winter, I wonder whether those Members who pride themselves on their support for President Reagan's program will feel so proud. Well, do not try to say that you did not know what was being cut, because after today, even with so little notice, you should know enough to realize the enormous sacrifices you are asking millions of poor people to make.

Furthermore, you should also know that your support for President Reagan's program which your mail and telegrams may have been urging you to demonstrate will do violence to the very idea of representative democracy. How can anyone argue that it is fair or responsible or deliberative to expect us to have one vote or even two or three on literally hundreds of changes in existing law which will cost my State alone hundreds of millions of dollars? I do not understand how the President could argue that it would have been unfair to have his proposals voted on in six separate votes, that the only fair procedure would be for all the administration's proposals to be voted up or down in one vote. This is not the way the Congress has heretofore conducted its business, and it should not ever be the way hundreds of major policy decisions are made. If this process becomes the standard way of doing business, we might as well limit the Congress to taking occasional votes on whether or not we have confidence in the President and leave the details of making the laws up to him and David Stockman. That is what this amendment's adoption by the House would amount to.

Mr. JONES of Oklahoma. Mr. Chairman, I yield 5 minutes to the distinguished chairman of the Post Office

and Civil Service Committee, the gentleman from Michigan (Mr. FORD).

Mr. FORD of Michigan. Mr. Chairman, before talking about the amendments relating to the Post Office and Civil Service Committee, I would like to mention briefly a matter that is really a joint concern of that committee and the Education and Labor Committee.

We had presented to us a major piece of legislation on the Federal Employees Compensation Act earlier this year, and it was rejected overwhelmingly. That same proposal was presented to the Republican-controlled Senate Labor and Human Resources Committee, no great bastion of liberality, I might observe. They also rejected it.

In spite of the fact that two congressional committees looked at the legislation and turned it down out of hand, we now find it put in its entirety into the Gramm-Latta package. So we have a major new piece of legislation that changes the basic compensation law for all of these employees not only throughout the United States, but throughout the world, without 1 minute of hearings, without the opportunity of anybody affected by the proposal to be heard on the matter at all.

All of these changes are regressive, and all of them should be rejected. The substitute would introduce a 7-day waiting period for claimants who have been injured at work; this is a longer waiting period than that imposed by a majority of the 50 States and would arbitrarily deny benefits to thousands of workers.

The substitute eliminates the 45-day continuation of pay period which Congress established in 1974 to help protect injured workers against financial deprivation during the early days of their disability. FECA claims, because of chronic understaffing in the Department of Labor, usually take many months to be approved and, in the case of contested claims, often take years. In the meantime, an injured worker experiences a sudden, total loss of income for which he is unprepared and which can be disastrous for him and for his family. The substitute will not augment the staff of the Labor Department or significantly speed claims processing; it will simply eliminate the only buffer the injured worker has against sudden financial catastrophe.

The substitute will lower the net benefits workers will receive under the program because it will reduce the basis for computing benefits by the amount withheld from pay for State and Federal income taxes. For the majority of injured Federal workers, this will mean a dramatic loss of benefits. For many of those currently receiving compensation, it will mean a terrible hardship and a flagrant breach of faith, as their legitimate expectation of a certain level of income is suddenly defeated.

The last major change will transfer compensation claimants from the FECA program to civil service disability retirement when they reach retirement age. This will have two perverse effects; it will decrease the compensation paid to the injured workers because the FECA program, recognizing the additional responsibility of the Government for workers whose disability is caused by their employment, is more generous than the civil service program. In addition, future claimants will be required to contribute to the retirement system during the period of their disability—a cost they currently do not bear. Second, it will increase the unfunded liability of the civil service retirement system and jeopardize its financial security by transferring FECA recipients to the civil service retirement rolls who have not contributed to the fund since their injury.

In summary, hundreds of thousands of injured Federal workers and their families will suddenly find their lives made worse if the Republican substitute is adopted. Congress will not have debated these changes; the vast majority of Members will not even know these changes have been made. The arbitrariness and callousness of these amendments—particularly for injured workers who have been receiving benefits for several years and have come to expect and rely on a certain level of compensation—has been hidden from the public. If they were properly informed, I am sure the American people would join me in rejecting this unfair package and the undemocratic manner in which it has been brought before the House.

Mr. Chairman, I suggest that that is one additional reason to vote against this amendment.

I would like to say that our committee did meet the requirements of Gramm-Latta. We came out with $5.2 billion in cuts. We felt that we had distributed those cuts as best we could between the Postal Service and the civil service and tried to protect the rights of the employees. We now find that Gramm-Latta, in order to take care of 142,000 people who have very special and peculiar situations, who get different treatment than even those who serve side by side with them in the civil service, the so-called "double-dippers," are going to be protected at the expense of 5 million Americans. They are going to be protected at the expense of the 3.1 million Americans who are drawing pensions, either as retirees from the military or retirees from the Federal civil service and they are going to be protected at the expense of 2 million Federal employees who would get a 5.8-percent pay increase under the committee's proposal. This is so because Gramm-Latta is trading their cost-of-living adjustment and higher pay increase for this additional pay for the double-dippers.

In addition to that, in their anxiety to help double-dippers, they reached into the Postal Service, where we were going to reduce the pay of double-dippers—most of whom are in the bureaucracy of the headquarters over there—the same as we do in the case of other Federal agencies; and they have given us an additional $270 million pill to swallow which means that that is another $270 million on top of what we have already cut that the Postal Service will have to take into account when it asks for its 25-cent stamp not too far down the line.

If you want to go on record for accelerating the day when you have to go home and explain a 25-cent stamp, this is one way that you can speed up the process, and that is exactly what the effect of Gramm-Latta will be.

POSTAL IMPACT OF DELETING DOUBLE-DIPPING PROVISION

CBO estimates that the Postal Service would have achieved the following savings by virtue of our double-dipping provision: fiscal year 1982—$270 million; fiscal year 1983—$260 million; and fiscal year 1984—$230 million.

This extra cash was the justification for our reducing the Postal Service's public service appropriation to a level which is even lower than that of the Senate bill. Here are the authorized public service levels in the two bills:

	In millions
House:	
Fiscal year 1982	$200
Fiscal year 1983	100
Fiscal year 1984	0
Senate:	
Fiscal year 1982	$300
Fiscal year 1983	150
Fiscal year 1984	0

With the double-dipping provision in our bill—and our section 10104 directing that the resulting postal savings be used to lower rates—the net impact of the House's public service cut would have been less severe than that of the Senate bill.

With double-dipping out—as provided by Gramm-Latta II—the Postal Service will lose an extra $760 million over the next 3 years. This is $760 million which Americans will have to pay for, either through higher postage rates or reduced services.

The interests of 200 million American mail users are being sacrificed to satisfy the demands of 140,000 highly privileged double-dippers.

DOUBLE-DIPPING

Mr. Chairman, I find it ironic that the administration is seeking higher pay for members of the military as an inducement to keep them while at the same time it is trying to preserve one of the greatest incentives for early retirement.

I speak of the practice that has earned the derogatory epithet double-dipper. Existing law permits some retired military personnel under civil service to receive full retirement pay and full civilian pay simultaneously. It gives these people a distinct advantage over their brothers and sisters in the civilian work force.

There are more than 142,000 of these so-called double-dippers, many of whom retire from the military at the earliest possible time and then literally walk across the street at military or military-related establishments to begin drawing two paychecks. The ranks are growing every day when it is getting harder and harder to keep good people in the military. The average retirement ages of officers and enlisted men are 46.2 and 41.4 respectively—literally peak productive years.

This practice is permitted under the Dual Compensation Act of 1964. At the time of its passage it made eminent good sense because a large number of Reserve military officers were retiring, and it was difficult to fill critical civilian jobs with qualified people.

For at least a decade after its enactment, the act seems to have achieved its objectives and to have been mutually beneficial to the military and civilian governments in meeting their personnel needs. But, the situation that gave rise to the act is almost the reverse today, particularly for the military. For the last few years the military has had serious difficulties retaining skilled personnel. In increasing numbers, trained people have retired after 20 years' active duty and become employed with the civilian government. Thus, the law that was enacted to complement and assist the personnel needs of the military and civilian governments has had the effect of creating a competitive situation whereby the military has lost large numbers of trained personnel to the civilian government. The defense manpower shortage has become so critical that this administration has proposed a substantial military pay raise and formed a defense manpower task force to seek ways to improve the pay and benefits of the military. However, it does not make much sense to embark on a program to attract and retain military personnel while retaining a law which has been the significant cause of the problem.

Not only does the act create and sustain competition between the military and civilian governments, it imposes additional direct costs on the Federal Government. Most military retirees, having served at least 20 years on active duty, can receive substantial retirement pay and their full civil service salaries. As of September 30, 1978, the most current date for which data are available, there were a total of 142,528 retired military personnel employed by the Federal Government. Excluding the 34,000 employed by the Postal Service, and those employed elsewhere in Government on a part-time or intermittent basis, there were 101,223 employed on a full-time permanent basis throughout the various departments and agencies. These 101,223 retired military receive the same civilian pay as their fellow civilian employees doing the same jobs, working side by side. In addition, they are currently receiving retired military pay totaling $980,326,227 a year; $301,863,973 to former officers, and $678,462,254 to former enlisted personnel. Further, the retired pay will increase year after year as cost-of-living increases are applied.

The Dual Compensation Act provides a strong financial incentive for skilled personnel to leave the military and join the civilian government. The result is an exacerbation of the critical manpower shortage in the military sector and increased personnel costs for the Federal Government.

In an attempt to accommodate this new situation, the House Post Office and Civil Service Committee recommended an end to double-dipping, convinced that it would help stem the flow of trained people from military ranks.

For some reason that is an enigma to me, the administration, through the Latta amendments, wants to preserve a practice that provides highly trained miltary officers and enlisted men an attractive incentive to retire just as soon as possible.

I would hope that supporters of the Latta amendments will explain the rationale for this seemingly contradictory recommendation.

COLA

Mr. Chairman, we are being asked by the President and those who support many of the heartless elements of his economic program to break faith with those retired military and civilian employees who dedicated their lives to the service of their country.

The administration says that out of "fairness" Congress should change the rules that protect these 1.8 million civilian and 1.3 million military retirees from the ravages of inflation.

We are being asked to reduce the amount of protection these retirees are afforded at a time when there are no guarantees the President's economic plan will halt the rising cost spiral. The administration wants to make cost-of-living adjustments in the annuities of these people once a year instead of twice a year under current law. It wants to guarantee them less protection against soaring living costs without any guarantee that those costs will abate. I fail to see the equity of which the administration speaks in such a proposal.

If the President's economic plan works, COLA adjustments to retirees will no longer be a problem, since increases are tied to upward movements in the Consumer Price Index. If it does not work, we would be dealing an unfair blow to these retirees.

It should not be forgotten that Congress in 1976 amended the civil service retirement law and eliminated the 1-percent kicker that was added to each cost-of-living adjustment. The twice-a-year COLA adjustment was a means of compensating for that 1-percent payment.

The idea was that the kicker would be forfeited for a measure of certainty. Now, having successfully eliminated the kicker, we are being asked to tell retirees to forget that bargain and in the name of "fairness" take it on the chin both ways. I think this would be a blatant breach of faith.

DUAL COMPENSATION

The Reagan administration on April 7, 1981, proposed to eliminate dual compensation for Federal employees who are members of the Reserve or National Guard. On May 19, 1981, the Director of the Office of Management and Budget, Mr. Stockman, in testimony this May before the Committee on Post Office and Civil Service, in support of this Reagan administration proposal stated as follows:

Although this proposal will have the effect of reducing the total annual pay for this group, federally employed reservists will not receive less than their full annual civilian salary from Reserve participation or get any less vacation time than other Federal employees. Such a practice seems to us eminently fair and reasonable. The Department of Defense, through the National Committee for Employer Support of the Guard and Reserve, will be intensifying its effort with private employers to provide no less for their employees who are Reservists.

The proposal was adopted by the committee as part of its budget reconciliation package, is included in the Jones substitute, and is set out below:

GENERAL COUNSEL OF THE
DEPARTMENT OF DEFENSE,
Washington, D.C., April 7, 1981.

HON. THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: Forwarded herewith is draft legislation, "To amend section 5519 of title 5, United States Code, relating to crediting amounts received for certain reserve or National Guard service.

The proposal is a part of the Department of Defense Legislative program for the 97th Congress. On March 10, 1981, the Office of Management and Budget advised that enactment of this proposal would be in accord with the program of the President. It is recommended that the proposal be enacted by the Congress.

PURPOSE OF THE LEGISLATION

Existing law entitles Federal employees who are members of the National Guard or Reserve to receive both Civil Service pay and military pay while on annual active duty for training with the Guard or Reserve in a military leave status. Under current authority, in excess of 100,000 Federal employ-

ees who are Guardsmen or Reservists are entitled to receive both Federal civilian and Reserve military pay for 15 days active duty for training annually.

The purpose of the proposed legislation is to eliminate such dual compensation by amending section 5519 of title 5, United States Code, so that these Federal employees will receive active duty pay for their 15 days of annual military leave, plus any difference between that military pay and their Civil Service pay for that period. The crediting of military pay against civilian pay would be handled administratively in the same manner as currently applies to those members of a Guard of Reserve component who are ordered to active duty to enforce the laws of the United States under the provisions of 5 U.S.C. §6323(c).

COST AND BUDGET DATA

The enactment of this proposal would result in an estimated savings of $40.0 million for fiscal year 1981. The exact savings would depend on the numbers and salaries of Federal employees performing annual active duty for training in the Guard or Reserve in a military leave status.

Sincerely,

WILLIAM H. TAFT IV.

Mr. Chairman, I think this body should pause to reflect on the damage that this doctrinaire procedure we are engaged in is inflicting on this institution, history and the future.

In our haste and our fear we are abandoning the very purpose of this venerable hall of the people. It is our solemn obligation to study and debate carefully legislative proposals. Over the last 200 years the Congress has painstakingly developed rules, practices and systems to protect the people form tyrannical and capricious acts.

Now we are throwing all this out the window because a President has discovered that he can stampede a bare majority into reckless action through a policy of quiet terror and intimidation that causes some Members to fear for their elective futures if they defy the White House.

We are abandoning our constitutional prerogatives as an independent and coequal branch of Government because a handful are afraid. Shortrun political security has become more important than principle, duty and honor.

Whether we realize it or not, we are giving up and allowing the President to personally call the shots.

By allowing the administration and its myopic allies in Congress to take legislative shortcuts, we are demeaning ourselves—we are debasing the legislative currency of this Nation.

Let us look at what has happened in a few short months. In March the President, as is his right and duty, sent Congress his budget proposals. Then the House in May agreed to a compromise.

It has been downhill ever since.

The standing committees of the House were mandated to devise budget cuts that would fit dollar targets. In the case of the Post Office and Civil Service Committee, cuts totaling $5.2 billion had to be achieved.

It was a painful and, in many ways, a heartless process with total emphasis on dollars and not human need. It was accomplished under a clear understanding that the committee, just like others in the House, would be the final arbiter of how the cuts would be made because of knowledge and expertise.

The committee worked under impossible rigid rules. Strictures prevented in many cases best choices. But the committee worked diligently to comply with the process and hoped to preserve a system that has served us well for two centuries.

Yesterday the House began debate on those recommendations, under a rule that short-circuited the legislative process and guarantees it meaningless. Under the rule a temporary majority is determined to abrogate the work of the standing committees, rendering both their efforts and their very reason for being purposeless.

If we decide that this is the best way to conduct our business we might just as well abolish the committee system in the House and let the White House take its legislative proposals directly to the floor. That, Mr. Speaker, is what is happening in this instance. The historic legislative process is being flouted, ignored, and abandoned.

Now there is a move afoot to circumvent yet another part of the system designed to insure that the will of the people is worked through their elected representatives. This is the time-honored House-Senate conference. This temporary majority is now plotting, I understand, to take this piece of legislation that has been dictated by the White House and Mr. Stockman directly to the Senate to be passed as a clean bill. The temporary majority will have so succeeded in concocting exactly what the White House wants that a conference would be superfluous.

How far do we intend to go before we wake up to what is happening? This is not simply parliamentary maneuverings. What we are witnessing is historic change.

It is clear to me that some Members of the House are blindly accepting amendments simply because they have the White House stamp of approval. They have not been examined or studied. And now they are not even being debated. They are simply being accepted.

Take the case of Federal retirees, an issue that the Post Office and Civil Service Committee studied very carefully. Let the record be clear. Those who vote for the Latta amendments are voting against retirees. They are breaking the commitment this body made to them in 1976.

There are those of you in my party who voted against the previous question yesterday who have 10,000 or 11,000 Federal retirees in your district. If you vote for the Latta amendment, you are voting to cut their annuities.

You cannot escape this fact by hiding behind the "President's program."

What we are witnessing in this body today is not artful parliamentary maneuvering. It is a revolution whose results we will have to live with for along time. The "victors" should clearly understand that the legislative shortcuts they are taking advantage of today likely will be used against them in the future.

The people ultimately will pay the price of the expediency we are witnessing in the name of Presidential sacrosanctity.

Clearly the reconciliation process is not working as it was intended. It is distorting the legislative process and working fundamental changes that were unforeseen at the time of passage. It is time for some critical rethinking of this whole process.

Mr. Chairman, I did want to engage in a colloquy with the ranking minority member, who I do not believe is responsible for any of the mistakes that have been made in the crafting of these amendments, to clear up one part of our jurisdiction.

It is my understanding in conversations with him—and his staff and my staff seem to agree—that other than the matters that I have mentioned, the Gramm-Latta proposal does not change the post office portions of the Jones or Budget Committee proposal, including that part of our proposal dealing with the closing of small post offices and maintaining 6-day delivery.

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Illinois.

Mr. DERWINSKI. Mr. Chairman, I thank the gentleman. The gentleman is correct.

Neither the Jones package, if I may call it that, nor the Gramm-Latta substitute, affects items such as the closing of small post offices, Saturday delivery, or any other basic postal service.

Mr. FORD of Michigan. I thank the gentleman.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I would just like to applaud the chairman for his statement. I think the gentleman succinctly described the situation that we are in.

As one Congressman who represents a great many Federal Government employees and military retirees, I just want to make sure for all my colleagues who are in the same position that they recognize the Gramm-Latta substitute will take away the twice-a-

year COLA for Federal retirees, and military retirees as well.

Is that not correct, Mr. Chairman?

Mr. FORD of Michigan. That is correct. There are 1,800,000 civilian retirees and about 1,300,000 military retirees who will lose their semiannual cost-of-living adjustment if Gramm-Latta passes.

Mr. DICKS. Mr. Chairman, I rise in strong opposition to this amendment which would reduce the frequency of cost-of-living adjustments for Federal retirees, impose a devastating pay cap on current Federal workers, and eliminate important protections against contracting out to avoid personnel ceilings.

We all must recognize that the ravages of inflation spare no one, least of all our retired citizens. Medical costs and the daily necessities of life increase even more rapidly than the general economy. Yet these are the part and parcel of a retired persons expenses. We now have before us legislation that would signal a wholesale retreat from a commitment to protect those civilian and military retirees who gave long and dedicated service to the Nation. We must not allow this to happen.

A retiree with a $700-a-month annuity, a modest income by any standards, would stand to lose $360 in the first year of an annualized COLA. The average annuitant, who receives $300 a month, would lose $150 in that first year. Many Federal retirees have difficulties stretching the few dollars they receive now. To make that burden even worse can simply not be justified.

We should also remember that unlike social security, Federal retirement payments are taxed. Federal retirees experience the same bracket creep from inflation that others do. This is an extra burden that can at least be partially offset by a semiannual cost-of-living adjustment.

When Congress eliminated the 1-percent adjustment for time delays in the COLA adjustment in 1976, we pledged to our retirees that there would be no more tampering with this mechanism. We cannot commit the breach of faith which this reconciliation proposes.

Semiannual cost-of-living adjustments do not overcompensate for inflation. They simply allow retirees to suffer less of a loss in purchasing power from the delay in adjusting benefits.

I am particularly concerned with the signal that the COLA cutback would have on the military. On the one hand we are working hard to encourage skilled personnel to remain in the service for their full careers. At the same time, with this amendment, since the armed services cutback is contingent on action in the Post Office and Civil Service section, we are telling them that if they do stick it out to reach retirement, that retirement will not provide the protection from inflation upon which many have based or would base their career decisions.

This amendment would also impose a 4.8-percent pay cap on Federal employees. We have a stated policy in this Government that we should pay Federal workers salaries that are comparable with the private sector. That is a wise policy if we expect to recruit and retain the quality of personnel needed to run the Government effectively. But over the last several years, we simply have not followed that policy. We have imposed pay caps each year far below comparable wage increases in the private sector and grossly under inflation levels.

The predictable result is we are having extreme difficulties attracting the people we need. For instance, at Puget Sound Naval Shipyard in my district, we find it virtually impossible to hire competitively engineers or nuclear trained personnel. With each artificial pay cap we make the problem worse. While the pay allowance recommended by the committee still does not meet comparability criteria, it is an important step in the right direction, and sends a signal to Federal workers that the Congress recognizes that Federal workers cannot serve as a bottomless pit for budget cuts.

Finally, I object to the amendment's proposed elimination of language included by the Post Office and Civil Service Committee dealing with contracting out to avoid civilian personnel ceilings. This is a widespread practice, that runs directly counter to stated Government policy. At a recent hearing of the Defense Appropriations Subcommittee, Department of Defense witnesses testified that restrictive personnel ceilings were a driving force in hiring consultants to perform such critical missions as writing the annual Report of the Secretary of Defense, advising the Secretary on Department priorities and preparing basic mobilization plans. At the installation level, personnel ceilings disrupt overhaul schedules for naval ships and divert valuable military manpower from their military assignments to mundane housekeeping tasks.

Personally, I am convinced that we must reform the way we presently impose personnel ceilings. While superficially attractive, they do not save money and in the opinion of the General Accounting Office constitute a barrier to effective manpower management. I agree with the committee that by forcing the executive branch to fully examine the implications of personnel ceilings, we can persuade them to adopt a more efficient policy in this area.

Certainly, I am not wholly comfortable with every aspect of the reconciliation provisions submitted by the committee. In particular, I am opposed to the proposed reductions in civil service pay for military retirees and am pleased by assurances from Chairman JONES that if Gramm-Latta is defeated that this provision will be dropped in conference committee. The only way to save the twice a year COLA is to defeat Gramm-Latta.

Ms. OAKAR. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentlewoman from Ohio.

Ms. OAKAR. Mr. Chairman, I thank the gentleman for yielding.

We have heard a lot said about these pensions.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. FORD) has expired.

At the request of Mr. JONES of Oklahoma and by unanimous consent, Mr. FORD of Michigan was allowed to proceed for 1 additional minute.)

Mr. FORD of Michigan. I yield to the gentlewoman from Ohio.

Ms. OAKAR. Mr. Chairman, on the matter of these pensions, Federal employees receive—let me say this—one out of four receive less than $500 a month; 40 percent receive less than $700 a month. The widow who is the survivor lives on $4,700 per year; and yet the average double-dipper, we did not want to cut that, but the average double-dipper makes $22,482 a year. This is what we are substituting? What about our retirees?

Mr. Chairman, I rise in opposition to the Gramm-Latta amendment to the reconciliation proposal as it affects the recommendations of the Committee on Post Office and Civil Service and support our committee recommendation.

The Committee on Post Office and Civil Service worked hard at adopting a package of spending cuts that reduced benefits in as fair a manner as possible under very difficult circumstances. The Gramm-Latta substitute amendments will not cut one dime more from the budget than the committee's proposal. As a matter of fact our cuts are $100,000 more than instructions.

The Gramm-Latta amendment will, however, cause considerable pain and suffering to the elderly of our society, more than 3.1 million workers, those retired Federal workers least able to absorb any reduction in benefits. The Gramm-Latta substitute will substantially cut benefits for the one out of four Federal retirees trying to live on less than $500 a month. They would lose 5 percent a month this October, $25 per month. It will cut benefits for the 40 percent of all Federal retirees struggling to make ends meet on less than $700 a month in income. Gramm-Latta will also cut the retirement benefits of an average survivor of a Federal retiree—usually the widow lives on $4,700 per year. Are these the people

whose benefits the House wants to cut? I hope not. These are the dedicated career employees that made our Government work and become the greatest in the world.

I would like to remind my colleagues that candidate Ronald Reagan, in October of last year, made a solemn promise to Federal retirees to keep the present COLA system intact. This is a commitment that will be broken by the substitute.

The proponents of Gramm-Latta say that Federal retirees are overcompensated and this amendment will bring the Federal retirement system into line with other retirement systems, like social security. I would like to point out that, unlike social security, these Federal retirement benefits are fully taxed at both the State and Federal level.

Furthermore, the reconciliation process is already taking more than the proverbial pound of flesh from Federal benefits. Just review with me for a moment what is happening this year that adversely affects the Federal sector: We were asked to cut $5 billion worth of funds most of which were directed at compensation and employment benefits.

First, the reconciliation bill cuts Federal pay by $3.4 billion by imposing a 5.8-percent pay cap instead of the 13.5 percent required to keep our Federal work force in line with the private sector. Incidentally, this is the fourth straight year that a Federal pay cap has been imposed. In the years 1970 to 1980 Federal white collar pay has trailed the private section by 20 percent and is 35 percent behind the CPI for the same period. Certainly, we should not cut a 5.8-percent pay raise any further.

President Reagan has also imposed a massive reduction in force on the Government that would eliminate over 100,000 Federal jobs in 1981 and 1982.

The Congress and the administration should stop dumping on the Federal worker and retiree or the best run Government in the world will be destroyed. It is no coincidence that our country narrowly averted a disastrous air traffic controllers strike only this week—a strike threat created by frustration at continued pay caps and reductions in benefits. If we continue down this road of singling out the Federal worker and retiree for punitive treatment, these strike threats will escalate and we can say goodbye to the peaceful and harmonious labor relations our country has long enjoyed with the Federal work force.

In conclusion, let me remind the House of what President Franklin D. Roosevelt said during his Presidency, "The fundamental purpose of government is to do the greatest good for the greatest number of people."

I am not happy with the committee's cuts, but we have done the best we could to protect the greatest number of people; and I, therefore, urge the rejection of the Gramm-Latta substitute and support our committee recommendation.

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I will yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Chairman, I would like to point out, too, I think another travesty is we are creating another executive level II position, and that employee will make as much money as David Stockman, to take care of the tourist industry. While we are in the process of cutting back disability for Federal employees, we are cutting out the very strong portions of the committee bill that deal with fraud, waste, and abuse.

I really thought a lot of people had been selling the other bill as being one that is supposed to be economically sound; but what I find in here is just a scandal. They are trading off the smaller people for the big folks. I think it is unbelievable and unconscionable.

Ms. FERRARO. Mr. Chairman, I would like to say a few things about the provisions reported by the Post Office and Civil Service Committee in the Jones substitute. The committee was ordered to cut more than $5.1 billion and the majority reported cuts which would do that. These cuts were not easy to make. But I believe that within the constraints in which we were operating the committee made the best possible choices. I would have preferred not to have made many of the program changes required, but I did not have that choice. I am pleased, however, that we did not forget our commitment and were able to achieve the savings without eliminating the twice-a-year COLA for Federal retirees.

The Post Office and Civil Service Committee reported a provision to adjust Federal personnel to reflect contracting for services which is in the jurisdiction of the subcommittee which I chair. This proposal was criticized yesterday by the gentleman from Virginia (Mr. PARRIS). I would like to take this opportunity to explain this proposal and to correct the statement which the gentleman made that personnel ceilings would never be lowered under this proposal.

When this administration announced its reduction in Federal civilian employment, it did so with great fanfare saying the reduction would result in savings of $400 million in fiscal year 1981 and $1.3 billion in fiscal year 1982. It has become very popular in recent years to lower personnel ceilings and decree that money has been saved.

The fact is that under the current system of personnel ceilings we do not save dollars by firing Federal employees. If we eliminate the jobs of 100 GS-5 maintenance workers, here's what actually happens. Those 100 positions can be moved to other places in the agency and can be filled by GS-9's, 11's or even GS-15's. The maintenance work must be done so 100 contract employees are hired to do the work. It may be cheaper this year, but there is nothing to stop the contract cost from going up next year. The administration did not propose a 4.8-percent cap on the increase in the costs of a contract.

So we now have increased the invisible bureaucracy, have freed up personnel slots for higher paid employees, and have fooled the American taxpayer again.

The simple proposal contained in the Post Office and Civil Service Committee package will stop the shellgame being played with personnel ceilings and contract employees. It will adjust personnel ceilings up and down to reflect contracting decisions by agencies. It will stop non-cost-effective contracting, and will eliminate the ability of agencies to increase their personnel through the backdoor method of contracting and keeping the slots. It will stop costly reductions in force which result from decisions to contract unless it can be shown that a cost comparison showed it would save money to contract.

Finally, and I think most importantly, it will make this administration tell this Congress in the budget submission how much will be spent on the invisible work force. We now have a line item which shows the cost of the direct Federal work force. That is why Federal employees are such an easy target. I think the American people want to know how much is being spent on both the direct and indirect Federal work force.

I believe this proposal will save more than the entire amount the Post Office and Civil Service Committee was required to save by the budget. Unfortunately, there is so little known about what we spend on contracts for services and their relationship to personnel ceilings that CBO could not even give us an estimate on the savings in the proposal.

If this administration supports making cuts in Federal employees' pay and benefits which may cause the best Federal employees to leave Government service, if this administration supports reducing postal subsidies, then it must support being honest with the American people about the indirect Federal work force.

Mr. REGULA. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Illinois (Mr. DERWINSKI), the ranking member on the Committee on Post Office and Civil Service.

Mr. DERWINSKI. Mr. Chairman, at the risk of imposing on you, may I ask for order?

The CHAIRMAN. The Committee will be in order. The gentleman from Illinois (Mr. DERWINSKI) is going to make an important statement.

Mr. DERWINSKI. I thank the chairman. The gentleman is one of the more mild-mannered Massachusetts Members that I have known in my time.

Mr. Chairman, I would like to point out that I am a little surprised that the chairman of my committee and a few of our colleagues have been describing this bill or this combination before us in what I consider to simply be an exaggerated fashion.

For example, the issue of COLA. The Members have to remember in our committee it applied just to civilians. The military is in a separate jurisdiction.

I would also like to point out, when we talk of the so-called double-dippers, it is a clever word which is picked up in certain media, but it really requires a little bit of study. Remember, these people for the most part are veterans who have been trained at public expense in their unique skills. It makes it very easy for them to shift over to civilian employment, for the most part in a blue-collar capacity, where the original investment of the Government in their skills is further paying off.

The innocent misuse of that phrase, I understand to be clever debate, but it is not an accurate description of the practical facts of life in the use of personnel.

Second, the great virtue of Gramm-Latta as it applies to the Committee on Post Office and Civil Service is that it provides, in terms of Federal pay raises, for a savings over 3 years of about $15 billion. If I were given to exaggeration—which, naturally, I am not—I would say that Mr. JONES and company wish to overcompensate the bureaucracy by $15 billion. I will not say that. I will merely say that Gramm-Latta will save the taxpayer almost $15 billion in salaries that otherwise would have to be paid to Federal personnel.

The other important point is the issue of COLA. Throughout my long years of service on the Post Office and Civil Service Committee it has been my long-held position that the integrity of the civil service retirement system must be maintained. If COLA is to be annualized our Federal annuitants deserve a guarantee their retirement system will not be undermined by merging it with the social security program. This continues to be my firm view.

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I want to point out that the Gramm-Latta proposal is the really responsible package, as far as the House Post Office and Civil Service Committee is concerned.

I agree, quite frankly, that Mr. Stockman is not a real genius when it comes to postal matters. But I submit that Mr. JONES does not exactly have a monopoly on all of the information in that field.

I would suggest that if you read what we call the complementary views—we did not write the minority views; we wrote complementary views from the House Post Office and Civil Service Committee—just our little contribution alone would give you good reason to logically, loyally and faithfully stick with Gramm-Latta II.

In addition, I wish to add for the benefit of the Members, the complementary views of the Republicans on the House Post Office and Civil Service Committee. The views are very clear:

The committee majority has approached its duty under the reconciliation directive with all the enthusiasm of a bridegroom at a shotgun wedding. Indicative of its attitude is the wording of the motion to report to the Budget Committee; that is, that the legislative proposals be reported with the recommendation they do not pass.

Although in technical compliance with the reconciliation instructions, that type of action by the committee adroitly and wisely begs the question.

There are, however, a number of common thoughts we as the minority share with the majority. One of these is that the pendulum of the Budget Act has swung too far. The rigidity with which it insists on compliance with arithmetic boundaries erodes the underpinning of the legislative committee system. It is one thing to sincerely aspire to a balanced Federal budget. It is quite another to dispossess a committee of its judgmental function in dealing with legislative acts under its jurisdiction.

Therefore, understanding the plight of the Democratic majority, we wish to offer a few comments to add perspective to the committee action.

There has been a tendency during the past couple years for the Office of Management and Budget and the House and Senate Budget committees to become over-involved in the operation of the Postal Service. Their advice and instruction has been neither practical nor enlightened, and more often than not, contributes to problems rather than solving them.

If the prodding of the budget committees causes the Congress to get carried away with arbitrary appropriation cuts, then the Congress must also take credit for the closing of 10,000 community post offices and the elimination of Saturday mail delivery.

The reduction of postal appropriations blissfully ignores the facts of life, coming as they do just when the Postal Rate Commission denied necessary rate increases and the Postal Service is about to sit down and bargain with unpredictable union leaders.

Any cost savings associated with delaying the ZIP plus 4 program is questionable at best. Regardless of how anyone may feel about ZIP plus 4, if, in fact, it does produce the overall saving in mailing costs that are projected, then Federal agencies should be allowed to reap the benefits along with other mailers.

The majority proposal dealing with the October pay adjustment for Federal white collar workers is innovative but it unwisely denies the President the authority to make reasonable adjustments in pay based on national economic conditions during the three-year period which will be critical to the President's recovery program.

The most noble, but illusionary, proposal by the majority is to reduce civilian salaries of military retirees. While this ostensibly would save twice-a-year cost of living adjustments for Federal annuitants by shifting some budget-cutting, we do not have enough information to substantiate the projected $740 million savings, nor can we competently judge whether such a proposal is appropriate.

The proposal to allow the adjustment of personnel ceilings based on the contracting out of agency functions is really a disguised arrangement for increasing federal employment and discouraging contracting for services. If contracting of services is cost-effective and efficient, then agencies should use it. It makes no sense to arbitrarily deny this tool to the government and impose potential waste and featherbedding.

We offer these comments in an effort to promote harmony and sound legislation within the committee. It is unfortunate that this reconciliation procedure has become somewhat political, for it shouldn't be. We know the committee Democrats tried as best they could under the circumstances to serve the committee's area of jurisdiction.

We know it is difficult for the committee to say "no" to its constituents. But we also feel it would be more honest to tell the facts of life and not pretend we are protecting turf that will become vulnerable before the Budget Committee and the Congress. For example, we would have been better disposed to deal with the issue of COLA head-on, for it most certainly will be dealt with by other forces in the House.

Nevertheless, we admire the ingenuity of the committee majority under these difficult circumstances.

Mr. JONES of Oklahoma. Mr. Chairman, I yield 10 seconds to the gentlewoman from Ohio (Ms. OAKAR).

Ms. OAKAR. Mr. Chairman, I will just take 10 seconds to say that we cut our proposal $100 million more than is found in the Gramm-Latta substitute.

Mr. JONES of Oklahoma. Mr. Chairman, I yield to the gentlewoman from Colorado (Mrs. SCHROEDER).

Mrs. SCHROEDER. Mr. Chairman, I just want to point out that the Armed Services Committee linked military pension's cost of living to whatever happened to civil service pension COLA's. So whatever we do to civil service COLA's will automatically happen to military COLA's.

The CHAIRMAN. Does the gentleman from Oklahoma (Mr. JONES) yield time to the gentlewoman from Colorado?

Mr. JONES of Oklahoma. Well, the gentlewoman has finished, Mr. Chairman.

Mr. Chairman, I yield 6 minutes to the distinguished chairman of the Science and Technology Committee, the gentleman from Florida (Mr. FUQUA).

Mr. FUQUA. Mr. Chairman, in the proposal that relates to the Science and Technology Committee, it appears that there is a difference between the bill that was presented by the Budget Committee and that presented in the substitute that relates to the National Science Foundation, the FEMA, to research for EPA, for the NOAA, and several other agencies. I would like to inquire of the gentleman from California, Mr. PANETTA, if I could, if he could explain to me the impact of omitting this from the substitute, what it does to the authorization procedures.

Now, we submitted language to the Budget Committee, which was included in the committee bill. but it is not included in the Gramm-Latta substitute, as I understand it.

Mr. PANETTA. If the gentleman will yield, without authorizing legislation on the books, there is no obligation on the Appropriations Committee to appropriate any funds for the areas that are covered by FEMA or the weatherization areas that are involved. Indeed, if they try to appropriate funds for those areas, it would be subject to a point of order under rule XXI.

Mr. HUCKABY. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I yield to the gentleman from Louisiana.

Mr. HUCKABY. There are numerous Members on the floor who are concerned of the fact that the NSF and other programs are not included in the reconciliation substitute. But it is my understanding that the fact they are still in the budget, it will only be necessary for the committees to come forth to the House for authorization, and then there will be no problem for appropriations or, as we do many times on the floor of the House, you can have appropriations before the authorization.

Mr. PANETTA. If the gentleman will yield, the problem with that is that we have gone past the May 15 deadline for reporting of this legislation. So it would require a waiver with regards to the reporting of the specific authorizing legislation.

Mr. FUQUA. In this case, the bills have been reported by the committee and complied with the rules.

Mr. PANETTA. That is correct.

That is the first problem.

The second problem is that the Appropriations Committee is free to fund any other areas without any obligation to refrain from funding these particular areas. They in fact are not obligated whatsoever to fund FEMA or the weatherization stations at all, because there is no authorizing legislation on the books.

Mr. BRINKLEY. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I yield to the gentleman from Georgia.

Mr. BRINKLEY. I thank the gentleman for yielding.

As the gentleman knows, I am chairman of the Military Installations and Facilities Subcommittee under Armed Services, which has jurisdiction over civil defense. Many of us are very concerned about this area and the fact that if this does knock out the FEMA law, that we are in trouble in civil defense.

Could the gentleman just comment very briefly on that, with the gentleman's permission?

Mr. FUQUA. I would be happy to yield to the gentleman from California.

Mr. PANETTA. Again, the same problem is that, where there is no authorizing legislation that is present, there again is no obligation on the Appropriations Committee to in fact fund these areas.

They operate under broad targets in the Appropriations Committee. And even if they proceeded to fund this area, it would be subject to a point of order unless there is an authorizing bill that has been passed by the Congress.

Mr. WINN. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I yield to the distinguished ranking minority member on the Committee on Science and Technology.

Mr. WINN. I appreciate the chairman of the committee yielding.

I really think we are making a mountain out of a molehill of this. The gentleman from California (Mr. PANETTA) has said that the committee could issue or waive a point of order. This is going through the FEMA, EPA, NSF, all of the ones that many people are worried about; we have met through the authorization process every schedule that has been set down. I have no doubt that a request from the chairman through the Appropriations Committee or through the regular rules, that we would have the right to bring this to the floor of the House. I have no reason to believe otherwise.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I yield to the gentleman from California.

Mr. PANETTA. There is no question that there is a process involving waivers, and what-have-you, that could be used; but clearly, once this is adopted, that authorization is stricken. It is stricken. Once the reconciliation bill is signed into law that authorization is stricken. It requires the development of new authorizing legislation. You are past the May 15 deadline. It requires a waiver from the Budget Committee. Therefore, it would require that in fact the Congress operate on a separate authorizing bill in order to get any funds in this area. It certainly complicates and endangers the funding in these areas.

Mr. ERTEL. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I yield to the gentleman from Pennsylvania (Mr. ERTEL), a member of the committee.

Mr. ERTEL. I thank the gentleman for yielding.

I noted this in the bill when I looked at it. What everybody is saying here is, "Yes, we can go back, we can break the reconciliation instructions, we can pass new legislation, we can do all of these things if we get waivers, if we are willing to break the Budget Act, if we are willing to throw away the reconciliation."

There is no reconciliation as far as the total Science and Technology Committee is concerned.

So what we are doing is, this bill is defeating the whole purpose of reconciliation in and of itself by striking those provisions, if we can go back and do it, and that is questionable.

Mrs. BOUQUARD. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I yield to the gentlewoman from Tennessee.

Mrs. BOUQUARD. I thank my chairman for yielding, and I ask unanimous consent to revise and extend my remarks.

Mr. Chairman, as many of my distinguished colleagues know, I believe the Committee on Science and Technology made a serious error in terminating, by a one vote margin, the Clinch River breeder reactor project. It had been my intention to offer an amendment which would have reinstated the Clinch River breeder reactor project, but unfortunately, the rule did not provide for such an amendment. I would, therefore, like to clarify the record with the following questions to the chairman of the Budget Committee, my good friend from Oklahoma.

Since the House of Representatives has, consistently over the past 4 years, supported completion of this project, and in light of the extremely narrow margin by which the Science Committee has reversed this position, what will be the attitude of the budget conferees on the part of the House when it comes to reaching an agreement with the Senate on this question? Further, what is the feeling of the chairman of the Budget Committee about how our colleagues on the Appropriations Committee should interpret the House action with regard to the Clinch River project as provided in this legislation?

Mr. JONES of Oklahoma. Mr. Chairman, I would be pleased to respond to the gentlelady from Tennessee. I recognize that the Budget Committee provisions on the Clinch River breeder reactor represent a reversal of the historical position of the House on this issue. In light of the narrow margin by which the provision cleared the authorizing committee, and in light of

the historical position of the House, House conferees must recognize that there has not been a definitive resolution of this issue, and that the Budget Committee action does not constitute any resolution.

Inclusion of the provisions terminating the Clinch River project in the budget reconciliation package is a technicality and the House ought not be denied the opportunity to work its will on the fate of this important project. Hopefully, the conference committee will resolve this issue in a timely fashion to the satisfaction of the gentlelady from Tennessee, and the Appropriations Committee will be permitted to act on the basis of that resolution. I will state in addition, that the Appropriations Committee should not regard the termination provision as the House position on Clinch River, and should recognize the likelihood that the conference agreement on this specific item could provide for a significant authorization level for this project.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

Is it not true that we reported the bills to which the gentleman referred in a timely fashion so that they will not need waivers?

Mr. FUQUA. The bills were reported in a timely fashion.

Mr. WALKER. And therefore would not require waivers if they are brought to the floor under the regular authorization process; is that not true?

Mr. FUQUA. That is what I have been trying to find out.

Mr. WALKER. That is my understanding. That is the reason why they were not included in our package.

Mr. FUQUA. Mr. Chairman, yesterday during debate on the Jones substitute I placed in the CONGRESSIONAL RECORD the tables and explanation of the Science and Technology Committee actions on its reported bills which are included in title XII. This material will be instructive for Members of the House and Senate if and when the Jones substitute is conferenced. However, in the event that the House acts today to pass the Latta amendment I am inserting in the RECORD at this point the tables and views of the Committee on Science and Technology which correspond to the actions contained in the Winn text for title XII, which is the same text as that proposed in the Committee on Science and Technology which was known at that time as the Fuqua/Winn substitute.

The tables and explanation of committee actions follow:

EXPLANATION OF WINN SUBSTITUTE FOR SUBTITLE A

[In thousands of dollars]

	Fiscal year 1981 budget authority made available	Revised fiscal year 1982 DOE authorization request (Reagan)	Changes to Reagan authorization request	Total authorization	Winn substitute
(1) FOSSIL ENERGY					
H.R. 3146					
OPERATING EXPENSES					
Coal:					
Mining R&D	39,000	15,000	−11,000	4,000	4,000
Coal preparation R&D	9,000	6,000		6,000	6,000
Coal liquefaction	93,200	105,200	+24,700	129,900	113,200
Surface coal gasification	75,000	53,440	+960	54,400	51,300
In-situ gasification	9,900	8,300		8,300	8,300
Adv. rsrch. and tech. dev	46,361	60,100	−6,000	54,100	54,100
Adv. environ. control tech	37,000	26,400		26,400	26,400
Heat engines and recovery	22,200	15,600		15,600	15,600
Combustion systems	56,200	27,800	+6,800	34,600	29,700
Fuel cells	32,000	28,600	+5,900	34,500	28,600
Magnetohydrodynamics (MHD)	66,500	0		0	20,000
Program direction	10,818	12,520	−2,445	10,075	10,075
Subtotal, coal	616,379	358,960	+18,915	377,875	367,275
Oil and gas:					
Enhanced oil recovery	18,000	20,100		20,100	16,100
Oil shale	32,048	16,250	+4,100	20,350	20,350
Drilling and offshore tech	2,000	0		0	0
Adv. process tech	3,500	3,700		3,700	3,700
Program direction	1,475	1,620	−395	1,225	1,225
Subtotal, oil	57,023	41,670	+3,705	45,375	41,375
Enhanced gas recovery	30,048	10,000	+8,000	18,000	14,000
Program direction	415	460	−160	300	300
Subtotal, gas	30,463	10,460	+7,840	18,300	14,300
Total, operating expenses	703,865	411,090	+30,460	441,550	422,950
CAPITAL EQUIPMENT					
Coal	4,600	3,800	−800	3,000	3,000
Oil	2,470	2,250		2,250	2,250
Gas	500	200		200	200
Total, capital equipment	7,570	6,250	−800	5,450	5,450
CONSTRUCTION					
Prior-year projects: 80–FE–11, PFB comb. cycle		11,000		11,000	11,000
New construction:					
82–F–505, gen'l. proj		6,000		6,000	6,000
82–F–506, surf. water cont		1,000		1,000	1,000
Total, construction	425,300	18,000		18,000	18,000
Total, Fossil Energy	1,136,735	435,340	+29,660	465,000	446,400
(2) SOLAR ENERGY					
H.R. 3146					
OPERATING EXPENSES					
Active heating and cooling	42,450	11,000	+3,325	14,325	8,300
Passive and hybrid	32,900	10,100	+11,050	21,150	11,100
Photovoltaics	153,200	55,900	+44,250	100,150	95,650
Solar thermal	119,950	42,650	+20,450	63,100	53,500
Biomass	45,750	19,500	+14,150	33,650	19,500
Wind	83,700	19,200	+38,600	57,800	47,800
Ocean thermal	38,300	0	+25,750	25,750	18,000

EXPLANATION OF WINN SUBSTITUTE FOR SUBTITLE A—Continued

[In thousands of dollars]

	Fiscal year 1981 budget authority made available	Revised fiscal year 1982 DOE authorization request (Reagan)	Changes to Reagan authorization request	Total authorization	Winn substitute
Alcohol fuels R&D	20,800	10,000	+2,000	12,000	8,000
Program direction	6,786	4,000	+1,700	5,700	4,000
Subtotal, H.R. 3146	543,836	172,350	+161,275	333,625	265,850
Other solar					
Solar international	12,000	4,000	−4,000	0	0
Solar information	1,400	6,700	.....	6,700	5,000
Subtotal, other solar	13,400	10,700	−4,000	6,700	5,000
Total, operating exp	557,236	183,050	+157,275	340,325	270,850
CAPITAL EQUIPMENT					
H.R. 3146, total	16,550	10,250	+2,850	13,100	11,900
CONSTRUCTION					
Prior-year projects:					
80–ES–19, sm. comm. solar thermal power plant	.....	0	+5,000	5,000	5,000
81–ES–1, OTEC	.....	0	+6,300	6,300	6,300
New construction: 82–ES–1, central receiver utility repowering project	.....	0	+12,000	12,000	6,000
Total, construction	25,050	0	+23,300	23,300	17,300
Total, solar	598,836	193,300	+183,425	376,725	300,050
(3) GEOTHERMAL					
H.R. 3146					
OPERATING EXPENSES					
Hydrothermal industrial	50,000	2,124	+1,000	3,124	3,124
Geopressured resources	35,600	20,336	−4,000	16,336	14,336
Geothermal tech. devlpt:					
Hot dry rock	13,500	9,700	+3,000	12,700	9,700
Component development	35,300	9,876	.....	9,876	9,876
Program direction	1,400	1,600	.....	1,600	1,600
Total, operating exp.	135,800	43,636	.....	43,636	38,636
CAPITAL EQUIPMENT					
Geopressured resources	200	0	.....	0	.....
Geothermal tech. devlpt	1,110	863	.....	863	863
Total, capital equipment	1,310	863	.....	863	863
CONSTRUCTION					
Prior-year projects:					
80–G–1, geothermal demo Valles Caldera, N.Mex	10,911	3,876	.....	3,876	3,876
80–G–2, 50 MWe geoth. binary demo, Heber, Calif	8,000	0	+7,000	7,000	7,000
Total, construction	18,911	3,876	+7,000	10,876	10,876
Total, geothermal	156,021	48,375	+7,000	55,375	50,375
(4) GEOTHERMAL RESOURCES DEVELOPMENT FUND					
H.R. 3146					
OPERATING EXPENSES					
Program direction	192	200	.....	200	200
Admin. of loan guar. prog	1,092	0	.....	0	0
Total, operating exp	1,284	200	.....	200	200
Total, geoth. rsrcs. dev	1,284	200	.....	200	200
(5) CONSERVATION					
H.R. 3146					
OPERATING EXPENSES					
H.R. 3146:					
Bldg. and comm. systems	73,905	20,647	+26,574	47,221	33,900
Industrial	81,200	965	+37,835	38,800	18,165
Transportation	111,520	37,030	+33,000	70,030	60,030
Multi-sector	12,100	17,290	+210	17,500	15,000
Subtotal, H.R. 3146, operating	278,725	75,932	+97,629	173,551	127,095
Joint Juris.:					
Bldg. and comm. systems	16,000	9,000	+3,000	12,000	6,500
Industrial	7,500	0	+3,800	3,800	1,400
Energy extension service	20,000	0	+25,000	25,000	15,000
Multi-sector	12,000	0	+12,000	12,000	5,000
Residential-comm. retrofit	0	0	+6,000	6,000	0
Subtotal, joint juris. operating	55,500	9,000	+49,800	58,800	27,900
Total, operating expense	334,225	84,932	+147,417	232,351	154,995
CAPITAL EQUIPMENT					
H.R. 3146	3,650	1,003	+1,326	2,329	1,329
Joint Juris. (B&CS)	800	100	.....	100	100
Total, capital equip	4,450	1,103	+1,326	2,429	1,429
Total, conservation	338,675	86,035	+148,745	234,780	156,424

EXPLANATION OF WINN SUBSTITUTE FOR SUBTITLE A—Continued

[In thousands of dollars]

	Fiscal year 1981 budget authority made available	Revised fiscal year 1982 DOE authorization request (Reagan)	Changes to Reagan authorization request	Total authorization	Winn substitute
(6) GENERAL SCIENCE AND RESEARCH					
H.R. 3146					
OPERATING EXPENSES					
High energy physics	243,380	290,400		290,400	288,400
Nuclear physics	89,500	99,100		99,100	99,100
Life sciences/nuc. med	44,000	48,300		48,300	48,300
Program direction	1,135	1,360		1,360	1,360
Total, operating exp	378,015	439,160		439,160	437,160
CAPITAL EQUIPMENT					
High energy physics	37,500	41,700		41,700	41,700
Nuclear physics	9,400	10,500		10,500	10,500
Life sciences/nuc. med	1,900	2,200		2,200	2,200
Total, capital equip	48,800	54,400		54,400	54,400
CONSTRUCTION					
Prior-year projects:					
High energy physics:					
81–E–218, tevatron I		39,500	−21,500	18,000	14,500
79–9–b, energy saver		2,600		2,600	2,600
78–10–b Isabelle		165,500	−149,500	[1] 16,000	[1] 16,000
Nuclear physics: 80–GS–5, nat'l supercond. cyclotron		18,000	−13,600	4,500	6,500
New construction:					
High energy Physics:					
82–E–204, GPP		6,000		6,000	5,000
82–E–205, accel. imprv		7,000		7,000	6,000
82–E–205, tevatron II		49,000	−43,000	6,000	6,000
Nuclear physics:					
82–E–221, accel. imprvmts		2,000		2,000	2,000
82–E–222, GPP, var. loc		2,800		2,800	2,400
82–E–223, Atlas		7,700	−3,700	4,000	400
Total construction	82,600	300,200	−231,300	68,900	61,400
Total, general science and research	509,415	793,760	−231,300	562,460	552,960
(7) BASIC ENERGY RESEARCH					
H.R. 3146					
OPERATING EXPENSES					
Basic energy sciences	220,994	255,500		255,500	248,500
Technical assess. proj	13,040	3,000		3,000	3,000
Univ. research support	3,120	10,600		10,600	10,600
Tech. prog. pol. anal	[2] 1,981				
Adv. and oversight		[2] 3,311		3,311	3,311
Total, operating exp	244,135	272,411		272,411	265,411
CAPITAL EQUIPMENT					
Basic energy sciences	16,600	16,900		16,900	16,900
CONSTRUCTION					
Prior-year projects:					
Multi-prog., gen'l purpose facilities:					
81–E–309, plant rehab		8,700	−4,700	4,000	0
81–E–310, trans and dist		5,050		5,050	0
81–E–317, roof replcmt		1,000		1,000	0
81–E–318, upgrade ORNL		2,800		2,800	2,600
81–E–321, site utilities		7,200	−1,650	5,550	5,050
81–E–323, fire safety		2,600	−800	1,800	1,600
81–E–324, fire protec		1,000		1,000	1,000
81–E–325, energy tech. lab		16,600	−11,100	5,500	5,000
80–ES–11, INEL facil		12,000	−7,000	5,000	4,450
		56,950	−25,250	31,700	19,700
New construction:					
Multi-prog., gen'l purpose facilities:					
82–E–301, 300 util		11,600	−10,600	1,000	1,000
82–E–302, security fac		8,100	−6,600	1,500	1,060
82–E–305, traffic safety		6,200	−2,400	3,800	3,240
82–E–306, railroad mods		2,000		2,000	2,000
		27,900	−19,600	8,300	7,300
Basic energy sciences:					
82–E–321, accel. imprv		300		300	300
82–E–320, GPP		300		300	300
81–E–322, high temp. mat		17,000	−13,500	3,500	0
		17,600	−13,500	4,100	600
Total, construction		102,450	−58,350	44,100	27,600
Total, basic energy research		391,761	−58,350	333,411	309,911
(8) NUCLEAR FISSION					
OPERATING EXPENSES					
H.R. 3146					
Conventional reactor:					
HTGR	38,000	0	+40,000	40,000	33,000
LWR	34,000	27,000	−12,250	14,750	14,750
TMI	5,500	29,000	−7,250	21,750	24,750

EXPLANATION OF WINN SUBSTITUTE FOR SUBTITLE A—Continued

[In thousands of dollars]

	Fiscal year 1981 budget authority made available	Revised fiscal year 1982 DOE authorization request (Reagan)	Changes to Reagan authorization request	Total authorization	Winn substitute
Adv. reactor	1,000	2,800	.....	2,800	2,800
Prog. direction	1,465	1,500	.....	1,500	1,500
Subtotal, conven	79,965	60,300	+20,500	80,800	76,800
Civilian waste mgt	177,551	214,774	−14,650	200,124	199,024
Spent fuel storage	7,013	6,417	.....	6,417	6,417
Adv. nuclear systems	39,381	35,100	.....	35,100	35,100
Breeder reactor syst.:					
LMFBR	[3] 412,469	566,700	−1,500	565,200	533,286
Water cooled breeder	59,000	57,000	−19,000	38,000	31,000
Prog. direction	11,181	10,574	.....	10,574	10,574
Subtotal, breeder	482,650	634,274	−20,500	613,774	574,860
Fuel cycle R&D	42,100	23,000	+13,000	36,000	36,000
Total, H.R. 3146 operating	828,660	973,865	−1,650	972,215	928,201
Other fission:					
Civ. waste mgt. West Valley	5,000	12,800	.....	12,800	9,800
Licensing/supporting studies	3,500	3,500	.....	3,500	3,500
Spent fuel non-R&D	4,500	0	.....	0	0
Total, other fission	13,000	16,300	.....	16,300	13,300
Total, fission operating	841,660	990,165	−1,650	988,515	941,501
CAPITAL EQUIPMENT					
H.R. 3146, R&D:					
Conventional reactor	4,000	9,200	−4,000	5,200	9,200
Civ. waste management	11,550	11,101	−2,000	9,101	9,101
Spent fuel storage	1,000	1,000	.....	1,000	1,000
Adv. nuclear systems	2,600	2,900	.....	2,900	2,900
Breeder reactor syst	11,700	26,042	.....	26,042	26,042
Fuel cycle R&D	5,400	3,100	−1,500	1,600	1,600
Total, H.R. 3146	36,250	53,343	−7,500	45,843	49,843
Other fission cap. equip.:					
Civ. waste management-West Valley	0	200	.....	200	200
Total, fission capital equipment	36,250	53,543	−7,500	46,043	50,043
CONSTRUCTION					
Prior-year construction:					
78–6–c, SAREF	.....	18,100	−10,100	8,000	8,000
78–6–e, ETEC	.....	4,900	.....	4,900	4,900
78–6–f, FMEF	.....	24,200	.....	24,200	24,200
New construction:					
82–N–310, mods. to reactors	.....	2,000	.....	2,000	2,000
82–N–312, GPP	.....	11,000	.....	11,000	8,914
82–N–315, GPP, waste	.....	1,100	.....	1,100	1,100
Total, Construction	76,526	61,300	−10,100	51,200	49,114
Totals:					
Fission–H.R. 3146–auth	941,436	1,088,508	−19,250	1,069,258	1,027,158
Fission-other-auth	23,000	16,500	.....	16,500	13,500
Total, nuclear fission	954,436	1,105,008	−19,250	1,085,758	1,040,658
(9) MAGNETIC FUSION					
H.R. 3146					
OPERATING EXPENSES					
Applied plasma physics	65,800	70,400	.....	70,400	67,400
Confinement systems	92,800	133,470	−1,500	131,970	130,470
Development and tech	59,150	67,650	−5,000	62,650	62,650
Center for magnetic Fusion engineering	3,450	9,150	.....	9,150	9,150
Planning and projects	34,500	26,130	+23,700	38,830	28,630
Program direction	3,117	3,900	.....	3,900	3,900
Total, operating exp.	258,817	310,700	+6,200	316,900	302,200
CAPITAL EQUIPMENT					
Applied plasma physics	6,400	6,200	.....	6,200	6,200
Confinement systems	17,700	18,210	.....	18,210	18,210
Development and tech	8,400	12,700	.....	12,700	12,700
Planning and projects	1,400	1,630	+2,000	3,630	2,630
General purpose equip	3,000	3,260	.....	3,260	3,260
Total, capital equip	36,900	42,000	+2,000	44,000	43,000
CONSTRUCTION					
Prior-year projects:					
76–5–a, Tokamak	.....	45,000	−4,900	40,100	40,100
78–3–a, MFTF	.....	106,500	−65,000	41,500	41,500
78–3–b, McCormack fusion test fac	.....	0	+10,000	10,000	0
80–MF–3 Elmo Bumby Torus	.....	69,000	−55,000	14,000	14,000
81–T–314, ISX-C	.....	0	+6,500	6,500	2,500
80–MF–4, large coil test facility	.....	6,000	.....	6,000	6,000
New Construction: GPP-82, gen'l plant projects	.....	5,700	.....	5,700	5,700
Total, Construction	98,400	232,200	−108,400	123,800	109,800
Total, magnetic fusion	394,177	584,900	−100,200	484,700	455,000

EXPLANATION OF WINN SUBSTITUTE FOR SUBTITLE A—Continued

[In thousands of dollars]

	Fiscal year 1981 budget authority made available	Revised fiscal year 1982 DOE authorization request (Reagan)	Changes to Reagan authorization request	Total authorization	Winn substitute
(10) SMALL-SCALE HYDROPOWER					
H.R. 3146					
OPERATING EXPENSES					
Research and development	11,011	0	+2,472	2,472	1,472
Program direction	789	0	+528	528	528
Subtotal, H.R. 3146	11,800	0	+3,000	3,000	2,000
Other juris: demonstration	10,000	0	+2,000	2,000	1,000
Total, operating	21,800	0	+5,000	5,000	3,000
Total, hydropower	21,800	0	+5,000	5,000	3,000
(11) ELECTRIC ENERGY SYSTEMS AND STORAGE					
H.R. 3146					
OPERATING EXPENSES					
Electric energy systems					
Syst. architecture and integration	19,000	4,100	+5,150	9,250	8,900
Power delivery	18,500	4,525	+10,250	14,775	12,725
Storage application	[4] 6,200	0	+3,600	3,600	2,100
Program direction	923	875	.....	875	875
Subtotal, EES	44,623	9,500	+19,000	28,500	24,600
Energy storage systems:					
Electrochemical	37,800	25,550	.....	25,550	25,550
Physical and chemical	31,300	11,850	+3,850	15,700	11,850
Program direction	1,000	500	+250	750	500
Subtotal, ESS	70,100	37,900	+4,100	42,000	37,900
Total, operating exp	108,523	47,400	+23,100	70,500	62,500
CAPITAL EQUIPMENT					
Electric energy syst	1,500	400	.....	400	400
Energy storage syst	1,700	1,100	.....	1,100	1,100
Total, cap. equip	3,200	1,500	.....	1,500	1,500
Total, elec. energy systems and storage, H.R. 3146	111,723	48,900	+23,100	72,000	64,000
(12) ENVIRONMENTAL R. & D.					
OPERATING EXPENSES					
Overview and assessment:					
Overview management	5,747	3,000	+1,000	4,000	3,000
Environ. assessment	16,700	12,500	−6,000	6,500	6,500
Environ. and safety egn'g	18,680	16,100	.....	16,100	16,100
Oper. and environ. safety	9,343	14,000	.....	14,000	14,000
Subtotal	50,470	45,600	−5,000	40,600	39,600
Biological/environmental research:					
Human health rsrch	27,500	31,400	.....	31,400	31,400
Health effects biol	46,547	46,500	+4,000	50,500	46,500
Environ. rsrch	32,365	29,800	+6,100	35,900	32,800
Phys. and tech. rsrch	30,720	28,400	+2,000	30,400	28,400
CO_2 and climate	12,934	16,700	.....	16,700	16,700
Risk analysis	3,985	4,000	.....	4,000	4,000
Subtotal	154,051	156,800	+12,100	168,900	159,800
Program direction	11,133	10,700	.....	10,700	10,700
Total, operating exp	215,654	213,100	+7,100	220,200	210,100
CAPITAL EQUIPMENT					
Overview and assessment	2,040	4,000	.....	4,000	4,000
Biological/environ	11,700	9,700	+1,000	10,700	9,700
Total, cap. equip	13,740	13,700	+1,000	14,700	13,700
CONSTRUCTION					
New construction:					
82-GPP-1, gen'l plant proj	.....	3,000	.....	3,000	3,000
82-V-305, mods to rsrch facilities, various loc	.....	1,000	.....	1,000	1,000
Total, construction	6,400	4,000	.....	4,000	4,000
Total, environment	235,794	230,800	+8,100	238,900	227,800

[1] B/A level is $21 million.
[2] Fiscal year 1981 funding reflects Interior appropriations; some restructuring in fiscal year 1982.
[3] Includes $122,000,000 for CRRRP.
[4] Not included in total as this was carried in Energy Storage System in fiscal year 1981.

(13) ADVANCED ISOTOPE SEPARATION TECHNOLOGY[1]

[Dollars in thousands]

	Fiscal year 1981 budget authority made available	Revised fiscal year 1982 DOE authorization request (Reagan)[2]	Committee action: Changes to Reagan authorization request	Committee action: Total authorization
H.R. 3146:				
Operating expenses:				
Sec. 2(b)(13):				
Advanced isotope separation technology	63,355	79,087	−6,000	73,087
Program direction	944	1,205		1,205
Total, operating expenses	64,299	80,292	−6,000	74,292
Capital equipment: Sec. 3(a)	9,000	5,500		5,500
Construction:				
Sec. 4: New construction:				
Sec. 4(23)—82-N-402, general 1 plant projects		650		650
Sec. 4(24)—82-N-403, development module		0	+6,000	6,000
Total, construction	6,945	650	+6,000	6,650
Total advance isotope separation technology	80,244	84,442		86,442

[1] The remaining portions of the uranium enrichment program (gaseous diffusion and gas centrifuge) are contained in the bill, H.R. 3447.
[2] Budget authority (B/A) relating to authorization is the same.

NUCLEAR FISSION R. & D.: SUMMARY OF COMMITTEE ACTIONS

A. Operating Expenses

1. Conventional Reactor System (Converter Reactors): The Committee added $33.0 million to High Temperature Reactor technology to establish an HTGR Lead Plant project including the development of materials and components and to continue international cooperation with other Governments engaged in similar programs. Under Light Water Reactors (LWR) Systems the Committee reduced Uranium Utilization by $6.25 million; Occupational dose reduction/productivity improvement by $4.0 million; and LWR Safety Technology by $2.0 million. Another $4.25 million was reduced from the funding level of the Three Mile Island (TMI) activities.

2. Civilian Waste Management: The Committee decreased operating expenses by $15.25 million which included a decrease of $14.51 million Terminal Isolation R&D and a $1.0 million decrease in Waste Systems Evaluation.

The Committee also reduced low-level waste management by $1.1 million.

3. Breeder Reactor Systems:

(a) The Committee deleted $33.414 million from the Liquid Metal Fast Breeder Reactor program as follows: $24.0 million decrease in the Clinch River Breeder Reactor Plant Project; $8.0 million increase for breeder technology; $1.414 million decrease in test facilities to realign priorities and provide a balanced program.

(b) The Committee reduced Water Cooled Breeders by $26 million including $19 million from the Advanced Water Breeder Application program, $5 million from the Light Water Breeder Reactor program and $2 million from the Shippingport Atomic Power Station, and directed that operation of the Shippingport reactor terminate in fiscal year 1982.

4. Fuel Cycle R. & D.: The Committee added $8 million to Light Water Reactor fuel cycle R&D to emphasize the importance of this activity. Fast Breeder Reactor Fuel Cycle R&D was reduced by $11 million because of budget constraints and to reflect the lower priority of this activity. Thorium fuel cycle R&D funding of $4 million was provided to support the development of the High Temperature Gas Cooled Reactor. The Committee added $12 million for the Barnwell Nuclear Fuel Plant including $6 million for reprocessing and safeguards R&D at Barnwell and $6 million for evaluation of the reliability and design adequacy of Barnwell and conceptual design of needed facility modifications for use as an integrated technology demonstration of LWR reprocessing.

5. Advanced Isotope Separation Technology: The Committee decreased operating funds by $6 million to provide funds in plant and capital for a demonstration module.

B. Plant and Capital Equipment

1. Conventional Reactor Systems (Converter Reactors): The Committee added $2.0 million in capital equipment to the High Temperature Reactor program for use in the HTGR materials and components testing. Concurrently, the Committee reduced the capital equipment funding level by $2.0 million for Three Mile Island activities.

2. Civilian Waste Management: The Committee reduced the capital equipment funding level for Terminal Isolation by $2.0 million.

3. Breeder Reactor: The Committee reduced general plant projects by the amount of $2,086,000.

4. Fuel Cycle R&D: The Committee reduced capital equipment funding for Fast Breeder Reactor Fuel Cycle R&D by $1.5 million to reflect a shift of priority to light water reactor fuel cycle R&D.

5. A.I.S.: In advanced Isotope Separation technology, the Committee increased plant and capital by $6 million in order to allow design work to proceed in FY 1982 on a demonstration module.

Magnetic fusion: Summary of committee actions

1. Development and Technology: The Committee reduced fusion materials research area by $5 million in line with the decision not to terminate the Mike McCormack Fusion Materials Test Facility.

2. Applied Plasma Physics: The Committee reduced funding by $3.0 million.

3. Planning and Projects: The Committee increased by $5 million funding for the Mike McCormack Fusion Materials Test Facility (formerly FMIT) in line with the Committee recommendation not to cancel the project and reduced by $2.5 million the other project operating budgets.

4. Confinement Systems: The Committee reduced the operating budget by $3.0 million, and directed that ISX-C be continued in its design phase.

B. Plant and Capital Equipment

1. Confinement Systems: The Committee continued funding for ISX-C (project 81-T-314) design work at a level of $2.5 million, and encourages multi-laboratory and industry participation.

2. Planning and Projects: The Committee provided an additional $1 million for capital equipment not related to construction (CENTRC) for accelerator development as part of the continuation of the Mike McCormack Fusion Materials Test Facility project.

SMALL-SCALE HYDROPOWER: SUMMARY OF COMMITTEE ACTIONS

The Committee authorized $2 million in operating expenses for continuing a program of research and development which President Reagan proposed to eliminate.

ELECTRIC ENERGY SYSTEMS AND STORAGE: SUMMARY OF COMMITTEE ACTIONS

Electric energy systems

The Committee authorized above President Reagan's proposed budget for operating expenses $4.8 million for System Architecture and Integration, $8.2 million for Power Delivery; and $2.1 million for Storage Application.

The Committee authorized President Reagan's proposed budget for operating expenses.

Fossil energy: Summary of committee action

The committee authorized a total of $446,400,000 for fossil energy research and development programs, which is an increase of $11,060,000 over the President's March request.

A. Operating Expenses

In several specific subprograms, the Committee acted as follows:

1. Mining R. & D.: Decreased by $11 million to facilitate transfer of the program to the Department of the Interior.

2. Advanced Research and Technology Development: Made a general reduction of $6 million.

3. Coal Liquefaction: Increased by $8 million, adding $10 million for the operation of the H-Coal pilot plant, and reducing disposable catalyst work by $2 million.

4. Combustion Systems: Added $9 million for the IEA pressurized fluidized bed pilot

plant program, and reduced advanced concepts and technology by $7 million.

5. MHD: Added $20 million to continue the program.

6. Surface Coal Gasification: Reduced by $2,140,000.

7. Enhanced Oil Recovery: Reduced by $4 million in light oil.

8. Oil Shale: Increased by $4.1 million to complete the Equity and Geokinetics in situ conversion project.

9. Enhanced Gas Recovery: Increased by $4 million in eastern shales and western tight sands.

10. Program Direction Reduced by $2,445,000 in Coal; reduced by $395,000 in Petroleum; reduced by $160,000 in Gas.

B. Capital Equipment

Capital Equipment in the Mining R&D program was eliminated for a reduction of $800,000.

GEOTHERMAL ENERGY: SUMMARY OF COMMITTEE ACTIONS

Operating expenses and plant and capital equipment

1. Geothermal Energy: The Committee increased the Administration's request of $48.375 million for a total authorization and recommended budget authority level of $50.375 million. Within this amount, the Committee directed that $8.0 million be used for the second 50 MWe demonstration facility which was not part of the Administration's request. The Committee further decreased the authorization for Geopressured Resources by $6.0 million.

2. Geothermal Resources Development Fund: The Committee took no action on this item.

SOLAR ENERGY: SUMMARY OF COMMITTEE ACTIONS

The Committee's actions on the Solar Energy programs are summarized briefly below. Total authorized funding, including operating expenses and plant and capital equipment for the programs is $295,050,000 which is an increase of $112,450,000 over the Administration's revised request. It further represents a reduction of $290,386,000 from the Fiscal Year 1981 appropriations.

A. Operating Expenses

The Committee acted on the following subprograms:

1. Active Heating and Cooling: Decreased by $2.7 million.

2. Passive and Hybrid: Increased by $1.0 million for the initiation of an integrated passive/photovoltaic hybrid residential program, and for basic materials research.

3. Photovoltaic Energy Systems: Increased by $61.75 million for technology development, test and applications and systems engineering and standards and decreased by $24 million from advanced R&D and capital equipment.

4. Solar Thermal Energy: Increased by $20.05 million for technology and systems development, and decreased by $9.2 million from research and advanced development and planning and analysis.

5. Wind Energy Systems: Increased by $29.4 million for development of small and large machines (MOD-5), wind resource assessment and SWECS consensus standards.

6. Ocean Thermal Energy Conversion: Increased by $18 million to restore this program, proposed for termination by the Reagan Administration.

B. Plant and Capital Equipment

(Construction)

1. Solar Thermal Energy Systems: Increased by $17.65 million for the following activities: Project 80-ES-19. Small Community Solar Thermal Power Experiment ($5 million). Project 82-ES-1, Central Receiver, Utility Repowering Project ($6 million).

2. Ocean Thermal Energy Conversion: Increased by $7 million for the following activities: Project 81-ES-1, 40 MWe OTEC Pilot Plant ($6.3 million). Capital Equipment ($700,000).

CONSERVATION: SUMMARY OF COMMITTEE ACTIONS

The Committee authorized a total of $153,424,000 for energy conservation, which is $76,489,000 above the revised fiscal year 1982 DOE authorization requests.

1. Buildings and Community Systems: The Committee added $13,579,000 (including $326,000 in capital expenses) for activities in Technology and Consumer Products, Building Systems, Community Systems and program direction.

2. Industrial Energy Conservation: The Committee added $26,200,000 for activities in Waste Energy Reduction, Industrial Process Efficiency, Cogeneration and program direction.

3. Transportation: The Committee added $23,000,000 for activities in Vehicle Propulsion R&D, including gas turbines, Stirling engines and supporting technology.

4. Multi-Sector: The Committee reduced the requested level by $2,290,000 primarily in the area of energy conversion technology.

BASIC ENERGY RESEARCH: SUMMARY OF COMMITTEE ACTIONS

A. Operating Expenses

1. Basic Energy Sciences: The Committee decreased operating expenses by $7.0 million. The reductions in the subprograms are as follows:

	Millions
Nuclear science	$1.0
Materials sciences	1.0
Chemical sciences	1.0
Engineering, mathematical and geosciences	3.0
Advanced energy projects	.5
Biological energy research	.5

B. Plant and Capital Equipment

1. Basic Energy Sciences: The Committee decreased the authorization by $17.0 million for Project 82-G-322, High Temperature Materials Laboratory, Oak Ridge National Laboratory.

2. Multiprogram General Purpose Facilities: The Committee deferred three projects and changed authorization for eight other projects. The net reduction in authorization from the Administration's revised request is $57.85 million.

GENERAL SCIENCE AND RESEARCH: SUMMARY OF COMMITTEE ACTIONS

A. Operating Expenses

1. High Energy Physics: The Committee decreased High Energy Physics Technology by $2.0 million.

B. Plant and Capital Equipment

The Committee decreased construction authorization by a total of $238.8 million for the following high energy and nuclear physics projects:

	Millions
Project 78-10-b, ISABELLE Brookhaven National Laboratory	$149.5
Project 80-GS-5, National Superconducting Cyclotron Laboratory, Michigan State Univeristy	11.6
Project 81-E-218, Tevatron, Phase I. Fermi National Accelerator Laboratory	25.0
Project 82-E-204, General Plant Projects, Various Locations	1.0
Project 82-E-205, Accelerator Improvements & Modifications, Various Locations	1.0
Project 82-E-206, Tevatron, Phase II. Fermi National Accelerator Laboratory	43.0
Project 82-E-222, General Plant Projects, Various Locations	.4
Project 82-E-223, Argonne Tandem-Linac Accelerator System (ATLAS), Argonne National Laboratory	7.3

ENVIRONMENT: SUMMARY OF COMMITTEE ACTIONS

A. Operating Expenses

The Committee's authorization total for the environmental activities was decreased by $3 million from the Administration's request. The following actions were taken within the program: The Overview & Assessment program was decreased by $6 million for environmental assessment; the Biological/Environmental Research program was increased by $3 million for environmental research.

A. NUCLEAR FISSION RESEARCH AND DEVELOPMENT

1. CONVENTIONAL REACTOR SYSTEMS

[In thousands of dollars]

	Fiscal year 1981 budget authority estimate	Fiscal year 1982 DOE authorization request (Reagan)	Revised fiscal year 1982 DOE authorization request (Reagan)	Committee action	
				Changes to Reagan authorization request	Total authorization
Operating expenses:					
High temperature reactors	40,000	0	0	+33,000	33,000
Light water reactors (LWR):					
Uranium utilization	16,600	13,000	11,250	−6,250	5,000
Occupational dose reduction/productivity improvement	9,400	8,000	5,000	−4,000	1,000
LWR safety	8,000	6,500	10,750	−2,000	8,750

A. NUCLEAR FISSION RESEARCH AND DEVELOPMENT—Continued

[In thousands of dollars]

	Fiscal year 1981 budget authority estimate	Fiscal year 1982 DOE authorization request (Reagan)	Revised fiscal year 1982 DOE authorization request (Reagan)	Committee action	
				Changes to Reagan authorization request	Total authorization
Three Mile Island (TMI)	6,500	10,000	29,000	−4,250	24,750
Advanced reactor systems	1,000	4,800	2,800	0	2,800
Subtotal operating expenses	81,500	42,300	58,800	16,500	75,300
Program direction	1,465	1,500	1,500	16,500	1,500
Subtotal	82,965	43,800	60,300	+16,500	76,800
Capital equipment:					
High temperature reactors	2,000	0	0	+2,000	2,000
Light water reactors	1,000	500	1,000	0	1,000
Three Mile Island	0	0	8,000	−2,000	6,000
Advanced reactor system	0	200	200	0	200
Subtotal	3,000	700	9,200	0	9,200
Total authorization	85,965	44,500	69,500	16,500	86,000
Total budget authority	85,965	44,500	69,500	16,500	86,000

A. NUCLEAR FISSION RESEARCH AND DEVELOPMENT

(a) *High Temperature Gas Reactor—$35 million increase*

Committee Action

This activity was not included in the fiscal year 1982 Department of Energy request. The Committee has authorized the continuation of this R&D program leading to the development of a Lead Plant Project based on the design of an HTGR steam cycle-cogeneration system at the earliest practical date. The Committee believes that the development of HTGR Lead Plant Project is in the national interest. The Committee envisions a plant funded primarily by the private sector with the Government contributing for the first-of-a-kind research and development costs. The Committee is well aware that the industry is reticent to join with the Government in any large scale technology demonstration project with the possibility of contributing hundreds of millions of dollars, only to have the Government subsequently back out of the project. The Committee will, therefore, be receptive to new partnership concepts which will minimize the federal financial role and at the same time provide secure federal funding for the necessary research and development to encourage private sector construction of expensive prototype plants.

The Committee, however, is not willing to commit funds to an HTGR lead plant project without some assurance by the utilities that the facility is a necessary precursor to a commerical HTGR plant. Thus, before the fiscal year 1983 budget is acted upon, the Committee should be provided by utility representatives with a letter of intent to purchase an HTGR lead plant. The letter of intent should be accompanied by a report which describes: The reasons why such a plant is needed and why the utilities cannot proceed directly to a commerical plant; the application(s) for the plant; the reference operating conditions: a schedule through initial operation; a description of first-of-a-kind R&D and the associated costs for each participant; and, a projection of utility and private funding through project completion for both facility design and construction. The Committee envisions a construction schedule based upon operation in the early to mid 1990's.

The fiscal year 1982 funding for this program includes continuing work on the base technology and applications development efforts in support of the lead plant definition activities, and to extend efforts to provide the advanced technology needed to develop future high temperature (850°C-950°C) process heat applications. The technology program will include fuel development, component design verification and support, including heat exchanger, helium circulators and auxiliary cooling system, safety and reliability analysis and graphite development activities.

(b) *Light Water Reactor Systems*

Committee Action

Uranium utilization—$6.25 million decrease: The committee has supported this activity in the past on the basis that demonstrating the feasibility was necessary. During FY 1981 and earlier, accumulation of data suggests that substantial improvements in uranium utilization is not only achievable but also practical. Accordingly, the Committee believes that the primary beneficiaries of this activity, industry, should take over responsibility for funding this program and has decreased the funding by $6.25 million in FY 1982.

Committee Action

Occupational dose reduction/productivity improvement—$4 million reduction: The Committee has reduced the funding level to $1.0 million in FY 1982 for closeout of this program. The activities supported by this program have reached a point where further support should be obtained by industrial participation.

Committee Action

LWR safety technology—$2.0 million decrease: The Committee supports the LWR safety program and believes that the Department's planning in this area is, in general, on target. However, the Department's program contains elements that appear to be either confirmatory in nature and should be supported by NRC or are properly activities that should be funded by industry. Accordingly, the Committee had reduced the Department's funding request by $2.0 million corresponding to a funding level which is still $2.0 million more than requested by the previous administration for FY 1982.

(c) *Three Mile Island (TMI) Activities—$6.25 million decrease*

Committee Action

The Department has requested a substantial funding increase of $30 million in FY 1982 over FY 1981. These additional funds are primarily for support of activities related to examination of the damaged core and vitrification of resins used to cleanup radioactive water dumped during the accident. Both efforts are described by the Department as research and development activities. The Committee strongly supports R&D activities for there is much to be learned and applied from the TMI accident. Nevertheless, the Committee is concerned that the effort should only be R&D and not work normally expected of GPU in their cleanup and restoration operations. Fortunately, the Department also recognizes the Committee's concerns and based on the detailed program the Department has prepared for this effort and the extensive review of that program, the Committee believes the activities are truly R&D in scope.

Although the Committee accepts the R&D nature of the activities, the Committee believes there should be greater participation of industry in the program because the findings are expected to be of benefit and value to the nuclear community. Accordingly, the Committee has reduced the funding level by $6.25 million and recommends and encourages the Department to seek additional funds as needed from industry.

(d) *Advanced Reactor Systems*

Committee Action

Advanced Reactor Systems: No change.

2. CIVILIAN WASTE MANAGEMENT

[In thousands of dollars]

	Fiscal year 1981 budget authority estimate	Fiscal year 1982 DOE authorization request (Carter)	Revised fiscal year 1982 DOE authorization request (Reagan)	Committee action	
				Changes to Reagan authorization request	Total authorization
Operating expenses:					
Terminal Isolation R. & D.					
Office of Nuclear Waste Isolation (ONWI)	99,388	92,721	104,700	6,600	97,600
Basalt waste isolation project (BWIP)	32,578	30,170	41,000	−3,550	37,450
Nevada nuclear waste storage investigations	21,373	27,350	43,000	0	43,000
Subseabed disposal	6,100	2,500	6,500	−3,000	3,500
Waste systems evaluation	2,500	3,200	3,200	−1,000	2,200
Waste treatment technology:					
Airborne waste	1,905	1,765	1,765	0	1,765
High-level waste	4,100	300	300	0	300
Low-level waste	3,945	7,485	7,485	−1,100	6,385
Transuranic waste	4,000	3,200	3,200	0	3,200
Subtotal operating expenses	175,889	168,691	211,150	−15,750	195,400
Program direction	2,296	3,124	3,124	0	3,124
Subtotal	178,185	171,815	214,274	−15,750	198,524
Capital equipment:					
Terminal isolation	8,000	9,600	9,041	−2,000	7,041
Waste treatment technology	3,550	1,160	2,060	0	2,060
Subtotal	11,550	10,760	11,101	−2,000	9,101
Construction: ONWI	5,576	1,900	1,100		1,100
Total authorization	195,311	184,475	226,475	−17,750	208,725
Total budget authority	195,311	184,475	226,475	−17,750	208,725

Committee Action

Civilian Nuclear Waste Management—$17.25 million decrease: The Administration has generally been responsive to the Committee's previous directions that its program for repositories and other related activities be refocused to provide for near-term demonstration programs. This is evident in both the Terminal Isolation R&D and the Waste Treatment Technology programs. However, there continues to be a programmatic approach which can be characterized as an effort to study an unlimited number of factors, rather than to implement a specific demonstration program or a final waste repository.

In response to the Committee's directions, changes have been made in the Terminal Isolation program to operate a technology demonstration facility in an early time frame. Even so, the Committee considers the Administration's program too diffuse and, therefore, has reduced the funding and provided direction to better focus the programs on near-term demonstrations.

(a) Terminal Isolation R&D—$14.15 million decrease

Committee Action

The Committee made an overall $14.15 million decrease in the Administration proposed budget for Terminal Isolation R&D programs. The Committee considers permanent isolation of high-level nuclear waste the most crucial issue facing widespread acceptance and deployment of nuclear power. Examination of the Administration's program shows that the first full-scale licensed repository will not be available for 25 or more years. Since this repository has become so stretched out the Committee directed the Administration to concentrate on locating, constructing, and initiate operation of a HLW R&D repository before 1990 so that the technology for disposal can be demonstrated. Although the Committee supports the Administration's program leading to a full-scale licensed repository, funding has been reduced so that effort could be concentrated on the near-term benefits inherent in the early R&D facility. The Department is directed to proceed expeditiously toward the acquisition of the facility.

To implement the program that was directed by the Committee, the Department must also evaluate the necessary criteria for design of the engineered barriers, since the barriers function in concert with the geology as a system. One of these criteria is the time during which properly functioning engineered barriers will fully contain the wastes. The second criterion is the impacts associated with the possibility of failures, and the resulting waste leakage, from individual canisters during this time.

The Department is authorized and directed to evaluate the health hazard of the waste on the basis of the overall system performance of both the engineered barriers and the geology.

Consistent with the reductions in Operating Funding, the Committee has decreased the Capital Equipment Budget for Terminal Waste Isolation by $2.0 million. The Committee has also taken action to redirect $2.0 million in operating funds into H.R. 3447. This reduction was initiated after the Committee learned from the Department that certain activities in the Terminal Isolation program were associated with repository licensing.

Committee View on Terminal Waste Isolation

The Committee has attempted for the past several years to focus the Department's program on the selection of a site and construction of a technology demonstration facility for terminal isolation of high level radioactive waste. However, because the previous administration's policy for terminal isolation was oriented primarily toward a full scale licensed repository, there was little consideration of the positive role that early technology demonstration facilities could have on the perceptions of the public toward nuclear energy.

With a change in administration, a new policy was initiated which is generally both consistent and responsive to the Committee's previous directions. The Department's new program for terminal isolation provides more aggressive action leading to development of facilities for permanent disposal of high-level radioactive wastes. The program is structured to ensure that licensed permanent waste disposal facilities are available prior to 2007. However, equally important, particularly because of its responsiveness to the Committee, the revised program will also provide an early identification of actual potential site locations and the selection of a Test and Evaluation Facility at one of the sites followed by an early implacement of several hundred packages of radioactive materials in the facility by approximately 1988 or 1989.

The Committee supports the Department's new program and encourages the Department to aggressively implement the actions necessary to proceed and meet mutually agreed to objectives. Additionally, the Committee recognizes the importance of State participation in decisions concerning the siting of a Test and Evaluation Facility. A carefully delineated process to resolve conflicts between the Department and the State Government should be developed and made operational as soon as possible for this technology demonstration phase.

(a) Terminal Isolation R. & D.

Committee Action

Office of Nuclear Waste Isolation—$6.6 million reduction: The Committee believes that the ONWI program should emphasize the development of technology demonstration projects with the concurrent goal of maintaining the pace toward the acquisition of full size licensed repositories. In order to emphasize the Committee's directions in this regard, funding was reduced by $6.6 million to better focus the program on the technology demonstration projects and away from the broad generic research and extensive alternate site activities.

Committee Action

Basalt Waste Isolation Program—$3.55 million decrease: The Committee reduced the proposed budget for the Basalt Waste Isolation Program by $3.55 million terminating phase II of the NSTF tests. The phase II tests involved the emplacement of spent fuel and solidified wastes in the facility.

As noted earlier, the Committee has directed the Department to proceed with an early repository demonstration project. The

phase II tests do not provide any substantive benefit either to the technology or the demonstration and distract from the main emphasis that the Committee wishes to pursue, namely, early selection of a site and construction of a Test and Evaluation (T&E) facility.

Committee Action

Nevada Terminal Waste Isolation—No change: The Committee approved the Administration's budget for the Nevada Terminal Waste Isolation Program without change.

Committee View on Subseabed Disposal

Radioactive waste management is a long-term scientific and institutional problem. Because it may require multiple solutions, the Department of Energy should maintain multiple options by continuing research on alternate waste disposal sites and technologies.

Waste management also is an international as well as national problem. Improper waste management by any nation could have global consequences. Alternate sites and technologies, therefore, should include an international option.

The Subseabed Disposal Program is an efficient, well-managed international research and development project. The U.S. Program involves 19 universities, the private sector, and national laboratories. The Program began in 1974, and with modest funding, has made significant progress utilizing state-of-the-art, and developing new, oceanographic technology. This U.S. technology has made it the leader in subseabed research which now involves six countries—France, Germany, Japan, the United Kingdom, the Netherlands, and Canada—cooperating under the auspices of the Nuclear Energy Agency.

The Subseabed Disposal Program, therefore, should be continued as an international option as well as a national alternative. It should be funded at sufficient levels to determine whether subseabed disposal is scientifically and technically feasible. The Department of Energy shall report annually to Congress on the progress of the Subseabed Disposal Program.

Committee Action

Seabed Disposal—$3.0 million decrease: The Committee, accordingly, reduced the Administration's budget request by $3.0 million. The resulting budget of $3.5 million is commensurate with the present priority of the Program.

(b) Waste Systems Evaluation—$1.0 million decrease

Committee Action

Committee action to reduce the scope of activities in the terminal isolation program and focus on early identification and selection of a site for a technology demonstration repository facility has reduced the need for expanding the technological base. Accordingly, the Committee has reduced the funding by $1.0 million.

(c) Waste Treatment Technology—$1.1 million decrease

Committee Action

The Committee agrees with the activities planned by the Department in FY 1982 for this program. The Committee recognizes that the Department is depending on the Defense Program to develop the technology and agrees that the Department should avoid duplication of effort between the civilian and the defense programs. However, there is concern that if the Department completely separates the functions and access to the technology is reduced or made unavailable it may be necessary to initiate a separate development program with the attendant increased cost and loss of schedule. The Committee directs the Department to immediately inform the Committee if such an action (separation of functions) is planned and not to implement the action without prior Committee approval. In the area of low level waste management the Department requested a funding increase in FY 1982 of nearly $5.0 million over FY 1981 principally to meet the requirements of Public Law 96-573, Low-level Radioactive Waste Policy Act and to implement technology demonstration programs at low level waste sites. While the Committee is generally supportative of these programs, it appears that the DOE needs additional time to develop a focused program both for the State activities assisted by the Department and the Department's technology programs. Accordingly, the Committee has reduced funding by $1.1 million to permit the low level waste program planning to mature.

3. INTERIM SPENT FUEL MANAGEMENT

Committee Action

Interim Spent Fuel Management—No Change: The Committee supports the R&D activities to maximize at-reactor storage capabilities. In particular, the Committee encourages the Department in its R&D plans to utilize dry storage methods for this contingency storage. Research, development and demonstration should be done for dry storage in existing shielded vaults in the Department's facilities, as well as for advanced techniques of dry storage in caissons and shielded containers. The Committee is concerned, however, that these activities may not be adequate to protect against storage space being completely expended by mid to late 1980's. The Committee directs the Department to evaluate the implication of the R&D and what impact it's expected to have on providing the needed storage through the year 2006 when the first repository will be available.

4. ADVANCED NUCLEAR SYSTEMS

[In thousands of dollars]

	Fiscal year 1981 budget authority estimate	Fiscal year 1982 DOE authorization request (Carter)	Revised fiscal year 1982 DOE authorization request [1] (Reagan)	Committee action	
				Changes to Reagan authorization request	Total authorization
Operating expenses:					
Advanced systems evaluations	3,000	3,035	0	.....	0
Space and terrestrial applications	35,400	37,837	33,900	.....	33,900
Subtotal, operating expenses	38,400	40,872	33,900	.....	33,900
Program direction	981	1,213	1,200	.....	1,200
Subtotal	39,381	42,085	35,100	.....	35,100
Capital equipment, space and terrestrial applications	2,600	2,915	2,900	.....	2,900
Construction:					
Authorization	.....	.....	.....	.....	.....
Budget authority	.....	.....	.....	.....	.....
Total authorization	.....	45,000	38,000	.....	38,000
Total budget authority	41,981	45,000	38,000	.....	38,000

[1] Indicates changes to original fiscal year 1982 budget/authority request.

COMMITTEE ACTION

Redirection within funding levels: The Committee directs the Department to reprogram $300,000 into the Space Power Advanced Reactor (SPAR) activity, $50,000 into the Advanced Thermoelectrics activity, and $350,000 into research on high temperature alloys for use in the Radioisotope Thermoelectric Generators. The Committee understands that the National Aeronautics and Space Administration will provide an additional $700,000 for the SPAR activity, bringing the total activity funding level to $2.0 million.

The Committee believes that it is in the national interest to continue the development work for the space reactor. This technology, already a reality for 10 years in the Soviet Union, has not been developed in this country to a point where it can be applied, despite its important defense and civilian applications.

Other existing technologies cannot provide the higher power levels required for these applications, including ocean surveillance by high power radar systems, vital communications, high earth orbit satellites, deep space probes, militarily hardened spacecraft and others.

The Advanced Thermoelectrics and high temperature research activities were zeroed by the Office of Management and Budget. These are activities that the Committee believes are important basic research and development that should not be abandoned. They have the potential for increasing thermoelectrics efficiency by 30%, aiding both the RTG and SPAR technologies.

The Committee directs the Department to conclude insofar as is practical with FY 1981 funds all of the ongoing work in the

Advanced Systems Evaluations subprogram. This includes the Utah energy center study which was to establish the feasibility and practicability of siting nine large reactors at a location remote from major labor and electrical load centers; the assessment of the development and deployment of conventional, advanced and specialized nuclear systems for various major applications; the wet/dry cooling test unit; and the report on the meteorological effects of thermal energy release.

The Committee has examined the cost sharing arrangements with the other Federal agencies served by this program, including the Department of Defense and the National Aeronautics and Space Administration. The Committee is concerned that the Department of Energy is not being appropriately reimbursed for the work it performs for these agencies. The Committee, therefore, will require the DOE in FY 1983 and beyond to limit its non-reimbursable activities to basic research and development, the preparation of an engineering unit, and the base production capability and safety effort. DOE should be reimbursed for the preparation of a qualification unit and all units built thereafter. The Department should take all necessary action including the renegotiation of its interagency agreements to accomplish this directive provided such renegotiation is coordinated through a report to the Energy Research and Production and Space Science and Applications Subcommittees of the Science and Technology Committee.

5. BREEDER REACTOR SYSTEMS

[In thousands of dollars]

	Fiscal year 1981 budget authority estimate	Fiscal year 1982 DOE authorization request (Carter)	Revised fiscal year 1982 authorization request [1] (Reagan)	Committee action: Changes to Reagan authorization request	Committee action: Total authorization
Operating expenses:					
Liquid metal fast breeder reactor	412,469	296,700	566,700	−33,414	533,286
Water cooled breeder	59,000	57,000	57,000	−26,000	31,000
Program direction	11,181	10,574	10,574		10,574
Subtotal, operating expenses	482,650	364,274	634,274	−59,414	574,860
Capital equipment:					
Liquid metal fast breeder reactor	10,500	16,042	25,042		25,042
Water cooled breeder	1,200	1,000	1,000		1,000
Subtotal, capital equipment	11,700	17,042	26,042		26,042
Construction:					
Authorization		61,200	60,200	−12,186	48,014
Budget authority	70,950	51,100	50,100	−2,086	48,014
Total:					
Authorization		442,516	720,516	−71,600	648,916
Budget authority	565,300	432,416	710,416	−61,500	648,916

[1] Indicates changes to original fiscal year 1981 budget authority request.

(a) Liquid Metal Fast Breeder Reactor

[In thousands of dollars]

	Fiscal year 1981 budget authority estimate	Fiscal year 1982 DOE authorization request (Carter)	Revised fiscal year 1982 DOE authorization request [1] (Reagan)	Committee action: Changes to Reagan authorization request	Committee action: Total authorization
Operating expenses:					
Plant projects:					
Clinch River breeder reactor	[2] 172,000	0	254,000	−24,000	230,000
Conceptual design study (CDS)	15,000	0	0		0
Large developmental plant	0	0	15,000		15,000
Subtotal, plant projects	187,000	0	269,000	−24,000	245,000
Breeder technology:					
Components	32,433	37,200	37,200		37,200
Fuels and core materials	41,432	42,800	42,800	−2,000	40,800
Materials and structure	13,359	12,500	12,500		12,500
Physics	9,981	10,900	10,900		10,900
Safety	35,311	38,400	38,400	−6,000	32,400
Subtotal, breeder technology	132,516	141,800	141,800	−8,000	133,800
Test facilities:					
Facility laboratories:					
ANL	31,235	32,154	33,154	−4,000	29,154
ETEC	19,480	24,720	24,720	+4,000	28,720
General support	8,163	2,371	2,371		2,371
HEDL	8,728	9,083	9,083		9,083
INEL	7,630	4,272	4,272		4,272
FFTF	67,694	76,900	76,900	−2,000	74,900
Safeguards and program assurance	5,080	5,400	5,400	+586	5,986
Subtotal, test facilities	148,010	154,900	155,900	−1,414	154,486
Change in inventories	2,443				
Total operating	469,969	296,700	566,700	−33,414	533,286
Capital equipment:					
Plant projects:					
Breeder technology	5,337	8,349	17,349		17,349
Test facilities	4,195	5,363	5,363		7,693
FFTF	968	2,330	2,330		
Subtotal, capital equipment	10,500	16,042	25,042		25,042
Construction:					
Authorization		61,200	60,200	−12,186	48,014
Budget authority	70,950	51,100	50,100	−2,086	48,014

(a) Liquid Metal Fast Breeder Reactor—Continued

[In thousands of dollars]

	Fiscal year 1981 budget authority estimate	Fiscal year 1982 DOE authorization request (Carter)	Revised fiscal year 1982 DOE authorization request [1] (Reagan)	Committee action	
				Changes to Reagan authorization request	Total authorization
Total:					
Authorization		373,942	651,942	−45,600	606,342
Budget authority	551,419	363,842	641,842	−35,500	606,342

[1] Indicates changes to original fiscal year 1981 budget authority request. [2] Includes $50,000 Reagan supplemental.

CLINCH RIVER BREEDER REACTOR PLANT PROJECT

Committee Action—$24 Million Decrease

The Clinch River Breeder Reactor Plant Project was decreased by $24 million because of budget constraints and the need to provide funding for other high priority activities. This reduced funding level will not impact the schedule for construction and operation of CRBRP.

CONCEPTUAL DESIGN STUDY

Committee Action—No Change

LARGE DEVELOPMENT PLANT

Committee Action—No Change

The Committee supports the initiation of planning for the Large Developmental Plant. The Department should focus its efforts in fiscal year 1982 to selection of the type of plant (i.e., loop, pool, hybrid) based on detailed engineering evaluation, determine the methods of financing minimizing Federal costs, and develop the institutional mechanism for management and control of this project.

BREEDER TECHNOLOGY

Committee Actions

Components and Engineered Systems—No change.

Fuels and Core Materials—$2.0 million decrease.

The Committee reduced this funding to reflect the success of the fuels development program. While the development of more advanced fuels is important to the overall economics of LMFBR technology this activity is not critical to the near-term performance of breeder reactors. In order to focus on the most critical areas such as component development, budget constraints dictate this reduction. The Committee fully supports the continued development of the Secure Automated Fabrication fuel line as necessary for supplying fuel for breeder reactor projects.

Materials and Structures—No change.

Physics—No change.

Safety—$6 million decrease.

The Committee believes that Safety R&D is an important component of the breeder technology program. However, the emphasis of the program on worst-case accidents including hypothetical core disruptive accidents is of lower priority than the other safety efforts. Therefore the Committee directs that this cut be applied to these activities.

TEST FACILITIES

Committee Action

ANL—$4 million decrease.

The Committee believes that the operation of the test facilities for Safety R&D is important to the breeder program but that the safety work directed at worst-case accidents phenomena and hypothetical core disruptive accidents is of lower priority. Because of severe budget constraints therefore, the Committee directs that the budget decrease be absorbed in the operation of test facilities (such as EBR-II) directed at these safety activities.

ETEC—$4 million increase.

The Committee recognizes that historically, components have been the major source of unscheduled downtime for LMFBR plants worldwide and that they constitute the major element of risk in developing these plants. Steam generators and pumps have been the components most responsible for plant problems and as a result, the testing program for these components at ETEC is of vital importance to the success of the breeder development program. The proposed budget for FY 1982 under estimated the magnitude of the increasing costs of fuel and electricity needed to conduct the planned test schedule. Therefore, the Committee directs that these funds be used to meet the increased energy costs as well as other operating expenses to support the proposed testing schedule.

General Support—no change.

HEDL—no change.

INEL—no change.

FFTF—$2 million decrease.

While the full testing schedule proposed for the FFTF in FY 1982 is preferred, a somewhat reduced schedule can be accommodated in order to assure adequate funding for a balanced breeder program.

Safeguards and Program Assurance—$586 thousand increase.

The Committee increased funding to cover increased needs for physical security of DOE facilities.

(b) WATER-COOLED BREEDER

[In thousands of dollars]

	Fiscal year 1981 budget authority estimate	Fiscal year 1982 DOE authorization request (Carter)	Revised fiscal year 1982 DOE authorization request (Reagan)	Committee action	
				Changes to Reagan authorization request	Total authorization
Water cooled breeder reactor:					
Operating expenses:					
Shippingport Atomic Power Station	11,000	12,000	12,000	−2,000	10,000
Light water breeder reactor (LWBR)	29,000	26,000	26,000	−5,000	21,000
Advance water breeder application (AWBA)	19,000	19,000	19,000	−19,000	0
Subtotal, operating	59,000	57,000	57,000	−26,000	31,000
Capital equipment	1,200	1,000	1,000		1,000
Total	60,200	58,000	58,000	−26,000	32,000

Committee Action—$26 million decrease

The Committee deleted all funding for the Advanced Water Breeder Applications subprogram and reduced the funding support for the Shippingport Power Station operating expenses by $7 million to be taken from the Light Water Breeder Reactor and the Shippingport Atomic Power Station subprograms.

COMMITTEE VIEW

The Committee recognizes the invaluable contribution that the Naval Reactors development program has made to the development of Light Water Reactor commercial power plants. Naval Reactors continues to provide an important center of expertise and the Water Cooled Breeder (WCBR) development program has provided information having a potential for extending our nuclear fuel resources.

The Committee believes, however, that the Water Cooled Breeder Reactor (WCBR) program can achieve its major objectives without the third subprogram titled, Advanced Water Breeder Application (AWBA). Generally, calculational tools are available to assess the potential of optimizing WBCR performance, particularly if the objectives of the second subprogram titled, Light Water Breeder Reactor (LWBR) are met. It should be noted that the LWBR subprogram, when completed, would provide as much or more information than that which was available for PWR commercialization. Because of this and the lack of interest in commercializing the WCBR concept, the Committee directs that efforts under the AWBA subprogram be terminated. In addi-

tion, the Committee believes the funding support of operation of the Shippingport Power Station (298 manyears and $19,235,000) can be reduced by $7 million without jeopardizing the viability of this program. In light of these reductions and the need to minimize future costs, the Committee directs that the Shippingport reactor be shut down when the scheduled burnup of 24,000 effective full power hours of operation is achieved and the WCBR core be removed for examination. The program should proceed to expeditiously determine breeding ratio of the core while minimizing future costs.

The 636 Man years of effort included in the fiscal year 1982 budget is excessive in light of the lack of commercial interest in the program and the failure of the program to promote technology transfer to the commercial sector by using private contractors for any significant portion of the program. The Committee understands that none of the funds provided herein will be used to prepare for or conduct Shippingport plant decommissioning activities.

The Committee believes that with the information to be gained during examination of the WCBR core, the technology will have been advanced to the point where private enterprise can further assess its potential commercial value and finance further development if it is warranted.

6. FUEL CYCLE R. & D.

[In thousands of dollars]

	Fiscal year 1981 budget authority estimates	Fiscal year 1982 DOE authorization request (Carter)	Revised fiscal year 1982 DOE authorization request (Reagan)	Committee action	
				Changes to Reagan authorization request	Total authorization
Operating expenses:					
Light water reactor	7,000	0	0	+8,000	8,000
Fast breeder reactor	18,100	21,100	21,100	−11,000	10,000
Thorium fuel cycle	3,000	0	0	+4,000	4,000
Proof-of-breeding (WCB)	2,500	2,000	2,000	0	2,000
Barnwell:					
AGNS	11,500		0	+6,000	6,000
Facility assessment	0	0	0	+6,000	6,000
Subtotal, operating	42,100	23,100	23,000	+13,000	35,000
Capital equipment:					
Fast breeder reactor	5,000	3,000	3,000	−1,500	1,500
Proof-of-breeding	400	0	100		100
Subtotal, capital equipment	5,400	3,000	3,100	−1,500	1,600
Construction	6,400	0	0	0	0
Total fuel cycle R. & D.	53,900	26,100	26,100	+10,500	36,600

Note: Program direction included in breeder reactor systems.

LIGHT WATER REACTOR

Committee Action—$8 Million Increase

The Committee recognizes the need to develop viable technology for the reprocessing of LWR fuel as having the highest priority among the various reprocessing technologies. This technology is important to:

Resolve the high level waste disposal issue including the need for interim away-from-reactor storage of spent fuel.

Provide a source of plutonium for the breeder reactor development program.

Utilize the vast energy resources remaining in spent fuel.

Develop a symbiotic breeder-LWR economy where resources utilization is optimized.

These funds are to be utilized to develop LWR reprocessing technology including proliferation resistant and safer methods such as sol-gel technology.

FAST BREEDER REACTOR

Committee Action—$12.5 Million Decrease

The Committee recognizes the need to develop the more difficult technology for reprocessing breeder reactor fuel as a key element in the deployment of the breeder reactor option. However, the Committee believes the development and demonstration of LWR fuel reprocessing is more critical at this time and therefore of greater priority. With limited funding available, FBR reprocessing R. & D. must be cut back to assure support for the LWR reprocessing program.

The Committee has provided sufficient funds to develop flowsheet data from hot small-scale experiments and test data from cold equipment development and test activity, but no meaningful large scale demonstration with irradiated fuel.

The Committee does not wish for the development of FBR fuel reprocessing technology to fall behind as has LWR technology. Therefore, the Department should provide to the Congress a detailed analysis of reprocessing research, development and technology demonstration needs for all reactor types, the appropriate priorities of each, and a program plan to meet these needs. This report should be submitted to the House Committee on Science and Technology and the Senate Committee on Energy and Natural Resources by January 15, 1982.

THORIUM FUEL CYCLE

Committee Action—$4 Million Increase

The Committee believes that the HTGR is an important nuclear technology which should be developed to the point where the private sector is able to apply it at full-scale. Current uncertainties about Federal nuclear policy discourage private support of this activity but the Committee believes that limited further development through Federal funds will make the risk to private capital acceptable. The thorium fuel cycle program is an integral part of the development of the HTGR technology.

PROOF OF BREEDING

Committee Action—No Change

BARNWELL

Committee Action—$12 Million Increase

The Committee believes that the Barnwell facility offers a unique capability to conduct research, development and demonstration related to the reprocessing of irradiated fuel. The existence of a large reprocessing facility and the personnel intimately familiar with its design can be utilized to advance the technology of reprocessing safeguards systems, safeguards training and testing, and reprocessing systems performance.

The Committee recognizes that, although reprocessing has been successfully conducted in the U.S. for some 35 years as part of the weapons program, this technology is not directly applicable to the commercial reprocessing of LWR fuel. The reprocessing of LWR fuel involves more severe fuel and waste conditions, extremely accurate and reliable materials accountability and improved economics of operation. The experience in the U.S. with the failures of the West Valley plant and the Morris Illinois plant clearly show the lack of demonstrated capability to reprocess LWR fuel. The Committee also recognizes the difficulties in obtaining private financing for further development of this technology because of the failures experienced, lack of consistent Federal support, inability of electric utilities to raise venture capital, and licensing uncertainties. These problems have resulted in all foreign reprocessing ventures being supported by Federal governments.

According, the Committee intends to support continued R&D at Barnwell and support the evaluation of the facility for use as an integrated technology demonstration of LWR fuel reprocessing. The restored funds are to be utilized to conduct reprocessing R&D, systems and safeguards development, testing and training at Barnwell. In addition, the DOE shall provide for an evaluation of the reliability and maintainability of the facility utilizing a broad range of experts by an independent and recognized entity (such as an appropriate professional society or laboratory). In addition, the DOE shall initiate the conceptual design and evaluate the costs associated with necessary modification, and additions to Barnwell.

7. ADVANCED ISOTOPE SEPARATION TECHNOLOGY [1]

[In thousands of dollars]

	Fiscal year 1981 budget authority estimate	Fiscal year 1982 DOE authorization request (Carter)	Revised fiscal year 1982 DOE authorization request (Reagan)	Committee action	
				Changes to Reagan authorization request	Total authorization
Operating expenses:					
Applications and assessments of advanced technologies	2,595	5,000	0	0	0
Uranium enrichment activities	60,760	79,087	79,087	6,000	73,087
Subtotal, operating expenses	63,355	84,087	79,087	6,000	73,087
Program direction	944	1,205	1,205	0	1,205
Subtotal	64,399	85,292	80,292	6,000	74,292
Capital equipment: Facility operations	9,000	5,500	5,500	0	5,500
Construction:					
Authorization	6,945	51,775	650	+6,000	6,650
Budget authority	6,945	30,150	650	+6,000	6,650
Total authorization	80,244	142,567	86,442	0	86,442
Total budget authority	80,244	120,942	86,442	0	86,442

Committee Action

$6 million—operating budget for Advanced Isotope Separation under Uranium Enrichment Activities

+$6 million—establish line item for Demonstration Module (Project 82-N-403)

It is the Committee's intent that during FY 1982 one of the three AIST processes be selected to proceed into the Demonstration Module design and development phase. The Committee endorses the Department of Energy testimony with regard to siting the demonstration module facility and views this to be consistent with making the most cost effective use of experienced uranium handling facilities and personnel.

In addition the Committee wishes to firmly request the Department to chart a development strategy (including out year funding) consistent with the most expeditious determination of the engineering feasibility of AIS technology for uranium enrichment.

B. MAGNETIC FUSION

[In thousands of dollars]

	Fiscal year 1981 budget authority estimate [1]	Fiscal year 1982 DOE authorization request (Carter)	Revised fiscal year 1982 DOE authorization request (Reagan)	Changes to Reagan authorization request	Total authorization
Operating expenses:					
Applied plasma physics	65,800	70,400	70,400	−3,000	67,400
Confinement systems	92,800	119,270	133,470	−3,000	130,470
Development and technology	59,150	56,650	67,650	−5,000	62,650
Center for Magnetic Fusion Engineering	3,450	32,850	9,150		9,150
Planning and projects	34,500	33,800	26,130	+2,500	28,630
Subtotal, operating expenses	255,700	312,970	306,800	−8,500	298,300
Program direction	3,314	3,900	3,900		3,900
Subtotal	259,014	316,870	310,700	−8,500	302,200
Capital equipment	36,900	44,000	42,000	+1,000	43,000
Construction:					
Authorization		295,950	232,200	−122,400	109,800
Budget authority	98,400	145,300	107,300	+2,500	109,800
Total:					
Authorization		656,820	584,900	−129,900	455,000
Budget authority	394,314	506,170	460,000	−5,000	455,000

[1] Does not include any fiscal year 1981 recisions or deferrals nor appropriation reductions due to (H. Rept. 96-1366).

Committee Views

Policy directive: The Committee believes strongly that a Center for Fusion Engineering be established in FY 1982 and directed to consider, as its highest priority item, the active preparation of the scientific and engineering technology base for the initiation of the Fusion Engineering Device project.

The Committee reaffirms its commitment to encourage domestic industry to play a major role in the engineering development phase of fusion research. In line with this commitment the Committee considers it essential that the Center for Fusion Engineering be industrially managed and that a competitive mechanism be found to solicit industrial approaches and involvement with the ultimate goal of selecting a CFE management approach and team before the end of the first quarter of FY 1982. The term industry is meant to include not-for-profit institutions or corporations, and excludes laboratories who receive their administrative structure from the private sector.

This center should be established at an interim location which in the Department's view makes the most effective use of the present fusion design team personnel, physical plant facilities, available funding, and industrial management expertise. The selection of this interim site for the CFE should in no way prejudice either the selection of a permanent site for the CFE nor the site selection for the eventual construction of the Fusion Engineering Device (FED).

The Committee further directs the Secretary of Energy to provide funding, within budget, for carrying out site evaluation studies during FY 82 with respect to siting the Fusion Engineering Device. These studies should be conducted as expeditiously as possible and carried out by a suitable architect/engineer or engineering/constructor firm. A report listing the criteria and no less than five acceptable sites should be submitted to Congress no later than September 1, 1982.

General committee action: The Committee has not terminated either the Mike McCormack Fusion Materials Test Facility (formerly the Fusion Materials Irradiation Test facility) or the Impurity Studies Experiment modification (ISX-C). Both projects are, however, funded at a much reduced rate in line with budgetary constraint.

1. Confinement Systems

Committee Action

−$3.0 million Confinement Systems Operating

+$2.5 million Impurity Studies Experiment, Project 81-T-314, Oak Ridge, Tennessee

The Committee believes it is inappropriate to cancel project 81-T-314 but concurs with the Department's desire to rescope the project to allow a more ambitious undertaking. The $2.5 million should allow conceptual design work to be performed during FY 82.

In line with these actions, the Confinement Systems program should study the data base requirements for the FED and give careful consideration to upgrading of present experiments (e.g., Doublet III large Dee, PDX, etc.) in light of making the most cost effective use of these facilities and personnel.

2. Development and Technology

Committee Action

−$5.0 million.

This $5.0 million was added to the Reagan request due to the cancellation of the McCormack Fusion Materials Test Facility. As the Committee does not intend that this project be cancelled, this funding while useful to program development, is not essential. The Committee urges the Department to give strong consideration to fusion materials research in the FY 83 budget.

3. Applied Plasma Physics

Committee Action

−$3 million taken so as to minimize disturbance of university programs and compact torus research.

The Committee does wish to express its continued concern with regard to the Department providing steady funding for universities commensurate with the Department's long range forecast for manpower.

This cut is not intended to downplay the importance of the work carried out in the Applied Plasma Physics category but only indicate the Committee's concern that the CMFE work must be boldly initiated in FY-82.

4. Planning and Projects

Committee Action

−$2.5 million operating from TFTR and MPTF-B.

+$5 million operating for McCormack FMTF project.

+$1 million capital equipment not related to construction for MMFMTF.

McCormack Fusion Materials Test Facility: While no additional PACE money has been authorized for this project in FY 82, the Committee rejects the Department's proposal to cancel the McCormack Fusion Materials Test Facility in Richland, Washington. This project has not received priority funding from the Department in the past and the presently projected funding profile will most certainly lead to burdensome cost increases and drawn out schedules. The Committee believes the following course of action is warranted, if adequate funds are provided either through deferral of FY 81 funds or FY 82 appropriations in line with this authorization

(1) The Department shall rescope the project design to provide better cost containment and be prepared for added FY 83 PACE funds.

(2) The Department shall maintain those technology programs which are vital to the ultimate success of this project, e.g. accelerator development, corrosion studies, etc.

(3) The Department shall explore international cooperation agreements with regard to sharing the facility construction and instrumentation costs in the post FY-81 time frame.

Tokamak Fusion Test Reactor: The committee wishes to express its continued concern over the cost overruns which have occurred the last two consecutive years on the Tokamak Fusion Test Reactor (TFTR) project at the Princeton Plasma Physics Laboratory. The Department should bring all its project management resources to bear on assuring the completion of project construction in FY 1982, if possible. The Committee, however, wishes to remind the Department that it is the success of TFTR which is of utmost importance. Quality control at this stage of construction should not be sacrificed for mild schedule slippages.

5. Center for Magnetic Fusion Engineering (CMFE)

Committee Action

As previously noted the Committee believes strongly that the Center for Fusion Engineering be established and staffed up during fiscal year 1982 within available funding, at an interim site which would make cost effective use of available manpower and funding resources. As part of CMFE funding the Department should perform a site selection study (to be completed by Sept. 1, 1982) for the Fusion Engineering Device making optional use of the already existing preconceptual design and siting studies. This study can be thought of as part of a science and technology base program.

The additional funds are essential if these tasks are to be completed in a time frame commensurate with deciding on the appropriateness of a late fiscal year 1982 or fiscal year 1984 line item for the Fusion Engineering device.

C. SMALL-SCALE HYDROPOWER: RESEARCH AND DEVELOPMENT

[In thousands of dollars]

	Fiscal year 1981 budget authority estimate	Fiscal year 1982 DOE authorization request (Carter)	Revised fiscal year 1982 authorization request (Reagan)	Committee action	
				Changes to Reagan authorization request	Total authorization
Research and development, operating expenses	11,011	2,672	0	+1,750	1,750
Program direction	789	528	0	+250	250
Total	11,800	3,200	0	+2,000	2,000

Committee Action

Small-Scale Hydropower—$2 million increase over Reagan request: The Committee increased the operating expenses for Small-Scale Hydropower by $2 million because a continuing low-level of Federal involvement is required for research in engineering for use of low-head Hydropower and on relationships between streamflow and fish productivity.

D. ELECTRIC ENERGY SYSTEMS AND ENERGY STORAGE SYSTEMS

1. ELECTRIC ENERGY SYSTEMS

[In thousands of dollars]

	Fiscal year 1981 budget authority estimate	Fiscal year 1982 DOE authorization request (Carter)	Revised fiscal year 1982 authorization request (Reagan)	Committee action	
				Changes to Reagan authorization request	Total authorization
Operating expenses:					
System architecture and integration	19,000	13,000	4,100	+4,800	8,900
Power delivery	18,500	18,450	4,525	+8,200	12,725
Storage application	[1] 6,200	6,300	0	+2,100	2,100
Subtotal, operating expenses	43,700	37,750	8,625	+15,975	24,600
Program direction	923	750	875	0	875
Subtotal	44,623	38,500	9,500	+15,975	25,475
Capital equipment:					
System architecture and integration	0	0	0	0	0
Power delivery	1,500	400	400	0	400
Storage application	0	0	0	0	0
Total	46,123	38,900	9,900	+15,975	25,875

[1] Included under energy storage systems in fiscal year 1981.

Committee Action

(a) System Architecture and Integration—$4.8 million increase above Reagan request: The Committee increased operating expenses $4.8 million above the Reagan request for the following activities: New Technology Integration, Load Management, and Systems Control and Development. The resulting budget is only 47 percent of the budget for these activities in fiscal year 1981 and is the minimum required for a viable subprogram in research for development of technologies for bringing electricity from decentralized sources into complex distribution systems, for continuation of long-range research on automatic control of distribution systems significantly impacted by intermittent and dispersed sources of energy, for advanced research on communications within distribution systems, and for development of advanced control concepts for central dispersed systems.

(b) Power Delivery—$8.2 million increase above Reagan request: The Committee increased operating expenses $8.2 million above the Reagan request for the following activities: Underground Transmission, High Voltage DC Technology, Electric Field Effects, and High Voltage AC Technology. The resulting budget is below the budget for these areas in fiscal year 1981 and is required to aid in keeping U.S. technology in this field competitive internationally. The increase over the budget proposed by the Reagan Administration will continue research on superconducting cables and control methods for multiterminal high voltage DC systems, studies on health and safety aspects of high voltage transmission at a level commensurate with engineering and scientific developments in high voltage technology, research on development of a superconducting generator, development of compact transformer stations, and for development domestically, with up to $1.5 million, of a submarine cable suitable for use at great depth in Hawaiian waters.

(c) Storage Application—$2.1 million increase above Reagan request: The Committee provided operating expenses of $2.1 million for the program in Storage Application which the Reagan Administration proposes to eliminate at the end of fiscal year 1981. The budget for fiscal year 1981 is $6.2 million. The $2.1 million is to continue testing and evaluation of advanced batteries in the Battery Energy Storage (BEST) Facility, and for cost/benefit analyses of state-of-art batteries used as load levelers in electric utilities.

2. ENERGY STORAGE SYSTEMS

[In thousands of dollars]

	Fiscal year 1981 budget authority estimate	Fiscal year 1982 DOE authorization request (Carter)	Revised fiscal year 1982 authorization request (Reagan)	Committee action	
				Changes to Reagan request	Total authorization
Operating expenses:					
Electrochemical storage	37,800	30,600	25,550	.....	25,550
Physical and chemical storage	31,300	26,000	11,850	.....	11,850
Subtotal, operating expenses	69,100	56,600	37,400	.....	37,400
Program direction	1,000	1,000	500	.....	500
Subtotal	70,100	57,600	37,900	.....	37,900
Capital equipment:					
Electrochemical storage	700	700	700	.....	700
Physical and mechanical storage	1,000	1,200	400	.....	400
Subtotal, capital equipment	1,700	1,900	1,100	.....	1,100
Total	71,800	59,500	39,000	.....	39,000

Committee Action

No change from the Reagan request.

E. FOSSIL ENERGY

1. COAL

(a) *Coal mining research and development*

Views

The Committee has long felt that an active mining R. & D. program is essential to the entire Federal effort of increasing the use of coal as an energy source. The Mining R. & D. program has the potential, through its efforts to increase productivity and environmental protection in the coal mining process, of positively affecting the economies of coal conversion and utilization. At the same time, however, the Committee believes that DOE's program has not yet developed an organized approach to planning and carrying out its R. & D. efforts, and should take into its planning the efforts it will make to place the results of its R. & D. into the marketplace. Further, the Committee believes that, for a co-ordinated Federal mining R. & D. program, all such R. & D. should be consolidated under the Department of the Interior, where all aspects of the mining process (productivity, health, safety, environments, etc.) can be considered in program planning and execution.

Action

Funds were reduced by $11.8 million in mining R. & D., leaving $4 million for program planning and project management. This will allow a year for transfer activities and planning of an organized program. Personnel at the Pittsburgh and Carbondale Mining Technology Centers, as well as Washington Headquarters, who are involved in the underground and surface mining programs, shall be transferred from the Department of Energy to the Department of the Interior; provided that no person so transferred shall be subject to involuntary separation or reduction in grade for one year from the effective date of such transfer.

(b) *Coal preparation and analysis*

Action

The Coal Preparation Program is separate from the Mining R. & D. program, and the Committee wishes it to remain in DOE. This reflects the Committee's view that coal preparation is related more closely to coal utilization than coal mining. The Administration's budget request of $6 million was accepted.

(c) *Coal liquefaction*

Views

The Committee believes that the production of substitute liquid fuels is the highest priority of the Fossil Energy program. Thus, the Coal Liquefaction program has and continues to be the program which receives the highest amount of funding within Fossil Energy. The Coal Liquefaction program has developed the SRC I and SRC II processes to be the point of technical readiness and the testing of Exxon Donor Solvent (EDS) and H-coal processes will soon be complete; this would provide data sufficient to use those processes commercially. In the area of indirect liquefaction, the program provided early support which was instrumental in developing the M-gasoline process. These processes are important successes, and in the future will contribute greatly to development of a synthetic fuels industry.

In the past, the Committee has strongly supported the SRC-1 project and its construction and operation were among the recommendations of the Committee's Advisory Panel on Synthetic Fuels. The budget constraints of this year prevent the Committee from providing additional authorizations of funds.

The Committee recognizes the potential advantages of direct liquefaction technology over indirect liquefaction. Heat loss is kept to a minimum, dramatically increasing system efficiency and lowering production costs. SRC-1 is a coal refining process that has performed well on Eastern coal and produces a wide slate of products, both solid and liquid, each of which will back out imported oil. SRC-1 products include clean boiler fuel, anode coke, and petrochemical and transportation fuel feedstocks. SRC-1 clearly can make a major contribution to our future energy supply if the final development step, the technological demonstration of a commercial-size module, is permitted to go forward. However, the Committee has heard much testimony that the project will not be completed without substantial Federal involvement because of the project's size and technological risk.

Although fiscal constraint is necessary, the Committee suggests that the Appropriations Committee consider alternative methods to continue this project within the limits of the President's budget.

Action

The Committee increased funding for the H-Coal pilot plant by $10 million, bringing the total FY 1982 authorization to $30 million. This is one half of what is needed to

complete three test modes and provide the scale-up information for a commercial plan. As the industrial participants will be the major financial beneficiaries of the commercial use of this process, the Committee believes that costs beyond the FY 1982 authorization should be provided by the H-Coal industrial participants in order to complete these tests. Sufficient funds are provided to complete the original Exxon Donor Solvent process agreement although the Committee realizes that the inability of the Federal Government to participate in improvements to the process may affect the Government's royalty rights. The Committee reduced funding by $2 million for the work on disposable catalysts.

(d) Surface coal gasification

Views

The Committee has restructured the gasification program, increasing the Administration's proposed authorization. The restructuring of the program provides funds to complete the BiGas pilot plant efforts, avoiding a loss of the results of the effort previously performed, and adds money for peat. The money for peat, however, is to be used to structure a program which DOE feels is the most meaningful and gives the greatest return for the taxpayer in terms of the research in the utilization of the peat resource. At the same time, funding is reduced for low priority process work and for catalytic coal gasification, which Exxon will develop on its own.

The Committee has supported the development and demonstration of coal gasification, and continues to do so. The Administration did not request funds for the High Btu or Low/Medium Btu demonstration plant projects, stating that the Synthetic Fuels Corporation should provide such support. The Committee did not authorize any funds for the three demonstration plant projects.

The High Btu Coal Gasification Demonstration Plant program was initiated in 1975 in order to demonstrate the commercial viability of converting high sulfur coal to pipeline quality gas. The Illinois Coal Gasification Group was awarded a contract for the design of a large scale plant utilizing the COGAS process. The process offers significant technical and economic improvements over existing technologies. The design effort is to be completed in September 1981.

The Administration has requested no funds for this project, and the Committee, however, believes that coal gasification is very important to meeting America's energy needs, and further believes that this project is one of the most advanced second generation coal gasification processes, which in addition to improved efficiency, is also able to utilize Eastern high sulfur coal. Although fiscal restraint is necessary, the Committee suggests that the Appropriations Committee consider alternative methods to continue this project within the overall limits of the President's budget.

Action

The substitute reduced operating expenses for the surface coal gasification activity by $2,140,000.

This action includes a number of increases as well as decreases within the activity.

1. An increase of $6.86 million for the BiGas pilot plant operation for a total of $8 million in FY 1982. This will complete operation of the pilot plant.

2. An increase of $4 million for peat gasification. This allotment contains funding for additional work in resource assessment and peat harvesting and dewatering techniques as well as possible funding for the operation of a gasification pilot plant.

3. A reduction of $1 million from Fixed Bed Gasification. Most of these activities are centered on measurements of air and water emissions for currently available gasification technology. This activity should be reduced as the private sector takes on more responsibility for the development of current technology.

4. A reduction of $7 million from Catalytic Gasification. This technology was developed by the Exxon Corporation with joint funding from the Department of Energy and the Gas Research Institute. Exxon has decided to scale up this technology further to a 150 ton per day pilot plant in the Netherlands. The additional funding for FY 1982 would have supported operation of the process development unit in Baytown, Texas on four U.S. coals, as well as allowing the Department of Energy access to the results of the operation of the pilot plant in the Netherlands. Commercial use of this technology appears imminent. Furthermore, as the production activities of the Synthetic Fuels Corporation advance, those private investors interested in coal gasification will examine the advanced technologies independently of the Department of Energy. If they are interested in utilizing the Exxon gasifier they can use their own funds for the operation of the Netherlands pilot plant on coals of their choice.

5. A reduction of $1 million from the High Rate Entrained Flow Gasifier. This small project is of marginal value to the overall Department of Energy gasification program and offers no significant improvements on other technologies under development.

6. A reduction of $4 million from technical support. Due to the almost $20 million reduction in the overall program, the level of technical support required from contractors and others is no longer necessary. This item was increased from $10 million to $12 million in the January 15 request; the Reagan request left the item changed. It is the judgment of the Subcommittee that even the FY 1981 level of funding is not required.

Action

The Substitute agrees with the Administration proposal of $8.6 million to continue technology base development activities, and to complete the Steeply Dripping Bed activities.

(f) Advanced research and technology development

Action

The Substitute reduced the Administration's request for AR&TD operating expenses by $6 million. The reduction shall be as follows:

	Millions
Direct utilization	$2
Materials and components	2
Processes	2

These reductions keep the program at a steady level of funding adjusted for inflation. Though the Administration is emphasizing long term R&D, fiscal restraint necessitates that noninflationary increases be kept to a minimum. This does not reflect, however, any lack of support for the Advanced Research and Technology Development program.

(g) Advanced environmental control technology

Action

The Substitute agrees with the Administration's request of $26.4 million. This funding level reflects the Committee's belief that limestone scrubbers and advanced flue gas desulfurization technologies are basically ready for commercial use, any further improvements will be made by process manufacturers. Other R. & D. activities dealing with fuel cell, gas stream and combined flue gas cleanup systems are very important to increase our use of coal and should be pursued actively.

(h) Heat engines and heat recovery

Action

The Substitute agrees with the Administration's request of $15.6 million for Heat Engines and Heat Recovery. This level of funding scopes down the HTTT program and coordinates other program activities with that revised effort. The committee concurs with the Department's decision to eliminate the low grade heat recovery subprogram from the Fossil Energy program, as the Committee questioned the value of such work to overall program goals.

(i) Combustion systems

Views

In examining the Administration's proposed budget, the Committee was particularly distressed to note the proposed cancellation of the American participation in the International Energy Agency pressurized fluidized bed pilot program at Grimethorpe, United Kingdom. The pilot plant has only recently been completed and testing has just begun. The Federal Republic of Germany and the United Kingdom have both indicated their unwillingess to continue the project without U.S. participation. Thus, to cancel FY 1982 funding would be tantamount to throwing away the money already spent. Further, this project is operating and producing valuable data while the Curtiss-Wright facility is being constructed. To not continue is to put the PFB technology on hold, with resulting delays in the development of the technology. Further, the steam heat transfer system to be used at Grimethorpe has strong wide-spread support from the utility community and its vendors.

Action

The substitute increased the operating expenses for this program by $1.9 million. This provides a total of $9 million for the Grimethorpe project. The Committee also decreased several activities. The total funding of $4.1 million for advanced fluidized bed concepts was eliminated, and advanced combustion technology was reduced by $3 million. The funds in advanced fluidized bed concepts was eliminated as it provided funds in support of the Fluidized Bed Combustion Research Facilty, which the Committee believes should not be built. The reduction in advanced combustion technology eliminates funds for combined cycle gasification.

A redirection of $500,000 was made for the AFB project at Shamokin, Pennsylvania to install the equipment to convert the residual material into a useful product.

(j) Fuel Cells

Views

Over the last two years, the Committee has made a clear commitment to continued research on multi-kilowatt phosphoric acid fuel cell systems and a multi-year field test using these technologies. The Committee's action for fiscal year 1982 is in keeping with these prior commitments. However, this year's action represents a recognition on the part of the Committee that the utility size (10MWe or larger) phosphoric acid fuel cell is of increasing interest to utility users.

Within the last year fuel cell users groups from both the electric utility and gas utility industries have been formed. Studies have been done which have indicated that the larger size fuel cell system will have a significant market within the next ten to fifteen years.

Action

The Committee increased the Administration's request by $4.1 million in the area of phosphoric acid systems development: This increased funding shall be used for technology development of all competing phosphoric acid fuel cells with special applications to electric utilities including those utilizing alternative domestic fuels such as coal-based methanol. Further, molten carbonate systems development is reduced by $4.1 million. Phosphoric acid systems development thus totals $14.1 million, and molten carbonate systems development is $10 million.

(k) Magnetohydrodynamics (MHD)

Views

It is the intention of the Committee that the Magnetohydrodynamics, research and development authorization for appropriations for FY 1982 be utilized by DOE to the maximum possible extent to maintain a vital MHD development program consisting of the essential program elements. Engineering development, with industrial participation, of the coal combuster, the MHD generator and the down steam plant must continue at the major MHD test facilities. The continuation of these critical aspects of the MHD system will provide the earliest possible test results upon which valid engineering interpretation, analysis and judgment can be made on the future applications of this energy technology.

Action

The Administration has proposed to close out the MHD program at the end of fiscal year 1981 by requesting no funds for this program in fiscal year 1982. The Committee, however, authorizes $20 million for the MHD program for fiscal year 1982.

2. OIL AND GAS

(a) Enhanced oil recovery

Action

As the price of oil increases, greater financial incentives will be available to the oil industry to develop new techniques to recover oil which at present cannot be economically recovered. This is especially the case in light oil. The Committee reduced the Administration's request by $4 million in light oil R&D, thus, leaving $4 million for these efforts. Total FY 1982 funding is $16.1 million.

(b) Oil shale

Views

The Committee believes that development of alternative liquid fuels should be a very high priority, especially in light of the fact that a major portion of energy used in America is in the transportation sector. Further, production of liquid fuels will directly substitute for imported oil. Oil shale is an important potential source of liquid fuels, and the Committee believes that the work on horizontal modified in situ recovery and true in situ recovery should be completed. To stop now will lose the substantial investment already made in these projects, and the Committee believes that the technological advances to be made by these processes requires continued support in FY 1982.

Action

The Committee agrees with the Administration's proposal, but provides an additional $4.1 million to complete the horizontal modified in situ and true in situ recovery projects. No additional funds are provided for the vertical modified in situ recovery.

(c) Advanced process technology

Action

The Committee accepted the Administration's request to provide $4.2 million for the program, which is the basic and applied research area of the petroleum program.

(d) Enhanced gas recovery

Views

The Committee heard testimony that large amounts of natural gas, unrecoverable by conventional technology, can be recovered by enhanced gas recovery techniques. However, technical constraints to the use of such advanced techniques are at least as important as the constraints of regulated gas prices and the subsequent economic disincentives. The Administration request assumes gas deregulation will direct funds to new gas recovery techniques. Even if gas prices rise, the gas industry, which is fragmented between producers and the regulated transmission and distribution companies, needs time to make a transition in order to support this R&D with private funds. Therefore, Federal R&D is necessary to insure that this energy resource is fully utilized. For the low level of funding involved in this program, the potential return in terms of energy is enormous, and thus, the Committee took action to increase funding for this important effort.

Action

The Committee, in light of its belief that emphasis should be placed on this program, increased funding by $4 million over the Administration's request. This increase provides $2.0 million to complete the eastern mineback facility and allows start-up of stimulation tests; allows the carrying out of the western mineback rock fracturing tests for $1 million; and provides $1 million for the national laboratories' efforts in developing advanced diagnostic instrumentation and field testing of instruments for measuring key reservoir parameters of western sandstones.

Program direction

Program Direction is the account within Fossil Energy which provides funds for the Headquarters personnel, including salaries, fringe benefits, travel, and other administrative costs. The Administration proposed $12,520,000 for Coal Program Direction, $1,620,000 for Petroleum Program Direction, and $460,000 for Gas Program Direction.

Action

The Committee reduced the Administration's request. The Coal Program Direction was reduced to $10,075,000; the Petroleum Program Direction was reduced to $1,225,000; the Gas Program Direction was reduced to $300,000.

F. GEOTHERMAL ENERGY

1. Hydrothermal industrialization

Views

The Committee recognizes the major role which the hydrothermal program has played in the development of the nation's geothermal resources. The program's past emphasis on resource and development planning has provided a solid foundation for continued geothermal development. To insure successful program integration within the nation's energy strategy, the Committee believes that the development of geothermal resources should continue to involve close coordination between the appropriate Federal, regional, state and local government entities.

Action

The Committee increased the Department's authorization request by $8 million for the second 50 MWe Demonstration Plant at Heber, California in order to restore this project after DOE proposed to terminate its funding. $7 million of the increase was allocated to construction expenses and $1 million to operating expenses.

The Committee determined that it is important to keep this project going albeit at a much reduced level because of its use of the undemonstrated binary cycle technology. The higher efficiency of this technology will allow extraction of energy from lower temperature hydrothermal resources.

2. Geopressured resources

Action

The Committee reduced the outlays for Geopressured Resources by $6 million. This decrease should reduce the number of new wells drilled in FY 1982 and the number of tests on both new and existing wells. Although this resource appears to be large, the costs are also large and are very difficult to estimate with any confidence as yet.

3. Geothermal technology development

Action

The substitute agrees with the Administration's request in this area.

Views

The Committee notes that the President has requested a rescission of a portion of the funds previously appropriated to the geothermal loan guarantee reserve fund. The geothermal loan guarantee program was authorized through enactment of Public Law 93-410, and the total amount of loans to be guaranteed by the Federal Government cannot exceed $500 million as provided by Public Law 96-367. The Science and Technology Committee, which has legislative jurisdiction over the loan guarantee program, wishes to emphasize that the geothermal loan guarantee program is still authorized by law and that rescission of a portion of the appropriations from the default reserve fund in no way eliminates the authority of the Federal Government to guarantee loans. The Committee, however, shares the concern of the House appropriations committee that the Administration is attempting to terminate a very important program without sufficient review of the impact. We ask that DOE send the Committee further explanatory materials within 30 days to justify the proposed termination. Absent this material, the committee has not changed from its position on the importance and need of this loan guarantee program.

G. SOLAR ENERGY

1. Active heating and cooling

Action

The Committee reduced by $2.7 million the funding level requested, and redirected the allocation of funding; this was composed of increases amounting to $3.0 million and decreases of $5.7 million. The increases will maintain through FY 1982 key activities vital to the solar hot water and space heating industry: Codes and Standards activity.

The Department's revised authorization request for the Active Heating and Cooling Program of $11.5 million represents a reduction of $31.2 million from the FY 1981 appropriation for the program. This reduction

was achieved by eliminating the Solar Hot Water and Solar Space Heating subprograms as of the end of FY 1981. The swift termination of these two subprograms, as called for in the revised budget proposal, could result in some important activities being lost.

The Committee increases are intended to allow the Solar Heating and Cooling Systems industry an additional year to plan and prepare for the transfer of remaining program activities to industry and the private sector by FY 1983. The codes and standards work should be turned over to the private sector in FY 1982.

Decreases: The Committee acted to reduce solar cooling research and development and solar assisted heat pumps by $5.7 million as follows:

1. Solar Cooling (−$5.2 million).
2. Solar Assisted Heat Pumps (−$500,000).

The Committee reduced the authorization request for solar cooling by $5.2 million leaving $3 million for FY 1982. This funding shall be utilized for limited absorption and rankine component and systems development activity. Work on desiccant solar cooling is not funded in the Committee action. This reduction and elimination of desiccant cooling work is in recognition of the long term nature and limited contribution that can be reasonably expected from solar cooling technologies. By the time the cost reduction goals are met for the various solar cooling technologies, other advanced technologies (such as residential photovoltaics, advanced gas fired heat pumps), will have already entered the building sector market, greatly limiting the potential of active solar cooling.

The Committee also reduced the funding for solar assisted heat pumps by $500,000 to $1.3 million. This represents level funding from FY 1981 for SAHP development work.

2. Passive and hybrid

Action

Committee accepts requested level.

The Committee intends that $1 million increase be used to initiate an Integrated Passive/Photovoltaic Hybrid Residential Program. This initiative will be undertaken with the close cooperation and direct involvement of the Building Systems Program under the Deputy Assistant Secretary for Conservation and Photovoltaics Programs. If utility grid-connected photovoltaic systems are to penetrate the market for residential and commercial buildings at reasonable cost, the electrical demand of such structures must be minimized. This can be accomplished by using the latest structural passive solar and conservation techniques and the highest efficiency electrical appliances (both major and small appliances). Once the electrical demand is reduced by passive design and conservation measures, then the size of the structure's photovoltaic system can be matched to the much reduced average load of the structure. Thus, the cost of the photovoltaic residential systems, when they begin initial market penetration in the mid to late '80's, will also be greatly reduced. This will be the direct result of the optimization of the structure/photovoltaic package.

The experience of the Solar Heating and Cooling Demonstration Program gives a clear indication that research and complete system experiments, like that contemplated by this initiative, can work out ahead of time many of the difficulties and failures that occurred in the previous demonstration program. This initiative if successfully carried out should greatly ease the market penetration for grid-connected photovoltaics on individual buildings, when the cost of the photovoltaic arrays comes down.

3. Photovoltaic energy systems

Action

The Committee increased overall operating expenses by $39.75 million: this was composed of increases amounting to $61.75 million and a decrease of $22 million. There was a further reduction of $2 million for capital equipment. The increases will maintain efforts in three critical areas of the photovoltaic program. Each of these areas had been targeted for significant reductions or elimination in the Department's revised authorization request. These increases are:

1. Technology Development $44.95 million—including $6.8 million for a cost shared 1 MWe utility project with the State of California and the Sacramento Municipal Utility District.
2. System Engineering and Standards ($7 million).
3. Tests and Applications ($9.8 million).

The revised photovoltaic program authorization request of $62.9 million represents a reduction, combined with the request's emphasis on long term, high risk research, calls into serious question the program's ability to meet the objectives of P.L. 95-590, the "Solar Photovoltaic Energy Systems Research, Development, and Demonstration Act of 1978", as well as the program's own cost goals. If this occurs, then it is very unlikely that photovoltaics will penetrate the grid connected utility market in the foreseeable future. The actions taken by the Committee emphasize those program activities that pertain to increasing the probability of reaching the legislated and programmatic objectives for photovoltaics. Activities that do not pertain to achieving those objectives have been eliminated from the program by the Committee's action.

The Committee increased funding for technology development by $44.95 million. This element of the program is vital if the $1 per peak watt program cost goal is to be reached by 1988. It is responsible for developing the production line technology necessary to move laboratory advances into the marketplace. $13.5 million of the increase will go to the balance of systems effort to stimulate cost reductions in power conditioners for both single family residential applications and large size buildings. This will also allow cost reduction efforts for structures and installation of photovoltaic systems. $6 million of the increase will be utilized for the concentrator program leading to the achievement in FY 1982 of technical readiness for at least one concentrator module.

The remaining funding in technology development will be made available to the Jet Propulson Laboratory's Low Cost Silicon Array Project. This will allow for the achievement of technology readiness for at least one flat panel module during FY 1982. Within the funding for technology development, $6.8 million shall be allocated to the first phase of a photovoltaic utility experiment proposed by the State of California and the Sacramento Municipal Utility District (SMUD). The first increment of the SMUD project will involve the installation of a 1 MWe photovoltaic system over the next two years. Cost sharing from the State of California ($2 million) and from the Sacramento Municipal Utility District ($3.2 million) is anticipated for the first increment before this project goes forward.

The Committee encourages the Department to give very careful consideration to the entire 100 MWe SMUD proposal. The full project would yield a major utility-owned and operated photovoltaic facility with a relatively small federal investment leveraging a large private expenditure ($26 million Federal Share vs. $270 million SMUD share). If this project were successful, then even the $26 million federal investment would be completely repaid to the Treasury by the time that the 100 MW project is completed.

The Committee authorized $7 million for Systems Engineering and Standards for FY 1982. This funding will allow the continued operation of the Northeast and Southwest Regional Residential Experiment Stations. The Committee provided $2 million for the expansion of the Regional Residential Experiment Station Network into the Southeast during FY 1982. This expansion into the Southeast is important due to the climatic variations that may impact photovoltaic systems performance in a humid southern climate.

The amount of $9.8 million was authorized by the Committee for the ongoing first of a kind photovoltaic systems experiments in the Test and Applications program element. Of that amount, $3 million shall be used for continued construction of the National Exemplar Project at Georgetown University in Washington, D.C.

Decreases: The Committee reduced the request for Advanced Research and Development (AR&D) by $2 million. The remaining $22 million would fund the continued research and development on only those advanced materials that have the potential of entering the marketplace in the late 1980's. In reviewing the $44 million request for AR&D, the Committee noted that the request contained only $22 million for activities that had been part of AR&D in previous years. The remaining $22 million in the request would have funded activities previously contained in Technology Development.

Due to the reduced funding for AR&D and for the program from FY 1981, the Committee reduced funding for capital equipment by $2 million.

4. Solar thermal energy

Action

The Committee increased operating expenses by $10.85 million; this was composed of increases amounting to $20.05 million and decreases amounting to $9.2 million. The Committee further added $13.65 million for plant and capital equipment.

Increases: The Committee took the following actions in increasing funding for the program:

1. Technology Development ($16.35 million) including $13.8 million for continued development of advanced parabolic dish point focus systems.
2. Systems and Applications ($3.7 million).
3. Project 80-E-19, 250 KWe, Small Community Solar Thermal Power Experiment ($5 million).
4. Project 82-ES-1, Central Receiver Utility Repowering Project ($6 million).
6. Capital Equipment ($2.65 million).

Technology development: The Committee authorized $29.4 million for the solar thermal technology development subprogram. This represents an increase of $16.35 million over the Department's revised authorization request and a decrease of $30.15 million from the FY 1981 appropriation for this subprogram. The funding for Technology Development is broken down as follows:

$11.1 million shall be used for central receiver development activities including the operation of the central receiver test facility (CRTF) and designs for the future modification of the Solar I at Barstow, California as a repowering test facility. This is an increase of $1.85 million over the request.

Parabolic dish technology development activity shall receive $13.8 million, an increase of $10.7 million. This level of funding will continue development of promising advanced dish systems, utilizing both Brayton and Stirling point focus heat engines. This continued systems development activity shall be done on the basis of open, competitive solicitations. The resulting advanced prototypes will be initially tested at the Edwards Air Force Base test center. Following satisfactory completion of the shakedown testing at Edwards, the prototypes will be field tested at utility sites not selected for the 250 KWe Small Community Project.

Parabolic trough development funding was increased by $3.3 million to a level of $4.0 million. The emphasis of the activity shall be the continued development and testing on low cost mass produceable trough systems.

$500,000 is authorized for bowl technology development which will allow for the continued testing and operation of the 65 foot Hemispherical Bowl Experiment at Crosbyton, Texas.

Systems and applications: The Committee increased funding for systems and applications by $3.7 million. This additional funding will enable the completion of the 50,000 sq. foot Industrial Process Heat project in Puerto Rico. It also will fund the completion of the designs for the Modular Industrial Solar Retrofit (MISR) Parabolic trough project. DOE will support MISR only through completion of multiple detailed designs. It is expected that industry will then, on its own, incorporate advances resulting from these designs in the systems they produce for commercial sale.

Construction projects

80-ES-19, Small Community Solar Thermal Power Experiment: The Department requested no funding for the continuation of Project 80-ES-19 Small Community Solar Thermal Power Experiment. The Committee action restored an authorization of $5 million for FY 1982. The Committee further acted to reduce the size of this project from 1 MWe to 250 KWe. In its review of this project the Committee found no technical justification for the 52 dish, 1 MWe size for the project.

The reduction in size down to 250 KWe will allow the achievement of the project's technical objectives while reducing its total estimated cost from $35 million to $14.5 million.

Project 82-ES-1, Central Receiver, Utility Repowering Project: An increase of $6 million was made for preliminary designs of central receiver utility repowering projects. Twelve DOE-funded conceptual designs and one privately funded conceptual design were conducted between October 1979 and July 1980. These designs investigated the potential for the repowering of industrial boilers and for the repowering of existing utility oil and gas fired plants with central receiver solar thermal systems. Due to the promising results of these conceptual designs and the strong interest in repowering, expressed by Southwestern Utilities, the Committee authorized Project 82-ES-1 Central Receiver, Utility Repowering Project.

The Committee authorized $6 million to continue evaluating the solar central receiver concept for generating electric power. Specifically, it is the intent of the Committee to enable the Department of Energy to issue a Program Opportunity Notice (PON), to require private or utility cost sharing to a substantial extent by that PON and to contract for at least four separate designs in order to obtain complete information from which the Department may then ascertain if the application of the central receiver for supplementing existing power plant fuel supplies is economically valid. For this purpose, each design, as a minimum, is to include engineering design drawings and calculations, a detailed construction cost estimate, a construction management plan, a preliminary plant operations plan, an environmental impact assessment, and a 20-year term economic evaluation.

The twenty-year term economic evaluation will at least compare all existing plant modifications, capital costs, financing, supplemental fuel supply availability, regulatory impact based on the Fuel Use Act, integrated plant reliability, plant life, forecasted replacement parts and materials and personnel (operating and maintenance). These costs are to be compared to the continuing use of oil or natural gas wherein oil increases 2½ times and natural gas 3 times in 20 years on a straight line basis.

Decreases: The Committee reduced Research and Advanced Development (RAD) by $8.6 million. In the Department's revised request, the research and advanced development element of the Solar Thermal Program received an increase of $7.5 million over FY 1981. The authorization of $12.5 million will maintain a healthy university research effort and continue the Salton Sea Salt Pond Project at $1.7 million for FY 1982.

The reduction of $8.6 million was made by eliminating a new initiative contained in the request for advanced linear parabolic systems as well as reduction in materials, applied research, and fuels and chemicals.

The Committee also reduced planning and analysis by $600,000. The funding of this activity at $1.9 million will be adequate for the program's planning and analysis requirements for FY 1982.

5. Wind energy

View

The Committee notes with approval the continuing progress of efforts by DOE to assist the wind industry in the development of voluntary consensus standards. Testimony received by the Committee indicates the important role that voluntary consensus standards produced by private industry can play in promoting the development of safe and efficient Wind Energy Conversion Systems, and in encouraging accuracy in marketing to consumers. In the Committee's view, a modest investment in standards development now is badly needed. Many state and local governments are already considering regulations covering wind systems, and if they proceed in an uncoordinated fashion, this emerging industry could fall prey to over-regulation.

The wind industry, working in cooperation with affected groups and interested government agencies, is best equipped to suggest the appropriate level of regulation at this time, and voluntary consensus standards provide it with the vehicle to do so.

Action

The Committee added a total of $29.4 million to the Department's revised FY 1982 request for the program: $28.6 million was added in operating expenses and $800,000 was added in capital equipment.

During the 96th Congress, the Committee spent a great deal of time investigating the DOE Wind Energy Systems Program. P.L. 96-345, the "Wind Energy Systems Act of 1980," and the comprehensive wind program that it established, is the culmination of that effort. This Act, which was overwhelmingly supported by both Houses of Congress, establishes goals and program activities, around which the Wind program is to be built. The legislated program goals are as follows:

1. To reduce the average cost of electricity produced by installed wind energy systems, by the end of fiscal year 1988, to a level competitive with conventional energy sources;

2. To reach a total megawatt capacity in the United States from wind energy systems, by the end of Fiscal Year 1988, of at least eight hundred megawatts, of which at least one hundred megawatts are provided by small wind energy systems; and

3. To accelerate the growth of a commercially viable and competitive industry to make wind energy systems available to the general public as an option in order to reduce national consumption of fossil fuel.

The action taken by the Committee to increase funding for the wind program results in a FY 1982 authorization level of $48.8 million. The level of funding represents a reduction of $37 million from the FY 1981 appropriation and falls $113.2 million short of the FY 1982 program funding anticipated in the conference report that accompanied Public Law 96-345. The items that are contained in the Committee's action will increase the probability of achieving the goals of the Act. At the same time the Committee did not provide any funding for the financial assistance and commercialization provision of the Act. The increased funding is broken down by the subprogram elements as follows:

1. Wind Characteristics and Resource Assessment ($2 million).

2. Technology Development ($6.4 million).

3. Engineering Development ($18.7 million) including $18 million for a modified MOD-5 program.

4. Implementation and Market Development ($1.5 million) for SWECS site prospecting.

5. Capital Equipment ($800,000).

The Committee increased the request for wind characteristics and resource assessment by $2 million to a level of $4.5 million. $2.5 million of this amount shall be used for a Utility Site Validation Grant Program. This funding would be used for the establishment of a grant program with utilities for large wind turbine site validation. The grants would be $150,000 apiece for a minimum of two years of site validation work with utilities situated in promising wind regions.

This work is of vital importance because of the site specific nature of the wind resource. The economics for wind systems can vary by as much as a factor of two, because of wind velocity differences at a site.

The request for the Technology Development subprogram was increased by $6.4 million. This funding will be used for activities in support of wind systems under development within the DOE program and for technical trouble shooting efforts in support of privately funded wind systems. The Rocky Flats Test Center should operate whenever possible on a fee basis to industry. In its action on technology development the Committee provided no funding for the innovative systems effort.

The principal action taken by the Committee was to increase Engineering Development by $18.7 million. This funding will allow for the testing of 4 and 15 KWe SWECS and for product improvement activities for SWECS developed by both private and government funding. $18 million of the increase shall be allocated to the MOD-5 Advanced Multimegawatt Wind Turbine program. In taking this action the Committee recognized the high cost of the original MOD-5 program as well as the absence of industrial financial commitment to the project. Therefore, the Committee took the following steps to modify the MOD-5 program.

First, in recognition of the success to date of the Boeing MOD-2 wind turbines at Goldendale, Washington, the Committee directs the Department to shift Boeing's MOD-5 development effort to a product improvement retrofit on the third MOD-2 at Goldendale. DOE is directed to secure cost sharing from Boeing on this effort. Secondly, General Electric's MOD-5 effort will be maintained but it shall be adjusted to secure cost sharing from GE and/or utilities for continuation of their activity. DOE is directed to explore the possibility of cost sharing during the remaining design phase for MOD-5. Further, 50/50 cost sharing will be required for the fabrication and installation of three GE MOD-5 wind turbines. This cost sharing can come from the manufacturer or the manufacturer in conjunction with the host utility.

These modifications of the MOD-5 program will greatly reduce the cost of the program to DOE while still being able to deliver prototype wind turbines in the 6 to 8 cents per kilowatt hour range. At that cost a broader utility market should be available to the machines resulting from this program.

6. Ocean thermal energy conversion

View

OTEC-I and the Seacoast Test Facility (STF): Due to the high cost of further operation of the OTEC-I heat exchange test vessel and the funding requirements to complete the Seacoast Test Facility in Hawaii, it is unlikely that the program can afford these activities in FY 1982. The Technical objectives of the OTEC-I project have been met and the Seacoast Test Facility is only partially completed. The Committee, therefore, directs the Department to turn over to the Seacoast Test Facility any hardware from OTEC-I that could by utilized by STF. The Committee further encourages the Department to take all steps possible to donate title of the OTEC-I vessel to the State of Hawaii for its sale and deposition of the OTEC-I. Money from the sale of OTEC-I by the state shall be used for completion of the Seacoast Test Facility as a permanent shore-based OTEC and marine science research facility.

7. Alcohol fuels research and development

Action

The Committee reduced the Department's request for the Alcohol Fuels R&D program by $2 millllion.

The Committee's authorization of $8 million shall be used exclusively for advanced process technology development, including enzymatic and acid hydrolysis, that depends on other than grain or sugar as a feedstock. Fermentation of cellulosic feedstocks such as grasses and agricultural wastes would improve the yield, energy balance, economic and energy resource potential of ethanol production and utilization. Included in the authorization is adequate funding to accelerate the promising work underway on ethanol purification by adsorption.

This action and program emphasis is consistent with the recommendations of the U.S. National Alcohol Fuels Commission contained in its final report "Fuel Alcohol: An Energy Alternative for the 1980s." This report concluded:

Over the long term, however, the Nation must expand the ethanol raw material base to include more than livestock grains—moving especially toward cellulosic wastes and residues such as forestry and crop wastes and municipal garbage * * *.

The Committee also provided no funding for the development of a 100 percent alcohol fueled engine. Significant experience has already been gained in this area due to domestic industry activity as well as the Brazilian experience.

Action

During the 96th Congress, two pieces of legislation dealing with Ocean Thermal Energy Conversion were overwhelmingly enacted into law. These laws are Public Law 96-310, the "Ocean Thermal Energy Conversion Research Development and Demonstration Act" and Public Law 96-320, the "Ocean Thermal Energy Conversion Act of 1980."

Public Law 96-310 established a number of goals for the OTEC program including the design, construction and demonstration by 1986 of at least 100 megawatts of electrical capacity or energy product equivalent from multiple OTEC pilot plants. Following the successful demonstration of the technical, engineering and economic viability of the OTEC technology with the pilot plants, then Public Law 96-320 would provide the necessary regulatory and financial incentives for OTEC commercialization.

The Department's revised authorization request calls for the termination of the OTEC program at the Department of Energy in FY 1982. Consequently the Department requested no FY 1982 funding for the program.

The Committee provided $25 million for the continuation of the OTEC program. Included in this authorization is $6.3 million for Project 81-ES-1, 40 MWe OTEC pilot plants.

The $18 million in operating expenses is the minimum funding level to maintain an adequate research and development effort in support of the pilot plant activity. In taking this action the Committee eliminated all of the non-OTEC activity that had previously been a minor part of the program. This eliminates all wave, current, and salinity gradients activity, leaving closed-cycle, open cycle and hybrid OTEC efforts in the remaining program.

The Committee recognizes that an authorization for this program for Fiscal Year 1982 has been previously provided in section 10 of Public Law 96-310. In authorizing funding for this program in this bill, the Committee does not intend to authorize the enactment of any new or additional budget authority over and above that authorized in that legislation. Furthermore, the Committee intends that the authorization in this bill represents the actual authorization necessary to meet the program's requirements for Fiscal Year 1982.

Project 81-ES-1; 40 MWe OTEC Pilot Plant: In the fall of 1980, the Department released a Program Opportunity Notice (PON), soliciting proposals for the design and construction of a 40 MWe OTEC pilot plant. The PON required cost sharing from private industry for this project. Numerous proposals have been submitted to DOE and are presently under evaluation. Awards for multiple Phase I conceptual designs are scheduled to be made in the early summer.

The $6.3 million authorized for pilot plants in Fiscal Year 1982 will allow for the completion of conceptual designs and initiation of Phase II preliminary designs during the fiscal year.

H. ENERGY CONSERVATION (H.R. 3146)

Summary of Actions

The Committee authorized a total of $128,524,000 for energy conservation, which is $51,489,000 above the revised FY 1982 DOE authorization request.

1. Buildings and Community Systems: The Committee added $13,579,000 (including $326,000 in capital expenses) for activities in Technology and Consumer Products, Building Systems, Community Systems and program direction.

2. Industrial Energy Conservation: The Committee added $17,200,000 for activities in Waste Energy Reduction, Industrial Process Efficiency, Cogeneration and program direction.

3. Transportation: The Committee added $23,000,000 for activities in Vehicle Propulsion RD&D, including gas turbines, stirling engines and supporting technology.

4. Multi-Sector: The Committee reduced the requested level by $2,290,000 primarily in the area of energy conversion technology.

1. Building and community systems

Views

The administration proposes to eliminate from the Building and Community Systems program all activities that are not long term high risk generic research and development. It would fund only the building energy sciences element of the buildings systems subprogram and urban waste RD&D. All other activities—including the technology and consumer products, community systems and analysis and technology transfer subprograms, and the education technical assistance, demonstrations and case studies and codes and standards elements of the building systems subprogram would be terminated.

The Administration's rationale for this action is that the private sector, in a decontrolled market, will carry out the near-term activities currently being performed by the Government in a more cost-effective manner. Rising energy prices and the Administration's overall economic program makes these programs unnecessary, and wasteful, according to DOE program documents.

The Committee believes that significant barriers exist which prevent the marketplace from bringing forth the full level of cost effective energy conservation in the residential and commercial sector. These include:

Energy prices which do not reflect the full social and economic costs associated with fuels.

Lack of adequate information and ability to make accurate life cycle cost comparisons between energy options.

Inability of private firms in decentralized, highly fragmented industries to capture all the beneifts of R&D, either short term or long term.

Limited availability of capital and financing for energy efficiency improvements.

Regulatory and institutional barriers such as building codes, landlord/tenant relationships, and the lack of an adequate delivery system for conservation retrofits.

Uncertainty over the performance and cost of new conservation technologies and over future fuel prices and availability.

Government programs which address many of these barriers are both needed and desirable, in the Committee's view.

The Committee is especially concerned about the proposal to eliminate the Technology and Consumer Products subprogram. This program has had a positive effect in accelerating the adoption of improved energy efficient space heating, hot water and air conditioning equipment and of improved appliances and lighting. Witness testified at hearings that the small, highly fragmented and undercapitalized equipment supply industry would be unable to assume the current Federally sponsored R&D efforts in this area on its own. Without Federal support, witnesses claimed, industry/government teams from other industrialized nations are likely to capture both the domestic and world markets for these products. Already the Japanese are making significant inroads in heat pumps, and the Europeans are competing successfully in high efficiency furnaces and boilers. The Committee wishes to see on-going activities in advanced electric and gas fired heat pumps, oil and gas heating systems, appliances and lighting continued.

The Committee also supports continuation of DOE activities to provide education and technical assistance to the building community and to work with that community toward the development of performance based voluntary energy efficiency standards and codes. With respect to education and technical assistance the Committee notes the views expressed by the American Institute of Architects at Subcommittee hearings:

"We strongly believe that DOE must continue its support to improve the energy efficiency in buildings by improving the design tools and increasing the availability of its research results. DOE should use its technical data to develop reference manuals on design strategies for residential and small-scale commercial application."

With respect to codes and standards the Committee notes the following testimony by the National Institute of Building Sciences:

"We believe that the issuance of a voluntary guideline will be far more favorably received and have greater immediate impact on design and construction of new energy-efficient buildings than can be expected from a Federal standard promulgated as a regulation.

"In our view, without further delay, DOE should compile the existing data on energy use characteristics in new buildings, produce a guideline and the means of establishing equivalency with these guidelines, and make available at the lowest possible cost such documents for widespread public use.

"Work on the rulemaking beyond completion of the research necessary to prepare these guidelines should cease, and funds intended to facilitate such work should be redirected for education and training purposes."

The Committee also notes similar views which were expressed in writing by the American Society of Heating Refrigerating and Air Conditioning Engineers:

"The overwhelming recommendation of the building design professions, including ASHRAE, (is) that the BEPS program should become voluntary rather than mandatory, which in effect means that the energy performance budgets would become guidelines for selected climates. . . much valuable research went into the development of BEPS, at an estimated cost of 35 million dollars. Ongoing research and future research projected for this program should be continued and documented."

The Committee is also concerned about the status and future prospects of DOE's community systems program. The committee supports a reduction in the scope and funding level of this program but feels that its total elimination could deprive the Nation of valuable opportunities to save energy. Of specific concern is the District Heating Program which has operated at the modest level of $2–$3 million a year despite a large potential for energy savings: 1.5 quads by the year 2000. (The government of West Germany, by contrast, spent close to $150 million on district heating between 1975 and 1980.) The Committee wishes to see this program continued through 1982, pending the development of an overall national strategy for this technology. The Committee also sees a need for technical assistance to communities for assessment of local energy options via the newly-created National Center for Community Energy Management or the Comprehensive Community Energy Management Program.

Actions

The Committee added $13.579 million to this program in the following areas:

Building Systems: The Committee accepted the requested level but directs the program to retain funding for education and technical assistance, demonstrations of advanced building techniques and codes and standards work, including cooperative work with the building community toward the promulgation of voluntary standards. The Committee notes that subprograms in "energy conservation equipment" and "appliance test procedure" have been added to buildings systems in the new FY 1982 budget books. These activities are to be returned to the Technology and Consumer Products subprogram. The Education and Technical Assistance, Demonstrations and Case Studies and Building Codes and Standards subelements in the Carter Administration FY 1982 budget are to be restored.

Community Systems: The Committee added $2.4 million for district heating ($1.5 million); and technical assistance to towns and cities to assess local energy options ($0.9 million). The district heating funds would continue the existing program pending oversight hearings and a decision on the National District Heating and Cooling Plan currently being developed by an interagency task force.

Technology and Consumer Products: The Committee added $9.279 million in the following areas:

$4 million for gas fired heat pumps

$2.953 million for advanced electric heat pumps

$2.0 million for improved efficiency oil and gas furnaces

$0.326 million for capital equipment

Program Direction: The Committee added $1.9 million to the requested level to bring the total in this line item to $5.0 million. This funding will support 110 full time positions, a level sufficient to carry out the added program activities authorized by the Committee, and on-going activities continued in FY 1982.

2. Industrial energy conservation

Views

The revised DOE budget request would eliminate all funding for the Industrial Energy Conservation Program, except for $965,000 in program management to close out existing contracts. The Committee has strongly supported this program in the past and continues to do so. It intends that the program be continued as an ongoing activity in 1982 in its existing organizational structure. Any attempt to redistribute funds or programmatic activities to other organizational units in FY 1982 would be inconsistent with the intent of this report.

A primary reason for Committee support of this program is its cost effectiveness. Experts have testified to the Committee that projects funded by this program save energy at a cost to the Federal Government of less than 60 cents per barrel of oil equivalent (BOE). (This cost represents the Federal investment in the project divided by the energy saved from it through the year 1990.) Including private investments, they find that the total cost to the nation ranges from a low of $2.50 to a high of $12.00 per BOE, with the average being around $6 per BOE.

Therefore, according to their analysis, at the current world price of oil ($34 per barrel) the program returns to the nation more than $50 for every dollar invested. Moreover, since every dollar saved by industry returns at least 40 cents to the Treasury in taxes not expensed, the program will return more than $20 to the Federal Government for every dollar it spends. Thus, if the program meets its goal of saving more than 1 quad a year by 1985, the Treasury will be richer by more than $1.5 billion a year from an annual investment of less than $60 million.

A second reason for Committee support of the program is the large amount of evidence presented at hearings that industry cannot carry out the RD&D sponsored by this program on its own. Most energy consuming industries do not have the in-house capability to do R&D on improving their own efficiency, even if they had the necessary capital available. The equipment supply industry is small companies, with no one firm being able to finance or reap the benefits of R&D investments. Cooperative R&D ventures are discouraged by existing antitrust laws.

The Industrial Energy Conservation program shares the cost and the risk of RD&D investments with private firms and ensures that the results are widely disseminated. By applying careful selection criteria, the program insures that the projects it funds are not ones that would be done by industry on its own.

Finally there is the important issue of maintaining U.S. productivity and competitiveness. Most analysts agree that R&D is an important contributor to the vitality of a nation's industry. Yet, despite its overall high level of support for RD&D, the U.S. government has funded research related to economic growth and productivity at a level far lower than that of most other industrial nations—about 0.4 percent of the overall R&D budget. In the energy area, the governments of Germany, France, Sweden, Japan, the Netherlands and Great Britain are all spending at least five times as much as the U.S. per dollar of Gross Domestic Product, on support for industrial energy efficiency. The Committee believes that this program can play a key role in improving the energy efficiency and overall productivity of U.S. industry, and should be funded accordingly.

Actions

The Committee increased the industrial energy conservation program by $17.2 mil-

lion, bringing the total authorization for FY 1982 to $18,165,000. The increase consists of the following elements.

Waste energy reduction: The Committee increased funding in this area from $0 to $10.5 million. At this level the program has the potential to save the nation 1 quad of energy by the year 2000.

The recommended level will enable DOE to find high priority projects in areas such as fluidized bed waste heat boilers, conversion of cellulosic waste to fuel, recovery of fuel, recovery of fuel from liquid waste, oxygen separation systems.

Industrial Cogeneration: The Committee added $5.2 million to the requested level of $0 to fund high priority cogeneration projects such as coal fired Brayton systems, Brayton bottoming cycle systems, coal-water slurry diesel systems and advanced Rankine bottoming cycle systems. The Committee intends that activities funded by this program be continued beyond FY 1982.

Program Management: The Committee added $15 million to the requested level of $0.965 million to enable the program to retain a staff of 54.

3. Transportation

Views

Methane as a transportation fuel: The Committee wishes to restate its strong support for the goals and objectives of the Methane Transportation RD&D Act of 1980 (P.L. 96-512). That legislation established an expanded program of research into areas relating to the use of methane as a transportation fuel. It also called for a series of Federally assisted fleet demonstrations.

In keeping with overall concern about reducing the growth in Federal expenditures, the Committee is prepared to accept deferral of the demonstration requirement of the Act. But the research aspects should move forward expeditiously. Therefore the Committee urges the Department to begin such work within the funds appropriated pursuant to the authorization for Alternate Fuels Utilization.

Actions

DOE requested $108,920,000 for Transportation Programs Operating Expenses. A revised request for $35,750,000 was submitted subsequently. This amount is a 67% reduction from the amount appropriated for Fiscal Year 1981. More importantly it represents a fundamental change in Federal automotive R&D policy.

The enabling legislation defined a Federal role in the advancement of automotive technology. The latest Administration proposal seeks to alter that definition without amending the legislation. The Committee finds this unacceptable.

Therefore, the Committee increases the amount requested for Operating Expenses by $23,000,000 to permit the continued development of proof-of-concept alternative heat engines. The increase is intended to continue the Stirling Engine development program, the Gas Turbine Engine development program, and supporting automotive and truck technology. The new total for operating expenses is $58,750,000.

4. Multi-sector

Views

The Committee believes that the overall integration of technical oversight, information dissemination and outreach of the Appropriate Technology Small Grants Program and Small Inventors Program are inadequate. The programs have no guidance as to the state of research nor adequate research nor adequate outreach, training, information or localized/individualized technical assistance. Since Federal money is limited, the Committee believes that these services should help prevent the duplication of efforts of other Federally-supported programs and assist individuals and localities seeking technical advice on developing their own energy production, conservation and invention ideas. The Committee expects the Office of Small Scale Technology and the Office of Inventions to coordinate its efforts with other Federal agencies. The Committee also recommends that the Secretary of Energy enter into appropriate negotiations to provide that existing appropriate technology research, development and demonstration programs which may be transferred or phased out of the Community Services Administration (CSA) or the National Science Foundation (NSF) program be incorporated into the Office of Small Scale Technology and Office of Inventions.

Actions

The Committee decreased funding by $2.29 million, distributed as follows:

Inventions: The Committee accepted the requested level for this program.

Energy Conversion Technology: The Committee reduced the requested level for this program by $2.5 million.

Program Direction: The Committee added $0.21 million to the requested level of $0.19 million to help alleviate serious personnel shortages that have occurred in this program in FY 1980 and 1981.

I. BASIC ENERGY RESEARCH

This set of programs provides the basic research to support the technology base of the overall DOE mission. The largest of these programs, Basic Energy Sciences, contains subprograms in those scientific disciplines of importance to energy R&D (e.g. materials sciences, chemical science, biological energy research, nuclear sciences, engineering, geosciences and applied mathematics). About 25-30 percent of basic energy sciences funding goes to universities.

The program designated "Technical Assessment Projects" supports special studies and projects for energy R&D policy-making.

The University Research Support Program provides seed funding to initiate interdisciplinary energy research at universities, for university-National Laboratory cooperative research, and for graduate fellowships in critical energy fields.

The Multiprogram General Purpose Facilities program (GPF) was established to provide agency-wide support of the multiprogram general purpose facililties at DOE's 12 multiprogram laboratories in such a manner that the successful execution of their assigned energy related and basic research programs and missions is assured.

Action

Basic energy sciences—$24.0 million decrease: The Committee decreased operating expenses by $7.0 million for Basic Energy Sciences. This action still allows nearly 10 percent growth over FY 1981 for these programs. In particular, the Committee chose to slow the growth of the Engineering, Mathematical and Geosciences subprogram.

The reduction in the subprograms are as follows:

	Millions
Nuclear science	1.0
Materials sciences	1.0
Chemical sciences	1.0
Engineering, mathematical and geosciences	3.0
Advanced energy projects	0.5
Biological energy research	0.5

The Committee decreased the authorization by $17.0 million for Project 82-G-322, High Temperature Materials Laboratory, Oak Ridge National Laboratory. The Committee's decision not to authorize this worthy project in FY 1982 is based solely on overall budgetary constraints. The Committee expects that the project will be contained in the Administration's proposed budget for FY 1983.

FISCAL YEAR 1982—BASIC ENERGY SCIENCES, PLANT AND CAPITAL PROJECTS

[In thousands of dollars]

Project No. and description	Total estimated cost	Previous authority	Fiscal year 1982 Reagan authorization request	Fiscal year 1982 committee authorization	Full committee change	Total authorization through fiscal year 1982	Recommended fiscal year 1982 budget authority
82-E-321—Accelerator improvement modifications, various locations	300	0	300	300	0	300	300
82-E-320—General plant projects	300	0	300	300	0	300	300
82-E-322—High Temperature Materials Lab. (ORNL)	17,000	0	17,000	0	−17,000	0	0
Prior-year projects							
Total basic energy sciences		17,600	600	−17,000			600

The Committee left unchanged the request for the following programs. Technical Assessment Projects, University Research Support, Advisory and Oversight Program Direction.

General Purpose Facilities—$57.85 million decrease: The Committee deferred three projects and changed authorization for seven other projects. The net reduction in authorization from the Administration's revised request is $57.85 million. (See Section, "Construction of Facilities," for details.)

J. GENERAL SCIENCE AND RESEARCH

Action

High Energy Physics—$221.5 million decrease: The Committee decreased operating expenses by $2.0 million in the high energy physics technology activity. This reduction would slow or delay lower priority accelera-

tor and experimental facility research and development.

The Committee decreased authorization for all multi-year construction projects to cover only the requests for fiscal year 1982 budget authority. No multi-year authorizations were recommended. The Committee also reduced general plant projects by $1.0 million and reduced accelerator improvements and modifications by $1.0 million, which would defer lower priority projects.

The Committee provided fiscal year 1982 authorization of $14.5 million for Project 81-E-218, Tevatron, Phase I, at Fermi National Accelerator Laboratory. The Committee's decision to slow construction for this worthy project in fiscal year 1982 is based solely on overall budgetary constraints.

The Committee provided FY 1982 authorization of $16.0 million for Project 78-10-b, ISABELLE, at Brookhaven National Laboratory. Thus, the total authorization through FY 1982 would be $125.5 million. The Committee recommends an FY 1982 budget authority of $21.0 million in accordance with the Administration request.

The Committee is concerned about continuing difficulties associated with the fabrication of the supperconducting magnets for the ISABELLE facility. Consequently, the Committee recommends an additional project authorization to cover only the request for FY 1982 budget authority.

After a review of the project status and revised costs during FY 1982, the Committee will consider further authorization for ISABELLE as part of the FY 1983 authorization legislation.

The Committee decreased construction authorization as follows:

	Millions
Project 78.10.b, ISABELLE Brookhaven National Laboratory	$149.5
Project 81.E.218, Tevatron, Phase 1, Fermi National Accelerator Laboratory	25.0
Project 82-E-204, General Plant Projects, Various Locations	1.0
Project 82-E-205, Accelerator Improvements and Modifications, Various Locations	1.0
Project 82-E-206, Tevatron, Phase 2, Fermi National Accelerator Laboratory	43.0

FISCAL YEAR 1982—HIGH ENERGY PHYSICS, PLANT AND CAPITAL PROJECTS

[In thousands of dollars]

Project No. and description	Total estimated cost	Previous authority	Fiscal year 1982 Reagan authorization request	Fiscal year 1982 committee authorization	Full committee change	Total authorization through fiscal year 1982	Recommended fiscal year 1982 budget authority
82-E-204—General plant projects	6,000	0	6,000	5,000	−1,000	5,000	5,000
82-E-205—Accelerator Improvements projects, various locations	7,000	0	7,000	6,000	−1,000	6,000	6,000
82-E-206—Tevatron II, Fermilab	49,800	0	49,000	6,000	[1] −43,000	6,000	6,000
81-E-218—Tevatron I, Fermilab	41,500	2,000	39,500	14,500	−25,000	16,500	14,500
79-9-B—Energy Saver (Fermilab)	46,900	44,300	2,600	2,600	0	46,900	2,600
78-10-b—Intersecting Storage Accelerator (Isabelle), Brookhaven	[2] 275,000	109,500	165,500	16,000	−149,500	125,500	21,000
Total, high, energy physics			269,600	50,100	−219,500		55,100

[1] The authorization was brought into alinement with the budget authority at the request of OMB.
[2] Under review.

Nuclear Physics—$19.3 million decrease: The Committee left unchanged the request for nuclear physics operating expenses.

The Committee decreased construction by $17.7 million. No multi-year authorizations were recommended.

The Committee provided an FY 1982 authorization of $6.5 million for Project 80-GS-5, the National Superconducting Cyclotron Laboratory, and recommends an FY 1982 budget authority of $4.5 million in accordance with the Administration request.

The Committee provided $400,000 in FY 1982 authorization for initiation of Project 82-E-223, the Argonne Tandem-Linac Accelerator System (ATLAS). The Committee's decision to partially authorize this worthy project in FY 1982 is based solely on overall budgetary constraints. The Committee expects that the project will be included in the Administration's proposed FY 1983 budget at a level commensurate with the original construction schedule.

The Committee also reduced general plant projects by $0.4 million, which would defer lower priority projects.

The Committee decreased construction authorization as follows:

	Millions
Project 80-GS-5, National Superconducting Cyclotron Laboratory, Michigan State University	11.6
Project 82-E-222, General Plant Projects, Various Locations	.4
Project 82-E-223, Argonne Tandem-Linac Accelerator System (ATLAS), Argonne National Laboratory	7.3

FISCAL YEAR 1982—NUCLEAR PHYSICS, PLANT AND CAPITAL PROJECTS

[In thousands of dollars]

Project No. and description	Total estimated cost	Previous authority	Fiscal year 1982 Reagan authorization request	Fiscal year 1982 committee authorization	Full committee change	Total authorization through fiscal year 1982	Recommended fiscal year 1982 budget authority
82-E-221—Accelerator improvements, various locations	2,000	0	2,000	2,000	0	2,000	2,000
82-E-222—General plant projects, various locations	2,800	0	2,800	2,400	−400	2,400	2,400
80-GS-5—National Superconducting Cyclotron Laboratory, Michigan State University	30,000	11,900	18,100	6,500	−11,600	18,400	4,500
82-E-223—Argonne Tandem/Linac Accelerator System (Atlas)	7,700	0	7,700	400	−7,300	400	400
Total, nuclear physics			30,600	11,300	−19,300		9,300

The Committee left unchanged the request for the Life Sciences and Nuclear Medicine Program.

K. ENVIRONMENTAL RESEARCH

Actions

Overview and Assessment: The Committee decreases the Environmental Assessment activities by $6,000,000.

Biological/Environmental Research: The Committee added $3,000,000 for environmental research to emphasize synthetic fuel related pollutants.

L. CONSTRUCTION OF FACILITIES

General Purpose Facilities

Committee Actions

1. Project deferrals.—The Committee acted to defer three projects on the basis of economic constraints:

81-E-309 Plant Rehabilitation, Argonne Laboratory, for $8,700,000 in authorization ($4,000,000 in B/A).

81-E-310 Transmission and Distribution Systems Upgrade, Richland, Wash., for $5,050,000 in authorization ($5,050,000 in B/A).

81-E-317 Roof Replacement, Idaho National Engineering Laboratory, for $1,000,000 in authorization ($1,000,000 in B/A).

The Committee emphasizes however that projects 81-E-309 and 81-E-317 are considered essential to maintaining the Department of Energy's laboratories in Illinois and Idaho Project 81-E-310, Transmission and Distribution Systems Upgrade, Richland, Washington, is another matter.

In this case, the Committee believes this project should be accomplished with defense appropriations since the work is directly related to weapons systems.

2. Project reductions.—In comparison to complicated research projects not previously undertaken, the Committee believes that the type of construction work involved in

general purpose facilities is well known and that accurate estimating for these facilities is quite possible. Therefore, the contingencies of seven projects were reduced along with reductions in the total estimated costs. The Committee believes that the entire scope of work contemplated can be completed within the remaining estimated funding.

The following projects were therefore reduced as follows:

[In thousands of dollars]

Project No. and title	Location	Fiscal year 1982 reduction in requested budget authority	Fiscal year 1982 authorization	Reduction in total cost (no change in scope)
80–ES–11—Idaho laboratory facility	Idaho National Engineering Lab	550	4,450	1,700
82–E–302—Security facilities	Argonne Laboratory	440	1,060	1,000
81–E–318—Upgrade primary substation	Oak Ridge National Laboratory	200	2,600	200
81–E–321—Site utilities project	Lawrence Livermore National Laboratory	500	5,050	500
81–E–323—Fire safety improvements	Argonne National Laboratory	200	1,600	200
81–E–325—Energy technology laboratory	Sandia National Laboratories	500	5,000	1,500
82–E–305—Traffic safety improvements	Richland, Wash	560	3,240	560
Grand total		2,950	23,000	5,660

The Committee believes these reductions would also allow more projects to proceed on drastically needed maintenance, rehabilitation and repair work, and the Committee wishes to see these projects continue without reductions in scope, extensions in schedules or cost increases.

The Committee does not, by deferring the above projects or by reducing several others, disagree with the Department of Energy's program for General Purpose Facilities. To the contrary, the Committee applauds the Department's progress in establishing this function within its Headquarters and wishes to see it strengthened in order to better protect property investments and to meet the changing needs of the laboratories and research centers.

FISCAL YEAR 1982.—MULTIPROGRAM GENERAL PURPOSE FACILITIES, PLANT AND CAPITAL PROJECTS

[In thousands of dollars]

Project No. and description	Total estimated cost	Previous authority	Fiscal year 1982 Reagan authorization request	Fiscal year 1982 committee authorization	Full committee change	Total authorization through fiscal year 1982	Recommended fiscal year 1982 budget authority
82–E–301—300 area utilities, Hanford, Wash	11,600	0	11,600	1,000	[1] —10,600	1,000	1,000
82–E–302—Security facilities, Argonne Lab	7,100	0	8,100	1,060	[1] —7,040	1,060	1,060
82–E–305—Traffic Safety Improvements, Hanford Engineering-Development Laboratory	5,640	0	6,200	3,240	[1] —2,960	3,240	3,240
82–E–306—Railroad modification, INEL, Idaho	2,000	0	2,000	2,000	0	2,000	2,000
81–E–309—Plant rehabilitation, Argonne National Laboratory, Ill	10,100	1,400	8,700	0	[1] —8,700	1,400	0
81–E–310—Transmission and distribution systems, Richland, Wash	6,050	1,000	5,050	0	—5,050	1,000	0

EXPLANATION OF WINN SUBSTITUTE FOR SUBTITLE B

[Dollars in thousands]

	Fiscal year 1981 budget authority made available	Revised fiscal year 1982 DOE authorization request (Reagan) [1]	Committee action: Changes to Reagan authorization request	Committee action: Total authorization
Summary of committee actions				
Solar energy				
H.R. 3447: Sec. 601(A):				
Solar international	12,000	4,000	—4,000	0
Solar information	1,400	6,700	—1,700	5,000
Total, operating solar	13,400	10,700	—5,700	5,000
Conservation				
H.R. 3447: Title VI, Sec. 601(B):				
Building and communication systems	16,000	9,000	—2,500	6,500
Industrial	7,500	0	+1,400	1,400
Energy Extension Service	20,000	0	+15,000	15,000
Multisector	12,000	0	+5,000	5,000
Residential/commercial retrofit	0	0		0
Subtotal, operating	55,000	9,000	+18,900	27,900
Capital Equipment (B&CS)	800	100		100
Total, conservation	56,300	9,100	+18,900	28,000
H.R. 3447: Title VI Sec. 601(C): Demonstration	10,000	0	+1,000	1,000

[1] Budget authority (B/A) relating to authorization is the same.

URANIUM ENRICHMENT

[Dollars in thousands]

	Fiscal year 1981 budget authority made available	Revised fiscal year 1982 DOE authorization request (Reagan)	Committee action: Changes to Reagan authorization request	Committee action: Total authorization
H.R. 3447: Sec. 701(A) OPERATING EXPENSES				
Gaseous diffusion operations and support	847,426	978,900	.....	978,900
Gas centrifuge operations and support	64,800	81,200	.....	81,200
Program direction	3,060	3,100	.....	3,100
Total, operating	915,286	1,063,200	.....	1,063,200
Sec. 701(C) CAPITAL EQUIPMENT				
Gaseous diffusion	24,000	23,600	.....	23,600
Gas centrifuge	3,300	3,600	.....	3,600
Total, capital equipment	27,300	27,200	.....	27,200
Sec. 701(B) CONSTRUCTION				
Prior-year projects:				
81–R–503, utilities upgrade	.....	17,000	.....	17,000
81–R–504, supervisory control	.....	7,000	.....	7,000
81–R–506, environmental protection	.....	60,000	−53,000	7,000
80–UE–2, control water pollution	.....	4,000	.....	4,000
80–UE–3, security improvement	.....	4,000	.....	4,000
80–UE–5, motor and switchgear	.....	8,600	−2,000	6,600
76–8–g, Portsmouth	.....	636,325	−35,325	601,000
New construction:				
82–R–410, GPP	.....	17,500	.....	17,500
82–R–411, UF6 cylinders	.....	11,000	.....	11,000
82–R–412, cooling tower mods	.....	10,000	−2,000	8,000
82–R–413, improved UF6	.....	39,000	−31,900	7,100
82–R–414, purge and cascade	.....	9,000	.....	9,000
82–R–415, fire alarm	.....	19,000	−14,300	4,700
82–R–416, phase II environment mods	.....	16,000	−14,000	2,000
82–R–417, air distribution	.....	2,700	.....	2,700
82–R–418, advance centrifuge	.....	25,000	−19,000	6,000
Total, construction	417,215	886,125	−171,525	714,600
Total, unranium enrichment, H.R. 3447	1,359,801	1,976,525	−171,525	1,805,000
Budget authority (B/A) relating to authorization	1,359,801	1,873,000	−68,000	1,805,000

NUCLEAR FISSION

[Dollars in thousands]

	Fiscal year 1981 budget authority made available	Revised fiscal year 1982 DOE authorization request (Reagan) [1]	Committee action: Changes to Reagan authorization request	Committee action: Total authorization
H.R. 3447 Civilian Waste Management				
Operating expenses:				
Sec. 702:				
Office of Nuclear Waste Isolation (ONWI)	2,000	2,000	.....	2,000
Assistance to States in waste system evaluation and public interaction	500	1,000	−500	500
Low level waste management	900	1,000	.....	1,000
Sec. 703: West Valley demonstration plant	5,000	12,800	−3,000	9,800
Subtotal, operating expenses	8,400	16,800	−3,500	13,300
Capital equipment: West Valley demonstration plant	0	200	.....	200
Total civilian waste management nuclear fission	8,400	17,000	−3,500	13,500
Other fission	14,500	.....	.....	.....
Total, fission H.R. 3447	22,900	17,000	−3,500	13,500

[1] Budget authority relating to authorization is the same.

DEPARTMENTAL ADMINISTRATION

[Dollars in thousands]

	Fiscal year 1981 budget authority made available	Revised fiscal year 1982 DOE authorization request (Reagan)	Committee action: Changes to Reagan authorization request	Committee action: Total authorization
Sec. 801(A)—Operating expenses:				
Policy analysis and systems studies	24,374	17,725	.....	17,725
International affairs	8,257	5,417	.....	5,417
Management and support	245,259	277,690	−35,000	242,690
Intergovernmental Affairs	14,433	11,485	.....	11,485
Public affairs	6,868	3,200	.....	3,200
In-house energy management	3,900	5,400	.....	5,400
Cost of work for others	43,803	47,614	.....	47,614
Changes in inventories	12,000	7,600	.....	7,600

DEPARTMENTAL ADMINISTRATION—Continued

[Dollars in thousands]

	Fiscal year 1981 budget authority made available	Revised fiscal year 1982 DOE authorization request (Reagan)	Committee action: Changes to Reagan authorization request	Committee action: Total authorization
Miscellaneous revenues	−184,267	−167,900		−167,900
Consumer affairs	1,472	907		907
Technical Information services	11,708	14,830		14,830
Comparability justification[1]	17,142			
Total, operating expenditure	204,949	223,968	−35,000	188,968
Sec. 801(C)—Capital equipment:				
Management and support	4,600	4,613		4,613
Public affairs	115	0		0
Technical Information Services	450	950		950
Total, capital equipment	5,165	5,563		5,563
Sec. 801(B)—Construction				
Prior-year projects:				
81-A-602, energy monitoring		2,500		2,500
81-A-605, automated management system		1,900		1,900
80-DA-6, alternate energy source		3,000		3,000
81-A-603, energy monitoring		2,000		2,000
New construction:				
82-A-601, mods for energy management		22,200	−8,100	14,100
82-A-602, advance test reactor		4,900		4,900
82-A-603, high temp water distribution		10,450	−5,450	5,000
82-C-601, plant engineering and design		2,000		2,000
Total, construction	32,900	48,950	−13,550	35,400
Total departmental administration	234,014	278,481	−48,550	229,931
Budget authority relating to authorization:	234,014	273,031	−43,100	229,931

[1] Reflects transfers after appropriations bill to other programs.

SUMMARY OF ACTIONS

A. Solar energy

1. Solar International: The Committee reduced the request by $4 million to terminate these activities within the Department.

2. Solar Information: Reduced funding for this activity by $1.7 million; within the total $3.5 million was set aside for the operation of the National Solar Heating and Cooling Information Center.

B. Energy conservation

The Committee authorized a total of $28,000,000 which is an increase of $18,900,000 above the revised fiscal year 1982 authorization request.

1. Buildings and Community Systems: The Committee reduced the requested authorization for urban waste RD&D by $2,500,000.

2. Industrial Energy Conservation: The Committee added $1,400,000 for Implementation and Deployment activities.

3. Energy Extension Service: The Committee added $15,000,000 to continue the program in fiscal year 1982.

4. Multisector: The Committee added $5,000,000 to continue the Appropriate Technology Small Grants Program in fiscal year 1982.

C. Small-scale hydropower

The Committee recommended $1 million for technological demonstration of ultra low head hydropower for the generation of electricity.

D. Uranium enrichment

The Committee reduced construction funds for the Portsmouth Gas Centrifuge Enrichment Plant by $68 million delaying non-critical path expenditures from the 4th quarter of fiscal year 1982 to the 1st quarter of fiscal year 1983. The project will not be delayed by this cut.

E. Nuclear fission—civilian waste management

The Committee reduced the funding levels of two programs. Assistance to the States in the Waste Systems Evaluation and Public Interaction was reduced by $0.5 million and the West Valley Demonstration Project was reduced by $3.0 million.

F. Departmental administration

1. Operating Expenses: The Committee reduced various program management activities by $35 million and redirected funds for community assistance activities for Los Alamos, New Mexico, and Oak Ridge, Tennessee.

2. Plant and Capital Equipment: The Committee reduced Project 82-A-601 by $8.1 million for various In-House Energy Management projects.

A. ENERGY CONSERVATION

[In thousands of dollars]

Operating expenses	Fiscal year 1981 budget authority estimate	Fiscal year 1982 DOE authorization request (Carter)	Revised fiscal year 1982 authorization request (Reagan)	Committee action: Changes to Reagan authorization request	Committee action: Total authorization
Building and community systems:					
Urban Waste	10,100	8,950	9,000	−2,500	6,500
Analysis and technology transfer industrial conservation	5,900	5,661	0	0	0
Implementation and deployment	7,500	5,600	0	+2,400	1,400
Energy Extension Service multisector	20,000	30,000	0	+15,000	15,000
Appropriate Technology	12,000	13,790	0	+5,000	5,000
Subtotal operating	55,500	64,001	9,000	+19,900	27,900
Capital equipment	800	100	100	0	100
Total conservation	56,300	64,101	9,100	+1,900	28,000

1. Buildings and community systems

Committee Actions

Urban Waste Technology Research and Development:

The Committee reduced funding for the Urban Waste Program by $2.5 million, from the requested level of $9.1 million to $6.6 million. (Both figures include $0.1 million in capital equipment expenses.) Of the reduction, $2 million is for activities in district heating and cooling which are authorized under "Community Systems" in H.R. 3146.

Committee Views

Analysis and Technology Transfer: The Committee notes the finding of the Congressional Office of Technology Assessment last June "Conservation and Solar Energy Programs of the Department of Energy: A Critique" that the DOE conservation and solar programs lack the capability to do needed planning, analysis and evaluation activities. Since the only cross-cutting analysis in DOE's conservation programs is done by the Analysis and Technology Transfer subprogram, the Committee wishes to see those activities continued.

Committee Action

The Committee accepted the requested level of $0 for this subprogram for fiscal year 1982. However, the Committee has authorized funds for sufficient personnel at DOE headquarters to enable the planning and analysis work carried out by this subprogram to be continued in-house, rather than by contractors.

2. Industrial energy conservation

Committee Actions

Implementation and deployment: The Committee added $1.4 million to the requested level of $0 to continue the subprogram's extremely successful Energy Analysis and Diagnostic Centers and boiler maintenance workshops. In addition, sufficient funds are authorized to allow the subprogram to continue to prepare manuals and documents to conduct industrial seminars.

3. Energy extension service

Committee Views

The revised DOE budget request would provide no funding for the Energy Extension Service for fiscal year 1982, thereby terminating the program. The Committee feels that such an action would be inconsistent with the national interest and possibly with the legislative requirements of the Energy Extension Service Act of 1975.

Witnesses consistently testified about the need for impartial, reliable, technical information to facilitate energy efficiency investments. The need for such information is increased, not reduced by a free market approach such as that proposed by the Administration. To quote one witness:

"The classic free market depends on information as the very grease of making it work, for the consumer to know what's in his or her best interest. Yet information in the building sector is complicated, technical, hard to obtain. Moreover, there's no good way to get consistent information between products, between processess and between combinations of products and processes and design. Unless we can depend on our government to do that work for us, because there's no other institution in society in whose idividual interest it is to provide that information, we simply will not get the kind of free market flows that we need for conservation investments."

The EES is of special interest to the Committee as a program that was begun in its fiscal year 1977 ERDA Authorization Act. All witnesses at the Committee hearing on DOE outreach activities agreed that the EES is a valuable program that should be continued. The evaluation done by the program found that each dollar of Federal expenditure leveraged $16 worth of private investment in energy conservation, and that the private investments were paid back in energy saved in a two year period.

The Second Annual Report of the National Energy Extension Service Advisory Board stated that "EES works", "EES is cost effective" and EES is "unique in Federal energy programs". The report recommended that "Congress should fund EES at a higher level" with the sum of $35 million mentioned by the chairman of the Advisory Board as a desirable level. While fiscal restraints make it impossible for the Committee to authorize that sum, it has tried to provide sufficient funding to maintain a viable program. The report also recommends that "Congress should place a matching fund requirement in the EES program, but not beginning earlier than fiscal year 1982". The Committee, in accordance with this recommendation, has adopted statutory language requiring state cost-sharing for the program for fiscal year 1982.

The Committee is also concerned about the degree of coordination and cooperation between DOE outreach activities, and has adopted a resolution to that effect.

Committee Actions

The Committee restored $15 million to continue the Energy Extension Service program in fiscal year 1982. In addition, the Committee adopted statutory language in Section 602 of this legislation to require not less than 20 percent state cost-sharing in this program. This requirement was adopted in order to secure adequate State participation in this program. A similar requirement had been considered by the Committee in previous fiscal years as well as in the Energy Management Partnership Act, which was also considered by the Committee during the 96th Congress. Cost-sharing may be satisfied through either a service, capital or cash contribution.

In response to concerns regarding the management and operation of the Department of Energy conservation and renewable energy technology transfer programs, the Committee adopted statutory language in Section 603 of this legislation to require the Secretary of Energy to transmit to Congress a detailed description of the comprehensive program and management plan for these programs. This plan must include a detailed description of the roles, division of responsibilities, and relationships of the Regional Solar Energy Centers with the other technology transfer activities of the Department of Energy, including the Energy Extension Service, the Solar Energy Information Data Bank, and the National Solar Heating and Cooling Information Center. This plan must also include a detailed description of how the information dissemination activities and service of the Department of Energy in the fields of renewable energy resources and energy conservation are being coordinated with similar or related activities and services of other Federal agencies. The plan must be transmitted to Congress within six months after the date of enactment of this Act.

4. Multisector

Committee Actions

Appropriate technology: The Committee added $5 million to the requested level of $0 to enable the program to carry out program evaluation, information dissemination, assistance to grantees, the preparation of final reports for existing grants and activities. At the authorized level, no new grants will be awarded in fiscal year 1982. The Committee intends that activities funded by this program be continued beyond fiscal year 1982.

The Committee believes that the overall integration of technical oversight, information dissemination and outreach and the Appropriate Technology Small Grants Program and Small Inventors Program is inadequate. The programs have no guidance as to the state of research nor adequate outreach, training, information or localized/individualized technical assistance. Since Federal money is limited, the Committee believes that these services should help prevent the duplication of efforts of other Federally-supported programs and assist individuals and localities seeking technical advice on developing their own energy production, conservation and invention ideas. The Committee expects the Office of Small Scale Technology and the Office of Inventions to coordinate its efforts with other Federal agencies. The Committee also recommends that the Secretary of Energy enter into appropriate negotiations to provide that existing appropriate technology research, development and demonstration programs which may be transferred or phased out of the Community Services Administration (CSA) or the National Science Foundation (NSF) program be incorporated into the Office of Small Scale Technology and Office of Inventions.

B. SMALL-SCALE HYDROPOWER DEMONSTRATION

[In thousands of dollars]

Operating expenses	Fiscal year 1981 budget authority estimate	Fiscal year 1982 DOE authorization request (Carter)	Revised fiscal year 1982 authorization request (Reagan)	Committee action	
				Changes to Reagan authorization request	Total authorization
Demonstration	0	0	0	+1,000	1,000
Total	0	0	0	+1,000	1,000

Committee Action

Small-Scale Hydropower: $1 million increase.

The Committee recommended operating expenses for technological demonstration using small-scale hydropower, particularly ultra low-head hydropower, for generating of electricity.

1. Research and development activities are included in H.R. 3146.

C. URANIUM ENRICHMENT

[In thousands of dollars]

	Fiscal year 1981 budget authority estimate	Fiscal year 1982 DOE authorization request (Carter)	Revised fiscal year 1982 DOE authorization request (Reagan)	Changes to Reagan authorization request	Total authorization
Gaseous diffusion [1]	1,000,426	1,433,300	1,227,300	[2] —117,200	1,110,100
Gas centrifuge [1]	356,315	746,125	746,125	[3] —54,325	691,800
Advanced Isotope Separation [4]	79,300	141,362	85,237	.....	85,237
Program direction	4,004	4,305	4,305	.....	4,305
Total	1,440,045	2,325,092	2,062,967	—171,525	1,891,442

[1] These subprograms contain research and development activities which are described under the Uranium Enrichment program for continuity. The Gaseous Diffusion R&D activity is funded at $17,575,000, and the Gas Centrifuge R&D activity is funded at $79,600,000.

[2] This reduction (—$117,200,000) is an adjustment to bring authorization levels to budget authority levels. It has no substantive effect on the program.

[3] This reduction (—$54,325,000) is a combination of a $68 million cut and an adjustment to bring the authorization level to the budget authority level. The adjustment (+$13,675) has no substantive effect on the program.

[4] The description of this program is carried in the Committee Report on the DOE Nuclear Fission R&D program.

1. GASEOUS DIFFUSION

[In thousands of dollars]

	Fiscal year 1981 budget authority estimate	Fiscal year 1982 DOE authorization request (Carter)	Revised fiscal year 1982 DOE authorization request (Reagan)	Changes to Reagan authorization request	Total authorization
Operating expenses	847,426	1,184,900	978,900	0	978,900
Capital equipment	24,000	23,600	23,600	0	23,600
Construction	129,000	224,800	224,800	—117,200	107,600
Total	1,000,426	1,433,300	1,227,300	—117,200	1,110,100

Committee Action

The Committee believes that the DOE should be making every effort to assist the utilities to market the excess power and thus avoid the demand charge.

2. GAS CENTRIFUGE

[In thousands of dollars]

	Fiscal year 1981 budget authority estimate	Fiscal year 1982 DOE authorization request (Carter)	Revised fiscal year 1982 DOE authorization request (Reagan)	Changes to Reagan authorization request	Total authorization
Operating expenses	64,800	81,200	81,200	0	81,200
Capital equipment	3,300	3,600	3,600	0	3,600
Construction	288,215	661,235	661,235	—54,325	607,000
Total	356,315	746,125	746,125	—54,325	691,800

Committee Action

Although the Committee cut $68 million from the Gas Centrifuge Enrichment Plant project at Portsmouth, it does not want to delay the project further. The cut should be applied in such a manner as to defer items not on the critical path from the 4th quarter of fiscal year 1982 to the first quarter of fiscal year 1983. The Committee is advised that this can be accomplished by a $25 million cut in construction and a $43 million cut in procurement. The table at the beginning of his budget category identifies a cut of $54,325,000. This figure is the net of $68,000,000 and $13,675,000 the latter figure being an adjustment to bring authorization levels to budget authority levels. It has no substantive effect on the program.

The Committee is acutely aware that further delays in the GCEP plant will adversely affect the industrial centrifuge manufacturers and the critical component subcontractors to the point of endangering their participation and ultimately the success of the project. The Committee strongly support this project as the centerpiece of a viable enrichment program in the United States and recognizes that the private industry has demonstrated their confidence in this technology by their investments of over $200 million in industrial plant and equipment.

Committee Action—Uranium Enrichment Projects

Project 82-R-416—Phase II, environmental protection and safety modifications: The Committee recognizes the need to continue upgrading certain facilities to further protect the environment and to assure that hazards to personnel safety are eliminated. The Committee supports the efforts of the Department of Energy in carrying out the work involved in Phase I, Project 81-R-506, and looks forward to activities in Phase II which will enhance air and water quality by minimizing the penetration of heavy metals, PCB's, and other dangerous substances.

However, the Committee questions the need for advanced sewage treatment facilities in Oak Ridge, Tennessee and Paducah, Kentucky. The Committee therefore has deferred these two items from Project 82-R-416 without reducing the fiscal year 1982 authorization and requests the Department of Energy to reevaluate the need for these "tertiary" treatment facilities. Should the Environmental Protection Agency, in its Research and Development Program, develop a tertiary treatment system which could be constructed at a reasonable cost such that municipalities throughout the country could afford it, then all governments might well construct advanced facilities as the need for new plants or plant expansions arises. But, there does not now appear to be an unusual or unique reason for pressing ahead with current tertiary technology at Oak Ridge or Paducah. Consequently, the Committee, by this action, defers design and/or construction of the advanced systems at this time.

NUCLEAR ENERGY—URANIUM ENRICHMENT (GASEOUS DIFFUSION PLANTS, OAK RIDGE, TENN., PADUCAH, KY., AND PORTSMOUTH, OHIO)

[In thousands of dollars]

Project number and description	Total estimated cost	Previous authorization	Construction				
			Fiscal year 1982 Reagan authorization request	Fiscal year 1982 committee authorization	Full committee change	Total authorization through fiscal year 1982	Recommended fiscal year 1982 budget authority
82-R-410 ..... General plant projects	17,500	0	17,500	17,500	.....	17,500	17,500
82-R-411 ..... UF_6 cylinders and storage yards	11,000	0	11,000	11,000	.....	11,000	11,000
82-R-412 ..... Cooling tower modifications (does not include Paducah)	10,000	0	10,000	8,000	[1] —2,000	8,000	8,000
82-R-413 ..... Improved UF_6 containment	39,000	0	39,000	7,100	[1] —31,900	7,100	7,100
82-R-414 ..... Purge and cascade withdrawal modifications, Paducah only	9,000	0	9,000	9,000	.....	9,000	9,000
82-R-415 ..... Fire alarm system replacement	19,000	0	19,000	4,700	[1] —14,300	4,700	4,700
82-R-416 ..... Phase II, environmental protection and safety mods	([2])	0	16,000	2,000	[1] —14,000	2,000	2,000
82-R-417 ..... Air distribution system upgrade, Paducah only	2,700	0	2,700	2,700	.....	2,700	2,700
81-R-503 ..... Utilities upgrade	27,000	10,000	17,000	17,000	.....	27,000	17,000
81-R-504 ..... Supervisory control and data acquisition system	13,000	6,000	7,000	7,000	.....	13,000	7,000
81-R-506 ..... Environmental protection and safety improvements, phase I	60,000	0	60,000	7,000	[1] —53,000	7,000	7,000
80-UE-2 ..... Control of water pollution	17,000	13,000	4,000	4,000	.....	17,000	4,000
80-UE-3 ..... Plant facilities security improvements	17,000	13,000	4,000	4,000	.....	17,000	4,000
80-UE-5 ..... Motor and switchgear upgrading	28,500	19,900	8,600	6,600	[1] —2,000	26,500	6,600
Total uranium enrichment, gaseous diffusion	.....	.....	224,800	107,600	[1] —117,200	.....	107,600

[1] The authorization was brought into alignment with the B/A at the request of OMB.
[2] To be determined.

PROJECT 82-R-410, GENERAL PLANT PROJECTS, OAK RIDGE, TENN.; PADUCAH, KY.; PORTSMOUTH, OHIO

	Thousands
Fiscal year 1982 authorization	$17,500
Total estimated cost	17,500

The gaseous diffusion plants and supporting facilities at Oak Ridge, Tennessee; Paducah, Kentucky; and Portsmouth, Ohio and administrative facilities at Oak Ridge, Tennessee require continuing funding for maintenance, for improved utilization, for safety and health protection, and for general upgrade. Each project is of insufficient magnitude to warrant line-item budgetary consideration. In all cases the project will begin construction in the first quarter of fiscal year 1982.

PROJECT 82-R-411, UF_6 CYLINDERS AND STORAGE YARDS, OAK RIDGE, TENN.; PADUCAH, KY.; PORTSMOUTH, OHIO

	Thousands
Fiscal year 1982 authorization	$11,000
Total estimated cost	11,000

This project provides new 14-ton cylinders at the three gaseous diffusion plants necessary to contain and store UF_6 material during fiscal year 1983. The cylinders will contain plant tails from uranium enrichment services. Construction will be started in early fiscal year 1982 to meet plant production goals.

PROJECT 82-R-412, COOLING TOWER MODIFICATIONS, OAK RIDGE, TENN., AND PORTSMOUTH, OHIO

	Thousands
Fiscal year 1982 authorization	$8,000
Total estimated costs	10,000

Cooling towers are used to remove heat from plant and process liquids by the intimate contact of those liquids and air. The cooled liquids are returned for re-use and the heated air is exhausted to the atmosphere. Cooling towers in use in Oak Ridge and Portsmouth require the normal maintenance necessary to improve liquid distribution and to restore operating efficiency. Renovation is scheduled to start in mid-fiscal year 1982.

PROJECT 82-R-413, IMPROVED UF_6 CONTAINMENT, OAK RIDGE, TENN.; PADUCAH, KY.; PORTSMOUTH, OHIO

	Thousands
Fiscal year 1982 authorization	$7,100
Total estimated cost	39,000

A review of UF_6 handling facilities and procedures at all three gaseous diffusion plants has warranted certain changes. The results will be safer, more efficient operations and reduced potential for toxic material release with subsequent personnel hazards and loss of valuable materials. Improvements will be made to autoclaves, to vaporization facilities, to piping and valves and to sample cylinder transfer. A 4-year construction period is anticipated starting in mid-fiscal year 1982.

PROJECT 82-R-414, PURGE AND CASCADE WITHDRAWAL MODIFICATIONS, PADUCAH, KY.

	Thousands
Fiscal year 1982 authorization	$9,000
Total estimated cost	9,000

The project will upgrade the existing purge and cascade withdrawal facilities at the Paducah Gaseous Diffusion Plant. The existing systems in need of upgrading and improvement are the process seal system, cell instrumentation system, building electrical system, lube oil system, process piping, and process expansion joints. Also, an existing low speed cell will be converted to a high speed cell. Construction will require three years, beginning in late fiscal year 1982.

PROJECT 82-R-415, FIRE ALARM SYSTEM REPLACEMENT, OAK RIDGE, TENN.; PADUCAH, KY.; PORTSMOUTH, OHIO

	Thousands
Fiscal year 1982 authorization	$4,700
Total estimated cost	19,000

The existing fire and sprinkler alarm systems at the gaseous diffusion plants were installed in the 1950's and met existing standards. However, when these systems are evaluated by present National Fire Protection Association standards it is evident that they do not provide adequate personnel and facility protection. During a 3-year period this will replace these obsolete systems with improved systems, featuring such state-of-the-art components as computer-based electronic and software. Outmoded heat and water flow detectors, alarm boxes, and transmission cable will also be replaced.

PROJECT 82-R-416, PHASE II ENVIRONMENTAL PROTECTION AND SAFETY MODIFICATIONS, OAK RIDGE, TENN.; PADUCAH, KY.; PORTSMOUTH, OHIO

	Thousands
Fiscal year 1982 authorization	$2,000
Total estimated cost	([1])

[1] To be determined.

This project will upgrade service facilities at the gaseous diffusion plants to assure compliance with Federal and state environmental laws and permitting regulations. At Oak Ridge and Paducah the sewage treatment plants will not be modified for advanced treatment in Fiscal Year 1982. However, all other work in this project has been authorized. At Portsmouth loatch treatment will be installed for processing discharges from the Laboratory Building and from electrolytic cell cleaning operations. This project will begin construction in the third quarter of fiscal year 1982 and will be completed at the end of fiscal year 1986.

Since the Committee acted to defer that portion of the work associated with advanced sewage treatment, the total estimated cost should be adjusted by the Department of Energy.

PROJECT 82-R-417, AIR DISTRIBUTION SYSTEM UPGRADING, PADUCAH, KY.

	Thousands
Fiscal year 1982 authorization	$2,700
Total estimated cost	2,700

Due to the unreliability of existing equipment in the diffusion plant, it is necessary to replace a 4200 cfm centrifugal air compressor with two new 2000 cfm compressors, and add two new reciprocating compressors and a 1000 kw diesel electric generator. The project will also include a 2000 SF prefabricated building. Utilities and fire protection equipment will also be provided.

This project is necessary because the existing compressor is 30 years old and emergency equipment is required for safe operations.

PROJECT 81-R-503, UTILITIES UPGRADING, OAK RIDGE, TENN.; PADUCAH, KY.; PORTSMOUTH, OHIO

	Thousands
Fiscal year 1982 authorization	$17,000
Total estimated cost	27,000

The project will improve the mechanical reliability and the operational efficiency at some vital utility systems serving the gaseous diffusion cascades. The systems at Oak Ridge and Paducah, electrical systems at Oak Ridge and Portsmouth, and the nitrogen system at Portsmouth. The construction starts are imminent and will be completed at the end of fiscal year 1984.

PROJECT 81-R-504, SUPERVISORY CONTROL AND DATA ACQUISITION SYSTEMS, PADUCAH, KY.; PORTSMOUTH, OHIO

	Thousands
Fiscal year 1982 authorization	$7,000
Total estimated cost	13,000

This project will install a data acquisition and processing system to monitor critical parts of the high voltage switchyards and power distribution networks on the gaseous diffusion process. The system is similar to the installation completed at Oak Ridge in fiscal year 1978 as a part of the Central Control Facility. The new systems will include redundancy to provide a high degree of accuracy and fail-safe assurance. The construction start is imminent and work should continue to early fiscal year 1985.

PROJECT 81-R-506, ENVIRONMENTAL PROTECTION AND SAFETY IMPROVEMENTS, PHASE I, OAK RIDGE, TENN.; PADUCAH, KY.; PORTSMOUTH, OHIO

	Thousands
Fiscal year 1982 authorization	$7,000
Total estimated cost	60,000

Federal water, air and waste disposal legislation requires that the gaseous diffusion plants provide more stringent effluent clean up prior to discharge. This project will install necessary treatment and containment facilities at the plant as dictated by process and location. The pollutants of primary concern are heavy metals, uranium, biomass slurry, calcium carbonate, chromates, nitrates, fluorides, suspended solids, to name several, and the sludge generated from the disposal treatment of these materials. Construction will require four years, starting in mid-fiscal year 1982.

PROJECT 80-UE-2, CONTROL OF WATER POLLUTION, OAK RIDGE, TENN.; PADUCAH, KY.; PORTSMOUTH, OHIO

	Thousands
Fiscal year 1982 authorization	$4,000
Total estimated cost	17,000

Compliance with the Federal Water Pollution Control Act requires further reduction in the discharge of pollutants and increased control of accidental releases of hazardous or pollution materials to the nearby streams. Facilities are being provided for acid neutralization, oil skimming, chromate removal, improve sewage collection and treatment, hydrologic stabilization, and spill containment. Construction, started in mid-fiscal year 1980, is expected to be completed by the end of fiscal year 1984.

PROJECT 80-UE-3, PLANT FACILITIES SECURITY IMPROVEMENTS, OAK RIDGE, TENN.; PADUCAH, KY.; PORTSMOUTH, OHIO

	Thousands
Fiscal year 1982 authorization	$4,000
Total estimated cost	17,000

The project will improve the physical security protection of outlying utilities which are critical to the operation of the gaseous diffusion plants. Primarily it protects water field, pumping and storage and radio repeater stations with fencing, lighting, and intrusion detection devices. Construction was started in late fiscal year 1980 and should be completed by mid-fiscal year 1984.

PROJECT 80-UE-5, MOTOR AND SWITCHGEAR UPGRADING, OAK RIDGE, TENN.; PADUCAH, KY.; PORTSMOUTH, OHIO

	Thousands
Fiscal year 1982 authorization	$6,600
Total estimated cost	$28,500

Systemic upgrading of electric motors and electric switchgear, which has become obsolete and unreliable, will benefit the gaseous diffusion plant operating characteristics. Process motors at Paducah and Portsmouth will be re-wound and some of these process and auxiliary switchgear at all three plants will be replaced. The programmed activity began in early fiscal year 1981 and will continue to the fourth quarter of fiscal year 1984.

FISCAL YEAR 1982 NUCLEAR ENERGY—URANIUM ENRICHMENT (CENTRIFUGE PROJECTS) PLANT AND CAPITAL PROJECTS

[In thousands of dollars]

Project number and description	Total estimated cost	Previous authorization	Construction				
			Fiscal year 1982 Reagan authorization request	Fiscal year 1982 committee authorization	Full committee change	Total authorization through fiscal year 1982	Recommended fiscal year 1982 budget authority
GCEP PORTSMOUTH							
78-8-g Enriched Uranium Production Facilities	[1] 6,400,000	951,845	636,325	601,000	−68,000	−1,552,845	601,000
GAS CENTRIFUGE PROGRAM							
82-R-418 Advanced Centrifuge Test Facilities	25,000	0	25,000	6,000	−19,000	6,000	6,000
Total uranium enrichment centrifuge projects			611,325	607,000	−87,000		607,000

[1] This is the only plant and capital project estimated in current year money; others are estimated in year of expenditure.

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D. NUCLEAR FISSION—CIVILIAN WASTE MANAGEMENT

[In thousands of dollars]

	Fiscal year 1981 budget authority estimate	Fiscal year 1982 DOE authorization request (Carter)	Revised fiscal year 1982 DOE authorization request (Reagan)	Committee action	
				Changes to Reagan authorization request	Total authorization
Office of Nuclear Waste Isolation (ONWI)	2,000	2,000	2,000	0	2,000
Assistance to States in waste system evaluation and public interaction	500	1,000	1,000	−500	500
Low-level waste management	900	1,000	1,000	0	1,000
West Valley demonstration project	5,000	12,800	12,800	−3,000	9,800
Subtotal operating expenses	8,400	16,800	16,800	−3,500	13,300
Program direction					
Subtotal	8,400	16,800	16,800	−3,500	13,300
CAPITAL EQUIPMENT					
West Valley demonstration project	0	200	200		200
Subtotal	0	200	200		200
Total authorization					
Total budget authority	8,400	17,000	17,000	3,500	13,500

Office of Nuclear Waste Isolation

Committee Action

Office of Nuclear Waste Isolation—no change.

The Committee supports the activities of the Department in site and repository licensing which are more than simply R&D activities. Accordingly, the Committee has approved the $2.0 million in funding requested for this activity with no change.

Assistance to States in waste systems evaluation and interaction

Committee Action

Assistance to States in the Waste Systems Evaluation and Public Interaction—$0.5 million decrease.

Committee action to reduce the scope of activities in the terminal isolation program and focus on early identification and selection of a site for a technology demonstration repository facility has reduced the need for an extensive Federal/State interaction. Accordingly, the Committee has reduced the funding by $0.5 million.

Low-Level Waste Management

Committee Action

Low-Level Waste Management—No change.

The Committee supports the Department in its activities to support the States in the development of regional low-level radioactive waste repositories.

West Valley Demonstration Project

Committee view

This Committee strongly supports timely initiation of the nuclear waste solidification demonstration project at West Valley. The Committee expects that $13.0 million will be available for appropriation for Fiscal Year 1982 activities. The Committee expects that the Department of Energy will complete all planned activities for Fiscal Year 1982 with these available monies. Some members of the Committee raised a concern in reference to the implementation of the cooperative agreement concluded between the federal government and the State of New York in the context of the intent of Public Law 96-368. While the Committee certainly does not want to delay implementation of this project, the Committee directs that the Department evaluate the provisions of the cooperative agreement within the context of the intent of Public Law 96-368 and report to the authorizing Committees within thirty days after this report has been filed. Also, these concerns have been referred to the Investigation and Oversight Subcommittee of the Science and Technology Committee for a report.

Committee action

West Valley, New York, Demonstration—$3.0 million decrease (with directions for reprogramming). The Committee has reduced the funding level for this project by $3.0 million. However, the Committee directs that the Department reprogram $3.0 million from the Civilian Waste Management program to the West Valley Demonstration project for a total of $13.0 million in order to initiate and complete all activities previously identified and scheduled for fiscal year 1982. The Committee is fully supportive of the project and expects the Department to implement the project in a timely manner in accordance with the provisions of Public Law 96-368, the "West Valley Demonstration Project Act".

E. DEPARTMENT ADMINISTRATION

Committee Action—$41 Million Reduction and Intergovernmental Affairs Redirection

The Committee reduced general management, field offices, other salary expenses, travel, and services, and In-House Energy Management in Department Administration by $41 million, or 15 percent, to maintain a fiscally responsible overall budget level, and to balance the changes made in the priorities for the other DOE programs. The Committee believes that the Department should reduce management and streamline procedures consistent with the reductions made in the several programs under DOE administration.

The specific reductions from the Department for these areas are as follows:

1. General Management—a reduction of $8,050,000 for a total of $62,004,000.

2. Field Offices—a reduction of $8,050,000 for a total of $56,638,000.

3. Other Salary Expenses, Travel and Services—a reduction of $18,900,000 for a total of $131,506,000.

4. In-House Energy Management—a reduction of $8,100,000 from Project 82-A-601, Modifications for Energy Management, various locations, for a total fiscal year 1982 authorization of $14,100,000.

The Committee directs that the program direction category in the Office of Intergovernmental Affairs be reduced by $926,000 and that those funds be reallocated to the administered programs as follows: $600,000 for Los Alamos and $326,000 for Oak Ridge. The Committee notes that the program direction category is excessively high because of a budgeting error at DOE. The Carter budget for program direction was $2,140,000 to retain approximately 51 full-time permanent positions. The Reagan Administration decreased the number of full-time permanent positions to 24 but failed to reflect the associated decrease in funding.

The redirection in the Intergovernmental Affairs category permits the Department to distribute 100 percent of the contractual amount (or in those areas where no contract exists, the amount appropriated pursuant to this authorization) to each of the communities in a timely fashion.

FISCAL YEAR 1982 DEPARTMENTAL ADMINISTRATION, PLANT AND CAPITAL PROJECTS

[In thousands of dollars]

Project number and description	Total estimated cost	Previous authorization	Construction				
			Fiscal year 1982 Reagan authorization request	Fiscal year 1982 committee authorization	Full committee change	Total authorization through fiscal year 1982	Recommended fiscal year 1982 budget authority
82-A-601 Modifications for Energy Management, various locations	22,200	0	22,200	14,100	−8,100	14,100	14,100
82-A-602 Advanced Test Reactor Waste Heat Recovery, INEL, Idaho	4,900	0	4,900	4,900	0	4,900	4,900
82-A-603 High Temperature Water Distribution System, LASL, New Mexico	10,450	0	10,450	5,000	−5,450	5,000	5,000
81-A-602 Energy Monitoring and Control System Y-12 Plant, Oak Ridge, Tenn	5,000	2,500	2,500	2,500	0	5,000	2,500
81-A-603 Energy Monitoring and Control System, Oak Ridge, Tenn	4,000	2,000	2,000	2,000	0	4,000	2,000
81-A-605 Automated Energy Management System, Argonne National Laboratory, Illinois	3,800	1,900	1,900	1,900	0	3,800	1,900
80-DA-06 Alternate Energy Source, Pantex Plant, Amarillo, Texas	46,600	3,000	3,000	3,000	0	6,000	3,000
82-C-601 Plant Engineering and Design, various locations	2,000	0	2,000	2,000	0	2,000	2,000
Total			48,950	35,400	−13,550		35,400

PROJECT 82-A-601, MODIFICATIONS FOR ENERGY MANAGEMENT, SITES TO BE SELECTED

	Thousands
Fiscal year 1982 authorization	$14,100
Total estimated cost	14,100

The project will fund at least 100 sites for modification to heating, ventilation, and air conditioning systems; for insulation to buildings; for waste heat recovery systems; for installation of more efficient lighting; for steam line modifications; and for power factor improvements. Funding decisions will be based on competitive proposals from all DOE sites, relative to expected economies. Project cost will range from $5,000 to $1,000,000 per site.

PROJECT 82-A-602, ADVANCED TEST REACTOR WASTE HEAT RECOVERY, IDAHO NATIONAL ENGINEERING LABORATORY, IDAHO

	Thousands
Fiscal year 1982 authorization	$4,900
Total estimated cost	4,900

The project will provide the means to recover a portion of the Advanced Test Reactor process which is presently rejected to the atmosphere through a cooling tower. The waste heat recovery system will consist of heat transfer equipment, pumps, piping, controls and instrumentation to use the recovered heat for space heating. The new system will replace an obsolete oil-fired steam plant. Design will start in the first quarter of fiscal year 1982, construction will start one year later, and completion is expected by the end of fiscal year 1985. The annual anticipated oil saving is 18,000 barrels.

PROJECT 82-A-603, HIGH TEMPERATURE WATER DISTRIBUTION SYSTEM, LOS ALAMOS SCIENTIFIC LABORATORY, NEW MEXICO

	Thousands
Fiscal year 1982 authorization	$5,000
Total estimated cost	10,450

The purpose of this project is to convert the existing 27-year old steam-heated space and process heating system to high temperature hot water. The conversion will consist of transfer of heat from the present steam boiler to a new 7-mile long distribution system, including supply and return piping, pumps, and instrumentation and controls. Calculated payback is 3.3 years and energy

saving is 75 thousand barrels of oil equivalent, annually. The construction period of two years should be completed in the third quarter of fiscal year 1984.

PROJECT 81-A-602, ENERGY MONITORING AND CONTROL SYSTEM, Y-12 PLANT, OAK RIDGE, TENN.

	Thousands
Fiscal year 1982 authorization	$2,500
Total estimated cost	5,000

This project will provide a computer system for measuring and controlling system parameters in Y-12 area heating, ventilating, and air conditioning facilities. It is believed that the planned, extensive monitoring and control capability will increase efficiencies, decrease operator manpower, and increase energy management. The project forecast is for payback in 2.6 years and for an annual saving of 190,000 barrels of oil equivalent. Project completion is scheduled for late fiscal year 1984, following a 2½ year construction period.

PROJECT 81-A-603, ENERGY MONITORING AND CONTROL SYSTEM, OAK RIDGE NATIONAL LABORATORY, TENNESSEE

	Thousands
Fiscal year 1982 authorization	$2,000
Total estimated cost	4,000

The project will fund the installation of an energy monitoring and control system on the heating, ventilating, and air conditioning facilities of several administrative buildings and laboratories. The system will monitor and/or control temperature, pressure, humidity, flow rates, and equipment on-off status. Facility motors will be computer-controlled to provide services when the system indicates the need. Justification for the project is energy savings to the extent of payback in about 5 years. Design started in the first quarter of fiscal year 1981 and installation will be completed in July 1983.

PROJECT 81-A-605, AUTOMATED ENERGY MANAGEMENT SYSTEM, ARGONNE NATIONAL LABORATORY, ARGONNE, ILL.

	Thousands
Fiscal year 1982 authorization	$1,900
Total estimated cost	3,800

The project includes a complete system for monitor and control of such systems as heating, ventilating, and air conditioning in administrative buildings and laboratories. Sensors will be installed to measure humidity, pressure, temperature, flow rates, and motor on-off status. Use of existing centralized computer facilities will provide energy to areas of need, closing down services not required at that time. The anticipated energy saving indicates payback in less than 6 years. Design was started in early 1981 and the installation completion is scheduled for late 1983.

PROJECT 80-DA-06, ALTERNATE ENERGY SOURCE, PANTEX PLANT, AMARILLO, TEX.

	Thousands
Fiscal year 1982 authorization	$3,000
Total estimated cost	46,600

The project will provide a new coal fired steam plant and new underground hot water distribution system to supply the plant space heating requirements. The project will replace a 28-year-old natural gas fired steam plant and distribution system. The new plant will burn low sulfur coal and will include provision for cogeneration of 4 megawatts of electric power to offset outside power requirements. Through savings from increased heating efficiency and cogeneration, the plant anticipates a discounted payback period of 8 years. Design started in early 1981 and the installation is scheduled for completion by late 1986.

PROJECT 82-C-601, PLANT ENGINEERING AND DESIGN, SITES TO BE SELECTED

	Thousands
Fiscal year 1982 authorization	$2,000
Total estimated cost	2,000

This project provides for architect-engineering services on Departmental construction projects which the DOE has under consideration for authorization request in future years. This will allow certain designated projects to proceed from conceptual design into preliminary design and definitive design. Efforts will include feasibility, scope definition, and order-of-magnitude cost estimates, thereby providing greater substance to congressional authorization requests. Candidate projects range from a dry coal feeding test facility to fusion engineering device modifications.

F. OTHER COMMITTEE ACTIONS AND VIEWS

Committee Action: Correction of Error—Title V R&D Programs

The Committee deleted the language and funding associated with the research and development program on interim spent nuclear fuel management from Section 501 of the bill. This activity is entirely research and development and was erroneously included in this Title by the Administration.

Committee View: Three Mile Island

The Committee is concerned that the potential exists during the course of the clean-up at the Three Mile Island Nuclear Station that some of the radioactively contaminated waste materials may need to be removed on an emergency basis. It is clear that low level wastes can be removed for disposal in licensed burial sites with little difficulty. The fate of other radioactive materials will be determined in accordance with public law and Department of Energy policies.

The Committee directs the Secretary of Energy to commence, on an immediate basis, necessary planning and negotiations to enter into contingency agreements with the necessary parties for the safe removal and disposal of radioactive contaminated wastes if such an emergency requirement should occur.

This direction is fully consistent with current DOE policies but the Committee believes that the direction is necessary to ensure that the necessary contingency planning and negotiations are undetaken well in advance so that possible problems may be dealt with in an orderly fashion.

Mr. JONES of Oklahoma. Mr. Chairman, I yield such time as he may consume to the gentleman from Colorado (Mr. WIRTH).

Mr. WIRTH. Mr. Chairman, I rise in support of the reconciliation substitute bill which was submitted by the chairman of the House Budget Committee. Given the huge amount of misinformation which has surfaced with respect to this spending cut package, it is important to note a few important facts about the bill:

This bill contains the largest level of spending cuts in the history of our Government—$38 billion in fiscal year 1982, and $140 billion over the next 3 years;

This bill cuts $2.6 billion more in 1982 spending and almost $19 billion more over the next 3 years than required in the administration-backed first budget resolution;

This bill cuts more in spending in both 1982 and 1984 than the Senate cuts for those same years;

This bill, which changes 250 Federal programs, contains about 85 percent of the specific cuts recommended by the administration. The remaining 15 percent of the spending cuts reflects the views of the various House committees as to where the actual reductions could be achieved most effectively and equitably, with careful consideration to important national priorities.

As I have stated in the past, I believe the President was correct in calling for the level of spending reductions which he has proposed. But it is Congress, and more immediately the specific legislative committees, which are charged with The responsibility to act, not as rubber stamps of approval, but rather as independent critical eyes in determining the balance of national priorities and public policy implications which are reflected in the necessary spending reductions. Anything less would be an abdication of our duties to our constitutents.

Yet, in spite of the fact that the legislative committees of the House have performed admirably in cutting spending more than either the administration or the Senate, Representatives Latta and Gramm have offered a last minute alternative set of reductions. I oppose these amendments because they have not yet been subjected to careful review by the Congress and the public, and more significantly, because important national priorities have been neglected. For example:

These amendments severely threaten our efforts to reduce foreign oil imports and to enhance our national security by significantly reducing our investment in the development of alternative energy resources.

Instead of the careful reforms in the medicaid program proposed in the House Budget Committee bill to save over $1 billion, these amendments call for a simple cap on medicaid payments to the States, a simplistic solution which may very well result in a cutoff of essential medical services to truly needy individuals, and hurt those States—such as my own—that have already implemented significant program reforms.

To achieve reductions in Federal spending, our package was designed to make numerous other changes in programs which provide assistance to the needy in our society, but with careful consideration of the need for a genuine safety net. By comparison, I am greatly concerned that the changes in programs such as food stamps and aid to families with dependent children will remove the incentive for many of the working poor in our Nation to

remain employed when they would actually achieve a better income by joining the welfare rolls.

Given the need for encouraging long-term investment in productivity and skilled manpower in an increasingly complex society, I am disturbed by the reductions in higher education assistance for students.

In addition, because these amendments have been altered on several occasions, and have not been subjected to the same careful analysis by the Congressional Budget Office which was required of the House Budget Committee bill, we really have no way of determining whether or not they even achieve the same level of spending cuts which are in the original bill.

MATERNAL AND CHILD HEALTH BLOCK GRANT

Mr. Chairman, included in the budget reconciliation bill is the Dingell energy and commerce spending reductions. Mr. Dingell's bill would create a maternal and child health block grant by consolidating several categorical child health programs with the title V maternal and child health programs and the crippled children's program. This maternal and child health block grant would fulfill the need to increase State flexibility by allowing them to establish their own priorities and methods for funding maternal and child health services.

This Dingell bill is being challenged by a Republican Energy and Commerce Committee substitute. Mr. Chairman, I rise in opposition to this substitute, and strongly urge my colleagues to join me in this effort. The Dingell bill, unlike the Republican alternative, is a well thought out approach to a block grant to the States for maternal and child health and will insure the continuance of needed maternal and child health services. The question is not one of spending—Mr. DINGELL has made the required amount of budget cuts. The question is one of national priorities and what the Federal role is in providing for these priorities. I strongly believe that the Federal Government has a responsibility to make sure that our mothers and children have access to quality health care, and to provide assistance to disabled children. We have made progress in this regard in recent years, and this progress should not be reversed.

In contrast to the Republican alternative, the Dingell bill contains provisions which are designed to insure an appropriate Federal/State relationship in the improvement of maternal and child health care and provisions which were designed to insure the effective and efficient planning and delivery of needed services to mothers and children under the direction of health professionals.

MEDICAID

Mr. Chairman, included in the budget reconciliation bill is a well thought out approach to cutting expenditures in the medicaid program. This approach, put together with the hard work of the chairman of the Health and Environment Subcommittee, Mr. WAXMAN, after close examination and consultation with numerous groups and individuals, would successfully meet the very difficult task of reducing medicaid spending by nearly $1 billion while not placing impossible burdens on States and not drastically cutting benefits or services to the truly needy. This proposal would reduce funding for each State by 3 percent in 1982, 2 percent in 1983, and 1 percent in 1984. There are provisions of flexibility so that the different needs and circumstances of each State will be met. The Dingell package successfully meets the requirement of reducing spending while maintaining our national priority of providing health care to our Nation's citizens, and, for this reason, I support this package and strongly urge my colleagues to join me in this effort.

The Broyhill substitute, which imposes a flat cap on the medicaid program, is not a workable solution. This proposal will not save money, but will instead simply be a shifting of the costs of the program. Moreover, States will be faced with having to make up the Federal expenditure or significantly cutting services. As many States are currently facing deficits in their medicaid programs, it is likely the option chosen will be to reduce services. And finally, the proposed cap will result in the denial of many basic health services to people who are truly needy—people for which a "safety net" was supposedly designed to protect them from budget cuts.

For these reasons, Mr. Chairman, I urge my colleagues to support the Dingell reconciliation package and oppose the Broyhill substitute.

COMMUNITY AND MIGRANT HEALTH CENTERS AND MENTAL HEALTH SYSTEMS

Mr. Chairman, included in the budget reconciliation bill is the Dingell Energy and Commerce Committee spending reductions. Mr. DINGELL, with the help of Mr. WAXMAN, chairman of the Health and Environment Subcommittee, has successfully balanced the need to reduce spending with the national priorities in health care.

Mr. Chairman, the Dingell bill maintains as categorical, with cuts in spending, two critically important programs—community and migrant health centers and mental health systems. I strongly support this proposal, and urge my colleagues to join me in this effort. I would also urge my colleagues to oppose the substitute proposal, which would combine both of these programs with others in a block grant and reduce their funding by 25 percent. I oppose this substitute for several reasons.

Community and migrant health programs were created in the 1960's to respond to the needs of millions of Americans who were not receiving adequate health care—migrant farmworkers, people in doctor-short rural areas and in poor urban ghettos. The areas served by these centers were obviously in need not only because of a shortage of physicians and health facilities, but also because the people in these areas were sicker, poorer, and died much younger than the average American. Studies of these centers indicated that they have made a difference by reducing infant deaths and serious illness. Mr. Chairman, I am very concerned that many of these centers will not survive if they are combined in a block grant. In fact, it has been estimated that under the Broyhill substitute, nearly 1,000 community and migrant health centers would be forced to close, and hundreds of communities would be left without any medical services. Moreover, nearly 5 million people will have their health services terminated. These are more than sufficient reasons to oppose the substitute being offered and to support the Dingell reconciliation package.

Mr. Chairman, these same concerns apply to the attempt to block grant mental health systems. We have made significant progress in recent years in providing assistance to the nearly 32 million across the Nation who need some form of mental health services, and the passage last year of the Mental Health Systems Act exemplifies this. This act provided grants to States for services to chronically mentally ill individuals, services for severely mentally disturbed children and adolescents, and community mental health care centers. To combine these programs with other equally important health programs could result in a significant reduction or total elimination of services. Moreover, it would generate powerful forces in many parts of the Nation for a reduction in community services and, more importantly, a return to institutional care for the mentally ill. This would also lead almost inevitably to an increase in other costs including unemployment, welfare, and the criminal justice system. This is not wise public policy.

Mr. Chairman, the issue here is not one of cost—the Dingell reconciliation package meets the spending reductions required by the first budget resolution passed by the House in May. The question is one of national priorities and the role of the Federal Government in providing for these priorities. I strongly support the Dingell package because it would fulfill these priorities and urge defeat of the substitute.

EDUCATION

Mr. Chairman, the chairman of the House Education and Labor Commit-

tee, Mr. CARL PERKINS, has compiled and included in the budget reconciliation package a series of cuts which do a successful job of balancing the need to cut spending with the need to fulfill national commitments and priorities in education. I support the committee's reconciliation package, and urge my colleagues to join me in this effort. I would also urge my fellow Members to oppose the Gramm-Latta II proposal which will undo much of what was accomplished through the legislative process. I oppose this amendment for several reasons.

The package which was drawn up by the committee chairman and members was developed only after going through the legislative process. The amendment being offered today has not fulfilled this crucial requirement. Indeed, there is a great deal of confusion about what is even in this amendment being offered. For example, there is a possibility that included in this amendment is total repeal of the Bilingual Education Act after 1983. Mr. Chairman, if this is the case, then this amendment is an abortion of the legislative process and should be opposed by every Member of this Congress.

In addition, there appear to be significant changes in the title I program, of which I have long been a staunch supporter. While I do not know what is in this amendment specifically concerning title I because the sponsors of this amendment have not made this information known, it has come to my attention that significant revisions have been made in the law, including elimination of requirements that parents be involved in this program and that States spend title I money on the title I program. Under this change in the law, parents will be less involved in the education process and States could spend Federal title I money on libraries, school lunch, or other programs which are being cut back. Mr. Chairman, this is a travesty of both the legislative process and of the hard work that has gone into these important and successful programs.

Furthermore, included in this amendment are significant changes in the school lunch program. These changes have been proposed in the past, but were rejected by the committee because of estimates that literally thousands of schools would drop out of the program. I agree with critics of the program that upper income children should not be receiving free or subsidized meals, but the changes proposed in this amendment will not only eliminate these nonneedy children from the program, but will prohibit poor children from participating in school lunch as well. Mr. Chairman, some of us seem to have forgotten that our Nation has a commitment to feeding and educating every child, and providing assistance to those children who are unable to do this on their own.

And finally, Mr. Chairman, included in this amendment are major changes in the guaranteed student loan program, including the establishment of a requirement that loan eligibility will be based in "remaining need." Remaining need is defined as education costs minus other financial aid and a family contribution. The effect of this amendment will be to deny financial assistance to millions of students, and thus deny them access to higher education.

Mr. Chairman, for all of these reasons, I strongly oppose the amendment being offered by Mr. GRAMM and Mr. LATTA, and strongly urge my colleagues to join me in this effort.

TRANSPORTATION

Mr. Chairman, in the transportation area, there are two differences between the Broyhill amendment and the Budget Committee's reconciliation package that I will address. These are by no means the only differences but rather they symbolize the different approaches used by Mr. BROYHILL and the Budget Committee.

The Broyhill amendment will eliminate all Amtrak service outside of the Washington-Boston Corridor in 1983. The House Budget Committee's reconciliation package on the other hand, will allow the Amtrak system to continue a nationwide rail passenger system.

The Energy and Commerce Committee this year passed authorizing legislation which is incorporated in the Budget Committee bill. This authorizing legislation—the result of a compromise between the Democrats and the Republicans of the committee—funded Amtrak at the rate of $735 million in fiscal year 1982 and $842 million in fiscal year 1983. These amounts are substantially less than Amtrak requested and impose severe budget restriction on the corporation. At the same time however, they allow Amtrak to continue a reduced nationwide rail passenger system. The Broyhill amendment ignores this compromise and instead provides $735 million for fiscal year 1982 and only $654 million for fiscal year 1983.

Mr. Chairman, the Congress in 1979 reviewed the Amtrak system and mandated severe reductions in the budget in order to make the system more efficient. Furthermore, the Energy and Commerce Committee mandated even more cuts this year. The Broyhill amendment is nothing more than a back door attempt to circumvent these decisions and will reduce the Amtrak system to a mere Northeast Corridor rail system. We have made great strides in the last 5 years in encouraging more people to use Amtrak by offering a more reliable and efficient system. This has resulted from planned and constant budget reductions and stringent congressional oversight. The Broyhill amendment however, provides for such a drastic reduction in the Amtrak program that it would ignore all the progress and efforts this country has made to keep a nationwide rail passenger system.

The other difference between the Broyhill amendment and the Budget Committee package that I will discuss is the possibility that the Railroad Retirement Fund will experience a cash shortfall as early as April 1982. The Broyhill amendment does not address this issue and provides for short-term budget savings by repealing a recent court decision—(Gebbee versus the United States)—which provided for retroactive payments out of the fund.

The Budget Committee reconciliation package, on the other hand, squarely addresses the solvency issue in two ways. First, it provides for limited borrowing authority from the U.S. Treasury by the fund—amounts borrowed could not exceed moneys actually owed to the fund by the Government. This would address the near-term cash flow problems the fund may experience.

The second way in which the Budget Committee package addresses the problem is by increasing both the employee and employer contributions to the fund. This provides for a long-term solution to the fund's solvency problem and it is important to note that this proposal has the support of both rail management and labor.

Mr. Chairman, there are very real and large differences between the Broyhill amendment and the Budget Committee's reconciliation package. They are not merely budget differences but also include program changes which go much further than are needed to achieve the savings by the first budget resolution passed by Congress last month. I, therefore, urge my colleagues to vote against the Broyhill amendment and to instead support the Budget Committee's reconciliation package.

ENERGY IN THE 1980'S: THE CRITICAL DECADE

Mr. Chairman, in choosing today between the energy provisions included in the Omnibus Reconciliation Act recommended by the House Budget Committee and the amendment proposed by the gentleman from North Carolina (Mr. BROYHILL) the House will make one of its most important budget decisions. Almost no other single proposal offered by the minority will affect all sectors of our society and our economy so profoundly. Almost no other individual proposal will have so strong an influence on our Nation's economic health and expansion in the 1980's, and upon our national security.

With that in mind, I want to urge my colleagues on both sides of the

aisle to undertake an effort to approach these issues in a bipartisan manner, and to avoid as far as is possible the partisanship which has poisoned so much of the budget debate. Both parties have made major contributions to the difficult process of creating a national energy policy over the past 10 years, under both Republican and Democratic Presidents. Both parties share in the credit for our successes in energy, and both must bear a share of the blame for our failures.

As my colleagues know, I chaired the House Budget Committee's Task Force on Energy and the Environment during our initial consideration of the President's budget proposals earlier this year. Despite the tight time schedule we on the Budget Committee imposed on our work in an effort to meet President Reagan's request for quick action, we sought the broadest possible input from energy producers, from energy consumers; from each region of the country; from industry representatives and from environmental groups; and from a broad range of energy experts and economists. Two very important points emerged from the broad discussion in which we engaged, and I want to emphasize them to my colleagues as we face today's vote.

First, the 1980's will be this Nation's most critical decade in resolving our energy problems. During the 1970's we took the first halting steps in our struggle with a recurring "energy crisis" and we approached it with a crisis mentality, with constant policy shifts.

We can no longer afford that approach. Both energy producers and energy consumers must be able to depend on a clear, balanced Federal energy policy which will provide some measure of certainty for the substantial energy investments which must be made in this decade.

We have made substantial progress in cutting our dependence on foreign oil during the past 3 years—our imports have dropped by more than 25 percent since the peak year of 1978. But that development masks the seriousness of the energy challenge we face in the 1980's. Even with decontrol of domestic crude oil prices, which will spur both increased exploration and reduced consumption, we will not see an increase in domestic oil production. At best, by even industry estimates, we will merely halt the decline in our oil production at home for 5 to 7 years; by 1987, production will begin to decline once again. If we are to avoid a repeat of the import spiral, rapid development of new energy sources at home and a major effort to promote efficient energy use throughout our economy will be critical.

In addition, while our Nation is likely to be slightly less oil dependent in at least the early years of this decade, we will continue to be oil "vulnerable." Oil imports remain in the neighborhood of 6 million barrels per day even with the major progress of the past several years. That figure is still so high that any major oil supply disruption would be disastrous for our economy. Carefully planned protections against "energy emergencies" must be a top priority of our national energy policy.

Second, there is a broad consensus in the United States on the balance of the energy policy we must pursue. If we choose to recognize it and to build upon it, there is strong support for a national energy policy which will promote aggressive development of our Nation's energy resources, from coal to solar energy, and for measures to cut the Nation's energy demand through increased energy efficiency.

Over the past 8 years, we have fought most of the major energy policy wars and reached a point from which, if we choose to do so, we can put many of the divisions—between parties, among regions, between energy-producing States and energy-consuming States and a whole host of others—behind us. The energy-pricing issues which divided us so bitterly 4 and 5 years ago, for example, have been broadly resolved. Oil has been decontrolled; natural gas is headed to decontrol by 1985—only the timetable remains a matter of controversy.

My deep concern and that of many of us on the Budget Committee and the Energy and Commerce Committee is that the President's budget proposals in energy, and those embodied in the Broyhill amendment, ignore both the dangers we face in the 1980's and the opportunity before us now.

The provisions proposed by the Budget Committee and by the distinguished chairman of the Energy and Commerce Committee achieve the goals of spending reductions proposed by the President for Federal energy programs. We have achieved over $4.6 billion in spending reductions in fiscal year 1982, and over $14.5 billion between now and fiscal year 1984. But at the same time, we have maintained the careful balance in energy policy achieved over the past 7 years.

The Broyhill proposal would destroy that balance, and together with the Gramm-Latta amendment we will consider later today, would eliminate virtually every Federal effort designed to reduce our oil imports in the 1980's.

Mr. Chairman, the report I submitted to the Budget Committee on the President's budget proposals carefully examines the issues which are raised here again today by the Broyhill amendment and I request that it appear in the RECORD at this point.

I wish to emphasize that I submitted this report in my capacity as chairman of the Energy and Environment Task Force and it reflects my own views and not necessarily those of other task force members. I have also summarized many of the concerns presented to the task force by a variety of witnesses. The report follows:

THE PRESIDENT'S PROPOSED BUDGET REVISIONS IN FUNCTION 270: ENERGY—FISCAL YEAR 1982

In his "Program for Economic Recovery" and the supplementary budget documents submitted to the Congress, the President has proposed major reductions in expenditures for a broad range of federal energy activities and natural resource and environmental management programs. The proposed reductions in Function 270, Energy, total $3.1 billion in budget authority and $3.3 billion in outlays in Fiscal Year 1982; in Function 300, Natural Resources and Environment, $5.7 billion in budget authority and $2.1 billion in outlays.

The budget impact of the President's proposals in each of these functions is small relative to reductions as high as $17.7 billion proposed for other areas of the federal budget and achieves a considerably smaller level of budget savings in future years. In addition, the proportion of federal expenditures devoted to energy, natural resource management and environmental programs in the President's Fiscal Year 1982 proposals remains at three percent, the level contemplated by the previous Administration in its Fiscal Year 1981 estimates.

The President's proposals in Functions 270 and 300 are less significant for the budget savings achieved in 1982 and later fiscal years than for the radical reorientation of federal energy, natural resource and environmental policy they seek to implement. In both functions, to achieve relatively small levels of expenditure reductions, the Administration has proposed elimination of a wide variety of federal activities rather than seeking reductions through streamlining of agency functions, consolidating overlapping programs and eliminating duplicative efforts.

Instead, the Administration is seeking to implement major shifts in federal policy in these areas through the budget process.

FUNCTION 270: ENERGY

Summary of administration proposals

The Administration has proposed policy reductions of $3.6 billion in budget authority and $3.8 billion in outlays in Function 270. These reductions are partially offset by policy increases of $0.5 billion in both budget authority and outlays, for net reductions of $3.1 billion in budget authority and $3.3 billion in outlays in Fiscal Year 1982.

The proposed reductions reflect two major changes in federal energy policy:

1. The Administration proposes to shift the focus of federal energy activities away from short-term development and commercialization of new energy technologies to an emphasis on long-term, high-risk research and development.

Administration representatives have argued that federal involvement in the development and commercialization of energy technologies has been counterproductive and cannot be justified in a period of fiscal restraint. Federal technology development efforts should be limited to long-term research efforts which involve extremely high risks and which would not be undertaken by the private sector, the Administration contends.

2. The Administration proposed a major reallocation of federal investment among energy resources.

Administration proposals in Function 270 drastically reduce federal investment in measures designed to promote energy efficiency in all sectors of the nation's economy, and similarly reduces research, development and demonstration efforts in solar energy and other renewable energy resources. The President's budget proposals would reduce federal energy conservation expenditures nearly $600 million in fiscal year 1982 outlays, a reduction of nearly 80 percent. Solar energy research, development and demonstration expenditures would be reduced by nearly $400 million, a decline of over 70 percent.

At the same time, the President proposes a $330 million increase in federal nuclear fission programs, primarily to begin construction of the Clinch River Breeder Reactor at Oak Ridge, Tennessee. The President's proposals would substantially maintain the federal synthetic fuels development program created under the Energy Security Act of 1980, although direct federal support for a number of synthetic fuels demonstrations projects already underway would be eliminated.

The Administration contends that the President's January 28 decision to terminate domestic crude oil and petroleum product price controls eight months in advance of their already scheduled expiration has created a "healthier environment" for the development and commercialization of renewable energy resource technologies and has spurred major energy efficiency investments throughout the society. These developments, in the Administration's view, make possible "a substantial curtailment" of the federal government's activities in both fields. Continuing oil price increases will spur added investment in these areas in coming years, the Administration contends.

3. The Administration proposes elimination of virtually all federal emergency preparedness activites, with the exception of the Strategic Petroleum Reserve (SPR).

The Administration has eliminated funding for petroleum product allocations systems and the emergency gasoline rationing plan authorized in 1979, designed to assure equitable distribution of petroleum products during major shortfalls in foreign oil supplies. The Administration argues that these systems are cumbersome and have been ineffective in the past and has indicated its intention to develop a "market-oriented" approach to managing foreign oil cutoffs, although it has submitted no specific proposals in this area.

Under the Administration's proposals, the Strategic Petroleum Reserve, designed ultimately to store one billion barrels of crude oil for drawdown in the event of oil shortfalls, will be filled at a rate of 230,000 barrels per day in Fiscal Year 1982. At the proposed rate, SPR storage will not reach 750 million barrels—three-quarters of its planned capacity—until 1989.

Summary of testimony

Overview. In addition to specific comments on program-by-program proposals submitted by the Administration, the Task Force sought from witnesses comments on the general energy strategy and assumptions regarding performance of the energy marketplace reflected in the President's budget revisions. Among the principal concerns raised by a number of witnesses were:

1. The Administration's proposed budget reductions in Function 270 eliminate virtually all federal efforts designed to reduce foreign oil imports during the 1980's.

By refocusing federal efforts on long-term, high-risk research and development efforts, the Administration's proposals eliminate the programs and federal activities most likely to have a substantial impact on U.S. foreign oil imports in the coming decade. Synthetic fuels facilities funded through the U.S. Synthetic Fuels Corporation between 1981 and 1985, continued in the President's proposals, will result in significant production only after 1990, and added research and development in breeder reactor technologies, which comprise the bulk of the Administration's proposed increases in nuclear energy funding, will not make up during the 1980's for the substantial slowdown in nuclear plant orders over the past five years.

2. There is no foundation for Administration assertions that increased domestic oil exploration stimulated by price decontrol will result in a net increase in U.S. oil supplies in the 1980's.

Administration officials have argued that increased oil exploration encouraged by price decontrol and additional investment in enhanced recovery techniques for existing wells will result in a net production gain in U.S. oil supplies in the 1980's. In his appearance before the Committee, Secretary of Energy James Edwards contended that the Administration would be able to cut foreign oil imports in this decade by "unlocking the nation's resources" and predicted that the equivalent of "three Prudhoe Bays" remained to be discovered in Alaska.

These assertions run counter to earlier Department of Energy and industry estimates of remaining recoverable U.S. oil reserves and production estimates. Projections prepared by Exxon Company, USA, and published last year indicate that even assuming increased exploration and enhanced recovery efforts as a result of decontrol, U.S. domestic oil production will decline from 10.6 million barrels per day in 1980 to 7.1 million barrles per day in 1990. Exxon's projections also indicate increases of 1.9 million barrels per day in U.S. oil imports between 1980 and 1990.

3. The marketplace forces on which the Administration intends to rely will not promote oil import reductions at a rate commensurate with their value to the nation in increased economic stability and national security.

Each barrel of U.S. oil imports imposes substantial costs on the nation—costs not reflected in world oil market prices. While witnesses before the Task Force virtually unanimously supported the President's decision to decontrol domestic oil prices, many also agreed that world market prices undervalue oil from a national perspective. Among the additional costs the nation assumes for oil imports are vulnerability to rapid oil price increases which add substantially to inflation and significantly reduce economic growth; the necessity of increased defense expenditures to protect foreign oil sources; restraints on U.S. foreign policy; and continued balance-of-payment deficits which undermine domestic investment.

A variety of studies have placed these costs in a range from $10 to $60 per barrel. Relying exclusively on the energy marketplace to encourage the development of new energy technologies and increased energy efficiency may result in a far lower level of investment in these areas—and far slower progress in cutting back oil imports—than can be justified in view of the U.S. economic and national security interests.

4. The Administration's proposed energy budget reductions may undermine the President's entire program for economic recovery.

Acceptance of continued high vulnerability to OPEC oil price increases throughout the 1980's presents major obstacles to reducing inflation and spurring major new economic growth. By some estimates, each OPEC price increase of $5.00 per barrel adds as much as 1.5 per cent to the Consumer Price Index, reduces Gross National Product by approximately 1 per cent, results in an increase of 300,000 in unemployment and increases U.S. foreign policy payments by $12 billion at current import levels.

An OPEC price increase of the magnitude of that which occurred in 1979–80 could shatter efforts to restrain federal spending by substantially increasing federal unemployment insurance payments and other benefits and shrinking federal revenues. In addition, such a price increase could absorb, for most individuals and corporations, much of the increased income generated by the Administration's proposed tax cuts, substantially reducing the increased personal savings level the Administration hopes to achieve in order to generate capital for increased business investment.

Finally, the investment uncertainty for major U.S. industries created by continued dependence on oil imports may undermine their recovery over the coming decade. Planning for major capital investments like plant modernization can rarely be conducted successfully when the price of major production factors and factors which influence product markets cannot be predicted with some semblance of accuracy. The U.S. automobile industry proceeded slowly during the 1970's to upgrade plant and capital equipment for the production of more fuel efficient automobiles. In late 1978, oil prices stood at $12 to $13 per barrel, and most projections anticipated that a level of $30 per barrel would not be reached until the year 2000. The OPEC price increases of 1979–80 telescoped 22 years of anticipated increases into two years and made a major contribution to the precipitous decline in sales suffered by major auto companies in 1979 and 1980.

Sales in few other industries are so susceptible to oil price increase. However, the auto industry's plight is an example of how seriously the unpredictability of future energy prices substantially increases risks in major industrial investment decisions.

5. The Administration's domestic energy proposals are inconsistent with the emphasis it has placed on the nation's vulnerability to oil cutoffs as a justification for increased defense expenditures.

In recent testimony before the Senate Armed Services Committee, Defense Secretary Caspar Weinberger identified U.S. dependence on Middle East oil imports as a prime reason for the Administration's proposed Fiscal Year 1982 increases in national defense expenditures. One of the most important "geopolitical realities," the Secretary pointed out, "is our dependence on foreign energy sources. The umbilical cord of the industrialized free world which runs through the Straits of Hormuz into the Arab Gulf, is and will be the fulcrum of attention for the foreseeable future."

Given the seriousness with which the Administration views U.S. dependence on Middle East oil supplies and the magnitude of proposals advanced to protect U.S. access to those supplies, proposals to abandon federal efforts to accelerate import reductions over the next ten years make little sense.

Proposed program reductions

Fossil Energy Research and Development. The Administration has proposed reductions of $1.116 billion in budget authority and $971 million in outlays in Fiscal Year 1982. The reductions include: Reductions in research and development for enhanced oil and unconventional natural gas recovery techniques; reductions in a broad variety of coal research programs, including elimination of the Magnetohydrodynamics program; and elimination of federal funding under cooperative agreements for a number of coal and natural gas synthetic fuels demonstration projects. In addition, the Administration has proposed rescission of $300 million authorized and appropriated in Fiscal Year 1981 under the Energy Security Act of 1980 for synthetic fuels cooperative agreements and feasibility studies.

Seven individuals and organizations appeared before the Task Force or submitted written comments for the Committee record. Among the principal concerns raised regarding reductions in these programs were:

Natural gas pipeline and distribution industry representatives expressed concern that funding reductions for unconventional natural gas recovery technology programs would seriously retard the development of natural gas resources which could significantly increase the nation's natural gas supplies over the coming two decades. Development of these resources is highly sensitive to technological advances, and major research and development efforts cannot be assumed by the regulated natural gas industry which, unlike the oil industry, is not vertically integrated. Additional research costs would put heavy pressure on the profit margins of transmission and distribution companies without offsetting benefits, the industry argued.

Representatives of firms involved in synthetic fuels development raised serious concerns regarding the Administration's proposed elimination of federal funding for synthetic fuels demonstration plants, arguing that the proposed reductions remove a critical first step toward development of a synthetic fuels industry in the United States. Successful demonstration of synthetic fuels production technologies is critical to encouraging major private investment in commercial scale synthetic fuels production facilities, industry representatives contended. In addition, continued funding of these plants is important to demonstration of coal-derived synthetic fuels technologies, the development of which will have important impacts on the economies of Eastern coal producing states, a representative of these states argued.

The Task Force also received comments from federal contractors involved in the development of magnetohydrodynamics technology and from an electric utility which argued that this program, eliminated under the President's proposals, presents one of the most cost-effective advances in coal-fueled electric power generation. Magnetohydrodynamics will ultimately reduce the cost to the utility industry of coal-fired generating capacity and encourage increased utility consumption of the nation's most plentiful domestic resource, they argued.

Alcohol Fuels. The Administration has proposed rescission of the alcohol fuels feasibility study, loan and loan guarantee programs authorized by the Energy Security Act of 1980.

Representatives of firms involved in alcohol fuel production argued that the Administration's rescission request would eliminate billions of gallons of production of alternative fuel resources which would have a significant impact on reducing U.S. oil consumption in the very near term. In addition, as a loan guarantee program, the alcohol fuels program imposes very little burden on the federal budget and was in fact structured to produce a net gain to the U.S. Treasury from successful projects. Finally, rescission of the alcohol fuels loan guarantee program is inconsistent with the strategy the Administration has adopted for promotion of synthetic fuels development: just as the $17.2 billion available to the U.S. Synthetic Fuels Corporation for a variety of loan and production guarantee purposes can promote the creation of a major new U.S. fuels industry, without major impacts on the federal budget, the alcohol fuels program will promote development of such an industry at equally low cost and over a far shorter period.

Solar and other renewable resources. The Administration has proposed major reductions in funding for solar energy research, development and demonstration activities totalling over $400 million. In addition, the Adminstration proposals include elimination of the Solar Energy and Conservation Bank created last year.

Comments from solar energy equipment firms and public interest groups indicated three major concerns should be paramount in Congress' consideration of these proposals:

1. The solar energy industry is an infant industry, and major commercialization efforts for a number of technologies are critical to encouraging the growth of a solar energy market.

A wide variety of solar technologies are already at market stage, but these technologies require substantial front-end investment from businesses and consumers. In tight credit markets and in periods of high interest rates, the marketplace discriminates against such investments although their potential to reduce U.S. oil consumption is high. Investment costs to individual consumers may remain higher than the cost of continued imports to the nation as a whole. A variety of federal development and demonstration efforts have been directed at rapidly decreasing market costs of proven and near-proven solar energy technologies. Elimination of these efforts may postpone significant increases in solar energy technology use in the U.S. until late in the decade or into the 1990's.

2. Efforts to increase consumer confidence in and information regarding solar energy and other renewable resource technologies are critical to bringing these technolgies into widespread use in the 1980's.

Widespread use of many solar technologies involves millions of individual decisions by millions of consumers, decisions which require the dissemination of substantial new consumer information and devlopment of consumer confidence in new technologies. Marketplace information structures and consumer confidence in solar energy and other renewable technologies will develop slowly during the 1980's if federal efforts in these areas are terminated, significantly reducing their potential in the coming decade.

3. Abandonment of major solar energy research and commercialization efforts may sacrifice important new foreign markets to foreign industry.

Just as federal investment in research, development and demonstration of nuclear energy technologies over the past 30 years has made major contributions to American leadership in these technologies, continued federal investment in similar solar and other renewable energy technology programs can build a significant U.S. technology lead which may translate into important new foreign markets for American products. The U.S. holds a substantial lead in renewable energy technology development in many fields, but testimony submitted to the Task Force indicates that Japanese, German and French firms and government entities are mounting major resource technology development efforts. Major reductions in U.S. efforts may sacrifice major future markets.

Nuclear Energy Programs. The Administration has proposed a net increase of $330 million for nuclear energy programs in Fiscal Year 1982. A major proportion of that increase will be devoted to construction of the Clinch River Breeder Reactor at Oak Ridge, Tennessee.

Representatives of nuclear energy firms and electric utilities strongly supported the Administration's Clinch River Breeder proposal, arguing that breeder reactor technology represents the only predictable means of meeting long-term electric generation requirements, along with increased coal consumption.

However, industry representatives argued that the Administration's proposals leave major industry needs unmet. Representatives opposed the Administration's decision to withdraw the previous Administration's request for funding of federal acquisition of Away-From-Reactor spent fuel storage sites (AFR) and the failure to fund additional research and development programs at the Barnwell Nuclear Fuel plant at Barnwell, South Carolina. Both decisions will leave existing nuclear power plants without adequate storage facilities in the 1980's, industry representatives argued, contending that earlier private planning was based on federal commitments in the 1960's and 1970's to continue development of spent fuel reprocessing facilities.

Finally, industry representatives opposed discontinuation of funding for the federal High Temperature Gas Cooled Reactor (HTGR) program, arguing that the technology offers greater operating efficiencies, greater flexibility in reactor siting and possible application for industrial process heat requirements.

Energy Conservation. The Administration has proposed reductions of $802 million in budget authority and $576 million in outlays in Fiscal Year 1982 for energy conservation programs including the Solar Energy and Energy Conservation Bank.

A broad spectrum of witnesses raised serious concerns regarding the Administration's proposals, which virtually eliminate federal efforts to accelerate energy efficiency efforts in all sectors of the nation's economy. Among the principal concerns raised were:

1. Marketplace encouragement for energy efficiency investments may be far weaker than the Administration appears to anticipate in its proposals.

Particularly in periods of high interest rates and tight credit markets, the period of adjustment to rapid energy price increases has proven to be far longer than most observers had expected. In addition, like renewable energy technology investments, investments in more energy efficient capital equipment and housing require significant front-end investments which often appear to business and consumers far less attractive

in the short-run than continued operating cost increases due to energy price rises. These decisions do not incorporate the short- and long-term costs to the nation of continued foreign oil dependence—the energy marketplace cannot send strong enough signals to consumers on its own because many of the real costs of continued oil consumption are disguised.

2. Energy efficiency programs are the only federal energy activities designed to aid consumers directly and ease the burden of increased energy cost on individuals.

American consumers have watched increasing proportions of their disposable income be absorbed by continued energy price increases at the same time that they have found themselves unable to support major investments to cut their energy consumption due to high interest rates. A broad variety of federal efforts in this field, from the Residential Conservation Service to the Solar Energy and Energy Conservation Bank, were designed to address this problem directly at the same time that they contribute to the national goal of cutting foreign oil imports.

Such efforts are highly cost-effective: analyses of existing federal energy conservation programs conducted by the Oak Ridge National Laboratory in 1980 showed that these programs can cut U.S. oil imports by 2.4 million barrels per day by 2000, and save consumers nearly $19 billion in reduced energy cost over the same period.

3. A major effort in all sectors of the nation's economy to encourage increased energy efficiency investments could contribute substantially to increased price stability and healthy economic growth.

Increased energy efficiency in capital equipment and industrial processes, in transportation and in business and residential buildings provides each sector of the nation's economy with increased insulation from the inflationary shocks of oil price increases. Witnesses before the Task Force argued that major new investments in energy efficiency must be the foundation of any serious effort to restore healthy, inflation-free economic growth to the nation's economy. Vulnerability to oil price increases was cited as the single greatest danger to economic stability over the coming decade.

Mr. Chairman, the Broyhill amendment goes even further in eliminating the careful—and tenuous—balance we have struck in national energy policy than the President's original proposals. And, as many of my colleagues have pointed out, it includes a variety of nonbudget legislative provisions which should not be allowed to cloud the budget process and deserve careful consideration on their own. I urge my colleagues to join me in opposing the Broyhill amendment and preserving an aggressive national energy policy which places strong emphasis on both increased energy production and increased energy efficiency.

Mr. REGULA. Mr. Chairman, I yield 6 minutes to the gentleman from Kansas (Mr. WINN).

Mr. WINN. I thank the gentleman for yielding.

Mr. COUGHLIN. Mr. Chairman, will the gentleman yield?

Mr. WINN. I yield to the gentleman from Pennsylvania.

Mr. COUGHLIN. Mr. Chairman, the Gramm-Latta substitute is a first step to bring under control a government that is out of control.

Members of Congress know we have a runaway government and the American people know it. I commend my colleagues and particularly those courageous Members from the other side of the aisle who have joined us.

But, Mr. Chairman there is a little clinker in here.

I would like to express my strong opposition to the reauthorization of the Clinch River breeder reactor which has been included in the Gramm-Latta amendment to the House Budget Committee's reconciliation bill.

We will be sending the wrong message to the American people if we authorize money for this reactor when the House Science and Technology Committee votes in May to terminate this project. After extensive debate on the merits of the Clinch River breeder reactor, the committee arrived at the decision that its continued authorization would be a poor investment for the taxpayer and inconsistent with the Reagan administration's free-market energy philosophy. I concur with the committee's action as I have long been critical of our commitment to the problem-ridden and controversial reactor as our top energy priority.

Since 1971, I have been calling attention to the escalating costs of the Clinch River breeder reactor, its inadequate cost-benefit ratio, the fact that delays probably will make it obsolete by the time it is ready for use, and the disturbing trend of private industry's declining share in this joint government-private sector project.

The extremely high capital and development costs of the breeder mean a favorable cost-benefit ratio must rely on the rapid growth in electrical demand and a limited supply of uranium. However, today we have a slowdown of electrical growth, more uranium and less demand for it, and viable long-term energy alternatives. The Clinch River breeder reactor can be defended on neither an economic nor energy-demand basis.

Plagued by escalating costs and schedule delays, the Clinch River breeder reactor has devoured more than its fair share of the overall energy research and development budget. Tying up a disproportionate part of these vital funds for this project is an irresponsible approach to pursuing our energy options. Federal research and development money should be allocated to other alternatives, thus insuring our Nation an optimal mix of energy programs at the lowest cost.

At a time when the public is enraged over wasteful Government expenditures, I believe it is important to exercise spending restraint. The Clinch River breeder reactor does not meet the test of fiscal and management responsibility as was pointed out in the House Science and Technology Committee's recent hearings. I do not feel the House can any longer justify massive Federal spending for this project.

As a member of the House Appropriations Committee, I will exert my best efforts to carry out the recommendation of the House Science and Technology Committee and eliminate funding for the Clinch River breeder reactor. We must make sure our energy dollars are invested wisely. I cannot support a project knowing that its continuation would adversely affect our economy and our entire energy outlook in the long run.

Mr. WINN. Mr. Chairman, the Winn substitute was originally called the Fuqua-Winn substitute—the chairman of Science and Technology supported the action in the committee, but asked that his name be taken off this balanced R. & D. bill which addresses concerns that are expressed by both sides of the aisle.

The Reagan administration, for instance, made very drastic cuts in the solar and in the conservation programs, but this substitute adds much of that money back.

For example, nearly $90 million is added to solar. Seventy million dollars is added to conservation. The substitute also includes funding for the Clinch River breeder reactor. The administration requested $254 million but it has been reduced to $230 million which is adequate for continued development.

This package also includes funding for the geothermal demonstration at Heber, Calif. It includes funding for magnetohydrodynamics (MHD), which was zeroed by the administration.

Mr. Chairman, this is a very brief summary of the Winn substitute. In the interest of time I would like to provide for the RECORD a more detailed discussion.

In general I think this is a good substitute which not only complies with the Reagan budget and the Reagan economic package, but it maintains the technical integrity of the most promising energy techologies.

Mr. Chairman, I rise in support of the Gramm-Latta substitute to this reconciliation bill. I have supported and will continue to strongly support the President's economic recovery program, which includes this Gramm-Latta substitute. I am happy to be a coauthor of this substitute, specifically the Winn substitute for title XII in the reconciliation bill. The Winn substitute changes the DOE authorization contained in title XII to bring the program more in line with the President's request. The Winn substitute is actually below the budget requested by the Reagan administration for the Depart-

ment of Energy. Like the Reagan request, the Winn substitute redirects the Department of Energy research and development programs into more long-term research and development activities. These long-term activities will be specifically those that will not be undertaken by private industry, and therefore are more appropriate as part of the Government role. In addition, this Winn substitute contains funding, and continuation of, the liquid metal fast breeder reactor demonstration plant, the Clinch River breeder reactor (CRBR).

I am deeply disturbed by the creative accounting which was done by our committee in this reconciliation process. The baseline which was chosen resulted in the Committee on Science and Technology appearing to have come $1.8 billion under their assigned levels, when in fact, the committee was almost $100 million over the budget levels recommended by the Reagan administration for all of the agencies which the Science Committee authorizes. These false savings make a mockery of our hard work in trying to bring this Federal budget back into line.

Second, I oppose title XII in the budget reconciliation package because of the fact that the strategic petroleum reserve is authorized at $3.8 billion. This level of authorization is directly contrary to the assumptions made when the first concurrent budget resolution was passed; at that time, the decision was made to finance the strategic petroleum reserve off-budget. Both Mr. DINGELL and Mr. BROYHILL have proposed alternative ways of funding the strategic petroleum reserve off-budget, and that issue should be resolved during the discussion on title VI.

Even without the strategic petroleum reserve, we feel that the Winn substitute is preferable to the DOE authorizations contained in title XII. The Winn substitute shifts funding into the solar and conservation R. & D. programs at DOE; also a second geothermal demonstration plant for that promising resource is provided. Therefore, providing a more balanced energy research and development budget than originally recommended by the administration. The major difference between the two versions is that the Jones substitute will provide for the termination of the Clinch River breeder reactor project. The decision to terminate the Clinch River breeder reactor was made in committee by an effective two-vote margin. By contrast, in the past the House has always opposed amendments to terminate CRBR, by margins of over 80 votes each time. The CRBR is essential to maintaining our country's nuclear generating option in the next century. Without it, we are left to rely on other, more speculative generating options to supply the energy needs of consumers and industry in the next century. We would also be departing from the energy path that the rest of the industrialized world is following for their future.

I want to reiterate that the administration strongly supports the continuation of the Clinch River breeder reactor project. During our committee's consideration of this budget, the Director of OMB, Mr. David Stockman, sent a letter to me in which he strongly endorsed the continuation of the CRBR. In that letter, he said:

The commitment to such a goal is reinforced by this administration. The Reagan administration favors the economical and safe development of nuclear energy. And, in particular, this administration supports construction and operation of the Clinch River breeder reactor. This administration intends to reinvigorate the effort on this project by joining the long struggle by the Congress to complete this project.

In addition, Mr. Stockman has very recently, June 23, reinforced his support for the Clinch River breeder reactor in a letter to the Secretary of Energy. I have a copy of that letter and I would like to insert it in the RECORD at this point without objection for the consideration of all Members.

Executive Office of the President, Office of Management and Budget,
Washington, D.C., June 23, 1981.

Hon. JAMES B. EDWARDS,
Secretary of Energy,
Washington, D.C.

DEAR JIM: Thank you for your June 10, 1981, letter discussing key aspects of the current breeder program strategy. I agree that we must assure that Congress is fully informed as to the purpose of the CRBR Project and its role in the current strategy. My letters to Members of Congress have affirmed that the Administration's commitment to the economical and safe development of nuclear energy includes assuring that breeder technology is advanced sufficiently to permit the private sector to make market decisions regarding its future commercial development.

Projections of electricity demand growth have decreased substantially since the development of the original breeder commercialization program by the Atomic Energy Commission in the early 1970's. In light of this, the Reagan Administration has developed a new breeder strategy that will place full responsibility for commercialization in the private sector.

In line with this new strategy, the Administration needs to move forward with the necessary research and development work to permit a resolution of the technical uncertainties that would otherwise prevent the private sector from judging the commercial feasibility of the liquid metal fast breeder reactor.

The current breeder program as proposed by the Department of Energy is in total accord with this approach. The Clinch River Breeder Reactor should be constructed and operated—not as a commercialization activity or as an economical power generator—but rather as the logical next step in breeder research and development.

In summary, the current breeder program strategy should be clearly focused on advancing the technology only to the stage that permits market forces to determine future commercial deployment.

I look forward to working with you to assure that Congress is fully advised regarding the overall breeder strategy and the importance of proceeding with the Clinch River project.

Sincerely,

DAVID A. STOCKMAN,
Director.

Mr. Chairman, there are important international as well as domestic benefits from a strong U.S. breeder reactor program. Eight other industrialized nations have recognized the great potential of the breeder concept and are developing it as a primary means of achieving their energy independence.

In conclusion, Mr. Chairman, I wish to urge all Members to support the Winn substitute, as part of the Gramm-Latta substitute for the Omnibus Budget Reconciliation Act. The Winn substitute has been the subject of extensive hearings and negotiations in our Committee on Science and Technology. Both the majority leadership and the minority leadership introduced this substitute at the beginning of the full committee consideration of the DOE authorization bill for fiscal year 1982. It is a well-reasoned and balanced energy program providing for continued development of fossil energy sources, solar energy, geothermal energy, nuclear energy, and others, and for further development of conservation practices and technology. To further explain the Winn substitute, I am introducing into the RECORD a more detailed description which explains the differences between the DOE authorization in title XII and this substitute.

At this point I conclude, the following to be inserted in the RECORD.

DETAILED DESCRIPTION OF WINN SUBSTITUTE—TITLE XII OF GRAMM-LATTA II

FOSSIL ENERGY

The Winn Substitute for fiscal year 1982 effectively addresses all of the energy research and development programs and at a level of $11 million more than the Administration's request. Changes were made to the request on the basis of technology priorities and of program continuities. Several fossil activities have progressed to the stage of providing data and therefore, termination is inappropriate. Operation is important to complete the original scope of, for example, the Grimethorpe (U.K.) pressurized fluidized bed combustor and the magneto hydrodynamics project.

The Department has also adopted a new philosophy about funding R&D projects whereby they would limit development projects to those which offer high payoff potential but which are high-risk by nature and require long-term study. These types of projects contain little or no motivation for industry involvement.

In the fossil energy program, the bill reported out by the Committee on Science and Technology (H.R. 3146) is similar to the Winn Substitute. However, there are 3 significant changes. Surface coal gasification was increased above the Winn Substitute by $3 million, with that authorization applied

to continued work by a gasification project which has been judged to be commercial by the funded entity. In fact, that gasification process has been proposed for financial assistance to the Synthetic Fuels Corporation by the respondents.

The fuel cell program was increased by $3 million over the Winn Substitute and the authorization designated support of the phosphoric acid process, although a demonstration of that technology is imminent in this country and foreign sales for the technology have been publicized.

The magnetohydrodynamics (MHD) program was increased by $9 million. The Winn Substitute had recommended a minimum authorization of $20 million for fiscal year 1982 to enable the completion and submittal of the comprehensive program plan to the Committee. This plan has been requested by our Committee for several years and we are told that its release is imminent. The increase provided by H.R. 3146 does not result in proportionate increase in the amount of useful data.

The Winn Substitute provides nearly $400 million in authorization to other fossil energy programs, such as liquefaction, direct combustion, advanced research and technology development, enhanced oil recovery, and environmental control technology. These and other programs have been supported by the Committee on Science and Technology from inception to their present stages of development.

The Winn Substitute looked very closely at the coal conversion processes. For example, additional funds were provided for the continued operation of the H-Coal Pilot Plant. This facility has begun operation and is providing very useful data, as planned, for the conversion of coal to valuable liquid products. It was believed that continuation of this activity would be very beneficial to the welfare of this country. However, the Winn Substitute removes all authorization for the demonstration plants which had been previously considered. Specifically, the Winn Substitute provides no authorization in fiscal year 1982 for SRC-I, SRC-II, the Memphis gasification project, and the two high-Btu gasification plants planned for Ohio and Illinois.

The Winn Substitute also proposes continuation of the Exxon Donor Solvent process, which in a manner similar to the H-Coal pilot plant, is providing very useful data for the conversion of coal of another process to liquid products.

The Winn Substitute strongly supports the authorization of the advanced technology research and development in such important fields as coal preparation, coal liquefaction, surface coal gasification, advanced environmental control technology, fuel cells, and combustion system. In all cases, the government should participate totally in these programs in their early stages since justification for industrial participation is difficult. However, as in the case of the demonstration plants, when the time arrives that the process has been well defined, then it should be made available to the industrial sector for their total participation. This concept is evident in that the Synthetic Fuels Corporation has recently received 63 proposals for the conversion of shale and coal into gas and liquid products by processes claimed to be commercial. In all cases, the participation by the proposer is total and the government role is that of guarantor only.

GEOTHERMAL ENERGY

The Winn Substitute strongly supports the geothermal program which seeks to utilize geothermal resources as economic, reliable, operationally safe and environmentally acceptable energy sources for electrical power generation, for direct heat applications, and for thermal energy and methane recovery from geopressured resources. All facets of this program are continued by the Winn Substitute. Particular emphasis is paid to the hydrothermal processes, particularly the process which will extract energy by the binary method, utilizing lower temperature resources, rather than the flash-steam process. Successful demonstration of this technology will allow for more widespread use of this geothermal resource. The construction project, to be located at Heber, Imperial Valley, California, will provide data for the binary process and will prove very useful in characterization of this extraction method. Geopressured resources will be investigated in the Gulf Coast area of Texas and Louisiana. It is believed that the utilization of these resources is dependent to a large extent on materials and components development. Therefore, the Winn Substitute is adopting the realistic course of concentrating authorization for the development of materials and components while at the same time continuing geopressured resource drilling at a somewhat lower rate.

Relative to the binary extraction process, a study by the U.S. General Accounting Office dated June 25, 1981, states that the elimination of federal funds for the Heber project will impede full development and use of hydrothermal resources. The report recognizes that the Heber project is the first of its kind. Despite the risks inherent in such an activity, the project cost is being shared with the industrial sector.

These changes made within the geothermal program are accomplished at a total cost of $2 million more than the Administration's request.

It is believed, in fact, that the Winn Substitute is a very realistic approach to the utilization of this valuable resource.

SOLAR

This amendment provides $300.05 million for the Department of Energy's solar programs, an increase of $106.75 million over the Administration's request. I believe that this action will provide for a more balanced and aggressive program that will permit the orderly development of our Nation's solar resources. This action will allow for the continued development of many solar activities consistent with the intent of previous legislation which has been authored by our Committee.

Of the funds authorized for appropriations in the solar program, the Department is directed to provide $4 million for the Crosbyton 5 MWe solar hybrid electric power project, in Crosbyton, Texas. However, no funds are authorized to be obligated or expended for this project unless the fossil-fired portion of the project, including the fuel costs during the operational period, is privately funded.

In the active heating and cooling area, a cut of $3.2 million is recommended, bringing the funding for operating expenses for this activity to a level of $8.3 million. This action will provide funding in accordance with the redirections outlined in the Committee report accompanying H.R. 3146, the DOE Authorization Bill for fiscal year 1982 recently reported out by the Science Committee, but with reductions in spending in basic materials and component development for solar hot water and space heating and in funding for test center operations and standards and codes. Under this amendment, the passive and hybrid systems program receives a $1 million increase over the Administration's request. This increase will be used to initiate the integrated passive/photovoltaic hybrid residential program described in the Science Committee report accompanying H.R. 3146.

In the photovoltaics area, this amendment adds $37.75 million for the solar photovoltaics program over the Administration's request. This increase is allocated among the technology development program ($44.95 million), systems engineering and standards ($5 million) and tests and applications ($7.3 million). Additional funding for the technology development program will allow the Department of Energy to continue vital work in meeting the program's overall cost goals. Funding for this specific activity is allocated in accordance with the recommendations outlined in the Committee report acccompanying H.R. 3146.

A significant increase ($24.5 million) over the Administration's request is also recommended in the solar thermal area. These increases are to be allocated in accordance with the guidelines in the Committee report accompanying H.R. 3146.

This action will provide funding for many promising solar thermal activities, including the small community solar thermal power project and the utility repowering initiative.

Under this amendment, $29.4 million is added to the wind program. Funding increases will be allocated for wind characteristics and resource assessment ($2 million), technology development ($6.5 million), engineering development ($18.7 million), implementation amd market development ($1.5 million) and capital equipment ($800,000).

Based on legislation passed into law last year, this amendment provides $25 million for the ocean thermal energy conversion program. Included in this amount is $6.3 million for the design and construction of 40-megawatt OTEC pilot plants. This funding will allow for the completion of conceptual designs and initiation of phase II preliminary designs during fiscal year 1982.

For alcohol fuels, this amendment provides $8 million for fiscal year 1982 activities. These activities will focus on advanced process technology development, including enzymatic and acid hydrolysis technologies, that can utilize alternative feedstocks. Promising work is being pursued in this area, including the hydrolysis program currently underway at the U.S. Natech Laboratories in Massachusetts. According to many studies, this capability is necessary in order to develop a viable long-term alcohol fuels industry.

Finally, this amendment makes several other changes in the Administration's solar request. No funding is provided for the solar international program. The solar information program is funded at the $5 million level, with $3.5 million specifically directed for the National Solar Heating and Cooling Information Center. No changes were made to the Administration's request in biomass and program direction.

ENERGY CONSERVATION

In the conservation area, this amendment would provide $156.4 million for conservation research, development and demonstration activities for fiscal year 1982, an increase of close to $70.4 million over the Administration's request. This additional funding is provided in light of strong testimony

before the House Science and Technology Committee which indicated that conservation is one of the most immediate and cost-effective means to deal with our Nation's current energy problems. This amendment attempts to provide for a balanced conservation research, development and demonstration program along the lines which are consistent with the statutes that the Science Committee has authorized and recommended in the past.

For the buildings and community systems program, this amendment provides an increase of $10.1 million over the Administration's request of close to $30.1 million. This action includes $6.5 million for the urban waste program, a program which I believe shows great promise for tapping the energy potential of municipal solid wastes. The Science Committee has heard a great deal about the need for a vigorous and comprehensive national urban waste program, and this amendment provides sufficient funding to give this program the emphasis and visibility it deserves. In addition, the technology and consumer products program receives an addition of $9 million, to pursue the promising hardware-type activities that can help our Nation develop more energy-efficient consumer products and appliances. The community systems program is also authorized at the $2.4 million level, to provide funding for a comprehensive district heating program and technical assistance to towns and cities to assess local energy options.

In the industrial conservation area, this amendment provides $19.57 million to continue the promising industrial energy conservation program. Over the years, the Science Committee has heard about the dramatic achievements which could be made in reducing industrial energy use, and our Committee has been greatly impressed with the work done to date at the Department of Energy in this area. This funding is directed to continue activities in waste heat recovery, industrial process efficiency, cogeneration and implementation and development.

For transportation energy conservation, this amendment provides over $60 million for the Department of Energy transportation programs. This represents an increase of $23 million over the Administration's request in this area. The transportation sector uses more petroleum-derived fuel than all other energy-consuming sectors combined and accounts for over 26 percent of all the energy consumed in our country. The transportation sector's almost total dependence on petroleum and the resulting need for imported oil create a major impact on the Nation's balance of payments and result in an already demonstrated vulnerability to petroleum supply disruptions. In response to these problems, this amendment provides funding to permit the continued development of proof-of-concept alternative heat engines. The increase is intended to continue the Stirling Engine development program, the Gas Turbine Engine development program, and supporting automotive and truck technology.

Funding for the multi-sector area is identical to that recommended in the two DOE Authorization Bills for Fiscal Year 1982 (H.R. 3146 and H.R. 3447) which have already been reported out by the Committee. The Committee added $5 million for the appropriate technology program to enable the program to carry out program evaluation, information dissemination, assistance to grantees, the preparation of final reports for exisiting grants and activities. At the authorized level, no new grants will be awarded in fiscal year 1982. Based on testimony received by the Science Committee, I believe that the overall integration of technical oversight, information dissemination and outreach and the Appropriate Technology Small Grants Program and Small Inventors Program is inadequate. The programs have no guidance as to the state of research nor adequate outreach, training, information or localized/individualized technical assistance. Since Federal money is limited, this amendment intends that these services should help prevent the duplication of efforts of other Federally-supported programs and assist individuals and localities seeking technical advice on developing their own energy production, conservation and invention ideas. I also hope that the Office of Small Scale Technology and the Office of Inventions would coordinate their efforts with other Federal agencies.

Finally, this amendment provides $15 million for the Energy Extension Service. It assumes at least 20 percent state cost-sharing in this program. This requirement will help secure adequate state participation in this program. A similar requirement had been considered by the Committee in previous fiscal years as well as in the Energy Management Partnership Act, which was also considered by the Committee during the 96th Congress. Cost-sharing may be satisfied through either a service, capital or cash contribution.

In response to concerns regarding the management and operation of the Department of Energy conservation and renewable energy technology transfer programs, this amendment requires the Secretary of Energy to transmit to Congress a detailed description of the comprehensive program and management plan for these programs. This plan must include a detailed description of the roles, division of responsibilities, and relationships of the Regional Solar Energy Centers with the other technology transfer activities of the Department of Energy, including the Energy Extension Service, the Solar Energy Information Data Bank, and the National Solar Heating and Cooling Information Center. This plan must also include a detailed description of how the information dissemination activities and service of the Department of Energy in the fields of renewable energy resources and energy conservation are being coordinated with similar or related activities and services of other Federal agencies. The plan must be transmitted to Congress within six months after the date of enactment of this Act.

NUCLEAR FISSION, FUSION, BASIC SCIENCES, SUPPORTING RESEARCH, ELECTRIC ENERGY STORAGE AND ELECTRIC ENERGY SYSTEMS

Last year at this time I emphasized the need for a well-rounded energy research and development effort to free this country from our dependence on oil imports.

The Science Committee has worked hard to develop a balanced funding under the budget levels requested by the President. However, I regret the massive cuts in the nuclear research and development budget, such that these programs are now funded at levels below those proposed by the President.

One program that has been continually supported by Congress is the High Temperature Gas Reactor. Both the Jones Substitute and my substitute bill authorize restored funding to establish an HTGR lead plant project. Since a rescission of $22.176 million has been converted to a deferral by the House Subcommittee, making funds available at the beginning of fiscal year 1982 to supplement our Committee's authorization, I feel that we can assure the HTGR program of adequate funding with an authorization of $35 million. The total authorization for conventional reactor systems is $76.8 million.

Generally, in the area of nuclear fission, my substitute is very similar to the Jones Substitute. However, in view of the need to resolve the nuclear waste management problems this country has struggled with, I propose we authorize increased funding for civilian waste management programs to $199.024 million. I wish to note that the Committee supported the following language:

"COMMITTEE VIEW

"This Committee strongly supports timely initiation of the nuclear waste solidification demonstration project at West Valley. The Committee expects that $13.0 million will be available for appropriation for Fiscal Year 1982 activities. The Committee expects that the Department of Energy will complete all planned acitvities for Fiscal Year 1982 with these available monies. Some members of the Committee raised a concern in reference to the implementation of the cooperative agreement concluded between the federal government and the State of New York in the context of the intent of Public Law 96-368. While the Committee certainly does not want to delay implementation of this project, the Committee directs that the Department evaluate the provisions of the cooperative agreement within the context of the intent of Public Law 96-368 and report to the authorizing Committees within thirty days after this report has been filed. Also, these concerns have been referred to the Investigation and Oversight Subcommittee of the Science and Technology Committee for a report."

I agree with the Jones Substitute on the need to restore funding for the Barnwell Nuclear Fuel Plant. My Substitute bill provides an additional $2 million to obtain research and development design information and to prepare the facility for possible use as an integrated reprocessing tehnology demonstration and test facility. I wish to emphasize that I concur with the language from our Committee report. The fuel cycle research and development program has a total authorization of $36.0 million.

The authorizations for Advanced Nuclear Systems, for Advanced Isotope Separation technology, capital equipment, and for construction are as reported out by the Science Committee in H.R. 3146.

The truly significant difference between my substitute bill and the authorization bill reported out by the Science and Technology Committee is the authorization for the Clinch River Breeder Reactor Project. I strongly support the Clinch River Breeder Reactor Program. I believe that the cancellation of the Clinch River Breeder Reactor Project will result in the overall Liquid Metal Fast Breeder Reactor Program becoming unfocused. Unless the program has the defineable and measurable end product of a speciifc demonstration plant, it will lack such focus. I believe the project should continue to have our support. Therefore, the substitute bill authorizes the $566.7 million in funding for the Liquid Metal Fast Breeder Reactor Program as requested by the President, with $230 million for the CRBR. The authorization for the Water Cooled Breeder Reactor Systems Program would

remain at the levels as reported out in H.R. 3146.

This Administration has recognized that magnetic fusion is a particularly appropriate research program for government support because it is long-term and high risk, and offers the potential payoff of nearly a billion years energy supply for the entire world. This Substitute would authorize $67.4 million for Applied Plasma Physics, $132.47 million for confinement systems. $62.15 million for development and technology, $10.15 million for the Center for Magnetic Fusion Engineering, and $26.13 million for planning and projects, for a total of $302.2 million for operating expenses. In addition, it would authorize $43 million for capital equipment and $109.8 million for construction. Although there are some slight differences with the total funding level in this Substitute and the Jones Substitute, I do concur with the report language supporting the magnetic fusion program, and in particular wish to endorse the Science Committee's commitment to an industrially managed Center for Fusion Engineering which should be established within budget during fiscal year 1982.

Electricity generation, whether from coal, nuclear, geothermal, or other sources, will become increasingly important in the country's energy future. The electric energy systems program fulfills an important role for tying together the energy source and electric energy use technologies. This substitute bill authorizes $24.6 million for electric energy systems.

For many energy technology alternatives, energy storage is a key research need. This program is authorized for $37.9 million. This includes $2.1 million for the Battery Energy Storage Test Facility that will test large-scale utility, load-leveling batteries. The total authorization for electric energy systems and storage, including capital equipment, will be $65 million.

General Science and Research programs are always at the frontiers of knowledge about the fundamental laws of the physical world. This Substitute bill would authorize $288.4 million for high energy physics, $99.1 million for nuclear physics, $48.3 million for life sciences and nuclear medicine, $1.36 million for program direction, and $54.4 million for capital equipment. This would also include $61.4 million for construction. I specifically wish to mention three important construction projects. This Substitute would authorize $0.4 million for the Argonne Tandem-Linear Accelerator System and $14.5 million for the Tevatron Phase I at Fermi National Laboratory. This Substitute bill agrees with the Jones bill in providing fiscal year 1982 authorization of $16.0 million for Intersecting Storage accelerator project at Brookhaven National Laboratory, such that the total authorization through fiscal year 1982 would be $125.5 million. I concur with the recommendation of a fiscal year 1982 budget authority of $21.0 million for Isabell in accordance with the Administration request.

The Basic Energy programs at DOE provide for the basic research necessary to support the energy technology base, of which a significant percentage of the funding goes to universities. This includes $265.411 million for operating funds, $16.9 million for capital equipment and $27.6 million for construction.

Mr. Chairman, I yield such time within reason as he may consume, to the gentleman from New Mexico (Mr. LUJAN).

The CHAIRMAN. Without objection, the gentleman from New Mexico (Mr. LUJAN) is recognized.

There was no objection.

Mr. LUJAN. I thank the gentleman for yielding.

Mr. Chairman, I think this is a very balanced package. We have $270 million in for solar; $155 million in for conservation. I think the point of contention and the difference between this and the committee bill is simply on Clinch River. But let me say that we have had several votes in this House on the Clinch River project, and we have studied it to death.

I remember when I first came here we had the Dickey-Lincoln Reservoir. Finally we got tired of it. It seems that we now have Clinch River to kick around.

But let me just make a couple of points on what GAO has said in trying to set the record straight. GAO has said that the Clinch River project is not technically obsolete. GAO says that terminating the Clinch River project accomplishes very little in the area of nonproliferation. If the Clinch River project is terminated, much of the $674 million already spent on it may be wasted. And, finally, they say it will be difficult at best, and perhaps impossible to maintain the strong liquid metal fast-breeder reactor program without building the Clinch River project.

Mr. Chairman, as I said in the beginning, the science and technology portion of the Gramm-Latta substitute is a good bill, and I would urge its support by this committee.

Mr. WINN. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania (Mr. WALKER).

The CHAIRMAN. Without objection, the gentleman from Pennsylvania (Mr. WALKER) is recognized for 1 minute.

There was no objection.

Mr. WALKER. I thank the gentleman for yielding.

Mr. Chairman, I think that it would be well to take this minute just to clarify a situation as it relates to those parts of the Science and Technology Committee jurisdiction which are not included in the Gramm-Latta package before the House; namely, NSF and some of the rest of the things that have been raised on the other side.

Is it correct that what we have done in our committee is that we have reported authorization bills in a timely fashion so that they are fully eligible to come to this floor without any waivers and if they come to the floor without waivers and funds are authorized, appropriations could be brought to the floor without waivers and we would have no threat whatsoever of losing those good programs?

Mr. WINN. That is my understanding, and I have asked those who have questioned that procedure to give us a rule, and they cannot come up with a rule that this procedure violates. They have got a lot of opinions but no rule.

Mr. WALKER. That is certainly my understanding of the situation as it exists. I think that the House has been misled by those who would suggest that this package does not include any hope that we would be able to fund NSF programs. I think it is a compliment to our committee, to the chairman of our committee, that those bills were reported in a timely fashion.

□ 1645

Mr. WINN. Mr. Chairman, I want to reiterate that I have tried all afternoon to reassure the people who have asked me about it that this bill will not make any prohibition against bringing those bills to the floor individually. Those bills have been reported and are currently on the Union Calendar. The gentleman from Pennsylvania (Mr. WALKER) makes the point very clearly that there is no problem. We feel that we are on the right path and it answers all the questions of the gentleman from Missouri (Mr. SKELTON), the gentleman from Minnesota (Mr. ERDAHL), and all the rest of those people.

I yield back the balance of my time.

The CHAIRMAN. The gentleman from Kansas (Mr. WINN) yields back one-half minute.

The Chair recognizes the gentleman from Oklahoma (Mr. JONES).

Mr. JONES of Oklahoma. Mr. Chairman, I yield 30 seconds to the gentleman from Pennsylvania (Mr. BAILEY).

Mr. BAILEY of Pennsylvania. Mr. Chairman, could I ask the gentleman from Kansas (Mr. WINN) one very brief question?

In the gentleman's substitute, I am a little confused. There is gasification technology that has been utilized by Westinghouse Corp., that, as I understand, in the gentleman's substitute has either been cut or, if I read the language properly, could possibly be eliminated because it may not be judged to be commercially feasible.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. BAILEY) has expired.

Mr. JONES of Oklahoma. Mr. Chairman, I yield 10 minutes to the distinguished chairman of the Committee on Ways and Means, the gentleman from Illinois (Mr. ROSTENKOWSKI).

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 30 seconds to the gentleman from Pennsylvania (Mr. BAILEY).

The CHAIRMAN. Without objection, the gentleman from Pennsylvania (Mr. BAILEY) is recognized for 30 seconds.

Mr. BAILEY of Pennsylvania. I thank the gentleman for yielding.

Could the gentleman from Kansas (Mr. WINN) answer my question please.

Mr. WINN. Mr. Chairman, will the gentleman yield?

Mr. BAILEY of Pennsylvania. I yield to the gentleman from Kansas.

Mr. WINN. It is one of the major projects that is in the Winn substitute. I would say there is only about a $3 million difference between what was in the original bill as passed by the committee and the one that is in my version.

Mr. BAILEY of Pennsylvania. So the $4 million that was restored in committee has been reduced, but we are not sure whether the language eliminates the project or not?

Mr. WINN. That is right.

Mr. BAILEY of Pennsylvania. I thank the gentleman.

Mr. Chairman, I just want my people in Pennsylvania, indeed the whole Nation, to know that in one stroke of the pen the Reagan administration has virtually eliminated one of this Nation's most vital hopes for an independent energy future. It is a foolish act. A terrible way to write legislation and a blow to this Nation's freedom

Mr. ROSTENKOWSKI. Mr. Chairman, I certainly do not believe that there is any possibility of changing any minds on the other side of the aisle. But I think it behooves us to point out some of the flagrant errors and some of the truly hardships that are affected by this amendment.

In my opinion, Mr. Chairman, one of the most objectionable features of the Gramm-Latta substitute is the provision that beginning in 1982, in April, the minimum benefit would be eliminated not only for new beneficiaries but also for all beneficiaries who have been receiving benefits for 5, 10, and 20 years.

I want all Members to understand the implications of that change. For a couple who turned 65 in 1960, the minimum benefit was $33 per month for a single individual and thus a couple received $49.50 per month or $594 per year.

Over time with the benefit increases enacted, truly by both parties, that benefit for the couple in July of 1981 will be $3,066 per year. Based upon the formula he could have received anywhere from 25 to 100 percent of that minimum benefit in 1960 based solely on his earnings pattern.

Thus in April of 1982, his income would be reduced by $2,300 per year.

For a couple with $7,500 of income, that is a 31-percent reduction in income. If that couple has a remaining income of $5,000 per year, they will be ineligible for SSI benefits in most States.

For a widow age 86 who is receiving a survivor benefit based upon someone who received the minimum benefit, the loss could be $1,533 per year. This couple or this elderly widow will have no way to compensate for this sudden and abrupt loss of income.

Any time we on the Committee on Ways and Means have examined tax reform policies, we have never designed changes in the law which would result in an increase of taxes of $2,000 per year for individuals with $50,000 of income of less.

Now, we have designed a change of that magnitude for individuals with less than $10,000 a year of income. No one on the committee advocated this policy. It was not brought to any votes. Everyone on both sides of the aisle was relieved that the committee version avoided eliminating the minimum benefit for current beneficiaries and met the budget targets.

Mr. SHANNON. Mr. Chairman, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield to the gentleman from Massachusetts.

Mr. SHANNON. I thank the gentleman for yielding.

I want to make sure we get this straight. Is it true that the Latta substitute will cut the basic benefit for minimum benefit recipients, some of whom have been receiving this benefit for 20 years or so?

Mr. ROSTENKOWSKI. No question about that, that is true.

Mr. SHANNON. Is this the first time ever in the history of the social security system that benefits have been cut for people already on the rolls?

Mr. ROSTENKOWSKI. Never before in our history have we ever cut the people who are presently on the rolls.

Mr. BAILEY of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield to the gentleman from Pennsylvania.

Mr. BAILEY of Pennsylvania. About two-thirds of those receiving the minimum benefits are over age 70. In my State, many of them have assets and would not qualify for welfare. That means flat out in the Gramm-Latta substitute, they would be denied minimum benefit assistance; is that right?

Mr. ROSTENKOWSKI. Yes, without a substitute, that is right.

Mr. PICKLE. Mr. Chairman, will the gentleman yield?

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. PICKLE).

The CHAIRMAN. Without objection, the gentleman from Texas (Mr. PICKLE) is recognized for 3 minutes.

Mr. PICKLE. Mr. Chairman, the Ways and Means Committee proposals on social security are real cuts. But they are reasonable cuts. The Latta substitute proposes cuts in social security that are wrong and distressful.

The major change is to penalize—retroactively—current beneficiaries of the minimum benefit, despite a campaign promise by President Reagan that he would not affect current social security recipients.

First, this change is morally and legislatively wrong. We should never so abruptly affect the earned benefits of individuals who have been receiving them in good faith for as much as 20 or 25 years.

Second, this amendment has been painted as easy because no one will be really hurt. That is not so. Two-thirds of the people receiving the minimum benefits are over 70 years old; 500,000 are over 80. Most of these are elderly women. And the savings assumed in this amendment, unless three-quarters of these elderly individuals who would be eligible for welfare do not apply for it, are false. I repeat—the savings in this substitute assume that three-quarters of these elderly widows or widowers—those who would be eligible for welfare—will be too proud or disinterested to apply for their welfare benefits. The savings in this substitute assume that these gracious ladies and elderly gentlemen will simply suffer instead.

Third, the retroactive elimination of the minimum could literally shut down the Social Security Administration. It will take the SSA 2 months of doing nothing else; it will take Sherlock Holmes spyglasses, bloodhounds, and green eyeshades just to find these people and recompute their benefits. Internal Social Security Administration documents estimate that administration of the program will be disrupted for—at the minimum—1 full year by this amendment.

My esteemed colleagues, my committee has met its budget targets, my subcommittee has exceeded them. The subcommittee has been working since the first of the year on a bipartisan basis to set social security straight. Our subcommittee, on a legislation basis, has already agreed, and they agreed by our reconciliation vote, to phaseout the minimum benefit prospectively and to phase out the student benefits prospectively—but it does not need to take the minimum benefit from an 80-year-old widow who is not expected by these savings figures to apply for welfare. That is not going to save social security; it is going to degrade it. Social security and this country deserve better.

The Latta substitute makes two other changes. First, it deletes a provision in our bill to move the social security COLA to the start of the fiscal year in 1982. This is a strange deletion, indeed as the President himself has already proposed that we do delay the COLA to the start of the fiscal year next year. He proposed it as part of the social security financing package he revealed on May 13. The only difference is that the President would do it without any transition. My friends, the amendments are moving around here faster than a carnival shell game. Here we are asked to delete something

that the President will be asking us to vote for in a very short time.

Finally, the Latta substitute has a faster phaseout of student benefits than does the committee. There is no doubt that these benefits are going to be ended. But the committee version strikes a better balance. Here, again, there is much misinformation about. You have been told that these benefits go to children of retired workers who do not really need them. But only 19 percent of these beneficiaries are children of retired workers; 81 percent are children whose parents are dead or disabled. They are very likely to be dependent on these benefits and we should give a little notice to them that they are going to have to find other means to finance their education.

My subcommittee topped its budget targets. This substitute simultaneously will put us below the target and impose real hardships and consternation in the social security program at a time when confidence is already low. We are getting here bad changes for less savings—not a very good proposition to offer to the American people. This is thoughtless overkill and it will backfire. And these amendments are so far-reaching and so mean and so ill-thought-out that these amendments alone are sufficient to defeat this entire substitute.

Mr. GEPHARDT. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from Missouri.

Mr. GEPHARDT. I would like to ask a question. If what the gentleman is saying is correct, then, for the first time in the history of the social security program, if Gramm-Latta is passed, people who are now receiving the minimum benefits, some of them 80, some of them maybe even 85 years old, would next year be cut off of their minimum benefit.

Some of these people who could not qualify for SSI because they may have $3,000 in the bank or they may be being paid for their farm on a year-by-year basis, could not qualify for the SSI. They would not get their minimum benefit.

Mr. PICKLE. Then they would lose their minimum benefit. The gentleman is correct. It is the first time we have ever cut current beneficiaries and that is an alarming statement to make.

Our subcommittee has met and we have agreed on a bipartisan basis now—I want it understood—that we would phase out the minimum benefit prospectively. We would phase out student benefits prospectively but we are not cutting out current benefits.

Mr. ROSTENKOWSKI. That is prospectively and the gentleman did say on a bipartisan basis.

Mr. Chairman, I yield 2 minutes to the gentleman from Georgia (Mr. JENKINS).

The CHAIRMAN. Without objection, the gentleman from Georgia (Mr. JENKINS) is recognized for 2 minutes.

There was no objection.

Mr. JENKINS. Mr. Chairman, I know that there are a lot of good things probably contained within this substitute. None of us really knows what is in this book. I have always taken one book on blind faith and this is not it.

When we talk about eliminating minimum benefits, let me tell my colleagues, there were no Republican members who advocated this in the committee, not a single one. We came out of the committee with a good reconciliation bill that was adopted by Republicans and Democrats alike.

Then we come in here at the last hour and we want to cut out those little people, who have been drawing social security minimum benefits for years, under the subterfuge of this so-called reconciliation bill that contains everything from regulations about lawnmowers to amusement parks in this bill. I cannot believe that the legislative process has so deteriorated in this great body that we can seriously, in 2 or 3 hours, say that we are going to vote for such a document.

Now I am sure there are some good provisions in here and I would like to vote for some of them. But I shall not have that opportunity because we are trying to ram this down the throat of all of the people and this is the greatest injustice that I have ever seen in any legislative body and I hope that Members from both the minority and the majority will turn this down.

The CHAIRMAN. The gentleman from Illinois (Mr. ROSTENKOWSKI) has 30 seconds remaining.

Mr. JONES of Oklahoma. Mr. Chairman, I yield 3 additional minutes to the gentleman from Illinois (Mr. ROSTENKOWSKI).

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. RANGEL).

The CHAIRMAN. Without objection, the gentleman from New York (Mr. RANGEL) is recognized for 2 minutes.

There was no objection.

Mr. RANGEL. Mr. Chairman, one of the most exciting experiences that we can have here in the U.S. Congress is to be able to meet and work with people from so many different walks of life, so many political differences and yet to know that notwithstanding what committee assignment one has, one is working with people who are anxious to reach the same goal, the same ends, to protect the rights of the American people.

I serve on one of the most respected committees in the House, the Committee on Ways and Means. Yet, within that committee, besides all of the so-called awesome power, we deal with the rights of those people who are poor, who are disabled, who are sick.

□ 1700

On the Public Assistance Committee as well as the Health Committee, there has not been a Member on either side who has not been concerned in improving the quality of life for those people in this great country of ours, people who cannot protect themselves. I have seen how we have argued day after day, week after week, session after session, on a method and procedure that should be provided, but I think we all would agree that the most beautiful thing is the process we have worked out, the fact that we do have a committee system, the fact that we could differ, the fact that we could have amendments, writeups, and bring them to this floor and to have, each of us, an honest debate in which the poor, the sick, the disabled, the aged, do not lose.

I feel sorry for Members of this House, whether they are part of the so-called majority or the minority. Nobody will be able to explain to any of the American people how we got ourselves into this embarrassing legislative situation.

The popularity of any President should not spill over to that constitutional right that we have, and that is to defer among ourselves and to reach a conclusion that is in the best interests of the people. I do hope that my Republican friends, especially those who have no idea as to what is in the package before us, will pull this package and give to this Congress again a chance to work out our differences.

Mr. GEPHARDT. Mr. Chairman, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield to the gentleman from Missouri.

Mr. GEPHARDT. I have a question. The gentleman, a moment ago, talked about what could happen to a farmer with respect to the minimum benefit. It is my understanding that ministers, preachers, and priests did not enter the social security program until 1967. I also understand that many of them receive the minimum benefit.

My question is, Could what the gentleman described happened to the farmer also happen to any of our retired ministers and preachers and priests?

Mr. ROSTENKOWSKI. Most assuredly. Even worse in some cases.

Mr. GEPHARDT. I thank the gentleman.

Mr. PEPPER. Mr. Chairman, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield to the gentleman from Florida.

Mr. PEPPER. Mr. Chairman, did not the President announce that nobody receiving social security benefits would have their benefits reduced?

Mr. ROSTENKOWSKI. I believe the gentleman is absolutely correct. As a matter of fact, I believe that statement was made right in this Chamber.

Mr. PEPPER. Mr. Chairman, the Gramm-Latta resolution adopted by the House a while ago shocked the conscience of the compassionate people of this country in the cuts it made in medicare, other health care, the nutrition program, social security, housing, employment, and other programs affecting the elderly. Millions of elderly citizens who voted last year for the President believing he was their friend find that his administration has driven many of them not only below the cost of living but the cost of actual sustenance—a decent living. Program after program which has meant so much to so many of them has been cut or cut out. Social security, which we thought was sacrosanct politically, has been boldly attacked and the reductions made have seriously adversely affected millions of elderly people. To give an idea of what the effect is of Gramm-Latta resolution No. I, as implemented by the various committees of the House pursuant to the reconciliation resolution of Gramm-Latta I, an analysis prepared by the staff of the Aging Committee of the House is submitted herewith, and I ask it appear in the body of the RECORD following my remarks. This analysis will show the cuts that have been made and the hurt of those cuts to many millions of Americans.

Now we have on the floor Gramm-Latta II to cut billions more dollars from the programs which heretofore have sheltered the elderly of this country. So Gramm-Latta No. I has been made worse by the proposed Gramm-Latta II. It reaches deeper into the living standards of the elderly, the poor, and the ill. It repeals legislation that has meant a better life for the elderly of the country since it was in effect. Since it is difficult to tell what Gramm-Latta II does, I submit herewith an analysis prepared by the Budget Committee of the House as to what will be the effect, if enacted into law, of Gramm-Latta II for repealing important legislation to the detriment of the people generally. I submit that also for incorporation in the body of the RECORD along with the analysis previously referred to.

No friend of the elderly, in my opinion, could support Gramm-Latta I. Surely, in my opinion, no true friend of the elderly can think of supporting a worsened Gramm-Latta I—Gramm-Latta II. I voted against Gramm-Latta I. I shall vote against Gramm-Latta II.

SELECT COMMITTEE ON AGING

Memorandum To: Members, Select Committee on Aging.

From: Claude Pepper, Chairman.

Subject: Impact of Budget Reconciliation Act on the Elderly.

In the coming days, the House will be considering H.R. 3982, the Omnibus Budget Reconciliation Act of 1981. Among the $35.1 billion in 1982 cuts and the $137 billion that would be cut over the next three years, are a number of changes which will have a very significant effect on millions of older persons.

Since many of the reductions affecting the elderly that were adopted by House Committees are virtually identical to those requested by the Administration, this memorandum will not attempt to duplicate the detailed analysis made available to your office prior to our April 6 hearing on the Administration's proposed budget cuts on the elderly. Instead, this document will attempt to highlight those areas which are significantly different from the Administration's recommendations.

The first FY 1982 Budget Resolution directed 15 House Committees to submit recommendations for reducing spending. The recommendations submitted by the Ways and Means, Banking, Agriculture, Post Office, Education and Labor, and Commerce Committees are of key concern in assessing the effect that this legislation will have on the elderly.

WAYS AND MEANS COMMITTEE

Social Security.—The Committee's proposal would cut Social Security outlays by $3.2 billion in 1982 by eliminating the minimum benefit for beneficiaries who become eligible after January 1, 1982; paying only half of the 1982 cost-of-living adjustment in July and delaying the remainder to October; phasing out survivors' benefits for postsecondary students; and eliminating the $255 lump sum death benefit in cases where there is no surviving spouse or child. In addition, the Ways and Means Committee recommends that beginning in 1983, the age at which an individual is no longer subject to an earnings limitation be lowered to 71 (instead of 70 as provided for in 1982 under current law).

Medicare.—The Ways and Means Committee did not adopt the Administration's proposals for elimination of some home health benefits enacted by Congress last year. However, they recommended action which would cut the Medicare program by $1.64 billion in 1982, about $600 million more than requested by the Administration.

The Committee recommendations would: Increase the annual deductible for Medicare Part B to $70 and automatically index it to increases in the cost-of-living in the future; impose coinsurance payments of $1 per day for the first through 60th day of inpatient hospital care; increase the Part A hospital deductible during 1982 from $228 (under current law) to $258; allow for less frequent inspection of nursing homes; shift reimbursement for some health expenses incurred by Federal employees over age 65 to the Federal Employees Health Benefits Program; repeal the Professional Standards Review Organizations at the end of 1983 (while allowing HHS to terminate less effective PSRO's during 1982); and tighten reimbursement limits on inpatient hospital and home health services.

Energy assistance.—The Ways and Means Committee has recommended continuation of this block grant program at the level of $1.4 billion for FY'82 sought by the Administration. This represents a cut of $400 million below the 1981 spending level. However, the Committee did not adopt the Administration's recommendation of merging this program with Title IV of the Social Security Act (which provides limited emergency assistance) and creating a new energy and emergency services block grant.

Supplemental security income.—The Ways and Means Committee recommendations would reduce spending for the SSI program by $167 million in 1982. At the Administration's request, an individual's eligibility for benefits would be computed on a retrospective rather than prospective basis. In addition, the Committee would delay half of the annual cost-of-living adjustment from July to October 1982.

AGRICULTURE COMMITTEE

Food stamps.—The Agriculture Committee has recommended a cap on total spending which does not exceed the Administration's proposed spending levels. However, their proposal contains no substantive legislative revisions in eligibility formulas so that without additional legislation, necessary savings will have to be achieved by pro rata reduction in all benefits. Thus, the Committee did not endorse the Administration's proposals to repeal the health care deduction and freeze the standard deduction used to calculate food stamp allotments and limit food stamp eligibility to 130% of the poverty line.

BANKING, FINANCE AND URBAN AFFAIRS COMMITTEE

Section 8.—The Banking Committee accepted the Administration's recommendation and provided funding for 176,000 units of Section 8 housing. This is a reduction of 74,000 units below the level in the Carter budget.

The Banking Committee rejected the Administration's proposal to increase the maximum tenant contribution from 25 to 30% of the tenant's income.

Congregate housing.—The Banking Committee has recommended the elimination during 1982 of the funding authorization for the congregate services program.

POST OFFICE AND CIVIL SERVICE

Civil service retirement benefits.—The Post Office Committee did not adopt the Administration's recommendation that Federal retirees receive only one cost-of-living adjustment each year (rather than the two each year now allowed). However, the Committee did adopt a change aimed at so-called "double dippers". The committee proposes to reduce civil service pay for most military retirees by the full amount of their military retirement benefits. This is the same procedure now used with civilian government retirees who are re-employed in civil service jobs. The Committee estimates this change will affect 142,500 current civil service employees and produce a savings of $270 million in FY 1980.

ENERGY AND COMMERCE COMMITTEE

Medicaid.—The proposal submitted by Chairman Dingell on behalf of the deadlocked Commerce does not contain the Administration's proposed Medicaid cap. However, it does propose that Medicaid payments to states be reduced by 3 percent in fiscal year 1982, 2 percent in fiscal year 1983, and 1 percent in fiscal year 1984. States with high unemployment, a hospital cost review program, or significant savings due to fraud and abuse control could have one-third of these reductions restored.

The Dingell recommendation would also repeal the current Medicaid requirement that States pay hospitals on the basis of "responsible costs" as defined by Medicare. Instead, States could establish their own reimbursement systems.

States would also be given some other types of flexibility not currently available to them. For example, States would have

greater authority to use competitive bidding arrangements for the purchases of clinical lab services, medical devices, and drugs. In addition, HHS would be allowed to waive those Medicaid requirements that would allow states to achieve cost savings through more cost-effective delivery systems.

The States would also be authorized to cover a range of non-institutional long-term care services currently not available if they could assure HHS that the costs of providing long-term care would not exceed the costs of providing long-term care under the current program. States would also be required to institute pre-admissions screening for medical recipients seeking nursing home care to assess the need for such care in light of available alternatives.

High blood pressure grants.—Chairman Dingell has accepted the Administration's recommendation that funding for hypertension programs be cut by 25 percent (from $20 to $15 million). However, he has not included this program and other public health programs in the block grants the Administration has sought.

GRAMM-LATTA SUBSTITUTE

I. PROVISIONS REPEALED IN GRAMM-LATTA

From committee print

The following programs are repealed in the Gramm-Latta substitute:

1. Title XX of the Social Security Act.
2. The Child Abuse Prevention and Treatment Act 1974.
3. The Child Abuse Prevention and Treatment and Adoption Reform Act of 1978.
4. The Runaway and Homeless Youth Act.
5. Titles I, II, III, IV, VII and IX of the Community Services Act.
6. The Home Energy Assistance Act of 1980.
7. The Community Mental Health Centers Act.
8. Developmental Disabilities, Assistance and Bill of Rights Act.
9. Solar Bank (Part A of title IV of the Energy Conservation and Production Act).
10. Section 312 Rehabilitation Loan Program.
11. Neighborhood Self-Help Redevelopment program (Title VIII of Housing and Community Development Act of 1978).

Entire titles are eliminated from other areas as follows:

1. Title VII of the Housing and Community Development Amendments of 1978.
2. Titles XV and XVI of the Public Service Health Act.
3. Title X of the Public Health Service Act.
4. Titles VI and VII of the Health Services and Centers Amendments of 1978.
5. Title V of the Regional Rail Reorganization Act of 1973.
6. Titles II and III of Mental Health Systems Act.

Number of sections repealed

Sections of:	
Public Health Service Act	12
Federal Mine Safety and Health Act of 1971	1
Comprehensive Alcohol Abuse and Alcoholism Prevention Treatment, and Rehabilitation Act of 1970	3
Drug Abuse Prevention, Treatment and Rehabilitation Act	4
Mental Health Systems Act	6
Health Services and Centers Amendments of 1978	2
Public Health Service Act	2
Milwaukee Railroad Restructuring Act	1
Rock Island Transition and Employee Assistance Act	1
Social Security Act	13
Social Security Amendments of 1967	1
Social Security Amendments of 1974	1
Randolph-Sheppard Act (blind vendors)	1
	50

50 sections repealed, 9 titles, 11 entire programs.

II. INCREASED DISCRETION TO EXECUTIVE BRANCH

1. Banking

Tenant rent.—Amends assisted housing programs to increase tenant contributions for rent from 25 to 30 percent of adjusted income and to provide the HUD Secretary with absolute discretion to determine what adjustments to income would be allowed the Secretary of HUD's actions relating to tenant incomes "would not be reviewable in any court" Section 3201 (a)(4)(A).

Rent supplement contract conversions.—Would change from mandatory to discretionary the Secretary of HUD's authority to offer amendments to existing rent supplement subsidized housing contracts at the request of the owner.

2. Education and labor

GSL.—Would permit the Secretary of Education to establish assessment rates to be applied to parent discretionary income—a responsibility which Congress has historically exercised, thereby giving Secretary absolute discretion to include or exclude students according to family income.

CSA.—Terminated and Director of OMB shall assume the responsibility of Director.

3. Energy and commerce

Consumer Product Safety Commission.—Eliminated as independent agency which repass directly to Congress and becomes part of Department of Commerce. Currently submits budget to Congress and OMB but under Gramm-Latta will only submit through OMB.

FERC.—Gives FERC (Federal Energy Regulatory Commission) the authority to disregard a municipalities preference (to get power first) for small hydroelectric dams. This has municipalities outraged—they are saying their position has been misrepresented by Gramm-Latta.

Medicaid.—Gives the Secretary the broad authority to waive requirements under the Act without being subject to judicial review thus giving a recipient or provider no right to sue.

III. I BET YOU DIDN'T KNOW

Impact aid

Gramm-Latta would distribute funds to only the most heavily impacted districts.

Approximately 2,300 districts would not receive any payment.

Of the remaining 1,700 districts, only 500 would receive full payments; the other 1,200 would, in most cases, receive less than under the Education and Labor provisions. The following table shows some of the changes as they affect various States.

IMPACT AID

[Dollars in millions]

State	Education and Labor	Gramm-Latta
Alabama	4.6	1.6
California	39.7	37.4
Delaware	.3	.02

IMPACT AID—Continued

[Dollars in millions]

State	Education and Labor	Gramm-Latta
Florida	12.4	9.2
Georgia	6.3	3.0
Indiana	1.6	1.1
Louisiana	3.6	2.6
Maryland	12.0	7.2
Mississippi	2.6	2.1
Nevada	3.2	2.5
New York	20.0	6.5
Ohio	4.8	2.5
Pennsylvania	4.5	1.0
South Carolina	5.3	4.6
Tennessee	3.9	.9
Texas	19.8	17.4
Virginia	20.8	17.6
Vermont	.05	.002
Utah	4.7	3.4

Bankhead-Jones Act (agricultural experiment stations)

The Gramm-Latta proposal would eliminate funding for the Bankhead-Jones Act which provides funds for agricultural experiment stations at land-grant colleges and universities.

ENERGY AND COMMERCE

The Latta amendment declares amnesty for oil companies that violated the oil price control laws. It almost zeroes out funding for enforcement activities, and violates the Gramm-Latta budget resolution assumptions the division would collect an additional $1.55 billion from oil companies that had violated the law.

This additional billion and a half would have helped balance the budget.

ZINGER—TITLE VI, SECTION 6222—NATIONAL HEALTH SERVICE CORPS

The Gramm-Latta amendment uses National Health Service Corps funds, which are intended for poor and other underserved people, to be used instead to subsidize the military budget. The National Health Service Corps program was designed to train physicians to work in rural and inner-city areas which do not have adequate numbers of health care providers. Under current law, these people repay the Federal cost of their education by providing health care to poor and underserved people. Yet, the Gramm-Latta amendment would allow these doctors, once they are trained, to repay the cost of their federally supported training by working in DOD and VA hospitals.

This is equivalent to taking doctors out of poor communities and placing them in military hospitals.

TITLE V, SECTION 5112

This section provides no funds in 1982, 83 and 84 for the Bankhead-Jones Act which terminates assistance to Land Grant Colleges.

TITLE V, SECTION 5325

This section repeals the Randolph-Sheppard Act—preference for blind people to be vendors in Federal buildings.

NO REFERENCE TO SECTION—DENY MEDICAID BENEFITS

Perhaps more serious is the provision that would deny *Medicaid* eligibility to women pregnant for the first time until the last trimester of pregnancy.

We are all aware that early medical care is essential in avoiding or correcting complications of pregnancy which could cause premature birth and infant disability. The consequence of the delay in providing medical care could be an increase in infant morbidity and infant mortality.

Under current law, a State, at its option, may provide AFDC assistance to a pregnant woman with respect to her unborn child. Thirty-four (34) States currently have this optional payment in their laws. Gramm-Latta would prohibit payment of AFDC before the last trimester thereby reducing the aid currently available, at the State's own choice, in California, Colorado, D.C., Florida, Guam, Hawaii, Idaho, Kansas, Louisiana, Maryland, Massachusetts, Michigan, Montana, Nebraska, Nevada, New Mexico, New York, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, Washington, West Virginia, Wisconsin and Wyoming.

POST OFFICE

The so-called Gramm-Latta II seeks to eliminate the twice-a-year cost-of-living protection afforded to 1,800,000 retired Federal employees, instead of limiting the salaries of 142,500 Federal employees who also enjoy military retirement benefits on top of their salaries (double-dippers).

For example, it is currently possible for an E-8 in the Armed Services who retires at age 48 with 30 years of service to receive a retirement of $13,100 on top of his or her GS-11 step two salary of approximately $23,000 (average salary of Federal Government worker). Therefore, this individual would receive a total of $36,100 in compensation. The Gramm-Latta II proposal ignores this situation and instead reduces the inflation protection of retired Federal employees who have an average annual retirement income of $11,124 as of March, 1979. It is important to note that Federal employees who are entitled to civilian retirement benefits already have their civil service pay offset for their retirement benefits.

Increased cut to Postal Service.—Gramm-Latta II restores the ability of 140,000 military retirees who work for the Federal Government to "double dip". The Post Office and Civil Service Committee's Reconciliation proposal would eliminate double dipping thus making the retirement provision for civilian and military retirees the same. As part of the Post Office and Civil Service Committee's Reconciliation package it reduced the Postal Service's "public service appropriation" based on the assumption that the Postal Service would save 760.0 million dollars over three years through the prohibition on double dipping. Because Gramm-Latta II eliminates the prohibition on double dipping the Postal Service would face an additional cut of 760.0 million dollars in fiscal years 1982 through 1984. This would force the Postal Service to either further reduce service (close post offices or cut six day mail delivery) or to increase the price of a stamp. In short in order to protect the "right" to double dip of 140,000 individuals Gramm-Latta II will either further reduce postal services or further increase the price of a stamp to every person who uses the U.S. mail.

Ms. OAKAR. Mr. Chairman, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield to the gentlewoman from Ohio.

Ms. OAKAR. Mr. Chairman, is it not true that there is only 12 percent, unlike those on the other side of the aisle, who sit on committees, double-dippers, only 12 percent of those who receive minimum benefits have another pension? That is what the Social Security Administration says. Is that a true statement?

Mr. ROSTENKOWSKI. That is true. That is a true statement.

Mrs. COLLINS of Illinois. Mr. Chairman, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield to my colleague from Illinois.

Mrs. COLLINS of Illinois. Mr. Chairman, is it not the case, inasmuch as Gramm-Latta excludes the things the gentleman is talking about, those who are going to vote on minimum benefits are going to be placed somewhere between a dog and a lamppost?

Mr. ROSTENKOWSKI. That is possible.

Mr. JONES of Oklahoma. Mr. Chairman, I yield such time as he may consume to the gentleman from Iowa (Mr. HARKIN).

Mr. HARKIN. Mr. Chairman, the Science and Technology Committee voted to terminate the authorization for the Clinch River breeder reactor. We did not take that action lightly. Since the reactor was authorized in 1973, we have seen a dramatic change in the economic assumptions which made building the Clinch River reactor logical at that time.

First, when the CRBR was authorized, the need for electric power we expected to increase at a rate of about 7 percent per year. We are now seeing almost all estimates of increased need for electric power at only 3 percent or less. This has caused a dramatic reduction in our need to build new facilities. In 1973, Electrical World, the major utility trade journal, overestimated the 1980 electrical demand by 701 billion kWh. This is the equivalent of 140 large nuclear or coal plants. For 1980 their estimate for the projected use of electricity in the year 1990 had dropped by 2,043 billion kWh from the 1973 estimate. That estimate shows a need for 400 fewer plants than we thought we would need in 1973. I am assuming 900-MW plants at 65-percent capacity.

The second factor that was considered in 1973 was the limited amount of uranium then thought to be available for the light-water reactors which we are using today. In 1974 the Atomic Energy Commission believed that the amount of minable uranium at a cost equivalent to coal and oil was 2.8 million tons—at $50 per pound in 1980 dollars.

The Department of Energy now estimates that we can mine 5 million tons of uranium at a cost of $100 a pound. That is equal to $13 per ton of coal, and is enough uranium to fuel 1,000 full-sized nuclear reactors for 30 years.

In a recent comparative economic analysis, supply and demand factors were examined. It was determined that in 83 percent of 108 likely scenarios comparing conventional and breeder reactors, breeders would not be competitive until after the year 2050.

Other reasons for building the breeder have surfaced which are not economic. The most potent is that France, which is building the Superphoenix breeder reactor, will be way ahead of us and that they will supply the world rather than us. We heard the same talk when the SST was defeated. The Superphoenix technology was estimated to cost 5.6 cents per kilowatt-hour—86 percent more than it costs them to build light-water reactors. Electricite de France wants to cut the construction price to no more than 20 percent greater than a water reactor. It now appears that they cannot do this without unacceptable sacrifice to safety and thus France will not be building any more breeders for a very long time. This is according to Claude Henry, the Director of the Econometric Institute Ecole Polytechnic. I'm afraid that our friends, the French, have a nuclear SST on their hands.

Others argue that our breeder program cannot continue without the Clinch River reactor, or that the opponents of Clinch River are antibreeder. I will just say that the committee that voted to terminate the project also voted to authorize over a half billion dollars for additional breeder research.

Finally, there is talk that it would be cheaper to continue. This is absurd. Official estimates say that it will cost more than 2 billion additional dollars and many are estimating the additional costs at well over $3 billion. The talk of the money the Government will recover in the sale of electricity will not even cover a small part of the interest on the extra national debt we will incur.

Mr. Chairman, sometimes things change. We must recognize those changing realities. With all of the cuts we are making, we cannot afford to waste $3 billion to support the contractors who have pieces of this pie.

The Latta amendment, which claims to be designed to reduce the size of the budget, restores this wasteful project and will cost the taxpayers over $3 billion.

I urge you to vote down the Latta amendment.

Mr. Chairman, I would like to place in the RECORD an article on French breeder economics from the January 1980 issue of Electric World, and an article which appeared in today's Wall Street Journal on Clinch River.

FRENCH BREEDER FEELS HARD HEEL OF ECONOMICS

As construction proceeds on time on the world's first commercial fast-breeder reactor in southwest France, the future of French breeders hangs in balance as hard economic questions remain unanswered. Mainly, the question presently is the low price of uranium and the overly high price of breeders.

In late November, the French-led European consortium NERSA completed the installation of the concrete roof slab over the

main reactor vessel of the Superphénix, a 1,200-MW sodium-cooled breeder at Creys-malville. The rotating plugs on the roof slab were to have been installed this month or next, with the main reactor-vessel components added through 1981.

If all goes well, says the state-owned Electricité de France (EdF), the unit will go critical in late 1983.

In the meantime, a feverish effort is under way in the French nuclear industry to cut breeder costs. Superphenix is costing consortium members about 5.6 cents per kWh, or approximately the same as a French coal-fired plant. Oil-fired plants, no longer being built in France, would cost 8 cents per kWh, and PWRs (pressurized water reactors) close to 3 cents per kWh. EdF's goal is to cut breeder costs to a level of just 20 percent more than the cost of a PWR. EdF has directed the French breeder manufacturer Novatome to report by the end of March details on how or whether this can be done.

The two major cost-cutting objectives are the reactor units themselves and breeder-fuel reprocessing. It is clear that savings can be made by building the next reactors in pairs so that two or four can be ordered at a time. Research is focusing on reducing quantities of both steel and concrete. In the second sodium circuit, pipe lengths will be shortened wherever possible. And if fuel assemblies can be shortened even slightly, that would translate into significant core- and reactor-building size reductions.

Such "shrinkage" measures would enable future Superphenix units of 1,500 MW to be built in structures virtually the same size as the 1,200-MW Superphenix, officials believe.

In fuel reprocessing, the French hope to profit from experience gained from handling irradiated fuel from the 250-MW Phenix breeder, the prototype at Marcoule, France. French Industry Minister Andre Giraud says the next pair of breeders, if built, would almost certainly be sited near the Phenix. Plans call for building a reprocessing plant in the Marcoule region specifically for breeder fuel, thus saving transportation costs as well as lessening chances of fuel diversion for illegal purposes. With such ongoing efforts, it's evident to many observers that the French government will pursue breeders whatever the cost.

Despite EdF's official insistence to the contrary, "the decision to build the next two breeder units has already been taken" says one source in the French trade union Confederation Francaise Democratique du Travail (CFdT). This trade union opposes breeders because, it claims, they pose even greater safety risks than PWRs, they cost too much, and energy-conservation measures should obviate their need.

A very negative view of France's breeder future was painted for some 300 people at the First Annual Utility Conservation Conference in New Orleans last November. According to James L. Cochrane, special assistant for policy support in the Central Intelligence Agency's Office of Economic Research, the French breeder program faces strong economic problems that portend a bleak future for its survival, much less its expansion—contrary to what is presented in the popular and trade press. He sees the French government pulling back on the program.

But the government has said that breeders must account for 15 percent of the nation's nuclear power by year 2000. That means about 12 1,500-MW units will have to be built in the 19 years.

There is no plutonium-producing problem in France, French officials emphasize. With the major PWR program, La Hague reprocessing plant, and perhaps a small quantity purchased outside the country for the initial breeder fuel, plutonium will be ample. Thus, they claim, French-generated plutonium will enable a breeder to be built every year from 1990 onward.

The key question is whether breeders will remain ruinously expensive. With oil prices still on the rise, the picture may change rapidly. At the same time, the world uranium price continues to fall—a factor that weakens the argument that breeders are valuable as a way to conserve uranium. Says a NERSA official, "The more that uranium prices fall, the harder it becomes to pursue the breeder program—at least in the short term."

[From the Wall Street Journal, June 26, 1981]

Is Clinch River Nuclear Reactor Breeding Cost Overruns? Congress Wants to Know

(By John R. Emshwiller)

Its backers say the Clinch River breeder reactor, an electric power plant designed to produce more nuclear fuel than it consumes, holds the key to unlimited future energy supplies.

But allegations are being made that the $3.2 billion project—which is far behind schedule, nine years away from planned completion and more than four times its original cost estimate—may also be an almost unlimited source of federal money for its contractors.

Congressional investigators have begun investigating procurement practices and cost controls on the Tennessee project, where $1.1 billion has been spent and construction hasn't even started. They have found what they believe to be serious problems.

The alleged failings range from sloppy recordkeeping to poorly drawn contracts to an overwillingness by federal project officials to accommodate private industry participants. In one case, for instance, project management renegotiated the contract for the program's biggest component purchase after the supplier had trouble meeting the original pact. The new contract reduced the work requirement by about five-sixths while roughly tripling the original price.

"The costs on this project seem to be significantly out of control," says Michigan Rep. John Dingell, chairman of the House Energy and Commerce Committee and director of the investigation.

Though the investigation is still in its early stages, it promises to fuel an already heated budget battle in Congress over the fate of the Clinch River breeder. The Reagan administration and Senate Majority Leader Howard Baker are leading an effort to include $254 million for Clinch River in next year's budget.

Opposing further money is a coalition of liberal and conservative Congressmen, including Mr. Dingell, who are bound together by reasons ranging from a dislike for nuclear power to a distaste for federal subsidies. Opponents have put a provision to kill the breeder into the House version of the budget, but Clinch River supporters hope to keep it alive in the Senate.

Clinch River project officials clearly believe the conclusion being drawn from the inquiry are unwarranted and unfair. "This project is very well run and very well monitored," says a spokesman at the reactor project's office in Oak Ridge, Tenn., the site of the planned plant. The program is being run by the federal Energy Department and a group of 753 utilities from around the country.

The project's defenders say the cost increases have been caused mainly by opposition within the federal government, primarily the Carter administration, which for four years tried to persuade Congress to kill the project. Though unsuccessful, that effort caused major scheduling delays and large cost increases, says Robert Staker, director of the Energy Department's office of reactor research and development, which oversees the breeder program. The project "has just been marching inplace," he adds.

Some of the steps the project itself was taking, though, turned out to be expensive. Congressional investigators have focused most of their attention so far on the contract to supply the plant's steam generator, a crucial element in the electrical production system.

In September 1975, a contract to supply 11 steam generators was awarded to Atomics International, a unit of Rockwell International Corp., for about $26 million plus serveral million dollars for materials. The award has been questioned by investigators, partly because the project leadership passed over another bidder, Foster Wheeler Corp., which offered to do the job for $20 million plus material costs. In addition, Foster Wheeler had been recommended by General Electric Co., which evaluated the bids.

Atomics International was chosen because the company had done the preliminary design work for the steam generator to be used, said the spokesman for the reactor project. Despite the larger price, "the conclusion was that Atomics International gave us the highest probability for technical success," the spokesman said.

The congressional investigators aren't satisfied with that explanation. They asked for records of the award decision earlier this month but neither the project office in Tennessee nor the Energy Department in Washington was able to find them. Yesterday, an Energy Department spokesman said the documents were finally located and were being sent to investigators.

Last year, after scheduling delays and major design and fabrication problems on the steam generators, the contract was renegotiated. The new contract required Atomics International to deliver only two steam generators, rather than 11, at a cost of $143 million, compared with $26 million initially. The change was made, the reactor project spokesman said, to "give us more flexibility" in supplying the other steam generators. He says the change doesn't mean that Atomics International failed to meet the first contract. Atomics International defers comment on the new contract to project officials.

Whether the Atomics International contract is an isolated case is also a point of contention. The reactor project spokesman says contracts for 13 other major components valued at about $93 million were delivered at 1.6 percent above their original cost estimates.

Mr. Dingell's investigators respond they have only started looking into other contracts, but already have found indications of further cost control problems. About 9,700 contracts, subcontracts and work orders have been issued by the project to date.

The congressional investigators may soon have company. Ben Rusche, special assistant to Energy Secretary James Edwards says that while strongly supporting the Clinch River breeder, the Energy Depart-

ment hopes to start its own "detailed review" after the Congressional budget battle to see if there are "areas that can be improved" in the management of the project.

Mr. REGULA. Mr. Chairman, I yield 6 minutes to the distinguished ranking minority member of the Committee on Ways and Means, the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. Mr. Chairman, my colleagues, I must say that it is fascinating to hear the complaints about the explanations and time factors involved in the Gramm-Latta bill. I have in my hand the 1978 tax bill which was worked on all night long and brought in in a box at 8:30 on the morning of October 14. This bill was passed an hour later. There was a great deal of concern about understanding the provisions of this bill at that time.

I happen to remember the 1976 Tax Act, another complicated act of considerable dimension and considerable detail, which was brought in shortly before Christmas Eve under the same sort of circumstances.

The fact is, Mr. Chairman, that we have a new, if somewhat uncertain, minority in this House. It is a minority only on the floor of the House. Unfortunately, it still has majority staff under its control. It controls the officers of the House. It controls the Rules Committee and the Ways and Means Committee absolutely, and by a wide margin. Our obligation as part of the nominal minority on our side is to be responsive. You control the process; you set the legislative context.

If we have not had time to be responsive to the myriad detail in your proposal, and may I say the Rules Committee has one of the most remarkable rules I have ever seen—you set the timing for this. We have had to struggle against time and detail or, in the alternative, accept what we thought were views unacceptable to the majority of the floor of the House.

Now, Mr. Chairman, if I may say so, we had better consider in this Congress from now on whether we want to write our legislation on the floor, because our committees are not representative of the power realities in the House, or not. I will tell you, it is a terrible way to legislate. I agree that this has been a terrible way to legislate today, but we have had no alternative unless we were willing to lie down and be rolled over by the juggernaut controlled by the floor minority.

The only real question before us today is, are we going to cut the budget as the floor majority of this House directed that it should be cut, or are we going to back up and take out the back door all the things we brought in through the front door in the original Gramm-Latta proposal?

I have listened very carefully this afternoon, and I must say that I do not believe anybody has been particularly interested in learning what is in the Gramm-Latta proposal. Instead, the effort has been to embarrass, to confuse, and to try to raise issues other than the issue before us, which is to what extent are we going to cut the budget.

I will not yield to anyone on that side. During the time that you people had the Ways and Means Committee majority explaining your position, you yielded to nobody on our side. We have considerably less time than you did.

There happen to be a number of interesting provisions in this Gramm-Latta amendment. You have spent your entire time talking about the social security minimum benefit cutbacks. Do you know what the alternative is? I must say that Ronald Reagan wants this but our people were not willing to vote for this: Are you willing to vote to postpone the cost-of-living from July 1 to October 1, 1982? That is the alternative in the committee bill.

Do you know that the minimum benefit and the student benefits are being phased down in any event, and all we are doing is speeding it up? No, apparently not, but the only thing you want to talk about is the politics of that particular issue.

Let me explain, there are a number of other things in Gramm-Latta besides this that are significant too. If we do not have time to explain them, do not blame us. We are doing the best we can in the context you have set for us. But you have to be really interested, rather than waiting to engage in political rhetoric.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate my colleague yielding. I would also like to call to the attention of this fine body a bill that was brought in here by the Banking Committee in 1978 under a suspension of the rules. We had not seen the bill. It is true that four parts of it had been passed by the Banking Committee. On 22 titles, nobody had ever seen them. Do not give me that garbage that you bring bills to this floor only under fairness.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman, because I think we need some clarification about the minimum benefit as well.

Is it not true that the GAO has shown that over 450,000 minimum benefit recipients are double dippers whose Federal pensions average over $900 a month? Is that not the case, I would say to the gentleman?

Ms. OAKAR. Will the gentleman yield on that point?

The CHAIRMAN. The gentleman from New York has 1½ minutes remaining.

Mr. CONABLE. I will not yield. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding. Is it not true that the GAO has shown that 450,000 minimum benefit recipients receive Federal pensions average over $900 a month? In fact, that they are some of the biggest double dippers?

Mr. CONABLE. They receive other pensions. I do not believe that number is all Federal pensions.

Ms. OAKAR. Will the gentleman yield to me on that point? I know what the GAO report says.

Mr. CONABLE. I must say, though, Mr. Chairman, the minimum benefit includes a very substantial number of people who will not have their total benefits reduced by the phasedown. There are 33 percent who are entitled to higher benefits as spouses of insured workers, for example, and they will receive those higher benefits. That amounts to about 990,000 of the 3 million; on the minimum 17 percent are receiving supplemental security income payments now; 3 percent will become newly eligible for SSI; 7 percent are receiving benefits based on their own earnings and those benefits are equal; and 17 percent are eligible for SSI and have not applied for SSI benefits. The figure that the gentleman used is approximately correct; 360,000, or 12 percent, are receiving annuities of governmental units, Federal, State, or local.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. REGULA. Mr. Chairman, I yield 2 additional minutes to the gentleman from New York.

Mr. THOMAS. Mr. Chairman, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from California.

Mr. THOMAS. I thank the gentleman for yielding. In terms of the gentleman's comments about the conditions under which we operate, who is responsible for making sure that this legislation was being heard just before the July Fourth recess?

Mr. CONABLE. Well, I do not believe the Republicans control the timing on any of this.

Mr. THOMAS. Who is responsible for making sure that the rule under which we attempted to operate was presented only 15 hours before we were to handle this complicated legislation?

Mr. CONABLE. I assume that was part of the strategy of the Democratic-controlled Rules Committee.

Mr. THOMAS. It would seem that the leadership is hoisted on its own petard.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield further?

Mr. CONABLE. I yield.

Mr. ROUSSELOT. Is it not true that the Social Security Subcommittee has already voted to start phasing out minimum benefit starting in January 1982?

Mr. CONABLE. That is correct.

Mr. ROUSSELOT. So that is already before the committee and already starting.

Mr. PICKLE. Mr. Chairman, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Texas for 30 seconds.

Mr. PICKLE. Mr. Chairman, I thank the gentleman for yielding. It is true that our subcommittee has agreed to phase out minimum benefits prospectively, so we have taken that action.

Mr. CONABLE. The minimum benefit has also been frozen as of December 1977. It will not be increased in any way following the 1977 legislation.

Mr. PICKLE. The reason I wanted to take this time is this: We have made some good strides in our Social Security Subcommittee, and it has been on a bipartisan basis. I do not think the gentleman from California, the gentleman from New York and others want to see this aspect of the Gramm-Latta changed.

Mr. CONABLE. If I may reclaim my time, I deeply regret that the majority chose to discuss only that for political reasons rather than discussing the other interesting and important decisions that were included in the Gramm-Latta bill.

Mr. PICKLE. The reason I wanted to ask is that I hope we keep this on a bipartisan basis.

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Mr. JONES of Oklahoma. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I think it is important that we try to lower the temperature a little bit in this debate and try to stick to the facts as best we can determine them.

I think it is also important to point out why we are here today in this particular process. This is something that I tried to discuss in the debate on the rule. The fact of the matter is that we are here today because the minority wanted to have one vote on one package and defeated the rule, and that gave us the process we are in today.

I hope that we do not make another mistake, for whatever reason, whether it is the pressure of the President saying, "Don't delay" or whether it is the pressure of trying to avoid certain votes. Whatever it may be, I hope that we do not get into this kind of process again.

I said very sincerely that it is shameful the way we are proceeding. It is shameful, and it violates the legislative process and the principles of a legislative government. So I hope that we do not have this kind of process again.

Mr. Chairman, I yield 30 seconds to the gentleman from Pennsylvania (Mr. BAILEY).

Mr. BAILEY of Pennsylvania. Mr. Chairman, I thank the chairman of the Budget Committee for yielding me this time, and I would like to make one personal reflection.

No one has more respect or more affection for the gentleman from New York (Mr. CONABLE) than I. I just sincerely wish that he had in fact participated in the writing of the tax package that the administration introduced.

Mr. JONES of Oklahoma. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Chairman, I think it is critically important to the future operation of this House that we understand the real reason why we are in this mess today. We are in this mess today because we adopted Gramm-Latta a little over a month ago, and that amendment required that we go beyond the traditional use of the reconciliation process to amend basic law on item after item. That is the reason for the chaos here today.

The second point I would make is that it was a fellow by the name of Reagan who said yesterday in California that there was no reason to delay this vote beyond today.

Mr. JONES of Oklahoma. Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey (Mr. HOWARD), the distinguished chairman of the Committee on Public Works and Transportation.

Mr. HOWARD. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, in 1960, the Committee on Public Works and Transportation developed the Economic Development Act and the Economic Development Administration. This program down through the years has done a great deal of good for many individuals and communities throughout this country.

I notice that we do have a conflict in the Gramm-Latta bill, and I would like to get that resolved, because although the public works section keeps economic development alive in the banking section, it provides for economic development-type projects to be put under the UDAG umbrella or the community development umbrella.

I think that is an outrage, and it is an insult to all members of the Committee on Public Works and Transportation, both Republicans and Democrats, in this bill, a reconciliation bill, to attempt to take jurisdiction that has been with one committee and move it to another committee.

So I would like to ask the gentleman from Texas (Mr. GRAMM), the gentleman from Ohio (Mr. LATTA), or some other Member, this question: "Now that you have this conflict and the possibility of taking jurisdiction away from our committee, with the conflict in your bill, when we go to conference, what are you going to do, and what side will you be on? And, specifically, what do you intend to do with the language in the banking provisions?"

I ask that because I will not be able to be a conferee on economic development in the banking part of the conference.

Apparently no one wants the ball.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. HOWARD. I would be happy to yield to the gentleman from Minnesota, but I do want, on my time, to find out what they intend to do in the conference on this conflict and whether or not they meant to take jurisdiction from our committee and give it to another committee.

Mr. OBERSTAR. Mr. Chairman, the gentleman is absolutely right.

I asked this question on the House floor last night. We are dealing with the bill that had not been written, that was over at the printer's, and that was being changed until midnight and is still being changed. We do not know what is in this bill.

Mr. HOWARD. Mr. Chairman, I say to the gentleman that I have support on the Public Works Committee for this.

Mr. OBERSTAR. We should have bipartisan support on this.

Mr. HOWARD. Now, I cannot see how this is at all fair, and I would welcome an answer.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. HOWARD. I yield to my colleague, the gentleman from California.

Mr. CLAUSEN. Mr. Chairman, as the gentleman knows, that which is contained in the Public Works version as it cleared our committee is not in dispute in the Gramm-Latta amendment.

Mr. HOWARD. No, the Public Works section. Absolutely.

Mr. CLAUSEN. Correct. There is no dispute there.

It is my understanding the version the gentleman is referring to in the Banking and Currency Committee title is in addition to that which we have in our own Public Works Committee, the version which will be in conference.

Mr. HOWARD. We would eliminate the Economic Development Act from the Public Works Committee and have that type of program taken over by the Banking Committee. It is a conflict. You must have it one way or the other. We cannot have both, and I want to know which committee will be represented when we go to conference.

Mr. CLAUSEN. Mr. Chairman, I have been advised by staff, if the gentleman will yield, that the authority for UDAG has been in the law since 1974 and further I do not agree that the Economic Development Committee jurisdiction should or would be taken over by the Banking and Currency Committee.

Chairman HOWARD, as you have expressed your concerns earlier in the debate, I am sure we can mutually agree that it is appropriate to note that the Public Works and Transportation Committee has great expertise in and jurisdiction over economic development matters, especially as they relate to economic development in rural areas. Therefore, given our extensive background and experience in this particular area of jurisdiction, we on the Public Works and Transportation Committee look forward to working with the Banking, Finance and Urban Affairs Committee on these important matters of interest to both committees. But, we will work shoulder to shoulder to protect and retain our committee's jurisdiction over economic development programs.

This is especially crucial since our committee's broad jurisdiction over infrastructure improvements deals with highways, waterways, airports, wastewater treatment programs, and other areas. That jurisdiction allows us to play a unique role in coordinating and integrating these programs with economic development activities, especially on a statewide basis and hopefully, in an orderly and coordinated approach.

Mr. HOWARD. Mr. Chairman, I would be amazed, unless we get a better answer, if any Republican on the Public Works and Transportation Committee votes for Gramm-Latta.

Mr. REGULA. Mr. Chairman, I yield 30 seconds to the gentleman from California (Mr. PASHAYAN).

Mr. PASHAYAN. Mr. Chairman, I thank the gentleman for yielding this time to me.

I should just like to say that title XVI prohibits the States from discontinuing or drastically cutting programs or entities in the dead of night. Title XVI is a sunlight provision, and it provides that any discontinuance or change in program's entity must be done only after full public disclosure and publication of why the State is doing that.

This applies to all block grants across the board, and surely this should accord some considerable degree of protection to the recipients and the people involved so that they have a standard that a dialog can take place on the State and local levels within their jurisdictions.

Mr. REGULA. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. FISH).

Mr. FISH. Mr. Chairman, as ranking minority member of the Energy Applications Development Subcommittee, I rise in support of the Latta substitute to title XII of the Omnibus Reconciliation Act, authorizing appropriations for the Department of Energy for fiscal year 1982, but in opposition to continued funding for the Clinch River breeder reactor project as provided in the substitute. My feeling is that we should support the decision of the Committee on Science and Technoloy to deauthorize the Clinch River breeder reactor project and to proceed with the orderly termination of this project. I believe that if we should decide to spend the amount of money authorized for this project, it would be far more beneficial to our Nation to invest this money in the development of other alternative energy resources. This action was followed by the Science Committee in redistributing an appropriate amount of funding among the various other energy programs in light of its decision to deauthorize the Clinch River project.

BACKGROUND

Budgetary pressures have presented the Science and Technology Committee this fiscal year with its hardest choices in the history of its energy jurisdiction. The recent increases in inflation and our overall economic situation have made it painfully aware to us that our Nation is in the midst of the most severe and deep economic troubles since the days of the Depression. While recognizing that an effective energy research and development program is in our best national interests, I believe that it is obvious that drastic action is necessary to get the economy back under control. This action must include reductions in Federal spending, and every agency and every program will have to take its fair share of cuts no matter how attractive the individual activities sound on their own merits.

In light of these concerns, I support the Latta substitute recommendation to authorize funding for the Department of Energy's research and development programs for fiscal year 1982 consistent with the overall budget levels recommended by the President. This is not to say that I support the exact dollar amounts requested by the President for all of the specific Department programs. In fact, based on our review of program priorities, this substitute has authorized program funding which calls for a more balanced effort among the Department of Energy's activities for fiscal year 1982, still keeping within the President's budget guidelines. This substitute has restructured the President's proposed budget to conform with out past Science Committee philosophy, and continued efforts called for under the many fine statutes which we have authored. In several instances, this proposal has redirected funds to finish programs where Federal investment costs are substantial and continued funding at modest levels will allow our Nation to tap the potential of promising new energy technologies. Overall, the substitute has authorized a total of $3.92 billion for energy research and development for fiscal year 1982, a decrease of $3.1 million from the administration's budget request in this area.

Within our budget constraints, the proposal structures an energy program mindful of the nature and extent of the energy problems facing our Nation today. Our inability and unwillingness to face the energy issues squarely and to take drastic action in the last 7 years has had many serious repercussions. The energy crisis has drained the financial strength of our country and now seriously threatens our national security. While I have been pleased with several recent encouraging events in our energy situation, I am aware of serious energy problems that we will eventually face in the future when the world runs out of out limited supplies of oil.

These future events make it imperative that we press forward with the development of our domestic, inexhaustible energy resources: Solar, fossil, fusion, and as a last resort, fission. We must now take advantage of the potential billions of barrels of oil shale, tar sands, and heavy oil deposits, and the vast abundance of coal reserves which lie in our country. The question has become not whether we will need to develop our alternative energy resources, but instead, when will they be needed. If they are not developed in a timely fashion, I am afraid that our Nation may suffer a severe economic and political crisis by late 1980's and early 1990's.

I have been encouraged with the recent attention given to a national goal of deriving 20 percent of the Nation's energy needs from the Sun by the year 2000. Moreover, I have urged the new administration to commit our Nation to the development of our solar resources at a funding level and during time frames which parallel the historical attention which has been heaped on the nuclear industry. Solar energy offers us a virtually inexhaustible energy source that can be developed in a manner consistent with our environmental goals. In fact, it might just be the deciding factor in whether we can truly ever become energy independent.

In the near term, we have now recognized that conservation offers us the potential to reduce our vulnerability to uncertain foreign oil supplies, and to help us meet our future energy demands. The myth that energy conservation may lead to a reduced standard of living and unemployment must

be laid to rest. Many reports including the Harvard Business School study, Energy Future, have clearly pointed out the numerous benefits that could be obtained from additional conservation measures. I am hopeful that the bill before us now will help our Nation accelerate the development of more energy-efficient technologies that will allow us to take advantage of these benefits.

It is against this background that we must consider this substitute proposal incorporating with some modifications H.R. 3146 and H.R. 3447, the legislation which authorizes funding for the Department of Energy's research and development programs for fiscal year 1982. This legislation contains many essential elements that must be passed if we are to ever become energy independent. After much effort and careful review of the administration's request, this proposal will give our energy programs needed momentum and direction, taking into account the critical need to maintain control over Federal spending.

I am pleased to see that this proposal is reporting a bill which continues strong support for nonnuclear research and development. I wholeheartedly support this trend. Our past governmental policies have made it much more difficult for solar and renewable resource technologies to compete. I am hopeful that this trend of enhanced funding of solar energy and other alternative technologies will help these technologies become competitive with nuclear fission technologies, and allow us to reap the enormous benefits which they have to offer.

Before discussing the specifics of the bill, I would like to compliment the distinguished chairman of our committee, and also, the Subcommittee on Energy Development and Applications, the gentleman from Florida (Mr. FUQUA), and the ranking minority member of our committee, the gentleman from Kansas (Mr. WINN), for their fine leadership in structuring this proposal. They have worked many long and hard hours on this bill, and they should be commended for their efforts. As a result of their hard work, I am confident that we have structured a well-balanced, fiscally responsible program that will allow us to effectively accelerate the development of our energy resources.

SOLAR, FOSSIL GEOTHERMAL, AND CONSERVATION PROGRAMS

As to the specific features of the proposal, the legislation has added over $106.75 million for the solar research and development programs, for a total authorized funding level of $300.05 million.

This includes significant increases in the solar photovoltaics, wind, and ocean thermal programs, as well as adds in various other solar programs such as passive and hybrid systems and solar thermal technologies. These changes will help the Department of energy have a more balanced and effective solar program, both for dispersed and central applications.

In biomass, this bill has authorized $27.5 million for the fuels from the biomass program. Of this amount, $8 million is devoted specifically to alcohol fuels activities. These fuels show much promise for providing a portion of our energy needs in the transportation sector. With these funds, I hope that the Department of Energy will place needed emphasis on the development of advanced processes which can utilize a wide range of feedstocks such as cellulosic wastes and residues to produce alcohol fuels.

In the fossil program, this legislation authorizes over $446 million for fossil energy research and development activities, an increase of $11.06 million over the administration's budget request. These activities will focus on acquiring the technology base necessary for industry to develop and demonstrate hardware without the need for substantial Federal Government assistance.

In this program, this proposal has selectively increased, decreased, and redirected various elements in order to acclerate the domestic production of coal, gas, and oil and to permit these resources to be used in an economically viable and environmentally acceptable manner. Some of the fossil areas impacted by our actions include coal mining and preparation research and development, coal liquefaction, surface coal gasification, advanced research and technology development, combustion systems, fuel cells, oil shale, and enhanced gas recovery.

The Science Committee has spent a great deal of time in considering the administration's request in the fossil area. Along with the other members of our committee, I have strongly pushed for an aggressive synthetic fuels program that can help our Nation reduce its reliance on foreign oil supplies. In accordance with the administration's proposal, the committee however has authorized no additional funds for the five synthetic fuels demonstration projects. This action was based on our belief that the demonstration and commercialization of fossil technology should be the responsibility of industry with the assistance of the Synthetic Fuels Corporation. These recommendations are included in the legislation now before us. Although fiscal constraint is absolutely necessary, the committee did suggest that the Appropriations Committee consider alternative methods to continue the SRC-I demonstration project within the limits of the President's budget. Additional funding was authorized, though, for the operation of the H-coal pilot project in Catlettsburg, Ky. ($30 million), and the Exxon donor solvent pilot plant ($30 million) in Baytown, Tex.

Turning to the geothermal area, this legislation recommends over $50.5 million for the geothermal program for fiscal year 1982, an increase of $2 million over the administration's budget request. This program emphasizes the long-term, high-risk research and development activities which the private sector is unwilling to undertake at the present time. Of particular importance is the recommendation to provide $8 million for the second 50 megawatt geothermal demonstration project in Heber, Calif. This project is necessary in order to stimulate the development of moderate temperature (150–200°C) hydrothermal resources which comprise nearly 80 percent of the geothermal resources suitable for electric power production. A GAO report issued just this week strongly suggests that this project can play a major role in helping our Nation accelerate the development of our geothermal resources.

In the conservation area, this legislation authorizes a total of $156.4 million, a dramatic increase of approximately $70.4 million over the administration's budget request. As I stated earlier, our Nation has much to gain from accelerated conservation measures and these increases will help us to sooner reap these benefits. Of particular importance are the industrial and transportation programs, which offer great potential for reducing energy use in these sectors. These two sectors combined consume close to 62 percent of all the energy consumed in our country today. The Science Committee has heard a great deal of testimony about the promising industrial activities, especially in waste energy reduction and industrial cogeneration. In addition, the committee has also heard over and over again that the automobile industry lacks the capital to pursue promising new technology developments in the gas turbine and Stirling engines.

OTHER ENERGY PROGRAMS

This legislation authorizes many other energy programs which I believe are of particular significance. For fiscal year 1982, this legislation authorizes close to $310 million for the basic energy research programs and over $561 million for general science and research activities. These programs provide the basic research for our energy programs, as well as the research to allow us to learn about the fundamental laws of the physical world. In addition, the proposal authorizes $3 million for the small-scale hydropower program to continue research and development activities in this area.

CLINCH RIVER

Mr. Chairman, I would like to go on record as opposing funding for the

Clinch River breeder reactor project and supporting the Science Committee's decision to deauthorize this project. Frankly, I just do not think that our Nation can afford the costs of this project anymore.

As my colleagues are fully aware, we have visited the Clinch River breeder reactor issue many times in the past. The pros and cons are well known. The proliferation risks, enormous costs, environmental concerns, and safety problems with this project have been outlined in detail. Much time has been spent on discussing the menace of huge stockpiles of plutonium created by the development of a breeder reactor. Before we build a breeder, substantially more research is needed to comprehend, evaluate, and control the safety risks that will accompany the use of this technology.

I believe that the administration was in error in including funding for the Clinch River project in its budget request for fiscal year 1982. In formulating this request, the administration has stressed the importance of coordinating its energy policy with the dynamics of the marketplace. I believe that this project is incompatible with this energy policy.

In this regard, I would just like to quote from a paper prepared by the current Director of OMB, Mr. David Stockman, who concluded that—

> After a careful, indepth review of the economics of the (Clinch River) project, I have come to the conclusion that it is totally incompatible with our free market approach to energy policy.

Mr. Stockman made this statement back in 1977, and I believe that these comments are even more true today. I think that we can say here today that Mr. Stockman would agree that Clinch River does not meet the criteria which he has set for Federal funding and therefore should not be funded.

Mr. Chairman, one of the key reasons for the Clinch River project in the past has been our need to satisfy projected large increases in electric power demand during the next three decades. Under this scenario, breeders would be essential to help us meet our growing electrical power needs. Yet, we have all recently heard from many experts that these projected increases will probably not occur. From 7.8 percent in early 1970, the current rate is 2-3 percent. Recent estimates indicate that electric demand in the 1980's will probably grow at only half the rate of the 1970's.

Another claimed need for Clinch River is our diminishing supply of uranium. Utilities, however, have encountered numerous licensing difficulties for new nuclear plants, causing the cancellation of many of these plants, and corresponding less use of uranium. Preliminary reports from the NURE program have indicated that we have more uranium than we originally thought. Thus, the original breeder demonstration schedule no longer makes economic or technical sense. As a result, I believe that we should now reexamine the Clinch River program before we further invest in it.

I urge my fellow colleagues to recognize the economic realities of our present situation. There is no doubt that we will have to devote a great deal more money to Clinch River in future years if we go ahead with this project. Funding problems in these years will certainly be even more serious, as the administration tries to balance our budget in 1983 and 1984 with more difficult cuts. The estimated costs of the Clinch River project have increased more than sevenfold, from an original estimate in 1969 of $400 million to today's estimate of over $3 billion. Unfortunately, there is no guarantee that these exorbitant costs will not continue to escalate. In fact, an economic study considered in detail during hearings before the Science Committee suggested that the original estimates of the costs of new energy plants have been consistently underestimated, and that it would be very reasonable to conclude that the actual costs of demonstration projects such as Clinch River would probably be significantly higher if the project were carried to completion.

Furthermore, it is unreasonable for the Federal Government to be responsible for all of these increasing costs. According to recent estimates, the utility and industry share of today's costs for Clinch River have dwindled from 50 percent to about 9 percent of total costs. This is in my opinion not a wise course to follow.

We have heard in the past that the technology which Clinch River will demonstrate is outdated. At this stage of breeder development, the base breeder program that the administration has proposed, and for which $361 million has been authorized by the Science Committee, will provide for a strong breeder program which will, in fact, enhance the program by calling for a more rational design. This is the way to go. We have the time. Given our serious funding problems, I believe that there are certainly much better ways to spend the money authorized for Clinch River than on the controversial type of breeder design that it would now demonstrate. In my opinion, it certainly would be better to go forward with research and development activities in all of the breeder technologies at this time.

After close to 10 years, ground has not been broken on this project, and clearly we have passed the time when Clinch River can serve our interests. In the 10 years since Clinch River was first authorized, we have gone forward with a strong base breeder program, and a conceptual design study for a large development plant has just been released.

Mr. Chairman, it is time for us to put aside projects that only have symbolic meaning. We cannot afford to devote our limited taxpayers' moneys to the demonstrations of technologies that have limited merits. If there is to be budget austerity, let it be across the board. We must expect concessions from all energy technologies and nuclear cannot be an exception. I urge my fellow colleagues to face the energy future and stop living in the past.

Mr. REGULA. Mr. Chairman, I reserve the balance of my time.

Mr. JONES of Oklahoma. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan (Mr. ALBOSTA).

Mr. ALBOSTA. Mr. Chairman, I supported Gramm-Latta I during the consideration of the first budget resolution because my constituents and I felt that President Reagan had presented the country and this Congress with an economic program that had a real chance of rebuilding the U.S. economy. From my traveling throughout the 10th Congressional District, and from the volume of mail and telephone calls received in my offices, I was convinced that an overwhelming majority of my constituents supported at least giving the President's plan a try, even though it means cutting Government programs that affect them. To carry out the will of my constituency, I voted for Gramm-Latta, even though it meant crossing the path of my own political party.

Before us today is an amendment to the Omnibus Reconciliation Act, which supposedly implements Gramm-Latta. I say supposedly because I only received a copy of this massive amendment which exceeds 700 pages, 3 hours ago. While I pride myself on an ability to grasp issues quickly, there is no way I, or my staff, would have the time in 3 short hours to read and analyze this document to make an objective voting decision.

I want to support the President in his struggle to strengthen our economy. My constituents support the President, and they want me to support him in this hour of need. However, I do not believe my constituents want me to support a bill that was not made available to me for a thorough review prior to voting. I owe it to the almost 600,000 people I represent to become fully aware of every issue I vote on. The way this amendment was written, in late hour sessions last night; and the way it was distributed, during the actual debate on the amendment, forces me to take the floor today to urge my friends on the other side of the aisle to consider postponing the vote on this matter until all Members have had a chance to

review this document and discuss the merits of it with their constituents during next week's recess. I dare say, since this bill was not ready until late last night for the printer, even President Reagan, who has been in California for 2 days, has not even had a chance to read it.

Unless the vote is postponed, and I am allowed to review this bill which differs substantially from the President's original program, I feel compelled to vote "no" on passage of this pending amendment. I cannot with clear conscience vote on such a major piece of legislation virtually sight unseen.

Mr. JONES of Oklahoma. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Illinois (Mrs. COLLINS).

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in opposition to the Gramm-Latta substitute.

Yesterday the House, without my support, voted to defeat the previous question. As a result, we will today vote on the entire reconciliation bill in a single stroke. Debate has been prevented on major elements of this package that affect the lives of every American.

In one stroke, this House has refused to permit debate over proposed social security amendments.

In one stroke, we have refused to debate the merits of funding for the blind, the aged, the disabled.

In one stroke, we have refused to so much as discuss the needs for continued student loan assistance.

In one stroke, we have refused to even talk about feeding the hungry and the malnourished.

In one stroke, we have refused to discuss cost-of-living increases for retirees, living on fixed incomes at a time of galloping inflation ad infinitum.

In short, Mr. Chairman, in one stroke we have moved a step closer toward effectively strangling survival services for those who need them.

Now, I am saddened by this because I see an America which is today in a state of disarray created by the Reagan mentality that is infesting everything in its path and leaving in its wake deep sores that will transform currently struggling communities into mere pockets of pus.

Therefore, I urge my colleagues to vote against the Gramm-Latta substitute.

● Mr. GINGRICH. Mr. Chairman, we have heard a lot today about rushing to legislate, hasty debate, inadequate time to study issues, yet the very persons who are complaining loudly set the scene on the assumption that they would win yesterday's votes, run their bill through and then recess for the July Fourth period.

This is an old habit and newcomers should not be deceived by today's pious complaints from Speaker O'NEILL and his liberal allies. For example:

October 13, 14, 15, 1978, the House met for a marathon 3-day session without stop. After an all-night session a conference report was brought to the floor at 8:30 in the morning made up of 600 or 700 mimeographed pages of highly technical tax language. There were at most four copies at the desk and within an hour the Members were hammered into passing Public Law 95-600—183 finely printed pages. Copies of the printed law and an historical exhibit, the original mimeographed unbounded, rubberband gathered version are available for viewing at the Republican desk.

TIP O'NEILL and his liberal leadership deliberately designed a schedule to block the President's program.

First. It was the O'NEILL leadership which set up a schedule designed to make us vote for Jones budget immediately prior to a recess. Remember the long weeks without a serious vote. It is the very people now complaining who designed the schedule to suit their purposes. They are outraged because they lost in their scheme to force the rest of us to vote out their budget at the last minute, now that it is our budget they are complaining about the consequences of their own schedule. If they were sincere about taking more time the Speaker or his associates could have proposed waiting until Saturday. They have an excuse to complain, not a serious grievance.

Second. The Rules Committee chaired by Mr. BOLLING followed a deliberate strategy of waiting until the last second to pass out a rule designed to destroy the Reagan program. Mr. BOLLING recessed the committee in the afternoon and postponed consideration of the rule until 7 p.m. the evening before the vote in the House. Think of it, only 15 hours before a vital House vote the liberals on the Rules Committee deliberately waited until the last possible minute to minimize the minority's chance to react.

Third. Some members of the Democratic study group apparently violated House rules, intercepted the Latta-Gramm substitute, delayed its getting to the printers, apparently inadvertently reassembled the pages out of order, creating the incorrect paging sequence, helping thereby to provide their own leadership with a debate topic which its members had created.

The heirs of FDR now sound like conservative Republicans in the 1930's arguing against the New Deal. Go slow, watch out for detail, be careful of gambles, distrust the White House.

Today the American people want a change—Gramm-Latta offers that change. Technical problems can be resolved in conference. House Members can still study Gramm-Latta and work with conference members.

If you want politics as usual, maneuvers as usual, schedules designed for confusion and deception, vote with TIP O'NEILL and the people who set up this schedule and designed this confusion for their purposes.

If you want to fight inflation, cut Federal spending, move to a block grant system, weaken the Federal bureaucracy and revitalize our economy, vote for Gramm-Latta.●

● Mr. LEE. Mr. Speaker, colleagues, I am absolutely delighted that this House has allowed for a full-package vote on the Gramm-Latta reconciliation substitute, providing this Chamber of Congress with an unprecedented opportunity to demonstrate that Government spending reductions are more than simple, politically palatable rhetoric.

There is virtually no one in this House who is not keenly aware of the most basic fact of life about Federal budgets—that unless we begin earnestly reducing the costs of entitlement programs, there will be no hope of balancing our budget. This reconciliation package addresses that need. The Gramm-Latta substitute holds $18.5 billion more in entitlement savings than does its counterpart offered by the committee. And, in a longer term view, this package leads us on a path of much larger entitlement savings: $97 billion during the periods of fiscal years 1982 through 1984.

At the end of the road, colleagues, the balanced budget is our ultimate goal. That goal is no longer unrealistic with the Gramm-Latta package available. I urge that you join me in voting for an achievable reduction in this Government's appetite for overindulgence, in voting with me for the Gramm-Latta substitute reconciliation amendment.●

● Mr. BIAGGI. Mr. Chairman, I rise in strong opposition of and even deep resentment to the pending substitute to the Budget reconciliation bill of 1981. My opposition stems from my disagreement with the figures and assumptions in the package. My resentment stems from the method under which we are being forced to consider this legislation.

It is impossible for me to identify any one negative feature of this proposal over any other. So I will simply discuss those provisions that I feel most strongly about.

As an original member of the House Select Committee on Aging I am vehemently opposed to the substitute's slashing of vital social security benefits for the truly needy. Under this substitute, about 3 million elderly persons would have their social security benefits reduced in April 1982, by virtue of the elimination of the minimum benefit payment. While some of these individuals will be eligible for SSI—there will a considerable number

who will lose upward of $800 a year. Let us not forget that social security is the sole source of income for some 7 million senior citizens and the major income source for another 15 million. A recommendation such as eliminating the minimum benefit accelerates the cycle of poverty among our aged—who in fact are the fastest growing poor group in our Nation.

In the area of the Aid to Families with Dependent Children—the substitute proposes to cut approximately $450 million from the program and will harshly penalize working poor families by reducing the percentage of earned income that beneficiaries can keep from 50 to 20 percent. This seems contradictory in a time when we are giving new thoughts to programs like workfare. This proposal may lead to welfare recipients quitting their jobs, thus adding to the overall cost of welfare.

The Gramm-Latta substitute proposes major new revisions in the food stamp program. The substitute will achieve a savings of $1.45 billion as well as impose a cap of $10.85 billion. This will lead to a further reduction in benefits for current recipients. Eligibility would now be set at a level of 130 percent of the poverty level or about, $11,000 for a family of four—down from approximately $14,000. At least the Senate-passed proposal had the compassion to exempt the elderly from this requirement—but we unfortunately have not done so. The food stamp program needed some major reforms, not extensive surgery.

The cuts proposed in the substitute in the area of housing are extensive and cruel. Consider that the substitute will reduce even further the scaled-down number of housing units from a lean 176,000 to a skeletal 158,000. In addition, the Gramm-Latta proposal will increase tenant contributions for rent from 25 to 30 percent of adjusted income giving the Secretary of HUD unprecedented new powers to determine what adjustments to income would be allowed. Approximately 10 million persons will be affected by this increase. Further, 40 percent of public housing residents are elderly families whose mean adjusted income in 1979 was $3,510. It is figured that this increase will result in the average older person facing an increase in rent of $202 a year. You combine this with other benefit reductions—this substitute may drive more older people than ever before into poverty.

I wish to register my strong objection to the provision which would restrict cost-of-living increases for retired civilian Ferderal employees to once a year as compared to the current twice a year arrangement. The presumption here is these twice annual adjustments are no longer necessary. Why I might ask—did inflation suddenly go away? To the contrary, it remains a major element in the economic misfortunes of many Americans. Twice-a-year COLA's at least provided some insulation to the ravages of inflation but not entirely. Even with semiannual COLA's, an annuity loses 2.73 percent of its original purchasing power during a year when the cost-of-living increases 12 percent, which it has over the past several years.

Let me reserve my strongest feelings about that which many people consider to be the centerpiece of the substitute—the establishment of at least two and possibly five new "block grant" programs. The one which we seem to know the most about is the social service block grant. Here we have wide variety of previously categorical programs including Child Abuse Prevention, Runaway and Homeless Youth Act—and the Community Services Administration being blended in hocuspocus fashion into a single block grant.

Abdication is dangerous in any line of work—and in the case of these block grants we in the Congress are abdicating too much to the States with these block grants. Under the plan as it has been devised—States would receive several lump-sum payments for social services, or health services, or education and then they would distribute them pretty much as they see fit. There is no guarantee that the areas which were once regularly funded by a categorical grant would in fact be continued with a block grant. Using more blunt language, these block grant proposals may be nothing more than a deliberate attempt to kill vital social programs.

In addition to the control issue—there is something even more repugnant about the block grant proposal—it will reduce overall funding by some 25 percent in the aggregate. This will result in new levels of fierce competition between groups for a more limited dollar. Who wins or better put—who loses? As we vote for this: Do we know the disposition of the 50 different States about given program areas? Are some States antichildren, others antielderly? If you are in one of the disenfranchised groups, what recourse do you have?

Further in discussion about the block grant—let us look to history—many of these block grants were created because State governments failed to respond to the ends of people. Have these States become more enlightened today? Has there been that much of a metamorphosis?

Let me illustrate a genuine fear that I have about these block grants. Age discrimination is an insidious problem in this Nation and one of the areas where it is practiced the most are in federally funded programs. When the Civil Rights Commission identified 10 major Federal programs where age discrimination was rampant, Congress responded with the enactment of the age discimination amendments. What recourse will we have if age discrimination is practiced in the administration of these grants on the State level?

The provisions that are under title V—the Education and Labor Committee section—of the Gramm-Latta substitute are significant in several respects. I must state at the outset that I am opposed to these provisions not just on substance, but also on the basis that we have not given these provisions full and careful scrutiny.

For student financial assistance, funding for Pell grants—formerly basic grants—is reduced from $200 to $400 million over fiscal years 1982, 1983, and 1984. For every $100 million reduction in grant funds, approximately 100,000 students are eliminated—which results in 200,000 to 400,000 students having their Pell grants eliminated or substantially reduced under this amendment. The provisions for the guaranteed student loan program also result in a substantial reduction in benefits as the Secretary of Education is authorized, for both these programs, to determine the needs analysis method. The end result of this is substantial power rests in the hands of the Secretary in determining who will be eligible for these programs.

For our programs for the handicapped, the Gramm-Latta substitute reduces funds for rehabilitation State grant programs and additional $140 million in 1982. This would result in 322,000 disabled not being served. Funds for Public Law 94-142, education of the handicapped are also reduced below H.R. 3982, and happily, this program is not slated for any education block grant proposal.

In our programs under the Elementary and Secondary Education Act, consolidation of titles II, III, IV, V, VI, VIII, and IX occurs in fiscal year 1983, with authorized levels of funding held constant at $579.7 million for the next 3 years. Title I ESEA is funded at $3.5 billion for the next 3 years with provisions which substantially weaken the law to insure that the most needy children are served.

Our child nutrition programs are substantially altered from the original committee recommendation. Paid lunch subsidies are decreased by 18 cents instead of our 13 cents and free meal eligibility is substantially reduced and set at 130 percent of the poverty level. The provisions in this section which are most onerous are those which hit the reduced-price children with substantial discretion left to the Secretary of Agriculture and OMB in setting poverty guidelines.

Some of our major programs which serve the poorest and defenseless of this Nation are eliminated: Communi-

ty Services Administration, the Runaway Homeless Youth Act, titles II-D and VI of CETA, the Child Abuse Prevention and Treatment Act, youth programs under title IV A and C of CETA in 1982 and 1984, bilingual education after 1982, and title XX of the Social Security Act.

A social service block grant replaces our child abuse, CSA, title XX, runaway youth and juvenile justice and delinquency programs. This provision has not been given consideration by either our committee or the Ways and Means Committee. Adoption of such a measure would be disastrous without the benefit of an understanding of the impact of such a consolidation upon the populations these categorical programs currently serve. These categorical programs were first established because there was no vehicle on the State level to provide these people with these services. We have no assurances that those who depend on these services—abused children, poor families and the elderly, to name a few—would continue to receive them under such a proposal.

The ramifications of adopting this substitute are dismal—the benefits minimal. While the numbers reflect that we have met our budget obligations, what they so neatly obfuscate are the numbers of individuals—from all walks, regions and areas of life—which will have basic needs in their lives so cruelly eliminated. I fiercely oppose this substitute amendment. I urge my colleagues to do likewise. In adopting this amendment, we will have allowed this body to become a mere rubberstamp for the executive branch, which will have substantial control over who will be in this infamous "safety net" and who will fall through. I submit to you that we will have many more falling through this net than we ever could have imagined. I also fear that we have at the same time, eliminated any hope of saving them.

As is the case with most Members today, all I am capable of providing in my statement is a cursory analysis of the largely negative impact of the substitute proposal. I consider this proposal to be an overreaction—legislation without compassion—an example of people trying to ride a crest on the backs of the poor and needy. President Reagan promised the poor and the elderly with a safety net—my friends—I fail to see the "safety" features of this net. It is porous—it is perilous.

When the votes are cast and the dust settles—I believe that is when the reality will set in for many of us. When poor people are denied food stamps—when poor people are thrown out of public housing because they cannot afford the rent—when thousands of senior citizens are turned away from closed down senior centers—will we be proud of what we have done? Of course not—so therefore I close with this simple appeal—do not be a contributor to the abandonment of our poor and needy—vote this substitute down.●

● Mr. CONYERS. Mr. Chairman, I returned today from the Organization of African Unity meeting held in Nairobi, Kenya. I was an official invited guest at the meeting, the only Member of Congress so designated. When I learned a few days ago that the House would proceed to vote on the omnibus reconciliation bill prior to the Fourth of July recess, I immediately arranged to return to Washington.

I am preparing a report on the Organization of African Unity meeting, to share with my colleagues because the deep concern that I found among many African leaders that the United States is abandoning its commitments to Namibia and to majority rule in South Africa is a matter that, I believe, needs the closest scrutiny. The depth of alarm voiced to me about the shift in American foreign policy suggests that we consider more fully than we have up to now the consequences of abandoning our commitments to majority rule in Southern Africa.

Yet foreign policy toward Africa, clearly, is not the center of attention in Congress today. I have been following closely the debate on the omnibus reconciliation bill. It is clear that the reconciliation process has become a steamroller, in the hands of the administration, for dismantling or curtailing virtually every major domestic program enacted by the Congress during the past four decades.

If the administration has its way, the budget-reconciliation process will supersede the traditional authority of the committees to make the decisions on the programs under their jurisdiction in a careful, deliberative manner. In an unprecedented arrogation of power, the committee system has become a dead letter.

The perverted administration-backed reconciliation process would shut out reasoned consideration of the hundreds of policies and programs in existing law, that have come into being over a great many years. It would compel Members to vote in a single measure on a great number of substantive issues, that they cannot possibly arrive at an informed judgment on, without hearings and debate.

Major changes in the law being stampeded through Congress without any deliberative process include:

The dismantling of the Community Services Administration and what remains of the war on poverty programs;

Elimination of all Amtrak service outside the Northeast corridor—in effect, the elimination of the national rail passenger system;

The phasing out of social security education benefits and an immediate 25-percent cut in benefits for current recipients;

The likely elimination of community mental health centers, rural health centers, family planning projects as a result of the consolidation of some 20 health programs into 3 State-run block grants;

The elimination of the twice-a-year cost-of-living allowance for Federal retirees;

The closing down in 127 days of U.S. Public Health Service hospitals; and

Tighter requirements on, and even further reductions of AFDC, medicaid, school lunches, food stamps, subsidized housing, and student loans.

Under this reconciliation process, as it is taking place today with the whiplash of the White House, this Chamber, indeed the entire Congress, will lose its legislative initiative, its autonomy, in fact, its constitutional obligation to enact laws and to make national economic policy.

The three branches of Government will have become two. The White House will not only propose legislation, but also dispose of it. It represents to me the most serious assault on orderly congressional procedures that I have witnessed in all my years in Congress.

I urge my colleagues to soberly consider the consequences of this cheap and easy process. While it may temporarily look attractive to some segments of their constituencies, the wreckage it will leave behind in the way Congress goes about its future business will be disastrous.

And I would add one further note. The wholesale cuts and program cancellations in the domestic area, that are now being forced down Congress throat, I predict, will create disastrous social strains and conflicts in our society for many years to come.

As a result of this reconciliation process, in place of continuity and gradual change, the administration is compelling radical, far-reaching changes for which large numbers of citizens and local communities are wholly unprepared. In place of taking a long view of our domestic problems, we will be taking the narrowest, shortest-term approach, the enormous costs of which will only become readily apparent later on. The cuts and program cancellations being proposed will irreparably damage the social fabric, because they fail to provide for the development of the single most precious resource we have as a nation—our human resources that can only be developed through jobs, education, health care, and domestic well-being.●

● Mrs. CHISHOLM. Mr. Chairman, I join my colleagues in the Congressional Black Caucus in condemning Republican efforts to make further and deeper budget cuts. As I see it, the product of the several House commit-

tees already represents the essence of the Reagan economic plan. The reductions set by the Gramm-Latta substitute last month have been met or exceeded, and the Republican amendments to the reconciliation bill merely seek to overrule the experienced judgment of committees responsible for vital Federal programs.

The food stamp program is geared to serving families and individuals who lack adequate income as a result of unemployment, those living on a limited retirement income or receiving supplemental security income or other public assistance, as well as families with high shelter or child care costs. The 22 million food stamp recipients are among the poorest people in the Nation. According to the latest survey of recipients conducted by the Agriculture Department, the average annual gross income for a food stamps household in 1979 was $3,900 with more than one-half of recipient households having gross incomes of less than $3,600 a year. Children under 17 made up 53 percent of recipients, 12 percent were elderly or disabled persons, while 13 percent of recipients were single parents with children. Food stamp benefit levels are based on the thrifty food plan, which is the lowest priced of the four food plans used by the Department of Agriculture. The average person using food stamps receives about 44 cents per meal.

Currently, food stamp households must have net incomes below the poverty line. The proposal to eliminate all households with gross incomes above 130 percent of the poverty line would eliminate 1 million recipients. One out or every seven households with earnings would be eliminated. Many working poor, elderly, and disabled who just manage to survive on meager incomes with the help of food stamps, will find they are no longer able to qualify. In New York City alone, 48,000, currently eligible persons would become ineligible for food stamps.

The proposed food stamp program reductions also prohibit the family of a worker who goes on strike from receiving food stamps unless that worker's family is already receiving them, in which case they could not receive increased benefits due to lost income as a result of the strike. Section 7 of the National Labor Relations Act guarantees all workers covered by the act the right to strike. The denial of food stamps to a striking worker's family inhibits that worker from exercising this legally protected and guaranteed right to strike by pitting the threat of hunger and the health of the worker's family against the right to redress job related grievances. Thus, the denial of food stamps to a striking worker's family may, in many cases, actually be the denial of the right to strike—a right crucial to insuring a safe workplace, adequate wages and other conditions which have been recognized as inalienable rights of our Nation's work force.

Additional proposed reductions in the food stamp program call for a permanent cap on food stamp appropriations for the Commonwealth of Puerto Rico. The appropriation under this cap represents a 25 percent reduction in funds and is embodied in a block grant. Puerto Rico is not unique from the mainland in its administration of a program aimed at curbing hunger and malnutrition. The food stamp program is of as vital importance to the elderly, the disabled, the unemployed, poor children and poor working families of Puerto Rico as it is to all other American citizens. Isolating funds for Puerto Rico in the form of a block grant is merely a cover for gross funding cuts under a permanent spending cap which singles out one group of American citizens for discriminatory treatment. Such a proposal violates the basic right to equal treatment—a right to which every American is entitled and has come to expect.

High unemployment and soaring inflation have forced more and more people to seek food stamps. Clearly, cuts in the food stamp program hit the Nation's poorest—the prime victims of our troubled economy, the hardest. Moreover, many of the same individuals and families who would lose some or all of their food stamp benefits would also suffer the effects of proposed cuts in other social programs.

To impose malnutrition on the poor, the elderly, the disabled and young children as a vehicle for achieving a budget objective is strikingly unconscionable.

The deeper cuts suggested for child nutrition programs would also, contrary to the Republican's assertions, adversely affect the ability of children from low-income families to get a free- or reduced-price lunch at school. Cutting in half the Federal subsidy for paid lunches would probably force the termination of lunch programs in thousands of public schools because these schools will no longer be able to afford to provide lunches to poor children. In New York State alone, it is estimated that up to 3,400 schools would close their cafeterias. Also, capping the WIC nutritional program for women, infants, and children would halt the program's growth, and leave thousands certified as "nutritionally at risk" without the help this program can provide.

Finally, as I have testified before the House Education and Labor and Ways and Means Committees block grants which give States total discretion to establish their own priorities for social service programs would be a disaster for the poor. The block grant proposals in the House Republican amendment to H.R. 3932 will consolidate 65 categorical programs which cost $8,468 million in fiscal year 1981 into seven block grants with a total fiscal year 1982 authorization of $6,821 million. This represents a 20-percent cut. These proposals will allegedly protect necessary programs within all States through various earmark provisions and still give States enough flexibility to better manage limited resources and reduce administrative costs. Unfortunately, the proposals do not accomplish these objectives. The New York State Departments of Health and of Education, most notably, fear that the block grants will cause increased State administrative costs especially in the short term. This apparently has been confirmed by independent research of the Congressional Budget Office in its study of the block grant proposals. The lack of adequate transition language will set impossible deadlines for the Governor and the State legislature to develop implementation plans and can only result in administrative chaos within the State agencies affected. The cutback of categorical money for the State to administer a consolidated program will cause severe staffing shortages within the agencies for auditing, rulemaking grants allocation and evaluation. It is possible that it will result, in interruptions of program services and increased levels of fraud and abuse.

In the education area, specifically, block grants would have a devastating effect on compensatory education as well as other programs. Title I of ESEA is a program, unlike many others, with a proven track record of success. The purpose of the program, since its beginning in 1965, has been to provide Federal funds to schools serving high concentrations of children from low-income families for special supplemental educational programs for children who are educationally disadvantaged, or functioning below grade level. A smaller portion of the funds is used for compensatory programs operated by the State agency for migrants, neglected and delinquent, and institutionalized handicapped children. Most of the funds are used for remedial reading and mathematics programs.

The early years of title I were a disappointment because evaluations did not show improved achievement by the children who were the intended beneficiaries of the program. However, further investigations revealed that the funds were being used largely as general aid to the school system as a whole rather than for extra educational services for disadvantaged children and that parents and the public were provided with no information about the programs or opportunities to be involved in or consulted about them. Since that time the require-

ments of the program have been clarified and strengthened, and administration and enforcement has improved substantially.

Recent evaluations and research now demonstrate the dramatic success of title I in improving educational achievement of the children it serves. Much of this evidence is summarized in "Title I Today," A Factbook, prepared by the National Advisory Council on the education of disadvantaged children.

The substitute offered by the gentleman from Ohio would weaken or eliminate those very provisions of title I responsible for the program's success:

Poverty targeting: Targeting funds on low-income areas within the school district is completely eliminated in favor of a provision permitting distribution of funds to all schools that have any children performing below grade level.

Serving children most in need: Children who are most in need of special educational assistance would not have to be selected for participation in the program or served.

Concentration of funds: Since the funds could be used for all low-achieving children in all schools regardless of the concentration of poverty in the area and how far the students were behind grade level, the impact of the program could be severely diluted by the lack of concentration of funds.

Comparability: The comparability requirement is so weakened that schools in poor areas would no longer be entitled to or guaranteed their fair share of State and local dollars. And, with no requirement for recordkeeping or any accountability, mechanisms in the program, no one—not the Congress, not local parents—would have access to information that proved whether poor schools were being subjected to discrimination in the distribution of resources.

Maintenance of effort: This provision is weakened to allow Federal funds to subsidize reduced State and local fiscal effort and tax relief. This would further encourage the use of Federal funds for general aid.

Supplement, not supplant: This provision would permit the use of Federal title 1 funds for supplanting or replacing special compensatory State and local program funds.

Parental involvement: All provisions for parent advisory councils and any other forms of parental involvement in the program are completely eliminated.

Accountability: The variety of provisions that help build an accountability system are all eliminated. There would be:

No public access to information about the program;

No local, State or Federal complaint procedures;

No State monitoring or enforcement;

No Federal monitoring or enforcement; and

No local school district assurance of compliance and no maintenance of information to demonstrate compliance with all the legal requirements of the statute.

In addition to these flaws, much of the language of the bill is internally inconsistent, contradictory, and unclear in its intended result, and removes much of the flexibility and implementation oriented explanation of the present statute.

The education block grant combines many important programs such as, biomedical sciences, a program which has been able to inspire minority and rural youngsters in 12 programs across this country to pursue careers in the health sciences. There is no provision to insure that such a program will be returned under the "Special Projects" section of the education block grant. Further, this proposal would have a disastrous impact on progress toward equal educational opportunities for women and girls. It would end the only two programs now providing the Nation's schools and colleges with tools to overcome longstanding educational inequities facing women: Title IV of the 1964 Civil Rights Act and the Women's Educational Equity Act.

It seems strange, at a time when the economic condition of our country is uppermost in everyone's mind, that we should consider taking an action that would further weaken the economic condition of the fastest growing poverty segment in this country—women.

High divorce and inflation rates have combined to shatter the myth that homemaking is an economic safe harbor for women. It is not. Women comprise 44 percent of the paid work force, and most work out of serious economic need. One-third of all working women, two-fifths of minority women, are the sole supporters of their families.

But our schools and colleges are still not equipping young women with skills to earn a living wage. Workers in traditionally female jobs are among the poorest paid, categorically, of any in the labor force. Yet most female vocational students are in programs leading to those same low-paying, traditionally female jobs.

The consequences of an educational system that fails to meet the needs of young women today are reflected in grim poverty statistics:

The average income of families where a woman is the sole wage earner is less than $8,000. That is not much above the poverty line;

Fifty eight percent of black families with a woman as the sole wage earner live in poverty;

Two million children live in families headed by women who work full time and earn a wage below the poverty line;

Ninety percent of the people on welfare are women and children.

WEEA and title IV are designed to help schools change the educational policies and practices that help feed this poverty. A vote for block grants is a vote against the economic equality of women.

These and other complexities associated with the block grant amendments should be carefully examined through the regular legislative process. The fast track of the reconciliation process is not the proper vehicle for a major upheaval in Federal, State and local government relationships. I urge my colleagues to vote against all attempts to block grant social service programs. Last, I would urge my colleagues to vote for the motion to recommit with instructions to remove block grants if the Republican substitute is adopted.●

● Ms. OAKAR. Mr. Chairman, I rise in opposition to the substitute offered by Congressman LATTA to the House omnibus reconciliation bill. It is clear, upon examination of the Republican substitute's line item cuts, combined with the anticipated proposal to consolidate nearly 100 categorical programs into 7 block grants, that the purported safety net was and is nothing more than a sham—a metaphorical ploy designed to veil the devastating reductions in people programs.

Last January, the administration affirmed that the truly needy would be protected. On May 7, when the specifics of the bipartisan budget proposal were debated, it became excruciatingly apparent that the sanctimonious promises of the administration were hollow.

The "sacred cows," as the administration coined the safety net features of the budget, were as deliberately stripped of funding as those initially targeted. Dramatic social security reductions; a cap on food stamps and medicaid; elimination of school milk programs; dramatic reduction of Federal employee and retirement benefits; termination of job training for our youth suddenly became part and parcel of the dart game called balancing the budget.

Regrettably, the House authorizing committees were forced to follow the dictates of reconciliation and subtracted billions of dollars from programs which assisted the elderly, people with moderate incomes, the middle class, women and the youth of our country. Not only did the House committees comply with the mandates of the adopted budget resolution, but they exceeded those cuts. What we did not do, nor were we required to do, was cut the line items identical to those the administration recommended. In lieu of applause for our reluctant but cooperative efforts, the Democrats have

been charged with chicanery and deception.

Mr. Chairman, opposition to the Republican substitute is not merely a sour grapes phenomenon. The Gramm-Latta bill will abrogate the authority and function of the House authorizing committees. I do not exaggerate when I charge that adoption of these amendments constitute a blatant threat to our entire checks and balances system. The integrity of the legislative process is dramatically threatened today. The Republican substitute undermines the integrity of the budget process and eliminates due process in the consideration of major policy changes.

The argument, stating that the Republican amendment must be considered to preserve the spirit of the legislative process is supremely ironic. This amendment does more to undermine the original intent of our legislative process than any strategy I have witnessed.

Whether our constituents are 50 miles away or 500 miles away, they are our primary consideration. If we fail to provide a semblance of a quality existence for them, then we have failed not only as legislators, as Democrats, as Republicans, but as human beings.

Let me now comment on some specifics of the Gramm-Latta substitute. My first cause for concern are the unconscionable cuts in social security. There are over 1.6 million people in the State of Ohio now receiving social security—833,085 are retired workers; 132,675 are disabled workers; 170,663 spouse benefits, 209,838 are children and 256,687 are widows and widowers—almost 60 percent of these people are 72 and over.

The elimination of the minimum benefit and the student benefit will impose a severe hardship on hundreds and thousands of American families.

The minimum benefit.—This benefit is awarded to workers who would receive a lesser amount based on their low earnings record or short-term or sporadic work history. More than 3.1 million Americans will see their benefits taken away almost immediately. The average individual will see his or her minimum benefits cut back by 40 percent, and who are these people? Of the individuals affected by this Reagan proposal, 85 percent are women who are the mothers, grandmothers, and great-grandmothers of this Nation. Two-thirds of those affected are between the ages of 70 and 90 and, most do not qualify for SSI, which excludes those with more than $1,500 in additional assets.

Indeed, most of the minimum-benefit recipients have no other sources of income—900,000 of them are elderly women. These people are not double dippers. The number of those receiving another form of pension with their social security benefit is minimal—the SSA says that only 12 percent of minimum beneficiaries have public pensions and of these, only 6 percent have Federal pensions. SSA data shows that 22 percent are receiving a pension of less than $300 a month. At least 2.5 million persons receiving the minimum are ineligible for SSI, and no individual who receives more than $258 would get any SSI—they are not quite poor enough. Those who do qualify may well choose impoverishment over the stigma of applying for welfare. Currently, one-half of minimum beneficiaries eligible for SSI choose not to apply for welfare.

Now, with respect to the elimination of the student benefit. This benefit is presently extended to children of retired, deceased, or disabled workers if they are in school full time. Nearly 34,000 students received these benefits—6,300 are in Cuyahoga County. The administration's proposal would eliminate awards to the new students starting in June 1982, and would reduce payment of the benefits to current students by 25 percent each year. This would mean that 700,000 current recipients would have their benefits reduced by 25 percent each year and 500,000 students who would be newly entitled would be totally eliminated. Almost two-thirds of all student benefits went to students in families with annual income under $15,000 and 32 percent of all benefits went to students of families with incomes under $5,000. Additionally, cuts by the administration to the chief student loan and grant programs will make it impossible, or near impossible, for these students to get a college education.

Let me remind my colleagues, the social security insurance plan is a contract between our Government and those who paid into the system. It is a scared trust fund depended upon by millions of Americans. Mr. Chairman, this trust fund should not be comingled with the unified budget. Historically this was never the case until 1969, when changes allowed the trust fund to be analyzed as part of an overall budget. Even so, that trust fund belongs to the contributors, not to those Members of Congress or the President who would break the contributors' contract by removing billions of dollars' worth of funds in order to meet the cut desired by the President. It is an improper and, I believe, illegal means to an end. In effect, our older Americans who rely on this system and women who are living on social security and are attempting to send their children to college will see reduced benefits. Would any other trust fund or insurance policy in our country be dealt with so deviously? Would any insurance company dare reduce benefits carte blanche without proper consultation with its customers? Our senior citizens are the lifelong customers of our social security system. They are being cut out of the trust fund without an opportunity to defend their desires.

Furthermore, I am disturbed by the use of optimistic assumptions for the administration's tax proposals, while pessimistic assumptions are being made regarding social security. How do these economic assumptions interface with the social security proposals?

Earlier this month, the Aging Committee's Task Force of Social Security and Women, which I chair, held hearings on the impact of the administration's proposed social security cuts. The large majority of witnesses expressed the belief that the social security program was not in a state of bankruptcy—indeed, its problem is the short-term deficit.

Mr. Chairman, I am deeply distressed that Congress is willing to take money out of this trust fund which gives economic security for our people and take this money and put it into the hands of the armament industry. Our social security trust fund is being used to pay for guns, tanks, bombs, and carriers in amounts so tremendous that even the Defense Department acknowledges it will have a hard time spending the billion of dollars of increase it will receive from the checks of our elderly.

BLOCK GRANTS CONSOLIDATION

The Latta-Gramm substitute consolidates education, housing, energy, emergency assistance, and social services into seven block grants. The administration's proposal to consolidate nearly 100 categorical grants into block grants virtually eliminates proper targeting provisions, dramatically reduces accountability by limiting citizen participation in such programs and, moreover, seriously subverts national policy goals. It is likely that abandonment of Federal guidelines and Federal support will exacerbate the very problems the administration purports to correct; that is to eliminate fraud, waste, and abuse. The folding and consolidation of critical categorical programs will have serious and negative ramifications for the most vulnerable members of our society—children, the elderly, women, the handicapped, the poor, and the near poor.

Mr. Chairman, I believe the block grant proposition is a radical departure from our national objective to comprehensively meet the needs of all members of our society. Our last decade's experience with block grants, controlled by the States, for example LEAA and title XX social services, demonstrate all too well that State governments were not responsive to the needs of the people. The needs of most Americans were not met. Accountability for expenditure is close to nil. History has witnessed that lack of management controls and the absence

of Federal monitoring have invited fraud, abuse, and negligence. The States have failed, not the program. Yet, this administration asks us today to rubberstamp what we know cannot succeed. The block grant proposal chooses to ignore the facts and deny recent history. The administration is not dusting the Federal bureaucracy, it is creating 50 fiefdoms. To assume that those truly needy will be serviced is at very best naive. If this proposal is enacted, cities will lose, the worker will lose, children will lose, The handicapped will lose, women will lose, the elderly will lose. If we fail to block the block grant proposal we forfeit decades of debate, deliberation, planning, and evaluation which have produced valuable and needed Federal programs.

Lest anyone forget, the Banking Committee admirably, although regrettably, met the reconciliation ceilings of Gramm-Latta I and cut programs under our jurisdiction by $13.2 billion. The largest cut, $9.1 billion, came from the housing programs.

The charge that our committee failed to meet the first budget resolution's instructions then is not only unfounded, it is deliberately erroneous and dangerously devisive.

The truth of the matter is that the Banking Committee did not rubberstamp cuts identical to Gramm-Latta's specifications and therein lies the rub. In my judgment, the Gramm-Latta substitute is a retaliatory gesture as deadly as a loaded gun aimed at the Democrats, that in reality injures only the elderly, the handicapped, the moderate-income and middle-income person.

Of major concern is the proposal to eliminate the weatherization programs, neighborhood self-help and fold into CDBG's the UDAG program, and low-interest rehabilitation loans, while failing to provide the increased budget authority needed for CDBG's to finance the add-ons. This proposal alone will cost the city of Cleveland $4.4 million in fiscal year 1982. The elderly poor and the already economically disadvantaged will be the hardest hit. The proposal to change the allocation formula to a 70/30 split between entitlement and nonentitlement areas translates into a dollar loss of almost $2 million to the city of Cleveland. My mayor has unequivocably stated that it is impossible to absorb these costs into the current programs without major reductions in social services or capital investments. Neither Cleveland nor her citizens can afford nor do they deserve to carry the disproportionate burden of these budget slashes axed in the name of austerity.

The Gramm-Latta provision which most angers me is the proposal to increase the current 25 percent of income tenant contribution to 30 percent. I have listened to the arguments that this change costs each household merely $5 per month and therefore imposes no real hardship on people in assisted housing. Let me ask for the record if the proponents and supporters of this proposal know that 727,340 elderly subsidized housing tenants or 40 percent of the people who reside in public housing would be affected. Let me ask if the proponents and supporters of this proposal know that the elderly people who reside in assisted housing will face a rent increase from $1,008 to $1,210. Let me then ask if the proponents and supporters of this proposal are aware that these same elderly persons who exist on approximately $336 per month will face, in effect, a 20-percent increase in rent. How dare we even consider such an exorbitant, unjust, and immoral increase. Is it perhaps because the elderly do not have a highly paid lobby to threaten the security of the proponents of this provision? Let us not forget that the elderly, more than any other bloc of our Nation, vote.

MEDICAID AND MEDICARE

The proposed medicaid and medicare cutbacks are disgraceful. These reductions will severely hurt millions of Americans.

The 7.5-percent cap of Federal contributions to medicaid will force program retrenchment in 41 out of 50 States. Overall, the proposal will cost the States $10 billion. My home State of Ohio will lose over $100 million. Essential health care programs nationwide will be scrapped. The future outlook is even more disheartening. Broyhill allows the cap to rise in subsequent years at a rate less than health care inflation. The States' burdens will continue to multiply year after year.

But, the States' coffers aren't my chief worry—people are, especially elderly people. Nearly two-thirds of all medicaid recipients are children and the elderly, the neediest members of our society. In the past year medicaid paid the bills of approximately 23 million low-income people who are aged, blind or disabled. The elderly alone account for nearly half of all medicaid expenditures.

Additionally, medicaid is the only Government program that covers nursing home care for the elderly. In 1981 about 45 percent of the $28.4 billion spent by medicaid will go to nursing homes. Even under the present program a person must have exhausted all available financial resources to qualify for assistance. Eighty-three percent of those in nursing homes are widowed or single—they can't live outside the nursing homes. Who will these people turn to when medicaid no longer pays the bills?

To compound the problem, if States are forced to assume a larger financial burden, one of the first benefits to go would be home health care alternatives to nursing homes. Medicare provided $380 million for home health care in 1978. Furthermore, the amendment repeals medicare home health care provisions. The results of Broyhill are all too obvious—the elderly's access to even the most basic health care will be severely limited. It sentences our elderly to final years marked by sickness, poverty, and misery.

Elimination of public health service hospitals and clinics.—I am opposed to elimination of the merchant seamen's entitlement. This cut is in direct opposition to the historically expressed intent of Congress to maintain an available, accessible, and effective health care delivery system for the U.S. merchant seaman. Members of Congress have consistently supported the existence of these PHS facilities and have repeatedly reinforced the statutory entitlement of 1798 and Public Law 93-155. Despite the ever-continuing series of budgetary roadblocks set up by the Office of Management and Budget (OMB), as well as repeated attempts by at least six succeeding administrations to eliminate the PHS facilities, Congress—with the support of local and State planning agencies, primary and secondary beneficiaries, and the facilities' communities at all levels—has successfully thwarted these closure attempts.

The PHS facilities support the health programs of the U.S. Armed Forces (Uniformed Services), both active duty and retired, and their dependents. They also support the health programs of the U.S. Coast Guard, PHS Commissioned Corps, National Oceanographic and Atmospheric Administration, Bureau of Prisons, Indian Health Services, and scores of other Federal agencies that contract with the PHS for health care. In addition, the PHS hospitals and clinics are responding to the needs of their local communities. Providing this service through contractual arrangements will considerably increase Government expenditures. Also access to health care is greatly reduced for the community residents whose special problems and income limitations hinder their ability to travel to health care facilities outside their local area.

For example, I would bring to my colleagues' attention the following information about my area in Cleveland:

1. The Cleveland PHS outpatient clinic is the major and largest Uniformed Services medical facility in northern Ohio. The clinic has experienced greater than 40-percent increase in demand and ability to provide health care to its statutory beneficiaries.

2. The clinic has just embarked on a cooperative venture with the city of Cleveland Department of Public Health and Welfare to provide ambulatory health care to senior citizens

who reside in downtown Cleveland. The unique agreement allows access to the clinic's high-quality, cost-effective health care to over 500 senior citizens in two high-rise apartment buildings adjacent to the clinic. Over 140 of the 500 residents have taken advantage of the clinic's facilities in the first 30 days of the agreement.

3. Urban American Indians are also benefiting from the clinic. Approximately 4,500 urban American Indians on the near west side of Cleveland are now eligible for health care at the clinic based on a cooperative agreement effective earlier this year.

4. Continuing the tradition of preventive health care, the clinic has teamed up with the city of Cleveland's Department of Public Health and Welfare to screen thousands of greater Clevelanders for high blood pressure during annual health fairs. The linking of services this year screened the public during June 3-6, 1981, at Cleveland State University in downtown Cleveland.

The clinic is also a training site for health professionals in Cleveland.

It would be nothing short of wasteful to close the Cleveland PHS outpatient clinic at this time, since it recently relocated to a new $2.5 million facility with expanded capabilities.

STUDENT LOANS

Higher education also faces irresponsible cuts under Gramm-Latta. These reductions are inequitable to our most important asset—our youth.

The Education and Labor Committee's original report includes savings of over $1.3 billion and 15-percent spending cuts, but minimizes the hardships facing moderate- and middle-income students. The Gramm-Latta substitute oversteps these substantial, yet reasonable deductions, placing financial hurdles in the path of our moderate- and middle-income students who want and need a higher education.

Specifically, Gramm-Latta II harms the moderate- and middle-income student in three important ways:

First, moderate-income students will receive less aid than ever before. Gramm-Latta II would repeal the "home equity exclusion" adopted by Congress last year in the Educational Amendment Act. This means that the home, the one principal asset held by most low- and middle-income Americans, will be included in the computations which determine a student's financial need. This stipulation makes a student's need for aid appear artificially low. Particularly hard hit will be divorced females with college-age dependents.

Second, 1.3 million middle-income students who attend public postsecondary institutions and now qualify for loans will be denied new loans under the computation procedure.

Finally, Gramm-Latta II will force students to borrow more than ever before. U.S. colleges have raised their tuitions by an average of 13 percent for 1981-82. Students will need more loans to bridge the gap because of the Pell grant reductions.

Gramm-Latta proponents declare that cuts in the student loan and aid programs will prevent the abuse of this Federal resource by high-income students. But, while the proposed reductions do "slap the hands" of wealthy offenders; they subject the innocent to an infinitely harsher punishment. The denial of educational assistance to our Nation's students is an unforgivable assault on equality in educational opportunity that will severely narrow the pathway to advancement for millions of deserving scholars.

Finally as chairman of the Subcommittee on Employee Benefits and Compensation of the Post Office and Civil Service Committee, I am appalled at the Reagan bill. This substitute lowers the annual raise we proposed from 5.8 percent to 4.8 percent. It cuts the Federal retiree's COLA benefits. It penalizes more than 5 million past and present Federal employees which my subcommittee and full committee sought to protect.

CONCLUSION

During a time, which today seems more long ago than ever, President Franklin D. Roosevelt declared, "The fundamental purpose of Government is to do the greatest amount of good for the greatest amount of people." This amendment reverses that philosophy, focusing the greatest amount of harm on the neediest segment of society.

The rich won't suffer the consequences of this amendment, they have made sure of that. But, many Americans will be punished. Those who have dared to commit the crimes of living in a moderate manner, or surviving past the age of 65. This amendment takes food and medicine from their mouths and the roofs from above their heads.

This amendment represents the forfeiture of our national commitment to improve the lives and well-being of the people of our Nation. Its passage will cast our needy into a hobbesian state of nature, where life is nasty, poor, brutish and short. Maybe we can live with this decision, but I know that our elderly, those who must face the consequences of our actions every day, will face great difficulty.●

● Mr. FOGLIETTA. Mr. Chairman, we have a mandate from the American people to reduce Federal spending and bring inflation under control—not a hunting license to destroy or decrease haphazardly many of the programs which Congress has established over the years to meet the needs of the poor, the elderly, and the cities; and to prepare ourselves as a nation for the challenges of the future.

A month ago, the Congress adopted the first budget resolution, which called for spending reductions of $50.7 billion in budget authority, and $35.1 billion in outlays for fiscal year 1982. Under the reconciliation procedure, the committees of this House were instructed to draft legislative changes which would effect specified levels of savings in the programs under their jurisdiction. It was a difficult and painful process. During that process, the recommendations of the administration for spending reductions and changes in substantive law related to those changes were studied, and more than 75 percent of those proposals were adopted. Where the specific proposals of the administration were not implemented, the committees made other changes which effected comparable savings. The end result was an omnibus reconciliation bill compiled by the House Budget Committee, which changed existing law to effect total reductions which exceed the requirements of the first budget resolution by $3.7 billion in budget authority, and $2.7 billion in outlays.

Today we are being asked to scrap the work product of that thorough and deliberate process, and substitute a document which, according to its own sponsors, was hastily assembled last night. I would not claim to know all that is in this volume of some 700 pages, we only received shortly before noon today. I have hardly had a chance to read it. But I have seen enough to be seriously concerned. I am aware that this substitute includes even more drastic reductions in food stamps, child nutrition, social security, and Federal retirement benefits, and other social programs, than those already adopted by the authorizing committees. I am opposed to these cuts, and I would vote against the substitute for this reason alone.

I am appalled by the process through which these additional cuts in social programs are being foisted upon us, after the committees successfully fulfilled their reconciliation instructions. If these additional cuts are at all justified, I believe that the Members of Congress who serve on these committees deserve the courtesy of being given an opportunity to accommodate these cuts. More importantly, I believe that the public, and most particularly the elderly, the poor, and the children who will suffer from the action we may take today, deserve at least that much consideration.

My other, even more fundamental, concern is that I see the budget process being used as an excuse to implement major policy reversals. The President's block grant proposal is the most prominent example. I am opposed to block grants. They would abrogate the substantive law which has been carefully and deliberately en-

acted by Congress to insure that Federal funds are targeted to meet identified needs. Under the President's proposal these well-defined categorical programs would be replaced by a system administered by the States, under which disadvantaged groups will be forced to compete with each other for reduced funds with no safeguards or Federal guidelines to insure that the funds will be appropriately expended.

In fact, the President's block grant proposals have been considered and, by and large rejected by the committees in the course of their deliberations on reconciliation. Even the Senate, with a Republican majority, made major changes in the block grant proposals which they incorporated in their version of the Reconciliation Act. But now, the proponents of the Latta substitute ask this body to override the considered judgment of the relevant committees, and enact the block grant scenario without even an opportunity for amendment. These major changes in substantive law are put forward in the context of budgetary legislation, even though they have no fiscal consequences.

The substantive changes being proposed are by no means limited to programs to be subsumed under block grants. The debate today has revealed a myriad of changes in substantive law which would be effected through the substitute Reconciliation Act now under consideration. The pages of this hastily drawn document may well contain countless others, included by design or accident, which have escaped mention.

I cannot, and I will not, go along with this mockery of the legislative process.●

● Mr. MOAKLEY. Mr. Chairman, I rise in opposition to the Republican substitute to the omnibus reconciliation bill.

I believe the substitute before us is an attempt to end run the work House committees have done and put in place programs that radically depart from the savings instructions of the first budget resolution.

Through the reconciliation process, the Republicans are attempting to impose a substitute that has neither been generally available to the Members of the House nor will be opened up to amendment. One must ask why the Republicans have been reduced to such tactics? Obviously they fear the risks of exposing the individual flaws of their substitute to the American public. And the flaws are many.

First in social security, the Republican substitute before us will reduce the benefits of about 3 million elderly persons throughout this country. While the poorest of these would become eligible for SSI, many would be just above the poverty level. Since they are elderly, they would have little or no way to make up the average loss of $800 per year.

The administration proposal, as embodied in the Republican substitute, is placing major restrictions in addition to sharply reducing Federal assistance to students attending institutions of higher education. In the past few months since President Reagan's initial introduction of his economic recovery plan, I have received virtually hundreds of letters from college students and their families on the matter of reductions in student financial aid programs. An alarming number of these families have told me that they simply will not be able to afford to continue their children's educations at the various colleges and universities if the administration's proposals are enacted. The majority of these letters are not from the poor, they are from the middle-income, working-class families, the backbone of America. How can we justify the denial of assistance to these people who have paid the majority of the taxes yet have not, until now, asked for anything in return from their Government? The future of our Nation depends on the youth of today. They must be insured an access to higher education and we must not deny the financial resources needed to obtain this education.

Also included in this substitute would be further reduction in subsidies for free and reduced-price lunches which could cause thousands of schools to shut down their school lunch programs entirely because of a lack of qualified participants and prohibitive administrative costs. Millions of needy children would be deprived of their one nutritional meal of the day.

An area targeted by the Republicans to be hidden in among block grants is the treatment and prevention of alcohol abuse and alcoholism. Alcohol abuse is one of our Nation's most serious health and social problems. The incidence of this disease, as I am sure you know all too well, is increasing at a frightening rate. Alcohol misuse is a major contributor to the leading causes of death in our country. Far too great a percentage of traffic fatalities and disabilities, homicides and suicides are linked with this drug. Perhaps the greatest tragedy tied to alcohol abuse is the increase in the youth death rates in recent years, the only segment of the population that has an increased death rate.

The programs and services for the treatment and prevention of alcohol abuse and alcoholism are our major hope for combating the destruction caused by this disease. While the people working in these programs realize the need for a reduced Federal budget and are willing to accept their share of these cuts, it would be devastating for these critical programs to be pushed into the block grant program proposed by the Republicans. Leaving funding for all these programs totally to the discretion of the States, coupled with the lack of guidelines and regulations for the block grant would greatly jeopardize the progress and the future of the treatment of alcohol abuse and alcoholism.

Also included in the Republican substitute block grant proposal is a major reduction in the social services block grant. The cutbacks in this program, which has been in place since 1975 with little reporting of redtape, could result in the 250,000 aged, blind, and disabled SSI recipients losing social services; 80,000 elderly and disabled persons could lose needed homemaker and meals-on-wheels services; and 120,000 children could lose day care services.

Mr. Chairman, clearly the cuts in these programs I have outlined, and others in the Republican substitute, just go too far. We cannot abandon our commitment to the aged, the poor, and the young for an untried, untested economic plan. I urge defeat of the substitute.●

● Mr. LOWERY of California. Mr. Chairman, on May 7 the Members of this body, in response to a loud and clear message from the American people, voted their overwhelming approval of a Federal budget that took us a giant step closer toward bringing the size and cost of Government under control. We are now preparing to take our second step. The choice we make today will determine whether we continue our purposeful stride toward genuine savings and fiscal accountability, or get sidetracked in a maze of accounting tricks and mirrors.

For the most part, the committees of the House did an excellent job in meeting the reconciliation instructions of the first concurrent budget resolution. Most committees turned their attention to the task at hand in good faith and made the hard decisons necessary to come up with the legitimate, achievable spending cuts required. The Gramm-Latta amendment package does not touch the recommendations of these committees.

Unfortunately, this spirit of cooperation did not extend to all of the committees of the House. Many of the committees included in their reconciliation recommendations proposals which will not produce, in reality, the savings that they claim on paper. It is to the recommendations of these committees that the Gramm-Latta amendment turns.

There are a number of examples of this budgetary sleight of hand in the reconciliation proposal voted out of the Budget Committee. A prime example concerns food stamps. The House Agriculture Committee established a cap on food stamp expenditures of approximately $10.8 billion—the level recommended by the President. How-

ever, the committee conveniently failed to provide a reasonable means of keeping food stamp expenditures within that cap. The administration proposed changes in food stamp eligibility which would, if enacted, have allowed the program to operate within the $10.8 billion cap. The Agriculture Committee chose neither to adopt the administration's eligibility and benefit changes, nor an alternative of their own.

As a result, one of two things will happen if the Budget Committee's reconciliation bill is enacted. First, the food stamp program will continue to operate under current benefit standards for fiscal year 1982 until the $10.8 billion cap is reached. Since current law program standards would result in expenditures exceeding $10 billion in fiscal year 1982, the cap would be reached sometime in July of 1982. Therefore, in order to comply with the cap, all benefits for the 20 million food stamp recipients would be terminated until the beginning of the new fiscal year on October 1, 1982. Since it is highly unlikely that this would prove acceptable, Congress would probably be compelled to raise the cap in July and appropriate additional funds. Thus, the promised savings in the food stamp program would never be achieved.

The second possibility would be for the Secretary of Agriculture to use existing authority to reduce every recipient's benefits across the board. Current law does not allow the Secretary to reduce benefits only for those at the top of the eligibility range. He must reduce every recipient's benefits, including the poorest family or most helpless widow. This too, would prove clearly unacceptable. The Gramm-Latta amendment would avoid the situation entirely by adopting the necessary benefit and eligibility changes to achieve the needed savings.

Once again, the Gramm-Latta amendment package leaves intact the recommendations of the majority of the committees in the House. It only addresses a handful of committee actions which I am convinced would not produce the savings necessary to achieve a balanced budget in 1984. If left unchanged, these items would cause budget targets to be exceeded by $23 billion over the next 3 years. This is simply too high a price to pay. I strongly urge my colleagues to cast their votes for fiscal responsibility, for the overburdened taxpayers of America, and for the Gramm-Latta amendment package.●

● Mr. HAWKINS. Mr. Chairman, my vote against the Gramm-Latta substitute today is based on my firm belief that it is a vote for despair, a vote for regression and a vote against America. I am convinced that the Gramm-Latta bill will:

First, increase unemployment; second, add to inflation; third, stifle economic growth; fourth, promote enormous budget deficits; fifth, increase the local tax burden on workers; and sixth, greatly accelerate the incidence of crime, strife, and other social problems in our communities.

Let me outline my reasons for these convictions in this brief statement.

Regretfully, we are moving in a direction which empirical evidence shows will be a catastrophic failure. The policies of restrictive monetary and fiscal policies coupled with inadequate structural programs have produced six recessions since 1953. Now we are heading for another recession while we systematically destroy the so-called social safety net.

In 1978, after lengthy debate, we adopted a national economic policy in the Full Employment and Balanced Growth Act. That law comprises a carefully drafted plan whereby the President, in cooperation—not coercion—with the Congress and the Federal Reserve Board, would annually submit a comprehensive and public plan of action designed to stimulate vigorous economic growth, present specific steps to be taken to limit inflation, outline a series of programs to train and employ all who seek employment opportunities and propose methods of serving our human needs in housing, education, health, economic development, transportation, energy, and other vital areas.

Instead of submitting this type of positive program, President Reagan proposes dangerous budget slashes in over 250 existing programs with little review or analysis of their value, deregulation of health, safety, affirmative action, and environmental standards, regressive tax reductions that add to the incomes of the upper 5 percent of the population while providing little or no benefit to the great majority of the lower and middle-income citizens, and fantastic defense expenditures which raise great doubts regarding their national security value but are undeniably extremely inflationary in their impact.

It is now obvious that the administration's plan—in violation of the Full Employment and Balanced Growth Act—is to:

First, seek price stability through a recession; second, depend on high interest rates to limit inflation—despite evidence that they are actually a prime cause of inflation and of depressed economic growth; third, destroy employment, training, nutrition, health, housing, and social security programs on ideological grounds despite proven merit of the programs and regardless of moral considerations; and fourth, redistribute wealth, income, and power from the great body of people into the hands of a privileged few.

As a Nation, we are almost completely ignoring the absolute crisis situation of a rising crime rate, increased unemployment, denial of civil and human rights, lack of basic health services, and the demise of small businesses, to name just a number of the problems the Reagan-Gramm-Latta proposal will exacerbate rather than treat.

The administration laments our supposed decline in military power. While the absolute veracity of this statement is doubtful, we hear nothing about our dangerous trends in productivity, infant mortality rates, basic and scientific education, manpower development and economic growth.

Candidate Reagan asked Americans if they were better off last fall than they were 4 years ago. I ask the Members of this House, that if we pass this disastrous Gramm-Latta substitute, how will they honestly answer these questions? A year from today, will Americans be better off or not? Will this budget proposal make our Nation more secure or will it lead to a more dangerous international situation? Are we deciding policy on the basis of rhetoric or on a foundation of serious study and discussion? Finally, are we voting to make America a better nation or worse? I submit that a vote for Gramm-Latta is a vote for belief in nothing more than miracles. Surely this Congress deserves better. Undoubtedly the American people deserve better.●

● Mr. STOKES. Mr. Chairman, I rise in strenuous opposition to the Gramm-Latta substitute. This measure represents an unconscionable effort to flagrantly circumvent the deliberative and legislative procedures of the Congress in order to force even deeper budget cuts than the Congress has deemed necessary or desirable.

In order to meet the spending targets contained in the first concurrent budget resolution, the congressional committees have recommended the implementation of an unprecedented $37.7 billion in Federal spending reduction—fully 85 percent of the specific budget cuts requested by the Reagan administration. I oppose the Reagan budget because it would provide millions more for the most prosperous in our Nation while pennies would be taken away from the poor. Nevertheless, the recommendations developed by the appropriate authorizing committees were adopted through careful deliberation and study in an effort to minimize the burden of the cuts on the poor, the elderly, and the disadvantaged in our society.

Thus, it is beyond belief that the Reagan administration has made a travesty of the constitutional prerogatives of the Congress by declaring that the Congress must now cut a budget

swathe even deeper and wider and in precisely the manner dictated by the Office of Management and Budget. In arrogant disregard of the knowledge and expertise in this body, without hearings or debate, we are being asked to make budget cuts and major policy changes that would completely restructure our way of government. We are being asked to rubberstamp program and policy changes which heretofore have never been considered by the Congress or which previously have received congressional scrutiny and have been rejected. We are being asked to approve a measure whose entire contents no one seems quite sure. Mr. Chairman, this outrageous attempt to abrogate the work of the congressional committees and to circumvent the legislative process ought to be flatly rejected solely for procedural and institutional considerations.

But, more importantly, the Gramm-Latta substitute should be rejected for substantive reasons. This measure would virtually dismantle every major domestic program enacted by the Congress during the past several decades. It would give to the Office of Management and Budget the discretion to define the poverty level every year. Thus, the authority to determine eligibility for all means-tested programs—food stamps, medicaid, child nutrition, and so forth—so vital to maintaining a decent quality of life for millions of Americans would lay squarely in the hands of an administration which has already stated that government should not be used to bring about social change. As a result, programs which were intended to help develop the human resources of this Nation through education, jobs, health care, and so forth could be irreparably reduced to a mere sham.

For example, Mr. Chairman, of the 22 million Americans who depend upon food stamps for daily sustenance, we know that 95 percent of these households have a gross annual income of less that $8,400 and an average income of only about $4,000. We know that 23 percent of these households are elderly and that 60 percent contain children. Yet, in addition to the $1.4 billion in food stamp budget reductions reluctantly recommended by the House Agriculture Committee, the Gramm-Latta substitute includes eligibility and benefit restrictions that will raise once again the specter of hunger and malnutrition among America's poor.

We know that there are 6 million Americans who live in substandard housing and another 11 million Americans who are paying more than they can afford for decent housing. Yet, under the Gramm-Latta substitute, $2.2 billion would be stripped from the assisted housing budget reducing the level of subsidized units in fiscal year 1982 from an already meager 176,000 units to a grossly insufficient 162,000 units. This is in grim contrast to the 600,000 units which the General Accounting Office has indicated is needed annually to meet the rental housing needs of low-income Americans.

About 10 million poor and elderly persons currently have their rents subsidized under Federal housing programs because the Congress believed that 25 percent of their annual income was the most that they should be expected to pay. Under the Gramm-Latta substitute, their rents would be increased to 30 percent of annual adjusted income. Moreover, the HUD Secretary would be given absolute discretion to determine what adjustments to income would be allowed. The provision in the Gramm-Latta measure stating that actions taken by the HUD Secretary to implement the rent increase would not be reviewable in any court is a gross infringement upon the rights of tenants in section 8 and public housing projects. I find provisions of this type to be especially onerous and untenable. They have no place in a budget measure or in any other measure.

We know that due to the availability of Federal financial assistance to students, more blacks and other minorities have been afforded an opportunity to attend college than ever before. In 1980, the number of matriculating blacks was double the number only 10 years earlier. Under the Gramm-Latta measure, many of these students will have a dream of a higher education deferred. Some 200,000 to 400,000 students will lose eligibility for Pell grants which assists the neediest of students. Over 1 million students will no longer be able to obtain a guaranteed student loan.

Mr. Chairman, I am sure that I do not fully know the full extent and meaning of the Gramm-Latta measure since, like many Members, I have seen it only for the first time this morning. Further, I am certain that the American people do not fully understand its implications. But, the provisions which I have just highlighted, in my view, are sufficient to demonstrate the devastation which will be wrought on our Nation's poor and disadvantaged people if this ill-conceived and ill-considered measure is adopted. Both my heart and my mind tell me that the Gramm-Latta substitute should be defeated.●

● Mr. CONTE. Mr. Chairman, I rise to speak to my colleagues on the reconciliation process as well as the Jones substitute.

I am not so concerned for the moment whether we call it reconciliation, or by some other name, or whether it is or is not consistent with the letter and spirit of the Budget Act.

The fact remains that we are now considering what amounts to a single authorization bill for a large part of the Federal Government.

Such a bill necessarily does two things.

First, it has a staggering impact on the individual programs of the Federal Government, and on the aggregate relationship between that Government and the people.

Second, it directly affects the delicate and complex political relationships within the House and within the Congress.

And it is this point that I want to discuss with you today.

I have served 23 years in this House, and during most of that time the traditional processes of authorization and appropriation have served the Congress and the country well.

Political momentum has shifted from time to time, but over the years we have kept the balance that maintains healthy political relationships in a pluralistic society.

Self-discipline is an important part of that balance.

While there have been some ferocious disagreements over the years, there has also been sufficient self-discipline so that the process remains in balance.

Neither side has been willing to press the momentum of the moment to the point where the other is destroyed, and the balance is gone.

I think we are at such a moment.

The election of 1980 gave the President and this Congress a mandate to make dramatic reductions in the growth of Federal spending. These reconciliation measures all respond, in one degree or another, to that mandate. The President and his aides have worked hard and well to win approval of his program in the House.

But neither the President nor the Congress can maintain this pace year after year. Long-term budget control will depend on discipline on entitlements through the authorization process, and discipline on appropriations through the appropriations process.

And while all the reconciliation measures apply some degree of restraint of entitlements, the Jones substitute would make it much more difficult to control spending through the appropriations process.

How many of my colleagues are aware that the Jones substitute, supposedly an instrument of budget control, contains minimum levels for future appropriations?

I invite your attention to page 331 of H.R. 3964, the Jones substitute, where you will find that for each of the fiscal years 1982 through 1984:

Appropriations for the Land and Water Conservation Fund shall be not less than $275 million;

Appropriations for historic preservation shall be not less than $30 million;

Appropriations for urban parks and recreation shall be not less than $10 million;

Appropriations for restoration and rehabilitation of the National Park System shall be not less than $105 million;

Appropriations for the Office of Territorial and International Affairs shall be not less than the amount recommended to the Budget Committee by the authorizing committee;

Appropriations for surface mining and reclamation shall be not less than $6.2 million;

Appropriations for payment in lieu of taxes shall be not less than $100 million.

I ask my colleagues—where is the "reconciliation"? Where is the budget control?

This language is petty political gamesmanship. It is an insult to the House, to the budget process, and to the American people who expect us to restrain, not increase, future Federal spending.●

Mr. JONES of Oklahoma. Mr. Chairman, I yield 5 minutes to the distinguished chairman of the task force on reconciliation, the gentlemen from California (Mr. PANETTA).

Mr. PANETTA. Mr. Chairman, the gentleman from Illinois (Mr. MICHEL) said that the vote on the procedural issue that was held yesterday was the most important vote of this Congress. If that is true, then, today's vote on this amendment is surely the most important vote of any Congress from its substantive point of view, from the budget point of view, and from a process and institutional point of view.

Why is that? Substantively, we are impacting on major areas of jurisdiction across 6 major committees in this one amendment. Yes, there may have been examples of past irresponsibility by the Congress, but surely that does not justify present irresponsibility by the Congress.

The fact is that we are rolling dice with the lives of millions of Americans. Whether they are children, the elderly, the poor, or farmers, whether it is rural areas or urban areas, we do not know what we are doing in terms of impacting on those Americans.

From a budget point of view, we are undermining the budget process, not only because we have used reconciliation in this amendment as a vehicle to pass broad programmatic changes in a number of areas, but also because the point of this whole process was to cut money, to cut programs.

The gentlemen from Ohio (Mr. LATTA) in this morning's Star was quoted as saying that the Republican version adds up to only $36 billion in cuts in 1982 and the committee version adds up to $37.5 billion in cuts in 1982. If we adopt this amendment, we are cutting less in 1982. I thought that is what the whole debate was all about. I thought the whole point here of condemning the committees, of condemning the chairmen, and of condemning the Members on the Democratic side was because somehow we were not cutting enough. And yet in the amendment that they offer here they are cutting less—$36 billion as opposed to what the committees have done, $37.5 billion.

Lastly and most importantly, this is important because it is an institutional issue. We are bypassing the legislative process of the Congress without deliberation, without consideration. The Members know what it takes to develop the authorship of one bill—the staff work, the work with individuals in consultation, the committee hearings, the changes, the amendments, the consideration by the floor, the conferences, and the passage by the conference.

That is just one bill. We are dealing here with over 250 programs, and we are dealing with these changes in this amendment with no consideration, no committee hearings, no consultation, no debate, and no opportunity to offer amendments to this kind of broad substitute.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. Not at this time.

Mr. Chairman, I asked my friends, is it any wonder that broad sections of FEMA, the Federal Energy Management Agency, were suddenly stricken, that title XX was suddenly stricken, which involves Meals on Wheels, and that programs to assist the aged and for congregate feeding were wiped out, terminated?

Oh, yes, we hope that they will be put back in the block grants, but we have no assurance what the States are going to do. Those programs are terminated permanently through this kind of legislation.

Regardless of the merits, we cannot afford to operate on this basis. To those who honestly believe in what the President is recommending—and I respect their views—I say that enacting this statute would not frankly be in his interest or in the interest of the American people. We must recognize our ultimate responsibility to the people in trying to develop this legislation.

Mr. Chairman, there are concerns in the committee bill, there is no question about that. But at the very least, the committees worked their will, and if we need to make changes, let us make them in conference according to the process.

Mr. PASHAYAN. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I will not yield at this point.

Mr. Chairman, democracy is on the line with this vote, and it is not a question of whether one is for or against a strong economy, and it is not a question of whether one is for or against the President; it is a question of whether one is for or against the people, and that is why we ought to vote against this substitute.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. The time of the gentleman from California (Mr. PANETTA) has expired.

The Chair will state that the gentleman from Oklahoma (Mr. JONES) has 16½ minutes remaining, and the gentleman from Ohio (Mr. LATTA) has 10½ minutes remaining. The Chair will announce that the gentleman from Oklahoma (Mr. JONES) is entitled to close debate.

Mr. JONES of Oklahoma. Mr. Chairman, I yield 5 minutes to the gentleman from Alabama (Mr. BEVILL).

Mr. BEVILL. Mr. Chairman, I came over here this morning really undecided as to what I should do about this vote. I am one of those who felt very strongly that Gramm-Latta I was in the best interest of this Nation.

I felt very strongly about that bill and I supported it. I still believe Gramm-Latta I was sound legislation, although I realize that we have a great deal of difference of opinion here in the House about it.

Let me say that I have the utmost respect for the author, the gentleman from Texas (Mr. PHIL GRAMM). He is a highly regarded economist and a distinguished Member of this body.

But the legislation we are considering today, Gramm-Latta II, gives me great concern. The more questions we raise about what is contained in Gramm-Latta II, the fewer answers we receive. It is shocking to realize that the Members of the House, who are going to be voting on this legislation within the next few hours, really have no idea at all about the total content of this legislation.

Given the enormity of this legislation, and the lasting effects it will have upon the people of this country, it is almost inconceivable that we would be expected to vote on this bill without having had the necessary time to study it.

I am among those of you who want to balance the Federal budget. In fact, the people I represent, in the Fourth District of Alabama, have been advocating a balanced budget for years. That was my reason for voting for Gramm-Latta I. However, when I look at the bill before us today, Gramm-Latta II, I cannot be assured that it actually would be contributing to balancing the budget more than the Budget Committee's bill.

In fact, it appears upon first glance that the Gramm-Latta II bill would be spending more money than the House Budget Committee bill. Where, then, is the logic in taking a chance with this substitute bill, in the hopes that it might contain wise funding cuts somewhere within its many pages?

We were handed this bill at 11:30 this morning. That leaves very little time to examine such a complex piece

of legislation. There is not one Member of this body who has evidenced to me that he has read this bill. No one single Member claims to have a working knowledge of all its contents. We are being asked to vote for this legislation without benefit of hearings, without benefit of committee input, and without benefit of meaningful debate. I have a very real fear that this body will be voting today out of pressure, not out of logic.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. BEVILL. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, I would like to compliment the gentleman on his statement and agree with the gentleman completely.

I voted for the Gramm-Latta budget because I agreed with the President that we had to reduce the increased rate of Federal spending and change that direction; but I spoke to the President personally before that vote and I asked him, did voting for that budget resolution lock in the various assumptions that he had made in achieving those reductions?

And he said, "No. You can achieve them any way you want to. It is the spending levels we are talking about."

We have achieved those reductions, Mr. Chairman—$37.7 billion in reductions, in a bipartisan effort by every House committee to end our present inflationary spiral.

We have a responsibility not only to cut the budget but to cut it in an equitable and humane way. It is no more inflationary to spend a dollar for child nutrition than it is a dollar for the Eximbank. It is no more inflationary and it is a heck of a lot more compassionate, it seems to me. The same can be said for guaranteed student loans or social security benefits for the elderly.

The committee deliberations which resulted in the House Budget Committee bill were bipartisan efforts. In my own committee, Public Works and Transportation, not only did each of the Democratic subcommittee chairmen sign off on these cuts, but so did each of the ranking Republican members. And now we see an effort to sabotage the integrity of these bipartisan decisions.

The aim of this process is to cut Federal spending and get a grip on the inflation that is destroying our economy and the hopes and dreams of many Americans. Inflation is an intractable problem.

We have to bring this raging level of inflation under control, and one way to begin to do this is to decrease substantially our exorbitant rate of Federal spending. In considering the cuts in spending rates encompassed by these budget proposals, we are seeking to chart a new course. We are seeking to do away with extravagant Federal spending because too much Federal spending has been one cause of high deficits and higher public debt. These high deficits have resulted in outrageously high interest rates as Federal borrowing has drained away money available for private investment.

I thought this was the view of my Republican friends across the aisle. But apparently it is not. Otherwise, there would be no question as to the choice between the $37.7 billion worth of cuts in the House Budget Committee bill and the $35.1 billion worth of cuts in Mr. LATTA's and Mr. GRAMM's so-called alternative.

The Latta-Gramm amendment which we are now considering spends $2.6 billion more than the House Budget Committee bill, I say $2.6 billion, Mr. Chairman, but we don't know exactly how large this difference really is. I don't know because we have had only 4 hours to examine this massive document. I received my copy at 11:30 this morning—1½ hours after this body convened for its consideration.

The authors of this amendment do not seem to know what is really in it either, having hatched it in the wee hours of last night. And now what we have before us is the most shoddily put together piece of legislation this body has ever see.

One need only turn about 1½ inches into the book—and I say 1½ inches because there are no page numbers—to find the phone number of Rita Seymour—225-4844. I have never seen a phone number contained in legislation but perhaps Ms. Seymour can answer our questions about this document.

Furthermore, upon closer examination, we notice the amendment wipes out by mistake—by mistake, the authors admit—the National Science Foundation, the Small Business Loan program, civil defense programs, and national weather stations.

This amendment also contains provisions that have nothing to do with the budget. From lawn mower standards to amusement parks to noise control to tourism, this amendment sets policy which has nothing to do with spending levels.

These are the obvious errors. They certainly suggest that many more may be discovered.

Even with the obvious errors in this amendment, we have no opportunity to amend it and make corrections. This is because of the gag rule which was forced upon us for consideration of these important budget matters.

It seems to me that if there has ever been a situation in which the American people are entitled to have an opportunity to see where each of us stands on these important issues, whether it is tax cuts or deficits or defense spending or school lunches or revenue sharing or education or health care or any of the vital programs that affect America, including especially the deficits that we have piled one on top of the other year after year, the place to have that debate is here. We should not simply become parrots and say, "I am for something 100 percent," without debating or voting on these issues that add up to more than $700 billion. It is just that type of legislative irresponsibility that has given us the $900 billion plus national debt that President Reagan has asked us to raise the debt ceiling to cover.

The rule recommended by the Rules Committee would have allowed us an open debate on these important issues. It would have required us to be accountable to our constituents and to let them know where we stand on these issues.

After meeting with the President, I felt assured that there was flexibility in the way we could achieve these spending cuts. Some people will ask if I thought the process we have been going through under this Republican gag rule was what I thought would occur. I would have to say that the circumstances speak for themselves.

Process and fairness in the procedures of our Constitution and our institution provide more safeguards than the expediency of the moment. And anyone who runs roughshod over the process of separation of powers embodied in our Constitution, in the hope that they are obtaining some immediate gain, may learn to their regret that they have lost more than they have gained. And this loss includes loss of freedom and loss of liberty.

Much has been said about this amendment being the "son of Gramm-Latta." If this is true, I would say that it is an illegitimate child.

This is not a book in which one can put faith. It is the 1981 edition of the "Book of the Dead" and it ought to be rejected. It ought to be rejected because of the way it is being imposed upon us.

The gentleman from New York said this side is trying to embarrass the Republicans by criticizing the document. There is no way we can embarrass the Republicans any more than they have embarrassed themselves with this document.

Mr. BEVILL. Mr. Chairman, if I might make further comments about this legislation, and how it differs from Gramm-Latta I, let me point out that where Gramm-Latta I made recommendations to the various authorization committees in the House, Gramm-Latta II would apparently bypass the existing authorization process. Gramm-Latta II would be authorizing legislation that our House authorization committees have not even seen.

This causes me a great deal of concern. If this Congress ever loses the expertise of the committee system,

then this Congress is in trouble and we are going to have chaos.

Mr. EDGAR. Mr. Chairman, will the gentleman yield?

Mr. BEVILL. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. Mr. Chairman, I would like to commend the gentleman in the well. The gentleman in the well and I have not agreed on many water projects and many issues from time to time. We do agree on this particular action today as being a disaster.

I have circulated among some of the Members of the House a reconciliation aptitude quiz just to point out some of the things that are in this legislation that many of us are going to have to vote on that we really simply do not know the particulars of.

I just simply join in commending the gentleman in the well for his courageous statement. I hope we vote down Gramm-Latta II.

The CHAIRMAN. The time of the gentleman from Alabama has expired.

Mr. JONES of Oklahoma. Mr. Chairman, I yield 2 additional minutes to the gentleman from Alabama (Mr. BEVILL).

Mr. BEVILL. Mr. Chairman, I want to stress to my fellow Members in the House, that it is a very dangerous precedent to establish in Congress, to pass a bill which purposely bypasses the committees.

We, on the Appropriations Committee, face this problem quite frequently, and we do everything possible to make certain that we are not getting into the jurisdiction of the authorization committees. But we are faced with voting on a bill today which has not even seen the light of day, let alone an authorization committee. Authorization committees have been handling legislation for years dealing with the programs which this bill is seeking to revamp, and yet these committees have not been given the opportunity to examine this bill.

We are being asked to bypass expertise, to throw away any change for meaningful examination and to bow to pressure. We are being asked to vote blindly on this extremely important area of budget reconciliation.

I repeat, it is a very dangerous precedent for this Congress to pass legislation in this manner. Even the most informed on the floor would have to admit that their information on this bill is very sketchy.

Given the short amount of time we have had to examine this bill, I have found only a few specific items, but they are enough to cause me to have great doubts about the wisdom of this bill.

Apparently, this legislation would authorize the Director of the Office of Management and Budget to be the sole arbiter of the Nation's poverty level. Whereas, in the past this important function has been performed by a committee of Cabinet members, this bill would place this far-reaching authority in the hands of one person. The repercussions of this could be immense, considering the widespread effect which the setting of the poverty level has on millions of people in our country.

Perhaps the biggest disappointment I have seen thus far in Gramm-Latta II, is that it would eliminate the minimum social security payment to more than 3 million older Americans, leaving them without adequate income. We are not talking about cutting out giveaway programs for fat cats, cheaters or ineligible people. We are talking about stopping minimum payments to 3 million elderly citizens who need these funds to pay their rent and power bills, and to buy food for their tables.

The blind passage of this legislation would set a very dangerous precedent. No legislation should be voted on before it has been examined.

While I agree that we should move quickly to balance our budget and reduce Government spending, it should be done thoroughly, in the light of day, to be sure that it will be done properly.

I am not against spending cuts, but I am against this unwise, secretive and ill-conceived meat-ax approach to reducing Government. A bill which deals with more than 250 Government programs deserves a much more careful examination than 2 or 3 hours of speed reading will allow. To give it any less is to do a disservice to the people of this country. I urge you to vote against this substitute.

Mr. REGULA. Mr. Chairman, I yield 3 minutes to the gentleman from Alabama (Mr. EDWARDS).

Mr. EDWARDS of Alabama. Mr. Chairman, we come to the end of a long and rather heated debate and have moved another giant step in the budget process. In many ways, Mr. Chairman, this is a historic moment. It is a turning point.

I think that we have to remember that as we come to the point of trying to turn the corner that the only way you can turn the corner is to go around the corner. We have been trying to do this for years without success. We have watched these programs build and build and expand beyond belief and we have been unable to contain the programs, and now we come to the floor today to vote in a few minutes on a process that is going to allow us to finally take that new direction.

The truth is, Mr. Chairman, if there had been no Gramm-Latta, there would have been no Jones. So we have already accomplished in many ways the purpose we set out to accomplish, that is to somehow pick this country up and shake it a little and reverse the direction in which we have been going.

I think the voters spoke loud and clear in November. I think the President has done a masterful job in trying to move us, nudge and shove us, in a direction that we should go; but the truth is that we are about to respond to the needs of the people of this country, crying to give us new directions, and it is going to hurt. We have heard horror stories all day, all day yesterday and for the last few weeks, but we are at that point now where we somehow have got to get the narcotic needle out of the arm. You know that is painful. We know that we are going to have to struggle with it, and yet we know that it has got to be done.

I do not come here to condemn anyone. I think what we are really seeing here today is in many ways the last battle of a group of liberal members of this House who have fought for years to build Federal programs, build them in good faith, do good for the people as they saw it.

I think the big battle today is one where we are now finding that that direction is changing, that the people of this country are saying we have gone too far in that direction and the only way to reverse it is to make an abrupt change. We have tried the committee route. We have tried to change each program as it comes to the floor. We have tried to deal with it by region and by project and by committee and it just has not worked.

We know why we are here and the reason we are here. The truth is that we know that the political facts of life being what they are, the only way we are going to turn this corner is to stand up and be counted for Gramm-Latta, to do it in a clear way so that this country understands that this Congress is, in fact, seeking new directions. In this House, Mr. Chairman, the peoples branch, the people are finally being heard.

Mr. REGULA. Mr. Chairman, I yield to the gentlewoman from Illinois for a unanimous-consent request.

● Mrs. MARTIN of Illinois. Mr. Chairman, yesterday, once again, this body showed that we have heard and understood the cries of our constituents for relief—for relief from big Government, from big spending and from big taxes. We voted yesterday to allow the Gramm-Latta substitute to be offered to the House. Today, we must continue our work to provide relief—we must pass the Gramm-Latta substitute.

Gramm-Latta has real savings that will provide that much needed relief, and put our Nation back on the road to fiscal stability. These real savings will make possible a tax cut for our people, who see their standard of living being eroded by inflation and taxes. These are real savings, and savings that make sense.

The food stamp program is one I often hear about in constituent letters and calls. They do not understand why so many people who do not need food stamps get them. There is widespread abuse of a program which has good aims. How does the committee bill address this abuse? By setting a cap, and saying:

Those of you who need, and those of you who do not, can share the food stamps until they are all gone. Then you can all do without—those of you who need and those of you who do not.

Who gets hurt with that approach? Either the taxpayers when we come back to vote supplementals for those who need and those who do not, or the poor who need the food stamps, if we do not vote the supplemental. Gramm-Latta says, "Let us cut out those who should not be eligible and give to those who do need." It makes sense. It saves tax dollars.

School lunches are another example of using our tax dollars to subsidize those who do not need. The committee bill would allow my daughter to get the same subsidy as the children of a family making less than a third of my salary as a Congressman. Gramm-Latta will keep free and subsidized lunches for those who need, and cut the subsidy for those who do not. It saves money and it makes sense.

Guaranteed student loans has become a program to allow cheap money for every student. Should the taxpayers foot the bill for wealthy families and students who use the loan for investments or sports cars? Gramm-Latta will change this program to make the difference in whether students with limited means can further their education. Gramm-Latta will help those who need. It will save money and it makes sense.

Another issue being considered here is whether or not we continue to allow a bureaucrat in Washington decide, right down to the last detail, what programs will be most effective and efficient in Pecatonica, Rochelle, or Harvard, Ill. I have served in local and State governments, and I believe these decisions rightfully belong at that level, not in Washington. I believe the block grant approach for many programs makes sense and saves money.

I know there is concern on the part of many of my colleagues that we are moving too fast. Will there be mistakes? I think there will probably be some. I also think they will be caught and remedied far more easily and with far less suffering than the mistake of letting our economy continue on its current course. If we continue as is, there will be more who need and fewer to provide the tax dollars to take care of them.

It is time we stop taxing our constituents to pay for more and more programs to benefit those who are not in need. It is time we let our people spend their own money and stop spending it for them. It is time for our citizens to stop depending on Government to provide all our needs. We can do it ourselves. It is time to break the cycle of big spending and big taxes. It is time to pass the Gamm-Latta substitute. It makes sense. It saves money. I urge its adoption.●

Mr. JONES of Oklahoma. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I know that this is a very difficult vote. It may be one of the most difficult votes any of you ever cast.

I would urge my colleagues not to abandon your legislative responsibilities, not to abandon looking at the substance of this legislation because of political pressure. I think it is important to review how we got here. Over the past 30 days, 15 committees of this House worked intensely to report and to meet the instructions of the Gramm-Latta reconciliation bill. They not only met those instructions and those targets, but they exceeded those targets. They exceeded those targets by $2.5 billion.

Then at the 11th hour, after all of the committees had done their work in the orderly legislative process, the Director of OMB, Mr. Stockman, came forward and said, "That is not enough. That is not the way I want it. I want more."

And so was born this substitute that we are about to vote on. It gives more, more cuts in medicare, more cuts in medicaid, more cuts in college student loan programs, and for the first time in the history of the social security system, it cuts programs and benefits for those who are now receiving social security benefits. Never before in the history of this country have we ever cut existing social security beneficiaries in their benefits.

Then in order to make it a little sweeter, some sweeteners were added. Despite the fact that 21 House Republicans wrote the Speaker of the House and said, "Don't add any sweeteners when the reconciliation bill comes;" despite the fact that even OMB Director Stockman himself denounced adding any sweeteners, to make it more palatable some sweeteners were added. So many sweeteners that the Washington Star today reports that the author of this substitute, the gentleman from Ohio (Mr. LATTA) says spending is cut less than what the 15 committees did. So if you are for cutting spending, you are not going to support this substitute.

Democrats and Republicans alike in this body I think are committed to the same goal: to reduce pressures on inflation and to reduce the growth in Federal spending. If you examine closely the substitute offered by the gentleman from Ohio (Mr. LATTA) and the work of the 15 committees in the committee bill, the one major difference is that there is a little more compassion, a little more interest in human beings in the work that was done in the orderly legislative way through the committees than there is in this hodge-podge substitute that we have been trying to understand all day.

I urge my colleagues to vote against the substitute.

□ 1745

Mr. REGULA. Mr. Chairman, I yield such time as he may consume to the gentleman from Arizona (Mr. RUDD).

Mr. RUDD. Mr. Chairman, I rise in support of the Latta-Gramm amendment.

Mr. Chairman, at the beginning of this year, President Reagan stood before the joint session of Congress and expressed what I believe is the true sentiment of the American people: That it is time for a change, and that we can not go on with business-as-usual attitudes about spending.

Passing the first budget resolution was a test of our commitment to respond to that message. Today we face another. We can either juggle figures and rearrange programs and come up with the same old results, or we can reassess our priorities and chart a new course which will lead to a reduced Federal presence and eventually, a balanced budget.

It doesn't take a genius to figure out what the committees have done to meet budget targets. Many of the recommended cuts are so severe they will never be realized. Others are superficial cuts that make no permanent changes in programs and will only increase inefficiency. It also doesn't take a prophet to tell where this kind of budget-cutting will lead us. In future years these programs will grow and very soon we will be right back where we started.

The Latta-Gramm amendment gives us another option. It includes real changes in entitlement programs and gives more spending authority back to the State and local governments. Best of all, it sets a sure course for a balanced budget. Passing this amendment will reassure a hopeful Nation that we plan to carry out the task we have begun.

Mr. REGULA. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Chairman, I rise in support of the Gramm-Latta bipartisan amendments because they are essential for the economic stability and prosperity of our Nation. The Gramm-Latta amendments achieve the necessary, substantive budget reductions mandated by the American people last November 4.

It would be impossible to understate the implications in the historic vote

we are about to take. Our vote today determines the economic destiny of our country for the years to come. Our vote today determines if we are serious about breaking away from the past policies of big Government and excessive Federal spending. Today we determine whether our economy will be boosted by an economic grand slam or an economic strikeout before the American public. Yes, Mr. Chairman, the most overriding issue behind our reconciliation vote is the economic stability of our Nation.

We need not look too far to be reminded of the economic policies of the past. Today, with the President's entire four part program for economic recovery still yet to be enacted, we have many economic remnants continuing to strangle the productive potential of our economy: inflation, as measured by the Consumer Price Index, was 9.8 percent in May (the most recent figures), unemployment was 7.6 percent also in May, and the prime rate as of yesterday remained at 20 percent.

Ask the farmer, businessman, homebuyer, or laborer and they will tell you, Mr. Chairman, these levels of inflation, interest rates, and unemployment are simply unacceptable. This was the clear message of the American electorate. To a large degree, today we will be deciding the rates of these economic indicators.

I also do not need to remind my colleagues of the difficulty of our course of action. We are all familiar with the many budget reductions we had to make in our committees. Last year we can recall that Congress agreed to $4.6 billion in spending reductions. However, nearly one-third of these cuts were never made. A repeat of this action this year will undoubtedly put unwarranted pressures on the economic indicators I have just mentioned of as well as preventing the realization of a balanced budget in the near future.

As we can agree on necessary reductions in Federal spending, we must agree upon where those reductions will be made.

First, any attempt to restrain the recent excesses of Federal spending must address the root causes. Automatic entitlement spending is the single most powerful force pushing Federal spending upward. A review of the budget distinctly makes this case: In fiscal year 1955, total entitlement costs were $14.4 billion. In 1970, these costs rose to $63 billion. Just 10 years later, $267 billion was spent on entitlements. Without overdue reforms, we can expect in fiscal year 1984 entitlements to cost the taxpayers $406 billion. This means that between the fiscal year 1982 to 1984, $1 trillion will be spent for entitlement programs—that is unless we act today by making the necessary changes.

Unlike the Jones substitute, a vote for Gramm-Latta will make real changes in many of our entitlement programs. The Jones substitute claims to have reduced $1.4 billion from the food stamp program without changing the entitlement structure of the program. This is no savings. The Jones substitute claims to have placed a "cap" on spending for food stamps. But we know how disciplined Congress has been with "caps" on this program: For 3 of the 4 years that a "cap" has been authorized, Congress has increased the food stamp statutory authorizations. In fact, the increase above the "cap" was by more than 55 percent for fiscal years 1980 and 1981.

With 1 out of 10 Americans presently receiving food stamps, the Gramm-Latta amendment would restructure entitlements so that only the truly needy would be eligible to receive. Most importantly, these spending reductions would be permanent under Gramm-Latta.

In addition, there are other areas in Gramm-Latta where entitlements are changed in a similar manner to insure real savings and that only the truly needy will benefit from the programs, as they were designed.

Second, a very important second element of reduction in Federal spending is present in the Gramm-Latta amendments and virtually absent in the Jones substitute. This is the block grants proposal. Needed block grant programs in the areas of health, social services, rehabilitation services, energy assistance, education and community development will increase program flexibility at the State and local level, reduce overhead costs and inefficiencies, and return control of such programs to those levels of government closest to the problems.

Overall Gramm-Latta amendments will increase spending reductions by $5.9 billion for 1982 and more than $20 billion over the next 3 years. But most important of all, Gramm-Latta will address those fundamental and structural needs for reform, which must be addressed if we are ever to control budget deficits and inflation.

The best example of the growth of the Federal Government is reflected by the national debt. Ten years ago the national debt stood at $392 billion; the debt today is just shy of $1 trillion. This means it took nearly 200 years for the national debt to reach roughly $400 billion, and just over 10 years to increase the debt by almost $600 billion.

With the extreme increase in the national debt has grown the interest payment on the debt. Over the past few years, the interest payment on the national debt has been the fastest rising item in the Federal budget. Until today this interest payment has become the third largest expenditure of the Government. For fiscal year 1982, over $80 billion will be spent to pay this interest. This means that we are taxing much of the hard-earned money of our citizens to pay the interest on a debt soon to be over $1 trillion.

The Gramm-Latta amendments are not just a bipartisan proposal, they are an essential part of the program which will restore greatness to America's economy. As the President stated in this Chamber before a joint session of Congress on February 18:

> I don't want it to be simply the plan of my Administration—I'm here tonight to ask you to join me in making it our plan. * * * together we can embark on this road, not to make things easy, but to make things better.

I urge my colleagues, on behalf of the November 4 mandate, to vote to end the past policies of excessive Federal spending and big Government by supporting the Gramm-Latta amendments.

Mr. REGULA. Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Chairman, we have had 2 very exciting days. Perhaps it is more excitement than a body can, or should, stand. All of us have been embarrassed by the tardiness of the receipt of the amendment and by the untidiness of the process.

But, as has been mentioned already, by the gentleman from New York (Mr CONABLE), this is not the first time that our processes have been untidy, our debate restricted, or that amendments or bills have been given to us late. We on the Republican side will do better as we get stronger, and I assure you that we will be able to deliver things sooner and in better form.

I do not want my Democratic colleagues to lose their newly discovered interest in good form and procedure. I hope they will maintain their opposition to closed rules and to the waiver of certain of our other rules. I will surely be with them in their efforts to run a fair, representative, and professional House.

Although we have been worried about process, I would say do not lose sight of the real target here. Let us not put our eyes on the hole instead of the donut. We have a clear choice here between the Gramm-Latta amendment and the committee bill.

The committee bill is a pretty good bill. I have nothing but praise for Chairman JONES and subcommittee Chairman PANETTA and their associates. I think they worked hard and produced a good product.

The only trouble with it is it does not go quite far enough toward achieving that balanced budget in 1984 without real difficulty.

According to the figures I have from CBO, the Gramm-Latta amendment will save this country in outlays over

the 3-year period $5 billion and in budget authority $8 billion. More importantly, it takes us into the block grants and the permanent cuts. Therefore, it is much more desirable for the economic health of the Nation than the committee bill.

More importantly than that, the Office of Management and Budget sees this as a $14 billion improvement, rather than a $5 billion, because it is concerned about what we have described in much of our debate here as phantom cuts.

The Latta amendment, on the other hand, takes us closer to our own budget resolution, closer to the other body's bill which was passed late last night, closer to what our President has asked of us, and closer to what our constituents have asked of us.

Most importantly, this takes us closer to that balanced budget in 1984.

Mr. Chairman, I would invite each Member here, if possible, to raise his or her sights above the indignity of a late, somewhat-flawed, hard-to-follow bill, above the indignity of the heat of this debate, and to think instead, to raise their sights to that $5 billion savings. I would ask my colleagues to think instead about inflation, about high interest rates, and to think about a balanced budget, and to think about their constituents.

If they do, I think they will want, as I do, to cast a vote for an economically stronger America, a vote for the taxpayers, a vote for the Gramm-Latta amendment.

The Latta amendment to the reconciliation bill is said to achieve nearly about $22 billion in real budget savings over the next 3 years. The committee bill, H.R. 3964, in my judgment, while a good effort, does not make enough permanent spending reductions so that a balanced budget will be attainable in 1989 without great difficulty.

Therefore, I believe it is essential that House pass the Latta amendment, and I shall vote for it.

Most of the debate today has centered on the procedures, and the late publication of the amendment. I don't like the procedure either. Unfortunately, the parliamentary situation is the creation of those who are complaining the loudest. I don't like closed rules, although they are sometimes necessary. I don't like waivers of points of order, abuse of suspensions, restrictions on debate and all the limitations used to stiffle the will of the House. The majority in this House has used all these devices, and is clearly responsible for the present parliamentary snaggle.

The tardiness of the minority in providing copies of the amendment to all members is also regrettable. This is surely not the first time such a thing has happened. I can remember well the Tax Reduction Act of 1976. Nevertheless, I believe the entire House is embarrassed whenever we have to make decisions without having a reasonable amount of time to review and analyze the legislation. Again, however, the problems we face today are a product of the process begun 4 months ago.

The committee bill, H.R. 3964, has unfortunately fallen short of the savings that were needed to reach the balanced budget by 1984. None of the President's proposals for block grant programs were included. Phantom cuts, specifically in food stamps and dairy supports, but in others, as well, were claimed as real savings. Many spending cuts are temporary, rather than permanent.

In my judgment, some committees did a fine job in the reconciliation. Some did so willingly; some just did their duty under the obligation of the budget resolution. Another group, few in number, did poorly. Most of the changes in the Latta amendment are directed against the work of those few committees. Actually the work of a majority of committees is untouched by the amendment.

The question of immediate substance here is the need to reduce spending. The Latta amendment comes closer to fulfilling the promise of the budget resolution or of a balanced budget than the committee bill does. That is the prime consideration.

It was easy to vote for the budget resolution. Over 250 of us did so. It was a vote on aggregates. This vote on reconciliation is the hard one. Here we must vote on real programs. There are mistakes in both the committee bill and the Latta amendment, but there have been mistakes in every major bill we have passed. There are features I do not like or support in both versions today, but that is also true of most comprehensive bills we consider. Despite obvious flaws, and personal objections, I see no alternative to voting for the Latta amendment.

A more enduring question of process today is what happens to reconciliation or the Budget Act. For my part, I think that a noble precedent is being developed. For 6 years we have abused the budget process. At least we have not used it to save any of the taxpayer's money.

In the past you, however, the Congress has discovered, and successfully developed, the reconciliation process. This year we actually got tough on the budget resolution, itself. Certainly, we have been led and inspired by President Reagan without whose leadership we would be $45 billion further in the red. I believe we are beginning to demonstrate that Congress can make this process work, and that is a welcome precedent.

Mr. Chairman, I urge that the Latta amendment be adopted.

The CHAIRMAN. The gentleman from Ohio has 4 minutes remaining and the gentleman from Oklahoma has 6½ minutes remaining.

Mr. JONES of Oklahoma. Mr. Chairman, I yield such time, as he may consume to the gentleman from Illinois (Mr. SAVAGE).

Mr. SAVAGE. Mr. Chairman, yesterday, this House rejected the recommendation of the Rules Committee respecting the manner in which H.R. 3982, the Omnibus Reconciliation Act of 1982, would be considered on the floor. Instead of a modified closed rule which would have permitted separate votes on a series of Reagan-inspired amendments to the bill, we are now bound by a Republican substitute which masks the faces of the people's opponents because an essential 29 of our party—including a leader of my freshman class—joined the 189 Republicans of this House to hide their particular guilt in a gang attack upon the well-being of the majority of Americans.

Now, make no mistake about it, I had one or two objections to the rule, also. For instance, I would have preferred the opportunity to specifically support an amendment which would have given a fairer percentage pay increase to civil service workers, for they are being shortchanged. And I would have preferred the opportunity to continue my fight against proposed cuts in social security and minority business support programs.

Nevertheless, I strongly favored even the limited extent to which a modified closed rule would have permitted the public to know where each of its congressional Representatives stands on particular issues.

Indeed, let the record show, for example, that I fully support Government guaranteed loans to college students and child nutrition programs. I fully support twice-a-year, cost-of-living raises for our retired persons and keeping a minimum for social security benefits. And I fully support the right of strikers to welfare benefits, because: why should this Government punish people for legally going on strike? Why punish by denying them any benefits that others may receive?

So you see, I am not ashamed of the votes that I cast on this floor, and I deeply regret that I cannot say the same for many of my colleagues who apparently have been corralled by a grade-B sheriff.

Let that hooded majority know that, because there are trying times ahead, one day soon Americans—white, black, and brown; the young and the aged; the middle class and the poor—America's true moral majority, the workers of this Nation, shall march on this Capitol in numbers greater than ever seen before, to disrobe you.

For as Isaiah said:

Your webs shall not become garments, neither shall they cover you with works for your works are works of iniquity.

You who seek to bask in the short-term popularity of a star, beware that the people shall surely come. I believe they shall come by the tens of thousands. They shall come from the streets of urban ghettos. They shall come from fields of rural areas. They shall come from the quiet squares of small towns. They shall come down the expressways from suburbia. They shall come by auto and by bus, by train and by plane, and even by foot. Yes, as the pain you inflict this day metastasizes in their nerve centers, surely, they shall come—and I welcome their coming.

I thank you.

Mr. REGULA. Mr. Chairman, I yield so much time as remains to the author of the amendment, the gentleman from Ohio (Mr. LATTA) the distinguished minority leader of the budget reconciliation.

The CHAIRMAN. The gentleman from Ohio (Mr. LATTA), will be recognized for 4 minutes to close the debate on his side.

Mr. LATTA. Mr. Chairman, I wish I could say in closing the debate on our side that this debate this afternoon and this morning has been constructive, but I cannot. This is a very, very important issue. As has been pointed out by the gentleman from Minnesota and the gentleman from Alabama, it is a question of whether or not we turn the country around economically or whether we do not.

Why do I say the debate has not been constructive? First, it started off on the wrong foot because we had a situation occur with the printing of our bill that just should not have occurred and everyone in this House knows about it now, so I do not want to repeat it. But I hope as long as I serve in this body we will never have that happen again, that no one, no one will go up to the bill room and get a bill before it goes to the printer and tear it apart and put it back in such a way that we have had in this bill, and the delayed printing of a proper bill so that they would have a photocopy. I have talked to my good friend from Texas, and certainly he will speak to that issue, that is not going to happen again in this House. That should not have happened this time, but it did, and you cannot blame us for not having a printed bill when that printed bill could not have been given to us because of that delay caused by a couple of individuals on that side.

So let us not have that happen again.

Let me say it has not been constructive from this point: Do my colleagues realize that the committee bill, the committee bill which I have in my hands, 497 pages, which comes from all of the committees of this House, has not even been really debated, and our Democrat friends are ready to vote on it. I thought perhaps we would hear from the Democratic committee chairmen this afternoon as we did on our side, title by title, and tell the Members of this House what is in your package. What is in your package? You are saying that you do not know what is in our package. You do not know what is in your package. It has not been explained. It has not been explained to the American people. I think that your argument falls on deaf ears when the real truth of the matter comes out. You do not know what is in your own package.

For example, military retirees, you take credit in your figures for taking COLA away from military retirees on the provision that they do likewise for the civilians.

Let me also say they take credit for a food stamp cap, and we just voted on Tuesday to remove a food stamp cap, and they take credit for a savings in that. How ridiculous.

Sure, we are below the first year in what the gentleman's committee put together as the Jones package, and all they did was assemble what came from the individual committees, tied a string around it, and sent it in. But they had it printed in proper form. We did not intervene and attempt to get a copy of it and to mess it up on the way to the printer. We did not do that. And we never will. Mark my word.

Let me also say that this is a critical issue. The President of the United States is interested in it. We had on our side our ranking members, our leadership on the committees went down title by title and explained what was in our bill. We had no explanation as to what is in this Democrat package put out by the full committee and it is more comprehensive, goes into greater detail, and I will bet half of the membership has not even looked at the CONGRESSIONAL RECORD telling what Mr. PANETTA himself says the cuts are in your bill, in that committee package, and you are ready to vote on it.

I say that we need a little more light on what the committee has done to America in this package, and we have not gotten any light on this from the majority side.

My budget colleagues did not hold any hearings on it, and they do not know what is in it, and they said in the Budget Committee all we do is put it in a bundle, tie a string around it, and send it to the Rules Committee.

Mr. JONES of Oklahoma. Will the gentleman yield?

Mr. LATTA. I will say to my friend that I will not yield.

I do not have enough time or I would be happy to yield. But that is what has been going on all day. I would say there have been too many attempts to obstruct rather than to learn what is in this bill needed by the American people.

I hope that you will not have your way. I hope the American people will prevail.

Mr. JONES of Oklahoma. Mr. Chairman, before yielding I just want to clarify one point. Yesterday we had 8 hours of general debate and the 15 committee chairmen explained what was in the committee package. Last week, 1 week ago, this three-volume report was put out which explains what is in the committee package and has been available for over a week.

Mr. Chairman, I yield the remainder of my time to the distinguished majority leader, the gentleman from Texas (Mr. WRIGHT).

The CHAIRMAN. The gentleman from Texas (Mr. WRIGHT), is recognized for 6½ minutes to close debate.

Mr. ROEMER. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I am happy to yield to my good friend from Louisiana (Mr. ROEMER).

Mr. ROEMER. Mr. Chairman, I thank the gentleman for yielding.

I want to say something that causes me much concern and great agony, and I speak not to the Members on that side who are committed blindly, or to those on this side who are committed blindly, one way or another. I address my remarks to those in the middle, those who have agonized and helped create what we hoped was an economic sanity in this country.

How in good conscience can we vote for a bill that was not written until midnight last night and not read until this moment today? I cannot vote for it.

I thank the gentleman for yielding.

Mr. WRIGHT. Mr. Chairman, I think there are three very impelling reasons, any one of which is amply sufficent to justify a vote against this Gramm-Latta substitute.

The first is that it is so grossly deficient in draftsmanship, as suggested by the gentleman from Louisiana, having been hastily thrown together in private by two or three people, and flung out to the rest of us only today, that it unavoidably would create grievous errors and problems. Some of these have been disclosed in debate. How many other discrepancies exist, we may only guess.

The second reason is that this attempt so far exceeds the rightful budgetary considerations that we were supposed to deal with here today, so deeply invades the rights and prerogatives of this House and of its committees, that it constitutes a brazen attempt at a power grab on the part of those few people who would substitute their whims for the judgment of the Congress expressed in concert over a period in some cases of more than 50 years.

□ 1800

The third reason we should vote against it is because its adoption, unconfronted by any basic opposition from the other body, unavoidably would cause egregious injuries to many millions of innocent Americans who have nobody to stand between them and those injuries except the Members of this House.

First, let me address just very briefly the question of the numerous deficiencies in craftsmanship which have left gaping holes in this legislation. The gentleman from Ohio, my good friend, Mr. LATTA, acknowledged that he was unaware that it contained a provision that would have abolished the program for the blind, the Randolph-Sheppard bill. Mr. LATTA was willing, upon learning of its presence in this lengthy and confusing document, to take it out, as he was willing to remove certain other provisions and change them when they were called to his attention.

What he did not know was that this very provision appeared twice in the legislation, as do four consecutive pages of print, two widely separated but identical passages, with only the changes of section numbers—appearing in different titles of the bill.

We have heard testimony here today, and it has been acknowledged, that errors in referencing inadvertently and unintentionally would kill the National Science Foundation, if this bill were enacted in its present form, together with all the weather stations in the United States, which would make extremely difficult either commercial or noncommercial aerial flights—and also by utter inadvertence would kill the small business loan program.

It may be said on the other side, "Oh, that is all right. Let us go to conference and we will work out all those numerous, unnumbered, and in some cases still unidentified deficiencies." But, my friends, that is not good enough. The rule, of course, is that only those matters in disagreement between the House and the Senate are subject to the conference. To take a bill like this to the conference certainly would offend the professionalism of the House, to say nothing of the integrity of the House.

The second reason it should be defeated is because this is not a budget document. This is a document of reaction. This is a document which combines into one compendium all of the whims and prejudices of a little group of willful men who met in private, in a clandestine setting and undertook to arrogate to themselves the almighty wisdom to undo all of the decisions of all of the committees of the House, carefully arrived at in public session.

My friend, the gentleman from Ohio (Mr. LATTA), says nobody knows what is in this original committee bill which his substitute would amend. Quite the contrary. The Members of the Congress know what is in the bill, because they participated in its drafting. The public ought to know what is in the bill because it was drafted in public, in sunlight, not in a clandestine meeting at midnight.

So for that reason, too, the power grab, the unprecedented attempt to foist upon this House the very notion that only the Director of the Office of Management and Budget has enough wisdom to write legislation, is an insult to the Congress of the United States. In fact, some of the tactics that have been employed, I am sorry to say, do not do justice to the White House or the Presidency.

I hold in my hand a UPI dispatch in which White House Deputy Press Secretary Larry Speakes today said that Mr. Reagan "accommodated"—that word is in quotes—some lawmakers with pet projects in exchange for their votes Thursday on a parliamentary move to push Mr. Reagan's budget cuts through the House.

It even mentions something to the effect of specific promised changes in the general laws with regard to sugar legislation.

My friends, I am not accusing any Member of this House of yielding to that kind of pressure or temptation. Nor do I believe any Member of this House is so weak-kneed or lily-livered that he would allow himself to be bribed or intimidated by a rightwing group that came into his office with a prepared script embodying a lie, an outright lie, which it threatened to publish on his local radio stations if he did not promise them in advance, sight unseen and even before any of its provisions were known, that he would support this document known as Gramm-Latta. I do not think any one of us would be so cowardly that we would succumb to that.

That is the second reason. It is a power and a crude one. Under the guise of attempting to modify costs, this would totally abolish 11 existing laws and modify 50 in very major ways.

Finally, I should like to say that we have the responsibility to defeat Gramm-Latta because it would cause grievous financial injury to many millions of Americans. It would immediately affect 3 million social security recipients by abolishing the so-called minimum benefits guarantee.

One example: A man who had retired in 1965 on a social security benefit and now would be receiving $3,000 a year. Upon the enactment of this law, he and many hundreds of thousands like him would be reduced from $3,000 to approximately $300 a year! Some children would be denied school lunches. Perhaps as many as 1 million, denied student loan guarantees, would find it much harder to go to college. The Members alone stand between those citizens and those results. I know that the Members are not going to permit this travesty upon so many unsuspecting people and upon the integrity and the traditions of the House of Representatives.

The CHAIRMAN. The question is on the amendments considered en bloc offered by the gentleman from Ohio (Mr. LATTA).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. LATTA. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 217, noes 211, not voting 4, as follows:

[Roll No. 111]

AYES—217

Archer	Fish	McCloskey
Ashbrook	Flippo	McCollum
Badham	Forsythe	McDade
Bafalis	Frenzel	McDonald
Bailey (MO)	Gilman	McEwen
Barnard	Gingrich	McGrath
Beard	Goldwater	McKinney
Benedict	Goodling	Mica
Bereuter	Gradison	Michel
Bethune	Gramm	Miller (OH)
Bliley	Green	Mitchell (NY)
Breaux	Gregg	Molinari
Broomfield	Grisham	Montgomery
Brown (CO)	Gunderson	Moore
Brown (OH)	Hagedorn	Moorhead
Broyhill	Hall, Sam	Morrison
Burgener	Hammerschmidt	Myers
Butler	Hance	Napier
Byron	Hansen (ID)	Nelligan
Campbell	Hansen (UT)	Nelson
Carman	Hartnett	Nichols
Carney	Hatcher	O'Brien
Chappell	Heckler	Parris
Chappie	Hendon	Pashayan
Cheney	Hightower	Paul
Clausen	Hiler	Petri
Clinger	Hillis	Porter
Coats	Holland	Pritchard
Coleman	Hollenbeck	Pursell
Collins (TX)	Holt	Quillen
Conable	Hopkins	Railsback
Conte	Horton	Regula
Corcoran	Huckaby	Rhodes
Coughlin	Hunter	Rinaldo
Courter	Hutto	Ritter
Coyne, James	Hyde	Roberts (KS)
Craig	Ireland	Roberts (SD)
Crane, Daniel	Jeffords	Robinson
Crane, Philip	Jeffries	Rogers
Daniel, Dan	Johnston	Roth
Daniel, R. W.	Kemp	Roukema
Dannemeyer	Kindness	Rousselot
Daub	Kramer	Rudd
Davis	Lagomarsino	Santini
Deckard	Latta	Sawyer
DeNardis	Leach	Schulze
Derwinski	Leath	Sensenbrenner
Dickinson	LeBoutillier	Shaw
Dornan	Lee	Shelby
Dreier	Lent	Shumway
Duncan	Lewis	Shuster
Dunn	Livingston	Siljander
Edwards (AL)	Loeffler	Skeen
Edwards (OK)	Lott	Smith (AL)
Emerson	Lowery	Smith (NE)
Emery	Lujan	Smith (NJ)
Erdahl	Lungren	Smith (OR)
Erlenborn	Madigan	Snowe
Evans (DE)	Marks	Snyder
Evans (GA)	Marlenee	Solomon
Evans (IA)	Marriott	Spence
Fenwick	Martin (IL)	Stangeland
Fiedler	Martin (NC)	Stanton
Fields	Martin (NY)	Staton
Findley	McClory	Stenholm

Stump	Wampler	Winn
Tauke	Weber (MN)	Wolf
Tauzin	Weber (OH)	Wortley
Taylor	White	Wylie
Thomas	Whitehurst	Young (AK)
Trible	Whittaker	Young (FL)
Vander Jagt	Williams (OH)	
Walker	Wilson	

NOES—211

Addabbo	Ford (MI)	Oakar
Akaka	Ford (TN)	Oberstar
Albosta	Fountain	Obey
Alexander	Fowler	Ottinger
Anderson	Frank	Panetta
Andrews	Frost	Patman
Annunzio	Fuqua	Patterson
Anthony	Garcia	Pease
Applegate	Gaydos	Pepper
Aspin	Gejdenson	Perkins
Atkinson	Gephardt	Peyser
AuCoin	Gibbons	Pickle
Bailey (PA)	Ginn	Price
Barnes	Glickman	Rahall
Bedell	Gonzalez	Rangel
Beilenson	Gore	Ratchford
Benjamin	Gray	Reuss
Bennett	Guarini	Richmond
Bevill	Hall (OH)	Rodino
Biaggi	Hall, Ralph	Roe
Bingham	Hamilton	Roemer
Blanchard	Harkin	Rose
Boggs	Hawkins	Rosenthal
Boland	Hefner	Rostenkowski
Bolling	Heftel	Roybal
Boner	Hertel	Russo
Bonior	Howard	Sabo
Bonker	Hoyer	Savage
Bouquard	Hubbard	Scheuer
Bowen	Hughes	Schneider
Brinkley	Jacobs	Schroeder
Brodhead	Jenkins	Schumer
Brooks	Jones (NC)	Seiberling
Brown (CA)	Jones (OK)	Shamansky
Burton, Phillip	Jones (TN)	Shannon
Chisholm	Kastenmeier	Sharp
Clay	Kazen	Simon
Coelho	Kildee	Skelton
Collins (IL)	Kogovsek	Smith (IA)
Conyers	LaFalce	Solarz
Coyne, William	Lantos	St Germain
Crockett	Lehman	Stark
D'Amours	Leland	Stokes
Daschle	Levitas	Stratton
de la Garza	Long (LA)	Studds
Dellums	Long (MD)	Swift
Derrick	Lowry	Synar
Dicks	Luken	Traxler
Dingell	Lundine	Udall
Dixon	Markey	Vento
Donnelly	Matsui	Volkmer
Dorgan	Mattox	Walgren
Dougherty	Mavroules	Washington
Downey	Mazzoli	Watkins
Dwyer	McCurdy	Waxman
Dyson	McHugh	Weaver
Early	Mikulski	Weiss
Eckart	Miller (CA)	Whitley
Edgar	Mineta	Whitten
Edwards (CA)	Minish	Williams (MT)
English	Mitchell (MD)	Wirth
Ertel	Moakley	Wolpe
Evans (IN)	Moffett	Wright
Fary	Mollohan	Wyden
Fascell	Mottl	Yates
Fazio	Murphy	Yatron
Ferraro	Murtha	Young (MO)
Fithian	Natcher	Zablocki
Florio	Neal	Zeferetti
Foglietta	Nowak	
Foley	O'Neill	

NOT VOTING—4

Burton, John	Danielson
Cotter	Dymally

□ 1815

Mr. BONKER changed his vote from "aye" to "no."

So the amendments were agreed to.

The result of the vote was announced as above recorded.

Mr. JONES of Oklahoma. Mr. Chairman, I ask unanimous consent to address the Committee for 1 minute.

The CHAIRMAN. Without objection, the gentleman from Oklahoma is recognized for 1 minute.

There was no objection.

Mr. JONES of Oklahoma. Mr. Chairman, I have made this request on behalf of the Members, to determine what the schedule for the rest of the day is.

I would inquire of the leader of the minority on the Budget Committee, the gentleman from Ohio (Mr. LATTA) if the Broyhill substitute is going to be offered next.

Mr. LATTA. If the gentleman will yield, the Broyhill substitute will be offered next.

Mr. JONES of Oklahoma. Then the rule calls for 2 hours of general debate on the Broyhill substitute, then a vote on that, and then a motion to recommit and the final passage.

Mr. LATTA. Yes.

Mr. JONES of Oklahoma. I thank the gentleman.

AMENDMENT OFFERED BY MR. BROYHILL

Mr. BROYHILL. Mr. Chairman, I offer an amendment.

The CHAIRMAN. Under the rule, the amendment is considered as having been read.

The amendment offered by Mr. BROYHILL is as follows:

Strike out title VI and insert in lieu thereof:

TITLE VI—HOUSE COMMITTEE ON ENERGY AND COMMERCE

SUBTITLE A—DIRECT SPENDING REDUCTIONS

Chapter 1—RAILROAD RETIREMENT REDUCTIONS

PART A—RAILROAD RETIREMENT REDUCTIONS

SEC. 6001. (a) Section 3(h) of the Railroad Retirement Act of 1974 is amended by adding at the end thereof the following new subdivision:

"(6) No amount shall be payable to an individual under subdivision (3) or (4) of this subsection unless the entitlement of such individual to such amount had been determined prior to the later of June 1, 1981 and the date of the enactment of this subdivision.".

(b) Section 4(e) of the Railroad Retirement Act of 1974 is amended by adding at the end thereof the following new subdivision:

"(5) No amount shall be payable to a person under subdivision (1), (2), or (3) of this subsection unless the entitlement of such person to such amount had been determined prior to the later of June 1, 1981 and the date of the enactment of this subdivision.".

(c) Section 4(h) of the Railroad Retirement Act of 1974 is amended by inserting "(1)" after "(h)" and by adding at the end thereof the following new subdivision:

"(2) No amount shall be payable to a person under subdivision (1) of this subsection unless the entitlement of such person to such amount had been determined prior to the later of June 1, 1981 and the date of the enactment of this subdivision.".

(d) The amendments made by this chapter shall take effect on the later of June 1, 1981, and the date of the enactment of this Act.

Chapter 2—MEDICARE AND MEDICAID CHANGES

SHORT TITLE AND REFERENCES IN CHAPTER

SEC. 6010. This chapter may be cited as the "Health Care Financing Amendments of 1981".

Subchapter A—Medicaid Changes

LIMITATION ON AUTHORIZATION OF APPROPRIATIONS; ALLOTMENTS TO STATES

SEC. 6011. (a) The heading of section 1901 of the Social Security Act is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS; ALLOTMENTS TO STATES".

(b) Section 1901 of that Act is amended—

(1) by striking out "a sum sufficient to carry out the purposes of this title" and inserting in lieu thereof "a sum determined in accordance with this section",

(2) by inserting "(a)" after "Sec. 1901.", and

(3) by adding at the end the following new subsections:

"(b) There are authorized to be appropriated to carry out the purposes of this title—

"(1) for each fiscal year ending before October 1, 1980, a sum sufficient to carry out the purposes of this title;

"(2) for fiscal year 1981, $16,399,914,000;

"(3) for fiscal year 1982, $17,371,000,000; and

"(4) for fiscal year 1983 and each succeeding fiscal year, an amount equal to the amount authorized to be appropriated under this subsection for the preceding fiscal year, increased or decreased, as appropriate, by a percentage equal to percentage increase or decrease in the Gross National Product Implicit Price Deflator for that fiscal year published by the United States Department of Commerce as it appears in the President's budget for that fiscal year.

"(c)(1) From the sum appropriated under subsection (b) for fiscal year 1981, each of the fifty States and the District of Columbia shall be allotted, for purposes of carrying out its program under this title for the fourth quarter of fiscal year 1981, an amount determined as follows:

"(A) The Secretary shall determine for each such State (using the latest version received by the Secretary before the end of December 1980 of the State's estimate of the Federal share of expenditures under this title in fiscal year 1981) the total amount of the State's estimated expenditures which do not represent amounts to which the State would be entitled to reimbursement from sums appropriated under subsection (d) or (f).

"(B) The Secretary shall determine for each such State the amount which bears the same ratio to $16,367,814,000 as the amount determined under subparagraph (A) bears to the total of amounts determined for all such States under subparagraph (A).

"(C) The Secretary shall determine for each such State the total amount paid to the State before July 1, 1981, for the purpose of carrying out its program under this title for the first three quarters of fiscal year 1981, reduced by any amounts for which the State is entited to reimbursement from sums appropriated under subsections (d) and (f).

"(D) Each such State shall be allotted under this paragraph the amount, if any, by which the amount determined for that State under subparagraph (B) exceeds the

amounts determined for that State under subparagraph (C).

"(2) From the sums appropriated under subsection (b) for fiscal year 1982, each of the fifty States and the District of Columbia shall be allotted an amount which bears the same ratio to the total amount appropriated under that subsection (reduced by the sum of the amounts specified in paragraph (3)) as the latest version received by the Secretary before the end of July 1, 1981 of the State's estimate of the Federal share of expenditures under this title in fiscal year 1981 (reduced by the amounts for which the State would be entitled to reimbursement from sums appropriated under subsections (d), (e), and (f)) bears to the sum of all States' estimates of expenditures for such purpose (reduced by all amounts for which the States would be entitled to reimbursement from sums appropriated under subsections (d), (e), and (f)).

"(3) From the sums appropriated under subsection (b) for each of fiscal years 1981 and 1982, Puerto Rico shall be allotted $30,000,000, the Virgin Islands shall be allotted $1,000,000, Guam shall be allotted $900,000, and the Northern Mariana Islands shall be allotted $200,000.

"(4) From the sums appropriated under subsection (b) for fiscal year 1983 and each succeeding fiscal year, each State shall be allotted an amount which bears the same ratio to the total amount appropriated under subsection (b) as the State's allotment for fiscal year 1982 bore to the total appropriation for fiscal year 1982.

"(5) Sums allotted to a State under this subsection for any fiscal year shall remain available until expended.

"(d) In addition to sums authorized to be appropriated under subsection (b), there are authorized to be appropriated, for fiscal year 1981 and each succeeding fiscal year, such sums as are necessary to make payments to States under section 1903(a)(6).

"(e)(1) In addition to sums authorized to be appropriated under subsection (b), there are authorized to be appropriated—

"(A) $210,000,000 for fiscal year 1982, and

"(B) such sums as may be necessary and appropriate for fiscal year 1983 and each succeeding fiscal year,

for payment to States under section 1903(a)(3). The Secretary shall allocate to the States amounts appropriated under this subsection in accordance with the remaining provisions of this subsection.

"(2) At the beginning of each fiscal year the Secretary shall set aside, for payment to States under section 1903(a)(3)(A), an amount equal to the lesser of (A) 25 per centum of the amount appropriated under this subsection, or (B) an amount he determines, in accordance with paragraph (6), on the basis of States' estimates of expenditures under plans approved by the Secretary under section 1903(a)(3)(A), to be sufficient to make payments to States under section 1903(a)(3)(A). The Secretary shall allocate the amount set aside among those States which reasonably expect to perform during the fiscal year the activities specified in section 1903(a)(3)(A). If the amount set aside is less than 100 percent of States' estimates of expenditures under section 1903(a)(3)(A), he shall allocate to each State an amount bearing the same ratio to the total amount set aside as the State's estimate of expenditures under section 1903(a)(3)(A) for that fiscal year bears to the total of all States' estimates of expenditures under section 1903(a)(3)(A) for that fiscal year.

"(3) The Secretary shall allocate the remainder among States which have (or reasonably expect to have before the end of the fiscal year) a system specified under section 1903(a)(3)(B) which is approved by the Secretary, as follows: He shall allot to each such State a share of the remainder equal to the state's share of the total of all such States' estimates of expenditures under section 1903(a)(3)(B), adjusted in accordance with paragraph (6).

"(4) Each State receiving an allotment under paragraph (2) or (3) shall certify to the Secretary, before the end of the second allotment which will not be required by the State under section 1903(a)(3) for such fiscal year.

"(5) Amounts which States certify under paragraph (4) that they will not be able to use shall be available for allotment to other States which the Secretary determines, in accordance with paragraph (6), will be able to use such excess amounts during such fiscal year for the purposes specified in section 1903(a)(3). If the amount available for reallotment is less than 100 percent of the additional amounts that the Secretary determines could be used by States under section 1903(a)(3), he shall allocate to each State an amount bearing the same ratio to the total amount available for reallotment as the additional amount which the Secretary determines that the State will be able to use for that fiscal year bears to the total additional amounts which the Secretary determines that all States will be able to use for that fiscal year.

"(6) The Secretary may adjust each State's estimates of expenditures for purpose of allocations under this subsection as necessary to assure that payments to States under section 1903(a)(3) do not exceed amounts adequate to pay the Federal share of reasonable cost of development and of costs of efficient and economical operation of information systems.

"(7) Sums allotted to a State pursuant to subsection (c) shall be available to the State to pay the Federal share of expenditures specified in section 1903(a)(3) to the extent that the State's allotment under this subsection is insufficient to pay the Federal share of such expenditures.

"(f)(1) In addition to sums authorized to be appropriated under subsection (b), there are authorized to be appropriated such sums as are necessary to pay (subject to paragraph (2)) claims of States for expenditures in carrying out programs under this title before October 1, 1980.

"(2) Notwithstanding the provisions of section 1132 or any other provision of law, payment shall not be made under this title to any State with respect to any expenditure made by the State during fiscal year 1980, unless a claim therefor has been filed, in the form and manner prescribed by the Secretary, on or before October 1, 1981 (or, where the Secretary grants a waiver under paragraph (3), on or before January 1, 1982).

"(3) The Secretary shall waive the requirement imposed under paragraph (2) with respect to the filing of any claim if he determines that exceptional circumstances justified the State's failure to file a claim within the period prescribed under paragraph (2).

"(g)(1) In addition to the sums authorized to be appropriated under subsection (b), there are authorized to be appropriated for each fiscal year such sums as are necessary to provide for allotments to States which did not have plans approved under this title as of January 1981 but which have such a plan approved under this title during such fiscal year.

"(2) In the case of States referred to in paragraph (1) and from the amounts appropriated under paragraph (1) for a fiscal year, each such State which has a plan approved under this title in the fiscal year shall be allotted, for purposes of carrying out its program under this title, an amount determined by the Secretary as follows: The Secretary shall estimate the amount that the Federal share of expenditures under the State's plan under this title (other than expenditures for purposes described in section 1903(a)(3) or section 1903(a)(6)) would have been with respect to fiscal year 1981, under the terms of the plan as first in operation, if the plan was in operation during that entire fiscal year. The allotment to the State shall be equal to such amount adjusted to reflect (A) the percentage increase (or decrease) in the amounts of allotments to other States under subsection (c) between fiscal year 1981 and the fiscal year involved, and (B) if the plan is not in operation for the entire fiscal year, the portion of the fiscal year in which it is in operation.

"(3) Sums allotted to a State under this subsection for any fiscal year shall remain available until expended.".

(c) Section 1903(a) of that Act is amended by adding at the end the following new sentence: "Notwithstanding any other provision of this section, the total payment to a State under this section for any fiscal year shall not exceed the total amount to which that State is entitled from sums appropriated under section 1901 for that fiscal year.".

(d) Subsection (c) of section 1108 of that Act is repealed.

(e) The amendments made by this section shall be effective on July 1, 1981.

WAIVERS AND MODIFICATIONS OF FEDERAL REQUIREMENTS

SEC. 6012. (a) Section 1901(a) of the Social Security Act, as amended by section 6011(b) of this chapter, is further amended—

(1) by striking out "and" after "dependent children" and inserting in lieu thereof a comma, and

(2) by inserting "and other individuals," after "disabled individuals,".

(b) Section 1902(a) of that Act is amended by striking out "(a) A" and inserting in lieu thereof "(a) Except as provided in subsection (b), a".

(c) Paragraph (10) of that section is amended—

(1) by amending subparagraphs (B) and (C) to read as follows:

"(B) with respect to the items and services specified in paragraph (13)(B), that the medical assistances made available to any individual described in paragraph (A) shall not be less in amount, duration, or scope than the medical assistance made available to any other such individual; and

"(C) if medical assistance is included for any group of individuals who are not described in subparagraph (A), whose income and resources are insufficient to meet the cost of necessary medical services, a description with respect to each such group of the criteria for determining eligibility for and the extent of medical assistance under the State plan;", and

(2) by striking out all that follows subparagraph (C).

(d) Paragraph (14)(A) of that section is amended—

(1) by striking out ", and no deduction, cost sharing, or similar charge with respect to the care and services listed in paragraph (1) through (5), (7), and (17) of section 1905(a)," in clause (i), and

(2) by striking out "with respect to other care and services" in clause (ii).

(e) Paragraph (13) of that section is amended—

(1) by striking out "(i)" and all that follows through "(ii)" in subparagraph (A),

(2) by striking out ", and" at the end of subparagraph (B) and inserting in lieu thereof a semicolon, and

(3) by striking out subparagraphs (C) through (F).

(f) Paragraph (17) of that section is amended—

(1) by striking out "(which shall be comparable" and all that follows through "in rural areas)",

(2) by striking out "(B)" and all that follows through ", and (D)" and inserting in lieu thereof "(B) provide for reasonable evaluation of any income and resources, and (C)", and

(3) by striking out the first semicolon and all that follows up to the second semicolon.

(g) Paragraph (21) of that section is repealed.

(h) Paragraph (23) of that section is amended to read as follows:

"(23) provide that methods and standards (including standards for participation of providers) as can reasonably be expected (as determined by the Secretary) to afford, to individuals eligible for benefits under the plan, health care of adequate quality with respect to those items and services for which they are entitled to medical assistance under the plan;".

(i) Paragraph (25)(C) of that section is amended by inserting ", if the amount of such reimbursement can reasonably be expected to exceed the costs of recovery" before the semicolon.

(j) Paragraph (30) of that section is amended—

(1) by striking out "(including but not limited to utilization review plans as provided for in section 1903(i)(4))", and

(2) by striking out "(including payments for any drugs provided under the plan)" and "not in excess of reasonable charges".

(k) Paragraph (43) of that section is repealed.

(l)(1) The second unnumbered paragraph (which begins "For purposes") after the end of paragraph (42) of that section is amended by striking out "shall" and inserting in lieu thereof "may".

(2) Section 503 of Public Law 94-566 (relating to preservation of medicaid eligibility for certain individuals subject to Social Security cost-of-living increases) is amended—

(A) by striking out all that precedes "for any month after June 1977" in the first sentence and inserting in lieu thereof "A State plan under title XIX of the Social Security Act may provide medical assistance to any individual,", and

(B) by striking out "shall" in the second sentence and inserting in lieu thereof "may".

(m)(1) Section 1902(b) of the Social Security Act is amended—

(A) by striking out paragraphs (1) and (2), and redesignating paragraphs (3) and (4) as subparagraphs (A) and (B), respectively.

(B) by inserting "(1)" after "(b)", and

(C) by adding at the end the following new paragraphs:

"(2) In approving a plan under this section, the Secretary may waive any of the requirements specified in subsection (c), in accordance with the provisions of that subsection. The Secretary's decision to grant or deny a waiver under subsection (c) shall not be subject to judicial review under any provision of title 28 of the United States Code.

"(3) Within 90 days after receiving from a State a proposed State plan or plan amendment, or a request for waiver of a State plan requirement, the Secretary shall either approve or disapprove the proposed plan or amendment or waiver request, or shall inform the State agency in writing what additional information is needed to enable him to make a final determination. Within 90 days after receiving such additional information, the Secretary shall either approve or disapprove the proposed plan or plan amendment or waiver request.".

(2) Subsection (c) of section 1902 of that Act is amended to read as follows:

"(c)(1) The Secretary may waive any of the requirements specified in paragraphs (1) and (2) of subsection (a) where the State agency demonstrates to his satisfaction that the purpose for which a waiver is sought is reasonably related to the purposes of this title.

"(2) The Secretary may waive any of the requirements specified in paragraphs (11), (12), (22)(C), (24), (26), (29), and (31) of subsection (a) where the State agency demonstrates to his satisfaction that it has established alternative methods and procedures which can reasonably be expected to achieve more efficiently or effectively the goals of the requirement for which a waiver is sought.

"(3) The Secretary may waive the requirement specified in subsection (a)(14)(A) to permit imposition of a nominal copayment for hospital emergency room services and outpatient hospital services, where the State agency demonstrates to his satisfaction that the copayment requirement for which the waiver is sought can reasonably be expected to promote more cost-effective utilization of health care services covered under the State plan, and that it will not be inconsistent with the requirement of subsection (a)(23).

"(4) The Secretary may waive any requirements of this title with respect to provision of or payment for medical care in order to permit the State agency to share with recipients of medical assistance under the State plan cost savings resulting from use by the recipients of more cost-effective medical care, where the State agency demonstrates to his satisfaction that granting the waiver is not inconsistent with the purposes of this title. Any payment to an individual under a waiver granted under this paragraph shall not be treated as income or resources for purposes of eligibility for cash assistance under any title of this Act.".

(n) Subsection (e) of section 1902 of that Act is repealed.

(o) Section 1902(f) of that Act is amended—

(1) by striking out "no State" and all that precedes it and inserting in lieu thereof "No State",

(2) by striking out "as determined in accordance with section 1903(f)", and

(3) by striking out all that follows the first sentence and inserting in lieu thereof "An individual who is eligible for medical assistance by reason of the requirements of this section concerning the deduction of incurred medical expenses from income shall be considered an individual eligible for medical assistance under subsection (a)(10)(A).".

(p) Subsection (h) of section 1902 of that Act is repealed.

(q) Section 1903(a)(3)(B) of that Act is amended by striking out "approved by the Secretary" and all that follows up to the semicolon.

(r)(1) Subsections (f), (g), (h), and (m) of section 1903 of that Act are repealed.

(2) Section 1903(a)(1) of that Act is amended by striking out "subsections (g), (h), and (j)" and inserting in lieu thereof "subsection (j)".

(3) The repeal of section 1903(g) of the Social Security Act shall be effective on and after October 30, 1972.

(s)(1) Section 1903(i) of that Act is amended—

(A) by striking out "; or" at the end of paragraph (2) and inserting in lieu thereof a period,

(B) by striking out "—" and all that follows through "(2)", and

(C) by striking out paragraphs (3) and (4).

(2) The second sentence after the end of paragraph (42) of section 1902(a) of that Act is amended by striking out "(31), and (33), and section 1903(i)(4)," and inserting in lieu thereof "(26), and (33),".

(t)(1)(A) Subparagraph (A) of section 1903(r)(2) of that Act is amended to read as follows:

"(A) A State must have its mechanized claims processing and information retrieval systems initially approved by the Secretary in accordance with paragraph (4) in order to receive payments under clause (i) of subsection (a)(3)(B), and must have its mechanized eligibility assessment systems initially approved by the Secretary in accordance with paragraph (4) in order to receive payments under clause (ii) of subsection (a)(3)(B).".

(B) Subparagraph (D) of that section is amended by striking out "the date of the enactment of this subsection" and inserting in lieu thereof "October 7, 1980".

(C) Subparagraphs (B) and (C) of that section are repealed and subparagraph (D) of that section is redesignated as subparagraph (B).

(2) Section 1903(r)(3) of that Act is amended—

(A) by striking out "(A)",

(B) by striking out subparagraph (B), and

(C) by striking out all that follows "operational" and inserting in lieu thereof "(but not earlier than October 1, 1982, in the case of eligibility assessment systems).".

(3)(A) Section 1903(r)(4)(A) of that Act is amended—

(i) by inserting "mechanized claims processing and information retrieval" in the first sentence after "approved",

(ii) by striking out "paragraph (6)" in the second sentence and inserting in lieu thereof "paragraph (5)", and

(iii) by inserting after the first sentence the following new sentence: "Beginning not later than October 1, 1986, the Secretary shall review all approved mechanized eligibility assessment systems not less often than once each fiscal year, and shall reapprove or disapprove any such systems.".

(B) The first sentence of section 1903(r)(4)(B) of that Act is amended—

(i) by striking out "reduce the per centum" and all that follows through "70 per centum" and inserting in lieu thereof "reduce by a factor of not less than 5 percent and not more than 25 percent the amount of the State's allotment pursuant to section 1901(e)(3) which the State may spend for the activities described in section 1903(a)(3)(B)", and

(ii) by striking out "except that such per centum may not be reduced by more than

10 percentage points" and inserting in lieu thereof "except that such reduction may not exceed 10 per centum".

(C) Section 1903(r)(5) of that Act is amended—

(i) in subparagraph (A), in the matter preceding clause (i), by striking out "claims processing and information retrieval" and inserting in lieu thereof "information processing",

(ii) by striking out "The" in subparagraph (A)(i) and inserting in lieu thereof "Mechanized claims processing and information retrieval",

(iii) in paragraph (A)(ii)—

(I) by striking out "performance standards and other", and

(II) by striking out "paragraph (6)" and inserting in lieu thereof "paragraph (5)",

(iv) by redesignating clauses (ii) and (iii) of subparagraph (A) as clauses (iii) and (iv), respectively,

(v) by inserting after clause (i) the following new clause:

"(ii) mechanized eligibility assessment systems must be capable of accumulating and assessing information concerning applicants' and beneficiaries' income, resources and other relevant characteristics so as to control and perform eligibility determinations and reviews.", and

(vi) by striking out "claims processing and information retrieval" in subparagraph (B) and inserting in lieu thereof "information processing".

(4) Section 1903(r)(6) of that Act is amended—

(A) in subparagraph (A)—

(i) by inserting "(i) in the case of claims processing and information retrieval systems," after "(A)", and

(ii) by inserting before the semicolon at the end of the following clause: ", and (ii) in the case of eligibility assessment systems, by not later than October 1, 1982, develop systems requirements and other conditions for approval for use in initially approving such State systems";

(B) by inserting "(in the case of claims processing and information retrieval systems), and October 1, 1986 (in the case of eligibility assessment systems)," in subparagraph (B) after "October 1, 1980,"; and

(C) by inserting "claims processing and information retrieval" after "State" in subparagraph (H) in the matter preceding clause (i).

(5) Section 1903(r)(8) of that Act is amended—

(A) by striking out "and on the modification" and all that follows through "subparagraph (C)" in subparagraph (B), and

(B) by striking out subparagraph (C).

(6) Section 1903(r) of that Act is further amended by striking out paragraphs (1) and (7), redesignating paragraphs (2) through (6) as paragraphs (1) through (5), respectively, and redesignating paragraph (8) as paragraph (6).

(u) Section 1905(a) of that Act is amended—

(1) by amending the matter preceding paragraph (1) to read as follows:

"(a) The term 'medical assistance' means payment (by reimbursement or by any other reasonable method, including prepayment on a capitation basis) of part of all of the cost of the following care and services for individuals, and, with respect to physicians' or dentists' services, at the option of the State, to individuals eligible under the State plan to have payment made for such care and services—",

(2) by striking out the last sentence, and

(3) by adding at the end the following new sentence:

"With respect to physicians' or dentists' services, at the options of the State, the term 'medical assistance' includes payment to individuals eligible for medical assistance under this title, other than—

"(A) individuals described in section 1902(a)(10)(A), and

"(B) individuals with respect to whom there is being paid, or who are eligible, or would be eligible if they were not in a medical institution, to have paid with respect to them a State supplementary payment, and who are eligible for medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in section 1902(a)(10)(A).".

(v) Section 1905(a) of that Act is further amended—

(1) by striking out "and" at the end of paragraph (17),

(2) by redesignating paragraph (18) as paragraph (19), and

(3) by inserting after paragraph (17) the following new paragraph:

"(18) personal care services and any other services (other than room and board) as approved by the Secretary, provided pursuant to a plan of care to an individual who, but for such services, may require institutionalization in a medical institution in which the cost of his care could be reimbursed under the State plan; and".

(w) Subsection (e) of section 1905 of that Act is repealed.

INCREASED FEDERAL MATCHING FOR AUTOMATED ELIGIBILITY ASSESSMENT SYSTEMS

SEC. 6013. (a) Clause (ii) of section 1903(a)(3)(A) of the Social Security Act is amended to read as follows:

"(ii) 90 per centum of so much of the sums expended during such quarter as are attributable to the design, development, or installation of such mechanized eligibility assessment systems as the secretary determines are likely to provide more efficient, economical, and effective administration of the plan and to be compatible with any such systems in use under State plans under titles I, X, XIV, XVI, and part A of title IV, and under the supplemental security income program under title XVI, and".

(b) Section 1903(a)(3)(B) of that Act is amended—

(1) by inserting "(i)" after "(B)",

(2) by striking out "; plus" and inserting in lieu thereof ", and", and

(3) by adding at the end the following new clause:

"(ii) 75 per centum of so much of the sums expended during such quarter as are attributable to the operation of systems (whether such systems are operated directly by the State or by another person under a contract with the State) of the type described in subparagraph (A)(ii) (whether or not designed, developed, or installed with assistance under such subparagraph) which are approved by the Secretary; plus".

RECOVERY OF DISPUTED CLAIMS

SEC. 6014. Section 1903(d)(5)(a) of the Social Security Act is amended—

(1) by striking out "shall, at the option of the State, be retained by such State or recovered" in the first sentence and inserting in lieu thereof "shall be recovered", and

(2) by striking out the second sentence.

ATTRIBUTION OF SPONSOR'S INCOME AND RESOURCES TO ALIEN

SEC. 6015. Section 1902(a)(17)(C) of the Social Security Act, as amended by section 6012(f)(2) of this chapter, is amended by inserting before the semicolon the following: ", or is an alien legally residing in the United States who entered the United States within three years prior to the date of the application for medical assistance and whose entry was sponsored by the individual whose income and resources are attributed to him".

Subchapter B—Medicare Part B Changes

CONTRACTS FOR THE ADMINISTRATION OF BENEFITS

SEC. 6021. (a) The heading of section 1842 of the Social Security Act is amended by striking out "CARRIERS" and inserting in lieu thereof "PUBLIC AND PRIVATE ENTITIES".

(b)(1) The matter in subsection (a) of that section preceding paragraph (1) is amended—

(A) by striking out "and with a view to furthering coordination of the administration of the benefits under part A and under this part,",

(B) by striking out "carriers, including carriers with which agreements under section 1816 are in effect," and inserting in lieu thereof "public and private entities", and

(C) by striking out the semicolon and all that follows up to the colon.

(2) Paragraph (1)(A) of that subsection is amended—

(A) by inserting "(subject to the provisions of section 1878 and to such review by the Secretary as may be provided for by the contract)" after "determinations", and

(B) by striking out "or reasonable charge" and inserting in lieu thereof ", reasonable charge, or other".

(3) That subsection is further amended by striking out "part" each place it occurs and inserting in lieu thereof "title".

(4) That subsection is further amended—

(A) by striking out "and" at the end of paragraph (3),

(B) by redesignating paragraph (4) as paragraph (5), and

(C) by inserting after paragraph (3) the following paragraph:

"(4) provide consultative services to entities furnishing health services to enable them to establish and maintain fiscal records necessary for purposes of this title and otherwise to become or remain eligible for payments under this title; and"

(c)(1) Subsection (b) of that section is amended by striking out paragraphs (1) and (4).

(2) Paragraph (3) of that subsection is amended—

(A) by inserting ", as appropriate," in the matter preceding paragraph (A) after "provide";

(B) by striking out "part" in subparagraph (A) and inserting in lieu thereof "title";

(C) by inserting "(if any)" in the matter in subparagraph (B) preceding clause (i) after "subscribers";

(D) by striking out "this part" each place it occurs in subparagraph (C) and inserting in lieu thereof "part B";

(E) by striking out "part" in subparagraph (D) and inserting in lieu thereof "title";

(F) in subparagraph (E)—

(i) by inserting "(and to its claims processing operations)" after "thereto", and

(ii) by striking out "part" and inserting in lieu thereof "title";

(G) in subparagraph (F)—

(i) by striking out "this part" and inserting in lieu thereof "part B", and

(ii) by striking out "this section" and inserting in lieu thereof "this title";

(H) by striking out "for purposes of this paragraph" in the second sentence;

(I) in the third sentence—

(i) by striking out "this part" each place it occurs and inserting in lieu thereof "part B",

(ii) by striking out "(i)" and inserting in lieu thereof "(1)",

(iii) by striking out "the carrier" and inserting in lieu thereof "an entity under section 1868", and

(iv) by striking out "(ii)" and inserting in lieu thereof "(2)";

(J) by striking out "(ii)" each place it occurs in the fourth sentence and inserting in lieu thereof "(2)";

(K) by striking out "fiscal intermediary, carrier" in the seventh sentence and inserting in lieu thereof "entity under this section"; and

(L) by striking out "third and fourth sentences preceding this sentence" in the eighth sentence and inserting in lieu thereof "second and third sentences of this subsection".

(3) The first sentence of paragraph (5) of that subsection is amended by striking out "this part" and inserting in lieu thereof "part B".

(4) Paragraph (6) of that subsection is amended by striking out "this part" each place it occurs and inserting in lieu thereof "part B".

(5) That subsection is amended by striking out "carrier" each place it occurs and inserting in lieu thereof "entity".

(d) Subsection (c) of that section is amended to read as follows:

"(c) Any contract entered into with an entity under this section may provide for advances of funds to the entity for the making of payments by it under this title.".

(e) Subsection (d) of that section is amended—

(1) by striking out "a carrier" and inserting in lieu thereof "an entity",

(2) by striking out "such carrier" and inserting in lieu thereof "the entity", and

(3) by striking out "surety" and inserting in lieu thereof "fidelity".

(f) Subsection (f) of that section is repealed.

(g) Subsection (g) of that section is amended—

(1) by striking out "a carrier or carriers" and inserting in lieu thereof "an entity or entities", and

(2) by inserting "in relation to part B" after "this section".

(h) Subsection (h) of that section is amended by striking out "this part" each place it occurs and inserting in lieu thereof "part B".

(i) The second, third, fourth, fifth, sixth, and eighth sentences of subsection (b)(3) of that section are consolidated into a new subsection, designated as subsection (dd), assigned the heading "Reasonable Charge", and transferred and inserted at the end of section 1861.

(j) The remainder of section 1842 of the Social Security Act is redesignated as section 1868 of that Act and inserted into part C of title XVIII of the Social Security Act after section 1867.

(k) Section 1816 of the Social Security Act is repealed.

(l) Sections 1832(a)(2)(F)(i), 1833(a)(1)(B), 1833(a)(1)(F), 1833(b)(2), 1833(i)(3), 1877(d), 1878(a)(1), and 1914(a)(2) of that Act are each amended by striking out "section 1842(b)(3)(B)(ii)" and inserting in lieu thereof "section 1868(b)(3)(B)(ii)".

(m) The first sentence of section 1841(i) of that Act is amended by striking out "section 1842(g)" and inserting in lieu thereof "section 1868(g)".

(n) Subsection (f) of section 1843 of that Act is repealed.

(o) Section 1876(a)(3)(A)(iv) of that Act is amended by striking our "organizations described in sections 1816 and 1842" and inserting in lieu thereof "entities described in section 1868".

(p)(1) Subsection (a) of section 1878 of that Act is amended—

(A) by striking out "the organization serving as its fiscal intermediary pursuant to section 1816" in paragraph (1)(A) and inserting in lieu thereof "an entity under section 1868",

(B) by striking out "intermediary" in paragraph (1)(B) and inserting in lieu thereof "entity", and

(C) by striking out "intermediary's" in paragraph (3) and inserting in lieu thereof "entity's".

(2) Subsection (d) of that section is amended—

(A) by striking out "intermediary" each place it occurs and inserting in lieu thereof "entity", and

(B) by striking out "fiscal".

(3) Subsection (g) of that section is amended by striking out "a fiscal intermediary" and inserting in lieu thereof "an entity under section 1868".

(q) Section 1879(d) of that Act is amended by striking out "section 1842(b)(3)(C)" and inserting in lieu thereof "section 1868(b)(3)(C)".

(r) Section 1124(a)(2)(C) of that Act is amended—

(1) by striking out "a carrier or other agency or organization" and inserting in lieu thereof "an entity", and

(2) by striking out "(i) an agreement under section 1816, (ii) a contract under section 1842, or (iii)" and inserting in lieu thereof "(i) a contract under section 1868 or (ii)".

(s) Section 1158(c) of that Act is amended by striking out "by agencies and organizations which are parties to agreements entered into by the Secretary pursuant to section 1816, carriers which are parties to contracts entered into by the Secretary pursuant to section 1842," and inserting in lieu thereof "by entities which are parties to contracts entered into by the Secretary pursuant to section 1868".

(t) Section 1165 of that Act is amended—

(1) by redesignating paragraph (b) as paragraph (2), and

(2) by redesignating paragraph (a) as paragraph (1) and amending it to read as follows:

"(a)(A) entities which are parties to contracts entered into pursuant to section 1868, and (B) any other entities (other than Professional Standards Review Organizations) having review or control functions, or proved relevant data-gathering procedures and experience, and".

(u) Section 918(a)(3) of the Omnibus Reconciliation Act of 1980 is amended by striking out "section 1842(h)" each place it occurs and inserting in lieu thereof "section 1868(h)".

(v)(1) The amendments made by this section are effective as of the fourth month beginning after the date of the enactment of this Act.

(2) Contracts with entities under section 1868 of the Social Security Act may be entered into during the five year period beginning with the fourth month beginning after the date of the enactment of this Act without regard to section 3709 of the Revised Statutes or any other provision of law requiring competitive bidding.

WITHHOLDING OF PAYMENTS FOR CERTAIN MEDICAID PROVIDERS

SEC. 6023. Part C of title XVIII of the Social Security Act is amended by adding at the end the following new section:

"WITHHOLDING OF PAYMENTS FOR CERTAIN MEDICAID PROVIDERS

"SEC. 1884. (a) The Secretary may adjust, in accordance with this section, payments under parts A and B to any institution which has in effect an agreement with the Secretary under section 1866, and any person who has accepted payment on the basis of an assignment under section 1842(b)(3)(B)(ii), where such institution or person (1) has (or previously had) in effect an agreement with a State agency to furnish medical care and services under title XIX, and (2) from which (or from whom) such State agency (A) has been unable to recover overpayments made under the State plan, or (B) has been unable to collect the information necessary to enable it to determine the amount (if any) of the overpayments made to such institution or person under the State plan.

"(b) The Secretary shall by regulation provide procedures for implementation of this section, which procedures shall—

"(1) assure that the authority under this section is exercised only on behalf of a State agency which demonstrates to the Secretary's satisfaction that it has provided adequate notice of a determination or of a need for information, and an opportunity to appeal such determination or to provide such information,

"(2) determine the amount of the payment to which the institution or person would otherwise be entitled under this title which shall be treated as a setoff against overpayments under title XIX, and

"(3) assure the restoration to the institution or person of amounts withheld under this section which are ultimately determined to be in excess of overpayments under title XIX and to which the institution or person would otherwise be entitled under this title.

"(c) Notwithstanding any other provision of this Act, from the trust funds established under sections 1817 and 1841, as appropriate, the Secretary shall pay to the appropriate State agency amounts recovered under this section to offset the State agency's overpayment under title XIX. Such payments shall be accounted for by the State agency as recoveries of overpayments under the State plan.".

ANNUAL LIMIT OF TWO HUNDRED VISITS FOR HOME HEALTH SERVICES

SEC. 6024. (a)(1) Section 1812(a)(3) of the Social Security Act is amended by inserting "for up to 100 visits during a calendar year" before the period.

(2) Section 1812 of that Act is amended by inserting after subsection (c) the following subsection:

"(d) Payment under this part may be made for home health services furnished an individual during a calendar year only for 100 visits during that year. The number of visits to be charged for purposes of the limitation in the preceding sentence, in connection with items or services described in section 1861(m), shall be determined in accordance with regulations.".

(3) Section 1812(e) of that Act is amended—

(A) by striking out "(b) and (c)" and inserting in lieu thereof "(b), (c), and (d)", and

(B) by striking out "and post-hospital extended care services" and inserting in lieu thereof ", post-hospital extended care services, and home health services".

(4) Section 1832(a)(2)(A) of that Act is amended by inserting "for up to 100 visits during a calendar year" before the semicolon.

(5) Title XVIII of that Act is amended by inserting after section 1833 the following section:

"LIMITATION ON HOME HEALTH SERVICES

"SEC. 834. (a) Payment under this part may be made for home health services furnished an individual during a calendar year only for 100 visits during that year. The number of visits to be charged for purposes of the limitation in the preceding sentence, in connection with items and services described in section 1861(m), shall be determined in accordance with regulations.

"(b) For purposes of subsection (a), home health services shall be taken into account only if payment under this part is or would be, except for this section or the failure to comply with the request and certification requirements of or under section 1835(a), made with respect to such services.".

(b) The amendments made by this section shall apply to services furnished after the third month beginning after the date of the enactment of this Act.

(c) The number of visits to be charged under section 1812(d) of the Social Security Act (as enacted by subsection (a)(2) of this section) or under section 1834 of that Act (as enacted by subsection (a)(5) of this section) during the calendar year in which those sections as enacted are effective include the number of visits made during that calendar year but before the effective date, except that an individual shall be entitled under part A of title XVIII of that Act to at least 100 visits in calendar year 1981 after the beginning of each spell of illness (as defined in section 1861(a) of that Act) that begins in that year, but before July 1, 1981.

ELIMINATION OF NEED FOR OCCUPATIONAL THERAPY AS A BASIS FOR ENTITLEMENT TO HOME HEALTH SERVICES

SEC. 6025. (a) Sections 1814(a)(2)(D) and 1835(a)(2)(A) of the Social Security Act are each amended by striking out ", occupational,".

(b) The amendments made by this section shall apply to services furnished after the third month beginning after the date of the enactment of this Act.

ELIMINATION OF PART B COVERAGE OF OUTPATIENT REHABILITATION FACILITY SERVICES

SEC. 6026. (a)(1) Section 1832(a)(2) of the Social Security Act is amended—

(A) by adding "and" at the end of subparagraph (D),

(B) by striking out subparagraph (E), and

(C) by redesignating subparagraph (F) as subparagraph (E).

(2) Section 1833(i)(1)(A), the first sentence of section 1863, and the first sentence of section 1864(a) of that Act are each amended by striking out "1832(a)(2)(F)(i)" and inserting in lieu thereof "1832(a)(2)(E)(i)".

(3) Section 1835(a)(2) of that Act is amended—

(A) by striking out the semicolon at the end of subparagraph (D) and inserting in lieu thereof a period, and

(B) by striking out subparagraph (E).

(4) Sections 1861(u) and 1861(z) of that Act are each amended by striking out "comprehensive outpatient rehabilitation facility,".

(5) Subsection (cc) of section 1861 of that Act is repealed.

(6) The first sentence of section 1863 of that Act is amended by striking out "(o)(6), and (cc)(2)(I)" and inserting in lieu thereof "and (o)(6)".

(7) Section 1864(a) of that Act is amended—

(A) by striking out "or a comprehensive outpatient rehabilitation facility as defined in section 1861(cc)(2)" in the first sentence, and

(B) by striking out "comprehensive outpatient rehabilitation facility," each place it occurs in the second and fifth sentences.

(8) Section 1833(a) of that Act is amended—

(A) by striking out ", (E), and (F)" in the matter in paragraph (2) preceding subparagraph (A) and inserting in lieu thereof "and (E)",

(B) by striking out "subparagraphs (D) and (E)" in paragraph (3) and inserting in lieu thereof "subparagraph (D)", and

(C) by striking out "(F)" in paragraph (4) and inserting in lieu thereof "(E)".

(b) The amendments made by this section shall apply to services furnished after the third month beginning after the date of the enactment of this Act.

REDUCTION IN LIMIT FOR OUTPATIENT PHYSICAL THERAPY SERVICES

SEC. 6027. (a) Section 1833(g) of the Social Security Act is amended by striking out "$500" and inserting in lieu thereof "$100".

(b) The amendment made by subsection (a) applies to expenses incurred after the calendar year in which this Act is enacted.

ELIMINATION OF ADDITIONAL DENTAL COVERAGE

SEC. 6028. (a)(1) Section 1814(a)(2)(E) of the Social Security Act is amended by striking out "or because of the severity of the dental procedure".

(2) Clause (2) of the first sentence of section 1861(r) of that Act is amended by striking out everything after "such function" and inserting in lieu thereof ", but only with respect to (A) surgery related to the jaw or any structure contiguous to the jaw, (B) the reduction of any fracture of the jaw or any facial bone, or (C) the certification required by section 1814(a)(2)(E),".

(3) Section 1862(a)(12) of that Act is amended by striking out "or because of the severity of the dental procedure,".

(b) The amendments made by this section shall apply to services furnished after the third month beginning after the date of the enactment of this Act.

ELIMINATION OF UNLIMITED OPEN ENROLLMENT

SEC. 6029. (a) Subsection (e) of section 1837 of the Social Security Act is amended to read as follows:

"(e) There shall be a general enrollment period during the period beginning on January 1 and ending on March 31 of each year.".

(b) Section 1837(g)(3) of that Act is amended by striking out "the month in which the individual files an application establishing such entitlement" and inserting in lieu thereof "the earlier of the then current or immediately succeeding general enrollment period (as defined in subsection (e) of this section)".

(c) Section 1838(a)(2)(E) of that Act is amended by striking out "the first day of the third month" and inserting in lieu thereof "the July 1".

(d) The second sentence of section 1838(d) of that Act is amended by striking out "the month after the month in which he reenrolled" and inserting in lieu thereof "the close of the enrollment period in which he reenrolled".

(e) The amendments made by this section shall apply to enrollments occurring after the month of the enactment of this Act.

RESTRICTIONS ON NEW BUY-IN AGREEMENTS

SEC. 6030. (a) Section 1843 of the Social Security Act is amended by adding at the end the following new subsection:

"(i) Coverage extended to additional groups of individuals under an agreement (or a modification of an agreement) requested by a State during 1981 shall not extend to items and services furnished under this part after the second month beginning after the date of the enactment of the Health Care Financing Amendments of 1981.".

(b) For purposes of section 1843(e) of the Social Security Act, an individual's coverage period that is terminated by subsection (i) of that section shall be treated as terminated under subsection (d)(3) of that section as of the last day of the second month beginning after the date of the enactment of this Act.

REPEAL OF REQUIREMENT FOR END-STAGE RENAL DISEASE NETWORKS

SEC. 6031. (a)(1) Paragraph (1) of section 1881(c) of the Social Security Act is amended to read as follows:

"(1) For the purposes of assuring effective and efficient administration of the benefits provided under this section, the Secretary shall establish a national endstage renal disease medical information system.".

(2) Paragraphs (2) through (5) of that section are repealed.

(3) Paragraph (6) of that section is amended—

(A) by striking out "and network" in the second sentence, and

(B) by redesignating that paragraph as paragraph (2).

(b) Section 1881(g) of that Act is amended—

(1) by striking out ", nationally and by renal disease network," in paragraph (1),

(2) by adding "and" at the end of paragraph (13),

(3) by striking out paragraph (14), and

(4) by redesignating paragraph (15) as paragraph (14).

(c) The amendments made by this section are effective as of the fourth month beginning after the date of the enactment of this Act.

REPEAL OF UTILIZATION REVIEW REQUIREMENTS

SEC. 6032. (a) Section 1814(a) of the Social Security Act is amended—

(1) by striking out "paragraphs (6) and (9)" in paragraph (2)(C) and inserting in lieu thereof "paragraph (9)",

(2) by adding "and" at the end of paragraph (4),

(3) by striking out the semicolon at the end of paragraph (5) and inserting in lieu thereof a period, and

(4) by striking out paragraphs (6) and (7).

(b) Section 1815 of that Act is amended by striking out subsection (b).

(c) Section 1842(a)(2) of that Act is amended—

(1) by striking out "(2)(A)" and all that follows through "(B)" and inserting in lieu thereof "(2)",

(2) by inserting "and" after "improvement,", and

(3) by striking out ", and provide procedures for" and all that follows through "to make reviews of utilization".

(d) Section 1861 of that Act is amended—

(1) by striking out paragraph (6) of subsection (e);

(2) by striking out paragraph (8) of subsection (j);

(3) by striking out subsection (k);

(4) by striking out "subsections (k) and (m)" each place it appears in subsection (r)(3) and inserting in lieu thereof "subsection (m)";

(5) by striking out paragraph (2) of subsection (w) and by striking out "(1)" in that subsection; and

(6) in subsection (aa)(2) by striking out subparagraph (I), adding "and" at the end of subparagraph (H), and redesignating subparagraph (J) as subparagraph (I).

(e) Section 1865(a) of the Act is amended—

(1) by striking out "(6)" in paragraph (3) and inserting in lieu thereof "(8)",

(2) by striking out "a utilization review plan" and inserting in lieu thereof "an overall plan and budget described in section 1861(z)", and

(3) by striking out "section 1861(e)(6)" and inserting in lieu thereof "section 1861(e)(8)".

(f) Section 1866 of that Act is amended by striking out subsection (d).

Subchapter C—Other Provisions

CIVIL MONETARY PENALTIES FOR MEDICARE AND MEDICAID FRAUD

SEC. 6041. (a) Section 1107 of the Social Security Act is amended by adding at the end the following new subsection:

"(c)(1) Any individual who presents or causes to be presented to an officer, employee, or agent of the United States, or of any department or agency thereof, or of any State agency, a claim (as defined in paragraph (10)(B)) that the Secretary determines is for a medical or other item or service—

"(A) that he knows or has reason to know was not provided as claimed, or

"(B) that was provided while he was barred from participation in the program under which such claim was made, pursuant to a determination by the Secretary under this section or section 1128, 1160, 1862(d), or 1866,

shall be subject, in addition to any other penalties that may be prescribed by law, to a civil penalty of not more than $2,000 for each item or service. In addition, such a person shall be subject to an assessment of not more than twice the amount claimed for each such item or service in lieu of damages sustained by the United States or a State agency because of such claim.

"(2) The Secretary shall not make a determination adverse to any person under paragraph (1) until such person has been given written notice and an opportunity for a hearing on the record at which he is entitled to be represented by counsel, to present witnesses, and to cross-examine witnesses against him.

"(3) In determining the amount of any penalty assessed pursuant to paragraph (1) of this subsection, the Secretary shall take into account (A) the nature of claims and the circumstances under which they were presented, (B) the degree of culpability, history of prior offenses, and financial condition of the person presenting the claims, and (C) such other matters as justice may require.

"(4) Any person adversely affected by a determination of the Secretary under this subsection may obtain a review of such determination in the United States court of appeals for the circuit in which the person resides, or in which the claim was presented, by filing in such court within sixty days following notification to the person of the Secretary's final determination a written petition praying that the determination be modified or set aside. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary, and thereupon the Secretary shall file in the court the record in the proceeding as provided in section 2112 of title 28, United States Code. Upon such filing, the court shall have jurisdiction of the proceeding and of the question determined therein, and shall have the power to make and enter upon the pleadings, testimony, and proceedings set forth in such record a decree affirming, modifying, remanding for further consideration, or setting aside, in whole or in part, the determination of the Secretary and enforcing the same to the extent that such order is affirmed or modified. No objection that has not been urged before the Secretary shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances. The findings of the Secretary with respect to questions of fact, is supported by substantial evidence on the record considered as a whole, shall be conclusive. If any party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Secretary, the court may order such additional evidence to be taken before the Secretary and to be made a part of the record. The Secretary may modify his findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and he shall file such modified or new findings, which findings with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive, and his recommendations, if any, for the modification or setting aside of his original order. Upon the filing of the record with it, the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the Supreme Court of the United States, as provided in section 1254 of title 28, United States Code.

"(5) Civil penalties and assessments imposed under this subsection may be compromised by the Secretary and may be recovered in a civil action in the name of the United States brought in United States district court for the district where the claim was presented, or where the claimant resides, as determined by the Secretary. Amounts recovered shall be paid to the Secretary, and disposed of as follows: (A) a portion of amounts recovered arising out of a claim under title XIX equal to the amount paid by the State agency for such claim shall be paid to the State agency and shall be accounted for by the State agency as a recovery of an overpayment under the State plan; (B) such portion of amounts recovered as is determined to have been paid out of the trust funds under sections 1817 and 1841 shall be repaid to such trust funds; and (C) the remainder shall be deposited as miscellaneous receipts of the Treasury of the United States. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sum then or later owing by the United States or a State agency to the person against whom the penalty has been assessed.

"(6) A determination by the Secretary to assess a penalty under paragraph (1) of this subsection shall be final upon the expiration of the sixty-day period referred to in paragraph (4) unless the person against whom the penalty has been assessed files an appeal as provided in that paragraph. Matters that were raised or that could have been raised in a hearing before the Secretary or in an appeal pursuant to paragraph (4) may not be raised as a defense to a civil action by the United States to collect a penalty or damages assessed under this subsection.

"(7) The Secretary may refuse to make any further payment under title XVIII of this Act, or order a State agency to deny any further payment under title XIX of this Act, to any person with respect to whom a final determination has been made to assess a penalty under this subsection for any item or service rendered during such period as the Secretary may deem appropriate. If the Secretary intends to exercise the authority in this subparagraph, he shall give written notice thereof to such person and to the State agency of each State which he has reason to believe does or may use the services of such person in providing medical assistance under title XIX of the Act.

"(8) Whenever the Secretary makes a final determination to impose a penalty under paragraph (1), he shall notify the appropriate State or local medical agency or organization, and appropriate Professional Standards Review Organization, and the appropriate State or local licensing agency or organization (including the agency specified in section 1864(a) and 1902(a)(33)) that such a penalty has been imposed and the reasons therefor.

"(9) The Secretary shall initiate a proceeding to determine whether to impose a civil penalty under paragrah (1) under this subsection only as authorized by the Attorney General pursuant to procedures agreed upon by them.

"(10) For the purposes of this subsection—

"(A) the term 'State agency' means the agency established or designated to administer or supervise the administration of the State plan under title XIX of this Act;

"(B) the term 'claim' means an application submitted by—

"(i) a provider of services or other person, agency, or organization that furnishes services under title XVIII of this Act, or

"(ii) a person, agency, or organization that provides medical assistance under title XIX of this Act, to the United States or a State agency for payment for health care services under title XVIII or XIX of this Act;

"(C) the term 'item or service' includes (i) any particular item, device, medical supply, or service claimed to have been provided to a patient and listed in an itemized claim for payment, and (ii) in the case of a claim based on costs, any entry in the cost report, books of account or other documents supporting such claim; and

"(D) the term 'ageny of the United States' includes any contractor acting as a fiscal entity, as defined under section 1868, or any other claims processing agent for a health insurance or medical services program under title XVIII or XIX of this Act.".

(b) The heading of section 1107 of that Act is amended to read "PENALTIES".

(c) Section 1903 of that Act is amended by adding at the end the followng new subsection:

"(t)(1) Notwithstanding the preceding provisions of this section, no payment shall be made to a State (except as provided under this subsection) with respect to expenditures incurred by it for services provided by any person during any period that an order for denial of payment (as authorized by section 1107(c)(7)) is effective with respect to such person.

"(2) Any order for denial of payment issued with respect to any person under section 1107(c)(7) shall become effective, in the case of any State plan approved under this title, on the sixtieth day after the date on which the Secretary gives notice of such order to the State agency. Upon the determination of the Secretary that any such order shall cease to be effective, he shall forthwith notify each State agency to which he has theretofore submitted notice under section 1107(c)(7) with respect to such person.

"(3) Whenever any order which has been issued by the Secretary under section 1107(c)(7) ceases to be effective, any payment to which any State would (except for the preceding provisions of this subsection) have been entitled under this section on account of services provided by such person shall be made to such State for the month in which such order ceases to be effective.".

REPEAL OF REQUIREMENT TO NOTIFY FAMILIES WITH DEPENDENT CHILDREN OF AVAILABILITY OF EARLY AND PERIODIC SCREENING, DIAGNOSIS, AND TREATMENT

SEC. 6042. Subsection (g) of section 403 of the Social Security Act is repealed.

NOTICE, HEARING, AND JUDICIAL REVIEW REQUIREMENTS FOR TERMINATION OF A PROFESSIONAL STANDARDS REVIEW ORGANIZATION AGREEMENT; AGREEMENTS OF LESS THAN A YEAR

SEC. 6043. (a) Section 1152(d)(2) of the Social Security Act is amended—

(1) by striking out "at such time and upon such reasonable notice to the organization as may be prescribed in regulations" and inserting in lieu thereof "upon 90 days notice to the organization", and

(2) by striking out "(after providing such organization with an opportunity for a formal hearing on the matter)".

(b) Sections 1152(d) and 1154(d) of that Act are each amended by adding at the end the following sentence: "A termination by the Secretary under this subsection shall not be subject to judicial review.".

(c) The matter in section 1152(d) of that Act preceding paragraph (1) is amended by inserting "not more than" before "12 months".

ABOLITION OF STATEWIDE PROFESSIONAL STANDARDS REVIEW COUNCILS

SEC. 6044. (a) Section 1157 of the Social Security Act is amended—

(1) by striking out everything after "report the matter to the" in the first sentence and inserting in lieu thereof "Secretary, together with the recommendations of such Organization as to the action which should be taken with respect to the matter.", and

(2) by striking out the second sentence.

(b)(1) Section 1159(a) of that Act is amended by striking out everything after "Professional Standards Review Organization" the second place it occurs and inserting in lieu thereof a period.

(2) The first sentence of section 1159(b) of that Act is amended by striking out everything before "by the Secretary" and inserting in lieu thereof "Where the determination of the Professional Standards Review Organization is adverse to the beneficiary or recipient and the amount in controversy is $100 or more, the beneficiary or recipient shall be entitled to a hearing on the matter".

(c)(1) Section 1160(b) of that Act is amended by striking out "(which report and recommendations shall be submitted through the Statewide Professional Standards Review Council, if such Council has been established, which shall promptly transmit such report and recommendations together with any additional comments and recommendations thereon as it deems appropriate)".

(2) Section 1160(c) of that Act is amended by striking out "and each Statewide Professional Standards Review Council".

(d) Section 1162 of that Act is repealed.

(e) Paragraphs (2) and (3) of section 1163(e) of that Act are each amended by striking out "Statewide Professional Standards Review Councils and".

(f)(1) Section 1166(d) of that Act is amended by striking out ", a Statewide Professional Standards Review Council,".

(2) A patient record that was subject to the provisions of section 1166(d) of the Social Security Act (as in effect before the date of the enactment of this Act) because the record was in the possession of a Statewide Professional Standards Review Council shall remain subject to those provisions until it is returned to the entity that provided the record to the Council.

(g)(1) Section 1167(a) of that Act is amended—

(A) by striking out "or to any Statewide Professional Standards Review Council", and

(B) by striking out "or such Council" in clause (1).

(2) Section 1167(b)(1) of that Act is amended—

(A) by striking out "or of any Statewide Professional Standards Review Council",

(B) by striking out "or Council", and

(C) by striking out "or of Statewide Professional Standards Review Councils".

(3) The heading to section 1167 of that Act is amended by striking out "AND STATEWIDE PROFESSIONAL STANDARDS REVIEW COUNCILS".

(4) The provisions of section 1167 of the Social Security Act (as in effect before the date of the enactment of this Act) concerning activities related to Statewide Professional Standards Review Councils shall continue to apply with respect to activities carried out before such date.

DISCRETION OF SECRETARY IN FUNDING PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

SEC. 6045. (a) Section 1155(f)(2) of the Social Security Act is amended by striking out "shall" and inserting in lieu thereof "may".

(b)(1) The first sentence of section 1168 of that Act is amended to read as follows: "Expenses incurred in the administration of this part may be paid from—

"(1) funds in the Federal Hospital Insurance Trust Fund,

"(2) funds in the Federal Supplementary Medical Insurance Trust Fund, and

"(3) funds appropriated to carry out the health care provisions of the several titles of this Act,

in such proportion from each of the sources of funds (referred to in paragraphs (1) through (3)) as the Secretary may deem to be fair and equitable after taking into consideration the costs attributable to the administration of this part with respect to each of such plans and programs.".

(2) The second sentence of that section is amended—

(A) by striking out "clauses" each place it occurs and inserting in lieu thereof "paragraphs".

(B) by striking out "clause" and inserting in lieu thereof "paragraph", and

(C) by striking out "(a), (b), and (c)" and inserting in lieu thereof "(1), (2), and (3)".

(3) The third sentence of that section is amended by striking out "shall" and inserting in lieu thereof "may".

VOLUNTARY PARTICIPATION BY STATE MEDICAID PROGRAMS IN PROFESSIONAL STANDARDS REVIEW

SEC. 6046. (a) Section 1158 of the Social Security Act is amended by adding at the end the following subsection:

"(f) Any State may transmit a written notification to the Secretary that the State no longer wishes professional standards review under this part to affect payments to the State under title XIX. Such review shall not affect payments to that State under title XIX as of the sixtieth day after the date the Secretary receives that written notification.".

(b) Section 1158(a) of that Act is amended in the matter preceding paragraph (1) by striking out "title V" and inserting in lieu thereof "under title V, or under title XIX as provided in subsection (f) of this section".

(c) Section 1158(c) of that Act is amended—

(1) by inserting "and subsection (f) of this section" after "1171(d)(3)", and

(2) by inserting "(unless professional standards review under this part no longer affects payments to that State as provided in subsection (f) of this section)" before the period.

REPEAL OF PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

SEC. 6047. (a) Part B of title XI of the Social Security Act (relating to professional standards review) is repealed.

(b)(1) Title XI of that Act is amended by striking out the heading to part A.

(2) The second sentence of section 1101(a)(1) of that Act is amended by striking out "and in part B of this title".

(3) Section 1107(c)(1)(B) of that Act, added by section 6041 of this subchapter, is amended by striking out "1160(b),".

(4) Section 1107(c)(8) of that Act, added by section 6041 of this subchapter, is amended by striking out ", and the appropriate Professional Standards Review Organizations,".

(c)(1) Section 1861(v)(1)(G) of that Act is amended by striking out "and a Professional Standards Review Organization" and all that follows through "determines that inpatient" and inserting in lieu thereof "and the Secretary (or an agent designated by the Secretary) determines that inpatient".

(2) Section 1862(d)(1)(C) of that Act is amended by striking out "reports transmitted" and all that follows through "the program under this title)" and inserting in lieu thereof "such data as he acquires in the administration of the program under this title".

(d) Section 1902(h) of that Act is amended by striking out "and a Professional Standards Review Organization" and all that follows through "determines that inpatient" and inserting in lieu thereof "and the Secretary (or an agent designated by the Secretary) determines that inpatient".

(e)(1) Except as provided in paragraph (2), the repeals and amendments made by this section shall apply beginning with fiscal

year 1984 and shall apply to review of services furnished on or after October 1, 1983.

(2) The repeal made by subsection (a) of this section shall not affect—

(A) the denial of payment under section 1158(a) of the Social Security Act for which a notification has been made before October 1, 1983;

(B) the conclusiveness, under section 1158(c) of that Act, of determinations made by a Professional Standards Review Organization (hereinafter in this subsection referred to as a "PSRO") before October 1, 1983;

(C) the right of a beneficiary, recipient, provider, or organization to a hearing under section 1159 of that Act (as in effect before October 1, 1983), except that such a person is entitled, in lieu of any reconsideration of a determination by a PSRO or review by a Statewide Professional Standards Review Council under subsection (a) of that section, where the matter in controversy is $100 or more, to a hearing thereon by the Secretary of Health and Human Services (hereinafter in this subsection referred to as the "Secretary") to the same extent as is provided in section 205(b) of the Social Security Act, and such person is entitled to judicial review of the Secretary's final decision in accordance with subsection (b) of section 1159 of that Act (as in effect before October 1, 1983), and the second sentence of that subsection and subsection (c) of that section shall apply to reviews and appeals conducted in accordance with this paragraph;

(D) the authority of the Secretary to take actions under section 1160(b)(1) of that Act (as in effect before October 1, 1983) on the basis of reports submitted by PSROs before October 1, 1983, under section 1157 of that Act (as in effect before such date); any such reports which have been submitted to a Statewide Professional Standards Review Council before such date and not transmitted to the Secretary shall be immediately transmitted to the Secretary for action in accordance with this paragraph; and the provisions of paragraphs (2) through (4) of section 1160(b) of that Act (as in effect before such date) shall apply to determinations made by the Secretary under this paragraph;

(E) the confidentiality of data and information acquired before October 1, 1983, under section 1166 of that Act (or any penalties under subsection (c) of that section in the case of improper disclosure of data or information under that section), and the Secretary shall provide by regulation for the appropriate disposition of such data and information;

(F) the limitation on liability under section 1167 of that Act (as in effect before October 1, 1983) for activities undertaken before such date; and

(G) payment under section 1168 of that Act (as in effect before October 1, 1983) for expenses incurred before such date.

REPEAL OF CERTAIN REQUIREMENTS FOR STUDIES AND DEMONSTRATIONS

SEC. 6048. (a) Section 1129 of the Social Security Act is amended—

(1) by striking out subsection (b), and

(2) by striking "(a)".

(b) Section 919 of the Omnibus Reconciliation Act of 1980 is repealed.

(c)(1) Subsection (f) of section 1154 of the Social Security Act is repealed.

(2) Section 1155(a) of that Act is amended—

(A) by striking out "under section 1154(f)" in the matter in paragraph (1) preceding subparagraph (A),

(B) by striking out ", consistent with section 1154(f)," in paragraph (7)(A), and

(C) by striking out "(consistent with section 1154(f))" in paragraph (7)(B).

(d) Section 929 of the Omnibus Reconciliation Act of 1980 is repealed.

(e) Subsection (f) of section 931 of the Omnibus Reconciliation Act of 1980 is repealed.

(f) Section 958 of the Omnibus Reconciliation Act of 1980 is amended—

(1) by striking out subsection (a) and subsections (c) through (j),

(2) by striking out "(b)" in subsection (b), and

(3) by amending the heading to read: "REPORT ON SURGICAL SECOND OPINIONS DEMONSTRATION."

(g) The matter in section 904(c) of the Omnibus Reconciliation Act of 1980 preceding paragraph (1) is amended by striking out "three" and inserting in lieu thereof "four".

REPEAL OF OBSOLETE AUTHORITY FOR MEDICAL ASSISTANCE

SEC. 6049. (a)(1) The heading of title I of the Social Security Act is amended by striking out "AND MEDICAL ASSISTANCE".

(2) Section 1 of that Act is amended—

(A) by striking out "(a)" the first place it appears in the first sentence,

(B) by striking out ", (b) of enabling" and all that follows through "for self-care" in the first sentence, and

(C) by striking out ", or for medical assistance for the aged, or for old-age assistance and medical assistance for the aged" in the second sentence.

(3) Section 2 of that Act is amended—

(A) by striking out "AND MEDICAL ASSISTANCE" in the heading;

(B) by striking out ", or for medical assistance for the aged, or for old-age assistance and medical assistance for the aged" in subsection (a) before paragraph (1);

(C) by striking out "; and" at the end of subsection (a)(10) and inserting in lieu thereof a period; and

(D) by striking out paragraphs (11), (12), and (13) of subsection (a).

(4) Section 3 of that Act is amended—

(A) by striking out paragraphs (1) and (3) of subsection (a);

(B) by amending paragraph (2) of subsection (a) to read as follows:

"(2) in the case of Puerto Rico, the Virgin Islands, and Guam, an amount equal to one-half of the total of the sums expended during such quarter as old-age assistance under the State plan, not counting so much of any expenditure with respect to any month as exceeds $37.50 multiplied by the total number of recipients of old-age assistance for such month; plus"; and

(C) by striking out subsection (d).

(5) Section 6 of that Act is amended by striking out subsections (b) and (c).

(b)(1) Section 403 of that Act is amended—

(A) by striking out "(including expenditures for premiums" and all that follows through "the cost thereof)" is subsection (a)(1) in the matter before subparagraph (A);

(B) by striking out "plus (ii)" and all that follows through "clause (i) or (ii)" in subsection (a)(1)(A) and inserting in lieu thereof "plus (ii) the number of individuals, not counted under clause (i)"; and

(C) by striking out "(including expenditures" and all that follows through "the cost thereof)" in subsection (a)(2).

(2) Section 406 of that Act is amended—

(A) by striking out ", or (if provided" and all that follows through "under State law in behalf of," and "or medical care or any type of remedial care recognized under State law" in subsection (b) in the matter preceding subparagraph (A), and

(B) by inserting "(for which such individual is not entitled to medical assistance under the State plan under title XIX)" in subsection (e)(1)(A) after "recognized under State law".

(c)(1) Sections 1001 and 1401 of that Act are each amended by striking out "and of encouraging each State" and all that follows through "self-care".

(2) Sections 1003(a) and 1403(a) of that Act are each amended—

(A) by striking out paragraph (1), and

(B) by striking out "(including expenditures for" and all that follows through "the cost thereof)" in paragraph (2).

(3) Sections 1006 and 1405 of that Act are each amended by striking out ", or (if provided" and all that follows through "under State law in behalf of," in the matter before paragraph (1).

(e)(1) The amendments made by this subsection are to the title XVI of the Social Security Act which only applies in the case of Puerto Rico, Guam, and the Virgin Islands under section 303(b) of the Social Security Amendments of 1972 (P.L. 92-603).

(2) The heading of that title is amended by striking out "AND MEDICAL ASSISTANCE".

(3) Section 1601 of that title is amended—

(A) by striking out "(a)" the first place it appears in the first sentence,

(B) by striking out ", (b) of enabling" and all that follows through "or self-care" in the first sentence, and

(C) by striking out ", or for aid to the aged, blind, or disabled and medical assistance for the aged" in the second sentence.

(4) Section 1602 of that title is amended—

(A) by striking out ", OR FOR SUCH AID AND MEDICAL ASSISTANCE FOR THE AGED" in the heading;

(B) by striking out ", or for aid to the aged, blind, or disabled and medical assistance for the aged" in subsection (a) in the matter before paragraph (1);

(C) by inserting "and" at the end of paragraph (13) of subsection (a);

(D) by striking out the semicolon at the end of paragraph (14) of subsection (a) and inserting in lieu thereof a period;

(E) by striking out paragraphs (15), (16), and (17) of subsection (a);

(F) by striking out "(or for aid to the aged, blind, or disabled and medical assistance for the aged)" in the second sentence of subsection (a);

(G) by striking out "(A) in the case of applicants for aid to the aged, blind, or disabled" in subsection (b)(2);

(H) by striking out "and (B)" and all that follows through "who resides in the State" in subsection (b)(2); and

(I) by striking out "(or for aid to the aged, blind, or disabled and medical assistance for the aged)" each place it appears in the third sentence of subsection (b).

(5) Section 1603 of that title is amended—

(A) by striking out paragraphs (1) and (3) of subsection (a);

(B) by striking out "(including expenditures for premiums" and all that follows through "cost thereof)" in paragraph (2)(A);

(C) by striking out "the larger of the following amounts: (i) ", I)", and ", or (II)" and all that follows before the semicolon, in paragraph (2)(B); and

(D) by striking out subsection (d).

(6) Section 1605 of that title is amended—

(A) by striking out ", or (if provided" and all that follows through "under State law in behalf of," in subsection (a) in the matter before paragraph (1), and

(B) by striking out subsection (b).

CONTINUATION OF DEMONSTRATION PROJECT FUNDING AND EVALUATION OF MEDICAID CAP DISTRIBUTION FORMULA

SEC. 6050. (a)(1) In the case of an experimental, demonstration, or pilot project which is operating under section 1115 of the Social Security Act as of the date of the enactment of this Act, which relates to title XIX of such Act, and which the Secretary of Health and Human Services determines—

(A) is (i) assisting in the development of alternative methods of prospective reimbursement of providers, (ii) assisting in the development of cost containment programs under such title, (iii) providing more efficient methods of program management under such title, (iv) providing other innovative concepts which may result in substantial savings in Federal and State expenditures under such title, or (v) likely to assist the Secretary in development program alternatives, methods, or devices that can permit the Secretary to provide the several States (as defined for purposes of such title) and

(B) will require substantial expenditures, in addition to those normally reimbursable under such title, in order to be continued.

there are authorized to be appropriated, for each fiscal year (beginning with fiscal year 1981) and in addition to amounts otherwise appropriated to carry out plans approved under title XIX of the Social Security Act, such sums as may be necessary to continue funding of such projects.

(2) The Secretary shall periodically review each of the projects with funding continued under paragraph (1) to determine if the project continues to meet the condition under such paragraph for the continuation of such funding.

(b) The Secretary of Health and Human Services shall conduct an evaluation of the impact of the formula provided under subsection (c) of section 1901 of the Social Security Act (as added by section 6101(b)(1)(C) of this chapter) for the allotment of funds to States (especially the impact on States which only provide services, under plans under Title XIX of such Act, to categorically eligible) and of the feasibility, desirability, and necessity of substituting, for such formula, a formula which takes into account the factors of population growth, extraordinary short-term urban or regional growth, cost-of-living rates, unemployment rates, and increases in indigent and alien populations. The Secretary shall report to Congress on such evaluation not later than June 30, 1982, and shall include in such report a recommendation as to whether or not any such formula should be substituted for the formula contained in section 1901(c) of the Social Security Act.

Chapter 3—MERCHANT SEAMAN HEALTH SERVICES REPEAL

SHORT TITLE

SEC. 6081. This chapter may be cited as the "Merchant Seaman Health Services Repeal Act".

ELIMINATION OF ENTITLEMENT TO HEALTH SERVICES FOR MERCHANT SEAMEN

SEC. 6082. (a)(1) Sections 2(h), 322(a), and 322(b) of the Public Health Service Act are repealed.

(2) Section 322(e) of that Act is amended by striking out "entitled to care and treatment under subsection (a) of this section and persons".

(3) The heading to section 322 of that Act is amended by striking out "SEAMEN" and inserting in lieu thereof "PERSONS UNDER QUARANTINE".

(4) Section 332(a)(2)(C) of that Act is amended by striking out "seamen" and inserting in lieu thereof "persons under quarantine".

(b) The amendments made by this section are effective on October 1, 1981.

ELIMINATION OF REQUIREMENT FOR MAINTAINING PUBLIC HEALTH SERVICE HOSPITALS

SEC. 6083. Subsections (a) and (b) of section 818 of the Department of Defense Appropriation Authorization Act, 1974, are repealed.

STUDY OF TRANSFER FEASIBILITY

SEC. 6084. (a) The Secretary of Health and Human Services may, without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529, 41 U.S.C. 5), enter into contracts with public or private entities to conduct feasibility studies as to the acquisition and continued operation by non-Federal or Federal entities of hospitals and clinics currently part of the Public Health Service. Any such contract shall provide for a report not later than September 15, 1981, to the Secretary on the feasibility of such acquisition and continued operations. The authority of the Secretary to enter into contracts under this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

(b) If the Secretary of Health and Human Services determines, based on a feasibility study conducted under subsection (a), that the acquisition and continued operation of a Public Health Service hospital or clinic by a non-Federal or Federal entity is financially viable, the Secretary shall take such steps, within the amounts available through appropriations, as may be necessary and proper—

(1) to operate (or participate or assist in the operation of) the hospital or clinic by the Public Health Service until the acquisition is accomplished,

(2) to bring the hospital or clinic into compliance with applicable licensure, accreditation, and local medical practice standards, and

(3) to provide for such other legal, administrative, personnel, and financial arrangements (including allowing payments made with respect to services provided by the hospital or clinic to be made directly to that hospital or clinic) as may be necessary to effect a timely and orderly transfer of such hospital or clinic (including the land, building, and equipment thereof) from the Public Health Service not later than September 30, 1983.

Subtitle B—Matters Under the Jurisdiction of the Subcommittees on Energy Conservation and Power and Fossil and Synthetic Fuel

Chapter 1—STRATEGIC PETROLEUM RESERVE

SHORT TITLE

SEC. 6101. This chapter may be cited as the "Strategic Petroleum Reserve Amendments Act of 1981".

FINDINGS

SEC. 6102. The Congress finds that—

(1) the Strategic Petroleum Reserve should be regarded as a national security asset of paramount importance; and

(2) plans for enlarging the capacity of and filling the Strategic Petroleum Reserve should be accelerated (to the extent technically and economically practicable) in accordance with the provisions of the Energy Policy and Conservation Act to take advantage of any increased availability of crude oil in the world market from time to time.

RATE OF FILLING THE STRATEGIC PETROLEUM RESERVE

SEC. 6103. (a) Paragraph (1) of section 160(c) of the Energy Policy and Conservation Act (42 U.S.C. 6240(c)) is amended by striking out all after "fiscal year 1981" and inserting in lieu thereof a period.

(b) Paragraph (2) of section 160(c) of such Act is amended to read as follows:

"(2) The President shall immediately seek to undertake, and thereafter continue (subject to paragraph (3)), crude oil acquisition, transportation, and injection activities at a level sufficient to assure that crude oil in storage in the Strategic Petroleum Reserve will be increased at an average annual rate of at least 300,000 barrels per day for fiscal year 1982 and for each fiscal year thereafter.".

(c) Section 160 of such Act is further amended by inserting at the end thereof the following new paragraph:

"(3) The requirements in paragraphs (1) and (2) shall cease to apply when the quantity of petroleum products stored within the Strategic Petroleum Reserve is at least 750,000,000 barrels.".

FINANCING OF THE STRATEGIC PETROLEUM RESERVE

SEC. 6104. (a) The Energy Policy and Conservation Act is amended by inserting after section 166 the following new sections:

"STRATEGIC PETROLEUM RESERVE ACCOUNT

"SEC. 167. (a) The Secretary of the Treasury shall establish in the Treasury of the United States a special account which shall be known as the 'Strategic Petroleum Reserve Account' and into such account shall be deposited:

"(1) the funds provided under section 168, and

"(2) the receipts from the sale of petroleum products in any drawdown and distribution of the Strategic Petroleum Reserve under section 161.

"(b)(1) The Secretary of Energy may obligate funds from such account for the acquisition and delivery of petroleum products for, and drawdown and delivery of petroleum products from, the Strategic Petroleum Reserve, except that—

"(A) the aggregate amount obligated from the account may not exceed $9,000,000,000 plus any proceeds deposited under subsection (a)(2); and

"(B) funds may not be obligated from the account after September 30, 1984.

"(2) The portion of the funds credited to the account as of September 30, 1984, which represent funds unobligated as of that date shall be transferred to the general fund of the Treasury.

"PROVISION OF FUNDS

"SEC. 168. (a) The Secretary of the Treasury is directed to provide such funds to the Strategic Petroleum Reserve Account as are necessary to meet the obligations created under section 167(b).

"(b) Notwithstanding any other provision of law, the transactions under this section and section 167 and the receipts, obligations, and outlays created by such transactions shall be presented annually in the Budget of the United States government, but shall not be included in the totals of the budget and shall be exempt from any gener-

al limitation imposed by statute on expenditures (budget outlays) of the United States.

"(c) Unexpended balances of appropriations made available and obligated for the acquisition and delivery of petroleum products for the Strategic Petroleum Reserve at the end of fiscal year 1981, shall be credited to the Strategic Petroleum Reserve Account established by section 167 and orders or contracts which provide documentation for the obligation of those appropriations pursuant to section 1311 of the Act of August 26, 1954, as amended (31 U.S.C. 200; 68 Stat. 830) shall be liquidated from the Strategic Petroleum Reserve Account. This transfer shall be a transaction under section 167 for the purposes of section 168(b).".

(b) The table of sections for such Act is amended by inserting after the item relating to section 166 the following new items:

"Sec. 167. Strategic Petroleum Reserve Account.

"Sec. 168. Provision of funds.".

STORAGE OF STATE ROYALTY OIL

SEC. 6105. Section 160 of the Energy Policy and Conservation Act is amended by adding at the end thereof the following new subsection:

"(f) In addition to other authority made available by law, the President is authorized to contract, upon such terms and conditions necessary to protect the interests of the United States and without regard to any procurement law or regulation, with any State of the United States to store petroleum products in the Strategic Petroleum Reserve.".

QUARTERLY REPORTING REQUIREMENTS

SEC. 6106. (a) Subject to subsection (c), on or before the 15th day of the calendar quarter which begins after the date of the enactment of this section and every 90 days thereafter the Secretary of Energy shall report to Congress on activities undertaken with respect to the Strategic Petroleum Reserve under the amendments made by this chapter, including—

(1) the amounts of petroleum stored in the Reserve, under contract and in transit at the end of the previous calendar quarter;

(2) the projected fill rate for the Strategic Petroleum Reserve for such calendar quarter;

(3) the average price of the petroleum acquired during the previous calendar quarter;

(4) existing and projected Strategic Petroleum Reserve storage capacity and plans to accelerate the acquisition or construction of such capacity;

(5) an analysis of any existing or anticipated problems associated with acquisition, transportation, and storage of petroleum in the Reserve and with the expansion of storage capacity for the Reserve; and

(6) the amount of funds transferred to the Secretary of Energy from the Strategic Petroleum Reserve Account during the previous calendar quarter and in total under the amendments made by this chapter.

(b) The first report submitted under subsection (a) shall include a description of the current Strategic Petroleum Reserve Plan, including any proposed or anticipated amendments to the Plan.

(c) The report otherwise required under subsection (a) to be submitted in a calendar quarter in which an annual report is required to be submitted to the Congress under section 165 of the Energy Policy and Conservation Act may be combined and submitted with that annual report.

STUDY OF ALTERNATIVE FINANCING

SEC. 6107. Not later than 1 year after the date of the enactment of this chapter, the Secretary of the Treasury shall review and report to the Congress on alternative methods for financing purchases of petroleum products for the Strategic Petroleum Reserve which are not based on conventional debt financing by the Federal Government.

Chapter 2—OTHER ENERGY PROGRAMS

Subchapter A—Department of Energy Civilian Program Savings

PART 1—CONSERVATION

SEC. 6111. Funds are authorized to be appropriated for fiscal year 1982 and fiscal year 1983 in accordance with section 660 of the Department of Energy Organization Act for operating expenses for the following conservation and related activities:

(1) Transportation, $1,000,000 for each fiscal year.

(2) State energy block grant established under subchapter B of this chapter, for fiscal year 1982, $272,900,000 plus $22,100,000 of the amount appropriated for buildings and community systems, and $5,000,000 of the amount appropriated for economic regulation, which amounts were deferred until fiscal year 1982 by the Act entitled "An Act making supplemental and further continuing appropriations for the fiscal year ending September 30, 1981", approved June 5, 1981 (Public Law 97-12), and for fiscal year 1983, $300,000,000. Funds appropriated under this paragraph may remain available until expended.

PART 2—REGULATORY AND RELATED FUNCTIONS

SEC. 6112. Funds are authorized to be appropriated for fiscal year 1982 and fiscal year 1983 in accordance with section 660 of the Department of Energy Organization Act for the following regulatory and related functions:

(1) Economic Regulatory Administration, $12,000,000 for fiscal year 1982 and $24,000,000 for fiscal year 1983;

(2) Office of Hearings and Appeals, $4,500,000 for fiscal year 1982 and $4,500,000 for fiscal year 1983;

(3) Federal Energy Regulatory Commission, $82,173,000 for each fiscal year;

(4) Energy Information Administration, $56,523,000 for each fiscal year;

(5) Strategic Petroleum Reserve, $1,100,000,000 for fiscal year 1982 and $719,000,000 for fiscal year 1983; and

(6) Mineral fuels and petroleum and natural gas gathering and analysis programs data, $23,477,000 for each fiscal year.

PART 3—NUCLEAR ASSESSMENT, INTERIM SPENT NUCLEAR FUEL MANAGEMENT, AND COMMERCIAL WASTE REMEDIAL ACTION

SEC. 6113. Funds are authorized to be appropriated for fiscal year 1982 and fiscal year 1983 in accordance with section 660 of the Department of Energy Organization Act for the following:

(1) operating expenses for uranium resource assessment, $9,700,000 for each fiscal year;

(2) Capital equipment not related to construction for uranium resource assessment, $200,000 for each fiscal year;

(3) Plant and capital equipment including planning, construction, acquisition, or modification of facilities, including land acquisition of the uranium resource assessment program, project 82-R-410, General plant projects, Grand Junction, Colorado, $100,000 for fiscal year 1982;

(4) Operating expenses for interim spent nuclear fuel management and remedial action:

(A) Interim spent nuclear fuel management expenses, $6,417,000 for each fiscal year; and

(B) Remedial action program expenses, $55,070,000 for each fiscal year; and

(5) Capital equipment not related to construction for interim spent nuclear fuel management and remedial action, $1,775,000 for fiscal year 1982.

PART 4—OTHER RENEWABLE RESOURCES AND CONSERVATION ACTIVITIES

SEC. 6114. For the operating expenses for fossil energy program administration, $2,500,000 is authorized to be appropriated for each of the fiscal years 1982 and 1983 in accordance with section 660 of the Department of Energy Organization Act.

PART 5—URANIUM ENRICHMENT, OTHER COMMERCIAL WASTE MANAGEMENT ACTIVITIES, WEST VALLEY DEMONSTRATION PROJECT ACTIVITIES, AND THREE MILE ISLAND ACTIVITIES

SEC. 6115. Funds are authorized to be appropriated for fiscal year 1982 and fiscal year 1983 in accordance with section 660 of the Department of Energy Organization Act for:

(1) Operating expenses for uranium enrichment:

(A) Gaseous diffusion operations and support, $961,825,000 for each fiscal year;

(B) Gaseous centrifuge operations and support, $5,200,000 for each fiscal year; and

(C) Program administration, $3,100,000 for each fiscal year.

(2) Uranium enrichment activities plant and capital equipment, including planning, construction, acquisition, or modification of facilities, including land acquisition, for fiscal year 1982, as follows:

(A) Project 82-R-410, General plant projects, various locations, $17,500,000;

(B) Project 82-R-411, UF6 cylinders and storage yards, gaseous diffusion plants, $11,000,000;

(C) Project 82-R-412, Cooling tower modifications, Oak Ridge, Tennessee and Portsmouth, Ohio, gaseous diffusion plants, $8,000,000;

(D) Project 82-R-413, Improved UF6 containment and gaseous diffusion plants, $7,100,000;

(E) Project 82-R-414, Purge and cascade withdrawal modifications, gaseous diffusion plant, Paducah, Kentucky, $9,000,000;

(F) Project 82-R-415, Fire alarm system replacement, gaseous diffusion plants, $4,700,000;

(G) Project 82-R-416, Environmental protection and safety modifications, Phase II, gaseous diffusion plants, $2,000,000;

(H) Project 82-R-417, Air distribution system upgrading, gaseous diffusion plant, Paducah, Kentucky, $2,700,000;

(I) Project 81-R-503, Utilities upgrading, gaseous diffusion plants, an additional sum of $17,000,000 for a total project authorization of $27,000,000;

(J) Project 81-R-504, Supervisory control and data acquisition systems, Paducah, Kentucky and Portsmouth, Ohio, gaseous diffusion plants, an additional sum of $7,000,000 for a total project authorization of $13,000,000;

(K) Project 81-R-506, Environmental protection and safety improvements, Phase I, gaseous diffusion plants, $7,000,000;

(L) Project 80-UE-2, Control of water pollution, gaseous diffusion plants, an additional sum of $4,000,000 for a total project authorization of $17,000,000;

(M) Project 80-UE-3, Plant facilities security improvements, gaseous diffusion plants,

an additional sum of $4,000,000 for a total project authorization of $17,000,000;

(N) Project 80-UE-5, Motor and switchgear upgrading, gaseous diffusion plants, an additional sum of $6,600,000 for a total project authorization of $26,500,000; and

(O) Project 76-8-g, Enriched uranium production facilities, Portsmouth, Ohio, an additional sum of $669,000,000 for a total project authorization of $1,620,845,000.

(3) Capital equipment not related to construction for uranium enrichment, $23,100,000 for fiscal year 1982.

SEC. 6116. Funds are authorized to be appropriated for fiscal year 1982 and fiscal year 1983 in accordance with section 660 of the Department of Energy Organization Act for operating expenses for other commercial waste management activities:

(1) Repository licensing activities in the terminal isolation program, $2,000,000 for each fiscal year;

(2) Assistance to States in the waste system evaluation and public interaction program, $1,000,000 for each fiscal year; and

(3) Assistance to States for low-level waste management, $1,000,000 for each fiscal year.

SEC. 6117. Funds are authorized to be appropriated for fiscal year 1982 and fiscal year 1983 in accordance with section 660 of the Department of Energy Organization Act for the following West Valley Demonstration project activities:

(1) Operating expenses for the West Valley Demonstration project, $12,800,000 for each fiscal year; and

(2) Capital equipment not related to construction for the West Valley Demonstration project, $200,000 for fiscal year 1982.

SEC. 6118. Funds are authorized to be appropriated for fiscal year 1982 in accordance with section 660 of the Department of Energy Organization Act for the following:

(1) Operating expenses for Three Mile Island activities, $29,000,000; and

(2) Capital equipment not related to construction for Three Mile Island activities, $8,000,000.

PART 6—DEPARTMENTAL ADMINISTRATION

SEC. 6119. Funds are authorized to be appropriated for fiscal year 1982 and fiscal year 1983 in accordance with section 660 of the Department of Energy Organization Act for:

(1) Operating expenses for departmental administration activities:

(A) Office of the Secretary, $3,616,000 for each fiscal year;

(B) General management, $67,054,000 for each fiscal year;

(C) Program administration, $44,599,000 for each fiscal year, except that no funds authorized to be appropriated under this subparagraph shall be available for the Office of Consumer Affairs or related activities;

(D) Field offices, $58,738,000 for each fiscal year;

(E) Other salary expenses, travel, and services, $143,406,000 for each fiscal year;

(F) Policy analysis and system studies, $9,678,000 for each fiscal year;

(G) Intergovernmental affairs, $9,365,000 for each fiscal year;

(H) Public affairs, $900,000 for each fiscal year;

(I) In-house energy management, $5,400,000 for each fiscal year;

(J) Cost of work for others, and changes in inventories, $54,214,000 for each fiscal year; and

(K) Technical information services, $11,830,000 for each fiscal year;

(2) Departmental administration activities plant and capital equipment, including planning, construction, acquisition, or modification of facilities, including land acquisition, for fiscal year 1982, as follows:

(A) Project 82-A-601, Modifications for energy management, various locations, $22,200,000;

(B) Project 82-A-602, Advanced Test Reactor (ATR) waste heat recovery, Idaho National Engineering Laboratory, Idaho, $4,900,000;

(C) Project 82-A-603, High temperature water distribution system, Los Alamos Scientific Laboratory, New Mexico, $5,000,000;

(D) Project 81-A-602, Energy monitoring and control system, Y-12 Plant, Oak Ridge, Tennessee, an additional sum of $2,500,000 for a total project authorization of $5,000,000;

(E) Project 81-A-603, Energy monitoring and control system, Oak Ridge National Laboratory, an additional sum of $2,000,000 for a total project authorization of $4,000,000;

(F) Project 81-A-605, Automated energy management system, Argonne National Laboratory, Argonne, Illinois, an additional sum of $1,900,000 for a total project authorization of $3,800,000;

(G) Project 80-DA-06, Alternate energy source, Pantex Plant, Amarillo, Texas, an additional sum of $3,000,000 for a total project authorization of $6,000,000; and

(H) Project 82-C-601, Plant engineering and design, various locations, $2,000,000; and

(3) Capital equipment not related to construction for departmental administration activities, $5,563,000 for fiscal year 1982.

PART 7—AGGREGATE AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1983

SEC. 6120. Notwithstanding any other provision of this chapter, or any other provision of law, there is authorized to be appropriated to the Department of Energy for the civilian programs and activities of the Department for the fiscal year 1983, in accordance with section 660 of the Department of Energy Organization Act, not to exceed the aggregate amount authorized to be appropriated to the Department for such programs and activities for the fiscal year 1982.

PART 8—UNITED STATES ENERGY PROJECTIONS

SEC. 6121. Pursuant to title III of the Energy Security Act, the following are the United States energy projections:

ENERGY PROJECTIONS

[Quadrillion Btu's per year]

	1985	1990	1995	2000
Domestic production:				
Oil and NGL	18	17	18	18
Natural gas	18	18	16	15
Coal	21	27	32	41
Nuclear	5	7	8	9
Hydro/geothermal	3	4	4	4
Renewables	2	3	5	6
Subtotal	67	76	83	93
Imports:				
Oil	18	14	11	7
Natural gas	2	3	3	2
Coal	−1.8	−2.1	−2.2	−2.4
Subtotal	18	15	11	7
Total supply	85	90	94	100
End-use consumption:				
Petroleum liquids	32	29	28	27
Gas	17	18	18	18
Direct coal	5	6	6	7
Electricity	9	10	11	12
Decentralized solar	2	3	4	5
Subtotal	64	66	67	68
Conversion losses	21	25	28	32
Stock increase				
Total consumption	85	91	94	100

ENERGY PROJECTIONS—Continued

Subchapter E—State Energy Block Grants

SHORT TITLE

SEC. 6131. This subchapter may be cited as the "State Energy Block Grant Act".

FINDINGS

SEC. 6132. The Congress finds that—

(1) during the last several years the Federal Government has established numerous programs for energy-related assistance for State and local governments,

(2) despite the growth in Federal funding of energy-related activities, State and local governments retain primary responsibility for a significant portion of such activities,

(3) with the growth in the number of Federal assistance programs and in the associated requirements imposed on recipients, Federal decisions have replaced State and local determinations of what energy-related activities should be undertaken through publicly financed programs,

(4) the proliferation of Federal programs has resulted in substantial inefficiencies in the way energy programs are conducted, in burdensome administrative costs, and in spending patterns that frequently do not reflect the priorities and needs of the residents of each State,

(5) the best use of governmental resources in meeting the Nation's energy needs requires that the Federal Government support and not displace the State role in determining which energy conservation or supply development activities to engage in and how best to carry them out, and

(6) allowing the States substantial flexibility in the use of Federal financial assistance through consolidation of related assistance programs into a single grant with minimum requirements will help ensure a proper governmental balance, will permit coordinated planning at the State level, and will help ensure the effective use of the Nation's resources in the energy area.

ALLOCATION OF FUNDS

SEC. 6133. (a) For the purposes of providing the financial assistance authorized by this subchapter, the Secretary shall allocate annually the sums available for financial assistance under this subchapter among the States in the following manner—

(1) 75 percent shall be allocated on the basis of the resident population of the States; and

(2) 25 percent shall be allocated equally among the States.

(b) Notwithstanding subsection (a), the Secretary may prescribe a maximum allocation for the Virgin Islands, Guam, American Samoa, the Government of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

PAYMENTS TO STATES; STATE SHARE

SEC. 6134. (a) The Secretary shall make payments as provided by section 203 of the Intergovermental Cooperation Act of 1968 (42 U.S.C. 4213) to each State from its allotment under section 6133 from amounts appropriated for any fiscal year for its use under section 6135 or for grants to local

units of government under section 6137 (to the extent provided in such section).

(b) Any State receiving assistance under this subchapter shall provide matching funds from non-Federal sources in an amount equal to—

(1) in the case of awards in fiscal year 1982, 30 percent of the amount awarded to the State under this subchapter; and

(2) in the case of awards in fiscal years thereafter, 50 percent of the amount awarded to the State under this subchapter.

USE OF GRANT MONEY

SEC. 6135. (a) A State may use amounts paid to it under section 6134 for energy conservation and supply activities, including but not limited (except as limited under subsection (b), or as provided under subsection (c)) to—

(1) energy conservation,

(2) energy conservation measures and weatherization in public or nonprofit institutional buildings, including schools, hospitals, public care institutions, and local governmental buildings,

(3) weatherization for low-income families,

(4) residential weatherization,

(5) residential and commercial energy audits and technical assistance,

(6) energy emergency preparedness,

(7) renewable energy applied research and development,

(8) energy supply applied research and development,

(9) transportation energy efficiency, including traffic management and mass transportation,

(10) coastal and inland energy impact assistance,

(11) energy conservation and supply development in the agricultural sector, and

(12) applied research and development of energy efficiency in buildings.

(b) Amounts described in subsection (a) may not be used—

(1) by any State during any fiscal year if the costs for planning, data collection, forecasting, policy analysis, and personnel and administration associated with State programs funded under this subchapter exceed 25 percent of the amount of the total costs of such programs for such year;

(2) for costs of applying for a grant under this subchapter;

(3) for promoting energy conservation or supply development through the use of television, radio, newspapers, or other mass media; or

(4) for satisfying any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds.

In applying the limitation of paragraph (1), there shall not be taken into account any direct labor costs associated with weatherization activities.

(c) A State shall expend amounts described in subsection (a) by the end of the fiscal year following the fiscal year for which they were appropriated.

ALLOCATION OF FUNDS FOR CATEGORIES OF COMMUNITIES WITHIN A STATE

SEC. 6136. (a) The Secretary shall allocate 20 percent of the funds available to each State under section 6133 to each of the following three categories based on the respective population of each category within that State—

(1) metropolitan cities and urban counties in metropolitan areas;

(2) units of local government within metropolitan areas (other than metropolitan cities and urban counties); and

(3) nonmetropolitan areas.

(b)(1) Metropolitan cities and urban counties in metropolitan areas shall be entitled to annual grants from the portion allocated to them under subsection (a)(1). The Secretary shall determine the amount of the grant to be made by the Governor of the State to each metropolitan city and urban county, and such grants shall be the greater of an amount that bears the same ratio to the total available funding for all metropolitan areas as either—

(A) the average of the ratios between—

(i) the population of that metropolitan city (or urban county) and the population of all metropolitan areas;

(ii) the extent of poverty in that metropolitan city (or urban county) and the extent of poverty in all metropolitan areas; and of

(iii) the extent of housing overcrowding in that metropolitan city (or urban county) and the extent of housing overcrowding in all metropolitan areas; or

(B) the average of the ratios between—

(i) the age of housing in that metropolitan city (or urban county) and the age of housing in all metropolitan areas; and

(ii) the extent of poverty in that metropolitan city (or urban county) and the extent of poverty in all metropolitan areas.

In determining the average of the ratios under subparagraph (A) the ratio involving the population shall be counted once, the ratio involving the extent of poverty shall be counted twice, and the ratio involving housing overcrowding shall be counted once; and in determining the average of the ratios under subparagraph (B) the ratio involving extent of poverty shall be counted one and one-half times, and the ratio involving the age of the housing shall be counted two and one-half times.

(2) The Governor shall make grants to units of local government within metropolitan areas (other than metropolitan cities and urban counties) from the portion of funds allocated to them under subsection (a)(2) and to non-metropolitan areas from the portion of funds allocated to them under subsection (a)(3) through either an existing or newly developed process acceptable to both the Governor and the statewide organizations representing units of local government. The Governor shall, in consultation with the statewide organizations representing units of local government, develop selection criteria and a system for managing the solicitation, application, and selection process. Grants shall be made based on applications submitted to the Governor.

(3) The Secretary shall in order to compensate for the discrepancy between the total of the amounts to be allocated under paragraph (1) and the total of the amounts available, make a pro rata reduction of each amount allocated for the metropolitan cities (or urban counties) so that the metropolitan city (or urban county) in each State will be allocated an amount which represents the same percentage of the total amount available under paragraph (1) as the percentage which metropolitan cities (or urban counties) of the same State would have been allocated under such paragraph if the total amount available under this paragraph had equalled the total amount which was allocated under such paragraph.

(4) Any funds under this subchapter to which a metropolitan city or urban county in a metropolitan area is entitled, but which are not requested or disbursed, shall be made available to other eligible units of local government within that same metropolitan area. If no such recipients are available, then the funds shall be made available to the other metropolitan areas of the State under paragraph (2). If no such recipients are available in that State then the funds shall be made available to eligible recipients in other States.

(5) Any unit of local government receiving assistance under this subchapter from a State shall provide matching funds from non-Federal sources in an amount equal to—

(A) in the case of awards in fiscal year 1982, 30 percent of the amount awarded to the local government under this subchapter; and

(B) in the case of awards in fiscal years thereafter, 50 percent of the amount awarded to the local government under this subchapter.

REPORT ON INTENDED EXPENDITURES

SEC. 6137. (a) Prior to expenditure by a State of payments made to it under section 6134, the chief executive officer of the State shall prepare a report on the intended use of payments the State is to receive under this subchapter, including—

(1) information on the types of services to be provided and the categories of characteristics of individuals to be served;

(2) the intergovernmental process applicable to the administration of the program;

(3) a description of the needs in such State for weatherization for low-income families and energy conservation measures and weatherization in public and nonprofit institutional buildings or nonprofit institutional buildings (including schools, hospitals, public care institutions, and local governmental buildings), and a statement of the priority intended to be given to meeting such needs through assistance under this subchapter; and

(4) a description of any low-income assistance program covered by such payments.

(b) The report shall be made public within the State in such manner as to facilitate comment from any person (including any Federal or other public agency) during development of the report and after its completion. The report shall be revised throughout the year as may be necessary to reflect substantial changes in the activities assisted under this subchapter, and any revision shall be subject to the requirements of the preceding sentence.

(c) The Secretary shall review each report and revision submitted under subsection (a). If the Secretary finds that the intended use of payments under section 6135 or 6136 by a State is not in accordance with the purposes of this subchapter or that the State has not provided for an equitable distribution of funds or of services within the State, the Secretary shall disapprove such report or revision. Any such disapproval shall not be subject to judicial review. If a report or revision is disapproved the State which submitted it shall, within 30 days of the date of such disapproval, make such revisions in its use of such payments or its distribution of funds or services (consistent with the express provisions of this subchapter) so that such use is in accordance with the purposes of this subchapter or such distribution is equitable and shall report such revisions to the Secretary within 30 days after disapproval.

REPORTS AND AUDITS

SEC. 6138. (a)(1) Each State shall prepare reports on its activities under this subchapter. Reports shall be in such form, contain such information, and be of such frequency as the State finds necessary to secure an ac-

curate description of those activities (including identification of contracts entered into), to secure a complete record of the purposes for which funds were spent, to determine the extent to which funds were expended consistently with the reports required by section 6137, and to obtain an accurate financial statement of the programs funded under this subchapter.

(2) The State shall make copies of the reports required by this section available for public inspection within the State. Copies shall also be provided to the Congress, the Department of Energy, the Comptroller General, and, upon request, to any interested public agency which may provide its views on such reports to the Congress.

(b) Each State shall periodically audit its expenditures from amounts received under (or transferred to) this subchapter. Such State audits shall be conducted by an entity independent of any agency administering a program funded under this subchapter, in accordance with generally accepted accounting principles. Within 30 days following the completion of each audit, the chief executive officer of the State shall submit a copy of that audit to the legislature of the State and to the Secretary. Each State shall repay to the United States amounts found not to have been expended in accordance with this subchapter or the Secretary may offset such amounts against any other amount to which the State is or may become entitled under this subchapter.

(c) The Comptroller General, or any duly authorized representative, shall have access to pertinent books, documents, papers, records, and reports of any recipient of funds under this subchapter.

TERMINATION

SEC. 6139. On or after October 1, 1984, the preceding provisions of this subchapter shall cease to be effective.

Subchapter C—Other Changes to Existing Law

SEC. 6141. The Energy Security Act is amended—

(1) by striking out "target" and "targets" each place such terms appear and inserting in lieu thereof "projection" and "projections", respectively, in sections 301 through 304 (42 U.S.C. 7361–7364), relating to energy targets and in the items in the table of contents relating thereto;

(2) by striking out sections 401 through 404, 406, and section 409 (42 U.S.C. 7371–7374, 7375, and 7376) relating to renewable energy initiatives;

(3) in title V, by striking out subtitles B through F, and H, relating to the residential conservation service, residential energy efficiency program, the commercial and apartment conservation service, the weatherization assistance program, energy auditor training and certification, and coordination of Federal energy conservation factors and data; and

(4) by striking out the items in the table of contents relating to—

(A) sections 401 through 404, 406, and 409; and

(B) subtitles B through F and H of title V.

SEC. 6142. (a) Section 30 of the Federal Power Act is amended to read as follows:

"SEC. 30. Any facility (excluding any dam or other impoundment or facility located on Federal lands) constructed, operated, or maintained for the generation of electric power which utilizes for such generation only the hydroelectric potential of a manmade conduit operated for the distribution of water for agricultural, municipal, or industrial consumption and not primarily for the generation of the electricity is exempt from the requirements of sections 4 through 24 and 26 of this part.".

(b) The Federal Power Act (16 U.S.C. 792 et seq.) is amended by inserting after section 30 the following new section:

"SEC. 31. In order to simplify, promote, and expedite the development of a non-Federal hydroelectric power project, and consistent with the public interest and safety, the Commission, by rule or order, may waive any provision of this part, in connection with an application for, or amendment or notice of, any permit, license, or exemption for an existing or proposed water project and appurtenant project works, if the total installed capacity of the project upon completion is equal to or less than 15 megawatts, subject to terms and conditions that the Commission considers appropriate.".

SEC. 6143. (a) The National Energy Conservation Policy Act is amended—

(1) in title II, by striking out parts 1 and 5, relating to residential energy conservation and weatherization assistance for low-income persons;

(2) in part 2 of title II, by striking out section 231, and in section 233, by striking out "part A of the Energy Conservation in Existing Buildings Act of 1976,";

(3) by striking out title III, relating to energy conservation programs for schools and hospitals and buildings owned by units of local governments and public care institutions;

(4) in title VI, by striking out part 2, relating to State energy conservation plans;

(5) by striking out title VII, relating to the commercial and apartment conservation service; and

(6) in the table of contents, by striking out the items relating to—

(A) parts 1 and 5 and section 231 of part 2 of title II;

(B) titles III and VII; and

(C) part 2 of title VI.

(b) Paragraphs (3) and (4) of section 504(c) of the Housing Act of 1949 is amended by inserting "as in effect immediately before the date of the enactment of the Omnibus Budget Reconciliation Act of 1981)" after "Existing Buildings Act of 1976" each place it appears.

SEC. 6144. (a) The National Energy Extension Service Act (42 U.S.C. 7001–7011) is hereby repealed.

(b)(1) Section 103 of the Energy Reorganization Act of 1974 (42 U.S.C. 5801) is amended by striking out paragraph (7), and by redesignating paragraphs (8) through (12) as paragraphs (7) through (11), respectively.

(2) Section 108 of the Energy Reorganization Act of 1974 (42 U.S.C. 5818) is amended—

(A) in subsection (b), by inserting "and" at the end of paragraph (2), by striking out "; and" at the end of paragraph (3) and inserting a period in lieu thereof, and by striking out paragraph (4); and

(B) by striking out subsection (e).

SEC. 6145. The Energy Research and Development Administration Appropriation Authorization Act of 1977 is amended by striking out section 112 (42 U.S.C. 5907-a), relating to the appropriate technology grants program.

SEC. 6146. The Energy Policy and Conservation Act is amended—

(1) by striking out parts D, G, and H of title III, relating to State energy conservation programs and energy conservation programs for schools and hospitals and buildings owned by units of local government and public care institutions; and

(2) in the table of contents, by striking out the items relating to parts D, G, and H of title III.

SEC. 6147. The Energy Conservation and Production Act is amended—

(1) by striking out title III, relating to building energy performance standards;

(2) by striking out parts A, B, and C of title IV, relating to weatherization assistance for low-income persons, State energy conservation plans, and national energy conservation demonstration; and

(3) in the table of contents by striking out the items relating to title III, and parts A, B, and C of title IV.

SEC. 6148. (a)(1) Title II of the Powerplant and Industrial Fuel Use Act of 1978 is amended by striking out section 202 (42 U.S.C. 8312), relating to fuel use prohibitions on new major fuel-burning installations.

(2) Section 103(a) of such Act (42 U.S.C. 8302) is amended—

(A) by striking out paragraph (11);

(B) in paragraph (12), by striking out subparagraph (C) and by amending paragraph (12)(A) to read as follows:

"(12)(A) The term 'existing major fuel-burning installation' means any installation on which construction or acquisition began on a date before the date of the enactment of this Act.";

(C) in paragraph (13)(B)(ii), by inserting "or" at the end of subclause (I), by striking out "; or" at the end of subclause (II) and inserting a period, and by striking out subclause (III).

(3) Section 211 of such Act (42 U.S.C. 8321) is amended by striking out subsection (d) and by striking out "or 202" where it appears in subsection (a)(3).

(4)(A) Section 212(a)(2) of such Act (42 U.S.C. 8322(a)(2)) is amended to read as follows:

"(2) The demonstration required to be made by a petitioner under paragraph (1) shall be made with respect to the site of the powerplant and reasonable alternative sites.".

(B) Section 212(d) of such Act (42 U.S.C. 8322(d)) is amended by striking out paragraph (2), by striking out "(1)" in paragraph (1), and by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively.

(C) Section 212 of such Act (42 U.S.C. 8322) is amended by striking out subsections (i) and (j).

(5) The following provisions are each amended by striking out "or installation" each place it appears therein:

(A) subsections (a), (b), (c), and (e) of section 211;

(B) subsections (a), (b), (d), and (e) of section 212;

(C) subsection (a) of section 213; and

(D) subsection (a) of section 214.

(6) The table of contents for such Act is amended by striking out the item relating to section 202.

(b)(1) Section 301 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8341) is amended by striking out subsections (a), (b), and (c), and by inserting in lieu thereof the following:

"(a) Authority of Secretary to Prohibit Where Coal or Alternate Fuel Capability Exists.—The Secretary may prohibit, in accordance with section 303 (a), or (b), the use of petroleum or natural gas, or both, as a primary energy source in any existing pow-

erplant, if the owner and operator of that powerplant certify to the Secretary that—

"(1) such powerplant has or previously had the technical capability to use coal or another alternate fuel as a primary energy source;

"(2) such powerplant has the technical capability to use coal or another alternate fuel as a primary energy source, or it could have such capability without—

"(A) substantial physical modification of the powerplant, or

(B) substantial reduction in the rated capacity of the powerplant; and

"(3) it is financially feasible to use coal or another alternate fuel as a primary energy source in such powerplant.

"(b) Authority of Secretary to Prohibit Excessive Use in Mixtures.—In the case of any existing electric powerplant for which the owner and operator of that powerplant certify to the Secretary that it is technically and financially feasible to use a mixture of petroleum or natural gas and coal or an alternate fuel as a primary energy source, the Secretary may prohibit, in accordance with section 303(a), the use of petroleum or natural gas, or both, in such powerplant in amounts in excess of the minimum amount necessary to maintain reliability of operation of the unit consistent with maintaining reasonable fuel efficiency of such mixture.

"(c) Certification Under Subsection (a) or (b) May be Modified in Certain Circumstances.—The owner and operator of any such powerplant may amend any certification under subsection (a) or (b) at any time in order to take into account changes in relevant facts and circumstances; except that no amendment to such a certification may be made after the date of any final prohibition under subsection (a) or (b) based on that certification.".

(2) Section 303(a)(1) of such Act is amended by striking out "section 301 (b) or (c)" and inserting in lieu thereof "section 301 (a) or (b)".

(3) Section 303(b)(1) of such Act is amended by striking out "section 301(b)" and inserting in lieu thereof "section 301(a)".

(4)(A) Except with respect to any powerplant subject to an election under subparagraph (B), the amendments made by paragraphs (1), (2), and (3) shall take effect on the date of the enactment of this Act and shall apply, subject to section 762 of such Act, with respect to any powerplant whether or not an order has been proposed or made final before such date of enactment which covers that powerplant.

(B) The owner and operator of any powerplant issued a proposed or final order under the provisions of subsections (b) and (c) of section 301 of such Act before the date of the enactment of this Act may elect to have such provisions, as in effect before such date of enactment, continue to apply with respect to such powerplant, notwithstanding the amendments made by paragraphs (1), (2), and (3) of this subsection.

(C) An election under subparagraph (B) shall be made in such form and manner as the Secretary of Energy shall, within 90 days after such date of enactment, prescribe. Such an election shall be made not later than 60 days after the date on which the Secretary of Energy prescribes the form and manner of making such election.

(c) Section 402(b)(1) of such Act is amended—

(1) by inserting "(other than any outdoor lighting fixture which was installed before the date of the enactment of this Act for use in connection with a residence and for which natural gas was being provided on such date of enactment)" after "use in outdoor lighting", and

(2) in subparagraph (C), by striking out the dash and all that follows through "residence," and inserting in lieu thereof "any municipal outdoor lighting fixture".

Subchapter D—Nuclear Regulatory Commission Program Savings

SEC. 6151. (a) There is hereby authorized to be appropriated to the Nuclear Regulatory Commission in accordance with the provisions of section 261 of the Atomic Energy Act of 1954 (42 U.S.C. 2017) and section 305 of the Energy Reorganization Act of 1974 (42 U.S.C. 5875), for the fiscal years 1982 and 1983 to remain available until expended $486,572,600 for fiscal year 1982 and $514,665,400 for fiscal year 1983 to be allocated as follows:

(1) Not more than $74,797,800 for fiscal year 1982 and $78,280,000 for fiscal year 1983, may be used for "Nuclear Regulatory Regulation".

(2) Not more than $61,513,000 for fiscal year 1982 and $62,564,600 for fiscal year 1983, may be used for "Inspection and Enforcement".

(3) Not more than $17,591,000 for fiscal year 1982 and $17,630,000 for fiscal year 1983, may be used for "Standards Development".

(4) Not more than $45,766,000 for fiscal year 1982 and $47,059,600 for fiscal year 1983, may be used for "Nuclear Material Safety and Safeguards".

(5) Not more than $227,301,200 for fiscal year 1982 and $247,136,400 for fiscal year 1983, may be used for "Nuclear Regulatory Research".

(6) Not more than $18,757,200 for fiscal year 1982 and $20,197,800 for fiscal year 1983, may be used for "Program Technical Support".

(7) Not more than $40,846,400 for fiscal year 1982 and $41,797,000 for fiscal year 1983, may be used for "Program Direction and Administration".

(b) The Commission may use not more than 1 per centum of the amounts authorized to be appropriated under paragraph (5) of subsection (a) to exercise its authority under section 31 a. of the Atomic Energy Act of 1954 to enter into grants and cooperative agreements with universities pursuant under that section. Such grants should be made with the Commission paying close attention to opportunities for entering into agreements with appropriate historically predominate minority universities and research centers. Grants made by the Commission shall be made in accordance with the Federal Grants and Cooperative Agreements Act of 1977 and other applicable law.

(c)(1) Not more than $500,000 of the amount appropriated for a fiscal year to the Nuclear Regulatory Commission under any paragraph of subsection (a) for purposes of the program specified in that paragraph may be used by the Commission in that fiscal year for purposes of a program referred to in any other paragraph of subsection (a), and the amount available for appropriations for a fiscal year for purposes of any program specified in any paragraph of subsection (a) may not be reduced for that fiscal year by more than $500,000.

(2) The limitations on reprogramming contained in paragraph (1) shall not apply where the Commission submits to the Committee on Interior and Insular Affairs and the Committee on Energy and Commerce of the United States House of Representatives and to the Committee on Environment and Public Works of the United States Senate a notification containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied on in support of such proposed action, and if—

(A) each such committee, before the expiration of a 30-day period, transmits to the Commission a written notification that the committee does not object to the proposed action; or

(B) a 30-day period passes during which no such committee transmits to the Commission a written notification that the committee disapproves of the proposed action.

The 30-day period referred to in this paragraph shall commence upon the receipt by each such committee of the notice referred to in the preceding sentence. In computing such period there shall not be taken into account any day in which either House of Congress is not in session because of an adjournment of more than three calendar days to a day certain or an adjournment sine die. Each committee referred to in this paragraph may approve or disapaprove a proposal of the Commission under this paragraph in such manner as such committee deems appropriate.

SEC. 6152. Moneys received by the Commission for the cooperative nuclear research programs may be retained and used for salaries and expenses associated with those programs, notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484), and shall remain available until expended.

SEC. 6153. During the fiscal years 1982 and 1983, transfers of sums from salaries and expenses of the Nuclear Regulatory Commission may be made to other agencies of the United States Government for the performance of work for which the appropriation is made, and in such cases the sums so transferred may be merged with the appropriation so transferred.

SEC. 6154. Notwithstanding any other proviso of this subchapter, no authority to make payments hereunder shall be effective except to the extent or in such amounts as are provided in advance in appropriation Acts.

SEC. 6155. (a) Of the amounts authorized to be appropriated pursuant to paragraph (7) of subsection (a) of section 6151, such sums as may be necessary shall be available for interim consolidation of Nuclear Regulatory Commission headquarters staff offices in the District of Columbia and, to the extent necessary, in Bethesda, Maryland.

(b) No amount authorized to be appropriated under this Act may be used, in connection with the interim consolidation of Nuclear Regulatory Commission offices, to relocate the offices of members of the Commission outside of the District of Columbia.

SEC. 6156. Of the amounts authorized to be appropriated under section 6151, the Nuclear Regulatory Commission may use such sums as may be necessary to issue temporary operating licenses for nuclear power reactors as provided in section 192 of the Atomic Energy Act of 1954, as amended, except that such temporary operating licenses may be issued—

(1) in advance of the conduct or completion of any hearing required by section 192 or by section 189 of such Act, and

(2) without regard to subsection (d) of such section 192 and the findings required by subsection (b)(3) of that section.

SEC. 6157. Of the amounts authorized to be appropriated under section 6151, the Nuclear Regulatory Commission may use such sums as may be necessary to issue and make immediately effective amendments to licenses for nuclear power reactors where the Commission determines that an amendment involves no significant hazards consideration. Such an amendment may be issued and made immediately effective—

(1) in advance of the conduct and completion of any required hearing, and

(2) without providing the prior notice and publication in the Federal Register referred to in section 189 of the Atomic Energy Act of 1954.

In all other respects the amendment shall meet the requirements of the Atomic Energy Act of 1954.

SEC. 6158. Of the amounts authorized to be appropriated by section 6151, such sums as may be necessary shall be used by the Nuclear Regulatory Commission to recommend legislation and regulations which if taken together would reduce by one-half the time for the filing, review and issuance of construction permits, operating licenses and license amendments for a facility for which an application is filed on or after October 1, 1981, under sections 103, 104(b), or 189 of the Atomic Energy Act of 1954, as amended.

(b) The recommended regulations and legislation shall be transmitted to Congress pursuant to this section on or before December 31, 1981, along with a report on each of the proposed regulations and legislation which describes their expected impact on reducing and stabilizing the time required to issue construction permits, operating licenses, license amendments, safety assurance, judicial review, staff resources, and public participation.

SEC. 6159. Of the amounts authorized to be appropriated under section 6151 for the Office of Nuclear Materials, Safety and Safeguards, such sums as may be necessary shall be used by the Nuclear Regulatory Commission to promptly enter into a memorandum of understanding with the Department of Energy specifying interagency procedures for the disposition of radioactive materials resulting from the cleanup of Three Mile Island Unit 2, except those materials approved for disposition prior to the effective date of this Act.

SEC. 6160. Of the amount authorized to be appropriated under section 6151, the Nuclear Regulatory Commission may use such sums as may be necessary, in the absence of a State or local emergency preparedness plan which has been approved by the Federal Emergency Management Agency, to issue an operating license for a nuclear power reactor, if it determines that there exists a State, local or utility plant which provides reasonable assurance that public health and safety is not endangered by operation of the facility concerned.

SEC. 6161. No funds authorized to be appropriated under this subchapter may be used by the Commission to promulgate or publish a safety goal for nuclear reactor regulation until public hearings have been conducted by the Commission respecting the establishment of such safety goal. Development of a safety goal for nuclear reactor regulation should be expedited, to the maximum extent practicable, so as to allow for the establishment of a safety goal by the Commission no later than December 31, 1981.

Subtitle C—Matters Under the Jurisdiction of the Subcommittee on Health and the Environment

Chapter 1—OMNIBUS HEALTH PROGRAMS AMENDMENTS

SHORT TITLE AND REFERENCES IN CHAPTER

SEC. 6201. (a) This chapter may be cited as the "Health Amendments of 1981".

(b) Whenever in this chapter an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act unless otherwise specifically stated.

TRANSFER OF HEALTH CARE TECHNOLOGY ACTIVITIES TO THE NATIONAL CENTER FOR HEALTH CARE TECHNOLOGY AND HEALTH SERVICES RESEARCH

Sec. 6202. (a) Section 309 is repealed.

(b) Section 305(b) is amended—

(1) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D),

(2) by inserting the paragraph designation "(1)" after the subsection designation "(b)", and

(3) by adding at the end the following paragraphs:

"(2) The Center shall make recommendations to the Secretary respecting health care technology issues in the administration of the laws under the Secretary's jurisdiction, including recommendations with respect to reimbursement policy.

"(3) In carrying out section 304(a), the Secretary, acting through the Center, may undertake and support research, evaluation, and demonstration projects respecting—

"(A) the factors that affect the use of health care technology in the United States;

"(B) methods for disseminating information on health care technologies; and

"(C) the effectiveness, cost effectiveness, and social, ethical, and economic impacts of particular medical technologies.

"(4)(A) In carrying out paragraph (2), the Center shall consult with appropriate public and private entities.

"(B) In carrying out section 304(a)(2)(E) and paragraph (3) of this subsection, the Secretary shall consult with appropriate public and private entities.

"(5) No activity or project described in section 304(a)(2)(E) or paragraph (3) of this subsection may be conducted, undertaken, or supported unless the Secretary determines that such activity or project is not substantially similar to an activity or project of a Federal entity other than the Center.".

(c)(1) Section 304 is amended by striking out "the National Center for Health Services Research, the National Center for Health Statistics, and the National Center for Health Care Technology" each place it occurs and inserting instead "the National Center for Health Care Technology and Health Services Research and the National Center for Health Statistics".

(2) Section 304(a)(3) is amended by striking out "305, 306, and 309" and inserting instead "305 and 306".

(3) Section 305(a) is amended by inserting "Health Care Technology and" after "National Center for".

(4) The first sentence of section 305(d)(1) is amended by striking out "health services," and inserting instead "health services and health care technology".

(5) The heading to section 305 is amended by inserting "health care technology and" after "national center for".

(6) Section 308(a)(1) is amended by striking out "and section 309".

(7) The matter in section 308(a)(2) preceding subparagraph (A) is amended by inserting "Health Care Technology and" before "Health Services Research".

(8) Section 308(b)(1) is amended by striking out "307, and 309" and inserting instead "and 307".

(9) The first sentence of section 308(b)(2) is amended by inserting "or health care technology" after "health services".

(10) Subsections (d) and (e) of section 308 are each amended by striking out "307, or 309" each place it occurs and inserting instead "or 307".

(11) Section 308(f) is amended by striking out "306, or 309" and inserting instead "or 306".

(12) Section 308(g)(2) is amended by striking out "306, and 309" and inserting instead "and 306".

(13) Section 308(h)(1) is amended by striking out "306, or 309" each place it occurs and inserting instead "or 306".

(14) the second sentence of section 308(i)(1) is amended—

(A) by inserting "and health care technology" after "health services", and

(B) by inserting "Health Care Technology and" after "National Center for".

(15) The heading to section 308 is amended by striking out "307, and 309" and inserting instead "and 307".

(d)(1) Section 307(a) is amended by striking out "and statistical" and inserting instead ", statistical, and health care technology".

(2) Section 307(b) is amended—

(A) in paragraph (5), by striking out "or health statistics" and inserting instead ", health statistics, or health care technology", and

(B) in paragraph (6), by striking out "and programs of biomedical research, health services research, and health statistical activities" and inserting instead "or programs of biomedical research, health services research, health statistical activities, or health care technology activities".

(e) Section 308(d)(2) is amended by inserting "or health care technology" after "health services".

APPROPRIATION AUTHORIZATIONS FOR HEALTH SERVICES RESEARCH AND HEALTH CARE TECHNOLOGY ACTIVITIES AND AMENDMENTS TO HEALTH SERVICES RESEARCH AUTHORITIES

SEC. 6203. (a) The first sentence of section 308(i)(1) is amended to read as follows: "For health services and health care technology research, demonstration, and evaluation activities undertaken or supported under section 304 or 305, there are authorized to be appropriated $13,449,000 for fiscal year 1982 and such sums as may be necessary for each of the two succeeding fiscal years.".

(b) Section 305(d)(1) is amended—

(1) in the first sentence, by striking out "shall" and inserting instead "may", and

(2) by striking out the second sentence.

(c) Section 308(d)(2) is amended by striking out "$35,000" and inserting instead "$50,000".

APPROPRIATION AUTHORIZATIONS FOR AND AMENDMENTS CONCERNING HEALTH STATISTICS ACTIVITIES

SEC. 6204. (a) Section 308(i)(2) is amended—

(1) by striking out "and" after "1980,", and

(2) by inserting ", $35,532,000 for the fiscal year ending September 30. 1982, and such sums as may be necessary for each of

the two succeeding fiscal years" after "1981".

(b) The first sentence of section 304(d)(1) is amended—

(1) by striking out ", with funds appropriated under section 308(i)(2),", and

(2) by striking out "the Council on Wage and Price Stability.".

(c)(1) Section 306(e) is repealed.

(2) Section 306(k)(4)(D) is amended by striking out ", with respect to the Cooperative Health Statistics System established under subsection (e),".

(d)(1) Section 306(l) is repealed.

(2) The matter is section 308(d) preceding clause (1) is amended by striking out "by guidelines in effect under section 306(1)(2) or".

SECRETARIAL DISCRETION IN DETERMINING EXTENT AND MEANS OF TRAINING SUPPORT IN THE AREAS OF HEALTH STATISTICS, HEALTH SERVICES RESEARCH, AND HEALTH CARE TECHNOLOGY

SEC. 6205. Section 304(a)(3) is amended—

(1) by striking out "shall" and inserting instead "may", and

(2) by striking out "and" the first three places it occurs and inserting instead "or".

INCREASED PROTECTION FOR HEALTH SERVICES RESEARCH, HEALTH CARE TECHNOLOGY, AND HEALTH STATISTICS INFORMATION

SEC. 6206. The matter in section 308(a) preceding clause (1) (as amended by section 6204 (d)(2) of this chapter) is amended by striking out "unless authorized under regulations of the Secretary".

APPROPRIATION AUTHORIZATIONS FOR AND AMENDMENTS CONCERNING NATIONAL RESEARCH SERVICE AWARDS

SEC. 6207. (a) The first sentence of section 472(d) is amended—

(1) by striking out "and" after "1980,", and

(2) by inserting ", $147,321,000 for fiscal year ending September 30, 1982, and such sums as may be necessary for each of the two succeeding fiscal years" after "1981".

(b)(1) Section 472(a)(3) is amended to read as follows:

"(3) In awarding National Research Service Awards under this section, the Secretary shall take account of the Nation's overall need for biomedical research personnel by giving special consideration to physicians who agree to undertake a minimum of two years biomedical research.".

(2) Section 473 is repealed.

(c) The first sentence of section 472(b)(5) is amended by inserting ", tuition, fees," after "stipends".

(d) Section 472(b)(5) is amended by striking out the last two sentences.

(e) Paragraphs (1)(A) and (2) of section 472(c) are each amended by inserting "(other than for undergraduate training)" after "National Research Service Award".

(f)(1) Section 472(c)(1) is amended—

(A) in subparagraph (A)(ii), by striking out "serve as a member of the National Health Service Corps or serve in his specialty" and inserting instead "engage in full-time professional activities for any Federal agency, engage in the full-time clinical practice of his specialty as may be requested by a State or local governmental entity, or provide services in his specialty for a health maintenance organization", and

(B) in subparagraph (B)—

(i) in the matter preceding clause (i), by inserting "as specified" after "authorized",

(ii) by striking out the text of clause (i) and inserting instead "engage in full-time professional activities for any Federal agency; or engage in the full-time practice of his specialty as may be requested by a State or local governmental entity,",

(iii) by adding "or" at the end of clause (ii), and

(iv) by adding after clause (ii) the following clause:

"(iii) engage in the full-time private clinical practice (including service as a salaried employee in an entity directly providing health services) of his specialty in a health manpower shortage area designated under section 332 pursuant to a written agreement as specified in section 753(b),".

(2) Section 472(c)(2) is amended—

(A) in the matter preceding subparagraph (A), by striking out "three" and inserting "twelve" instead, and

(B) in subparagraph (A), by striking out "or, if so authorized, serve as a member of the National Health Service Corps,".

(3) The second sentence of section 472(c)(3) is amended—

(A) by striking out "(A)",

(B) by striking out all that follows "he deems necessary" and inserting a period instead, and

(C) by striking out "(i)" and "(ii)" and inserting instead "(A)" and "(B)", respectively.

EMERGENCY AND OTHER PUBLIC HEALTH RESPONSIBILITIES OF THE SECRETARY OF HEALTH AND HUMAN SERVICES

Sec. 6208. (a) Section 104(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended—

(1) in the matter preceding paragraph (1) in the third sentence, by striking out "said Administrator" and inserting instead "the Secretary",

(2) by striking out the last sentence, and

(3) by striking out the first two sentences and inserting instead the following: "The Secretary of Health and Human Services shall provide the Administrator technical assistance and advice as to the health matters involved in effectuating and implementing the provisions of this part.".

(b)(1) The second sentence of section 311(a) is amended—

(A) by striking out "shall" the first place it occurs and inserting instead "may",

(B) by inserting "and other entities" after "political subdivisions",

(C) by inserting "and with respect to other public health matters" after "diseases", and

(D) by striking out "and in carrying out the purposes of section 314".

(2) The first sentence of section 311(b) is amended by striking out "the purposes of section 314" and inserting instead "public health activities".

(3) The first sentence of section 311(c)(1) is amended by striking out "or condition referred to in section 317(f)" and "involving or resulting from disasters or any such disease".

(4) The second sentence of section 311(c)(1) is amended by striking out "resulting from disasters or any disease or condition referred to in section 317(f)".

(c) Section 311(c)(2) is amended—

(1) in the first sentence, by striking out "forty-five days" and inserting instead "six months", and

(2) by inserting the following after the first sentence: "The Secretary, in determining the amount of such assistance to be provided, shall take into consideration State, local, and private resources which are (or could have been, with reasonable foresight) available for meeting the emergency.".

APPROPRIATION AUTHORIZATIONS FOR IMMUNIZATION PROGRAMS

SEC. 6209. Section 317(j)(1)(A) is amended—

(1) by striking out "and" after "1980,", and

(2) by inserting ", $26,000,000 for the fiscal year ending September 30, 1982, $29,000,000 for the fiscal year ending September 30, 1983, and $32,000,000 for the fiscal year ending September 30, 1984" after "1981,".

APPROPRIATION AUTHORIZATIONS FOR PREVENTION AND CONTROL OF VENEREAL DISEASE

SEC. 6210. The first sentence of section 318(d)(1) is amended by striking out "and" after "1980," and by inserting before the period a comma and the following: "$40,000,000 for the fiscal year ending September 30, 1982, $40,000,000 for the fiscal year ending September 30, 1983, and $40,000,000 for the fiscal year ending September 30, 1984".

APPROPRIATION AUTHORIZATIONS FOR AND AMENDMENTS CONCERNING ASSISTANCE FOR MEDICAL LIBRARIES

SEC. 6211. (a) Section 390(c) is amended—

(1) by striking out "and" after "1980,", and

(2) by inserting ", $8,925,000 for the fiscal year ending September 30, 1982, and such sums as may be necessary for each of the two succeeding fiscal years" after "1981".

(b)(1) Section 393(a) is amended to read as follows:

"SEC. 393. (a) To carry out the purposes of section 390(b)(1), the Secretary shall make grants to individuals or to public or private nonprofit institutions to assist in training individuals in information sciences related to health.".

(2) The heading to section 393 is amended by striking out "medical library" and inserting instead "information".

(3) Section 390(b)(1) is amended by striking out "medical librarians and other information specialists in the health sciences" and inserting instead "individuals in information sciences as related to health".

(c) Section 394(b) and the first sentence of section 394(a) are each amended by striking out "shall" and inserting instead "may".

LIMITED APPLICABILITY OF CERTAIN ADDITIONAL SPECIAL PAY TO PHYSICIANS IN THE PUBLIC HEALTH SERVICE COMMISSIONED CORPS

SEC. 6212. (a) Section 208(a) is amended—

(1) by inserting the subparagraph designation "(A)" after the paragraph designation "(2)",

(2) by inserting ", except as otherwise provided in subparagraph (B)" before the period, and

(3) by adding at the end the following:

"(B) A commissioned medical officer in the Regular or Reserve Corps may not receive additional special pay under paragraph (4) of 37 U.S.C. 302(a) for any period during which the officer is providing obligated service under section 752 (or under former section 225(e)). Such an officer serving during any other period may be provided additional special pay under that paragraph at the discretion of the Secretary up to the amounts described in that paragraph. The Secretary, in exercising his discretion under the preceding sentence, shall take into consideration the recruitment and retention problems of the Public Health Service, the level of performance of the officer concerned, and provisions of law relating to additional pay for Government physicians not in the uniformed services.".

(b) The amendments made by subsection (a) of this section do not apply to any period of service covered by an agreement, entered into by an officer under 37 U.S.C. 302(c)(1) before the date of enactment of this part.

HANSEN'S DISEASE PROGRAM

SEC. 6213. Section 320 is amended to read as follows:

"HANSEN'S DISEASE PROGRAM

"SEC. 320. (a) The Secretary shall provide for the care and treatment without charge of any person suffering from Hansen's disease who requests care and treatment.

"(b) The Secretary shall make payments to the Board of Health of Hawaii for the care and treatment in its facilities of persons suffering from Hansen's disease at a per diem rate, determined from time to time by the Secretary, which shall, subject to the availability of appropriations, be approximately equal to the per diem operating cost per patient of those facilities, except that the per diem rate shall not be greater than the comparable per diem operating cost per Hansen's disease patient at the Public Health Service hospital in Carville, Louisiana.".

ELIMINATION OR DECREASED FREQUENCY OF CERTAIN REPORTS

SEC. 6214. (a)(1) Sections 227, 316(f), 317(h), 336, 360D, 511, 751(i), 788(g)(4), 1106, 1210, and 1315; section 1200 of the Comprehensive Drug Abuse Prevention and Control Act of 1970; section 302 of the Health Planning and Resources Development Amendments of 1979; and the Marihuana and Health Reporting Act are repealed.

(2) Section 306(k)(4) is amended—

(A) by adding "and" at the end of subparagraph (E),

(B) by striking out "; and" at the end of subparagraph (F) and substituting a period, and

(C) by striking subparagraph (G).

(3) Section 308(a)(1) is amended—

(A) by striking out clause (A), and

(B) by striking out the clause designation "(B)".

(4) Section 329(f)(5) is amended by striking out the last sentence.

(5) Section 27 of the Toxic Substances Control Act is amended—

(A) by striking out paragraph (1),

(B) by striking out the paragraph designation "(2)", and

(C) in the side heading, by striking out "Annual".

(b)(1) The matter preceding subparagraph (A) of section 308(a)(2) is amended—

(A) by striking out "not later than September 1 of each year", and

(B) by inserting "biennially" after "submit".

(2) Section 434(e) is amended—

(A) in the first sentence—

(i) by striking out "each" and inserting instead "every other", and

(ii) by striking out "an annual" and inserting instead "a biennial", and

(B) in the second sentence, by striking out "annual" and inserting instead "biennial".

(3) Section 435(b) is amended—

(A) by striking out "an annual" and inserting instead "a biennial", and

(B) by striking out "each" and inserting instead "every other".

(4) Section 436(c) is amended—

(A) in the matter preceding paragraph (1), by striking out "an annual" and inserting instead "a biennial", and

(B) by striking out the last sentence.

(5) Section 437(j) is amended—

(A) in the matter preceding paragraph (1), by striking out "an annual" and inserting instead "a biennial", and

(B) by striking out "year" each place it occurs and inserting instead "years".

(6) Section 439(e) is amended—

(A) by striking out "an annual" and inserting instead "a biennial", and

(B) by striking out "each" and inserting instead "every other".

(7) Section 5(h) of the International Health Research Act of 1960 is amended by striking out "each" and inserting instead "every other".

(8) Section 8(a) of the Federal Cigarette Labeling and Advertising Act is amended by striking out "annually" and inserting instead "biennially".

(9) Section 305 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act is amended by striking out "each" and inserting instead "every other".

MISCELLANEOUS

SEC. 6215. Section 434(d)(1) is amended by inserting "musculoskeletal and skin diseases," after "arthritis,".

REPEALS

SEC. 6216. Effective October 1, 1983, titles XV and XVI of the Public Health Service Act are repealed.

CONFORMING PROVISION

SEC. 6127. (a) The repeals made by section 2591 shall not affect (1) the obligations of any entity under a loan made under the Public Health Service Act, or (2) the obligations of the United States under any loan guarantee made under such Act.

(b)(1) If any facility constructed, modernized, or converted with funds provided under title XVI of the Public Health Service Act is, at any time within twenty years after the completion of such construction, modernization, or conversion with such funds, not used as a medical facility, and the Secretary has not determined that there is good cause for termination of such use, the United States shall be entitled to recover from either the transferor or the transferee in the case of a sale or transfer or from the owner in case of termination of use an amount bearing the same ratio to the then value (as determined by the agreement of the parties or by action brought in the district court of the United States for the district in which the facility is situated) of so much of such facility as constituted an approved project or projects, as the amount of the Federal participation bore to the cost of the construction, modernization, or conversion of such project of projects. Such right of recovery shall not constitute a lien upon such facility prior to judgment.

(2) The Secretary may waive the recovery rights of the United States under subsection (a) with respect to a facility in any State if the Secretary determines, in accordance with regulations, that there is good cause for waiving such requirement with respect to such facility. If the amount which the United States is entitled to recover under subsection (a) exceeds 90 per centum of the total cost of the construction or modernization project for a facility, a waiver under this subsection shall only apply with respect to an amount which is not more than 90 per centum of such total cost.

Chapter 2—NATIONAL HEALTH SERVICE CORPS AND HEALTH PROFESSIONS EDUCATION AND NURSE TRAINING

SHORT TITLE AND REFERENCES IN CHAPTER

SEC. 6220. (a) This chapter may be cited as the "Health Professions Personnel Amendments of 1981".

(b) Unless otherwise specifically stated, whenever in this chapter an amendment is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

Subchapter A—National Health Service Corps Programs

REVISION AND EXTENSION OF NATIONAL HEALTH SERVICE CORPS

SEC. 6221. (a)(1) Section 331(a)(1) (42 U.S.C. 254d(a)(1)) is amended to read as follows: "(1) shall consist of—

"(A) such officers of the Regular and Reserve Corps of the Service as the Secretary may designate,

"(B) such civilian employees of the United States as the Secretary may appoint, and

"(C) such other individuals who are not employees of the United States,

(such officers, employees, and individuals hereinafter in this subpart referred to as 'corps members'), and".

(2)(A) Section 331(d)(1) is amended by inserting after "each member of the Corps" the following: "(other than a member described in subsection (a)(1)(C))".

(B) Section 331(d) is amended by adding at the end the following:

"(3) A member of the Corps described in subparagraph (C) of subsection (a)(1) shall when assigned to an entity under section 333 be subject to the personnel system of such entity, except that such member shall receive during the period of assignment the income that the member would receive if the member was a member of the Corps described in subparagraph (B) of such subsection.".

(3) Section 331(h)(1) is amended by striking out ", Education, and Welfare" and inserting in lieu thereof "and Human Services".

(4) Section 331 is amended by redesignating subsections (g) and (h) as subsections (h) and (i), respectively, and by adding after subsection (f) the following new subsection:

"(g)(1) The Secretary shall, by rule, prescribe conversion provisions applicable to any individual who, within a year after completion of service as a member of the Corps described in subsection (a)(1)(C), becomes a commissioned officer in the Regular or Reserve Corps of the Service.

"(2) The rules prescribed under paragraph (1) shall provide that in applying the appropriate provisions of this Act which relate to retirement, any individual who becomes such an officer shall be entitled to have credit for any period of service as a member of the Corps described in subsection (a)(1)(C).".

(b)(1) Section 332(a)(1) (42 U.S.C. 254e(1)) is amended by striking out "which the Secretary determines" each place it occurs and inserting in lieu thereof "which as determined under this section".

(2) Section 332(c) is repealed.

(3) Section 333(c) is amended by adding after paragraph (4) the following: "At least ninety days before approving such an application, the Secretary shall provide the appropriate health professions societies in the

area to which an assignment would be made under the application the opportunity to submit comments on the assignment.".

(c) Section 332(h) is amended (1) by inserting "(1)" before "to inform", and (2) by inserting before the period a comma and the following: "and (2) to inform such entities and other individuals and entities who may be interested in the availability of health professions personnel of the provisions of section 753 which allow an individual to satisfy a National Health Service Corps Scholarship Program service obligation through the private practice of the individual's health profession".

(d)(1) Subsection (a) of section 333 (42 U.S.C. 254f) is amended by adding at the end the following:

"(3) In approving applications for assignment of members of the Corps the Secretary shall not discriminate against applications from entities which are not receiving Federal financial assistance under this Act.".

(2) Effective October 1, 1981, section 333 is amended by redesignating subsections (d) through (h) as subsections (e) through (i), respectively, and by adding after subsection (c) the following new subsection:

"(d)(1) The Secretary may not approve an application for the assignment of a member of the Corps described in subparagraph (C) of section 331(a)(1) to an entity unless the application of the entity contains assurances satsifactory to the Secretary that the entity (A) has sufficient financial resources to provide the member of the Corps with an income of not less than the income to which the member would be entitled if the member was a member described in subparagraph (B) of section 331(a)(1), or (B) would have such financial resources if a grant was made to the entity under paragraph (2).

"(2)(A) If in approving an application of an entity for the assignment of a member of the Corps described in subparagraph (C) of section 331(a)(1) the Secretary determines that the entity does not have sufficient financial resources to provide the member of the Corps with an income of not less than the income to which the member would be entitled if the member was a member described in subparagraph (B) of section 331(a)(1), the Secretary may make a grant to the entity to assure that the member of the Corps assigned to it will receive during the period of assignment to the entity such an income.

"(B) The amount of any grant under subparagraph (A) shall be determined by the Secretary. Payments under such a grant may be made in advance or by way of reimbursement, and at such intervals and on such conditions as the Secretary finds necessary. No grant may be made unless an application therefor is submitted to and approved by the Secretary. Such an application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.".

(e)(1) Section 334(a) (42 U.S.C. 254g(a)) is amended by inserting "for the assignment of a member of the Corps" after "section 333".

(2) Section 334(a)(3)(A) is amended by inserting "from the United States" after "received by such member".

(3) Section 334(a)(3)(C) is amended (A) by inserting "or a grant under section 333(d)(2)" after "section 335(c)", and (B) by inserting "or grant" after "such loan" each time it occurs.

(4) Section 334(b) is amended by adding at the end the following:

"(4) In determining whether to grant a waiver under paragraph (1) or (2), the Secretary shall not discriminate against a public entity.".

(5) Subsection (e) of section 334 is amended to read as follows:

"(e)(1) There is established in the Treasury of the United States a revolving fund to be called the National Health Service Corps Fund (hereinafter in this subsection referred to as the 'Fund') which shall be available to the Secretary, without fiscal year limitation, to carry out this subpart.

"(2) There shall be deposited in the Fund, subject to withdrawal by check by the secretary—

"(A) funds received by the Secretary after September 30, 1981, under an agreement entered into under subsection (a), and

"(B) interest which may be earned on investments of the Fund.

"(3) If the Secretary determines that the moneys of the Fund are in excess of current needs, the Secretary may request the investment of such amounts as the Secretary deems advisable by the Secretary of the Treasury in obligations of, or obligations guaranteed by, the Government of the United States, and, with the approval of the Secretary of the Treasury, in such other obligations or securities as it deems appropriate.

"(4) With the approval of the Secretary of the Treasury, the Secretary of Health and Human Services may deposit moneys in the Fund in any Federal Reserve bank, any depository for public funds, or in such other places and in such manner as the Secretary of Health and Human Services and the Secretary of the Treasury may mutually agree.

"(5) The Fund and the funds credited to it shall not be subject to apportionment under section 3679 of the Revised Statutes (31 U.S.C. 665).".

(f) Section 338(a) (42 U.S.C. 254k) is amended (1) by striking out "and" after "1979;", and (2) by adding before the period a semicolon and the following: "$85,000,000 for the fiscal year ending September 30, 1982; $85,000,000 for the fiscal year ending September 30, 1983; and $85,000,000 for the fiscal year ending September 30, 1984".

REVISION AND EXTENSION OF NATIONAL HEALTH SERVICE CORPS SCHOLARSHIP PROGRAM

SEC. 6222. (a)(1) Paragraphs (1) through (4) of section 752(b) (42 U.S.C. 294u(b)) are amended to read as follows:

"(b)(1) If an individual is required under subsection (a) to provide service as specified in section 751(f)(1)(B)(iv) (hereinafter in this subsection referred to as 'obligated service'), the Secretary shall, not later than ninety days before the date described in paragraph (5), determine if the individual shall provide such service—

"(A) as a member of the Corps who is a commissioned officer in the Regular or Reserve Corps of the Service or who is a civilian employee of the United States, or

"(B) as a member of the Corps who is not such an officer or employee,

and shall notify such individual of such determination.

"(2) If the Secretary determines that an individual shall provide obligated service as a member of the Corps who is a commissioned officer in the Service or a civilian employee of the United States, the Secretary shall, not later than sixty days before the date described in paragraph (5), provide such individual with sufficient information regarding the advantages and disadvantages of service as such a commissioned officer or civilian employee to enable the individual to make a decision on an informed basis. To be eligible to provide obligated service as a commissioned officer in the Service, an individual shall notify the Secretary, not later than thirty days before the date described in paragraph (5), of the individual's desire to provide such service as such an officer. If an individual qualifies for an appointment as such an officer, the Secretary shall, as soon as possible after the date described in paragraph (5), appoint the individual as a commissioned officer of the Regular or Reserve Corps of the Service and shall designate the individual as a member of the Corps.

"(3) If an individual provided notice by the Secretary under paragraph (2) does not qualify for appointment as a commissioned officer in the Service, the Secretary shall, as soon as possible after the date described in paragraph (5), appoint such individual as a civilian employee of the United States and designate the individual as a member of the Corps.

"(4) If the Secretary determines that an individual shall provide obligated service as a member of the Corps who is not an employee of the United States, the Secretary shall, as soon as possible after the date described in paragraph (5), designate such individual as a member of the Corps to provide such service.".

(2)(A) Subsection (c)(1) of section 752 is amended by striking out "or as a member of the Corps" and inserting in lieu thereof "or is designated as a member of the Corps under subsection (b)(3) or (b)(4)".

(B) The second sentence of subsection (d) of section 752 is amended by inserting after "written contract" the following: "and if such individual is an officer in the Service or a civilian employee of the United States".

(b) Subsection (e) of section 752 is amended to read as follows:

"(e) Notwithstanding any other provision of this title, service of an individual under a National Research Service Award awarded under subparagraph (A) or (B) of section 472(a)(1) shall be counted against the period of obligated service which the individual is required to perform under the scholarship program.".

(c)(1) Section 752 is amended by adding at the end the following:

"(f) The Secretary may permit an individual to satisfy all or part of his service obligation under this subpart by engaging in the clinical practice of his profession in any location (whether or not in a health manpower shortage area as defined in section 332(a))—

"(1) for the Department of Health and Human Services,

"(2) for the Department of Defense,

"(3) for the Veterans' Administration, or

"(4) as may be requested by a State or local governmental entity

for a period of full-time practice equal to (or a longer period of other than full-time practice equivalent to) the remaining period of obligated service. Funds appropriated under this subpart may not be used to pay for services performed under this subsection.

"(g) The Secretary may from time to time release up to a specified number of individuals from their service obligation under this subpart who have reached the date described in section 752(d)(5) but who have not yet begun their period of obligated service. He shall require as a condition for a release that an individual agree to pay to the

United States, within such time as the Secretary may specify, the sum of the amounts paid under this subpart to or on behalf of the individual and the interest on such amounts which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum legal prevailing rate as determined by the Secretary of the Treasury. If more eligible individuals apply for such a release than the number specified by the Secretary, the Secretary shall select by lottery those to be released.".

(2) Section 752(a) is amended by inserting "in subsection (e), (f), or (g) or" before "in section 753".

(3) Section 752(D)(4) is amended by striking out "and" and inserting in lieu thereof ", in subsection (e), (f), or (g), or".

(4) Section 754(d) is amended by striking out "of damages" each place it occurs.

(d)(1) Section 753(b)(1)(B) (42 U.S.C. 294v(b)(1)(B)) is amended (A) by inserting "(i)" before "shall not", and (B) by inserting before the semicolon a comma and the following: "and (ii) shall agree to accept an assignment under section 1842(b)(3)(B)(ii) of such Act for all services for which payment may be made under part B of title XVIII of such Act and enter into an appropriate agreement with the State agency which administers the State plan for medical assistance under title XIX of such Act to provide services to individuals entitled to medical assistance under the plan".

(2) Section 753 is amended by adding the following new subsections:

"(c) If an individual breaches the contract entered into under section 751 by failing (for any reason) to begin his service obligation in accordance with an agreement entered into under subsection (a) or to complete such service obligation, the Secretary may permit such individual to perform such service obligation as a member of the Corps.

"(d) The Secretary shall, upon request, provide technical assistance to individuals who are considering entering into an agreement under subsection (a) or have entered into such an agreement to assist them in the establishment of their clinical practice under the agreement.".

(3) Section 751(c)(2) is amended by inserting "information respecting meeting a service obligation through private practice under an agreement under section 753 and" after "(2)".

(4)(A) Subsection (a) of section 753 is amended by inserting "or under section 225 (as in effect on September 30, 1977)" after "section 752(a)".

(B) Section 754(c) (42 U.S.C. 294w(c)) is amended (i) by striking out "(c) If" and inserting in lieu thereof "(c)(1) Except as provided in paragraph (2), if", and (ii) by adding at the end the following:

"(2) If an individual is released under section 753 from a service obligation under section 225 (as in effect on September 30, 1977) and if the individual does not meet the service obligation incurred under section 753, subsection (f) of such section 225 shall apply to such individual in lieu of paragraph (1) of this subsection.".

(C) Section 735(c)(1) (42 U.S.C. 294h(c)(1)) is amended by striking out "clauses (A) and (B) of".

(e)(1) The first sentence of section 756(a) is amended (A) by striking out "and" after "1979," and (B) by inserting before the period a comma and the following: "$38,000,000 for the fiscal year ending September 30, 1982, $38,000,000 for the fiscal year ending September 30, 1983, and $38,000,000 for the fiscal year ending September 30, 1984".

(2) The second sentence of such section is repealed.

(3) Such section is amended by striking out "(a)" after "756." and by striking out subsection (b).

(f) The amendments made by subsection (a) shall apply with respect to contracts entered into under the National Health Service Corps scholarship program under subpart III of part C of title VII of the Public Health Service Act after the date of the enactment of this Act. An individual who before such date has entered into such a contract and who has not begun the period of obligated service required under such contract shall be given the opportunity to revise such contract to permit the individual to serve such period as a member of the National Health Service Corps who is not an employee of the United States.

Subchapter B—Health Professions Programs

GENERAL PROVISIONS

SEC. 6225. Section 700 (42 U.S.C. 292) (relating to limitation of use of appropriations) is repealed.

REPEAL OF CAPITATION

SEC. 6226. (a)(1) Paragraph (2) of section 770(c) is amended—

(A) in the first sentence, by striking out "For purposes of this section, the" and inserting instead "The", and

(B) in the last sentence, by striking out "and for purposes of section 771, students enrolled in the first of the last four years of such programs shall be considered as first-year students".

(2) That paragraph is renumbered as paragraph (11) and is transferred to the end of section 701".

Section 731(a)(1)(A)(ii) is amended by striking out "770(C)(2)" and inserting instead "701(11)".

(b) Part E of title VII is repealed.

(c)(1) Sections 331(g) and 751(j) are repealed.

(2) Section 703 is amended—

(A) by striking out subsection (b), and

(B) by striking out the subsection designation "(a)".

(3) Section 708(c) is amended—

(A) by striking out the first sentence, and

(B) by striking out "additional" in the second sentence.

(4) Section 710(1) is amended by striking out "except for grants under section 770,".

(5) Section 737 is amended—

(A) by striking out paragraph (2), and

(B) by amending paragraph (1) to read as follows:

"(1) The term 'eligible institution' means, with respect to a fiscal year, a school of medicine, osteopathy, dentistry, optometry, pharmacy, podiatry, veterinary medicine, or public health within the United States that is accredited by a recognized body or bodies approved for such purpose by the Secretary of Education, except that a new school which (by reason of no, or an insufficient, period of operation) is not, at the time of application for insurance for a loan under this subpart, eligible for accreditation by such a recognized body or bodies, shall be deemed accredited for purposes of this part if the Secretary of Education finds, after consultation with the appropriate accreditation body or bodies, that there is reasonable assurance that the school will meet the accreditation standards of such body or bodies prior to the beginning of the academic year following the normal graduation date of the first entering class in such school.".

(6) The first sentence of section 853(6) is amended by striking out clause (B).

REPEAL OF CONSTRUCTION AUTHORITIES

SEC. 6227. (a) Section 722 is amended to read as follows:

"PAYMENTS

"SEC. 722. The Secretary shall reserve, from any appropriation available for a grant for a construction project under this part, the amount of such grant; the amount so reserved may be paid in advance or by way of reimbursement, and in such installments consistent with construction progress, as the Secretary may determine. The Secretary's reservation of any amount under this section may be amended by him, either upon approval of an amendment of the application or upon revision of the estimated cost of construction of the facility.".

(b) Section 803 is amended to read as follows:

"PAYMENTS

"SEC. 803. The Secretary shall reserve, from any appropriation available for a grant for a construction project under this subpart, the amount of such grant; the amount so reserved may be paid in advance or by way of reimbursement, and in such installments consistent with construction progress, as the Secretary may determine. The Secretary's reservation of any amount under this section may be amended by him, either upon approval of an amendment of the application or upon revision of the estimated cost of construction of the facility.".

(c) Section 723 is amended—

(1) by inserting "former" before "section 720(a)(1)" and "section 720(a)(2)",

(2) by striking out "section 722" and inserting instead "former section 722(d)",

(3) in subsection (a)(2), by inserting "(including the lack of further need for the teaching, research, or other capacity)" after "good cause", and

(4) in subsection (b)(2), by inserting "(including the lack of further need for the training capacity)" after "good cause".

(d) Section 804 is amended by inserting "(including the lack of further need for the training capacity)" after "good cause".

(e) Section 724 is amended to read as follows:

"REGULATIONS

"SEC. 724. The Secretary may make such regulations as he finds necessary to carry out the provisions of this part.".

(f) Sections 720, 721, 725, 801, and 802, subsections (a), (b), (c), and (f) of section 726, and subsections (a), (b), (c), and (f) of section 805 are repealed.

(g)(1) Section 701(3) is amended by striking out "which meets the eligibility conditions set forth in section 721(b)(1)".

(2) The first sentence of section 853(6) is amended by striking out clause (A).

(h)(1) No entity shall be required to continue to implement assurances given under former section 721(c)(2)(D).

(2) The Secretary may waive the enforcement of assurances given by any school under former section 802(b)(2)(D).

REPEAL OF START-UP ASSISTANCE AUTHORITY

SEC. 6228. Section 788(a) is repealed.

FINANCIAL DISTRESS

SEC. 6229. (a) Section 788 (42 U.S.C. 295g-8) is amended as follows:

(1) Subsections (c), (d), (e), (f), and (g) are repealed.

(2) Subsection (b) is amended—

(A) by striking out "(b)(1)" and inserting in lieu thereof "(a)",

(B) by redesignating subparagraphs (A) and (B) of paragraph (1) as paragraphs (1)

and (2), respectively, and by redesignating clauses (i) and (ii) of paragraph (1) (as so redesignated) as subparagraphs (A) and (B), respectively,

(C) by striking out paragraph (5) and by redesignating paragraphs (2), (3), and (4) as subsections (b), (c), and (d), respectively,

(D) by redesignating subparagraphs (A), (B), and (C) of subsection (b) (as so redesignated) as paragraphs (1), (2), and (3), respectively, and

(E) by striking out "this subsection" each place it occurs and inserting in lieu thereof "subsection (a)".

(3) The following subsection is inserted after subsection (d) (as so redesignated):

"(e) For purposes of grants under subsection (a), there are authorized to be appropriated such sums as may be necessary for the fiscal year ending September 30, 1982, and the next two fiscal years.".

(4) The heading for the section is amended to read as follows:

"FINANCIAL DISTRESS GRANTS"

(b)(1) Subsection (b) of section 772 is (A) transferred to the end of section 788 and redesignated as subsection (f), and (B) amended by striking out "section 770 or subsection (a) or (b) of section 788" and inserting in lieu thereof "subsection (a)".

(2) Section 788(f) (as so redesignated) is further amended—

(A) by striking out "(1)",

(B) by striking out ", and (2) be" and inserting instead "that is",

(C) by inserting "or a public or other nonprofit school of nursing," after "Commissioner of Education,",

(D) by striking out "requirement of this clause" and inserting instead "accreditation requirements", and

(E) by striking out "(A)" and "(B)" and inserting instead "(1)" and "(2)", respectively.

EXTENSION OF AND AMENDMENTS CONCERNING THE HEALTH EDUCATION ASSISTANCE LOANS PROGRAM

SEC. 6230. (a)(1) The first sentence of section 728(a) is amended—

(A) by striking out "and" after "1979;", and

(B) by inserting "; and $100,000,000 for the fiscal year ending September 30, 1982, and each of the two succeeding fiscal years" before the period.

(2) The second sentence of section 728(a) is amended by striking out "1982" and inserting instead "1986".

(b)(1) The first sentence of section 701(11) (as amended and redesignated by section 6226(a) of this chapter) is further amended by inserting ", or to a degree, diploma, or equivalent in nursing, or to a degree in the allied health professions" before the period.

(2) Section 737(1) (as amended by section 6226(c) of this chapter) is further amended by inserting "or a school of nursing or training center for allied health professions" before ", except".

(c)(1) The first sentence of section 729(a) is amended by striking out "$10,000" and all that follows up to the period and inserting instead the following: "$20,000 in the case of a student enrolled in a school of medicine, osteopathy, or dentistry, or $15,000 in the case of a student enrolled in a school of veterinary medicine, optometry, podiatry, public health, pharmacy, or nursing or a training center for allied health professions".

(2) The second sentence of section 729(a) is amended by striking out "$50,000" and all that follows up to the period and inserting instead the following: "$80,000 in the case of a borrower who is or was a student enrolled in a school of medicine, osteopathy, or dentistry, or $60,000 in the case of a borrower who is or was a student enrolled in a school of veterinary medicine, optometry, podiatry, public health, pharmacy, or nursing or a training center for allied health professions".

(d) Section 735(c)(1) is amended by striking out "which is described in clauses (A) and (B) of section 753(a)(2)" and inserting instead "specified by the Secretary".

(e) Section 739(b) is amended to read as follows:

"(b) The Secretary shall by regulation require an eligible institution to record, and make available to a lender and to the Secretary upon request, the name, address, social security number, postgraduate destination, and other reasonable identifying information for each student of such institution who has a loan insured under this subpart.".

(f) The heading to subpart I of part C of title VII is amended to read as follows:

"Subpart I—Health Education Assistance Loans".

AMENDMENTS TO HEALTH PROFESSIONS SCHOOLS LOAN FUNDS AUTHORITIES

SEC. 6231. (a)(1) Sections 740(a), 835(a), and 841 are repealed.

(2) The first sentence of section 853(6) is amended by striking out ", except" and all that follows up to the period.

(b)(1) The matter in section 743(a) preceding paragraph (1) is amended to read as follows:

"SEC. 743. (a) Upon request of a school with which an agreement was entered into under section 740, there shall be a capital distribution of the balance of the loan fund established under that agreement as follows:".

(2) The matter in section 839(a) preceding paragraph (1) is amended to read as follows:

"SEC. 839. (a) Upon request of a school with which an agreement was entered into under section 835, there shall be a capital distribution of the balance of the loan fund established under that agreement as follows:".

(3) Sections 743(b) and 839(b) are each amended to read as follows:

"(b) The school shall subsequently pay to the Secretary, not less often than quarterly, the same proportionate share of amounts received by the school after the capital distribution in payment of principal or interest on loans made from the loan fund as was determined for the Secretary under subsection (a).".

(c)(1) Section 741(f)(1)(C) is amended—

(A) by striking out "who enters into an agreement with the Secretary" and inserting instead "with whom the Secretary chooses to enter into an agreement for the individual", and

(B) by striking out "designated under section 332" and inserting instead "(designated under section 332) specified by the Secretary".

(2) Section 741(f)(5) is repealed.

(3) Section 836(h)(1)(C) is amended to read as follows:

"(C) with whom the Secretary chooses to enter into an agreement for the individual to practice his profession (as a member of the National Health Service Corps or otherwise) for a period of at least two years in a health manpower shortage area (designated under section 332) specified by the Secretary);".

(4) Section 836(i) is repealed.

(d) Section 835(b)(4) is amended by striking out ", and that while the agreement remains in effect no such student who has attended such school before October 1, 1980, shall receive a loan from a loan fund established under section 204 of the National Defense Education Act of 1958".

(e)(1) Section 741 is amended by adding at the end the following:

"(m) The Secretary is authorized to attempt to collect any loan which was made under this subpart and which is in default, referred to him by a school with which he had an agreement under this subpart, on behalf of that school under such terms and conditions as the Secretary may prescribe, including reimbursement for expenses he may reasonably incur in attempting collection.".

(2) Section 836 is amended by adding at the end the following:

"(k) The Secretary is authorized to attempt to collect any loan which was made under this part and which is in default, referred to him by a school with which he has an agreement under this part, on behalf of that school under such terms and conditions as the Secretary may prescribe, including reimbursement for expenses he may reasonably incur in attempting collection.".

(g) The second sentence of section 741(j) and the second sentence of section 836(f) are each amended to read as follows: "The amount of any such charge may not exceed any limit prescribed by applicable State law.".

REPEAL OF UNNEEDED SCHOLARSHIP AND TRAINEESHIP PROVISIONS

SEC. 6232. Subpart V of part C of title VII and section 783(c) are repealed.

REPEAL OF UNNEEDED AND OBSOLETE ASSISTANCE AUTHORITIES

SEC. 6233. Section 701(8), part D of title VII, and sections 782, 785, and 789 are repealed.

EXTENSION AND REVISION OF PUBLIC HEALTH AND HEALTH ADMINISTRATION AUTHORITIES

SEC. 6234. (a)(1) Section 748(c) is amended by striking out "and" after "1979;" and by inserting before the period a semicolon and the following: "$2,500,000 for the fiscal year ending September 30, 1982; $2,500,000 for the fiscal year ending September 30, 1983; and $2,500,000 for the fiscal year ending September 30, 1984.".

(2) Section 749(c) is amended by striking out "and" after "1979;" and by inserting before the period a semicolon and the following: "$2,000,000 for the fiscal year ending September 30, 1982; and $2,000,000 for the fiscal year ending September 30, 1983; and $2,000,000 for the fiscal year ending September 30, 1984".

(3) Section 791(d) is amended by striking out "and" after "1979," and by inserting before the period a comma and the following: "$3,000,000 for the fiscal year ending September 30, 1982, $3,000,000 for the fiscal year ending September 30, 1983, and $3,000,000 for the fiscal year ending September 30, 1984. At least one-third of the amount appropriated under this subsection for any fiscal year shall be obligated for grants under subsection (a) to support the graduate educational programs in health administration of educational entities other than schools of public health".

(4) Section 792(c) is amended by striking out "and" after "1979;" and by inserting before the period a semicolon and the following: "$500,000 for the fiscal year ending September 30, 1982; $500,000 for the fiscal year ending September 30, 1983; and

$500,000 for the fiscal year ending September 30, 1984".

(b)(1) Section 791(a) (42 U.S.C. 295h(a)) is amended by striking out "and excluding accredited schools of public health".

(2) Section 791(c)(2)(B) is amended (A) by striking out "health planning" and inserting in lieu thereof "health planning and evaluation", and (B) by striking out "Commissioner of Education" and inserting in lieu thereof "Secretary of Education".

(c) Subpart I of part G of title VII is amended by adding after section 793 the following new section:

"GRANTS TO DEPARTMENTS OF PREVENTIVE OR COMMUNITY MEDICINE

"SEC. 794. (a) The Secretary may make grants to schools of medicine, osteopathy, and public health for the costs of projects—

"(1) to establish, maintain, and improve academic administrative units in preventive or community medicine;

"(2) to improve predoctoral and postdoctoral instruction in preventive, community, or occupational medicine;

"(3) to plan, develop, and operate joint programs between academic administrative units in preventive or community medicine and such units in other clinical specialties, which programs integrate the teaching of clinical preventive, community, or occupational medicine within clinical programs for other medical disciplines; and

"(4) to plan, develop, and operate special programs to train teachers and researchers in the fields of preventive, community, or occupational medicine.

"(b)(1) The amount of any grant under subsection (a) shall be determined by the Secretary. No grant may be made under subsection (a) unless an application therefor is submitted to and approved by the Secretary. Such an application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

"(2) To be eligible for a grant under subsection (a), an applicant school must have, or demonstrate an intention to establish, an academic administrative unit in preventive or community medicine or an academic or administrative unit which has the primary responsibility, within the school, for teaching the principles of preventive or community medicine.

"(c) For the purposes of grants under subsection (a), there are authorized to be appropriated $3,000,000 for the fiscal year ending September 30, 1982, $3,000,000 for the fiscal year ending September 30, 1983, and $3,000,000 for the fiscal year ending September 30, 1984.".

FAMILY MEDICINE

SEC. 6235. (a) Section 780(c) (45 U.S.C. 295g(c)) is amended by striking out "and" after "1979," and by inserting after "1980," the following: "$10,000,000 for the fiscal year ending September 30, 1982, $10,000,000 for the fiscal year ending September 30, 1983, and $10,000,000 for the fiscal year ending September 30, 1984,".

(b)(1) Section 780(a) is amended by striking out "establish and".

(2) Section 780(b) is amended—

(A) by striking out "will (A) be" and inserting in lieu thereof "(A) is",

(B) by striking out "(B) be" and inserting in lieu thereof "(B) is",

(C) by striking out "(C) have a number of full-time faculty which is determined by the Secretary" and inserting in lieu thereof "(C) has a number of full-time faculty certified",

(D) by striking out "(D) have control over" and inserting in lieu thereof "(D) has control over or a major affiliation with", and

(E) by striking out "twelve interns or" and inserting in lieu thereof "six".

(3) The heading for section 780 is amended by striking out "Establishment of".

(c) Section 786(d) (45 U.S.C. 295g-6(d)) is amended by striking out "and" after "1979," and by inserting after "1980," the following: "$25,000,000 for the fiscal year ending September 30, 1982, $25,000,000 for the fiscal year ending September 30, 1983, and $25,000,000 for the fiscal year ending September 30, 1984,".

SPECIAL PROJECTS

SEC. 6236. (a)(1) Section 781(g) (42 U.S.C. 295g-1(g)) (relating to area health education centers) is amended by striking out "and" after "1979," and by inserting before the period a comma and the following: "$21,000,000 for the fiscal year ending September 30, 1982, $21,000,000 for the fiscal year ending September 30, 1983, and $21,000,000 for the fiscal year ending September 30, 1984".

(2) Section 781(b) is amended to read as follows:

"(b) An area health education center program shall be a cooperative program offered by one or more medical or osteopathic schools or a university medical center operating one or several geographically dispersed education centers, and one or more affiliated or contractually linked community health care agencies.".

(3) Section 781(c)(2) is amended by inserting ", except to the extent that the Secretary, for good cause shown, may modify or waive the requirement of this paragraph" before the semicolon.

(4) Section 781(d)(1) is amended (A) by striking out "such center" and inserting in lieu thereof "the area health education center program", and (B) by striking out "from the main site" and all that follows in that section and inserting in lieu thereof "from the academic headquarters and principal teaching site of the school or schools participating in the program.".

(5) Section 781(d)(2)(E) is amended by inserting "educational" before "support".

(6)(A) Section 781(d)(2)(B) is amended to read as follows:

"(B) assist in the planning and development of training programs to meet the health manpower needs of the area served by the center;".

(B) Section 781(d) is amended by adding at the end the following:

"(3) Each area health education center program shall assist in the assessment of the health manpower needs of the area served by the program.".

(7) Section 781(e) is amended—

(A) by amending paragraph (1) to read as follows:

"(1) at least 75 percent of the total funds provided to any entity under a contract under subsection (a) for an area health education center program shall be expended by the program in the regions served by the program;", and

(B) by amending paragraph (3) to read as follows:

"(3) priority shall be given to entities which have a documented ability to secure at least one-half of the funds required for the area health education center program from non-Federal sources.".

(8)(A) The first sentence of section 781(f) is amended by striking out "subsection (d)(2)" and inserting instead "paragraphs (2) and (3) of subsection (d)".

(B) Section 781(f) is amended by adding after the first sentence the following new sentence: "Such term includes a program which received funds under section 802 of the Health Professions Educational Assistance Act of 1976 or section 774 as in effect before October 1, 1977.".

(9) Subsections (a) and (e) of section 781 are each amended by inserting "or cooperative agreements" after "contracts" each place it occurs.

(10) The Secretary may vest title in an entity which before the date of enactment of this Act entered into a contract with the Secretary under section 781 of the Public Health Service Act to any property acquired on behalf of the Government by that entity (or furnished to that entity by the Government) under that contract.

(b) Section 782 (42 U.S.C. 295g-2) (relating to students from foreign medical schools) is repealed.

(c) Section 784(b) (42 U.S.C. 295g-4(b)) (relating to general internal medicine and general pediatrics) is amended by striking out "and" after "1979," and by inserting before the period a comma and the following: "$13,000,000 for the fiscal year ending September 30, 1982, $13,000,000 for the fiscal year ending September 30, 1983, and $13,000,000 for the fiscal year ending September 30, 1984".

(d) Section 787(b) (42 U.S.C. 295g-7(b)) (relating to individuals from disadvantaged backgrounds) is amended by striking out "and" after "1979," and by inserting after "1980," the following: "$14,000,000 for the fiscal year ending September 30, 1982, $14,000,000 for the fiscal year ending September 30, 1983, and $14,000,000 for the fiscal year ending September 30, 1984".

(e)(1) Section 787(a)(1) is amended by adding at the end the following: "The Secretary shall give special consideration to applications for projects to assist in the admission into or retention in health professions schools of such individuals or for projects to assist the recruitment activities for such individuals of entities with formal ties to health professions schools.".

(2) Section 787(a)(2)(D) is amended by striking out "for a period prior to the entry of such individuals" and inseting in lieu thereof "for such individuals who have demonstrated an ability to pursue successfully an undergraduate program and who have indicated an intention to pursue a health professions career, for a period prior to their entry".

APPROPRIATION AUTHORIZATIONS FOR PHYSICIAN ASSISTANT TRAINING PROGRAMS

SEC. 6237. Section 783(e) is amended—

(1) by striking out "and" after "1979,", and

(2) by inserting ", $5,000,000 for the fiscal year ending September 30, 1982, $5,000,000 for the fiscal year ending September 30, 1983, $5,000,000 for the fiscal year ending September 30, 1984" before the period.

ALLIED HEALTH PERSONNEL

SEC. 6238. (a) Section 795(2)(a) (42 U.S.C. 295h-4(2)(A)) is amended (1) by striking out "medical technology, optometric technology, dental hygiene, or in any of such other of", and (2) by striking out "optometric technology, dental hygiene, or such other" and inserting in lieu thereof "such".

(b)(1) Paragraphs (1) through (6) of section 796(a) (42 U.S.C. 295h-5(a)) are amended to read as follows:

"(1) Demonstration of methods for increasing the efficiency of health care delivery through more effective use of allied health personnel.

"(2) Demonstration of educational improvements and cost efficiency from arrangements among training centers for allied health professions for the sharing of educational and administrative responsibilities.

"(3) Development of educational programs which permit individuals to become proficient in more than one specialty.

"(4) Basic research in the scientific and clinical areas in which allied health personnel are involved.

"(5) Demonstration of ways to meet changing needs in health care delivery without creating new allied health occupations or specialties.

"(6) Identifying, recruiting, selecting, facilitating the entry into training centers for allied health professions of, and assisting in the successful completion of the programs of such centers of, individuals who because of socioeconomic factors, are financially or otherwise disadvantaged.".

(2) Section 796(c) is amended—

(A) by inserting "or" at the end of paragraph (1),

(B) by striking out paragraphs (2) and (3), and

(C) by redesignating paragraph (4) as paragraph (2).

(3) Section 796(d)(1) is amended by striking out "and" after "1979;" and by inserting before the period a semicolon and the following: "$4,500,000 for the fiscal year ending September 30, 1982; $4,500,000 for the fiscal year ending September 30, 1983; and $4,500,000 for the fiscal year ending September 30, 1984".

VETERINARY MEDICINE CURRICULUM DEVELOPMENT

SEC. 6239. Title VII is amended by adding after section 789 the following:

"VETERINARY MEDICINE CURRICULUM DEVELOPMENT

"SEC. 789A. (a) The Secretary may make grants to, and enter into contracts with, schools of veterinary medicine for designing and implementing improved clinical curricula relating to the care of food producing or fiber producing animals.

"(b) To carry out this section there are authorized to be appropriated $1,000,000 for fiscal year 1982, $1,000,000 for fiscal year 1983, and $1,000,000 for fiscal year 1984.".

SPECIAL HEALTH PROFESSIONS INITIATIVES

SEC. 6240. Section 789 is amended to read as follows:

"SPECIAL HEALTH PROFESSIONS INITIATIVES

"SEC. 789. (a) The Secretary may make grants to schools of medicine, osteopathy, and podiatry to plan and operate centers to evaluate and to demonstrate the effective and efficient application of health care technology.

"(b) The Secretary may make grants to schools of podiatry for innovative projects to increase the number of podiatrists who will practice in medically underserved areas.

"(c) No grant may be made under subsection (a) or (b) unless an application therefor has been submitted to and approved by the Secretary. The application shall be submitted in such form and manner and contain such information as the Secretary may require. An application for a grant under subsection (a) shall contain assurances satisfactory to the Secretary that the center for which the application is submitted will be operated in conjunction with at least one other academic department other than the applicant.

"(d) For grants under subsections (a) and (b) there are authorized to be appropriated $3,500,000 for the fiscal year ending September 30, 1982, $3,500,000 for the fiscal year ending September 30, 1983, and $3,500,000 for the fiscal year ending September 30, 1984.".

CONSOLIDATION OF THE NATIONAL ADVISORY COUNCILS ON HEALTH PROFESSIONS EDUCATION, NURSE TRAINING, AND THE NATIONAL HEALTH SERVICE CORPS

SEC. 6241. (a) Sections 337 and 851 are repealed.

(b)(1) The first sentence of section 702(a) is amended—

(A) by striking out "parts B, C, D, E, F, and G of" and

(B) by inserting ", title VIII, and subpart II of part D of title III" before the period.

(2) The second sentence of section 702(a) is amended—

(A) in clause (1), by (i) inserting "or title VIII" after "this title", (ii) inserting "nursing," after "podiatry,", and (iii) inserting "training centers for allied health professions," before "and entities",

(B) by striking out "and" at the end of clause (2),

(C) in clause (3), by striking out "six" and inserting instead "four", and

(D) by inserting the following before the period: ", and (4) two shall be individuals who are knowledgeable about the National Health Service Corps and the National Health Service Corps Scholarship Program".

(3) Section 702(a) is amended by adding at the end the following: "Each member of the Council, while engaged in the performance of his duties while away from his home or regular place of business, shall be entitled to travel or transportation expenses under subchapter I of chapter 57 of title 5, United States Code. Each member of the Council who is not an employee of the United States shall receive compensation at a daily rate equivalent to the rate specified for grade GS-18 of the General Schedule under 5 U.S.C. 5332 for each day he is engaged in the performance of his duties (including traveltime).".

(4) Subsections (b) and (c) of section 702 are each amended by striking out "(other than subpart II of part G thereof)" and inserting instead ", title VIII, and subpart II of part D of title III".

(5) Subsections (b) and (c) of section 820 and section 856(1) are each amended by striking out "Nurse Training" and inserting instead "Health Professions Education".

REPEAL OF ADVISORY COUNCIL REVIEW REQUIREMENTS

SEC. 6242. (a) Section 790(1) is amended by striking out the last sentence.

(b) Section 820(c) is amended by striking out the second sentence.

REPEAL OF REQUIREMENT FOR ESTABLISHING CRITERIA FOR ALLOWABLE INCREASES IN EDUCATIONAL COSTS

SEC. 6243. Section 711 is repealed.

TECHNICAL ASSISTANCE

SEC. 6244. Title VII is amended by adding after section 710 the following:

"TECHNICAL ASSISTANCE

"SEC. 711. Funds appropriated under this title or title VIII may be used to provide technical assistance in relation to any of the authorities under either of those titles.".

DISCLOSURE OF LOCATION OF BORROWERS WHO HAVE DEFAULTED ON STUDENT LOANS

SEC. 6245. Paragraph (4) of section 6103(m) of the Internal Revenue Code of 1954 is amended—

(1) by inserting "or the Secretary of Health and Human Services" after "Secretary of Education" in the matter in subparagraph (A) preceding clause (i) and in the matter in subparagraph (B) preceding clause (i),

(2) by striking out "or" at the end of clause (i) of subparagraph (A) and of subparagraph (B),

(3) by adding "or" at the end of clause (ii) of subparagraph (A) and of subparagraph (B),

(4) by inserting the following after clause (ii) of subparagraph (A):

"(iii) made under part C of title VII or part B of title VIII of the Public Health Service Act,",

(5) by inserting the following after clause (ii) of subparagraph (B):

"(iii) any lender participating under part C of title VII or part B of title VIII of the Public Health Service Act,", and

(6) by inserting "or the Department of Health and Human Services" after "Department of Education" in the matter in subparagraph (A) following clause (iii) (as added by paragraph (4) of this section).

ELIMINATION OF CERTAIN REQUIREMENTS FOR THE PROMULGATION OF REGULATIONS

SEC. 6246. (a) Section 701(7) is amended to read as follows:

"(7) The term 'program for the training of physician assistants' means an educational program which has as its objective the education of individuals who will, upon completion of their studies in the program, be qualified to provide effectively health care under the supervision of a physician.".

(b) Section 780(b)(2) is amended by striking out "by regulation".

(c) Section 781(f) is amended by striking out the last sentence.

(d) The second sentence of section 790(1) is amended by striking out "by regulation".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 6247. (a)(1) Section 701 is amended—

(A) by striking out paragraph (9), and

(B) in paragraph (10), by striking out ", Education, and Welfare" and inserting instead "and Human Services".

(2) Section (2)(f) is amended by striking out "701(9),".

(b) The first sentence of section 704 is amended by inserting "nursing," after "podiatry,".

(c) The first sentence of sections 735(c)(2) and 754(c) are each amended—

(1) by striking out "maximum legal prevailing rate" and inserting instead "private consumer rates of interest", and

(2) by striking out "Treasurer of the United States" and inserting instead "Secretary of the Treasury".

(d) Section 853 is amended by striking out paragraph (1).

(e)(1) Sections 753, 788(f) (as amended and redesignated by section 6229(b) of this chapter), and 853(6) are each amended by striking out "Commissioner of Education" each place it occurs and inserting instead "Secretary of Education".

(2) Section 788(f) (as amended by paragraph (1) of this section) is further amended by striking out "Commissioner" each place it occurs and inserting instead "Secretary of Education".

(f) The heading to title VII is amended by striking out "HEALTH RESEARCH AND TEACHING FACILITIES AND".

(g) Section 403(f) of the Health Professions Educational Assistance Act of 1976 is—

(1) amended by striking out "Section 741 of the Public Health Service Act" and inserting instead "this section",

(2) redesignated as subsection (m), and

(3) transferred to the end of section 741 of the Public Health Service Act.

(h)(1) Section 331(h) is amended by striking out paragraph (3).

(2) Section 2(f) is amended by striking out "331(h)(3),".

Subchapter C—Nursing Training

CAPITATION

SEC. 6250. Subpart II of part A of title VIII is repealed.

SPECIAL PROJECTS

SEC. 6251. (a)(1) Section 820(a) (42 U.S.C. 296k(a)) is amended—

(A) by amending paragraph (1) to read as follows:

"(1) conduct basic research in the scientific and clinical areas in which nurses practice;",

"(B) by striking out paragraphs (2), (4), (7), and (8).

(C) in paragraph (5), by inserting "(including licensed vocational and practical nurses)" after "nurses" and by inserting "or" at the end of the paragraph,

(D) by striking out "; or" at the end of paragraph (6) and inserting in lieu thereof a period, and

(E) by redesignating paragraphs (3), (5), and (6) as paragraphs (2), (3), and (4), respectively.

(2) Notwithstanding the amendment made by paragraph (1), and entity which received a grant or contract under section 820(a) of the Public Health Service Act for the fiscal year ending September 30, 1981, for a project described in paragraph (1), (2), (4), (7), or (8) of such section (as in effect when it received the grant or contract) may receive one additional grant or contract under such section for such project.

(b) Section 820(d) is amended—

(1) by striking out "and" after "1978,", and by inserting after "1980" a comma and the following: "$3,000,000 for the fiscal year ending September 30, 1982, $13,000,000 for the fiscal year ending September 30, 1983, and $13,000,000 for the fiscal year ending September 30, 1984"; and

(2) by amending the last sentence to read as follows: "Of the funds appropriated under this subsection for any fiscal year beginning after September 30, 1981, not less than 20 percent of the funds shall be obligated for payments under grants and contracts for special projects described in subsection (a)(2) and not less than 20 percent of the funds shall be obligated for payments under grants and contracts for special projects described in subsection (a)(4).".

ADVANCED NURSE TRAINING

SEC. 6252. (a) Section 821(a)(1) (42 U.S.C. 2961(a)(1)) is amended—

(1) by striking out "(1)",

(2) by inserting "and other public or nonprofit private entities" after "schools of nursing",

(3) by striking out "to each" and inserting in lieu thereof "to teach",

(4) by redesignating subparagraphs (A), (B), and (C), as paragraphs (1), (2), and (3), respectively, and

(5) by inserting "to serve as nurse anesthetists," before "or to serve".

(b) Section 821(b) is amended (1) by striking out "and" after "1978,", and (2) by inserting after "1980" a comma and the following: "$30,000,000 for the fiscal year ending September 30, 1982, $30,000,000 for the fiscal year ending September 30, 1983, and $30,000,000 for the fiscal year ending September 30, 1984".

NURSE PRACTITIONER PROGRAMS

SEC. 6253. (a) Section 822(b)(1) (42 U.S.C. 296m(b)(1)) is amended by striking out "who are residents of a health manpower shortage area (designated under section 332)" and inserting in lieu thereof a period and the following: "In considering applications for a grant or contract under this subsection, the Secretary shall give special consideration to applications for traineeships to train individuals who are residents of health manpower shortage areas designated under section 332.".

(b)(1) Section 822(b)(3) is amended by inserting before the period the following: "for a period equal to one month for each month for which the recipient receives such a traineeship".

(2) Section 822(b) is amended by adding after paragraph (3) the following:

"(4)(A) If, for any reason, an individual who received a traineeship under paragraph (1) fails to complete a service obligation under paragraph (3), such individual shall be liable for the payment of an amount equal to the cost of tuition and other education expenses and other payments paid under the traineeship, plus interest at the maximum legal prevailing rate.

"(B) When an individual who received a traineeship is academically dismissed or voluntarily terminates academic training, such individual shall be liable for repayment to the Government for an amount equal to the cost of tuition and other educational expenses paid to or for such individual from Federal funds plus any other payments which were received under the traineeship.

"(C) Any amount which the United States is entitled to recover under subparagraph (A) or (B) shall, within the three-year period beginning on the date the United States becomes entitled to recover such amount, be paid to the United States.

"(D) The Secretary shall by regulation provide for the waiver or suspension of any obligation under subparagraph (A) or (B) applicable to any individual whenever compliance by such individual is impossible or would involve extreme hardship to such individual and if enforcement of such obligation with respect to any individual would be against equity and good conscience.".

(3) The amendments made by paragraphs (1) and (2) shall apply with respect to traineeships which are awarded under section 822(b) of the Public Health Service Act after the date of the enactment of this Act.

(c) Section 822(e) is amended (1) by striking out "and" after "1978,", and (2) by inserting after "1980" a comma and the following: "$13,000,000 for the fiscal year ending September 30, 1982, "$13,000,000 for the fiscal year ending September 30, 1983, and "$13,000,000 for the fiscal year ending September 30, 1984".

TRAINEESHIPS

SEC. 6254. (a)(1) Subparagraph (C) of section 830(a)(1) (42 U.S.C. 297(a)(1)) is amended to read as follows:

"(C) to serve as nurse midwives, or nurse anesthetists, or".

(2) An individual who received a traineeship under section 830(a) of the Public Health Service Act for the fiscal year ending September 30, 1981, to receive training to serve as a nurse practitioner may, notwithstanding the amendment made by paragraph (1), receive additional traineeships under that section to complete the training to be a nurse practitioner.

(b) Section 830(b) is amended—

(1) by striking out "and" after "1978,", and by inserting after "1980" a comma and the following: "$19,000,000 for the fiscal year ending September 30, 1982, $19,000,000 for the fiscal year ending September 30, 1983, and $19,000,000 for the fiscal year ending September 30, 1984"; and

(2) by adding at the end the following: "Not less than 50 percent of the funds appropriated under this subsection for any fiscal year shall be obligated for traineeships described in subsection (a)(1)(A), except that if the obligation of that amount of the funds appropriated under this subsection will prevent the Secretary from continuing a traineeship to an individual who received a traineeship under subsection (a) for the fiscal year ending September 30, 1981, the Secretary shall reduce the amount to be obligated for traineeships described in subsection (a)(1)(A) by such amount as may be necessary for the continuation of traineeships first awarded in such fiscal year.".

FINANCIAL DISTRESS GRANTS

SEC. 6255. Subsection (c) of section 815 (42 U.S.C. 296j) is amended to read as follows:

"(c) For grants under subsection (a), there are authorized to be appropriated $5,000,000 for the fiscal year ending 1982, $5,000,000 for the fiscal year ending 1983, and $5,000,000 for the fiscal year ending 1984.".

NURSE ANESTHETISTS

SEC. 6256. Section 831 is repealed.

STUDENT LOANS

SEC. 6257. Section 839 (42 U.S.C. 297e) is amended by striking out "1983" each place it occurs and inserting in lieu thereof "1987".

TECHNICAL

SEC. 6258. Section 851(a) (42 U.S.C. 298(a)) is amended by striking out "and the Commissioner of Education, both of whom shall be ex officio members" and inserting in lieu thereof "and an ex officio member".

Subchapter D—Effective Date

EFFECTIVE DATE

SEC. 6260. (a) The amendments made by this chapter shall not apply to appropriation authorizations for any fiscal year before fiscal year 1982.

(b) The amendments made by this chapter shall not adversely affect the contractual rights of any individual or other entity that has entered into an agreement before the date of enactment of this Act.

Chapter 3—CATEGORICAL PROGRAM BLOCK GRANTS

Subchapter A—Health Services Block Grants

SHORT TITLE

SEC. 6265. This subchapter may be cited as the "Health Services Block Grant Act".

PURPOSE OF SUBPART

SEC. 6266. The purpose of this subchapter is to assist each State in—

(1) assuring its residents (in particular, individuals with limited means or in areas with limited availability of health services) access to quality health services at reasonable cost,

(2) encouraging the use of ambulatory health services,

(3) assuring the most appropriate, effective, and efficient utilization of health care facilities and personnel,

(4) exercising its health responsibilities in a flexible manner and with a minimum of Federal requirements, and

(5) providing health services to migratory and seasonal agricultural workers, medically underserved populations, coal miners, and individuals at home, and providing health services related to medical emergencies, mental health, alcoholism and alcohol abuse, and drug abuse, all of which were formerly supported by specific Federal assistance efforts.

HEALTH SERVICES BLOCK GRANT

SEC. 6267. (a) Subpart I of part D of title III of the Public Health Service Act is repealed and a new subpart I is enacted as follows:

"Subpart I—Health Services Block Grant

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 328. For the purpose of carrying out the provisions of this subpart, there are authorized to be appropriated $882,000,000 for fiscal year 1982, and for each of the three succeeding fiscal years.

"INTERIM ALLOTMENTS AND STUDY

"SEC. 329. (a) From the amounts appropriated under section 328 for any fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to the amounts appropriated under section 328 for that fiscal year as the amounts provided or allotted by the Secretary to the State and to entities in the State under section 301 for State mental health services demonstrations and former sections 328, 329, 330, 339, 340, 340A, 1202, 1203, and 1204; former sections 302, 310, and 311 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970; former sections 409 and 410 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act; and sections 202, 203, 204, and 211 of the former Community Mental Health Centers Act bore to the amounts provided or allotted by the Secretary under those provisions to all States and to entities in all States from appropriations for fiscal year 1981.

"(b) The Secretary shall conduct a study for the purpose of devising a formula for equitable distribution of funds available for allotment to the States under this subpart. In conducting the study, the Secretary shall take into account—

"(1) the financial resources of the various States,

"(2) the populations of the States, and

"(3) any other factor which the Secretary may consider appropriate.

Prior to January 1, 1983, the Secretary shall submit a report to the Congress regarding the development of such formula and make such recommendations as he may deem appropriate in order to insure the most equitable distribution of such funds to the States.

"PAYMENT TO STATES

"SEC. 330. (a) The Secretary shall make payments as provided by section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213) to each States from its allotment under section 329 from amounts appropriated for any fiscal year.

"(b) The Secretary, at the request of a State, may reduce the amount of payments under subsection (a) by—

"(1) the fair market value of any supplies or equipment furnished the State, and

"(2) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the State and the amount of any other costs incurred in connection with the detail of such officer or employee,

when the furnishing of supplies or equipment or the detail of an officer or employee is for the convenience of and at the request of the State and for the purpose of conducting activities described in section 330A. The amount by which any payment is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment or in detailing the personnel, on which the reduction of the payment is based, and the amount shall be deemed to be part of the payment and shall be deemed to have been paid to the State.

"USE OF GRANT MONEY

"SEC. 330A. (a) A State may use amounts paid to it under section 330 (and amounts transferred under other provisions of law for use under this subpart) for the provision of health services and related activities, including planning, administration, education, and evaluation (except as limited under subsection (b), (c), or (d) or as provided under subsection (e))—

"(1) for migratory and seasonal agricultural workers, medically underserved populations, coal miners, and individuals at home, and

"(2) related to medical emergencies, mental health, alcoholism and alcohol abuse, and drug abuse

"(b) Amounts described in subsection (a) may not be used for—

"(1) inpatient services, other than inpatient services prescribed by the Secretary,

"(2) cash payments to intended recipients of health services,

"(3) the purchase or improvement of land, or the purchase, construction, or permanent improvement (other than minor remodeling) of any building or other facility, or

"'(4) satisfying any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds.

The Secretary may waive the limitation contained in paragraph (3) upon the request of a State if the Secretary finds that there are extraordinary circumstances to justify the waiver and that granting the waiver will assist in carrying out this subpart.

"(c)(1) From the amounts paid to it by the Secretary under section 330 for fiscal year 1982, a State shall use an amount for services provided to medically underserved populations through primary health care centers equal to or greater than the product of—

"(A) the sum of the amounts the Secretary provided to the State or entities in the State under former sections 328, 330, and 340 from appropriations for fiscal year 1981, and

"(B) the ratio of the amount appropriated under section 328 for fiscal year 1982 to the amounts provided or allotted by the Secretary under the provisions listed in section 329(a) to all States and to entities in all States from appropriations for fiscal year 1981.

"(2) From the amounts paid to it by the Secretary under section 330 for fiscal year 1983, a State shall use an amount for services provided to medically underserved populations through primary health care centers equal to or greater than two-thirds of the minimum amount required under paragraph (1) of this subsection.

"(3) From the amounts paid to it by the Secretary under section 330 for fiscal year 1984, a State shall use an amount for services provided to medically underserved populations through primary health care centers equal to or greater than one-third of the minimum amount required under paragraph (1) of this subsection.

"(d)(1) From the amounts paid to it by the Secretary under section 330 for fiscal year 1982, a State shall use an amount for services provided to migratory and seasonal agricultural workers through migrant health centers equal to or greater than the product of—

"(A) the amount the Secretary provided to the State or entities in the State under former section 329 from appropriations for fiscal year 1981, and

"(B) the ratio of the amount appropriated under section 328 for fiscal year 1982 to the amounts provided or allotted by the Secretary under the provisions listed in section 329(a) to all States and to entities in all States from appropriations for fiscal year 1981.

"(2) From the amounts paid to it by the Secretary under section 330 for fiscal year 1983, a State shall use an amount for services provided to migrant and seasonal agricultural workers through migrant health centers equal to or greater than two-thirds of the minimum amount required under paragraph (1) of this subsection.

"(3) From the amounts paid to it by the Secretary under section 330 for fiscal year 1984, a State shall use an amount for services provided to migratory and seasonal agricultural workers through migrant health centers equal to or greater than one-third of the minimum amount required under paragraph (1) of this subsection.

"(e)(1) From the amounts paid to it by the Secretary under section 330 for fiscal year 1982, a State shall use an amount for the operation of community mental health centers within the State and for the provision of the mental health services (including services for rape victims) authorized under the Mental Health Systems Act equal to or greater than the product of—

"(A) the amount the Secretary provided to the State or entities in the State under former parts A and B of the Community Mental Health Centers Act and section 602 of the Mental Health Systems Act from appropriations for fiscal year 1981, and

"(B) the ratio of the amount appropriated under section 328 for fiscal year 1982 to the amounts provided or allotted by the Secretary under the provisions listed in section 329(a) to all States and to entities in all States from appropriations for fiscal year 1981.

"(2) From the amounts paid to it by the Secretary under section 330 for fiscal year 1983, a State shall use an amount for the operation of community mental health centers within the State and for the provision of the mental health services (including services for rape victims) authorized under the Mental Health Systems Act equal to or greater than two-thirds of the minimum amount required under paragraph (1) of this subsection.

"(3) From the amounts paid to it by the Secretary under section 330 for fiscal year 1984, a State shall use an amount for the operation of community mental health centers within the State and for the provision of the mental health services (including services for rape victims) authorized under the Mental Health Systems Act equal to or greater than one-third of the minimum amount required under paragraph (1) of this subsection.

"(f) A State shall use amounts paid to it under section 330 for programs for alcohol abuse and programs for drug abuse in such a manner that the ratio of the amounts made available for alcohol abuse programs to the amounts made available for drug abuse programs is the same as the ratio of the appropriations for alcohol abuse pro-

grams for fiscal year 1981 to the appropriations for drug abuse programs for such fiscal year.

"(g) From the amounts paid to it under section 330 from amounts appropriated for a fiscal year, a State may transfer up to ten percent for use under other provisions of Federal law providing for support of health promotion and disease prevention or health or social services, or for meeting home energy and emergency assistance needs. The State shall inform the Secretary of any such transfer of funds.

"(h) A State shall expend amounts described in subsection (a) by the end of the fiscal year following the fiscal year for which they were appropriated.

"(i) A State may use a portion of the amounts described in subsection (a) for the purpose of purchasing technical assistance from public or private entities if the State determines that such assistance is required in developing, implementing, and administering programs funded under this subpart.

"REPORT ON INTENDED EXPENDITURES

"SEC. 330B. (a) Prior to expenditure by a State of payments made to it under section 330 for any fiscal year, the State shall prepare a report on the intended use of payments the State is to receive under this subpart, including information on the types of services to be provided, the categories or characteristics of individuals to be served, and the geographical areas within the State in which such services will be provided. The report shall be made public within the State in such manner as to facilitate comment from any person (including any Federal, State, local, or other public agency) during development of the report and after its completion. The report shall be revised throughout the year as may be necessary to reflect substantial changes in the activities assisted under this subpart, and any revision shall be subject to the requirements of the preceding sentence.

"(b) The Secretary shall review each report and revision submitted under subsection (a). If the Secretary finds that the intended use of payments under section 330 by a State is not in accordance with the purposes of this subpart or that the State has not provided for an equitable distribution of funds under such payments or of services within the State, the Secretary shall disapprove such report or revision. If a report or revision is disapproved, the State which submitted it shall, within 30 days of the date of such disapproval, make such revisions in its use of such payments or its distribution of funds or services so that such use is in accordance with the purposes of this subpart or such distribution is equitable and shall report such revisions to the Secretary.

"REPORTS AND AUDITS

"SEC. 330C. (a) Each State shall prepare reports on its activities under this subpart. Reports shall be in such form, contain such information, and be of such frequency (not less often than every two years) as the State finds necessary to secure an accurate description of those activities, to secure a complete record of the purposes for which funds were spent, and to determine the extent to which funds were expended consistently with the reports required by section 330B. The State shall make copies of the reports required by this section available for public inspection within the State. Copies shall also be provided, upon request, to any interested public agency, and each such agency may provide its views on these reports to the Congress.

"(b) Each State shall, not less often than every year, audit its expenditures from amounts received under (or transferred to) this subpart. Such State audits shall be conducted by an entity independent of any agency administering a program funded under this subpart, in accordance with generally accepted accounting principles. Within 30 days following the completion of each audit, a copy of that audit shall be submitted to the legislature of the State and to the Secretary. Each State shall repay to the United States amounts found not to have been expended in accordance with this subpart or the Secretary may offset such amounts against any other amount to which the State is or may become entitled under this subpart.

"(c) For other provisions requiring States to account for Federal grants, see section 202 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4212).

"NONDISCRIMINATION PROVISION

"SEC. 330D. (a) No person shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this subpart. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity.

"(b) Whenever the Secretary determines that there has been a failure to comply with subsection (a) of this section or an applicable regulation, he shall notify the chief executive officer of the State and shall request him to secure compliance. If within a reasonable period of time, not to exceed sixty days, the chief executive officer fails or refuses to secure compliance, the Secretary is authorized to (1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted, (2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, or section 504 of the Rehabilitation Act of 1973, as may be applicable, or (3) take such other action as may be provided by law.

"(c) When a matter is referred to the Attorney General pursuant to subsection (b) of this section, or whenever he has reason to believe that there has occurred a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.".

REPEALS AND CONFORMING AMENDMENTS

SEC. 6268. (a) Section 217(g), subparts III and IV of part D of title III, sections 1201, 1202, 1203, 1204, 1205(d), 1206, 1207(a), 1208, 1209, and 1210, and part B of title XII of the Public Health Service Act; section 427(a) of the Federal Mine Safety and Health Act of 1977; section 102 and parts A and B of title III of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970; sections 405, 409, 410, and 411 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act; the Community Mental Health Centers Act; and section 101, part B of title I, titles II and III, and sections 502, 602, 801, and 806 of the Mental Health Systems Act are repealed.

(b)(1) Section 2(f) of the Public Health Service Act is amended by striking out "1201(2),".

(2) Title XII of that Act is amended by striking out "Part A—Assistance for Emergency Medical Services Systems".

(3) The second sentence of section 455(a) of that Act is amended by striking out ", the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 (other than part C of title II), and the Mental Health Systems Act".

(4) Section 507 of that Act is amended by striking out "appropriations available under the Community Mental Health Centers Act for construction and staffing of community mental health centers and alcoholism and narcotic addiction, drug abuse, and drug dependence facilities,".

(5) Section 513 of that Act is amended by striking out "the Mental Retardation Facilities Construction Act, the Community Mental Health Centers Act, the Mental Health Systems Act,".

(6) Section 1513(e)(1)(A)(i) of that Act is amended by striking out ", the Community Mental Health Centers Act, the Mental Health Systems Act, sections 409 and 410 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act, or the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970".

(7) Section 1521(d)(2)(A) of that Act is amended—

(A) by striking out ", the Community Mental Health Centers Act," and inserting instead "or", and

(B) by striking out ", and the Drug Abuse Office and Treatment Act of 1972".

(8) Section 1524(c)(6)(A) of that Act is amended by striking out "the Community Mental Health Centers Act, section 409 or 410 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act, or the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970,".

(9) Section 427(c) of the Federal Mine Safety and Health Act of 1977 is amended by striking out the first sentence.

(10) Section 2(b)(1) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 is amended by striking out "and direct Federal assistance to community-based programs to meet the urgent needs of special populations,".

(11) The first sentence of section 101(a) of that Act is amended by striking out "and part C of the Community Mental Health Centers Act".

(12) Section 201 (b)(2) of that Act is amended—

(A) by striking out subparagraph (B), and

(B) by striking out subparagraph designation "(A)".

(13) Section 102 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act is amended—

(A) in paragraph (1), by striking out "and to community-based programs to meet the urgent needs of special populations", and

(B) by striking out paragraph (2).

(14) Section 406(a) of that Act is amended—

(A) by adding "and" at the end of paragraph (2),

(B) by striking out "; and" at the end of paragraph (3) and substituting a period, and

(C) by striking out paragraph (4).

(15) Section 413(b)(2) of that Act is amended—

(A) by striking out subparagraph (B), and

(B) by striking out the subparagraph designation "(A)".

(16) The table of sections of title IV of that Act is amended by striking out the listings for sections 405, 409, 410, and 411.

(17) Title I of the Mental Health Systems Act is amended—

(A) by striking out "Part A—Definitions",

(B) in the heading to section 102, by striking out "other", and

(C) in section 102, by striking out paragraphs (3), (4), (6), and (7).

(18) Section 601(a) of that Act is amended—

(A) in paragraph (5), by striking out "community mental health centers and", and

(B) by striking out paragraph (6).

(19) The table of contents of that Act is amended—

(A) by revising the listing for section 102 to read "SEC. 102. Definitions.",

(B) by striking out the listings for all parts and sections of title I (except section 102),

(C) by striking out the listings for titles II and III (and for their parts and sections), and

(D) by striking out the listings for sections 502, 602, 801, and 806.

EFFECTIVE DATE

SEC. 6269. The amendments made by sections 6267 and 6268 do not apply to any grant made, or contract entered into, before October 1, 1981.

Subchapter B—Preventive Health Block Grants

SHORT TITLE

SEC. 6271. This subchapter may be cited as the "Preventive Health Block Grant Act".

PURPOSE OF SUBCHAPTER

SEC. 6272. The purpose of this subchapter is to assist each State in—

(1) assuring access to preventive health services for its residents (in particular, individuals with limited means),

(2) providing comprehensive public health services, controlling rodents, fluoridating water supplies, undertaking hypertension activities, detecting and treating tuberculosis, providing family planning services, deterring smoking and the use of alcohol among children and adolescents and carrying out adolescent pregnancy activities, all of which were formerly supported by specific Federal assistance efforts, and

(3) otherwise undertaking health promotion and disease prevention efforts to reduce preventable morbidity and mortality and improve the quality of life.

PREVENTIVE HEALTH BLOCK GRANT

SEC. 6273. Part B of title III of the Public Health Service Act is amended—

(1) by inserting the heading "Subpart I—Special Programs" after the heading to that part,

(2) by repealing sections 314 and 315,

(3) by renumbering section 316 as 312, section 317 as 313, section 318 as 314, and section 320 as 315, and

(4) by adding the following after section 314:

"Subpart II—Preventive Health Block Grant

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 316. For the purpose of carrying out the provisions of this subpart, there are authorized to be appropriated $216,000,000 for fiscal year 1982 and for each of the three succeeding fiscal years.

"INTERIM ALLOTMENTS AND STUDY

"SEC. 317. (a) From the amounts appropriated under section 316 for any fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to the amounts appropriated under section 316 for that fiscal year as the amounts provided or allotted by the Secretary to the State and to entities in the State under former sections 314(d) and 317 for comprehensive health services (including the detection and treatment of tuberculosis), rodent control, hypertension and fluoridation activities 1001, 1003, and 1005 of this Act and former sections 401 and 402 and title VI of the Health Services and Centers Amendments of 1978 bore to the amounts provided or allotted by the Secretary under those provisions to all States and to entities in all States from appropriations for fiscal year 1981.

"(b) The Secretary shall conduct a study for the purpose of devising a formula for the equitable distribution of funds available for allotments to the States under this subpart. In conducting the study, the Secretary shall take into account—

"(1) the financial resources of the various States,

"(2) the populations of the States, and

"(3) any other factor which the Secretary may consider appropriate.

Prior to January 1, 1983, the Secretary shall report to the Congress regarding the development of such a formula and make such recommendations as he may deem appropriate in order to insure the most equitable distribution of such funds to the States.

"PAYMENTS TO STATES

SEC. 318. (a) The Secretary shall make payments as provided by section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213) to each State from its allotment under section 317 from amount appropriated for any fiscal year.

"(b) the Secretary, at the request of a State, may reduce the amount of payments under subsection (a) by—

"(1) the fair market value of any supplies (including vaccines and other preventive agents) or equipment furnished the State, and

"(2) the amount of the pay, allowances, and travel expenses of any officer or employee of the Governmment when detailed to the State and the amount of any other costs incurred in connection with the detail of such officer or employee,

when the furnishing of supplies or equipment or the detail of an officer or employee is for the convenience of and at the request of the State and for the purpose of conducting activities described in section 319. The amount by which any payment is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment or in detailing the personnel, on which the reduction of the payment is based, and the amount shall be deemed to be part of the payment and shall be deemed to have been paid to the State.

"USE OF GRANT MONEY

"SEC. 319. (a) A State may use amounts paid to it by the Secretary under section 318 (and amounts transferred under other provisions of law for use under this subpart) for health promotion and disease prevention activities, including planning, administration, education, and evaluation, except as limited under subsection (b) or (c) or as provided under subsection (d).

"(b) Amounts described in subsection (a) may not be used for—

"(1) cash payments to intended recipients of health services,

"(2) the purchase or improvement of land, or the purchase, construction or permanent improvement (other than minor remodeling) of any building or other facility, or

"(3) satisfying any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds.

The Secretary may waive the limitation contained in paragraph (2) upon the request of a State if the Secretary finds that there are extraordinary circumstances to justify the waiver and that granting the waiver will assist in carrying out this subpart.

"(c) From the amounts paid to it by the Secretary under section 318 for each of the fiscal years 1982, 1983, and 1984 a State shall use an amount for family planning services equal to or greater than the product of—

"(1) the amount the Secretary provided to the State or entities in the State under former section 1001 from appropriations for fiscal year 1981, or

"(2) the ratio of the amount appropriated under section 316 for fiscal year 1982 to the amounts provided or allotted by the Secretary under the provisions listed in section 317(a) to all States and to entities in all States from appropriations for fiscal year 1981.

"(d) From the amounts paid to it under section 318 from amounts appropriated for a fiscal year, a State may transfer up to ten percent for use under other provisions of Federal law providing for support of health or social services, or for meeting home energy and emergency assistance needs. The State shall inform the Secretary of any such transfer of funds.

"(e) A State shall expend amounts described in subsection (a) by the end of the fiscal year following the fiscal year for which they were appropriated.

"(f) A State may use a portion of the amounts described in subsection (a) for the purpose of purchasing technical assistance from public or private entities if the State determines that such assistance is required in developing, implementing, and administering programs funded under this subpart.

"REPORT ON INTENDED EXPENDITURES

"SEC. 320. (a) Prior to expenditures by a State of payments made to it under section 318 for any fiscal year, the State shall prepare a report on the intended use of payments the State is to receive under this subpart, including information on the types of activities to be supported, the categories or characteristics of individuals to be served, and the geographical areas within the State in which such services will be provided. The report shall be made public within the State in such manner as to facilitate comment from any person (including any Federal, State, local, or other public agency) during development of the report and after its completion. The report shall be revised throughout the year as may be necessary to reflect substantial changes in the activities assisted under this subpart, and any revision shall be subject to the requirements of the previous sentence.

"(b) The Secretary shall review each report and revision submitted under subsection (a). If the Secretary finds that the intended use of payments under section 318 by a State is not in accordance with the purposes of this subpart or that the State has not provided for an equitable distribution of funds under such payments or of services within the State, the Secretary shall disapprove such report or revision. If a report or revision is disapproved, the State which submitted it shall, within 30 days of the date of such disapproval, make such revisions in its

use of such payments or its distribution of funds or services so that such use is in accordance with the purposes of this subpart or such distribution is equitable and shall report such revisions to the Secretary.

"REPORTS AND AUDITS

"SEC. 320A. (a) Each State shall prepare reports on its activities under this subpart. Reports shall be in such form, contain such information, and be of such frequency (not less often than every two years) as the State finds necessary to secure an accurate description of those activities, to secure a complete record of the purposes for which funds were spent, and to determine the extent to which funds were expended consistently with the reports required by section 320. The State shall make copies of the reports required by this section available for public inspection within the State. Copies shall also be provided, upon request, to any interested public agency, and each such agency may provide its views on these reports to the Congress.

"(b) Each State shall, not less often than every year, audit its expenditures from amounts received under (or transferred to) this subpart. Such State audits shall be conducted by an entity independent of any agency administering a program funded under this subpart, in accordance with generally accepted accounting principles. Within 30 days following the completion of each audit, a copy of that audit shall be submitted to the legislature of the State and to the Secretary. Each State shall repay to the United States amounts found not to have been expended in accordance with this subpart or the Secretary may offset such amounts against any other amount to which the State is or may become entitled under this subpart.

"(c) For other provisions requiring States to account for Federal grants, see section 202 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4212).

"NONDISCRIMINATION PROVISION

"SEC. 320B. (a) No person shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this subpart. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity.

"(b) Whenever the Secretary determines that there has been a failure to comply with subsection (a) of this section or an applicable regulation, he shall notify the chief executive officer of the State and shall request him to secure compliance. If within a reasonable period of time, not to exceed sixty days, the chief executive officer fails or refuses to secure compliance, the Secretary is authorized to (1) refer the matter to the Attorney General with a recommendation that an appropriate civil action by instituted, (2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, or section 504 of the Rehabilitation Act of 1973, as may be applicable, or (3) take such other action as may be provided by law.

"(c) When a matter is referred to the Attorney General pursuant to subsection (b) of this section, or whenever he has reason to believe that there has occurred a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriated, including injunctive relief.".

REPEALS AND CONFORMING AMENDMENTS

SEC. 6274. (a) Title X of the Public Health Service Act and sections 401 and 402 and titles VI and VII of the Health Services and Centers Amendments of 1978 are repealed.

(b)(1) Section 2(f) of the Public Health Service Act is amended by striking out "314(g)(4)(B)," and "1002(c),".

(2)(A) The second sentence of section 311(a) of that Act is amended—

(i) by inserting "and with respect to other public health matters" after "diseases", and

(ii) by striking out "and in carrying out the purposes of section 314".

(B) The first sentence of section 311(b) of that Act is amended by striking out "the purposes of section 314" and inserting in lieu thereof "public health activities".

(C) The first sentence of section 311(c)(1) of that Act is amended by striking out "or condition referred to in section 317(f)" and "involving or resulting from disasters or any such disease".

(D) The second sentence of section 311(c)(1) of that Act is amended by striking out "resulting from disasters or any disease or condition referred to in section 317(f)".

(3)(A) Section 313(a) (as renumbered by section 6274(3) of this subchapter) is amended to read as follows:

"SEC. 313. (a) The Secretary may make grants to States and, in consultation with State authorities, to political subdivisions of States and to other public entities to assist them in meeting the costs of establishing and maintaining preventive health programs to immunize individuals against immunizable diseases.".

(B) Section 313(b)(3) of that Act is amended by striking out everything after "1524(c)" up to the semicolon.

(C) Section 313(h) of that Act is amended—

(i) by striking out "and conditions" each place it occurs, and

(ii) by striking out "for each of the programs listed in subsection (j)".

(D) Section 313(j) of that Act is amended by striking out paragraphs (2) through (5).

(E) The heading to section 313 of that Act is amended by striking out "Preventive Health Services" and inserting in lieu thereof "Immunizations".

EFFECTIVE DATE

SEC. 6275. The amendments made by sections 6273 and 6274 do not apply to any grant made, or contract entered into, before October 1, 1981.

Subchapter C—Maternal and Child Health Block Grants

SHORT TITLE

SEC. 6281. This subchapter may be cited as the "Maternal and Child Health Block Grant Act".

PURPOSE OF SUBCHAPTER

SEC. 6282. The purpose of this subchapter is to assist each State to—

(1) assure mothers and children (in particular those living in poverty or with limited availability of health services) access to quality maternal and child health services at a reasonable cost,

(2) provide services for reducing infant mortality and handicapping conditions, reducing the costs of inpatient or long-term care services, and otherwise promoting the health of mothers and children (especially by providing preventive and primary care services for children, and prenatal, delivery, and postpartum care for mothers),

(3) provide services for locating, and for medical, surgical, corrective, and other services, and care for, and facilities for, diagnosis, hospitalization, and aftercare for, children who are crippled or who are suffering from conditions leading to crippling,

(4) provide services related to hemophilia (without regard to age), lead-based paint poisoning prevention, genetic diseases, and sudden infant death syndrome,

(5) provide rehabilitation services for blind and disabled individuals under the age of 16 receiving benefits under title XVI of the Social Security Act, and

(6) provide appropriate services to developmentally disabled individuals and to handicapped infants and handicapped preschool children, in order to increase their capacity for independent living and work, and to lessen their dependence on assistance from their families and private or public services.

MATERNAL AND CHILD HEALTH AND RELATED ACTIVITIES BLOCK GRANT

SEC. 6283. Title V of the Social Security Act is repealed and replaced with the following new title:

"TITLE V—MATERNAL AND CHILD HEALTH AND RELATED ACTIVITIES BLOCK GRANT

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 501. For the purpose of carrying out the provisions of this subpart, there are authorized to be appropriated $393,000,000 for fiscal year 1982 and for each of the three succeeding fiscal years.

"INTERIM ALLOTMENTS AND STUDY

"SEC. 502. (a) From the amounts appropriated under section 501 for any fiscal year, the Secretary shall use 15 percent of such amounts (through grants, contracts, or otherwise)—

"(1) for special projects of regional or national significance which may contribute to the advancement of maternal and child health or the advancement of services for handicapped children,

"(2) for research projects relating to maternal and child health services or handicapped children's services which show promise of substantial contribution to the advancement thereof, and

"(3) for the contribution of funding of—

"(A) grants to public or nonprofit private institutions of higher learning for training personnel for health care and related services for mothers and children (particularly mentally retarded children and children with multiple handicaps) previously funded under section 511 of this title, and

"(B) comprehensive hemophilia diagnostic and treatment centers previously funded under section 1131 of the Public Health Service Act,

as such sections were in effect before the enactment of the Maternal and Child Health Block Grant Act.

The authority of the Secretary to enter into any contracts under this title is effective for any fiscal year only to such extent or in such amounts as are provided in appropriations Acts.

"(b) From the remainder of the amounts appropriated under section 501 for any fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to the amounts appropriated under section

501 for that fiscal year as the amounts provided or allotted by the Secretary to the State and to entities in the State under former title V and former section 1615(e) of this Act; former sections 316, 1101, 1121, and 1131 of the Public Health Service Act; and the former Developmental Disabilities Assistance and Bill of Rights Act bore to the amounts provided or allotted by the Secretary under those provisions to all States and entities in all States from appropriations for fiscal year 1981.

"(c) The Secretary shall conduct a study for the purpose of devising a formula for equitable distribution of funds available for allotment to the States under this title. In conducting the study, the Secretary shall take into account—

"(1) the number of live births in the States,

"(2) the number of handicapped children in the States,

"(3) the number of low-income mothers and children in the States,

"(4) the financial resources of the various States,

"(5) the populations of the States, and

"(6) any other factors which the Secretary may consider appropriate.

Prior to January 1, 1983, the Secretary shall report to the Congress regarding the development of such a formula and make such recommendations as he may deem appropriate in order to insure the most equitable distribution of such funds to the States.

"PAYMENT TO STATES

"SEC. 503. (a) The Secretary shall make payments as provided by section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213) to each State from its allotment under section 502 from amounts appropriated for any fiscal year.

"(b) The Secretary, at the request of a State, may reduce the amount of payments under subsection (a) by—

"(1) the fair market value of any supplies (including vaccines and other preventive agents) or equipment furnished the State, and

"(2) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the State and the amount of any other costs incurred in connection with the detail of such officer or employee,

when the furnishing of supplies or equipment or the detail of an officer or employee is for the convenience of and at the request of the State and for the purpose of conducting activities described in section 504. The amount by which any payment is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment or in detailing the personnel, on which the reduction of the payment is based, and the amount shall be deemed to be part of the payment and shall be deemed to have been paid to the State.

"USE OF GRANT MONEY

"SEC. 504. (a) A State may use amounts paid to it under section 503 (and amounts transferred under other provisions of law for use under this title) for the provision of health services (and other services, for individuals specified in paragraph (3)) and related activities, including planning, administration, education, and evaluation (except as limited under subsections (b) and (c) or as provided under subsection (d))—

"(1) for pregnant women, mothers, and children,

"(2) related to sudden infant death syndrome, hemophilia, genetic diseases, and the prevention of lead-based paint poisoning, and

"(3) for developmentally disabled individuals, handicapped infants, and handicapped pre-school children.

"(b) Amounts described in subsection (a) may not be used for—

"(1) inpatient services, other than inpatient services prescribed by the Secretary,

"(2) cash payments to intended recipients of health services,

"(3) the purchase or improvement of land, or the purchase, construction, or permanent improvement (other than minor remodeling) of any building or other facility,

"(4) satisfying any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds.

The Secretary may waive the limitation contained in paragraph (3) upon the request of a State if the Secretary finds that there are extraordinary circumstances to justify the waiver and that granting the waiver will assist in carrying out this title.

"(c) From the amounts paid to it by the Secretary under section 503 for each of fiscal years 1982, 1983, and 1984, a State shall use an amount for developmentally disabled individuals, handicapped infants, and handicapped pre-school children equal to or greater than the product of—

"(1) the sum of the amounts the Secretary provided to the State or entities in the State under the former Developmental Disabilities Assistance and Bill of Rights Act from appropriations for fiscal year 1981, and

"(2) the ratio of the amount available for allotments to States under section 502 for fiscal year 1982 to the amounts provided or allotted by the Secretary under the provisions described in section 502(b) to all States and to entities in all States from appropriations for fiscal year 1981.

"(d) From the amounts paid to it under section 503 from amounts appropriated for a fiscal year, a State may transfer up to 10 percent for use under other provisions of Federal law providing for support of health promotion and disease prevention or health or social services, or for meeting home energy and emergency assistance needs. The State shall inform the Secretary of any such transfer of funds.

"(e) A State shall expend amounts described in subsection (a) by the end of the fiscal year following the fiscal year for which they were appropriated.

"(f) A State may use a portion of the amounts described in subsection (a) for the purpose of purchasing technical assistance from public or private entities if the State determines that such assistance is required in developing, implementing, and administering programs funded under this title.

"REPORT ON INTENDED EXPENDITURES

"SEC. 505. (a) Prior to expenditure by a State of payments made to it under section 503 for any fiscal year, the State shall prepare a report on the intended use of payments the State is to receive under this title, information on the types of services to be provided the categories or characteristics of individuals to be served, and the geographical areas within the State in which such services will be provided. The report shall be made public within the State in such a manner as to facilitate comment from any person (including any Federal, State, local, or other public agency) during development of the report and after its completion. The report shall be revised throughout the year as may be necessary to reflect substantial changes in the activities assisted under this title, and any revision shall be subject to the requirements of the preceding sentence.

"(b) The Secretary shall review each report and revision submitted under subsection (a). If the Secretary finds that the intended use of payments under section 503 by a State is not in accordance with the purposes of this subpart or that the State has not provided for an equitable distribution of funds under such payments or of services within the State, the Secretary shall disapprove such report or revision. If a report of revision is disapproved, the State which submitted it shall, within 30 days of the date of such disapproval, make such revisions in its use of such payments or its distribution of funds or services so that such use is in accordance with the purposes of this subpart or such distribution is equitable and shall report such revisions to the Secretary.

"REPORTS AND AUDITS

"SEC. 506. (a) Each State shall prepare reports on its activities under this title. Report shall be in such form, contain such information, and be of such frequency (not less often than every two years) as the State finds necessary to secure an accurate description of those activities, to secure a complete record of the purposes for which funds were spent, and to determine the extent to which funds were expended consistently with the report required by section 505. The State shall make copies of the reports required by this section available for public inspection within the State. Copies shall also be provided, upon request, to any interested public agency, and each such agency may provide its reviews on these reports to the Congress.

"(b) Each State shall, not less often than every year, audit its expenditures from amounts received under (or transferred to) this title. Such State audits shall be conducted by an entity independent of the State agency administering a program funded under this title, in accordance with generally accepted accounting principles. Within 30 days following the completion of each audit, a copy of that audit shall be submitted to the State legislature and to the Secretary. Each State shall repay to the United States amounts found not to have been expended in accordance with this title or the Secretary may offset such amounts against any other amount to which the State is or may become entitled under this title.

"(c) For other provisions requiring States to account for Federal grants, see section 202 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4212).

"NONDISCRIMINATION PROVISIONS

"SEC. 509. (a) No person shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this title. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity.

"(b) Wherever the Secretary determines that there has been a failure to comply with subsection (a) of this section or an applicable regulation, he shall notify the chief executive officer of the State and shall request him to secure compliance. If within a

reasonable period of time, the chief executive officer fails or refuses to secure compliance, the Secretary is authorized to (1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted, (2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, or section 504 of the Rehabilitaton Act of 1973, as may be applicable, or (3) take such other action as may be provided by law.

"(c) When a matter is referred to the Attorney General pursuant to subsection (b) of this section, or whenever he has reason to believe that there has occurred a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

"DEFINITION

"SEC. 510. As used in this title, the term 'developmental disability' means a severe, chronic disability of an individual which—

"(1) is attributable to a mental or physical impairment or combination of mental and physical impairments,

"(2) is manifested before the individual attains age twenty-two,

"(3) is likely to continue indefinitely,

"(4) results in substantial functional limitations in three or more of the following areas of major life activity:

"(A) self-care,

"(B) receptive and expressive language,

"(C) learning,

"(D) mobility,

"(E) self-direction,

"(F) capacity for independent living, and

"(G) economic self-sufficiency, and

"(5) reflects the individual's need for a combination and sequence of special interdisciplinary, or generic care, treatment, or other services which are of life-long or extended duration and are individually planned and coordinated.".

REPEALS AND CONFORMING AMENDMENTS

SEC. 6284. (a) Section 316, part A of title XI, section 1121, and part C of title XI of the Public Health Service Act and the Developmental Disabilities Assistance and Bill of Rights Act are repealed.

(b)(1) Title XI of the Public Health Service Act is amended—

(A) by striking out the heading to part B, and

(B) by amending the heading to the title to read as follows: "TITLE XI—SUDDEN INFANT DEATH SYNDROME RESEARCH AND RESEARCH REPORTS".

(2) Section 471(a)(8) of the Social Security Act is amended by striking out "V,".

(3) Section 1101(a)(9)(D) of that Act is amended by striking out "V, XVIII, and XIX" and inserting instead "XVIII and XIX".

(4) Section 1108(d) of that Act is amended by striking out "section 502(a) and 512(a) of this Act, and the provisions of sections 421, 503(1), and 504(1)" and inserting instead "section 421".

(5) Section 1122 of that Act is amended—

(A) by striking out "V, XVIII, and XIX" each place it occurs and inserting instead "XVIII and XIX", and

(B) in subsection (d)(2), by striking out "V, XVIII, or X" and inserting instead "XVIII or XIX".

(6) Section 1124(a)(1) of that Act is amended by striking out "V," each place it occurs.

(7) Section 1124(a)(2)(B) of that Act is amended by striking out "pursuant to title V or".

(8) Section 1129(a) of that Act is amended by striking out "V or" each place it occurs.

(9) Section 1129(b)(2) of that Act is amended by striking out "V, XVIII, or" and inserting instead "XVIII or".

(10) Section 1132(a)(1) of that Act is amended by striking out "V,".

(11) Section 1134 of that Act is amended by striking out "V, XVIII," and inserting instead "XVIII".

(12) Section 1172(4) of that Act is amended by striking out "V,".

(13) Section 1615(a) of that Act is amended to read as follows:

"SEC. 1615. (a) In the case of any blind or disabled individual who—

(1) has not attained age 65, and

(2) is receiving benefits (or with respect to whom benefits are paid) under this title, the Secretary shall make provision for referral of such individual (if he is age 16 or over) to the appropriate State agency administering the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act, and (except in such cases as the Secretary may determine) for a review not less often than quarterly of such individual's blindness or disability and (if he is age 16 or over) his need for and utilization of the services made available to him under such plan".

(14) Section 1861(w)(2) of that Act is amended by striking out "V or".

(15) Section 1902(a)(11) of that Act is amended—

(A) by striking out ", and" at the end of clause (A),

(B) by striking out clause (B), and

(C) by striking out the clause designation "(A)".

(16) Section 222(a)(1) of the Social Security Amendments of 1972 is amended by striking out "titles XIX and V" and inserting instead "title XIX".

(17) The first sentence of section 222(a)(3) of that Act is amended by striking out ", XIX, and V" and inserting instead "and XIX".

(18) Section 222(a)(4) of that act is amended by striking out "titles V and XIX" each place it occurs and inserting instead "title XIX".

(19) The matter in section 402(a)(1) of the Social Security Amendments of 1967 following paragraph (J) is amended—

(A) by striking out the second comma and inserting instead "and", and

(B) by striking out the third comma and everything following up to the period.

(20) Section 402(a)(2) of that Act is amended by striking out "titles V and XIX" each place it occurs and inserting instead "title XIX".

(21) Section 402(b) of that Act is amended by striking out ", XIX, and V" and inserting instead "and XIX".

(22) Section 914(d) of the Omnibus Reconciliation Act of 1980 is amended by striking out "V, XVIII," and inserting instead "XVIII".

(23) Sections 202(b)(2), 203(b), and 302(2)(K) of the Mental Health Systems Act are each amended by striking out "the Developmental Disabilities Assistance and Bill of Rights Act,".

EFFECTIVE DATE

SEC. 6285. The amendments made by sections 6283 and 6284 do not apply to any grant made, or contract entered into, before October 1, 1981.

Chapter 4—CONSUMER PRODUCT SAFETY AMENDMENTS

SHORT TITLE; REFERENCE TO ACT

SEC. 6301. (a) This chapter may be cited as the "Consumer Product Safety Amendments of 1981".

(b) Except as otherwise specifically provided, whenever in this chapter an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Consumer Product Safety Act.

DEVELOPMENT OF CONSUMER PRODUCT SAFETY STANDARDS, BANNED HAZARDOUS SUBSTANCES REGULATIONS, AND FLAMMABILITY STANDARDS

SEC. 6302. (a) Section 7 (15 U.S.C. 2056) is amended—

(1) in subsection (b)—

(A) by striking out the matter preceding subparagraph (A) and inserting in lieu thereof the following: "Before commencing a proceeding for the development of a consumer product safety standard, the Commission shall by notice in the Federal Register—";

(B) by striking out "determination" in paragraph (1)(B) and inserting in lieu thereof "preliminary determination";

(C) by striking out the semicolon in paragraph (1)(C) and inserting in lieu thereof the following: "(including information explaining why the Commission believes such standard does not eliminate or adequately reduce the risk of injury identified under subparagraph (A)); and";

(D) by amending paragraph (1)(D) to read as follows:

"(D) provide an invitation for any person (other than the Commission) to submit to the Commission, within 60 days after the date of publication of the notice, an existing standard as the proposed consumer product safety standard; and";

(E) by striking out paragraph (1)(E);

(F) by striking out "(1)" after "(b)", by striking out paragraph (2) and by redesignating subparagraphs (A) through (D) as paragraphs (1) through (4), respectively; and

(G) by adding at the end the following:

"(5) provide an invitation for the submission to the Commission, within 60 days after the date of publication of the notice, of comments on the existence and nature of the risk of injury identified in the notice and on the necessity for a consumer product safety standard to eliminate or reduce the injury.";

(2) in subsection (c)—

(A) by striking out "determines" and all that follows through "paragraph (1) or (2)" and inserting in lieu thereof "determines that any standard submitted to it in response to an invitation in a notice published under subsection (b) if promulgated (in whole, in part, or in combination with any other standard submitted to the Commission"; and

(B) by striking out "reduce" and inserting in lieu thereof "adequately reduce";

(3) in subsection (d)—

(A) by amending paragraph (1) to read as follows:

"(1)(A) If the Commission publishes a notice under subsection (b) respecting a risk of injury from a consumer product and—

"(i) no standard is submitted to the Commission in response to the invitation in the notice, or

"(ii) one or more standards is submitted and the Commission determines—

"(I) compliance with such standard is not likely to result in the elimination or adequate reduction of such risk or injury, or

"(II) it is unlikely that there will be substantial compliance with any such standard,

the Commission shall publish a notice in the Federal Register stating that either no standard was submitted or the Commission's determination respecting any standard submitted, and inviting the development and submission to the Commission, within 150 days or such greater period as the Commission may determine is reasonable, of a voluntary standard to eliminate or adequately reduce the risk of injury identified in the subsection (b) notice.

"(B) If the Commission determines that any voluntary standard submitted to it in response to the invitation in the notice published under subparagraph (A) is likely to eliminate or adequately reduce the risk of injury identified in the subsection (b) notice, the Commission shall terminate any proceeding to promulgate a consumer product safety rule respecting such risk of injury and shall publish in the Federal Register a notice which includes the determination of the Commission and which notifies the public that the Commission will rely on the voluntary standard to eliminate or reduce the risk of injury and which defines the preemption to be accorded the standard under section 26.

"(C) If no voluntary standard is submitted in response to an invitation in a notice published under subparagraph (A) within the period prescribed by the notice or if one or more voluntary standards is submitted to the Commission and the Commission determines—

"(i) compliance with such voluntary standard is not likely to result in the elimination or adequate reduction of the risk of injury identified in the subsection (b) notice, or

"(ii) it is unlikely that there will be substantial compliance with any such voluntary standard,

the Commission may develop and publish a proposed consumer product safety standard for such risk of injury.",

(B) by striking out "If an offer is accepted under this subsection or if" in paragraph (2) and inserting in lieu thereof "If",

(C) by striking out "under subsection (b)(2)(A) or subsection (e)" in such paragraph,

(D) by striking out "the offeror's cost in developing a proposed consumer product safety standard or the person's cost with respect to such participation," in such paragraph and inserting in lieu thereof "the person's cost of developing a proposed consumer product safety standard",

(E) by striking out "offeror or" in such paragraph, and

(F) by striking out paragraphs (3) and (4); and

(4) by striking out subsections (e) and (f).

(b) Section 7(a)(1) (15 U.S.C. 2056(a)(1)) is amended—

(1) by amending subparagraph (A) to read as follows:

"(A) Requirements as to the performance of a consumer product."; and

(2) by striking out the last sentence.

(c) Section 7(a) (15 U.S.C. 2056(a)) is amended—

(1) by striking out paragraph (2),

(2) by striking out "(1)", and

(3) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively.

(d)(1) Section 3 of the Federal Hazardous Substances Act (15 U.S.C. 1262) is amended by adding at the end the following new subsection:

"(f)(1) Before commencing a proceeding for the promulgation of a regulation under section 2(q)(1) classifying an article or substance as a banned hazardous substance, the Commission shall by notice in the Federal Register—

"(A) identify the article or substance and the nature of the hazard associated with the article or substance;

"(B) state the Commission's preliminary determination that a regulation classifying the article or substance as a banned hazardous substance is necessary to eliminate or adequately reduce the hazard;

"(C) provide an invitation for the submission to the Commission, within 60 days after the date of publication of the notice, of comments on the existence and nature of the hazard identified in the notice and on the necessity for a regulation under section 2(q)(1) to eliminate or reduce the hazard; and

"(D) provide an invitation for any person (other than the Commission) to submit to the Commission, within 60 days after the date of publication of the notice, an existing standard in lieu of a regulation under section 2(q)(1).

"(2)(A) If the Commission publishes a notice under paragraph (1) respecting a hazard from an article or substance and—

"(i) no standard is submitted to the Commission in response to the invitation in the notice, or

"(ii) one or more standards is submitted and the Commission determines—

"(I) compliance with such standard is not likely to result in the elimination or adequate reduction of such hazard, or

"(II) it is unlikely that there will be substantial compliance with any such standard,

the Commission shall publish a notice in the Federal Register stating that either no standard was submitted or the Commission's determination respecting any standard submitted, and inviting the development and submission to the Commission, within 150 days or such greater period as the Commission may determine is reasonable, of a voluntary standard to eliminate or adequately reduce the hazard identified in the paragraph (1) notice.

"(B) If the Commission determines that any voluntary standard submitted to it in response to the invitation in the notice published under subparagraph (A) is likely to eliminate or adequately reduce the hazard identified in the paragraph (1) notice, the Commission shall terminate any proceeding to promulgate a regulation under section 2(q)(1) respecting such hazard and shall publish in the Federal Register a notice which includes the determination of the Commission and which notifies the public that the Commission will rely on the voluntary standard to eliminate or reduce the hazard and which defines the preemption to be accorded the standard under section 18.

"(C) If no voluntary standard is submitted in response to an invitation in a notice published under subparagraph (A) within the period prescribed by the notice or if one or more voluntary standards is submitted to the Commission and the Commission determines—

"(i) compliance with such voluntary standard is not likely to result in the elimination or adequate reduction of the hazard identified in the paragraph (1) notice, or

"(ii) it is unlikely that there will be substantial compliance with any such voluntary standard, the Commission may develop and publish a proposed regulation under section 2(q)(1) for such hazard.".

(2) Section 4 of the Flammable Fabrics Act (15 U.S.C. 1193) is amended by adding at the end the following new subsection:

"(g)(1) Before commencing a proceeding for the promulgation of a regulation under this section for a fabric, related material, or product, the Commission shall by notice in the Federal Register—

"(A) identify the fabric, related material, or product, and the nature of the risk of fire associated with the fabric, related material, or product;

"(B) state the Commission's preliminary determination that a regulation under this section is necessary to eliminate or adequately reduce the risk of fire associated with the fabric, related material, or product;

"(C) provide an invitation for the submission to the Commission, within 60 days after the date of publication of the notice, of comments on the existence and nature of the risk of fire identified in the notice and on the necessity for a regulation under this section to eliminate or reduce the risk of fire; and

"(D) provide an invitation for any person (other than the Commission) to submit to the Commission, within 60 days after the date of publication of the notice, an existing standard in lieu of a regulation under this section.

"(2)(A) If the Commission publishes a notice under paragraph (1) respecting a risk of fire from a fabric, related material, or product and—

"(i) no standard is submitted to the Commission in response to the invitation in the notice, or

"(ii) one or more standards is submitted and the Commission determines—

"(I) compliance with such standard is not likely to result in the elimination or adequate reduction of such risk of fire, or

"(II) It is unlikely that there will be substantial compliance with any such standard,

the Commission shall publish a notice in the Federal Register stating that either no standard was submitted or the Commission's determination respecting any standard submitted, and inviting the development and submission to the Commission, within 150 days or such greater period as the Commission may determine is reasonable, of a voluntary standard to eliminate or adequately reduce the risk of fire identified in the paragraph (1) notice.

"(B) If the Commission determines that any voluntary standard submitted to it in response to the invitation in the notice published under subparagraph (A) is likely to eliminate or adequately reduce the risk of fire identified in the paragraph (1) notice, the Commission shall terminate any processing to promulgate a regulation under this section respecting such risk of fire and shall publish in the Federal Register a notice which includes the determination of the Commission and which notifies the public that the Commission will rely on the voluntary standard to eliminate or reduce the risk of fire and which defines the preemption to be accorded the standard under section 16.

"(C) If no voluntary standard is submitted in response to an invitation in a notice published under subparagraph (A) within the period prescribed by the notice or if one or more voluntary standards is submitted to the Commission and the Commission determines—

"(i) compliance with such voluntary standard is not likely to result in the elimination or adequate reduction of the risk of fire identified in the paragraph (1) notice, or

"(ii) it is unlikely that there will be substantial compliance with any such voluntary standard, the Commission may develop and publish a proposed regulation under this section for such risk of fire.".

REGULATORY IMPACT ANALYSIS

SEC. 6303. (a)(1) Section 9(c) (15 U.S.C. 2058(c)) is amended by redesignating paragraph (2) as paragraph (3) and by adding after paragraph (1) the following:

"(2) The Commission may not publish a proposed consumer product safety rule or promulgate a consumer product safety rule unless it has prepared, on the basis of the findings of the Commission under paragraph (1) and on other information before the Commission, a regulatory impact analysis of the rule containing the following information:

"(A) A description of the potential benefits of the rule, including any beneficial effects that cannot be quantified in monetary terms, and the identification of those likely to receive the benefits.

"(B) A description of the potential costs of the rule, including any adverse effects that cannot be quantified in monetary terms, and the identification of those likely to bear the costs.

"(C) A determination of the potential net benefits of the rule, including an evaluation of effects that cannot be quantified in monetary terms.

"(D) A description of major alternative approaches (including voluntary consumer product safety standards) that could substantially achieve the same regulatory goal at lower cost, together with an analysis of the potential benefits and costs of the alternative approaches and a brief explanation of the reasons why such alternatives, if proposed, could not be adopted.".

(2) Section 9(a)(1)(A) (15 U.S.C. 2058(a)(1)(A)) is amended by inserting before the comma the following: "and prepares the regulatory impact analysis required by such subsection".

(b) Section 3 of the Federal Hazardous Substances Act (15 U.S.C. 1262) is amended by adding after subsection (f) (added by section 6302(d) of this chapter) the following new subsection:

"(g) The Consumer Product Safety Commission may not publish a proposed regulation under section 2(q)(1) or subsection (a), (b), or (e) of this section or promulgate a regulation under such section or subsection unless it has prepared a regulatory impact analysis of the regulation containing the following information:

"(1) A description of the potential benefits of the regulation, including any beneficial effects that cannot be quantified in monetary terms, and the identification of those likely to receive the benefits.

"(2) A description of the potential costs of the regulation, including any adverse effects that cannot be quantified in monetary terms, and the identification of those likely to bear the costs.

"(3) A determination of the potential net benefits of the regulation, including an evaluation of effects that cannot be quantified in monetary terms.

"(4) A description of major alternative approaches that could substantially achieve the same regulatory goal at lower cost, together with an analysis of the potential benefits and costs of the alternative approaches and a brief explanation of the reasons why such alternatives, if proposed, could not be adopted.".

(c) Section 4 of the Flammable Fabrics Act (15 U.S.C. 1193) is amended by adding after subsection (g) (added by section 6302(d) of this chapter) the following new subsection:

"(h) The Consumer Product Safety Commission may not publish a proposed regulation under this section or promulgate a regulation under this section unless it has prepared a regulatory impact analysis of the regulation containing the following information:

"(1) A description of the potential benefits of the regulation, including any beneficial effects that cannot be quantified in monetary terms, and the identification of those likely to receive the benefits.

"(2) A description of the potential costs of the regulation, including any adverse effects that cannot be quantified in monetary terms, and the identification of those likely to bear the costs.

"(3) A determination of the potential net benefits of the regulation, including an evaluation of effects that cannot be quantified in monetary terms.

"(4) A description of major alternative approaches that could sustantially achieve the same regulatory goal at lower cost, together with an analysis of the potential benefits and costs of the alternative approaches and a brief explanation of the reasons why such alternatives, if proposed, could not be adopted.".

REQUIRED COMMISSION FINDINGS; ASSISTANCE FOR VOLUNTARY STANDARDS

SEC. 6304. (a) Section 9(c)(3) (15 U.S.C. 2058(c)(2)) (as so redesignated by section 3(a)(1)) is amended—

(1) by striking out "and" at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new subparagraphs:

"(D) in the case of a rule which relates to a risk of injury with respect to which persons who would be subject to such rule have adopted a voluntary consumer product safety standard, that—

"(i) compliance with such voluntary consumer product safety standard is not likely to result in the elimination or adequate reduction of such risk of injury; or

"(ii) it is unlikely that there will be substantial compliance with such voluntary consumer product safety standard;

"(E) the rule imposes the least burdensome requirement which prevents or adequately reduces the risk of injury for which the rule is being promulgated; and

"(F) the costs of compliance with the rule are justified by the benefits resulting from the application of the rule.".

(b) Section 3 of the Federal Hazardous Substances Act (15 U.S.C. 1262) is amended by adding after subsection (g) (added by section 6303 of this chapter) the following new subsection:

"(h) The Consumer Product Safety Commission may not promulgate a regulation under section 2(q)(1) or subsection (a), (b), or (e) of this section unless it finds (and includes such finding in the regulation) that—

"(1) in the case of a regulation which relates to a risk of injury or illness with respect to which persons who would be subject to such regulation have adopted a voluntary standard to prevent or reduce such risk—

"(A) compliance with such voluntary standard is not likely to result in the elimination or adequate reduction of such risk; or

"(B) it is unlikely that there will be substantial compliance with such standard;

"(2) the regulation imposes the least burdensome requirement which prevents or adequately reduces the risk of personal injury or illness for which the regulation is being promulgated; and

"(3) the costs of compliance with the regulation are justified by the benefits resulting from the application of the regulation."

(c) Section 4 of the Flammable Fabrics Act (15 U.S.C. 1193) is amended by adding after subsection (h) (added by section 6303 of this chapter) the following new subsection:

"(i) The Consumer Product Safety Commission may not promulgate a regulation under this section unless it finds (and includes such finding in the regulation) that—

"(1) in the case of a regulation which relates to a risk of the occurrence of fire with respect to which persons who would be subject to such regulation have adopted a voluntary standard to prevent or reduce such risk—

"(A) compliance with such voluntary standard is not likely to result in the elimination or adequate reduction of such risk; or

"(B) it is unlikely that there will be substantial compliance with such standard;

"(2) the regulation imposes the least burdensome requirement which prevents or adequately reduces the risk of the occurence of fire for which the regulation is being promulgated; and

"(3) the costs of compliance with the regulation are justified by the benefits resulting from the application of the regulation.".

(d) Section 5(b) (15 U.S.C. 2054) is amended by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) offer training in product safety investigation and test methods.

The Commission, to the extent feasible, shall assist public and private organizations, administratively and technically, in the development of safety standards and test methods.".

REPORTS

SEC. 6305. (a) Section 27(b)(1) (15 U.S.C. 2076(b)(1)) is amended by inserting "to carry out a specific regulatory or enforcement function of the Commission" after "may prescribe".

(b) Section 27(b) is amended by adding after and below paragraph (9) the following: "An order issued under paragraph (1) shall contain a complete statement of the reason the Commission requires the report or answers specified in the order to carry out a specific regulatory or enforcement function of the Commission. Such an order shall be designed to place the least burden on the person subject to the order as is practicable taking into account the purpose for which the order was issued.".

ADVISORY COUNCILS

SEC. 6306. (a)(1) Section 28 (15 U.S.C. 2077) is repealed.

(2) Subsection (d) of section 12 (15 U.S.C. 2061) is repealed and subsections (e) and (f) are redesignated as subsections (d) and (e), respectively.

(b) Section 17 of the Flammable Fabrics Act (15 U.S.C. 1204) is repealed.

(c) Section 6 of the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1475) is re-

pealed and sections 7, 8, and 9 of such Act are redesignated as sections 6, 7, and 8, respectively.

CONGRESSIONAL VETO

SEC. 6307. (a) The Consumer Product Safety Act is amended by adding at the end the following new section:

"CONGRESSIONAL VETO OF CONSUMER PRODUCT SAFETY RULES

"SEC. 36. (a) The Commission shall transmit to the Secretary of the Senate and the Clerk of the House of Representatives a copy of any consumer product safety rule promulgated by the Commission under section 9.

"(b) Any rule specified in subsection (a) shall not take effect if—

"(1) within the 90 calendar days of continuous session of the Congress which occur after the date of the promulgation of such rule, both Houses of the Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows (with the blank spaces appropriately filled): 'That the Congress disapproves the consumer product safety rule which was promulgated by the Consumer Product Safety Commission with respect to and which was transmitted to the Congress on and disapproves the rule for the following reasons: .'; or

"(2) within the 60 calendar days of continuous session of the Congress which occur after the date of the promulgation of such rule, one House of the Congress adopts such concurrent resolution and transmits such resolution to the other House and such resolution is not disapproved by such other House within the 30 calendar days of continuous session of the Congress which occur after the date of such transmittal.

"(c) Congressional inaction on, or rejection of, a concurrent resolution of disapproval under this section shall not be construed as an expression of approval of the rule involved, and shall not be construed to create any presumption of validity with respect to such rule.

"(d) For purposes of this section—

"(1) continuity of session is broken only by an adjournment of the Congress sine die; and

"(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the periods of continuous session of the Congress specified in subsection (b).".

(b) Section 27(l)(1) (15 U.S.C. 2076(l)(1)) is amended—

(1) by striking out "; and" at the end of subparagraph (A) and inserting in lieu thereof a period and by striking out subparagraph (B); and

(2) by striking out "paragraph (2)—" and all that follows through "the Commission shall transmit" and inserting in lieu thereof "paragraph (2), the Commission shall transmit".

(c) The Federal Hazardous Substances Act is amended by adding at the end the following new section:

"CONGRESSIONAL VETO OF REGULATIONS

"SEC. 21. (a) The Consumer Product Safety Commission shall transmit to the Secretary of the Senate and the Clerk of the House of Representatives a copy of any regulation promulgated by the Commission under section 2(q)(1) or subsection (a), (b), or (e) of section 3.

"(b) Any regulation specified in subsection (a) shall not take effect if—

"(1) within the ninety calendar days of continuous session of the Congress which occur after the date of the promulgation of such regulation, both Houses of the Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows (with the blank spaces appropriately filled): 'That the Congress disapproves the regulation which was promulgated under the Federal Hazardous Substances Act by the Consumer Product Safety Commission with respect to and which was transmitted to the Congress on and disapproves the regulation for the following reasons: .'; or

"(2) within the sixty calendar days of continuous session of the Congress which occur after the date of the promulgation of such regulation, one House of the Congress adopts such concurrent resolution and transmits such resolution to the other House and such resolution is not disapproved by such other House within the thirty calendar days of continuous session of the Congress which occur after the date of such transmittal.

"(c) Congressional inaction on, or rejection of, a concurrent resolution of disapproval under this section shall not be construed as an expression of approval of the regulation involved, and shall not be construed to create any presumption of validity with respect to such regulation.

"(d) For purposes of this section—

"(1) continuity of session is broken only by an adjournment of the Congress sine die; and

"(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the periods of continuous session of the Congress specified in subsection (b).".

(d) The Flammable Fabrics Act is amended by adding at the end the following new section:

"CONGRESSIONAL VETO OF FLAMMABILITY REGULATIONS

"SEC. 18. (a) The Consumer Product Safety Commission shall transmit to the Secretary of the Senate and the Clerk of the House of Representatives a copy of any flammability regulation promulgated by the Commission under section 4.

"(b) Any regulation specified in subsection (a) shall not take effect if—

"(1) within the ninety calendar days of continuous session of the Congress which occur after the date of the promulgation of such regulation, both Houses of the Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows (with the blank spaces appropriately filled): 'That the Congress disapproves the flammability regulation which was promulgated under the Flammable Fabrics Act by the Consumer Product Safety Commission with respect to and which was transmitted to the Congress on and disapproves the regulation for the following reasons: .'; or

"(2) within the sixty calendar days of continuous session of the Congress which occur after the date of the promulgation of such regulation, one House of the Congress adopts such concurrent resolution and transmits such resolution to the other House and such resolution is not disapproved by such other House within the thirty calendar days of continuous session of the Congress which occur after the date of such transmittal.

"(c) Congressional inaction on, or rejection of, a concurrent resolution of disapproval under this section shall not be construed as an expression of approval of the regulation involved, and shall not be construed to create any presumption of validity with respect to such regulation.

"(d) For purposes of this section—

"(1) continuity of session is broken only by an adjournment of the Congress sine die; and

"(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the periods of continuous session of the Congress specified in subsection (b).".

PUBLIC DISCLOSURE

SEC. 6308. (a) The first sentence of section 6(a)(2) (15 U.S.C. 2055(a)(2)) is amended to read as follows: "Information reported to or otherwise obtained by the Commission or its representative—

"(A) which contains or relates to a trade secret or other matter referred to in section 1905 of title 18, United States Code,

"(B) which is information (other than information submitted under section 15(b)) which the person submitting the information certifies is not available to the public from such person and is not customarily disclosed to the public by such person, or

"(C) which the Commission has in good faith obligated itself not to disclose,

shall be considered confidential and shall not be disclosed, except that such information may be disclosed to other officers or employees concerned with carrying out any Act administered by the Commission or when relevant in any proceeding under such an Act."

(b) Section 6(b) (15 U.S.C. 2055(b)) is amended—

(1) by striking out "paragraph (2)" in paragraph (1) and inserting in lieu thereof "paragraphs (2) and (3)"; and

(2) by adding after paragraph (2) the following new paragraph:

"(3) in addition to the requirements of paragraph (1), the Commission shall not disclose to the public information submitted under section 15(b) respecting a consumer product unless—

"(A) the Commission has issued a complaint under section 15(c) or 15(d) alleging that such product presents a substantial product hazard;

"(B) in lieu of proceeding against such product under section 15(c) or 15(d), the Commission has accepted a remedial settlement agreement dealing with such product; or

"(C) the person who submitted the information under section 15(b) agrees to its public disclosure.

This paragraph does not apply to the public disclosure of any information with respect to a consumer product which is the subject of an action brought under section 12 or which the Commission has reasonable cause to believe is in violation of section 19.".

(c) Section 19(a) (15 U.S.C. 2068(a)) is amended—

(1) by striking out "or" at the end of paragraph (9),

(2) by striking out the period at the end of the first paragraph (10) and inserting in lieu thereof a semicolon,

(3) by striking out the period at the end of the second paragraph (10) and inserting in lieu thereof "; or" and by redesignating that paragraph as a paragraph (11), and

(4) by adding at the end the following:

"(12) issue a false certificate under section 6 or disclose information in violation of section 6.".

PETITIONS TO COMMISSION

SEC. 6309. Section 10 (15 U.S.C. 2059) is repealed.

INSPECTIONS

SEC. 6310. (a) Section 16 (15 U.S.C. 2065) is amended by redesignating subsection (b) as subsection (c) and inserting after subsection (a) the following:

"(b) If consent is not given for an entry or inspection authorized by subsection (a), such entry and inspection may only be made after a search warrant is obtained from a judicial officer who shall issue such warrant upon proper oath or affirmation showing probable cause. For purposes of this subsection, the term 'probable cause' means that a proposed entry of a structure or inspection of a conveyance or area is necessary because the structure, conveyance, or area is involved in a violation of section 19 or that the inspection will be conducted pursuant to a reasonable administrative plan for the enforcement of this Act.".

(b) Section 11 of the Federal Hazardous Substances Act (15 U.S.C. 1270) is amended by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following:

"(c) If consent is not given for an entry or inspection authorized by subsection (b), such entry and inspection may only be made after a search warrant is obtained from a judicial officer who shall issue such warrant upon proper oath or affirmation showing probable cause. For purposes of this subsection, the term 'probable cause' means that a proposed entry of a structure or inspection of a conveyance or area is necessary because the structure, conveyance, or area is involved in a violation of section 4 or that the inspection will be conducted pursuant to a reasonable administrative plan for the enforcement of this Act.".

CHRONIC HAZARDS

SEC. 6311. (a) The following section is inserted after section 27:

"CHRONIC HAZARDS ADVISORY PANEL

"SEC. 28. (a) The Commission shall establish a Chronic Hazards Advisory Panel to advise the Commission under section 31(b) respecting the chronic hazards of cancer, birth defects, and gene mutations presented by consumer products.

"(b)(1) The Panel shall consist of 12 members appointed by the Commission as follows:

"(A) Nine members shall be appointed from individuals who are nominated by the Director of the National Institutes of Health, who are not officers or employees of the United States, and who do not receive compensation or have any substantial financial interest in any manufacturer, distributor, or retailer of a consumer product. The Director of the National Institutes of Health shall nominate a number of individuals equal to twice the number of members to the appointed.

"(B) One member shall be appointed from each of the following: the Department of Health and Human Services, the Environmental Protection Agency, and the Occupational Safety and Health Administration.

The members of the Panel shall be scientists who have demonstrated the ability to critically assess chronic hazards and risks to human health presented by the exposure of humans and animals to toxic substances. Appointments shall be made under subparagraphs (A) and (B) in such a manner so that there is at least one toxicologist, one pathologist, one epidemeologist, one geneticist, and one biostatistician on the Panel at all times.

"(2) The members appointed under paragraph (1)(A) shall be appointed for a term of office of three years, except that of the members first appointed—

"(A) three members shall be appointed for terms of one year, and

"(B) three members shall be appointed for terms of two years,

as designated by the Commission at the time of appointment. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

"(c) The Chairman of the Panel and Vice Chairman shall be elected from among the members. The term of office of the Chairman and Vice Chairman is one year.

"(d) Seven members of the Panel shall constitute a quorum. Decisions of the Panel shall be made by majority vote of the Panel, a quorum being present.

"(e) The Commission shall provide the Panel with such administrative support services as it may require to carry out its duties under section 31.

"(f) The Commission, the Environmental Protection Agency, the Secretary of Health and Human Services, and the Secretary of Labor shall provide the Panel such information and data as the Panel may request to carry out its duties under section 31. Section 6 shall apply to the disclosure of information by the Panel but shall not apply to the disclosure of information to members of the Panel.

"(g) A member of the Panel appointed under subsection (b)(1)(A) shall be paid the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including travel time) during which the member is engaged in the actual performance of the duties of the Panel.

"(h) The Federal Advisory Committee Act shall not apply with respect to the duration of the Panel.".

(b) Section 31 (15 U.S.C. 2080) is amended by inserting "(a)" after "Sec. 31." and by adding at the end the following:

"(b)(1) The Commission may not issue a notice of proposed rulemaking for—

"(A) a consumer product safety rule,

"(B) a rule under section 27(e), or

"(C) a regulation under section 2(q)(1) of the Federal Hazardous Substances Act,

relating to a risk of cancer, birth defects, or gene mutations from a consumer product unless the Chronic Hazards Advisory Panel, established under section 28, has in accordance with paragraph (2) reported to the Commission that a substance contained in such product is a carcinogen, mutagen, or a teratogen.

"(2)(A) If the Commission proposes to issue a notice of proposed rulemaking for—

"(i) a consumer product safety rule,

"(ii) a rule under section 27(e), or

"(iii) a regulation under section 2(q)(1) of the Federal Hazardous Substances Act,

relating to a risk of cancer, birth defects, or gene mutations from a consumer product, the Commission shall request the Panel to review the scientific data relating to such risk to determine, on the basis of available scientific data, if any substance in the product is a carcinogen, mutagen, or a teratogen and to report its determination to the Commission.

"(B) If the Commission makes such a request of the Panel, the Chairman of the Panel shall convene the Panel within thirty days of the date the request is made. The Panel shall report its determination to the Commission within ninety days of the date the Panel is convened or, if the Panel requests additional time, within one hundred and eighty days of such date. If the determination reported to the Commission states that a substance in a product is a carcinogen, mutagen, or a teratogen, the Panel shall include in its report a detailed estimate of the probable harm to human health that will result from exposure to the substance.

"(C) A report of the Panel shall be published in the Federal Register and shall contain a complete statement of the basis for the Panel's determination.".

LAWN MOWER STANDARD

SEC. 6312. (a)(1) Not later than 30 days after the date of the enactment of this Act, the Consumer Product Safety Commission shall commence a proceeding to determine on the record after agency opportunity for hearing if the requirements of the consumer product safety standard for walk-behind power lawn mowers (hereinafter in this section referred to as the "lawn mower standard") relating to blade control (16 C.F.R. 1205.5) were amended to permit a blade control system that stops the engine and requires a manual restart of the engine, the standard, as so amended, would be likely to eliminate or adequately reduce the risk of injury associated with such lawn mowers. The Commission shall conclude such proceeding, make the required determination not later than March 30, 1982, and have the determination published in the Federal Register. The determination made by the Commission in accordance with this paragraph shall consitute final agency action for the purpose of judicial review.

(2) Unless the Commission determines under paragraph (1) that the lawn mower standard, amended as described in paragraph (1), would not be likely to eliminate or adequately reduce the risk of injury associated with lawn mowers, the Commission shall promulgate such amendment to the lawn mower standard. The Consumer Product Safety Act shall not apply with respect to the promulgation of the amendment prescribed by this paragraph.

(3) The provisions of the lawn mower standard respecting walk-behind rotary power mower controls shall take effect on June 30, 1982, or 120 days after the date of final agency action under paragraph (1), whichever date is later.

(b) Judicial review of a determination of the Commission under subsection (a)(1) shall be in accordance with section 11 of the Consumer Product Safety Act, except as follows:

(1) The record shall consist of the materials, data, and testimony compiled by the Commission in the proceeding held under subsection (a)(1) and the determination made by the Commission on the basis of such proceeding.

(2) A petition for judicial review of such a determination shall be filed not later than 30 days after the determination is made and published in the Federal Register.

(3) Any court of appeals of the United States which receives a petition for judicial review of such a determination shall take steps to insure that such petition is assigned for hearing and completed at the earliest possible date, and is expedited in every way

by the court. The court shall render a final decision within 120 days of the filing of any petition for review. The court may set page limits for briefs and time limits for the filing of briefs, motions, and other actions which are shorter than the limits specified in the Federal Rules of Appellate Procedure.

AMUSEMENT PARKS

SEC. 6313. Section 3(a)(1) (15 U.S.C. 2052(a)(1)) is amended by inserting before the sentence following subparagraph (I) the following: "Such term includes any mechanical device which carries or conveys passengers along, around, or over a fixed or restricted route or course or within a defined area for the purpose of giving its passengers amusement, which is customarily controlled or directed by an individual who is employed for that purpose and who is not a consumer with respect to such device, and which is not permanently fixed to a site. Such term does not include such a device which is permanently fixed to a site.".

PREEMPTION FOR VOLUNTARY STANDARDS

SEC. 6314. (a) Section 26 (15 U.S.C. 2075) is amended as follows:

(1) Subsection (a) is amended by inserting "(1)" after "(a)" and by inserting at the end the following:

"(2) If the Commission publishes a notice under section 7(d)(1)(B) stating that the Commission will rely on a voluntary standard to eliminate or reduce a risk of injury associated with a consumer product, no State or political subdivision of a State shall have any authority either to establish or to continue in effect any provision of a safety standard or regulation which prescribes any requirements as to the performance, composition, contents, design, finish, construction, packaging, or labeling of such product which are designed to deal with the same risk of injury associated with such consumer product, unless such requirements are identical to the requirements of the standard identified in the notice or as amended in accordance with subsection (d).".

(2) The following subsections are added at the end:

"(d) If the Commission publishes a notice under section 7(d)(1)(B) stating that the Commission will rely on a voluntary standard to eliminate or reduce a risk of injury associated with a consumer product and if the person who submitted the standard to the Commission proposes to amend the standard, such person shall notify the Commission of the proposed amendment and include in the notice a complete statement of the reasons for the amendment. The Commission shall publish a notice in the Federal Register identifying the standard and the proposed amendment and providing a reasonable opportunity for interested persons to submit views, either orally or in writing, respecting the amendment. Such an amendment shall take effect only if within 120 days after the Commission receives such notice the Commission determines that the standard as proposed to be amended is likely to eliminate or adequately reduce the risk of injury associated with the standard. If an amendment takes effect under this subsection, the Commission shall by notice in the Federal Register inform the public of the amendment.

"(e) For purposes of subsections (b) and (c), the term 'consumer product safety standard' includes a standard identified under section 7(d)(1)(B).".

(b) Section 18 of the Federal Hazardous Substances Act (15 U.S.C. 1261(n)) is amended as follows:

(1) Subsection (b)(1)(B) is amended by inserting "(i)" after "(B)" and by inserting at the end the following:

"(ii) If the Commission publishes a notice under section 3(f)(2)(B) stating that the Commission will rely on a voluntary standard to eliminate or reduce a hazard associated with an article or substance, no State or political subdivision of a State shall have any authority either to establish or to continue in effect a requirement applicable to such article or substance and designed to protect against the same hazard unless such requirement is identical to the requirement of the standard identified in the notice or as amended in accordance with subsection (c).".

(2) The following subsection is added at the end:

"(c) If the Commission publishes a notice under section 3(f)(2)(B) stating that the Commission will rely on a voluntary standard to eliminate or reduce a hazard associated with an article or substance and if the person who submitted the standard to the Commission proposes to amend the standard, such person shall notify the Commission of the propsed amendment and include in the notice a complete statement of the reasons for the amendment. The Commission shall publish a notice in the Federal Register identifying the standard and the proposed amendment and providing a reasonable opportunity for interested persons to submit views, either orally or in writing, respecting the amendment. Such an amendment shall take effect only if within 120 days after the Commission receives such notice the Commission determines that the standard as proposed to be amended is likely to eliminate or adequately reduce the risk of injury associated with the standard. If an amendment takes effect under this subsection, the Commission shall by notice in the Federal Register inform the public of the amendment.".

(c)(1) Section 16 of the Flammable Fabrics Act (15 U.S.C. 1203) is amended as follows:

(A) Subsection (a) is amended by inserting "(1)" after "(a)" and by inserting at the end the following:

"(2) If the Commission publishes a notice under section 4(g)(2)(B) stating that the Commission will rely on a voluntary standard to eliminate or reduce a risk of occurrence of fire from a fabric, related material, or product, no State or political subdivision of a State shall have any authority either to establish or to continue in effect any provision of a flammability standard or other regulation for such fabric, related material, or product if the standard or other regulation is designed to protect against the same risk of occurrence of fire with respect to which the standard identified in the notice is in effect unless the State or political subdivision standard or other regulation is identical to the standard identified in the notice or as amended under subsection (e).".

(B) The following subsection is added at the end:

"(e) If the Commission publishes a notice under section 4(g)(2)(B) stating that the Commission will rely on a voluntary standard to eliminate or reduce a risk of occurrence of fire from a fabric, related material, or product, and if the person who submitted the standard to the Commission proposes to amend the standard, such person shall notify the Commission of the proposed amendment and include in the notice a complete statement of the reasons for the amendment. The Commission shall publish a notice in the Federal Register identifying the standard and the proposed amendment and providing a reasonable opportunity for interested persons to submit views, either orally or in writing, respecting the amendment. Such an amendment shall take effect only if within 120 days after the Commission receives such notice the Commission determines that the standard as proposed to be amended is likely to eliminate or adequately reduce the risk of injury associated with the standard. If an amendment takes effect under this subsection, the Commission shall by notice in the Federal Register inform the public of the amendment.".

(2) Subsection (d)(1) is amended by inserting before the semicolon the following: "and a standard identified under section 4(g)(2)(B)".

MISCELLANEOUS

SEC. 6315. (a) Section 20(b) (15 U.S.C. 2069(b)) is amended by inserting ", the occurrence or absence of injury, the number of products distributed," after "person charged".

(b) The first sentence of section 24 (15 U.S.C. 2073) is amended by inserting "(including any individual or nonprofit, business, or other entity)" after "interested person".

(c) Section 25 (15 U.S.C. 2074) is amended by striking out subsection (a) and by redesignating subsections (b) and (c) as subsections (a) and (b), respectively.

(d) Section 27 (15 U.S.C. 2076) is amended by striking out subsection (m).

(e) The last sentence of section 14(a) of the Flammable Fabrics Act (15 U.S.C. 1201(a)) is repealed.

(f)(1) Section 15 of the Federal Hazardous Substances Act (15 U.S.C. 1274) is amended to read as follows:

"NOTICE AND REPAIR, REPLACEMENT, OR REFUND

"SEC. 15. (a) If any article or substance distributed in commerce is a banned hazardous substance (whether or not it was such at the time of its distribution) and the Commission determines (after affording interested persons, including consumers and consumer organizations, an opportunity for a hearing) that notification is required to adequately protect the public from such article or substance, the Commission may order the manufacturer or any distributor or retailer of the article or substance to take any one or more of the following actions:

"(1) To give public notice of the designation of the article or substance as a banned hazardous substance.

"(2) To mail notice of such designation to each person who is a manufacturer, distributor, or retailer of such article or substance.

"(3) To mail notice of such designation to every person to whom the person giving the notice knows such article or substance was delivered or sold.

An order under this subsection shall specify the form and content of any notice required to be given under the order.

"(b) If any article or substance sold by its manufacturer, distributor, or dealer is a banned hazardous substance (whether or not it was such at the time of its sale) and the Commission determines (after affording interested persons, including consumers and consumer organizations, an opportunity for a hearing) that action under this subsection is in the public interest, the Consumer Product Safety Commission may order the manufacturer, distributor, or retailer to take whichever of the following actions the person to whom the order is directed elects:

"(1) If repairs to or changes in the article or substance may be made so that it will not be a banned hazardous substance, to make such repairs or changes.

"(2) To replace such article or substance with a like or equivalent article or substance which is not a banned hazardous substance.

"(3) To refund the purchase price of the article or substance (less a reasonable allowance for use, if the article or substance has been in the possession of the consumer for one year or more—

"(A) at the time of public notice under subsection (a), or

"(B) at the time the consumer receives actual notice that the article or substance is a banned hazardous substance,

whichever first occurs).

An order under this subsection may also require the person to whom it applies to submit a plan, satisfactory to the Commission, for taking the action which such person has elected to take. The Commission shall specify in the order the persons to whom refunds must be made if the person to whom the order is directed elects to take the action described in paragraph (3). If an order under this subsection is directed to more than one person, the Commission shall specify which person has the election under this subsection. An order under this subsection may prohibit the person to whom it applies from manufacturing for sale, offering for sale, distributing in commerce, or importing into the customs territory of the United States (as defined in general headnote 2 to the Tariff Schedules of the United States), or from doing any combination of such actions, with respect to the article or substance with respect to which the order was issued.

"(c)(1) No charge shall be made to any person (other than a manufacturer, distributor, or dealer) who avails himself of any remedy provided under an order issued under subsection (b), and the person subject to the order shall reimburse each person (other than a manufacturer, distributor, or dealer) who is entitled to such a remedy for any reasonable and foreseeable expenses incurred by such person in availing himself of such remedy.

"(2) An order issued under subsection (b) with respect to an article or substance may require any person who is a manufacturer, distributor, or dealer of the article or substance to reimburse any other person who is a manufacturer, distributor, or dealer of such article or substance for such other person's expenses in connection with carrying out the order, if the Commission determines such reimbursement to be in the public interest.

"(d) An order under subsection (a) or (b) may be issued only after an opportunity for a hearing in accordance with section 554 of title 5, United States Code, except that, if the Commission determines that any person who wishes to participate in such hearing is a part of a class of participants who share an identity of interest, the Commission may limit such person's participation in such hearing to participation through a single representative designated by such class (or by the Commission if such class fails to designate such a representative).".

(2) Section 4 of the Federal Hazardous Substances Act (15 U.S.C. 1263) is amended by adding at the end the following:

"(j) The failure to comply with an order issued under section 15.".

(g)(1) Subsection (k) of section 27 (15 U.S.C. 2076) is repealed.

(2)(A) Paragraph (7) of section 27(b) (15 U.S.C. 2076(b)) is repealed.

(B) Section 15(g)(1) (15 U.S.C. 2064(g)(1)) is amended by striking out "(without regard to section 27(b)(7))".

(C) Section 22(a)(3) (15 U.S.C. 2071(a)(3)) is amended by striking out "(without regard to section 27(b)(7)(A))".

(D) Section 27(c) is amended by striking out "(subject to subsection (b)(7))".

EXTENSION OF ACT

SEC. 6316. Section 32(a) (15 U.S.C. 2081(a)) is amended (1) by striking out "and" at the end of paragraph (6), (2) by striking out the period at the end of paragraph (7) and inserting a semicolon, and (3) by adding at the end the following:

"(8) $33,000,000 for the fiscal year ending September 30, 1982;

"(9) $33,000,000 for the fiscal year ending September 30, 1983; and

"(10) $33,000,000 for the fiscal year ending September 30, 1984.

For payment of accumulated and accrued leave under section 5551 of title 5, United States Code, and severance pay under section 5595 under such title, there are authorized to be appropriated such sums as may be necessary.".

TRANSFER OF FUNCTIONS

SEC. 6317. (a) The functions, powers, and duties of the Consumer Product Safety Commission are transferred to and vested in the Secretary of Commerce who shall exercise such functions, powers, and duties through the Director of the Bureau of Consumer Product Safety established under subsection (b).

(b)(1) There is established in the Department of Commerce a Bureau of Consumer Product Safety which shall be headed by a Director appointed by the President, by and with the advice and consent of the Senate. The Director of the Bureau shall report to the Secretary of Commerce through the Assistant Secretary for Productivity, Technology, and Innovation.

(2) Section 5316 of title 5, United States Code, is amended by adding at the end the following:

"Director, Bureau of Consumer Product Safety, Department of Commerce.".

(c)(1) The personnel, assets, liabilities, contracts, property, and records of, and, in accordance with the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c) the unexpended balances of appropriations, authorizations, allocations, and other funds available to or to be made available to, the Consumer Product Safety Commission are transferred to the Secretary of Commerce for proper allocation. Unexpended funds transferred pursuant to this paragraph may only be used for the purposes for which the funds were originally authorized and appropriated.

(2) The Director of the Office of Management and Budget, in consultation with the Secretary of Commerce, shall make such determinations and incidental dispositions as may be necessary with respect to the transfer of functions, powers, and duties under subsection (a) and the transfers under paragraph (1) of this subsection as the Director may deem necessary to carry out the transfer prescribed by subsection (a).

(d)(1) When the transfer of functions, powers, and duties prescribed by subsection (a) has been executed and the transfers prescribed by subsection (c) have been executed, the Consumer Product Safety Commission shall terminate and the Office of Members of the Commission shall terminate.

(2)(A) Effective on the date the Consumer Product Safety Commission is terminated, section 5314 of title 5, United States Code, is amended by striking out "Chairman, Consumer Product Safety Commission.".

(B) Effective on the date the Consumer Product Safety Commission is terminated, section 5315 of title 5 United States Code, is amended by striking out "Members, Consumer Product Safety Commission (4).".

(e)(1) All orders, determinations, rules, regulations, and contracts—

(A) which have been issued, made, or allowed to become effective by the Consumer Product Safety Commission or by a court of competent jurisdiction with respect to a function, power, or duty transferred under subsection (a), and

(B) which are in effect on the date of the enactment of this chapter,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the Secretary of Commerce, a court of competent jurisdiction, or by operation of law.

(2) The transfer prescribed by subsection (a) shall not affect any proceeding pending on the date of the enactment of this chapter before the Consumer Product Safety Commission; but such proceeding shall be continued before the Secretary of Commerce after such date. The Secretary of Commerce shall promulgate regulations providing for the orderly transfer of such proceedings to the Secretary.

(3)(A) Except as provided in Subparagraph (C)—

(i) the transfer prescribed by subsection (a) shall not affect suits commenced before the date of enactment of this chapter, and

(ii) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this chapter had not been enacted.

(B) No suit, action, or other proceeding commenced by or against any officer in an official capacity as an officer of the Consumer Product Safety Commission shall abate by reason of the enactment of this chapter. No cause of action by or against the Consumer Product Safety Commission shall abate by reason of the enactment of this chapter.

(C) If, before the date of the enactment of this chapter, the Consumer Product Safety Commission or any officer thereof, is party to a suit, such suit shall be continued with the Secretary of Commerce substituted.

(f) With respect to any function, power, or duty transferred by subsection (a), that is excerised after the date of the enactment of this chapter, reference in any other Federal law to the Consumer Product Safety Commission or any officer or office of the Commission shall be deemed a reference to the Secretary of Commerce.

EFFECTIVE DATE

SEC. 6318. (a) Except as provided in subsection (b), the amendments made by this chapter shall take effect on the date of the enactment of this chapter.

(b) The amendments made by section 6307 shall apply with respect to consumer product safety rules under the Consumer Product Safety Act and regulations under the Federal Hazardous Substances Act and the Flammable Fabrics Act promulgated by the Consumer Product Safety Commission after the date of the enactment of this chapter; and the amendments made by sections 6302, 6303, 6304, and 6311 of this chapter shall apply with respect to regulations under the Consumer Product Safety Act, the Federal Hazardous Substances Act, and the Flam-

mable Fabrics Act for which notices of proposed rulemaking are issued after May 8, 1981.

Subtitle D—Matters Under the Jurisdiction of the Subcommittee on Commerce, Transportation, and Tourism

Chapter 1—CONRAIL

SHORT TITLE

SEC. 6401. This chapter may be cited as the "Rail Service Improvement Act of 1981".

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Subchapter A—General Provisions

FINDINGS

SEC. 6411. The Congress finds and declares that—

(1) current arrangements for the provision of rail freight and commuter services in the northeast and midwest regions of the United States are inadequate to meet the transportation needs of the public and the needs of national security;

(2) the process set in motion by the Regional Rail Reorganization Act of 1973 has failed to create a profitable railroad system in the northeast and midwest regions of the United States and has cost United States taxpayers billions of dollars over original estimates;

(3) although the Federal Government has provided billions of dollars in assistance for Conrail and its employees, the Federal interest in ensuring the flow of interstate commerce through rail service in the private sector has not been achieved, and the protection of interstate commerce requires Federal intervention to preserve essential rail service in the private sector;

(4) the orderly integration of Conrail's freight service into the Nation's private rail system can be successful only if an orderly process is followed and adequate and equitable protections are provided for affected railroad employees and if acquiring railroads are not required to assume Conrail's commuter operations;

(5) the funds originally authorized for the protection of employees adversely affected by the consolidation of the bankrupt rail carriers into Conrail have been exhausted, and the additional funding authorized by the Staggers Rail Act of 1980 will be exhausted in the near future;

(6) since holding the Corporation liable for employee protection payments would destroy its prospects of becoming a profitable carrier and further injure its employees, an alternative employee protection system must be developed and funded;

(7) States, shippers, and consumers in the northeast and midwest must be included in the private sector improvements in rail service that are occurring throughout the national rail system; and

(8) an orderly transfer of the functions of the United States Railway Association to the Secretary of Transportation and the Attorney General of the United States will facilitate the exercise of those functions by the appropriate Federal officials.

PURPOSE

SEC. 6412. It is therefore declared to be the purpose of the Congress in this chapter to provide for—

(1) the removal by a date certain of the Federal Government's obligation to subsidize the freight operations of Conrail;

(2) transfer of Conrail commuter service responsibilities to one or more entities whose principal purpose is the provision of commuter service;

(3) adequate and equitable labor protection for employees deprived of employment by service transfers;

(4) the mechanism to ensure that Conrail freight service is performed in the private sector; and

(5) transfer of the functions of the United States Railway Association.

DEFINITIONS

SEC. 6413. As used in this chapter, unless the context otherwise requires, the term:

(1) "Amtrak" means the National Railroad Passenger Corporation created under title III of the Rail Passenger Service Act (45 U.S.C. 541 et seq.).

(2) "Commission" means the Interstate Commerce Commission.

(3) "Commuter authority" means any State, local, or regional authority, corporation, or other entity established for purposes of providing commuter service, and includes the Metropolitan Transportation Authority, the Connecticut Department of Transportation, the Maryland Department of Transportation, the Southeastern Pennsylvania Transportation Authority, the New Jersey Transit Corporation, the Massachusetts Bay Transportation Authority, the Port Authority Trans-Hudson Corporation, any successor agencies, and any entity created by one or more such agencies for the purpose of operating, or contracting for the operation of, commuter services.

(4) "Commuter services" means short-haul rail passenger service operated in metropolitan and suburban areas, usually characterized by reduced fare, multiple-ride, and commutation tickets, and by morning and evening peak period operations.

(5) "Conrail" means the Consolidated Rail Corporation created under title III of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741 et seq.).

(6) "Profitable carrier" means a carrier that generates sufficient revenues to meet its expenses, including reasonable maintenance of necessary equipment and facilities, without funding from the Federal Government.

(7) "Rail carrier" means a common carrier engaged in interstate or foreign commerce by rail subject to subtitle IV of title 49, United States Code.

(8) "Secretary" means the Secretary of Transportation or the representative authorized by the Secretary to carry out the responsibilities of the Secretary under this chapter.

(9) "Special court" means the judicial panel established under section 209 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 719).

Subchapter B—Transfer of Rail Service Responsibilities

PART I—TRANSFER OF CONRAIL COMMUTER SERVICES

SEPARATION OF COMMUTER FUNCTIONS

SEC. 6421. (a) Title III of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741 et seq.) is amended by adding at the end thereof the following new section:

"SEPARATION OF COMMUTER FUNCTIONS

"SEC. 308. (a) ESTABLISHMENT OF SUBSIDIARY.—The Corporation shall, within 30 days after the effective date of this section, establish a subsidiary for purposes of operating the commuter services which the Corporation is obligated to operate under this Act (hereinafter referred to as the 'commuter subsidiary').

"(b) STATUS.—(1) The provisions of this Act relating to the operation of commuter service shall apply to the commuter subsidiary as if it were the Corporation.

"(2) The commuter subsidiary shall be deemed to be a contract operator of commuter service on behalf of the commuter authorities for which the Corporation operates commuter service under this Act, and shall have no common carrier obligation to operate either passenger or freight service.

"(3) The provisions of section 10 of the Clayton Act (15 U.S.C. 20) shall not apply to transactions between the Corporation and the commuter subsidiary.

"(4) Financial statements of the commuter subsidiary shall not be consolidated in or included with those of the Corporation.

"(5) The commuter subsidiary shall be exempt from the payment of taxes to the same extent as Amtrak Commuter is exempt under section 501(c)(3) of the Rail Passenger Service Act.

"(c) Collective Bargaining Agreements.—The commuter subsidiary shall assume and apply the collective bargaining agreements in effect between the Corporation and its employees on the effective date of this section.

"(d) Capitalization.—The commuter subsidiary is authorized to issue common stock to the Corporation.

"(e) Relief From Obligations.—Effective 540 days after the effective date of this section, the Corporation shall be relieved of all obligations to operate commuter service, whether as a common carrier of passengers or under its subsidy agreements with commuter authorities pursuant to this Act.

"(f) Future Commuter Service.—At the time the corporation is relieved of its obligation to operate commuter service under this Act, the commuter authorities for which such service was operated may contract with any other entity, including Amtrak Commuter, for the operation of such service.

"(g) Property Transfer.—(1) After the Corporation is relieved of its obligation to operate commuter service, the Corporation and its subsidiary shall transfer to Amtrak Commuter, or to any commuter authority or other entity that will operate the commuter service, such rail properties, rights, or interests as may be necessary for Amtrak Commuter or such authority or other entity to operate commuter services.

"(2) The Corporation shall retain appropriate trackage rights for freight operations over any rail properties which are transferred under this subsection.

"(3) Consideration for inventory transferred under this subsection shall be based on book value. The transfer of fixed facilities, rolling stock, and other equipment under this subsection shall be without consideration.

"(h) Contract Provisions.—Notwithstanding any provision of any lease, contract, or other agreement, any transfer, assignment, or other disposition of such lease, contract, or other agreement by the Corporation pursuant to this title shall not be deemed a breach, an event of default, or a violation of any covenant.

"(i) Concerted Economic Action.—(1) Any person engaging in concerted economic action over disputes with Amtrak Commuter or any commuter authority shall not be entitled to engage in any strike against, or otherwise to induce any employee of, the Corporation, where an effect thereof is to interfere with rail freight services provided by the Corporation.

"(2) Any person engaging in concerted economic action over disputes arising out of freight operations provided by the Corporation shall not be entitled to engage in any strike against, or otherwise to induce any employee of, Amtrak Commuter or any commuter authority, where an effect thereof is to interfere with rail passenger services.

"(3) Any concerted action in violation of this subsection shall be deemed to be a violation of the Railway Labor Act.

"(j) Definitions.—As used in this section—

"(1) 'Amtrak Commuter' means the Amtrak Commuter Services Corporation created under title V of the Rail Passenger Service Act;

"(2) 'commuter authority' means any State, local, or regional authority, corporation, or other entity established for purposes of providing commuter service; and

"(3) 'commuter service' means short-haul rail passenger service operated in metropolitan and suburban areas, usually characterized by reduced fare, multiple-ride, and commutation tickets and by morning and evening peak period operations.

"(k) Authorization of Appropriations.—(1) There are authorized to be appropriated to the commuter subsidiary for purposes of establishing a working capital revolving fund not to exceed $50,000,000 for the fiscal year ending September 30, 1982. Such revolving fund shall be used by the commuter subsidiary for purposes of meeting periodic expenses connected with the operation of commuter service until such expenses have been reimbursed by the appropriate commuter authorities.

"(2) After the Corporation is relieved of its obligation to operate commuter services, the working capital revolving fund established under paragraph (1) of this subsection (including any outstanding liabilities of commuter authorities to such fund) shall be transferred to Amtrak Commuter for purposes of carrying out title V of the Rail Passenger Service Act.

"(3) Amounts appropriated under this subsection are authorized to remain available until expended.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 307 the following new item:

"Sec. 308. Separation of commuter functions.".

Establishment of Amtrak Commuter

Sec. 6422. (a) The Rail Passenger Service Act (45 U.S.C. 507 et seq.) is amended by inserting immediately after title IV thereof the following new title:

"TITLE V—AMTRAK COMMUTER SERVICES

"Sec. 501. Establishment of Amtrak Commuter.

"(a) There shall be established within 240 days after the effective date of this title a wholly-owned subsidiary of the Corporation to be known as the Amtrak Commuter Services Corporation (hereinafter referred to as "Amtrak Commuter").

"(b)(1) Amtrak Commuter shall not be an agency or instrumentality of the Federal Government. Amtrak Commuter shall be subject to the provisions of this Act and, to the extent not inconsistent with this Act, to the District of Columbia Business Corporation Act.

"(2) Amtrak Commuter shall be deemed to be a contract operator of commuter service on behalf of the commuter authorities that contract with Amtrak Commuter for the operation of commuter service under this title. Amtrak Commuter shall have no common carrier obligation to operate either passenger or freight service.

"(c)(1) Amtrak Commuter shall not be subject to the jurisdiction of the Commission under chapter 105 of title 49, United States Code, but it shall (treated as a separate rail carrier) be subject to the same laws and regulations with respect to safety and with respect to the representation of its employees for purposes of collective bargaining, the handling of disputes between carriers and their employees, employee retirement, annuity, and unemployment systems, and other dealings with its employees as any rail carrier providing transportation subject to the jurisdiction of the Commission under chapter 105 of such title 49.

"(2) Amtrak Commuter shall not be subject to any State or other law relating to the transportation of passengers by railroad insofar as such law relates to rates, routes, or service, including any modification or discontinuance thereof.

"(3) Amtrak Commuter shall be exempt from the payment of taxes to the same extent as the Corporation is exempt under section 306(n) of this Act.

"(4) The provisions of section 10 of the Clayton Act (15 U.S.C. 20) shall not apply to transactions between Amtrak Commuter and the Corporation.

"(d) The Board of Directors of the Corporation shall be the incorporators of Amtrak Commuter and shall take whatever steps are necessary to establish Amtrak Commuter, including filing articles of incorporation.

"Sec. 502. Directors and Officers.

"(a)(1) Amtrak Commuter shall have a Board of Directors consisting of six individuals, as follows:

"(A) The President of Amtrak Commuter, ex officio.

"(B) Two members who are selected by commuter authorities to serve on the Board of Directors of the Corporation in accordance with section 303(a)(1) of this Act.

"(C) Two members selected by the Board of Directors of the Corporation (in addition to those members described in subparagraph (B)).

"(D) One member from a commuter authority (in addition to those members described in subparagraph (B)), as follows:

"(i) During the period prior to the commencement of the operation of commuter service by Amtrak Commuter, such member shall be selected by commuter authorities for which the Consolidated Rail Corporation operates commuter service under the Regional Rail Reorganization Act of 1973.

"(ii) Beginning 540 days after the effective date of this title, such member shall be selected by commuter authorities for which Amtrak Commuter operates commuter service pursuant to this title, but such member shall serve only if Amtrak Commuter enters into contracts with two or more commuter authorities for the operation of commuter service.

"(2)(A) Except as provided in paragraph (1)(D)(i) of this section, members of the Board of Directors of Amtrak Commuter shall serve terms of two years, and any vacancy in the membership of the Board shall be filled in the same manner as in the case of the original selection.

"(B) The Board shall elect one of its members annually to serve as Chairman.

"(C) Each member of the Board shall receive compensation and reimbursement in accordance with section 303(a)(5) of this Act.

"(b) The provisions of section 303 (b) and (d) of this Act shall apply to Amtrak Commuter.

"Sec. 503. General Powers of Amtrak Commuter.

"(a)(1) Amtrak Commuter is authorized to own, manage, operate, or contract for the operation of commuter service; to conduct research and development related to its mission; and to acquire by construction, purchase, or gift, or to contract for the use of, physical facilities, equipment, and devices necessary to commuter service operations.

"(2) Amtrak Commuter shall, to the extent consistent with this Act and the agreements with the commuter authorities, directly operate and control all aspects of its commuter service.

"(b) To carry out its functions and purposes, Amtrak Commuter shall have the

usual powers conferred upon a stock corporation by the District of Columbia Business Corporation Act.

"(c) Amtrak Commuter is authorized to issue common stock to the Corporation.

"Sec. 504. Commuter Service.

"(a) Amtrak Commuter is authorized to operate commuter service under an agreement with a commuter authority. Effective 540 days after the effective date of this title, any commuter service operated by Amtrak Commuter under an agreement with a commuter authority shall be operated solely pursuant to the provisions of subsections (b) through (i) of this section.

"(b) Amtrak Commuter shall operate commuter service which the Consolidated Rail Corporation was obligated to provide on the effective date of this title under section 303(b)(2) or 304(e) of the Regional Rail Reorganization Act of 1973, and may operate any other commuter service, if the commuter authority for which such service is to be operated agrees to provide—

"(1) a commuter service operating payment which is designed to cover the difference between the revenue attributable to the operation of such service and the avoidable costs of operating such service, including the avoidable cost of any capital improvements necessary to operate such service; or

"(2) a commuter service operating payment which is payable pursuant to a lease or agreement with a commuter authority under which financial support was being provided on January 2, 1974, for the continuation of rail passenger service.

"(c) Any agreement to provide a commuter service operating payment under subsection (b) of this section shall be made in accordance with regulations issued by the Rail Services Planning Office pursuant to section 205(d)(5) of the Regional Rail Reorganization Act of 1973. The Office may revise and update such regulations as may be necessary to carry out the provisions of this section.

"(d)(1) If a commuter authority offers to provide payment for the provision of additional commuter service, Amtrak Commuter may provide such service pursuant to this section if such payment is designed to avoid any additional costs to Amtrak Commuter or the Corporation arising from the construction or modification of capital facilities or from any additional operating delays or costs arising from the absence of such construction or modification. Any additional manpower requirements shall be satisfied through existing seniority arrangements as agreed to in the implementing agreement negotiated pursuant to section 506 of this Act.

"(2) Any commuter authority making an offer under this paragraph shall demonstrate that—

"(A) such commuter authority has acquired, leased, or otherwise obtained access to all rail properties necessary to provide such additional commuter service; and

"(B) such commuter authority has completed, or will complete prior to the inception of such additional commuter service, all capital improvements necessary to avoid significant costs which cannot be avoided by improved scheduling or other means on other existing rail services (including rail freight service) and to assure that the additional commuter service will not significantly detract from the level and quality of existing rail passenger and freight service.

"(e)(1) Amtrak Commuter may discontinue commuter service provided under this section upon 60 days' notice if—

"(A) a commuter authority does not offer a commuter service operating payment in accordance with subsection (b) of this section; or

"(B) an applicable commuter service operating payment is not paid when it is due.

"(2) The notice required under this subsection shall be determined pursuant to regulations issued by the Rail Services Planning Office.

"(f) Notwithstanding any other provision of law, compensation to the Corporation or Amtrak Commuter for right-of-way related costs for service over the Northeast Corridor and other properties owned by the Corporation shall be determined in accordance with the methodology determined by the Commission or agreed upon by the parties pursuant to section 6498 of the Rail Service Improvement Act of 1981.

"(g) If a commuter authority fails to offer a commuter service operating payment pursuant to subsection (b)(2) of this section, then any lease or agreement under which financial support was being provided on January 2, 1974, for the continuation of rail passenger service shall not apply to Amtrak Commuter, but the Corporation and the Consolidated Rail Corporation shall retain appropriate trackage rights (for freight and passenger operations respectively) over any rail properties owned or leased by such commuter agency. Compensation for such trackage rights shall be fair and equitable.

(h) Notwithstanding any other provision of this section, Amtrak Commuter is not obligated to provide commuter service if a commuter authority contracts for the provision of such service by an operator other than Amtrak Commuter. In any such case, Amtrak Commuter shall, where appropriate, provide the operator of such service with access to the rail properties needed to operate such service.

"(i) If the Board of Directors of Amtrak Commuter determines that the amount in the revolving fund transferred to Amtrak Commuter pursuant to section 300(k) of the Regional Rail Reorganization Act of 1973 is in excess of the amount needed as a revolving fund for purposes of this title, the Board shall allocate a proportionate share of such excess amount to any commuter authority that, after being provided commuter service under an agreement with Amtrak Commuter service under this title, has elected to operate its own commuter service. The Board shall determine the amount of such proportionate allocation on the basis of the ridership of such commuter authority and the ridership of those commuter authorities remaining under contract with Amtrak Commuter.

"Sec. 505. Northeast Corridor Coordination.

"(a) The Board of Directors of Amtrak Commuter shall develop and recommend to the Corporation—

"(1) policies which ensure equitable access to the Northeast Corridor, taking into account the need for equitable access by commuter and intercity services and the requirements of section 402(e) of this Act; and

"(2) equitable policies for the Northeast Corridor with respect to dispatching, public information, maintenance of equipment and facilities, major capital facility investments, and harmonization of equipment acquisitions, fares, tariffs, and schedules.

"(b) The Board of Directors of Amtrak Commuter may recommend to the President and Board of Directors of the Corporation such actions as are necessary to resolve differences of opinions regarding operations (among or between the Corporation, Amtrak Commuter, other railroads, commuter authorities, and other State, local, and regional agencies responsible for the provision of commuter rail, rapid rail, or rail freight services), with respect to all matters except those conferred on the Commission in section 402(a) of this Act.".

PROHIBITION OF CROSS-SUBSIDIZATION

Sec. 6423. Section 601 of the Rail Passenger Service Act (45 U.S.C. 601) is amended by adding at the end thereof the following new subsection:

"(c) None of the funds appropriated under this section for the payment of operating and capital expenses of intercity rail passenger service shall be used for the operation of commuter service by Amtrak Commuter.".

AUTHORIZATION OF APPROPRIATIONS

Sec. 6424. Section 601 of the Rail Passenger Service Act (45 U.S.C. 601), as amended by this chapter, is further amended by adding at the end thereof the following new subsection:

"(d) There is authorized to be appropriated to the Secretary for the benefit of the Corporation not to exceed $20,000,000 for the fiscal year ending September 30, 1982, to be allocated to any commuter authority that was providing commuter service, operated by a railroad that entered reorganization after calendar year 1974, as of January 1, 1979.".

PART II—ADDITIONAL FINANCING OF CONRAIL

Additional Financing of Conrail

Sec. 6431. (a) Title II of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721 et seq.) is amended by adding at the end thereof the following new section:

"ADDITIONAL PURCHASES OF SERIES A PREFERRED STOCK

"Sec. 217. (a) Federal Investment.—Notwithstanding any other provision of this Act, any investment by the Federal Government in the securities of the Corporation after October 1, 1981, shall be by the purchase of series A preferred stock in accordance with this section.

"(b) Timing and Amount of Purchases.—(1) The Association shall determine, in accordance with this section, whether to purchase the following amounts of series A preferred stock and accounts receivable of the Corporation on the following purchase dates:

"(A) On October 1, 1981, the purchase of $125,000,000 of stock, accounts receivable of the Corporation attributable to the dispute over the right-of-way related costs described in section 6498(a)(1) of the Rail Service Improvement Act of 1981, and accounts receivable of the Corporation attributable to delays in reimbursement from commuter agencies.

"(B) On April 1, 1982, the purchase of $125,000,000 of stock and accounts receivable described in subparagraph (A) of this paragraph.

"(C) On October 1, 1982, the purchase of $100,000,000 of stock.

"(D) On April 1, 1983, the purchase of $75,000,000 of stock.

"(E) On September 30, 1983, the purchase of $50,000,000 of stock.

"(2) Any request by the Corporation for the purchase of stock (or accounts receivable if applicable) under this section shall be filed with the Association not less than 30

days prior to the purchase date, and shall describe how the conditions set forth in subsection (c) have been met.

"(3) Any purchases not requested by the Corporation or approved by the Association on any particular purchase date may be deferred by the Association.

"(4) On each purchase date the Association shall make a determination whether the Corporation will be a profitable carrier. The Association shall immediately notify the Secretary of its determination. For the purpose of making such determination, the Association shall assume that the interest of the United States in any debt or preferred stock of the Corporation is limited as required under section 402 of this Act.

"(c) CONDITIONS.—The Association shall purchase shares of series A preferred stock and accounts receivable on the purchase dates set forth in subsection (b) of this section only if the Corporation demonstrates to the satisfaction of the Association that the following conditions have been met:

"(1) NON-AGREEMENT PERSONNEL.—(A) Employees who are not subject to collective-bargaining agreements (hereinafter in this section referred to as 'non-agreement personnel') are forgoing wage increases and benefits in an amount proportionately equivalent to the amount forgone by agreement employees pursuant to paragraph (5) of this subsection, adjusted annually to reflect inflation.

"(B) The number of non-agreement personnel is reduced proportionately to any reduction in agreement employees (excluding reductions pursuant to the termination program under section 702 of this Act). Any reduction in non-agreement personnel or agreement employees which occurs after May 1, 1981, shall be included for purposes of this subparagraph.

"(2) SUPPLIERS.—Materials and services continue to be available to the Corporation, under normal business practices, which shall include the provision of credit and normal financing arrangements.

"(3) SHIPPERS.—(A) The Corporation, on each purchase date, submits to the Association a projection for the next six-month period and a report for the previous six-month period, which establishes that the Corporation has maximized and will continue to maximize its opportunities to generate revenues under the provisions of this Act, the Staggers Rail Act of 1980, and subtitle IV of title 49, United States Code.

"(B) Shippers of goods transported by the Corporation are not unduly interfering in the maximization of revenues by the Corporation.

"(4) FINANCIAL PLAN.—(A) The Corporation, by October 1, 1981, submits to the Association a financial plan which (i) indicates how the Corporation will become a profitable carrier within the funding limitations and timetable of this Act, and (ii) establishes projected financial needs of the Corporation and sets forth a schedule for reducing its losses.

"(B) The Corporation, on each purchase date, substantially complies with the financial plan filed under subparagraph (A).

"(C) The Corporation may amend its financial plan on any purchase date, but the plan as amended must meet the requirements of subparagraph (A).

"(5) AGREEMENT EMPLOYEES.—(A)(i) The Corporation enters into collective bargaining agreements with its employees which provide the Corporation benefits equal to $200,000,000 a year, beginning April 1, 1981, adjusted annually to reflect inflation.

"(ii) Agreements under this subparagraph may provide for reductions in wage increases and for changes in fringe benefits common to agreement employees, including vacations and holidays.

"(iii) The benefits required under this subparagraph in the first year of the agreement may be deferred until the second year of the agreement, but any benefits so deferred must be provided no later than the end of such second year (in addition to the benefits otherwise required in such year).

"(iv) The amount of benefits provided under this paragraph shall be calculated by subtracting the cost of an agreement entered into under this paragraph from (I) the cost that would otherwise result from the application of the national agreement reached by railroad industry and its employees, or (II) until such national agreement is reached, the cost which the Association estimates would result from the application of such a national agreement.

"(B)(i) The Corporation enters into collective bargaining agreements with its employees which provide for the establishment of one or more advisory factfinding panels, chaired by a neutral expert in industrial relations, for purposes of recommending changes in operating practices and procedures which result in greater productivity to the maximum extent practicable.

"(ii) The National Mediation Board shall appoint public members to any panel established under this subparagraph, and shall perform such functions contained in the agreement as are consistent with the duties of such Board under the Railway Labor Act.

"(iii) The factfinding panel may, before making its report to the parties, provide mediation, conciliation, and other assistance to the parties.

"(C) Any savings resulting from any of the following shall not be included as benefits for purposes of this paragraph:

"(i) The implementation of any crew consist agreement or fireman manning agreement in effect on the effective date of this section.

"(ii) The provision of benefits under section 701 or the termination of employees under section 702 of this Act.

"(iii) The separation of employees under any other provision of law or agreement.

"(iv) Any collective bargaining agreement signed or any procedures agreed to prior to January 1, 1981.

"(v) The assignment of work under section 706 or any single collective bargaining agreement entered into under section 708 of this Act.

"(D)(i) Notwithstanding any other provision of this section, if an agreement is not reached under this paragraph by the initial purchase date, the Association shall still purchase additional shares of stock of the Corporation if the Association determines that there is a substantial likelihood that an agreement providing the benefits required by this paragraph will be reached by the end of the six-month period beginning on such initial purchase date.

"(ii) The benefits received by the Corporation during the period beginning on the initial purchase date and ending on the effective date of any agreement subsequently reached which result from the lack of retroactivity of wage increases shall be included as benefits to the Corporation for purposes of this paragraph.

"(6) SUBSIDIARIES.—(A) The Corporation, by January 1, 1982, provides the Association with a list of all subsidiaries of the Corporation (other than the Conrail Equity Corporation and any commuter subsidiary), identifying those subsidiaries which did not operate at a profit during the preceding 12-month period.

"(B) The Association shall, within 12 months after the effective date of this section, order the Corporation to sell any subsidiary identified as not profitable under subparagraph (A) unless the Association determines that the benefits to the Corporation of maintaining ownership of such subsidiary outweigh the financial loss to the Corporation resulting from such ownership.

"(d) MODIFICATION OF CONDITIONS.—(1) The Association may increase the conditions required under subsection (c) of this section, on a proportionate basis to the maximum extent practicable, if it determines that the Corporation needs additional benefits in order to become profitable. The Association may also require the Corporation to demonstrate productivity increases if it determines that such increases are necessary to enable the Corporation to become profitable.

(2) Any modified conditions adopted by the Association under this subsection shall become the conditions which must be met in order for the Association to purchase additional stock of the Corporation under this section.

"(e) DETERMINATIONS AND AMENDED REQUESTS.—(1) If the Association determines that the conditions of subsection (c) have not been met as of any purchase date, it shall notify the Corporation no later than 15 days after such purchase date of the specific conditions that have not been met.

"(2) The Corporation may request the Association to reconsider its determination under this subsection if the Corporation is able to present new evidence that the conditions have been met or is able to present an amended request for a purchase pursuant to this section. If the Association determines, on the basis of such new evidence or such amended request, that the conditions have been met, the Association shall purchase the additional stock (or accounts receivable if applicable) of the Corporation.

"(f) WORKER PARTICIPATION AND SELF-MANAGEMENT DEMONSTRATION PROGRAMS.—(1) The Corporation shall, within 180 days after the effective date of this section, enter into agreements with representatives of the various classes and crafts of employees for the establishment, on a demonstration basis, of worker participation and self-management programs at one or more facilities or locations, for purposes of fostering employee job satisfaction, job flexibility, and quality assurance.

"(2) Agreements under this subsection may provide for separate or combined programs for major groups of crafts or classes such as train and engine service, shopcraft, clerical, and maintenance of way.

"(3) If the agreements under this subsection so provide, collective bargaining agreements then in force at the facility or location involved (other than any dues check-off provision of such an agreement), shall be suspended for the duration of the demonstration program and employees covered by the program shall be represented in accordance with the worker participation agreement, notwithstanding any provision of the Railway Labor Act.

"(4) Agreements under this subsection may include provisions relating to (A) the resolution of disputes under section 3 of the Railway Labor Act, (B) the election of agreement personnel to serve in supervisory jobs, (C) the election of agreement personnel to negotiate performance goals and, (D)

such other matters as may be agreed upon by the Corporation and its agreement employees.

"(5) Nothing in this subsection shall be construed to interfere with the application of rates of pay provided for in the agreements required by subsection (c)(5)(A) of this section or with the implementation of the negotiation and factfinding procedures required by subsection (c)(5)(B).

"(g) STATES AND LOCALITIES.—Until such time as the United States sells its interest in the Corporation under section 401 or 403 of this Act, the Corporation shall be exempt from liability for any State or local tax for the period of three years from the effective date of this section.

"(H) PROJECTIONS.—At the time of a request by the Corporation for the purchase of additional stock, the Corporation shall present to the Association (1) its projections of expenditures for the next six-month period for services of individuals or firms not on the payroll of the Corporation, and (2) its expenditures for the preceding six-month period for the services of such individuals or firms.

"(i) WORK STOPPAGES.—In the event of any work stoppage by employees of the Corporation which directly results from the conditions required under subsection (c) of this section and substantially impairs the operation of the Corporation's rail system, the Association shall make no further purchases of stock of the Corporation.

"(j) DEBENTURES.—The Association shall return debentures to the Corporation in an amount equal to the value of the properties conveyed by the Corporation to its commuter subsidiary.

"(k) RIGHTS RETAINED.—The Corporation shall retain the right to collect and shall collect any accounts receivable attributable to delays in reimbursement from commuter agencies that are purchased by the Association under this section.

"(l) DEFINITION.—As used in this section, the term 'profitable carrier' means a carrier that generates sufficient revenues to meet its expenses, including reasonable maintenance of necessary equipment and facilities without funding from the Federal Government.

"(m) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated to the Association for purposes of purchasing securities and accounts receivable of the Corporation under this section not to exceed $150,000,000 for the fiscal year ending September 30, 1982, and not to exceed $225,000,000 for the fiscal year ending September 30, 1983. In addition, any amounts appropriated under section 216(g) of this Act are authorized to be available for the purchase of securities and accounts receivable under this section. All sums received on account of the holding or disposition of any such securities shall be deposited in the general fund of the Treasury.".

"(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 216 the following new item:

"SEC. 217. Additional purchases of Series A preferred stock.".

ORGANIZATION AND STRUCTURE OF CONRAIL

SEC. 6432. (a) Section 301(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(d)) is amended—

(1) by striking out "(other than resignations pursuant to this subsection)" in the second sentence; and

(2) by striking out the third, fourth, and fifth sentences.

(b) Section 301(e)(1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(e)) is amended by striking out "In order to carry out the final system plan, the" and inserting in lieu thereof "The".

(c) Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by striking out subsection (j) and inserting in lieu thereof the following new subsection:

"(j) SIGNAL SYSTEMS.—If, within two years after the effective date of this subsection, the Corporation applies for the permission of the Secretary to substitute manual block signal systems for automatic block signal systems on lines on which less than 20,000,000 gross tons of freight are carried annually, the Secretary shall approve or disapprove such application within 90 days of its submission.".

PART III—TRANSFER OF FREIGHT SERVICE RESPONSIBILITIES TRANSFER OF FREIGHT SERVICE

SEC. 6441. (a) The Regional Rail Reorganization Act of 1973 is amended by inserting immediately after title III the following new title:

"TITLE IV—TRANSFER OF FREIGHT SERVICE

"INTEREST OF UNITED STATES

"SEC. 401. (a) SALE OF COMMON STOCK.—During the period beginning on July 1, 1982, and ending December 31, 1983, the Association notifies the Secretary that it has made a determination under section 217(b)(4) of this Act that the Corporation will be a profitable carrier, the Secretary shall sell in block or by general offering, the interest of the United States in the common stock of the Corporation. In making such sale the Secretary shall attempt to—

"(1) ensure continued rail service;

"(2) promote competitive bidding for such common stock; and

"(3) maximize the return to the United States on its investment.

"(b) CANCELLATION.—In making any sale under subsection (a), the Secretary may cancel some shares of the common stock of the Corporation and sell only the remaining shares.

"(c) REPLACEMENT OF BOARD OF DIRECTORS.—When all common stock of the Corporation held by the United States (or any agent or instrumentality thereof) is sold under subsection (a) or cancelled under subsection (b), the Corporation shall elect a new Board of Directors. Only holders of shares of common stock may vote in such election, and each such share shall entitle its holder to one vote.

"(d) RAILROAD PURCHASERS.—Any railroad which purchases common stock of the Corporation shall vote such stock in the same proportion as all other common stock of the Corporation is voted unless the Commission determines that such railroad has purchased a controlling interest in the Corporation.

"(e) In making any sale under subsection (a), the Secretary shall first offer, to any employees whose wages are reduced pursuant to any agreement entered into under section 217(c)(5) of this Act, stock in amounts equal to the extent of such wage reduction.

"DEBT AND PREFERRED STOCK

"SEC. 402. (a) LIMITATION.—Prior to any sale of the common stock of the Corporation under section 401, the interest of the United States in any debt or preferred stock of the Corporation held by the United States (or any agent or instrumentality thereof, including the Association) shall be limited to any interest which attaches to such debt or preferred stock in the event of bankruptcy, or substantial sale, or liquidation of the assets of the Corporation. The Secretary shall substitute for the evidence of such debt or preferred stock held by the United States (or any such agent or instrumentality) contingency notes conforming to the limited terms set forth in this subsection.

"(b) SUBSEQUENT ISSUE.—If the interest of the United States is limited under subsection (a) the Corporation may issue new debt or preferred stock subsequent to the issuance of the debt or preferred stock described in subsection (a) which shall have higher priority in the event of bankruptcy, liquidation, or abandonment of the assets of the Corporation than the debt or preferred stock described in subsection (a).

"TRANSFER PLAN

"SEC. 403. (a) DEVELOPMENT.—The Secretary shall develop a plan for the sale of the rail properties of the Corporation. Such plan shall—

"(1) ensure that at least 75 percent of the rail service operated by the Corporation as of December 31, 1983, shall be maintained;

"(2) promote competitive bidding for such rail properties; and

"(3) maximize the return to the United States on its investment.

"(b) CONFERENCES.—The Secretary may, in developing a transfer plan under this section, hold conferences with officers and directors of affected rail carriers, representatives of employees of the Corporation and other affected rail carriers, the Commission, suppliers, appropriate State and local officials, shippers and consumer representatives, potential purchasers or operators other than rail carriers, representatives of the Federal Trade Commission, the Attorney General of the United States, or any combination thereof. Persons attending or represented at any such conference shall not be liable under the antitrust laws of the United States with respect to any discussion at such conference or with respect to any agreement reached at such conference.

"(C) APPROVAL OF TRANSFER COMMITTEE.—If there is no sale under section 401(a) of this Act, any plan developed by the Secretary under subsection (a) of this section shall be submitted to the Transfer Committee for approval.

"(2) The Transfer Commitee shall be composed of five persons as follows:

"(A) The Secretary of Transportation.

"(B) The Secretary of the Treasury.

"(C) The Chairman of the Commission.

"(D) The Director of the Office of Management and Budget.

"(E) The Chairman of the Board of Directors of the Corporation.

"(d) CONGRESSIONAL REVIEW.—Within 180 days after December 31, 1983, the Secretary shall submit any plan developed under subsection (a) and approved by the Transfer Committee under subsection (c) to the Congress for review in accordance with this section. Any such transfer proposal shall be deemed approved at the end of the first period of 90 calendar days of continuous session of the Congress after the date of such submittal unless one or both of the Houses of the Congress adopts a concurrent resolution during such period stating that they do not approve such transfer proposal. For purposes of this section—

"(1) continuity of session of the Congress is broken only by an adjournment sine die; and

"(2) the days on which either House is not in session because of adjournment of more than 3 days to a day certain are excluded in the computation of the 90 day period.

"(e) TRANSFER.—If any transfer plan developed by the Secretary is approved by the Transfer Committee and the Congress under this section, the Corporation shall enter into agreements for the transfer the rail properties involved in accordance with the terms of such transfer plan.

"(f) TERMINATION.—When all agreements entered into under subsection (e) have been implemented the Corporation shall be relieved of any obligation to provide rail service, either as a common carrier or under any contract. The Corporation shall retain the power to dispose of any rail properties not transferred under subsection (e).

"(g) ASSIGNMENT.—(1) If an interest in rail properties is conveyed pursuant to this section, and if such conveyance is in accordance with the requirements of paragraph (2) of this subsection, the conveyance of such properties shall be deemed an assignment. Any such assignment shall relieve Conrail of liability for any breach which occurs after the date of such conveyance, except that Conrail shall remain liable for any breach, even to default, or violation of covenant which occurred (and any charges or obligations which accrued) prior to the date of such conveyance, regardless of whether the assignee thereof assumes such liabilities, charges, or obligations. If any such liabilities, charges, or obligations (accrued prior to the date of such conveyance) are paid by or on behalf of any person or entity other than Conrail, such person or entity shall have a claim to direct reimbursement from Conrail, together with interest on the amount so paid.

"(2)(A) A conveyance referred to in paragraph (1) of this subsection may be affected only if—

"(i) the assignee to whom such conveyance is made assumes all of the obligations under any applicable conditional sale agreement, equipment trust agreement, or lease with respect to such rail properties (including any obligations which accrued prior to the date on which such rail properties are conveyed),

"(ii) such conveyance is made subject to such obligations, and

"(iii) such conveyance has been approved by any party who is a co-obligor with Conrail on any debt instrument imposing a lien or encumbrance on, or otherwise affecting the title or interest in, the rail properties to be conveyed.

As used in this subparagraph, the term 'rail properties' means assets or rights owned, leased, or otherwise controlled by Conrail, other than real property, which are used or useful in rail transportation service.

"(B) Subject to the provisions of this paragraph, the provisions of this Act shall not affect the title and interests of any lessor, equipment trust trustee, or conditional sale vendor under any conditional sale agreement, equipment trust agreement, or lease under section 1168 of the Bankruptcy Act (11 U.S.C. 1168). An assignee to whom such a conveyance is made shall assume all liability under such conditional sale agreement, equipment trust agreement, or lease. Such an assignment or conveyance to, and such an assumption of liability by, such an assignee shall not be deemed a breach, an event of default, or a violation of any covenant of any such conditional sale agreement, equipment trust agreement, or lease so assigned or conveyed, notwithstanding any provisions of any such agreement or lease.

"PROHIBITION ON CERTAIN TRANSFERS

"SEC. 404. Notwithstanding any other provision of this Act, rail properties of the Corporation may not be transferred under this Act to any railroad in reorganization under this Act which transferred property to the Corporation or is the successor in interest to such a railroad in reorganization.".

SUBCHAPTER C—PROTECTION FOR CONRAIL EMPLOYEES

PROTECTION OF CONRAIL EMPLOYEES

SEC. 6451. (a) The Regional Rail Reorganization Act of 1973 is amended by adding at the end thereof the following new title:

"TITLE VII—PROTECTION OF EMPLOYEES

"EMPLOYEE PROTECTION AGREEMENT

"SEC. 701. (a) GENERAL.—(1) The Secretary of Labor and the representatives of the various classes and crafts of employees of the Corporation shall, not later than 90 days after the effective date of this title, enter into an agreement providing protection for (A) employees of the Corporation who were protected by the provisions of title V of this Act prior to such effective date, (B) employees of the Corporation adversely affected by an abandonment under section 309 of this Act, and (C) employees of the Corporation adversely affected by the transfer of rail properties under section 305(f) of this Act.

"(2) If the parties are unable to reach agreement within 90 days, the Secretary of Labor shall, within 30 days, prescribe the benefit schedule.

"(b) USE OF FUNDS.—The agreement entered into under this section may provide for the use of funds made available under section 712 of this Act for the following purposes:

"(1) Allowances to employees deprived of employment.

"(2) Moving expenses for employees who must move to another place of employment.

"(3) Retraining expenses for employees who are seeking employment in new areas.

"(4) Termination allowances for employees.

"(5) Such other purposes as may be agreed upon by the Secretary of Labor and representatives of the various classes and crafts of employees.

"(c) APPLICABILITY.—Any employee of the Corporation who is eligible for benefits under this section and who is transferred to the commuter subsidiary of the Corporation or to the Amtrak Commuter Services Corporation pursuant to title IV of this Act shall remain eligible for such benefits.

"(d) LIMITATION.—The agreement of the parties under this section may not require the expenditure of funds in excess of the amount authorized to be appropriated under section 713 of this Act.

"TERMINATION ALLOWANCE

"SEC. 702. (a) GENERAL.—The Corporation may terminate the employment of certain employees, in accordance with this section, upon the payment of an allowance of $500 for each month of active service with the Corporation or with a railroad in reorganization but in no event may any such termination allowance exceed $25,000.

"(b) EMPLOYMENT NEEDS.—Within 90 days after the effective date of this title, the Corporation shall determine, for each location, the number of employees that the Corporation needs to separate under subsection (a) of this section.

"(c) NOTIFICATION AND SEPARATION PROCEDURE.—(1) Within 90 days after the effective date of this title, the Corporation shall notify its employees of their rights and responsibilities under this section.

"(2) Within 90 days after the effective date of this title, the Corporation shall notify each train and engine service employee eligible to be separated under paragraph (3) that such employee may be entitled to receive a separation payment under this section if such employee files a written request to be separated. Such notice may be revised from time to time.

"(3) If the number of employees who request to be separated pursuant to paragraph (2) of this subsection is greater, in engine service at any location, than the number of excess firemen at the location, and in train service at the location than the number of excess second and third brakemen, as determined by the Corporation, the Corporation shall separate the employees described in paragraph (2) of this subsection in order of seniority beginning with the most senior employee, until the excess firemen and second and third brakemen positions at that location, as determined by the Corporation, have been eliminated.

"(d) DESIGNATED SEPARATIONS.—If the number of employees who are separated pursuant to subsection (c)(3) is less at any location than the number of excess firemen and second and third brakemen in freight service at such location, as determined by the Corporation, the Corporation may, within 210 days after the effective date of this title, designate for separation employees in engine service or train service respectively in inverse order of seniority, beginning with the most junior employee in active service at such location until the excess firemen, and second and third brakemen in freight serivce, at that location have been eliminated. An employee designated under this paragraph may choose (1) to furlough himself voluntarily, in which case the junior employee protected under the fireman manning or crew consist agreements or any other agreement or law, in the same craft or class at such location may be separated instead and receive the separation allowance, or (2) to exercise his seniority to another location, in which case the Corporation may separate, under the provisions of this paragraph, the junior protected employee in active service at the location to which seniority ultimately is exercised.

"(e) EFFECT ON POSITIONS.—(1) The Corporation shall refrain from filling one fireman (helper) position for each employee in engine service separated in accordance with this section.

"(2) The Corporation shall have the right to refrain from filling one brakeman position in excess of one conductor and one brakeman on one crew in freight service for each employee in train service who is separated in accordance with this section.

"(3) Positions permitted to be not filled under this subsection shall be not filled in different types of freight service actually operated at or from the location in a sequence to be agreed upon between the Corporation and the general chairman representative of classes or crafts of employees having jurisdiction over the positions to be not filled. If no such agreement is reached, the Corporation may designate the position to be not filled.

"(4) Notwithstanding paragraphs (1) and (2) of this subsection, the Corporation shall

retain all rights it has under any provision of law or agreement to refrain from filling any position of employment.

"(f) PROCEDURES.—The Corporation and representatives of the various classes and crafts of employees to be separated may agree on procedures to implement this section, but the absence of such agreement shall not interfere with implementation of the separations authorized by this section.

"(g) PASSENGER EMPLOYEES.—The provisions of this section shall apply to the separation of fireman in commuter service, except that with respect to such employees the Corporation is required to make the separations authorized by this section.

"PREFERENTIAL HIRING

"SEC. 703. (a) GENERAL.—Any employee who is deprived of employment shall have the first right of hire by any other rail carrier for a vacancy in a class or craft (or in the case of a non-agreement employee, for a non-agreement vacancy for which he is qualified) in which such employee was employed by the Corporation or a predecessor carrier for not less than one year, except where such a vacancy is covered by (1) an affirmative action plan, or a hiring plan designed to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this section, a rail carrier shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.

"(b) STATUS.—The rights afforded to employees under this section shall be coequal to the rights afforded under section 8 of the Milwaukee Railroad Restructing Act (45 U.S.C. 907) and section 105 of the Rock Island Transition and Employee Assistance Act (45 U.S.C. 1004).

"CENTRAL REGISTER OF RAILROAD EMPLOYMENT

"SEC. 704. (a) REGISTER.—(1) The Railroad Retirement Board (hereinafter in this section referred to as the 'Board') shall prepare and maintain a register of persons separated from railroad employment after at least one year of completed service with a rail carrier who have declared their current availability for employment in the railroad industry. The register shall be subdivided by class and craft of prior employment and shall be updated periodically to reflect current availability.

"(2) Each entry in the register shall include, or provide access to, basic information concerning the individual's experience and qualifications.

"(3) The Board shall place at the top of the register those former railroad employees entitled to priority under applicable provisions of law, including this Act.

"(b) CORPORATION EMPLOYEES.—As soon as is practicable after the effective date of this title, the Corporation shall provide to the Board the names of its former employees who elect to appear on the register and who have not been offered employment with acquiring railroads.

"(c) VACANCY NOTICES.—Each rail carrier shall timely file with the Board a notice of vacancy with respect to any position for which the railroad intends to accept applications from persons other than current employees of that carrier.

"(d) PLACEMENT.—The Board shall, through distribution of copies of the central register (or portions thereof) to rail carriers and representatives of classes or crafts of employees and through publication of employment information derived from vacancy notices filed with the Board, promote the placement of former railroad employees possessing requisite skills and experience in appropriate positions with other rail carriers.

"(e) EMPLOYMENT APPLICATIONS.—In addition to its responsibilities under subsections (a) through (d) of this section, the Board shall facilitate the filing of employment applications with respect to current vacancies in the industry by former railroad employees entitled to priority under applicable provisions of law, including this Act.

"(f) EXPIRATION.—The provisions of this section shall cease to be effective on the expiration of the 3-year period beginning on the effective date of this title.

"(g) INJUNCTIVE RELIEF.—Any employee eligible for listing on the central register under this section or eligible for preferential hiring under section 703 may bring an action for injunctive relief in his own name in the United States district court for the district in which he resides or for the district in which the defendant may be found, against the Board or any rail carrier for violation of this section or section 703 of this Act.

"ELECTION AND TREATMENT OF BENEFITS

"SEC. 705. (a) ELECTION.—(1) Any employee who accepts any benefits under an agreement entered into under section 701 of this Act or a termination allowance under section 702 of this Act, shall, except as provided in paragraph (2) of this subsection, be deemed to waive any employee protection benefits otherwise available under any other provision of law or any contract or agreement in effect on the effective date of this title, and shall be deemed to waive any cause of action for any alleged loss of benefits resulting from the provisions of or the amendments made by the Rail Service Improvement Act of 1981.

"(2) Nothing in paragraph (1) of this subsection shall affect the right of any employee described in such paragraph to benefits under the Railroad Retirement Act of 1974 or the Railroad Unemployment Insurance Act.

"(b) TREATMENT OF BENEFITS.—Any benefits received by an employee under an agreement entered into pursuant to section 701 of this Act and any termination allowance received under section 702 of this Act shall be considered compensation solely for purposes of—

"(1) the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.); and

"(2) determining the compensation received by such employee in any base year under the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.).

"ASSIGNMENT OF WORK

"SEC. 706. (a) GENERAL.—The Corporation shall have the right to assign, allocate, reassign, reallocate, and consolidate work formerly performed on the rail properties acquired pursuant to the provisions of this Act from a railroad in reorganization to any location, facility, or position on its system if it does not remove such work from coverage of a collective-bargaining agreement and does not infringe upon the existing classification of work rights of any craft or class of employees at the location or facility to which such work is assigned, allocated, reassigned, reallocated, or consolidated.

"(b) EXPIRATION.—The authority granted by this section shall apply only for as long as benefits are provided under this title with funds made available under section 713 of this Act.

"CONTRACTING OUT

"SEC. 707. All work in connection with the operation or services provided by the Corporation on the rail lines, properties, equipment, or facilities acquired pursuant to the provisions of this Act and the maintenance, repair, rehabilitation, or modernization of such lines, properties, equipment, or facilities which has been performed by practice or agreement in accordance with provisions of the existing contracts in effect with the representatives of the employees of the classes or crafts involved shall continue to be performed by the Corporation's employees, including employees on furlough. Should the corporation lack a sufficient number of employees, including employees on furlough, and be unable to hire additional employees, to perform the work required, it shall be permitted to subcontract that part of such work which cannot be performed by its employees, including those on furlough, except where agreement by the representatives of the employees of the classes or crafts involved is required by applicable collective-bargaining agreements. The term 'unable to hire additional employees' as used in this section contemplates establishment and maintenance by the Corporation of an apprenticeship, training, or recruitment program to provide an adequate number of skilled employees to perform the work.

"NEW COLLECTIVE-BARGAINING AGREEMENTS

"SEC. 708. (a) AGREEMENT.—Not later than 60 days after the effective date of any conveyance pursuant to the provisions of this Act, the representatives of the various classes of crafts of the employees of a railroad in reorganization involved in a conveyance and representatives of the Corporation shall commence negotiation of a new single collective-bargaining agreement for each class and craft of employees covering the rate of pay, rules, and working conditions of employees who are the employees of the Corporation. Such collective-bargaining agreement shall include appropriate provisions concerning rates of pay, rules, and working conditions, but shall not, for as long as benefits are provided under this title with funds made available under section 713 of this Act, include any provisions for job stabilization resulting from any transaction effected pursuant to this Act which may exceed or conflict with those established herein. Negotiations with respect to such single collective-bargaining agreement, and any successor thereto, shall be conducted systemwide.

"(b) PROCEDURE.—(1) Any procedure for finally determining the components of the first single collective bargaining agreement for any class or craft, agreed upon before the effective date of this title, shall be completed no later than 45 days after such effective date. Such agreed upon procedure shall be deemed to satisfy the requirements of sections 7 and 8 of the Railway Labor Act. The National Mediation Board shall appoint any person as provided for by such agreements.

"(2) Nothing in this section shall be construed to require the parties to enter into a new single collective-bargaining agreement if the agreement between the parties in effect immediately prior to the effective date of this title, complied with section 504(d) of this Act, as in effect immediately prior to such date.

"EMPLOYEE AND PERSONAL INJURY CLAIMS

"SEC. 710. (a) LIABILITY FOR EMPLOYEE CLAIMS.—In all cases of claims by employ-

ees, arising under the collective-bargaining agreements of the railroads in reorganization in the region, and subject to section 3 of the Railway-Labor Act (45 U.S.C. 153), the Corporation, the National Railroad Passenger Corporation, or an acquiring carrier, as the case may be, shall assume responsibility for the processing of any such claims, and payment of those which are sustained or settled on or subsequent to the date of conveyance, under section 303(b)(1) of this Act, and shall be entitled to direct reimbursement from the Association pursuant to section 211(h) of this Act, to the extent that such claims are determined by the Association to be the obligation of a railroad in reorganization in the region. Any liability of an estate of a railroad in reorganization to its employees which is assumed, processed, and paid, pursuant to this subsection, by the Corporation, the National Railroad Passenger Corporation, or an acquiring carrier shall remain the preconveyance obligation of the estate of such railroad for purposes of section 211(h)(1) of this Act. The Corporation, the National Railroad Passenger Corporation, an acquiring carrier, or the Association, as the case may be, shall be entitled to a direct claim as a current expense of administration, in accordance with the provisions of section 211(b) of this Act (other than paragraph (4)(A) thereof), for reimbursement (including costs and expenses of processing such claims) from the estate of the railroad in reoganization on whose behalf such obligations are discharged or paid. In those cases in which claims for employees were sustained or settled prior to such date of conveyance, it shall be the obligation of the employees to seek satisfaction against the estate of the railroads in reorganization which were their former employers.

"(b) ASSUMPTION OF PERSONAL INJURY CLAIMS.—All cases or claims by employees or their personal representatives for personal injuries or death against a railroad in reorganization in the region arising prior to the date of conveyance of rail properties, pursuant to section 303 of this Act, shall be assumed by the Corporation or an acquiring railroad, as the case may be. The Corporation or the acquiring railroad shall process and pay any such claims that are sustained or settled, and shall be entitled to direct reimbursement from the Association pursuant to section 211(h) of this Act, to the extent that such claims are determined by the Association or its successor authority to be the obligation of such railroad. Any liability of an estate of a railroad in reorganization which is assumed, processed, and paid, pursuant to this subsection, by the Corporation or an acquiring railroad shall remain the preconveyance obligation of the estate of such railroad for purposes of section 211(h)(1) of this Act. The Corporation, an acquiring railroad, or the Association, as the case may be, shall be entitled to a direct claim as a current expense of administration, in accordance with the provisions of section 211(h) of this Act (other than paragraph (4)(A) thereof), for reimbursement (including costs and expenses of processing such claims) from the estate of the railroad in reorganization on whose behalf such obligations were discharged or paid.

"LIMITATIONS ON LIABILITY

"SEC. 711. (a) FEDERAL GOVERNMENT.—The liability of the United States under an agreement entered into under section 701 of this Act or for payment of a termination allowance under section 702 of this Act shall be limited to amounts appropriated under section 713 of this Act.

"(b) THE CORPORATION.—The Corporation shall incur no liability under an agreement entered into under section 701 of this Act or for the payment of a termination allowance under section 702 of this Act.

"PREEMPTION

"SEC. 712. No State may adopt or continue in force any law, rule, regulation, order, or standard requiring the Corporation, its commuter subsidiary, the National Railroad Passenger Corporation, or the Amtrak Commuter Services Corporation to employ any specified number of persons to perform any particular task, function, or operation, or requiring the Corporation to pay protective benefits to employees.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 713. There are authorized to be appropriated to carry out the provisions of this title not to exceed $165,000,000 for the fiscal year ending September 30, 1982, and not to exceed $150,000,000 for the fiscal year ending September 30, 1983. Of the amounts authorized to be appropriated for fiscal year 1982, not more than $115,000,000 shall be available solely for termination allowances under section 702 of this Act. Any amounts not expended for termination allowances under section 702 shall be available for purposes of section 701 of this Act. Any funds appropriated under section 509(b)(1) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 8299(b)(1)) for use under section 216(b)(3) of the Regional Rail Reorganization Act of 1973 shall be available for the purposes of this title. Amounts appropriated under this section are authorized to remain available until expended.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by adding at the end thereof the following new items:

"TITLE VII—PROTECTION OF EMPLOYEES

"Sec. 701. Employee protection agreement.
"Sec. 702. Termination allowance.
"Sec. 703. Preferential hiring.
"Sec. 704. Central register of railroad employment.
"Sec. 705. Election and treatment of benefits.
"Sec. 706. Assignment of work.
"Sec. 707. Contracting out.
"Sec. 708. New collective bargaining agreements.
"Sec. 710. Employee and personal injury claims.
"Sec. 711. Limitations on liability.
"Sec. 712. Preemption.
"Sec. 713. Authorization of appropriations.".

REPEALS

SEC. 6452. (a)(1) Title V of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 771 et seq.) and the items in the table of contents of such Act relating to such title V, are repealed.

(2) Notwithstanding the repeal made by paragraph (1) of this subsection—

(A) benefits accrued as of October 1, 1981, as a result of events that occurred wholly prior to October 1, 1981, shall be disbursed;

(B) any dispute or controversy regarding such benefits shall be determined under the terms of the law in effect on September 30, 1981; and

(C) the authorization contained in section 509 of the Regional Rail Reorganization Act of 1973

shall remain available for such purposes.

(b) Section 11 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 910) and section 107 of the Rock Island Transition and Employee Assistance Act (45 U.S.C. 1006) (relating to maintenance of certain employee lists) are repealed.

Subchapter D—Terms of Labor Assumption

PART I—PASSENGER EMPLOYEES

TRANSFER OF PASSENGER SERVICE EMPLOYEES

SEC. 6461. Title V of the Rail Passenger Service Act, as added by this chapter, is amended by adding at the end thereof the following new sections.

"SEC. 506. TRANSFER OF EMPLOYEES.

"(a) Within 420 days after the effective date of this title, the Consolidated Rail Corporation (hereinafter referred to as 'Conrail'), its commuter subsidiary, Amtrak Commuter, and the representatives of the various crafts of classes of employees of Conrail's commuter subsidiary shall commence implementing agreement negotiations. Such negotiations shall—

"(1) determine the number of employees to be transferred to Amtrak Commuter, based on the existing contracts between the Corporation and the commuter authorities and the applicable bargaining agreements;

"(2) identify the specific employees of the Corporation and its commuter subsidiary to whom Amtrak Commuter offers employment;

"(3) determine the procedure by which such employees may elect to accept employment with Amtrak Commuter;

"(4) determine the procedure for acceptance of such employees into Amtrak Commuter's employment;

"(5) determine the procedure for determining the seniority of such employees in their respective crafts or classes in Amtrak Commuter's system, which shall, to the extent possible, preserve their prior passenger seniority rights;

"(6) ensure that all such employees are transferred to Amtrak Commuter no later than 540 days after the effective date of this title; and

"(7) determine the extent to which employees of Conrail's Commuter subsidiary transferred to Amtrak Commuter shall retain freight seniority rights with Conrail. Such determination shall ensure the maximum separation of the freight and passenger work forces and shall (A) provide employees transferred to Amtrak Commuter who are subsequently deprived of employment at least one opportunity to exercise previous freight senority rights, (B) maximize employment opportunities for employees on furlough, (C) maintain the ability to recall experienced employees, and (D) ensure that under no circumstances are seniority rights exercised in any manner which results in a position being filled which would otherwise not be filled under the terms of any crew consist, fireman manning, or other similar agreement.

"(b)(1) If no agreement with respect to the matters being negotiated pursuant to subsection (a) is reached within 30 days after the date such negotiations are commenced, the parties to the negotiations shall, within an additional 10 days, select a neutral referee. If the parties are unable to agree upon the selection of such a referee, the National Mediation Board shall promptly appoint a referee.

"(2) The referee shall commence hearings on the matters being negotiated pursuant to subsection (a) not later than 10 days after the date he is selected or appointed, and shall render a decision within 30 days after the date of commencement of such hear-

ings. All parties may participate in the hearings, but the referee shall have the only vote.

"(3) The referee shall resolve and decide all matters in dispute with respect to the negotiation of the implementing agreement of agreements. The referee's decision shall be final and binding to the same extent as an award of an adjustment board under section 3 of the Railway Labor Act, and shall constitute the implementing agreement or agreements between the parties. The salary and expenses of the referee shall be paid pursuant to the provision of the Railway Labor Act.

"(c) EMPLOYEE PROTECTION.—Any employee of the Corporation or its commuter subsidiary who is not offered employment with Amtrak Commuter under this section shall be provided employee protection under section 701 of the Regional Rail Reorganization Act of 1973 to the same extent as if such employee had remained in the employ of the Corporation.

"SEC. 507. COLLECTIVE BARGAINING AGREEMENT FOR AMTRAK COMMUTER.

"(a) Prior to the date Amtrak Commuter commences operation of commuter service previously operated by Conrail or its commuter subsidiary, Amtrak Commuter and the representatives of the various classes or crafts of employees to be transferred to Amtrak Commuter pursuant to section 507 of this Act shall enter into new collective bargaining agreements with respect to rates of pay, rules, and working conditions.

"(b)(1) Amtrak Commuter and the representatives of the various classes and crafts of employees to be transferred to Amtrak Commuter shall, within 270 days after the effective date of this title, establish a fact-finding panel, chaired by a neutral expert in industrial relations, for purposes of recommending changes in operating practices and procedures which result in greater productivity to the maximum extent practicable.

"(2) The National Mediation Board shall appoint public members to the panel established under paragraph (1) of this subsection, and shall perform such functions contained in the agreement as are consistent with the duties of such Board under the Railway Labor Act.

"(3) The fact-finding panel shall, within 90 days after the date it is established, submit a report to the parties setting forth its recommendations for changes in operating practices and procedures.

"(4) The fact-finding panel may provide mediation, conciliation, and other assistance to the parties.".

PART II—FREIGHT EMPLOYEES

LABOR TRANSFER

SEC. 6471. (a) Title IV of the Regional Rail Reorganization Act of 1973, as added by this chapter, is amended by adding at the end thereof the following new sections:

"LABOR TRANSFER AGREEMENTS

SEC. 405. (a) Implementing Agreement.—Within 30 days after the date any transfer agreement is entered into under this title, the rail carrier or other entity purchasing rail properties and the representatives of the various crafts or classes of employees of the Corporation to be transferred to such rail carrier or other entity shall commence implementing agreement negotiations. Such negotiations shall—

"(1) determine the number of employees to be transferred to such rail carrier or other entity;

"(2) identify the specific employees of the Corporation to whom such rail carrier or other entity offer employment;

"(3) determine the procedure by which such employees may elect to accept employment with such rail carrier or other entity;

"(4) determine the procedure for acceptance of such employees into employment with such rail carrier or other entity;

"(5) determine the procedure for determining the seniority of such employees in their respective crafts or classes in the system of such rail carrier or other entity, which shall, to the extent possible, preserve their prior freight seniority rights; and

"(6) ensure that all such employees are transferred to such rail carrier or other entity no later than 120 days after the date the transfer agreement is entered into under this title.

"(b) DECISION OF REFEREE.—(1) If no agreement with respect to the matters being negotiated pursuant to subsection (a) is reached within 30 days after the date such negotiations are commenced, the parties to the negotiations shall, within an additional 10 days, select a neutral referee. If the parties are unable to agree upon the selection of such a referee, the National Mediation Board shall promptly appoint a referee.

"(2) The referee shall commence hearing within 10 days, and shall on the matters being negotiated pursuant to subsection (a) after the date he is selected or appointed, and shall render a decision within 30 days after the date of commencement of such hearings, but the referee shall have the only vote.

"(3) The referee shall resolve and decide all matters in dispute with respect to the negotiation of the implementing agreement or agreements. The referee's decision shall be final and binding to the same extent as an award of an adjustment board under section 3 of the Railway Labor Act, and shall constitute the implementing agreement or agreements between the parties. The salary and expenses of the referee shall be paid pursuant to the provision of the Railway Labor Act.

"LABOR CONDITIONS

"SEC. 406. The Commission shall determine the labor conditions to apply to employees affected by any transfer under this title as if such transfer were made under the Interstate Commerce Act.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by striking out the items relating to title IV and inserting in lieu thereof the following new items:

"TITLE IV—TRANSFER OF FREIGHT SERVICE

"Sec. 401. Interest of United States.
"Sec. 402. Debt and preferred stock.
"Sec. 403. Transfer plan.
"Sec. 404. Prohibition on certain transfers.
"Sec. 405. Labor transfer agreements.
"Sec. 406. Labor conditions.".

Subchapter E—United States Railway Association

ORGANIZATION OF USRA

SEC. 6481. (a) Section 201 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721) is amended by striking out subsections (d) through (i), by redesignating subsections (j) and (k) as subsections (g) and (h), respectively, and by inserting after subsection (c) the following new subsections:

"(d) BOARD OF DIRECTORS.—(1) The Board of Directors of the Association shall consist of 3 individuals, as follows:

"(A) The Chairman, who shall be selected by the previous Chairman and the other members of the Board.

"(B) The Secretary of Transportation.

"(C) The Comptroller General of the United States.

"(2) No member of the Board of Directors may have any employment or other direct financial relationship with any railroad. The Chairman may receive $300 per diem when engaged in the actual performance of his duties plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties.

"(e) TERM OF OFFICE.—The term of office of the Chairman of the Board of Directors of the Association shall be 6 years.

"(f) QUORUM.—Three members of the Board of Directors shall constitute a quorum for the transaction of any function of the Association.".

(b) The amendment made by this subsection shall not affect the term of the individual serving as Chairman of the United States Railway Association on the effective date of this chapter.

FUNCTIONS OF USRA

SEC. 6482. (a) Section 202 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 722) is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following new subsections:

"SEC. 202. (a) AUTHORITY.—The Association is authorized to—

"(1) monitor the financial performance of the Corporation;

"(2) determine whether the conditions and requirements of this Act are met;

"(3) purchase or otherwise acquire or receive, and hold and dispose of securities (whether debt or equity) of the Corporation under sections 216 and 217 of this Act and exercise all of the rights, privileges, and powers of a holder of any such securities;

"(4) purchase accounts receivable of the Corporation in accordance with section 217 of this Act; and

"(5) appoint and fix the compensation of such personnel as the Association considers necessary and appropriate.

"(b) STOCK PURCHASE REPORTS.—The Association shall, within 30 days after each purchase date set forth in section 217(b) of this Act, submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report setting forth the amount of additional funds made available to the Corporation, the progress of the Corporation in meeting the requirements and goals of this Act, and the funds remaining available for the purchase of stock of the Corporation.".

(b) Section 202 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 722) is amended by adding at the end thereof the following new subsection:

"(k) TERMINATION.—No later than 30 days after the Association makes its last purchase of series A preferred stock of the Corporation under section 217 of this Act, the Association shall cease to exist, and all assets and liabilities of the Association shall be transferred to the Director of the Office of Management and Budget.".

(c) The section heading of section 202 of the Regional Rail Reorganization Act of 1973 is amended by striking out "general powers and duties" and inserting in lieu thereof "functions".

(d) The item relating to section 202 in the table of contents of the Regional Rail Reorganization Act of 1973 is amended to read as follows:

"SEC. 202. Functions of the Association.".

ACCESS TO INFORMATION

SEC. 6483. Section 203 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 723) is amended to read as follows:

"ACCESS TO INFORMATION

"SEC. 203. The Corporation shall make available to the Association such information as the Association determines necessary for the Association to carry out its functions under this Act. The Association shall request from other parties which are affected by this Act information which will enable the Association to determine if the conditions of this Act are met.".

TRANSFER OF LITIGATION

SEC. 6484. (a) The responsibility for representing the United States in any civil action brought by the estate of a railroad in reorganization against the United States under the Regional Rail Reorganization Act of 1973 shall be transferred from the United States Railway Association to the Attorney General of the United States no later than November 1, 1981.

(b) The Attorney General may establish an independent office within the Department of Justice with responsibility for the civil actions described in subsection (a) of this section. The retention of private legal counsel to conduct any such civil action shall not create a conflict of interest for the Department of Justice or such legal counsel with respect to other cases being handled by such legal counsel.

USRA AUTHORIZATION

SEC. 6485. Section 214(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724(c)) is amended to read as follows:

"(c) ASSOCIATION.—There are authorized to be appropriated to the Association for purposes of carrying out its administrative expenses under this Act not to exceed $1,000,000 for the fiscal year ending September 30, 1982, not to exceed $1,100,000 for the fiscal year ending September 30, 1983, and not to exceed $1,200,000 for the fiscal year ending September 30, 1984. Sums appropriated under this subsection are authorized to remain available until expended.".

Subchapter F—Miscellaneous Provisions

JUDICIAL REVIEW

SEC. 6491. (a) Notwithstanding any other provision of law, the special court shall have original and exclusive jurisdiction over any civil action—

(1) for injunctive, declaratory, or other relief relating to the enforcement, operation, execution, or interpretation of any provision of or amendment made by this chapter, or administrative action taken thereunder to the extent such action is subject to judicial review;

(2) challenging the constitutionality of any provision of or amendment made by this chapter;

(3) to obtain, inspect, copy, or review any document in the possession or control of the Secretary, Conrail, or Amtrak that would be discoverable in litigation under any provision of or amendment made by this chapter; or

(4) seeking judgment upon any claim against the United States founded upon the Constitution and resulting from the operation of any provision of or amendment made by this chapter.

(b) A judgment of the Special Court in any action referred to in this section shall be reviewable only upon petition for a writ of certiorari to the Supreme Court of the United States, except that any order or judgment enjoining the enforcement, or declaring or determining the unconstitutionality of invalidity, of any provision of this chapter shall be reviewable by direct appeal to the Supreme Court of the United States. Such review is exclusive and any petition or appeal shall be filed not more than 20 days after entry of such order or judgment.

(c) Administrative action under the provisions of or amendments made by this chapter which is subject to review shall be upheld unless such action is found to be unlawful under standards established for review of informal agency action under paragraphs (2) (A), (B), (C), and (D) of section 706, title 5, United States Code. The requirements of this chapter shall constitute the exclusive procedures required by law for such administrative action.

(d) If the volume of civil actions under subsection (a) of this section so requires, the United States Railway Association shall apply to the judicial panel on multidistrict litigation authorized by section 1407 of title 28, United States Code, for the assignment of additional judges to the special court. Within 30 days after the date of such application, the panel shall assign to the special court such additional judges as may be necessary to exercise the jurisdiction described in subsection (a) of this section.

TRANSFER TAXES AND FEES, RECORDATION

SEC. 6492. (a)(1) All transfers or conveyances of any interest in rail property (whether real, personal, or mixed) which are made under any provision of or amendment made by this chapter shall be exempt from any taxes, imposts, or levies now or hereby imposed, by the United States or by any State or any political subdivision of a State, on or in connection with such transfers or conveyance or on the recording of deeds, bills of sale, liens, encumbrances, easements, or other instruments evidencing, effectuating, or incident to any such transfers or conveyances, whether imposed on the transferor or on the transferee. Such transferors and transferees shall be entitled to record any such deeds, bills of sale, liens, encumberances, easements, or other instruments and, to record the release or removal of any pre-existing liens or encumbrances of record with respect to properties so transferred or conveyed, upon payment of any appropriate and generally applicable charges to compensate for the cost of the service performed.

(2) This section shall not apply to Federal income tax laws.

(b) Transfer of designated real property (including any interest in real property) authorized by the amendments made by subchapter B of this chapter shall have the same effect for purposes of rights and priorities with respect to such property as recordation on the transfer date of appropriate deeds, or other appropriate instruments, in offices appointed under State law for such recordation, except that acquiring rail carriers and other entities shall proffer such deeds or other instruments for recordation within 36 months after the transfer date as a condition of preserving such rights and priorities beyond the expiration of that period. Conrail shall cooperate in effecting the timely preparation, execution, and proffering for recordation of such deeds and other instruments.

SHIPPER NOTIFICATION

SEC. 6493. Within 60 days after the effective date of this chapter, Conrail shall provide written notice to shippers describing the provisions of and amendments made by this chapter and the likely impact that such provisions and amendments will have.

SATISFACTION OF CLAIMS

SEC. 6494. No distribution of the assets of Conrail shall be made with respect to any claims of the United States, including the securities issued pursuant to section 216 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726), until all other valid claims, including loss, damage, and overcharge claims, against Conrail have been satisfied, or provision has been made for satisfying such claims.

ABANDONMENTS

SEC. 6495. (a) Title III of the Regional Rail Reorganization Act of 1973, as amended by this chapter, is further amended by adding at the end thereof the following new section:

"ABANDONMENTS

"SEC. 309. (a) GENERAL.—The Corporation may, in accordance with this section, file with the Commission an application for a certificate of abandonment for any line which is part of the system of the Corporation. Any such application shall be governed by this section and shall not, except as specifically provided in this section, be subject to the provisions of chapter 109 of title 49, United States Code.

"(b) APPLICATIONS FOR ABANDONMENT.—Any application for abandonment that is filed by the Corporation under this section before November 1, 1981, shall be granted by the Commission within 30 days after the date such application is filed unless, within such 30-day period, an offer of financial assistance is made in accordance with subsection (d) of this section with respect to the line to be abandoned.

"(c) NOTICE OF INSUFFICIENT REVENUES.—(1) The Corporation may, prior to November 1, 1981, file with the Commission a notice of insufficient revenues for any line which is part of the system of the Corporation.

"(2) Any application for abandonment that is filed by the Corporation under this section before October 1, 1983, for a line for which a notice of insufficient revenues was filed under paragraph (1) shall be granted by the Commission within 30 days after the date such application is filed unless, within such 30-day period, an offer of financial assistance is made in accordance with subsection (d) of this section with respect to such line.

"(d) OFFERS OF FINANCIAL ASSISTANCE.—(1) The provisions of section 10905(d)-(f) of title 49, United States Code (including the timing requirements of subsection (d)), shall apply to any offer of financial assistance under subsection (b) or (c) of this section.

"(2) The Corporation shall provide any person that intends to make an offer of financial assistance under subsection (b) or (c) of this section with such information as the Commission may require.

"(e) EMPLOYEE PROTECTION.—The provisions of section 10903(b)(2) of title 49, United States Code, shall not apply to any abandonment granted under this section. Any employee adversely affected by such an abandonment shall be eligible for employee protection under section 701 of this Act.".

(b) The table of contents of Regional Rail Reorganization Act of 1973, as amended by this chapter, is further amended by inserting immediately after the item relating to section 308 the following new item:

"Sec. 309. Abandonments.".

INSURANCE COVERAGE

SEC. 6496. (a) Section 303(b)(6) of the Regional Rail Reorganization Act of 1973 (45

U.S.C. 743(b)(6)) is amended by adding at the end thereof the following new subparagraphs:

"(c) The Corporation shall be entitled to a loan pursuant to section 211(h) of this Act in an amount required for the cost of the insurance coverage and benefits described in subparagraph (B) of this paragraph. Any successor corporation to a railroad in reorganization (i) which was authorized and directed, by an order of its reorganization court issued prior to the effective date of this subparagraph, to continue life and medical programs for nonagreement employees who retired prior to April 1, 1976, or (ii) which had, prior to the effective date of this subparagraph, entered into an agreement with the Corporation to acknowledge, if necessary, that the obligations then described in section 211(h)(1)(A)(viii) of this Act constituted obligations of such railroad if such acknowledgment would have been necessary under this Act to have permitted the Corporation to have obtained section 211(h) loan funds with which to pay such obligations, shall be deemed to have conclusively acknowledged that the costs of such continued programs or coverage or benefits constitute valid pre-conveyance administration obligations of such railroad in reorganization. The Corporation shall be entitled to a direct claim as a current expense of administration, in accordance with the provisions of section 211(h) of this Act, for reimbursement (including costs and expenses of processing such claims) from the estate of the railroad in reorganization (or successor corporation) on whose behalf such medical or life insurance was maintained or such benefits were paid. In the case of a railroad in reorganization which is not subject to a bankruptcy proceeding, such amounts shall be deemed to be obligations of such railroad, due and payable as of April 1, 1976, and shall be reimbursable in accordance with the procedures set forth in paragraphs (4), (5), and (6) of such section 211(h).

"(D) As used in subparagraphs (B) and (C) of this paragraph—

"(i) 'railroad in reorganization' includes (I) any railroad which is controlled by a railroad in reorganization but is not itself subject to a bankruptcy proceeding, if such railroad conveyed substantially all of its rail properties to the Corporation pursuant to paragraph (1) of this subsection and conducted operations over such rail properties prior to the date of such conveyance; and (II) any corporation which, pursuant to a plan of reorganization under section 77 of the Bankruptcy Act, is the successor in interest to a railroad in reorganization; and

"(ii) 'employee' does not include a member of a board of directors, a president, vice president, general counsel, treasurer, secretary, comptroller, or any other person who performed functions corresponding to those performed by such officers immediately prior to his retirement.

"(E) Any action or claim for benefits or premium payments related to any medical or life insurance coverage described in subparagraph (B) of this paragraph which is not required to be paid by the corporation under the provisions of such subparagraph shall not be brought or maintained against the Corporation, the National Railroad Passenger Corporation, the Association, or the United States.".

(b) Section 211(h)(1)(A)(viii) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(h)(1)(A)(viii)) is amended by inserting "through (D)" immediately after "section 303(b)(6)(B)".

(C) Section 2 and section 3 of the Act of November 4, 1978 (Public Law 95-597; 92 Stat. 2548), are hereby repealed.

(d) The amendments made by this section shall be effective as of the date of enactment of Public Law 95-597.

AMENDMENT OF THE RAILWAY LABOR ACT

SEC. 6497. The Railway Labor Act is amended by inserting immediately after section 9 the following new section:

"SPECIAL PROCEDURE FOR COMMUTER SERVICE

"SEC. 9A. (a) The provisions of this section shall apply to any dispute between a publicly funded and publicly operated carrier providing rail commuter service (including the Consolidated Rail Corporation's commuter subsidiary established under section 308 of the Regional Rail Reorganization Act of 1973 and the Amtrak Commuter Services Corporation) and its employees.

"(b) If a dispute between the parties described in subsection (a) is not adjusted under the foregoing provisions of this Act and the President does not, under section 10 of this Act create an emergency board to investigate and report on such dispute, then any party to the dispute or the Governor of any State through which the service that is the subject of the dispute is operated may request the President to establish such an emergency board.

"(c)(1) Upon the request of a party or a Governor under subsection (b), the President shall create an emergency board to investigate and report on the dispute in accordance with section 10 of this Act. For purposes of this subsection, the period during which no change, except by agreement, shall be made by the parties in the conditions out of which the dispute arose shall be 120 days.

"(2) If the President, in his discretion, creates a board to investigate and report on a dispute between the parties described in subsection (a), the provisions of this section shall apply to the same extent as if such board had been created pursuant to paragraph (1) of this subsection.

"(d) Within 60 days after the creation of the board under this section, the National Mediation Board shall conduct a public hearing on the dispute at which each party shall appear and provide testimony setting forth the reasons it has not accepted the recommendations of the emergency board for settlement of the dispute.

"(e) If no settlement in the dispute is reached at the end of the 120-day period beginning on the date of the creation of the emergency board, any party to the dispute or the Governor of any State through which the service that is the subject of the dispute is operated may request the President to establish another emergency board.

"(f) Within 30 days after creation of the board under subsection (e), the parties to the dispute shall submit to the board final offers for settlement of the dispute.

"(g) Within 30 days after the submission of final offers, the board shall submit a report to the President setting forth its selection of the most reasonable offer.

"(h) For 60 days after the board makes its report under subsection (g), no change, except by agreement, shall be made by the parties in the conditions out of which the dispute arose.

"(i) If the board selects the final offer submitted by the carrier and, after the expiration of the 60-day period described in subsection (h), the employees of such carrier engage in any work stoppage arising out of the dispute, such employees shall not be eligible during the period of such work stoppage for benefits under the Railroad Unemployment Insurance Act.

"(j) If the board selects the final offer submitted by the employees and, after the expiration of the 60-day period described in subsection (h), the carrier refuses to accept the final offer submitted by the employees and the employees of such carrier engage in any work stoppage arising out of the dispute, the carrier shall not participate in any benefits of any agreement between carriers which is designed to provide benefits to such carriers during a work stoppage.".

NORTHEAST CORRIDOR COST DISPUTE

SEC. 6498. (a)(1) Within 120 days after the effective date of this chapter, the Commission shall determine an appropriate costing methodology for compensation to Amtrak for the right-of-way related costs for the operation of commuter rail passenger service over the Northeast Corridor and other properties owned by Amtrak, unless Conrail, Amtrak, and affected commuter authorities have otherwise agreed on such a methodology by that date. In making its determination, the Commission shall consider all relevant factors, including the standards of sections 205(d) and 304(c) of the Regional Rail Reorganization Act of 1973, section 701(a)(6) of the Railroad Revitalization and Regulatory Reform Act of 1976, and section 402(a) of the Rail Passenger Service Act.

(2) Within 120 days after the effective date of this chapter, the Commission shall determine a fair and equitable costing methodology for compensation to Amtrak by Conrail for the right-of-way related costs for the operation of rail freight service over the Northeast Corridor, unless Conrail and Amtrak have otherwise agreed on such a methodology by that date. In making its determination, the Commission shall take into consideration the industry-wide average compensation for freight trackage rights and any additional costs associated with high-speed service provided over the Northeast Corridor.

(b) Any determination by the Commission under this section shall be effective on the date of such determination, and any agreement of the parties under this section shall be effective on the date specified in such agreement. Any such determination or agreement shall not apply to any compensation paid to Amtrak prior to the date of such determination or the date so specified, as the case may be, for the right-of-way related costs described in subsection (a) of this section.

(c) Nothing in this section shall preclude parties from entering into an agreement, after the determination of the Commission or their initial agreement under this section, with respect to the right-of-way related costs described in subsection (a) of this section.

(d) Any determination by the Commission under this section shall be final and shall not be reviewable in any court.

UNITED STATES RAILWAY ASSOCIATION FUNDS

SEC. 6499. (a) Section 216(b) of the Regional Rail Reorganization Act of 1973 is amended—

(1) by striking out paragraph (3); and

(2) by redesignating paragraph (4) as paragraph (3).

(b) Section 509(b) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 8299(b)) is amended—

(1) by striking out paragraph (1);

(2) in paragraph (2) by striking out "(excluding funds transferred under paragraph (1) of this subsection)"; and

(3) by redesignating paragraphs (2) and (3) as paragraph (1) and (2), respectively.

CONSTRUCTION AND EFFECT OF CERTAIN PROVISIONS

SEC. 6500. (a) Any cost reductions resulting from the provisions of or the amendments made by this chapter shall not be used to limit the maximum level of any rate charged by Conrail for the provision of rail services, to limit the amount of any increase in any such rate (including rates maintained jointly by Conrail and other rail carriers), or to limit a surcharge or cancellation otherwise lawful under chapter 107 of title 49, United States Code.

(b) Notwithstanding any provision of any contract, lease, or other agreement, and transfer, assignment, or other disposition of such lease, contract, or other agreement by Conrail pursuant to the provisions of or the amendments made by this chapter shall not be deemed a breach, and event of default, or a violation of any covenant.

LOAN GUARANTEES

SEC. 6501. Section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831) is amended by adding at the end thereof the following new subsection:

"(o) COMMUTER SERVICE.—(1) The Secretary shall, under the authority of this section, guarantee obligations of the commuter subsidiary of the Corporation and obligations of the Amtrak Commuter Services Corporation for the purposes described in paragraph (2) of this subsection.

"(2) the proceeds of obligations guaranteed under this subsection shall be used by the Corporation's commuter subsidiary and Amtrak Commuter to operate commuter services prior to initial reimbursement by the commuter authorities and to cover any subsequent cash flow problems arising from delays in reimbursement from such authorities.

"(3) The aggregate unpaid principal amount of obligations guaranteed by the Secretary under this subsection shall not exceed $50,000,000.

"(4) Subsection (g) of this section and section 516 of this Act shall not apply to any obligation guaranteed under this section.".

EXPEDITED TRANSACTIONS

SEC. 6502. Section 305 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 745) is amended by adding after subsection (f) the following new subsection:

"(g)(1) Within 20 days after the effective date of the Rail Service Improvement Act of 1981, the Secretary shall initiate discussions and negotiations for the expedited transfer of all properties and freight service obligations of the Corporation with respect to the following lines: Canaan, Connecticut, to Pittsfield, Massachusetts; North Adams Junction, Massachusetts, to North Adams, Massachusetts; Hazardville, Connecticut, to Springfield, Massachusetts; and Westfield, Massachusetts, to Easthampton, Massachusetts.

"(2) Within 90 days after the effective date of the Rail Service Improvement Act of 1981, the Secretary shall transfer the Corporation's properties and freight service obligations described in paragraph (1) of this subsection to another railroad or railroads in the Region which are determined by the Secretary to be financially self-sustaining.

"(3) The Secretary shall determine a fair and equitable price for the rail properties to be transferred under this subsection, and shall, unless the parties otherwise agree, establish divisions of joint rates for through routes over such properties which are fair and equitable to the parties.

"(4) The Secretary shall determine fair and equitable terms for the provision of such trackage rights, on segments of the Corporation's lines not to exceed 5 miles per line transferred, to acquiring carriers as may be necessary to operate such transferred lines in an efficient manner."

EFFECTIVE DATE

SEC. 6503. The provisions of and the amendments made by this chapter shall take effect on October 1, 1981.

Chapter 2—AMTRAK

SHORT TITLE

SEC. 6511. This chapter may be cited as the "Amtrak Improvement Act of 1981".

FINDINGS

SEC. 6512. Section 101 of the Rail Passenger Service Act (45 U.S.C. 501) is amended by adding at the end thereof the following new subsection:

"(c) The Congress further finds that—

"(1) modern, efficient commuter rail passenger service is essential to the viability and well-being of major urban areas;

"(2) efficient and economical provision of commuter service is essential to national goals of energy conservation and energy self-sufficiency;

"(3) Amtrak, as a passenger service entity, should be available to operate commuter service through its subsidiary Amtrak Commuter under contract with commuter agencies which do not choose to operate such service themselves as a part of the governmental functions of the State;

"(4) the Northeast Corridor is a valuable national resource used by intercity passenger, commuter passenger, and freight services; and

"(5) greater coordination between intercity and commuter passenger services are required.".

ADDITIONAL GOALS FOR AMTRAK

SEC. 6513. Section 102 of the Rail Passenger Service Act (45 U.S.C. 501) is amended—

(1) by striking out paragraph (1) and redesignating paragraphs (2) through (6) as paragraphs (7) through (11), respectively;

(2) by inserting immediately before paragraph (7), as so redesignated, the following new paragraphs:

"(1) Improvement of the number of passenger miles generated systemwide per dollar of Federal investment by at least 30 percent within the two-year period beginning on the effective date of the Amtrak Improvement Act of 1981.

"(2) Reduction of the cost of service on long-distance routes which are less fuel efficient and have lower ridership than short-distance routes connecting major urbans areas.

"(3) Elimination of the deficit associated with food and beverages services by September 30, 1982.

"(4) Implementation of strategies to achieve immediately maximum productivity and efficiency consistent with safe and efficient service.

"(5) Operation of Amtrak trains, to the maximum extent feasible, to all station stops within 5 minutes of the time established in public timetables for such operation.

"(6) Development of service on rail corridors, subsidized by States or private parties, or both.";

(3) in paragraph (7), as redesignated, by striking out "55" and inserting in lieu thereof "60";

(4) in paragraph (8), as redesignated, by striking out "44" and inserting in lieu thereof "50" and by striking out "50" and inserting in lieu thereof "55"; and

(5) by adding at the end thereof the following new paragraphs:

"(12) Operation of commuter service, through the Amtrak Commuter Services Corporation, on an equal priority with intercity service.

"(13) Implementation of policies ensuring equitable access to the Northeast Corridor by both intercity and commuter services.

"(14) Coordination among the various users of the Northeast Corridor, particularly intercity and commuter passenger services.".

DEFINITIONS

SEC. 6514. Section 103 of the Rail Passenger Service Act (45 U.S.C. 502) is amended—

(1) by redesignating paragraphs (2) through (6) as paragraphs (3) through (7), respectively, and by redesignating paragraphs (7) through (14) as paragraphs (10) through (17), respectively;

(2) by inserting immediately after paragraph (1) the following new paragraph:

"(2) 'Amtrak Commuter' means the Amtrak Commuter Services Corporation created under title V of this Act.".

(3) by inserting immediately after paragraph (7), as redesignated, the following new paragraphs:

"(8) 'Commuter authority' means a State, local, or regional authority, corporation, or other entity established for the purpose of providing commuter service.

"(9) 'Commuter service' means short-haul rail passenger service operated in metropolitan and suburban areas, usually characterized by reduced fare, multiple-ride, and commutation tickets and by morning and evening peak period operations."; and

(4) in paragraph (11), as redesignated, by striking out "commuter and other" and all that follows through "operations" and inserting in lieu thereof "commuter service".

CHANGES IN BOARD OF DIRECTORS

SEC. 6515. (a) Section 303(a) of the Rail Passenger Service Act (45 U.S.C. 543(a)) is amended—

(1) by striking out paragraphs (1) through (4) and inserting in lieu thereof the following new paragraphs:

"(a)(1) The Corporation shall have a board of directors consisting of eleven individuals who are citizens of the United States, as follows:

"(A) The Secretary of Transportation, ex officio, and the President of the Corporation, ex officio.

"(B) Seven members appointed by the President, by and with the advice and consent of the Senate, on the following basis:

"(i) One to be selected from a list of three qualified individuals recommended by the American Federation of Labor and Congress of Industrial Organizations or its successor who are representatives of railroad labor.

"(ii) One to be selected from a list of three qualified individuals recommended by the National Governors Association.

"(iii) One to be selected from a list of three individuals qualified by virtue of their advocacy of rail passenger service who are recommended by the business community and who are recognized business leaders.

"(iv) One to be selected from a list of three qualified individuals recommended by the National Association of Railroad Pas-

sengers or its successor who are representatives of users of intercity rail passenger service.

"(v) One to be selected from a list of three qualified individuals recommended by organizations representing users of commuter services operated by the Corporation.

"(vi) One to be selected from a list of three qualified individuals recommended by organizations representing the elderly who are recognized leaders of the elderly community.

"(vii) One to be selected from a list of three qualified individuals recommended by the Association of American Railroads or its successor who are recognized leaders of the railroad industry and who are familiar with railroad operations and committed to rail passenger service.

"(C) Two members selected by commuter authorities, on the following basis:

"(i) During the 540-day period beginning on the effective date of the Amtrak Improvement Act of 1981, the two members under this subparagraph shall be selected by the commuter authorities for which the Consolidated Rail Corporation (or its commuter subsidiary) operates commuter service under the Regional Rail Reorganization Act of 1973.

"(ii) Beginning 540 days after the effective date of the Amtrak Improvement Act of 1981, the two members under this subparagraph shall be selected by the commuter authorities for which Amtrak Commuter operates commuter service under title V of this Act, except that—

"(I) if Amtrak Commuter operates commuter service for only one commuter authority, one member shall be selected by that authority and one member shall be selected by other commuter authorities operating service over rail properties owned by Amtrak; and

"(II) if Amtrak Commuter does not operate commuter service for any commuter authority, two members shall be selected by commuter authorities operating service over rail properties owned by Amtrak.

"(2)(A) Members appointed by the President under paragraph (1)(B) shall serve for terms of four years or until their successors have been appointed and qualified, except that any member appointed by the President under such subparagraph to fill a vacancy shall be appointed only for the unexpired term of the member he is appointed to succeed. Not more than four of the members appointed under such subparagraph shall be from the same political party.

"(B) Members selected under paragraph (1)(C) shall serve for terms of two years or until their successors have been appointed and qualified, except that members selected under paragraph (1)(C)(i) shall serve for the 540-day period described in that subparagraph.

"(3) Except as provided in paragraph (2)(A) of this subsection, any vacancy in the membership of the board shall be filled in the same manner as in the case of the original selection.

"(4) The President of the Corporation shall serve as chairman of the board of directors.";

(2) in paragraph (8), by striking out "Pending the election of the four members by the preferred stockholders of the Corporation under paragraph (1)(D) of this subsection, seven" and inserting in lieu thereof "Six"; and

(3) by adding at the end thereof the following new paragraph:

"(10) No one other than the members of the board specified in paragraph (1) of this subsection is authorized to vote at meetings of the board and to exercise the authority and responsibility which is otherwise conveyed on members of the board.".

(b) The term of office of any member of the Amtrak board of directors serving on such board immediately before the date of enactment of this Act pursuant to section 303(a)(1)(B), (C), or (D) of the Rail Passenger Services Act shall be deemed to have expired on such date of enactment, except that—

(1) such members shall continue to serve for a period not to exceed 90 days during which time the President shall appoint members of the board in accordance with section 303(a)(1) of such Act, as amended by this section; and

(2) if any position on such board remains vacant after the expiration of such 90-day period, the President of Amtrak may designate any such member to continue to serve in such position until the President fills such position by appointment in accordance with such section 303(a)(1).

CHARGE FOR CUSTOMS AND IMMIGRATION SERVICE

SEC. 6516. Section 305(i) of the Rail Passenger Service Act (45 U.S.C. 545) is amended by adding at the end thereof the following new sentence: "The Corporation shall not be obligated to pay any amount to any agency of the Federal Government for the cost of customs inspection or immigration procedures in connection with the provision of services by the Corporation.".

FOOD AND BEVERAGE SERVICE

SEC. 6517. (a) Section 305 of the Rail Passenger Service Act (45 U.S.C. 545) is amended by adding at the end thereof the following new subsection:

"(n) The Corporation shall implement policies which will eliminate the deficit in its on-board food and beverage operations no later then September 30, 1982. Beginning October 1, 1982, food and beverage services shall be provided on-board Amtrak trains during any fiscal quarter only if, during the preceding fiscal quarter, the revenues from such service were equal to or greater than the total costs of such services.".

(b) Section 405(e) of the Rail Passenger Service Act (45 U.S.C. 565(e)) is amended—

(1) by striking out "The Corporation" and inserting in lieu thereof "(1) Except as provided in paragraph (2) of this subsection, the Corporation"; and

(2) by adding at the end thereof the following new paragraph:

"(2) The provisions of this subsection shall not apply to food and beverage services provided on-board Amtrak trains.".

STATE AND LOCAL TAX EXEMPTION

SEC. 6518. Section 306 of the Rail Passenger Service Act (45 U.S.C. 546) is amended by adding at the end thereof the following new subsection:

"(n) The Corporation shall be exempt from the payment of all taxes or other fees imposed by any State, political subdivision of a State, or special taxing authority (including but not limited to property taxes, income and franchise taxes, sales taxes, gross revenue taxes, fuel taxes, licenses, and other fees) to the same extent as the United States is exempt from the payment of such taxes or other fees.".

ELIMINATION OF UNNECESSARY REPORTS

SEC. 6519. (a) Section 308(a)(1) of the Rail Passenger Service Act (45 U.S.C. 548(a)(1)) is amended by striking out subparagraph (C).

"(b) Section 308(c) of the Rail Passenger Service Act (45 U.S.C. 548(c)) is amended—

"(1) by striking out "and the Commission"; and

"(2) by striking out "reports (or, in their discretion, a joint report)" and inserting in lieu thereof "a report".

SECTION 403(b) SERVICE

SEC. 6520. (a) Section 403(b)(1) of the Rail Passenger Service Act (45 U.S.C. 653(b)(1)) is amended—

"(1) by striking out subparagraph (B) and redesignating subparagraph (C) as subparagraph (B);

"(2) by amending subparagraph (B)(iii), as redesignated, to read as follows:

"(iii) a statement by such State or agency that it agrees to provide 60 percent of the short-term avoidable loss of service operated under this subsection in the first year of operation, and 80 percent of the short-term avoidable loss in each year of operation thereafter (including each year of renewal of an agreement entered into under this subsection); and "; and

(3) by adding at the end thereof the following new subparagraph:

"(C) Any application submitted by a group of States shall be considered in the same manner as an application submitted by a single State, and not on the basis of whether each State that is a party of such application meets the requirements of subparagraph (B) of this paragraph.".

"(b) Section 403(b) of the Rail Passenger Service Act (45 U.S.C. 563(b)) is further amended by striking out paragraphs (2), (3), and (4) and inserting in lieu thereof the following new paragraphs:

"(2)(A) The Corporation shall perform a preliminary evaluation of the market potential and cost of each service proposed under this subsection in order to determine the performance that can reasonably be expected from such service. A proposed rail passenger service shall not be eligible for operation under this subsection unless it is reasonably expected that such service will, when the payment by the State or agency is excluded, achieve on an annual basis 60 percent of the goal set forth in section 102(8) of this Act with respect to the ratio of revenues to operating expenses.

"(B) Notwithstanding subparagraph (A) of this paragraph, the Corporation shall operate service which is projected to fail to meet the standards set forth in such subparagraph if (i) a State or agency agrees to pay 100 percent of the annual loss (including associated capital costs) of such service, and (ii) sufficient equipment is available for such service, after meeting the reasonable equipment requirements of all other services to be provided under this Act.

"(C) If a State or agency provides 100 percent funding for service pursuant to subparagraph (B) of this paragraph and such service then meets the threshold standard of economic performance set forth in subparagraph (A) in its first full year of operation, the Corporation shall pay to the State or agency the difference between the amount such State or agency paid and the amount it would have paid, in accordance with paragraph (1)(B) of this subsection, if the service were being provided pursuant to paragraph (3).

"(3) The Corporation may enter into an agreement with a State or agency for the institution of service requested under this subsection in accordance with the funding formula set forth in paragraph (1)(B) of this subsection if—

"(A) such service is projected to meet the threshold standard of economic performance set forth in paragraph (2)(A) of this subsection; and

"(B) the Corporation determines that such service can be provided with resources available to the Corporation.

"(4) An agreement entered into pursuant to this section may by mutual agreement be renewed for one or more additional terms of not more than 2 years. An agreement shall not be renewed for a train which fails to meet the threshold standard of economic performance set forth in subparagraph (2)(A) for a full year, unless the State or agency agrees to pay 100 percent of the annual loss (including associated capital costs) of the service.".

(c) Section 403(b) of the Rail Passenger Service Act (45 U.S.C. 563(b)) is further amended—

(1) in paragraph (5), by inserting "(A)" immediately after "(5)"; and

(2) by adding at the end of paragraph (5) the following new subparagraph:

"(B)(i) A proposed fare increase described in subparagraph (A) shall take effect 90 days after the date the Corporation first consults with the affected States pursuant to such subparagraph, unless any such State notifies the Corporation, within 30 days after the date of such consultation, that it objects to such proposed fare increase. If any State makes a timely objection, the effective date of the proposed fare increase shall be postponed for an additional 30 days.

"(ii) A State making a timely objection under clause (i) may, prior to the expiration of the additional 30-day period, submit proposals to the Corporation for reducing costs and increasing revenues other than through the proposed fare increase. At the end of such additional 30-day period, the Corporation, after taking into consideration any proposals from a State, shall decide whether to implement the proposed fare increase in whole or in part.";

(3) in paragraph (6)(C), by striking out "paragraph (1)(C)" and all that follows through "existing route" and inserting in lieu thereof "paragraph (1)(B)";

(4) by amending paragraph (7)(C) to read as follows:

"(C) The board of directors shall, after consultation with the appropriate officials of each State that contributes to the operation of service under this subsection, establish the basis for determining the short-term avoidable loss and associated capital costs of service operated under this subsection and the total revenues from such service. In addition, the Corporation shall provide appropriate State officials with the basis for determining such loss, costs, and revenues for each route on which service is operated under this subsection."; and

(5) in paragraph (8), by striking out "Not" and inserting in lieu thereof "At least one but not".

(d) The amendments made by subsection (a) of this section shall apply to any agreement entered into under section 403(b) of the Rail Passenger Service Act after the date of enactment of this Act and to any renewal after such date of enactment of an agreement entered into under such section 403(b) prior to such date.

APPLICATION OF CRITERIA

SEC. 6521. (a) Section 404(c)(3) of the Rail Passenger Service Act (45 U.S.C. 564(c)(3)) is amended—

(1) by inserting "(A)" immediately after "(3)"; and

(2) by adding at the end thereof the following new subparagraph:

"(B) Whenever the Corporation determines that an amendment to the Route and Service Criteria is necessary or appropriate, it shall submit a draft of such amendment to the Congress. Such amendment shall take effect at the end of the first period of 120 calendar days of continuous session of the Congress after the date of its submission, unless either the Senate or the House of Representatives adopts a resolution during such period stating that it does not approve such amendment.".

(b) Section 404(c)(4) of the Rail Passenger Service Act (45 U.S.C. 564(c)(4)) is amended—

(1) by amending subparagraph (A) to read as follows:

"(4)(A) The Corporation shall conduct an annual review of each route in the basic system to determine if such route meets the criteria set forth in paragraph (1) or paragraph (2) of subsection (d), whichever is applicable to such route, as adjusted to reflect constant 1979 dollars. If the Corporation determines, on the basis of such review, that such route fails to meet the criteria set forth in the applicable paragraph, the Corporation shall discontinue the operation of rail passenger service over such route.";

(2) in subparagraph (B), by striking out "long-distance"; and

(3) by adding at the end thereof the following new subparagraphs:

"(C)(i) No later than 30 days after the beginning of each fiscal year, the Corporation shall evaluate the financial requirements for operating the basic system and service under section 403 of this Act during such fiscal year. If the Corporation determines that the funds to be available for such fiscal year are insufficient to meet the projected operating costs, the Corporation shall, in accordance with this subparagraph, take such action as may be necessary to reduce such costs.

"(ii) Any action taken by the Corporation to reduce costs pursuant to this subparagraph shall be designed to continue the maximum level of service practicable, and shall include—

"(I) changes in frequency of service;

"(II) increases in fares;

"(III) elimination of sleeper car service on certain routes;

"(IV) elimination of dining car service on certain routes;

"(V) increases in the passenger capacity of cars used on certain routes; and

"(VI) restructuring of routes.

"(iii) If the Corporation determines that the actions described in clause (ii) of this subparagraph will not result in the necessary cost reductions, it shall reduce or discontinue service on remaining routes, in descending order beginning with that route on which the short-term avoidable loss is closest to the short-term avoidable loss maximum under paragraph (1)(A) or paragraph (2)(A) of subsection (d), whichever is applicable, after taking into consideration the number of passengers served by trains on such route.

"(D)(i) Notice of any discontinuance of service pursuant to this paragraph shall be posted at least 14 days before such discontinuance in all stations served by the train to be discontinued.

"(ii) Notice of any discontinuance of service pursuant to this paragraph shall be given in such a manner as the Corporation determines will afford an opportunity for any State or group of States, or any regional or local agency or other person, to agree to share the cost of such route, train, or service, or some portion of such route, train, or service. Such notice shall be given at least 90 days prior to such discontinuance.".

(c) Section 404(c)(5) of the Rail Passenger Service Act (45 U.S.C. 564(c)(5)) is amended by striking out "and" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following new subparagraphs:

"(C) discontinuance of service under paragraph (4)(A) of this subsection; and

"(D) reductions in frequency of service or discontinuance of service necessary to comply with paragraph (4)(C) of this subsection.".

(d) Section 404(e) of the Rail Passenger Service Act (45 U.S.C. 564(e)) is repealed.

(e) Section 404 of the Rail Passenger Service Act (45 U.S.C. 564) is amended by adding at the end thereof the following new subsection:

"(h) Any change in the basic system made by the Corporation shall be subject to review as provided in this section, and shall not be reviewable in any court.".

(f) Section 403(d) of the Rail Passenger Service Act (45 U.S.C. 563(d)) is amended to read as follows:

"(d) Beginning October 1, 1981, the Corporation shall continue to operate high frequency intercity rail passenger service operated under this subsection prior to the effective date of the Amtrak Improvement Act of 1981 if such service meets the criteria set forth in section 404(d)(2)(B) of this Act, after taking into account projected fare increases and any State or local contributions to such service. Any service continued under this subsection shall be funded in accordance with the method of funding in effect on the effective date of the Amtrak Improvement Act of 1981.".

LIMITATION ON PAYMENTS

SEC. 6522. Section 405(c) of the Rail Passenger Service Act (45 U.S.C. 565(c)) is amended by adding at the end thereof the following new sentence: "During fiscal year 1982, the obligation of the Corporation to provide protective arrangements for its employees under this section as a result of action taken pursuant to the amendments made by the Amtrak Improvement Act of 1981 shall not exceed the amount appropriated for such purposes under section 601(b)(1)(C) of this Act.".

EXTENSION OF COMPENSATION FOR PASS RIDERS

SEC. 6523. The third sentence of section 405(f) of the Rail Passenger Service Act (45 U.S.C. 565) is amended by striking out ", during the 2-year period beginning on the effective date of the Amtrak Reorganization Act of 1979,".

AUTHORIZATION OF APPROPRIATIONS

SEC. 6524. (a) Section 601(b) of the Rail Passenger Service Act (45 U.S.C. 601(b)) is amended—

(1) by striking out paragraph (3); and

(2) by redesignating paragraph (2) as paragraph (3) and inserting after paragraph (1) the following new paragraph:

"(2) There are authorized to be appropriated to the Secretary for the benefit of the Corporation—

"(A) not to exceed $625,000,000 for the fiscal year ending September 30, 1982, of which not more than $24,000,000 shall be used for the payment of operating and capital expenses of rail passenger service pro-

vided pursuant to section 403(b) of this Act; and

"(B) not to exceed $654,000,000 for the fiscal year ending September 30, 1983; and

"(C) not to exceed $593,000,000 for the fiscal year ending September 30, 1984.";

(3) in paragraph (3), as redesignated, by striking out "(A)" and by striking out ", and (B) guidelines established by the Secretary"; and

(4) by adding at the end thereof the following new paragraph:

"(4) Of the amounts appropriated under this subsection for fiscal year 1982, the Corporation may not spend for onboard food and beverage services an amount greater than 50 percent of the amount by which the costs of such services in fiscal year 1981 exceeded the revenues from such services in such fiscal year.".

(b) Section 601(b)(1) of the Rail Passenger Service Act (45 U.S.C. 601(b)(1)) is amended—

(1) in subparagraph (B), by striking out "$254,000,000" and inserting in lieu thereof "$100,000,000", and by inserting "and" immediately after the semicolon;

(2) by striking out subparagraphs (C) and (E) and redesignating subparagraph (D) as subparagraph (C);

(3) in subparagraph (C), as redesignated, by striking out "$20,000,000" and inserting in lieu thereof "$10,000,000" and by striking out "; and" at the end thereof and inserting in lieu thereof a period.

LOAN GUARANTEES

SEC. 6525. (a) Section 602(d) of the Rail Passenger Service Act (45 U.S.C. 602(d) is amended—

(1) by striking out "$900,000,000" each place it appears and inserting in lieu thereof "$930,000,000";

(2) by striking out the last sentence.

(b) Section 602 of the Rail Passenger Service Act (45 U.S.C. 602) is amended by adding at the end thereof the following new subsection:

"(j) The Corporation may defer interest payments to the Federal Financing Bank during fiscal years 1982, 1983, and 1984, and such deferral shall not constitute a default under any note or other obligation of the Corporation. Notwithstanding the deferral of interest provided for under any this subsection, the Federal Financing Bank shall continue to make funds available to the Corporation to meet commitments under previously approved capital programs and to repay existing notes and equipment obligations.".

RAIL CORRIDOR DEVELOPMENT

SEC. 6526. Not later than January 15, 1982, the National Railroad Passenger Corporation shall transmit to the Congress a report containing its recommendations for the development of rail corridors. Such report shall contain—

(1) recommendations for reducing the costs of service in the basic system by not less than $100,000,000 on an annual basis, including recommendations for reducing, discontinuing, and restructuring routes presently operated by the Corporation;

(2) an identification of those rail corridors which the Corporation would propose to develop, taking into consideration factors such as (A) the projected cost-effectiveness, energy efficiency, and ridership of rail corridors recommended for development, (B) the need to preserve regional balance in rail passenger service, (C) the share of intercity passengers that data projects would be attracted by rail corridor service, and (D) the willingness of private sector interests or State and local governments, or both, to contribute to the development of rail corridors;

(3) a timetable for the period beginning January 1, 1982, and ending September 30, 1985, for the development of rail corridors, including schedules for (A) the negotiation of agreements with the rail carriers, private interests, and State and local governments, (B) the acquisition of equipment, (C) the improvement of fixed facilities, and (D) the implementation of service; and

(4) a financial plan for the funding of rail corridor development during the period covered by the timetable described in paragraph (3).

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 6527. (a) Section 301 of the Rail Passenger Service Act (45 U.S.C. 531) is amended by inserting "and commuter" immediately after "intercity" each place it appears.

(b) Section 305(a) of the Rail Passenger Service Act (45 U.S.C. 535(a)) is amended by inserting "and commuter" immediately after "intercity" each place it appears.

(c) Section 402(e)(1) of the Rail Passenger Service Act (45 U.S.C. 562(e)(1)) is amended by inserting "or commuter" immediately after "intercity".

(d) Section 405 of the Rail Passenger Service Act (45 U.S.C. 565) is amended by adding at the end thereof the following new subsection:

"(g) The provisions of subsections (a), (b), and (c) of this section shall not apply to Amtrak commuter.".

(e) Section 702 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 852), and the item relating to such section in the table of contents of such Act, are repealed.

EFFECTIVE DATE

SEC. 6528. The provisions of and amendments made by this chapter shall take effect on October 1, 1981.

Chapter 3—LOCAL RAIL SERVICE ASSISTANCE PROGRAM

LOCAL RAIL SERVICE

SEC. 6531. (a) Section 5(f) of the Department of Transportation Act (49 U.S.C. 1654(f)) is amended by striking out paragraph (1) and redesignating paragraphs (2), (3), (4), and (5) as paragraphs (1), (2), (3), and (4), respectively.

(b) The first sentence of section 5(g) of the Department of Transportation Act (49 U.S.C. 1654(g)) is amended by striking out "80 per centum, except that" and all that follows in that sentence and inserting in lieu thereof "70 per centum.".

(c) Section 5(h) of the Department of Transportation Act (49 U.S.C. 1654(h)) is amended—

(1) by striking out paragraph (1) and redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2) and (3), respectively;

(2) in paragraph (1), as redesignated, by striking out "October 1, 1979" and inserting in lieu thereof "October 1, 1981";

(3) in paragraph (1)(B), as redesignated, by striking out "(including" and all that follows through "under this section)" both places it appears; and

(4) by amending paragraph (2), as redesignated, to read as follows:

"(2)(A) The Interstate Commerce Commission shall, no later than July 1 of the year preceding the fiscal year funds are made available under this section, provide the Secretary with the sum of the rail mileage in each State that meets the description set forth in subparagraphs (A) and (B) of paragraph (1). The Secretary shall, no later than the first day of each fiscal year, notify each State of the funds to which such State is entitled under this subsection during such fiscal year.

"(B)(i) Entitlement funds shall remain available to a State for the first 6 months after the end of the fiscal year for which funds have been made available for use under this section.

"(ii) Any funds which have not been applied for under this section shall be made available to the Secretary for use during the remainder of the current fiscal year for rail service assistance projects meeting the requirements of this section. The Secretary shall, no later than 30 days after the end of the first six months of a fiscal year, notify each State with respect to any funds still available for rail service assistance projects under this section.

"(C) In considering applications for rail service assistance to be provided with funds described in subparagraph (B)(ii), the Secretary shall consider the following:

"(i) The percentage of lines filed with the Interstate Commerce Commission for abandonment or potential abandonment within a State.

"(ii) The likelihood of future abandonments within a State.

"(iii) The ratio of benefits to costs (which are included in the State rail plan) for a proposed project.

"(iv) The likelihood that the line will continue operating with rail freight assistance.

(v) The impact of rail bankruptcies, rail restructuring, and rail mergers on the State applying for assistance.".

(d) Section 5(i) of the Department of Transportation Act (49 U.S.C. 1654(i)) is amended to read as follows:

"(i) on the first day of the fiscal year, each State shall be entitled to $100,000 of the funds available for expenditure under subsection (q) of this section during the fiscal year to meet the cost of establishing, implementing, revising, and updating the State rail plan required by subsection (j) of this section. Each State must apply for such funds on or before the first day of the fiscal year. Any funds which have not been applied for under this subsection shall be made available to the Secretary under subsection (h)(3)(B) of this section.".

(e) Section 5(k) of the Department of Transportation Act (49 U.S.C. 1654(k)) is amended—

(1) by striking out paragraph (1) and redesignating paragraphs (2), (3), (4), and (5) as paragraphs (1), (2), (3), and (4), respectively;

(2) in paragraph (1), as redesignated, by striking out "paragraph (2)" and inserting in lieu thereof "paragraph (1)", by striking out "; or" at the end of subparagraph (B) and inserting in lieu thereof a period, and by striking out subparagraph (C); and

(3) by striking out the period at the end of paragraph (2), as redesignated, and at the end of paragraph (3)(B), as redesignated, and inserting in lieu thereof the following: "unless such a project has been receiving assistance under this subsection but did not receive all the funds to which the State was entitled at the beginning of the fiscal year ending September 30, 1981, in which case such project shall continue to be eligible until September 30, 1982.".

(f) Section 5(l) of the Department of Transportation Act (49 U.S.C. 1654(l)) is amended by adding at the end thereof the following new sentence: "Upon receipt of an application for rail freight assistance, the

Secretary shall consider the application and notify the State submitting such an application as to its approval or disapproval within 45 days. If the Secretary fails to consider and notify the State applying for rail freight assistance under subsection (k) within 45 days, then the project shall be considered approved and the State shall receive the Federal share up to the amount to which it is entitled.".

(g) Section 5(n) of the Department of Transportation Act (49 U.S.C. 1654(n)) is amended to read as follows:

"(n) As used in this section, the term 'State' means any State in which a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of title 49, United States Code, maintains any line of railroad.".

(h) Section 5(o) of the Department of Transportation Act (49 U.S.C. 1654(o)) is amended by adding at the end thereof the following new paragraph:

"(5) The State, to the maximum extent possible shall encourage the participation of shippers, railroads, and local communities in providing the State share of rail freight assistance funds.".

SEC. 6532. Section 5(p) of the Department of Transportation Act (49 U.S.C. 1654(p)) is amended—

(1) by striking out ", without fiscal year limitation" in the first sentence; and

(2) by inserting after the second sentence the following new sentence:

"Of the funds authorized to be appropriated under the first sentence of this subsection, not more than $40,000,000 is authorized to be appropriated for the fiscal year ending September 30, 1982; not more than $40,000,000 is authorized to be appropriated for the fiscal year ending September 30, 1983; and not more than $40,000,000 is authorized to be appropriated for the fiscal year ending September 30, 1984.".

Chapter 4—NORTHEAST CORRIDOR

NORTHEAST CORRIDOR

SEC. 6541. (a) Section 703(1)(A)(i) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 853(1)(A)(i)) is amended by striking out "3-hour-and-40-minute" and inserting in lieu thereof "3-hour-and-55-minute", and by striking out "2-hour-and-40-minute" and inserting in lieu thereof "2-hour-and-55-minute".

(b) Section 703(7) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 853(7)) is amended by striking out subparagraph (B) and inserting in lieu thereof the following new subparagraph:

"(B) the segment of the corridor project between Washington, District of Columbia, and New York, New York, should be completed before the segment of the corridor project between New York, New York, and Boston, Massachusetts, in order to achieve better service for the largest number of passengers in the shortest period of time.".

LIMITATIONS

SEC. 6542. Section 704(a) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 854(a)) is amended by adding at the end the following new paragraph:

"(5) Of the funds authorized to be appropriated under paragraphs (1) and (2) combined, not more than $200,000,000 are authorized to be appropriated for the fiscal year ending September 30, 1982, not more than $185,000,000 are authorized to be appropriated for the fiscal year ending September 30, 1983, and no funds are authorized to be appropriated for the fiscal year ending September 30, 1984."

Chapter 5—TOXIC SUBSTANCES CONTROL ACT

AUTHORIZATIONS

SEC. 6601. (a) The first sentence of section 28(d) of the Toxic Substances Control Act is amended to read as follows: "For the purpose of making grants under subsection (a), there are authorized to be appropriated $1,500,000 for each of the fiscal years 1982 and 1983.".

(b) Section 29 of the Toxic Substances Control Act is amended by striking out "$10,000,000" and all that follows through "1979" and inserting in lieu thereof the following: "$62,000,000 for each of the fiscal years 1982 and 1983".

Chapter 6—NOISE CONTROL ACT

PROGRAM REVISION

"SEC. 6701. The Noise Control Act of 1972 is amended as follows:

"(1) Section 1 is amended to read as follows:

"SHORT TITLE

"SEC. 1. This Act may be cited as the 'Quiet Communities Act'.".

(2) Section 2(a)(3) is amended by striking out "deal with major noise sources" and all that follows down through the period at the end thereof and substituting: "assure uniform treatment of certain carriers engaged in interstate commerce and certain transportation equipment distributed in interstate commerce which are major noise sources.".

(3) Section 2(b) is amended by striking out "for products distributed in commerce," and substituting: "for certain carriers engaged in interstate commerce and certain transportation equipment distributed in interstate commerce.".

(4) Section 3(5) is amended by striking out "or section 8".

(5) Section 5(b) is amended by inserting "are referred to in section 6(a)(1) and which" after "which".

(6)(A) Section 6(a)(1)(C) is amended by striking out clauses (i) and (iv), by redesignating clauses (ii) and (iii) as (i) and (ii) respectively, and by inserting the following before the period at the end of clause (ii), as so redesignated: "designed for use in transportation equipment".

(B) Section 6(a)(1) is amended by adding the following at the end thereof: "Such regulations shall not apply to the products to which subpart F of part 205 of title 40 of the Code of Federal Regulations (as promulgated before the date of the enactment of this sentence) applies."

(C) Except as provided in subparagraph (B), any rule or regulation under section 6 of the Noise Control Act of 1972 which was promulgated in final form before the date of the enactment of this Act and which is applicable to products referred to in section 6(a)(1) of that Act, as amended by this subsection, shall remain in force and effect after the date of the enactment of this Act until such time as the rule or regulation is amended or otherwise modified under such section 6, as amended by this Act. Nothing in this subparagraph shall be construed to validate any otherwise invalid rule or regulation under such section 6 which was promulgated in final form before the date of the enactment of this Act, and nothing in this subparagraph shall be construed to provide that any unlawful aspect of such rule or regulation shall be treated as lawful.

(7) Section 8 is repealed.

(8) Section 10 is amended by striking out paragraphs (3) and (4),

(9) Section 10(b) is amended by striking out "(3)," in paragraph (1) and by striking out "(1), (2), (3), and (4)" in paragraph (2) and substituting "(1) and (2)".

(10) Section 11(a) is amended by striking out "(3)," in each place it appears.

(11) Section 11(a)(2) is amended by inserting the following after "$10,000": "(reduced by the amount of any penalty imposed under subsection (f))".

(12) Section 11 is amended by adding the following at the end thereof:

"(f) The Attorney General of any State may bring a civil action, in the name of such State, in the appropriate district court of the United States to impose a civil penalty against any person who violates any provision of section 10. In any such action the court may impose a civil penalty of not more than $10,000 per day of such violation (reduced by the amount of any penalty imposed under subsection (a)(2)). The provisions of section 12(b) shall apply for purposes of actions brought under this subsection in the same manner as such provisions apply for purposes of section 12.".

(13) Section 12 is amended—

(A) by striking out "(e)" in subsection (a)(1) and substituting "(f)"; and

(B) by striking out "(3), (4)," in subsection (f).

(14) Section 13(a) is amended by striking out "or section 8".

(15) Section 14(b)(2) is amended by striking out "under sections 6, 7, and 8 of this Act" and substituting "under section 6 or 7 of this Act."

(16) Section 16(a) is amended by striking out "or any labeling regulation under section 8 of this Act".

AUTHORIZATIONS

SEC. 6702. Section 19 of the Noise Control Act of 1972 is amended by striking out "$15,000,000 for the fiscal year ending September 30, 1979" and substituting "$7,300,000 for each of the fiscal years 1982, 1983, and 1984".

Chapter 7—TOURISM

SHORT TITLE

SEC. 6801. This chapter may be cited as the "National Tourism Policy Act"

NATIONAL TOURISM POLICY

SEC. 6802. (a) The International Travel Act of 1961 (hereinafter in this chapter referred to as the "Act") is amended by striking out the first section and inserting in lieu thereof the following: "That this Act may be cited as the 'Tourism Promotion Act of 1981'.

"TITLE I—NATIONAL TOURISM POLICY

"SEC. 101. (a) The Congress finds that—

"(1) the tourism and recreation industries are important to the United States, not only because of the numbers of people they serve and the vast human, financial, and physical resources they employ, but because of the great benefits tourism, recreation, and related activities confer on individuals and on society as a whole;

"(2) the Federal Government for many years has encouraged tourism and recreation implicitly in its statutory commitments to the shorter workyear and to the national passenger transportation system, and explicitly in a number of legislative enactments to promote tourism and support development of outdoor recreation, cultural

attractions, and historic and natural heritage resources;

"(3) as incomes and leisure time continue to increase, and as our economic and political systems develop more complex global relationships, tourism and recreation will become ever more important aspects of our daily lives;

"(4) the existing extensive Federal Government involvement in tourism, recreation, and other related activities needs to be better coordinated to effectively respond to the national interest in tourism and recreation and, where appropriate, to meet the needs of State and local governments and the private sector;

"(5) it is in the national interest to encourage the orderly growth and development of tourism to and within the United States;

"(6) the orderly growth and development of tourism depend on the efforts of government and the tourism industry to assure that the objectives of the national tourism policy (established by subsection (b)) are achieved to the maximum extent consistent with other public policy objectives;

"(7) orderly growth and development of tourism, while matters for regional, State, local, and private development, are also of appropriate and important concern to the Federal Government;

"(8) the national interest requires that the extensive Federal policy and programmatic involvement in tourism be responsive to the needs of the tourism industry; and

"(9) in view of the importance of travel and tourism to the economy of the United States, and the pervasive Federal policy and programmatic involvement in tourism, it is necessary and appropriate for the Federal Government to complement, assist, and support mechanisms that will most effectively assure implementation of the national tourism policy.

"(b) There is established a national tourism policy to—

"(1) optimize the contribution of the tourism and recreation industries to economic prosperity, full employment, and the international balance of payments of the United States;

"(2) make the opportunity for and benefits of tourism and recreation in the United States universally accessible to residents of the United States and foreign countries and insure that present and future generations are afforded adequate tourism and recreation resources;

"(3) contribute to personal growth, health, education, and intercultural appreciation of the geography, history, and ethnicity of the United States;

"(4) encourage the free and welcome entry of individuals traveling to the United States, in order to enhance international understanding and goodwill, consistent with immigration laws, the laws protecting the public health, and laws governing the importation of goods into the United States;

"(5) eliminate unnecessary trade barriers to the United States tourism industry operating throughout the world;

"(6) encourage competition in the tourism industry and maximum consumer choice through the continued viability of the retail travel agent industry and the independent tour operator industry;

"(7) promote the continued development and availability of alternative personal payment mechanisms which facilitate national and international travel;

"(8) promote quality, integrity, and reliability in all tourism and tourism-related services offered to visitors to the United States;

"(9) preserve the historical and cultural foundations of the Nation as a living part of community life and development, and insure future generations an opportunity to appreciate and enjoy the rich heritage of the Nation;

"(10) insure the compatibility of tourism and recreation with other national interests in energy development and conservation, environmental protection, and the judicious use of natural resources;

"(11) assist in the collection, analysis, and dissemination of data which accurately measure the economic and social impact of tourism to and within the United States, in order to facilitate planning in the public and private sectors; and

"(12) harmonize, to the maximum extent possible, all Federal activities in support of tourism and recreation with the needs of the general public and the States, territories, local governments, and the tourism and recreation industry, and to give leadership to all concerned with tourism, recreation, and national heritage preservation in the United States.".

DUTIES

SEC. 6803. (a) The following heading is inserted before section 2 of the Act:

"TITLE II—DUTIES".

(b) Section 2 of the Act (22 U.S.C. 2122) is amended by striking out "purposes of this Act" and inserting in lieu thereof "the national tourism policy established by section 101(b)".

(c) Section 3(a) of the Act (22 U.S.C. 2123(a)) is amended—

(1) by inserting "(A)" after "(4)" and by adding after paragraph (4) the following:

"(B) shall establish nine offices in foreign countries which are in addition to the offices established under subparagraph (A);";

(2) by striking out "and" at the end of paragraph (6), by striking out the period at the end of paragraph (7) and inserting in lieu thereof a semicolon, and by adding after paragraph (7) the following new paragraphs:

"(8) shall establish facilitation services at major ports-of-entry of the United States;

"(9) shall consult with foreign governments on travel and tourism matters and, in accordance with applicable law, represent United States travel and tourism interests before international and intergovernmental meetings;

"(10) shall develop and administer a comprehensive program relating to travel industry information, data service, training and education, and technical assistance;

"(11) shall develop a program to seek and to receive information on a continuing basis from the tourism industry, including consumer and travel trade associations, regarding needs and interests which should be met by a Federal agency or program and to direct that information to the appropriate agency or program;

"(12) shall encourage to the maximum extent feasible travel to and from the United States on United States carriers;

"(13) shall assure coordination within the Department of Commerce so that, to the extent practicable, all the resources of the Department are used to effectively and efficiently carry out the national tourism policy; and

"(14) shall develop and submit annually to the Congress, within six weeks of transmittal to the Congress of the President's recommended budget for implementing this Act, a detailed marketing plan to stimulate and encourage travel to the United States during the fiscal year for which such budget is submitted and include in the plan the estimated funding and personnel levels required to implement the plan and alternate means of funding activities under this Act.".

(d)(1) Paragraph (5) of section 3(a) is amended (A) by striking out "foreign countries." and inserting in lieu thereof "foreign countries;", (B) by striking out "this clause;" and inserting in lieu thereof "this clause.", (C) by inserting the last two sentences before the first sentence of subsection (c), and (D) by striking out "this clause" in such sentences and inserting in lieu thereof "paragraph (5) of subsection (a)".

(2) Section 3 of the Act is amended by striking out "clause (5)" each place it appears and inserting in lieu thereof "paragraph (5)".

(e) sections 2 and 3 of the Act are redesignated as sections 201 and 202, respectively, and section 5 is inserted after section 202 (as so redesignated) and redesignated as section 203.

(f) The following section is inserted after section 203:

"SEC. 204. (a) The Secretary is authorized to provide, in accordance with subsections (b) and (c), financial assistance to a region of not less than two States or portions of two States to assist in the implementation of a regional tourism promotional and marketing program. Such assistance shall include—

"(1) technical assistance for advancing the promotion of travel to such region by foreign visitors;

"(2) expert consultants; and

"(3) marketing and promotional assistance.

"(b) Any program carried out with assistance under subsection (a) shall serve as a demonstration project for future program development for regional tourism promotion.

"(c) The Secretary may provide assistance under subsection (a) for a region if the applicant for the assistance demonstrates to the satisfaction of the Secretary that—

"(1) such region has in the past been an area that has attracted foreign visitors, but such visits have significantly decreased;

"(2) facilities are being developed or improved to reattract such foreign visitors;

"(3) a joint venture in such region will increase the travel to such region by foreign visitors;

"(4) such regional program will contribute to the economic well-being of the region;

"(5) such region is developing or has developed a regional transportation system that will enhance travel to the facilities and attractions within such region; and

"(6) a correlation exists between increased tourism to such region and the lowering of the unemployment rate in such region.".

ADMINISTRATION

SEC. 6804. (a)(1) The first sentence of section 4 of the Act (22 U.S.C. 2124) is amended to read as follows: "There is established in the Department of Commerce a United States Travel and Tourism Administration which shall be headed by an Under Secretary of Commerce for Travel and Tourism who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall report directly to the Secretary.".

(2) Section 4 is amended by striking out the last sentence and inserting in lieu thereof the following: "The Secretary shall designate an Assistant Secretary of Commerce

for Tourism Marketing who shall be under the supervision of the Under Secretary of Commerce for Travel and Tourism. The Secretary shall delegate to the Assistant Secretary responsibility for the development and submission of the marketing plan required by section 202(a)(14)."

(3) Section 5314 of title 5, United States Code, is amended by striking out "Under Secretary of Commerce" and inserting in lieu thereof "Under Secretary of Commerce and Under Secretary of Commerce for Travel and Tourism".

(b)(1) The following heading is inserted before section 4:

"TITLE III—ADMINISTRATION".

(2) Section 4 is redesignated as section 301 and the following new sections are inserted after the section:

"SEC. 302. (a) In order to assure that the national interest in tourism is fully considered in Federal decisionmaking, there is established an interagency coordinating council to be known as the Tourism Policy Council (hereinafter in this section referred to as the 'Council').

"(b)(1) The Council shall consist of—

"(A) the Secretary of Commerce who shall serve as the Chairman of the Council;

"(B) the Under Secretary for Travel and Tourism who shall serve as the Vice Chairman of the Council and who shall act as Chairman of the Council in the absence of the Chairman;

"(C) the Director of the Office of Management and Budget or the individual designated by the Director from the Office;

"(D) an individual designated by the Secretary of Commerce from the International Trade Administration of the Department of Commerce;

"(E) the Secretary of Energy or the individual designated by such Secretary from the Department of Energy;

"(F) the Secretary of State or the individual designated by such Secretary from the Department of State;

"(G) the Secretary of the Interior, or the individual designated by such Secretary from the National Park Service or the Heritage Conservation and Recreation Service of the Department of the Interior;

"(H) the Secretary of Labor, or the individual designated by such Secretary from the Department of Labor; and

"(I) the Secretary of Transportation, or the individual designated by such Secretary from the Department of Transportation.

"(2) Members of the Council shall serve without additional compensation, but shall be reimbursed for actual and necessary expenses, including travel expenses, incurred by them in carrying out the duties of the Council.

"(3) Each member of the Council, other than the Vice Chairman, may designate an alternate, who shall serve as a member of the Council whenever the regular member is unable to attend a meeting of the Council or any committee of the Council. The designation by a member of the Council of an alternate under the preceding sentence shall be made for the duration of the member's term on the Council. Any such designated alternate shall be selected from individuals who exercise significant decisionmaking authority in the Federal agency involved and shall be authorized to make decisions on behalf of the member for whom he or she is serving.

"(c)(1) Whenever the Council, or a committee of the Council, considers matters that affect the interests of Federal agencies that are not represented on the Council or the committee, the Chairman may invite the heads of such agencies, or their alternates, to participate in the deliberations of the Council or committee.

"(2) The Council shall conduct its first meeting not later than 90 days after the date of enactment of this section. Thereafter the Council shall meet not less than four times each year.

"(3) All meetings of the Council, including any committee of the Council, shall be open to the public.

"(d)(1) The Council shall coordinate policies, programs, and issues relating to tourism, recreation, or national heritage resources involving Federal departments, agencies, or other entities. Among other things, the Council shall—

"(A) coordinate the policies and programs of member agencies that have a significant effect on tourism, recreation, and national heritage preservation;

"(B) develop areas of cooperative program activity;

"(C) assist in resolving interagency program and policy conflicts; and

"(D) seek and receive concerns and views of State and local governments and the private sector with respect to Federal programs and policies deemed to conflict with the orderly growth and development of tourism.

"(2) To enable the Council to carry out its functions—

"(A) the Council may request directly from any Federal department or agency such personnel, information, services, or facilities, on a compensated or uncompensated basis, as he determines necessary to carry out the functions of the Council;

"(B) each Federal department or agency shall furnish the Council with such information, services, and facilities as it may request to the extent permitted by law and within the limits of available funds; and

"(C) Federal agencies and departments may, in their discretion, detail to temporary duty with the Council, such personnel as the Council may request for carrying out the functions of the Council, each such detail to be without loss of seniority, pay, or other employee status; and

"(3) The Administrator of the General Services Administration shall provide administrative services for the Council on a reimbursable basis.

"(e) The Council shall establish such policy committees as it considers necessary and appropriate, each of which shall be comprised of any or all of the members of the Council and representatives from Federal departments, agencies, and instrumentalities not represented on the Council. Each such policy committee shall be designed—

"(1) to monitor a specific area of Federal Government activity, such as transportation, energy and natural resources, economic development, or other such activities related to tourism; and

"(2) to review and evaluate the relation of the policies and activities of the Federal Government in that specific area to tourism, recreation, and national heritage conservation in the United States.

"(f) The Council shall submit an annual report for the preceding fiscal year to the President for transmittal to Congress on or before the 31st day of December of each year. The report shall include—

"(1) a comprehensive and detailed report of the activities and accomplishments of the council and its policy committees;

"(2) the results of Council efforts to coordinate the policies and programs of member agencies that have a significant effect on tourism, recreation, and national heritage preservation, resolve interagency conflicts, and develop areas of cooperative program activity;

"(3) an analysis of problems referred to the Council by State and local governments, the tourism industry, the Secretary of Commerce, or any of the Council's policy committees along with a detailed statement of any actions taken or anticipated to be taken to resolve such problems; and

"(4) such recommendations as the Council deems appropriate.".

"SEC. 303. (a) There is established the Travel and Tourism Advisory Board (hereinafter in this section referred to as the 'Board') to be composed of fifteen members appointed by the Secretary. The members of the Board shall be appointed as follows:

"(1) Not more than eight members of the Board shall be appointed from the same political party.

"(2) The members of the Board shall be appointed from among citizens of the United States who are not regular full-time employees of the United States and shall be selected for appointment so as to provide as nearly as practicable a broad representation of different geographical regions within the United States and of the diverse and varied segments of the tourism industry.

"(3) Twelve of the members shall be appointed from senior executive officers of organizations engaged in the travel and tourism industry. Of such members—

"(A) at least one shall be a senior representative from a labor organization representing employees of the tourism industry; and

"(B) at least one shall be a representative of the States who is knowledgeable of tourism promotion.

"(4) of the remaining three members of the Board—

"(A) one member shall be a consumer advocate or ombudsman from the organized public interest community;

"(B) one member shall be an economist, statistician, or accountant; and

"(C) one member shall be an individual from the academic community who is knowledgeable in tourism, recreation, or national heritage conservation.

The Secretary shall serve as an ex officio member of the Board. The duration of the Board shall not be subject to the Federal Advisory Committee Act. A list of the members appointed to the Board shall be forwarded by the Secretary to the Senate Committee on Commerce, Science, and Transportation and the House Committee on Energy and Commerce.

"(b) The members of the Board shall be appointed for a term of office of three years, except that of the members first appointed—

"(1) four members shall be appointed for terms of one year, and

"(2) four members shall be appointed for terms of two years,

as designated by the Secretary at the time of appointment. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office. Vacancies on the Board shall be filled in the same manner in which the original appointments were made. No member of the Board

shall be eligible to serve in excess of two consecutive terms of three years each.

"(c) The Chairman and Vice Chairman and other appropriate officers of the Board shall be elected by and from members of the Board other than the Secretary.

"(d) The members of the Board shall receive no compensation for their services as such, but shall be allowed such necessary travel expenses and per diem as are authorized by section 5703 of title 5, United States Code. The Secretary shall pay the reasonable and necessary expenses incurred by the Board in connection with the coordination of Board activities, announcement and reporting of meetings, and preparation of such reports as are required by subsection (f).

"(e) The Board shall meet at least quarterly and shall hold such other meetings at the call of the Chairman, the Administrator, or a majority of its members.

"(f) The Board shall advise the Secretary with respect to the implementation of this Act and shall advise the Assistant Secretary for Tourism Marketing with respect to the preparation of the marketing plan under section 202(a)(14). The Board shall prepare an annual report concerning its activities and include therein such recommendations as it deems appropriate with respect to the performance of the Secretary under this Act and the operation and effectiveness of programs under this Act. Each annual report shall cover a fiscal year and shall be submitted on or before the thirty-first day of December following the close of the fiscal year.".

AUTHORIZATIONS

SEC. 6805. (a) Section 6 of the Act (22 U.S.C. 2126) is redesignated as section 304 and is amended by striking out the first sentence and inserting in lieu thereof the following: "For the purpose of carrying out this Act (other than section 202(a)(4)(B)), there is authorized to be appropriated an amount not to exceed $6,500,000 for each of the fiscal years 1982, 1983, and 1984. The Secretary shall carry out section 202(a)(4)(B) with funds appropriated for the International Trade Administration.".

(b) Section 7 of the Act (22 U.S.C. 2127) is redesignated as section 305 and sections 8 and 9 of the Act (22 U.S.C. 2127, 2128) are repealed.

EFFECTIVE DATE

SEC. 6806. The amendments made by this chapter shall take effect October 1, 1981.

Chapter 8—Railroad Retirement

PART I—RAILROAD RETIREMENT ACT AMENDMENTS

SEC. 6901. (a) The last sentence of section 1(f)(1) of the Railroad Retirement Act of 1974 is amended to read as follows: "Ultimate fractions shall be taken at their actual value.".

(b) Section 1(o) of the Railroad Retirement Act of 1974 is amended—

(1) by inserting "the National Transportation Safety Board," after "the National Mediation Board,"; and

(2) by inserting after the first sentence the following sentence: "For purposes of section 2(b) and section 2(d) only, an individual shall be deemed also to have 'a current connection with the railroad industry' if, after having completed twenty-five years of service, such individual involuntarily and without fault ceased rendering service as an employee under this Act and did not thereafter decline an offer of employment in the same class or craft as the individual's most recent employee service.".

SEC. 6902. (a) Section 2(b) of the Railroad Retirement Act of 1974 is amended—

(1) by striking out "(1) An individual" and inserting in lieu thereof "An individual";

(2) by striking out "in subdivision (2) of this subsection and" from such redesignated subsection (b);

(3) by striking out subdivision (2); and

(4) by striking out subdivision (3).

(b) Section 2(c) of the Railroad Retirement Act of 1974 is amended—

(1) by inserting "or a divorced wife who would be entitled to an annuity under subdivision (4)" after "under subdivision (1)" in subdivision (2);

(2) by striking out "1/180" and inserting in lieu thereof "1/144" in subdivision (2);

(3) by striking out "spouse" the second place it appears in subdivision (2) and adding in lieu thereof "spouse or divorced wife"; and

(4) by adding at the end thereof the following new subdivision (4):

"(4) The 'divorced wife' (as defined in section 216(d) of the Social Security Act) of an individual, if—

"(i) such individual (A) is entitled to an annuity under subsection (a)(1) and (B) has attained the age 62; and

"(ii) such divorced wife (A) has attained the age of 65 and (B) is not married

shall, subject to the conditions set forth in subsections (e), (f), and (h), be entitled to a divorced wife's annuity, if she has filed an application therefor, in an amount under section 4 of this Act.".

(c) Section 2(d) of the Railroad Retirement Act of 1974 is amended—

(1) by striking out "and" at the end of subdivision (1)(iii);

(2) by striking out the period at the end of subdivision (1)(iv) and inserting in lieu thereof "; and"; and

(3) by adding at the end of subdivision (1) the following new paragraph:

"(v) The widow (as defined in section 216(c) of the Social Security Act), who is married, or has been married after the death of the employee, the surviving divorced wife (as defined in section 216(d) of the Social Security Act), and a surviving divorced mother (as defined in section 216(d) of the Social Security Act) if such widow, surviving divorced wife, or surviving divorced mother would have been entitled to a benefit under section 202(e) or 202(g) of the Social Security Act as the widow, surviving divorced wife, or surviving divorced mother of the employee if all of his service as an employee after December 31, 1936, had been included in the term 'employment' as defined in that Act. For the purpose of this paragraph, the reference in section 202(e)(3) and 202(g)(3) of the Social Security Act to an individual entitled under section 202(f) of that Act shall include an individual entitled to an annuity under section 2(d)(1)(i) of this Act and an individual entitled to an annuity under section 2(d)(1)(ii) of this Act, and the reference in section 202(e)(3) and section 202(g)(3) of the Social Security Act to an individual entitled under section 202(d) of that Act shall include an individual entitled to an annuity under section 2(d)(1)(iii) of this Act, and the references in section 202(g)(3) of the Social Security Act to an individual entitled under section 202(a), section 202(h), and section 223(a) of that Act shall include an individual entitled to an annuity under section 2(a)(1) or 2(d)(1)(iv) of this Act.".

(d) Section 2(e)(5) of the Railroad Retirement Act of 1974 is amended by striking out "spouse" each place it appears and inserting in lieu thereof "spouse or divorced wife".

(e) Section 2(f)(2) of the Railroad Retirement Act of 1974 is amended by inserting "or divorced wife's" after "spouse's" each place (other than the second place) it appears.

(f) Section 2(h) of the Railroad Retirement Act of 1974 is amended—

(1) by striking out "spouse" in subdivision (1) and inserting in lieu thereof "spouse or divorced wife", and

(2) by striking out "spouse" the first place it appears in subdivision (3) and inserting in lieu thereof "spouse or divorced wife".

SEC. 6903. (a) Subsection (b) of section 3 of the Railroad Retirement Act of 1974 is amended to read as follows:

"(b)(1) The amount of the annuity of an individual provided under subsection (a) shall be increased by an amount equal to seven-tenths of 1 per centum of the product which is obtained by multiplying such individual's 'years of service' by his 'average monthly compensation' as determined under this subsection. The annuity amount payable to the individual under this subsection shall be reduced by 25 per centum of the annuity amount to which such individual is entitled under subsection (h)(1) or (h)(2) of this section. An individual's 'average monthly compensation' for purposes of this subsection shall be the quotient obtained by dividing by 60 such individual's total compensation for the 60 months, consecutive or otherwise, during which such individual received that individual's highest monthly compensation, except that no part of any month's compensation in excess of the maximum amount creditable for any individual for such month under subsection (j) of this section shall be recognized. In determining the months of compensation to be used for purposes of this subsection, the total compensation reported for the individual under section 9 of this Act or credited to such individual under section 3(j) of this Act for a year divided by the number of months of service credited to such individual under subsection (i) of this section with respect to such year shall be considered the monthly compensation of the individual for each month of service in any year for which records of the Board do not show the amount of compensation paid to the individual on a monthly basis. If the 'average monthly compensation' computed under this subsection is not a multiple of $1, it shall be rounded to the next lower multiple of $1.

"(2) For purposes of subdivision (1) of this subsection, in determining 'average monthly compensation' for an individual who has not engaged in employment for an employer in the 60-month period preceding the month in which such individual's annuity began to accrue, and whose major employment during such 60-month period was for a United States department or agency named in section 1(o) of this Act, the amount of compensation used with respect to each month used in making such determination shall be the product of—

"(i) the compensation credited to such individual for such month under paragraph (1) of this subsection; and

"(ii) the quotient obtained by dividing—

"(I) the average of total wages (as determined under section 215(b)(3)(A)(ii)(I) of the Social Security Act) for the second calendar year preceding the earliest of the year of the individual's death or the year in which an annuity begins to accrue to such individual (disregarding an annuity based on disability which is terminated because such individual has recovered from such dis-

ability if such individual engages in any regular employment after such termination); by

"(II) the average of total wages (as determined under section 215(b)(3)(A)(ii)(II) of the Social Security Act) for the calendar year during which such month occurred.

In no event shall 'average monthly compensation' determined for an individual under this subdivision exceed the maximum 'average monthly compensation' which can be determined under subdivision (1) of this subsection for any person retiring January 1 of the year in which such individual's annuity began to accrue.".

(b) Subsections (c) and (d) of section 3 of the Railroad Retirement Act of 1974 are repealed.

(c) Section 3(f)(1) is amended by striking out "subsections (b), (c), and (d)" each place it appears and inserting in lieu thereof "subsection (b)".

(d) Subsection (g) of section 3 of the Railroad Retirement Act of 1974 is amended to read as follows:

"(g) Effective with the month of June for any year after 1981, that portion of the annuity of an individual which is computed under subsection (b) of this section shall, if such individual's annuity under section 2(a)(1) of this Act began to accrue on or before June 1 of such year, be increased by 32.5 per centum of the percentage increase, if any (rounded to the nearest one-tenth of 1 per centum), obtained by comparing (A) the unadjusted Consumer Price Index for the calendar quarter ending March 31 of such year with (B) the higher of (i) such index for the calendar quarter ending March 31 of the year immediately preceding such year or (ii) such index for the calendar quarter ending March 31 of any preceding year after 1980. The unadjusted Consumer Price Index for any calendar quarter shall be the arithmetical mean of such index for the three months in such quarter.".

(e) Section 3(h) of the Railroad Retirement Act of 1974 is amended—

(1) by striking out "subsections (a) through (d)" each place it appears and inserting in lieu thereof "subsections (a) and (b)", and

(2) by inserting after "individual" where it first appears in section 3(h)(3) the following: "whose annuity was first awarded before January 1, 1987, and";

(3) by inserting after "individual" where it first appears in section 3(h)(4) the following: "whose annuity was awarded before January 1, 1987, and",

(4) by striking out all after, "January 1, 1975," in section 3(h)(5) and inserting in lieu thereof "to the earlier of the date on which the individual's annuity under section 2(a)(1) of this Act began to accrue or January 1, 1982.", and

(5) by adding at the end thereof the following new subdivision:

"(6) Notwithstanding any other provision of law, no amount shall be payable under subdivision (3) or (4) of this subsection to any individual who does not meet the requirements for a wife's, husband's, widow's, or widower's benefit under the Social Security Act as it was in effect and being administered on December 31, 1974, unless such amount was awarded prior to June 1, 1981.".

(f) Subsection (j) of section 3 of the Railroad Retirement Act is amended

(1) by striking out "the average compensation paid to an employee with respect to calendar months included in his 'years of service' " the first place it appears in the first sentence thereof and inserting in lieu thereof the following: "computed in the manner specified in section 3(b) of this Act"; and

(2) by striking out "If the 'average monthly compensation' computed under this subsection is not a multiple of $1, it shall be rounded to the next lower multiple $1.".

(g) Subsection (l) of section 3 of the Railroad Retirement Act of 1974 is amended to read as follows:

"(l) In cases where an annuity awarded under paragraph (iii) of section 2(a)(1) or under section 2(c)(2) of this Act is increased or decreased either by a change in the law or by a recomputation, the reduction on account of age in the amount of such increase shall be computed as though such increased annuity amount had been in effect for and after the month in which the annuitant first became entitled to such annuity under section 2(a)(1)(iii) or section 2(c)(2), except that, the percentage reduction in the amount of any such increase which becomes payable to an individual who was entitled to an annuity prior to January 1982 shall be equal to the percentage reduction on account of age in the total annuity amount which accrued to such individual for the month of December 1981 under section 2(a)(1)(iii) or section 2(c)(2).".

(h) Section 3(m) of the Railroad Retirement Act of 1974 is amended by inserting ", after any reduction pursuant to paragraph (iii) of section 2(a)(1)," after "shall".

SEC. 6904. (a) Section 4(a)(1) of the Railroad Retirement Act of 1974 is amended by striking out "spouse" each place it appears and inserting in lieu thereof "spouse or divorced wife".

(b) Section 4(b) of the Railroad Retirement Act of 1974 is amended—

(1) by striking out "subsections (b), (c) and (d)" and inserting in lieu thereof "subsection (b)",

(2) by striking out "50" and inserting in lieu thereof "45", and

(3) by striking out of the first sentence all after "was reduced by reason of the provisions of subsection (i)(2) of this section" and inserting in lieu thereof a period.

(c) Section 4(e) of the Railroad Retirement Act of 1974 is amended—

(1) by striking out all after "January 1, 1975," in section 4(e)(4) and inserting in lieu thereof "to the earlier of the date on which the individual's annuity under section 2(a)(1) of this Act began to accrue or January 1, 1982."; and

(2) by adding at the end thereof the following new subdivisions:

"(5) Notwithstanding any other provision of law, no amount shall be payable under subdivision (1), (2), or (3) of this subsection to a spouse who does not meet the requirements for a wife's or husband's benefit under the Social Security Act as it was in effect and being administered on December 31, 1974 unless such amount was awarded prior to June 1, 1981.

"(6) Notwithstanding any other provision of law, no amount shall be payable under subdivision (1), (2), or (3) of this subsection unless the annuity to which such amount would be added were awarded prior to January 1, 1987.".

(d) Section 4(f)(2) of the Railroad Retirement Act of 1974 is amended—

(1) by striking out "and" at the end of paragraph (i);

(2) striking out the period at the end of paragraph (ii) and inserting in lieu thereof ", and"; and

(3) by adding at the end thereof the following new paragraph:

"(iii) The provisions of paragraphs (i) and (ii) of this subdivision shall not apply to the annuity of a widow, surviving divorced wife, or surviving divorced mother who is entitled to such annuity on the basis of the provisions of section 2(d)(1)(v) of this Act.".

(e) Section 4(g) of the Railroad Retirement Act of 1974 is amended to read as follows:

"(g)(1) The amount of the annuity provided under subsection (f) for a survivor of a deceased individual shall, with respect to any month, be increased by an amount equal to one of the following percentages of that portion of the annuity computed under section 3(b) of this Act, before any reduction on account of age, to which such deceased individual would have been entitled for such month if such individual were living (deeming for this purpose that if such individual died before becoming entitled to an annuity under section 2(a)(1) of this Act, such individual became entitled to an annuity under subdivision (i) of such section 2(a)(1) in the month in which such individual died):

"(i) In the case of a widow or widower, the increase shall be equal to 50 per centum of such portion of the deceased individual's annuity, but the amount of the annuity so determined shall be subject to reduction on account of age in the same manner as is applicable to the annuity amount determined for the widow or widower under subsection (f) and shall be subject to increase as provided in paragraph (4) of this subsection.

"(ii) In the case of a parent, the increase shall be equal to 35 per centum of such portion of the deceased individual's annuity.

"(iii) In the case of a child, the increase shall be equal to 15 per centum of such portion of the deceased individual's annuity.

"(2) Whenever the total amount of the increases based on the deceased individual's portion of the annuity under section 3(b) of this Act as determined under the preceding provisions of this subsection for all survivors of a deceased employee is—

"(i) less than an amount equal to 35 per centum of such portion of the deceased individual's annuity, the total increase shall, before any deductions under section 2(g) of this Act, be increased proportionately until the total increase is equal to 35 per centum of such portion of the deceased individual's annuity; or

"(ii) more than an amount equal to 80 per centum of such portion of the deceased individual's annuity, the total increase shall, before any deductions under section 2(g) of this Act and before any reduction on account of age, be reduced proportionately until the total increase is equal to 80 per centum of such portion of the deceased individual's annuity.

"(3) An annuity determined under the provisions of this subsection for a month prior to the month in which application is filed, shall be reduced to any extent that may be necessary so that it will not render erroneous any annuity which, before the filing of such application, the Board has certified for payment for such prior month.

"(4) If a widow or widower of a deceased employee is entitled to an annuity under section 2(a)(1) of this Act and if either such widow or widower or such deceased employee will have completed 10 years of service prior to January 1, 1975, the amount of the annuity of such widow or widower under the preceding provisions of this subsection shall be increased by an amount equal to the amount, if any, by which (A) the widow's or widower's insurance annuity to which such widow or widower would have been entitled, upon attaining age 65, under section 5(a) of

the Railroad Retirement Act of 1937 as in effect on December 31, 1974 (without regard to the proviso of that section or the first proviso of section 3(e) of that Act) on the basis of the deceased employee's remuneration and service prior to January 1, 1975, increased by the same percentage, or percentages, as widow's and widower's insurance benefits under section 202 of the Social Security Act are increased during the period from January 1, 1975, to the later of the date on which such widow's or widower's annuity under section 2(a)(1) of this Act began to accrue or the date on which such widow's or widower's annuity under sections 2(d)(1) of this Act began to accrue, exceeds (B) the total of the annuity amounts to which such widow or widower was entitled (after any reductions pursuant to subsection (i)(2) of this section but before any deductions on account of work) under the preceding provisions of this subsection and subsection (f) of this section as of the later of the date on which such widow's or widower's annuity under section 2(a)(1) of this Act began to accrue or the date on which such widow's or widower's annuity under section 2(d)(1) of this Act began to accrue: *Provided further,* That, if a widow or widower of a deceased employee is not entitled to an annuity under section 2(a)(1) of this Act or to an old-age insurance benefit or a disability insurance benefit under the Social Security Act, the amount of the annuity to which such widow or widower is entitled under this subsection shall not be less than an amount which would cause the total of the annuity amounts to which such widow or widower is entitled (before any deductions on account of work) under this subsection and subsection (f) of this section to equal the total of the annuity amounts to which such widow or widower was entitled (or would have been entitled except for the provisions of sections 2(e) and 2(f) of this Act) as a spouse under subsections (a), (b), and (e)(3) of this section (after any reduction on account of age) in the month preceding the employee's death: *Provided further,* That, if a widow or widower of a deceased employee is entitled to an annuity under section 2(a)(1) of this Act or to an old-age insurance benefit or a disability insurance benefit under the Social Security Act, the amount of the annuity to which such widow or widower is entitled under this subsection shall not be less than an amount which would cause (A) the total of the annuity amounts to which such widow or widower is entitled (after any reductions pursuant to section 202(k) or 202(q) of the Social Security Act or subsection (i)(2) of this section but before any deductions on account of work) under this subsection and subsection (f) of this section to equal (B)(i) the total of the annuity amounts, if any, to which such widow or widower was entitled (or would have been entitled except for the provisions of sections 2(e) and 2(f) of this Act) as a spouse under subsections (a), (b), and (e)(3) of this section (after any reduction on account of age) in the month preceding the employee's death less (ii), if such widow or widower is entitled to an old-age insurance benefit or a disability insurance benefit under the Social Security Act but was not entitled to such a benefit in the month preceding the employee's death, the amount by which the annuity amount payable under subsection (a) of this section to such widow or widower as a spouse in the month preceding the employee's death would have been reduced by reason of section 202(k) or 202(q) of the Social Security Act if such widow or widower had been entitled to an old-age insurance benefit or a disability insurance benefit under the Social Security Act in the month preceding the employee's death in an amount equal to the amount of such benefit at the time such benefit first began to accrue to such widow or widower.

"(5) This subsection shall not apply to the annuity of a widow, surviving divorced wife, or surviving divorced mother who is entitled to such annuity on the basis of the provisions of section 2(d)(1)(v) of this Act.".

(f) Section 4(h) of the Railroad Retirement Act is amended—

(1) by inserting "(1)" after "(h)", and

(2) by striking out the period at the end and inserting in lieu thereof the following: ", but, notwithstanding any other provision of law, no amount shall be paid under this subsection to a widow or widower who does not meet the requirements for a widow's or widower's benefit under the Social Security Act as it was in effect and being administered on December 31, 1974, unless such amount was awarded prior to June 1, 1981. Notwithstanding any other provision of law, no amount shall be payable under this subsection unless the annuity to which such amount would be added were awarded prior to January 1, 1987."; and

(3) by adding at the end the following new subdivision:

"(2) Subdivision (1) of this subsection shall not apply to the annuity of a widow, surviving divorced wife, or surviving divorced mother who is entitled to such annuity on the basis of the provisions of section 2(d)(1)(v) of this Act.".

(g) Section 4(i) of the Railroad Retirement Act of 1974 is amended—

(1) by striking out "spouse" each place it appears in subdivision (1) and subdivision (2) and inserting in lieu thereof "spouse or divorced wife", and

(2) by inserting ", after a reduction pursuant to section 2(c)(2)" after "shall" in subdivision (1).

SEC. 6905. Section 5(c)(3) of the Railroad Retirement Act of 1974 is amended by adding at the end thereof the following new sentence: "The entitlement of the divorced wife of an individual to an annuity under section 2(c) shall end on the last day of the month preceding the month in which (A) the divorced wife or the individual dies or (B) the divorced wife remarries.".

SEC. 6906. (a) Section 6(a)(3) of the Railroad Retirement Act of 1974 is amended by striking out "spouse" each place it appears and inserting in lieu thereof "spouse or divorced wife".

(b) Section 6(b)(2) of the Railroad Retirement Act of 1974 is amended by inserting "surviving divorced wife," after "widow," the first place it appears.

(c) Section 6(c) of the Railroad Retirement Act of 1974 is amended—

(1) by inserting "surviving divorced wife," after "widow," the first place it appears in subdivision (1), and

(2) by striking out "spouse" the first place it appears in subdivision (2) and inserting in lieu thereof "spouse or divorced wife".

SEC. 6907. (a) Section 7(b)(2)(B) of the Railroad Retirement Act of 1974 is amended by striking out "wife" and inserting in lieu thereof "wife or divorced wife".

(b) Section 7(d)(2) of the Railroad Retirement Act of 1974 is amended by striking out "spouse" and inserting in lieu thereof "spouse or divorced wife".

SEC. 6908. Section 7(c) of the Railroad Retirement Act of 1974 is amended by striking out the period at the end of subdivision (1) and by inserting in lieu thereof the following: ", and payments of annuity amounts made pursuant to provisions of sections 3(h), 4(e), and 4(h) of this Act and pursuant to the provisions of sections 204(a)(3), 204(a)(4), 206(3), and 207(3) of Public Law 93-445 shall be made from the Dual Benefits Payments Account. The Board shall have the authority to prescribe regulations for allocation of annuity amounts which would without regard to such regulations be payable under sections 3(h), 4(e), and 4(h) of this Act and sections 204(a)(3), 204(a)(4), 206(3), and 207(3) of Public Law 93-445 so that each annual appropriation to the Dual Benefits Payments Account, so far as practicable, is expended in equal monthly installments throughout the fiscal year for which such appropriation is made, and is distributed so that recipients are paid annuity amounts which bear the same ratio to the annuity amounts such recipients would have received but for such regulations as the ratio of the total sums appropriated to pay such annuity amounts bears to the total sums necessary to pay such annuity amounts without regard to such regulations.".

SEC. 6909. (a) Section 15(d) of the Railroad Retirement Act of 1974 is amended by striking out the first two sentences and inserting in lieu thereof the following: "There is hereby created an account in the Treasury of the United States to be known as the Dual Benefits Payments Account. There is hereby authorized to be appropriated to such account for each fiscal year beginning with the fiscal year ending September 30, 1982, such sums as are necessary to pay during such fiscal year the amounts of annuities estimated by the Board to be paid pursuant to the provisions of sections 3(h), 4(e), and 4(h) of this Act and pursuant to the provisions of sections 204(a)(3), 204(a)(4), 206(3), and 207(3) of Public Law 93-445. Not more than 30 days prior to each fiscal year beginning with the fiscal year ending September 30, 1982, the Board may request the Secretary of the Treasury to transfer from the Railroad Retirement Account to the credit of the Dual Benefits Payments Account any amount not exceeding the amount which the Board has determined will be the amount of the appropriation to be made to the Dual Benefits Payments Account under the applicable Public Law making such appropriation for such fiscal year, and the Secretary of the Treasury shall make such transfer. Not more than 10 days after the funds appropriated to the Dual Benefits Payments Account for each such fiscal year are received into such Account, the Board shall request the Secretary of the Treasury to retransfer from the Dual Benefits Payments Account to the credit of the Railroad Retirement Account an amount equal to the amount transferred to the Dual Benefits Payments Account prior to such fiscal year under the preceding sentence, together with such additional amount determined by the Board to be equal to the loss of interest to the Railroad Retirement Account resulting from such transfer, and the Secretary of the Treasury shall make such retransfer.".

(b) Section 15(e) of the Railroad Retirement Act of 1974 is amended by inserting ", the Dual Benefits Payments Account" after "Railroad Retirement Account" in the first sentence thereof.

(c) Section 15(g) of the Railroad Retirement Act of 1974 is amended by striking out the period at the end of the first sentence and inserting in lieu thereof the following:

", and the Dual Benefits Payments Account.".

SEC. 6910. Section 18(2) of the Railroad Retirement Act of 1974 is amended by inserting "and section 216(i)" immediately after "203".

PART II—EFFECTIVE DATES

SEC. 6941. (a) Except as otherwise provided in this section, the amendments made by this chapter shall be effective during the period beginning on October 1, 1981, and ending on June 30, 1982, and shall apply only with respect to annuities based on awards made during such period, both dates inclusive.

(b)(1) The amendment made by section 6901(a) of this Act shall be effective during the period beginning or October 1, 1981, and ending on June 30, 1982, except that the years of service of an individual shall not be considered less after enactment of this Act than such individual had during the month of September 1981.

(2) The amendment made by section 6901(b)(1) and section 6910 of this Act shall take effect January 1, 1975. The amendment made by section 6901(b)(2) of this Act shall be effective during the period beginning on October 1, 1981, and ending on June 30, 1982, and shall apply only with respect to individuals who did not die before that date.

(c) The amendment made by section 6902(a) of this Act shall be effective during the period beginning or October 1, 1981, and ending on June 30, 1982, and shall apply only with respect to individuals whose supplemental annuity closing date under section 2(b) of the Railroad Retirement Act of 1974 before the effective date of the amendment to such section by this Act did not occur before October 1, 1981.

(d)(1) The amendments made by sections 6903(e)(5), 6904(c)(2), 6904(f)(1), and 6904(f)(2) of this Act shall be effective during the period beginning on June 1, 1981, and ending on June 30, 1982, but if any of the provisions added to the Railroad Retirement Act of 1974 by such sections of this Act are held invalid as to any person or circumstance, then in lieu of the provision so held invalid, the following provision shall apply: No amounts under the provision to which applies the limitation which this sentence replaces shall be paid to a person who was not awarded before June 1, 1981, an amount under the provisions to which such limitation applies.

(2) The amendments made by sections 6903(d) and 6903(g) of this Act shall be effective during the period beginning on October 1, 1981 and ending on June 30, 1982, both dates inclusive and shall apply with respect to annuity increases which become effective on or after October 1, 1981.

(e) Section 4(g) as amended by this Act (except subdivision (5) of such section 4(g)) shall be effective during the period beginning on October 1, 1981 and ending on June 30, 1982, both dates inclusive and shall with respect to awards made on or after that date in cases in which the employee did not begin receiving an annuity under section 2(a)(1) of the Railroad Retirement Act of 1974 before October 1, 1981, and did not die before such date. In all other awards made on or after October 1, 1981, for purposes of determining the initial annuity amount only, the provisions of section 4(g) of the Railroad Retirement Act of 1974, as in effect before amendment by this Act, shall be applicable. Annuities in cases in which the determination of the initial annuity amount was made under the preceding sentence, and annuities amounts awarded under section 4(g) of the Railroad Retirement Act of 1974 prior to amendment by this Act, shall not be automatically increased, during the period beginning on October 30, 1981, and ending on June 30, 1982, both dates inclusive, as a result on any increase in social security benefits made pursuant to section 215(i) of the Social Security Act, but such annuity amounts shall be increased by the same percentage, or percentages, as an employee's annuity amount payable under section 3(b) of the Railroad Retirement Act of 1974 is increased pursuant to section 3(g) of the Railroad Retirement Act of 1974 on or after October 1, 1981. Section 4(g)(5) of the Railroad Retirement Act of 1974, as amended by this Act, shall take effect on October 1, 1981.

(f) The amendments made by sections 6908 and 6909 of this Act shall be effective during the period beginning on October 1, 1981, and ending on June 30, 1982, both dates inclusive.

The CHAIRMAN. Pursuant to House Resolution 169, the gentleman from North Carolina (Mr. BROYHILL) will be recognized for 1 hour, and the gentleman from Michigan (Mr. DINGELL) will be recognized for 1 hour.

The Chair recognizes the gentleman from North Carolina (Mr. BROYHILL).

PARLIAMENTARY INQUIRY

Mr. OTTINGER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. OTTINGER. Mr. Chairman, I would like to know if under the rules of the House, copies of this amendment are available.

My understanding is that changes have been made as recently as an hour ago and, under the rules of the House, amendments have to be available by the Member who has introduced it once it is introduced.

Therefore, I would like to inquire as to the availability of this amendment. I am one of the subcommittee chairmen involved in this amendment, and I would like to have a copy of the amendment in order to be able to deal with it.

The CHAIRMAN. The Chair will respond that it is the Clerk's responsibility to distribute the amendments if it is feasible. In any event, it is not subject to a point of order.

Mr. OTTINGER. It is not subject to a point of order for failure——

The CHAIRMAN. It is not subject to a point of order.

□ 1830

Mr. BROYHILL. Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

Mr. DINGELL. Mr. Chairman, reserving the right to object, I could not hear the unanimous-consent request.

Do I understand the gentleman from North Carolina (Mr. BROYHILL) desires to withdraw his amendment?

The CHAIRMAN. That is correct.

Mr. DINGELL. And the gentleman will not offer any other amendment.

Then if that be so, we on this side, I do not believe, will object.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

Mr. JONES of Oklahoma. Mr. Chairman, reserving the right to object, am I correct that the gentleman will not offer his amendment in any form after this?

Mr. BROYHILL. Mr. Chairman, will the gentleman yield?

Mr. JONES of Oklahoma. I yield to the gentleman from North Carolina.

Mr. BROYHILL. Mr. Chairman, because of the time constraints, debate has gone on much later, not only today, but this week, than we planned. Because of the very generous nature of the chairman of the full committee who has assured those of us on this side that he wants to work with us to resolve whatever differences that we have between our versions, as we go into conference, I am not going to offer any other amendments.

So we would go immediately into whatever other procedures would be available.

Mr. JONES of Oklahoma. Further reserving the right to object, the minority, as I understand it, would be entitled to a motion to recommit; is that correct?

Mr. BROYHILL. The motion to recommit, if the gentleman will yield further, is the prerogative of the minority leader. As of this time I have no knowledge as to what the gentleman plans. But it will not contain any elements of the amendment that I was about to offer.

Mr. JONES of Oklahoma. Could I get from the gentleman the commitment that the Broyhill substitute will not be offered in the motion to recommit?

Mr. BROYHILL. I can assure the gentleman of that. I am not going to offer the Broyhill amendment as a substitute, in the motion to recommit or at any time. I prefer to deal with my good friend, the gentleman from Michigan.

Mr. JONES of Oklahoma. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina (Mr. BROYHILL)?

There was no objection.

The CHAIRMAN. The question is on the amendment in the nature of a substitute made in order by the rule, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose, and the Speaker having assumed the chair, Mr. BOLAND, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 3982) to provide for reconciliation pursuant to section 301 of the first concurrent resolution on the budget for the fiscal year 1982, pursuant to House Resolution 169, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

PARLIAMENTARY INQUIRY

Mr. LOTT. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman from Mississippi (Mr. LOTT) will state his parliamentary inquiry.

Mr. LOTT. Mr. Speaker, in view of the commotion on the floor and the talking, I was not sure exactly where we are at this point. If I could make sure that we all understand, the parliamentary inquiry is that the Broyhill amendment is withdrawn.

Are we now to the point that a motion to recommit with or without instructions would be in order?

The SPEAKER. The gentleman is correct.

Mr. LOTT. So at this time the motion would be proper to be offered to recommit.

The SPEAKER. That is correct.

The minority has the motion.

MOTION TO RECOMMIT OFFERED BY MRS. SCHNEIDER

Mrs. SCHNEIDER. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentlewoman opposed to the bill?

Mrs. SCHNEIDER. I am, Mr. Speaker, in its present form.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mrs. SCHNEIDER moves to recommit the bill, H.R. 3982, to the Committee on the Budget with instructions to report the bill back forthwith with the following amendments:

AMENDMENTS TO H.R. 3982, AS AMENDED

—Title I is amended by striking lines 10 through 23, page 2 and inserting in lieu thereof the following new sections 1001 through 1014 and redesignating existing sections 1002 and 1003 as sections 1015 and 1016:

Subtitle A—Food Stamp Program Reductions and Other Reductions in Authorizations for Appropriations

FOOD STAMP PROGRAM REDUCTIONS

HOUSEHOLD DEFINITION

SEC. 1001. Section 3(i) of the Food Stamp Act of 1977 is amended—

(1) by inserting before the period at the end of the first sentence "; except that parents and children who live together shall be treated as a group of individuals who customarily purchase and prepare meals together for home consumption even if they do not do so, unless one of the parents is 60 years of age or older";

(2) in paragraph (2) by striking out "live together" and inserting in lieu thereof "live as one economic unit"; and

(3) by striking "neither" in the second sentence and inserting "no" in lieu thereof.

BOARDERS

SEC. 1002. Section 3(i) of the Food Stamp Act of 1977 is amended by—

(1) striking in clause (1) of the first sentence "or else pays compensation to the others for such meals,";

(2) striking in clause (2) of the first sentence "or else live with others and pay compensation to the others for such meals"; and

(3) adding before the period at the end of the second sentence ", or else live with others and pay compensation to the others for meals".

ADJUSTMENT OF THE THRIFTY FOOD PLAN

SEC. 1003. Section 3(o) of the Food Stamp Act of 1977 is amended by striking "and" before clause (6) and all that follows down through the end of clause (6), and inserting in lieu thereof the following: "(6) on April 1, 1982, adjust the cost of such diet to the nearest dollar increment to reflect changes in the cost of the thrifty food plan for the fifteen months ending the preceding December 31, (7) on July 1, 1983, adjust the cost of such diet to the nearest dollar increment to reflect changes in the cost of the thrifty food plan for the fifteen months ending the preceding March 31, (8) on October 1, 1984, adjust the cost of such diet to the nearest dollar increment to reflect changes in the cost of the thrifty food plan for the fifteen months ending the preceding June 30, and (9) on October 1, 1985, and each October 1 thereafter, adjust the cost of such diet to the nearest dollar increment to reflect changes in the cost of the thrifty food plan for the twelve months ending the preceding June 30.".

GROSS INCOME ELIGIBILITY STANDARD

SEC. 1004. (a) Section 5 of the Food Stamp Act of 1977 is amended by—

(1) striking "subsections (c) and (e)" in subsection (b) and inserting in lieu thereof "subsection (c)";

(2) inserting in subsection (c) "130 per centum of" after "standards of eligibility shall be"; and

(3) striking from the first sentence of subsection (e) "In" and inserting in lieu thereof "Further, in", and inserting "for purposes of determining the household's benefits level only," after "household income,".

(b) Section 8(a) of the Food Stamp Act in 1977 is amended by inserting "(d) and (e)" after "section 5" in the first sentence.

REDUCTION IN DEDUCTION ADJUSTMENT

SEC. 1005. Section 5(e) of the Food Stamp Act of 1977 is amended by—

(1) in the second sentence, striking out everything after "January 1, 1982" and inserting in lieu thereof: "and every January 1 thereafter, shall be adjusted to the nearest $5 to reflect changes in the Consumer Price Index for all urban consumers of the Bureau of Labor Statistics for items other than food (exclusive of the home ownership portion of the shelter component of housing costs), for the twelve months ending the preceding September 30."; and

(2) in the fourth sentence, striking out everything after "January 1, 1982" through the end of clause (2), and inserting in lieu thereof: "and every January 1 thereafter, adjusted to the nearest $5 to reflect changes in the shelter (exclusive of the home ownership portion), fuel, and utilities components of housing costs in the Consumer Price Index for all urban consumers of the Bureau of Labor Statistics for the twelve months ending the preceding September 30, or".

RETROSPECTIVE ACCOUNTING

"SEC. 1006. (a) Section 5(f) of the Food Stamp Act of 1977 is amended to read:

"(f)(1)(A) Household income for those households that, by contract for other than an hourly or piecework basis or by self-employment, derive their annual income in a period of time shorter than one year, shall be calculated by averaging such income over a twelve-month period.

"(B) Household income for those households that received nonexcluded income of the type described in subsection (d)(3) of this section, shall be calculated by averaging such income over the period for which it is received.

"(2)(A) Household income for migrant farmworker households shall be calculated on a prospective basis, as provided in paragraph (3)(A).

"(B) Household income for all other households shall be calculated either on a prospective basis as provided in paragraph (3)(A) or on a retrospective basis as provided in paragraph (3)(B), as elected by the State agency under regulations prescribed by the Secretary.

"(3)(A) Calculation of household income on a prospective basis is the calculation of income on the basis of the income reasonably anticipated to be received by the household during the period for which eligibility or benefits are being determined. Such calculation shall be made in accordance with regulations prescribed by the Secretary which shall provide for taking into account both the income reasonably anticipated to be received by the household during the period for which eligibility or benefits are being determined and the income received by the household during the preceding thirty days.

"(B) Calculation of household income on a retrospective basis is the calculation of income for the period for which eligibility or benefits are being determined on the basis of income received in a previous period. Such calculation shall be made in accordance with regulations prescribed by the Secretary which may provide for the determination of eligibility on a prospective basis in some or all cases in which benefits are calculated under this paragraph. Such regulations shall provide for supplementing the initial allotments of newly applying households in those cases in which the determination of income under this paragraph causes serious hardship.

"(4) In promulgating regulations under this subsection, the Secretary shall consult with the Secretary of Health and Human Services in order to assure that, to the extent feasible and consistent with the purposes of this Act and the Social Security

Act, the income of households receiving benefits under this Act and title IV-A of the Social Security Act, is calculated on a comparable basis under the two Acts. The Secretary is authorized, upon the request of a State agency, to waive any of the provisions of this subsection to the extent necessary to permit the State agency to calculate income for purposes of this Act on the same basis that income is calculated under title IV-A of the Social Security Act in that State.".

(b) Effective October 1, 1983, paragraph (2)(B) of section 5(f) of the Food Stamp Act of 1977, as amended by subsection (a), is amended to read:

"(B) Household income for all other households shall be calculated on a retrospective basis as provided in paragraph (3)(B).".

(c) Section 5(d) of the Food Stamp Act of 1977 is amended by striking "5(f)(2)" and inserting "5(f)" in lieu thereof.

PERIODIC REPORTING

SEC. 1007. (a) Section 3(c) of the Food Stamp Act of 1977 is amended by inserting before the period at the end of the second sentence "except that the limit of twelve months may be waived by the Secretary to improve the administration of the program".

(b) Section 6(c) of the Food Stamp Act of 1977 is amended by—

(1) inserting after "households" in the first sentence of paragraph (1) ", including all households with earned income, except migrant farmworker households, all households with potential earners, including individuals receiving unemployment compensation benefits and individuals required by section 6(d) of this Act to register for work, and all households required to file a similar report under title IV-A of the Social Security Act, but not including households that have no earned income and in which all members are sixty years of age or over or receive supplemental security income benefits under title XVI of the Social Security Act or disability and blindness payments under titles I, II, X, XIV, and XVI of the Social Security Act,";

(2) striking "5(f)(2)" in paragraph (1) and inserting "5(f)" in lieu thereof; and

(3) inserting after paragraph (3) the following new paragraph:

"(4) Any household that fails to submit periodic reports required by paragraph (1) shall not receive an allotment for the payment period to which the unsubmitted report applies until such report is submitted.".

(c) Effective October 1, 1983, section 6(c)(1) of the Food Stamp Act of 1977 is further amended by—

(1) striking in the first sentence "that elect to use a system of retrospective accounting in accordance with section 5(f) of this Act"; and

(2) striking the second sentence.

ELIGIBILITY OF STRIKERS

SEC. 1008. (a) Section 6(d)(4) of the Food Stamp Act of 1977 is amended by—

(1) inserting before the colon at the end of the first proviso the following: ", however, such household shall not receive an increased allotment as the result of a decrease in the income of the striking member or members of the household";

(2) inserting a period in lieu of the colon at the end of the second proviso; and

(3) striking the third proviso.

(b) Section 6(i) of the Food Stamp Act of 1977 is repealed.

VALUE OF ALLOTMENT

SEC. 1009. (a) Effective October 1, 1982, section 8(a) of the Food Stamp Act of 1977 is amended by striking out "30 per centum" and inserting in lieu thereof "31.5 per centum".

(b) Effective October 1, 1983, section 8(a) of the Food Stamp Act of 1977 is amended by striking out "31.5 per centum" and insert in lieu thereof "32.5 per centum".

PRORATING FIRST MONTH BENEFITS

SEC. 1010. Section 8 of the Food Stamp Act of 1977 is amended by adding at the end thereof the following new subsection:

"(c) The value of the allotment issued to any eligible household for the initial month or other initial period for which an allotment is issued shall have a value which bears the same ratio to the value of the allotment for a full month or other initial period for which the allotment is issued as the number of days (from the date of application) remaining in the month or other initial period for which the allotment is issued bears to the total number of days in the month or other initial period for which the allotment is issued. As used in this subsection, the term 'initial month' means (1) the first month for which an allotment is issued to a household, and (2) the first month for which an allotment is issued to a household following any period of more than thirty days during which such household was not participating in the food stamp program under this Act after previous participation in such program.".

OUTREACH

SEC. 1011. (a) Section 11(e)(1) of the Food Stamp Act of 1977 is amended by striking clauses (A) and (B) and redesignating existing clause (C) as (B) and inserting the following new clause (A):

"(A) not conduct food stamp outreach activities with funds provided under this Act;".

(b) Section 16(a) of that Act is amended by—

(1) striking clause (1); and

(2) redesignating clauses (2), (3), (4), and (5) as clauses (1), (2), (3), and (4), respectively.

ELIGIBILITY DISQUALIFICATIONS AND CLAIMS COLLECTIONS

SEC. 1012. (a) Section 6(b) of the Food Stamp Act of 1977 is amended to read as follows:

"(b) No individual who is a member of a household which is otherwise eligible to participate in the food stamp program shall be eligible to participate in the program for (1) a period of three months after the date on which such individual has been found by a State agency, after notice and opportunity for hearing at the State level, or after failure to appeal a local hearing to the State level, to have intentionally made a false or misleading statement or misrepresented, concealed, or withheld facts for the purpose of using, presenting, transferring, acquiring, receiving, or possessing coupons or authorization cards in violation of this Act or the regulations issued thereunder, or to have fraudulently used, presented, transferred, acquired, received, possessed, or altered coupons or authorization cards; or (2) a period of not less than six and not more than twenty-four months, as determined by the court, after such individual has been found by a court of appropriate jurisdiction, with a State or a political subdivision thereof or the United States as prosecutor or plaintiff, to have committed criminal or civil fraud in the use, presentation, transfer, acquisition, receipt, possession, or alteration of coupons or authorization cards; or (3) both of the periods specified in clauses (1) and (2) of this subsection. Each State agency shall proceed against an individual alleged to have engaged in such activity either by way of administrative hearings in accordance with clause (1) of this subsection, or by referring such matters to appropriate legal authorities for civil or criminal action in accordance with clause (2) of the subsection, or both. Each period of ineligibility shall take effect immediately upon the relevant administrative or judicial finding and shall remain in effect, without possibility of administrative stay, unless and until the finding on which the ineligibility is based is subsequently reversed by a court of appropriate jurisdiction, but in no event shall the period of ineligibility be subject to judicial review."

(b)(1) Section 13 of the Food Stamp Act of 1977 is amended by redesignating current section 13 as subsection (b) and inserting before it the following new subsection:

"SEC. 13. (a)(1) In the case of any ineligibility determination under section 6(b), the household of which such ineligible individual is a member shall elect to (A) accept a reduction in the allotment of the household of which such individual is a member, or (B) pay in cash, in accordance with a schedule determined by the Secretary, an amount that will be sufficient to reimburse the Federal Government for any overissuance of coupons resulting from the conduct that was the basis of the finding of ineligibility. If a household refuses to make an election, or elects to make a payment in cash under the provisions of the preceding sentence and fails to do so, the household shall be subject to an allotment reduction.

"(2) Any claim against a household arising from the overissuance of coupons, other than claims the collection of which is provided for in paragraph (1) and claims arising from an error of the State agency, may be collected by reducing the monthly allotments of the household, but only in such cases and in such amounts as reasonable considering the income and resources of the household, as determined under regulations prescribed by the Secretary.".

(b)(2) The heading of section 13 of that Act is amended to "COLLECTION AND DISPOSITION OF CLAIMS".

(c) Section 16(a) of the Food Stamp Act of 1977 is amended by—

(1) striking out everything in the first sentence after "recovered or collected" and inserting in lieu thereof "pursuant to section 13(a)(1)."; and

(2) inserting in the second sentence after "determinations of" the word "ineligibility" in lieu of "fraud".

REPEAL OF INCREASES IN DEPENDENT CARE DEDUCTIONS FOR WORKING ADULTS AND MEDICAL DEDUCTIONS FOR THE ELDERLY AND DISABLED

SEC. 1013. Sections 104 and 105 of the Food Stamp Act Amendments of 1980 (Public Law 96-249) are repealed.

PUERTO RICO BLOCK GRANT

SEC. 1014. (a) Effective October 1, 1982 the Food Stamp Act of 1977 is amended by—

(A) striking "Puerto Rico," in section 3(m), clause (3) of section 3(o), section 5(b), wherever it appears in section 5(c) before the proviso, and wherever it appears in section 5(e) and striking "$50," and "$40," in section 5(e); and

(B) striking everything in section 5(c) after the first "forty-eight contiguous States" and inserting a period in lieu thereof.

(b) Effective October 1, 1982 that Act is further amended by adding at the end thereof the following new section:

"BLOCK GRANT

"SEC. 19. (a)(1)(A) From the sums appropriated under this Act the Secretary shall, subject to the provisions of this subsection and subsection (b), pay to the Commonwealth of Puerto Rico not to exceed $825,000,000 for each fiscal year to finance 100 per centum of the expenditures for food assistance provided to needy persons, and 50 per centum of the administrative expenses related to the provision of such assistance.

"(B) The payments to the Commonwealth for any fiscal year shall not exceed the expenditures by that jurisdiction during that year for the provision of the assistance the provision of which is included in the plan of the Commonwealth approved under subsection (b) and 50 per centum of the related administrative expenses.

"(2) The Secretary shall, subject to the provisions of subsection (b), pay to the Commonwealth for the applicable fiscal year, at such times and in such manner as the Secretary may determine, the amount estimated by the Commonwealth pursuant to subsection (b)(1)(A)(iv), reduced or increased to the extent of any prior overpayment or current underpayment which the Secretary determines has been made under this section and with respect to which adjustment has not already been made under this subsection.

"(b)(1)(A) In order to receive payments under this Act for any fiscal year, the Commonwealth shall have a plan for that fiscal year approved by the Secretary under this section. By July 1 of each year, if the Commonwealth wishes to receive payments, it shall submit a plan for the provision of the assistance described in subsection (a)(1)(A) for the following fiscal year which—

"(i) designates a single agency which shall be responsible for the administration, or supervision of the administration, of the program for the provision of such assistance;

"(ii) assesses the food and nutrition needs of needy persons residing in the Commonwealth;

"(iii) describes the program for the provision of such assistance, including the assistance to be provided and the persons to whom such assistance will be provided, and any agencies designated to provide such assistance, which program must meet such requirements as the Secretary may by regulation prescribe for the purpose of assuring that assistance is provided to the most needy persons in the jurisdiction;

"(iv) estimates the amount of expenditures necessary for the provision of the assistance described in the program and related administrative expenses, up to the amount provided for payment by subsection (a)(1)(A); and

"(v) includes such other information as the Secretary may require.

"(B)(i) The Secretary shall approve or disapprove any plan submitted pursuant to subparagraph (A) no later than August 1 of the year in which it is submitted. The Secretary shall approve any plan which complies with the requirements of subparagraph (A). If a plan is disapproved because it does not comply with any of the requirements of that paragraph the Secretary shall, except as provided in subparagraph (B)(ii), notify the appropriate agency in the Commonwealth that payments will not be made to it under subsection (a) for the fiscal year to which the plan applies until the Secretary is satisfied that there is no longer any such failure to comply, and until the Secretary is so satisfied, the Secretary will make no payments.

"(ii) The Secretary may suspend the denial of payments under subparagraph (B)(i) for such period as the Secretary determines appropriate and instead withhold payments provided for under subsection (a), in whole or in part, for the fiscal year to which the plan applies, until the Secretary is satisfied that there is no longer any failure to comply with the requirements of subparagraph (A), at which time such withheld payments shall be paid.

"(2)(A) The Commonwealth shall provide for a biennial audit of expenditures under its program for the provision of the assistance described in subsection (a)(1)(A), and within 120 days of the end of each fiscal year in which the audit is made, shall report to the Secretary the findings of such audit.

"(B) Within 120 days of the end of the fiscal year, the Commonwealth shall provide the Secretary with a statement as to whether the payments received under subsection (a) for that fiscal year exceeded the expenditures by it during that year for which payment is authorized under this section, and if so, by how much, and such other information as the Secretary may require.

"(C)(i) If the Secretary finds that there is a substantial failure by the Commonwealth to comply with any of the requirements of subparagraphs (A) and (B), or to comply with the requirements of subsection (b)(1)(A) in the administration of a plan approved under subsection (b)(1)(B), the Secretary shall, except as provided in subparagraph (C)(ii), notify the appropriate agency in the Commonwealth that further payments will not be made to it under subsection (a) until the Secretary is satisfied that there will no longer be any such failure to comply, and until the Secretary is so satisfied, the Secretary shall make no further payments.

"(ii) The Secretary may suspend the termination of payments under subparagraph (C)(i) for such period as the Secretary determines appropriate, and instead withhold payments provided for under subsection (a), in whole or in part, until the Secretary is satisfied that there will no longer be any failure to comply with the requirements of subparagraphs (A) and (B) and subsection (b)(1)(A), at which time such withheld payments shall be paid.

"(iii) Upon a finding under subparagraph (C)(i) of a substantial failure to comply with any of the requirements of subparagraphs (A) and (B) and subsection (b)(1)(A), the Secretary may, in addition to or in lieu of any action taken under subparagraphs (C)(i) and (C)(ii), refer the matter to the Attorney General with a request that injunctive relief be sought to require compliance by the Commonwealth of Puerto Rico, and upon suit by the Attorney General in an appropriate district court of the United States and a showing that noncompliance has occurred, appropriate injunctive relief shall issue.

"(c)(1) The Secretary shall provide for the review of the programs for the provisions of the assistance described in subsection (a)(1)(A) for which payments are made under this Act.

"(2) The Secretary is authorized as the Secretary deems practicable to provide technical assistance with respect to the programs for the provision of the assistance described in subsection (a)(1)(A).

"(d) Whoever knowingly and willfully embezzles, misapplies, steals, or obtains by fraud, false statement, or forgery, any funds, assets, or property provided or financed under this section shall be fined not more than $10,000 or imprisoned for not more than five years, or both, but if the value of the funds, assets or property involved is not over $200, the penalty shall be a fine of not more than $1,000 or imprisonment for not more than one year, or both."

(Amendment in the nature of a substitute by Mr. JONES of Oklahoma.)

Strike out all of title V of the amendment (relating to the House Committee on Education and Labor) and insert in lieu thereof the following:

TITLE V—HOUSE COMMITTEE ON EDUCATION AND LABOR

SHORT TITLE

SEC. 5001. This title may be cited as the "Omnibus Education and Labor Reconciliation Act of 1981".

Subtitle A—Restrictions on Appropriations

EFFECT ON OTHER LAWS

SEC. 5101. (a) Any provision of law which is not consistent with the provisions of this subtitle hereby is superseded and shall have only such force and effect during each of the fiscal years 1982, 1983, and 1984 which is consistent with this subtitle.

(b) Notwithstanding any authorization of appropriations for fiscal year 1982, 1983, or 1984 contained in any provision of law which is specified in this subtitle (including any authorization of appropriations contained in subtitle B of this title), no funds are authorized to be appropriated in excess of the limitations imposed upon appropriations by the provisions of this subtitle.

ACT OF MARCH 2, 1867 (HOWARD UNIVERSITY)

SEC. 5102. The total amount of appropriations to carry out the Act of March 2, 1867 (14 Stat. 439) shall not exceed $153,199,000 for each of the fiscal years 1982, 1983, and 1984.

ACT OF MARCH 3, 1879 (AMERICAN PRINTING HOUSE FOR THE BLIND)

SEC. 5103. The total amount of appropriations to carry out the Act of March 3, 1879 (20 Stat. 468) shall not exceed $5,595,000 for each of the fiscal years 1982, 1983, and 1984.

ACT OF SEPTEMBER 23, 1950 (IMPACT AID)

SEC. 5104. The total amount of appropriations to carry out the Act of September 23, 1950 (Public Law 815, 81st Congress) shall not exceed $20,000,000 for each of the fiscal years 1982, 1983, or 1984.

ACT OF SEPTEMBER 30, 1950 (IMPACT AID)

SEC. 5105. (a)(1) The total amount of appropriations to make payments on the basis of entitlements established under section 3 of the Act of September 30, 1950 (Public Law 874, 81st Congress) shall not exceed $371,000,000 for each of the fiscal years 1982, 1983, and 1984.

(2) None of the funds appropriated for such fiscal years to make such payments shall be paid to any local educational agency unless—

(A)(i) the local educational agency is an agency with respect to which the sum of the number of children determined for such fiscal year under subsections (a) and (b) of section 3 of such Act is equal to or exceeds 50 per centum of the total number of children who were in average daily attendance at the schools of such agency during such fiscal year and for whom such agency provided free public education; or

(ii) the local educational agency is an agency with respect to which the sum of the number of children determined for such fiscal year under subsection (a) of section 3 of such Act is equal to or exceeds 20 per centum of the total number of children who were in average daily attendance at the schools of such agency during such fiscal year and for whom such agency provided free public education;

(B) the local educational agency is an agency with respect to which the sum of—

(i) the number of children determined for such fiscal year under subsection (a) of section 3 of such Act;

(ii) the number of children determined for such fiscal year under subsection (b)(3) of section 3 of such Act; and

(iii) one-half of the number of children determined for such fiscal year under subsection (b) of section 3 of such Act;

is equal to or exceeds 25 per centum of the total number of children who were in average daily attendance at the schools of such agency during such fiscal year and for whom such agency provided free public education; or

(C) the local educational agency is an agency not otherwise described in subparagraphs (A) and (B) of this paragraph and such agency received a payment for fiscal year 1981 on the basis of the number of children determined for such fiscal year under subsection (a) of section 3 of such Act.

(3) Any provision of such Act to the contrary notwithstanding, any funds appropriated for fiscal year 1982 for the purpose of making payments on the basis of entitlements established under section 3 of such Act shall be allocated as follows:

(A) The Secretary shall first allocate to each local educational agency which is described in subparagraph (A) or (B) of paragraph (2) of this subsection an amount equal to (i) the number of children determined with respect to such agency for such fiscal year under subsection (a) of section 3 of such Act, multiplied by (ii) 100 percent of the amount paid to such agency for each of such children for fiscal year 1981.

(B) The Secretary shall next allocate to each local educational agency which is described in subparagraph (A) or (B) of paragraph (2) of this subsection an amount equal to (i) the number of children determined with respect to such agency for such fiscal year under subsection (b) of section 3 of such Act, multiplied by (ii) 80 percent of the amount paid to such agency for each of such children for fiscal year 1981.

(C) Any sums remaining after allocations are made pursuant to subparagraphs (A) and (B) of this paragraph shall be allocated to local educational agencies which are described in subparagraph (C) of paragraph (2) of this subsection. Subject to subparagraph (D) of this paragraph, each such agency shall be allocated an amount which bears the same ratio to the sums remaining for allocation as the number of children determined with respect to such agency for such fiscal year under subsection (a) of section 3 of such Act bears to the sum of the number of children determined under subsection (a) of section 3 of such Act for such fiscal year with respect to all the local educational agencies described in such subparagraph (C), except that no payment shall be made under this subparagraph at a rate in excess of the rate described in subparagraph (D)(ii).

(D)(i) If the amount appropriated for making such payments for fiscal year 1982 is not sufficient to pay in full the allocations required by subparagraphs (A) and (B) of this paragraph, then the amount of each such allocation shall be ratably reduced. If, after such a reduction is required, additional amounts are made available for making such payments, then such allocations shall be increased on the same basis as they were reduced.

(ii) If the amount appropriated for making such payments for fiscal year 1982 exceeds the amount necessary to pay in full the allocations required by such subparagraphs plus the amount necessary to make payments under subparagraph (C) at a rate, for each child determined under subsection (a) of section 3, equal to the rate paid for such children for fiscal year 1981, then the amount of each allocation under subparagraphs (A), (B), and (C) shall be ratably increased.

(4) Any provision of such Act to the contrary notwithstanding, any funds appropriated for fiscal year 1983 for the purpose of making payments on the basis of entitlements established under section 3 of such Act shall be allocated as follows:

(A) The Secretary shall first allocate to each local educational agency which is described in subparagraph (A) or (B) of paragraph (2) of this subsection an amount equal to (i) the number of children determined with respect to such agency for such fiscal year under subsection (a) of section 3 of such Act, multiplied by (ii) 100 percent of the amount paid to such agency for each of such children for fiscal year 1981.

(B) The Secretary shall next allocate to each local educational agency which is described in subparagraph (A) or (B) of paragraph (2) of this subsection an amount equal to (i) the number of children determined with respect to such agency for such fiscal year under subsection (b)(3) of section 3 of such Act, multiplied by (ii) 70 percent of the amount paid to such agency for each of such children for fiscal year 1981.

(C) Any sums remaining after allocations are made pursuant to subparagraphs (A) and (B) of this paragraph shall be allocated to local educational agencies which are described in subparagraph (C) of paragraph (2) of this subsection. Subject to subparagraph (D) of this paragraph, each such agency shall be allocated an amount which bears the same ratio to the sums remaining for allocation as the number of children determined with respect to such agency for such fiscal year under subsection (a) of section 3 of such Act, bears to the sum of the number of children determined under subsection (a) of section 3 of such Act for such fiscal year with respect to all the local educational agencies described in such subparagraph (C), except that no payment shall be made under this subparagraph at a rate in excess of the rate described in subparagraph (D)(ii).

(D)(i) If the amount appropriated for making such payments for fiscal year 1983 is not sufficient to pay in full the allocations required by subparagraphs (A) and (B) of this paragraph, then the amount of each such allocation shall be ratably reduced. If, after such a reduction is required, additional amounts are made available for making such payments, then such allocations shall be increased on the same basis as they were reduced.

(ii) If the amount appropriated for making such payments for fiscal year 1983 exceeds the amount necessary to pay in full the allocations required by such subparagraphs plus the amount necessary to make payments under subparagraph (C) at a rate, for each child determined under subsection (a) of section 3, equal to the rate paid for such children for fiscal year 1981, then the amount of each allocation under subparagraphs (A), (B), and (C) shall be ratably increased.

(5) Any provision of such Act to the contrary notwithstanding, any funds appropriated for fiscal year 1984 for the purpose of making payments on the basis of entitlements established under section 3 of such Act shall be allocated as follows:

(A) The Secretary shall first allocate to each local educational agency which is described in subparagraph (A) or (B) of paragraph (2) of this subsection an amount equal to (i) the number of children determined with respect to such agency for such fiscal year under subsection (a) of section 3 of such Act, multiplied by (ii) 100 percent of the amount paid to such agency for each of such children for fiscal year 1981.

(B) The Secretary shall next allocate to each local educational agency which is described in subparagraph (A) or (B) of paragraph (2) of this subsection an amount equal to (i) the number of children determined with respect to such agency for such fiscal year under subsection (b)(3) of section 3 of such Act, multiplied by (ii) 50 percent of the amount paid to such agency for each of such children for fiscal year 1981.

(C) Any sums remaining after allocations are made pursuant to subparagraphs (A) and (B) of this paragraph shall be allocated to local educational agencies which are described in subparagraph (C) of paragraph (2) of this subsection. Subject to subparagraph (D) of this paragraph, each such agency shall be allocated an amount which bears the same ratio to the sums remaining for allocation as the number of children determining with respect to such agency for such fiscal year under subsection (a) of section 3 of such Act, bears to the sum of the number of children determined under subsection (a) of section 3 of such Act for such fiscal year with respect to all the local educational agencies described in such subparagraph (C), except that no payment shall be made under this subparagraph at a rate in excess of the rate described in subparagraph (D)(ii).

(D) If the amount appropriated for making such payments for fiscal year 1984 is not sufficient to pay in full the allocations required by subparagraphs (A) and (B) of this paragraph, then the amount of each such allocation shall be ratably reduced. If, after such a reduction is required, additional amounts are made available for making such payments, then such allocations shall be increased on the same basis as they were reduced. If the amount appropriated for making such payments for fiscal year 1984 exceeds the amount necessary to pay in full the allocations required by such subparagraphs plus the amount necessary to make payments under subparagraph (C) at a rate, for each child determined under subsection (a) of section 3, equal to the rate paid for such children for fiscal year 1981, then the amount of each allocation under subparagraphs (A), (B), and (C) shall be ratably increased.

(6) For any fiscal year beginning on or after October 1, 1984, no funds available under such Act shall be paid to local educational agencies with respect to children determined under subsection (b) of section 3 of such Act.

(b)(1) The total amount of appropriations authorized to be appropriated to make pay-

ments on the basis of entitlements established under section 2 of the Act of September 30, 1950 (Public Law 874, 81st Congress) shall not exceed $10,000,000 for each of the fiscal years 1982, 1983, and 1984.

(2) If the amount appropriated for making such payments for fiscal year 1982, 1983, or 1984 is not sufficient to pay in full the sum of the entitlements established under section 2 of such Act, then the amount of each such entitlement shall be ratably reduced. If, for any fiscal year in which such a reduction is required, additional amounts are made available for making such payments, then such entitlements shall be increased on the same basis as they were reduced.

(c) No funds are authorized to be appropriated for fiscal year 1982, 1983, or 1984 for the purpose of making payments—

(1) on the basis of entitlements determined under section 3(e) or 4 of such Act; or

(2) under sections 4A, 6, or 7 of such Act.

(d) Subsection (d) of section 402 of the Act of September 30, 1950 (Public Law 874, 81st Congress) shall not apply during fiscal year 1982, 1983, or 1984.

ACT OF JUNE 18, 1954 (GALLAUDET COLLEGE)

SEC. 5106. The total amount of appropriations to carry out the Act of June 18, 1954 (68 Stat. 265) shall not exceed $61,532,000 for each of the fiscal years 1982, 1983, and 1984.

ACT OF DECEMBER 24, 1970 (KENDALL SCHOOL)

SEC. 5107. The total amount of appropriations to carry out the Act of December 24, 1970 (84 Stat. 1579) shall not exceed $5,800,000 for each of the fiscal years 1982, 1983, and 1984.

ACT OF JANUARY 2, 1975 (HERBERT HOOVER MEMORIAL)

SEC. 5108. No funds are authorized to be appropriated to carry out the Act of January 2, 1975 (88 Stat. 1919) for fiscal year 1982, 1983, or 1984.

ADULT EDUCATION ACT

SEC. 5109. The total amount of appropriations to carry out the Adult Education Act shall not exceed $100,000,000 for each of the fiscal years 1982, 1983, and 1984.

ALCOHOL AND DRUG ABUSE EDUCATION ACT

SEC. 5110. The total amount of appropriations to carry out the Alcohol and Drug Abuse Education Act shall not exceed $3,000,000 for fiscal year 1982, $3,240,000 for fiscal year 1983, and $3,499,000 for fiscal year 1984.

ARTS AND ARTIFACTS INDEMNITY ACT

SEC. 5111. No funds are authorized to be appropriated to carry out the Arts and Artifacts Indemnity Act for fiscal year 1982, 1983, or 1984.

BANKHEAD-JONES ACT

SEC. 5112. No funds are authorized to be appropriated to carry out section 22 of the Act of June 29, 1935, commonly referred to as the Bankhead-Jones Act, for fiscal years 1982, 1983, or 1984.

CAREER EDUCATION INCENTIVE ACT

SEC. 5113. The total amount of appropriations to carry out the Career Education Incentive Act shall not exceed $10,000,000 for each of the fiscal years 1982, 1983, and 1984.

CIVIL RIGHTS ACT OF 1964

SEC. 5114. (a) The total amount of appropriations to carry out sections 403, 404, and 405 of title IV of the Civil Rights Act of 1964 (42 U.S.C. 2000c et seq.) shall not exceed $37,100,000 for each of the fiscal years 1982, 1983, and 1984.

COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

SEC. 5115. (a)(1) The total amount of appropriations to carry out parts A, B, and C of title II of the Comprehensive Employment and Training Act shall not exceed $1,335,000,000 for fiscal year 1982, $3,084,000,000 for fiscal year 1983, and $2,811,000,000 for fiscal year 1984.

(2) Funds available for such parts for fiscal years 1982, 1983, and 1984 shall be allocated under section 202 of such Act in the same manner as funds available for such parts for fiscal year 1981. Funds available for such parts for fiscal years 1983 and 1984 shall be available for carrying out programs previously funded under parts A and C of title IV of such Act.

(b) No funds are authorized to be appropriated to carry out part D of title II or title VI of the Comprehensive Employment and Training Act for fiscal year 1982, 1983, or 1984.

(c) The total amount of appropriations to carry out title III of the Comprehensive Employment and Training Act shall not exceed $213,000,000 for fiscal year 1982, $234,000,000 for fiscal year 1983, and $257,000,000 for fiscal year 1984.

(d)(1) The total amount of appropriations to carry out part A of title IV of the Comprehensive Employment and Training Act shall not exceed $600,000,000 for fiscal year 1982. No funds are authorized to be appropriated for such part for fiscal year 1983 or 1984.

(2) The total amount of appropriations to carry out part B of title IV of such Act shall not exceed $607,000,000 for fiscal year 1982, $649,000,000 for fiscal year 1983, and $690,000,000 for fiscal year 1984.

(3) The total amount of appropriations to carry out part C of title IV of such Act shall not exceed $865,000,000 for fiscal year 1982. No funds are authorized to be appropriated for such part for fiscal year 1983 or 1984.

(e) The total amount of appropriations to carry out title VII of the Comprehensive Employment and Training Act shall not exceed $192,500,000 for fiscal year 1982, $222,000,000 for fiscal year 1983, and $239,000,000 for fiscal year 1984.

(f) No funds are authorized to be appropriated to carry out title VIII of the Comprehensive Employment and Training Act for fiscal year 1982, 1983, or 1984.

COMPREHENSIVE OLDER AMERICANS ACT AMENDMENTS OF 1978

SEC. 5116. The total amount of appropriations to carry out title II of the Comprehensive Older Americans Act Amendments of 1978 shall not exceed $3,200,000 for fiscal years 1982, 1983, and 1984.

DEPARTMENT OF EDUCATION

SEC. 5117. The total amount of appropriations for salaries and expenses of the Department of Education shall not exceed $308,000,000 for each of the fiscal years 1982, 1983, and 1984.

DOMESTIC VOLUNTEER SERVICE ACT OF 1973

SEC. 5118. The total amount of appropriations to carry out title I of the Domestic Volunteer Service Act of 1973 shall not exceed $25,763,000 for fiscal year 1982, $15,391,000 for fiscal year 1983, and $9,000,000 for fiscal year 1984.

ECONOMIC OPPORTUNITY ACT OF 1964

SEC. 5119. No funds are authorized to be appropriated to carry out title VII of the Economic Opportunity Act of 1964 for fiscal year 1982, 1983, or 1984.

EDUCATION AMENDMENTS OF 1972

SEC. 5120. No funds are authorized to be appropriated to carry out section 506 of the Education Amendments of 1972 for fiscal year 1982, 1983, or 1984.

EDUCATION AMENDMENTS OF 1978

SEC. 5121. (a) No funds are authorized to be appropriated to carry out section 1015 of the Education Amendments of 1978 for fiscal year 1982, 1983, or 1984.

(b)(1) No funds are authorized to be appropriated to carry out part A of title XV of the Education Amendments of 1978 for fiscal year 1982, 1983, or 1984.

(2) No funds are authorized to be appropriated to carry out part B of title XV of the Education Amendments of 1978 for fiscal year 1982, 1983, or 1984.

(3) No funds are authorized to be appropriated to carry out section 1524 of the Education Amendments of 1978 for fiscal year 1982, 1983, or 1984.

(4) No funds are authorized to be appropriated to carry out section 1525 of the Education Amendments of 1978 for fiscal year 1982, 1983, or 1984.

(5) No funds are authorized to be appropriated to carry out section 1526 of the Education Amendments of 1978 for fiscal year 1982, 1983, or 1984.

EDUCATION AMENDMENTS OF 1980

SEC. 5122. (a) No funds are authorized to be appropriated to carry out section 1303 of the Education Amendments of 1980 for fiscal year 1982, 1983, or 1984.

(b) No funds are authorized to be appropriated to carry out part D of title XIII of the Education Amendments of 1980 for fiscal year 1982, 1983, or 1984.

(c) No funds are authorized to be appropriated to carry out part H of title XIII of the Education Amendments of 1980 for fiscal year 1982, 1983, or 1984.

EDUCATION OF THE HANDICAPPED ACT

SEC. 5123. (a)(1) The total amount of appropriations to carry out part B of the Education of the Handicapped Act, other than sections 618 and 619, shall not exceed $932,000,000 for each of the fiscal years 1982, 1983, and 1984.

(2) The total amount of appropriations to carry out section 618 of such Act shall not exceed $2,300,000 for each of the fiscal years 1982, 1983, and 1984.

(3) The total amount of appropriations to carry out section 619 of such Act shall not exceed $25,000,000 for each of the fiscal years 1982, 1983, and 1984.

(b)(1) The total amount of appropriations to carry out section 621 of the Education of the Handicapped Act (pertaining to regional resource centers) shall not exceed $9,800,000 for each of the fiscal years 1982, 1983, and 1984.

(2) The total amount of appropriations to carry out section 622 of such Act shall not exceed $16,000,000 for each of the fiscal years 1982, 1983, and 1984.

(3) The total amount of appropriations to carry out section 623 of such Act shall not exceed $20,000,000 for each of the fiscal years 1982, 1983, and 1984.

(4) The total amount of appropriations to carry out section 621 and 624 of such Act (pertaining to projects for severely handicapped children) shall not exceed $5,000,000 for each of the fiscal years 1982, 1983, and 1984.

(5) The total amount of appropriations to carry out section 625 of such Act shall not exceed $4,000,000 for each of the fiscal years 1982, 1983, and 1984.

(c)(1) The total amount of appropriations to carry out sections 631, 632, and 634 of the Education of the Handicapped Act shall not exceed $58,000,000 for each of the fiscal years 1982, 1983, and 1984.

(2) The total amount of appropriations to carry out section 633 of such Act shall not exceed $1,000,000 for each of the fiscal years 1982, 1983, and 1984.

(d) The total amount of appropriations to carry out part E of the Education of the Handicapped Act shall not exceed $20,000,000 for each of the fiscal years 1982, 1983, and 1984.

(e) The total amount of appropriations to carry out part F of the Education of the Handicapped Act shall not exceed $19,000,000 for each of the fiscal years 1982, 1983, and 1984.

ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 5124. (a) The total amount of appropriations to carry out title I of the Elementary and Secondary Education Act of 1965 shall not exceed $3,544,343,000 for fiscal year 1982. From the amount appropriated in accordance with the preceding sentence, not more than 14.6 percent of such amount for fiscal year 1982 shall be available to carry out sections 141, 146, and 151 of such Act.

(b) The total amount of appropriations to carry out title II of the Elementary and Secondary Education Act of 1965 shall not exceed $31,500,000 for fiscal year 1982.

(c)(1) The total amount of appropriations to carry out section 303 of the Elementary and Secondary Education Act of 1965 shall not exceed $25,500,000 for fiscal year 1982.

(2) The total amount of appropriations to carry out part B of title III of such Act shall not exceed $1,380,000 for fiscal year 1982.

(3) The total amount of appropriations to carry out part C of title III of such Act shall not exceed $3,150,000 for fiscal year 1982.

(4) No funds are authorized to be appropriated to carry out part D of title III of such Act for fiscal year 1982.

(5) The total amount of appropriations to carry out part E of title III of such Act shall not exceed $3,600,000 for fiscal year 1982.

(6) No funds are authorized to be appropriated to carry out part F of title III of such Act for fiscal year 1982.

(7) The total amount of appropriations to carry out part G of title III of such Act shall not exceed $1,000,000 for fiscal year 1982.

(8) No funds are authorized to be appropriated to carry out part H of title III of such Act for fiscal year 1982.

(9) No funds are authorized to be appropriated to carry out part I of title III of such Act for fiscal year 1982.

(10) No funds are authorized to be appropriated to carry out part J of title III of such Act for fiscal year 1982.

(11) No funds are authorized to be appropriated to carry out part K of title III of such Act for fiscal year 1982.

(12) The total amount of appropriations to carry out part L of title III of such Act shall not exceed $3,000,000 for fiscal year 1982.

(13) No funds are authorized to be appropriated to carry out part M of title III of such Act for fiscal year 1982.

(14) No funds are authorized to be appropriated to carry out part N of title III of such Act for fiscal year 1982.

(d)(1) The total amount of appropriations to carry out part B of title IV of the Elementary and Secondary Education Act of 1965 shall not exceed $161,000,000 for fiscal year 1982.

(2) The total amount of appropriations to carry out part C of title IV of such Act shall not exceed $66,130,000 for fiscal year 1982.

(3) The total amount of appropriations to carry out part D of title IV of such Act shall not exceed $15,000,000 for fiscal year 1982.

(e)(1) The total amount of appropriations to carry out part B of title V of the Elementary and Secondary Education Act of 1965 shall not exceed $42,075,000 for fiscal year 1982.

(2) No funds are authorized to be appropriated to carry out part C of title V of such Act for fiscal year 1982.

(f) No funds are authorized to be appropriated to carry out title VI of the Elementary and Secondary Education Act of 1965 for fiscal year 1982.

(g) The total amount of appropriations to carry out title VII of the Elementary and Secondary Education Act of 1965 shall not exceed $85,340,000 for each of the fiscal years 1982, 1983, and 1984.

(h) The total amount of appropriations to carry out title VIII of the Elementary and Secondary Education Act of 1965 shall not exceed $3,138,000 for fiscal year 1982.

(i)(1) The total amount of appropriations to carry out part A of title IX of the Elementary and Secondary Education Act of 1965 shall not exceed $5,652,000 for fiscal year 1982.

(2) No funds are authorized to be appropriated to carry out part B of title IX of such Act for fiscal year 1982.

(3) The total amount of appropriations to carry out part C of title IX of such Act shall not exceed $8,125,000 for fiscal year 1982.

(4) No funds are authorized to be appropriated to carry out part D of title IX of such Act for fiscal year 1982.

(5) The total amount of appropriations to carry out part E of title IX of such Act shall not exceed $2,250,000 for fiscal year 1982.

(j) No funds are authorized to be appropriated to carry out the Elementary and Secondary Education Act of 1965 for fiscal year 1983 or 1984.

EDUCATION CONSOLIDATION AND IMPROVEMENT ACT OF 1981

SEC. 5125. (a) The total amount of appropriations to carry out part I of the Education Consolidation and Improvement Act of 1981 (section 5343 of this title, et seq.) shall not exceed $3,544,343,000 for each of the fiscal years 1983 and 1984.

(b) The total amount of appropriations to carry out part II of the Education Consolidation and Improvement Act of 1981 (section 5351 of this title, et seq.) shall not exceed $584,368,000 for each of the fiscal years 1983 and 1984.

GENERAL EDUCATION PROVISIONS ACT

SEC. 5126. (a) The total amount of appropriations to carry out section 405 of the General Education Provisions Act shall not exceed $55,614,000 for each of the fiscal years 1982, 1983, and 1984.

(b) The total amount of appropriations to carry out section 406 of the General Education Provisions Act shall not exceed $8,947,000 for each of the fiscal years 1982, 1983, and 1984.

(c) The total amount of appropriations to carry out section 406A(2) of the General Education Provisions Act shall not exceed $5,000,000 for each of the fiscal years 1982, 1983, and 1984.

(d) The total amount of appropriations to carry out section 426A(1) of the General Education Provisions Act shall not exceed $1,875,000 for fiscal year 1982, 1983, or 1984.

HARRY S TRUMAN MEMORIAL SCHOLARSHIP ACT

SEC. 5127. No funds are authorized to be appropriated to carry out the Harry S Truman Memorial Scholarship Act for fiscal year 1982, 1983, or 1984.

HEADSTART-FOLLOW THROUGH ACT

SEC. 5128. The total amount of appropriations to carry out part B of the Headstart-Follow Through Act shall not exceed $44,300,000 for each of the fiscal years 1982, 1983, and 1984.

HIGHER EDUCATION ACT OF 1965

SEC. 5129. (a)(1) No funds are authorized to be appropriated to carry out part A of title I of the Higher Education Act of 1965 for fiscal year 1982, 1983, or 1984.

(2) The total amount of appropriations to carry out part B of title I of such Act shall not exceed $10,200,000 for fiscal year 1982, 1983, or 1984.

(b)(1) No funds are authorized to be appropriated to carry out part A of title II of the Higher Education Act of 1965 for fiscal year 1982, 1983, or 1984.

(2) The total amount of appropriations to carry out part B of title II of such Act shall not exceed $10,200,000 for each of the fiscal years 1982, 1983, and 1984.

(3) The total amount of appropriations to carry out part C of title II of such Act shall not exceed $5,000,000 for each of the fiscal years 1982, 1983, and 1984.

(4) No funds are authorized to be appropriated to carry out part D of title II of such Act for fiscal year 1982, 1983, or 1984.

(5) No funds available for carrying out parts A and B of such title for any such fiscal year shall be made available to any institution, organization, or agency which is eligible for assistance under part C of such title.

(c) The total amount of appropriations to carry out title III of the Higher Education Act of 1965 shall not exceed $129,600,000 for each of the fiscal years 1982, 1983, and 1984.

(d)(1)(A) The total amount of appropriations to carry out subpart 1 of part A of title IV of the Higher Education Act of 1965 shall not exceed $2,466,000,000 for fiscal year 1982, $2,353,000,000 for fiscal year 1983, and $1,965,000,000 for fiscal year 1984.

(B) Notwithstanding section 411(a)(2)(A)(i) of such Act, the amount of the Pell grant for a student eligible under such part shall be $1,800 for academic years 1982–83, 1983–84, and 1984–85, less an amount equal to the amount determined under section 482 of such Act to be the expected family contribution with respect to that student for that year.

(C) Notwithstanding section 411(a)(2)(B) of such Act, the amount of the Pell Grant for such academic years shall not exceed 50 per centum of the cost of attendance (as defined under section 482 of such Act) at the institution at which the student is in attendance for that year.

(2) The total amount of appropriations to carry out subpart 2 of part A of title IV of such Act shall not exceed $370,000,000 for each of the fiscal years 1982, 1983, and 1984.

(3) The total amount of appropriations to carry out subpart 3 of part A of title IV of such Act shall not exceed $76,800,000 for each of the fiscal years 1982, 1983, and 1984.

(4) The total amount of appropriations to carry out subpart 4 of part A of title IV of such Act shall not exceed $159,500,000 for each of the fiscal years 1982, 1983, and 1984.

(5) The total amount of appropriations to carry out subpart 5 of part A of title IV of

such Act shall not exceed $7,500,000 for each of the fiscal years 1982, 1983, and 1984.

(6)(A) No funds are authorized to be appropriated to carry out section 419 of such Act for fiscal year 1982, 1983, or 1984.

(B) The total amount of appropriations to carry out section 420 of such Act shall not exceed $12,000,000 for each of the fiscal years 1982, 1983, and 1984.

(7) The total amount of appropriations to carry out part C of title IV of such Act shall not exceed $550,000,000 for each of the fiscal years 1982, 1983, and 1984.

(8) The total amount of appropriations to carry out part E of title IV of such Act shall not exceed $286,000,000 for each of the fiscal years 1982, 1983, and 1984.

(9) The total amount of appropriations to carry out section 491 of such Act shall not exceed $1,000,000 for fiscal year 1982 and $2,000,000 for fiscal year 1983.

(e)(1) The total amount of appropriations to carry out part A of title V of the Higher Education Act of 1965 shall not exceed $22,500,000 for each of the fiscal years 1982, 1983, and 1984.

(2)(A) The total amount of appropriations to carry out part B of title V of such Act shall not exceed $9,100,000 for each of the fiscal years 1982, 1983, and 1984.

(B) The last sentence of section 531 of such Act shall not apply to the funds appropriated to carry out part B of title V of such Act for fiscal year 1982, 1983, or 1984.

(3) No funds are authorized to be appropriated to carry out part C of title V of such Act for fiscal year 1982, 1983, or 1984.

(4) No funds are authorized to be appropriated to carry out part D of title V of such Act for fiscal year 1982, 1983, or 1984.

(f) The total amount of appropriations to carry out title VI of the Higher Education Act of 1965 shall not exceed $30,600,000 for each of the fiscal years 1982, 1983, and 1984.

(g) No funds are authorized to be appropriated to carry out part A or B of title VII of the Higher Education Act of 1965 for fiscal year 1982, 1983, or 1984.

(h) The total amount of appropriations to carry out title VIII of the Higher Education Act of 1965 shall not exceed $23,000,000 for each of the fiscal years 1982, 1983, and 1984.

(i)(1) No funds are authorized to be appropriated to carry out part A of title IX of the Higher Education Act of 1965 for fiscal year 1982, 1983, or 1984.

(2) No funds are authorized to be appropriated to carry out part B of title IX of such Act for fiscal year 1982, 1983, or 1984.

(3) No funds are authorized to be appropriated to carry out part C of title IX of such Act for fiscal year 1982, 1983, or 1984.

(4) The total amount of appropriations to carry out part D of title IX of such Act shall not exceed $1,000,000 for each of the fiscal years 1982, 1983, and 1984.

(5) The total amount of appropriations to carry out part E of title IX of such Act shall not exceed $3,000,000 for each of the fiscal years 1982, 1983, and 1984.

(j) The total amount of appropriations to carry out title X of the Higher Education Act of 1965 shall not exceed $13,500,000 for each of the fiscal years 1982, 1983, and 1984.

(k) No funds are authorized to be appropriated to carry out title XI of the Higher Education Act of 1965 for fiscal year 1982, 1983, or 1984.

INDIAN EDUCATION ACT

SEC. 5130. The total amount of appropriations to carry out the Indian Education Act of 1965 shall not exceed $81,700,000 for each of the fiscal years 1982, 1983, and 1984.

JOHNSON-O'MALLEY ACT; SNYDER ACT; NAVAJO COMMUNITY COLLEGE ACT; TRIBALLY CONTROLLED COMMUNITY COLLEGE ASSISTANCE ACT OF 1978

SEC. 1531. The total amount of appropriations—

(1) to carry out the Act of April 16, 1934, commonly referred to as the Johnson-O'Malley Act;

(2) to carry out all education programs under the direction of the Office of Indian Education Programs in the Bureau of Indian Affairs of the Department of the Interior authorized under the Act of November 2, 1921, commonly referred to as the Snyder Act (and not otherwise expressly authorized by law);

(3) to carry out the Navajo Community College Act; and

(4) to carry out the Tribally Controlled Community College Assistance Act of 1978;

shall not exceed $200,000,000 for each of the fiscal years 1982, 1983, and 1984.

JOINT RESOLUTION OF OCTOBER 19, 1972 (ELLENDER FELLOWSHIP PROGRAM)

SEC. 5132. The total amount of appropriations to carry out the joint resolution of October 19, 1972, shall not exceed $1,000,000 for each of the fiscal years 1982, 1983, and 1984.

JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974

SEC. 5133. The total amount of appropriations to carry out title I and title II of the Juvenile Justice and Delinquency Prevention Act of 1974 shall not exceed $70,000,000 for each of the fiscal years 1982, 1983, and 1984.

LIBRARY SERVICES AND CONSTRUCTION ACT

SEC. 5134. (a) The total amount of appropriations to carry out title I of the Library Services and Construction Act shall not exceed $62,500,000 for each of the fiscal years 1982, 1983, and 1984.

(b) No funds are authorized to be appropriated to carry out title II of the Library Services and Construction Act for fiscal years 1982, 1983, or 1984.

(c) The total amount of appropriations to carry out title III of the Library Services and Construction Act shall not exceed $12,000,000 for each of the fiscal years 1982, 1983, and 1984.

MODEL SECONDARY SCHOOL FOR THE DEAF ACT

SEC. 5235. The total amount of appropriations to carry out the Model Secondary School for the Deaf Act shall not exceed $10,600,000 for each of the fiscal years 1982, 1983, and 1984.

MUSEUM SERVICES ACT

SEC. 5136. The total amount of appropriations to carry out the Museum Services Act shall not exceed $12,900,000 for each of the fiscal years 1982, 1983, and 1984.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE ACT

SEC. 5137. The total amount of appropriations to carry out the National Commission on Libraries and Information Science Act shall not exceed $700,000 for each of the fiscal years 1982, 1983, and 1984.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES ACT OF 1965

SEC. 5138. The total amount of appropriations to carry out the National Foundation on the Arts and the Humanities Act of 1965 shall not exceed $223,080,000 for each of the fiscal years 1982, 1983, and 1984.

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF ACT

SEC. 5139. The total amount of appropriations to carry out the National Technical Institute for the Deaf Act shall not exceed $32,811,000 for each of the fiscal years 1982, 1983, and 1984.

OLDER AMERICANS ACT OF 1965

SEC. 5140. The total amount of appropriations to carry out title IV of the Older Americans Act of 1965 shall not exceed $24,700,000 for each of the fiscal years 1982, 1983, and 1984.

REFUGEE EDUCATION CONSOLIDATION

SEC. 5141. The total amount of appropriations to carry out the Consolidation Refugee Education Assistance Act (section 5441 et seq.) shall not exceed $50,000,000 for each of the fiscal years 1981, 1982, and 1983.

REHABILITATION ACT OF 1973

SEC. 5142. (a) The total amount of appropriations to carry out section 14 of the Rehabilitation Act of 1973 shall not exceed $2,200,000 for fiscal year 1982, $2,300,000 for fiscal year 1983, and $2,400,000 for fiscal year 1984.

(b) The total amount of appropriations to carry out section 15 of the Rehabilitation Act of 1973 shall not exceed $500,000 for each of the fiscal years 1982, 1983, and 1984.

(c)(1) The total amount of appropriations to carry out part A of title I of the Rehabilitation Act of 1973 shall not exceed $714,500,000 for fiscal year 1982, $774,500,000 for fiscal year 1983, and $755,200,000 for fiscal year 1984.

(2) The total amount of appropriations to carry out part B of title I of such Act shall not exceed $13,400,000 for fiscal year 1982, $14,300,000 for fiscal year 1983, and $14,900,000 for fiscal year 1984.

(3) No funds are authorized to be appropriated to carry out section 120(a)(1) of such Act for fiscal year 1982, 1983, or 1984.

(4) The total amount of appropriations to carry out part D of title I of such Act shall not exceed $700,000 for each of the fiscal years 1982, 1983, and 1984.

(d) The total amount of appropriations to carry out section 202 of the Rehabilitation Act of 1973 shall not exceed $38,000,000 for fiscal year 1982, $40,500,000 for fiscal year 1983, and $36,000,000 for fiscal year 1984.

(e)(1) No funds are authorized to be appropriated to carry out section 301 of the Rehabilitation Act of 1973 for fiscal year 1982, 1983, or 1984.

(2) The total amount of appropriations to carry out section 302 of such Act shall not exceed $3,200,000 for fiscal year 1982, $3,200,000 for fiscal year 1983, and $3,200,000 for fiscal year 1984.

(3) The total amount of appropriations to carry out section 304 of such Act shall not exceed $27,400,000 for fiscal year 1982, $29,300,000 for fiscal year 1983, and $33,800,000 for fiscal year 1984.

(4) The total amount of appropriations to carry out section 305 of such Act shall not exceed $2,200,000 for fiscal year 1982, $2,300,000 for fiscal year 1983, and $2,300,000 for fiscal year 1984.

(5) The total amount of appropriations to carry out part B of title III of such Act (other than section 313) shall not exceed $4,800,000 for fiscal year 1982, $5,100,000 for fiscal year 1983, and $5,300,000 for fiscal year 1984.

(6) The total amount of appropriations to carry out section 313 of such Act shall not exceed $3,800,000 for fiscal year 1982,

$4,000,000 for fiscal year 1983, and $4,000,000 for fiscal year 1984.

(f) The total amount of appropriations to carry out title IV of the Rehabilitation Act of 1973 shall not exceed $300,000 for each of the fiscal years 1982, 1983, and 1984.

(g)(1) The total amount of appropriations to carry out section 502 of the Rehabilitation act of 1973 shall not exceed $2,800,000 for fiscal year 1982. No funds are authorized to be appropriated to carry out such section for fiscal year 1983 or 1984.

(2) The total amount of appropriations to carry out section 506 of such Act shall not exceed $300,000 for each of the fiscal years 1982, 1983, and 1984.

(h)(1) No funds are authorized to be appropriated to carry out part A of title VI of the Rehabilitation Act of 1973 for fiscal year 1982, 1983, or 1984.

(2) The total amount of appropriations to carry out part B of title VII of the Rehabilitation Act of 1973 shall not exceed $19,400,000 for fiscal year 1982, $20,000,000 for fiscal year 1983, and $15,000,000 for fiscal year 1984.

(i) The total amount of appropriations to carry out part B of title VI of such Act shall not exceed $11,400,000 for fiscal year 1982, $12,100,000 for fiscal year 1983, and $12,800,000 for fiscal year 1984.

VOCATIONAL EDUCATION ACT OF 1963

SEC. 5143. The total amount of appropriations to carry out the Vocational Education Act of 1963 shall not exceed $791,200,000 for each of the fiscal years 1982, 1983, and 1984.

YOUTH CONSERVATION CORPS ACT OF 1970

SEC. 5144. No funds are authorized to be appropriated to carry out the Act of August 13, 1970, commonly referred to as the Youth Conservation Corps Act of 1970, for fiscal year 1982, 1983, or 1984.

Subtitle B—Reauthorization of Certain Programs

GENERAL EXTENSION OF AUTHORIZATIONS

SEC. 5211. Subject to the limitations contained in subtitle A of this title, there are authorized to be appropriated for fiscal years 1982, 1983, and 1984 such sums as may be necessary to carry out each of the following provisions of law:

(1) parts C, D, E, and F of the Education of the Handicapped Act;

(2) the Act of September 30, 1950 (Public Law 874, 81st Congress);

(3) the Act of September 23, 1950 (Public Law 815, 81st Congress);

(4) the General Education Provisions Act;

(5) the Indian Education Act;

(6) titles XI, XIV, and XV of the Education Amendments of 1978 and part H of title XIII of the Education Amendments of 1980;

(7) the Adult Education Act;

(8) section 342 of the Education Amendments of 1976;

(9) the Asbestos School Hazards Detection and Control Act;

(10) the Joint Resolution of October 19, 1972 (86 Stat. 907);

(11) the Vocational Education Act of 1963;

(12) the Career Education Incentive Act;

(13) title IV of the Civil Rights Act of 1964;

(14) the Comprehensive Employment and Training Act;

(15) the Library Services and Construction Act;

(16) the Navajo Community College Act and the Tribally Controlled Community College Assistance Act of 1978;

(17) the Rehabilitation Act of 1973;

(18) title VII of the Economic Opportunity Act of 1964;

(19) the Older Americans Act of 1965;

(20) the Domestic Volunteer Service Act of 1973; and

(21) the Alcohol and Drug Abuse Education Act.

Subtitle C—Program Modifications

Chapter 1—AMENDMENTS TO NON-ENTITLEMENT PROGRAMS

Subchapter A—Social Service Block Grants

SHORT TITLE

SEC. 5311. This subchapter may be cited as the "Social Services Block Grant Act".

FINDINGS

SEC. 5312. The Congress finds and declares that—

(1) during the past 20 years, the Federal Government has established numerous programs to assist each State, its local governments and private service organizations, to provide social services to its citizens;

(2) with the growth in the number of Federal assistance programs and in the associated requirements imposed upon recipients, Federal decisions have displaced State and local determinations of what services, in what amounts, are required by the residents of each State;

(3) the proliferation of Federal programs has resulted in substantial inefficiencies in the way services are provided, in burdensome administrative costs, and in spending patterns that frequently do not reflect the priorities and service needs of the residents of the States;

(4) the best use of resources in meeting the social services needs of the Nation requires that the Federal Government support and not displace the State role in determining which services to provide and how best to provide them;

(5) allowing the States substantial flexibility in the use of Federal financial assistance and eliminating many Federal requirements will help insure a proper governmental balance and more effective use of the resources of the Nation; and

(6) this can be accomplished through consolidation of related assistance programs into a single grant, with minimum requirements.

STATEMENT OF PURPOSES

SEC. 5313. (a) The purposes of this subchapter are to consolidate Federal assistance to States for social services into a single grant, to increase State flexibility in using social service grants, and to assist States in—

(1) fostering individual self-sufficiency and economic self-support;

(2) preserving families and promoting family stability;

(3) reducing neglect, abuse, or mistreatment of vulnerable persons;

(4) promoting independent living where possible and assuring appropriate institutional care where needed; and

(5) stimulating improved use of public and private resources, including resources available from private nonprofit organizations, in the delivery of social services.

(b) To accomplish the purposes specified in subsection (a), States are authorized to provide social services to individuals and families (particularly those most in need), including child care, day care, services for individuals in foster care, protective services, foster care maintenance payments, adoption assistance payments, emergency room and board, home management and maintenance services, preparation and delivery of meals, health support services, family planning, transportation, rehabilitation, training and related services, employment services, legal services, delinquency prevention services, services to minors in the justice system, information, referral, and counseling services, and such other community and social services as may be appropriate and consistent with the purposes of this subchapter.

(c) Expenditures for accomplishing the purposes specified in subsection (a) may include expenditures for administration (including planning and evaluation) and personnel training and retraining directly related to the provision of services designed to carry out such purposes (including both short-term and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions). Such services shall include conferences or workshops, and training or retraining through grants to nonprofit organizations within the meaning of section 501(c)(3) of the Internal Revenue Code of 1954 or to individuals with social services expertise, or through financial assistance to individuals participating in such conferences, workshops, and training or retraining. The preceding sentence shall apply to all persons involved in the delivery of services under this subchapter.

AUTHORIZATION OF APPROPRIATIONS

SEC. 5314. For the purpose of making grants to States for provision of social services in accordance with the provisions of this subchapter, there are authorized to be appropriated $3,123,000,000 for fiscal year 1982 and each of the 3 succeeding fiscal years.

ALLOTMENTS

SEC. 5315. (a) From the amounts appropriated under section 5314 for any fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to the total amount appropriated as the total amount allotted or obligated to the State or to a grantee within the State (or, in the absence of such an allotment or obligation, the total amount paid, as determined by the Secretary on the basis of claims for payment submitted by the State on or before April 1, 1982) to the State for fiscal year 1981 under authorities specified in section 5323, under the authority for foster care maintenance payments under part A of title IV of the Social Security Act, and for social services in accordance with section 1108(a) of the Social Security Act, bears to the total amount appropriated for payments to all States under such authorities for fiscal year 1981.

PAYMENTS TO STATES

SEC. 5316. (a) The Secretary shall make payments in accordance with section 203 of the Intergovernmental Cooperation Act of 1968 to each State from its allotment under section 5315 for use under this subchapter.

(b) Payments to a State from its allotment for any fiscal year shall be expended by the State in such fiscal year or in the succeeding fiscal year.

(c)(1) A State may transfer not more than 10 percent of its allotment under section 5315 for any fiscal year for its use for such year under other provisions of Federal law providing block grants for support of health services, health promotion and disease prevention activities, or energy assistance (or any combination of such activities).

(2) For fiscal years 1982 and 1983, a State may transfer not more than an amount equal to its pro rata share of $255,000,000

for its use for the fiscal year involved under other provisions of Federal law providing block grants for energy assistance.

(3) Amounts allotted to a State under any provisions of Federal law referred to in this subsection and transferred by a State for use in carrying out the purposes of this subchapter shall be treated as if they were paid to the State under this subchapter but shall not affect the computation of the allotment of the State under this subchapter. The State shall inform the Secretary of any such transfer of funds.

(d)(1) A State may use a portion of the amounts described in subsection (a) for the purpose of purchasing technical assistance from public or private entities if the State determines that such assistance is required in developing, implementing, or administering programs funded under this subchapter.

(2) In using payments received under this subchapter, a State may, in addition to reallocating funds to units of local government, give consideration to community-based self-help organizations of demonstrated effectiveness.

STATE ADMINISTRATION

SEC. 5317. (a) Prior to expenditure by a State of payments made to it under section 5316 for any fiscal year, the chief executive officer of the State shall report on the intended use of the payments the State is to receive under this subchapter, including information on the types of activities to be supported and the categories or characteristics of individuals to be served. The report shall be made public within the State in such manner as to facilitate comment by any person (including any Federal or other public agency) during development of the report and after its completion. The report shall be revised throughout the year involved as may be necessary to reflect substantial changes in the activities assisted under this subchapter, and any revision shall be subject to the requirements of the preceding sentence.

(b) In addition to expenditures by the State for the purposes described in section 5313, the State may use so much of the amount allotted to it as may be necessary for the costs of administration of the grants made under this subchapter. Such administrative costs may include the cost of planning, operating, evaluating, and conducting fiscal and substantive reviews of the programs supported by grants under this subchapter, and for training directly related to the provision of social services under this subchapter.

LIMITATIONS ON USE OF GRANTS

SEC. 5318. (a) Except as provided in subsection (b), grants made under this subchapter may not be used by the State, or by any other person with which the State makes arrangements to carry out the purposes of this subchapter—

(1) for the purchase or improvement of land, or the purchase, construction, or permanent improvement (other than minor remodeling) of any building or other facility;

(2) for the provision of cash payments for costs of subsistence or for the provision of room and board (other than foster care maintenance payments, adoption assistance payments, costs of subsistence during rehabilitation, room and board provided for a short term as an integral but subordinate part of a social service, or temporary emergency shelters provided as a protective service);

(3) for payment of the wages of any individual as a social service (other than payment of the wages of welfare recipients employed in the provision of child day care services);

(4) for foster care maintenance payments for foster care provided by a public foster care institution which accommodates more than 25 children;

(5) for the provision of medical care (other than family planning services, rehabilitation services, or initial detoxification of an alcoholic or drug dependent individual) unless it is an integral but subordinate part of a social service for which grants may be used under this subchapter;

(6) for social services (except services to an alcoholic or drug dependent individual, or rehabilitation services) provided in, and by employees of, any hospital, skilled nursing facility, intermediate care facility, or prison, to any individual living in such institution;

(7) for public education (other than vocational and other training services for the handicapped, or information and referral activities); or

(8) for the provision of cash payments as a service (except as otherwise provided in this section).

(b) The Secretary may waive the limitations contained in subsection (a)(1) and subsection (a)(5) upon the request of a State for such a waiver if he finds that the request describes extraordinary circumstances to justify the waiver and that permitting the waiver will contribute to the ability of the State to carry out the purposes of this subchapter.

REPORTS AND AUDITS

SEC. 5319. (a) Each State shall prepare reports on its activities under this subchapter. Reports shall be in such form, contain such information, and be of such frequency (but not less often then every 2 years) as the State finds necessary to provide an accurate description of such activities, to secure a complete record of the purposes for which funds were spent, and to determine the extent to which funds were spent consistently with the reports required by section 5317(a). The State shall make copies of the reports required by this section available for public inspection within the State. Copies shall also be provided, upon request, to any interested public agency, and each such agency may provide its views on such reports to the Congress.

(b) Each State shall, not less often than every 2 years, audit its expenditures from amounts received (or transferred for use) under this subchapter. Such State audits shall be conducted by an entity independent of any agency administering activities funded under this subchapter, in accordance with generally accepted accounting principles. Within 30 days following the completion of each audit, the chief executive officer of the State shall submit a copy of such audit to the legislature of the State and to the Secretary. Each State shall repay to the United States amounts found not to have been expended in accordance with this subchapter, or the Secretary may offset such amounts against any other amount to which the State is or may become entitled under this subchapter.

(c) Section 202 of the Intergovernmental Cooperation Act of 1968 shall apply to grants made under this subchapter.

NONDISCRIMINATION PROVISION

SEC. 5320. (a) No person shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this subchapter. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity.

(b) Whenever the Secretary determines that there has been a failure to comply with subsection (a) or an applicable regulation, he shall notify the chief executive officer of the State involved and shall request him to secure compliance. If within a reasonable period of time, not to exceed 60 days, the chief executive officer fails or refuses to secure compliance, the Secretary is authorized to (1) refer the matter to the Attorney General of the United States with a recommendation that an appropriate civil action be instituted; (2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, or section 504 of the Rehabilitation Act of 1973, as may be applicable; or (3) take such other action as may be provided by law.

(c) When a matter is referred to the Attorney General pursuant to subsection (b), or whenever he has reason to believe that there has occurred a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

TRAINING AND ONGOING PROJECTS

SEC. 5321. (a)(1) The Secretary is authorized, either directly or through grants to States and public and other nonprofit organizations and agencies or contracts or jointly financed cooperative arrangements with States and public and other organizations and agencies, to provide for training related to the purposes of this subchapter, and for ongoing activities of national or regional significance related to the purposes of this subchapter, which may include operation of a national communications system for the purpose of assisting runaway and homeless youth in communicating with their families and with service providers, operation of a national center to collect and disseminate information on child abuse and neglect, and operation of a national adoption information exchange system to facilitate the adoptive placement of children.

(b) Payments of grants or under contracts or cooperative arrangements under this section may be made in advance or by way of reimbursement, and in such installments, as the Secretary may determine. Such payments shall be made on such conditions as the Secretary finds necessary to carry out the purposes of the grants, contracts, or other arrangements.

DEFINITIONS

SEC. 5322. For purposes of this subchapter:

(1) The term "Secretary" means the Secretary of Health and Human Services.

(2) The term "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

REPEALERS

SEC. 5323. The following provisions of law hereby are repealed:

(1) title XX of the Social Security Act;
(2) the Child Abuse Prevention and Treatment Act of 1974;
(3) the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978;
(4) the Runaway and Homeless Youth Act (title III of the Juvenile Justice and Delinquency Prevention Act of 1974); and
(5) titles I, II, III, IV, VI, VII, and IX of the Community Services Act of 1974.

CONFORMING AMENDMENTS TO THE SOCIAL SECURITY ACT

SEC. 5324. (a)(1) Section 1 of the Social Security Act is amended—
(A) by inserting "and" before "(b)" the first place it appears therein; and
(B) by striking out "and (c)" and all that follows through "self-care".
(2) Section 3(a) of the Social Security Act is amended—
(A) by amending paragraph (4) to read as follows:
"(4) in the case of any State, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health and Human Services for the proper and efficient administration of the State plan—
"(A) 75 per centum of so much of such expenditures as are for the training (including both short-term and long-term training at educational institutions through grants to such institutions or by direct finanacial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus
"(B) one-half of the remainder of such expenditures."; and
(B) by striking out paragraph (5).
(3) Section 3(c) of the Social Security Act is repealed.
(b)(1) Section 402(a)(5), 402(a)(13), 402(a)(14), 402(a)(15), 403(a)(3), 403(e), and 406(d) of the Social Security Act, as in effect with respect to Puerto Rico, Guam, and the Virgin Islands, are repealed.
(2) Sections 402(a)(5) and 403(a)(3) of the Social Security Act, as such provisions apply to the several States and the District of Columbia, are made applicable also to Puerto Rico, Guam, and the Virgin Islands.
(3) Section 403(a)(3)(A) of the Social Security Act is amended by inserting "(or, in the case of Puerto Rico, Guam, and the Virgin Islands, 60 per centum)" after "75 per centum".
(4) Section 248(b) of the Social Security Amendments of 1967 is repealed.
(c) Section 402(a)(9) of the Social Security Act is amended by striking out "XVI, XIX, or XX" and inserting in lieu thereof "XVI, or XIX".
(d) Section 402(a)(15) of the Social Security Act is repealed.
(e) Section 403(a)(3) of the Social Security Act is amended—
(1) in subparagraph (B), by striking out "and State programs with respect to which there is Federal financial participation under title XX,";
(2) in subparagraph (C), by striking out the comma and inserting in lieu thereof "; and"; and
(3) in the matter that follows subparagraph (C), by striking out "service described in section 2002(a)(1) of this Act" and inserting in lieu thereof "social services".
(f) Section 403(f) of the Social Security Act is repealed.
(g)(1) Section 1001 of the Social Security Act is amended by striking out "and of encouraging each State" and all that follows through "self-care".
(2) Section 1003(a) of the Social Security Act is amended—
(A) by amending paragraph (3) to read as follows:
"(3) in the case of any State, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health and Human Services for the proper and efficient administration of the State plan—
"(A) 75 per centum of so much of such expenditures as are for the training (including both short-term and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus
"(B) one-half of the remainder of such expenditures."; and
(B) by striking out paragraph (4).
(3) Section 1003(c) of the Social Security Act is repealed.
(h) Section 1108(a) of the Social Security Act is amended in the matter preceding paragraph (1) to read as follows:
"SEC. 1108. (a) The total amount certified by the Secretary of Health and Human Services under titles I, X, XIV, and XVI, and under part A of title IV (exclusive of any amounts on account of services and items to which subsection (b) applies)—".
(i) Section 1115(a) of the Social Security Act is amended—
(1) in the matter preceding paragraph (1), by striking out "XIX, or XX" and inserting in lieu thereof "or XIX";
(2) in paragraph (1), by striking out "1902, 2002, 2003, or 2004" and inserting in lieu thereof "or 1902"; and
(3) in paragraph (2)—
(A) by striking out "1903, or 2002" and inserting in lieu thereof "or 1903"; and
(B) by striking out "or expenditures with respect to which payment shall be made under section 2002,".
(j) Section 1116 of the Social Security Act is amended—
(1) in subsections (a)(1), (b), and (d), by striking out "XIX, or XX" and inserting in lieu thereof "or XIX"; and
(2) in subsection (a)(3), by striking out "1904, or 2003" and inserting in lieu thereof "or 1904".
(k) Section 1124(a) of the Social Security Act is amended—
(1) in paragraph (1), by striking out "XIX, and XX" each place it appears and inserting in lieu thereof "and XIX"; and
(2) in paragraph (2)—
(A) by inserting "or" after the semicolon at the end of subparagraph (B);
(B) by striking out "; or" at the end of subparagraph (C) and inserting a period in lieu thereof; and
(C) by striking out subparagraph (D).
(l) Section 1126(a) of the Social Security Act is amended by striking out "XIX, and XX" and inserting in lieu thereof "and XIX".
(m) Section 1128(a) of the Social Security Act is amended—
(1) in paragraph (2)(A), by striking out "or title XX,"; and
(2) in paragraph (2)(B), by striking out "or title XX".
(n)(1) Section 1401 of the Social Security Act is amended by striking out "and of encouraging each State" and all that follows through "self-care".
(2) Section 1403(a) of the Social Security Act is amended—
(A) by amending paragraph (3) to read as follows:
"(3) in the case of any State, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health and Human Services for the proper and efficient administration of the State plan—
"(A) 75 per centum of so much of such expenditures as are for the training (including both short-term and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus
"(B) one-half of the remainder of such expenditures."; and
(B) by striking out paragraph (4).
(3) Section 1403(c) of the Social Security Act is repealed.
(o)(1) Section 1601 of the Social Security Act is amended—
(A) by inserting "and" before "(b)" the first place it appears; and
(B) by striking out "and (c)" and all that follows through "self-care,".
(2) Section 1603(a) of the Social Security Act is amended—
(A) by amending paragraph (4) to read as follows:
"(4) in the case of any State, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health and Human Services for the proper and efficient administration of the State plan—
"(A) 75 per centum of so much of such expenditures as are for the training (including both short-term and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus
"(B) one-half of the remainder of such expenditures."; and
(B) by striking out paragraph (5).
(3) Section 1603(c) of the Social Security Act if repealed.
(p) Section 1616(e)(2) of the Social Security Act is amended by striking out ", as a part of the services program planning procedures established pursuant to section 2004 of this Act,".
(q) Section 1619 of the Social Security Act is amended—
(1) by striking out "titles XIX and XX" each place it appears and inserting in lieu thereof "title XIX"; and
(2) by striking out "title XIX or XX" and inserting in lieu thereof "title XIX".
(r) Section 1620(c) of the Social Security Act is amended—
(1) in paragraph (3), by striking out "titles XIX and XX" and inserting in lieu thereof "title XIX";
(2) by amending paragraph (6) to read as follows:
"(6) describes the manner in which the medical and social services involved are to be provided, and specifies the particular mechanisms and procedures to be used in providing such services (or, with respect to medical services, specifies that they are to be provided through the State's medical as-

sistance program under title XIX, with the Federal payments being made under subsection (d) of this section rather than under that title); and"; and

(3) by striking out the matter following the end of paragraph (7).

(s)(1) Section 1902(a)(10)(A) of the Social Security Act is amended by inserting before the semicolon "or who is an individual specified in subsection (j)".

(2) Section 1902 of the Social Security Act is amended by adding at the end the following new subsection:

"(j) Individuals specified in section 1902(a)(10)(A) shall include every individual—

"(1) in the case of a child on whose behalf foster care maintenance payments are being made under any program administered by or administered under the supervision of the State—

"(A) who would meet the requirements of section 406(a) or of section 407 but for his removal from the home of a relative specified in section 406(a), and

"(B) whose removal from the home occurred pursuant to a voluntary placement agreement entered into by the child's parent or legal guardian or was the result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child, and

"(C)(i) who received aid under the State plan approved under section 402 in or for the month in which such agreement was entered into or court proceedings leading to the removal of the child from the home were initiated,

"(ii) who would have received such aid in or for such month if application had been made therefor, or

"(iii) who had been living with a relative specified in section 406(a) within six months prior to the month in which such agreement was entered into or such proceedings were initiated, and would have received such aid in or for such month if in such month he had been living with such a relative and application therefor had been made; and

"(2) in the case of a child on whose behalf adoption assistance payments are being made under any program administered by or administered under the supervision of the State—

"(A) who but for adoption would meet the requirements specified in paragraph (1), or

"(B) who but for adoption would meet the requirements of title XVI with respect to eligibility for supplemental security income benefits.".

OTHER CONFORMING AMENDMENTS

SEC. 5325. (a) Section 3(f) of the Social Security Amendments of 1974 is repealed.

(b) Section 50B(i) of the Internal Revenue Code of 1954 is amended by striking out "pursuant to section 2007 of the Social Security Act" and inserting in lieu thereof "to the State under the Social Services Block Grant Act".

(c)(1) Section 202(b)(2) of the Mental Health Systems Act is amended by striking out "titles IV" and all that follows through the end thereof and inserting in lieu thereof "title V, XVIII, and XIX of the Social Security act and under the United States Housing Act, the Comprehensive Employment and Training Act, the Older Americans Act of 1965, and other Federal and State statutes.".

(2) Section 203(b) of the Mental Health Systems Act is amended by striking out "title IV" and all that follows through the end thereof and inserting in lieu thereof "titles V, XVIII, and XIX of the Social Security Act and under the Education for All Handicapped Children Act of 1975 and other Federal and State statutes.".

(3) Section 204(a)(2)(B) of the Mental Health Systems Act is amended by striking out "XIX, and XX" and inserting in lieu thereof "and XIX".

(4) Section 302(2)(K) of the Mental Health Systems Act is amended by striking out "titles IV" and all that follows through "and under".

(d) Section 201(b) of the Indian Child Welfare Act of 1978 is amended—

(1) in the first sentence, by striking out "titles IV-B and XX" and inserting in lieu thereof "title IV-B"; and

(2) in the second sentence, by striking out "titles IV-B and XX" and inserting in lieu thereof "title IV-B".

(e)(1) The first sentence of section 507 of the Rehabilitation Act of 1973 is amended by striking out all that follows "composed of" and inserting in lieu thereof "the Secretary of Health and Human Services, the Secretary of Education, the Secretary of Labor, the Attorney General, the Director of the Office of Personnel Management, the Chairman of the Equal Employment Opportunity Commission, and any other person designated by the President.".

(2) The third sentence of that section is amended to read as follows: "On or before July 1 of every other year, the Council shall transmit to the President and to the Congress a report of its activities.".

POVERTY LINE

SEC. 5326. (a) The Office of Management and Budget is authorized to define poverty and to revise the definition of poverty for each year. The Office of Management and Budget shall make and issue such definitions and revisions in a timely manner after consumer price index information becomes available.

(b) Any references in statutes or regulations in effect on the effective date of this subchapter to section 624 of the Economic Opportunity Act of 1964 shall be considered to be references to subsection (a) of this section.

TRANSITION PROVISIONS

SEC. 5327. (a) The Director of the Office of Management and Budget shall assume the responsibilities of the Director of the Community Services Administration, is authorized to provide for the termination of the affairs of the Community Services Administration and any other entities terminated by section 5323(a)(7), and shall provide for the transfer or other disposition of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with implementation of the authorities terminated by section 5323(a)(7) as necessary to effectuate the purposes of this subchapter.

(b) The provisions of subsection (a) shall take effect 90 days after the date of the enactment of this Act or, if earlier, October 1, 1981.

EFFECTIVE DATE

SEC. 5328. Except as otherwise provided in this subchapter, the provisions of this subchapter, and the repeals and amendments made by this subchapter, shall take effect on October 1, 1981.

Subchapter B—Consolidation of Education Programs

SHORT TITLE

SEC. 5341. This subchapter may be cited as the "Education Consolidation and Improvement Act of 1981".

Part I—Financial Assistance To Meet Special Educational Needs of Children

DECLARATION OF POLICY

SEC. 5343. The Congress declares it to be the policy of the United States to continue to provide financial assistance to State and local educational agencies to meet the special needs of educationally deprived children, on the basis of entitlements calculated under title I of the Elementary and Secondary Education Act of 1965, but to do so in a manner which will eliminate burdensome and unproductive paperwork and free the schools of Federal supervision, direction, and control. Further, the Congress recognizes the special educational needs of children of low-income families, and that concentrations of such children in local educational agencies adversely affect their ability to provide educational programs which will meet the needs of such children, and finds that Federal assistance for this purpose will be more effective if education officials, principals, teachers, and supporting personnel are freed from detailed regulations and administrative burdens which are not necessary for fiscal accountability amd make no contribution to the instructional program.

DURATION OF ASSISTANCE

SEC. 5344. During the period beginning October 1, 1982, and ending September 30 1987, the Secretary shall, in accordance with the provisions of this part, make payments to State educational agencies for grants made on the basis of entitlements created under title I of the Elementary and Secondary Education Act of 1965 and calculated in accordance with provisions of that title as in effect on September 30, 1982.

APPLICABILITY OF REPEALED PROVISIONS

SEC. 5345. (a) Except as otherwise provided in this part, the Secretary shall make payments based upon the amount of and eligibility for grants as determined under the following provisions of title I of the Elementary and Secondary Education Act in effect on September 30, 1982:

(1) Part A—"Programs Operated by Local Education Agencies":

(A) Subpart 1—"Basic Grants"; and

(B) Subpart 2—"Special Grants".

(2) Part B—"Programs Operated by State Agencies":

(A) Subpart 1—"Programs for Migratory Children";

(B) Subpart 2—"Programs for Handicapped Children";

(C) Subpart 3—"Programs for Neglected and Delinquent Children"; and

(D) Subpart 4—"General Provisions for State Operated Programs".

(b) The Secretary, in making the payments and determinations specified in subsection (a), shall continue to utilize the following provisions of title I of the Elementary and Secondary Education Act as in effect on September 30, 1982:

(1) Part E—"Payments":

(A) Section 191—"Payment Methods";

(B) Section 192—"Amount of Payments to Local Educational Agencies";

(C) Section 193—"Adjustments Where Necessitated by Appropriations"; and

(D) Section 194—"Payments for State Administration", except that paragraph (1) of

subsection (a) is amended by striking out "1.5 per centum" and inserting in lieu thereof "1 per centum".

(2) Part F—"General Provisions":

(A) Section 197—"Limitation on Grants to Puerto Rico"; and

(B) Section 198—"Definitions" and conforming amendments to other Acts, except that only those definitions applicable to this subchapter shall be used.

AUTHORIZED PROGRAMS

SEC. 5346. (a) State and local educational agencies shall use the payments under this part for programs and projects (including the acquisition of equipment and, where necessary, the construction of school facilities) which are designed to meet the special educational needs of educationally deprived children.

(b) State agency programs shall be designed to serve those categories of children counted for eligibility for grants under section 5345(a)(2) in accordance with the requirements of this part.

(c) A local educational agency may use funds received under this part only for programs and projects which are designed to meet the special educational needs of educationally deprived children identified in accordance with section 5347(b)(2), and which are included in an application for assistance approved by the State educational agency. Such programs and projects may include the acquisition of equipment and instructional materials, employment of special instructional and counseling and guidance personnel, employment and training of teacher aides, payments to teachers of amounts in excess of regular salary schedules as a bonus for service in schools serving project areas, the training of teachers, the construction, where necessary, of school facilities, other expenditures authorized under title I of the Elementary and Secondary Education Act as in effect September 30, 1982 and planning for such programs and projects.

APPROVAL OF APPLICATIONS

SEC. 5347. (a) A local educational agency may receive a grant under this part for any fiscal year if it has on file with the State educational agency an application which describes the programs and projects to be conducted with such assistance for a period of not more than three years, and such application has been approved by the State educational agency.

(b) The application described in subsection (a) shall be approved if it provides assurances satisfactory to the State educational agency that the programs and projects described—

(1)(A) are conducted in attendance areas of such agency having the highest concentrations of children from low-income families; or

(B) are located in all attendance areas of an agency which has a uniformly high concentration of such children; or

(C) are designed to utilize part of the available funds for services which promise to provide significant help for all such children served by such agency;

(2) are based upon an annual assessment of educational needs which identifies educationally deprived children in all eligible attendance areas, permits selection of those who have the greatest need for special assistance, and determines the needs of participating children with sufficient specificity to ensure concentration on those needs;

(3) are of sufficient size, scope, and quality to give reasonable promise of substantial progress toward meeting the special educational needs of the children being served and are designed and implemented in consultation with parents and teachers of such children;

(4) will be evaluated in terms of their effectiveness in achieving the goals set for them, and that such evaluations shall include objective measurements of educational achievement in basic skills and a determination of whether improved performance is sustained over a period of more than one year; and

(5) make provision for services to educationally deprived children attending private elementary and secondary schools in accordance with section 5348.

PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS

SEC. 5348. (a) GENERAL REQUIREMENTS.—To the extent consistent with the number of educationally deprived children in the school district of the local educational agency who are enrolled in private elementary and secondary schools, such agency shall make provisions for including special educational services and arrangements (such as dual enrollment, educational radio and television, and mobile educational services and equipment) in which such children can participate and which meet the requirements of sections 5346(c), 5347(b) (2), (3), and (4), and 5349(c). Expenditures for educational services and arrangements pursuant to this section for educationally deprived children in private schools shall be equal (taking into account the number of children to be served and the special educational needs of such children) to expenditures for children enrolled in the public schools of the local educational agency.

(b) BYPASS PROVISION.—(1) If a local educational agency is prohibited by law from providing for the participation in special programs for educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), the Secretary shall waive such requirements, and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a).

(2) If the Secretary determines that a local educational agency has substantially failed to provide for the participation on an equitable basis of educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), he shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a), upon which determination the provisions of subsection (a) shall be waived.

(3)(A) When the Secretary arranges for services pursuant to this subsection, he shall, after consultation with the appropriate public and private school officials, pay to the provider the cost of such services, including the administrative cost of arranging for such services, from the appropriate allocation or allocations under this part.

(B) Pending final resolution of any investigation or complaint that could result in a determination under this subsection, the Secretary may withhold from the allocation of the affected State or local educational agency the amount he estimates would be necessary to pay the cost of such services.

(C) Any determination by the Secretary under this section shall continue in effect until the Secretary determines that there will no longer be any failure or inability on the part of the local educational agency to meet the requirements of subsection (a).

(4)(A) The Secretary shall not take any final action under this subsection until the State educational agency and local educational agency affected by such action have had an opportunity, for at least forty-five days after receiving written notice thereof, to submit written objections and to appear before the Secretary or his designee to show cause why such action should not be taken.

(3) If a State or local educational agency is dissatisfied with the Secretary's final action after a proceeding under subparagraph (A) of this paragraph, it may within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(C) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(D) Upon the filing of a petition under subparagraph (B), the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgement of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(5) Any bypass determination by the Secretary under title I of the Elementary and Secondary Education Act of 1965 prior to the effective date of this subchapter shall remain in effect to the extent consistent with the purposes of this part.

GENERAL PROVISIONS

Sec. 5349. (a) Maintenance of Effort.—(1) Except as provided in paragraph (2), a local educational agency may receive funds under this part for any fiscal year only if the State educational agency finds that either the combined fiscal effort per student or the aggregate expenditures of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was not less than 90 per centum of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

(2) The State educational agency shall reduce the amount of the allocation of funds under this part in any fiscal year in the exact proportion to which a local educational agency fails to meet the requirement of paragraph (1) by falling below 90 per centum of both the combined fiscal effort per student and aggregate expenditures (using the measure most favorable to such local agency), and no such lesser amount shall be used for computing the effort required under paragraph (1) for subsequent years.

(3) The State educational agency may waive, for one fiscal year only, the requirements of this subsection if it determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a pre-

cipitous and unforeseen decline in the financial resources of the local educational agency.

(b) Federal Funds To Supplement, Not Supplant Regular Non-Federal Funds.—A local educational agency may use funds received under this part only so as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of pupils participating in programs and projects assisted under this part, and in no case may such funds be so used as to supplant such funds from such non-Federal sources, except that this subsection shall not be construed to require the provision of services to eligible children outside the regular classroom or school program.

(c) COMPARABILITY OF SERVICES.—(1) A local educational agency may receive funds under this part only if State and local funds will be used in the district of such agency to provide services in project areas which, taken as a whole, are at least comparable to services being provided in areas in such district which are not receiving funds under this part. Where all school attendance areas in the district of the agency are designated as project areas, the agency may receive such funds only if State and local funds are used to provide services which, taken as a whole, are substantially comparable in each project area.

(2) A local educational agency shall be deemed to have met the requirements of paragraph (1) if it has filed with the State educational agency a written assurance that it has established—

(A) a districtwide salary schedule;

(B) a policy to ensure equivalence among schools in teachers, administrators, and auxiliary personnel; and

(C) a policy to ensure equivalence among schools in the provision of curriculum materials and instructional supplies.

Unpredictable changes in student enrollments or personnel assignments which occur after the beginning of a school year shall not be included as a factor in determining comparability of service.

(d) Exclusion of Special State and Local Program Funds.—For the purposes of determining compliance with the requirements of subsections (b) and (c) a local educational agency may exclude State and local funds expended for carrying out special programs to meet the educational needs of educationally deprived children, if such programs are consistent with the purposes of this part.

(e) Allocation of Funds in Certain States.—In any State in which a large number of local educational agencies overlap county boundaries, the State educational agency is authorized to make allocations of basic grants and special incentive grants directly to local educational agencies without regard to counties, if such allocations were made during the fiscal year ending September 30, 1982, and if precisely the same factors are used to determine the amount of such grants to counties. Any local educational agency dissatisfied with such determination shall be afforded an opportunity for a hearing on the matter by the State educational agency.

PART II—CONSOLIDATION OF FEDERAL PROGRAMS FOR ELEMENTARY AND SECONDARY EDUCATION

STATEMENT OF PURPOSE

SEC. 5351. (a)(1) It is the purpose of this part to consolidate the program authorizations contained in titles II through VI and VIII and IX of the Elementary and Secondary Education Act of 1965, and supporting authorizations contained in other Acts, into a single authorization of grants to States for the same purposes set forth in those titles, but to be used in accordance with the educational needs and priorities of State and local educational agencies as determined by such agencies. Further, it is the purpose and intent of Congress to financially assist State and local educational agencies to improve elementary and secondary education (including preschool education) for children attending both public and private schools, and to do so in a manner designed to greatly reduce the enormous administrative and paperwork burden imposed on schools at the expense of their ability to educate children.

(2) The basic responsibility for the administration of funds made available under this part is vested in the State educational agencies, but it is the intent of Congress that this responsibility be carried out with a minimum of paperwork and that the responsibility for the design and implementation of programs assisted under this part shall be mainly that of local boards of education, school superintendents and principals, and classroom teachers and supporting personnel, because they have the most direct contact with students and are most directly responsible to parents.

AUTHORIZATION OF APPROPRIATIONS

SEC. 5352. There is hereby authorized to be appropriated for the fiscal year 1983, and for each of the four succeeding fiscal years, such sums as may be necessary to carry out the purposes of this part.

ALLOTMENTS TO STATES

SEC. 5353. (a)(1) From the sums appropriated to carry out this part in any fiscal year, the Secretary shall reserve not to exceed 1 per centum for payments to Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, to be allotted in accordance with their respective needs. The Secretary shall reserve an additional amount, not to exceed 5 per centum of the sums appropriated, to carry out the purposes of section 5367. From the remainder of such sums the Secretary shall allot to each State an amount which bears the same ratio to the amount of such remainder as the school-age population of the States bears to the school-age population of the United States, except that no State shall receive less than an amount equal to 0.4 percent of the amount of such remainder.

(2) For the purposes of this section:

(A) The term "school-age population" means the population aged five through seventeen.

(B) The terms "States" and "United States" includes the fifty States, the District of Columbia, and Puerto Rico.

STATE APPLICATIONS

SEC. 5354. (a) Any State which desires to receive grants under this part shall file an application with the Secretary which—

(1) designates the State educational agency as the State agency responsible for the administration and supervision of programs assisted under this part;

(2) provides for a process of active and continuing consultation with the State educational agency of an advisory committee, appointed by the Governor and determined by the Governor to be broadly representative of the educational interests and the general public in the State, including persons representative of—

(A) public and private elementary and secondary schoolchildren;

(B) classroom teachers;

(C) parents of elementary and secondary schoolchildren;

(D) local boards of education;

(E) local school administrators (including principals and superintendents);

(F) institutions of higher education;

(G) the State legislature, and

to advise the State educational agency on the allocation among authorized functions of those funds (not to exceed 20 per centum of the amount of the State grant) reserved for State use under section 5355(a), on the formula for the allocation of funds to local educational agencies, and on the planning, development, support, implementation, and evaluation of State programs assisted under this part;

(3) sets forth the planned allocation of funds among subparts A, B, and C of this part and among the authorized programs and projects which are to be implemented, and the allocation of such funds required to implement section 5366, including administrative costs of carrying out the responsibilities of the State educational agency programs;

(4) provides for timely public notice and dissemination of the information provided pursuant to paragraphs (2) and (3);

(5) beginning with fiscal year 1985, provides for an annual evaluation of the effectiveness of programs assisted under this part, which shall include comments of the advisory committee, and shall be made available to the public; and

(6) contains assurances that there is compliance with the specific requirements of this part.

(b) An application filed by the State under subsection (a) shall be for a period not to exceed three fiscal years, and may be amended annually as may be necessary to reflect changes without filing a new application.

ALLOCATION TO LOCAL EDUCATIONAL AGENCIES

SEC. 5355. (a) From the sums made available each year under section 5353, the State educational agencies shall distribute not less than 80 per centum to local educational agencies within such State according to the relative enrollments in public and nonpublic schools within the school districts of those agencies, adjusted, in accordance with criteria approved by the Secretary, to provide higher per pupil allocations to local educational agencies which have the greatest numbers of percentages of children whose education imposes a higher than average cost per child, such as—

(1) children from low-income families, and

(2) children living in sparsely populated areas.

(b) The Secretary shall approve criteria proposed by the State educational agency for adjusting allocations under subsection (a) if such criteria are reasonably calculated to produce an equitable distribution of funds with references to the factors set forth in subsection (a).

(c) From the funds paid to it pursuant to sections 5353 and 5354 during each fiscal year, the State educational agency shall distribute to each local educational agency which has submitted an application as required in section 5356 the amount of its allocation as determined under subsection (a).

LOCAL APPLICATIONS

SEC. 5356. (a) A local educational agency may receive its allocation of funds under

this part for any year in which it has on file with the State educational agency an application, which—

(1) sets forth the planned allocation of funds among subparts A, B, and C of this part and for the programs authorized by such parts which it intends to support, including the allocation of such funds required to implement section 5366;

(2) provides assurances of compliance with provisions of this part relating to such programs, including the participation of children enrolled in private, nonprofit schools in accordance with section 5366;

(3) agrees to keep such records, and provide such information to the State educational agency as reasonably may be required for fiscal audit and program evaluation, consistent with the responsibilities of the State agency under this part; and

(4) in the allocation of funds for programs authorized by this part, and in the design, planning, and implementation of such programs, provides for systematic consultations with parents of children attending elementary and secondary schools in the area served by the local agency, with teachers and administrative personnel in such schools, and with other groups as may be deemed appropriate by the local educational agency.

(b) An application filed by a local educational agency under subsection (a) shall be for a period not to exceed three fiscal years, may provide for the allocation of funds among programs and purposes authorized by this part for a period of three years, and may be amended annually as may be necessary to reflect changes without filing a new application.

(c) Local educational agencies shall have complete discretion, subject only to the provisions of this part, in determining how funds they receive under this section shall be divided among the purposes of this part in accordance with the application submitted under this section.

Subpart A—Basis Skill Development Programs and Projects Authorized

SEC. 5357. Funds allocated for use under this subpart shall be used by State and local educational agencies to develop and implement a comprehensive and coordinated program designed to improve elementary and secondary school instruction in the basic skills of reading, mathematics, and written and oral communication, as formerly authorized by title II ("Basic Skills Improvement") of the Elementary and Secondary Education Act.

STATE LEADERSHIP AND SUPPORT SERVICES

SEC. 5358. (a) In order to achieve the purposes of this subpart, State educational agencies may use funds reserved for State programs to make grants to and enter into contracts with local educational agencies, institutions of higher education, and other public and private agencies, organizations, and institutions to carry out planning, research and development, demonstration projects, training of leadership personnel, short term and regular session teaching training institutes, and for the development of instructional materials, the dissemination of information, and technical assistance to local educational agencies.

(b) State educational agencies may support activities designed to enlist the assistance of parents and volunteers working with schools to improve the performance of children in the basic skills. Such activities may include—

(1) the development and dissemination of materials that parents may use in the home to improve their children's performance in those skills; and

(2) voluntary training activities for parents to encourage and assist them to help their children in development basic skills,

but such activities conducted in local areas shall be with the approval of and in conjunction with programs of local educational agencies.

SCHOOL LEVEL PROGRAMS

SEC. 5359. (a) In planning for the utilization of funds it allocates for this subpart (from its allotment under section 5355) a local educational agency shall provide for the participation of children enrolled in private elementary and secondary schools (and of teachers in such schools) in accordance with section 5366. Such plans shall be developed in conjunction with and involve continuing consultation with teachers and principals in such district. Such planning shall include a systematic strategy for improving basic skills instruction for all children which provides for planning and implementation at the school building level, involving teachers, administration, and (to the extent practicable) parents, and utilizing all available resources in a comprehensive program. Such programs shall include—

(1) diagnostic assessment to identify the needs of all children in the school;

(2) the establishment of learning goals and objectives for children and for the school;

(3) to the extent practicable, pre-service and in-service training and development programs for teachers, administrators, teachers aides and other support personnel, designed to improve instruction in the basic skills;

(4) activities designed to enlist the support and participation of parents to aid in the instruction of their children; and

(5) procedures for testing students and for evaluation of the effectiveness for programs for maintaining a continuity of effort for individual children.

(b) Such programs may include such areawide or districtwide activities as learning centers accessible to students and parents, demonstration and training programs for parents, and other activities designed to promote more effective instruction in the basic skills.

Subpart B—Educational Improvement and Support Services

STATEMENT OF PURPOSE

SEC. 5361. It is the purpose of this subpart to permit State and local educational agencies to use Federal funds (directly, and through grants to or contracts with educational agencies, institutions of higher education, and other public and private agencies, organizations, and institutions) to carry out selected activities from among the full range of programs and projects formerly authorized under title IV ("Educational Improvement, Resources, and Support"), title V ("State Leadership"), and title VI ("Emergency School Aid") of the Elementary and Secondary Education Act of 1965, in accordance with the planned allocation of funds set forth in the applications under sections 5354 and 5355, in conformity with the other requirements of this subpart.

AUTHORIZED ACTIVITIES

SEC. 5362. Programs and projects are authorized involving the following activities—

(1) for the acquisition and utilization—

(A) of school library resources, textbooks, and other printed and published instructional materials for the use of children and teachers in public and private elementary and secondary schools which shall be used for instructional purposes only, and

(B) of instructional equipment and materials suitable for use in providing education in academic subjects for use by children and teachers in elementary and secondary schools which shall be used for instructional purposes only,

which takes into account the needs of children in both public and private schools based upon periodic consultation with teachers, librarians, media specialists, and private school officials;

(2) the development of programs designed to improve local educational practices in elementary and secondary schools, and particularly activities designed to address educational problems such as the education of children with special needs (educationally deprived children, gifted and talented children, and handicapped children, including children in private schools);

(3) programs designed to assist local educational agencies, upon their request, to more effectively address educational problems caused by the isolation or concentration of minority group children in certain schools, but such assistance shall not be conditioned upon any requirement that a local educational agency which assigns students to schools on the basis of geographic attendance areas adopt any other method of student assignment, and such assistance shall not be made available for the transportation of students or teachers or for the acquisition of equipment for such transportation;

(4) comprehensive guidance, counseling, and testing programs in elementary and secondary school and State and local support services necessary for the effective implementation and evaluation of such programs (including those designed to help prepare students for employment); and

(5) programs and projects to improve the planning, management and implementation of educational programs, including fiscal management, by both State and local educational agencies, and the cooperation of such agencies with other public agencies.

Subpart C—Special Projects

STATEMENT OF PURPOSE

SEC. 5363. It is the purpose of this subpart to permit State and local educational agencies to use Federal funds (directly and through grants to or contracts with educational agencies, institutions of higher education, and other public and private agencies, organizations, and institutions) to carry out selected activities from among the full range of programs and projects formerly authorized under title III ("Special Projects"), title VIII ("Community Schools"), and title IX ("Additional Programs") of the Elementary and Secondary Education Act of 1965, and supporting authorizations contained in other Acts, in accordance with the planned allocation of funds set forth in the applications under sections 5354 and 5355, in conformity with the other requirements of this subpart.

PROGRAMS AND PROJECTS

SEC. 5364. Programs and projects are authorized involving the following activities—

(1) special projects (as may be determined to be desirable by the State educational agencies) in such areas as—

(A) preparation of students to use metric weights and measurements when such use is needed;

(B) emphasis on the arts as an integral part of the curriculum;

(C) preschool partnership programs in which the schools work with parents of preschool children in cooperation with programs funded under the Headstart-Follow Through Act;

(D) consumer education;

(E) preparation for employment, the relationship between basic academic skill development and work experience, and coordination with youth employment programs carried out under the Comprehensive Employment and Training Act;

(F) environmental education, health education, education about American systems of law and legal institutions, and studies on population and the effects of population changes;

(G) academic and vocational education of juvenile delinquents, youth offenders, and adult criminal offenders; and

(H) programs to introduce disadvantaged secondary school students to the possibilities of careers in the biomedical and medical sciences, and to encourage, motivate, and assist them in the pursuit of such careers;

(2) the use of public education facilities as community centers operated by a local education agency in conjunction with other local governmental agencies and community organizations and groups to provide educational, recreational, health care, cultural, and other related community and human services for the community served in accordance with the needs, interests, and concerns of the community and the agreement and conditions of the governing board of the local educational agency; and

(3) additional programs, including—

(A) special programs to identify, encourage, and meet the special educational needs of children who give evidence of high performance capability in areas such as intellectual, creative, artistic, leadership capacity, or specific academic fields, and who require services or activities not ordinarily provided by the school in order to fully develop such capabilities;

(B) establishment of educational proficiency standards for reading, writing, mathematics, or other subjects, the administration of examinations to measure the proficiency of students, and implementation of programs (coordinated with those under subpart A of this part) designed to assist students in achieving levels of proficiency compatible with established standards;

(C) programs designed to ensure equity for women in educational opportunities at all educational levels (including adult women who desire further education or are unemployed or underemployed);

(D) programs designed to promote safety in the schools and to reduce the incidence of crime and vandalism in the school environment;

(E) planning, developing, and implementing ethnic heritage studies programs to provide all persons with an opportunity to learn about and appreciate the unique contributions to the American national heritage made by the various ethnic groups, and to enable students better to understand their own cultural heritage as well as the cultural heritage of others;

(F) the Pre-college Teacher Development in Science program administered by the Secretary under the National Science Foundation Act of 1950;

(G) the Teacher Center program under section 532 of the Higher Education Act and the Teacher Corps program under part A of title V of the Higher Education Act of 1965 (except evaluation activities); and

(H) programs involving training and advisory services under title IV of the Civil Rights Act of 1964.

Subpart D—General Provisions

MAINTENANCE OF EFFORT; FEDERAL FUNDS SUPPLEMENTARY

SEC. 5365. (a)(1) Except as provided in paragraph (2), a State is entitled to receive its full allocation of funds under this subpart for any fiscal year if the Secretary finds that either the fiscal effort per student or the aggregate expenditures within the State with respect to the provision of free, public education for the preceding fiscal year was not less than 90 per centum of such combined fiscal effort per student or aggregate expenditures for the second preceding fiscal year.

(2) The Secretary shall reduce the amount of the allocation of funds under this subpart in any fiscal year in the exact proportion to which the State fails to meet the requirements of paragraph (1) by falling below 90 per centum of both the fiscal effort per student and aggregate expenditures (using the measure most favorable to the State), and no such lesser amount shall be used for computing the effort required under paragraph (1) for subsequent years.

(3) The Secretary may waive, for one fiscal year only, the requirements of this subsection if he determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State.

(b) A State or local educational agency may use and allocate funds received under this subpart only so as to supplement and, to the extent practical, increase the level of funds that would, in the absence of Federal funds made available under this subpart, be made available from non-Federal sources, and in no case may such funds be used so as to supplant funds from non-Federal sources.

(c) The Secretary is specifically authorized to issue regulations to enforce the provisions of this section.

PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS

SEC. 5366. (a)(1) To the extent consistent with the number of children in the school district of a local educational agency which is eligible to receive funds under this subpart or which serves the area in which funds are made available for programs or projects assisted under this subpart is located who are enrolled in private nonprofit elementary and secondary schools, or with respect to instructional or personnel training programs funded by the State educational agency from funds reserved for the State under section 5355, such agency, after consultation with appropriate private school officials, shall provide for the benefit of such children in such schools secular, neutral, and nonideological services, materials, and equipment including the participation of the teachers of such children (and other educational personnel serving such children) in training programs, and the repair, minor remodeling, or construction of public facilities as may be necessary for their provision (consistent with subsection (c) of this section), or, if such service, materials, and equipment are not feasible or necessary in one or more such private schools as determined by such agency after consultation with the appropriate private school officials, shall provide such other arrangements as will assure equitable participation of such children in the purposes and benefits of this subpart.

(2) If no program or project is carried out under this subpart in the school district of a local educational agency, the State educational agency shall make arrangements, such as through contracts with nonprofit agencies or organizations, under which children in private schools in that district are provided with services and materials under this subpart to the extent that would have occurred if the local educational agency had received funds under this subpart.

(3) The requirements of this section relating to the participation of children, teachers, and other personnel serving such children shall apply to programs and projects carried out under this part by a State or local educational agency, whether directly or through grants to or contracts with other public or private agencies, institutions, or organizations.

(b) Expenditures for programs pursuant to subsection (a) shall be equal (consistent with the number of children to be served) to expenditures for programs under this subpart for children enrolled in the public schools of the local educational agency, taking into account the needs of the individual children and other factors which relate to such expenditures, and when funds available to a local educational agency under this subpart are used to concentrate programs or projects on a particular group, attendance area, or grade or age level, children enrolled in private schools who are included within the group, attendance area, or grade or age level selected for such concentration shall, after consultation with the appropriate private school officials, be assured equitable participation in the purposes and benefits of such programs or projects.

(c)(1) The control of funds provided under this subpart and title to materials, equipment, and property repaired, remodeled, or constructed therewith shall be in a public agency for the uses and purposes provided in this subpart, and a public agency shall administer such funds and property.

(2) The provision of services pursuant to this section shall be provided by employees of a public agency or through contract by such public agency with a person, an association, agency, or corporation who or which, in the provision of such services, is independent of such private school and of any religious organizations, and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this subpart shall not be commingled with State or local funds.

(d) If by any providing of law a State or local educational agency fail or refuses to provide for the participation in programs of children enrolled in private elementary and secondary schools, as required by this section, the Secretary shall waive such requirements and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

(e)(1) If the Secretary determines that a State or a local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of children enrolled in private elementary and secondary schools as required by this section, he may waive such requirements and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

(2) Pending final resolution of any investigation or complaint that could result in a determination under this subsection or sub-

section (d), the Secretary may withhold from the allocation of the affected State or local educational agency the amount he estimated would be necessary to pay the cost of those services.

(f) Any determination by the Secretary under this section shall continue in effect until the Secretary determines that there will no longer be any failure or inability on the part of the State or local educational agency to meet the requirements of subsections (a) and (b).

(g) When the Secretary arranges for services pursuant to this section, he shall, after consultation with the appropriate public and private school officials, pay the cost of such services, including the administrative costs of arranging for those services, from the appropriate allotment of the State under this subpart.

(h)(1) The Secretary shall not take any final action under this section until the State educational agency and the local educational agency affected by such action have had an opportunity, for at least forty-five days after receiving written notice thereof, to submit written objections and to appear before the Secretary or his designee to show cause why that action should not be taken.

(2) If a State or local educational agency is dissatisfied with the Secretary's final action after a proceeding under paragraph (1) of this subsection, it may within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which he based this action, as provided in section 2112 of title 28, United States Code.

(3) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(4) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(i) Any bypass determination by the Secretary under titles II through VI and VIII and IX of the Elementary and Secondary Education Act of 1965 prior to the effective date of this subchapter shall remain in effect to the extent consistent with the purposes of this subpart.

Subpart E—Secretary's Discretionary Funds

PROGRAMS AND PROJECTS

SEC. 5367. (a) From the sums reserved by the Secretary pursuant to the second sentence of section 5353(a)(1), the Secretary is authorized to carry out directly or through grants to or contracts with State and local educational agencies, institutions of higher education, and other public and private agencies, organizations, and institutions, programs and projects which—

(1) provide a national source for gathering and disseminating information on the effectiveness of programs designed to meet the special educational needs of educationally deprived children, children of limited English proficiency, and other individuals served by this subchapter, and for assessing the needs of such individuals;

(2) carry out research and demonstrations related to the purposes of this subchapter;

(3) are designed to improve the training of teachers and other instructional personnel needed to carry out the purposes of this subchapter; or

(4) are designed to assist State and local educational agencies in the implementation of programs under this subchapter.

(b) From the funds reserved for the purposes of this section, the Secretary shall first fund the inexpensive book distribution program (as carried out through "Reading Is Fundamental"), the special mathematics program, the national programs of arts in education, the national diffusion network, the Women's Educational Equity Act programs, as formerly authorized by part C of title II, part C of title III, and section 376 of title III, and part C of title IX of the Elementary and Secondary Education Act of 1965, respectively, at least in amounts necessary to sustain these activities at the level of operations during fiscal year 1981, and then utilize the remainder of such funds for other authorized activities.

Part III—General Provisions

FEDERAL REGULATIONS

SEC. 5371. (a) The Secretary is authorized to issue regulations—

(1) relating to the discharge of duties specifically assigned to the Secretary under this subchapter;

(2) relating to proper fiscal accounting for funds appropriated under this Act and the method of making payments authorized under this subchapter; and

(3) which are deemed necessary to reasonably insure that there is compliance with the specific requirements and assurances required by this subchapter.

(b) In all other matters relating to the details of planning, developing, implementing, and evaluating programs and projects by State and local educational agencies the Secretary shall not issue regulations, but may consult with appropriate State, local, and private educational agencies and, upon request, provide technical assistance, information, and suggested guidelines designed to promote the development and implementation of effective instructional programs and to otherwise assist in carrying out the purposes of this subchapter.

(c) Regulations issued pursuant to this subchapter shall not have the standing of a Federal statute for the purposes of judicial review.

WITHHOLDING OF PAYMENTS

SEC. 5372. (a) WITHHOLDING.—Whenever the Secretary after reasonable notice to any State educational agency and an opportunity for a hearing on the record, finds that there has been a failure to comply substantially with any assurances required to be given or conditions required to be met under this subchapter the Secretary shall notify such agency of these findings and that beginning sixty days after the date of such notification, further payments will not be made to the State under this subchapter, or the affected title thereof (or, in his discretion, that the State educational agency shall reduce or terminate further payments under the Act or the affected title thereof, to specified local educational agencies or State agencies affected by the failure) until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, (1) no further payments shall be made to the State under the Act or affected title thereof, or (2) payments by the State educational agency under the Act or affected title thereof shall be limited to local educational agencies and State agencies not affected by the failure, or (3) payments to particular local educational agencies shall be reduced, as the case may be.

(b) NOTICE TO PUBLIC OF SECRETARY WITHHOLDING.—Upon submission to a State of a notice under subsection (a) that the Secretary is withholding payments, the Secretary shall take such action as may be necessary to bring his action to the attention of the public within the State.

JUDICIAL REVIEW

SEC. 5373. (a) FILING APPEALS.—If any State is dissatisfied with the Secretary's action under section 5372(a), such State may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The filing of such petition shall act to suspend any withholding of funds by the Secretary pending the judgment of the court and prior to a final action on any review of such judgment. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(b) BASIS OF REVIEW.—A State educational agency shall be presumed to have complied with this subchapter, but the findings of fact by the Secretary, if supported by the weight of evidence, may overcome such presumption. The court may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings.

(c) JUDICIAL APPEALS.—Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

DEFINITIONS

SEC. 5374. (a) Except as otherwise provided herein, as used in this subchapter—

(1) the term "State" means a State, Puerto Rico, Guam, the District of Columbia, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands;

(2) the term "Secretary" means the Secretary of Education;

(3) the term "State educational agency" means the officer or agency primarily responsible for the State supervision of public elementary and secondary schools;

(4) the term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary and secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools.

Such term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school;

(5) the term "parent" includes a legal guardian or other person standing in loco parentis;

(6) the term "free public education" means education which is provided at public expense, under public supervision and direction, and without tuition charge, and which is provided as elementary or secondary school education in the applicable State, except that such term does not include any education provided beyond grade twelve;

(7) the term "elementary school" means a day or residential school which provides elementary education, as determined under State law, and the term "secondary school" means a day or residential school which provides secondary education, as determined under State law, except that it does not include and education provided beyond grade twelve;

(8) the term "construction" includes the preparation of drawings and specifications for school facilities; erecting, building, acquiring, altering, remodeling, improving, or extending school facilities; and the inspection and supervision of the construction of school facilities;

(9) the term "equipment" includes machinery, utilities, and building equipment and any necessary enclosure or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including such items such as instructional equipment and necessary furniture, printed, published, and audiovisual instructional materials, and books, periodicals, documents, and other related materials; and

(10) the term "school facilities" means classrooms and related facilities (including initial equipment) for free public education and interests in land (including site, grading, and improvements) on which such facilities are constructed, except that such term does not include those gymnasiums and similar facilities intended primarily for exhibitions for which admission is to be charged to the general public.

(b) Terms used in provisions referred to in section 5345 ("Applicability of repealed provisions") and not defined in this section shall have the same meaning that they were given in title I of the Elementary and Secondary Education Act of 1965 as in effect prior to October 1, 1982.

APPLICATION OF OTHER LAWS

SEC. 5375. Sections 434, 435, and 436 of the General Education Provisions Act (relating to "State Educational Agency Monitoring and Agency Application") shall not apply to programs authorized under this subchapter except to the extent that they relate to fiscal control and fund accounting procedures (including the title to property acquired with Federal funds), and shall not be construed to authorize the Secretary to require any reports or take any actions not specifically authorized by this subchapter.

EFFECTIVE DATE

SEC. 5376. (a) The provisions of this subchapter shall take effect October 1, 1982.

(b)(1) Effective at the close of September 30, 1932, titles II to VI and titles VIII and IX of the Elementary and Secondary Education Act of 1965 are hereby repealed.

(2) Effective at the close of September 30, 1982, part A and section 532 of title V of the Higher Education Act of 1965 are hereby repealed.

(c)(1) Funds appropriated in fiscal year 1982 pursuant to authorizations repealed by this section and intended for use in school year 1982 through 1983, shall be utilized in accordance with the provisions of and to carry out the purposes of this subchapter.

(2) Notwithstanding any other provision of law, unless expressly in limitation of this section, funds appropriated for any fiscal year to carry out activities under this subchapter shall become available for obligation on July 1 of such fiscal year and shall remain available for obligation until the end of the succeeding fiscal year.

Subchapter C—Federal Employees Compensation

SHORT TITLE; FINDINGS AND POLICY; GENERAL REFERENCE

SEC. 5391. (a) This subchapter may be cited as the "Federal Employees' Reemployment and Compensation Amendments of 1981".

(b)(1) The Congress finds that few incentives exist under the current provisions of the Federal Employees' Compensation Act to encourage employees who are injured or disabled in the course of their employment to return to gainful work. The Congress further finds that few incentives are provided to employing agencies to seek ways and means to return such employees to gainful work. As a result, the costs of compensation benefits paid to such employees and the costs of productivity lost to the Government have reached unacceptable levels.

(2) The Congress further finds that the effects of the current provisions of the Federal Employees' Compensation Act has been contrary to one of the central principles of workers' compensation, that of protecting workers against wage loss resulting from work-related injury or disability. The wage loss principle, which is intended to pay income benefits only for periods during which there has been an actual reduction or loss of a worker's earnings, needs to be fully restored to the Federal Employees' Compensation Act.

(3) It is, therefore, the policy and purpose of this subchapter to provide the needed incentives that will give the greatest possible encouragement for the return to gainful work of injured or disabled workers and to restore the injured or disabled workers as soon as possible and as near as possible to condition of self-support and maintenance as an able-bodied worker. It is further the policy of this subchapter that Federal employing agencies shall fully participate in and be responsible for achieving these purposes through constructive measures such as occupational safety and health protection programs, timely assistance in the resolution of compensation claims, and maximum reemployment of recovered and rehabilitated workers.

(c) Except as otherwise expressly provided, whenever in this subchapter an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 5 of the United States Code.

DISABILITY BENEFITS; WAITING PERIOD AND ADVANCE COMPENSATION

SEC. 5392. (a)(1) Section 8105(a) is amended by striking out "66⅔ percent of his monthly pay," and inserting in lieu thereof "80 percent of his spendable income,".

(2) Section 8106(a) is amended by striking out "66⅔ percent" and inserting in lieu thereof "80 percent of the spendable income that results when spendable income is computed on the basis".

(3) Section 8101 is amended by striking out "and" at the end of paragraph (19), by striking out the period at the end of paragraph (20) and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraph:

"(21) 'spendable income' means the monthly pay less amounts withheld for purposes of Federal and State income taxes, and less deductions for contributions under section 3102 of the Internal Revenue Code of 1954, if applicable.".

(4)(A) Section 8110 is repealed.

(B) Section 8104(b) is amended by striking out "section 8105s and 8110" and inserting in lieu thereof "section 8105".

(5) Section 8111 is amended—

(A) in subsection (a), by striking out "$500" and inserting in lieu thereof "$850"; and

(B) in subsection (b), by striking out "$200" and inserting in lieu thereof "$350".

(6) Section 8112 is amended by striking out ", including augmented compensation under section 8110 of this title but" and inserting in lieu thereof "under section 8105 or 8196 of this title,".

(b)(1) Section 8117 is amended to read as follows:

"§ 8117. Waiting period

"(a) Except as provided in subsection (b) of this section, an employee is not entitled to compensation for disability under section 8105, 8106, or 8118 of this chapter for the first 7 work days of disability. Sick leave or annual leave available or advanceable or leave without pay shall, as requested by the employee, be granted for use during this waiting period.

"(b) If the disability exceeds 14 calendar days, 5 days of sick or annual leave used for a waiting period shall be restored in accordance with applicable law, or 5 days of pay for leave without pay provided, at the applicable rate of compensation under section 8105 or 8106 with respect to such employee's leave or pay.".

(2) The table of sections for subchapter I of chapter 81 is amended by striking out the item relating to section 8117 and inserting in lieu thereof the following:

"8117. Waiting period.".

(c) Section 8118 is amended to read as follows:

"§ 8118. Advance compensation; election to use annual or sick leave

"(a) An agency or instrumentality may, in the exercise of management discretion without regard to chapter 71 of this title, if in its view the medical evidence clearly establishes that total disability from a work-related traumatic injury will be of at least four weeks duration, and if the agency or instrumentality does not controvert or contest any essential element of the claim, advance the injured individual compensation at the applicable rate of compensation established by section 8105 of this title. Such advance compensation may commence on the third work day after injury, notwithstanding section 8117 of this subchapter, and may continue until the initial determination of the employee's claim for compensation under section 8124(a) of this subchapter or, if sooner, the cessation of total disability. The agency or instrumentality shall be reimbursed from its account in the compensation fund established by section 8147 of this subchapter by the Secretary if it transmits the injury report, medical evidence, claim, and any such other information as the Secretary may require by regulation to the Sec-

retary within 15 days from the date the agency or instrumentality authorizes such advance compensation, or such later time as the Secretary may permit for good cause shown. Such compensation shall be treated as any other compensation under this subchapter for the purpose of overpayment and recovery.

"(b) An employee may use annual or sick leave to his credit during any period prior to the commencement of compensation under this subchapter.

"(c) The decision by an employing agency to advance or not advance compensation under this section shall not be admissible evidence per se in the consideration by the Secretary of Labor of any claim filed for compensation under this subchapter.".

(2) The table of sections for subchapter I of chapter 81 is amended by striking out the item relating to section 8118 and inserting in lieu thereof the following:

"§ 8118. Advance compensation; election to use annual or sick leave.".

DEATH BENEFITS

SEC. 5393. (a)(1) Section 8133(a) is amended by striking out paragraphs (1), (2), and (3) and inserting in lieu thereof the following:

"(1) To the surviving spouse, if there is no child, the amount to which the employee would have been entitled were the employee receiving compensation under section 8105 of this subchapter.

"(2) To the surviving spouse if there is a child, one-half of the amount referred to in paragraph (1) and one-half for the child or children divided equally among the children.

"(3) To the children, if there is no surviving spouse, the full amount to which such surviving spouse would be entitled under paragraph (1), divided equally among the children.".

(2) Paragraphs (4) and (5) of section 8133 are each amended by striking out the last sentence thereof.

(b)(1) Paragraph (6) of section 8101 is amended to read as follows:

"(6) 'surviving spouse' means the husband or wife living with, or dependent for support on, the decedent at the time of the decedent's death, or living apart for reasonable cause or because of the decedent's desertion;".

(2) Section 8101 is further amended by striking out paragraph (11).

(3) Sections 8133 and 8135 are each amended by striking out "widow or widower" each place it appears and inserting in lieu thereof "surviving spouse".

(c) Section 8116(b) is amended by inserting "(1)" immediately after "(b)" and by adding at the end thereof the following new paragraph:

"(2) Benefits to which an individual is entitled under this subchapter on account of the death of an employee shall be reduced by any amounts received by such an individual pursuant to section 202 of the Social Security Act on account of the same death.".

(d) Section 8134(a) is amended by striking out "$800" and inserting in lieu thereof "$1,100".

COMPENSATION SCHEDULE

SEC. 5394. (a). Section 8107 is amended to read as follows:

"§ 8107. Compensation schedule

"(a) If an injury results in the permanent loss, or permanent loss of use, of a member of function of the body, or involves disfigurement, the employee is entitled to compensation as provided by this section. The compensation is—

"(1) payable regardless of whether the cause of the loss or loss of use originates in a part of the body other than that member;

"(2) payable regardless of whether the loss or loss of use also involves another loss or loss of use of the body; and

"(3) in addition to compensation for total or partial disability under section 8105 or 8106.

"(b) The amount of compensation for any loss or loss of use compensable under this section shall be the product of—

"(1) 66⅔ percent of the minimum rate of basic pay for grade GS–8 established by section 5332 of this title on the date of the injury which results in the award of compensation, and

"(2) the value of the loss as prescribed under subsection (c) of this section.

Such amounts shall be computed in dollar amounts, and shall be paid in a lump-sum without regard to the provisions of section 8135 of this subchapter.

"(c) The permanent losses or losses of use compensable under this section, and the values for 100 percent loss in each case, are—

"(1) arm lost, 6.0;
"(2) leg lost, 5.5;
"(3) hand lost, 4.7;
"(4) foot lost, 3.9;
"(5) eye lost, 3.1;
"(6) thumb lost, 1.4;
"(7) first finger lost, 0.9;
"(8) great toe lost, 0.7;
"(9) second finger lost, 0.6;
"(10) third finger lost, 0.5;
"(11) toe, other than great toe lost, 0.3;
"(12) fourth finger lost, 0.3;
"(13)(A) complete loss of hearing in one ear, 1.0; or
"(B) complete loss of hearing in both ears, 3.9;
"(14) compensation for loss of binocular vision or for loss of 80 percent or more of the vision of an eye is to be the same as for loss of the eye;
"(15) compensation for loss of more than one phalanx of a digit is to be the same as for the loss of the entire digit, with loss of the first phalanx worth half the compensation for loss of the entire digit;
"(16) in the case of an arm or leg, amputation above the wrist or ankle, respectively, shall be compensated as for loss of the whole arm or leg;
"(17) compensation for loss of use of two or more digits, or one or more phalanges of each of two or more digits, of a hand or foot, is to be proportioned to the loss of use of the hand or foot occasioned thereby;
"(18) compensation for permanent total loss of use of a member is to be the same as for loss of the member;
"(19) compensation for permanent loss of use of a member may be for the proportionate degree of loss of use of the member, and the degree of loss of vision or hearing is to be determined without regard to correction;
"(20) in the case of loss of use of more than one member or parts of more than one member as enumerated by this schedule, the compensation is to be for loss of use of each member or part thereof, cumulatively; but when the injury affects only two or more digits of the same hand or foot, paragraph (17) of this subsection applies, and when partial bilateral loss of hearing is involved, compensation is to be computed on the loss as affecting both ears;
"(21) for serious disfigurement of the face, head, hands, or neck of a character likely to handicap the employee in securing or maintaining employment, proper and equitable compensation at a value not to exceed 3.1 shall be awarded in addition to any other compensation payable under this schedule; and
"(22) for permanent loss or permanent loss of use of any other important external or internal organ of the body, as determined by the Secretary, proper and equitable compensation at a value not to exceed 6.0 for each organ so determined shall be paid in addition to any other compensation payable under this schedule.".

(b) Section 8108 is amended to read as follows:

"§ 8108. Reduction of compensation for subsequent injury to same member

"The compensation payable under section 8107 of this title is reduced by the compensation paid or payable under that section for an earlier injury if—

"(1) compensation in both cases is for loss or loss of use of the same member or function or different parts of the same member or function or for disfigurement; and

"(2) the Secretary of Labor finds that compensation payable for the later loss or loss of use in whole or in part would duplicate the compensation payable for the preexisting loss or loss of use.".

(c) Section 8109 is amended—

(1) in subsection (a)(3), by striking out "the end or the period" and inserting in lieu thereof "full payment of the amount";

(2) in clause (B) of subsection (a), by striking out "for the period" and inserting in lieu thereof "in an amount"; and

(3) by striking out subsections (b) and (d).

(d) Section 8102(b) is amended by striking out "for a period for" and inserting in lieu thereof "to the extent to".

(e) Section 8115(a) is amended by striking out ", except permanent partial disability compensable under sections 8107–8109 of this title" and inserting in lieu thereof "under section 8106".

REHABILITATION

SEC. 5395. (a) The first sentence of section 8103(a) is amended—

(1) by inserting "including physical rehabilitation," after "physician,"; and

(2) by striking out "monthly".

(b) The first sentence of section 8104(a) is amended by striking out "a permanently disabled individual" and inserting in lieu thereof "an individual".

(c) Subsection (b) of section 8113 is amended to read as follows:

"(b) If an individual without good cause fails to apply for and undergo vocational rehabilitation when so directed under section 8104 of this title, the Secretary shall, in accordance with procedures established by regulation, cease the disability compensation payable to such employee until the individual in good faith complies with the direction of the Secretary.".

FINDINGS; APPEALS; MODIFICATION

SEC. 5396. (a) Section 8124 is amended to read as follows:

"§ 8124. Findings and award; hearings

"(a) The Secretary of Labor shall determine and make a finding of facts and make an award for or against payment of compensation which shall constitute an initial decision under this subchapter after—

"(1) considering the claim presented by the claimant and the report furnished by the immediate superior; and

"(2) completing such investigation as the Secretary considers necessary.

The claimant and the employing agency shall promptly be provided with a full written copy of the initial decision of the Secretary.

"(b) In cases where the report of the immediate supervisor is filed within 30 calendar days of the date of notice under section 8119 of this subchapter, and such report controverts any particulars of the claim in the detail set forth in regulations of the Secretary, the Secretary shall, as part of his initial decision under subsection (a) of this section, provide the employing agency with an explanation of the reasons for rejection of any part of such controversion. The Secretary shall further, upon the request of any agency entitled to and dissatisfied with such explanation, reconsider the initial decision and inform the agency and the claimant of any changes he makes thereto.

"(c) A claimant for compensation dissatisfied with an initial decision issued by the Secretary pursuant to subsection (a) of this section, or a decision pursuant to subsection (c) of section 8128 of this subchapter, may, within 30 days after such decision is issued, request that it be reconsidered. The claimant requesting reconsideration shall be entitled to present evidence during such proceeding in further support of the claim.

"(d)(1) A claimant for compensation dissatisfied with a decision of the Secretary under subsection (a), (b), or (c) of this section, or a decision pursuant to subsection (c) of section 8128 of this subchapter, shall, prior to seeking review under section 8149 of this title and within 30 days after any such decision is issued, request that a hearing be held before a representative of the Secretary.

"(2) In conducting a hearing under this subsection, the representative of the Secretary is not bound by common law or statutory rules of evidence, by technical or formal rules of procedure, or by section 554 of this title, but may conduct the hearing in such a manner as to best ascertain the rights of the claimant. The representative shall receive such relevant evidence as the claimant adduces and such other evidence as may be necessary or useful in evaluating the claim or resolving the issues. Within 30 days after the hearing ends, the Secretary shall notify the claimant in writing of the Secretary's order in the matter, the basis thereof, and any modifications of the award in connection therewith. Any order of the Secretary shall become final within 90 days thereafter unless review proceedings over which the Employees' Compensation Appeals Board has jurisdiction under section 8149 of this title have been instituted.".

(b)(1) Section 8149 is amended—

(A) by inserting "(a)" immediately before "The Secretary of Labor may prescribe";

(B) by inserting "as set forth in subsection (b) of this section" before the period at the end of the second sentence; and

(C) by adding at the end thereof the following new subsection:

"(b) The Employees' Compensation Appeals Board established pursuant to subsection (a) of this section shall be authorized to hear and, subject to applicable law and the rules and regulations of the Secretary, issue final decisions on appeals raising a substantial question of fact or law taken from orders issued under section 8124(c) of this title. The Board's decision shall be based on the record. The findings of fact in the decision under review by the Board shall be conclusive if supported by substantial evidence on the record considered as a whole. The decision of the Board shall be conclusive and binding upon the Secretary in the absence of new evidence of probative force and value.".

(2) The heading for section 8149 is amended to read as follows:

"§ 8149. Regulation; appeals".

(3) The table of sections for subchapter I of chapter 81 is amended by striking out the item relating to section 8149 and inserting in lieu thereof the following:

"8149. Regulations; appeals.".

(c)(1) Section 8128 is amended to read as follows:

"§ 8128. Modification; finality

"(a) The Secretary may modify an award for or against the payment of compensation at any time on the Secretary's own motion.

"(b) The Secretary shall consider a request for modification of a final decision under section 8142 of this subchapter for or against the payment of compensation on the application of a claimant on the ground of a change in condition or a mistake in a finding of fact if the application is filed prior to the expiration of one year after the date of the last payment of compensation or the rejection of a claim.

"(c) In accordance with the facts found upon consideration under this section, the Secretary may—

"(1) terminate, continue, increase, or decrease compensation previously awarded;

"(2) award compensation previously denied; or

"(3) reinstate compensation previously discontinued.

Credit shall be allowed in the account of a certifying or delivering official for payment in accordance with that action. Review of decisions by the Secretary under this subsection shall be available exclusively through the procedures set forth in section 8124 of this subchapter, consistent with the issues reviewable under this subsection.

"(d) The action of the Secretary, a designee of the Secretary, or the Employees' Compensation Appeals Board with respect to any matter arising under this subchapter is—

"(1) final and conclusive for all purposes and with respect to all questions of law and fact; and

"(2) not subject to review by another official of the United States or by any court by mandamus or otherwise.".

(2) The table of sections for subchapter I of chapter 81 is amended by striking out the item relating to section 8128 and inserting in lieu thereof the following:

"§ 8128. Modification; finality.".

(d) Section 8127(b) is amended by adding at the end thereof the following new sentence: "An approved attorney's fee may be made a lien upon the compensation due under an award.".

INTEGRATION WITH RETIREMENT BENEFITS

SEC. 5397. (a)(1) Section 8116 (as amended by this subchapter) is further amended by adding at the end thereof the following new subsection:

"(d)(1)(A) The eligibility of any employee for disability compensation under section 8105 or 8106 of this title shall, after the date specified in paragraph (2) of this subsection, cease in the case of any such employee who is eligible to receive a retirement annuity under the programs specified in paragraph (3) of this subsection.

"(B) In the case of any employee who is not eligible for a retirement annuity specified in subparagraph (A) of this paragraph, compensation benefits under section 8105 or 8106 of this title shall, after the date specified in paragraph (2) of this subsection, be computed and paid on the basis of those factors which would be applicable were such employee eligible for and converted to a retirement annuity under chapter 83 of this title, except in the case of an employee not eligible solely because of inadequate service credit. In the latter case, compensation benefits under section 8105 or 8106 of this title shall continue for such time as is necessary to accumulate adequate service credits for a minimum retirement annuity. Employees to whom the first sentence of this subparagraph applies shall have the option of selecting a survivor annuity equivalent to that available to those converted to chapter 83, in which case the constructive annuity of such employee shall be reduced accordingly.

"(C) The eligibility of an employee's potential survivors for awards under sections 8133 and 8134 of this title shall cease after the date specified in paragraph (2) of this subsection.

"(D) The provisions of this paragraph shall not apply to benefits payable under section 8192 of this chapter.

"(2) The provisions of paragraph (1) of this subsection shall apply after the last day in any month during which an employee reaches age 65 or, if later, has received disability compensation under section 8105 or 8106 of this title for one year or such additional time as is necessary to accumulate the minimum service necessary for the annuity plan for which the employee is eligible.

"(3) The programs to which paragraph (1)(A) of this subsection applies include those established under chapter 83 of this title, subchapter VIII of chapter 14 of title 22, United States Code, section 403 of title 50, United States Code, and such other programs as retirement based upon Federal employment as the Secretary determines by rule to be comparable to these programs in terms of accumulation of retirement credits, minimum benefits, and related factors. For purposes of paragraph (1)(A), an employee shall be considered eligible to receive a retirement annuity under any of these programs if the employee is not able to receive such annuity solely because the employee exercised an election, prior to the date of enactment of the Federal Employees' Reemployment and Compensation amendments of 1981, to withdraw the contributions made by such employee to the annuity program.

"(4) The Office of Personnel Management and other authorities that administer annuity programs for Federal employees shall make such arrangements as are necessary, consistent with existing authority, to ensure that there shall be no interruption of income as a result on the operation of paragraph (1)(A) of this subsection, and shall consult with the Secretary of Labor in this regard.".

(2) Within 90 days after the date of the enactment of this section, with respect to the programs of retirement established under subchapter VIII of chapter 14 of title 22, United States Code, section 403 of title 50, United States Code, and such other programs of retirement based upon Federal employment as the Secretary determines to be comparable to these programs for purposes of section 8116 as amended by paragraph (1) of this subsection, the President shall issue an Executive order instituting changes in those programs comparable to and with the effective date of the amendments to chapter 83 of title 5, United States Code, made by subsection (c) of this section.

(3) Within 1 year after the date of the enactment of this section, with respect to programs of retirement based upon Federal employment not covered under paragraph (2) of this subsection, other than the program established pursuant to chapter 83 of title 5, United States code, the Secretary and the head of the agency, instrumentality, or Government corporation involved shall jointly recommend to the Congress such legislation as is appropriate to provide for the integration of such systems with the Federal Employees' Compensation Act program, and where this is not feasible, legislation to provide appropriate employee contributions toward compensation paid after age 65 by the Federal Employees' Compensation Act program. Such legislation shall address relevant issues concerning survivor rights.

(b)(1) Section 8105(a) is further amended by inserting immediately before the period at the end thereof the following: ", except as provided in section 8116(c) of this title".

(2) Section 8106(a) is further amended by inserting, immediately before the period at the end thereof the following: ", except as provided in section 8116(d) of this title".

(3) Section 8135(a) (as amended by this subchapter) is further amended—

(A) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) the periodic payment to the beneficiary is less than $50 a period;"; and

(B) by striking out the second sentence thereof and inserting in lieu thereof the following;

"The probability of the death of the beneficiary before the expiration of the period during which such beneficiary is entitled to compensation on account of death shall be determined according to the most current United States Life Tables, as developed by the Department of Health and Human Services, which shall be updated from time to time, but the lump-sum payment to a surviving spouse of the deceased employee may not exceed 60 months' compensation. The probability of the death of an employee before the expiration of the period during which such employee is entitled to compensation on account of disability shall be computed on the basis of life expectancy not to exceed age 65.".

(4) Section 8114 is amended by adding at the end thereof the following new subsection:

"(f)(1) For the purposes of calculating retirement benefits in connection with conversion under section 8116(d) of this subchapter, contributions in connection therewith under section 8334(a) of this title or equivalent authorities, and life insurance amounts in connection with section 8704(c) of this title, the Secretary shall compute for each employee receiving compensation under this chapter, the 'assumed average annual earnings' and the 'assumed basic pay attributable to disability' of each such employee. The 'assumed average annual earnings' shall be the rate of pay during any fiscal year for the grade and step of the employee at the time of disability, or similar figure calculated by the Secretary of Labor pursuant to regulations for pay systems where pay is not based upon grade and step. The 'assumed basic pay attributable to disability' shall be the figure calculated for each month of that year by multiplying the extent of lost wage earning capacity compensated and the 'assumed average annual earnings' applicable.

"(2) The Secretary shall maintain a record of the figures computed under this subsection for the duration of any period of disability, and they shall become part of the official records of any employee receiving compensation. In addition, the Secretary shall, as necessary, make such computations and records with respect to periods of time preceding the date of the enactment of this subsection.".

(5) The second sentence of section 8147(a) is amended by inserting after "application thereof," the following: "and for payments required by section 8348(j) of this title or equivalent authorities with respect to contributions to retirement programs".

(c) Section 8331 is amended—

(1) in paragraph (1), by striking out "and" at the end of subparagraph (I), by inserting "and" at the end of subparagraph (J), and by inserting immediately thereafter the following new subparagraph:

"(K) an individual (other than a partially disabled individual who has voided all annuity rights under this subchapter by electing to receive a lump-sum credit under section 8342(a) of this subchapter) receiving compensation pursuant to subchapter I of chapter 81 of this title on account of disability incurred while serving in a position as an employee for purposes of this subchapter, notwithstanding that such individual has been separated from such position;";

(2) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) 'basic pay'—

"(A) includes the amount a Member received from April 1, 1954, to February 28, 1955, as expense allowance under section 601(b) of the Legislative Reorganization Act of 1946 (60 Stat. 850), as amended; and that amount from January 3, 1953, to March 31, 1954, if deposit is made therefor as provided by section 8334 of this title;

"(B) includes additional pay provided by—

"(i) subsection (a) of section 60e-7 of title 2 in the provisions of law referred to by that subsection; and

"(ii) sections 60e-8, 60e-9, 60e-10, 60e-11, 60e-12, 60e-13, and 60e-14 of title 2;

"(C) includes premium pay under section 5545(c)(1) of this title;

"(D) with respect to a law enforcement officer, includes premium pay under section 5545(c)(2) of this title;

"(E) with respect to an employee receiving compensation during any year under subchapter I of chapter 81 of this title for disability, is deemed, for any such year, to be the sum of—

"(i) any basic pay otherwise specified by this paragraph during such year; and

"(ii) the assumed basic pay attributable to disability for such year calculated for an employee by summing the monthly figures for each year calculated pursuant to section 8114(f) of this title; and

"(F) does not include bonuses, allowances, overtime pay, military pay, pay given in addition to the base pay of the position as fixed by law or regulation except as provided in subparagraphs (B), (C), and (D) of this paragraph, retroactive pay under section 5344 of this title in the case of a retired or deceased employee, uniform allowances under section 5901 of this title, or lump-sum leave payments under subchapter VI of chapter 55 of this title; and for an employee paid on a fee basis, the maximum amount of basic pay which may be used is $10,000;";

and

(3) by striking out "and" at the end of paragraph (21), by striking out the period at the end of paragraph (22) and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraph:

"(23) 'converted FECA beneficiary' means an employee as otherwise defined by this section whose receipt of compensation on account of disability pursuant to subchapter I of chapter 81 of this title was terminated in accordance with section 8116(d) of that subchapter.".

(d)(1) The second sentence of section 8332(b) is amended by inserting immediately before the period the following: ", except that credit shall in all cases be provided to employees receiving compensation for disability under subchapter I of chapter 81 of this title whether or not separated from service".

(2) Section 8332(f) is amended by striking out the first two sentences and inserting in lieu thereof the following: "Credit shall be allowed for leaves of absence without pay granted an employee while performing military service.".

(e)(1) Section 8334(a)(1) is amended—

(A) by inserting immediately after the first sentence the following new sentence: "In the case of an employee receiving monthly compensation pursuant to chapter 81 of this title on account of disability, and who has not elected to receive a lump-sum credit under section 8342 of this title, the Secretary of Labor shall deduct and withhold from such monthly compensation 7 percent of the assumed basic pay attributable to disability for such month calculated for an employee pursuant to section 8114(f) of this title."; and

(B) at the beginning of the second sentence, by striking out "An equal amount" and inserting in lieu thereof "An amount equal to the sum of the amounts deducted under the preceding sentences".

(2) the last sentence of section 8334(d) is amended by inserting before the period at the end thereof the following: "; except that in the case of a converted FECA beneficiary, credit shall be allowed for such service without redeposit by the employee or member where refund was made prior to date of the enactment of the Federal Employees' Reemployment and Compensation Amendments of 1981 during a period of separation from service prior to such date as a result of disability compensable under subchapter I of chapter 81 of this title".

(f) Section 8336 is amended by adding at the end thereof the following new subsection:

"(1) A converted FECA beneficiary is entitled to an annuity.".

(g) Section 8342 is amended—

(1) by inserting before the period at the end of the first sentence the following: "; except that an employee shall not be deemed separated for this purpose during any period of disability for which compensation is being paid under subchapter I of chapter 81 of this title, other than a partially disabled employee otherwise separated who elects to be considered separated for this purpose"; and

(2) by inserting before the period at the end of the second sentence the following: ", except that in the case of a converted FECA beneficiary, such rights shall not be voided with respect to a lump-sum credit paid to such employee prior to the date of the enactment of the Federal Employees' Reemployment and Compensation Amendments of 1981 during a period of separation from service as a result of disability compensable under subchapter I of chapter 81 of this title".

(h) Section 8348 is amended by adding at the end thereof the following new subsection:

"(j) At the end of each fiscal year, the Office shall notify the Secretary of Labor of

the amount equivalent to that portion of disbursement for annuities for that year in which the Office estimates is attributable to periods credited to converted FECA beneficiaries and which is not covered by funds created as a result of accumulated contributions under section 8334 of this title by or on behalf of such beneficiaries. The Secretary of Labor shall authorize payment to the Fund for such amount from the fund established pursuant to section 8147 of chapter 81 of this title. Pursuant to section 8147, and using data provided by the Office, the Secretary of Labor shall charge to individual agencies liabilities accrued in this regard with respect to former employees of those agencies.".

EFFECTIVE DATES; MISCELLANEOUS

SEC. 5398. (a)(1) The amendments made by this subchapter, except where provided otherwise, shall take effect on the first day of the first full biweekly pay period established for employees of the Department of Labor in accordance with section 5504 of title 5, United States Code, which commences after 180 days have expired from the date of the enactment of this subchapter as follows:

(A) For the amendments made by subsections (b) and (c) of section 5392, with respect to disabilities occurring on or after such date.

(B) For the amendments made by subsection (a) of section 5392, section 5393, and subsections (a) and (b) of section 5397, with respect to compensation payable on or after that date.

(C) For the amendments made by subsection (c) of section 5397, with respect to any determinations of eligibility for and amount of annuity to be paid which are made after that date, including credits for years of disability prior to that date, and any contributions, calculations, compensation, or lump-sum amounts payable in connection therewith.

(D) For the amendments made by section 5394, with respect to claims finally adjudicated on or after that date.

(E) For the amendments made by subsections (a) and (b) of section 5395, section 5396, and subsections (b) through (i) of this section, with respect to any actions taken after that date. The Employee's Compensation Appeals Board shall retain jurisdiction after the effective date of section 5396 of cases of which it has taken jurisdiction before that date.

(2) The amendments made by paragraph (5) of section 5397(c) of this subchapter shall take effect on the date of the enactment of this subchapter with respect to any payment of a lump-sum credit on or after that date.

(b)(1) Section 8139 is hereby repealed.

(2) Paragraph (1) of section 8101 is amended—

(A) by striking out subparagraph (D); and

(B) by inserting "or" at the end of clause (ii), by striking out "; or" at the end of clause (iii) and inserting in lieu thereof a period, and by striking out clause (iv).

(c)(1) Section 8131(d) is amended by striking out "Panama Canal Company" each place it appears and inserting in lieu thereof "Panama Canal Commission".

(2) Section 8138(b) is amended by striking out "Canal Zone Government or the Panama Canal Company" and inserting in lieu thereof "Panama Canal Commission".

(d)(1) Section 8104(a) is amended by striking out "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Secretary of Health and Human Services".

(2) Section 8141(b)(5) is amended by striking out "Secretary of Health, Education, and Welfare" each place it appears and inserting in lieu thereof "Secretary of Health and Human Services".

(e) Section 8105 (as amended by this subchapter) is further amended by adding at the end thereof the following new subsection:

"(c) The Secretary of Labor may require a totally disabled employee to report any earnings from employment or self-employment, by affidavit or otherwise, in the manner and at the times the Secretary specifies. The employee shall include in the affidavit or report the value of housing, board, lodging, and other advantages which are part of his earnings in employment or self-employment and which can be estimated in money. An employee who—

"(1) fails to make an affidavit or report when required; or

"(2) knowingly omits or understates any part of his earnings;

forfeits his right to compensation with respect to any period for which the affidavit or report was required. Compensation forfeited under this subsection, if already paid, shall be recovered by a deduction from the compensation payable to the employee or otherwise recovered under section 8129 of this title, unless recovery is waived under that section.".

(f) Section 8123(a) is amended by adding at the end thereof the following new sentence: "Such examinations do not preclude other medical examinations of employees that may be authorized by law or by regulation of appropriate authority, and the records of any such other examinations shall, in accordance with regulations of the Secretary, be made a part of the record of any claim under this subchapter.".

(g) Section 8129(a) is amended by adding at the end thereof the following new sentences: "If the individual resumes employment before the adjustment is completed, the Secretary of Labor may take such action as may be appropriate to recover the remainder, including directing the agency employing such individual to withhold specified amounts from the individual's wages subject only to the limitations provided in section 1673(a) of title 15, United States Code. Any overpayments recovered shall be paid over to the Secretary by the agency employing such individual and shall be credited against the compensation fund billing under section 8147 of this subchapter of the employing agency against which the overpayment was originally charged.".

(h) Section 8116(c) is amended by striking out "and instead of all other liability of the United States or the instrumentality" and inserting in lieu thereof the following: "of any other civil action or proceeding by reason of the same subject matter against the United States or an instrumentality thereof or against a Federal employee or his estate whose act or omission, within the scope of his employment, gave rise to the claim, and instead of all other liability of such entities and persons".

(i)(1) Section 8704(c) is amended—

(A) by striking out "and" at the end of paragraph (1);

(B) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(3) in the case of an employee whose insurance is continued under section 8706(b)(2) of this chapter, 'annual pay' means the assumed average annual earnings computed under section 8114(f) of this title during the period for which any such figure is applicable.".

(2) Section 8706(b)(3) is amended by striking out "or is receiving such compensation for disease or injury" and inserting in lieu thereof ", or after the date an employee receiving compensation under subchapter I of chapter 81 of this title for disease or injury has such compensation terminated or reduced pursuant to section 8116(d) of this title".

(3) Section 8707(b)(1) is amended by inserting before the period at the end thereof the following: "and is retired, or if later, after the month in which such compensation is terminated or reduced pursuant to section 8116(d) of this title".

(4) Section 8714a(c)(2)(C) is amended by striking out "or is receiving compensation for disease or injury" and inserting in lieu thereof ", or after the date an employee receiving compensation under subchapter I of chapter 81 of this title for disease or injury has such compensation terminated or reduced pursuant to section 8116(d) of this title".

(5) Section 8714a(d)(1) is amended by inserting ", or, if later, the end of the calendar month such compensation is terminated or reduced pursuant to section 8116(d) of this title" after "65 years of age".

(6) Section 8901(3)(D)(ii) is amended by striking out "who is separated after having completed 5 or more years of service and".

Subchapter D—Home Energy Assistance Block Grants

SHORT TITLE

SEC. 5411. This subchapter may be cited as the "Home Energy Assistance Block Grant Act".

HOME ENERGY GRANTS AUTHORIZED

SEC. 5412. (a) The Secretary of Health and Human Services is authorized to make grants, in accordance with the provisions of this subchapter, to States to assist eligible households to meet the costs of home energy. Not more than 10 percent of the funds available to each State under this subchapter may be used by the State for low-income residential weatherization or other energy-related home repair.

(b) There are authorized to be appropriated to carry out the purposes of this subchapter $1,875,000,000 for each of the fiscal years 1982, 1983, and 1984.

DEFINITIONS

SEC. 5413. As used in this subchapter:

(1) The term "household" means any individual or group of individuals who are living together as one economic unit for whom residential energy is customarily purchased in common or who make undesignated payments for energy in the form of rent.

(2) The term "home energy" means a source of heating or cooling in residential dwellings.

(3) The term "lower living standard income level" means the income level, adjusted for (A) family size; and (B) regional, metropolitan, and nonmetropolitan differences (or, as the State at its option may select, a single level from among the levels adjusted under this paragraph as applicable to such State), determined annually by the Secretary of Labor based upon the most recent lower living standards family budget issued by the Secretary of Labor.

(4) The term "Secretary" means the Secretary of Health and Human Services.

(5) The term "State" means each of the several States and the District of Columbia.

(6) The term "energy crisis intervention" means weather-related and supply shortage emergencies.

STATE ALLOCATIONS

SEC. 5414. (a)(1)(A) Except as provided in subparagraph (B), the Secretary shall, from 99 percent of the amount appropriated under section 5412 for each fiscal year, allot to each State an amount equal to 99 percent multiplied by the State's allotment percentage.

(B) For fiscal year 1983 and subsequent fiscal years, no State shall receive an allotment under subparagraph (A) in an amount which exceeds 80 percent of the amount expended by such State from State funds for the fiscal year involved to assist eligible households to meet the costs of home energy.

(2)(A) For purposes of paragraph (1), a State's allotment percentage is the percentage which the amount the State was eligible to receive under the allotment formulas of the Home Energy Assistance Act of 1980 bears to the total amount available for allotment under such formulas.

(B) For purposes of subparagraph (A), the allotment formulas of the Home Energy Assistance Act of 1980 shall be treated as including the rules provided by, and the rules referred to in, section 101(j) of the Act of December 16, 1980 (Public Law 96-536).

(3) If the sums appropriated for any fiscal year for making block grants under this subchapter are not sufficient to pay in full the total amount allocated to a State under paragraph (1) for each fiscal year, the amount which all States will receive under this subchapter for such year shall be ratably reduced.

(b)(1) The Secretary shall apportion the 1 percent remaining in each fiscal year on the basis of need between the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(2) Each jurisdiction to which paragraph (1) applies may receive grants under this subchapter upon an application submitted to the Secretary containing provisions which describe the programs for which assistance is sought under this subchapter, and which are consistent with the requirements of section 5416.

(c) Of the funds available to each State under subsection (a), a reasonable amount based on data from prior years shall be reserved by each State for energy crisis intervention.

(d)(1) If, with respect to any State, the Secretary—

(A) receives a request from the governing body of an Indian tribe or tribal organization within the State that assistance under this subchapter be made directly to such tribe or organization; and

(B) determines that the members of such tribe or tribal organization would be better served by means of grants made directly to provide benefits under this subchapter,

the Secretary shall reserve from amounts which would otherwise be allotted to such State under this subchapter for the fiscal year the amount determined under paragraph (2).

(2) The Secretary shall reserve for the purpose of paragraph (1) from sums that would otherwise be allotted to such State not less than 100 percent of an amount which bears the same ratio to the State's allotment for the fiscal year involved as the population of all eligible Indians for whom a determination under this paragraph has been made bears to the population of all eligible households in such State.

(3) The sums reserved by the Secretary on the basis of a determination under this subsection shall be granted to the Indian tribe or tribal organization serving the individuals for whom such a determination has been made.

(4) In order for an Indian tribe or tribal organization to be eligible for an award for a fiscal year under this subsection, it shall submit to the Secretary a plan for such fiscal year which meets such criteria as the Secretary may prescribe by regulation.

(5) For purposes of this subsection, the terms "Indian tribe" and "tribal organization" have the same meaning given such terms in section 4(b) and section 4(c) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

APPLICATIONS AND REQUIREMENTS

SEC. 5415. (a) Each State desiring to receive an allotment for a fiscal year under this subchapter shall submit an application to the Secretary. Each such application shall be in such form as the Secretary shall require. Each such application shall contain—

(1) assurances that the State has established procedures under which the legislature of the State may disapprove the receipt by the State of any payment under this subchapter; and

(2) assurances by the chief executive officer of the State that the State has complied with subsection (b) and will meet the conditions enumerated in subsection (c).

(b) After the expiration of the first fiscal year in which a State received funds under this subchapter, no funds shall be allotted to such State for any fiscal year under this subchapter unless the legislature of the State conducts public hearings on the proposed use and distribution of funds to be provided under this subchapter for such fiscal year.

(c) As part of the annual application required by subsection (a), the chief executive officer of each State shall certify that the State agrees to—

(1) use the funds available under this subchapter for the purposes described in section 5412 and otherwise in accordance with the requirements of this subchapter;

(2) describe households in the State eligible for assistance and give priority to households with incomes equal to or less than the lower living standard income level or, in the case of a one-person household, with an income equal to or less than 125 percent of poverty;

(3) conduct outreach activities designed to assure that eligible households, especially households with elderly individuals or handicapped individuals, or both, are made aware of the assistance available under this subchapter;

(4) coordinate its activities under this subchapter with similar and related programs run by the Federal Government and such State, particularly low-income weatherization programs;

(5) describe the amount of assistance to be provided to or on behalf of participating households assuring (A) that priority is given to households with lowest incomes and to eligible households having at least one elderly or handicapped inidividual; and (B) that the highest level of assistance is provided to households with lowest incomes and the highest energy costs in relation to income;

(6) give special consideration in the designation of local administrative agencies to any local public or private nonprofit agency which is receiving Federal funds under any low-income energy assistance program or weatherization program on the date of the enactment of this Act, except that (A) the State shall, before giving such special consideration, determine that the agency involved meets program and fiscal requirements established by the State; and (B) if there is no such agency because of a change in the assistance furnished to programs for economically disadvantaged persons, then the State shall give special consideration in the designation of local administrative agencies to any successor agency which is operated in substantially the same manner as the predecessor agency which did receive funds in the fiscal year preceding the fiscal year for which the determination is made;

(7) if the State chooses to pay home energy suppliers directly, establish procedures to—

(A) notify each participating household of the amount of assistance paid on its behalf;

(B) assure that the home energy supplier will charge the eligible household, in the normal billing process, the difference between the actual cost of the home energy and the amount of the payment made by the State under this subchapter;

(C) assure that the home energy supplier will provide assurances that any agreement entered into with a home energy supplier under this paragraph will contain provisions to assure that no household receiving assistance under this subchapter will be treated any differently because of such assistance under applicable provisions of State law or public regulatory requirements; and

(D) assure that any home energy supplier receiving direct payments agrees not to discriminate, either in the cost of the goods supplied or the services provided, against the eligible household on whose behalf payments are made;

(8) provide assurances that the State will treat owners and renters equitably under the program assisted under this subchapter;

(9) provide that—

(A) in each fiscal year, the State may use for planning and administering the funds available under this subchapter an amount not to exceed 10 percent of its allotment under this subchapter for such year; and

(B) the State will pay from non-Federal sources the remaining costs of planning and administering the plan and will not use Federal funds for such remaining costs;

(10) provide that such fiscal control and fund accounting procedures will be established as may be necessary to assure the proper disbursal of an accounting for Federal funds paid to the State under this subchapter, including procedures for monitoring the assistance provided under this subchapter, and provide that at least every year each State shall prepare an audit of its expenditures of amounts received under this subchapter and amounts transferred to carry out the purposes of this subchapter; and

(11) permit and cooperate with Federal investigations undertaken in accordance with section 5419.

The Secretary may not prescribe the manner in which the States will comply with the provisions of this subsection.

(d)(1) In addition to the requirements of subsection (c), the chief executive of each State shall prepare and furnish to the Secretary a plan which contains provisions de-

scribing how the State will carry out the assurances contained in subsection (c). The chief executive officer of each State may revise any plan prepared under this paragraph and shall furnish the revised plan to the Secretary.

(2) Each plan prepared under paragraph (a) shall be made available for public inspection within the State in such a manner as will facilitate review of, and comment on, the plan.

(3) The Secretary shall approve any plan furnished under paragraph (1) which reasonably carries out the assurances contained in subsection (c).

(e) Each audit required by subsection (c)(9) shall be conducted by an entity independent of any agency administering activities or services carried out under this subchapter and shall be conducted in accordance with generally accepted accounting principles. Within 30 days after the completion of each audit, the chief executive officer of the State shall submit a copy of such audit to the legislature of the State and to the Secretary.

(f) Notwithstanding any other provision of law, the amount of any home energy assistance payments or allowances provided to an eligible household under this subchapter shall not be considered income or resources of such household (of any member thereof) for any purpose under any Federal or State law, including any law relating to taxation, food stamps, public assistance, or welfare programs.

(g) The State shall repay to the United States amounts found not to have been expended in accordance with this subchapter or the Secretary may offset such amounts against any other amount to which the State is or may become entitled under this subchapter.

(h) The Comptroller General of the United States shall, from time to time, evaluate the expenditures by States of grants under this subchapter in order to assure that expenditures are consistent with the provisions of this subchapter and to determine the effectiveness of the State in accomplishing the purposes of this subchapter.

NONDISCRIMINATION PROVISIONS

SEC. 5416. (a) No person shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this subchapter. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity.

(b) Whenever the Secretary determines that a State that has received a payment under this subchapter has failed to comply with subsection (a) or an applicable regulation, he shall notify the chief executive officer of the State and shall request him to secure compliance. If within a reasonable period of time, not to exceed 60 days, the chief executive officer fails or refuses to secure compliance, the Secretary is authorized to (1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted; (2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, or section 504 of the Rehabilitation Act of 1973, as may be applicable; or (3) take such other action as may be provided by law.

(c) When a matter is referred to the Attorney General pursuant to subsection (b), or whenever he has reason to believe that the State is engaged in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

PAYMENTS TO STATES

SEC. 5417. (a) From its allotment under section 5414, the Secretary shall make payments to each State in accordance with section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213), for use under this subchapter.

(b) Payments to a State from its allotment for any fiscal year shall be expended by the State in such fiscal year or in the succeeding fiscal year.

WITHHOLDING

SEC. 5418. (a)(1) The Secretary shall, after adequate notice and an opportunity for a hearing conducted within the affected State, withhold funds from any State which does not utilize its allotment in accordance with the provisions of this subchapter and the assurances such State provided under section 5415.

(2) The Secretary shall respond in an expeditious and speedy manner to complaints of a substantial or serious nature that a State has failed to use funds in accordance with the provisions of this subchapter or the assurances provided by the State under section 5415. For purposes of this paragraph, a violation of any one of the assurances contained in section 5415(c) that constitutes a disregard of that assurance shall be considered a serious complaint.

(3) The Secretary may not withhold funds under this subsection from a State for a minor failure to comply with the provisions of this subchapter.

(b)(1) The Secretary shall conduct in several States in each fiscal year investigations of the use of funds received by the States under this subchapter in order to evaluate compliance with the provisions of this subchapter.

(2) Whenever the Secretary determines that there is a pattern of complaints from any State in any fiscal year, he shall conduct an investigation of the use of funds received under this subchapter by that State in order to ensure compliance with the provisions of this subchapter.

(3) The Comptroller General of the United States may conduct an investigation of the use of funds received under this subchapter by a State in order to ensure compliance with the provisions of this subchapter.

(c) Pursuant to an investigation conducted under subsection (b), a State shall make appropriate books, documents, papers, and records available to the Secretary or the Comptroller General of the United States, or any of their duly authorized representatives, for examination, copying, or mechanical reproduction on or off the premises of the appropriate entity upon a reasonable request therefor.

(d) In conducting any investigation under subsection (b), the Secretary or the Comptroller General of the United States may not request any information not readily available to such State or require that any information be compiled, collected, or transmitted in any new form not already available.

LIMITATION ON USE OF GRANTS FOR CONSTRUCTION

SEC. 5419. (a) Except as provided in subsection (b), grants made under this subchapter may not be used by the State, or by any other person with which the State makes arrangements to carry out the purposes of this subchapter, for the purchase or improvement of land, or the purchase, construction, or permanent improvement (other than low-cost residential weatherization or other energy related home repairs) of any building or other facility.

(b) The Secretary may waive the limitation contained in subsection (a) upon the State's request for such a waiver if he finds that the request describes extraordinary circumstances to justify the purchase of land or the construction of facilities (or the making of permanent improvements) and that permitting the waiver will contribute to the State's ability to carry out the purposes of this subchapter.

STUDIES

SEC. 5420. The Secretary, after consultation with the Secretary of Energy, shall provide for the collection of data, including—

(1) information concerning home energy consumption;

(2) the cost and type of fuels used;

(3) the type of fuel used by various income groups;

(4) the number and income levels of households assisted by this subchapter; and

(5) any other information which the Secretary determines to be reasonably necessary to carry out the provisions of this subchapter.

REPEAL

SEC. 5421. Effective October 1, 1981, the Home Energy Assistance Act of 1980 is repealed.

Subchapter E—Refugee Education Consolidation

SHORT TITLE

SEC. 5441. This subchapter may be cited as the "Consolidated Refugee Education Assistance Act".

REPEALER

SEC. 5442. The following provisions are hereby repealed:

(1) Section 4A of the Act of September 30, 1950 (Public Law 81-874).

(2) Titles I and II of the Indochina Refugee Children Assistance Act of 1976.

(3) Section 317 of the Adult Education Act.

AMENDMENTS TO TITLE I OF THE REFUGEE EDUCATION ASSISTANCE ACT OF 1980

SEC. 5443. (a)(1) Section 101 of the Refugee Education Assistance Act of 1980 is amended—

(A) by striking out paragraph (1) and by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively; and

(B) by amending paragraph (3) (as so redesignated) to read as follows:

"(3) The term 'refugee' means an alien who—

"(A) has been admitted into the United States as a refugee under section 207 of the Immigration and Nationality Act;

"(B) has been paroled into the United States as a refugee by the Attorney General pursuant to section 212(d)(5) of such Act; or

"(C) is an applicant for asylum, or has been granted asylum, in the United States; or

"(D) has fled from the alien's country of origin and has, pursuant to an Executive

order of the President, been permitted to enter the United States and remain in the United States indefinitely for humanitarian reasons;

but only during the 3-year period beginning on the date the alien first entered the United States as such a refugee or otherwise acquired the status of such a refugee.".

(2) For purposes of the Refugee Education Assistance Act of 1980, an alien who entered the United States on or after November 1, 1979, and is in the United States with the immigration status of a Cuban-Haitian entrant (status pending) shall be considered to be a refugee (within the meaning of section 101(3) of such Act), but only during the 3-year period beginning on the date the alien first entered the United States as such an entrant or otherwise first acquired such status.

(b) Section 103(b)(1)(A) of the Refugee Education Assistance Act of 1980 is amended by striking out "aggregate of the amounts to which all States are entitled" and inserting in lieu thereof "amount authorized to be appropriated".

(c) Section 104 of the Refugee Education Assistance Act of 1980 is amended by striking out "1 percent of the amounts which that State educational agency is entitled to receive for that period under this Act" and inserting in lieu thereof "2 percent of the amount which that State educational agency receives for that period under this Act".

(d) Title I of the Refugee Education Assistance Act of 1980 is amended by adding at the end thereof the following new section:

"CONSULTATION WITH OTHER AGENCIES

"SEC. 106. To the extent that may be appropriate to facilitate the determination of the amount of any reductions under sections 201(b)(2), 301(b)(3), and 401(b)(2), the Secretary shall consult with the heads of other agencies providing assistance to refugees in order to secure information concerning the disbursement of funds for educational purposes under programs administered by them and provide, wherever feasible, for coordination among those programs and the programs under titles II through IV of this Act.".

AMENDMENTS TO TITLE II OF THE REFUGEE EDUCATION ASSISTANCE ACT OF 1980

SEC. 5444. (a) Section 201 of the Refugee Education Assistance Act is amended—

(1) by amending the first sentence of subsection (a)(1) to read as follows: "The Secretary shall, in accordance with the provisions of this title, make grants to State educational agencies for fiscal year 1981, and for each subsequent fiscal year, for the purposes of assisting local educational agencies of that State in providing basic education for refugees enrolled in elementary or secondary public schools.";

(2) in the second sentence of subsection (a)(1), by striking out "Cuban and Haitian refugee children" and inserting in lieu thereof "refugees";

(3) by amending subsection (b)(1) to read as follows:

"(b)(1) As soon as possible after the date of the enactment of the Consolidated Refugee Education Assistance Act, the Secretary shall establish a formula (reflecting the availability of the full amount authorized for this title under section 203(b)) by which to determine the amount of the grant which each State educational agency is entitled to receive under this title for any fiscal year. The formula established by the Secretary shall take into account the number of years that a refugee assisted under this title has resided within the United States and the relative costs, by grade level, of providing education for elementary and secondary school children. On the basis of the formula the Secretary shall allocate among the State educational agencies, for each fiscal year, the amounts available to carry out this title, subject to such reductions or adjustments as may be required under paragraph (2) or subsection (c). Funds shall be allocated among State educational agencies pursuant to the formula without regard to variations in educational costs among different geographical areas.";

(4) by amending the first sentence of subsection (b)(2) to read as follows: "The amount of the grant to which a State educational agency is otherwise entitled for any fiscal year, as determined under paragraph (1), shall be reduced by the amounts made available for such fiscal year under any other Federal law (other than section 303 of the Elementary and Secondary Education Act of 1965) for expenditure with.. the State for the same purposes as those for which funds are made available under this title, except that the reduction shall be made only to the extent that (A) such amounts are made available for such purposes specifically because of the refugee, parolee, or asylee status of the individuals to be served by such funds, and (B) such amounts are made available to provide assistance to individuals eligible for services under this title."; and

(5) in subsection (c), by striking out "Cuban and Haitian refugee children" and inserting in lieu thereof "refugees".

(b) Section 202(a) of the Refugee Education Assistance Act of 1980 is amended—

(1) by amending paragraph (2) to read as follows:

"(2) provide assurances that such payments will be distributed among local educational agencies within that State in accordance with the formula established by the Secretary under section 201, subject to any reductions in payments for those local educational agencies identified under paragraph (3) to which funds described by section 201(b)(2) are made available for the same purposes under other Federal laws;";

(2) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(3) by inserting after paragraph (2) the following:

"(3) specify the amount of funds described by section 201(b)(2) which are made available under other Federal laws for expenditure within the State for the same purposes as those for which funds are made available under this title and the local educational agencies to which such funds are made available;".

(c) Section 203 of the Refugee Education Assistance Act of 1980 is amended—

(1) by amending the section heading to read as follows: "payments and authorizations";

(2) by inserting "(a)" after the section designation; and

(3) by adding at the end the following new subsection:

(d) For fiscal year 1981 and for each subsequent fiscal year, there is authorized to be appropriated, in the manner specified under section 102, to make payments under this title an amount equal to the product of—

"(1) the total number of refugees enrolled in elementary or secondary public schools under the jurisdiction of local educational agencies within all the States (other than the jurisdictions to which section 103 is applicable) during the fiscal year for which the determination is made;

multiplied by—

"(2) $400.".

AMENDMENTS TO TITLE III OF THE REFUGEE EDUCATION ASSISTANCE ACT OF 1980

SEC. 5445. (a) Section 301 of the Refugee Education Assistance Act of 1980 is amended—

(1) in subsection (a) by striking out "for each of the fiscal years 1981, 1982, and 1983" and inserting in lieu thereof "for fiscal year 1981, and for each subsequent fiscal year,";

(2) by amending subsection (b)(1) to read as follows:

"(b)(1) Except as provided in paragraph (3) of this subsection and in subsections (c) and (d) of this section, the amount of the grant to which a State educational agency is entitled under this title for any fiscal year shall be equal to the sum of—

"(A) the amount equal to the product of (i) the number of refugees enrolled during the period for which the determination is made in elementary or secondary public schools under the jurisdiction of each local educational agency described under paragraph (2) within that State, or in any elementary or secondary nonpublic school within the district served by each such local educational agency, who were not enrolled in schools in any State during any preceding school year, multiplied by (ii) $700;

"(B) the amount equal to the product of (i) the number of refugees enrolled during the period for which the determination is made in elementary or secondary public schools under the jurisdiction of each local educational agency described under paragraph (2) within that State, or in any elementary or secondary nonpublic school within the district served by each such local educational agency, who were enrolled in schools in any State during only one preceding school year, multiplied by (ii) $500; and

"(C) the product of (i) the number of refugees enrolled during the period for which the determination is made in elementary or secondary public schools under the jurisdiction of each local educational agency described under paragraph (2) within that State, or in any elementary or secondary nonpublic school within the district served by each such local educational agency, who were enrolled in schools in any State during not more than two preceding school years (other than any refugees described by subparagraph (B)(i)), multiplied by (ii) $300.

(3) in subsection (b)(2) by striking out "Cuban and Haitian refugee children and Indochinese refugee children" and inserting in lieu thereof "refugees"; and

(4) in subsection (b)(3)—

(A) by striking out "Cuban and Haitian refugee children and Indochinese refugee children" and inserting in lieu thereof "refugees"; and

(B) in the first sentence, by striking out "except that" and all that follows through the period and inserting in lieu thereof "except that no reduction under this paragraph shall be made for any funds made available to the State under section 303 of the Elementary and Secondary Education Act of 1965."; and

(5) in subsection (b)(5), by striking out "Cuban and Haitian refugee children who meet the requirements of section 101(1)" and inserting in lieu thereof "refugees who meet the requirements of section 101(4)"; and

(6) in subsection (c), by striking out "Cuban and Haitian refugee children and Indochinese refugee children" and inserting in lieu thereof "refugees".

(b) Section 302 of the Refugee Education Assistance Act of 1980 is amended by striking out "Cuban and Haitian refugee children and Indochinese refugee children" each place it appears and inserting in lieu thereof "refugees".

(c) Section 303 of the Refugee Education Assistance Act of 1980 is amended—

(1) in paragraph (3), by inserting before the semicolon ", subject to any reductions in payments for local educational agencies identified under paragraph (5) to take into account the funds described by section 301(b)(3) that are made available for educational, or education-related, services or activities for refugees enrolled in elementary or secondary public schools under the jurisdiction of such agencies or elementary or secondary nonpublic schools within the districts served by such agencies;";

(2) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively;

(3) by inserting after paragraph (4) the following:

"(5) specify (A) the amount of funds described by section 301(b)(3) that are made available under other Federal laws to agencies or other entities for educational, or education-related, services or activities within the State because of a significant concentration of refugees, and (B) the local educational agencies within whose districts are refugees provided services from such funds who are enrolled in elementary or secondary schools under the jurisdiction of such agencies, or in elementary or secondary nonpublic schools served by such agencies;"; and

(4) in paragraph (7) as so redesignated, by striking out "Cuban and Haitian refugee children and Indochinese refugee children" and inserting in lieu thereof "refugees".

AMENDMENTS TO TITLE IV OF THE REFUGEE EDUCATION ASSISTANCE ACT OF 1980

SEC. 5446. (a) Title IV of the Refugee Education Assistance Act of 1980 is amended by striking out "Cuban and Haitian refugee adults" and "Haitian and Cuban refugee adults" each place such terms appear and inserting in lieu thereof "refugees".

(b)(1) Section 401(a) is amended by striking out "for each of the fiscal years 1982 and 1983" and inserting in lieu thereof "for fiscal year 1982, and for each subsequent fiscal year".

(2) The first sentence of section 401(b)(2) of the Refugee Education Assistance Act of 1980 is amended to read as follows: "The amount of the grant to which a State educational agency is otherwise entitled for any fiscal year, as determined under paragraph (1), shall be reduced by the amounts made available for such fiscal year under any other Federal law (other than section 303 of the Elementary and Secondary Education Act of 1965) for expenditure within the State for the same purposes as those for which funds are made available under this title, except that the reduction shall be made only to the extent that (A) such amounts are made available for such purposes specifically because of the refugee, parolee, or asylee status of the individuals to be served by such funds, and (B) such amounts are made available to provide assistance to individuals eligible for services under this title.".

(c) Section 403 of the Refugee Education Assistance Act of 1980 is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by inserting after paragraph (1) the following:

"(2) specify the amount of reduction required under section 401(b)(2);".

EFFECTIVE DATE

SEC. 5447. This subchapter shall take effect on October 1, 1981.

Chapter 2—AMENDMENTS TO ENTITLEMENT PROGRAMS

Subchapter A—Reductions in Child Nutrition Programs

SHORT TITLE OF SUBCHAPTER

SEC. 5611. This subchapter may be cited as the "Child Nutrition Amendments of 1981".

CHANGES IN REIMBURSEMENT FOR SCHOOL LUNCHES AND BREAKFASTS

SEC. 5612. (a) Section 4 of the National School Lunch Act is amended—

(1) by inserting "(a)" after "SEC. 4.";

(2) in subsection (a) (as so designated), by striking out the second sentence; and

(3) by adding at the end thereof the following new subsection:

"(b)(1) For each fiscal year the Secretary shall make food assistance payments, at such times as he may determine, from the sums appropriated therefor, to each State educational agency, in an amount equal to the sum of the following:

"(A) The amount equal to the product of—

"(i) the number of lunches (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary under section 9(a) of this Act) served during such fiscal year to children eligible for free or reduced price meals in schools in such State which participate in the school lunch program under this Act under agreements with such State educational agency;

multiplied by

"(ii) the national average free or reduced price lunch payment.

"(B) The amount equal to the product of—

"(i) the number of lunches (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary under section 9(a) of this Act) served during such fiscal year to children in schools in such State (other than those children who are eligible for free or reduced price meals) which participate in the school lunch program under this Act under agreements with such State educational agency;

multiplied by

"(ii) the national average paid lunch payment.

"(2) The national average lunch payment for each free or reduced price lunch served shall be 18.5815 cents, less 2.5 cents, which payment shall be adjusted in accordance with section 11(a) on July 1, 1981, and annually thereafter.

"(3) The national average paid lunch payment for each paid lunch served shall be 8.0407 cents, which payment shall be adjusted in accordance with section 11(a) on July 1, 1981, and annually thereafter.".

(b) Section 11(a) of the National School Lunch Act is amended—

(1) by inserting "(1)" after "Sec. 11. (a)";

(2) in the third sentence, by striking out "(1)" and inserting in lieu thereof "(A)" and by striking out "(2)" and inserting in lieu thereof "(B)"; and

(3) by striking out the fifth sentence and all that follows through the end thereof and inserting in lieu thereof the following:

"(2) The special-assistance factor prescribed by the Secretary for free lunches shall be 83.6165 cents and the special-assistance factor for reduced-price lunches shall be 40 cents less than the special-assistance factor for free lunches.

"(3)(A) The Secretary shall prescribe on July 1, 1981, and on each subsequent July 1, an annual adjustment in the following:

"(i) The national average payment rates for lunches (as established under section 4 of this Act).

"(ii) The special assistance factor for lunches (as established under paragraph (2) of this subsection).

"(iii) The national average payment rates for breakfasts (as established under section 4(b) of the Child Nutrition Act of 1966).

"(iv) The national average payment rates for supplements (as established under section 17(c) of this Act).

"(B) The annual adjustment under this paragraph shall reflect changes in the cost of operating meal programs under this Act and the Child Nutrition Act of 1966, as indicated by the change in the series for food away from home of the Consumer Price Index for all Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor. Each annual adjustment shall reflect the changes in the series for food away from home for the most recent 12-month period for which such data are available. The adjustments made under this paragraph shall be computed to the nearest one-fourth cent."

(c)(1) Section 4(b)(1) of the Child Nutrition Act of 1966 is amended to read as follows:

"(b)(1)(A) For each fiscal year the Secretary shall make breakfast assistance payments, at such times as he may determine, from the sums appropriated therefor, to each State educational agency, in an amount equal to the sum of the following:

"(i) The amount equal to the product of—

"(I) the number of breakfasts served during such fiscal year to children eligible for free breakfasts in schools in such State which participate in the school breakfast program under this section under agreements with such State educational agency;

multiplied by

"(II) the national average free breakfast payment.

"(ii) The amount equal to the product of—

"(I) the number of breakfasts served during such fiscal year to children eligible for reduced-price breakfasts in schools in such State which participate in the school breakfast program under this section under agreements with such State educational agency;

multiplied by

"(II) the national average reduced-price breakfast payment.

"(iii) The amount equal to the product of—

"(I) the number of breakfasts served during such fiscal year to children in schools in such State (other than those children who are eligible for free or reduced price lunches) which participate in the school breakfast program under this section under agreements with such State educational agency;

multiplied by

"(II) the national average paid breakfast payment.

"(B) The national average payment for each free breakfast shall be 52.027 cents, the national average payment for each reduced price breakfast shall be 25.9 cents, and the national average payment for each paid breakfast shall be 7.5 cents. These payment factors shall be adjusted in accordance with section 11(a) of the National School Lunch Act on July 1, 1981, and annually thereafter.

"(C) No breakfast assistance payment may be made under this subsection for any breakfast served by a school unless such breakfast consists of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary under subsection (e) of this section.".

(2) Section 4(b)(2) of the Child Nutrition Act of 1966 is amended—

(A) in subparagraph (B)(ii)—

(i) by striking out "on a semi-annual basis each July 1 and January 1" and inserting in lieu thereof "on an annual basis each July 1"; and

(ii) by striking out "six-month" and inserting in lieu thereof "twelve-month"; and

(B) in subparagraph (C), by striking out "five cents less than" and inserting in lieu thereof "one-half of".

(3) Section 4(d) of the Child Nutrition Act of 1966 is amended—

(A) in the first sentence, by striking out "Each state educational agency shall establish eligibility standards for providing additional assistance to schools in severe need, which shall include" and inserting in lieu thereof "Eligibility standards for providing additional assistance to schools in severe need under subsection (b)(2) shall include only"; and

(B) by striking out the second and third sentences thereof.

REDUCTION IN COMMODITY ASSISTANCE FOR LUNCHES

SEC. 5613. Section 6(e) of the National School Lunch Act is amended by striking out the first sentence and inserting in lieu thereof the following: "The national average value of donated foods, or cash payments in lieu thereof, for free or reduced price lunches served to children eligible for such lunches shall be 15.54 cents, less 2 cents, adjusted on July 1, 1981, and each July 1 thereafter to reflect changes in the Price Index for Food Used in Schools and Institutions. The national average value of donated foods, or cash payments in lieu thereof, for lunches served to children eligible for paid lunches shall be 7.23 cents, adjusted on July 1, 1981, and each July 1 thereafter to reflect changes in the Price Index for Food Used in Schools and Institutions.".

REVISION OF INCOME ELIGIBILITY GUIDELINES

SEC. 5614. (a) Section 9(b) of the National School Lunch Act is amended—

(1) by amending paragraph (1) to read as follows:

"(b)(1) Not later than June 1 of each fiscal year, the Secretary shall prescribe income guidelines for determining eligibility for free and reduced-price lunches during the 12-month period beginning July 1 of such fiscal year and ending June 30 of the following fiscal year. The income guidelines for determining eligibility for free lunches during any such 12-month period shall be 130 percent of the applicable family-size income levels contained in the poverty guidelines prescribed by the Office of Management and Budget, adjusted annually pursuant to section 625 of the Economic Opportunity Act of 1964, except that beginning July 1, 1983, the income guidelines for determining eligibility for free lunches shall be the same as the gross income guidelines announced by the Secretary for any such fiscal year for eligibility for participation in the food stamp program under the Food Stamp Act of 1977. The income guidelines for determining eligibility for reduced-price lunches during any such 12-month period shall be 185 percent of the applicable family-size income levels contained in the poverty guidelines prescribed by the Office of Management and Budget, adjusted annually pursuant to section 625 of the Economic Opportunity Act of 1964.";

(2) by redesignating paragraph (2) (and any references thereto) as paragraph (5) and by inserting after paragraph (1) the following new paragraphs:

"(2)(A) Following the determination by the Secretary under paragraph (1) of the income eligibility guidelines for any 12-month period, each State educational agency shall notify the local school food authorities in such State of these guidelines, which shall be used by the school food authorities in making determinations of eligibility for free and reduced-price lunches. At the beginning of each school year, local school food authorities shall make a public announcement specifying, by family size, such income eligibility guidelines for free or reduced-price lunches.

"(B) Local school food authorities shall in a timely manner make available to the parents of children in attendance at their schools applications for free and reduced-price lunches in such form as the Secretary may prescribe, together with any descriptive material relating to the school lunch program. The applications shall specify the income eligibility guidelines, by family size, for reduced-price lunches (as determined by the Secretary under paragraph (1)) and shall contain an explanation that households with incomes not exceeding the incomes specified in the guidelines shall be eligible for either free lunches or reduced-price lunches. Neither the applications, nor any descriptive material provided to such households with the application, shall contain the income eligibility guidelines for free lunches. Nothing contained in the preceding sentence shall be construed to affect the requirement contained in subparagraph (A) of this paragraph that the public announcements made by local school food authorities shall specify the income eligibility guidelines for both free and reduced-price lunches.

"(C) Eligibility determinations shall be made on the basis of a complete application executed by an adult member of the household. Local school food authorities shall undertake such verification of the information contained in these applications as the Secretary may by regulation prescribe and, in accordance with such regulations, make appropriate changes in the eligibility determinations on the basis of such verification.

"(3) Any child who is a member of a household whose income, at the time the application is submitted, is at an annual rate (as estimated by the applicant for the school year for which the application is submitted) which does not exceed the applicable family-size income level prescribed under the eligibility guidelines for free lunches, as determined under paragraph (1), shall be served a free lunch. Any child who is a member of a household whose income, at the time the application is submitted, is at an annual rate which exceeds the applicable family-size income level of the income eligibility guidelines for free lunches, as determined under paragraph (1), but which does not exceed the applicable family-size income level of the income eligibility guidelines for reduced-price lunches, as determined under paragraph (1), shall be served a reduced price lunch. The price charged by a local school food authority for a reduced-price lunch shall not exceed 40 cents.

"(4) No physical segregation of or other discrimination against any child eligible for a free lunch or a reduced price lunch under this subsection shall be made by the school nor shall there by any overt identification of any child by special tokens or tickets, announced or published lists of names, or by other means."; and

(3) in the second sentence of paragraph (5), as so redesignated by paragraph (2) of this subsection, by striking out "solely".

(b) Section 9 of the National School Lunch Act is further amended by adding at the end thereof the following new subsection:

"(d)(1) The Secretary shall require, as a condition of eligibility for receipt of free or reduced-price school meals under programs under this Act and the Child Nutrition Act of 1966, that the member of the household who executes the application for participation in the program furnish the social security account numbers of all adult members of the household of which such person is a member.

"(2) Notwithstanding any other provision of law, as a condition for receipt of free or reduced-price school meals under this Act and the Child Nutrition Act of 1966 by any member of a household, the Secretary shall require that appropriate documentation, as prescribed by the Secretary, of the income of such household has been provided to the appropriate local school food authority. The information which the Secretary may require for purposes of verifying a child's eligibility for free or reduced-price school meals may include pay stubs, documentation of the current status of household members who are recipients of public assistance, unemployment insurance documents, and written statements from employers. Documentation showing that a household is participating in the food stamp program under the Food Stamp Act of 1977 shall be considered to be adequate verification that a child who is a member of such household is eligible for such meals.".

(c) For the school year ending June 30, 1982, the Secretary may prescribe procedures for implementing the revisions made by the amendments contained in this section to the income eligibility guidelines for free and reduced-price lunches under section 9 of the National School Lunch Act. Such procedures may allow school food authorities to (1) use applications distributed at the beginning of the school year when making eligibility determinations based on the revised income eligibility guidelines, or (2) distribute new applications and make determinations using such applications.

REVISION OF STATE REVENUE MATCHING REQUIREMENTS

SEC. 5615. (a) Section 7 of the National School Lunch Act is amended to read as follows:

"SEC. 7. (a)(1) Funds appropriated to carry out section 4 of this Act during any fiscal year shall be available for payment to the States for disbursement by State educational agencies in accordance with such agreements, not inconsistent with the provisions of this Act, as may be entered into by the

Secretary and such State educational agencies for the purpose of assisting schools within the States in obtaining agricultural commodities and other foods for consumption by children in furtherance of the school lunch program authorized under this Act. For any school year, such payments shall be made to a State only if, during such school year, the amount of the State revenues (excluding State revenues derived from the operation of the program) appropriated for, or used in connection with, food service in schools participating in the school lunch program under this Act (other than any State revenues expended for salaries and administrative expenses of the program at the State level) is not less than 30 percent of the funds made available to such State under section 4 of this Act for the preceding school year.

"(2) If, for any school year, the per capita income of a State is less than the average per capita income of all the States, the amount required to be expended by a State under paragraph (1) for such year shall be an amount bearing the same ratio to the amount equal to 30 percent of the funds made available to such State under section 4 of this Act for the preceding school year as the per capita income of such State bears to the average per capita income of all the States.

"(b) No State in which the State educational agency is prohibited by law from disbursing State appropriated funds to private schools shall be required to match Federal funds made available for meals served in such schools, or to disburse, to such schools, any of the State revenues required to meet the requirements of subsection (a).

"(c) The Secretary shall certify to the Secretary of the Treasury, from time to time, the amounts to be paid to any State under this section and shall specify when such payments are to be made. The Secretary of the Treasury shall pay to the State, at the time or times fixed by the Secretary, the amounts so certified.".

(b) Section 10 of the National School Lunch Act is amended to read as follows:

"DISBURSEMENT TO SCHOOLS BY THE SECRETARY

"SEC. 10. If, in any State, the State educational agency is not permitted by law to disburse the funds paid to it under this Act to any of the schools in the State, the Secretary shall disburse the funds directly to such schools within the State for the same purposes and subject to the same conditions as are authorized or required with respect to the disbursement to schools within the State by the State educational agency.".

TERMINATION OF FOOD SERVICE EQUIPMENT ASSISTANCE

SEC. 5616. (a) Section 5 of the National School Lunch Act is repealed.

(b) Section 5 of the Child Nutrition Act of 1966 is repealed.

NUTRITION EDUCATION AND TRAINING PROGRAM

SEC. 5617. The second sentence of section 19(j)(2) of the Child Nutrition Act of 1966 is amended to read as follows: "There is authorized to be appropriated for the grants referred to in the preceding sentence not more than $15,000,000 for fiscal year 1981, and not more than $2,500,000 for each subsequent fiscal year.".

REVISION OF THE SPECIAL MILK PROGRAM

SEC. 5618. Section 3 of the Child Nutrition Act of 1966 is amended—

(1) in the first sentence, by inserting ", which do not participate in a meal service program authorized under this Act or the National School Lunch Act" after "under" in clause (1) and after "training of children" in clause (2);

(2) in the fourth sentence, by inserting "which does not participate in a meal service program authorized under this Act or the National School Lunch Act" after "institution"; and

(3) by striking out the eighth sentence.

LIMITATION ON PRIVATE SCHOOL PARTICIPATION

SEC. 5619. (a) Section 12 of the National School Lunch Act is amended by inserting in the first sentence of subsection (d)(6) "except private schools whose average yearly tuition exceeds $1,500 per child" after "under".

(b) Section 15(c) of the Child Nutrition Act of 1966 is amended by inserting in the first sentence "except private schools whose average yearly tuition exceeds $1,500 per child" after "such school,".

SUMMER FOOD SERVICE PROGRAM

SEC. 5620. Section 13 of the National School Lunch Act is amended—

(1) in clause (B) of subsection (a)(1), by striking out "nonresidential public or private nonprofit institutions," and inserting in lieu thereof "public or private nonprofit school food authorities, local, municipal, or county governments,";

(2) by adding at the end of subsection (a) the following new paragraph:

"(5) Service institutions that are local, municipal, or county governments shall be eligible for reimbursement for meals served in programs under this section only if such programs are operated directly by such governments."; and

(3) by amending subsection (b)(2) to read as follows:

"(2) Any service institution may only serve lunch and either breakfast or a meal supplement during each day of operation, except that any service institution that is a camp or that serves meals primarily to migrant children may serve up to four meals during each day of operation if (A) the service institution has the administrative capacity and the food preparation and food holding capabilities (where applicable) to serve more than one meal per day, and (B) the service period of different meals does not coincide or overlap. The meals that camps and migrants' programs may serve shall include a breakfast, a lunch, a supper, and meal supplements.".

REVISION OF CHILD CARE FOOD PROGRAM

SEC. 5621. (a) Section 17(a) of the National School Lunch Act is amended—

(1) in the third sentence—

(A) by inserting "not over 12 years of age (except that such age limitation shall not be applicable for handicapped children or children of migrant workers)" after "schoolchildren"; and

(B) by inserting before the period at the end thereof the following: ", in which at least one-third of the children are from families with incomes not greater than 185 percent of the poverty guidelines of the Office of Management and Budget".

(b) Section 17(b) of the National School Lunch Act is amended by striking out "served in the manner specified in subsection (c)" and inserting in lieu thereof "as provided in subsection (f)".

(c) Section 17(c) of the National School Lunch Act is amended to read as follows:

"(c)(1) For purposes of this section, the national average payment rate for free lunches and suppers, the national average payment rate for reduced-price lunches and suppers, and the national average payment rate for paid lunches and suppers shall be the same as the national average payment rates for free lunches, reduced-price lunches, and paid lunches, respectively, under section 4 of this Act (as adjusted pursuant to section 11 of this Act).

"(2) For purposes of this section, the national average payment rate for free breakfasts, the national average payment rate for reduced-price breakfasts, and the national average payment rate for paid breakfasts shall be the same as the national average payment rates for free breakfasts, reduced-price breakfasts, and paid breakfasts, respectively, under section 4(b) of the Child Nutrition Act of 1966 (as adjusted pursuant to section 11 of this Act).

"(3) For purposes of this section, the national average payment rate for free supplements shall be 27.5 cents, the national average payment rate for reduced-price supplements shall be one-half the rate for free supplements, and the national average payment rate for paid supplements shall be 2.50 cents. The Secretary shall adjust such national average payment rates in accordance with section 11(a) of this Act.".

(d) Section 17(f) of the National School Lunch Act is amended—

(1) by amending paragraph (2) to read as follows:

"(2)(A) Subject to subparagraph (B) of this paragraph, the disbursement for any fiscal year to any institution, other than family or group day care home sponsoring organizations, for meals provided under this section shall be equal to the sum of the products obtained by multiplying the total number of each type of meal (breakfast, lunch or supper, or supplement) served in such institution in that fiscal year by the applicable national average payment rate for each such type of meal, as determined under subsection (c).

"(B) No reimbursement may be provided to an institution under this paragraph, or to family or group day care home sponsoring organizations under paragraph (4) of this subsection, for meals served to a child to the extent that the institution to which the reimbursement is made served to such child more than two meals and one meal supplement in one day.";

(2) in the first sentence of paragraph (3), by striking out "may elect to" and inserting in lieu thereof "shall"; and

(3) in the first sentence of paragraph (4), by adding at the end thereof before the period the following: ", except that meals and supplements served to children of family day care home providers whose annual income exceeds 185 percent of the poverty guidelines of the Office of Management and Budget shall not be eligible to receive reimbursement under this section for meals or supplements served to their children".

(e) Section 17(g) of the National School Lunch Act is amended by striking out paragraph (2) and by redesignating paragraphs (3) and (4) (and any references thereto) as paragraphs (2) and (3), respectively.

(f) Section 17 of the National School Lunch Act is further amended—

(1) by striking out subsections (i) and (n); and

(2) by redesignating subsection (j) as subsection (i), subsection (k) as subsection (j), subsection (l) as subsection (k), subsection (m) as subsection (l), subsection (o) as subsection (m), subsection (p) as subsection (n), subsection (q) as subsection (o), and subsection (r) as subsection (p), and by redesignat-

ing any references to such subsections accordingly.

(g) Section 17(m) of the National School Lunch Act (as so redesignated) is amended in the second sentence by striking out "the availability of food service equipment funds under the program".

REVISION OF SPECIAL SUPPLEMENTAL FOOD PROGRAM

SEC. 5622. The first sentence of subsection 17(g) of the Child Nutrition Act of 1966 is amended by striking "such sums as may be necessary for the three subsequent fiscal years" and inserting in lieu thereof "1,037,000,000 for each of the fiscal years ending September 30, 1982, September 30, 1983, and September 30, 1984".

COST SAVINGS REVISIONS BY THE SECRETARY

SEC. 5623. As soon as possible after the date of the enactment of this Act, the Secretary of Agriculture shall review regulations promulgated under section 10 of the Child Nutrition Act of 1966 (including regulations pertaining to nutritional requirements for meals) for the purposes of determining ways in which cost savings might be accomplished at the local level in the operation of meal programs under the National School Lunch Act and the Child Nutrition Act of 1966 without impairing the nutritional value of such meals. Not later than 90 days after the date of the enactment of this Act, on the basis of such review, the Secretary of Agriculture shall promulgate such regulations as the Secretary considers appropriate to effectuate such cost savings.

TERMINATION OF STATE PLAN REQUIREMENTS

SEC. 5624. Section 11(e) of the National School Lunch Act is amended by striking out paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

EFFECTIVE DATE

SEC. 5625. The provisions of this subchapter shall take effect on August 15, 1981.

Subchapter B—Amendments to the Higher Education Act of 1965

SHORT TITLE

SEC. 5631. This subchapter may be cited as the "Postsecondary Student Assistance Amendments of 1981".

NEED BASED LOANS

SEC. 5632. (a) Section 425(a) of the Higher Education Act of 1965 (hereafter in this subchapter referred to as "the Act") is amended—

(1) by striking out "The total of loans" and inserting in lieu thereof "Subject to the limitations contained in paragraph (3), the total of loans"; and

(2) by adding at the end thereof the following new paragraph:

"(3)(A) The amount of any loan made on or after October 1, 1981, which may be covered by Federal loan insurance under this part shall be limited to the student's financial need for the period of instruction to be covered by the loan, except that in the case of a student whose financial need is determined to be equal to or less than $1,000, the amount of the loan to such student which may be covered by Federal loan insurance under this part shall be $1,000.

"(B) For the purposes of this paragraph, the term 'financial need' means the estimated cost of attendance less estimated financial assistance and the expected family contribution. The eligible institution at which he is in attendance shall determine the student's financial need in accordance with a needs analysis method determined by the Secretary.".

(b) Section 428(o)(1) of the Act is amended by striking out "and" at the end of division (ii), by inserting "and" at the end of division (iii), and by inserting after division (iii) the following new division:

"(iv) that, in the case of any loan made on or after October 1, 1981, the program may not authorize the insurance of any loan in excess of the student's financial need, determined in accordance with section 425(a)(3)(B), for the period of instruction to be covered by the Loan, but in the case of a student whose financial need is determined to be equal to or less than $1,000, the amount of the loan to such student which is authorized to be covered by such insurance shall be $1,000.".

(c) Section 439B of the Act is repealed.

(d) Section 482(a)(1) of the Act is amended by striking out "and under part B".

(e) Section 428B(b)(3) of the Act is amended by striking out "No" and inserting in lieu thereof the following: "Any loan under this section may be counted as part of the student's expected family contribution in the determination of need under this title, but no".

NEED ANALYSIS AMENDMENTS

SEC. 5633. (a)(1) Section 482(b)(3) of the Act is amended by striking out ", and includes any amount paid under the Social Security Act to, or on account of, the student which would not be paid if he were not a student and one-half of any amount paid the student under chapters 34 and 35 of title 38, United States Code".

(2) Section 482(b)(1) of the Act is amended by inserting immediately before the period at the end of the first sentence thereof the following: ", and includes (A) any amount paid under the Social Security Act to, or on account of, the student which would not be paid if he were not a student, and (B) any amount paid the student under chapters 34 and 35 of title 38, United States Code".

(b) Section 482(b)(4) of the Act is amended to read as follows:

"(4) In determining the expected family contribution under this section for any academic year after academic year 1980–1981, the Secretary shall set an assessment rate or a series of assessment rates to be applied to parental discretionary income.".

(c) Section 482(b)(5) of the Act is amended—

(1) by striking out clause (A);

(2) by redesignating clause (B) and (C) as clauses (A) and (B), respectively;

(3) by striking out "$10,000" in clause (A) (as redesignated by this subsection) and inserting in lieu thereof "$25,000"; and

(4) by striking out "$50,000" in clause (B) (as redesignated by this subsection) and inserting in lieu thereof "$100,000".

(d) Section 482(d) of the Act is amended—

(1) in paragraph (2) by inserting "as determined by the Secretary" immediately before the semicolon at the end thereof;

(2) by inserting immediately before the semicolon at the end of subparagraphs (A), (C), and (D) of paragraph (3) a comma and the following: "except that for purposes of subpart 1 of part A this allowance shall be determined by the Secretary"; and

(3) by striking out paragraphs (4), (5), (6), and (7) and inserting in lieu thereof the following:

"(4) for a student engaged in a program of study by correspondence, only tuition and fees and an allowance, as determined by the Secretary, for required books, supplies, travel, and room-and-board costs incurred specifically in fulfilling a required period of residential training;

"(5) for a student enrolled in an academic program which normally includes a formal program of study abroad, an allowance for reasonable costs as determined by the Secretary;

"(6) for a student with dependent children, an allowance for child-care expenses as determined by the Secretary; and

"(7) for a handicapped student, an allowance as determined by the Secretary for those expenses related to the handicap, including special services, transportation, equipment, and supplies that are reasonably incurred and not provided for by other assisting agencies.".

INTEREST RATES ON PARENT LOANS

SEC. 5634. (a) Section 428B(c)(3) of the Act is amended to read as follows:

"(3) Interest on loans made pursuant to this section shall be at the rate of 9 per centum per annum on the unpaid principal balance of the loan, except that for any loan made pursuant to this section on or after October 1, 1981, the interest shall be at the rate of 14 per centum per annum on the unpaid principal balance of the loan.".

(b) Section 438(b)(2) of the Act is amended—

(1) by striking out "subparagraph (D)" in subparagraphs (A), (B), and (C), and inserting in lieu thereof "subparagraph (E)";

(2) by redesignating subparagraph (D) as subparagraph (E);

(3) by inserting after subparagraph (C) the following new subparagraph:

"(D) Subject to subparagraph (E) and paragraph (4), the special allowance paid pursuant to this subsection on loans for which the applicable interest rate is 14 per centum per annum shall be computed (i) by determining the average of the bond equivalent rates of the ninety-one-day Treasury bills auctioned for such three-month period, (ii) by subtracting 10.5 per centum from such average, and (iii) by dividing the resultant per centum by four."; and

(4) by striking out "subparagraph (A), (B), or (C)" in subparagraph (E) (as redesignated by paragraph (2) of this subsection) and inserting in lieu thereof "subparagraph (A), (B), (C), or (D)".

INDEPENDENT STUDENT LOAN LIMITATIONS

SEC. 5635. (a) Section 425(a)(1) of the Act is amended—

(1) by striking out clause (A) and by redesignating clauses (B), (C), and (D) as clauses (A), (B), and (C), respectively; and

(2) by striking out "clause (C)" in the last sentence of such section and inserting in lieu thereof "clause (B)".

(b) Section 425(a)(2) of the Act is amended—

(1) by striking out "(other than an independent student)"; and

(2) by striking out "$15,000 in the case of any independent student who has not successfully completed a program of undergraduate education,".

(c) The matter preceding subdivision (i) of section 428(b)(1)(A) of the Act is amended—

(1) by striking out "(other than an independent student)"; and

(2) by striking out "or not more than $3,000 in the case of an independent student (defined in accordance with section 482(c)(2)) who has not successfully completed a program of undergraduate education,".

(d) Section 428(b)(1)(B) of the Act is amended—

(1) by striking out "(other than an independent student)"; and

(2) by striking out "$15,000 in the case of any independent student who has not suc-

cessfully completed a program of undergraduate education,".

(e) Section 428A of the Act is amended by—

(1) by striking out ", other than an independent student," in subsection (a)(1)(A) and in subsection (a)(2)(A);

(2) by striking out "$3,000 (in the case of an independent student (as defined in section 482(c)(2)) who has not successfully completed a program of undergraduate education)," in each such subsection;

(3) by striking out "(other than an independent student)" in each such subsection; and

(4) by striking out "$15,000 in the case of any independent student who has not successfully completed a program of undergraduate education," in each such subsection.

(f)(1) Section 428(a) of the Act is amended by inserting "and independent students (as defined in section 482(c)(2))" before "shall be eligible".

(2) Section 428B(b) of the Act is amended by adding at the end thereof the following new paragraph:

"(4)(A) Notwithstanding the first sentence of paragraph (3) but subject to subparagraph (B) of this paragraph, the maximum amount an independent student may borrow under this section in any academic year or its equivalent (as defined by regulation by the Secretary) is equal to (i) $2,500, minus (ii) the amount of all other loans under this part to such student for such academic year or its equivalent.

"(B) The aggregate insured principal amount for insured loans made to an independent student under this part (including loans made under this section) shall not exceed $12,500.".

(3) Section 439(o) of the Act is amended by adding at the end thereof the following new paragraph:

"(5) No loan may be made under this section for the purpose of consolidating a loan or loans made under section 428B with a loan or loans made under any other provision of this part.".

ELIMINATION OF GRACE PERIODS AFTER DEFERMENTS

SEC. 5636. (a) Section 427(a)(2)(C) of the Act is amended—

(1) by striking out "that any such period" and inserting in lieu thereof "and any such period"; and

(2) by striking out ", that no repayment of principal of any loan for any period of study, training, service, or unemployment described in this clause or any combination thereof shall begin until six months after completion of such period or combination thereof".

(b) Section 428(b)(1)(M) of the Act is amended by striking out ", and that no repayment of principal of any loan for any period of study, training, service, or unemployment described in this clause or any combination thereof shall begin until six months after completion of such period or combination thereof".

RESTRICTION OF DEFERMENTS OF REPAYMENT

SEC. 5637. (a) Section 427(a)(2)(C) of the Act is amended by striking out clauses (iii) through (vi) and by redesignating clauses (vii) and (viii) as clauses (iii) and (iv), respectively.

(b) Section 428(b)(1)(M) of the Act is amended by striking out clauses (iii) through (vi) and by redesignating clauses (vii) and (viii) as clauses (iii) and (iv), respectively.

PROCESSING COSTS

SEC. 5638. (a) Section 428(e) of the Act is amended to read as follows:

"(e) Each eligible institution is authorized to collect from any student for which it provides assistance in obtaining any loan described in paragraph (1) or made under section 428B for any academic year a reasonable fee solely for the purpose of offsetting the costs to the institution for the program under this part."

(b)(1) Section 489(a) of the Act is amended by striking out the first sentence and by striking out "In addition, an" and inserting in lieu thereof "An".

(2) Section 411 of the Act is amended by adding at the end thereof the following new subsection:

"(d) Each institution of higher education is authorized to collect from any student for which it provides assistance in obtaining any grant under this section for any academic year a reasonable fee solely for the purpose of offsetting the costs to the institution for the program under this section.".

REDUCTION OF INTEREST SUBSIDY BY AMOUNT OF AUTHORIZED ORIGINATION FEES

SEC. 5639. (a) Section 428(a)(3)(A) of the Act is amended by inserting "(i)" after "(3)(A)" and by adding at the end thereof the following:

"(ii) Notwithstanding division (i) of this subparagraph, the total amount of the portion of the interest which shall be paid to any holder with respect to loans made on or after July 1, 1981, shall be reduced by an amount equal to the maximum amount which the lender was authorized to charge as an origination fee with respect to such loans in accordance with section 427A(d).".

(b) Section 427A of the Higher Education Act of 1965 is amended by adding at the end thereof the following:

"(d) With respect to any loan made to a student on or after July 1, 1981, each eligible lender under this part is authorized to charge the borrower an origination fee in amount not to exceed 4 per centum of the principal amount of the loan, which may be deducted from the proceeds of the loan prior to payment to the borrower. Such origination fee shall not be taken into account for purposes of determining compliance with subsection (a) of this section. The lender shall disclose to the borrower the amount and method of calculating the origination fee, but this disclosure need not meet the requirements of the Truth in Lending Act (15 U.S.C. 1601 et seq.) until April 1, 1982.

MINIMUM ANNUAL REPAYMENT

SEC. 5640. (a) Section 427(c) of the Act is amended by striking out "$360" each place it appears and inserting in lieu thereof "$600".

(b) Section 428(b)(1)(L) of the Act is amended by striking out "$360" each place it appears and inserting in lieu thereof "$600".

ASSIGNMENT OF COLLECTIONS

SEC. 5641. (a) Section 428(c) of the Act is amended—

(1) in paragraph (2)(D) by striking out "but shall not otherwise provide for subrogation of the United States to the rights of any insurance beneficiary" and inserting in lieu thereof "but shall provide for subrogation of the United States to the rights of any insurance beneficiary only to the extent required for purposes of paragraph (8)"; and

(2) by adding at the end thereof the following new paragraph:

"(8) If the Secretary determines that the protection of the fiscal interest of the United States so requires, a State or nonprofit private institution or organization with which the Secretary has an agreement under subsection (b) shall assign to the Secretary any loan of which it is the holder and for which the Secretary has made a payment pursuant to paragraph (1) of this subsection.".

AMENDMENTS CONCERNING THE STUDENT LOAN MARKETING ASSOCIATION

SEC. 5642. (a) Section 439(a) of the Act is amended by striking out "insured" wherever it appears, and by inserting after "student loans," the first time it appears the following: "including loans which are insured".

(b) Section 439(a) of the Act is further amended by striking out "and" at the end of clause (1), and by striking the period at the end of clause (2) and inserting in lieu thereof the following: "; (3) to assure nationwide the establishment of adequate loan insurance programs for students, to provide for an additional program of loan insurance to be covered by agreements with the Secretary.".

(c) Section 439(d)(1) of the Act is amended to read as follows:

"(d)(1) The Association is authorized, subject to the provisions of this section—

"(A) pursuant to commitments or otherwise to make advances on the security of, purchase, or repurchase, service, sell or resell, offer participations, or pooled interests or otherwise deal in, at prices and on terms and conditions determined by the Association, student loans which are insured by the Secretary under this part or by a State or nonprofit private institution or organization with which the Secretary has an agreement under section 428(b);

"(B) to buy, sell, hold, underwrite, and otherwise deal in obligations, if such obligations are issued, for the purpose of making or purchasing insured loans, by a State or nonprofit private institution or organization which has an agreement with the Secretary under section 428(b) or by an eligible lender in a State described in section 435(b)(1) (D) or (F);

"(C) to undertake a program of loan insurance pursuant to agreements with the Secretary under sections 428 and 428A, except that, with respect to loans under section 439(o), the Secretary may enter into an agreement with the Association for such purpose only if the Secretary determines that (i) eligible borrowers are seeking and unable to obtain loans under this part, and (ii) no State or nonprofit private institution or organization having an agreement with the Secretary for a program of loan insurance under this part is capable of or willing to provide a program of loan insurance for such borrowers; and

"(D) to undertake any other activity which the Board of Directors of the Association determines to be in furtherance of the programs of insured student loans authorized under this part or will otherwise support the credit needs of student.

The Association is further authorized to undertake any activity with regard to student loans which are not insured or guaranteed as provided for in this subsection as it may undertake with regard to insured or guaranteed student loans. Any warehousing advance made on the security of such loans shall be subject to the provisions of paragraph (2) of this subsection to the same extent as a warehousing advance made on the security of insured loans.".

(d) Section 439(1) of the Act is amended by adding at the end thereof the following: "The obligations of the Association shall be deemed to be obligations of the United States for purposes of section 3701 of the Revised Statutes (31 U.S.C. 742). For the purpose of the distribution of its property pursuant to section 726 of the title II, United States Code, the Association shall be deemed a person within the meaning of such title.".

EFFECTIVE DATE

SEC. 5643. (a) Except as provided in subsection (b), the amendments made by this subchapter shall take effect on October 1, 1981.

(b)(1) Except as provided in paragraph (2), the amendments made by this subchapter to part B of title IV of the Higher Education Act of 1965 shall apply to loans made on or after October 1, 1981.

(2) The amendments made by section 5633(d) of this Act to section 482(d) of the Higher Education Act of 1965 and by sections 5639 and 5642 shall take effect on the date of the enactment of this Act.

TITLE III, HOUSE COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

On page 21, strike out line 17 and all that follows through line 35 on page 22 and insert in lieu thereof the following and redesignate the following sections accordingly.

Chapter 1—COMMUNITY AND ECONOMIC DEVELOPMENT AUTHORIZATIONS

SEC. 3101. Section 103 of the Housing and Community Development Act of 1974 is amended to read as follows:

"SEC. 103. The Secretary is authorized to make grants to States, units of general local government and Indian tribes to carry out activities in accordance with the provisions of this title. There are authorized to be appropriated for these purposes not to exceed $4,166,000,000 for each of fiscal years 1982 and 1983. Sums appropriated pursuant to this section shall remain available until expended.".

STATEMENT OF ACTIVITIES AND REVIEW

SEC. 3102. (a) The caption of section 104 of the Housing and Community Development Act of 1974 is amended to read as follows: "STATEMENT OF ACTIVITIES AND REVIEW".

(b) Sections 104 (a), (b) and (c) of such Act are amended to read as follows:

SEC. 104. (a) Prior to the receipt in any fiscal year of a grant by any metropolitan city or ubran county or by any State under section 106, the grantee shall have prepared a final statement of community development objectives and projected use of funds and shall have provided the Secretary with the certifications required in subsection (b) and, where appropriate, subsection (c). In the case of metropolitan cities and urban counties receiving grants pursuant to section 106(b), the statement of projected use of funds shall consist of proposed community development activities. In the case of States receiving grants pursuant to section 106(d), the statement of projected use of funds shall consist of the method by which the States will distribute funds to units of general local government. In order to permit public examination and appraisal of such statements, to enhance the public accountability of grantees, and to facilitate coordination of activities with different levels of government, a proposed statement shall be published in such manner to afford affected citizens or, as appropriate, units of general local government an opportunity to examine its content and to submit comments on the proposed statement. In preparing the final statement, the grantee shall consider any such comments and may, if deemed appropriate by the grantee, modify the proposed statement. The final statement shall be made available to the public, and a copy shall be furnished to the Secretary together with the certifications required under subsection (b) and, where appropriate, subsection (c).

"(b) Any grant under section 106 shall be made only on condition that the grantee certify to the satisfaction of the Secretary that—

"(1) the grantee is in full compliance with the publication requirements of subsection (a);

"(2) the grant will be conducted and administered in conformity with Public Law 88-352 and Public Law 90-284;

"(3) the projected use of funds has been developed so as to give maximum feasible priority to activities which will benefit low- and moderate-income families or aid in the prevention or elimination of slums or blight; the projected use of funds may also include activities which the grantee certifies are designed to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community, and other financial resources are not available; and

"(4) the grantee will comply with the other provisions of this title and with other applicable laws.

"(c)(1) Any grant made under section 106(b) shall be made only on condition that the unit of general local government certifies that it is following a current housing assistance plan which has been approved by the Secretary and which—

"(A) accurately surveys the condition of the housing stock in the community and assesses the housing assistance needs of lower-income persons (including elderly and handicapped persons, large families, owners of homes requiring rehabilitation assistance and persons displaced or to be displaced) residing in or expected to reside in the community as a result of existing or projected employment opportunities in the community (and those elderly persons residing in or expected to reside in the community), or as estimated in a community accepted State or regional housing opportunity plan approved by the Secretary, and identifies housing stock which is in a deteriorated condition, including the impact of conversion of rental housing to condominium or cooperative ownership on such needs;

"(B) specifies a realistic annual goal for the number of dwelling units or lower-income persons to be assisted, including (i) the relative proportion of new, rehabilitated, and existing dwelling units, including existing rental and owner occupied dwelling units to be upgraded and thereby preserved, (ii) the sizes and types of housing projects and assistance best suited to the needs of lower-income persons in the community, and (iii) in the case of subsidized rehabilitation, adequate provisions to assure that a preponderance of persons assisted should be of low and moderate income; and

"(C) indicates the general locations of proposed housing for lower-income persons, with the objective of (i) furthering the revitalization of the community, including the restoration and rehabilitation of stable neighborhoods to the maximum extent possible, and the reclamation of the housing stock where feasible through the use of a broad range of techniques for housing restoration by local government, the private sector, or community organizations, including provision of a reasonable opportunity for tenants displaced as a result of such activities to relocate in their immediate neighborhood, (ii) promoting greater choice of housing opportunities and avoiding undue concentrations of assisted persons in areas containing a high proportion of low-income persons, and (iii) assuring the availability of public facilities and services adequate to serve proposed housing projects.

"(2) The Secretary shall establish such dates and manner for the submission of housing assistance plans described in paragraph (1) as the Secretary may prescribe.".

(c)(1) Section 104(d) of such Act is amended to read as follows:

"(d) Each grantee shall submit to the Secretary, at a time determined by the Secretary, a performance report concerning the use of funds made available under section 106, together with an assessment by the grantee of the relationship of such use to the objectives identified in the grantee's statement under subsection (a). The Secretary shall, at least on an annual basis, make such reviews and audits as may be necessary or appropriate to determine—

"(1) in the case of grants made under section 106(b), whether the grantee has carried out its activities and its housing assistance plan in a timely manner, whether the grantee has carried out those activities and its certifications in compliance with the requirements of this title and other applicable laws, and whether the grantee has a continuing capacity to carry out those activities in a timely manner; and

"(2) in the case of grants made under section 106(d), whether the State has distributed funds to units of general local government in a timely manner and in conformance to the method of distribution described in its statement, whether the State has carried out its certifications in compliance with the requirements of this title and other applicable laws, and whether the State has made such reviews and audits of the units of general local government as may be necessary or appropriate to determine whether they have satisfied the performance criteria described in paragraph (1) of this subsection.

"The Secretary may make appropriate adjustments in the amount of the annual grants in accordance with the Secretary's findings under this subsection. With respect to assistance made available to units of general local government under section 106(d), the Secretary may adjust, reduce, or withdraw such assistance, or take other action as appropriate in accordance with the Secretary's reviews and audits under this subsection, except that funds already expended on eligible activities under this title shall not be recaptured or deducted from future assistance to such units of general local government.".

(2) The amendment made by paragraph (1) shall take effect on October 1, 1982, except that, in the case of grants under section 106(d)(3)(B) of the Housing and Community Development Act of 1974, as amended by this Act, such amendment shall take effect on October 1, 1983.

(d) Section 104 of such Act is amended by striking out subsections (e) and (f) and redesignating subsections (g), (h), (i), and (j) as subsections (e), (f), (g), and (h).

(e) Section 104(f) of such Act, as redesignated by subsection (d) of this section, is amended by—

(1) striking out "applicants" in paragraph (1) and inserting in lieu thereof "recipients of assistance under this title";

(2) striking out "applicant" wherever it appears and inserting in lieu thereof "recipient of assistance under this title";

(3) striking out "applications and" in the last sentence of paragraph (2); and

(4) adding the following new paragraph at the end thereof:

"(4) In the case of grants made to States pursuant to section 106(d), the State shall perform those actions of the Secretary described in paragraph (2) and the performance of such actions shall be deemed to satisfy the Secretary's responsibilities referred to in the second sentence of such paragraph.".

(f) Section 104(g) of such Act, as redesignated by subsection (d) of this section, is amended by—

(1) striking out paragraph (1) and inserting in lieu thereof the following:

"(1) Units of general local government receiving assistance under this title may receive funds, in one payment, in an amount not to exceed the total amount designated in the grant (or, in the case of a unit of general local government receiving a distribution from a State pursuant to section 106(d), not to exceed the total amount of such distribution) for use in establishing a revolving loan fund which is to be established in a private financial institution and which is to be used to finance rehabilitation activities assisted under this title. Rehabilitation activities authorized under this section shall begin within 45 days after receipt of such payment."; and

(2) striking out the last two sentences of paragraph (2).

ELIGIBLE ACTIVITIES

SEC. 3103. (a) Section 105(a) of the Housing and Community Development Act of 1974 is amended by—

(1) striking out paragraph (8) and inserting in lieu thereof the following:

"(8) provision of public services, including but not limited to those concerned with employment, crime prevention, child care, health, drug abuse, education, energy conservation, welfare or recreation needs, if such services have not been provided by the unit of general local government (through funds raised by such unit, or received by such unit from the State in which it is located) during any part of the twelve-month period immediately preceding the date of submission of the statement with respect to which funds are to be made available under this title, and which are to be used for such services, unless the Secretary finds that the discontinuation of such services was the result of events not within the control of the unit of general local government: *Provided*, That not more than ten percent of the amount of any assistance to a unit of general local government under this title may be used for activities under this paragraph;";

(2) striking out "and" at the end of paragraph (15);

(3) striking out the period at the end of paragraph (16) and inserting in lieu thereof "; and "; and

(4) adding the following new paragraph at the end thereof:

"(17) provision of assistance to private, for-profit entities, when the assistance is necessary or appropriate to carry out an economic development project."; and

(5) inserting the following before the semicolon at the end of paragraph (13) ", and including the carrying out of activities as described in Section 701(e) of the Housing Act of 1954 on the date prior to the date of enactment of the Housing & Community Development Amendments of 1981.

(b) In fiscal years 1982, 1983 and 1984, the Secretary may waive the limitation on the amount of funds which may be used for public services activities under section 105(a)(8) of the Housing and Community Development Act of 1974, as amended by this Act, in the case of a unit of general local government which, during fiscal year 1981, allocated more than ten percent of funds received under title I of the Housing Community Development Act of 1974 for such activities.

ALLOCATION AND DISTRIBUTION OF FUNDS

SEC. 3104. (a) Section 106(a) of such Act is amended to read as follows:

"SEC. 106. (a) Of the amount approved in an appropriation Act under section 103 for grants in any year (excluding the amounts provided for use in accordance with section 107), 70 percent shall be allocated by the Secretary to metropolitan cities and urban counties. Except as otherwise specifically authorized, each metropolitan city and urban county shall be entitled to annual grants from such allocation in an amount not exceeding its basic amount computed pursuant to paragraph (1) or (2) of subsection (b).".

(b) Section 106 of such Act is amended by striking out subsection (c) and redesignating subsections (d), (e), (f) and (g) as subsections (c), (d), (e) and (f), respectively.

(c) Section 106(c), as redesignated by subsection (b) of this section, is amended to read as follows:

"(c) Any amounts allocated to a metropolitan city or urban county pursuant to the preceding provisions of this section which are not received by the city or county for a fiscal year or which become available as a result of actions under section 104(d) or section 111 shall be added to amounts available for allocation under section 106(a) in the succeeding fiscal year.".

(d) Section 106(d)(1) of such Act, as redesignated by subsection (b) of this section, is amended by—

(1) striking out "section 103(a)" and all that follows through "nonmetropolitan areas of each State" in the first sentence and inserting in lieu thereof the following:

"section 103 for grants in any year (excluding the amounts provided for use in accordance with section 107), 30 percent shall be allocated to States. The allocation for each State shall be"; and

(2) striking out "nonmetropolitan" wherever it appears and inserting in lieu thereof "nonentitlement".

(e) Section 106(d) of such Act, as redesignated by subsection (b) of this section, is amended by striking out paragraphs (2) and (3) and inserting in lieu thereof the following:

"(2) Amounts allocated under paragraph (1) shall be available for distribution by the State to units of general local government which are located in nonentitlement areas of the State to carry out activities in accordance with the provisions of this title. These amounts may also be used for administrative expenses incurred by the State in carrying out its responsibilities under this title. The State shall distribute amounts allocated to it consistent with the statement submitted under section 104(a) and shall be responsible for the administration of funds so distributed.

"(3)(A) Except as provided in subparagraph (B), any amounts allocated to a State under paragraph (1) which are not received by the State for a fiscal year or which become available as a result of actions under section 104(d) or section 111 shall be added to amounts available for allocation under this subsection in the succeeding fiscal year.

"(B) States may elect not to receive an allocation under paragraph (1) for fiscal year 1982. This election shall be made in such manner and before such time as the Secretary may prescribe. The Secretary shall administer the allocation for any State exercising such an election in accordance with the provisions of this title which governed grants to units of general local government in nonentitlement areas, as such provisions (except section 104(a)(4)) existed prior to the effective date of the Housing and Community Development Amendments of 1981. Any amounts under this subparagraph (except amounts for which preapplications have been approved by the Secretary prior to October 1, 1982 and which have been obligated by January 1, 1983) which are or become available for obligation after fiscal year 1982 shall be available for use by the State for which the allocation was made.

"(4) In computing amounts under paragraph (1), Indian tribes shall be excluded.".

(f) Section 106(f), as redesignated by subsection (b) of this section, is amended by striking out "(1)" and all that follows through "106(e)" and inserting in lieu thereof "all basic grant entitlement amounts".

DISCRETIONARY FUND AND URBAN DEVELOPMENT ACTION GRANTS

SEC. 3105 (a) The caption of section 107 of the Housing and Community Development Act of 1974 is amended to read as follows:

"DISCRETIONARY FUND AND URBAN DEVELOPMENT ACTION GRANTS".

(b) Subsections (a) and (b) of section 107 of such Act are amended to read as follows:

"SEC. 107 (a) Of total amount approved in appropriation Acts under section 103 for each of the fiscal years 1982 and 1983, (1) not more than $60,000,000 for each of fiscal years 1982 and 1983 may be set aside in a special discretionary fund for grants under subsection (b), and (2) not more than $500,000,000 for fiscal year 1982 may be set aside for urban development action grants under section 119 (until the effective date of section 105(c)(1)—(5) of the Housing and Community Development Amendments of 1981) and thereafter under subsection (c) of this section. Grants under this section are in addition to any other grants which may be made under this title to the same entities for the same purposes.

"(b) From amounts set aside under subsection (a)(1), the Secretary is authorized to make grants—

"(1) in behalf of new communities assisted under title VII of the Housing and Urban Development Act of 1970 or title IV of the Housing and Urban Development Act of 1968 or in behalf of new community projects assisted under title X of the National Housing Act which meet the eligibility standards set forth in title VII of the Housing and Urban Development Act of 1970 and which were the subject of an application or preapplication under such title prior to January 14, 1975;

"(2) in Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands;

"(3) to Indian tribes; and

"(4) to States, units of general local government, Indian tribes, or areawide planning organizations for the purpose of providing technical assistance in planning, developing, and administering assistance under this title, and to State and units of general local government for implementing special projects otherwise authorized under this title. The Secretary may also provide, directly or through contracts, technical assistance under this paragraph to such governmental units, or to a group designated by such a governmental unit for the purpose of assisting that governmental unit to carry out assistance under this title.".

(c)(1) Section 107 of such Act is amended by striking out subsections (c) and (d) and inserting in lieu thereof the following:

"(c)(1) From amounts set aside under subsection (a)(2), the Secretary is authorized to make urban development action grants to cities and urban counties which are experiencing severe economic distress to help stimulate economic development activity needed to aid in economic recovery.

"(2)(A) Urban development action grants shall be made only to cities and urban counties that have, in the determination of the Secretary, demonstrated results in providing housing for persons of low- and moderate-income and in providing equal opportunity in housing and employment for low- and moderate-income persons and members of minority groups. The Secretary shall issue regulations establishing criteria in accordance with the preceding sentence and setting forth minimum standards for determining the level of economic distress of cities and urban counties for eligibility for such grants. These standards shall take into account factors such as the age of housing; the extent of poverty; the extent of population lag; growth of per capita income; and, where data are available, the extent of unemployment and job lag.

"(B) A city or urban county which fails to meet the minimum standards established pursuant to subparagraph (A) shall be eligible for assistance under this subsection if it meets the requirements of the first sentence of such subparagraph and—

"(i) in the case of a city with a population of fifty thousand persons or more or an urban county, contains an area (I) composed of one or more contiguous census tracts, enumeration districts, or block groups, as defined by the United States Bureau of Census, having at least a population of ten thousand persons or 10 percent of the population of the city or urban county; (II) in which at least 70 percent of the residents have incomes below 80 percent of the median income of the city or urban county; and (III) in which at least 30 percent of the residents have incomes below the national poverty level; or

"(ii) in the case of a city with a population of less than fifty thousand persons, contains an area (I) composed of one or more contiguous census tracts, enumeration districts, or block groups or other areas defined by the United States Bureau of Census or for which data certified by the United States Bureau of Census are available having at least a population of two thousand five hundred persons or 10 percent of the population of the city, whichever is greater; (II) in which at least 70 percent of the residents have incomes below 80 percent of the median income of the city; and (III) in which at least 30 percent of the residents have incomes below the national poverty level.

The Secretary shall use up to, but not more than, 20 percent of the funds appropriated for use in any fiscal year under this subsection for the purpose of making grants to cities and urban counties eligible under this subparagraph.

"(3) Applications for assistance under this subsection shall—

"(A) in the case of an application for a grant under paragraph (2)(B), include documentation of grant eligibility in accordance with the standards described in that paragraph;

"(B) set forth the activities for which assistance is sought, including (i) an estimate of the costs and general location of the activities; (ii) a summary of the public and private resources which are expected to be made available in connection with the activities, including how the activities will take advantage of unique opportunities to attract private-investment; and (iii) an analysis of the economic benefits which the activities are expected to produce;

"(C) contain a certification satisfactory to the Secretary that the applicant, prior to submission of its application, (i) has held public hearings to obtain the views of citizens, particularly residents of the areas in which the proposed activities are to be carried out and (ii) has analyzed the impact of these proposed activities on the residents, particularly those of low and moderate income, of the residential neighborhood, and on the neighborhood in which they are to be carried out; and

"(D) contain a certification satisfactory to the Secretary that the applicant, prior to submission of its application, (i) has identified all properties, if any, which are included on the National Register of Historic Places and which, as determined by the applicant, will be affected by the project for which the application is made; (ii) has identified all other properties, if any, which will be affected by such project and which, as determined by the applicant, may meet the criteria established by the Secretary of the Interior for inclusion on such Register, together with documentation relating to the inclusion of such properties on the Register; (iii) has determined the effect, as determined by the applicant, of the project on the properties identified pursuant to clauses (i) and (ii); and (iv) will comply with the requirements of section 120.

"(4)(A) Except in the case of a city or urban county eligible under paragraph (2)(B), the Secretary shall establish selection criteria for grants under this subsection which must include (i), as the primary criterion, the comparative degree of economic distress among applicants, as measured (in the case of a metropolitan city or urban county) by the differences in the extent of growth lag, the extent of poverty, and the adjusted age of housing in the metropolitan city or urban county; (ii) other factors determined to be relevant by the Secretary in assessing the comparative degree of economic deterioration in cities and urban counties; and (iii) at least the following other criteria: demonstrated performance of the city or urban county in housing and community development programs; the extent to which the grant will stimulate economic recovery by leveraging private investment; the number of permanent jobs to be created and their relation to the amount of grant funds requested; the proportion of permanent jobs accessible to lower-income persons and minorities, including persons who are unemployed; the impact of the proposed activities on the fiscal base of the city or urban county and its relation to the amount of grant funds requested; the extent to which State or local government funding or special economic incentives have been committed; and the feasibility of accomplishing the proposed activities in a timely fashion within the grant amount available.

"(B) For the purpose of making grants with respect to areas described in paragraph (2)(B), the Secretary shall establish selection criteria, which must include (i) factors determined to be relevant by the Secretary in assessing the comparative degree of economic deterioration among eligible areas, and (ii) such other criteria as the Secretary may determine, including at a minimum the criteria listed in subparagraph (A)(iii) of this paragraph.

"(5) The Secretary may not approve any grant to a city or urban county eligible under paragraph (2)(B) unless—

"(A) the grant will be used in connection with a project located in an area described in paragraph (2)(B), except that the Secretary may waive this requirement where the Secretary determines (i) that there is no suitable site for the project within that area, (ii) the project will be located directly adjacent to that area, and (iii) the project will contribute substantially to the economic development of that area;

"(B) the city or urban county has demonstrated to the satisfaction of the Secretary that basic services supplied by the city or urban county to the area described in paragraph (2)(3) are at least equivalent, as measured by per capita expenditures, to those supplied to other areas within the city or urban county which are similar in population size and physical characteristics and which have median incomes above the median income for the city or urban county;

"(C) the grant will be used in connection with a project which will directly benefit the low- and moderate-income families and individuals residing in the area described in paragraph (2)(B); and

"(D) the city or urban county makes available, from its own funds or from funds received from the State or under any Federal program which permits the use of financial assistance to meet the non-Federal share requirements of Federal grant-in-aid programs, an amount equal to 20 percent of the grant to be available under this subsection to be used in carrying out the activities described in the application.

"(6) Activities assisted under this subsection may include such activities, in addition to those authorized under section 105(a), as the Secretary determines to be consistent with the purposes of this subsection.

"(7) The Secretary shall, at least on an annual basis, make reviews and audits of recipients of grants under this subsection as necessary to determine the progress made in carrying out activities substantially in accordance with approved plans and timetables. The Secretary may adjust, reduce, or withdraw grant funds, or take other action as appropriate in accordance with the findings of these reviews and audits, except that funds already expended on eligible activities under this title shall not be recaptured or deducted from future grants made to the recipient.

"(8) No assistance may be provided under this subsection for projects intended to facilitate the relocation of industrial or commercial plants or facilities from one area to another, unless the Secretary finds that the relocation does not significantly and adversely affect the unemployment or economic base of the area from which the industrial or commercial plant or facility is to be relocated.

"(9) Not less than 25 percent of the funds made available for grants under this subsection shall be used for cities under fifty thousand population which are not central cities of a metropolitan statistical area.

"(10) A grant may be made under this subsection only where the Secretary determines that there is a strong probability that (A) the non-Federal investment in the project would not be made without the grant and (B) the grant would not substitute for non-Federal funds which are otherwise available to the project.

"(11) In making grants under this subsection, the Secretary shall take such steps as the Secretary deems appropriate to assure that the amount of the grant provided is the least necessary to make the project feasible.

"(12) For purposes of this subsection, the Secretary may reduce or waive the requirement in section 102(a)(5)(B)(ii) that a town or township be closely settled.

"(13) In the case of any application which identifies any property in accordance with paragraph (3)(D)(ii), the Secretary may not commit funds with respect to an approved application unless the applicant has certified to the Secretary that the appropriate State historic preservation officer and the Secretary of the Interior have been provided an opportunity to take action in accordance with the provisions of section 120(b).

"(14)(A) For the purposes of this subsection, the term 'city' includes Guam, the Virgin Islands, and Indian tribes.

"(B) The Secretary may not approve a grant to an Indian tribe unless the tribe (i) is located on a reservation or in an Alaskan Native Village and (ii) is an eligible recipient under the State and Local Fiscal Assistance Act of 1972.

"(15) In the event that no amounts are set aside under, or precluded from being appropriated for, subsection (a)(2) for fiscal years after fiscal year 1982, any amount which is or becomes available for use under this subsection after fiscal year 1982 shall be added to amounts appropriated under section 103.

"(d) Amounts set aside for use under subsection (b) in any fiscal year but not used in that year shall remain available for use in subsequent fiscal years in accordance with the provisions of that subsection.

"(e)(1) Except as provided in paragraph (2), no grant may be made under this section unless the applicant provides satisfactory assurances that its program will be conducted and administered in conformity with Public Law 88-352 and Public Law 90-284.

"(2) No grant may be made to an Indian tribe unless the applicant provides satisfactory assurances that its program will be conducted and administered in conformity with title II of Public Law 90-284. The Secretary may waive, in connection with grants to Indian tribes, the provisions of section 109 and section 110.

"(3) The Secretary may accept a certification from the applicant that it has complied with the requirements of paragraph (1) or (2), as appropriate.".

(2) The third sentence of section 102(b) of such Act is amended by striking out "section 119" and inserting in lieu thereof "section 107(c)".

(3) Section 113(a)(3) of such Act is amended by striking out "section 119" and inserting in lieu thereof "this title".

(4) Title I of such Act is amended by striking out section 119 and redesignating sections 120 and 121, as sections 119 and 120, respectively.

(5) Section 120 of such Act, as redesignated by paragraph (4) of this subsection, is amended by—

(A) striking out "section 119" wherever it appears and inserting in lieu thereof "section 107(c)"; and

(B) striking out "subsection (c)(7)(B)" in subsection (b) and inserting in lieu thereof "paragraph (3)(D)(ii)".

(6) The amendments made by paragraphs (1) through (5) of this subsection shall become effective on the effective date of regulations implementing such paragraphs. As soon as practicable, but not later than January 1, 1982, the Secretary shall issue such final rules and regulations as the Secretary determines are necessary to carry out paragraphs (1) through (5).

(7) References to urban development action grants in section 103(b)(6)(I) of the Internal Revenue Code of 1954 shall include urban development action grants made under section 107(c) of the Housing and Community Development Act of 1974 when section 107(c) becomes effective.

NONDISCRIMINATION

SEC. 3106. Section 109(a) of the Housing and Community Development Act of 1974 is amended by adding the following new sentence at the end thereof:

"Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity.".

CHANGE IN ANNUAL CDBG REPORT SUBMISSION DATE

SEC. 3107. Section 113(a) of the Housing and Community Development Act of 1974 is amended by striking out "180" and inserting in lieu thereof "300".

TRANSITION PROVISIONS

SEC. 3108. (a) Any amounts appropriated for any fiscal year before fiscal year 1982 in a Department of Housing and Urban Development-Independent Agencies Appropriation Act or a Supplemental Appropriation Act under the head "COMMUNITY DEVELOPMENT GRANTS" or "URBAN DEVELOPMENT ACTION GRANTS" which are or become available for obligation shall remain available as provided by law, and shall be used in accordance with the following:

(1) funds authorized for use under section 119 of the Housing and Community Development Act of 1974 ("such Act") before the effective date of section 107(c) of such Act shall be available for use as provided by such section 107(c);

(2) funds authorized for use under section 106(a) of such Act before the effective date of this title shall be available for use as provided by section 106(c) of such Act;

(3) funds authorized for use under section 107 of such Act before the effective date of this title shall be available for use as provided by section 107(d) of such Act; and

(4) funds authorized for use under section 106(c) or (e) of such Act before the effective date of this title shall be available for use as provided by section 106(d)(3)(A) of such Act.

(b) Any grant or loan which, prior to the effective date of any provision of this title, was obligated and governed by any authority stricken by any provision of this title shall continue to be governed by the provisions of such authority as they existed immediately before such effective date.

URBAN HOMESTEADING

SEC. 3109. The first sentence of section 810(h) of the Housing and Community Development Act of 1974 is amended by striking out "and not to exceed $26,000,000 for the fiscal year 1979" and inserting in lieu thereof "Not to exceed $26,000,000 for the fiscal year 1979, and such sums as may be necessary for the fiscal year 1983".

REPEALERS

SEC. 3110. (a) Title VII of the Housing and Community Development Amendments of 1978 is hereby repealed.

(b) Section 701 of the Housing Act of 1954 is hereby repealed.

(c) Section 312 of the Housing Act of 1964 is hereby repealed, except that the first and second sentences of subsection (d) of such section shall remain in effect until September 30, 1982, or until such earlier time as the assets and liabilities of such fund are transferred to the revolving fund for liquidating programs established pursuant to title II of the Independent Offices Appropriation Act of 1955. All monies in the revolving fund for liquidating programs shall be available for necessary expenses of servicing and liquidating loans made pursuant to section 312, including reimbursement or payment for services and facilities of the Government National Mortgage Association and of any public or private agency for the servicing or liquidation of such loans.

(d) Part A of title IV of the Energy Conservation and Production Act is hereby repealed.

TECHNICAL AMENDMENTS

SEC. 3111. (a) Section 102(a) of the Housing and Community Development Act of 1974 is amended by—

(1) striking out paragraphs (18) and (19);

(2) inserting immediately after paragraph (6) the following:

"(7) The term 'nonentitlement area' means an area which is not a metropolitan city or part of an urban county."; and

(3) redesignating the remaining paragraphs accordingly.

(b) Section 102(c) of such Act is amended by striking out "a Community Development Program in whole or in part" and inserting in lieu thereof "activities assisted under this title".

(c) Section 102(d) of such Act is amended by striking out "103(a)(1)" and inserting in lieu thereof "103".

(d) The caption of section 105 of such Act is amended to read as follows: "ELIGIBLE ACTIVITIES".

(e) Section 105(a) of such Act is amended by—

(1) striking out the first sentence and the words "These activities" in the second sentence and inserting in lieu thereof "Activities assisted under this title";

(2) striking out in paragraph (6) the word "program";

(3) striking out in paragraph (9) "the Community Development Program" and inserting in lieu thereof "activities assisted under this title";

(4) striking out in paragraph (11) "to the community development program";

(5) striking out in paragraph (14) "(as specifically" and all that follows through "104(a)(1)" and inserting in lieu thereof "which are carried out by public or private nonprofit entities)"; and

(6) striking out in paragraph (15) "(as specifically described in the application submitted pursuant to section 104)".

(f) Section 105(b) of such Act is amended by striking out "a grant" and inserting in lieu thereof "assistance".

(g) The second sentence of 106(b)(4) of such Act is amended by striking out "for a grant under subsection (c) or (e)" and inserting in lieu thereof the following: "to receive assistance under subsection (d)".

(h) Section 108(d)(2) of such Act is amended by striking out "approved or".

(i) The first sentence of section 110 of such Act is amended by striking out "grants" and inserting in lieu thereof "assistance".

(j) The first sentence of section 112(a) of such Act is amended by striking out "103(a)" and inserting in lieu thereof "103".

(k) Section 113(a)(2) of such Act is amended by striking out "as approved by the Secretary".

(l) Section 116(b) of such Act is amended to read as follows:

"(b) In the case of funds available for any fiscal year, the Secretary shall not consider any statement under section 104(a), unless such statement is submitted on or prior to such date (in that fiscal year) as the Secretary shall establish as the final date for submission of statements in that year."."

MISCELLANEOUS AMENDMENTS

SEC. 3112. (a) ELIGIBILITY OF METROPOLITAN CITIES.—Section 102(a)(4) of the Housing and Community Development Act of 1974 is amended by inserting the following before the period at the end thereof: "or until September 30, 1983, whichever is later".

(b) ELIGIBILITY OF URBAN COUNTIES.—Section 102(a)(6) of such Act is amended by inserting the following before the period at the end thereof: "; except that any county which has been classified as an urban county under this paragraph shall be considered as meeting the population requirements of this paragraph until a decennial census indicates that the population of such county is below the amount required by this paragraph or until September 30, 1983, whichever is later".

(c) NEIGHBORHOOD REINVESTMENT.—Section 608(a) of the Neighborhood Reinvestment Corporation Act is amended—

(1) by striking out "and" after "1980,"; and

(2) by inserting the following before the period at the end thereof: ", and not to exceed $13,514,000 for fiscal year 1983".

On page 22 strike out line 38 and all that follows through line 40 on page 23 and insert in lieu thereof the following:

SEC. 3201. (a)(1) The first sentence of section 5(c)(1) of the United States Housing Act of 1937 is amended by inserting immediately after "1980" the following: ", by $922,469,430 on October 1, 1981, and by such sums as may be necessary on October 1, 1982".

(2) The second sentence of section 5(c)(1) of such Act is amended by striking out "Acts;" and all that follows through the period and inserting in lieu thereof the following: "Acts. In addition, the aggregate amount which may be obligated over the duration of the contracts may not exceed $31,200,000,000 with respect to the additional authority provided on October 1, 1980 and $18,359,638,525 with respect to the additional authority provided on October 1, 1981.".

(3) Section 5(c) of such Act is amended by—

(A) redesignating paragraphs (3), (4) and (5) as paragraphs (4), (5) and (6), respectively; and

(B) inserting immediately after paragraph (2) the following:

"(3)(A) Of the additional authority approved in appropriation Acts and made available on October 1, 1981, the Secretary shall make available $75,000,000 for assistance to projects under section 14.

"(B) Of the balance of the additional authority referred to in the preceding subparagraph which remains after deducting the amount to be provided for assistance to projects under section 14, the Secretary may not enter into contracts aggregating—

"(i) more than 45.4 percent of such balance for existing units assisted under this Act; and

"(ii) more than 54.6 percent of such balance for newly constructed and substantially rehabilitated units assisted under this Act.".

TENANT RENTAL PAYMENTS

(4)(A) Section 3 of the United States Housing Act of 1937 is amended to read as follows:

"RENTAL PAYMENTS—DEFINITIONS

"SEC. 3. (a) Dwelling units assisted under this Act shall be rented only to families who are lower-income families at the time of their initial occupancy of such units. A family shall pay as rent for a dwelling unit assisted under this Act the highest of the following amounts, rounded to the nearest dollar:

"(1) 30 percent of the family's monthly adjusted income; or

"(2) 10 percent of the family's monthly income; or

"(3) If the family is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the family's actual housing costs, is specifically designated by such agency to meet the family's housing costs, the portion of such payments which is so designated.

"(b) When used in this Act—

"(1) The term 'lower-income housing' means decent, safe, and sanitary dwellings assisted under this Act. The term 'public housing' means lower-income housing, and all necessary appurtenances thereto, assisted under this Act other than under section 8. When used in reference to public housing, the term 'lower-income housing project' or 'project' means (A) housing developed, acquired, or assisted by a public housing agency under this Act, and (B) the improvement of any such housing.

"(2) The term 'lower-income families' means those families whose incomes do not exceed 80 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs, unusually high or low family incomes, or other factors. The term 'very lower-income families' means lower-income families whose incomes do not exceed 50 percent of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families.

"(3) The term 'families' includes families consisting of a single person in the case of (A) a person who is at least sixty-two years of age or is under a disability as defined in section 223 of the Social Security Act or in section 102 of the Developmental Disabilities Services and Facilities Construction Amendments of 1970, or is handicapped, (B) a displaced person, (C) the remaining member of a tenant family and (D) other single persons in circumstances described in regulations of the Secretary. In no event shall more than 15 percent of the units under the jurisdiction of any public housing agency be occupied by single persons under clause (D). In determining priority for admission to housing under this Act, the Secretary shall give preference to those single persons who are elderly, handicapped, or displaced before those eligible under clause (D). The term 'elderly families' means families whose heads (or their spouses), or whose sole members, are persons described in clause (A). A person shall be considered handicapped if such person is determined, pursuant to regulations issued by the Secretary, to have an impairment which is expected to be of long-continued and indefinite duration, substantially impedes such person's ability to live independently, and is of such a nature that such ability could be improved by more suitable housing conditions. The term 'displaced person' means a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws. Notwithstanding the preceding provisions of this subsection, the term 'elderly families' includes two or more elderly, disabled, or handicapped individuals living together, or one or more such individuals living with one or more persons determined under regulations of the Secretary to be essential to their care or well being.

"(4) the term 'income' means income from all sources of each member of the household, as determined in accordance with criteria prescribed by the Secretary.

"(5) The term 'adjusted income' means the income which remains after excluding such amounts or types of income as the Secretary may prescribe. In determining amounts to be excluded from income, the Secretary may, in the Secretary's discretion, take into account the number of minor children in the household and such other factors as the Secretary may determine are appropriate.

"(6) The term 'public housing agency' means any State, county, municipality, or other governmental entity or public body (or agency or instrumentality thereof) which is authorized to engage in or assist in the development or operation or lower-income housing.

"(7) The term "State' includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions of the United States, the Trust Territory of the Pacific Islands, and Indian tribes, bands, groups, and Nations, including Alaska Indians, Aleuts and Eskimos, of the United States.

"(8) The term 'Secretary' means the Secretary of Housing and Urban Development.

"(c) When used in reference to public housing—

"(1) The term 'development' means any or all undertakings necessary for planning, land acquisition, demolition, construction, or equipment, in connection with a lower-income housing project. The term 'development cost' comprises the costs incurred by a public housing agency in such undertakings and their necessary financing (including the payment of carrying charges), and in otherwise carrying out the development of such project. Construction activity in connection with a lower-income housing project may be

confined to the reconstruction, remodeling, or repair of existing buildings.

"(2) The term 'operation' means any or all undertakings appropriate for management, operation, services, maintenance, security (including the cost of security personnel), or financing in connection with a lower-income housing project. The term also means the financing of tenant programs and services for families residing in lower-income housing projects, particularly where there is maximum feasible participation of the tenants in the development and operation of such tenant programs and services. As used in this paragraph, the term 'tenant programs and services' includes the development and maintenance of tenant organizations which participate in the management of lower-income housing projects; the training of tenants to manage and operate such projects and the utilization of their services in project management and operation; counseling on household management, housekeeping, budgeting, money management, child care, and similar matters; advice as to resources for job training and placement, education, welfare, health, and other community services; services which are directly related to meeting tenant needs and providing a wholesome living environment; and referral to appropriate agencies in the community when necessary for the provision of such services. To the maximum extent available and appropriate, existing public and private agencies in the community shall be used for the provision of such services.

"(3) The term 'acquisition cost' means the amount prudently required to be expended by a public housing agency in acquiring property for a lower-income housing project.

"(d) At least 30 percent of the dwelling units made available for initial occupancy in a public housing project in any fiscal year shall be occupied by very low-income families, and at least 30 percent of the families assisted under section 8 of this Act with annual allocations of contract authority shall be very low-income families at the time of the initial renting of dwelling units.".

(B) Sections 4, 5, 9, and 11 of such Act are amended by striking out "LOW-INCOME" where it appears in the caption accompanying each such section and by inserting in lieu thereof "LOWER-INCOME".

(C) Sections 2, 4, 5, 6, 9, 11, 12, 13 and 14 of such Act are amended by striking out "low-income" wherever it appears and inserting in lieu thereof "lower-income".

(D) Section 6(c)(2) of such Act is amended by striking out the phrase "at intervals of two years (or at shorter intervals where the Secretary deems it desirable)" and inserting in lieu thereof "no less frequently than annually".

(E) Section 8 of such Act is amended by:

(i) striking out paragraph (3) of subsection (c) and inserting in lieu thereof the following:

"(3) The amount of the monthly assistance payment with respect to any dwelling unit shall be the difference between the maximum monthly rent which the contract provides that the owner is to receive for the unit and the rent the family is required to pay under Section 3(a) of this Act. Reviews of family income shall be made no less frequently than annually".

(ii) striking out paragraph (7) of subsection (c) and redesignating paragraph (8) of such subsection as paragraph (7).

(iii) striking out paragraphs (1), (2) and (3) of subsection (f) and redesignating paragraphs (4), (5) and (6) of such subsection as paragraphs (1), (2) and (3), respectively;

(iv) striking out the phrase "The provisions of section 3(l), 5(e), and 6, "in subsection (h) and inserting in lieu thereof "Sections 5(e) and 6,";

(v) striking out the comma after the word "Act" in subsection (h); and

(vi) striking out "25 per centum of one-twelfth of the annual income of such family and the sum of—" in paragraph (3) of subsection (j) and inserting in lieu thereof "the rent the family is required to pay under section 3(a) of this Act and the sum of—".

(F) Section 236 of the National Housing Act is amended by:

(i) striking out "two years" in subsection (e) and inserting in lieu thereof "one year";

(ii) striking out "25 per centum of the tenant's income" in the second sentence of subsection (f) and inserting in lieu thereof "30 percent of the tenant's adjusted income";

(iii) striking out clause (ii) in the third sentence of subsection (f) and inserting in lieu thereof the following:

"(ii) to permit the charging of a rental for such dwelling units at such an amount less than 30 percent of a tenant's adjusted income as the Secretary determines represents a proportionate decrease for the utility charges to be paid by such tenant, but in no case shall such rental be lower than 25 percent of a tenant's adjusted income.";

(iv) striking out "25 per centum of their income" in paragraph (2) of subsection (f) and inserting in lieu thereof "30 percent of their adjusted income";

(v) striking out "25 per centum of the tenant's income" in paragraph (2) of subsection (f) and inserting in lieu thereof "the highest of the following amounts, rounded to the nearest dollar:

"(A) 30 percent of the tenant's monthly adjusted income; or

"(B) 10 percent of the tenant's monthly income; or

"(C) if the family is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the family's actual housing costs, is specifically designated by such agency to meet the family's housing costs, the portion of such payments which is so designated";

(vi) striking out the third sentence in paragraph (2) of subsection (f);

(vii) striking out subparagraph (A) of subsection (f)(3) and redesignating subsection (f)(3)(B) as subsection (f)(3); and

(viii) striking out all of subsection (m) and inserting in lieu thereof the following:

"(m) For the purpose of this section the term 'income' means income from all sources of each member of the household, as determined in accordance with criteria prescribed by the Secretary. The term 'adjusted income' means the income which remains after excluding such amounts or types of income as the Secretary may prescribe. In determining amounts to be excluded from income, the Secretary may, in the Secretary's discretion, take into account the number of minor children in the household and such other factors as the Secretary may determine are appropriate.".

(G) Section 101 of the Housing and Urban Development Act of 1965 is amended by:

(i) striking out paragraphs (1) and (2) in subsection (c) and inserting in lieu thereof the following:

"(1) 'qualified tenant' means any individual or family having an income which does not exceed 80 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs, unusually high or low family incomes, or other factors; and

"(2) 'income' means income from all sources of each member of the household, as determined in accordance with criteria prescribed by the Secretary. The term 'adjusted income' means the income which remains after excluding such amounts or types of income as the Secretary may prescribe. In determining amounts to be excluded from income, the Secretary may, in the Secretary's discretion, take into account the number of minor children in the household and such other factors as the Secretary may determine are appropriate.";

(ii) striking out the first sentence in subsection (d) and inserting in lieu thereof the following:

"The amount of the annual payment with respect to any dwelling unit shall be the lesser of (1) 70 percent of the fair market rent, or (2) the amount by which the fair market rental for such unit exceeds 30 percent of the tenant's adjusted income.";

(iii) striking out the phrase ", except the elderly, at intervals of two years (or at shorter intervals in cases where the Secretary may deem it desirable)" in paragraph (2) of subsection (e), and by inserting in lieu thereof "no less frequently than annually".

(H) The Housing and Community Development Amendments of 1979 are amended by:

(i) striking out subsection (c) in section 202; and

(ii) striking out subsection (c) in section 203.

(I)(i) In determining the rent to be paid by tenants who are occupying housing assisted under the authorities amended by this section on the effective date of this Act, the Secretary, notwithstanding any other provision of this section, may provide for delayed applicability, or for staged implementation, of the procedures for determining rent required by the provisions of subsections (a) through (h) of this section if the Secretary determines that immediate application of such procedures would be impracticable, would violate the terms of existing leases, or would result in extraordinary hardship for any class of tenants. Nothwithstanding any provision of this section, application of the procedures for determining rent contained in this section shall not result in a reduction in the amount of rent paid by any tenant below the amount paid by such tenant immediately preceding the effective date of this Act.

(ii) Tenants of housing assisted under the statutes amended by this section whose occupancy begins after the effective date of this Act shall be subject to immediate rent payment determinations in accordance with the amendments contained in subsections (a) through (h), except that the Secretary may provide for delayed applicability, or for staged implementation, of these requirements for such tenants if the Secretary determines that immediate application of the requirements of this section would be impracticable, or that uniform procedures for assessing rents would significantly decrease administrative costs and burdens.

(iii) The Secretary's actions and determinations and the procedures for making determinations pursuant to this subsection (i)

shall not be reviewable in any court. The provisions of subsections (a) through (h) shall be implemented and fully applicable to all affected tenants no later than five years following the date of enactment of this Act, except that the Secretary may extend the time for implementation if the Secretary determines that full implementation would result in extraordinary hardship for any class of tenants.

Strike out line 6 on page 25 and all that follows through line 15 and insert in lieu thereof the following:

(c)(1)(A) Section 101 (1) of the Housing and Urban Development Act of 1965 is amended to read as follows:

"(1) Notwithstanding the provisions of subsection (a) and any other provision of law, the Secretary may utilize additional authority under Section 5(c) of the United States Housing Act of 1937 made available by appropriation Acts on or after October 1, 1979, to supplement assistance authority available for that purpose under this Section.".

(B) The second sentence of Section 101(d) of such Act is deleted.

On Page 46, strike lines 22 through 29 and insert the following new section:

"SEC. 3676. Section 7(a) of the Export-Import Bank Act of of 1945 (23 USC 635e) is amended—

(1) by inserting "(1)" after "Sec. 7 (a)"; and (2) by adding at the end thereof the following:

"(2) The aggregate principal amount of direct loans made by the Bank shall not exceed $5,065,000,000 for fiscal year 1982, $5,413,000,000 for fiscal year 1983, and $5,737,000,000 for fiscal year 1984."

TITLE X—HOUSE COMMITTEE ON POST OFFICE AND CIVIL SERVICE

In Sec. 10001. On pages 341 through 343, strike lines 25 through 7 and insert the following:

"PAY CAPS ON FEDERAL EMPLOYEES

"SEC. 10001. (a) Notwithstanding any other provision of law, the overall percentage of the adjustment of the rates of pay under the General Schedule or any other statutory pay system under section 5305 of title 5, United States Code, which is to become effective with the first applicable pay period commencing on or after October 1, 1981, shall not exceed 4.8 percent.

(b)(1) Notwithstanding any other provision of law, in the case of a prevailing rate employee described in section 5342(a)(2) of title 5, United States Code, or an employee covered by section 5348 of that title—

(A) any increase in the rate of pay payable to such employee which would result from the expiration of the limitation contained in section 114(a)(2) of Public Law 96-369 shall not take effect, and

(B) any adjustment under subchapter IV of chapter 53 of such title to any wage schedule or rate applicable to such employee which results from a wage survey and which is to become effective during the fiscal year beginning October 1, 1981, shall not exceed the amount which is 4.8 percent above the schedule or rate payable on September 30, 1981 (determined with regard to the limitation contained in section 114(a)(2) of Public Law 96-369).

(2) Notwithstanding the provisions of section 9(b) of Public Law 92-392 or section 704(b) of the Civil Service Reform Act of 1978, the provisions of subsection (a) shall apply (in such manner as the Office of Personnel Management shall prescribe) to prevailing rate employees to whom such section 9(b) applies, except that the provisions of subsection (a) shall not apply to any increase in a wage schedule or rate which is required by the terms of a contract entered into before the date of the enactment of this Act.

(c) Notwithstanding any other provision of law, the overall percentage increase in the rates of pay of the General Schedule and the other statutory pay systems under section 5305 of title 5, United States code, shall not exceed—

(1) in the case of the increase which is to become effective as of the beginning of the first applicable pay period commencing on or after October 1, 1982, 7 percent; and

(2) in the case of the increase which is to become effective as of the beginning of the first applicable pay period commencing on or after October 1, 1983, 7 percent.

(d)(1) Notwithstanding any other provision of law, in the case of a prevailing rate employee described in section 5342(a)(2) of title 5, United States Code, or an employee covered by section 5348 of that title, any adjustment under subchapter IV of chapter 53 of that title to any wage schedule or rate applicable to such employee which results from a wage survey shall not exceed—

(A) in the case of an adjustment which is to become effective in the fiscal year beginning October 1, 1982, the percentage increase provided General Schedule employees for that fiscal year in accordance with paragraph (c)(1) of this section; and

(B) in the case of an adjustment which is to become effective in the fiscal year beginning October 1, 1983, the percentage increase provided General Schedule employees for that fiscal year in accordance with paragraph (c)(1) of this section.

(2) Notwithstanding the provisions of section 9(b) of Public Law 92-392 or section 704(b) of the Civil Service Reform Act of 1978, the provisions of paragraph (1) of this subsection shall apply (in such manner as the Office of Personnel Management shall prescribe) to prevailing rate employees to whom such section 9(b) applies, except that the provisions of paragraph (1) shall not apply to any increase in a wage schedule or rate which is required by the terms of a contract entered into before the date of the enactment of this Act."

In Sections 10002 and 10003. On pages 343 through 344, strike lines 8 through 38 and redesignate the following sections accordingly and insert the following new section 10002 as follows:

In section 10004. On page 345, strike line 1 and all that follows through line 25 on page 350, and redesignate the following sections accordingly.

In section 10103, On page 355, strike line 1 though line 12 and redesignate the following sections accordingly.

TITLE XII—HOUSE COMMITTEE ON SCIENCE AND TECHNOLOGY

On page 362, strike out line 18, and all that follows through page 388 line 9 and insert in lieu thereof the following.

SUBTITLE A

SEC. 12001. This subtitle may be cited as the "Department of Energy Civilian Research and Development Programs and Project 1982 Authorization Act".

OPERATING EXPENSES

SEC. 12002. (a) There are authorized to be appropriated for fiscal year 1982 in accordance with section 660 of the Department of Energy Organization Act, for operating expenses for each of the research and development programs referred to in subsection (b), a sum of dollars equal to the applicable percentage (as specified in such subsection) of the total amount which was made available for fiscal year 1981 for research, development, and demonstration activities under the appropriations account for that program pursuant to—

(1) title II of the Act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1981, and for other purposes (Public Law 96-514), under the heading "Department of Energy" and the subheadings "Fossil energy research and development" and "Energy conservation";

(2) title I of the Energy and Water Development Appropriation Act, 1981 (Public Law 96-367), under the heading "Department of Energy (Operating Expenses)" and the subheadings "Energy supply, research and development activities", "General science and research activities", and "Geothermal Resources Development Fund"; and

(3) section 101(5)(f) of (A) the joint resolution making continuing appropriations for the fiscal year 1981, and for other purposes (Public Law 96-369), and (B) the joint resolution making further continuing appropriations for the fiscal year 1981, and for other purposes (Public Law 96-536).

(b) The percentage (of the total amount made available for the program involved for fiscal year 1981, as more particularly described in subsection (a)) which is applicable with respect to each of the research and development programs for which appropriations are authorized by this section for fiscal year 1982 is as follows:

(1) 60 percent in the case of fossil energy (the sum of $422,950,000);

(2) 49 percent in the case of solar energy (the sum of $265,850,000);

(3) 28 percent in the case of geothermal energy (the sum of $38,636,000);

(4) 16 percent in the case of the Geothermal Resources Development Fund (the sum of $200,000);

(5) 46 percent in the case of energy conservation (the sum of $127,095,000);

(6) 116 percent in the case of general science and research (the sum of $437,160,000);

(7) 109 percent in the case of basic energy research (the sum of $265,411,000);

(8) 112 percent in the case of nuclear fission (the sum of $928,201,000);

(9) 117 percent in the case of magnetic fusion (the sum of $302,200,000);

(10) 17 percent in the case of hydropower (the sum of $2,000,000);

(11) 58 percent in the case of electric energy systems and storage (the sum of $62,500,000);

(12) 97 percent in the case of environmental research and development (the sum of $210,100,000); and

(13) 116 percent in the case of advanced isotope separation (the sum of $74,292,000).

PLANT AND CAPITAL EQUIPMENT

SEC. 12003(a) There are authorized to be appropriated for fiscal year 1982 in accordance with section 660 of the Department of Energy Organization Act for construction (including planning, construction, acquisition, and modification of facilities, including land acquisition), and for acquisition and fabrication of capital equipment not related to construction, with respect to each prior year project listed in the budget documents submitted to the Congress in support of the fiscal year 1982 budget (other than a project for which appropriations are authorized by section 4), amounts not to exceed the Federal share of the total estimated cost of such

project as set forth in such budget documents, except as otherwise provided (in the case of specific projects) under subsection (b).

(b) The amounts otherwise authorized by subsection (a) to be appropriated for fiscal year 1982 with respect to projects listed in the budget documents are increased or decreased as follows:

(1) In the case of acquisition and fabrication of capital equipment not related to construction, the amount so authorized for fossil energy research and development is decreased by $800,000;

(2) in the case of acquisition and fabrication of capital equipment not related to construction, the amount so authorized for energy conservation is increased by $326,000;

(3) in the case of acquisition and fabrication of capital equipment not related to construction, the amount so authorized for energy supply, research, and development activities is decreased by $850,000;

(4) in the case of Project 81-E-218, Tevatron I, Fermilab, the amount so authorized is decreased by $25,000,000, for a total project authorization of $16,500,000;

(5) in the case of Project 81-ES-1, OTEC Pilot Plant, the amount so authorized is increased by $6,300,000, for a total project authorization of $36,300,000;

(6) in the case of Project 81-T-314, Impurity Studies Experiment Modification (ISX-C), Oak Ridge, Tennessee, the amount so authorized is increased by $2,500,000, for a total project authorization of $7,000,000;

(7) in the case of Project 80-ES-19, Small Community Solar Thermal Power Experiment, the amount so authorized is increased by $5,000,000, for a total project authorization of $9,180,000;

(8) in the case of Project 80-G-2, Second 50 MWe Demonstration Power Plant, Heber, Imperial Valley, Georgia, the amount so authorized is increased by $7,000,000, for a total project authorization of $19,000,000;

(9) in the case of Project 80-GS-5, National Superconducting Cyclotron Laboratory, Michigan State University, Michigan, the amount so authorized is decreased by $11,600,000, for a total project authorization of $18,400,000;

(10) in the case of Project 80-MF-3, Elmo Bumpy Torus, Oak Ridge, Tennessee, the amount so authorized is decreased by $55,000,000, for a total project authorization $21,400,000;

(11) in the case of Project 78-3-a, Mirror Fusion Test Facility, Lawrence Livermore Laboratory, California, the amount so authorized is decreased by $65,000,000, for a total project authorization of $148,700,000;

(12) in the case of Project 78-10-B, Intersecting Storage Accelerator (ISABELLE), Brookhaven National Laboratory, Brookhaven, New York, the amount so authorized is decreased by $149,500,000, for a total project authorization of $125,500,000 (including the $5,500,000 remaining under section 102(a)(8)(B) of Public Law 95-238); and

(13) in the case of multi-program general purpose facilities, the amount so authorized is decreased by such sum as may be necessary for a total project authorization of $19,700,000.

(14) in the case of Project 78-6-C, Safety Research Experimental Facility, Idaho National Engineering Laboratory, Idaho, the amount so authorized is decreased by $10,100,000, for a total project authorization of $34,200,000; and

(15) in the case of Project 76-5-A, Tokamak Fusion Test Reactor, Princeton, New Jersey, the amount so authorized is decreased by $4,900,000, for a total project authorization of $313,600,000.

(c) For purposes of this section, the terms "budget documents submitted to the Congress in support of the fiscal year 1982 budget" and "budget documents" mean the Department of Energy Congressional Budget Request, Fiscal Year 1982 (February 1981; DOE/CR-0011-3).

NEW CONSTRUCTION

SEC. 12004. There are authorized to be appropriated for fiscal year 1982 in accordance with section 660 of the Department of Energy Organization Act for plant and capital equipment (including planning, construction, acquisition, and modification of facilities, including land acquisition), with respect to each of the following projects, the amount specified for that project:

(1) Project 82-F-505, General Plant Projects for Technology Centers, six locations, $6,000,000;

(2) Project 82-F-506, Surface Water Containment and Waste Water Treatment Facility, Bruceton, Pennsylvania, $1,000,000;

(3) Project 82-ES-1, Central Receiver Utility Repowering Project, $6,000,000;

(4) Project 82-N-315, General Plant Projects, Richland, Washington, $1,100,000;

(5) Project 82-N-312, General Plant Projects, $8,914,000;

(6) Project 82-N-310, Modifications to Reactors, $2,000,000;

(7) Project 82-E-321, Accelerator Improvement Modifications, various locations, $300,000;

(8) Project 82-E-320, General Plant Projects, $300,000;

(9) Project 82-E-301, 300 Area Utilities, Hanford, Washington, $1,000,000;

(10) Project 82-E-302, Security Facilities, Argonne Laboratory, Argonne, Illinois, $1,060,000;

(11) Project 82-E-305, Traffic Safety Improvements, Hanford Engineering Development Laboratory, Hanford, Washington, $3,240,000;

(12) Project 82-E-306, Railroad Modification, INEL, Idaho, $2,000,000;

(13) Project 82-GPP-1, General Plant Projects, $3,000,000;

(14) Project 82-V-305, Modifications and Additions to Environmental Research Facilities, various locations, $1,000,000;

(15) Project 82-E-221, Accelerator Improvements, $2,000,000;

(16) Project 82-E-222, General Plant Projects, $2,400,000;

(17) Project 82-E-223, Argonne Tandem/Linac Accelerator System, $400,000;

(18) Project 82-E-204, General Plant Projects, $5,000,000;

(19) Project 82-E-205, Accelerator Improvement Projects, various locations, $6,000,000;

(20) Project 82-E-206, Tevatron II, Fermilab, $6,000,000;

(21) Project GPP-82, General Plant Projects, Princeton, New Jersey, and Oak Ridge, Tennessee, $5,700,000;

(22) Project 82-N-402, General Plant Projects, $650,000; and

(23) Project 82-N-403, Development Module, $6,000,000.

AUTHORIZATIONS LIMITED TO RESEARCH AND DEVELOPMENT PURPOSES

SEC. 12005. Nothing in sections 12002 through 12004 shall be construed to authorize commercial or remedial action activities.

SUBTITLE B

SEC. 12101. This Act may be cited as the "Department of Energy Civilian Programs Authorization Act for Fiscal Years 1982 and 1983".

OTHER RENEWABLE RESOURCES AND CONSERVATION ACTIVITIES

SEC. 12102. Funds are authorized to be appropriated for fiscal year 1982 in accordance with section 660 of the Department of Energy Organization Act for the following fossil energy, solar energy, and conservation programs:

(A) Operating expenses for solar information systems, $5,000,000;

(B) Operating expenses for conservation activities:

(1) Buildings and Community Systems, $6,500,000;

(2) Industrial Energy Conservation, $1,400,000;

(3) Energy Extension Service, $15,000,000;

(4) Multi-Sector Appropriate Technology, $5,000,000;

(C) Operating expenses for small-scale hydropower demonstration, $1,000,000; and

(D) Capital equipment not related to construction for conservation activities, Buildings and Community Systems, $100,000.

SEC. . Any State receiving financial assistance for energy extension service activities pursuant to the National Energy Extension Service Act shall be required to provide funds from non-Federal sources for such activities in an amount no less than 20 per centum of the amount allocated to such State under such Act during any fiscal year.

SEC. . Within six months after the date of the enactment of this Act, the Secretary shall transmit to both Houses of Congress a detailed description of the comprehensive program and management plan for the conservation and renewable energy technology transfer programs in the Department of Energy, including the Energy Extension Service, the National Solar Heating and Cooling Information Center, and the Regional Solar Energy Centers. Such plan shall include a detailed description of the roles, division of responsibilities, and relationships of such Centers with other technology transfer activities of the Department of Energy, including the Energy Extension Service, the Solar Energy Information Data Bank, and the National Solar Heating and Cooling Information Center. Such plan shall also include a detailed description of how the information dissemination activities and services of the Department of Energy in the fields of renewable energy resources and energy conservation are being coordinated with similar or related activities and services of other Federal agencies.

URANIUM ENRICHMENT, OTHER COMMERCIAL WASTE MANAGEMENT ACTIVITIES, WEST VALLEY DEMONSTRATION PROJECT ACTIVITIES, AND THREE MILE ISLAND ACTIVITIES

SEC. 12103. Funds are authorized to be appropriated for fiscal year 1982 in accordance with section 660 of the Department of Energy Organization Act for:

(A) Operating expenses for uranium enrichment:

(1) Gaseous Diffusion Operations and Support, $961,825,000;

(2) Gas Centrifuge Operations and Support, $5,200,000; and

(3) Uranium enrichment process development, $93,075,000;

(4) Program Administration, $3,100,000.

(B) Uranium enrichment activities plant and capital equipment, including planning, construction, acquisition, or modification of facilities, including land acquisition, as follows:

(1) Project 82-R-410, General plant projects, various locations, $17,500,000;

(2) Project 82-R-411, UF_6 cylinders and storage yards, gaseous diffusion plants, $11,000,000;

(3) Project 82-R-412, Cooling tower modifications, Oak Ridge, Tennessee and Portsmouth, Ohio, gaseous diffusion plants, $8,000,000;

(4) Project 82-R-413, Improved UF_6 containment and gaseous diffusion plants, $7,100,000;

(5) Project 82-R-414, Purge and cascade withdrawal modifications, gaseous diffusion plant, Paducah, Kentucky, $9,000,000;

(6) Project 82-R-415, Fire alarm system replacement, gaseous diffusion plants, $4,700,000;

(7) Project 82-R-416, Environmental protection and safety modifications, Phase II, gaseous diffusion plants, $2,000,000;

(8) Project 82-R-417, Air distribution system upgrading, gaseous diffusion plant, Paducah, Kentucky, $2,700,000;

(9) Project 81-R-503, Utilities upgrading, gaseous diffusion plants, and additional sum of $17,000,000 for a total project authorization of $27,000,000;

(10) Project 81-R-504, Supervisory control and data acquisition systems, Paducah, Kentucky and Portsmouth, Ohio, gaseous diffusion plants, an additional sum of $7,000,000 for a total project authorization of $13,000,000;

(11) Project 81-R-506, Environmental protection and safety improvements, Phase I, gaseous diffusion plants, $7,000,000;

(12) Project 80-UE-2, Control of water pollution, gaseous diffusion plants, an additional sum of $4,000,000 for a total project authorization of $17,000,000;

(13) Project 80-UE-3, Plant facilities security improvements, gaseous diffusion plants, an additional sum of $4,000,000 for a total project authorization of $17,000,000;

(14) Project 80-UE-5, Motor and switchgear upgrading, gaseous diffusion plants, an additional sum of $6,600,000 for a total project authorization of $26,500,000; and

(15) Project 76-8-g, Enriched uranium production facilities Portsmouth, Ohio, an additional sum of $601,000,000 for a total project authorization of $1,552,845,000.

(16) Project 82-R-418, Advanced Centrifuge Test Facilities, Oak Ridge, Tennessee, $6,000,000.

(C) Capital equipment not related to construction for uranium enrichment, $27,200,000.

SEC. 12104. Funds are authorized to be appropriated for fiscal year 1982 in accordance with section 660 of the Department of Energy Organization Act for operating expenses for other commercial waste management activities:

(A) Repository licensing activities in the terminal isolation program, $2,000,000;

(B) Assistance to States in the waste system evaluation program, $500,000; and

(C) Assistance to States for low-level waste management, $1,000,000.

SEC. 12105. Funds are authorized to be appropriated for fiscal year 1982 in accordance with section 660 of the Department of Energy Organization Act for the following West Valley Demonstration Project activities:

(A) Operating expenses for the West Valley Demonstration Project, $9,800,000; and

(B) Capital equipment not related to construction for the West Valley Demonstration Project, $200,000.

DEPARTMENTAL ADMINISTRATION

SEC. 12106. Funds are authorized to be appropriated for fiscal year 1982 in accordance with section 660 of the Department of Energy Organization Act for:

(A) Operating expenses for departmental administration activities:

(1) Office of the Secretary, $3,616,000;

(2) General management, $62,004,000;

(3) Program administration, $6,249,000;

(4) Field offices, $56,688,000;

(5) Other salary expenses, travel, and services, $131,506,000;

(6) Policy analysis and systems studies, $10,678,000;

(7) International policy studies, $250,000;

(8) Intergovernmental affairs, $9,365,000;

(9) Public affairs, $900,000;

(10) In-house energy management, $5,400,000;

(11) Cost of work for others, and changes in inventories, $55,214,000;

(12) Consumer affairs, $168,000; and

(13) Technical information services, $14,830,000.

(B) Departmental administration activities plant and capital equipment, including planning, construction, acquisition, or modification of facilities, including land acquisition, as follows:

(1) Project 82-A-601, Modifications for energy management, various locations, $14,100,000;

(2) Project 82-A-602, Advanced Test Reactor (ATR) waste heat recovery, Idaho National Engineering Laboratory, Idaho, $4,900,000;

(3) Project 82-A-603, High temperature water distribution system, Los Alamos Scientific Laboratory, New Mexico, $5,000,000;

(4) Project 81-A-602; Energy monitoring and control system, Y-12 Plant, Oak Ridge, Tennessee, and additional sum of $2,500,000 for a total project authorization of $5,000,000;

(5) Project 81-A-603, Energy monitoring and control system, Oak Ridge National Laboratory, and additional sum of $2,000,000 for a total project authorization of $4,000,000;

(6) Project 81-A-605, Automated energy management system, Argonne National Laboratory, Argonne, Illinois, and additional sum of $1,900,000 for a total project authorization of $3,800,000;

(7) Project 80-DA-06, Alternate energy source, Pantex Plant, Amarillo, Texas, an additional sum of $3,000,000 for a total project authorization of $6,000,000; and

(8) Project 82-C-601, Plant engineering and design, various locations, $2,000,000.

(C) Capital equipment not related to construction for departmental administration activities, $5,563,000.

TITLE XV—HOUSE COMMITTEE ON WAYS AND MEANS

In section 15004. On page 414, line 27, strike out the word "shall" and insert in lieu thereof the word "may"; on line 28, before the words "the worker" insert the following: "the Secretray shall provide and".

In Section 15201. On pages 425 through 426, strike out lines 1 through 30 and insert in lieu thereof the following:

ELIMINATION OF CHILD'S INSURANCE BENEFITS IN THE CASE OF CHILDREN AGE 18 THROUGH 22 WHO ATTEND POSTSECONDARY SCHOOLS

Sec. . (a)(1) Section 202(d) of the Social Security Act is amended in paragraphs (1)(B), (1)(E)(ii), (1)(F)(i), (1)(G)(III), (6)(A)(i), (6)(D)(i), (6)(E)(i), (7)(A) (three places), (7)(B), and (7)(D), by striking out "full-time student" each place it appears and inserting in lieu thereof "full-time elementary or secondary school student".

(2)(A) Section 202(d) of such Act is further amended in paragraphs (7)(A) (two places), (7)(B) (three places), and (7)(D), by striking out "educational institution" each place it appears and inserting in lieu thereof "elementary or secondary school".

(B) Section 202(d)(7)(A) of such Act is further amended by striking out "institutions involved" and inserting in lieu thereof "schools involved".

(3) Subparagraph (C) of section 202(d)(7) of such Act is amended to read as follows:

"(C)(i) An 'elementary or secondary school' is a school which provides elementary or secondary education, respectively, as determined under the law of the State or other jurisidiction in which it is located.

"(ii) For the purpose of determining whether a child is a 'full-time elementary or secondary school student' or 'intends to continue to be in full-time attendance at an elementary or secondary school', within the meaning of this subsection, there shall be disregarded any education provided, or to be provided, beyond grade 12.".

(4) Section 202(d)(7)(D) of such Act is further amended by striking out "degree from a four-year college or university" and inserting in lieu thereof "diploma or equivalent certificate from a secondary school (as defined in subparagraph (C)(i))".

(5)(A) Section 202(d) of such Act is further amended in paragraphs (1)(B)(i), (1)(F)(ii), (1)(G)(IV), (6)(D)(ii), (6)(E)(ii), and (7)(D) by striking out "22" each place it appears in each of those paragraphs and inserting in lieu thereof "19".

(B) Section 202(d)(6)(A) of such Act (as amended by paragraph (1)) is further amended to read as follows:

"(A)(i) is a full-time elementary or secondary school student and has not attained the age of 19, or (ii) is under a disability (as defined in section 223(d)) and has not attained the age of 22, or".

(b) Except as provided in subsection (c), the amendments made by subsection (a) shall apply to child's insurance benefits under section 202(d) of the Social Security Act for months after July 1982.

(c)(1) Notwithstanding the provisions of section 202(d) of the Social Security Act (as in effect prior to or after the amendments made by subsection (a)), any individual who—

(A) has attained the age of 18;

(B) is not under a disability (as defined in section 223(d) of such Act);

(C) is entitled to a child's insurance benefit for August 1981; and

(D) is a full time student at a postsecondary school, college, or university that is an educational institution (as such terms are defined in section 202(d)(7) (A) and (C) of such Act as in effect prior to the amendments made by subsection (a)) for any month prior to May 1982;

shall be entitled to a child's benefit under section 202(d) of such Act for any month after July 1981 and prior to August 1985 if such individual would be entitled to such child's benefit for such month under such section 202(d) as in effect prior to the amendments made by subsection (a), but such benefits shall be subject to the limitations set forth in this subsection.

(2) No benefit under section 202(d) of such Act shall be paid to an individual to whom paragraph (1) applies for the months of May, June, July, and August, beginning

with benefits otherwise payable for May 1982.

(3) The amount of the monthly benefit payable under section 202(d) of such Act to an individual to whom paragraph (1) applies for any month after July 1982 (prior to deductions on account of work required by section 203) shall not exceed the amount of the benefit to which such individual was entitled for August 1981 (prior to deductions on account of work required by section 203), less an amount—

(A) during the months after July 1982 and before August 1983, equal to 25 percent of such benefit for August 1981;

(B) during the months after July 1983 and before August 1984, equal to 50 percent of such benefit for August 1981; and

(C) during the months after July 1984 and before August 1985, equal to 75 percent of such benefit for August 1981.

(4) Any individual to whom the provisions of paragraph (1) apply and whose entitlement to benefits under section 202(d) of the Social Security Act ended after July 1982 shall not subsequently become entitled, or reentitled, to benefits under such section 202(d) unless he meets the requirements of section 202(d)(1)(B)(ii) of that Act."

In section 15203, on pages 427 through 429, strike lines 4 through 13 and insert in lieu thereof the following:

"REPEAL OF MINIMUM BENEFIT PROVISION

SEC. . (a) Section 215(a)(1)(C)(i) of the Social Security Act is amended to read as follows:

"(C)(i) No primary insurance amount computed under subparagraph (A) may be less than an amount equal to $11.50 multiplied by the individual's years of coverage in excess of 10, or the increased amount determined for purposes of this clause under subsection (i).".

(b)(1) Section 215(a)(1)(C)(ii) of such Act is amended by striking out "For purposes of clause (i)(II)" and inserting in lieu thereof "For purposes of clause (i)".

(2) Section 215(a)(3)(A) of such Act is amended by striking out "subparagraph (C)(i)(II)" and inserting in lieu thereof "subparagraph (C)(i)".

(3) Section 215(a)(4) of such Act is amended—

(A) by striking out "subparagraph (C)(i)(II)" and inserting in lieu thereof "subparagraph (C)(i)"; and

(B) in subclause (I) thereof, by striking out "but without regard to clauses (iv) and (v) thereof".

(4) Section 215(f)(8) of such Act is amended by striking out "subsection (a)(1)(C)(i)(II)" and inserting in lieu thereof "subsection (a)(1)(C)(i)".

(5) Section 215(i)(2)(A)(ii)(II) of such Act is amended by striking out "(including a primary insurance amount determined under subsection (a)(1)(C)(i)(I), but subject to the provisions of such subsection (a)(1)(C)(i) and clauses (iv) and (v) of this subparagraph)".

(6) Section 215(i)(2)(A)(ii) of such Act is amended in the matter following subclause (III) by striking out "subparagraph (C)(i)(II)" and inserting in lieu thereof "subparagraph (C)(i)".

(7) Section 215(i)(2)(A)(iii) of such Act is amended by striking out "and, with respect to a primary insurance amount determined under subsection (a)(1)(C)(i)(I), subject to the provisions of subsection (a)(1)(C)(i) and clauses (iv) and (v) of this subparagraph".

(8) Section 215(i)(2)(A) of such Act is amended by striking out clauses (iv) and (v) thereof.

(9) Section 215(i)(2)(D) of such Act is amended by striking out "subparagraph (C)(i)(II)" each place it appears and inserting in lieu thereof in each instance "subparagraph (C)(i)".

(10) Section 202(m) of such Act is repealed.

(11) Paragraphs (1) and (5) of section 202 (w) of such Act are each amended by striking out "section 215(a)(1)(C)(i)(II)" and inserting in lieu thereof in each instance "section 215(a)(1)(C)(i)".

(12) Section 233(c)(2) of such Act is amended to read as follows:

"(2) Any such agreement may provide that an individual who is entitled to cash benefits under this title shall, notwithstanding the provisions of section 202(t), receive such benefits while he resides in a foreign country which is a party to such agreement.".

(c)(1) Section 215(a) of such Act is amended by adding at the end thereof the following new paragraph:

"(6)(A) The table of benefits in effect in December 1978 under this section, referred to in paragraph (4) in the matter following subparagraph (B) and in paragraph (5), revised as provided by subsection (i), as applicable, shall be extended for average monthly wages of less than $76.00 and primary insurance benefits (as determined under subsection (d)) of less than $16.20.

"(B) The Secretary shall determine and promulgate in regulations the methodology for extending the table under subparagraph (A).".

(2) Section 215(a)(4) of such Act is amended, in the matter following subparagraph (B), by inserting ", as modified by paragraph (6) as in effect for August 1981," after "table of benefits in effect in December 1978".

(3) Section 215(a)(5) of such Act is amended—

(A) by inserting before the period at the end of the first sentence the following: ", and, effective for months after July 1981, the table for determining primary insurance amounts and maximum family benefits contained in this section in December 1978 shall be modified as specified in paragraph (6)"; and

(B) in the last sentence by inserting ", modified by the application of paragraph (6) as in effect in August 1981," after "December 1978".

(4) Section 215(f)(7) of such Act is amended by adding at the end thereof the following new sentence: "Effective August 1981, the recomputation shall be modified by the application of section 215(a)(6) as in effect in August 1981, where applicable.".

(5) Section 215(i)(4) of such Act is amended by inserting ", modified by the application of subsection (a)(6) as in effect in August 1981," after "December 1978" each place it appears.

(6) Section 203(a)(8) of such Act is amended by inserting ", modified by the application of section 215(a)(6) as in effect August 1981" before ", except that".

(7) Section 217(b)(1) of such Act is amended by inserting before the period at the end of the first sentence the following: ", and as modified by the application of section 215(a)(6) as in effect in August 1981".

(d)(1) Section 202(q)(4) of such Act is amended by striking out "increased" and "increase" each place they appear and inserting in lieu thereof "changed" and "change", respectively.

(2) Section 202(q)(10) of such Act is amended in the matter preceding subparagraph (A) by striking out "increased", 'increase", and "increases" each place they appear and inserting in lieu thereof "changed", "change", and "changes", respectively.

(e)(1) The Secretary of Health and Human Services shall recalculate the primary insurance amounts applicable to—

(A) beneficiaries whose benefits are based on a primary insurance amount that was computed under section 215(a)(1)(C)(i)(I) of the Social Security Act, and

(B) beneficiaries with average monthly wages of less than $76.00 and primary insurance benefits of less than $16.20 whose benefits are based on primary insurance amounts computed under section 215(a)(4) or section 215(a)(5) of such Act.

(2) In the case of individuals to whom section 215(a)(1) and 215(a)(4) of such Act as in effect after December 1978 do not apply, the Secretary shall recalculate the primary insurance amount based on section 215 as in effect in December 1978 as though the individual had first become entitled in December 1978; except that—

(A) the table in, or deemed to be in, the law as the result of the amendments made by subsection (c)(1) of this section shall be used in lieu of the table in effect in December 1978;

(B) in the case of individuals who were born after January 1, 1913, the first sentence of section 215(b)(3) of the law as so in effect shall be deemed to read: "For purposes of paragraph (2), the number of an individual's elapsed years is the number of calendar years after 1950 (or, if later, after the year of attainment of age 21) and before 1961 or, if later, the earlier of the year in which such individual died or attained age 62.";

(C) in the case of individuals who were born prior to January 2, 1913, the first sentence of section 215(b)(3) of the law as so in effect shall be deemed to read: "For purposes of paragraph (2), the number of an individual's elapsed years is the number of calendar years after 1950 and before 1961 or, if later, the earlier of the year in which such individual died or attained, in the case of a man (except as provided by section 104(j) of Public Law 92-603) age 65, or in the case of a woman, age 62.";

(D) section 215(b)(4) as so in effect shall be disregarded;

(E) section 215(d)(2)(C) as so in effect shall be disregarded;

(F) section 215(d)(4) shall be deemed, for purposes of such recalculation, to read:

"(4) The provisions of this subsection as in effect in December 1977 (but without regard to paragraph (2)(C)) shall be applicable to individuals who became eligible for old-age or disability insurance benefits or died prior to 1978.";

(G) in the case of individuals who became disabled, died, or attained age 65 prior to 1951, the Secretary shall by regulations provide an alternative computation in lieu of the computation provided by the law as so in effect (as provided by this paragraph); and

(H) in no event may the recalculated primary insurance amount exceed the primary insurance amount that is based on an average monthly wage of $76.00 or the primary insurance amount that is based on a primary insurance benefit of $16.20.

(3) In the case of individuals to whom either section 215(a) (1) or (4) of such Act apply, the primary insurance amount shall be recalculated under section 215 as in effect after December 1978; except that the

table in or deemed to be in the law as a result of the amendments made by subsection (c)(1) of this section shall be used (where appropriate) in lieu of the table in effect in December 1978.

(f) The first sentence of section 202(i) of such Act is amended by inserting after "primary insurance amount" the following: "(as determined without regard to the amendments made by section 702 of the Omnibus Reconciliation Act of 1981 relating to the elimination of the minimum benefit)".

(g) Part A of title XVI of the Social Security Act is amended by adding at the end thereof the following new section:

"BENEFITS FOR INDIVIDUALS FORMERLY RECEIVING MINIMUM BENEFITS UNDER TITLE II

"SEC. 1622. (a) Any individual who—

"(1) is 60 years of age or older but has not attained the age of 65;

"(2) would be an eligible individual or eligible spouse under section 1611 if such individual were 65 years of age;

"(3) is not otherwise eligible for a benefit under section 1611;

"(4) for the month of July 1981 was entitled to a monthly benefit under title II of this Act for which he made application prior to August 1, 1981, as determined without regard to any deductions on account of work required by section 203, which entitlement amount (as so determined) was reduced for any month by reason of the amendments made by section 702 of the Omnibus Reconciliation Act of 1981 (relating to the elimination of the minimum benefit); and

"(5) is not entitled under title II to a monthly benefit, as determined without regard to any deductions on account of work required by section 203, in an amount equal to or greater than such entitlement amount (as so determined) for July 1981;

shall be eligible for a benefit for each month in which he meets the requirements of this subsection in an amount determined under subsection (b) or (c).

"(b) The amount of the monthly benefit payable under subsection (a) shall be the amount of the monthly benefit which would otherwise be payable to such individual under this title if he were 65 years of age; except that—

"(1) the amount of such monthly benefit shall not exceed—

"(A) in the case of an individual described in subsection (a) who does not have an eligible spouse, an amount equal to the amount by which such individual's monthly benefit entitlement under title II for such month as determined without regard to any deductions on account of work required by section 203, is less than the amount of such individual's monthly benefit entitlement under title II for July 1981 (as so determined); or

"(B) in the case of an individual and his spouse, both of whom are individuals described in subsection (a), an amount equal to the amount by which the combined amount of their monthly benefit entitlements under title II for such month (as so determined), is less than the combined amount of their monthly benefit entitlements under title II for July 1981 (as so determined);

"(2) the benefit amount shall be determined on the basis of the dollar amounts applicable under this title for July 1981 (without regard to cost-of-living adjustments made after July 1981 under section 1617) in the case of any individuals described in paragraph (1); and

"(3) in the case of an individual described in subsection (a) who has a spouse eligible for benefits under this title, other than by reason of this section, the amount of such monthly benefit for such individual (described in subsection (a)) shall be determined under subsection (c), and the amount of the monthly benefit for such spouse shall be determined in the same manner as for an individual who does not have an eligible spouse.

"(c) The amount of the monthly benefit for an individual described in subsection (b)(3) shall be an amount equal to the amount by which—

"(1) the monthly benefit amount for which such individual and his spouse would be eligible for such month under this title if both he and his spouse were 65 years of age, determined on the basis of the dollar amounts applicable under this title for July 1981 (without regard to cost-of-living adjustments made after July 1981 under section 1617); exceeds

"(2) the monthly benefit amount under this title for which his spouse is eligible for such month;

except that the amount of such monthly benefit shall not exceed the amount by which such individual's monthly benefit entitlement under title II for such month, as determined without regard to deductions on account of work under section 203, is less than his monthly benefit entitlement under title II (as so determined) for July 1981.

"(d) An individual who is entitled to a benefit under this section shall not be considered to be an individual receiving supplemental security income benefits under this title for purposes of section 1616 of this title or of any provision of law other than this title.".

(h) This section and the amendments made thereby shall be effective with respect to benefits payable for months after November 1981 in the case of individuals who initially become eligible for benefits under title II of the Social Security Act after November 1981, and with respect to benefits payable for months after February 1982 in the case of all other individuals. For the purpose of the preceding sentence, eligibility shall be determined in accordance with the provisions of section 215(a)(3)(B) and section 215(a)(2)(A) of that Act."

In section 15206, on pages 430 through 433, strike lines 27 through 20 and redesignate the following sections accordingly:

In section 15481, on page 473, line 6, strike out lines 6 through 17 and insert in lieu thereof the following:

Chapter 5—SOCIAL SERVICE BLOCK GRANTS

SHORT TITLE

SEC. 15481. This subchapter may be cited as the "Social Services Block Grant Act".

FINDINGS

SEC. 15482. The Congress finds and declares that—

(1) during the past 20 years, the Federal Government has established numerous programs to assist each State, its local governments and private service organizations, to provide social services to its citizens;

(2) with the growth in the number of Federal assistance programs and in the associated requirements imposed upon recipients, Federal decisions have displaced State and local determinations of what services, in what amounts, are required by the residents of each State;

(3) the proliferation of Federal programs has resulted in substantial inefficiencies in the way services are provided, in burdensome administrative costs, and in spending patterns that frequently do not reflect the priorities and service needs of the residents of the States;

(4) the best use of resources in meeting the social services needs of the Nation requires that the Federal Government support and not displace the State role in determining which services to provide and how best to provide them;

(5) allowing the States substantial flexibility in the use of Federal financial assistance and eliminating many Federal requirements will help insure a proper governmental balance and more effective use of the resources of the Nation; and

(6) this can be accomplished through consolidation of related assistance programs into a single grant, with minimum requirements.

STATEMENT OF PURPOSES

SEC. 15483. (a) The purposes of this subchapter are to consolidate Federal assistance to States for social services into a single grant, to increase State flexibility in using social service grants, and to assist States in—

(1) fostering individual self-sufficiency and economic self-support;

(2) preserving families and promoting family stability;

(3) reducing neglect, abuse, or mistreatment of vulnerable persons;

(4) promoting independent living where possible and assuring appropriate institutional care where needed; and

(5) stimulating improved use of public and private resources, including resources available from private nonprofit organizatons, in the delivery of social services.

(b) To accomplish the purposes specified in subsection (a), States are authorized to provide social services to individuals and families (particularly those most in need), including child care, day care, services for individuals in foster care, protective services, foster care maintenance payments, adoption assistance payments, emergency room and board, home management and maintenance services, preparation and delivery of meals, health support services, family planning, transportation, rehabilitation, training and related services, employment services, legal services, delinquency prevention services, services to minors in the justice system, information, referral, and counseling services, and such other community and social services as may be appropriate and consistent with the purposes of this subchapter.

(c) Expenditures for accomplishing the purposes specified in subsection (a) may include expenditures for administration (including planning and evaluation) and personnel training and retraining directly related to the provision of services designed to carry out such purposes (including both short-term and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions. Such services shall include conferences or workshops, and training or retraining through grants to nonprofit organizations within the meaning of section 501(c)(3) of the Internal Revenue Code of 1954 or to individuals with social services expertise, or through financial assistance to individuals participating in such conferences, workshops, and training or retraining. The preceding sentence shall apply to all persons involved in the delivery of services under this subchapter.

AUTHORIZATION OF APPROPRIATIONS

SEC. 15484. For the purpose of making grants to States for provision of social services in accordance with the provision of this subchapter, there are authorized to be appropriated $3,123,000,000 for fiscal year 1982 and each of the 3 succeeding fiscal years.

ALLOTMENTS

SEC. 15485. (a) From the amounts appropriated under section 5314 for any fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to the total amount appropriated as the total amount allotted or obligated to the State or to a grantee within the State (or, in the absence of such an allotment or obligation, the total amount paid, as determined by the Secretary on the basis of claims for payment submitted by the State on or before April 1, 1982) to the State for fiscal year 1981 under authorities specified in section 5323, under the authority for foster care maintenance payments under part A of title IV of the Social Security Act, and for social services in accordance with section 1108(a) of the Social Security Act, bears to the total amount appropriated for payments to all States under such authorities for fiscal year 1981.

PAYMENTS TO STATES

SEC. 15486. (a) The Secretary shall make payments in accordance with section 203 of the Intergovernmental Cooperation Act of 1968 to each State from its allotment under section 5315 for use under this subchapter.

(b) Payments to a State from its allotment for any fiscal year shall be expended by the State in such fiscal year or in the succeeding fiscal year.

(c)(1) A State may transfer not more than 10 percent of its allotment under section 5315 for any fiscal year for its use for such year under other provisions of Federal law providing block grants for support of health services, health promotion and disease prevention activities, or energy assistance (or any combination of such activities).

(2) For fiscal years 1982 and 1983, a State may transfer not more than an amount equal to its pro rata share of $255,000,000 for its use for the fiscal year involved under other provisions of Federal law providing block grants for energy assistance.

(3) Amounts allotted to a State under any provisions of Federal law referred to in this subsection and transferred by a State for use in carrying out the purposes of this subchapter shall be treated as if they were paid to the State under this subchapter but shall not affect the computation of the allotment of the State under this subchapter. The State shall inform the Secretary of any such transfer of funds.

(d)(1) A State may use a portion of the amounts described in subsection (a) for the purpose of purchasing technical assistance from public or private entities if the State determines that such assistance is required in developing, implementing, or administering programs funded under this subchapter.

(2) In using payments received under this subchapter, a State may, in addition to reallocating funds to units of local government, give consideration to community-based self-help organizations of demonstrated effectiveness.

STATE ADMINISTRATION

SEC. 15487. (a) Prior to expenditure by a State of payments made to it under section 5316 for any fiscal year, the chief executive officer of the State shall report on the intended use of the payments the State is to receive under this subchapter, including information on the types of activities to be supported and the categories or characteristics of individuals to be served. The report shall be made public within the State in such manner as to facilitate comment by any person (including any Federal or other public agency) during development of the report and after its completion. The report shall be revised throughout the year involved as may be necessary to reflect substantial changes in the activities assisted under this subchapter, and any revision shall be subject to the requirements of the preceding sentence.

(b) In addition to expenditures by the State for the purposes described in section 5313, the State may use so much of the amount allotted to it as may be necessary for the costs of administration of the grants made under this subchapter. Such administrative costs may include the cost of planning, operating, evaluating, and conducting fiscal and substantive reviews of the programs supported by grants under this subchapter, and for training directly related to the provision of social services under this subchapter.

LIMITATIONS ON USE OF GRANTS

SEC. 15488. (a) Except as provided in subsection (b), grants made under this subchapter may not be used by the State, or by any other person with which the State makes arrangements to carry out the purposes of this subchapter—

(1) for the purchase or improvement of land, or the purchase, construction, or permanent improvement (other than minor remodeling) of any building or other facility;

(2) for the provision of cash payments for costs of subsistence or for the provision of room and board (other than foster care maintenance payments, adoption assistance payments, costs of subsistence during rehabilitation, room and board provided for a short term as an integral but subordinate part of a social service, or temporary emergency shelters provided as a protective service);

(3) for payment of the wages of any individual as a social service (other than payment of the wages of welfare recipients employed in the provision of child day care services);

(4) for foster care maintenance payments for foster care provided by a public foster care institution which accommodates more than 25 children;

(5) for the provision of medical care (other than family planning services, rehabilitation services, or initial detoxification of an alcoholic or drug dependent individual) unless it is an integral but subordinate part of a social service for which grants may be used under this subchapter;

(6) for social services (except services to an alcoholic or drug dependent individual, or rehabilitation services) provided in, and by employees of, any hospital, skilled nursing facility, intermediate care facility, or prison, to any individual living in such institution;

(7) for public education (other than vocational and other training services for the handicapped, or information and referral activities); or

(8) for the provision of cash payments as a service (except as otherwise provided in this section).

(b) The Secretary may waive the limitations contained in subsection (a)(1) and subsection (a)(5) upon the request of a State for such a waiver if he finds that the request describes extraordinary circumstances to justify the waiver and that permitting the waiver will contribute to the ability of the State to carry out the purposes of this subchapter.

REPORTS AND AUDITS

SEC. 15489. (a) Each State shall prepare reports on its activities under this subchapter. Reports shall be in such form, contain such information, and be of such frequency (but not less often than every 2 years) as the State finds necessary to provide an accurate description of such activities, to secure a complete record of the purposes for which funds were spent, and to determine the extent to which funds were spent consistently with the reports required by section 5317(a). The State shall make copies of the reports required by this section available for public inspection within the State. Copies shall also be provided, upon request, to any interested public agency, and each such agency may provide its views on such reports to the Congress.

(b) Each State shall, not less often than every 2 years, audit its expenditures from amounts received (or transferred for use) under this subchapter. Such State audits shall be conducted by an entity independent of any agency administering activities funded under this subchapter, in accordance with generally accepted accounting principles. Within 30 days following the completion of each audit, the chief executive officer of the State shall submit a copy of such audit to the legislature of the State and to the Secretary. Each State shall repay to the United States amounts found not to have been expended in accordance with this subchapter, or the Secretary may offset such amounts against any other amount to which the State is or may become entitled under this subchapter.

(c) Section 202 of the Intergovernmental Cooperation Act of 1968 shall apply to grants made under this subchapter.

NONDISCRIMINATION PROVISION

SEC. 15490. (a) No person shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this subchapter. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity.

(b) Whenever the Secretary determines that there has been a failure to comply with subsection (a) or an applicable regulation, he shall notify the chief executive officer of the State involved and shall request him to secure compliance. If within a reasonable period of time, not to exceed 60 days, the chief executive officer fails or refuses to secure compliance, the Secretary is authorized to (1) refer the matter to the Attorney General of the United States with a recommendation that an appropriate civil action be instituted; (2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, or section 504 of the Rehabilitation Act of 1973, as may be applicable; or (3) take such other action as may be provided by law.

(c) When a matter is referred to the Attorney General pursuant to subsection (b), or whenever he has reason to believe that there has occurred a pattern or practice in

violation of the provisions of this section, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

TRAINING AND ONGOING PROJECTS

SEC. 15491. (a)(1) The Secretary is authorized, either directly or through grants to States and public and other nonprofit organizations and agencies or contracts or jointly financed cooperative arrangements with States and public and other organizations and agencies, to provide for training related to the purposes of this subchapter, and for ongoing activities of national or regional significance related to the purposes of this subchapter, which may include operation of a national communications system for the purpose of assisting runaway and homeless youth in communicating with their families and with service providers, operation of a national center to collect and disseminate information on child abuse and neglect, and operation of a national adoption information exchange system to facilitate the adoptive placement of children.

(b) Payments of grants or under contracts or cooperative arrangements under this section may be made in advance or by way of reimbursement, and in such installments, as the Secretary may determine. Such payments shall be made on such conditions as the Secretary finds necessary to carry out the purposes of the grants, contracts, or other arrangements.

DEFINITIONS

SEC. 15492. For purposes of this subchapter:

(1) The term "Secretary" means the Secretary of Health and Human Services.

(2) The term "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

REPEALERS

SEC. 15493. The following provisions of law hereby are repealed:

(1) title XX of the Social Security Act;

(2) the Child Abuse Prevention and Treatment Act of 1974;

(3) the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978;

(4) the Runaway and Homeless Youth Act (title III of the Juvenile Justice and Delinquency Prevention Act of 1974); and

(5) titles I, II, III, IV, VI, VII, and IX of the Community Services Act of 1974.

CONFORMING AMENDMENTS TO THE SOCIAL SECURITY ACT

SEC. 15494. (a)(1) Section 1 of the Social Security Act is amended—

(A) by inserting "and" before "(b)" the first place it appears therein; and

(B) by striking out "and (c)" and all that follows through "self-care".

(2) Section 3(a) of the Social Security Act is amended—

(A) by amending paragraph (4) to read as follows:

"(4) in the case of any State, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health and Human Services for the proper and efficient administration of the State plan—

"(A) 75 per centum of so much of such expenditures as are for the training (including both short-term and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus

"(B) one-half of the remainder of such expenditures."; and

(B) by striking out paragraph (5).

(3) Section 3(c) of the Social Security Act is repealed.

(b)(1) Section 402(a)(5), 402(a)(13), 402(a)(14), 402(a)(15), 403(a)(3), 403(e), and 406(d) of the Social Security Act, as in effect with respect to Puerto Rico, Guam, and the Virgin Islands, are repealed.

(2) Sections 402(a)(5) and 403(a)(3) of the Social Security Act, as such provisions apply to the several States and the District of Columbia, are made applicable also to Puerto Rico, Guam, and the Virgin Islands.

(3) Section 403(a)(3)(A) of the Social Security Act is amended by inserting "(or, in the case of Puerto Rico, Guam, and the Virgin Islands, 60 per centum)" after "75 per centum".

(4) Section 248(b) of the Social Security Amendments of 1967 is repealed.

(c) Section 402(a)(9) of the Social Security Act is amended by striking out "XVI, XIX, or XX" and inserting in lieu thereof "XVI, or XIX".

(d) Section 402(a)(15) of the Social Security Act is repealed.

(e) Section 403(a)(3) of the Social Security Act is amended—

(1) in subparagraph (B), by striking out "and State programs with respect to which there is Federal financial participation under title XX,";

(2) in subparagraph (C), by striking out the comma and inserting in lieu thereof "; and"; and

(3) in the matter that follows subparagraph (C), by striking out "service described in section 2002(a)(1) of this Act" and inserting in lieu thereof "social services".

(f) Section 403(f) of the Social Security Act is repealed.

(g)(1) Section 1001 of the Social Security Act is amended by striking out "and of encouraging each State" and all that follows through "self-care".

(2) Section 1003(a) of the Social Security Act is amended—

(A) by amending paragraph (3) to read as follows:

"(3) in the case of any State, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health and Human Services for the proper and efficient administration of the State plan—

"(A) 75 per centum of so much of such expenditures as are for the training (including both short-term and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus

"(B) one-half of the remainder of such expenditures."; and

(B) by striking out paragraph (4).

(3) Section 1003(c) of the Social Security Act is repealed.

(h) Section 1108(a) of the Social Security Act is amended in the matter preceding paragraph (1) to read as follows:

"SEC. 1108. (a) The total amount certified by the Secretary of Health and Human Services under titles I, X, XIV, and XVI, and under part A of title IV (exclusive of any amounts on account of services and items to which subsection (b) applies)—".

(i) Section 1115(a) of the Social Security Act is amended—

(1) in the matter preceding paragraph (1), by striking out "XIX, or XX" and inserting in lieu thereof "or XIX";

(2) in paragraph (1), by striking out "1902, 2002, 2003, or 2004" and inserting in lieu thereof "or 1902"; and

(3) in paragraph (2)—

(A) by striking out "1903, or 2002" and inserting in lieu thereof "or 1903"; and

(B) by striking out "or expenditures with respect to which payment shall be made under section 2002,".

(j) Section 1116 of the Social Security Act is amended—

(1) in subsections (a)(1), (b), and (d), by striking out "XIX, or XX" and inserting in lieu thereof "or XIX"; and

(2) in subsection (a)(3), by striking out "1904, or 2003" and inserting in lieu thereof "or 1904".

(k) Section 1124(a) of the Social Security Act is amended—

(1) in paragraph (1), by striking out "XIX, and XX" each place it appears and inserting in lieu thereof "and XIX"; and

(2) in paragraph (2)—

(A) by inserting "or" after the semicolon at the end of subparagraph (B);

(B) by striking out "; or" at the end of subparagraph (C) and inserting a period in lieu thereof; and

(C) by striking out subparagraph (D).

(l) Section 1126(a) of the Social Security Act is amended by striking out "XIX, and XX" and inserting in lieu thereof "and XIX".

(m) Section 1128(a) of the Social Security Act is amended—

(1) in paragraph (2)(A), by striking out "or title XX,"; and

(2) in paragraph (2)(B), by striking out "or title XX".

(n)(1) Section 1401 of the Social Security Act is amended by striking out "and of encouraging each State" and all that follows through "self-care".

(2) Section 1403(a) of the Social Security Act is amended—

(A) by amending paragraph (3) to read as follows:

"(3) in the case of any State, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health and Human Services for the proper and efficient administration of the State plan—

"(A) 75 per centum of so much of such expenditures as are for the training (including both short-term and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus

"(B) one-half of the remainder of such expenditures."; and

(B) by striking out paragraph (4).

(3) Section 1403(c) of the Social Security Act is repealed.

(o)(1) Section 1601 of the Social Security Act is amended—

(A) by inserting "and" before "(b)" the first place it appears; and

(B) by striking out "and (c)" and all that follows through "self-care,".

(2) Section 1603(a) of the Social Security Act is amended—

(A) by amending paragraph (4) to read as follows:

"(4) in the case of any State, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health and Human Services for the proper and efficient administration of the State plan—

"(A) 75 per centum of so much of such expenditures as are for the training (including both short-term and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus

"(B) one-half of the remainder of such expenditures."; and

(B) by striking out paragraph (5).

(3) Section 1603(c) of the Social Security Act is repealed.

(p) Section 1616(e)(2) of the Social Security Act is amended by striking out ", as a part of the services program planning procedures established pursuant to section 2004 of this Act,".

(q) Section 1619 of the Social Security Act is amended—

(1) by striking out "titles XIX and XX" each place it appears and inserting in lieu thereof "title XIX"; and

(2) by striking out "title XIX or XX" and inserting in lieu thereof "title XIX".

(r) Section 1620(c) of the Social Security Act is amended—

(1) in paragraph (3), by striking out "titles XIX and XX" and inserting in lieu thereof "title XIX";

(2) by amending paragraph (6) to read as follows:

"(6) describes the manner in which the medical and social services involved are to be provided, and specifies the particular mechanisms and procedures to be used in providing such services (or, with respect to medical services, specifies that they are to be provided through the State's medical assistance program under title XIX, with the Federal payments being made under subsection (d) of this section rather than under that title); and"; and

(3) by striking out the matter following the end of paragraph (7).

(s)(1) Section 1902(a)(10)(A) of the Social Security Act is amended by inserting before the semicolon "or who is an individual specified in subsection (j)".

(2) Section 1902 of the Social Security Act is amended by adding at the end the following new subsection:

"(j) Individuals specified in section 1902(a)(10)(A) shall include every individual—

"(1) in the case of a child on whose behalf foster care maintenance payments are being made under any program administered by or administered under the supervision of the State—

"(A) who would meet the requirements of section 406(a) or of section 407 but for his removal from the home of a relative specified in section 406(a), and

"(B) whose removal from the home occurred pursuant to a voluntary placement agreement entered into by the child's parent or legal guardian or was the result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child, and

"(C)(i) who received aid under the State plan approved under section 402 in or for the month in which such agreement was entered into or court proceedings leading to the removal of the child from the home were initiated,

"(ii) who would have received such aid in or for such month if application had been made therefor, or

"(iii) who had been living with a relative specified in section 406(a) within six months prior to the month in which such agreement was entered into or such proceedings were initiated, and would have received such aid in or for such month if in such month he had been living with such a relative and application therefor had been made; and

"(2) in the case of a child on whose behalf adoption assistance payments are being made under any program administered by or administered under the supervision of the State—

"(A) who but for adoption would meet the requirements specified in paragraph (1), or

"(B) who but for adoption would meet the requirements of title XVI with respect to eligibility for supplemental security income benefits.".

OTHER CONFORMING AMENDMENTS

SEC. 15495. (a) Section 3(f) of the Social Security Amendments of 1974 is repealed.

(b) Section 50B(i) of the Internal Revenue Code of 1954 is amended by striking out "pursuant to section 2007 of the Social Security Act" and inserting in lieu thereof "to the State under the Social Services Block Grant Act".

(c)(1) Section 202(b)(2) of the Mental Health Systems Act is amended by striking out "titles IV" and all that follows through the end thereof and inserting in lieu thereof "title V, XVIII, and XIX of the Social Security Act and under the United States Housing Act, the Comprehensive Employment and Training Act, the Older Americans Act of 1965, and other Federal and State statutes.".

(2) Section 203(b) of the Mental Health Systems Act is amended by striking out "title IV" and all that follows through the end thereof and inserting in lieu thereof "titles V, XVIII, and XIX of the Social Security Act and under the Education for All Handicapped Children Act of 1975 and other Federal and State Statutes.".

(3) Section 204(a)(2)(B) of the Mental Health Systems Act is amended by striking out "XIX, and XX" and inserting in lieu thereof "and XIX".

(4) Section 302(2)(K) of the Mental Health System Act is amended by striking out "titles IV" and all that follows through "and under".

(d) Section 201(b) of the Indian Child Welfare Act of 1978 is amended—

(1) in the first sentence, by striking out "titles IV-B and XX" and inserting in lieu thereof "title IV-B"; and

(2) in the second sentence, by striking out "titles IV-B and XX" and inserting in lieu thereof "title IV-B".

(e)(1) The first sentence of section 507 of the Rehabilitation Act of 1973 is amended by striking out all the follows "composed of" and inserting in lieu thereof "the Secretary of Health and Human Services, the Secretary of Education, the Secretary of Labor, the Attorney General, the Director of the Office of Personnel Management, the Chairman of the Equal Employment Opportunity Commission, and any other person designated by the President.".

(2) The third sentence of that section is amended to read as follows: "on or before July 1 of every other year, the Council shall transmit to the President and to the Congress a report of its activities.".

POVERTY LINE

SEC. 15496. (a) The Office of Management and Budget is authorized to define poverty and to revise the definition of poverty for each year. The Office of Management and Budget shall make and issue such definitions and revisions in a timely manner after consumer price index information becomes available.

(b) Any references in statutes or regulations in effect on the effective date of this subchapter to section 624 of the Economic Opportunity Act of 1964 shall be considered to be references to subsection (a) of this section.

TRANSITION PROVISIONS

SEC. 15497. (a) The Director of the Office of Management and Budget shall assume the responsiblity of the Director of the Community Services Administration, is authorized to provide for the termination of the affairs of the Community Services Administration and any other entities terminated by section 5323(a)(7), and shall provide for the transfer or other disposition of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with implementation of the authorities terminated by section 5323(a)(7) as necessary to effectuate the purposes of this subchapter.

(b) The provisions of subsection (a) shall take effect 90 days after the date of the enactment of this Act or, if earlier, October 1, 1981.

EFFECTIVE DATE

SEC. 15498. Except as otherwise provided in this subchapter, the provisions of this subchapter, and the repeals and amendments made by this subchapter, shall take effect on October 1, 1981.

SEC. . On page 440 strike out line 22 through line 14 on page 463 and insert in lieu thereof the following and number and designate such sections accordingly;

"AID TO FAMILIES WITH DEPENDENT CHILDREN

DISREGARDS FROM EARNED INCOME FOR AFDC

SEC. . Section 402(a)(8) of the Social Security Act is amended to read as follows:

"(8)(A) provide that, with respect to any month, in making the determination under paragraph (7), the State agency—

"(i) shall disregard all of the earned income of each dependent child receiving aid to families with dependent children who is (as determined by the State in accordance with standards prescribed by the Secretary) a full-time student or a part-time student who is not a full-time employee attending a school, college, or university, or a course of vocational or technical training designed to fit him for gainful employment;

"(ii) shall disregard from the earned income of any child or relative applying for or receiving aid to families with dependent children, or of any other individual (living in the same home as such relative and child) whose needs are taken into account in making such determination, the first $75 of the total of such earned income for such month (or such lesser amount as the Secretary may prescribe in the case of an individual not engaged in full-time employment or not employed throughout the month);

"(iii) shall disregard from the earned income of any child, relative, or other individual specified in clause (ii), an amount equal to expenditures for care in such month for a dependent child, or an incapacitated individual living in the same home as the dependent child, receiving aid to families with dependent children and requiring such care for such month, to the extent that such amount (for each such dependent child or incapacitated individual) does not exceed $160 (or such lesser amount as the Secretary may prescribe in the case of an individual not engaged in full-time employment or not employed throughout the month); and

"(iv) shall disregard from the earned income of any child or relative receiving aid to families with dependent children, or of any other individual (living in the same home as such relative and child) whose needs are taken into account in making such determination, an amount equal to the first $30 of the total of such earned income not already disregarded under the preceding provisions of this paragraph plus one-third of the remainder thereof (but excluding, for purposes of this subparagraph, earned income derived from participation on a project maintained under the programs established by section 432(b) (2) and (3)); and

"(E) provide that (with respect to any month) the State agency—

"(i) shall not disregard, under clause (ii), (iii), or (iv) of subparagraph (A), any earned income of any one of the persons specified in subparagraph (A) (ii) if such person—

"(I) terminated his employment or reduced his earned income without good cause within such period (of not less than thirty days) preceding such month as may be prescribed by the Secretary;

"(II) refused without good cause, within such period preceding such month as may be prescribed by the Secretary, to accept employment in which he is able to engage which is offered through the public employment offices of the State, or is otherwise offered by an employer if the offer of such employer is determined by the State or local agency administering the State plan, after notification by the employer, to be a bona fide offer of employment; or

"(III) failed without good cause to make a timely report (as prescribed by the State plan pursuant to paragraph (14)) to the State agency of earned income received in such month; and

"(ii) (I) shall not disregard, under subparagraph (A) (iv), any earned income of any of the persons specified in subparagraph (A) (ii), if, with respect to such month, the income of the persons so specified was in excess of their need, as determined by the State agency pursuant to paragraph (7) (without regard to subparagraph (A) (iv) of this paragraph), unless the persons received aid under the plan in one or more of the four months preceding such month and subparagraph (A) (iv) has not already been applied to their income for four consecutive months while they were receiving aid under the plan; and

"(II) in the case of earned income of a person with respect to whom subparagraph (A) (iv) has been applied for four consecutive months, shall not apply the provisions of subparagraph (A) (iv) for so long as he continues to receive aid under the plan and shall not apply such provisions to any month thereafter until the expiration of an additional period of twelve consecutive months during which he is not a recipient of such aid;".

DETERMINATION OF INCOME AND RESOURCES FOR AFDC

SEC. . Section 402(a)(7) of the Social Security Act is amended to read as follows:

"(7) except as may be otherwise provided in paragraph (8) or (31), provide that the State agency—

"(A) shall, in determining need, take into consideration any other income and resources of any child or relative claiming aid to families with dependent children, or of any other individual (living in the same home as such child and relative) whose needs the State determines should be considered in determining the need of the child or relative claiming such aid;

"(B) shall determine ineligible for aid any family the combined value of whose resources (reduced by any obligations or debts with respect to such resources) exceeds $1,000 or such lower amount as the State may determine, but not including as a resource for purposes of this subparagraph a home owned and occupied by such child, relative, or other individual and so much of the family member's ownership interest in one automobile as does not exceed such amount as the Secretary may prescribe; and

"(C) may, in the case of a family claiming or receiving aid under this part for any month, take into consideration as income (to the extent the State determines appropriate, as specified in such plan, and notwithstanding any other provision of law)—

"(i) an amount not to exceed the value of the family's monthly allotment of food stamp coupons, to the extent such value duplicates the amount for food included in the maximum amount that would be payable under the State plan to a family of the same composition with no other income; and

"(ii) an amount not to exceed the value of any rent or housing subsidy provided to such family, to the extent such value duplicates the amount for housing included in the maximum amount that would be payable under the State plan to a family of the same composition with no other income;".

INCOME LIMIT FOR AFDC ELIGIBILITY

SEC. . Section 402(a) of the Social Security Act is amended by inserting before paragraph (19) the following new paragraph:

"(18) provide that no family shall be eligible for aid under the plan for any month if, for that month, the total income of the family (other than payments under the plan), without application of paragraph (8), exceeds 150 percent of the State's standard of need for a family of the same composition;".

TREATMENT OF INCOME IN EXCESS OF THE STANDARD OF NEED; LUMP SUM PAYMENTS

SEC. . Section 402(a) of the Social Security Act is amended by inserting after paragraph (16) the following new paragraph:

"(17) provide that if a person specified in paragraph (8)(A) (i) or (ii) receives in any month an amount of income which, together with all other income for that month not excluded under paragraph (8), exceeds the State's standard of need applicable to the family of which he is a member—

"(A) such amount of income shall be considered income to such individual in the month received, and the family of which such person is a member shall be ineligible for aid under the plan for the whole number of months that equals (i) the sum of such amount and all other income received in such month, not excluded under paragraph (8), divided by (ii) the standard of need applicable to such family, and

"(B) any income remaining (which amount is less than the applicable monthly standard) shall be treated as income received in the first month following the period of ineligibility specified in subparagraph (A);".

TREATMENT OF EARNED INCOME ADVANCE AMOUNT UNDER AFDC

SEC. . Section 403(d)(1) of the Social Security Act is amended to read as follows:

"(d)(1) For purposes of this part, an individual's 'income' shall also include, to the extent and under the circumstances prescribed by the Secretary, an amount (which shall be treated as earned income for purposes of this part) equal to the earned income advance amount (under section 3507(a) of the Internal Revenue Code of 1954) that is (or, upon the filing of an earned income eligibility certificate, would be) payable to such individual.".

INCOME OF STEPPARENTS LIVING WITH DEPENDENT CHILD

SEC. . (a) Section 402(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (29);

(2) by striking out the period at the end of paragraph (30) and inserting in lieu thereof "; and"; and

(3) by adding after paragraph (30) the following new paragraph:

"(31) provide that, in making the determination for any month under paragraph (7), the State agency shall take into consideration so much of the income of the dependent child's stepparent living in the same home as such child as exceeds the sum of (A) the first $75 of the total of such stepparent's earned income for such month (or such lesser amount as the Secretary may prescribe in the case of an individual not engaged in full-time employment or not employed throughout the month), (B) the State's standard of need under such plan for a family of the same composition as the stepparent and those other individuals living in the same household as the dependent child and claimed by such stepparent as dependents for purposes of determining his Federal personal income tax liability but whose needs are not taken into account in making the determination under paragraph (7), (C) amounts paid by the stepparent to individuals not living in such household and claimed by him as dependents for purposes of determining his Federal personal income tax liability, and (D) payments by such stepparent of alimony or child support with respect to individuals not living in such household.".

(b) Section 412(b) of the Social Security Act is amended by striking out "does not include any such relative" and inserting in lieu thereof "does not include a stepparent whose income is taken into consideration under section 402(a)(31) (regardless of whether such income exceeds the sum specified in such section) or any other such relative".

COMMUNITY WORK EXPERIENCE PROGRAMS

SEC. . (a) Section 409 of the Social Security Act is amended to read as follows:

"COMMUNITY WORK EXPERIENCE PROGRAMS

"Sec. 409. (a)(1) Any State which chooses to do so may establish a community work experience program in accordance with this section. The purpose of the community work experience program is to provide experience and training for individuals not otherwise able to obtain employment, in order to assist them to move into regular employ-

ment. Community work experience programs shall be designed to improve the employability of participants through actual work experience and training and to enable individuals employed under community work experience programs to move promptly into regular public or private employment. The facilities of the State public employment offices may be utilized to find employment opportunities for recipients under this program. Community work experience programs shall be limited to projects which serve a useful public purpose in fields such as health, social service, environmental protection, education, urban and rural development and redevelopment, welfare, recreation, public facilities, public safety, and day care. To the extent possible, the prior training, experience, and skills of a recipient shall be utilized in making appropriate work experience assignments. A community work experience program established under this section shall provide—

"(A) appropriate standards for health, safety, and other conditions applicable to the performance of work;

"(B) that the program does not result in displacement of persons currently employed, or the filling of established unfilled position vacancies;

"(C) reasonable conditions of work, taking into account the geographic region, the residence of the participants, and the proficiency of the participants;

"(D) that participants will not be required, without their consent, to travel an unreasonable distance from their homes or remain away from their homes overnight;

"(E) that the maximum number of hours in any month that a participant may be required to work is that number which equals the amount of aid payable with respect to the family of which such individual is a member under the State plan approved under this part, divided by the greater of the Federal or the applicable State minimum wage; and

"(F) that provision will be made for transportation and other costs, not in excess of an amount established by the Secretary, reasonably necessary and directly related to participation in the program.

The Secretary shall prescribe rules for determining, in cases to which subparagraph (E) applies and in which the members of the household receiving a food stamp allotment are not all members of the family with respect to which aid under this part is payable, the portion of a household's food stamp allotment that, for purposes of subparagraph (E), may be considered to be the food stamp allotment provided to the family.

"(2) Nothing contained in this section shall be construed as authorizing the payment of aid under this part as compensation for work performed, nor shall a participant be entitled to a salary or to any other work or training expense provided under any other provision of law by reason of his participation in a program under this section.

"(3) Nothing in this part or part C, or in any State plan approved under this part, shall be construed to prevent a State from operating (on such terms and conditions and in such cases as the State may find to be necessary or appropriate, whether or not such terms, conditions, and cases are consistent with section 402(a)(19) or part (C)) a community work experience program in accordance with this section.

"(b)(1) Each recipient of aid under the plan who is registered under section 402(a)(19) shall participate, upon referral by the State agency, in a community work experience program unless such recipient is currently employed for no fewer than 80 hours a month and is earning an amount not less than the applicable minimum wage for such employment.

"(2) In addition to an individual described in paragraph (1), the State agency may also refer, for participation in programs under this section, an individual who would be required to register under section 402(a)(19)(A) but for the exception contained in clause (v) of such section (but only if the child for whom the parent or relative is caring is not under the age of three and child care is available for such child), or in clause (iii) of such section.

"(3) The chief executive officer of the State shall provide coordination between a community work experience program operated pursuant to this section and the work incentive program operated pursuant to part C so as to insure that job placement will have priority over participation in the community work experience program, and that individuals eligible to participate in both such programs are not denied aid under the State plan on the grounds of failure to participate in one such program if they are actively and satisfactorily participating in the other. The chief executive officer of the State may provide that part-time participation in both such programs may be required where appropriate.

"(c) The provisions of section 402(a)(19)(F) shall apply to any individual referred to a community work experience program who fails to participate in such program in the same manner as they apply to an individual to whom section 402(a)(19) applies.

"(d) In the case of any State which makes expenditures in the form described in subsection (a) under its State plan approved under section 402, expenditures for the proper and efficient administration of the State plan, for purposes of section 403(a)(3), may not include the cost of making or acquiring materials or equipment in connection with the work performed under a program referred to in subsection (a) or the cost of supervision of work under such program, and may include only such other costs attributable to such programs as are permitted by the Secretary.".

(b) Section 403(a)(3) of such Act is amended by inserting before the semicolon at the end thereof the following: ", or which is a service provided in connection with a community work experience program or work supplementation program under section 409 or 414".

(c) Section 204(c)(2) of the Social Security Amendments of 1957 (Public Law 90-248) is repealed.

PROVIDING JOBS AS ALTERNATIVE TO AFDC

SEC. . Part A of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

"WORK SUPPLEMENTATION PROGRAM

"SEC. . 414. (a) It is the purpose of this section to allow a State to institute a work supplementation program under which such State, to the extent such State determines to be appropriate, may make jobs available, on a voluntary basis, as an alternative to aid otherwise provided under the State plan approved under this part.

"(b)(1) Notwithstanding the provisions of section 406 or any other provision of law, Federal funds may be paid to a State under this part, subject to the provisions of this section, with respect to expenditures incurred in operating a work supplementation program under this section.

"(2) Nothing in this part or part C, or in any State plan approved under this part, shall be construed to prevent a State from operating (on such terms and conditions and in such cases as the State may find to be necessary or appropriate, whether or not such terms, conditions, and cases are consistent with section 402(a)(19) or part C) a work supplementation program in accordance with this section.

"(3) Notwithstanding section 402(a)(23) or any other provision of law, a State may adjust the levels of the standards of need under the State plan as the State determines to be necessary and appropriate for carrying out a work supplementation program under this section.

"(4) Notwithstanding section 402(a)(1) or any other provision of law, a State operating a work supplementation program under this section may provide that the needs standards in effect in those areas of the State in which such program is in operation may be different from the needs standards in effect in the areas in which such program is not in operation, and such State may provide that the needs standards for categories of recipients of aid may vary among such categories as the State determines to be appropriate on the basis of ability to participate in the work supplementation program.

"(5) Notwithstanding any other provision of law, a State may make further adjustments in the amounts of aid paid under the plan to different categories of recipients (as determined under paragraph (4)) in order to offset increases in benefits from needs related programs (other than the State plan approved under this part) as the State determines to be necessary and appropriate to further the purposes of the work supplementation program.

"(6) Notwithstanding section 402(a)(8) or any other provision of law, a State operating a work supplementation program under this section may reduce or eliminate the amount of earned income to be disregarded under the State plan as the State determines to be necessary and appropriate to further the purposes of the work supplementation program.

"(c)(1) A work supplementation program operated by a State under this section shall provide that any individual who is an eligible individual (as determined under paragraph (2)) may choose to take a supplemented job (as defined in paragraph (3)) to the extent supplemented jobs are available under the program. Payments by the State to individuals or to employers under the program shall be expenditures incurred by the State for aid to families with dependent children, except as limited by subsection (d).

"(2) For purposes of this section, an eligible individual is an individual who is in a category which the State determines shall be eligible to participate in the work supplementation program, and who would, at the time of his placement in such job, be eligible for assistance under the State plan if such State did not have a work supplementation program in effect and had not altered its State plan accordingly, as such State plan was in effect in May 1981, or as modified thereafter as required by Federal law.

"(3) For purposes of this section, a supplemented job is—

"(A) a job position provided to an eligible individual by the State or local agency administering the State plan under this part;

"(B) a job position provided to an eligible individual by a public or nonprofit entity

for which all or part of the wages are paid by such State or local agency; or

"(C) a job position provided to an eligible individual by a proprietary entity involving the provision of child day care services for which all or part of the wages are paid by such State or local agency, but only if such entity does not claim a credit for any part of the wages paid to such eligible individual under section 40 of the Internal Revenue Code of 1954 (relating to credit for expenses of the work incentive program) or section 44B of such Code (relating to credit for employment of certain new employees).

A State may provide or subsidize any job position under the program as such State determines to be appropriate, but acceptance of any such position shall be voluntary.

"(d) The amount of the Federal payment to a State under section 403 for any quarter for expenditures incurred in operating a work supplementation program shall not exceed an amount equal to the difference between—

"(1) the amount which would have been paid under section 403 to such State for such quarter under the State plan if it did not have a work supplementation program in effect and had not altered its State plan accordingly, as such State plan was in effect in May 1981, or as modified thereafter as required by Federal law; and

"(2) the amount paid to such State under section 403 for such quarter exclusive of the amount so paid for such quarter for the work supplementation program.

"(e)(1) Nothing in this section shall be construed as requiring a State or local agency administering the State plan to provide employee status to any eligible individual to whom it provides a job position under the work supplementation program, or with respect to whom it provides all or part of the wages paid to such individual by another entity under such program.

"(2) Nothing in this section shall be construed as requiring such State or local agency to provide that eligible individuals filling job positions provided by other entities under such program be provided employee status by such entity during the first 13 weeks during which they fill such position.

"(13) Wages paid under a work supplementation program shall be considered to be earned income for purposes of any provision of law.

"(f) Any work supplementation program operated by a State shall be administered by—

"(1) the agency designated to administer or supervise the administration of the State plan under section 402(a)(3); or

"(2) the agency (if any) designated to administer the community work experience program under section 409.

"(g) Any State which chooses to operate a work supplementation program under this section may choose to provide that any individual who participates in such program, and any child or relative of such individual (or other individual living in the same household as such individual) who would be eligible for aid under the State plan approved under this part if such State did not have a work supplementation program, shall be considered individuals receiving aid under the State plan approved under this part for purposes of eligibility for medical assistance under the State plan approved under title XIX.

"(h) No individual receiving a grant under the State plan shall be excused, by reason of the fact that such State has a work supplementation program, from any requirement of this part or part C relating to work requirements.".

WORK INCENTIVE DEMONSTRATION PROGRAM

SEC. . Part C of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

"WORK INCENTIVE DEMONSTRATION PROGRAM

"SEC. 445. (a) Notwithstanding any other provision of this part and part A of this title, any State may elect as an alternative to the work incentive program otherwise provided in this part, and subject to the provisions of this section, to operate a work incentive demonstration program for the purpose of demonstrating single agency administration of the work-related objectives of this Act, and to receive payments under the provisions of this section.

"(b)(1) Not later than sixty days following the date of the enactment of this section, the Governor of a State which desires to operate a work incentive demonstration program under this section shall submit to the Secretary of Health and Human Services a letter of application stating such intent. Accompanying the letter of application shall be a State program plan which must——

"(A) provide that agency conducting the demonstration program within the State shall be the single State agency which administers or supervises the administration of the State plan under part A of this title;

"(B) provide that all persons eligible for or receiving assistance under the aid to families with dependent children program shall be eligible to participate in, and shall be required to participate in, the work incentive demonstration program, subject to the same criteria for participation in such demonstration program as are in effect under this part and part A during the month before the month in which the demonstration program commences;

"(C) provide that the criteria for participation in the work incentive demonstration program shall be uniform throughout the State;

"(D) provide a statement of the objectives which the State expects to meet through operation of a work incentive demonstration program, with emphasis on how the State expects to maximize client placement in nonsubsidized private sector employment;

"(E) describe the techniques to be used to achieve the objectives of the work incentive demonstration program, which may include but shall not be limited to: maximum periods of participation, job training, job find clubs, grant diversion to either public or private sector employers, services contracts with State employment services, prime sponsors under the Comprehensive Employment and Training Act of 1973, or private placement agencies, targeted jobs tax credit outreach campaigns, and performance-based placement incentives; and

"(F) set forth the format and frequency of reporting of information regarding operation of the work incentive demonstration program.

"(2) A State's application to participate in the work incentive demonstration program shall be deemed approved unless the Secretary of Health and Human Services notifies the State in writing of disapproval within forty-five days of the date of application. The Secretary of Health and Human Services shall set forth the reasons for disapproval and provide an opportunity for resubmission of the plan within forty-five days of the receipt of the notice of disapproval. An application shall not be finally disapproved unless the Secretary of Health and Human Services determines that the State's program plan would be less effective than the requirements set forth in this title, other than this section.

"(3) The Secretary of Health and Human Services shall furnish copies of approved plans, statistical reports, and evaluation reports to the Secretary of Labor.

"(c) Subject to the statement of objectives and description of techniques to be used in implementing its work incentive demonstration program, as set forth in its program plan, a State shall be free to design a program which best addresses its individual needs, makes best use of its available resources, and recognizes its labor market conditions. Other than criteria for participation in the State's work incentive demonstration project, which shall be uniform throughout the State, the components of the program may vary by geographic area or by political subdivision.

"(d) A State's work incentive demonstration program, if initially approved, shall be in force for a three-year period. During this period, the State may elect to use up to six months for planning purposes. During such planning period, all requirements of part A and this part C shall remain in full force and effect.

"(e) The Secretary of Health and Human Services shall conduct two evaluations of a State's work incentive demonstration program. The first evaluation shall be conducted at the conclusion of the first twelve months of operation of the demonstration program. The second evaluation shall be conducted at the conclusion of the demonstration program. Both evaluations shall compare placement rates during the demonstration program with placement rates achieved during a number of previous years, to be determined by the Secretary of Health and Human Services.

"(f)(1) For each year of its demonstration program, a State which is operating such program shall be funded in an amount equal to its initial annual 1981 allocation under the work incentive program set forth in this part, plus any other Federal funds which the State may properly receive under any statute for establishing work programs for recipients of aid to families with dependent children.

"(2) Such funds shall only be used by the State for administering and operating its work incentive demonstration program. These funds shall not be used for direct grants of assistance under the aid to families with dependent children program.

"(g) Earnings derived from participation in a State's work incentive demonstration program shall not result in a determination of financial ineligibility for assistance under the aid to families with dependent children program.".

EFFECT OF PARTICIPATION IN A STRIKE ON ELIGIBILITY FOR AFDC

SEC. . Section 402(a) of the Social Security Act is amended by inserting after paragraph (20) the following new paragraph:

"(21) provide—

"(A) that, for purposes of this part, participation in a strike shall not constitute good cause to leave, or to refuse to seek or accept employment; and

"(3)(i) that aid to families with dependent children is not payable to a family for any month in which any caretaker relative with whom the child is living is, on the last day of such month, participating in a strike, and (ii) that no individual's needs shall be in-

cluded in determining the amount of aid payable for any month to a family under the plan if, on the last day of such month, such individual is participating in a strike;".

AGE LIMIT OF DEPENDENT CHILD

SEC. . Section 406(a)(2) of the Social Security Act is amended to read as follows: "(2) who is (A) under the age of eighteen, or (B) at the option of the State, under the age of nineteen and a full-time student in a secondary school (or in the equivalent level of vocational or technical training), if, before he attains age nineteen, he may reasonably be expected to complete the program of such secondary school (or such training);".

LIMITATION ON AFDC TO PREGNANT WOMEN

SEC. . (a) Section 406 (b) of the Social Security Act is amended by striking out "dependent children" the second place it appears in the matter that precedes clause (1) and inserting in lieu thereof "dependent children, or, at the option of the State, a pregnant woman but only if it has been medically verified that the child is expected to be born in the month such payments are made or within the three-month period following such month of payment, and who, if such child had been born and was living with her in the month of payment, would be eligible for aid to families with dependent children".

(b) Section 406 of such Act is amended by adding at the end thereof the following new subsection:

"(g)(1) Notwithstanding the provisions of subsection (b), the term 'aid to families with dependent children' does not mean any—

"(A) amount paid to meet the needs of an unborn child; or

"(B) amount paid (or by which a payment is increased) to meet the needs of a woman occasioned by or resulting from her pregnancy, unless, as has been medically verified, the woman's child is expected to be born in the month such payments are made (or increased) or within the three-month period following such month of payment.

"(2) Notwithstanding paragraph (1), a State may provide that for purposes of title XIX a pregnant woman shall be deemed to be a recipient of aid to families with dependent children under this part if she would be eligible for such aid if such child had been born and was living with her in the month of payment, and such pregnancy has been medically verified.".

AID TO FAMILIES WITH DEPENDENT CHILDREN BY REASON OF UNEMPLOYMENT OF A PARENT

SEC. . (a) Section 407 of the Social Security Act is amended as follows:

(1) the heading is amended to read "DEPENDENT CHILDREN OF UNEMPLOYED PARENTS";

(2) subsection (a) is amended by striking out "his father" and inserting in lieu thereof "the parent who is the principal earner";

(3) subsection (b)(1) is amended—

(A) by striking out "such child's father" in subparagraph (A) and inserting in lieu thereof "whichever of such child's parents is the principal earner", and

(B) by striking out "father" in subparagraph (B) and inserting in lieu thereof "parent";

(4) subsection (b)(2) is amended—

(A) by striking out "fathers" in subparagraph (A) and inserting in lieu thereof "unemployed parents", and

(B) by striking out "father" in subparagraph (C) (i) and (ii) and in subparagraph (D) and inserting in lieu thereof "parent described in paragraph (i)(A)";

(5) subsection (c) is amended by striking out "father" both times it appears and inserting in lieu thereof "parent";

(6) subsection (d) is amended—

(A) by striking out "and" at the end of paragraph (2);

(B) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(4) the phrase 'whichever of such child's parents is the principal earner', in the case of any child, means whichever parent, in a home in which both parents of such child are living, earned the greater amount of income in the 24-month period the last month of which immediately precedes the month in which an application is filed for aid under this part on the basis of the unemployment of a parent, for each consecutive month for which the family receives such aid on that basis."; and

(7) subsection (e) is amended by striking out "fathers" and inserting in lieu thereof "parents".

(b) Section 402(a)(19)(A) of such Act is amended—

(1) by striking out "mother" in clause (v) and inserting in lieu thereof "parent";

(2) by striking out "mother or other female caretaker of a child, if the father or another adult male relative" in clause (vi) and inserting in lieu thereof "parent or other caretaker of a child who is deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent, if another adult relative";

(3)(A) by striking out "or" at the end of clause (vi);

(B) by striking out the semicolon at the end of clause (vii) and inserting in lieu thereof "; or"; and

(C) by adding at the end thereof the following new clause:

"(viii) the parent of a child who is deprived of parental support or care by reason of the unemployment of a parent, if the other parent (who is the principal earner, as defined in section 407(d)) is not excluded by the preceding clauses of this subparagraph;"; and

(4) in the matter following the numbered clauses—

(A) by striking out "her option" and inserting in lieu thereof "his or her option";

(B) by striking out "if she so desires" and inserting in lieu thereof "if he or she so desires";

(C) by striking out "to her" and inserting in lieu thereof "to him or her"; and

(D) by striking out "she should decide" and inserting in lieu thereof "he or she should decide".

(c)(1) Section 402(a)(19)(F) of such Act is amended by redesignating clauses (ii) through (iv) as clauses (iii) through (v), respectively, and by inserting after clause (i) the following new clause:

"(ii) if the parent who has been designated as the principal earner, for purposes of section 407, makes such refusal, aid will be denied to all members of the family;".

(2) Section 407(b)(2)(C)(i) of such Act is amended by striking out "not registered" and inserting in lieu thereof "not currently registered".

WORK REQUIREMENTS FOR AFDC RECIPIENTS

SEC. . (a) Section 402(a)(19)(A)(1) of the Social Security Act is amended to read as follows:

"(i) a child who is under age 16 or attending, full-time, an elementary, secondary, or vocational (or technical) school;".

(b) Section 402(a)(19)(A)(v) of such Act is amended to read as follows:

"(v) the parent or other relative of a child under the age of six who is personally providing care for the child with only very brief and infrequent absences from the child;".

RETROSPECTIVE BUDGETING AND MONTHLY REPORTING

SEC. . (a) Section 402(a) of the Social Security Act is amended by inserting after paragraph (12) the following new paragraphs:

"(13) provide that—

"(A) except as provided in subparagraph (B), the State agency (i) will determine a family's eligibility for aid for a month on the basis of the family's income, composition, resources, and other similar relevant circumstances during such month, and (ii) will determine the amount of such aid on the basis of the income and other relevant circumstances in the first or, at the option of the State but only where the Secretary determines it to be appropriate, second month preceding such month; and

"(B) in the case of the first month, or at the option of the State but only where the Secretary determines it to be appropriate, the first and second months, in a period of consecutive months for which aid is payable, the State agency will determine the amount of aid on the basis of the family's income and other relevant circumstances in such first or second month;

"(14) provide that the State agency will require each family to which it furnishes aid to families with dependent children (or to which it would provide such aid but for paragraph (22) or (32) to report, as a condition to the continued receipt of such aid (or to continue to be deemed to be a recipient of such aid), each month to the State agency on—

"(A) the income received, family composition, and other relevant circumstances during the prior month; and

"(B) the income and resources it expects to receive, or any changes in circumstances affecting continued eligibility or benefit amount, that it expects to occur, in that month (or in future months); except that with the prior approval of the Secretary the State may select categories of recipients who may report at specified less frequent intervals upon the State's showing to the satisfaction of the Secretary that to require individuals in such categories to report monthly would result in unwarranted expenditures for administration of this paragraph; and that, in addition to whatever action may be appropriate based on other reports or information received by the State agency, the State agency will take prompt action to adjust the amount of assistance payable, as may be appropriate, on the basis of the information contained in the report (or upon the failure of the family to furnish a timely report), and will give an appropriate explanatory notice, concurrent with its action, to the family;".

(b) Section 403(a) of such Act is amended by adding at the end thereof the following sentence: "No payment shall be made under this subsection with respect to amounts paid to supplement or otherwise increase the amount of aid to families with dependent children found payable in accordance with section 402(a)(13) if such amount is determined to have been paid by the State in recognition of the current or anticipated needs of a family (other than with respect to the first or first and second months of eligibility).".

PROHIBITION AGAINST PAYMENT OF AID IN AMOUNTS BELOW TEN DOLLARS

SEC. . Section 402(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (30);

(2) by striking out the period at the end of paragraph (31) and inserting in lieu thereof "; and"; and

(3) by adding after paragraph (31) the following new paragraph:

"(32) provide that no payment of aid shall be made under the plan for any month if the amount of such payment, as determined in accordance with the applicable provisions of the plan and of this part, would be less than $10, but an individual with respect to whom a payment of aid under the plan is denied solely by reason of this paragraph is deemed to be a recipient of aid but shall not be eligible to participate in a community work experience program.".

REMOVAL OF LIMIT ON RESTRICTED PAYMENTS IN A STATE'S AFDC PROGRAM

SEC. . (a) Section 403(a) of the Social Security Act is amended by striking out the first unnumbered paragraph following paragraph (5).

(b) Section 406(b) of such Act is amended by adding at the end thereof the following new sentence: "Payments of the type described in clause (2) shall not be subject to the requirements of clauses (A) through (E) of such clause (2), when they are made in the manner described in clause (2) at the request of the family member to whom payment would otherwise be made in an unrestricted manner.".

ADJUSTMENT FOR INCORRECT PAYMENTS

SEC. . Section 402(a) of the Social Security Act is amended by inserting after paragraph (21) the following new paragraphs:

"(22) provide that the State agency will promptly take all necessary steps to correct any overpayment or underpayment of aid under the State plan, and, in the case of—

"(A) an overpayment to an individual who is a current recipient of such aid, recovery will be made by repayment by the individual or by reducing the amount of any future aid payable to the family of which he is a member, except that such recovery shall not result in the reduction of aid payable for any month, such that the aid, when added to such family's liquid resources and to its income (without application of paragraph (8)), is less than 90 percent of the amount payable under the State plan to a family of the same composition with no other income (and, in the case of an individual to whom no payment is made for a month solely by reason of recovery of an overpayment, such individual shall be deemed to be a recipient of aid for such month);

"(B) an overpayment to any individual who is no longer receiving aid under the plan, recovery shall be made by appropriate action under State law against the income or resources of the individual or the family; and

"(C) an underpayment, the corrective payment shall be disregarded in determining the income of the family, and shall be disregarded in determining its resources in the month the corrective payment is made and in the following month;".

REDUCED FEDERAL MATCHING OF STATE AND LOCAL AFDC TRAINING COSTS

SEC. . (a) Section 403 (a)(3)(A) of the Social Security Act, as in effect in the fifty States and the District of Columbia, is repealed.

(b) Section 403 (a)(3)(A)(iii) of such Act, as in effect in Puerto Rico, Guam, and the Virgin Islands, is repealed.

(c) The repeals made by this section shall apply to expenditures made after September 30, 1981.

EFFECTIVE DATE

SEC. . (a) Except as otherwise specifically provided in the preceding sections of this part or in subsection (b), the provisions of this part and the amendments and repeals made by this part shall become effective on October 1, 1981.

(b) If a State agency administering a plan approved under part A of title IV of the Social Security Act demonstrates, to the satisfaction of the Secretary of Health and Human Services, that it cannot, by reason of State law, comply with the requirements of an amendment made by this part to which the effective date specified in subsection (a) applies, the Secretary may prescribe that, in the case of such State, the amendment will become effective beginning with the first month beginning after the close of the first session of such State's legislature ending on or after October 1, 1981. For purposes of the preceding sentence, the term "session of a State's legislature" includes any regular, special, budget, or other session of a State legislature.

CHILD SUPPORT ENFORCEMENT

COLLECTION OF PAST-DUE CHILD AND SPOUSAL SUPPORT FROM FEDERAL TAX REFUNDS

SEC. . (a) Part D of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

"COLLECTION OF PAST-DUE SUPPORT FROM FEDERAL TAX REFUNDS

"SEC. 464. (a) Upon receiving notice from a State agency administering a plan approved under this part that a named individual owes past-due support which has been assigned to such State pursuant to section 402 (a)(26), the Secretary of the Treasury shall determine whether any amounts, as refunds of Federal taxes paid, are payable to such individual (regardless of whether such individual filed a tax return as a married or unmarried individual). If the Secretary of the Treasury finds that any such amount is payable, he shall withhold from such refunds an amount equal to the past-due support, and pay such amount to the State agency (together with notice of the individual's home address) for distribution in accordance with section 457(b)(3).

"(b) The Secretary of the Treasury shall issue regulations, approved by the Secretary of Health and Human Services, prescribing the time or times at which States must submit notices of past-due support, the manner in which such notices must be submitted, and the necessary information that must be contained in or accompany the notices. The regulations shall specify the minimum amount of past-due support to which the offset procedure established by subsection (a) may be applied, and the fee that a State must pay to reimburse the Secretary of the Treasury for the full cost of applying the offset procedure, and provide that the Secretary of the Treasury will advise the Secretary of Health and Human Services, not less frequently than annually, of the States which have furnished notices of past-due support under subsection (a), the number of cases in each State with respect to which such notices have been furnished, the amount of support sought to be collected under this subsection by each State, and the amount of such collections actually made in the case of each State.

"(c) As used in this part the term 'past-due support' necessary to satisfy his obligation for past-due support has been paid to the State. This subsection shall be applied to an overpayment prior to its being credited to a person's future liability for an internal revenue tax.".

COLLECTION OF SUPPORT FOR CERTAIN ADULTS

SEC. . (a) Section 451 of the Social Security Act is amended by striking out "children" and inserting in lieu thereof "children and the spouse (or former spouse) with whom such children are living" and by striking out "child support" and inserting in lieu thereof "child and spousal support".

(b)(1) Section 452 (a) of such Act is amended—

(A) in paragraph (1), by inserting "and support for the spouse (or former spouse) with whom the absent parent's child is living" after "child support";

(B) in paragraph (7), by inserting "and spousal" after "child"; and

(1) by striking out in subsection (a) thereof "shall refund" and inserting in lieu thereof "shall, subject to subsection (c), refund"; and

(2) by adding at the end thereof the following new subsection:

"(c) OFFSET OF PAST-DUE SUPPORT AGAINST OVERPAYMENTS.—The amount of any overpayment to be refunded to the person making the overpayment shall be reduced by the amount of any past-due support (as defined in section 464 (d) of the Social Security Act) owed by that person of which the Secretary has been notified by a State in accordance with section 464 of the Social Security Act. The Secretary shall remit the amount by which the overpayment is so reduced to the State to which such support has been assigned and notify the person making the overpayment that so much of the overpayment as was—

(C) in paragraph (10)(C), by inserting "(with separate identification of the number in which collection of spousal support was involved)" after "child support cases".

(2) Section 452(b) of such Act is amended—

(A) by inserting ", including any support obligation with respect to the parent who is living with the child and receiving aid under the State plan approved under part A," after "assigned to the State" in the first sentence; and

(B) by striking out "court order" in the second sentence and inserting in lieu thereof "court or administrative order".

(c) Section 453(c)(1) of such Act is amended by striking out "child support" and inserting in lieu thereof "child and spousal support".

(d) Section 454 of such Act is amended—

(1) by striking out "CHILD SUPPORT" in the heading and inserting in lieu thereof "CHILD AND SPOUSAL SUPPORT";

(2) by striking out "child support" in the matter preceding paragraph (1) and inserting in lieu thereof "child and spousal support";

(3) in paragraph (4)(B), by striking out the comma immediately following the first, parenthetical phrase and inserting in lieu thereof "and, at the option of the State, from such parent for his spouse (or former spouse) receiving aid to families with dependent children (but only if a support obligation has been established with respect to such spouse),";

(4) in paragraph (5), by striking out "child support payments" and inserting in lieu

thereof "support payments" and by striking out "collected for a child" and inserting in lieu thereof "collected for an individual";

(5) in paragraph (9) (C), by striking out "of a child or children" and inserting in lieu thereof "of the child or children or the parent of such child or children";

(6) in paragraph (11), by striking out "child"; and

(7) in paragraph (16), by striking out "child" each place it appears.

(e) Section 457 of such Act is amended—

(1) by striking out "child" in the portion of subsection (b) that precedes paragraph (1); and

(2) by striking out "child" each place it appears is subsection (c).

(f) The heading of section 460 of such Act is amended by striking out "CHILD".

COST OF COLLECTION AND OTHER SERVICES FOR NON-AFDC FAMILIES

SEC. . (a) Section 454 (6) of the Social Security Act is amended—

(1) by striking out "such services" in clause (B) and inserting in lieu thereof "services under the State plan (other than collection of support)"; and

(2) by amending clause (C) to read as follows: "(C) the State will retain, but only if it is the State which makes the collection, the fee imposed under State law as required under paragraph (19);".

(b) Section 454 of such Act (as amended by section 761 of this part) is further amended—

(1) by striking out "and" at the end of paragraph (17);

(2) by striking out the period at the end of paragraph (18) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(19) provide that a fee shall be imposed on the individual who owes a child or spousal support obligation, in accordance with State law, with respect to all such child and spousal support obligations for which collection is made by the State agency under this part on behalf of an individual not otherwise eligible for collection services (as determined for purposes of paragraph (6)) in an amount equal to 10 percent of the amount so owed (and for purposes of this part, no part of the amount collected shall be considered to be a fee collected except amounts which exceed the actual amount of support owed).".

(c) Section 455(a) of such Act is amended by adding at the end thereof the following new sentence: "In determining the total amounts expended by any State during a quarter, for purposes of this subsection, there shall be excluded an amount equal to the total of any fees collected or other income resulting from services provided under the plan approved under this part.".

CHILD SUPPORT OBLIGATIONS NOT DISCHARGED BY BANKRUPTCY

SEC. 764. (a) Section 456 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(b) A debt which is a child support obligation assigned to a State under section 402(a)(26) is not released by a discharge in bankruptcy under title 11, United States Code.".

(b) Section 523(a)(5)(A) of title 11, United States Code, is amended by inserting before the semicolon the following: "(other than debts assigned pursuant to section 402(a)(26) of the Social Security Act)".

(c) The amendments made by this section shall become effective on the date of the enactment of this Act.

EFFECTIVE DATE

SEC. . (a) Except as otherwise specifically provided in the preceding sections of this part or in subsection (b), the provisions of this part and the amendments and repeals made by this part shall become effective on October 1, 1981.

(b) If a State agency administering a plan approved under part D of title IV of the Social Security Act demonstrates, to the satisfaction of the Secretary of Health and Human Services, that it cannot, by reason of State law, comply with the requirements of an amendment made by this part to which the effective date specified in subsection (a) applies, the Secretary may prescribe that, in the case of such State, the amendment will become effective beginning with the first month beginning after the close of the first session of such State's legislature ending on or after October 1, 1981. For purposes of the preceding sentence, the term "session of a State legislature" includes any regular, special, budget, or other session of a State legislature.

ELIGIBILITY OF ALIENS FOR AFDC

SEC. . (a) Section 402(a) of the Social Security Act (as amended by section 15422(a) of this Act) is further amended—

(1) by striking out "and" at the end of paragraph (30).

(2) by striking out the period at the end of paragraph (31) and inserting in lieu thereof "; and"; and

(3) by adding immediately after paragraph (31) the following new paragraph:

"(32) provide that in order for any individual to be considered a dependent child, a caretaker relative whose needs are to be taken into account in making the determination under paragraph (7), or any other person whose needs should be taken into account in making such a determination with respect to the child or relative, such individual must be either (A) a citizen, or (B) an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 207(c) of the Immigration and Nationality Act (or of section 203(a)(7) of such Act prior to April 1, 1980), or as a result of the application of the provisions of section 208 or 212(d)(5) of such Act.)".

(b)(1) Section 402(a)(7) of such Act (as amended by section 15422(b) of this Act) is further amended by inserting "and section 415" after "paragraph (31)".

(2) Part A of title IV of such Act (as amended by section 15424(a) of this Act) is further amended by adding at the end thereof the following new section:

"ATTRIBUTION OF SPONSOR'S INCOME AND RESOURCES TO ALIEN

"SEC. 415. (a) For purposes of determining eligibility for and the amount of benefits under a State plan approved under this part of an individual who is an alien described in clause (B) of section 402(a)(32), the income and resources of any person who (as a sponsor of such individual's entry into the United States) executed an affidavit of support or similar agreement with respect to such individual, and the income and resources of the sponsor's spouse, shall be deemed to be the unearned income and resources of such individual (in accordance with subsections (b) and (c)) for a period of three years after the individual's entry into the United States, except that this section is not applicable if such individual is a dependent child and such sponsor (or such sponsor's spouse) is the parent of such child.

"(b)(1) The amount of income of a sponsor (and his spouse) which shall be deemed to be the unearned income of an alien for any month shall be determined as follows:

"(A) the total amount of earned and unearned income of such sponsor and such sponsor's spouse (if such spouse is living with the sponsor) shall be determined for such month;

"(B) the amount determined under subparagraph (A) shall be reduced by an amount equal to the sum of—

"(i) the lesser of (I) 20 percent of the total of any amounts received by the sponsor and his spouse in such month as wages or salary or as net earnings from self-employment, plus the full amount of any costs incurred by them in producing self-employment income in such month, or (II) $175;

"(ii) the cash needs standard established by the State under its plan for a family of the same size and composition as the sponsor and those other individuals living in the same household as the sponsor who are claimed by him as dependents for purposes of determining his Federal personal income tax liability but whose needs are not taken into account in making a determination under section 402(a)(7);

"(iii) any amounts paid by the sponsor (or his spouse) to individuals not living in such household who are claimed by him as dependents for purposes of determining his Federal personal income tax liability; and

"(iv) any payments of alimony or child support with respect to individuals not living in such household;

"(2) The amount of resources of a sponsor (and his spouse) which shall be deemed to be the resources of an alien for any month shall be determined as follows:

"(A) the total amount of the resources (determined as if the sponsor were applying for aid under the State plan approved under this part) of such sponsor and such sponsor and such sponsor's spouse (if such spouse is living with the sponsor) shall be determined; and

"(B) the amount determined under subparagraph (A) shall be reduced by $1,500.

"(c)(1) Any individual who is an alien shall, during the period of three years after entry into the United States, in order to be eligible for aid under a State plan approved under this part, be required to provide to the State agency administering such plan such information and documentation with respect to his sponsor as may be necessary in order for the State agency to make any determination required under this section, and to obtain any cooperation from such sponsor necessary for any such determination. Such alien shall also be required to provide to the State agency such information and documentation as it may request and which such alien or his sponsor provided in support of such alien's immigration application.

"(2) The Secretary shall enter into agreements with the Secretary of State and the Attorney General whereby any information available to them and required in order to make any determination under this section will be provided by them to the Secretary (who may, in turn, make such information available, upon request, to a concerned State agency), and whereby the Secretary of State and Attorney General will inform any sponsor of an alien, at the time such sponsor executes an affidavit of support or similar agreement, of the requirements imposed by this section.

"(d) Any sponsor of an alien, and such alien, shall be jointly and severally liable for an amount equal to any overpayment of aid under the State plan made to such alien during the period of three years after such alien's entry into the United States, on account of such sponsor's failure to provide correct information under the provisions of this section, except where such sponsor was without fault, or where good cause of such failure existed. Any such overpayment which is not repaid to the State or recovered in accordance with the procedures generally applicable under the State plan to the recoupment of overpayments shall be withheld from any subsequent payment to which such alien or such sponsor is entitled under any provision of this Act.

"(e)(1) In any case where a person is the sponsor of two or more alien individuals who are living in the same home, the income and resources of such sponsor (and his spouse), to the extent they would be deemed the income and resources of any one of such individuals under the preceding provisions of this section, shall be divided into two or more equal shares (the number of shares being the same as the number of such aliens individuals) and the income and resources of each such individual shall be deemed to include one such share.

"(2) Income and resources of a sponsor (and his spouse) which are deemed under this section to be the income and resources of any alien individual in a family shall not be considered in determining the need of other family members except to the extent such income or resources are actually available to such other members.

"(f) The provisions of this section shall not apply with respect to any alien who is—

"(1) admitted to the United States as a result of the application, prior to April 1, 1980, of the provisions of section 203(a)(7) of the Immigration and Nationality Act;

"(2) admitted to the United States as a result of the application, after March 31, 1980, of the provisions of section 207(c) of such act;

"(3) paroled into the United States as a refugee under section 212(d)(5) of such Act;

"(4) granted political asylum by the Attorney General under section 208 of such Act; or

"(5) a Cuban and Haitian entrant, as defined in section 501(e) of the Refugee Education Assistance Act of 1980 (Public Law 96-422).".

(c) The amendments made by subsection (a) shall be effective on the date of the enactment of this Act. The amendments made by subsection (b) shall be effective with respect to individuals applying for aid to families with dependent children under any approved State plan for the first time after September 30, 1981.

CHILD SUPPORT INTERCEPT OF UNEMPLOYMENT BENEFITS

SEC. . (a) Section 454 of the Social Security Act is amended by striking out "and" at the end of paragraph (16), by striking out the period at the end of paragraph (17) and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraph:

"(18) provide that the agency administering the plan—

"(A) shall determine on a periodic basis, from information supplied pursuant to section 508 of the Unemployment Compensation Amendments of 1976, whether any individuals receiving compensation under the State's unemployment compensation law including amounts payable pursuant to any agreement under any Federal unemployment compensation law) owe child support obligations which are being enforced by such agency, and

"(B) shall enforce any such child support obligations which are owed by such an individual but are not being met—

"(i) through an agreement with such individual to have specified amounts withheld from compensation otherwise payable to such individual and by submitting a copy of any such agreement to the State agency administering the unemployment compensation law, or

"(ii) in the absence of such an agreement, by bringing legal process (as defined in section 462(e) of this Act) to require the withholding of amounts from such compensation.".

(b)(1) Subsection (e) of section 303 of the Social Security Act is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2)(A) The State agency charged with the administration of the State law—

"(i) shall require each new applicant for unemployment compensation to disclose whether or not such applicant owes child support obligations (as defined in the last sentence of this subsection),

"(ii) shall notify the State or local child support enforcement agency enforcing such obligations, if any applicant discloses under clause (i) that he owes child support obligations and he is determined to be eligible for unemployment compensation, that such applicant has been so determined to be eligible,

"(iii) shall deduct and withhold from any unemployment compensation otherwise payable to an individual—

"(I) the amount specified by the individual to the State agency to be deducted and withheld under this clause,

"(II) the amount (if any) determined pursuant to an agreement submitted to the State agency under section 454(18)(B)(i) of this Act, or

"(III) any amount otherwise required to be so deducted and withheld from such unemployment compensation through legal process (as defined in section 462(c)), and

"(iv) shall pay any amount deducted and withheld under clause (III) to the appropriate State of local child support enforcement agency.

Any amount deducted and withheld under clause (iii) shall for all purposes be treated as if it were paid to the individual as unemployment compensation and paid by such individual to the State or local child support enforcement agency in satisfaction of his child support obligations.

"(B) For purposes of this paragraph, the term 'unemployment compensation' means any compensation payable under the State law (including amounts payable pursuant to agreements under any Federal unemployment compensation law).

"(C) Each State or local child support enforcement agency shall reimburse the State agency charged with the administration of the State unemployment compensation law for the administrative costs incurred by such State agency under this paragraph which are attributable to child support obligations being enforced by the State or local child support enforcement agency."

(2) Paragraph (3) of section 303(c) of such Act (as redesignated by paragraph (1)) is amended by striking out "paragraph (1)" and inserting in lieu thereof "paragraph (1) or (2)".

(3) The last sentence of paragraph (1) of such section 303(e) is amended by striking out "the preceding sentence" and inserting in lieu thereof "this subsection".

(c) The amendments made by this section shall take effect on the date of the enactment of this Act, except that such amendments shall not be requirements under section 454 or 303 of the Social Security Act before October 1, 1982.

Page 497, insert after line 8 the following:

TITLE XVI—BLOCK GRANTS

DISTRIBUTION OF BLOCK GRANT FUNDS

SEC. 1601. (a) Notwithstanding any other provision of this Act, a State which receives funds under this Act or any other Federal law—

(1) which provides for the distribution of funds to States only; and

(2) which prescribes the amount to be distributed to a State on the basis of the amount the State or political subdivisions or other entities in the State received under Federal programs—

(A) which are repealed by this Act or other Federal law, and

(B) which provided funds to political subdivisions of States and to other entities in the States,

shall establish a method and formula for the distribution of such funds on an equitable basis in accordance with subsection (b) and shall make the report prescribed by subsection (c).

(b) In distributing funds described in subsection (a), the State shall—

(1) assure the continuation of funding of effective programs which are servicing demonstrated needs and which were funded under programs described in subsection (a)(2),

(2) assure parity for rural areas and small cities of funds available for distribution, and

(3) assure fairness of competition in the application and bidding for funds available for distribution.

REPORTING

SEC. 1602. (a) Prior to expenditures by a State of funds described in subsection (a) of section 1601, the chief executive officer of the State shall prepare a public report on the intended use of the funds, including information on the types of activities to be supported, the geographic areas to be served, the categories or characteristics of individuals to receive the services, and the method and formula established under section 1601 for distribution of funds.

(b) The report shall be made public within the State in such manner as to facilitate comment from any person (including any Federal or other public agency) during development of the report and after its completion. The report shall describe a process (as developed by the State) to allow for public review, appeal of program selection, and appeal of the selection of entities to deliver program services. The report shall be revised throughout the year as may be necessary to reflect substantial changes in the activities assisted with such funds, and any revision shall be subject to the requirements of this subsection.

(c) The report shall contain sufficient documentation to substantiate (1) the funding of recommended programs and that the amount provided the programs is adequate to carry out their purposes, (2) the selection of entities to receive funds, (3) if the State discontinues funding or reduces by more than one-half the amount of funds provided a program which received financial assist-

ance under provision of law referred to in subsection (a)(2) of section 1601, that the program has not proven effective, and (4) if the State discontinues funding an existing entity which has been carrying out a program which received financial assistance under a provision of law referred to in subsection (a)(2) of section 1601, that the entity has not proven effective in carrying out such program.

Mr. LOTT (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the motion to recommit be dispensed with and that it be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

Mr. PANETTA. Reserving the right to object, Mr. Speaker, could I get a simple description of what is involved in this motion to recommit?

As I understand it, this would deal with the COLA issue and instead of having a once-a-year COLA for military and civilian retirees, we are now restoring a twice-a-year COLA for military and civilian retirees.

Mrs. SCHNEIDER. Mr. Speaker, I would like to yield to the gentleman from Mississippi (Mr. LOTT) for a clear explanation.

The SPEAKER. The gentleman from California (Mr. PANETTA) has the floor.

To whom was the gentleman from California (Mr. PANETTA) directing his question?

Mr. PANETTA. Mr. Speaker, I would like to direct it obviously, to the author of the motion to recommit.

The SPEAKER I am sure the gentlewoman will give the gentleman a full explanation.

Mrs. SCHNEIDER. Mr. Speaker, I would like to yield to the gentleman from Mississippi (Mr. LOTT).

The SPEAKER. The Chair wishes to advise the gentlewoman from Rhode Island that the gentleman from California (Mr. PANETTA) controls the time.

Mr. PANETTA. Mr. Speaker, I yield to the gentleman from Mississippi (Mr. LOTT).

Mr. LOTT. I thank the gentleman for yielding.

I would like to state that the gentleman has stated it absolutely correctly, very succinctly, and very properly.

It only affects that one issue. It strikes that language dealing with the cost-of-living allowance which would provide for just once-a-year COLA and it would be returned to the semiannual COLA.

□ 1845

Mr. PANETTA. Further reserving the right to object, Mr. Speaker, as I understand that, that would then have the impact of eliminating the reduction of $513 million that was included in Latta for civilian retirees that would have reduced from twice a year to once a year. It also eliminates the savings that would have resulted in armed services for reducing twice a year to once a year, $394 million, resulting in approximately $907 million being added to spending under this resolution.

Mr. LOTT. Will the gentleman yield?

Mr. PANETTA. I will be pleased to yield.

Mr. LOTT. If adopted, that would be correct.

Mr. PANETTA. Further reserving the right to object, I think using the CBO figures for 1982 now, the Latta substitute provides for $35.667 billion in terms of saving as opposed to the committee version, which is $37.5 billion, and with this motion to recommit would now be $34 billion, virtually $3 billion less than included in the committee report to the House.

Mr. JONES of Oklahoma. Mr. Speaker, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman.

Mr. JONES of Oklahoma. Is the gentleman telling the House that if the gentlewoman's motion were to be accepted, that this would be below the Gramm-Latta instructions?

Mr. PANETTA. This would return us to below the $35.1 billion in instructions contained in Latta-Gramm.

Mr. LOTT. We are getting into questions versus questions. The gentlewoman did vote against the resolution, the Gramm-Latta substitute. She is opposed to the bill. She offered this motion to recommit. If adopted, what the gentleman has said is the case.

Mr. PANETTA. I understand, and I thank the gentleman for his explanation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

Mr. VOLKMER. Mr Speaker, reserving the right to object, I would like to ask the gentlewoman one question. How many actual reductions in the amount of spending does the amendment provide for? I would like to ask the gentlewoman from Rhode Island—I asked her a question, if she knows how much reduction in spending does her motion to recommit, or the amendment, provide for.

Mr. Speaker, if the gentlewoman does not know, perhaps, we should continue reading. Maybe someone could tell her, since it is only her amendment, how much it provides for.

Mr. LOTT. Mr Speaker, will the gentleman yield?

The SPEAKER. Does the gentleman yield to Mr. LOTT, who has the answer?

Mr. LOTT. Will the gentleman yield?

The SPEAKER. Does the gentleman yield to Mr. LOTT?

Mr. VOLKMER. I yield to the gentleman from Mississippi or the gentleman from Ohio or anybody else who wants to answer the question.

Mr. LOTT. I thank the gentleman for yielding. I think it is a legitimate question. It is an add-on; it is not a reduction, and the gentlewoman will now give you the figures that are involved. It took just 1 minute to make sure the figures that were to be given were correct.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

Mr. ERTEL. Mr. Speaker, reserving the right to object, if I may have the attention of the author of the motion to recommit, Mrs. SCHNEIDER, this is your motion to recommit?

Mrs. SCHNEIDER. Yes, sir.

Mr. ERTEL. And you were very diligent and did an excellent job in the Science and Technology Committee, and offered the amendment to exclude the Clinch River reactor.

Mrs. SCHNEIDER. I thank the gentleman.

Mr. ERTEL. I appreciate that, and I voted with you on that occasion. Now that you have got this motion to recommit, and since the Clinch River reactor is in the Latta substitute, as I understand it, why have you not included in your motion to recommit the exclusion of the Clinch River reactor, or is that included here in the motion to recommit, to strike out the money for that, what you have already testified to on the floor, that technological turkey which is being overexpended of the American dollar?

Mrs. SCHNEIDER. Lest there be any kind of misconception about my being a one-issue legislator, please do not be deceived, because that is merely an issue that came before my Science and Technology Committee, and I felt that I had the responsiblity to speak out on the part of the taxpayer to eliminate the funding for a project which allows 90 percent of the project being footed by the taxpayer and only 10 percent by the industry. So far as introducing this——

Mr. ERTEL. If I may, let me reclaim my time.

Mrs. SCHNEIDER. If I may continue——

Mr. EDGAR. Mr. Speaker, I object.

Mrs. SCHNEIDER. If I may continue to answer your question in reference to why I have offered the motion to recommit, we are focusing specifically on the COLA's and the approximate savings.

The SPEAKER. The Chair indicates that he has heard an objection from the gentleman from Pennsylvania.

The Clerk will read.

The Clerk continued to read the motion to recommit.

Mr. GINGRICH (during the reading). Mr. Speaker, I make a point of order. If this House is determined to hear the reading, then let it hear the

reading. If that side wants to hear the reading, then at least have the decency to listen to the Clerk.

The SPEAKER. The Clerk will continue to read.

The Clerk continued the reading of the motion to recommit.

Mr. JONES of Oklahoma (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

Mr. OBEY. Mr. Speaker, reserving the right to object, could I make an inquiry of the author of the recommittal motion on that side of the aisle? I thought I heard some food stamp language being read as well in the motion to recommit. Is the food stamp issue involved in this recommitment motion as well, or are we dealing only with COLA?

Mrs. SCHNEIDER. It is the Gramm-Latta amendment, and therefore the Gramm-Latta language, and it does not include the food stamps; only the COLA.

Mr. OBEY. So the only change, if I can continue to reserve the right to object, the only change is in the COLA provision?

Mrs. SCHNEIDER. Yes, that is right.

Mr. OBEY. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

Mr. CAMPBELL. Mr. Speaker, reserving the right to object, I may ask the gentlewoman from Rhode Island, is it not true that her only amendment deals with the COLA issue, but that in fact on insisting on the reading, that the whole Gramm-Latta substitute has to be read in context in order to do that, and that is the reason other things are mentioned; and that is the reason the other side keeps raising this question?

Mrs. SCHNEIDER. Yes, that is correct.

Mr. CAMPBELL. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

Mr. DICKINSON. Mr. Speaker, reserving the right to object, I have one question if I might have the attention of the author of the motion.

Is it my understanding that this is an add-on, but even the add-on does not exceed the ceiling that has been set? Is this correct?

Mrs. SCHNEIDER. Yes, this is correct.

Mr. DICKINSON. So this does not violate the rules of the House?

Mrs. SCHNEIDER. It is within the budget.

Mr. DICKINSON. It could be accommodated within the ceiling that has been set.

Mrs. SCHNEIDER. That is correct.

Mr. DICKINSON. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

Mr. EDGAR. Mr. Speaker, reserving the right to object, if I may have the attention of the author of the amendment, I respect the author of the amendment for her work, particularly in the last few weeks, to sanitize the new administration on the issue of trying to get a budget that was regionally equitable, and I think the gentlewoman from Rhode Island has done an excellent job in that respect.

I think, if I could ask the gentlewoman a question, the gentlewoman was frustrated with the Democratic rule that was offered yesterday, frustrated that the President's proposal would not get a full and active hearing, and the gentlewoman voted against the Democratic rule because of that. Now, I know that the gentlewoman recognizes that in offering her motion to recommit she has forestalled the opportunity for an up-or-down vote on a motion to recommit that might have been offered on the other side.

I wonder if the gentlewoman might respond to a specific set of questions relating to why, in a motion to recommit, the gentlewoman did not include——

Mr. LOTT. Mr Speaker, regular order.

Mr. EDGAR. Reserving the right to object——

Mr. FRENZEL. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

The Clerk will continue to read.

The Clerk continued the reading of the motion to recommit.

Mr. JONES of Oklahoma. Mr. Speaker, I ask unanimous consent again that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

Mr. VOLKMER. Mr. Speaker, reserving the right to object——

Ms. OAKAR. Mr. Speaker, reserving the right to object——

The SPEAKER. The genleman from Missouri has reserved the right to object.

PARLIAMENTARY INQUIRY

Mr. VOLKMER. Mr. Speaker, I would like to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. VOLKMER. Mr. Speaker, in the event that the previous question on the motion to recommit is asked for a vote, and is defeated, then is the minority still entitled to offer another motion to recommit or an amendment to it?

The SPEAKER. If the previous question were to be defeated, then the gentleman from Oklahoma if he led the opposition would be entitled at that time to offer an amendment to the motion of the gentlewoman from Rhode Island.

Mr. VOLKMER. Mr. Speaker, reserving the right to object, I just want to make sure—and you know, I am a little dense, and I want to make sure that I heard the Speaker correctly.

The SPEAKER. If the previous question were to be defeated, the gentleman from Oklahoma would have the opportunity of offering an amendment.

Mr. VOLKMER. Mr. Speaker, a further parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. VOLKMER. There will be an opportunity for a vote on the previous question on the motion to recommit?

□ 1900

The SPEAKER. The gentleman will restate his question.

Mr. VOLKMER. Mr. Speaker, there will be an opportunity for a vote on the motion to recommit?

The SPEAKER. Provided the required number of Members request it or stand for it, yes.

Mr. VOLKMER. Mr. Speaker, I withdraw my reservation of objection.

Ms. OAKAR. Mr. Speaker, further reserving the right to object, I would like to ask the sponsor of this motion, if I may, a question. First, I want to commend my good friend, the gentlewoman from Rhode Island (Mrs. SCHNEIDER) for offering this motion, because I think it means an awful lot to Federal retirees, and that is why I think clarity for the benefit of everyone present is very, very important.

As the gentlewoman knows undoubtedly, the twice-a-year COLA is an added expenditure from what we just passed. I am wondering if the gentlewoman is taking away from any other of the programs in the Committee on Post Office and Civil Service or taking away any other benefits for Federal employees in order to achieve the amount necessary to provide for the twice-a-year COLA.

Mrs. SCHNEIDER. Mr. Speaker, I thank the gentlewoman for her question.

The money that will be used in this change will not be shifted from any other programs within the Gramm-Latta budget but, rather, will come from outside the Gramm-Latta budget.

Ms. OAKAR. They will not come from any other compensation relative to Federal employees?

Mrs. SCHNEIDER. That is correct.

Ms. OAKAR. Mr. Speaker, I thank the gentlewoman from Rhode Island (Mrs. SCHNEIDER), and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma (Mr. JONES) that the motion to recommit be considered as read and printed in the RECORD?

There was no objection.

The SPEAKER. The gentlewoman from Rhode Island (Mrs. SCHNEIDER) is recognized for 5 minutes.

Mrs. SCHNEIDER. I thank the Speaker.

Mr. Speaker, I have chosen to offer a motion to recommit particularly as it relates to the twice-a-year COLA because in my own district and, I know, in many of the districts throughout the United States there is a large majority of people who have worked hard for many, many years and who have taken the opportunity to put their savings aside, and I feel that the opportunity to act on the twice-a-year COLA is certainly in their best interests.

Therefore, I have offered this motion to recommit.

Mr. DERWINSKI. Mr. Speaker, will the gentlewoman yield?

Mrs. SCHNEIDER. I am happy to yield to the gentleman from Illinois.

Mr. DERWINSKI. As the ranking minority member of the Committee on Post Office and Civil Service, I believe I can tell the gentlewoman from Rhode Island that this issue is of special importance to our retirees. They have been looking for a champion at the right time and in the right place, and it is especially important that the gentlewoman gives an opportunity for us to show the dedicated Americans that we are responsible in the budget but are keeping our commitments to their retirement.

Mr. Speaker, I commend the gentlewoman for offering her motion to recommit.

Mr. DICKINSON. Mr. Speaker, will the gentlewoman yield?

Mrs. SCHNEIDER. I yield to the gentleman from Alabama.

Mr. DICKINSON. Mr. Speaker, let me say that I am very interested in this, and that the Committee on Armed Services, in effect, tied the COLA provision of the military retirees to the civil service. When by action of this committee we gave the civil servants a one-time COLA, it automatically put the military retirees in for a one-time COLA also.

So I would support the gentlewoman's motion, but I would caution the Members that if they do not vote for the previous question, if it fails, then regardless of how we feel on the issue, this issue could be taken away. I would, therefore, urge every Member of both sides of the aisle to vote for the previous question regardless of how they feel on the substance of the motion itself.

Mr. GILMAN. Mr. Speaker, will the gentlewoman yield?

Mrs. SCHNEIDER. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I thank the gentlewoman for yielding.

Mr. Speaker, I commend the gentlewoman for her motion which is before us to give us an opportunity to provide an appropriate adjustment for cost of living, one that is sorely needed by our Federal employees. I urge my colleagues to support the motion.

Mr. EMERY. Mr. Speaker, will the gentlewoman yield?

Mrs. SCHNEIDER. I yield to the gentleman from Maine.

Mr. EMERY. Mr. Speaker, I would like to commend my colleague, the gentlewoman from Rhode island (Mrs. SCHNEIDER), for offering this amendment, and I simply want to remind the Members that it is necessary for them to vote aye on the motion to recommit in order to assist retired Federal employees. This is a very important point.

Mr. CHAPPELL. Mr. Speaker, will the gentlewoman yield?

Mrs. SCHNEIDER. I yield to the gentleman from Florida.

Mr. CHAPPELL. Mr. Speaker, I thank the gentlewoman from Rhode island (Mrs. SCHNEIDER) for yielding, and I want to commend her on this amendment.

I was on the Committee on Post Office and Civil Service when this matter came up, and in order to get our retirees to somewhat accept giving up on the 1-percent kicker, we went to a semiannual cost-of-living adjustment. I think if we do not do what the gentlewoman is trying to do, then we would break faith with these people.

Mr. Speaker, I hope that all of us can support this amendment.

Mrs. SCHNEIDER. Mr. Speaker, I reserve the balance of my time.

The SPEAKER. The Chair will state that the gentlewoman from Rhode Island (Mrs. SCHNEIDER) cannot reserve her time. She must use all of it now.

Mrs. SCHNEIDER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER. The gentlewoman from Rhode Island (Mrs. SCHNEIDER) has yielded back her time.

The gentleman from Oklahoma (Mr. JONES) is recognized for 5 minutes.

Mr. JONES of Oklahoma. Mr. Speaker, for the past 2 days since the Republican rule was adopted, we have been operating under a gag rule, a closed rule, that prevented this body from amending what might be gently termed an imperfect document.

Yesterday during the debate on that rule some Member from this side of the aisle said that:

> The vote on the previous question is no ordinary procedural vote. It is every bit as much a substantive vote as any you will cast.

I want to reiterate that the vote on this previous question is no ordinary procedural vote.

I am urging my colleagues to vote down the previous question so that I will have an opportunity to amend the gentlewoman's instructions, to add to the instructions the gentlewoman from Rhode Island (Mrs. SCHNEIDER) gives us, and that does the following: It reverts back to the social security recommendations from the Social Security Subcommittee. It will revert back to the committee's bill on guaranteed student loans, it will eliminate the elimination of funds for agricultural experimental stations and land grant colleges and universities, and it will eliminate the block grant programs that have not been heard by the committees.

This is not going to be any procedural vote, because when you vote for the previous question——

Mr. BARNES. Mr. Speaker, if the gentleman will yield, the COLA is included, is it not?

Mr. JONES of Oklahoma. The gentlewoman's instructions on COLA will be included also. I respect the gentlewoman's desires in that respect

Mr. BARNES. Mr. Speaker, I thank the gentleman. I strongly support continuation of the semiannual COLA for Federal civilian and military retirees. And the way to preserve the COLA, as well as to save the social security, education loans and other important benefits eliminated by the Gramm-Latta II amendments, is to have a vote on the motion to recommit with instructions which the gentleman from Oklahoma (Mr. JONES) will propose.

While I applaud the gentlewoman from Rhode Island (Mrs. SCHNEIDER) for her desire to save the semiannual COLA, her motion to recommit does not go far enough. We should vote down the previous question on the Schneider motion and vote for the Jones motion. In the event the previous question is ordered on the Schneider motion, I strongly urge its adoption, since it does at least save the twice-yearly COLA and undo some of the damage of the Gramm-Latta amendment.

Mr. JONES of Oklahoma. But if you vote for the previous question, you will be telling 3 million social security recipients who are gaining minimum benefits under social security——

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. JONES of Oklahoma. No, I will not yield until I am through.

Mr. Speaker, if we vote for the previous question, we will be telling those social security recipients that for the first time in the history of the United States we voted to take away social security benefits from a recipient who is now receiving them.

That is what my motion is all about.

By voting for the previous question, you are also telling 1.35 million college students who are on student loan programs that you are willing to take away their opportunity to have a loan to get a college education. If you vote for that previous question, you are telling the land grant colleges and universities that you do not wish to fund in 1982, 1983, and 1984 the agricultural experimental stations, and you will be telling the mayors, the Governors, and the county commissioners——

Mr. WALKER. Mr. Speaker, will the gentleman yield?

The SPEAKER. The Chair will state that the gentleman has declined to yield, so the gentleman from Pennsylvania will kindly be seated.

Mr. JONES of Oklahoma. If you vote for the previous question, you will be telling the county commissioners, the mayors, and the Governors that you are supporting a block grant program that you have not even studied and you do not know what is in it.

So this is not ordinary procedural question, and it will not be viewed as an ordinary procedural question by those social security recipients, those students on loans, or the agricultural experimental stations.

Mr. EDWARDS of Oklahoma. Mr. Speaker, will the chairman of the committee yield to me?

The SPEAKER. The Chair will state that the gentleman has indicated that he will not yield, and the Chair will ask that the gentleman from Oklahoma (Mr. EDWARDS) take his seat.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I had not asked the gentleman to yield to me before. I do not know whether the gentleman will yield to me because I had not asked him to yield. Will the gentleman yield to me?

Mr. JONES of Oklahoma. So there will be no mistake, Mr. Speaker, I will not yield at this time.

The SPEAKER. The Chair recognizes the gentleman from Oklahoma (Mr. JONES).

Mr. JONES of Oklahoma. So, Mr. Speaker, I am asking, if there is any compassion left in this rather bizarre exercise that we have been through during the last 2 days, that the Members vote down the previous question and give us an opportunity to offer these amendments in the gentlewoman's motion to recommit.

Mr. Speaker, I would offer the following amendment to the motion to recommit:

Strike out section 1014 of the bill as amended.

Strike out chapter 1 of subtitle A of title III of the bill as amended and insert in lieu thereof chapter 1 of subtitle A of title III of H.R. 3964 as introduced (beginning on page 21, line 17, and ending on page 22, line 35).

[Note: Except as otherwise expressly indicated, references in these amendments to section numbers or other provisions in title V of the bill, as amended, are references to the section numbers or other provisions of that title as they appear in H.R. 3982 as amended by the Latta amendments, and not to the section numbers or other provisions as redesignated by these amendments.]

In subtitle C of title V of the bill, as amended, strike out chapter 1 (section 5311 through section 5447), and insert in lieu thereof chapter 1 of subtitle C of title V of H.R. 3964, as introduced (section 5411 through section 5421; beginning on page 104, line 19, and ending on page 108, line 18, of H.R. 3964, as introduced).

Redesignate subchapter A of chapter 2 of subtitle C of title V of the bill, as amended, as chapter 2 of subtitle C title V of the bill, as amended, and conform internal references to such subchapter in sections 5611 through 5625 accordingly.

Strike out section 5112 of the bill, as amended, and redesignate the subsequent sections in subtitle A of title V of the bill accordingly.

In subtitle A of title V of the bill, as amended, insert after section 5113 (as new sections 5114 and 5115) the provisions of sections 5115 and 5116 of H.R. 3964, as introduced (beginning on page 52, line 21, and ending on page 52, line 31), redesignate the subsequent sections in subtitle A of title V of the bill accordingly, and strike out "chapter 5" in section 5114 and in section 5115 (as inserted and redesignated by this paragraph) and insert in lieu thereof "chapter 2".

Strike out section 5119 of the bill, as amended, and insert in lieu thereof section 5123 of H.R. 3964 as introduced (beginning on page 56, line 35, and ending on page 57, line 18) and redesignate such section accordingly.

In section 5124 of the bill, as amended, strike out "fiscal year 1982" each place it appears in subsections (a) through (i), and insert in lieu thereof "each of the fiscal years 1982, 1983, and 1984", and strike out subsection (j) of such section.

Strike out section 5125 of the bill, as amended, and redesignate the subsequent sections in subtitle A of title V of the bill accordingly.

In subtitle A of title V of the bill, as amended, insert after section 5130 the provisions of section 5135 of H.R. 3964, as introduced (beginning on page 65, line 9, and ending on page 65, line 12), redesignate such section accordingly, and redesignate the subsequent sections in subtitle A of title V of the bill accordingly.

Strike out section 5141 of the bill, as amended, and insert in lieu thereof section 5146 of H.R. 3964, as introduced (beginning on page 67, line 10, and ending on page 67, line 13) and redesignate such section accordingly.

In subtitle A of title V of the bill, as amended, insert after section 5142 the provisions of section 5148 of H.R. 3964, as introduced (beginning on page 68, line 18, and ending on page 68, line 21), and redesignate the subsequent sections in subtitle A of title V of the bill accordingly.

Strike out section 5211 of the bill, as amended, and insert in lieu thereof the following:

(1) Chapter 1 of subtitle B of title V of H.R. 3964, as introduced (section 5201 through section 5291; beginning on page 69, line 2, and ending on page 83, line 16).

(2) Chapter 5 of subtitle B of title V of H.R. 3964, as introduced (section 5361 through section 5367; beginning on page 99, line 15, and ending on page 102, line 40), and redesignate such chapter as chapter 2 of subtitle B of title V of the bill, as amended.

(3) Chapter 6 of subtitle B of title V of H.R. 3964, as introduced, other than sections 5382 and 5383 (beginning on page 103, line 1, and ending on page 103, line 30), and redesignate such chapter as chapter 3 of subtitle B of title V of the bill, as amended.

Strike out section 10002 of the bill, as amended (and redesignate the succeeding sections accordingly).

Strike out subtitle B of title XV of the bill as amended and insert in lieu thereof subtitle B of title XV of H.R. 3964 as introduced (beginning on page 424, line 36, and ending on page 438, line 9), but omitting section 15206 (page 430, line 27, through page 433, line 20) and redesignating the succeeding sections accordingly (with conforming changes in the table of contents).

Strike out chapter 5 of subtitle C of title XV of the bill as amended and insert in lieu thereof chapter 5 of subtitle C of title XV of H.R. 3964 as introduced (page 473, lines 6 through 17).

Strike out title XVI of the bill as amended.

Mr. JONES of Oklahoma. Mr. Speaker, I move the previous question on the motion to recommit.

The SPEAKER. The question is on ordering the previous question.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. CAMPBELL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 215, nays 212, not voting 5, as follows:

[Roll No. 112]

YEAS—215

Archer	Daub	Hansen (ID)
Ashbrook	Davis	Hansen (UT)
Badham	Deckard	Hartnett
Bafalis	DeNardis	Hatcher
Bailey (MO)	Derwinski	Heckler
Barnard	Dickinson	Hendon
Beard	Dornan	Hightower
Benedict	Dougherty	Hiler
Bereuter	Dreier	Hillis
Bethune	Duncan	Hollenbeck
Bliley	Dunn	Holt
Broomfield	Edwards (AL)	Hopkins
Brown (CO)	Edwards (OK)	Horton
Brown (OH)	Emerson	Huckaby
Broyhill	Emery	Hunter
Burgener	Erdahl	Hutto
Butler	Erlenborn	Hyde
Byron	Evans (DE)	Ireland
Campbell	Evans (GA)	Jeffords
Carman	Evans (IA)	Jeffries
Carney	Fenwick	Johnston
Chappell	Fiedler	Kemp
Chappie	Fields	Kindness
Cheney	Findley	Kramer
Clausen	Fish	Lagomarsino
Clinger	Flippo	Latta
Coats	Forsythe	Leach
Coleman	Frenzel	Leath
Collins (TX)	Gilman	LeBoutillier
Conable	Gingrich	Lee
Conte	Goldwater	Lent
Corcoran	Goodling	Lewis
Coughlin	Gradison	Livingston
Courter	Gramm	Loeffler
Coyne, James	Gregg	Lott
Craig	Grisham	Lowery
Crane, Daniel	Gunderson	Lujan
Crane, Philip	Hagedorn	Lungren
Daniel, Dan	Hall, Sam	Madigan
Daniel, R. W.	Hammerschmidt	Marks
Dannemeyer	Hance	Marlenee

Marriott
Martin (IL)
Martin (NC)
Martin (NY)
McClory
McCloskey
McCollum
McDade
McDonald
McEwen
McGrath
McKinney
Michel
Miller (OH)
Mitchell (NY)
Molinari
Montgomery
Moore
Moorhead
Morrison
Myers
Napier
Nelligan
Nichols
O'Brien
Parris
Pashayan
Paul
Petri
Porter
Pritchard
Pursell
Quillen
Railsback
Regula
Rhodes
Rinaldo
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Roemer
Rogers
Roth
Roukema
Rousselot
Rudd
Santini
Sawyer
Schulze
Sensenbrenner
Shaw
Shelby
Shumway
Shuster
Siljander
Skeen
Smith (AL)
Smith (NE)
Smith (NJ)
Smith (OR)
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Staton
Stenholm
Stump
Tauke
Tauzin
Taylor
Thomas
Trible
Vander Jagt
Walker
Wampler
Weber (MN)
Weber (OH)
White
Whitehurst
Whittaker
Williams (OH)
Wilson
Winn
Wolf
Wortley
Wylie
Young (AK)
Young (FL)

NAYS—212

Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkinson
AuCoin
Bailey (PA)
Barnes
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Brooks
Brown (CA)
Burton, Phillip
Chisholm
Clay
Coelho
Collins (IL)
Conyers
Coyne, William
Crockett
D'Amours
Daschle
de la Garza
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan
Downey
Dwyer
Dyson
Early
Eckart
Edgar
Edwards (CA)
English
Ertel
Evans (IN)
Fary
Fascell
Fazio
Ferraro
Fithian
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fountain
Fowler
Frank
Frost
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Ginn
Glickman
Gonzalez
Gore
Gray
Green
Guarini
Hall (OH)
Hall, Ralph
Hamilton
Harkin
Hawkins
Hefner
Heftel
Hertel
Holland
Howard
Hoyer
Hubbard
Hughes
Jacobs
Jenkins
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kildee
Kogovsek
LaFalce
Lantos
Lehman
Leland
Levitas
Long (LA)
Long (MD)
Lowry
Luken
Lundine
Markey
Matsui
Mattox
Mavroules
Mazzoli
McCurdy
McHugh
Mica
Mikulski
Miller (CA)
Mineta
Minish
Mitchell (MD)
Moakley
Moffett
Mollohan
Mottl
Murphy
Murtha
Natcher
Neal
Nelson
Nowak
O'Neill
Oakar
Oberstar
Obey
Ottinger
Panetta
Patman
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Price
Rahall
Rangel
Ratchford
Reuss
Richmond
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Sabo
Savage
Scheuer
Schroeder
Schumer
Seiberling
Shamansky
Shannon
Sharp
Simon
Skelton
Smith (IA)
Solarz
St Germain
Stark
Stokes
Stratton
Studds
Swift
Synar
Traxler
Udall
Vento
Volkmer
Walgren
Washington
Watkins
Waxman
Weaver
Weiss
Whitley
Whitten
Williams (MT)
Wirth
Wolpe
Wright
Wyden
Yates
Yatron
Young (MO)
Zablocki
Zeferetti

NOT VOTING—5

Burton, John
Cotter
Danielson
Dymally
Fuqua

□ 1915

Mr. TAUZIN and Mr. GILMAN changed their votes from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. BOLLING). The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. DICKS. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

Mr. DICKS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

So the motion to recommit was rejected.

The SPEAKER pro tempore. The Chair has counted the House and will advise the gentleman that a quorum is present. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. JONES of Oklahoma. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 232, nays 193, not voting 6, as follows:

[Roll No. 113]

YEAS—232

Archer
Ashbrook
Badham
Bafalis
Bailey (MO)
Barnard
Beard
Benedict
Bennett
Bereuter
Bethune
Bliley
Bouquard
Breaux
Brinkley
Broomfield
Brown (CO)
Brown (OH)
Broyhill
Burgener
Butler
Byron
Campbell
Carman
Carney
Chappell
Chappie
Cheney
Clausen
Clinger
Coats
Coleman
Collins (TX)
Conable
Corcoran
Coughlin
Courter
Coyne, James
Craig
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daub
Davis
Deckard
DeNardis
Derwinski
Dickinson
Dornan
Dreier
Duncan
Dunn
Dyson
Edwards (AL)
Edwards (OK)
Emerson
Emery
English
Erdahl
Erlenborn
Evans (DE)
Evans (GA)
Evans (IA)
Fenwick
Fiedler
Fields
Findley
Fish
Flippo
Forsythe
Fountain
Frenzel
Gibbons
Gilman
Gingrich
Goldwater
Goodling
Gradison
Gramm
Green
Gregg
Grisham
Gunderson
Hagedorn
Hall, Sam
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Hartnett
Hatcher
Hendon
Hightower
Hiler
Hillis
Holland
Hollenbeck
Holt
Hopkins
Horton
Huckaby
Hunter
Hutto
Hyde
Ireland
Jeffords
Jeffries
Johnston
Jones (NC)
Jones (OK)
Jones (TN)
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach
Leath
LeBoutillier
Lee
Lent
Lewis
Livingston
Loeffler
Long (MD)
Lott
Lowery
Lujan
Lungren
Madigan
Marks
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
McClory
McCloskey
McCollum
McDade
McDonald
McEwen
McGrath
McKinney
Mica
Michel
Miller (OH)
Mineta
Mitchell (NY)
Molinari
Montgomery
Moore
Moorhead
Morrison
Myers
Napier
Nelligan
Nelson
Nichols
O'Brien
Panetta
Parris
Pashayan
Patterson
Petri
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Railsback
Regula
Rhodes
Rinaldo
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Rogers
Roth
Roukema
Rousselot
Rudd
Santini
Sawyer
Schulze
Sensenbrenner
Shaw
Shelby
Shumway
Shuster
Siljander
Skeen
Skelton
Smith (AL)
Smith (NE)
Smith (NJ)
Smith (OR)
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Staton
Stenholm
Stump
Tauke
Tauzin
Taylor
Thomas
Trible
Vander Jagt
Walker
Wampler
Waxman
Weber (MN)
Weber (OH)
Whitehurst
Whitley
Whittaker
Williams (OH)
Wilson
Winn
Wolf
Wortley
Wylie
Young (AK)
Young (FL)

NAYS—193

Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkinson
AuCoin
Bailey (PA)
Barnes
Bedell
Beilenson
Benjamin
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bowen
Brodhead
Brooks
Brown (CA)
Burton, Phillip
Chisholm
Clay
Coelho
Collins (IL)
Conte
Conyers
Coyne, William
Crockett
D'Amours
Daschle
de la Garza
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dougherty
Downey
Dwyer
Early
Eckart
Edgar
Edwards (CA)
Ertel
Evans (IN)
Fary
Fascell
Fazio
Ferraro
Fithian
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fowler
Frank
Frost
Garcia
Gaydos
Gejdenson
Gephardt
Ginn
Glickman
Gonzalez
Gore
Gray
Guarini
Hall (OH)
Hall, Ralph
Hamilton
Harkin
Hawkins
Heckler
Hefner
Heftel
Hertel
Howard
Hoyer
Hubbard
Hughes
Jacobs
Jenkins
Kastenmeier
Kazen
Kildee
Kogovsek
LaFalce
Lantos
Lehman
Leland
Levitas
Long (LA)
Lowry
Luken
Lundine
Markey
Mattox
Mavroules
Mazzoli
McCurdy
McHugh
Mikulski
Miller (CA)
Minish
Mitchell (MD)
Moakley
Moffett
Mollohan
Mottl
Murphy
Murtha
Natcher
Neal
Nowak
Oakar
Oberstar

Obey
Ottinger
Patman
Paul
Pease
Pepper
Perkins
Peyser
Rahall
Rangel
Ratchford
Reuss
Richmond
Rodino
Roe
Roemer
Rosenthal
Rostenkowski
Roybal
Russo
Sabo
Savage
Scheuer
Schneider
Schroeder
Schumer
Seiberling
Shamansky
Shannon
Sharp
Simon
Smith (IA)
Solarz
St Germain
Stark
Stokes
Stratton
Studds
Swift
Synar
Traxler
Udall
Vento
Volkmer
Walgren
Washington
Watkins
Weaver
Weiss
White
Whitten
Williams (MT)
Wirth
Wolpe
Wright
Wyden
Yates
Yatron
Young (MO)
Zablocki
Zeferetti

NOT VOTING—6

Burton, John
Cotter
Danielson
Dymally
Fuqua
Rose

□ 1945

The Clerk announced the following pairs:

Mr. Danielson with Mr. Dymally.
Mr. Fuqua with Mr. John L. Burton.

Mr. TRAXLER changed his vote from "yea" to "nay."

Mr. PATTERSON and Mr. WAXMAN changed their votes from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. Without objection, a motion to reconsider is laid on the table.

Mr. PHILIP BURTON. Mr. Speaker, I object.

The SPEAKER pro tempore. The gentleman from California (Mr. PHILIP BURTON) objects to the motion to reconsider being laid upon the table.

Objection is heard.

Mr. LOTT. Mr. Speaker, I move to reconsider.

The SPEAKER pro tempore. Did the gentleman from Mississippi vote in favor of the passage of the bill?

Mr. LOTT. I did, Mr. Speaker.

The SPEAKER pro tempore. The gentleman qualifies.

Mr. CAMPBELL. Mr. Speaker, I move to table the motion to reconsider.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from South Carolina (Mr. CAMPBELL) to table the motion to reconsider offered by the gentleman from Mississippi (Mr. LOTT).

The question was taken; and on a division (demanded by Mr. LOTT) there were—ayes 44, noes 42.

Mr. PHILIP BURTON. I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 187, nays 150, not voting 94, as follows:

[Roll No. 114]

YEAS—187

Badham
Bailey (MO)
Barnard
Beard
Benedict
Bereuter
Bethune
Bliley
Bolling
Breaux
Brown (CO)
Brown (OH)
Broyhill
Butler
Byron
Campbell
Carman
Carney
Chappell
Chappie
Cheney
Clausen
Clinger
Coats
Collins (TX)
Conable
Conte
Corcoran
Coughlin
Courter
Coyne, James
Crane, Daniel
Crane, Philip
Daniel, Dan
Dannemeyer
Daub
Deckard
DeNardis
Derwinski
Dickinson
Dornan
Dougherty
Dreier
Edwards (AL)
Edwards (OK)
Emerson
English
Erdahl
Ertel
Evans (DE)
Evans (GA)
Evans (IA)
Fenwick
Fiedler
Fields
Fish
Flippo
Forsythe
Frenzel
Gibbons
Gingrich
Glickman
Goldwater
Gramm
Green
Grisham
Gunderson
Hall, Sam
Hance
Hansen (ID)
Hansen (UT)
Hartnett
Hatcher
Heckler
Hendon
Hiler
Hopkins
Hunter
Hutto
Hyde
Jeffords
Jeffries
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach
Leath
Lee
Lent
Lewis
Livingston
Loeffler
Lott
Lowery
Lungren
Madigan
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Mazzoli
McClory
McCloskey
McCollum
McDade
McDonald
McEwen
McGrath
McKinney
Mica
Michel
Miller (OH)
Mitchell (NY)
Molinari
Montgomery
Moore
Morrison
Myers
Napier
Nelligan
Nelson
O'Brien
Parris
Pashayan
Paul
Petri
Pickle
Porter
Pritchard
Pursell
Railsback
Regula
Rhodes
Rinaldo
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Rogers
Roth
Roukema
Rousselot
Rudd
Santini
Sawyer
Sensenbrenner
Shaw
Shelby
Shumway
Shuster
Siljander
Skeen
Smith (AL)
Smith (NJ)
Smith (OR)
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Staton
Stenholm
Stump
Swift
Tauke
Tauzin
Taylor
Thomas
Trible
Vander Jagt
Walker
Wampler
Weber (MN)
Whitley
Whittaker
Wilson
Wirth
Wolf
Wortley
Wylie
Young (AK)
Young (FL)
Zablocki

NAYS—150

Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkinson
AuCoin
Bailey (PA)
Barnes
Bedell
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bouquard
Bowen
Brodhead
Brooks
Burton, Phillip
Coelho
Conyers
Coyne, William
D'Amours
de la Garza
Derrick
Dicks
Dingell
Dixon
Dorgan
Downey
Dyson
Early
Eckart
Edgar
Fary
Fascell
Fazio
Fithian
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fountain
Frank
Frost
Garcia
Gaydos
Gejdenson
Gephardt
Gilman
Ginn
Gonzalez
Gore
Guarini
Hall (OH)
Hall, Ralph
Harkin
Hefner
Heftel
Hertel
Holland
Howard
Hoyer
Hubbard
Hughes
Jenkins
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kildee
Kogovsek
LaFalce
Lantos
Leland
Levitas
Long (LA)
Lowry
Markey
Matsui
Mattox
McCurdy
McHugh
Miller (CA)
Mineta
Minish
Moakley
Moffett
Murtha
Natcher
Neal
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patman
Patterson
Pease
Pepper
Perkins
Price
Rahall
Rangel
Ratchford
Rodino
Roemer
Rostenkowski
Roybal
Russo
Sabo
Savage
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Skelton
Solarz
St Germain
Stokes
Stratton
Studds
Synar
Udall
Vento
Volkmer
Walgren
Watkins
Waxman
Weaver
Weiss
White
Whitten
Williams (MT)
Wolpe
Wright
Wyden
Yatron

NOT VOTING—94

Addabbo
Albosta
Archer
Ashbrook
Bafalis
Beilenson
Bonker
Brinkley
Broomfield
Brown (CA)
Burgener
Burton, John
Chisholm
Clay
Coleman
Collins (IL)
Cotter
Craig
Crockett
Daniel, R. W.
Danielson
Daschle
Davis
Dellums
Donnelly
Duncan
Dunn
Dwyer
Dymally
Edwards (CA)
Emery
Erlenborn
Evans (IN)
Ferraro
Findley
Fowler
Fuqua
Goodling
Gradison
Gray
Gregg
Hagedorn
Hamilton
Hammerschmidt
Hawkins
Hightower
Hillis
Hollenbeck
Holt
Horton
Huckaby
Ireland
Jacobs
Johnston
Jones (NC)
LeBoutillier
Lehman
Long (MD)
Lujan
Luken
Lundine
Marks
Mavroules
Mikulski
Mitchell (MD)
Mollohan
Moorhead
Mottl
Murphy
Nichols
Peyser
Quillen
Reuss
Richmond
Roe
Rose
Rosenthal
Schneider
Schulze
Schumer
Shamansky
Simon
Smith (IA)
Smith (NE)
Stark
Traxler
Washington
Weber (OH)
Whitehurst
Williams (OH)
Winn
Yates
Young (MO)
Zeferetti

□ 2000

So the motion to table the motion to reconsider was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

● Mr. DICKS. Mr. Speaker, I am shocked by the crass, exploitive tactics used by the minority in offering a motion to recommit, supposedly restoring the twice a year COLA for civil service and military retirees, and then not providing enough support to secure its passage. This devious tactic doomed the COLA.

Before the prior vote on the previous question, Chairman JONES said he would offer an amendment to the motion to recommit to restore the COLA, the minimum social security benefit and the guaranteed student loan program and to eliminate the block grant provisions, if the previous questions were defeated.

After the efforts to restore the COLA and these important programs were defeated, the previous question

was ordered on the motion to recommit with the COLA. It was then defeated on a voice vote. Since the proponents failed to seek a recorded vote, I asked for a recorded vote on this important matter. I was not supported by these proponents in sufficient numbers to get this vote. This sealed the fate of the COLA. The minority not only denied the losing side the motion to recommit, but also failed to support their own motion in one of the most treacherous legislative acts I have ever seen—dooming the COLA.●

PERSONAL EXPLANATION

● Mr. DAUB. Mr. Speaker, this morning Friday, June 26, 1981, while I was getting ready to come to work, I was listening to a TV news program. The director of the Washington State Park Service was commenting on the tragic accident on Mount Rainer. As a eulogy to the 11 climbers who lost their lives, he said: "they knew the risks, but they also knew that when you live on the edge, you can see further."

It strikes me that this is a relevant statement to us—this House lives on the leadership edge because we were elected by the people. We live on the edge and can see further because we are privy to more information and input then when we were private citizens.

We should not ignore the future because of short-term, near-sighted political gains. We can see further. We can risk today because it is ours—but to ignore the long-term ramifications is to risk the future—the future of our children and our children's children.

I feel the vote we cast today for the bipartisan package was necessary, important, and what the people want. Indeed, today was a vote for a rebirth of American economic vitality.●

PERSONAL EXPLANATION

● Mr. WAXMAN. Mr. Speaker, I strongly and vehemently oppose this bill for reconciliation and very much would have preferred to vote against final passage; but I voted in favor solely for the purpose of allowing the Speaker to appoint me as a House conferee with the Senate on two provisions reported by the Commerce Committee.●

PERSONAL EXPLANATION

● Mr. SCHEUER. Mr. Speaker, although I believe strongly that the Gramm-Latta substitute will do serious, perhaps fatal damage to many essential programs, two in particular deserve special concern and attention. I refer to the railroad worker's retirement fund and Amtrak.

The Gramm-Latta substitute is silent on the matter of railroad retirement. To the 1.5 million affected past and present railway workers living in the United States the Republican plan, by its omission of the retirement fund, signals the financial death knell for all the workers who have relied in good faith on Government assurances as to the continued fiscal integrity of the fund. The men and women I make reference to have worked tirelessly to create and maintain the world's most comprehensive transportation network. The Gramm-Latta substitute will pull the rug out from under these workers and leave them perilously at risk as to the continuation of payments they are entitled to as a matter of simple equity and justice. The very livelihood of retired railworkers all over the country was dependent on our actions today in this body; by accepting the substitute we told them they erred in relying on Uncle Sam's sense of fair play and honor. This action will rebound to the detriment not only of this administration, but also of those to follow, for it will set the dangerous precedent that labor can no longer afford to take the risk of bargaining in good faith with the Government.

The plan that was recommended by the distinguished chairman of the Energy and Commerce Committee and by the able and hard-working chairman of the Transportation Subcommittee would have maintained the fiscal integrity of the retirement system. Their proposal, requiring sacrifices by both rail labor and management was a fair one. It had the support of workers and management alike. The Democratic plan dealt squarely with the important issues facing the retirement plan—it did not, like the Gramm-Latta substitute, ignore them. As a matter of conscience, fairness and equity we should have acted to safeguard what labor and management have strived so hard for: a retirement plan that is fiscally sound and secure.

The Gramm-Latta substitute failed in another material respect, it provided for no funding for Amtrak. There is not a Member of Congress who is completely satisfied with the quality of service that Amtrak provides its patrons. Yet, there are few Members who would not acknowledge that Amtrak is a vital component of our Nation's transportation system and, therefore, deserves to be maintained. Under the leadership of our chairman, Mr. FLORIO of New Jersey, those of us privileged to serve on the Transportation Subcommittee of Energy and Commerce Committee have worked long and hard to transform Amtrak into the efficient and reliable service provider that the taxpayers of America deserve and expect. Thus far, we have not been completely successful, but we have made progress. To have deprived both Congress and Amtrak of the ability to plan beyond a year seriously jeopardized maintenance of even current service, imperfect as it is. In reality, this means that train stations across the Nation will be forced to close and millions of our constituents will be unable to find an alternative to costly and often inaccessable air travel. In addition, the rail retirement system will be even further burdened by the forced early retirement of men and women who are ready and able to do a day's work for a day's pay.

Again, the Democratic alternative contained in the Budget Committee proposal proposed a workable solution by funding Amtrak for fully 3 years and allowing us to continue improving this vital transportation system.

For the foregoing reasons I urged rejection of the Gramm-Latta substitute and passage of the Budget Committee plan.

Mr. Chairman, the process by which this reconciliation process has been brought before the House and debated is a travesty of legislative government. This is the stuff of tyranny.

No one imputes tyranical ambitions to the administration nor to those Members of this body who have been responsible for the Gramm-Latta package; but what we have seen here today is tantamount to the reduction of Congress to the status of a ceremonial body.

This budget document, covering every Federal program, employee and agency was delivered to us just a few hours ago. No one—not even its authors, can tell us in detail what it contains, let alone explain its implications.

This package would dismantle 49 years of compassionate, responsive Government—not carefully, deliberately and brick by brick—but recklessly, precipitously, and with the subtlety and deliberative precision of a bulldozer.

This is a fundamental revision of the course of American Government that has been assembled literally overnight by unelected bureaucrat actors performing on an unseen stage.

The greatest legislative body on Earth, the Congress of the United States, owes more to itself and to the people it represents, than what has been done on this floor today.●

GENERAL LEAVE

Mr. JONES of Oklahoma. Mr. Chairman, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Gramm-Latta substitute.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

AUTHORIZING CLERK TO CORRECT PUNCTUATION MARKS, CROSS-REFERENCES AND SECTION NUMBERS IN THE ENGROSSMENT OF THE BILL, H.R. 3982

Mr. JONES of Oklahoma. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill the Clerk of the House be authorized to correct punctuation marks, cross-references and section numbers.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. MICHEL. asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, I would appreciate the majority whip responding as to the program for the balance of the week, if there is any, and for what we do when we come back.

Mr. FOLEY. Will the distinguished minority leader yield?

Mr. MICHEL. I understand the gentleman's reference. I am happy to yield.

Mr. FOLEY. We have no further plans for this evening in the Chamber.

It will be my intention to ask unanimous consent a little bit later that when the House adjourns to July 8, the Speaker be given certain authorizations, but we expect to be in adjournment until the 8th of July, Wednesday.

There will be no business on July 6 or 7 or, of course, any of next week.

On Wednesday, the 8th of July, the House will meet at noon, and it will meet at 10 a.m. on Thursday and Friday.

On Wednesday there will be further consideration of the bill, H.R. 3519, the Department of Defense authorizations, to complete consideration. There is, I believe, about 4½ hours of general debate left on that bill. It is my understanding that the likelihood is that that will not be completely taken, and the Members should expect the possibility of votes on Wednesday on the DOD authorizations.

Also, H.R. 3380, to increase the pay and allowances of members of the Armed Forces, an open rule, 2 hours of debate. We have already adopted the rule.

The House will adjourn by 3 p.m. on Friday, and by 5:30 p.m. on all other days except Wednesday and, of course, conference reports may be brought up at any time.

Subject to other possible changes in the program, that is what we expect for the week.

Mr. MICHEL. Might I inquire, if the gentleman has any intelligence, as to when the conferees might be appointed on the reconciliation matter that has just been disposed of?

Mr. FOLEY. I am not aware that we have yet a conference request; so I am not really able to answer the gentleman. I assume that when the appropriate motions would be in order, the Speaker would——

The SPEAKER. The Chair will respond to the gentleman that in view of the fact that our resolution today had taxes in it, it must go to the Senate, be acted upon by the Senate, and sent back here, or a request from the Senate at that time for conferees. No conferees may be appointed until there is action by the Senate on the matter.

Mr. MICHEL. I thank the Speaker.

And if I might take the liberty, Mr. Speaker, of proceeding for 1 additional minute, may I simply thank the Speaker for his indulgence and, while tempers tend to get frayed and there may be matters of passion and close votes, when all is said and done, to have it end on a cordial note, not only on the part of the Speaker, but on the part of many others in this House, makes one feel all the more proud to be a Member of this great institution. I hope everyone has a good fourth of July.

□ 2015

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, JULY 8, 1981

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday, July 8, 1981.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

AUTHORIZING THE SPEAKER TO ACCEPT RESIGNATIONS, AND TO APPOINT COMMISSIONS, BOARDS, AND COMMITTEES, NOTWITHSTANDING ADJOURNMENT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that notwithstanding any adjournment of the House until Wednesday, July 8, 1981, the Speaker be authorized to accept resignations, and to appoint commissions, boards, and committees authorized by law or by the House.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

GENERAL LEAVE

Mr. SKELTON. Mr. Speaker, I ask unanimous consent that all Members be permitted to extend their remarks and to include therein extraneous material on the subject of the special order speech today by the gentleman from Nevada (Mr. SANTINI).

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

CONGRESSMAN SKELTON ADDRESSES MISSOURI VFW CONVENTION

The SPEAKER. Under a previous order of the House, the gentleman from Florida (Mr. HUTTO) is recognized for 30 minutes.

● Mr. HUTTO. Mr. Speaker, recently our colleague, the Honorable IKE SKELTON of Missouri, spoke at the Missouri Veterans of Foreign Wars convention in Jefferson City, Mo. It was an outstanding speech concerning the critical state of our Nation's air defense, and also contained a moving segment concerning our need to pass on to succeeding generations our great heritage.

I would like to share Congressman SKELTON's speech with the Nation and submit it herewith for reprinting in the CONGRESSIONAL RECORD.

ADDRESS OF CONGRESSMAN IKE SKELTON

Today, I wish to speak with you about two problems that pose threats to our Nation. One problem is an external one; the second is an internal one.

The first problem that poses a threat to our country is our lack of air defense; that is, our inability to effectively warn against and defend against an enemy bomber attack. During the past several years, our capability to defend the airspace of the continental United States against a Soviet bomber attack has been significantly and unilaterally reduced.

Our air defenses began to weaken during the mid-1960's when the Pentagon decided that we should concentrate less on a philosophy of defense and more on a philosophy of offensive weapons. Offensive weapons alone . . . it was thought . . . would deter an attack against the United States. Defense positions . . . it was also thought . . . would weaken deterrence. Thus, the so-called doctrine of "mutual assured destruction" was born. Consequently . . . air defense, antiballistic missiles, civil defense and other aspects of a once strong strategic defense began a slow death.

History and geography have been kind to America. The two major wars of this century have been fought far from our shores. Our own homeland was isolated from these conflicts and was invulnerable to attack. For this reason, we haven't fully understood the need for defense.

The history of another island power may help us to understand our own situation a little better. In the 1930's the British were terrified of the prospect of a strategic air war with Germany. Like us Americans in more recent times, the British resisted the idea of relying on a strategy of air defense unless that defense could be made air tight. They wanted the kind of hermetic defense that Britain's naval supremacy had provided in the days before the rise of air power. Since air defense would always be imperfect,

the British sought their perfect security in the "balance of terror", accepting the perversely comforting belief that "the bomber will always get through," the British built a large bomber force they thought would deter German air attacks. They did not build fighters to defend against German bombers.

This British peacetime mentality dissolved in 1938 and 1939 as the likelihood of war increased. Eyeball to eyeball with a tangible threat of war, the British began to feel that reliance on bombers to deter the Germans was a dangerous game. Under the impact of this cold slap of reality, the British began to emphasize fighters rather than bombers. They worked hard to develop radar, which was the key ingredient of an effective air defense, and they began to prepare in earnest for civil defense.

Fortunately, the basic elements of an air defense system were in place by the summer of 1940, and the British were able to win the air battle that followed the fall of France with the Spitfires and Hurricane fighters they had built. Many German bombers did get through, but defense, imperfect as it was, proved to be a more reliable guarantor of security than did the "balance of terror", their bomber force.

In the 1960's our American air defense had 2,600 interceptor fighter planes. Today we have about 275 and these are dangerously outdated. In the 1960's we had a radar system against a bomber attack that was extremely difficult to penetrate. Today it is so filled with holes that even drug smugglers flying unsophisticated aircraft are constantly sneaking through. In the 1960's air defense had more than 1,000 surface to air (SAM) missiles as an added defense against a bomber attack. Today we have none.

Contrary to the popular belief of the 1960's and 1970's . . . the threat of a Soviet bomber attack against the United States is quite real and is potentially devastating. Today, as we stand here we are not ready to deal with such an attack on the United States by the new Soviet supersonic Backfire bomber.

There are three basic requirements for the air defense of the United States: (1) Air defense surveillance systems must provide sufficient tactical warning of an enemy attack to enable the President to communicate with our military forces and the weapons systems so survival measures can be taken; (2) our air defense forces must be able to engage the enemy and limit the damage from air attack; (3) finally, our air defense should be able to monitor U.S. airspace and take action against potentially hostileintruders.

I would like to read to you the Air Force's report on our ability to meet these three basic requirements;

"Because of major gaps in our air defense radar systems, existing North American radars cannot assure sufficient tactical warning to enable the President of the United States, . . . His communications systems and our B-52 bombers to take necessary survival measures before enemy bombers and/or cruise missiles could hit us. Furthermore, even if we had the warning, the current fighter force would not be able to successfully engage the enemy bombers because the bulk of our fighters lack a look-down, shoot down capability. In light of these critical shortcomings, the Soviet Union has the potential to carry out an essentially 'no warning' air attack against key installations."

A bomber attack against the U.S. could extensively damage our wartime command and control and our own B-52 bomber bases causing such national disarray that we would be vulnerable to an immediate missile attack.

On the other hand, the picture is not all bad because there are improvements planned for our air defense radar systems.

The 1982 Federal budget contains funding for an effective over-the-horizon backscatter (OTH-B) radar for coverage of northeast and northwest coastal approaches to North America. The northeast system should be ready for operation by the mid-1980's. The northwest system should be operational a few years later. The 1982 budget also has some funds for research into using the over-the-horizon backscatter for the northern approaches, the shortest and most likely route for Soviet bomber attack. Right now, we don't know if it can be used to guard against an attack from across the North Pole . . . so . . . in the event the OTH-B cannot be used as a northern radar system, we plan to upgrade our current and rapidly deteriorating distant early warning or DEW line. This DEW line is the radar system used to guard against a bomber attack. The DEW line radar system drapes across the Arctic wastelands from the Aleutians, across Canada, to the Atlantic and it was designed to be a trip wire against incoming enemy bombers. However, it is a 1950's system, based on 1950's technology. As I mentioned a moment ago, this radar system is presently filled with gaps and can be penetrated.

As you can see, there is a major problem even with the upcoming improvements in our air defense radar systems. What happens before over-the-horizon-backscatter is operational and before the DEW line is improved? The answer is not encouraging. We will remain vulnerable to enemy bombers until the mid and late 1980's.

Now let us look at an equally important and, yes, equally outdated part.

With the bulk of the air defense fighter force like our DEW line radar more than 20 years old and only marginally effective against current threats, modernization of these fighter aircraft is one of our most pressing needs.

The present assigned fighter force is comprised of F-106's, F-101's and F-4's. They represent 1950's technology in radar, weaponry and performance. These aircraft have limited search volume and range and do not have a look-down, shoot-down capability necessary to engage advanced bombers such as the Backfire. Furthermore, the F-106's, the bulk of the fighter force, are becoming increasingly difficult and costly to maintain. Advanced fighter aircraft, such as our F-15, must be procured and dedicated to the air defense mission in order to provide a credible defense against air attacks and to discourage the Soviets from embarking on a substantial expansion of its long-range bomber force, because to do so would be useless against a strong American F-15 force. At this moment, there are only two F-15's assigned to the air defense of continental United States.

In recent years, we have been blinded by the illusion that all enemy destructive forces will be coming in by intercontinental ballistic missiles. This thinking brought about basic changes in our national policy in the mid 1960's. This illusion caused us to scale down our defense against possible enemy bomber attack. This illusion, if it continues, could invite undreamed of destruction.

The current arms race is geared toward weaponry. In addition to the purchase of new weapons, I propose that the United States begin a national defense system aimed at protection. A proper strategic defense, which includes air defense, is what we need and what we must have. Such an upgraded strategic defense would stabilize the protection of our Nation. It would make it too costly for another country to inflict substantial damage. Thus, a policy of strategic defense would reinforce our policy of deterrence.

Our current defense strategy is designed for a two power world with the concentration on destruction. Such a strategy is useless in a world where more nations than the U.S. and the U.S.S.R. have nuclear weapons and bombers, in a world that acknowledges more that two nuclear powers, the new strategy must stress protection or defense just as much as it stresses offensive destruction.

Today I am pleased to announce that the chairman of the House Armed Services Committee has agreed to my recent request to hold full-committee hearings on the issue of the need for a stronger national air defense system. After the full committee holds its hearing, the Investigations Subcommittee of the Armed Services Committee will follow up with more detailed hearings.

These hearings are a major step in bringing the crucial issue of air defense to the attention of Members of Congress and the entire Nation. My hope is that these hearings will be the first step in assuring that America becomes secure from the threat of enemy air attack.

The second problem that poses a threat to our Nation is an internal one, that is, one within our own country. It is the widespread lack of appreciation for our American heritage.

Several days ago, my oldest son and I were shopping in the Washington, D.C. area, and we made a purchase in a store and I paid for it by check. When I wrote the check out and filled in the date, June 6, I asked the teenage salesgirl, who was waiting on us, if she knew what made the date June the 6th important. She said that she didn't know.

I told her it was the anniversary of D-Day, when the Americans crossed the English Channel and landed on the Normandy beachhead in France during World War II. She said that she had never heard of it, but that her father probably had, as he had been in World War II.

Unlike that salesgirl's father, my father made sure that his three sons learned about important events that affected the course of American history. I well recall, when I was 9 years of age, accompanying my father, who was a noted speaker of his day, to the Odessa High School, where he was invited to give an Armistice Day speech. The date was November 11, 1941.

For that occasion, my father, a veteran of World War I, had memorized the poem that came out of that war, the poem known as "Flanders Fields." He told the Odessa High School students how one American generation passes the torch of our heritage to succeeding generations. I also recall him saying on that occasion that it might be necessary for some of the young men in that audience to someday fight for their country. How prophetic he was. Less than a month later, the attack on Pearl Harbor occurred, and America was engulfed in the life or death struggle for national survival. During that war, the fields of Flanders again took their toll of American soldiers to whom the torch had been passed from the preceding generation.

Recently, I accompanied my youngest son and his boy scout troop to Gettysburg, Pennsylvania, where we toured the scene of that decisive battle of early July 1863, where General Robert E. Lee and his Confederates engaged General Meade and his Federal troops. We walked among the battlefield monuments that stand as reminders of the determined courage of the men from the North and the South who fought and died for their respective causes. The scoutmaster graphically told the Scouts the details of that historic contest. The climax of the battle is known to history as "Pickett's Charge"—a massive assault by 15,000 Confederate troops across a half mile of open field against the breastworks of the Union ranks. This final attack, which was repulsed, was to be the high tide of the Confederacy. It was remarkable for the courage, daring, and heroism of soldiers from both armies. At the end of our lengthy walk through the battlefield, we stood near the monument to General Lee and read a historic marker denoting Pickett's Charge. One young boy, seeing the marker, sarcastically remarked: "Pickett's Charge, who cares about Pickett's Charge?"

The boy's words startled me, for I realized that his standing on the field of one of the greatest and bloodiest battles of our history meant no more to him than standing on a street corner waiting for a schoolbus. Maybe it was too much to ask that a 12-year-old have respect or admiration—for men who had bravely fought there and had given their last full measure of devotion over a century before.

President Abraham Lincoln gave a speech on that battlefield in November of 1863, remembered as his historical "Gettysburg Address." He said on that occasion: "The world will little note, nor long remember, what we say here, but can never forget what they did here." Was Lincoln wrong? Have we as a people forgotten those deeds that occurred on that field of battle? Will the glory and heroism of one age always become dim memories to a later generation?

A little over 2 years ago, I was a member of a congressional delegation that traveled to Vietnam to bring back to the United States the bodies of 14 American fliers who were killed in the Vietnam war. On the way over, we stoped for a few hours in Manila, in the Philippines. I asked to go to the Island of Corregidor, in Manila Bay, as I had a Marine friend from my hometown, Raymond Howard, who had been captured there by the Japanese in early 1942. The Air Force accommodated me, and I was flown by helicopter to that island fortress. There, I witnessed the grim reminders of that terrible siege—the tunnel that housed our wounded, the bullet-caused pockmarks of the concrete fortifications, and the skeletal remains of U.S. Army barracks. I also saw the flagpole where the Japanese troops had raised their swords in banzai shouts as the Stars and Stripes came down. There on Corregidor, I walked along the paths where bravery, heroism, and courage were commonplace during those bleak days in American history. I recalled that as a 10-year-old boy in Missouri, I had been glued to the radio, listening, day after day, to the reports of the Americans who held Corregidor against bombardment. The gallant defenders were finally forced to surrender to overwhelming odds in May of 1942 after 5 terrible months defending that island.

Soon after my return to this country from the Vietnam trip, I had occasion to speak to a high school history class, in Missouri, and recounted my recent trip to them. I mentioned my visit to Corregidor, and I asked the class what they knew of that small island. None had ever heard of the name "Corregidor". None in the classroom had any idea of the scores of soldiers and marines who defended the American flag during those painful days in 1942. I was saddened.

Writing in a religious context, St. Paul of old declared to the Corinthians "we are bought with a price." In a different context, those words apply to us Americans: We, too, have been bought with a great price. The liberties we enjoy, the freedoms, and the prosperity have been bought and paid for by the courage, daring, and faith of the men and women who in every generation have answered their country's call—not only the call to arms, but the call to build and create—the call to develop character and moral ideas in the family and home, in church and school, in office and factory, wherever our people lead their daily lives.

We live under a constitution that has been a shield of our freedoms since its inception. There would be no constitution, not even a United States, had George Washington and his men not withstood the bitter winter encampment at Valley Forge. Would anyone dare say, "who cares about Valley Forge?" We could call the record of American history from our revolutionary days at Bunker Hill to the swamps in the Mekong Delta and recount the story of our country: Acts of devotion and heroism mark every generation. Pursuit of freedom and justice has taken our flag to the far corners of the world—San Juan Hill, Chateau Thierry, Anzio, Inchon, Da Nang. Each generation has been taught by the preceding generation of our continuing duties to defending our freedom and our American interests. But I am concerned that these duties and responsibilities are not being transmitted to the younger generation of today. I saw this in the unknowing face of the sales girl who had never heard of D-Day or Normandy. I heard it in the words of that 12-year-old boy who remarked "who cares about Pickett's Charge?" I felt it in the History classroom when I spoke of the Island of Corregidor.

Each generation must be reminded of our great American past and of the sacrifices that so many have offered in order that we may enjoy the freedoms that seem to be taken for granted. On America's east coast, there is a statue known as the Statue of Liberty which reminds us of our rights and freedoms as Americans. It might be well for us to erect a statue on the West Coast to remind us of our duties and responsibilities as Americans. It would stand as a reminder that each generation needs to pass the torch of vigilance on to the succeeding generation.

The heritage which you and I have received is one that has made our country not only the grandest civilization known to history, but our heritage has also made this country the last, best hope of mankind. The American heritage of which I speak is not just facts, figures, and dates, it is a deeply rooted sense of loyalty to all that has gone before—the challenges, the dedication, the victories, the stoutheartedness of the past.

"Who cares about Pickett's Charge?"

"Who cares about Corregidor?"

"Who cares about D-Day?"

God grant that you and I care, and that our children care, and that our children's children will care, for, if we as a people fail to pass the torch of our great American heritage on to those who follow us, the day could come when some youngster might remark: "America, who cares about America?"

Were my father living today and were he addressing this convention and this great organization to which he belonged, he might have said some of the things that I have said, but much more eloquently. Without a doubt, though, he would have concluded his address to you, as I now do, with these verses:

IN FLANDERS FIELDS

In Flanders Fields the poppies blow
Between the crosses, row on row,
That mark our place; and in the sky
The larks, still bravely singing, fly
Scarce heard amid the guns below.

We are the dead. Short days ago
We lived, felt dawn, saw sunset glow,
Loved and were loved, and now we lie,
In Flanders Fields.

Take up our quarrel with the foe:
To you from failing hands we throw
The torch; be yours to hold it high.
If ye break faith with us who die
We shall not sleep, though poppies grow
In Flanders Fields.●

NATIONAL TAXPAYERS UNION ESTIMATE OF TOTAL LIABILITY OF FEDERAL GOVERNMENT

The SPEAKER. Under a previous order of the House, the gentleman from Texas (Mr. COLLINS) is recognized for 10 minutes.

● Mr. COLLINS of Texas. Mr. Speaker, as Congress works on the budget, more and more people in America are calling on us to build a fiscally sound financial policy.

One of the most articulate citizens groups that is concerned with lower taxes and a greater standard of living for Americans is the National Taxpayers Union. This firm presents many figures which are startling and emphasize the need for a balanced budget.

The National Taxpayers Union states that it takes $119,821 a minute to pay the interest on the national debt.

The National Taxpayers Union is in strong support of constitutional amendments which would lead to a balancing of the budget. I agree with the National Taxpayers Union that there must be a constitutional amendment that would mandate for each session of Congress that we would have a balanced budget.

Let us look at the National Taxpayers Union estimate of the total liability of the Federal Government. You cannot visualize how big a trillion is, but these figures show $11 trillion.

Debt or liability item	Gross cost (millions)	Your share
Public debt	$971,000	$12,137
Accounts payable	129,000	1,612
Undelivered orders	452,000	5,650
Long-term contracts	20,000	250
Loan and credit guarantees	321,000	4,012
Insurance Commitments	2,219,000	27,737
Annuity programs	6,900,000	86,250

Debt or liability item	Gross cost (millions)	Your share
Unadjudicated claims, international commitments and other financial obligations	46,000	575
Total	11,058,000	138,223

SOVIET PENTECOSTALS IN U.S. EMBASSY

The SPEAKER. Under a previous order of the House, the gentleman from Massachusetts (Mr. FRANK) is recognized for 5 minutes.

● Mr. FRANK. Mr. Speaker, tomorrow marks the third year that seven Soviet Pentecostals have lived inside the U.S. Embassy in Moscow. Today, I am pleased to announce that 95 Members of the House have joined me in cosponsoring House Concurrent Resolution 100 expressing the sense of Congress regarding the Pentecostals' right to practice their faith and to emigrate if they choose.

Mr. Speaker, the struggle of these brave individuals for religious freedom has forced them to seek to emigrate from the Soviet Union. Since long before they first entered our Embassy in Moscow on June 27, 1978, they have waited patiently for a visa to leave the Soviet Union.

Three years ago, Peter and Augustina Vashchenko with four of their children: Lidia, Lyubov, Lilia, and John; and Maria Chmykhalov with her son, Timothy, went to our Embassy to seek assistance in securing exit visas from the U.S.S.R. and to inquire about immigrating to the United States. They had traveled 2,000 miles from their home in Chernogorsk, Siberia, to seek U.S. advice. When they reached the Embassy with the appropriate passes, the Soviet guards posted outside the gates tried to stop them from entering. John was detained by KGB officers and forced to return to Chernogorsk. The seven remaining members of the party had no prior intention of remaining in the Embassy, but because of what happened to John and because of the long history of imprisonment and harassment they had endured, they felt it would be best to request that they not be forced to leave.

Since that time, the Pentecostals have resided in a 12-by-20-foot room in the basement of the U.S. Embassy. The conditions of their accommodations are far from desirable. Two twin beds line either side of the room where the seven take turns sleeping.

I believe the unusual circumstances of the Pentecostals' entry into the Embassy, the rudimentary environment they must endure, and the fear they have for their safety if they leave require the Congress to speak out on their behalf.

House Concurrent Resolution 100 calls on the President to raise the case of the seven Pentecostals and their families with the Soviet Union, it expresses the sense of Congress that the Pentecostals should be allowed to remain inside the Embassy in comfort until they obtain an exit visa or wish voluntarily to leave, and it asks that the U.S. Embassy staff in Moscow extend every courtesy to the Pentecostals during their stay in the Embassy.

House Concurrent Resolution 100 is a responsible step for the Congress to take in response to the Soviet Union's intolerance for religious observance and their restrictive emigration policies.

The resolution and the cosponsors follow:

Concurrent resolution expressing the sense of the Congress with respect to the situation of two Russian families who have sought refuge in the United States Embassy in Moscow because of the suppression of their Pentecostal faith by the Government of the Soviet Union

Whereas since 1962, thirteen members of the Vashchenko family and eleven members of the Chmykhalov family have been denied permission to emigrate from the Soviet Union;

Whereas the Soviet Union has consistently denied the right of such individuals to practice their Pentecostal faith;

Whereas the Soviet Union has subjected such individuals to physical and psychological harassment, including imprisonment, beatings, confinement in mental institutions, and separation of family members;

Whereas such actions violate the commitments to freedom of thought, conscience, religion, and emigration made by the Soviet Union through its adoption of, or participation as a signatory to, the United Nations International Covenant on Civil and Political Rights, the Final Act of the Conference on Security and Cooperation in Europe, the Charter of the United Nations, the Universal Declaration of Human Rights, and the Constitution of the Union of Soviet Socialist Republics; and

Whereas on June 27, 1978, Maria and Timofei Chmykhalov, and Lilia, Peter, Liubov, Lidia, and Augustina Vashchenko sought refuge in the United States Embassy in Moscow, in the Soviet Union, because of the suppression of their religious beliefs by the Soviet Union, and have lived in the Embassy since such time: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the President of the United States should—

(1) express to the Government of the Soviet Union the deep concern of the United States with respect to the deprivation by such Government of the religious freedom of the members of the Vashchenko and Chmykhalov families, and the refusal of such Government to permit the emigration of the members of such families;

(2) take such actions as may be necessary to ensure that Maria and Timofei Chmykhalov, and Lilia, Peter, Liubov, Lidia, and Augustina Vashchenko will be permitted to reside in the United States Embassy in Moscow, in the Soviet Union, until such time as the Government of the Soviet Union authorizes their emigration; and

(3) take such actions as may be necessary to ensure that Maria and Timofei Chmykhalov, and Lilia, Peter, Liubov, Lidia, and Augustina Vashchenko will be provided every possible assistance and courtesy during their residence in the United States Embassy in Moscow.

COSPONSORS

Mr. Bedell, Mr. Leach, Mr. Porter, Mr. Patterson, Mr. Zeferetti, Mr. Lehman, Mr. Courter, Ms. Oakar, Mr. Schumer, Mr. Philip Crane.

Mr. Wirth, Mr. Matsui, Mr. Bonker, Mr. Dixon, Mr. Lowery of California, Mr. Dickinson, Mr. Kildee, Mrs. Fenwick, Mr. Ertel, Mr. Fascell.

Mr. Harkin, Mr. Smith of Alabama, Mr. Florio, Mr. Brodhead, Mr. Rodino, Mr. Archer, Mr. Roemer, Mr. Richmond, Mr. Wyden.

Mr. Shamansky, Mr. Jones of Oklahoma, Mr. Winn, Mr. Dannemeyer, Mr. Weber of Minnesota, Mr. Yates, Mr. Gejdenson, Mr. Addabbo, Mr. Kemp, Mr. Downey.

Mr. Wortley, Mr. Albosta, Mr. Blanchard, Mr. Foglietta, Mr. Pickle, Mr. Dwyer, Mr. Rosenthal, Mr. Lagomarsino, Mr. Weiss, Mr. Edwards of California.

Mr. LeBoutillier, Mr. Ritter, Mr. Ottinger, Mr. Whitehurst, Mr. Pepper, Mr. Scheuer, Mr. Lent, Mr. Barnes, Mr. Lungren, Mrs. Holt.

Mr. Ford of Michigan, Mr. Fauntroy, Mr. Frenzel, Mr. AuCoin, Mr. Glickman, Mr. Gephardt, Mr. Waxman, Mr. Moakley, Mr. McKinney, Mr. Frost, Mr. Neal.

Mr. Lantos, Mr. Ford of Tennessee, Mrs. Schroeder, Mr. Rangel, Mr. Mineta, Mr. Flippo, Mr. Wolpe, Mr. McGrath, Mr. Conyers, Mr. Atkinson, Mr. Lowry of Washington.

Mrs. Heckler, Mr. Horton, Mr. Shelby, Mr. Young of Missouri, Mr. Solarz, Mr. LaFalce, Mr. Simon, Mr. Corrada, Mr. Gilman, Mr. Mavroules, Mr. Phillip Burton, Mr. Green, Mr. Hertel.●

VIETNAM VETERANS OUTREACH PROGRAM

The SPEAKER. Under a previous order of the House, the gentleman from South Dakota (Mr. DASCHLE) is recognized for 5 minutes.

● Mr. DASCHLE. Mr. Speaker, one of the major concerns the Committee on Veterans' Affairs has had during this session of Congress is the future of the VA's psychological readjustment counseling program for Vietnam veterans. Both the Carter and Reagan budgets submitted for fiscal year 1982 would not have funded this most effective and essential program. The House passed H.R. 3499 on June 2, 1981, which included a provision to extend this program for an additional 3 years. The Senate also passed a 3-year extension on Tuesday, June 16. With passage of the first concurrent budget resolution, the funding of the program for fiscal year 1982 now seems to be resolved.

The Subcommittee on Hospitals and Health Care recently held two oversight hearings on this subject. One was on June 1, 1981, in Sioux Falls, S. Dak., and the second on June 15, 1981, in Atlanta, Ga.

Mr. Speaker, at the Atlanta hearing we heard four witnesses testify on their experiences with this program. Their testimony was eloquent, and I

wish everyone in the House and the Senate could have heard, as I did, how this program has reached into their lives. At least two stated it was life saving, as they would have taken their own lives had it not been for the compassionate reception they received at the local vet center. Over the next several days, I would like to insert the testimony of these four individuals in order that as many Members as possible can be aware of the effectiveness of these vet centers and the great work they do in caring for Vietnam veterans who may be suffering from delayed stress disorder.

The first statement was made by Mrs. Donna W. Stamey, the wife of a Vietnam combat veteran. If you take the time to read her statement, I believe each of you will be as impressed as I was.

The statement follows:

STATEMENT OF DONNA W. STAMEY

Mr. Chairman and members of the Committee, I am honored to be here to speak on this issue which is so important to me both personally and as a tax paying citizen of this country. I will leave the over-all statistics concerning Vietnam Veteran's Post Traumatic Stress and unemployment, divorce and suicide rates to my more knowledgeable panelists and speak to you today only of my own experiences and opinions.

I am the wife of a Vietnam Combat Veteran. We are approaching our ninth anniversary and have one son. I met my husband in college six months after he returned from Vietnam and just a few weeks after he left his first wife with whom he had one son.

When we met, Alan was socially active and unusually warm and kind. He was full of optimistic, adventurous ideas about his future. He seemed to be incorporating his feeling about his Vietnam experience into his new civilian life rather well.

Our first year and a half together was the happiest time in either of our lives. Then almost over-night the picture started changing. We had some financial problems with a baby on the way—a stressful situtation for anyone. But Alan's reaction was far from normal. He began threatening divorce. He totally quit seeing his first son, unable to deal with conflicts with his first wife. He constantly complained about his job and he could never find a career he could tolerate. He went through periods of sleeping ten or twelve hours a day. Sometimes he called out in his sleep and I knew he was in Vietnam. We talked very little and when I encouraged him to confide in me about what was happening to him he reacted with anger and sometimes violence. He blamed me for every problem in his life. Sometimes I feared he was becoming suicidal. I tried to understand, to encourage and be supportive and help him snap out of it. But the harder I tried to get to the root of the problem the more deeply he withdrew. His moods shifted like the wind. One day he loved me—the next day he hated me. It was impossible to be prepared for all the changes. Tension saturated both of us most of the time. I felt I had to censor everything I said to him. Anything could set off an explosion. I could often even see tension in our son when it approached time for Alan to come home from work.

My reactions to all this were sometimes far from what they should have been. I became so insecure, depressed and lonely that my trying to be supportive of him was like the blind leading the blind.

After nearly six years of hurting each other, in September of 1979 we ended up in divorce court and a vicious custody battle. By some miracle, two months later we ended up under the same roof again, but with the divorce battle still fresh on our minds our marriage was worse than ever. I knew that if we were to ever salvage the marriage we were going to need a lot of help!

By this time I had heard about Post Traumatic Stress and it didn't take a genius to realize that that was at the heart of our problems. I began calling every social service agency I could find in the phone book or otherwise be referred to for counseling. The VA offered nothing in the way of family counseling, and that was what we needed most. Other social service programs were totally unequipped to deal with Delayed Stress and the least expensive ones charged $35 per hour. That was out of the question! Finally someone referred me to Dave Lewis, who was to work with the Vietnam Veteran's Outreach Program in Atlanta.

Soon after the Vet Center opened we began going to group counseling sessions for Vets and their wives. We found these to be an invaluable help. After feeling so lonely, confused and frustrated for so many years, being in a group of couples who understood was a real confort. We came from different races, income levels and educational backgrounds but we all had very similar problems. Quite often a member of the group would start talking about a stressful situation at home, other members would respond and in ten minutes the chain reaction of comments had taken us right to the battlefields of Vietnam. After seeing this happen a few times we began to understand something about what was happening in our family relationships.

For Alan, these sessions slowly de-fused the time bomb that had been building up pressure within him for almost nine years. I could see the changes in him from the first meeting. Gradually, he could see reasons for the crippling depression and tension he once thought was unique to him. And for the first time in years he could see an end to the pain.

For me, the group provided the emotional support I needed and a clearer understanding of the problems in our lives. All my feelings of resentment for all those unhappy years were replaced with feelings of sympathy and respect. Finally I understood what Alan meant years ago when he said he was more frightened on the plane coming home than he was flying to Vietnam.

The Vietnam Veteran's Outreach Program is, in my opinion, a shining success. In three months time it helped us turn our lives around and continues to be supportive to us today. It is, I think, the first and only thing this government has done for the Vietnam Vet that he can appreciate.

Many depressed, confused Vets are still unwilling to admit that Post Traumatic Stress is at the root of their problems. Many others are still sceptical of any program funded by the government that has turned its back on them so badly in the past. For every "Alan Stamey" that Outreach Programs have helped, there are still probably 10 more who desperately need its services. They need to know that there is a place to go where someone understands the unique problems of the Vietnam Era Vet. The Outreach Program's success is slowly gaining their trust. To close the doors of the Vet Centers now would be closing the doors on a chance for these men to put the pieces of their lives back together. There is no other place for the Vietnam Vet and his family to go where they can receive the kind of help and understanding the Outreach Program provides.

This country was so very generous to the men who ran off to Canada or hid underground. Don't the men who trusted their government, obeyed its laws and fought its war deserve as much? All they ask is the opportunity to put Vietnam behind them and really come home to us. We owe it to them to leave Vet Centers open and give them that chance!

Thank you for listening.●

FORTIETH ANNIVERSARY OF UKRAINIAN INDEPENDENCE

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. MCHUGH), is recognized for 5 minutes.

● Mr. McHUGH. Mr. Speaker, the American people cherish the concepts of freedom and independence which laid the foundation for the United States of America in the 18th century and which have retained their significance to the present day.

Throughout the centuries these concepts have symbolized the beacon of hope for numerous peoples from faraway shores who made their way to the United States traversing foreign lands and waters and overcoming innumerable obstacles.

Our heartfelt understanding of freedom and independence has transcended our own good fortune and has instilled within us a warm sympathy for the aspirations of other peoples and other nations throughout the world.

On January 22, 1918, after centuries of occupation, the Ukrainian people manifested to the world their quest for freedom by instituting a free and independent Ukrainian state, yet independence and sovereignty were short lived in the Ukraine, as it fell victim to the imperialistic onslaught of foreign cohorts, Russian bolsheviks and others.

However, the struggle of the Ukrainian people could not be quashed by these aggressive forces. This struggle for freedom and independence retained its vigor throughout the 1920's and 1930's, climaxing in the renewal of Ukrainian independence by proclamation on June 30, 1941, a proclamation which denounced both Soviet and Nazi enemies.

This year marks the 40th anniversary of the act of June 30, 1941, which renewed Ukrainian independence for all too short lived a time. But that act has become the symbol of a continuous fervent struggle by the freedom-loving Ukrainian people which has persevered to this day.

The Ukrainian people look to the American people for assistance and moral support in this struggle.

It is therefore appropriate that we Americans, the descendants of the Founding Fathers and the recipients of their accomplished quest for freedom and independence, manifest to the Ukrainian people that the American people share with them their aspirations for the recovery of their own freedom and independence. Being free, let us not be indifferent to the cause of freedom elsewhere.

It is therefore appropriate, Mr. Speaker, that as we prepare to celebrate the anniversary of American independence on July 4, we join in saluting the brave Ukrainian people on the June 30 anniversary of that day which continues to inspire them and call forth our common efforts in the celebration and defense of liberty.●

REGULATORS BILL

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. LAFALCE), is recognized for 15 minutes.

● Mr. LAFALCE. Mr. Speaker, I am introducing today a proposal that has been much discussed in the press, the financial community, the executive branch and Congress without ever being formally unveiled. I refer to the bill, dubbed the regulators bill, that Paul Volcker, Chairman of the Federal Reserve Board, was pursuing until recently to give the Federal bank regulatory agencies new emergency powers to deal with failing depository institutions.

My purpose in formally introducing the legislation is to give all interested parties a bill with a number to which they can refer. At the minimum, it provides a reference point for discussions. At the maximum, it provides a measure that Congress can start shaping whenever the need arises to deal with the problem of failing banking institutions.

I applaud the Federal bank regulatory agencies for drafting their bill. However, I have found several problems with the draft proposal that I feel need to be corrected before the bill is introduced. I have done that and want to take a few moments to explain my changes. My intent is to simplify the emergency acquisition portions of the bill and assure that savings banks receive the same treatment as savings and loan associations.

The original proposal did not provide for parity between savings banks and savings and loan associations in treatment by their respective bank regulatory agencies. Under current law, the Federal Savings and Loan Insurance Corporation can inject money to keep a threatened savings and loan association afloat. However, the Federal Deposit Insurance Corporation, which regulates commerical banks as well as savings banks, cannot do so unless it finds that the continued operation of the bank "is essential to provide adequate banking service to the community."

The regulators proposal would have allowed the FDIC to inject capital when "severe financial conditions * * * threaten the stability of a significant number" of banks and when the assistance probably would "substantially reduce the risk of loss" to the FDIC. My concern is that that is still a stricter test than the one applied by the FSLIC for providing financial assistance to ailing savings and loan associations. As a matter of fairness, I feel that all depository institutions should receive the same type of assistance from Federal bank regulators. I provide for that in my version of the regulators bill.

Another problem involves emergency acquisitions of threatened institutions. The original regulators bill allowed the FDIC to arrange for an out-of-State bank or bank holding company to take over a failing bank, but only if the failing bank had assets exceeding $2 billion and only if an in-State bank or bank holding company could not top the out-of-State offer. The FSLIC would also be given emergency power to arrange for a bank—even an out-of-State bank—to take over a failing savings and loan association, provided a suitable savings and loan association could not be found to acquire the failing institution. The FSLIC currently has power to arrange for a federally chartered savings and loan association to take over a failing savings and loan in another State. The regulators bill would allow for State chartered savings and loans also to engage in such "rescue" mergers across State lines. However, the FSLIC could use the new powers only after it determined that the stability of "a significant number" of savings and loans was threatened.

I have provided the bank regulatory agencies with broad powers in my version of the regulators bill to facilitate both interstate and interindustry mergers of institutions experiencing severe financial problems. The measure would require the bank regulatory agencies to follow four steps in sequential order for deciding on emergency acquisitions. The agencies would first have to determine whether a merger could be arranged between institutions of the same type within the same State. If that could not be arranged, the next step would be to determine whether a merger could be arranged between institutions of different types within the same State. If that option is unavailable, the third stage would permit a merger between institutions of the same type in different States. Once those steps were exhausted, the agencies would be allowed to authorize a merger between institutions of different types in different States. This approach provides for a straight-forward and orderly process for merging threatened institutions and maintaining the integrity of our banking system.●

HOW TO BRING INTEREST RATES DOWN

The SPEAKER. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 10 minutes.

● Mr. REUSS. Mr. Speaker, here follows my piece in the New York Times today:

How To Bring Interest Rates Down

(By Henry S. Reuss)

WASHINGTON.—There is bipartisan agreement, a national consensus, and a loud international outcry that interest rates in the United States must come down. Double-digit rates are threatening to wreck investment, small business, farmers, housing, construction, the automobile industry, financial markets and institutions, and to hurt some of our staunchest allies.

But how can we bring interest rates down? What about creating a supply of new money at a fast pace? The trouble in doing that, as we have learned at some cost, is that failure to control the money supply soon results in more inflation and even higher interest rates.

Or we could organize another Great Depression like the one from 1929 to 1940. That got the three-month Treasury bill rate down—to two one-hundredths of 1 percentage point by 1939. But the cost of such a measure—unemployment averaging 25 percent for 10 years—surely would be considered excessive, especially by those suffering the unemployment.

Are there, then, ways to bring interest rates down other than to pursue these unacceptable courses? Of course there are. Here are three approaches that Congressional Democrats have been suggesting.

1. We could curtail inflation directly, using the kind of incomes policy that Austria has used so successfully in the last few years, securing labor and management cooperation to keep wages and prices down, real incomes high, and unemployment virtually nonexistent. Lower inflation means lower interest rates. Thus the Central Bank discount rate in Austria was held at 6.75 percent in the year March 1980 to March 1981, despite two bouts of 20 percent interest rates in the United States and high, gyrating rates elsewhere in the world.

In the Democratic Party's views in the 1981 report of the Joint Economic Committee, issued March 2, we said:

"Other nations, such as [West] Germany and Austria, control inflation by coordinating wage settlements very carefully across collective bargaining units, by keeping prices under heavy international competitive pressure through a high exchange rate, and by trading high levels of public services and social security for wage restraint as part of a 'social contract' between workers and their government. These and other approaches should be evaluated to determine the role they could play as a part of a comprehensive strategy against inflation."

But the Reagan Administration is not likely to learn from the Austrian experience and to work toward an incomes policy for the United States.

2. We could encourage the banks to fight inflation by using the kind of selective credit policy that France has used under past conservative governments. Credit is thus channeled away from speculative uses and toward capital investment, permitting lower rates of interest for those purposes—energy conservation, housing, productive capital equipment, and new plant—that contribute most to noninflationary economic expansion and the well-being of the people.

Again, the Democratic Party's views took this form in the report:

"The Administration and the Federal Reserve should encourage the banking system to develop effective methods to prevent destabilizing bursts of bank-financed lending for speculative and purely financial purposes, which make less credit available to enhance productivity and thus fight inflation."

But the Reagan Administration is not likely to challenge the bankers and disappoint the speculators with an effective program of credit guidance.

3. We could bring the Federal budget under control. If Congress and the President agreed to put aside the current schemes to dispense untold billions of tax dollars to the unneedy, interest rates would come down tomorrow.

As the Democrats said in the 1981 report:

"The Administration wants a vast personal income tax cut, mostly effective in the future, and we are told that, for some reason, it must be enacted now. We favor more modest tax cuts, less oriented toward the wealthy, right now, and, for the future, we favor a long, hard look before we leap."

With a smaller budget deficit, we could have the same degree of monetary control, the same intensive battle against inflation, and a smaller Treasury demand for credit and lower interest rates. In short, with a sensible incomes policy, credit policy, and budget policy, interest rates would come down—and life could be sweeter all around.●

SPEECH BY SECRETARY OF THE ARMY JOHN O. MARSH, JR., ON THE HOLOCAUST

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. ADDABBO) is recognized for 10 minutes.

● Mr. ADDABBO. Mr. Speaker, in recent months there have been many observances worldwide commemorating the Holocaust, mankind's darkest hour. Though a time of immeasurable sadness among those who lost parents and relatives in concentration camps, or whom somehow miraculously survived, it has also been a time of great learning. It has been a time to reach back and see all too vividly how brutal man can become if allowed to do so. Hopefully through such gatherings as the one which took place in Jerusalem last week, we can somehow prevent any race or religion from ever being so brutally persecuted again.

On Sunday, May 3, 1981, in New York City in a ceremony commemorating the 38th anniversary of the Warsaw ghetto uprising, the U.S. Army was honored for its dramatic role in the liberation of many of the death camps which up to the last moment were intent on carrying out the "Final Solution." On that day, John O. Marsh, Jr., Secretary of the Army accepted the citation on behalf of the brave men of the Army who raced against time to free those still prisoners in the death camps. His remarks that day were both inspiring and enlightening and I request permission from the Chair to insert them into the RECORD today.

Secretary Marsh's remarks follow:

REMARKS BY HON. JOHN O. MARSH, JR.

I am honored to accept on behalf of the Army your citation for its role in the liberation of many of the concentration camps in World War II.

The ceremony we observe today reminds us of the close ties the United States has with the country of Israel.

Since the birth of Israel, the United States has maintained a fundamental commitment to the security of that nation. We also recognize a strong and secure Israel is very much in our own national interest and in the interest of the rest of the free world.

Our U.S. Constitution seeks to promote the general welfare and provide for the common defense. The American Army you honor today is an instrument of that Constitutional purpose. Under its Congressional mandate, it exists to safeguard American freedom and defend the Nation's interests.

On the Army flag there are 167 battle streamers. They tell the American Army's story since the first revolutionary campaign at Boston to the battles in the Delta of South Vietnam.

For more than two centuries, they represent the courage and sacrifice of the Army in our Nation's history. One of those streamers marks the victory at Yorktown which ended the Revolutionary War and whose Bicentennial I ask you to observe this October.

Yet, I realize I am speaking to a group whose faith bears the streamers of tens of centuries of suffering and sacrifice.

Names such as Auschwitz, Treblinka, Ravensburk, Buchenwald, Dachau, Belsen, The Warsaw Ghetto.

These are not the battlefields where mighty armies clashed. But, sadly, even in our own age, they were places where six million people solely because they shared the same religious heritage, were swept away forever, in an epic of suffering we now call the Holocaust.

It has been said its brutality defies description—and I will not try—except to say it is an ugly scar across the countenance of all mankind.

Of all the creatures of the earth, only man has been endowed with a sense of history.

In our Nation's Capitol, on either side of the entrance to the National Archives on Pennsylvania Avenue, stand two monuments. The inscription on one reads: "What is past is prologue," and on the second "Learn from the Past."

As you speak with people who survived this brutal experience, and many are in this audience, or read what they have written, there are two re-occurring themes:

First, the fear this genocide could happen again; and

Second, a fear the memory of those victims of the Holocaust will be forgotten.

These are reinforcing views inasmuch as the price of forgetfulness could be the penalty of a repetition of history.

To this end, memory is our best safeguard.

In the book of Ezekiel are the words that say: "Yet I leave a remnant." And it is to a remnant of an epic tragedy I speak. It is you, and your second generation, and succeeding generations, that must insure the memory of the Holocaust endures. This must be done not only for your own people, but for us all. And, it is the obligation of us all to assist you in this task.

Kipling would write: "Lord God of Hosts, be with us yet, Lest we forget, Lest we forget."

In the commemoration of the Holocaust, perhaps you have a special purpose. In the book of Esther, at another time of peril in your history, Mordecai encouraged his niece Esther to influence the King on behalf of the Jewish people with the words: "And who knoweth thou art come to the kingdom for such a time as this?"

You have honored the American Army this day and for that I thank you deeply. Well over three decades have passed since that Army swept across the plains of Western and Central Europe and together with our Allies brought an end to the Third Reich.

Among those liberated were not just the politically oppressed, but the physically persecuted. Men, women and children were gaunt testimony to what the poet called: "Man's inhumanity to man." An inhumanity that would take its toll in the lives of 11 million persons.

On this Sunday in May, as Americans, let us pledge to one another that we shall be our brother's keeper.●

BALTIC HOLOCAUST

The SPEAKER. Under a previous order of the House, the gentleman from Wisconsin (Mr. ZABLOCKI) is recognized for 5 minutes.

● Mr. ZABLOCKI. Mr. Speaker, due to a death in the family, I was not present on June 11 to participate in the special orders commemorating the 40th anniversary of the Baltic holocause. I am pleased that so many of my colleagues participated in a special order commemorating the 40th anniversary.

The occasion marks a tragic event in the history of the Baltic States. The Soviet armies invaded the Baltic nations and ruthlessly terrorized the Baltic peoples. Within a few years, the Soviets deported hundreds of thousands of Latvians, Lithuanians, and Estonians from their homelands to Soviet prison camps in Siberia.

I want specially to observe this sad anniversary and express my sincere wishes for the freedom of the Baltic nations.

Mr. Speaker, the Joint Baltic American National Committee issued a statement for this occasion which I wish to share and bring to the attention of my colleagues.

THE BALTIC HOLOCAUST

This month, Americans of Estonian, Latvian, and Lithuanian descent will commemorate the 40th anniversary of the Baltic Holocaust. The days of June 14 and 15 marked the beginning of a mass deportation effort conducted in the Baltic States 40 years ago by the Soviet regime. In the wake of this campaign of terror, virtually no Baltic family was left untouched by the tragedy.

The deportation campaign had been planned in Moscow before the Soviet armies occupied Estonia, Latvia, and Lithuania in 1940, ending their years of national freedom and sovereignty which had begun in 1918. It was a purge of a broad scope, designed to eradicate all elements which might impede the Sovietization of the three countries. The deportations began on June 14, 1941. The now infamous midnight arrests occurred simultaneously throughout the Baltic States. The people were tersely informed of their arrests by the KGB, but were not told of the charges against them. They did not know where they were to be taken, nor for how long. Given minutes to pack, they were rushed out of their homes, many for the last time.

At first, the arrests took the elite of Baltic society—educated, those in government or military service—who could have provided the most resistance to Soviet rule. Later, the arrests and deportations would spread to many others who were even remotely related to the original victims. In its final form, the campaign took all Balts who were merely suspected of non-compliance, as well as those whom the Soviet authorities simply disfavored for unknown reasons. It was an irrational campaign of terror which reflected the fears of a paranoid dictatorship in Moscow. It claimed old and young, weak and strong, rich and poor.

The prisoners were herded into railroad cattle cars and transported to slave labor camps in Siberia. Death by malnutrition and exposure claimed many during the long journey. Many more died in the frozen wasteland of Siberia from disease, mistreatment or outright execution. In 1941, almost 100,000 Baltic peoples were deported, roughly over 30,000 from each of the three nationalities. By the end of 1949, a total of 850,000, or more than 10 percent of the population of these three nations had suffered this fate at the hands of the Soviet government.

Today, the Soviets continue to repress indigenous national, cultural and religious movements, Baltic and others. The Gulag Archipelago and its prisons and psychiatric institutions still exist. Recurring campaigns of terror have left their mark on the many people under Soviet rule, leaving a pervasive environment of fear, mistrust and hostility.

History has witnessed several holocausts, most notably the Armenian and Jewish. In each case, the cost in terms of human suffering and loss of life has been tragic. On this anniversary of the Baltic Holocaust, the Joint Baltic American National Committee and Baltic communities throughout the country, ask America's leaders to persevere in their efforts to fight oppression throughout the world, and to encourage humane, civilized and representative forms of government. America has tremendous power to influence the countries of the world and their policies. In the name of all those who died 40 years ago—in an environment which still exists today—we ask that this country never forget its role as the world leader in the cause for freedom.●

GEOTHERMAL LEGISLATION

The SPEAKER. Under a previous order of the House, the gentleman from Nevada (Mr. SANTINI) is recognized for 5 minutes.

● Mr. SANTINI. Mr. Speaker, today Mr. MARRIOTT and I are introducing legislation to encourage exploration and development of our geothermal resources. Geothermal energy possesses the potential to contribute significantly toward a reduction of our dependence on foreign sources of oil. During hearings by the Subcommittee on Mines and Mining in the last Congress, it became clear that we needed a legislative emphasis on geothermal energy. The legislation we are introducing today is quite similar to that passed by the House in the 96th Congress as H.R. 6080.

No one in this body need be reminded of the urgency of energy-related issues. We are continually seeking new sources and technologies to enhance our domestic capabilities for alternative energy development. Parts of our country have abundant sources of geothermal resource potential. I believe there is widespread support for expediting our efforts on this exciting and relatively clean resource.

Many of the impediments toward developing this resource have resulted from regulatory problems such as acreage limitations, definition for known geothermal resource areas, and the lease terms. Although technology for geothermal energy is still in its infancy, progress is being made for both the development and utilization of even the lesser temperature resources.

Geothermal, although we view it as a new source of energy, actually has a long history. A geothermal system began heating homes in Boise, Idaho, in 1890. That system is still in use and is under expansion. In 1904 at Lardarello, Italy, electricity was first produced from dry steam hydrothermal resources. Their first generator only produced energy for about five lightbulbs but the dry steam fields currently have a generating capacity of 380 megawatts. The Soviet Union has several centralized municipal geothermal heating installations which furnish hot water and heat homes for communities of 15,000 to 18,000 people.

The United States still leads the world in electrical production from geothermal. Electrical generation at the geysers area in California began in the 1960's with production of about 12 megawatts. By 1979 the geysers now produce 936 megawatts which is enough electricity to supply the city of San Francisco with all its power needs. It is not an alternative source of energy for the future; we are using it now.

Our legislation will provide incentive for exploring this tremendous resource potential by removing many of the roadblocks imposed by government. The expression of congressional support for geothermal energy will encourage the industry to invest the time and money necessary for research, exploration, and development of the resource. Geothermal is a speculative and high-cost activity. Only approximately 1 in 15 of the exploratory wells prove to be potentially productive, and each of those wells costs between $400,000 to $1 million to drill. It takes many years before a company begins to recover any of its expenses from exploration.

Mr. MARRIOTT, our ranking Republican member on the subcommittee, will discuss the specific provisions of the legislation. I believe we have a good geothermal bill and hope that my colleagues will support us when we bring it to the House for final consideration.●

● Mr. MARRIOTT. Mr. Speaker, today my friend and colleague, JIM SANTINI, and I are introducing a bill to amend the Geothermal Steam Act of 1970 (30 U.S.C. 1001) to expedite exploration and development of geothermal resources, to be cited as the Geothermal Steam Act Amendments of 1981.

I recommend that the bill be referred to the appropriate committee for consideration, and that it be enacted as legislation vital to the economic security and well-being of the Nation.

This bill contains numerous amendments to the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) intended to expedite exploration and development of our Nation's vast geothermal energy resources.

Certainly the most important of these amendments is that in section 8, increasing the maximum acreage a single lessee can hold in any one State from 20,480 to 51,200 acres, and authorizing the Secretary, in his discretion, to increase the limitation to 115,200 acres in 1985. Experience in geothermal development has shown that, at a minimum, 10,000 to 15,000 acres of land are needed for meaningful exploration of geothermal resources at any one site. The current limitation on ownership, therefore, restricts lessees to only one or two prospects per State and prevents them from reaping full benefit of economies of scale, and of new techniques they may invest in, both of which can, in many cases, mean the difference between an unprofitable investment and a commercial success. This amendment, to section 7 of the act, will remove this economic impediment which has discouraged companies from participating in geothermal development, and which has slowed the growth of a geothermal industry in the United States. This amendment will also exclude acreage in commer-

cial production from the acreage limitation, providing an additional positive incentive for lessees to quickly explore their leases and bring them into production.

Another very important amendment in this bill is the redefinition of a known geothermal resource area (KGRA) which is contained in section 4. The new definition removes the economic test of competitive interest in a tract as an indicator of the geologic presence of geothermal potential in an area. The amendment substitutes a more proper requirement that, for classification as a KGRA, there must be sufficient physical evidence of the geothermal resources in an area to engender a professional belief that the prospects for generating electricity in commercial quantities warrant substantial expenditures. This more narrow definition of known geothermal resource areas will allow hard geologic evidence, rather than economic speculation, to guide KGRA classifications.

In addition to these two, most important amendments, the bill makes several other changes in the provisions of the Geothermal Steam Act of 1970. Section 3 extends the Secretary's leasing authority. Currently, only those Federal lands under his control, and those under the control of the U.S. Forest Service, are leasable. This amendment will permit geothermal development on additional Federal lands. Section 15(c) exclusions, however, are still maintained.

Section 5 provides for automatic declassification of known geothermal resource area lands where there are no competitive bids. This amendment recognizes the fact that continued competitive classification of such lands needlessly withholds them from leasing. Section 5 also provides protection for those filing lease applications, and for those who have invested in discoveries on adjacent lands.

Section 6 retains the royalty structure already in section 5(a) of the act for electrical generation, but reduces the royalty by 5 percent for nonelectric users. This reduction in the royalty rate serves as an incentive for nonelectric users to employ geothermal resources in their operations. It recognizes that such operations may not be as profitable as electrical generation.

Section 7 redefines production or utilization of geothermal steam in commercial quantities to include not only completion of a producing or producible well in conjunction with a sale of the energy from the resource to an existing or planned facility, but also a commitment for utilization by the developer himself. It also allows the Secretary to extend lease terms for up to 10 years when construction has been delayed by administrative delays or by the marginal economics of such a facility or facilities.

Section 9 extends the periods of review and adjustment of lease terms and conditions provided in section 8(a) of the act from 10 to 20 years. This extension will give lessees additional economic and operating security for their leaseholds.

Section 10 amends section 15(b) of the act to make that section consistent with the amendments made by section 3, which extends coverage of this act to additional Federal lands. It transfers responsibility to determine lease terms and conditions on such lands to the Secretary, in consultation with the Federal department or agency with jurisdiction over lands. For acquired lands, however, it requires the Secretary to obtain the consent of the head of the other department or agency involved prior to leasing.

Section 11 creates a new subsection in section 15 of the act to provide additional protection for nationally significant thermal features within Yellowstone and Lassen Volcanic National Parks beyond that in 15(c) expressly prohibiting geothermal leasing in those areas. To preclude the possibility that an underground source of a nationally significant park thermal feature could be tapped from lands outside of park boundaries, the Secretary is directed to establish a 15-mile buffer zone around Yellowstone National Park, and a 1-mile buffer zone along the southern border of Lassen Volcanic National Park, in which no geothermal leases shall be issued, and in which no Federal assistance for geothermal development will be awarded. The Secretary is given discretion to require that lessees establish monitoring programs, to use resulting information to modify buffer zone boundaries around Yellowstone and Lassen Volcanic National Parks and to halt immediately any activities which are likely causing significant adverse effects on these parks' nationally significant thermal features.

For the Island Park caldera west of Yellowstone National Park, a special provision is included. Consistent with the goal of assuring protection to nationally significant park thermal features without needlessly hampering geothermal development, the Secretary is authorized to allow geothermal leasing within a designated area within the Island Park caldera. Within that area, the Secretary is directed to require lessees to implement monitoring programs and to take such other actions as may be necessary to protect nationally significant thermal features.

Finally, provision is made for expedited review of secretarial decisions under this subsection in Federal district courts, notwithstanding the amount in controversy. Suits would be timely if brought within 60 days following the date the decision of the Secretary is announced and made public. Injunctive relief against the issuance of any permit, lease, or other authority pursuant to the act would be limited to final judgments in any case.

Section 12 creates three new subsections in section 23 of the act. The first new subsection permits noncommercial free uses of geothermal resources where it is found to be in the public interest. Generation of electricity in any amount is excluded from this provision. The second new subsection provides for use by Federal agencies of the geothermal resources within lands under those agencies' jurisdictions. Generation of electricity, however, is not prohibited for Federal agencies. Both of these subsections will encourage incidental uses of domestically produced geothermal energy, thereby freeing demand for hydrocarbon or imported energy sources in many cases. The third new subsection provides the Secretary with authority to issue a free use permit to anyone who assumes the Federal interest in any geothermal energy research and development facility, pilot plant, or demonstration facility utilizing geothermal resources from lands subject to the provisions of this act. This subsection will allow the private sector to continue geothermal research and development projects begun with Federal assistance.

Section 13 contains a series of technical changes to section 2(c), and to other sections throughout the act, to expand the presently narrow definition of geothermal resources to include geopressurized water, magma, and hot rock formations.

Section 14 provides the Secretary with authority to issue geothermal leases and allow exploration and testing activities on land subject to wilderness study under section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782) and on other lands within the national forest system which have been identified by the President for further land use planning. It further provides that such exploration and testing activities shall be deemed to not impair the suitability of the lands involved for inclusion in the National Wilderness Preservation System. The Secretary, however, is to include stipulations in any leases issued, assuring that exploration and testing activities will not permanently impair the wilderness values of the lands subject to such activities. This amendment seeks to provide geothermal developers with the same opportunity as other energy and mineral developers to explore lands classified as wilderness prior to the effective closing of such lands to new entry.

Finally, section 14 specifically includes geothermal resources as a min-

eral for the purposes of section 4(d)(3) of the Wilderness Act of 1964 (16 U.S.C. 1131 et seq.). This will also insure that geothermal developers will be afforded the same exploration opportunities on wilderness lands as other energy and mineral developers.

I strongly believe that this proposal is vital to our national security and well-being. Presently, this Nation is overly dependent upon foreign sources of energy, and upon fuels which occur naturally in limited supply. Wherever it is possible to substitute energy resources which are not subject to external supply interruption, we have responsibility to do so as expeditiously as possible. Geothermal resources are an essentially unlimited domestic energy resource. This bill will remove significant impediments to the development of these geothermal resources, impediments which now shackle the growth of a strong geothermal industry.

Geothermal resources, by their very nature, impose high risks upon developers, and require large-scale resource bases. To insure the commercial success of geothermal projects, this bill will provide industry, for the first time, with the opportunity to acquire lands of sufficient size to justify the large investments required. It also provides a realistic and scientific basis for determining which lands are less prone to risk, and, hence, which lands should be leased competitively. Likewise, it provides the vitally needed flexibility to offer truly speculative lands at low cost to applicants where circumstances justify such offers.

This bill goes further, providing incentives for expanded use of this domestic energy resource. The geographic extent of lands open to geothermal exploration and development will be expanded to additional suitable Federal acreage, while at the same time protecting the unique geothermal features in our national parks. The range of uses for geothermal energy also will be expanded by revising the requirements for production in commercial quantities, by authorizing the Secretary to permit incidental use of geothermal energy by holders or administrators of lands where less sizable resources occur, and by providing, through free use permits, an incentive for the private sector to continue the geothermal research and development efforts begun by the Federal Government. Finally, this bill provides some much-needed economic security to operators by lengthening lease review periods, and moderating royalties for nonelectric uses.

The benefits of this bill to our Nation are clear, and I am hopeful it will receive expeditious and favorable action.●

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. CHENEY) to revise and extend their remarks and include extraneous material:)

Mr. GINGRICH, for 60 minutes, today.

Mr. COLLINS of Texas, for 10 minutes, today.

(The following Members (at the request of Mr. SKELTON), to revise and extend their remarks and include extraneous material:)

Mr. FRANK, for 5 minutes, today.
Mr. DASCHLE, for 5 minutes, today.
Mr. MCHUGH, for 5 minutes, today.
Mr. WEISS, for 10 minutes, today.
Mr. LAFALCE, for 15 minutes, today
Mr. GONZALEZ, for 15 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. WHITTEN, for 15 minutes, today.
Mr. REUSS, for 10 minutes, today.
Mrs. COLLINS of Illinois, for 5 minutes, today.
Mr. KASTENMEIER, for 10 minutes, today.
Mr. ADDABBO, for 10 minutes, today.
Mr. NEAL, for 5 minutes, today.
Mr. ZABLOCKI, for 5 minutes, today.
Mr. SANTINI, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Ms. FERRARO, following the remarks of the chairman of the Committee on Post Office and Civil Service in the Committee of the Whole today.

Mr. KRAMER, in support of the Gramm-Latta substitute during the debate on the education and labor section of the bill in the Committee of the Whole today.

Mr. WAXMAN, immediately following the vote on final passage of H.R. 3982, the Omnibus Budget Reconciliation Act of 1981.

Mr. DAUB, immediately following final passage on H.R. 3982, today.

Mr. DICKS, immediately after final passage on H.R. 3982, today.

Mr. SCHEUER, immediately following final passage on H.R. 3982, today.

(The following Members (at the request of Mr. CHENEY), and to include extraneous matter:)

Mr. FORSYTHE.
Mr. RITTER in two instances.
Mr. SHUMWAY.
Mr. BENEDICT.
Mr. NELLIGAN in two instances.
Mr. PAUL in two instances.
Mr. ROTH.
Mr. FIELDS in two instances.
Mr. GOODLING.
Mr. LOWERY of California.
Mr. MOLINARI.
Mr. BROOMFIELD.
Mr. ROBERT W. DANIEL, JR.
Mr. COURTER.
Mr. LEBOUTILLIER.
Mr. HOPKINS.
Mr. YOUNG of Alaska.
Mr. DREIER in three instances.
Mr. GINGRICH in two instances.
Mr. LEE
Mr. NAPIER.
Mr. O'BRIEN.

(The following Members (at the request of Mr. SKELTON) and to include extraneous matter:)

Mr. MCHUGH.
Mr. VENTO.
Mr. DASCHLE in two instances.
Mr. EDGAR.
Mr. RAHALL.
Mr. FARY.
Mr. MCDONALD in five instances.
Mr. GEPHARDT.
Mr. VENTO.
Mr. PHILLIP BURTON.
Mr. SHARP in two instances.
Mr. HAWKINS.
Mr. FORD of Michigan.
Mr. GAYDOS.
Mr. FROST.
Mr. STARK.
Mr. BARNES.
Mr. CORRADA.
Mr. ASPIN in two instances
Mr. EVANS of Georgia in two instances.
Mr. MINETA.
Mr. EVANS of Indiana in two instances.
Mr. MAVROULES.
Mr. BEDELL.
Mr. WEAVER.
Mr. LEHMAN
Mr. ROE.
Mr. SKELTON.
Mr. CLAY.
Mr. LAFALCE.
Mr. SOLARZ.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. HAWKINS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were there upon signed by the Speaker:

H.R. 3807. An act to make technical corrections in the Defense Officer Personnel Management Act;

H.R. 3991. An act to amend the Food Stamp Act of 1977 to increase the authorization for appropriations for fiscal year 1981, and to amend Public Law 93-233 to continue, through August 1, 1981, the cash-out of food stamp program benefits of certain recipients of supplemental security income; and

H.J. Res. 238. Joint resolution to approve a Constitution for the U.S. Virgin Islands.

ADJOURNMENT TO WEDNESDAY, JULY 8, 1981

Mr. SKELTON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER. Pursuant to the provisions of Senate Concurrent Resolution 23 of the 97th Congress, the House stands adjourned until 12 o'clock meridian, Wednesday, July 8, 1981.

Thereupon (at 8 o'clock and 21 minutes p.m.), pursuant to Senate Concurrent Resolution 23, the House adjourned until Wednesday, July 8, 1981, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1700. A letter from the Acting Comptroller General of the United States, transmitting a list of reports issued or released by the General Accounting Office during May 1981, pursuant to section 234 of the Legislative Reorganization Act of 1970; to the Committee on Government Operations.

1701. A letter from the Acting Comptroller General of the United States, transmitting a report on the examination of financial statements of the Inter-American Foundation for fiscal years 1980 and 1979, pursuant to section 401(t) of Public Law 91-175 and the Government Corporation Control Act (H. Doc. No. 97-64); to the Committee on Government Operations and ordered to be printed.

1702. A letter from the Attorney General, transmitting a report on steps taken by the Department of Justice to comply with the intent of Congress that section 1073 of title 18 of the United States Code apply to cases involving parental kidnaping and interstate or international flight to avoid prosecution under applicable State felony statutes, pursuant to section 10(b) of the Parental Kidnaping Prevention Act of 1980; to the Committee on the Judiciary.

1703. A letter from the Chairman, U.S. Commission on Civil Rights, transmitting a report entitled "Civil Rights: A National, Not a Special Interest," pursuant to section 104(c) of Public Law 85-315, as amended; to the Committee on the Judiciary.

1704. A letter from the Clerk, U.S. House of Representatives, transmitting the annual compilation of personal financial disclosure statements filed with the Clerk of the House of Representatives pursuant to the Ethics in Government Act of 1978 (H. Doc. No. 97-65); to the Committee on Standards of Official Conduct and ordered to be printed.

1705. A letter from the Acting Comptroller General of the United States, transmitting a report on efforts to provide housing designed for the needs of people who use wheelchairs (CED-81-45, June 19, 1981); jointly, to the Committees on Government Operations, Agriculture, and Banking, Finance and Urban Affairs.

1706. A letter from the Acting Comptroller General of the United States, transmitting a report on the Department of Agriculture's administration of the farmer-owned grain reserve provisions of the 1977 Food and Agriculture Act (CED-81-70, June 26, 1981); jointly, to the Committees on Government Operations and Agriculture.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. MOFFETT (for himself, Mr. MARKEY, Mr. OTTINGER, Mr. LELAND, Mr. WYDEN, and Mrs. COLLINS of Illinois):

H.R. 4039. A bill to provide assistance to States and local units of government to promote national energy objectives; to the Committee on Energy and Commerce.

By Mr. BARNARD:

H.R. 4040. A bill to eliminate unnecessary barriers within the financial industry; jointly, to the Committees on Banking, Finance and Urban Affairs and Energy and Commerce.

By Mr. BREAUX (for himself, Mr. TAUZIN, Mr. NAPIER, Mr. DE LA GARZA, Mr. BROOKS, Mr. JONES of North Carolina, Mr. GINN, and Mr. HUTTO):

H.R. 4041. A bill to enable shrimp harvesters to establish, finance, and carry out a coordinated program of research, producer and consumer education, and promotion in order to improve, maintain, and develop markets for shrimp, and for other purposes; jointly, to the Committees on Merchant Marine and Fisheries and Ways and Means.

By Mr. BRODHEAD:

H.R. 4042. A bill to amend the Internal Revenue Code of 1954 to allow manufacturers to purchase articles tax free for use as service or repair parts; to the Committee on Ways and Means.

By Mr. PHILLIP BURTON (for himself, Mr. BEILENSON, Mr. BROWN of California, Mr. JOHN L. BURTON, Mr. DELLUMS, Mr. DIXON, Mr. EDWARDS of California, Mr. LANTOS, Mr. MATSUI, Mr. MILLER of California, Mr. ROYBAL, Mr. STARK, Mr. WAXMAN, Mr. BINGHAM, Mrs. BYRON, Mr. CORRADA, Mr. DE LUGO, Mr. FLORIO, Mr. GEJDENSON, Mr. KASTENMEIER, Mr. KILDEE, Mr. MARKEY, Mr. MURPHY, Mr. SEIBERLING, Mr. UDALL, Mr. WEAVER, Mr. WON PAT, Mr. VENTO, and Mr. DYMALLY):

H.R. 4043. A bill to designate certain public lands in the State of California as wilderness, and for other purposes; jointly, to the Committees on Interior and Insular Affairs and Agriculture.

By Mr. EDGAR (for himself, Mr. FISH, Mrs. SCHNEIDER, Mr. TAUKE, Mr. WOLPE, Mr. MINISH, Mr. LAFALCE, Mr. WEISS, Mr. DWYER, Mr. MAVROULES, Mr. PEASE, Mr. JEFFORDS, Mr. OBERSTAR, Mrs. CHISHOLM, Mr. ST GERMAIN, Mr. BOLAND, Mr. ADDABBO, Mr. FORSYTHE, Mr. SEIBERLING, Mrs. HECKLER, Mr. DENARDIS, Mr. KINDNESS, Mr. MITCHELL of New York, Mr. NOWAK, Mrs. MARTIN of Illinois, Mr. WALGREN, Mr. RATCHFORD, Mr. BRODHEAD, Mr. VENTO, Mr. RODINO, Mr. GREEN, Mr. DINGELL, Mr. DONNELLY, Mr. KILDEE, Mr. KASTENMEIER, Mr. LENT, Mr. BEDELL, Mr. TRAXLER, Mr. RANGEL, Mr. FOGLIETTA, and Mr. ECKART):

H.R. 4044. A bill to prohibit the imposition of discriminatory State taxes with respect to natural gas; to the Committee on the Judiciary.

By Mr. SAM B. HALL, Jr.:

H.R. 4045. A bill to amend the Immigration and Nationality Act to facilitate the transportation of undocumented aliens and to reimburse air carriers for detention expenses; to the Committee on the Judiciary.

By Mr. HEFTEL:

H.R. 4046. A bill to amend the Employment Retirement Income Security Act of 1974 to insure that the Hawaii Prepaid Health Care Act will not be preempted and to direct the Department of Labor to study the feasibility of extending coverage to all other State health plans; to the Committee on Education and Labor.

By Mr. HUCKABY (for himself, Mr. YOUNG of Alaska, Mr. ANTHONY, Mr. BARNARD, Mr. CHAPPIE, Mr. HANSEN of Idaho, Mr. HANSEN of Utah, Mr. HOLLAND, Mr. LUJAN, Mr. MARLENEE, Mr. PASHAYAN, Mr. SKEEN, Mr. SMITH of Oregon, Mr. STANGELAND, Mr. STUMP, Mr. WILSON, and Mr. NICHOLS):

H.R. 4047. A bill to provide for stability and certainty in planning and management of certain national forest lands; jointly, to the Committees on Agriculture and Interior and Insular Affairs.

Mr. JEFFRIES (for himself, Mr. COLEMAN, Mr. GLICKMAN, Mr. ROBERTS of Kansas, Mr. WHITTAKER, Mr. VOLKMER, Mr. TAYLOR, Mr. WINN, Mr. BAILEY of Missouri, Mr. EMERSON, Mr. YOUNG of Missouri, and Mr. SKELTON)

H.R. 4048. A bill granting the consent of Congress to the agreement between the States of Kansas and Missouri establishing their mutual boundary in the vicinity of the French Bottoms near St. Joseph, Mo., and Elwood, Kans.; to the Committee on the Judiciary.

By Mr. JOHNSTON:

H.R. 4049. A bill to amend the Occupational Safety and Health Act of 1970 to require the Secretary of Labor to determine that the costs of compliance with a standard bear a reasonable relationship to the benefits of compliance; to the Committee on Education and Labor.

By Mr. LAFALCE:

H.R. 4050. A bill to provide flexibility to the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, and the Federal supervisory agencies to deal with financially distressed depository institutions; to the Committee on Banking, Finance and Urban Affairs.

By Mr. LAFALCE (for himself and Mr. NOWAK):

H.R. 4051. A bill to require that all human subjects used in experiments conducted by or for the Department of Defense be informed of the nature of the experiments and that a research review board make a written certification that such subjects have freely given their informed consent to participate in the experiments, and for other purposes; to the Committee on Armed Services.

By Mr. LUKEN:

H.R. 4052. A bill to authorize construction or modification of the Gallipolis Locks and Dam, Ohio River, Ohio and West Virginia, and to insure that this work shall be completed expeditiously; to the Committee on Public Works and Transportation.

By Mr. MARRIOTT (for himself, Mr. SANTINI, Mr. UDALL, Mr. HANSEN of Utah, Mr. YOUNG of Alaska, Mr. MARTIN of New York, Mr. CRAIG, Mr. STATON of West Virginia, Mr. MURPHY, Mr. HUCKABY, Mr. KOGOVSEK, Mr. BADHAM, Mr. BURGENER, Mr. COLLINS of Texas, Mr. FORSYTHE, Mr. LUJAN, Mr. PASHAYAN, Mr. RAHALL, and Mrs. BYRON):

H.R. 4053. A bill to amend section 21 of the act of February 25, 1920, commonly known as the Mineral Leasing Act; to the Committee on Interior and Insular Affairs.

By Mr. OBERSTAR:

H.R. 4054. A bill to amend the Public Health Service Act to remove the age requirements respecting appointments to and retirements from the commissioned corps of the Public Health Service; to the Committee on Energy and Commerce.

By Mr. QUILLEN:

H.R. 4055. A bill to enable producers and importers of flowers and plants to establish, finance, and carry out a coordinated program of research, producer and consumer information, and promotion to improve, maintain, and develop markets for flowers and plants; to the Committee on Agriculture.

By Mr. SHUMWAY:

H.R. 4056. A bill to amend certain provisions of law relating to the disposition of public lands in Mono County, Calif., and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 4057. A bill to establish the Mono Lake National Monument in the State of California, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. SMITH of Alabama:

H.R. 4058. A bill to amend section 8 of the U.S. Housing Act of 1937; to the Committee on Banking, Finance and Urban Affairs.

H.R. 4059. A bill to amend the Internal Revenue Code of 1954 to provide a credit or a deduction for maintaining a household which includes as a member a dependent who has attained the age of 65, and to provide a deduction for amounts contributed under a trust established for a handicapped relative or a parent who has attained the age of 65; to the Committee on Ways and Means.

H.R. 4060. A bill to amend the Internal Revenue Code of 1954 to provide for a deduction for amounts contributed to an education savings account; to the Committee on Ways and Means.

H.R. 4061. A bill to amend the Internal Revenue Code of 1954 to provide exemptions for childbirth or adoption; to the Committee on Ways and Means.

By Mr. VANDER JAGT:

H.R. 4062. A bill to amend the act of October 21, 1970, establishing the Sleeping Bear Dunes National Lakeshore, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. WATKINS:

H.R. 4063. A bill to provide that Federal housing and community development programs will be administered by the Secretary of Agriculture in nonmetropolitan areas, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. WIRTH (for himself, Mr. MARKEY, Mr. KOGOVSEK, Mr. COELHO, and Mr. GEJDENSON):

H.R. 4064. A bill to amend the Mineral Leasing Act of 1920 to permit certain ancillary leases to be issued in connection with oil shale leases, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. MINETA (by request):

H.R. 4065. A bill to terminate certain functions of the Civil Aeronautics Board, to transfer other functions of the Board to the Secretary of Transportation, and for other purposes; jointly, to the Committees on Public Works and Transportation and Post Office and Civil Service.

By Mr. NAPIER (for himself and Mr. HARTNETT):

H.R. 4066. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income amounts which are received from a public retirement system and which are attributable to services as a Federal, State, or local policeman and fireman; to the Committee on Ways and Means.

By Mr. SANTINI (for himself and Mr. MARRIOTT):

H.R. 4067. A bill to amend the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) to expedite exploration and development of Geothermal resources; to the Committee on Interior and Insular Affairs.

By Mr. BIAGGI (for himself, Mr. JONES of North Carolina, Mr. HOWARD, and Mr. ROE):

H.J. Res. 302. Joint resolution to authorize and request the President of the United States to issue a proclamation designating the 7 calendar days beginning October 4, 1981 as "National Port Week"; to the Committee on Post Office and Civil Service.

By Mr. DORNAN of California:

H. Con. Res. 155. Concurrent resolution expressing the sense of the Congress with respect to the Baltic States; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. SMITH of Alabama introduced a bill (H.R. 4068) for the relief of Frank L. Hulsey, which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 18: Mr. JAMES K. COYNE, Ms. FERRARO, Mr. CONYERS, Mrs. HECKLER, Mr. WILLIAMS of Montana, and Mr. MADIGAN.

H.R. 27: Mr. MCCOLLUM.

H.R. 52: Mr. BAILEY of Missouri, Mr. HAGEDORN, Mr. KRAMER, and Mr. LOWERY of California.

H.R. 116: Mr. DYSON and Mr. PATTERSON.

H.R. 391: Mr. SILJANDER.

H.R. 556: Mr. MILLER of California and Mr. FOGLIETTA.

H.R. 894: Mr. PHILIP M. CRANE, Mr. MOLINARI, Mr. BAILEY of Pennsylvania, Mr. ROBINSON, Mr. ERLENBORN, Mr. KAZEN, Mr. SIMON, Mr. GEJDENSON, Mr. WIRTH, and Mr. KRAMER.

H.R. 1005: Mr. DICKS.

H.R. 1250: Mr. NAPIER, Mr. IRELAND, Mr. SCHEUER, Mr. BAILEY of Pennsylvania, Mr. DANNEMEYER, Mrs. SCHNEIDER, Mr. HORTON, Mr. SKEEN, Mr. RUDD, Mr. WOLF, Mr. LOWERY of California, Mr. SUNIA, Mr. HOLLENBECK, Mr. QUILLEN, Mr. JEFFORDS, Mr. BETHUNE, Mr. SILJANDER, Mr. PETRI, Mr. YOUNG of Florida, Mr. MURPHY, Mr. MADIGAN, Mr. BIAGGI, Mr. MARKS, Mr. YATRON, Mr. LUKEN, Mr. ENGLISH, Mr. DERRICK, Mr. WEBER of Minnesota, Ms. OAKAR, and Ms. MARTIN of Illinois.

H.R. 1509: Mr. EMERY, Mr. UDALL, and Mr. TRAXLER.

H.R. 1596: Mr. MCCOLLUM.

H.R. 1854: Mr. FAUNTROY.

H.R. 1955: Mr. MINETA.

H.R. 2083: Mr. LEBOUTILLIER and Mr. MCCOLLUM.

H.R. 2326: Mr. COELHO, Mr. DANIELSON, Mr. DIXON, Mr. DYMALLY, Mr. FAZIO, Mr. HAWKINS, Mr. LANTOS, Mr. MILLER of California, Mr. MINETA, Mr. ROYBAL, and Mr. WAXMAN.

H.R. 2509: Mr. HOPKINS.

H.R. 2543: Mr. SYNAR, Mr. STANGELAND, Mr. JAMES K. COYNE, and Mrs. ROUKEMA.

H.R. 2642: Mr. MCKINNEY.

H.R. 2990: Mr. PAUL, Mr. BEARD, Mr. PICKLE, Mr. BREAUX, Mr. ENGLISH, and Mr. KOGOVSEK.

H.R. 3003: Mr. DYSON and Mr. LOWERY of California.

H.R. 3117: Mr. BROWN of California, Mr. WEISS, Mr. CONYERS, Mr. MAVROULES, Mr. HARKIN, Mr. GINGRICH, Mr. FISH, Mr. BEREUTER, Mr. NOWAK, and Mr. ERDAHL.

H.R. 3205: Mr. CONYERS.

H.R. 3228: Mr. GINGRICH and Mr. PEPPER.

H.R. 3269: Mr. SNYDER, Mr. ASHBROOK, Mr. SWIFT, and Mr. MOLLOHAN.

H.R. 3456: Mr. LOWERY of California, Mr. SAM B. HALL, JR., Mr. ZEFERETTI, Mr. EMERSON, Mr. COURTER, Mr. ALEXANDER, Mr. OTTINGER, Mr. SHUMWAY, Mr. SHAW, Mr. GINN, Mr. ANDERSON, Mr. CARMAN, Mr. ERDAHL, Mr. NAPIER, and Mr. GORE.

H.R. 3485: Mr. SAM B. HALL, JR., Mr. LAFALCE, Mr. HYDE, Mr. ARCHER, Mr. TRIBLE, Mr. COUGHLIN, Mr. CHAPPELL, and Mr. DAUB.

H.R. 3595: Mr. BURGENER, Mr. SEIBERLING, Mr. GOODLING, Mr. MINETA, Mr. BONIOR of Michigan, Mr. DANNEMEYER, Mr. PATTERSON, Mr. MORRISON, Mr. CONYERS, Mr. RICHMOND, and Mr. MITCHELL of Maryland.

H.R. 3637: Mr. DYSON, Mr. D'AMOURS, Mrs. BYRON, and Mr. OBERSTAR.

H.R. 3680: Mr. DASCHLE.

H.R. 3769: Mr. LIVINGSTON.

H.R. 3789: Mr. MCDONALD and Mr. SILJANDER.

H.R. 3803: Mr. MCEWEN, Mrs. MARTIN of Illinois, Mr. LAGOMARSINO, Mr. FAZIO, Mr. KINDNESS, Mr. LENT, Mr. ROTH, Mr. CORCORAN, and Mr. SUNIA.

H.R. 3870: Mr. FORSYTHE, Ms. MIKULSKI, Mr. DYSON, Mr. YATRON, Mr. VENTO, Mr. NEAL, Mr. SAWYER, Mr. WOLPE, Mr. BEDELL, Mr. HERTEL, Mr. ROE, and Mr. WEBER of Minnesota.

H.R. 3882: Mr. ANDREWS, Mr. EVANS of Georgia, Mr. STENHOLM, Mr. DE LA GARZA, Mr. RITTER, Mr. KAZEN, Mr. FORSYTHE, Mr. ENGLISH, Mr. WHITEHURST, Mr. LENT, Mr. MCCLORY, Mr. LAFALCE, Mr. SHAW, Mr. DERWINSKI, Mr. SKEEN, Mr. PATMAN, Mr. BURGENER, Mr. AUCOIN, Mr. BEREUTER, Mr. COLLINS of Texas, and Mr. FROST.

H.R. 3884: Mr. SCHUMER.

H.R. 3901: Mr. HAGEDORN, Mr. HATCHER, and Mr. BOWEN.

H.R. 3958: Mr. BLANCHARD, Mr. EVANS of Indiana, Mr. KEMP, Mr. MCHUGH, Mr. BROWN of Colorado, Mr. KRAMER, Mr. LOTT, Mr. GARCIA, Mr. KOGOVSEK, Mr. MITCHELL of Maryland, Mr. MCCURDY, and Mr. SABO.

H.R. 3998: Mr. FRANK, Mrs. FENWICK, Mr. FOGLIETTA, Mr. LAGOMARSINO, Mr. LEBOUTILLIER, Mrs. SCHROEDER, Mr. GARCIA, Mr. SENSENBRENNER, Mr. ERDAHL, Mrs. MARTIN of Illinois, Mr. WHITEHURST, Mrs. COLLINS of Illinois, Mr. ROTH, Mr. OTTINGER, and Mr. FORSYTHE.

H.J. Res. 250: Mr. OTTINGER.

H.J. Res. 260: Mr. SPENCE, Mr. YOUNG of Alaska, Mr. JOHNSTON, Mrs. FENWICK, Mr. EDWARDS of Alabama, Mr. HORTON, Mr. LAGOMARSINO, Mr. FIELDS, Mr. GOLDWATER, Mr. FORSYTHE, Mr. STUMP, Mr. CAMPBELL, Mr. ADDABBO, Mr. HUTTO, Mr. O'BRIEN, Mr. JEFFRIES, Mr. BEVILL, Mr. BENNETT, Mr. SHUMWAY, Mr. SUNIA, Mr. DREIER, Mr. DAUB, Mr. COLLINS of Texas, Mr. MONTGOMERY, Mr. FRENZEL, Mr. WOLF, Mr. MCDONALD, Mr. MCCLORY, Mr. SMITH of Alabama, Mr. BAFALIS, Mr. MADIGAN, Mr. DASCHLE,, Mr. LIVINGSTON, Mr. SAWYER, Mr. TAUZIN, Mr. NAPIER, Mr. WORTLEY, Mr. NEAL, Mr. BAR-

NARD, Mr. MARTIN of New York, Mr. EDWARDS of Oklahoma, Mr. SILJANDER, Mr. CORRADA, Mr. HILER, Mr. SMITH of New Jersey, Mr. EVANS of Georgia, Mr. WHITTAKER, Mr. TRIBLE, Mr. MCCOLLUM, Mr. MARRIOTT, Mr. WEBER of Minnesota, Mr. PATTERSON, Mr. GRISHAM, Mr. STANGELAND, Mr. PEPPER, and Mr. ROEMER.

H.J. Res. 283: Mr. MCEWEN, Mr. MILLER of Ohio, Mr. STANTON of Ohio, Mr. KEMP, Mr. ROSE, Mr. MCDONALD, Mr. SUNIA, Mr. LAGOMARSINO, and Mr. DOUGHERTY.

H.J. Res. 286: Mr. MINISH, Mr. CONTE, Mr. RODINO, Mr. JAMES K. COYNE, Mr. SCHEUER, Mr. TRAXLER, Mr. HOWARD, Mr. HYDE, Mr. WILLIAM J. COYNE, Mr. BOLAND, Mr. COTTER, Mr. MARKEY, Mr. EDWARDS of California, Mr. FRANK, Mr. BONKER, and Mr. CORRADA.

H. Con. Res. 134: Mr. SCHUMER, Mr. MOFFETT, Mr. FORSYTHE, Mr. LEBOUTILLIER, Mr. YOUNG of Missouri, Mr. FORD of Tennessee, Mr. CORCORAN, Mr. SCHEUER, Mr. LEHMAN, Mr. FOGLIETTA, Mr. EDWARDS of Oklahoma, Mr. RUDD, Mr. DOUGHERTY, Mr. FRENZEL, Mr. LONG of Maryland, Mr. BLILEY, Mr. RINALDO, Mr. DUNN, Mr. BARNES, Mr. WOLPE, Mr. GREEN, Mr. ALBOSTA, Mr. YATRON, Mr. COURTER, Mr. SOLOMON, and Mr. DAUB.

H. Con. Res. 152: Mr. CONYERS, Mr. CORRADA, Mr. JEFFORDS, Mr. MICHEL, Mr. OBEY, and Mr. SABO.

H. Res. 146: Mr. WAXMAN, Mr. PRITCHARD, Mr. FORSYTHE, Mr. BINGHAM, Mr. DOUGHERTY, Mr. SHAMANSKY, Mr. KILDEE, Mr. FRENZEL, Mr. BARNES, Mrs. FENWICK, Mr. DORNAN of California, Mr. WEBER of Minnesota, Mr. GLICKMAN, Mr. OTTINGER, and Mr. GREEN.

H. Res. 158: Mr. DORNAN of California, Mr. NELLIGAN, Mr. DWYER, and Mr. DONNELLY.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

122. By the SPEAKER: Petition of the school board, school district of Mukwonaga, Wis., relative to the national school lunch program; to the Committee on Education and Labor.

123. Also, petition of the board of aldermen, St. Louis, Mo., relative to extension of the Voting Rights Act of 1965; to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3519

By Mr. VENTO:

—Page 3, Line 3, after "$9,902,600,000" insert the following: ", provided that none of the funds appropriated under this authorization may be used for the procurement of the F/A-18 fighter/attack aircraft (commonly referred to as the "Hornet")".

—Page 6, line 10, immediately after "$5,699,531,000", insert the following: ", provided that none of the funds appropriated under this authorization may be used for the research, development, test, or evaluation of any F/A-18 fighter/attack aircraft (commonly referred to as the "Hornet")".

EXTENSIONS OF REMARKS

THE REPUBLICANS' URBAN RENEWAL

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. CLAY. Mr. Speaker, for the vast majority of American citizens, the President's budget proposal will not create any real change in lifestyle. But, for the millions of Americans who are poor, physically handicapped, disabled, uneducated, unskilled, blind, too old to work, or too young to care for themselves, the Reagan economic recovery plan will mean hardship and sacrifice. And, the millions of Americans who have been faithfully signing off each week on little mass produced postcards to prove their support for our President, can breath a sigh of relief if Congress agrees to the administration's latest round of budget cuts.

We have today a President who pretends to be playing "hardball" and he has his team out there swinging their bats in his defense. But, the Federal budget is not quite the same as a baseball game. The administration is making a wholesale attack on social programs which exist only to serve the needs of the poor and the helpless. No consideration has been given to what programs work effectively and what programs do not. No assessment of human need has been made in this budget plan. Instead, a cause of inflation and high unemployment has been defined and targeted for elimination. Well, if the cause of the American economic instability can be so readily found and removed, perhaps the rest of the world can look forward to resolving their inflation and unemployment problems.

The block grant program that the President wants is a model for failure. It reminds me of the urban renewal programs of the 1960's. Designed by the eastern middle-class radicals, it was premised on the notion that cities would be more liveable, and poverty eliminated if Government removed the debris and took the poor away from their dilapidated, unsightly dwellings and put them in neat, straight, modest structures that conformed to desired environmental norms. Now, a bunch of western middle-class reactionaries, who like to pretend they are playing baseball, are acting on the notion that the economy will function better if we eliminate deficit spending, cut off the debris, and consolidate all the remaining undesirable expenses in one neat, straight, modest structure that conforms to a desired set of values. Urban renewal failed because the leaders did not account for all the good purposes that the old, dilapidated housing afforded the people who lived there. Uprooting and destroying neighborhoods and families created new problems in the inner cities. Uprooting Government social programs, to put them into a more suitable environment, cannot be done without accounting for and preserving the merits of their current structure. Historically, cities have never received an equitable share of State funds. Now, the administration wants to give State governments billions of dollars in block grants without assigning any guidelines or standards of accountability. There will be no limit on the amount of money a State can spend on administrative costs, and still it is pretended that having 50 seperate bureaucracies administer the same program 50 different ways, will be less expensive than having one bureaucracy administer the same program 50 times.

Mr. Speaker, there is an air of despondency and desperation sweeping our Nation today. I keep getting postcards demanding that Government be more accountable and more efficient. I may not agree with them when they draw a correlation between Christianity and deficit spending; but, I understand and respect their plea for efficiency and accountability in Government. What the Reagan administration is proposing is the antitheisis of efficiency and accountability. It is a naive, insensitive, and stupid plan that fails to acknowledge the lessons of recent history. As leaders, I thought we had accepted a responsibility to look at the past, the present, and the future in one picture. There is nothing efficient about a policy which throws out the good with the bad, and 50 bureaucracies do not promise to be more accountable than one bureaucracy. The Reagan administration is sidestepping the real problems, and it is only the poor who will know.

Mr. Speaker, despite the current fads, morality and Christianity are neither social clubs nor political parties. They are honest gestures which give life its real meaning. People who are poor and sick, children who are crippled and unwanted, old people who have gone blind and deaf, are not the enemies of Government, and they did not create the problems our Government has to solve. But, I fear that they have become the scapegoats, and I pray that we remember how the first holocaust came to happen.●

SUPPLY-SIDE FOLLIES OF 1981

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. LaFALCE. Mr. Speaker, supporters of the administration's spending and tax proposals have been arguing that they would be implementing a "supply-side" policy. These proposals would instantly unlease a brave new world, where everyone would be working twice as hard and where untold new investments and savings would occur.

As a supporter of supply-side economics, I have been somewhat puzzled by those claims. Stimulating demand which would be the end result of gigantic personal income tax cuts does not seem to really meet the criteria of supply-side economics despite the many claims to the contrary.

In the June 12 edition of the Wall Street Journal, Prof. Walter Heller did an excellent job of debunking the so-called supply-side economic policies of the administration. the article, appropriately entitled "Supply-side Follies of 1981," points out the glaring inconsistencies and the errors of omission and commission in those new policies. Professor Heller correctly demonstrates that "again and again, Reaganomics fails to meet its own supply-side tests of spurring incentives to save, work and invest and channeling resources into efficient and growth-promoting uses."

The article follows:

SUPPLY-SIDE FOLLIES OF 1981

(By Walter W. Heller)

Much of the skepticism about Reaganomics, especially in financial markets, arises out of what one might call the macro-defects of the program:

An expansionary fiscal menu of tax cuts and defense boosts that will outstrip budget cuts by $100 billion a year by 1984, coupled with a firm pledge to cut money growth in half by 1986, is seen as an open invitation to tight money, high interest rates and periodic economic indigestion.

A program premised on promises that real GNP will surge ahead at a 4.5 percent rate in 1982-85 and investment will jump from 10.5 percent to 14.5 percent of GNP while inflation drops from 11 percent to 5 percent a year and short-term interest rates from 14 percent to 6 percent is viewed as a candidate for "That's Incredible."

To get even close to the projected 1984 budget balance, everything would have to break right: plunging interest rates, no defense overruns, Congress coming through with $125 billion of budget cuts by 1984, and the economy hitting on all cylinders. That, too, stretches credulity.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

But even if one lays aside these macro-doubts and judges the specifics of the Reagan program just by its supply-side tenets, one finds that micro-defects abound. Again and again Reaganomics fails to meet its own supply-side tests of spurring incentives to save, work and invest and channeling resources into efficient and growth-promoting uses.

Take savings stimulus. Never mind that the savings the nation may gain from the incentive effects of lower marginal tax rates under the 5-10-10 plan will be wiped out and then some by the continued deficits arising out of big tax cuts. The most effective single instrument the federal government can use to boost saving is to reduce its own dissaving (its own deficits) or run surpluses in a high-employment economy. What good does it do to stimulate private saving by deep tax cuts if such saving is more than offset by increased public dissaving?

The supply-siders argue that the saving induced by tax cuts will provide a non-inflationary source of financing for the continued federal deficits. (After years of inveighing against inflationary Democratic deficits, the Reaganites now assure us that Republican deficits need not be inflationary.) At the same time we are assured that the new flow of savings spurred by tax cuts will fuel an investment boom. Elementary arithmetic tells us they can't use the same savings twice.

A RUDE JOLT

Then there is the question of the savings surge itself. Except in the high, wide and handsome brackets above $50,000, two opposing attitudes may give Treasury hopes of increased personal saving a rude jolt.

On one hand, putting three years' tax cuts on the books at once may irresistibly tempt inflation-wise consumers to buy cars and other durable goods on the cuff, counting on surefire tax cuts to pay the installments. Here, "unnamed White House sources" have made clear that the motive is more political than economic: "If Congress hasn't got the money, it can't spend it."

On the other hand, taxpayers who see through the nominal tax cuts and recognize that they will get little or no real relief on marginal tax rates won't have any incentive to save more. Especially in the critical middle range between $16,000 and $35,000, where brackets are narrow, the inflation pump will push marginal rates up as fast as Kemp-Roth pulls them down.

On this front, the Kennedy tax cut analogy so often cited by the supply-sides breaks down. Savings stimulated by the 1964 tax cut came from real marginal rate cuts in a non-inflationary environment, not illusory ones that high inflation in the Eighties will snatch away.

A puzzling inconsistency in the supply-siders' approach is their unwillingness to tackle tax shelters and deductions that have perverse supply-side effects. Cut high-bracket rates to boost savings? Fine. But cut off the tax deduction for interest on consumer debt and thereby remove a spur to spending (and hence a deterrent to saving) that costs the Treasury $6 billion a year? Or curb mortgage interest deductions and other tax breaks for housing that siphon funds away from productive machinery, equipment and plant? Or end the use of tax-free industrial revenue bonds ($8 billion in 1980) to finance private investments in everything from factories to golf courses, K marts and hamburger stands? None of these supply-side improvements has been put on the White House economic agenda. Why not? "We were elected to cut taxes, not increase them."

What seems to escape the supply-siders is this: Eliminating tax subsidies that discourage saving and distort investment has the same effect as granting tax reductions that encourage saving and promote investment. Indeed, true-blue supply-siders ought to insist on (a) cutting back tax preferences that deter saving or divert resources from the efficient uses into which the free play of market forces would channel them and (b) plowing the resulting revenue proceeds into reductions of marginal tax rates. That would double the bang for the supply-side buck.

A related supply-side puzzle centers on the 10-5-3 depreciation plan (even as now modified in the "coalition program"). It throws an awful lot of money at the investment problem, over $50 billion a year when fully effective. We need to stimulate capital formation and innovation. But is this the most supply-effective way to do it?

The modified Reagan capital recovery program would still divert industrial investment from equipment to structures and would confer huge tax benefits on big utilities and manufacturing companies and on the oil and gas industry. But there is very little in it for high-technology companies, small business and service industries with low capital requirements.

To make matters worse, the slow phase-in over five years creates an incentive to postpone investment to get a better tax break. And the combined benefits from 10-5-3 and the investment tax credit in some cases wipe out more than 100% of the corporate tax liability (and thus create juicy new tax shelters). The net result is a sloppy supply-side measure.

One has to hope that the Congress will work out a tighter formula, speed up the schedule (even if personal tax cuts have to be delayed a bit), and give a better break to small business and the industries that rely on human investment and research and development. It could thus significantly enlarge the supply-side payoff from the $50 billion-plus package of investment tax benefits.

When we turn to stimulus of work effort, the search for supply-side consistency in the Reagan program doesn't fare much better. True, on the insistence of Congress, provision is now being made for reducing the "marriage penalty," a definite plus for work incentives. Careful studies show that while tax cuts on existing earners don't have much net effect on work effort, second earners in the family do respond to lower tax rates both by working harder and by saving more.

BENEFITS WOULD BE CUT

But a curious contradiction persists in the Reagan fiscal program. Cuts in marginal tax rates for the middle and upper brackets are touted as an incentive for greater market-oriented work effort. But the Reaganites apparently do not recognize that cutbacks in food stamps and welfare payments for the working poor create a huge disincentive for their work effort.

Thus, under the Reagan proposals: Earn nothing, and benefit payments would be $518 a month (for a typical welfare mother). Work hard for miserable pay (say $300 a month), and those benefits would be cut back so sharply that the take-home pay would rise to only $535, a "marginal tax rate" of 95%! Where is the supply-side logic (let alone equity) in a 50% cap on marginal tax rates for the wealthy while levying a 95% marginal rate on the earnings of the poor?

In its zeal to provide much-needed tax incentives for investment, the Reagan team seems to forget that the real secret weapon of U.S. economic leadership has been its generous investment in human capital—education, training, health, nutrition and similar intangibles. Deep budget cutbacks in these areas—for example, in education aids and loans, training and retraining, the Medicaid payments for the poor, in food stamps, in nutrition benefits for expectant mothers—threaten to reverse progress toward a more skilled, healthy and productive work force.

Supply-side economics in the sense of promoting more efficient use of resources, removing impediments to saving and investment, and providing targeted tax incentives for greater work effort and capital formation has much to offer. But if it is to deliver on its promise, the supply-siders—especially those in the White House and Treasury—will have to practice what they preach.

(Mr. Heller is Regents' Professor of Econmics at the University of Minnesota, former chairman of the Council of Economic Advisers under Presidents Kennedy and Johnson and a member of the Journal's Board of Contributors.)●

KANSAS-MISSOURI BORDER BILL

HON. JIM JEFFRIES

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. JEFFRIES. Mr. Speaker, today I am introducing, for myself and Mr. COLEMAN, legislation to provide for the consent of Congress to an agreement between the States of Kansas and Missouri establishing their mutual boundary in the vicinity of French Bottoms near St. Joseph, Mo., and Elwood, Kans. As you know, such an agreement between States must be approved by Congress according to the Constitution. I am happy to be of assistance to the State legislatures of Kansas and Missouri in initiating legislation to achieve the necessary congressional consent.

In 1949, the States of Kansas and Missouri agreed on the center of the channel of the Missouri River between the 40th parallel and the Kansas River as their true and permanent boundary, subject to change by natural erosion and accumulation, but not by sudden avulsion. This agreement was ratified by Congress in 1950, and is still in effect today.

Nevertheless, in 1952, flooding caused the Missouri River to alter its course near St. Joseph, Mo. and Elwood Kans. Since the cause was avulsion, it did not alter the State boundary. Over time, the dried channel of the original path has filled in, but since no survey had been made prior to the flood to determine just where the center of the channel was, the exact location of the boundary was in doubt.

To rectify this problem, in 1978 the Kansas and Missouri legislatures adopted an agreement to establish a true boundary between the States. This boundary line was to duplicate the deep water line of the original channel. In 1980, the Kansas legislature unanimously passed, and the Governor signed into law, legislation establishing the true boundary. In 1981, the Missouri legislature passed identical legislation, also unanimously, which was signed into law yesterday by Missouri Governor Kit Bond.

It is now up to Congress to ratify this agreement, pursuant to article I, section 10 of the Constitution. This agreement has had the consistent and unanimous support of both legislatures in Kansas and Missouri. I want to commend the public officials of both States for the fine spirit of cooperation they have shown in settling this matter, and not making a Federal case out of it.

I would urge the Judiciary Committee, which will consider this bill, to move quickly in its deliberations.

I am honored to have as co-sponsors of my bill, in addition to Mr. COLEMAN, the following Members: Mr. GLICKMAN, Mr. WHITTAKER, Mr. ROBERTS of Kansas, Mr. WINN, Mr. VOLKMER, Mr. TAYLOR, Mr. BAILEY of Missouri, Mr. EMERSON, Mr. YOUNG of Missouri, and Mr. SKELTON.●

FOREIGN PENSION PLAN INVESTMENTS IN THE UNITED STATES

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. FROST. Mr. Speaker, I submit for the RECORD a copy of a staff report on foreign pension plan investments in the United States. The report contains information not readily available from other sources, and I invite my colleagues to contact me for additional copies if they so desire.

FOREIGN PENSION PLAN INVESTMENTS IN THE UNITED STATES

Foreign pension plans are established for the benefit of employees and are exempt from taxes on investment profits or such profits are taxed at reduced rates in the home country.

The most recent study of foreign portfolio investment in the U.S. was made by the Treasury Department in the mid-1970's pursuant to the Foreign Investment Study Act of 1974 (Public Law 93-479). That study, the first since 1941, examined the patterns and effects of foreign portfolio investment and the institutional and legal aspects of such investment. The study does not segregate foreign pension plan investments from other foreign origin investments, although the general findings would apply to investments from any foreign source.

In regard to the effects of foreign portfolio investment on the U.S. economy, it was found that foreign purchases of U.S. stocks and bonds tend to reduce yields and, therefore, make raising of capital relatively easier for domestic borrowers. This stimulates real investment and increases the output and productivity of the U.S. economy. Further, it was found that, since foreigners have been net purchasers of U.S. equities as a whole and have lagged behind the U.S. market in selling equities when prices decline, foreign portfolio investors provide a stabilizing influence on the U.S. market.

While the effects of foreign investment on the balance of payments were considered more difficult to measure, the fact that foreigners were net purchasers of securities was considered to strengthen the value of the dollar on foreign exchange markets, thus improving the terms of trade in the short-run. Long-run effects were more uncertain; the study implied that foreign portfolio investment probably had a neutral effect on the balance of payments.

Recent press reports, together with several expressions of interest received by U.S. life insurance companies, clearly show that foreign pension plans are increasingly attracted to investing in the U.S. As might be expected, the foreign plans that have shown this interest are those established by major employers in highly developed countries such as the United Kingdom, Japan and the Netherlands, where funded retirement plans have been in existence for many years. For example, a recent article highlighted the strong desire of Japanese trust companies to increase pension fund returns through foreign investment. The article noted recent changes in Japanese regulations to encourage investment in foreign securities, changes which enabled Japenese financial institutions to increase their holdings of foreign securities to a previously unsurpassed $4 billion. ("Japanese yen for U.S. securities," Pension World, July 1979, p. 38)

The interest of foreign pension plans in the U.S. real estate market is also growing. One Chicago real estate development firm has placed more than $250 million for foreign clients in U.S. real estate developments ("U.S. real estate is attractive investment to foreign funds," Pensions & Investments, July 2, 1979, p. 2). Additionally, the $150 million acquisition of a U.S. real estate investment trust by a corporation controlled by the pension plans for employees of the National Coal Board of the United Kingdom was recently announced in The Wall Street Journal (July 18, 1979).

The U.S. maintains comprehensive financial information with respect to the assets of U.S. pension plans, but the total amount of foreign pension capital (and the portion available for U.S. investment) is difficult to determine. Available information does indicate that the total pension capital of foreign country retirement systems who would qualify under this proposal (including the United Kingdom, the Netherlands and Japan) probably exceeds $100 billion, and the 1976 Treasury Department study found that private foreign portfolio investment in stocks and bonds was $40 billion. Based on this information, estimates that U.S. retirement plans have invested $1 billion (of a total $300 billion) abroad and other factors, the removal of U.S. tax barriers to foreign pension plan investment could possibly attract more than $1 billion in additional capital to the U.S.

To the extent that foreign plans have already made some investments in the U.S., such investments have been effected primarily through major financial institutions or directly for the foreign plan through U.S. agents.

In order to encourage foreign pension plan investments in the U.S., and in keeping with the traditional "equal treatment" standard of U.S. tax policy in regards to domestic versus foreign entities, legislation was introduced in the 96th Congress by Senator Daniel Moynihan (D-NY) on the Senate side and by Congressmen Fisher (D-VA) and Conable (R-NY) on the House side. That legislation would have permitted foreign pension plans, those which meet certain requirements, to invest in the U.S. without being taxed on the investment profits. The Moynihan bill was introduced too late in the Congress for any action to occur. Senators Moynihan and Malcolm Wallop (R-WY) have introduced similar legislation (S. 502) in the 97th Congress.

The "equal treatment" standard has precedent. Tax treaties between the U.S. and major industrialized nations have relied to a great degree on the principles of non-discrimination and reciprocity. Additionally, recent legislation, the Budget Reconciliation Act of 1980, brought foreign investors in the U.S. real estate on a par with U.S. investors.

However, there is not equal treatment of foreign pension plan investments. As discussed above, foreign pension plans are not treated as U.S. pension plans with respect to investments in the U.S.●

THE 40TH ANNIVERSARY OF THE RESTORATION OF UKRAINE'S INDEPENDENCE

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. FORD of Michigan. Mr. Speaker, on June 30, 1981, we will commemorate the 40th anniversary of the restoration of Ukrainian independence. On June 30, 1941, Ukrainian underground fighters occupied strategic points in the Capitol of West Ukraine, Lviv. Ukrainian leaders issued a proclamation of the restoration of Ukrainian independence, and a provisional government was appointed. Mr. Yaroslav Stetsk, a prominent leader of the Organization of Ukrainian Nationalists, became Prime Minister.

Despite the tragedies endured by the Ukrainian people in this struggle, they remain aware of the sacrifices made, and that they never were defeated in a military sense. Instead their organization decentralized and melted away in the deep underground where they continued the Ukrainian national liberation struggle by means appropriate to changed conditions. The Soviet Russians are also aware of these facts and this explains why the events of June 30, 1941, are of extreme significance.

The importance of this event cannot be downplayed. On the 40th anniversary of the restoration of Ukrainian independence, I feel that we, as members of an institution that epitomizes the belief in freedom, should rise and

commemorate this day as Ukrainian Independence Day.●

VA'S READJUSTMENT COUNSELING PROGRAM

HON. THOMAS A. DASCHLE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. DASCHLE. Mr. Speaker, this is the fourth and final statement I am placing in the RECORD from a witness who appeared before the Subcommittee on Hospitals and Health Care on June 15, 1981, in Atlanta, Ga. I was priviledged to chair this oversight hearing on the VA's readjustment counseling program in the absence of Subcommittee Chairman RON MOTTL.

The statement I am including today was presented by Mr. Demory Williams. I am sure you will find it as remarkable as I did.

STATEMENT OF DEMORY WILLIAMS REGARDING THE READJUSTMENT COUNSELING PROGRAM FOR VIETNAM ERA VETERANS

Greetings, committee members, members of the media, and my fellow Vietnam vets. It gives me great pleasure to testify before you.

My name is Demory Williams: ex-Marine, combat Vietnam vet. I was attached to an artillery company as a wireman and radio operator, which allowed me to see action from two perspectives. First, behind the "front line" at base camp, and second, "on the line" in actual combat. At this moment I feel that my life is on the line again because of the threat to the continuation of the Vet Centers.

As a black patriarch in the mid-sixties, mom, apple pie, and the girl next door were as real as the hand before my face. I was a street soldier because there was a war in the streets here in the United States, for the same reasons we went to 'Nam: freedom and the right to vote. In the States, riots were occurring and boundaries had been drawn many years prior to the first brick being tossed. Unemployment among young blacks, as usual, was very high, which added fuel to the smoldering embers. Black generals like King, Newton, and Malcolm were calling for a few good men. Even with this knowledge, I answered the draft notice from Uncle Sam about a month before my high school graduation. I opted to join the Marines just to increase my chances of returning home in one piece. You see, two of my friends joined the Army and one returned a cripple and the other returned in a box. They had 3 or 4 weeks of training after boot camp, and their letters informed me that they had not been well trained for Vietnam.

Once in the Corps, I found the racial war zone more visible. By this, I mean that the white-to-black ratio was about 7 to 1, whites having the edge. But his was just the general training company. The separation became more apparent at the end of boot camp when the job assignments were made known. The average white Marine got technical or clerical jobs, but blacks were usually assigned 0311 or "grunt" infantry jobs. By the time of advanced infantry training, the ratio had now become five blacks to each white. At this point in time, whites were typically cited for promotion to NCOs and blacks went to 'Nam as privates. However, let me emphasize that even after fighting in 'Nam and then fighting the ostracism at home, my patriotism is still intact.

The Vet Centers that the administration wishes to cut back are not something given out of kindness, but by a prearranged agreement, a contract, if you will. It states that for serving my country in combat, the emotional trauma I experienced will not remain to haunt me for the rest of my years. We are not like the people on welfare or other social programs based on handouts. These are benefits given in contract form, and the President wishes to rewrite this contract. I cite the President with breach of contract. We upheld our end with our lives for some, our limbs for others. In the President's nitpicking, he found clauses or words by which the contract did not apply to Vietnam veterans.

Psychological disorientation is in my opinion the most serious of all of the effects this war had on its young patriots. Our inability to fit in, having been ostracized because of the public's inability to separate the war from the warriors, has left scars on all Vietnam vets, and particularly those of us from minority groups who already have to fight for equal rights due only to our skin color. Like so many minority veterans, I have a variety of job and social skills which are of little use in a civilian job market.

The psychological disorientation which I talk about is also due to the nature of the guerrilla welfare—18- and 19-year-old young American soldiers were not prepared for the Eastern propaganda and values of the Vietnamese soldiers. Charley would walk women, children, and old men onto a battlefield to force U.S. soldiers to choose between their life or their beliefs. Because we had to kill or be killed, our instincts usually prevailed and we shot women, children, and older people. One way of coping with being in this situation is to begin to not value human life.

Another cause of the psychological disorientation of Vietnam veterans was the everyday nature of the combat situation. I lived constantly with the threat of death or disfigurement. War was during the day and at night. Unlike Korea or the European theater, there were no front lines or trenches to fight from.

My first 2 months in 'Nam, I was a radio operator in a field unit and was in combat constantly for 2 months. This was monsoon season and I caught pneumonia and was sent to Okinawa for 2 months. After recovering, I was returned to 'Nam and was put in a 155-millimeter artillery company as a communication wireman and radio operator. I thought I was safe since we were a main support element not in the field. However, Charley liked to attack fixed positions and continued to try to knock out our big guns. They would hit us at night and make runs on our wire perimeter with women, children, pigs, water buffalo, and old men up front. When my tour ended, I was back in the States within 18 hours with no preparation. My buddies before me had written that I would be spit at if I wore my uniform home, so I ditched my uniform and wore a civilian suit. Eight months later my mind had not yet returned home from Vietnam and, while having a flashback, I killed an innocent person. I have to live with this for the rest of my life. Gentlemen, if there had been Vet Centers or readjustment counseling available for the returning soldier, this might not have happened to me. It is for this reason that I say my life is once again on the line when the President talks of cutting back the future of the Vet Centers. Please do not let this happen.

Thank you for letting me be here today and I will be glad to answer your questions.●

EXCEPTION TO McNAMARA INTERVIEW

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. ROTH. Mr. Speaker, I wish to express my dismay at the way in which Robert S. McNamara, the President of the World Bank, has chosen to cloud and confuse the continuing debate over foreign assistance programs—a debate this Chamber will be engaging in more intensively in the coming weeks. In a widely circulated interview in the Sunday New York Times of June 21, 1981, Mr. McNamara, who will retire his position after 13 years this month, called the intellectual critics of the World Bank and other foreign assistance programs "ignorant." As for the American taxpayers, who have been letting those of us who represent them know of their reluctance to see these multibillion-dollar foreign aid programs continue to burgeon in a time of severe economic belt tightening, Mr. McNamara claimed that they know nothing about how the world has changed during the past 10 to 20 years. He also charged that the official American contribution to international development assistance, which was $5.66 billion in 1978 and $4.68 billion in 1979, is so low it is "disgraceful."

While I have the utmost respect for both Mr. McNamara's sense of public service and humanitarian intentions of those who staff institutions like the World Bank, I must take strong exception to his remarks about the American people and about the growing number of scholars who have criticized the long unchallenged dogmas of the aid development literature. First of all, the American people are fully aware of what is going on in the world around them. They see that the United States is by far the single largest donor of assistance to the developing world, even though it already shoulders a disproportionate share of the costs of defending the non-Communist world. They also feel justifiable resentment that they have never had the opportunity to clearly express their views about the multibillion-dollar foreign aid budget at the ballot box. At a time when the threat exists that adverse economic conditions will force us to curtail some of our own desirable social programs at home, this feeling is all the more understandable.

In addition, the intellectual critics of foreign aid, people like Prof. Peter Bauer of the London School of Economics and Walter Galenson of Cornell, are not ignorant men. They are astute scholars who have examined scores of foreign aid programs around the world and have seen firsthand how this aid, donated by the U.S. Government to other governments, often does little more than bolster corrupt officials and strengthen less productive public sectors at the expense of the private economy. They have also shown—and I think Mr. McNamara's attitude illustrates this—how the recipients of aid, simply demand and expect more and more aid while expressing little gratitude for its already substantial level. By his recent remarks in the Sunday New York Times, it appears that Mr. McNamara is ill-suited to engage in an honest, long overdue debate over whether the road we have been following concerning foreign assistance has been the correct one. I trust that during the next few weeks this body will perform in a more balanced and judicious manner.●

LOAN PROGRAM FOR SUNFLOWER SEED PRODUCERS

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. FRANK. Mr. Speaker, at a time when the administration and the Congress are asking the American public to take substantial cuts in important programs, such as food stamps and school lunch, among others, I find it incongruous that the Food and Agriculture Act of 1981 (H.R. 3603) proposes a brand new mandatory loan program for sunflower seed producers. I have written the chairman of the House Committee on Agriculture to point out that such a superfluous and potentially costly program, if enacted at this time, would send the wrong signal to the American public.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., June 25, 1981.

Hon. E DE LA GARZA.
Chairman, Committee on Agriculture,
House of Representatives,
Washington, D.C.

DEAR KIKA: Upon review of the pending H.R. 3603, the Food and Agriculture Act of 1981, I was distressed to find that a new mandatory loan program has been added for sunflower seeds. At a time when we are cutting back on programs such as food stamps and school lunches, I believe that the inclusion of a new program such as sunflower seeds is the wrong signal to be sending the American public.

I am mindful of the fact that the loan program costs for mandatory loans to sunflower seed growers should be minimal and self-liquidating, as long as the price for sunflower seeds remains high. However, what if prices fall and the Federal Government finds itself forced to acquire the crops? Presumably, then the cost will no longer be minimal in terms of either administrative costs, interest, or funds tied up in commodities. While some sunflower groups support a mandatory loan program, groups such as the North Dakota Sunflower Council oppose the program, and North Dakota is the largest growing state for this product. Opposition by major growers should raise warning signals to us that a mandatory loan program in not needed. Furthermore, it is my understanding that the Secretary of Agriculture retains discretionary authority to help the growers, if he deems it necessary.

Given these considerations, I hope that your Committee will withdraw the sunflower seed provision. Thank you for giving this your thoughtful consideration.

BARNEY FRANK.●

A MOCKERY OF THE LEGISLATIVE PROCESS

HON. JIM MATTOX

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. MATTOX. Mr. Speaker, yesterday this House made a mockery of the legislative process.

Under the guise of making the procedure more democratic, the Republicans and their allies adopted a rule that hides the true issues of this debate from the American people.

The original rule proposed by the Rules Committee would have forced Members to stand up and be counted; it would have forced them to cast their votes with the eyes of the public upon them.

But many Members did not want to have to vote on specific amendments. They did not want to have to vote against social security, against child nutrition, and against student loans. Instead they wanted to hide behind the President. They wanted to say that they were voting for the President's program, without the public knowing what was in it.

If the President's program is so good, I don't see why its different parts could not stand on their own individual feet.

What is even more appalling is that Members voted for this rule without even knowing what was in the administration substitute. Some Members are apparently willing to hide the meaning of their votes not only from the public, but from themselves as well.

The rule we are operating under is not a democratic rule. It is not democratic to hide the meaning of our votes from the American public.●

THE MX MISSILE

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. FIELDS. Mr. Speaker, the proposed MX missile system has rightly caused concern in the southwest United States—including my State of Texas. Recently, the Texas State legislature passed a resolution requesting that the Congress not adopt the split-basing mode for the deployment of the MX missile system.

I would like to include the resolution passed by the Texas State legislature here in the RECORD.

Thank you, Mr. Speaker.

THE STATE OF TEXAS,
SECRETARY OF STATE.

I, George W. Strake, Jr., Secretary of State of the State of Texas, do hereby certify that the attached is a true and correct copy of Senate Concurrent Resolution Number 53, passed by the 67th Legislature, Regular Session, 1981, signed by the Governor on May 26, 1981 and filed in this office on May 27, 1981.

SENATE CONCURRENT RESOLUTION NO. 53

Whereas, United States Air Force plans call for a sheltered road-mobile basing system for the M-X missile system, and currently under consideration are plans for either full basing in Nevada/Utah or a split basing in Nevada/Utah and Texas/New Mexico; and

Whereas, A decision to adopt the split-basing mode would require the relocation of approximately 500 families and would require United States Air Force acquisition of many acres of highly productive land in Texas which would be unlikely to be reclaimed for agricultural purposes; and

Whereas, An amendment to the Department of Defense Supplemental Appropriations Act, Section 2.02(b), June 27, 1979, states that it is the sense of Congress that the basing mode for the M-X missile should be restricted to location on the least productive land available that is suitable for such purpose; and

Whereas, The January 19, 1981, Department of Defense M-X Split Basing Report to Congress states that there exists a relative balance in the environmental impact between the two alternatives, while also stating that the split-basing mode would require the additional expenditure of $3.475 billion over the cost of the full-basing mode; now, therefore, be it

Resolved by the Senate of the State of Texas, the House of Representatives concurring, That the 67th Legislature respectfully requests that the Congress do not adopt the split-basing mode for the deployment of the M-X missile system; and, be it further

Resolved, That the Secretary of State forward copies of this resolution to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, Senator LLOYD BENTSEN, Senator JOHN TOWER, and all members of the Texas delegation of the United States House of Representatives with the request that this resolution be officially entered in the CONGRES-

SIONAL RECORD as a memorial to the Congress of the United States of America.●

ANNIVERSARY OF POZNAN WORKERS REVOLT

HON. JAMES L. NELLIGAN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. NELLIGAN. Mr. Speaker, I would like to bring to the attention of my colleagues that June 28 is the anniversary of the Poznan workers revolt which took place in the city of Poznan in Poland in 1956. It is an occasion which deserves to be remembered by all who prize freedom and understand how important it is for a free people to remember the sacrifices men have made to attain it.

The industrial workers of Poznan, encouraged by the release of a political prisoner, Wladyslaw Gomulka, who had been a popular party chief until he was accused of nationalist deviation, staged a general strike on June 28, 1956. Demanding bread and freedom, 50,000 demonstrators marched through the city. Riots soon broke out and, within the next few days, the uprising was suppressed, with 53 deaths and over 200 casualties. Partly as a result of these uprisings, Gomulka became first secretary of the party, and Poland experienced liberalizing changes.

The Polish people have long demonstrated bravery and determination in resisting Soviet communism. By recognizing this holiday, we honor not only the Polish people of 1956, but also those of the present, whose extraordinary efforts we hope will bring lasting benefits to Poland.●

CAPTAIN ED MORAN: A GOOD COP

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. GEPHARDT. Mr. Speaker, I would like to direct the attention of my colleagues to the career of Capt. Ed Moran, who is retiring from the St. Louis Police Department. My guess is that we would not have a crime problem today if we had more officers like him.

It is not easy to be a good cop today. To be a good cop for about four decades is a real achievement. The remarkable thing about Capt. Ed Moran is not that he has served for so long, but that he has served so well. He is more than a good cop, he has been a great cop. I can only hope that he is not a member of a disappearing breed.

It would take a good cop to stop disturbances at Northwest High School in St. Louis to insure students and their parents that they would have a peaceful educational environment as Ed Moran did in 1969. But it required a great cop, with a real commitment to his community, to subsequently stage a party for the entire senior class of Northwest at district police headquarters.

To those who know Capt. Ed Moran, the party was not a surprise. He has repeatedly gone the extra mile and given his community more than was required. Not surprisingly, the people he has served have reciprocated.

I know of neighborhoods where people picket the local police station because they are unhappy with the job the police do, but I had never heard of a picket line organized to keep a cop on the job until I heard of Ed Moran. The picket line protested his transfer from the sixth district.

His transfer out of the second district resulted in another citizen protest. This time 46,000 people signed petitions lamenting the move. If we left the decision up to the people, Ed Moran would remain on duty for decades to come.

We all know why he was so popular. We have never paid our police enough to make them rich, but that did not stop Capt. Ed Moran from digging into his own pocket to sponsor sports activities for our young people.

He has won a lot of awards and probably deserves even more. At times it may have seemed that his family wanted to staff the whole police department themselves. Between Ed, Capt. James Moran, his father, and Capt. Thomas Moran, his brother, there is more than a century of service on the St. Louis Police Department.

Over the years Capt. Ed Moran has dealt with his share of celebrities ranging from Presidents Nixon and Truman to Speaker O'NEILL. He has befriended them all and shared his philosophy that no problem defied solution by a committed public servant.

He realizes that those who would enjoy the blessings of freedom must bear the burden of supporting it. He has borne more than his share of this burden and has had a long, creative, and distinguished career—St. Louis is a better place because of it.●

CUTTING THE EXIMBANK

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. PAUL. Mr. Speaker, the so-called Export-Import Bank should be called the Job Export Bank, because its chief function is to subsidize a few large corporations that sell industrial and commercial plant and equipment to foreign countries at interest rates below what companies that supply American consumers can get. These subsidized loans end up strengthening foreign industry at the expense of American taxpayers and workers.

During fiscal year 1980, Eximbank authorized $12.6 billion in insurance, loans, and loan guarantees. Today, $580 million worth of those loans are in default. The Eximbank, of course, uses the euphemism of "rescheduled payments".

The arguments in favor of the Bank—which regrettably is supported by so-called conservatives as well as so-called liberals, so-called Democrats as well as so-called Republicans—are absolutely false.

The Chicago Tribune is to be commended for an editorial demolishing the shibboleths of the pseudo-economists and the political hacks in its editorial on this subject of June 22.

The editorial follows:

CUTTING THE EX-IM BANK

Almost everyone agrees that exports are a good thing. But the Reagan administration indicated it thought otherwise when it proposed sharp cuts in funds for the Export-Import Bank, whose job is to subsidize American sales abroad. In its budget, the administration called the bank an "inefficient, market-distorting" program which makes "overall economic improvements difficult."

Now the administration finds itself opposing even bigger reductions proposed by House Democrats. But the administration's first impulse was the right one. The country would be better off without the Eximbank. It the Democrats want to go an extra mile in cutting its budget, the President should be happy to go with them.

Unquestionably the Eximbank does increase American exports. It does so by providing foreign buyers with direct loans at below-market rates and giving U.S. banks guarantees that loans to foreign borrowers will be repaid. The first gives foreigners financial incentives to buy American goods; the second gives American banks a reason to make loans they otherwise wouldn't make.

Both subsidies have to be covered by the American taxpayer. The Eximbank borrows from the Treasury at relatively low government interest rates, and then lends it at even lower rates (currently about 9 per cent, with the prime rate about 19 per cent). The cost here is the difference between what the Eximbank pays the Treasury and what the Eximbank charges its borrowers, which in the past has approached 5 percentage points. In 1982, the administration says, this gap will cost the Eximbank $100 million. It also loses money when the loans it guarantees aren't repaid by foreign borrowers. In 3 of the 5 years between 1975 and 1979, the Eximbank's increase in delinquent assets outpaced its income. So far it has covered these losses out of its dwindling reserves, left over from the days when it actually made a profit. But if the Eximbank keeps losing money, sooner or later the federal government will have to bail it out.

The assumption behind the Eximbank is that exports benefit the American economy. But the only reason we need exports is to pay for imports. Hence exports are worth only what they sell for (absent complicated subsidies)—otherwise we should give them away. The Eximbank shifts some of the cost

of American goods away from foreign buyers, who get them, and to American taxpayers, who lose them. It requires Americans to consume less in order that foreigners can consume more.

The favorite argument for export subsidies is that they preserve American jobs. But they do this by diverting American capital and labor away from those sectors in which the U.S. can compete and into those in which it apparently cannot, at least without government help. They protect economic inefficiency (which can result from factors beyond anyone's control) at the expense of efficiency, thus assuring that the demands on the Eximbank—and its appeals for public money—will grow.

Not surprisingly, the large corporations which get the greatest benefit from the Eximbank—such as Boeing, Westinghouse, and General Electric—are also its staunchest defenders.

Another argument is that the U.S. must subsidize its exports because our rivals in the world marketplace subsidize theirs. Deputy Treasury Secretary R. T. McNamar employed this logic when he recently warned that the U.S. would use the Eximbank as its chief weapon if a "credit war" breaks out among Western nations. But this makes no sense either. Export subsidies are harmful to the nation providing them, though they may benefit a few large companies. Just because the French government (the worst offender) chooses to tax its citizens for the benefit of other nations is no reason for the U.S. to follow suit.

The administration, which has plenty of first-rate economists, no doubt understands all this. Yet in this instance it has allowed Democrats in the House to portray themselves as more dedicated than President Reagan to paring the federal budget. It would be healthy for the budget and for the economy for him to call their bluff and ask them to abolish the Eximbank.●

PERSONAL EXPLANATION

HON. THOMAS A. DASCHLE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. DASCHLE. Mr. Speaker, on June 24, I was unavoidably detained from the floor for the vote on final passage of H.R. 3238, the Public Broadcasting Authorization Act, rollcall No. 102. Had I been present, I would have voted "yea".●

THE WILDERNESS REVIEW ACT OF 1981

HON. JERRY HUCKABY

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. HUCKABY. Mr. Speaker, I and Representative DON YOUNG of Alaska are today introducing the "Wilderness Review Act of 1981" which aims to settle years of uncertainty and delay in the long-term planning and management of our national forest lands. Several of our colleagues have joined us in this effort to determine the best, most balanced use of our Nation's resources.

Since passage of the 1964 Wilderness Act, U.S. Forest Service roadless areas have been entangled in continuous litigation and studies regarding their eligibility for inclusion in the National Wilderness Preservation System. The Forest Service's second roadless area and review evaluation—RARE II—was initiated to settle the debate and enable decisions on which unroaded areas of the national forests should be wilderness and which lands should be managed for nonwilderness multiple use. In RARE II, the Forest Service studied 62 million acres and its decision, announced at the completion of the study in April 1979, called for 15 million acres of wilderness, 11 million acres for further planning, and 36 million acres for nonwilderness multiple use. However, even after 8 years of exhaustive study, efforts have been made to block the implementation of the RARE II decision through court, administrative, and legislative challenges.

The purpose of this proposed legislation is simply to provide clear, statutory direction to the executive branch of government that areas designated as nonwilderness by RARE II are to be managed for uses other than wilderness. In addition, the bill sets a timetable for congressional action on RARE II recommendations. Without congressional action, these nonwilderness lands will continue to be withdrawn administratively from multiple use management, as de facto wilderness. It also asserts legislative primacy in providing for future wilderness reviews. Important to many of us who have designated wilderness areas in our congressional districts, the bill accepts the boundary determinations established by legislation already passed since RARE II. And finally, the legislation finds the environmental impact statements sufficient, thereby curtailing appeals which generate further delays and uncertainty of land management plans.

The legislation embraces the concepts of a bill introduced in the Senate which has had 3 days of hearings in the Senate Subcommittee on Public Lands and is expected to be reported out of the full Energy Committee in early July. Our bill differs slightly in some respects, as we incorporated the recommendations made by Deputy Secretary of Agriculture Richard E. Lyng during these hearings. We felt that the proposed changes were reasonable and improved upon some of the provisions of the measure.

I think all Americans realize that we must take the necessary steps to meet the Nation's resource needs. Enactment of this bill will move the United States one step closer toward resource independence and economic stability. It will assure the type of environment required for long-term, prudent investment in energy development, recreational opportunities, timber harvesting and nonfuel mineral production. At the same time, the measure will protect those roadless areas of the national forests that should be devoted exclusively to wilderness, which a full 16 years of study has determined.

It is important to emphasize that Congress is the body of Government that directs the designation of future wilderness lands within a reasonable time frame; it does not tie the hands of any future Congress from enacting any wilderness legislation it may choose. What it does provide for is an end to the frustrating cycles of delay and resultant de facto wilderness which have thrown our forest resource allocations far out of balance. The United States can ill-afford to continue to have our Nation's land management plans characterized by uncertainty and paralysis.

We urge your favorable consideration of the Wilderness Review Act of 1981 and its speedy passage by the House of Representatives.●

MICHAEL WALDO

HON. CLEVE BENEDICT

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. BENEDICT. Mr. Speaker, I would like to take this opportunity to commend Mr. Michael Waldo and the Central West Virginia Association of Life Underwriters for their sponsorship of an active participation in the March of Dimes Superwalk for Birth Defects.

The Central West Virginia Association of Life Underwriters is only 2 years old and is the newest chapter of life underwriters in the United States. They had 233 participants in the walk and received over $9,000 in pledges for their efforts.

Mr. Speaker, this association has obviously worked long and hard hours to accomplish such a successful walk. I urge my colleagues to join me in paying tribute to the Central West Virginia Association of Life Underwriters for their effort.●

SLOVAK WORLD CONGRESS

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. RITTER. Mr. Speaker, last Saturday, June 20, I had the great honor to address the triannual convention of the Slovak World Congress in Toronto, Canada. I spoke to 2,000 delegates who gathered from all over the world

to show support for their brethern suffering under Communist domination in Eastern Europe.

Mr. Speaker, these delegates, these Slovak leaders from around the globe, showed once again in Toronto how Slovaks retain their heritage and their national pride and why they will never be stifled under Communist rule. Their spirit, their pride, their determination and commitment to their cause simply will not be repressed. They made me proud to represent an area rich in Slovak heritage and culture.

Mr. Speaker, as a gesture to those who asked me to speak before the Slovak World Congress' triannual convention, and who made the convention such a tremendous success, I would like to repeat today the address I delivered last Saturday evening. I can think of no more fitting tribute to a group for which I have the greatest respect and admiration.

The address follows:

COMMENTS TO THE DELEGATES ATTENDING THE TRIANNUAL CONVENTION OF THE SLOVAK WORLD CONGRESS

On behalf of the new Administration of President Ronald Reagan, I bring you greetings from Washington, our Nation's Capital. President Reagan is well aware of the domestic political power of the ethnic Americans, including some 3 million Americans of Slovak heritage, who helped elect him to the high office of President of the United States.

He needs the support of all the freedom-loving people so that he can once again assert reliable American leadership, so that he can restore our military strength so that it will be second to none, so that he can effectively challenge the worldwide pattern of Soviet adventurism to stop any further Afghanistans or any invasion of Poland. And, equally important, so that he can help restore our own economy so that we have a base for those challenges which face not only the United States, but Canada and all of the Free World as well.

We have set quite a task for ourselves. But the price of freedom commands us to move lest the generation that follows us feel shame that we faltered when the need was great.

We are resolved that we shall do everything in our power to push for the day when freedom will once again be restored in Eastern Europe, including the Slovak homeland.

I greet you on behalf of my colleagues in Congress. I wish you a successful Congress of the freedom-loving Slovaks throughout the Free World.

I come here with mixed emotions. I am happy to see so many of you here giving up your own time to work for a cause in which you and I believe—that is, freedom and self-determination for Slovak people, for all people.

Yes, I am happy. But I continue to be greatly disturbed by the oppression of your brethren inside Slovakia and others under Communist domination. And I see the many violations of human rights in the work of the Helsinki Commission, particularly in the sphere of religious freedoms.

As you know, the Communists have stepped up their anti-religious and anti-Catholic activities since the election of Pope John Paul II. They view with alarm the alliance between a powerful church and a deeply discontented working class.

We know of the actions of the Communist authorities in Slovakia against those who apply for seminaries and are rejected, while others are kicked out.

We know and condemn the regime that prevents children from going on to secondary schools and college, just because they practice their religious beliefs.

We know and condemn the Communist government that uses military conscription to keep priests in line, that takes away the driver's licenses of priests who have to drive to distant parishes, that allows so few priests, that stops priests on the road to administer the alcohol breath test after a priest has served communion. Oh, how they fear religion!

We know and condemn the government's anti-religious TV broadcasts, the continued incarceration of clergy and believers who want only to maintain their God-given values in life.

We condemn, and we ask you to help us—give us information about those abuses of human rights, so that we can go and show to the world what the record of the Soviets and their Communist cohorts is. And how blatantly they abuse their power.

The Slovak nation has a rich and highly cultured history. Its strong spiritual values and sense of nationalism are the ideals which have made every country where you emigrate to that much richer and better.

You are the real strength of America, Canada and every other country from which you have now come to add your voice and power to make certain that your concerns are heard.

Your leader, Mr. Stephen B. Roman, is a true statesman and humanitarian, a leader of great vision who sees that the only way to accomplish something of lasting value is to speak out and lead the fight for it. I extend my hand to you, together with your own Congresswoman of Slovak heritage, Claudine Schneider, and your President, Mr. Roman, and your leadership of the World Congress. We will make sure that your voices are heard in the halls of our United States Congress to press for the God-given ideals of freedom and dignity.●

PERSONAL EXPLANATION

HON. JOEL DECKARD

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. DECKARD. Mr. Speaker, as many of my colleagues know, I have for the last 2 years been undergoing a series of oral surgeries, the timing of which has been both critical and inflexible. On occasion this has required my absence at inopportune times and yesterday was such a day.

While I was present to vote against the previous question on the original rule, I was, regrettably, forced to be absent for the votes that followed.

I greatly regret having missed them and would like the record to reflect that, had I been present, I would have voted "yes" on ordering the previous question on the Latta amendments to the rule, "yes" on agreeing to the Latta amendment, and "yes" on agreeing to the rule as amended.●

REINSTATE THE LAND SURVEYOR IN THE SMCRA

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. RAHALL. Mr. Speaker, on Tuesday, along with the distinguished chairman of the Committee on Interior and Insular Affairs, MORRIS UDALL and Congressmen MURPHY, APPLEGATE, SANTINI, and CAMPBELL, I introduced H.R. 4000, legislation that would reinstate the land surveyors in their traditional role of aiding the surface coal mining industry with maps and plans.

The land surveyors were served a gross injustice when, during the closing minutes of the conference on the surface Mining Control and Reclamation Act of 1977, they were inadvertently left out when the act was altered to include the geologist on an equal status with the engineer, who was to play the lead role in preparing the required mine plans and maps.

As a result, the act was passed to include engineers and geologists, but omitted the land surveyor. Not one word of explanation or justification appeared in any report pertaining to this action.

The impact of this omission has taken its toll on the approximately 23,500 registered land surveyors in coal States nationwide. Even the professional geologists and engineers have stated they support reinstatement of the land surveyor under the 1977 act. Please note that H.R. 4000 will not exclude these groups from preparing maps and plans for mines, it merely allows the land surveyor to also be involved in this process.

This amendment is noncontroversial and does not constitute a substantive change in the act. It will neither compromise the objectives of environmental protection or public health and safety. It will not grant the authority to the surveyor to extend his activities into the areas of engineering, designing, or geology beyond the limits presently prescribed in State law. The sole purpose of this amendment is to permit the professional land surveyor to perform the services he is qualified to do in the field of his expertise, which services he has ably performed prior to the adoption of the act.●

FATHER DRINAN SPEAKS OUT ON GUATEMALA

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. BARNES. Mr. Speaker, the Reagan administration has reversed

the policy of the Carter administration of distancing the United States from the military regime in Guatemala. The State Department recently approved the sale of 150 trucks and jeeps to Guatemala, and the resumption of military aid is under consideration.

While the Carter policy may not have succeeded in improving the situation in Guatemala, it at least was effective in showing that the United States was on the side of human rights and not repression, and it gave comfort to those who are struggling against great odds for dignity and democracy in that unfortunate country.

Perhaps that is the best we can do. In my opinion, the policy should not be thrown away lightly. A policy of moving closer to the Government of Guatemala should be looked at very carefully, and should not be adopted unless we have concrete evidence of human rights improvements and assurances of further progress. We gain no national security advantage by helping a government repress its own people.

In judging any policy toward Guatemala, it is important to be realistic about the nature of the regime and the situation in that country, and clear about our policy goals there. In this regard, I commend to the attention of my colleagues an article by our former colleague, Father Bob Drinan, in America, the Jesuit weekly magazine. Father Drinan concisely describes the situation, educates us about the admirable role of the Church, and analyzes the policy options facing us.

Father Drinan makes one of his most significant points by quoting Hans Morgenthau, who said that the issue is not "how to preserve stability in the face of revolution but how to create stability out of revolution." A generation of experience teaches us that the way to stability does not lie in repression. Only if we can help the Guatemalans find a way to achieve the aspirations of their people will we see the stability there that is in both our interest and Guatemala's.

The article by Father Drinan follows:

[From America, June 13, 1981]

AMERICAN GUNS, GUATEMALAN JUSTICE

(By Rev. Robert F. Drinan)

The resumption of the sale of arms to Guatemala, terminated by the United States four years ago, is imminent. President Lucas Garcia has not requested arms nor is there any clear evidence that the alleged presence of 2,000 guerrillas cannot be controlled by the 18,000 members of the army of Guatemala.

The renewal of arms sales occurs despite a continued and brutal repression of human rights in Guatemala. The situation that I saw there on a human rights mission in 1980 continues and is probably worse. Amnesty International, in a recent 32-page report, declared that in Guatemala "people who oppose or who are imagined to oppose the government are systematically seized without warrant, tortured and murdered." The report, furthermore, has information published for the first time which shows that those who carry out the terrorism "can be pinpointed to secret offices in an annex of Guatemala's national palace under the direct control of the President of the republic."

The Reagan Administration promises feebly that it will grant the military aid only after warnings to the leaders of Guatemala that they should be more sensitive to human rights. But such a warning would be futile to a government that has engaged in ruthlessness for many years. The U.S. State Department Human Rights Report in 1980 conceded that kidnappings and assasinations reached higher levels in 1980 than in 1979. Politically motivated deaths now average between 75 and 100 per month. In 1980 the human rights officer at the U.S. Embassy in Guatemala city confessed to me that "the body count" estimated from newspaper accounts and from unofficial reports revealed an incredible number of murders. The victims included educators, students, priests, lawyers, trade unionists and journalists.

The 6.5 million people in Guatemala have been in agony for a long time. Seventy-two percent of the land is owned by 2 percent of the population. The illiteracy level reaches 80 percent. There is widespread unemployment, and 70 percent of those who work earn $74 annually. In a land of spectacular natural beauty, endowed with plentiful resources, the 60 percent of the people who are Indians, mostly of Mayan origin, lead lives marked by cruel economic oppression and severe political repression. It is the activity of some few of the Indians that has aroused the Reagan Administration to conclude that the Cubans or the Communists are organizing these incredibly deprived people.

Violence has been endemic to Guatemala at least since 1954, when the democratically elected Arbenz Government was overthrown with the help of the C.I.A. The violence became intense during the Montenegro Government (1966-1970). In 1966 the first organized death squads appeared. Since that time, according to the estimate of Amnesty International, almost 50,000 persons have been killed. Things were no better in the Arana Government (1970-1974). Amnesty International claims that over 7,000 people disappeared or were found dead in 1971 and that a total of 15,000 more were reported missing from 1971 through 1973.

On July 1, 1974, General Kjell Langerud became President through a fraudulent election. The violence escalated. Its tragedies were multiplied by the severe earthquake on Feb. 4, 1976, which left 22,000 dead and 80,000 injured. The country was torn apart when General Romero Lucas Garcia assumed the presidency on July 1, 1978. The decimation of the country was commented on by the 15 Catholic bishops of Guatemala in these words on May 15, 1980: "We believe that rarely in the history of our nation have there been days as bitter as these. All hearts are gripped by anger, fear and desperation. Each day, violence takes an alarming toll of victims; disappearances, tortures, murders. Bands of hired killers move and work throughout the country. No group or class escapes this uncontrolled wave of violence—neither the centers of wealth and power nor the peasants and Indians of the remotest regions of the country. Armed factions of the extreme right and the extreme left wage an undeclared war on each other, dragging along in their criminal madness our defenseless people, peaceful by nature. These people, deserving of a better fate, are the innocent victims of unrevealed interests and uncontrolled passions."

In this pastoral the bishops, saying that they could not remain indifferent to the desolation all about them, insisted that neither the fear of Communism nor the determination to rectify economic injustices could justify the killings.

Four weeks later on June 13, 1980, the bishops noted again that the violence in Guatemala had attained unimaginable proportions and was in effect a religious persecution. They lamented the vilification, calumny and defamation against the ministers of the church. The episcopal statement pointed out that many of the priests and nuns who were being treated unjustly by authorities were missionaries who with great personal self-sacrifice had come from other nations to help the people of Guatemala.

Despite the dramatic pleas of the bishops the persecution of the church goes on. The Lucas Government is continuing its systematic attempt to eliminate all democratic elements in Guatemala, and the church is probably the strongest inspiration for democratic initiatives. From May to August 1980, three priests were killed. In June and July two more were killed in the Quiché diocese. On July 19, 1980, an assassination attempt was made on El Quiché's bishop, Juan Gerardi Conedera, the president of the Guatemala Episcopal Conference. On July 30, 1980 Bishop Gerardi, after "intense suffering and * * * much * * * prayer," withdrew 18 priests and 25 nuns from the Quiché diocese lest all of them be murdered.

In other areas of Guatemala the church is also being persecuted. The Government realized that since at least August 1976 the church in Guatemala has been wielding the sword of the spirit. In that month the bishops issued a pastoral "United in Hope" signed by all of the bishops except Mario Cardinal Casariego, the archbishop of Guatemala City. This was followed 18 months later by a statement, "Faith and Politics in the Christian Experience." These messages, along with the cry for justice of May 18, 1980, have helped to bring about the worst persecution of the church in modern times in Guatemala. Six priests and scores of religious teachers have been murdered in Guatemala in the last year. None of the slayings has been investigated. The feeling seems universal among church leaders that the killers were members of the government's security forces.

When Bishop Gerardi returned recently from a visit to the Pope in Rome, he was barred by the Lucas Government from returning to Guatemala even though he is a citizen of that country. President Lucas has also refused to accept the new Papal Nuncio nominated by the Vatican.

Feelings against the church are intense. The front-running candidate for the March 1982 election, Mario Sandonal Alarcon, says that "the church favors and stimulates Communism." An association of farmers has stated that "the church in Guatemala is helping Marxists to destroy Christian civilization at its base and to enact in its place a dictatorship of the proletariat." When church personnel try to answer these charges they are told that they are stepping outside of their proper role and are interfering in the political life of the nation.

The fear of Marxism is pervasive in the Lucas Government and in the business community in Guatemala. When I met last year for two hours with the leaders of the Chamber of Commerce of Guatemala City, each of the businessmen present expressed the conviction that most of the killings were done by the left and that the Communists were militantly organizing to take over Guatemala and all of Central America. They even echoed the Lucas regime, which charged American officials in the Carter Administration with promoting "moderate Marxism," because in 1977 it withdrew military aid from Guatemala because of its miserable human rights record. The middle class in Guatemala, one of the largest in Central America, generally joins in the army's efforts to "stamp out Communism." It seems difficult, if not impossible, to convince any of these people that repression and economic injustice are the real causes of the insurgencies in Central America rather than Cuban involvement or left-wing terrorism. And it is not possible to dissuade them from their obsessional thoughts about Communist "dominoes" in Central America, especially when the Secretary of State, Alexander M. Haig, Jr. states that some of the nations on the Kremlin's "hit list" exist in Central America.

The fear of Communism may have diminished hopes that the election in March 1982 (in which President Lucas cannot run) will be impartial, since the leaders of the two left-of-center parties have been assassinated. Only six right-wing parties will be in contention in the election. Even if, unlike the last three presidential elections, the contest is not corrupt, the peasants and the trade unionists can legitimately complain that they had no real choice.

Indeed the slaughter goes beyond the leftists. Sixty-six leaders of the Guatemalan Christian Democratic Party, which is affiliated with the party of the same name in El Salvador headed by President José Napoleón Duarte, have been murdered in the last 10 months. Hence, it may be that the turnout in the March 1982 election will be less than the 35 percent in 1978 when President Lucas was elected.

The struggle in Guatemala is increasing in the predominantly Indian provinces. For decades insurgents in Guatemala have been predicting that their hopes for revolution will be attained on the day that the three million Indians rise up in some organized way. The Government of Guatemala fears that this is now happening, and hence the regression in Indian sections of the country is intense. Emotions within the Government have reached unprecedented levels. It reacted with vituperation to the report of Amnesty International terming it "ridiculous" and the work of an organization "which is headed by Communists." But the Government has to know that Guatemala is a pariah in the international community and that this reputation will not change until the number of deaths and disappearances diminishes.

There was jubilation among the political and business leaders in Guatemala the night that Ronald Reagan was elected. They resent the estrangement imposed by Congress and the Carter Administration since 1977. They are now informing the new Administration of the discovery of deposits of oil that could be comparable to those in Alaska and that eventually might account for 10 percent of America's petroleum needs. Guatemala is also anxious to restore the lucrative tourist trade that until recently came each winter from the United States.

It is difficult to see how the new Administration can think that additional supplies of weapons and helicopter parts will really help Guatemala solve its problem. Guatemala can certainly buy this military hardware elsewhere, although it may be more difficult to get knowledgeable military advisers from nations other than the United States. But the policymakers at the Pentagon and Foggy Bottom now share the fears of Communism of the ruling elite in Guatemala—and Argentina, El Salvador and elsewhere—and hence will be anxious to help authoritarian regimes to repress "Communist agitation" and to wipe out "subversion."

Ultimately the struggle about America's role in Guatemala goes back to what one thinks of the intentions and capabilities of the Cubans and the Communists in Latin America. Anyone interested in a redistribution of land and wealth in Latin America will dismiss as almost irrelevant the traditional argument of national security to justify repression of labor unions and dissident groups. But the conviction among government officials in Latin America that the Communists are infiltrating overtly and covertly is everywhere. It entered the psyche of Latin America with Fidel Castro's coming to power in 1959. It received confirmation with the triumph of Dr. Salvador Allende in Chile in 1970 and was rekindled by the Cuban presence in the Sandinista victory in Nicaragua in 1979. It is this sometimes pathological fear of Communism that appears to be the principal premise of present U.S. policy towards Latin America. It is easy to see why religious and social leaders in South America look upon it as a naïve, simplistic and indeed dangerous approach to the agonies of the 350 million people who reside in Latin America.

To the peasants of Guatemala and to people in the third world the arming of the Lucas Government by the United States is a throwback to the days of gunboat diplomacy and the maintaining of client states. It harkens back to the centuries-old alliance of sword and cross in Latin America, an alliance that the church began to terminate at Medellin and Puebla, where the 300 bishops of Latin America made it clear that the economic structures of the continent and the repressive military regimes were not consistent with justice or with Christianity.

A new factor now exists, however, which may alter U.S. policy towards Latin America. That factor is the seemingly abrupt emergence of an amazingly unanimous view within the Catholic Church in the United States against military aid to El Salvador and presumably to similarly situated nations in Latin America. A non-Catholic, seasoned observer of American politics recently gave me his opinion that if it were not for the militancy of the American Catholic bishops the United States might well now have Marines in El Salvador. This intensity of the feelings in the Catholic community against arms for El Salvador is not likely to diminish. It has supported and in turn been strengthened by the identical view firmly held by many non-Catholic peace and justice activist groups. It may be the one political factor which has the capacity to prevent a potential Vietnam in Central or South America.

The complexity of the political and social situations in the tiny republics of the Central American isthmus yield to no easy analysis or "quick fix." This is especially true of Guatemala, where in the Indian villages some priests have served as a bridge between the peasants and the guerrillas in a desperate search for some way to bring about relief from the institutionalized violence that is a daily way of life. For Washington to say that all of this can be changed by the United States selling arms to Guatemala is to reduce a complex, centuries-old class struggle to an East-West "cops and Communists" scenario. To suggest, furthermore, that U.S. policy is concentrating on deterring "terrorism" in Central America is to overlook the obvious fact that the terrorism of right-wing oligarchies and military governments has been just as devastating and cruel all over Latin America as the terrorism that would, it is assumed, prevail if authoritarian regimes became totalitarian. Hans Morgenthau spoke perceptively when he said that the issue is not "how to preserve stability in the face of revolution but how to create stability out of revolution."

A policy that seeks to transfer guns and military equipment to Guatemala after a pause of four years is based on the supposition that Cuba is capable of orchestrating and controlling the revolution which is seeking to be born in Guatemala and all over Latin America. The military government of Guatemala wants to put back in place the traditional triumvirate of oligarchy-army-church. It desires military assistance from the United States to help it accomplish this objective. Morally and politically it would be wrong for the United States to say yes.●

CHARLES F. SANDERS, "IN DEFENSE OF FREEDOM"

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. EDGAR. Mr. Speaker, July 4th will mark the 205th anniversary of the independence of the United States. Apart from enjoying the celebration, the fireworks, the picnics and parades, we should also pause on this occasion to reflect on our past, and consider our role in building and keeping America strong and free.

The freedom we enjoy today has been protected both by sacrifice on battlefields around the world and in meeting halls, churches, and voting booths in towns and cities across the United States. We are free because we exercise that freedom. We can agree, because we have the right to disagree. The spiritual and technological success of the United States has developed from just this independent thought and full participation in the democratic process.

Mr. Speaker, on Memorial Day, May 25, 1981, Mr. Charles F. Sanders, councilman of the second ward, Darby Borough, Pa., delivered the keynote address at the Darby Veterans Council Memorial Day Service. While reflecting on the sacrifice of those who have gone before us, he spoke of the problems and also the challenges that lie ahead. I would agree with his eloquent analysis that the hope for the future rests in the continued involvement of every American citizen in the defense

of freedom. I commend his words to my colleagues as we approach Independence Day 1981.

FREEDOM: "WHAT DOES IT REALLY MEAN TO US"

Reverend Clergy, distinguished guests, ladies and gentlemen: We are gathered here again today to honor and pay respects to those who served in the many wars engaged by our great Nation, and gave their very lives in the cause of freedom.

The word freedom, "What does it really mean to us." Today, we live in a country that maintains a level of human dignity that far surpasses any other nation in the world. We can pursue at any level we seek to obtain, in the social economics or political environment. We can worship God through the church of our choosing. We have the right to address as well as redress. We can constructively criticize our leaders.

In comparison to the rest of the nations of the world, we enjoy many blessings such as fine homes, automobiles, schools, churches, colleges, universities, modern appliances, fine clothes, excellent medical and mental care, and excellent communities in which to live.

Most important, we have the right as individuals to choose how we live our daily lives.

I've just touched the surface of the many freedoms we have and enjoy.

We would not have these freedoms today if our many comrades had not fought and died for the cause of freedom.

Many of you gathered here today can probably recall Hitler's march into Poland in 1939, and the Japanese attack on Pearl Harbor in December 1941, the beginning of World War II. Their objective was to conquer the world. If they had succeeded, we would not be gathered here today to participate in these humble ceremonies. We would not be able to pursue our religious, social, economic, or political freedoms.

Let's stop here and reflect for a moment and ask, "What have we done for the cause of freedom?" An honest evaluation would bring forth an answer of, not much or very little.

The Korean conflict and the Vietnam war have left us more aware and cognizant of the fact that it is all of us who must choose our nations course.

What can we do? There are many things we can do. First off, those who are eligible, join your veterans organizations, and pursue with them the constant vigilance to keep America free and strong. To others, become involved in your community, join the civic organizations, the political organizations and the religious organizations. Participate with your local government to strive for improvements. The more involved we become in our local community, the greater our country becomes as a Nation. To others, write to your Senators and Congressmen and urge them to constantly and diligently pursue through legislation both nationally and internationally the objective or international communications and negotiations, where all nations can sit as a body and will be compelled by international law to settle their differences at the conference table and not at the battlefield. The Mideast time bomb reflects the need for this objective.

To others, who may not be able, for various reasons, to participate in these areas I've just mentioned, occasionally say a prayer to keep our Nation free and for our comrades who have been injured or died in that quest.

I've briefly touched on the forces outside this great Nation of ours, the forces that for centuries have threatened our freedoms from without—but what about the forces within this Nation, who threaten to take away our freedom.

Those forces I am referring to are the hoodlum and organized crime element that are slowly and eventually restricting our every movement, a complete loss of freedom.

Today we cannot ride public transportation in peace, we are constantly harassed and some are physically abused. We are afraid to go out at night for fear of physical assault, rape, and robbery.

Young children are being murdered in Atlanta, the President of the United States and the Pope were shot. Where will it all end?

The constant cry we hear today is, "I don't want to get involved," or, "I'm afraid to get involved." Unless you and I become involved with our Government, our churches, and our police agencies and together stamp out these forces that threaten our freedom from within, we will all eventually wind up as prisoners in our own country and within our own homes.

In conclusion, I would like to say that when we assemble again next year at this same location, to again honor and pay our respects to our deceased commrades, hopefully, we will be able to say that during the past year we have done something for the cause of freedom.●

"WE'VE GOT THE POWER"—THE SOFT ENERGY PATH

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. PHILLIP BURTON. Mr. Speaker, I recently received a copy of an excellent slide show on this Nation's energy crisis. This show was produced by the American Friends Service Committee and sent to me by their regional office in San Francisco. I highly recommend it to the Members and their constituents as a source of information about alternative energy sources. This presentation will itself serve as an alternative to the multimillion-dollar propaganda campaigns of the oil companies. The show, called "We've Got the Power," is described below:

"We've Got the Power" takes a lively and informed look at the urgent energy choice this country faces. Americans must decide whether to take the "hard" energy path which uses nuclear power and fossil fuels, or the "soft" energy path which uses renewable resources and conservation. Oil, coal, nuclear power and synthetic fuels are plagued by multiple social and environmental problems which are pointed out in interviews with Amory Lovins, Barry Commoner, Winona LaDuke and Richard Barnet.

On the other hand, the soft path offers opportunities for community controlled, environmentally sound alternatives. Local activists describe some of the exciting steps many communities around the country are already taking to decide their own energy futures. For example: Davis, CA, has cut natural gas consumption by over a third in just past 5 years. Portland, Oregon, will save $1 billion per year and ⅓ of their energy by 1995.

"We've Got the Power" shows how people all over the country can join together to work for a safe energy future.●

JACOBO TIMERMAN: TROUBLEMAKER

HON. MATTHEW F. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. McHUGH. Mr. Speaker, in view of recent efforts in certain circles to discredit Jacobo Timerman, I commend to my colleagues the following editorial, which appeared in the New York Times yesterday.

[From the New York Times, June 25, 1981]

TROUBLEMAKER

The American critics of Jacobo Timerman have this much of a point: this outspoken survivor of Argentina's clandestine prisons is indeed a troublemaker. But the polemical storm he has provoked was not ignited by his account of his 30-month prison ordeal and eloquent indictment of his sadistic captors. His suffering was real, as his detractors concede. What they don't like is Mr. Timerman's troublemaking insistence that Argentina demonstrates the speciousness of the Reagan Administration's split-level approach to human rights outrages abroad.

There was not much American criticism of Mr. Timerman at the first appearance of his book, "Prisoner Without a Name, Cell Without a Number." For a good reason: the author was being wooed by Administration supporters, who hoped he might say a good word for "quiet" diplomacy against excesses in non-Marxist dictatorships like Argentina. Not until he rebuffed these overtures was Mr. Timerman attacked as arrogant and even unstable in his dark estimate of Argentine anti-Semitism.

A case can be made that Argentina's military rulers do not formally sanction anti-Semitism. The criminal code explicitly protects the rights of the 400,000 Argentine Jews—in terms almost as strong as those found in Soviet laws against discrimination. But in Argentina as in the Soviet Union, the gap between precept and practice is shameful.

Argentina has yet to invoke its laws to catch and punish those who bomb synagogues, a routine outrage. The press is censored, but anti-Semitic publications are allowed to flourish. By tradition, Jews have been virtually excluded from the officer corps, the judiciary and the diplomatic service. And most ominously, Argentina's ruling generals seem unable or unwilling to restrain the Nazi-minded security forces who were responsible for 15,000 disappearances.

Most of these victims were not Jews, but in Mr. Timerman's phrase, being Jewish is itself a "category of offense." His view is shared by Emilio Mignone, a Catholic and leader of the Argentine Human Rights Commission: "Timerman has told the truth. All political prisoners and dissidents have a hard time of it when they are arrested, but the Jews suffer more than the others. They get the worst beatings, the cruelest torture, the vilest insults."

To speak so bluntly takes courage, and Americans at a safe distance have no warrant to judge those in Argentina—Jews and others—who counsel prudence and speaking softly. But to argue that Mr. Timerman's outspokenness imperils Argentina's minorities—Jews and others—amounts to proving his case. Their position is genuinely precarious if their security depends on telling Jacobo Timerman to pipe down.

Plainly it is not in Mr. Timerman's nature to pipe down. He is a vehement debater, given to categorical expressions. He is therefore put down as strident by those who see no such flaw in another gifted troublemaker, Aleksandr Solzhenitsyn. But why praise one at the expense of the other? Each pays the United States the profound compliment of urging it to act as the most potent ally of the oppressed, whether in Soviet psychiatric wards or Argentine torture chambers.

Mr. Timerman finds all torture equally offensive, and scathingly compares the Reagan Administration's bifocalism to Moscow's: "It has been the Soviet Union that has blocked in the United Nations every attempt by democratic countries to investigate violations in Argentina . . . The Argentine Communists maintain that support of the so-called moderate military in Argentina has permitted an improvement in the situation of human rights."

Those are words that sting, especially those who contend that muting criticism of right-wing dictators is necessary to the formation of anti-Soviet alliances. In freedom, as he did in his Argentine cell, Mr. Timerman insists on keeping troublesome truth alive.●

RICHARD J. DALEY

HON. JOHN G. FARY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. FARY. Mr. Speaker, today, it gives me pleasure to honor a great statesman and a fine human being. The late Mayor Richard Joseph Daley is an institution in the city of Chicago who will live forever in the hearts and minds of all Americans. On June 23, 1981, a full-size statue of the late mayor was unveiled by his wife, Eleanor, in the State capitol in Springfield, Ill. Mr. Speaker, one can't imagine a prouder and more emotional moment for all his friends than this ceremony. As I looked around, I saw former allies and opponents alike, men and women who, despite their differences with the late mayor, knew him as a man of his word.

This tribute does not come as a surprise to those who knew him. Besides his seasoned political skill, he was a warm and compassionate human being. Daley was a very religious man, virtually a daily communicant. He loved people and wanted more than anything to make the city work for the people. If this entailed pushing others as he pushed himself, the mayor would do so. He set an example for his people by arriving at City Hall at 9 a.m. sharp every morning and putting in a full day. He lived for the city and worked tirelessly to watch his vision of Chicago grow and come alive.

How proud he would be to see his son, Richard M. Daley, who after following his father's footsteps in Springfield, has gone on to become the State's attorney of Cook County. Although a lifelong Democrat, Daley won his first elective office as a Republican State Representative. But he was seated quickly on the Democratic side of the aisle on a motion made by a Democrat. He spent a decade in the State house and senate and later because director of the State revenue department under Gov. Adlai Stevenson. He eventually returned from downstate, armed with political and legislative experience, to become the mayor of the city of Chicago.

Mr. Speaker, I suggest that we all stand to gain from pursuing the goals of this great man whose motto was, "work, work, work." He was never too busy to listen and offer a bit of advice, regardless of what he was doing. Daley would never forget a friend and stood by you. I know from experience. He set an example, both through his political and family life, for those who remain. As the "city of big shoulders" continues to prosper and realize its potential, it is due in no small part to the vision and leadership of Richard J. Daley.●

MONO LAKE NATIONAL MONUMENT

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. SHUMWAY. Mr. Speaker, as one of the oldest continuously existing lakes in North America, Mono Lake is a national treasure. The Mono Basin deserves the recognition and protection which would be commensurate with its beauty and diversity. Today, I have introduced two bills which take the first steps toward reducing the present threat to Mono Lake's fragile ecosystem.

My legislation would establish the Mono Lake National Monument and provide for important scientific research and essential water management studies. The monument boundaries will be limited to the lake itself, its black and white volcanic islands, the shorelines, and the magnificent Mono Craters directly south of Panum Crater. Total acreage would not exceed 160,000 acres. Because the majority of these lands are publicly owned, there will be little or no land acquisition costs. Furthermore, my bill specifically protects existing property owners and commercial activities from the threat of condemnation. The close proximity of Yosemite National Park will enable the National Park Service to protect the important geological and biological resource values of the Mono Basin, as well as manage effectively the problems of increased visitation which are expected in the area during the next 10 years.

The monument bill also provides for critical water management studies to be conducted by the Secretary of the Interior, with the participation of the State of California and the city of Los Angeles, to determine those policies which these entities would take, along with a relevant timetable for such implementation, to reduce or eliminate water diversions from the Mono Basin. The scientific research efforts envisioned in this legislation call for the compiling of a natural resource inventory—which would include specific impacts of water diversions on those resource values—every 2 years for the next 10 years. This effort would finally move toward the implementation of the Interagency Task Force Report on Mono Lake (December 1979) recommendation that a "research program on environmental resources" be undertaken at the Mono Basin.

To assure the physical integrity of the Mono Lake National Monument, I have also introduced legislation to cancel outdated authority granted to the Secretary of the Interior in June 1936, to convey land parcels in the Mono Basin to the city of Los Angeles for $1.25 per acre. Enactment of this bill will remove the long term uncertainty confronted by Mono County officials in their planning efforts for the Mono Basin. I might add that similar legislation has been introduced in recent years and has received the qualified support of the city of Los Angeles.

Mr. Speaker, the United States is blessed with many wonderful resources, and the environment of the Mono Lake area is one of the most beautiful which I have ever visited. I have admired especially the basin's geographical features—the Mono Craters, Black Point, Negit and Paoha Islands, and the Panum Crater. But these features, as well as the continued use of the Mono Basin for nesting and migratory birds, are becoming increasingly endangered by water diversions which, among other things, increase the salinity of the lake and worsen the air quality of the basin.

Mr. Speaker, the time has come to end the present impasse. In recent weeks, national media attention has begun to focus on the Mono Lake area. Although my bills will not affect or interfere with existing water rights in the area, these initiatives will promote greater visibility and increased protection for the resource values of the Mono Basin. I invite my colleagues to join me in this effort by cosponsoring these measures. For additional infor-

mation, I ask permission to include in the RECORD an excerpt from the recent edition of Life magazine commenting on the Mono Lake area:

In the old days irate Owens Valley farmers dynamited the aqueducts draining their lakes and rivers. These days there are stories of pumps being blown up with Molotov cocktails and cement being poured over water meters. Legal but no less impassioned actions are also being taken by environmental groups protesting the plundering of Mono Lake. The oldest continuously existing lake in North America, crowned in towers of calcium carbonate, Mono Lake is a unique ecosystem and nesting area for tens of thousands of migratory birds, which feast upon the brine shrimp that thrive in the salty water. As Mono Lake drops, it becomes even more saline and less hospitable to life; eventually, scientists fear, it will become an alkali sump and, finally, turn to salt. As litigation continues and Mono Lake ebbs, the state legislature has approved yet another awesome project: a $5 billion, 43-mile peripheral canal at the confluence of the Sacramento and San Joaquin rivers to trap ocean bound freshwater and shoot it southward. As usual, the battle is drawn on north-south lines and will be decided by referendum this winter. The sad irony is that minimal conservation could save Mono Lake and better water-demand management might obviate future aqueduct projects. A Rand Corporation study, for example, asserts that the water problem would disappear if farmers, who use 85 percent of the state's supplies, were denied their generous subsidies that keep water ridiculously cheap and encourage waste. During the 1977 droughts Californians voluntarily reduced their water consumption by 20 percent, yet the L.A. water department now avers illogically that modest conservation, which would cost about 54 cents a person per year, is an "unrealistic" approach to solving water problems.●

MORE ENERGY NONSENSE

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. PAUL. Mr. Speaker, the reactionary Citizen-Labor Energy Coalition released a study yesterday claiming that rapid decontrol of natural gas would cause drastic price increases, and cost 3 million jobs.

The same sort of prediction was made about oil decontrol, but instead we have falling energy prices, and a glut of oil products and gasoline including No. 2 fuel oil, natural gas' main competition. The only solution offered by the planners when we had gasoline lines was rationing while claiming disaster if decontrol ever come, and look how wrong they were.

Michel Halbouty, Houston's outstanding geologist, has pointed out that with decontrol, and the increased exploration it would unleash, would lead to the production of untold trillions of cubic feet of natural gas. We would have more than enough natural gas, from our own country, to supply all our needs, at lower rather than higher prices, since the supply would increase so drastically.

Price controls distort the market, and lead to less production. This has been the case with natural gas since the 1950's. The resulting misallocation of precious natural resources has hurt America, while benefiting certain vested interests.

Let us act in the national interest, and immediately decontrol natural gas. It will lower prices, and create many more new jobs with new economic activity.●

CONTINUED RELIEF AND ULTIMATE REVOLUTION

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. McDONALD. Mr. Speaker, it is interesting to note how little the issues change over the years. Bishop Warren A. Candler, a Methodist bishop, used to write a column for the Atlanta Journal on timely topics. This particular column appeared circa 1935 and is just as pertinent today as it was then. It is particularly applicable to the current budget debate. Bishop Candler's column follows:

CONTINUED RELIEF AND ULTIMATE REVOLUTION

(By Bishop Warren A. Candler)

We are accustomed to say that men learn by experience, but it is far more true that men have no experience of their own nor can they use the experience of others until it is too late.

This is equally true of nations as of individuals. Every nation, as every individual, runs to ruin in pretty much the same way that all others before them have run.

To popularize themselves the Roman rulers were accustomed to make large gifts to the people; and the more they gave the more people wanted them to give. At last their gifts could do nothing to bring peace and prosperity to the nation.

Our own country is not taking the same course, and will reach the same result. Great schemes of relief are devised for distributing funds to the people, who are called the unemployed and are declared to be in great need.

But there is no country in the world that possesses as abundant resources as our country possesses, and no land under the sun where industry rightly directed falls short of the needs of the industrious.

As it was in the Roman commonwealth the large sums given to those claiming to be in need and unemployed will cause them to demand larger sums; and there will come a time when their demands cannot be met. Then they will cry as did the Roman citizens, "give us bread and games, or revolution will follow."

There is a delusion that the Civil Government has somewhere a mysterious and miraculous fund from which to draw all manner of money for those who cry most vociferously for it.

But the Government has no money which it does not get from the people, and if great sums are given to one class they have to be taken from the other class.

In the end we reach the point of revolution. It is now time for needless schemes of relief to be abandoned and the people exhorted to go to work and, live by self-respectful industry.

The cities are overcrowded because men are seeking to escape toil. Such was the case in ancient Rome. As the country became depopulated the large cities became overcrowded.

There is today in our land abundant territory in which profitable farming can be conducted, or at least good livings made; but multitudes are flocking to the cities hoping they can find compensation without work and toilless support by the Government. Multitudes should go back to the country instead of depending upon support by the Civil Government.

The springtime is now on when crops could be planned and labor devoted to fruitful efforts.

But as long as relief schemes maintain thousands of people, the state supported multitudes will not go back to the country. They will remain in the cities where relief will give them maintenance and all manner of diversions will furnish them entertainment.

Our cities are overgrown and much of the surplus population is supported by the taxation of the more industrious and fortunate citizens.

There must be a return of the people to the soil or distress will overtake multitudes and disaster befall the nation.

The divine decree, after the fall of man, was that by the sweat of his brow he should live.

But now multitudes wish to change that decree and make it read by the sweat of other people's brow we will live. This seems to be a selfish view that the Almighty never designed, and which can never bring peace and prosperity to a nation.

Modern inventions have made more fruitful human toil, and less labor may be required to support our nation than was required in the time of our ancestors, but there will never come a time when multitudes can remain idle without demoralization to themselves and damage to the Republic.

Relief schemes will become ruinous as they result more and more in idleness.

If a man can make a living more easily now than during any former time in the history of our country, let him devote his leisure time to doing good to others instead of seeking alms and assistance from others.

No man can be self-respecting who constantly holds out his hands for the doles from the public treasury. No matter how well meant such doles may be they will ultimately lead to dire results.

Benevolence based upon the really needy is a Christian act; but doles handed down to idle beggars destroy all public good.

The sick and suffering must, of course, be relieved; but the idle who are not sick must be left to suffer or sent to work.

It in no sense belongs to the Civil Government to degrade itself to the level of a charity and relief association. There is too much of that sort of thing all over the land.

The evil disposition communicates itself to the legislative bodies who vote the public funds to all sorts of needless objects. Unnecessary appropriations relieve nothing, but damage everything.

Often appropriations are designed to win political favor and secure public office.

The Roman rulers gave large gifts to win public favor and modern demagogues do the same.

It is an easy thing to vote away funds contributed by other people by enforced taxation. Any observant man can see around him many of these vicious appropriations and note their evil effects.●

AUTOMOBILE INDUSTRY

HON. PHILIP R. SHARP

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. SHARP. Mr. Speaker, the mid-June sales statistics for the U.S. automobile industry were released recently and provide concern about the health of the industry and the economy. As we continue debate on the Federal budget and tax policy, we must keep in mind the effects of the solutions we develop on the problems being experienced by the industrial sector of our economy.

After sustaining a gradual but steady improvement in sales in recent months, automobile sales dropped in mid-June by 8.3 percent. The daily sales rate of 19,063 was the lowest rate since the 1958 recession. Unless the situation changes, there will be more layoffs in an industry which has been suffering unemployment for too many months.

Mr. Speaker, the automobile industry is one of the most important industries in Indiana and in the rest of the country. One in seven jobs in the United States is directly or indirectly related to the auto industry. Indiana and the rest of the industrialized Midwest is even more dependent on automobile production. The unemployment rate in Indiana is an intolerable 8.9 percent with more than 225,000 people out of work. Nationally, unemployment in the automobile and equipment industry is over 11.6 percent, and I can assure you that a large amount of Indiana's unemployment is a direct result of the unemployment in the industry.

The only encouraging news in the mid-June statistics is the continued recovery of the Chrysler Corp. Chrysler sales are up 16.5 percent above the level of June 1980. The continued recovery of the company is heartening in light of the difficult decision of the Congress in 1979 to provide loan guarantees for the company to continue operations.

In a related development, the Japanese Government announced June 24 the quotas which will be levied on individual Japanese automobile manufacturers implementing the voluntary automobile export restriction which I had urged the Carter and Reagan administrations to initiate. Individual Japanese manufacturers will be required to cut auto shipments to the United States by 7.7 percent this year. A trade restriction, however, is not a long-term solution to the problem although it is a timely step in the right direction. We must be developing solutions now to make sure that the current problems in the industry do not recur when the agreement ends.

There must be more cooperation between government, labor, and manufacturers. For our part, the Government must create a climate for the investment which will be required in the next 10 years if our automobile manufacturers are to be competitive in the domestic and world markets. The tax bill to be debated by the House within the next few weeks will be crucial to stimulating further investment and productivity. Manufacturers are developing and producing more small, quality, fuel-efficient automobiles which the public demands and which have already helped diminish our reliance on foreign petroleum sources. That trend must continue.

In addition, we must review carefully the wide range of regulations governing many aspects of the industry. In that regard, the Congress will be debating changes in the Clean Air Act shortly, and some reforms of the law may be needed. The development of antipollution technology is a long and expensive process, and we must review the current and future regulations which will affect the industry for the next 10 years.

Although investment, productivity, cooperation and international trade are crucial elements in resolving auto industry problems, there is no question that extraordinarily high interest rates have severely depressed auto sales. The Congress can best address this issue by helping develop a reasonable and responsible fiscal policy. We are in the process of cutting Government spending by $36 billion. We must also enact a tax program which will provide relief for taxpayers as well as address the long-term needs of the economy.

Enacting these policies will benefit not only the U.S. automobile industry, but every sector of the American economy. As we act on these issues in the weeks ahead, I urge my colleagues to keep these points in mind.●

VET CENTER PROGRAMS

HON. THOMAS A. DASCHLE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. DASCHLE. Mr. Speaker, this is the third of four statements I am placing in the CONGRESSIONAL RECORD. Sharing these statements with other Members of Congress is very important, as I think it is only through reading of the experiences of recipients of vet center counseling that we can have a better idea of the kind of work vet centers do and how successful the staff can be.

The individuals who testified before the Subcommittee on Hospitals and Health Care on June 15, 1981, in Atlanta, did so voluntarily; and seasoned witnesses could not have testified more eloquently than they. I believe their experiences with the vet center program are indicative of the experiences of scores of other Vietnam veterans. Their testimony clearly demonstrates the need to continue providing readjustment counseling to Vietnam veterans. It is not often that we can credit a Government program with touching people's lives in such a significant and meaningful way. I am proud of this program, and I believe after reading the statements of the four witnesses, other Members will share my pride.

The testimony of Mr. David Anthony follows:

STATEMENT OF DAVID F. ANTHONY

I am a 32 year old combat veteran of the Viet Nam War. I served with the United States Marine Corps, in the infantry, and was wounded three times. I served with the First Marines in Viet Nam from August 1967 to November of 1968 and served in the I Corps Area of Viet Nam. I participated in the Tet Offense of 1967-1968 and was at the Battle of Hue City and the Seige of Khe Shan. I spent my last two years in the Marine Corps as a Drill Instructor at the Marine Corps Recruit Depot, San Diego, California.

I am presently employed by the Cobb County Solicitor's Office as an investigator in the Consumer Fraud Division. I'm a graduate of Michigan State University and currently enrolled in graduate school. I have been married and divorced twice and have three children. I presently participate in the Wednesday night group sessions at the Vet Center located at 43 14th Street, N.E., Atlanta, Georgia.

I believe the hostility that this country felt toward veterans in the late 1960's and early 1970's is well documented; therefore, I feel it would be redundant to go into my own feelings of alienation and rejection upon my return to this country, but I would like to say that I did not understand why I became a focal point for anti-war sentiment by the mere fact that I was a veteran. I would also like to say that I found it a necessity to repress my own feelings concerning Viet Nam because the atmosphere on college campuses in the early 1970's did not allow for open discussion of Viet Nam.

My first experience concerning Viet Nam happened during my first term in college. I could not handle the rejection or the labeling of myself as a murderer of women and children by the school. I withdrew from my first term, grew my hair long and lied about being a veteran. I sought therapy at the Veterans Administration Hospital in Deerborn, Michigan, and their solution was admittance to the Psychiatric Ward of the Hospital, which I rejected.

I sought private therapy and for the next eleven years I ran the gauntlet of group sessions, private sessions meditation, medication, and hypnosis. I talked with psychologists, psychiatrists, counselors, ministers,

priests, therapists and finally, other veterans. This experience covered 15 different clinics and practices or centers and the cost was in excess of $10,000. The only positive result came from the exchange of feelings and experiences of other veterans. I have been classified as having six separate behavior disorders of psychological problems, but in reality none of the labels really fit, they were just convenient.

The feelings of emotional deprivation and isolation, of alienation and rage I believe come from shotgun exposure to life and death trauma at the age of 18 years and the need to protect oneself against the psychological pain of losing close friends and experiencing the ultimate insanity of war. I do not believe this makes me a non-functional member of society, but like the alcoholic or cancer patient, I do need specialized help to deal with the experiences of Viet Nam so that I might leave it behind me.

This brings us to the purpose of these hearings, the Vet Centers, and why they should continue and not be incorporated into another agency. I would like to attempt to give an illustration of why I believe in the Center. Viet Nam veterans and rape victims are similar in many ways. They both have hospitals that can deal with their physical needs, but neither have organizations to deal with the psychological needs. Mental health centers are not prepared to deal with anything except established mental disorders and rape victims and veterans are not mentally ill. They have very special needs and raw therapy sessions work the best for both groups. The Vet Center deals with Viet Nam era veterans, period. The people that attend the sessions share similar experiences, are in the same age group and have intimate knowledge of what war is. The setting at the Vet Center is relaxed, open, honest and safe. No institution could ever duplicate the security of the Center and to me, this is of the utmost importance,

The trust could not exist in another environment. The stigma of a hospital and the illness it represents is not conducive to open discussion. How can you talk about Viet Nam in the same environment where they test you for Agent Orange poisoning?

The Vet Centers are very important to Viet Nam veterans because after years of having no where to go, veterans now know they have the Centers and the other vets to turn to if they need them. The Centers are very cohesive and the bond among the veterans who participate is as strong as the bond that hold men in combat to each other. It represents unsolicited support void of all requirement to reciprocate.

When Congress establishes these Centers, it was the first positive step toward psychological rehabilitation of Viet Nam area veterans. I would hope that the second step would be to continue them. I volunteered for the Marine Corps and Viet Nam because I believed in this country and what it stands for. I still do. I feel pride in being an ex-Marine and a member of this country's Armed Forces and I hold no animosity toward anyone concerning this war. I would, however, like to put it behind me like high school or college, and I believe that my only hope at this time is working through my feelings about Viet Nam with the help of the Readjustment Counseling Program for Viet Nam era veterans. I urge you to continue the Centers.

Gentlemen, I would like to sincerely thank you for the privilege to testify before this Committee and would be more than happy to answer any questions you might have concerning my statement or any other matter concerning these hearings.●

HONORING THE SAVINGS AND LOAN INDUSTRY

HON. JAMES L. NELLIGAN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. NELLIGAN. Mr. Speaker, it is a distinct pleasure to honor the savings and loan associations of America on their 150th anniversary, the savings and loan industry, founded on the precepts of encouraging thrift and promoting home ownership, originated with the establishment of the Oxford Provident Building Association in Frankford, Pa., on January 3, 1831.

Today, after 150 years, nearly two-thirds of all Americans own their homes. This is due, in great measure, to the Nation's savings and loan associations, who have financed more home ownership than all other types of private lenders combined. As America's vital savings and loan business embarks on its second 150 years, the industry's assets now exceed $610 billion dollars and it has become a bulwark in the Nation's economy.

The success of the savings and loan industry stands as a tribute to our free enterprise system and most importantly, to a Nation whose free people, recognizing a need for housing, banded together and unselfishly pooled their resources in an effort to help one another achieve home ownership.

This vital financial industry, so successful in the past, must be preserved to insure the precious right of home ownership for all Americans.●

IT'S NOT CURTAINS YET FOR THE ARTS

HON. GUY V. MOLINARI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. MOLINARI. Mr. Speaker, I would like to call the attention of the House today to an article that appeared in The Christian Science Monitor on June 22, 1981, entitled "It's Not Curtains Yet for the Arts." The district that I represent has one of the highest concentrations of artists and performers of any other district in the country. We also receive one of the highest shares of awards and grants from the National Endowment for the Arts and the National Endowment for the Humanities. I am speaking of course, of Greenwich Village and the Soho sections of lower Manhattan. While I believe the Federal Government does have a responsibility in promoting and encouraging the arts, at a time when we are cutting social services to the needy I do not think we can justify a larger Federal role for the arts. As a member of the executive committee of the Congressional Arts Caucus, I believe that the arts community must begin to look at new and innovative ways of funding their projects. The following article touches on several ways the arts community can continue to flourish.

[From the Christian Science Monitor, June 22, 1981]

IT'S NOT CURTAINS YET FOR THE ARTS

FEDERAL FUNDING MAY NOT DROP AS FAR AS EXPECTED; OTHER AID ALSO SOUGHT

(By Brad Knickerbocker)

When former actor Ronald Reagan announced he was going to cut federal funding for cultural programs by 50 percent, dancers stumbled, writers snapped their pencils, and potters kicked their kilns.

But arts supporters' cries of "crisis," their envisioning of darkened playhouses and muted poets across the land, may have been premature.

Congress is moving toward a restoration of funding for the National Endowment for the Arts and National Endowment for the Humanities. And even if the recent rapid rise in government art patronage is slowed in the name of austerity, the Reagans (Nancy Reagan is particularly interested in the subject) have plans for some new ways to officially promote cultural advancement.

The White House Task Force on the Arts and Humanities held its first meeting recently, an impressive gathering of performers, intellectuals, corporate executives, and professional arts promoters. This was not a group, as co-chairman Charlton Heston said, to preside over the demise of federal arts support. Not with New York City Opera general director Beverly Sills, Librarian of Congress Daniel Boorstin, and Kimball Art Museum director Edmund Pillsbury among its 36 members.

The group's broad mandate is to find ways of encouraging greater private support for the arts and humanities (individual as well as corporate) and to explore how the federal government can play a more effective, if less direct, role in stimulating such support. It is to report back to the President by Sept. 30.

A number of ideas are being considered. These include changing tax law to encourage more giving by corporations and individuals (perhaps through an income tax form checkoff for cultural contributions), and a public arts and humanities corporation similar to the Corporation for Public Broadcasting. Such a corporation, some think, would make the federal involvement a little less bureaucratic, a little more independent.

The Reagans intend not only to attend many cultural events but also to invite a wide range of performers and groups to the White House.

"The interest is in showcasing all sorts of talent and not just old, established, famous names," says White House arts adviser Aram Bakshian Jr. "This would involve things such as encouraging young talent, spotlighting young talent . . . having a wide range of talent here for events, a large troupe, a small troupe, a regional troupe."

On Capitol Hill, a key House appropriations subcommittee recently voted to allot the national endowments for arts and humanities 90 percent of their projected 1982 funding levels (compared with 50 percent

Mr. Reagan has called for). The Congressional Arts Caucus, headed by a former bigband leader, Rep. Fred Richmond (D) of New York, now has more than 140 members. Lawmakers have been inundated with pleas for support from artists, performers, museum curators, and the like.

How future arts and humanities budgets are shaped remains to be worked out between the more-friendly House and dominant Republicans in the Senate.

In any case, the Reagan administration wants to bring its own philosophy to how the federal government approaches cultural matters.

In addressing the arts and humanities task force, the President reminded members that the establishment French Academy has turned up its collective nose at the work of impressionist painters.

"The main feeling is, we don't want a Washington-dominated . . . set of cultural standards," Bakshian said in a later interview. "Should the government be in a position of saying what is and isn't approved culture?"

The White House arts adviser points out that funding for the endowments has increased more rapidly than general federal spending in recent years. A top official with one of the national endowments concedes that "they grew faster than good management would permit."

Bakshian (an amiable young man who has written a German-language book on Robert Stolz, Austria's last waltz and operetta master), feels there has been a general blossoming of the arts in the United States in recent years, independent of the increased federal involvement. He disagrees with those who say that increased corporate giving has been stimulated principally by federal grants.

He notes that only 26 percent of American corporations make charitable contributions, and fewer still (6 percent) give the maximum that is tax-deductible. It is this reservoir that President Reagan—because of his background as a performer and close ties with big business—hopes to tap.

"Culture is not going to die in this country, no matter what we do," says Bakshian. "The great geniuses and also the great periods of collective vitality were there before there was any federal role, so I'm not worried about the future of the arts."●

THE SOVIETS: PERSISTENT AGGRESSORS AND OPPRESSORS

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. FIELDS. Mr. Speaker, today I am submitting for the RECORD two articles which clearly illustrate the reprehensive practices of the Soviet Union.

The first article, entitled "Zarnitsa: Soviet Schools Prepare Youth for War," written by Victor Herman and Fred E. Dohrs, examines the intricacies of Soviet "war games"—an integral part of Moscow's absolute commitment to total military preparedness.

The second article, "Hitler's Soviet Model: 'Holocaust' Still Goes On," is written by Boris Vinokur. Mr. Vinokur, former writer for Pravda and an official of the Institute of the International Workers Movement in Moscow, illustrates the many parallels between Hitler's national socialism and Lenin's Communist ideology. Mr. Vinokur asserts that Hitler put into practice those misanthropic philosophies propounded by Lenin and Stalin.

I urge my colleagues to read these poignant articles and become acutely aware of the Soviet Union's present day aggressive and oppressive practices.

[From News World, June 17, 1981]

ZARNITSA: SOVIET SCHOOLS PREPARE YOUTH FOR WAR

(By Victor Herman and Fred E. Dohrs)

Soviet children play a special war game in school—Zarnitsa—their favorite game. Literally, Zarnitsa means "sheet lightning," but in this context it means a lightning strike or an attack at dawn in a military sense. Little known outside the Soviet Union, Zarnitsa is an important part of Moscow's absolute commitment to total military preparedness.

Zarnitsa season starts with the beginning of the school year. In each school, classes play against each other under the close supervision of their teachers, leaders of the Young Pioneers and Young Communist League (Komsomol) and specially appointed army instructors, usually majors or colonels, some recently retired, others on active duty.

In the early phases, Zarnitsa consists of athletic drills and races, target practice and familiarity with 22-caliber rifles, and learning the tactics of offense and defense.

RIFLES IN FOURTH GRADE

There is no pistol shooting. Hand guns are very closely controlled in the Soviet Union, even police or troops carrying them must turn theirs in when they go off duty. Rifle practice usually begins with fourth grade students, and by sixth grade, the students, boys and girls alike, are qualified with light machine guns—and they love it!

After weeks of these drills, exercises, practice and competition, Zarnitsa moves into the field where class and school teams of 15 members play the game—physically fighting for and guarding the flag. In this case, Zarnitsa resembles a game often played by many American youngsters at summer camp—"Capture the Flag."

But any similarity ends right there Zarnitsa is taken far more seriously by students and supervisors, especially the army instructors. Strict discipline is enforced; this is a military exercise not to be confused with boy scouts working for merit badges. Everyone, especially the students, understands this, however, and they all play the game accordingly.

The games are played over large areas out in the open country away from the towns and cities, in the fields and forests where the teams are taken in army trucks. Each team has its own military flag, army-type uniforms, rifles (without ammunition), dummy hand grenades, and complete field gear: compasses, signal guns, first aid kits, tents, cots, stretchers, field rations—the works.

REDS CAN'T LOSE

Years ago, when Zarnitsa first received regime support as an initial phase of the Soviet preparedness program, the teams were designated the "Reds" and the "Whites." It was soon realized, however, that defeat was possible for the "Reds"; but of course this was an ideological impossibility. "Reds" cannot and must not ever lose! So the team names were changed to "Blues" and "Whites," and they continue today.

Class and school games are very important to the serious and heavily committed individual players. Rivalries between teams are as strong as those between neighboring American high schools over football and basketball. One reason for the popularity of Zarnitsa is that other games and team sports such as soccer, volleyball and basketball are not emphasized in school programs, and there is little interscholastic competition, quite different from American sports. Military training is what Moscow wants to emphasize.

There is another striking difference between American team sports and Zarnitsa. At all times, Soviet students know that they are playing not only for the glory of the team and the school, but they are also playing for the defense of the Soviet motherland. This latter point is constantly emphasized throughout all Zarnitsa training programs and the games.

As the season progresses, district and regional teams are developed and championships held. At each higher level the teams become larger and are made up of the best players from the lower-level teams.

By the time the "republic" or state championships are reached, each team may have several hundred players, and the game area is enlarged proportionately. Again, the army supplies everything needed for the games, and student enthusiasm increases. The closer Zarnitsa approaches real warfare, the greater their excitement and zest.

NATIONAL FINALS

After each of the 15 republic teams plus those of Moscow and Leningrad have been selected, there is a competitive elimination series. The two best teams compete for the final soviet-wide championship near the end of the school year in the summer.

This final is a national event, widely publicized in the press and shown on television. The teams in the finals have become even larger, augmented with the best players from all the earlier teams. The military advising staffs are numerous and include many generals and senior Communist Party chiefs from the various republics. American Little League Championships are bush league when compared to the Zarnitsa final.

Differing only slightly from actual military training maneuvers, the national finals are played for several days under the direct supervision of army commanders, with a large staff of commissioned and non-commissioned officers working with each team.

Equipment and weapons of the latest types are now issued to the players, and the army supplies tanks, rockets and artillery as well as fighter aircraft, all in abundance, to create a wartime atmosphere on the now vast playing area which resembles a real battlefield.

Naturally, live ammunition is used in the finals to increase the authenticity of the battle. Frequently there are accidents and mistakes which result in serious casualties. Some are wounded and a number are killed; it would be surprising if this didn't happen. The Soviet news media, however, make no mention of any casualties. All players have had first aid training as part of the Zarnitsa program and paramedics are attached to each team, and so the wounded are cared for in some manner.

Combat realism is the goal to be reached in the finals, and it is. Winning is so impor-

tant, and the players are so keyed up that they frequently use torture to get battle intelligence from an unfortunate captured "enemy." And in the heat and temper of battle, the live ammunition is tempting, if not irresistible, to the exhilarated young players. Over television, the finals appear to differ only in scale from regular army maneuvers. The Zarnitsa finals are "Capture the Flag" with a vengeance!

ATTITUDES REINFORCED

The winners are awarded individual medals and scrolls of honor. The teams receive appropriate banners and flags, and obviously all players become local if not national heroes. Everyone following local players and the republic team through the whole competition gets further conditioning on the importance of the military in Soviet life and the necessity for constant vigilance and preparedness for the defense of the Soviet Union.

Moscow is understandably pleased with the great success of this method of military indoctrination. With Zarnitsa the favorite sport in the Soviet school system, military training and preparedness have a most successful introduction renewed with each new school generation. Perhaps the greatest achievement of the Zarnitsa program is the development of a positive attitude toward the security of the country and a continuing consciousness of the need to be prepared to defend the Soviet homeland against all enemies.

HITLER'S SOVIET MODEL: HOLOCAUST STILL GOES ON

(By Boris Vinokur)

The first Friday in May has been designated an annual day of remembrance for the 6 million Jews who died in the Holocaust. This day has become a worldwide commemoration—except for one country where it is forbidden: the U.S.S.R.

Why? Why did the Soviet police in Moscow last month block all the buildings where dissidents and Jewish activists live? Why has the Soviet government decided to put an end to their meetings once and for all?

The answer is that the Soviet leaders are afraid to mention how National Socialism was born and who nurtured it. They are afraid of the parallels, and that recent and rising generations in the U.S.S.R. will know about an older holocaust which still goes on. It is one that Hitler took for a model, and it survived him.

People ought to know that National Socialism is nothing but a bastard child of communist ideology. They should realize this and remember it for their own sake, for the sake of their children, and for the sake of their future.

HITLER STUDIED MARX

Let's recall at least some of the well-known facts. The young Adolf Hitler felt a special predilection for Marx. Robert G. L. Wait, author of a biography of the Nazi dictator, testifies that Hitler not only studied Marx but wrote abstracts of his articles. He studied Marxism and was raised on its misanthropic doctrines. In an early speech at Essen on Nov. 22, 1926, Hitler stated: "Force is the first law."

By that time Hitler had an opportunity not only to read Marxist literature, but to study the practical experience of Marx's best student, Vladimir I. Lenin. The 50-year-old Bolshevik dictator Lenin was then reaping the fruits of the Marxist doctrine of the violent seizure of power. He legitimized terror in Russia.

It was Lenin, not Hitler, who invented the world's first death camps. The world's first concentration camp, Solovki, was built by none other than Lenin. The site was an ancient monastery in which Lenin destroyed his political opponents. Hitler now had someone to learn from, someone from whom he could borrow not only theory but practical experience.

In his younger days, Lenin had written in his book "One Step Forward—Two Steps Back": "Without Jacobin's terror, the dictatorship of the proletariat is a meaningless phrase." Hitler's mention of force in his early speech at Essen is the very reflection of this. Lenin first put his thoughts into action, then Hitler.

Later, Josef Stalin developed Lenin's idea of concentration camps into gigantic proportions. Russia was covered in barbed wire as though in a spider's web. And Hitler learned from Stalin, too.

TODAY'S "MODERN" CAMPS

Now under Brezhnev, the same concentration camps are there, but there are also psychiatric hospitals. In Brezhnev's modern concentration camps, political prisoners are "treated" with haloperidone, which induces difficulty in thinking and general physical and mental weakness. At the present time, thousands of political prisoners, members of human rights movements and religious people, are in Soviet concentration camps.

Both Lenin and Hitler borrowed the idea of dictatorship by a single party from Marx. Hitler borrowed the Party structure from Lenin. Hitler also built his secret police system on the Soviet model. The Soviet secret police had, and still has, informers in every institution, including even the Party apparatus. The Soviet leadership had, and still has, special subdivisions of the secret police who keep watch over the higher ranks of the Party. Hitler had an analogous system. The Soviet secret police now employ more than 400,000 people—a number equal to the combined forces of France, Italy, Finland, Sweden, Norway, Belgium, the Netherlands and Luxembourg.

The crimes of the National Socialists were incontestably great and monstrous. But even greater and more monstrous are the crimes of the communists in Russia. On their conscience are the souls of 60 million who have perished during 60 years—Soviet Russians, Ukrainians, Lithuanians, Estonians, Letts, etc. And what about the Jews?

AN ASSIMILATION PLAN

In 1934, the Soviet government conceived a grandiose plan for the assimilation of Jews with the people of other nationalities inhabiting the U.S.S.R. The plan was implemented under the phony slogan of preserving distinct Jewish identity and culture.

Hundreds of thousands of Jews, mainly unmarried men, were forcibly transported to the wilds of the Soviet Far East. Thus was created the "autonomous" Jewish region of Birobidzhan.

Why on earth did the Soviet government decide to build the so-called "center of Jewish culture in the country" in the remotest hinterland in Russia, where no Jews had ever lived? Why couldn't this center have been created in some region traditionally settled by Jews, in the Ukraine, for instance?

The answer is simple. Birobidzhan, cut off from the industrial regions of the country by thousands of miles of trackless forests, was supposed to become a kind of crematorium for the Jews.

And so it did. Isolation from the outside world promoted assimilation; it progressed year by year.

Today in Birobidzhan, the number of inhabitants there of Jewish extraction is only 8 percent of the total population of this so-called Jewish autonomous region. In other words, the generations born of Jews who arrived in Birobidzhan in 1934 have been almost totally assimilated by the local population.

A LOST CONSCIENCE

The Party boss in Birobidzhan is Lev Shapiro. He is a man who has lost his conscience and betrayed his people. I had an occasion to meet him, at which time he stated quite shamelessly that the assimilation of the Jews was a progressive undertaking and that Birobidzhan was a model region in this regard. In his opinion, all Jews should become assimilated and blend with others into a single "Soviet people."

Lev Shapiro didn't realize that in our conversation he was merely mouthing the cherished views of the Communist Party of the U.S.S.R. leadership on the position of the Jews in the Soviet Union. To be more exact, he briefly and concisely formulated the essence of the policy of the Politburo of the Communist Party, which is aimed at the destruction of Soviet Jews by all means possible. One of those means is assimilation. And Birobidzhan, as Lev Shapiro correctly pointed out, is a model region: a slow-motion Holocaust hidden from the world's eyes deep in the far eastern region of the U.S.S.R.

In Birobidzhan, there is no teaching in Yiddish. Modern Hebrew is forbidden; it is permissible to use only the official state language: Russian. Birobidzhan has only one synagogue; it has 20 worshippers, all old men. This pathetic group living out their last days is all that justifies calling Birobidzhan a "Jewish autonomous region."

GOAL: ANOTHER "HOLOCAUST"

Hitler spent enormous sums on his army, for his goal was to subjugate the world to the model of National Socialism. The communists' goal is the same. Constantly, stubbornly, methodically they are carrying out their plans to seize more and more countries. Examples are the recent invasion in Afghanistan and their horrible repression in other countries throughout the world.

According to the most conservative estimates, Soviet leaders now spend more than 25 percent of the annual state budget for armed forces maintenance, including development of military research. This testifies to one thing: the aggressive ambitions of the Communist Party leadership, their implacable desire sooner or later to turn the world into a "Holocaust" on the Soviet pattern.●

THE SERVICES OF HOUSE INFORMATION SYSTEMS

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. HAWKINS. Mr. Speaker, in order to give my colleagues a better understanding of the excellent services provided by House Information Systems, I submit the following statement:

THE SERVICES OF HOUSE INFORMATION SYSTEMS

Mr. Speaker, I would like to describe to my colleagues some of the services provided by the House Information Systems (HIS). Many Members may not be aware of the wide variety of excellent services HIS provides. These services include everything from producing the monthly paychecks for all House employees to Member voting on the House Floor.

In addition, the Committee on House Administration will be opening an Office Management Demonstration and Training Center, located in near-by House Annex 1, which will provide a centralized location for Members and staff to get more information on what computer technology is available for use in their offices. The Center, which will open in the next few weeks, will also provide a convenient location for HIS personnel to train people on LEGIS, and the other computerized information systems, as well as assist Members and staff in necessary back-up technical services.

In the meantime, however, I thought my colleagues might find it useful to see a brief sample of some of the necessary computer and information services HIS provides to the House of Representatives:

HIS provides direct computer support to the legislative process of the House. It provides all of the programming and operational support for the Members' Electronic Voting System. During 1980, this system was operational 100 percent of the time required to record, tabulate and display all 681 floor votes. Further, over the last eight years the system has missed only 12 of approximately 5,000 votes, and over the last 34 months has not missed a single roll call vote.

The official House finance system, including all House accounting, staff payroll and voucher processing, is operating on the HIS computer. HIS provides design, programming and operational support to the House Finance Office for all official House financial services and, as you may know, this system actually pays the bills we incur in running our congressional and committee offices. In 1980, this HIS service involved the processing of checks for 165,000 vouchers and 120,000 staff payroll checks as well as the quarterly Clerk's report and the year-end employee wage and earnings statements (W-2 forms) for all House staff.

In 1977, HIS introduced an automated system, in cooperation with the Government Printing Office, to reduce the cost of printing House hearings and bills introduced. That system has been successful, and a conservative estimate has been made that this system alone is saving the American taxpayer approximately $1 million a year. (The cost per published page has been cut by 50 percent.) This HIS-supported system directly assists the publication of all hearings covered by House Reporters and all the bills drafted by the Office of the Legislative Counsel. A similar system developed by HIS is being used by the House Law Revision Counsel and will be used to update the U.S. Code.

The President's Budget, which we spend so many hours debating each year, comes to the House from the Office of Management and Budget on computer tapes. Since the Congressional Budget Office (CBO) does not have a computer capability of any significance, HIS processes budget information for CBO's use. Specifically, CBO is assisted all year long in its duties of monitoring the budget status and the fiscal impacts of various types of legislation by several systems supported by HIS, which ultimately are provided as a service to the House. HIS also provides the Budget and Appropriations Committees with data on the President's Budget.

HIS provides House Members and their staffs with easy access to computer data bases that contain a wide variety of pertinent information. These data bases include the Legislative Information and Status System (LEGIS), Summary of Proceedings and Debates (SOPAD), and Member Budget Information System (MBIS). Training in these systems is also provided by HIS as well as training in the use of outside data bases, such as JURIS from the Department of Justice, FAPRS from the Office of Management and Budget, and SCORPIO from the Library of Congress.

Additional areas of House operations where HIS support is provided include the following:

The inventory systems of the Clerk for all equipment in Member and committee offices;

The publication of Committee Calendars;

Automation of the Congressional Record;

The publication of the House Telephone Directory;

Computer support for the House Office Supply Store;

Support for the Clerk in processing reports required by the Federal Elections Campaign Act;

Support for the Clerk in processing Member financial disclosure statements;

A system to support the Clerk in administering the Lobby Act;

Forecasting and modeling services for committees;

Tax analysis support for the Joint Committee on Taxation;

Welfare and income policy analysis for CBO and various committees;

A pilot committee administrative system (for accounting, personnel, mailing lists, and correspondence management); and

Providing an electronic mail service for Member and committee offices.

While this is not a complete list of House Information Systems' activities, it does illustrate that HIS is providing the House of Representatives with much needed information and computer support in a variety of areas.●

DAVIS-BACON—TAKING AN UNFAIR RAP

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. VENTO. Mr. Speaker, there seems to be a growing popularity on the part of a few to seek to weaken the protections which have been secured by working men and women in the past decades.

These rights are being attacked as inflationary and unnecessary on the basis of inaccurate and incomplete information. The hard-earned protections for working Americans are most essential. We cannot turn our back on the basic worker rights of a safe and healthy work environment and of an honest day's pay for an honest day's work.

A favorite target of the opponents of the American worker is the Davis-Bacon Act. This law has, since its passage in 1931 during the Hoover administration, insured that construction workers and construction quality would not be the victims of unfair competitive practices. The need for this legislation remains as strong as ever. In this time of high inflation and low housing starts, the worker would be most vulnerable to cost-cutting competitive practices without Davis-Bacon.

I believe that Congress must stand firm in its commitment to existing worker protections and streamline where necessary the implementation of the law but stand firmly for the Davis-Bacon concept.

At this time, I would like to bring to my colleagues' attention a Washington Star article by former Secretary of Labor, Ray Marshall, someone with practical experience and knowledge on labor issues, who sets the record straight on the Davis-Bacon Act:

[From the Washington Star]

THE DAVIS-BACON ACT IS TAKING AN UNFAIR RAP

(By Ray Marshall)

The article by Hubert L. Harris, "Stockman Missed Some Fat," (Comment, March 27) demonstrates little understanding either of the nature of the Davis-Bacon Act or the Carter administration's handling of that important labor standard program. As the person in the Carter administration with major responsibility for Davis-Bacon, I would like to set the record straight.

Mr. Harris suggest that much has changed since the Davis-Bacon Act was passed during the Hoover administration in 1931; and therefore it is no longer necessary to protect construction workers from the use of federal power to depress their wages.

Davis-Bacon was based on a principle that is still sound—that competition should be mainly on the basis of improved management, not the reduction of labor standards. The contractor's lack of control over many of his costs makes wages highly vulnerable to cost-cutting competition, including excessive pressures by the government as a purchaser.

COMPETITION AND WAGES

As it was in 1931, the construction industry continues to be characterized by instability and heavy unemployment.

Construction is an intensely competitive industry with more than 500,000 contractors. The work is highly seasonal and workers have limited attachment to a particular employer; the average worker works only about 1,200 hours a year, and unemployment rates are typically much higher than for most other workers. In 1979, for example, unemployment averaged 5.5 percent for manufacturing workers and 10.8 percent for construction workers.

Consequently, we in the Labor Department recognized early in the Carter administration that Davis-Bacon protections were still warranted. We also realized that the administration of Davis-Bacon needed strengthening.

However, the Carter administration's position on Davis-Bacon was not dictated by a "raucous cry" from the union. The fact is

that opponents of Davis-Bacon—inside and outside the administration—had neither facts nor logic on their side. Indeed, this matter was very thoroughly debated by a Cabinet-level group that I co-chaired (not, as Mr. Harris states, a study by the Office of Federal Procurement Policy. The OFPP had a position paper, not a study. Substantial parts of that paper were seriously flawed.)

The Department of Labor did move to implement some of the recommendations to reform Davis-Bacon's administration, but this did not satisfy those who wanted the act repealed or weakened.

THE INFLATIONARY BRICKBAT

Mr. Harris' main argument appears to be that Davis-Bacon is inflationary. This is an old argument, but there is absolutely no reliable evidence that Davis-Bacon has caused wages to be set above any meaningful definition of prevailing rates or that wage increases have been mainly responsible for higher construction costs.

To the contrary, there is evidence from the Department of Housing and Urban Development and from the National Association of Home Builders to show that labor costs declined from 31 percent of housing costs in 1942 to 17 percent in 1977—the main increases have been in financing (which increased from 5 percent to 11 percent) and land costs (which increased from 11 percent to 25 percent).

Between 1926 and 1978 construction wages lagged behind both inflation and other wages, as well as behind mortgage interest rates, profits, and other costs. Between 1975 and 1980 all construction wages increased 36 percent, union construction wages by 42 percent, manufacturing wages by 51 percent, all non-farm private industry wages by 47 percent and inflation increased 55 percent.

Nor does Davis-Bacon set wages above the prevailing rate, or simply use union rates. Davis-Bacon rates tend to reflect market conditions: they are rarely union rates in the largely non-union residential construction industry (union rates were but 17 percent of the total in 1978).

The Council on Wage and Price Stability itself concluded in 1976 that Davis-Bacon wage rates were not "typically higher" than wages paid to craft workers in a local labor market.

FLAWED EVIDENCE

Mr. Harris cites various studies to support his argument that Davis-Bacon is inflationary, especially a seriously-flawed and strongly biased 1979 GAO report which set about to prove that Davis-Bacon and related prevailing wage acts had an inflationary cost of $715 million. However, the GAO report admitted that over two-thirds of that estimated cost was based on data which had no substantial validity. In fact, that estimate is based on cost calculations from only 12 of 120,000 projects covered by these federal laws during 1976! (The GAO established its own rules for calculating wages and costs rather than those used by DOL, guaranteeing that it would get different results. The calculations ignored productivity differentials and assumed that contractors would automatically pass any savings from wage reductions on to the federal government in lower prices.)

Mr. Harris also states that Davis-Bacon has reduced the entry of minorities and others into the construction trades. He is wrong here also. Davis-Bacon provides a special rate for apprentices and trainees. Moreover, the unionized sector of the construction industry has a higher proportion of blacks than the non-union sector. In 1960, minorities constituted only about two percent of all apprentices, and today they constitute over 18 percent.

HELPING MINORITIES

My research and that of Professor Ashenfelter at Princeton found that unions provide considerable economic advantages to black workers. While the construction trades have had a history of discrimination against blacks, few skilled or technical trades have made more progress in admitting blacks and other minorities.

The main problem with those who argue for the repeal of Davis-Bacon is that they would simply like to reduce construction wages because they feel this would reduce construction costs. Mr. Harris' assertion that other worker-protection legislation, especially the Fair Labor Standards Act (which among other things establishes the minimum wage) makes Davis-Bacon unnecessary is without merit. Does anyone believe that we will get workers to undergo the long years of training required to acquire construction skills for the minimum wage?

Davis-Bacon is a source of stability in an unstable industry. By providing that stability over the long run, Davis-Bacon helps assure a well-trained and productive work force.

As with many simplistic cost cutting arguments, in the long-run repeal of Davis-Bacon would bring higher costs and lower productivity.●

IT IS NOT JUST NAMIBIA

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. GOODLING. Mr. Speaker, the territory of Namibia—in southern Africa—is the subject of one of the most intractable and frustrating international disputes facing the world today. The situation is complicated by the vast numbers of involved and interested parties. It is further confused by the myriad of conflicting priorities, interests, and positions taken both by the multilateral mechanisms—such as by the Organization for African Unity (OAU) and the United Nations (U.N.)—as well as by the involved parties through bilateral relationships.

The United States is presently involved in the process of negotiating with the parties to the conflict in the hopes of reaching an internationally recognized solution to the political problems in which Namibia and its people are now enbroiled. William P. Clark, the Deputy Secretary of State, has recently returned from southern Africa, and Chester Crocker, Assistant Secretary of State for Africa, has twice visited the area since the beginning of the year. Interestingly, the willingness of the administration to negotiate on this issue has been interpreted in a variety of ways. Sam Nujomo, a Soviet backed Namibian guerrilla leader, has accused the United States of entering into an unholy alliance with South Africa. Siaka Stevens, President of Sierra Leone, and former Chairman of the OAU described what he saw as "a decided tilt toward South Africa" on the part of the United States.

Two points need to be made. First, the willingness of our Government to discuss Namibia with South Africa should not be interpreted as anything resembling an acceptance of South Africa's views on the subject. Furthermore, anyone who believes that a settlement of the Namibian issue can be imposed on South Africa against its will is not facing up to reality. South Africa must be brought into the process of negotiation if a peaceful settlement is to be hoped for. The last administration spent the better part of 4 years carping and bellowing at the South African Government and the prospects for a Namibian settlement were, at the end of that time, "dead in the water," as Chester Crocker has stated. It seems obvious that a new course must be set; a new and more dynamic policy pursued.

Mr. Speaker, for the benefit of my colleagues, I would like to include in the RECORD an article which appeared in the June 20, 1981, issue of the Economist entitled: "It's Not Just Namibia."

[From the Economist, June 20, 1981]

IT IS NOT JUST NAMIBIA

A SETTLEMENT OF SOUTH AFRICA'S LAST BORDER PROBLEM WOULD EASE THE LONELINESS OF THE LONG-DISTANCE AFRIKANER

Once again, South Africa is belatedly peering around for a friend to help it through one of its quarrels with the world. Once again, it is doing so with all the grumpiness that its leaders usually show. But this time perhaps, it is getting somewhere.

South Africa's prime minister, Mr. P. W. Botha, is wondering whether he should use the Namibia issue as a means of buying a better relationship with the United States, Namibia is the last of the territories around South Africa's borders where the question of white rule or black rule remains unanswered. Last week America's point men on southern Africa, Mr. William Clark and Mr. Chester Crocker, told him that the Reagan administration would take care of South Africa's "most urgent needs" in shaping a settlement for Namibia. Mr. Botha went out on a limb last January, when he sank the UN plan for Namibian elections. Now he can claim, with some conviction, to have American support for changes to that plan.

It seems clear that the Reagan administration and South Africa have reached broad agreement about the future of Namibia. But it also seems plain that their plan is a pretty diluted version of the UN scheme Mr. Botha at first accepted and then abandoned. Their proposals will therefore be resisted by Mr. Sam Nujoma, the leader of the black guerrillas fighting against South Africa; and the governments of the black-ruled states of southern Africa, followed by the Organization of African Unity, will take their cue from Mr. Nujoma. If Mr. Reagan wants his plan to win general acceptance, he will have to add an extra

clause: a promise to make South Africa honor the result of the Namibian election, even if it brings Mr. Nujoma to power.

That thought gives most white South Africans the jitters, and was why Mr. Botha backed out from the four-year-old UN scheme he had earlier supported. But the failure of the UN plan was not due only to South African obduracy. It failed because it was an attempt to build a bridge to independence without first drawing a blueprint. What appears to be emerging from the Botha-Crocker talks are additions to the UN scheme which would ease South Africa's fears and yet allow for a black-majority government that Mr. Nujoma could agree to.

TWO PROBLEMS DOWN, ONE TO GO

The first step to an agreement is to negotiate guarantees about the future of Namibia's 110,000 whites (11 percent of the population, compared with Zimbabwe's 3½ percent and South Africa's 19 percent). That may not be as difficult as it sounds. Mr. Nujoma has often said he would protect white interests in an independent Namibia. Just words? Not necessarily. Mr. Nujoma's friend in Zimbabwe, Mr. Robert Mugabe, has pointed out to him that assurances for whites are a useful check on radical blacks. Last week Mr. Nujoma announced that he is willing to talk formally about guarantees, so long as the discussions do not evolve into full-blown constitutional convention. That is a first step towards persuading South Africa that its white (and black) protégés in Namibia will be neither annihilated nor ejected. Mr. Reagan should get Mr. Nujoma's offer put down in writing.

The other, more important, reason for South African intransigence is the presence of Cuban troops in Angola. Here Mr. Botha is giving expression to the most acute of Afrikaner neuroses about Namibia—the fear that it will become a Cuban-guarded base for guerrilla attacks on South Africa. But here, too, there is reason for hope.

Angola's government has several times hinted that, once South African troops are gone from its southern border, and South Africa has stopped helping Mr. Jonas Savimbi's guerrillas in Angola itself, it will ask Cuba to recall its 20,000 troops and advisers. Hints to be sure, are not enough. A public link between the two withdrawals may be impossible, because Angola will argue that its internal arrangements are no part of a Namibia settlement. But Mr. Reagan may be able to extract a private commitment from Angola that the Cubans will leave within, say, 18 months of a Namibian election, If they did not, he would then make the broken commitment public—and Angola would risk seeing the South African army return to its border.

One other "but" remains. The South Africans continue to resist the idea that a United Nations force should supervise Namibia's first election. Their complaint that the UN is weighted against them is justified. But the proposed UN supervisors—Kenyans, Austrians, Senegalese—are relatively restrained choices. And no other potential election-supervising organisation—the Commonwealth? the EEC?—is likely to make much difference to the probable outcome of the election. Mr. Botha has to live with the fact, whoever supervises it. Mr. Nujoma may win it. Here Mr. Botha is in danger of being pointlessly stubborn.

It is in South Africa's interest to accept the Reagan version of a Namibia settlement, UN wart and all. Namibia cannot continue indefinitely in the limbo of direct rule from Pretoria. Direct rule means prolonging the fighting, and increasing the risk of a Cuban intervention. South African stonewalling will erode Mr. Reagan's goodwill. The Reagan administration is South Africa's last best hope of international understanding. Mr. Reagan will not condone apartheid. But if South Africa helps to solve Namibia—the last piece of unfinished business on its borders—it could enter a period of relative international calm which will give it a chance to get to grips with its internal problems. The United States can help to win it this breathing-space. Mr. Botha has an opportunity for boldness.●

WHAT MANDATE?

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. LaFALCE. Mr. Speaker, during the current debate over the reconciliation bill, I have heard a great deal of talk from the other side about the President's mandate for sweeping policy changes for spending cuts and tax cuts. In essence, the supporters of the administration's position have advised the Congress to roll over and play dead in the face of the President's mandate.

Fortunately, a recent editorial in the June 21 edition of the Miami Herald has demolished the myths supporting that so-called mandate. More than anything else, the voters defeated President Carter; and barely 54 percent of eligible voters bothered to vote at all.

I hope that all of my colleagues will carefully read this editorial, because it should serve as a vital reminder of the duties of the Congress. The Congress should stand ready to cooperate with a President, but it should not be willing to act as a rubberstamp for each and every Presidential request, as supporters of this administration seem to believe. Congress mandate is quite clear; it comes from the U.S. Constitution. It is to serve as a checks and balance to the executive branch.

The editorial follows:

[From the Miami Herald, June 21, 1981]

The first extensive scholarly study of voters' attitudes in 1980 has just been published, and it reveals just how empty this concept of a "mandate" is. Ronald Reagan won because a majority of voters rejected Jimmy Carter, not because they endorsed Mr. Reagan's program in particular. That is the conclusion reached by a team of Rutgers University political scientists headed by Gerald M. Pomper, a recognized authority in his field.

The analysis is based primarily upon public-opinion data collected through the CBS News-New York Times poll. In those data, the American public in 1980 revealed that on many key issues it was in substantial disagreement with candidate Reagan.

Fewer than half the voters, for instance, felt that cutting taxes was more important than balancing the Federal budget, which itself discredits Mr. Reagan's invocation of the "mandate." The Pomper study compares the 1980 data with similar 1976 public-opinion research. It reveals that public opinion on key policy areas had not changed much between the time of Jimmy Carter's election and Mr. Reagan's "mandate." The lone exception was the sharp increase in support for more military spending in 1980.

The voters' only clear mandate was that there be change in the Oval Office. The single most frequent comment recorded by pollsters in 1980 surveys was that it was time for a change. The voters gave Mr. Reagan and the Republicans the authority to govern, and through that gave them a historic opportunity to change the direction of Government.

The same voters elected a Democratic majority in the House of Representatives. Those Democrats have the same "mandate" as the President: to govern as they best see fit, within Constitutional limits. Congress is under no obligation to pass the President's proposals against its own best judgment. Congress only mandate comes from the Constitution—to check and balance the Executive Branch.●

MARSHALL HANLEY

HON. PHILIP R. SHARP

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. SHARP. Mr. Speaker, I would like to bring to the attention of my colleagues and the public a resolution passed by the Muncie, Ind., Bar Association commemorating the life of Marshall Hanley. Those of us who knew Marshall mourn his recent death, and feel that his unflagging dedication to legal standards, civic duty, and political principle should serve as an example to all of us. I believe this resolution eloquently describes why so many of us admired Marshall and feel his loss.

RESOLUTION OF MUNCIE BAR ASSOCIATION ADOPTED UPON THE DEATH OF MARSHALL E. HANLEY

The untimely death of Marshall E. Hanley, on May 23, 1981, has brought a sadness to the members of the Muncie Bar Association.

Mr. Hanley, a native of Muncie, was born May 7, 1920, the son of Frank A. Hanley and Emily Shirk Hanley. He was graduated from Burris High School in 1937. He attended the University of Chicago from 1937 to 1939 and transferred to Indiana University, from which he was graduated in 1942 with an AB Degree. In the summer of 1941, he attended Princeton University School of Public and International Affairs. He received his legal training at Harvard University School of Law, from which he was graduated with a JD Degree in 1945.

One of Mr. Hanley's great regrets was that he could not serve with the armed forces in World War II. Although he sought to enlist in several branches of the military service, he was rejected because of a heart ailment.

After his graduation from law school, Mr. Hanley served as law clerk to The Honorable Sherman W. Minton, Judge of the United States Circuit Court of Appeals, at Chicago.

After such tenure, Mr. Hanley returned to Muncie to practice law with the late Allan G. Weir under the firm name of Weir and Hanley. He continued such association until he received an appointment from President Harry S. Truman as Assistant United States District Attorney for the Southern District of Indiana. In 1950, he received a presidential appointment as United States District Attorney.

Following his term as United States District Attorney, he returned to Muncie to join the law firm of Bracken, Gray, DeFur & Voran, which later became DeFur, Voran, Hanley, Radcliff & Reed. Mr. Hanley continued as a member of that firm until his death.

In 1958, Mr. Hanley ran unsuccessfully for the Democratic nomination for the office of U.S. Senator from Indiana. It has been said, with ample authority, that Mr. Hanley would have received that nomination, except for the fact that he refused to surrender his beliefs and principles in return for such nomination.

From 1953 to 1963, Mr. Hanley served as Muncie City Attorney during the administration of the late Mayor H. Arthur Tuhey.

For many years, Mr. Hanley was in the vanguard of the Indiana Democratic Party. He was an orator of distinction and was called upon many times to make speeches at Democratic rallies.

Mr. Hanley had a close friendship with President John F. Kennedy. During the presidential campaign of 1960, he hosted a fund raising reception in Muncie for Mr. Kennedy, then a U.S. Senator seeking the presidency, for which he was successful in November of that year.

Mr. Hanley was an able trial lawyer, and he participated in most of the trials of his firm. However, when James J. Jordan was elected prosecuting attorney of Delaware County, he called upon Mr. Hanley for assistance, and Mr. Hanley responded. He then served from 1975 to 1979 as chief trial deputy and ably tried many criminal cases on behalf of the State of Indiana. He stayed on for six months as criminal trial deputy under Michael J. Alexander, the succeeding prosecuting attorney.

In 1979, Mr. Hanley was sworn in as juvenile public defender for Delaware County, Indiana.

Because of ill health, Mr. Hanley was not able to continue his trial practice. However, he was not one to retire, but accepted an appointment as assistance professor of finance and taught business law in Ball State University College of Business. Mr. Hanley was happy teaching, and the students in his classes were richer for the sharing with them of his varied background and experiences.

Mr. Hanley served on the Board of Managers of the Indiana State Bar Association. He was a member of the Muncie Bar Association, American Bar Association, The Muncie Club, Beta Theta Pi fraternity and its Alumni Club, Delaware Country Club, South Shore Country Club at Syracuse, Indiana, Burris Alumni Association, of which he was a founding director, Rotary Club, Ball State University Foundation, of which he was a director, Indianapolis Athletic Club, and the First United Presbyterian Church, of which he was an elder.

Mr. Hanley is survived by his wife, Elaine Hanley, two sons, Marshall S. Hanley, Indianapolis, and Mark A. Hanley, and one daughter, Mrs. William (Carol) Hosford, Detroit, Michigan. Both sons are attorneys and will carry on the fine legal stewardship exemplified by their father.

Marshall Hanley was an able attorney and an example of what is good and noble in the practice of law. He was an excellent trial lawyer, and his ability as an orator was well noted. He was a kindly man who always had time for a friendly chat with his fellow attorneys, and never took unfair advantage of his opponent. He was always courteous and patient. Mr. Hanley ably fit the mold of a gentleman and a scholar.

The Muncie Bar Association recognizes the great loss occasioned by the death of Marshall E. Hanley, and extends to his wife, his children and his many friends its heartfelt sympathy.

Be it resolved, That the above and foregoing resolution be spread of record in all the courts of Delaware County and a copy thereof be given to his wife, Elaine Hanley.

Dated at Muncie, Indiana this 27th day of May, 1981.●

EXPLANATION OF ABSENCE

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. CONYERS. Mr. Speaker, I returned early Friday morning from the Organization of African Unity meeting held in Nairobi, Kenya. I was an invited guest at this historic meeting, the only Member of Congress ever so designated. I will be making a report to my colleagues on what I learned at that meeting. While in Nairobi, I met with the Kenyan Chamber of Commerce and others to explore ways to strengthen trade between Africa and minority small buisnesses in the United States. I also conducted official business for the Judiciary Committee.

When I learned a few days ago that the House would proceed to vote on the omnibus reconciliation bill, prior to the recess, I immediately arranged to return to Washington. Unfortunately, I was not able to return in time for the procedural votes on Thursday.●

THE DOLLAR SHOULD BE AS GOOD AS GOLD

HON. LARRY P. McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. McDONALD. Mr. Speaker, it is clear that the value of the currency of the United States is steadily declining. One solution to this problem which is based on sound, fundamental economic principles is to return to having a gold backing for our paper dollars. This would give Americans an honest and reliable currency system.

In a recent editorial commentary entitled "For Real Money: The Dollar Should Be As Good As Gold," the widely respected weekly, Barron's, endorsed a return to the gold standard. As the authors of the article, Robert M. Bleiberg and James Grant, point out, this would eliminate the problems which inevitably result from a fiat money system such as the one our country currently has. I believe my colleagues will be interested in the ideas expressed by Barron's.

The editorial follows:

[From Barron's, June 15, 1981]

THE DOLLAR SHOULD BE AS GOOD AS GOLD

In keeping with the spirit of deregulation and economy in government, one of the most important federal commissions in Washington has never met and only lately has begun to assemble its personnel. Its unexpected mission is to weigh the future monetary uses of gold, a question that seemed closed forever with the gold window in 1971. For more than a decade, the nation's settled policy toward gold was that it had no monetary value whatsoever, except on occasion as a kind of ill-timed bait to bulls. According to one Administration after another, paper is money, the value of which shall vary according to the convenience of government—a doctrine as old as kings. Only lately has even the mildest organized dissent surfaced: in 1979, from the Senate Republican Conference, which asked that the issue be weighed again; and in 1980, in the Republican platform, which, without mentioning gold, made reference to the need for a "dependable monetary standard." Now the Gold Commission (sponsored by the doughty Jesse Helms, Republican Senator from North Carolina) will inquire into whether or not gold might make money respectable again.

A decade or more ago, on the eve of the great inflation, such an idea would have been unthinkable. Thus, in 1965, then-Secretary of the Treasury Douglas Dillon, apropos of the nation's gold reserve pronounced: "In the future, as in the past, the best assurance we can have that the supply of bank reserves will be neither so little as to stifle growth nor so large as to fuel inflation lies in a responsible and independent Federal Reserve System, functioning within a framework of responsible government." And in 1972, Rep. Henry S. Reuss (D., Wis.), sharing a light-hearted moment with then-Under Secretary of the Treasury for Monetary Affairs, Paul A. Volcker: ". . . [G]old should, as soon as possible, go the way of conch shells, stone wheels and beautiful slave girls as a method of holding reserves. . . ."

Ten years and billions of paper dollars later, gold has refused to go the way of conch shells—last year, reported Consolidated Goldfields Ltd., governments turned net buyers—but then neither has Rep. Reuss. Now the Congressman, as a member of the Gold Commission, will sit in judgment on the prospects for sound money. That's as if Prof. Irving Fisher, discredited prophet of the 1927-29 bull market, had been invited in 1932 to share his wisdom on the crash. In any case, the Commission will number 17, including seven members of the House and Senate (regrettably not including Sen. Helms), three from the Federal Reserve Board, two from the President's Council of Economic Advisers and four from private life. Chairman is the Treasury Secretary, Donald T. Regan. As we get wind of the appointments, only two gold stalwarts have been named—Rep. Ron Paul (R., Texas) and Lewis E. Lehrman, businessman and writer on central banking and the gold standard—but President Reagan is said to have wished them both Godspeed.

Whatever the Commission finally decides, *Barron's* would like to go on record now. It strikes us that rarely in the past 15 years has the case for convertible money looked better or that for fiat money looked worse. This is an observation of fact. Treasury yields this year touched levels unheard of since the days before the Buttonwood Tree. Notwithstanding the recent and welcome respite from rising prices at home (and the dollar's unaccustomed strength abroad), something is plainly and fundamentally wrong. A compelling case for gold is the sorry performance of the system that by degrees, in 1914, 1934 and 1971, has displaced it.

The gold standard, pure and simple, is the fixing of the value of the dollar to a specific and unchanging weight of gold. At a price, the Treasury would buy all gold offered and sell all gold bid for. Under the classical version of the gold standard, known as the gold-coin standard, the right of free conversion of paper and bullion would be available to holders of coins. The appeal of the system is its simplicity. If under the gold standard the demand for money roughly equaled the supply, people would hold paper because it weighs less. If, however, the supply of money exceeded the demand—if the Federal Reserve, for example, were buying the Treasury's debt out of thin air—people would let convenience go hang and queue up for gold. In order to maintain its gold reserve, the Fed would have to stop creating credit. This signal to the monetary authority, as Lewis Lehrman points out, is unique and worldwide (if there *were* a monetary authority; there would not be a "legal tender" law). Gold, like any other commodity, seeks its best market. If its value were to fall here but rise in Great Britain, for example, coins and bullion would take ship for London, or be restacked in the vaults of somebody's bank. The beauty of the gold standard is the daily adjustments it permits. By contrast, under a fiat system, crises fester (witness the chronic imbalance in U.S. payments and the equally chronic federal budget deficit).

The case against gold seems to boil down to the following: the gold-coin standard was associated with periodic deflations at the turn of the century; a gold standard of any kind would redound to the gain of the two leading bullion producers, South Africa and the Soviet Union; there would be too much gold or not enough. Moreover (and broadly), the world has changed: in 1880-1913, for example, central banks of the gold-standard nations bought, or "monetized," very little government debt. And if that happy custom could be restored, why bother with gold? A paper standard would serve just as well.

Perhaps, but it never has before. The remarkable thing about the gold-coin standard is the stability of prices it yields. Thus in the U.S. between 1879 and 1913, when the annual volume of world gold production rose fourfold and the currency was fixed at $20.67 an ounce, the wholesale price index scarcely budged (taking five-year averages on either end). It is true that prices varied, sometimes by wide margins, from year to year, and that the mid-1890s brought one of the worst slumps in American annals. Yet one returns to the uncanny stability of prices over long periods. The monetary historian Edwin L. Kemmerer wrote of the U.S. experience under gold over nearly a century: ". . . [I]t is not a bad record. There is nothing that remotely equals it, as far as I know, in any managed paper-money experience." As for South Africa, nothing has suited her like the manic partnership of the Federal Reserve and Congress; a gold standard would remove the inflationary premium from the gold price and at the same time flush sizable hoards out of speculative hands. It strikes us that there would be enough gold. An unexpected finding in a study of the gold standard by Arthur I. Bloomfield ("Monetary Policy under the International Gold Standard: 1880-1914") is that the ratio of gold reserves to demand liabilities in Great Britain was probably less than 5% during the heyday of convertible sterling. Under a proper gold standard, almost nobody wants gold.

Concerning output from mines, Lehrman notes that it has tended to grow at 1½%-2% a year, on average, for hundreds of years, about in line with real economic growth, and a far cry from perennial expansion of Federal Reserve Bank credit of 8%-9%. Thus miners have made better central bankers than central bankers have. ". . . [A]ll this was achieved," wrote Bloomfield of the 1880-1913 experience, "in spite of a volume of international reserves that, for many of the countries at least, was amazingly small and in spite of only a minimum of international cooperation, or of international agreements of commitments, on money matters. This remarkable performance, essentially the product of an unusually favorable combination of historical circumstances, appears all the more striking when contrasted to the turbulence of the post-1914 financial experience. . . ." Bloomfield, incidentally, wrote in 1958.

If the gold-coin standard is worthy of us, are we worthy of it? Put another way, can we go on like this? The second answer is surely no. The point is well taken here that the date is not 1913, or even 1971, that the gold standard is only a technique and that nations in the past have subverted its discipline (and also its astonishing liberation of productive energies). When all is said and done, however, it remains true that gold-convertible currencies have tended to work and fiat-currency management to fail.

An oddity of the debate is that a gold standard is widely viewed as impractical, or quixotic, while unsecured paper is somehow seen as down-to-earth. In the light of the evidence, the presumption, we submit, should be the other way around. In 1972, Jacques Rueff, the distinguished French economist, was invited to testify before the Joint Economic Committee, which was holding hearings (Rep. Reuss presiding). Rueff, with his great charm, laid out the record of barren promises of reform of the U.S. payments deficit and suggested a Marshall Plan in reverse to relieve this country of some $51 billion in overseas official claims (a figure which now exceeds $115 billion). He said: ". . . I must state my conviction that, in the present circumstances, taking account of the existing situation in the world, the only practical solution is convertibility into gold. . . . Saying that, I don't want to be provocative. I know how deep is the anti-gold feeling in this country. But you asked for my views, and I must be sincere to you." Since that time Washington has monetized debt and demonetized gold, with results now dismally apparent on every hand. Isn't it time for a change?●

CAB SUNSET

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. MINETA. Mr. Speaker, on May 12, 1981, I introduced by request of the Civil Aeronautics Board a bill (H.R. 3562) to accelerate the sunset of the CAB. Today I am introducing, by request of the Department of Transportation, the administration's bill to accomplish the same purpose.

I would also like to bring to the Members' attention the fact that the Aviation Subcommittee will hold hearings on these bills beginning July 9, 1981.●

INTRODUCTION OF THE DOMESTIC ENERGY AND STRATEGIC MATERIALS SECURITY ACT OF 1981

HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. FORSYTHE. Mr. Speaker, I have been involved in the legislative end of our energy crisis for more years than I care to admit. However, for the first time since I have been a Member of this body, I feel that the executive branch of Government is finally taking positive action to deal with our domestic supply of energy resources.

It is estimated that by the late 1980's or early 1990's this Nation will be importing from 40 to 50 percent of our domestic oil needs, in spite of the fact that consumption is expected to continue to drop. This is because production of hydrocarbon fluids is expected to decrease faster than our decrease in consumption of fuel.

We face a similar problem in the area of our strategic and critical materials. The United States is more than 50 percent dependent on foreign sources for over half of the approximately 40 minerals which have been described as most essential to our $2.3 trillion economy. Many of these essential materials come exclusively from foreign sources and some of the most critical of them from highly unstable areas of the world. The United States imports from 80 to 100 percent of its domestic needs of chrome, manganese, columbium, cobalt, platinum, bauxite, and other strategic and critical materials.

Last year approximately $80 billion was spent by the United States for imported oil. In addition another $25 billion went out of this Nation to import the strategic and critical materials this Nation so desperately needs. This is

not only an enormous financial drain, but is a threat to our security.

As has been pointed out in numerous reports by various entities, the United States has enormous energy and strategic material resources. The problem is that the Federal Government owns, in the name of the American people, 423,000,000 acres of America's land, the mineral rights to another 386,000,000 acres, and 840,000,000 acres of the Outer Continental Shelf. Because of this, the Federal Government has become a resource monopolist owning in access of 85 percent of the Nation's remaining oil resources, 40 percent of the remaining natural gas resources to name just a few. The situation with strategic and critical materials is the same, although specifics are not available. In other words, the problems we face in the production of these resources, is identical, that is the past policies and procedures of the Federal Government.

Through a mixture of arbitrary land use and leasing policies and the promulgation of restrictive, and capricious regulations, the Federal Government has literally withheld these resources from the public, and in some instances making it less expensive to purchase these resources abroad. For this reason I am today introducing a joint resolution, the Domestic Energy and Strategic Material Security Act of 1981, to deal with this problem.

The resolution does not amend any statute—even though there are over 50 laws that directly impact upon the availability, exploration, development, and production of U.S. fuel and nonfuel minerals. It simply requires that all administrative constraints to leasing, exploration, and development of energy resources and strategic material resources shall be eliminated if they are not specifically required by statute or court order. In addition, the production of these resources shall be given equal consideration in all multipurpose planning decisions.

Since the issuance of various permits is not limited to resources owned by the Federal Government, and since some of the Nation's major energy problems have resulted from hindrances to the establishment of pipelines and energy facilities, the resolution requires the elimination of all administrative hindrances not specifically required by court order or statute. In other words, section (2)(b) established a form of fast tracking.

It was projected by the DOE last year that if this resolution were adopted the production of oil and gas could easily be doubled by the mid-1990's. This could greatly decrease our inordinate dependence on foreign nations for such high percentages of our domestic oil needs, as well as solving a major part of our strategic material difficulties.

SECTION-BY-SECTION ANALYSIS

Section 2 concerns general policies for all resource development, and it is particularly applicable to onshore activities.

(a) If Federal regulations, orders, procedures, or policies are hindering the orderly development of energy and strategic and critical material resources, and are not specifically required by court order or statute, then their application shall cease.

(b) Eliminates administrative and procedural constraints to all permitting.

(c) Establishes that the production of energy and strategic and critical materials shall be a national priority particularly as pertains to land use and leasing decisions.

(d)(1) Directs the President to identify what he feels are serious statutory constraints to the development of resources owned by the Federal Government. He then must submit this list of potential constraints to a panel of experts for final recommendations.

(2) The panel of experts shall also identify what they consider are serious statutory problems and, together with the list of problems they receive from the President, make recommendations to the President and Congress as pertains to potential solutions.

(e) There shall be immediate oil and gas leasing of large economic units in the NPR Alaska, with initial sales being exempt from EIS requirements of NEPA.

All NPRA development shall be by the private sector only—no Federal development.

Section 3. This section is applicable to the OCS only.

(a) All administrative constraints to leasing, exploration, and development of oil and gas on the OCS shall be eliminated if they are not specifically required by statute or court order.

(b) Eliminates all permitting constraints.

(c) (1) and (2) are identical to Section 2(d)(1) and (2).

(d) Orders the accelerated leasing of areas of highest potential and known reserves on the OCS.

Section 4. Establishes a panel of experts (an advisory board) referred to in Sections 2 and 3. This is a temporary panel with membership made up of eight Presidential appointees that are recommended by Congress.

The advisory board should complete their evaluation of suggested statutory constraints to resource development and their resulting solution to eliminate these constraints within one year.

Section 5. Requires reports to Congress on implementation of the resolution, as well as legislative recommendations by the various departments and agencies.

Section 6. Definitions of "Federal lands"; "energy resources"; "strategic and critical material resources".

Re "Access to Federally Owned Energy Resources".

I. OUTLINE OF ENERGY PICTURE

A. History

1. 1940 was the last year we exported more oil than we imported. We imported 42 million barrels, and exported 51 million barrels.

2. In 1950, we imported 8 percent of our domestic oil needs.

3. In 1954, H. King Hubbard predicted that the U.S. would begin to experience an energy shortage by the early or mid 1970s.

4. Imports and costs:

Year	Percent	Cost per barrel foreign	
		Date	Amount
1960	16	Jan. 1, 1960	$1.70
1970	21	Jan. 1, 1970	1.90
1977	50.3	Jan. 1, 1977	11.65
1979	43	Jan. 1, 1979	14.96
1980		Jan. 1, 1980	26.86
		Today[1]	36.00

[1] Total estimated cost to the United States equals $80 billion.

5. Domestic production:

Year	Billion barrels	Percent of world production
1960	2.57	33.6
1978	3.10	14.3

B. Estimated energy future

1. A drop of about 6 percent in oil consumption from 1979 to 1990 is expected.

2. A drop in domestic production three times greater than our estimated drop in consumption is expected to occur by 1990 requiring the importation of 52 to 60 percent of our domestic oil needs.

3. The industrial and transportation sectors have traditionally utilized two-thirds of our total energy. Transportation consumption is expected to drop slightly, but the industrial sector is expected to increase in consumption leaving the percentage consumption of our total the same.

4. Almost all of the energy consumed by the transportation and industrial sector is oil.

5. The drop in consumption of oil is attributed to our conservation methods continuing their strong impact through the year 1990.

6. Synthetic fuels, such as tar sands and shale oil, are not expected to have a significant impact upon our domestic supply of oil until after 1990. A maximum of 500,000 barrels per day is an optimistic estimate of 1990 shale oil production.

C. In summary

Our weak point in our energy problem is domestic production of hydrocarbon fluids.

This is the reason for the enormous outflow of cash from this nation which has weakened the dollar, created records in our balance of payments deficit, weakened our national security, and has had a devastating impact on our society as a whole.

There is obviously enough oil in the world to keep the U.S. supplied at current levels of domestic production and consumption. However, the question is do we want to pay the price and will we continue to be able to have an uninterrupted supply of oil? The answer is obviously no.

II. DOMESTIC ENERGY POTENTIAL

A. Federal land ownership

1. Onshore:

(a) The Federal Government owns 427 million acres of onshore land. These lands are owned and operated primarily by the Bureau of Land Management, the Forest Service, and the Park Service.

(b) The Federal Government owns the mineral rights to 387 million acres of onshore U.S. land.

(c) The total land controlled by the Federal Government onshore is 814 million acres.

2. Offshore:

(a) The Federal Government owns 840 million acres of the ocean bottom.

3. The Federal Government controls the minerals on 1.7 billion acres of U.S. land.

This means that the Federal Government owns the minerals on 53 percent of the total U.S. land mass of 3.2 billion acres.

B. Federal ownership of energy resources

1. The Federal Government has become the primary controller of domestic energy resources owning in the name of the American people, 70 percent of all western coal resources;

2. Approximately 85 percent of the total oil resources in the United States (approximately 60 percent of which is contained in the Outer Continental Shelf);

3. 85 percent of high-grade tar sands;

4. 80 percent of domestic oil shale resources;

5. 40 percent of estimated natural gas supplies; and

6. A significant portion of the Nation's uranium and geothermal resource base.

C. Summary

The U.S., by extrapolating USGS data and data from the private sector, has enough oil to more than double current production rates according to a study by Chase Manhattan Bank and the Department of Energy, within 4 to 12 years.

In addition, the U.S. has enough estimated oil resources to be completely self sufficient for about 40 years.

III. NEEDS AND SOLUTIONS

A. Total energy problem must be attacked on four fronts

1. Conservation is the easiest method, and can also begin immediately. Conservation is credited with the projected decrease in oil consumption from 1979 to 1990 outlined in the first section. Strong conservation methods must continue. However, the biggest impact from conservation will occur in the beginning and as efficiency increases, the savings from conservation will be less.

2. Increase in the domestic production of the abundant hydrocarbon resources of this nation.

3. Increase in the availability of nuclear power.

4. Development of our renewable or alternative energy technologies and fuels and such as: (i) breeder reactor, (ii) fusion, (iii) photovoltaics, (iv) hydrogen as a fuel, and (v) others.

5. Summary:

Our immediate and mid-term need is for the increased production of oil and gas.

The transportation sectors and industrial sectors are dependent upon these fuels and will continue to be dependent upon them well past the year 2000.

The U.S. has abundant hydrocarbon resources.

When considering where our national priorities and resources should be directed in developing alternative energy sources, replacing the use of oil and gas on a large scale should be our priority.

IV. CONSTRAINTS TO DOMESTIC PRODUCTION OF HYDROCARBONS

A. Cost of developing remaining resources

The most obvious structures for oil and gas were drilled long ago. The majority or our remaining energy resources are located in areas of high cost such as the OCS and Alaska.

1. Alaska.—There are no figures available on the true cost of oil and gas development in Alaska, but that environment is a great deal more expensive to work in, absent the cost of Federal regulations, than the classic oil and gas areas of the past in the Lower 48 States.

2. OCS.—Daily operating costs for the OCS are often 8 to 10 times more expensive than operating costs on the lower 48. OCS daily costs range from $48,000 per day to $100,000 depending upon the area of operation.

Onshore operations in the lower 48 cost from as low as $8,000 to $12,000 per day on the average.

B. Federal policies

Federal land use and leasing policies have withheld billions of acres of our most highly prospective land from energy resource development. This is the case in the following areas:

1. Alaska.—No accurate estimates exist of full potential of onshore Alaska, but general estimates put the total estimates oil and gas resources at (a) gas equals ——, (b) oil equals ——.

Most of Alaska has not been available for even evaluation and most of the areas of high estimated resources will not even be available for evaluation if S. 9 or H.R. 39 are signed into law.

2. OCS.—The OCS could contain up to 75 billion barrels of oil and 247 trillion cubic feet of natural gas. The mean figures for the OCS are: (1) 32 billion barrels of oil; and (2) 116 trillion cubic feet of natural gas (estimates by U.S.G.S.). These estimates are low, and most other sources indicate much higher resources potential.

Areas of high estimated resources have not been leased in time or in a manner that would make the enormous OCS resources available to the U.S. in time to assist us through the next twenty years. The new Administration, however, is taking some steps to reverse this situation.

The current OCS leasing schedule established in June of 1980, is estimated, by the DOE as producing only 3.2 billion barrels of oil, and 9.6 trillion cubic feet of natural gas, by 1999.

It is criminal that this was the best the last administration was willing to do for the American public.

3. Lower 48.—Through a maze of regulations and arbitrary administrative decisions, areas of energy potential on the lower 48 are currently beyond the reach of exploration.

(Horror stories supplied.)

There has been only one significant coal lease since 1970, only half of the highly desirable geothermal areas have been offered for lease by BLM, and only one lease issued by the Forest Service.

C. Federal regulations

Federal regulations have been adopted contrary to congressional intent and statutory language. In addition, the enforcement of regulations has in many instances been contrary to the regulations themselves and the statute. Many of the regulations that have been adopted pursuant to Public Law 95-372 have gone far beyond what was intended by the Act and Congress.

(We have horror stories.)

In addition, many of the regulations require duplications of permitting by various federal entities, and by State entities.

Right now, there are almost 160 various permits and procedures required on the OCS before exploration may occur. A study on permitting has been conducted by the Department of Energy, and (at my request) by the General Accounting Office. The results of these studies more than confirms my position.

D. Statutory and court constraints

Various laws such as N.E.P.A., the Endangered Species Act, Marine Sanctuaries Act, Antiquities Act, the OCS Lands Act, Clean Air Act, Water Pollution Control Act, and others do indeed create delays and added costs to the production of oil and gas. However, these laws in themselves are not the overriding factor in increased costs, delays, and prohibitions to production. Rather, it is the policies adopted by the Executive Branch which are beyond what these laws require.

E. Summary

However, as was pointed out by many witnesses before the Select Committee on the Outer Continental Shelf, there are many laws that have been passed that, in themselves, are not a hindrance, but when added on top of many other similar laws, have created untold constraints to energy production in this nation.

It is the combination of the impact of the numerous laws that were never intended to have any impact on energy production, capricious regulations, and arbitrary policies that are providing the biggest constraint to domestic energy production.

V. SUMMARY

A. Outline of difficulties of producing domestic energy

Our primary energy need for now through the next twenty to thirty years is hydrocarbon fluids.

Contrary to what the public has been led to believe, the U.S. has enormous hydrocarbon resources as I have stated. However, these resources have been withheld from development by the Federal Government.

As was pointed out by Senator Mark Hatfield, "the Federal bureaucracy, however, has hidden the true potential of these lands through a sometimes unnegotiable maze of administrative encumbrances."

As I have stated, regulations have been adopted contrary to congressional intent, contrary to the statute, and far beyond what was expected or intended by Congress.

However, the bottom line, even on the promulgation of regulations, is that policies of the Executive Branch, particularly this Administration, have created the problem. Whatever the Executive Branch could not obtain through the legislative process, they have decided to attempt to obtain through the regulatory process. Whatever they have not been able to obtain through the regulatory process, they have attempted to obtain through administrative decisions.

These actions by the Administrative Branch have effectively withheld untold billions of barrels of oil, trillions of cubic feet of natural gas, and hundreds of millions of tons of coal from the American public, making us more and more dependent upon foreign sources of questionable stability for about half of the oil this nation consumes.

Our energy crisis is the worst domestic problem this Nation has faced, except perhaps for the Great Depression. I made this statement at an OCS Oversight hearing and was corrected by a DOE witness who stated that it was *the worst* crisis we have faced.

All projections of future energy supplies and demands show that we are going to become more dependent upon imported oil by the year 1990 unless policies are changed. The range of imports is from 52 to 60 percent of our needs. If you think we have had problems because we have imported 43 percent, wait until we and our children face 60 percent imports. Worse yet, what do you think will happen if we experience another cut-off of imported oil as we did in 1979 and 1973?

History tells us what would happen.

There will be an immediate attempt to provide a quick-fix to our domestic supply of oil and gas. The result will be that anything that provides a hindrance to domestic production will suffer. What may result is the demise of our conservation and environmental laws. This is not necessary, as steps can be taken now to eliminate the need for this to occur. Too many people have worked too hard on a problem that was ignored for too long, to see the results of that work eliminated.

In addition, a quick-fix to domestic oil and gas production is not possible because it takes 4 to 10 years to bring production on line. That may be too long.

B. Recommendations

1. Require the Administration to eliminate all constraining regulations and procedures that are not specifically required by law. This will have no impact upon the specific requirements of our conservation and environmental laws.

2. Establish a panel to investigate laws that impact negatively upon the development of our domestic energy resources, and to make recommendations to the President and to Congress.

3. Establish as a national priority the production of federally owned energy resources. This will require that energy production have at least equal weight with other considerations in multipurpose planning, and that land will not be "locked up" without proper evaluation.

4. Oil, gas, and coal leasing begin immediately in the NPRA to the private sector only. All sales should be announced sixty days in advance of the sale, and all lawsuits must be filled no later than 40 days after the sale is announced. (This will provide at least an additional ten days for the preparation of a suit, and will allow the court to consider a case on its merits instead of delaying sales because of lack of time.)

5. Provide that leasing on the OCS, which has more oil than the lower 48 and Alaska combined, be leased as follows:

Areas of highest potential and known reserves shall be leased first; allow nomination in an entire basin or reef instead of part of a basin or reef; hold quarterly and constituent sales. In areas of difficulty, offer more than one tract per lease; utilize a work commitment bidding system with an environmental and engineering study in areas of unusual sensitivity.

C. Summary

Our primary problem in the production of domestic energy resources is not the ability to produce but the ability to have access to areas of high energy resource potential. We must also eliminate the constraints of arbitrary and capricious federal regulations.

It is difficult to accurately calculate what the total impact on domestic production will be if the above recommendations are adopted.

However, a study by the Chase Manhattan Bank stated that domestic production could be doubled within eight years.

Because of the requirement of a five-year leasing schedule for the OCS, we can make a prediction on production.

The table below presents a general idea of the current status of U.S. conventional oil and gas reserves. The figures are derived from a variety of sources taken at different points in time. They do, however, represent the latest available data.

U.S. CRUDE OIL, NATURAL GAS, AND NATURAL GAS LIQUIDS CUMULATIVE PRODUCTION, RESERVES AND UNDISCOVERED, RECOVERABLE RESOURCES

Type of resource	Cumulative production [1]	Reserves			Undiscovered recoverable resources [5]		
		Demonstrated		Inferred [4]	Range		Mean
		Measured [2]	Indicated [3]		Low	High	
Crude oil (billions of barrels)	123.89	27.1	3.6	23.1	64.3	105.1	82.6
Natural gas (trillions of cubic feet)	601.45	194.92	NA	161.6	474.6	739.3	593.9
Natural gas liquids (billions of barrels)	19.24	5.66	NA	6.0	[6] 11.0	[6] 22.0	[6] 15.8

[1] Estimated through Dec. 31, 1980. [2] As of Dec. 31, 1979. Does not include 1980 revisions, extensions and discoveries. [3] As of Dec. 31, 1979. [4] As reported in "USGS Circular 725" (fourth printing); as of Dec. 31, 1974. [5] As reported in "USGS Open-File Report 81-192" issued February 1981. [6] Not reported in "USGS Open-File Report 81-192"; estimates are from "USGS Circular 725". NA Not applicable.

U.S. RESOURCES OWNED BY THE FEDERAL GOVERNMENT * [1]

Resource	Total U.S. resource	Total on Federal land [2]	Percent on Federal land
Oil (billions of barrels)	144	122	85
Natural gas (trillion cubic feet)	1,975	740+	40
Coal (billion tons) [3]	437	150	35
Oil shale (billion barrels)	122	88+	85
Tar sands			[4] 85
Geothermal (quad. Btu's)	1,560	780	50
Uranium (million tons)	4.2	1.6+	40

* From reports by U.S.G.S., even though estimates by almost every other source are higher than those by U.S.G.S.
[1] Either located on lands owned by the Federal Government, or the Federal Government owns the mineral rights.
[2] Onshore and offshore.
[3] Demonstrated reserve base.
[4] Estimated.●

ABSURDITY OF THE MX MISSILE SYSTEM

HON. JAMES WEAVER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. WEAVER. Mr. Speaker, day by day, the utter absurdity of the MX missile system racetrack proposal becomes more evident. Opposition is growing in my home State and throughout the West. I commend the following factsheet from the National Campaign To Stop the MX to my colleagues in the House. The first section comments on the severe environmental effects this project will wreak upon the States of Utah and Nevada. The degradation of the environment will not stop within the borders of those two unfortunate States. Department of Defense planners are even now casting longing glances on our Columbia River to slake the thirst of this leviathan project.

THE MX MISSILE SYSTEM—LOCAL OPINION AND LOCAL IMPACT

Although the deployment area for the massive MX Missile System has not been officially chosen, residents of the likely sites—Nevada and Utah, western Texas and eastern New Mexico—are up in arms.

Among recent developments:

Residents of 8 counties in Nevada vote against MX. Last November most rural Nevada counties approved referendums against MX deployment by average margins of over 2 to 1.

The Mormon Church opposes MX. On May 5, 1981 the First Presidency of the Mormon Church released a public message reading in part: "We are most gravely concerned over the proposed concentration [of the nuclear missiles] in a relatively restricted area of the West . . . we plead with our national leaders to marshal the genius of the nation to find viable alternatives which will secure at an earlier date and with fewer hazards the protection from possible enemy aggression which is our common concern."

Residents of 7 western states oppose MX deployment in the West. A January 1981 poll by Behavior Research Center of Phoenix found residents in the following states opposed to western MX deployment: Utah (51-36 percent), Nevada (48-46 percent), Wyoming (60-38 percent), Arizona (50-46 percent), Colorado (49-42 percent), Montana (56-40 percent), and Idaho (50-41 percent).

Nevada and Utah Governors have opposed MX. "After reviewing the MX project, [Nevada Governor Robert List] said that he was 'more persuaded than I have ever been' that it should not be located only in Nevada and Utah." (New York Times, May 3, 1981).

"I do not believe it is the best basing mode, and it is not appropriate for the Utah/Nevada deployment areas. I call upon the President and Members of Congress to respond directly to these concerns." (Statement of Utah Governor Scott Matheson, June 18, 1980).

The extent and variety of opposition in the West makes it likely that MX construction will be vigorously resisted. Extensive litigation and public protest would certainly be involved.

The exact nature and extent of MX impacts will not be known until construction starts. However it is clear that they will be severe, and that the Air Force's Draft Environmental Impact Statement (DEIS) seriously underestimates potential damage.

MX would:

Affect 48,000 square miles—a land area the size of the State of Pennsylvania—according to a recent General Accounting Office report (MASAD-81-1).

Bring well over 100,000 people into a sparsely populated, ecologically fragile region. The official DEIS estimate of the population influx was 85,000; the Department of the Interior has charges that Air Force population figures are low by "hundreds of percent." The population influx will produce many other impacts.

Threaten local water tables. The DEIS gives no overall water usage figure. It does admit that water tables may be lowered and surface water dried up because of MX pumping. Planned Air Force usage of Colorado River water may cause an uproar as well. Precise water impacts will not be known until construction starts.

Jeopardize Nevada's and Utah's ranching industry. The National Cattleman's Association and the National Woolgrowers Association have stated that ". . . the project would virtually destroy the ranching and farming industries in the Great Basin." Similar damage would occur in Texas and New Mexico.

Unleash a regional "boom and bust" cycle, accelerate regional inflation, severely alter the rural quality of life in the area, destroy Native American communities, endanger plant and animal species, and cause exceptionally severe housing, educational, public service, tax structure, and state and local government problems.

The full spectrum of MX impacts cannot be summarized here. One thing is certain: that the crash-construction of "man's largest project" during the 1980s will bring incredible turmoil to the unlucky area involved.●

PROBLEMS CONFRONTING PUERTO RICO

HON. BALTASAR CORRADA

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. CORRADA. Mr. Speaker, the Washington Post for 3 days has devoted considerable space, in a three-part series of articles, to the problems confronting modern day Puerto Rico.

All of the articles began on the front page and the series, in my opinion, was a welcomed effort since it is a rare occasion when so much time and space are devoted to our island, its people, its distinct culture, and its problems.

The reporter, Margot Hornblower, managed to portray, in a series of vignettes and quotes, as well as some research, a primer of Puerto Rico as it is today. While some realities may have been distorted and opinions expressed by some of those interviewed may not adequately reflect general public views in Puerto Rico, the articles were interesting.

I had some comments on these articles which I have sent today to the Washington Post and would like to bring my personal reactions to those articles to the attention of my colleagues today.

HOUSE OF REPRESENTATIVES,
Washington, D.C., June 26, 1981.

The EDITOR,
The Washington Post,
Washington, D.C.

DEAR SIR: The three-part Washington Post series on Puerto Rico, entitled The Underside of Paradise, offered your readers an interesting and unusual glimpse of the problems confronted by modern Puerto Rico.

In her series Margot Hornblower attempted to portray some of the problems we face in Puerto Rico, struggling as we have for years with the question of political status, and other problems such as limited natural resources, high population density and the energy crisis. But, in spite of many problems, we feel proud about our great accomplishments in economic growth and social development.

Puerto Ricans are particularly proud of their U.S. citizenship. It is this citizenship together with the desire of our people to become economically self sufficient that has made it possible for us as individuals and families to pull ourselves up, through hard work to where we are today. We are, of course, grateful for the federal programs which have assisted us over the years just as they have our fellow citizens on the mainland.

But we would like our fellow citizens to understand what we have done for ourselves, and also what we have contributed to our country.

First, visualize an island so poor in the decade of the thirties it was called the "poor house of the Caribbean". Housing for most people was a one or two or perhaps three room shack. When the American soldiers landed in 1898 only 20.5 percent of our people could read and write. By 1940 68.5 percent and by 1976 91.3 percent were literate. Our health efforts have increased life expectancy at birth from 46 years in 1940 to 74 years in 1976, greater than that of the mainland.

By promoting and providing incentives for industry and tourism, we have increased overall employment from 512,000 in 1940 to 827,000 in 1980 and manufacturing employment from 56,000 to 157,000 in the same period. In current dollars per capita personal income grew from $296 in 1950 to $587 in 1960, to $1,384 in 1970 and to $3,494 in 1980. Average family income grew from $1,495 in 1950 to $12,928 in 1980, almost tripling in real terms.

By our own local tax effort and by judicious borrowing, we have invested billions of dollars in shipping ports, airports, roads, dams, irrigation systems, schools, hospitals, technical schools and universities. University enrollment rose from 5,371 in 1940 to about 154,009 in 1978. Overall, all school enrollment rose from about 302,000 in 1940 to more than one million in 1978.

We must do much more, particularly in skill training, to prepare Puerto Ricans for good jobs, but we have largely by our own efforts put the basic infrastructure in place, educated our people and created a modern, forward looking democratic society. For example, 76 percent of our electorate voted in the 1980 elections compared to slightly over 50 percent in the U.S. mainland. We are proud of that. We are also proud that our young men have volunteered, fought and made the biggest sacrifices in every U.S. conflict since 1917. Puerto Rico suffered more war casualties in the Korean war than all but three states.

We have a strong sense of family, and value education as the way to progress. Almost uniformly our grandparents and parents saved and sacrificed so that their children would receive the educational benefits which were unavailable to them.

As you may know, I am a lawyer and graduate of the University of Puerto Rico. But my parents were farmers in a poor rural area in the mountains of Puerto Rico. They raised 14 children of which I was the second. We were all educated with great sacrifice. Today two of us are lawyers, two are business executives, one is a retired Lieutenant Colonel from the U.S. Air Force, a Jesuit priest, three nuns, a teacher, a farmer, a college instructor and two housewives. This is, with variations, a typical Puerto Rican story and it is this Puerto Rico, the hard-working, responsible family-centered Puerto Rico that I would like you to also know. Furthermore, many of the poor Puerto Rican families that I know are the most decent people you will find anywhere. We have our fair share of rotten apples like any other society but I can assure you that afforded the opportunity our people will take a job and work hard.

Both Governor Carlos Romero-Barceló and I advocate statehood for Puerto Rico. This would resolve our dilemma of an indefinite status that leaves us with little political "clout" in Washington to stand up to those people who believe Puerto Ricans should be treated as inferior associates of the United States.

In conclusion, your articles, and the attention it focused on our Island, were welcomed. We hope the Washington Post will continue to give our Island and its people the place in the sun they deserve.

Cordially,

BALTASAR CORRADA,
Resident Commissioner, Puerto Rico.●

PROTECTING THE GREAT LAKES

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. DINGELL. Mr. Speaker, our Great Lakes are one of this country's most important water-related natural resources. The largest body of fresh water in the world, the Great Lakes have continued to support the tremendous growth and industrial pressures which have occurred over the last century. However, the Great Lakes now face a critical period of time where contamination by toxic wastes could threaten their continued viability.

It is, therefore, imperative that the Federal Government take an active role in carrying on research activities and to search for methods to mitigate Great Lakes pollution. My good friend and colleague from Michigan, Congressman JAMES BLANCHARD, has introduced the Great Lakes Protection Act, H.R. 3600, which streamlines Federal coordination of Great Lakes research activities and recognizes the lakes as a major natural resource.

I wholeheartedly support this legislation and insert into the RECORD an editorial in the June 23 edition of the Detroit News which accurately reflects my sentiments regarding the need to safeguard this great natural resource.

[From the Detroit News, June 19, 1981]

PROTECTING THE GREAT LAKES

The Reagan administration's attempt to cut Great Lakes conservation programs by two-thirds has angered environmentalists. And the reaction is understandable, because there is good cause for concern.

Lake Erie, once thought to be dying, has been transformed. The fish population is in-

creasing and water quality is up. Budget reductions could reverse these improvements.

Fish cultivation is at a particularly critical stage right now. Lake trout and two species of salmon are taking hold and are nearing the levels required for natural reproduction. It would be a shame to stop this program when it is so close to success.

Some Reagan administration officials believe the cutback of federal funds will force the states to do the job that should have been theirs in the first place. But many states face unprecedented budget problems. Michigan's fiscal position has been especially weakened by rising welfare costs and the auto industry's prolonged recession.

There is no question that there is extensive duplication in the Great Lakes conservation and research programs. That's why U.S. Rep. James Blanchard has proposed legislation to coordinate the work now being done by seven different government departments, three independent agencies, and more than 20 universities.

If the Reagan administration really wants to reduce costs and improve efficiency in the Great Lakes programs, it should give a fair hearing to Mr. Blanchard's approach. The Pleasant Ridge Democrat's proposal isn't perfect, but it does endeavor to rationalize a confusing bureaucratic maze without abandoning the essential effort to preserve the largest body of fresh water in the world.●

CULTURE AND STRUGGLE FOR FREEDOM

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. ROE. Mr. Speaker, as requested by one of my distinguished constituents, the Honorable Herbert M. Sorkin, councilman of the city of Passaic, I request permission to insert at this point in our historical journal of Congress, the following address by Prof. Basil J. Vlavianos delivered at the celebration of Greek Heritage and Culture Week which was sponsored by the New York City Board of Education on the occasion of the 160th anniversary of the Greek War of Independence, March 25, 1981.

The author, Prof. Basil J. Vlavianos, an international lawyer, journalist, and publisher, is a well-known scholar and writer of national and international renown. As a distinguished professor of public affairs of New York University he has lectured for many years on diplomatic and political problems of the states of the Eastern Mediterranean.

Mr. Speaker. Dr. Vlavianos' presentation has incorporated the richness of his wisdom and expertise on a subject that we can all agree is most important to all of our people—education, and particularly bilingual education. When you reflect upon the fact that the cultural, historical, and economic achievements, even the basic health, well being and longevity of a State and nation depend in large measure upon how well we educate each generation charged with the trust of carrying out its responsibilities and traditions, Professor Vlavianos, through his writings, has indeed touched upon a significant basic foundation for culture and the advancement of freedom for all people, as follows:

CULTURE AND STRUGGLE FOR FREEDOM

Ladies and Gentlemen: Thank you for inviting me to address this important meeting.

I interpret the feelings of the Greek-American community of this great city when I congratulate the New York City Board of Education for organizing this Celebration Week in commemoration of the 160th anniversary of the Greek War of Independence.

I labeled this meeting important because the expression of solidarity with the struggle of any people for freedom and justice is important. Also, because respect paid to culture and education is important.

This is true particularly today. The crisis engendered mainly by the gap between the achievements of the technical sciences and the ability of human behaviour to keep up with them constructively has rendered the role of education more and more vital.

Every opportunity we have to familiarize ourselves with lofty ideals and great deeds is not only a source of profound satisfaction, but a potent stimulus for personal and national improvement.

It would be presumptuous to attempt to describe that many faceted struggle or any part of the Greek cultural heritage in the few minutes at my disposal today. I should try, however, at least to present two aspects of them, and to spell out the message conveyed by them to us.

The revolution against Turkish imperialism had actually started long before the 25th of March 1821. It was intensified, however, and became successful when the people found the inspired leadership which galvanized their minds and their hearts, and filled them with the courage to engage in that awesome struggle.

It was a tremendous decision, indeed. A handful of poorly armed people resolved to stand up against one of the most powerful empires of the time. They had no real encouragement from the international community. On the contrary, the so-called Holy Alliance, formed by the Great Powers of the day at the Congress of Vienna in 1815, was decidedly opposed to any change in the established international regime. In spite of all this, the decision was made.

The motto, as you know, was "Liberty or death." The same motto used on so many occasions by the Greeks as well as by so many other nations. But it is difficult to find another nation that has had as many opportunities to prove its identity by using that motto as has Greece. From Thermopylae and Salamis to Pindos and Gramos.

Of course, in each of these instances the individuals were different and so were the weapons, but the motto was always the same. So were the ideals and the dedication to them. So was the willingness to sacrifice for country, for justice, for "the rights of humanity."

"The Rights of Humanity." This is another important aspect. We find the following statement in the documents used by Greek ships during the Revolution for identification purposes:

* * * The sacred name of Liberty resounds all over Greece and every Greek heart is burning with desire to regain this supreme Gift of God or perish in the struggle for it * * * we beseech all the masters of the sea and land to offer us every assistance permitted to them, and we cannot doubt that they will help this struggle, in which we are engaged for the rights of humanity.

This conception of Liberty as servant of Humanity has been characteristic of all Greek struggles for freedom. It is also characteristic that enslaved Greece has defeated her conquerors culturally—once, when she was subdued by the Romans in the 2nd century B.C.; later, when she was occupied by the Turks.

It is known that Rome became to a great extent hellenized. The highest ambition of its cultured society was to speak Greek. Its philosophers, its poets, its artists were competing with each other in copying their Greek counterparts. The only Roman Emperor who produced a literary work, Marcus Aurelius, wrote in Greek. And very good Greek, incidentally.

Also, when the Turks occupied Greece in the 15th century, Greek intellectuals moved west and contributed substantially to the phenomenal cultural rebirth which became the Renaissance. Generally, we may say, that cultural activity never stopped inside occupied Greece. Some of the finest modern Greek poetry hails from that period. Exciting translations prove that poetry of the highest quality has been continuous in Greece for more than 3000 years.

The message conveyed by the Greek Revolution of 1821 is not different from that conveyed by similar struggles of other nations. The message is that there exist no power, no material superiority, no means whatsoever which can provide final victory to individuals or nations working against freedom and justice. Whenever people dedicated to them unite and decide to fight and to sacrifice for them, they cannot but prevail.

Greek heritage also teaches how important moral and cultural values can be. Ideas and ideals prove always stronger than any material weapon. The most devastating nuclear gun cannot kill an idea.

How could we drive this truth home to some of the political leaders of the world? Only through education.

Unfortunately, even in this great country of Liberty many still believe that the greatness of our nation depends primarily on material power, and often, try to achieve such power at the expense of vital and cultural values.

With all due respect to material power I submit that the importance of moral and cultural values is highly underestimated and that this can prove to be a lethal mistake.

Today, more than ever, the reasonable solution of our most vital international problems presupposes understanding and effective communication. None of these can be obtained without proper education.

In the recent Celebration of Foreign Language Week prominent speakers extolled the contribution of the Bilingual Program to better understanding and communication. This laudable achievement is now menaced with extinction. I can assure you that the overwhelming majority of the Greek community is on your side in the fight to save this valuable program.

We firmly believe that education is also our most effective means toward a lasting peace and that it can contribute to human happiness much more than armaments. Those who dedicate themselves genuinely to

its advancement should be counted among the most valuable servants of our nation and of the entire human race.●

CHSP

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. MAVROULES. Mr. Speaker, I am certain we all realize the complexities involved in providing adequate housing for the elderly. Ideally, a Federal program designed to handle the housing needs of our elders would inspire dignity, independence, and self-esteem without imposing an excessive financial burden on taxpayers. We are finding, however, that with the current elderly housing program, one of these goals can be attained only through the sacrifice of the other. With the skyrocketing costs of nursing home care and the projected rise in the elderly population the need for a humane, less costly support system has become acute.

Mr. Speaker, today I am strongly recommending the congregate housing services program (CHSP) as the alternative support system for which Congress should renew support. I am greatly impressed with the inspiring progress of the CHSP facility in my own district at the Bethany Homes in Haverhill, Mass. I believe that it is important to review the CHSP, because it is a distinctive example of a Federal program that works. Since its authorization under the 1970 Housing and Urban Development Act, CHSP has been a successful, innovative, and wholly suitable program for elderly and handicapped persons.

The services funded are those which allow the elderly to remain independent and active in a community by providing the level of assistance their individual condition requires. Such services include meals, home health aids, and homemakers, and support services such as transportation and counseling. It has been determined that many individuals placed in nursing homes could function adequately with services provided by CHSP rather than extensive services available at nursing homes.

It is a sad fact, indeed, that some of our most productive elderly citizens are trapped not by their infirmities but by the unnecessary institutionalization they must endure to receive assistance. The CHSP eliminates such waste of talent; it makes the difference between the fulfilling contentment of self-support and the isolated despair of dependency.

Funding for CHSP has been stifled, and no appropriations for this invaluable program have been included in the fiscal year 1982 budget. Mr. Speaker, if Congress is to be consistent in its aggressive pursuit of cost reductions, it must recognize that the CHSP is the most cost-efficient alternative to institutional care. The exorbitant health policies currently implemented by the Federal Government are inherently biased toward unnecessary institutionalization. According to estimates made nationally by the Urban Institute, Washington, D.C., there are 2.4 million persons age 65 and older who do not need institutional care but do need sufficient shelter and services in order to live independently. The estimates suggest that 1.1 million would thrive in a congregate housing program. Clearly, providing services to elderly people in their own homes in such a setting is far more appealing and fulfilling than unnecessarily installing them in medical institutions.

The savings that are attained by CHSP indicate its cost effectiveness. The total Federal subsidy of the CHSP participants including both program subsidies and rent subsidies, is $238,786 per year. The Federal subsidy required to place these individuals in a nursing home is $474,808. The net savings to the Federal Government as a result of keeping these persons in an independent living situation is $236,022.

Mr. Speaker, I urge the Congress and the administration to renew its commitment to the CHSP. The older segment of our population will live healthier, fuller, and longer lives if we continue programs such as the CHSP. The benefits of this program are great. The taxpayers will be spared the increasing expense of unnecessary institutionalization, the communities will receive the talents of its wholly capable older citizens, and the elderly will receive benefits of dignity and freedom beyond measure.●

MX EFFECTIVENESS QUESTIONABLE

HON. BERKLEY BEDELL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. BEDELL. Mr. Speaker, there is very serious doubt that the MX missile system—which has been called man's largest project—would be effective as a military system.

The MX program was developed by the Carter administration to operate under the constraints of SALT II. Without that treaty, many experts think the Soviet Union could overwhelm the MX system by the time it is completed. The United States would then need to expand the system or build an ABM defense onto it, at a cost of untold billions of dollars. It will also be extremely hard for the Air Force to keep missile locations secret in a public area.

For these and other reasons, the MX system is a lemon, and a very expensive one at that. The following fact-sheet by the National Campaign to Stop the MX lists some of the reasons why the MX system may not work as expected.

THE MX MISSILE SYSTEM—EFFECTIVENESS

Several government studies have indicated that the MX missile system currently planned for the American West will not fulfill its goal of protecting U.S. land-based missiles. Problems with the system include:

Maintaining secrecy against Soviet surveillance equipment. The Air Force must correctly anticipate any technical development which would allow the Soviet Union to detect MX missile locations. According to the Office of Technology Assessment, maintaining secrecy "is a major engineering task, driven by the high sensitivity of present-day sensors . . . one cannot have confidence in the success of this new technology before actual equipment is constructed and tested in the field. Even then, lingering doubts would remain."

Maintaining secrecy against intruders. Any miner, camper or local resident in the MX deployment area is a potential Soviet agent. Any van or truck driving through could be full of detection equipment. The Air Force must, unless it seeks to close an area the size of Pennsylvania, allow the public into the deployment area, yet it must also have absolute confidence in the security of its system. This will not be easy.

The probability that the Soviets will be able to overwhelm the system when it is completed. Reagan advisors have admitted that the baseline 4600 shelter system may be insufficient (Washington Post, 4/19/81). The OTA has estimated that if the Soviet Union follows current warhead production trends, "an MX deployment could not be viable unless the number of shelters grew to several times the initial 4600." An ABM defense of MX may be necessary as an alternative to expansion.

Provocation of a Soviet saturation attack on the central continental U.S. The MX "multiple protective shelter" network was designed as a "nuclear sponge." It assumes a large-scale Soviet targeting of the system and Soviet attack strategies to overwhelm it; in short, it develops a nuclear battleground on the continental U.S.

The viability of the system's communication network in time of attack. According to the General Accounting Office, "The MX system does not currently include a survivable two-way direct communication capability between higher authority and the missile launchers when airbone launch control centers are not available." This communication capability is of vital importance; lower level officers may be left without access to command authorities in time of attack.

The vulnerability of the MX electrical system. According to GAO report MASAD-81-1, "The buried power lines furnishing electricity to the shelters will pick up electromagnetic pulses from a nuclear attack. This will cause a surge of the pulses into the shelters which will damage electronic components to the extent that the missile will lose operational capability."

These and related issues raise doubts about the viability of the proposed MX system, which are especially relevant in light of its enormous cost and impact on the western U.S.

MARINE CORPS RESERVE

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. SKELTON. Mr. Speaker, the Selected Marine Corps Reserve (SMCR) consists principally of the 4th Division, the 4th Marine Aircraft Wing, and the 4th Force Service Support Group. The division/wing team is a balanced force of combat, 35 percent; combat support, 39 percent; combat service support, 24 percent; and staff, 2 percent; it provides one-fourth of the total Marine Corps air/ground capability.

The Selected Marine Corps Reserve has continued to show steady improvement over the past year. From a low of 29,306 in fiscal year 1976, the SMCR strength climbed to 35,449 in fiscal year 1980. While still 8,551 shy of wartime requirements, this figure represents 105 percent of the budget forecast in the fourth consecutive year of growth. The momentum has continued through the first quarter of fiscal year 1981 with 103 percent of the 3-month quota obtained. Although economic conditions have obviously improved recruiting prospects for all the services, Marine Corps Reserve officials feel that their intensified recruiting effort over the past year has been the primary contributor to increased Reserve accessions. First-term reenlistments have risen from a low of 16 percent in fiscal year 1977 to 52 percent for fiscal year 1980. Career reenlistments have demonstrated a similar upswing, reaching 86 percent at the end of fiscal year 1980.

There is one additional plus factor in the manpower equation: quality of recruits is improving. In fiscal year 1980, 76 percent of the non-prior-service accessions were high school graduates, compared to only 50 percent in 1975. Overall, the SMCR population contains 76 percent high school graduates; 14 percent have 2 or more years of college.

However, high attrition rates remain among those who have not completed their period of obligated service, and the SMCR suffers also from less-than-desired recruitment of prior-service individuals, and skill shortages. Non-end-of-obligated-service losses generally occur immediately after a reservist returns from inactive duty for training or at the 12- or 24-month milestones in the enlistment. According to a recent study, the primary reasons were a lack of identity between the Reserve enlisted and the parent SMCR unit, and a perception that inactive duty for training was repetitive, dull, and unimaginative. The Marine Corps is attempting to reverse this trend through a new entry level training and tracking system for Reserve recruits, an SMCR unit sponsorship program, and emphasis on the conduct of inactive-duty-for-training away-from-home sites.

Serious skill mismatches and shortfalls beset the Selected Marine Corps Reserve. Areas of particular need include infantry, artillery, data/communications, supply, air control, and aviation ordnance. A concerted effort is being made to reduce critical skill shortages through enlistment and retention bonuses and improved training programs, but, as in other Reserve and Active components, the problem is persistent and difficult to solve.

Overall, the readiness of the Selected Marine Corps Reserve units is good, but some areas require substantial improvement. As of the end of fiscal year 1980, more than half of the SMCR units were reporting major pitfalls in readiness primarily because of personnel shortages. Skill shortages are the main culprit; over one-third of the units are reporting lessened readiness for this reason.

Under the Marine Corps combat readiness evaluation system (MCCRES), using evaluation standards identical to those for regular units, 70 percent of the Reserve units tested were rated combat ready. All aviation units were assessed as combat ready. In fact, one Reserve F-4 squadron from Dallas, Tex., was judged to be one of the best in the Marine Corps, Active or Reserve. The ground units needed improvement in command and control and fire-support cordination at the battalion level. Thus far in fiscal year 1981, the 4th Marine Aircraft Wing has conducted two MCCRES evaluations, in which both units were rated combat ready. The 4th Marine Division plans to increase MCCRES evaluations by 16 percent this fiscal year.

Despite the high degree of readiness of the aviation units, one serious—perhaps fatal—flaw exists. The inventory of aircraft is growing old rapidly, with a few new models available for the near future. Attack aircraft average 13–17 years old; fighters, 14 years; and transport helicopters, 13 years. These aging models require increased maintenance time, thus limiting the amount of combat-readiness training that can be accomplished.

Within the Selected Marine Corps Reserve as a whole, equipment is insufficient for wartime requirements. The supportability test for Exercise Proud Spirit revealed there is a $171 million deficiency in principal end items required to fill out the SMCR units to full wartime equipment allowances upon mobilization. This means an overall shortage of approximately 33.5 percent in principal end items. Additionally, a deficiency of 51 percent, or $7 million, exists for repair parts that would be required upon mobilization.

In summary, the Selected Marine Corps Reserve has made a considerable turnaround since the mid-1970's.

The quantity and quality of personnel has been substantially enhanced. On the whole, readiness is good. Nonetheless, skill shortages are still pervasive, and, hand-in-hand with aging or nonexistent equipment, substantially degrade readiness capability.●

THE QUALITY THAT GOES WITH THE NAME

HON. JOHN LeBOUTILLIER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. LeBOUTILLIER. Mr. Speaker, the Long Island Jewish-Hillside Medical Center of Nassau County, N.Y. believes that medical outreach programs are the most effective way to serve the public's need for quality health care.

In an effort in this vein, Long Island Jewish-Hillside Medical Center has just completed all of the long, arduous but valuable steps needed to acquire a smaller hospital in order to expand community health care. On June 23, Long Island Jewish-Hillside Medical Center formally took over a smaller hospital, the Manhasset Medical Center.

As the Long Island newspaper Newsday, said, "this matter has been a case study in bureaucracy." I feel that it is an especially propitious time to examine the saga of Long Island Jewish Hospital's efforts to acquire Manhasset Medical Center. Finally, at long last, Congress, the executive branch, the courts, the media, and the citizenry are openly voicing discontent with the often tangled, and always costly, level of bureaucracy that ensnarls just about every action in this country.

Manhasset Medical Center was privately owned, and its owners desired to sell their facility because of overregulation. As one of the owners told Newsday in a June 25 article, "Government agencies make it impossible for private enterprises".

While the Manhasset facility may not be permitted to become a permanent local part of Long Island Jewish-Hillside Memorial Medical Center, it will provide important—and quality—healthcare.

Richard C. Firstman's account of this saga, entitled, "A Hospital Changes More Than Its Name", is reprinted below:

A HOSPITAL CHANGES MORE THAN ITS NAME

(By Richard C. Firstman)

Manhasset—Early yesterday morning, hours after the papers were signed, the workers climbed their ladders and changed the sign. "Manhasset Medical Center" came down; "Long Island Jewish/Hillside Medical Center, Manhasset Division" went up.

A year after the sale of the private community hospital to the large New Hyde Park-based teaching institution was approved by local health-care agencies, the transfer was achieved when the brothers Weiner—Arthur, Allan and Kenneth—signed away their rights to the hospital they founded in 1948.

Inside yesterday, nurses wore LIJ name tags and telephone operators answered the phone: "LIJ." And next to their poached eggs, patients' breakfast trays included a message from LIJ President Robert K. Match informing them that although they had gone to sleep the night before at Manhasset Medical Center, they had awakened at Long Island Jewish.

In time, LIJ officials say, more than the name will change. The sale, spokeswoman Rosalie Kershaw said, will convert the hospital from "an intimate family possession to a nonprofit teaching institution."

Already, work is being completed on a visual function laboratory, an unusual computer system that helps doctors find rare visual dysfunctions that are difficult to discover during conventional ophthalmological exams. And the hospital will soon begin a five-year, $1-million project to construct departments of radiology and nuclear medicine and to modernize public areas.

But in converting the hospital from a private business venture to a nonprofit teaching facility, the most basic change will be the presence of resident doctors and the absence of private physicians who have been renting space at the hospital for years.

Staff changes at the 120-bed hospital mainly involve top management. For the first time, the hospital will have full-time directors of medicine and surgery. All staff—including 81 nurses—have been kept on, administrator Lawrence Gold said. That includes long-time employees like Cleveland Best, a hospital cook once lauded by a New York Times food critic.

The changes, however, may be temporary. The Nassau-Suffolk and New York City Health Systems Agencies have ruled that in five years, the hospital's 120 acute-care beds must be returned to LIJ's main complex in New Hyde Park, just over the Queens border. The agencies say Nassau has enough such beds, while the city does not. Because of that, officials say, LIJ may sell the hospital by 1986—possibly to North Shore University Hospital in Manhasset.

The transfer of the hospital has been a case study in bureaucracy, according to Gold. LIJ spent a year obtaining scores of approvals from agencies ranging from the Town of North Hempstead Building Department to the federal Bureau of Alcohol, Tobacco and Firearms.

To Kenneth Weiner, the situation was typical. He said he and his brothers had decided to sell the hospital because of what he described as over-regulation by government. "Government agencies make it impossible for a private enterprise," Weiner said. "LIJ is in a better position to deal with that."

Of the $2.15-million sale, he said, "It's like seeing your mother-in-law drive off a cliff in your new Cadillac."●

ALLEGED NAZI WAR CRIMINALS IN THE UNITED STATES

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. LEHMAN. Mr. Speaker, last week in Jerusalem, an unusual and memorable reunion took place: 4,000 pilgrims, all survivors of the Nazi holocaust, joined the 1,000 other survivors of Nazi concentration camps who now live in Israel. Many brought to this World Gathering of Holocaust Survivors documents, written memoirs, and tape-recorded oral histories to bear witness to their ordeals in Auschwitz and other concentration camps, and to try to assure that the lessons of the holocaust would not be forgotten.

There are still those who argue that, since over 30 years have elapsed since the end of World War II, we should bury the past and forget the atrocities. But anyone who examines the historical record will agree that the passage of time cannot be allowed to justify these atrocities. Previous to 1974, the U.S. Government had failed to investigate and prosecute alleged Nazi war criminals living in the United States. Our Government neglected this responsibility for years until Congress passed legislation making it illegal for Nazi war criminals to seek refuge in the United States. Many war criminals entered the United States fraudulently falsifying their past and becoming U.S. citizens illegally. The Office of Special Investigations has been established in the Criminal Division of the Justice Department to investigate and prosecute alleged war criminals. The U.S. Government has been directed by Congress to investigate and prosecute Nazi war criminals living in the United States, not to demand punishment or imprisonment for these crimes, but for the purpose of their denaturalization and deportation. The failure on the part of the U.S. Government to act promptly and firmly in these cases could be interpreted as a statement that we were willing to condone the crimes of the holocaust, allowing these heinous crimes to be forgotten, perhaps even repeated.

The charges in the cases presently under investigation and litigation do not involve only ideology and politics; they involve mass murder and brutality, and the failure to disclose participation in these crimes when the individuals sought to enter the United States. The Office of Special Investigations at the Justice Department is carrying out the mandate of Congress in its diligent pursuit of these cases. It deserves our attention and support. I include here an updated digest of the cases in litigation.

The digest of cases follows:

DENATURALIZATION CASES

1. OSIDACH, WOLODYMIR

Summary of allegation: When applying for entry into the United States and for naturalization, defendant concealed his wartime service as Commandant in the Ukrainian Police in Rawa-Ruska, Ukraine, and his involvement in the persecution and murder of unarmed Jewish civilians (specifically, his participation, directly and through subordinates, in the roundup and transport to extermination sites of Jewish civilians residing in Rawa-Ruska). March 17, 1981, the Court entered judgment for OSI. However, defendant died on May 26, 1981.

2. LINNAS, KARL

Summary of allegation: Defendant commanded or was a member of the security forces of a concentration camp at Tartu, Estonia from 1941 to 1943, where he supervised and participated in the physical abuse and execution of civilian prisoners. He misrepresented his activities during this period when applying for entry to the United States and later when applying for naturalization as a United States citizen. Case pending.

3. KOZIY, BOHDAN

Summary of allegation: During the period 1942–1944, defendant served as a Ukrainian policeman stationed in Lysiec, Ukraine, and participated in the murders of unarmed civilians. He concealed these facts when applying for entry and naturalization. Case pending.

4. DERCACZ, MICHAEL

Summary of allegation: From September 1941 through August 1943, defendant was a uniformed police officer in the Ukrainian Police Command in Lvov, Ukraine, and was stationed in Nazi-occupied Jaryzow-Nowy, Ukraine. Defendant actively participated in beatings and executions of unarmed Jewish civilians in Jaryzow-Nowy. He concealed and misrepresented these facts when applying for entry and for naturalization. Case pending.

5. TRUCIS, ARNOLDS

Summary of allegation: Between July 1941 and November 1943, defendant was a member of the Latvian Auxiliary Security Police, an organization which participated in the persecution of Latvian Jews. Defendant personally assisted in such persecution by guarding and abusing civilians. Between approximately October 1943 and October 1944, defendant held the German Schutzstaffel (SS) rank of Hauptscharfuhrer (Master Sergeant), and served with the Sicherheitspolizei (Security Police), and the Sicherheitsdienst (or SD [Security Service of the SS]), which organizations participated in the persecution of Latvian Jews. Case pending.

6. DEMJANJUK, JOHN

Summary of allegation: Defendant, while employed as a uniformed guard with the German SS at the Nazi death camps at Sobibor and Treblinka, Poland, in 1942 and 1943, assisted in the extermination of thousands of Jewish civilians. Defendant operated the gas chambers at Treblinka and abused and persecuted Jewish prisoners and laborers. Defendant misrepresented his background in applying for entry and naturalization. (On June 22, 1981, the Court entered judgment for the OSI.)

7. KAIRYS, LIUDAS

Summary of allegation: From 1942 to 1944, defendant served with the SS auxilia-

ry guard units (SS Wachmannschaft) at Trawniki, Poland, the SS Comando Lublin, and the SS forced labor camp in Treblinka, Poland, where thousands of Jewish civilian prisoners were murdered by the SS Wachmannschaft. Defendant concealed these facts when applying for entry and for naturalization. Case pending.

8. KOWALCHUK SERGEI

Summary of allegations: Defendant served as a member of the Nazi-controlled Ukrainian Police in Luboml, Poland, during the years 1941 and 1942. While serving in this capacity, defendant participated in the persecution of, and the commission of crimes or atrocities against, civilians. Defendant concealed these facts when applying for entry and for naturalization. Case pending.

9. KARKLINS, TALIVALDIS

Summary of allegation: While serving as a member of the Madona (Latvia) District Police, in July and August, 1941, defendant assisted in the persecution and murder of unarmed Jewish civilians and committed crimes including murder and assault. From September 1, 1941 until the fall of 1942, defendant was the Commandant of the Madona Concentration Camp, which was operated under the command of the chief SS officer in Latvia. During defendant's tenure as Commandant of this camp, unarmed inmates of the camp were starved, beaten, tortured, murdered and otherwise brutalized by defendant and/or by persons acting under his direction and control. Defendant subsequently misrepresented and concealed his activities during this period when applying for entry to the United States and later when applying for naturalization as a United States citizen. Case pending.

10. SCHELLONG, CONRAD

Summary of allegation: During the years 1934–1940, defendant served in various Schutzstaffel ("SS") guard companies at the Sachsenburg and Dachau concentration camps in Germany. Defendant served first as a guard and later as company commander of several of these units. Defendant's duties at both camps included the guarding of thousands of civilians interned there by the Nazis because of their race, religion, or political beliefs. At Dachau, where defendant rose to the rank of SS-Hauptsturmfuhrer (Captain), he was responsible for the training of new SS recruits for concentration camp guard duty. When applying for entry into the United States, defendant concealed his activities during that period at Sachsenburg and Dachau. When later applying for naturalization, defendant falsely swore that he had never served in a concentration camp. Defendant also concealed the fact that, from June through November, 1932, he had been a member of the Sturmabteilung ("SA"), a paramilitary unit of the German Nazi Party. Case pending.

11. VON BOLSCHWING, OTTO ALBRECHT ALFRED

Summary of allegation: When applying for naturalization, defendant concealed and willfully misrepresented his membership in the German Nazi Party and his role as an officer in the Allgemeine SS (where he ultimately rose to the rank of Hauptsturmfuhrer) and in the SD (the security service of the SS) from 1934 until at least 1941. While serving in the SS and SD, defendant devised and advocated specific proposals for executing the SD's program of persecution and forced emigration of Jews from areas under Nazi control. From at least 1937 until 1939, defendant served in the "Jewish Affairs" office of the SD (office II 112), where he provided information and advice to officials of that office, including Adolf Eichmann, on Jewish organizations and on forced emigration of Jews. In 1940–41, defendant served as head of the SD in Romania, where he encouraged and aided the fascist "Iron Guard" movement in its anti-Semitic pogrom of January 1941 and in other acts of persecution.

DEPORTATION CASES

1. MAIKOVSKIS, BOLESLAVS

Summary of allegation: During World War II, defendant was employed as chief of the Second Police Precinct in Rezekne, Latvia. As chief of police, defendant participated in assaults upon and murders of Jewish and other Latvian civilians, including arrests and execution of the inhabitants of Audrini, Latvia, and the burning of the village. Defendant also ordered the rounding-up of all Gypsies in his police precinct. Case pending.

2. TRIFA, VALERIAN

Summary of allegation: During World War II, Archbishop Trifa served in Romania as a member of the fascist "Iron Guard" and as president of the National Union of Romanian Christian Students. Defendant also served as editor of the newspaper Libertatea, which openly identified itself with the Iron Guard and which advocated its anti-Semitic policies. From 1936 to 1941, defendant advocated the persecution of the Jews of Romania, and aligned the National Union of Romanian Christian Students with the policies and politics of the Iron Guard. On January 20, 1941, he issued a manifesto which advocated the replacement of all "Judah-like Masons" in the government and the establishment of an "Iron Guard" government; and in consequence, a rebellion took place in which hundreds of innocent civilians were killed. As an Iron Guard member, defendant was given sanctuary, protection, and care by the German SS in Romania and in Germany from January 1941 until August 1944.

Progress to date: Defendant consented to denaturalization on September 3, 1980, and his certificate of naturalization was thereupon cancelled by the U.S. District Court for the Eastern District of Michigan. OSI's Order to Show Cause in defendant's deportation case was filed in Immigration Court on October 30, 1980. Defendant filed an appeal of the consent judgment revoking his citizenship on October 31, 1980.

3. ARTUKOVIC, ANDRIJA

Summary of allegation: Defendant was Minister of the Interior and Minister of Justice of the Nazi "Independent State of Croatia." In that capacity, he signed decrees authorizing executions and persecution and had direct complicity in massacres of thousands of Jews, Serbs, Gypsies, and others. Case pending.

4. PASKEVICIUS, MECIS (A/K/A MIKE PASKER)

Summary of allegation: While serving in the Lithuanian Security Police from 1941 to 1944, defendant participated in the murder, beating, and extermination of Jews and other Lithuanian and Russian civilians.

Progress to date: A complaint seeking the revocation of defendant's citizenship was filed by the government on January 17, 1977. Defendant subsequently consented to a judgment revoking his citizenship, and on August 23, 1979, the U.S. District Court for the Central District of California (Los Angeles) revoked the defendant's citizenship. In consenting to this judgment, defendant stipulated that he willfully and intentionally misrepresented facts to U.S. officials concerning his service as a member of the Lithuanian Security Police from 1941 to 1944.

On June 24, 1980, OSI filed an Order to Show Cause seeking defendant's deportation. The Immigration Judge ordered that physical and mental examinations of the defendant be conducted by a court-appointed doctor to determine if defendant is competent to stand trial. On December 16, 1980, the Court found that the defendant is mentally incompetent to stand trial. The Court based this determination on the report of the court-appointed doctor, on other submitted medical reports, and on the Court's own observations of the defendant on two occasions in court. The matter was thereupon adjourned sine die. However, defendant must submit to periodic mental and physical examinations to monitor his fitness to stand trial. The next such examination will take place not sooner than July 15, 1981.

5. DETLAVS, KARLIS

Summary of allegation: From 1941 to 1943, defendant participated in assaults upon and murders of unarmed civilians, primarily Jews, in Latvia. From 1943, defendant served in the Latvian Legion. In 1950, when applying for admission to the U.S., defendant falsely swore that he had not advocated or assisted in the persecution of any person because of race, religion, or national origin.

The parties are currently awaiting a decision by the BIA on OSI's appeal.

6. KAMINSKAS, BRONIUS

Summary of allegation: Defendant participated in the shooting of approximately 200 Jews in Lithuania in August, 1941, and in the selection of approximately 400 Jews for execution at another location in July or August of 1941.

Progress to date: Defendant was examined by a government-appointed doctor, who concluded that defendant's ill health precluded his participation in deportation proceedings. The defense moved to dismiss the case on the grounds of defendant's incompetency, and OSI moved to adjourn indefinitely with periodic monitoring of defendant's condition. On January 30, 1981, OSI and the defendant stipulated that the case be adjourned sine die, and that the defendant would submit to periodic mental and physical examinations to determine his fitness to stand trial. The next such examination is scheduled to take place on or about October 15, 1981.

HAZNERS, VILIS

Summary of allegation: As an officer in the Latvian Self Defense Group and later the Schutzmannschaft, a police organization under German supervision and control, defendant directed and participated in the arrests and beatings of Jews, and in their internment in ghettos at Riga, Latvia. Case pending.

8. FEDORENKO, FEODOR

Summary of allegation: Defendant misrepresented his wartime service as an armed guard at the Treblinka concentration camp in Poland during the years 1942–1943, and his commission there of atrocities against prisoners.

On March 5, 1981, OSI commenced legal proceedings seeking Fedorenko's deportation from the United States. Deportation hearings were held on May 4–5, 1981, and were subsequently adjourned in order to provide defendant with time to locate wit-

nesses and to file applications for discretionary relief from deportation. Hearings are tentatively scheduled to resume on June 25, 1981.

9. LAIPENIEKS, EDGARS

Summary of Allegation: Between July 1941 and August 1943, during which time Latvia was under the occupation and control of Nazi Germany, defendant voluntarily served in the Nazi-affiliated Latvian security police. While assigned to duty at the Riga Prefecture and at the Riga Central Prison in Riqua, Latvia, defendant participated in the persecution of civilians because of their race, religion, national origin, or political opinion; such conduct included participation in the beating and killing of unarmed inmates. Defendant was arrested in 1946 by French military authorities in Austria in connection with these activities. He concealed and misrepresented all of the above facts when applying for entry into the United States.

Progress to date: On June 2, 1981, OSI commenced legal proceedings seeking Laipenieks' deportion from the United States.●

DEALING WITH POLLUTION PROBLEMS

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. ASPIN. Mr. Speaker, pollution problems are national. But they are also local. I would like to explain how we have been dealing with a pollution problem that affects one part of southeastern Wisconsin.

SPRING ON BIG MUSKEGO

For several years, springtime has brought a green bloom of algae to the surface of Lake Muskego, algae that threatens to wash through the drainage canal into Wind Lake. About 2 years ago, I went out on the lake to see the dense mats of algae and get a sense of the threat the pollution poses for downstream communities.

We have a good idea of what pollutes the lake: an excess of phosphorus, much of it discharged from Muskego's inadequate sewage treatment plants. Phosphorus, an element that is a nutrient for many plants, is in the lake water in such quantities that the algae thrives, clogging the lake. Communities downstream might not like it when algae washes down from the lake, but the real culprit—the veritable chicken before the egg—is the phosphorus entering Lake Muskego's water and sediments.

Two years ago, as today, there was one, clear solution to the water problem—eliminate the direct source of the pollutant by cleaning up the effluent emerging from Muskego's two sewage plants. But there is more than one way to accomplish this. The situation has moved forward since my last newsletter, and I would like to bring you up to date on what has been happening.

THE PETITION DRIVE

It looked like the quickest and most effective way to eliminate the direct phosphorous discharge would be to hook up the Muskego area with the Milwaukee Metropolitan Sewerage District (MMSD). This way Muskego's sewage would be treated by Milwaukee's more advanced treatment system and there would not be any discharges into Lake Muskego.

From Muskego to Burlington you rallied to the cause and joined me in a petition drive asking the Milwaukee Met to support the hookup of the two sewerage systems. On November 19, 1979, I presented a petition with 2,179 signatures to the sewerage commission and its engineers. I emphasized that we were facing an areawide problem that could be solved if the commission included Muskego's hookup in its plan for future regional sewer construction.

Well, we got what we wanted.

THE MILWAUKEE PLAN

MMSD OK'd a regional plan that called for construction of a connecting line between Muskego's two treatment plants and a Milwaukee Met sewer line. Construction costs were expected to be around $5 million. With the tie-in, the two small and failing Muskego plants would be closed down. That was in June 1980. After a full year's wait, the Wisconsin Department of Natural Resources (DNR) gave its approval, thus allowing both Milwaukee and Muskego to go after grants covering the construction costs. Federal officials at the Environmental Protection Agency (EPA) also approved the project last month.

BUT MILWAUKEE HAS OTHER PROBLEMS

In the meantime, though, Milwaukee Met proposed a districtwide assessment to pay its way out of a court-ordered cleanup of its entire system. Muskego and other suburban communities have protested and even launched a suit against Milwaukee Met.

Essentially there are two issues in this snag.

The Milwaukee suburbs, including Muskego, are willing to share costs for Milwaukee's Jones Island and South Shore treatment plants that service their areas, as well as the interceptor lines that feed into the system, but they do not want to pay to fix up the sewer lines in Milwaukee. Second, rather than paying a charge based on comparative property values among communities, the suburbs would like the option that would cost them the least—fees based on the actual sewage flow.

MUSKEGO'S OPTIONS

Muskego, trying to keep its options open so it can end its discharges into the lake at the lowest possible cost, looked again at the idea of building a new, separate treatment plant rather than hooking into the Milwaukee Met. But now that MMSD's call for regional treatment of sewage has been approved, Muskego will have to comply with that plan if it is to get any Federal construction money. But Muskego does not have to wait for new construction in Milwaukee before hooking up to Milwaukee Met and abandoning its existing treatment plants. Muskego and MMSD will have to come to an agreement on operating costs—and have to settle the suburban suit—but Muskego can then go ahead and build the connecting line. This could happen as early as 18 months from now.

Will this clean up Muskego? Not entirely. The lake will not become a clear water jewel overnight—and just all of a sudden cutting off sewer discharges would not be enough. The bottom sediment is rich in nutrients, this again caused primarily by years of sewage disposal and an enlarged carp population that feeds on the abundant plant life, leaving additional remains. The lake is only 3- to 5-feet deep and has only limited self-recovery potential besides. Ending the sewage discharge will therefore only halt, not reverse, the increasing environmental damage done to the lake.

For this reason, local residents formed the Big Muskego Rehabilitation District about 2 years ago and contracted with the DNR to study the lake, especially its nonpoint pollution sources. Nonpoint sources are defuse contributors to the pollution problem; rainwater runoff from farmland, for instance, is a large nonpoint contributor of phosphorous to many rivers and lakes. Nonpoint sources are more difficult to identify than point sources, such as specific pipes coming into a lake from factories. The DNR's work should be ready and into the hands of the lake rehabilitation district by the fall.

MUSKEGO'S CHANCES TO TAKE ACTION LOOK GOOD

What about funds to construct whatever solution Muskego finally settles on? Muskego stood eighth in line for EPA dollars available under a 75-percent EPA, 25-percent local cost-sharing arrangement.

But last December, the funding game began to change. The Department of Natural Resources, which administers EPA funds for Wisconsin, began updating its formulas for ranking proposed sewer projects. About 400 communities all over Wisconsin sought sewer funds, but there is only enough money to pay for the top-ranked 20 each year. The DNR revision would lower Muskego's score so much it would lose all hope of getting funding.

The DNR held a hearing on its proposed formula changes. I testified, arguing that Muskego should not be penalized at this late date for not having

started construction when the delay was caused in large part by the DNR.

Muskego's consulting engineers, Ruekert and Mielke, were also at the hearing, and testified that the measurements the DNR used to rank Muskego were incomplete. DNR had used only the discharge data from Muskego's northeast treatment plant when it should have added in figures from the northwest plant as well.

DNR took a look at its calculations and agreed with the engineers. The additional data made such a difference, in fact, that Muskego got its rank shifted to fifth—ahead of the three big Milwaukee projects that are also waiting for Federal funds.

WHERE DOES THIS LEAVE MUSKEGO?

Whether or not the rule changes stand, Muskego will still be in the top 10 and thus in a good position to have 75 percent of the cost of abandoning its ineffective treatment plants paid with Federal dollars—if those dollars are available. Whether they will be available may not be known for several months. It is tied up with the Reagan budget cut proposals. But I am keeping an eye on this in Washington and I will keep you informed.●

IS THE ADMINISTRATION OUT TO QUASH NIOSH?

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. GAYDOS. Mr. Speaker, I received word Tuesday that the National Institute for Occupational Safety and Health is on notice it will be moved in part to Atlanta and in part to Cincinnati, and I am sorry to report that the administration's heralded concept of "cost-benefit analysis" may not have been applied to the idea.

Therefore, I am willing in this case to pioneer the application of their concept to this idea of theirs.

Such application to the Institute (NIOSH) is a matter of importance because NIOSH is to the development and application of knowledge in occupational health what the mind is to physical action. It points the way.

On the face of it, this proposed move seems to be all cost, charged against the taxpaying public and against effective occupational health protection, and almost no benefit, either to the taxpayers or occupational health.

But that is only on the face of it, Mr. Speaker, and perhaps a step-by-step examination of the administration's recently issued document on "Interim Regulatory Impact Analysis Guidance (IRIAG)" will help us understand possibilities of this new management tool and even assist us in learning to measure with it.

IRIAG point No. 1.—Show that there is adequate information concerning the need for and the consequences of a proposed action.

Mr. Speaker, presently NIOSH is in nearby Rockville, Md. The head is in reasonable proximity to the arms, the Occupational Safety and Health Administration (OSHA) and the Mine Safety and Health Administration (MSHA), both in Washington. NIOSH is convenient and close to the things with which it deals daily: Other agencies; labor and management interest groups; and the Congress.

Here NIOSH workers consult regularly and frequently on where protection in needed, how it should be attained, and on numerous other matters.

But as word has filtered out, the proposed removal would send to Cincinnati those workers who set criteria and develop standards. Those who tend to matters of personnel, finance, grants, coordination with other agencies, coordination with interest groups and congressional relations would go to Atlanta. Not only would the mind be separated from the arms, the brain itself would be divided. It is as if Dr. Frankenstein had charge of NIOSH.

Nevertheless, we must find consequences under the guidelines.

The consequence: Confusion, delay, and, ultimately, more meetings to straighten things out. A coordinator in Atlanta working on a standard with somebody in Cincinnati for application by OSHA in Washington will find frequent need to clear the air—face to face—unless somebody has found a new way of doing things by telephone.

IRIAG point No. 2.—Show that the potential benefits to society outweigh the potential costs.

Mr. Speaker, I have searched diligently, but I find no benefits in this reported move.

At NIOSH they say they were told "administrative efficiency" was the reason, so I guess the determination of whether there is a benefit depends on the definition of efficiency, which we have not been given. Certainly this budget-cutting administration would not define efficiency as something that encompasses coordinators in Atlanta dealing with standards experts in Cincinnati on something that Washington will put in use.

So, as chairman of the Subcommittee on Health and Safety, and a member concerned about worker protection, I ask that those proposing the move provide Congress with their justification for it, and a definition of efficiency.

This will help us understand the move, cost benefit, and, maybe, motive.

Motive is a murky area, Mr. Speaker, and one open to extremes of speculation, but the question of costs is easier to deal with, and here we can start.

Although we have looked and found no visible benefit, a first tally of costs is possible. However, it is tricky.

NIOSH estimates $1.9 million will be necessary to move about 155 employees. That's if they all move. If all don't move, those who stay get severance allowances. But it doesn't stop there.

Added to the figure must be the unknown cost of moving equipment, files, and the other things required to do the job. I am told insufficient space exists at the Center for Disease Control and that more will have to be obtained. So the cost of moving the agency will equal or surpass the cost of moving the agents.

Mr. Speaker, we probably have moving costs of $4 million. That is the equivalent of 80 health hazard studies.

So, we are looking at a cost conscious administration preparing to take $4 million off the top of the budget of an agency whose 1982 budget to develop and apply knowledge about the hidden dangers to worker health will be down 28 percent from what it is this year. This $4 million is almost 5 percent of the agency's budget.

But there is one more subtraction that has to be made from worker health, and that is imposed cost of increased travel, which will be necessary. A congressional liaison office in Atlanta has no Congressmen handy, for example. So NIOSH workers will be traveling here, there, and everywhere.

Every trip around the legs of the Washington-Atlanta-Cincinnati triangle at standard fares quoted to me yesterday will cost $361 tourist class and $458 first class.

At the really modest rate of 20 trips a month, NIOSH will have $87,000 a year in travel costs, if they do it in the uncomfortable sections.

Clearly this idea misses the mark, if economizing still is a priority of theirs.

IRIAG point No. 3—Show that of all the alternative approaches to the objective, the proposed action will maximize net benefits to society.

Mr. Speaker, one untested theory floating around at NIOSH is that the agency is moving to Atlanta because the man chosen to head it is there and refuses to leave.

Now moving NIOSH to Atlanta hardly benefits society, as our application of the administration's cost-benefit guidelines has shown. There does not seem to be a benefit to worker health. There does seem to be a detriment.

So the benefit must be addressed exclusively to the nominee.

But surely an administration as concerned with cutting back on wasteful Government spending as this one is would not allow one man's whim to nick the taxpayers by more than $4 million in demonstrable costs.

By the way, a reasonable analyst would add here the costs of lost time and unfocused effort to our $4 million. I do not know how to calculate these.

The facts indicate it would be more cost effective to find someone willing to move to Washington. That would maximize net benefits instead of individual benefits.

Cynics I have consulted suggest one other possibility. They note that the administration appears greatly concerned about the capital investment costs of health protection. They remark that the Supreme Court recently held that health protection cannot be subordinated to "cost-benefit." They further note that the work of NIOSH leads to new knowledge of new dangers and to new regulation. And they conclude the motive is to render NIOSH less effective so there will be far fewer new standards.

But I am not ready to believe this.

So there must be benefits we cannot see from the outside.

It will serve the cause of efficient government if those who told NIOSH employees to pack their bags will provide Congress with an "Interim Impact Analysis" on this thing before it happens. Then we can determine whether it should happen.

The preparers should give close attention to the indirect but high costs of confusion, delay, and demoralization; and they should be very specific in regards to increased travel, communication and coordination costs compared to what they are now.

This is a thing on which Congress ought to insist because it will help the administration develop application of "regulatory impact" and "cost-benefit analysis"—remember, they have not yet applied it to anything in public—and it will help Congress understand it.

Despite the halting nature of my pioneer effort, Mr. Speaker, I think many of our colleagues will agree that under certain conditions this idea of cost-benefit has the potential for shedding light on what is happening.●

LEBANESE SOVEREIGNTY SHOULD BE RESPECTED

HON. ALBERT LEE SMITH, JR.

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. SMITH of Alabama. Mr. Speaker, I would like to focus the attention of my colleagues on the talks currently being held between Arab nations in Jeddah, Saudi Arabia. Representatives of Lebanon, Syria, Saudi Arabia, and Kuwait have announced talks for the purpose of concluding a pact regarding Lebanon. The next round of meetings is scheduled for July 3 and 4 and while details are sketchy at this point it is rumored a plan may be agreed to that would greatly expand the occupying force in Lebanon.

The Syrian Army which calls itself the "Arab Deterrent Force" already dominates Lebanon. Invited temporarily into Lebanon in the midseventies to police internal conflict the Syrian Army continues to fight and usurp Lebanese sovereignty. A pact calling for occupation by additional Arab nations could seriously escalate the war.

Terrorism and death has touched the vast majority of Lebanese, and Lebanese Christians have suffered severely. The following excerpts are from a Washington Post editorial entitled "Lebanese":

In the continuing struggle between Christians and Syrians in Lebanon, a critical element has been lost sight of. Much can be said about the methods and motives of the Christians, but one thing is clear: They are Lebanese. The country in which they are striving for a place is theirs. Their right to be there and to contest cannot be denied.

The same cannot be said of the Syrians. They are, after all, foreigners. They were invited in by the Lebanese government to police the internal conflict that was raging in the mid-1970s, but their role has since become closer to that of an occupying force. In any event, they have no legitimate claim to any role in Lebanon apart from that accorded to them by the Lebanese government.

This seems to us the essense of what is still going around the Christian city of Zahle in the Bekaa valley east of Beirut. The Syrians are refusing to acknowledge that their forces are meant to be only temporary guests. It is not simply that they have been firing on Lebanese Christian areas, killing some hundreds of citizens in the process. Nor is it just that they are insisting that any Lebanese army units in the area come under their command and control, not the other way around. They are making suggestive noises to the effect that their security requirements compel them to divorce their presence from any considerations of Lebanese sovereignty and to stay there for an indefinite basis on their own. They are using their influence in Lebanon's Moslem community, and the widespread fear that civil war will resume full blast if their "peace-keeping" forces depart, to ensure that their five-year-old invitation to Lebanon is not withdrawn.

In any approach even to mitigating Lebanon's tragedy, however, one principle must be underlined: Lebanon for the Lebanese.

The main point remains that eventually the Lebanese, and the Lebanese alone, must be allowed to decide which foreigners remain on their soil.

In the past, Congress has viewed with concern the conflict in this area. On June 16, the House of Representatives passed a resolution—House Resolution 159—expressing support for U.S. diplomatic efforts to resolve the crisis in Lebanon. I voted in favor of this measure and was pleased with the overwhelming support it received.

Needless to say, there is considerable continued cause for concern regarding Lebanon, especially with reports of increased occupation. I urge my colleagues to watch closely the developments of the upcoming Jeddah meetings. I am gravely concerned about the prospects for peace in this area and would be saddened if the problem escalates.●

AMERICAN SHRIMP INDUSTRY DEVELOPMENT ACT

HON. JOHN B. BREAUX

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. BREAUX. Mr. Speaker, today I have introduced important legislation that is designed to address the problems that have been crippling the U.S. shrimp harvesting industry. This legislation is the product of many hours of research and study into such problems and is supported by economic studies commissioned by concerned members of the shrimp industry itself.

Mr. Speaker, although the problems of the shrimp harvesters in this Nation are serious, they are not, in many senses, unique. Other segments of America's great food producing industry find themselves affected by many of the same factors that are driving our shrimpers out of business. In particular, those other industries that are both fuel intensive and in direct competition with oil-rich nations, who provide fuel at lower costs to their own industries, know full well the plight of the American shrimp harvester. What are these problems? They include, among others:

First, rapidly escalating fuel and other operational costs making it more difficult to make a profit;

Second, imports, produced at considerably lower prices due to lesser labor and fuel costs, garnering ever increasing shares of the domestic market;

Third, depressed ex-vessel prices for raw shrimp due to the inability of harvesters to effectively participate in the marketing of their product; and

Fourth, a sagging or static demand for the product due to the lack of an aggressive marketing and consumer education program.

These problems need both short- and long-term solutions and they must, in this era of shrinking budgets and high inflation, be addressed in a manner that does not impose additional tax burdens on the American population.

Mr. Speaker, I believe that the bill we are introducing today accomplishes our goal; it effectively addresses the four major problem areas already noted and does not impose additional tax burdens on the U.S. taxpayers. The major elements of this comprehensive legislation:

First, impose a temporary, 5-year quota on the levels of foreign shrimp that can be imported into the United States. The quota, established on the basis of historical import levels prior to the recent onslaught of fuel price increases, also contains a safeguard clause that requires the Secretary of Commerce to raise the level of imports in the event the U.S. harvest falls sig-

nificantly below its historical catch. This latter provision is intended to safeguard both consumers and shrimp processors;

Second, impose, in conjunction with the quota, a 30-percent ad valorem tariff on foreign imports. These two provisions should result in a modest rise in the exvessel price received by the domestic shrimp harvesters and better enable them to offset the increased cost of fuel, among other variable but necessary components of the harvesting industry;

Third, provide for the establishment of shrimp harvester cooperatives, enabling harvesters to effectively participate in the marketing and distribution chain for their product. It is in this aspect of the overall problem that shrimp harvesters find themselves at similar disadvantages with other food producers; that is, where recent year increases in the price for the final product have not been reflected in prices paid to the producer, but rather, are reflected in growing margins for retailers;

Fourth, dedicate 25 percent of the money raised by the tariff for low-interest loans to the shrimp harvester cooperatives and their members to better enable them to accomplish their long-term objectives; and

Fifth, provide authority for the voluntary establishment of shrimp-marketing boards. Each marketing board will be composed of shrimp harvesters dedicated to the full promotion of their product. Funds to enable the boards to carry out marketing orders will be raised by levies assessed against each shrimp harvester who is interested in participation in the boards' activities. These assessments will be self-imposed and self-enforced. I should point out that similar marketing approaches have worked well for commodities such as rice and eggs, among others.

While these are the main components of the legislative package, there are other features that I would draw to the Members' attention. Among them are provisions that require special consideration by the Commerce Department for industry projects that address fuel efficiency and the utilization of by-catch fisheries.

Mr. Speaker, I believe that the concepts and approaches set forth in this legislation will receive the full, unified support of all shrimp harvesters. It is our belief that all of these provisions are vitally necessary if we are to adequately address both the short- and long-term problems of the industry. I, for one, believe that this industry is too important to the overall U.S. fishing effort to allow it to sink into oblivion. I plan to hold hearings on this legislation in the very near future at which time I look forward to a full, fair and open discussion of each of the bill's provisions. It is my belief that such a hearing will convince all Members of the necessity of this approach. I urge my colleagues to carefully consider all the pros and cons, and then support this effort to save the American shrimp harvester.●

GI MEDICAL RESEARCH PROTECTION ACT

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. LaFALCE. Mr. Speaker, my colleague, HENRY NOWAK, and I are today introducing the GI Medical Research Protection Act of 1981 for House consideration. The bill we are submitting today will serve as the companion bill to S. 1404, introduced in the Senate on June 19, 1981, by our distinguished colleague, Senator DANIEL PATRICK MOYNIHAN. Mr. MOYNIHAN's statement on page 13082 of the CONGRESSIONAL RECORD of June 19, 1981, outlines fully the scope and intent of the act, which Mr. NOWAK and I believe is an excellent and comprehensive bill worthy of our colleagues' support.

The GI Medical Research Protection Act has been proposed largely as a result of the questions raised by a former Navy man, William Carrig, who now resides in western New York. Mr. Carrig's plight was outlined in the early part of this year in "The Bitter Pill" series written for the Buffalo Evening News by reporters Modesto Argenio and Anthony Cardinale. As a young Navy recruit in the 1940's, Mr. Carrig received massive doses of sulfa, a miracle drug which was administered at the time to thousands of recruits in training stations throughout the United States as part of the Navy's efforts to contain strep infections, which had been causing large scale respiratory ailments and lost training time among the ranks. "The Bitter Pill" series points out Mr. Carrig's belief that the Navy, in failing to notify him and his fellow soldiers of the possible health dangers of ingestion of massive doses of sulfa did, in effect, endanger lives and act irresponsibly by remaining silent.

The GI Medical Protection Act requires that human subjects used in experiments conducted by the Department of Defense be informed of the nature of the experiments and that a research review board make a written certification that such subjects have freely given their informed consent to participate in the experiments.

Mr. Speaker, service to our Nation in the military involves a certain amount of risk to the soldiers who must be prepared at any time to serve in our Nation's defense. I have no doubt the men and women in our military branches accept this risk without question. However, service to one's country does not give a person lesser status as far as human subject experimentation goes. Our bill does not hamper responsible research by the Department of Defense, but serves to protect, without question, members of the Armed Forces with respect to medical tests on human subjects.

The text of the GI Medical Research Protection Act follows:

H.R. —

A bill to require that all human subjects used in experiments conducted by or for the Department of Defense be informed of the nature of the experiments and that a research review board make a written certification that such subjects have freely given their informed consent to participate in the experiments, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "GI Medical Research Protection Act of 1981".

FINDINGS AND PURPOSE

SEC. 2. (a) Congress finds and declares—

(1) that the rights and health of American military personnel have not always been fully and completely safeguarded during medical research programs conducted by or under the auspices of the Department of Defense;

(2) that it is vital to the national security of the United States that reasonable assurances be provided to military personnel and potential recruits that their safety and well-being will not be endangered unnecessarily, particularly in the course of medical research and testing; and

(3) that the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research established by title II of the National Research Act has fulfilled its mandate to identify basic ethical principles which should underlie the conduct of biomedical and other research involving human subjects.

(b) It is the purpose of this Act to protect the rights and health of United States military personnel by extending and applying the recommendations of the national commission referred to in subsection (a)(3) on the use of human subjects in medical and behavorial research conducted by or under the auspices of the Department of Defense.

DEFINITIONS

SEC. 3. For the purposes of this Act:

(1) The term "Secretary" means the Secretary of Defense.

(2) The term "Department" means the Department of Defense.

(3) The term "legally authorized representative" means an individual or judicial or other body authorized under applicable law to consent on behalf of a prospective subject to the subject's participation in procedures involved in research.

(4) The term "research" means a systematic investigation designed to develop or contribute to generalizable knowledge. This term includes any activities so conducted, whether or not such activities are assisted under programs which are considered research for other purposes (such as demonstration or service programs which include research activities).

(5) The term "human subject" means a living individual about whom a researcher conducting research obtains—

(A) data through intervention or interaction with the individual, or

(B) identifiable private information.

(6) The term "intervention" means physical procedures by which data are gathered (such as venipuncture) and manipulations of the subject or the subject's environment that are performed for research purposes.

(7) The term "interaction" includes a communication or interpersonal contact between a researcher and a human subject.

(8) The term "private information" includes information about behavior which—

(A)(i) occurs in a context in which an individual can reasonably expect that no observation or recording is taking place, or (ii) has been provided for specific purposes by an individual and which the individual can reasonably expect will not be made public (such as a medical record); and

(B) relates to the identity of the subject and is or may readily be ascertained or associated with the information.

(9) The term "minimal risk" means that the risks of harm anticipated in the proposed research are not greater, considering probability and magnitude, than the risks of harm ordinarily encountered in daily life or during the performance of routine physical or psychological examinations or tests.

(10) The term "Board" means the Research Review Board established by section 8.

APPLICABILITY

SEC. 4. (a) Except as otherwise specifically provided in this Act, the provisions of this Act shall apply to all research involving human subjects conducted within or outside the United States by the Department or funded in whole or in part by the Department through grant, contract, cooperative agreement, or fellowship.

(b) Unless otherwise provided in this Act, the provisions of this Act shall not apply to research activities in which the only involvement of human subjects is in one or more of the following research categories:

(1) Research conducted in established or commonly accepted educational settings involving normal educational practices, such as research on instructional strategies.

(2) Research involving the use of educational tests (such as cognitive, diagnostic, aptitude, and achievement tests), if information obtained from such tests is recorded in such a manner that subjects cannot be identified directly or through identification mechanisms linked to the subjects.

(3) Research involving survey or interview procedures, except in any case in which—

(A) responses are recorded in such a manner that human subjects can be identified directly or through identification mechanisms linked to the subjects; and

(B)(i) the responses of a subject, if such responses became known outside the context of the research, could reasonably place the subject at risk of criminal or civil liability or be damaging to the financial standing or employability of the subject, or (ii) the research deals with sensitive aspects of the behavior of a subject, such as illegal conduct, drug use, sexual behavior, or use of alcohol.

(4) Research involving the observation (including observation by participants) of public behavior, except in any case in which—

(A) observations are recorded in such a manner that human subjects can be identified directly or through identification mechanisms linked to the subjects; and

(B)(i) the observations recorded about a subject, if such observations became known outside the context of the research, could reasonably place the subject at risk of criminal or civil liability or be damaging to the financial standing or employability of the subject, or (ii) the research deals with sensitive aspects of the behavior of a subject such as illegal conduct, drug use, sexual behavior, or use of alcohol.

(5) Research involving the collection or study of existing data, documents, records, pathological specimens, or diagnostic specimens, if such data, documents, records, or specimens are publicly available or if the information is recorded by the researcher in such a manner that subjects cannot be identified, directly or through identification mechanisms linked to the subjects.

(c) Notwithstanding the foregoing provision of this section, the Secretary may require compliance with any or all of the provisions of this Act in the case of specific research activities or classes of research activities conducted or supported by the department to which this Act would not otherwise apply.

COMPLIANCE

SEC. 5. (a) Subject to the provisions of section 4, no person may conduct any research involving the use of human subjects if such research is conducted by or for the Department unless the Board has made, prior to the conduct of such research, a written certification that such research is in full compliance with the provisions of this Act.

(b) Nothing in this Act shall be construed to make inapplicable to any research to which this Act is applicable any other Federal law or any State or local law otherwise applicable to such research.

INFORMED CONSENT

SEC. 6. (a) Except as otherwise provided by this Act, no researcher working in or under the auspices of the Department may use a human being as a subject in research unless the researcher has obtained the legally effective informed consent of the subject or the subject's legally authorized representative. A researcher shall seek such consent only under circumstances that provide the prospective subject or the representative sufficient opportunity to consider whether or not to participate in the research and that minimize the possibility of coercion or undue influence. In seeking the informed consent of subject or a subject's legal representative, the researcher shall give information to the subject or the representative in language understandable to the subject or the representative. No informed consent, whether oral or written, may include any exculpatory language through which the subject or the representative waives or appears to waive any of the subject's legal rights or releases or appears to release the researcher, the sponsor of the research, the Department or its agents, from liability for negligence.

(b) Except in the case of research described in section 4(b) or research with respect to which a waiver has been exercised under 4(b), the following information shall be provided to each prospective human subject (or the legally authorized representative of such subject) from whom consent for participation in research is solicited:

(1) A statement that the proposed activity involves research, including an explanation of the research and the expected duration of the subject's participation, and a description of the procedures which are experimental.

(2) A description of any reasonably foreseeable risks or discomforts to the subject.

(3) A description of any benefits to the subject or to others which may reasonably be expected to result from the research.

(4) A statement disclosing any appropriate alternative procedures or courses of treatment that might be advantageous to the subject.

(5) A statement describing the extent, if any, to which confidentiality of records identifying the subject will be maintained.

(6) For research involving more than minimal risk, a statement explaining whether any compensation or any medical treatment will be available if injury occurs and, if so, the kind and extent of such compensation or treatment or where further information may be obtained concerning such compensation or treatment.

(7) The name, address, position, and telephone number of the individual or individuals whom the subject should contact (A) in the event of a research-related injury to the subject, and (b) to answer pertinent questions about the research and the rights of subjects in the research.

(8) A statement that participation in the research is voluntary, that refusal to participate in the research will involve no penalty or loss of benefits to which the subject is otherwise entitled.

(c) When appropriate, the following information shall also be provided to each prospective human subject (or the legally authorized representative of such subject) from whom consent for participation in research is solicited:

(1) A statement that the particular treatment or procedure may involve risks to the subject (or to the embryo or fetus, if the subject is or may become pregnant) which are currently unforeseeable.

(2) A description of any anticipated circumstances under which the subject's participation may be terminated by the researcher without the subject's consent.

(3) A statement of any additional costs to the subject that may result from participation in the research.

(4) A description of the consequences of a subject's decision to withdraw from the research and procedures for orderly termination of participation by the subject.

(5) A statement that significant new findings developed during the course of the research which may relate to the subject's willingness to continue to participate will be provided to the subject.

(6) A specification of the approximate number of subjects involved in the study.

DOCUMENTATION OF INFORMED CONSENT

SEC. 7. (a) Except as provided in subsection (c), informed consent of human subjects to participate in research shall be documented by the use of a written consent form approved by the Board and signed by the subject or the subject's legally authorized representative. A copy of such written consent shall be given to the person signing the form.

(b)(1) The written consent form required by subsection (a) may consist of either of the following forms:

(A) a written consent form which includes the specific requirements for informed consent described in section 6 and which has been signed in a legally binding manner by the prospective subject or his representative; or

(B)(i) a written consent document, which has been signed by a witness to the oral presentation, stating that the elements of

informed consent required by section 6 have been presented orally to the subject or the subject's legally authorized representative; and

(ii) a written summary of the oral presentation made to the subject or the representative which is signed by the subject or the representative and the witness to such presentation.

(2) The Board shall maintain in its records a written transcript of the oral presentation made to a subject whose informed consent is documented by signatures on forms described in paragraph (1)(B).

(c)(1) The Board may waive the requirement for the researcher to obtain a signed consent form for any or all subjects in a particular research activity if the Board finds—

(A)(i) that the only record linking the subject and the research would be the consent document and the principal risk to the subject would be the potential harm resulting from a breach of confidentiality; and

(ii) after asking each subject whether the subject wants documentation linking the subject with the research, that the subject does not want such documentation; or

(B) that the research presents no more than minimal risk of harm to the subjects and involves no procedures for which written consent is normally required outside the context of the research.

(2) In any case in which the Board waives the requirements of subsection (a), the Board may require the researcher to provide subjects in the research activity with a written statement describing the research.

RESEARCH REVIEW BOARD

SEC. 8. (a) There is established in the Department of Defense a board to be known as the Research Review Board. It shall be the function of the Board to oversee the implementation and enforcement of this Act.

(b)(1) The Board shall establish procedures which shall be applicable to all researchers employed by or under contract to the Department to ensure that such researchers comply with this Act when they conduct for or on behalf of the Department research which utilizes human subjects.

(2) The Board shall maintain complete records of all research activities involving human subjects conducted by or under the auspices of the Department of Defense. Such records shall include—

(A) any notification to the Board by a researcher of his intent to undertake research activities involving human subjects;

(B) documentation that each human subject in a research activity has given his informed consent to participate in such research activity; and

(C) copies of each certification made by the Board that the informed consent of each human subject in a research activity to which this Act applies has been obtained and properly documented.

(3) The Board shall immediately notify the Secretary if the Board has reason to believe that a research activity involving human subjects is being conducted or will be conducted imminently for which certification by the Board is required under this Act, and has not been obtained.

(c)(1) The Board shall consist of three members appointed by the Secretary. The Secretary shall designate one member to serve as chairman.

(2) Members of the Board shall be appointed for a term of three years, except that the term of office of the members first appointed shall expire, as designated by the Secretary at the time of appointment, one at the end of one year, one at the end of two years, and one at the end of three years. Each member of the Board shall be a medical doctor or a professional biomedical or behavioral researcher.

(3) No individual shall serve as a member of the Board if such individual has served in the Armed Forces for more than eight years or has been employed in any capacity by the Department within the ten-year period prior to the date on which such individual would take office as a member of the Board.

(d) The Secretary shall prescribe compensation and conditions of service for the Board which are not otherwise specified by this Act.

EFFECTIVE DATE

SEC. 9. (a) The provisions of this Act shall take effect on February 1 of the first year beginning after the date of enactment of this Act.

(b) The provisions of this Act shall be applicable to research activities undertaken before the effective date of this Act at the earliest practicable date after such effective date and shall apply to such activities to the maximum extent practicable, as determined by the Board.●

QUINCY'S 30TH ANNUAL FLAG DAY PARADE

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. DONNELLY. Mr. Speaker, on June 15, an outstanding tradition was reaffirmed in the city of Quincy, Mass., as over 2,000 young people, representing various athletic, recreational, and scouting organizations participated in the 30th annual Flag Day parade.

This year, as every year over the past three decades, this tribute to our flag was organized and sponsored by Mr. Richard Koch and the Koch Club of Quincy, which he founded on May 29, 1949.

John C. Comer, past State Commander of the American Legion and Thomas M. McDonald, past commander of the Veterans of Foreign Wars served as co-marshals of this patriotic event. Along the parade route, the marchers stopped at the Church of the Presidents in historic Quincy Square while wreaths were placed before the crypts of John Adams and John Quincy Adams, the second and sixth Presidents of the United States. A third wreath was placed at the Kennedy Health Center to honor John F. Kennedy who became the only honorary member of the Koch Club in 1958, while serving in the Senate of the United States.

The occasion of the 30th annual Flag Day parade merits recognition by this body, Mr. Speaker, and I know my colleagues will join me in congratulating everyone associated with carrying on this fine tradition.●

THE TESTIMONY OF ROBERT KRUEGER ON VOTING RIGHTS ACT EXTENSION

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. EDWARDS of California. Mr. Speaker, a highlight of the public hearing on the extension of the Voting Rights Act held on June 5, 1981, in Austin, Tex., by the Judiciary Subcommittee on Civil and Constitutional Rights was the scholarly and persuasive testimony by our former colleague, Robert Krueger.

Mr. Krueger was accompanied by William H. White, attorney and visiting professor of law, University of Texas in Austin.

The members of the subcommittee found the presentation by Mr. Krueger and Professor White most compelling, and the full text follows:

TESTIMONY OF ROBERT KRUEGER

Mr. Chairman, members of the Committee, my name is Robert Krueger, and joining me in preparing and presenting this testimony is William H. White. We wish to thank you for coming to Texas to receive testimony regarding the possible extension or amendment of the federal Voting Rights Act and for inviting us to testify.

We have come to urge the extension of this act, which has brought the premier privilege of citizenship, the right to vote, to more Americans than any other act in the last half century.

We worked for the continuation of this act, and its extension to Texas, in 1975, one of us a Member of Congress, the other as a legislative assistant. We recognized then that it was not a perfect act. If people were perfect, they would require no laws. Being imperfect, they write imperfect laws. Desiring a better society, they seek to improve those laws. We support that aim. But we believe that any alterations to this act should be minimal, and that its overall success in practice warrants its continuance without substantial alteration.

The success of the act has been real and substantial. The increase in registration of Black voters in certain areas of the South immediately following its passage in 1965 is well known. Yet, how the act can indirectly affect the course of participation in elections, and their results, can be seen nearer our home, in San Antonio.

Before extension of the Voting Rights Act to Texas, and before the inclusion of language minorities such as Hispanics in its coverage, San Antonio had a City Council of nine members. Only two were Hispanic, although the population of the city consisted of approximately 50 percent Hispanics, 10 percent Blacks, and 40 percent Anglos. Following the extension of the Voting Rights Act and the elimination of at-large elections for city council, the first council elected in single-member districts was composed of five Anglos, five Hispanics, and one Black member: a close reflection of the ethnic make-up of the city. Since then San Antonio has elected its first Hispanic mayor in this century—Henry Cisneros. No one should say that this change in mayoral and council election results came only from the Voting

Rights Act. But anyone who knows the region should acknowledge that the Act helped create the conditions to allow such elections.

We are not, of course, engaging in the racism of saying that it is better to have a mayor of one ethnic background (Hispanic) rather than another (Anglo). We are saying that it is important to all Americans that people of all ethnic groups have the opportunity, real as well as apparent, of being elected to the highest positions in the community; and that voters of all ethnic backgrounds have the realistic opportunity to choose and elect someone of similar ethnic backgrounds to represent them. That opportunity has historically existed for Anglos; it should for Hispanics and Blacks as well, and the Voting Rights Act helps assure that it will.

We cannot ignore history in considering the demonstrable effects of this act. State Senator Bob Vale has told me that when he entered the Texas Legislature in 1965 there were one Black member, one Republican, five Mexican-Americans, and no women among the 181 members. Today, because of single-member districting and the changed attitudes that have accompanied passage of this act, over half of the Texas Legislature's 181 members are composed of those groups. Nationwide, the number of Black officials elected to city and county offices increased fourfold between 1970 and 1979, or, from 715 to 2,647; in elections to positions in education, the numbers went from 362 to 1,136 in the same period. Part of this increase is attributable to the expansion of single-member districts to replace at-large voting.

Consider, for example, what has happened in certain local school board elections in Texas in which all members are elected on an at-large basis. The Southwest Voter Registration and Education Project undertook a study of 361 Texas school districts in which, among such districts, the student population was 20 percent or more Hispanic. Within these districts, only when the student Hispanic population exceeded 89 percent did Hispanics form a majority on the school board. And in 42 of the districts in which the Hispanic student population exceeded 50 percent there were no Hispanics on the board. Thus, many students who are reared in homes where English may not be spoken, or is not spoken exclusively, study in school systems in which probably no one on the school board has been reared bilingually.

The Voting Rights Act was written with an eye to historical patterns of discrimination, and not with an eye giving equal attention to all areas of the country. Some have criticized it for that, saying that it focuses excessively on one region of the country, thereby singling it out for obloquy. I say today, as I did on the floor of the House in 1975, that I look forward to the day when the citizens of Illinios will receive the same protections as those of Texas. But I don't want to remove those protections from Texans just because they are not extended to Illinois, any more than I would wish to remove police protection from Texas if it were not available to Illinois. Texas can take great pride in the way in which it has opened vastly increased political opportunities to its citizens. We wish to continue to be a place of opportunity and this act helps us to do so. If we are in a time of budget-cutting and more careful attention to federal expenditures, then prudent management suggests that federal attention go to the areas with historic problems until the time at which those problems are solved. For this reason we favor continuing to apply the coverage of the Voting Rights Act to those states to which it has applied, and not to expanding its coverage to all states, as some have suggested.

We recognize, having spoken with various local and state officials, that some provisions of the act result in increased, and sometimes unnecessary paperwork. We wish to be responsive to such criticisms. One way of reducing paperwork and unnecessary delay in effecting changes might be to continue the basic preclearance process under Section 5, which we consider essential, but to reduce one unnecessary step in the process.

We understand that, currently, the Department of Justice receives documents requiring its preclearance, and has sixty days in which to review them. Meanwhile, the Department also informs, from its list on file, interested parties such as MALDEF, LULAC, NAACP, and similar groups who wish to be informed, of proposed changes in election procedures. These groups, and any other interested party, have the opportunity to express their views to the Department of Justice. And in practice, at least in Texas, the great majority of instances in which the Department of Justice raises objections during this preclearance occurs in instances in which interested parties have raised objection.

Nonetheless, even on routine and non-controversial matters such as a slight change in election procedures, to which no one objects, the Department of Justice must now spend time. Meanwhile, those who proposed the changes face delay while Justice officials review these proposed changes. Would it not be possible fully to maintain the strength of the Voting Rights Act, and yet to eliminate unnecessary delays for local or state officials, if preclearance scrutiny were required only when an interested party raised objection or requested such scrutiny? It might actually allow an overworked Voting Section of the Department of Justice the opportunity to spend more time on significant problems. Such a change, however, if effected, would have to guarantee full and adequate notice to interested parties at both national, state, and local levels. Without such guarantees, the change should not be undertaken. With it, however, the preclearance process might be streamlined.

There are some additional areas in the Voting Rights Act which some people are proposing should be altered, especially because of certain recent court decisions. I should like to ask my colleague Mr. White to present this part of the testimony, which addresses these changes.

Section 2 of the Voting Rights Act prohibits abridgement of the right to vote. Unlike Section 5, this provision applies whether or not there is a change in voting practices.

Section 5 of the Fourteenth Amendment gives Congress the power to outlaw discriminatory practices even where those practices would not necessarily violate the Fourteenth or Fifteenth Amendments of the United States Constitution as interpreted by the federal courts. However, Section 2 of the Voting Rights Act has been interpreted by courts simply to restate the law of the Constitution against discrimination in voting practices.

Last year the Supreme Court in the case of *Mobile* v. *Bolden* decided that in order to show the violation of voting rights under the Constitution and under Section 2 of the Voting Rights Act a private plaintiff has to show that there was a subjective intent to discriminate. Proof of subjective intent to discriminate is very difficult. We have come a long way from the time at which, for example, the Mayor of the City of Richmond in the 1960's could justify the annexation of a white suburb after Blacks became a force in city politics by saying: "As long as I am the Mayor of the City of Richmond, the niggers won't take over this town." Modern discrimination against racial and ethnic minorities is likely to be subtle and unexpressed rather than stated in the press and in the chamber of government. As a result, it becomes extremely difficult and in some cases impossible to prove subjective intent to discriminate, even where the facts fairly clearly indicate that intentional discrimination might have been in the minds of the officials in charge of voting practices.

Perhaps the prime example of cases in which a burden of showing subjective intent to discriminate becomes impossible is the case of at-large elections. As the statistics noted earlier concerning at-large elections in Texas' school boards indicated, at-large elections can have the effect of preventing access by minorities into leadership positions in important community institutions. If at-large elections have been the rule since the application of Voting Rights Act to Texas, there is no opportunity for the Justice Department to review these practices under the preclearance provisions of Section 5 since there has been no change in voting practices. Therefore the private law suit is the only means effectively to remedy any discrimination that would occur.

In many counties in rural Texas it is well recognized that the predominant Anglo and Mexican-American populations have too long led independent existences. In some of these counties school boards are elected at-large. Suppose that an analysis of the facts in a particular school district led you to believe that the device of at-large elections to the school board had limited the participation of Mexican-Americans in the leadership of a most vital resource in the community. How would you go about showing intent?

Under present law the answer to that question is unclear. For many years since the case of *White* v. *Regester* the Fifth Circuit Court of Appeals tried to devise a test that would allow private litigants to demonstrate when these at-large elections denied members of minority groups access to leadership in political positions, including school boards. The *Mobile* v. *Bolden* Case makes it clear, however, that the multi-faceted tests devised by the federal courts in this part of the country were wrong unless they focused on the element of subjective intent. That confused decisions, which was supported only by a bare majority of the Supreme Court, strongly suggests that a court inferring discrimination only from discriminatory effects risks reversal. Congress in its extension of the Votings Rights Act can give to future courts and future litigants some guidance as to how intent to discriminate could be proved.

We propose that the legislative history of the Voting Rights Act make clear that the test for discriminatory intent under Section 2 of the Voting Rights Act contain the following elements.

First, the voting practice at question should be in some sense abnormal, i.e., not the type of practice that is routinely encountered in the political process. Use of at-large election districts should automatically be determined to be abnormal under this test.

Second, the voting practice at issue should have an adverse effect on minorities. To satisfy this test a plaintiff would prove that members of minority groups are not proportionally represented in the political process, and in addition, perhaps, that the interest of minorities had been neglected compared to the interest of the majority group.

Third, a practice that is found to be abnormal and is found to have an adverse effect on minorities would be considered discriminatory if it were unsupported by any other policy that could not have been achieved by another alternative. This test resembles the "less restrictive alternative" test often used to test whether various regulations of speech violate the First Amendment. Yet, if the state or locality has an important interest that only can be furthered by the practice in question, then evidence of effects alone should not be sufficient to show discriminatory intent. However, if the abnormal practice with discriminatory effect is not necessary to accomplish the purpose by which it is justified, this is strong evidence of discriminatory intent.

A clear legislative history expressing the intent of Congress for courts to use the above test for determining discriminatory intent will streamline voting rights litigation without causing the additional problems of having the courts define discriminatory effect. Some people might advocate that Section 2 be amended to bar voting practices which have a discriminatory effect. This might be politically impossible, and in addition might invite some courts to impose racial quotas for elected officials, which would be unjustified. A clear statement of legislative policy that permitted courts to use evidence of discriminatory effect to infer intent would, however, make a law less naive and more effective in remedying the actual devices of discrimination such as at-large elections, where direct proof of subjective intent would be impossible.

We believe, Mr. Chairman, that the Voting Rights Act should be extended. We hope to have offered a few modest suggestions about ways in which it can be both strengthened and streamlined. And we conclude by recalling the words of the only president that our state has given the nation, Lyndon B. Johnson, who, when he signed the act in 1965, termed it "an important instrument of freedom," and who said, when urging its passage, "Their cause must be our cause too. Because it's not just Negroes, but really it's all of us who must overcome the crippling legacy of bigotry and injustice."

Thank you.●

UNITED STATES WRONGLY CONDEMNS ISRAELI ATTACK

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. SOLARZ. Mr. Speaker, several days ago the United States voted in the United Nations to condemn Israel for its attack on the Iraqi nuclear reactor. I find the U.S. vote to be both inexplicable and indefensible. Given the nature of the threat a nuclear-armed Iraq would have posed, not only to the survival of Israel, but to the peace and stability of the entire world, the Israeli attack must be considered an understandable and legitimate act of self-defense.

I would like to bring to the attention of my colleagues a particularly cogent editorial entitled "Andy Kirkpatrick" which appeared in the Wall Street Journal earlier this week. This piece persuasively argues that the United States gained little, and indeed, actually paid a high price, by voting to condemn Israel, its only reliable ally in the Middle East.

The text of the article follows:

ANDY KIRKPATRICK

We will be waiting, in the wake of the U.S. joining the censure of Israel for pre-empting the Iraqi atomic bomb, to see what our new-found Arab friends will do for us. Will Iraq now turn into a force for stability in the Persian Gulf? Will the Saudis now join the Camp David process, or even let American crews stay on the AWACs America has offered? Precisely what does America get out of the bargain?

This we ask on the assumption that the Reagan people aren't fools. We assume that they aren't mortified to cast a veto in the UN, that they can recognize an atomic bomb program when it hits them in the face, that they are not moved by the liberals' fear of using violence even to preclude greater violence in the future. So the only explanation left for their maneuvering in the Security Council is that they are "cooperating" with the "Arab" side in the hopes of making the more moderate Arab states a bulwark against Soviet penetration of the Gulf.

Maybe it will work. There is, for example, the case of Egypt, which only a few years ago was threatening to drive the Israelis into the sea but today, at least partly by dint of some assiduous diplomacy, has come around to our side. But there is a far longer list of American temporizing—including 15 votes to censure Israel in the past 30 years—that has purchased little, if anything, of value. In short, history isn't encouraging.

And the costs are enormous, particularly with this administration and these circumstances. As a starter, the U.S. has again shown that a wedge can be driven between it and an ally. Mild though the condemnation was, it was not the sort of support an ally has a right to expect when it can make the case Israel could that its very existence was in mortal jeopardy. The cost of American waffling will be felt from South Korea to El Salvador, from South Africa to, yes, even Saudi Arabia. Nations banking on America are going to mark not the fact that the resolution against our ally was mild but that it was unanimous.

The vote carries a cost, too, in the mockery it makes of anti-proliferation policy. Through this whole affair, no one has held France to account for what it was doing providing Iraq with the bomb. No one has asked the French people to think about how they would feel if, someday, they were to awaken to the news that Iraq had dropped an atomic bomb on, say, Jerusalem or Damascus. Were the U.S. committed here it would have been putting France in the dock at the UN.

Instead, the administration set about fuzzling the facts in the name of policy. There is no reasonable doubt that Iraq was engaged in what a resigning international inspector called an "aggressive, co-ordinated program" to build atomic weapons. But telling the truth makes it hard to deny that Israel acted in self-defense, which leaves little room for placating Arab opinion. So the administration sent Undersecretary Walter Stoessel to try to keep a straight face while giving Congress and the American people the impression that the U.S. government didn't really believe Iraq was bent on the bomb. What, we wonder, will be the future costs of making the State Department a veritable apologist for nuclear proliferation?

Finally, there is the cost of leaving the impression that the Reagan administration, just like its predecessors, can be rolled by "world opinion." Ironically, this cost is embodied in UN Ambassador Jeane Kirkpatrick, who has been spreading the message that the Reagan administration is different, not afraid to confront the opposition by telling the truth even in the UN. In her first encounter she ends up praising the Iraqi ambassador and having little to show for it but public insults from him. (Indeed, yesterday the speaker of the Iraqi parliament called for an oil embargo against the U.S.) We hope that Mrs. Kirkpatrick and whoever wrote her instructions ponder the question, what would Andy Young have done differently?

With the election of President Reagan, many of us had hoped for a basic change in U.S. foreign policy—toward a policy of standing by friends, of standing up for our interests against the hypocrisies of world opinion, of making the world face unpleasant truths. Given all that was said in the long campaign we had every right to hope and expect that, but the hope has now been badly shaken. It seems no small loss. We hope that Mr. Reagan and Mrs. Kirkpatrick get something in return.●

RESIST PRESIDENT'S LOBBYING EFFORT

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. HUBBARD. Mr. Speaker, since the spring, I, along with my other colleagues in this august body, have been called, collared, cornered, and coaxed into voting with the Reagan administration in its efforts to see its budget cut proposals passed. However, I have been told by many of my constituents to resist this massive lobbying effort and help preserve those programs that this society desperately needs. One of those constituents is Roger D. Cunningham, Route 2, 302 Rebecca Drive, Paducah, Ky. I feel his letter is one which should be shared with my colleagues and I wish to do so at this time. The letter follows:

DEAR CONGRESSMAN HUBBARD: I have watched with interest the news reports detailing the intense pressure being placed on you by the Reagan administration to sway your decision on the budget in his direction. I hope you do not allow yourself to be won over by his lobbying effort. You were not elected to do the President's bidding, but to represent the people of western Kentucky.

I think that the Congress and the media are making a fundamental mistake in their assessment of public support for President Reagan's policies. To say that since the American people are overjoyed at his miraculous recovery from the gunshot wound, then we must be equally overjoyed in the budget proposals he has submitted to Congress is ludicrous. I am one of those traditionally Democractic voters who switched parties in the last Presidential election, not because I was that enamored with Reagan, but because I was thoroughly disillusioned with Carter.

The so-called conservative tide is not the mandate for Reaganomics that some would like us to believe. The $688 billion budget that has Reagan's blessing is not one that the majority of Americans will be happy with. It amounts to nothing more than a massive transfer of public funds from social programs to defense spending; and the proposed balanced budget in 1984 is the result of playing with numbers, not a realistic assessment of this Nation's true economic picture.

When the vote on the Reagan budget takes place this week, I will be watching with interest and I am hoping that your vote will be cast for the $714 billion Democratic budget proposal.

Sincerely,

ROGER D. CUNNINGHAM.●

IS CRITICISM ONLY WAY TO DEAL WITH THE SOVIETS?

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. SEIBERLING. Mr. Speaker, in the last of his five articles on key foreign policy issues, David Cooper, the distinguished associate editor of the Akron Beacon Journal, brings out the fact that, so far the Reagan administration has no clear foreign policy other than arms buildups and criticism of Soviet policies.

He notes in particular, that:

The crucial issue of the age—the quest for nuclear disarmament—has yet to be addressed in any substantive way by the new administration.

Mr. Speaker, the full text of this excellent article follows these remarks.

[From the Akron Beacon Journal, June 19, 1981]

IS CRITICISM ONLY WAY FOR REAGAN TO DEAL WITH SOVIETS?

(By David B. Cooper)

Contrary to popular belief, a top State Department official told an audience in Washington recently, "Secretary Haig does not eat Turfbuilder for breakfast."

The speaker, Walter J. Stoessel, Jr., the new undersecretary for political affairs in Alexander Haig's State Department, conceded that his boss has had "some problems of turf" within the Reagan administration.

"This," Mr. Stoessel said, "has been exaggerated."

Perhaps, but it has been both an irony and a problem for Secretary of State Haig that as the President's top choice to serve as America's key diplomatic official and as a member of the Reagan team who knew a great deal about Washington intrigue through his days running Richard Nixon's Watergate bunker, he quickly became the lightning rod for internal bickering in the new Reagan team.

Secretary Haig's supporters in Washington, and there are many, think the internal conflicts are over and that he can shape effective foreign policy for President Reagan.

To be sure, the President has publicly praised Al Haig, and the secretary is now completing his third apparently successful mission abroad, this time to mainland China.

However, if Secretary Haig has, as he and others believe, a clear vision for the current and future course of American foreign policy, there are no solid assurances that Al Haig's mostly pragmatic approach to sensitive international issues will always win the support of the President.

One more undercutting of Mr. Haig's policies would probably result in his departure and throw our key allies into a state of total confusion.

This is at least partly because the President himself has not articulated any strong and clear foreign policy agenda. Asked about this void at his news conference Tuesday, Mr. Reagan pooh-poohed any notion that this was a serious omission. In fact, it is, and is growing more so as both Americans and our allies remain unclear as to where the Reagan policies will lead.

The President further confused the troubled Middle East situation, in the political uproar following Israel's raid on Iraq, by appearing to defend Israel's action. Will the United States now defend any military action by its allies against any nation an ally sees as a threat? And, if so, how will the Reagan administration prevent such occurrences from leading some part of the world to the brink of war?

The President must be learning by now that the foreign policy minefield is not as easy to walk through as he implied during the campaign when he was criticizing Jimmy Carter for fumbles and inconsistency. Some of what the Reagan administration has done and said, especially in recent days, could also be judged as inconsistent.

And the crucial issue of the age—the quest for nuclear disarmament—has yet to be addressed in any substantive way by the new administration.

Ronald Reagan came to office having campaigned against the SALT II treaty on nuclear weapons signed by Jimmy Carter with Leonid Brezhnev of the Soviet Union. Al Haig also opposed SALT II.

Both men now find themselves in the awkward position of having to abide by the terms of that treaty, for the time being at least, despite the fact that it was not ratified by the Senate.

How will the Reagan administration approach the question of further arms limitation negotiations with the Russians?

There are no answers so far—only Secretary Haig's vague comments that he and others are trying to shape a new approach that result in agreements that are "fair, equitable and . . . result in actual reductions" of strategic weapons. New negotiations, he suggested, would see the Reagan administration attempting to tie arms reductions to "worldwide Soviet conduct."

At the same time, the administration is pushing the greatest American peacetime military buildup in history. Under the President's plans, the Defense Department's budget would rise by $226 billion over a six-year period, an increase of 160 percent.

While action is clearly needed to offset some of the Soviet Union's massive military buildup in recent years—especially in the capability of theater forces and weapons—there is no guarantee the Pentagon will spend such increases wisely or well. To the contrary, past evidence of military waste suggests a lot of the money will be spent without effectiveness.

Is the administration's plan to launch a huge new arms buildup and then to use that as a bargaining chip with the Soviets? If so, the President has not made it clear.

In the meantime, the President especially and Secretary Haig to some degree have used many opportunities to lambast the Soviets and the communist system they lead and represent. There is clearly much to criticize in the ways the Soviets do things and the mischief they create in many parts of the world. But is that the best way to get an adversary to the bargaining table? Only time will tell.

For the present, the Middle East remains the administration's chief problem and potential tinderbox.

In the aftermath of Israel's attack on Iraq, there is no clear picture of how the administration intends to cool tensions in the Middle East while also—as it intends—building up forces and alliances there that can dissuade the Soviets and their cat's-paws from further adventurism in the region.

The general approach toward foreign policy has been laid out by Secretary Haig and other key State Department officials.

But the specifics are either lacking or uncertain.

Referring to the results, Mr. Haig recently told a gathering of editors and broadcasters in Washington: "Of course the jury is still out—as it will be for some time. But there is a historic change in America. It is time to roll up our sleeves and get back in an activist diplomatic role."

Absent any clear foreign policy agenda from the President, it is unknown what he wants that role to be, and what he hopes it can achieve specifically in the areas of the world that are now crucial to American interests.

While Secretary Haig can be credited with pulling together what appears to be a good staff, the political pressures on Mr. Reagan from those conservatives and neo-conservatives who worked hard to elect him make it doubtful how long a leash the State Department has in preparing new American diplomatic initiatives.

So the jury is not only still out, as Al Haig said, but awaiting the presentation of evidence and argument on foreign policy goals by the person most responsible for setting those goals—the President.

EDITOR'S NOTE.—Associate Editor David B. Cooper recently attended a two-day briefing on American foreign policy at the State Department in Washington.

This is the last part of a series on key foreign policy issues and the administration's foreign agenda.●

IN HONOR OF EDWARD BALL, AN OUTSTANDING BUSINESS LEADER

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. BENNETT. Mr. Speaker, a constituent and a very dear friend of

mine, Edward Ball, passed away at age 93, last Wednesday and was buried next to his partner and brother-in-law Alfred J. du Pont on the du Pont estate, Nemours, at Wilmington, Del., this afternoon. His sister Jessie Ball du Pont predeceased him several years ago and is buried at Nemours as well.

These three people were a team and each in his or her own way had a tremendous and affirmative impact on America. And in the years to come the tremendous wealth they accumulated will have a beneficial and glorious impact for good in our land because the vast majority of their wealth, almost all of it, will go to crippled children, for the aged and to independent colleges.

Mr. Ball in his lifetime demonstrated a love of nature and for wildlife preservation that will also be carried on after his death in a wildlife foundation that he has already generously funded. In the future, as I see the beauty of wildlife that his efforts have made possible, I will think of my dear friend, his sparkling wit, his courage and his manly perseverance. I will think also of his dedication to our country and to its basic principles.

Mr. Speaker, a giant of a man has gone to his Maker. Heaven will be a better place for that. Here on Earth we must take our consolation in the knowledge that he made our Earth a better place because he was here.

To Denise Zapffe, his niece, and to all his other relatives, we send our warmest condolences.●

STRAIGHT TALK ON DEFENSE

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. BINGHAM. Mr. Speaker, I would like to insert in the RECORD a series of three articles that have a man-bites-dog quality about them—they contain some careful thinking and calls for restraint in military spending, but they are written by a retired flag officer. They question the necessity of upgrading our tactical nuclear weapons in Europe. They question the necessity of deploying the neutron bomb in order to offset the Warsaw Pact's advantages over NATO in tanks. They suggest that we are pursuing a will-o'-the-wisp in trying to deploy an MX missile in the hope that it will be invulnerable to a preemptive first strike. They include an endorsement of George Kennan's recent dramatic call for an across-the-board reduction in nuclear weapons by both superpowers. The author of these striking articles is Noel Gayler, former Director of the National Security Agency, former commander in chief of all U.S. forces in the Pacific, and retired admiral. I commend them to the attention of my colleagues:

[From the Washington Post, June 17, 1981]

(By Noel Gayler)

(I) STICKING BY OUR GUNS

Chancellor Helmut Schmidt came to see us at a time when the NATO West was troubled over nuclear weapons based in Europe. He has had to tell his own party, the Social Democrats, to shape up on this issue, or find a new leader.

With full American support, he's taken a firm line. So have other NATO governments. But their electorates are not necessarily on board. And if there's one clear lesson of the Vietnam War, it is that military policy, without supporting political consensus, is a loser. The basis issue is that most Europeans don't want to fall under Russian military conquest or domination, with all the odious apparatus of Communist totalitarian rule. But they also don't wish to take a serious or unnecessary risk of being eradicated by nuclear weapons. Most people will think these are reasonable concerns.

In the past some Europeans have made a choice, under the slogan of "Better Red than Dead." More robust characters have reacted in the spirit of our own Patrick Henry. "Give us liberty or give us death." But these are not the only alternatives. Both security and freedom for Europe are possible. They require that as allies we see clearly what the military needs are, and that we act on that knowledge.

The first nuclear proposal now before the allies is that NATO must "match" the Soviet medium-range ballistic missiles targeted on Europe (SS20) with medium-range ballistic missiles of our own (Pershing II or cruise missiles) based in Europe. This may or may not be a good idea. We have made it a touchstone of the unity of NATO, and Chancellor Schmidt's loyal support to that ideal should command admiration and respect. The deployment plan is seen also as a necessary, if paradoxical, step to the negotiation of balanced nuclear force reduction. Let's hope the negotiating strategy works.

But there are a few things we should understand about it:

Europe is under no special or unusual danger from SS20s. There are plenty—very many more than plenty—of Russian intercontinental-range missiles, which can strike any target in Europe, simply by shortening the trajectory. It makes no real difference to the target where a missile comes from—only where it lands.

You don't have to "match" any weapons with an equal and opposite weapon of your own. Late in the 19th century, battle cruisers were built to rule the seas. They had 11-inch guns to sink other battle cruisers, 8-inch guns for cruisers, 6-inch guns for light cruisers, 4-inch guns for destroyers, 3-inch guns for torpedo boats and (I guess) small arms to repel boarders. Then British Admiral "Jackey" Fisher had a remarkable insight: 11-inch guns that could sink a battle cruiser could also sink any smaller ship! The all-big-gun Dreadnought was built, and all other big weapons were obsolete. Our intercontinental weapons are our big guns.

European-based NATO missiles impart no special freedom of action or autonomy to the European allies. It is inconceivable they could be used without American consent.

The basis on which to judge the proposals is the extent to which they contribute to or lessen the nuclear threat to Europe and to the unity of NATO.

The second nuclear issue before NATO is the so-called neutron bomb. President Carter first supported this notion, then snatched it back. Secretary Weinberger recently floated the idea and Secretary Haig slapped it down, for reasons not central to its merits. No one doubts the idea will surface again. It has powerful supporters. What about it?

The "neutron" weapon is one of a class called "tactical" nuclear weapons. These are weapons smaller (but still enormous) in yield, designed to be used by military forces against military forces. Some examples are artillery shells, short-range missiles and aircraft bombs. They have great destructive power and their use entails grave risks. What are those risks?

The enemy will certainly retaliate in kind, and he will up the ante. Rapid escalation to total nuclear war is a strong possibility, once the nuclear firebreak has been crossed.

Russian incursion will be fought on allied soil. Noncombatants will be killed in the hundreds and thousands, and these will be our friends and allies. Since our friends may well object to this outcome, the alliance may be fractured at the outset.

Even if we enjoy two miracles in series—there is no escalation and the alliance holds together—we will be far worse off militarily after a tactical nuclear exchange than before. That is because we have the more critical and vulnerable targets: ports, airfields and lines of communication central to our defense.

The so-called neutron weapon—also called enhanced radiation weapons—are designed to meet some of these objections. Most, but not all, of the energy comes out as radiation that kills or injures living creatures but does little damage to material. There is, however, an irreducible minimum of heat and blast, which is still very large by ordinary standards. Are they very different from "conventional" nuclear weapons in practical effect? No. Are they more dangerous? Perhaps, if they serve to lower the threshhold to nuclear war. Are they really necessary to defeat tanks? No. There are better alternatives.

There is another difficulty, of a different kind. Rightly, no president with all his marbles is likely to release nuclear weapons for use, except in the most extreme circumstances, if even then. The risks are simply too high to make the game worth the candle. The commander in the field therefore has an uncertain weapon on which he can never rely. Much better that he have effective means to victory that he can be confident will be available to him. We can have such means, if we will.

What are some of these alternatives? Weapons that effectively kill tanks, by finding them and hitting them. Weapons that ensure our aircraft are superior to the enemy's. Means to find and kill submarines and protect our ships at sea against aircraft and missiles. Weapons to stop infantry on the ground. Most important, means to control information, the key to tactics and to battle. All of this, without resort to nuclear weapons. All of this, fundamentally, by technology well suited to the American and European genius and far ahead of the adversary.

Given political will and economic support NATO can field the forces necessary to defend ourselves. We have no need to resort

to the unmeasured hazard of nuclear weapons. We need be neither Red nor dead.

[From the Washington Post, June 23, 1981]

(II) A WAY OUT OF THE NUCLEAR TRAP

(By Noel Gayler)

All the West is caught in the cruel trap of ever-increasing danger from nuclear weapons. We have strange company: the U.S.S.R. We and they struggle mightily for a preferred place within our trap, but every struggle draws the net tigher.

Most of you who read this live near Washington—you will not survive a nuclear exchange. Nor will those who live in New York or Boston or Seattle or Chicago or any of our great cities. Nor those who live in Moscow or Kiev or Tbilisi or Vladivostok or remote Alma-Ata or almost anywhere else in either enormous country.

Our present policy has reached a dead end. So has the Russian policy. But there is a way out of the trap. George Kennan has made a dramatic proposal for the immediate 50 percent reduction, on both sides, of all nuclear weapons, of all kinds, without haggling over detail. This is great, as far as it goes, but it does not go far enough. To see why this is so, read on.

Our basic need is truly to understand the nature of nuclear weapons. They are so enormous that, in a nuclear exchange, the first few weapons arriving do almost all the damage conceivable to the fabric of the country. So we have a military paradox: the power position of either side is not affected much by the size of its nuclear forces. Which way the wind is blowing (carrying nuclear fallout) makes more of a difference than an extra thousand missiles or so on either side.

In a similar way, technology has no great payoff. It makes no difference whether New York, say, is devastated by an old SS11 or a brand new SS19 MIRV warhead. In the absence of effective defenses, it makes no difference whether delivery is by a hypersonic maneuvering re-entry body, or a tired old Bear bomber. The results are the same.

But what about defenses? Can't we have the missile defenses and air defenses that would shield us against a Russian attack? The short answer is: no way. In conventional air defense, it's enough to shoot down a few aircraft at each go—the cumulative losses soon bring the attack to a halt.

In nuclear defense, the situation is reversed: essentially all weapons have to be stopped or else the damage is done. Effective defense against hundreds or thousands of weapons is impossible.

Isn't accuracy important, and its exotic technology? Well, yes, but only if you want to attack hard, fixed targets such as missile silos, and that brings us to MX.

MX is really two separate and separable ideas. One idea responds to the potential threat against our own missiles by creating uncertainty about their precise location. No matter how powerful and how accurate the attacking missile, it cannot, except by chance, destroy a target it cannot locate.

The idea is good. We make our missiles relatively secure against attack, and we don't have to fire them out in the few minutes of warning time available. The hair-trigger is gone, as is much of the danger from false alarms. But the present scheme is unnecessarily elaborate. We don't have to pave the states of Utah and Nevada and suck dry the water of the West to give security to our force. Much simpler means will do the job.

The second MX idea creates a powerful rocket with numerous and very accurate independent warheads, as replacement for Minuteman. This is a dubious proposal, in its present form. If and to the extent we need to replace an aging missile with a new one, it's a good idea. To the extent we create a force with warheads numerous, powerful and accurate enough to threaten the Russian ICBM force in hard silos, it's a bad idea. Why?

Because the U.S.S.R. will surely respond. They will be no more content than we to see their land-based force threatened by surprise attack. What are their options?

They could live with their vulnerability. This would be very dangerous—they would feel the hair-trigger necessity to fire out on warning of attack.

They too could play hide and seek.

There is a worse Russian option. That is they would do both the above. They could elect to keep the hair-trigger force they have, and also to build a force we cannot target. We would end up with the worst of both worlds.

All of this means that the security of both their force and ours is good—stabilizing. The idea of attacking such forces—"counterforce" in the jargon—is a loser. It is destabilizing and dangerous for us and for them.

The missile-firing submarines are pretty secure. Sure, both sides are working hard on anti-submarine measures, and have had some limited success. But with the vast areas of the ocean they both can now hide in, it's inconceivable that any important number can be sunk in the opening hours of war. Three months, maybe—not three hours.

Still different are the bombers. We've accepted that their chance of getting shot down is so great they must carry cruise missiles to penetrate to the target. Better we should convert most of the bomber force, present and future, to useful military purposes.

This notion, that military force should have useful military purpose, is so self-evident that it seems fatuous to state it. Yet we must, for there is an obvious disconnect in our present forces.

There is no sensible military use for any of our nuclear forces: intercontinental, theater or tactical. Their only reasonable rationale is, first, to deter the other fellow from the use of his and, second, to gain whatever political edge there may be from the appearance of nuclear strength. As a general rule, we can state that nuclear forces are militarily sufficient whenever they are politically sufficient.

So now we know how to escape the trap. It is the usable conventional military power that counts, not the useless threat of distant destruction. Cut back the nuclear forces, ours and theirs, across the board, as Kennan suggests. Give up any notion of first use. Look to the united political, economic and usable military strength of the West to keep us free.

[From the Washington Post, June 25, 1981]

(III) THE SOVIETS WANT TO SURVIVE, TOO

(By Noel Gayler)

Neither we nor the Soviet Union can possibly want to be in our present position, where our very existence depends on the nuclear restraint of the other. There is only one way out—we must each negotiate with the other not only a major reduction of nuclear weapons but an absolute end to any military dependence on them.

Negotiating will be tough. We each have major and nearly insoluble problems with the other. The West feels threatened by the enormous Russian military buildup, by their worldwide trouble-making under the rubric of "wars of national liberation," by their unprincipled subjugation of their neighbors. They in turn recognize us as their most dangerous potential military adversary, as the stumbling block to their worldwide ambitions, and as the organizers of international alliances to contain them.

And we have a lot of experience negotiating with the Soviet Union—much of it bad. We see them as adversary, devoid of good will, manipulatory, unwilling to compromise. They see us as uncertain, compliant, willing to yield after a while to intransigent positions, for the sake of agreement. Both views have a good deal of validity.

Yet both are beside the point. The object isn't to "win" a negotiation, or to end up with "superior" nuclear forces. The object is to make the chance of nuclear war as small as possible. We have other political objectives. So has the Soviet Union. Most of them conflict intensely. But this one objective we share, and it is far more important than all the rest put together.

The key is to find our common interests, and they are not hard to find; we have a common interest in not being blown up. We also have a common interest, as great powers, that we not be subject to nuclear blackmail from smaller powers or terrorist groups. This is plenty to build agreement on, but only if we detach these overriding problems from all the other issues between us. The notion that we can punish or coerce the Soviet Union for its behavior by withholding our agreement on nuclear weapons is fallacious. Our need is every bit as great as theirs. If we wait until they shape up, to our standard, on every bone of contention between us, we will wait a long, long time. And the clock of nuclear danger is ticking away.

So we have the basis for negotiation. What precisely should we propose? Here is a list, for openers:

Immediate equal reduction of nuclear weapons of all categories, as proposed by George Kennan. This can become a progressive process.

Renunciation of nuclear initiatives for any purpose whatever.

Renunciation of any "counterforce" strategy against strategic nuclear forces.

Concurrent strong opposition to any form of nuclear weapons proliferation, by our clients or theirs. The first step must be our own reductions, or we have no credibility whatever.

Are such agreements possible? Yes, because the Soviet Union and the United States would gain by them. Can they be verified? Weapons turned in can be counted. Weapons could be hidden away in small quantities, but only very large quantities would make a difference. And very large quantities we would know about. Nuclear initiatives are foreshadowed by the nature of the weapons, for example a "neutron" bomb must be made and deployed before it can be used. And opposition to nuclear weapons proliferation must by nature be public, or it isn't real opposition.

Supposing we believe all this; what are the Russian views? We know that they are suspicious, and slow to react to new proposals. We know that their military literature abounds in references to nuclear war exchanges and mixed nuclear-conventional campaigns. (To a certain extent, so does

ours.) We know that some of their military exercises and some of their military equipage bear out these ideas. But there is no evidence that the Soviet Union is irrational. The compelling logic against the use of nuclear weapons applies equally to the Russians as to us. The Party leadership has given every signal that they understand that logic. And the last effort to reach a limiting agreement, imperfect though it was, was terminated not by the Soviet Union, but by the Americans when the Senate refused to approve SALT II.

The nuclear preparations of the Soviet military can therefore be regarded as worst-case insurance, as indeed ours should be.

So we have our prescription for negotiations. We need be realistic, hardheaded and specific. Generalities about the "spirit" of Camp David or anywhere else will get us nothing but disappointment. And we must confine negotiations severely to our common interests: to reduce the chance of nuclear war. No attempted arm-twisting on other subjects, no attempts to gain points by "winning." If we do this, we and they have a good chance to reach agreements that will in some measure lift this cloud of danger from us.

President Reagan has an unmatched opportunity. He alone can initiate this process without suspicion of weakness. The American people wish, and he wishes, for America to have unmatched strengh—military, economic, political strength and strength of purpose. Yet the President has common sense in uncommon measure, and will surely see that our military strength lies in people and forces far removed from these useless and dangerous nuclear weapons. Should he act on this perception, and should he succeed, history will record him as one of our greatest presidents.●

LA VERNE, CALIF., COMMEMORATES 75 YEARS OF PROGRESS

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. DREIER. Mr. Speaker, on July 4, 1981, I will have the honor of joining with the city of La Verne, Calif., and celebrating not only our Nation's birthday, but also that city's 75th anniversary. It is indeed a great privilege for me to participate in this festivity as I not only serve as La Verne's representative in Congress, but am also a resident of this fine city.

In 1887, Issac Lord, a promoter for the historic Santa Fe Railroad, first settled in the area now called La Verne and established a tradition of growth and prosperity still evident today. The railroad company Lord worked for brought with it the "boom town" spirit associated with turn-of-the-century California towns. That spirit transformed into a productive, lasting work ethic that makes La Verne a vibrant and healthy community. La Verne, which means "Growing Green" is a gem in the crown of communities surrounding Los Angeles in southern California.

Since incorporation in 1906, La Verne has provided its residents with an ever-growing number of dependable public services which people have come to know they can rely on. This year, celebrating its 75th anniversary, the city will hold dedication ceremonies for new city police and fire facilities.

I have been given the opportunity to address the attendees at the ceremonies and will be joined by several city officials. Mayor Frank Johnson and Councilmen John Blickenstaff, Bob Neher, Ed Paul and Craig Walters will preside at the ribbon cutting along with Fire Chief Robert Lapp and Acting Police Chief Wes Stearns. Also in attendance will be City Manager Perry Beck and his assistant, Martin Lomeli, as well as former City Manager George Caswell.

The new building we will be opening has been dedicated to three deserving civil servants whose combined careers span almost 100 years of service in public safety. Hubert "Scubie" Mills served as a volunteer fireman for nearly 50 years; Harry Blickenstaff capably filled the fire chief's position for 30 years; and Harvey M. Case served as police chief for an equally large portion of the city's three-quarters of a century.

This Fourth of July will be a truly exciting day for La Verne: in addition to our traditional Independence Day parade and the dedication ceremony, we will celebrate the diamond anniversary of our town, a landmark event in city history.

For 75 years La Verne has had a conscientious plan of uninterrupted growth and development while maintaining the community's essential charm and character. I hope my colleagues will join me and all other residents of La Verne in saluting our 75th prosperous year.●

BLOCK GRANTS WILL WORK

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. GINGRICH. Mr. Speaker, I believe in the State and local governments of this country. I think they are capable of helping the people they represent. But these governments are being choked by confusing Federal regulations and by an overweight, sluggish Federal bureaucracy. We can stop the Federal Government from being a burden to the State and local authorities by implementing the block grant program.

Mark Whitlock, a vocational consultant in Georgia and my former student, wrote a letter telling me why he supports block grants. I would like to share his excellent remarks with my colleagues.

DEAR DR. GINGRICH: I want to add my support to your efforts in spearheading the present administration's move toward budget and tax cuts. Particularly, I support the move toward block grant programs for funding social services. This will allow the states to decide where monies should be spent.

As a former student and constituent of yours, I do recall your zeal to allow the "private sector" to deal with the implementation of action-based programs to address specific issues in our society. As a rehabilitation professional in the private sector, I have also accepted that idea. I must add that, (as it was reported that candidate Ronald Reagan said), "we do have the energy/talent in this country to deal with our social problems". I whole-heartedly agree with that statement, and am committed to working in the private sector toward the solution of problems defined as "social".

It has been made quite evident, to me, that "the private sector" can successfully deal with "social" issues. It has been made even more clear to me that "the private sector" solutions come closer to "success" than do government attempts to deal with "social" issues.

I've also found, in the private sector, there are incentives to successfully complete work which are not found in government attempts to deal with "social" issues. Quite frankly, if my company does not do the job, another company is hired who will do the job. Government programs do not have this type incentive. Therefore, it does not appear that government programs successfully handle that with which they were designed to deal. Furthermore, the lack of incentives creates a "non-productive" atmosphere in which bottom-line success is not defined as a goal.

Specifically, my company deals with industrially injured individuals, employee-assistance programs, and with other concerns faced by those who deal with the human labor issue. Our successes are documented, and we can proudly stand on our record.

Quite ironically, my tax monies, in effect, support my "competition". That is, state vocational rehabilitation programs, with no real incentive to return an industrially-injured employee to gainful employment, do receive my support. Honestly, I do not understand why state vocational rehabilitation services are offered to industrially-injured workers who are covered by State Workers' Compensation laws. In actuality, this represents an applying of tax monies for those individuals who are already receiving medical and other compensation from State Workers' Compensation laws. So, there is a costly duplication of services present. It appears that this costly duplication can also be present for individuals covered under the Federal Employees Compensation Act, Longshore and Harbor Workers Act, and other similar laws designed to provide aid to the industrially-injured.

Dr. Gingrich, thank you for your review of my letter. I count myself fortunate to have been in your classes at West Georgia College, and count myself fortunate to be able to write to you as a United States Representative. I congratulate you on your selection as President Reagan's "leader" for the budget and tax fight in the House of Representatives. I wish you continued success, and I am sure that you will experience this.

Sincerely,

MARK WHITLOCK, M. Ed., C.R.C.,

Vocational Consultant.●

INTRODUCTION OF BILL TO REPEAL PUBLIC HEALTH SERVICE AGE LIMITATIONS

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. OBERSTAR. Mr. Speaker, today I have introduced legislation to remove the age requirements for appointment to the Commissioned Corps of the U.S. Public Health Service. I am offering this bill with the hope that it can be acted upon quickly to give President Reagan the opportunity he has sought to appoint Dr. Everett C. Koop as Surgeon General of the Public Health Service. I feel that any President of the United States ought to have the opportunity to nominate persons to public policymaking positions in his administration who will carry out the policies and programs the President advocates.

The Senate, of course, retains the constitutional authority and responsibility to inquire into the qualifications for office of any such nominee—which is proper under our system of checks and balances.

The President has nominated Dr. Koop for the position of Surgeon General, but two provisions of existing law stand as legal impediments to his confirmation:

First, present law requires that the Surgeon General be an officer of the Public Health Service. The Public Health Service Act (42 U.S.C. 209(a)) requires that those appointed to the Public Health Service must be younger than age 44 when appointed.

Second, the same act, 42 U.S.C. 212 (a)(1), establishes a mandatory retirement age of 65 for any Public Health Service officer.

My bill will clear the way for consideration of Dr. Koop's nomination by the Senate by repealing these two requirements.

I want to emphasize that my bill is not special legislation for this one nomination, but establishes a principle of fairness and equal treatment for all present Public Health Service officers and all future candidates for admission to the Public Health Service. In these enlightened times, when Congress has removed mandatory retirement age laws for employees of the Federal Government and raised the limitation in the private sector from 65 years to 70 years, retaining such a provision for the Public Health Service would be an anachronism. Likewise, if there is no maximum age limit, neither, in all fairness, should there be a minimum age requirement.

My bill will retain in current law, however, the long-established requirements for professional qualifications for entry into the U.S. Public Health Service. This bill deals only with the age requirements.

Immediately upon removal of those impediments, the Senate could begin consideration of Dr. Koop's nomination.

The age limitation is a relatively minor, technical matter for the House of Representatives and should be acted upon promptly so this legislation can be cleared through the Congress and sent to the President by mid-July, giving the Senate ample opportunity to act on the Koop nomination before the August recess.

I am very pleased that hearings on this and similar legislation have been scheduled by the House Subcommittee on Health and the Environment. I commend Chairman WAXMAN, with whom I have discussed this legislation, for his decision to hold these hearings. This action indicates a willingness on the part of the subcommittee to cooperate and move the legislation along expeditiously.●

SPENDING MORE, GETTING LESS

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. WYDEN. Mr. Speaker, this country needs a strong national defense. The situation in Poland is tense; Soviet adventurism persists in Central America and the Horn of Africa; and the Middle East is a powder keg. Anyone who thinks we do not need a strong defense probably is not reading the morning paper—because even a cursory glance at the daily news reminds us how dangerous our world we live in is.

In light of this obvious need for a truly strong national defense, I am distressed that the debate over our national security has centered on how much we spend—not on how we spend it.

A review of recent American military actions—from the doomed rescue raid in Iran, to the loss of life on the *Mayaguez,* to the wasted resources in Vietnam—tells us we are doing something wrong and are not up to facing the world's vast dangers—even though we have spent billions on defense.

With this in mind, I reviewed the 1981 Department of Defense supplemental authorization and concluded it represented nothing more than business as usual. That is why I voted against it.

It authorized more F-18 fighters. Originally designed in 1975 as a low-cost replacement for the F-14 Tomcat, the F-18 now costs about $26 million per plane.

It also authorized more M-1 tanks. This is the tank that would not start in cold weather and cannot run in the desert because its turbine engine continually clogs with dust. The Pentagon says of the M-1:

> The engine's demonstrated durability and reliability levels were so low that they could be doubled and the engine would still fall short of its durability goals.

In real dollars, this tank costs seven times as much as the Sherman tank of World War II.

This supplemental defense authorization did not make America safer. The only security it provided was to keep the Federal faucet running longer to make up for obscene cost overruns, poor reliability and second-rate performance.

This supplemental authorization, in language plain enough to defense contractors and military planners, said:

> We think you're doing fine. Your current track record is acceptable, and we'll keep the spigot flowing in your direction.

I refuse to accept this line of reasoning. If it is fair to examine every nook and cranny of every social program run by the Federal Government, it certainly is fair to examine the cavernous domain of our Defense Establishment. If it is fair to point out waste and fraud in social programs, it is fair to point out excess and incompetency in defense programs.

I want to vote for military expenditures because I think they are needed. But what I want is a cost-effective, standup, and efficient defense that works—not one that is so riddled with inefficiencies that we will be left truly vulnerable.

Why can we not have built the F-18 the way it was originally envisioned—an inexpensive, relatively light, dual-purpose fighter; not a plane that cannot go as far as we had hoped, is heavier than planned, is slower than expected and costs millions more than we dreamed possible?

Why can we not build effective missiles instead of the Falcon, which was successful only 7 percent of the time in Vietnam, and was so bad that pilots eventually refused to use them?

Why can we not build planes that are less sophisticated instead of the F-15 Eagle which is so difficult to repair, only 53 percent of our fleet is operable at any one time for combat?

Why can we not make a durable, functional rifle, like the AR-15, which instead wound up as the M-16—a weapon that jammed repeatedly, causing who knows how many deaths in Vietnam?

Why can we not devote money to adequate spare parts and service capability to avoid the embarrassment of a 2-year backlog for repair of F-4 airplanes by the end of the Vietnam War?

The problem with the cost overruns and business-as-usual is that we sap our resources and weaken our underly-

ing defense capability. When we come up with a workable, sensible weapon, we find we do not have the money to buy the numbers we want and need.

A brief scan of history shows that the quantity and utility of weapons is more important than their sophistication. Germany had superior tanks in World War II, but not enough of them. American and Soviet tanks eventually prevailed because there were more of them.

At the rate we are going, by the year 2054, the entire defense budget will purchase just one tactical aircraft—which the Air Force and Navy will have to share.

Instead of just going along with business-as-usual, let us resolve to build smaller, lighter, more maneuverable and—most important—cheaper ships and airplanes.

Our defense will not be weaker. It will be stronger, mainly because it will work. Here are some examples:

Design a light carrier that will cost one third as much as the Nimitz-class carrier.

Build conventionally powered submarines to complement our existing fleet.

Increase pay and benefits to retain skilled military personnel capable of operating—and repairing—our technologically sophisticated weapons. A recent CBS television documentary chronicled our manpower problem. Navy personnel explained they were working 12- and 14-hour days, on an 8-month voyage, for what amounted to only 75 cents an hour.

Mr. Speaker, this kind of treatment of our Armed Forces personnel is a national disgrace. I applaud the decision of the Armed Services Committee and the Appropriations Committee for coming forward with increases in pay and reenlistment incentives. They will have my support.

We can strengthen our military forces, regain our world leadership position and not go bankrupt. We will not achieve those goals through tolerating chronic cost overruns. We will only achieve a cost-effective national defense by asking the tough questions, following the facts and demanding more results—not more receipts.●

MANDATORY LABELING OF SODIUM AND POTASSIUM

HON. ALBERT GORE, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. GORE. Mr. Speaker, I rise in support of a bill to require the mandatory labeling of sodium and potassium in processed foods.

High blood pressure may be the greatest secret and silent killer in our society. Every year tens of millions of Americans are afflicted with a condition that may be the largest single contributor to the number one cause of death, heart disease, a significant cause of stroke, and a major factor in kidney failure. It is a condition that strikes particularly hard at black Americans and the elderly. Thirty-seven percent of all black Americans and 40 percent of all people over 65 suffer from this menace. According to the National Heart, Lung and Blood Institute, the cost of high blood pressure in lost productivity, lost wages and medical expenses is at least $8 billion annually.

Scientists have long been examining the role of sodium in the health problems of people who have high blood pressure. Unlike most areas concerning the relationship of diet to health, there now is a consensus that sodium reduction may be important for all Americans, and particularly for the 10 to 20 million Americans who already have mild high blood pressure. This consensus was recently confirmed during hearings held by the Subcommittee on Investigations and Oversight, House Committee on Science and Technology, which I chair.

Much of the sodium consumed by Americans is hidden in commercially prepared foods. To help people who are under their doctor's orders to monitor their daily sodium or potassium intake, my colleague, Mr. SMITH from Iowa, introduced a bill (H.R. 2169) in March of this year to amend the Federal Food, Drug and Cosmetic Act to require that canned and processed foods intended for human consumption, which contain more than 35 milligrams per serving of sodium or potassium, and is thus dietarily significant, be labeled to show the amount of sodium and potassium they contain per average serving.

The bill is actively supported by the American Medical Association and a large number of public health associations. It does not apply to fresh food products nor to foods where the average serving of sodium or potassium is below a dietarily significant level, and it provides an opportunity to substitute posters at point of sale where individual product labeling would be a hardship, such as for small bakeries. As a result of my hearings, we have decided to reintroduce the bill to also permit the utilization of all existing labels for a period of 18 months after enactment of the act in order to minimize industry costs, as well as adding a provision that would permit the Secretary of Health and Human Services to exempt small businesses that sold less than $500,000 worth of products per year.

With these provisions and modifications, we in the Congress can deliver significant and essential public health information to millions of Americans at a very low cost. It is cost-effective legislation, and I believe it should be acted upon quickly by this House.●

THE REAGAN ADMINISTRATION'S FLAWED POSTURE ON HUMAN RIGHTS

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. SEIBERLING. Mr. Speaker, Mr. David Cooper, associate editor of the Akron Beacon Journal, after attending a 2-day briefing on American foreign policy at the State Department, has written a series of five outstanding articles on some of the subjects dealt with at that briefing. The fourth article in the series dealt with the Reagan administration's stance on terrorism and on human rights.

Mr. Cooper points out that, while the administration's posture on terrorism is clear and logical, its posture on human rights is flawed and muted. He stresses the importance of human rights issues around the globe, and that people all over the world look to America for leadership on these issues.

The full text of the article follows:

[From the Akron Beacon Journal, June 18, 1981]

STRONG STANCE ON TERRORISM; WEAK VIEW OF HUMAN RIGHTS

(By David B. Cooper)

In recent months, a Libyan man studying in this country was the target of an unsuccessful assassination attempt.

Police later arrested and charged with the murder attempt a former Green Beret in whose residence, according to several reports, police found clear evidence linking the murder plot to the government of Libya.

Libya, of course, is under the control of one man, dictator Moammar Khadafy, who publicly calls America a terrorist nation and who openly advocates any tactic designed to destroy those he terms his enemies.

Shortly after the failed murder attempt, the Reagan State Department expelled from this country those officials of the Libyan government occupying in Washington what was in effect a diplomatic mission for the Khadafy regime.

Although unstated, there appeared to be a clear connection between the two events—and evidence that the Reagan administration is serious in its efforts to get tough with international terrorism.

Secretary of State Alexander Haig and others in the Reagan administration have repeatedly made it clear that they view terrorism as one of the most destabilizing elements in today's tension packed world.

Just last week, in appearances before a U.S. Senate committee, spokesmen for Secretary Haig spelled out the administration's plans to confront any future terrorist actions—such as Iran's 444-day captivity of American hostages—that affect the United States or its citizens: No negotiations, no ransoms, no fuel to permit hijacked planes to leave American borders.

In other public appearances Mr. Haig or his associates have outlined what they believe are direct links between many acts of terrorism and the Soviet Union.

Whether such connections are accurate or not, it is clear that some of terrorism's chief

promoters, such as Col. Khadafy, are not only highly friendly with the leadership in the Kremlin, but also draw arms and money from Moscow that often wind up in the hands of terrorists.

In a recent briefing for editors and broadcasters at the State Department Anthony C. E. Quainton, Mr. Haig's chief of the Office for Combatting Terrorism, gave this statistical rundown:

During the period 1963 through 1980, there were around the world 6,700 acts of international terrorism.

They involved 11,000 people who wound up as the targets of terrorists, many of them non-involved women and children.

Of those 11,000 victims, 7,400 were wounded and 3,600 were killed.

The terrorist, Mr. Quainton said, employs "the threat or use of violence for political purposes," and "has some motive that is not senseless or purposeless."

"He picks his target for its political effect, and he uses the innocent as both target or victim."

The total number of terrorist acts has included more Americans as targets than the citizens of any other country, Mr. Quainton said, but terrorism has thus far not occurred in any high degree in this country, probably because of the known effectiveness of law enforcement here dealing with imported potential violence and its perpetrators.

One-third of the acts of terrorism have taken place in Western Europe, 20 percent in Latin America and 20 percent in the Middle East, he said.

Such political violence is on the rise. "Last year," he said, "there were more attacks and seizures of diplomatic missions than in any previous decade."

"What can we do about it?" he asked. "There is no magic formula," but the Reagan administration is spending $40 million a year now to combat terrorism and is indicating it will deal sternly with any future acts of terrorism in which the United States is involved.

At the same time that the new administration has put terrorism high on the agenda of its policy initiatives, the question of human rights in other countries has clearly been shoved to a back burner.

The President, Secretary Haig and others made it clear from the outset that human rights would not have the same high priority this subject received from the Jimmy Carter administration.

The appointment of Jeane Kirkpatrick as ambassador to the United Nations was a clear signal of this shift. Even more significant was the nomination of Ernest Lefever, her political friend and associate, to head the office of human rights in the Reagan State Department.

Mr. Lefever had earlier advocated striking from American law any reference to foreign policy action by this country because of human rights violations in other countries. He advocated American denunciation of human rights violations in communist nations, but virtual silence about violations in countries allied with Western interests.

The Lefever nomination was strongly rejected by the Senate Foreign Relations Committee, in a 13–4 vote, for several reasons, including the committee majority belief that his reluctance about human rights would send the wrong signals about America's commitment to justice and liberty around the world. But it was also rejected because of the personality of the nominee, who handled himself badly in every encounter with members of the committee, many of whom had originally been prepared to support him.

Human rights are an important issue with many around the globe, many of them voiceless because of oppression, who ally themselves with American ideals and look to America for leadership on crucial issues of freedom and fair play.

While the Reagan administration's posture on terrorism is clear and logical, the posture on human rights is now flawed and muted.

Neither terrorism nor human rights abuses are solely the province of any single country or single ideology.

On one, the Reagan approach is firm and clear.

On the other, the approach is, to be charitable, fuzzy and uncertain.

EDITOR'S NOTE.—Associate Editor David B. Cooper recently attended a two-day briefing on American foreign policy at the State Department in Washington.

He has written a five-part series, of which this is the fourth, on key foreign policy issues and the administration's foreign policy agenda.●

VIVIAN WEBB SCHOOL TO OPEN IN 35TH DISTRICT

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. DREIER. Mr. Speaker, I am very pleased to announce that the Vivian Webb School will open this September in Claremont, Calif. This secondary day school will provide challenging opportunities for young women who intend to pursue a college career. Established through the actions of a dedicated group of local citizens, the new institution will enable young women in the area to receive an education as demanding and as highly regarded as the one provided to young men by the Webb School of California.

In 1979, the Webb board of trustees granted approval for the founding of a coordinate school which would operate as a separate institution but share the campus and basic curriculum of the boys' school. The Vivian Webb School is dedicated to maintaining the high standards of academic excellence and moral integrity which have been the basis of the Webb tradition since the founding of the boys' school by Thompson Webb in 1922.

The girls' school will offer courses in all major disciplines from the beginning high school level through advanced placement, college equivalent courses. The Vivian Webb faculty will emphasize the importance of science and math for young women and provide firm foundations in the English language, both spoken and written. The coed fine and performing arts program will promote a variety of artistic, dramatic, and musical activities. The school environment will also offer opportunites for leadership development, enabling the young women to acquire the self-confidence they need for full participation in modern society.

The founding headmistress of the Vivian Webb School will be Ann Longley. Mrs. Longley graduated with an M.A. degree from the University of Edinburgh, Scotland, and earlier this month received a diploma of education from the University of Bristol, England. She has taught at the Choate School in Connecticut, and at the Webb School. Mrs. Longley is the mother of three children.

Ms. Wynn Furth, city attorney for Claremont and La Verne, and chairman of the board of trustees of the Vivian Webb School, has emphasized the board's commitment to raising scholarship aid so that as many qualified students as possible can take advantage of the excellent educational opportunities to be offered by this new school.

With such fine tradition and dedicated citizens behind the establishment of this school, there is little doubt that it will soon become one of the State's premier centers for secondary education. In short, the 35th Congressional District is very fortunate to have within its boundaries an educational institution for young women of the caliber of the Vivian Webb School.●

HUMAN RIGHTS—POLITICAL REPRESSION IN NICARAGUA

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. BONKER. Mr. Speaker, I have viewed with regret and concern the increasing suppression of political activity in Nicaragua in the past 6 months. Last spring, mobs of Sandinista supporters threatened the independent newspaper, La Prensa, and destroyed several independent radio stations. The rioters also threatened political opposition leaders, who were forced to cancel a planned peaceful demonstration.

There is no doubt that threats to Nicaragua's security exist—not the least of which are former National Guardsmen who launch terrorist attacks on the country from the Honduran border. But certainly the country's stability and security is not threatened by a free press and democratic opposition. The political parties, newspapers, and radio stations that the Sandinistas now denounce as subversive and counterrevolutionary were instrumental in the revolution and liberation of Nicaragua from the tyrannical regime of Anastasio Somoza. Democratic expression is essential to the health of a

nation which emerged from the ruins of repression, poverty, and civil war.

I commend to the attention of my distinguished colleagues a recent interview with Pedro Chamorro, coeditor of the independent La Prensa which appeared in the World Press Review, July 1981.

NICARAGUA'S AGONIZING SLIDE—A TENACIOUS EDITOR DESCRIBES HIS NATION'S DRIFT TOWARD DICTATORSHIP

(By Pedro Chamorro)

Q. How has life been since the Sandinista revolution?

A. A good example is an event last spring, when a mob threatened La Prensa and attacked three privately owned radio stations that had criticized the Government. They smashed the transformers and stole some of the equipment, then completely destroyed two of the stations. The third station was damaged but was able to continue transmitting.

At La Prensa the rioters demonstrated but did not do much damage because the police had arrived before they did. That night the Minister of the Interior—who says he is neutral—had advised us that we should suspend publication temporarily or the vandals might destroy our presses. So we skipped two days. When we resumed publication we sold 90,000 copies—a third more than normal.

Two days later an official communique practically approved what had happened. It said the riot was the logical response of the people to the "independent reactionary" radio and newspapers.

Q. Why did the police keep the crowd out of "La Prensa"?

A. If La Prensa had been destroyed the political cost would have been greater than that involving the radio stations. Since then La Prensa has led a campaign for funds to replace the stations' equipment. It is important to note that these stations previously were independent and opposed Somoza also.

Q. Why does the Government fear damage to "La Prensa"?

A. We are the most popular newspaper in Nicaragua, with a regular daily circulation of 70,000—more than Managua's other two dailies combined. More important than that is the international backing that gave La Prensa prestige through its years of struggle against the Somoza dictatorship. The people know the riots against us were not spontaneous, even though the Government claims that they were.

We supported revolution in Nicaragua, but we are against any totalitarian turn that this revolution might take. We want it directed into democratic channels. We have the backing of all the democratic forces of Latin America, including the Inter-American Press Association and some of the democratic countries that helped the Sandinistas into power.

Q. In what ways are the Sandinistas not democratic?

A. They do not grant freedom of assembly to all parties—only to the Sandinistas. They stop all others from meeting. They have confiscated many industries in the private sector—including some not formerly owned by the Somozas. They have attacked all the independent media.

They have established close connections with the Soviet Union. They practically idolize Cuba. They say that someone needs to teach us "the Cuban way." They regard Fidel Castro as if he were the leader of the world.

They have created a climate of hate. The Nicaraguan revolution was a united effort of all classes to get rid of a dictatorship. Class hatred started only after the revolution. Now the bourgeoisie feels threatened and doesn't want to invest. There has been a brain drain. This revolution is not democratic.

Q. Are there political prisoners?

A. Some people were put in jail recently for what the Government called counter-revolutionary activities or conspiracy. They were tried very quickly and sentenced to ten or twelve years in jail. They did not receive fair trials.

Q. What has the Government done about land reform?

A. It has created many collectives, but it has not given land to the campesinos, even though it expropriated huge estates that included some of the best land in Nicaragua. They now are socialized compounds—State-owned enterprises—but have not been able to show a profit because of poor management.

Q. How much of the economy is still in private hands?

A. About half. Commerce, agriculture, and some industry are privately owned. Most industry, mining, fishing, and transportation are in Government hands.

Q. How do you know the State enterprises are doing poorly?

A. Many businesses are closed. There is much unemployment, and there is a high inflation rate—around 30 percent. It is not as high as in South America, but Central America has always been a low inflation area. We have had problems getting labor to harvest the cotton and coffee crops. Some of the people who formerly did that are now in the Army, which has expanded greatly. How much is a secret, but many unemployed people go into nonproductive jobs, like the Army or the civil service.

Nevertheless Nicaragua looks like a prosperous country. You have to line up for movies and restaurants. People have money to spend. But production is low and there is not enough foreign currency to pay for many imports, so consumer goods are scarce.

Q. How much unemployment is there?

A. A large percentage of the workforce is unemployed, but the Government doesn't know how much because it has little data. Either its people don't know how to compile the facts or they don't want to. They have not made public any figures on the status of the companies that belong to the people. Of course they are doing badly, but we still should be kept informed on matters of public finance. We criticize that policy in our newspaper.

Q. Is the country receiving aid from Cuba or the Soviet Union?

A. I believe so, but I don't know what type of aid—probably technical. There is some military assistance; but I don't know exactly how much.

Q. Are Russians in evidence?

A. There are very few Russians around; their embassy is quite small. But there are delegations from all the Eastern bloc countries—Bulgaria, Hungary, Poland, East Germany—that we didn't have before. We should have relations with all those countries, including Soviet Russia, but the problem is that we are very small and very poor, and a large diplomatic corps abroad is a tremendous burden. Travel costs are high, and so are the costs of living abroad.

We take a critical approach to that in La Prensa. We have a margin of freedom and we try to use it to the best advantage. But of course there are some limitations.

Q. What are they?

A. We cannot publish any news that directly involves the military without clearing it with the military. We also must confirm with official sources information related to national security or to the economy. It is most cumbersome.

Q. Do the authorities censor you?

A. Not on a daily basis.

Q. Is press freedom greater or less than under Somoza?

A. Neither better nor worse. Under Somoza there were times when there was no freedom whatever; there were journalists in jail; there were armed attacks on our building at night. There were two and a half years of strict press censorship. My father was in jail several times before he was killed. Now the situation is different.

The problem is that the Government wants us to say there is complete freedom of the press. But we cannot violate our principles; we have to speak the truth. If officials want us to say that there is complete press freedom they should get rid of the restrictions. Our Constitution guarantees freedom of the press.

Q. Have you been asked to say there are no restrictions?

A. When we print that there are restrictions they claim we are trying to degrade the revolution. The authorities attack us on Government-controlled television and radio and in two Government-controlled newspapers. There has been a campaign against *La Prensa* ever since the authorities realized that our newspaper was going to be independent and not follow any single ideology. We are truly democratic; we are not Marxists.

Q. Would you describe Nicaragua's ruling group?

A. There are nine people in the ruling junta. They were selected during the insurrection. There were three factions, and they formed a coalition. They quarrel privately, but they try to project a public image of unanimity. There is a constant struggle for power.

Q. Is one stronger than the rest?

A. There are two: Umberto Ortega, the General Chief of the Army, and Thomas Borgé. Like all other members of the junta, they are Marxist-oriented.

Q. Were the groups that brought about the revolution Marxist?

A. No, many groups cooperated in the revolution. Afterward the strongest got into power. Now they want to keep that power. They don't want to hold elections. They say there will be an election in 1985—to consolidate the revolutionary power, but not to determine who has the power because the power is already in the hands of the people. They say Nicaragua is not going to be like Cuba.

Q. Could Nicaragua be independent of Cuba?

A. It's a question of degree. There are moral and ideological ties that cannot be broken—with Cuba, Russia, East Germany, Bulgaria, Hungary, Vietnam, Laos, Cambodia. You cannot break off with your friends overnight. Other things also make for interdependent international relations, like economic or technical aid.

Q. What might the Reagan Administration do for Nicaragua?

A. I understand it plans to stop U.S. aid, or to make it conditional. It may say, "Stay inside Nicaragua; don't stir up revolutions elsewhere." In any case the Reagan Admin-

istration's aid to Nicaragua will not compare with its aid to El Salvador. The budget for 1982 allots about $100 million to El Salvador and $32 million to Nicaragua, but this may be tied up in Congress.

Q. What influence might El Salvador have on Nicaragua?

A. If the Left wins in El Salvador that may consolidate the Nicaraguan revolution. I don't believe we are going to have a democracy. We're not going to have elections like Costa Rica. If we have candidates they will be Sandinistas. We are leaning toward a new form of dictatorship.

Q. Do you say that?

A. Five independent political parties in Nicaragua said that we are leaning toward dictatorship, and we published that under big headlines.

Q. Are other members of your family active in "La Prensa"?

A. My mother is a member of the Board of Directors and of the Editorial Board. My uncle, who is a well-known Nicaraguan poet and writer, is Co-Editor along with me and another person. Three of us edit the paper, each in three-day shifts.

Q. Are you concerned about newsprint and other supplies?

A. Yes, because the Government can argue—and it might seem logical—that there is a scarcity of foreign currency, with Nicaragua's exports down. Even now we are subject to delays in getting our materials out of customs. A problem could arise if the Government continues giving dollars to the other two papers and not us.

Q. What remains of the Somoza interest?

A. Nothing. They have all been taken over or distributed. The Somoza family is gone.

Q. Where does the Church stand on the changes in Nicaragua?

A. The Church has been opposing measures that are socialistic. Nicaraguans are a religious people and they respect the Church, but some people have attacked the Church. The Archbishop of Nicaragua took a strong position against the Somoza regime when it was killing Nicaraguans. The Archbishop is respected by the Sandinistas and by everybody else in Nicaragua. He is very important. He continues to speak out against violence.

Q. Do those who stand up for freedom there give you hope?

A. We have a saying in my country that hope is the last thing you lose. What is now happening does not portend a beautiful future for Nicaragua, but we have to keep working and trying to get the democratic regime we have fought for, and all the freedoms we believe in. If we did not have hope, we would simply pack and leave.●

NATIONAL PORT WEEK

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. BIAGGI. Mr. Speaker, today—on behalf of the Congressional Port Caucus—I introduce a House joint resolution which authorizes President Reagan to proclaim the week of October 4-11, 1981, as "National Port Week."

Since 1978, Congress has recognized the great contribution of commercial ports to the economic strength and stability of our Nation by sponsoring National Port Week.

The significance of ports to our economy is attested to by the fact that, in 1980, our ports contributed more than $35 billion to the gross national product. They added in excess of $1.5 billion to our balance of payments account, and they were responsible for the employment of over 1 million workers.

In addition to recognizing a major American resource, National Port Week serves to focus public attention on the need to maintain this vital asset.

The critical importance of our ports has become evident during the last year when we have witnessed in excess of 100 vessels waiting to load steam coal at U.S. ports. Unfortunately, the long lines of waiting vessels also demonstrate the need to improve our ports and to increase public awareness of the vital economic role of our Nation's ports.

The deficiency of our Nation's ports holds our country back in its effort to regain the high levels of prosperity which are well within our grasp. By honoring our ports during National Port Week, we will play a seminal role in encouraging the further growth and renovation of our commercial ports.

In recognition of the vital role of ports to our economy—and to underscore the need to further improve American ports, I urge you to support this measure.●

ISRAEL'S AIR STRIKE ON THE IRAQI NUCLEAR REACTOR

HON. JAMES A. COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. COURTER. Mr. Speaker, as the facts are becoming clearer, I believe that Israel's preemptive air strike against the Iraqi nuclear reactor was an act of justifiable self-defense. It is regrettable that Israel had to go to these lengths to protect itself, though Israel tried for 2 years to persuade the former French Government not to build a powerful, 70-megawatt nuclear reactor in Iraq, and not to provide Iraq with quantities of fuel of the type that is used to produce nuclear weapons materials. On June 23, Iraq's President, Saddam Hussein, publicly asked the nations of the world to assist Iraq in acquiring nuclear weapons capabilities and to help Iraq to develop the "Arab bomb." This public pronouncement verifies Israeli and Western suspicions about Iraq's true intentions.

Several important factors have emerged concerning the Iraqi reactor, destroyed in the Israeli raid.

First, Iraq is an oil-rich nation with no immediate need for nuclear power. Iraq's oil revenues could have easily financed the purchase of an entire nuclear reactor from France, ready to generate power strictly for civilian purposes. Iraq, however, insisted on a powerful "research" reactor that had the capacity to produce highly fissionable uranium-235 and plutonium, key ingredients in manufacturing nuclear weapons.

Second, little attention has been given to Iraq's desire to acquire "hot cells", from Italy or France. These cells, whose purpose is to chemically separate plutonium from the uranium fuel, would have been compatible with Iraq's large megawatt reactor. The plutonium could have then been used to manufacture a nuclear weapon.

Third, it should be pointed out that Iraq's willingness to submit to inspection by the International Atomic Energy Agency (IAEA) of the U.N. is no guarantee that a weapons program would have been detected or reported. The article which follows my remarks, written by a recently resigned inspector for the IAEA, gives an authoritative explanation of the weaknesses of the IAEA inspection procedures, and shows how Iraq could develop nuclear weapons materials without being detected in the course of periodic inspections.

It should not be lost on anyone that Iraq has been named by our own State Department as a key training base and exporter of international terrorism. Additionally, Iraq, as a Soviet client state, has opposed the American sponsored Camp David Peace Accords, and supports the terrorist PLO.

Mr. Speaker, had Israel waited, there is no doubt in my mind, that based on the evidence, Iraq would have built nuclear weapons for use against Israel or any other nation that Iraq wanted to threaten. Israel could not, in good conscience, be asked to wait until it was attacked by nuclear weapons and possibly be obliterated. No nation her size could survive a nuclear attack. Under these circumstances, I believe that Israel's strike at the Osirak Reactor in Baghdad was an act of justifiable self-defense, and I have joined other Members of Congress in signing a letter to President Reagan urging him to reconsider the embargo of the F-16 aircraft to Israel.

I hope that our Nation will do all it can to prevent the spread of nuclear weapons to dangerous, unstable and antidemocratic nations, that could use them to blackmail and terrorize the civilized world. This unfortunate incident should instruct us to augment our diplomatic efforts to stop nuclear proliferation, and to urge our allies to do the same. An effective antiproliferation policy would have prevented this attack, which has aggravated tensions in an already unstable region of the world. Thank you, Mr. Speaker.

SUPPOSE YOU WERE A REACTOR INSPECTOR . . .

(By Roger Richter)

Imagine that you are a nuclear safeguards inspector who will shortly be going to Iraq to conduct an inspection. You have to imagine yourself as a national of the Soviet Union or another Eastern bloc country. Since 1976, all inspections performed in Iraq have been conducted by Soviets or Hungarians. Countries have the right to veto inspectors from whatever countries they choose—a right which they regularly exercise. As an accepted inspector, you must keep in mind that any adverse conclusions you might reach as a result of your inspections would have to take into account your country's sensitivity to how this information might affect relations with Iraq.

In preparing for the inspection, you must first give the government of Iraq several weeks notice of your planned inspection and obtain a visa. The government may agree with the date or could, as has recently been the case, suggest you postpone or change your plans.

You are aware that, since Iraq is a signatory of the Nuclear Non-Proliferation Treaty, the only facilities subject to your examinations are those that Iraq has declared, to the International Atomic Energy Agency, as containing either thorium, natural or depleted uranium in metal or oxide form, or plutonium. Natural uranium in the form of U_3O_8 commonly known as yellowcake, is not subject to safeguards, despite its potential for easy conversion to target specimens for plutonium production. You are not entitled even to look at the other facilities if Iraq has not adhered to its obligation under NPT to report to the IAEA that material subject to safeguards is located in these facilities. You are aware that the role of the inspector is limited to verifying only material declared by Iraq or France. You have no authority to look for undeclared material. Your job is to verify that the declared material accountancy balance is correct. The IAEA does not look for clandestine operations. The IAEA, in effect, conducts an accounting operation.

The amount and level of enrichment of the reactor fuel elements is indicated on your computer printout. But you notice that 100 tons of uranium in the form of U_3O_8 is not on the list. This is not an oversight but a reflection of the fact that, even though Portugal reported the shipment to the IAEA, it is only a formality: the 200,000 pounds of U_3O_8 is not subject to safeguards. Had this uranium been in a slightly reduced form, such as UO_2, it would have been under safeguards; but this loophole could enable Iraq to do as it pleases with the U_3O_8. And so long as it does not report that the U_3O_8 has been converted into a material that is in the safeguarded category, you have no right to inquire of its whereabouts. You are disturbed by this because you realize that in the other Italian-supplied fuel-processing equipment, which is not under safeguards, Iraq possesses the capability to convert, in a rather simple fashion, the U_3O_8 to UO_2 or, even better, to uranium metal.

As much as 17 to 24 kilograms of plutonium could be produced each year with the Osirak reactor. Even if only one-third of this amount was produced in the first few years of operation of the reactor, through the use of the attendant processing facilities Iraq could acquire a stockpile of plutonium sufficient to make several atomic bombs.

Equally disturbing to you as an inspector is the realization that under the present negotiated agreement between the IAEA and Iraq, you will be limited to only three inspections per year, usually spaced at approximately four-month intervals. By the time you arrive to verify the declared inventory of fuel elements that power the reactor, all evidence of illicit irradiations could be covered up.

You may now be wondering what exactly an inspector actually does in the course of performing a safeguard inspection of the Osirak nuclear complex. Your inspection assignment is acutally quite narrowly focused. First, you will sit down with the operator of the nuclear reactor and review your computer listing of the nuclear material that has been declared to the IAEA. You will determine that the amount recorded by the operator is consistent with the amount reported to the IAEA by France.

If there is new, unirradiated fuel in the inventory, you will determine that the elements have not been replaced by dummy replica fuel. This is particularly important in the case of the Osirak fuel, since it would be a relatively easy matter to melt down the weapons-grade highly enriched uranium fuel plates for use in a nuclear bomb.

If the fuel elements are already in the reactor and have been irradiated, the inspection procedure normally requires that you visually identify the fuel elements. They can normally be observed under the approximately 20 feet of water. To confirm that these elements are not dummies, you have the right to ask the operator to turn on the reactor. You should then see a characteristic blue glow.

You will now return to Vienna and report that your inspection disclosed no discrepancies between the operator's records and that of the agency. The difficult part of the job is that you must prepare yourself mentally to ignore the many signs that may indicate the presence of clandestine activities going on in the facilities adjacent to the reactor—facilities that you were not permitted to inspect. You will try to forget that you have just been party to a very misleading process.

I was prompted a year ago to write of my concerns about Osirak to the Department of State U.S. mission to the IAEA:

"The available information points to an aggressive, coordinated program by Iraq to develop a nuclear weapons capability during the next five years.

"As a nuclear safeguards inspector at the IAEA, my concern and complaint is that Iraq will be able to conduct this program under the auspices of the Non-Proliferation Treaty and while violating the provisions of NPT. The IAEA safeguards are totally incapable of detecting the production of plutonium in large-size material test reactors under the presently constituted safeguards arrangements. Perhaps the most disturbing implication of the Iraqi nuclear program is that the NPT agreement has had the effect of assisting Iraq in acquiring the nuclear technology and nuclear material for its program by absolving the cooperating nations of their moral responsibility by shifting it to the IAEA. These cooperating nations have thwarted concerted international criticism of their actions by pointing to Iraq's signing of NPT, while turning away from the numerous, obvious and compelling evidence which leads to the conclusion that Iraq is embarked on a nuclear weapons program."●

THE 1980-81 VFW VOICE OF DEMOCRACY SCHOLARSHIP PROGRAM—VIRGINIA WINNER

HON. ROBERT W. DANIEL, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. ROBERT W. DANIEL, JR. Mr. Speaker, I want to share with my colleagues a copy of a speech written by Miss Catherine Pagel of Fort Lee, Va., for the "Voice of Democracy" contest.

The Veterans of Foreign Wars of the United States sponsor the "Voice of Democracy" contest, in which 250,000 secondary school students compete for five national scholarships. The 1981 contest theme was "My Commitment to My Country." Miss Pagel was the fifth-place winner in the 1981 contest. Her award-winning speech follows:

To be a congressman, a senator, or even president is a commendable thing. However, we all cannot be one of these. Still, we must make a commitment to our country. We cannot let the world turn without doing our part to move it. In some way, large or small, we all affect the outcome of our country's events. My commitment is to make that outcome positive.

I commit myself to the people of my country. After all, they are what our country is. I commit myself to doing everything in my power to enhance the lives of others. I commit myself to past generations, especially the elderly in our nursing homes, and to future generations, especially the children in our foster homes. I will fight for their justice and open myself to their needs. The elderly have made our country what it is today and I can benefit from their experiences. The children will shape our country tomorrow and I will help them on their way.

I commit myself to keep updated with my country's and the world's events so that I know the issues and can voice a solid opinion.

I commit myself to correspond with my representative in cases of injustice to see things are changed. I must do my part to improve my country. I must see to it that people continue to enjoy the freedom my country offers. I must keep on top of the issues so that when I am privileged to vote, I can do so with careful consideration. I must take my responsibilities seriously.

I must grasp the opportunities I have because I am a citizen of the United States. There are many things I have, and perhaps take for granted, that others are not fortunate enough to have. I have my life ahead of me and because of the freedom my country offers, I can choose whatever I want to be. My commitment is to seriously consider that choice and whatever it is, it must benefit the people of my country. I have the opportunity to receive an education. I must use this education to develop my talents and resources so that I can better aid my nation.

I commit myself to be an active citizen of the United States, to take pride in my country, and to instill this pride in others. I will strive to bring about the changes necessary to make my country great. I commit myself to the conservation of the beauty of our land. Future generations must have all that I am fortunate enough to have.

All the small contributions make a difference, and finally I make a difference to my country, a positive difference. I will be a force in my nation capable of accomplishing necessary tasks.

It all starts with caring. I care about my country and the people in it. With that as a beginning, I can take action with my commitment.●

THE FORGOTTEN WAR IN AFGHANISTAN

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. RITTER. Mr. Speaker, recently, I had the pleasure of meeting Lord Nicholas Bethell, a member of Great Britain's House of Lords and a member of the European Parliament. Lord Bethell and I share a common concern over the situation in Afghanistan. We are both concerned about the enormous defense costs the free and non-Communist world would have to pay to protect our oil lifelines and sources if the Soviets were able to control Afghanistan. Control of Afghanistan would place their bombers and troops only 300 miles away from the Arabian Sea and the Strait of Hormuz. Because of the many grave implications of a Soviet-controlled Afghanistan, Lord Bethell and I are working toward the formation of a "United States-European Working Group on Afghanistan." We know there is a ground swell of support, not only in the U.S. Congress, but in European legislative bodies as well to take effective steps toward ending the unlawful occupation of Afghanistan by Soviet troops. In this month's edition of Harpers magazine, Lord Bethell eloquently describes "The Forgotten War" that continues on in Afghanistan.

Enclosed, for the benefit of my colleagues, is this important article by Lord Nicholas Bethell.

THE FORGOTTEN WAR

(By Nicholas Bethell)

TO ARM THE AFGHANS

Afghanistan's Jaji district, part of Paktia province on the Pakistan border, thirty miles west of the Khyber Pass, teems with the debris of war and the aftermath of foreign invasion—burned crops and bombed livestock. In this mountainous southern area of the country there is no Soviet occupation, just two Afghan army garrisons with a few Soviet advisers in each, surrounded with minefields to keep out the resistance fighters (mujahedin), and to keep in the conscript Afghan soldiers, who are liable to change sides and join them. The steep, stony hills are littered with the pretty, green, butterfly-shaped objects that flutter down like toy propellers from Soviet aircraft. They look tempting, but they give off a nauseating chemical smell, and if you pick one up you lose a hand.

Although they are one of the curses of the Jaji valleys, at least they can quite easily be made harmless—by throwing a stone from a few yards away. The real curse is the Soviet helicopter gunships. They come sometimes to reprovision the garrisons and relieve the people inside them, sometimes to punish the local population. They hover overhead and the villagers run for cover like fieldmice from a hawk, then they rocket any sign of civilization, any building, anything alive or growing. It is the Soviets' policy, if they find it difficult to occupy an area, to scorch its earth and starve its people, forcing them into the cities, which they control, where they can be registered and corraled, and then conscripted or sent to the Soviet Union for reeducation.

The helicopters are the main reason why over 10 percent of the Afghan population—1,851,714 at the last count—have fled across the Pakistan border and are being looked after by the United Nations (largely at American and West European expense) in refugee camps near the city of Peshawar, which is a principal supply point for mujahedin groups. They have lost their homes and land but at least they are safe. The men can fight knowing that their wives and children are being taken care of. The same cannot be said of the villagers in Jaji district across the border, many of whom are themselves refugees from the occupied areas. They live on what little can be grown, on U.N. rations bought on the Pakistan black market and smuggled across the border, as hostages subject to the capricious vengeance of the helicopters.

Nowadays the mujadedin fire at a helicopter only from behind good cover, good enough to protect them from its terrible power. If they reveal their whereabouts, they get a rocket-load of high explosive, napalm, or poison gas. Their antiaircraft machine guns are too cumbersome and obtrusive to use and anyway the bullets bounce like peas off helicopters' titanium-strengthened hulls. (Metallurgy is one of the few areas where the Soviet Union leads the United States in science.)

Three generations of technical progress separate the two sides' armory. The invaders have guided missiles, the Afghans little more than the .303 Enfields issued to their grandfathers by the British Raj. (Precisely 100 years ago the Afghans worsted British invaders in precisely the same area.) The old Enfield, properly nursed and oiled, can still serve a purpose. It is a good, accurate weapon for the Afghan, who likes to lie in wait, to hide behind a rock and take slow, careful aim at an enemy patrolling on foot. But it is too heavy. It impedes a guerrilla fighter's mobility, and in Afghanistan today the Russians do not patrol on foot.

The mujahedin of Jaji district have little ammunition, even for these old rifles. There are 15,000 fighters, but arms for only 2,000. And they have to pay two or three dollars a piece for rifle rounds made individually by craftsmen in small Pakistani workshops. Some Afghans refuse these "forgeries," since a badly made round can ruin a rifle barrel forever. There are few things an Afghan fears more than the ruination of his rifle.

In the mujahedin's view there is one answer to the problem, a simple one. And that is a generous supply of surface-to-air missiles. To the Afghan guerrilla it seems axiomatic that these weapons—Soviet Sam 7's, British "Blowpipes," or the American "Red Eye"—are capable of transforming the war. They are light and simple to operate. Syrian infantrymen with only a few hours' training used them to shoot down Israeli fighters during the 1973 war. They are light to carry and cheap to buy.

Any bargain-basement arms dealer in New York or London can provide a Sam 7 rocket launcher for $7,000, with $2,000 for each missile, capable of destroying $9 million worth of helicopter. The heat-seeking "Red Eye" is even easier to operate. Former defense intelligence agency director Daniel Graham said, "You take the cap off and point it in the general direction of the enemy aircraft. The machine does the rest. You don't even have to pull the trigger. You have to be a very clever soldier to miss."

General Graham was speaking in Washington in February, at a meeting where Jaji district's guerrilla commander, Hakin Aryobi, and his political leader, Sayed Ahmad Gailani, head of the National Islamic Front for Afghanistan (NIFA), were introduced to senators and congressmen. The two Afghans heard him with keen anticipation, but with a certain anger, since it seems incredible to them that the West still withholds the weapons that could drive the hated gunships out of Afghan valleys. No helicopter, they believe, would venture into guerrilla-held territory once it was known that there were surface-to-air missiles in guerrilla hands. The valleys would become truly free and the villagers could return to a relatively normal life, harvesting crops and grazing livestock. The refugee flood would be stemmed. The "Red Eye" seems the answer to Afghan prayers.

Gailani's NIFA group is based among the Pushtu-speaking tribes of southern Afghanistan and across the border. He is the hereditary leader of the Qaderi sect of Sunni Islam, which has several million followers inside the country, so it was natural for him to be chosen by them to lead the armed struggle (jihad) against the Soviet invader. Unlike his main rival, Golbuddin Hekmatyar, whose Islamic fundamentalism makes Ayatollah Khomeini's seem liberal by comparison, he is tolerant of other faiths and not anti-Western. During his visit to Washington he invited the United States to do what the Soviet Union always does in similar circumstances—Angola, Zimbabwe, and El Salvador, for instance—to give the resistance fighters the arms that they need to fight a "war of national liberation."

"The entire Soviet bloc helped the Vietcong and it took them years to get to our stage," he said. "And Vietnam is far less important strategically than Afghanistan today. If aid comes, the Afghans will fight for a hundred years. But if we do not get arms, the jihad will fail and sooner or later people will accept any ideology rather than see their children killed in front of their eyes. If this happens and communism takes root, Soviet forces will be within 300 miles of the Straits of Hormuz, the entrance to the Gulf. They will be only 300 miles away from a stranglehold on the West's main oil supplies. Pakistan will be destabilized and the Soviet Union will probably be able to obtain port facilities in the warm water of the Indian Ocean, which has always been their aim. The Afghans will be persuaded to fight as Soviet mercenaries, as the Cubans do now, only more vigorously, since fighting is our traditional way."

The congressmen seemed impressed by Gailani's remarks. At a lunch in the Senate there was talk of "getting a bill up front" to provide funds for the mujahedin immediately, and resolutions have subsequently been tabled in both houses. Rep. Douglas Bereuter (Rep.-Neb.) said, "I ask the CIA about Afghanistan and all I get is a nod and a

wink and a nudge. I'd like to know what the U.S. is doing."

Rep. Robert Dornan (Rep.-Calif.) saw the issue, quite apart from its strategic implications, as the new president's first great human rights challenge: "Every sin that the United States committed or was alleged to have committed in Vietnam, the Soviet forces have committed hundreds of times over in Afghanistan. I was never a defender of Lieutenant Calley. I thought he should have been court-martialed and he got off lightly. But there are Soviet officers in Afghanistan committing a 'My Lai' almost every day."

The State Department and other Western foreign offices are quick to point out that things are never quite that simple. It is not publicly known to what extent, if at all, the West already helps the jihad. A White House spokesman recently refused to comment on this, adding, "This is the position we take on all problems that could involve covert activity. If you deny one operation, you have to deny all of them. So we neither confirm nor deny." British foreign secretary Lord Carrington says, "The arms are getting through to the guerrillas and I think we'd better leave it at that." Only President Sadat proudly proclaims that he helps the mujahedin and will continue to do so. His Western allies remain coy.

The arguments for inactivity can seem strong. The Soviets, it is pointed out, made a monumental miscalculation by invading Afghanistan. They thought that a few days would suffice to return the country to its normal, subservient, pro-Soviet position. Instead, they find themselves lumbered with an unpleasant guerrilla war on their borders, and, for the first time in recent memory, with the unflagging opposition of the entire third world. On January 15, 1980, they lost the U.N. vote on the issue by 104 votes to 18 and by November 20 the number of votes against them had risen to 111. This has almost never happened before. Usually the Soviets and the third world vote together. Their alliance with resurgent Islam, based on anti-imperialism and anti-Zionism, is shattered.

These important diplomatic gains, it is said, would be put at risk if the West involved itself in Afghanistan militarily, or at least if it were known to be so involved. The Soviet Union would be able to exploit any such clear link by labeling the Western governments imperialist warmongers and the mujahedin their puppets. Soviet propaganda would play down the quarrel with the third world and play up the quarrel with the United States. Afghanistan would become just one more bone of contention between the two superpowers.

Furthermore, the idea of intervention raises a serious question: should it be covert or overt? If it is to be the latter, as many in Congress would like, the decision must be made by other countries too, especially Pakistan, the only possible through route to the fighting area. Pakistan would have to face the consequences of becoming the West's accomplice in an anti-Soviet crusade. Already Pakistan border posts have been bombed by Soviet aircraft. President Zia ul-Haq would never agree to expose his country to further retaliation, at least not as matters stand now.

President Zia is in difficulty. He hanged his predecessor, Zulfiqar Ali Bhutto, and briefly restored the old-fashioned Islamic customs of amputation and public flogging. A few weeks ago he took away the independence of the judiciary, after hijackers of a Pakistani aircraft forced him into the humiliation of releasing some of his most fervent political opponents from prison. He has alienated not only Western liberal opinion but also many in his own country. Several regions, it is believed, are close to rebellion. Is this the man whom the West is now supposed to recruit to keep the Holy War in business?

The jihad, it is true, helps Pakistan's precarious stability. It is a popular Islamic cause and a unifying force at home as well as abroad. But the Afghan refugees in the north are a heavy burden for such a poor country, only partly relieved by the West through the United Nations, and the quarrels of the various mujahedin groups add significantly to the internal strife bedeviling the country. The Pakistan authorities presently show favor not to the moderate Gailani group but to Gulbuddin Hikmatyar, who is as anti-Western as he is anti-Soviet. Is the United States now expected to provide arms, through Pakistan, for a group that receives money from Libya's Qaddhafi and holds up the Iranian revolution to its compatriots as an example for the future?

The resistance groups are in disarray—or at least that is how it seems to Western observers. Gulbuddin rejects Gailani as a Western puppet, an aristocrat, and an Islamic backslider. Gailani sees Gulbuddin as a fanatic, without political background or support, who would take Afghanistan back to the dark ages. It seems absurd that with their country, occupied and in ruins, the mujahedin still cannot bury their differences and concentrate on fighting the greater enemy. Such disunity adds to the Western governments' problems, forcing them not only to decide the principle of support for the jihad but also to make value judgments between this or that group.

Finally, there is the question of the United States' national interest and political will. What popular motivation would Americans have for an alliance with unknown Islamic groups fighting a crusade on the borders of China, Russia and Pakistan? The memories of Vietnam, where the United States was sucked into war after deciding merely to supply arms and to train a few officers, are still vivid. And can these small groups of irregular soldiers really survive against the might of a superpower, especially one totally without moral restraint and ready to use any method to suppress people in occupied areas, with no journalists or television cameras there to portray the grim and gory details?

These are some of the arguments used to dull Congress's ardor for battle. Afghanistan is a lost cause, it is said. It has always been in the Soviet Union's sphere of influence and now it has been taken over entirely. Well, so be it. America has already too many overseas commitments, and if it must contemplate military adventure, let this be in areas closer to home like El Salvador. Do we really have to send surface-to-air missiles to the other side of the world? Don't we have enough problems of our own?

Such feelings of self-doubt, which in recent years have created policies of defeatism and inactivity, encourage the worldwide perception that the United States, while its main adversary embarks on a period of active and successful expansion, is content to decline as a power. And while this has little effect on firm allies such as Britain, which would never desert the Western alliance, it inevitably discourages third-world countries from throwing in their lot with the superpower that seems to lack the will either to assist its friends when they are in trouble or to pursue its own obvious global interests.

China is particularly concerned about the Afghan war. According to one congressman its ambassador in Washington has lately been abusing the Soviet Union "like a member of the John Birch Society." China provides the mujahedin, by devious means, with much of their weaponry, expecially its own ten-shot copy of the Kalashnikov machine rifle, which is very popular because it can use ammunition captured from the other side. (Mr. Gailani says, "Our most generous supplier is the Soviet army itself.") Its future attitude to the superpower battle will be influenced by American policies on Afghanistan.

Last year the United States had better reason to stand aloof. The mujahedin seemed little more than a thorn that the occupying army would soon be able to pluck from its flesh and destroy. And a few weeks after the invasion the hostage crisis in neighboring Iran stole the American people's attention. But now the hostages are home and the mujahedin are fighting more effectively than ever. The resilience and aggression of the Afghan warrior, something that the British came to understand the hard way a century ago, is at last being appreciated by American analysts on the Pakistan side of the border as well as, more personally, by Russian soldiers to the north.

Russian soldiers, confined day and night in barracks in a hostile land, are becoming "stir crazy" and discipline is beginning to suffer. According to recent accounts, too numerous to be dismissed as travelers' tales, they loot shops and sell military equipment for money to relieve their boredom. A special section of Kabul's Pul-e-Charki prison has been set aside for those who are caught. A thriving black market provides hashish and soft pornography, while their traditional recreation—alcohol—is furnished in various mixtures of eau de cologne, antifreeze, brake fluid, aircraft de-icing fluid, and an ingenious distillation of shoe polish toasted on slices of black bread.

Far from allowing themselves to be rounded up, the mujahedin have confined Soviet forces indoors or inside armored vehicles, in effect rounding them up themselves, putting the jailers behind bars. In this way, flying in the face of most expectations, they have proved themselves on the cruel battlefield of guerrilla warfare. But they are still an untrained and divided collection of diverse groups, using .303 rifles against missiles, dependent on Pakistan for bases and on rich Islamic nations for equipment. Unlike other successful guerrilla movements of recent memory, they have little or no support from the great powers.

Whether the West can ever help them openly must depend, in the words of Robert Neumann, former U.S. ambassador to Afghanistan, on providing "credible assurances of support" for General Zia's Pakistan government, since Pakistan is the only possible conduit. This has been one of the matters discussed during intense diplomatic negotiation these past weeks, most recently during Foreign Minister Aqa Shahi's visit to Washington on April 20. But, strangely, while these talks continue, the matter is debated hardly at all in public, either in Congress or in the press.

Afghanistan is the forgotten war, but it remains by far the most important military conflict of the day in terms of the Soviet-American strategic balance. It is the only instance since the Second World War where

the Soviet army has been engaged in protracted combat, and it is the only land where murder and expulsion to the point of genocide are being carried out by a foreign invading army.

So it is hard to understand why, until now, the Western world has been content to watch the battle like a spectator in a bullring, from time to time cheering on the tortured animal, but from a distance, as if the matter were of no concern to the onlookers and as if intervention were in any case useless, since the bull is inevitably doomed to die in the end.

The mujahedin have proved the improbable. The bull can survive against the matadors. The United States and its allies can now, with their help, persuade the Soviet government to discuss a nonaligned Afghanistan and the withdrawal of all foreign troops. Such an "impossible" result would be Russia's first military defeat in recent history, a blow to its superpower prestige of grandiose—almost Vietnamese—proportions.●

NEVER AGAIN—HOLOCAUST SURVIVORS CONDUCT DRAMATIC REUNION

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. BIAGGI. Mr. Speaker, recently, a dramatic reunion took place in Israel where the first World Gathering of Jewish Holocaust Survivors met. The historic occasion culminated 2 years of preparation in bringing together for the first and last time some 8,000 survivors of the dreaded holocaust—perhaps the most abhorrent of all eras in world history.

Those who gathered—and they were 8,000 strong—were there for a "celebration of life." They were survivors in the truest sense of the word. Let them serve as an inspiration for the world to prevent any other holocausts.

At this point in the RECORD I would like to insert the speech of Mr. Benjamin Meed, president of the Warsaw Ghetto Resistance Organization and vice chairman of the World Gathering of Jewish Holocaust Survivors. He made this speech before the 8,000 who gathered for the reunion, and I urge my colleagues to give it their fullest attention.

ADDRESS BY BENJAMIN MEED, JERUSALEM, AT THE KOTEL, JUNE 18, 1981

We stand here by the Kotel, the holiest of Jewish places—the symbol of the survival and indestructibility of the Jewish people—and announce to the world—we are here!

Here—where the Romans burned our temple, and our enemies said we would never return—we have returned.

Here—where the Arab Legions swore we would never stand again—we stand once more!

But, after the ghettos and crematoria, after the camps and the trains and the fighting in the forest—after surviving our holocaust, and scattering through this world—we have returned to this place to announce mir zaynen do! With our children, with our grandchildren, with the whole Nation of Israel.

Together, in testimony, in defiance of a world that would pretend that they never heard the screams coming from the ghetto, that they never smelled the smoke of the crematoria. In defiance of a world where some would now rob our keddoshim of their deaths, even as they were robbed of their lives.

And we say to the world: We will never again be silent!

We will never forgive, nor forget—nor allow the hallowed memory of our loved ones to be erased or defiled.

We will never allow our State of Israel to stand alone in a hostile world.

Mir zaynen do! Mit undser pain, mit undser vei.

There are no words to express the searing pain we still feel as we gather here today, knowing that there are 6 million of us who cannot be here and say, "We have survived!"

And there are others still, who survived the Nazi nightmare, but have not lived to see this day.

We—gathered here—are a vast multitude, yet we are small in number, compared to the millions we have lost.

Imagine each candle that we held in our hands is the symbol of over a thousand victims—our mothers, and fathers, our brothers and sisters, and—yes—even our own lost children. It is for them that we have come here. To keep our promise—to them—to our friends—to ourselves—to keep their memory alive.

Gathered together from 22 nations scattered over the entire globe—from nations that are free—from nations that still persecute Jews, from nations that deny that the holocaust has happened—we have come together to be in the Jewish homeland—in the State of Israel.

We know that the poison of antisemitism in this world, which brought on the holocaust, is still with us. But what we have learned from that terrible time is that the fate of a single community of Jews, whether in Kiev or Paris, Buenos Aires, or here in Eretz Yisroel is the fate of us all.

We must all stand together, steadfast in our determination to defend the Jewish people against our enemies, no matter where, or in what guise, they might appear.

For 4 days we have been together. We have embraced, shared our joy and shared our tears. We have mourned the loss of our loved ones, and taken pride in the coming of age of our children. For 4 days, we have lived a dream that began in the camps, and the forests—and the ghettos—40 years ago. A dream—that someday we would survive our nightmare.

And now we stand, in the shadow of the Kotel—facing the stones that have heard the pleas and the prayers for a hundred generations. And to those stones, that have received countless silent "kvitelech", we now return with a voice that shall be heard throughout the generations, in a voice that shall split the heavens.

Mir zaynen do! Anachnu kan! We are here!●

STATEMENT OF MR. HOYER REGARDING MOTION BY MRS. SCHNEIDER

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. HOYER. Mr. Speaker, while I commend the gentlewoman from Rhode Island for the intent of her motion to restore COLA to twice a year, I simply cannot support it because it does not go far enough in addressing the many concerns which the gentleman from Oklahoma proposes to bring before this body should Mrs. SCHNEIDER's amendment fail.

I cannot in good conscience cast my vote for a motion which in effect does a great disservice to the people I represent. Mr. JONES' motion, on the other hand, compels the committees of the House to examine what we have done here this evening. Mr. JONES' motion would give us more time to examine the severe cuts in COLA, in social security, and the many other useful and essential programs that we have slashed in barely 7 hours of examination.

Mr. Speaker, the productive, hardworking Federal employees of my district do not expect this great body to curtail their very meager benefits with little thought and with carefree ignorance of how the families in my district will react. But we have done that tonight. The Post Office and Civil Service Committee of which I am a member spent day after day in an attempt to comply with the mandate of the Gramm-Latta budget resolution. We did that and still preserved that which rightfully belongs to the Federal employee and the Federal retiree. That has been undone tonight and I wish to be on record as being opposed to this undoing.

Should Mrs. SCHNEIDER's motion pass this body, I will support it when ordered. But, Mr. Speaker, my constituency demands more; they demand more careful scrutiny by the Congress of what we are cutting and why. For that reason I am hoping that Mr. JONES' motion reaches the floor so that this body and this great process of deliberation does not complete a very hasty reduction and/or elimination of those benefits and those programs so important to my district, the State of Maryland, and the American public.●

OAKLAND RAIDERS' HEARING

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. STARK. Mr. Speaker, Oakland Raiders management wants to abandon the community that made the team one of the biggest success stories in professional football history. The owner is trying to move the team to Los Angeles in pursuit of greater monetary rewards.

To earn more money, is of course, the strongest of all business incentives. Ordinarily, as a businessman and former banker, I would defend the efforts of a business enterprise to improve its financial condition without Government interference. In this case, however, the issue is more than allowing a business to make a few more dollars it doesn't need.

The public is a factor, and the fans. Raiders fans number in the hundreds of thousands in northern California. Their loyalty and pocketbooks have produced fame and fortune for the city of Oakland, the county of Alameda, and the team, especially the team.

When fans fail to turn out, they are blamed for a team's financial demise, and there is no valid objection when the distressed team seeks to move to greener pastures. But what of the fans who turn out in great numbers and keep the team rich? Do they get any credit? Do they have any rights?

Those are some of the questions this situation raises in my mind. I think the fans deserve more than a shrug and smirk and a fading trail of jet fumes. I believe a successful team owes a big responsibility to its fans and community.

Besides fan support, professional sports teams get a lot of special treatment from local and Federal Governments in the form of tax breaks, antitrust concessions, and stadiums built with tax-free bonds guaranteed by local taxpayers. Such government generosity suggests an element of public trust.

I am focusing congressional attention on the current tug of war between Oakland and Los Angeles, first, to discourage the Raiders from moving, and second, to raise questions many other Members of Congress may also have to face before long, especially if the Raiders prevail in current court action and NFL rules governing franchise shifts become meaningless.

There are 143 Members of the House whose districts embrace NFL football teams, and many others whose outlying constituencies support those teams. Perhaps these Members think their teams are secure. A short while ago I would have thought the same about the Raiders, whose home stadium is in my district. Who would have believed that such a highly successful team, one of the league's top moneymakers, twice Super Bowl champion, enjoying sellout crowds for 11 consecutive years, would ever decide to move?

I would prefer to have the NFL police its own industry, but if that proves impossible, government may have to exert its influence to protect loyal local fans and communities from betrayal by avaricious owners. I am not referring to teams that are losing money and move to survive. I refer to teams such as the Raiders that are doing well and cannot show any good reason for a change of location.

A successful sports team means a great deal to a community such as Oakland in terms of jobs, business, identity, pride, and prestige. To allow such a team to pack up would cause incalculable harm.

Congress has made laws and established policies that benefit professional sports teams. Congress, therefore, has an obligation to monitor the conduct of teams which benefit from public laws and make sure the teams do not violate the public trust.

I have introduced two bills, H.R. 823 and H.R. 2577, through which I intend to explore the rights of fans and the responsibility of teams to their communities.

I began the process recently by chairing a hearing in Oakland before the Ways and Means Subcommittee on Select Revenue Measures. Following are excerpts which illustrate the scope of the testimony:

I have played professional football for 12 years in the AFL-NFL; 7 of them were for the Oakland Raiders. I have held season tickets since 1967. I have seen this community support the Raiders through seasons of 1 and 13, through seasons of 13 and 1, and through Super Bowl victories. The people who have supported the players are certainly a diversified group, but their love for the team is singular.

* * * if players can't pack up and move at will, how can owners, when the rules have been defined?—Tom Keating, former Raider player.●

U.S. ARMS SALES

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. BROOMFIELD. Mr. Speaker, as a longstanding member of the House Foreign Affairs Committee, I have readily acknowledged that U.S. foreign policy must be predicated upon one fundamental principle—that the United States has an obligation to be a leader of the free world—and as a leader, it must maintain its armed strength first and foremost, while nurturing cooperation and cohesion within alliances and between friends in order to maintain its security interests. In particular, national power, especially military power, is central to our diplomatic deliberations, and a sound national security policy must be built upon a willingness and an ability to protect our vital interests.

In developing a sound security policy, and in particular, a sound arms sales policy, however, I believe that the executive branch, among other things, should be fully cognizant of U.S. defense readiness, the transfer of sensitive U.S. technology, and the congressional consultative process.

The current administration, bent upon reversing the politico-military mistakes—and there were many—of the last 4 years, has been attempting to establish new national power imperatives utilizing large amounts of U.S. security assistance while proposing arms sales as the hard currency of U.S. foreign policy. In order to face down the Soviet Union, the administration is at this time considering controversial arms sales to Saudi Arabia, Pakistan, and the People's Republic of China. Among the U.S. military equipment presently proposed for sale are the sophisticated airborne warning and control system (AWACS) and the improved AIM-9L Sidewinder missile to the Saudis, as well as the U.S. Air Force's newest fighter, the F-16 Fighting Falcon, for the Pakistanis.

Given the high priority accorded to American defense readiness, it is important that our Nation, in seeking to sell the F-16 to such countries as Pakistan, be fully aware of the potential impact of these sales upon the readiness of the U.S. Air Force. Indeed, if the leadtime for F-16's to Pakistan is to be less than 24 months, the administration will have to seriously weigh the consequences of at least a modestly negative impact upon the U.S. F-16 program. It is, therefore, my hope that the Departments of State and Defense will work very closely with General Dynamics, the manufacturer of the F-16, in order to assure that U.S. readiness is in no way degraded for the sake of arms sales abroad.

Although overseas arms sales can serve as an important extension of our security, we should not allow the pursuit of arms sales agreements to be substituted for our more immediate defense responsibility—that of strengthening our own conventional and strategic military capabilities. In this regard, I compliment the administration on its final decision not to draw down on our aerial tanker inventory, which is so important to the U.S. single integrated operation plan, in attempting to provide the Saudis with a new refueling capability.

I also believe that our Nation should be moving prudently in securing arms arrangements which involve the transfer of more sophisticated technology. More than ever before, we should be closely examining the implications of

selling sophisticated U.S. military technology abroad. The proposed sale of AWACS and the improved AIM-9L Sidewinder missile to Saudi Arabia is an excellent case in point. I do not believe that the United States should sell AWACS to any country outside the Western Alliance framework, since this technology is most important to our national security interests. As a result, I believe it is more advantageous to our security interests to simply monitor the Persian Gulf region with U.S. deployed AWACS.

In addition, the executive branch needs to examine more carefully not only the national and international security implications of each arms sale agreement, but also its domestic, political, and military aspects. To be sure, specifically choosing the types of weapon systems for a foreign country impacts upon the implementation of our security assistance programs, the allocation of fiscal resources, the ability of the recipient to fully use that equipment, the kinds and numbers of military equipment which we maintain within our Armed Forces, the American defense production base, and last, but not least, the process of political approval. This latter matter requires substantive consultation between the executive and legislative branches in regard to the development of an overall arms sale policy, including that of political strategy to obtain approval of the sale. The recent arms talks with Saudi Arabia, Pakistan, and the People's Republic of China reflect not only a lack of sufficient advance consultation with the Congress but also a tendency to underestimate the political realities of congressional approval of the sale of certain proposed weapons systems.

In carrying out a more cohesive foreign policy, we in the Congress would like to work even more closely with the President, who has emphasized his desire to form a truly working partnership with us. By working more closely together, we can help to restore America's strength and respect and help to better assure the security of our Nation.●

TURKEY RUN FARM

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. YOUNG of Alaska. Mr. Speaker, I want to draw to the attention of my colleagues the innovative effort now underway in northern Virginia to save Turkey Run Farm from extinction because of Federal budget restraints. Turkey Run Farm is a re-creation of an 18th century, low-income farm, which is located next to the Central Intelligence Agency off Route 193 in Fairfax County, Va.

Earlier this year, the National Park Service was forced to absorb part of the expense of the cost-of-living increase for Federal employees which was granted last October. In response, the agency elected to close Turkey Run Farm.

Under the leadership of Congressman FRANK R. WOLF and Senator JOHN WARNER, a group of local citizens banded together to keep the farm open. With the support of community and business leaders, the friends of Turkey Run Farm, Inc. has raised over $50,000 to fund the farm's operation to date. The "Friends" president, Dr. Joseph Harsh, estimates the organization's annual farm budget will approach $120,000. That is nearly $70,000 less than the Park Service's projected operating costs for the same period.

The group is aggressively working to obtain donations to fund current operations while they seek support for an endowment to help finance the farm in the long term.

On June 7, 1981, the "Friends" signed a cooperative agreement with the National Park Service and assumed responsibility for operating the farm. The "Friends" have incorporated, obtained nonprofit tax status, and held a highly successful fund-raiser hosted by Senator WARNER, Representative WOLF, and others. The activities of the "Friends" on behalf of Turkey Run Farm has been widely reported in the Washington area, thanks in large part to the effort of WMAL's Jim Gallant.

President Reagan commended the "Friends" by letter for the inventive pioneer spirit evidenced in their efforts on behalf of the farm.

Interior Secretary James Watt lent his support for the effort at a gala evening at the farm on June 12. At that time, Dr. Joseph Harsh, executive director of the Northern Virginia Association of Historians; Mrs. Toni McMahon, president of the Fairfax County PTA Council; and Florence Townsend, president of the Fairfax County Chamber of Commerce, the president and vice presidents, respectively, of the "Friends" presented Secretary Watt with a check for $15,000 toward the cost of the farm's operation before the "Friends" assumed control.

The members of the Board of Directors of the Friends of Turkey Run Farm include: Mr. Stephen Adams, Mrs. Margaret Bowers, Mrs. Kaye Sloan Burke, Mr. Frederick Burroughs, Mrs. Carole Cordova, Mr. Milton Drewer, Mrs. Carol Friedman, Mr. James Gallant, Dr. Joseph Harsh, Mr. Chris Kloman, Mr. E. Ronald Lara, Ms. Kathryn MacLane, Mrs. Toni McMahon, Mr. Thomas Morr, Mr. Peter Stefanou, Mrs. Florence Townsend, Mr. Malcolm Underwood, Mr. Andrew Wahlquist, Mr. Ed Walton, Mrs. Susan Wyland, and Mr. Robert Zalokar.

Representative WOLF, Senator WARNER, and the many Friends of Turkey Run Farm should be congratulated for their work to save this farm park. Their efforts are a valuable example of community support for desirable programs which may face an uncertain future in these tight budget times.

Should you want more information about this program, the address of the Friends of Turkey Run Farm, Inc., is P.O. Box 1214, McLean, Va. 22101; or you may call (703) 323-2571 or (703) 285-2672.

I would also like to share with my colleagues a story about the effort to save the farm that appeared in the June 25 edition of the Alexandria Gazette and an editorial from the June 12, Fairfax Journal.

[From the Alexandria Gazette, June 25, 1981]

TURKEY RUN SAVED

(By Janet Green)

Talking "Turkey" to Congressman Frank Wolf (R-Va.) means saving Turkey Run Farm, off Rt. 193 in Fairfax County. He and a group of interested citizens organized the Friends of Turkey Run Farm in a remarkably short two-month period and saved the National Park Service farm from proposed budget cuts.

The Friends, led by Joseph Harsh, executive director of the Northern Virginia Association of Historians, have raised enough revenue through private donations (more than $50,000) to keep the farm going through the summer and early fall. The group plans to seek permanent private support from trust funds, foundations or wherever possible. The immediate goal is $1 million, which, according to Harsh, properly invested would assure continuation of the farm's unique programs on an annual basis. The current budget calls for expenditures of around $120,000 annually.

The operation of the programs initiated by the National Park Service and the equipment to carry them out (including many 18th-century household objects and facsimile farm implements) were turned over to the Friends of Turkey Run Farms at a 25-year agreement-signing ceremony at the farm. Surrounded by members of the group and a farm mascot, one of a half-dozen turkeys (one generation removed from wild turkeys) who made his presence known vocally as he strutted around the signing table, Russell E. Dickenson, park service director, signed the agreement. The park service will retain ownership of the property and equipment.

The farm, according to the agreement, will continue to display living habits, demonstrations and educational programs of an 18th-century, low-income, Northern Virginia farm. This notion contrasts with the operation of such Virginia plantations as Gunston Hall, Stratford, and the magnificent James River mansions.

The park service will provide maintenance through September and continue supplying some personnel. Some employees have already transferred over to the Friends organization, including Anna Eberly, who will be supervisor. She has been working at the

farm since 1972 and is credited with making the farm what it is today, Harsh said.

The park has attracted hundreds of visitors of all ages and from all parts of the world.

About 17,000 area school children have been given a chance to be a part-time farmer through a program in which groups of young people are invited to spend two nights and three days on the farm learning about 18th century life firsthand.

To supplement operating costs for the rest of the summer, the Friends sponsored an outdoor celebration in the farm's orchard, followed by $50-a-plate dinners in nearby private homes. Representatives of the park service, including Secretary James G. Watt, were joined by Senator John Warner and Congressman Wolf in extolling the virtues of continuing the farm's programs. The effort raised several additional thousands of dollars. Donors were entertained by the colonial-costumed, young, farm musicians, playing 18th-century instruments and music.

Contributions to save the farm may be sent to the National Park and Conservation Association Fund for Turkey Run Farm, 1701 18th St., N.W., Washington, D.C. 20009.

The farm is open to the public from 10 a.m. to 4:30 p.m., Wednesdays through Saturdays. Picnic tables are adjacent to the parking lot entrance from Rt. 193.

[From the Fairfax Journal, June 12, 1981]

PRESERVING THE PAST

There was a Thanksgiving of sorts at Turkey Run Farm last week as the National Park Service signed a 25-year rent-free lease with the Friends of Turkey Run, who will operate the 18th century working farm near McLean (Journal, June 5).

The farm, visited by thousands of students and tourists, seemed doomed earlier this year after several federal budget cuts made it impossible for the Park Service to continue operating the unusual facility.

But area citizens formed the Friends of Turkey Run in an effort to keep the farm going. Enough money was raised to operate the place through the summer months.

Now, with the signing of the new lease by the group's president, Joseph Harsh, the Park Service will all but bow out of the picture. The farm will survive only if the Friends of Turkey Run can raise funds to pay all expenses.

Finding survival money on a month-to-month basis won't work, according to Harsh. The only logical approach is for him and his group of political, business and civic representatives to raise sufficient cash to create an endowment fund.

Raising money for any purpose is no easy task these days, with interest rates at all-time highs and the economic outlook murky, to say the least. But we think Turkey Run Farm, a real living link with our colonial past, is well worth saving.

We commend those involved in this project and wish them success.●

DOMESTIC VOLUNTEER SERVICE ACT—LEGISLATIVE INTENT

HON. GEORGE M. O'BRIEN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. O'BRIEN. Mr. Speaker, section 5211 of the Gramm-Latta substitute, under "Subtitle B—Reauthorization of Certain Programs. General Extensions of Authority," subsection (20) extends the Domestic Volunteer Service Act of 1973 as amended.

The administration submitted a budget for title I, title II, and section 504 of the act. Section 5118 of the substitute reflects the administration's request for title I. The substitute however, simply provides such sums as may be necessary to carry out the provisions of title II and section 504.

As a guide for the conferees, the following figures reflect the administration's specific request for these parts of the act and are identical to the figures in the Senate's reconciliation bill:

The total amount of the appropriation to carry out Part A of Title II of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5001 et seq.) shall not exceed $28,691,000 for each of the fiscal years 1982, 1983 and 1984.

The total amount of the appropriation to carry out Part B of Title II of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4001 et seq.) shall not exceed $60,780,000 for each of the fiscal years 1982, 1983, and 1984.

The total amount of the appropriation under section 504 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5084 et seq.) shall not exceed $30,091,000 for fiscal year 1982, $29,348,000 for fiscal year 1983 and $24,029,000 for fiscal year 1984.

Mr. Speaker, when the House and Senate conferees meet, because the administration's figures and the Senate's are identical, it should be clearly understood by the House conferees that the Senate's figure should be accepted by the House.

Mr. Speaker, for the purpose of clarification and for the sake of establishing legislative history and intent, I am offering the following information.

Section 501 of the Domestic Volunteer Service Act of 1973, as amended (42 U.S.C. 4971 et seq.), parts (a), (b), and (c)(1) and (2) specifically earmark how dollars appropriated under the act must be used.

Mr. Speaker, it should be clearly understood that it is the intent of this amendment that the ACTION agency be free to expend any dollars appropriated for the implementation of title I without restrictions.

Since the funds for ACTION are reduced by the administration's request and the substitute, removal of the restrictive language in title I will give the agency total discretion and flexibility in meeting and fulfilling the goals of the act.●

OPEN LETTER TO CONGRESS ON SOCIAL SERVICES

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. BROWN of California. Mr. Speaker, the House is considering what could be the most significant single bill of the last half of this century. This budget reconciliation bill may fundamentally change the directions and perspectives of our Government and will, undoubtedly, have many long-term, as well as short-term, effects upon our society.

For those of you who have yet to decide how you will vote on the reconciliation bill or amendments to it, I ask that you take a moment and review an "open letter" which I recently received from an administrator and constituent of mine, George Forbes. Mr. Forbes has long been an advocate of social change in San Bernardino County, the largest geographical county in the United States. He eloquently states the negative impact upon our society when we neglect our human resources. He sees firsthand the value of the utilization of these resources and his testimony should not be neglected.

AN OPEN LETTER TO THE 97TH U.S. CONGRESS

A. QUESTION

Are you about to destroy valuable resources which have taken years to develop and which are important for the effective use of funds allocated for human services (health services, older Americans, disadvantaged, disabled)?

B. ESSENTIAL FACTORS

Two factors are critical to any national legislation intended to deal effectively with human services:

1. National Perspective—the problems of people and of human services delivery are universal. Effective application of solutions to the delivery of human services requires the integrity of a mechanism which can apply an effective solution throughout the nation.

2. Effective Interface—successful development and delivery of human services requires the involvement and cooperation—effective interface—of people. The interface must be a two way interchange and must function effectively at local, state, and national levels in order to cope with the needs of the nation in human services delivery.

C. PRIMARY CONCERNS

1. The integrity of factors (1) and (2).

2. The high cost of human services.

3. The need for investment in human resources.

D. PERSPECTIVES

1. The integrity of factors (1) and (2):

Leading sociologists and any good politician know that one must establish effective relationships (interface) with many people in order to accomplish worthwhile goals and objectives. The categorical—Health Systems Agency, Older American, and Community Services Administration—programs have fostered the development and strengthening of effective interface function. It may be about as logical to destroy (legislatively) the established interface resources as to destroy (literally) a politician's voter resources (by neglect, attitude, alienation).

Effective Social Planning must have access to viable interface with: the target population . . . in order to properly design a program which provides a needed opportunity or essential service, and in order to obtain the understanding and cooperation required to implement the programs; private and public sector resources . . . in order

to generate the resources needed for program implementation, and, to obtain the understanding and cooperation of resource agents which will insure a successful program.

2. The high cost of human services, and, the need for investment in human services:

Effective Social Planning must seek a design of models to effect solutions of social problems which are feasible, cost effective and reproducible. Concepts for models which deal with the high cost of human services, as well as with human resource investment, have been developed and should have a chance to be tested.

E. A REQUEST

That you seriously consider continuing the integrity of established interface mechanisms, and of mechanisms which maintain national perspective. These mechanisms are an essential foundation upon which successful program models can be built, tested, and then replicated.

It may be far wiser to make constructive changes in existing mechanisms—rather than destroy the "good" along with the "bad", on the questionable premise that a hasty "NEW" plan may prove to be the long awaited "answer."

Prudence dictates an awareness that man's ability to destroy far surpasses his ability to create, and that the power of resurrection, compensating for man's folly, is divine.

Your consideration will be most sincerely appreciated.

Respectfully submitted,

GEORGE S. FORBES,
Director, Social Planning Division, Community Services Department of San Bernardino County.●

TOMMY LESLIE

HON. JOHN L. NAPIER

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. NAPIER. Mr. Speaker, 20 years ago, South Carolina was on the verge of a serious economic crisis. With an economy which was totally dependent on agricultural production, the State experienced unprecedented outmigrations of its citizens who flocked North to industrialized cities in search of better paying jobs and shorter working hours.

Business, government, and civic leaders realized the seriousness of this situation in time to create an educational system which has become the envy of many States and nations. Under the guidance of then Governor ERNEST F. HOLLINGS, South Carolina undertook a massive task: To attract new industry by providing a skilled labor force.

As history has recorded, the plan worked to perfection. The South Carolina State Board for Technical and Comprehensive Education, through the creation of 16 geographically distributed technical colleges and industrial training programs, was able to turn the State's economy around by serving the needs of business and industry.

A system such as this is only a system without dedicated individuals. One person who has been instrumental in the success of the technical education system in South Carolina and especially in the Sixth Congressional District, is Industrial Service Representative Tommy Leslie. Much to our regret, Tommy Leslie will begin a much deserved retirement on June 30 after 13 years of commendable service to technical education.

Tommy Leslie's interest in technical education came from his service with the employment security commission in Bennettsville, S.C., from 1960–68. While serving as manager of the commission's office during that period, Tommy was not satisfied just to do an exceptionally fine professional job, but, in many instances, took a personal interest in the economic futures of the people he served.

When joining the technical education system as an industrial service representative based at Chesterfield-Marlboro Technical College, Tommy immediately thrust himself into an effort to establish much-needed training programs to serve business and industry in Chesterfield, Marlboro, and Dillon Counties. He also assisted in setting up special training schools for new and expanding industries to train the labor force for startup and expansion.

As a native of the area Tommy Leslie has so long and dutifully served, I take a special pride in commending him for service to his community, State, and Nation which will long stand as an example to all who follow. This man's knowledge and expertise have given momentum to South Carolina's quest for economic stability and growth. I wish him well in the retirement he so richly deserves, and look forward to working with him on the numerous public service projects with which I am sure he will be involved in the years ahead.●

IRAQI PEACE DEFINITION

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. DREIER. Mr. Speaker, the Government of Iraq has labeled Israel's recent bombing of the Osirak nuclear facility as a grave threat to peace in the Middle East. We must remember, however, that the Iraqi definition of peace has always been much different than our own.

Iraq, for all its touting of the importance of peace in the region, has remained in a state of war with Israel since 1948. Saddam Hussein, the President of Iraq, has enunciated a national goal "to destroy Tel Aviv with bombs." Recently President Hussein called on "all peace-loving nations of the world" to help Arab countries obtain an atom bomb in order to balance the nuclear capability of Israel. Hussein further asserted that the possession of atomic weapons by the Arabs was necessary for the maintenance of world peace and security.

I can only shudder to think of what such a "peace" would mean for the tiny enclave of Israel. The Israeli attack on the Osirak facility was a determined response to a very real and persistent threat to their existence. Let us not add to this threat by withholding or delaying the delivery of necessary arms to our traditional ally. We should never forget that a principal element in the establishment of a lasting peace in the Middle East must be the maintenance of the security of Israel.●

HUMAN RIGHTS

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. BONKER. Mr. Speaker, I commend to the attention of my distinguished colleagues an insightful article in today's Washington Post by Philip Geyelin, entitled "In the Fight for Human Rights, 'Try Everything'."

Mr. Geyelin writes:

In 20 years of handling over 20,000 cases and dispatching more than 350 missions to every corner of the world and every kind of regime, Amnesty has learned you have to try everything. It seems to me that the Amnesty approach offers the perfect antidote to a poisonous and senseless politicizing of the human rights debate.

The article follows:

[From the Washington Post, June 26, 1981]

IN THE FIGHT FOR HUMAN RIGHTS, "TRY EVERYTHING"

(By Philip Geyelin)

The American members of Amnesty International slipped into town a week or so ago, almost unnoticed, to celebrate their organization's 20th anniversary, reflect upon its extraordinary record, discuss strategy and rededicate themselves to the cause of human rights.

Released "prisoners of conscience" from Argentina, the Soviet Union, South Korea, Cuba and the United States addressed a candlelight ceremony at the Jefferson Memorial. Delegations called on their congressional representatives and more than 125 foreign embassies.

Andrew Blane, an American member of Amnesty's international secretariat, spoke of the "illusory distinction," in the matter of human rights, between "totalitarian", and "authoritarian" violators—the distinction so dear to the Reagan administration. "In terms of human rights," he said, "you don't examine the regime but rather the rights of individuals."

Other participants were as quick to dismiss an equally phony distinction between public upbraiding and "quiet diplomacy." In 20 years of handling over 20,000 cases and

dispatching more than 350 missions to every corner of the world and every kind of regime, Amnesty has learned you have to try everything.

It seems to me that the Amnesty approach offers the perfect antidote to a poisonous and senseless politicizing of the human-rights debate in the wake of the fiasco over the failed nomination of Dr. Ernest Lefever to be assistant secretary of state for human rights and humanitarian affairs.

The argument becomes poisonous when it turns on the political connections of Jacobo Timerman, an undoubted victim of (and authority on) human-rights violations in Argentina—or when Timerman goes beyond his particular expertise to play partisan politics in the course of the Lefever hearings. The same may be said when the White House vindictively threatens to take its own sweet time before naming a new candidate to the human-rights job—or to abolish it.

Just to begin with, the post isn't the White House's to abolish. Congress created it, just as Congress wrote this country's human-rights policy into law. One does not detect in this Congress a disposition to repeal those laws.

But that's not the real point. What Amnesty's experience lays bare, when you measure it against the Carter administration's record and the Reagan administration's promises, is the essential emptiness of the current debate.

On at least two counts, for example, the top man in the Reagan White House, Edwin Meese III, sounds remarkably like an Amnesty or even (perish the thought) a Carter administration man. "You see," he said on "Meet the Press" recently, "the objective is human rights, preserving them wherever there are violations."

And he added: "It's a matter then of using the most effective means, whether that's quiet diplomacy or whether it's public—bringing things to public attention."

Cyrus Vance, as secretary of state, said, in his definitive Law Day speech in April 1977, of the Carter policy: "The means available range from quiet diplomacy in its many forms through public pronouncements to withholding of assistance."

So far, not much argument. But Meese said more: "What has happened in the past too often has been that we have punished our friends and rewarded our enemies. . . . We practiced quiet overlooking of human rights in the communist countries, and then castigated those countries that would like to be friendly to us."

That's not true, if the State Department's 1,140-page human rights report to Congress in 1980 is any guide. A full 15 pages are devoted to a tough indictment of the Soviet Union—and a special condemnation for its practices in Afghanistan. The Carter administration "punished" the Soviets for just that, with a grain embargo among other things. Ronald Reagan lifted that embargo.

The report gives equally rough treatment (11 pages) to (totalitarian) Ethiopia and (authoritarian) Argentina. "Inhuman or degrading" is a phrase used to describe (totalitarian) Cuba's practices—dealt with in 10 pages; (authoritarian) Guatemala required only seven. If there was "quiet overlooking of human rights [violations] in the communist countries," it doesn't show in the report's handling of mainland China or Vietnam or the Eastern European bloc.

In short, a large part of the human-rights debate now is warmed-over rhetoric from the Reagan presidential campaign, inflamed by the Lefever affair and encouraged, no doubt, by past rhetorical excesses in the Carter human-rights approach. The message from Amnesty International is that this sort of petty partisan politics is the mortal enemy of a consistent and principled human-rights policy.●

MAYOR WHITE ON THE COURTS

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 26, 1981

● Mr. MOAKLEY. Mr. Speaker, on June 14, Mayor Kevin White of Boston addressed the graduating class of Suffolk University Law School. The mayor has made some outstandingly perceptive observations about the general direction in which the courts are headed.

In recent years, the Nation's courts have made fundamental and disturbing changes in the delicate balance between the branches of Government, as those relations have been understood throughout the history of our Constitution.

The courts have intervened, in surprising new ways, in the areas of policy formulation and implementation charged to the other branches.

Mr. Speaker, I believe Mayor White's observations will bring unique and important insights to this situation and I wish to share his comments with my colleagues:

MAYOR KEVIN H. WHITE COMMENCEMENT ADDRESS, SUFFOLK UNIVERSITY LAW SCHOOL, JUNE 14, 1981.

Thank you very much, proud parents and graduates of this law school—particularly the lower third of the class, who are about to hear some words of wisdom from one of your predecessors. I'm not used to hearing such generous words of introduction—let alone the sound of applause in their wake. But it's a good sound, and I hope I can reciprocate with some remarks both brief and free of the presumption that seems an integral part of commencement addresses.

The fact is, there is little that I can realistically hope to add to the erudition of your professors. I did not come here to either preach or moralize. But as I thought about this morning's ceremony, I thought also about the unique relationship that exists between this school and the political and judicial institutions in whose shadow it sits. Here on Beacon Hill, you occupy the crossroads of politics and the law. You sit in your classrooms, students of power as well as precedent. In the years to come, it is likely you will exercise one and quite possible redefine the other.

So let me talk a bit about my profession and yours, about politics and the law, about public service and jurisprudence. For they have a great deal in common. They are the only two professions that ever have a chance to shape our society in fundamental ways. No doctors, no engineers, will ever influence the rules of self-government as much as lawyers and public officials.

Our common denominator is power—a subject that has entranced and bewildered men from St. Augustine to Machiavelli. Walter Lippmann, a man of our own century, said that democratic government was wrong in its obsession with power's origins. "What determines the quality of civilization", he wrote in 1923, "is the use made of power. And that use cannot be controlled at the source."

Historically, power in America has flowed directly from the people to the men and women they elected to public office. It was elected officials who set the tone of public life, who commanded the headlines and charted the national course. But in recent years, that power has been blunted or wasted away. Vietnam and Watergate are only the most recent instances in which executive power has been tarnished by excess.

Public officials themselves are more timid in exercising their authority. They often cede to placate the media, rather than lead the public. They tend to lust after favorable mention on the evening news, rather than long range planning for the community they will leave their children.

But power in the hands of public officials has always been limited in this country. We checked more than we balanced in drawing up a constitution. And you don't have to advocate despotism to sense the paranoia crippling all political executives in the wake of earlier excesses. It throws a shadow over the motives of all who enter public life. It calls into question the validity of the democratic process itself.

The point is that in the final analysis, power is the greatest trust that the people can freely award to those they choose to lead them and govern them. But that power is meant to be aggressively used—not husbanded or dissipated. It is meant to be spent, not hoarded.

Spent wisely, openly, in achieving good ends for those who ultimately must be accounted to. To do less is to render the ballot box a quadrennial irrelevancy, and the political process a contest of smiles and meaningless slogans.

And there is another kind of power in America, inherent in the legal profession you are now ready to enter, which can fundamentally benefit not simply the affairs of an individual client, but can profoundly affect the fabric of American society as a whole.

Your profession is reliant as well on public support for its mandate—but a support diffused through legislatures and legal precedents.

It stands at the bar. It writes laws, it challenges laws. It is a profession that defends and interprets laws.

And most importantly, in this critical decade of the 80's, it's a profession whose members can obtain the most prestigious of perches: Sitting on the bench.

Two centuries ago, Alexander Hamilton defined the judiciary as the weakest of Government's three branches.

"The Executive," Hamilton wrote in the Federalist Papers, "not only dispenses the honors, but holds the sword of the community. The legislature not only commands the purse, but prescribes the rules by which the duties and rights of every citizen are to be regulated. The judiciary, on the contrary, has no influence over either the sword or the purse; no direction either of the strength or of the wealth of the society; and can take no active resolution whatever. It may be truly said to have neither force nor will, but merely judgement".

If only Hamilton could see us now. Of course, no one can reasonably expect society to still wear the coat that fit in 1788. Gov-

ernment has grown beyond the power of the Founding Fathers to imagine. Today, a hundred State legislative bodies, hundreds of Federal and State agencies; and thousands of Federal, State and municipal courts, all make the law and interpret what they have made.

We have become, not surprisingly, the most litigious society the world has ever known. And this may sound like a good thing for your future prospects. But one danger has grown, outstripping even the mountain of cases pending in our courts. Without intending such, we have aimed a legal dagger at the heart of political authority. A democratic society that entrusts its rulemaking and administrative functions to judges, no matter how learned or restrained, is a society that has failed in its mission to the people.

A century ago, politicians could reserve for themselves exclusive authority in the realm of public policy—even if they had to change the rules after the game had been played.

In my madder moments, I often think of Benjamin Butler—also known as Beast Butler for his savage occupation of New Orleans during the Civil War—and a man who, as Governor of Massachusetts in the late 19th century, was singlehandedly responsible for the decision by Harvard Law School to stop awarding honorary degrees to the men who occupy the corner office at the State House. In 1856, as a member of the Massachusetts State Senate, Butler went to Newburyport to try a case. He lost the case, a defeat he immediately blamed on the capriciousness of a judge.

Not content to lick his wound in private, Butler returned to Boston and filed a bill in the legislature which, in a single blow, abolished 52 judges and the entire court of Common Claims. In its place was born the Supreme Judicial Court of Massachusetts—not in retribution, its defenders have been telling us ever since, but in sublime wisdom. Such options don't exist for Butler's 20th century counterparts. Quite the opposite:

In recent years, we have witnessed judicial annexation of tasks historically the province of elected officials. Our classrooms, our housing—even our tax rates—all have fallen under the watchful eye of today's activist judiciary. Clocks have a way of resisting those who would try to set them back. Reversing the growth of judicial authority now would be as futile as looking back for Lot's wife.

But we are entitled to ask ourselves if we apply the same standards of experience and training to the new administrative judges that we expect of legislators and lawyers. The answer is, we do not.

Now this State can take justifiable pride in those men and women who sit on its benches. And this school can cite a long and distinguished honor roll of graduates who have lent their judgement to both the courtroom and the corridors of executive and legislative power. They know that no public official is infallible by virtue of popular mandate; they understand that no judge dons with his robes ultimate wisdom or practical experience at governing.

And that wisdom should never be forgotten.

It is basic wisdom that both judges and politicians should constantly remember and recall.

But whether you go into politics or the law, it is my hope to persuade you to take an active interest and maintain an understanding of both.

The best of both worlds is to take a crack at both.

And that's the other reason I'm here today—to issue an invitation as well as make an argument. Some would say that judges and lawyers have been forced to step in for a political system that has failed to perform as it should. I happen to disagree. But I am perfectly willing to listen to such a complaint—if only to impress upon each of you the essential need for your active involvelent in public as well as legal, debate.

I'm not suggesting that you have to be certified insane and run for mayor. What I am suggesting is that you break down the ivory towers of legal theorizing and enter the dusty, sweaty arena of public combat. I urge that you make public issues a constant and central part of your lives. Do it, by all means, before you reach the bench—or you may never fully comprehend the mutual respect that the lawmaker and lawgiver must experience if the law itself is to adequately reflect society's realities as well as its ideals.

Now that your investiture with legal power is imminent, the opportunities for service are limited only by your imagination and generosity. From labor law to legislative committees, from criminal justice to regulation of the unfathomable revolution in public communications—there is no limit to the challenge—the only thing we cannot afford is your indifference. In any age, that would be a painful luxury, but never more so than now, when the sources of national power are in such a fluid state and an activist judiciary cries out for administrative and political insight.

In your own backyard—so to speak, in this city—you have witnessed the democratic process in action. What you have seen may have horrified you. It may have inspired you. I only hope it hasn't bored you into cynicism or offended you into withdrawal. Because if we cannot look to you, endowed with a special insight into the relationship between law and politics, and steeped in the diversity and excellence that is the city's greatest legacy to her young, then to whom can we turn for future leadership?

At Suffolk, you have sought out wisdom as well as knowledge. The city itself has been your greatest classroom. You have learned from each other, as well as from books and scholars of the law. And now you are about to embark into a confused, turbulent, and uncertain world. You do not have my compassion; you have my envy.

Again as Lippmann advised those who embarked upon their careers during a dark moment of our history, the great depression:

"It is a cruel and bitter time for those who are the present victims of disorder; but for the young and for those who are free in spirit it is a time of liberation and of opportunity. For them there remains, come what may, their own energy, and the richness of the earth, the heritage of invention and skill, and the corpus of human wisdom. They need no more. Their paths will be more open, and what in one light is a vast breakdown of hopes is in another light the clearing away of debts and rigidities and preemptions that would choke them on their way."

Today, for each of you, is a jumbled collection of endings and beginnings, of flashbulbs and parental pride and friends worth remembering and loan vouchers you would just as soon forget. Share in Lippmann's vision, and the years ahead will indeed become a time of liberation and opportunity. For it will fall to you, as to each succeeding generation, to grapple with questions of power and its rightful apportionment between the conflicting, complementing forces of society. You will define it—and you will distribute it.

But, in the end, the debate over power is a debate over the ultimate source of wisdom. And in that contest, I have no difficulty in siding with what has been called the brilliant problem child of democracy—the people themselves.

I said that I didn't intend to either preach or moralize this morning. I did both. Well, what can you expect from a politician? To make up for it, let me leave you with the most profound truth, and one you will encounter in your immediate future.

It came to me through personal experience, and I am glad to share it with all of you. It dwarfs all the controversies of my public life, and shrinks the dilemmas of budget cutting and the city council to their proper dimesion. Here it is: In 15 campaigns, against 39 opponents, with millions of dollars expended and millions of words spoken—I have never in my entire life encountered any foe half as terrifying as the bar exam.

Congratulations—and good luck.●

SENATE—*Wednesday, July 8, 1981*

The Senate met at 12 noon, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, LL.D., D.D., offered the following prayer:

Let us pray.

Almighty God, Lord of all the Earth, may the celebration of our Nation's birth not have been perfunctory and easily forgotten. We were reminded of our roots: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain inalienable rights . . ." Teach us to take seriously our spiritual roots, for without a Creator-God there are no inalienable rights, and to refuse Thee is to forfeit our rights. Forgive us, O God, for wanting the benefits while we reject the Benefactor.

We were reminded that to preserve these rights governments are instituted with the consent of the governed. May we never forget that the Government of this Nation is "of the people, by the people and for the people" and that our Government exists to perpetuate their rights.

Give to the Senators and all associated with them in legislation a fresh commitment to the vision and the passion of those who founded this Nation and to the God who made it possible.

In Jesus' name. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

NOMINATION OF JUDGE SANDRA DAY O'CONNOR TO BE A JUSTICE OF THE SUPREME COURT

Mr. BAKER. Mr. President, I would like to congratulate Judge Sandra Day O'Connor on her historic nomination to the Supreme Court of the United States. I commend the President for the courage of his decision to name a woman, and I pledge my full support for her confirmation by the Senate.

Judge O'Connor's career has been distinguished by intellectual excellence and professional resolve. Her stewardship on the bench of the Arizona Court of Appeals has been acclaimed as "meticulous and deliberate, hard-working and notably bright."

She was born on March 26, 1930, and grew up on a ranch in Arizona. In 1950, she graduated from Stanford University with a bachelor of arts degree, and received her law degree from the Stanford law school 2 years later. She graduated third in her law school class. Supreme Court Justice William Rehnquist was first.

Judge O'Connor married John Jay O'Connor 3d, one of her law school classmates. Mr. O'Connor practices law at one of Arizona's top law firms. They have three sons.

After her graduation, Judge O'Connor spent 6 years in private practice in Arizona before becoming that State's assistant attorney general in 1965. In 1969, she was appointed to fill a slot in the Arizona Senate and subsequently won election for two full terms, culminating in her election as majority leader of that body. In 1974, Judge O'Connor ran for Superior Court Judge in Maricopa County and was appointed to Arizona's second-highest court, the court of appeals.

I applaud the characteristically forthright statements of the distinguished Senator from Arizona (Mr. GOLDWATER) for his support of Judge O'Connor and his astute refutations of unkindly comments about her nomination.

Pending the checks by the Federal Bureau of Investigation, I hope that the Senate will be able to act swiftly on her confirmation, and pave the way for what I believe will be a most successful Supreme Court career beginning in October.

Mr. STEVENS. Mr. President, I wish to add my voice in support of the President's action in nominating the first woman to ever be nominated to serve on our Supreme Court.

There is no question that Mrs. Sandra O'Connor is well qualified. Her service in the Arizona State Senate and her service as a member of the court of appeals of the Arizona court system has been very distinguished. Above all I commend the President for keeping a campaign commitment.

Many people look on campaign commitments made during the course of a Presidential campaign as rhetoric, designed to enlist support from this group or that group. I am most pleased that this President has seen fit to take this opportunity to carry out one of the commitments he made during the campaign. Not all the commitments he made can he carry out alone.

But this one, to nominate the first woman to the Supreme Court, was a decision he could make and he has made, and I think he should be commended for setting this example of being a President who is willing to keep campaign commitments. The fulfillment of this promise will benefit the entire Nation.

Mr. President, I ask unanimous consent that the articles appearing today in the Washington Star concerning the nominee for the Supreme Court, Sandra D. O'Connor, be printed in the RECORD. Those are the articles that commence on page 1, and one is entitled "Woman Justice Sparks Debate," and two separate articles on that, and the other is entitled "A Brainy Perfectionist Who 'Loves to Work,'" with two separate articles on that.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

WOMAN JUSTICE SPARKS DEBATE: O'CONNOR IS ATTACKED OVER ERA, ABORTION

(By Roberta Hornig and Allan Dodds Frank)

GOLDWATER VOWS FIGHT FOR NOMINEE

President Reagan's choice of Sandra D. O'Connor to fill a Supreme Court vacancy was given a cool reception by some conservatives in the Senate, but Barry Goldwater—who claims to be the chamber's most conservative member—vowed to battle any opposition to the nomination.

Liberals and moderates generally praised the selection of the judge from Goldwater's home state of Arizona yesterday.

Goldwater, in an interview, excoriated the right-to-life movement and Equal Rights Amendment opponents as "non-conservatives" who have been obstructing the work of Congress. He said they should have no say in the consideration of O'Connor's nomination.

The Arizona senator reserved his sharpest words for Moral Majority leader Jerry Falwell, who yesterday condemned Reagan's choice of O'Connor. "I think that every good Christian ought to kick Falwell right in the ass," Goldwater said.

At an earlier press conference, Goldwater said, "If it's going to take a fight, they're going to find old Goldy fighting like hell. . . . I don't like to get kicked around by people who call themselves conservatives on a nonconservative matter."

Predicting no problems in the Senate confirmation of O'Connor, Goldwater said, "Abortion is not a conservative issue. ERA is not a conservative issue."

Goldwater also accused single-issue groups of wasting the time of Congress.

"This abortion issue has gotten to be the biggest humbug issue in the United States. We have had over 40 votes on this matter without ever having a bill heard before a committee in this Congress. . . . The country is going to pot economically, militarily and every other way and we spend all our time talking about busing and abortions."

Calling O'Connor "the most conservative Republican I know," Goldwater said, "I don't buy this idea that a justice of the Supreme Court has to stand for this, that or the other thing."

In contrast, another leading Senate conservative Sen. Jesse Helms, said that he is "skeptical" of the nomination, adding that his viewpoint is shared by "at least five or six others."

Helms, R-N.C., was asked if he believed he and other conservatives could block the nomination. He acknowledged that he didn't know but added that he thinks some votes would be garnered "if the senators think the president has been misled."

And, he said, "I could see a filibuster" on the nomination.

Helms said he made his skepticism known to Reagan when the two talked yesterday morning—at the president's initiative—shortly before the nomination was made public.

"He put on a selling job," Helms said, adding that Reagan had stressed O'Connor's

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

position favoring capital punishment and law-and-order policies.

But Helms reported that he countered that "people I'm hearing from are people who have been down in the trenches for you since day one," referring to long-time Reagan supporters.

"I raised the question about her voting record with regard to abortion, ERA (the Equal Rights Amendment) and so forth," Helms said. He added that Reagan had tried to convince him that those O'Connor votes in the Arizona Legislature were merely procedural.

Helms also raised the specter of the president having been "misled" about O'Connor's background "either by his own people or the lady herself."

The North Carolina senator said Arizona Pro-Life groups were dispatching information to him purporting to show that O'Connor indeed had voted several times against abortion.

"I'm not going to assist the lady or prejudge the lady until we get that information," he said.

But, he added: "I'm skeptical because people who contacted me never misrepresented the facts on any other matter."

The O'Connor nomination also received a lukewarm response from Senate Judiciary Committee Chairman Strom Thurmond, R-S.C.

Thurmond, whose committee will shepherd the nomination through the Senate, was one of the few legislators in town refusing to speak to reporters or issuing a statement on the nomination yesterday.

Instead, a staff member on his committee reported that "the senator has said he's very pleased the president has made his choice and he will help the president in whatever way he can."

The staffer insisted that the statement was not meant to reveal "whether he's for or against" the nomination.

Helms, however, reported that he had met with Thurmond and said "He feels pretty much as I do."

Another cautious reaction came from another Republican member of the committee, Charles Grassley of Iowa. "I'm keeping an open mind. I would want to know what her basic philosophy is," said Grassley.

Despite the coolness of those conservatives, an aide to Howard Baker said the majority leader believes O'Connor will win Senate approval.

In a statement, Baker said he personally is "delighted with . . . (the president's) choice and I pledge my full support for her confirmation in the Senate."

A judiciary committee moderate, Sen. Alan Simpson, R-Wyo., said "I don't think there are enough horses to deny this nomination in any way."

O'Connor's appointment received positive, if hedged, comments from two of the most liberal Democrats in the Senate—Edward Kennedy of Massachusetts and Minority Whip Alan Cranston of California.

"Every American can take pride in the president's commitment to select such a woman for this critical office. I am heartened by the president's actions and I look forward to . . . the hearings," said Kennedy.

Cranston called O'Connor "a substantial leading scholar with training in the legislative branch" and added "It's great that a woman has been finally appointed to the Supreme Court. That's a major step."

Cranston predicted that Democrats as a group would endorse the nomination and that "the only opposition will come from Republicans.

Another key Senate Republican, who asked not to be identified, predicted that O'Connor's confirmation hearings "won't be a cakewalk" because of conservatives' opposition.

O'Connor, also drew praise from the other senator from Arizona, Democrat Dennis DeConcini, who said he has known and respected O'Connor since 1965. He called her "tough, competent and conservative, but not in a reactionary sense."

"She is respected," he said.

WOMAN JUSTICE SPARKS DEBATE: O'CONNOR IS ATTACKED OVER ERA, ABORTION

(By Lyle Denniston)

PRESIDENT'S CHOICE SETS A PRECEDENT

President Reagan has broken two centuries of national habit in choosing a woman—Sandra D. O'Connor of Arizona—for the Supreme Court.

In announcing yesterday that he had picked O'Connor, 51, a judge on the Arizona Court of Appeals, the president also stirred up a sizable but perhaps passing political storm over her views on women's rights.

Those views have not been spelled out fully in public, but some of the president's own political followers immediately denounced her as too liberal, particularly on abortion.

Conservative religious groups, anti-abortion leaders and New Right Republicans vowed to fight her nomination in the Senate.

It appears that Senate liberals and moderates, along with feminist organizations critical of Reagan since his election, would support her.

The nomination will be reviewed at hearings of the Senate Judiciary Committee, starting perhaps later this month. One committee aide said he doubted that final Senate action would come before September.

The president called for "swift bipartisan confirmation," but the prompt outbreak of controversy made it seem that it could be several weeks before O'Connor's name is put to a vote on the Senate floor.

The court is in summer recess and is not due to return to the bench until Oct. 5. The court now has only eight members—Justice Potter Stewart retired last Friday—but it could operate without O'Connor if there is a delay.

If confirmed O'Connor would become the 102nd justice to sit on the court and the first woman in its 191-year history.

On the bench, she would be seated next to another Arizonan, Justice William H. Rehnquist—the court's most conservative member.

O'Connor's decisions as a member of Arizona's mid-level appeals court suggest she is cautious in the use of judicial power, but the rulings do not offer a clear portrayal of her views on major social controversies.

The opposition that arose immediately to her was centered on claims that she is in favor of abortion and the proposed Equal Rights Amendment to the Constitution. Those claims were based on her record as a senator in the Arizona legislature.

Peter Gemma, executive director of the National Pro-Life Political Action Committee, an anti-abortion group, said: "She's not even ambivalent on the issue. She is a hard-core pro-abortion proponent."

He warned all 100 senators in a mailgram that his group will consider "a vote for O'Connor to be a vote for abortion."

The Rev. Jerry Falwell, head of the Moral Majority, said O'Connor "is opposed to attempts to curb the biological holocaust that has taken the lives of more than 10 million innocent babies" since the Supreme Court's 1973 decision recognizing a right to an abortion.

The president, however, said he was "completely satisfied on her right-to-life position."

Later, Deputy White House Press Secretary Larry Speakes said that O'Connor had told the president that "she is personally opposed to abortion and that it was especially abhorrent to her. She also feels that the subject of the regulation of abortion is a legitimate subject for the legislative area."

Reagan acted quickly to fill the vacancy created less than three weeks ago by the public announcement of Stewart's retirement. Some antiabortion leaders were claiming yesterday that the president acted hastily to head off their opposition.

The search for Stewart's replacement had been continuing privately since April, shortly after he told Vice President Bush and Attorney General William French Smith of his plan to retire.

On Monday evening, the president personally telephoned O'Connor at her home in Phoenix and offered her the nomination. She accepted.

The president personally disclosed his choice in the White House press room in late morning, calling O'Connor "truly a 'person for all seasons' " and implying that she fit his demand for "the most qualified woman I could possibly find."

He insisted that she had not been picked merely because she was a female. "That would not be fair to women, nor to future generations of all Americans whose lives are so deeply affected by the decisions of the court."

She was chosen, Reagan said, because she "meets the very high standards I demand of all court appointees."

Attorney General Smith told reporters that the choice of O'Connor was not "a single-issue determination" but rather was based on "her overall qualifications and background."

He said her views "fell generally within the president's overall philosophy."

In Phoenix, O'Connor issued a brief statement saying she was "extremely happy and honored" and vowing that, if confirmed, "I will do my best to serve the court and this nation in a manner that will bring credit to the president, to my family and to all people of this great nation."

A BRAINY PERFECTIONIST WHO "LOVES TO WORK"—SELECTION PROCESS STEEPED IN POLITICS

(By Lisa Myers)

On Monday afternoon, President Reagan had a few lingering questions about Arizona Judge Sandra D. O'Connor, his first choice for the Supreme Court. He tracked down O'Connor's longtime acquaintance and avid supporter, Sen. Barry Goldwater, who was vacationing in Newport Beach, Calif.

Reagan asked the Arizona Republican what he knew about O'Connor's position on abortion and the Equal Rights Amendment. Goldwater said he didn't know much about her thinking on abortion but that she favors the ERA.

"I heard she opposed me in 1976," Goldwater recalls the president saying.

"No," Goldwater replied, "she gave me hell for coming out for (President) Ford."

"Well," Reagan laughed, "that makes her real good."

A couple of hours later, Reagan called the 51-year-old O'Connor in Phoenix with the precedent-shattering invitation to become the first woman on the Supreme Court.

The 10-minute telephone call culminated a three-month selection process that was shrouded in secrecy and steeped in politics. Reagan's senior advisers, adamant that their boss not be upstaged, arranged for

candidates to be interviewed in a secret location. The official FBI background check wasn't ordered until yesterday, after Reagan strode into the White House press room to make the historic announcement.

"He deserved to have this moment," argues a senior White House official in defense of the extraordinary secrecy. "A lot of Democrats talk about equality for women, but this president had the guts to put one on the Supreme Court."

While suddenly eager to talk about "equality for women," Reagan's senior advisers also acknowledge that political factors played an important role in the selection process. The highly symbolic selection of a woman for the first Supreme Court vacancy, some admit, was hardly an act of political courage.

"Political brilliance would be a more accurate characterization," quips one Reaganite. "O'Connor is as close to perfect as anyone would have dreamed. She is well-qualified, a life-long Republican and basically conservative."

Reagan's political advisers expect the appointment to give Reagan considerable mileage among politically moderate men as well as women who might be troubled by the president's opposition to the ERA and by the dearth of women in senior administration positions.

The appointment also would tend to muffle charges of the more ardent feminist groups and many Democrats that Reagan is against equality for women. "How can they make that stick when he was the first one to appoint a woman to the court," chuckles a senior White House official. "It certainly weakens the Democrats."

Some officials also believe that appointing a jurist whom senior adviser Michael K. Deaver went out of his way to describe as "moderate" increases the likelihood that the president will get additional Supreme Court vacancies to fill.

"The current members of the court were watching very closely, particularly those five who are over 70 and might be thinking of retirement," says an official. "O'Connor is likely to set very well with them. We know she is quite acceptable to (Chief Justice Warren) Burger and (Justice William) Rehnquist."

The White House did not seem particularly distressed over the fierce opposition of anti-abortion groups and the wrath of Sen. Jesse Helms, R-N.C., who stormed down to see Reagan yesterday in a fury over the appointment.

"I don't see any lasting breach," says one political adviser, who believes that right-wing opposition will redound to Reagan's benefit elsewhere on the political spectrum.

Nevertheless, Reagan called Rev. Jerry Falwell, head of the Moral Majority, to assure the Lynchburg, Va., Baptist that O'Connor opposes abortion, according to a Moral Majority spokesman. Falwell earlier denounced the appointment.

The search for a nominee began informally in late March after Attorney General William French Smith met privately with retiring justice Potter Stewart. Without disclosing Stewart's plans to retire, Smith ordered a handful of his top aides to begin reading legal opinions and scholarly journals in search of candidates.

Before Smith could inform the president, the March 30 assassination attempt took place. Not until April 21—12 days after Reagan left the hospital—did he learn of the impending vacancy, which was to remain secret until Stewart's announcement on June 18.

Although the White House publicly insisted that Reagan was looking for the "best qualified candidate" regardless of sex, senior advisers say he made his "strong preference" for a woman clear from the outset. In fact, when Reagan first asked Smith and senior White House aides to compile a list, he admonished: "Remember that I've got a commitment to appoint a woman," Deaver recalls.

The Justice Department looked at more than 50 names in May, but the number had been winnowed to between 20 and 25 when Smith met alone with Reagan in early June to discuss potential candidates. O'Connor was on that list as being on a separate White House list of equal size compiled by counsel Fred Fielding and submitted to Justice on June 18.

Not long after Stewart's public announcement, Smith and his aides began interviewing a number of candidates at a still undisclosed location that was chosen to avoid being spotted by reporters. Senior White House advisers Edwin Meese III, James A. Baker III, Deaver, Smith and Fielding interviewed O'Connor at the secret location on June 30. The following day, O'Connor was interviewed by Reagan at the White House.

Senior White House advisers disagree as to whether there was ever a "short list." But one well-placed source said that by the beginning of last week, the serious contenders had been narrowed to O'Connor; J. Clifford Wallace, a California U.S. Court of Appeals judge; and Cornelia Kennedy, a member of the U.S. Court of Appeals for the sixth circuit of Michigan.

But only O'Connor was interviewed by Reagan and his closest White House advisers. And, according to Deaver, it was O'Connor's impressive performance during the one-hour White House session that cinched her nomination.

O'Connor underwent extensive checks, in part because Reagan had been burned by a California judicial appointment Donald R. Wright, who then-Gov. Reagan appointed as chief of the California Supreme Court, turned out to vote with court liberals on a number of key issues, to Reagan's irritation and dismay.

On the basis of their scrutiny of O'Connor's record, White House officials maintain that opposition to her nomination by anti-abortionists is ill-founded.

After letters and telegrams against O'Connor began pouring in on Friday, the White House checked out the specific allegations against her. On Monday, O'Connor was interviewed again by telephone by a Justice Department official and by senior members of Reagan's staff.

Fielding said he double-checked the record with O'Connor again Tuesday morning, shortly before the formal announcement.

Throughout the process, the White House was inundated by letters, telegrams and other devices promoting some serious as well as not-so-serious candidates.

A week and a half ago, Fielding said, a stack of cables and letters suddenly poured in promoting Phyllis Schlafly, leader of anti-ERA forces, for the court. "She was never on anyone's list," assured another White House official.

A Brainy Perfectionist Who "Loves to Work"—Nominee Believes in Family, Equal Rights

(By Allan Dodds Frank and Lyle Denniston)

Raised on the large and lonely reaches of the Lazy B ranch, but sent off to the city now and then to learn about the world, Sandra Day O'Connor is now a somewhat austere, cautious perfectionist of the law.

The judge chosen to be the first woman to sit on the U.S. Supreme Court has a public image of a brainy judicial technician and a private reputation as a working rancher and an easy-to-meet friend.

A rapidly rising and successful politician who was destined—by the choice of others—for higher office in state government, she chose herself to move to the judiciary, to a court with limited powers, and to remain there—until yesterday.

Her opinions on the Arizona Court of Appeals, a mid-level court, display a somewhat heavy judicial tone, infrequently crisp and seldom lyrical. They contain no hint of eagerness to expand the law beyond the precedents.

They deal with the grist of state law issues: crime from serious to petty, injured workers' claims, divorce, medical malpractice, rent disputes, auto accidents, credit controversies.

On crime, she ordinarily votes to uphold convictions, but her rejections of convicts' appeals contain no law-and-order rhetoric. The results seldom move ahead of what the Supreme Court has said.

She has had no occasion as a judge to deal with the big controversy that already surrounds her nomination: abortion. She has a record on that in the Arizona state senate, not in court. She has also taken no judicial position on such heated issues as school desegregation or prayers in public schools.

On women's rights in general, she has had only limited judicial opportunity to express herself. She did write an opinion last year that cut both ways on an issue that is basic to feminists and traditionalists alike; a divorced wife's right to share equally the property that belonged to the couple while married.

The ruling declared that if a workmen's compensation award is paid during marriage, it should be split at the time of divorce. If it is paid after divorce, it belongs only to the spouse who was hurt.

O'Connor possesses an unusually quick mind and sometimes vents her wit from the bench, where she is said by observers to grasp arguments more quickly than the lawyers are able to make them.

University of Michigan law professor Sallyanne Payton said O'Connor "has that knack that you frequently find in very, very good professional politicians whom you trust, which is showing a serious intensity and sincerity of interest in conversations, particularly in private conversations. There is a quality of insight and of acumen that sometimes manifests itself in wit." John Kolbe, the political editor of The Phoenix Gazette who has watched O'Connor for years, says, "her image is that of a moderate. She is very thoughtful. She is extremely bright and has a razor-sharp mind that makes her come off as somewhat abrupt. She suffers fools not too gladly."

The Arizona Bar Association ratings of Arizona judges listed O'Connor near the top, with a combined excellent-good rating of 81 percent in 1980 for her written opinions. Attorneys taking part in the association survey gave her high marks in nearly every category, with her lowest score of 53 per cent coming in the category of "courteousness to litigants and lawyers."

O'Connor first became a judge on the state Superior Court in January, 1975; she moved to the Court of Appeals in 1979. She has received high marks all three times the Arizona Bar Association has rated the courts.

Judge O'Connor's six years in the state Senate are expected to be the main target of opposition to her nomination.

Her record on abortion there includes votes against a request that Congress overrule the Supreme Court's 1973 decision by adopting a constitutional amendment, and against a proposed ban on free abortions at the state university hospital.

While being interviewed this week during the final judicial screening process, she told a Justice Department official that she voted against the abortion-funding bill because that was a "rider" to a football stadium bond-issue proposal, and the state constitution bars unrelated legislative "riders."

In 1970, before the Supreme Court ruling, a Senate committee on which she served approved a bill to repeal the state's law making abortion a crime. She told the Justice Department she does not remember how she voted on that.

She voted for a "freedom of conscience" bill to permit medical personnel to refuse to perform abortions in violation of their personal beliefs; that measure became law.

She sponsored a bill, which was not enacted, to permit state agencies to take part in birth control activities.

In conversations this week with the Justice Department, she said she had not been "a leader or outspoken advocate on behalf of either pro-life or abortion-rights organizations."

As a senator, she supported a bill to rewrite state laws to assure equal legal rights for women, and she once supported ratification of ERA by Arizona—something that has never occurred. She also has supported a voter referendum on ERA, which was not adopted.

While serving on the board of trustees of Stanford University, O'Connor had a role in another issue affecting the rights of the sexes. Sororities had been barred from the campus and, fellow trustee Sharon Percy Rockefeller said, O'Connor agreed with her that Stanford had been a better place without sororities. Even so, O'Connor ultimately voted to allow their return because fraternities were allowed, and she wanted to give female students equal opportunity.

Her friends also say that she personally has a strongly "pro-family" philosophy. They cite a homily she gave at the wedding of two people whom she had introduced, in which she said that "marriage is the single most important event in the lives of two people in love. . . . Marriage is the foundation of the family, mankind's basic unit of society, the hope of the world, and the strength of our country."

In the state senate, she has been identified with a number of "good government" issues—sponsoring bills to make it more difficult to commit persons to mental institutions, to use gasoline tax funds to pay for bike paths, to broaden the state's open meetings law, to codify state anti-trust law into a uniform code, to adopt a no-fault divorce law, to restrict child labor, and to oppose residency requirements for welfare.

In addition, she sponsored a bill to provide for merit selection of judges, a practice that has now become law in Arizona, where judges once stood for election.

On the Supreme Court, she will join an old friend, William H. Rehnquist. Both were academic leaders in the 1952 class at the Stanford University Law School and were editors of the Stanford Law Review.

The O'Connors and the Rehnquists remained friendly while practicing law in Phoenix and frequently visited each other. The Rehnquists once took Sandra O'Connor's mother, then in her 60s, on a pack trip through the Gila wilderness in southeastern Arizona.

Judge O'Connor is acquainted with, and close to, most of the state's political leaders. Republican Sen. Barry Goldwater has been one of her strongest boosters. He said yesterday that he has consulted her from time to time for advice about constitutional issues.

She got to know Sen. Dennis DeConcini, D-Ariz., in the mid-1960s when she worked as an assistant attorney general and DeConcini was an aide to the governor.

She has spent 20 years in Republican politics as a member of her precinct committee, legislative district chairman, Republican senate majority leader, and co-chair in 1972 of the state campaign to re-elect President Nixon.

Her husband, John J., is a partner in one of Phoenix's largest firms. In an interview, he described her as one who "loves to work and works hard and well."

He and his wife and their three sons enjoy skiing, tennis, golf and hiking. They often relax by retreating to a cabin in the Arizona mountains near Prescott.

Judge O'Connor's personal style grew out of her childhood on the Day family's ranch with 2,000 cattle, the Lazy B, which runs along the Gila River drainage straddling the southern portion of the Arizona-New Mexico border.

When O'Connor was born, "she arrived in El Paso," her mother, Ada Mae Day, told The Star. Mrs. Day explained that the 253-square-mile ranch was so far from any hospital that she visited her mother in El Paso for several months while bearing each child in order to use hospital facilities in Texas.

Mrs. Day said that Sandra attended elementary school and high school in El Paso before departing at 17 for Stanford University, where she received honors for completing her undergraduate degree in economics in three years and for law school work.

"Sandra was a very good student," Mrs. Day said. "She did well in every subject." The vast distance from the ranch to any metropolitan center also meant it was difficult for Harry and Ada Mae Day to take their three children to church.

"We have a good moral life," Mrs. Day said. "We raised our three children that way."

Alan Day, Judge O'Connor's brother and now the Lazy B manager, told The Star yesterday that he and his two sisters frequently were sent by their parents to visit family friends in El Paso, Los Angeles, Phoenix and other cities for a month or more to gain exposure of life away from the ranch.

Day said that the children attended whatever church the family friends visited. He said there was no particular denominational focus, but that more often than not the churches were Episcopal.

"We always had friends from all walks of life."

Mr. O'Connor declined to comment about his family's religious practices. He is Catholic, however, and the three O'Connor boys attended a Catholic prep school in Phoenix before going to college.

With her brother, sister and parents, the judge owns the 101-year-old Lazy B, a vast agglomeration of federal and state land leases in the high desert built around waterholes. She handles the legal work for the ranch, her sister Ann helps with the bookkeeping and Alan is the head cowboy and manager.

Her family came to Arizona from Kansas and Vermont, and obtained land around waterholes from homesteaders and from Apache Indians. The ranch covers an area more than four times the 61 square miles of land area in the District of Columbia, and was once roamed by Geronimo and Cochise.

Alan Day said that O'Connor visits the ranch "three or four times a year. She likes to come over when we're rounding up and ride with us for a day."

Mr. O'Connor said that he and his wife do not ride horses for recreation frequently. He explained that "when you're on a ranch, you ride a horse to do something, not for fun."

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The minority leader is recognized.

THE UNITED STATES SENATE

THE SENATE AND THE WAR OF 1812 (1809–1816)

Mr. ROBERT C. BYRD. Mr. President, I continue with my series of statements on the United States Senate. The statement today concerns the years 1809–1816.

Mr. President, let me describe a scene almost too terrible to contemplate: enemy soldiers landing on American shores; a pitched battle ending with the defeat of United States armed forces; enemy troops on the streets of Washington, D.C.; the Capitol, the White House, and other government buildings ablaze. Such a great national tragedy may seem inconceivable, and, yet that is precisely what did happen here in the summer of 1814 when British troops broke through the American lines at the battle of Bladensburg, marched down Maryland Avenue and burned much of this city. How this calamity occurred, and the role of the United States Senate in the war of 1812, will be the subjects of my remarks today, as part of my continuing series of addresses on the history of the United States Senate.

In my last address, I discussed the Senate during the era of Thomas Jefferson, concluding with the election of his successor, James Madison. On January 23, 1808, Madison was chosen as his party's presidential candidate by a Republican congressional caucus. According to the diary of John Quincy Adams, who was then a Senator from Massachusetts, it was Vermont Senator Stephen Bradley who called the caucus together. Bradley claimed to have received authority to call such a conclave by the Republican caucus four years earlier, and so he sent circulars announcing the meeting to all Republican members of the House and Senate. In fact, because party lines were so indistinct in those days, he sent notices to all but five members of the Senate and twenty-two members of the House, excluding them only on the grounds that they "have never been in the habit of acting with us." Madison won by a vote of 83 to 6, indicating his strong popularity with congressional Republicans. However, this margin is somewhat deceiving, since some sixty supporters of James Monroe of Virginia and George Clinton of New York boycotted the caucus. One who boldly attended the caucus and paid the price for it was Senator John Quincy Adams, son of former President John Adams whom Jefferson had defeated for the presidency in 1800. The younger Adams' conversion to republicanism cost him his Senate seat that year when the Massachusetts legislature, outraged over Jefferson's Embargo, elected James Lloyd over Adams.

President Jefferson, however, repaid his political debt to Adams by appointing him minister to Russia.[1]

As Professor Marshall Smelser had pointed out, in his masterful synthesis of this period, *The Democratic Republic, 1801–1815*, Madison's election by the caucus would affect his entire administration: "As the creation of the caucus, Madison could never dominate his makers."[2] Following after the strong presidency of Thomas Jefferson, Madison became a relatively weak president. This, of course, is not to denigrate his considerable achievements in public life, as one of the leaders of the Constitutional Convention of 1787, as author with Alexander Hamilton and John Jay of the *Federalist Papers*, as leader of the Republicans in the House of Representatives, and as Secretary of State under Jefferson. But James Madison simply did not measure up to the demands of executive leadership in those troubled times.

The paramount national issues when Madison became president were United States' relations with England and France. In a previous address, I discussed President Jefferson's efforts towards neutrality and his ill-fated Embargo. But Madison's administration began with a brief "honeymoon," even rosier than that accorded to most administrations. Relations with Great Britain improved steadily, as a result of negotiations with the British Minister to the United States, David Erskine, and an agreement was reached by which the British would lift their odious Orders in Council, interfering with American trade, and the United States would respond by repealing its Non-Importation Act. President Madison called Congress into special session and in his first presidential message urged Congress to pass implementing legislation. This was an immensely popular act which won the new president great public acclaim from both the Republicans and the Federalists. On June 19, 1809, the Senate unanimously approved legislation lifting the ban on trade. Once differences with the House version could be settled, the Senate passed the amended version on June 28, and then adjourned.[3] Tragically, the national jubilation was soon shattered by news that the British Cabinet had repudiated Erskine's agreement. Once again trade restrictions were imposed and relations between the United States and Britain grew more strained.

An examination of the proceedings of this first short session of the Eleventh Congress reveals marked differences between the Senate and the House. In the Senate there was little debate over Madison's proposal. Sessions appear to have been quite brief, with only a few speeches made by supporters of the bill (although I should add that not all remarks on the floor were transcribed in those days). The entire transcript of the month-long session fills only fifty pages in the *Annals of Congress*. By contrast, the House of Representatives was far more active, with longer sessions, lengthier speeches, more heated debate, and a willingness to take up a far greater range of subjects. (The House was still relatively small in number then and its rules were not as restrictive of debate as they are today). For that same first session of the Eleventh Congress, the transcripts of the House proceedings run to 420 pages. For the second session the Senate debates fill 100 pages while the House debates fill 1,400. This disparity helps to explain why the youthful Henry Clay of Kentucky decided to quit his seat in the Senate to stand for election to the House. As Clay wrote to James Monroe: "Accustomed to the popular branch of a legislature, and preferring the turbulence (if I may be allowed the term) of a numerous body to the solemn stillness of the Senate Chamber, it was a mere matter of taste that led me, perhaps injudiciously, to change my station."[4]

Henry Clay did not fare too badly in the House—he was elected Speaker on his first day in that body! One of his biographers, Clement Eaton, has called Henry Clay "the boldest and most decisive," and "one of the best and most powerful Speakers that the House of Representatives has ever had."[5] Clay has also been described as the "most powerful man in the nation from 1811 to 1825."[6] Another historian has speculated that when one considers Clay's conspicuous opposition to the policies of Presidents Madison and Monroe, he was perhaps "the leader of an anti-administration faction within the Republican party rather than the leader of the party itself."[7] I mention this to indicate that while the Federalist party was still in existence during the Madison era, the differences inside the majority Republican party were perhaps growing more significant than those between the two parties.

In the House, "Harry of the West," as Clay was affectionately called by his supporters, became the leader of a young band of warhawks. Representing the western and southern States primarily, they spoke out loudly for war with Britain to avenge the nation's honor, to protect their western States from British-provoked Indian attacks, to annex Canada, and to expand the United States territorially. One of the most interesting sidenotes about the warhawks was that many of the most hot-tempered among them shared the same boarding house on Capitol Hill: Clay and George Bibb of Kentucky, and John C. Calhoun, William Lowndes, and Langdon Cheves of South Carolina, all roomed at Mrs. Dowson's boarding house.

The significance of patterns of residence in early Washington was first uncovered by Professor James Sterling Young of Columbia University in his fascinating book, *The Washington Community 1800–1828*, published in 1966. By examining the early congressional directories, Professor Young found that members of Congress were listed not by their states or parties but by the boarding houses and hotels in which they lived. Furthermore, he found a high correlation between boarding house residency and patterns of voting in the Senate and House. In choosing places of temporary residence in the capital city, members of Congress naturally congregated according to their political and regional interests. How one voted helped to determine with whom one lived, and perhaps vice versa.

Washington, D.C., during those early years, was not a city of monuments, museums, parks, and broad avenues. It was a roughhewn wilderness settlement, with muddy streets, a few taverns, and a handful of boarding houses. Foreign diplomats considered it a hardship post, and members of Congress found it equally inhospitable, an extra inducement for keeping sessions of Congress as short as possible. Because of the acute shortage of housing, and the great problems of transportation in those days, most senators and representatives left their families at home. Few could afford the luxury of building or buying a private home in the capital—and indeed, until modern times there was a definite political stigma to owning a home in Washington, for it seemed to symbolize a politician's alienation from his constituents. So, members of Congress lived in boarding houses on Capitol Hill, and down Pennsylvania Avenue as far as Georgetown. Their rooms served as offices for handling correspondence and other legislative business off the floor of the Senate and House chambers, and we can be sure that politics and legislative tactics were prime subjects of conversation in their dining rooms and around their fireplaces each evening.

Every election year we hear much talk about the "mess in Washington," and so it is amusing to read in the early *Congressional Directories* that in 1809 there was a "Washington Mess" at Mrs. Wilson's boarding house, where seventeen senators and representatives roomed. The "Mess" was not a reference to the physical condition of the boarding house or its lodgers, but to the practice of eating meals together regularly, as in, say, a military messhall. One can also find references to a "War Mess" of warhawks and to "Dowson's crowd" or "Coyle's family" to the members of the Dowson and Coyle boarding houses. If we had been members of the Senate in 1809 we might have taken rooms at Mrs. Hamilton's, Mrs. Frost's, Miss Regan's, or Mr. Claxton's on Capitol Hill, or at Mrs. Suter's on F Street, Mr. Huddleston's on Pennsylvania Avenue, or Mr. Crawford's of Georgetown. Some of these appear to have been clusters of houses, as for instance Mrs. Dowson's of Capitol Hill, where members were listed as staying at the "House in which she resides," the "House next door," and the "House opposite side of the way."[8] (Parenthetically, boarding houses have not disappeared entirely from Capitol Hill in our own day. A number of them still stretch down East Capitol Street and its environs. A "Mrs. Snyder's" has long been a favorite temporary residence for scholars using the Library of Congress and the National

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Archives; and Appalachia House on Third Street, Southeast, provides rooms for students and faculty of Appalachian State University, located in Boone, N.C., during their educational trips to Washington.)

I have been talking about Henry Clay and the warhawks in the House of Representatives, to whom historians have devoted most of their attention during this period, but my purpose is really to focus on the Senate. There, the leader of the majority Republican party, and also the leading war advocate, was Senator William Branch Giles of Virginia. Giles was forty-two years old when he was elected to the Senate in 1804, but he had already established himself in national politics. A graduate of Princeton University, he had also studied law under George Wythe at the College of William and Mary. About half the members of the Senate during this era were college graduates—far out of proportion from the national average—and Princeton, Yale, Harvard, and William and Mary were the colleges most members had attended.[9]

William Branch Giles entered the House of Representatives in 1790 at the age of twenty-eight. There, he became the most outspoken opponent of Alexander Hamilton's financial program, and also of the Jay Treaty. He also denounced what he considered to be the adulation of President George Washington. Giles was a leader of the Republicans in the House, until ill health forced him to resign in 1802. Two years later he joined the more sedate Senate, where he quickly assumed leadership of the Jeffersonian forces during the impeachment trial of Samuel Chase.[10]

John Randolph, another Republican leader in the House, considered Giles "the most accomplished debater which his country had ever seen." Senator Thomas Hart Benton, in his monumental memoir of Congress, *Thirty Years View*, left us this description: "Mr. Giles neither read nor studied, but talked incessantly with able men, rather debating with them all the while; and drew from this source of information, and from the ready powers of his mind, the ample means of speaking on every subject with the fulness which the occasion required, the quickness which confounds an adversary, and the effect which a lick in time always produces." [11]

During Jefferson's presidency, Giles was one of the administration's chief advocates in the Senate, but once James Madison entered the White House, Senator Giles' pugilistic tendencies reemerged. Attempting to explain his break with his party's standard bearer, Giles wrote to a friend that he had nothing but the "warmest friendship and the most affectionate regards" for Madison before he became President, but he came to see the new President as the "spirit and support of the most unprincipled parasites, and dupe of the most wretched intrigues." Of Madison he now said, "republicanism was not safe in his hands." [12] Giles was particularly galled by Madison's strong reliance on Secretary of the Treasury Albert Gallatin, a man for whom he had no use at all. Giles led a successful movement in the Senate to block Gallatin's promotion to Secretary of State in Madison's Cabinet. But Giles was not the only Republican to show independence of the White House. In January 1809, sixteen Republican senators joined with five Federalists to order all armed vessels into active naval service, in an attempt to force the administration to prepare for war with Great Britain.[13]

Not all of the political fighting took place within the Republican ranks. The diminishing Federalist party still offered convenient targets for fire. In December 1809, for example, the arch-Federalist Timothy Pickering, Senator from Massachusetts, rose in the Senate to denounce what he considered the unconstitutional seizure of West Florida from Spain. Madison had justified this move on the grounds that the territory was included within the Louisiana Purchase, but Pickering read from a letter by French Foreign Minister Talleyrand, dated December 21, 1804, arguing that the Louisiana Purchase included no territory east of the Mississippi. As Pickering finished this reading, Senator Samuel Smith of Maryland (brother of Madison's Secretary of State Robert Smith) rose to ask whether the document was still secret. Pickering, himself a former Secretary of State, realized that he had violated the Senate's rules by reading a confidential document without the permission of the Senate. He tried to defend his action by arguing that sufficient time had elapsed to remove any need for secrecy, but his enemies jumped on the chance to embarrass him. On a motion of Henry Clay—then still a senator from Kentucky—the galleries were cleared and the Senate moved to censure Pickering for breach of confidence. Thus Timothy Pickering became the first member of the Senate ever to be censured. In the 172 years since then, the Senate has censured only seven of its members. In most cases the effect was both personally and politically devastating, and, indeed, Pickering shortly afterwards resigned his seat.[14]

The drums of war sounded loudly in 1810. Senator Giles was chairman of a committee appointed to respond to President Madison's military proposals, and, in January 1810, he reported a bill from this committee for the "fitting out, officering, and manning /of/ the frigates belonging to the United States." While the Republican party had long been philosophically opposed to a large navy, or any other sign of a strong central government, Giles now argued that the navy was not a threat to individual liberty but would secure liberty for the American people. In a remarkable address in the Senate on January 23, 1810, Giles dissected the history of the two political parties. He argued that the take-over of the federal government by the Republican party had led them to "run into the opposite extreme" from the Federalists' efforts towards centralization. The Republicans had so relaxed the powers of the government as to "impair or destroy its efficacy in resisting foreign aggressors." Senator Giles declared that he opposed both of these extremes and wanted to find a middle way in which individual liberties could be protected while the nation armed itself for its own protection. Claiming that he did not want war, Giles wanted the nation prepared in case war came. And he added that should war with Britain arise, then the United States would be justified in annexing nearby British territory, by which he was clearly referring to Canada. Giles' bill passed the Senate by a vote of 25 to 6, but died in a House committee. As Giles' first biographer, Dice Anderson, has written, the war of 1812, "if Giles had had his way, would have been the war of 1810." [15]

As this legislation showed, the collapse of Madison's diplomatic initiatives was leading Congress to take matters into its own hands. House Foreign Affairs Committee Chairman Nathaniel Macon had introduced a bill which was known as "Macon's Bill Number One" which embodied the administration's proposals for limiting all British and French imports to only American ships. Objections to this bill in the Senate had led to significant revisions, and, in 1810, Congress passed what became known as "Macon's Bill Number Two." This pivotal piece of legislation provided that the United States would trade with both Britain and France, but if one of these nations lifted its trade restrictions, then the United States would terminate all trade with the other. Initially, this legislation reopened American trade with Europe, and commerce flourished. But then the crafty French leader, Napoleon, acted to make it appear that France was lifting its trade restrictions. Under Macon's Bill, the United States had no alternative but to suspend its trade with Britain. President Madison issued a new proclamation of non-intercourse with Britain, which Congress affirmed in February 1811.[16]

The Twelfth Congress, which met at the call of President Madison a month earlier than scheduled, was a war Congress. Tempers had risen, and American foreign policy was in a sorry state. Trade with Britain was cut off, and yet evidence was emerging that in truth France had not suspended its own trade restrictions. British naval supremacy in the Atlantic was also galling to the young American Republic, so proud of its independence from Great Britain. Not only were the British disrupting American commerce but they were conscripting American seamen. When the warhawks in the House voted to expand the size of the army by 10,000 men, the Senate raised the ante to 25,000. As we might expect, William Branch Giles took the lead on this issue. The United States had

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enjoyed a long course of prosperity, Giles told his colleagues in the Senate, "but we ought not to calculate upon perpetual exemption from the common calamities of nations. When days of adversity shall arrive, we should meet them with becoming fortitude and energy." [17]

The "days of adversity" were closer at hand than Giles anticipated. President Madison and his new Secretary of State, James Monroe, had become convinced of the inevitability of war. On April 1, 1812, Madison sent Congress a secret message asking for an extension of the embargo for sixty days to protect American ships as war approached. According to Joseph Gales, publisher of the *National Intelligencer* and one of the first reporters of congressional debate, a delegation of members of Congress led by Speaker Clay called upon the president to assure him that a majority was ready to vote for a declaration of war if he requested it. On June 1, 1812, Madison sent Congress his declaration of war, charging Britain with seizing American seamen, violating the nation's neutral rights and territorial waters, blockading United States ports, and continuing their official restrictions on United States trade. "We behold . . . on the side of the United States, a state of peace toward Great Britain," wrote Madison. "Whether the United States shall continue passive under these progressive usurptions and these accumulated wrongs, or opposing force to force in defense of their national rights, shall commit a just cause into the hands of the Almighty Disposer of Events . . . is a solemn question which the Constitution wisely confides to the legislative department of the Government." [18]

On June 5, 1812, the House of Representatives voted 79 to 49 for war. In the Senate, Federalists from New England and the mid-Atlantic maritime states worked to delay a vote. Realizing that the Republican ranks were divided, that some Republicans favored total war with Britain, while others wanted war with both Britain and France, or limited war, or continued delay, the Federalists loaded the war resolution with numerous amendments to provide a cover and an inducement for Republicans to vote against the war. This strategy slowed down the war movement but could not prevent final passage of the resolution. One of the key votes was cast by Senator William Giles, who alternated between pro- and anti-war votes. According to Giles' most recent biographer, Dr. Mary Giunta of the National Historical Publications and Record Commission, Giles believed that both Britain and France were guilty of outrages against the United States but to war on both of them simultaneously would be folly. He finally concluded that Britain posed the greatest threat, since it was based in Canada and controlled the Atlantic. His final vote for war, therefore, was cast out of a "psychological fear of dominance by Great Britain." On June 17, 1812, the Senate voted 19 to 13 for war.[19]

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Some of Madison's critics have charged that he capitulated to congressional pressures in return for his renomination to the office of president. This charge appears groundless, since Madison's renomination was made certain as early as March 1812 when the Pennsylvania legislature elected a solid slate of electors committed to him. In May, Madison was renominated by the Republican caucus by a vote of 82 to 0, although again with several abstensions.[20] Vice President George Clinton having died in office, the caucus nominated Governor Elbridge Gerry of Massachusetts for vice president. Today we still associate Gerry's name with political redistricting: "Gerrymandering." President Madison did not buy his renomination with a declaration of war. He was as convinced as were the warhawks that war was both necessary and inevitable, but we may assume that the national war fever did not damage Madison's chances for reelection that November.

Mr. President, as we have been made so painfully aware in recent years, wars are not so easily fought on the battlefields as they are in the cabinet room or the congressional hearing room. Martial spirit and expectations of quick and easy victory in the eyes of those who declare war cannot be quickly translated into military performance. Even with Great Britain's preoccupation with its conflict with Napoleon on the European Continent, the war in North America went very badly for the United States. The gallant young men who marched off to battle met with ignominious defeats. In the summer of 1812, the United States launched a disastrous attack on British Canada, an attack which ended with the city of Detroit occupied by the British, the American garrison at the site of present-day Chicago massacred, and with control of Lake Erie firmly in the hands of the British navy. In November, General Henry Dearborn led a large American force to Canada, but the state militias refused to follow him across the border, and the expedition was forced to turn back. These events exposed the weakness of the state militias and the need for a strong regular army, and also caused President Madison to reorganize the War Department. The only bright notes were the naval victories of the *U.S. Constitution* ("Old Ironsides") and of Captain Stephen Decatur, who captured the British warship *Macedonian* and towed it back to New London, Connecticut.

The second session of the Twelfth Congress opened on November 2, 1812 in a much more subdued mood. Members heard a message from President Madison calling for enlargement of the Navy and higher pay for the Army, and authorization of a $20 million loan to pay the costs of the war. The Senate and House responded favorably with far less opposition than Madison had received during his first term. The only significant opposition to the president in the Senate came over his plan to add twenty more regiments of infantry to the Army, and there the opposition centered on lengthening the time of enlistment from one year to upwards of five years.[21]

During 1813 the war situation grew bleaker. The British navy blockaded the entrances to the Chesapeake and Delaware bays, eventually extending their blockade from New England to the Georgia coast. The blockade was extremely effective, causing scarcities of goods along the East Coast, high inflation, and a drastic reduction in government revenues on customs which brought the government to the verge of bankruptcy. Meanwhile, the Americans again moved to gain control over the Great Lakes. In April a force of 1,600 Americans under General Dearborn seized the British naval fleet at York, the present-day city of Toronto. The mission ended with the destruction of two British ships under construction, but at the cost of 320 American lives and the control of the Lakes remained in British hands.

The American forces were also accused of having burned government buildings as they left York—an act which would stimulate a terrible revenge. However, we should note the General Dearborn, in a letter to Senator Joseph Varnum, insisted that his troops neither burned nor destroyed any public or private buildings in York, with the exception of two block-houses and a few sheds belonging to the Naval Yard. It was the British, themselves, who set ablaze a frigate under construction and a large store-house of naval equipment to keep them from falling into the Americans' hands. As General Dearborn explained: "Several of the most valuable public buildings, connected with their principal military positions, were destroyed by the explosion of their magazine, which proved so fatal to our troops; and although there were strong provocations for burning or destroying the town, nothing of the kind took place." [22]

In June the British captured the American warship *Chesapeake* outside of Boston harbor, an event we remember today for the dying words of its thirty-two-year-old captain James Lawrence: "Don't give up the ship!" An even younger captain, twenty-eight-year-old Oliver Hazard Perry inscribed these words on his flagship, the *Lawrence*, which played an important role in the greatest American naval victory of the war. On September 10, 1813, the Americans won a decisive victory over the British on Lake Erie, during which the *Lawrence* was so badly damaged that Perry was forced to move to another ship in his fleet. My colleagues may recognize from my description of this event the 20 by 30 foot depiction of the battle which hangs over the east staircase of the Senate wing, just outside of my office. This impressive painting, by which we all pass many times during the day, was added to the Senate's artistic collection in 1873. In the carved wooden ribbon across the top of the painting is the message that Perry sent to General William Henry Harrison after the battle: "We have met the enemy and they are ours."

Through the efforts of the American minister to Russia, former Senator John Quincy Adams, the Tsar of Russia offered to mediate between the United States and Britain. President Madison quickly acted to appoint a peace commission, composed of Adams, House Speaker Clay, who had supported the war, Senator James Bayard, who had opposed the war, and Treasury Secretary Albert Gallatin. The Senate quickly confirmed the nominations of all but Gallatin. Federalist Senator Rufus King of New York challenged Gallatin's nomination, asking who would perform his duties at the Treasury while he was absent in Europe. Antiadministration Republicans, led again by William Giles, joined forces with the Federalists to oppose the nomination which was defeated 18 to 17. Despite the lack of confirmation, however, Gallatin sailed for Russia as the president's emissary. The whole issue was made moot by the British decision to reject the Tsar's offer. However, the British did agree to enter into direct negotiations with the Americans. Since Gallatin was already overseas, he resigned his secretaryship on February 9, 1814, and joined the new negotiations. On the same day, the Senate at last confirmed his appointment to the Peace Commission, which would meet in the Belgian city of Ghent.[23]

The negotiations proceeded slowly and in April, after the abdication of Napoleon, the British decided to prosecute the war with new attention rathre than settle their differences diplomatically. Most of the fighting continued to concentrate around the Canadian border and the Great Lakes, but the stalemate continued. The British bombarded American forces at Fort Erie, but their attack against Fort Plattsburg on Lake Champlain proved a complete failure. As a diversionary tactic, to reduce pressure on the Canadian front, the British launched a force of 4,000 men to attack the mid-Atlantic seacoast, and the city of Washington became their prime target.

In mid-August 1814, the British fleet sailed into the Chesapeake Bay to the mouth of the Patuxent River. British troops disembarked and marched overland to Marlboro, Maryland, where they were met by the combined American militia and naval forces under General William Winder and Navy Captain—later Commodore—Joshua Barney. The two sides fought on the fields of Bladensburg, near the infamous old dueling grounds. Despite the American advantage of more numerous troops fighting on their own territory and defending their capital city, the British broke through the lines at Bladensburg and proceeded towards Washington. Needless to say, the city was filled with panic and its citizens fled.

Here is the account of Mrs. Margaret Bayard Smith, wife of the *National Intelligencer's* founder, Samuel Harrison Smith. Having observed the cheerful readiness of the American militia, Mrs. Smith had no doubts concerning their eventual victory over the British, but then one night her family was awakened by a loud knocking on their door. "Willie Bradley called to us, 'The enemy are advancing, our own troops are giving way on all sides and are retreating to the city. Go, for God's sake go.' He spoke in a voice of agony, and then flew to his horse and was out of sight in a moment. We immediately rose, the carriage and horses were soon ready, we loaded a wagon with what goods remained and about three o'clock left our house with all our servants, the women we sent to some private farm houses at a safe distance, while we pursued our course."

The next morning the Smith family received the sad news that "our city was taken, the bridges and public buildings burnt, our troops flying in every direction. Our little army totally dispersed." The British had marched into the city and destroyed first the Navy Yard and then the Capitol.

"They had great difficulty in firing the Capitol," Mrs. Smith reported, "several houses on the hill were burnt by cinders from the Capitol, but none by design." [24]

As a symbol of the Government, the Senate and House wings of the uncompleted building were slated for destruction by the British, who piled up books from the Library of Congress, along with documents and furnishings, to set fire to the chambers. Capitol Architect Benjamin Henry Latrobe later wrote that "great efforts were made to destroy the Supreme Court room, which was built with uncommon solidarity, by collecting into it, and setting fire to, the furniture of the adjacent rooms. By this means the columns were cracked exceedingly." Upstairs in the Senate chamber, Latrobe found the damage extensive. The fire "burnt the marble columns to lime" and "cracked every thing which was of freestone." [25] The interior of the Capitol was totally destroyed and the exterior was saved only by a fierce thunder storm and heavy wind—of the type we so often experience during Washington summers. As we know, the British also destroyed the White House, forcing President Madison to flee to Virginia. While most of the White House art and furnishings were destroyed, Dolley Madison did order the staff to save the Gilbert Stuart portrait of George Washington, which hangs in the White House to this day. It was after the destruction of Washington that the British moved to Baltimore, and where their firing upon Fort McHenry inspired Francis Scott Key to write "The Star Spangled Banner."

Because so many of the staff of the Senate and House were called to duty in the militia to guard the city, the records of the Congress were left in the Capitol until the last moment. As a result, many House documents were destroyed in the fire. The Senate, already in some disarray following the recent death of its Secretary, Samuel A. Otis, was fortunate to have a quick-witted clerk named Lewis Machen, who commandeered a farmer's cart and loaded up the Senate's records to carry them to safety in the Virginia countryside.

When the members of the Thirteenth Congress returned to Washington in September 1814, they found the Capitol a smoke-stained ruin, windows broken, chambers and furnishings destroyed, the library in ashes. Congress convened on September 19 at Blodgett's Hotel on Pennsylvania Avenue, down at the foot of Capitol Hill. Until recently, the building had been used as the Patent Office, and it was spared destruction only when Dr. William Thornton (the original designer of the Capitol Building) stood in its doorway and told the British officer in charge that "to burn what would be useful for all mankind would be as barbarous as formerly to burn the Alexandrian Library, for which the Turks have since been condemned by all enlightened nations." [26]

The Senate and House met in these cramped quarters for several months until the citizens of Washington built them a temporary meeting hall, "The Old Erick Capitol," on the site of the present-day Supreme Court Building. This act of generosity on the part of Washington citizens was motivated by a desire to prevent the federal government from moving to another location. Indeed, Philadelphia was making overtures to attract the government back to that former site. Another generous offer came from the Georgetown booksellers, Richards and Mallory, who offered the use of their books to members of Congress during that session, since the volumes of the Library of Congress had been destroyed.[27]

It was in connection with the destruction of the Library of Congress that former President Thomas Jefferson wrote Senator Samuel Smith on September 21, 1814:

> I learn from the newspaper that the Vandalism of our enemy has triumphed at Washington, over science as well as the arts, by the destruction of the noble edifice in which it was deposited.

To replace the burned copies of the Library, Jefferson offered his own magnificent collection, which he had spent fifty years putting together, having "spared no pains, opportunity, or expense, to make it what it is now." Jefferson's library contained 6,487 volumes of politics, history, science, law, literature, fine arts, and philosophy. It is somewhat stunning to read that some members of Congress objected that Jefferson's collection was "too philosophical, had too many books in foreign languages, was too costly, and was too large for the wants of Congress." Fortunately on January 26, 1815, Congress authorized $23,950 to purchase the library. According to a recent publication, "The Jefferson Library forms the nucleus around which the present collections of the Library of Congress have been assembled." Many of the volumes in Jefferson's Library were subsequently destroyed in a fire in 1851, but other volumes remain and have been assembled as a unit in the Rare Book and Special Collections Division of the Library.[28]

The War of 1812 ended with great irony. The Treaty of Ghent concluding the war was signed on Christmas eve 1814. The peace treaty made no reference to the issues of impressment of American seamen, naval blockades, and the disputed boundary with Canada

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which had caused the war in the first place. It merely restored conditions to the way they had been before the war broke out. In those days, news traveled slowly, and word of the treaty did not reach American shores until February 11, 1815. By then, the Americans had already received news of the great victory of General and former Senator Andrew Jackson at the Battle of New Orleans. Regular troops and frontier riflemen under Jackson's command had inflicted appalling casualties on the British line, killing or wounding over 2,000 British soldiers at a cost of only twenty-one American casualties! This great victory was actually won *after* the peace treaty was signed, but because it reached the public before news of the Treaty of Ghent, it appeared that the United States had won the final victory. This event came as a great boost to the young nation's pride and self-esteem and made General Jackson "a symbol of his age," carrying him eventually to the White House.

On February 13, 1815, Senator Giles reported a resolution honoring General Jackson and the men who served under his command, for their "most signal and complete victory over the enemy." A gold medal was struck in commemoration and presented to General Jackson. Two days later, on February 15, President Madison transmitted to the Senate the Treaty of Ghent, and the following day, the Senate, with obvious relief, voted unanimously to ratify the peace treaty.[29]

The Senate of the third session of the Thirteenth Congress and of the subsequent Fourteenth Congress was very different in attitude from that of the Eleventh Congress at the start of the Madison administration. The Republicans were still the majority party, and the Federalists had committed suicide as a party through their ill-timed Hartford Convention, with its overtures of secession from the Union, which they called on the very eve of peace with Great Britain. Within a few years, the Federalist Party would be but a memory and all members of Congress would identify themselves as Republicans. But these Republicans had been sobered by the difficult war, which had seen so many military defeats, the burning of the Capitol, and the bankruptcy of the Federal Treasury. They now turned to passing nationalist legislation: a National Bank, protective tariffs, direct taxation, and internal improvements. All of these measures were far more Hamiltonian than Jeffersonian in nature.

To take one of these as a case study: That the Republican majority would charter the Second Bank of the United States during the administration of James Madison is quite amazing when one considers that the Jeffersonian Republicans had bitterly fought against Hamilton's original Bank in the 1790's, and that Madison himself had led the fight against the Bank while a member of the House. The charter for the first Bank had expired in 1811. At that time Georgia Senator William H. Crawford had led the administration forces in an effort to renew the charter, while William Branch Giles led the "Old Republicans" determined to defeat the Bank. Giles and others saw in the Bank the last vestiges of Federalism, and an unconstitutional institution as well. On February 20, 1811, the Senate voted 20 to 20 on the bank issue, which was then decided in the negative by Vice President George Clinton. Clinton explained his action by saying that the "tendency to consolidation" seemed to him a "just and serious cause of alarm."[30]

So the United States went through the difficult War of 1812 without a national bank, and its finances fell into disarray. The war made the need for a central banking institution all the more apparent to the new Treasury Secretary, Alexander Dallas, who recommended chartering a second bank in 1814. Congress, however, passed a much watered down version, which President Madison chose to veto in January 1815 on the grounds that it was inadequate for the purposes of restoring the public credit, creating a national currency, and guaranteeing the public a means of obtaining durable loans.[31]

Again in his message to the Fourteenth Congress in December 1815, Madison revived the issue of a National Bank. In the House, this measure was supported by three remarkable young congressmen, Henry Clay, John C. Calhoun, and Daniel Webster, who collectively and individually would shape American political life over the next thirty years, and about whom I shall have much to say in the future. In the Senate, the Committee on Finance reported the bill on March 25, 1816. Chairman George Washington Campbell admitted that he considered the bill defective, but that the members had been in too much disagreement to decide upon appropriate amendments. Senator William Hill Wells of Delaware spoke out forcefully against the bill, arguing that "the disease, it is said, under which the people labor, is the banking fever of the States, and this is to be cured by giving them the banking fever of the United States." Despite such protestations, the Senate passed the Bank bill by a vote of 22 to 12 on April 3, 1816. Capitalized at $35 million, the Bank of the United States had its central office in Philadelphia and as many as twenty-five branches around the country. Although the Republicans had abandoned much of their heritage to support the Bank, in a burst of post-war nationalism and realism, the controversies surrounding it were far from over, and would surface again within the coming decades to significantly alter American political history.[32]

Before bringing this account to a close, I should like to discuss one other piece of postwar legislation, certainly not as significant as the Second Bank of the United States, but one which my colleagues might find most interesting. This was the Compensation Act of 1816 which for the first time provided members of Congress with an annual salary. The furor which this bill aroused demonstrates very aptly that the subject of congressional pay has been a most controversial one, from the earliest days of our republic. Prior to 1816 members of Congress had been paid six dollars a day for every day the Congress was in session. Wartime inflation had reduced buying power significantly enough that the legislators were prepared to tackle the "particular delicacy of the subject." Some members who were independently wealthy were opposed to the whole concept of salaries for legislative services. But others believed that more adequate compensation would attract more competent men to government service. On March 13, 1816, the Senate followed the lead of the House of Representatives and voted 22 to 11 (with 13 Republicans and 9 Federalists voting in favor of the bill and 8 Republicans and 3 Federalists opposing it) to establish an annual salary.[33]

Niles Weekly Register, a popular national periodical of the time which focused much attention on the Congress, estimated that for the past 8 years the Congress had met for an average of 165¼ days each year, amounting to payment of $991.50 to each member of Congress, exclusive of travel payments. To raise the salary to $1,500 would mean an increase of $508.50 a year per member, totaling some $400,000 in additional federal expenditures. *Niles* noted that the state legislatures of New Hampshire (Republican) and Rhode Island (Federalist) had already passed resolutions condemning the annual salary and demanding that it be rescinded, and that the bill had aroused intense public disapproval in Pennsylvania, South Carolina, Ohio, and Kentucky. However. *Niles* contended that "if *six* dollars per day, for the compensation of a member of Congress; leaving his home and his business to attend to the affairs of the public was not too much when the law first allowed it, it is a great deal too little now; for within those two periods the normal average value of every article of food and clothing has been doubled—and certainly 1,500 dollars a year can be no object to a gentleman possessed of talents sufficient to represent an enlightened people in Congress." Despite these words of support, in the next election two-thirds of the members of the House were defeated. Several senators were also defeated and others resigned rather than standing for reelection. The next year Congress repealed the Compensation Act.[34]

Mr. President, I have today recounted a story of national passion, a sense of injustice over our treatment by stronger powers, a war for national honor, for freedom of commerce, and for territorial expansion. I have described the ignominious destruction of the nation's capital, including the very building in which we meet today, and finally the rebuilding of the nation, with a new emphasis on internal improvements and westward migration. The first political era of Federalists versus Republicans was drawing to a close and a new one-party era was emerging. The programs of the two parties were merging, and the heirs of Thomas Jefferson were enacting such Hamiltonian programs as the Second Bank of the United States. It is significant to note that after this great national catastrophy, the war of 1812, that

Footnotes at end of article.

the political parties reevaluated their positions, swallowed hard, and adopted new measures necessary for a new era. This pattern has been repeated often in our history, and it has generally involved the federal government's assumption of far more power and responsibility than previously anticipated.

Mr. President, there was one more highly significant event in the closing years of the Madison administration, during the Fourteenth Congress, and that was the establishment of the first standing committees in the history of the United States Senate. This, however, was an event of such magnitude that I believe it warrants a separate address. I shall, therefore, take up the history of our committees as the subject of my next address in this series.

NOTES TO "THE SENATE AND WAR OF 1812"

[1] Allen Nevins, ed., *The Diary of John Quincy Adams, 1794-1845* (New York: Longmans, Green and Company, 1928), 51–57.

[2] Marshall Smelser, *The Democratic Republic, 1801–1815* (New York: Harper and Row, 1968), 186.

[3] *Annals of Congress*, 11th Congress, 1st sess., 39–40, 48.

[4] Clay to Monroe, November 13, 1810, in James F. Hopkins, ed., *The Papers of Henry Clay* (Lexington: University of Kentucky Press, 1959), Vol. 1, 498.

[5] Clement Eaton, *Henry Clay and the Art of American Politics* (Boston: Little, Brown and Company, 1957), 22–23.

[6] Mary P. Follett, *The Speaker of the House of Representatives* (New York: Longmans, Green and Company, 1896), 79.

[7] James Sterling Young, *The Washington Community 1800–1828* (New York: Columbia University Press, 1968), 132.

[8] *Ibid.*, 87–109; see also Perry M. Goldman and James Sterling Young, eds., *The United States Congressional Directories, 1789–1840* (New York: Columbia University Press, 1973).

[9] Mary A. Giunta, "The Public Life of William Branch Giles, Republican, 1790–1815" (Ph. D. dissertation, Catholic University, 1980), appendix on education levels of Congress.

[10] Alexander B. Lacy, Jr., "Jefferson and Congress: Congressional Method and Politics, 1801–1805" (Ph. D. dissertation, University of Virginia, 1964), 206–210.

[11] Thomas Hart Benton, *Thirty Years View* (New York: D. Appleton and Company, 1883), Vol. 1, 682–683.

[12] Giunta, "Public Life of William Branch Giles", 137.

[13] *Annals of Congress*, 10th Congress, 2nd sess., 305.

[14] Gerald H. Clarfield, *Timothy Pickering and the American Republic* (Pittsburgh: University of Pittsburgh Press, 1980), 247; *Annals of Congress*, 11th Congress, 3rd sess., 65–66.

[15] *Annals of Congress*, 11th Congress, 1st sess., 532–541; Dice Anderson, *William Branch Giles: A Study in the Politics of Virginia and the Nation from 1790 to 1830* (Gloucester, Massachusetts: Peter Smith, 1965, 1914), 155.

[16] Smelser, *The Democratic Republic*, 192–199.

[17] *Annals of Congress*, 12th Congress, 1st sess., 44.

[18] Gaillard Hunt, *The Writings of James Madison* (New York: G. P. Putnam's Sons, 1908), Vol. VIII, 192–201.

[19] Giunta, "The Public Life of William Branch Giles," 154–160; see also Leland Johnson, "The Suspense Was Hell: The Senate Vote for War in 1812," *Indiana Magazine of History*, 65 (December 1969).

[20] Irving Brandt, *The Fourth President, A Life of James Madison* (Indianapolis: Bobbs-Merrill, 1970), 481–487.

[21] *Annals of Congress*, 12th Congress, 2nd sess., 58–62.

[22] *Annals of Congress*, 13th Congress, 3rd sess., 297.

[23] *Senate Executive Journal*, Vol. 2, 389, 471; Henry Adams, The Life of Albert Gallatin (New York: Peter Smith, 1943, 1879, 477–483.

[24] Gaillard Hunt, *The First Forty Years of Washington Society Portrayed by the Family Letters of Mrs. Samuel Harrison Smith* (New York: Charles Scribner's Sons, 1906), 98–105.

[25] United States Senate Commission on Art and Antiquities, *The Senate Chamber, 1810–1859* (Washington: Government Printing Office, 1976), 3.

[26] Thomas Froncek, *An Illustrated History of the City of Washington* (New York: Alfred A. Knopf, 1977), 117.

[27] *Annals of Congress*, 13th Congress, 3rd sess., 20.

[28] *Ibid.*, 24–26; Annette Melville, *Special Collections in the Library of Congress, A Selective Guide* (Washington: The Library of Congress, 1980), 189.

[29] *Annals of Congress*, 13th Congress, 3rd sess., 233–234.

[30] *Annals of Congress*, 11th Congress, 3rd sess., 346–347.

[31] Hunt, *Writings of James Madison*, Vol. VIII, 327–332.

[32] *Annals of Congress*, 14th Congress, 1st sess., 267.

[33] *Ibid.*, 185.

[34] *Niles Weekly Register*, July 20, 1816, 339–341.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I yield to Mr. BAUCUS such time as he may require, from the time under my control.

Mr. BAUCUS. I thank the minority leader.

COAL SEVERANCE TAX

Mr. BAUCUS. Mr. President, Montanans were pleased and reassured this past week with the U.S. Supreme Court ruling upholding Montana's coal severance tax. The Court made it clear, once and for all, that there are no constitutional objections that can legitimately be raised against the tax.

In doing so, the Court found that the tax does not discriminate against out-of-State customers. Equally important, the Court upheld the power of Montana—and all other States—to tax natural resource extraction within their borders.

As I have said on the floor of the Senate before, Montanans are willing to contribute to the resolution of this Nation's energy predicament. We will do so in a timely and reasonable fashion. We will not unnecessarily impede, obstruct, or harass legitimate coal development. We will act responsibly.

At the same time, it must be emphasized that Montana will not serve as a resource colony. The State has a history—well remembered by my generation of Montanans. The natural resource bounty of Montana was plundered again and again with little concern for the stability and future of the area.

Too often, the result was impoverished families, disintegrated neighborhoods, busted towns. We have pledged that this past will not be mirrored in our future—and we deserve to be taken seriously in this quest.

We are setting aside coal tax revenues to pay the costs of coal development and to provide a balanced framework for stable, diverse economic development in the future. A State like Montana has that right. It has that power. And it has that duty to future generations.

Mr. President, although I am not naive to equate my hopes with my expectations, I earnestly urge that we now back away from the danger of protracted regional warfare in the U.S. Senate. Congress should accept the reasoned judgment of the Supreme Court and lay to rest proposals to cap severance taxes.

I am pleased to present the Supreme Court decision—together with dissents—for the information of my colleagues and constituents.

Mr. President, I ask unanimous consent to have printed in the RECORD the text of the Supreme Court decision and the dissents to which I have referred.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUPREME COURT OF THE UNITED STATES

Syllabus: Commonwealth Edison Co. et al. v. Montana et al.

APPEAL FROM THE SUPREME COURT OF MONTANA

No. 80-581. Argued March 30, 1981—Decided July 2, 1981

Montana imposes a severance tax on each ton of coal mined in the State, including coal mined on federal land. The tax is levied at varying rates depending on the value, energy content, and method of extraction of the coal, and may equal, at a maximum, 30 percent of the "contract sales price." Appellants, certain Montana coal producers and 11 of their out-of-state utility company customers, sought refunds, in a Montana state court, of severance taxes paid under protest and declaratory and injunctive relief, contending that the tax was invalid under the Commerce and Supremacy Clauses of the United States Constitution. Without receiving any evidence, the trial court upheld the tax, and the Montana Supreme Court affirmed.

Held:

1. The Montana severance tax does not violate the Commerce Clause. Pp. 3–18.

(a) A state severance tax is not immunized from Commerce Clause scrutiny by a claim that the tax is imposed on goods prior to their entry into the stream of interstate commerce. Any contrary statements in *Heisler* v. *Thomas Colliery Co.*, 260 U.S. 245, and its progeny are disapproved. The Montana tax must be evaluated under the test set forth in *Complete Auto Transit, Inc.* v. *Brady*, 430 U.S. 274, 279, whereby a state tax does not offend the Commerce Clause if it "is applied to an activity with a substantial nexus with the taxing State, is fairly apportioned, does not discriminate against interstate commerce, and is fairly related to services provided by the State." Pp. 3–6.

(b) Montana's tax comports with the requirements of the *Complete Auto Transit* test. The tax is not invalid under the third prong of the test on the alleged ground that it discriminates against interstate commerce because 90 percent of Montana coal is shipped to other States under contracts that shift the tax burden primarily to non-Montana utility companies and thus to citizens of other States. There is no real discrimina-

tion since the tax is computed at the same rate regardless of the final destination of the coal and the tax burden is borne according to the amount of coal consumed, not according to any distinction between in-state and out-of-state consumers. Nor is there any merit to appellants' contention that they are entitled to an opportunity to prove that the tax is not "fairly related to the services provided by the State" by showing that the *amount* of the taxes collected exceeds the *value* of the services provided to the coal mining industry. The fourth prong of the *Complete Auto Transit* test requires only that the *measure* of the tax be reasonably related to the extent of the taxpayer's contact with the State, since it is the activities or presence of the taxpayer in the State that may properly be made to bear a just share of the state tax burden. Because it is measured as a percentage of the value of the coal taken, the Montana tax, a general revenue tax, is in proper proportion to appellants' activities within the State and, therefore, to their enjoyment of the opportunities and protection which the State has afforded in connection with those activities, such as police and fire protection, the benefit of a trained work force, and the advantages of a civilized society. The appropriate level or rate of taxation is essentially a matter for legislative, not judicial, resolution. Pp. 6–18.

2. Nor does Montana's tax violate the Supremacy Clause. Pp. 18–25.

(a) The tax is not invalid as being inconsistent with the Mineral Lands Leasing Act of 1920, as amended. Even assuming that the tax may reduce royalty payments to the Federal Government under leases executed in Montana, this fact alone does not demonstrate that the tax is inconsistent with the Act. Indeed, in § 32 of the Act, Congress expressly authorized the States to impose severance taxes on federal lessees without imposing any limits on the amount of such taxes. And there is nothing in the language or legislative history of the Act or its amendments to support appellants' assertion that Congress intended to maximize and capture through royalties *all* "economic rents" (the difference between the cost of production and the market price of the coal) from the mining of federal coal, and then to divide the proceeds with the State in accordance with the statutory formula. The history speaks in terms of securing a "fair return to the public" and if, as was held in *Mid-Northern Oil Co.* v. *Walker*, 268 U.S. 45, the States, under § 32, may levy and collect taxes as though the Federal Government were not concerned, the manner in which the Federal Government collects receipts from its lessees and then shares them with the States has no bearing on the validity of a state tax. Pp. 18–21.

(b) The tax is not unconstitutional on the alleged ground that it frustrates national energy policies, reflected in several federal statutes, encouraging production and use of coal, and appellants are not entitled to a hearing to explore the contours of these national policies and to adduce evidence supporting their claim. General statements in federal statutes reciting the objective of encouraging the use of coal do not demonstrate a congressional intent to pre-empt all state legislation that may have an adverse impact on the use of coal. Nor is Montana's tax pre-empted by the Powerplant and Industrial Fuel Use Act of 1978. Section 601(a)(2) of that Act clearly contemplates the continued existence, not the pre-emption, of state severance taxes on coal. Furthermore, the legislative history of that section reveals that Congress enacted the provision with Montana's tax specifically in mind. Pp. 21–25.

—— Mont. ——, 615 P. 2d 847, affirmed.

MARSHALL, J., delivered the opinion of the Court in which BURGER, C. J., and BRENNAN, STEWART, WHITE, and REHNQUIST, JJ., joined. WHITE, J., filed a concurring opinion. BLACKMUN, J., filed a dissenting opinion, in which POWELL and STEVENS, JJ., joined.

SUPREME COURT OF THE UNITED STATES

No. 80–581: Commonwealth Edison Company et al., Appellants, *v.* State of Montana et al. On Appeal from the Supreme Court of Montana.

[July 2, 1981]

JUSTICE MARSHALL delivered the opinion of the Court.

Montana, like many other States, imposes a severance tax on mineral production in the State. In this appeal, we consider whether the tax Montana levies on each ton of coal mined in the State, Mont. Code § 15–35–101 *et seq.* (1979), violates the Commerce and Supremacy Clauses of the United States Constitution.

I

Buried beneath Montana are large deposits of low sulphur coal, most of it on federal land. Since 1921, Montana has imposed a severance tax on the output of Montana coal mines, including coal mined on federal land. After commissioning a study of coal production taxes in 1974, see House Resolution Nos. 45 and 63, Senate Resolution No. 83, Laws of Montana, 1619–1620, 1653–1654, 1683–1684 (March 14 & 16, 1974); Montana Legislative Council, Fossil Fuel Taxation (1974), in 1975, the Montana Legislature enacted the tax schedule at issue in this case. Mont. Code § 15–35–103 (1979). The tax is levied at varying rates depending on the value, energy content, and method of extraction of the coal, and may equal at a maximum, 30 percent of the "contract sales price."[1] Under the terms of a 1976 amendment to the Montana Constitution, after Dec. 31, 1979, at least 50 percent of the revenues generated by the tax must be paid into a permanent trust fund, the principal of which may be appropriated only by a vote of three-fourths of the members of each house of the legislature. Montana Const. Art. IX, § 5.

Appellants, 4 Montana coal producers and 11 of their out-of-state utility company customers, filed these suits in Montana state court in 1979. They sought refunds of over $5.4 million in severance taxes paid under protest, a declaration that the tax is invalid under the Supremacy and Commerce Clauses, and an injunction against further collection of the tax. Without receiving any evidence, the court upheld the tax and dismissed the complaints.

On appeal, the Montana Supreme Court affirmed the judgment of the trial court. — Mont. —, 615 P. 2d 847 (1980). The supreme court held that the tax is not subject to scrutiny under the Commerce Clause[2] because it is imposed on the severance of coal, which the court characterized as an intrastate activity preceding entry of the coal into interstate commerce. In this regard, the Montana court relied on this Court's decisions in *Heisler* v. *Thomas Colliery Co.*, 260 U.S. 245 (1922), *Oliver Iron Mining Co.* v. *Lord*, 262 U.S. 172 (1923), and *Hope Natural Gas Co.* v. *Hall*, 274 U.S. 284 (1927), which employed similar reasoning in upholding state severance taxes against Commerce Clause challenges. As an alternative basis for its resolution of the Commerce Clause issue, the Montana court held, as a matter of law, that the tax survives scrutiny under the four-part test articulated by this Court in *Complete Auto Transit, Inc.* v. *Brady*, 430 U.S. 274 (1977). The Montana court also rejected appellants' Supremacy Clause[3] challenge, concluding that appellants had failed to show that the Montana tax conflicts with any federal statute.

We noted probable jurisdiction, — U.S. — (1980), to consider the important issues raised. We now affirm.

Footnotes at end of article.

II

A

As an initial matter, appellants assert that the Montana Supreme Court erred in concluding that the Montana tax is not subject to the strictures of the Commerce Clause. In appellants' view, *Heisler's* "mechanical" approach, which looks to whether a state tax is levied on goods prior to their entry into interstate commerce no longer accurately reflects the law. Appellants contend that the correct analysis focuses on whether the challenged tax substantially affects interstate commerce, in which case it must be scrutinized under the *Complete Auto Transit* test.

We agree that *Heisler's* reasoning has been undermined by more recent cases. The *Heisler* analysis evolved at a time when the Commerce Clause was thought to prohibit the States from imposing any direct taxes on interstate commerce. See, e.g., *Helson & Randolph* v. *Kentucky*, 279 U.S. 245, 250–252 (1929); *Ozark Pipe Line Corp.* v. *Monier*, 266 U.S. 555, 562 (1925). Consequently, the distinction between intrastate activities and interstate commerce was crucial to protecting the States' taxing power.[4]

The Court has, however, long since rejected any suggestion that a state tax or regulation affecting interstate commerce is immune from Commerce Clause scrutiny because it attaches only to a "local" or intrastate activity. See *Hunt* v. *Washington Apple Advertising Comm'n*, 432 U.S. 333, 350 (1977); *Pike* v. *Bruce Church, Inc.*, 397 U.S. 137, 141–142 (1970); *Nippert* v. *City of Richmond*, 327 U.S. 416, 423–424 (1946). Correspondingly, the Court has rejected the notion that state taxes levied on interstate commerce are *per se* invalid. See, *e.g.*, *Washington Revenue Dept.* v. *Association of Wash. Stevedoring Cos.*, 435 U.S. 734 (1978); *Complete Auto Transit, Inc.* v. *Brady*, *supra*. In reviewing Commerce Clause challenges to state taxes, our goal has instead been to "establish a consistent and rational method of inquiry" focusing on "the practical effect of a challenged tax." *Mobil Oil Corp.* v. *Commissioner of Taxes*, 445 U.S. 425, 443 (1980). See *Moorman Mfg. Co.* v. *Bair*, 437 U.S. 267, 276–281 (1978); *Washington Revenue Dept.* v. *Association of Wash. Stevedoring Cos.*, *supra*, at 743–751; *Complete Auto Transit, Inc.* v. *Brady*, *supra*, at 227–279. We conclude that the same "practical" analysis should apply in reviewing Commerce Clause challenges to state severance taxes.

In the first place, there is no real distinction—in terms of economic effects—between severance taxes and other types of state taxes that have been subjected to Commerce Clause scrutiny.[5] See, *e.g.*, *Michigan-Wisconsin Pipe Line Co.* v. *Calvert*, 347 U.S. 157 (1954); *Joseph* v. *Carter & Weekes Stevedoring Co.*, 330 U.S. 422 (1947), *Puget Sound Stevedoring Co.* v. *State Tax Comm'n*, 302 U.S. 90 (1937), both overruled in *Washington Revenue Dept.* v. *Association of Wash. Stevedoring Cos.*, *supra*.[6] State taxes levied on a "local" activity preceding entry of the goods into interstate commerce may substantially affect interstate commerce, and this effect is the proper focus of Commerce Clause inquiry. See *Mobil Oil Corp.* v. *Commissioner of Taxes*, *supra*, 445 U.S., at 443. Second, this Court has acknowledged that "a State has a significant interest in exacting from interstate commerce its fair share of the cost of state government." *Washington Revenue Dept.* v. *Association of Wash. Stevedoring Cos.*, *supra*, at 748. As the Court has stated, "'[e]ven interstate business must pay its way.'" *Western Live Stock Bureau* v. *Bureau of Revenue*, 303 U.S. 250, 254 (1938), quoting *Postal Telegraph-Cable Co.* v. *Richmond*, 249 U.S. 252, 259 (1919). Consequently, the *Heisler* Court's concern that a loss of state taxing authority would be an inevitable result of subjecting taxes on

"local" activities to Commerce Clause scrutiny is no longer tenable.

We therefore hold that a state severance tax is not immunized from Commerce Clause scrutiny by a claim that the tax is imposed on goods prior to their entry into the stream of interstate commerce. Any contrary statements in *Heisler* and its progeny are disapproved.[7] We agree with appellants that the Montana tax must be evaluated under *Complete Auto Transit's* four-part test. Under that test, a state tax does not offend the Commerce Clause if it "is applied to an activity with a substantial nexus with the taxing State, is fairly apportioned, does not discriminate against interstate commerce, and is fairly related to services provided by the State." 430 U.S., at 279.

B

Appellants do not dispute that the Montana tax satisfies the first two prongs of *Complete Auto Transit* test. As the Montana Supreme Court noted, "there can be no argument here that a substantial, in fact, the only nexus of the severance of coal is established in Montana." —— Mont., at ——, 615 P. 2d, at 855. Nor is there any question here regarding apportionment or potential multiple taxation, for as the state court observed, "the severance can occur in no other state" and "no other state can tax the severance." *Ibid.* Appellants do contend, however, that the Montana tax is invalid under the third and fourth prongs of the *Complete Auto Transit* test.

Appellants assert that the Montana tax "discriminate[s] against interstate commerce" because 90 percent of Montana coal is shipped to other States under contracts that shift the tax burden primarily to non-Montana utility companies and thus to citizens of other States. But the Montana tax is computed at the same rate regardless of the final destination of the coal, and there is no suggestion here that the tax is administered in a manner that departs from this even-handed formula. We are not, therefore, confronted here with the type of differential tax treatment of interstate and intrastate commerce that the Court has found in other "discrimination" cases. See *e.g., Maryland* v. *Louisiana,* —— U.S. —— (1981); *Boston Stock Exchange* v. *State Tax Comm'n,* 429 U.S. 318 (1977); cf. *Lewis* v. *BT Investment Managers, Inc.,* 447 U.S. 27 (1980); *Philadelphia* v. *New Jersey,* 437 U.S. 617 (1978).

Instead, the gravamen of appellants' claim is that a state tax must be considered discriminatory for purposes of the Commerce Clause if the tax burden is borne primarily by out-of-state consumers. Appellants do not suggest that this assertion is based on any of this Court's prior discriminatory tax cases. In fact, a similar claim was considered and rejected in *Heisler.* There, it was argued that Pennsylvania had a virtual monopoly of anthracite coal and that, because 80 percent of the coal was shipped out of State, the tax discriminated against and impermissibly burdened interstate commerce. 260 U.S. 251–253. The Court, however, dismissed these factors as "adventitious considerations." 260 U.S., at 259. We share the *Heisler* Court's misgivings about judging the validity of a state tax by assessing the State's "monopoly" position or its "exportation" of the tax burden out of State.

The premise of our discrimination cases is that "[t]he very purpose of the Commerce Clause was to create an area of free trade among the several States." *McLeod* v. *J. E. Dilworth Co.,* 322 U.S. 327, 330 (1944). See *Hunt* v. *Washington State Apple Advertising Comm'n,* 432 U.S. 333, 350 (1977); *Boston Stock Exchange* v. *State Tax Comm'n. supra,* at 328. Under such a regime, the borders between the States are essentially irrelevant. As the Court stated in *West* v. *Kansas Natural Gas Co.,* 221 U.S. 229, 255 (1911), "in matters of foreign and interstate commerce there are no state lines." See *Boston Stock Exchange* v. *State Tax Comm'n, supra,* at 331–332. Consequently, to accept appellants' theory and invalidate the Montana tax solely because most of Montana's coal is shipped across the very state borders that ordinarily are to be considered irrelevant would require a significant and, in our view, unwarranted departure from the rationale of our prior discrimination cases.

Furthermore, appellants' assertion that Montana may not "exploit" its "monopoly" position by exporting tax burdens to other States, cannot rest on a claim that there is need to protect the out-of-state consumers of Montana coal from discriminatory tax treatment. As previously noted, there is no real discrimination in this case; the tax burden is borne according to the amount of coal consumed and not according to any distinction between in-state and out-of-state consumers. Rather, appellants assume that the Commerce Clause gives residents of one State a right of access at "reasonable" prices to resources located in another State that is richly endowed with such resources, without regard to whether and on what terms residents of the resource-rich State have access to the resources. We are not convinced that the Commerce Clause, of its own force, gives the residents of one State the right to control in this fashion the terms of resource development and depletion in a sister State. Cf. *Philadelphia* v. *New Jersey, supra,* 437 U.S., at 626.[8]

In any event, appellants' discrimination theory ultimately collapses into their claim that the Montana tax is invalid under the fourth prong of the *Complete Auto Transit* test: that the tax is not "fairly related to the services provided by the State." 430 U.S., at 279. Because appellants concede that Montana may impose *some* severance tax on coal mined in the State,[9] the only remaining foundation for their discrimination theory is a claim that the tax burden borne by the out-of-state consumers of Montana coal is excessive. This is, of course, merely a variant of appellants' assertion that the Montana tax does not satisfy the "fairly related" prong of the *Complete Auto Transit* test, and it is to this contention that we now turn.

Appellants argue that they are entitled to an opportunity to prove that the amount collected under the Montana tax is not fairly related to the additional costs the State incurs because of coal mining.[10] Thus, appellants' objection is to the *rate* of the Montana tax, and even then, their only complaint is that the *amount* the State receives in taxes far exceeds the *value* of the services provided to the coal mining industry. In objecting to the tax on this ground, appellants may be assuming that the Montana tax is, in fact, intended to reimburse the State for the cost of specific services furnished to the coal mining industry. Alternatively, appellants could be arguing that a State's power to tax an activity connected to interstate commerce cannot exceed the value of the services specifically provided to the activity. Either way, the premise of appellants' argument is invalid. Furthermore, appellants have completely misunderstood the nature of the inquiry under the fourth prong of the *Complete Auto Transit* test.

The Montana Supreme Court held that the coal severance tax is "imposed for the general support of the government." —— Mont., at ——, 615 P. 2d, at 856, and we have no reason to question this characterization of the Montana tax as a general revenue tax.[11] Consequently, in reviewing appellant's contentions, we put to one side those cases in which the Court reviewed challenges to "user" fees or "taxes" that were designed and defended as a specific charge imposed by the State for the use of state-owned or state-provided transportation or other facilities and services. See, *e.g., Evansville-Vanderburgh Airport Authority Dist.* v. *Delta Airlines, Inc.,* 405 U.S. 707 (1972); *Clark* v. *Paul Gray, Inc.,* 306 U.S. 583 (1939); *Ingels* v. *Morf,* 300 U.S. 290 (1937).[12]

This Court has indicated that States have considerable latitude in imposing general revenue taxes. The Court has, for example, consistently rejected claims that the Due Process Clause of the Fourteenth Amendment stands as a barrier against taxes that are "unreasonable' or "unduly burdensome." See, *e.g., Pittsburgh* v. *Alco Parking Corp.,* 417 U.S. 369 (1974); *Magnano Co.* v. *Hamilton,* 292 U.S. 40 (1934); *Alaska Fish Salting & By-Products Co.* v. *Smith,* 255 U.S. 44 (1921). Moreover, there is no requirement under the Due Process Clause that the amount of general revenue taxes collected from a particular activity must be reasonably related to the value of the services provided to the activity. Instead, our consistent rule has been:

"Nothing is more familiar in taxation than the imposition of a tax upon a class or upon individuals who enjoy no direct benefit from its expenditure, and who are not responsible for the condition to be remedied.

"A tax is not an assessment of benefits. It is, as we have said, a means of distributing the burden of the cost of government. The only benefit to which the taxpayer is constitutionally entitled is that derived from his enjoyment of the privileges of living in an organized society, established and safeguarded by the devotion of taxes to public purposes. Any other view would preclude the levying of taxes except as they are used to compensate for the burden on those who pay them, and would involve abandonment of the most fundamental principle of government—that it exists primarily to provide for the common good." *Carmichael* v. *Southern Coal & Coke Co.,* 301 U.S. 495, 521–522 (1937) (citations omitted).

See *St. Louis & S. W. R. Co.* v. *Nattin,* 277 U.S. 157, 159 (1928); *Thomas* v. *Gay,* 169 U.S. 264, 280 (1898).

There is no reason to suppose that this latitude afforded the States under the Due Process Clause is somehow divested by the Commerce Clause merely because the taxed activity has some connection to interstate commerce; particularly when the tax is levied on an activity conducted within the State. "The exploitation by foreign corporations [or consumers] of intrastate opportunities under the protection and encouragement of local government offers a basis for taxation as unrestricted as that for domestic corporations." *Ford Motor Co.* v. *Beauchamp,* 308 U.S. 331, 334–335 (1939); see also *Ott* v. *Mississippi Valley Barge Line Co.,* 336 U.S. 169 (1949). To accept appellants' apparent suggestion that the Commerce Clause prohibits the States from requiring an activity connected to interstate commerce to contribute to the general cost of providing governmental services, as distinct from those costs attributable to the taxed activity, would place such commerce in a privileged position. But as we recently reiterated, "'[i]t was not the purpose of the commerce clause to relieve those engaged in interstate commerce from their just share of state tax burden even though it increases the cost of doing business.'" *Colonial Pipeline Co.* v. *Traigle,* 421 U.S. 100, 108 (1975), quoting *Western Live Stock* v. *Bureau of Revenue,* 303 U.S. at 254. The "just share of state tax burden" includes sharing in the cost of providing "police and fire protection, the benefit of a trained work force, and 'the advantages of a civilized society.'" *Exxon Corp.* v. *Wisconsin Dept. of Revenue,* 447 U.S., at 228, quoting *Japan Line, Ltd.* v. *County of Los Angeles,* 441 U.S., at 445. See *Washington Revenue Dept.* v. *Association of Wash. Stevedoring Cos.,* 435 U.S. at 750–751; *id.,* at 764 (Powell J., concurring); *General*

Footnotes at end of article.

Motors Corp. v. *Washington*, 377 U.S. 436, 440–441 (1964).

Furthermore, there can be no question that Montana may constitutionally raise general revenue by imposing a severance tax on coal mined in the State. The entire value of the coal, before transportation, originates in the State, and mining of the coal depletes the resource base and wealth of the State, thereby diminishing a future source of taxes and economic activity.[13] Cf. *Maryland* v. *Louisiana*, —— U.S., at —— (slip op., at 32). In many respects, a severance tax is like a real property tax, which has never been doubted as a legitimate means of raising revenue by the situs State (quite apart from the right of that or any other State to tax income derived from use of the property). See, *e.g.*, *Old Dominion Steamship Co.* v. *Virginia*, 198 U.S. 299 (1905); *Western Union Telegraph Co.* v. *Gottlieb*, 190 U.S. 412 (1903); *Postal Telegraph Cable Co.* v. *Adams*, 155 U.S. 688 (1895). When, as here, a general revenue tax does not discriminate against interstate commerce and is apportioned to activities occurring within the State, the State "is free to pursue its own fiscal policies, unembarrassed by the Constitution, if by the practical operation of a tax the state has exerted its power in relation to opportunities which it has given, to protection which it has afforded, to benefits which it has conferred by the fact of being an orderly, civilized society." *Wisconsin* v. *J. C. Penney Co.*, 311 U.S. 435, 444 (1940). As we explained in *General Motors Corp.* v. *Washington*, *supra*, at 440–441,

"the validity of the tax rests upon whether the State is exacting a constitutionally fair demand for that aspect of interstate commerce to which it bears a special relation. For our purposes, the decisive issue turns on the operating incidence of the tax. In other words, the question is whether the State has exerted its power in proper proportion to appellant's activities within the State and to appellant's consequent enjoyment of the opportunities and protections which the State has afforded. . . . As was said in *Wisconsin* v. *J. C. Penney Co.*, 311 U.S. 435, 444 (1940), '[t]he simple but controlling question is whether the state has given anything for which it can ask return.'"

The relevant inquiry under the fourth prong of the *Complete Auto Transit* test [14] is not, as appellants suggest, the *amount* of the tax or the *value* of the benefits allegedly bestowed as measured by the costs the State incurs on account of the taxpayer's activities.[15] Rather, the test is closely connected to the first prong of the *Complete Auto Transit* test. Under this threshold test, the interstate business must have a substantial nexus with the State before *any* tax may be levied on it. See *National Bellas Hess, Inc.* v. *Illinois Revenue Dept.*, 386 U.S. 753 (1967). Beyond that threshold requirement, the fourth prong of the *Complete Auto Transit* test imposes the additional limitation that the *measure* of the tax must be reasonably related to the extent of the contact, since it is the activities or presence of the taxpayer in the State that may properly be made to bear a "just share of state tax burden." *Western Live Stock Bureau* v. *Bureau of Revenue*, 303 U.S., at 254. See *National Geographic Society* v. *California Board of Equalization*, 430 U.S. 551 (1977); *Standard Pressed Steel Co.* v. *Washington Revenue Dept.*, 419 U.S. 560 (1975). As the Court explained in *Wisconsin* v. *J. C. Penney Co.*, *supra*, at 446 (emphasis added), "the incidence of the tax *as well as its measure* [must be] tied to the earnings which the State . . . has made possible, insofar as government is the prerequisite for the fruits of civilization for which, as Mr. Justice Holmes was fond of saying, we pay taxes."

Footnotes at end of article.

Against this background, we have little difficulty concluding that the Montana tax satisfies the fourth prong of the *Complete Auto Transit* test. The "operating incidence" of the tax, see *General Motors Corp.* v. *Washington*, *supra*, at 440–441, is on the mining of coal within Montana. Because it is measured as a percentage of the value of the coal taken, the Montana tax is in "proper proportion" to appellants' activities within the State and, therefore, to their "consequent enjoyment of the opportunities and protections which the State has afforded" in connection to those activities. *Id.*, at 441. Compare *Nippert* v. *City of Richmond*, 327 U.S., at 427. When a tax is assessed in proportion to a taxpayer's activities or presence in a State, the taxpayer is shouldering its fair share of supporting the State's provision of "police and fire protection, the benefit of a trained work force, and 'the advantages of a civilized society.'" *Exxon Corp.* v. *Wisconsin Dept. of Revenue*, 447 U.S., at 228, quoting *Japan Line, Ltd.* v. *County of Los Angeles*, 441 U.S., at 445.

Appellants argue, however, that the fourth prong of the *Complete Auto Transit* test must be construed as requiring a factual inquiry into the relationship between the revenues generated by a tax and costs incurred on account of the taxed activity, in order provide a mechanism for judicial disapproval under the Commerce Clause of state taxes that are excessive. This assertion reveals that appellants labor under a misconception about a court's role in cases such as this.[16] The simple fact is that the appropriate level or rate of taxation is essentially a matter for legislative, and not judicial, resolution.[17] See *Helson & Randolph* v. *Kentucky*, 279 U.S. 245, 252 (1929); cf. *Pittsburgh* v. *Alco Parking Corp.*, 417 U.S. 369 (1974); *Magnano Co.* v. *Hamilton*, 292 U.S. 40 (1934). In essence, appellants ask this Court to prescribe a test for the validity of state taxes that would require state and federal courts, as a matter of federal constitutional law, to calculate acceptable rates or levels of taxation of activities that are conceded to be legitimate subjects of taxation. This we decline to do.

In the first place, it is doubtful whether any legal test could adequately reflect the numerous and competing economic, geographic, demographic, social, and political considerations that must inform a decision about an acceptable rate or level of state taxation, and yet be reasonably capable of application in a wide variety of individual cases. But even apart from the difficulty of the judicial undertaking, the nature of the factfinding and judgment that would be required of the courts merely reinforces the conclusion that questions about the appropriate level of state taxes must be resolved through the political process. Under our federal system, the determination is to be made by state legislatures in the first instance and, if necessary, by Congress, when particular state taxes are thought to be contrary to federal interests.[18] Cf. *Mobil Oil Corp.* v. *Commissioner of Taxes*, 445 U.S., at 448–449; *Moorman Manufacturing Co.* v. *Bair*, 437 U.S., at 280.

Furthermore, the reference in the cases to police and fire protection and other advantages of civilized society is not, as appellants suggest, a disingenuous incantation designed to avoid a more searching inquiry into the relationship between the *value* of the benefits conferred on the taxpayer and the *amount* of taxes it pays. Rather, when the measure of a tax is reasonably related to the taxpayer's activities or presence in the State—from which it derives some benefit such as the substantial privilege of mining coal—the taxpayer will realize, in proper proportion to the taxes it pays, "[t]he only benefit to which it is constitutionally entitled . . . [:] that derived from his enjoyment of the privileges of living in an organized society, established and safeguarded by the devotion of taxes to public purposes." *Carmichael* v. *Southern Coal & Coke Co.*, 301 U.S., at 522. Correspondingly, when the measure of a tax bears no relationship to the taxpayers presence or activities in a State, a court may properly conclude under the fourth prong of the *Complete Auto Transit* test that the State is imposing an undue burden on interstate commerce. See *Nippert* v. *City of Richmond*, 327 U.S., at 427; cf. *Michigan-Wisconsin Pipe Line Co.* v. *Calvert* 347 U.S. 157 (1954). We are satisfied that the Montana tax, assessed under a formula that relates the tax liability to the value of appellant coal producers' activities within the State, comports with the requirements of the *Complete Auto Transit* test. We therefore turn to appellants' contention that the tax is invalid under the Supremacy Clause.

III

A

Appellants contend that the Montana tax, as applied to mining of federally owned coal, is invalid under the Supremacy Clause because it "substantially frustrates" the purposes of the Mineral Lands Leasing Act of 1920, ch. 85, 41 Stat. 437, 30 U.S.C. § 181 *et seq.* (1920 Act), as amended by the Federal Coal Leasing Amendments Act of 1975, Pub. L. 94–377, 90 Stat. 1083 (1975 Amendments). Appellants argue that under the 1920 Act, the "economic rents" attributable to the mining of coal on federal land—*i.e.*, the difference between the cost of production (including a reasonable profit) and the market price of the coal—are to be captured by the Federal Government in the form of royalty payments from federal lessees. The payments thus received are then to be divided between the States and the Federal Government according to a formula prescribed by the Act.[19] In appellants' view, the Montana tax seriously undercuts and disrupts the 1920 Act's division of revenues between the federal and state governments by appropriating directly to Montana a major portion of the "economic rents." Appellants contend the Montana tax will alter the statutory scheme by causing potential coal producers to reduce the amount they are willing to bid in royalties on federal leases.

As an initial matter, we note that this argument rests on a factual premise—that the principal effect of the tax is to shift a major portion of the relatively fixed "economic rents" attributable to the extraction of federally owned coal from the Federal Treasury to the State of Montana—that appears to be inconsistent with the premise of appellants' Commerce Clause claims. In pressing their Commerce Clause arguments, appellants assert that Montana tax increases the cost of Montana coal, thereby *increasing* the total amount of "economic rents," and that the burden of the tax is borne by out-of-state consumers, not the Federal Treasury.[20] But even assuming that the Montana tax may reduce royalty payments to the Federal Government under leases executed in Montana, this fact alone hardly demonstrates that the tax is inconsistent with the 1920 Act. Indeed, appellants' argument is substantially undermined by the fact that in § 32 of the 1920 Act, 30 U.S.C. § 189, Congress expressly authorized the States to impose severance taxes on federal lessees without imposing any limits on the amount of such taxes. Section 32 provides in pertinent part:

"Nothing in this chapter shall be construed or held to affect the rights of the States or other local authority to exercise any rights which they may have, including the right to levy and collect taxes upon improvements, outputs of mines, or other rights, property, or assets of any lessee of the United States."

This Court had occasion to construe § 32 soon after it was enacted. The Court explained that

"Congress . . . meant by the proviso to say in effect that, although the act deals with the letting of pubic lands and the relations of the [federal] government to the lessees thereof, nothing in it shall be so construed as to affect the right of the states, in respect of such private persons and corporations, to *levy and collect taxes as though the government were not concerned.* . . .

* * * * *

"We think the proviso plainly discloses the intention of Congress that *persons and corporations contracting with the United States under the act, should not, for that reason, be exempt from any form of state taxation otherwise lawful.*" *Mid-Northern Oil Co.* v. *Walker*, 268 U.S. 45, 48–50 (1925) (emphasis added).

It necessarily follows that if the Montana tax is "otherwise lawful," the 1920 Act does not forbid it.

Appellants contend that the Montana tax is not "otherwise lawful" because it conflicts with the very purpose of the 1920 Act. We do not agree. There is nothing in language or legislative history of either the 1920 Act or the 1975 Amendments to support appellants' assertion that Congress intended to maximize and capture *all* "economic rents" from the mining of federal coal, and then to distribute the proceeds in accordance with the statutory formula. The House Report on the 1975 Amendments, for example, speaks only in terms of a congressional intent to secure a "fair return to the public." H.R. Rep. No. 94–681, at 17–18 (1975). Moreover, appellants' argument proves too much. By definition, any state taxation of federal lessees reduces the "economic rents" accruing to the Federal Government, and appellants' argument would preclude any such taxes despite the explicit grant of taxing authority to the States by § 32. Finally, appellants' contention necessarily depends on inferences to be drawn from §§ 7 and 35 of the 1920 Act, 30 U.S.C. §§ 207 and 191, which, as amended prescribe the statutory formula for the division of the payments received by the Federal Government. See Comp. ¶¶ 38–41, J. S. App. 57a–58a. Yet § 32 of the 1920 Act states that "[n]othing in this chapter"—which includes §§ 7 and 35—"shall be construed or held to affect the rights of the States . . . to levy and collect taxes upon . . . output of mines . . . of any lessee of the United States." 30 U.S.C. § 189. And if, as the Court has held, the States may "levy and collect taxes as though the [federal] government were not concerned," *Mid-Northern Oil Co.* v. *Walker*, *supra*, at 49, the manner in which the Federal Government collects receipts from its lessees and then shares them with the States has no bearing on the validity of a state tax. We therefore reject appellants' contention that the Montana tax must be invalidated as inconsistent with the Mineral Lands Leasing Act.

B

The final issue we must consider is appellants' assertion that the Montana tax is unconstitutional because it substantially frustrates national energy policies, reflected in several federal statutes, encouraging the production and use of coal, particularly low sulphur coal such as is found in Montana. Appellants insist that they are entitled to a hearing to explore the contours of these national policies and to adduce evidence supporting their claim that the Montana tax substantially frustrates and impairs the policies.

We cannot quarrel with appellants' recitation of federal statutes encouraging the use of coal. Appellants correctly note that § 2(6) of the Energy Policy and Conservation Act of 1975, 42 U.S.C. § 6201(6), declares that one of the Act's purposes is "to reduce the demand for petroleum products and natural gas through programs designed to provide greater availability and use of this Nation's abundant coal resources." And § 102(b)(3) of the Powerplant and Industrial Fuel Use Act of 1978 (PIFUA), 42 U.S.C. § 8301(b)(3) (1976 ed., Supp. III), recites a similar objective "to encourage and foster the greater use coal and other alternative fuels, in lieu of natural gas and petroleum, as a primary energy source." We do not, however, accept appellants' implicit suggestion that these general statements demonstrate a congressional intent to pre-empt all state legislation that may have an adverse impact on the use of coal. In *Exxon Corp.* v. *Governor of Maryland*, 437 U.S. 117 (1978), we rejected a pre-emption argument similar to the one appellants urge here. There, it was argued that the "basic national policy favoring free competition" reflected in the Sherman Act pre-empted a state law regulating retail distribution of gasoline. Id., at 133. The Court acknowledged the conflict between the state law and this national policy, but rejected the suggestion that the "broad implications" of the Sherman Act should be construed as a congressional decision to pre-empt the state law. Id., at 133–134. Cf. *New Motor Vehicle Bd. of California* v. *Orrin W. Fox Co.*, 439 U.S. 96, 110–111 (1978). As we have frequently indicated, "[p]re-emption of state law by federal statute or regulation is not favored 'in the absence of persuasive reasons—either that the nature of the regulated subject matter permits no other conclusion, or that the Congress has unmistakably so ordained.'" *Chicago North Western & Transp. Co.* v. *Kalo Brick & Tile*, — U.S. —, — (1981), quoting *Florida Lime & Avocado Growers, Inc.*, v. *Paul*, 373 U.S. 132, 142 (1963). See *Alessi* v. *Raybestos-Manhattan, Inc.*, — U.S. —, — (1981); *Jones* v. *Rath Packing Co.*, 430 U.S. 519, 525–526 (1977); *Perez* v. *Campbell*, 402 U.S. 637, 649 (1971). In cases such as this, it is necessary to look beyond general expressions of "national policy" to specific federal statutes with which the state law is claimed to conflict.[21] The only specific statutory provisions favoring the use of coal cited by appellants are those in PIFUA.

PIFUA prohibits new electric power plants or new major fuel-burning installations from using natural gas or petroleum as a primary energy source, and prohibits existing facilities from using natural gas as a primary energy source after 1989. 42 U.S.C. §§ 8311(1), 8312(a) (1976 ed., Supp. IIII). Appellants contend that "the manifest purpose of this Act to favor the use of coal is clear." Brief for Appellants, at 37. As the statute itself makes clear, however, Congress did not intend PIFUA to pre-empt state severance taxes on coal. Section 601(a)(1) of PIFUA, 42 U.S.C. § 8401(a)(1), provides for federal financial assistance to areas of a State adversely affected by increased coal or uranium mining, based upon findings by the Governor of the State that the state or local government lacks the financial resources to meet increased demand for housing or public services and facilities in such areas. Section 601(a)(2), 42 U.S.C. (1976 ed., Supp. III) § 8401(a)(2), then provides that "increased revenues, including severance tax revenues, royalties, and similar fees to the State and local governments which are associated with the increase in coal or uranium development activities . . . shall be taken into account in determining if a State or local government lacks financial resources."

This section clearly contemplates the continued existence, not the pre-emption, of state severance taxes on coal and other minerals.

Furthermore, the legislative history of § 601(a)(2) reveals that Congress enacted this provision with Montana's tax specifically in mind. The Senate version of the PIFUA bill provided for impact aid, but the House bill did not. See H.R. Conf. Rep. No. 95–1749, at 93 (1978). The Senate's proposal for impact aid was opposed by the House conferees, who took the position that the States would be able to satisfy the demand for additional facilities and services caused by increased coal production through imposition of severance taxes and, in Western States, through royalties received under the Mineral Lands Leasing Act. See Transcript of the Joint Conference on Energy, at 1822, 1824, 1832, 1834–1837, 1839 (Nov. 9, 1977) (Tr.), reprinted in 2 United States Department of Energy, Legislative History of the Powerplant and Industrial Fuel Use Act, 777, 779, 787, 789–792, 794 (1978) (Legislative History). In explaining the objections of the House conferees, Rep. Eckhardt pointed out:

"[T]he western states may collect severance taxes on that coal.

"As I pointed out [see Tr. 1822, Legislative History at 777], Montana already collects $3 a ton on severance taxes on coal and still enjoys a 50 percent royalty return. As the price of coal goes up . . . these severance taxes in addition go up.

"This is a percentage tax, not a flat tax in most instances.

"If we are going to merely determine on the basis of impact on a particular community in a state how much money is going to go to that community, without taking into account how much that community is enriched, I think we are going to have people who are so angry at us in Congress. . . ." Tr. 1835, Legislative History, at 790.

Section 601(a)(2) was obviously included in PIFUA as a response to these concerns, for it provides that severance taxes and royalties are to be "taken into account" in determining eligibility for impact aid. The legislative history of § 601(a)(2) thus confirms what seems evident from the face of the statute—that Montana's severance tax is not pre-empted by PIFUA. Since PIFUA is the only federal statute that even comes close to providing a specific basis for appellants' claims that the Montana statute "substantially frustrates" federal energy policies, this aspect of appellants' Supremacy Clause argument must also fail.[22]

IV

In sum, we conclude that appellants have failed to demonstrate either that the Montana tax suffers from any of the constitutional defects alleged in their complaints, or that a trial is necessary to resolve the issue of the constitutionality of the tax. Consequently, the judgment of the Supreme Court of Montana is affirmed.

So ordered.

FOOTNOTES

[1] Under Mont. Code § 15–35–103 (1979), the value of the coal is determined by the "contract sales price" which is defined as "the price of coal extracted and prepared for shipment f. o. b. mine, excluding the amount charged the seller to pay taxes paid on production . . . ." § 15–35–102(1) (1979). Taxes paid on production are defined in § 15–35–102(6) (1979). Because production taxes are excluded from the computation of the value of the coal, the effective rate of the tax is lower than the statutory rate.

[2] "Congress shall have Power . . . To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes . . . ." U.S. Const. Art. I, § 8, cl. 3.

[3] The "Constitution, and the Laws of the United States . . . shall be the supreme Law of the Land . . . ." U.S. Const. Art. VI, cl. 2.

[4] The *Heisler* Court explained that any other approach would "nationalize all industries, it would nationalize and withdraw from state jurisdiction and deliver to federal commercial control the fruits of California and the South, the wheat of the West and its meats, the cotton of the South, the shoes

of Massachusetts and the woolen industries of other States, at the very inception of their production or growth, that is, the fruits unpicked, the cotton and wheat ungathered, hides and the flesh of cattle yet 'on the hoof,' wool yet unshorn, and coal yet unmined, because they are in varying percentages destined for and surely to be exported to States other than those of their production." *Heisler* v. *Thomas Colliery Co.*, 260 U.S. 245, 259–260 (1922).

Of course, the "fruits of California" and the "wheat of the West" have long since been held to be within the reach of the Commerce Clause. *Pike* v. *Bruce Church, Inc.*, 397 U.S. 137 (1970); *Wickard* v. *Filburn*, 317 U.S. 111 (1942).

[5] The *Heisler* approach has been criticized as unresponsive to economic reality. See Hellerstein, Constitutional Constraints on State and Local Taxation of Energy Resources, 31 Nat'l Tax. J. 245, 249 (1979); Brown, The Open Economy: Justice Frankfurter and the Position of the Judiciary, 67 Yale L. J. 219, 232–233 (1957); Developments in the Law: Federal Limitations on State Taxation of Interstate Business, 75 Harv. L. Rev. 953, 970–971 (1962) (Developments).

[6] The *Heisler* approach has forced the Court to draw distinctions that can only be described as opaque. Compare, for example, *East Ohio Gas Co.* v. *Tax Comm'n*, 283 U. S. 465 (1931) (movement of gas into local supply lines at reduced pressure constitutes local business) with *State Tax Comm'n* v. *Interstate Natural Gas Co., Inc.*, 284 U. S. 41 (1931) (movement of gas into local supply lines constitutes part of interstate business).

[7] This is not to suggest, however, that *Heisler* and its progeny were wrongly decided.

[8] Nor do we share appellants' apparent view that the Commerce Clause injects principles of antitrust law into the relations between the States by reference to such imprecise standards as whether one State is "exploiting" its "monopoly" position with respect to a natural resource when the flow of commerce among them is not otherwise impeded. The threshold questions whether a State enjoys a "monopoly" position and whether the tax burden is shifted out-of-state, rather than borne by in-state producers and consumers, would require complex factual inquiries about such issues as elasticity of demand for the product and alternate sources of supply. Moreover, under this approach, the constitutionality of a state tax could well turn on whether the in-state producer is able, through sales contracts or otherwise, to shift the burden of the tax forward to its out-of-state customers. As the Supreme Court of Montana observed, "[i]t would be strange indeed if the legality of a tax could be made to depend on the vagaries of the terms of contracts." —— Mont., at ——, 615 P.2d., at 856. It has been suggested that the "formidable evidentiary difficulties in appraising the geographical distribution of industry, with a view toward determining a state's monopolistic position, might make the Court's inquiry futile." *Developments*, *supra* n. 5, at 970. See W. Hellerstein, *supra* n. 5, at 248–249.

[9] Since this Court has held that interstate commerce must bear its fair share of state tax burden, see *Western Live Stock Bureau* v. *Bureau of Revenue*, 303 U. S. 250, 254 (1938), appellants cannot argue that *no* severance tax may be imposed on coal primarily destined for interstate commerce.

[10] Appellants expect to show that the "legitimate local impact costs [of coal mining]—for schools, roads, police, fire and health protection, and environmental protection and the like—might amount to approximately 2 [cents] per ton, compared to present average revenues from the severance tax alone of over $2.00 per ton." Brief for Appellants, at 12. Appellants contend that inasmuch as 50% of the revenues generated by the Montana tax is "cached away, in effect, for unrelated and unknown purposes," it is clear that the tax is no fairly related to the services furnished by the State. Rely Brief for Appellants, at 8.

At oral argument before the Montana Supreme Court, appellants' counsel suggested that a tax of "perhaps twelve and a half to fifteen percent of the value of the coal" would be constitutional. —— Mont. ——, ——, 651 P.2d. 847, 851 (1980).

[11] Contrary to appellants' suggestion, the fact that 50% of the proceeds of the severance tax is paid into a trust fund does not undermine the Montana court's conclusion that the tax is a general revenue tax. Nothing in the Constitution prohibits the people of Montana from choosing to allocate a portion of current tax revenues for use by future generations.

[12] As the Court has stated, "such imposition, although termed a tax, cannot be tested by standards which generally determine the validity of taxes." *Interstate Transit, Inc.* v. *Lindsey*, 283 U.S. 183, 190 (1931). Because such charges are purportedly assessed to reimburse the State for costs incurred in providing specific quantifiable services, we have required a showing, based on factual evidence in the record, that "the fees charged do not appear to be manifestly disproportionate to the services rendered. . . ." *Clark* v. *Paul Gray, Inc.*, 306 U.S. 583, 599 (1939). See *id.*, at 598–600; *Ingels* v. *Morf*. 300 U.S. 290, 296–297 (1937).

One commentator has suggested that these "user" charges "are not true revenue measures and . . . the considerations applicable to ordinary tax measures do not apply." P. Hartman, State Taxation of Interstate Commerce 20, n. 72 (1953). Instead, "user" fees "partak[e] . . . of the nature of a rent charged by the State, based upon its proprietary interest in its public property, [rather] than of a tax, as that term is thought of in a technical sense." *Id.*, at 122. See generally *id.*, at 122–130.

[13] Most of the States raise revenue by levying a severance tax on mineral production. The first such tax was imposed by Michigan in 1846. See United States Department of Agriculture, State Taxation of Mineral Deposits and Production (1978). By 1979, 33 States had adopted some type of severance tax. See Bureau of Census, State Government Tax Collections in 1979, Table 3 (1980).

[14] The fourth prong of the *Complete Auto Transit* test is derived from *General Motors, J. C. Penney*, and similar cases. See *Complete Auto Transit, Inc.* v. *Brady*, 430 U.S. 274, 279, n. 8 (1977); see also *National Geographic Society* v. *California Board of Equalization*, 430 U.S. 551, 558 (1977).

[15] Indeed, the words "amount" and "value" were not even used in *Complete Auto Transit*. See 430 U.S., at 279. Similarly, our cases applying the *Complete Auto Transit* test have not mentioned either of these words. See *Exxon Corp.* v. *Wisconsin Dept. of Revenue*, 447 U.S. 207, 228 (1980); *Mobil Oil Corp.* v. *Commissioner of Texas*, 445 U.S. 425, 443 (1980); *Japan Line, Ltd.* v. *County of Los Angeles*, 441 U.S. 434, 444–445 (1979); *Washington Revenue Dept.* v. *Association of Wash. Stevedoring Cos.*, 435 U.S. 734, 750 (1978); *National Geographic Society* v. *California Board of Equalization*, *supra*, at 558.

[16] In any event, the linchpin of appellants' contention is the incorrect assumption that the amount of state taxes that may be levied on an activity connected to interstate commerce is limited by the costs incurred by the State on account of that activity. Only then does it make sense to advocate judicial examination of the relationship between taxes paid and benefits provided. But as we have previously noted, see *supra*, at 12, interstate commerce may be required to contribute to the cost of providing *all* governmental services, including those services from which it arguably receives no direct "benefit." In such circumstances, absent an equal protection challenge (which appellants do not raise), and unless a court is to second-guess legislative decisions about the amount or disposition of tax revenues, it is difficult to see how the court is to go about comparing costs and benefits in order to decide whether the tax burden on an activity connected to interstate commerce is excessive.

[17] Of course, a taxing statute may be judicially disapproved if it is "so arbitrary as to compel the conclusion that it does not involve an exertion of the taxing power, but constitutes, in substance and effect, the direct exertion of a different and forbidden power, as, for example, the confiscation of property." *Magnano Co.* v. *Hamilton*, 292 U.S. 40, 44 (1934).

[18] The controversy over the Montana tax has not escaped the attention of the Congress. Several bills were introduced during the 96th Congress to limit the rate of state severance taxes. See S. 2695, H.R. 6625, H.R. 6654 and H.R. 7163. Similar bills have been introduced in the 97th Congress. See S. 178, H.R. 1313.

[19] As originally enacted in 1920, § 35 of the Mineral Lands Leasing Act, ch. 85, 41 Stat. 450, 30 U.S.C. § 191 (1970 ed.), provided that all receipts from the leasing of public lands under the Act were to be paid into the United States Treasury and then divided as follows: 37.5% to the State in which the leased lands are located; 52.5% to the reclamation fund created by the Reclamation Act of 1902, ch. 1093, § 1, 32 Stat. 388, 43 U.S.C. § 391; and the remaining 10% to be deposited in the Treasury under "miscellaneous receipts."

Section 35 was amended by § 9(a) of the Federal Coal Leasing Amendments Act of 1975, Pub. L. 94–377, 90 Stat. 1089, to provide for a new statutory formula which is currently in effect. Under this formula, the State in which the mining occurs receives 50% of the revenues, the reclamation fund receives 40%, and the United States Treasury the remaining 10%. 30 U.S.C. § 191.

[20] Indeed, appellants alleged in their complaints that the contracts between appellant coal producers and appellant utility companies *require* the utility companies to reimburse the coal producers for their severance tax payments, and that the ultimate incidence of the tax primarily falls on the utilities' out-of-state customers. Comp. ¶¶ 17, 18. Jurisdictional Statement Appendix (J. S. App.) 53a–54a. Presumably, with regard to these contracts, the Federal Government's receipts will be unaffected by the Montana tax.

[21] Thus, in *Exxon*, after rejecting the "national policy" pre-emption argument, the Court went on to consider more focused allegations concerning alleged conflicts between the state law and specific provisions of the Robinson-Patman Act. *Exxon Corp.* v. *Governor of Maryland*, 437 U.S. 117, 129–133 (1978).

[22] Appellants' assertion that the Montana tax is pre-empted by the Clean Air Act, 42 U.S.C. § 7401 *et seq.* (1976 ed., Supp. III), merits little discussion. The Clean Air Act does not mandate the use of coal; it merely prescribes standards governing the emission of sulphur dioxide when coal is used. Any effect those standards might have on the use of high or low sulphur coal is incidental.

SUPREME COURT OF THE UNITED STATES

No. 80–581: Commonwealth Edison Company et al., Appellants, *v.* State of Montana et al.; on Appeal from the Supreme Court of Montana [July 2, 1981]

JUSTICE WHITE, concurring.

This is a very troublesome case for me, and I join the Court's opinion with considerable doubt and with the realization that Montana's levy on consumers in other States may in the long run prove to be an intolerable and unacceptable burden on commerce. In-

deed, there is particular force in the argument that the tax is here and now unconstitutional. Montana collects most of its tax from coal lands owned by the Federal Government and hence by all of the people of this country, while at the same time sharing equally and directly with the Federal Government all of the royalties reserved under the leases the United States has negotiated on its land in the State of Montana. This share is intended to compensate the State for the burdens that coal mining may impose upon it. Also, as JUSTICE BLACKMUN cogently points out, *post*, at ——, n. 9, another 40% of the federal revenue from mineral leases is indirectly returned to the States through a reclamation fund. In addition, there is statutory provision for federal grants to areas affected by increased coal production.

But this very fact gives me pause and counsels withholding our hand, at least for now. Congress has the power to protect interstate commerce from intolerable or even undesirable burdens. It is also very much aware of the Nation's energy needs, of the Montana tax and of the trend in the energy-rich States to aggrandize their position and perhaps lessen the tax burdens on their own citizens by imposing unusually high taxes on mineral extraction. Yet, Congress is so far content to let the matter rest, and we are counseled by the Executive Branch through the Solicitor General not to overturn the Montana tax as inconsistent with either the Commerce Clause or federal statutory policy in the field of energy or otherwise. The constitutional authority and the machinery to thwart efforts such as those of Montana, if thought unacceptable, are available to Congress, and surely Montana and other similarly situated States do not have the political power to impose their will on the rest of the country. As I presently see it, therefore, the better part of both wisdom and valor is to respect the judgment of the other branches of the Government. I join the opinion and the judgment of the Court.

SUPREME COURT OF THE UNITED STATES

No. 80–581: Commonwealth Edison Company et al., Appellants, *v.* State of Montana et al. On Appeal from the Supreme Court of Montana.

[July 2, 1981]

JUSTICE BLACKMUN, with whom JUSTICE POWELL and JUSTICE STEVENS join, dissenting.

In *Complete Auto Transit, Inc.* v. *Brady*, 430 U.S. 274 (1977), a unanimous Court observed: "A tailored tax, however accomplished, must receive the careful scrutiny of the courts to determine whether it produces a forbidden effect upon interstate commerce." *Id.*, at 288–289, n. 15. In this case, appellants have alleged that Montana's severance tax on coal is tailored to single out interstate commerce, and that it produces a forbidden effect on that commerce because the tax bears no "relationship to the services provided by the State." *Ibid.* The Court today concludes that appellants are not entitled to a *trial* on this claim. Because I believe that the "careful scrutiny" due a tailored tax makes a trial here necessary, I respectfully dissent.

I

The State of Montana has approximately 25% of all known United States coal reserves, and more than 50% of the Nation's low-sulfur coal reserves.[1] Department of Energy, Demonstrated Reserve Base of Coal in the United States on January 1, 1979, p. 8 (1981); National Coal Assn., Coal Data 1978, p. I–6. Approximately 70–75% of Montana's coal lies under land owned by the Federal Government in the State. See Hearings on H.R. 6625, H.R. 6654, and H.R. 7163 before the Subcommittee on Energy and Power of the House Committee on Interstate and Foreign Commerce, 96th Cong., 2d Sess., 22 (1980) (Hearings) (statement of Rep. Vento). The great bulk of the coal mined in Montana—indeed, allegedly as much as 90%, see *ante*, at 6—is exported to other States pursuant to long-term purchase contracts with out-of-state utilities. See H.R. Rep. No. 96–1527, pt. 1, pp. 3–4 (1980). Those contracts typically provide that the costs of state taxation shall be passed on to the utilities; in turn, fuel adjustment clauses allow the utilities to pass the cost of taxation along to their consumers. *Ibid.* Because federal environmental legislation has increased the demand for low-sulfur coal, *id.*, at 3, and because the Montana coal fields occupy a "pivotal" geographic position in the midwestern and northwestern energy markets, see J. Krutilla & A. Fisher with R. Rice, Economic and Fiscal Impacts of Coal Development: Northern Great Plains xvi (1978) (Krutilla). Montana has supplied an increasing percentage of the Nation's coal.[2]

In 1975, following the Arab oil embargo and the first federal coal conversion legislation, the Montana Legislature, by 1975 Mont. Laws, ch. 525, increased the State's severance tax on coal from a flat rate of approximately 34 cents per ton to a maximum rate of 30% of the "contract sales price." Mont. Code Ann. § 15–35–103 (1979).[3] See H. R. Rep. No. 96–1527, pt. 1, p. 3. The legislative history of this tax is illuminating. The Joint Conference Committees of the Montana Legislature that recommended this amendment acknowledged: "It is true that this is a higher rate of taxation than that levied by any other American state on the coal industry."[4] Statement to Accompany the Report of the Free Joint Conference Committees on Coal Taxation. p. 1. The Committees pointed out, however, that the Province of Alberta, Canada, recently had raised sharply its royalty on natural gas, thereby forcing consumers of Alberta gas in Montana and elsewhere to finance involuntarily Alberta's "universities, hospitals, reduction of other taxes, etc." *Ibid.* Stating that "we should . . . look north to Alberta," the Conference Committees observed: "While coal is not as scarce as natural gas, most of the Montana coal now produced is committed for sale under long-term contracts and will be purchased with this tax added to its price." *Ibid.* The Committees noted that although some new coal contracts might shift to Wyoming to take advantage of that State's lower severance tax. Montana's severance tax was comparable to that recently enacted by North Dakota.[5] Thus, the Committees had no doubt that the coal industry would grow even with this tax, since "the combined coal reserves of Montana and North Dakota are simply too great a part of the nation's fossil fuel resources to be ignored because of taxes at these levels."[6] *Ibid.*

As the Montana Legislature foresaw, the imposition of this severance tax has generated enormous revenues for the State. Montana collected $33.6 million in severance taxes in fiscal year 1978. H. R. Rep. No. 96–1527, pt. 1, p. 3, and appellants alleged that it would collect not less than $40 million in fiscal year 1979. App. to Juris. Statement 55a. It has been suggested that by the year 2010, Montana will have collected more than $20 billion through the implementation of this tax. Hearings 22 (statement of Rep. Vento).

No less remarkable is the increasing percentage of total revenue represented by the severance tax. In 1972, the then current flat rate severance tax on coal provided only 0.4% of Montana's total tax revenue; in contrast, in the year following the 1975 amendment, the coal severance tax supplied 11.4% of the State's total tax revenue. See Griffin & Shelton, Coal Severance Tax Policies in the Rocky Mountain States, 7 Pol. Studies J. 29, 33 (1978). Appellants assert that the tax now supplies almost 20% of the State's total revenue. Tr. of Oral Arg. 31. Indeed, the funds generated by the tax have been so large that, beginning in 1980, at least 50% of the severance tax is to be transferred and dedicated to a permanent trust fund, the principal of which must "forever remain inviolate" unless appropriated by a vote of three-fourths of the members of each house of the legislature. Mont. Const., Art. IX, § 5. Moreover, in 1979, Montana passed legislation providing property and income tax relief for state residents. 1979 Mont. Laws, ch. 698.

Appellants' complaint alleged that Montana's severance tax is ultimately borne by out-of-state consumers, and for the purposes of this appeal that allegation is to be treated as true.[7] Appellants further alleged that the tax bears no reasonable relationship to the services or protection provided by the State. The issue here, of course, is whether they are entitled to a trial on that claim, not whether they will succeed on the merits. It should be noted, however, that Montana imposes numerous other taxes upon coal mining.[8] In addition, because 70% to 75% of the coal-bearing land in Montana is owned by the Federal Government, Montana derives a large amount of coal mining revenue from the United States as well.[9] In light of these circumstances, the Interstate and Foreign Commerce Committee of the United States House of Representatives concluded that Montana's coal severance tax results in revenues "far in excess of the direct and indirect impact costs attributable to the coal production." H. R. Rep. No. 96–1527, pt. 1, p. 2. Several commentators have agreed that Montana and other similarly situated western States have pursued a policy of "OPEC-like revenue maximization," and that the Montana tax accordingly bears no reasonable relationship to the services and protection afforded by the State. R. Nehring & B. Zycher with J. Wharton, Coal Development and Government Regulation in the Northern Great Plains: A Preliminary Report 148 (1976); Church, at 272. See Krutilla, at 185. These findings, of course, are not dispositive of the issue whether the Montana severance tax is "fairly related" to the services provided by the State within the meaning of our prior cases. They do suggest, however, that appellants' claim is a substantial one. The failure of the Court to acknowledge this stems, it seems to me, from a misreading of our prior cases. It is to those cases that I now turn.

II

This Court's Commerce Clause cases have been marked by tension between two competing concepts: the view that interstate commerce should enjoy a "free trade" immunity from state taxation, see *e.g.*, *Freeman* v. *Hewit*, 329 U.S. 249, 252 (1946) and the view that interstate commerce may be required to "'pay its way,'" see, *e.g.*, *Western Live Stock* v. *Bureau of Revenue*, 303 U.S. 250, 254 (1938). See generally *Complete Auto Transit, Inc.* v. *Brady*, 430 U.S., at 278–281, 288–289, n. 15; Simet & Lynn, Interstate Commerce Must Pay Its Way: The Demise of Spector, 31 Nat. Tax J. 53 (1978); Hellerstein, Foreword, State Taxation Under the Commerce Clause: An Historical Perspective, 29 Vand. L. Rev. 335, 335–339 (1976). In *Complete Auto Transit* the Court resolved that tension by unanimously reaffirming that interstate commerce is not immune from state taxation. 430 U.S., at 288. But at the same time the Court made clear that not all state taxation of interstate commerce is valid; a state tax will be sustained against Commerce Clause challenge *only* if "the tax is applied to an activity with a substantial nexus with the taxing State, is fairly apportioned, does not discriminate against interstate commerce, and is fairly related to the services provided by the State." *Id.*, at 279. See *Maryland* v. *Louisiana*, — U.S. —, — (1981) (slip op. 27).

The Court today acknowledges and, indeed, holds that a Commerce Clause challenge to

Footnotes at end of article.

a state severance tax must be evaluated under *Complete Auto Transit's* four-part test, *Ante*, at 6, I fully agree. I cannot agree, however, with the Court's application of that test to the facts of the present case. Appellants concede, and the Court properly concludes, that the first two prongs of the test—substantial mexus and fair apportionment—are satisfied here. The Court also correctly observes that Montana's severance tax is facially neutral. It does not automatically follow, however that the Montana severance tax does not unduly burden or interfere with interstate commerce. The gravamen of appellants' complaint is that the severance tax does ont satisfy the fourth prong of the *Complete Auto Transit* test because it is tailored to, and does, force interstate commerce to pay more than its way. Under our established precedents, appellants are entitled to a trial on this claim.

The Court's conclusion to the contrary rests on the premise that the relevant inquiry under the fourth prong of the *Complete Auto Transit* test is simply whether the *measure* of the tax is fixed as a percentage of the value of the coal taken. *Ante*, at 15. This interpretation emasculates the fourth prong. No trial will ever be necessary on the issue of fair relationship so long as a State is careful to impose a proportional rather than a flat tax rate; thus, the Court's rule is no less "mechanical" than the approach entertained in *Heisler* v. *Thomas Colliery Co.*, 260 U.S. 245 (1922), disapproved today, ante, at 5.[10] Under the Court's reasoning any ad valorem tax will satisfy the fourth prong; indeed, the Court implicitly ratifies Montana's contention that it is free to tax this coal at 100 percent or even 1000 percent of value, should it choose to do so. Tr. of Oral Arg. 21. Likewise, the Court's analysis indicates that Montana's severance tax would not run afoul of the Commerce Clause even if it raised sufficient revenue to allow Montana to eliminate all other taxes upon its citizens.[11]

The Court's prior cases neither require nor support such a startling result.[12] The Court often has noted that "'[i]t was not the purpose of the commerce clause to relieve those engaged in interstate commerce from their *just share* of state tax burden even though it increases the cost of doing the business.'" *Complete Auto Transit*, 430 U.S., at 279 (emphasis added), quoting *Western Live Stock*, 303 U.S., at 254. See *Maryland* v. *Louisiana*, —— U.S., at —— (slip op. 27). Accordingly, interstate commerce cannot claim any exemption from a state tax that "is fairly related to the services provided by the State." *Complete Auto Transit*, 430 U.S., at 279. We have not interpreted this requirement of "fair relation" in a narrow sense; interstate commerce may be required to share equally with intrastate commerce the cost of providing "police and fire protection, the benefit of a trained work force, and 'the advantages of a civilized society.'" *Exxon Corp.* v. *Wisconsin Dept. of Revenue*, 447 U.S. 207, 228 (1980), quoting *Japan Line, Ltd.* v. *County of Los Angeles*, 441 U.S. 434, 445 (1979). See e.g., *Nippert* v. *Richmond*, 327 U.S. 416, 433 (1946). Moreover, interstate commerce can be required to "pay its own way in a narrower sense as well: the State may tax interstate commerce for the purpose of recovering those costs attributable to the activity itself. See, *e.g.*, *Postal Telegraph-Cable Co.* v. *Richmond*, 249 U.S. 252 (1919).[13]

The Court has never suggested, however, that interstate commerce may be required to pay *more* than its own way. The Court today fails to recognize that the Commerce Clause does impose limits upon the State's power to impose even facially neutral and properly apportioned taxes. See *ante*, at 11–12. In *Michigan-Wisconsin Pipe Line Co.* v. *Calvert*, 347 U. S. 157, 163 (1954), Texas argued that no inquiry into the constitutionality of a facially neutral tax on the "taking" of gas was necessary because the State "has afforded great benefits and protection to pipeline companies." The *Calvert* Court rejected this argument, holding that "these benefits are relevant here only to show that the essential requirements of due process have been met sufficient to justify the imposition of *any* tax on the interstate activity." *Id.*, at 163–164. The Court held, *id.*, at 164, that when a tax is challenged on Commerce Clause grounds its validity "'depends on other considerations of constitutional policy having reference to the substantial effects, actual or potential, of the particular tax in suppressing or burdening unduly the commerce,'" quoting *Nippert* v. *Richmond*, 327 U.S., at 424. Accordingly, while the Commerce Clause does not require that interstate commerce be placed in a privileged position, it does require that it not be unduly burdened. In framing its taxing measures to reach interstate commerce, the State must be "at pains to do so in a manner which avoids the evils forbidden by the commerce clause and puts that commerce *actually* on a plane of equality with local trade in local taxation." *Nippert*, 327 U. S., at 434 (emphasis added).

Thus, the Court has been particularly vigilant to review taxes that "single out interstate business," since "[a]ny tailored tax of this sort creates an increased danger of error in apportionment, of discrimination against interstate commerce, and of a lack of relationship to the services provided by the State." *Complete Auto Transit*, 430 U.S., at 288–289. n. 15.[14] Moreover, the Court's vigilance has not been limited to taxes that discriminate upon their face: "Not the tax in a vacuum of words, but its practical consequences for the doing of interstate commerce in applications to concrete facts are our concern." *Nippert*, 327 U.S., at 431. See *Maryland* v. *Louisiana*.——U.S., at—— (slip op. 29). This is particularly true when the challenged tax, while facially neutral, falls so heavily upon interstate commerce that its burden "is not likely to be alleviated by those political restraints which are normally exerted on legislation where it affects adversely interests within the state." *McGoldrick* v. *Berwind-White Co.*, 309 U.S. 33, 46, n. 2 (1940). Cf. *Raymond Motor Transportation, Inc.*, v. *Rice*, 434 U.S. 429, 446–447 (1978). In sum, then, when a tax has been "tailored" to reach interstate commerce, the Court's cases suggest that we require a closer "fit" under the fourth prong of the *Complete Auto Transit* test than when interstate commerce has not been singled out by the challenged tax.

As a number of commentators have noted, state severance taxes upon minerals are particularly susceptible to "tailoring." "Like a tollgate lying athwart a trade route, a severance or processing tax conditions access to natural resources." Developments in the Law. Federal Limitations on State Taxation of Interstate Business, 75 Harv. L. Rev. 953, 970 (1962) (Harvard Developments). Thus, to the extent that the taxing jurisdiction approaches a monopoly position in the mineral, and consumption is largely outside the State, such taxes are "[e]conomically and politically analogous to transportation taxes exploiting geographical position." Brown. The Open Economy: Justice Frankfurter and the Position of the Judiciary, 67 Yale L. J. 219, 232 (1957). See also Hellerstein, Constitutional Constraints on State and Local Taxation of Energy Resources, 31 Nat. Tax J. 245, 249–250 (1978); R. Posner, Economic Analysis of Law 510–514 (2d ed. 1977). But just as a port State may require that imports pay their own way even though the tax levied increases the cost of goods purchased by inland customers, see *Michelin Tire Corp.* v. *Wages*, 423 U.S. 276, 288 (1976),[15] so also may a mineral-rich State require that those who consume its resources pay a fair share of the general costs of government, as well as the specific costs attributable to the commerce itself. Thus, the mere fact that the burden of a severance tax is largely shifted forward to out-of-state consumers does not, standing alone, make out a Commerce Clause violation. See Hellerstein, *supra*, at 249. But the Clause is violated when, as appellants allege is the case here, the State effectively selects "a class of out-of-state taxpayers to shoulder a tax burden grossly in excess of any costs imposed directly or indirectly by such taxpayers on the State." *Ibid.*

III

It is true that a trial in this case would require "complex factual inquiries" into whether economic conditions are such that Montana is in fact able to export the burden of its severance tax, *ante*, at 8, n. 8.[16] I do not believe, however, that this threshold inquiry is beyond judicial competence.[17] If the trial court were to determine that the tax is exported, it would then have to determine whether the tax is "fairly related," within the meaning of *Complete Auto Transit*. The Court to the contrary, this would not require the trial court "to second-guess legislative decisions about the amount or disposition of tax revenues." *Ante*, at 16, n. 16. If the tax is in fact a legitimate general revenue measure identical or roughly comparable to taxes imposed upon similar industries, a court's inquiry is at an end; on the other hand, if the tax singles out this particular interstate activity and charges it with a grossly disproportionate share of the general costs of government,[18] the court must determine whether there is some reasonable basis for the legislative judgment that the tax is necessary to compensate the State for the particular costs imposed by the activity.

To be sure, the task is likely to prove to be a formidable one; but its difficulty does not excuse our failure to undertake it. This case poses extremely grave issues that threaten both to "polarize the Nation," see H. R. Rep. No. 96–1527, pt. 1, p. 2 (1980), and to reawaken "the tendencies toward economic Balkanization" that the Commerce Clause was designed to remedy. See *Hughes* v. *Oklahoma*, 441 U.S. 322, 325–326 (1979). It is no answer to say that the matter is better left to Congress:[19]

"While the Constitution vests in Congress the power to regulate commerce among the states, it does not say what the states may or may not do in the absence of congressional action. . . . Perhaps even more than by its interpretation of the written word, this Court has advanced the solidarity and prosperity of this Nation by the meaning it has given to these great silences of the Constitution." *H. P. Hood & Sons, Inc.* v. *Du Mond*, 336 U.S. 525, 534–535 (1949).

I would not lightly abandon that role.[20] Because I believe that appellants are entitled to an opportunity to prove that, in Holmes' words, Montana's severance tax "embodies what the Commerce Clause was meant to end," I dissent.[21]

FOOTNOTES

[1] Montana and Wyoming together contain 40% of all United States coal reserves and 68% of all reserves of low-sulfur coal. H.R. Rept. No. 96–1527, pt. 1, p. 3 (1980).

[2] Together with Wyoming, Montana supplied 10% of the United States' demand for coal in 1977: it is estimated that Montana and Wyoming will supply 33% of the Nation's coal by 1990. Hearings 22 (statement of Rep. Vento).

[3] The pre-1975 rate was 12, 22, 34 or 40 cents per ton depending on the Btu content of the coal mined. Krutilla, at 50. Appellants state that coal taxed at 34 cents per ton prior to the 1975 amendment is now typically taxed at the effective rate of $2.08 per ton. Brief for Appellants 7–8.

[4] In fact, the study of coal production taxes commissioned by the Montana Legislature in 1974, see *ante*, at 1, found that while other States may have imposed a higher overall tax burden on coal, "no coal state had, through 1973, higher severance and property taxes than Montana." Subcommittee on Fossil Fuel Taxation, Interim Study on Fossil Fuel Taxation 14 (1974). Thus, even prior to the 1975 amendment, "Montana and its local governments tax[ed] the *production* of fossil fuels at a higher rate than any competitive state. . . ." (Emphasis in original.) *Ibid.*

[5] North Dakota taxes lignite at a flat rate that is estimated to equal about 20% of value. See H. R. Rep. No. 96–1527, pt. 1, p. 3 (1980). Apparently inspired by these examples, Wyoming increased its state severance and local ad valorem taxes to a combined total of approximately 17½% of value. Wyo. Stat. §§ 39–2–202, 39–2–402, 39–6–302 (a)–(f), and 39–6–303(a) (1977 and Supp. 1980). See H. R. Rep. No. 96–1527, pt. 1, p. 3. With the possible exception of North Dakota's tax on lignite, the severance taxes imposed by Montana and Wyoming are higher than the taxes imposed on energy reserves by any other State. *Ibid.*

Significantly, however, other western States have considered or are considering raising their taxes on coal production. *Ibid.* One study concluded that "'[t]ax leadership' in the western states appears to be an emerging reality" and that informal cartel arrangements may arise among these States. Church, Conflicting Federal, State and Local Interest Trends in State and Local Energy Taxation: Coal and Copper—A Case in Point, 31 Nat. Tax J. 269, 278 (1978). Indeed, the 1974 Montana Subcommittee on Fossil Fuel Taxation, see n. 4, *supra*, was directed by the Montana Legislature "to investigate the feasibility and value of multistate taxation of coal with the Dakotas and Wyoming, and to contract and cooperate joining with these other states to achieve that end. . . ." House Resolution No. 45, 1974 Mont. Laws, p. 1620. The Subcommittee recommended that the Executive pursue this goal. Subcommittee on Fossil Fuel Taxation, *supra*, at 2.

[6] One of the principal sponsors of the severance tax bill explained to the Montana Legislature:

"Most of Montana's coal is shipped out of state to power plants and utility companies in the Midwest. In reviewing the [long-term] contracts between the coal companies and the utility companies who purchase the coal, all of the contracts that were shown to our Legislative Committee contain an escalation clause for taxes. In other words, the local companies simply add the additional taxes to their bill, and the entire cost is passed on to the purchasers in the Midwest or elsewhere. Because most of the purchasers are regulated utility companies, it is reasonable to assume these companies will, in turn, pass on their extra costs to their customers." Towe, Explanation of Reasons for Montana's Coal Tax 4, cited in Brief for Appellants 34.

[7] The Montana Supreme Court observed that under Montana law, facts well pleaded in the complaint must be accepted as true on review of a judgment of dismissal; it therefore necessarily held that appellants could not prevail "under any view of the alleged facts." — Mont. —, 615 P. 2d 847, 849 (1980). See also Tr. of Oral Arg. 17–18.

[8] In addition to the severance tax on coal, Montana imposes a gross proceeds tax. Mont. Code Ann. § 15–6–132 (1979), a resource indemnity trust tax, § 15–38–104, a property tax on mining equipment, § 15–6–138 (b), and a corporation license tax, § 15–31–101. See Krutilla, at 50–54. Furthermore, all costs of reclamation must be borne by the coal companies under both federal and state law, and Montana requires each company to purchase a reclamation bond prior to the commencement of mining operations. § 82–4–338.

[9] By federal statute, 50% of the "sales, bonuses, royalties, and rentals" of federal public lands are payable to the State within which the leased land lies "to be used by such State and its subdivisions, as the legislature of the State may direct giving priority to those subdivisions of the State socially or economically impacted by development of minerals leased under this chapter, for (i) planning, (ii) construction and maintenance of public facilities and (iii) provision of public service . . . ." Mineral Lands Leasing Act of 1920, § 35, 41 Stat. 450, as amended, 30 U.S.C. § 191. An additional 40% of this federal revenue from mineral leases is indirectly returned to the States through a reclamation fund. *Ibid.* Moreover, § 601 of the Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95–650, 92 Stat. 3323, 42 U.S.C. § 8401 (1976 ed., Supp. III), authorizes federal grants to areas affected by increased coal production.

[10] This is a marked departure from the Court's prior cases. Rather than suggesting such a mechanical test, those cases imply that that a tax will be struck down under the fourth prong of the *Complete Auto Transit* test if the plaintiff establishes a factual record that the tax is not fairly related to the services and protection provided by the State. See, *e.g. Washington Rev. Dept.* v. *Stevedoring Assn.*, 435 U.S. 734, 750–751 (1978): *id.*, at 764 (POWELL, J., concurring in part and concurring in the result). See *Merrion* v. *Jicarilla Apache Tribe*, 617 F. 2d 537, 545, n. 4 (CA10 1980) (en banc), cert. pending, Nos. 80–11 and 80–15. Even the trial court in the present case recognized that if it reached this question it "would necessarily have to deny the motion to dismiss and proceed to a factual determination." App. 37a.

[11] As the example of Alaska illustrates, this prospect is not a fanciful one. Ninety percent of Alaska's revenue derives from petroleum taxes and royalties: because of the massive sums that have been so raised, that State's income tax has been eliminated. See N.Y. Times, June 5, 1981, section 1, p. A10, col. 1. As noted above, Montana's severance tax already allegedly accounts for 20% of its total tax revenue, and the State has enacted property and income tax relief.

[12] The Court apparently derives its interpretation of the fourth prong of the *Complete Auto Transit* test primarily from *Wisconsin* v. *J. C. Penney Co.*, 311 U.S. 435 (1940), and *General Motors Corp.* v. *Washington*, 377 U.S. 436 (1964). *Ante*, at 13–15. In neither of those cases, however, did the Court consider the question presented here. *J. C. Penney* involved a *Fourteenth Amendment* challenge brought by a foreign corporation to a Wisconsin tax imposed on domestic and foreign corporations "for the privilege of declaring . . . dividends" out of income from property located and business transacted in Wisconsin. The corporation argued that because the income from the Wisconsin transactions had been transferred to New York, Wisconsin had "no jurisdiction to tax" those amounts, 311 U.S., at 436. The Court rejected that argument, holding that "[t]he fact that a tax is contingent upon events brought to pass without a state does not destroy the nexus between such a tax and the transactions within a state for which the tax is an exaction." *Id.*, at 445. In *General Motors*, the question before the Court was the validity of an unapportioned tax on the gross receipts of a corporation in interstate commerce. The Court concluded that there was a sufficient nexus to uphold the tax. 377 U.S., at 448. See *id.*, at 449–450 (BRENNAN, J., dissenting).

[13] In *Postal Telegraph-Cable Co.*, a telegraph company engaged in interstate commerce challenged both an annual license tax and an annual tax of $2 for each telegraph pole that the company maintained in the city of Richmond, Va. The Court sustained the validity of the license tax on the ground that it was simply a nondiscriminatory "exercise of the police power . . . for revenue purposes." 249 U.S., at 257. In contrast, the pole tax was subjected to stricter scrutiny; the Court stated that while interstate commerce must pay its way, the authority remains in the courts, "on proper application, to determine whether, under the conditions prevailing in a given case, the charge made is reasonably proportionate to the service to be rendered and the liabilities involved, or whether it is a disguised attempt to impose a burden on interstate commerce." *Id.*, at 260

The Court has continued to scrutinize carefully taxes on interstate commerce that are designed to reimburse the State for the particular costs imposed by that commerce. See, *e.g., Evansville-Vanderburgh Airport Authority* v. *Delta Airlines, Inc.*, 405 U.S. 707 (1972); *Clark* v. *Paul Gray, Inc.*, 306 U.S. 583 (1939); *Ingels* v. *Morf*, 300 U.S. 290 (1937). In analyzing such taxes, it has required that there be factual evidence in the record that "the fees charged do not appear to be manifestly disproportionate to the service rendered." *Clark*, 306 U.S. at 599. The Court concludes that this test has no bearing here because the Montana Supreme Court held that the coal severance tax was "imposed for the general support of the government." *Ante*, at 10. In fact, however, the matter is not nearly so clear as the Court suggests. The Montana court also implied that the tax was designed at least in part to compensate the State for the special costs attributable to coal mining, — Mont., at —, —, 615 P. 2d, at 850, 855, as have appellees here. Brief for Appellees 1–3, 26–27.

Indeed, the stated objectives of the 1975 amendment were to: "(a) preserve or modestly increase revenues going to the general fund, (b) to respond to current social impacts attributable to coal development, and (c) to invest in the future, when new energy technologies reduce our dependence on coal and mining activity may decline." Statement to Accompany the Report of the Free Joint Conference Committees on Coal Taxation, p. 1. Since the tax was designed only to "preserve or modestly increase" general revenues, it is appropriate for a court to inquire here whether the "surplus" revenue Montana has received from this severance tax is "manifestly disproportionate" to the present or future costs attributable to coal development.

[14] *Complete Auto Transit* gave several examples of "tailored" taxes: property taxes designed to differentiate between property used in transportation and other types of property; an income tax using different rates or different types of business; and a tax on the "privilege of doing business in corporate form" that changed with the nature of the corporate activity involved. 430 U.S. at 283, n. 15. A severance tax using different rates for different minerals is, of course, directly analogous to these examples.

[15] See also *Washington Rev. Dept.* v. *Stevedoring Assn.*, 435 U.S. 734, 754–755 (1978): *id.*, at 764 POWELL J., concurring in part and concurring in the result.

[16] The degree to which a tax may be "exported" turns on such factors as the taxing jurisdiction's relative dominance of the market, the elasticity of demand for the product, and the availability of adequate substitutes. See, *e.g.*, McLure, Economic Constraints on State and Local Taxation of Energy Resources, 31 Nat. Tax J. 257, 257–259 (1978): Posner, at 510–512. Commentators are in disagreement over the likelihood that coal severance taxes are in fact exported. Compare, *e.g.*, McLure, at 259, and Gillis & Peprah, Severance Taxes on Coal and Uranium in the Sunbelt, Tex. Bus. Rev. 302, 308 (1980), with Church, at 277, and Griffin, at 33. It is clear, however, that that likelihood increases to the extent that the taxing States form a cartel arrangement. Gillis at, 308. See n. 5, *supra*. Whether the

tax is in fact exported here is, of course, an issue for trial.

[17] There is no basis for the conclusion that the issue presented would be more difficult than those routinely dealt with in complex civil litigation. See, *e.g., Milwaukee* v. *Illinois*, — U.S., —, — (1981) (slip op. 17) (dissenting opinion). "The complexity of a properly presented federal question is hardly a suitable basis for denying federal courts the power to adjudicate." *id.*, at —, n. 25.

[18] See n. 13 *supra*. Cf. *Maryland* v. *Louisiana*, — U.S. —, —, n. 27 (slip op. 28, n. 27) (reciting argument of United States that use of 75% of proceeds of Louisiana's "First-Use Tax" to service general debt, and only 25% to alleviate alleged environmental damage from pipeline activities, suggests that tax was not fairly apportioned to value of activities occurring within the State.)

[19] As the Court notes, the issue has not escaped congressional attention. *Ante*, at 17. No bill, however, has yet been passed, and this Court is not disabled to act in the interim; to the contrary, strong policy and institutional considerations suggest that it is appropriate that the Court consider this issue. See Brown, at 222. Indeed, whereas Montana argues that the question presented here is one better left to Congress, in 1980 hearings before the Senate Committee on Energy and Natural Resources, the then Governor of Montana took the position that the reasonableness of this tax was "a question most properly left to [the] court," not a congressional committee. See Hearing on S. 2695 before the Senate Committee on Energy and Natural Resources, 96th Cong., 2d Sess., 237 (1980).

[20] Justice Holmes' words are relevant: "I do not think the United States would come to an end if we lost our power to declare an Act of Congress void. I do think the Union would be imperiled if we could not make that declaration as to the laws of the several States. For one in my place sees how often a local policy prevails with those who are not trained to national views and how often action is taken that embodies what the Commerce Clause was meant to end." O. Holmes, Law and the Court, in Collected Legal Papers 291, 295–296 (reprint, 1952).

[21] I agree with the Court that appellants' Supremacy Clause claims are without merit.

LEGISLATIVE PROGRAM

Mr. ROBERT C. BYRD. Mr. President, I ask the distinguished acting Republican leader what the program is for the remainder of the week, if he can so state, and for as much as next week as it is possible for him to foresee.

Mr. STEVENS. I thank the distinguished minority leader.

It is my understanding that the majority leader intends to call up Calendar No. 179, S. 1408, the military construction authorization bill, as soon as that can be done.

If that bill cannot be cleared for action, then it will be the intention of the leadership to call up three bills from the Judiciary Committee, those being Calendar No. 165, S. 255, Patent Term Restoration Act of 1981; Calendar No. 103, S. 816, a bill to amend the Clayton Act; and Calendar No. 176, Senate Resolution 141, Combating Violent Crime in America.

The patent bill and the Clayton Act bill will take about an hour each, we are informed, and the crime resolution will take about 2 hours. A rollcall vote will be expected on the crime resolution, and rollcall votes could occur on amendments to or final disposition of the patent and Clayton Act bills.

It is the hope of the majority leader that time agreements can be reached today on each of the three bills I have mentioned.

Mr. ROBERT C. BYRD. Does the distinguished Senator expect any late sessions this week?

Mr. STEVENS. It is my understanding that there will be no late session tonight. Whether there will be one tomorrow will depend upon the outcome of the military construction authorization bill and whether we can proceed to its consideration tomorrow.

Mr. ROBERT C. BYRD. Is it the intention of the leadership to lay down a cloture motion this week?

Mr. STEVENS. It is the intention of the leadership to file a cloture motion today on the Department of Justice bill.

Mr. ROBERT C. BYRD. So the vote on that cloture motion would occur Friday.

Mr. STEVENS. Sometime following noon on Friday, yes.

Mr. ROBERT C. BYRD. Can the distinguished acting Republican leader foresee what legislation may be before the Senate in the early part of next week?

Mr. STEVENS. I do not think we are prepared to discuss that now, because of the problem concerning the cloture motion. Of course, if the cloture motion is agreed to, that will lead to a substantial period of time on the Department of Justice bill. No decision has been made yet as to the program following that vote on Friday at noon.

Mr. ROBERT C. BYRD. I thank the distinguished acting majority leader.

Mr. President, if I have time remaining, I yield it to Mr. STENNIS.

The PRESIDENT pro tempore. The Senator from Mississippi.

Mr. STENNIS. I thank the Senator from West Virginia.

Mr. President, I have heard the colloquy that has just ensued, and I believe the Senate is blessed with the type of leadership we have on both sides of the aisle. As has just been demonstrated, it is leadership that consists of cooperation and planning the sessions of the Senate in an intelligent way, without either side yielding one bit with reference to what it believes is the sound position it should take.

This means a great deal to the membership of this body. It might not be noticed fully by those who are not familiar with the problems we have, but it certainly is a bright light, and I express my appreciation.

ALL-SAVERS TAX CERTIFICATE

Mr. STENNIS. Mr. President, when the Committee on Finance reported out Senate Joint Resolution 266, it included the committee income tax reduction bill as an amendment in the form of a substitute.

As a part of its tax reduction bill, the committee adopted a provision which would provide for depository institution tax exempt savings certificates, which are popularly known as all-savers certificates. This provision would exclude from income $1,000—$2,000 on joint returns—of interest income earned on such savings certificates. These certificates would have a 1-year maturity, would earn interest at the rate of 70 percent of the 1-year Treasury bill interest rate, and would have to be established at a bank, credit union, or savings and loan association between October 1, 1981 and September 30, 1982.

Mr. President, I strongly support the concept of tax exemption for interest earned on savings by individuals. Such tax exemptions provide a specific and definite incentive for an individual to work, to save, and to invest with the knowledge that the interest he earns will not be taken from him by a tax bite at the end of the year. I believe also that the tax exemption certificates should be issued in lower denominations of $500 or $1,000. This will enable low- and middle-income taxpayers to invest and receive the benefits of significantly higher interest rates which are now denied them because certificates of deposit are issued in larger denominations. For example, Mr. President, if the Treasury bill rate was 14 percent, then the all-savers certificates proposed by the tax bill would yield a rate of interest of 9.8 percent which would be free of taxes and therefore net to the saver.

The so-called all-savers certificates recommended by the Senate Finance Committee bill may not be the most desirable step to be taken at this time. It is altogether possible that other avenues of tax exemption on interest income may be more desirable. I certainly have an open mind on this and will be glad to work with my fellow Senators to develop the best and most desirable system to adopt.

The important point that I make now is that savings and investments by taxpayers are very important to individuals and should be encouraged. In addition, such savings and investments are very important to the Nation's economy. Not only do they provide a nest egg that the taxpayer can fall back on in times of financial emergency but they also provide a significant pool for capital investment of various kinds which can play a direct role in stimulating the economy of the Nation. The amounts invested in whatever form of tax-free certificates are developed will provide a substantial source of funds which can be used by depository institutions for making loans for housing and other productive purposes.

I have always believed, Mr. President, that the tax laws should be designed to encourage personal savings and investment. I believe the provision of the bill which I am discussing will do this. I commend the committee on adopting this concept. It is a step to provide fairness to the low- and middle-income taxpayers which has been previously lacking in our tax statutes. I hope that this or some similar provision will be a part of any tax reduction law that is finally passed.

Mr. President, in a broad sense, I am fully convinced that in considering our tax system we should not limit ourselves to the question of reducing taxes or increasing taxes. I believe we must consider a new system of taxation that is

more in line with the realities of the times. Such a system should put great stress on providing incentives for savings and investments.

I have discussed this idea before on the floor of the Senate, once at least 2 years ago. I have in mind a promise in advance and a special incentive in the tax system for those who save and invest, Mr. President. We have a lot of individual savers in this country, who are willing to sacrifice and genuinely desire to put aside something for a rainy day. However, they lose their enthusiasm when the heavy tax bite at the end of the year takes a large part of the interest they have earned from them. The inevitable effect of this is to dry up their natural incentives.

So I think we should open these doors gradually with a promise in advance to those who will save that they will not be taxed on the interest earned on their savings up to a certain level, but will be permitted to keep a significant portion of the interest earned from such savings tax free instead of having a substantial amount of such interest taken away at the end of the tax year. In that way they can build, and the reward is given in keeping with the promise. They do their part, abstain from spending the money, save and invest it, and then they receive the reward in the form of exemption from taxation.

I believe we should open those doors further and further as the years come and go. This concept should start off in a sound way. We should make it possible for the small- and middle-sized taxpayers to participate in tax exempt savings as well as those with large sums to invest. At the same time we must not go so far as to rob the Treasury, so to speak, of large sums of money so as to slow down our efforts to balance the budget.

There are differences of opinion within the group that believe in greater tax exemption for savings. A very strong advocate of it is the Senator from Texas (Mr. BENTSEN), and I look to him for guidance and leadership. He was the first one whom I remember mentioning a plan of this type. He would restrict tax exemptions for savings to those funds invested in mortgages. That has an appeal of a kind but I do not endorse it now. I wish to reserve judgment on it, because it is vital to get this program started and moving as a definite part of our system. I hope we pass something this year, and I support a reasonable program in order to get something in the law to start the system moving.

The PRESIDING OFFICER (Mr. KASTEN). The time of the Senator from West Virginia has expired.

Mr. STEVENS. Mr. President, I yield back the remainder of our time.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order there will now be a period for the transaction of routine morning business for not to exceed 30 minutes with statements therein limited to 5 minutes each.

FACING GENOCIDE

Mr. PROXMIRE. Mr. President, I call attention of the Senate to this week's essay in Time magazine, "Looking Straight at the Bomb," by Roger Rosenblatt. Mr. Rosenblatt comments on the bombing of the Iraqi nuclear plant and the memory and fear of the holocaust which was recently commemorated in Jerusalem. These two events force us to face unpleasant thoughts, to confront the reality of killing masses of human beings.

Mr. Rosenblatt urges us to look straight at the bomb as a weapon of devastation, not just as an instrument of diplomacy. He claims that the "refusal to face the bomb squarely" helps explain why the attempts to control nuclear proliferation have been so ineffectual.

The same is true of our refusal to face genocide squarely. As with nuclear war, the enormity of the destruction makes it more difficult for us to deal with it. This may be the reason we have failed for 31 years to ratify the Genocide Convention which brands genocide as an international crime, despite the fact that every single President and every administration since President Truman has urged us to do this, including the Reagan administration.

Since the end of World War II nations have worked to sign numerous pacts and treaties in attempts to contain nuclear proliferation. The failure of all the nuclear nations to sign them is one reason Mr. Rosenblatt cites for the pacts' ineffectiveness. The same is true of the Genocide Treaty before the Senate. During the same period after World War II the U.N. General Assembly adopted the Genocide Convention and placed it before the Senate for ratification.

Mr. Rosenblatt claims that we have created a culture of diversion, a belief that if you refuse to look squarely at a monster, it will likewise refuse to look at you. The Senate has fallen into this trap by failing to ratify the Genocide Treaty.

Mr. Rosenblatt says that there are those who never wish to hear about the holocaust again, contending that it was too horrible even for language. I am sure that some of my colleagues wish never to hear about the Genocide Convention again.

Mr. Rosenblatt says:

> These images of holocausts past and future are terrible things, so in terms of normal revulsion it makes sense not to face them head on.

Let us not be afraid to look straight at genocide. Let us ratify the Genocide Treaty.

Mr. President, I yield the floor.

Mr. MOYNIHAN. Mr. President, I wish to rise to say that I for one, as a Member of this body, very much look forward to hearing from the Senator from Wisconsin again and yet again on the subject of the Genocide Treaty and the extraordinary problems that nuclear proliferation presents not just to this Nation but to this race of ours.

Few men have been as persistent, stalwart, and formidable in insisting that this body hear an issue which it might perhaps wish to be diverted from.

I thank the Senator.

COMMODITY STRADDLES AND THE NATIONAL CONSERVATIVE POLITICAL ACTION COMMITTEE

Mr. MOYNIHAN. Mr. President, there are those who keep abreast of the Congressional Quarterly who will find in the current issue an article entitled "Commodity Straddles New Dogma at NCPAC," which begins:

> By now anyone with a passing interest in politics knows what issues boil blood at the National Conservative Political Action Committee (NCPAC): abortion, the Panama Canal, the balanced budget, the national defense, commodity straddles.
>
> Wait a second. Commodity straddles?

And it goes on to say that yes, indeed, Mr. John T. Dolan, Chairman of NCPAC, together with a number of his organizations, contributors, feel, strongly about this matter.

Mr. Dolan feels strongly about commodity straddles which is the largest loophole ever to be opened in the Internal Revenue Code. Mr. Dolan feels fine about this loophole. He is quoted as saying later in the article:

> Anybody who can get out of paying any tax at any time I support.

The legislation which I have introduced as S. 1432 passed the Finance Committee 18 to 2, and the Treasury estimates $1.3 billion in savings will come next year from closing this loophole.

Where there is that much money at stake you will not be surprised to find lobbyists, although I was surprised, Mr. President, to receive from Mr. Dolan on June 17 a letter on the stationery of the National Conservative Political Action Committee urging me to vote against this legislation.

I feel less alarmed at the opposition of NCPAC when I find Mr. Dolan, whom I have not met, addresses me as "Dear Pat," and signs it "Terry," and evidently does not know that I am the author of the measure he is denouncing.

Anyway, in the House of Representatives, the same thing happened, and our distinguished friend, Representative WILLIAM BRODHEAD, has brought to the attention of the Clerk of the House the fact that Mr. Dolan is not a registered lobbyist and, by not being registered as such, may be violating our laws.

He is not a registered lobbyist in this body either, and I have, accordingly, Mr. President, sent a letter to our distinguished Secretary, the Honorable William F. Hildenbrand, asking whether he would inquire whether Mr. Dolan might fall within the requirements of chapter 8A, title 2 of the United States Code, Federal Regulation of Lobbying.

Mr. President, I ask unanimous consent that Mr. Dolan's letter to me, my letter to Mr. Hildenbrand, and the accompanying press statements, and the Congressional Quarterly statement be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., July 7, 1981.

Hon. WILLIAM F. HILDENBRAND,
Secretary of the Senate
The Capitol, Washington, D.C.

DEAR MR. HILDENBRAND: I am enclosing a copy of a letter addressed to me dated June 17, 1981 on the letterhead of the National Conservative Political Action Committee and signed by John T. Dolan. This letter evidences interest in "straddle tax legislation" and concludes "I strongly urge you to oppose this legislation." Measures concerning "tax straddles" are currently pending before Congress.

Press reports indicate that Mr. Dolan may have drafted and transmitted the letter at the suggestion of a contributor to the National Conservative Political Action Committee.

It would appear that Mr. Dolan and his organization might fall within the requirements of Chapter 8A Title 2 of the United States Code—Federal Regulation of Lobbying—particularly section 267 requiring the registration of lobbyists.

Would you please advise me as to whether either Mr. Dolan or the National Conservative Political Action Committee were in compliance with these registration requirements on June 17 and if they were not, forward a copy of this letter and Mr. Dolan's letter, together with your statement of such noncompliance to the Attorney General.

Sincerely,

DANIEL PATRICK MOYNIHAN.

Enclosure.

NATIONAL CONSERVATIVE
POLITICAL ACTION COMMITTEE,
Arlington, Va., June 17, 1981.

Hon. DANIEL PATRICK MOYNIHAN,
U.S. Senate,
Washington, D.C.

DEAR PAT: It has come to my attention that the Senate Finance Committee is considering straddle tax legislation as a part of its overall tax package.

The proposal before the Finance Committee includes making interest a nondeductible expense on carry charges and would therefore require interest costs to be capitalized. This would be the only place in our entire tax law which would treat interest in such a way.

In addition, the proposal includes an annual "mark to market" of all straddle or spread positions, with taxes being paid on all unrealized gain. To incur a tax liability on an open position with immediate risk to price change and loss is incredible. It becomes even more ridiculous if this open position becomes a loss. Not only has a capital gains tax been paid on an unrealized profit, but the maximum tax benefit on the loss is only $3,000 per year. This combination could conceivably bankrupt many participants and irreparably damage the overall market.

I am shocked at the lack of understanding in the Congress of the full ramifications of the proposed straddle legislation and its impact on the most efficient grain marketing system in the world. I strongly urge you to oppose this legislation.

I await your reply on this matter.

Sincerely,

JOHN T. DOLAN,
National Chairman.

[From the Congressional Quarterly, July 4, 1981]

COMMODITY STRADDLES NEW DOGMA AT NCPAC

(By Bill Keller)

By now anyone with a passing interest in politics knows what issues boil blood at the National Conservative Political Action Committee (NCPAC): abortion, the Panama Canal, the balanced budget, the national defense, commodity straddles.

Wait a second. Commodity straddles?

Correct. The committee, which won national attention for its high-pitched, $5-million conservative campaign in 1980, has been conducting a much smaller and quieter lobbying effort to save an obscure tax shelter.

Why is this campaign arm of the New Right interested in something that is barely understood outside the arcane world of commodities trading?

The reason, NCPAC Chairman John T. Dolan said, is that "a number of our contributors" feel strongly about it.

The man who spurred NCPAC into action, Dolan said, was Peter M. Todebush, a member of the Chicago Board of Trade (the nation's largest commodities market) and a partner in a major commodities trading firm. He also is a member of NCPAC's executive committee and has contributed money to the group—most recently $1,500 in March.

ANTI-FREE MARKET

The commodity straddle is a complex trading technique which has become popular with wealthy individuals as a way of "rolling over" tax liability from one year to the next. It involves buying a commodity futures contract that will produce a bookkeeping loss this year—reducing the purchaser's taxable income—and then offsetting it with another contract that will earn the money back next year. In theory, tax liabilities can be postponed indefinitely using this ploy.

The Senate Finance Committee the week of June 22 adopted several provisions to curb abuses of the straddle. One, sponsored by Sen. Daniel Patrick Moynihan, D-N.Y., would tax the value of commodities contracts as of Dec. 31 each year, even if owners had not yet realized their gains.

The proposal had strong support from the Treasury Department, which said it would bring in $1.3 billion in taxes now avoided. Finance Chairman Robert Dole, R-Kan., and all but two other committee members voted for it. Members of the House Ways and Means Committee have been working on a somewhat different version.

Todebush said the legislation touches not just his business, but his conservative ideology. "It's so anti-free market and anti-conservative and anti-capital it's mind-boggling," he said in an interview. "It's ideologically offensive to anybody who's in the market."

Todebush admitted the issue was probably too obscure for most of NCPAC's contributors, but he believes the commodity straddle issue is such an important conservative litmus test that it should be a factor in picking beneficiaries of NCPAC's aid in the 1982 elections.

"I think, very definitely, from an ideological point of view, this is going to be one of the measures [of candidates' merit]," he said.

"This is the first time in the history of Western civilization that somebody will be asked to pay a tax on an unrealized profit, with an open position at market risk," Todebush said. "This is so totally offensive for a conservative, a believer in free markets, and the precedent it sets is awesome."

He warned that the government could next decide to tax the accumulated value of an unsold house, jewelry or stocks—though no one has seriously suggested doing so. He contended the measure also would disrupt legitimate futures trading, an underpinning of the grain market.

Todebush agreed the straddle technique has been abused as a tax dodge, but he said the solution is to lower capital gains taxes so no one will need to seek shelters—an idea, incidentally, which both tax-writing committees support.

Dolan expressed a broader principle at stake in the straddle amendment: "Anybody who can get out of paying any taxes at any time, I support, whether he's the poorest of the poor or the richest of the rich."

PUSHING CONGRESS

After Todebush raised the issue with NCPAC, Dolan wrote to all members of the Senate Finance and the House Ways and Means committees urging defeat of anti-straddle amendments. He told the senators in a June 17 letter that he was "shocked at the lack of understanding in the Congress of the full ramifications of the proposed straddle legislation and its impact on the most efficient grain marketing system in the world."

Dolan also suggested the issue to Chris Kolesnik, executive director of the Committee Against Liberal Legislation (CALL), a conservative organization lobbying on economic and defense issues. Dolan is national director of CALL, which is legally independent of NCPAC. Kolesnik said Todebush is a contributor to both groups.

Kolesnik took on the issue, and said he has been meeting "virtually daily" with staffers in Congress, the administration and the Chicago Board of Trade trying to work out "a position which is comfortable for everybody." But with even congressional conservatives intent on closing the straddle loophole, Kolesnik said, "It looks to us like we might have to go right to the White House."

NCPAC's activities on the issue have not attracted much public attention, but they have caused a bit of head-scratching on Capitol Hill.

"I'm curious whether Dolan's members, the constituents he speaks for, would agree we ought to be perpetuating this tax avoidance gimmick," said Moynihan's legislative counsel, Keith Martin.

"I don't know why they would be involved in it," said Ann Cannfield, Finance Committee assistant to Sen. Steven D. Symms, R-Idaho, who voted to preserve the straddle.

[From the Boston Globe, July 3, 1981]

HOUSE OFFICIALS STUDY LETTERS AGAINST TAX BILL

(By Robert Healy)

WASHINGTON.—House officials are studying whether to refer to the Justice Department for criminal investigation a case involving letters sent to members of Congress by John T. (Terry) Dolan, chairman of the National Conservative Political Action Committee (NCPAC), lobbying for defeat of proposed tax legislation.

Stanley Brand, chief counsel to the House Clerk's Office, which supervises the 1946 federal lobbying act, said the office received copies of the letters yesterday from Rep. William M. Brodhead (D-Mich.), a member of the House Ways and Means Committee. The letters, from Dolan, had been sent to Brodhead and other legislators in May and June urging defeat of a proposed tax on commodity market ventures.

"There appear to have been several communications over a period of time and they raise some serious questions," Brand said.

Neither Dolan nor NCPAC is registered as a lobbyist.

"What makes a lobbyist a lobbyist," explained a House official, "is when there is compensation for contact with members. The letter indicates this was more than a casual or a one-time thing; that is, that it was more like a campaign."

The 1946 federal statute requires that anyone "who hired himself out for pay as a lobbyist for someone else" must register with the House Clerk and the Senate Secretary and file quarterly reports.

Dolan said in an interview Wednesday that he had acted at the request of Peter M. Todebush, a contributor to NCPAC and a member of its executive committee. Todebush is a member of the Chicago Board of Trade, which has a financial stake in the commodities market and would be affected by the tax legislation at issue.

Brodhead, who asked the House Clerk's Office to review the matter as it relates to the lobbying statute, said yesterday:

"I thought the thing was pretty weird. . . . It is totally out of character for them [NCPAC]. It makes them look foolish."

NCPAC was an important force on the political scene last year, when it successfully campaigned against many Senate Democratic liberals. It plans a similar effort for the 1982 congressional elections.

The tax legislation at issue would restrict the benefits of investors in the commodities market, where they currently can simultaneously purchase options to buy and sell; then, depending on the market, they can take a loss and hold onto a gain long enough to treat it as a capital gain, which is taxed at a lower rate.

[From the Boston Globe, July 2, 1981]

SOLICITOR LOBBIED IN HOUSE

(By Robert Healy)

WASHINGTON.—John T. (Terry) Dolan, chairman of the National Conservative Political Action Committee (NCPAC), acknowledged yesterday that at the suggestion of a contributor, he sent two letters to selected members of the House Ways and Means Committee urging the defeat of a proposed tax on commodity market ventures.

Peter M. Todebush, the contributor, is listed in Federal Election Commission records as having donated $1,000 to the NCPAC last spring. The Illinois businessman is a member of the Chicago Board of Trade, which has a financial stake in the commodities market affected by the tax legislation at issue.

Any person receiving compensation and not registered as a lobbyist, may not lobby members of Congress on legislation through direct communications, according to the House Clerk's office, which supervises the 1946 federal lobbying act.

Dolan, who works full time for NCPAC, is not registered as a lobbyist, nor is his group, according to records in the House clerk's office.

NCPAC became an important force on the political scene last year, when it sucesssfully campaigned against many Democratic liberals in the Senate. The organization has also begun a similar effort for next year, targeting Senate liberals, such as Sen. Edward M. Kennedy, and House Democrats who oppose portions of President Ronald Reagan's economic program.

Dolan acknowledged in a telephone interview yesterday that letters he wrote to members of Congress did constitute a direct communication with Congress, but he said that direct lobbying constitutes only about $2,000 of NCPAC's annual $5-million effort and therefore he did not think this would be interpreted as substantial.

Dolan said that he was not familiar with the law but that his lawyer had advised that he had not operated outside the law. "If we've got to register, it doesn't bother me at all," said Dolan.

In a telephone interview last night, Todebush acknowledged that it was his request that led to the lobbying effort, and he said the NCPAC executive committee, of which he is a member, was developing a position on the tax issue.

He acknowledged that, as a member of a Chicago firm working on the floor of the Chicago Board of Trade, he has a financial stake in the proposed legislation, but said the issue he was arguing for affected the entire commodities market.

For persons seeking a tax benefit, the commodities market is attractive because of the opportunity to essentially take two positions at once. A wealthy investor purchases options to both buy and sell at some future date; then, depending on the market, he can take his loss and hold onto his gain long enough to treat it as a capital gain, taxed at a lower rate. The proposed legislation would effectively restrict such operations, but Todebush argued that in addressing any abuses, the Ways and Means Committee would be having a wider impact.

"Maybe 2 percent of the volume is abused," he said, "98 percent is legitimate. You're going to kill the patient to cure the impacted toe."

In an unrelated incident last month, the activities of another conservative political action committee were also brought into question.

The House Clerk, it was learned, has asked the Justice Department to investigate the actions of the National Tax Limitations Committee. The committee last month warned Rep. Daniel A. Mica (D-Fla.) to support President Reagan's substitute budget measure, before the measure was sent to the Congress.

Members of the committee told Mica they would buy radio time urging Mica's defeat next year if he did not go along with their recommendations. Mica did not go along and the committee bought the radio time.

The House Clerk's Office informed the National Tax Limitations Committee of its complaint to the Justice Department; in the interim, the committee has registered as a lobbyist.

Dolan defended his effort to influence the legislation. "Philosophically, anything which denies tax revenues to the federal government, I favor it." He said it was an important piece of legislation and he agreed to help a contributor.

Under election laws, political-action committees are allowed to influence voters and can make statements for and against elected officials.

The Globe learned that Dolan sent letters to members of the committee on May 22 and June 17. In his second letter, he said: "A couple of weeks ago (May 22) I wrote you regarding our opposition to the straddle tax legislation bill (HR 1293).

"Since that time, I have learned that chairman (Dan) Rostenkowski intends to make the straddle legislation part of the Ways and Means Committee's tax bill for FY 1982. I must reiterate how truly dangerous such legislation would be," Dolan wrote.

Dolan's letter criticized the taxing on all unrealized gain in the process of buying and selling commodities.

NCPAC this year targeted Rostenkowski (D-Ill.), the chairman of the House Ways and Means Committee, for defeat in any bid for reelection.

MYTHICAL "STUDY" OF MARKET, NCPAC LOBBYING USED IN FIGHT TO KEEP TAX STRADDLE LEGAL

(By Jerry Knight)

A widely quoted "Department of Agriculture study" that USDA says doesn't exist and an unusual special-interest lobbying campaign by a prominent conservative political group are being used in last-ditch efforts to try to prop open a $1.3 billion income tax loophole for professional commodity speculators.

Congressional and industry opponents of the tax reform measure claim the so-called "USDA study" supports their contention that eliminating commodity trading tax gimmicks will harm the nation's grain marketing system.

"There is no study," says Dawson Ahalt, deputy assistant secretary for economics. The Agriculture Department "raised some red flags" in a private letter to the Treasury Department, he said, but "we've made no study" of the issue.

The threat to the grain markets also has been cited by another opponent of the bill, the National Conservative Political Action Committee, which has been lobbying against the commodity tax measure for more than a month.

Moving for the first time into an issue far removed from NCPAC's traditional conservative causes, Chairman John T. (Terry) Dolan has written three letters to various members of Congress opposing legislation to end the use of certain commodity trading tactics to avoid taxes.

Neither NCPAC nor Dolan has registered with the secretary of the Senate as a lobbyist, a representative of that office said.

A 1946 federal law requires that persons or groups that are paid by others to try to influence passage or defeat of legislation must register with congressional officials.

The law is loosely worded, and there have been few prosecutions for failure to register, the Senate aide said.

Dolan left Washington for the July Fourth weekend without responding to inquiries from The Washington Post about his role in the commodity-tax debate.

Dolan told The Boston Globe he wrote the letters at the urging of a NCPAC contributor, Peter M. Todebush of Barrington, Ill., a suburb of Chicago. The Globe reported Todebush, a member of NCPAC's executive committee, confirmed the request but did not report when it was made.

Records of the Federal Election Commission show Todebush gave NCPAC a $1,000 contribution in March. FEC regulations require listing the occupation of contributors, but NCPAC failed to provide that information about Todebush.

Todebush told The Globe he is a member of the Chicago Board of Trade, one of two big Chicago commodity exchanges that are leading the opposition to the tax bill.

Dolan's lobbying has introduced politics into what had been a bipartisan effort to close a loophole that the Treasury Department says costs the government $1.3 billion a year in taxes.

Congressional Democrats initiated the tax reform measure, but the Reagan administration has endorsed the idea, and a few days ago the Republican-controlled Senate Finance Committee voted 16 to 2 in favor of it.

Dolan has written at least three groups of letters to members of the Finance Committee and the House Ways and Means Committee, which are handling the commodity tax bill.

The letters advocate changes in highly technical provisions of the commodity tax bill, but offer no explanation of how those provisions are related to the conservative ideology on which NCPAC has raised funds from thousands of contributors.

Describing the tax measure as "incredible", "ridiculous" and "truly dangerous," the NCPAC chairman repeated almost verbatim arguments made by the commodity industry's own lobbyists.

The tax reform proposal would "irreparably damage" the nation's grain markets, Dolan claimed and "could conceivably bankrupt" some professional speculators.

Backers of the bill dispute that assessment of the impact on the grain markets but admit it could have a devastating impact on some speculators who for the first time would have been forced to pay federal taxes on all their income.

Using complex techniques called "butterfly straddles, spreads and cash and carry," the commodity traders have found several ways to reduce their tax bills and in some cases to avoid paying taxes entirely.

One trading strategy can be used to convert ordinary income such as salary and investment earnings that are taxed at rates of up to 70 percent into long-term capital gains on which the maximum tax is only 28 percent.

Another technique makes it possible to shift income from one year to the next. By repeating the process year after year, some traders have been able to defer taxes indefinitely.

Under the commodity tax bill, the traders would not only have to pay taxes on their current income, but also could face huge bills for past income that has been deferred.

The commodity tax tricks have been known to industry insiders for at least 30 years, but gained notoriety only recently. The Washington Post reported earlier this year that the technique was promoted by the nation's biggest brokerage, Merrill Lynch, Pierce, Fenner and Smith when Treasury Secretary Donald T. Regan was chairman of that firm.

At his confirmation hearing, Regan promised not to interfere in Treasury efforts to close the loophole. Since then, the Republican Treasury Department has pursued the issue even more aggressively than did the Democrats.

Treasury officials have recommended changes in the bill that go farther than the original measures introduced in the House by Rep. William Brodhead (D-Mich.) and Benjamin Rosenthal (D-N.Y.) and in the Senate by Daniel P. Moynihan (D-N.Y.).

The Treasury also has urged that commodity trading profits be taxed at a higher rate than provided by the Senate bill. The bill outlaws several sophisticated tax-avoidance schemes, but sets a maximum effective tax rate of 32 percent on all commodity trades. Treasury has called for a 40 percent tax rate.

Commodity industry leaders, who at first claimed tax-motivated trading was an insignificant part of their business, have been forced to change their line because of congressional studies showing the practice is widespread.

About a month ago the industry adopted a strategy of supporting an end to the use of the tax tricks by private investors, but exempting professional commodity traders from the reform provisions.

The industry contends that if professional speculators are forced to pay taxes like everybody else, they will abandon the commodity markets and seek some less risky way to earn a living. Without speculators willing to take the risk of predicting what will happen to grain prices, the whole pricing system on which American farmers depend will be threatened, they contend.

That argument has been advocated by two leading opponents of the legislation, Sen. Steve Symms (R-Idaho) and Marty Russo (D-Ill.), who claim a "USDA study" supports their position.

Symms cited the so-called study during the recent Finance Committee debate, and Russo referred to it in a letter to House colleagues explaining his industry-backed bill.

"The Department of Agriculture recently completed a study" showing that taxing commodity traders' earnings would harm the efficient operations of the grain market, Russo wrote. Along with his letter, Russo provided what he called "preliminary findings" of the "study" to back up his position.

But USDA official Ahalt said the Agriculture Department has done no research that could be considered a "study" of the impact of the tax measure on the grain markets. USDA officials have voiced "our gut feelings" in a letter to the Treasury, he added.

Agriculture officials reportedly spent only two days preparing the letter, which was written by Ahalt's boss, William G. Lesher, assistant secretary for economics, to John Chapoton, Treasury's assistant secretary for tax policy.

Ahalt said the Agriculture Department will not make public the letter because it is an internal communication between two branches of the Reagan administration. Treasury officials said the administration's position still supports the measure.

Sources who have read both the USDA letter and Russo's version of it say the Illinois congressman not only overstated the nature of the agriculture department document but also left out important qualifications stressed by agriculture officials.

Russo's letter said the Department of Agriculture "concluded that competitiveness and efficient prices (for farm products) depend on the volume of speculative transactions and, therefore, changes in the tax law for floor traders would increase the short-term volatility of prices and make the outcome of hedging more uncertain and costly."

What the Agriculture Department actually said about taxing floor traders was, "it is possible [emphasis added] that any major reduction in their incentive to trade . . . would increase the short-term volatility of prices and make the outcome of hedging more uncertain and more costly.

"There are no conclusive studies to support this concern," the Agriculture Department letter said, but Russo did not include that statement in his summary.

Mr. MOYNIHAN. Finally, may I say, Mr. President, I know this presents a potential difficulty for our body. NCPAC has devoted itself to the decimation of our side of the aisle, and continues to do so, and we must turn to our distinguished Secretary of this body to inquire. It may be in time that the Ethics Committee might find itself involved in this, or the Rules Committee, but I would like to say I have perfect confidence that we will get a fair and balanced hearing.

But if NCPAC wishes to take money to influence legislation on behalf of wealthy men who want to evade taxes, and if it chooses not to declare itself to be a lobbyist, then in my view—and I have read the statutes carefully—this gentleman and his organization may have violated the laws of the United States, and if so they should be held accountable no matter how many Democratic Senators they plan to defeat next year.

The law does not distinguish between political ideologies when it asks probity in dealing with the American Congress, and I know we shall get probity from this body and from the Department of Justice.

Mr. President, I hope other persons will be warned in the future. I thank the Chair.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

BLOCK GRANT LEGISLATION

Mr. FORD. Mr. President, I have some concerns about the Omnibus Reconciliation Act which the Senate recently passed. The provisions of the bill submitted by the Labor and Human Resources Committee are somewhat unsettling. I am speaking specifically of the block grant legislation contained in the measure.

From listening to all the glowing praise heaped on this concept in recent weeks, one might get the idea that these block grants are the greatest thing to come out of Washington since social security. Along with many colleagues on my side of the aisle, I remain highly skeptical of the block grant approach, and it is my firm belief that we in the Congress have not had adequate time to examine the impact of such a radical change in existing policy.

As a former Governor with experience in administering federally sponsored programs at the State level, let me say there are many potential problems with the entire block grant concept. First of all, we will now be pitting traditional allies against one another in competition for limited funds. If this grant money is given to the States with few guidelines, the poor and the disadvantaged will have to fight among themselves for support, and they will be competing for less money than the States now receive under categorical programs. Under these circumstances, there is a great and very present danger of the most needy people being shut out of the system completely because they will not have the ability to speak loud enough or long enough to be heard. The administration is confident that these groups will have sufficient political clout to make their views known. I am not so confident.

Another potential conflict under this program is the struggle between urban and rural areas. With less money to distribute, the State will be forced to send the money where it will reach the most people. We could see a shift very soon from the rural areas, where people are just as destitute, to the urban areas in the name of cost effectiveness. Finally, there is the question of how much administrative savings can be made by shifting from categorical programs to block grants. The administration has used these proposed savings as a major selling point for block grants. I remain unconvinced because there simply is no overwhelming evidence that any savings will be achieved at all. Preliminary studies by the General Accounting Office have found that block grants provide no substantial savings.

Finally, and perhaps most important of all, the imposition of block grants will mean that in many areas we will eliminate the continuity and national commitment that the categorical programs have provided. The Community Services Administration is a perfect case in point. In 1964, Congress passed the Economic Opportunity Act to initiate President Johnson's "War on Poverty." Over the years this legislation has provided the framework for the delivery of a variety of services to the neediest people of America. Head Start, weatherization, and crisis intervention, are but a few of the programs taken directly to the people through the local community action agencies.

Such programs have made life more livable for countless Americans; they have given them hope, and this bill before us today would undo that action. This bill provides money for a social

services block grant, but contains no assurances that the existing community action agencies will be providing the services. The resulting confusion may well result in a disruption or elimination of many vital activities. The end result is, of course, that the little people lose. The people that the Economic Opportunity Act was designed to help will suffer unless this block grant approach is altered by the House and Senate conferees who will formulate the final version of the reconciliation measure.

WILDERNESS AND THE REAL WORLD

Mr. STEVENS. Mr. President, I call the attention of the Senate to an article in the "Comments" section of the Washington Star written by Allan Fitzsimmons, an associate professor of geography and chairman of the environmental studies program at George Washington University. It concerns a letter that Mr. Fitzsimmons received from the Sierra Club urging him to sign a petition to the Congress concerning the positions Secretary Watt has taken and advocating the replacement of the Secretary of Interior, James Watt.

I am impressed by the article, and equally impressed by the conclusion of this gentleman who has very eminent qualifications as part of the environmental movement of this country, in which he indicates he will not sign the Sierra Club petition. The reasons he sets forth, I think, ought to be compelling to all America, and I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WILDERNESS AND THE REAL WORLD

I recently received a letter from the Sierra Club advocating the replacement of Secretary of the Interior James Watt. Accompanying the letter was a petition to the Congress and a listing of the objectionable positions taken of Mr. Watt. Heading the list was his intent to allow oil and gas exploration in wilderness and wildlife refuge areas.

Wilderness advocates are motivated by the pursuit of an ideal relationship between man and nature. In a perfect world, mankind would have no impact on the natural environment. For many activists, the ideal is irrevocably intertwined with spiritual and religious values. Mankind is viewed as a despoiler of nature—we are profane while nature is profound. The ideal and its sacredness provide a core of beliefs around which many rally and organize.

AVOIDING HUMAN INTRUSION

The Wilderness Act in 1964 enabled statutory protection to be given to lands demonstrating little human impact. Such lands are the embodiment of the ideal. For the wilderness advocates they have become sacred space and in need of protection from those who would vandalize them. In this case the vandals are those who would explore for minerals, cut timber, or build roads and summer cottages. Each of these activities affects the environment and so is a retreat from the ideal.

The establishment of the National Wilderness Preservation System allowed some of the advocates' energies to be turned to the pursuit of the ideal on other fronts. In recent years they have become involved in onshore and offshore petroleum and natural gas decisions; surface mining procedures; national forest management activities, and many others. Their purpose always has been to try to move policies and actions toward fulfillment of their goal of trying to minimize human impact on the environment.

Whereas movement in this general direction has attracted widespread support, there is, on the other hand, concern about how much movement is prudent—about the costs and benefits involved in the resource use-environmental protection tradeoffs inherent in the wilderness advocates' positions.

The assessment of the wide variety of costs and benefits associated with particular policy decisions is a major difficulty in the current natural resource debate. Many of the costs and benefits are intangible and defy even crude quantification, whereas others can be estimated with more precision.

Many of the intangibles are closely associated with the beliefs and values of the wilderness advocates. They have succeeded in turning the vagueness surrounding the benefits of their espoused positions to their advantage, while using the more quantifiable benefits of their policy opponents against those same opponents.

ONLY SIX MONTHS SUPPLY

For example: From the advocates' perspective, it is relatively easy to construct an argument around the need to protect a wilderness from petroleum exploration. They cite the spiritual benefits of an untouched area, stressing such secular benefits as genepool preserves, maintenance of living laboratories, and the provision of certain recreational opportunities. At the same time they point out that the upper limit of potentially recoverable petroleum is, say, only a six-month supply for the United States. They then argue that the benefits of such a limited supply are not worth the irrevocable costs associated with introducing human activity of this kind into a sacred (wilderness) area. This line of argumentation has been extended to nonwilderness areas, as witnessed by the current northern California offshore leasing controversy.

The costs of such arguments can be high. In the case of petroleum there is widespread agreement that most new and future domestic discoveries can be characterized in terms of so many weeks' or months' worth of our total petroleum requirement. Furthermore, most such discoveries will occur in or near areas that wilderness advocates deem worthy of special protection. Should the "don't develop it because it's only a few weeks' worth of petroleum" argument prevail, the nation's petroleum producing future could be significantly altered.

It must be determined if the benefits of the purists' positions are real or illusory, and, if real, what is the least overall societal cost path to obtain them. For example, is statutory wilderness really necessary for society to gain such secular benefits as genepool preservation and living laboratories, as the wilderness advocates insist? Or can they also accrue in carefully managed multipurpose lands, without incurring the costs of foregone mineral production associated with statutory wilderness areas? Are the spiritual benefits of wilderness real? If so, for whom, and can they also be obtained in the national parks or national forests?

This is not to suggest that the benefits which the wilderness advocates attach to their policy positions are without merit or that they should be dismissed offhand. It is to suggest that perhaps policies other than those of the wilderness advocates can secure for the country many of the benefits of their positions without some of the attendant costs. It is to suggest that perhaps a better balance can be struck between use and preservation.

I will not be signing the Sierra Club petition.

COMMUNITY ACTION TO PREVENT CRIME IN THE UNITED STATES

Mr. THURMOND. Mr. President, upon becoming the chairman of the Committee on the Judiciary, I was faced with the awesome task of finding a remedy for our current crime plague. My search has led me to conclude that community action is one of the most effective means of preventing crime in a community.

On July 1 of this year, the National Crime Prevention Coalition asked me to host the celebration of the first year of their "Take a Bite Out of Crime" campaign. This program features a trench-coated dog named "McGruff," who is to crime prevention what "Smokey the Bear" is to fire prevention.

At this birthday party for McGruff and the coalition, I indicated that there were in excess of 42 million crimes committed last year in the United States. This number was astounding to everyone present. Something, of course, must be done about this threat to the well-being of our communities.

In addition to the "McGruff" campaign to combat crime, there are several other projects to involve communities, businesses, and government in the prevention of crime. One of these projects that originates in the business community is titled: "Unlocking America: Commercial Union's Key to Community Crime Prevention." This project helps to bring together the essential ingredients for successful community action to prevention of crime—awareness, concern, and cooperation.

I have also encouraged similar programs, such as the "Neighborhood Watch" program. This project also stresses the importance of community members cooperating among themselves and with the police in order to stifle crime.

In my opinion, these programs which activate the people of a community to deal with crime in their neighborhood are by far the most effective in the fight against crime. In the July 13, 1981, issue of the U.S. News & World Report, there is a group of articles that give an excellent review of "The People's War Against Crime."

Mr. President, I ask unanimous consent to have such articles printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

THE PEOPLE'S WAR AGAINST CRIME

Fed up with being victimized by crime, harried Americans are doubling up their fists and fighting back.

People from coast to coast are acting on their own to obtain better security, no longer content to rely on law-enforcement officials alone for protection.

Neighborhood "watch teams," a lightly supported novelty only a few years ago, are blossoming in every region.

Homeowners are shelling out big money for alarm systems, burglar bars, watchdogs—as well as guns and paralyzer sprays for a last line of defense.

Businesses are protecting employees with "modern-day versions of moats and alligators," as one study puts it.

Fear is the catalyst—community fear of vandals and muggers, corporate fear of terrorists and kidnappers, and a nationwide conviction that crime has overwhelmed all traditional defenses.

According to Federal Bureau of Investigation statistics—

Offenses of all types rose by 10 percent in the United States from 1979 to 1980, and violent crimes jumped by 13 percent, the most dramatic increases since 1975.

Robbery increased by 20 percent, rape by 9 percent, aggravated assault by 8 percent and murder by 7 percent.

Among property crimes, burglary showed a rise of 14 percent and larceny 8 percent.

No locale was safe. Reported crime went up in cities of all sizes, in suburbs and in rural areas.

Separate figures from the U.S. Bureau of Justice Statistics, based on household surveys rather than police reports, indicate that per capita U.S. crime rates remained relatively stable from 1974 through 1980—but at staggeringly high levels.

Thirty percent of all households in the United States experienced some type of crime and 6 percent suffered a violent crime in 1980, according to the surveys.

Americans are not just frightened by all this; they are angry and determined to protect themselves.

A picture of people's indignation and resolve emerged in interviews conducted by U.S. News & World Report staff members with private citizens, community leaders, security experts and corporate officials.

"Residents here are just fed up," said Diane Kerckhoff, a leader of the Women's Crusade Against Crime in St. Louis, in a comment that spoke for many Americans. They haven't noticed any decrease in crime and they're going to start reacting. They're going to start taking the blame and the responsibility."

Starting below and continuing on the following pages are reports from across the country on what Americans are doing to combat crime at the individual, community and corporate levels.

NEIGHBORHOOD PATROLS SCOUT THE ENEMY

In a spirit reminiscent of frontier days, Americans are joining forces to rid their neighborhoods of crime.

Community "watch groups" are thriving from New England to Southern California, in tough inner-city areas and posh suburbs—using eyes, ears, feet and automobiles in home-grown, anticrime surveillance networks.

From every sign, the efforts are paying off:

In Pacific Palisades, a well-to-do Los Angeles community where President Reagan formerly lived, residents credit a new buddy-system watch program with reducing serious crime by 10 percent so far this year.

In Harlingen, Tex., volunteers patrolling in golf carts have cut the burglary rate nearly to zero in their affluent neighborhood of 421 homes.

In New York, some 13,000 public-housing tenants have formed watch groups in 764 buildings. In some cases, crime rates have been cut merely by stationing female volunteers in the lobbies to screen strangers and alert police when necessary.

In Chicago's Edgewater district a neighborhood that has long had a reputation as dangerous, volunteers patrol the streets in radio-equipped cars. Edgewater's crime rate is now lower than that of Evanston, a comfortable Chicago suburb.

"Not only are such groups increasing each day," says New York City police spokesman Richard Shapiro, "but we can document that when a community organization works with police, crime prevention does work."

Now an effort is under way to link the scattered groups via a National Association of Town Watch. Envisioned is a clearinghouse through which community units could swap crime-prevention tips and news of activities in their areas. Matt Peskin, an Ardmore, Pa., watch leader organizing the national group, says that some 300 groups so far have expressed interest.

Los Angeles is credited with starting the current wave of crime-watch programs in 1969. The concept picked up steam three years later when the federal Law Enforcement Assistance Administration began providing support.

LEAA, scheduled to be phased out under Reagan budget-cutting directives, has since spent 1.5 million dollars to encourage formation of some 4,000 watch groups around the country.

Added impetus has come from rising crime rates and budget crises that have forced many cities to lay off policemen.

In Coral Gables, Fla., recently, more than 1,000 people jammed into a 600-seat auditorium for a meeting of the Citizens Crime Watch Committee. Five years ago, only a handful of residents backed the program.

When Detroit laid off 700 police officers last September residents of the city's Lonyo-McGraw neighborhood reactivated a citizens' patrol. More than 100 residents are now involved.

Many of those most active are crime victims who want to fight back. Eighteen months ago, the home of Phil Madson, a 32-year-old engineer in Cincinnati's Kennedy Heights area, was burglarized for the second time in a year. "After the second time, we became afraid to go into our own house," he recalls. "My emotions were being controlled by a small group of people who had no right to control them."

Madson helped to organize a patrol using radio-equipped cars. The area now has the lowest crime rate in its district. "I feel like my community belongs to the good guys now," he says.

Neighborhood watch programs use differing tactics to combat crime. In the basic approach, police simply encourage neighbors to get to know each other, to exchange phone numbers and to call the police if they see anything suspicious. In effect, the members serve as the eyes and ears of the law.

In the San Francisco suburb of Lafayette, such a system has helped solve more than 20 percent of the reported burglaries—double the U.S. average.

Another approach is favored by some Boston neighborhoods. Participants put green bulbs in their porch lights as a sign of refuge for any woman who feels threatened while walking at night.

In Strathmeade Square, a suburban townhouse community near Washington, D.C., watch teams stroll through the neighborhood in groups of three on randomly selected evenings. Equipped with walkie-talkies, they report any sign of trouble to a home-based neighbor, who calls the police.

Some communities vary this approach by conducting their patrols in cars or vans, sometimes equipped with CB radios for police contact.

Police in many areas oppose the patrol concept. Says Mark Howard, head of Seattle's Crime Prevention Program: "People don't understand how much can be involved. They might find themselves in a very dangerous situation."

Mack Gordon, a 64-year-old retired businessman who lives in Atlanta's Inman Park area, learned how dangerous it can be. On patrol one might, he surprised a burglar preparing to break into a house. He stopped the burglary, but most of his front teeth were knocked out. "I now tell members to call the police first, then call me," Gordon says.

Vigilantes opposed. One thing police across the country are agreed upon: Citizen volunteers should not be armed. "We are not trying to get vigilante groups," says Sgt. Melvin Humphrey, a community-service officer in Washington, D.C.

Some groups, such as the Alliance of Guardian Angels, Inc., whose young members wear commando-style berets as they patrol the New York subways, make citizens' arrests and come close to the vigilante approach. In late May, the organization reached an accord with the city in which it was recognized as "an independent, autonomous citizens' group." But authorities in San Francisco and Chicago have labeled the Guardian Angels as "vigilantes" and have resisted their efforts to expand to those cities.

A development that might slow the movement is the end of federal funds. With LEAA scheduled to be dismantled, money for police programs that support watch groups is being cut off.

Still, the community watch has established itself across the country, with more and more citizens taking the view that the police alone cannot make their neighborhoods safe. "The greatest deterrent," sums up Detroit Police Inspector James Humphrey, "is a neighborhood that's very, very nosy."

NATO'S FADING DETERRENT

Mr. THURMOND. Mr. President, during the Easter recess, I had the opportunity to visit with the officers and personnel of our NATO forces in England and West Germany.

Several problems are facing our NATO forces, and both the Congress and the administration need to be aware of the threats to our credibility in Western Europe.

Maj. Gen. Henry Mohr, former Chief of the U.S. Army Reserve, published an article in the June 28 issue of the St. Louis Globe-Democrat on this subject.

Mr. President, I ask unanimous consent that the article entitled "NATO's Fading Deterrent" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NATO'S FADING DETERRENT

(By Maj. Gen. Henry Mohr)

The steady accumulation of Soviet military power, coupled with NATO's insufficient and often faltering response, is "placing in jeopardy the very credibility of our deterrent," says Gen. Bernard W. Rogers, supreme allied commander, Europe, in a recently issued statement.

Meanwhile, as the United States has been moving to counter a large buildup of Soviet missiles targeted on NATO installations and forces, leftist-instigated demonstrations have been occurring in NATO countries. France has gone socialist, and radical elements are at work in West Germany.

The intent of left-wing organizations in Europe appears to be to obstruct NATO from restoring an equitable balance of power and even to swing control of governments in Europe progressively to the left. The current unrest surfacing in the media is not new. It was emerging and becoming of concern to European governments more than two years ago.

Whether the turn of France to the left and massive demonstrations in West Germany combined with serious unrest in other European countries will merge to form a major crack in the NATO alliance is uncertain. However, the possibility must not be ignored.

The United States has rightfully become angered at the wavering attitudes developing in Western Europe toward countering Russian military might. This can be interpreted as a continuation of the distrust of American national will and dependability that sprouted during the years of the Carter administration.

But the United States itself has not yet fully measured up to a restoration of the strength we must have to anchor a credible defense of Europe. For example, while practically all NATO nations have programs in place to assure a rapid supply of trained military manpower, the United States has none.

There is no doubt that the Soviet threat to Europe is real. The massive, overwhelming size of Soviet and Warsaw Pact forces confronting NATO is ominous. Those forces greatly exceed what is needed for defensive purposes. Our weaknesses are glaringly evident in comparison.

Gen. W. Y. Smith, chief of staff, SHAPE, said recently, "We military men place greater emphasis on a potential enemy's capabilities than on his intentions. The fundamental reason for this is that intentions can change quickly but capabilities cannot. A nation cannot build a new tank force, a modern fleet of ships, or an armada of third-generation aircraft over a short period. It can, however, change its mind overnight as to whether it will seek peace or war."

The United States is encountering strong leftist opposition to deployment of weapons essential merely to offset those the Soviets are putting in place. We have said flatly that the United States does not intend to allow 300,000 servicemen and women of the United States to "be smeared all over the map" because of Soviet nuclear missile superiority. European leftists are finding emotional, local support in their propaganda claiming that limited-range nuclear weapons invite a nuclear war restricted to Europe—that the United States might again avoid the impact of a major war (perhaps nuclear) on our soil. That argument is deceptive and dangerous.

It is obvious that weaknesses and divisions among the Western powers are the best and quickest way to encourage a Soviet attack. If our forces are not strong and our weapons not in position, all of Europe, including Americans there, becomes vulnerable.

The dangers of a major conflict in NATO or elsewhere are increasing as the Soviet leadership faces developments, such as in Poland, about which Gen. Rogers warns: "As the Soviets experience more failures and come to realize the declining appeal of their ideology, they may well increasingly resort to their one area of success—the growth and exercise of military power."

From the standpoint of our own security, we cannot afford to forfeit U.S. alliances or weaken NATO. We must carry our share, just as other NATO member nations must shoulder theirs.

THE DEATH OF EDWARD BALL

Mr. THURMOND. Mr. President, it was with much sadness that I read last week that this Nation has lost noted businessman Edward Ball at the age of 93.

He was a good friend and a staunch proponent of our great free enterprise system. One of his biggest successes involved his saving from bankruptcy the hugo Jacksonville-to-Miami railroad network. He was best known, of course, as the chief trustee of the Alfred I. DuPont Trust.

I especially knew the colorful Floridian as a fine Christian who was extremely involved in charitable work, particularly with regard to helping the needy.

Mr. President, in order to share both a Washington Star and Washington Post article about Mr. Ball's life with my colleagues, I ask unanimous consent that these stories be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 25, 1981]

EDWARD BALL, 93, DIES; NOTED BUSINESSMAN

NEW ORLEANS.—Edward Ball, 93, a businessman who parlayed the $30 million estate of his late brother-in-law, Alfred I. duPont, into holdings that business analysts estimated at some $2 billion, died Wednesday at Ochsner Foundation Hospital.

The cause of death was cardiopulmonary arrest brought on by kidney failure. Mr. Ball had been hospitalized since April 16 for repair of an abdominal aneurysm and had undergone several heart attacks in recent years.

Mr. Ball served as executor of duPont's estate, which administers millions of dollars a year to charities in Delaware and Florida. In recent years, he and the other trustees had been embroiled in court arguments over how to spend the fund's huge earnings.

One of the trust's richest assets was the Jacksonville-based St. Joe Paper Company, which owns thousands of acres of northwest Florida and southwest Georgia timberland. Mr. Ball, who lived in Jacksonville, Fla., was chairman of St. Joe and of Florida East Coast Railway.

One of Mr. Ball's biggest successes involved the Jacksonville-to-Miami railroad, which he nursed back from bankruptcy into one of the nation's most profitable railways. By 1961, the line was sound financially. The following year, its clerks and other workers began a strike that became the longest in American railroad history—12 years.

Mr. Ball and his associates trained college students and used management officials to keep the trains running until the union was broken.

Born March 21, 1888, in Hopewell, Va., Mr. Ball was the son of Capt. Thomas Ball, a former Texas state senator, federal prosecutor and Confederate cavalry officer during the Civil War.

Mr. Ball was 11 when he first met duPont. In 1923, duPont—who had married Mr. Ball's sister, Jessie, two years earlier—asked him to run his tomato canning plant in Laurel, Del.

Mr. Ball accepted. He promptly advised duPont to close the operation and write off his $250,000 investment, which he did. Mr. Ball later took over duPont's Wilmington real estate operations.

After duPont's death, Mr. Ball administered the estate and became a millionaire in his own right, building a financial empire including stock in the railroad, a paper company, a sugar company, banks and other enterprises.

He leaves no immediate survivors.

[From the Washington Star, June 25, 1981]

EDWARD BALL DIES; HEADED ESTATE OF ALFRED I. DUPONT

Edward Ball, 93, chief trustee of the Alfred I. du Pont Trust, died yesterday in the Ochsner Foundation Hospital in New Orleans, where he had been a patient since April. He lived in Jacksonville, Fla.

Through his shrewd control of the billion-dollar estate of Alfred I. du Pont, Edward Ball became one of Florida's influential and controversial citizens.

When du Pont, who was married to Ball's sister, Jessie, died in 1935, his estate was valued at $33 million.

Nearly half a century later, it is worth almost $2 billion and includes 854,000 shares of E. I. du Pont de Nemours & Co. stock, 1.4 million shares of General Motors, a controlling interest in the St. Joe Paper Co. and its network of paper mills and box plants, vast land holdings, railroads, sugar cane plantations and a 23 percent interest in the Charter Oil Co.

The trust also controlled the Florida National group of 30 banks with combined resources of $675 million until 1971—after Congress, in what was thought to be retaliation for the railroad strike, ended the trust's exemption from the Bank Holding Company Act of 1956 and forced it to divest its controlling interest.

Alternately cantankerous and courtly—depending on whether he was bucking the White House as he did during a nine-year strike at the Florida East Coast Railway, or drinking bourbon nightly with business cronies in his modest two-room hotel suite—Ball built an empire of banks, railroads, and more than 1.1 million acres of Florida and Georgia pinelands.

A short, stocky, balding man with a thick Virginia accent, a gravelly tenor and blue-gray eyes, he gained a reputation as a tart-tongue, hard-nose financier who would rather be cursed than bested in a deal. His daily toast at bourbon-sipping time was "Confusion to the enemy!"

Ball's political influence in Florida was also legend, and he was credited with being the power behind the "Pork Chop Gang," a group of rural politicians, businessmen and segregationists who controlled the Florida legislature from the 1930s until their power was diluted by court-ordered reapportionment in the mid-1960s.

Ball steadfastly maintained control over the du Pont trust despite lawsuits by other trustees and the state of Delaware aimed at forcing him to spend more of its $15 million yearly income for the benefit of handicapped children and the elderly as provided in du Pont's will.

Ball, known as "Mr. Ed" among his colleagues, was born in Northumberland County in Tidewater Virginia, the son of a country lawyer of modest means who had been a Confederate cavalry captain.

He quit school at age 13 to watch over his father's oyster beds and later traveled to California, selling everything from cars to cash registers to legal books.

After serving in the Army during World War I Ball worked for a California furniture store.

He was breaking all sales records earning about $18,500 each year when his new brother-in-law (the great-grandson of Eleuthere Irenee du Pont, founder of the chemical dynasty) called to offer him a job running a tomato canning factory in Laurel, Del., at a $5,000 salary. He took the job and worked for the du Pont interests from then on.

Du Pont had been forced out of control of the family business in 1916, and in 1921 when he was in his 50s, married Ball's sister and settled in Florida.

After the real estate market in Florida broke in 1926–27, Ball went through scrub lands in the Florida panhandle where pine forests had been cut down during World

War I, making purchases for du Pont for as little as $1 an acre.

After the Depression began, Ball bought up bankrupt companies for du Pont, including a railroad, telephone company and an entire town in western Florida.

He reforested the pine lands, and in order to provide revenues for the railroad, founded the St. Joe Paper Co. with a partner in 1936. Three years later, the company broke into the black and earned nearly a quarter of a million dollars. Scon after the du Pont estate bought out its partner.

In 1935, du Pont died, leaving his estate in the hands of three trustees; his widow, Ball and Elbert Dent, a son-in-law from a previous marriage. At the time, estimates of the value of the estate ranged from $27 million to $57 million.

After the railroad, which runs from Jacksonville in the north to Florida City, south of Miami, went into bankruptcy during the Depression, Ball quietly bought up its defaulted bonds through the 1940s, in some instances paying 7½ cents on the dollar. After beating back an attempt to merge it into Atlantic Coast Line he was given control by the courts.

In two years he brought the line out of bankruptcy. Early in 1963, clerks and other non-operating employees struck in demands for a 10.3-cent-an-hour increase recommended by a presidential emergency board and accepted by 190 railroads.

The strike, the longest at a railroad in the nation's history, was marked by 200 dynamiting incidents, derailments shootings and other sabotage. But after the first week freight service resumed, run by managerial non-union workers and disillusioned strikers.

Though various mediation boards and boards of inquiry ruled in favor of 11 striking unions, the company held firm. In 1971 the strikers settled in what was considered to be a major loss for organized labor.

In 1973, Ball another du Pont trustee and the Florida East Coast Railway were charged with fraud by the Securities and Exchange Commission for allegedly buying up railroad bonds before a publicly announced offer to trade them for common shares.

A year later, the matter was settled through a court order enjoining the trade, but along the way, government witnesses testified that President Richard M. Nixon's secretary of defense, Melvin R. Laird, had called the SEC to inquire about the investigation at Ball's behest.

Though his personal fortune ran into the millions, Ball lived modestly and demanded the same from his employees.

The Florida National Bank building in downtown Jacksonville was built years ago with lush oriental rugs that had investment value but not a single hot water tap in the nine-story building and no executive washroom. At St. Joe, Ball reportedly monitored the postage bill, the quality of the stationery and cars the company used.

His one marriage to Ruth Latham Price in 1933 was conducted along similar lines. He drew up a 19 point contract with his bride, requiring, for instance, that each party drop any friends the other party did not approve.

Ten years later, Ball sued for annulment on the grounds that his wife had fraudulently signed provision of the contract pertaining to future children even though she knew she was not capable of having any. Divorce proceedings took five years.

Until long after his 91st birthday, he held court at a ritualized session of bourbon and reminiscences five days a week that continued from exactly 5:30 p.m. until 9 or 10 p.m. when the groups adjourned for dinner at a nearby restaurant. On his passport, he listed his occupation as "farmer."

THE CONSTITUTION AND FEDERAL COURTS

Mr. MOYNIHAN. Mr. President, this week and beyond this week, the Senate will be considering one of the most grave constitutional questions ever to come before us, and that is, the matter of the provision in article 3, section 2 of the Constitution, describing the jurisdiction of the U.S. Supreme Court, which says that:

> The Supreme Court shall have appellate jurisdiction, both as to law and fact with such exceptions, and under such regulations as the Congress shall make.

In the aftermath of the Civil War, the war between the States, the Congress did move to restrict the jurisdiction of the Court in a habeas corpus matter.

The Court in ex parte McCardle acknowledged its lack of jurisdiction, but later the Court affirmed that it would hear the same matter in other circumstances. So you might say that the Court did not in the end submit to the will of the Congress, as it, in my judgment, ought not to have done.

Whatever the ultimate power of Congress may be under the Constitution, I would judge it a matter of the uttermost imprudence and the gravest miscalculation for this body, at this point in the almost two century constitutional history of the Court and the Congress and the Executive, to seek to withhold from the Supreme Court its hallowed rights to declare what it is the Constitution says.

This Republic has endured almost two centuries far beyond the ken of most governments and we have done so as a government of laws. And our primary law has been the Constitution, our basic charter, our fundamental agreement with ourselves. With respect to the meaning of that Constitution, the Supreme Court has had the final say.

Many times I have stood on this floor and said that as to a particular issue I thought the Supreme Court was wrong, but I have always said simultaneously that our obligation to the Court is not to agree with it but to obey it. Indeed we see over history the Court changing its mind, as repeatedly it has done as new evidence, new thinking, and new Justices come to the fore.

We are all delighted just today to learn that there will be a new Justice—as I cannot doubt there will be when Judge O'Connor is formally nominated by the President and that nomination comes before this body—and no doubt Judge O'Connor, Justice O'Connor as she then will be, will bring perspective and knowledge that will have consequences on the Court's decisions. Whatever they are, we will obey them. And whatever else we do, we should not attempt to deny the Court its most fundamental reality, which is to act as a court, to decide matters which are brought before it by litigants. When you say that there are matters the Court may not consider, you say it is less than a court; much less a Supreme Court. You are saying the Court acts at the toleration and on the terms set by this body; that this body becomes the supreme arbiter of what may be judged and what may not.

At that point a profound constitutional transformation takes place, a constitutional transmutation. We are not thereafter the same Republic we have been.

The Constitution is more than a law. It is the basic understanding the American people have reached with themselves on how to govern and how to be governed, and it has endured. It has done so because in the end one body only could determine what the Constitution means and that is the Court. This Congress and the State legislatures and the people if they should meet in convention can change the Constitution. Only the Court can interpret it.

We should not attempt to exercise this provision of article III. We should not now commence to invoke it on such matters as school busing. If it is school busing today, what will it be tomorrow and the day after tomorrow? Will we gradually strip the Court of its powers to be a court?

Will we leave a void where no one can decide? Mr. President, it will not work. The Court may well decide that it must take responsibility in such issues when they come from State courts under the 14th amendment and will do so in defiance of our vastly misjudged position.

What shall we then have? We shall have a constitutional crisis, a welcome addition to the distraction of the day, and a perversion of the purpose of legislation, which is to make laws, not to prevent the enforcement of laws. Litigants may address themselves to the Court. Equal justice under law, it says, over the door of that body. It does not say equal justice under those laws which the U.S. Senate says the Court may take cognizance of.

What a poor judgment is about to be made on this floor. I should point out that we are going to have to filibuster, Mr. President. The Senator from Connecticut is going to have to stand here and filibuster and fight a cloture motion against the most extraordinary assertion of power by this Chamber that has been seen in a century, the most imprudent, the most unwise, the most mean spirited.

What does it say of this body that when the Court rules the rights of individuals under the 14th amendment are thus and such that we will say, "Very well, you are giving people rights under the Constitution we prefer they not have. Therefore, we deny such persons the opportunity to appeal for the redress of grievances and assertion of their rights."

What have we come to? What is this body? Are we a constitutional body? Look at the inscriptions on the walls of our Chamber.

Novus ordo seclorum, it says, a new cycle of the ages. An order of law is what it meant.

E pluribus unum, it says, one out of many, and annuit coeptis. He has smiled on our undertaking.

Is that what has come of the constitutional position of this body, that we should be so perverse, so mean spirited, so oblivious to history and indifferent to justice that we should decide who can obtain justice in circumstances we choose, that we dictate?

We usurp. This is in every sense of our tradition a usurpation of power.

This is usurpation of the functions of an equal body in the Government. It is profoundly unconstitutional in spirit, appallingly wrong in the sense of the spirit of our people, and blatant with the most ominous prospect of civil strife, as one body of the Republic finds itself in bitter antagonism toward the other. Are we a new cycle of the ages or simply an old one? Is there to be a tyranny of laws, of lawmakers? Or is there to be a constitution? Is there to be a court? Is there to be a continued tradition?

Mr. JOHNSTON. Will the Senator yield?

Mr. MOYNIHAN. This Senator is happy to yield.

The Senator has concluded, but I am happy to yield to the Senator from Louisiana.

Mr. JOHNSTON. I say to my colleague that from his description of our amendment as being a vast assault upon the Constitution, the Senator has apparently never read or heard of section 5 of the 14th amendment. Has the Senator heard of that? If he has heard of it and is familiar with it, would he tell me what it means?

Mr. MOYNIHAN. The Senator most certainly knows of section 5 of the 14th amendment and would hold that it has a clear purpose, saying that "Congress shall have the power to enforce, by appropriate legislation, the provisions of this article."

But to take a provision written in the aftermath of the Civil War, to protect the rights of all Americans, and say the Congress in that same amendment agreed to take away those rights, clearly cannot be the constitutional history.

There are others more learned in law, my friend from Louisiana and my friend from Connecticut.

Mr. WEICKER. Will the Senator yield?

Mr. MOYNIHAN. I am happy to yield. I have spoken my piece at this point, though I shall wish to return to the debate later.

Mr. WEICKER. I do not in any way want to interrupt my distinguished colleague from New York. Believe me, his eloquence far surpasses mine or anyone else's in this Chamber on this subject. I want to be able to precisely respond to the question that was raised.

There is no question in my mind that subsequent generations are going to look upon this as one of the most important debates in our constitutional history. I want the answers to be on the mark when the issues are raised. that there be no loose response, specifically in response to the Senator from Louisiana.

Section 5 of the 14th amendment authorizes Congress to maintain or extend the protections of the 14th amendment, not to restrict, abrogate, or dilute those guarantees.

The Supreme Court, in *Katzenbach* v. *Morgan*, 384 U.S. 641 (1966), with Justice Brennan writing the opinion for the majority, emphasized the distinction between the power to expand and the power to restrict the reach of equal protection:

> Section 5 does not grant Congress power to exercise discretion in the other direction and to enact "statutes so as in effect to dilute equal protection and due process decisions of this Court." We emphasize that Congress' power under section 5 is limited to adopting measures to enforce the guarantees of the Amendment; section 5 grants Congress power to restrict, abrogate, or dilute these guarantees. Thus, for example, an enactment authorizing States to establish racially segregated systems of education would not be—as required by section 5—a measure "to enforce" the Equal Protection Clause since that clause of its own force prohibits such state laws. 384 U.S. at 651–52, no. 10 (footnote by J. Brennan).

The Supreme Court expanded the guarantees under the 14th amendment holding that section 4(e) of the Voting Rights Act of 1965, which invalidated a New York literacy requirement for voting as applied to Puerto Rican residents educated in American-flag schools, was appropriate legislation under section 5.

There is no direct judicial precedent to support the Johnston amendment, as it involves the power of Congress versus the Federal courts rather than the States as in *Katzenbach* v. *Morgan*, and *Oregon* v. *Mitchell*, 400 U.S. 112 (1970). The remedial standards in the amendment directly implicates the equitable power of the Federal courts.

As one commentator has noted:

> Whatever the reach of section 5 as a vehicle for augmenting the power of Congress to regulate matters otherwise left to the States, it provides no authority for Congress to interfere with the execution or enforcement of federal court judgments or to overturn federal judicial determinations of the requirements of the fourteenth amendment.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The time for morning business has expired.

DEPARTMENT OF JUSTICE AUTHORIZATIONS, 1982

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the unfinished business, S. 951, which the clerk will state.

The assistant legislative clerk read as follows:

> A bill (S. 951) to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1982, and for other purposes.

AMENDMENT NO. 96 AS MODIFIED, TO AMENDMENT NO. 69

Mr. WEICKER. Mr. President, I shall finish up the explanation in relation to the questions raised by the distinguished Senator from Louisiana on section 5 of the 14th amendment. I continue quoting from the law journal article:

> The entire fourteenth amendment increased congressional power at the expense of the States, not of the Federal courts.

That comes from 64 Georgetown Law Journal, 839, 859 (1976).

Mr. President, I do not think some capricious bandying about of the fact that this is all legal and constitutional by virture of section 5 of the 14th amendment—if I have ever seen guesswork at the expense of what the decisions would indicate, this is it. Let me assure the Senator that if one wants to advocate the position contained in the Johnston amendment, he had best not do it on constitutional or legal grounds. It might be made on policy grounds, on some sort of philosophical grounds, but it is so blatantly unconstitutional or illegal that every time that target goes up, we shall be able to hit a bull's eye from this side.

Mr. JOHNSTON. Will the Senator yield on that point?

Mr. WEICKER. Certainly, Mr. President.

Mr. JOHNSTON. Mr. President, there is a quite serious question as to what the reach of section 5 of the 14th amendment is and how far the power of Congress can go. The Senator from Connecticut has, indeed, quoted one of the footnotes from Katzenbach against Morgan, which is one of the leading cases, the other being Oregon against Mitchell. One footnote I believe by Justice Brennan, says that Congress cannot, under the guise of the 14th amendment, restrict what the courts have said about equal rights or equal protection or due process under the 14th amendment.

Mr. President, there is other language in both of those decisions to indicate that Congress has broad authority under the 14th amendment. It depends on which language and which set of judges you want to use under both of those cases. The fact of the matter is that the Supreme Court has never ruled precisely on the question. There is language which would comfort either side in this debate in both of those cases.

The rationale, which is a very serious rationale, of my amendment—and it is the same rationale that caused the Congressional Research Service, the American Law Division, to take a tentative view as to the constitutionality of S. 528, which was the predecessor of this amendment—is, Mr. President, that when you have a remedy which is so overused as busing has been as to cause the experts in the field—the David J. Armor study, for example—to conclude that forced busing has not worked to achieve integration, but, rather, has worked to achieve white flight, that being so, Mr. President, it is appropriate for the Congress to put limits on the remedy that is used in order to make that remedy effective. It is as if the doctor has been prescribing 10 aspirin when 10 aspirin hurts the patient, and Congress comes along and says, "No, Mr. Physician. 10 aspirin is too much; try 2 aspirin."

It is on that basis, Mr. President, that this amendment, in my judgment, is constitutional. I can tell you this: Neither the Senator from Connecticut nor other Senators can find any case in point saying that the Congress may not put restrictions on the remedies to be employed under the 14th amendment. There is language to that effect, but there is no direct holding.

Katzenbach against Morgan dealt with the Voting Rights Act, which was an expansion and not a contraction of the rights under the 14th amendment. Oregon against Mitchell dealt with the 18-year-old vote in the State of Oregon and also dealt with a section of the Voting Rights Act. In each case, Congress was expanding the rights rather than contracting the rights. So anything that the courts said in either case, whether it comforts our side as to the constitutionality of this amendment or whether it comforts the Senator from Connecticut in his claim that the amendment is unconstitutional—all of that language is dicta and is not directly on point.

There is, Mr. President, a considerable body of language in both of those cases to say that, first, Congress has broad policymaking authority with respect to the 14th amendment and, second, that Congress has broad fact-finding authority. It seems to me, Mr. President, if we have that fact-finding authority, then we can recognize as facts those things which are patently clear to all American citizens. That is, first, that busing has not worked.

Mr. President, with respect to that, I read with interest an editorial in the Washington Post this morning. I agreed with almost everything the editorial said except its conclusion. The editorial talks about the abuse of busing. Then it says that this amendment, in effect, goes too far. Then it says that judges as well as Members of Congress know where busing plans have gone wrong and could solve the problems specifically where they exist.

Mr. President, I think we know where busing has gone wrong and this amendment attempts to attack it. Busing has gone wrong because it has been abused, because it has been ordered over too great a distance or too great a time. In Rapides Parish, La., for example, you have bus routes one way of 30 to 40 miles. This amendment is directed at curbing that, because it is too far.

I would be most interested to know from the Washington Post, and I wish they were here on this floor to participate in this debate, what it is they would do. If they know what the problem is, please tell us. If we are not approaching the problem correctly, please tell us the right way. If there are abuses, serious abuses, as the editorial indicates, then give us a remedy for them.

Quite frankly, Mr. President, I had hoped that an amendment of this sort would not be necessary. I had hoped that the courts would correct themselves. They started back in 1971 in Charlotte-Mecklenburg against Swann with this grand experiment, everyone hoping that it was going to work, knowing that it was going to be divisive in society, but hoping it would work. And, Mr. President, it has now been writ large across this land and all sections of the country have now participated in the grand experiment.

Mr. President, the grand experiment has not worked. The studies indicate that it has not worked. The studies indicate that it has resulted in white flight.

Indeed, the very authority, James S. Coleman, who in 1965 came up with the Coleman Report, the first study cited by the court and used by them as the chief authority to order busing in the first place, concluded, after looking at the evidence, that busing does not work but, rather, that it results in white flight.

The same is true of the David J. Armor study undertaken by the Rand Corp. It found that busing has not worked.

Why cannot the court recognize that? Well, the court has not recognized it. That is the reason we have to act. That is the reason we are utilizing section 5 of the 14th amendment.

The Senator from Connecticut says it is patently and obviously unconstitutional. I sincerely tell the Senator that I believe it is constitutional, but I can tell him that there is a very serious question. I recognize the question. I will be glad to debate the question, and I am here for that purpose.

However, simply to say it is not constitutional and cite some footnote to a case to which only four of the Justices of the Supreme Court subscribe, and in a case where it was only dictum and not direct authority, is not to resolve the question.

Mr. President, some of my colleagues wrote a letter attaching a letter supposedly from the American Bar Association.

Mr. WEICKER. Mr. President, I wonder if my distinguished colleague will yield.

The word "supposedly"—was it from the American Bar Association?

Mr. JOHNSTON. I am getting ready to tell the Senator precisely what it was.

I say "supposedly" from the American Bar Association because, indeed, it was signed by the Director of Legislative Affairs of the American Bar Association, and it was on American Bar Association stationery. However, I should like to tell the Senator and others how that came about.

First of all, the letter itself does not take a definitive position as to the legality or constitutionality of this amendment. The letter is dated June 22. June 22 happens to be the same day that the amendment was submitted.

The American Bar Association called my office that afternoon to obtain a copy of the amendment, so they did not have a copy of the amendment on that day. We sent them a copy of the amendment on the day after this letter was written. So we know for a fact that they did not have a copy of the amendment at any time prior to the afternoon of the day this letter was written.

It is beyond argument that the American Bar Association did not have time, even if they saw the amendment, to make a study of it and to determine whether it was legal or not legal.

Second, I am advised that the authority for Mr. Herbert E. Hoffman to write this letter was a position taken by the American Bar Association in 1958, before the first busing ever was ordered, at which time the house of delegates of the American Bar Association took the position that the ABA would oppose any attempt by Congress to restrict the power of courts. I do not have a copy of that action of the house of delegates; but that action, taken at a different time, in a different context, provides the basis for the American Bar Association opposition to this amendment.

Mr. President, the right of the American Bar Association to take positions on legislation is not only conceded but also would be encouraged by me and, I hope, by every Senator on this floor. The American Bar Association does not represent all lawyers, but I know that when I used to be active in that organization, it represented in excess of 25,000 lawyers—certainly the most distinguished lawyers at the bar.

We need their help. We need their involvement. We need their opinions. But on a very serious constitutional question, which this is, we need something more than the staff, without having even seen the amendment, without having done any research on the amendment, to fire off a letter representing the American Bar Association, as if the 25,000-plus lawyers in this organization have taken a position. They have not.

Mr. President, I believe this borders on misrepresentation, because the American Bar Association has not taken a position. They did not even know about this amendment. They have never heard of the amendment.

Please understand. I do not criticize my colleagues for taking this letter and sending it around. It is on the American Bar Association's stationery, and it is signed by Herbert E. Hoffman, who is the Director of Governmental Relations. However, I hope my colleague will understand that it does not represent the considered judgment of the board of governors of the American Bar Association, of the president or of the officers of the American Bar Association, of the house of delegates or of any other policymaking body in the American Bar Association. It represents, so far as I know, the hastily prepared thoughts of the legislative director here in Washington; and he, in turn, took that position because of action taken in 1958 by the American Bar Association.

If you read his letter, you get the impression that Congress should not act on this serious question by statute; rather, that we should act by constitutional amendment. That is indeed a surprising, not to say breathtaking, statement. If it is legal to act by statute, then to suggest that we should go through the very cumbersome process of amending the Constitution is not only bad policy but also is terrible constitutional precedent. An amendment to the Constitution should come only when absolutely necessary.

I believe there is a very strong legal basis for saying that under section 5 of the 14th amendment, Congress has the right, within certain limits, to make findings of fact and to shape remedies. This amendment attempts to do just that, to find facts and to shape remedies—not to deny remedies, but to shape remedies—that will be effective in limiting to 5 miles and 15 minutes the amount of busing that can be ordered.

Mr. President, we do not claim that those precise times and those precise limits are absolutely the last word. It may be that my colleagues would have a different suggestion, that perhaps it is too little, perhaps it is too much. But, clearly, the drawing of lines and the making of limits is a proper role for Congress to play.

If busing has not worked, why has it not worked? If it has been abused, how can we correct that abuse? Busing has been abused.

I come back to the fact that in my State, children are being bused 30 to 40 miles one way. That is 60 to 80 miles on the school bus during a day—60 to 80 miles, Mr. President.

Do you know what they did to reach that great conclusion? They closed a school.

My colleague from New York says, "Who can obtain justice?" Well, they obtained justice for these kids by busing them 60 to 80 miles.

What are we supposed to do in Congress? Are we supposed to stand by and say, "Oh, no, these are the powers of the courts; this is the court seeking to obtain justice"?

We can talk about these wonderful legal principles of equal protection and due process—and I am profoundly committed to both those principles. But year after year goes by with the courts abusing the powers which the Supreme Court has purported to give them, and we in Congress sit, year after year, trying to determine what to do. This is a response to that abuse.

If my colleague from Connecticut or any other who opposes this amendment has an alternative means of correcting the abuse I wish to hear it.

I am sincerely committed to the Constitution. I do not want to dismantle the Constitution. I do not want an amendment here on the floor that is unconstitutional. But surely there must be a way that we as reasonable men on the floor of this Senate can get together on curbing the abuse of busing.

Do not tell me, Mr. President, that our commitment to equal rights and the need to integrate our schools demands this busing. My answer to that is the experts say it does not work; it does not achieve that end. If it were achieving that end, if we were truly getting to an integrated society, which is my goal as well as the goal of those who oppose this amendment, if we were achieving that goal, then we might sit back and say it is worth the price. Sixty to eighty miles on the school bus is a small enough price, we might say, to achieve that end.

But it does not work, Mr. President. I wish someone who opposes this amendment would give us some facts, figures, and some real argument to counter what I have put in the RECORD here about that fact that busing does not work. I mean these are not studies from conservative scholars. These are not studies from biased scholars. Indeed, as pointed out in the James S. Coleman study—James S. Coleman was the expert whose study was used as the basis for ordering busing the first time around; so he is not biased—he was forced to the inescapable conclusion that busing does not work. It has not worked, will not work, causes more harm than it does good, causes white flight, causes the "tipping" of schools from majority white to majority black, makes it harder to have any kind of integrated experience for any child in a public school, and, more than that, takes away the support of parents for schools. We have seen in my State in recent years an increasing tendency to turn down bond issues at elections by electorate.

It used to be a very rare occurrence when bond issues for schools were turned down. But they are routinely turned down now. They are turned down because people are turned off by the school system and they are turned off by the school system because Federal courts order busing. This is not Senator BENNETT JOHNSTON making that statement. Those are the conclusions of the studies, and I come back to the Armor study and to the Coleman study.

Mr. President, is there not some way that we in Congress can get together? If busing does not work and if the American public opposes it, and those are two facts that are established, then what can we do? Is there nothing we can do?

Mr. President, section 5 of the 14th amendment says that Congress may enforce this amendment by appropriate legislation. And the cases indicate that Congress has very wide discretion.

Mr. President, the two leading cases, Katzenbach against Morgan and Oregon against Mitchell, make that very finding. My colleague from Connecticut quoted from those a moment ago, and I will shortly read a very short quotation from those cases to indicate that Congress does not have that wide a discretion.

Mr. WEICKER. If my distinguished colleague will yield now, I wish to address his remarks while he is looking for that quote.

Mr. JOHNSTON. I just found it and I will read it and then yield for a question.

Mr. WEICKER. All right.

Mr. JOHNSTON. In Katzenbach against Morgan, Justice Brennan, writing for the majority, characterized section 5 as a broad grant of independent power to Congress to determine whether and what legislation is needed to secure the guarantees of the 14th amendment.

Of particular significance was the Court's deference to Congress judgment in framing remedies for constitutional violations, and I quote:

> It was for Congress, as the branch that made this judgment to assess and weigh the various conflicting considerations—the risk or pervasiveness of the discrimination in governmental service, the effectiveness of eliminating the State restriction on the right to vote as a means of dealing with the evil, the adequacy or availability of alternative remedies, and the nature and significance of the state interest that would be affected by the nullification of the English literacy requirement as applied to residents who have successfully completed the sixth grade in a Puerto Rican school.

Mr. President, in the Oregon case they also stated as follows:

> The nature of the judicial process makes it an inappropriate forum for the determination of complex factual questions of the kind so often involved in constitutional adjudication. Courts, therefore, will overturn a legislative determination of a factual question only if the legislature's finding is so clearly wrong that it may be characterized as "arbitrary" "irrational" or "unreasonable."

So, Mr. President, there we have it. There is language in Oregon against Mitchell which indicates broad fact-finding ability and broad deference by the courts to the drawing of rules by Congress.

Mr. WEICKER. Mr. President, will the Senator yield the floor at this time?

Mr. JOHNSTON. Mr. President, I will in just a moment. I wanted to get one small quote from the law in.

Also from the Morgan case, Mr. President, Justice Black, writing for the majority, stated as follows:

> To fulfill their goal of ending racial discrimination and to prevent direct or indirect State legislative encroachment on the rights guaranteed by the amendments, the framers gave Congress power to enforce each of the Civil War amendments. These enforcement powers are broad.

Similarly, Justice Douglas concluded that "the manner of enforcement involves discretion; but that discretion is largely entrusted to Congress, not to the courts."

So, Mr. President, I think it is very clear that from the language, not from any direct holding because there is no direct holding, it is clear that the Court has indicated Congress has broad fact-finding powers; the finding of those facts will not be overturned unless it is arbitrary, capricious, or irrational, to use their words, and that the powers of enforcement are broad and that it is for Congress to exercise that discretion in determining those powers.

Mr. President, I will yield the floor.

Mr. WEICKER. Mr. President, I think it important at this juncture to read the letter that was sent June 22, 1981, by the American Bar Association over the signature of Herbert E. Hoffman.

First of all, let me make it very clear, it in no wise gets into the issue of busing any more than busing is the issue of this whole debate today nor has it been in the 3 weeks past. Busing is not the issue.

The letter was addressed to the Honorable HOWARD H. BAKER, JR., U.S. Senate, Washington, D.C.

> DEAR SENATOR BAKER: I am writing to urge your opposition to the Johnston-Helms

Amendment to the Justice Department authorization bill. This amendment would drastically restrict the jurisdiction of the Federal courts to issue remedies in school desegregation cases, even when such remedies are the only available means of vindicating Constitutional rights against deliberate and intentional violations of the equal protection clause of the Fourteenth Amendment.

The American Bar Association opposes this amendment because of one overriding conviction: the necessity to protect the integrity of the courts of this nation from misdirected legislative efforts to achieve something that can be done only through Constitutional amendment. The issue is not busing. The issue is whether as a matter of policy and of Constitutional permissibility, this nation is going to adopt a device whereby each time a decision of the Supreme Court or a lower Federal court offends a majority of both Houses of Congress the jurisdiction of the Federal courts to hear that issue will be stripped away. We do not believe that is a system the framers intended or one that we should strive to institute.

The American Bar Association has long opposed efforts, from whatever spectrum of the political scene, to alter constitutional interpretation through means other than constitutional amendment. We stood in opposition to the "Court-packing" plan of the late 1930's, which would have altered prevailing law by stacking the Court's membership. More than thirty years ago we called for the adoption of assurance that jurisdictional manipulation would not and could not be used to work substantive changes in the Constitution. In 1958, the Association opposed bills pending in Congress that would have denied the Supreme Court review of decisions involving alleged subversives in various fields. That policy is Association policy today.

Because the policy considerations are so substantial and because the constitutional propriety of these bills is open to such serious reservations, we urge the Senate to oppose the curtailment of the jurisdiction of the Federal courts for the purpose of effecting constitutional change that is properly the province only of the amending process. Irrespective of the subject involved and regardless of our individual beliefs with respect to any of them, the overriding consideration is that we support the integrity and independence of Federal courts, whether we agree with particular decisions or not, and that we support the integrity and inviolability of the amending process.

In view of the above, I urge you and your colleagues to reject the Johnston-Helms Amendment.

Sincerely,

HERBERT E. HOFFMAN.

I do not see any discussion of busing in that letter at all. Indeed, that would be improper except as a matter of advice on policy, but certainly not as a matter of law or as a matter that would be of good legal standing.

So the letter is no more than exactly what it says. But that is what is so difficult to get through to my colleagues here on the Senate floor. The word "busing" is constantly thrown out as some sort of a buzz word to go ahead and inflame emotions on the part of the public, to intimidate and to instill fear in those of my colleagues who are up for election. But it has nothing to do with this issue.

I am going to carry it one step further since the American Bar Association is not here to defend itself, I will try as best I can to restate the record on their behalf. The Senator from Louisiana intimates that really all Mr. Hoffman was doing was to relate back to some policy or some statements they made back around 1958.

Let me point out to my friend, as I read several weeks back, the testimony of Edward Cutler on behalf of the American Bar Association before the Subcommittee on the Constitution of the Committee on the Judiciary of the U.S. Senate dated June 22, 1981:

Thank you, Mr. Chairman and members of the Committee, for this opportunity to appear before you during your deliberations upon the many bills which would withdraw from the United States Supreme Court and the lower federal courts jurisdiction on selected issues.

Just exactly what my friend is doing here. That last sentence is my editorial comment, not Mr. Cutler's statement.

You, Mr. Chairman, are quoted as saying that these bills "pose a constitutional crisis." This makes it fitting and important that the views of the organized bar be expressed.

My name is Edward I. Cutler, a practicing attorney from Tampa, Florida. I am here today as a representative of the American Bar Association, whose members comprise the bulk of the legal profession in the United States and number one-third of all of the lawyers in the world. We are committed to the goal of assuring meaningful access to justice in this country.

The ABA's Special Committee on the Coordination of Federal Judicial Improvements, which I chair, has, since its creation in 1971 worked diligently toward improvement of such access to justice in the federal court system. As you know, our Committee has, within its area of responsibility, many of the subjects falling within the jurisdiction of your Subcommittee and has over the years enjoyed a close relationship with you. Today, consistent with your invitation, we limit our testimony to those portions of the jurisdiction legislation upon which our Association has, in accordance with its rules and procedures, articulated an official position.

The Association has, of course, always been devoted to upholding our constitutional system of government. Only a month ago, in his address on Law Day, U.S.A., William Reece Smith, Jr., president of the A.B.A., reminded us that "we are a free people because we live in a society governed by the rule of law rather than the whims of the powerful."

What you are seeing here is an exercise of the whims of the powerful. What occurred in that courtroom in Louisiana or in Connecticut or wherever was the rule of law. I suppose what I am saying is, along with others, that I do not care to see the whims of the powerful substituted for the decisions of the courts.

Again these last remarks are my editorial comment.

That the "Constitution and the Bill of Rights are the heart of that body of law," that "the greatest genius of the Constitution and the Bill of Rights lies in the balance they strike between order and liberty," and "just as we have a responsibility to make representative government work, we have a responsibility to see that the personal liberties guaranteed in the Bill of Rights are protected."

The constantly growing number of proposals before you to strip the federal courts of jurisdiction on various federal constitutional issues stems from substantial dissatisfaction, expressed currently with judicial decisions—

Which my good friend from Louisiana has eloquently expressed, he is dissatisfied—

relating to abortion, busing, prayer in public schools and other public buildings, male-only draft registration, and who knows what next!

This Association has long opposed effectuating change in constitutional jurisprudence through jurisdictional legislation.

(Mr. DURENBERGER assumed the chair.)

Mr. WEICKER. This is as of June 22, 1981. This is an absolute confirmation in greater detail of what it is that Mr. Hoffman wrote in his letter.

So this just is not a rehash of some old position. And, speaking as an attorney, I might add I would hope that the position enunciated here and in the letter will continue to be the position for centuries to come, because what we are talking about is the Constitution, not busing. Busing has nothing to do with the matter before this body.

To continue from Mr. Cutler's comments:

In 1958, when the Congress was considering legislation [The "Jenner-Butler Bill"] to withdraw Supreme Court jurisdiction in certain matters, the A.B.A. adopted a resolution which stated that "reserving our right to criticize decisions of any court in any case and without approving or disapproving any decisions of the Supreme Court of the United States, the American Bar Association opposes the enactment of Senate Bill 2646 which would limit the appellate jurisdiction of the Supreme Court of the United States."

Mr. President, I ask unanimous consent that the entire statement of Mr. Cutler be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

TESTIMONY OF EDWARD I. CUTLER

Thank you, Mr. Chairman and members of the Subcommittee, for this opportunity to appear before you to present the views of the American Bar Association on legislation to withdraw from the United States Supreme Court and the lower federal courts jurisdiction in selected matters. The Chairman of the Judiciary Subcommittee on Courts in the House of Representatives is quoted as saying that such bills "pose a constitutional crisis". Senator East, Chairman of your Subcommittee on the Separation of Powers and sponsor of such legislation, is quoted as saying that the Supreme Court has "precipitated the crisis." You, Mr. Chairman, have introduced such legislation and stated that "the federal judiciary has been courting constitutional disaster." This makes it fitting and important that the views of the organized bar be expressed.

My name is Edward I. Cutler, a practicing attorney from Tampa, Florida. I am here today as a representative of the American Bar Association, whose members comprise more than half of the legal profession in the United States and number one-third of all of the lawyers in the world. We are committed to the goal of assuring meaningful access to justice in this country. Our President, William Reece Smith, Jr., of Tampa, Florida, has asked me to express his regrets to the Subcommittee for his inability to be here personally. He considers the legislation and principles which you are addressing to be of the utmost importance.

The ABA's Special Committee on the Coordination of Federal Judicial Improvements,

which I chair, has, since its creation in 1971, worked diligently toward improvement of such access to justice in the federal court system. Our Committee has, within its area of responsibility, many of the subjects falling within the jurisdiction of the Judiciary Committee and has over the years enjoyed a close relationship with the Committee, and various of its subcommittees. Today we limit our testimony to those portions of the legislation before you upon which our Association has, in accordance with its rules and procedures, articulated an official position.

The Association has, of course, always been devoted to upholding our constitutional system of government. Only last month, in his address on Law Day, U.S.A., Reece Smith reminded us that "we are a free people because we live in a society governed by the rule of law rather than the whims of the powerful", that the "Constitution and the Bill of Rights are the heart of that body of law," that "the greatest genius of the Constitution and the Bill of Rights lies in the balance they strike between order and liberty", and "just as we have a responsibility to make representative government work, we have a responsibility to see that the personal liberties guaranteed in the Bill of Rights are protected."

The number of proposals before the Congress to strip the federal courts of jurisdiction on various federal constitutional issues is constantly growing. They stem from substantial dissatisfaction with the courts. This dissatisfaction is expressed currently with decisions relating to abortion, busing, prayer in public schools and other public buildings, and male-only draft registration. Who knows what next? Legislative reapportionment? Admission to the practice of law? Perhaps even prior restraints on speech, assembly or the press? Our Association expresses no views at this time on the particular subject matters of any such legislation or on the decisions of the United States Supreme Court which have generated the pending bills.

However, our Association has long opposed changing constitutional jurisprudence through jurisdictional legislation. In 1958, when the Congress was considering legislation (the "Jenner-Butler Bill") to withdraw Supreme Court jurisdiction in certain matters,[1] the A.B.A. adopted a resolution which stated that, "reserving our right to criticize decisions of any court in any case and without approving or disapproving any decisions of the Supreme Court of the United States, the American Bar Association opposes the enactment of [such legislation] which would limit the appellate jurisdiction of the Supreme Court of the United States."

The 1958 resolution was based on a motion by John C. Satterfield (A.B.A. president 1961–1962), and on a report by the Association's Special Committee on Individual Rights as Affected by National Security. Its distinguished members included Ross L. Malone (A.B.A. president 1958–1959, a former U.S. Deputy Attorney General) who chaired the committee, and Whitney North Seymour (A.B.A. president 1960–1961). Every word of their reasoning is equally applicable today:

"The integrity and uniformity of judicial review and the independence of the judiciary are vital to our system of government. If they are impaired, individual rights will be imperiled. Since maintenance of individual rights is the most notable distinction between our system and the Communist system, and the one on which we must rely to rally the hearts and minds of men to our cause, their impairment would also, in a broad sense, injure our national security.

"The bill would leave lower courts to make final decisions in the field withdrawn from Supreme Court jurisdiction. We do not believe it sound to prevent review in the highest Court of such important questions. The lower courts may differ among themselves so that there may be great confusion in decisions. Resolution of such conflict is a historic contribution of review in the Supreme Court. *It is difficult to conceive of an independent judiciary if it must decide cases with constant apprehension that if a decision is unpopular with a temporary majority in Congress, the Court's judicial review may be withdrawn.* (Emphasis added)."

I should point out that, at that time, many distinguished members of the Congress, the Department of Justice, noted legal scholars, leading legal practitioners, and officials of state and local bar associations traversing the country, from the Association of the Bar of the City of New York and of the District of Columbia in the east, to the State of Washington in the west, including Edward L. Wright (A.B.A. president 1970–1971), similarly expressed their opposition to such legislation.

The organized bar did not participate in the extensive hearings held last year in connection with the Helms Amendment to S. 450 of the 96th Congress. At that time the controversy was confined to the withdrawal of federal court jurisdiction over cases involving prayer in public schools and buildings. It was that bill, which died in the last Congress, that has spawned the many bills now at hand. Had we appeared at last year's hearings, we would have joined in the constitutional and policy objections which were so well presented at that time.[2]

We remain as committed as ever to the same policy and, in connection with the pending bills, reiterate our strong opposition to such legislative restrictions upon the jurisdiction of the Supreme Court,[3] while reserving our right to challenge any of its decisions on the same or any other subjects.

Putting aside constitutional questions for the moment, the current bill should, at least as far as Supreme Court jurisdiction is concerned, be rejected as a matter of public policy. Supreme Court decisions interpreting the Constitution establish binding precedents, subject to alteration by the people through the process of constitutional amendment. The Framers provided in Article V a means of changing the Constitution and made it difficult to achieve.

The "leaden-footed process of constitutional amendment," as Justice Frankfurter called it, requiring extraordinary majorities in Congress and among the States, was designed to make sure that transient majorities could not easily change our fundamental law. To utilize jurisdictional legislation so as to by-pass this "deliberately onerous" method of amending the Constitution ignores the concerns of the Framers.

We do not doubt the integrity of trial level judges, both state and federal, or their fealty to their oaths to uphold and defend the Constitution. However, to give them an unreviewable power to decide basic constitutional issues will inevitably lead to diverse local interpretations and practices under the Constitution, not only in our fifty states, but also right here in the District of Columbia, in the Virgin Islands, in Puerto Rico and in Guam, where our constitutional protections extend. And what would happen in a state with similar legislative authority over court jurisdiction if its legislature were to become dissatisfied with the way its highest state court judges decided such constitutional issues and were in turn to enact laws withdrawing those issues from the court's jurisdiction?

In the absence of review by the Supreme Court of the United States, the command of the Supremacy Clause that the Constitution be the "supreme law of the land" would in all events become a nullity. Since the adoption of the Judiciary Act of 1789, a constant feature of the history of federal court jurisdiction in this country, upon which the nation continues to depend, has been the review by the United States Supreme Court of state court interpretations on questions of federal constitutional law. Justice Holmes reminded us that a page of history is worth a volume of logic. The historical constancy of such Supreme Court review stands as a practically unanswerable argument against jurisdictional legislation of the kind that concerns us now.

With regard to the constitutional issue, the Association does not believe that the "exceptions and regulations" clause will bear the weight the proponents would put on it. That clause authorizes congressional structuring of federal jurisdiction, to be sure, but not without limit. To construe it the way the proponents would construe it is to make it the only power conferred on the Congress that is beyond the constraints of other provisions of the Constitution. The original Constitution was deliberately modified by the Bill of Rights to protect individuals against action which an oppressive majority might pursue under the original provisions of the Constitution.

The First Amendment, the Fourth Amendment, the Fifth Amendment, and all other express prohibitions limit the power of Congress to legislate with respect to other constitutional powers which appear on their face to be unlimited. Examples are the broadly stated taxing and spending clause, the commerce clause and the postal clause, all of which are subject to the provisions of the Bill of Rights. The power of Congress to regulate and make exceptions to the appellate jurisdiction of the Supreme Court must similarly be limited.

A number of the pending bills would likewise attempt to eliminate the jurisdiction of the lower federal courts. Although the Association has not in recent years studied the legality and desirability of such legislation, it is doing so now. We anticipate that there will be an appropriate resolution before our House of Delegates in August and would hope that your Committee and the Congress will defer action on such legislation until the Association has had an opportunity to complete its study and make its current recommendations on behalf of the organized bar of this country. If your action is not to be deferred until then, we ask you to consider the record of the A.B.A. during the court-packing movement of 1936 and 1937.

[1] The Jenner-Butler Bill, S. 2646 of the 85th Congress, dealt, among other things, with the following subjects, unrelated except that each arose from recent Supreme Court decisions involving alleged Communists: admission to the bar, proceedings before Congressional committees, executive security programs, state anti-subversive legislation, and teaching of Communism.

[2] As reported in the printed Hearings Before the Subcommittee on Courts, Civil Liberties, and the Administration of Justice of the Committee on the Judiciary, House of Representatives, Ninety-Sixth Congress, Second Session, on S. 450, Prayer in Public Schools and Buildings—Federal Court Jurisdiction, July 29, 30, August 19, 21, and September 9, 1980 (Serial No. 63).

[3] We do not oppose, in fact we have supported, as a "housekeeping measure" to be enacted by the Congress, reduction in the *obligatory* jurisdiction of the Court, which was the original objective of S. 450, prior to the Helms Amendment. In its unamended form S. 450 was supported not only by the American Bar Association but by members of the Supreme Court itself.

The court-packing movement of 1936–1937 arose out of dissatisfaction with our country's economy; the Jenner-Butler Bill of 1958 arose out of dissatisfaction with measures taken against alleged subversives; the current movement arises out of general dissatisfaction with the Supreme Court's application of the Bill of Rights. All such dissatisfaction could breed permanent injury to our American system if we were to succumb to statutory circumvention of the proper way to amend the Constitution.

It was during the early years of the New Deal that President Franklin D. Roosevelt and his strong supporters in the Congress tried, through their proposal to change the majority views of the Supreme Court by enlarging the number of justices and through other legislation which would affect the powers of the federal courts, to change their decisions on constitutional issues affecting the New Deal program. Seeking "to limit or change the power or jurisdiction of the Supreme court and the lower federal courts to deal with the constitutionality of Acts of Congress or of the state legislatures," they introduced a variety of some 30 bills on the subject. The bills fell into seven different classifications, those that would:

(1) deprive all courts of the power to pass upon the constitutionality of an Act of Congress;

(2) permit the Supreme Court to retain this power but in some fashion provide for a recall of decisions holding a statute unconstitutional;

(3) require the concurrence of an extraordinary majority of the justices of the Supreme Court to declare an Act of Congress unconstitutional;

(4) increase the membership of the Supreme Court;

(5) deprive the lower federal courts of all power to declare an Act of Congress unconstitutional and vest that power with limitations exclusively in the Supreme Court;

(6) provide for advisory opinions by the Supreme Court; and

(7) provide for the popular election of judges.

One of the proposed acts would have ipso facto vacated a federal judge's office if he declared that act unconstitutional. Another would have prohibited a federal district court from enjoining the operation of a statute until it had first been construed by the highest court of the state.

The Board of Governors and the Assembly of the Association unanimously disapproved such legislation. Following country-wide discussion of the pending proposals, the Association submitted to all of the known lawyers of the United States written polls with particular regard to the Supreme Court. All categories of lawyers from every section of the country, members and non-members of the A.B.A., rural and urban, senior lawyers and members of the Junior Bar, overwhelmingly supported the A.B.A. position against packing the Court.

The resolution which had been unanimously adopted by the Assembly read:

"That the Association disapprove all bills and amendments to the Constitution hereinafter mentioned in this report, the purpose or effect of which is to limit the jurisdiction or abridge the powers as they exist of any federal court as at present constituted to pass upon the constitutionality of any law."

In that portion of the A.B.A. Committee's report commenting upon the efforts to take jurisdiction on constitutional questions away from the federal district courts, the point was made:

"The arguments against depriving the lower federal courts of the power to declare an Act of Congress unconstitutional are based upon considerations of practical justice. It is a long accepted concept of our jurisprudence that laws are to be construed and their validity determined in ordinary suits between private litigants. Granted the principle that an unconstitutional act is of no force or effect, it is difficult to understand why the humblest suitor should be repulsed from the ordinary court or should under a void legislative mandate be deprived of property or liberty, or suffer any irreparable wrong. Whenever constitutional questions are presented the controversy, if possible, is determined upon other considerations and always all doubts are resolved in favor of constitutionality.

Other witnesses appearing before your Committee have from time to time commented upon the oath taken not only by federal judges but all officers to support the Constitution. You may be interested in the A.B.A. Committee's 1937 comment on this subject:

"The deprivation of the courts of the power to deal with unconstitutional legislation is the most insidious attack that can be made upon constitutional government. Specific amendments increasing federal power at least give notice of their purpose and permit of adequate consideration by the people. Emasculation of the courts means that all constitutional questions are remitted to Congress and the Executive. Theoretically, this does not imply the removal of all constitutional restraints. Congress and the Executive, as well as the judges, are bound by their oaths of office to observe and support the Constitution. Actually, however, they are frequently laymen unfamiliar with constitutional history and law. They move in a political atmosphere and are forced to act without the benefit of having presented to them specific cases, briefed and argued by competent counsel."

In our school days we learned indelibly the fundamental lessons of our representative democracy, the constitutional division of power among the three branches of government, the protections of the Bill of Rights, the relationship between the state and federal governments in our great country, and the teaching of *Marbury* v. *Madison*, 5 U.S. (1 Cranch) 137 (1803), that the Supreme Court of the United States must be our last bulwark in the exposition of the law of the Constitution.

The 1937 A.B.A. Committee's report concludes:

"Many times in the past have the federal courts been the subject of sporadic attacks. Each time they have been ultimately vindicated. Always their surest defense has been the sound judgment of the American people. Upon that judgment, properly informed and guided, dependence may still be placed."

Our job and yours is to see that the American people are properly informed and guided. Their sound judgment prevailed when the 1936–1937 court-packing movement was rejected. It prevailed in 1958 when the selective withdrawal of Supreme Court jurisdiction was rejected. Last year's rejection of the Helms Amendment was the result of sound judgment. The legislation now under consideration should be rejected on the same basis.

Mr. WEICKER. Now, I would like to get on to some other aspects of this argument, but let us get over this hurdle that this is sort of somebody writing a late evening letter without any basis of fact in hand when, indeed, the Senator's amendment was well circulated among civil rights groups in the afternoon and it had been seen by many groups prior to the Senator actually submitting it to the desk.

Mr. JOHNSTON. Will the Senator yield?

Mr. WEICKER. Of course, I yield.

Mr. JOHNSTON. I say to the Senator that the amendment was not confected in all its provisions until the very afternoon in which it was submitted.

Mr. WEICKER. I think the Senator is absolutely correct on that point. But the import of the amendment, its thrust, was well known. In other words, the amending, the give and take between the distinguished Senator from Louisiana and the distinguished Senator from North Carolina so as to make it acceptable to the amendment of the Senator from North Carolina did very little in relation to the constitutional arguments presented by Mr. Hoffman and also the statements made in earlier testimony by Mr. Cutler.

Mr. JOHNSTON. Neither Mr. Hoffman nor Mr. Cutler testified with respect to S. 528 or, so far as I know, with respect to any provision or any amendment or bill which attempted to use section 5 of the 14th amendment to restrict busing. Am I correct in that?

Mr. WEICKER. The Senator is absolutely correct, except for the fact that the Senator's amendment in its entirety is exactly what the American Bar Association has opposed as a matter of history, as a matter of record, as a matter of principle and, indeed, any lawyer would.

You will notice I am not going to get sucked into this busing argument. It is not a busing argument. If the Senator wants to tell me it is not a busing argument, I will be glad to accept that statement and let us argue the constitutional issue, because that is the issue.

Mr. JOHNSTON. There are two constitutional issues, are there not. First of all, the exercise of the power of Congress under article 3 dealing with the jurisdiction of courts, both of lower Federal courts and the Supreme Court. That is one issue. That is the basis for the American Bar Association's finding in 1958 and the basis of Mr. Hoffman's letter and the basis of Mr. Smith's testimony and the basis of Mr. Cutler's testimony.

There is a separate and distinct issue, which is the power of Congress under section 5 of the 14th amendment, which is the real basis for the Neighborhood School Act. In fact, the Neighborhood School Act, in its original form, did not even mention article 3. Article 3 was added simply as an afterthought in order to compromise with the Senator from North Carolina. Would not the Senator concede that there are those two separate and distinct bases, whether he agrees with my section 5 argument or not? They are separate and distinct arguments and it is the article 3 argument which forms the sole and complete basis for the American Bar Association's testimony and for the American Bar Association's opposition to this amendment.

Mr. WEICKER. No, I would not so agree. Clearly, the Senator's amendment moves the legislative branch of Government into that separate but equal branch of the judicial branch and, I might add as a part of the amendment of the distinguished Senator from North Carolina,

also into the executive branch of Government. Now, that is what it does.

The Senator is a good lawyer. We all like to just throw in citations here and a few articles here and a few amendments there and hope something will catch. I think that is what the Senator has done. Something will catch in the eyes of the court.

But consider the bottom line of what you are saying. Article 3, section 1 states:

> The judicial powers of the United States, shall be vested in one Supreme Court, and in such inferior Courts as the Congress may from time to time ordain or establish.

Does the Senator feel, by virtue of that section, that the Congress may from time to time ordain and establish another Supreme Court, or are they referring to the inferior courts?

Mr. JOHNSTON. No, I think what the cases have said——

Mr. WEICKER. The Senator knows Marbury against Madison.

Mr. JOHNSTON. I think what the Court has said under article 3 is that the Congress can establish courts and take away courts. It can abolish courts and it has, in some respects, approved the Congress taking away remedies.

For example, in the Norris-LaGuardia Act, the Congress took away the writ of injunction in labor disputes, which was sort of an interstitial exercise of jurisdictional power by the Congress, and the Supreme Court upheld that.

I am not saying that the power of Congress is total and complete to remove jurisdiction in all cases, but I am saying that the Supreme Court has recognized in a whole raft of cases the power of the Congress to take away remedies under the article 3 power as being an exercise of the power to establish and ordain courts and provide for their jurisdiction.

Mr. WEICKER. But that recognizes, does it not, that the Supreme Court has the final say?

Mr. JOHNSTON. Well, the Supreme Court——

Mr. WEICKER. Does the Senator suggest that we can take remedies away from the Supreme Court?

Mr. JOHNSTON. I think we can take jurisdiction away from the Supreme Court.

Mr. WEICKER. The Senator feels, in other words, that we can take jurisdiction away from the Supreme Court?

Mr. JOHNSTON. Article 3 says that.

Mr. WEICKER. Where does it say that? We are talking about the Supreme Court, not inferior courts.

I think, by virtue both of the Constitution and by case law, it is clearly established that there is a final say.

The Senator knows what he is doing as well as I do. He is pushing comity to the point where something might have to give. God save us if it does, because then it is no longer separate but equal.

But clearly there has to be one final say insofar as the law is concerned and what the Senator is now saying is that that is not a supreme court.

Mr. JOHNSTON. I am saying that the Supreme Court may not be omniscient but they are omnipotent and that power has been recognized time and again.

What the Supreme Court says the law is, is the law. In my judgment, if the Supreme Court were given this amendment in a proper case, the Supreme Court would uphold the power of Congress.

Now, I do not doubt that, if the Supreme Court says it is beyond the power of Congress and it is unconstitutional, the country would march to that order.

Mr. WEICKER. But, of course, the Supreme Court has already ruled on the matter of busing. So why is it, then, if we are going to march to that order, that we have the Senator's legislation out here on the floor?

Mr. JOHNSTON. The Supreme Court has not ruled on the power of Congress.

Mr. WEICKER. It has clearly ruled on the remedy known as busing. Not just once; two or three times.

Mr. JOHNSTON. If I may return to the question which the Senator asked earlier about whether the Congress has the power under article 3 to take away the jurisdiction or modify the jurisdiction of the Supreme Court, if the Senator would look at article 3, section 2, paragraph 2, the last sentence. It says:

> In all other cases before mentioned, the Supreme Court shall have appellate jurisdiction both as to Law and Fact, with such exceptions, and under such Regulations as the Congress shall make.

So I think that it is very clear that we do have the power to make exceptions, regulations, as to the appellate jurisdiction of the Supreme Court in all other cases other than those just mentioned and those are expressed cases which do not involve——

Mr. WEICKER. Of course, again, according to case law in the Klein case, the decision in that stated:

> We think the Congress has passed the limit that separates the legislative from judicial power, the vital importance that these powers be kept distinct.

Now, I do not want anybody to get the wrong impression here, both by virtue of the law and by virtue of decisions rendered.

I do not think the Senate of the United States, through some legislative action on an authorization bill, is going to be able to go ahead and, in effect, state the authority of the Supreme Court of the United States under the Constitution. It is not going to happen.

If the Senator wants to go ahead through restriction of funds and come around the side of the Constitution on a particular remedy that has been ordered in a court case, that is one thing. But he is not going to alter the Constitution or the separation of powers by virtue of this type of legislative action. If you want to do it, nobody objects. If, indeed, this is what the Senator wants to accomplish, it can be accomplished. But let us have an amendment to be passed by two-thirds of the House and Senate and three-quarters of the States which amends the Constitution, clearly setting forth the fact that the legislative branch of Government is superior in the determination of laws to the Supreme Court of the United States.

It would be one dickens of a day, Mr. President, I can tell you that. I do not want politicians deciding my fate on any given day of any given year. But if you want to go ahead and do it, it is fair enough to present it to the people of this country. Maybe they do have more faith in Senators and Congressmen than they have in Supreme Court Justices.

But you are not going to establish it by a piece of legislation here on the floor of the Senate. That is the issue.

I have no difficulty in the correctness of the Senator's attempt to alter public policy in this country. There is no problem with that. That is exactly what this Chamber is for.

Mr. JOHNSTON. Will the Senator yield?

Mr. WEICKER. But I have a great deal of difficulty when that takes the form of interfering with the independence and the integrity of the judicial system.

Mr. JOHNSTON. Would the Senator yield?

Mr. WEICKER. That is the ultimate protection for all of us, Senators included.

Certainly.

Mr. JOHNSTON. Would the Senator concede that there have been serious and, I might say, systematic abuses by the courts in ordering busing? That is the first thing I would ask him to concede.

Second, that those abuses have, in turn, worked against the very end which they were designed to achieve, which is integration? Would the Senator concede either of those?

Mr. WEICKER. First of all, I do not concede because I am not privy to the facts which would allow me to arrive at that conclusion. I am not sitting in that court in New Orleans being given the fact situation upon which I could make that kind of a judgment, and neither are my colleagues, nor are we sitting in a courtroom in Hartford, Conn. We are not there. The case is not being presented to us, factually or in terms of the law. How can I go ahead and say, "Well, I think there are abuses taking place." I cannot say that. It is hearsay. We do not operate a justice system based on hearsay. Indeed, we might legislate on the basis of hearsay, but I do not think that is a good way to legislate either. But, certainly, that is not part of the justice system.

No, I do not concede it.

I do not particularly care to get caught in the snare of this busing argument because busing is not the issue, but I am fully prepared to put into the RECORD statements that are directly contrary to the ones you are making against busing. I do not know whether they are true or are not because I am not here to argue that particular point. I want to make certain that, No. 1, the powers of the executive branch of Government are not inhibited by the legislative branch. I should not be on the floor making this argument.

Do you know who ought to be here? Ronald Reagan. He ought to be here. This is his job. I do not care as a matter of policy if he says he is against busing.

That is fine. That is the reason why this whole controversy is a silly waste of time because I know and you know that as a practical matter he is not going to go ahead and seek these orders through his Justice Department; that, indeed, they are apparently going to soft pedal it.

Mr. JOHNSTON. Would the Senator——

Mr. WEICKER. Let me finish. That is a policy decision on his part and he has every right to make it. But the reason why he should be here, again, has nothing to do with busing. He should be here because it is his branch of Government, the executive, that is going to be a lesser branch if this type of legislation passes.

This is the reason for President Carter's threatened veto.

Mr. JOHNSTON. Will the Senator allow me to interrupt briefly on that point he just mentioned?

Mr. WEICKER. Sure.

Mr. JOHNSTON. The Reagan administration through its Justice Department has moved, since his election in East Baton Rouge, La., and Caddo Parish, La. Those two school systems, certainly East Baton Rouge, are in turmoil at the present time on that account.

Mr. WEICKER. Well, let me say this: I certainly accept the Senator's statement as fact. It sounds very heartening, as a matter of fact, to this Senator. But, the President has made statement upon statement as to what his views on busing are. The fact is, again, that is not the issue. The issue is what was stated by former President Carter when he threatened the veto.

> The precedent that would be established if this legislation became law is dangerous It would effectively allow the Congress to tell a President that there are certain constitutional remedies that he cannot ask the courts to apply. If a President can be barred from going to the courts on this issue, a future Congress could by the same reasoning prevent a President from asking the courts to rule on the constitutionality of other matters upon which the President and the Congress disagree.
>
> For any President to accept this precedent would permit a serious encroachment on the powers of this office. I have a responsibility to my successors and to the American people not to permit that encroachment to take place. I intend to discharge that responsibility to the best of my ability.

This letter was written a month after Jimmy Carter had been defeated. What he was doing was preserving the powers of that office for Ronald Reagan.

I do not know why I am on this floor preserving the powers for the President. This is something that he should be actively engaged in. He is not. So if it passes, if it becomes law, then the Office is a little bit less than the Office that was handed to him, none of which has anything to do with busing or civil rights.

There is the issue. I think it is time the President spoke up.

I read in the press accounts of this debate that the liberals are out here fighting this proposition, and I turned to one of the reporters in my home State and said:

> I look upon myself as a conservative when it comes to the Constitution. On matters of social policy, characterize me as you will, but I am a conservative. I am arguing the conservative position.

I noticed just this past Friday, July 3, 1981, in the New York Times a marvelous articulation of this very point by Richard Taylor, a professor of philosophy at the University of Rochester, entitled, "What a Conservative Really Is. And Isn't." He says:

> TRUMANSBURG, N.Y.—I am a political conservative, of the traditional kind, who enthusiastically voted for and supports President Reagan, in spite of his occasionally distressing pronouncements. But I protest the increasing use of the label "conservative" by people who have no idea what it really means. Indeed, it is sometimes associated with sheer narrowness of outlook.
>
> A political conservative, within the framework of United States politics, tries to conserve something quite specific—namely, the values embedded in the Constitution.
>
> Those values were eloquently articulated in the President's Inaugural Address, when he reminded us that our Government is supposed to be one of limited powers, not one that tries to determine for free citizens what is best for them and to deliver them from all evil.
>
> More precisely, a conservative recognizes the Constitution as a statute, a charter of government, and a definition of rights.
>
> Political subversion, on the other hand, is the attempt to subordinate that Constitution to some other philosophy or creed, believed by its adherents to be nobler, wiser, or better.
>
> It would be subversion, for example, to subordinate the Constitution to the Communist Manifesto, even if done without violence and from a sincere conviction of the superior justice of a Communist state. Similarly, if anyone were to try to replace the Constitution by, say, the Koran, then no one could doubt that this would be an act of subversion.
>
> The extreme improbability of anyone's attempting this does not, of course, affect my point. Similarly, for anyone to subordinate the principles embodied in the Constitution to those of the Bible, or to those of one of the various churches or creeds claiming scripture as its source, is political subversion.
>
> Nor is subversion made less so by the good and sincere intentions of its advocates, or by their great numbers, or by the nobility of the alternatives advocated. An act of subversion would be no less subversive if carried out by a bishop, by an army general, or by a political party, than if done by agents of a foreign government.
>
> Subversion is not defined in terms of the means by which the basic principles of the Constitution are undermined, nor by whom this is attempted, nor in terms of the truth or falsity of the doctrine by which one seeks to replace those principles. The attempt itself is subversion.
>
> Nor is it a question of what is really noble or ultimately true or good. The question concerns instead the historical and traditional foundation of our political society, which is the United States Constitution and whether it should be conserved.
>
> Religions may be based upon holy books, economic policies upon the doctrines of learned theorists, and morality upon creeds or the promptings of this or that conscience, but none of these things constitute the foundation of Government in our beautiful country, however common elsewhere. Nor will they ever be, without subverting the real foundation, which is law—that is, an actual Constitution.
>
> It is sad indeed, then, to a conservative to see such spokesmen for higher morality as Jerry Falwell, Jesse Helms, Phyllis Schlafly, and the chorus of others, all with their notions of what is best, usurp and misuse the name "conservative."
>
> They are right, of course, in saying it is not the function of the Government to pour blessings upon us in the forms of art, health, and education, however desirable these things may be. But it is likewise no proper business of Government, as envisioned in our Constitution, to convert schoolrooms into places for prayer meetings for our children, or to compel impoverished and unmarried girls, or anyone else, to bear misbegotten and unwanted children, or to make pronouncements on the theory of evolution, or to instruct law-abiding citizens on what is and what is not allowable with respect to family values, or to determine which books can and which cannot be put in our libraries or placed within reach of our children.
>
> Perhaps there is a religion, or a political philosophy, whose truths are nobler than those held by our Founding Fathers.
>
> Perhaps there are persons who have a clearer vision than our judiciary, guided by our Constitution, of what is right and wrong.
>
> But it can never, in the eyes of the genuine conservative, be the role of Government to force such claims upon us.
>
> The Constitution explicitly denies to Government any such power, and a conservative is simply someone who thinks the provisions of that document are worth conserving.

Mr. President, there you have it. This document means what it says. For the legislative branch of Government to come in and intrude upon the executive and the judiciary is a grab of power unseen, unheard of, not only in these days but for two centuries past.

Now, Mr. President, let me state to my good friend from Louisiana exactly what I envisage happening here in the next several days. It is my understanding that there will be a cloture motion filed, probably sometime today. That would mean that there will be a cloture vote on Friday. That would mean, in the minds of some, that the issue would be resolved on Friday.

The reason I am stating this for the record is because I saw this was so botched up in its reporting several weeks ago when the first Weicker amendment failed, to the effect, that the filibuster was over and the good Senator from North Carolina and the Senator from Louisiana had won, that I figured we had just better lay this out so we understand what is going on. It is now, incidentally, about 3 weeks later. There is no such part of our law that is Johnston or Helms or Johnston-Helms, or whatever, 3 weeks later. It is not part of the law. It is not going to be the law for part of this week or not going to be law for next week, even if cloture succeeds, which I suspect it might. It will not be over on Friday. It might not be over next week or the week after that.

I want to make it clear that there are those of us on this floor who are going to do everything that we can to preserve the integrity of the Constitution of the United States. We are not going to play fast and loose with it. We are not going to be liberal with the Constitution. We are going to be precise. We are going to construe it in the strictest possible fashion. That means that there is a tripartite constitutional process in this country and that at any stage of the proceedings, citizens of this country know that they are going to get a clean shot with that particular branch of Govern-

ment, be it judicial, executive, or legislative. And we are not going to merge it all into one great big operation that is the dictate of the philosophy or the partisanship of that particular generation.

There is the issue, Mr. President. I had just met, before I came in on this debate, with members of the National Federation of the Blind on the steps of the Capitol. And believe me, most of their rights and the life they enjoy today have been achieved through the courts of this country. Who is to say that tomorrow to be blind will not be unpopular and when it becomes unpopular, who will be there to speak for the blind? The courts, told by the Senate of the United States, what they can and cannot do? There is the issue.

Everybody says, obviously, it never will be unpopular to be blind. It was unpopular. That is why these people had to go to the courts. It could become again unpopular if it becomes too expensive to take care of the blind. It will become unpopular, Mr. President. Wait until you see the scramble for funds that is going to take place by virtue of these budget cuts. Wait until you see that scramble.

Mr. JOHNSTON. Will the Senator yield?

Mr. WEICKER. In a few minutes.

Mr. President, I look upon the courts as being the ultimate protection for any one of us. That has been the history of this country. I do not want Senators seeking reelection to tell the courts what they can or cannot do. I want those courts to make their decisions. Certainly the men and women that sit on that bench, the majority of them, come from a political system. And chances are, at least at the time of their appointment, they represent a particular philosophy or a particular partisanship. But that is the swing we get at the pitch.

You do not sit there, any more than you do in baseball, unless you have faster wrists and arms than I have ever seen or heard about, and take two cuts at the ball. That is what this body is trying to do, to say that we are going to go ahead and participate in the confirmation process but if we do not like it, then we are coming back at it again. Someday, my ox is going to be gored and I am going to be standing in that court. And I do not want that court manipulated from this Chamber or from the House of Representatives, or, indeed, even from the White House, once the judiciary has been put into place by the executive.

Now, apparently, it is unpopular to be black, again. Not in the 1960's, not in the 1950's. These were the heydays. This was the great time for the civil rights movement, and we all took pride—black, white, and brown—in the fact that we had thrown over our prejudices and we were starting a new leaf.

Believe me, to espouse this kind of nonsense back in 1960 would have been political suicide, and nobody did it, because we were on the right track. Now it is politically popular to do it again.

I do not want the courts of the United States of America or the Justice Department of the United States of America to sit there with fingers to the wind. This whole town is one big finger to the wind. This whole town is like a willow tree—at the slightest movement of air, bending here and bending there.

This has to remain constant—the Constitution of the United States and the principles espoused therein, and the fact that each of us has access to justice and that justice is going to be independent.

There are going to be many times when we are dissatisfied with what justice does. You win some, you lose some. But when we lose it, I do not fear the loss of an issue but the loss of the institution and of the principle. That is something that will never be retrieved. Indeed, more harm has probably been done to the Constitution and how it is viewed by our citizenry by what has transpired on this floor in the last several weeks, precisely because it was done by the brightest and the best, supposedly, by the most powerful, certainly. So irreparable and irretrievable damage already has been done—not on the policy but, rather, to the law.

I intend to yield the floor to ask for a quorum, unless the Senator wishes to speak.

(Mr. LUGAR assumed the chair.)

Mr. JOHNSTON. Mr. President, it is somewhat of a burden to carry a busing amendment. You are identified with the wool hats.

It did not pass my notice that the Senator from Connecticut spoke about this amendment as being nonsense, put up by Senators who are up for reelection. He is free to make those kinds of denigrating remarks, to pass off what is a serious question, what is a serious problem in this Nation, and to pass if off as being nonsense.

It is not nonsense. No less an authority than Justice Powell of the Supreme Court said:

> The effects of resegregation can be even broader, reaching beyond the quality of education in the inner city to the life of the entire community. When the more economically advantaged citizens leave the city, the tax base shrinks and all city services suffer. And students whose parents elect to live beyond the reach of the court decree lose the benefits of attending ethnically diverse schools, an experience that prepares a child for citizenship in our pluralistic society.

Justice Powell stated, further:

> The pursuit of racial balance at any cost—the unintended legacy of *Green*—is without constitutional or social justification. Out of zeal to remedy one evil, courts may encourage or set the stage for other evils. By acting against one-race schools, courts may produce one-race school systems.

Call Justice Powell's statement nonsense, if you will; call it politically motivated; but the people of this country understand the issue.

You can call that cheap politics, if you wish; but I can tell you that in the last 8 years, since busing was first ordered, The American public, in the Gallup poll and in the Harris poll, has disapproved busing by no less than a margin than 72 percent. In fact, consistently, it has been between 72 and 78 percent.

It is said, I know, that constitutional rights are not subject to a plebiscite, that they are intended for the protection of minorities——

Mr. WEICKER. Senator——

Mr. JOHNSTON. I did not interrupt the Senator. I should like to finish, if I may.

The fact is as Justice Powell says, that when people in effect vote with their feet and leave a school system and withdraw support for a school system, education suffers in the process.

Mr. President, there is, in effect, a filibuster being conducted against this amendment. I can tell the Senator that his filibuster will be effective. The reason I can say that with some confidence is that we are in a "catch-22" position with respect to this amendment. The Senator and his colleagues can continue to debate this amendment ad infinitum and keep it from coming to a vote. The only remedy for that is cloture.

We have the votes, in my judgment, to adopt this amendment. If I were to guess, I would say we have 60 votes or more to adopt this amendment. If I were to guess, I would say that we have 60 votes or more to invoke cloture.

The problem is that this is a nongermane amendment, or so the Parliamentarian would rule. So the only way to choke the debate is to invoke cloture, and to invoke cloture is to have this amendment fall. When I say "this amendment," I mean the S. 528 part of the amendment dealing with limitations on the power of courts to order busing.

The other part, the original Helms amendment, dealing with the use of funds by the Justice Department to seek, directly or indirectly, to bus students would subsist and survive.

Mr. President, I have just been advised that it is possible to file a cloture motion on the amendment itself, in which event, the problem of germaneness after cloture would no longer be a problem. I hope the majority leader will do just that, because that is the only way I can see that this amendment can survive. As I say, I believe we have the votes to invoke cloture.

Mr. President, one thing is very clear. The majority of the House and of the Senate believe something should be done about busing. Something should be done by Congress. If I judge correctly the mood of this body and the mood of the House, something will be done about busing. The issue is a serious one. It is a serious one constitutionally. It is certainly a serious one socially.

Mr. President, I do not believe that the opponents of busing do the cause any good by calling these amendments nonsense, by saying the issue is one that is not serious, that it is clearly unconstitutional. It is not.

I should like to read a few words from the summary of the Congressional Research Service opinion with respect to this amendment, S. 528, so that my colleagues can get a little flavor of what is involved.

SUMMARY

> This report analyzes the legal and constitutional implications of S. 528, the "Neighborhood School Act of 1981," introduced by Senator Johnston, et al., on February 24, 1981. Section 2 of that bill states that the "neighborhood public school" is "the pre-

ferred method of public school attendance and should be employed to the maximum extent consistent with the Constitution of the United States." To implement this congressional policy, § 3 imposes certain limits on the authority of the Federal courts to require the transportation of any student beyond the public school "nearest the student's residence" in school desergegation cases.

The bill's major restriction would operate to bar the courts from ordering the bus transportation of any student in excess of thirty minutes "total actual daily time" or ten miles "total actual round trip distance" beyond that required for the student's attendance at the "public school closest" to his or her residence. Based on a review of the case law, the report indicates that S. 528 could preclude judicial use of busing remedies heretofore approved by the Supreme Court in *Swann* v. *Board of Education* and its progeny to eliminate de jure or unconstitutional segregation from the public schools. This, in turn, raises issues of constitutional dimension related to Congress' power to legislate remedies for equal protection violation under § 5 of the Fourteenth Amendment, or to restrict the jurisdiction of the Federal courts pursuant to Article III of the Constitution.

With regard to the § 5 issue, the report suggests that, in view of the emphasis in *Katzenbach* v. *Morgan* and *Oregon* v. *Mitchell, et al.*, on Congress' superior fact-finding capacity in framing remedies for equal protection violations, the limitations imposed by S. 528 may be entitled to judicial deference, particularly if the findings in § 2 of the bill relative to the harms of busing are supported by other evidence adduced in congressional hearings and debate. However, because the bill could be viewed as restricting or abrogating, rather than expanding, a remedy essential to the right to a desegregated education in some cases, and involves the issue of Congress' power vis a vis the Federal courts rather than the States as in Morgan and Oregon, those precedents may not be totally applicable to S. 528.

Another possible source of authority for the remedial limits of the bill, as they would apply to the use of busing by the lower Federal courts, may be found in Article III of the Constitution which empowers Congress to "ordain and establish" the inferior Federal courts. The Supreme Court has consistently construed Congress' power over the jurisdiction of the lower Federal courts to be virtually plenary. More problematic, however, is the issue whether Congress' Article III power to make "Exceptions and . . . Regulations . . ." to the Supreme Court's appellate jurisdiction would sanction the statutory withdrawal of Supreme Court authority to order busing remedies to effectuate the right to a desegregated education. Fundamental constitutional considerations related to separation of powers and the Supreme Court's essential function in giving uniformity and national supremacy to Federal law may operate as limitations upon Congress' Article III powers in relation to the appellate jurisdiction of the Supreme Court.

Mr. President, I ask unanimous consent that the entire report be printed in the RECORD at this point.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

LEGAL ANALYSIS OF S. 528, THE NEIGHBORHOOD SCHOOL ACT OF 1981

INTRODUCTION

On February 24, 1981, Senator Johnston, on behalf of himself and several colleagues, introduced S. 528, the "Neighborhood School Act of 1981," which was referred to the Committee on the Judiciary. That bill would impose certain limits on the power of the Federal courts with respect to the grant of injunctive relief in suits to desegregate the public schools and would authorize the Attorney General to seek judicial enforcement of these limits on behalf of private parties in certain circumstances.

Section 2 of the bill contains a declaration of Congressional findings to wit: that court ordered transportation of students beyond the public school "closest to their residences" has been an "ineffective remedy" frequently resulting in an "exodus" of children and loss of community support for public school systems; that such transportation is "expensive and wasteful of scarce supplies of petroleum fuels;" and that student busing "to achieve racial balance" has been "overused" by the courts, is "educationally unsound," and actually causes racial imbalances in the schools "without constitutional or social justification." Accordingly, § 2 concludes by stating that the assignment of children to their "neighborhood public school" is "the preferred method of public school attendance and should be employed to the maximum extent consistent with the Constitution of the United States."

To implement this congressional policy, § 3 of the bill would add a new subsection (c) to 28 U.S.C. 1651 [1] providing that, except in certain limited circumstances,

"No court of the United States may order or issue any writ ordering directly or indirectly any student to be assigned or to be transported to a public school other than that which is nearest to the student's residence. . . ."

The bill provides for exceptions to this general limitation on judicial authority where more extensive transportation is required by a student's attendance at a "magnet," vocational, technical, or other specialized instructional program, is related "directly or primarily" to an "educational purpose," or is otherwise "reasonable." However, no such transportation requirement shall be considered reasonable if alternatives less onerous in terms of "time in travel, distance, danger, or inconvenience" are available. The cross-district busing of students would also be deemed unreasonable. Nor would a transportation plan be "reasonable" where it is "likely," presumably because of white flight or otherwise, to aggravate existing "racial imbalance" in a school system, or to have "a net harmful effect on the quality of education in the public school district." Finally, § 3 would make it unreasonable, and therefor bar the courts from ordering, the bus transportation of any student that exceeds by thirty minutes or by ten miles the "total actual time" or "total actual round trip distance" required for the student's attendance at the "public school closest" to his or her residence.

Section 4 of the bill would amend Title VI of the 1964 Civil Rights Act [2] to authorize the Attorney General, on complaint by a student or his parent that "he has been required directly or indirectly to attend or to be transported to a public school in violation of the Neighborhood School Act," to initiate a civil action in Federal district court to enforce these limitations. Before instituting such action, the Attorney General must certify that the complaint is meritorious, and that the complainants are unable to maintain an appropriate action for relief. The Attorney General is authorized to implead as defendant such parties as may be necessary to the grant of effective relief.

I.

As is apparent from the bill's preambulatory findings, the basic legislative objective of the proposed act is to, in effect, constitutionalize the "neighborhood school" by imposing strict statutory limits on the power of the Federal courts to order the transportation of any student beyond the "closest" public school to his or her residence in desegregation cases. For purposes of the bill, it is indifferent whether the order or plan is directed to elimination of segregation *de jure* in origin, that is, that caused by the intentional actions of school officials and traditionally condemned as a violation of the Equal Protection Clause of the Fourteenth Amendment, or *de facto* and resulting without the complicity of State or local officials. Accordingly, the bill would make attendance at the neighborhood school the preferred method of student assignment, valid for all purposes under Federal law, and would sanction judicial departures from this policy only to the extent that they did not entail an increase beyond prescribed limits, in either the time or distance of travel, over that required for a student's attendance at the school closest to his or her home. As such, it would not affect the authority of the courts to enforce remedies in school desegregation cases involving the reassignment between schools or the reformulation of school attendance boundaries which do not place a greater transportation burden on any affected child. Nor would the bill interfere with the use of other commonly employed desegregation remedies, such as voluntary majority to minority transfers, the establishment of "magnet" schools, school closings and new school construction, and the remedial assignment of faculty and staff. Beyond this, however, the bill may import significant restrictions on Federal authority to impose "affirmative" remedies to redress conditions of State sanctioned segregation violative of equal protection guarantees.

Before proceeding further, however, it should be noted that certain language in the bill could invite a narrow judicial interpretation of the busing limitations with a view to reconciling them with existing authority under the Fourteenth Amendment. For instance, the congressional finding in § 2(a)(4) that neighborhood public schools "should be employed to the maximum extent *consistent with the Constitution of the United States*" (emphasis added) finds a statutory parallel in the Scott-Mansfield amendment to Title II of the 1974 Education Amendments. That provision qualified a restriction on court ordered busing beyond the school "closest or next closest" to the home by stating that nothing in that Act "is intended to modify or diminish the authority of the courts of the United States to enforce fully the Fifth and Fourteenth Amendments to the Constitution of the United States." [2a] Taking a cue from the Scott-Mansfield language, the busing limitations in Title II were subsequently held by the courts not to bind judicial authority in cases involving constitutional violations, that is, where there has been a finding of *de jure* segregation. Thus, in *Dayton Board of Education* v. *Brinkman* [2b] the Sixth Circuit pointed to the statement of congressional finding in § 1702(b) in refusing to adhere to the "next closest school" limitation and ruled that the 1974 Act, taken as a whole, restricted "neither the nature nor scope of the remedy for constitutional violations in the instant case."

Another possible limiting construction is suggested by inclusion in § 3 of language that would measure the time and distance limitations on student transportation by comparison to "the public school closest to the student's residence *and with a grade level identical to that of the student*." (Emphasis added.) During consideration of the fiscal 1977 Labor-HEW appropriations, Congress adopted a provision which, in terms somewhat analogous to the bill, directed HEW that it may not require the transportation of students beyond the school nearest the home "which offers the courses of study pursued by such student" in order to comply with Title VI of the 1964 Civil Rights Act.[2c] Notwithstanding the explicit prohibi-

Footnotes at end of article.

tory language of the statute, and contrary indications in the legislative history, the Department of Justice subsequently issued an analysis that Congress did not intend to prohibit HEW required busing associated with the desegregation techniques of school "pairing" and "clustering."[21] Generally, pairing or clustering plans involve the division or reorganization of grade structures between or among two or more schools, with student attendance predicated on grade level rather than geographical proximity.

The Justice Department relied in part on the above qualification in the Byrd amendment to reach this conclusion. It reasoned from the Byrd language that Congress intended the transportation limits to apply only after pairing or clustering of schools, not to the original student assignment scheme. That is, a student could be assigned or required to attend a school beyond the prescribed limits if, because of a grade structure reorganization adopted for desegregation purposes, the school nearest the home did not provide "the course of study pursued by such student." The similarity of the Byrd language to that proposed in the busing provisions of the bill suggest that the latter's time and distance limitations could likewise be interpreted in a manner contrary to the probable intent of its sponsors.[22]

Barring these or other narrow judicial interpretations of the bill's language, it may be appropriate, in order to more fully appraise its legal and constitutional implications, to review the course of the Supreme Court decisions stemming from *Brown* v. *Board of Education*.[3] In *Brown* the Court held that the Equal Protection Clause forbade State policies mandating the separation of students in the public schools on the basis of race. In striking down State statutes which required or permitted, by local option, separate schools for black and white children, the Court declared that the "separate but equal" doctrine announced in *Plessy* v. *Ferguson*[4] had no place in public education.

But over the next two decades, the nature of the obligation placed on school officals evolved from the mere cesation of overt racial assignment, the target of *Brown*, to elimination of the "effects" of the former dual system. In *Green* v. *County Board of Education*[5] the Court held that school officials had an "affirmative duty" to abolish the "last vestiges" of a dual school system, including all "racially identifiable" schools. In addition to the racial composition of their student bodies or staffs, schools could be racially identifiable by comparison with other schools in the district if the quality of their physical facilities, curricula, or personnel differ significantly. Although there is no duty to make schools identical in all respects, there is a "presumption" against schools that are one race or "substantially disproportionate" in racial composition, or that otherwise diverge markedly from the norm defined by these cirteria. Thus, the Court in *Swann* v. *Board of Education*[6] and later cases[7] held that such differences between schools in a former statutory dual system establishes a *prima facie* case that school officials are continuing to discriminate or that they have failed in their duty to remedy fully the effects of past discrimination. Since the 1973 ruling in the Denver case, *Keyes* v. *School District No. 1*,[8] it is also clear that the same affirmative constitutional duty attaches where *de jure* segregation in a "meaningful portion" of the system results from intentional school board policies in a district without a prior history of statutory dual schools.

The Court in *Swann* sought to define the scope of judicial authority to enforce school district compliance with this constitutional obligation and set out "with more particularity" the elements of an acceptable school desegregation plan. With respect to the assignment of pupils, the Court stated that in eliminating illegally segregated schools, the "neighborhood school" or any other student assignment plan "is not acceptable because it appears to be neutral." Rather, in a system that is *de jure* segregated, a constitutionally adequate plan may require "a frank—and sometimes drastic—gerrymandering of school districts and attendance zones," resulting in zones "neither compact nor continguous, indeed they may be at opposite ends of the city." Accordingly, the Federal courts may require school officials to implement plans involving "gerrymandering of scrool districts . . . [and] 'pairing,' 'clustering,' or 'grouping' of schools with attendance assignments made deliberately to accomplish the transfer of Negro students out of formerly Negro schools and transfer of White students to formerly all-Negro schools."[9]

A related aspect of the *Swann* decision was its qualified endorsement of student transportation as a desegregation remedy. The Court cautioned that "the permissible scope of student transportation" could not, because of the "very nature" of the desegregation process, be precisely defined "for the infinite variety of problems presented in thousands of situations." Nonetheless, finding that "[d]esegregation plans cannot be limited to the walk-in school," the Court held that, "as a normal and accepted tool of educational policy," busing for desegregation purposes could, subject to certain limitations, be employed "where the assignment of children to the school nearest their home would not produce an effective dismantling of the dual system." While suggesting limits, however, the Court declined to provide any "rigid guidelines" for future cases, saying only that busing could be used where "feasible," and that its use was to be limited by considerations of times and distances which would "either risk the health of the children or significantly impinge on the educational process."[10] In addition, limits on time of travel would vary with many factors, "but probably with none more than the age of the students."[11]

Three companion cases decided by the Court on the same day as *Swann* also addressed the judicial use of remedial student assignments and busing in school desegregation cases. In *Davis* v. *Board of School Commissioners*[12] the Court reversed the Fifth Circuit Court of Appeals for failing to achieve adequate desegregation of Mobile County, Alabama. The Fifth Circuit had affirmed a desegregation order that did not require busing of students across a major highway which divided Mobile into district zones. The Supreme Court's reversal was critical of the appeals court decision because "inadequate consideration was given to the possible use of bus transportation and split zoning."

"As we have held 'neighborhood school zoning,' whether based strictly on home-to-school distance or on 'unified geographic zones' is not the only constitutionally permissible remedy; nor is it *per se* adequate to meet the remedial responsibilities of local boards. Having once found a violation, the district judge or school authorities should make every effort to achieve the greatest possible degree of actual desegregation, taking into account the practicalities of the situation. A district court may and should consider the use of all available techniques including restructuring of attendance zones and both contiguous and noncontiguous attendance zones. [citing *Swann*]. The measure of any desegregation plan is its effectiveness."[13]

In *McDaniel* v. *Barresi*[14] the Court reversed a ruling of the Georgia State Supreme Court that a school desegregation plan imposed by the former Department of H.E.W. under Title VI of the 1964 Civil Rights Act violated the rights of white students and their parents because it treated students differently on account of race. The Court held that in compliance with its duty under *Green* and *Swann* to convert to a unitary system, the local board of education of Clark County, Georgia had properly considered the race of the students in fixing school attendance boundaries.

"In this remedial process, steps will almost invariably require that students be assigned 'differently because of their race.' [citation omitted] Any other approach would freeze the *status quo* that is the target of all desegregation processes."[15]

Finally, in *North Carolina Board of Education* v. *Swann*,[16] the Court held unconstitutional North Carolina's anti-busing law, which forbade the assignment or transportation of any student on the basis of race or for the purpose of achieving racial balance in the public schools. The State statute was found to prevent implementation of desegregation plans required by the Fourteenth Amendment and was therefore unconstitutional. According to Chief Justice Burger, "[b]us transportation has long been an integral part of all public school systems, and it is unlikely that a truly effective remedy could be devised without continued reliance upon it."[17]

In his ruling on application for a stay order in *Winston-Salem/Forsyth County Board of Education* v. *Scott*,[18] Chief Justice Burger, sitting as Circuit Justice, offered some additional indication of the limits imposed by *Swann* on student busing. The Chief Justice found "disturbing" the district court's apparent agreement with the school board that *Swann* required that each school have a proportion of blacks and whites corresponding to the proportion prevailing in the system as a whole. He denied the stay application, but only after chastising the board for being vague in its reference to "one hour average travel time," and indicated, "by way of illustration," that three hours would be patently offensive" when school facilities are available at a lesser distance. The Chief Justice also stressed that he would be disposed to grant the application for stay if it had been made earlier and seemed especially concerned that the court's order called for 16,000 more students to be transported in 157 more buses, nearly double the number before adoption of the plan.

Short of the presumptive upper limit of three hours suggested by the Chief Justice in *Winston-Salem/Forsyth* case, and the broad health and safety limitations noted in *Swann*, there appear to be no hard and fast rules as to the time or distance of travel that will be permitted. As in other equity cases, the lower Federal courts were vested by *Swann* with "broad discretion" to determine, in the first instance, what specific measures may or may not be necessary to achieve "the greatest possible degree of actual desegregation" in a given case. Thus, for example, in *Mannings* v. *Board of Public Instruction*,[19] the Fifth Circuit approved a plan to desegregate the Tampa, Florida schools which required the transportation of some 20,000 additional students for bus rides averaging 45 minutes to 1½ hours one way. On the other hand, the Sixth Circuit in the Memphis case,[20] where total desegregation could have been accomplished by a plan involving bus rides up to 60 minutes, affirmed a plan which left some 25,000 black students in 25 all-black schools, but which reduced the average bus ride to 38 minutes each way, with no rides over 45 minutes in length. The courts in several other cases have attempted to gauge the extent of required busing to that involved in the *Swann* case. Under the plan approved by the Supreme Court in *Swann*, trips for elementary school students averaged about seven miles and the trial court had found that they would take "not over 35 minutes at most." The Supreme Court noted that this compared favorably

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with the transportation plan previously operated in Charlotte under which each day 23,600 students on all grade levels were transported an average of 15 miles one way for an average trip requiring over an hour.[21]

As this sampling of cases suggests, it is impossible to determine in advance the impact of the bill's restrictions, in any particular case, on the courts' discretion to order relief necessary for compliance with the remedial principles of *Swann* and related cases. This is particularly so because, in addition to the time and distance limitations in § 3, the bill employs other non-quantitative, and perhaps unquantifiable, restrictions on judicial authority to order student transportation. For example, irrespective of considerations of travel time or distance, the bill would preclude transportation orders that are "likely" to aggravate "racial imbalance" in the system, because of white flight or otherwise, or to have "a net harmful effect on the quality of education" in the system, or where "reasonable alternatives" exist. In some cases, the *Swann* standards might be met without requiring busing beyond the limits imposed by the bill, but in the circumstances of the *Swann* case itself, and a substantial number of cases where it has been employed, some more extensive busing might be required to desegregate schools to the extent mandated by current constitutional standards. In these cases, the courts would be effectively restrained from fully exercising the equitable discretion they possess under existing precedent. To the extent that S. 528 may vary from or alter the remedial powers of the courts in school desegregation cases, its constitutional validity may depend on the reach of Congress' authority under § 5 of the Fourteenth Amendment, which is cited as authority in § 2(b) of the bill,[22] to define the scope of equal protection guarantees. Another potential source of legislative authority for the proposed restrictions may derive from Article III of the Constitution which grants Congress the power to restrict the original jurisdiction of the lower Federal courts and the appellate jurisdiction of the Supreme Court in certain cases. The remainder of this report analyzes both these sources in relation to Congress' power to enact the busing limitations in S. 528.

II

Section 5 of the Fourteenth Amendment vests with Congress the "power to enforce, by appropriate legislation, the provisions of this article." The first significant recognition of Congress' role in the definition of constitutional rights and implementing remedies under § 5 is found in *Katzenbach* v. *Morgan* [23] which interpreted the section as a "positive grant" to Congress of "the same broad powers expressed in the Necessary and Proper Clause." The Supreme Court there held that § 4(e) of the Voting Rights Act of 1965, which invalidated a New York literacy requirement for voting as applied to Puerto Rican residents educated in American flag schools, was appropriate legislation under § 5. This was so despite the Court's own refusal, in *Lasister* v. *Northampton Election Board*,[24] to strike down State literacy requirements for voting as a violation of the Equal Protection Clause in the absence of any discriminatory use of the test. To be appropriate legislation, § 4(e) had to be "plainly adopted to the end" of enforcing equal protection and "not prohibited by, but . . . consistent with the letter and spirit of the Constitution."

The decision in *Morgan* rested on two separate rationales, both involving a major extension of congressional enforcement authority under § 5. First, Justice Brennan, writing for himself and five other members of the Court, with the separate concurrence of Justice Douglas, characterized § 5 as a broad grant of discretionary power to "determin[e] whether and what legislation is needed to secure the guarantees of the Fourteenth Amendment." [25] In this view, Congress is empowered by § 5 to enact prophylactic measures to ensure enjoyment of equal protection guarantees against the potentiality of official discrimination and to remove obstacles to the States' performance of their obligations under the amendment. As in reviewing necessary and proper clause legislation, where the Court is able "to perceive a basis" for the congressional determination, its inquiry is at an end. Here, the Court held,

"It is for Congress, as the branch that made this judgment, to assess and weigh the various conflicting considerations—the risk or pervasiveness of the discrimination in governmental services, the effectiveness of eliminating the state restriction on the right to vote as a means of dealing with the evil, the adequacy or availability of alternative remedies, and the nature and significance of the state interest that would be affected by the nullification of the English literacy requirement as applied to residents who have successfully completed the sixth grade in a Puerto Rican school." [26]

Thus, despite the absence in the record of any actual discrimination by New York in the provision of such services, it was within Congress' power to act to insure that Puerto Ricans have the political power to enable them "better to obtain 'perfect equality of civil rights and the equal protection of the laws.' " [27] The second branch of *Morgan* held that § 5 confers independent authority on Congress to find that a State practice violates the Equal Protection Clause even if the Court is unwilling to make the same determination.

"Here, again, it is enough that we perceive a basis upon which Congress might predicate a judgment that the application of New York's English literacy requirement . . . constitute[s] an invidious discrimination in violation of the Equal Protection Clause." [28]

Accordingly, the majority in *Morgan* suggested not only that Congress has authority under § 5 to define as well as remedy denials of equal protection but also that the courts should defer to congressional exercise of that authority.

Justices Harlan and Stewart, who joined in the only dissenting opinion, rejected both branches of the majority's rationale. They dismissed the remedial theory as inapplicable to the challenged legislation. Since § 4(e) had been introduced from the floor during debate on the Voting Rights Act, there had been no investigation of legislative facts to support a finding of discrimination against Puerto Ricans in rendering of governmental services. As to the second rationale, their objection was more fundamental. The issue whether New York's denial of voting rights to those subsequently enfranchised by § 4(e) violated equal protection was a judicial question which could not be resolved by Congress. A congressional determination that Spanish-speaking citizens are as capable of making informed decisions in elections as English-speaking citizens might have some bearing on that judicial decision, but in the dissenters' view, courts should, in interpreting the Equal Protection Clause, give no more deference to congressional judgments than those of State legislatures.[29]

The broad language of the *Morgan* majority might support congressional prescription of the remedial standards in S. 528 even if they impose limits, in terms of time or distances of travel or otherwise, on judicially ordered student transportation to effectuate public school desegregation. But this conclusion is rendered less certain by indications in *Morgan* that Congress may only exercise its § 5 authority to facilitate the realization or extend the protections of the Fourteenth Amendment. *Morgan* upheld a voting eligibility standard arguably more liberal than the judicially defined constitutional requirement. A caveat to the Court's opinion in *Morgan* emphasized the distinction between the power to expand and the power to restrict the reach of equal protection thusly:

"Section 5 does not grant Congress power to exericse discretion in the other direction and to enact 'statutes so as in effect to dilute equal protection and due process decisions of this Court.' We emphasize that Congress' power under section 5 is limited to adopting measures to enforce the guarantees of the Amendment; section 5 grants Congress no power to restrict, abrogate, or dilute these guarantees. Thus, for example, an enactment authorizing States to establish racially segregated systems of education would not be—as required by section 5—a measure 'to enforce' the Equal Protection Clause since that clause of its own force prohibits such state laws." [30]

Accordingly, insofar as S. 528 would place limits on transportation remedies that could interfere with effectuation of the right to a desegregated public education as defined in the case law, it may come within this explicit exception to the *Morgan* doctrine.[31] In addition, *Morgan* concerned a congressional statute directed to certain actions by the States. The remedial standards in S. 528, on the other hand, directly implicate the equitable power of the Federal courts and may, therefore, involve different considerations.[32] Finally, the full breadth of congressional power elaborated in *Morgan* may not command a majority of the present court.

Four years after *Morgan*, the Court in *Oregon* v. *Mitchell* [33] reconsidered the breadth of congressional power under § 5 within the context of the 1970 amendments to the Voting Rights Act, which, *inter alia*, mandated a minimum voting age of 18 for all elections, State and Federal, contrary State law notwithstanding. A literal reading of *Morgan* suggests that the congressional determination would be upheld provided that there was a perceptible basis for concluding that the extension of the franchise to 18 years old was necessary to effectuate Fourteenth Amendment guarantees or, alternatively, that such age discrimination was an invidious classification unsupported by a "compelling state interest." However, only three Justices, Brennan, White, and Marshall, fully embraced the broad rationale of *Morgan* while Justice Douglas, in a partial concurrence, found simply that "Congress might well conclude that a reduction of the voting age from 21 to 18 was needed in the interest of equal protection." Justices Stewart, Burger, Blackmun, and Harlan found that Congress lacked the power under § 5 to change age qualifications for State elections. The deciding vote was cast by Justice Black who found that Congress' § 5 power was limited by the Constitution's delegation to the States of the power to determine qualifications for State elections.

The Court thus re'ected 5 to 4 the application of the 18 year age requirement to State elections, but the conflicting rationales of the Justices served only to obscure the issue of the scope of congressional power under § 5. Justice Brennan, joined by Justices White and Marshall, reasoned on the basis of the second branch of *Morgan* that, whatever the Court's view of excluding 18 year olds from the vote, Congress' determination was entitled to deference because "proper regard for the special function of Congress in making determinations of legislative fact compels the Court to respect those determinations unless they are contradicted by evidence far stronger than anything that has been adduced in these cases." [34] Elaborating further on the justification for judicial deference to congressional fact-finding, Justice Brennan stated:

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"The nature of the judicial process makes it an inappropriate forum for the determination of complex factual questions of the kind so often involved in constitutional adjudication. Courts, therefore, will overturn a legislative determination of a factual question only if the legislature's finding is so clearly wrong that it may be characterized as 'arbitrary,' 'irrational,' or 'unreasonable'." [35]

A significant aspect of Justice Brennan's opinion in *Oregon* was its apparent reformulation of the limiting principle in *Morgan* predicated on the dilution of equal protection rights. Instead of the *Morgan* distinction between legislative dilution versus expansion, Justice Brennan emphasized as critical under § 5 Congress' superior capacity to "determine whether the factual basis necessary to support a state legislative discrimination actually exists."

"A decision of this Court striking down a state statute expresses, among other things, our conclusion that the legislative findings upon which the statute is based are so far wrong as to be unreasonable. Unless Congress were to unearth new evidence in its investigation, its identical findings on the identical issue would be no more reasonable than those of the state legislature." [36]

Although not entirely clear, this statement may imply, contrary to *Morgan*, an indefinite power in Congress, as legislative fact-finder, to narrow the scope of equal protection and due process rights on the basis of new evidence.

Five members of the Court took issue with Justice Brennan's position, finding various limitations on Congress' § 5 power. Justice Black argued that Congress has power under § 5 to override an express delegation to the States only in cases of racial discrimination.[37] Justice Harlan, after determining that the Fourteenth Amendment was not intended to reach discriminatory voter qualifications of any kind, rejected the notion that Congress has a "final say on matters of constitutional interpretation . . . as fundamentally out of keeping with the constitutional structure." Justice Stewart, joined by the Chief Justice and Justice Blackmun, read *Morgan* to give Congress power to do no more than "provide the means of eradicating situations that amount to a violation of the Equal Protection Clause." [38] They argued that § 4(e) had been upheld on the alternative ground of remedying discrimination against Puerto Ricans in the furnishing of public services. Discrimination against Puerto Ricans was an undoubted invidious discrimination. Thus, *Morgan's* two branches merely allowed Congress to act upon established unconstitutionality, to impose upon the States remedies "that elaborated upon the direct command of the Constitution," and to overturn State laws if "they were in fact used as instruments of invidious discrimination even though a court in an individual lawsuit might not have reached that factual conclusion." [39] But, in their view, nothing in *Morgan* sustained congressional power to "determine as a matter of substantive constitutional law what situations fall within the ambit of the [equal protection] clause, and what state interests are 'compelling.'" [40]

The opinions of a majority of Justices in *Oregon* appear to have severely undermined *Morgan's* second rationale that § 5 authorizes Congress to define the substantive reach of the Equal Protection Clause by invalidating State legislation. The first branch of *Morgan*, however, recognizing congressional power to act to remedy State denials of equal protection appears to have survived, at least with respect to State practices aimed at "discrete and insular" minorities.[41] As in *Oregon*, the Court in *Fullilove* v. *Klutznick* [42] relied on Congress' competence as legislative fact-finder to uphold a statutory remedy enacted pursuant to § 5. It there approved the minority business enterprise (MBE) set aside provision in the Public Works Employment Act of 1977 [43] on the basis that the program was aimed at remedying a discriminatory situation found to exist by Congress.

"With respect to the MBE provision, Congress has abundant evidence from which it could conclude that minority businesses have been denied effective participation in public contracting opportunities by procurement practices that perpetuated the effects of prior discrimination . . . Accordingly, Congress reasonably determined that the prospective elimination of these barriers to minority firm access to public contracting opportunities generated by the 1977 Act was appropriate to ensure that those businesses were not denied equal opportunity to participate in federal grants to state and local governments, which is one aspect of the equal protection laws." [44]

The distinction between rights and remedies for constitutional violations, as it relates to the power of Congress, has found expression in other contexts as well. In *City of Rome* v. *United States*,[45] the Court upheld Congress' power to enact such remedial legislation pursuant to its comparable enforcement authority under section 2 of the Fifteenth Amendment. At issue in this case was the constitutionality of the Voting Rights Act of 1965, as amended, and its applicability to electoral changes and annexations made by the city of Rome, Georgia. Such changes were deemed to have the effect of denying the right to vote on account of race or color, and thus were in violation of the Act. The Court specifically held that, "even if § 1 of the Amendment prohibits only purposeful discrimination, the prior decisions of this Court foreclose any argument that Congress may not, pursuant to § 2, outlaw voting practices that are discriminatory in effect." [46] The Court in *City of Rome* relied to a great extent on its holding in *South Carolina* v. *Katzenbach* [47] which dealt with remedies for voting discrimination. It also cited *Katzenbach* v. *Morgan*. The Court wrote:

". . . In the present case, we hold that the Act's ban on electoral changes that are discriminatory in effect is an appropriate method of promoting the purposes of the Fifteenth Amendment, even if it is assumed that § 1 of the Amendment prohibits only intentional discrimination in voting. Congress could rationally have concluded that, because electoral changes by jurisdictions with a demonstrable history of intentional racial discrimination in voting create the risk of purposeful discrimination, it was proper to prohibit changes that have a discriminatory impact." [48]

Similarly, in *Bivens* v. *Six Unknown Fed. Narcotics Agents*,[49] the Court alluded to the power of Congress over remedies in the context of an action for damages against Federal officials for violation of Fourth Amendment rights. In holding a damage remedy implied by the constitutional prohibition against unreasonable searches and seizure, the Court sustained the action, but acknowledged its deference to Congress, noting that "we have here no explicit congressional declaration that persons injured by a federal officer's violation of the Fourth Amendment may not recover money damages from the agents, but must instead be remitted to another remedy, equally effective in the view of Congress." Chief Justice Burger, joined in dissent by Justices Black and Blackmun, urged Congress, without adverting to *Morgan* or *Oregon*, to create different rules to supplant judicially created standards to implement Fourth Amendment rights.[50] A noted legal commentator has conceived the matter as follows:

"The denial of *any* remedy is one thing . . . But the denial of one remedy while another is left open, or the substitution of one remedy for another, is very different. It must be plain that Congress necessarily has a wide choice in the selection of remedies, and that a complaint about action of this kind can rarely be of constitutional dimension." [51]

It is therefore possible that Congress' power under § 5 to legislate remedies for judicially recognized violations of the Equal Protection Clause, as affirmed in *Morgan* and arguably preserved by *Oregon* and later cases, could be advanced in support of the restrictions on busing in S. 528. Of significance in evaluating these limits may be the language in the *Swann* decision which permits the district courts to deny busing when "the time or distance of travel is so great as to risk either the health of the children or significantly impinge the educational process." [52] The *Swann* Court also acknowledge that the fashioning of remedies is a "balancing process" requiring the collection and appraisal of facts and the "weighing of competing interests," a seemingly appropriate occasion under *Morgan* for congressional intervention. In addition, busing is only one remedy among several that have been recognized by both the courts and Congress to eliminate segregated public schools.[53] Thus, the findings in § 2 of the bill relative to the harms of busing, particularly if supported by other evidence adduced in congressional hearings or debate, may comport with the emphasis of Justice Brennan's opinion in *Oregon* on Congress' superior fact-finding competence, and therefore be entitled to judicial deference.[54] By contrast, the dissenters in *Morgan* found § 4(e) of the Voting Rights Act failed to qualify as a remedial measure only because of the lack of a factual record or legislative findings.

Complicating this conclusion, however, are judicial statements implying that the elimination of busing as a remedy to the extent contemplated by the bill may be fraught with constitutional difficulty. For example, in *North Carolina Board of Education* v. *Swann*,[55] the Supreme Court invalidated an analogous State law restriction on busing for desegregation purposes noting that "it is unlikely that a truly effective remedy could be devised without continued reliance upon it." This, and the consistent judicial emphasis on affirmative desegregation remedies since *Green*, suggests that the correlative right to attend and the obligation to establish racially desegregated schools are inseparable. Accordingly, the distinction in *Morgan* and *Oregon* between constitutional rights and remedies may become blurred in the school desegregation context in those cases where student transportation, beyond the limits prescribed by the bill, is deemed necessary for compliance with current constitutional standards. Of course, the fact that the State courts are left free by the bill to order any form of remedy to implement a desegregation plan may be argued in reply to objections that busing may be the only effective remedy available in some circumstances. Nonetheless, because the bill could be viewed as restricting or abrogating a remedy essential to the right to a desegregated education in such cases, and involves the issue of Congress' power *vis a vis* the Federal courts rather than the States as in *Morgan* and *Oregon*, substantial questions relative to the application of those precedents to congressional authority to enact S. 528 remain. In the final analysis, the validity of the bill as an exercise of congressional power under § 5 may depend upon whether the busing restrictions are viewed as based on a rationally supportable factual determination of the effectiveness of such remedies within the constitutional framework of *Swann* and related cases, or are instead a declaration of a constitutional standard in conflict with prevailing judicial standards.

III

An alternative source of congressional authority for the remedial limitations imposed by S. 528 may reside in Article III of the Constitution which defines and delimits the

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judicial power of the United States. Article III does not by its terms create any of the inferior Federal courts, but instead confers that power on Congress:

"Section 1. The judicial power of the United States, shall be vested in one Supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish . . ." [56]

Congressional power over the appellate jurisdiction of the Supreme Court is found in Article III, Section 1 which defines the original and appellate jurisdiction of the Supreme Court as follows:

"In all cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be a Party, the Supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such exceptions, and under such Regulations as the Congress shall make."

It has sometimes been argued that the language of Article III compels Congress to vest' the entire judicial power in some inferior Federal court.[57] But the Supreme Court has consistently construed Congress' power over the jurisdiction of the lower Federal courts to be virtually plenary. In *Cary* v. *Curtis*,[58] for instance, the Court stated:

". . . the judicial power of the United States, although it has its origin in the Constitution, is (except in enumerated instances, applicable exclusively to this court) dependent for its distribution and organization, and for the modes of its exercise, entirely upon the action of Congress, who possess the sole power of creating the tribunals (inferior to the Supreme Court) for the exercise of the judicial power, and of investing them with jurisdiction either limited, concurrent, or exclusive, and of withholding jurisdiction from them in the exact degrees and character which to Congress may seem proper for the public good. . . . [T]he organization of the judicial power, in definition and distribution of the subjects of jurisdiction in the federal tribunals, and the modes of their action and authority, have been, and of right must be, the work of the legislature."

Again in *Kline* v. *Burke Construction Co.*,[59] the Court stated:

"The Constitution simply gives to the inferior courts the capacity to take jurisdiction in the enumerated cases, but it requires an act of Congress to confer it. And the jurisdiction having been conferred may, at the will of Congress, be taken away in whole or in part. . . ."

More particularly, Congress has engaged in a variety of actions with respect to the jurisdiction of the lower Federal courts, and those actions have consistently been upheld by the Supreme Court. Not until 1875, for instance, did Congress vest the inferior Federal courts with general Federal question jurisdiction.[60] Moreover, the Supreme Court has consistently affirmed such Congressional actions over the jurisdiction of the lower Federal courts as (1) withdrawing jurisdiction even as to pending cases,[61] (2) delimiting lower Federal court jurisdiction over a particular cause of action to a single tribunal,[62] and (3) selectively withdrawing the jurisdiction of the lower Federal courts to adjudicate particular issues or to order particular remedies.[63]

The Norris-LaGuardia Act,[64] perhaps the most celebrated modern example of Congress' exercise of its Article III powers, removed the jurisdiction of the lower Federal courts to issue a restraining order or an injunction in labor disputes. In upholding the Act's limitation, the Supreme Court in *Lauf* v. *E. G. Shinner & Co.*[65] acknowledging that there is no constitutional right to a labor injunction, stated that "[t]here can be no question of the power of Congress thus to define and limit the jurisdiction of the inferior courts of the United States." Significantly, however, the Court had in an earlier case ruled that State legislation which imposed similar restrictions on employers' remedies constituted a denial of due process.[66]

Even more restrictive than the Norris-LaGuardia Act was the Emergency Price Control Act of 1942,[67] which operated to limit both State and lower Federal court jurisdiction. Exclusive jurisdiction to determine the validity of any regulation, order, or price schedule was vested in a new Emergency Court of Appeals and even that court was denied power to issue any temporary restraining order or interlocutory decree. The Supreme Court upheld the Act in *Lockerty* v. *Phillips*,[68] recognizing that Congress could so limit the jurisdiction of the Federal courts under Article III. In *Yakus* v. *United States*,[69] the Court was faced with a more serious constitutional challenge to the Act in the context of a criminal prosecution for its violation. The defendant, who had been convicted by an enforcement court, claimed that the denial of a stay order during his appeal to the Emergency Court deprived him of due process. In rejecting this assertion, the Supreme Court stressed that "[t]here is no constitutional requirement that that test be made in one tribunal rather than another," and that the "award of an interlocutory injunction by courts of equity has never been regarded as a matter of right." Further, the Court seemed to suggest that Congress, in protecting the public interest, could impose some burdens on individual rights:

"If the alternatives, as Congress could have concluded, were wartime inflation or the imposition on individuals of the burden of complying with a price regulation while its validity is being determined, Congress could constitutionally make the choice in favor of the protection of the public interest from the dangers of inflation." [70]

The Health Programs Extension Act of 1978 [71] is further support for Congress' power to eliminate lower Federal court jurisdiction with respect to remedies. Section 401(b) of the Act provides that the receipt of Federal funds by a hospital does not *per se* authorize "any court" to require such hospital to perform any sterilization procedure or abortion if such was contrary to the hospital's religious or moral convictions. In *Taylor* v. *St. Vincent's Hospital*,[72] an action was brought against the hospital claiming that it had violated plaintiff's constitutional rights by refusing her request to undergo a sterilization procedure. The district court held that it did not have jurisdiction to hear the action in view of the Act, basing its decision on the power of Congress to control both the jurisdiction and the remedies of the lower Federal courts.

"There can be no doubt that Section 401 (b) which restricts the course and power of inferior federal courts is a valid exercise of Congressional power. Under Article III of the Constitution, Congress can establish such inferior courts as it chooses. Its power to create those courts includes the power to invest them with such jurisdiction as it seems appropriate for the public. [Citation omitted.] Further, Congress is free to legislate with respect to remedies the inferior Federal courts may grant. [Citations omitted]." [73]

Thus, the language of Article III, the history of past Congressional action, and judicial interpretation of Congress' power all appear to affirm that Congress has broad authority to impose limits on the jurisdiction of the lower Federal courts, and this may be particularly so where the limitation relates to the remedial rather than adjudicatory functions of the court.[74] Although some cases have suggested that Congress' power over the jurisdiction of the lower Federal courts is limited by the taking clause of the Constitution [75] or the due process requirement that persons not be denied all judicial remedies to a claimed deprivation of a Federal right,[76] neither may be pertinent to S. 528. As in *Lockerty* and *Yakus*, the right of access to a forum where full relief may be obtained is not abrogated, it is merely reallocated. The State courts would remain open to litigants to press claims that student transportation beyond that permitted by the bill is necessary to adequately desegregate the school system. As long as a litigant is able to proceed in State court, a viable forum exists, and there is arguably no denial of due process. In this regard, the Supreme Court has stated that "Congress could, of course, have routed all Federal constitutional questions through the State court system, saving to this Court the final say when it came to review of the state court judgments." [77] In addition, the full range of remedies authorized by the Equal Educational Opportunities Act of 1974 would be available to the lower Federal courts in desegregation cases, including the use of student transportation to the extent authorized by the bill.

The bill's restrictions as they affect the appellate jurisdiction of the Supreme Court may be more problematic, however. Article III confines Congressional power over the appellate jurisdiction of the Supreme Court to the making of "Exceptions and . . . Regulations . . . ," a power seemingly less complete on its face than Congress' power to "ordain and establish" the inferior courts. Indeed, it has even been suggested that the historical evidence surrounding the exceptions clause of Article III indicates that it should be read in light of the contemporary State practice to confine regulation basically to housekeeping matters and to certain proceedings where neither error or certiorari traditions had been available.[78] Additional uncertainty stems from the fact that since the Judiciary Act of 1789 Congress has made no attempt to sharply curtail the appellate jurisdiction of the Supreme Court, and thus the possible limits of its power have not been fully tested. This is particularly true with respect to Supreme Court review of State court decisions concerning Federal rights:

[T]he Supreme Court has always had authority, under certain circumstances, to review a final judgment or decree of the highest court of a state in which a decision could be had, where . . . the judgment turns upon a substantial federal question.[79]

Nonetheless, numerous statements by the Supreme Court can be found describing Congress' power over its appellate jurisdiction in as broad a terms as those used to describe Congress' power over the jurisdiction of the inferior Federal courts. For example, in *The "Francis Wright,"* Chief Justice Waite stated:

". . . while the appellate power of this Court under the Constitution extends to all cases within the judicial power of the United States, actual jurisdiction under the power is confined within such limits as Congress sees fit to prescribe. . . . What [the court's appellate powers] shall be, and to what extent they shall be exercised, are, and always have been, proper subjects of legislative control. Authority to limit the jurisdiction necessarily carries with it authority to limit the use of jurisdiction. Not only may whole classes of cases be kept out of the jurisdiction altogether, but particular classes of questions may be subjected to re-examination and review, while others are not." [81]

Often cited as support for an expansive view of Congress' power to regulate the Supreme Court's appellate jurisdiction is the post Civil War decision in *Ex parte McCardle*.[82] In that case, under the authority of the Reconstruction Acts, the military government had imprisoned McCardle for publishing allegedly libelous and incendiary articles in his newspaper. He then brought a

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habeus corpus action alleging that the Reconstruction legislation was unconstitutional and, following an adverse decision below, filed a direct appeal to the Supreme Court under the then recently passed Act of February 5, 1867.[83] After the Court had acknowledged jurisdiction but before a decision on the merits, Congress withdrew the statutory right of appeal,[84] seeking to avoid a Supreme Court determination that the Reconstruction legislation was unconstitutional.[85] The Court then declined the appeal and dismissed the case for want of jurisdiction, finding that while its appellate jurisdiction "is, strictly speaking, conferred by the Constitution . . . it is conferred 'with such exceptions and under such regulations as Congress shall make' " according to Article III, Section 2.

"We are not at liberty to inquire into the motives of the legislature. We can only examine into its power under the Constitution; and the power to make exceptions to the appellate jurisdiction of this court is given by express words." [86]

Notwithstanding these assertions, however, some limitation may still attach to Congress' control of the Supreme Court's appellate jurisdiction. In *Ex parte McCardle* itself and subsequently in *Ex parte Yerger* [87] the Court emphasized that the repeal of the 1867 statute did not deprive it of all appellate power over cases involving the constitutional right of *habeas corpus*:

"The act of 1868 does not except from that jurisdiction any cases but appeals from Circuit Courts under the act of 1867. It does not affect the jurisdiction which was previously exercised." [88]

That is, under the Judiciary Act of 1789 the Court had, prior to 1867, exercised the authority to review lower federal court decisions concerning *habeas corpus*, not by appeal but by a writ of *certiorari*. In *Ex parte Yerger* it was argued that the 1867 act authorizing direct appeals implicitly repealed the jurisdiction granted in the 1789 act, and that the subsequent repeal of the 1867 act deprived the Court of all appellate jurisdiction over *habeas corpus* proceedings. But the Court rejected the argument, stating:

". . . it is too plain for argument that the denial to this court of appellate jurisdiction in this class of cases must greatly weaken the efficacy of the writ, deprive the citizen in many cases of its benefits and seriously hinder the establishment of that uniformity in deciding upon questions of personal rights which can only be attained through appellate jurisdiction, exercised upon the decisions of courts of original jurisdiction. In the particular class of cases, of which that before the court is an example . . . it is evident that the imprisoned citizen, however unlawful his imprisonment may be in fact, is wholly without remedy unless it be found in the appellate jurisdiction of this court. These considerations forbid any construction giving to doubtful words the effect of withholding or abridging this jurisdiction." [89]

The Court deemed the sudden withdrawal of jurisdiction in *McCardle* to be justified by "some imperious public exigency . . . within the constitutional discretion of Congress to determine. . . ." [90] But it refused to construe the 1867 and 1868 statutes as withdrawing:

". . . the whole appellate jurisdiction of this court, in cases of *habeas corpus*, conferred by the Constitution, recognized by law, and exercised from the foundation of the government hitherto. . . ." [91]

A principle implied by Article III and unaffected by *McCardle* is the separation of powers doctrine that may limit Congress in the exercise of its power to regulate Federal court jurisdiction. The requirement of an independent judiciary was directly addressed by the Court in a post-*McCardle* decision, *United States* v. *Klein*,[92] which concerned the effect to be given Presidential pardons of those who had aided and abetted the rebellion during the Civil War. The Captured and Abandoned Property Act authorized suit in the Court of Claims for the return of seized Confederate property on proof that the claimant had given no aid or comfort to the rebellion. In *United States* v. *Padelford* [93] the Supreme Court had ruled that the statute was satisfied when the claimant had received a pardon under a Presidential general amnesty. Thereafter Congress, while appeal in the *Klein* case was pending, enacted a rider to an appropriations bill providing that a Presidential pardon would not support a claim for captured property, that acceptance without disclaimer of a pardon for participation in the rebellion was conclusive evidence that the claimant had aided the enemy, and that when the Court of Claims based its judgment on such a pardon the Supreme Court lacked jurisdiction of the appeal.

In *Klein*, the Supreme Court held this statute unconstitutional as infringing the power of both the judiciary and the President. Although recognizing that Congress had the power under Article III to confer or withhold the right of appeal from the Court of Claims, the Court held that the proviso was not within "the acknowledged power of Congress to make exceptions and prescribe regulation to the appellate power" because it intruded upon the independence of the judicial branch and amounted to a "rule of decision, in causes pending, prescribed by Congress . . ."

"What is this [the act] but to prescribe a rule for the decision of a cause in a particular way? In the case before us, the Court of Claims has rendered judgment for the claimant and an appeal has been taken to this court. We are directed to dismiss the appeal, if we find that the judgment must be affirmed, because of a pardon granted to the intestate of the claimants. . . . Can we do so without allowing that the legislature may prescribe rules of decision to the Judicial Department of the government in cases pending before it? We think not. . . . We must think that Congress has inadvertently passed the limit which separates the legislative from judicial power. It is of vital importance that these powers be kept distinct." [94]

The *Klein* decision, which was cited with approval by the Court in its 1962 ruling in *Glidden Co.* v. *Zdanok*,[95] suggests that Congress must exercise its power to limit jurisdiction in a manner consistent with the independence of the judiciary.

Other cases suggest further possible limitations based on the supremacy clause of Article VI of the Constitution, which states:

"This Constitution and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding."

It could be argued that this constitutional provision would be a nullity if there were not a single tribunal with the authority to interpret and pronounce on the meaning of the Constitution and of Federal law. Thus, Justice Taney, in *Ableman* v. *Booth*,[96] stated:

"But the supremacy thus conferred on this Government [by the supremacy clause] could not peacefully be maintained, unless it was clothed with judicial power, equally paramount in authority to carry it into execution; for if left to the courts of justice of the several States, conflicting decisions would unavoidably take place . . . and the Constitution and laws and treaties of the United States, and the powers granted to the Federal Government, would soon receive different interpretations in different States and the Government of the United States would soon become one thing in one State and another thing in another. It was essential, therefore, to its very existence as a Government, that . . . a tribunal should be established in which all cases which might arise under the Constitution and laws and treaties of the United States, should be finally and conclusively decided . . . And it is manifest that this ultimate appellate power in a tribunal created by the Constitution itself was deemed essential to secure the independence and supremacy of the General Government in the sphere of action assigned to it; [and] to make the Constitution and laws of the United States uniform, and the same in every State. . . ." [97]

With even more dramatic flourish Justice Story justified Supreme Court review of State court decisions as follows:

"A motive of another kind, perfectly compatible with the most sincere respect for state tribunals, might induce the grant of appellate power over their decisions. That motive is the importance, and even necessity of *uniformity* of decisions throughout the whole United States, upon all subjects within the purview of the constitution. Judges of equal learning and integrity, in different states, might differently interpret a statute, or a treaty of the United States, or even the constitution itself: If there were no revising authority to control these jarring and discordant judgments, and harmonize them into uniformity, the laws, the treaties, and the constitution of the United States would be different in different states, and might, perhaps, never have precisely the same construction, obligation, or efficacy, in any two states. The public mischiefs that would attend such a state of things would be truly deplorable; and it cannot be believed that they could have escaped the enlightened convention which formed the constitution . . . [T]he appellate jurisdiction must continue to be the only adequate remedy for such evils." [98]

In other words, a Supreme Court with authority to review and revise lower and State court judgments may be constitutionally necessary to assure the national uniformity and supremacy of the Constitution and federal law.[99]

Another argument related to the above stems from the due process clause.[100] If appellate review by the Supreme Court were denied in cases involving a constitutional right, and if as a consequence different interpretations of the law developed in the various States or Federal judicial circuits, then the effect would be unequal treatment of persons similarly situated. That is, persons asserting the same right would be treated differently in different jurisdictions. This result, it has been suggested, would be "a manifest abuse of due process, one of the bases of which is equal treatment before the law." [101] Thus, appellate review may be a necessary consequence of due process, "if such an appeal is necessary to secure uniform treatment before the law." [102]

Thus, the cases may provide less forceful precedent for the limitations imposed by S. 528 as they relate to the Supreme Court's appellate jurisdiction than the original jurisdiction of the inferior Federal courts. With the exception of *McCardle*, all of the cases have involved legislative limits on judicial authority with respect to claims arising from the common law or Federal statute. *McCardle* and *Yerger*, on the other hand, establish only that Congress can extinguish one means for obtaining appellate review of an asserted constitutional right when other means remain open, or conversely, that the courts will narrowly construe jurisdictional statutes when to do otherwise would have the effect of eliminating all remedies for a constitutional violation. In addition, *Klein* suggests that the Supreme Court may be less receptive to congressional mandates

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that intrude upon judicial independence by prescribing the manner in which the merits of a particular claim are to be viewed. Finally, fundamental constitutional limitations on Congress' power may derive from the Supreme Court's essential function in giving uniformity and national supremacy to Federal law or from due process demands that the enforcement of constitutional rights not depend on geographical location in the United States. But because of the infrequency with which Congress has acted to limit the Court's appellate jurisdiction in the past, and the consequent dearth of case law, the contours of Congress' power remain largely undetermined.

It could be argued, however, that these constraints on Congress' power lose some of their force given the nature of the limitations imposed by the bill. That is, the bill would affect the Supreme Court's appellate jurisdiction only with respect to the implementation of certain school desegregation remedies, but would not otherwise restrict its authority to review the constitutionality of school officials' actions alleged to deny equal protection of the laws, or to order such other relief as may be appropriate to remedy any violation found to exist. This relief could even include the busing of students to the extent authorized by the bill. In addition, relief beyond that available in the Federal courts could be obtained by litigants in State courts which would remain open to school desegregation suits. The Supreme Court decisions in *Swann* and its progeny would continue to stand as controlling precedent in this area, presumably binding on State court judges as they ruled in related cases. In this regard, one noted commentator has suggested:

"There is, to be sure, a school of thought that argues that 'exceptions' has a narrow meaning, not including cases that have constitutional dimension; or that the supremacy or the due process clause of the fifth amendment would be violated by an alteration of the jurisdiction motivated by hostility to the decisions of the Court. I see no basis for this view and think it antithetical to the plan of the Constitution for the courts—which was quite simply that the Congress would decide from time to time how far the federal judicial institution should be used within the limits of the federal judicial power; or, stated differently, how far judicial jurisdiction should be left to the state courts, bound as they are by the Constitution as 'the supreme Law of the Land . . . any Thing in the Constitution or laws of any State to the Contrary notwithstanding.' Federal courts, including the Supreme Court, do not pass on constitutional questions because there is a special function vested in them to enforce the Constitution or police the other agencies of the government. They do so rather for the reason that they must decide a litigated issue that is otherwise within their jurisdiction and in doing so must give effect to the supreme law of the land. This is, at least, what *Marbury* v. *Madison* was all about. I have not heard that it has yet been superseded, though I confess that I read opinions on occasion that do not exactly make its doctrine clear." [103]

Supporting Professor Wechsler's view is the fact that the Supremacy Clause and uniformity arguments sanctioned by the Court in *Martin* v. *Hunter's Lessee* (*supra*) and other early cases were based on an interpretation of the jurisdiction affirmatively granted or recognized by Congress in the Judiciary Act of 1789. Whether these arguments would have independent constitutional force against a Congressional denial of jurisdiction has yet to be adjudicated.

A final consideration that may affect the constitutionality of the bill under Article III is the separation of powers limitation enunciated in *Klein*. The *Klein* principle, precluding attempted congressional interference with the judiciary in the decision of pending cases, could have implications for the bill's limitations on judicial use of busing remedies. This may be particularly so as applied in suits by the Attorney General under § 4 to reopen previously decided cases for retroactive enforcement of those remedial limits. Indeed, even more compelling reasons may support invocation of the *Klein* doctrine in the latter circumstances since it could be argued that Congress is attempting to alter or postpone the equitable effect of prior court decrees, and because of the heavy burden the duty to relitigate would place on the judicial process. In *Pope* v. *United States*,[104] the Supreme Court declined to decide under what conditions the *Klein* holding also prohibits a congressional act from setting aside a judgment in a case already decided. "We do not consider just what application the principles announced in the *Klein* case could rightly be given to a case in which Congress sought, *pendente lite*, to set aside a judgment of the Court of Claims in favor of the Government and require relitigation of the suit." However, the Court's recent decision in *United States* v. *Sioux Nation of Indians* [105] suggests that the mere fact that a congressional enactment requires relitigation of a previously decided case may not violate the separation of powers doctrine provided that the act is otherwise within Congress' constitutional powers.

Sioux Nation involved an act passed by Congress in 1978 waiving the *res judicata* effect of a prior judicial decision which had rejected a claim that Congress' 1877 ratification of an agreement ceding the Great Sioux Reservation, including the Black Hills, in violation of the Fort Laramie Treaty of 1868, effected a taking of Sioux lands without due process. The 1978 Act directed the Court of Claims to review *de novo* the merits of the Black Hills taking claims without regard to the defense of *res judicata*. In holding that the statutorily mandated duty to relitigate the Sioux claims did not violate the doctrine of separation of powers, Justice Blackmun wrote for the Court:

"When Congress enacted the amendments directing the Court of Claims to review the merits of the Black Hills claim, it neither brought into question the finality of that court's judgments, nor interfered with that court's judicial function in deciding the merits of the claim. When the Sioux returned to the Court of Claims following passage of the amendment, they were in pursuit of judicial enforcement of a new legal right. Congress had not 'reversed' the Court of Claims' holding that the claim was barred by res judicata, nor, for that matter, had it reviewed the 1942 decision rejecting the Sioux claim on the merits. As Congress explicitly recognized, it only was providing a forum so that a new judicial review of the Black Hills claim could take place. This review was to be based on the facts found by the Court of Claims after reviewing all the evidence, and an application of generally controlling legal principles to those facts. For these reasons, Congress was not reviewing the merits of the Court of Claims' decisions, and did not interfere with the finality of its judgments." [106]

The legislation upheld in the *Sioux Nation* case, however, may be distinguished from S. 528 in several relevant particulars. First, as observed by Justice Blackmun, the Act there did not purport to resolve the outcome of the Court of Claims new review of the merits of the claim. The remedial limits imposed by the bill, on the other hand, may be outcome determinative in the sense of requiring a court to devise a new remedy utilizing less student busing than previously ordered. Secondly, *Sioux Nation* involved a claim against the United States and the Court found that the 1978 Act was a valid exercise of Congress' power to condition waivers of sovereign immunity of the United States. Finally, Justice Blackmun also found that the waiver of *res judicata* was within Congress' power under § 8 of Article I of the Constitution to provide for payment of the Nation's debts. Accordingly, it is possible that the Court would take a different view with respect to retroactive application of the busing limitations in S. 528.

Related to *Klein* is a principle implied by several early decisions that the Article III guarantee of an independent judiciary prevents the legislature and the executive from reviewing a judicial decision.[107] Chief Justice Taney, for instance, argued in *Gordon* v. *United States* that the award of a remedy is an essential part of the exercise of judicial power and that rendering a judgment and yet having the remedy subject to Congressional approval is not an exercise of Article III power.[108] In *Chicago & Southern Airlines* v. *Waterman Steamship Corp.*,[109] the Court adopted similar reasoning to deny judicial review of a presidentially reviewable order of the Civil Aeronautics Board on the ground that such dual review would violate Article III. In strong language, Justice Jackson observed that:

"Judgments within the powers vested in the courts by the Judiciary Article of the Constitution may not lawfully be revised, overturned or refused faith and credit by another Department of Government." [110]

Therefore, it is possible that in permitting the Supreme Court to review constitutional determinations in school desegregation cases, but denying it authority to order certain remedies, Congress may be acting beyond its powers under Article III.

FOOTNOTES

[1] This section currently provides:

§ 1651. Writs

(a) The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.

(b) An alternative writ or rule nisi may be issued by a justice or judge of a court which has jurisdiction.

[2] 42 U.S.C. 2000c et seq.

[2a] See, 20 U.S.C. 1702(b).

[2b] 518 F. 2d 853 (6th Cir. 1975), *cert. denied* 423 U.S. 1000 (1976). See, also, *Morgan* v. *Kerrigan*, 530 F. 2d 401 (1st Cir.), *cert. denied* 426 U.S. 935 (1976); *Hart* v. *Community School Board*, 512 F. 2d 37 (2d Cir. 1975); *Evans* v. *Buchanan*, 415 F. Supp. 328 (D. Del. 1976), *aff'd* 555 F. 2d 373 (3d Cir. 1977).

[2c] Section 208 of Pub. L. 94–439 (9/30/76). The Byrd Amendment provided in full as follows:

None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, and which offers the courses of study pursued by such student, in order to comply with Title VI of the Civil Rights Act of 1964.

[2d] See, 123 Cong. Rec. 10908 (daily ed. 6/28/77).

[2e] This result could probably be avoided, however, by the addition of language to eliminate any inherent ambiguity and narrowing the scope of the present qualifying language. An example may be found in the Eagleton-Biden Amendment adopted in 1977 as a response to the Justice Department interpretation of its predecessor, the Byrd Amendment. Eagleton-Biden, first enacted by the fiscal 1978 Labor-HEW appropriations, § 208, Pub. L. 95–205, 91 Stat. 1460 (12/9/77) incorporated the Byrd language but added the following:

For the purpose of this section an indirect requirement of transportation of students includes—transportation of students to carry out a plan involving the reorganization of the grade structure of schools, the pairing of schools, or the clustering of schools, or any

combination of grade restructuring, pairing, or clustering. The prohibition in this section does not include the establishment of magnet schools.

[3] 347 U.S. 483 (1954).

[4] 163 U.S. 537 (1895).

[5] 391 U.S. 430, 438–9 (1968). In *Green*, the Court declared that "[s]chool boards . . . operating state compelled dual school systems [are] nevertheless charged with the affirmative duty to take whatever steps might be necessary to convert to a unitary system in which racial discrimination [is] eliminated root and branch." This affirmative duty requires the "school board today . . . to come forward with a plan that promises realistically to work, and promises realistically to work now." See, also, *Alexander* v. *Holmes County Board*, 396 U.S. 19 (1969).

[6] 402 U.S. 1 (1971).

[7] *Columbus Board of Education* v. *Penick*, 443 U.S. 449 (1979); *Dayton Board of Education* v. *Brinkman*, 443 U.S. 526 (1979).

[8] 413 U.S. 189 (1973).

[9] 402 U.S. at 27.

[10] 402 U.S. at 30–31.

[11] 402 U.S. at 31.

[12] 402 U.S. 33 (1971).

[13] 402 U.S. at 37.

[14] 402 U.S. 39 (1971).

[15] 402 U.S. at 41.

[16] 402 U.S. 42 (1971).

[17] 402 U.S. at 46.

[18] 404 U.S. 1221 (1971).

[19] 427 F. 2d 874 (5th Cir. 1971).

[20] *Northcross* v. *Board of Education*, 341 F. Supp. 583 (W.D. Tenn. 1972), *aff'd*. 489 F. 2d 15 (6th Cir. 1973), *cert. denied*. 416 U.S. 962 (1974).

[21] See, e.g., *Vaughn* v. *Board of Education of Prince George's County*, 355 F. Supp. 1051 (D. Md. 1972), *aff'd* 468 F. 2d 894 (4th Cir. 1973) (maximum busing time of 35 minutes per pupil, with mean average of 14 minutes per one-way bus trip compared with 35 minute maximum in *Swann* though that represented a reduction in maximum one-way bus trips prior to desegregation in that case); *Brewer* v. *School Board of City of Norfolk, Va.*, 456 F. 2d 943 (4th Cir.), *cert. denied*. 406 U.S. 905 (1972) ("30 minutes each way" not "substantially different" from that required by *Swann*); *Moss* v. *Stamford Board of Education*, 365 F. Supp. 675 (D. Conn. 1973) (plan provided "maximum time to be spent on the buses by any child is 34 minutes—slightly less than the maximum time in the *Swann* case and therefore acceptable"); *Morgan* v. *Kerrigan*, 401 F. Supp. 216 (D. Mass. 1975), *aff'd* 530 F. 2d 401 (1st Cir. 1976) (under final plan approved for the Boston schools "the average distance from home to school will not exceed 2.5 miles, and the longest possible trip will be shorter than 5 miles" with travel time averaging "between 10 and 15 minutes each way, and the longest trip will be less than 25 minutes").

[22] Section 2(b) of the bill states: "The Congress is hereby exercising its power to enforce, by appropriate legislation, the provisions of the fourteenth amendment."

[23] 384 U.S. 641 (1966).

[24] 360 U.S. 45 (1959).

[25] 384 U.S. at 650–51.

[26] 384 U.S. at 653.

[27] 384 U.S. at 653.

[28] 384 U.S. at 656.

[29] According to the dissenters:

. . . [W]e have here not a matter of giving deference to a congressional estimate based on its determination of legislative facts, bearing upon the validity *vel non* of a statute, but rather what can at most be called a legislative announcement that Congress believes a state law to entail an unconstitutional deprivation of equal protection. Although this kind of declaration is of course entitled to the most respectful consideration, coming as it does from a concurrent branch and one that is knowledgeable in matters of popular political participation, I do not believe that it lessens our responsibility to decide the fundamental issue of whether in fact the state enactment violates federal constitutional rights. 384 U.S. at 669–70 (dissenting opinion).

[30] 384 U.S. at 651–52, n. 10.

[31] However, Professor Charles Alan Wright, a noted constitutional scholar at the University of Texas, concluded in congressional testimony on earlier busing legislation that:

Neither *Swann* nor any other Supreme Court case holds that there is a constitutional right to attend a racially balanced school or a constitutional right to be taken to school by bus for that purpose. *Swann* explicitly rejected the notion that the Constitution requires racial balance, 402 U.S. at 24, and recognized that one race schools may remain so long as they are not part of state-enforced segregation, 402 U.S. at 25–26. It would seem that the power of Congress to speak to the question of remedy and to say whether and under what circumstances a particular remedy is to be used, is no less for violation of the Equal Protection Clause than it is for violation of the fourth amendment, the Self Incrimination Clause, the Due Process Clause, or any other provision of the Constitution.

A Bill to Further the Achievement of Equal Educational Opportunities: Hearings on H.R. 13915 Before the House Committee on Education and Labor, 92d Cong., 2d Sess. 1163 (1972) (statement of Charles Alan Wright).

[32] In this regard, one commentator has noted:

Whatever the reach of section 5 as a vehicle for augmenting the power of Congress to regulate matters otherwise left to the States, it provides no authority for Congress to interfere with the execution or enforcement of federal court judgments or to overturn federal judicial determinations of the requirements of the fourteenth amendment. The entire fourteenth amendment increased congressional power at the expense of the states, not of the federal courts.

Rotunda, R. D., *Congressional Power to Restrict the Jurisdiction of the Lower Federal Courts and the Problem of School Busing*, 64 Geo. L. J. 839, 859 (1976).

[33] 400 U.S. 112 (1970).

[34] 400 U.S. at 240.

[35] 400 U.S. at 247–48.

[36] 400 U.S. at 249, n. 31.

[37] 400 U.S. at 129.

[38] 400 U.S. at 296.

[39] 400 U.S. at 296.

[40] 400 U.S. at 295–6.

[41] See, 400 U.S. at 129 (Black, J.). It appears that, even in Justice Stewart's view, although Congress can act only upon the "direct command of the Constitution," it can circumvent that limitation by hypothesizing the existence of racial discrimination and declaring that its enactment is necessary to correct that discrimination. See, 400 U.S. at 295, n. 14 (Stewart, J., concurring in part and dissenting in part).

[42] 100 S. Ct. 2758 (1980).

[43] 42 U.S.C. 6701 (1979 Supp.).

[44] 100 S. Ct. at 2774–75.

[45] 446 U.S. 156 (1980).

[46] 446 U.S. at 173.

[47] 383 U.S. 301 (1966).

[48] 446 U.S. at 177.

[49] 403 U.S. 388, 397, (1971).

[50] Chief Justice Burger was particularly critical of the judicially created exclusionary rule, requiring the suppression of illegally seized evidence in Federal criminal trials, and stated:

Reasonable and effective substitutes can be formulated if Congress would take the lead, as it did for example in 1946 in the Federal Tort Claims Act. I see no insuperable obstacle to the elimination of the suppression doctrine if Congress would provide some meaningful and effective remedy against unlawful conduct by government officials. 403 U.S. at 421.

[51] Hart, *The Power of Congress to Limit the Jurisdiction of Federal Courts: An Exercise in Dialectic*, 66 Harv. L. Rev. 1362, 1366 (1953).

[52] 402 U.S. at 30–31.

[53] In enacting Title II of the Education Amendments of 1974, captioned "Equal Educational Opportunities and Transportation of Students," Congress specified practices which are to be considered denials of due process and equal protection of the laws and delineated a "priority of remedies," ranging from more preferred to less preferred and even prohibited. Thus, the courts are directed to consider and make specific findings with regard to the efficacy of the following before requiring implementation of a busing plan:

(a) assigning students to the schools closest to their places of residence which provide the appropriate grade level and type of education for such students, taking into account school capacities and natural physical barriers;

(b) assigning students to the schools closest to their places of residence which provide the appropriate grade level and type of education for such students, taking into account only school capacities;

(c) permitting students to transfer from a school in which a majority of the students are of their race, color, or national origin;

(d) the creation or revision of attendance zones or grade structures without requiring transportation beyond that described in section 1714 of this title;

(e) the construction of new schools or the closing of inferior schools;

(f) the construction or establishment of magnet schools; or

(g) the development and implementation of any other plan which is educationally sound and administratively feasible, subject to the provisions of sections 1714 and 1715 of this title. 42 U.S.C. 1713.

[54] Richard Kleindienst, Acting Attorney General, while testifying before the House Committee on the Judiciary, stated:

"The question here is the appropriate remedy for implementation of the right to a desegregated education, an area in which Congress' special fact finding expertise should be utilized. Legitimate questions that might be raised in the area are, for example: How much busing will harm the health of a child? How much may impair the educational process? How great are the benefits to children in receiving a desegregated education compared to the detriments of busing? These are essentially legislative—not judicial—questions."

Proposed Amendment to the Constitution and Legislation Relating to Transportation and Assignment of Public School Children: Hearing Before Subcommittee No. 5 of the House Committee on the Judiciary, 92d Cong., 2d Sess. 1145 (1972) (statement of Hon. Richard G. Kleindienst, Acting Attorney General of the United States).

[55] 402 U.S. 43, 46 (1971).

[56] This Congressional power is also affirmed in Article I of the Constitution concerning the legislative power, which states:

Section 8. The Congress shall have the Power. . . . To constitute Tribunals inferior to the Supreme Court.

[57] Justice Story, in *Martin* v. *Hunter's Lessee*, 14 U.S. (1 Wheaton) 304, 330–331 (1816), argued:

Congress cannot vest any portion of the judicial power of the United States, except in courts ordained and established by itself; and if in any of the cases enumerated in the constitution, the state courts did not then possess jurisdiction the appellate jurisdiction of the Supreme Court . . . could not

reach those cases, and, consequently, the injunction of the constitution, that the judicial power "shall be vested" would be disobeyed. It would seem, therefore, to follow, that congress are bound to create some inferior courts, in which to vest all that jurisdiction which, under the constitution, is *exclusively* vested in the United States, and of which the supreme court cannot take original cognizance. . . . [T]he whole judicial power of the United States should be, at all times, vested either in an original or appellate form, in some courts created under its authority.

See, also, *Eisentrager* v. *Forrestal*, 174 F. 2d 961 (D.C. Cir. 1949), *reversed on other grounds sub nom. Johnson* v. *Eisentrager*, 339 U.S. 763 (1950).

[58] 44 U.S. (3 Howard) 236, 245, (1985).

[59] 260 U.S. 226, 234 (1922).

[60] 18 Stat. 470, Sec. 1 (Mar. 3, 1875). In 1801 Congress had briefly granted the inferior federal courts jurisdiction over "all cases in law and equity, arising under the Constitution and laws of the United States (2 Stat. 89, Sec. 11 (Feb. 13, 1801)), but a year later repealed that grant (2 Stat. 132 (Mar. 3, 1802)).

[61] *Bruner* v. *United States*, 343 U.S. 112 (1952) (amendment of statute concerning claims for service to U.S.—the Tucker Act—withdrawing federal district court jurisdiction over claims by employees as well as officers, without any reservation as to pending cases, requires dismissal of pending cases). See also *De La Rama Steamship Co., Inc.* v. *United States*, 344 U.S. 386 (1953) (general authority of Congress to withdraw federal court jurisdiction even as to pending cases affirmed, but General Savings Clause held to preserve pending claims in instant case).

[62] *E.g.*, the Emergency Price Control Act of 1942 (56 Stat. 23) required all challenges to the validity of regulations adopted to enforce it to be brought in a single Emergency Court and barred all other Federal, state, or territorial courts from asserting jurisdiction over such challenges. The decisions of the Emergency Court were reviewable in the Supreme Court. This unusual jurisdictional scheme was held to be within Congress' constitutional power in *Lockerty* v. *Phillips*, 319 U.S. 182 (1943) and *Yakus* v. *United States*, 321 U.S. 414 (1944). Similarly, the Voting Rights Act of 1965 (79 Stat. 437, 42 U.S.C. 1973) limited jurisdiction over proceedings to terminate the coverage of the Act in a particular area to a single court in the District of Columbia, and this was upheld in *South Carolina* v. *Katzenbach*, 383 U.S. 301 (1966). See, also, the jurisdiction of the Temporary Emergency Court of Appeals as created by the Economic Stabilization Act of 1970 (P.L. 91–379), 12 USC 1001) and as further defined in the Emergency Petroleum Allocation Act of 1973 (P.L. 93–159, 87 Stat. 628, 15 USC 751 et seq.) and the Energy Policy and Conservation Act of 1975 (P.L. 94–163, 89 Stat. 871).

[63] Modern examples include the Norris-La Guardia Act (47 Stat. 70, 29 USCA 101 *et seq.*), in which Congress restricted the jurisdiction of the Federal courts to issue restraining orders or temporary or permanent injunctions in labor disputes, upheld in *Lauf* v. *E.G. Shinner & Co.*, 303 U.S. 323 (1938), and the Anti-Injunction Act (26 USCA 7421(a)), in which Congress barred all courts from entertaining suits to restrain the assessment or collection of any tax, most recently upheld in *Bob Jones University* v. *Simon*, 416 U.S. 725 (1974). Earlier examples include the Judiciary Act of 1789, in which Congress excepted from the lower Federal courts' diversity jurisdiction those cases in which diversity resulted from an assignment of a chose in action, upheld in *Sheldon* v. *Sill*, 49 U.S. (8 Howard) 441 (1850) and an 1839 statute in which Congress disallowed suits in assumpsit in the Federal courts against the collectors of customs duties which allegedly were assessed unlawfully, upheld in *Cary* v. *Curtis*, supra.

[64] 29 U.S.C. 101–115.

[65] 303 U.S. 323, 330, (1938).

[66] *Truax* v. *Corrigan*, 257 U.S. 312 (1921).

[67] Emergency Price Control Act, ch. 26, 56 Stat. 23 (1942).

[68] 319 U.S. 182 (1943).

[69] 321 U.S. 414 (1944).

[70] 321 U.S. at 439.

[71] 42 U.S.C. 300a–7(a).

[72] 369 F. Supp. 948 (D. Mont. 1973), *aff'd*, 553 F. 2d 75 (9th Cir. 1975), *cert. denied*, 424 U.S. 948 (1976).

[73] 369 F. Supp. at 951.

[74] See, e.g. *Glidden* v. *Zdanok*, 370 U.S. 530, 557 (1962) where the Supreme Court approved the power of Congress to limit the equitable remedies of the Court of Claims, stating that "[n]o question can be raised of Congress' freedom, consistently with Article III, to impose such a limitation upon the remedial powers of a federal court."

[75] In the Portal-to-Portal Act of 1947 (29 U.S.C. 251–262) Congress removed Federal court jurisditcion over suits claiming overtime compensation under the Fair Labor Standards Act for activities prior and subsequent to the principal employment activity of the day. The statute was a response to a Supreme Court decision which had held such activities as walking to and from employee's work stations, changing clothes, and cleaning up to be compensable under the FLSA. (*Anderson* v. *Mt. Clemens Pottery Co.* 328 U.S. 680). In the leading case of *Battaglia* v. *General Motors Corporation*, 169 F. 2d 254 (2d Cir.) *cert. denied* 335 U.S. 887 (1948), the U.S. Court of Appeals for the Second Circut held the validity of that withdrawal of Federal court jurisdiction to depend on the validity of Congress' redefinition of activities compensable under the FLSA:

"We think . . . that the exercise by Congress of its control over jurisdiction is subject to compliance with at least the requirements of the Fifth Amendment. That is to say, while Congress has the undoubted power to give, withhold, and restrict the jurisdiction of courts other than the Supreme Court it must not so exercise that power as to deprive any person of life, liberty, or property without just compensation. Thus, regardless of whether subdivision (d) of section 2 (withdrawing federal court jurisdiction) had an independent end in itself, if one of its effects would be to deprive appellants of property without due process or just compensation, it would be invalid. 169 F. 2d at 257."

Nonetheless, the court upheld the withdrawal of jurisdiction.

[76] See *Cary* v. *Curtis*, *supra*, (McLean, J., dissenting) and *Yakus* v. *United States*, *supra*.

[77] *Wisconsin* v. *Constantineau*, 400 U.S. 433, 437 (1971).

[78] See J. Goebel, *The Oliver Wendell Holmes Devise History of the Supreme Court of the United States: Antecedents and Beginnings to 1801*, p. 240 (P. Freund ed. 1971). Also, Merry, "Scope of the Supreme Court's Appellate Jurisdiction: Historical Basis," 47 Minn. L. Rev. 53 (1962)

[79] 1 Stat. 73.

[80] *Moore's Federal Practice*, Vol. 1 (2d ed.), § 0.6(6), pp. 252–53.

[81] 105 U.S. 381, 385–6 (1881). In *Turner* v. *Bank of North America*, 4 U.S. (4 Dallas) 8, 10 (1799), Justice Chase stated the proposition thusly:

"The notion has frequently been entertained, that the federal Courts derive their judicial power immediately from the Constitution; but the political truth is, that the disposal of the judicial power, (except in a few specified instances) belongs to Congress. If Congress has given the power to this Court, we possess it, not otherwise; and if Congress has not given the power to us, or to any other Court, it still remains at the legislative disposal. Besides, Congress is not bound, and it would, perhaps, be inexpedient, to enlarge the jurisdiction of the Federal Courts, to every subject, in every form, which the constitution might warrant."

Similarly, in *Daniels* v. *Railroad Company*, 70 U.S. (3 Wallace) 250, 254 (1865) the Court stated:

"The original jurisdiction of this court, and its power to receive appellate jurisdiction, are created and defined by the Constitution; and the legislative department of the government can enlarge neither one nor the other. But it is for Congress to determine how far, within the limits of capacity of this court to take, *appellate jurisdiction* shall be given, and when conferred, it can be exercised only to the extent and in the manner prescribed by law. In these respects it is wholly the creature of legislation."

See, also, *Durousseau* v. *United States*, 10 U.S. (15 Otto) 38 (1810).

[82] 74 U.S. (7 Wallace) 506 (1868).

[83] Act of February 5, 1867, ch. 26, § 1, 14 Stat. 385.

[84] Act of March 27, 1868, ch. 34, § 2, 15 Stat. 44.

[85] See, generally, C. Fairman, *The Oliver Wendell Holmes Devise History of the Supreme Court of the United States: Reconstruction and Reunion 1864–88*, pt. 1, at 433–514 (P. Freund ed. 1971).

[86] 74 U.S. (7 Wallace) at 514.

[87] 75 U.S. (8 Wallace) 85 (1869).

[88] 74 U.S. (7 Wallace) at 515.

[89] 75 U.S. (8 Wallace) at 102–103.

[90] 75 U.S. (8 Wallace) at 104.

[91] 75 U.S. (8 Wallace) at 106.

[92] 80 U.S. (13 Wallace) 128 (1871).

[93] 76 U.S. (9 Wallace) 531 (1870).

[94] 80 U.S. (13 Wallace) at 145–147. With respect to the powers of the Presidency, the Court found the pardoning power to be granted "without limit" to the Executive and held the Congressional provision to be an unconstitutional impairment of that independent power.

[95] 370 U.S. 530 (1962).

[96] 62 U.S. (21 Howard) 506 (1858).

[97] 62 U.S. (21 Howard) at 517–18.

[98] *Martin* v. *Hunter's Lesse*, 14 U.S. (1 Wheaton) 304, 347–48 (1816).

[99] For fuller development of this argument, see Ratner, "Congressional Power over the Appellate Jurisdiction of the Supreme Court," *University of Pennsylvania Law Review* 109: 157, 160–67 (1960). In Hart and Wechsler's famous dialogue on Congress' power over the jurisdiction of the Federal courts, the limitation asserted as to Congress' power over the Supreme Court's appellate jurisdiction is simply that ". . . the exceptions must not be such as will destroy the essential role of the Supreme Court in the constitutional plan." Bator, Mishkin, Shapiro, and Wechsler, *Hart and Wechsler's The Federal Courts and the Federal System*, (2nd ed., 1973), p. 133.

[100] Sedler, "Limitations on the Appellate Jurisdiction of the Supreme Court.". 20 *University of Pittsburgh Law Review* 99, 113, 114 (1958).

[101] Id., at 113.

[102] Id., at 114.

[103] Wechsler. "The Courts and the Constitution," 65 *Columbia L. Rev.* 1001, 1005–6 (1965).

[104] 323 U.S. 1, 8–9 (1944).

[105] 48 U.S.L.W. 4960 (S. Ct. 6/24/80).

[106] 49 U.S.L.W. at 4970.

[107] E.g. *Hayburns Case*. 2 U.S. (2 Dallas) 408 (1792); *Gordon* v. *United States*, Appendix I, 117 U.S. 697 (1885); *Muskrat* v. *United States*, 219 U.S. 346, 354 (1911) (citing Chief Justice Taney's draft opinion as one of "great learning"). See, also *Schneiderman* v. *United States*. 320 U.S. 118, 168–9 (1943) where Rutledge, J. concurring, commented that Congress does not have authority both to confer jurisdiction and to nullify the effects of its exercise by other jurisdictional provisions in the same statute.

[108] Chief Justice Taney's last judicial writing stated:

"Without such an award the judgment would be inoperative and nugatory, leaving the aggrieved party without remedy . . . unless Congress should at such future time sanction it, and pass a law authorizing the court to carry its opinion into effect. Such is not the judicial power confided to this Court, in the exercise of its appellate jurisdiction; yet it is the whole power that the Court is allowed to exercise under this act of Congress." 117 U.S. at 702.

[109] 333 U.S. 103 (1948).

[110] 333 U.S. at 113–114.

Mr. GORTON. Mr. President, will the Senator yield for a question?

Mr. JOHNSTON. I yield to my distinguished colleague from Washington.

Mr. GORTON. I wish the Senator to explain to me what he intends by the final subparagraph of the amendment, that is to say, the sense-of-the-Senate resolution about further legislation on this subject. Is it the intent of the Senator to suggest to the Committee on the Judiciary that it should report to the floor of the Senate a permanent solution to the problem created by racially conscious school assignments? Is he limiting that direction to some particular form of bill as opposed to this kind of amendment with that language?

Mr. JOHNSTON. I say to my colleague that I did not write that language. It was composed by, I believe, Senator HATCH or one of the Senators from the Judiciary Committee, who suggested that this amendment may be what they call an interim solution. I do not regard it as an interim solution at all, but they regard it as an interim solution because it permits some busing. Within the limits proposed, it permits busing.

When they refer to a permanent solution, I think they mean not permanent but total. In any event it is, as I read the language, a direction to the Judiciary Committee to come up with legislation which they regard as permanent and I do not think it is limiting in what that permanent response can be. I think that permanent response could relate to the jurisdiction of courts under article 3; it could relate to the power of courts under section 5 of the 14th amendment. It could be whatever the Judiciary Committee feels is an appropriate response to the question of busing.

Mr. GORTON. Is it in the view of the Senator from Louisiana should this amendment pass, his concern over busing as a tool will be brought to an end, or does he feel that something additional should be accomplished?

Mr. JOHNSTON. I believe that the committee should indeed continue studies and propose solutions.

How far courts can go under section 5 of the 14th amendment is decidedly an unanswered question, as I think the Senator knows, because we were there together testifying before the Judiciary Committee. I think the Senator knows that my personal opinion is that Congress does not have the power under article III completely to deprive the courts of jurisdiction to order busing because in my view that would conflict with the fifth amendment.

I do not believe that under section 5 of the 14th amendment Congress has power completely to take away all remedies to order busing. I must tell the Senator that that is a very tentative judgment because there are no definitive answers. The court simply has not ruled on this issue.

I have read many, many law review articles on this question. One of them, for example, from the Harvard Law Review by Prof. Henry M. Hart, states this, and I will just give you a flavor of what my judgment is. He states on page 1366 as follows:

The denial of any remedy is one thing. That raises the question we are postponing. But the denial of one remedy while another is left open or the substitution of one remedy for another is very different. It must be plain that Congress necessarily has a wide choice in the selection of remedies and that a complaint about action of this kind can rarely be of constitutional dimension.

So my view is that Congress can fashion remedies, particularly in view of the facts found in this amendment that busing has not worked, and as long as we give the court the power to have effective remedies, we can fashion remedies. I think that is what Professor Hart says. That is what the Congressional Research Service says. They are all tentative in their judgments because there is no definitive answer. But, yes, I believe that the Judiciary Committee should continue to look at this matter and should report out legislation pursuant to this last paragraph.

Mr. GORTON. I thank the Senator from Louisiana for his answer, though my question was somewhat more directed at appropriate policy rather than at a constitutional analysis. The thrust of my question was whether or not he feels that should his amendment pass we have a satisfactory policy solution to the controversies created by busing of students based solely on their race. It would seem to me, and I ask the Senator to comment on this question, that the findings which are included in his amendment if they are adopted by this body, by Congress, really go to the efficacy and the appropriateness of assignments on the basis of race to the public schools in any event and not to those assignments where they require a person to be bused over a certain number of miles or a certain number of moments. I was really asking the question on the Senator's views on the subject from a policy standpoint.

Mr. JOHNSTON. Phrased that way, in effect without regard to what kind of powers we have and what the law is, let me say that I think the Senator makes a very strong case in the bill which he has filed which says that students should have the right to be assigned to schools on a nonracial basis. I think there is a very strong case to be made for that.

My judgment, which is a tenative judgment, would yield to serious discussion on the question if the case can be made, but my judgment is that it cannot be done by statute. But I may be wrong and I would welcome the opportunity to have serious legal discussion on that.

Mr. GORTON. I have no further questions. If the Senator from Louisiana is completed, I will seek recognition.

Mr. JOHNSTON. Mr. President, I yield the floor.

Mr. BAKER addressed the Chair.

Mr. JOHNSTON. May I ask one question before I yield to the distinguished majority leader?

Mr. BAKER. Yes.

The PRESIDING OFFICER. Does the majority leader yield for one more question?

Mr. BAKER. I am happy to yield.

Mr. JOHNSTON. I ask the distinguished majority leader. We had had the discussion yesterday on the question of cloture, and I am advised that cloture can be either to the whole bill or to the amendment. My question is in the form of both a question and a hope that the Senator proposes to file cloture to the pending amendment which as I understand it will then preclude that question of germaneness?

Mr. BAKER. Mr. President, I gather from the framing of the question of the distinguished Senator from Louisiana that he has some inkling of what my answer will be. I must say that I have now circulated a cloture motion under rule XXII of the Standing Rules of the Senate to close debate on S. 951 which, of course, would be a cloture motion against the bill itself.

As I understand it, there would be serious doubt that the amendment now pending as the perfecting amendment to the Helms amendment would be germane and if cloture were invoked it would perhaps fall.

The Senator from Louisiana knows that I am sympathetic to his amendment. I feel that there should be legislation in this field. I feel that the whole effort at busing has failed and that it should be addressed by this body and by Congress as a whole.

But the answer to the Senator's question is I intend to file cloture against the bill itself and indeed his perfecting amendment would appear to be in jeopardy if cloture is invoked under the germaneness requirements of rule XXII.

Mr. JOHNSTON. I wondered if the distinguished majority leader would reconsider, because the only way we can bring up that question of doing something about busing, in time to do anything about it for next year, and even then it is questionable, would be to do it on this bill, and it seems to me we should have one shot at that cloture on this amendment. Will the Senator not agree?

Mr. BAKER. I do agree with that. Indeed it would be my opinion that the original and underlying Helms amendment would probably be ruled germane.

Mr. JOHNSTON. That is correct.

Mr. BAKER. And not be excluded by the provisions of rule XXII. If that is the case I assume—might I inquire from the Chair if the perfecting amendment of the distinguished Senator from Louisiana were ruled nongermane after the invocation of cloture, would the Helms

amendment in the first degree be amendable to a further degree?

The PRESIDING OFFICER (Mr. LUGAR). The Chair rules it would be.

Mr. BAKER. I thank the Chair.

So it is possible that another amendment in a different configuration, which would meet the test of germaneness, would qualify.

Mr. JOHNSTON. If I may say to the Senator, there are other amendments to the Helms amendment, perfecting amendments, which could be offered, but they would have to be framed to the same scope.

The Helms amendment is germane because it deals with the expenditure of funds. The Johnston amendment would not be germane because it does not deal with the expenditure of funds, and there is no way it can be made germane except maybe to say that "None of the funds can be used to bus students." But that is not where the funds come from.

So I will say to the Senator that there is no way we can succeed in stopping busing or limiting busing if that cloture motion is filed. If that cloture motion is filed, then either it succeeds, in which event busing is precluded as an issue on the floor of this Senate, except to the very limited extent of the Helms amendment, or the filibuster succeeds, in which event we cannot bring anything to a vote. That is a catch-22 situation. The only way we can avoid that is to have a cloture motion on this amendment itself, and I hope the Senator will do that.

The Senator has said he opposes busing. President Reagan says he is opposed to busing. Senator THURMOND, as chairman of the Judiciary Committee, said last year on the floor, made a public commitment, that he would take quick action, very quick action. It is always tomorrow and tomorrow and tomorrow, and I hope we will not miss this one chance.

Mr. BAKER. Mr. President, I appreciate the point of view of the Senator from Louisiana. Indeed, I repeat that I am sympathetic to his concern and his effort.

But I am sure he must—I feel that I ought to reiterate a commitment I made earlier in public and on this floor, and that is, if we can avoid trying to add the so-called emotional or social issues to the regular range of authorizing appropriating legislation—I am speaking of busing, abortion, gun control, the ones that create such high feelings, and emotions—if we can do that, if we can go ahead and do the business of the Senate, then I made a pledge I would, as majority leader, make a special effort—and I believe I can succeed—in seeing that we have a free-standing debate on these issues either this year or shortly after we convene in January.

But my effort has been, and I must confess, without a great deal of success, to try to get on with the business of the Senate, the business of the country, in authorizing and reauthorizing appropriations and programs without having to fight these fights on every bill that comes along.

So I repeat now to the distinguished Senator from Louisiana that I share his concerns, I am sympathetic to his point of view. I pledge once more that at some point I intend to try to schedule a free-standing debate, either on some measure that will be reported for that purpose or some other vehicle that might appear on the calendar, that can be designated for that purpose, so that we can have a direct and not a collateral or secondary debate on these issues.

But I feel constrained under my responsibility to try to move the business of the Senate and to enact this piece of legislation to offer a cloture motion.

CLOTURE MOTION

Mr. President, I offer a cloture motion under the provisions of rule XXII.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on S. 951, the Department of Justice Authorization Bill.

Howard W. Baker, Ted Stevens, Strom Thurmond, Mack Mattingly, Malcolm Wallop, Thad Cochran, James Abdnor, Paul Laxalt, John Tower, S. I. Hayakawa, Alfonse M. D'Amato, Robert Dole, Paula Hawkins, Steven D. Symms, Orrin G. Hatch, Richard G. Lugar.

Mr. BAKER. Mr. President, I yield the floor.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I must tell the Senator—I told the distinguished majority leader yesterday—in response to a question that I thought there was indeed no way to close off the filibuster without filing a cloture motion.

At that time we did not discuss the question of which measure the cloture motion would be directed at, whether it would be the entire bill or the amendment.

Mr. President, what we are going to have here is a termination of this question. The distinguished majority leader is very fair. I think he is very sincere in his statements. I have no doubt that at some point, perhaps next year, he intends to bring this matter up.

I would like to tell the majority leader what it is like to be the Senator from Louisiana and what the frustration we have consists of, because it is one that is directed toward this administration.

Last year, Mr. President, leaders of the black and white communities of Rapides Parish came to Washington and said, "Would you please get us an appointment with the Department of Justice." Jimmy Carter was the President at that time, the top black leaders in Rapides Parish, along with the top white leaders asked us and we said, "Yes."

We visited the Justice Department with them, saying, "The proposed order will be disastrous in Rapides Parish. Do not order it. Give us a year."

The Department of Justice, a rogue elephant, not responsible to anybody, not representing the black community in Rapides Parish, La., not representing the white community, not representing the majority of the people, not representing anybody, said, "No."

The Court felt constrained to issue an order that provides for busing of between 60 and 80 miles a day. That was under the Carter administration.

Along comes Ronald Reagan going around the country saying, "Oh, I am opposed to busing. It is a great evil." What does Ronald Reagan do when he gets to office? Well, I can tell you what his Justice Department did. They proceeded to file the same kind of complaints in Caddo Parish, La., and East Baton Rouge, La., in spite of calls by me and by others to the Vice President, to the Attorney General, to anybody else we could talk to, saying, "Don't do this. Give us a chance to come up with something reasonable other than a plan which provides for crosstown busing of over half of the elementary school students in East Baton Rouge Parish."

I do not doubt that the President probably meant what he said—I am just telling you that if you judge him by his actions, then busing is continuing and the school systems are being torn up in those parishes.

So I came up with a legislative remedy and my distinguished colleague from South Carolina, Senator THURMOND, was on the floor. I said, "I went along with the unanimous consent last year to drop the amendment, the Helms amendment at that time. Since I went along with that, can we have early hearings?" "Oh, yes, first thing. We are going to have those hearings without delay."

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. JOHNSTON. It was May 22 before we got those hearings. And I know the distinguished Senator from South Carolina wanted to have earlier hearings but there were other matters of greater importance.

Finally, we have had the hearings and the amendment is pending, and now we are told by the majority leader we cannot hear it because there are other, more pressing things. Well, maybe so, Mr. President. Maybe so. Maybe so.

But it is not consistent with giving this question of busing a very high priority. I believe Justice Powell in his dissent was correct. I believe he was correct when he pointed out that by acting against one-race schools, courts may produce one-race school systems.

I believe, Mr. President, that we ought to act now. We have the opportunity. And I think it is a shame that we are not taking it.

Mr. President, my distinguished colleague from Washington was about to take the floor and I will now yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I rise today to support with some reservations the amendment of the distinguished Senator from Louisiana on this subject and

to express a very real degree of sympathy with his frustrations over the apparent inability to get that amendment to a vote.

I agree with him that should it be voted on on the floor of the Senate it would almost without question be passed. I agree with him that if it were to be found constitutional it would constitute a significant step forward in the solution to a very aggravating social and political problem in the United States, though I do not believe, as was indicated by my earlier questions to him, that it is necessarily a complete or an appropriate solution to that series of challenges.

In fact, I voted with the Senator from Connecticut on his amendment to the Senator from North Carolina's original amendment because I agree with him that this problem should not be dealt with indirectly rather than directly and that for this body or for this Congress to interfere in the execution of Executive prerogatives in the enforcement of the laws is of dubious constitutionality and of questionable utility even if it should be found to be constitutional.

As a result, should this cloture petition be accepted and should we be reduced to voting solely on the original amendment by the Senator from North Carolina, I believe that I would be constrained to vote against that amendment. I would do so not because I feel that busing or the assignment of students on the basis of race to the public schools is an appropriate or a successful public policy but because I believe the amendment of the Senator from North Carolina to be both an inappropriate and a totally ineffective method of dealing with that problem.

Having agreed to this extent with the Senator from Connecticut, I should like to point out that in a very significant respect he has been permitted to argue every secondary issue and not to be forced to argue the primary issue of the appropriateness or, for that matter, the constitutional validity of the assignment of students to public schools on the basis of race. And he and his allies will probably continue to be able to avoid what I believe to be the true issue until a bill or presumably a constitutional amendment on the subject of busing is reported to the floor of the Senate.

I am convinced that the majority leader is correct in his assessment and in his undertaking and that we will have such a proposal sometime this year or early next year.

I understand also the frustration of the Senator from Louisiana in connection with specific programs in his own State which are not likely to be affected in the immediate future by such a long-range debate. And in supporting him, I support him in a proposition which will have absolutely no effect in the State in which I represent, in any event, should it pass and should it be found constitutional in every single element of the amendment of the Senator from Louisiana.

His amendment, of course, does not ban the assignment of student to public schools on the basis of race. It simply limits the busing remedy and it limits it only in the case of court orders resulting from a finding of de jure segregation.

There is no such court order in any school district in the State which I represent. There is, nevertheless, an extensive program of school assignments based on race in the largest school district of the State, undertaken by what I believe to be a misguided school district without any court order whatsoever. I believe that that policy is not only opposed by a substantial majority of the people of the State, as they evidenced in a statewide vote on the issue, but that that majority, as apparently it does in Louisiana, includes a majority of the principal races affected by the busing order.

My reluctance about the amendment of the Senator from Louisiana is due to its incompleteness, is due to the fact that it seems to me there is a certain degree of inconsistency between the findings which preface the substance of the amendment and the rather cautious approach of the amendment itself.

Since busing is not the only remedy which a court may enter to deal with a problem of de jure segregation it seems to me the constitutional standing of a flat out prohibition against racially conscious assignments of students to public schools is every bit as strong as the kind of limitation contained in this amendment.

Having said that, and having expressed a strong preference for the Judiciary Committee to report to the floor of this Senate what purports to be a complete solution which will either establish or at the very least recognize the right of every public school student in the United States to a racially neutral assignment to public schools and call for the enforcement of that right by the courts while at the same time it prevents de jure segregation, it seems to me the only solution which is both possibly or probably constitutional and possibly or probably effective short of a constitutional amendment which is of dubious utility and unlikely to pass.

Because, however, the proposal of the Senator from Louisiana deals with an emergent problem of which I feel a great sympathy and because it at least points in the right direction and begins a procession of a solution to this very, very difficult challenge, I intend, if we are given the opportunity to do so, to support it, partly at least based on his assurance that he does not regard it as the end of the case but simply as the beginning of the case.

And I hope, within a very few months on this floor to hear a debate squarely directed at busing as a remedy, at racially conscious school assignments as social policy, at the failure of a social policy which is eloquently stated by the quotations which the Senator from Louisiana has made from Mr. Justice Powell and which I believe, at least privately, to be shared by a majority of the Supreme Court of the United States.

When we debate that issue on its merits and directly, I believe that there will be a majority on this floor for such a solution to the problem and I strongly suspect that there will then be a majority on this floor for a cloture motion, that there is a wide enough degree of public acceptance and consensus that busing has seen its day and has been a failure that we will in fact get to a final vote on the issue. I hope that that can take place this year. I am confident, based on the assurance of the majority leader, that it can certainly take place during the course of this Congress.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, in very brief reply, I thank the distinguished Senator from Washington for a very thoughtful statement on this issue.

On the question which he raises as to the inconsistency between the findings in S. 528, or in the so-called Johnston amendment, and in the operative provisions of it, let me say there is no inconsistency, particularly if you look at section 5 of the findings which provides:

> Assignment of students to public schools closest to their residence (neighborhood public schools) is the preferred method of public school attendance and should be employed to the maximum extent consistent with the Constitution of the United States.

The fact that my amendment employs an incomplete remedy, that it does not go all the way, is a recognition of what I believe to be——

Mr. GORTON. Will the Senator yield on that specific point?

Mr. JOHNSTON. Yes.

Mr. GORTON. Is that now the law, and distant assignments are appropriate only to the extent required by the Constitution?

Mr. JOHNSTON. The law right now, as stated by the Supreme Court, is that, in effect, busing is required.

The issue is the utilization of section 5 of the 14th amendment to the fullest extent. The question, and it is a very serious question, is how far you can go. My judgment has been, and I underline the tentativeness of my judgment, that the approach of S. 528, the so-called Johnston amendment, reaches the permissible limits of the authority and discretion of Congress under section 5. But I also recognize the very strong and persuasive argument of the Senator from Washington to the effect that Congress has the power under section 5 to fashion, in effect, a new remedy, a right to a nondiscriminatory school assignment. That, certainly, is consistent with Brown 1 and 2, the first decisions of the Supreme Court. It may not be consistent with the Green or Swann cases, but it is clearly consistent with Brown 1 and 2.

It is in that sense that I said to the Senator that further hearings by the Judiciary Committee may further elucidate that problem.

Mr. GORTON. Will the Senator yield for a question?

Mr. JOHNSTON. Yes.

Mr. GORTON. When this body acts pursuant to section 5 of the 14th amendment in exactly the fashion described by the Senator, is it not only consistent with

the Constitution in the view of the Senator from Louisiana, but directly in response to the oath which all of us take to support and defend the Constitution of the United States? Do we not, in other words, in this body, also have a duty to interpret and to act consistently with the Constitution and establish policies for the Government of the people of the United States?

Mr. JOHNSTON. The Senator is entirely correct. That is why I hate to see the debate disintegrate in this body to charges and countercharges of "nonsense" and "ridiculousness" and "clear unconstitutionality." I can tell the Senator, as the Senator from Washington knows, this is not a clear area. In my judgment, my amendment is constitutional. In my judgment, the amendment of the distinguished Senator from Washington is at least possibly constitutional. Anyone who says that these amendments are clearly not constitutional simply has not studied the Constitution and the cases interpreting it.

I had one of the most distinguished law professors in the land in the office, seeking to get his help on this issue. He testified over in the House, though not on my amendment, conspicuously leaving out my amendment which was introduced over there by Congressman MOORE.

He frankly told me, privately, that there is a strong case to be made. He recognizes the gray area of section 5 of the 14th amendment. He prefers not to testify on the issue.

It is tough to be opposed by Common Cause, the ACLU, the Washington Post, the New York Times, and all of the so-called liberal enlightened thought of the land. Even the ABA is supposedly lined up with them.

But none of them deal with the real issue. I do not believe anybody has read this amendment who has talked about it. Maybe Common Cause did. They wrote a rather thoughtful letter. I do not argue with the right of anyone to disagree with the amendment and meet the issue. What bothers me is the kind of attitude taken by the ABA where somebody purports to speak for the ABA without having studied the amendment, I think without having seen the amendment—I think without having even seen it—and purports to speak for the 250,000 lawyers in the ABA who have not taken a position on it.

They have not debated section 5 of the 14th amendment and they do not know anything about that. They took action back in 1958 saying, in effect, that Congress should not restrict the power of the courts, and, based on that, come up with a judgment.

The Washington Post today, in what was otherwise a thoughtful editorial, says:

> Judges as well as Members of Congress know where busing plans have gone wrong and could solve the problems specifically where they exist.

That is precisely what I am trying to do. We have a problem in Rapides Parish, La., 60 to 80 miles of busing.

That is what this amendment is designed to correct. How else can we do it? I would like to know. I would like Senators, as this debate ripens, and it looks like it will have to be postponed to another day, to debate the question of busing apart from the crimson words of equal rights. We are all for that. But we have a practical and a legal problem to solve.

The practical problem is that courts have gone overboard. They are ordering busing too much, too often, it takes too long, over too long a distance. It is hurting integration, not promoting integration.

Those are the facts. If those are not the facts, let us debate those facts.

Second, what can we do about it? What really are the limits of the power of Congress under section 5?

I so welcome the Senator from Washington, who has been in court arguing these very issues and who is an expert on them, and who comes up with an attitude that we do not know everything. I appreciate that because I can tell you nobody knows everything in this field because it has not been decided. Katzenbach against Morgan and Oregon against Mitchell, the two leading cases on section 5, simply do not deal with the power of Congress to constrict or modify the power of the courts in any way. There is language which would suggest we can, but they have not decided.

Mr. GORTON. Will the Senator yield for a question?

Mr. JOHNSTON. Yes, I yield.

Mr. GORTON. Is it then the position of the Senator that vital to his amendment is the Senate finding the facts and the opponents of this amendment should be willing to debate those findings of fact?

Mr. JOHNSTON. Precisely. That is what the Supreme Court said in directing the Congress to find the facts. As a matter of fact, the Supreme Court stated that under the Constitution we are the proper body to find the facts and to make the judgments.

But when Senators and others criticize a legislative effort as being clearly unconstitutional, I invite them to go and read the cases, to go and read what the Supreme Court said in those two cases about the propriety of the role of Congress in finding facts and making policy.

It is not only proper, it is the place, it is the preferred place, by the Supreme Court. That is not to say that what we find is correct or that the policy is correct, but this is the proper place to make difficult social and educational judgments. This is the place to set those kinds of limits. If a limit ought to be put on busing, then Congress ought to do it, rather than the Supreme Court.

Mr. GORTON. Mr. President, will the Senator yield for another question?

Mr. JOHNSTON. Yes, Mr. President.

Mr. GORTON. Would the Senator state, should Congress pass this amendment and, thus, affirm the validity of the factual bases for the amendment, that the Supreme Court would, under its own past cases, be likely to grant a considerable and due deference to those findings of fact, and if the Supreme Court accepted those findings of fact, it would be very likely to validate his amendment?

Mr. JOHNSTON. To use the phrase employed by the Supreme Court, I believe it is in Oregon versus Mitchell—if not, it is in Katzenbach versus Morgan—the Supreme Court stated that the power of the Congress to find facts is entitled to great deference and if overturned, it should only be where it is, if I remember the words correctly, arbitrary, irrational, and unreasonable.

Those are the precise words—"arbitrary, irrational, and unreasonable."

I can tell the Senator that the studies support the facts, so the facts are clearly not arbitrary, irrational, or unreasonable.

Mr. GORTON. If the Senator will yield for one more question, the next step, assuming that the Supreme Court does not overturn those findings of fact and accepts them, there is a high degree of likelihood that the policy contained in the amendment will be accepted by the court and found valid. Is that correct?

Mr. JOHNSTON. I believe that is true. That is, in effect, the finding of the Congressional Research Service in a very scholarly and distinguished opinion. I filed it in the record.

I believe they would uphold it. I believe they would have a very difficult time going behind that factfinding power of Congress to enforce the 14th amendment by appropriate legislation.

My problem, Mr. President, the whole disagreement between the Senator from Washington and me has to do with that word "enforce" in the 14th amendment. I fear that the word "enforce" means that you may select among remedies, determine what is a proper remedy, even restrict the scope of the remedy, but you may not deny a remedy altogether. I know that the Senator from Washington would argue that you are, in effect, putting in one remedy or, really, one right for another, that right being the right to a nondiscriminatory school assignment. On that ground, I think he has a rather persuasive argument. I await with interest the action of the Judiciary Committee on that issue. I think it is a very serious issue.

I think the Senator from Washington and I are very much together on what section 5 means and what the limits of it are. We may come down with slightly different results in the bill that we have filed, but it is indeed a serious issue.

I believe that this Congress can, under the Constitution, make findings of fact. The Supreme Court has said those findings are entitled to great deference. The Supreme Court has said they will be overturned only where arbitrary, irrational and unreasonable.

Mr. President, I thank the distinguished Senator from Washington. I also thank the distinguished Senator from Connecticut for being so patient.

Mr. DODD. Mr. President, I thank the distinguished Senator from Louisiana for his words. I enjoyed the colloquy that he has had with the Senator from Washington around this issue.

First, Mr. President, I compliment my colleague from Connecticut. We sit on different sides of the aisle here and are of different political persuasions on a number of issues. It is not easy for any-

one to hold up, if you will, debate in this body and potentially incur the wrath of colleagues, even though the procedure does exist. There is a certain amount of unspoken pressure not to engage in delaying the legislative process. But LOWELL WEICKER is a man of deep convictions and those who have served with him longer than I have in this body appreciate that he does not stand up to what he has done lightly. He is doing so because he believes this issue to be of extreme national importance.

I also compliment the Senator from Louisiana for what I believe is an effort really to approach an extremely difficult problem. I, for one, feel that those of us who have come from the Northeast or the Midwest, the northern part of this country, over the years have been maybe hypocritical is a word that is used too often and is a little tougher than it should be, but I am drawn to that word when the issue of integration and racial harmony comes up.

For far too long, Mr. President, we engaged in the presumption that, somehow, we were beyond racial discrimination if we lived north of the Mason-Dixon Line. Nothing could be further from the truth. Our house is not a clean one when it comes to the issue of racial harmony. So I stand here this afternoon, Mr. President, extremely sympathetic to the words of the Senator from Louisiana in terms of the problems that his constituents face in his home State. I hear them as well in my own State of Connecticut. I am sure others do, as well.

Mr. President, busing is not the most attractive option when dealing with racial integration. I do not know of anyone, no matter where they are from in this country, geographically or ideologically, who would rush to the option of busing as a way of dealing with racial integration. But I feel, as I think many do here, that the debate that is going on here, really involves more than just the stated issue before us. That is dealing with the problem of busing. Obviously, it addresses the issue of racial integration, a problem that is still with us in this land and, I presume, will be with us for some time to come, long after those of us who sit here today have left this body. It is a problem that we are go'ng to have to constantly cope and deal with.

The most important issue, I believe, in this debate is this very delicate relationship that exists among the executive, the legislative, and the judicial branches of Government. That debate is probably the most significant debate, because none of us here wants in any way to upset the delicate balance that, for the most part, has existed over these past 200 years. So, Mr. President, I find myself today in support of the effort of my colleague from Connecticut, reluctantly opposing the amendment that is being offered by the Senator from Louisiana pending the outcome of the question of germaneness, because I feel that we need to know more about the options that are before us.

Mr. President, I do not want to see courts literally impose on communities busing as the only alternative. Nor do I want to see them precluded from that as an option. That is one of my basic and fundamental concerns here.

I certainly want us to treat the 14th amendment as carefully as we possibly can and not set precedent here which could go beyond the issue of busing in this particular matter and create the precedent that would confront us in other issues that come before this body.

So I will join my colleague from Connecticut, Senator WEICKER, in opposing this effort.

I hope the Judiciary Committee and others will continue to explore ways in which we might deal with this issue in a more complete manner. We might get beyond the question of just busing and begin to recognize as well the tremendous social, economic, and political causes for racial disharmony in this country.

I recall my predecessor, the man I replaced as a Senator from Connecticut, Senator Abraham Ribicoff, standing before the National Education Association and talking about this issue. He said:

> It is not what happens on the bus. It is what happens when you get off the bus, in talking about the quality of education.

That is a simple sentence but an extremely true one—that we need to work harder in trying to provide the kind of quality education we want for all children in this country and to eliminate some of the economic bias that exists, so that people of different races can live in peace. Busing is an element in this equation and one we must come to terms with.

So, Mr. President, I will stand with my colleague from Connecticut, not shoulder to shoulder, because of physical disparity, but shoulder to side, in his efforts. Again, I commend him for taking on this issue. I know it is not done often in this body, and I know that he did it with some reluctance. I commend him for it. I will work with him, as I hope to work with the Senator from Louisiana, even though I do not serve on the Judiciary Committee.

I am taken with his sincerity. I am taken with his deep interest in trying to achieve a result that transcends those geographical lines that have divided this body when talking about this issue.

If we do not accomplish anything else in this session or the next session, my hope is that those who live north of the Mason-Dixon Line will approach this issue with the sense that this is not a Southern problem. It goes on in Hartford, in Danbury, in New Haven, and across this country, in the northern tier of our Nation. Those of us who come from Northern States should be honest with ourselves and accept that and confront the problem with that in mind.

Mr. MATHIAS. Mr. President, will the Senator yield to me for a brief comment?

Mr. DODD. I yield.

Mr. MATHIAS. Mr. President, I have taken great heart in the Senator's statement. I take great confidence from the fact that he says he stands shoulder to shoulder. That is an important statement.

That is not a question of physical size. We are dealing here with a matter of principle, a matter of philosophy, a matter of very basic national policy; and the stature of people who engage in this battle will not be measured by feet and inches but by the breadth of their concepts. That does not exclude people on either side of this debate, because there will be room—not only room but also demand—for very broad concepts and a very clear understanding of the constitutional principles. It is in that realm of dimension that I know both Senators from Connecticut will be engaging in this battle.

I take heart from what the junior Senator from Connecticut has said, and I believe that his presence will be of enormous assistance to all of us.

I thank the Senator for yielding.

Mr. DODD. I thank the Senator for his kind words. I appreciate his raising my stature, at least physically, to that of my colleague from Connecticut.

Mr. JOHNSTON. Mr. President, I appreciate the very thoughtful comments of the distinguished junior Senator from Connecticut. I believe that is the attitude we all will have to take if we are to solve this difficult problem—an attitude of recognizing, first of all, that this is a problem. You cannot sweep under the rug the fact that busing is a problem, and I do not mean just a political problem.

Justice Powell said:

> The pursuit of racial balance at any cost—the unintended legacy of Green—is without constitutional or social justification. Out of zeal to remedy one evil, courts will encourage or set the stage for other evils.
>
> The Coleman study, in effect, finds that very thing. James S. Coleman, on the authority of whose report in 1965 the Court later, in 1971, ordered busing in the first place, has changed his mind, based upon the facts. The Armor study, undertaken by the Rand Corporation, talks about white flight.

So, Mr. President, it is a problem. More than a political problem, it is a social problem. It is an educational problem of the most profound dimensions.

I will add to what the distinguished Senator from Connecticut says his former colleague said: The problem is not what happens on the bus but when you get off the bus. There is a third problem, and that is with those who do not get on the bus at all because they leave the school system.

My hometown schools have changed from 60 to 40 white-black to 40 to 60 white-black.

In East Baton Rouge Parish, the full effects of that court order have not come in yet, but students are leaving by the hundreds, perhaps even by the thousands.

That is the problem. That is what Justice Powell is talking about—the substitution of one evil for another.

If that is an evil, what can we do about it? I invite the distinguished Senator from Connecticut to look at section 5 of the 14th amendment and the cases interpreting that. I invite not only the distinguished junior Senator from Connecticut but also other scholars to look seriously at that issue, not with bombast and calling us wool hats and intellectual pygmies, and painting us as those who are against civil rights—not in that

spirit, because we do not fit there, much as you may try to put us there, but with an attitude of trying to find an appropriate, legal, constitutional remedy for what is a recognized wrong. It is a recognized wrong and you cannot get away from it. Not only the conservative educators find that; they all find it.

The Supreme Court itself, in the words I have quoted from Justice Powell, talks about the substitution of one evil for another.

Why can we not, in a dispassionate way, on this floor and in our committees, come up with an appropriate remedy?

There is a respectable body of thought that under section 5 of the 14th amendment, we have the power to determine facts, to make judgments, to exercise discretion. That factfinding and that discretion-making are subject to great deference by the Court. In their words, it will be overturned only where unreasonable, irrational, and arbitrary.

We have that right. I believe that S. 528, which is the basis for the Johnston amendment in this case, is an appropriate response to that rulemaking.

Let me say to the distinguished Senator from Connecticut, who had some question as to whether the amendment would be introduced, the amendment has been introduced. As the Senator is probably aware, it is now being filibustered. Unfortunately, a cloture motion to the entire bill has been filed by the majority leader. I can count votes. What will happen is that that will be passed and the Johnston amendment will be dropped.

The majority leader could have filed a cloture motion to the amendment alone, which would then have allowed this amendment to proceed to a vote and solved the problem of germaneness. He chose not to do so.

I understand the reason is that he wants to avoid what he calls difficult social issues while we are trying to balance the budget. I thought the budget was just about balanced by now. I helped him do it. Nevertheless, there must be some additional things we want to do to balance the budget.

Whatever the reasons and whatever the justification, it is I think becoming reasonably clear that this amendment will not be voted on on this bill. So we will have time. I hope, and I keep reiterating this hope, that my colleagues will look at this question not saying that any antibusing bill is bad or all antibusing bills are good or that they are all constitutional or that they are all unconstitutional, that they are all put in by good men or bad men, which seems unfortunately to be the approach of so many people here. The emotion of the issue blinds a real search for the truth. I hope we will search out the truth as to what the limits are under section 5 of the 14th amendment, what the facts are, and what appropriate judgments should we in Congress make.

I believe the Johnston amendment is the appropriate approach. I hope that when this bill is all over and done with we will adopt an approach similar to this, or one that makes an intelligent and an effective move toward curbing the excess, the demonstrated evil of busing, that will help and not hurt education because education, believe me, is being hurt across the country, and then we can do it all in the context of the Constitution, the context of equal rights, due process and equal protection.

Mr. WEICKER. Mr. President, I wish to make several comments in response to the remarks made first by my distinguished colleague, Senator DODD, and then further comments made by Senator JOHNSTON.

I very much thank my distinguished colleague from Connecticut for his very generous remarks. I have no doubt when it comes to matters of the Constitution as are involved in this debate the junior Senator from Connecticut and the senior Senator from Connecticut are going to be working together because quite frankly that transcends any partisan differences or philosophical differences. I thank him for his help.

Point No. 2: I would not despair, I say to my good colleague from Louisiana. We might not get cloture on Friday. The issue might still be alive. We might have another chance to come at it next week. I realize the numbers are there, but stranger things have happened. It could be that a few of our colleagues are somewhere else on Friday, and that the required number for cloture will not appear here on the floor.

As one who probably has known Justice Powell on a personal basis more intimately than anyone else in the Chamber for many years before he became a Justice of the Supreme Court, I cannot let this moment go by without trying at least to set the record straight insofar as the perceptions of Justice Powell that might have been created by the statements by the distinguished Senator from Louisiana.

First, Lewis Powell led the fight to desegregate the public schools in Richmond, Va. That is a matter of record.

Second, if there ever is going to be a strict constructionist of the Constitution, in the sense of the powers of the three separate but equal branches, I have a feeling it is going to be Lewis Powell. I do not want in any way an impression to be created here that by some piece of reasoning this naked intrusion by the legislative branch into the judicial branch is something that has the approval of Justice Powell.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. WEICKER. I do not know what his decision would be, and I am not here to speak for him, but I do not want the impression given that Lewis Powell in any way is going to condone legislative direction over the remedies applied by the courts of this Nation or more particularly those remedies applied in discrimination cases.

Mr. JOHNSTON. Will the Senator yield?

Mr. WEICKER. I think the innuendo there is a little bit strong, and I am afraid in this area, on the basis of intimate knowledge over many, many years, I think I know the man who is being talked about better than the Senator from Louisiana. I would not deign to speak for Justice Powell on either of these points.

Mr. JOHNSTON. Will the Senator yield at this point?

Mr. WEICKER. I yield.

Mr. JOHNSTON. I say first of all there was no innuendo, certainly not intended, certainly no criticism intended. Indeed there was no comment by me other than to read the words of Justice Powell with whom I agree. I am sure I do not know Justice Powell as well as the Senator from Connecticut. I know him very favorably, however.

All I was doing was quoting his own words with which I strongly agree when he says in the case of *Estes* v. *Metropolitan Branches, Dallas NAACP*, 444 U.S. 437, which is a 1979 case, with regard to busing, that:

> The pursuit of racial balance at any cost, the unintended legacy of Green, is without constitutional or social justification. Out of zeal to remedy one evil courts may encourage or set the stage for other evils.

Those are Justice Powell's words, and the point is not to denigrate Justice Powell but rather to point out that it is a Justice of the Supreme Court, a very distinguished one, who has a record against discrimination as the Senator himself points out, who underlines the abject failure of busing as a remedy to achieve that goal which he and I share of integration of the public schools. That is all I am saying. That does not denigrate Justice Powell. Does the Senator disagree with Justice Powell's words?

Mr. WEICKER. Yes, I disagree with the Senator using those words within the context of this debate on the floor of the Senate.

Let me say if we are going to speculate I would speculate that one of the evils which would be in excess of the evil to be remedied would be the legislative branch of Government imposing its will on an independent judiciary or on the executive branch. Talk about an evil that is in excess of the evil to be remedied that would be it and that would my speculation.

Mr. JOHNSTON. Mr. President, will the Senator yield one more time?

Mr. WEICKER. No. I wish to speak for a few minutes.

I have listened patiently and I might add with great interest to what the distinguished Senator from Louisiana has to say.

Now I wish to make a few comments. My understanding is we are not going to much farther this afternoon. I am sure the Senator will have ample additional time.

I thought at this point it might be interesting to place in the RECORD an editorial and an article in the Charlotte Observer dated June 29, 1981, and ask that they be printed in the RECORD.

I shall read the editorial because now we get to the more sensitive parts of the argument of the Senator from Louisiana.

I realize that a small victory for the Senator from Connecticut has occurred on this floor when all of a sudden there is a flinching by the other side when it comes to being accused of being in violation of the Constitution or its principles.

They do not like that thrown at them or the fact that they are operating somewhat outside the principles that govern

this Nation in terms of fairness and equality and so on. And they are starting to flinch because for too long so many of my colleagues flinched when the Senator from Louisiana and the Senator from North Carolina swung the word "busing" around this Chamber. Now the shoe is on the other foot.

No one likes to be accused of being in opposition to the Constitution. Good. Good. At least we have a little equality then insofar at least as the demagoguery is concerned on both sides.

The editorial from the Charlotte Observer is dated June 24, 1981, and is called "Timely Honors, an Example for the Nation," just written a week ago:

TIMELY HONORS, AN EXAMPLE FOR THE NATION

The Charlotte chapter of the National Conference of Christians and Jews honored Judge James B. McMillan and attorney Julius L. Chambers Tuesday night for their contribution to improved race relations in this community. It was a happy occasion, one that ought to cause considerable reflection elsewhere in the country.

In one sense, the accolades came too late to do Judge McMillan and Mr. Chambers much good. They could have used that expression of support 10 years ago, when the school desegregation decision they helped to forge was still at issue here. Then their wisdom and motives were hotly questioned, and few people stood up in their defense.

But in another sense, the tributes were also timely, coming as the nation appears to be tiring of the struggle for equal justice and ready to abandon busing as a tool for school desegregation. A bill before Congress and about to become law would prohibit the federal government from supporting busing.

Tuesday night's honors should remind us what a mistake that would be. It would postpone the resolution of black-white conflict in education and perpetuate racial attitudes that have helped polarize many American communities.

Prior to busing, Charlotte was much more segregated than it is now. Not only were its schools identifiably white or black, but the community itself was divided along racial lines. The trends were clear: If left alone, all inner city schools would have become black, and so would the surrounding neighborhoods. White residents would have moved to the suburbs and beyond, abandoning the city and reinforcing racial stereotypes that might have taken years to wipe out.

But that has not happened. Through the use of busing, schools are no longer black or white, but are simply schools. As a result, the racial composition of surrounding areas is not as critical as it once was. The center city and its environs are a healthy mixture of black and white neighborhoods.

In fact, there is reason to believe school desegregation has encouraged neighborhood desegregation to a degree that allows a reduction in busing. Hampshire Hills and Devonshire neighborhoods are an example. As similar desegregation occurs elsewhere, and as old racial stigmas disappear, busing to maintain desegregation can be reduced further.

That experience and outlook, when compared to the experience and outlook of comparable cities, demonstrates how valuable desegregation and busing have been, not only to Charlotte-Mecklenburg schools, but to the community as a whole. Racial attitudes here are not nearly as rigid and sensitive as they were 10 years ago.

Success has not been easy—witness the fact that it has taken 10 years to honor the two men who pushed that decision. But without busing and a commitment to desegregation, it might not have been possible. Congress and leaders of communities across the nation ought to recognize that.

(Mr. SYMMS assumed the chair.)

Mr. WEICKER. Now the question has to be asked of the distinguished Senator from Louisiana how does that jibe with the statement in the preamble of facts in his legislation:

"(b) The Congress finds that—

"(1) court orders requiring transportation of students to or attendance at public schools other than the one closest to their residences for the purpose of achieving racial balance or racial desegregation have proven an ineffective remedy and have not achieved unitary public school systems . . .

Here is the landmark decision, Senator, *Swann* v. *Charlotte-Mecklenburg Board of Education* (402 U.S. 1 (1971)).

Mr. JOHNSTON. Mr. President, would the Senator like an answer?

Mr. WEICKER. Here are the two men being honored and the fact situation described by those who are reporting and the leading newspapers in that State and in that town, one of the leading newspapers in the State, describing a fact situation that is totally at odds with what the Senator is trying to tell my colleagues out here on the floor.

I do not consider myself competent to comment upon the fact situation in Charlotte, N.C., and I do not figure myself competent to comment on the fact situation in Rapides Paris, La. I do not know whether the Senator from Louisiana is competent to comment on the fact situation in Hartford, Conn. The point is we cannot do that job here. It is the job of the court and the jury.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. WEICKER. No, I will not.

Mr. JOHNSTON. The Senator asked a question and he will not allow me to answer it.

Mr. WEICKER. The Senator is now quoting the Senator from Louisiana's preamble which recites it has all been one big, great failure. Here is the very town that started it all, and what they are saying is that it has been a success.

I am far more inclined to believe the facts as reported to me by the residents and by the media of that area than I am the generalizations of my good friend from Louisiana.

I certainly will accept, at least in terms of a description of fact if not the accuracy of the conclusion, what the Senator from Louisiana says about his own constituency. Certainly I would not dispute that.

But this is not a Rapides Parish bill. Maybe the fact situation is patterned after Rapides Parish. But as I read this, it applies to the United States of Amercia, to 50 States, to thousands of cities and communities.

Yet we are told in the preamble that:

"(b) The Congress finds that—

"(1) court orders requiring transportation of students to or attendance at public schools other than the one closest to their residences for the purpose of achieving racial balance or racial desegregation have proven an ineffective remedy and have not achieved unitary public school systems and that such orders frequently result in the exodus from public school systems of children which causes even greater racial imbalance and diminished support for public school systems:

"(2) assignment and transportation of students to public schools other than the one closest to their residences is expensive and wasteful of scarce supplies of petroleum fuels;

Conservation, I find that rather interesting. I have fought the distinguished Senator from Louisiana for almost 4 years on the matter of mandatory conservation, and now all of a sudden I find it in an education bill.

"(3) the assignment of students to public schools or busing of students to achieve racial balance or to attempt to eliminate predominantly one race schools is without social or educational justification and has proven to be educationally unsound and to cause separation of students by race to a greater degree than would have otherwise occurred;

Mr. JOHNSTON. Will the Senator yield?

Mr. WEICKER (continuing).

"(4) there is an absence of social science evidence to suggest that the costs of school busing outweigh the disruptiveness of busing; and

Mr. JOHNSTON. Mr. President, will the Senator allow me to answer the question?

Mr. WEICKER. I do not see—I am only quoting your bill—how this jibes with what I am told the situation in Charlotte, N.C., is.

Mr. JOHNSTON. Will the Senator allow me to give the justification for that?

Mr. WEICKER. For what, the situation in Charlotte?

Mr. JOHNSTON. No, the findings of fact.

Mr. WEICKER. The findings of fact are contained here. Senator, I would like to speak for a few minutes—and if you can do it in a relatively short period of time——

Mr. JOHNSTON. I was just going to quote from a Supreme Court decision. It may take a minute and a half.

Mr. WEICKER. Senator, I thought maybe you had some special knowledge here that was the justification for making these generalizations.

Mr. JOHNSTON. I do.

Mr. WEICKER. Apparently it does not include Charlotte, N.C. I think the Senator knows what he is doing. He is trying in every way to raise to the greatest heights possible the fears of the people of this country. That is what he is trying to do. Maybe that is good for local consumption, but I do not think it is particularly good for the United States of America.

Senator, believe me, I think probably the word "busing" and the concept of busing are as distasteful to a majority of the people of the State of Connecticut as they are to the people of Louisiana, which gets me to the second point.

When the Senator states, "We do not like these busing orders," and he does not like busing, you know, what can we do about it? What can we do about it?

The question is, "What have we done about it?" And the answer is that we have done nothing about it, so somebody else has done something. The question comes a little late.

We had the opportunity to do something about it. We could have gone ahead and appropriated far greater sums to education, to the creation of better schools, for better programs in those schools, for the teachers in those schools, and we could have gone ahead and passed a tax bill to pay for that. But that is unpopular. That does not get us elected. And so we took the old hot potato and, flip, right over to the Supreme Court and they did something about it and now we do not like what they did.

So we are coming back and saying, "Well, we don't like what you did, but there has got to be a way out of this and let's appoint a committee."

That has been the answer to every difficult situation since I went into the Connecticut Legislature in 1963. If you cannot handle it in an up or down vote on the floor of the Senate or the House or wherever, pass it off to a committee or pass it off to the courts.

No, it is not as if we did not have a chance at this. We had a chance, and we were afraid of the political consequences then, and we are afraid of the political consequences now. Unfortunately, there can be no real solution until we face up to the situation and meet it with courage.

Mr. President, I intend to yield the floor at this time, and I would hope that my colleague from Louisiana would also yield. The distinguished Senator from Kansas has some very special guests here whom he cares to honor, and I think both of us would very much like to give him this opportunity.

Mr. JOHNSTON. Mr. President, I was asked a question and then not given the opportunity to answer it.

Mr. WEICKER. Mr. President, I have not yielded the floor.

Mr. JOHNSTON. I would be glad to yield, but I would like at some time the opportunity to answer the question.

Mr. WEICKER. Mr. President, I say to my distinguished colleague, believe me, this is his bill, his amendment, and I want to make sure everybody knows it is his bill and his amendment and I would not want to restrict him from responding or speaking to it for 1 minute. I have made my comments and I intend to relinquish the floor. I hope now that we could hear from our good friend from Kansas.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

SENATE RESOLUTION NO. 167—COMMENDING THE DISABLED INDIVIDUALS WHO CLIMBED MOUNT RANIER, WASH., DURING THE SUMMER OF 1981

Mr. DOLE. Mr. President, I send a resolution to the desk which I believe would be cosponsored by all Senators if they could be contacted but, as of now, about 70 Members of the Senate are cosponsors. I ask for the immediate consideration of this resolution, and I think it has been cleared with the leadership on both sides.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. DOLE. I am happy to yield.

Mr. ROBERT C. BYRD. Mr. President, the resolution has been cleared on both sides. There is no objection from the minority to its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 167) to commend the disabled individuals who climbed Mount Rainier, Washington, during the summer of 1981.

Mr. DOLE. Mr. President, I wonder if the clerk might read the resolution.

The PRESIDING OFFICER. The clerk will read the resolution.

The legislative clerk read as follows:

S. RES. 167

To commend the disabled individuals who climbed Mount Rainier, Washington, during the summer of 1981.

Whereas nine men and two women braved the perils of nature to climb Mount Rainier in the State of Washington, on July 3, 1981;

Whereas seven of the climbers are blind, two deaf, one an epileptic, and one an amputee;

Whereas the climbers had little or no previous experience in mountain climbing, but all surmounted their disabilities to triumph over the highest mountain in the continental United States;

Whereas a handicapped person is disabled only to the extent that he or she is limited by physical or attitudinal barriers;

Whereas this courageous group of disabled individuals represents a living demonstration of the human capability in Tennyson's words "to strive, to seek, to find, and not to yield"—even against a mountain; and

Whereas this climb deserves to be celebrated throughout this Nation as an act of tremendous courage and inspiration and as a major achievement of the International Year of Disabled Persons: Now, therefore, be it

Resolved, That the Senate honors and pays tribute to the disabled individuals who climbed Mount Rainier in the State of Washington, on July 3, 1981, and demonstrated to the World that disability is often a matter of perception;

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to:

Kirk Adams, Snohomish, Washington;
Sheila Holzworth, Des Moines, Iowa;
Dr. Raymond Keith, Arlington, Virginia;
Justin McDevitt, Rosemont, Pennsylvania;
Alec Naiman, New York, N.Y.
Fred Noesner, Glenside, Pennsylvania;
Charles O'Brien, Carlisle, Pennsylvania·
Dr. Judith W. Oehler, Hingham, Massachusetts;
Richard Rose, Vancouver, Washington;
Paul Stefurak, Federal Way, Washington;
Douglas Wakefield, Arlington, Virginia.

Mr. DOLE. Mr. President, I ask unanimous consent that we might hold this resolution at the desk until the close of business. I know there are other Senators who would like to become cosponsors, and I have a list of the cosponsors that I had. I ask unanimous consent that those 70-some Senators be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

The cosponsors of the resolution are as follows:

Mr. Stafford, Mr. Jackson, Mr. Weicker, Mr. Randolph, Mr. Abdnor, Mr. Andrews, Mr. Armstrong, Mr. Baker, Mr. Baucus, Mr. Bentsen, Mr. Boren, Mr. Boschwitz, Mr. Burdick, Mr. Robert C. Byrd, Mr. Cannon, Mr. Chafee, Mr. Cochran, Mr. Cohen, Mr. Cranston, Mr. D'Amato, Mr. Danforth, Mr. DeConcini, Mr. Denton, Mr. Durenberger, Mr. East, Mr. Eagleton, Mr. Ford, Mr. Garn, Mr. Glenn, Mr. Gorton, Mr. Hatch, Mr. Hatfield, Mrs. Hawkins, Mr. Hayakawa, Mr. Heinz, Mr. Helms, Mr. Huddleston, Mr. Humphrey, Mr. Johnston, Mrs. Kassebaum, Mr. Kasten, Mr. Kennedy, Mr. Laxalt, Mr. Leahy, Mr. Levin, Mr. Mathias, Mr. Matsunaga, Mr. Mattingly, Mr. McClure, Mr. Metzenbaum, Mr. Mitchell, Mr. Moynihan, Mr. Nickles, Mr. Nunn, Mr. Packwood, Mr. Pell, Mr. Pryor, Mr. Riegle, Mr. Roth, Mr. Sarbanes, Mr. Sasser, Mr. Schmitt, Mr. Specter, Mr. Stennis, Mr. Tsongas, Mr. Thurmond, Mr. Wallop, Mr. Warner, Mr. Williams, and Mr. Zorinsky.

Mr. DOLE. Mr. President, I would just like to take a minute to extend my congratulations. The resolution has been read. I think it is self-explanatory.

This morning this outstanding group had the opportunity to meet with the President of the United States, and he expressed his thanks and admiration. It is very appropriate that such an outstanding performance of people with so-called disabilities should occur during the summer of 1981, which has been declared the International Year of Disabled Persons.

SYMBOLIC CLIMB

As indicated in the resolution, there were nine men and two women, whose names have been referred to, who accomplished this outstanding climb. It just seems to me that it is something we should take note of.

This mountain not only is the highest peak in the continental United States, but it has overcome many more experienced climbers in the past. This mountain represents the ultimate physical barrier to disability, and yet it did not prevent seven blind people, two that were deaf, one an epileptic, and one an amputee, from achieving great heights.

During this International Year of Disabled Persons, there is no more fitting tribute to the potential of handicapped people than to commemorate their tremendous progress in this symbolic climb. They did not pause once to dwell on what they could not do—they set out to prove what they could do, despite what others might call their disabilities. And their spirit has inspired us all.

CONQUERING DISABILITIES

Here in this great country of ours we need more of an active effort to emphasize and utilize the talents of 35 million Americans who happen to be handicapped. They have the confidence and the courage to overcome their limitations—we, as a society need only to remove the physical and attitudinal barriers which continue to remain—we need to welcome them into the mainstream of our communities.

Most Americans cannot boast of the kinds of singular achievement that we are commending here today in the Senate. Their experience shines as a beacon of inspiration to all those who have become discouraged trying to accomplish lesser deeds. They have vividly and unforgettably demonstrated that handicapped people are disabled only to the extent that they are prevented from accomplishment.

CONGRATULATIONS TO INDIVIDUALS

The Senator from Kansas joins his colleagues in commemorating the magnificent victory of 11 individuals over a majestic peak. We are proud of all those

who participated in this symbolic climb:

Kirk Adams, Snohomish, Wash.; Sheila Holzworth, Des Moines, Iowa; Dr. Raymond Keith, Arlington, Va.; Justin McDevitt, Rosemont, Pa.; Alec Naiman, New York, N.Y.; Fred Noesner, Glenside, Pa.; Charles O'Brien, Carlisle, Pa.; Dr. Judith W. Oehler, Hingham, Mass.; Richard Rose, Vancouver, Wash.; Paul Stefurak, Federal Way, Wash.; and Douglas Wakefield, Arlington, Va.

We thank them for the shining example that they have set for the rest of us during this special year, and we also pay tribute to those experienced climbers who joined in their effort: Phillip Barton, president of the Institute for Outdoor Awareness, Swarthmore, Pa.; Glenn A. Brindeiro, Renton, Wash.; Timothy Egan, Seattle, Wash.; Dr. Roy Fitzgerald, board member, Institute for Outdoor Awareness, Swarthmore, Pa.; Svein Gilje, Seattle, Wash.; Nancy Gofort, Seattle, Wash.; Don Goodman, Seattle, Wash.; Egil Krogh, Seattle, Wash.; Ray Nichols, Issaquah, Wash.; George S. Niebel, Kirkland, Wash.; Dianne Robert, photographer, Seattle, Wash.; Warren Thompson, Renton, Wash.; and Jim Whittaker, leader of the team, Seattle, Wash.

At this point, it might be appropriate for us to express our appreciation also for the role played by the Institute for Outdoor Awareness, which sponsored this great expedition. We look forward to more such endeavors and thank this nonprofit institute for making this climb possible during the International Year of Disabled Persons. It is an achievement that all Americans will remember for years to come.

I am pleased the leadership, Senator ROBERT C. BYRD and Senator BAKER, have agreed to let us use this unusual procedure to bring the matter to the attention of our colleagues.

I wish to thank Senator JENNINGS RANDOLPH, Senator STAFFORD, Senator WEICKER, Senator JACKSON and the other original cosponsors. It would seem to me that, having had a lot of contact with many who are perceived to have disabilities, this has been a great inspiration to many people in this Nation. I think it will do a great deal in the months and years ahead to better the understanding between people without handicaps and people with so-called handicaps—handicaps that, I believe, are still only in the eye of the beholder.

I suggest that it represents a living demonstration of the human potential, "to strive, to seek, to find, and not to yield"—even against imposing obstacles presented by a great mountain.

If it is satisfactory to the Senator from Connecticut and the Senator from Louisiana, I would like to yield to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I should like to thank the distinguished Senator from Kansas and the other prime sponsors for their thoughtfulness in drafting this resolution in the first place and to add my congratulations to the courage and resourcefulness of the climbers themselves.

I can, perhaps, do that a little more fervently than most other Members of this body as I managed to make it to the top of Mount Rainier myself three summers ago in what was, I can assure the other Members, the most physically demanding feat which I have ever accomplished.

As a result, my special admiration goes out to this group, both for the imagination to conceive of this climb, to the great courage and physical strength which they showed in their ability to do so, but, most significantly of all, for what they showed to the people of the United States that can be accomplished by those who are labeled as being physically disabled.

Each one of these individuals overcame what would be considered just a very few years ago an insuperable handicap in making this climb. What they have done is to accomplish a feat of great significance to themselves as individuals but every bit as significantly a feat which will light a beacon for others who are disabled as they are to take on any task whatsoever with a very real chance of success.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, I join with Mr. DOLE in expressing congratulations to this very extraordinary group of individuals who have demonstrated unusual courage and a great deal of determination and resolve. They are to be congratulated.

I am glad to see the Senate extending its recognition to them for having achieved this very unusual and extraordinary goal. They have the kind of faith and courage that certainly are outstanding and should prove to be exemplary to the rest of us as we attempt to surmount lesser obstacles in life.

I thank Mr. DOLE for his thoughtfulness in offering the resolution.

Mr. JOHNSTON. Mr. President, I also join with Senator DOLE, Senator BYRD, and others in congratulating this group. As a coauthor of that resolution, I congratulate the group for their courage.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 167) was agreed to.

The preamble was agreed to.

DEPARTMENT OF JUSTICE AUTHORIZATIONS, 1982

The Senate continued with the consideration of the bill.

Mr. JOHNSTON. Mr. President, returning to the question at issue, the question was asked, and I was not given the opportunity to answer at the time, but I would like to answer the question. To repeat the question, as I understood it, it was, what is the basis for the finding in the amendment, that the Congress finds that busing to achieve racial balance or racial integration has proven to be an ineffective remedy, has not achieved unitary school systems, has caused racial imbalance, and separation of students by race to a greater degree than would otherwise have occurred?

Mr. President, I have already alluded to the study by Dr. James S. Coleman in his Urban Institute paper entitled "Trends in School Integration 1968–1973." I have also alluded to the David S. Armor study in 1978 by the Rand Corp., which concludes that:

> Court-ordered desegregation coupled with normal demographic trends is producing increased ethnic and racial isolation in many larger school districts. If this trend is to be stopped or reversed, other remedies need to be considered.

But more than that, Mr. President, I would like to quote the very authority cited by the Senator from Connecticut, that is, Justice Powell of the Supreme Court in his dissent in Estes against Metropolitan Branches, Dallas NAACP, a 1979 decision found at 444 U.S. 437. If I may read from Justice Powell, who is described as a preeminent authority by the distinguished Senator from Connecticut, one who led the fight to desegregate Richmond schools, he says this:

> The imperfect nature of court action in school cases is evident in the phenomenon of self-defeating "remedies," desegregation plans and continuing court oversight so unacceptable that many parents seek to avoid the reach of the court's decree. The impact of such remedies may be seen in higher enrollment in private schools, in further migration to the suburbs, or in refusals to move into the school district.

Skipping a few lines:

> This Court has not considered seriously the relationship between the resegregation problem and desegregation decrees.

Skipping a few lines:

> Surprisingly few courts, however, have understood this imperative. . . . In a case involving a school district in Alabama, however, the Court of Appeals for the Fifth Circuit approved a plan "that will probably result in an all-black student body, where nothing in the way of desegregation is accomplished and where neither the white students nor the black students are benefited." . . . Even though the court acknowledged that the remedy was self-defeating, it ordered the plan implemented. . . .

Skipping a few lines:

> The pursuit of racial balance at any cost—the unintended legacy of Green—is without constitutional or social justification. Out of zeal to remedy one evil, courts may encourage or set the stage for other evils.

Skipping a few lines:

> A desegration remedy that does not take account of the social and educational consequences of extensive student transportation can be neither fair nor effective.

There you have it, Mr. President. Justice Powell, who is clearly committed to equal rights, demonstrably so, demonstrably committed to school desegregation, agrees completely with the findings that we are making.

What are we finding? We find that it does not work; that it causes separation of the races by race to an even greater degree than would have otherwise occurred.

Again, Justice Powell points out that the fifth circuit approved a case:

That will probably result in an all-black student body, where nothing in the way of desegregation is accomplished and where neither the white students nor the black students are benefited.

That is, in effect, our situation in Rapides Parish. Justice Powell says that the Court orders busing knowing that it is not going to work, knowing that it will not benefit either party, but judges feel driven by some constitutional rule, by some irrational commitment to bus. They order something that they know is not going to work.

That is not me, that is not the conservatives, that is a member of the U.S. Supreme Court.

That is the answer to the Senator's question and I hope he will read that and reconsider it between now and the time that this matter comes up again for a vote.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. Mr. President, with all deference to my distinguished colleague from Louisiana, he does not answer the question I raised. The findings, as he recites them in his amendment, are at odds in at least one proven case to what the situation is. I dare say there is more than just one. In a matter of minutes I can come up with one. I think it is clear what a few days research would do.

I would say to the Senator from Louisiana, for 100 U.S. Senators to put their names to these findings of fact will cheapen our names. The homework has not been done well.

If somebody wants to say that there are those instances where it has not worked, that is not what is being said here. It says it is a failure.

That does not jibe with the facts. It is not something that we ought to lend our names to.

I ask unanimous consent, Mr. President, that the article from the Charlotte Observer concerning the dinner for Judge McMillan and attorney Julius Chambers, written by Jerry Shinn, editor of the Charlotte Observer, and an editorial by Tom Wicker appearing in the New York Times of June 26, 1981, which again refers to that dinner, be printed in the RECORD at this point.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, June 26, 1981]

BUSING AFTER A DECADE

(By Tom Wicker)

CHARLOTTE, N.C.—The irony was not lost upon the sponsors of a dinner honoring attorney Julius L. Chambers and Federal Judge James B. McMillan.

Here was the Charlotte chapter of the National Conference of Christians and Jews giving a silver medallion to the black lawyer who in 1969 argued one of the most important school desegregation cases, Swann v. Mecklenburg, and another to the white judge who in that case first ordered busing as a remedy for segregated schools.

At the same time, in the United States Senate, North Carolina's Jesse Helms was leading a fight to prevent the Department of Justice from taking part in any suits to desegregate schools by the use of busing. Only the dilatory tactics of a Republican liberal, Lowell Weicker of Connecticut, had so far prevented the House-approved busing ban from passing the Senate—which it did in 1980, only to be vetoed by President Carter.

Busing is, in fact, moribund if not dead as a remedy for school desegregation where it still exists. Already, Congressional action prevents the Department of Education from requiring busing as a precondition for Federal aid to a school district; already, Attorney General William French Smith has pledged not to seek desegregation through busing.

But anything as radical as a legislative ban on busing suits ought to be opposed by a President who styles himself a conservative. After all, in some cases in which busing alone can end segregation, the ban will prevent Mr. Reagan from carrying out his oath to enforce the Constitution. Moreover, his Department of Justice is being deprived of jurisdiction it has traditionally and constitutionally exercised.

But Mr. Reagan, long an opponent of busing himself, is yielding the powers of his office under pressure from radicals on his right, like Mr. Helms, who claim that Americans are "sick and tired" of busing. And that was the real irony of the dinner in Charlotte.

For if busing neither works perfectly nor has total support in the largest city in Jesse Helms's home state, after a decade of effort it is accepted and has been made effective; the schools are improving, the community is widely judged the better for the experience and the men who brought it about are now honored for doing so.

"Everybody who's anybody is here tonight," a Charlotte newspaperman said of the audience of 300 blacks and whites that turned out for the McMillan-Chambers dinner. And a Charlotte Observer editorial said the next day: "It was a happy occasion, one that ought to cause considerable reflection elsewhere in the country."

The editorial called the Helms busing ban "a mistake" that "would postpone the resolution of black-white conflict in education and perpetuate racial attitudes that have helped polarize many American communities."

Because of busing, it argued, Charlotte is no longer polarized in that way. "Schools are no longer black or white, but are simply schools. As a result, the racial composition of surrounding areas is not as critical as it once was. The center city and its environs are a healthy mixture of black and white neighborhoods."

Julius Chambers, who was cited by the Conference not just for school desegregation but for improving race relations, responded that for blacks too, Charlotte was a better place to live today than it was when he set up practice here in 1965—and a better place, he suggested, than numerous non-Southern and still segregated cities to which his civil rights practice had taken him.

Judge McMillan has frequently said that he knew little about Charlotte's schools when the desegregation case reached him in 1969 but that he found the evidence of unconstitutional segregation in his home community "overwhelming." And he told the dinner audience that he had not hesitated to order busing as a tool for desegregation because it had been for so long used as a tool to maintain segregation.

The judge and Mr. Chambers were both reared in rural North Carolina, and both were bused substantial distances to their schools—segregated schools. "The bus was all right," Judge McMillan once said, "as long as it was used to carry the right color student to the right destination."

Neither he nor Mr. Chambers even referred to the intense local hostility both suffered as a result of the 1969 busing decision. Both were ostracized and threatened, Judge McMillan hanged in effigy, Mr. Chambers' home and office bombed. Busing was originally resisted by parents' groups, civic and school officials; but the current school board canceled its own meeting to attend the McMillan-Chambers dinner.

All of which raises a point no one mentioned at the dinner but which those who would ban busing might well ponder: What kind of equity is it to say to cities like Charlotte, which have accepted and made the best of busing, that no others will have to undergo such soul-searching, or be made to face their self-imposed deficiencies?

[From the Charlotte Observer, June 29, 1981]

IT'S JUST AS WELL REAGAN AND HELMS WEREN'T THERE

(By Jerry Shinn)

Ronald Reagan and Jesse Helms should have been at the dinner last Tuesday night honoring two distinguished Charlotteans.

On second thought, maybe it's just as well they weren't. They probably would have been uncomfortable.

One honoree, Julius Chambers, is the lawyer who insisted more than a decade ago that the Charlotte-Mecklenburg schools ought to be fully desegregated, even if that meant busing.

The other honoree, James B. McMillan, is the soft-spoken establishment lawyer turned federal judge who ruled that Mr. Chambers was correct.

A CELEBRATION OF BUSING

The occasion was the Brotherhood Award Banquet of the Charlotte chapter of the National Conference of Christians and Jews. And the 300 or so people there included an impressive cross section of community leaders: lawyers, doctors, educators, business executives.

What they were there to celebrate was—of all things—*busing*. President Reagan and Senator Helms just wouldn't have understood that.

The president is opposed to busing. He says it's a failure.

Senator Helms is the leader of the anti-busing forces in Congress. He would like to make busing illegal; he has a good chance at least of legislating the federal government out of any involvement in school desegregation cases that might involve busing.

Senator Helms says busing "torments" little children, uses them as "pawns in a shell game." He notes, perhaps accurately, that "the vast majority of Americans . . . are fed up" with it.

The president and the senior senator from North Carolina may understand the politics of busing, but otherwise, they don't know what they're talking about.

Busing is an easy political target, of course, because it's hard to find anyone who really likes it. It's inconvenient and expensive, just as it was when it was used to keep schools segregated.

I don't know of anyone who doesn't hope someday there'll be no reason to count the number of black children and white children in any school. But the courts have said that where segregated schools are a consequence of past official discrimination, they must be integrated. In a metropolitan area with segregated housing patterns, that means busing.

CHEATING SOME CHILDREN

As much as I dislike busing, for now, for Charlotte, I would like the alternative a lot less.

If, despite the Constitution and the courts, politicians find a way to do away with busing, they will be cheating some children out of something very important: the experience of functioning in an integrated society, which is the kind of society their generation is going to have to live in—that, or "a house divided against itself," which cannot stand.

There may be places where busing is overwhelmingly impractical. But those places shouldn't be the basis for national policy.

In Charlotte-Mecklenburg we've been busing for about 10 years. It still isn't popular here; if it were put to a local referendum, it probably would lose.

The children, black and white, who have come through the schools during this period have had to sacrifice some comfort and convenience to get us where we are today; and the experience has strained the civility and stubborn good will of their parents.

But today we have an integrated school system that is getting on with the job of education, with impressive parental support and a gratifying rebirth of school spirit among students.

That doesn't mean there's perfect brotherhood or sisterhood in the schools. Black kids still feel the burden of being black; some white kids resent, understandably, what they see as reverse discrimination as the public schools try to compensate for the sins of of their fathers. Black and white, they are aware, sometimes painfully, of their differences.

But they work it out, because they have to, and because they are young and innocent and not loaded down with their parents' guilts and fears.

SHOULDERING THE BURDEN

The burden of the whole tragic history of race relations in this country has been dumped on them, and they are shouldering it better than anyone had a right to expect.

Are we really ready to tell all those kids who've ridden those buses for all those years that it was all in vain? Are we going to let some grandstanding politician tell them now that what they've done was wrong, or unnecessary, or unimportant?

If Mr. Reagan and Sen. Helms want to learn something about busing, they should come to Charlotte and visit our classrooms.

They should attend a high school ball game here and see black kids and white kids cheering each other's accomplishments and comforting each other in their disappointments.

They should go to a school band or chorus concert where there are happy black faces along with the happy white faces, where kids, black and white, make beautiful music together.

They wouldn't see any tormented children or "pawns in the shell game." They'd see our Constitution at work, freeing young people to learn and grow and see beyond the stereotypes that blinded their parents. They'd see the toughest part of the American dream—the part that has challenged and haunted and eluded Americans since the days when Lincoln brooded over it—beginning to come true.

WE OUGHT TO RESIST

In a column a few months ago, the Rev. Jesse Jackson wrote: "Where there has been moral, civilized white leadership, busing has succeeded."

A lot of people who fit that description were on hand at the dinner Tuesday night. And evidence of the truth of that statement is all around us in Charlotte.

We ought to be proud of that, and we ought to resist mightily anyone's effort to undo this very difficult and extraordinarily good thing that we and our children have done.

Mr. WEICKER. Let me quote from Brown against Califano:

The fact remains that the amendment leaves untouched the litigation enforcement option. It permits the Civil Rights Division of the Department of Justice upon referral of a case from HEW to pursue legal action and to obtain the full measure of appropriate relief, including student transportation, if warranted against the offending recipients.

In other words, what they were saying is that they were referring to the test of the Eagleton-Biden amendment, that if the Justice Department were not left alone to pursue the remedy, that would have been declared unconstitutional.

Of course, that is what is being attempted here, and the Eagleton-Biden amendment applied only to administratively required busing by HEW. Here we go way beyond that in the terms of the Johnston-Helms amendment.

In terms of legislative intrusion on the judicial and executive branches, I would speculate that Justice Powell would say no; and on the matter of the commitment to equality of educational opportunity, I think the record speaks loudly that Justice Powell is a man who has always pursued that principle.

So, Mr. President, now as we come to the conclusion of the debate this afternoon, we are confronted with something which is flawed not only in its constitutional aspects but also in its statement of fact. Indeed, if this is going to be the quality of fact finding in future congressional action, then I suggest that the fact finding remain in the courts and the policymaking remain in the Congress, and that the judgments be rendered by judge and jury and not Senators and Congressmen. Flawed as to its constitutional aspects, flawed in its preamble as to statements or findings of fact, this amendment should be defeated.

Mr. President, the cloture vote that will take place on Friday is an enormously important statement of commitment—first in constitutional terms and second, in terms of commitment to desegregation, to equality of opportunity in this country. I am just not going to use the constitutional screen as an excuse for not making a statement on the other aspect of this debate. The fact is that when the leadership of this Nation—be it at the municipal, State, or Federal level—uncompromisingly commits itself to equality and to seeking out and eliminating discrimination, then there are far fewer difficulties than exist at the present time, when everybody in a leadership position is waffling all over the countryside on this issue.

Remember this, Mr. President, we are not talking about some airy-headed judge or jury member or prosecutor or Justice Department employee dreaming up something that would be nice to apply to a particular community. The only time that busing even comes into consideration is when it has been determined by a court of law that a crime—let me use that word—has been committed—that is, the law has been violated—in this case, the law being the Constitution of the United States. How would you like it if, after someone was convicted for murder, so we get the parallels going—murder—because that person was popular with a majority of my colleagues here, in the U.S. Senate, all of a sudden, the U.S. Senate says, "Oh, no life imprisonment for our friend; no death penalty for our friend; something different in his case."

That is what we have here, Mr. President. Nobody is talking about busing or any other remedy applied by a court until it has been determined by a court of law that the community is in violation of the law. Now we want to say what the remedy can or cannot be.

Mr. President, what good is the right without the remedy? And are we going to leave it up to a bunch of politicians to decide what the remedy is going to be? For indeed, if we can lessen the remedy, we can also up it, depending on the popularity or unpopularity of the court.

These are the issues that are involved in this debate, Mr. President. That is the reason why this vote on Friday is important. What we are saying is that the courts of this country—we might not like them. We might not like their decisions. But overriding our personal feelings, either as Senators or citizens, is the principle that they have to be free from politics, from the shifting winds of taste and of philosophy; that they have to be anchored in rules, in laws, in words that are clearly written and clearly understood; that we are not going to change the law after the fact. And I might add, that is another part of this legislation, that we have the power to reopen old decisions.

A clear statement as to how we view the function of the courts and of justice in this country, that is what is at issue on Friday morning, or Friday noon, whenever the vote takes place. But just as importantly, and it has come now, is another statement relative to how we view each other as citizens within this great Republic.

I know that civil rights is not a popular cause right now, but that is not important. The fact that it has no vote-getting appeal is not important. What is important is that discrimination exists still today in many forms, and it is usually a painful process to get rid of it.

Mr. President, discrimination can be in terms of color, it can be in terms of physical or mental capacity. It can be in terms of sex, it can be in terms of economics, it can be in terms of jobs or of region or of language. And this, one of the highest exercises in leadership in this country—this body—has to respond excellently to the challenge. If we do not, then what fault can we find with the rest of our citizens who do not enjoy the power of the office that we hold? Why expect anything more from those who do not share in the power given to us by our constituencies?

So, yes, I am not going to duck the issue on Friday's cloture vote as to discrimination and as to the painful approach that has to be taken to get rid of it. It is very much at issue here, also. And if somebody wants to come up during the course of my re-election campaign and say, "Well, yes, he voted for busing," so be it.

I am not going to say,, "No, I didn't. I just voted for the independence of courts." I am going to say, "I voted for the independence of courts; and yes, where somebody is in violation of the law, and where somebody is discriminated against, the courts should come down whichever way is appropriate. The sooner we all understand that, the sooner all discrimination is going to go away."

The more we intimate that there is an easy way out, either by way of committee or by way of restricting the judiciary, or by way of doing an end run on an authorization or an appropriations bill—the more we engage in this type of misty and intangible and far-away suggestion of solution, the longer the discrimination stays with us.

For the Constitution and for what we stand for as a Nation, I hope cloture is not voted on Friday.

The PRESIDING OFFICER (Mr. NICKLES). The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I do not want to prolong this matter. I know that the Senate will recess shortly.

However, we have heard a description of the courts as if the courts, with some mystical power and some carefully defined and designed set of tools, are going about the business of eradicating, root and branch, discrimination from our public schools and that it is working, and that they are proceeding against the political winds in undertaking their brave and carefully calculated moves.

Much as I would like to believe that, it is not true. No less an authority than Justice Powell has said:

> This court has not considered seriously the relationship between the resegregation problem and desegregation decrees. . . . By acting against one-race schools, courts may produce one-race school systems.

The Court, in effect, is not considering the consequences of its acts. Those are not my words; those are the words of Justice Powell.

Basic justice, the cause of integration, and certainly the cause of education, all call out for someone to consider the outcome of what is being ordered by the Court. The outcome is that busing is not working. It is causing resegregation. It is causing white flight. It is causing less support to the public schools. Unless someone, either the courts or Congress, takes action, the situation and the support for public education will only get worse.

Mr. President, this amendment is designed to be, and I believe is, both an effective and a constitutional response to the great need in our society identified by the studies, by Justice Powell, by others across the spectrum of our society. I believe it should be enacted, and I hope the House and the Senate, in due course, will vote it in.

ORDER FOR VOTE ON CLOTURE MOTION

Mr. BAKER. Mr. President, I have discussed this matter with the minority leader.

As the minority leader knows, I today filed a cloture motion under rule XXII in respect to the Department of Justice authorization bill. The time to vote on that would be 1 hour after the Senate convenes on Friday with certain modifications in respect to the establishment first of a quorum.

For the convenience of all Senators, I ask unanimous consent that the vote on cloture on the Department of Justice authorization bill occur at 1 p.m. on Friday.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, and I will not object, is it the plan of the distinguished majority leader to convene the Senate at no later than 12 noon on that date?

Mr. BAKER. I was about to continue, Mr. President, and that the Senate after it concludes its business on Thursday next, on tomorrow, that it stand in recess until the hour of 12 noon and that immediately after the recognition of the two leaders under the standing order and the recognition of any Senators under special orders that the requirement for a quorum be fulfilled under rule XXII and that the order for the vote at 1 o'clock of course be conditional on the establishment of a quorum prior to that time.

The PRESIDING OFFICER. Without objection, it is so ordered.

NO FURTHER VOTES TODAY

Mr. BAKER. Mr. President, there will be no further votes today.

ORDER FOR RECESS UNTIL 12 NOON TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 12 noon on tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, to extend not past 5:30 p.m., in which Senators may speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE EFFECTS OF HIGH INTEREST RATES ON SMALL BUSINESS

Mr. BOREN. Mr. President, when money and credit tighten and interest rates rise, small businesses, public utilities and consumers of all types are seriously affected. For small businesses, many of which operate with small profits margins, increases in the cost of borrowing money can cut so heavily into profits that they can no longer afford to borrow money. When the supply of money and credit is limited, the credit rationing that follows discriminates heavily against small businesses.

It is important that the Congress understands that small business accounts for more than half of all the private sector jobs in this country. The public has seen statistics showing that new and small firms—of 100 employees or less—account for about three-quarters of all the new jobs in the economy, 48 percent of the gross domestic product and 43 percent of the gross national product. As bankers tighten up credit and screen borrowers more carefully, the small businessman finds it difficult to borrow at all even if he is willing to pay the 20 percent interest rate.

Personal bankruptcies rose to a record 397,958 in 1980, a 72-percent jump over 1979; almost as many white collar individuals go bankrupt as blue collar workers and 37 percent earn more than $15,000 per year.

Some 48 percent have some college or a college degree and the greatest number are in the 25 to 34 age bracket. The collapse in the number of business loans caused the increase of new bank loans for all purposes to fall from 101.2 billion in 1979 to 34.1 billion in 1980. Small businesses in every sector of the economy are failing from this strict credit availability. In 1980, corporate after-tax profits pegged at $189.9 billion were estimated to be 3.5 percent less than their level of $196.8 billion in 1979. But at $43.3 billion, the inventory valuation for 1980 was the largest for any year ever, and so was the depreciation allowance at $18.1 billion.

Adjusting for these facts, corporate after-tax profits were down 7 percent from their 1979 levels. Furthermore, when inflation is taken into account—the GNP deflator was at least 9 percent in 1980—corporate after-tax profits had dropped 16 percent from the 1979 levels.

We are constantly reminded that small business keeps alive the American dream—that a person can control his own destiny—that he or she can prosper by their own efforts. The well-being and the success of American small business has great implications and therefore it is imperative that these businesses have a chance to operate and produce. High interest rates jeopardize these efforts to produce and accordingly high interest rates must be brought under control.

NEVADA VETERANS

Mr. CANNON. Mr. President, several days ago, on July 4, our Nation paused to celebrate our independence and to pay tribute to those brave American soldiers who fought for our country's freedom 205 years ago.

Those first soldiers also became America's "first" veterans. Today, in my State alone, there are an estimated 95,821 veterans—veterans who fought just as gallantly and selflessly as those who fought during our war of independence. Today, in my State alone, there are countless numbers of veterans organizations working effectively to help Nevada veterans—organizations as diverse as the American Legion, the Veterans of Foreign Wars, and the Disabled American Veterans Association, the American Military Retirees Association, the Jewish War Veterans Association, the Nevada Chapter of the Vietnam Veterans of America, Reserve Officers Association, and Retired Officers Association.

It is well that these organizations continue to function effectively in America today for in the country at large there has been an apparent and unfortunate erosion of public concern with the problems veterans face not simply during their period of readjustment to civilian life but often throughout their lives.

We can see this in the recent challenge to veterans' preference for Federal and State jobs. We can see this in the recent administration proposals to cut $131 million out of veterans' counseling, employment and education programs. We can see this in Budget Director David Stockman's recent refusal to release $31 million in veterans' funds he had tried to

bottle up—funds which were originally authorized by the Senate to provide 1,300 employees in veterans' health care facilities and research programs.

One factor which is largely responsible is the state of our economy. Inflation is in my mind the veterans' worst enemy today, for it has resulted, as we know, in the feeling that Government is largely responsible for this, and that Government expenditures must be cut. And when the public is in a cutting mood, veterans' programs are as likely as any—indeed, more likely than some—to fall under the ax.

Cooper T. Holt, executive director of the Washington office of the VFW, well described the situation in the June issue of VFW's Action Reporter, when he said that—

> There is a big difference between veterans' programs and many other government programs. Veterans' programs clearly represent fundamental national obligations and responsibilities—just as national defense and foreign policy. Savings are understandable. All Americans must tighten belts, including veterans. But, the debt owed to those who fought must and will be paid.

Fortunately, Congress has acted to blunt the effect of the Reagan administration's plan to drastically reduce veterans' spending in the upcoming fiscal year. The Senate has approved a resolution to order the OMB to release the $31 million in VA health care staffing funds which had been deferred earlier this year. The Senate has also approved a compromise to restore $450 million of the $744 million in outlays scheduled to be cut from veterans' spending on health care, hospital construction, readjustment benefits for Vietnam-era veterans and other programs. The bulk of the restoration—some $350 million—goes to health care systems which were hardest hit by the budget ax.

Maintaining an adequate level of staffing at VA hospitals and clinics is one of those basic protections for the disadvantaged that should not be cut back to achieve fiscal restraint. I support the President's position that he wants to streamline the bureaucracy and reduce the size of Government. However, the funds in question are an important component of the VA health care system. I believe that the Senate has, by its actions, sent a loud and clear message to the President that veterans' needs and obligations should not bear a disproportionate share of the budget cuts.

In my own State, hospital and health care requirements of veterans are not adequately met. At the present time, veterans in Nevada are served by only one VA hospital located in Reno. Veterans in more populous southern Nevada have no VA facilities, except for limited services provided by an outpatient clinic in the Las Vegas area, and are therefore almost completely dependent on VA hospitals in crowded Los Angeles, 300 miles away.

Yet, the Las Vegas area is believed to be the largest isolated metropolitan population of veterans in the United States. There are over 60,000 veterans in southern Nevada, including what has been considered the highest percentage of Vietnam-related service veterans in the country. It is for this reason that Senator LAXALT and I introduced two bills earlier this year. S. 513 would provide for the construction of a VA hospital in southern Nevada. S. 514, the "Beds for Vets' bill, would provide hospital care facilities operated by the Veterans' Administration within a reasonable distance of veterans with service-connected disabilities who live in the area of Las Vegas, Nev.

I once again urge serious consideration of these proposals and it is my hope that the 97th Congress and the new administration will give this problem the expeditious consideration it warrants.

Time is of the essence in providing improved legislative programs for veterans, essential to their economic, medical and social well-being. The Congress has a clear moral, and political obligation to pass and sign into law, before Congress adjourns this fall, legislation which will displace worry, privation, and inadequate health care among large numbers of veterans, substituting broadened opportunities for community service and an assurance that they will be able to live in dignity, decency, and self-improvement.

I applaud the efforts to put the Federal Government back on a sound financial footing, so long as veterans are not required to take a disproportionate share of the load.

JUDGE WILLIAM P. CLARK'S RAVE REVIEWS

Mr. BAKER. Mr. President, last February the Foreign Relations Committee went through a rather unpleasant hearing and subsequent vote on the confirmation of William P. Clark of California to be Deputy Secretary of State.

Many of our colleagues had questions about the qualifications and wisdom in the appointment. However, in the end, the committee voted to report the nomination favorably and later the Senate confirmed Judge Clark for the No. 2 position at the State Department.

Almost 6 months have passed since our action. Those of us who had confidence in Judge Clark and in the President's nomination have been very pleased, indeed, to hear glowing reports of the fine work and performance of the new Deputy Secretary.

Many of those reviews are now becoming public. For instance, I was pleased to read in the current Newsweek, dated July 13, about "Haig's Guidance Counselor" which talks of the "good judgment * * * pleasantly surprised * * * political wisdom and restraint * * * impressed * * *" accolades he has received.

I ask unanimous consent that the entire article be placed in the RECORD so all of our colleagues can read about Judge Clark's performance.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Newsweek, July 13, 1981]

HAIG'S GUIDANCE COUNSELOR

He was unable to name the Prime Minister of South Africa, talk about NATO opposition to tactical nuclear weapons in Europe or comment on the dramatic split in Britain's Labor Party. In fact, at his confirmation hearing before the Senate Foreign Relations Committee last February, Deputy Secretary of State-designate William P. Clark seemed almost uniquely ill-suited for the job.

He isn't. As the second highest official at State, Clark, a former justice on the California Supreme Court and, before that, chief aide to Gov. Ronald Reagan, has learned his lessons well and proved himself diplomatically adept. But his real value isn't his developing foreign-policy skills. It is his role as damage-control officer and chief guidance counselor in dust-ups between his sometimes unpredictable boss, Secretary of State Alexander M. Haig, Jr., and the White House. During his five months at Foggy Bottom, Clark has been on the phone up to six times a day with old friends at the White House—including top aides Edwin Meese III and Michael K. Deaver—to contain controversies swirling around Haig. Just recently, Clark had to steer the headstrong Secretary away from demanding a personal apology from the President for some critical comments by White House aides that made the newspapers. When Clark took himself out of the competition for a Supreme Court appointment, some White House staffers were frankly relieved. As one put it in a mixed metaphor, "Clark's pretty important where he is to keep a loose cannon on the reservation."

"Trusted": While mediating between Haig and Reagan's men at the White House and the Pentagon, Clark has developed a genuine admiration for the Secretary. "What he tells me," says Deaver, "is that you can't believe the amount of respect that foreign leaders . . . have for this guy [Haig] and that Al is so supportive of the President's policies when he talks to them. Bill immediately became a fan of Al Haig's—yet he's absolutely trusted by Ed [Meese] and me."

In fact, Clark has not hesitated to take Haig's side on many issues. "Either fire him or support him," Clark told a stunned White House senior aide at one point. On another occasion, Clark's spirited defense of Haig prompted Deaver to ask: "Are you criticizing the White House?" "Yes," the Deputy Secretary replied. Still, there is a limit to what Clark's clout at the White House can do for Haig if he continues to generate friction. The next test of Haig as a team player will come this weekend, when he sits down with United Nations Ambassador Jeane J. Kirkpatrick to discuss their differences over negotiating the U.N. resolution that condemned Israel's raid on Iraq's nuclear reactor. They will also discuss the diplomatic chain of command—and whether Kirkpatrick reports to Haig or the White House.

Such internal diplomacy has kept Clark from digging as deeply as he might like into the intricacies of foreign affairs. But he demonstrated his skills in the field on recent visits to South Africa and Western Europe. In Cape Town, for example, he rejected a loaded invitation from Prime Minister Pieter W. Botha to watch a military patrol in Namibia hunting for Cuban-supported guerrillas on the Angolan border. Clark's concern was political—how photographs of State's No. 2 on patrol with South Africans in Namibia would play back home and in Black Africa. When Botha became incensed and threatened to end their talks before they had even begun, Clark called his bluff by ordering his own party to pack for the trip home. Eventually the South Africans came around, even making new concessions by agreeing to cooperate with Namibian independence talks sponsored by the United Nations. South African officials later said that Clark was better informed than they had expected, although he leaned heavily on Assistant Secretary of State for African Affairs Chester A. Crocker for details. At one point, for example, South African Foreign

Minister Roelof (Pik) Botha tried to maneuver Clark into a private discusson; Clark refused, demanding that Crocker remain in the room for the talk with Botha.

In Paris, Clark sat in for Haig at last month's meeting of the Organization for Economic Cooperation and Development—stressing the somewhat unpopular White House line that a Reagan economic policy based in part on tight money would produce tangible benefits for the global economy. "He knew which end was up," reported one diplomatic source. Again, most of the backstage work was done by others—in this case, William E. Brock, the President's trade representative, and Myer Roshish, Under Secretary of State for Economic Affairs.

Clark has no plans to fill the five $50,000-a-year staff jobs to which he is entitled, and thus he is poorly positioned to develop independent opinions or policy options. But Haig values his good judgment and political shrewdness, and many State Department veterans are pleasantly surprised as well. In early spring, for example, Clark fired off a stiff note to Israel's Ambassador Ephraim Evron, warning that "unreasonable" opposition by his government to the sale of U.S. AWACS surveillance jets to Saudi Arabia might damage relations between Washington and Jerusalem. A fortnight ago, Clark sent an equally strong note to Amnesty International that defended U.S. policy on El Salvador.

"The Judge": More and more, Haig asks his deputy's opinion at policy briefings, which Clark often tries to speed up or cut short so that decisions can be made more quickly. And Clark has added elements of political wisdom and restraint to State's negotiations with the White House over sensitive ambassadorial positions. "Every time we've dealt with Clark, we've been impressed," says one senior State official. "If I have a complaint, it's that the Judge"—as Clark likes to be called—"doesn't do more." Given his penchant for controversy, Haig may have the same complaint.

RECEIPT OF THE 1981 ANNUAL REPORT OF THE FEDERAL OLD-AGE AND SURVIVORS INSURANCE AND DISABILITY INSURANCE TRUST FUNDS

Mr. THURMOND. Mr. President, as the President pro tempore of this body, I have received the 1981 annual report of the Board of Trustees of the Federal Old-Age and Survivors Insurance and Disability Insurance Trust Funds. This report is available for review by my colleagues in my office.

RECEIPT OF THE 1981 ANNUAL REPORT OF THE BOARD OF TRUSTEES OF THE FEDERAL HOSPITAL INSURANCE TRUST FUND

Mr. THURMOND. Mr. President, as the President pro tempore of this body, I have received the 1981 annual report of the Board of Trustees of the Federal Hospital Insurance Trust Fund. This report is available for review by my colleagues in my office.

RECEIPT OF THE 1981 ANNUAL REPORT OF THE BOARD OF TRUSTEES OF THE FEDERAL SUPPLEMENTARY MEDICAL INSURANCE TRUST FUND

Mr. THURMOND. Mr. President, as the President pro tempore of this body, I have received the 1981 annual report of the Board of Trustees of the Federal Supplementary Medical Insurance Trust Fund. This report is available for review by my colleagues in my office.

RECEIPT OF THE SUMMARY OF THE 1981 ANNUAL REPORTS OF THE SOCIAL SECURITY BOARDS OF TRUSTEES

Mr. THURMOND. Mr. President, as the President pro tempore of this body, I have received the summary of the 1981 annual reports of the Social Security Boards of Trustees. This report is available for review by my colleagues in my office.

MANDATORY VEHICLE EMISSION CONTROL PROGRAM

Mr. THURMOND. Mr. President, I ask unanimous consent to have printed in the RECORD Resolution No. 78, which was adopted by the Pennsylvania State Legislature.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

HOUSE RESOLUTION No. 78

Whereas, Immediate implementation of the mandatory vehicle emissions control inspection/maintenance program will impose severe costs and burdens on Pennsylvania motorists; and

Whereas, Doubt exists whether the estimated benefit from the mandatory vehicle emission control program justifies the cost and burden which will be imposed upon Pennsylvania motorists by this Federal inspection requirement; and

Whereas, A thorough review of the Federal Clean Air Act requirements for mandatory automobile emissions control inspection/maintenance programs is both necessary and urgent; therefore be it

Resolved (the Senate concurring), That the General Assembly of the Commonwealth of Pennsylvania memorialize the Congress of the United States of America to:

(1) undertake a thorough review of the Federal Clean Air Act, insofar as it requires mandatory vehicle emissions control inspection/maintenance programs, in order to determine whether the estimated benefits of this program justify the costs and burden that this program would impose upon motorists;

(2) amend the Federal Clean Air Act to delay implementation of the vehicle emissions control inspection/maintenance program until the Congress completes its review of this program; and

(3) assure that any such delay in the implementation of the vehicle emissions control inspection/maintenance program apply to states that are subject to implementation deadlines imposed by court order or consent decree; and be it further

Resolved, That copies of this resolution be transmitted to the presiding officers of each House of the Congress of the United States and to each Senator and Representative from Pennsylvania in the Congress of the United States of America.

AMENDMENT OF THE FEDERAL LAND POLICY AND MANAGEMENT ACT OF 1976

Mr. THURMOND. Mr. President, I ask unanimous consent to have printed in the RECORD Resolution No. 40, adopted by the Montana State Legislature.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION No. 40

Whereas, subsection 303(c) of the Federal Land Policy and Management Act of 1976 (FLPMA) authorizes enforcement personnel to carry firearms, make certain arrests without warrant, and search for and seize evidentiary items without warrant under certain circumstances; and

Whereas, subsection 314(a)(1) of the FLPMA requires the filing of a notice of intent to hold a mining claim, an affidavit of assessment work performed thereon, or other detailed report as required by 30 U.S.C. 28-1, in the office where the location notice or certificate is recorded; and

Whereas, subsection 314(c) of the FLPMA states that the failure to file such instruments as required by subsection (a) shall be considered conclusively to constitute an abandonment of the mining claim or mill or tunnel site; and

Whereas, the Fourth Amendment of the Constitution of the United States provides that the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures shall not be violated; and

Whereas, the Fifth Amendment of the Constitution of the United States provides that no person shall be deprived of life, liberty, or property without due process of law; and

Whereas, it is a longstanding principle of law that abandonment does not depend on rules or customs of mining but is largely, if not entirely, a matter of a locator's intention, which is to be determined from his acts and statements.

Now, therefore, be it resolved by the Senate and the House of Representatives of the State of Montana, That the Congress of the United States is most earnestly requested to amend the Federal Land Policy and Management Act of 1976 (Public Law 94-579) by deleting therefrom subsections 303(c), 314(a)(1), and 314(c).

Be it further resolved, That the Secretary of State shall send copies of this resolution to the President of the United States, Governor Ted Schwinden, and to each member of the Congress of the United States.

ARCTIC SCIENCE POLICY

Mr. THURMOND. Mr. President, I ask unanimous consent to have printed in the RECORD Resolution No. 40, adopted by the Alaska State Legislature.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION No. 40

Whereas the Arctic contains resources, including petroleum, strategic minerals, and fish, which are of vital importance to the nation; and

Whereas the Arctic has national strategic importance due to its location; and

Whereas activities related to defense are particularly difficult in the Arctic environment; and

Whereas the Arctic environment poses unique health problems and has effects on health that are not adequately understood; and

Whereas in many instances the scientific and industrial communities lack information on which to base decisions to develop Arctic resources, conduct military operations, or understand Arctic health problems; and

Whereas only a long-term, coordinated research program can develop the necessary Arctic expertise; and

Whereas a research program requires the partnership of government, industry, the

scientific community, and others, which partnership does not presently exist;

Be it resolved, That the Alaska State Legislature requests Congress to convene hearings on developing an Arctic science policy.

CRATER LAKE STAGE OF THE SNETTISHAM HYDROELECTRIC PROJECT

Mr. THURMOND. Mr. President, I ask unanimous consent to have printed in the RECORD Resolution No. 45, adopted by the Alaska State Legislature.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION No. 45

Whereas the United States Department of Energy, Alaska Power Administration, recommended that the United States Army Corps of Engineers proceed with the Crater Lake stage of the Snettisham hydroelectric project; and

Whereas the Crater Lake stage was authorized by the United States Congress through the Flood Control Act of 1962; and

Whereas the Crater Lake stage is an economically, environmentally, and technically feasible renewable energy project that should be constructed as soon as possible; and

Whereas appropriations in the amount of $4,400,000 are needed during fiscal year 1982 in order for the project to proceed in timely fashion; and

Whereas the completion of the Crater Lake stage will provide a source of renewable energy for the municipality of Hoonah utilizing a planned transmission line, including an equal energy load for a substantial mining operation en route;

Be it resolved, That the Alaska State Legislature respectfully requests the United States Congress to appropriate to the Army Corps of Engineers the money necessary for construction to begin during fiscal year 1982 on the Crater Lake stage of the Snettisham hydroelectric project.

THE 41ST ANNUAL CONVENTION OF THE NATIONAL FEDERATION OF THE BLIND

Mr. THURMOND. Mr. President, today, I rise to bring to the attention of my colleagues the very real problems which blind persons face as they struggle for independence and first-class status in our country. Almost one-half million of our citizens are blind, and they are ably represented by their own national organization, the National Federation of the Blind.

Throughout my service in Congress, it has been my privilege and honor to work closely with the National Federation of the Blind and particularly, with the outstanding leaders of the blind in South Carolina, among them, the first vice-president of the National Federation of the Blind, Donald C. Capps of Columbia.

As I have worked with these people, I have learned that one of the primary problems the blind face is one of public attitudes and lack of social acceptance. Blindness is often perceived by many as a tragedy; yet, I know from my associations with the leaders of the Federation that blindness need not become the disaster it is often thought to be. The key factors are proper training and a fair opportunity to compete.

This, Mr. President, leads me to express my concerns on behalf of the blind of our Nation. Over the years we have passed many laws which we thought would extend benefits, services, and opportunities to the blind, but, Mr. President, we are now learning that promises sometimes have not been fulfilled. There may be many reasons for this, and although I do not have all of the answers. I do know that more money and more programs do not necessarily translate into better lives for our citizens. This is the message I have heard from the blind today.

Mr. President, the National Federation of the Blind is currently in the midst of its 41st annual convention, and I was honored to speak at their rally today outside the Capitol. At that rally, Dr. Kenneth Jernigan, president of the National Federation of the Blind, spoke forcefully of the concerns of the blind in this country. Dr. Jernigan is an eloquent and articulate spokesman on behalf of blind Americans, and I urge all of my colleagues in the Senate to consider his thought-provoking message. In order that each may do this, Mr. President, I ask unanimous consent to have the text of the remarks by Dr. Jernigan printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

WE HAVE COME TO THE CAPITOL

(By Kenneth Jernigan)

We, the blind of this country, have come to the nation's Capital to talk with the leaders of our government and the members of the public-at-large. We do not come with protest; we do not come with complaint; we do not come with anger. Instead, we come with hope; we come with belief; and we come with determination.

Today there is a new mood in the land, a reexamination of values and goals. Some are afraid of the newness, but we are not afraid. Change has come before, and it has been good or bad depending upon how it has been dealt with and understood. In 1933 a change came, and some cried out and wept for the days that were gone. They looked back and wished that the past would return. But we did not look back or weep for the past, for in the main it had brought us only isolation, loneliness, and poverty. Throughout the long centuries we had experienced lack of opportunity, lack of jobs, lack of acceptance, and lack of understanding. Most of us had no help and no hope.

The newness in 1933 brought change, and it also brought the promise of better lives for the blind. Some of that promise has been fulfilled, but much of it remains a hope deferred and a dream delayed. Since 1933 a growing number of government and private agencies have been established to give us services, and many of these agencies have been helpful and constructive. But increasingly they have turned away from their original purpose to build empires and enlarge their staffs. Service has become secondary. More and more the primary purpose of far too many of the agencies has become the perpetuation of the system and the growth of power. They have forgotten that they were created to be servants and have sought to become masters. They now try to dominate, control, and custodialize us. They treat us like children and wards.

But no more! Now, in 1981, another time of newness has come; and, as in 1933, we are not afraid. We do not weep for the past or hope that it will return, for the years ahead can be better for us than any we have ever known. We do not want to go back to the pre-1933 days of isolation, neglect, and poverty; nor do we want to go back to the pre-1981 days of custody, control, and half fulfilled promises.

Some have oversimplified the relation of citizens to agencies of government. They have said that we must either be in favor of more money, bigger bureaucracy, and service to people—or less money, reduced bureaucracy, and no service to people. This is not the way it is. It is not the way we as blind people have experienced it in our daily lives.

Earlier this year the President of our Salt Lake City Chapter was cursed and beaten by an employee of the Utah State Agency for the Blind. He as an individual (and we as an organization) had dared question the audit of that agency. The agency employee who beat and cursed him was not fired. A month later he hit him again (this time in the back), causing contusions of the spine, absence from work, and medical treatment. The agency employee has now been convicted of criminal assault, but so far as I know, he has still not been fired. He continues to draw his paycheck from the government for the "service" he gives to the blind.

In Cleveland blind food service operators (in order to have the opportunity to work) were compelled to sign an agreement that the agency had the right to tell them what kind of food to eat, when to change their underwear, and what type of deodorant to use. In Cincinnati and Houston blind workers in the sheltered shops are even now fighting for the right to organize and to have minimum wages. Part of what they fight is federal rules and regulations which encourage the substandard conditions.

In Phoenix a blind sheltered shop employee has done higher production than a sighted employee doing exactly the same job, but he is paid lower wages. Federal regulations permit it. In Alabama the former head of the state's federally established rehabilitation program went to the federal penitentiary this year for stealing money appropriated for the handicapped. In Michigan a blind man passed a State Civil Service test for automobile mechanic, with a score of 96. Government officials removed his name from the list and placed it on a separate register for the handicapped. All of the handicapped who apply for Civil Service jobs in Michigan are now to be given uniform scores of 70 and have their names placed on the segregated register.

Last year in Florida and in the state of Washington, agencies of government tried to take children from their mothers on the grounds that blind mothers cannot properly raise their children. There are many in this audience today who are living proof to the contrary, and we of the National Federation of the Blind were able to defeat both attempts.

No, we the blind are not afraid of the newness which lies ahead. We are glad to leave behind us those elements of the past which have been negative, and we are equally glad to bring with us into the present and the future those elements which are positive and good. We want to give up the isolation and poverty of the pre-1933 days, but we want to keep the good will and the kind intentions. We want to give up the custody and the agency domination of the pre-1981 days, but we want to keep the opportunities and the services which are truly needed. Most of all, we want the right and the chance to do for ourselves and live as equal citizens.

Many of the government agencies (and the people who run those agencies) are well-suited to the newness in the land. We will work to help them get funding, and we believe that our Congress and our President will want them to have it. We will work with equal vigor to see that those agencies which live in the past and try to custodalize and control our lives are either reformed and restructured, or put out of business. Again,

we believe our Congress and our President will help us do it.

We the blind have come of age, both as a people and a movement. Our journey to freedom has been slow and painful—but we feel that this is a time of infinite possibility and great opportunity. It can also be a time of challenge and threat. The future is not fixed and determined but alternative and flexible. It will be what we make it, and this is why we have come today to the nation's Capitol. We ask for acceptance and understanding, both from our Congress and from the Executive branch of Government. We know that achievement is made of high hopes and hard work, of drudgery and dreams. We are willing to work, and work hard—but we also hope, and we dare to dream. We believe that, through understanding and good will, the officials of our government and the members of the general public will help us find the opportunity to work, and will share with us the joy of our hopes and the wonder of our dream.

PHILIP KLUTZNICK ON THE MIDEAST SITUATION

Mr. PERCY. Mr. President, Philip M. Klutznick, former Secretary of Commerce who has served also as president of the World Jewish Congress and B'nai B'rith International, has written an assessment of the Mideast situation following the Israeli air strike on the Iraqi reactor. His article appeared in the Christian Science Monitor of June 19, 1981.

Because Secretary Klutznick is so respected by Members of Congress, and because he is so knowledgeable of events in the Middle East, I ask unanimous consent that his article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

OUR NUCLEAR AFFLICTION

(By Philip M. Klutznick)

Any act using military power by one nation against another in these days of a perilously over-armed universe can hardly be cause for celebration. Generally, the nation that undertakes such action claiming it was done to avoid impending danger to its own security is entitled to have its case fairly examined by public opinion. Yet, one cannot escape admitting that the burden of proof is on the nation that acts.

Unfortunately, nearly all of us who react lack the intimate knowledge on which Israel acted; nor do we Americans possess the full information on which our government has decided to temporarily suspend additional F-16 deliveries to Israel. Furthermore, it would be unnatural for me as an American Jew not to hope that Israel was justified in its action and will satisfactorily meet its burden of proof. Still, I feel I must raise certain questions and thoughts which beg for answers especially as they come from agonizing friends, not enemies, of the Jewish state:

(1) In the short run, what damage has been done to the Habib mission and was the timing of Israel's strike unavoidable? In retrospect, American diplomacy had avoided an impending military confrontation between Israel and Syria and further raised hopes for a possible resolution of the Lebanese situation. Why did Israel act at this time and without consultations with the United States, thus endangering present regional peace while claiming to safeguard Israeli security in years ahead?

(2) Was the timing of the Baghdad raid inspired by Israel's June 30th election as seems to be the case? Even if the Israeli position as seems to be the case? Even if the Israli position of acting in self-defense is accepted, could not the action have been delayed just a few weeks, long enough to avoid tarnishing it with the suspicion that it was—even partially—an election ploy?

(3) Most imperative in the short run is the effect this act might have on Egyptian-Israeli relations, especially in light of the Sadat-Begin meeting held but days before the strike into Iraq. Camp David and Egypt are the only peace games in the Middle East. Anything that diminishes the political strength of Egypt or the significance of Camp David makes more consequential peace initiatives in the area far more difficult. Instead of increasing the prospects for true Israeli security, do not such actions reduce security by threatening regional stability, inflaming passions, and by further isolating both Egypt and Israel?

(4) Finally, what of the problems created for Israel's most reliable national friend, the United States? The Reagan Administration's frequently avowed regard for Israel as a "strategic asset" is already disturbed by the AWACs issue and now will face internal decisions and U.N. problems not easily reconcilable to the satisfaction of either Israel or the U.S. Having accepted an arms dependency relationship with the United States, can Israel reasonably insist on taking actions unacceptable and unexplainable to many and which threaten American regional interests?

Yet the short-run problems will fade, leaving scars that are presently unpredictable. The greater fears that deeply concern me are the long-term implications for world order of Israel's action. There will be a never-ending difference between Israel and her acknowledged national enemies as to whether or not the act was justified in international law and usage as self-defense. Yet, looked at beyond the politics of the moment, and even accepting the Israeli claim of Iraqi intentions, there remain certain fundamental and gnawing questions which go to the heart of the Camp David peace process and to the basis of today's international society.

A rather ominous precedent has now been set. What is "sauce for the goose is sauce for the gander." Tomorrow, Iraq or some other unfriendly nation can indulge in a "suicide mission" on Israel's Dimona reactor, or India can turn on Pakistan, the Soviet Union on China. Israel has totally avoided this discussion as if only Israel's interests are vital, only Israel's existence threatened. Yet in effect, Israel has breached the long and worrisome efforts to secure a measure of restraint in the nuclear age, Israel's unilateral act creating a sense of anarchy and permissiveness hitherto beyond acceptability.

The Israeli government along with a number of friendly American commentators have compared Israel's action with the proposed action of the U.S. during the Cuban missile crisis—even though the Americans followed a diplomatic course and avoided military action.

I was an Ambassador on the American delegation at the U.N. in those days. And I remember vividly the painful week through which Ambassador Stevenson and other top government officials passed debating what steps the U.S. should take. The tension of a possible nuclear war was not easy for anyone to contemplate. The President, who doubtless favored a "surgical strike" if necessary, rightly decided to give the Soviets and the Cubans a way to step back. I was in the Security Council when Stevenson, in uncharacteristically turgid language, use the now historic phrase that he "would wait for an answer (from the USSR) until hell freezes over!" I can never forget the horror of that week, nor the sense of relief when the crisis evaporated. Anyone who lived through those days cannot be overjoyed by this latest development, no matter how necessary it may have appeared to be to some. For now the devil of preemptive attack has been unsheathed—all the worse for Israel having acted without clearly exhausting all opportunities for reaching a general peace in the region which is surely the only way in the long term to safeguard Israel's security.

Without strenuous efforts in pursuit of a comprehensive Middle East peace structured on the foundation of the Camp David understandings, Israel's action may well stimulate rather than retard a highly destabilizing arms race. Just a decade ago Israeli bombing near Cairo had that very result. Today, such a new regional arms race might well go beyond conventional weapons.

But the greatest lesson that can be drawn from these events is that the world rests on the edge of a nuclear precipice. Whether it is between the superpowers or in a regional context in Asia or the Middle East, one single bomb of today's sophistication could unleash a holocaust for mankind. The great powers and Europe have been living for some time under a powerful nuclear Sword of Damocles. Now Israel has struck out against the potential of facing a similar reality.

It behooves the superpowers to get on with serious arms limitations talks and together with other nations on the verge of nuclear abilities to develop a foolproof "fail safe" political and security program to protect us from our own rashness. Proclaiming "holy wars" or threatening use of nuclear weapons—two events which clearly precipitated Israel's action—hardly encourage restraint. But without superpower leadership, regional actors are encouraged to act irresponsibly. Consequently George Kennan's recent call for "a bold and sweeping departure" from our present collision course through a quickly negotiated bilateral reduction in nuclear weapons deserves profound contemplation.

For Israel's action is but a symptom of the threat to which we are all ominously exposed. We are caught under a nuclear burden and have yet to remove or even lighten it.

THE BUDGET RECONCILIATION ACT

Mr. PERCY. Mr. President, on June 25 the Senate passed the Omnibus Reconciliation Act by a vote of 80 to 15. I voted for this measure that is the first step toward fulfilling our pledges to put the U.S. economy on a sounder footing.

This legislation is a landmark in almost any sense in which it is viewed. It is a landmark because of the size of the budget reductions included in it: $141 billion for fiscal years 1981 to 1984. Congress has never attempted to grapple with budget reductions of this magnitude. Last year, it is true, we did pass the very first reconciliation bill ever passed by Congress and it has saved the taxpayers of this country billions of dollars. But that reconciliation bill was well under $10 billion in its total savings and a large part of last year's legislation related to revenue-raising measures. So the actual spending reductions per se were less than $4 billion.

The bill we passed on June 25 will slice off nearly $40 billion in just fiscal year 1982 alone. That is a tremendous change from last year's bill. These budget cuts take on an even larger dimension in 1983 and 1984, when cuts of $46 billion and $55 billion, respectively, will be realized.

Mr. President, I ask unanimous consent that a table prepared by the Budget Committee be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

RECONCILIATION BILL TOTALS

[In millions of dollars]

	Fiscal year 1981		Fiscal year 1982		Fiscal year 1983		Fiscal year 1984	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
Direct spending:								
Committee recommendations	−343	−732	−8,192	−13,664	−9,634	−15,831	−11,074	−18,204
Instructions to committees	−498	−745	−6,640	−12,595	−7,910	−15,278	−8,898	−17,334
Authorizations:								
Committee recommendations	−8,807	−914	−46,504	−25,967	−49,822	−30,261	−56,139	−35,828
Instructions to committees	−12,152	−776	−44,054	−22,571	−49,689	−31,164	−57,118	−38,398
Grand total:								
Committee recommendations	−9,150	−1,646	−54,696	−39,631	−59,456	−46,092	−67,213	−54,032
Instructions to committees	−12,650	−1,521	−50,694	−35,166	−57,599	−46,442	−66,016	−55,732

Source: Senate Budget Committee.

Mr. PERCY. Mr. President, the chart very graphically presents the savings that will be realized by this landmark legislation. It outlines the actual savings that have been achieved by S. 1377 and compares those savings with the instructions that were given to committees many weeks ago. Although this chart shows some discrepancy between savings and instructions, let me point out that the Senate adopted amendments that will bring our total savings up to the level of the instructions. I have supported these amendments—cutting still more in Federal spending—to make sure that we achieve the full measure of the cuts requested by President Reagan.

This bill is also a landmark in another manner. It is, as I explained earlier, the first time that the Senate has sought to make major budget cuts in one legislative vehicle. It is the success of this vehicle—the reconciliation bill—that stands as a landmark in itself. Who would have thought just a year ago that the Senate would have the discipline to make cuts in nearly every Government program and bring forth from 14 separate committees spending reductions of this size? Moreover, who would have thought that such a package of reductions could be passed by the Senate by the end of June—just 3 months since the time Senate committees were instructed to make these cuts?

There have been two reasons that we have been able to accomplish these reductions. The first has been the commitment of the Senate Republican leadership and I pay special tribute to the majority leader, my good friend HOWARD BAKER, for organizing committees to meet this deadline. He has done a commendable job as our leader and I congratulate him on it.

The second reason that we have been able to succeed with these spending reductions is the 1975 Budget Reform Act. That law gave us the mechanism—reconciliation—that we are using today to assemble these many reductions.

I am pleased to have been a coauthor of the Budget Reform Act of 1974. It originated in our Government Operations Committee and was shaped in cooperation with the Senate Rules Committee. We have operated under the budget process since 1976 and it has given us a semblance of business-like fiscal management. The budget process is a vast improvement over the chaotic situation that existed when I came to the Senate and under this process, we have a complete picture of spending and revenue, rather than the piecemeal approach of previous years.

The reconciliation bill—reconciling actual spending with the spending targets in the budget resolutions—has proven this year to be a vital and essential part of the budget process. With the proper discipline and will, we are proving that Congress can bring about fiscal responsibility. With the passage of this bill, we are on a straight road to a balanced budget, as promised by President Reagan in his budget message earlier this year.

Mr. President, I must say that I think we have done a fairly good job of dealing with matters that were somewhat extraneous to this budget plan. Under the Budget Act, the Budget Committee does not have any authority whatsoever to change spending reductions made by the individual committees. Their job is to package the recommendations into one bill.

Some committees added extraneous, nonbudgetary items to their spending reductions. These items did not reduce spending in any real way. Rather, the relevant committees saw the reconciliation bill as a vehicle for reauthorization of programs that would have otherwise had to proceed on their own merit. The majority and minority leaders did work out an elimination of many of these extraneous items and the Senate passed those in the first day of debate. The reconciliation process is too important to undermine with nonbudgetary items and it was essential for us to keep it centered on its primary purpose: the reduction of Federal spending.

A great many amendments have been offered to this bill. I voted against those amendments that would have added millions of dollars of additional spending to the budget. Now is not the time to be adding to the $695 billion budget we have—up from the $655 billion budget of 1981. Even with the major reductions of this legislation, spending will still increase in 1982 over this year's levels. We are cutting as deep as we can, but essential programs for the truly needy will be maintained and will actually increase in terms of their share of the total budget. We are also increasing defense spending in the 1982 budget, to make up for the neglect of the past decade.

I am also pleased that steps were taken in the course of the debate on this bill to move Illinois closer to a position whereby it could qualify for a cap on the penalty tax its employers are paying to the Federal Government for its unpaid debt to the Federal unemployment trust fund. Through passage of an amendment offered by myself, Senator DIXON, and Senator HEINZ of Pennsylvania, the formula for relief from this escalating penalty tax was made more favorable to the State of Illinois. We have received assurances from the chairman of the Finance Committee, Senator DOLE, that every effort will be made in the subsequent joint House-Senate conference on this bill to insure Illinois's ability to qualify for relief from this burden on our State's business community.

MESSAGES FROM THE PRESIDENT RECEIVED DURING THE ADJOURNMENT

Under the authority of the order of the Senate of June 25, 1981, the Secretary of the Senate on June 30, July 1, July 6, and July 7, 1981, received messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received on June 30, July 1, July 6, and July 7, 1981, are printed at the end of the Senate proceedings.)

ANNUAL REPORT OF THE COMMODITY CREDIT CORPORATION—MESSAGE FROM THE PRESIDENT RECEIVED DURING THE ADJOURNMENT—PM 61

Under the authority of the order of the Senate of June 25, 1981, the Secretary of the Senate on July 6, 1981, received the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Agriculture, Nutrition, and Forestry:

To the Congress of the United States:

Pursuant to the provisions of Section 13, Public Law 806, 80th Congress, I hereby transmit the report of the Commodity Credit Corporation for the fiscal year ended September 30, 1980. The period covered by this report precedes my term of office.

RONALD REAGAN.

THE WHITE HOUSE, *July 6, 1981.*

ANNUAL REPORT ON THE OPERATION AND ACTIVITIES OF THE ALASKA RAILROAD—MESSAGE FROM THE PRESIDENT RECEIVED DURING THE ADJOURNMENT—PM 62

Under the authority of the order of the Senate of June 25, 1981, the Secretary of the Senate on July 6, 1981, received the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Commerce, Science, and Transportation:

To the Congress of the United States:

Pursuant to the requirements of the Alaska Railroad Enabling Act of March 12, 1914, I hereby transmit the annual report by the Secretary of Transportation on the operations and activities of The Alaska Railroad during fiscal year 1980. The period covered by this report precedes my term of office.

RONALD REAGAN.

THE WHITE HOUSE, *July 6, 1981.*

PROPOSED AGREEMENT BETWEEN THE UNITED STATES AND EGYPT ON THE PEACEFUL USES OF NUCLEAR ENERGY—MESSAGE FROM THE PRESIDENT RECEIVED DURING THE ADJOURNMENT—PM 63

Under the authority of the order of the Senate of June 25, 1981, the Secretary of the Senate on July 6, 1981, received the following message from the President of the United States, together with accompanying papers; which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

I am pleased to transmit to the Congress, in accordance with Section 123d of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2153(d)), the text of the proposed Agreement for Cooperation Between the Government of the United States of America and the Government of the Arab Republic of Egypt Concerning Peaceful Uses of Nuclear Energy and accompanying annex and agreed minute; my written approval, authorization and determination concerning the agreement; and the memorandum of the Director of the United States Arms Control and Disarmament Agency with the Nuclear Proliferation Assessment Statement concerning the agreement. The joint memorandum submitted to me by the Secretaries of State and Energy, which includes a summary of the provisions of the agreement, and the views and recommendations of the Director of the Arms Control and Disarmament Agency and the Members of the Nuclear Regulatory Commission, is also enclosed.

The Atomic Energy Act sets forth certain requirements for new agreements for peaceful nuclear cooperation with other countries. In my judgment, the proposed agreement for cooperation between the United States and Egypt, together with its accompanying agreed minute, meets all statutory requirements.

The proposed bilateral agreement reflects the desire of the Governments of the United States and Egypt to establish a framework for peaceful nuclear cooperation between our two countries in a manner which recognizes our shared non-proliferation objectives, the economic and energy development needs of Egypt, and the friendly and harmonious relations between the United States and Egypt.

In February, Egypt ratified the Treaty on the Non-Proliferation of Nuclear Weapons. This is an important step toward controlling the dangers of the spread of nuclear weapons, and is a reaffirmation of Egypt's longstanding commitment to the objectives of this Treaty and its commitment to peace and stability in the Middle East and Africa. This proposed agreement fully recognizes this important step.

I believe that this agreement will further the non-proliferation and other foreign policy interests of the United States. I have considered the views and recommendations of the interested agencies in reviewing it and have determined that its performance will not constitute an unreasonable risk to, the common defense and security. Accordingly, I have approved the agreement and authorized its execution, and urge that the Congress give it favorable consideration.

RONALD REAGAN.

THE WHITE HOUSE, *July 6, 1981.*

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PRESIDENTIAL APPROVALS

A message from the President of the United States reported that on July 6, 1981, he had approved and signed the following acts:

S. 1123. An act to permit certain funds allocated for official expenses of Senators to be utilized to procure additional office equipment.

S. 1124. An act to authorize the Sergeant at Arms and Doorkeeper of the Senate, subject to the approval of the Committee on Rules and Administration, to enter into contracts which provide for the making of advance payments for computer programming services.

MESSAGES FROM THE HOUSE RECEIVED DURING THE ADJOURNMENT

Under the authority of the order of the Senate of June 25, 1981, a message from the House of Representatives was received on June 29, 1981, stating that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3520) to amend the Clean Air Act to provide compliance date extensions for steelmaking facilities on a case-by-case basis to facilitate modernization.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The message also stated that the Speaker has signed the following enrolled bills and joint resolution:

H.R. 3807. An act to make technical corrections in the Defense Officer Personnel Management Act;

H.R. 3991. An act to amend the Food Stamp Act of 1977 to increase the authorization for appropriations for fiscal year 1981, and to amend Public Law 93-233 to continue, through August 1, 1981, the cash-out of food stamp program benefits of certain recipients of Supplemental Security Income; and

H.J. Res. 238. Joint resolution to approve a Constitution for the Virgin Islands.

The enrolled bills and joint resolution were subsequently signed by the President pro tempore (Mr. THURMOND) on June 29, 1981.

Under the authority of the order of the Senate of June 25, 1981, a message from the House of Representatives was received on July 7, 1981, stating that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3982. An act to provide for reconciliation pursuant to section 301 of the first concurrent resolution on the budget for the fiscal year 1982.

MESSAGE FROM THE HOUSE

ENROLLED BILL SIGNED

At 12:50 p.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 3520. An act to amend the Clean Air Act to provide for compliance date extensions for steelmaking facilities on a case-by-case basis to facilitate modernization.

The enrolled bill was subsequently signed by the President pro tempore (Mr. THURMOND).

HOUSE BILL PLACED ON THE CALENDAR

The following bill was read twice by unanimous consent, and placed on the calendar:

H.R. 3982. An act to provide for reconciliation pursuant to section 301 of the first concurrent resolution on the budget for the fiscal year 1982.

REPORTS OF COMMITTEES RECEIVED DURING THE ADJOURNMENT

Under the authority of the order of the Senate of June 25, 1981, the following report of a committee was submitted on July 1, 1981, during the adjournment of the Senate:

By Mr. THURMOND, from the Committee on the Judiciary, with amendments, and with an amendment to the title:

S. 114. A bill to establish rational criteria for the imposition of the sentence of death, and for other purposes (with minority views) (Rept. No. 97-143).

Under the authority of the order of the Senate of June 25, 1981, the follow-

ing report of a committee was submitted on July 6, 1981, during the adjournment of the Senate:

By Mr. DOLE, from the Committee on Finance, with an amendment in the nature of a substitute, and an amendment to the title:

H.J. Res. 266. Joint resolution to provide for a temporary increase in the public debt limit (with additional views) (Rept. No. 97-144).

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HUMPHREY, from the Committee on Labor and Human Resources, with amendments:

S. 755. A bill to revise the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 and the Drug Abuse Prevention, Treatment, and Rehabilitation Act (with additional views) Rept. No. 97-145).

By Mr. HUMPHREY, from the Committee on Labor and Human Resources, without amendments:

S. Res. 166. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 755; referred to the Committee on the Budget.

By Mr. JEPSEN, from the Committee on Armed Services, with an amendment in the nature of a substitute:

S. 1181. A bill to amend titles 10 and 37, United States Code, to increase the pay and allowances and benefits of members of the uniformed services and certain dependents, and for other purposes (Rept. No. 97-146).

By Mr. JEPSEN, from the Committee on Armed Services, without amendment:

S. Res. 168. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1181; referred to the Committee on the Budget.

By Mr. DENTON, from the Committee on Labor and Human Resources, without amendment:

S. Res. 170. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1085; referred to the Committee on the Budget;

S. Res. 171. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1086; referred to the Committee on the Budget;

S. Res. 172. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1087; referred to the Committee on the Budget; and

S. Res. 173. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1090; referred to the Committee on the Budget.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PERCY, from the Committee on Foreign Relations:

Paul Herron Robinson, Jr., of Illinois, to be Ambassador Extraordinary and Plenipotentiary of the United States to Canada.

(The above nomination was reported from the Committee on Foreign Relations with the recommendation that it be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

NOMINEE'S COMMITMENT

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Paul H. Robinson, Jr.

Post: United States Ambassador to Canada.

Contributions, amount, date, donee:

(If not, write none.)

1. Self: (see attached.)

2. Spouse: Martha B. Robinson, $800.00, July 1979, Reagan for President; $200.00, November 1979.

3. Children and spouses: Names—Virginia Louise, none.

4. Parents: Names—Mr. and Mrs. Paul H. Robinson, $1,000.00, UK, Reagan for President.

5. Grandparents: Names—none.

6. Brothers and spouses: Names—Mr. and Mrs. William C. Robinson, $1,000.00, UK, Reagan for President.

7. Sisters and spouses: Names—Mr. and Mrs. Shane Bartleson, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

PAUL ROBINSON.

FEDERAL CONTRIBUTIONS

Amount, date, donee:

$25, January 1977, Republican National Committee.

$25, February 1977, Republican National Committee.

$25, March 1977, Citizens for the Republic.

$15, November 1977, Republican National Committee.

$50, Januarv 1978, National Republican Senatorial Committee.

$500, February 1978, Robert Dunne for Congress Committee.

$100, March 1978, Congressman McClory Finance Committee.

$50, May 1978, Bob Dunne for Congress.

$25, May 1978, Citizens for the Republic.

$100, June 1978, Congressman Bob McClory.

$50, August 1978, Goldwater Committee.

$50, August 1978, Dunne for Congress.

$25, December 1978, Republican National Committee.

$100, February 1979, Citizens for the Republic.

$1,000, March 1979, Reagan for President.

$100, March 1979, Porter for Congress.

$100, April 1979, Dunne for Congress.

$25, May 1979, GOP Victory Fund.

$100, May 1979, Bob McClory Finance Committee.

$250, August 1979, Bob McClory Finance Committee.

$100, December 1979, Goldwater Associates.

$25, January 1980, Republican National Committee.

*$743.06, March 1980, Reagan for President.

$25, May 1980, Republican National Committee.

$1,000, June 1980, 1980 Republican Presidential Unity Committee.

$125, June 1980, 1980 Tribute to Phil Crane.

$1,000, June 1980, Goldwater for Senate.

$25, July 1980, Young Republicans National Federation.

$100, August 1980, Goldwater Committee.

$100, August 1980, Hatch Election Committee.

$1,000, September 1980, Citizens for O'Neil.

$500, December 1980, TRTCTRE.

$250, January 1981, Goldwater for Senate.

$400, January 1981, Presidential Inaugural Committee.

$50, February 1981, Republican National Committee.

*Expenses exempted from definition of "Contribution" for Federal Election Law purposes, pursuant to 2 USC Section 431 (8)(B)(ii).

By Mr. GARN, from the Committee on Banking, Housing, and Urban Affairs:

William H. Draper III of California, to be be President of the Export-Import Bank of the United States; and

Jerry L. Jordan, of New Mexico, to be a member of the Council of Economic Advisors.

JOINT REFERRAL OF S. 1442

Mr. BAKER. Mr. President, I ask unanimous consent that S. 1442, the Food Safety Amendments of 1981, introduced by Senator HATCH on June 25, be jointly referred to the Committees on Agriculture, Nutrition, and Forestry and Labor and Human Resources.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. WALLOP (for himself and Mr. BOREN):

S. 1443. A bill to amend the Internal Revenue Code of 1954 to exempt heavy oil from the windfall profit tax; to the Committee on Finance.

By Mr. THURMOND:

S. 1444. A bill to authorize the Administrator of General Services to donate to State and local governments certain Federal personal property loaned to them for civil defense use and for other purposes; to the Committee on Governmental Affairs.

S. 1445. A bill to permit credit for civil service retirement purposes and in computing length of service for purposes of determining leave, compensation, health insurance, severance pay, tenure, and status in the case of certain individuals who performed National Guard technician service before January 1, 1969; to the Committee on Governmental Affairs.

By Mr. MATHIAS (for himself and Mr. PERCY):

S. 1446. A bill to amend Title 18, United States Code, to implement the Convention on the Physical Protection of Nuclear Material, and for other purposes; to the Committee on the Judiciary.

By Mr. MATHIAS:

S. 1447. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income certain savings bonds received by an employee as a service award, and for other purposes; to the Committee on Finance.

By Mr. MATHIAS (for himself, Mr. BRADLEY, Mr. GOLDWATER, Mr. HATFIELD, Mr. NUNN, Mr. MOYNIHAN and Mr. D'AMATO):

S. 1448. A bill to provide for the issuance of a postage stamp to commemorate the seventieth anniversary of the founding of the Girl Scouts of the United States of America; to the Committee on Governmental Affairs.

By Mr. PACKWOOD:

S. 1449. A bill to amend the Internal Revenue Code of 1954 to limit the application of the subsidized energy financing limitations on certain tax credits to Federal subsidies, and for other purposes; to the Committee on Finance.

By Mr. CANNON:

S. 1450. A bill to provide for the continued deregulation of the Nation's airlines, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. CANNON (for himself and Mr. GOLDWATER):

S. 1451. A bill to amend the Internal Revenue Code of 1954 with respect to the exemption from tax of veterans' organizations; to the Committee on Finance.

By Mr. BOREN:

S. 1452. A bill for the relief of the Tonkawa Indians of Oklahoma; to the Committee on the Judiciary.

By Mr. HATFIELD (for himself, Mr. MATHIAS, Mr. INOUYE, Mr. BAKER, Mr. RANDOLPH, Mr. JACKSON, Mr. LEVIN, and Mr. PELL):

S.J. Res. 95. Joint resolution to authorize and direct the Secretary of the Interior, subject to the supervision and approval of the Franklin Delano Roosevelt Memorial Commission, to proceed with the construction of the Franklin Delano Roosevelt Memorial, and for other purposes; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WALLOP (for himself and Mr. BOREN):

S. 1443. A bill to amend the Internal Revenue Code of 1954 to exempt heavy oil from the windfall profit tax; to the Committee on Finance.

HEAVY OIL PRODUCTION TAX INCENTIVE ACT

Mr. WALLOP. Mr. President, today I join with my colleague from Oklahoma, Senator BOREN, in offering an amendment to the Windfall Profit Tax Act that will substantially decrease the tax burden placed on the production of heavy oil. The Heavy Oil Production Tax Incentive Act would exempt heavy oil from the windfall profit tax, and define heavy oil as oil with a gravity of 20° API or less.

The Crude Oil Windfall Profit Tax Act of 1980 is an impediment to maximum recovery of heavy crude oil in the United States. Heavy oil is extremely sensitive to oil prices. Increasing production costs and the additional burden of the crude oil tax will only reduce the production of this domestic energy resource. Placing a tax on heavy oil production is clearly not in the national interest when we are striving to increase domestic energy production and end our vulnerability to disruptions of foreign crude supplies. The tax on heavy oil production should be removed.

Heavy oil is somewhat unique in the petroleum industry in that finding the oil is not the major problem—large accumulations have been identified in many areas. The U.S. Bureau of Mines (USBM) estimates that there are about 60 billion barrels of heavy oil—less than 20° API gravity—in place in this country. Estimates of recoverable reserves range from 3 billion barrels—U.S. Bureau of Mines—to over 5 billion barrels—National Petroleum Council. The actual recoverable reserves, however, will depend on the price of crude oil and associated costs of production. There is a strong relationship between supply and the economics of production of this relatively clearly defined category of crude oil resource. Heavy oil has been shown by a Congressional Budget Office study to be the most responsive among WPT oil categories in terms of potential production increases from improved economics.

Heavy oil is a high density, low gravity crude oil. There is little heavy oil produced through the use of lower lost primary production techniques because it flows at very low rates through the underground formations. Heavy oil deposits must be heated by the injection of steam, which causes the oil to flow more readily and facilitates production. The cost of steam generators, and environmental protection facilities are substantial, especially when viewed in comparison with conventional production facilities.

Additionally, the energy cost of generating the steam for production is a major factor in the cost of producing heavy oil in that it can take as much as 1 barrel of oil to produce 3 barrels of heavy oil. These are a few of the reasons why heavy oil production is very expensive when compared to conventional production. Heavy oil faces another economic barrier since it commands a lower price than lighter oil because of its viscous and high sulfur content. Consequently, refining heavy oil poses additional costs and lower yields.

When the costs of producing heavy oil are coupled with the relatively low price it commands, it becomes clear that the economics of heavy oil production are very sensitive to potential changes in costs. The imposition of an additional cost such as the crude oil excise tax is clearly detrimental.

Mr. President, we face a problem not only from the standpoint of taxing the production of this valuable resource, but heavy oil is also labeled with an inaccurate definition under the Crude Oil Windfall Profit Tax Act. The best way to describe heavy oil is by referring to its API gravity number. The API gravity refers to a system of measurement developed by the American Petroleum Institute (API) where the heavier, more viscous the crude oil, the lower the gravity assigned to it. Most conventional crude oil produced is between 30° and 40° API gravity.

The Crude Oil Windfall Profit Tax Act of 1980 defines heavy crude oil as that with an API gravity of 16° or less. Historically, heavy crude has been defined by the petroleum industry as crude production with an API gravity of 20° or less. The 16° gravity definition is not a cutoff for high-cost thermal production methods, nor is it based on other technical logic.

It originated with an initial Department of Energy crude pricing directive. After further study, however, the Department of Energy modified their original definition from that oil 16° API or less to that oil 20° API or less. Expensive thermal production techniques are used in reservoirs with greater than 16° API oil. It is appropriate and logical to change the definition for tax purposes to an API gravity of 20° or less as this bill would do.

Mr. President, the largest reserves of heavy oil can be found in California, but heavy oil reserves are also found in Texas, Louisiana, Wyoming, Arkansas, Kansas, Oklahoma, and Utah. Current domestic heavy oil production (20 degrees API or less) is about 500,000 barrels per day, approximately two-thirds of which are recovered by thermal production techniques. Our Nation has 120 billion barrels of heavy crude in place, according to the Bureau of Mines. We face a circumstance where known reserves can be produced only if economics of production allow the use of high-cost recovery techniques. Heavy oil is the most price responsive source of future domestic oil supplies. It has been estimated by the National Petroleum Council and the Congressional Budget Office that heavy oil production would increase by 300,000 barrels per day if it were not burdened by the windfall profits tax. There are few instances where a tax reduction can provide such a direct production response as in the case of heavy oil.

Mr. President, I submit that the production of heavy oil should be encouraged as one of the near-term solutions to our energy needs. Providing a favorable climate for the production of heavy oil can be achieved by exempting this category of oil from the Crude Oil Windfall Profit Tax Act. I encourage my colleagues to join me in this effort. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1443

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

(a) IN GENERAL.—Section 4991(b) of the Internal Revenue Code of 1954 (defining exempt oil) is amended—

(1) by striking out "and" in paragraph (3),

(2) by striking out the period in paragraph (4) and inserting in lieu thereof ", and", and

(3) by adding at the end thereof the following new paragraph:

"(5) any heavy oil.".

(b) HEAVY OIL DEFINED.—Section 4994 of such Code (relating to definitions and special rules relating to exemptions) is amended by adding at the end thereof the following new subsection:

"(f) HEAVY OIL.—For purposes of this chapter, the term 'heavy oil' means all crude oil which is produced from a property if crude oil produced and sold from such property during—

"(1) the last month before July 1979 in which crude oil was produced and sold from such property, or

"(2) the taxable period,

had a weighted average gravity of 20 degrees API or less (corrected to 60 degrees Fahrenheit).".

(c) CONFORMING AMENDMENT.—Section 4991(e) of such Code is amended—

(1) by striking out subparagraph (B) in paragraph (1) and redesignating subparagraph (C) as subparagraph (B), and

(2) by striking out paragraph (3) and redesignating paragraph (4) as paragraph (3).

SEC. 2. EFFECTIVE DATE.—The amendments made by this Act shall apply with respect to taxable periods beginning after December 31, 1980.

By Mr. THURMOND:

S. 1444. A bill to authorize the Administrator of General Services to donate to State and local governments certain Federal personal property loaned to

them for civil defense use, and for other purposes; to the Committee on Governmental Affairs.

DONATION OF CERTAIN FEDERAL PERSONAL PROPERTY TO STATE AND LOCAL GOVERNMENTS

Mr. THURMOND. Mr. President, today I am pleased to introduce legislation to authorize the Administrator of General Services to donate to State and local governments certain Federal and personal property loaned to them for civil defense use.

Literally thousands of small communities across our Nation rely heavily on military surplus equipment to help them meet their civil defense needs. Under present law, Mr. President, all this materiel, which has outlived its military usefulness, is merely on loan to the State and local agencies. Since this materiel does not belong to them, these local agencies cannot modify it to make it more suitable for their specific needs.

My bill would authorize the General Services Administration to transfer title to this military surplus property to the State or local governments holding it on the date of enactment, provided that the Director of the Federal Emergency Management Agency certifies it is actually being used for civil defense purposes.

Mr. President, I would like to draw attention to the fact that my bill is similar to one introduced in the House by the distinguished Representative of the 23d District of Illinois, Hon. MELVIN PRICE. His leadership in this important area has long been recognized in Congress. I am pleased to join with him in offering this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1444

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) all Federal personal property which—

(A) was transferred by a component of the Department of Defense to the Defense Civil Preparedness Agency by July 15, 1979,

(B) is, on the date of enactment of this Act, on loan to a State or a State and local government jointly under a written loan agreement executed by such Agency, and

(C) was transferred with the functions and property of such Agency to the Federal Emergency Management Agency,

shall be disposed of in accordance with subsection (b).

(b) Whenever the Director of the Federal Emergency Management Agency certifies that property described in subsection (a) is being used by the State or local government holding such property for a purpose consistent with the purpose for which the property was furnished, the Administrator of General Services shall transfer title to such property to the appropriate State or local government.

By Mr. THURMOND:

S. 1445. A bill to permit credit for civil service retirement purposes and in computing length of service for purposes of determining leave, compensation, health insurance, severance pay, tenure, and status in the case of certain individuals who performed National Guard technician service before January 1, 1969; to the Committee on Governmental Affairs.

COMPUTING SERVICE OF CERTAIN NATIONAL GUARD TECHNICIANS

Mr. THURMOND. Mr. President, today I am pleased to introduce legislation to permit credit for civil service retirement and other benefit purposes for certain individuals who performed National Guard technician service before January 1, 1969.

Under present law, Mr. President, National Guard technicians are permitted credit for service performed prior to January 1, 1969 only if they continued in service beyond that date. This means that technicians who left the Guard before January 1, 1969, for such good reasons as medical disability or to transfer to the Reserve, are presently ineligible for credit for their prior service toward a number of very important benefits.

Mr. President, my bill will correct this situation by allowing credit for all prior service without regard to date of separation. It will provide fair and equal treatment for all those men and women who have served their country as technicians in the National Guard, and guarantee them equal compensation for equal work. Individuals who were separated from the Guard between January 1, 1969, and the date of enactment of this act will have 1 year after enactment to apply for redetermination of length of service for their benefits.

Mr. President, I would like to draw attention to the fact that my bill is similar to one introduced in the House by the distinguished Representative of the 23d District of Illinois, Hon. MELVIN PRICE. His leadership in this important area has long been recognized in Congress. I am pleased to join with him in offering this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1445

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8332(b) of title 5, United States Code, relating to creditable service, is amended by striking out the second last sentence.

SEC. 2. Section 3(c) of the National Guard Technicians Act of 1968 (82 Stat. 757), relating to determining length of service for purposes of leave, employee death and disability compensation, group life and health insurance, severance pay, tenure, and status, is amended by striking out the last sentence.

SEC. 3. (a)(1) Except as provided in paragraph (2), the amendment made by the first section of this Act applies only with respect to individuals separating from the service on or after the date of the enactment of this Act.

(2)(A) In the case of any individual who—

(i) was employed under section 709 of title 32, United States Code, relating to National Guard technicians, or any prior corresponding provision of law, before January 1, 1969, and

(ii) was separated from the service on or after January 1, 1969, and before the date of the enactmentof this Act,

any annuity under subchapter III of chapter 83 of title 5, United States Code, based on the service of such individual shall be redetermined to take into account the amendment made by the first section of this Act, if application is made therefore within one year after the date of the enactment of this Act.

(B) Any change in an annuity resulting from a redetermination under subparagraph (A) shall apply only with respect to monthly payments accruing after the date of the enactment of this Act.

(b)(1) Except as provided in paragraph (2), the amendment made by section 2 of this Act applies only with respect to individuals performing service on or after the date of the enactment of this Act and only for the purposes of determining—

(A) any annual leave accruing under section 6303 of title 5, United States Code, to any such individual on or after such date; and

(B) Federal employees death and disability compensation, group life and health insurance, severance pay, tenure, and status with respect to any such individual.

(2) The amendment made by section 2 of this Act applies with respect to any individual who separated from the service on or after January 1, 1969, and before the date of the enactment of this Act, for the purpose of determining whether such individual is an annuitant under section 8901(3)(A) of title 5, United States Code. Any individual who qualifies as an annuitant under section 8901(3)(A) of such title as a result of the application of such amendment shall be enrolled in a health benefits plan (described by section 8903 of such title) of such individual's choice, if—

(A) application for enrollment is made within one year after the date of the enactment of this Act, and

(B) such individual qualifies under section 8905(b)(1)(A) of such title.

(c) As used in this section, the term "service" means service as defined in section 8331(12) of title 5, United States Code.

By Mr. MATHIAS (for himself and Mr. PERCY):

S. 1446. A bill to amend title 18, United States Code, to implement the Convention on the Physical Protection of Nuclear Material, and for other purposes; to the Committee on the Judiciary.

ACT FOR THE IMPLEMENTATION OF THE CONVENTION ON THE PHYSICAL PROTECTION OF NUCLEAR MATERIAL

● Mr. MATHIAS. Mr. President, today I am introducing the implementing legislation for the Convention on the Physical Protection of Nuclear Material.

This Convention establishes an international framework for improving the physical protection of nuclear material when it is shipped between countries, as well as for improving international cooperation for the recovery of stolen nuclear material. The Convention was originally proposed by the Secretary of State in 1974 and called for subsequently by Congress in the Nuclear Non-Proliferation Act of 1978. It was adopted at the Vienna meeting in October 1979 following 3 years of negotiations between representatives of over 58 states and organizations.

The first six articles of the Convention establish guidelies for the physical security of nuclear materials being shipped internationally and for appropriate national action in the event of the theft or sabotage of nuclear material. The remaining articles define the specific of-

fenses related to the theft or sabotage of nuclear materials that each country would write into its criminal law, and for which that country would have to either extradite the alleged offender or submit him or her for prosecution. My bill implements these eight articles by amending title 18 of the United States Code to provide a maximum fine of $250,000 and/or imprisonment of up to 20 years for the offenses outlined by the Convention.

Technically, these offenses would include the actual, attempted, or threatened theft or sabotage of nuclear material: First, in or in transit to or from an area under U.S. jurisdiction; second, by a U.S. national; or third, by a foreign national abroad but who is present in the United States.

The Convention was originally submitted to the Senate in August of 1980. Thirty nations and organizations, including the United States, have already signed the agreement, and our own body is expected to ratify it in the near future. To give this agreement the enforcement powers intended we must adopt this implementing legislation or we will be powerless to act against nuclear terrorists. The Convention has been carefully negotiated and equal care has been taken in drafting the language of this implementing legislation. My distinguished colleague, the chairman of the Foreign Relations Committee (Mr. PERCY), joins me in sponsoring this bill and I am grateful for his support and assistance.

Mr. President, I urge all of my colleagues to take a close look at this legislation and join us in support of it. I ask unanimous consent that the text of the bill and a section-by-section analysis be printed in the RECORD in full immediately following my remarks.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 1446

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That this Act may be cited as the "Act for the Implementation of the Convention on the Physical Protection of Nuclear Material."

SEC. 2. Title 18, United States Code, is amended by inserting after Chapter 69 thereof the following new chapter:

"Chapter 70.—NUCLEAR MATERIALS

"Sec.
"1445. Prohibited transactions involving nuclear materials.

"(a) Whoever intentionally—

"(1) receives, possesses, uses, transfers, alters, disposes or disperses any material in fact containing plutonium or uranium in combination or otherwise without lawful authority which act causes or is likely to cause death or serious injury to any person or substantial damage to property;

"(2) commits a theft or robbery of any such material;

"(3) embezzles any such material or obtains any such material by fraud;

"(4) attempts to commit any of the foregoing offenses;

"(5) conspires to commit any of the foregoing offenses, if any act to effect the object of the conspiracy is done;

"(6) demands such material by threat or use of force or by any other form of intimidation; or

"(7) threatens—

"(A) to use any such material to cause death or serious injury to any person or substantial property damage; or

"(B) to commit an offense described in paragraph (a)(2) of this section in order to compel action or inaction by a natural or legal person, international organization, the United States or a foreign government or any political subdivision within those governments—

shall be fined not more than $250,000 or imprisoned not more than twenty years, or both.

"(b) There is Federal jurisdiction over an offense described in this section if—

"(1) the offense is committed in any area under the jurisdiction of the United States, including any of the places within the provisions of sections 5 and 7 of this title and secion 101(38) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301(38));

"(2) the offense is committed by a national of the United States;

"(3) the material containing the plutonium or uranium concerned was in use, storage, or transport for peaceful purposes and the alleged offender is present within the United States; or

"(4) the material containing the plutonium or uranium concerned was at the time of the offense in shipment via any mode—

"(A) to the United States; or

"(B) from the United States and had not arrived at a facility of the receiver within the country of ultimate destination.

"(c) For the purpose of this section—

"(1) 'foreign government' and 'international organization" shall have the same meanings as those provided in section 1116 (b) of this title;

"(2) 'national of the United States' means (A) a citizen of the United States, or (B) a person who, though not a citizen of the United States, owes permanent allegiance to the United States;

"(3) 'plutonium' means plutonium with an isotopic concentration not in excess of 80 per centum in plutonium 238; and

"(4) 'Uranium' means—

"(A) uranium not in the form of ore or ore-residue that contains the mixture of isotopes as occurring in nature;

'(B) uranium that contains the isotope 235 or 233 or both in such amount that the abundance ratio of the sum of those isotopes to the isotope 238 is greater than the ratio of the isotope 235 to the isotope 238 occurring in nature; or

"(C) uranium 233.

"(d) In the course of enforcement of this section—

"(1) the Attorney General may request assistance from any Federal, State, or local agency, including the Army, Navy and Air Force, any statute, rule, or regulation to the contrary notwithstanding, and

"(2) the Federal Bureau of Investigation shall investigate all alleged or suspected violations of this chapter."

SEC. 3. Paragraph 1116(b)(5) of title 18, United States Code, is amended by inserting the following before the period at the end thereof:

"or a public organization created pursuant to treaty or other agreement under international law as an instrument through or by which two or more foreign governments engage in some aspect of their conduct of international affairs".

SEC. 4. The analysis of part I, title 18, United States Code, is amended by inserting after the entry therein for chapter 69 the following new item: "70. Nuclear Materials."

SECTION BY SECTION ANALYSIS

Section 1 provides that, upon enactment, the bill may be cited as the "Act for the Implementation of the Convention on the Physical Protection of Nuclear Material." This is an express indication that such enactment reflects an exercise of the treaty power.

Section 2 is a proposed new chapter 70, Nuclear Materials, for title 18, United States Code. The chapter would consist of one section, 18 U.S.C. 1445, Prohibited Transactions in Nuclear Materials. Subsection (a) thereof contains six categories of prohibited actions, which encompass the offenses described in Article 7 of the Convention. The prohibitions are prefaced by the words "whoever . . . intentionally." Thus, no natural person or legal entity is excluded from application of the prohibitions. The word "intentionally," adopted from the Convention, is used in its generally accepted sense to mean having a conscious objective or desire to engage in the prohibited conduct. The Convention does not appear to require any particular state of mind with respect to the fact that the conduct prohibited is conduct in regard to nuclear material. For clarity in this aspect, the prohibitions are drafted to extend to conduct involving any material *in fact* containing plutonium or uranium. Similarly, the Convention language of "intentional commission of an act without lawful authority. . . ." is interpreted to require proof only that the act done was intentional and not to embrace a requirement that the defendant also intended that this act be unauthorized. For clarity on this point, the phrase "without authority" is also placed after the words "in fact".

By reason of the definitions in Article 1 (a) and (b) of the Convention, some forms or isotopic mixes of plutonium and uranium are excluded from the operation of the Convention. Those definitions are not congruent with the definitions of source and special nuclear material in the Atomic Energy Act of 1954, as amended. See sec. 11 (z) and (aa), *id.*, 68 Stat. 922 (42 U.S.C. 2014 (z) and (aa)). The Convention requirements, in various aspects, are both narrower and broader than existing controls under the Act. Thus, conformation of provisions of the Act to requirements of the Convention would involve considerable, cumbersome, and perhaps detrimental revision of the Act. The draft bill, addressing itself directly to implementation of the Convention, avoids the problems inherent in revision of the Act, with only the nominal cost of some duplication of existing law.

In accord with the Convention (Article 1 (a) and (b)), proposed 18 U.S.C. 1445(c) defines "plutonium" as plutonium which does not have an isotopic concentration in plutonium 238 in excess of 80%. "Uranium" is defined as uranium other than in the form of ore or ore-residue which contains the mixture of isotopes occurring in nature or contains the isotope 235 or 233 or both in such an amount that the abundance ratio of the sum of those isotopes to the isotope 238 is greater than the ratio of the isotope 235 to the isotope 238 occurring in nature. This definition of necessity includes uranium 233, which is separately referred to in the Convention definition.

Proposed paragraphs 18 U.S.C. 1445(a) (1)–(6) encompass the conduct denounced in Article 7, subsections 1 (a)–(g). Aside from the use of variants for proper syntax, the operative language in paragraphs (1), (2), (3), and (5) is identical with that used in the source subsections of the Convention, and no explication of that language appears necessary.

Paragraph (4) reflects an express inclusion within the term "attempt," as used in the Convention, of a conspiracy plus an overt act. Attempt is generally said to involve intent to commit an offense plus action beyond mere preparation to commit the intended

offense. The element of conspiracy embraces not only the requisite intent but is also an act of preparation, which, when coupled with the further step of an overt act, warrants coverage by Congress as a form of attempt. Article 7(f) (attempt) does not embrace the nuclear extortion offenses (proposed 18 U.S.C. 1445(a) (5) and (6)), but 18 U.S.C. 371 would clearly embrace a conspiracy to commit those offenses, unless jurisdiction were to be asserted solely under proposed 18 U.S.C. 1445(b)(3) (presence of offender in the United States).

In paragraph (6)(B), the Convention term "State" (Article 7(1)(e)(ii)) is broken out into the equivalent phrase "the United States or a foreign government." The latter term is defined by reference to the definition of that term in 18 U.S.C. 1116(b). The same reference is made for definition of the Convention term "international organization."

In light of the provisions of 18 U.S.C. 2 and 3, no action is required to cover the Convention offense (Article 7(1)(g)) of doing "an act which constitutes participation . . . in any offense described in paragraphs (a) to (f)" of Article 7(1).

In Article 7(2), the Convention requires ". . . appropriate penalties which take into account . . . [the] grave nature" of Convention offenses. In keeping with the policy reflected in proposed 18 U.S.C. 2201 and 2301, S. 1722, 96th Cong., 1st Sess. (1979), the draft bill provides for a fine of up to $250,000 and imprisonment for up to twenty years.

Under Article 8, a State Party to the Convention must establish jurisdiction over nuclear materials offenses committed within its territory, on board a ship or aircraft registered with it, by its nationals, or by any offender anywhere who is present in the State and not extradited under Article 11 of the Convention. Proposed 18 U.S.C. 1445(b) provides for such jurisdiction. Note that the provision for universal jurisdiction (proposed 18 U.S.C. 1445(b)(3)) is limited to offenses involving nuclear materials used, etc., for peaceful purposes. Article 2 limits application of the Convention to such materials. International law and the powers of Congress over matters relating to commerce and national defense provide plenary support, as observed before, for Federal jurisdiction over nuclear materials offenses except as to purely extraterritorial offenses. There the basis for Federal control must be found in the Convention. Hence, the appearance in proposed 18 U.S.C. 1445(b)(3) of the limiting words "for peaceful use."

Proposed 18 U.S.C. 1445 is thus broader in some respects than the Convention in that the description of the offenses therein and jurisdiction over those offenses, except as to the exercise of universal jurisdiction, are independent of the intended use of the nuclear materials for peaceful purposes, domestically or abroad or for weaponry. Proposed 18 U.S.C. 1445(b)(1) covers not only vessels and aircraft registered with the United States (Convention, Article 8(1)(a)) but also those other vessels and aircraft included within the special maritime and aircraft jurisdiction of the United States.

Similarly, proposed 18 U.S.C. 1445(b)(4) goes beyond the niceties of the definition of "international nuclear transport" in the Convention (Article 1(c)) and the permissive provision (Article 8(4)) regarding jurisdiction over offenses involving nuclear materials in such transport. The proposal would provide Federal jurisdiction over offenses involving nuclear materials of any type, from the time shipment of the materials from anywhere to the United States commences and jurisdiction over offenses as to materials in shipment from the United States until arrival of the materials at a facility of the receiver within the country of ultimate destination. That country might, of course, be the United States itself, as in the case of a shipment from Michigan via Canada to New York.

Finally, as is the case in other exceptionally grave offenses (e.g., 18 U.S.C. 351, 1116, or 1751), the Attorney General is authorized under proposed 18 U.S.C. 1445(d) to request (and impliedly to receive) assistance from any Federal, State or local agency, including the Army, Navy, and Air Force, in the enforcement of proposed 18 U.S.C. 1445 without regard to any provision of law or regulation which might otherwise limit the power to request or furnish assistance. As in other statutes using such language, the term "Navy," as a Federal agency, refers to the Department of the Navy and thus includes the Marine Corps. Though couched in less specific language, similar authority for such enforcement of the Atomic Energy Act, *supra*, appears in subsections 161(f) and 221(a) of the Act (42 U.S.C. 2201(f) and 2271(a)). As in subsection 221(b) of the Act, supra (42 U.S.C. 2271(b)), investigative jurisdiction would be vested in the Federal Bureau of Investigation.

Section 3 of the draft bill is a technical amendment of the definition of the term "international organization" in 18 U.S.C. 1116(b)(5). Expansion of that definition to include international organizations other than those in which the United States is a member (e.g., the European Community) is necessary to implement the Convention. Amendment to that end in 18 U.S.C. 1116 also eliminates a technical deficiency in implementation by the United States of the United Nations Convention for the Protection of Internationally Protected Persons and permits reliance upon the same definition in legislation to implement the United Nations Convention against the Taking of Hostages. The expanded definition would reach a public organization created pursuant to treaty or other agreement under international law, i.e., an agreement recognized as binding the nations concerned to observance of certain rights and obligations inter se, as instruments for engagement of those nations in the conduct of some aspect of their international affairs.

Section 4 of the draft bill would amend the chapter analysis of title 18, United States Code, to reflect insertion of the new chapter in that title.●

By Mr. MATHIAS:

S. 1447. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income certain savings bonds received by an employee as a service award, and for other purposes; to the Committee on Finance.

TAXATION OF SERVICE AWARDS

○ Mr. MATHIAS. Mr. President, today, I am introducing a bill that would encourage the use of U.S. savings bonds as service awards for employees.

Currently, many employees, especially those in State and local governments, receive pins or similar cachets as rewards for dedicated or extraordinary service. The high cost of these pins, however, is jeopardizing these programs. It is simply becoming too expensive to give a pin to everyone who deserves recognition.

Louis Goldstein, Maryland's distinguished Comptroller of the Treasury, has come up with an alternative for his employees. He would like to present U.S. savings bonds in lieu of pins to employees with exceptional service records. The system makes good sense. For one thing, it would encourage savings, and for multiple winners it would be more appreciated. After all, while one pin is a nice memento, few people would want five pins.

Unfortunately, there is a problem with this proposed system. Under current Federal tax law, these bonds must be included as taxable income. As a result, the recipient is forced to pay tax on his commendation, something that is not required if the award is a pin. Clearly, the taxation of these bonds discourages their use as service awards.

To solve this problem, Representative MITCHELL and I are introducing companion bills that would exclude the value of U.S. savings bonds from Federal and social security taxation. We place a cap of $250 per year on the tax-free awards. Our bills do not change the taxability of the interest earned or the amortized value of the bonds included in estates.

There has been a great deal of talk recently about encouraging saving and investing. Our bills, in a small way, will help in that effort. They will encourage employers to award savings bonds and will lead others to invest in the future of our Nation. I ask each of my colleagues to join us in this effort to increase the sale of savings bonds and encourage their use as service awards. I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1447

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXCLUSION FROM GROSS INCOME.

Subsection (b) of section 74 of the Internal Revenue Code of 1954 (relating to prizes and awards) is amended to read as follows:

"(b) Exceptions.—

"(1) Religious, charitable, etc., achievements.—Gross income does not include amounts received as prizes and awards made primarily in recognition of religious, charitable, scientific, educational, artistic, literary, or civic achievement, but only if—

"(A) the recipient was selected without any action on his part to enter the contest or proceeding; and

"(B) the recipient is not required to render substantial future services as a condition to receiving the prize or award.

"(2) Savings bonds as service awards.—

"(A) IN GENERAL.—The gross income of an employee does not include the receipt value of any series EE United States savings bond received by the employee which was purchased by the employer for the benefit of the employee as a service award.

"(B) LIMITATION.—The aggregate amount excluded under subparagraph (A) for any taxable year shall not exceed $250 per employee.

"(C) DEFINITIONS.—For purposes of this paragraph.—

"(i) RECEIPT VALUE.—The term 'receipt value' means the fair market value of the bond at the time the bond is received or made available to the employee.

"(ii) SERVICE AWARD.—The term 'service award' means an award given to an employee by the employer in recognition of an achievement by such employee in the performance of services for the employer.

"(D) BASIS.—The basis of any series EE United States savings bond received by an employee which was purchased by the employer for the benefit of the employee as a service award shall be the receipt value of such bond.".

SEC. 2. EXCLUSION FROM WAGES.

(a) FEDERAL INSURANCE CONTRIBUTIONS ACT.—Section 3121(a) of the Internal Reve-

nue Code of 1954 (relating to the definition of wages) is amended—

(1) by striking out "or" at the end of paragraph (17),

(2) by striking out the period at the end of paragraph (18) and inserting in lieu thereof ", or", and

(3) by adding at the end thereof the following new paragraph:

"(19) the value of any series EE United States savings bond received by an employee as a service award which is excluded from gross income under section 74(b).".

(b) SOCIAL SECURITY ACT.—Section 209 of the Social Security Act is amended—

(1) by striking out "or" at the end of subsection (o),

(2) by redesignating the second subsection (p) (relating to contributions to, or services received under, a qualified group legal services plan) as subsection (q), striking out the period at the end of such subsection and inserting in lieu thereof "; or", and

(3) by adding at the end thereof the following new subsection:

"(r) the value of any series EE United States savings bond received by an employee as a service award which is excluded from gross income under section 74(b) of the Internal Revenue Code of 1954.".

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall apply to taxable years beginning after December 31, 1980.●

By Mr. MATHIAS (for himself, Mr. BRADLEY, Mr. GOLDWATER, Mr. HATFIELD, Mr. NUNN, Mr. MOYNIHAN, and Mr. D'AMATO):

S. 1448. A bill to provide for the issuance of a postage stamp to commemorate the 70th anniversary of the founding of the Girl Scouts of the United States of America; to the Committee on Governmental Affairs.

GIRL SCOUT COMMEMORATIVE STAMP

● Mr. MATHIAS. Mr. President, next March will be the 70th anniversary of the founding of the Girl Scouts of the United States of America. To mark this milestone, I am today introducing legislation that authorizes the issuance of a commemorative stamp to honor the creation of the Girl Scout organization in this country.

There are over 3 million current adult and girl members of the Girl Scouts with one out of every nine girls, ages 6 to 17 participating. They are also overseas with troops in 53 countries around the world serving U.S. military and civilian families. And there are the Campus Girl Scouts, young women serving the community through local Scouts councils.

From brownie to senior to adult volunteer, Girl Scouts provide a valuable learning experience. New skills are acquired and new friends are made through scouting. Girl Scout services to the community is the benchmark by which the deeds of other organizations are measured.

A commemorative stamp would be a fitting tribute to the many distinguished years of service to America by the Girl Scouts and to the contributions of this, the largest voluntary organization for girls in the world.

The bill I am introducing today is a companion measure to H.R. 3375 introduced in the other body by Representative MARJORIE HOLT.

Mr. President, I ask that the text of the Girl Scout 70th anniversary commemorative stamp bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1448

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Postmaster General shall issue a commemorative postage stamp to honor the seventieth anniversary of the founding of the Girl Scouts of the United States of America.

SEC. 2. The commemorative postage stamp issued under this Act shall be issued in the denomination used for first-class mail up to one ounce in weight and shall bear such design as the Postmaster General shall determine.

SEC. 3. The commemorative postage stamp issued under this Act shall first be placed on sale on March 12, 1982, the seventieth anniversary of the founding of the Girl Scouts of the United States of America.●

By Mr. PACKWOOD:

S. 1449. A bill to amend the Internal Revenue Code of 1954 to limit the application of the subsidized energy financing limitations on certain tax credits to Federal subsidies, and for other purposes; to the Committee on Finance.

ELIGIBILITY FOR RENEWABLE ENERGY TAX CREDITS

● Mr. PACKWOOD. Mr. President, I am introducing a bill today which corrects an inequitable situation concerning the conservation and renewable energy tax credits enacted last year as part of Public Law 96–223, the Crude Oil Windfall Profit Tax Act of 1980. Without this legislation, the Federal tax credits may hamstring State and local government efforts to develop their own conservation and renewable energy programs.

The problem this bill addresses is a result of the "double-dip" or offset rules which restrict eligibility for the renewable energy tax credits. When the conferees on the windfall tax legislation met to discuss the renewable energy incentives, there was concern that an individual might be able to qualify for more than one type of Federal help in making his alternative energy investment. It was argued, for example, that a person might get a Federal grant for a solar hot water heater and still take a Federal tax credit on his purchase. Accordingly, offset rules were put into the legislation to prevent this sort of thing.

Unfortunately, these offset rules in the windfall tax legislation also include State and local loan programs which encourage renewable energy. For example, a participant in Oregon's weatherization loan program or the State's alternative energy loan program, both of which are financed from the State's own funds, would be ineligible for Federal tax credits.

There is good reason for the Federal Government to make sure that people cannot "double-dip" with Federal programs. But if we impose this same restriction on State and local governments we are acting unwisely. We will be unfairly discouraging States and localities from developing their own initiatives to promote energy conservation and renewable resources.

This country has not yet come so far down the road of independence from foreign energy sources that we can afford to put a damper on State and local renewable energy efforts. We have barely begun the effort to move to energy alternatives. Much has been made recently of this country's success with conserving energy, and the current glut in world oil supplies has given us momentary relief from skyrocketing oil prices, but we cannot afford to relax.

It took us many years to become dangerously dependent on foreign oil; ridding ourselves of this dependence will take many years as well. And nobody believes today's oil glut will last forever. Meanwhile, our many State and local governments have the potential for developing a variety of unique and creative financing mechanisms to encourage conservation and renewable resources.

Simply put, this is not the time to restrict good State and local renewable energy programs. I am committed to making sure this does not happen. The bill I am introducing today will eliminate the aspects of the renewable energy tax credit offset rules which are a severe restriction on State and local energy programs. It will make sure that the Federal tax credits will complement good energy programs, rather than compete with them.

Mr. President, I ask unanimous consent that the bill I am introducing be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1449

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SUBSIDIZED ENERGY FINANCING LIMITED TO FEDERAL FINANCING.

(a) TAX CREDITS.—

(1) IN GENERAL.—Subparagraph (C) of section 44C(c)(10) of the Internal Revenue Code of 1954 (defining subsidized energy financing for purposes of the residential energy credit) and subparagraph (C) of section 48(l)(11) of such Code (defining subsidized energy financing for purposes of section 38 property) are each amended by striking out "Federal, State, or local," and inserting in lieu thereof "Federal".

(2) CONFORMING AMENDMENT.—Subsection (a) of section 6050D of such Code (relating to returns relating to energy grants and financing) is amended by striking out "a Federal, State, or local program a principal purpose of which is to provide subsidized financing or grants" and inserting in lieu thereof "a Federal program a principal purpose of which is to provide subsidized financing, or a Federal, State, or local program a principal purpose of which is to provide grants,".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to subsidized energy financing made after December 31, 1980.

SEC. 2. PROPERTY FINANCED BY INDUSTRIAL DEVELOPMENT BONDS.

(a) IN GENERAL.—So much of paragraph (11) of section 48(l) of the Internal Revenue Code of 1954 (relating to special rules for property financed by subsidized energy financing or industrial development bonds)

as precedes subparagraph (B) thereof is amended to read as follows:

"(11) Special rule for property financed by subsidized energy financing.—

"(A) REDUCTION OF QUALIFIED INVESTMENT.—For purposes of applying the energy percentage to any property, if such property is financed in whole or in part by subsidized energy financing, the amount taken into account as qualified investment shall not exceed the amount which (but for this subparagraph) would be the qualified investment multiplied by the fraction determined under subparagraph (B).".

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 48(1)(11) of such Code is amended by striking out "or proceeds" in clause (i) thereof.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 1980.●

By Mr. CANNON:

S. 1450. A bill to provide for the continued deregulation of the Nation's airlines, and for other purposes; to the Committee on Commerce, Science, and Transportation.

AIRLINE DEREGULATION ACT AMENDMENTS OF 1981

Mr. CANNON. Mr. President, I am introducing a bill of amendments to the Airline Deregulation Act of 1978. This bill represents an alternative transition formula on three specific issues from those offered by DOT, CAB, and the Air Transport Association in their more comprehensive "early sunset" legislative proposals. I want to make clear that I did not introduce a comprehensive bill because of the excellent work done on the three packages that have been offered to the committee. Further I want to say that I am not unalterably committed to all the ideas in my bill. I simply view these amendments as alternatives with merits that I want to see considered by the Commerce Committee and the Senate.

In general terms this bill affects the following three areas:

AGREEMENTS

This bill provides for the continued authority at DOT to grant antitrust immunity to domestic agreements which serve important transportation needs. That authority would continue for 2 years to immunize new domestic agreements, 5 years for existing domestic agreements, and indefinitely for foreign air transportation and travel agent marketing agreements. The bill emphasizes the importance of the travel agent agreement because of the vital role this segment of the industry plays in our air transportation system. Several court cases have stated that the airline agreement which allows travel agents to operate domestically is in clear violation of the anti-trust laws, so I want to be sure that DOT can continue immunity for whatever period is necessary for these agents and airlines to devise a means of operating under a deregulated environment.

DISCRIMINATION AND FARES

This bill also amends section 404 of the FAA Act for two purposes. First, it abolishes 404(a)(1) which is the historic authority for CAB to regulate some consumer issues. Both DOT and CAB propose to keep this provision and give FTC authority to enforce consumer protection regulations on the airlines. I think we should consider vesting all consumer protection authority in the FTC, and not discriminate against airlines by providing two watchdog agencies when other deregulated industries enjoy only one.

Even more important, however, is to retain the remainder of section 404 which prohibits discriminatory, preferential, or prejudicial fares, and also requires just and reasonable joint rates and fares for passengers and smaller airlines. Communities, individuals, and companies are protected even in deregulated industries from discriminatory pricing and I believe we must preserve this important right of equity in air transportation. Anyone who is discriminated against is specifically given recourse to the courts.

In addition, the bill continues the posting of tariffs for several years while the airlines and ticket agents work out a new method of distributing their fare information to each other and to the public, so that we can be assured we know what the fares are once Government authority to approve tariffs expires.

INTERNATIONAL CERTIFICATES

Finally, I have included in this bill an idea worth exploring in my view. It would make international route certificates that are experimental or time-limited in nature permanent upon enactment. But in lieu of the automatic expiration at a date certain, these certificates—and any future awards—would be open to "competitive bids" from other airlines seeking to obtain the route by offering better service and/or lower fares to the public. An efficient operator providing good service at reasonable fares will thus be able to plan ahead and will not be subjected to continuous route hearings based on nothing but the calendar. On the other hand, the carrier which is not providing service or fares that are appropriate will be an attractive target for other airlines to seek to replace.

By Mr. CANNON (for himself and Mr. GOLDWATER):

S. 1451. A bill to amend the Internal Revenue Code of 1954 with respect to the exemption from tax of veterans' organizations; to the Committee on Finance.

LEGISLATION PERTAINING TO THE AIR FORCE ASSOCIATION

Mr. CANNON. Mr. President, I am introducing for myself and Senator GOLDWATER legislation designed to remove a source of discrimination against young men and women whose service in the Armed Forces has been entirely during a time of peace.

The Air Force Association is currently classified under section 501(c)(19) of the Internal Revenue Service Code as a "war veterans" organization. As such, net income from the Association's several insurance programs is exempt from taxation. To maintain this war veterans status, a minimum of 75 percent of the association's members must have served in the Armed Forces in time of war. Of the remaining 25 percent, substantially all, 90 percent, must be veterans of other than wartime service.

A young man or women who enters the Armed Forces after May 7, 1975, the official end-point of the Vietnam conflict, does not qualify as a war veteran. As increasing numbers of them join the Air Force Association, the percentage of war veterans is diluted. Over the past 4 years, this percentage has fallen from more than 90 percent to less than 80 percent, and it continues to drop. Hence, AFA faces the anomalous situation whereby the association will not be able to accept as members young men and women who have voluntarily chosen to serve their country. And the benefits of the association's low-cost insurance programs, used by its military members, will be denied them. This is a highly discriminatory situation that works against young persons generally and specifically against the increasing numbers of young women joining the Armed Forces.

Briefly, I am seeking legislation that would apply the 75-percent requirement to "past and present members of the Armed Forces," without regard to whether such service was in war or peace.

By Mr. BOREN:

S. 1452. A bill for the relief of the Tonkawa Indians of Oklahoma; to the Committee on the Judiciary.

RELIEF OF TONKAWA INDIANS OF OKLAHOMA

● Mr. BOREN. Mr. President, I am today reintroducing two pieces of legislation on behalf of the Tonkawa Indians of Oklahoma. This legislation pertains to the tribe's claim against the United States for lands lost in the State of Texas during the 1800's.

The Tonkawa Tribe has experienced a long history of frustration and disappointment in its efforts to present its case for this claim. An unfortunate series of circumstances resulted in the tribe failing to meet the deadline originally set by Congress for filing of claims before the Indian Claims Commission. It is my hope the Senate will now take the necessary action to give the Tonkawa Tribe the opportunity it deserves to present its case before the Court of Claims.

As provided in title 28, section 2509, United States Code, the resolution I am today submitting will refer the Tonkawa claim to the Commissioner of the Court of Claims for investigation. Upon completion of this investigation, the court shall report its findings to the Congress for final disposition.

Mr. President, I call upon the Senate to act quickly and favorably in referring this matter to the Court of Claims. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1452

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay to the Tonkawa Indians of Oklahoma, out of sums not otherwise appropriated, the sum of $. The payment of such sum shall be in full settlement of all of the following claims of the Tonkawa Indians of Oklahoma against the United States:

(1) all claims arising from the alleged taking by the United States of lands owned or occupied by the Tonkawa Indians of Oklahoma without compensation,

(2) all claims based upon fair and honorable dealings between the United States and the Tonkawa Indians of Oklahoma, and

(3) all claims which would have been compensable under the Act of August 13, 1946 (60 Stat. 1049, 25 U.S.C. 70), as amended, but for the lapse of time and failure to timely file such claims.●

(The text of Senate Resolution 174 pertaining to this legislation appears later in today's RECORD.)

By Mr. HATFIELD (for himself, Mr. MATHIAS, Mr. INOUYE, Mr. BAKER, Mr. RANDOLPH, Mr. JACKSON, Mr. LEVIN, and Mr. PELL):

S.J. Res. 95. Joint resolution to authorize and direct the Secretary of the Interior, subject to the supervision and approval of the Franklin Delano Roosevelt Memorial Commission, to proceed with the construction of the Franklin Delano Roosevelt Memorial, and for other purposes; to the Committee on Rules and Administration.

CONSTRUCTION OF FRANKLIN DELANO ROOSEVELT MEMORIAL

● Mr. HATFIELD. Mr. President, it is my pleasure today to introduce a joint resolution first proposed in the 95th Congress to authorize the construction of a memorial to Franklin Delano Roosevelt.

This action may appear to be incongruous because of the fact that I am a Republican and the former President was the leader of the Democratic Party for 12 years. This action may come as a surprise because of the fact that the "New Deal," which the late President initiated, is being eclipsed by a "New Beginning" of contrasting economic policies and responses to social needs. This action may be puzzling to those who picture President Roosevelt as the embodiment of the concepts of big government and Keynesian economics in an era when budget cuts and supply-side economic theories are being pursued.

To my personal acquaintances, this action may appear to be an aberration of my political philosophy, which led me, as an ambitious fourth-grader, to begin my political career by enlisting in the 1932 reelection efforts of Herbert Hoover against Governor Roosevelt. Finally, my support for a memorial dedicated to the memory of Franklin Roosevelt may appear to conflict with my equally great interest in promoting revisionist thought about the role of President Hoover in American history.

Nevertheless, it is my hope that because this joint resolution is being proposed by someone such as myself my colleagues will give serious thought and support to the proposal. Franklin Delano Roosevelt, our 32d President, served his country in one of the most difficult periods of our Republic's life. Although many of the President's policies and programs have proven to be extremely controversial, there can be no denial of the fact that his leadership was vital in guiding the Nation through the crises of the 1930's and 1940's. A generation of young people grew up knowing no other President, and his words and his deeds gave hope to a nation that had cause to fear for its future. It is fitting that we pay tribute to this great man and his accomplishments.

Moreover, there is a real sense in which the introduction of this joint resolution is closely in line with the plans of the current administration, since passage of this measure will begin the process that eventually will eliminate the longest existing Federal commission in our Nation's history, the Franklin Delano Roosevelt Memorial Commission. Its longevity is not a result of any lack of effort on the part of its members. Under the able direction of its chairman, the Honorable Eugene Keogh of New York State, and with the expert assistance of a Roosevelt administration veteran, James Rowe, the Commission undertook, in 1955, the task of implementing the instructions of the 84th Congress: to construct a memorial to Franklin Roosevelt on a site alongside the Tidal Basin in West Potomac Park.

Earlier designs were rejected, but I have had the good fortune to be involved in the process that, at long last, has produced a design that has received critical artistic acclaim throughout the world.

The design approved by the memorial commission is not a building from which visitors will stand apart, but a memorial park reaching out and involving the people. It is a plan that symbolizes in many ways the man it memorializes. Roosevelt was a leader who was involved with people and concerned about them. His tenure as Secretary of our forces on the seas, the Navy, and his experience with water therapy to treat the effects of polio are represented in the use of water in falls and fountains throughout the memorial park. The plantings symbolize his interest in conservation of natural resources, and his most important contributions as President are represented in the sculpture, inscriptions and layout of the memorial. Four courtyards, for example, represent the "Four Freedoms."

It is my distinct pleasure to be joined today in the introduction of this joint resolution by a bipartisan group of Senators. This group includes the other Members of the Senate serving on the FDR Memorial Commission, Senator MATHIAS and Senator INOUYE, the majority leader Senator BAKER, and Senators RANDOLPH, JACKSON, LEVIN, and PELL.

It may surprise some of my colleagues that the centennial of the late President's birthdate will be observed next January. Nearly 40 years have passed since his death. We move through decades of time with surprising speed, and the passage of the time quickly erases the ephemeral issues that consume our daily lives. Yet, the impact of the life of Franklin Roosevelt has not suffered such fleeting notability. His actions have molded our modern society; they have left an indelible imprint on it; they are a part of our national heritage; and they deserve to be memorialized for future generations to contemplate, reflect upon, and learn from.

Therefore, with distinct pleasure and anticipation, I introduce a joint resolution to authorize and direct the Secretary of the Interior, subject to the supervision and approval of the Franklin Delano Roosevelt Commission, to proceed with the construction of the Franklin Delano Roosevelt Memorial.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD. Thank you.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 95

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized and directed, subject to the supervision and approval of the Franklin Delano Roosevelt Memorial Commission, to construct the Franklin Delano Roosevelt Memorial in accordance with the general design developed by the Franklin Delano Roosevelt Memorial Commission and approved by the Commission of Fine Arts on March 2, 1978. Such memorial shall be constructed in that portion of West Potomac Park in the District of Columbia which lies between Independence Avenue and the inlet bridge, reserved for the memorial by a joint resolution approved September 1, 1959 (Public Law 86-214).

SEC. 2. The Franklin Delano Roosevelt Memorial shall be operated and maintained by the Secretary of the Interior subject to the provisions of the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented.

SEC. 3. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this joint resolution.●

ADDITIONAL COSPONSORS

S. 92

At the request of Mr. BOREN, the Senator from North Carolina (Mr. EAST) was added as a cosponsor of S. 92, a bill to amend the Internal Revenue Code of 1954 to provide, in lieu of the reduced rates for independent producer oil, an exemption of 1,000 barrels per day from the crude oil windfall profit tax for independent producers and royalty owners.

S. 170

At the request of Mr. MOYNIHAN, the Senator from Massachusetts (Mr. TSONGAS) was added as a cosponsor of S. 170, a bill to amend the Internal Revenue Code of 1954 to allow the charitable deduction to taxpayers whether or not they itemize their personal deductions.

S. 255

At the request of Mr. MATHIAS, the Senator from North Carolina (Mr. HELMS) and the Senator from Delaware (Mr. ROTH) were added as cosponsors of S. 255, a bill to amend the patent law to restore the term of the patent grant for the period of time that nonpatent regulatory requirements prevent the marketing of a patented product.

S. 398

At the request of Mr. ARMSTRONG, the Senator from North Carolina (Mr. EAST) and the Senator from Alabama (Mr. DENTON) were added as cosponsors of S. 398, a bill to amend the Walsh-Healey Act and the Contract Work Hours Standards Act to permit certain employees to work a 10-hour day in the case of a 4-day workweek, and for other purposes.

S. 404

At the request of Mr. SYMMS, the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 404, a bill to amend the Internal Revenue Code of 1954 to repeal the estate and gift taxes.

S. 566

At the request of Mr. WALLOP, the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 566, a bill to amend the Internal Revenue Code of 1954 to retain the oil percentage depletion rate at 22 percent.

S. 604

At the request of Mr. MATHIAS, the Senator from Kansas (Mrs. KASSEBAUM), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Illinois (Mr. DIXON), the Senator from New York (Mr. MOYNIHAN), and the Senator from West Virginia (Mr. RANDOLPH) were added as cosponsors of S. 604, a bill to amend the Communications Act of 1934 to provide that telephone receivers may not be sold in interstate commerce unless they are manufactured in a manner which permits their use by persons with hearing impairments.

S. 701

At the request of Mr. BENTSEN, the Senator from Georgia (Mr. MATTINGLY) was added as a cosponsor of S. 701, a bill to amend the Internal Revenue Code of 1954 to provide for the exclusion from taxation of interest earned on deposits which are used for residential mortgage lending purposes.

S. 789

At the request of Mr. D'AMATO, the Senator from North Carolina (Mr. EAST), and the Senator from Nevada (Mr. LAXALT) were added as cosponsors of S. 789, a bill to amend the Federal Water Pollution Control Act to provide that the limitation on the use of grants for publicly owned treatment works for treatment, storage, or conveyance of flows of industrial users shall not take effect until November 15, 1984.

S. 922

At the request of Mr. BOREN, the Senator from New York (Mr. D'AMATO), and the Senator from Delaware (Mr. ROTH) were added as cosponsors of S. 922, a bill to amend the Farm Labor Contractor Registration Act of 1963, as amended, and for other purposes.

S. 966

At the request of Mr. SASSER, the Senator from Minnesota (Mr. BOSCHWITZ) was added as a cosponsor of S. 966, a bill to amend chapter 13 of title 18 of the United States Code.

S. 1072

At the request of Mr. BOREN, the Senator from Alabama (Mr. HEFLIN) was added as a cosponsor of S. 1072, a bill to amend the Internal Revenue Code of 1954 to provide an exclusion from gross income of interest earned on qualified housing savings certificates.

S. 1073

At the request of Mr. ARMSTRONG, the Senator from Utah (Mr. HATCH), the Senator from Wyoming (Mr. SIMPSON), the Senator from Idaho (Mr. SYMMS), the Senator from Wyoming (Mr. WALLOP), and the Senator from Kansas (Mr. DOLE) were added as cosponsors of S. 1073, a bill to amend section 21 of the act of February 25, 1920, commonly known as the Mineral Leasing Act.

S. 1120

At the request of Mr. KASTEN, the Senator from Minnesota (Mr. BOSCHWITZ) was added as a cosponsor of S. 1120, a bill to reduce the amount of funds available to an agency unless the agency has reduced waste, fraud, and abuse to the maximum extent feasible or demonstrates that no waste, fraud, or abuse exists in the administration of programs, and for other purposes.

S. 1131

At the request of Mr. DANFORTH, the Senator from New York (Mr. D'AMATO) was added as a cosponsor of S. 1131, a bill to require the Federal Government to pay interest on overdue payments and to take early payment discounts only when payment is timely made, and for other purposes.

S. 1140

At the request of Mr. BENTSEN, the Senator from Wisconsin (Mr. KASTEN) was added as a cosponsor of S. 1140, a bill to improve productivity and promote capital investment in small business and for other purposes.

S. 1153

At the request of Mr. THURMOND, the Senator from Utah (Mr. GARN), and the Senator from Idaho (Mr. MCCLURE) were added as cosponsors of S. 1153, a bill to amend the Surface Mining Control and Reclamation Act of 1977 relating to maps and plans of lands to be mined.

S. 1182

At the request of Mr. NICKLES, the Senator from North Carolina (Mr. EAST), the Senator from Idaho (Mr. SYMMS), the Senator from Florida (Mrs. HAWKINS), and the Senator from North Carolina (Mr. HELMS) were added as cosponsors of S. 1182, a bill to amend the Longshoremen's and Harbor Workers' Compensation Act to revise the manner of computing the benefits provided under such act, to provide for certification of physicians eligible to provide medical care to workers covered by such act, to provide for an attorney to serve as the representative of the special fund established under such act, to establish a Benefits Review Board the members of which are appointed by the President, to establish an advisory committee to evaluate the manner in which the provisions of the act are carried out, and for other purposes.

S. 1215

At the request of Mr. PROXMIRE, the Senator from West Virginia (Mr. RANDOLPH), the Senator from Louisiana (Mr. JOHNSTON), and the Senator from Louisiana (Mr. LONG) were added as cosponsors of S. 1215, a bill to clarify the circumstances under which territorial provisions in licenses to distribute and sell trademarked malt beverage products are lawful under the antitrust laws.

S. 1235

At the request of Mr. D'AMATO, the Senator from Minnesota (Mr. BOSCHWITZ), and the Senator from Nevada (Mr. LAXALT) were added as cosponsors of S. 1235, a bill to exempt certain matters relating to the Central Intelligence Agency from the disclosure requirements of title 5, United States Code.

S. 1279

At the request of Mr. DANFORTH, the Senator from California (Mr. CRANSTON), the Senator from Connecticut (Mr. DODD), the Senator from Hawaii (Mr. INOUYE), the Senator from Wisconsin (Mr. PROXMIRE), and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of S. 1279, a bill to amend the Internal Revenue Code of 1954 to exclude from gross income a certain amount of interest earned on the all-savers certificate offered only at savings institutions.

S. 1298

At the request of Mr. WALLOP, the Senator from California (Mr. CRANSTON) was added as a cosponsor of S. 1298, a bill to amend the Internal Revenue Code of 1954 to extend certain tax provisions to Indian tribal governments on the same basis as such provisions apply to States.

S. 1326

At the request of Mr. SASSER, the Senator from Montana (Mr. MELCHER), and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of S. 1326, a bill to amend title 38, United States Code, to authorize a service pension of up to $150 per month for veterans of World War I and for certain surviving spouses and dependent children of such veterans.

S. 1348

At the request of Mr. SASSER, the Senator from Connecticut (Mr. DODD), and the Senator from Montana (Mr. BAUCUS) were added as cosponsors of S. 1348, a bill to amend the Internal Revenue Code of 1954 to clarify certain requirements which apply to mortgage subsidy bonds.

S. 1412

At the request of Mr. D'AMATO, the Senator from New Hampshire (Mr. RUDMAN), and the Senator from New Jersey (Mr. WILLIAMS) were added as cosponsors of S. 1412, a bill to amend the Internal Revenue Code of 1954 to make permanent certain rules relating to travel expenses of State legislators.

S. 1436

At the request of Mr. D'AMATO, the Senator from Oklahoma (Mr. BOREN), and the Senator from Oklahoma (Mr. NICKLES) were added as cosponsors of S. 1436, a bill to amend the Securities Exchange Act of 1934 to provide uniform margin requirements in transactions involving the acquisition of securities of certain U.S. corporations by foreign persons where such acquisition is financed by a foreign lender.

SENATE JOINT RESOLUTION 59

At the request of Mr. ROBERT C. BYRD, the Senator from Alabama (Mr. DENTON), and the Senator from Michigan (Mr. RIEGLE) were added as cosponsors of Senate Joint Resolution 59, a joint resolution designating the square dance as the national folk dance of the United States.

SENATE JOINT RESOLUTION 74

At the request of Mr. MATHIAS, the Senator from Connecticut (Mr. DODD),

the Senator from Pennsylvania (Mr. HEINZ), and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of Senate Joint Resolution 74, a joint resolution designating the week of October 4 through October 10, 1981, as "National Diabetes Week."

SENATE JOINT RESOLUTION 78

At the request of Mr. COCHRAN, the Senator from Delaware (Mr. ROTH), the Senator from Minnesota (Mr. DURENBERGER), the Senator from North Carolina (Mr. HELMS), the Senator from North Carolina (Mr. EAST), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Arizona (Mr. DECONCINI), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Montana Mr. BAUCUS), the Senator from Oklahoma (Mr. BOREN), the Senator from Ohio (Mr. METZENBAUM), and the Senator from Utah (Mr. HATCH) were added as cosponsors of Senate Joint Resolution 78, a joint resolution to provide for the designation of October 2, 1981, as "American Enterprise Day."

SENATE JOINT RESOLUTION 87

At the request of Mr. MATHIAS, the Senator from Maryland (Mr. SARBANES), and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of Senate Joint Resolution 87, a joint resolution to authorize and request the President to designate September 13, 1981, as "Commodore John Barry Day."

SENATE RESOLUTION 161

At the request of Mr. HUMPHREY, the Senator from Oklahoma (Mr. BOREN), and the Senator from Kansas (Mr. DOLE) were added as cosponsors of Senate Resolution 161, a resolution expressing the sense of the Senate relating to impact aid.

SENATE RESOLUTION 163

At the request of Mr. D'AMATO, the Senator from Kansas (Mr. DOLE), the Senator from Arizona (Mr. GOLDWATER), and the Senator from New Jersey (Mr. WILLIAMS) were added as cosponsors of Senate Resolution 163, a resolution authorizing and requesting the President of the United States to issue a proclamation inviting the people of the United States to observe June 30, 1981 as Ukrainian Independence Day.

AMENDMENT NO. 73

At the request of Mr. DANFORTH, the Senator from North Carolina (Mr. EAST) was added as a cosponsor of amendment No. 73 intended to be proposed to S. 1080, a bill to amend the Administrative Procedures Act to require Federal agencies to analyze the effects of rules to improve their effectiveness and to decrease their compliance costs; to provide for a periodic review of regulations; and for other purposes.

SENATE RESOLUTION 166—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. HUMPHREY, from the Committee on Labor and Human Resources, reported the following original resolution; which was referred to the Committee on the Budget:

S. RES. 166

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 755. Such waiver is necessary to permit the consideration of authorizations of appropriations for alcohol and drug abuse prevention, treatment and rehabilitation programs for fiscal year 1982 which were not reported on or before May 15, 1981, as required by section 402(a) of such Act. The delay in reporting S. 755 resulted from a number of factors, including the difficult consideration by the Senate Committee on Labor and Human Resources of separate legislation creating a novel block grant program to consolidate numerous health, education, and social service programs, including alcohol and drug abuse health services.

SENATE RESOLUTION 168—ORIGINAL RESOLUTION REPORTED TO WAIVE CONGRESSIONAL BUDGET ACT

Mr. TOWER, from the Committee on Armed Services, reported the following original resolution; which was referred to the Committee on the Budget:

S. RES. 168

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1181, a bill to amend titles 10 and 37, United States Code, to increase the pay and allowances and benefits of members of the uniformed services and certain dependents, and for other purposes.

Such a waiver is necessary because section 402(a) of the Congressional Budget Act of 1974 provides that it shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which, directly or indirectly, authorizes the enactment of new budget authority for a fiscal year, unless that bill or resolution is reported in the House or the Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year.

For the foregoing reasons, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to S. 1181, as reported by the Committee on Armed Services.

SENATE RESOLUTION 170—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. DENTON, from the Committee on Labor and Human Resources, reported the following original resolution; which was referred to the Committee on the Budget:

S. RES. 170

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1085. Such waiver is necessary to permit reauthorization of the Headstart program and the Child Abuse program.

Such a waiver is necessary because section 402(a) of the Congressional Budget Act of 1974 provides that it shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which, directly or indirectly, authorizes the enactment of new budget authority for a fiscal year, unless that bill or resolution is reported in the House or the Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year.

The Authorization for Head Start expires at the end of fiscal year 1981. The Committee on Labor and Human Resources, however, was unable to comply with the May 15th deadline for reporting legislation which expires at the end of the fiscal year, due to the press of legislative business resulting from reconciliation.

For the foregoing reasons, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to S. 1085, as reported by the Committee on Labor and Human Resources.

SENATE RESOLUTION 171—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. DENTON, from the Committee on Labor and Human Resources, reported the following original resolution; which was referred to the Committee on the Budget:

S. RES. 171

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1086. Such waiver is necessary to permit reauthorization of the Older Americans Act of 1965.

Section 402(a) of the Congressional Budget Act of 1974 provides that it shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which, directly or indirectly, authorizes the enactment of new budget authority in the House or the Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year.

The authorization for the Older Americans Act expires at the end of FY 1981. The Committee on Labor and Human Resources, however, was unable to comply with the May 15th deadline for reporting legislation which expires at the end of the fiscal year due to the press of legislative business resulting from reconciliation.

For the foregoing reasons, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to S. 1086, as reported by the Committee on Labor and Human Resources.

SENATE RESOLUTION 172—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. DENTON, from the Committee on Labor and Human Resources, reported the following original resolution; which was referred to the Committee on the Budget:

S. RES. 172

Resolved, That pursuant to section 402 (c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1087. Such waiver is necessary to permit reauthorization of the Domestic Volunteer Service Act of 1973.

Section 402(a) of the Congressional Budget Act of 1974 provides that it shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which, directly or indirectly, authorizes the enactment of new budget authority for a fiscal year, unless that bill or resolution is reported in the House or Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year.

The authorization for the Domestic Volunteer Service Act expires at the end of FY

1981. The Committee on Labor and Human Resources, however, was unable to comply with the May 15th deadline for reporting legislation which expires at the end of the fiscal year, due to the press of legislative business resulting from reconciliation.

For the foregoing reasons, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to S. 1087, as reported by the Committee on Labor and Human Resources.

SENATE RESOLUTION 173—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. DENTON, from the Committee on Labor and Human Resources, reported the following original resolution; which was referred to the Committee on the Budget:

S. RES. 173

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1090. Such waiver is necessary to permit authorization of the Adolescent Family Life program.

Such a waiver is necessary because section 402(a) of the Congressional Budget Act of 1974 provides that it shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which, directly or indirectly, authorizes the enactment of new budget authority for a fiscal year, unless that bill or resolution is reported in the House or the Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year.

The authorization for the existing adolescent pregnancy program, P.L. 95-626 Titles VI, VII, VIII, expires on September 31, 1981. S. 1090 incorporates the major provisions of this program. The Senate Labor and Human Resources Committee did not report out this authorization before May 15 due to the press of legislative business resulting from reconciliation.

For the foregoing reasons, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to S. 1090, as reported by the Committee on Labor and Human Resources.

SENATE RESOLUTION 174—RESOLUTION TO REFER THE BILL S. 1452 TO THE COURT OF CLAIMS

Mr. BOREN submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 174

Resolved, That the bill (S. 1452) entitled "A bill for the relief of the Tonkawa Indians of Oklahoma" now pending in the Senate of the United States, together with all of the accompanying papers, is hereby referred to the Chief Commissioner of the Court of Claims. The Chief Commissioner of the Court of Claims shall proceed in accordance with the provisions of sections 1492 and 2509 of title 28 of the United States Code and report to the Senate of the United States, at the earliest practicable date, such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the legal or equitable bases of the claims of the Tonkawa Indians of Oklahoma described in such bill and the amount of damages, if any, which may be legally or equitably due from the United States to the claimant. The Chief Commissioner of the Court of Claims is authorized to consider and to make a part of the record in this proceeding the records (including motions and briefs) of the previous trial of this case in the Indian Claims Commission under docket numbers 226 and 22-C.

AMENDMENTS SUBMITTED FOR PRINTING

DEPARTMENT OF JUSTICE AUTHORIZATION ACT

AMENDMENTS NOS. 110 AND 111

(Ordered to be printed and to lie on the table.)

Mr. CHILES submitted two amendments intended to be proposed by him to the bill (S. 951) to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1982, and for other purposes.

ADDITIONAL FUNDING FOR POSITIONS IN THE IMMIGRATION AND NATURALIZATION SERVICE

● Mr. CHILES. Mr. President, I am submitting an amendment (No. 110) to the Justice Department Authorization Act (S. 951). The purpose of the amendment is to provide additional funding for positions in the Immigration and Naturalization Service (INS).

The amendment is an updated version of two amendments (No. 74 and No. 75) to the Justice Department authorization bill that I, and several of my colleagues introduced last month. Since the time that I submitted that amendment, the Senate has passed the omnibus reconciliation bill. As a result of our deliberations on that measure, there is no longer any need to make the offsetting cuts in other Justice Department accounts which we had previously proposed. Therefore, there is no longer any need to include offsetting cuts in the amendment package.

Moreover, it now appears that there will be sufficient room in the authorization to move for the restoration of funding in two other areas. So I have modified this amendment to allow for additional authorization of funding for personnel in the deportations and the detentions programs of INS.

Detention officials operate the detention facilities and processing centers for aliens who are awaiting the outcome of their exclusion or deportation hearings. These detention facilities are severely overcrowded and understaffed. The Krome facility in Florida is operating at almost double capacity, and I understand that the facilities in New York, in Texas, and in California are in equally poor straights. We need to get more detention officials in place in order to prevent what is already a crisis situation in these facilities from turning into a total disaster.

So I would propose adding a total of $2,148,000 to be earmarked for our detentions program. With $1,175,000 of that additional money, we would be able to put on 58 additional INS officials at the Krome facility in Florida. As I mentioned earlier, that facility is woefully understaffed, and INS has been forced to take its people from other duties to staff the Krome facility. In addition, $770,000 of the sum would be used to purchase the food and other supplies that INS needs to keep the facility operating; the massive influx of Haitian refugees has exceeded all expectations and projections.

Without this extra money, it will be impossible for the Krome site to continue operating at any sort of level. Finally, $203,000 of the extra money would be used to hire 10 additional detention officials. It is anticipated that these officials would help our Border Patrol officials in the Southwest. The Judiciary Committee restored 160 border guard positions; restoring these 10 detention officials will help the border guards perform their duties more efficiently.

The deportation program is designed to insure that every case involving a deportable alien is processed expeditiously, and, if necessary, that actual deportation from the United States occurs. At a time when the INS is swamped with deportation hearings, it is absolutely essential that it has the people in place to make sure that the job gets done. It is clear that we do not have the people in place to do the job today. The backlogs and the long lines attest to that.

I understand there are an estimated 100,000 deportation cases backlogged at INS offices, mainly in Miami, New York and in Los Angeles. This provision of additional funding will help insure that INS has the resources to adequately carry out its mandate and enforce the laws. The administration proposed cutting some 43 positions in the deportation programs; $668,000 of the funds provided for in this amendment would be earmarked for restoring those 43 positions.

My amendment also restores $1 million to proceed with the implementation of a system to record and locate alien arrivals in and departures from the United States. The ability to identify and control aliens in our country is critical if we are to regain control of immigration. We saw the almost impossible task facing immigration officials last year when the order was given to locate and verify the status of Iranian students in the United States. I am told that every college and university in the country has to be called because the requested information was just not available any other way. I think we need to bring INS into the 20th century in its recordkeeping. The $1 million in this amendment is a good first step.

Mr. President, the amendment that I submitted last month provided additional funding to restore proposed cuts in the INS inspections, investigations, and status verification programs. The total cost of that earlier amendment was $10,485,000. The modifications that I am proposing today would add another $3,816,000 to the cost of the earlier amendment. In my estimation, this is a modest sum to pay to insure enforcement of the immigration laws. In fact, this amendment does little more than keep INS at its present level.

Congress and the Federal Government has the authority and the responsibility to enforce the immigration laws. The situation in Florida and other parts of the country point up the fact that the Federal Government is not meeting that responsibility. This amendment will

enable us to put the people in place that we need to make sure that the laws are enforced, and help us to bring this critical situation under control.●

NOTICES OF HEARINGS

SUBCOMMITTEE ON FOREIGN AGRICULTURAL POLICY

Mr. BOSCHWITZ. Mr. President, I wish to announce that the Senate Agriculture Subcommittee on Foreign Agricultural Policy has scheduled a hearing on the cargo preference law as it affects the Public Law 480 program (Food for Peace). Provisions of the cargo preference law require that 50 percent of the commodities shipped under titles I and II of Public Law 480 must be transported on American-flag vessels.

Representatives of the administration, the maritime industry, port authorities, and agricultural export groups have been asked to testify.

The hearing will be held on Friday, July 10, beginning at 9:30 a.m. in room 324 Russell Senate Office Building.

Anyone wishing further information should contact Denise Alexander of the Agriculture Committee staff (x40014) or Dan Pearson of my staff (x45641).

SUBCOMMITTEE ON AGRICULTURAL RESEARCH AND GENERAL LEGISLATION

Mr. LUGAR. Mr. President, as chairman of the Senate Agriculture Subcommittee on Agricultural Research and General Legislation, I wish to announce that hearings have been scheduled to consider revisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

The hearings will be held on Monday, July 27 with morning and afternoon sessions, beginning at 10 a.m. and 2 p.m., respectively. Both sessions will be held in room 324 Russell Senate Office Building.

Anyone wishing to testify should contact Denise Alexander of the Agriculture Committee staff at 224–0014.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. MATHIAS. Mr. President, I wish to announce that the Committee on Rules and Administration will hold a meeting on Monday, July 13, 1981, at 10 a.m. in room 301 Russell Senate Office Building. The committee will be receiving testimony on the nomination of Mr. Danford L. Sawyer, Jr., of Florida, to be Public Printer of the United States.

Those wishing to testify or who wish to submit written statements for the hearing record should write to the Committee on Rules and Administration, 305 Russell Senate Office Building, Washington, D.C. 20510.

For further information regarding this hearing, you may contact Mr. Gerald Gereau of the Rules Committee staff at 224–9078.

Mr. President, the Committee on Rules and Administration will hold a meeting on Friday, July 17, 1981, at 10 a.m. in room 301 Russell Senate Office Building, to mark up Senate Resolution 20, providing for television and radio coverage of Senate proceedings, and S. 778, authorizing additional funds for the Smithsonian Institution to plan the quadrangle developments on the Mall. The committee will also be considering the nomination of Mr. Danford L. Sawyer, Jr., of Florida, to be public Printer of the United States and various other pending legislative and administrative business, including Senate Resolution 146, providing for participation in the Senate youth program of the Department of Defense school system outside the United States, and an original resolution establishing a Senate placement office within the Office of the Sergeant at Arms.

SUBCOMMITTEE ON INNOVATION AND TECHNOLOGY

Mr. WEICKER. Mr. President, I would like to announce for the information of the Senate and the public that the hearings scheduled by the Subcommittee on Innovation and Technology of the Small Business Committee for July 8 and 9 have been rescheduled for July 15 and 16, 1981.

The purpose of these hearings is to allow the Subcommittee on Innovation and Technology to continue its review of S. 881, the Small Business Innovation Research Act of 1981.

The hearings will convene on both days at 9:30 a.m. in room 424 Russell Senate Office Building.

For additional information contact Anne Sullivan of the committee staff at 224–5175.

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS

Mr. GARN. Mr. President, the Subcommittee on Financial Institutions has scheduled hearings on July 9, 1981 and July 15, 1981 on S. 1406, the "Credit Deregulation and Availability Act of 1981" and on S. 963. It is possible that we will be having 1 additional day of hearings in the near future. The hearings will be held at 9:30 a.m. in room 5302 of the Dirksen Senate Office Building.

Questions should be directed to Beth L. Climo, counsel to the committee, 5300 Dirksen Senate Office Building, Washington, D.C. 20510, (202) 224–1565.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. McCLURE. Mr. President, I would like to announce for the information of the Senate and the public that the nominations hearing scheduled for Thursday, July 9 at 9:30 a.m. will be held in room 1202 of the Dirksen Senate Office Building.

The committee will consider the nominations of James Harris to be Director of the Office of Surface Mining; James Richards to be Inspector General, Department of Energy; and James Stearns to be Director of the Office of Alcohol Fuels.

For further information regarding this hearing, you may wish to contact Mr. Charles Trabandt of the committee staff at 224–7141.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, July 8, to hold confirmation hearings on the nomination of Paul Robinson to be Ambassador to Canada.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, July 9, to hold hearings to consider the nominations of James R. Harris, to be Director, Office of Surface Mining, Department of the Interior; James R. Richards, to be Inspector General, Department of Energy; and James G. Stearns, to be Director, Office of Alcohol Fuels, Department of Energy.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate at 2 p.m. today, July 8, to hold oversight hearings on the Clean Air Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands and Reserved Water of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Friday, July 10, to hold a workshop on public land acquisition and alternatives.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL TRADE

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on International Trade of the Committee on Finance be authorized to meet during the session of the Senate on Wednesday, July 9, to hold hearings on general trade problems.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENERGY AND MINERAL RESOURCES

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Energy and Mineral Resources of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, July 8, to hold hearings on S. 859, a bill to amend the mineral leasing laws of the United States to provide for uniform treatment of certain receipts under such laws.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands and Reserved Water of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, July 9, to hold a workshop on public land acquisition and alternatives.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE PARTY OF COMPASSION

● Mr. EAST. Mr. President, I commend for your attention an article contained in the June 26, 1981, edition of National Review written by Joseph Sobran entitled, "The Party of Compassion." Proponents of big government are currently attacking the President for his "ruthless" budget cutting and his lack of concern for the common man. Mr. President, I would put the shoe on the other foot: it is the big spenders of this and past Congresses who have no real concern for the common man.

The humane vision of society shared by our Founding Fathers was based upon a total commitment to a free society where individuals, not the Government, were responsible for their own welfare. As James Madison once said, "The centralization of power is the very definition of tyranny." We have witnessed such a centralization of power, Mr. President, during the past 20 years. Everyone wants freedom, Mr. President, but some are unwilling to pay the price. A free society is the only humane society. President Reagan and the majority of the electorate last November believe with the Founders that freedom will not survive unless individuals pay the price of self-responsibility.

It is freedom that makes America unique. It is freedom that makes our country a shining light sitting above a valley of darkness. It is fruits of freedom that make millions throughout the world risk their lives every year to try and escape the oppressiveness of totalitarianism. It is freedom that has given us our material wealth and it is freedom that has resulted in the most equitable distribution of wealth that mankind has ever known.

Coerced redistribution of material goods in the long run means tyranny, Mr. President. A tyrannical society is not a humane one and those that blindly lead a society down the path of tyranny are not compassionate as Mr. Sobran so forcefully points out.

Mr. President, I am a conservative because of my belief that conservative policies will result in the most humane society possible in this imperfect world. I submit Mr. Sobran's article for the RECORD.

THE PARTY OF COMPASSION

I shall never forget the last time I saw Tip. In person, I mean.

It was on a chilly December evening, a few weeks after the 1980 election. I was in Washington, in a taxi, with three friends, rolling merrily from the bar of a posh hotel to dinner at a ritzy men's club. Far be it from me to drop the names of the hotel, the club, or the friends. But little did I expect the evening's most memorable moment to occur en route.

As our cab paused at a stoplight, an enormous black brooding limousine drew magnificently up beside us. The passenger, puffing a cigar half the length of the vehicle itself, was none other than the Speaker of the United States House of Representatives: Thomas P. ("Tip") O'Neill Jr.

We joked and tittered, and when he glared over at us we waved cheerily. His response was seigneurial: he removed the cigar no more than an inch from his mouth, nodded a dignified nod that I would put at no more than two centimeters, and, without altering his baleful expression or accelerating his dignified rhythm, reinserted the cigar between his lips. The light changed, and the enormous limousine glided away into the night.

What was most impressive to us, giddy as we were, was the economy of the gesture. It was the nod of a powerful man—the nod of one who knows the leverage of his nods. It implied somehow that His Speakership could spare only so much, for four chance strangers of the evening, out of that great reservoir of energy which, during daylight hours, impelled him to bestow more material kindnesses on millions. Tip, after all, has been, in his own words, "one of the big spenders of all time."

But big spenders have fallen abruptly out of fashion. As of those 1980 elections, it has become, to use his words again, "a new ball game."

At first Tip seemed to accept the change like the pro he is. After Ronald Reagan, newly risen from his wounding, powerfully addressed the two Houses of Congress and millions of TV viewers on the necessity of cutting federal spending, Tip sounded resigned, saying such things as that Reagan had the votes and that Tip O'Neill had been in politics long enough to know when you fought and when you didn't. This kind of talk from the ancient Big Spender sounded definitive—the all but official finis to an era of unbridled profligacy.

But it didn't sit at all well with junior Big Spenders, who felt—and said loudly—that Tip was betraying their cause. Their general was publicly predicting victory for the enemy on the eve of battle. It was as if Churchill had gone on the radio to tell the English people he didn't see any way to stop the Jerries from overrunning the British Isles.

So Tip O'Neill, the legendarily tough old Irish pol, was forced once more to squeeze into his moral corset, the uniform of the Democratic troops, and denounce the Reagan budget as "a brutal change in the system," and so forth. That was more in keeping with the dogged insistence of such as Edward Kennedy that the Democrats are, and must ever remain, "the party of compassion." The end may be near, the cause discredited, defeat all but assured; yet until Reagan's victory is final, the corpulent old avatars of compassion must continue to take the field, uttering the familiar war whoops.

As it happens, the war is far from lost. Reagan himself has stressed that even his proposed budget will only slow the increase in federal spending, not reduce it. And Reagan, unlike his feisty budget director David Stockman, shows no disposition to risk his nice-guy image in a real showdown on the philosophical issue of "entitlements"—the claims of some people to wealth produced by others, through the agency of government.

The Democrats will continue to command the heights in this war as long as they can characterize government redistribution as "compassion," and the opponents thereof as "brutal." When even a tough old codger like Tip O'Neill can assume indignation, without drawing horse laughs, on behalf of those who would be "hurt" by the Reagan-Stockman "axe" (the bloody instrument has appeared on the covers of newsmagazines and in countless headlines, editorials, and cartoons), the Administration will be at least partly on the defensive. Under the circumstances, it doesn't help much to point out (however truly) that the effects of government spending are themselves brutal. As things now stand, our political culture accepts government redistribution as the reification of compassion, and spending cuts, say what you will, as mean. Axe imagery still prevails.

Actually the phrase "government redistribution" is redundant. You can't "redistribute" your own wealth; you can only give it away. And private-sector "redistribution" of other people's money is called robbery. At the level of principle, the Reagan Administration has yet to pose the question Frédéric Bastiat put so forcefuly: How can it be right for a government to do what is inherently wrong for individuals to do? And at the level of political rhetoric, it apparently has yet to ask even itself: How is it that a cigar-chomping operator like Tip O'Neill manages to retain more moral plausibility than, say, the late Richard Daley, whom he co strongly resembles?

A practical answer lies in the mechanism of redistribution. Much of the nation's wealth is in liquid form and, thanks to the withholding tax, can be intercepted before it ever reaches those who have earned it. Moreover, the Federal Government, controlling as it does the nation's money supply, can "monetize" its debts. This—printing money—is held to be an actual stimulus to the economy, in which case counterfeiting ought to be recognized as a public service.

As a result of these practices, most people feel the effects of federal spending policies only indirectly. And even when they do feel them, they do so confusedly. Few hold it personally against the Big Spender with the big cigar in the big limousine. It's doubtful that it occurs even to Tip's chauffeur to blame his boss for the missing chunk of his weekly paycheck.

It would be otherwise if, say, government agents were forced to march onto your farm periodically and carry off a cow and a sheep to implement their policies. In that case everyone would take it personally. For this reason the financier and economist Lewis Lehrman would like to see the withholding tax abolished, and taxpayers sent itemized bills from their government. There were front-page whispers, last fall, that Lehrman was in the running for Secretary of the Treasury. If Tip O'Neill thinks Reagan and Stockman are brutal . . .!

But back to our questions. Beyond the redistributive mechanisms lies a legitimizing principle. It seems safe enough to say that Tip O'Neill, whatever his virtues, has no personal moral charisma; had he remained, inconceivably, in the private sector, nobody would have mistaken him for a Ralph Nader or a Martin Luther King. Philanthropy? "I've always taken care of my friends," he has said—implying a style of largesse that doesn't quite smack of universal humanitarianism, though perhaps of a rough-and-ready good nature—setting aside, again, the question whose money he takes care of them with.

But he can invoke "compassion," and his credentials pass unchallenged. After all, anyone can invoke compassion nowadays; it's the magic word. And that's the whole point.

Let's face it. There was much less canting about compassion back in the days when you had to put your own money, rather than the taxpayer's, where your mouth was. But today that virtue has found an easy formal identification with—well, Big Spenders.

That identification is wholeheartedly sustained by the press. For all its talk about a critical or "adversary" relationship to political power, the major media have been as docile as Tip's compassionate heart could wish about the putative connection between human kindness and redistribution. The media will dispatch teams of investigative reporters to challenge the word of an Administration figure on minute details of behind-the-scenes transactions; but they have simply taken the word of Big Spenders for decades that Big Spending enhances the human condition.

As the late Adolf Hitler liked to point out, big lies work better than little lies. This is true in non-Hitlerian senses: little lies can be checked out by mere observation, while big lies can be written off to differences in metaphysical theory rather than to mere mendacity.

Hence, when conservatives have charged that liberal programs were wrong or just plain fraudulent, the charges could be laid to "ideology." But it has consistently been the conservative, not the liberal, philosophy which the press has chosen to dismiss in this way: during the early stages of the budget debate the usually reliable Washington Post featured front-page stories about victims of—that is to say, people who would be "hurt" by—Reagan's budget cuts. In short, the usually reliable Post and other major media took as indisputable, as mere fact, the proposition that to reduce the level of redistribution would be to inflict harm on those who have come to expect federal support.

Every regime lays claim to a legitimizing principle, a mission, a mandate of some kind. Theocracies invoke the will of God. Democracies, the will of the people. Marxists, the historical dialectic. For liberalism, as Kenneth Minogue puts it in The Liberal Mind, the mission of government derives from "suffering situations." Just as the socialist state claims to represent the workers, the liberal state represents . . . the Victims.

Suffering and victimhood can be variously defined—and are. Probably 80 per cent of the American people now qualify as victims under liberal ideology. Women alone account for 51 per cent. Add black people—even allowing for the fact that half of them are already covered *qua* women—and you approach 60 per cent. Then there are other ethnic minorities—Hispanic, Oriental, American Indian—and handicapped people and old people and homosexuals and abused children and all the poor people who happen to have eluded all the other victim categories . . . well, it adds up. Even criminals enjoyed a vogue as victims, though liberals have had to soft-pedal this theme lately.

The pivotal proposition for the liberal regime is that suffering warrants redistribution. It is the duty of government, as understood by liberalism, to commandeer (as subtly as possible) the nation's resources for the relief of any statistically significant form of suffering. "Victimology," as Nicholas von Hoffman wittily terms it, goes in for Aggregate Suffering. Obliquely, and without serious challenge from either the press or recent Administrations, liberalism has smuggled into the nation's discourse the presumption that Aggregate Suffering defeats, to some undefined degree, the rights of property and contract. (The Supreme Court, as Bernard Siegan reminds us, has never raised any questions about this philosophically and constitutionally curious notion.)

Consider wife-beating. It is a common evil. There is, however, no constitutional provision for federal succor for battered wives. What of that? Social-workers and feminists rush into print and before the cameras and microphones with studies, surveys, statistics. The dimensions of the problem are projected onto a national scale—whereupon the phenomenon becomes a national problem—requiring, need one say, a national program. (Actually, wife-beating is, by this line of reasoning, an international problem, worthy of UN attentions.)

When, a few years ago, a brief fuss arose about the hitherto ignored problem of battered husbands, von Hoffman exploded. Victimology, he charged, had become a rogue discipline. The discovery of a new victim category, he went on, occasioned as much excitement among professional dogooders as the sighting of a new star among astronomers.

Too true, Nick! Clearly, a good deal of victimhood is willed into existence and defined by semantic and statistical sleight. This can only mean that there exists a large body of people for whom it is advantageous to maximize, world without end, the number of excuses for redistribution. Irving Kristol has dubbed people with this sort of vested interest in state growth "the New Class," and it is interesting to note, as Jeane Kirkpatrick has, that the day has passed when liberals could assume that democracy itself would remedy the problems of the oppressed. Give them the vote, liberals used to say, and the little folks would take care of themselves, and each other.

Today, it so happens, liberals have quietly taken sides against majoritarianism. They prefer to deal with suffering through judicial and bureaucratic edit, rather than through electoral politics and representative government. A review of Joseph Califano's memoir Governing America (the reviewer for the usually reliable Post's Book World was Arthur Schlesinger) bore the title "Wielding Power for the Powerless"—a bromide, maybe, but with a dark implication: in a democracy the victims—the 80 per cent?—are effectively disfranchised, so that the government must serve their interests by sidestepping, if necessary, the will of the majority. Much recent federal policy has been based on the presumption of pervasive, though invisible evils—like "institutional racism." And training people to see themselves as victims has become a specialty in itself—now known as "consciousness-raising," an old Marxist phrase that has been transferred from Marxism's worker-victims to liberalism's more variegated sufferers.

Again: the New Class doesn't just invite the victims to speak. It claims to speak for them, not as a revolutionary but as a sort of humanitarian vanguard. The victims' state, unlike the workers' state, isn't revolutionary at all. Part of its legitimation lies in its promise to avert social strife and bloodshed. (The New Deal saved capitalism, you know.) Liberalism is to Marxism as the good cop to the bad cop in the old station-house third-degree scenario.

Otherwise, though, liberalism buys a lot of the Marxist baggage. Liberals like to talk about "building new societies," though they play down the amount of razing away this involves. The cardinal sin, as the liberal mind sees it, is to leave things as they are. In endorsing John Anderson for President. The New Republic enumerated a series of desiderata which included, just by the way, "an active remaking of society along more equitable lines." Go to it, John! Remake society!

That is why Anthony Lewis, in the spring of 1975, could see in the forced march of three million people out of Phnom Penh reason for optimism: the Khmer Rouge were pursuing "a vision of a new society." It also helps explain why Lewis so hotly attacks the Reagan Administration's policy distinction between "authoritarian" and "totalitarian" societies. After all, the distinction implies that authoritarian societies are better, because they at least leave alone the nonpolitical institutions. And liberalism, like Marxism, precisely refuses to leave these things alone.

If anything, this fact makes authoritarian societies worse, to the liberal's way of thinking. Worse, because traditional institutions—property, family, and religion, to say nothing of country clubs—oppress people. The whole point of liberal politics is to remake society. Leaving things in place only perpetuates evil. So the liberal regime, finding victims everywhere, bans father-son banquets. Such is the mission of the New Class.

Nobody, but nobody, has epitomized the New Class better than Califano himself: as Secretary of Health, Education, and Welfare, he claimed personal perks beyond the dreams of Tip O'Neill, including a special chef (at $14,000) to fix him lunch on working days. The better, one supposes, to help him wield power for the powerless.

There is obviously a difference in kind between emergency measures to avert starvation and a system that winds up pampering Joe Califano's palate. But the indirection of it all has seriously eroded the basic sense of mine and thine. The Treasury, since the Carter era, has adopted a form of Newspeak under which tax exemptions are "tax expenditures"—i.e., the government is spending money when it lets the taxpayer keep some. Any proposal to cut federal benefits is treated as a form of robbery committed against recipients, rather than a restoration of wealth to those who have produced it: The New Republic has now deplored "huge transfers or wealth from the poor to the rich."

In good sooth, I misspoke. The sense of mine and thine has actually been reversed. If you are already receiving federal benefits, any reduction therein actually victimizes you.

It appears that Victimology is in need of its own technical vocabulary. We might speak of at least three orders of victimhood: primary, when a specific act of discrimination or other social harm is committed against you; secondary, when you can claim an entitlement because you share a characteristic (of race or sex, say) with those suffering the primary kind; and tertiary, when an entitlement is withdrawn.

Specialists may want to add yet more refined categories, but as an instance of the tertiary victimhood currently being inflicted by the Reagan Administration one can do no better than to cite a recent issue of The Village Voice, that wailing wall of the American Left. There, proposed reductions in federal subsidies to the arts were greeted by the front-page headline "Artists: An Endangered Species." (Subhead: "How Reagan's Budget Cuts Will Cripple the Arts.")

In an eight-page spread, an array of poets, playwrights, painters, and "filmmakers" eloquently found the Administration's unwillingness to renew their subsidies evidence of its more general inhumanity. Poet Stanley Kunitz: "Lack of compassion and indifference to the arts go hand in hand." (Les pauvres, c'est moi.) Library of Congress poetry consultant Maxine Kumin: "This is a low blow for the younger poets especially. . . . The gap between the very rich and the very poor widens, while people talk sanctimoniously about balancing the budget. Never mind the budget, we're on the road to Armageddon. I don't think we'll last another fifty years. . . . It's the death of humanism and of letters." Writer Grace Paley: "Since money will be taken from literature and turned into bombs, it will probably kill a lot of writers."

Poeticide, don't you see. Writers—artists—are victims. To expect them to make their living from money paid voluntarily is to kill them. Or cripple them, at the very least. Samuel Johnson, it is true, admitted that "we who live to please must please to live," but then Dr. Johnson hadn't had his consciousness raised.

Amazing. Simply amazing. The incredibly inflated sense of victim hood manifest in these complaints tells you what the word "victim" has really come to mean, when you get right down to it: it means any poor little ego that feels it is cheated and impoverished by a system of free exchange. None of these artists had the modesty to ask whether they should have been receiving public funds in the first place—funds that might, for all that, have gone to needier people, even under the Regime of the Victims. No, all of them took for granted that any threat to their interests must ipso facto be a threat to the poor.

One thing is clear enough: redistributive systems foster egotism, selfishness, and an infantile sense of grievance. Socialists, Marxist or liberal, are just plain bad sports. They deem it an intolerable imposition on them to have to convince free fellow citizens of their merits. They are, in a word, uncivil.

Dr. Johnson didn't sound much like George Gilder, but there were certain realities he thought a man ought to accept in a manly way, as "the condition of life." Charity is one

thing. Liberalism is another: it encourages people, as we see all too plainly, not to achieve, but to whine, to accuse, to lose all sense of sheer measure. The very idea of able-bodied poets—educated, articulate, you might say favored by society—demanding handouts from a government whose supervision they would violently resent! These are people who no doubt pique themselves on their audacious independence of the powers that be, whom they take it as a sacred duty to criticize . . . but there has never been a protest, march, or petition against one of those powers: Tip! The Big Spender! Avatar of Compassion! Guardian of the Victims!

Early last fall the usually reliable Washington Post announced a startling breakthrough in Victimology. With great fanfare, it presented "Jimmy's World."

But you know the story: "Jimmy," it transpired, didn't exist. The young reporter who had attested to the misery of this eight-year-old heroin addict was shown to have lied, and had to return her Pulitzer, and quit her job.

All very familiar by now. No need to repeat here the main lines of the moralizing about the powers of the press, the ethics of anonymous sources, etc. Still, one or two points may have slipped your notice.

In confessing the fraud, the u.r. Post reported that the malefactor, Janet Cooke, had admitted that Jimmy was a "composite." For my part, I took this to mean not that there was no such thing as Jimmy, but that there were several such things, which is what "composite" usually implies. But it soon became clear, even to me, that if Jimmy was a "composite," it was not of two or more eight-year-old dope addicts, but of, at best, an eight-year-old and a dope addict. Under the circumstances, "composite" was itself a misleading confession. It was as if an alleged hermaphrodite had turned out to be a composite of a man and a woman.

Other transpirations began filtering through. For instance, the decision to give Miss Cooke the Pulitzer had not been made without a hot debate, during which one Pulitzer board member, Roger Wilkins, carried the day. Here testimony diverges. Some accounts had it that Wilkins insisted that he could find "several" Jimmies within a short radius of the Columbia School of Journalism, which is near Harlem. Wilkins himself later wrote that he had said he could find one Jimmy thereabouts.

But lots of people had doubted that there were any Jimmies, anywhere. A poor eight-year-old is in no position to support a heroin habit, however modest. The Washington police had been unable to come up with a single boy resembling Miss Cooke's description, and the street-smarts of cops are not to be lightly dismissed.

What became clear, if you looked at the facts closely, was that a lot of people wanted to believe in Jimmy, the compleat victim. Wilkins, the compleat black pundit, wasn't the only one. Another black pundit, Carl Rowan, only grudgingly conceded Jimmy's non-existence, and that only at the most literal plane: he heatedly wagered, on public TV's Agronsky and Company, that there were plenty of ten- and eleven-year-old dope addicts "out there."

Yes, Virginia, there is a Jimmy. . . .

As for the u.r. Post itself, it brilliantly capitalized on its own disgrace with a kind of self-scoop, charging its ombudsman, Bill Green, to do a full investigative report on itself. Green duly found that the paper had loved Miss Cooke not wisely but too well, encouraging her modus operandi in the most supportive possible way.

Nobody was more supportive than the u.r. Post's publisher, Donald Graham. A week after "Jimmy's World" appeared, creating a sensation in Washington, Graham wrote Miss Cooke a telling memo. He praised her as one of those "black reporters who try to see life through their own eyes instead of seeing it the way they're told they should."

How did he think they're told they should? Did he really suppose black reporters are hired to tell the world that blacks lead contented, happy-go-lucky lives, gnawing the old spareribs and munching the old watermelon? As a matter of fact, middle-class blacks like Miss Cooke seem to have gotten the message that the u.r. Post doesn't want to hear about middle-class blacks: it wants tales from the heart of ghetto darkness, ghastly accounts of funky underclass misery. Miss Cooke herself was probably the first black woman in ages to be the subject of a Post feature without being either poor and pregnant or a member of the Cabinet. She understood well enough that her editors didn't want stories about Janet Cooke types.

But Graham wasn't through: his memo ascended lyrically to the subject of the Post's Higher Mission.

"If there's any long-term justification for what we do," he wrote, "it's that people will act a bit differently and think a bit differently if we help them understand the world even slightly better."

Stop the projector right there: freeze that frame! The duty of the Post isn't just to provide information—it's to offer social therapy! Refine the old perceptions! Reform the attitudes! Improve the behavior! Remake society, as The New Republic might put it! And all for twenty cents a day!

Graham may have thought Miss Cooke was doing something daring, but nobody else did, least of all she. "She was consumed by blind and raw ambition," one of her colleagues said. Raw, yes. Blind, no. "This story is my ticket off the Weekly," she had told another peer. She was going places, not because she was shattering stereotypes but because she was confirming them: liberal stereotypes, of course.

The Cooke affair exposed a peculiar kind of corruption: the willingness to take the shortest cut to the "long-term justification." The Post—as its coverage of issues like the budget debate makes clear enough—doesn't just want to "inform" us. It wants to improve us. We have the publisher's word for it. The highly Pulitzered reportage is shaped by liberal mythology, by the imperative to show forth the suffering of society's victims, with the ultimate goal of remaking society.

Miss Cooke sensed that it was up to her, therefore, to give her editors a real doozy of a victim—let's see—black (of course)—poor—a child (the Dickensian touch)—his young life blighted by social neglect—hmmm . . . something was still missing . . . of course! Heroin!

Let's not belabor the point. But you see what Ronald Reagan is up against: a kind of huge, informal interlocking directorate between Victimology and journalist. The press, even when accurate, gets what it's looking for. In this case, it was looking for the liberal victim par excellence. Miss Cooke served him up, and brinky though her offering was, not too many questions were asked. Within her paper, in fact, not enough.

If you read Alexander Cockburn's column in The Village Voice, you will be regularly and loudly told that journalism, excluding Mr. Cockburn's own of course, serves the interests of "the ruling class." Being a Trotskyist or something, he means the capitalist class.

Would that it were so! In fact, the press has been a lot rougher on the capitalist class, from the heyday of Naderism onward, than on the redistributist class; the New Class.

But if you prowl around Washington of an evening, you may see a big fellow in a limousine whose class interests the press has never threatened. And he isn't a capitalist.●

DEATH OF JOE McDONNELL IN THE HUNGER STRIKE IN NORTHERN IRELAND

● Mr. KENNEDY. Mr. President, I deeply regret the death of yet another Irish hunger striker in the British prison in Northern Ireland.

The death of Joe McDonnell early this morning is especially tragic, because the parties seemed so close to agreement on a fair settlement to end the strike.

In this extremely difficult time, I urge all the parties to renew and intensify their efforts to reach a settlement. In particular, I call upon the British Government to end its posture of delay and do all within its power to implement the hopeful compromise mediated by the Irish Commission for Justice and Peace.

Events of recent days have proved that a settlement is possible before any other hunger strikers die. The British Government must not permit a reasonable settlement to slip away because of unreasonable insistence on issues of timing and technicalities relating to the implementation of the settlement.●

LONGSHORE AND HARBORS WORKERS' COMPENSATION ACT

● Mr. NICKLES. Mr. President, the Subcommittee on Labor recently concluded hearings on S. 1182, amendments to the Longshore and Harbor Workers' Compensation Act, sponsored by my distinguished colleague from Georgia, Senator NUNN, and myself, and cosponsored by Senators HAWKINS, EAST, SYMMS, and HELMS.

To further substantiate the necessity for promptly amending this act, I would like to bring to the attention of my colleagues recent editorials published by the Washington Post and the New York Times. These editorials address the inequities of the Longshore Act as they were revealed in the hearings.

The New York Times editorial appeared on June 9, 1981 and is entitled "Port Pay Without Anchor." It reiterates the problems of fraud and abuse that occur when the Federal Government creates an incredibly expensive welfare system such as the Longshore Act. In addition, it addresses the urgent need for Congress to clean up the act.

To quote the article:

In 1972, one worker in eleven filed an injury claim; last year the number was one in five. In the shipbuilding industry, insurance costs have increased ninefold since 1970. Insurance for longshoremen in New York now costs $363 a week, roughly 80 percent of wages, of which some of the money is funneled to labor racketeers.

These incredible costs must be passed through to shippers and not surprisingly, shippers are avoiding American ports when they can. The cost of workers' compensation insurance in Canadian ports is one-fifth that in American ports, sometimes only one-fortieth.

And, Mr. President, most important of all, the article stated:

The remedy is straightforward: remodel the system to conform to the more typical state compensation plans. Proposals to do just that are pending in both houses of Con-

gress, and Senate hearings will begin in a few weeks. The sooner the law is changed, the better.

A similar editorial entitled "Waste on the Waterfront," appeared in the Washington Post on June 17, 1981. It further pinpoints the inequities of the act presently covering our Nation's dockworkers and thousands of other workers in related industries such as shipbuilding, harbor construction, museum workers, and the District of Columbia employees.

The editorial claimed:

Provisions of the program statute, in particular, the expansive amendments slipped into law in 1972, have certainly pushed the program beyond reasonable limits . . . benefits, ranging up to $476 a week, frequently make the worker better off than he was before his injury because they are tax free, fully indexed for inflation and, if an injury is deemed "permanent", may be kept even if the recipient goes back to work.

In conclusion, Mr. President, the editorial forcefully stated the following:

As the leaders of organized labor prepare their response, they should remember that defending every detail of a runaway program does no favor to the cause of responsible labor protection.

Mr. President, in order that my colleagues might have the benefit of these editorials, I ask that they be printed in the RECORD.

The editorials follow:

[From the New York Times, June 9, 1981]

PORT PAY WITHOUT ANCHOR

For most Americans, workers' compensation pays the medical bills for job-related injuries and replaces a modest portion of lost wages. Things are different, however, for a million workers employed at or near ports. Thanks to the Federal Government, their compensation program has become an incredibly expensive welfare system, wide open to cheating. Congress ought to clean up the mess.

Typically, state compensation laws require employers to carry insurance against injury and occupation-related illness—enough to cover medical expenses and replace, say, two-thirds of lost wages, up to a few hundred dollars a week. The typical cost of this coverage runs to a few percentage points of the total payroll; for more dangerous work, like heavy construction, it can run to 15 or 20 percent of wages. The systems are far from perfect, but such compulsory, no-fault protection serves everyone's interest.

But longshoremen have had their own Federal compensation system since 1927, the result of a Supreme Court ruling denying state jurisdiction over those employed on navigable waterways. Until 1972 it seemed to be a program of reasonable proportions. But then the law was quietly amended to make it exceptional indeed.

First, the jurisdiction was expanded to include thousands of workers in "related" industries—shipbuilding, harbor construction, even marine museum workers. Then the maximum disability benefits were raised to twice the national average wage—and fully indexed against inflation. Moreover, workers were given the right to choose their own physicians. And a claims review board was established in the Labor Department, with what employer groups insist was a decided bias against them.

The rise in reported injuries implies a vast increase in questionable claims. In 1972 one worker in eleven filed an injury claim; last year the number was one in five. In the shipbuilding industry, insurance costs have increased ninefold since 1970. Insurance for longshoremen in New York now costs $323 a week, roughly 80 percent of wages. A Waterfront Commission suggested in 1973 that at least some of that money was funneled to labor racketeers.

These incredible costs must be passed through to shippers. And not surprisingly, shippers are avoiding American ports when they can. The cost of workers' compensation insurance in Canadian ports is one-fifth that in American ports, sometimes only one-fortieth.

The remedy is straightforward: remodel the system to conform to the more typical state compensation plans. Proposals to do just that are pending in both houses of Congress, and Senate hearings will begin in a few weeks. The sooner the law is changed, the better.

[From the Washington Post, June 17, 1981]

WASTE ON THE WATERFRONT

As part of the current social retrenchment, many of organized labor's prize programs are coming under attack. From labor's perspective this is unfortunate and unfair, since U.S. worker protection programs are generally primitive by the standards of most European countries. Labor has put itself in a vulnerable position, however, by pushing some gains it has made through federal intervention to indefensible extremes. A case in point is an array of federal compensation programs for job-related injuries and illnesses.

Most U.S. workers are covered by state programs that vary widely in benefit levels and adequacy of coverage. Workers suffering from occupational diseases are rarely helped by these programs, and about 10 million workers aren't covered at all. Because most state programs are run through private insurance carriers and involve endless legal haggling, less than 60 percent of over $15 billion now paid yearly by employers actually reaches workers. Labor would like to see more adequate and nationally uniform workers' compensation programs. Any move in that direction, however, runs up against the bad example set by those few programs that are federally run. Principal among them is the longshoremen's and harbor workers' compensation program scheduled for Senate Labor subcommittee hearings this week.

The notion of running a squeaky clean program on the nation's waterfronts is, no doubt, visionary. Dockwork, moreover, is hazardous, so compensation costs are bound to be relatively high; and balancing the interest of workers and employers in these cases is always tricky. But provisions of the program statute—in particular, the expansive amendments slipped into the law in 1972—have certainly pushed the program beyond reasonable limits.

Coverage is now extended vaguely to hundreds of thousands of workers who may, in the course of a day's work, stray close to the water's edge. Benefits, ranging up to $456 a week, frequently make the worker better off than he was before his injury because they are taxfree, fully indexed for inflation and, if an injury is deemed "permanent," may be kept even if the recipient goes back to work. Workers' claims are presumed valid unless the employer can prove otherwise, and the worker may select his own physician to verify his injuries—a feature said to have been abused by labor racketeers who engineered huge rises in claims and then extorted payments from employers to return caseloads to a normal level.

Since 1972 yearly claims have tripled, insurance costs have soared and more and more shipping is diverted to Canada and Mexico. Labor subcommittee Chairman Don Nickles and Sen. Sam Nunn have introduced legislation to return the program to more tolerable levels. As the leaders of organized labor prepare their response, they should remember that defending every detail of a runaway program does no favor to the cause of responsible labor protection.●

ERA RATIFICATION

● Mr. RIEGLE. Mr. President, I wish to express my continued support for the ratification of the equal rights amendment. June 30, 1981, marked 1 year remaining on the extension resolution for ratification of the equal rights amendment to the U.S. Constitution.

As a principal cosponsor of the extension resolution here in the Senate, I believe it is important that we all take note that there is 1 short year remaining to amend the U.S. Constitution to require equal treatment under Federal and State laws and practices for all persons, regardless of sex. Thirty-five of the necessary thirty-eight States have ratified the equal rights amendment. I am proud to say that my own State of Michigan became the 17th State to ratify the ERA in May 1972. Nevertheless, if three more States do not ratify the ERA before June 30, 1982, it is conceivable that equal treatment under the law will be denied to American women for the remainder of this century. It is clear that nothing less than fundamental human rights for over half the citizens of our Nation are at stake.

For nearly 100 years American women fought for the right to vote which was finally granted by passage of the 19th amendment in 1920. Since 1923, American women have worked to extend full rights to female citizens through passage of the 27th amendment which simply states:

Equality of rights under law shall not be denied or abridged by the United States or any state on account of sex.

It is a fundamental right of every citizen in our country to be protected by the Constitution. I am further convinced that only this effort can remove the last formal barriers of discrimination which face women in our society.

Some 160 rallies were held across this Nation on June 30 to voice a renewed commitment to the passage of the equal rights amendment—5 of these rallies in my own State of Michigan. These public forums were a testament to the courage and tenacity of men and women committed to the democratic ideals upon which this Nation was built—ideals of full citizenship and equal rights under the law.

I pledge my continued support to the equal rights amendment and the realization of these ideals.●

AVIATION HALL OF FAME FINANCIAL STATEMENT

● Mr. GOLDWATER. Mr. President, as Statutory Agent of the Aviation Hall of Fame in Dayton, Ohio, it is my pleasure and honor to submit the annual financial statement for the institution. I ask that it be printed in the RECORD.

The financial statement follows:

REPORT ON EXAMINATIONS OF FINANCIAL STATEMENTS FOR THE YEARS ENDED DECEMBER 31, 1980 AND 1979

ACCOUNTANTS' REPORT

DAYTON, OHIO, *May 26, 1981.*

THE BOARD OF TRUSTEES,
Aviation Hall of Fame, Inc.,
Dayton, Ohio.

We have examined the balance sheets of the Aviation Hall of Fame, Inc., A Public Foundation, as of December 31, 1980 and 1979, and the related statements of revenue and expenses, changes in fund balances and changes in financial position for the years then ended. Our examinations were made in accordance with generally accepted auditing standards and, accordingly, included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

In our opinion, the financial statements referred to above present fairly the financial position of the Aviation Hall of Fame, Inc. as of December 31, 1980 and 1979, and the results of its operations and the changes in its financial position for the years then ended in conformity with generally accepted accounting principles applied on a consistent basis.

COOPERS AND LYBRAND.
Certified Public Accountants.

AVIATION HALL OF FAME, INC.—BALANCE SHEETS, DEC. 31, 1980 AND 1979

	1980	1979
ASSETS		
Current assets:		
Cash	$15,223	$18,680
Certificates of deposit	25,398	15,049
Marketable securities, at market (cost, $3,160)	5,856	3,569
Prepaid expenses	115	115
U.S. Treasury bill, 9.765 percent, due February 1981 at cost plus accrued interest (market value $9,831)	9,858	
Total current assets	56,450	37,413
Furniture, fixtures, and equipment, net of accumulated depreciation of $1,297 in 1980 and $909 in 1979	2,585	2,973
Copyrights	1	1
Collections (note 2)		
Total assets	59,036	40,387
LIABILITIES AND FUND BALANCE		
Current liabilities:		
Accounts payable	246	
Deferred membership income (note 1)	13,243	
Accrued expenses	633	
Total current liabilities	14,122	
Fund balance:		
Designated for capital expenditures	15,628	10,707
Designated for promotion	5,000	5,000
Undesignated	24,286	24,680
Total fund balance	44,914	40,387
Total liabilities and fund balance	59,036	40,387

The accompanying notes are an integral part of the financial statements.

STATEMENTS OF REVENUE AND EXPENSES FOR THE YEARS ENDED DEC. 31, 1980 AND 1979

	1980	1979
Revenues:		
Individual memberships	$30,289	$26,393
Organizational memberships	30,905	23,100
Enshrinement dinner	12,330	28,525
Sales of medals and other items	5,687	5,004
Donations	4,334	4,519
Interest and dividends	6,236	2,798
Total	89,781	90,339
Expenses:		
Management fee	26,400	25,200
Salaries and office help	7,227	8,736
Enshrinement dinner	34,283	27,584
Membership expenses	5,861	7,287
Exhibits	2,887	3,231
Cost of medals and other items	1,297	3,621
Office supplies	3,816	3,797
Postage	1,728	2,300
Telephone	819	867
Payroll taxes	548	567
Depreciation	388	368
Miscellaneous		212
Total	85,254	83,770
Excess of revenues over expenses	4,527	6,569

The accompanying notes are an integral part of the financia statements.

STATEMENTS OF CHANGES IN FUND BALANCES FOR THE YEARS ENDED DEC. 31, 1980 AND 1979

	Designated			
	Capital expenditure	Promotion	Undesignated	Total
Balance, Jan. 1, 1979	$8,716	$5,000	$20,102	$33,818
Excess of revenues over expenses			6,569	6,569
Designation (note 3)	1,991		(1,991)	
Balance, Dec. 31, 1979	10,707	5,000	24,680	40,387
Excess of revenues over expenses			4,527	4,527
Designation (note 3)	4,921		(4,921)	
Balance, Dec. 31, 1980	15,628	5,000	24,286	44,914

The accompanying notes are an integral part of the financial statements.

STATEMENTS OF CHANGES IN FINANCIAL POSITION FOR THE YEARS ENDED DEC. 31, 1980, AND 1979

	1980	1979
Sources:		
Operations:		
Excess of revenues over expenses	$4,527	$6,569
Item which did not require current outlay of cash: Depreciation	388	368
Provided from operations	4,915	6,937
Decrease in accounts receivable		11,630
Decrease in prepaid expenses		400
Increase in accounts payable	246	
Increase in deferred membership income	13,243	
Increase in accrued expenses	633	
Total	19,037	18,967
Uses of funds:		
Increase in marketable securities	2,287	632
Increase in U.S. Treasury bill	9,858	
Increase in furniture fixtures, and equipment		403
Decrease in accounts payable		17,470
Decrease in advances		38,391
Decrease in accrued expenses		571
Total	12,145	57,467
Net increase (decrease) in cash and certificates of deposit	6,892	(38,500)
Cash and certificates of deposit, beginning of year	33,729	72,229
Cash and certificates of deposit, end of year	40,621	33,729

The accompanying notes are an integral part of the financial statements.

NOTES TO FINANCIAL STATEMENTS

1. Summary of Significant Accounting Policies:

The Corporation, A Public Foundation, was created by an Act of Congress, Public Law 88-372, July 14, 1964, to honor outstanding persons in the field of aviation. The Internal Revenue Service has confirmed the status of the Corporation as a tax-exempt public foundation.

Furniture, fixtures and equipment are recorded at cost when purchased or at estimated values when received as a donation. Depreciation is computed on the straight-line basis over the estimated useful lives of the assets.

Donated materials other than collections are recorded at their estimated value at the date of receipt. No amounts have been reflected in the statements for donated office space and services as no objective basis is available to measure the value of such services. Donated office space consists of an office and storage provided by the City of Dayton. Donated services consists of time donated by the Board of Directors for the Foundation.

The Corporation offers both one-year and two-year memberships to the public. Membership dues received for the current year are recorded as income at the time the membership period commences. Deferred membership income, representing dues the second year of two-year memberships, is recognized as income during the second membership year.

2. Collections:

The Foundation has acquired by purchase or through donations, various models, books and other memorabilia relating to the field of aviation since its founding. Because the value of these items are not readily determinable and they can be considered inexhaustible items, the Foundation has not capitalized them. The value of objects acquired by gift for which the Foundation can make a reasonable estimate is reported as gifts in the statement of revenue, expenses and changes in fund balance.

3. Fund Balances, Designated:

The capital expenditure fund is intended to provide funds for the purchase of a facility for the Aviation Hall of Fame, Inc. The Board has directed that all donations received from enshrinees or their families and any income earned from donated securities be added to this fund.

In 1978 the Board of Trustees established the promotion fund for the promotion and development of the Aviation Hall of Fame, Inc. No expenditures can be made from the fund without the approval of the Board.

4. Management Contract:

The Foundation contracts with James W. Jacobs & Associates, Inc. on an annual basis to provide consultation and professional services to maintain operations, expand membership, sponsor events and any other services required by the Foundation. Management fees paid amounted to $26,400 and $25,000 in 1980 and 1979, respectively.●

POPULATION OF UNITED STATES

● Mr. PACKWOOD. Mr. President, I wish to report that, according to the latest U.S. Census Bureau approximations, the total population of the United States on July 1, 1981 was 229,290,091. This represents an increase of 188,122 since June 1, 1981. In 1 short month we have added enough people to fill the entire city of Portland, Oreg. more than three times.

Currently in the United States, there is approximately one birth every 9 seconds and one death every 16 seconds. One immigrant enters this country every 60 seconds and one emigrant leaves every 15 minutes. This results in an addition of one person to our population every 16 seconds.●

TRIBUTE TO THE 302D SPECIAL OPERATIONS SQUADRON

● Mr. GOLDWATER. Mr. President, nearly 7 months ago, on November 12, 1980, our Nation's attention was drawn to a disastrous fire at the MGM Grand Hotel in Las Vegas—the second deadliest hotel fire in U.S. history. I recall that tragic event at this time because I have learned that the 302d Special Operations Squadron, an Air Force Reserve unit from Luke Air Force Base, Ariz., credited with saving the lives of 17 people during the fire, will be specially recognized for those efforts at the coming national convention of the Reserve Officers Association. It is appropriate, I feel, that my colleagues in the Senate are aware of the heroism displayed by these Arizona Reservists on that day last November.

The 302d happened to have three CH–3 helicopters and crews participating in an exercise at Nellis Air Force Base near Las Vegas when the rescue call came. Since the CH–3's were the only helicopters on the scene equipped with hoist rescue devices, their dangerous task was to hover close to the smoldering building while crewmembers were lowered on the hoist-slings to survivors trapped on balconies below. At great risk to themselves, the airmen proceeded with skill and ingenuity, again and again plucking stranded guests from the balconies and pulling them up to safety in the aircraft.

At this time when Congress is debating the need to enhance the capabilities of our military forces as part of the national budget, I believe it is important to recognize that the Air Force Reserve is one program where we realize maximum benefit for the dollars spent. When military units like the 302d are fully prepared for both active duty and peacetime emergencies like the Las Vegas fire, on the part-time, cost-saving basis provided by the Reserve structure—the Nation obviously is well served.

Mr. President, these airmen are some of the American heroes President Reagan referred to in his inaugural address. I am proud to represent them in the U.S. Senate and join the Reserve Officers Association in paying tribute to the 302d Special Operations Squadron.●

WHEN SPEECH IS NOT FREE

● Mr. D'AMATO. Mr. President, on June 29, the Supreme Court of the United States handed down its decision regarding Philip Agee's passport. Philip Agee has caused great damage to our Nation's security by revealing names of CIA agents and details of CIA operations. Much of the information Agee has revealed has been procured by him under the Freedom of Information Act. Just last year, a single request by Agee cost the CIA $300,000, as well as countless time and effort by Agency personnel. It is to correct this abuse that I have introduced S. 1235, the Intelligence Information Protection Act.

George Will, in his July 5 article which appeared in the Washington Post, made many salient points which not only address the problem resolved in the Court decision, but identify the necessity for quick passage of S. 1235. For this reason, I request that George Will's excellent article be printed in the RECORD.

The article follows:

WHEN SPEECH ISN'T FREE

(By George F. Will)

Philip Agee is a soiled bit of flotsam from the 1960s, an anti-American American whose actions have given aid or comfort to his country's enemies. That has not, of course, inhibited him from demanding the protection of U.S. courts from the U.S. government's decision to revoke his passport, a decision taken in December 1979.

Having been deported by Britain, France and the Netherlands, he now lives in West Germany, where he is, no doubt, incensed because the Supreme Court has upheld the government's right to revoke his passport.

From 1957 to 1968, he worked for the CIA, holding sensitive positions pertaining to covert intelligence-gathering abroad. In 1974, having embarked upon a career of publishing and agitating (in violation of the contract he had freely entered into with the CIA), he announced his intention "to expose CIA officers and agents and to take the measures necessary to drive them out of the countries where they are operating."

His actions have been followed by acts of violence against people he has targeted. Government affidavits show that when Iran seized American hostages, Agee urged the Iranians to demand certain CIA documents and offered to travel to Iran to help in analyzing the documents. Evidently the Iranians did not take him up on his offer. Perhaps even they have some standards.

Were the CIA half as ruthless as Agee says—were it more like the KGB—it long since would have terminated Agee's campaign, which could make the world safe for the KGB. But revocation of his passport should at least interfere with his mischievous travels.

Congress long ago empowered the secretary of state to "grant and issue passports . . . under such rules as the President shall designate." The principal question in Agee's case was whether this statute is sufficiently permissive to allow denial or revocation of passports on national security and foreign policy grounds. The court held that especially regarding national security and foreign policy, Congress' silence about a practice cannot be construed as implying disapproval. The court inferred congressional assent from long acquiescence in broad executive-branch discretion regarding the regulation of passports.

The headline on The Washington Post's editorial deploring the court's ruling—"Revoking Liberty"—was a bit "overbroad" (as the lawyers say), but the ruling does require Congress to be attentive. If Congress does not like the way the executive branch exercises discretion that Congress confers, Congress can contract the sphere of discretion.

The cry of "Free speech!" is often the last, if not the first, refuge of scoundrels, and Agee said revocation of his passport violates his First Amendment right to criticize U.S. policies. The court gave this impudent argument short shrift, but in the process it did something that has been done too infrequently in the law of free speech.

The court acknowledged that restrictive government action can "rest in part upon" the content of speech by the individual restricted. The intent of the revocation of Agee's passport was to inhibit his actions, but the court candidly says that the revocation "rests in part on the content of his speech," specifically his damaging disclosures about intelligence operations.

As the court said, it long ago recognized that the government has a right to limit speech that, for example, involves revealing departure dates, or destinations, of troop transports, or speech that might involve "actual obstruction to its recruiting service." Yet some people who say that the daindest conduct—such as nude dancing—should be considered protected speech want to say that actual speech is never conducted that can be limited.

Recently, in a case concerning solicitations by groups, the court upheld minor restrictions on the "time, place, and manner" of the speech by members of the groups. There are many precedents for this, but many people continue to insist that the First Amendment should be construed "literally" as conferring an "absolute" right to free speech.

In a country in which a "civil liberties union" argues that tattooing is an "art form" deserving First Amendment protection, a philosophy must begin with the fact that the Constitution aims to serve certain purposes by protecting speech, and some speech is inimical to those purposes.

But in the Agee case—which began as "Vance v. Agee," became "Muskie v. Agee" and ended as "Haig v. Agee"—it suffices to say, as the court did (quoting a past decision), that "while the Constitution protects against invasions of individual rights, it is not a suicide pact."●

BEWARE THE TALK OF AN OIL GLUT

● Mr. D'AMATO. Mr. President, there has been much talk in the news media as of late about a world oil glut. The Fourth of July holiday has passed and American motorists and their families have taken to the road again in their automobiles. There is seemingly no shortage of gasoline and prices have stabilized, if not fallen in recent weeks. In fact, oil industry leaders have stated publicly their hopes for increased driving by Americans.

However, I am concerned that all of this talk about a glut is misleading to the American people. The United States remains heavily dependent on imported oil, 8 years after the first Arab oil embargo. While we have made strides toward becoming energy independent, imported oil, the lifeblood of our Nation, remains more than a fragile commodity. Little has changed in the past few months to change an Office of Technology Assessment warning that:

In spite of the importance of the issue, uncertainties about world supplies of oil from conventional sources during the next two decades are surprisingly large. Nevertheless, it is highly likely that there will be little or no increase in world production of oil from conventional sources. Prudent planning should consider this possibility.

Mr. President, I call to the attention of my colleagues an article which recently appeared in the New York Times, "Lulled to Sleep by the Oil Glut Mirage." It points out quite dramatically that the so-called oil glut could be an oil shortage all too quickly. Its author is no stranger to the energy field. Daniel Yergin is co-author of the Energy Future: Report of the Energy Project at the Harvard Business School. I ask that this important article be printed in the RECORD.

The article follows:

LULLED TO SLEEP BY THE OIL GLUT MIRAGE

(By Daniel Yergin)

The oil crisis has given way to the oil glut. This perception is reinforced by an almost daily litany of price reductions on the world market. Yet, the word "glut" is misleading, for it suggests that the days of easy availability have returned. This is a dangerous and potentially costly illusion, based on a

misinterpretation of what is going on. What we have is a breathing space, not deliverance.

But memories are short when it comes to energy. To quote from a newspaper article, "There is a great deal of OPEC oil around—perhaps two million barrels a day—that cannot find a market without discounting that undermines the price structure that the organization was designed to defend."

1981? No. December 1977. Indeed, through 1977 and 1978 press and public discussion, as well as that in the oil industry, was dominated by the glut psychology.

This was followed by a two-year period, 1979–80, in which prices rose by 170 percent and sent shock waves through the world economy. But now the glut psychology is back.

A glut implies some major collapse in oil prices, which has not happened. It would be much more on the mark to say that there is currently a surplus in the world market—one that could just as easily disappear in a matter of months as continue well into next year. The spot price for oil is about where it was last September, before the Iran-Iraq war, although very little spot crude is currently being traded. Discussions that make so much of a drop of a few dollars in current official prices set by the Organization of Petroleum Exporting Countries should be measured not in the abstract but against the key fact that the price had just finished moving up $22 or so a barrel.

Moreover, many of the price reductions actually refer to the whittling back of ballooning premiums that had been added to the basic price. Thus, what we are really seeing is a leveling off and settling down of prices.

This relatively minor price weakness has arisen because of important changes in the balance between supply and demand. Oil consumption in the Western world dropped more than 7 percent between 1979 and 1980, and is expected to drop another 3 percent in 1981. OPEC production is down almost 20 percent since 1979, to about 25 million barrels a day.

There are a number of reasons. To begin with, the sharp increase in OPEC prices has certainly restrained demand. It would have been truly amazing had demand not budged at all in the face of a jump from under $13 a barrel to almost $35 a barrel. The jump was even greater in the United States because of decontrol. Conservation is definitely at work, proving that there is a lot of flexibility in how we use energy.

But other factors come into play. This latest bout of OPEC price increases has dealt a punishing blow to the economies of the West. The Western world grew at just over 1 percent in 1980, compared with 3.3 percent in 1979, and this recession has been a major contributor to lower demand. The same thing happened after the 1973 price increases, when oil consumption in the West fell about 7 percent. There has also been a good deal of fuel switching, especially to coal.

Finally—a point much overlooked—it appears that the inventories of oil are being run down rapidly. Free world stocks had risen from a low of 4.3 billion barrels in early 1979 to 5.5 billion barrels by last October. Today, according to some estimates, they have dropped about 10 percent, to about five billion barrels. Oil companies are trying to run down their inventories because of the high interest rates. It currently costs $6 to $9 on an annual basis to keep a barrel in stock. Moreover, final consumers, such as industrial companies, also appear to be running down their supplies instead of buying additional barrels.

These factors explain the changes in oil demand. Yet they are only part of the reason for the present surplus. Remember OPEC production would be down in any case because of the war between Iran and Iraq. The market might actually be in rough balance were it not for a decision by Saudi Arabia to produce substantially above its 8.5 million-barrels-a-day ceiling in an effort to enforce its price views on other producers.

Saudi Arabia is hardly opposed to further increases in the real price of oil. But the Saudis do oppose rapid leapfrogging; they want these prices to move upward in a stable pattern in the context of a so-called "long-term strategy." They rightly fear that, with recent prices as high as $41 a barrel, and the associated momentum to push even higher, the producers might well be in danger of providing a vast incentive for conservation and alternatives to OPEC oil. And the Saudis have the most to lose in the long run.

The Saudis thus are using their production strength to stop temporarily the upward move of prices, and to reunify those prices around their own market crude. They are not very likely to allow official prices to fall below their $32 base.

How long will the surplus last? There are too many uncertainties for anyone to say with assurance. But a number of the key factors are subject to very quick turnaround. One of the most important is when and by how much the Saudis cut back their output. The apparent cut of 500,000 barrels a day will not do it, but a further reduction of a million barrels a day or so would pretty quickly erase the surplus and rather instantly end the glut psychology. If there is progress on reunification of price, it's likely to be matched by further Saudi cutbacks.

Much also depends on the rate of which Iranian and Iraqi crude petroleum returns to the market, which in turn will be affected by two big imponderables—the extent of damage to their oil facilities and the level of hostilities between the two nations. Equally large questions hang over oil consumption. Demand for oil will be lower if economic recovery in the United States is postponed, or if the downturn in Europe is prolonged, or if developing countries cannot afford to buy oil.

Demand will also be very much affected by the tempo of energy efficiency. The leveling of oil prices, the perception of a glut, the cutback in the United States of programs to accelerate efficiency, and the loss of interest in the whole problem, as happened in '77 and '78, could all undercut efforts to become more energy efficient and develop alternatives. Already, there are indications that driving might be 20 percent higher this summer.

In other words, the surplus could continue well into 1982, or could disappear by this winter. It is generally thought now that economic growth in the West this year will be 1 percent, or less. But consider what happens if the Western world experiences a more rapid economic recovery before the end of the year. Then, oil demand will go up. This, combined with normal stockbuilding in the autumn, could put a lot of pressure on the oil market, pushing prices higher. Tightness in the market could be accentuated by the current running-down of inventories by oil companies and final consumers, which could mean that oil inventories could be much lower by the autumn—making demand even higher.

Hanging perpetually over everything else is the ever-present "X" factor—the revolution, the coup, the war, the freak event that interrupts supply—and higher prices. After all, in 1979, a shortage of perhaps less than 5 percent created panic conditions.

Oil from Alaska, the North Sea and Mexico have been very important additions to the world oil market, but there are no major new sources likely to come on stream in the next few years. Meanwhile, many OPEC producers have become more interested in restricting production to keep prices up, and it is widely expected that United States domestic production will continue to decline, although at a slower rate because of decontrol.

Important progress has been recorded in the oil consumption of the Western world. But it is much too soon for complacency and self-congratulation. The supply system remains fragile and crisis-prone—making the Western world vulnerable to further oil shocks, and devastating price increases in the years ahead. The one constant is uncertainty. What is truly striking as a measure of dependence on OPEC is that demand could fall so far and so fast with such minor impact on price.

But why the return of the glut psychology? Glut is an attractive idea. It makes many people feel more secure, and after two years of anxiety about oil, it's a great relief to believe the problem is over. But it isn't.●

THE WEST NEEDS FREE CHINA

● Mr. EAST. Mr. President, in the hard world of foreign relations sentimental regard for old friends must sometimes yield to acceptance of the reality of power. The polar star of American foreign policy must be protection of the safety and security of our Nation and its citizens. Thus we may come to deal, at arms length, with old enemies and morally repugnant totalitarian regimes. But we must never forget our old allies.

America's old friends on Taiwan are preserving the ancient culture of the Chinese people, as shown by a thoughtful article by Prof. James B. Whisker of West Virginia University which appeared in the June 1981 issue of Free China Review. I recommend this essay, which I submit for the RECORD, to my fellow Senators and the American public.

THE WEST NEEDS FREE CHINA

(By James B. Whisker)

Xenophon, one of the two principal students of the great philosopher Socrates, was greatly concerned in his dialogues with a problem that did not bother Socrates' other outstanding student, Plato. Xenophon felt that anyone who had mastered the art of rhetoric might win his arguments not because of the moral superiority of his statements, but because of his superior skill in debate. In a similar vein, he was concerned that the size and strength of a following might be mistaken by the uninformed for the possession of right. He thought these positions violated truth and destroyed the nature of dialogue.

Xenophon's arguments are pertinent today. We confuse the power of numbers and the possession of alleged scientific positivism with the possession of truth. We have come, as the American behaviorist B. F. Skinner puts it, beyond concerns for freedom and dignity precisely because we have been entrapped by a curious logic of pseudo-science and the weight of sheer numbers of followers. He who controls the masses is assumed to possess right and thus political legitimacy.

A rigidly controlled society is able to manipulate what comes from it and the people. Only the voices of refugees from tyranny occasionally are raised above the regime's rhetoric and propaganda. Demagogues claim that such dissident voices are those of lunatics and madmen who have not been able to shake off the debilitating effects of false ideologies and theories. Dissidents are presented as having been uprooted and disinherited by choice or wrong thinking. Could they clear their heads for only a moment, they should surely come to accept the new truth.

Totalitarian ideologies close their doors on the past. They despise the old and worship at the altars of the future. They regard the future as predestined and inevitable. History

is something to be manipulated and altered at will.

Free China stands as the great counter-example to the pseudo-scientific, closed ideological system enslaving so many of the ethnic Chinese. It marks a contrast of the highest order to the Darwinian anthill. It has proved precisely that man can exist in a pluralist society and prosper economically, socially, culturally, philosophically and spiritually while rejecting authoritarianism.

While other, evil forces seek to eradicate a noble past of great and often unparalleled intellectual and cultural achievement, the people of Free China have preserved, added to and passed along to present and future generations the accumulated wisdom of the glorious past.

In no other area of the world that has been subjected to the terrors of ideological totalitarianism can we find clearer parallel developments of free and closed societies. One might speculate over what Germany and Italy might have accomplished if their development had not been interrupted by authoritarianism. We can only guess what the Russians, Poles, Slovaks, Czechs and other captive peoples might have brought to the world had their governmental forms remained democratic. In Free China we find precisely what all China would have been had the mainland remained free.

For those who would flee to the collectivism of the closed society, choosing the supposedly greater human, scientific and/or technological progress toward a secular utopia there, the case of the remarkably greater advance of Free China over that of the Communist mainland provides us with living proof that such progress need not be made at the cost of losing the dignity of man.

Authoritarian societies frequently create minuscule showplaces to demonstrate to foreign visitors the viability of their ideology. An authoritarian state may have a single village wherein Islam prospers to show Muslim visitors from the unoccupied world. Such an area exists in Soviet Azerbaijan. Religion, native costumes, local mores and folkways and customs are encouraged. Those who see such diversity frequently fail to realize that this fantasy land has a tenuous existence for their benefit only and not for the indigenous population.

In the free society of the Republic of China, one can discover diversity and departures from the norm not in one isolated village, but in the whole countryside. A foreign visitor is not led into an artificial world, but into a real world of permanence and change, commonality and diversity.

The world of free societies has nothing to fear from the past. There is no specter hanging over the state to prevent emergence of the new society. Should the people of authoritarian China learn of the possibilities of freedom and of conscience and religion, they would choose to enter this world of freedom.

A free society allows the widest variety of approaches to its history. Its scholars are at liberty to attempt to discover the past and relate it to the present and the future. They are free to interpret beyond the narrow confines of a single, pseudo-scientific methodology. They can inquire into history for no reason other than sheer intellectual curiosity. If facts do not fit the existing mold, they can construct their own molds. They may seek understanding without fear of imprisonment. No history is then "useless." It is, like all true knowledge, a finality in and of itself, if that is what the scholar chooses it to be.

A closed society creates a closed methodology. It can see no use for the past unless it is to buttress the existing ideology. Knowledge is never a thing in itself; it is always a tool of something, usually of class struggle and/or revolution. Its scholars can never be free, for even a work approved at one time may later become subversive and negate the latest interpretation of the closed ideology.

Free China has preserved all that it can of the past against the day when all ethnic Chinese may freely pursue their roots. It has guaranteed that the heritage will not die. Although a large number of contemporary Chinese may not know of this, the preservation is important. The rich vein of cultural achievements will one day be made available to all.

So long as Free China exists the West is assured of a day when China may again be China. The restoration of one of the world's great heritages is possible, whereas many other racial and ethnic groups have not preserved their culture. When Chinese totalitarianism is ended, China will again become itself.

The rich Chinese traditions match up well with the basic philosophies of the West. There is much common ground between the religious philosophies of China and those of Western Judeo-Christian teachings. There is much in Chinese history to suggest compatibility with other open societies. The closed ideology of Maoism denies even free discourse.

Closed ideology is a disease of the spirit. It rejects a world beyond this one in its quest for a manmade utopia. It opposes private property and the family. It seeks to lower man from his lofty position as the creature of a deity and make him an insect. Preserved and brilliantly valid, Chinese philosophies deny these closed systems and demand respect for the dignity of man and for institutions which posit man as unique.

Even if ethnic Chinese could be denied access to their own culture and philosophies, these would still be of immense value to the West. No single group, no nation, no philosophy and no language has a monopoly on the truth. We all share what the wise men of the past have given us. It is humanity which suffers from ideological isolationism. We of the West were only just beginning to overcome the prejudices of previous centuries when mainland China was occupied. Value screens had prevented us from looking for truth instead of error. Racist thinking had prevented us from seeing that other races had much to offer. Cultural arrogance had closed our senses to perception of vast worlds that lay beyond us. Difficulties of travel had kept us from seeing wonders afar. Then, just as we were on the brink of discovery and enlightenment, a world was closed to us.

The simple act of removing travel restrictions now means nothing. A closed world, a closed ideology, a pseudo-scientific and monolithic way of thinking keep us apart from Red China. Only in a free atmosphere can we hope to capture the essence of China's past and its great wisdom.

If the Chinese past (or any other) is offered to us only after having been passed through censorship imposed by a closed methodology dictated by a totalitarian ideology, we are cut off from truth about the past. We who know so little of Chinese wisdom cannot hope to refilter the raw data given us by the ideologies and discover the real history of the culture.

Groups of political refugees may carry a tiny portion of the history of their race and culture into exile in a distant land. The question is how long they can preserve what they take. The answer is disappointing. Only a generation or two or three can preserve much. Children educated in foreign lands are socialized along lines demanded by their new place of residence. They neglect their native tongues and their cultures.

In the United States, Amerinds confined to reservations become the victims of stereotypes. They lose their own culture. Tribal differences and cultures become intermingled. Soul goes out of art, which then degenerates. Language is lost in a deluge of alien words. Soon there is nothing worth preserving.

Free China suffers from none of these problems. It exists not on foreign territory but on Chinese soil. It is not surrounded and isolated by an overwhelming alien culture but occupies its own cultural milieu. It has the sustaining power of a people who govern themselves and preserve the past. It can freely publish books and journals and broadcast on radio and television those materials which constantly reinforce its culture.

Free China holds in its hands the potential for the future of all Chinese. It retains the keys to past, present and future. It sustains the power to return to a past which cultural vandals of the present century have not been able to destroy. Were it not for this, mainland ideologues could say: We have burned all bridges to the past and Chinese may exist only in our authoritarian state. Preservation of the past continues to permit Chinese to hold out realistic hopes for a Chinese future.

For the West, this means coming to know a vast reservoir of man's past in living form. It means we can hope for a restored China that is hospitable to democracy and assured of progress on Chinese terms.●

THE WORLD OF 70 YEARS AGO

● Mr. ABDNOR. Mr. President, a lot of history has passed since high school seniors were graduating in June 1911.

However, despite the technological revolution we have witnessed, the wars which have been fought to free mankind from wars, the explorations of outer space and all the other changes which have taken place, the challenges facing 1981 graduates have a striking similarity to those faced 70 years ago.

One of my constituents, Hannah Cederholm Johnson, talked about the future role of women during her commencement oration as she and five other young ladies graduated from Platte, S. Dak., High School in 1911. Her comments were most perceptive. I submit them for the RECORD.

CLASS ORATION

(By Miss Hannah Cederholm, June 1911)

In the year 1854 the little peninsula of Crimea, in southern Russia, was trembling with dissension and bleeding from the wounds of an enraged people. Thousands of men, brave and patriotic, zealous for the independence of their native land, had manfully left their frugal homes and families to form militias, and had prepared to die if need be. Day after day the Russian forces poured their troops onto the battle field. The allied forces of English and French increased the ranks of the Crimeans and the Turks. Sebastopol was besieged. War ravaged at Balaklava. Men fell to the field. The living passed to the next point of attack. The wounded, hot, feverish and weak, dying for the want of nourishment and care, were bravely struggling for strength.

While the life blood was ebbing slowly from recent wounds of thousands who were helpless upon the battle field which already was horrible with dying horses and men, an English woman, kind hearted, great spirited, courageous, and self-sacrificing, learned through newspapers of these terrible and inhumane sufferings on the Crimean battle field. She at once from philanthropic motives volunteered to organize a select band of nurses and within a week was on her way to the East, where without a thought of her

own comfort she went out onto the battle field among those horrible scenes of death and dying soldiers, carried food and water, and nursed their bleeding wounds. Her work was not only confined to the field, but exhausted and sick from exposure and compelled to take more thought for her own physical comfort, she still continued to give her entire time and thought to the supervision and improvement of the relief work both on the fields and in the hospitals. Heralded throughout all the civilized world as a great and unselfish woman, the name of Florence Nightingale needs no greater or more lasting monument than the word "Service" with which it is inseparably linked.

Doubtless, thousands of those native women of Crimea and Turkey were agonized with the terrible ruin of their homes and the brutal slaughtering and sufferings of their beloved ones before their very eyes, yet they could do nothing to relieve them. The seclusion and subjection in which they had kept for years had resulted in their ignorance and helplessness.

Here on this battle field one educated woman did more than a thousand ignorant women could have done. But Florence Nightingale could not have met that great emergency if she had not had years of thorough training and investigation; Harriet Beecher Stowe could not have aroused the sympathies of the whole reading world had she not known how to picture the evils of slavery; Jane Addams could never have been the originator of the Hull House movement if she had not been a thorough student of the physiological and social conditions; nor without the culture and discipline of learning would Clara Barton have become the founder of the Red Cross Society.

If woman is going to fulfill her mission herein life she must be prepared for service—service in its broadest sense, that of the scholar as well as of the reformer or teacher, for the service of the quiet women who form the majority of the thinking class as well as of the few who are in public life.

The demand is for effective service, for the man or woman thoroughly trained, for the specialist who knows how to do things and to do them systematically. There is no work which cannot be done more effectively by skilled labor, than by unskilled, whether it be by the head or hands. Efficiency demands more than a knowledge of the subject, it demands qualities especially developed by education, such as logical power, accuracy, and exactness. The person lacking these qualities is the one who has to take the lower forms of labor. Competing employers of our complex industries continually struggle to obtain the most capable workmen.

Fifty years ago no provision was made for the education of woman in anything beyond the rudimentary branches and if a few did get a high school education the college would not admit them as students. The prevalent idea at this period was that it was unnecessary for women to have any education other than a knowledge of housekeeping, cooking, sewing, gardening and dairying. Furthermore it was thought unnecessary for her to know the science of any of these subjects. With women's comparatively unlimited opportunities for education at the present day many people both men and women still fail to realize that knowledge is power; they fail to realize that a woman is a better housekeeper, a better wife, and a better mother because she knows more of life and the laws by which it is governed. But our common school system is awakening the boys and girls to the necessity of manual and scientific education as well as to the necessity of literary and classical training.

Who will deny that the educated woman better understands that health and human efficiency have a close relationship that the physical condition has much to do with clear thinking and efficient acting. To her, fresh air, pure food and good sanitation are indespensible. She realizes that she must have buoyancy, vitality, a cheerful disposition, and the power of inspiring others, qualities largely dependent on physical condition. The mother in the home needs these same qualities and has an added reason for health in the thought of the priceless legacy for future generations. The value of a robust constitution, a clear brain, and a level head needs no emphasis.

People die through ignorance. Many of the contagious diseases are caused by defective drainage, imperfect ventilation, and impure water. It is in the ignorant and unskilled homes where the family cannot protect itself from diseases and other destructive agencies of the external world. Look at the plague in China. Do you think that would be ravaging there today if her people were more intelligent? China always falls an easy prey to all diseases just because she is so ignorant, furthermore through her ignorance she is exposing the whole eastern part of Asia to that deadly epidemic.

Who is going to preserve health in the home if it is not the mother who prepares the food and manages the house? It is only by acting in accordance with the natural laws that the blessings of health, of body and of mind can be secured. Can the ignorant woman who has never studied the natural laws conform to them? Can she buy the most healthful food who does not know of the many adulterous foods on the market today? Henderson's sociology says: "The buying of groceries on a Saturday market day asks for all the education schools can supply."

One-third of the children born in this country die under five years of age. The cause is attributed to ignorance of the natural laws, of the human constitution, of cleanliness; ignorance of the necessity for pure air, pure water, and the art of preparing and administering wholesome food. If the coming generation is going to be stronger physically, mentally and morally it must have better educated mothers.

To instruct woman is to instruct man; to elevate her character is to raise his own; to enlarge her mental freedom is to extend and secure that of the whole community.

Society has for its end the development of personality, the attainment of ideal freedom. It will be good so far as its members are good. Social welfare requires the largest possible enrichment of the physical, mental and moral being of all.

In the home the literary influence of the educated woman cannot be overestimated. She is the life, heart and center of all its activities, Milton says: "The highest aim of education is character." Home is the first and important school of character. It is here that every human being receives his best moral training or his worst; for it is there that he imbibes those principles of conduct, which endures through manhood, and cease only with life.

The home is woman's domain, her kingdom where she exercises entire control. She is the child's first teacher, example, and model by which his entire character is moulded. She is the model continually before him which he unconsciously observes and imitates.

Her admiration for the artistic, the beautiful, and the spiritual inspire and help to develop the mind and soul of the child. Wadsworth says:

"A spirit not too bright or good,
Nor human nature's daily food;
And yet a spirit true and bright,
With something of angelic light."

Already there are many evidences of the practical social reforms which women have accomplished in foreign lands as well as in our country. Some of these have been accomplished by the use of the ballot, and some without. This philanthropic spirit for a higher living and a greater enjoyment of life for the less fortunate members of society has manifested itself among all classes of women. Some of the most important of their achievements are: the prison reform work which has been inspired and accomplished by Mrs. Maybrick and Maud Ballington Booth; the interest and pity that have been aroused in behalf of the dwarfed and thwarted lives of hundreds of thousands of little children; the scientific investigations which have resulted in protection against fire and the modern appliances for ventilation, sanitation and enlargement of schools and other public buildings; the awakening of a great civic pride which has brought about open air schools for weak children; public play grounds; an increased number of parks; the elevation of the sufferings of the poor and their redemption from sin, shame, and ignorance by both home and foreign missionaries—all of these achievements and many more of great importance have been accomplished by the efforts of sacrificing and intelligent women. Since the highest education which is possible for both men and women alike is not always adequate to meet these world problems, can anyone argue that women need less education? The insistent cry of the future for both sexes is more wisdom. Our schools must develop more large spirited women like Mrs. Russel Sage, Jane Addams and Helen Gould, if we successfully solve these problems.

If woman has accomplished all these reforms in most cases without the use of the ballot, how much more could she not accomplish were she given the right to help decide whether corrupt or incorrupt, scrupulous or unscrupulous, intelligent or ignorant, sober or intoxicated, capable or incapable men are to control our offices and make our laws! Woman is not ambitious for office, nor does she expect to bring about the millennium in a few short years. Judge Lindsay says: "What fairness is there in expecting woman to abolish political corruption in fifteen years when men have been unable to do it in one hundred years? As the case now stands in Denver, ninety nine per cent of the political corruption is carried on by men." Women do not want government offices but they do want clean, honest, purposeful, men in office. They want men who will make our cities safe and wholesome for the young people, who will abolish the liquor traffic and destroy all places of evil. They want men who will enforce our laws and improve our government.

Although we do have women politicians, scientists, doctors, lawyers and theologians, the true sphere of woman is home. It was intended so by the Great Creator. Notwithstanding there are many who never have a home of their own it is the one ideal for which all womankind longs and aspires. Every woman whether she has a home or a child is a mother at heart, and it is this maternal instinct of sacrifice, unselfishness and spiritual idealism which makes the quiet of home life that natural and sacred influence which is so necessary for the development of life and character. We may say with Ruskin "Wherever a true wife comes the home is always around her. The stars may be only over her head; the glow worm in the night cold grass the only fire at her feet; but home is yet in wherever she is and for a noble woman it stretches far around her, better than ceiled with cedar, or painted with vermilion, shredding its quiet light for those who else were homeless."

The wonderful progress that education has made in the last half century is due in a great degree to intelligent women. No civilization has ever risen above the level of its homes. As they have swerved from their ideals of virtue and integrity nations likewise have fallen into decay. Spain, Greece, and Rome all became corrupted politically

after they were morally corrupt. All christian nations which are the world powers today honor woman and recognize her influence as the greatest formative factor in their development and permanency. Every great man has had a great mother. George Washington's mother was the only guide for his early principles, conduct and habits. Napoleon Bonaparte attributed his use in life in a great measure to the training of his will, energy and self control by his mother at home. It was the mother who influenced the mind and developed the characters of the Wesleys. Goethe like Schiller owed the greatness of his mind and character to his mother. The biographies of all great men and women emphasize the thought that woman has ever been the inspiration of the child and the man. Her lofty idealism has made the waste places blossom, has transformed the desolate, and has given the discouraged hope. Her spiritual influence "leads us ever upward and onward." ●

AWACS

● Mr. HART. Mr. President, Secretary Haig recently announced there will be some delay before the administration submits to Congress its proposal to sell AWACS radar planes to Saudi Arabia. This delay will give the administration an opportunity to study important new evidence which supports many of the concerns Israel has expressed about this sale and undermines many of the reassurances the administration has sought to provide.

On June 29, the Wall Street Journal reported that a high Saudi official stated that Saudi Arabia would reserve the right to use the planes to defend against any enemy, especially Israel. He rejected the idea that special limits might be placed on the planes' use.

The administration has justified the AWACS sale on the ground it would help defend Saudi oilfields from Soviet or Iranian attacks. But the Saudi official said Israel, not the Soviet Union has become the greatest threat to Saudi oilfields and that the AWACS would be used to defend against that threat.

The Saudi official also contradicted the administration's argument that the planes would be primarily used to defend the Saudi oilfields. He said that in times of tension they would be used to guard against Israeli incursions and he pointed out that oil is not first among Saudi defense priorities.

Mr. President, this report from the Wall Street Journal makes clear that the administration and Saudi Arabia have two very different ideas about what the AWACS planes should be used for. This contradiction represents a serious flaw in the administration's conduct of foreign policy and undermines the credibility of our Government's foreign policy statements.

I ask that this important article be printed in the RECORD and I urge my colleagues to study it as an example of the serious dangers the administration is creating through a reckless and ill-defined arms sale policy.

[From the Wall Street Journal, June 29, 1981]

SAUDI SAYS NATION WOULD RESERVE RIGHT TO USE AWACS TO DEFEND AGAINST ISRAEL

(By Walter S. Mossberg)

WASHINGTON.—If Saudi Arabia is allowed to buy U.S. built AWACS radar planes, it will reserve the right to use them as it sees fit to defend against any enemy, especially Israel, a high Saudi official said.

In an interview with several reporters, the official, who is here to negotiate the purchase of the radar craft, rejected the idea that special limits might be placed on the planes' use or that American technicians who will help the Saudis operate the planes could exercise control over the craft.

In addition, the official, who asked to remain anonymous, said the U.S. should not expect any specific "quid pro quo" from Saudi Arabia in selling the AWACS and he warned that, if the sale is blocked in Congress, the Saudis will shop for radar warning planes made by other nations.

The Saudi official's statements were underlined publicly over the weekend by the country's defense minister, Prince Sultan bin Abdul-Aziz. According to Riyadh radio, the prince announced that his country had set a time limit for U.S. action on the arms sales package. The duration wasn't specified. If the package isn't approved, the prince said, the kingdom will look elsewhere for similar equipment. "There are no closed doors in the face of the Saudi kingdom," he said.

These comments could portend further trouble for the Reagan administration's proposed sale of the planes, and of jet fighter equipment, to Saudi Arabia. A majority in both houses of Congress last week publicly opposed the sale, many members doing so because they believe the equipment could be used against Israel and others because they demand concessions in return from Saudi Arabia.

But strategists backing the sale said the Saudis have decided it's better to declare openly that they won't buy the planes under restrictions and then debate the issue on those terms. The Saudis remain confident the sale can win congressional approval, the strategists said.

U.S. analysts of Mideast matters said the Saudi comments may also be aimed at shoring up the kingdom's standing among other Arab nations in the wake of a letter opposing the sale released last week by 54 U.S. Senators. One American export described the letter as a "stinging rebuke" to the Saudi government's policy of aligning itself with the U.S.

However, Secretary of State Alexander Haig said over the weekend that the Reagan administration may delay seeking congressional approval of the sale. On CBS-TV's "Face the Nation," Mr. Haig said any delay "won't be substantial" and that the administration officials said privately that they fear much more foot-dragging by the U.S. could prompt the Saudis to drop negotiations on the sale.

The administration has argued for the AWACS sale on the ground it would help defend Saudi oil fields from Soviet or Iranian attacks. U.S. officials have said the Saudis couldn't and wouldn't use the planes against Israel and that, if they tried, U.S. technicians on the scene could stop them.

But the Saudi official declared "the defense of our nation is a matter of sovereignty" that can't be decided by others. He said Israel, since its June 7 raid on Iraq, has become the greatest threat to Saudi oil fields and other parts of the nation and that the AWACS would be used to help defend against that threat, as well as others. (AWACS stands for airborne warning and control systems.)

"I am personally convinced," the official said, "the Israelis will hit the Kingdom of Saudi Arabia the first chance they get." At another point, he asserted: "I am concerned, more than ever, Israel will hit the oil fields."

The Saudi official, who is familiar with the thinking of some of the kingdom's top leaders, agreed with the Reagan administration that his country is also threatened by the Soviet Union and its allies, citing in particular the Cuban forces in Ethiopia. But he said the Israeli destruction of Iraq's nuclear reactor, a mission that violated Saudi airspace, "has broken all the norms" and elevated the Israeli threat.

Despite the Saudi insistence on freedom of action, the official emphasized that he believes the AWACS sale is in the U.S. national interest because it will "secure an ally" that has been friendly to the U.S., moderating oil prices and helping to resolve the Lebanon crisis. He also said it would create U.S. jobs.

In addition, he said, Saudi Arabia would be willing to accept the usual, routine conditions accompanying U.S. arms sales, such as strict security requirements and a ban on use of the gear by third country nationals. The latter provision could make it hard for the Saudis to share AWACS information with other Arab states battling Israel.

He agreed with the Pentagon's assessment that technical factors, such as communications impediments and geography, would make it nearly impossible for Saudi-operated AWACS planes to warn other Arab countries of any Israeli strikes coming their way.

But, he said, "let me be very clear. If we had AWACS on June 7 and we saw the Israelis on their way to attack Iraq, sure we would tell Iraq."

He also contradicted the administration's argument that the planes would be primarily used to defend the Saudi oil fields, which are vital to the West.

He said the five big Boeing Co. radar planes would be based in a central location and normally would fly over the eastern province, just like the American-controlled Air Force AWACS currently on duty in Saudi Arabia. But he said the planes would, "in times of tension," be used to guard against Israeli incursions. They might fly elsewhere in the country, he said, and limits wouldn't be set on their operating areas.

"Obviously, oil, since it is the most sensitive thing, becomes the focal point" of the arguments in the U.S., he said. But "oil isn't No. 1" among Saudi defense priorities, he said, adding that the Saudi population and the security of Islamic holy places come first.

In emphasizing that the planes would help defend the oil fields, he said, the Pentagon is "playing the game of America," trying to defend the deal in terms most important to Americans.

If Congress vetoes the Saudi arms package, a prospect that has been growing more likely, he said the Saudis would turn elsewhere for the equipment. The AWACS request, he said, grew out of a two-year study of Saudi defense needs and that "my country is determined to get an airborne radar, period. . . . If we don't get it in America, we'll get it somewhere else."

But he said a rejection would harm U.S. interests in the Arab world by enhancing the perception of favoritism to Israel, which is still receiving U.S. arms despite its use of American jets to bomb the nuclear plant near Baghdad.●

SUPPORT FOR MURFREESBORO, TENN., VA MEDICAL CENTER AS A GERIATRIC RESEARCH EDUCATIONAL AND CLINICAL CARE CENTER

● Mr. SASSER. Mr. President, the House of Representatives of the State of Tennessee recently approved House Joint Resolution 222, which supports the designation of the Murfreesboro, Tenn., Veterans' Administration Medical Center as a geriatric research educational and clinical care center.

The Murfreesboro VA medical center is the ideal location for a GRECC program in middle Tennessee, Mr. President. The proximity of the center to several institutes of higher learning, in-

cluding Fisk University and Tennessee State University, makes the Murfreesboro VA logical headquarters for a program designed to further geriatric care and research.

Therefore, Mr. President, I submit for the RECORD the resolution from the Tennessee House of Representatives.

HOUSE JOINT RESOLUTION NO. 222

Whereas, the Murfreesboro Veterans Administration Medical Center, in conjunction with Meharry Medical College, has excellent potential to develop a significant program in geriatric research, education and clinical care in Tennessee; and

Whereas, the Murfreesboro Veterans Administration Medical Center's large geriatric patient population, together with the expanding affiliation with Meharry Medical College, where interest in developing a strong working relationship is high, makes the Murfreesboro Medical Facility ideal for a Geriatric Research, Education and Clinical Care (GRECC) program; and

Whereas, the Dean at Meharry, as well as officials from Tennessee State University and Fisk University, have indicated their receptiveness to work with the Veterans' Administration Medical Center staff to develop further the areas of education, training and research in geriatrics/gerontology in Middle Tennessee area; and

Whereas, Meharry Medical College was recently awarded a Department of Health and Human Services planning grant to develop a network of gerontological education and research centers in Tennessee, which will include the VA Medical Center; and

Whereas, the designation of the Murfreesboro VA Medical Center as a GRECC center by the Veterans' Administration Central Office would complement Meharry's efforts as well as strengthen further the Murfreesboro VA Medical Center's affiliation; now, therefore,

Be it resolved by the House of Representatives of the Ninety-Second General Assembly of the State of Tennessee, the Senate concurring, That we hereby go on record as supporting the designation of the Veterans' Administration Medical Center at Murfreesboro, Tennessee, as a Geriatric Research, Education and Clinical Care Center.

Be it further resolved, That copies of this Resolution be forwarded to the President of the United States, the Tennessee Congressional delegation, the chairman of the House and Senate Veterans' Affairs Committees in the United States Congress, and to the Administrator of Veterans' Affairs, Veterans' Administration, Washington, D.C.

FOOD SAFETY, COMMONSENSE, AND REGULATION

● Mr. LUGAR. Mr. President, as chairman of the Subcommittee on Agricultural Research of the Committee on Agriculture, Nutrition, and Forestry, I am acutely aware of the great confusion which exists in the regulation of food safety. I believe that all citizens, and especially those of us who are civil servants, must constantly seek ways of enhancing the quality of our environment. At the same time, we need commonsense and realism in our laws and regulations.

I recently spoke on this topic at the Fourth National Food Policy Conference, "Focus on Food Safety," sponsored by the Community Nutrition Institute and the Food Marketing Institute in Washington. I ask that the text of the speech be printed in the RECORD. My objective was to stimulate a broad-based discussion of food safety issues.

Yesterday, S. 1442, the Food Safety Amendments of 1981, was introduced by Senators HATCH, HELMS, HUDDLESTON, JEPSEN, QUAYLE, and ZORINSKY, and Representatives DE LA GARZA and WAMPLER introduced a similar bill in the House of Representatives. These bills furnish a set of specific proposals around which future discussion can focus.

I also call to your attention a useful compilation of background readings on the subject, entitled "Food Safety: Where Are We?" which was prepared for the Committee on Agriculture, Nutrition, and Forestry in July 1979. From time to time in the coming months, I shall mention other more recent articles which may assist us in considering the food safety legislation before us. I look forward to the dialog, and welcome comments.

The speech is as follows:

FOOD SAFETY AND COMMONSENSE

(By Senator RICHARD G. LUGAR)

As a legislator and a human being, food safety is very important to me. The public wants both food safety and common sense from its policy makers. Although the issue of food safety has attracted the most attention in the press, other aspects of the relationship between food and health deserve equal discussion.

As Chairman of the Subcommittee on General Legislation and Research of the Senate Agriculture, Nutrition and Forestry Committee, I have heard endless testimony about the dangers to the health of Americans. The evidence is very solid that the major threat to health associated with food is this quantative problem: we eat too much of it.

This is a life style problem on which legislative solutions are difficult to assess. But again and again in my subcommittee, the testimony, quite apart from the issues of quality of food and the safety of processing versus non-processing, comes down to the problem of overconsumption.

In addition to overeating, Americans also face health problems relating to sedentary living, smoking, drinking too much alcohol, and drug abuse. In fact, most of the nation's medical costs are related to illnesses associated with unhealthy lifestyles, which can only be corrected through an individual's own actions.

This fact raises the question about what government can do to address this problem. One measure which has been suggested to make it easier for people to help themselves avoid overeating is to give them more information about the nutritional value of the foods they eat. Information advocates hope that once people find out how the amount and nutritional values of the food they eat affect their health they will act on their own to alter their diets for the better.

Public opinion seems to be changing in favor of giving more complete nutritional information to consumers. I hope that those in the food industry stay ahead of this power curve of public opinion. They need to be ready to provide more nutritional labeling. It is an idea whose time may not have come yet, but surely is in the making.

During the past several years, I've participated in numerous hearings in committee on a nutritional labeling bill I sponsored. I've discovered there are serious hitches in the strategy of helping people help themselves by providing them with the information we think they need. For example, we have to deal with the simple fact that people only hear and see what they want. Sad to say, there is a tendency for people to deal with only what they find is relatively undisturbing to their lifestyles, regardless of whether their health is at stake. Often the messages which most need to get through are the very ones we ignore because all of us hate to change our favorite habits, no matter how bad they are.

A few months ago, the press reported on a study by several medical scientists who said there is as much danger from undereating as there is from overeating. An overweight relative of mine latched onto this news during a holiday dinner and announced with satisfaction "at last medical science has given us license to be fat." Of course medical science had done nothing of the sort. The study simply advocated moderation in both directions with regard to eating and weight. Nonetheless, examples of selective reception of information like this, in which the most uncomfortable facts are screened out, are all too common.

Related to this problem of selective information reception are two more problems. One is that even if people know what's good for them, they don't seem to know how to change their behaviors. The other is that people often have a problem with the sheer quantity and variable quality of information which is released in the health promotion area.

When a great deal of confusing and conflicting information is put out it shouldn't come as a surprise that people don't hear what really applies to them nor do they do anything about it. Some say the public is overwhelmed, confused, and turned off by too many facts and too much information. Others insist that the answer is more information. Certainly, we don't need more bad information. Probably the answer is better information.

While more good information would be helpful in making decisions, it is apparent that it alone is insufficient to assure that people will make the right decisions on their health.

How can we remedy habits like overeating, smoking, lack of exercise and so forth which are associated with ill health? The remedy is certainly *not* to ban these behaviors, but to make sure our laws promote good health and sensible preventive measures. I think the solution is to find ways to encourage individual initiative. But we should not delude ourselves—the difficulties people have in reforming their lifestyles are enormous.

Even with the best will in the world, and plenty of individual responsibility, it is very hard to make lifestyle decisions today. This is especially true with the confusing information we get on nutrition and health risks from foods.

There are two ways to make decisions. We can decide by thinking about and weighing the facts and reaching an informed judgment. Or, we can decide by leaps of faith. Most of us prefer to base our decisions, whenever we can, upon valid and reliable facts. If the facts fit a number of interpretations we want to be able to assess and weigh the pros and cons before we commit ourselves. When it comes to matters involving diet and health, to whom are we to turn to get this information? Experts from the fields of science, medicine, nutrition and food safety often tell us different and confusing things. They often contradict each other or fail to take into account other possible explanations, and claim that giving people the facts will only confuse them. Others claim they can give no practical advice whatsoever. When this happens or information is presented in such a confusing manner that we don't know which way to turn, most of us take refuge in the "by guess and by gosh" method. That is, we put faith in our instincts and what we have always done and hope that this will help us to muddle through. This has happened in nutrition

and in many areas of health. It may even happen in food safety.

The past twenty years have been marked by a series of incidents which have attracted public attention in the food safety area. Some have turned out to be real crises. Others have been false alarms. They have resulted in a great deal of public confusion about the whole issue. Let's just recall a few of the major events.

On the tragic extreme are incidents in which people have become very sick or have died. The most startling events are those associated with botulism, in which the causes are well understood but occasional incidents still occur. Incidents in 1963 with smoked fish and mushrooms and in 1971 with Bon Vivant vichyssoise soup, which I am happy to report is no longer on the market, killed people. A few years ago, an infant formula was produced by a California company with insufficient amounts of the essential nutrient chloride, with ill effects on the health of some babies who drank it. These were serious problems.

On the other extreme are alarms which have turned out to be tempest in a teapot. Many of the problems of this type which have arisen over the years involve the regulation of food additives, including packaging materials, color additives, food contaminants and animal drug residues. They have often been blown out of all reasonable proportion in the mass media. For example, remember the cranberry sauce additive scare right before Thanksgiving of 1959? And remember that upcoming Senator, Mark Hatfield, who got his picture taken eating cranberry sauce with his Thanksgiving turkey to show it wasn't dangerous? I'm happy to report that Senator Hatfield is still alive and well in spite of that Thanksgiving dinner. That was a false alarm, with a lot of smoke but no big fire from the health risk standpoint, but with serious repercussions on the cranberry industry.

There are a number of other similar events which were treated as two alarm fires representing big crises when in fact we were dealing with low level problems from the standpoint of health risks.

Some which deserve mention are: the nitrite and bacon issue, questions about the safety of violet 1 (the purple dye used to stamp meat in federal inspections), mercury levels in swordfish, PCB's and PBB's.

These crises have led some to question if these latter episodes reflected not only problems with food but problems with the law.

The saccharin issue brought up nagging questions about what the Delaney Amendment really meant. Some Senators said, in essence, that if you tamper with the interpretation of the Delaney Amendment you are setting the stage for the death from cancer of a number of citizens—a known number. Others argued that differentials in vulnerability among individuals were unknown, so that an exact number of deaths could not be predicted. A third group emphasized our lack of knowledge about the types of cancer, the various factors which may interact in its causation and how one factor compounds another. A fourth group said that metabolic processes in other species of mammals and human beings may differ, and that our understanding of the techniques for extrapolating from the results of tests in animals to risk in human beings was imperfect.

A fifth group emphasized that thanks to better analytical techniques and expertise we can now identify very tiny amounts of substances in foods—parts per million and parts per billion—which thirty years ago we wouldn't even have known were there at all because we couldn't detect them. They claimed that the fact that we didn't know these substances were present hadn't hurt us in the past, and that only because our greater skills today allowed us to know that these substances were present had we become bothered about their presence today.

In the final analysis, the Congress by an overwhelming margin voted to lay the Delaney Amendment aside temporarily in the case of saccharin. I believe that if we were to vote again today in the Senate the vote would be overwhelming again. Why did this happen? First, some people simply didn't understand the problem, but this only accounts for a minority. A second, and far larger group, had come to a common sense conclusion that saccharin was a relatively safe substance to ingest. Now, none of those who took this view argued that it ought to be used in enormous quantities. Neither did they believe that people should use it without being informed of the potential cancer risks; that was very clearly necessary for the public health authorities to do. If there was the apprehension that saccharin was a weak, medium or strong carcinogen, or if it was even suspected of being associated with cancer than it was important to get this information out. Thus, Congress decided that we should put out the red flags and use every warning device which might be required. But, at the same time we had to take into account the feeling that many in the public feared obesity and thought that saccharin helped them. Such individuals believed that health hazards came more from not using saccharin than using it.

The flaps involving nitrites in bacon and nitrites by themselves brought up a different set of issues. One was the difficulties involved in using animals to test for toxicity in man.

In reviewing the evidence from a study by Professor Paul Newberne, I noticed it didn't seem that as the dose of nitrites went up the pathological changes increased accordingly. That is, the relationship between dose and response did not seem to be linear. Later, procedural flaws led to the setting aside of this study. But the basic problem of determining and describing the relationship between intake of substances and pathological changes in animals and how best to extrapolate those to human beings remains troublesome.

A second problem involving sodium nitrite was the issue of botulism, the danger of which is enhanced when this additive cannot be used. Theoretically, nitrite-free meat can be produced as long as that meat is always stored under refrigeration. But we can't be certain that school children won't stuff meat sandwiches into their lockers, leave them there for a couple of days, and then eat them. Nor is this a solution for the 7,000,000 or 3% of the American public whose households don't have refrigerators at all or the unknown number of other homes where the refrigerators don't work properly. Thus, in my opinion the risks of using nitrite-free meat would be socially unacceptable.

These examples have taught all of us—scientists, legislators and consumers—a couple of important lessons.

First, absolute safety for the food supply is impossible to achieve. Some risk is always going to be present.

Second, common sense is needed for making these decisions about risks.

The problem is what degree of safety is practical and reasonable to expect.

These two considerations have led many of us in public life to explore how best to achieve the maximum amount of food safety and common sense. Is new legislation needed to do this and resolve these dilemmas? Or can these problems be solved by developing better roadmaps and proceeding more carefully in the future when we are making administrative decisions under current law? That is, should we do more studying of the studies, have more internal and external peer reviews and the like? Or, do these dilemmas suggest that even more fundamental changes and advances in the science of toxicology are in order? Let's spend a few minutes examining each of these options in ascending order of importance.

First, there is the legislative option. I come to you this morning not to advocate the adoption of any bill, but to discuss one piece of draft legislation put together by a coalition of forces led by the American Meat Institute. I will be looking at its very closely and will try to obtain opinions about it before any formal consideration or introduction. Therefore, the views I am airing do not represent my brief for any bill, but rather views which are a point of departure for discussion; so that we will have something specific rather than something nebulous to talk about.

Briefly stated, the proposal amends the Food, Drug and Cosmetic Act and makes conforming changes in the Federal Meat Inspection and Poultry Inspection Act to deal with certain problems which have arisen over the years in the regulation of food additives, including packaging materials, color additives, food contaminants and animal drug residues. The thoughts which have been expressed are reasonable and they deserve careful consideration as society decides what to do about new additives and additives which are already in the food supply.

As I understood it, the coalition led by the American Meat Institute argues as follows in considering food safety legislative changes:

First, we ought to make certain that we are dealing with ascertainable as opposed to speculative risks before we ban an additive already in use.

Second, the risk should be significant as opposed to insignificant.

Third, a formula which leads to flexibility in making risk assessments must be developed. This is necessary if we are to determine what is significant as opposed to that which is insignificant.

Fourth, beyond measuring risk, we should develop ways to evaluate goals other than food safety which may come into conflict with it. For example, what are the effects of not having a product with respect to other diet and health related purposes such as nurtitional value or food availability? Arguments on the fine points of food safety don't occur when food is unavailable. But in this country, where we have plenty of food to begin with we can take it for granted that our cafeteria of choices is quite wide. As our knowledge of the human body increases, we must carefully consider what types of foods are appropriate for general health, and to make sure that our arguments over food safety do not come into conflict with general health needs.

Reasonable discussions of public policy and of this proposal are going to have to address all of these issues: When is a risk a "real or ascertainable" risk as opposed to when something is a suspected or "speculative" risk? How are we to distinguish between the two?

What is the definition of significant risk? Is significant to be defined as one in a billion, two in a million, or what? And what is insignificant? Is risk assessment a tool which is sufficiently well established to provide numbers which can be compared to standards of significance and insignificance? How do we weigh the risks to health involved in using substances versus other risks which may be averted from doing so? How do we factor in economic benefit?

Now I would like to go through the process the proponents of this particular draft of legislation have put together so that you can see how they would see the law operating. In order to give you an example, let us consider how the American Meat Institute-Soft Drink

Coalition draft legislation would deal with an additive which is already approved by the Food and Drug Administration when studies are produced which purport to show cancer in laboratory animals.

First, FDA would conduct an internal peer review of the study or studies which indicated the possibility of cancer in animals from this additive, along with other available evidence. At that point, FDA might conclude that the studies were invalid or that additional studies or explanations were required. The additive would remain on the market in either of these cases. If the evidence appeared to indicate that a valid risk had been identified, additional steps would then be taken.

The second step in the instance where FDA had tentatively concluded that the risks were valid would be for the FDA to prepare written documentation and take recourse in external, peer review. An outside Advisory Committee would be convened to evaluate the evidence, other data, and the views of the public. The external peer review conducted by the Advisory Committee would then consider the evidence and submit a report to FDA. FDA would evaluate the Committee's report and make it public. Should the FDA conclude that the additive was safe (that is, that it was not shown to induce cancer in animals), the FDA would announce its decision not to review or pursue regulatory action further.

However, let us assume for a moment that in fact the FDA concluded that the additive induced cancer and that risks to human health were significant. The Agency would then issue a "rebuttable presumption" on the Delaney Clause and with a proposal to ban the additive after due course and public comment. Note that FDA could not ban the additive at this point. However, the Agency could announce that those who wanted to use the additive would have to rebut the evidence or it would presume that the risk was truly there.

If the FDA found after public comment that the presumption were not rebutted the Agency could proceed to the next step. The consequences of the ban on the nutritional value of foods, food availability and acceptability, and the commercial availability of alternatives would all be considered. Thus, issues other than food safety would be considered. Should FDA conclude that safe conditions of use for the additive could be established, it would be permitted on the market under these circumstances.

Let us assume for the sake of this example that in fact FDA still concludes that even after taking all of these other factors into account that safe conditions of use could not be established. At this point, an order could be issued either for an abrupt withdrawal or a gradual phase out.

Should any of the affected parties wish to, they would have recourse to an administrative law judge by filing objections to the order and require evidentiary hearings. Let us assume that after the objections of the evidentiary hearings the judge issues a decision which is favorable to the agency. The process would then go to the next step.

Affected parties would then be able to field further objections to the FDA Commissioner. After reviewing these further objections, the Commissioner would give a final decision.

Further appeal would be possible in the United States Court of Appeals.

A second option in dealing with potential food safety problems is to improve and streamline the administration of the law as it is currently written to make the process more orderly, predictable, and less crisis prone. Before regulatory actions are taken on the basis of studies, it only makes sense to be sure that the studies have been carefully reviewed for their soundness by objective and dispassionate scientists, and that this is done in a timely and reasonable manner. Some of the difficulties which have led to so much confusion in the past could be avoided by procedures such as this. Therefore, suggestions of this type also merit consideration.

The issues of ascertainable as opposed to speculative risk, and significant versus insignificant risk require us to consider the deeper question about what studies can and cannot tell us.

Scientific experts usually argue that we lack fundamental knowledge to give precise answers about risk. They want more research and more studies of these important questions; deeper studies in each species and the use of more animal species. That is, some of them lack confidence, it seems the public lacks confidence, and I know I lack confidence, in the whole methodology.

In my view, common sense dictates that we must try to upgrade the state of the science and art as well as the process of food safety assessment.

Legislation is not the answer to problems which are due to inadequate scientific knowledge or methodologies. But eventually Congress may have to come up with procedures which allow for quantifying risk to obviate such rough and ready judgments as those made by Congress on nitrite and saccharin.

More studies, more internal reviews, more external peer group reviews and the like are not going to remedy the very fundamental problems in the types of studies which are carried out today either. The low state of the science itself must be upgraded. Then we will have a better idea of what we are looking at when we are studying studies.

I admit that I am skeptical about the various kinds of studies in the food safety area today. But, this doesn't get me off the hook. I still have to make judgments and decisions on these issues as a legislator.

So what about changing the law? What about canceling or banning the Delaney Amendment? In my judgment, banning the Delaney Amendment is not appropriate, although there is considerable support for doing just that. It is possible, but not probable, that the Delaney Amendment might be removed as an amendment to some other piece of legislation if the emotions on a given day were heated. But I do not believe that such an action would be the appropriate response of a deliberative body. Nor do I believe that the public really wants to see the Delaney Amendment removed.

What about refinements in the Law? These may come but they will take time. But what will happen if we leave the present law in place and a nitrite or a saccharin case comes along again? Over the short run, I suggest that what will happen is that Congress will do its common sense best and reach a rather rough and ready judgment without the refinements of all of the procedures in that draft legislation I just discussed. In these instances, the Delaney Amendment will simply be set aside when constituents demand it.

Admittedly, this is a rough and ready way of going about things. But I predict that this is likely to happen. Over the long run it may be possible to make refinements in the food safety laws which make them more rational and do away with the need for Congress to make rough and ready decisions.

The public wants common sense in regulation. It also wants food safety. The desire for safety hasn't been lessened even one whit just because most citizens want fewer federal regulations. The problem facing those of us who are legislators is to satisfy both of these desires. The ultimate solution will require a great deal of thought and wisdom.

In the months to come, I pledge to work with concerned individuals and groups to try to think through where we ought to head. I look forward to working with each and every one of you.

Thank you.●

CONGRESSIONAL REDISTRICTING

● Mr. ARMSTRONG. Mr. President, congressional redistricting is on the front burner for State legislatures, political parties, and voters across the country.

In my State, the legislature has formed a bipartisan interim committee to review various redistricting plans to acccommodate the new census figures and prepare for an additional House seat.

Mr. Bo Callaway, chairman of the Colorado Republican Party, testified before the committee yesterday. I think his point of view is one that my colleagues and others around the country will find of interest.

I submit for the RECORD Mr Callaway's testimony and a Denver Post editorial on this subject.

The testimony and editorial follow:

TESTIMONY BY HOWARD "BO" CALLAWAY

Mr. Chairman, members of the Sub-Committee, Ladies and Gentlemen: I appreciate the opportunity to be before you today to address the subject of Congressional redistricting. Nothing that happens in Colorado in the next ten years will have more impact on the future of our state. Indeed the entire relationship between the citizens of Colorado and our House of Representatives in Washington will be determined in large measure by your deliberations. These deliberations are important to all Coloradans but they have a special meaning to Colorado's political parties. For that reason, I especially appreciate your courtesy in allowing me to appear before you on a subject that is so important to the Republican Party of Colorado.

I would like to talk about concepts and not about specific plans. The Constitution quite properly gives to the General Assembly the responsibility to draft specific plans. Our party, however, has a responsibility to set forth the concepts and principles that our party believes in.

Up until now, almost all plans have been described by the press, by the legislature and by the Governor in terms of the numbers to be elected from each party. You hear about three—three plans, four—two plans, and three-two-one plans. I believe that this concept is inappropriate.

It assumes that some districts will be drawn that favor Republicans and other districts will be drawn that favor Democrats. I reject this concept. I favor a concept that draws districts to favor no particular incumbent, candidate or party. On the contrary, districts should be drawn with an idea of maximum competition.

Let's discuss a particular plan that has been called a three-three plan. This is a plan submitted by the Democratic party. It would virtually assure three Democrats and three Republicans for the next ten years.

This plan is not fair to the voters. The voters could have little or no impact on the make-up of Congress in the next ten years. My own district—the proposed sixth district—gives an example. I happen to live in Gunnison County. Under this plan in the next Congressional race, the Democratic standard bearer would almost certainly be the incumbent Ray Kogovsek. He would have all the advantages of incumbency and in addition would have a 25,700 Democratic regis-

tration advantage. How could we build any enthusiasm for running a candidate in this district, or in any other district under this proposal?

All districts have similar registration advantages for the incumbent ranging from 13,591 to 14,512. With these advantages, there would be no reasonable expectation of defeating any incumbent for the next ten years. This plan provides job security for politicians, not a competitive process where every voter is important. It is an incumbent protection plan.

I believe that the voters of Colorado are entitled to just the opposite. A plan where competition would be maximized. I believe this committee should try hard to develop a plan of six equal districts where the competition would be overriding in every district. Think of what this would mean to the Republican party and to the Democratic party. Certainly I and every Republican (and every Democrat as well) would be working overtime to find the best possible candidates, to define the issues and to develop the best possible organization in every single Congressional district. None could be taken for granted. The best candidates would emerge, the most hotly contested campaigns would occur, and Colorado voters would be the winner.

I have heard no one speak against competition in theory, but some argue that competition is less important than community of interest. I disagree, but I readily admit that it is difficult to design a plan with six equal competitive districts that does not disrupt some city or county lines.

To have equal districts throughout Colorado, it will be necessary to cross city and county lines. I think it's worth it to have six competitive districts.

If, however, this committee feels that it is necessary to have one district that is not competitive, but rather skewed toward one political party, then I urge your consideration for a plan that would make the other five districts as competitive as possible. While not ideal, this would result in one "Sweetheart" district for one party with five competitive districts leaning toward the other party.

If you feel this is unacceptable, then I urge one "Sweetheart" district for each party, with four competitive districts. Many plans can be devised which will accomplish this, and still give reasonable considerations to traditional community of interest.

I strongly urge that you not retreat beyond this point. To back-off would mean that over one-third of Colorado's voters would have no opportunity to participate in a meaningful way in Congressional elections for the next ten years.

Competition in politics is an idea whose time has come. It is broadly supported by Republicans. It has been supported by the Republican Caucus in the House and unanimously approved by the Republican State Executive Committee. Republicans feel so strongly about this that we are now taking paid advertisements to bring this message to all Coloradans. But the principle is also widely supported by Democrats and independents.

At the Centennial Colorado Conference held in Keystone last month, a Democrat introduced the resolution, "Resolved, that the Colorado General Assembly devise a (plan) which makes all six of Colorado's districts as equal in partisan registration balance as possible, in addition to existing criteria." The resolution was overwhelmingly adopted with bipartisan support.

[From the Denver Post, July 7, 1981]

AT LAST, A FAIR-MANDER

News that Colorado would receive a sixth U.S. representative seat in 1982 set Pavlovian bells ringing in the minds of state politicians. But the redistricting plans written by the salivating solons put partisan advantage ahead of the public good.

The Republican-controlled Legislature passed a plan which would have given Denver Democrat Pat Schroeder, an overwhelming "sweetheart" district. Having thus disposed of the lion's share of the state's Democrats, the GOP was able to draw lines virtually assuring it could win the other five races. Gov. Dick Lamm vetoed that classic gerrymander.

But the plan proposed by legislative Democrats wasn't much better. It carved out unassailable bastions for Democratic incumbents Tim Wirth, Ray Kogovsek and Schroeder. True, that meant giving the GOP an equally overwhelming advantage in the other three districts. But such a division of the spoils would have just about insured that a dead dog could have been elected with the right party label. Republicans sensibly killed that plan.

But there is a way to combine fairness to both parties with the spirited competition that would send Colorado's ablest champions to Washington. Howard Callaway, state Republican chairman, has crafted a plan with virtually equal party registration in all six districts.

At first glance, Callaway's plan looks like a map of the Front Range region was passed through a Cuisinart. It divides heavily Republican Jefferson and Arapahoe counties into four and three segments, respectively. Democratic Denver and Pueblo counties get divided three ways.

But whereas traditional gerrymanders slice up counties to create partisan advantages, Callaway breaks up party concentrations to insure competitive districts. All six districts would have Democratic majorities ranging from 2,478 to 3,036. But by far the largest "party" in each district would be the registered Independents. Given overall recent voting patterns, we'd say all six districts would lean slightly to the Republicans. But they primarily would be swing districts, fair game for whichever party fielded the best candidate and the most vigorous campaign.

And although Callaway couldn't create swing districts without dividing counties, he was usually able to keep suburban cities together and otherwise cluster communities of interest. The Western Slope would be rejoined in one district. Denver would see about a third of its population farmed out to two adjacent districts based in suburban areas.

But where subdividing a small city can weaken its political strength, dividing a big one like Denver increases its clout. Denver is so large and diverse that no one congressman can really pay all the attention to it that it deserves. Under Callaway's plan, however, it would have a strong claim on the energies of three representatives—and enough clout in all three districts to tip the balance against any congressman who ignored it.

No one expects the state Republican chairman to disregard politics, and Callaway doesn't—he glorifies it. Give him six swing districts and he will drive his troops night and day to grab them all. But Democratic Chairwoman Ann Bormolini is just as tough and has the same opportunity to sweep the boards. What creating six "horse races" does is improve the breed. Both party organizations would be strengthened, public apathy would decrease and better candidates would run.

Callaway's plan isn't perfect and the bipartisan legislative committee now studying reapportionment might draw better lines. But it would be wise to adopt the principle of avoiding sweetheart districts.

Public office should be won in spirited competition, not predetermined by gerrymanders. It's about time we were offered a fair-mander.●

RELIGIOUS LEADERS OPPOSE MILITARY AID TO EL SALVADOR

● Mr. KENNEDY. Mr. President, in April I announced support from a broad spectrum of American religious leaders for the bill (S. 728) introduced by my friend and colleague Senator TSONGAS and myself to suspend military aid to El Salvador. This support reflects the deep and growing opposition in our Nation to the administration's military involvement in El Salvador, instead of seeking a negotiated political solution to the civil strife brought about by enormous social and economic inequities in that nation. Among others, the U.S. Catholic Bishops' Conference has confirmed its strong and continuing opposition to any military aid to El Salvador, echoing the eloquent pleas of Salvadoran Catholics and their Apostolic Administrator, Bishop Rivera y Damas.

I am pleased to announce support for the Kennedy-Tsongas bill by two more American religious leaders—William Howard, president of the U.S. National Council of Churches, and Robert C. Campbell, general secretary of the American Baptist Churches in the U.S.A. Both Protestant leaders have endorsed our efforts to suspend military assistance until peaceful means have been attempted in El Salvador to resolve the conflict, and Secretary Campbell has written me to note that his Baptist colleagues in El Salvador have been consulted in reaching their decision to support the bill.

Mr. President, I request that Secretary Campbell's letter to me be placed in the RECORD at this point, together with an up-to-date listing of all American religious leaders who have expressed support for S. 728.

The material is as follows:

Senator EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: I offer my support for S. 728, your bill to suspend military aid and remove American military advisers from El Salvador. This support is based upon both the communications from our Baptist colleagues in El Salvador and an official resolution of the American Baptist Churches in the U.S.A.

I congratulate your efforts to reduce the carnage and enable the Salvadoran people to shape a society of peace and human rights.

Grace and peace.

ROBERT C. CAMPBELL,
General Secretary,
American Baptist Churches in the U.S.A.

LIST OF SUPPORTERS

Sister Bartholomew, General Superior, Ursuline Nuns of Cleveland.

Asia Bennet, Executive Secretary, American Friends Service Committee.

Arie R. Brouwer, General Secretary, Reformed Church in America.

Robert C. Campbell, General Secretary of the American Baptist Churches in the U.S.A.

Rev. James L. Connor, S.J., President, Jesuit Conference.

Sister Carol Coston, OP, Executive Director, NETWORK.

Rev. William E. Creed, S.J., National Board of Jesuit Social Ministries.

Sister Joan M. Fitzgibbons, r.c., Provincial, Northeastern Provincialate, Religious of the Cenacle.

William Howard, President of the U.S. National Council of Churches.

Rev. Alan McCoy, OFM, President, Conference of Major Superiors of Men.

Victor M. Mercado, Area Secretary for Latin America and the Caribbean, International Ministries, American Baptist Churches, USA.

Sister Clare Pratt, R.S.C.J., Provincial Superior, Washington Province, Society of the Sacred Heart.

Avery D. Post, President, United Church of Christ.

Sister Lora Ann Quinonez, Executive Director, Leadership Conference of Women Religious.

Sister Melinda Roper, M.M., Community President, Maryknoll Sisters.

Rabbi David Saperstein, Director, Commission on Social Action of Reformed Judaism.

Rabbi Alexander Schindler.

Richard S. Scobie, Executive Director, Unitarian Universalist Service Committee.

Edward F. Snyder, Executive Director, Friends Committee on National Legislation.

Rev. Paul Steffan, O.F.M.Cap. Provincial, Capuchin Province of New York-New England.

William P. Thompson, Stated Clerk, United Presbyterian Church, USC.

Bishop D. Frederick Wertz, The United Methodist Church, The Washington Area.

Rev. Alfred H. Winters, Director, Mission Office, Diocese of Cleveland.

William Wipfler, Director, Human Rights Office, National Council of Churches.●

SMOKING OUT THE SMOKED PORK SAUSAGE REGULATORS

○ Mr. SASSER. Mr. President, on June 3, I reported to my colleagues on an incident which I considered to be one of the most ridiculous cases of Federal regulatory excess imaginable.

Today I have a followup report on that particular incident which shows that, every once in a while, when the Federal Government becomes too oppressive, it takes the commonsense and courage of one individual to stand up and say, "I'm just not going to take any more," and fight.

Ellis Jakes, of Jakes Bros. Sausage Co. in Joelton, Tenn., is one of those individuals.

He contacted my Nashville office in April to report a problem he was having regarding a ruling by the U.S. Department of Agriculture's Food Safety and Quality Service Division relating to the label he uses for one of his products.

A few weeks before he contacted my office, Mr. Jakes went through the standard procedure of resubmitting for approval the label he uses for the smoked pork sausage he has been producing for 20 years.

He has never changed the formula in all those 20 years. In fact, in July 1976, the Department of Agriculture approved the same label outlining the same ingredients.

This time, however, a departmental label reviewer told him that—because the sausage contained sodium nitrite, a universally accepted curing agent in the industry—his product should be labeled instead as "smoked sausage, made with pork."

Now, I ask you, what in the world would you call sausage if it does not contain pork?

Because such logic did not seem to prevail at the Department of Agriculture, I wrote Secretary John R. Block and asked him to investigate this particular incident and see if this regulation should not be dropped.

Recently, Secretary Block—himself a successful Illinois hog farmer—reported back to me and, I am pleased to say, seemed to agree with me.

The secretary apparently challenged the logic of the label reviewer by pointing out that the regulation in question (9 CFR 319.160) "neither provides for nor specifically prohibits the use of curing agents," such as sodium nitrite. Block went on to say:

> Apparently, since the companion standard for fresh pork sausage specifically does not allow the use of curing agents, near the end of 1979 the regulation was interpreted as prohibiting the use of curing agents in products labeled "smoked pork sausage." This interpretation occurred at a time when the use of nitrites was under close scrutiny and when the Department was reluctant to interpret regulations in a manner that facilitated the use of nitrites. At that time a policy was adopted that required a product containing cures to be labeled with wording such as "smoked sausage, made with pork."
>
> This policy has been uniformly applied in our review of labels since that time but has not been applied retroactively. Mr. Jakes obtained his earlier label approval on July 7, 1976, before the policy was instituted. The label reviewer acted upon Mr. Jakes' latest submission on the basis of current policy; since Mr. Jakes uses sodium nitrite as a curing agent in his sausage, he was asked to change the wording of the label.

Secretary Block obviously feels concerned about the situation. In his report to me, he assured me that "the entire matter should be reexamined," and that the Department has granted a temporary, 6-month approval of his label.

I appreciate the understanding and the responsiveness of the Secretary on this particular matter, and I plan to do all that I can to see to it that the ruling which caused so much inconvenience for Mr. Jakes is abandoned.

The point today is not to focus attention on just one interpretation by a Department of Agriculture label reviewer.

I would like to suggest that this incident underscores two points.

First, most people would have—in fact, since 1979 most people apparently have—accepted the questionable regulation regarding smoked pork sausage. Mr. Jakes did not accept. He questioned. As a matter of fact, he indicated to my office that it probably would not have cost him that much to change his labels. He wanted to fight the label ruling as a matter of principle.

Now, as a result, an entire industry stands to benefit from his courage and commonsense.

When you consider what just one regulation costs the meat-processing and meat-packing industry—the applications, the personnel involved, the time involved—it makes you wonder what kind of effect regulations have on the American economy as a whole.

Reliable estimates tell us that the cost of Government regulations to American business amounts to $130 billion a year. It is also estimated that regulations reduce the gross national product by as much as 1 percent a year.

As far as small businesses are concerned, the Small Business Administration estimated that in 1980 the Nation's private entrepreneurs waded through 2,000 forms and filled out 850 million pages of paper answering more than 7.3 billion questions.

This year alone, the Federal Government will spend almost $7.5 billion on regulatory activities and employ 89,000 people in the regulatory process.

This leads me to my second observations, and that is: we in the Congress and the Federal Government should not have to wait for private citizens to make complaints before action on the problems of regulatory excessiveness is taken.

As a first step, we ought to take quick action on S. 1080, the Regulatory Reform Act of 1981.

This bill would:

Require a cost impact and cost benefit analysis of all new major regulations;

Provide for input by those affected by the regulations;

Direct the executive branch to implement those regulations that can secure the highest benefit in the most cost efficient manner; and

Require a review of regulations every 10 years to determine whether they should be revised or withdrawn.

With this approach, no longer would Federal agencies come forward with a regulation and say "there is only one, right way."

Under this Regulatory Reform Act, the smoked pork sausage regulation in question never would have gotten off the ground.

We in the Congress can take a similar approach in other areas of governmental activity.

Later in this session, we will have an opportunity to approve the proposed State and Local Government Fiscal Note Act of 1981 (S. 43). This bill would require estimates of the cost—or fiscal notes—that would be passed on to State and local governments by proposed congressional legislation.

And there is also pending the proposed State and Local Government Regulatory Cost Estimate Act of 1981 (S. 1225), which would require Federal agencies to seek input of State and local governments in the rulemaking process.

I believe there is a good chance for passage of all these initiatives in this Congress—especially at a time when budget cuts are requiring sacrifices from every sector of American society.

But today, once again, I want to compliment Mr. Jakes for doing what every American can and should do when the Government goes too far: do not take it. Demand and get commonsense.●

THE NEED FOR THE STIRLING ENGINE

● Mr. D'AMATO. Mr. President, new car sales figures for June 1981 were released on Monday, July 6, by the major U.S. automakers and the news was not good. New car sales fell 1.3 percent last month from the same month of 1980. Industrywide figures could be the worst in at least 17 years. For a nation so heavily dependent on the auto industry for its economic vitality, such sales figures are more than unwelcome; they cannot be tolerated. Unfortunately, they are just a continuation of the dismal numbers of 1980.

The 1980 recession and other economic factors had a devastating effect on domestic automobile demand and production. Domestic output fell an estimated 26 percent from 8.5 million units in 1979 to 6.3 million units in 1980, its lowest level since 1961. Domestic auto sales fell from 8.3 million units in 1979 to 6.6 million units in 1980. As a result, the industry suffered financial losses of $4.2 billion. At the same time, sales of imported passenger cars steadily increased their share of the domestic automotive market to a record high of 26.7 percent or 2.4 million units for the year, up from the previous high of 21.9 percent or 2.3 million units in 1979.

These sales figures and market shares are startling, especially when examined more closely. The share of retail automobile sales of domestic companies declined sharply during 1980 to 73.3 percent from 78.2 percent in 1979. By contrast, the share of retail sales of imported cars increased from 21.8 percent to 26.7 percent. Each of the major companies experienced a sharp decline in earnings as a result of the drop in sales. The loss of earnings to General Motors, Ford, Chrysler, and American Motors for 1980 were respectively $762.8 million, $1.54 billion, $1.7 billion, and $197.5 million. It is also interesting to note that Japanese auto imports accounted for 79.7 percent of total automobile import sales in 1980, an increase from 76.1 percent in 1979.

What can be done to save the auto industry in America? This is a question that has been discussed over and over again in Congress during the past few years. Unfortunately, we have only come up with patch-work solutions rather than a panacea. That is not to say that a cure-all is readily available. But bailouts and import restraints do not and cannot address the real problems of American industry: the failure to remain competitive with foreign government-industry teams.

Mr. President, I would like to call to the attention of my colleagues one Federal Government program which may be one of the keys in revitalizing the American automobile industry. It is the automotive Stirling engine program of the Department of Energy. Under the Automotive Propulsion Research and Development Act of 1978, contracts were let to provide revolutionary engine options for the automobiles of the late 1980's and 1990's. One of these options, the automotive Stirling engine has shown exceptional progress by demonstrating higher miles-per-gallon than internal combustion engine equivalents, an extremely attractive multifuel capacity, and environmental acceptability. The Stirling has cylinders and pistons like internal combustion engines commonly used today, but fuel is burned outside the cylinder and the heat of the burning is transferred to an internal working gas which powers the pistons.

The Department of Energy's Stirling engine program has the objective of developing, by 1984, advanced Stirling engines to be tested by the Environmental Protection Agency (EPA) in appropriately modified production cars. The test cars will meet the following criteria: First, at least 30-percent improvement in fuel economy over production vehicles powered by conventional spark ignition engines of the same weight and performance; second, gaseous emissions and particulates levels less than either Federal or State standards planned for 1985; and third, an ability to use a variety of fuels: gasoline, diesel, kerosene, and alcohol.

At a time when all too many Federal programs are exceeding their budget estimates without concomitant positive results, the Stirling engine program has lived up to its promise and commitments. Now at its midpoint, the program is on schedule and within its budget, and is well on its way to meeting the goals of the authorizing legislation. As I have stated, the Stirling engine may hold the key to the future of the American automotive industry, due to its demonstrated capability to run on a variety of fuels and its extremely impressive miles-per-gallon potential. The impact this engine may have upon the U.S. auto industry and our balance of payments is immeasurable.

The House Appropriations Interior Subcommittee has appropriated $12 million for fiscal year 1982 for the Stirling engine program. However, as a result of associated funding necessary for NASA and Department of Energy staffing and oversight, this figure will require cutbacks to the point where the United States will be dangerously uncompetitive with Japanese and European efforts. Unless this program is funded at a level of $15 million, we will not be able to remain competitive with Japanese and European successes. The recent new-car sales figures only serve to point out the pressing need for improvements in the American automobile and for the continued development of the Stirling engine. The country with the best engine option for the future will accrue billions of dollars in balance of payments and an expanding economy. We simply cannot afford to be second.●

COMMUNICATING BEYOND WORDS

● Mr. MATHIAS. Mr. President, at a time when distances appear to be opening once again between the United States and the Soviet Union, it is essential that, adversaries though we are, our two nations do not grow so far apart that we fail to communicate. Such a situation would not only be foolhardy, but is clearly dangerous for both of us. We must continue to find new and creative ways to keep communications open across the broad spectrum of human concerns common to both of our great nations, from arms limitations and the quest for peace to cultural exchange and expression through the performing arts.

It is in this last category, Mr. President, that I take great pride in noting that a young Maryland woman, Amanda McKerrow of Rockville, Montgomery County, has opened a channel of communication which transcends armaments and ideologies and adversarial relationships. Miss McKerrow, who is only 17 years old, has just been awarded the first-prize gold medal in Moscow's International Ballet Competition held at the Bolshoi Theater, the world's foremost center of ballet.

On behalf of her fellow Marylanders as well as of all Americans, I want to pay tribute to Amanda and to extend to her our congratulations and admiration for her superlative performance on the Bolshoi stage. Her extraordinary interpretation of the pas dedeux from Tchaikovsky's classic "Les Sylphides" with her partner Simon Dow touched something deep and responsive, something which communicates across all barriers to human understanding. It is fitting that Amanda is sharing the gold medal with a young Soviet ballerina, Natalya Arkhipova, for in so doing she extends a graceful hand of friendship from the American people to the Soviet people eloquently and with quiet beauty.

Mr. President, the Baltimore Sun's Moscow bureau chief Anthony Barbieri wrote about Amanda's triumph in the Sun on June 26, 1981. I ask that Mr. Barbieri's story be printed at this point in the RECORD.

BOLSHOI GOLD—AMANDA MCKERROW AWAKENED TO A BALLET DREAM

(By Anthony Barbieri)

Moscow.—The American ballet world's sleeping beauty was awakened by a phone call at 3 a.m. yesterday informing her that her dream had come true.

The call came from Russia's fabled Bolshoi Theater but the voice on the other end was pure American: "We've hit the jackpot, honey. It's the gold."

Thus did 17-year-old Amanda McKerrow of Rockville and the Washington Ballet learn from her ballet teacher, Mary Day, that she had just been awarded the first-prize gold medal in the prestigious Moscow International Ballet Competition.

Adjustment to her overnight success began a few hours later as Miss McKerrow learned that America wanted to watch her eat breakfast.

Network television crews showed up bright and early in the dining room of Moscow's Hotel Rossiya to record the first few minutes of Miss McKerrow's first day as the United States' brightest young ballerina.

"I'm not used to so much publicity," Miss McKerrow said later. "They were taping us while we were eating. . . . I can't eat when people do that."

The publicity—and the stardom that many predict is now well within her reach—is something to which the slim, blonde young

ballerina with a dancer's figure her teacher describes as having "the strength of steel beneath a beautiful, soft exterior" will have to become accustomed in the days ahead.

Although she shared the gold medal for the junior girl's category (age 16 to 19) with Soviet ballerina Natalya Arkhipova, Miss McKerrow's triumph in Moscow is a rare achievement for an American dancer competing in an international contest traditionally dominated by the products of the Soviet Union's superb ballet schools.

"The doors are all open to her," said Ms. Day, who is director of the Washington Ballet and has been Miss McKerrow's teacher for the past three years. "Everyone wants her now."

Miss McKerrow's immediate plans are to dance the coming fall to spring season with the Washington Ballet, though Ms. Day said there will doubtless be numerous offers for guest appearances at bigger and better known ballet companies in the U.S.

That's what a gold medal at the Moscow Ballet competition can do for a young ballerina, as well as help answer one of the questions that prompted Miss McKerrow to make the trip to Moscow this spring: "How good am I and how good can I be?"

The answer to both questions is now, clearly, very good indeed but it would be misleading to say that Miss McKerrow arrived in Moscow as a can't-miss success.

She was one of 11 dancers that made up an American "team" that would compete with dancers from 23 other countries. The international jury of 33 ballet experts included only one American, Robert Joffrey, of New York's Joffrey Ballet, and as the contest opened last week it was felt that even a third-place finish by an American would have been an unusual success.

But Miss McKerrow soon distinguished herself from the rest of the American dancers. During the first two preliminary rounds, she and her partner, 25-year-old Australian Simon J. Dow, who is also with the Washington Ballet, won enthusiastic audience response and top reviews from Soviet critics, especially for their pas de deux from "Les Sylphides."

It all came down to last Tuesday evening's final round, and Tuesday is when it seemed the breaks started going against her.

For one thing, Mr. Dow had come down with a stomach bug that left him severely weakened for that evening's performance.

And then there was a problem with the orchestra.

During the two previous rounds Miss McKerrow and Mr. Dow danced to their own recorded music they had brought with them from Washington. But for the final round all dancers were to dance to the accompaniment of the Bolshoi Theater's world-renowned orchestra.

Miss McKerrow and Mr. Dow were dancing the "Blue Bird" pas de deux from Tchaikovsky's "Sleeping Beauty." The couple and their teacher, Ms. Day, wanted a certain tempo; the orchestra's conductor, Algis Zhiuraitis, believed that the conductor of Russia's most famous ballet orchestra knew best how to conduct the music from Russia's most famous ballet.

In short, there was trouble—exactly the kind of trouble to test severely the poise of a young dancer about to give the most important performance of her life on the world's most famous ballet stage before the world's toughest ballet audience and a nation of ballet-mad television viewers, to boot.

"When she got back to the hotel [before Tuesday's performance] I think she was feeling a little down," said Alan McKerrow, who came to Moscow with his wife, Constance, and his other daughter, Melissa, to watch Amanda perform.

The atmosphere had indeed changed.

The Bolshoi is the big time of world ballet, and while the young American girl had gotten a warm and enthusiastic response from the Bolshoi audience for her first two appearances, the mood in the theater Tuesday night was different when the dancing was for keeps and the gold medal was at stake.

"The atmosphere was so different, things changed," Constance McKerrow said. "People around us seemed to have different looks on their faces—gritting their teeth in competition."

Thus tested, though, Miss McKerrow and a weakened Mr. Dow came through. Some members of the jury said yesterday that it was the couple's "interpretation" of the Tchaikovsky classic that swung the jury their way. The ability to interpret a dance is one of those indefinable qualities—like "soul" or "personality" that distinguish a good dancer from merely a technically competent one.

It is the intangible that Ms. Day said she spotted in Miss McKerrow and the main reason she urged her young dancer to make the trip to Moscow.

"This is the quality we're betting on," Ms. Day said shortly before the final round. "Amanda doesn't do any of these fireworks [spectacular leaps and pirouettes]. What dancing is all about in the end is artistry, and that's what we're talking about in Amanda."

It is the quality that Soviet critics and ballet experts—as well as the jury—referred to repeatedly in Miss McKerrow, also.

Whether it can be taught is a matter of debate, but one thing is certain: It is absolutely worthless without the years and years of training and hard work that go into making a top dancer in this most physically demanding of arts.

For Amanda, that began when she was 7 years old.

"I wanted to do whatever my sister was doing, and she was taking ballet lessons so I wanted to," Miss McKerrow said. "She quit, but I went on with it."

She went on with it at first two or three times a week at suburban ballet schools in Montgomery County.

She went on with it while other girls her age were thinking about dolls and dresses, and then boys and proms and high school football games.

She went on with it through two junior high schools and an abbreviated high school career that she is now completing through correspondence courses.

After the age of 12, it became ballet lessons five or six days a week, three or four hours a day.

"Her mind is on dancing, all day, every day," her father says.

Finally, a decision was made to pursue seriously a ballet career and Miss McKerrow sought out the woman in Washington who could help her attain it, Ms. Day, who runs the Washington School of the Ballet.

Mrs. McKerrow remembers it like this:

"Amanda went in and said, 'Can I be a dancer?' And Ms. Day said, 'Amanda, you already are a dancer.' And that was it."

After that Amanda's dancing became a family affair, though with Amanda absent as much as at home. Ms. Day's school in downtown Washington is about an hour's drive from the McKerrow home in Rockville, and Mrs. McKerrow more often than not found herself doing the driving.

"I've spent a lot of time—years of my life. I guess if you added it up—waiting in a car in the dark outside some studio waiting for Amanda . . . there were years, it seemed, when she never ate dinner with us, just had something we'd kept warm for her when she came home from classes."

"Was it worth it? Absolutely, it was worth it. I don't think she really feels she's given anything up. She's a much broader person for it in every way."

When Mr. McKerrow described the thrill of watching his youngest daughter step for the first time on the stage of the Bolshoi Theater, there is no doubting he, too, believes the effort was well worth it.

"It took my breath away," he said. "Even now I can't believe it. I was ready to burst."

The experience—win or lose—of dancing on the Bolshoi's giant stage was not lost on Amanda, either.

"It was an incredible thrill," she said. "I wasn't expecting it to be, but it was. What can top just being on the Bolshoi stage? It's the mecca of ballet. I've been hearing about it since I was 7."●

A NEGOTIATED SOLUTION TO THE VIOLENCE IN EL SALVADOR

● Mr. KENNEDY. Mr. President, in spite of the administration's failure to support negotiations which could bring to an end the violence and repression in El Salvador, it is heartening that so many others continue to press for a negotiated political solution to this tragic conflict.

One of the more notable recent efforts has been undertaken by Ed Broadbent, vice president of the Socialist International and leader of the New Democratic Party of Canada. The latest in a series of such initiatives sponsored by Socialist International and its president, Willy Brandt, the Broadbent mission encompassed meetings with government, opposition and other leaders in El Salvador, Costa Rica, Mexico, Venezuela, and here in the United States.

On June 10, Mr. Broadbent issued a statement which describes the situation in El Salvador in direct and gripping terms. It is abundantly clear that administration policies toward the junta there are obstructing, not contributing to, an end of the suffering of the Salvadoran people. As Mr. Broadbent notes in his conclusion:

It is clear that the will exists within El Salvador and among those in the region to work towards a negotiated end to hostilities. Moreover, there is a strong belief that this possibility would be significantly enhanced if the U.S. would change its current policy.

Although I do not agree with Mr. Broadbent's conclusion that a moderate government, on the Costa Rican or Venezuelan model, is beyond reach in El Salvador, he is right to warn that failure to change current U.S. policy could well result in an outcome more extreme and more hostile to U.S. interests than a political solution emerging from negotiations begun now.

I request that Mr. Broadbent's statement be printed in the RECORD at this point so that my colleagues can have the opportunity to read in full his analysis of the prospects for peace in El Salvador.

STATEMENT ON EL SALVADOR BY ED BROADBENT, VICE PRESIDENT OF THE SOCIALIST INTERNATIONAL AND LEADER OF THE NEW DEMOCRATIC PARTY OF CANADA

On May 23, I left Canada to visit a series of countries in Central America on behalf of the Socialist International to examine the current attitudes of the disputing parties in El Salvador, and of others in the region, concerning the possibility of a negotiated polit-

ical resolution of that tragic conflict, and to prepare recommendations to Socialist International President Willy Brandt, based on my findings.

In the subsequent two weeks, I visited Mexico, Costa Rica, Venezuela and El Salvador itself. In each of these countries I met with Heads of State, Foreign Ministers, Opposition Leaders, lawyers, representatives of the Catholic Church, and representatives of working people to explore their ideas on a negotiated settlement.

Additionally, I visited Cuba and the United States to meet with officials about their views on the same subject.

My final report will be delivered in the near future to President Willy Brandt, along with specific recommendations. However, today I want to make known certain judgements, based upon the discussions held in the region.

EL SALVADOR

Let me begin by dealing specifically with the situation in El Salvador itself, and the views of the conflicting forces in that country toward a negotiated settlement.

First and foremost, El Salvador has been, and still is, characterized by extreme social and political repression rooted in extreme economic inequality. Throughout its history, the country has been governed by and for a wealthy oligarchy at the expense of the peasants and workers who make up the vast bulk of the population, and who generally live in extreme and hopeless poverty.

Politically, this inequitable social structure has been maintained by suppression of any real democratic freedoms by the elite and by the military. The repression of democratic movements has become institutionalized in El Salvador, and throughout the history of the country this repression has been intensified by massive acts of violence by the ruling forces against the population in general.

It is my view that this historic reality also describes the current situation in El Salvador. From my discussions with members on both sides in the conflict and with concerned and knowledgeable leaders in the region, I want to make the following specific observations.

1. Terrorism, i.e., the indiscriminate murder and torture of civilian non-combatants for political purposes, is now pervasive in El Salvador. According to the most reliable witnesses (i.e., Salvadoran church officials) 80-90 percent of the violence is on the side of the security forces. This terrorism is tolerated by, and perhaps encouraged by, the army.

2. Neither side in the conflict—the Junta or the Front—can expect a military victory in the foreseeable future, and the resulting human misery will intensify, not diminish. A continuation of the war over the summer months will simply add thousands more to the list of more than 22,000 who have already died.

3. The army is clearly the most powerful part of the present government. The Minister of Defense, Colonel Garcia, is likely the most powerful figure in the country. Most of the senior officers in the army oppose both a negotiated settlement and the reform of the army itself. However, a significant number of officers, and large numbers of enlisted men would, if they were free to do so, support internal reform to end terrorism, and a negotiated end to the civil war.

4. The opposition Democratic Front FDR and FMLN prefers a negotiated settlement and is open to ideas about how this could be achieved. However, I must add that it is the view of almost everyone with whom I spoke, that it would be a serious mistake to assume that the guerrilla armed forces are militarily weak and could easily be defeated. Rather, I feel that their openness to negotiation is a reflection of a genuine desire for peace among the broad range of groups represented in the Front. Given the choice between war and a chance to participate freely in the governing of their country, they prefer the latter.

5. A substantial majority of those governments and parties in Central America with whom I spoke revealed a strong and urgent concern that a negotiated settlement be found to the conflict as soon as possible.

6. Most of the leadership in Central America, as well as in the Front itself, feels that the elections proposed by the Duarte government in current circumstances would be a travesty of democracy, not a viable political solution to the conflict. This view is shared by the Salvadoran Bar Association which has refused to participate in the drafting of electoral regulations. This is also my very strong feeling. In any election held under present circumstances, it is virtually certain that only the most conservative parts of the society would dare become candidates. Opponents of the Junta would not only find their own and their families' lives in jeopardy, but would be unable to campaign openly if the level of terror remains constant, let alone escalates.

The ability of the populace itself to participate freely in any election would be similarly constrained. Moreover, there is no reason to believe that the military would accept the results of free elections today any more than they did in 1972 and 1977, when they overturned the results of both elections.

7. It is the feeling of most of those with whom I spoke that the more the U.S. supplies military arms and advisers, and attempts to lend international moral legitimacy to the Junta, the less likely it is that real peace will emerge from the obvious reason that a strengthened Junta is a more inflexible Junta. What is required is not encouragement of greater military success but the promotion of the will to find a peaceful solution.

CONCLUSION

It is clear that the will exists within El Salvador and among those in the region to work towards a negotiated end to hostilities. Moreover, there is a stong belief that this possibility would be significantly enhanced if the U.S. would change its current policy.

It is also clear to me from my discussions with U.S. Assistant Secretary for Inter-American Affairs, Thomas Enders, both before and following my visit to the region, that the Americans are substantially committed to support the Junta. This is a profoundly regrettable judgment on their part and can only mean the continuation of great suffering for the people of El Salvador.

OBSERVATIONS ON CENTRAL AMERICA AND POLICY OPTIONS OPEN TO THE UNITED STATES

Central America as a whole in the post-war period, and especially in the 1970s has not been a region characterized by the development of economic justice and the expansion of political liberty. Exactly the opposite process has been the rule in most countries, as the tragic recent events in El Salvador illustrate.

In the coming decade, the key foreign player in the region, the United States, must recognize serious forces for change are now underway.

The plain fact is that intense social conflict arising out of mal-distribution of wealth and power is likely to have one of three possible results in the 1980s:

The result can be a radically changed regime of a moderate left type, more or less evolving democratically, with mixed private and public sector economy, and which will likely be neutral to the U.S. and non-aligned with other power blocs; or

The result can be a regime which is radically Marxist Leninist, undemocratic, state dominated, hostile to the U.S., and aligned with the Communist world; or

The result can also be the emergence of a repressive military oligarchy, where social change is held in check by brute force which will violate every notion of human rights to maintain the status quo. Such a regime, as long as it inflicts enough terror, may well be friendly to the U.S., but just the opposite to its own population.

It is my belief that there is no likely fourth tendency in the region. Specifically, I mean that the post-war models of Venezuela and Costa Rica are not now likely to be repeated. The forces of social change have been repressed too long for this type of moderate government to be seen by those affected as desirable models.

The most important determinant as to which of these three types of future governments—moderate left, radical left or military junta—will evolve in any particular case is the reaction to the growing forces of social change in Central America by the United States.

If the United States seeks a guarantee of having a friendly ally by propping up traditional oligarchies in the form of military regimes, it will inevitably radicalize much of the population, including the clergy and other moderates, and produce radical left anti-U.S. regimes whenever and wherever the military is overcome.

Conversely, if the U.S. refrains from such support, draws upon its own democratic traditions and makes it known that it prefers democratic societies even if they should become "socialist" in nature, the chances are at least reasonable that the regime will be of a moderate left type, internally more just and not unsympathetic towards the United States.

The United States and Central America are proceeding into a crucially important decade. El Salvador can be a turning point in either direction. The choice can profoundly affect us all.●

U.S. INTEREST RATES AND EUROPE

● Mr. FORD. Mr. President, over the last several days I, together with many of my colleagues, have taken the floor to discuss the dire consequences of high interest rates to our national economy. The error of our ways, however, is not confined to these shores. Our failure to control high interest rates impacts directly on our European friends and the entire Western Alliance.

This point was brought out in a recent speech by Ambassador Roland de Kergorlay, head of the delegation of the Commission of the European Communities, in a speech at the International Banking Center on Friday, June 19, 1981, in Miami, Fla.:

The U.S. government appears to be laying great emphasis on the control of the money supply, the consequence of this is the very high interest rates that we have been experiencing for some time now in the United States.

High interest rates in the United States such as those we have experienced over the last 18 months mean rising interest rates in Europe where they have reached levels which can be tolerated with increasing difficulty over time because they limit the margin of maneuver of the authorities who have to deal with an ever-deepening economic crisis. . . .

The effects of this are very detrimental in Europe, where the rate of growth of the economies appears to have been far more affected by high interest rates over the last two years than in the United States. Thus, investment would continue to stagnate, we will continue to experience zero and even negative rates of growth and our unemployment rate will continue rising possibly to reach intolerable levels. . . .

What is more, an alarmingly high proportion—43 percent of the Community's jobless are young people under the age of 25.

These are not just cold economic facts, they rapidly translate into social and political facts of a somewhat higher temperature.

The consequences of young people entering the job market for the first time and finding they are not welcome in it should be given some consideration.

One should not be surprised that these same young people may be less willing than is normal at such an age to accept traditional values and political beliefs. One should equally not be surprised that societies that cannot provide employment for an increasing percentage of their able population may be less willing to accept added financial burdens to ensure their defense and security. Indeed, the high cost of servicing the debt in a number of member countries has reached such levels that the authorities are facing unpalatable choices between cuts in social benefits which for the above mentioned reasons are difficult to envisage, or a reduction in the defense effort.

Such social and political consequences would not, in any way, serve the interests of the Western Alliance as a whole. A Europe that is economically weakened is a Europe that is politically weakened. It is a Europe that would be less able to play a constructive role in meeting the major challenges of this decade: challenges that the United States would, I am sure, wish that we meet together with them. . . .

Our concern would be alleviated if the policy mix (in the U.S.) were such that interest rates show real signs of abatement in the near term.

This, I understand, implies therefore on the one hand a gradual and, I hope, even a sharp rise in the propensity to save, which at the moment is very low—a third or less than what it is in Europe or Japan—as well as a progressive reduction of government calls on the money markets, which implies a real reduction in the budget deficit.

Recent statements seem to indicate that the United States is now inclined to follow a policy of non-intervention in exchange rates. This would constitute a departure from traditional practice.

The effectiveness of intervention by EC central banks is less great in a situation where the U.S. authorities would take a "hands-off" attitude.

To the extent that such interventions are less effective, this would mean that grave strains would be imposed on the European Monetary System; these over time, could lead to its survival being put into question.●

EXTENSION OF DATE FOR FILING APPLICATIONS FOR SEVERANCE PAY

Mr. BAKER. Mr. President, this is a matter that has been cleared on both sides, I believe. I send to the desk a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. (Mr. HAYAKAWA). The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 169) extending the date for filing applications for severance pay.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 169) was agreed to, as follows:

S. RES. 169

Resolved, That paragraph (4) of the first section of Senate Resolution 46, Ninety-seventh Congress, agreed to January 29, 1981, is amended—

(1) by striking out "Any" and inserting in lieu thereof "(A) Except as provided in subparagraph (B), any"; and

(2) by adding at the end thereof the following new subparagraph:

"(B) In the case of an employee of the Office of the Secretary of the Senate or of the Office of Sergeant at Arms and Doorkeeper of the Senate who is separated from employment after March 31, 1981, and before August 1, 1981, any application for any payment under such resolution shall be made before August 1, 1981.".

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR RECESS UNTIL 11:30 TOMORROW

Mr. BAKER. Mr. President, is there an order for convening the Senate tomorrow?

The PRESIDING OFFICER. There is an order to convene at 12 noon.

Mr. BAKER. Mr. President, I ask unanimous consent that the hour for the convening of the Senate be changed to 11:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE RECOGNITION OF SENATOR SCHMITT ON TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that on tomorrow the Senator from New Mexico (Mr. SCHMITT) be recognized for not to exceed 15 minutes after the recognition of the two leaders under the standing order.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE RECOGNITION OF SENATOR HAYAKAWA ON TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that after the recognition of the two leaders under the standing order and the recognition of the Senator from New Mexico (Mr. SCHMITT) that the distinguished Senator from California (Mr. HAYAKAWA), the occupant of the chair, be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, could I inquire of the distinguished minority leader are there items on today's Executive Calendar that are cleared for consideration on his side? And I might say that all of the nominations appearing on today's calendar beginning with the ACTION agency and continuing through nominations placed on the Secretary's desk in the Coast Guard have been cleared on our side.

Mr. ROBERT C. BYRD. Mr. President, all of the nominations on the Executive Calendar beginning with New Reports, Council on Environmental Quality, and proceeding through page 2 have been cleared on this side of the aisle.

Mr. BAKER. Mr. President, I thank the minority leader.

EXECUTIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now go into executive session for the purpose of considering the nominations on today's Executive Calendar beginning with New Reports and continuing through nominations placed on the Secretary's desk in the Coast Guard.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nominations will be stated.

COUNCIL ON ENVIRONMENTAL QUALITY

The legislative clerk read the nominations of A. Alan Hill, of California, and W. Ernst Minor, of Ohio, to be members of the Council on Environmental Quality.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed.

U.S. COAST GUARD

The legislative clerk read the nomination of Capt. James H. Lipscomb III to be a permanent commissioned officer in the Coast Guard Reserve in the grade of rear admiral.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

The legislative clerk read the nomination of Hans Michael Mark, of Virginia, to be Deputy Administrator of the National Aeronautics and Space Administration.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

DEPARTMENT OF LABOR

The legislative clerk read the nomination of Donald L. Dotson, of Pennsylvania, to be an Assistant Secretary of Labor.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

The legislative clerk proceeded to read sundry nominations in the U.S. Coast Guard, placed on the Secretary's desk.

Mr. BAKER. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

Mr. BAKER. Mr. President, I move to reconsider the votes by which the nominations were confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMOVAL OF INJUNCTION OF SECRECY—TREATY WITH CANADA ON PACIFIC COAST ALBACORE TUNA VESSELS AND PORT PRIVILEGES (SEE DOC. NO. 97-13)

Mr. BAKER. Mr. President, while we are still in executive session, and I believe this request has been cleared with the minority as well, I ask unanimous consent that the injunction of secrecy be removed from a treaty with Canada on Pacific Coast Albacore Tuna Vessels and Port Privileges (treaty document No. 97-13), transmitted to the Senate by the President of the United States on July 1, 1981, and ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

I transmit herewith, for the advice and consent of the Senate, the Treaty between the Government of the United States and the Government of Canada on Pacific Albacore Tuna Vessels and Port Privileges. Also transmitted for the information of the Senate is the report of the Department of State with respect to the Treaty.

This Treaty is necessary to resolve difficulties which have arisen between the United States and Canada concerning albacore tuna fishing on the Pacific Coast. In the past Canada has seized vessels of the United States fishing albacore tuna off the Canadian coast, and the United States has retaliated by prohibiting the import of tuna from Canada.

The Treaty solves these problems by securing free and unlimited access for vessels of both countries off the Pacific coast of the United States and Canada. It provides reciprocal port access and rights to land tuna in specified ports. The Treaty will also assure that circumstances will not arise which would lead to Canadian seizures of American vessels in the albacore tuna fishery or require another United States embargo of Canadian tuna. This approach was suggested by and has the support of the United States albacore fishing industry.

Not only will this Treaty benefit the fishing industries of both countries, but it represents important progress in the resolution of the fisheries issues which have been troubling the United States and Canada.

I recommend that the Senate give early consideration to the Treaty and give its advice and consent to ratification.

RONALD REAGAN.

THE WHITE HOUSE, *July 1, 1981.*

LEGISLATIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME LIMITATION AGREEMENT—SENATE RESOLUTION 141, CRIME PREVENTION RESOLUTION

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate turns to consideration of Senate Resolution 141, the crime prevention resolution, it be considered under the following time agreement:

Three hours total time on the resolution allocated as follows:

Two hours under the control of the minority leader or his designee; 1 hour under the control of the majority leader or his designee, with the proviso that no amendments, motions, appeals, or points of order be in order to the resolution and that the agreement be in the usual form as to the allocation of time.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, there is no objection on this side. This matter has been cleared with Messrs. BIDEN, LEVIN, and other Members through the cloakroom telephone.

The PRESIDING OFFICER. Without objection, it is so ordered.

ANGIOLETTA M. F. LANDON

Mr. BAKER. Mr. President, the Senate family was saddened to learn of the passing Sunday of Angioletta M. F. Landon, chief clerk of the Sergeant at Arms Office, following an illness of nearly 6 months. A native of Clarksburg, W. Va., Angie Landon first came to the Senate in 1957 and ably served as chief clerk in charge of accounting, procurement, and auditing in the Office of the Sergeant at Arms for over a decade. We shall all remember her dedication to her profession, the diligence with which she pursued her work, and her devotion to the Senate as an institution. Angie Landon will be greatly missed by all of us in the U.S. Senate. Our thoughts and sympathies go out to her surviving family.

SORROW AT THE LOSS OF A DEVOTED SENATE EMPLOYEE

Mr. ROBERT C. BYRD. Mr. President, I am sure that our Senate colleagues join Senator BAKER and me in offering our regrets to the family of Angioletta Landon, chief clerk of the Sergeant at Arms Office. After nearly a quarter-century of Senate service, Angie passed away on Sunday after a long illness. She was especially respected for her outstanding and professional work, her diligence in everything she undertook, and her notable devotion to the Senate. Moreover, she will be remembered by all who knew her for her warmth, courtesy, and kindness. I am particularly saddened by the loss of Angie, because as Mr. BAKER has stated, she was a native of my own State, coming from Clarksburg.

Mr. President, the success of the Senate's work depends significantly on scores of men and women like Angie Landon, who give so tirelessly of themselves for the Senate's sake. All of us are moved by Angie's death, and we want to let her family know that our thoughts are with them as they mourn the passing of a loved one who was also our friend.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, may I inquire of the minority leader if there is any further business he wishes to have transacted by the Senate this afternoon?

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished majority leader for his thoughtfulness. I know of none.

Mr. BAKER. I thank the Senator. I know of no further business to be transacted by the Senate today.

RECESS UNTIL 11:30 A.M. TOMORROW

Mr. BAKER. Mr. President, I move, in accordance with the previous order, that the Senate stand in recess until 11:30 tomorrow morning.

The motion was agreed to; and the Senate, at 5:21 p.m., recessed until Thursday, July 9, 1981, at 11:30 a.m.

NOMINATIONS

Executive nominations received by the Secretary of the Senate June 30, 1981, under authority of the order of the Senate of June 25, 1981:

DEPARTMENT OF STATE

Julius Waring Walker, Jr., of Texas, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Upper Volta.

Richard L. Walker, of South Carolina, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Korea.

Davis Rowland Robinson, of the District of

Columbia, to be Legal Adviser of the Department of State, vice Roberts Bishop Owen, resigned.

DEPARTMENT OF DEFENSE

Richard N. Perle, of Maryland, to be an Assistant Secretary of Defense, vice Gerald Paul Dinneen, resigned.

DEPARTMENT OF THE TREASURY

Nora Walsh Hussey, of South Dakota, to be Superintendent of the Mint of the United States at Denver, vice Evelyn T. Davidson, resigned.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Robert W. Karpe, of California, to be President, Government National Mortgage Association, vice Ronald P. Laurent.

DEPARTMENT OF ENERGY

Anthony G. Sousa, of Hawaii, to be a Member of the Federal Energy Regulatory Commission for a term expiring October 20, 1984, vice George R. Hall, term expired.

DEPARTMENT OF THE INTERIOR

J. Robinson West, of Pennsylvania, to be an Assistant Secretary of the Interior, vice Larry E. Meierotto.

IN THE ARMY

The following-named officer, under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. Robert Charles Kingston, [redacted] U.S. Army.

Executive nominations received by the Secretary of the Senate July 1, 1981, under authority of the order of the Senate of June 25, 1981:

THE JUDICIARY

William C. Lee, of Indiana, to be U.S. District Judge for the northern district of Indiana vice a new position created by Public Law 95–486, approved October 20, 1978.

DEPARTMENT OF JUSTICE

Daniel K. Hedges, of Texas, to be U.S. Attorney for the southern district of Texas for the term of 4 years vice Jose Antonio Canales, resigned.

Frank H. Conway, of Massachusetts, to be a Member of the Foreign Claims Settlement Commission for the remainder of the term expiring September 30, 1981, vice Ralph W. Emerson.

Frank H. Conway, of Massachusetts, to be a Member of the Foreign Claims Settlement Commission for the term expiring September 30, 1984 (reappointment).

DEPARTMENT OF EDUCATION

George A. Conn, of Maryland, to be Commissioner of the Rehabilitation Services Administration, vice Robert R. Humphreys, resigned.

Anne Graham, of Virginia, to be Assistant Secretary for Legislation and Public Affairs, Department of Education, vice Martha Keys.

EXECUTIVE OFFICE OF THE PRESIDENT

George A. Keyworth II, of New Mexico, to be Director of the Office of Science and Technology Policy, vice Frank Press, resigned.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Jon D. Holstine, of Virginia, to be an Assistant Administrator of the Agency for International Development, vice John H. Sullivan, resigned.

IN ARMY

The following-named officers for promotion in the Army of the United States, under provisions of title 10, United States Code, sections 3442 and 3447:

ARMY PROMOTION LIST

To be colonel

Acinapura, Joseph N. [redacted]
Affourtit, Rene J. [redacted]
Akridge, Jimmie H. [redacted]
Alcala, Raoul H. [redacted]
Alexander, Franklin D. [redacted]
Alsop, Jackie R. [redacted]
Amick, Robert L., Jr. [redacted]
Andres, Dudley M. [redacted]
Andrews, James H. [redacted]
Archibald, Harold R. [redacted]
Armstrong, David A. [redacted]
Arndt, Gary L. [redacted]
Arthur, James F., Jr. [redacted]
Atkins, George C. [redacted]
Ax, George R. [redacted]
Bacas, Harry J. [redacted]
Bachelor, Larry D. [redacted]
Bagnerise, Joseph W., Sr. [redacted]
Baird, Thomas H. [redacted]
Baker, Charles R. [redacted]
Baker, Wardell G. [redacted]
Bangasser, Fredric D. [redacted]
Bangerter, Jerald C. [redacted]
Baratto, David J. [redacted]
Barber, Don W. [redacted]
Barrowman, Thomas J. [redacted]
Beebe, Merrell S. [redacted]
Beinhacker, Neal D. [redacted]
Belan, Charles G. [redacted]
Belitz, Charles L. [redacted]
Bell, Jerry L. [redacted]
Benchoff, Dennis L. [redacted]
Bennett, Thomas R. [redacted]
Benson, Richard D. [redacted]
Berry, John A., III [redacted]
Berry, Peter T. [redacted]
Bertelkamp, John N. [redacted]
Bidgood, Ferdinand C. [redacted]
Bierly, Robert N., Jr. [redacted]
Bilberry, Ralph W. [redacted]
Billings, Barry B. [redacted]
Biondi, Richard M. [redacted]
Black, Wendell W. [redacted]
Blake, Phillip L. [redacted]
Blake, William B. [redacted]
Blesse, James S. [redacted]
Blewett, John H. [redacted]
Bohls, Robert J. [redacted]
Borrello, Ronald A. [redacted]
Botelho, George E. [redacted]
Bouton, Peter H. [redacted]
Bowden, John T., Jr. [redacted]
Bowe, Robert M. [redacted]
Bowers, Joseph M., Jr. [redacted]
Bowers, Robert F. [redacted]
Box, Joe M. [redacted]
Boyd, Claude D., III [redacted]
Bramlett, David A. [redacted]
Bratz, Gordon T. [redacted]
Bretsch, Kenneth P. [redacted]
Brett, Thomas H. [redacted]
Briggs, Duncan D., Jr. [redacted]
Brisach, Eugene M. [redacted]
Brooks, Delbert R. [redacted]
Brooks, Ronald E. [redacted]
Broshous, Charles R., Jr. [redacted]
Brown, Gary L. [redacted]
Brown, Roger A. [redacted]
Brown, Stanley M. [redacted]
Bryde, Walter J., Jr. [redacted]
Buckles, Harvey L. [redacted]
Burgess, Douglas R. [redacted]
Burns, Jerald C. [redacted]
Butler, Dennis F. [redacted]
Butterworth, Larry R. [redacted]
Buttolph, Dan D. [redacted]
Byrd, Johnnie P. [redacted]
Byrnes, James B. [redacted]
Cahill, Ralph D. [redacted]
Caldwell, Marion L., Jr. [redacted]
Caldwell, Robert W. [redacted]
Campbell, Dan H. [redacted]
Campbell, Jerry P. [redacted]
Campbell, Kenneth H. [redacted]
Capps, Larry R. [redacted]
Caram, Meredith H. [redacted]
Caraway, Lynn I. [redacted]
Carey, Arthur T. [redacted]
Carlson, Gunnar C., Jr. [redacted]
Carlson, Richard I. [redacted]
Carmean, Clayton H., Jr. [redacted]
Carolan, James M. [redacted]
Carr, Milton B. [redacted]
Carter, Lewis L. [redacted]
Cash, John A. [redacted]
Chamberlain, Craig R. [redacted]
Chatfield, James M. [redacted]
Chittenden, Warde P. [redacted]
Cincotti, Joseph G. [redacted]
Clark, Carl M. [redacted]
Clark, Daniel D. [redacted]
Clark, Daniel R. [redacted]
Click, David L. [redacted]
Clifton, Jack H. [redacted]
Cody, Michael A. [redacted]
Cole, David L. [redacted]
Collins, Jon D. [redacted]
Collins, Michael D. [redacted]
Comee, William C., Jr. [redacted]
Comello, Jerome J. [redacted]
Conley, Willard C. [redacted]
Conte, Ronald D. [redacted]
Cooper, David E. [redacted]
Costa, Robert A. [redacted]
Cox, Laddie M. [redacted]
Cox, William W. [redacted]
Cozanitis, Eleas A. [redacted]
Cramer, Larry V. [redacted]
Cressler, Walter L., Jr. [redacted]
Crocker, Aaron O. [redacted]
Crosby, George T. [redacted]
Crouch, William W [redacted]
Crowder, George L. [redacted]
Crowson, William L. [redacted]
Crumley, Dennis V. [redacted]
Crump, John C. [redacted]
Crumpton, Alfred T., Jr. [redacted]
Cuccaro, Joseph T. [redacted]
Culley, Harold E., Jr. [redacted]
Cullum, Richard O. [redacted]
Cummings, Edward H. [redacted]
Cummings, Patrick W. [redacted]
Cunningham, Frank III [redacted]
Cushman, James M. [redacted]
Cuttell, Dee E. [redacted]
Dacunto, Lawrence J. [redacted]
Dalgleish, Grant B. [redacted]
Daniel, Eugene L. [redacted]
Daniel, Walter B. [redacted]
Danner, Malcolm A. [redacted]
Danner, Robert F. [redacted]
Dascanio, John L. [redacted]
Davidson, Paul R. [redacted]
Davies, Michael D. [redacted]
Davis, Norman J. [redacted]
Davis, Peter A. [redacted]
Debastiani, Richard J. [redacted]
Deblois, Thomas A. [redacted]
Debolt, Harold F. [redacted]
Denney, Steve H. [redacted]
Dervaes, Arthur S., III [redacted]
Dewire, James E. [redacted]
Dickerson, Michael A. [redacted]
Diebold, Jerome A. [redacted]
Dieck, Peter F. [redacted]
Dietrich, Regis P., Jr. [redacted]
Digregorio, Anthony J. [redacted]
Dillard, James H. [redacted]
Donaldson, Benjamin L. [redacted]
Doty, Richard V. [redacted]
Dougherty, Maurice F. [redacted]
Downey, John T. [redacted]
Driver, Lewis F., III [redacted]
Duey, William E. [redacted]
Duggan, Lawrence W. [redacted]
Duncan, Garrett E., Jr [redacted]
Dunham, Rockwood S. [redacted]
Early, Gerald H. [redacted]
Earp, Curtis D., Jr. [redacted]
Easterbrook, John E. [redacted]
Eaves, Maynard D. [redacted]
Ebbesen, Samuel E. [redacted]
Ed, Robert C. [redacted]
Edwards, Richard C. [redacted]
Edwards, William J. [redacted]
Egersdorfer, Rudolph H. [redacted]

Eggerichs, James M., xxx-xx-xxxx
Ekman, Michael E., xxx-xx-xxxx
Ellis, Bruce H., Jr., xxx-xx-xxxx
Ellis, Claude, Jr., xxx-xx-xxxx
Ellis, James R., xxx-xx-xxxx
Ellis, Joseph T., xxx-xx-xxxx
Emerson, Lloyd A., xxx-xx-xxxx
Ericksen, Harold J., xxx-xx-xxxx
Ernest, Marion D., xxx-xx-xxxx
Evans, Daniel M., Jr., xxx-xx-xxxx
Fanning, John P., xxx-xx-xxxx
Farrell, Francis W., Jr., xxx-xx-xxxx
Fedorochko, William, Jr., xxx-xx-xxxx
Fegan, Charles B., xxx-xx-xxxx
Ferrari, Robert G., xxx-xx-xxxx
Fields, James C., xxx-xx-xxxx
Fintel, Arthur T., xxx-xx-xxxx
Floyd, Howard J., xxx-xx-xxxx
Flynn, Dennis J., xxx-xx-xxxx
Foley, Robert F., xxx-xx-xxxx
Ford, James L., xxx-xx-xxxx
Forster, Paul A., xxx-xx-xxxx
Fortunato, Edward T., xxx-xx-xxxx
Foulds, David G., xxx-xx-xxxx
Fowkes, Reginald B., xxx-xx-xxxx
Fowler, James H., xxx-xx-xxxx
Foye, Robert, Jr., xxx-xx-xxxx
Franklin, Forrest E., xxx-xx-xxxx
Frierson, Donald M., xxx-xx-xxxx
Frink, Dennis D., xxx-xx-xxxx
Fritsche, Donald J., xxx-xx-xxxx
Frix, Robert S., xxx-xx-xxxx
Froehle, Harold A., xxx-xx-xxxx
Fulton, Larry B., xxx-xx-xxxx
Funk, Paul E., xxx-xx-xxxx
Furey, Bartley W., xxx-xx-xxxx
Gabrysiak, Walter J., xxx-xx-xxxx
Gamino, John M., xxx-xx-xxxx
Garcia, Miguel A., xxx-xx-xxxx
Garner, Jay M., xxx-xx-xxxx
Garvey, James G., xxx-xx-xxxx
Gaskins, Phillip W., xxx-xx-xxxx
Gatanas, Mark D., xxx-xx-xxxx
Gauze, James E., xxx-xx-xxxx
Gehlsen, Emroy M., xxx-xx-xxxx
Gentle, Gary S., xxx-xx-xxxx
Gerard, Jacques B., xxx-xx-xxxx
German, Abraham L., Jr., xxx-xx-xxxx
Germann, Anthony C., xxx-xx-xxxx
Getgood, John H., xxx-xx-xxxx
Gilliam, Taft R., xxx-xx-xxxx
Giordano, Frank R., xxx-xx-xxxx
Girard, Valmour J., xxx-xx-xxxx
Glabus, Edmund J., xxx-xx-xxxx
Glaze, James E., xxx-xx-xxxx
Gledhill, David W., xxx-xx-xxxx
Glenn, John T., xxx-xx-xxxx
Golding, Willard E., xxx-xx-xxxx
Gordon, Charles L., xxx-xx-xxxx
Graham, Edward S., Jr., xxx-xx-xxxx
Grasseschi, Thomas A., xxx-xx-xxxx
Gray, Robert O., xxx-xx-xxxx
Greason, Earl S., III, xxx-xx-xxxx
Green, Frank D., Jr., xxx-xx-xxxx
Green, James L., xxx-xx-xxxx
Greene, Robert F., xxx-xx-xxxx
Greenwald, Donald P., xxx-xx-xxxx
Grenier, Paul W., xxx-xx-xxxx
Griffis, Fletcher H., Jr., xxx-xx-xxxx
Griffith, Ronald H., xxx-xx-xxxx
Griggs, James L., xxx-xx-xxxx
Griggs, Joe H., xxx-xx-xxxx
Gripkey, Edward M., xxx-xx-xxxx
Groome, Sally L., xxx-xx-xxxx
Grundborg, Kenneth D., xxx-xx-xxxx
Guenther, Hartmuth D., xxx-xx-xxxx
Guest, James A., xxx-xx-xxxx
Hagwood, Henry M., Jr., xxx-xx-xxxx
Hahn, William F., III, xxx-xx-xxxx
Halley, Fred N., xxx-xx-xxxx
Hallihan, James J., Jr., xxx-xx-xxxx
Hambric, John L., xxx-xx-xxxx
Hamilton, George A., xxx-xx-xxxx
Hammond, Glenn E., xxx-xx-xxxx
Hammond, William R., xxx-xx-xxxx
Hanne, William G., xxx-xx-xxxx
Hannon, Harold M., xxx-xx-xxxx
Hansell, Charles R., xxx-xx-xxxx
Harding, James R., xxx-xx-xxxx
Harrell, Ernest J., xxx-xx-xxxx
Harrison, Kent E., xxx-xx-xxxx
Hartzog, William W., xxx-xx-xxxx
Harvell, Kenneth E., xxx-xx-xxxx
Harvey, Jan V., xxx-xx-xxxx
Haselgrove, Leighton O., Sr., xxx-xx-xxxx
Hasson, Ross D., xxx-xx-xxxx
Haupt, Jerome L., xxx-xx-xxxx
Haycraft, Thomas J., xxx-xx-xxxx
Hazen, Donald E., xxx-xx-xxxx
Healy, Richard W., Jr., xxx-xx-xxxx
Heath, Roger A., xxx-xx-xxxx
Hedrick, John A., xxx-xx-xxxx
Heiberg, William L., xxx-xx-xxxx
Heiden, Heidi B., xxx-xx-xxxx
Heldstab, John C., xxx-xx-xxxx
Helvey, Robert L., xxx-xx-xxxx
Henderson, Arthur L., xxx-xx-xxxx
Henry, Charles R., xxx-xx-xxxx
Henry, Terence M., xxx-xx-xxxx
Henry, William A., xxx-xx-xxxx
Herman, Dean A., Jr., xxx-xx-xxxx
Herndon, Doyle L., xxx-xx-xxxx
Herr, Wayne L., xxx-xx-xxxx
Herrick, Curtis J., Jr., xxx-xx-xxxx
Herrick, Robert M., xxx-xx-xxxx
Herrling, John P., xxx-xx-xxxx
Hickman, Carlos W., xxx-xx-xxxx
Hicks, Harold J., xxx-xx-xxxx
Higdon, George P., xxx-xx-xxxx
Higginbotham, Jerry R., xxx-xx-xxxx
Higgins, John M., xxx-xx-xxxx
Hinds, Jim E., xxx-xx-xxxx
Hodel, Gerhardt W., xxx-xx-xxxx
Hodges, John C., xxx-xx-xxxx
Hofrichter, Francis P., xxx-xx-xxxx
Holman, Phillip E., xxx-xx-xxxx
Hood, Charles M., Jr., xxx-xx-xxxx
Hood, Harvey R. II, xxx-xx-xxxx
Hoogstraten, Richard B., xxx-xx-xxxx
Hope, Terrill C., xxx-xx-xxxx
House, John C., xxx-xx-xxxx
Howard, William A., xxx-xx-xxxx
Hoy, Pat C. II, xxx-xx-xxxx
Hudson, Donald L., xxx-xx-xxxx
Humbert, David W., xxx-xx-xxxx
Hurst, Nicholas R., xxx-xx-xxxx
Hutchison, Joseph W., xxx-xx-xxxx
Ingram, Kenneth A., xxx-xx-xxxx
Jackson, Charles H., Sr., xxx-xx-xxxx
Jackson, Donald B., xxx-xx-xxxx
Jansen, Edward M., xxx-xx-xxxx
Jellett, James M., xxx-xx-xxxx
Jenrette, Albert W., xxx-xx-xxxx
Jeszenszky, John F., xxx-xx-xxxx
Jezior, Michael A., xxx-xx-xxxx
Johnson, Anthony, xxx-xx-xxxx
Johnson, Benjamin F., xxx-xx-xxxx
Johnson, David C., xxx-xx-xxxx
Johnson, Emmett F., xxx-xx-xxxx
Johnson, Robert C., xxx-xx-xxxx
Johnson, Thomas G., xxx-xx-xxxx
Johnson, Thomas W., xxx-xx-xxxx
Johnson, William N., xxx-xx-xxxx
Jones, Arland A., xxx-xx-xxxx
Jones, Joel D., xxx-xx-xxxx
Jones, Louis R., Jr., xxx-xx-xxxx
Jones, Thomas C., xxx-xx-xxxx
Jones, William W., Jr., xxx-xx-xxxx
Kahn, William, xxx-xx-xxxx
Kambrod, Matthew R., xxx-xx-xxxx
Kays, James L., xxx-xx-xxxx
Kelly, William F., xxx-xx-xxxx
Kenney, Donald R., xxx-xx-xxxx
Kenyon, Richard H., xxx-xx-xxxx
Killingstad, Karl P., xxx-xx-xxxx
Kindred, Jon D., xxx-xx-xxxx
King, Donald H., xxx-xx-xxxx
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Kirkegaard, Paul J., xxx-xx-xxxx
Kirkpatrick, William T., xxx-xx-xxxx
Kish, Francis B., xxx-xx-xxxx
Kitchings, Phillip, Jr., xxx-xx-xxxx
Koon, Richard D., xxx-xx-xxxx
Kosiba, Leo M., xxx-xx-xxxx
Kouns, Darryle L., xxx-xx-xxxx
Krause, Robert G., xxx-xx-xxxx
Kuhn, Wayne B., xxx-xx-xxxx
Kunde, Gerald R., xxx-xx-xxxx
LaBlonde, George T., Jr., xxx-xx-xxxx
Laboa, Guy A., xxx-xx-xxxx
Lacey, William G., xxx-xx-xxxx
Land, Vincent J., xxx-xx-xxxx
Lander, Robert J., xxx-xx-xxxx
Landry, Larry J., xxx-xx-xxxx
Lane, Bishop L., xxx-xx-xxxx
Langford, Ollie L., xxx-xx-xxxx
Lanier, James N., xxx-xx-xxxx
Lauder, Ralph H., xxx-xx-xxxx
Lawson, Billy R., xxx-xx-xxxx
Lazzaro, Gerald J., xxx-xx-xxxx
Leadbetter, Richard A., xxx-xx-xxxx
Lee, Dwayne G., xxx-xx-xxxx
Legge, Barnwell I., xxx-xx-xxxx
Leide, John A., xxx-xx-xxxx
Lemoine, Jarod J., xxx-xx-xxxx
Lenti, John M., xxx-xx-xxxx
Leonard, James E., xxx-xx-xxxx
Lethcoe, Gerald E., Jr., xxx-xx-xxxx
Letonoff, Victor T., xxx-xx-xxxx
Leverette, Thomas E., xxx-xx-xxxx
Lewis, Donald H., Sr., xxx-xx-xxxx
Little, Allan G., xxx-xx-xxxx
Lloyd, James W., xxx-xx-xxxx
Longhofer, James E., xxx-xx-xxxx
Lopezsanchez, Andres, xxx-xx-xxxx
Lord, Gary R., xxx-xx-xxxx
Losa, Gene A., xxx-xx-xxxx
Lowe, Larry E., xxx-xx-xxxx
Luberacki, Robert J., xxx-xx-xxxx
Lucas, Joseph C., xxx-xx-xxxx
Lucas, Kenneth W., xxx-xx-xxxx
Lyman, Donald R., xxx-xx-xxxx
Lynch, James F., xxx-xx-xxxx
Lynn, Clyde D., xxx-xx-xxxx
Macaulay, David J., xxx-xx-xxxx
MacGregor, Harry G., Jr., xxx-xx-xxxx
Maddox, Edgar D., xxx-xx-xxxx
Maddox, Edward R., Jr., xxx-xx-xxxx
Madish, Daniel T., xxx-xx-xxxx
Magnell, Carl O., xxx-xx-xxxx
Maloney, William H., xxx-xx-xxxx
Marotta, Joseph R., xxx-xx-xxxx
Martin, Dennis C., xxx-xx-xxxx
Marty, Fred F., xxx-xx-xxxx
Matz, William M., Jr., xxx-xx-xxxx
May, Karl E., xxx-xx-xxxx
Mays, Jack M., xxx-xx-xxxx
Mayville, William C., xxx-xx-xxxx
McAleer, Michael E., xxx-xx-xxxx
McBennett, John P., xxx-xx-xxxx
McCahan, Alan R., xxx-xx-xxxx
McCollister, Kenneth W., xxx-xx-xxxx
McCormick, Donald R., xxx-xx-xxxx
McCormick, Michael H., xxx-xx-xxxx
McDevitt, James J., xxx-xx-xxxx
McDonald, William K., Jr., xxx-xx-xxxx
McDowell, James I., xxx-xx-xxxx
McFarland, James W., xxx-xx-xxxx
McGillen, John L., Jr., xxx-xx-xxxx
McInnis, Irby N., Jr., xxx-xx-xxxx
McKimmey, James R., xxx-xx-xxxx
McRee, Marshall R., xxx-xx-xxxx
McSlarrow, James E., xxx-xx-xxxx
McWain, James T., xxx-xx-xxxx
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Moses, George L., xxx-xx-xxxx
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Mussells, John D. xxx-xx-xxxx
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Myer, Allan A. xxx-xx-xxxx
Naatjes, Clarence S. xxx-xx-xxxx
Naftzinger, Joseph E. xxx-xx-xxxx
Nartsissov, George xxx-xx-xxxx
Neal, George W. xxx-xx-xxxx
Neale, James F., III xxx-xx-xxxx
Nehammer, Karl F. xxx-xx-xxxx
Nelson, Edward E. xxx-xx-xxxx
Nettles, Johns S., Jr. xxx-xx-xxxx
Nichols, James M., Jr. xxx-xx-xxxx
O'Bryan, James D. xxx-xx-xxxx
O'Connell, James T., Jr. xxx-xx-xxxx
O'Hara, William D., Jr. xxx-xx-xxxx
O'Keefe, John J. xxx-xx-xxxx
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Olson, Walter E., Jr. xxx-xx-xxxx
O'Malley, Dennis J. xxx-xx-xxxx
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O'Neill, Michael E. xxx-xx-xxxx
Oppenheim, James P. xxx-xx-xxxx
Orlov, William S. xxx-xx-xxxx
Orton, Robert D. xxx-xx-xxxx
Orzechowski, Richard L. xxx-xx-xxxx
Page, William C., Jr. xxx-xx-xxxx
Painter, Donald E. xxx-xx-xxxx
Pakula, Kenneth R. xxx-xx-xxxx
Paolino, Michael A. xxx-xx-xxxx
Paone, Joseph F. xxx-xx-xxxx
Paris, Howard S. xxx-xx-xxxx
Parker, Eliot V., Jr. xxx-xx-xxxx
Parnell, William C. xxx-xx-xxxx
Pauli, John T. xxx-xx-xxxx
Payne, Guy H. xxx-xx-xxxx
Pearcy, Charles G. xxx-xx-xxxx
Pedersen, Richard E. xxx-xx-xxxx
Pena, Alfonso V. xxx-xx-xxxx
Pennywell, Johnson E. xxx-xx-xxxx
Perry, Stephen O., Jr. xxx-xx-xxxx
Peters, William R. xxx-xx-xxxx
Petty, James D., Jr. xxx-xx-xxxx
Pheneger, Michael E. xxx-xx-xxxx
Phillips, Charlotte E. xxx-xx-xxxx
Phinney, Bruce A. xxx-xx-xxxx
Pilanski, Paul L. xxx-xx-xxxx
Pope, Fred R. xxx-xx-xxxx
Popovich, Marko L. xxx-xx-xxxx
Post, Elwyn D., Jr. xxx-xx-xxxx
Potter, Anthony D. xxx-xx-xxxx
Powell, William E. xxx-xx-xxxx
Powers, James H. xxx-xx-xxxx
Preetorius, Charles D. xxx-xx-xxxx
Price, David H. xxx-xx-xxxx
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Rader, Allan L. xxx-xx-xxxx
Ramsey, Charles G. xxx-xx-xxxx
Ray, Roy G. xxx-xx-xxxx
Reber, John L. xxx-xx-xxxx
Redmond, Lawrence A. xxx-xx-xxxx
Reece, Frank S. xxx-xx-xxxx
Reed, George B., Jr. xxx-xx-xxxx
Reed, Jean D. xxx-xx-xxxx
Reese, Thomas F. xxx-xx-xxxx
Reiber, Carl F., Jr. xxx-xx-xxxx
Reiber, Curtis B. xxx-xx-xxxx
Richards, David J. xxx-xx-xxxx
Riggs, Gary A. xxx-xx-xxxx
Ringmacher, Nelson E., Jr. xxx-xx-xxxx
Robbins, Chandler P., II xxx-xx-xxxx
Robinson, Ronald M. xxx-xx-xxxx
Roche, Terrence L. xxx-xx-xxxx
Rogers, Martin M. xxx-xx-xxxx
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Rondiak, Roman xxx-xx-xxxx
Rose, Louis. xxx-xx-xxxx
Rosenkranz, Robert B. xxx-xx-xxxx
Rosher, Galen D. xxx-xx-xxxx
Rosler, Curtis W. xxx-xx-xxxx
Ross, Joseph A., Jr. xxx-xx-xxxx
Rossi, Arnold T. xxx-xx-xxxx
Royce, James B. xxx-xx-xxxx
Rudesill, Robert S. xxx-xx-xxxx
Rumph, Robert R. xxx-xx-xxxx
Runey, Dennis I. xxx-xx-xxxx
Runyon, Floyd L. xxx-xx-xxxx
Rutherford, Jerry R. xxx-xx-xxxx
Ryan, Richard B., Jr. xxx-xx-xxxx
Salmon, Joseph F. xxx-xx-xxxx
Sangster, James H. xxx-xx-xxxx
Sasai, Calvin Y. xxx-xx-xxxx
Sawtelle, Donald W., Jr. xxx-xx-xxxx
Sawyer, Frederick H. xxx-xx-xxxx
Scharberg, Garry A. xxx-xx-xxxx
Schatzman, Thomas F., Jr. xxx-xx-xxxx
Schmidt, John L., Jr. xxx-xx-xxxx
Schmidtman, Michael C. xxx-xx-xxxx
Schooff, Maury W. xxx-xx-xxxx
Schroeder, Frederick U. xxx-xx-xxxx
Schweitzer, William C. xxx-xx-xxxx
Sciple, Carl B. xxx-xx-xxxx
Scott, Donald L. xxx-xx-xxxx
Scott, Engle W. xxx-xx-xxxx
Scott, James T. xxx-xx-xxxx
Scruggs, James T., Jr. xxx-xx-xxxx
Scudder, William I. xxx-xx-xxxx
Seaward, Richard S. xxx-xx-xxxx
Seguin, Robert P. xxx-xx-xxxx
Sexton, Donald E. xxx-xx-xxxx
Seymour, Roger G. xxx-xx-xxxx
Shaul, Charles D. xxx-xx-xxxx
Shepherd, William M. xxx-xx-xxxx
Shost, Alan T. xxx-xx-xxxx
Shugart, James W., III xxx-xx-xxxx
Siegfried, Richard S. xxx-xx-xxxx
Sills, Edward G. xxx-xx-xxxx
Silvasy, Stephen, Jr. xxx-xx-xxxx
Sklar, Richard R., II xxx-xx-xxxx
Sloan, Jimmy B. xxx-xx-xxxx
Smith, Paul L. xxx-xx-xxxx
Smith, Richard F. xxx-xx-xxxx
Smith, Tommy J. xxx-xx-xxxx
Snow, Edward F., Jr. xxx-xx-xxxx
Sobieski, Henry F. xxx-xx-xxxx
Sollohub, Charles J. xxx-xx-xxxx
Sontag, Paul D. xxx-xx-xxxx
Spera, Francis P. xxx-xx-xxxx
Spicuzza, William L. xxx-xx-xxxx
Spin, William A. xxx-xx-xxxx
Sprinsky, William H. xxx-xx-xxxx
Staehler, Joseph C. xxx-xx-xxxx
Stageberg, Richard D. xxx-xx-xxxx
Stamant, Joseph F. xxx-xx-xxxx
Stanley, Gerald I. xxx-xx-xxxx
Starnaud, Charles E. xxx-xx-xxxx
Stearns, Raymond L. xxx-xx-xxxx
Steiger, Donald W. xxx-xx-xxxx
Stevens, Ralph P. xxx-xx-xxxx
Stewart, John F., Jr. xxx-xx-xxxx
Stokes, Orville P. xxx-xx-xxxx
Stovall, Rayburn C. xxx-xx-xxxx
Stowe, Wain W. xxx-xx-xxxx
Stringham, Joseph S. xxx-xx-xxxx
Stuhlmuller, Kimball R. xxx-xx-xxxx
Supka, Michael B. xxx-xx-xxxx
Suhosky, Robert J. xxx-xx-xxxx
Sullivan, James A., Jr. xxx-xx-xxxx
Summers, Don A. xxx-xx-xxxx
Symons, Rodney W. xxx-xx-xxxx
Tapscott, Donald A. xxx-xx-xxxx
Taranto, Monroe J. xxx-xx-xxxx
Taylor, James B. xxx-xx-xxxx
Terry, William F., III xxx-xx-xxxx
Thomas, Jerry A. xxx-xx-xxxx
Thompson, James B. xxx-xx-xxxx
Thomson, John M. xxx-xx-xxxx
Threefoot, Philip S. xxx-xx-xxxx
Tillman, Clifford R. xxx-xx-xxxx
Tilton, Franklin T. xxx-xx-xxxx
Tippin, Scott M. xxx-xx-xxxx
Totten, Robert G. xxx-xx-xxxx
Tragesser, John N., II xxx-xx-xxxx
Trauner, Ronald F. xxx-xx-xxxx
Troth, Robert S. xxx-xx-xxxx
Turnage, John O. xxx-xx-xxxx
Tyler, James W. xxx-xx-xxxx
Vangorder, Henry P. xxx-xx-xxxx
Vannes, Clayton L. xxx-xx-xxxx
Vaughn, Thomas B. xxx-xx-xxxx
Villaronga, Raul G. xxx-xx-xxxx
Vinci, Frank, Jr. xxx-xx-xxxx
Vollrath, Frederick E. xxx-xx-xxxx
Waghelstein, John D. xxx-xx-xxxx
Waldhour, Louis G. xxx-xx-xxxx
Walker, Thomas M. xxx-xx-xxxx
Walsh, Martin W., Jr. xxx-xx-xxxx
Walters, Floyd J., Jr. xxx-xx-xxxx
Ward, Michael xxx-xx-xxxx
Ward, Robert E., III xxx-xx-xxxx
Ward, William B. xxx-xx-xxxx
Wass, De Czege H. xxx-xx-xxxx
Watson, Samuel J., III xxx-xx-xxxx
Webb, Gerald E. xxx-xx-xxxx
Weeks, Leo J. xxx-xx-xxxx
Welsh, James B. xxx-xx-xxxx
Westpheling, Charles T. xxx-xx-xxxx
Weyrauch, Paul T. xxx-xx-xxxx
Whipple, Berkley A. xxx-xx-xxxx
Whisler, John C. xxx-xx-xxxx
White, Billy C. xxx-xx-xxxx
White, Walter S., Jr. xxx-xx-xxxx
Whitehead, Robert W. xxx-xx-xxxx
Whiteside, Daniel L. xxx-xx-xxxx
Whitsett, Richard D. xxx-xx-xxxx
Wilbur, Donald V. xxx-xx-xxxx
Wild, Allen R. xxx-xx-xxxx
Wilder, Samuel D., Jr. xxx-xx-xxxx
Willard, Jack T., Jr. xxx-xx-xxxx
Williams, Frank K. xxx-xx-xxxx
Williams, James E., Jr. xxx-xx-xxxx
Williams, John W. xxx-xx-xxxx
Williford, Sherman H. xxx-xx-xxxx
Wilmoth, Frederick L. xxx-xx-xxxx
Wilson, Robert B. xxx-xx-xxxx
Wilson, Walter K., III xxx-xx-xxxx
Winters, James M. xxx-xx-xxxx
Witherspoon, Eugene S. xxx-xx-xxxx
Witt, William W. xxx-xx-xxxx
Wollmering, Lawrence E. xxx-xx-xxxx
Woodall, Thomas J. xxx-xx-xxxx
Woodbeck, Charles A. xxx-xx-xxxx
Woodhurst, Charles L. xxx-xx-xxxx
Woodson, William B. xxx-xx-xxxx
Yates, John R. xxx-xx-xxxx
York, Donald xxx-xx-xxxx
York, James J. xxx-xx-xxxx
Zachar, Frank xxx-xx-xxxx
Zakas, Louis H. xxx-xx-xxxx
Zorn, Burl A. xxx-xx-xxxx
Zutter, Donald S. xxx-xx-xxxx

CHAPLAIN CORPS

To be colonel

Ackermann, Henry F. xxx-xx-xxxx
Bezanson, Ronald S., Jr. xxx-xx-xxxx
Blount, Forest N. xxx-xx-xxxx
Borson, Bernard K. xxx-xx-xxxx
Burnett, Lewis G. xxx-xx-xxxx
Devine, Kevin A. xxx-xx-xxxx
Geary, Wesley V. xxx-xx-xxxx
Loftus, Conrad W. xxx-xx-xxxx
Lord, Billy R. xxx-xx-xxxx
Njus, Irving C. xxx-xx-xxxx
Pember, Marion D. xxx-xx-xxxx
Swim, Vernon G. xxx-xx-xxxx
Venzke, Rodger R. xxx-xx-xxxx

JUDGE ADVOCATE GENERAL'S CORPS

To be colonel

Cundick, Ronald P. xxx-xx-xxxx
Davis, Ronald W. xxx-xx-xxxx
Foreman, Leroy F. xxx-xx-xxxx
Green, Fred K. xxx-xx-xxxx
Handcox, Robert C. xxx-xx-xxxx
Hunt, Dennis R. xxx-xx-xxxx
Iskra, Wayne R. xxx-xx-xxxx
Kelley, Oliver xxx-xx-xxxx
Lymburner, John F. xxx-xx-xxxx
Malinoski, Joseph C., Jr. xxx-xx-xxxx
McHugh, Richard K. xxx-xx-xxxx
Moss, Frederick E. xxx-xx-xxxx
Piotrowski, Leonard R. xxx-xx-xxxx
Rankin, Thomas M. xxx-xx-xxxx
Rice, Leonard E., Jr. xxx-xx-xxxx
Sherwood, John T., Jr. xxx-xx-xxxx
Toomepuu, Tonu xxx-xx-xxxx
Turner, John A. xxx-xx-xxxx
Watson, Kermith G. xxx-xx-xxxx
Whitten, William M. xxx-xx-xxxx
Wicker, Raymond K. xxx-xx-xxxx
Woodward, Joe L. xxx-xx-xxxx

MEDICAL SERVICE CORPS

To be colonel

Cantrell, James E. xxx-xx-xxxx
Carroll, William F. xxx-xx-xxxx
Dolbier, James A. xxx-xx-xxxx
Drill, John C. xxx-xx-xxxx
Fuller, Gary L. xxx-xx-xxxx
Fulton, William R., Jr. xxx-xx-xxxx

Garber, David L. xxx-xx-xxxx
Gerukos, John G. xxx-xx-xxxx
Hall, Joseph A. xxx-xx-xxxx
Hansen, Louis J. xxx-xx-xxxx
Hawkins, Joseph W. xxx-xx-xxxx
Hennessy, Albert G. xxx-xx-xxxx
Houston, William E. xxx-xx-xxxx
Howard, Jimmie B. xxx-xx-xxxx
Janke, Thomas A. xxx-xx-xxxx
Johnson, Donald A. xxx-xx-xxxx
Karrenbauer, Thomas G. xxx-xx-xxxx
Keller, Thomas E. xxx-xx-xxxx
Kistler, Thomas E., Jr. xxx-xx-xxxx
Lombard, James E. xxx-xx-xxxx
Lund, Nelson H. xxx-xx-xxxx
McCauley, Charles L. xxx-xx-xxxx
Meiers, Richard E. xxx-xx-xxxx
Munley, Thomas C., Jr. xxx-xx-xxxx
Spiker, James E., Jr. xxx-xx-xxxx
Spruiell, Jerry B. xxx-xx-xxxx
Stone, Leland M. xxx-xx-xxxx
Thompson, Eugene G. xxx-xx-xxxx
Vance, William M. xxx-xx-xxxx
Waters, George A., Jr. xxx-xx-xxxx
Weiss, Joseph D. xxx-xx-xxxx
Yamanouchi, Kenneth K. xxx-xx-xxxx
Young, James R. xxx-xx-xxxx

ARMY MEDICAL SPECIALIST CORPS

To be colonel

Buss, Carole J. xxx-xx-xxxx
Dayton, Miller P., II xxx-xx-xxxx
Hammond, Charles W. xxx-xx-xxxx
Meier, Theodocia T. xxx-xx-xxxx
Putnam, Joicey M. xxx-xx-xxxx
Touchard, Maryjo S. xxx-xx-xxxx

VETERINARY CORPS

To be colonel

Fruin, John T. xxx-xx-xxxx
Kerr, William K. xxx-xx-xxxx
Nix, Marvin S., Jr. xxx-xx-xxxx
Sims, James E. xxx-xx-xxxx
Stephenson, Edward H. xxx-xx-xxxx

ARMY NURSE CORPS

To be colonel

Antilla, Betty J. xxx-xx-xxxx
Borg, Naldean J. xxx-xx-xxxx
Budack, Marietta E. xxx-xx-xxxx
Istvan, Dorothy E. xxx-xx-xxxx
Lamontagne, Mary E. xxx-xx-xxxx
Marsh, Carolyn J. xxx-xx-xxxx
Rausch, Francis M. xxx-xx-xxxx
Samuels, Claude C. xxx-xx-xxxx
Shinskie, Edward F. xxx-xx-xxxx
Snell, Joan xxx-xx-xxxx
Steinike, Mary L. xxx-xx-xxxx
Walls, Marian J. xxx-xx-xxxx
Zitzelberger, John J. xxx-xx-xxxx

IN THE NAVY

The following-named lieutenants of the U.S. Navy for temporary promotion to the grade of lieutenant commander in the line and various staff corps, as indicated, pursuant to title 10, United States Code, section 5769 (line officers), 5773 (staff corps officers), 5773 and 5793 (Medical Corps officer), and 5791, subject to qualifications therefor as provided by law:

LINE

Abercombie, Austin G.
Abrams, Michael D.
Ackerbauer, Kris T.
Ackerman, John W.
Adams, James P., Jr.
Adams, Robert A.
Addison, Stoy W.
Adkins, Philip S.
Ahlberg, Steven J.
Ahlwardt, Elmer L., Jr.
Aldridge, James A.
Alexander, John L.
Alexander, John V.
Alexander, Ronald K.
Allen, Duke D.
Allen, John B.
Allen, Paul S.
Alley, James R.
Alsbrooks, Ronald L.
Amirault, Richard B.
Amman, Clement J., Jr.
Andersen, Lorin E.
Anderson, Richard E.
Anderson, Darl R.
Anderson, Harry R., III
Anderson, Michael T.
Anderson, Timothy J.
Anderson, William H., Jr.
Arce, Armand O.
Architzel, David
Arnold, Charles D.
Arrants, Charles S.
Arsenault, Arthur J., Jr.
Atchison, Laurence J., Jr.
Attebury, Ervel E.
Aube, Leonard C.
Auskaps, Andrejs J.
Bailes, Michael S.
Bailey, Robert C., Jr.
Bailey, Steven E.
Baker, Joe A., III
Baker, Rush E., III
Bales, James L.
Ballard, James C., III
Ballard, William G.
Bangs, George H.
Bankester, Michael L.
Barela, Maximo A.
Barger, David L.
Barkdull, Curtis R.
Barnes, Harry C., Jr.
Barnes, Robert C.
Barnes, Timothy J.
Barnett, Eben E., II
Barnhart, Randall G.
Bartlett, Ralph C., Jr.
Bartron, Robert P.
Bassett, Charles W., III
Batog, John S.
Bauder, John T.
Baumstark, Michael W.
Bayer, Karl G.
Beach, Edwin F.
Beal, Stephen D.
Beane, William L., Jr.
Beasley, Lawrence G.
Beazle, John F., IV
Bechtold, Donald W., II
Becker, Gregory H.
Behr, Michael R.
Behre, Christopher P.
Belden, Bruce E.
Belote, Richard H.
Bender, Michael R.
Benkert, Joseph A.
Benson, Stephen E.
Bensur, Robert W.
Bepristis, Donald J.
Bergazzi, Wesley A.
Bergren, Richard J.
Bernasconi, Stephen J.
Bernitt, Thomas R.
Berry, George H.
Berry, Reginald L.
Bertin, Michael S.
Besancon, Michael D.
Bevill, Michael H.
Biegler, Loren W.
Bingham, Kenneth A.
Bishop, Stephen C.
Blake, William R., Jr.
Blanton, Gerald B.
Blocher, Ayes H., III
Block, Newell F.
Bohannan, James G.
Boland, James F., Jr.
Bonewald, Jack D.
Bonvouloir, Raoul, Jr.
Book, Roy L.
Boone, William T.
Booth, Michael N.
Boughton, Bruce E.
Bowman, Ronald E.
Boyar, John A.
Boycourt, Ivon G., Jr.
Boyd, Sheldon A.
Boyes, Kenneth W.
Bozeman, Virgil, III
Braddy, Raymond F.
Brady, Roger W., Jr.
Brandhuber, Robert L.
Brannan, Tandy T., III
Branson, Jack R.
Brasfield, Randolph B.
Bray, James D.
Brayman, Thomas E.
Breitenbach, Karl W.
Brendmoen, Jack V.
Brengel, Dexter T.
Brennock, Daniel J.
Breslin, Joseph J., III
Bret, Robert E.
Bridges, Robert T.
Briley, Earl D.
Brimson, Richard T.
Brittingham, Robert P.
Broadus, Jimmy W.
Broadway, James H., Jr.
Bromaghim, Ward M.
Brosh, Lawrence D.
Brower, Michael R.
Brown, Carradean L.
Brown, Gary W.
Brown, Karl S., Jr.
Brown, Larry W.
Brown, Martin R., Jr.
Brown, Rabon D., Jr.
Bryant, Franklin D., Jr.
Bryce, Dexter S.
Buck, Bruce E.
Buck, Larry W.
Buckley, Bruce W.
Buckner, Jansen W.
Bueker, Charles D.
Bulfinch, Scott R.
Bullard, Bobby J.
Bullard, Donald K.
Bunevitch, Gary J.
Bunn, Warren L.
Burfening, Stuart J.
Burgamy, Kirk S.
Burnett, Joseph L.
Burnette, David P.
Bury, Stephen J.
Busch, Daniel E.
Butler, William T., Jr.
Butt, Duncan M.
Butters, Joseph K.
Byrnes, John L.
Cady, William D.
Calabrese, Geoffrey J.
Callaghan, Terrence A.
Callahan, Alexander J. J.
Campbell, Gordon T.
Campbell, John F.
Cannon, Miles J., Jr.
Cano, Jose R.
Carawon, Bruce C.
Carino, Freddie F.
Carlile, Gary L.
Carney, Gene G.
Carota, Leonard N., Jr.
Carpenter, Jack R., Jr.
Carpenter, John H.
Carrigan, Michael A.
Carroll, Daniel M.
Carson, Michael H.
Carstens, Paul D.
Carter, Earl F., Jr.
Carter, James R.
Carter, Thomas M.
Carter, Thomas B., Jr.
Casalegno, Lorenzo P.
Casper, J. Kip
Cassada, William P.
Cassidy, Kevin G.
Cassidy, Patrick T.
Castan, William C., Jr.
Castaneda, Ruben, Jr.
Castleman, Bruce A.
Cather, Philip E.
Causey, Lewis A.
Cerda, Joe D.
Chanik, Evan M., Jr.
Chapman, James H., Jr.
Chapman, Ronald L.
Chase, Michael R.
Cheney, Robert A.
Cherry, Stephen W.
Chesser, Steven B.
Chisholm, Peter C.
Christensen, Robert K.
Cillo, Richard C.
Cirone, Robert
Clarey, Robert J.
Clarkson, Danny L.
Clay, Michael B.
Clayburn, Michael W.
Clements, David L.
Clyde, William W.
Cochran, Samuel S.
Cockrell, Kenneth D.
Coffeen, Robert C.
Coffman, Bert U.
Coghill, Cortlandt C. I.
Cohn, Lewis M.
Cole, Claude E.
Cole, Lonnie W.
Coleman, Hubert E.
Collins, James V.
Compitello, Thomas C.
Conahan, Francis C.
Connell, Guy L.
Connell, James L.
Connor, Charles D., Jr.
Connor, John H., Jr.
Conway, Robert T., Jr.
Cook, James D.
Cook, Larry E.
Cook, Norman R., III
Coombs, Barry L.
Coome, Barry A.
Cooper, Charles G., III
Cooper, Ronald S.
Corkill, Christopher J.
Cornell, David W.
Corteville, Douglas F.
Covert, Harold D.
Cox, Richard L.
Crabtree, Charles S.
Crabtree, Richard E.
Crabtree, Thomas E., Jr.
Craig, Peter A.
Crane, Larry W.
Crane, Norman H.
Crawford, Bruce W.
Crenshaw, Lewis W., Jr.
Crouch, Marion L.
Crowell, Philip H., III
Crumley, Glenn D.
Cullinan, John F.
Cummings, John A.
Currey, Gary A.
Dacey, Leo F.
Dahmen, David A.
Dailey, John C.
Dailey, John L., Jr.
Daling, Michael E.
Damin, David E.
Daniel, Addison G., III
Daugherty, Terry L.
Davidson, James E.
Davis, John M.
Davis, Lavern A.
Davis, Levi
Davis, Mark C.
Davis, Steven E.
Davis, William H.
Day, James C.
Dean, Robert M.
Decker, Geoffrey F.
Decker, Wilson B.
Dedon, John E.
Deemer, Richard E.
Delaney, Richard F.
Deleon, Victor M.
Demo, Willard J., Jr.
Dempsey, Wayne R.
Denam, Harvey E.
Denari, Mark E.
Dengler, Robert J.
Denkler, John M.
Denny, Patrick L.
Destafney, James J., Jr.
Desue, Anthony
Deulley, Gary W.
Deveer, Stephen A.
Dever, John A.
Devries, Robert D.
Dewald, Ted E.
Deweese, Joe D.
Dick, Richard L.
Dickie, John A.
Dietz, Clyde P.
Digan, Thomas E.
Ditzler, Donald F., II
Dohse, James T.
Dole, Stephen M.
Donahue, Conrad J., Jr.
Dorsett, Charles E.
Doswell, Joseph W., Jr.
Dougherty, Michael J.
Downing, Mark S.
Doyle, Stephen D.
Drake, Patrick R.
Driscoll, Raymond M., Jr.
Dubrouillet, Michael
Dudash, Terrence M.
Duddy, Daniel F.
Duggan, Michael J.
Dull, Timothy J.
Dunaway, William M.
Duncan, Richard E., III
Dunn, William H.
Duran, Luis M.
Durfee, David W.
Durmick, William K., Jr.
Duvall, Michael J.
Edmondson, Ronnie E.
Edmunds, Charles A.
Efraimson, Allen A.
Egeberg, Gerald W.
Egolf, Roy T.
Eiland, Garland B., Jr.
Elam, Harry B.
Elliott, Kenneth M., Jr.
Elliott, William E., Jr.
Enewold, Steven L.
Enos, Russell W., Jr.
Enright, Thomas F.
Enwright, Leo F., Jr.
Epley, Lawrence E.
Erazo, Luis R.
Erman, Reginald J., Jr.
Espinosa, William M.
Espitia, Marcus L.
Essery, James E.
Esterlund, Richard C.
Estes, William L.
Etro, James F.
Evans, James M.
Evans, Monty J.
Evans, William G.
Everage, Henry B.
Everett, Hobart R., Jr.
Failmezger, Victor Jr.
Falcona, Samuel F., Jr.
Feeks, Thomas M.
Felshaw, Richard F.
Feltz, Gerard C.
Fenner, James H.
Fenton, William C., Jr.
Ferguson, Jerry F.
Ferguson, Michael A.
Ferrell, Curtis L., III
Ferriter, Edward C.
Fife, Richard W.
Filbert, Eugene A.
Finn, Richard F., Jr.
Fisher, Rand H.
Fisher, Rory H.
Fitzgerald, Mark P.
Fitzpatrick, Robert B.
Fleming, James W., Jr.
Fleming, John L.
Flenniken, Robert J.
Florida, Frank E.
Fluck, John D.
Flynn, Edward C.
Fone, Raymond B.
Ford, Robert D.
Ford, Thom W.
Forgy, James M.
Fortson, Frank S., III
Foster, William K.
Fox, Martin
Fox, Tally B.
Frabotta, Frank J.
Frailing, Richard W.
Francisco, Roger B.
Franken, Daniel J.
Franklin, Richard A.

Frazier, Robert E., Jr.
Free, James R., Jr.
Freegard, Sidney B., Jr.
Frenchi, Paul J.
Freund, Bruce R.
Frevert, Terry W.
Froneberger, James P.
Fulcher, David O.
Fuller, Paul J.
Funk, Glen A.
Furst, David E.
Gabrynowicz, Mark P.
Gagnon, Donald R.
Gahnstrom, William E.
Gajan, Raymond J., Jr.
Galen, Howard E., Jr.
Gallagher, Thomas P. III
Gangewere, Robert R., Jr.
Gaylor, Steven C.
Gedeon, John A.
George, Joseph J., Jr.
Gerken, William J.
Gershon, Joseph S.
Geschke, Mark J.
Gesell, Ernest E., III
Gettys, James O. J., Jr.
Gibbs, Ronald M.
Gibson, John B.
Gibson, Robert J.
Gilbert, Melvin L.
Gillespie, Roger A.
Gillespie, Dennis M.
Gillespie, Michael R.
Glaser, Thomas L.
Glidden, Eric S.
Glover, Grey A.
Godwin, Jackie E.
Godwin, James B., III
Gogolin, James H.
Golay, Mark A.
Goldberg, Marc D.
Golden Kenneth E.
Golding, Robert A., Jr.
Gonsalves, John H., III
Goode, Randall L.
Goodell, Michael S.
Gorman, John P.
Gorman, Thomas F., Jr.
Gottschalk, John L.
Goulding, William A.
Graber, Dale B.
Graham, Bryce L.
Graham, Richard M.
Granlund, Richard
Grant, Jeffery W.
Grassi, Thomas A.
Gravell, William
Greanias, George H.
Green, David K.
Green, Melvin C.
Green, Ronald M.
Greene, Gary L.
Greer, Arthur W.
Gregor, John B.
Griffin, Dana N.
Gripp, Jan W.
Groenert, Frederick E., Jr.
Grosel, Joseph J.
Groves, Gary O.
Gruber, James P.
Gschwend, David A.
Gut, Raymond J.
Hacunda, Michael R.
Hagan, James
Hager, George W.
Haggart, James A.
Haines, James W.
Hale, Christopher D.
Haley, Robert M.
Hall, James C.
Hall, Randal R.
Hamlin, James S., Jr.
Hammerle, Gerald T.
Hammontree, James D.
Hampson, Gary W.
Hampton, John P.
Hance, Carl E.
Handforth, Dwight W.
Hans, William F.
Hansen, Mark A.
Harding, Ross M.
Harger, Tommy C.
Harman, Howard M.
Harrell, John B., III
Harris, Jeffrey B.
Harris, Russell E.
Harrison, Jeffrey A.
Hart, Robert S.
Hartling, Robert M.
Hatcher, Thomas A.
Hatfield, Douglas P.
Hathaway, Carmrid G., II.
Hathaway, Dennis A
Hatton, Peter L.
Hayes, David L.
Hebdon, David E.
Hedderich, Conrad P.
Heifner, Robert J.
Heller, Richard B.
Hellner, Robert J., Jr.
Helmer, Dale P.
Helms, Chester E.
Hemer, Glenn A.
Henderson, Craig B
Hendrickson, Scott L.
Henry, Douglas G.
Henry, James P.
Henry, Michael D.
Herbert, George A., Jr.
Herlin, Peter D.
Herman, Richard J.
Herr, David L.
Herret, Thomas R.
Herring, David L.
Hess, Lawrence E.
Hess, Randall J.
Hess, William C.
Hessler, Dennis J.
Hester, Samuel G.
Hicks, Edward K.
Hicks, Gregory P.
Hicks, Rodney L.
Hierholzer, Danny B.
Higgins, Kevin D.
Hill, Thomas G.
Hillenmayer, James D.
Hilley, Howard S., III
Hinson, Steven R.
Hinton, Robert M.
Hixson, Roy L., III
Hlavka, Stanford H.
Hobbie, Richard J.
Hobbs, Dennis A.
Hobby, Gray D.
Hodgins, Bart D.
Hoffmann, Philip P.
Hogue, Charles W.
Holder, Thomas V.
Holk, George B.
Hollis, Stephen J.
Holloway, James C.
Holmquist, Derek E.
Holt, Thomas H.
Homan, Billy B.
Hoover, Daniel L.
Hopkins, James P., IV
Hopkins, Michael R.
Horvath, Joseph J., Jr.
Howard, John L.
Hubbard, Robert L.
Hudspeth, Gary B.
Huegerich, Thomas P.
Hughes, Louis A.
Hulse, Reynold N.
Humes, Ellsworth D., Jr.
Humphries, Mark E.
Hunter, Stuart M., III
Hurst, Ernest W.
Hutchison, Jeffrey A.
Iannetta, John M.
Ingram, Alfred L. V.
Ingram, Steven R.
Ivary, Kenneth R.
Ivy, Samuel S.
Jackson, Frank D.
Jackson, James G.
Jacobson, Jim H.
James, Brent S.
Jannuzzi, John L.
Janora, Thomas E.
Jarrard, Raymond M., Jr.
Jarrell, Richard P.
Jenness, William A.
Jerome, Reed W.
Jochmans, Steve W.
Johnson, Dennis G.
Johnson, Jacob L., Jr.
Johnson, John L.
Johnson, John E., Jr.
Johnson, Lester
Johnson, Patrick H.
Johnson, Robert L.
Johnson, Walter R., Jr.
Jones, Howard L.
Jones, Larry E.
Jones, Mack A.
Jones, Norman R.
Jones, Robert P.
Jones, Thomas A.
Jordan, James T.
Judd, Michael R.
Justet, Patrick K.
Kane, James C.
Kannapell, Joseph H.
Karas, John G.
Kaufman, David L.
Kearney, Thomas E.
Keepper, Robert H.
Keho, Jeffrey D.
Keifer, Orion P.
Kellar, Gerald R.
Keller, Stephen H.
Kelley, Kevin J.
Kelley, William D.
Kelly, Barry L.
Kelly, Herbert C., Jr.
Kelly, James D.
Kelly, John M.
Kemp, Alfred D., Jr.
Kennedy, John F.
Kenny, John M.
Keogh, Ronald J.
Key, William T.
Keys, James E.
Keys, Ronald E.
Kilcline, Thomas J., Jr.
Kilgore, Brian J.
Killoren, Kevin M.
King, Martin R.
King, Robert D.
Kinzer, John F.
Kirkpatrick, William R.
Kitts, Joseph C.
Klaas, Adrian L.
Klaus, Robert F.
Klein, Glenn E., Jr.
Klein, Steven A.
Klingseis, Francis J.
Knapp, Glen W.
Knight, Robert J.
Knolhoff, Larry E.
Knox, Alvin F.
Kohinke, Edward G.
Kohlenberg, Clarence M.
Kohler, Gary A.
Kohls, Charles E., III.
Kohring, Mark W.
Kordis, William S.
Korejwo, Henry A.
Kosakoski, Edward D.
Kosiek, Martin S.
Kovacevich, Gary D.
Kovach, George E.
Krajnik, Joseph S.
Kraus, John S.
Krenzel, Joseph
Kretzmann, David F. T.
Krisiak, Joseph A.
Kroeger, Daniel R.
Krupski, Thomas L.
Kuehne, Arthur P.
Kulig, Daniel A.
Kunkle, Steven A.
Kupfer, Michael J., Jr.
Kyle, Thomas G.
Labrecque, Terence P.
Lacoss, Terry L.
Ladd, Ronald R.
Laedlein, Paul A.
Lammers, Carl H., Jr.
Lancaster, John A., Jr.
Landers, Paul K.
Lang, John J., Jr.
Langley, William L., Jr.
Langston, Marvin J.
Lankford, William R.
Lanning, Roger B.
Lannou, Gordon C., Jr.
Lapoint, John T.
Larimer, Stephen W.
Larson, Glenn K.
Law, Douglas J.
Lawson, James W.
Layne, Claude R.
Leahy, Kevin B.
Leather, David M.
Lecroy, Carl L.
Ledbetter, James V.
Lees, David G.
Leeson, David W.
Lennon, Michael A.
Lento, Peter
Leonard, John E., Jr.
Leonard, Thomas L.
Leverage, Thomas G.
Lewis, Ira J.
Liechty, John D.
Lien, Jon M.
Ligon, Thomas M.
Lindner, Carl M., III
Lion, Raymond A., Jr.
Lisner, Charles D.
Littke, Richard H.
Lloyd, Gregory F.
Loadwick, James W.
Lochausen, Vernon C.
Long, James D.
Lorberg, Martin G., III
Lowell, Robert O.
Luby, Robert E., Jr.
Lucas, Bryan D.
Lucas, David W.
Lunt, Robert T.
Lussier, Christopher B.
Luther, Steven P.
Lyman, Rod G.
Lyons, Melvin C.
Lyons, Scott K.
Mabry, John P.
MacDonald, Gordon S.
Mace, Robert L.
MacKenn, John F.
MacKinnon, David R.
MacLaren, Donald R., Jr.
MacPherson, Steven M.
Madison, Patrick T.
Mahaffey, Joseph W.
Maher, John D.
Malay, Jonathan T.
Malone, William T.
Manganoro, William F.
Marcado, David M.
Mardula, Walter J.
Maresh, David J.
Marinelli, Jay W.
Markiewicz, Thomas R.
Marsh, Willie C.
Marshall, David W.
Marshall, Robert E., Jr.
Marshall, William J., III
Martin, Christopher B.
Marvin, George R.
Marzluff, Peter W.
Marzola, David S.
Maslowsky, Robert D.
Massey, Patrick L.
Mathis, Stanley W.
Matyas, Gary M.
Maxwell, Walter R., III
May, Gary D.
McCallam, Keith E.
McClellan, Mark S.
McCord, Raymond S.
McCoy, Roger H.
McDonald, William P.
McFarland, Thomas W.
McFetridge, Riley J.
McGinty, Louis L.
McKearney, Terrance J.
McKenzie, Alan B.
McKinzie, Joe E.
McMann, Jeffry L.
McMillan, Gibson E., Jr.
McMillan, George M., Jr.
McMorrow, Horace M. Jr.
McNab, Otto F.
McNally, William J.
McNeal, Garrel R.
McNees, Charlton J.
McPherson, Richard G.
Medved, Richard C.
Meeks, John D.
Mehnert, Arthur F.
Meier, David K.
Mercker, Eric E.
Mergen, William L.
Mericle, David D.
Messervy, James L.
Meyer, Thomas L.
Midgett, John R.
Midland, Phil L.
Mikolai, George A.
Miller, Charles H., Jr.
Miller, Guy S.
Miller, John R.
Miller, Michael J.
Miller, Michael H.
Miller, Paul F.
Miller, Robert B., II
Miller, Terry R.
Minnick, Hubert W.
Mocini, Vincent P.
Monson, Steven D.
Montgomery, William M. J.
Mooney, James E.
Moore, Alphonso W.
Moore, Bruce R.
Moore, Charles D., Jr.
Moore, Gary E.
Moore, Herman C., Jr.
Moore, John D.
Moore, Johnnie C., Jr.
Moore, Paul A., Jr.
Morfeld, James L.
Morganthall, Gerald O., Jr.
Morin, James B., Jr.
Morris, Charles C.
Morris, Erwin C., Jr.
Morrison, David M.
Morrison, William M.
Morrissette, Thomas W.
Mortison, William E., III
Morton, James D., III
Moseman, James A.
Moss, Brian W.
Moss, Curtis
Mountcastle, David G.
Mow, Warren C.
Mueller, Robert R.
Mulcahey, Kevin E.
Muldoon, Edward J., Jr.
Mulhall, Daniel G.
Mullarky, John W.
Mullis, William A., Jr.
Mundy, Merlin E., Jr.
Murphy, Allen M.
Murphy, Charles D.
Murphy, Richard E.
Murray, Michael K.
Myers, Lawrence C., III
Myers, Michael S.
Myers, Philip A.
Myers, Richard C.
Myers, Stephen E.
Myette, Kevin M.
Nadeau, Thomas R.
Nance, James K.
Naumann, Keith C.
Neimeyer, David E.
Nelson, Edward J.
Nelson, Hugh D.
Nelson, James A.
Nelson, Patrick A.
Nelson, Stanley W., Jr.
Nestlerode, Robert N.
Neyer, Ronald C.
Ni, Randolph
Nichols, David C., Jr.
Nichols, Steven R.
Nickerl, Jeffrey A.
Nigro, Vincent J.
Nitsche, Wayne H.
Nofziger, Charles L.
Noha, Joseph P., Jr.
Nolte, Thomas E.
Norman, James H.
Norman, Richard M.
Norman, Robert M.
North, Albert L.
Norton, Donald G.
Norwood, James D.
Obermanns, Peter E.
O'Brien, James E.
O'Connor, Michael P.
Odell, Joseph M.
O'Donohoe, Joseph P., II
Ogden, Stephen E.
Okamoto, Eugene Y.
Oleszko, Lawrence A.
Olson, Donald T., Jr.
Olson, Eric T.
Omeara, Dennis J.
O'Neil, Patrick D.
O'Neill, Robert G.
Orchard, Fred G.
Orcutt, Robert E., Jr.
Orlando, Theodore A.
O'Rourke, Thomas Q.
Orr, Paul L., Jr.
Ortega, Louis E.
O'Sullivan, Michael P.
Over, Nicolaas
Papworth, Richard N.
Parish, George R., III
Parrish, Robert T.
Parsons, Robert M.
Parus, John J. E.
Patton, Gary D.
Pazik, Joseph J., Jr.
Pease, Andrew J.
Pease, Michael W.
Pebley, James W.
Peck, Richard P.
Pence, Donald M.
Pendleton, Jackie D.
Pennington, Charles F.
Perez, Anthony H.
Perez, Mark R.
Perrish, David W.
Perry, Craig C.
Perry, Francis A.
Perry, John M., Jr.
Peters, Donald E.,

Peters, Frank C.
Peterson, Theodore W. J.
Peticolas, John R.
Petitmermet, Donald H.
Phaup, Andrew L., Jr.
Phillips, Charles W.
Phillips, Harry C., III
Phipps, Donald M.
Phipps, Frank P.
Pierce, Craig A.
Pierce, Donald A.
Pierson, Carl R.
Pilcher, Ray C., Jr.
Plappert, Russell F.
Plimmer, Emmett L.
Ploeger, David C.
Poch, Richard R., Sr.
Pohtos, Robert N.
Poirier, Robert W.
Poling, Thomas C.
Polk, Harding S.
Porter, Robert L.
Poston, Charles B.
Potter, Gary G.
Powell, Donald E.
Powell, James R.
Powers, Glenn C.
Pozinsky, Gregory
Prebul, John M.
Prell, Richard E.
Presson, Geoffrey F.
Prewitt, Ronnie H.
Prince, William H.
Prothero, Dennis W.
Provencher, Ronald H.
Purciarello, Gerard J.
Purington, David A.
Quick, Gary W.
Quinn, James J.
Quist, Gregory A.
Rader, Michael T.
Radner, Richard
Radney, James C.
Ramage, Donald B.
Rambo, Martin B.
Ramirez, Gary W.
Ramsey, Michael A.
Randall, Donald W.
Randall, James D.
Ranum, Gary D.
Raspet, Michael O.
Rath, Bradford R.
Rauscher, Douglass A.
Rayhons, George A.
Raysin, Kent L.
Recker, Paul R.
Reece, Jerrald D.
Reed, Ralph G.
Reed, Thomas W.
Rees, Douglas W.
Reese, Raoul B.
Reeves, Terry D.
Reid, Thomas J.
Reimann, Otto G.
Reinhardt, Peter J.
Reise, Jeffrey A.
Relue, Richard B.
Renninger, James B.
Repsholdt, Kai T.
Resser, Stephen F.
Reuter, David G.
Reynolds, William W.
Richards, Daniel R.
Richards, James J.
Richardson, Larry D.
Richardson, Jerry K.
Rickgauer, Charles W.
Rigas, Trifon
Riggs, Bernard A.
Riley, Richard P.
Rippel, David A.
Ritchie, Freddie W.
Roach, Frank E., Jr.
Robb, Randolph R.
Roberts, Gregory L.
Roberts, William H.
Robertson, Thomas A.
Robinson, Evan D.
Robinson, Thomas R.
Rode, Alexander M.
Roehrich, Steven G.
Rogalski, Wayne J.
Rogers, Matthew J.
Rogers, Thomas F.
Rolfes, Robert W.
Romeo, Martin
Rose, Gregory J.
Rose, James W.
Ross, Nicklous J.
Ross, Thomas J.
Rowe, Wayne J.
Rowland, Michael L.
Rowley, James W.
Ruberg, Ernest M.
Rucker, Harry J.
Rudolph, Earle L., Jr.
Ruehe, Frederic R.
Runyon, Gary E.
Rupnik, John S., III
Ruputz, Philip
Russell, James E.
Russell, Thomas B., III
Ruthazer, Robert P.
Ryan, Francis P., Jr.
Ryan, Stephen I., Jr.
Rygg, Ronald F.
Sadler, David A.
Safford, Russell M.
Sage, William R.
Salamon, James A.
Saller, William
Sammon, Stephen M.
Sample, Gregory L.
Samples, David O.
Samuels, Richard G., Jr.
Sanders, Robert J., Jr.
Sanderson, William C.
Sanford, Henry J.
Satterwhite, Bernard M. J.
Saye, William A.
Scala, Peter A.
Scarpelli, Thomas J.
Schaaf, Dean O.
Schaefer, George, III
Schaffer, Van A.
Schamp, Douglas A.
Scheetz, William A.
Scheib, Timothy E.
Schide, Alan P.
Schippereit, Stuart J.
Schlossberg, Edwin
Schmidt, William A.
Schneider, Mark J.
Schreckengast, Stewart W.
Schulmeister, Arnold R., Jr.
Schumaker, Larry C.
Schwab, Richard F.
Schwartz, Gerald M.
Schwartzel, Joseph H.
Scott, Michael F.
Scott, Winston E.
Scully, Kirk R.
Seaberg, John R.
Seiwald, Michael J.
Severinghaus, Richard J.
Shafer, David D.
Shallies, Kenneth H.
Shayda, Paul M.
Sheehan, Kevin P.
Sheleheda, Frank R., Jr.
Shepherd, William S.
Sheridan, Dennis D.
Sherland, Paul G.
Sherman, John R.
Sherwin, John S.
Shirah, Reuben H.
Shiver, Wayne S.
Shoemaker, Terry L.
Shoop, Darreld R., II
Short, William E., Jr.
Showalter, Robert C.
Shriver, John M.
Shull, Kenneth G.
Siar, Richard K., Jr.
Sidman, Howard B.
Simcoe, Ronald B.
Simeral, Robert L.
Simmons, Nathaniel P. J.
Simpson, William L., Jr.
Sitton, William E.
Skjoldager, Jack O.
Slack, Robert H.
Slagle, Brian A.
Slagle, Lucian E., Jr.
Slaven, George E., Jr.
Slaybaugh, Ernest R.
Sleichter, William T.
Slighter, William J.
Sluys, Richard W.
Smania, David J.
Smith, Charles D.
Smith, Charles E.
Smith, Daniel L., Jr.
Smith, David J.
Smith, Donald M.
Smith, Edward S., Jr.
Smith, George R.
Smith, John P.
Smith, Kenneth M., Jr.
Smith, Kurt W.
Smith, Robert D.
Smith, Russell L.
Smith, Scott T.
Smith, William D.
Smith, William J.
Smoot, Marc L.
Snead, James C.
Snook, Richard E.
Snyder, Stephen F.
Sobieck, Thomas G.
Sobray, William G.
Somers, James W.
Sorek, Michael J.
Sparaco, John R.
Spearman, Walter C.
Spencer, Sterling R.
Spencer, William E.
Spires, Wayne A.
Stack, Robert B.
Stalnaker, Steven D.
Standridge, Elmer L. J.
Stanley, Marc T.
Starling, Harold D., II
Starnes, John H.
Steele, James F.
Steib, John F., Jr.
Stein, Kenneth M.
Stella, John R.
Stencil, John C.
Stephens, Hugh L.
Sternberger, Alan L.
Stevenson, John R., Jr.
Stewart, George D., II
Stewart, Joseph D.
Stewart, William J.
Stiegelmeyer, Blaine W.
Stillwell, John W.
Stilwell, Joe R., Jr.
Sting, John T.
St. John, Lawrence G.
Stockho, Robert E.
Stolarz, Robert M.
Stone, David L.
Stone, David M.
Stonum, Robert H., Jr.
Striffler, Paul C.
Strout, Dennis R.
Stuntz, Richard L.
Sturgis, David H.
Stutzman, Galen D.
Sudkamp, Stephen D.
Sulman, Bernard I.
Summerall, Daniel B.
Sutherlin, Charles T.
Swendsen, Gordon R.
Tallent, Hamlin B.
Tamburello, Charles
Tanguay, David R.
Tankersley, James D.
Tasch, Eric
Tash, David L.
Taverniti, Joseph
Taylor, Peter W.
Taylor, Timothy B.
Templer, Robert J., Jr.
Theurer, Roger F.
Thiesse, Thomas W.
Thomas, Gerry S.
Thompson, Richard L.
Thompson, Thomas A.
Thompson, Robert J.
Thornhill, David T.
Tibbs, David T.
Tiernay, Terry W.
Tilton, Terry W.
Toalson, Vance L.
Toms, Terry J.
Torrey, Martin E.
Trahan, Charles R., Jr.
Trayner, Richard E.
Trent, Michael H.
Trice, Jesse M., III
Tuddenham, Read S.
Turnblacer, Theodore C.
Turner, Gary W.
Turner, Geoffrey W.
Turner, James R.
Turner, Terry A.
Turpin, Dwayne M.
Tyler, David M.
Tyson, William J., III
Ulvestad, Robert E.
Ungvarsky, William J.
Valdes, James F.
Vance, Scott W.
Vanhook, Robert J.
Vervoorn, Robert W.
Villarreal, John M.
Vining, Pierre G.
Virgilio, Richard L.
Visscher, Pieter A.
Vlcek, Ralph M.
Vogel, Edward W.
Vrabel, George T.
Vugteveen, Dana L.
Wainionpaa, John W.
Wakefield, Robert D.
Walker, Rickey R.
Wallace, George A.
Wallace, Robert E.
Walsh, Daniel P.
Walsh, William A.
Walthall, James E.
Walther, Clarence W., Jr.
Ward, Glenn H.
Ward, William H.
Warneford, Gregory M.
Warner, Stephen R.
Warren, James M.
Warren, Thomas E.
Watling, John M., Jr.
Watson, Joseph A.
Watts, Robert D.
Weaver, Jimmie D.
Weavil, Richard L.
Webb, T. Ladson, Jr.
Weber, Carl F.
Weber, Joel N.
Weideman, Craig F.
Weigand, Charles J.
Weitz, Charles A., Jr.
Welch, Bryant E.
Weller, Joseph D., Jr.
Werbiskis, James J.
West, William E.
Wetterlin, Harold J.
Whaley, James T.
Wheatley, Charles D.
Wheeler, Christopher E.
Whitaker, Kent P.
White, Richard O., Jr.
Whitworth, Larry J.
Whitworth, Laurel W., Jr.
Wight, Randy L.
Wilhelm, Wallace W.
Wilkes, Edward B.
Wilkinson, Joseph B., Jr.
Willard, Robert F.
Willburn, Alan B.
Williams, Claven
Williams, John M.
Williams, Michael W.
Williams, Peter A.
Williams, Robbie L.
Willmann, David W.
Wilson, Craig W.
Wilson, Donald F.
Wilson, Eugene K., Jr.
Wilson, Richard A.
Winberry, Paul S.
Winner, Stanley H.
Winstead, Tony E.
Wise, Carlton J.
Wiseman, Michael D.
Woerman, William J., II
Woll, Jeffrey R.
Woodhouse, John H., Jr.
Woods, Joseph
Worthing, Lewis K., III
Wright, David K.
Wright, Richard L.
Wuethrich, Chris A.
Wynkoop, Peter
Yackus, John S.
Yates, Ronald E.
Yeats, Raymond R.
Yee, Anthony D.
Yelverton, Robert L., Jr.
Yepsen, John D.
Yerkes, William M., Jr.
Yirak, John L.
Yoe, Louis E.
York, James K.
Young, Ernest C.
Zeile, Fred C., III
Zimm, Alan D.
Zline, Terrance W.
Zortman, James M.
Zuorro, Kenneth J. P.

MEDICAL CORPS

Haden, Keith W.

CHAPLAIN CORPS

May, Charles H.

DENTAL CORPS

Kozlowski, Gregory G.

The following-named lieutenants (junior grade) of the U.S. Navy for temporary promotion to the grade of lieutenant in the line and various staff corps, as indicated, pursuant to title 10, United States Code, sections 5769 (line officers), 5773 (staff corps officers), and 5791, subject to qualifications therefor as provided by law:

LINE

Anhalt, Michael D.
Beener, Rebecca J.
Cockerham, Sidney J.
Corr, Michael J.
Denam, James D.
Drake, Alan A.
Duke, Michael F.
Fox, John T.
Hasse, Lester B., III
Henderson, Randall L.
Jones, Bartlett K., III
Kelly, William S.
Kuhnreich, Jeff C.
Landin, Lawrence L.
Mason, James T.
Merlin, Dale S.
Neidrauer, Richard A.
Palko, Thomas A.
Reddig, James R.
Schrader, William T.
Timreck, Nicholas B.
Walker, Gary E.
Whalen, Douglas F.
Wood, Robert F., Jr.

SUPPLY CORPS

Vause, Steven M.

CIVIL ENGINEER CORPS

Pfarrer, Mark D.

MEDICAL SERVICE CORPS

Hostettler, Charles F.

NURSE CORPS

Brooks, Victoria K.
Clayton, Brian L.
Fitzgerald, Kathleen E.
Gallaher, Michael R.
Hartmayer, Mary J.
Lasher, Dorothy J., Jr.
Melidosian, Vivian G.
Narbut, Christine A.
Offringa, Robert A.
Pierce, John F.
Pierce, Patricia M.
Stoessel, Kathleen B.
Vaughan, Mary E.
Vogelsang, Cheryl L.
Wynn, Mary E.
Yarrows, Mary A.

The following-named women lieutenants of the U.S. Navy for permanent promotion to the grade of lieutenant commander in the line, pursuant to title 10, United States Code, sections 5771 and 5791, subject to qualifications therefor as provided by law:

Andino, Carmen D.
Angus, Marlene D.
Barber, Nancy L.
Barbour, Linda J.
Barrett, Kathleen M.
Behn, Marilyn M.
Billmeyer, Carola A.
Bishop, Mary A.
Boucher, Joanne P.
Branch, Mary E. J.
Brookshaw, Kay F.
Bruno, Mary P.

Callina, Judith A. F.
Campbell, Kay
Carnevale, Lelia V.
Carroll, Patricia A.
Coachman, Sandra L.
Collins, Kathy S.
Darrah, Joan E.
Davis, Cherie A.
Dawson, Jean A. T.
Dodge, Kathleen W.
Enterline, Julie R.
Erwin, Tina M. D.
Finch, Marnee L.
Fishburne, Lillian E.
Folk, Laura A.
Fowler, Carolyn L.
Fricke, Dorothy W.
Gellner, Linda M.
Gemender, Kathryn M. R.
Gibson, Deane K.
Goulding, Deidre A.
Green, Consuella
Griffin, Patricia
Hadrosky, Fern K.
Hammond, Mardale L.
Harmon, Deborah B.
Harris, Gail
Harter, Susan F.
Hiers, Carol A. S.
Hill, Eleanor A.
Hunter, Sheilah M.
Jerome, Cheryl A. B.
Jorgensen, Mary L.
Kagy, Barbara K.
Kane, Kathryn L.
Kircher, Laren L. W.
Koch, Dana S. L.
Kopfler, Dixie E.
Lane, Francis C.
Laraway, Rita A.
Lees, Jody L. J.
Leggitt, Luella R.
Levitre, Rosanne M.
Livengood, Christine C.
Mac Donald, Marsha E.
Makela, Irmeli S.
Mandragos, Niki F.
Mariner, Rosemary B.
Mathwick, Cynthia M.
May, Patricia H.
McCabe, Patricia A.
McCarthy, Kathleen M.
McConell, Elizabeth C.
McCullom, Sarah S.
Merdinger, Susan B.
Meyer, Ethel
Michael, Carol J. V.
Milligan, Martha L.
Mills, Catherine C.
Morris, Prima E.
Morgan, Elizabeth T. H.
Muir, Kathleen A.
Munsey, Rosemary F.
Murphy, Ann K.
Nibbs, Virginia W.
O'Bryant, Rozella H.
O'Dea, Jane M. S.
O'Dea, Janice G.
Oppe, Angela M.
Polo, Katherine L. R.
Reid, Katherine O.
Rizzi, Joellen S.
Robinson, Katherine S.
Roland, Ellen F.
Rosakranse, Billie A. E.
Rosel, Marianne B.
Searls, Janet C.
Settle, Amy
Sheldon, Patricia J.
Sherlock, Barbara J.
Skowronek, Leslie J.
Slagel, Charlsie R.
Sneden, Kathleen M.
Spishock, Patricia M.
Sutherland, Paula K.
Tarbox, Judith A. T.
Taylor, Linda S.
Tenneson, Linda G.
Thompson, Sherrill L.
Torelli, Margaret M.
Treanor, Barbara D.
Usher, Jill R.
Wahling, Mary L.
Walsh, Sara M. A.
Ware-Asbury, Theresa A.
Weiss, Marilyn D.
Wessman, Laurel A. H.
Weyburn, Bevan C. H.
White, Pamela A.
Whitehead, Geraldine
Whitelatch, Crista C.
Williams, Artelia G.
Williams, Vicki J. O.
Wingast, Leda B.
Yeatman, Ann R. L.
York, Francine F.

The following-named women lieutenants (junior grade) of the U.S. Navy for permanent promotion to the grade of lieutenant in the line, pursuant to title 10, United States Code, sections 5771 and 5791, subject to qualifications therefor as provided by law:

Dryden, Barbara A.
Fichter, Jean F.
Gomez, Kathleen S.
Lambert, Nancy A.
Neville, Christiana R. A.
Patridge, Beth E.
Rankin, Mary F.
Rosas, Emelda S.
Sharpley, Patricia A.
Spilman, Vicki M.
Turner, Jenel M.

Executive nominations received by the Secretary of the Senate July 6. 1981, under authority of the order of the Senate of June 25, 1981:

Environmental Protection Agency

Kathleen M. Bennett, of Virginia, to be an Assistant Administrator of the Environmental Protection Agency, vice David G. Hawkins, resigned.

Peace Corps

Everett Alvarez, Jr., of Maryland, to be Deputy Director of the Peace Corps, vice William G. Sykes.

In the Navy

Rear Adm. Nils R. Thunman, U.S. Navy, having been designated for command and other duties of great importance and responsibility in the grade of vice admiral within the contemplation of title 10, United States Code, section 5231, for appointment as vice admiral while so serving.

National Oceanic and Atmospheric Administration

Subject to qualifications provided by law, the following for permanent appointment to the grades indicated in the National Oceanic and Atmospheric Administration:

To be Lieutenants

Eric S. Davis
Mark P. Koehn
Nicholas E. Perugini
Mark S. Finke
Robert X. McCann, Jr
Linda F. Haas
Peter G. Stangl
LeeAnne Roberts
Ellen McDougal
William G. Pringle, Jr
Douglas G. Brockhouse
Robert B. Crowell
Bruce F. Hillard
Douglas D. Smith
Jane F. Demuth
Jeffery W. Greene
Kathleen D. Edwards
Teresa C. E. Bowles

To be Lieutenants (junior grade)

Charles I. Zigelman
John C. Clary II
Andrew N. Shephard, Jr.
Jay T. Rodstein
Daniel R. Herlihy
Elizabeth A. Van Etten
Peter M. Connors
Federico R. Diaz
V. Dale Ross
Fredric R. Plotkin
Michael Mallette
Eric Secretan
Robert W. Maxson
Gary D. Petrae
James C. Gardner, Jr.
James L. Long
Richard R. Behn
Cynthia McFee
Miles M. Croom
Dennis A. Seem
Max E. Kalafat
Frederick X. Guldi
Gary D. Marvin

To be ensigns

Neil M. Bogue
Jonathan W. Bailey
Franklin E. Ohlinger
Timothy B. Wright
Bradford L. Benggio
Richard S. Brown
Michael W. White
Kenneth P. Peters
Victor M. Rodriguez
Grady H. Tuell.
Frederick W. Rossman
Freddie L. Collins
Perry N. Glickman
Robert D. Henegar
Susan D. Dinkel
Andrew J. Aldridge
Steven R. Barnum
Arthur E. Francis
James R. Morris
Elizabeth A. Steigerwald
Robert H. Pingry
Frank A. Wood
Bobby L. Coakley
Craig L. Bailey
Richard D. Voets
Brian S. Postle
Roslyn B. Harris
Philip M. Kenul
Sharon K. Christopherson
Thomas P. Wilus
Russell E. Brainard
Mark E. Poeschl
Richard B. Koehler
Paul J. Ruiz
Joanna F. Flanders
Amy E. Orris

Executive nominations received by the Secretary of the Senate July 7, 1981, under authority of the order of the Senate of June 25, 1981:

International Communication Agency

Robert John Hughes, of Massachusetts, to be an Associate Director of the International Communication Agency, vice John William Shirley.

In the Air Force

The following-named officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be lieutenant general

Maj. Gen. John J. Murphy, [redacted] FR, U.S. Air Force.

In the Army

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be general

Lt. Gen. Glenn Kay Otis, [redacted] Army of the United States (major general, U.S. Army).

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be general

Gen. John Reiley Guthrie, [redacted] (age 59), Army of the United States (major general, U.S. Army).

The following-named officers to be assigned to positions of importance and responsibility designated by the President under the provisions of title 10, United States Code, section 3066(a) in grade as follows:

To be general

Lt. Gen. Donald Raymond Keith, [redacted] Army of the United States (major general, U.S. Army).

To be lieutenant general

Maj. Gen. James Harold Merryman, [redacted] U.S. Army.

In the Navy

Vice Adm. Carl T. Hanson, U.S. Navy, (age 53) for appointment to the grade of vice admiral on the retired list pursuant to the provisions of title 10, United States Code, section 5233.

Rear Adm. Leland S. Kollmorgen, U.S. Navy, for appointment as Chief of Naval Research in the Department of the Navy for a term of 3 years in accordance with title 10, United States Code, section 5150.

Executive nominations received by the Senate July 8, 1981:

Department of State

Arthur W. Hummel, Jr., of Maryland, a Foreign Service officer of the class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the People's Republic of China.

Monteagle Stearns, of California, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Greece.

John R. Countryman, of the District of Columbia, a Foreign Service officer of class 2, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Sultanate of Oman.

William Lacy Swing, of North Carolina, a Foreign Service officer of class 2, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Liberia.

Department of Justice

J. Raymond Bell, of the District of Columbia, to be Chairman of the Foreign Claims Settlement Commission of the United States for the term expiring September 30, 1982 (new position—P.L. 96–209).

Department of Energy

Jan W. Mares, of Connecticut, to be an Assistant Secretary of Energy (Fossil Energy), vice George Fumich, Jr., resigned.

Alvin W. Trivelpiece, of California, to be Director of the Office of Energy Research, vice Edward Allan Frieman, resigned.

Environmental Protection Agency

John P. Horton, of New Jersey, to be an Assistant Administrator of the Environmental Protection Agency, vice William Drayton, Jr.

Department of Commerce

Rear Adm. Herbert R. Lippold, Jr., NOAA, to be Director of the National Ocean Survey,

National Oceanic and Atmospheric Administration, vice Rear Adm. Allen L. Powell, retired.

FEDERAL COMMUNICATIONS COMMISSION

James H. Quello, of Virginia, to be a Member of the Federal Communications Commission for the unexpired term of 7 years from July 1, 1977, vice Charles D. Ferris, resigned.

Henry M. Rivera, of New Mexico, to be a Member of the Federal Communications Commission for a term of 7 years from July 1, 1980, vice James H. Quello, term expired.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 8, 1981:

DEPARTMENT OF LABOR

Donald L. Dotson, of Pennsylvania, to be an Assistant Secretary of Labor, vice William P. Hobgood.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Hans Michael Mark, of Virginia, to be Deputy Administrator of the National Aeronautics and Space Administration, vice Alan M. Lovelace, resigned.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

IN THE COAST GUARD

The following-named captain of the Coast Guard Reserve to be a permanent commissioned officer in the Coast Guard Reserve in the grade of rear admiral:

James H. Lipscomb III, [redacted].

COUNCIL ON ENVIRONMENTAL QUALITY

A. Alan Hill, of California, to be a member of the Council on Environmental Quality, vice James Gustave Speth, resigned.

W. Ernest Minor, of Ohio, to be a member of the Council on Environmental Quality, vice Robert H. Harris.

IN THE COAST GUARD

U.S. Coast Guard nominations beginning Augusta L. Duncan, to be Chief Warrant Officer, W-4, and ending Thomas J. Viglienzone, to be lieutenant (junior grade), which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on June 15, 1981.

HOUSE OF REPRESENTATIVES—*Wednesday, July 8, 1981*

The House met at 12 o'clock noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

In the fear of the Lord one has strong confidence, and his children will have a refuge.—Proverbs 14: 26.

Give us, Lord, the respect and honor due Your holy name. May we, with our words and thoughts and actions so live that Your creation is glorified and Your presence is made apparent. We admit that our future days are uncertain, just as they were for Your servants of old. Yet, as with Your saints of history, grant that we will approach our concerns with confidence in Your providence and being filled with the abundance of Your spirit. O Lord, our refuge and strength, comfort and protect Your people this day and may that peace that passes all human understanding be with us evermore. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed joint resolutions of the following titles, in which the concurrence of the House is requested:

S.J. Res. 12. Joint resolution to authorize and request the President to designate November 14, 1981, as "Operating Room Nurses Day";

S.J. Res. 64. Joint resolution designating August 13, 1981, as "National Blinded Veterans Recognition Day";

S.J. Res. 73. Joint resolution to designate the week beginning June 6, 1982, and ending June 12, 1982, as "Management Week in America"; and

S.J. Res. 91. Joint resolution to designate July 1981 as "National Peach Month."

END THE SCARE TACTICS ON SOCIAL SECURITY

(Mr. RATCHFORD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RATCHFORD. Mr. Speaker, having just returned from 10 very active days in my district, I can tell you that the issue today is not the budget we have debated for the past 6 months, or the tax bill which we are about to debate, but social security.

Everywhere I went, every forum I attended, people were talking about social security. And let me tell you this: The working people and the retirees in Connecticut do not appreciate the scare tactics this administration is directing at social security's recipients and contributors, and at the system's financial future.

To suggest that social security is going bankrupt, as we hear all too often from Secretary Schweiker and Budget Director Stockman, is to do a disservice to 36 million Americans now receiving benefits, and 115 million Americans now paying into the system.

Americans know that if legislative steps are needed to shore up the system—steps like interfund borrowing, or paying for a portion of medicare or disability from general revenue—Congress will take these steps.

It is time for the administration to end its scare tactics, and to keep its social security contract with America's working men and women.

IN SUPPORT OF THE PRESIDENT'S NOMINATION OF SANDRA O'CONNOR

(Mr. PEYSER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEYSER. Mr. Speaker, yesterday the President nominated Sandra O'Connor for the Supreme Court of the United States. And I want to congratulate the President for that move and it is for this reason that other of my colleagues, the gentleman from Washington (Mr. DICKS), the gentleman from Pennsylvania (Mr. COUGHLIN), the gentleman from New York (Mr. GILMAN), are circulating a "Dear Colleague" letter that is being distributed to all Members right now asking them to sign a letter to the President supporting him in this support and in this nomination.

I think it is a landmark situation when we finally have a woman who is nominated and hopefully will be confirmed by the Senate. This is a chance for Members of the House to let the President know that they support him in this effort.

FIFTH IRISHMAN ON HUNGER STRIKE DIES IN NORTHERN IRELAND

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BIAGGI. Mr. Speaker, and now there are five—five young Irishmen have died on hunger strikes in the Long Kesh Prison in Northern Ireland. The British Government's policy of insensitive intransigence was only recently modified. Tragically for Joe McDonnell, the British waited too long and offered too little to avert his death.

When will this carnage end? What will it take? Who will provide the courageous leadership necessary to end the stalemate? Will our administration break its silence? Will the United Nations offer its important help? Can the new Irish Prime Minister Fitzgerald move the British Government?

On June 11, in my capacity as chairman of the Ad Hoc Congressional Committee for Irish Affairs, I introduced House Resolution 158. It expresses the deep concern of the House over the hunger strike and calls upon the British Government to exercise greater flexibility and urgency in finding a humanitarian resolution. I have been joined thus far by 67 of my colleagues from both sides of the aisle. I appeal for many more Members to join as cosponsors. Passage of House Resolution 158 may send the kind of message to Great Britain that will provide new incentive for them to achieve a humanitarian resolution. I urge the negotiations between the British Government and the Irish Commission for Justice and Peace to continue so we can avoid another death.

NEED FOR REFORM CONTINUES FOR SOCIAL SECURITY PROGRAM

(Mr. SHANNON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHANNON. Mr. Speaker, the fire continues to burn over the need for reform of the social security program. Let us make one thing clear: Democrats who created this program were the first to recognize it was in financial jeopardy. We are in the process of putting it on a secure financial footing, but not in the haste and frenzy Republicans advocate. You do not reform a $141 billion program by picking the first solution that occurs to you. The problem warrants our attention and action with all deliberate speed, but reacting with more than that now, would be precipitous and

unfair. The recent attacks on the program, and the proposed reduction of benefits to early retirees—who for years have contributed their hard earned wages—is, as Senator MOYNIHAN said just yesterday: "The verbal equivalent of terrorism."

I would hope that when this country proposes change, it can execute it with fairness and order, without breaching its promise with its people.

NATIONAL ACADEMY OF SCIENCE OPPOSES CONSTRUCTION OF A SATELLITE POWER SYSTEM

(Mr. WOLPE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. WOLPE. Mr. Speaker, I would like to draw the attention of my colleagues to an article which appeared in the Washington Post on Saturday, July 4, 1981. The article reports that a National Academy of Science panel unanimously opposes proposed plans for the future construction of a satellite power system (SPS).

The panel's opposition to the SPS is based upon the enormous cost of the project. The panel concluded that the SPS would cost about $3 trillion over the next decade—more than four times the current Federal budget. Even if we were not in a period of much-needed fiscal austerity, it would be impossible to justify spending such an incredible sum to develop a technology which would provide no more than 10 percent of the Nation's energy in 2030.

In addition to the impact on the Federal budget as a whole, I am very concerned that the investment of such a large sum on one potential source of energy would seriously distort our national energy research and development priorities. The high level of funding required for SPS development would discourage the development of a wide range of more immediately available, and less costly, energy technologies which could effectively reduce our dependence on imported oil.

I urge my colleagues to keep the conclusions of the National Academy of Science in mind should an effort emerge once again to provide funds for the development of this economically unfeasible technology.

CONSTITUENTS OF MR. WEISS HOPE BUDGET BILL WILL BE REJECTED

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEISS. Mr. Speaker, I spent the last 10 days listening to my constituents. Each day they learn more and more of what is contained in that callous Reagan budget which we passed on June 26. And each day they grow angrier. They are furious too at Congress for having adopted such a bill without knowing what is in it and they are especially furious at those moderate Republicans who betrayed their past records and principles in voting for that budget.

They have noted with appreciation, Mr. Speaker, the statement of the gentleman from Massachusetts that he would insist on hearings being held on that legislation before final action on the conference report on the reconciliation bill and they have urged me to convey to the Speaker and to the House the hope that when the bill returns from conference that this House will reject it so that we can take action on a budget under the kind of deliberative process which is expected of this House pursuant to the Constitution of the United States.

MISSISSIPPI SPECIAL ELECTION

(Mr. COELHO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COELHO. Mr. Speaker, last night's upset victory for the Democrats in Mississippi is a clear sign that the voters do not want Congress simply to be a rubberstamp for the extreme policies of the Reagan administration. Congressman-elect Dowdy's stunning win—despite the total backing of the President and the White House and thousands of dollars and technical support from national Republican groups—shows that the South is not and would not be solid for Ronald Reagan—not now or in the future.

Mr. Dowdy was outspent by the Republican candidate, and he faced an uphill climb from the start. His victory shows that the results of last November's election are not a blank check for the Republicans to slash social security benefits. The victory also should send a clear signal that voters—including those in the South—have some problems with the Reagan-Kemp-Roth tax plan.

I offer my congratulations to Mr. Dowdy and a warning to my colleagues—cutting social security and passing a rich man's tax cut will not sit well with the voters.

WAYNE DOWDY WINS MISSISSIPPI SPECIAL ELECTION

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, last week I had the privilege of talking to Wayne Dowdy, the Democratic candidate for the Fourth Congressional District in Mississippi and I told Wayne, "It would really be nice to announce Wednesday on the House floor that you were the winner."

He said, and he told me this, "I am going to win, so you get ready to make the announcement."

And he did win. It was a win for Democrats pulling together with different philosophies in Mississippi.

Mr. Speaker, I think my colleagues will very much like Wayne Dowdy and he will be a good Member of Congress.

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"BUSINESS AS USUAL" ON ECONOMIC ASSUMPTIONS

(Mr. PANETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PANETTA. Mr. Speaker, one of the issues that has been pointed out continually in the budget debate is the use and misuse of economic assumptions. The Budget Committee has continually pointed out that the administration's assumptions are not realistic. Yesterday the Social Security Administration issued dire warnings that the pension trust fund would be bankrupt by 1982, unless drastic measures are taken. The basis for that conclusion was essentially a change in the economic assumptions that the administration initially took. For example, the administration now states, in using the more pessimistic assumptions, that instead of a 5.2 increase in real GNP, which they had projected for 1982, it would be a 0.7 percent in GNP. Instead of an annual interest rate which they initially projected at 8.9 percent, under the pessimistic assumptions that they now use on the social security issue, it is 11.1 percent that they are projecting.

Instead of an inflation rate running at 7.2 percent, they are now projecting an inflation rate of 13.6 percent.

The worst thing we can do in the budget process is to raise false hopes with economic assumptions. Any percentage changes in such assumptions could add billions to the deficit. The Budget Committee has urged that we use more realistic assumptions; Wall Street agrees that we ought to have more realistic assumptions, and now obviously the administration has decided to use more realistic assumptions when it suits its particular purpose.

It sounds like "business as usual" with regards to economic assumptions.

THE NOMINATION OF JUDGE SANDRA DAY O'CONNOR

(Mr. RHODES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RHODES. Mr. Speaker, as an Arizonan, I am delighted with President Reagan's nomination of Judge Sandra Day O'Connor to serve on the Supreme Court. As an American, I am proud that an individual of Judge O'Connor's high standards and eminent qualifications was chosen for this critically important position. As the President so aptly stated, she is indeed a person for all seasons. Judge O'Connor has served with distinction in positions both in public service and in the private sector.

Judge O'Connor's supporters represent a wide spectrum of political and philosophical viewpoints—a living testimony to her capabilities and to her equitable approach to jurisprudence.

Her nomination is, of course, a moment of particular pride for Judge O'Connor as the first woman to serve on the Supreme Court. It is a historic occasion and one of immense satisfaction to all who applaud the President's action in nominating the first woman Supreme Court Justice.

Our country has experienced many significant changes during its 200-year history, and this nomination will join the list of exceptional milestones in America's progress.

Without question, Judge O'Connor will serve with distinction as a member of our highest court. I am confident that the Senate in its scrutiny of Judge O'Connor's record will find that she is not only an outstanding jurist, but also an individual with the highest moral and ethical values.

WHEN WILL TAX CHARADES CEASE?

(Mr. BLILEY asked and was given permission to address the house for 1 minute and to revise and extend his remarks.)

Mr. BLILEY. Mr. Speaker, you and the leadership on your side had an agreement with the leadership on our side to have the tax bill to the President's desk by August 1.

On May 13 I delivered, along with my colleague from Ohio, ED WEBER, a letter, signed by 140-plus Members of this House, to the distinguished majority leader urging him to give the President and the American people prompt action on a tax cut bill. He reassured us that the leadership on your side remained committed to the schedule agreed upon.

Now I see, according to the chairman of the Ways and Means Committee, that action will be completed by the end of September.

When will these charades cease?

The American people do not want to be told that this schedule was set months ago—that 3 weeks were lost trying to negotiate a compromise—and that the President pulled the rug out from everyone. That simply will not wash with the American people—and it will not wash with the Members of this House. It is just another in a series of attempts to delay and sabotage America's economic recovery.

Let us cut the delaying. Let us get on with the important business at hand. We owe the American people no less than to complete action on their tax cut before we adjourn for the August recess.

ARIZONA PROUD OF NOMINATION OF JUDGE SANDRA O'CONNOR TO SUPREME COURT

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RUDD. Mr. Speaker, the great State of Arizona has always been pleased to contribute the talents of her sons and daughters to the Nation, and I am proud to see this legacy continue with the nomination of Judge Sandra O'Connor to the U.S. Supreme Court.

Judge O'Connor, by her distinguished public service as a legislator and jurist, by her high intelligence and her devotion to the constitutional processes governing our land, will bring an empathy to the High Court for the executive, legislative, and judicial branches which will serve well the people of our Sovereign Republic. Her nomination is a testimonial to President Reagan's commitment for a stable and responsive government.

TAX CUTS NOW!

(Mr. JEFFRIES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JEFFRIES. Mr. Speaker, the majority leadership of this House has promised the people and the President of this country that it will pass tax cut legislation by the end of the month. I now call on the majority to make good on its promise, and to halt the stall tactics in the Ways and Means Committee.

During the recess last week, Mr. Speaker, I traveled many miles throughout Kansas, talking with people from all economic backgrounds. Not surprisingly, I heard the same thing from farmers, businessmen, laborers, and the elderly. Their message: Cut taxes.

Twelve days ago, the House took the first steps in working toward the economic revitalization of this country. It is now time to continue those efforts by following the lead that the President has given us.

Mr. Speaker, regardless of which side of the aisle we sit, we all have an obligation to the people of this country to represent their needs and desires. And right now, the people of this country need and want reductions in the taxes they have to pay.

Mr. Speaker, I doubt that the Democratic majority is willing to bear the blame of impeding the economic prosperity of this country.

JUDGE O'CONNOR'S APPOINTMENT

(Mr. DAVIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAVIS. Mr. Speaker, yesterday's appointment by President Reagan of Judge Sandra Day O'Connor to fill the vacancy on the Supreme Court should be applauded, not only because women will finally be represented on the Court but because a capable, responsible individual has been selected for this tremendously important position.

The issue of abortion has been raised in connection with this appointment and it has been suggested that an individual's position on abortion should be the criteria for determining whether the individual should serve in public office. Personally, I have been a strong opponent of abortion and will continue to be. A single issue, however, cannot be the sole determinant of a person's qualifications, whether they serve on the Supreme Court or in the U.S. Congress. The Supreme Court's jurisdiction reaches into every facet of our lives; a potential juror must be considered not only on ability to interpret law in today's world, but on ability to apply the law in tomorrow's world as well.

Our society is certainly not a single issue society. We would be poorly served to judge each potential public official based on a single issue litmus test.

SUPREME COURT MAY NO LONGER BE KNOWN AS THE BRETHREN

(Mrs. SNOWE asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SNOWE. Mr. Speaker, the President made an announcement yesterday which will be seen in future years as a turning point in American society. With his nomination of Arizona Court of Appeals Judge Sandra D. O'Connor as Associate Justice to the Supreme Court of the United States, the President has selected a woman of impeccable skills and vast experience to handle one of the toughest jobs in the world. I commend the President's action, and I urge quick and thorough review of Judge O'Connor's qualifications by the Senate.

It is indeed ironic that the High Court, the final word on the law of the land in our constitutional system, has

remained an all-male bastion for its two centuries of existence. We look to the Court as a seeker of truth in our Nation of laws, yet somehow we have chosen to neglect a basic truth when it comes to filling vacancies on the Court. Simply put, that truth is this: That women can be excluded no longer from their rightful role as equals in our society. The President's decision can serve as a symbolic battering ram against the last barricades of discrimination in America. I wish the best of luck to Judge O'Connor in her confirmation hearings, and I look forward to the day when she will take her seat among those we have fondly come to know—yet may no longer be known—as the Brethren.

ACT NOW ON TAX CUT

(Mr. WEBER of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEBER of Ohio. Mr. Speaker, it is vital to this country's economy that this Congress act decisively, and act now, for a 3-year, 25-percent, across-the-board tax cut for the American people.

Tax rates for the average American have soared higher than ever. Federal taxes on families have quadrupled over the past 15 years and one out of every three taxpayers is presently in a tax bracket of over 25 percent.

A 3-year, across-the-board, 25-percent tax cut will restore the vital market predictability that business needs to increase investment.

A 3-year, across-the-board, 25-percent tax cut will offset the 22-percent tax bite that will come from bracket creep and social securty increases over the next 3 years.

A 3-year, across-the-board, 25-percent tax cut will require this and future Congresses to act with fiscal restraint and responsibility.

A 3-year, across-the-board, 25-percent tax cut will restore the vital incentive to the people of this great country to work, to save and to invest.

We need to act on this tax bill now, not next September.

THE PEOPLE STAND BEHIND THEIR NOVEMBER MANDATE

(Mr. SMITH of Oregon asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Oregon. Mr. Speaker, after spending 10 days in meetings with hundreds of Oregonians, I am convinced that the people stand strongly behind their November mandate for economic recovery.

Oregonians supported the slowing down of Government spending—reaffirmed in June by a bipartisan majority in this House—but Oregonians questioned our inaction on a tax cut.

Passage of the President's bipartisan, across-the-board, 3-year, 25-percent tax cut is as essential to our Nation's economic recovery as the other parts of the President's program.

I hope the leadership sticks to the timetable agreed to by both parties and provides Members an opportunity to move this country a little closer to economic prosperity.

After all, Mr. Speaker, July—America's month of freedom and independence—is an appropriate time to cast a vote on a proposal to reduce the heaviest tax burden on our people since the days of King George.

THE NOMINATION OF SANDRA O'CONNOR TO THE U.S. SUPREME COURT

(Mr. RAILSBACK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAILSBACK. Mr. Speaker, I am very pleased that President Reagan has nominated Sandra O'Connor to be an Associate Justice on the Supreme Court. Her appointment when confirmed as the first woman justice will be a step forward for the Court, which has had only male judges for nearly two centuries.

Judge O'Connor is respected in her community and by her legal colleagues. Judges on the Arizona Court of Appeals, where Mrs. O'Connor has served as a justice for 18 months, believe that she is well qualified to serve on the Supreme Court.

She has solid academic credentials, and graduated third in the 1952 Stanford University Law School class. She also has been active in the Republican Party, and served two terms in the Arizona State Senate, where she was elected majority leader.

I believe that her academic, legal, and political qualifications make Sandra O'Connor well suited for the Supreme Court job. I support President Reagan in his decision to nominate Sandra O'Connor and hope she will be confirmed by the Senate.

□ 1230

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
July 8, 1981.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the permission granted in the Rules of the House of Representatives, I have the honor to transmit sealed envelopes received from The White House as follows:

(1) At 2:00 p.m. on Monday July 6, 1981 and said to contain a message from the President by which he transmits a proposed agreement on peaceful uses of nuclear energy between the USA and the Arab Republic of Egypt.

(2) At 2:00 p.m. on Monday July 6, 1981 and said to contain a message from the President wherein he transmits the Fiscal Year 1980 annual report on the operation and activities of the Alaska Railroad.

(3) At 2:00 p.m. on Monday July 6, 1981 and said to contain a message from the President wherein he transmits the Fiscal Year 1980 Annual Report of the Commodity Credit Corporation.

With kind regards, I am,

Sincerely,

EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.

PROPOSED AGREEMENT FOR COOPERATION BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE ARAB REPUBLIC OF EGYPT CONCERNING PEACEFUL USES OF NUCLEAR ENERGY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 97-69)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Foreign Affairs and ordered to be printed:

To the Congress of the United States:

I am pleased to transmit to the Congress, in accordance with Section 123d of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2153(d)), the text of the proposed Agreement for Cooperation Between the Government of the United States of America and the Government of the Arab Republic of Egypt Concerning Peaceful Uses of Nuclear Energy and accompanying annex and agreed minute; my written approval, authorization and determination concerning the agreement; and the memorandum of the Director of the United States Arms Control and Disarmament Agency with the Nuclear Proliferation Assessment Statement concerning the agreement. The joint memorandum submitted to me by the Secretaries of State and Energy, which includes a summary of the provisions of the agreement, and the views and recommendations of the Director of the Arms Control and Disarmament Agency and the Members of the Nuclear Regulatory Commission, is also enclosed.

The Atomic Energy Act sets forth certain requirements for new agreements for peaceful nuclear cooperation with other countries. In my judgment, the proposed agreement for cooperation between the United States and Egypt, together with its accompanying agreed minute, meets all statutory requirements.

The proposed bilateral agreement reflects the desire of the Governments of the United States and Egypt to establish a framework for peaceful nuclear cooperation between our two countries in a manner which recognizes our shared non-proliferation objectives, the economic and energy development needs of Egypt, and the friendly and harmonious relations between the United States and Egypt.

In February, Egypt ratified the treaty on the Non-Proliferation of Nuclear Weapons. This is an important step toward controlling the dangers of the spread of nuclear weapons, and is a reaffirmation of Egypt's long-standing commitment to the objectives of this treaty and its commitment to peace and stability in the Middle East and Africa. This proposed agreement fully recognizes this important step.

I believe that this agreement will further the nonproliferation and other foreign policy interests of the United States. I have considered the views and recommendations of the interested agencies in reviewing it and have determined that its performance will promote, and will not constitute an unreasonable risk to, the common defense and security. Accordingly, I have approved the agreement and authorized its execution, and urge that the Congress give it favorable consideration.

RONALD REAGAN.

THE WHITE HOUSE, *July 6, 1981.*

FISCAL YEAR 1980—ANNUAL REPORT ON OPERATIONS AND ACTIVITIES OF THE ALASKA RAILROAD—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Energy and Commerce:

To the Congress of the United States:

Pursuant to the requirements of the Alaska Railroad Enabling Act of March 12, 1914, I hereby transmit the annual report by the Secretary of Transportation on the operations and activities of The Alaska Railroad during fiscal year 1980. The period covered by this report precedes my term of office.

RONALD REAGAN.

THE WHITE HOUSE, *July 6, 1981.*

FISCAL YEAR 1980—REPORT OF COMMODITY CREDIT CORPORATION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Agriculture:

To the Congress of the United States:

Pursuant to the provisions of Section 13, Public Law 806, 80th Congress, I hereby transmit the report of the Commodity Credit Corporation for the fiscal year ended September 30, 1980. The period covered by this report precedes my term of office.

RONALD REAGAN.

THE WHITE HOUSE, *July 6, 1981.*

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair would like to make the following statement: The leadership would hope that the Committee would continue with this bill until 6 o'clock tonight, get through with the general debate, and possibly take an amendment or two.

Tomorrow the House will come in at 10 o'clock and go until 8 o'clock tomorrow evening if the bill is not completed.

The House will meet at 10 o'clock on Friday and go to 3 o'clock on Friday afternoon.

DEPARTMENT OF DEFENSE AUTHORIZATION ACT, 1982

Mr. PRICE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3519) to authorize appropriations for fiscal year 1982 for the Armed Forces for procurement, for research, development, test, and evaluation, and for operation and maintenance, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, to authorize appropriations for such fiscal year for civil defense, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Illinois.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. DICKINSON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 345, nays 2, present 1, not voting 83, as follows:

[Roll No. 115]

YEAS—345

Addabbo	Alexander	Anthony
Akaka	Anderson	Archer
Albosta	Annunzio	Ashbrook
Aspin	Erdahl	Lujan
AuCoin	Erlenborn	Luken
Badham	Ertel	Lungren
Bafalis	Evans (GA)	Markey
Bailey (MO)	Evans (IN)	Marks
Bailey (PA)	Fary	Marriott
Barnes	Fascell	Martin (IL)
Beard	Ferraro	Martin (NC)
Bedell	Fiedler	Matsui
Beilenson	Fields	Mattox
Benedict	Findley	Mazzoli
Benjamin	Fish	McClory
Bennett	Fithian	McCloskey
Bereuter	Flippo	McCollum
Bethune	Florio	McCurdy
Bevill	Foglietta	McEwen
Biaggi	Foley	McGrath
Bingham	Ford (MI)	McHugh
Bliley	Fountain	Mica
Boggs	Fowler	Mikulski
Boland	Frank	Miller (CA)
Boner	Frost	Miller (OH)
Bonior	Gaydos	Mineta
Bonker	Gejdenson	Minish
Bouquard	Gibbons	Mitchell (NY)
Bowen	Gilman	Moakley
Breaux	Gingrich	Molinari
Brinkley	Glickman	Mollohan
Brodhead	Gonzalez	Montgomery
Brooks	Goodling	Moore
Broomfield	Gore	Moorhead
Brown (CA)	Gramm	Mottl
Brown (CO)	Gray	Murphy
Brown (OH)	Green	Murtha
Broyhill	Gregg	Myers
Burton, John	Grisham	Napier
Burton, Phillip	Guarini	Natcher
Butler	Gunderson	Nelligan
Byron	Hall (OH)	Nichols
Campbell	Hall, Ralph	Nowak
Carman	Hall, Sam	O'Brien
Carney	Hamilton	Oakar
Chappie	Hammerschmidt	Oberstar
Clausen	Hance	Panetta
Clay	Hansen (ID)	Parris
Clinger	Hansen (UT)	Patman
Coats	Harkin	Paul
Coelho	Hartnett	Pease
Coleman	Hatcher	Perkins
Collins (IL)	Hawkins	Petri
Collins (TX)	Heckler	Peyser
Conable	Hefner	Pickle
Conte	Hendon	Porter
Conyers	Hertel	Price
Corcoran	Hightower	Pursell
Coughlin	Hiler	Quillen
Courter	Hillis	Rahall
Coyne, James	Holland	Ratchford
Coyne, William	Hollenbeck	Regula
Craig	Holt	Reuss
Crane, Daniel	Hopkins	Rhodes
Crane, Philip	Howard	Ritter
D'Amours	Hoyer	Roberts (KS)
Daniel, Dan	Hubbard	Roberts (SD)
Daniel, R. W.	Huckaby	Robinson
Danielson	Hughes	Rodino
Dannemeyer	Hunter	Roe
Daub	Hutto	Roemer
Davis	Hyde	Rogers
de la Garza	Ireland	Rosenthal
Deckard	Jacobs	Rostenkowski
Dellums	Jeffords	Roth
DeNardis	Jeffries	Rousselot
Derrick	Jenkins	Roybal
Derwinski	Johnston	Rudd
Dickinson	Jones (OK)	Sabo
Dicks	Jones (TN)	Santini
Dingell	Kastenmeier	Sawyer
Dixon	Kazen	Scheuer
Donnelly	Kildee	Schneider
Dorgan	Kindness	Schroeder
Dornan	Kogovsek	Seiberling
Dougherty	LaFalce	Sensenbrenner
Downey	Lagomarsino	Shamansky
Dreier	Leach	Shannon
Duncan	LeBoutillier	Sharp
Dunn	Lee	Shaw
Dwyer	Lehman	Shelby
Dyson	Leland	Shumway
Eckart	Lent	Shuster
Edgar	Levitas	Siljander
Edwards (AL)	Livingston	Simon
Edwards (CA)	Loeffler	Skeen
Emerson	Long (LA)	Skelton
Emery	Lowery	Smith (NE)
English	Lowry	Smith (OR)

Snowe	Trible	Williams (OH)
Snyder	Udall	Wilson
Solomon	Vander Jagt	Winn
Spence	Vento	Wirth
St Germain	Walgren	Wolf
Stanton	Walker	Wolpe
Staton	Watkins	Wortley
Stenholm	Waxman	Wright
Stokes	Weaver	Wyden
Stratton	Weber (MN)	Wylie
Studds	Weber (OH)	Yates
Stump	Weiss	Yatron
Swift	White	Young (FL)
Synar	Whitley	Young (MO)
Tauzin	Whittaker	Zablocki
Traxler	Whitten	Zeferetti

NAYS—2

Evans (IA)	Young (AK)

ANSWERED "PRESENT"—1

Ottinger

NOT VOTING—83

Andrews	Hagedorn	Patterson
Applegate	Heftel	Pepper
Atkinson	Horton	Pritchard
Barnard	Jones (NC)	Railsback
Blanchard	Kemp	Rangel
Bolling	Kramer	Richmond
Burgener	Lantos	Rinaldo
Chappell	Latta	Rose
Cheney	Leath	Roukema
Chisholm	Lewis	Russo
Cotter	Long (MD)	Savage
Crockett	Lott	Schulze
Daschle	Lundine	Schumer
Dymally	Madigan	Smith (AL)
Early	Marlenee	Smith (IA)
Edwards (OK)	Martin (NY)	Smith (NJ)
Evans (DE)	Mavroules	Solarz
Fazio	McDade	Stangeland
Fenwick	McDonald	Stark
Ford (TN)	McKinney	Tauke
Forsythe	Michel	Taylor
Frenzel	Mitchell (MD)	Thomas
Fuqua	Moffett	Volkmer
Garcia	Morrison	Wampler
Gephardt	Neal	Washington
Ginn	Nelson	Whitehurst
Goldwater	Obey	Williams (MT)
Gradison	Pashayan	

□ 1245

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3519, with Mr. SIMON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, June 24, the gentleman from Illinois (Mr. PRICE) had 59 minutes of general debate remaining; the gentleman from Alabama (Mr. DICKINSON) had 52 minutes of general debate remaining; the gentleman from Texas (Mr. BROOKS) had 1 hour of general debate remaining; the gentleman from New York (Mr. HORTON) had 1 hour of general debate remaining; the gentleman from New Jersey (Mr. HUGHES) had 30 minutes of general debate remaining; and the gentleman from New York (Mr. FISH) had 30 minutes of general debate remaining.

The Chair recognizes the gentleman from Illinois (Mr. PRICE).

Mr. PRICE. Mr. Chairman, I yield myself such time as I may require.

Mr. Chairman, I would like to begin by explaining the plans for the remaining portion of general debate.

It is my understanding that I have an hour remaining to me under general debate. It is my intention to yield 15 minutes to the gentleman from Florida (Mr. BENNETT) to explain the committee's position on section 908 of the bill, the so-called posse comitatus provision, to allow for military cooperation with civilian law enforcement officials.

After Mr. BENNETT uses that time, it is then my intention to yield the floor so that the Committee on the Judiciary can use its time allotted under the rule for discussion of the posse comitatus issue and its proposed amendment to the committee's section 908. I believe the Judiciary Committee concurs in this procedure.

The rule provides an hour to the Committee on the Judiciary. It is my understanding that the committee does not intend to use all of that time.

After the Committee on the Judiciary has consumed or yielded back all of its time, it is my intention to yield 15 minutes to the gentleman from Virginia (Mr. DAN DANIEL) to explain the position of the Armed Services Committee regarding section 909 of our bill, the provision relating to the question of multiyear procurement by the Department of Defense.

After Mr. DANIEL gives that explanation, it is my intention then to yield the floor to the Committee on Government Operations to use its time under the rule to discuss its proposed amendments, which relate in large measure to the question of procurement policy.

After the Committee on Government Operations has consumed its time, I shall use the last half hour of time alloted to me to close the debate on behalf of the Armed Services Committee. I shall recognize during that half hour members of the committee to discuss only the issue of multiyear procurement, and I shall retain the final 5 minutes of that time for my own concluding remarks on the subject.

I wanted to explain these plans so that Members will understand that there is no time remaining during general debate to discuss issues other than sections 908 and 909 of the bill. It was for these purposes that I reserved the balance of my time during the earlier portion of general debate.

It is my understanding that the ranking minority member of the committee (Mr. DICKINSON) has approximately 50 minutes of time remaining on the other side, and will use his time in approximately the same manner that I will: That is, he will yield a brief portion of his time for discussion of the posse comitatus provision and reserve the balance for discussion of multiyear procurement.

I now yield 15 minutes to the gentleman from Florida (Mr. BENNETT).

□ 1300

Mr. BENNETT. Mr. Chairman, section 908 would authorize cooperation by the Armed Forces with civilian law enforcement officials for certain purposes; to amend title 10 of the United States Code by adding four sections in a new chapter.

To get the bill out before the Members—it is brief, not lengthy—section 371 permits the Secretary of Defense to provide Federal, State, and local law enforcement officials any information collected during the course of military operations that may be relevant to a violation of any Federal or State law. This section does not provide any new authority with respect to gathering information for military purposes. It merely provides for the dissemination of such information to civilian law enforcement officials.

If, for example, during an AWACS training flight, aircraft were identified approaching U.S. international borders, the Air Force could notify U.S. Customs officials to permit them to attempt to identify the nature and the business of this aircraft or, if a Navy destroyer operating off the Florida coast observes some suspicious looking ships approaching the coast, it could pass this information on to the U.S. Coast Guard.

Section 372, the next section, permits the Secretary of Defense to make available to Federal, State, and local officials equipment, base facilities, research facilities of the Armed Forces if that action will not adversely affect the military preparedness of the United States. This section would provide clear authority for practices which have traditionally been approved by the Departments of Defense and Justice.

In recent years, the military departments have provided assistance to civilian law enforcement officials. For example, the Army has on loan to the U.S. Customs Service over $5 million worth of equipment, and it loaned armored personnel carriers, helmets, and flak jackets to the Department of Justice personnel who participated in the Wounded Knee incident several years ago.

Section 373 permits the Secretary to assign members of the Armed Forces to train Federal, State, and local law enforcement officials in the operation of military equipment made available by section 372, and to provide expert advice to them. Again, this section clarifies authority for traditional cooperation with civilian law enforcement officials.

For example, the Army Military Police School at Fort McClellan has trained civilians in photographic operations and trained civilian officers in

the use of equipment or facilities to them for law enforcement purposes.

Section 374 requires the Secretary of Defense to issue regulations: First, to insure that the provision of assistance, equipment, or facilities does not impair military training or operations necessary to the military preparedness of the United States; and second, to insure reimbursement for the provision of assistance obtained from the Department of Defense when the Secretary determines it is appropriate. The regulations provided by this section will insure that the cooperation with the civilian law enforcement officials does not interfere with carrying out the primary mission of our Armed Forces, that is, military preparedness. The regulation will also insure that the law enforcement cooperation is not done at the expense of defense activities.

The results of the Armed Forces work should not be used at the cost of defense budgets to support the activities of other agencies of Government regardless of how laudable those activities might be. I understand the Department of Defense has always required reimbursement in the past, and it will continue to do so under these provisions.

Section 375, which is the most controversial part of this measure, permits the Secretary of Defense upon request from a Federal drug agency—here we are getting down to a more narrow activity now, just a Federal drug agency—to assign Armed Forces members to assist Federal drug enforcement officals in drug seizures and arrests provided: First, such assistance will not adversely affect military preparedness of the United States; second, that the Secretary determines that the drug enforcement operation may not succeed without the existence of military personnel; third, drug officials maintain ultimate control of the operation; and fourth, such assignment shall not occur in any location or circumstance not previously approved by the Secretary of State.

This section would allow direct participation by armed services personnel in drug enforcement operations. I should also point out that this direct participation by military personnel is authorized only in drug law enforcement matters, whereas the provision of indirect military support relates to law enforcement generally. This distinction is made because of the critical need for additional resources in enforcement of drug laws. I am pointing out that the early sections of this section 908 are broader than these very narrow ones with regard to drugs.

Heretofore, such direct participation has not been possible because of the Posse Comitatus Act, section 1385, title 18, United States Code. That section prohibits the use of any part of the Army or the Air Force as a posse comitatus or otherwise to execute the law.

Posse comitatus is defined by Webster as the power of a county, the power of a sheriff, to summon the whole body of inhabitants to assist in preserving the public peace or in executing a legal order. This prohibition originated in the Army Appropriations Act of 1878. It was enacted in response to the use of Federal troops to police State elections in former Confederate States where the civil power had been reestablished, and where the Union veterans were enforcing the local law.

The primary concern of the act was the prospect of U.S. Marshals on their own initiative calling up troops to form a posse or to otherwise perform direct law enforcement functions to execute the law. Although it appears applicable only to the Army, the law was amended to include the Air Force when that department was spun off in 1947. Although the act by its terms does not include the Navy or Marine Corps, the Navy has adopted that restriction by self-imposed administrative action.

Clearly, the circumstances of 1878 do not prevail today. Our Nation is faced with a crisis of law enforcement. International drug dealers, because of the tremendous profits of their illicit business, can afford the finest and the most sophisticated electronic devices which are capable of penetrating our borders and evading law enforcement officials with immunity. Limited budgets prevent local, State, or Federal law enforcement agencies from buying the radar or electronic equipment to locate the smugglers, but much of the necessary equipment and expertise in the operation are found in the Armed Forces.

In order to respond to the challenges of the drug dealers, this Nation must marshal all of its available resources. It can take a large step in that direction by permitting the use of military equipment and personnel in cooperation with civilian law enforcement officials. Some people say, "Why don't you leave this as it is, in the hands of the Coast Guard?"

It would cost approximately $4 billion to build the Coast Guard ships needed to do the job. If the Coast Guard were to get these ships, after this drug war was over, or greatly made unnecessary, all these billions of dollars worth of ships would no longer be necessary. We would also have to employ many thousands, perhaps as many as 20,000 new Coast Guard personnel.

Section 908 permits the use of the resources of the military departments in the war against drug dealers. This section would permit the use of military equipment and personnel without violating the Federal Government's traditional separation of civilian and military functions. Participation of military personnel could occur only in drug enforcement, and then only with the specific authority of the Secretary of Defense. His approval would depend upon a finding that there would be no adverse effect on military readiness; second, that the drug enforcement operation would not succeed without the participation of military personnel; third, that the Federal drug enforcement officers would maintain ultimate control over the operation, not the military; and fourth, that previous approval of the location and circumstances must be given by the Secretary of State.

Those last limitations were placed on because of the concern of some people about the Rio Grande, and that possibly there should be some provision that the Secretary of State should pass on that before anything like that would be done. Those limitations will insure that there would be no indiscriminate use of Armed Forces personnel. They will be called upon when it is apparent that the seizure and arrest would fail but for their participation. In all situations, they will be under the control of civilian Federal drug enforcement officials, thus preserving the historic separation between civilian and military spheres of activity of our Government.

Over the years, Congress has not hesitated to permit direct participation by the military in matters much less important. On several occasions, the military has been authorized to assist civilian law enforcement officials in areas such as detention of vessels for customs and in the enforcement of the 200-mile limit. The epidemic of illegal drugs is a matter of much graver national concern. It threatens the moral and physical well being of our entire Nation.

Since the posse comitatus law makes any improper military support of civilian law enforcement a Federal felony, military commanders, who must often make a speedy decision with regard to whether they can comply with the request, have understandably been cautious in construing such requests. But any delay can jeopardize important law enforcement operations. It is important, therefore, that the law be as clear as possible in identifying those circumstances in which the military can cooperate lawfully with the civilian law enforcement officers. Accordingly, it is essential that we take this action to amend the law.

The question then, Mr. Chairman, is very simply: Are we willing to make a commitment to stop drug smuggling, or will we wait until those drugs shatter the minds and lives of a generation of our young people? I believe we must act to protect our youth, we must commit all of our resources, including the military.

Now, Mr. Chairman, I made a list of the various places where the posse comitatus law is not applicable by a particular, special act of Congress. Such include arresting trespassers in national parks who can be apprehended and arrested by military personnel; also to protect against crimes against Members of Congress, including any assault on a Member of Congress. Congressmen can call in the military to make such arrests. There are many other things of this type, protecting Indians, Indian lands, civil rights laws, customs officials. As a matter of fact, Congress even passed a law some years ago, that if you establish a right to bird droppings on an island, the military can be called in to make an arrest to protect your property in the bird droppings.

So, certainly if we have these trivial things addressed, things of not nearly the significance of drug smuggling, we certainly should give assistance in the field of drug enforcement.

I want to say to the Members, I am somewhat of an amateur historian, and this posse comitatus thing really sprang out of the fact that the people in the South did not want the Union veterans to be disturbing them in the way they would like to be undisturbed, and they got the power in Congress to pass this law, and they did. What did the real fathers of our country think about such a law? The real fathers of our country, such as George Washington, had no apprehension about leading troops in the western part of Pennsylvania where the people were making moonshine and did not want to pay taxes. George Washington himself went out there with military forces in 1794 to see to it that the law was enforced and the taxes paid. So, we are dealing with something which is not dangerous to our country, not dangerous unless we do not do it. We do need very much to have this strengthening of our ability to apprehend drug smugglers who are destroying our society, destroying our youth, destroying our country.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. BENNETT. I yield to the gentleman from Michigan.

Mr. CONYERS. What do the States' Righters think about it?

Mr. BENNETT. The gentleman knows a lot more about States' rights than I do. I am not a States' rights advocate at this point.

Mr. CONYERS. Does the gentleman suggest that I know more about States' rights than he does?

Mr. BENNETT. The gentleman brought it up, so I think he would.

Mr. CONYERS. I think it ought to be a part of the discussion here. If the gentleman does not know anything about it, I will find out something about it so that we can present it in general debate.

Mr. BENNETT. I did not say I know nothing about it. I just say I am not an authority to speak as a States' Righter.

Mr. BEARD. Mr. Chairman, will the gentleman yield?

Mr. BENNETT. I yield to the gentleman from Tennessee.

Mr. BEARD. Mr. Chairman, I feel very strongly about what my colleague from Florida is talking about, and the thrust of that. I do not see what this has to do with States' Righters. I think States' Righters or whoever are equally concerned that the drug problem in this country has gotten to the point where we are seeing our young people experience an epidemic, and we are all concerned in trying to find a solution to it, so rather than get involved in maybe an issue of States' Righters versus this or that, I would rather not see that issue come into being, so I commend the gentleman for his presentation.

Mr. BENNETT. I thank the gentleman

Mr. DICKINSON. Mr. Chairman, will the gentleman yield?

Mr. BENNETT. I yield to the gentleman from Alabama.

Mr. DICKINSON. Mr. Chairman, I would just like to give an example of why I think that it is probably a good thing for us to pass this piece of legislation. As the gentleman well knows, a few years ago an aircraft circled the Municipal Field in New Orleans requesting landing instructions. As it turned out, it was an aircraft that had left Havana, Cuba, coming up to a sugar conference, carrying some 20-odd passengers, flying from Cuba to New Orleans, and were asking for landing instructions before anybody knew they were in the air.

This ought to give some indication as to the lack of surveillance and the lack of ability for us to detect low-flying aircraft. This aircraft had taken off from Havana, flown under 1,000 feet for over 200 miles.

□ 1315

So nobody even knew it was in the air. If that aircraft can do it, then, of course, other aircraft can with impunity violate our borders and come into the country unobserved and undetected. If we pass this legislation AWACS, as an example, should be able to pass on intelligence that will preclude instances such as this.

Mr. Chairman, I think this is a reasonable exception to the law that we would have built in historically, and I would support it.

Mr. BENNETT. Mr. Chairman, I thank the gentleman from Alabama (Mr. DICKINSON) very much.

I might say that, as I analyzed what was asked about States' rights, my reaction to States' rights with regard to this bill was that this bill does not create any new crimes. This bill just enforces Federal laws about criminal activities. The first part of it is not dealing just with drugs, because we are dealing with everything; it enforces local law, but it has to be requested by local officials. So I really do not myself see any issue in this with regard to States' rights.

The CHAIRMAN. The time of the gentleman from Florida (Mr. BENNETT) has expired.

Mr. DICKINSON. Mr. Chairman, for purposes of debate on this issue only, I yield 5 minutes to the gentlewoman from California (Ms. FIEDLER).

Ms. FIEDLER. Mr. Chairman, I would like to ask the author of the amendment a question, if I can get his attention for a moment.

Mr. BENNETT. Yes. If the gentlewoman will yield, I would be happy to respond.

Ms. FIEDLER. Mr. Chairman, I would like to ask this as a point of inquiry.

This morning we received a "Dear Colleague" regarding a very similar amendment by the Committee on the Judiciary. I was very interested in this particular amendment and am strongly in support of the concept. I believe we should use our resources to try to stop the criminal activity that is taking place on or near our borders, I am interested to learn the differences between the two amendments and what you feel your amendment would accomplish versus what might be accomplished by the amendment of the Judiciary Committee, which is similar.

Mr. BENNETT. Mr. Chairman, the two amendments are similar, and I think that they both do a lot of good.

The amendment which I had approved would actually allow the military to become involved by making arrests. They would always be under the civilian control, but the commanding officer of a ship, for instance, could actually arrest somebody who was running drugs.

The advantage of this amendment is primarily that Coast Guard personnel would not have to be on every military ship. We want this to be a workable operation. To use only Coast Guard in arresting would cost a few million dollars a year—not a lot of money, but it would mean some added expense. We would have to waste a little in the way of having Coast Guard personnel aboard all these ships. That really would be the primary difference. It would be a very workable bill if we placed Coast Guard personnel on every Navy ship, but it would cost more money.

Therefore, the amendment which I introduced, I believe, is a more direct approach. Of course, the drug smugglers might really feel a little bit of contentment with the Judiciary Committee proposal, knowing that they could not be sure there would be Coast

Guard personnel on every military ship. That is something I want to get at. My proposal costs less and does more.

It has been estimated that we can greatly cut this traffic down. Eighty-five percent of the drugs coming into the United States are not stopped, despite the fact that we try. There is no way we can stop them unless we do something like this. If we cut it down to where they are losing about 75 percent of what they are trying to bring in, the analysis is that we will pretty well have a handle on the drug problem, and it will not be economically feasible for them to continue. I think that when we can get a drug smuggler to realize that every military ship can arrest him we will make progress in fighting the drug traffic.

There are 42 Navy ships in my home district which cannot now be used for this purpose at all. There is now only one Coast Guard ship in that area of Florida, the Navy ships could be a great help.

So, Mr. Chairman, I believe it would make it a more practical thing if we were to do this.

Ms. FIEDLER. Mr. Chairman, I appreciate very much the gentleman's explanation, and I wholeheartedly support his amendment, which is offered on behalf of the people of the United States to be able to take the resources of the Federal Government and permit them to be used in such a cooperative fashion so we can help to reduce these very serious crimes which affect the children, as well as the adults, of our Nation.

Mr. BENNETT. Mr. Chairman, I thank the gentlewoman from California (Ms. FIEDLER) for her comments.

Mr. PRICE. Mr. Chairman, in keeping with our agreement and understanding, I now yield to the Committee on the Judiciary under the rule.

The CHAIRMAN. Under the rule, the gentleman from New Jersey (Mr. HUGHES) has 30 minutes.

Mr. HUGHES. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, today the House has before it legislation which represents an important step forward in our efforts to combat crime in America. Section 908 of the Defense Department authorization bill constitutes an important first step in our efforts toward improving the coordination of all our Federal resources in the fight against crime.

Let me explain this legislation in three steps: First, a brief discussion of the history of the legal limitations on the use of the military to enforce civilian laws; second, a description of the problems which have arisen under existing law; and, finally, the changes proposed in this bill.

It is commonplace that the American colonists gathered along the eastern seaboard in the 18th century resented the use of British troops to enforce what were felt to be oppressive British laws. In fact, the Boston massacre involved the use of troops to enforce a British civil statute. This traditional—and I believe wise—antipathy toward the use of military to directly enforce the civilian laws is reflected in our Constitution. The founders of our country granted the rights of citizens to bear arms and to maintain a militia, prevented the arbitrary quartering of troops, and guarded against the suspension of habeas corpus.

The same principles motivated the Reconstruction Congress to prohibit direct involvement in civilian law enforcement by passing the Posse Comitatus Act. The constitutional provisions I mentioned as well as the Posse Comitatus Act secure the proper place of the military within our free society.

The Posse Comitatus Act, enacted in 1878, provides that the Army may not be used to execute the civilian laws. The Committee on the Judiciary agreed with these important principles. The Posse Comitatus Act as interpreted, however, has become an impediment to some important and indirect types of cooperation between the military and civilian law enforcement.

The reasons for Posse Comitatus causing problems are severalfold. First, the statutory prohibition is of a criminal nature and many military commanders are reluctant to act without clear authority. Second, the few courts which have considered the act have enunciated conflicting views about the limits imposed by the law on military involvement in civilian law enforcement. Third, despite an apparent commitment by the Defense Department to cooperate with civilian law enforcement officials, there has been some reluctance by lower level officials to take any risks.

The bill reported by the Committee on the Judiciary resolves the existing problems with the Posse Comitatus Act. The first three sections of the bill which relate to provisions of military intelligence information, equipment, and training capacity are supported by the Departments of Justice, Defense, Treasury, and the Coast Guard. These sections of the bill represent a clarification of existing administrative practices. These sections do not materially change the Posse Comitatus Act.

The Committee on the Judiciary decided that in addition to clarifying the Posse Comitatus Act, an additional step was necessary. Proposed section 375 provides that once the military has decided to lend equipment to civilian law enforcement authorities, military personnel may be used to operate and maintain the equipment. This section is limited to requests for such assistance made by the head of a Federal drug law enforcement agency and only if the offense involves a violation of a Federal drug statute. We expect this operational assistance to be requested only when the training of civilian law enforcement to operate military equipment is not feasible.

The Committee on the Judiciary considered and rejected a provision which is present in the authorization bill reported by the Armed Services Committee that authorized the use of military personnel in making arrests and seizures of drug offenders. The committee carefully evaluated this proposal. We heard the eloquent testimony of our congressional colleague, CHARLES BENNETT of Florida, on this issue. We are pleased to be able to accept most of his suggestions in this area. We were, however, unable to support his request for granting the military authority to arrest and seize drug violators. We carefully questioned the witnesses from the Department of Justice, the U.S. Customs Services, and the Coast Guard and none of these witnesses saw any need for granting arrest and seizure authority to the military. Moreover, the committee found itself in the position of agreeing with the Defense Department that the Armed Services Committee proposal went too far in involving the military in civilian life. The committee was impressed with the need to assist law enforcement with military equipment and other assistance, but a case was not made for arrest and seizure authority.

In conclusion, Mr. Chairman, I believe that the Committee on the Judiciary has carefully drafted a bill which materially assists law enforcement while at the same time preserving the tradition of separating the military from direct hands-on authority in civilian law enforcement activity. I, therefore, urge my colleagues to vote for the measure which received the strong support of the members of the Committee on the Judiciary.

The CHAIRMAN. The gentleman from New Jersey (Mr. HUGHES) has consumed 5 minutes.

The Chair recognizes the gentleman from Michigan (Mr. SAWYER).

Mr. SAWYER. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I may say, just to clear this up, since I started out from ground zero on this, never having heard the expression, "posse comitatus," that the fact is that I told the Rules Committee that it still embarrasses me as something of my lack of knowledge, although I had practiced law, and I may say for those who are confused by the term that all it means in Latin is "posse"—like we use the term, "a sheriff's posse." It means "force of the county."

Now, in the sense the term is being used here, it is different in that it is being used in the sense that the military cannot be used as part of the

sheriff's posse or the force of the county for civilian law enforcement.

So there is nothing magic about the term. It is just the term that we normally refer to in its simplistic way as a "posse."

The doctrine of posse comitatus has developed a special meaning of not involving the military as it has been carried on and as it was enacted in the statute. And, unfortunately, in many ways, the criminal statute is putting a criminal penalty on anybody in the military or anybody else who authorizes the use of military force in connection with civilian law enforcement. This has been carried to great extremes, because of the lack of clarity of what is involved, to the point that many times military commanders have refused to provide even intelligence information or information on the movement of a ship known to be carrying contraband and other items for fear they might be involved in a criminal offense under the posse comitatus statute.

This is really the reason the gentleman from Florida (Mr. BENNETT) initially brought this subject up, to try and clarify this matter and bring all the forces we have to bear on what has become one of the great national problems, namely, a $64 billion yearly traffic in drugs. It is bigger than any other industry in the United States, dominating the State of the gentleman from Florida (Mr. BENNETT) to the point where it even now exceeds the tourist industry in that State, going to some $7 billion a year.

Yet we have equipment, personnel, and expertise sitting by that we are fearful of using for fear of violating this imminent and yet post-Civil War statute. That is the clarification.

The only difference between the proposal of the gentleman from Florida (Mr. BENNETT) and the proposal of the Judiciary Committee is that he would allow the direct participation or assistance of military personnel in the actual arrest or seizure, whereas the bill of the Judiciary Committee's would allow the use of equipment provided by the military and use of its personnel to operate it, since obviously it takes expertise to work the equipment, but it would not allow their actual participation in the seizure or arrest. The basic reason for that difference is that it was felt by the Judiciary Committee that military personnel are not trained in the niceties of civil law enforcement.

They are not aware of the various rules requiring the giving of rights to defendants when they are arrested, and that may work out to be self-defeating by failure to give the appropriate warnings, and so forth, on rights and against self-incrimination and result in the acquittal of defendants and put the military in a field of expertise in which they are not trained. Neither the military not the Justice Department felt this was necessary.

□ 1330

Therefore, we took that extra power of participating actively in arrest and seizure out, but in essence maintain all the other rights, the right to use equipment, the right to provide information, the right to provide personnel to man and maintain the equipment, but to have acutal law enforcement people, including the Coast Guard, do the actual arresting and seizing.

Mr. BETHUNE. Mr. Chairman, will the gentleman yield?

Mr. SAWYER. I yield to the gentleman from Arkansas.

Mr. BETHUNE. I thank the gentleman for yielding.

I wonder what would be the result in court if a military personnel did under your provision, the provision that you advocate, make an arrest for lack of information about the law or because of the exigencies of the circumstances, did go ahead and lay hands on and create the status of arrest, then what would the posture of the case be when it reached court?

Mr. SAWYER. I suppose it would come under—I am just speculating on this, too—but I suppose it would come under the existing posse comitatus statute which has not yet been repealed and is not proposed to be repealed, and he would then be subject to the proof of a mens rea or guilty intent in light of what was going on, to be or not to be subject to a criminal penalty.

I cannot believe he would be, but he could be.

Mr. HUGHES. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. DANIELSON).

Mr. DANIELSON. Mr. Chairman, I am entirely in support of the amendment offered by the gentleman from New Jersey. I share with the gentleman from Michigan his concern over using such a cumbersome term as "posse comitatus," so I took the liberty of looking it up in Webster's Unabridged Third International Dictionary over on the table. What it means is:

> The power of the county; a: the entire body of inhabitants who may be summoned by the sheriff to assist in preserving the public peace (as in a riot) or in executing a legal precept that is forcibly opposed including under the common law every male inhabitant who is above 15 years of age and not infirm.

Mr. CONYERS. Mr. Chairman, would the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from Michigan.

Mr. CONYERS. I thank the gentleman for yielding.

Can the gentleman explain to some of the slower Members in the Chamber what that has to do with the present amendment?

Mr. DANIELSON. Yes; we should not use the Army as a posse comitatus. That is the purpose of the amendment.

Mr. SAWYER. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. MCCLORY), the ranking minority member of the committee.

Mr. DORNAN of California. Mr. Chairman, will the gentleman yield?

Mr. MCCLORY. I yield to the gentleman from California.

Mr. DORNAN of California. Mr. Chairman, what strikes me most strongly about the debate over military cooperation with civilian law enforcement authorities in the enforcement of narcotics laws is the general agreement among nearly all Members that this cooperation must be enhanced. We need more effective enforcement of our drug laws, especially those aimed at illegal transportation of controlled substances across our borders.

The two versions of section 908 now before us reflect this general agreement. The versions offered by the Armed Services Committee and the Judiciary Committee are nearly identical, and contain mostly technical and stylistic differences. Until we come to the fifth part of these versions, the section concerned with "military personnel assistance," we find most Members satisfied with the language offered by either committee.

Our debate centers around what type of assistance military personnel should properly offer civilian law enforcement officials. The Armed Services Committee's version would allow members of the armed services to make arrests and seizures. The Judiciary Committee's version, while permitting military personnel to offer assistance in many crucial areas, would not permit them to make arrests and seizures.

I have serious reservations about permitting military personnel to detain American citizens, or to seize property believed stolen or illicit. The Armed Services Committee's language would mark a significant departure from long years of practice under the Posse Comitatus Act. Now, military personnel can be used in a riot situation, if they are called for by the President. I am reluctant to approve of the injection of military personnel into confrontational situations with American citizens in criminal investigations.

Military personnel are not fully trained in techniques of physically detaining criminals. More importantly, their ignorance of laws governing the proper conduct of searches and seizures might inadvertently present the basis for a legal challenge to Government prosecution. An improper action by military personnel during an arrest

might enable a drug smuggler to be freed on a technical, unnecessary point of law.

The Judiciary Committee's version of section 908 goes further than the Senate language in this matter. It permits military personnel to operate and maintain, and assist in the operation and maintenance of, military equipment best cared for by experts. It enhances cooperation between civilian law enforcement agencies and the military. It specifically stipulates that military personnel be allowed to provide such assistance only in enforcement of the Controlled Substance Act, or the Controlled Substance Import Act.

We need better enforcement of our drug laws. The terrible drug epidemic in our country begins with ruthless, heartless, profiteering criminals who have been able to flaunt our efforts to end their cruel trade. We must also preserve the traditional American concern for the operation of the Armed Forces in civilian affairs. I believe that the language offered by the Judiciary Committee best preserves this delicate balance.

Mr. McCLORY. Mr. Chairman, first of all, I want to commend the gentleman from Michigan (Mr. SAWYER), likewise the gentleman from New Jersey (Mr. HUGHES), for their very clear articulation of the posse comitatus provisions in this bill which the Committee on the Judiciary gave very thoughtful study to.

I might say that in addition to the elaborate explanation which was given by my colleague from Michigan, I think we should recall also a tradition in our country of a demand for a separation of the civilian authority from the military authority. In the consideration of the Department of Defense authorization bill we want to be very wary of compromising that tradition in any way while at the same time we want to utilize to the maximum possible the existing facilities, personnel, and authority which the various elements of the military have which can help us, particularly in the drive against drug traffickers.

Mr. Chairman, I rise in support of the provision in the bill as recommended by the Committee on the Judiciary and there should be no dispute in this body about the need for legislative action in order to promote cooperation between the military and civilian law enforcement authorities, particularly in the areas of greatest need, drug trafficking, smuggling and illegal immigration. This Posse Comitatus Act, which was enacted during the period of reconstruction to meet the unique problems of that time, has been a source of confusion about what sorts of assistance and military support may be provided to the civilian law enforcement authorities.

Commonsense tells us that there should be no impediment to the military sharing intelligence about criminal activity that they gather in the routine course of military operations. Furthermore, they should be able to share equipment and base facilities and provide training where it does not interfere with their primary mission, the defense of the United States.

Yet the criminal penalties provided in the act and the prospect that it might be used as a technicality for excluding evidence in a criminal trial which has been alluded to here a few moments ago, should not in any way limit their cooperation.

I believe we should carefully delineate the limits of military intervention in civilian law enforcement and that is precisely what the Committee on the Judiciary has undertaken to do. We do not want the military having a hands-on arrest of persons who are suspected of any of these offenses in which this new provision in the law would be directed and utilized.

On the other hand, if we are going to make an offer of equipment, a viable one, we must include some authority which would permit the operation and maintenance of the equipment by military personnel, which this would do.

I agree with my colleagues from both sides of the Committee on Armed Services and the Committee on the Judiciary who have been urging a prompt and strong response to the problem of drug trafficking and I think we are responding to that effectively through this provision as the amendment to the Committee on the Judiciary proposes.

So I hope that there can be general agreement on this. I think we can get maximum support from the military in these areas where we are trying to get it without running the risk of jeopardizing trials or without in any way violating the distinction, the separation of military from civilian authority, which we have respected traditionally in our country.

Mr. DICKINSON. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Alabama.

Mr. DICKINSON. I thank the gentleman for yielding.

I am not sure that I understand the scope of what we are doing here. It was my understanding that this was directed at drug enforcement.

Mr. McCLORY. All that the Committee on the Judiciary is suggesting in the amendment is that the military do not participate in actual arrests or in actual seizures.

Mr. DICKINSON. I understood that.

Mr. McCLORY. Those were to be deferred to the civilian law enforcement.

Mr. DICKINSON. I understood that. Is it the gentleman's understanding of the amendment that will be offered that it will be broad enough to assist in illegal immigration, also?

Mr. McCLORY. I would think so, in any appropriate law enforcement capacity. I do not think it is limited in the words of the amendment to the drug enforcement.

Mr. SAWYER. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Michigan.

Mr. SAWYER. The only point which is limited to drug enforcement is the point of the use of equipment and participation in the operation of it by the military personnel. In all other areas it applies to law enforcement generally.

Mr. McCLORY. I thank the gentleman for that clarification.

Mr. HUGHES. Mr. Chairman, I yield 7 minutes to the gentleman from Texas (Mr. WHITE).

Mr. WHITE. Mr. Chairman, I join in the purpose of the gentleman from Florida (Mr. BENNETT) to help stamp out violations of the Controlled Substances Act and Controlled Substances Import and Export Act to help wipe out the scourge of illicit narcotics.

In trying to do so, we must not do harm to the enforcement effort of our defenses. The amendment which I placed on the Speaker's desk and the one that I have worked out with the Judiciary Subcommittee chairman and it is my understanding that the minority side has worked out too, and with the legislative counsel, will help fight narcotics and not hurt defenses or other efforts.

This amendment I will read in part:

> The Secretary of Defense, upon request * * * to enforce the Controlled Substances Act or the Controlled Substances Import and Export Act may assign personnel of the Department of Defense to operate and maintain or assist in operating and maintaining equipment made available under Section 372 * * * with respect to any violation of either such Act.
>
> No equipment * * * may be operated in the land area of the United States * * * except * * * for monitoring and communicating the movement of air and sea traffic, or is entering or leaving the land area of the United States, or any possession or territory of the United States incidental to a mission assigned to be accomplished only outside such area.

I skipped a few lines, but that is in essence what it does.

□ 1345

So in effect, defense personnel could track, monitor and communicate the movement of air and sea traffic with defense equipment, such as ships, planes, radar, and other surveillance equipment and could be used in hot pursuit thereof.

The ships and aircraft could transport enforcement personnel, who would make any searches and seizures.

The difference between this approach and that of the approach of

the gentleman from Florida (Mr. BENNETT) is that the gentleman from Florida (Mr. BENNETT) would allow use only of military personnel, but not civilian personnel in the Defense Department, because the gentleman's amendment reads, "May assign members of the Army and Navy, Air Force and Marine Corps," and would only allow military personnel, but not civilian personnel.

It would allow military to search and seize anywhere in this country, which is a misuse, I say, of our military personnel.

It would allow these military personnel, whether in uniform or not, to make searches and seizures.

Now, this use of military personnel is a universal departure in narcotics search and seizure and will be detrimental to the best interests of our defense and narcotics control.

It makes possible the use of untrained military personnel to engage in the dangerous acts of searches and seizures.

It is possible that they will not have the special training in law enforcement, which will mean some of them will be killed. Lawsuits will arise needlessly which would not happen as much with professional law officers, and convictions could become more difficult, as has already been said, with untrained apprehenders.

They may not have language skills, which could endanger their lives in a close situation on the border. I live on the border and I know over the years historically what has happened on the border in law enforcement and how dangerous it can be.

My amendment would preclude border incidents, but the language of the gentleman from Florida (Mr. BENNETT) will expose military personnel directly in international incidents.

The mere presence of uniformed troops on an unguarded border, traditionally unguarded, will raise severe international protests.

Shots will be fired, and if fired by uniformed troops, a terrible incident will arise.

Our manning numbers are based on our military needs, not on law enforcement needs, so we would have to be changing our manning needs. We are having a difficult enough time filling our ranks of the military.

A budget searching administration might use troops and cut back customs and border patrol tables with an erosion of surveillance and narcotics control. In other words, you may have less control than you would have before.

Therefore, rather than get more control with the language of the gentleman from Florida (Mr. BENNETT), as I said, we could get less. We could get less defense and more needless casualties in the military and some severe international embarrassment.

The language of the amendment I have presented to the desk and will introduce as we go forward in the amending process to the amendment of the gentleman from Florida (Mr. BENNETT) will allow the Defense Department to do what it can do best in operating its equipment, ships, planes, and surveillance equipment to track, monitor, and communicate the movements of suspected violators, for the professionals trained to search, seize and apprehend, without the bad results I outlined, without casualties to the military, the drain on our military purpose, the lawsuits and the international incidents.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. WHITE. Yes, I yield to the gentleman from Michigan.

Mr. CONYERS. I appreciate the gentleman's description between the two versions that are up for our consideration tomorrow. Under the Judiciary-submitted version which the gentleman has indicated his support for, apparently the military where they are involved in posse comitatus would not be able to effect arrests.

Mr. WHITE. Under the version that the Judiciary and I have worked out as compromise language, they could not effectuate arrests and should not effectuate arrests.

Mr. CONYERS. So if they come across the possession of drugs or violations of the Federal code, they would not be able to arrest.

Mr. WHITE. Any time troops are used in this manner at a request through the Secretary of Defense, they would be accompanied, obviously, with law enforcement officers or whatever agency is involved; so they would be available to make whatever arrests were needed. These troops should be used to operate equipment, to monitor, and survey and not to go in and try to apprehend, because as has been said, with military personnel arresting we will not get as many convictions and will experience casualties and have other kinds of problems.

Mr. CONYERS. Well, the gentleman is making more sense than a lot of the discussion I have heard previously about it.

Now, who would these Federal arresting authorities be, for example?

Mr. WHITE. Well, it could be the DEA on narcotics. It could be the Customs Service, whoever it happened to be. Sometimes, as the gentleman well knows, the border patrol sometimes helps Customs; but it would probably be Customs and DEA principally.

Mr. CONYERS. So this amendment, in other words, is facilitating military equipment to effect drug arrests?

Mr. WHITE. This is what the drug enforcement officers now lack the most, the equipment and the surveillance and sometimes the trained operators to use that equipment. That is what we are trying to provide.

The gentleman from Florida (Mr. BENNETT) is correct in trying to use the facilities; but I say the gentleman is not correct in exposing troops to dangers and exposing troops to conditions which will lead to less arrests and less convictions.

Mr. HUGHES. Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. ZEFERETTI).

Mr. ZEFERETTI. Mr. Chairman, I rise to address one of the most serious problems threatening the security of our Nation and the health and well-being of our citizens—drug trafficking. Drug trafficking in the United States today has become a $60 to $70 billion a year illicit industry. The massive trade in narcotics and other dangerous substances undermines legitimate enterprise, contributes substantially to the increased crime and violence gripping our country and brings misery and suffering to millions of Americans caught in the web of drug addiction and abuse.

Against this background, I commend our colleague, the gentleman from Florida (Mr. BENNETT), for his strong efforts to include in this legislation much needed authority for the military to assist civilian enforcement of our drug laws. As chairman of the Select Committee on Narcotics Abuse and Control, I am all too aware that resources available to our civilian law enforcement agencies are simply inadequate to stem the flood of illicit drugs inundating our country. Time and time again, Federal, State, and local law enforcement officials have testified before our committee that they lack the resources to make an appreciable impact on the multibillion dollar drug trade. The profits generated by drug smuggling are so enormous that traffickers can buy the latest boats, aircraft, electronic devices, and weapons. They are often better equipped than the civilian law enforcement agencies that must try to stop them.

Nowhere is this problem more severe than in the gentleman's State of Florida. Because of its long coast line and proximity to South American drug sources, Florida has become a favorite target for drug smugglers and the gateway for most of the marihuana and cocaine entering the United States.

The legislation proposed by the gentleman, however, offers the House the opportunity to help our law enforcement officials even the odds against narcotics traffickers. I sincerely appreciate the gentleman's efforts in bringing this issue to the forefront of attention in the House. The provisions in the gentleman's proposal for military assistance to civilian law enforcement officials in the form of information

collected during the normal course of military operations, use of military equipment and facilities, training and technical advice will address the imbalance these officials currently face and provide them help in the areas where they need it most. Many of the law enforcement witnesses who appeared before our committee have testified that their interdiction efforts could be enhanced significantly if the military services could provide indirect support such as equipment and information on the location and movement of suspected trafficking vessels and aircraft.

The military currently provides some assistance in these areas to civilian law enforcement officials on a case-by-case basis. Efforts to improve such cooperation have been impeded, however, by the Posse Comitatus Act which prohibits the use of the military to enforce the civil laws. Unclear court interpretations of that act have made military commanders reluctant to assist civilian law enforcement officials even when such aid would be permissable. The provisions of the Bennett amendment that I have discussed would not change existing law but would remove the uncertainties that have hindered military support for drug enforcement efforts in the past. This legislative clarification of congressional intent would encourage increased military assistance for drug law enforcement, provided that such aid does not impair the military preparedness of the United States.

Despite the much needed clarification that the gentleman's amendment would provide, I cannot support the additional authority it includes for members of the Armed Forces to assist Federal drug enforcement officials in drug seizures and arrests. This authority represents a clear departure from the fundamental principal embodied in the Posse Comitatus Act that military force should not be used to enforce the laws against civilians. Such authority, even with the restrictions on its use contained in the bill, should not be granted absent a clear showing that it is required by extraordinary circumstances. None of the testimony received by our committee, however, indicates that law enforcement personnel feel this authority is needed. To the contrary, many civilian law enforcement officials have expressed the view that authority for the military to assist in drug seizures and arrests could jeopardize convictions because military personnel lack experience in the constitutional requirements of civil law enforcement and the proper handling of evidence.

For these reasons, I endorse the amendment recommended by the Judiciary Committee with the perfecting amendment to be offered by the gentleman from Texas (Mr. WHITE). This proposal also permits the military to provide intelligence, equipment, training, and technical advice to civilian law enforcement authorities provided military preparedness is not adversely affected. It specifically prohibits, however, the direct participation of military personnel in searches, arrests, seizures or other similar activities, unless otherwise authorized by law. Rather, the proposal authorizes military personnel to operate and maintain equipment made available to Federal civilian drug law enforcement officials, provided the operation of such equipment occurs outside the United States. This geographical restriction would not apply in certain limited circumstances. For example, military personnel could operate equipment used to monitor and communicate movements of air and sea traffic, even if such equipment is located in the United States.

I believe the alternative proposed by the Judiciary Committee, with the amendment to be offered by the gentleman from Texas (Mr. WHITE), represents a better approach than the Armed Services Committee provision. The alternative authorizes assistance where it is genuinely needed by drug enforcement agencies—the operation of radar and related equipment—while maintaining careful limits on the involvement of military personnel in civilian law enforcement operations. I urge the House to approve his alternative so that the resources of the military can be brought to bear in fighting the critical problem of drug trafficking.

Mr. CONYERS. Mr. Chairman, will the gentleman yield at that point?

Mr. ZEFERETTI. Yes, I will.

Mr. CONYERS. I appreciate the gentleman's concern about the subject of narcotics and I know the gentleman has done a great deal of work on it.

Has it occurred to the gentleman that we might put more money into DEA's budget, rather than dragoon the entire national defense network into this kind of operation? I mean, to put it mildly, this seems to be a little bit backward in terms of approaching the problem. We want to loan them some equipment, but we do not want to give them the right to arrest, for which I am very grateful; but we now have a dilemma. Why do we not just give the DEA the equipment they need and let it go at that?

Mr. ZEFERETTI. I agree with the gentleman that the appropriation should be met for DEA to do a more effective job, along with the Customs division and along with the Coast Guard division; but this is just an auxiliary effort beyond that point.

Mr. CONYERS. Well, wait a minute. We cut the DEA's budget.

Mr. ZEFERETTI. Let me finish my statement. To bring into focus the kind of equipment necessary for these very agencies to do an effective job—if, in fact, we have the type of radar surveillance, the type of technical equipment that could bring a better kind of effort into this whole area—then we should use every effort, whether it be just appropriating dollars to do it, or whether we should have the equipment that is already in place in our coastal areas to provide that kind of assistance to local law enforcement agencies.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. ZEFERETTI. I yield to the gentleman from New Jersey.

Mr. HUGHES. I thank the gentleman for yielding.

The gentleman is absolutely right. As a matter of fact, as my colleague I am sure knows, we did add back $3.2 million to the drug enforcement budget, as my colleague knows, in the area of task force operations and drug diversion, that is the diversion of licit drugs into the illegal market and for training purposes. Even though in my judgment that is not enough, but in these austere times it certainly was a major effort to put money back into the budget for drug enforcement; but the fact remains that we need to use whatever tools are reasonably available, posse comitatus or a modification of it as we propose as a reasonable tool and still maintain that delicate balance, as the gentleman has well said, between the military role and the civilian role in law enforcement.

Mr. ZEFERETTI. I think a very, very important fact here is that these things are already in place. The use of the kind of technical equipment that could aid in our effort to combat drugs is one that we should use.

The CHAIRMAN. The time of the gentleman from New York (Mr. ZEFERETTI) has expired.

Mr. HUGHES. Mr. Chairman, I yield 1 additional minute to the gentleman from New York.

Mr. ZEFERETTI. Mr. Chairman, I would just like to briefly yield to the ranking member of the Select Committee on Drugs, the gentleman from Illinois (Mr. RAILSBACK).

Mr. RAILSBACK. Mr. Chairman, I thank the chairman of the Select Narcotics Committee for yielding.

The point that I wanted to make has I think been made by the gentleman in the well.

The gentleman from Michigan raises a very good point and that is that we in addition to doing what we are doing by this legislation, which I think is enormously important and vital, we clearly in the past in the U.S. Congress and in the executive branch under either a Democratic or Republican President, we have not recognized how poorly equipped particularly our drug fighters have been.

By doing what the gentleman suggests and by adopting this amend-

ment, or either by supporting the Armed Services Committee, in any event, whichever one we adopt, the amendment we are recommending, we are going to help enormously by providing some very sophisticated intelligence equipment that frankly for the DEA to duplicate would be virtually impossible. We could not afford it.

Mr. SAWYER. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois (Mr. RAILSBACK).

Mr. RAILSBACK. Mr. Chairman, I want to begin by commending the gentleman from Florida (Mr. BENNETT), who I think has served us all well by his efforts to provide military assistance to a rather beleaguered law enforcement agency; however, I do feel that as well motivated and as well meaning as the section that the gentleman provided in the armed services bill is, I feel that the amendment that will be offerred, as I understand it, by the gentleman from Texas (Mr. WHITE), which is strongly supported by the Judiciary Committee, is a little bit preferable.

I feel that way because there traditionally has been a distinction or a separation between military and civilian spheres of activity. I happen to be the ranking minority member on the Select Committee on Narcotics Abuse and Control. I have had a chance to participate in many hearings in which law enforcement witnesses have testified that their drug interdiction efforts along our borders would be greatly enhanced if the military could provide indirect assistance, such as information on the location and movement of vessels and aircraft used by drug traffickers.

As the chairman of the Committee on Narcotics said, the availability of the illicit drugs in our society has reached epidemic proportions. Our drug law enforcement agencies are simply incapable of stopping the flow of drugs with their very limited resources to purchase, among other things, radar or tracking devices or other sophisticated electronic equipment.

I give the Armed Forces Committee a great deal of credit for recognizing that maybe one of the most constructive things we could do this session in doing something about this monumental problem of drug abuse is to provide some much needed intelligence equipment, sophisticated tracking devices, to let our law enforcement people, like it could be the Coast Guard, it could be the Drug Enforcement Administration, it could be the Customs people, any of them that are involved; now I understand that even the FBI is going to become involved in the drug fighting effort; but in my opinion we would be well advised to adopt this amendment which really carries forward with the thrust of what the Armed Services Committee was attempting to do, that is to provide this much needed assistance.

I would urge my colleagues to vote for the amendment that will be offered by the gentleman from Texas; at the same time, as I have said, I do thank and commend the Committee on Armed Services for the work they have done.

Mr. HUGHES. Mr. Chairman, I yield 3 minutes to the gentleman from Georgia (Mr. EVANS).

Mr. EVANS of Georgia. Mr. Chairman, the proposals before us are proposals that I have been working on for the past couple years in hearings and this year on February 24 when I introduced the original posse comitatus legislation, H.R. 1806.

I am here supporting the Hughes version, to be amended by the White version of this legislation, primarily because in my statement to my colleagues I made the statement that I want to make it perfectly clear that the bill would not permit the armed services to become directly involved in civilian law enforcement activities, such as narcotics seizures or arrests.

I am pleased at the type of interest that this legislation is now invoking on the membership. The concept that I support is one that encourages and allows the taxpayers of this Nation to know that the Federal Government is making the most of their hard-earned money through already available resources in dealing with the drug trafficking problem.

The posse comitatus bill will simply allow for the healthy sharing of equipment, personnel, information, and expertise in the effort to prevent illegal drugs from readily flowing into this country.

As a member of the Select Committee on Narcotics Abuse and Control for the past 4 years, I have become increasingly aware that we are not using our available resources. I chaired hearings on drug trafficking in the State of Georgia where we heard unanimously from all law enforcement officials that an amendment to this law would be the single most important piece of legislation that we in Congress could enact in assisting them in their drug enforcement efforts.

Smugglers have highly sophisticated equipment and unlimited funds with which to avoid falling into the hands of the law. We cannot afford to match the kind of money that they have available to them. They have the latest equipment, the latest and fastest boats, aircraft, and weapons. We simply must be able to utilize some of the surveillance equipment from our military which has been bought and paid for by the taxpayers of this country in order to compete. The use of radar equipment along the territorial waters of the United States is imperative.

I assure all my colleagues that there is tremendous interest in this legislation nationwide. Many organizations have endorsed this concept. Law enforcement officials support it. The Department of Defense supports it. The Department of Justice and the thousands of people across the country that have formed what we have come to term "parents groups for drug-free youth" want it.

I urge you to vote for this version of this legislation.

The CHAIRMAN. The time of the gentleman from Georgia (Mr. EVANS) has expired.

Mr. HUGHES. Mr. Chairman, I yield 30 additional seconds to the gentleman from Georgia.

Will the gentleman yield to me?

Mr. EVANS of Georgia. Yes, I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Chairman, I just want to take a few seconds to commend the gentleman from Georgia. The gentleman has been a leader in this whole area now for a number of years. I know the gentleman has been particularly interested in the problems that have been created in the field by the posse comitatus law and I congratulate the gentleman for all the work that has been done. We appreciate the gentleman's support.

Mr. EVANS of Georgia. I thank the gentleman.

□ 1400

Mr. SAWYER. Mr. Chairman, I yield 3 minutes to the gentleman from Arkansas (Mr. BETHUNE).

Mr. BETHUNE. Mr. Chairman, I am not a member of either of these subcommittees. I just happened onto the floor and heard part of the debate today. I was interested in the issue because, as many of you know, I spent 4 years as a special agent of the FBI. I have been a prosecuting attorney. I have some experience in the criminal process in this country so I was naturally intrigued by the debate.

As I understand it, the chairman of the subcommittee offers a proposition which would permit the use of military personnel even to include arrest and search and seizure. Is that correct?

Mr. BENNETT. Mr. Chairman, will the gentleman yield?

Mr. BETHUNE. I yield to the gentleman from Florida.

Mr. BENNETT. I thank the gentleman for yielding. I am chairman of a subcommittee but not on drug enforcement. My amendment would allow the use of military personnel even in seizure.

Mr. BETHUNE. Whereas the competing proposition would not permit the military personnel to be used in the instance of search and seizure or in the instance of arrest but would permit them to be used upon request

for the operation of the equipment or for other purposes, I assume.

Mr. HUGHES. Will the gentleman yield to me?

Mr. BETHUNE. I yield to the gentleman from New Jersey.

Mr. HUGHES. I thank the gentleman for yielding. That is correct.

Mr. SAWYER. Will the gentleman yield?

Mr. BETHUNE. I yield to the gentleman from Michigan.

Mr. SAWYER. That is correct. It is the essential difference between the two.

Mr. BETHUNE. I have a series of questions, and it will just take a couple of minutes to roll them out and frame the issue of the concern I have. Perhaps then those of you who worked closely on it could just give some answers to the concerns of an objective bystander. That is, how much assistance can be requested? Who decides how much assistance can be given to civilian authorities? Who decides the parameters of that? What equipment? The priority that will be assigned to the investigation? Then the important question I have is, How are you going to separate this—and I say this as a former investigator who has been out there in the heat of an arrest or investigation. How do you, as a practical matter, separate these functions so that somebody can do just about everything that might be necessary but he cannot search or seize, and he cannot make an arrest, but he can be as close to the investigation in all other respects as one can be? I know it is very difficult to separate those functions.

Let me just finish this point, and then I would like to have an answer. One thing that we do in the process of trying to analyze an issue that involves the criminal justice system is ask ourselves what is our ultimate objective, and it is helpful to think about these issues clearly to set up a couple of models.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SAWYER. I yield 1 additional minute to the gentleman from Arkansas (Mr. BETHUNE).

Mr. BETHUNE. I thank the gentleman. At one far extreme we would say that our goal is to control crime. Others might say, no, our absolute objective is to afford due process. We always as we try to reach for one another I think try to come down somewhere in the middle as we weigh these respective interests. I think it is important that we do that here. But if our goal is to control crime, I would argue then we ought to get on with it, and we ought to allocate as much of the military as we need to this particular endeavor. So in that instance the chairman's amendment, it seems to me, is the more correct amendment because that is what we are trying to do, is it not in fact, to stop drug traffic? But on the other hand, if we are concerned about some other issues, then maybe we ought to back down a notch or two. I would just ask this question: If we are going to make any move whatsoever in this regard, then we need to ask ourselves what we are doing with respect to the parameters of the authority that will be granted, because for 100 years or more we have had this rule of law, and to throw it away very quickly it seems to me would be a little reckless.

The CHAIRMAN. The time of the gentleman from Arkansas (Mr. BETHUNE) has expired.

Mr. HUGHES. I would yield 2 minutes to the gentleman so I may try to respond.

If the gentleman will yield, I just want to compliment him for being a bystander. He has certainly grasped the nub of the concerns we have had in the Committee on the Judiciary. Incidentally, our committee is the only committee that had any hearings and took any testimony. Frankly, we came down thusly: We believe the posse comitatus law has served this country well over the years and that as we modify it, we should do it very carefully and only as the public interest requires. That seems to be the approach of the Department of Justice and, I might say, the Department of Defense, which does not support the approach of giving the military the authority to arrest and seize if a law enforcement agency sought the authority. They have the manpower to make arrests and seizure. They are fearful they are not trained, and, if anything, it could be counterproductive. Who determines priorities? The Secretary of Defense does.

Very specifically, in the bill the Secretary of Defense makes the decision.

Mr. BETHUNE. My question is, Could he turn out the whole Atlantic Fleet? A division in the State of Florida? The Marines? What are the limits? Is that written into the bill?

Mr. HUGHES. The Secretary of Defense makes the decision. He has to decide, first of all, whether it would be inconsistent with the primary mission, the military mission. Second of all, the first three sections of the bill in effect are just a codification of existing practice: The sharing of intelligence information, the sharing of equipment, base facilities for staging, the sharing of research. All that is just a codification. The only section that represents a departure is section 375 dealing with equipment. It does not make sense to provide use under 375 and not provide an operator for a sophisticated piece of equipment.

Section 375 is crafted so that it only takes care of existing need. The only need is for the law enforcement agencies dealing with drug operations from time to time to borrow equipment and have the manpower to operate that equipment. We have minimized the exposure of the military to an arrest or confrontation situation to those instances where DEA or the Coast Guard does not have the equipment to respond to an emergency drug investigation.

The CHAIRMAN. The time of the gentleman from Arkansas (Mr. BETHUNE) has expired.

Mr. HUGHES. I yield 30 additional seconds to the gentleman.

Would the gentleman yield further?

Mr. BETHUNE. I yield to the gentleman from New Jersey.

Mr. HUGHES. Insofar as priorities, that is determined by the Secretary of Defense. In fact, the Secretary of Defense by regulation promulgates rules under which this equipment will be offered. So I believe that is a response to the gentleman's concern. We share his concerns. The reason the bill is drafted as it is is because we have tried to maintain that delicate balance and provide for its need.

Mr. BETHUNE. I thank the gentleman for the explanation. I am still concerned that we have a situation where we are authorizing the military to do everything except the technicality of arrest or the technicality of search and seizure. That is a pretty fine distinction.

Mr. SAWYER. Mr. Chairman, I yield 6 minutes to the gentleman from Florida (Mr. SHAW).

Mr. SHAW. Mr. Chairman, I think some points have been raised in this House this afternoon that perhaps we should dwell on for a few moments. I think that the last point the gentleman from Arkansas (Mr. BETHUNE) was making is a distinction on which we are, if the gentleman from New Jersey's amendment is the one that is ultimately passed, going to come back with additional hearings. I would like to compliment the gentleman from New Jersey (Mr. HUGHES) and the gentleman from my home State of Florida (Mr. BENNETT) for doing an excellent job in bringing something to this floor that is long overdue. That is, exactly what type of commitment is this country going to have to the eradication of the drug business in this country?

We have today in Florida alone a $7 billion industry that is out of control and is illegally bringing drugs into my own home State of Florida at will. Yet we are tying the hands of the U.S. Government behind its back in saying that the sophisticated equipment and personnel cannot be used in that war. I would parallel this with a city that had the finest fire department and refused to call them out in time of a fire.

The question has been raised as to putting more money into the DEA with regard to this particular problem, but there is so much money out there that is being made on illegal drugs

that we need a total commitment by this country. I personally favor a greater involvement with regard to the personnel and involving such things as allowing search and seizure and allowing arrest outside of the territorial United States.

But I do know that we are going against the policy that has been long standing in this country—and I can well understand and support a good slow policy in terms of posse comitatus and the eradication of the provisions that have been on the books for so long.

I am also confident that if the bill passes that would prohibit such involvement by the military personnel, it is going to be the subject of additional discussion and additional hearings.

So based upon that, I could gladly support, vigorously support, either one of the amendments we have.

The question of States' rights came up early in the discussion. The gentleman from Michigan brought it up, and I can understand the concern that somehow this matter seems to be somewhat inconsistent with States' rights. But I can tell you, as someone who is very much in favor of allowing those States to do for themselves what they can do, as a three-term mayor of the city of Fort Lauderdale, Fla., that local government and State government are totally—totally—unable to handle this problem, and they have not been able to make any dents in it.

I know also that the whole city of Detroit, Mich.—and personally I am acquainted with Coleman Young—has these problems, and that there are certain problems that need a Federal commitment.

So I would urge the passage of either one of these amendments. It is time that we do face the problem, do face the situation with which our country is faced.

I commend both the gentleman from Florida (Mr. BENNETT) and the gentleman from New Jersey (Mr. HUGHES) for two excellent amendments, one of which I think from listening to the debate today is certainly going to pass. I can tell you that I hope this is the first step only in a long line of legislation that this Government is going to pass and which has got to be passed if we are going to win the fight against the rising drug problems here in this country.

Ms. FIEDLER. Mr. Chairman, will the gentleman yield?

Mr. SHAW. I yield to the gentlewoman from California.

Ms. FIEDLER. I thank the gentleman for yielding. I am in support of some of the statements he has just made, and I think he has hit the nail on the head as far as concentrating on the issue of trying to eradicate the drug smuggling going on.

I would like to share a few facts with the Members. One is that we have 3 to 4 tons of heroin smuggled into this country every year worth about $9 billion. Out of that, only 300 pounds were taken by law-enforcement agents last year.

In the area of cocaine, we have 25 to 30 tons that come in—around $19 to $25 billion worth. Only 1,300 pounds have been taken, and so on the list goes. So in terms of law enforcement, we are working hard, but we are nowhere nearly as effective as we need to be. I wholeheartedly agree with the gentleman. We need to do everything we can and use every resource we have. It does not mean we have to violate anybody's rights, but we must utilize the resources we have to accomplish the end of this kind of crime, which I might add is primarily affecting the youth of this Nation.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. SHAW. I yield to the gentleman from New York.

Mr. GILMAN. I thank the gentleman for yielding.

Mr. Chairman, I want to associate myself with the remarks of the gentleman from Florida (Mr. SHAW). Our Select Committee on Narcotics has been continually trying to find effective methods for stemming the flow of illicit drugs into our country and in doing so is confronted with the overwhelming problems arising out of the difficult task of patrolling our vast coastlines and our extensive Mexican and Canadian borders. Our border and shoreline enforcement efforts lack adequate manpower, equipment, and the funds needed to effectively interdict the drug traffickers.

Our Coast Guard fleet, which is called upon to patrol the waters of the Caribbean and the Gulf of Mexico and our Pacific and Atlantic shores, does not have sufficient resources to properly fulfill this responsibility. The Navy could and should be utilized to assist the Coast Guard in its efforts to interdict the drug traffickers.

We have a vast resource of military aircraft and vessels that could be effectively utilized to help intercept the illicit flow of drugs.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SAWYER. I yield 1 additional minute to the gentleman from Florida (Mr. SHAW).

□ 1415

Mr. GILMAN. Mr. Chairman, if the gentleman will yield further, within our military there are available resources or equipment and manpower which should be used to assist our law enforcement efforts. It is for these reasons that I endorse the Judiciary Committee's amendment and I urge my colleagues to support that proposal which is a balanced measure that will help us effectively fight the battle against drugs, a battle that needs a great deal more attention and assistance.

This amendment will provide the kind of additional help that is so sorely needed by relaxing the provisions of the 100-year-old Posse Comitatus Act, which has limited the use of the military in civilian law enforcement efforts. The Judiciary Committee's version of this proposal provides for assistance by the military by utilizing military intelligence, equipment and manpower but does so without any division of the military's assigned mission of defense of our Nation.

Mr. BETHUNE. Mr. Chairman, will the gentleman yield?

Mr. SHAW. I yield to the gentleman from Arkansas.

Mr. BETHUNE. I thank the gentleman for yielding.

Mr. Chairman, I understand the concern of the gentleman, particularly since the gentleman represents a district in the State of Florida where this has been a real problem, and the gentleman serves on the committee.

I do not see this, necessarily, as a due process issue or the technicalities of an investigation.

The thing that concerns me here, of all that I have heard said, is the question of unbridled authority being delegated to the military, with no parameters on the extent to which they can be involved in civilian activities.

I have not heard much discussion about that, and yet we are getting ready to make an encroachment on a law of some 100 years standing.

The CHAIRMAN. The time of the gentleman from Florida (Mr. SHAW) has again expired.

Mr. SAWYER. Mr. Chairman, I yield 1 additional minute to the gentleman from Florida (Mr. SHAW).

Will the gentleman yield to me?

Mr. SHAW. I yield to the gentleman from Michigan.

Mr. SAWYER. Mr. Chairman, I may just say that we have given a lot of thought to that. In fact, the gentleman from New Jersey (Mr. HUGHES) and myself went down and held hearings in Florida on the problem. We are not giving unbridled authority to the military whatever. They can only act when requested by civilian law enforcement authorities. Then they can only act within the parameters of this act, namely, only in personnel, only providing equipment as requested, but then can only do so under the further limitations that are adopted in regulation form by the Secretary of Defense.

So they cannot just decide, as the gentleman suggested, to put a Marine division into Florida. They have got to only act when they are requested for assistance from a law enforcement agency, and then only within the parameters (a) of this act, which limits

participation of personnel to the operation and maintenance of equipment; and (b) within such further refinements as the regulations issued by the Secretary of Defense further impose.

The CHAIRMAN. The time of the gentleman from Florida (Mr. SHAW) has again expired.

Mr. BENNETT. Mr Chairman, will the gentleman yield 30 seconds to me?

Mr. SAWYER. I yield 30 seconds to the gentleman from Florida (Mr. BENNETT).

Mr. BENNETT. Mr. Chairman, I would just like to say that that is also true of the provision which I wrote in the Armed Services Committee; in other words, the ultimate control lies with civilians right on in the measure which came from the Armed Services Committee, as well as the Judiciary Committee.

The basic difference between the two, really, is the fact that a military person cannot make an arrest under their provision, and he could make an arrest under my provision; otherwise, the civilian control is always there with the whole thing in both cases.

The CHAIRMAN. The gentleman from New Jersey (Mr. HUGHES) has 1 minute remaining, and the gentleman from Michigan (Mr. SAWYER) has 4½ minutes remaining.

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Chairman, my concerns turn on the whole question of mixing the responsibilities and the role of the military government with the other very important role of prosecuting drug smugglers and criminals.

And it seems to me that under this bill dealing with a $200 billion operation, to now be allocating some portion of it to fight crime is probably inadvertently moving into the biggest miscarriage and misunderstanding of the role of the Defense Department and the role of the Federal and local criminal justice system that one can possibly imagine.

I think that it needs to be examined very, very carefully.

Now, unexplainably, there is nobody here supporting States' rights anymore. I want to explain to my colleagues that I did not mean that in the pejorative sense. The States and their governments have certain powers under the Constitution.

Mr. HUGHES. Mr. Chairman, will the gentleman from Michigan (Mr. SAWYER) yield 1 minute to me?

Mr. SAWYER. Yes, I will yield 1 minute to the gentleman from New Jersey.

Mr. HUGHES. I thank the gentleman for yielding.

Mr. Chairman, just in response to my colleague, the gentleman from Michigan, under the provisions of the bill any loaning of equipment or any loaning of personnel is reimbursable. It does not come out of the Department of Defense budget. We are not asking the Defense Department to use their amounts set aside for the military mission for law enforcement purposes.

All we are doing is, we are trying, first of all, to codify the existing practices relative to the sharing of intelligence, the sharing of base facilities, the sharing of research, and we have taken it one step further; they need equipment from time to time, but it is an empty gesture when you offer equipment and do not offer the manpower to operate the very sophisticated equipment, pure and simple, under strict guidelines.

I would urge my colleagues to support the Judiciary Committee version of the bill, a version that I would submit has been very well crafted, and I think it maintains a very delicate balance between the military and the civilian role in our society.

Mr. SAWYER. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I may say, on this States' rights bit, this has nothing whatever to do with States' rights. It is a Federal obligation to protect the shores of the United States from incoming either illegal contraband of any kind or enemies of any variety.

As a matter of fact, the State of Florida, down at our hearings there, very generally took the position, "My gosh, this whole mess we are in is a Federal problem. It is between your immigration policy, letting all of the Mirabel people come in, the Haitians come in; you are not protecting the coastline, the Coast Guard does not have equipment to do it; and the drug problem, in addition. You are not protecting our shores. You have 200 abandoned airfields here in the State that are accessible, we have 8,000 miles, or whatever it is, of coastline, and this is clearly a Federal problem."

It strikes me that it in no way is an intrusion on States' rights, and particularly with the amendment that is going to be offered by the gentleman from Florida.

The CHAIRMAN pro tempore (Mr. WEISS). The gentleman from Michigan (Mr. SAWYER) has 2½ minutes remaining.

Mr. SAWYER. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. HUNTER).

Mr. HUNTER. Mr. Chairman, I rise in support of Mr. BENNETT's position.

Mr. Chairman, there has been some concern expressed over the proposed mixing of the civilian and the military functions in stemming the international drug trade, and I think that the point that Congressman SHAW and the other gentleman from Florida made should be well taken, in that we are confronted by what is essentially a military operation being carried on by international drug traders. In my estimation—and I represent a San Diego district, which encompasses one of the large areas of traffic—a great deal of our incoming drugs are transported by air traffic.

In our situation in San Diego the loaning of the surveilling capacity by the military to the domestic sector would be a substantial step toward stemming the drug trade. But I think that in the areas where the trade is manifested in vessels, in ships, that we are not going to be able to effectively stop the trade unless the same people that surveil the incoming ships have the right to seize them. For that reason, I feel that the committee's language is superior.

Mr. SEIBERLING. Mr. Chairman, I rise in support of the Judiciary Committee amendment, and of the amendment which will be offered by the gentleman from Texas (Mr. WHITE).

I commend the gentleman from Florida (Mr. BENNETT) for his efforts to stem the dangerous flow of drugs into this country. I certainly share his concern. Nevertheless, I think that authorizing the use of military personnel in seizures and arrest in situations involving drug law violations would be a serious mistake.

For several years after the 1970 tragedy at Kent State University, which is in my congressional district, I attempted to draft legislation to deal with the use of the military in enforcing civilian law. While involved in that effort, I became acutely aware of the complexities and great difficulties that arise when military forces are used in civilian law enforcement.

This country operates under the longstanding principle that the military's chief role in civilian law enforcement is as a backup or emergency force. I think the Judiciary Committee's language limiting the use of military personnel to assistance in the operation and maintenance of military equipment is much more in keeping with this important tradition of civil-military separation.

The Judiciary Committee amendment permits the assistance necessary to help stem the growing traffic in drugs across our borders. The addition of the language to be offered by Representative WHITE further reduces the risks that exist when the military becomes involved in enforcing domestic law within our own borders. As the general counsel to the Department of Defense explained in a letter to Representative HUGHES:

> Because the likelihood of confrontation with the United States citizens is greatest within the United States, the legislation should make it clear that such direct participation is authorized only on an extraterritorial basis.

Mr. Chairman, the Los Angeles Times recently printed an article written by David Landau who is legislative

counsel to the American Civil Liberties Union in Washington. I have inserted the article, entitled "Will Military Invade Law Enforcement?" in the Extensions of Remarks. In the article, Mr. Landau points out some of the dangers involved in using the military to enforce civilian law. I urge my colleagues to read this article and to support the Judiciary Committee amendment and the White amendment.

Mr. CONYERS. Mr. Chairman, if the gentleman from Michigan will yield, I would appreciate it.

Mr. SAWYER. Mr. Chairman, I yield 1 minute to the gentleman from Michigan.

Mr. CONYERS. I thank my colleague, the gentleman from Michigan, for yielding.

Mr. Chairman, as I see it, there are three dimensions to this problem. One is the State law enforcement consideration; the other is the Federal consideration of Customs, Immigration, Treasury, the FBI, who already have a Federal presence and have a Federal responsibility, as my colleague, the gentleman from Michigan, has indicated; and now what we are introducing is the military.

Now, it would seem to me that we might more ably approach the problem of drug fighting by building up the Federal resources, of which there are at least half a dozen Federal resources, of which there are at least half a dozen Federal agencies already committed to this job.

It is going to raise a very interesting question about how much money in the military budget is going to go to drug fighting. This is a brandnew question among about 100 other questions in the Defense budget that I think is going to confuse it horribly.

Mr. SAWYER. Mr. Chairman, I yield myself the remaining one-half minute.

Mr. Chairman, I may say that the law enforcement agency requesting the military equipment is chargeable for the use of that equipment. It is no additional economic burden on the Defense Department whatever, but passed right on where it should be under the bill, namely, the law enforcement agency requesting the use of either the equipment or the personnel to operate it.

Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN pro tempore. The time of the gentleman from Michigan (Mr. SAWYER) has expired.

Mr. PRICE. Mr. Chairman, I yield 15 minutes to the gentleman from Virginia (Mr. DAN DANIEL), to explain the position of the Armed Services Committee on multiyear procurement.

Mr. DAN DANIEL. Mr. Chairman, when the House recessed on June 24, Members will recall we were in the midst of debating the merits of section 909 of the bill, and the Government Operations Committee's substitute.

The essential difference between the two was this: Section 909 will provide legislative authority for the Department of Defense to enter into contracts of more than 1 year's duration, providing the contracts met strict criteria, and subject to Armed Services Committee oversight and the annual appropriations process. The substitute would further restrict DOD by requiring pilot projects and congressional approval for each multiyear contract.

Do we need pilot projects in order to prove the worth of multiyear contracting? I think not—no more than we need a study to prove the Sun rose yesterday.

Multiyear contracting is no weird new thing. It has been tried. It has proved its effectiveness.

Let us take a few examples. Prior to the imposition of the $5 million cancellation ceiling, SLO-5 transmissions were purchased at a savings of 11 percent over single-year costs. The TOW and Shillelagh missiles realized an 11-percent savings on each contract. Those are respectable figures. In some areas, the percentage savings is spectacular.

The SSQ-23 sonar receiver chalked up a savings of 26 percent; the SLQ-25 transmitting set, a savings of 32 percent; and propellant oxygen liquid, resulted in a 37-percent savings.

Nor are all the examples preceiling ones. Earlier I reported on savings for ammunition for the A-10 and the B-52 power management system, the AN/ALQ-155.

Where were those who oppose section 909 when these contracts were negotiated and completed on time and at a savings? Would it have been better to not effect these savings while we awaited the plan which OFPP will prepare, and by which the chairman of the Government Operations Committee sets such store?

And still on that point how much longer must we wait? OFPP is supposed to present its findings to the Congress some time this fall. Assuming it is a perfect plan—and given Chairman BROOKS' concern about human error, we cannot necessarily make such an assumption—it must then be fed through the legislative process. Come October, gentlemen, we will have a proposal, not a procedure. A reasonable estimate for implementation is fiscal year 1984 at the earliest.

Yet in his letter of June 22 to several Members of the House, Mr. BROOKS readily conceded that there is widespread agreement that a carefully planned and managed multiyear project can achieve a significant savings. Then he goes on to say that nearly 10 years ago, the Commission on Government Procurement recommended that all executive agencies be authorized to enter into multiyear contracts. Ten years ago. The OFPP proposal is somewhere down the road. Why must we continue to wait to do what is almost universally agreed is appropriate?

Mr. BROOKS points out that there are inherent risks. Of course there are risks. But I believe this Congress is smart enough to minimize these risks while taking advantage of the virtues of multiyear procurement. Why, if risk—or its absence—were the only criterion for decisionmaking, we would not now be enjoying the wonders of ADP. The abacus would be our standard calculating device, and words would be processed on parchment with a goose quill.

During the discussion of this section on June 23, Congressman BROOKS makes the point that the issue is this:

> Who is going to be in control of these huge expenditures—these billions of dollars—that we are authorizing for defense: Congress or the Pentagon?

The answer to that is simple enough: Control will rest where it always has, in the Congress. Once a multiyear contract has been authorized, the Department of Defense must come back every year to report to the Committees on Armed Services and to request funding from the committees which appropriate the money. I can assure you that the Armed Services Committee, as mother to this child, is going to follow any proposed project through the life of the contract. And I feel certain that Mr. WHITTEN, Mr. ADDABBO, and Mr. EDWARDS will take very close looks at these appropriations requests, as will our colleagues in the other body.

Mr. BROOKS has stated that the Deputy Director of OMB testified in strong, unequivocal terms that the procurement provisions of H.R. 3519 should not be enacted. Yet in a letter to Mr. ADDABBO, this same Deputy Director, Mr. Edwin L. Harper, stated:

> We are currently working closely with the DOD to test fully the use of multiyear contracting authority in major weapons systems acquisitions along the lines recommended by the Commission on Government Procurement. We believe very strongly that the DOD should be allowed to test multiyear contracting commencing with their fiscal year 1982 program, in order to capitalize on their substantial planning efforts currently underway. We support a repeal of the present $5 million cancellation ceiling which restricts DOD's use of multiyear procurement (Public Law 94-106). This would permit a more meaningful test without requiring advance approval on a case-by-case basis.

DOD accounts for about 70 percent of the Federal Government's purchases. Their purchases, though, are different from those of other agencies in significant ways. If an agency of Government needs cars or trucks, GM, Ford, and Chrysler can compete for the contracts. Should it need paper, and it does consume paper in enor-

mous lots, Georgia-Pacific, Weyerhaeuser, and International Paper can be invited to bid. But you do not buy a tank off the shelf or a frigate or a fighter plane or a missile. Contracting for these items is a far more sophisticated process. If the plan proposed by OFPP, when finally adopted, meets the unique needs of DOD there is no reason why we cannot fold in multiyear contracting as proposed in that plan.

Nor does Mr. Harper leave any doubt in the reader's mind that OMB intends to give the Department of Defense blank-check authority. His letter continues:

> It is OMB's intent to maintain oversight of each candidate multiyear program. We are concerned with the specific safeguards to be used to comply with the Anti-Deficiency Act.

Moving along in his statement, Mr. BROOKS allows that we will be giving the Department of Defense $1.65 trillion over the next 5 years. That is a nightmare number. I confess I am not a mathematician, but I have a hard time even conceiving of how next year's $52 billion procurement item can rise in such a manner as to total that amount. It is, of course, impossible.

Let me remind you that we are not talking about turning over even $52 billion a year to DOD. We are not talking about half that figure. Every witness who has been before any committee which has held hearings on this subject has indicated there will be no more than 15 and probably as few as 5 major weapons systems at any one time for which multiyear contracting will be requested.

And right here I should add that approval of five multiyear contracts, each with a $100 million cancellation ceiling, does not mean that the Government is liable for a half billion dollars.

Ceilings are not a guaranteed payment. Contractors are only paid legitimate termination costs which they can prove they were forced to absorb as a result of the contract's termination or cancellation. Actually, termination costs usually range from 10 percent to 30 percent of the cancellation ceilings. Cancellation ceilings are not pulled out of the thin air, and they are not paid on the basis of anything other than supportable facts.

Mr. BROOKS is highly critical of DOD's performance and certainly it can be improved but that criticism produces a hollow ring when, on the one hand he berates the Department of Defense for inefficiency, and on the other ties them down with the chains of unnecessary requirements and regulation. We assign them certain responsibilities, then restrict their authority to act. Responsibility and authority must be indivisible, if we are to realize maximum production and efficiencies.

The Congress has demanded improvements in the acquisition process, and rightly so. Then, when the Department attempts to effect improvements, we say, "No, not yet; wait awhile longer." Or we say, "Do it differently, but do it as I say and when I say—but remember, if it doesn't work, it's your fat that's in the fire."

In a colleague letter received this morning, Mr. BROOKS and Mr. HORTON take issue with this section on several points. First, they imply that it is improper for the Department of Defense to set the criteria for multiyear procurement. The bill itself sets forth four conditions which the Secretary must meet in his findings in submitting justification for a multiyear contract. The contract must promote national security and result in reduced total costs. There must be a continuing requirement for the items to be purchased. There must be a low risk of contract cancellation and there must be a stable design where technical risks are not excessive. In our bill, I repeat, these findings are established. Under the Brooks proposal, they must only be considered. I should add here that in his June 6 communication to Mr. BROOKS, the Deputy Director of OMB is very specific in his views. He says,

> We would prefer that the detailed criteria and procedures for the use of multiyear contracts be included in the committee report rather than in the bill itself. This would leave no room for doubt as to Congress' intent, but would permit more administrative flexibility.

This recommendation, we believe, has been met.

Mr. BROOKS is also concerned about the lack of the word "competition." Section 909 states that it is in the interest of the Government to acquire property and services, and again I quote, "in the most timely, economic, and efficient manner" and further states that contracts should "provide for the purchase of property at times and in quantities that will result in reduced costs."

Now, if that's not a pretty good working definition of competition, I leave it to my colleagues to find one better. I do trust this debate will not degenerate to one of semantics.

If we are to see the goal of improved acquisition processes, then the Department of Defense must have maximum flexibility, consistent with sound business practices. This does not mean that we should shirk or even lessen our oversight responsibilities.

Under Secretary Carlucci has made improvements in the acquisition process a top priority at the Department of Defense. As a former businessman, I can tell you that I am impressed with the businesslike approach he and his associates are taking.

Multiyear procurement is not the be-all and end-all of defense contracting. It is a tool, and our committee thinks a useful one, for solving some special problems. What are these problems?

First and foremost there is instability in the procurement process. No company is going to bid on Government contracts when it does not know from 1 year to the next whether the contract will continue, or at what level. Far better, from a company's standpoint, to seek out and compete for commercial contracts, where price competitiveness is the only consideration, where it will not be plagued by paperwork.

Second, there are problems with long leadtime elements. These can be stocked—bought at the best price and worked into production as needed. This is no small consideration, either to the contractor, the agency, or the taxpayer. Leadtimes for components made from strategic minerals grow progressively worse. For titanium sheet and plate, it is 88 weeks; for aluminum forgings, it is some 118 weeks; for every strategic metal or mineral you can name, there is an accompanying horror story.

Then there is the lack of skilled personnel. In many crafts, there is or will be shortages, with or without increased defense production. Stable orders can provide the incentive to train the people who will be needed, not just for the defense industry, but for the entire economy.

And finally, there is the shrinking industrial base. Multiyear contracting can improve competition. A stable contract, encompassing several years, will beyond question serve to lure potential suppliers to bid on contracts and especially subcontracts. It has been reported to the panel which examined our defense industrial base last year that in just one construction program, the prior pool of 6,000 contractors shrunk to 1,500 in 1 year. Did these 4,500 companies just go out of business? It is not likely. What is likely is that they simply did not bid on defense business.

Multiyear contracting will not get us weapons systems at fire sale prices, but it can help to get us weapons systems in a timely manner at a price the taxpayer can and will support.

The committee has limited the authority to enter into multiyear contracts, as authorized in section 909 of the bill, to cases where funds are otherwise available for obligation. The committee adopted this language to make clear that section 909 does not, by itself, provide contract authority. Rather the authority to enter into contracts is provided subject to funds being available for obligation through other actions of the Congress or other provisions of law. In adopting this language, the committee did not intend to restrict the authority to enter into multiyear contracts solely to those

cases where funds are appropriated for that purpose. On the contrary, the committee envisions that funds could be available for obligation for a multiyear contract from, for example, annually made appropriations, including funds made available through reprograming or transfer; proceeds from sales of goods and services which under current provision of law would be available for obligation; and funds available for obligation in connection with foreign military sales.

The committee, in recommending section 909, does not believe that funding for the entire term of a multiyear contract is necessary. Under the defense acquisition procedures that have been in effect for many years, the Department of Defense does not fund items being purchased during all the program years covered by the multiyear contract. Rather DOD obligates funds under a contract for items being purchased during the first program year when the contract is entered into and subsequently funds items being purchased under the contract for each subsequent program year of procurement when those funds have been appropriated for that year. The Government is not obligated to pay the contractor for subsequent program years, nor is the contractor obligated to proceed for subsequent program years until the funds have been appropriated and the contractor has been advised that those funds are available for contract performance. Under section 909 that practice could continue. The committee expects that section 909, in conjunction with other applicable provisions of law, would allow the Department of Defense to enter into a contract which provides for the initial program year and for up to 5 program years with funds available for obligation in an amount sufficient only for the first year plus any termination liability provided for under the contract. The contract may include a cancellation ceiling, which would set a ceiling on those amounts that the Government would owe the contractor if subsequent program years are not ordered, that could be either funded or treated as a contingent liability.

This is consistent with the requirements of the Budget Act (Public Law 93-344).

□ 1430

The CHAIRMAN pro tempore. The time of the gentleman from Virginia has expired.

Mr. PRICE. Mr. Chairman, I yield 3 additional minutes to the gentleman from Virginia.

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. DAN DANIEL. I yield to the gentleman from New York.

Mr. STRATTON. Mr. Chairman, the gentleman pointed out that the amendment offered by the distinguished gentleman from Texas as a substitute for the provision that the gentleman from Virginia has offered, calls for pilot programs. Is it not the case that the Secretary of Defense has already very carefully analyzed those specific types of procurements which would be suitable for multiyear procurement, so if this legislation is adopted, will we not be proceeding on a cautious, careful, reasoned approach?

Mr. DAN DANIEL. Precisely. These types of contracts have been entered into for years. This is an attempt to expand their authority and to lift ceilings.

Mr. STRATTON. Have we not always had multiyear contracts in defense when it came to shipbuilding?

Mr. DAN DANIEL. Certainly, and not only that, the Department of Defense is the only Department of Government that has any restriction on its multiyear contracting authority. The authority of the Department of Defense to enter into multiyear contracting is restricted by the $5 million cancellation ceiling. If we are talking about being rational and standardized, then certainly this Department of Government, should be put on the same footing and allowed the same prerogative as the other Departments of Government.

Mr. STRATTON. And if I could ask the gentleman another question, is it not the case that every single expert on procurement and management science who appeared before the gentleman's subcommittee to tell us what was wrong with our defense mobilization base, said that the first thing we have got to do is to get multiyear contracting approved?

Mr. DAN DANIEL. It came up repeatedly in the hearings which we had last year on the defense industrial base, and without exception that statement was made. The Defense Science Board, as the gentleman knows, has been promoting this idea for years, and finally we come to the place when we decide to save the taxpayers some money, and lo and behold, we have a committee of our own Congress come up and say, "Let's wait awhile longer."

Mr. STRATTON. I certainly congratulate the gentleman. I think he is making some very profound statements, and I do hope that those of our colleagues who are not here on the floor today, those very few who are not on the floor at this time are at least listening on the television to his remarks, because I think they will find a lot more practical value and give a much better estimate of our current defense posture than they would get from looking at a recent CBS production, which I understand the gentleman from Texas (Mr. BROOKS) has been promoting very franticly these past few days to undercut the committee's position.

Mr. DAN DANIEL. I thank the gentleman from New York.

Mr. DICKINSON. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I would like to commend the gentleman from Virginia on the statement he has just made. It was a very well-reasoned and well-thought-out statement. I know that he has been a member of the panel that held the hearings on the defense industrial base. Here is a copy of our hearings on the capabilities of the U.S. defense industrial base.

As has been pointed out, it was said repeatedly from witnesses from all sectors of the economy that one of the things we must do if we are going to effect economies in our Defense Department is to go to multiyear procurement.

□ 1445

Mr. Chairman, I have been concerned for a number of years—and the record will bear me out—over the tremendous waste in the way in which we procure military equipment and weapons systems. There are two main reasons for waste in these procurements.

One is an arbitrary and false low-inflation estimate that is mandated by OMB to the Department of Defense that says, "You must contract based on this estimate as to inflation." It is always low and yet year after year we see the same thing happen. We appropriate money on what they say the need is. The need is based on what they say the inflation factor will be, and during that year they run out of money for procurement, so they simply stretch out the buy. Then it takes more time, the unit cost goes up, and we get less but pay more. That is the effect of it.

The other thing is that by not going to multiyear procurement, then we force contractors, subcontractors, and the lower tier of vendors to do everything on a year-by-year basis. They are afraid to make capital expenditures of any size. They are not sure that the contract is going to go forward the following year. They cannot hire people with any degree of assurance that the job is going to last 3, 4, or 5 years, and it is a year-to-year thing.

So as a result of our hearings, it came out loud and clear that among the benefits of multiyear contracting we would provide for larger quantity buys of material, which allows stockpiling of long leadtime items. We would encourage industry to develop the necessary manpower force to meet Government needs, we would reduce costs, we would make savings by better planning, we would reduce administrative costs, and we would increase price competition.

There are any number of reasons why we should go into this, and before the debate is over I will put part of the hearings into the RECORD. Until and unless we go into multiyear procurement, we will continue to waste taxpayers' dollars, and for the amount of money we do appropriate for defense we are going to be able to buy less.

It is a commonsense approach. It is an approach that is needed, and it is something that should have been done long ago.

The gentleman from Texas (Mr. BROOKS) says, "Well, we are going to a uniform procurement system or the administration is going to propose this, so let us wait and see." My answer to that and the answer of our committee is that whatever they want to do, at some point downstream—if and when they get to it, or if they can do it—it will supersede what we are doing here. That is not to say that we should not go forward with what we are attempting to do here, based on something that might occur in the future, and we do not know what that might be.

This idea of a uniform procurement system has been kicking around for at least 10 years, and it might be for another 10 years. But we are dealing with it here and now in this defense bill, and we are talking about the savings of millions of dollars and the broadening of our defense industrial base. We need to do this by giving some assurance and stability to the contractors, the subcontractors, and the other vendors that shows commonsense.

I am surprised that we do not already have this in place, and I am surprised that there is any resistance to it, because we do not propose to do anything that cannot be corrected or improved on later.

As has been pointed out, all we have done is to take the selected weapons systems and put the big money in weapons systems, and the Secretary of Defense will make a determination based on the four parameters the subcommittee chairman, the gentleman from Virginia (Mr. DAN DANIEL), just pointed out. Failure to do this will mean higher costs to the taxpayers.

The CHAIRMAN. The time of the gentleman from Alabama (Mr. DICKINSON) has expired.

Mr. PRICE. Mr. Chairman, in keeping with our understanding, I now yield to the Committee on Government Operations under the rule.

The CHAIRMAN. The gentleman from Texas (Mr. BROOKS) is recognized for 1 hour, and the gentleman from New York (Mr. HORTON) is recognized for 1 hour.

The Chair recognizes the gentleman from Texas (Mr. BROOKS).

Mr. BROOKS. Mr. Chairman, I yield myself such time as I may require.

Mr. Chairman, when we had this bill under discussion before the Fourth of July recess, I tried to make it clear that we were not here fighting with my beloved friends on the Armed Services Committee over a matter of jurisdiction, over how much we should be spending on defense, or what we should be buying. We are not even fighting over whether multiyear contracting is good or bad. We agree with the Armed Services Committee that the potential benefits from multiyear contracting are substantial enough that the Defense Department should be allowed to go ahead with it.

What we on the Committee on Government Operations are saying in the amendments we will be offering later is that since multiyear contracting also presents potential risks as well as potential benefits, the final decision on whether the gains outweigh the risks should be made by Congress, not by the Defense Department. We are saying that the decision to commit billions of dollars from the Federal Treasury over a period of years should be made by Congress on the basis of the best available information and not left to the Defense Department, with its long history of wasteful procurement practices, its close ties to the defense industry, and its heavy reliance on sole source contracts.

Just how much money are we talking about? We are talking about $1.635 trillion of your tax money over the next 5 years. It is hard to put that kind of figure in perspective. Let me give the Members a couple of comparisons. Let us compare this $1.635 trillion to the world's military budget for the last 30 years, which is $6.4 trillion, or let us compare this $1.635 trillion to the $1.3 trillion value of all the gold ever mined in the history of the world. Does that give you some idea of the magnitude of the American tax dollars we are talking about?

What this fight is all about is how much participation the U.S. Congress is going to have in spending that money. As reported by the Armed Services Committee, the bill before us grants blanket authority to the Defense Department to use multiyear contracting for acquiring major defense systems.

Let us understand what that means. It means that in 1 fiscal year the Defense Department can enter into a contract that calls for payments over the next 4 years, although the only money it has on hand is its appropriation for that fiscal year. You can see what I mean by the risk involved.

We are all aware of the heavy penalties that we have to pay in cost overruns due to the apparent inability of the Defense Department to calculate its future weapons costs with any degree of accuracy. We have a prime example of this right now in the Navy's F-18 aircraft, which is a candidate for multiyear contracting. When the project began, it was supposed to produce low-cost fighter planes costing about $5 million each. Now the cost is up to $25.6 million each, making the F-18 the most expensive fighter plane we have ever built—and it is not going to be able to fly as far, accelerate as fast, or carry as much of a payload as was originally planned. I hate to think of the problems that would have been caused by such explosive cost increases and performance changes if the Navy had been locked into a 5-year contract.

It is not just the future unknown cost of a weapons system that Congress is committed to by multiyear contracting; it is also committed to cancellation costs in case a contract is terminated before completion. Congress in the past has wisely set a $5 million limit on any cancellation clause that could be included in a multiyear contract.

The Armed Services Committee in this bill removes the ceiling entirely. It provides only that if the ceiling exceeds $100 million, the Defense Department must give the Armed Services and the Appropriations Committees 30 days' notice that a higher cancellation ceiling has been set. So what we are really talking about here is an open-ended cancellation clause that could amount to several hundred millions of dollars.

What I want to do is see that the Armed Services Committee takes a look at those multiyear contracts and those cancellation costs before it sends them to the Appropriations Committee and before they are acted upon. All I want to do is protect the jurisdictional authority of the Armed Services Committee, and I want them to exercise it. I do not want them to delegate it all to Caspar Weinberger over there in the Defense Department.

Now, this is how the Committee on Government Operations approaches the subject of multiyear contracting. We recognize at the outset that a limited number of weapons systems are going to lend themselves to multiyear contracting. So we say to the Secretary of Defense, "select some likely candidates, one or all of them," and he can submit them all under this amendment. We would put them through a rigorous cost-benefit analysis to determine just what savings can be realized from multiyear procurement. Surely any wise, semiprudent, semilucid, halfway responsible administrative officer would make a detailed cost benefit analysis before they would go into multiyear contracts, and I feel certain that the Defense Department would do that in their own shop anyway.

So they would send that to Congress and then include the projects they decide on in the annual authorization and appropriations request to the Congress, along with their supporting

analyses and the estimated cancellation ceilings.

We propose doing this on a year-to-year basis, and we would keep on doing it until both the Defense Department and the Congress know more about just what is involved in multiyear contracting. Then we can consider whether to move to the kind of sweeping delegation—really it is an abdication—of congressional authority that the Armed Services Committee would start off with now.

Under the approach of the amendment of the Committee on Government Operations, the Defense Department would be proceeding in the cautious, responsible manner that is called for when we consider the amounts of money and the risks involved, and Congress would be carrying out its proper role of deciding what is in the national interest and controlling the expenditure of public funds.

That is not only a better way to proceed than is provided for in the bill of the Armed Services Committee, but it is the way the Defense Department has already decided to proceed.

□ 1500

Last May 1, Under Secretary of Defense Carlucci sent a memorandum to the heads of the various military departments asking them to start just such a case-by-case analysis of candidates for multiyear contracting, with the goal of including those that are approved in the DOD fiscal 1983 authorization and appropriation requests.

Now that is what they are doing. They are engaged in the process right now. So it made absolutely no sense when Secretary Weinberger went before the Committee on Armed Services the other week and said, "If the Government Operations Committee amendment were adopted it would delay multiyear contracting at least a year and probably longer." The fact is that they have not made any final decisions yet on projects suitable for multiyear contracting.

I sent a letter to Secretary Weinberger, a couple of weeks ago, asking him to tell me what projects were ready, what weapon systems he was contracting for now that were ready to go to multiyear contracting. "Name them," I said. "I will put them right in our amendment all spelled out just the way you want. Just tell me what they are."

I have not received an answer yet. If he wants to put the F–16 in now, all he has to do is go to the proper committees in Congress and they can put it in now. Put them all in now if you can justify them.

The Committee on Armed Services is not a difficult committee for them to work with. One cannot believe that the Defense Department would be reluctant to go to the Committee on Armed Services and ask for multiyear contracting. They would probably get it the next day.

Yet under our amendment the Defense Department would be able to go ahead in a proper orderly fashion with multiyear contracting just as it is proceeding now, but in contrast to what the Committee on Armed Services provides. This way under our amendment it would have to tell the Congress of the United States in detail what it is doing and why. That is not a delaying process. That is the legislative process. That is what the Defense Department does not like. It does not want Congress or anybody else overseeing the way it plans to spend billions of your tax dollars. If you do not pay any taxes, do not worry about it, it will not bother you, except in inflation. If you pay any tax at all, you ought to be concerned about how they are spending almost a billion dollars a day of your money and my money. I am concerned.

They do not even want an Inspector General checking up on them. They are over in the Senate right now kicking and screaming against being included in the Inspector General bill that this House passed so overwhelmingly earlier this year.

So that is what we have got to keep in mind when we hear all this criticism from the Defense Department about our amendment.

Our amendment does something else the Defense Department does not like—it mentions competition. It says that among the factors to be considered in selecting projects for multiyear contracting is whether there is a reasonable expectation that there will be effective competition in new projects and whether competitive procurement will be used to the maximum extent practicable in obtaining parts and components. We will not find any language like that in the Armed Services Committee bill. They did not put it in.

The Defense Department does not want it.

So to sum up, we are trying to do two things in our amendment on multiyear contracting. We are trying to preserve the rights and responsibilities of Congress in the expenditure of public funds, and we are trying to preserve the basic principle of the free enterprise system—competition.

I do not see how anybody could quarrel with those two objectives.

I would like to mention briefly two other things that our amendment deals with in addition to multiyear contracting. It keeps the Defense Department procurement system as an integral part of a Government-wide procurement system and keeps its procurement of computers under a law that applies to all other Government agencies.

In other words, we treat the Defense Department like an agency, a component part of this Federal Government, not like a sovereign independent nation. The Armed Services Committee sets up the Defense Department with its own procurement system, outside the rest of the Government's, lessening its accountability to the Office of Management and Budget as well as to the Congress.

It does this at a time when the Office of Management and Budget under the Republican leadership of President Reagan and Mr. David Stockman, our former colleague, is right now within 4 months of presenting to the Congress a comprehensive reform of the procurement system for the entire Federal Government.

This is something that Congress, industry, and the executive branch have been seeking for years, and now, just as it is becoming a reality, the Defense Department is trying to undermine it.

The second great escape from Government-wide policy that the Defense Department is trying to make—in acquiring computers—is included in the authorization bill already passed by the Senate. Included, I should add, on entirely spurious grounds that I will go into in more detail later, when we take up the amendment.

I will just say now that the law the Department of Defense is trying to get out from under stresses competition in the procurement of computers. It has led to documented savings of over $4 billion since this Congress enacted it in 1965. But there is that ugly word again, "competition." Save us from that, cries the Defense Department. Our amendment holds them to it.

Mr. Chairman, the last time we were all in this Chamber was a rather trying and emotional period. We took an action I am afraid we are going to live to regret, and I am not talking about budget figures, I am talking about the surrender of a considerable amount of our control over the legislative process to the executive branch. That issue is back with us today. I hope this time we will remember that we are legislators and that we have the responsibility of controlling the expenditures of our citizens' tax money.

The amendment of the Committee on Government Operations gives us an opportunity to carry out that responsibility.

Mr. COURTER. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from New Jersey.

Mr. COURTER. I thank the gentleman for yielding.

I just take issue with a couple of general statements that the gentleman has made. The gentleman has indicated that there is an incestuous relationship between the Committee on

Armed Services and the Department of Defense.

The gentleman indicated that the Department of Defense could get anything in the world from the Committee on Armed Services.

Mr. BROOKS. No; almost anything in the world.

Mr. COURTER. As one member of the Committee on Armed Services, I have not had, of course, a chance to listen, I did not have the opportunity to listen to the gentleman's entire statement.

As part of the Subcommittee on Research and Development of the Committee on Armed Services, I would just like to point out what that particular committee did just this year in disagreeing with the request of the Department of Defense.

The Subcommittee on Research and Development had a termination of the NAVSTAR global positioning system because of concern that the system has become too costly for military capability. The system will ultimately provide the termination of the DDGX ship development program because of concern over the design to cost rather than design to capability philosophy.

The termination of the Army standoff target acquisition system, and also pointing to page 76 of the report, also just out of the Subcommittee on Research and Development, the Research and Development Subcommittee reduced by $163 million the request of the Army in R. & D., $386 million of the Navy, Air Force $564 million, half a billion dollars, defense acquisition, an additional $19 million, for a total just of the Research and Development Subcommittee of about $1.13 billion.

So for the gentleman to say that we just blithely have gone away, we have gone with every recommendation or almost every request of the Department of Defense I think is an exaggeration.

As I pointed out, just in the Research and Development Subcommittee we have taken issue with them time and time again and have cut back by better than a billion dollars in just 1 year, just that one subcommittee itself. So I just want to make the statement that I think in some areas what the gentleman says is inaccurate and an exaggeration.

Mr. BROOKS. Let me say to my distinguished friend from New Jersey that perhaps there is some justification for the gentleman feeling that is an exaggeration because apparently the Armed Service Committee has, in some instances, felt that the Defense Department was really not omniscient. I quite agree—they are not.

The CHAIRMAN. Nineteen minutes have expired.

The Chair recognizes the gentleman from New York (Mr. HORTON).

Mr. HORTON. Mr. Chairman, I yield myself 5 minutes.

I am here today as a firm supporter of a strong national defense.

I also endorse the principal provisions of H.R. 3519 which would move us closer, in my opinion, to that goal. But I am also a firm believer of representative government, a government in which the people's elected representatives actively make the fundamental decisions governing major Federal programs.

I come before my colleagues as a firm supporter of this system of checks and balances which has been built into our Government, a system in which no institution is free from oversight by others.

I am also before this body as a firm supporter of an efficient government, one in which agencies pay the lowest possible price for high-quality goods and services. In all three of these capacities, I must also rise in opposition to the procurement provisions of H.R. 3519. They have nothing to do with strengthening our national defense. They have everything to do with allowing our bureaucracy to run free of congressional authority, free of other oversight, and free of efforts to make agencies operate more efficiently.

One of the most universally supported ideas for improvement in the DOD acquisition process to emerge in recent months is the concept of multiyear contracting for weapon systems. It is widely felt that multiyear contracting will provide the necessary incentive for the private sector to invest in new technologies, facilities, and equipment. This it is felt will increase productivity, provide stability, and lead to efficiencies and savings to the Government.

All of these claims may be true, although I think as we discuss them we should put them in proper perspective. I want to say at the outset that I am not opposed to multiyear contracting. I served on the Procurement Commission which incidentally was an outgrowth of the cost overruns in the C-5A program. We felt that there was a need to get a handle on the cost overruns of these major weapon systems, and the way we decided to do it was to establish a Procurement Commission to study all phases of procurement.

As a result of that procurement study, one of the recommendations was for multiyear contracting with certain safeguards. That is why I think it is important that we keep this multiyear funding in proper perspective.

The issue of how to plan for and realize the massive savings which appear possible for multiyear contracting for weapon systems is a problem of considerable magnitude. It necessitates program firmness, mission stability, definitiveness of quantitative needs, for both the Government and prospective contractors must be able to make comprehensive analysis of the most efficient investments in plant and tooling to accomplish the long-term production programs which may run 5 or more years.

Multiyear contracting also requires long-range work force planning and identification of the most economic methods of acquiring long leadtime components and materials.

The General Accounting Office has made it very clear that if such contracting is not conducted properly, it could actually cost the Government more money and produce no savings at all. The GAO has expressed concern that we should proceed with great care, lest multiyear contracting reduce our flexibility in adjusting weapon systems to meet changing threats and saddle the Government with unnecessary, costly program cancellation charges.

I want to stress this point because contrary to an impression that Defense Department officials have given the Committee on Armed Services, the GAO does not support the armed services position on multiyear contracting as included in this bill.

My principal quarrel with the armed services provision, however, is not that its sponsors failed to inform us of the problems as well as the advantage of their proposal, it is that the proposal gives the Defense Department a blank check to enter into untold numbers of very, very large contracts for weapon systems without prior congressional approval.

I find it amazing that such a proposal should be before us now. For more years than any of us can remember, probably since the founding of the Republic, major military projects have required congressional authorization before they can be implemented. The Armed Services Committee has reviewed Defense Department proposals for major weapon systems and made recommendations to the House. The House has always taken action on those recommendations. Indeed, the bill we are considering right now——

The CHAIRMAN pro tempore (Ms. FERRARO). The time of the gentleman from New York (Mr. HORTON) has expired.

Mr. HORTON. Madam Chairman, I yield myself 5 additional minutes.

The CHAIRMAN pro tempore. The gentleman from New York (Mr. HORTON) is recognized for 5 minutes.

Mr. HORTON. Indeed, the bill that we are considering right now, there are specific authorizations for the B-1 bomber and the MX missile system.

□ 1515

I like this procedure. I believe the American people like it and approve it.

We all value having elected representatives make decisions on issues of

this magnitude. I want that procedure to continue, but the bill before us would abandon this time-honored procedure. Itwould give away the store by allowing DOD to make the final decisions on contracts involving hundreds of millions of dollars. That is just not consistent with my conception of representative government.

The amendment proposed by the Government Operations Committee most assuredly permits the Defense Department to engage in multiyear contracting. It does so, however, in a manner which allows input by the Congress. Our amendment would allow the DOD to select any number of projects that it feels are ready and appropriate for multiyear contracting. These projects would then be presented to the Congress, which would either approve or disapprove them on a project-by-project basis.

I ask you, what is unreasonable about that? Under the Government Operations Committee approach, the Congress would have the opportunity to implement the concept selectively while learning about the pitfalls as well as benefits of multiyear contracting, and most important, we would be able to exercise our independent judgment on which projects are worthwhile and which are not.

This amendment has been characterized by some as antidefense. Let me assure the Members of the House that this is not so. The amendment is prodefense, but unlike the Armed Services alternative, it allows an active role for the Congress.

Now, as I said earlier, multiyear funding is a good step; but it ought to be done very carefully. In the testimony before our committee the OMB indicated that the Office of Federal Procurement Policy, which was established as a result of a recommendation of the Procurement Commission, will have before us and make public by October its recommendations for Government-wide policy with regard to procurement. One of the areas that is to be covered is the multiyear funding. OMB Deputy Director Harper indicated that it was well, with regard to multiyear funding, to wait until that report could be made, so that we would have Government-wide multiyear funding, rather than a specific type of multiyear funding for the Department of Defense and then another type for the rest of the Government. That is why we got into the problem in the first place with procurement, because we had the DOD doing one thing. We had the GSA doing something else. We had NASA doing something else and other agencies doing other things with regard to procurement.

The Government Operations Committee in its wisdom recommended the establishment of this Commission, which after 2 years of consideration of this subject said that we ought to have Government-wide policy, rather than have one agency doing it one way and have another agency do it another.

Now, for us to take this step with multiyear funding for the Department of Defense, without any project-by-project control, as we have set it up in the Government Operations Committee amendment, in my judgment is going back to point zero where we had started when we first had the need for the Procurement Commission. I am afraid we are going to have the need for another Procurement Commission in order to get this mess straightened out. So why should we not wait until that Office of Federal Procurement Policy makes its judgment, makes its recommendation, not only in multiyear funding in this area, but multiyear funding throughout the Federal Government.

Mr. Harper said there would be other areas in which there would be multiyear funding. I think we should wait until that report and that recommendation for Government-wide policy is before us, rather than to jump in here and give the Department of Defense what they want, a blank check, without any restrictions, as far as the Congress is concerned. In lieu of this is the Government Operations Committee compromise. It allows us to multiyear procure on a project-by-project basis. Put in as many as you want this year and then let the Congress pass on it.

The CHAIRMAN pro tempore (Ms. FERRARO). The time of the gentleman from New York has expired.

Mr. HORTON. Madam Chairman, I yield myself 5 additional minutes.

Now, to proceed to another area, procurement of automatic data processing equipment. I would like to move to a provision of the Defense Authorization Act which is inconsistent with the system of checks and balances which has been built into our Government. This occurs, not in H.R. 3519 itself, but in the Senate companion bill, which is Senate bill 815. The Senate bill exempts the Defense Department procurement of computers from the basic law governing agency computer purchases generally, Public Law 89-306. This law, commonly known as the Brooks Act, calls for competition in these procurements and requires one of the President's central management agencies, the GSA, under policy direction from the President's chief central manager, OMB, to supervise it. In other words, that is what the law is now. The Senate exemption is founded on the mistaken notion that the act lengthens the time needed to procure computers and results in technologically and functionally obsolete systems. There is no indication that this is the case. We had testimony after testimony before our committee. The testimony before my committee was that OMB and the GAO indicated that the problem in procuring ADP equipment is not the act itself, but rather failings in the acquisition process, principally the lack of adequate planning within the DOD.

In fact, the Deputy Director of OMB, Edwin Harper, in speaking about the Brooks bill, stated forthrightly:

> We believe that the statutory framework is sound.

The Senate provision on computer procurement, like the House Armed Services procurement proposal on multiyear contracting would allow DOD to be free of oversight by others; in this case free of the agencies to help the President manage the Federal Government.

We can no more permit the Defense Department to be independent of the President than we can permit it to be independent of the Congress. The way to prevent this from happening is writing into H.R. 3519 the Government Operations Committee amendment which reaffirms the existing law with regard to DOD computer procurement.

The remaining Government Operations Committee amendments, Mr. Chairman, all derive from our commitment to an efficient Federal Government and in particular to an efficient Federal procurement system. Seven years ago the Congress, heeding the recommendation, established the Office of Federal Procurement Policy in OMB with the idea of standardizing purchasing procedures. Two years ago the Congress on our recommendation required this office to make specific recommendations for a uniform procurement system by October of 1981. Mr. Harper, the Deputy Director of OMB, has pledged that this deadline will be met. He testified that—

> The procurement process because of its significant impact in terms of the budget as well as personnel should be a uniform integrated process that is well designed and thought out, as opposed to a patchwork process that becomes successively weakened by each new addition to it. An enormous effort is ongoing within OFPP and the agencies, including DOD. Clearly, this is the wrong time to make further changes in existing statutes.

I might say in answer to my questions, Mr. Harper and Mr. Sole, who is the acting head of the Office of Federal Procurement Policy, who also was the executive director of the Procurement Commission, said that representatives from the DOD were a part of this process of working toward this overall objective of establishing a Government-wide procurement policy. So DOD has the opportunity to have its influence felt in deciding that policy. So we are not leaving DOD out. What is important is that this policy be a

policy for the entire Government and not excluding the Department of Defense.

The General Accounting Office also gave similar testimony. The amendments which we propose, and we will talk about them when they come up, have to do with contracting for services and goods, defining the terms "grant" and "contract" and increasing the dollar threshold below which certain requirements are waived.

On that threshold matter, the Armed Services Committee has increased the thresholds. I can tell you from experience on that Procurement Commission that it is a bad thing to raise thresholds in one agency and not do it in another. The first thing you are going to have if you raise these thresholds is other agencies coming to the Congress and saying, "How about raising the threshold as far as we are concerned?" The consequence is that you are not going to have a uniform policy.

The CHAIRMAN. The time of the gentleman from New York (Mr. HORTON) has again expired.

Mr. HORTON. Mr. Chairman, I yield myself 3 additional minutes.

Now, it is important for us to have one policy in this Government and not have one policy applying to every part of the Government except the Department of Defense. That is how you get in trouble.

I know from experience, I spent 5 years working on the C5-A with the tremendous cost overruns, the problems with regard to each agency having its own rules and each agency having its own provisions with regard to procurement, and then 2½ years on the Procurement Commission. Let us not throw our experience of past years out the window just because we want to give a blank check to the Department of Defense at this point.

Raising thresholds sounds like it is very unimportant, but it is very important that we do it throughout the Government, so let us not make a headlong rush right now to raise those thresholds. Let us wait and let us do it systematically. The thresholds should be raised. I will be the first to agree, and maybe the amounts that are involved here are the correct amounts to which we should raise those thresholds; but we can certainly wait until October when that report comes out from the Office of Federal Procurement Policy with that uniform system, rather than to do it now.

In conclusion, Mr. Chairman, as we look at all the provisions of H.R. 3519 dealing with procurement, I think we have to keep three principles in mind. First, major defense projects must be authorized by Congress and not by giving a blank check to the Department of Defense.

Second, the Defense Department must remain a part of the executive branch of the Government subject to control by the President and his managers.

Third, defense procurement is an aspect of Federal agency procurement generally and must be considered within that general context.

The Government Operations Committee amendments are true to these principles. I urge the Members to support those amendments when they are offered.

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I will be happy to yield.

Mr. STRATTON. The gentleman just made a comment that the bill that our committee has brought out after a great deal of deliberation and care would give a blank check to the Department of Defense.

Now, does not the gentleman realize that in our bill every one of these multiyear contracts would have to be authorized by Congress, the same way in which we authorize the procurement of a nuclear carrier over several years and every year the Department of Defense would have to come back to the Appropriations Committee for the money for that particular year. That does not really involve a blank check to the Department of Defense.

Mr. HORTON. Well, the gentleman from New York, my very good friend, who is very expert in these matters, one of the top ranking members of the Armed Services Committee and a gentleman for whom I have the greatest respect, a leader of our delegation, the chairman of the New York delegation——

Mr. STRATTON. I give up.

Mr. HORTON. I am the vice chairman of the delegation and I have great respect for the gentleman's knowledge in this field.

The CHAIRMAN. The time of the gentleman from New York (Mr. HORTON) has again expired.

Mr. HORTON. Mr. Chairman, I yield myself 2 additional minutes.

Multiyear funding would be a commitment for 5 years or 10 years, whatever it might happen to be, and then we would be locked in and I am sure the gentleman knows that. It may be they would have to come back to get the money, but it is like an entitlement. They have to come back up here. It has to be part of the process, but it is very difficult to make any changes in an entitlement. That is what we are dealing with here.

I would urge the gentleman to take a hard look at what we have proposed here. As a matter of fact, I would suggest that adoption of the recommendations that we have here from the Government Operations Committee would be the best way to go. Then let us get that report from the Office of Federal Procurement Policy and find out what they recommend.

How does the gentleman answer that? I mean, why do we get out ahead of that Government-wide policy statement that is going to be made by the Office of Federal Procurement Policy?

Mr. STRATTON. Well, the thing that bothered me were these inflammatory statements that somehow we are giving a blank check, when the fact of the matter is we are not giving a blank check.

Mr. HORTON. That is not inflammatory.

Mr. STRATTON. We are not doing any differently from what we do in connection with a nuclear carrier.

Mr. HORTON. The ceiling is raised.

Mr. STRATTON. The Congress is going to authorize it. Certainly with the intelligence of the gentleman and the other Members, we have enough brains to look 5 years down the pike.

□ 1530

Mr. HORTON. What the gentleman is doing in the Armed Services bill is removing the limit which is on there now, which we would remove, incidentally, when they send up the project.

Mr. STRATTON. It will save us $16 billion, and that is the kind of money Dave Stockman is looking for.

Mr. DAN DANIEL. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Virginia.

Mr. DAN DANIEL. I thank the gentleman for yielding. We are not talking about multiyear funding; we are talking about multiyear contracting. They would be required every year to come back exactly as they do now.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HORTON. I yield myself 10 additional minutes.

I yield to the gentleman.

Mr. DAN DANIEL. As I said they would be required under our bill to come back every year for funding, every year, irrespective of the type of contract.

Mr. HORTON. That is not the way I read it. That is not the way I understand it. I appreciate the gentleman's explanation.

Mr. DAN DANIEL. I have put a statement in the RECORD to that effect to establish that legislative history.

Mr. HORTON. It would seem to me that the gentleman would be better to adopt the recommendations of the Committee on Government Operations, which is a project-by-project presentation to the Congress where we would have control, where we would have knowledge, and the Congress could act on those, project by project, until we get this recommendation from the Office of Federal Procurement Policy. I have heard no discussion by anyone from the Committee on Armed Services about this effort by the Office of Federal Procurement

Policy in compliance with the law to give us a uniform policy with regard to procurement. It seems to me we are getting out ahead; we are putting the cart before the horse.

Mr. DAN DANIEL. If the gentleman will yield, would the gentleman explain to the House how this body could effectively deal with the 1,100-plus multiyear contracts which the Department of Defense now awards *each year*? What would happen in this body if you brought 1,100 contracts for review and approval as your amendment would require?

Mr. HORTON. That is not what we are talking about. I think the gentleman has misunderstood what the amendment is that we offer. We do not make any changes in the present law whatsoever. We say if there is any large scale multiyear contracting that the Department of Defense requires, they should come up here to us, make a presentation to the Congress through the Committee on Armed Services, and then it would be submitted to the Congress. That is for 1982. Hopefully, by 1983 we would then have in place the Government-wide policy which will be enunciated by the Office of Federal Procurement Policy, which would include the policy with regard to multiyear contracting and funding.

Mr. DAN DANIEL. Will the gentleman yield further?

Mr. HORTON. Certainly.

Mr. DAN DANIEL. It is my understanding that other Government agencies can multiyear contract without restriction. The Department of Defense is the only agency that has any restriction on its authority to multiyear contract.

Mr. HORTON. That is not my understanding.

Mr. DAN DANIEL. The statement has been made that the Department of Defense is the only Department of Government which is restricted by a cancellation ceiling.

Mr. HORTON. I think the gentleman is in error there.

Mr. DAN DANIEL. I am not.

Mr. HORTON. In any other agency of Government they have to come before the Congress to get an authorization and appropriation. What we are talking about here for multiyear contracting is for a special project which will go on for 5 to 10 years, whatever it might happen to be.

As I understand it, the F-16 is probably the first candidate for this type of funding. As I understand it, they would send that up here, that project, lay it out for the Congress. We could act on it, and then it would be in place for the next 5 years.

The problem that you have now is that there is a limit on cancellation amounts, so if you cancel a contract, then there is a limit as to how much the Government is liable for. What the gentleman wants to do is remove that ceiling, which would mean that we would be liable for whatever amount if you decide 3 years into a contract you want to cancel it.

Mr. DAN DANIEL. Will the gentleman yield?

Mr. HORTON. I will be glad to yield to the gentleman.

Mr. DAN DANIEL. That is precisely the point the gentleman from New York (Mr. STRATTON) was making. There would be no difference in the way we review, authorize, and appropriate under multiyear from what we do under a single-year contract.

Mr. HORTON. Then why make the change? Why do we not leave it like it is?

Mr. DAN DANIEL. If the gentleman will yield further, the reason we do not have more competition than we have is because of the cancellation ceiling that discourages competition.

Mr. HORTON. Yes, and the gentleman wants to remove the ceiling.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the chairman of the committee, the gentleman from Texas.

Mr. BROOKS. I thank the gentleman for yielding. To my distinguished friend, the gentleman from New York (Mr. HORTON) let me clarify one additional point. The annual funding would be authorized, but the contract liability might be for a 5-year period, and with an unlimited cancellation clause under the Armed Services Committee's proposal, you could be liable for $100 million or $200 million that you might have to pay.

Mr. HORTON. That is the point I am making.

Mr. BROOKS. You are liable for it, and it is the law. That is what would happen if you pass this bill and DOD does not have to go to the Committee on Armed Services to get any approval up to $100 million. I am not for that.

Mr. DAN DANIEL. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Virginia.

Mr. DAN DANIEL. I thank the gentleman for yielding. Apparently the gentleman has not read the bill. There would be no difference whatsoever in the way a canceled contract is handled now.

Mr. HORTON. I am not talking about the way it is handled. I am talking about the amount of liability by the Government.

Mr. DAN DANIEL. It would still have to be based on a careful review of the cancellation costs. That does not mean you have to automatically pay the cancellation ceiling.

Mr. HORTON. I understand. The point is if you have a contract for 5 years—now you only have a contract for 1 year, but if you have a contract for 5 years, those damages would be a lot higher if you have to cancel. The amounts would be a lot more if you are dealing with a 5- to 10-year contract than if you are dealing with a 1-year contract.

So what I am saying is that by the committee recommendation we say you can remove that cancellation ceiling but you have got to come up and make your case to the Congress. What the gentleman is saying is for the Department of Defense to go ahead and multiyear contract.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the chairman.

Mr. BROOKS. I thank the gentleman for yielding.

Let me point out that the cancellation provision the Armed Services Committee has recommended is unlimited. It says the Defense Department can get a cancellation clause without any limit whatsoever, except that when it is over $100 million, DOD has to give the committee 30 days notice. That is virtually open ended, and this is what we ought not to do.

I tell my distinguished friend, the gentleman from Virginia (Mr. DAN DANIEL), he is a competent, qualified businessman, a good legislator, and a knowledgeable and responsible man. He would not want to give that authority to anybody, I do not believe. Why should DOD not come back to the Committee on Armed Services, and get that approval if it is over $5 million or $50 million? The cutoff has got to be adjusted, as it will be under the procurement regulations.

Mr. DAN DANIEL. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Virginia.

Mr. DAN DANIEL. I thank the gentleman for yielding. The gentleman from Virginia deeply appreciates the remarks made by the distinguished and able gentleman from Texas (Mr. BROOKS). But let me repeat, we want to get as much competition as we can; do we not?

Mr. HORTON. I agree with the gentleman. We want competition.

Mr. DAN DANIEL. We have to remove this ceiling.

Mr. HORTON. I would just like to add we want to get as much competition. That is why we just did not say wait until October after the Government-wide policy is established by OFPP. We came up with a compromise which is to let DOD submit systems for multiyear procurement the moment this bill is signed into law.

Mr. DAN DANIEL. Will the gentleman yield?

Mr. HORTON. I yield to the gentleman.

Mr. DAN DANIEL. Does the gentleman believe for a moment the taxpayers in this country will stand by for

another 5 years while we tinker with this OFPP business we are talking about here today?

Mr. HORTON. Let us not ridicule this. This is very important.

Mr. DAN DANIEL. We have had almost 10 years of it, and we have not done anything.

Mr. HORTON. I would not say we have not done anything. First of all, we did not have the Office of Federal Procurement Policy and we had a different agency with different procurement policies. Now we are on the verge of a policy being established by a President who wants to have a Government-wide system, who is determined to have a policy. We are right on the verge of that, and then what the gentleman is saying is let us go ahead and give the Department of Defense an unlimited blank check to do the job.

Mr. DAN DANIEL. There is absolutely nothing in our bill, nothing which would preclude the continuation of the gentleman's study and the establishment of a uniform policy—absolutely nothing.

Mr. HORTON. I did not say that.

Mr. DAN DANIEL. We are not saving these billions of dollars, then.

Mr. HORTON. I take back my time. What we are saying is that we do not want to establish a policy at the Department of Defense prior to October 1981 which might be inconsistent with the recommendations that will be made Government-wide by the Office of Federal Procurement Policy in the Office of Management and Budget. That is what I am saying.

Mr. STRATTON. Mr. Chairman, will the gentleman yield to me?

Mr. HORTON. I yield to the gentleman from New York.

Mr. STRATTON. I thank the gentleman for yielding. I would like to give a little background on this because I think perhaps some of the people who have been engaged in trying to short circuit the authority of the Committee on Armed Services forget that in 1963 the Department of Defense was authorized to multiyear contract. In 1973 the House Committee on Armed Services itself put a restriction on the ability of the Department of Defense to engage in multiyear contracting, and the committee put that $5 million ceiling on it. The fact of the matter is the gentleman from Texas (Mr. BROOKS) is getting all excited because of some unlimited capacity for cancellation charges. That was the limitation which the House Committee on Armed Services recommended.

Mr. HORTON. Let us clarify something.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HORTON. I yield myself 3 additional minutes.

That cancellation amount today is a rather large one, and I realize that when you are dealing in large contracts, it does not sound so big. But the amount, as I recall, is $5 million. Is that not what it is?

Mr. STRATTON. That is right. That is right.

Mr. HORTON. So that is a penalty. In other words, the Government cannot pay more than $5 million.

Mr. STRATTON. Will the gentleman yield further?

Mr. HORTON. I yield to the gentleman.

Mr. STRATTON. I think I am a little more familiar with the Department of Defense.

Mr. HORTON. I want to ask the gentleman, what is the Committee on Armed Services proposing to raise that cancellation figure to?

Mr. STRATTON. The fact of the matter is, if the gentleman would yield to me further, that in the last year there have been 1,200 multiyear contracts entered into by the Department of Defense.

Mr. HORTON. That is fine.

Mr. STRATTON. But they are all small.

Mr. HORTON. That does not involve this at all.

Mr. STRATTON. They are all small contracts, because the cancellation ceiling is $5 million. Now what the gentleman is asking for is to lift that ceiling and to permit the Secretary——

Mr. HORTON. What does the gentleman want to lift that ceiling to?

Mr. STRATTON. This is the gentleman's Secretary of Defense, Cap Weinberger.

Mr. HORTON. We are dealing with the bill now. I am asking the gentleman, what does he want to raise it to?

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the chairman of the committee.

Mr. BROOKS. I appreciate my friend's yielding. Let me just say there is no bar right now—and everybody understands that—to multiyear contracts with cancellation sums under $5 million. The gentleman just said that. I have said that. It is a fact. You can raise that amount to five brandnew weapons systems with cancellation clauses of $200 million if you want to, or $50 million, if they will go today to the Committee on Armed Services and get that authority. I do not want the Department of Defense to do it without getting authority from the Armed Services Committee.

Mr. STRATTON. They have the authority.

Mr. DAN DANIEL. Will the gentleman yield to me?

Mr. HORTON. I yield to the gentleman from Virginia.

Mr. DAN DANIEL. If this Member could dictate what was going to happen, I would remove the ceiling altogether. Let me tell you why. There is no difference in the way that contract cancellations will be handled with the removal of that ceiling than there is now.

□ 1545

It will be handled just exactly like it is now. So it will be no different with section 909, removal of that ceiling, than it is under the circumstances today.

Mr. HORTON. What I am saying to the gentleman and the Committee is this: The last action we took was to pass a reconciliation bill, reducing Government expenditure over $38 billion. I think it is that amount. Now we are talking about giving the Department of Defense $1.63 trillion in the next 5 years.

I think the American people want some type of check on these tremendous contracts that are going to be going out for these weapons systems.

The CHAIRMAN. The time of the gentleman from New York (Mr. HORTON) has expired.

Mr. HORTON. Mr. Chairman, I yield myself 1 additional minute.

What we have proposed is to give some sort of check by the Congress when DOD wants to get into these large weapons systems on a multiyear contracting basis.

Mr. DAN DANIEL. If the gentleman will yield, if the gentleman will respectfully read the bill, he would discover that there is nothing different insofar as negotiation of a settlement is concerned.

Mr. HORTON. I will agree with the gentleman.

Mr. DAN DANIEL. The only reason we want to take the cap off is so we can get more bids. People will not bid as long as we have that cap on there.

Mr. HORTON. What the gentleman is saying is, that under his proposal DOD would not have to submit systems on a project-by-project basis. Our compromise is to permit the Department of Defense to move forward with multiyear contracting in these major areas, and this would literally be for 1 year, because in the next year I would hope that we would have the Government-wide recommendations from the OFDP.

Mr. DAN DANIEL. If the gentleman will yield further, the Department of Defense cannot proceed with multiyear contracts on large money items unless you remove that ceiling.

I thank the gentleman for his courtesy.

Mr. BROOKS. Mr. Chairman, I yield 5 minutes to the gentleman from Colorado (Mr. WIRTH).

Mr. WIRTH. Mr. Chairman, I rise in support of the Government Operations Committee amendment, which reaffirms existing procurement policy for automatic data process equipment. As the defense of our Nation becomes increasingly dependent on the rapid

processing and transmission of vital information, it is imperative that the benefits of competitive bidding be utilized by the Department of Defense in securing these important products and services.

Current Government procurement policy seems to ignore the need for uniformity among Government agencies. The problem is not a recent one. Despite the desirability of uniformity, over the years individual agencies have been allowed to develop unique procurement regulations and practices. Uncoordinated and unconstrained, agencies' procurement practices have resulted in the proliferation and fragmentation of forms, functions, policies, and procedures that are overwhelming. Currently, there are two basic statutes and over 4,000 separate provisions of law governing procurement. Additionally, over 877 different sets of procurement regulations exist containing a total of 64,000 pages with approximately 22,000 pages of revisions done each year.

As a result of this situation, Congress passed the Office of Federal Procurement Policy Act Amendments of 1979, Public Law 96-83, which directed the Office of Federal Procurement system, the Government Operations Committee report relating to Public Law 96-83 stated that the committee expects OFPP to devote its attention to development of a comprehensive and innovative system that incorporates all elements and stages of the total acquisition process. The central theme of the uniform procurement system (UPS) is to acquire property and services of the requisite quality and within the time needed at the lowest reasonable cost, utilizing competitive procurement methods.

According to the Government Operations Committee report, the new system will be responsive to agency mission needs and rely on: First, the initiative and judgment of qualified people who are accountable for their performance; second, competition as the predominant means of getting the most value from Federal expenditures; and third, the greatest possible simplicity in procurement operations so that all of American business—small, large, and minority alike—can participate fully. Mechanisms will exist to correct mismanagement, to improve operation of the system, and to settle disputes between the Government and its contractors in an expeditious and fair manner.

Given the immense importance of this undertaking, I find it incredible that DOD is attempting to exempt itself from this effort through the DOD authorization bill. Since one of the main objectives of the new procurement system is promoting the use of competition, a cynic may wonder if DOD's opposition to this effort is based on its long-standing preference for sole-source procurements.

The Subcommittee on Telecommunications, Consumer Protection and Finance, which I am privileged to chair, has been examining the role of competition in the provision of telecommunications products and services. Given the record we have developed, I think it is clear for all to see that competition assures consumers—whether these consumers be a large corporation; Aunt Minnie in tennis shoes, or the Department of Defense—of the best possible product at the lowest possible cost.

According to the Government Operations Committee report, the majority of the $80 billion in defense contracts in fiscal year 1980 were made on a noncompetitive basis. The committee is concerned by the apparent inability of DOD to make effective use of competition. The resulting waste and abuse is of great concern to the taxpayers. Further, it drastically reduces DOD's ability to acquire innovative and cost-effective products.

Of equal concern are the provisions of section 907 of S. 815 which explicitly removes numerous DOD data processing procurements from the requirements of Public Law 89-306. If enacted, it would lead to diminished competition in DOD procurements, substantial increase in data processing costs, and a further increase in sole-source contracting. For example, in 1965 when Public Law 89-306 was passed, 42.3 percent of the Government's data processing mainframes came from a single vendor. By fiscal year 1980, this single vendor's share was 8.3 percent.

Jack Biddle, president of the Computer and Communications Industry Association testified before the Government Operations Committee that he is adamantly opposed to exempting DOD from the law. He stated that prior to the Brooks bill (Public Law 89-306) that competition was so blatantly disregarded that the Army even sent out an RFP for computer hardware on IBM stationery.

I would like to insert this testimony into the RECORD at this point so that all of the Members have a chance to see what serious problems will be encountered if DOD is exempted from Public Law 89-306:

STATEMENT OF A. G. W. BIDDLE

It is a privilege to come before you to present our association's views on the FY 82 Department of Defense authorization bills, H.R. 3519 and its Senate counterpart, S. 815. The Computer & Communications Industry Association has long supported the efforts of this Committee to obtain full competition in federal procurements. Our membership owes this Committee, and the statute which it has supported, Public Law 89-306, an enormous debt for creating a market which permits a company with a superior product at a lower price to win business on the merits of its proposal.

Today the CCIA is an association of 70 member companies which represent all facets of the growing computer and communications industries. The products which our members sell and manufacture include central processing units, peripheral storage devices, data entry systems, and equipment for private telephone exchanges. Our members' combined annual revenues are currently in excess of $4 billion. A significant segment of our members' earnings are derived from successful competition in the federal market.

It is our interest in preserving competition in the federal market which has brought us here today. The legislation before this Committee contains several provisions which are inimical to the attainment of this goal.

As a general matter, we question the wisdom of making piecemeal changes to the procurement system in authorization measures. Effective procurement reform can only be achieved in a comprehensive manner. A major failing of our present procurement system is that it is, by and large, a jerry-built structure, composed of numerous and sometimes conflicting statutes. Each of those statutes attempts to address a part of the problem. The agencies' efforts to reduce statutory conflicts, and to harmonize existing law adds even more bulk to a body of procurement regulations which is already over several thousand pages long.

The net result is a procurement system so complex that it is not understood by those who must use it. Only comprehensive reform, which reduces the current body of procurement law, and organizes procurement statutes and regulations into a comprehensible structure, can improve the present procurement system. This effort should receive strong impetus from the report of the Office of Federal Procurement Policy on the Uniform Procurement System which is due in October. Piecemeal changes in the procurement laws at this time complicate the task of effective procurement reform, and make the goal of a well-structured procurement system even more difficult to attain.

In this regard, we are particularly troubled by Section 909(a)(1) of H.R. 3915, and its implementing sections d(1) and d(2) on pages 50 and 51. These provisions appear to announce a major change in Armed Services procurement policy. Under its present wording, it would give the Department of Defense broad discretion to issue regulations for the sole purpose of promulgating DOD's view of "timely, economic and efficient" procurement. There are no requirements to adhere to what has been a fundamental principle of federal procurement: that goods and services should be acquired through competition except in specified instances. The far-ranging and unguided discretion contained in H.R. 3915's language may set a dangerous precedent.

Of even greater concern to CCIA are the provisions of § 907 of S. 815 which explicitly removes numerous DOD data processing procurements from requirements of Public Law 89-306. This proposed exemption is a matter of serious concern. If approved, it will lead to diminished competition in DOD procurements, and substantially increase the Government's data processing costs.

We have lived under the Brooks Act for so long that it is almost impossible to reconstruct how the Government bought ADP in the pre-Brooks Act era—and how the Department of Defense will acquire data processing goods and services if § 907 is enacted.

In 1965—the year the Brooks Act was passed—42.3% of the federal government's mainframes came from a single vendor—IBM. Competition in data processing procurements was minimal at best. In fact, competition was so blatantly disregarded that the Army even sent out an RFP for computer hardware on IBM stationery.

The Brooks Act has significantly changed the federal marketplace. By FY 80, IBM's share of the federal mainframes fell to 8.3%—a 7% decline from last year. While IBM continues to have the largest dollar volume in CPUs and some peripherals, other companies have made strong inroads. Thanks to the requirements of Public Law 96-306, competition has become far more prevalent, and we are closer to seeing competition become the rule rather than the exception.

It is indisputable that competition saves the Government money. Vendors offered a sole source order have no incentive to discount their prices. In competitive procurements, the Government usually receives substantial discounts, sometimes approaching 50 to 80 percent. Although no one knows how great a cost savings the Government has achieved through Public Law 89-306, most estimates agree that it is in the billions of dollars.

Against these clear benefits to the Government and the taxpayer, some critics have alleged that the Brooks Act has lengthened the acquisition cycle, and prevented DOD from obtaining needed hardware. The chief target of these allegations has been GSA. According to critics, GSA requires too much time to review agency procurement requests, and issue delegations of procurement authority.

Our experience—and the abundant record of studies and Congressional hearings—soundly rebuts these suggestions.

To give but one example, the President's Reorganization Project determined that it takes GSA 20 days or less to process 80 percent of the agency procurement requests which it receives. Since that report was issued, GSA has taken further steps to decrease the time for APR processing.

In September of 1978, GSA granted agencies a $300,000 blanket delegation of procurement authority for competitive hardware procurements. This means that GSA has no involvement at all if the purchase price of the equipment procured is under $300,000. And GSA recently increased this threshold to $500,000 purchase price or $12,500 basic monthly rental charges.

In November of 1980, GSA issued FPMR F-126 which significantly reduced the amount of paperwork that must be submitted with an agency procurement request. This procedure has further improved GSA's responsiveness in reviewing APRs.

GSA is not an obstacle to expeditious procurements. The real causes of procurement delays are found in the procuring agencies—not GSA. The procuring agencies often have numerous levels of review and clearance which significantly delay procurements. This is particularly true at DOD.

Numerous organizations—including the GAO, the President's Reorganization Project, DOD consultants, and this Committee—have found that the Department of Defense has serious problems in its management of ADP. These organizations report that procurements are frequently delayed because DOD is unable to plan data processing procurement effectively, identify user requirements, or provide centralized procurement management.

A key factor which frequently delays procurements is divided management authority, and a confused management structure which hinders many data processing programs. The Air Force is a classic example. For example, control over the data processing aspects of one Air Force program—the standard base supply system—has been divided between the buying activity, the using commands, the assistant Secretary for Financial Management, and the Assistant Secretary for Installation and Logistics, or Research, Development and Logistics.

The result is fragmented management, delay and additional expense. To obtain clearance through this byzantine labyrinth for a substantial procurement can take years. In fact, the Phase IV project which this Committee recently reviewed was the product of studies which began in the late 1960s.

The required coordination and political compromises which must be obtained within DOD components before any major procurement is released requires a substantial amount of time. These delays are built into the system long before a procurement request reaches GSA.

The same delays also hinder effective contract administration at DOD. Our members have found that DOD procurement officers are often drowning in paper. Members report that it can take DOD activities months to issue a contract modification after all terms, conditions and prices have been agreed to. To prevent expensive delays in contract performance, some members have even typed modifications themselves, and hand-carried them through the DOD hierarchy.

Improved management at DOD can significantly reduce the procurement cycle. Removing GSA from that cycle will not accelerate procurement completion. Instead, it will exacerbate other problems which are already serious.

The sad fact is that even with GSA supervision, most DOD procurements for automated data processing resources are conducted without competition. Statistics assembled by DOD show that in FY 80, 72% of all DOD data processing contracts in excess of $10,000 were awarded on a noncompetitive basis. These contracts represented 61% of the dollar value of all FY 80 DOD data processing contracts over $10,000.

The record for the preceding years was slightly worse. In FY 79, 73% of all data processing contracts over $10,000 were awarded noncompetitively. In FY 78, 75% of DOD's ADP contracts above $10,000 were awarded without competition.

These figures will almost certainly increase if DOD is exempted from the Brooks Act. In the past, DOD components have attempted to evade GSA authority to award sole source contracts. For example:

The Air Force placed a sole source order with Univac for 290 disk packs. No DPA was obtained. The Air Force later claimed that it did not have to obtain a delegation of procurement authority because disk packs were consumable "supplies" which are outside the scope of the Brooks Act. The Air Force took this position even though GAO had ruled that disk packs constitute automated data processing equipment. In this procurement, the Air Force used a frivolous justification to avoid informing GSA of an unauthorized sole source.

In another procurement, the Army issued specifications for IBM 3270 hardware. Unlike the Air Force, the Army went to GSA with a request for a delegation to buy IBM 3270 hardware or equal. GSA approved the delegation. After it received procurement authority, the Army changed the specification so that the procured equipment was required to operate on IBM hardware and equivalent hardware. What had begun as a brand name or equal procurement became an IBM sole source. GSA later stated that it would never have approved the specification as modified.

These examples show that agencies try to evade the Brooks Act to accomplish noncompetitive procurements. In fairness to DOD, its components are not alone in their efforts to avoid GSA scrutiny. The Department of Health and Human Services recently attempted to perform a sole source procurement by modifying an existing contract to include applications which HHS had not intended to include when the contract was procured. GSA ruled that the modification constituted an illegal sole source. The Department now has a competitive RFP on the street for these applications.

The point of these examples is simply to emphasize that when agencies ignore GSA, they often resort to noncompetitive procurements. The presence of GSA—and the requirement to obtain procurement authority from GSA—helps keep agencies honest.

There is a second way in which GSA helps keep agencies honest that is closely related to the first. Our members have found that GSA can prevent wired specifications from appearing in an RFP. In a competitive procurement system, the best policeman will be alert vendors who can inform GSA when agencies attempt to use wired or trumped up specifications. By withholding a DPA, or granting a DPA on certain conditions, GSA can force agencies to modify noncompetitive solicitations.

Other organizations are not nearly so effective in preventing noncompetitive procurements from slipping through. GAO bid protest, proceedings are long and frequently futile. By the time GAO decides a protest, an agency may have already received the protested product or services. In these instances, GAO will often conclude that no corrective action is possible. The other alternative—an action in federal district court—is expensive and difficult to win. The courts of this jurisdiction do not relish involvement in procurement disputes.

In summary, GSA has acted as a potent force for the use of competition in ADP procurements. To be sure, GSA has a long way to go before the full potential of Public Law 89-306 can be realized. But the removal of DOD—or any other agency—from GSA supervision will increase tendencies that are all too present in the agencies to rely on noncompetitive procurements.

In this regard, it is not accidental that the section of S. 815 which follows the Brooks Act exemption is devoted to sole source procurements. Although the section imposes some useful controls on sole source contracting, it contains a definition of sole source contracts which is so narrow as to preclude numerous sole source procurements from its scope.

For example, the section states that any follow-on to a contract awarded competitively is not a sole source. This would permit a DOD agency to conduct a single competitive procurement, and then extend the contract indefinitely through the use of sole source awards.

Even more alarming, the section also exempts contracts for "related supplies or services" from treatment as a sole source. In other words, an agency could competitively

procure 20 systems. If that agency—or any other DOD component needed 100 more "related" systems, it could acquire them from the same vendor without competition. Under S. 815, this procurement would not be considered a sole source.

We believe that this definition of sole source contracting defies commonsense. It legislatively reverses prior treatment of sole source contracts by the GAO. And it opens more doors to the noncompetitive procurements which the Brooks Act exemption clearly encourages. By avoiding competition, the Government will spend more to acquire data processing resources, and lose access to full range of innovative products which our industry announces on an almost daily basis. When an agency acquires goods without competition and becomes locked into one vendor's product line, it loses the ability to obtain more innovative products which are offered by other companies. The obsolescence of the federal inventory which has been reported by the GAO is not only caused by extended procurement cycles within the agencies. It is also caused by a lack of competition in ADP procurements.

In our industry, it is generally the smaller companies which have made the greatest advances in improving data processing technology. It is these companies which are most hurt when the Government abandons competition. Small companies cannot afford to have large sales forces pounding the streets in Washington for sole source business. These companies must obtain their federal business by reading the Commerce Business Daily and submitting proposals in response to RFPs.

If Congress exempts DOD or any other agency from Public Law 89-306, it will reduce that agency's use of competitive acquisitions. It will increase the use of costly, sole source procurements. It will prevent the Government from receiving the innovative products provided by our industry. We encourage this Committee to strengthen—not weaken—the safeguards of Public Law 89-306.

This concludes my statement. I will be pleased to address any question which the members of the subcommittee may have.

Mr. Chairman, I have the privilege of chairing the Communications Subcommittee, a subcommittee of the Commerce Committee. On that subcommittee we have become increasingly aware of the electronic revolution that is all around us, in the fact that all of the extraordinary changes in the electronic world are driving this industry of computers, data processing, communications, and so on. With all of these new technologies coming in, we are finding that the more competitive the marketplaces are, the more beneficial that is for the consumers, whether those are very large consumers or small consumers.

The reason I am getting involved in this, Mr. Chairman, is my concern that in the Senate bill and in the House bill the commitment that we initially had to competitive bidding is being struck, as I understand it. It seems to me that that runs counter to everything we are learning about the electronic revolution that is here and with us all the time and that the more competitive environment we have, the more new services are being provided, the better off the consumer is. And, in this case, the better off the Defense Department is going to be and the better off the taxpayer is going to be.

Now, is it my understanding that the legislation that is being proposed by the Armed Services Committee would strike the requirements for competitive bidding that would occur through the Office of Federal Procurement? Is that correct?

Mr. BROOKS. If the gentleman will yield, actually, the Senate bill exempts the Department of Defense on data processing.

Mr. WIRTH. The Senate bill strikes it specifically for data processing?

Mr. BROOKS. On data processing. The House bill does not.

Mr. WIRTH. We cannot speak as to why the Senate bill is doing that.

Mr. BROOKS. Well they just have some of the usual Department of Defense reasons they want to exempt from everything—the Inspector General, ADP and soon. They would be exempt from everything but Congress giving them money if they had their way. The Armed Services Committee bill does not mention ADP specifically. But if we do not adopt the Government Operations Committee amendment, the issue will not arise in conference. The Senate exemption would just stay in the bill. So we have to have a difference; we have to be against the Senate taking it out so they can then argue it out in conference.

Mr. WIRTH. I understand.

Mr. BROOKS. And, hopefully, we can get the Senate and the members of this Armed Services Committee conference to agree not to strike all of the ADP requirements from the Department of Defense.

Mr. WIRTH. What is the size of the ADP procurement in the Defense Department? It is very significant in size, is it not?

Mr. BROOKS. Well, they have had up to $4 billion or $5 billion in a single procurement.

Mr. WIRTH. $4 or $5 billion.

Mr. BROOKS. Procurement.

Mr. WIRTH. Procurement in the ADP area.

Mr. BROOKS. One Air Force procurement was in that range. But the total is in the billions of dollars.

Mr. WIRTH. I found it about $12 billion, overall, and a great deal more money being spent to upgrade and to catch up with the modern equipment that is now going in. And that will all be done now, if this bill passes without the Brooks amendment, that will be done noncompetitive bidding?

Mr. BROOKS. That is correct. They would be exempt.

Mr. WIRTH. So it is my understanding that if one is interested in competition, if one is interested in competitive bidding, if one is interested in providing the best buy for the taxpayer, therefore, one should support the Brooks amendment?

Mr. BROOKS. That is exactly my position, and it has been for 16 years on that matter.

Mr. WIRTH. I understand. And I would just want to support that again as we examine the issues of competition and the new services being provided very, very carefully in the Subcommittee on Telecommunications. I know that that does not fall into the Defense Department area, but the fruits of competition, it seems to me, are very clear.

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. WIRTH. I yield to the gentleman from New York.

Mr. STRATTON. The gentleman raised the question of computers and data processing, and that kind of thing, as though somehow this is the kind of thing that you could go out on the open market and pick up at the lowest possible price.

Mr. WIRTH. Well, if the gentleman will yield back, a great number of these are fungible. In fact, before the Brooks amendment came in, the Government was purchasing about 50 percent of its computers from one source. After the Brooks amendment came in, the Government is now procuring only about 8 percent from one source. In other words, other companies are coming in and tailoring their products to the needs of the Defense Department or the Commerce Department or elsewhere.

Mr. STRATTON. The gentleman asked the question of why was it that the other body exempted the Defense Department with regard to computers, and the reason for that is that the computers, in the first place, are highly classified, certain types of computers, and the other reason is that certain types of computers are integral to the——

Mr. WIRTH. If the gentleman will yield back——

Mr. STRATTON. The gentleman asked the question. Let me make my point.

Mr. WIRTH. Just on the classification issue, because it is classified, does that mean nobody else can bid for a classified contract?

Mr. STRATTON. It means that the information is not available on the open market so that the Soviets could pick it up, obviously.

The CHAIRMAN. The time of the gentleman from Colorado (Mr. WIRTH) has expired.

Mr. BROOKS. Mr. Chairman, I yield 4 additional minutes to the gentleman from Colorado.

Mr. WIRTH. Mr. Chairman, I would be happy to yield to the gentleman to finish his point. The gentleman is saying that because of competitive bidding, if there were competitive bidding

on computers available to the Armed Forces, because of competitive bidding, the Soviets would be able to pick up that information; is that right?

Mr. STRATTON. If the specifications, the details, the operation of the computer were publicly available, it would not be classified.

Mr. WIRTH. If the gentleman will yield back on that front, in the city that I represent is a very large payment center done by the Air Force, and the Air Force sends checks out to people to pay their salaries.

Now, if the Air Force decides that it wants to procure, it would just go sole-source to procure that, and we would allow them to go sole-source, to be able to send out payroll checks, because we are afraid that the Russians might find out how we pay our troops through checks? I do not understand what is secret about the Air Force payment center computer being able to go to IBM or Burroughs or somebody else. I do not understand that.

Mr. BROOKS. If the gentleman will yield, the facts are that the GSA is responsible for buying most of the computer equipment. When the Defense Department wants computer equipment, it often goes to the GSA and says, "We want an exemption, we want to buy this from our brother-in-law," or whoever they want to buy it from, "we are just going to whisper to him what we need, and we are going to buy it from him, and it is all on the level."

That is what they want to do. And GSA lets DOD do that in 90 percent of the cases. They delegate, they say, on the basis of secrecy, "because we do not want the Russians to know." I do not think they want us to know either. But about 90 percent of those computer acquisitions are done on an exemption from the GSA, and the Department of Defense does it the way they want to.

Now, what they want to do over in the Senate, and what my beloved friend, ex-captain, now admiral, Mr. STRATTON would like to do, is give them a complete exclusion. And what is needed is to make sure that the Department of Defense does not exclude all of their contracts from competitive bidding. Why can they not advertise the computers that just pay paychecks, the ordinary housekeeping computers? Everything in the Defense Department is not top secret, is it? Not everything. Maybe just 90 percent. At least 10 percent ought to be open to competitive acquisition.

Mr. WIRTH. There is an immense amount of computer ADP activity going on in the Defense Department that it is just standard operating procedure; is that correct? Or is that incorrect? I have talked to a lot of people in the data processing world who say that a vast amount of activity for small firms is precluded under what the Armed Services Committee is suggesting.

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. WIRTH. I yield to the gentleman from New York.

Mr. STRATTON. The gentleman recalls that 2 or 3 years ago Control Data Corp., wanted to send a particular type of computer to the Soviet Union, a cybernetic thing, and it was banned because it would have aided the Soviet military operations.

Mr. BROOKS. Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. WEISS).

Mr. WEISS. Mr. Chairman, I want to express my appreciation to my distinguished chairman for yielding this time to me.

My remarks will be directed primarily to the Government Operations Committees amendment mandating competition in the procurement process to the maximum feasible extent. All of us are familiar with the Pentagon's practice of buying weapons and other equipment from the same suppliers year after year. As the report on this bill by the Committee on Government Operations notes, anywhere from 70 to 90 percent of DOD acquisitions are made on a noncompetitive basis. The military classic Orwellian "newspeak" claims that procurements which limit the number of qualified vendors are actually competitive situations. Yet many vendors who are qualified according to anyone else's appraisal are excluded from such bidding.

Horror stories are common. A classic is the M-16 rifle, an inferior copy of the original version which had the misfortune to be built by a company not favored by the Pentagon. A current shocker is the story of my constituent, Loebe Julie, an inventor and manufacturer of calibrations equipment.

This kind of equipment is critical to our national defense. It is used to calibrate, or keep in correct adjustment, the equipment which is in turn used to calibrate our weapons systems.

Mr. Julie's equipment is recognized by both military and civilian experts as perhaps the best available. The Army has just recently come to admit this. Yet he has been unable to sell it in any significant quantity to the Army, which uses such equipment in almost 200 mobile vans in Europe and other theaters throughout the world.

Instead, the Army insists on purchasing equipment virtually identical to calibrations equipment it first bought in the early 1960's. The same companies that have provided the equipment for 20 years continue to get the business. In fact, an Army report shows that 511 of the 607 components in the calibrations sets being purchased are required source items.

Ironically, the Army claims that it does not need Mr. Julie's equipment because it is too good for the Army's field requirements.

The Army also claims that Mr. Julie's equipment is too expensive, yet calculations done by his company using Army assumptions show that purchase of his equipment would yield several hundred million dollars in savings after a significant but by no means unreasonable first-time investment. That investment could be amortized over a period of less than a year.

Mr. Julie has tried to convince the Army for 7 years of the usefulness of his equipment. Although legally permitted to do so, he has refused to sell it to the Russians, who have courted him and obviously see the value of his product. Yet even when the Army decided to experiment with buying more modern equipment several years ago, it purchased equipment made by the same vendors it was accustomed to dealing with. The equipment turned out to be unsatisfactory.

A recent report by the General Accounting Office has largely documented Mr. Julie's case against the Army. The GAO reported that the Army has not been truthful in dealing with Mr. Julie; that Army evaluations of his equipment were inadequate and unfair, and that the Army failed to provide GAO with data needed to reach a definitive conclusion on the savings that might be achieved. An investigation by the Army's Inspector General is now underway.

Now that we have their attention, I hope that Loebe Julie will obtain justice from the Army. The taxpayer stands to gain most from a just resolution, and from an end to the senseless pattern of repetition and waste in all phases of military procurement.

The procurement amendments offered by Government Operations are crucially important. The Pentagon must not be allowed to set its own procurement policies, free from effective congressional oversight. If H.R. 3519 is enacted without these amendments, competition and quality in military purchasing will suffer. The American taxpayer, and our national defense, will be the losers.

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Mr. BROOKS. Mr. Chairman, I yield 5 minutes to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Chairman, I thank the chairman for yielding this time on this particular subject.

Mr. Chairman, there is agreement on the need to improve the capitalization of our defense industrial base. However, there are questions about how to best achieve this necessary goal. There are some tools, such as the priorities system in the Defense Production Act, which are not used. Addi-

tionally, many Government-owned industrial plants have been allowed to become obsolete despite the best efforts of private industry. For example, the plant that makes the vast bulk of the Navy's guns and missile launchers is 74-percent Government-owned and is becoming outdated because of a lack of Government investment. Despite its one-quarter share in the plant, over the last 3 years the private industrial partner has contributed two-thirds of the capital invested in the plant—equivalent to a 6-to-1 ratio proportionate to their responsibilities.

Deputy Secretary Carlucci on April 30 issued 23 recommendations for the improvement of defense procurement. However, section 909 of this bill deals with only one recommendation. In short, there are many options open to us. We should not go overboard on simply one option before we have fully explored its full implications and its relationship to other possibilities for improvement as recommended by Deputy Secretary Carlucci. I believe it is no coincidence that the procurement mess has become vastly worse since the legally established Joint Committee on Defense Production has been allowed to go into limbo. I hope that our current concerns will help lead to its reactivation in this measure.

There are obvious and clear problems in the multiyear contract proposal. At present there is more than adequate dollars for the military procurement. This may change rapidly. Look for example at what the promilitary, supply-side, monetarist government of Britain is being forced to do; severely curtail its defense spending because of the current economic situation. The same thing may well happen here. In such a situation the multiyear contract systems would enjoy a degree of protection which may be unwarranted in terms of national priorities.

The system is new and it is prudent to test any new system before it is fully adopted. Also, it has already become clear that careful congressional scrutiny is needed for these multiyear contracts.

It is interesting to listen to Chairman BROOKS, who had written DOD asking what systems would be eligible for the multiyear contract, what was it intended for, and he has received no answer. It really is that particular issue, in other words, what systems are going to be eligible for this, that brings me to this House floor today.

So far, only one weapons system has been recommended for multiyear contracting—that is the F/A-18. What is proposed is a contract of over $10 billion—$10 billion to permit one agency to enter into such a contract without the express approval of the Congress and close oversight is really an abdication of the constitutional powers of this body.

Apart from this, how does the F/A-18 stack up against the authorizing committee's hopes for multiyear contracts—is the use being made prudent and careful—or is it merely an attempt to provide an accounting trick to conceal the fact that this program has undergone cost growth three times that of its contemporary—and original competitor aircraft, the F-16.

At present 356 F/A-18 aircraft have been approved for production, yet the proposed multiyear contract would exceed this total—the solution of technical problems to allow for additional buys is over a year away despite the program being 6 years old. Yet the proposed contract will provide for some 400 aircraft. The technical risks are not small. Well it is clear that before the Congress has even given DOD the multiyear power is that its use will be to shield from accountability poor-performing programs like the F/A-18.

One of the main emphases in the Armed Services Committee report is on the encouragement of subcontractors, yet over a quarter of the currently-approved F/A-18 aircraft are for foreign use and subject to a contract calling for over 100 percent offsets. In other words a multiyear contract will merely encourage foreign competition for our subcontractors. This situation will only get worse if the manufacturer succeeds in its intensive foreign sales efforts.

At the beginning of the year, the F/A-18 was to fill four roles—it is now down to two. Recent British Navy cutbacks increase the USN needs for all-weather attack planes in the Northeast Atlantic. This suggests a deemphasis of light attack and a further mission loss for the F/A-18. At this point, would the Marine Corps wish to be in the situation of being sole sponsor of two costly aviation programs. I think not. In short, the possibility of program cancellation is far from zero.

The F/A-18 fails the tests for multiyear contracts as badly as it failed in its performance tests. The multiyear contracting system is not being applied prudently. Caution and congressional oversight are needed.

I support the position of the gentleman from Texas and the Government Operations Committee, and urge other Members of this body to do similarly.

Mr. BROOKS. Mr. Chairman, I yield 5 minutes to the gentlewoman from Colorado (Mrs. SCHROEDER), a distinguished member of the Armed Services Committee.

Mrs. SCHROEDER. Mr. Chairman, I have listened to this debate with great interest. I have served on the Armed Services Committee since I came here 8 years ago. I have always been rather amazed at how afraid the Armed Services Committee is of competition. I would be willing to go along with what the Senate wanted to do if we had not had such a miserable track record. People are sick and tired of the waste and fraud and all the things that have been going on in the defense budget. They want defense for their money not garbage. If we do not allow our own auditors and investigators to cross the Potomac River and carry their war on waste to the Pentagon, we may as well call off the fight, because that is where the Government waste began and the Pentagon wrote the book on how to squander the most money in the shortest possible period of time.

I think we would be very derelict of our constitutional duties, of our legislative mandate, and it would appear we just gave the Pentagon the keys to the Treasury and backed away. Yet, as I listened to the hesitancy of my committee to do oversight and listened to the viewpoint of the gentleman from Texas, pleading with them to do oversight, I think we ought to stop and take a whole new creative approach.

If we really look at the defense budget for this year, the Defense Department tells us that 50 percent of it goes to NATO. That is a very substantial chunk, and so if you stop and try and think and say, "What are we doing in other programs where we are trying to help people," what this administration has done is come up with a whole new idea of block grants. So, as I read this bill, I think if we find a way to block grant that 50 percent of the defense budget that is going to NATO, so that it is a direct block grant payment, we are not going to have to worry about these amendments. We could chop it 25 percent like we are chopping the social service and domestic programs in block grants and mandate Pentagon bureaucracy also be cut.

I am sure our allies would be thrilled because we would be treating them as sovereigns for the first time. We would be giving them direct money and they could worry about how to get tanks that work, and so forth. Further, we would never have to worry about section 602 of the bill, which I find runs counter to what is going on in Washington.

In section 602 we see the Pentagon asking for more supergrades—asking for more supergrades. Well, I thought we were supposed to be cutting back in supergrades, cutting back in civilian personnel, cutting back in all these areas. Obviously, if we were block granting we do not have to give them more, we could probably cut the staff of the Pentagon in half. So, the amount of money block granting could save us would be phenomenal.

If our committee does not want to do oversight, just give the money out directly to those nations involved, cut the total 25 percent, and we will end up having a budget surplus this year. I

think President Reagan would be very happy to know that we were able to take David Stockman's domestic ideas and translate them into the military sector.

Mr. BROOKS. Mr. Chairman, I yield 3 minutes to my distinguished friend from Massachusetts (Mr. MAVROULES), who wants to speak, unfortunately, in opposition to my position.

Mr. MAVROULES. Mr. Chairman, let me thank our distinguished gentleman from Texas, my good friend. As he has stated, on any occasion I refer to him as Mr. Chairman no matter where I see him, and it is because of the great respect which I have for him.

However, unfortunately in this instance, Mr. Chairman, I am going to speak against his position.

Mr. Chairman, as we conclude general debate on H.R. 3519, I would like to make a few brief final comments.

If there is one area where I believe we can use our defense dollars more efficiently, it is a long-needed review of our procurement and defense acquisition policies. Today, the full realization of our technological achievements is inhibited by procurement laws, regulations, and policies, that can only be described as archaic.

After careful study and hearings, the Armed Services Committee included in H.R. 3519 several significant procurement reforms. One such initiative, section 909, gives the Department of Defense the authority to engage in multiyear contracting to provide greater stability in the acquisition process.

This particular section is the product of the extensive study done by the Armed Services Panel on the Defense Industrial Base. The panel's report identified major problems leading to the decline of our industrial capability. Perhaps their most alarming finding was the decreasing level of participation in the defense business by smaller subcontractors, vendors, and supplier companies.

Another section, strengthening the procurement process through simplification, is section 903. Specifically, section 903 increases the dollar thresholds for certain defense contract regulations. These modifications in existing laws and regulations will reduce paperwork, provide administrative relief from unnecessary regulation, and provide substantial cost savings.

However, in a jurisdictional dispute the Government Operations Committee will offer amendments during floor consideration to delete section 903, and detrimentally restructure section 909. Their rationale is that there should be one uniform procurement policy promulgated by the Office of Federal Procurement Policy.

I strongly disagree with the Government Operations Committee. Restoring the defense industrial base will not be accomplished by a single program. Rather it will be the product of several incremental changes, which working in combination, will revitalize the defense procurement process.

While a uniform procurement policy certainly is desirable, I believe we cannot wait for one single comprehensive procurement reform package. Instead, we must begin with procurement reform now.

Our common goal, I am sure, is this Nation's improved defense capability, which can only be realized through restructuring the present procurement system. That is why I urge my colleagues to approve H.R. 3519 as reported by the Armed Services Committee.

The CHAIRMAN. The time of the gentleman from Massachusetts has expired.

Mr. BROOKS. Mr. Chairman, I yield 2 additional minutes to the gentleman from Massachusetts.

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. MAVROULES. I yield to the gentleman from New York.

Mr. STRATTON. Mr. Chairman, I thank the distinguished chairman. I know the interest of the gentleman from Massachusetts in the F/A-18 fighter, and we had a discussion in the well here a little while ago by Mr. VENTO in which he said that if multiyear contracting were in effect, we would presently be putting the F/A-18 into multiyear procurement, regardless of all of the problems that the gentleman allege are involved with regard to that weapons system.

I would just point out to the gentleman that on page 50 of the committee's bill there are specific restrictions before any system—and the F/A-18 is not yet in production—that have to be made before it can be placed in multiyear production. On line 8 it says:

(A) that the use of such a contract will promote the national security of the United States and will result in reduced total costs under the contract;

(B) that there will be a continuing requirement for the items to be purchased in quantities consonant with current plans for the proposed contract period;

(C) that there is a low risk of contract cancellation; and

(D) that there is a stable design for the items to be acquired for which the technical risks are not excessive.

The CHAIRMAN. The time of the gentleman from Massachusetts has again expired.

Mr. BROOKS. Mr. Chairman, I yield 1 additional minute to the gentleman from Massachusetts.

Mr. VENTO. Mr Chairman, will the gentleman yield?

Mr. MAVROULES. I will yield, but please save me 30 seconds so that I can respond.

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Mr. VENTO. Mr. Chairman, my point is—I have made it, and I will make it again—that the chairman of the committee, the gentleman from Texas (Mr. BROOKS), had written to the Defense Department asking what the candidates were, and he has not received an answer. I think he pointed that out. My point is that Secretary Carlucci recommended multiyear procurement for the F-16, and I am glad to hear that the gentleman is uncertain about that.

Mr. STRATTON. Mr. Chairman, they have to come back to the Congress and justify all four of these requirements I have cited.

Mr. MAVROULES. Mr. Chairman, let me thank the gentleman and also my other chairman, the gentleman from New York (Mr. STRATTON).

Tomorrow our distinguished colleague, the gentleman from Minnesota (Mr. VENTO), will offer an amendment, and at that time I will be prepared to disagree with his amendment and give factual information for the Members to have an opportunity to distinguish the differences.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to my distinguished friend, the gentleman from Virginia (Mr. DAN DANIEL), who has been reading my amendment as I have been reading his bill.

Mr. DAN DANIEL. Mr. Chairman, I thank the gentleman very much, the gentleman from Texas (Mr. BROOKS), for whom I have the very highest regard—and he knows it. I just told the gentleman about a conversation I had with another of our colleagues this morning, and that should buoy his spirits.

Mr. Chairman, what I would like to do at this point is simply to see if I can clarify the percentage of competition matter. Let me read, if I may, from this document which I have. It will take me only 1 minute.

Between October 1979, and September 1980, the DOD awarded 11,139,736 contracts totaling $73.5 billion in value. Of these contracts, 10,849,962 were for actions of $10,000 or less and the remaining 289,774 were for actions greater than $10,000. * * * while those actions totaling $10,000 or less represent over 97 percent of the contracts let by DOD, they only represent 8.4 percent of the dollars put on contract—$6.2 billion.

Put another way, less than 3 percent of the contracts let by DOD represent 91.6 percent of the dollars put on contract * * *.

Many of the big dollar contracts are not competitive, the reason being that once the Government has selected, through competition, a contractor to build an F-16, a Trident submarine, and XM-1 tank, a *Nimitz* carrier, and so forth, it doesn't make sense to go in each year and compete the procurement.

Mr. Chairman, the only reason I asked for this time is that we are not talking about the same thing. That is why it is important to clarify this. The

figures both of us used are probably correct, but they are used in a different context.

Mr. Chairman, I fully support more competition in DOD procurement.

While progress has been made in reducing the amount of noncompetitive procurements, there are certain factors which should be considered when one looks at this segment or category.

For example, in fiscal year 1980 DOD entered into governmental procurements amounting to $10.6 billion, which is 12 percent of their total procurement dollars. These are, of course, noncompetitive. Small business setaside or 8A contracts are noncompetitive in nature.

Due to cumbersome bureaucratic and costly regulations and laws, many firms simply refuse to bid or have no interest in Government business. This further reduces competition. Also, the nature of some DOD procurements; that is, large and complex weapons systems, limit sources. Finally, the oil shortage impacted on fiscal year 1980 procurements. Many contracts were sole source because suppliers lacked fuel and did not bid.

● Mr. PRICE. Mr. Chairman, in the few minutes remaining to us in this debate, let me summarize, if I can, the main points that I believe the House has to consider on this question of multiyear procurement.

With the best of motives, but with a purpose in mind other than saving money on defense procurement, some people have misunderstood the import of our committee's recommendation.

COMMITTEE RESPONSIBILITY

Mr. Chairman, under clause 2(l)(3)(D), rule XI of the Rules of the House of Representatives, committees are required to include in legislative reports any oversight findings received from the Committee on Government Operations on subject matters included in the bill.

If we had received a report from the Government Operations Committee on multiyear procurement, the Armed Services Committee would have included it in its report on H.R. 3519. We received none.

In fact, our records show we never received an oversight report from the Government Operations Committee on the subject of multiyear procurement.

The Armed Services Committee has been authorizing defense procurement on an annual basis since 1961. Those hearings today take over 3 months and occupy six subcommittees. They involve 120 committee and subcommittee sessions. The printed hearings will cover six volumes. The first volume alone is 1,458 pages.

Anybody who really knows Congress knows that the most effective form of oversight is the annual authorization and appropriation process where each program is reviewed in detail.

It is folly to say that providing multiyear procurement for some major weapons contracts would reduce congressional oversight.

MULTIYEAR PROCUREMENT IS NOTHING NEW

Members should understand that there is nothing new about multiyear procurement. The Department of Defense has been writing multiyear procurement contracts since the early 1960's. And as Members know, it is used in other areas. I understand many of our public works projects are multiyear contracts. It has been clearly documented that savings have been effected by multiyear procurement.

One of the principal limitations of multiyear contracting for major systems has been the ceiling on cancellation costs that can be covered by contracts; that ceiling is $5 million.

The ceiling was placed in the law in 1973 on the recommendation of the Armed Services Committee in an authorization bill. It has been retained in law ever since. It is a provision of title 10 that has always been under the jurisdiction of the Armed Services Committee. At no time, to my knowledge, did the Government Operations Committee ever claim that that provision was improper because it was not uniformly applied across the Government.

But now we are recommending that the ceiling be eliminated. And now, curiously enough, the Government Operations Committee charges that removing that ceiling would provide an exception for defense and allow the Department to escape the effort for a more uniform Federal procurement system.

Is that not strange—since that $5 million cancellation ceiling only applied to the Department of Defense in the first place? If you want uniformity for uniformity's sake, taking off the DOD ceiling would put the Department closer to everybody else.

SERIOUSNESS OF INDUSTRIAL BASE PROBLEMS

Mr. Chairman, no one of any acknowledged expertise questions two facts:

First, that there is a serious, critical—the Speaker of the House said a "frightening"—problem in the industrial base that provides the foundation for our Defense Establishment—it is in trouble.

The prestigious Defense Science Board led the way in underscoring the problems in the defense base. The GAO and the numerous experts who appeared before our industrial base panel last year all agreed on the serious problem: A shrunken supplier base, a shortage of critical material, an increase in the long leadtime required for components to major systems, general instability, shortages of skilled labor, and shocking failure to improve productivity.

ADVANTAGES OF MULTIYEAR PROCUREMENT

Second, multiyear procurement can bring greater stability to defense procurement and lead to substantial savings for the Government. Defense Secretary Weinberger estimates that judicious use of multiyear contracting can save upward of $15 billion over the next 5 years. The Budget Committee in its report earlier this year stated,

GAO has estimated that within 2 years after legislative authority is provided, savings of as much as $1 billion might be achieved, and that within 5 years these savings might be as much as $3 billion—

Through wider use of multiyear procurement. Gen. Alton Slay, the now-retired Chief of the Air Force Systems Command and one of the outstanding experts on defense procurement, estimated savings in the range of 10 to 30 percent by use of multiyear contracting. The Comptroller General, in a January 1981, report stated,

Multiyear procurement is an idea whose time has come. Because of statutory restrictions and a general reluctance on the part of Congress, substantial savings available through multiyear contracting have not been realized.

THE DESIRE FOR UNIFORM FEDERAL PROCUREMENT POLICY

The question arises, therefore, since there is no dispute on the serious problem facing us, and a chorus of experts who say that multiyear procurement is one of the important steps we could take to help solve the problem—and we are the only Western industrialized nation that procures contracts 1 year at a time—why does the Government Operations Committee oppose such procurement?

In its report, that committee makes clear its purpose. After stating that it has deleted the provisions of H.R. 3519 relating to multiyear procurement, that is section 909, the committee states:

The overriding purpose—

I emphasize overriding purpose—

of these deletions is the preservation of OFPP's (Office of Federal Procurement Policy) authority as a single manager of government-wide procurement reform and the assistance for arresting the growing complexity of procurement laws and regulations.

In other words, the Government Operations Committee principally opposes our provision because it runs, presumably, against the grain of that committee's effort to provide a uniform Federal procurement policy.

That committee is to be commended for its long effort to provide a uniform Federal procurement policy. And to the extent that procurement can be uniform in an entity as large and diverse as the Federal Government; surely we all support that.

But surely we are not going to delay the procurement of needed weapons systems for our national defense—or delay the possibility of saving billions

of dollars in such weapons procurement—until the procurement procedure coincides precisely with that used to procure wastepaper baskets and file folders for the General Services Administration.

How long would we wait? How much delay should we accept before we start saving money in defense procurement?

The effort at uniform procurement policy by the Government Operations Committee has been underway, according to its report, since the late 1960's—more than a decade. How is it going?

According to the committee's own report on H.R. 3519, there are still over 4,000 separate provisions of law governing procurement. There are over 877 different sets of procurement regulations. These Government procurement regulations contain 64,000 pages and approximately 22,000 pages are revised every year.

I think we have to conclude that the reform effort is moving slowly.

There are 4,000 separate provisions of law governing Federal procurement. But to remove one provision applying only to the Department of Defense to allow one kind of contracting that everybody agrees will save money, is somehow going to destroy the effort for uniform procurement policy?

I don't think the House can buy that.

I don't think we can delay the reform of defense acquisition procedures with the glacial pace of reform at OFPP.

The purpose of policy should never be uniformity for its own sake. Can we let the House be in the ridiculous position of turning down a slight revision of law that all the experts tell us will save billions of dollars at a time when we are greatly increasing defense expenditures and cutting billions and billions from social programs? Can we turn down such a potential saving for the niceties of bureaucratic uniformity at the Office of Federal Procurement Policy?

I don't think so.

COMPETITION

I know that the Government Operations Committee's concern about past failures of the Department of Defense is sincere. But the purpose of our section 909 is to allow for better management of procurement in the future.

I think that our friends on the Government Operations Committee have a misunderstanding about the effects of the committee's provision.

In its report, the Government Operations Committee states that H.R. 3519 is "silent about competition."

A more careful reading of our bill might have prevented some of the committee's misunderstanding.

Section 909 specifically states that regulations for the administration of the section shall be carried out in the manner so as not to preclude or curtail the ability of the agencies in DOD to "provide for competition in the production of items to be delivered under the contract."

There is absolutely nothing in H.R. 3519 to inhibit competition or to in any way result in less competition than we have today. The Government Operations amendments will not increase competition. They will continue present costly restrictions that create uncertainty for business firms involved in bidding for defense contracts. Intense competition takes place today for the procurement of major aircraft systems, tanks, and other weapons programs. When a winner is chosen, the preferred aircraft or tank is bought over a period, normally, of 5 to 7 years, with a certain number bought each year, but contracted for on an annual basis. The Government Operations Committee apparently prefers to call these follow-on contracts noncompetitive. In fact, the procurement is the result of a very competitive process.

It is estimated that to qualify a second source to compete in the future against the producer of the M-1 tank would require a Government investment of approximately $650 million. Such an investment might create the illusion of greater competition, but it would hardly save the Government any money.

The simple fact is that the Armed Services Committee provision would contribute to creating a healthier industrial base and ultimately increase competition by providing a healthier environment in which businesses can compete. Specific provisions of our bill are designed to promote the interest of subcontractors, vendors, and suppliers, those smaller businesses which contribute so much to the strength of our industrial base.

CRITERIA

The Government Operations Committee seems to have the impression that the committee provisions would allow the Defense Department to run amuck and willy-nilly sign multiyear contracts at great financial risk and lock the Government into buying deficient programs; this, of course, is not correct.

The Armed Services Committee provision sets specific criteria that requires the head of an agency to find that the multiyear contract would: Promote national security, result in reduced total cost, involve an item with a continuing requirement for quantity purchasing, involve low risk of cancellation, and involve a stable design with low technical risk.

AUTOMATIC DATA PROCESSING EQUIPMENT

Mr. Chairman, the Armed Services Committee bill was silent on the question of automatic data processing equipment procurement, a category of procurement not normally covered in such an authorization bill.

The bill was referred to the Government Operations Committee for "consideration of such provisions of said bill" relating to Federal procurement as fall within its jurisdiction.

The Government Operations Committee proposes adding a whole new provision relating to the procurement of automatic data processing equipment for the services.

It seems to me that adding a provision not in the bill sequentially referred may go beyond the scope of referral and that such is not a healthy practice for a House that is often behind schedule in trying to complete its business. The Government Operations Committee report goes to great length to oppose a provision of the Senate bill, which is not normally the function of a report on a House bill.

However, the Government Operations Committee has included this language on automatic data processing in such a way that it is part of the substitute amendment for our section 909, so I must oppose it.

In addition, Mr. Chairman, I find it surprising that the Government Operations Committee report states that their proposed provision on automatic data processing would simply repeat present law. If it repeats present law, I am not sure why it would be necessary.

Since the Government Operations Committee report was filed, however, the committee has heard from the distinguished Deputy Director of the CIA, the Chairman of the Joint Chiefs of Staff, and the Secretaries of the military departments, all of whom oppose the Government Operations Committee language.

SUMMARY

In short, Mr. Chairman, the evidence is overwhelming that the Armed Services Committee section 909 would save money, streamline defense procurement, help us rebuild our ailing defense industrial base, and contribute to the strengthening of our Armed Forces.

The amendment of the Government Operations Committee would make the bureaucrats in OFPP feel better and provide less bang for our bucks.

I ask that the amendment be defeated.●

Mr. BROOKS. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, in closing debate on the Government Operations Committee amendments, I just want to bring up one more point. I will not bore you any more talking about procurement. I want to say one final word about the danger of allowing the Defense Department to make open-ended commitments that future Congresses will have to pay.

One of the great unknown factors in projecting future defense costs is inflation. The Defense Department tradi-

tionally and invariably, under Democrats and under Republicans alike, makes these estimates low in order to disguise future costs. That is all right if that is the way they want to do it. It is not playing fair with the Congress or the public, because those future costs have to be paid on the basis of what the inflation rate really is, not what they wish it to be. But that is the way they do it.

Now here is something interesting. That is not the way they do it when they project the impact of future inflation on the cost of social security benefit increases.

Our committee held a hearing recently on the Department of Defense inflation estimates as they affect the costs of weapons systems, and Budget Director Stockman defended them very vigorously as the best available. Here is what they are: For 1982, they estimate 8.3 percent; for 1983, they estimate 7 percent; for 1984, they estimate 6 percent; and for 1985, it is 5.4 percent.

But those are not the figures that the administration uses in trying to scare everybody into thinking that the social security program is about to collapse and the benefits must be reduced significantly to all the old people in this country and the people getting ready to retire—far from it.

The social security trustees traditionally present five alternative inflation projections in trying to estimate future costs, ranging from the most optimistic to the most pessimistic or the worst case. Over in the Senate yesterday, the Secretary of the Department of Health and Human Services, Secretary Schweiker—and we remember Mr. Schweiker; he was in this body with us and he was a very fine and beloved Republican Member from Pennsylvania—was talking about the terrible shape that social security is going to be in, and according to this morning's Post, he admitted the administration was using the "worst case" inflation figures to make that judgment.

Now, what do you suppose they are? For 1982, they say it is 13.6 percent; for 1983, 11.6 percent; for 1984, 10.9 percent; and for 1985, 9.7 percent.

Let me give you those comparisons again, and you decide whether they have any impact on whether the Department of Defense should be given unilateral, unlimited multiyear procurement authority.

For the 1982 defense budget, the administration says that inflation will be 8.3 percent. But for 1982, social security costs will be 13.6 percent. For defense in 1983, it will be 7 percent; for social security, 11.6 percent. In 1984, for defense it is 6 percent, and for social security it is 10.9 percent. In 1985, for defense, it is 5.4 percent, and for social security it is 9.7 percent.

That raises issues beyond those we have under consideration here. But they are serious questions going to the integrity of the administration's economic forecasts, and I hope they will be examined. For us here today, they offer further reasons for Congress keeping a firm control on defense expenditures.

Mr. HORTON. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Nebraska (Mrs. SMITH).

Mrs. SMITH of Nebraska. Mr. Chairman, I rise in support of this authorization for the Department of Defense for the coming fiscal year.

This legislation takes the first step toward rebuilding America's defenses and I commend the committee for the fine work they have done in bringing it to the floor. The bill enhances the long-neglected readiness and modernization of our Armed Forces.

I strongly support efforts to improve our defense capabilities, and I think there is no doubt that we need to do so.

The unprecedented increases in defense spending that are a part of this legislation come at a time when we are asking the citizens of this country to make sacrifices, sacrifices which have been justified in the name of the severe economic crisis faced by the country today. It seems only fair to me that we demonstrate to the American people that we are as committed to eliminating waste and inefficiency in military programs as we are to cutting the fat out of domestic programs.

The outgoing Comptroller General, Elmer Staats, has estimated that a minimum of $4 billion over the next 4 years could readily be saved through improved defense procurement, and eliminating waste and duplicative management within the Pentagon.

Complementing these findings is a report from the Republican Research Committee citing several General Accounting Office reports which estimate that the Pentagon could save $15 billion yearly.

In addition to these reports, my Committee on Appropriations in its report on the defense appropriation bill for 1981 lists 46 ways in which defense dollars are needlessly frittered away.

Instances of waste and mismanagement cited by my committee include poor recordkeeping and accounting practices for fuels, oils, and lubricants permitting the theft of millions of gallons of fuel, retaining items in stock which have not experienced a demand in years, failure to consolidate base maintenance activities such as plumbing, painting, firefighting, and so forth, when two or more bases are operated by different military services in the same vicinity, failure to utilize manufacturers warranties and guarantees on appliances, automotive equipment, and so forth, and then repairing the item with Government labor. These are but a few instances of waste mentioned in my committee's report. Similarly, the Congressional Budget Office has published a study on strategies and examples for reducing the Federal budget including the defense budget.

I know the Armed Services Committee is well aware of the recommendations made in these reports and audits and has made every attempt to act upon them. The same is true for the Department of Defense itself. In fact, Secretary Weinberger in response to a letter I signed along with many other Members, listed a number of the things he was doing to combat the inefficiencies in the Defense Department. It was clear to me from his letter that he is committed to making the Department a model of efficiency and I was impressed with the steps he has already taken. However, what he has so far accomplished is only the tip of the iceberg. In fact, Office of Management and Budget David Stockman recently told a congressional committee that the reason he did not cut defense spending in the fiscal year 1982 budget revisions is because: "There is so much waste in the Defense Department it has taken us longer to figure it out."

Mr. Chairman, I have taken this time because I wanted to urge the Committee on Armed Services and the Secretary of Defense to vigorously pursue all efforts and programs designed to eliminate waste and to improve cost effectiveness throughout our Armed Forces.

Such efforts will not only improve our readiness and defense capability but will demonstrate to the American people that there is no difference between the standard of justification required for domestic spending and the standard necessary for military spending.

Mr. HORTON. Mr. Chairman, I yield such time as he may consume to the gentleman from Nebraska (Mr. DAUB).

Mr. DAUB. Mr. Chairman, I thank my distinguished ranking Member for yielding me this time, and I rise in support of the authorization bill.

I wish to indicate particularly, Mr. Chairman, that at a time when the United States is undertaking a large program of force modernization, it is essential to achieve the highest possible efficiency in defense spending. Multiyear procurement of defense contracts is a highly attractive way to cut the costs of weapons programs while strengthening our waning defense industrial base.

As a member of the House Republican Defense Task Force, I supported the task force's strong endorsement of this cost saving device.

The Air Force anticipates that multiyear procurement used on the F-16

aircraft program will save $560 million. With this arrangement the Navy expects to save $65 million in the C-2A onboard delivery aircraft.

Over a 5-year period, multiyear procurement will save between $10 to $15 billion.

Mr. Chairman, multiyear procurement is already applied to Federal public works projects. It was thus an understatement when the GAO Comptroller General stated that multiyear contracts in defense programs is an idea whose time has come.

I urge Members to preserve the armed services provisions for multiyear procurement.

Mr. BEREUTER. Mr. Chairman, I rise in support of the fiscal year 1982 defense authorization bill, and offer some brief comments on the state of U.S. military preparedness and the nature of the threat which we face throughout the world.

The inadequate military strength of this Nation and the ever-increasing military might of the Soviet Union comprise the biggest threat our Nation faces today. Our Armed Forces are not about to collapse, but the problems they face are very serious and the adequacy of a military balance is doubtful in many key areas. Two of the three legs of our strategic triad need major overhaul. Most of our NATO allies have not met the 3-percent spending increase goal, and their commitment to redress the gross long-range theater nuclear imbalance in Europe appears to be faltering. An attack in Europe may be unlikely, but the outcome in the event of war did occur could be disaster for the West. The NATO long term defense program and the Rapid Deployment Force remain unfulfilled paper plans. We failed to carry out even the very small scale hostage rescue attempt. On many levels our military forces seem ill-prepared to meet the threats we face.

In contrast, the Soviet Union continues its quantitative and qualitative buildup. Soviet troops remain in Afghanistan—unvictorious, but impervious to Western calls to get out. Soviet saber-rattling threatens Poland. We face a window of vulnerability on the strategic level in the 1980's. In Europe the Soviet superiority in long-range nuclear forces is unchallenged, and they continue to modernize and improve their larger conventional forces. In the Third World, terrorism, instability, and Soviet proxy forces continue unabated. In sum, it seems likely that the 1980's will be a very dangerous decade for the West.

To meet these threats we place hope in arms control, but trust only in a true balance of military power—the key to peace. For too long we have allowed our strength to erode, so these dangerous imbalances exist.

Fortunately, the American people, Congress, and the Reagan administration have firmly declared their commitment to shoulder our defense burdens and meet these threats. The administration's 1982 budget of $136.5 billion for defense is over $25 billion more than the Carter administration's proposal. We cannot solve the problems we face overnight with this measure but I believe we are about to begin correcting our shortcomings in national defense.

These extra defense dollars are sorely needed to purchase the weapon systems we need to fill the gaps in our levels of deterrence. On the strategic level we must fund a new bomber and a missile system to replace and supplement the ancient B-52 and our vulnerable Minuteman. In Europe we need the Pershing II and ground launched cruise missiles to help fill the gap in long-range theater nuclear forces and counter the Soviet SS-20. Equipment for our conventional forces and the Rapid Deployment Force will help improve our conventional capability. These, and many other systems are needed to counter Soviet improvements and meet our commitments.

Certainly along with more appropriations for defense, we must truly increase our efforts to improve the cost effectiveness of our forces and reduce waste. That rhetoric used rather routinely must be made reality. Selective multiyear procurement for proven weapon programs should be authorized to help lower per-unit weapons costs and improve our industrial base. The tendency to buy overly complex and expensive weapons must be altered. Cost effectiveness studies and optimum force mix analyses should be used as the criteria for selecting weapons rather than the glamor appeals of the most advanced weapons or political pressures from congressional sources or protesters. I must also caution my colleagues not to ignore the need to fund maintenance of this expensive equipment. A multimillion dollar fighter plane is worthless if a critical $10 part is missing. A plane that is too expensive cannot be purchased in large enough numbers to survive in combat if it is too heavily outnumbered. If it is too complex and the radar is down most of the time, the plane has little practical value.

That same fighter is also worthless if too many of our experienced pilots constantly leave for a job with a commercial airline or if our best chief mechanics have quit in droves to double their pay in a civilian job. Shortages of highly skilled personnel plague all the services. It takes increasingly more time to train soldiers and technicians to use and maintain the complex array of weapons in the arsenal today, but people are leaving the service sooner than they did in the past. Reenlistment rates for servicemen with 5 to 10 years of experience have declined 15 to 20 percent since 1975. In the Army last year only 34 percent of the soldiers reenlisted after their first 3-year term was up. The Navy is short 3,600 pilots since the retention rate has dropped from 62 percent in 1977 to 31 percent in 1979. Weapons cannot be maintained, missions cannot be performed, and the personnel who remain to do the job are put under even more stress as they are pressed to take up the slack.

The major reason for flight from military service is poor pay and benefits relative to the civilian world. Military pay plus benefits have not kept up with pay and benefits for industrial workers in recent years—and it was already lagging at that time. The specters we have witnessed in recent years of forcing married soldiers with families to rely on food stamps because of subminimal wages is a deplorable state of affairs. Assignment to such high-cost countries as Germany meant not the excitement or travel promised by recruiters, but the prospect of severe financial and personal hardships for married enlisted personnel—and in some cases forced separations of families for economic reasons. The practice of pinching pennies by trimming military pay raises is the epitome of being penny-wise and pound-foolish.

Congress approved a large pay raise in this defense bill, but retention rates and key personnel shortages must be watched to see if more improvements in pay or benefits are needed beyond these increases to offset inflation.

I am pleased to note that the recruiting problems the services faced last year seem to have lessened significantly. All services are said to be at 100 percent of authorized strength and the quality of new soldiers has improved. Last year 46 percent of new recruits had not completed high school, while today that rate has fallen to 27 percent. With more improvements in military pay, benefits, and status we would be able to recruit high quality people and then retain them in the service. Improving military pay is a better choice philosophically to meet personnel requirements than the draft—and the draft cannot solve retention problems as pay increases can.

In addition to providing more rewards to the people in our armed services we must improve the treatment given to our veterans. The recent unanimous vote in the House to extend funding for outreach centers and to treat veterans who were exposed to agent orange is a laudible effort. These and other measures to help veterans and recognize their service to the Nation during war should be enacted. People in our Armed Forces today, and those who have served in the past, deserve greater respect for their efforts and sacrifices, and recognition from the Nation they serve.

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With these steps and great attention to our Armed Forces I believe we can and must now begin an accelerated effort to improve our strength and readiness to deter Soviet aggression and protect the peace. The defense burden is an expensive drain on the Nation's resources, but the only alternative to a balance of power is war—a lesson both history and Soviet doctrine insist is true.

We cannot afford to be second best; we must insure that the funds which we are authorizing today are applied in the most efficient and effective manner possible, so that the result is an actual enhancement in real combat capability which will serve us in good stead in the critical years ahead.

● Mr. FRENZEL. Mr. Chairman, this bill is one of the most complex and most expensive bills Congress will have to consider this year. H.R. 3519, the Department of Defense authorization for 1982, is designed as the first phase in a defense buildup that will have to be sustained in future years to bring our national security capability to an acceptable level. Although the total authorization for fiscal year 1982 of $136 billion is $445.2 million less than requested by the administration, it nonetheless represents a 31-percent increase over last year's authorization.

Because Congress has made substantial, real cuts in nearly all Federal programs, particularly social programs, many responsible Americans will raise legitimate, searching questions about increasing defense expenditures. Others will claim we are inflicting pain on our own people to build bombs when we already have enough to blow up the world many times over. But although this authorization is an economically painful step to take now, I believe it is a necessary one.

In the past two decades, there has been a major shift in the strategic balance between our Nation and the Soviet Union. According to CIA estimates, since 1960 the dollar value of annual Soviet defense expenditures has doubled while U.S. defense spending, in real terms, has remained essentially the same. During 1980 the Soviets were estimated to have spent approximately 50 percent more on defense than we did. The Soviets also spend between 12 and 14 percent of their GNP on military outlays, compared to the American figure of 5.5 percent.

Of course, such spending comparisons alone do not tell the whole story. In addition to the difficulty of estimating Soviet defense spending, many other factors, such as technological capabilities and the relative strength of Warsaw pact and NATO allies, enter into the picture as well. Nonetheless, such comparisons demonstrate an alarming trend which, if allowed to continue unchecked, could have dire consequences for the future of the United States and the world.

Congress, I am afraid, must take much of the responsibility for the relative decline in our relative military strength. In our attempts to reduce the size of our military effort after Vietnam and to cut some of the fat out of our Defense Establishment, we have allowed our adversaries to reduce our comparative military superiority and to gain many tactical advantages. Although indiscriminate spending is not the answer, we must work to build back the muscle where it has been weakened, while still remembering our responsibility to the American people to provide an adequate defense as economically as possible. I believe this bill combines these aspects of strength and economy.

Except for our Tridents, our nuclear triad seems increasingly vulnerable. This bill addresses the bomber and the ICBM problems by providing the requested $302 million for long-range combat aircraft and $2.4 for the MX. Although the Armed Services Committee has inserted language barring funding for any systems other than the B-1 and the MPS basing mode, these restrictions may be waived if the President determines that an alternative to either of these systems is in the national interest and Congress concurs with that decision. I personally have no particular affection for the specified basing mode type of bomber. I only know our security requires a reliable missile and it may, for a while at least, require a manned bomber.

Our conventional forces also require extensive upgrading. This bill provides for increased procurement in a number of areas, with special emphasis on aircraft procurement and naval shipbuilding. Funding is also to be continued for the M-1 tank program. Furthermore, an effort is being made to upgrade our National Guard and Reserve Forces. This, I believe, is necessary to improve the readiness of these forces, which are expected to provide nearly half of the Army's total combat power.

Our manpower needs are also addressed in this bill. It recommends an increase in active-duty personnel of 54,500. We must keep in mind, though, that the ultimate fate of the All-Volunteer Force depends on the increases in military pay and benefits that we will be considering later this week. For the number of personnel is far less important than retaining skilled people and recruiting new capable people to replace those who retire or leave.

Despite the large increase in military spending this bill represents, I support it. But, since every department of Government needs careful spending oversight, I am pleased to see efforts to cut down on waste in defense spending. One example is the savings to be realized by streamlining our R. & D. program so that we can get the most for our money out of this crucial but necessary area. Furthermore, I believe significant savings can be realized by the Armed Services Committee's proposals for multiyear procurement.

The obviously large increases in this bill will seem unjustified to some. My personal judgment, however, is that the current international situation demands that, even in such difficult economic times, we take the responsibility to reverse our past neglect in this area. Finally, since our defense needs will probably require continued heavy spending, we must redouble our scrutiny of defense spending to guarantee that such funds are being spent wisely and effectively.

I urge the passage of H.R. 3519.●

Mr. HORTON. Mr. Chairman, I have no additional requests for time, and I yield back the balance of my time.

Mr. BROOKS. Mr. Chairman, I yield back the balance of my time.

Mr. PRICE. Mr. Chairman, I yield back the balance of my time.

Mr. NELLIGAN. Mr. Chairman, on behalf of the Committee on Armed Services, I yield back the balance of our time.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read the bill by titles.

The Clerk read as follows:

H.R. 3519

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Defense Authorization Act, 1982".

TITLE I—PROCUREMENT

AUTHORIZATION OF APPROPRIATIONS

SEC. 101. Funds are hereby authorized to be appropriated for fiscal year 1982 for the use of the Armed Forces of the United States for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons in amounts as follows:

AIRCRAFT

For aircraft: for the Army, $1,880,300,000; for the Navy and the Marine Corps, $9,902,600,000; for the Air Force, $14,665,498,000, of which $1,942,000,000 is available only for procurement of the B-1 bomber aircraft.

MISSILES

For missiles: for the Army, $2,745,800,000; for the Navy $2,484,800,000; for the Marine Corps, $223,024,000; for the Air Force, $4,593,246,000.

NAVAL VESSELS

For naval vessels: for the Navy, $10,290,100,000.

TRACKED COMBAT VEHICLES

For tracked combat vehicles: for the Army, $3,469,500,000; for the Marine Corps, $281,739,000.

TORPEDOES

For torpedoes and related support equipment: for the Navy, $516,600,000.

OTHER WEAPONS

For other weapons: for the Army, $655,400,000; for the Navy, $200,200,000; for the Marine Corps, $136,344,000; for the Air Force, $3,047,000.

AUTHORIZATION OF APPROPRIATIONS FOR CONTRIBUTION TO AIRBORNE WARNING AND CONTROL SYSTEM (AWACS) FOR NATO

SEC. 102. There is authorized to be appropriated for fiscal year 1982 the sum of $358,200,000 to be available only for contribution by the United States of its share of the cost for such fiscal year of acquisition by the North Atlantic Treaty Organization of the Airborne Early Warning and Control System.

CERTAIN AUTHORITY PROVIDED SECRETARY OF DEFENSE IN CONNECTION WITH THE NATO AIRBORNE WARNING AND CONTROL SYSTEM (AWACS) PROGRAM

SEC. 103. (a) During fiscal year 1982, the Secretary of Defense, in carrying out the Multilateral Memorandum of Understanding Between the North Atlantic Treaty Organization (NATO) Ministers of Defence on the NATO E-3A Cooperative Programme, signed by the Secretary of Defense on December 6, 1978, may—

(1) waive reimbursement for the cost of the following functions performed by personnel other than personnel employed in the United States Air Force Airborne Warning and Control System (AWACS) program office:

(A) auditing;

(B) quality assurance;

(C) codification;

(D) inspection;

(E) contract administration;

(F) acceptance testing;

(G) certification services; and

(H) planning, programing, and management services;

(2) waive any surcharge for administrative services otherwise chargeable; and

(3) in connection with the NATO E-3A Cooperative Programme for fiscal year 1982, assume contingent liability for—

(A) program losses resulting from the gross negligence of any contracting officer of the United States;

(B) identifiable taxes, customs duties, and other charges levied within the United States on the program; and

(C) the United States share of the unfunded termination liability.

(b) Authority under this section to enter into contracts shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

Mr. Price (during the reading). Mr. Chairman, I ask unanimous consent that title I of the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

AMENDMENT OFFERED BY MR. PRICE

Mr. PRICE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PRICE: Page 3, line 9, strike out "$2,484,800,000" and insert in lieu thereof "$2,549,800,000".

Mr. PRICE. Mr. Chairman, on May 21, 1981, the Under Secretary of the Navy wrote to the committee to inform us of problems that have developed in the Navy's leased satellite communication (LEASATCOM) program. These problems, which are a result of a 2-year schedule slip in the Space Shuttle program, require that additional fiscal year 1982 funding be provided to both the fleet satellite communication (FLTSATCOM) program and the LEASATCOM program. The committee was not informed of these funding shortfalls until after we had reported out H.R. 3519, thereby necessitating this amendment.

Since this amendment impacts the procurement title of the bill, I would like to ask the distinguished gentleman from New York, the chairman of our Procurement Subcommittee (Mr. STRATTON), to provide the background on the amendments.

□ 1630

Mr. STRATTON. Mr. Chairman, I move to strike the last word.

As the Chairman mentioned, the need for this amendment, plus a companion amendment to title III of the bill, is a result of a schedule slip in the Space Shuttle program.

In 1978, the Congress directed the Navy to lease future communications satellite service rather than continuing to build its own fleet satellite communications (FLTSATCOM) system which was about to enter service. In response to that direction, the Navy awarded a competitively negotiated contract to obtain satellite communication service to the fleet on a lease basis as a follow-on to the FLTSAT COM program. Under the terms of that contract, the contractor is responsible for construction and launch of satellites that would satisfy Navy requirements. After successful launch and deployment, the Navy would then purchase the communication services provided by the satellites.

On entering into the leased satellite or LEASAT contract, it was understood that the Space Shuttle would be available as a launch vehicle in early 1982 and the contractor designed LEASAT for Shuttle launch only based on the Shuttle schedule that was in existence in 1978. Since that time, the Shuttle has incurred an extensive delay and the first LEASAT launch is now scheduled for May, 1984—vice April 1982 as originally planned. This has caused a significant change in the contractor financing arrangement.

The contractor has stopped production efforts on the LEASAT and has placed the program in a caretaker status.

Lengthy discussions and negotiations between the Secretary of the Navy and the contractor have led to a tentative agreement for modification to the existing contract to implement revised terms if a mutually agreed Shuttle schedule and service requirements for satellite communications can be reached by November 1, 1981. Contract modifications being considered include a redistribution of payments to accommodate financing requirements but with no increase in total program cost. Additionally, the Navy will be given attractive lease/buy options for service beyond the original 5-year period and flexibility in launch dates.

To execute the terms of the contract modificaton, the Navy requires $67 million by November 1, 1981 for the contract modification to be implemented. This is $59 million above the amount already included in the fiscal year 1982 budget request for operations and maintenance funds for the LEASAT program. The current fiscal year 1982 budget request for $8 million reflects the funds originally considered to be required under the existing contract. In order to effect these payments, an additional $59 million must be authorized for fiscal year 1982 in the "Operations and maintenance" account, title III of our bill. The committee will propose a companion amendment to title III to take care of the LEASAT funding shortfall when title III is opened to amendment. This amendment will not increase the amount authorized for Navy operations and maintenance.

As a result of this significant slip in the LEASAT program, the Navy is seriously concerned about future availability of satellite communication service and the potential adverse impact on military operations if this service is not available. Over the years, the Navy has become increasingly dependent on communications satellites, as has the entire Department of Defense. Land-based communication facilities have been drawn down in order to decrease the cost of operations, reduce American military presence overseas, and to improve worldwide defense-related command, control, and communications. This reliance on communication satellites goes to the very heart of the need to preserve a robust fleet satellite communication system, a system that currently serves both tactical and strategic users. This Navy concern is shared by the unified and specified commanders, the Joint Chiefs of Staff, and the Air Force.

Even though the initial successful test of the Space Shuttle has increased hopes that the leased satellite system (LEASAT) will ultimately be put in service, the administration believes that the fleet satellite or FLTSAT system must be continued as an insurance policy for a variety of reasons, including strategic force requirements. The military services' current satellite communication capability is based on the five fleet satellites that were authorized prior to the direction to lease satellite communica-

tion service. Although the fleet satellite program was based on a satellite design life of less than 4 years, the Navy hopes it can obtain as much as 6 years of service from these same satellites. This optimism is based on the excellent service and technical characteristics displayed by the four fleet satellites that are currently in orbit. Even with this potential longer life and without the always possible catastrophic satellite failure or the possible launch failure of the fifth fleet satellite in August of this year, the Navy would need to launch an additional satellite not later than May of 1985 to continue a viable military communications system worldwide if LEASAT service were not available because of Space Shuttle-related or other difficulties. To support such a launch date, the only reasonable course would be the continuation of the proven FLTSATCOM program satellites.

To protect this option, long lead materials need to be ordered in fiscal year 1982. In this context, the procurement of three additional satellites would protect the militarily essential four-satellite constellation which provides for defense-wide tactical requirements and strategic coverage. Long lead material for these satellites in the amount of $65 million would have to be placed on contract in early fiscal year 1982 to execute this plan. The need for such an insurance policy would, of course, become more pressing if the launch of the fifth FLTSAT COM satellite, which is already procured and now scheduled for launch in August of this year, were to be unsuccessful.

Mr. Chairman, I believe it is important to continue the fleet satellite program. I therefore request support for this amendment that provides the $65 million that is required to procure the long lead materials needed to protect the option to launch additional fleet satellites beginning in 1985.

Since the committee recommends a reduction of $70.2 million in Navy missile procurement, this addition would still leave the recommended authorization $5.2 million below the request for Navy missiles and the total authorization in the bill $380.2 million below the President's request.

Mr. DICKINSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to say that we have discussed these amendments with our chairman and we support them.

On June 23, the full committee held a classified hearing on the importance of fleet satellite communications. The possible effects of failure to act on these matters would be very serious, in the opinion of the representatives of the Department of Defense.

We were also told operations of the Joint Rapid Deployment Force would also rely heavily on these, and consequently there is a very valid requirement for fleet satellites. There is nothing to take the place if we do not go forward with it here. It comes late because of launch scheduling problems and consequently the chairman is offering it by way of an amendment rather than in the original committee bill. Speaking for this side of the aisle, we will accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. PRICE).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title I?

AMENDMENT OFFERED BY MR. LOWRY OF WASHINGTON

Mr. LOWRY of Washington. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LOWRY of Washington: At the end of title I (page 5, after line 23), add the following new section:

LIMITATION ON PROCUREMENT OF PERSHING II MISSILES AND GROUND-LAUNCHED CRUISE MISSILES

SEC. 104. None of the funds appropriated pursuant to the authorization of appropriations in section 101 for missiles for the Army may be obligated or expended for procurement of Pershing II missiles, and none of the funds appropriated pursuant to the authorization of appropriations in such section for missiles for the Air Force may be obligated or expended for procurement of ground-launched cruise missiles, until the President has certified to the Congress that the United States has forwarded to the Soviet Union initial proposals for limitations on theater nuclear force (TNF) weapons in Europe within the framework of strategic arms limitation talks (SALT).

POINT OF ORDER

Mr. STRATTON. Mr. Chairman, I make a point of order against the amendment as being a violation of rule 16 regarding germaneness. That rule requires that instructions, qualifications, and limitations must be germane to the provisions of the bill.

It is my contention that the condition here stated in the pending amendment is totally unrelated to the provisions of the bill and in fact lies within the jurisdiction of another committee, namely, whether the United States has or has not forwarded to the Soviet Union initial proposals for limitation on theater nuclear force weapons in Europe within the framework of the strategic arms limitation talks. That has no bearing whatsoever on the authority or the responsibility of the Armed Services Committee or this pending legislation.

The CHAIRMAN. Does the gentleman from Washington (Mr. LOWRY) seek recognition on the point of order?

Mr. LOWRY of Washington. Yes, Mr. Chairman.

Mr. Chairman, I believe this amendment is in order. To say that there is not a process on this House floor in which we can hold contingent this Nation's commitments to arms limitations, contingent upon expenditure that we are making for armament allows us no place on which to make the statement that is very necessary in this world as to our position commitment to arms limitations talks contingent as a dual process as agreed in 1979 with NATO for the modernization of our nuclear forces there.

So I would ask that this amendment be held in order, Mr. Chairman.

The CHAIRMAN. The Chair is prepared to rule.

The gentleman from New York makes a point of order against the amendment offered by the gentleman from Washington on the grounds it is not germane to title I of the bill.

The amendment would condition the use of funds authorized in section 101 for the Pershing missile on a certification by the President that certain U.S. proposals have been made in the SALT negotiations relative to weapons in Europe.

It is not germane to make the effectiveness of a bill or authorization contingent upon an unrelated event or determination. As stated in Deschler's Procedure, chapter 28, section 24.25, to a provision rescinding funds for the B-1 bomber, an amendment to delay the effectiveness of the rescission until ratification of a SALT II Treaty was held not germane on February 22, 1978. Since the condition involved actions by agencies and authorities not charged with administration of the B-1 bomber program, and since the SALT II negotiations involved a broad range of arms control issues not necessarily related to the B-1 program.

The Chair would further point out that arms control negotiations fall within the jurisdiction of the Committee on Foreign Affairs, and not within the jurisdiction of the committee reporting this bill, and that nothing in title I addresses such negotiations.

For the reasons stated, the Chair sustains the point of order.

AMENDMENT OFFERED BY MR. TRIBLE

Mr. TRIBLE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRIBLE: Page 5, after line 23, insert the following new section:

PROHIBITION ON CONSTRUCTION OF NAVAL VESSELS IN FOREIGN SHIPYARDS

SEC. 104. None of the funds appropriated pursuant to the authorization of appropriations for the Navy for naval vessels in section 101 may be used for the construction or conversion of a naval vessel in a foreign shipyard.

Mr. TRIBLE. Mr. Chairman, I offer an amendment to prevent the construction or conversion of U.S. naval vessels in foreign shipyards with the

funds appropriated pursuant to this authorization.

Earlier this year the Secretary of the Navy suggested that the United States may want to consider building naval vessels abroad. I am deeply disturbed by that suggestion and my amendment gives the House the opportunity to voice its opposition to such a proposal.

Building our naval vessels overseas is unwise for a number of reasons:

U.S. yards have long built the finest and most sophisticated warships in the world, warships that have been tested in combat and never found lacking. We have no guarantee of finding the same standard of excellence in foreign yards.

Building our vessels in U.S. yards will provide a shot in the arm to our domestic shipbuilding industry, related industries such as steel, and will benefit our economy generally. I remind you that the Congress has authorized no new construction differential subsidy (CDS) funds for commercial ships for fiscal year 1982. Building the 34 vessels authorized in this bill in our own yards will lessen the effect of the loss of CDS funds on our domestic shipbuilding industry.

Building these naval ships in the United States provides jobs for Americans. Today the unemployment rate exceeds 7 percent. We must protect our shipbuilding jobs and put more of our people to work. We cannot do this by exporting jobs to foreign shipyards.

There are also grave national security problems with constructing Navy ships abroad. There is a far greater possibility of sabotage and of classified information slipping into unfriendly hands if we build these ships outside the borders of the United States.

Mr. Chairman, I have heard some concerns expressed about the capacity of our domestic shipbuilding industrial base to absorb the increase in naval shipbuilding contemplated by the Reagan administration. I have every confidence that our shipbuilders can meet this challenge. In addition to our 7 important Navy yards, there are 24 private shipyards located in 15 States, and they are not producing at full capacity. Currently, only 11 of these 24 private yards are constructing naval vessels. We can expand the number of yards doing naval construction and increase the workload at each of the shipyards now being underutilized.

For these and other good reasons, I encourage my colleagues to support this amendment.

Mrs. SCHNEIDER. Mr. Chairman, will the gentleman yield?

Mr. TRIBLE. I yield to the gentlewoman from Rhode Island.

Mrs. SCHNEIDER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in very strong support of the amendment offered by the gentleman from Virginia and associate myself with his remarks.

As a sponsor of legislation to permanently prohibit the procurement of naval vessels abroad, I applaud the gentleman's important step toward assuring that American naval vessels are built in American shipyards.

Mr. TRIBLE. I thank the gentlewoman for her comments in support of this amendment. I would like to add, her bill has my strongest support and I, too, applaud her efforts on this important issue.

Mr. BENNETT. Mr. Chairman, will the gentleman yield?

Mr. TRIBLE. I would be happy to yield to my distinguished chairman of the Subcommittee on Seapower, the gentleman from Florida (Mr. BENNETT).

Mr. BENNETT. Mr. Chairman, as chairman of the Subcommittee on Seapower and Strategic and Critical Materials, I recommend that the House accept the amendment offered by Mr. TRIBLE. The amendment would provide that none of the funds authorized to be appropriated by the bill may be used for the construction or conversion of naval vessels in a foreign shipyard. The limitation imposed by the amendment would be limited to ships constructed or converted with funds authorized in the bill before us.

While this is the first time this limitation has been offered for inclusion in the DOD authorization bill, the House has included a similar provision in the DOD appropriations bill every year since 1968. Accordingly, I see no reason that such a provision should not be included in the DOD authorization bill.

Legislation has been introduced in the House including a bill introduced by the gentlelady from Rhode Island (Mrs. SCHNEIDER) to amend title 10, United States Code, to provide that naval vessels of the United States may not be built in foreign shipyards. This legislation, if enacted, would permanently restrict the ability of the Department of Defense to engage in cooperative programs with NATO and other friendly governments for the construction of naval ships. The Subcommittee on Seapower and Strategic and Critical Materials plans to hold hearings on this legislation later this year.

I want to note that shipbuilding is perhaps unique among all of the industries which support the national defense. It is characterized by the production of very small numbers of units, very long building periods—up to 8 years for nuclear-powered aircraft carriers—and a final product with unsurpassed complexity. Not all defense articles have the characteristics of naval vessels.

Accordingly, my acquiescence to the Trible amendment does not imply endorsement of limitations on procurement of defense articles other than naval vessels.

Mr. Speaker, I recommend adoption of the Trible amendment.

Mr. TRIBLE. I thank the gentleman for his contribution. I encourage my colleagues to support this initiative.

Mr. DICKINSON. Mr. Chairman, will the gentleman yield?

Mr. TRIBLE. I yield to the gentleman from Alabama.

Mr. DICKINSON. I thank the gentleman for yielding.

Since the distinguished chairman of the Subcommittee on Seapower has accepted it, I find myself embarrassed not to go along in the same vein, which I am willing to do. I would certainly hope that by taking this action that we do not send a signal to organized labor and others and the contractors, both management and labor, that we are closing the door to any significant competition from any place else by saying that we will only have what is built here.

I do not think that that will be the case, but I would like to underscore and emphasize that should not be the case. If we are not being given a fair shake in the competition process itself, I think the mood of the Congress would be to reverse what we are doing here. However, at this time I would certainly accept the gentleman's amendment.

Mr. TRIBLE. I would say to my distinguished friend from Alabama, over the last many years naval shipbuilding has been reduced by the previous administration. Commercial shipbuilding is at standstill worldwide, in fact today, many American shipyards are looking for shipbuilding opportunities. There is more than sufficient competition within our domestic shipbuilding industry.

I, too, agree that we must build ships, but build those ships effectively and efficiently for the American people.

Mr. DICKINSON. And competitively.

□ 1645

Mr. BENNETT. Mr. Chairman, will the gentleman yield?

Mr. TRIBLE. I yield to my friend, the gentleman from Florida.

Mr. BENNETT. I wanted to emphasize, as I said in my remarks, I do not want this to be a precedent for any other type of procurement, but there is a special reason why it should be done with regard to ships.

● Mr. FAZIO. Mr. Chairman, I would like to associate myself with the remarks of my good friend Mr. TRIBLE regarding his amendment to prohibit the U.S. Navy from utilizing any authorized funds for the construction of U.S. combat vessels in foreign ports.

At this time, we are constructing Navy ships in private shipyards, only.

However, we are required to maintain our public shipyards in a state of constant readiness to build new ships. Thus, this enormous and immediately available shipbuilding capability stands idle today, and surely offers a more reasonable and desirable alternative to building Navy ships in foreign ports.

If we are to engage in an enlarged shipbuilding program, it makes sense economically and militarily to utilize our own industrial base, rather than resorting to foreign yards.

I commend Mr. TRIBLE for his efforts and urge each of my colleagues to lend their support to this amendment.●

Mr. GEJDENSON. Mr. Chairman, I move to strike the requisite number of words. I rise to speak on the amendment.

Mr. Chairman, I join my colleague, the gentleman from Virginia, with whom I have had some differences in the past, in supporting this amendment.

While we have the capacity in this country to build the kind of defense equipment that the Navy needs, it would be foolhardy to export not only the skills, but the capital investment necessary to maintain this commitment. I join my colleagues in supporting this amendment. I urge its passage.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. TRIBLE).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title I? The Clerk will read title II.

The Clerk read as follows:

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. (a) Funds are hereby authorized to be appropriated for fiscal year 1982 for the use of the Armed Forces of the United States for research, development, test, and evaluation in amounts as follows:

For the Army, $3,741,470,000.

For the Navy (including the Marine Corps), $5,699,531,000.

For the Air Force, $8,833,700,000.

For the Defense agencies, $1,914,797,000, of which $53,000,000 is authorized for the activities of the Director of Test and Evaluation, Defense.

(b) In addition to the funds authorized to be appropriated in subsection (a), there are authorized to be appropriated for fiscal year 1982, such additional sums as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law for civilian employees of the Department of Defense whose compensation is provided for by funds authorized to be appropriated in such subsection.

MULTIROLE STRATEGIC BOMBER

SEC. 202. (a)(1) The Secretary of Defense shall complete full-scale engineering development and shall begin initial procurement of the B-1 manned strategic bomber aircraft in a manner that will achieve an initial operational capability (IOC) for such aircraft not later than July 1, 1987.

(2) Concurrently with development of the B-1 bomber aircraft under paragraph (1), the Secretary of Defense shall proceed with research, development, test, and evaluation of an advanced technology bomber aircraft.

(b) Notwithstanding subsection (a)(1), amounts appropriated pursuant to section 201 for research, development, test, and evaluation that are available for the B-1 bomber aircraft, and amounts appropriated pursuant to section 101 for aircraft procurement that are available for the B-1 bomber aircraft, shall be available for research, development, test, and evaluation of an advanced technology bomber aircraft if—

(1) the President determines, and certifies to the Congress, that it is in the national interest of the United States not to develop the B-1 bomber aircraft; and

(2) the Congress, before the end of 60 legislative days beginning on the date of the receipt of such certification, adopts a concurrent resolution stating in substance that it approves such determination by the President.

Amounts described in the preceding sentence may not be obligated or expended for research development, test, and evaluation of an advanced technology bomber aircraft other than in accordance with such sentence.

(c) For the purpose of subsection (b), a legislative day is a day on which either House of Congress is in session.

MX MISSILE SYSTEM BASING MODE

SEC. 203. (a)(1) Of the amount authorized to be appropriated by section 201 for research, development, test, and evaluation for the Air Force, $2,423,200,000 is available only for appropriation of funds for research, development, test, and evaluation for the MX intercontinental ballistic missile system in a Multiple Protective Structure (MPS) basing mode.

(2) Development of the MX missile system in such a basing mode shall continue so as to achieve an initial operational capability (IOC) for the MX missile system not later than December 31, 1986, as required by section 202(b) of the Department of Defense Authorization Act, 1981 (Public Law 96-342; 94 Stat. 1079).

(b) The amount specified under subsection (a)(1) may be available in connection with a basing mode other than a Multiple Protective Structure (MPS) basing mode, and the initial operational capability (IOC) date specified in subsection (a)(2) may be waived, if—

(1) the President determines, and certifies to the Congress, that it is in the national interest of the United States to develop a basing mode for the MX missile system other than a Multiple Protective Structure (MPS) basing mode; and

(2) the Congress, before the end of 60 legislative days beginning on the date of the receipt of such certification, adopts a concurrent resolution stating in substance that it approves the development of the alternative basing mode selected by the President.

(c) For the purpose of subsection (b), a legislative day is a day on which either House of Congress is in session.

REPEAL OF REQUIREMENT FOR ANNUAL REPORT ON INDEPENDENT RESEARCH AND DEVELOPMENT AND BID AND PROPOSAL COSTS

SEC. 204. Section 203 of Public Law 91-441 (84 Stat. 906; 10 U.S.C. 2358 note) is amended—

(1) by striking out subsection (c); and

(2) by redesignating subsection (d) as subsection (c).

Mr. PRICE (during the reading). Mr. Chairman, I ask unanimous consent that title II be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. MONTGOMERY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to address this question to the chairman of the procurement committee. It pertains to wording in the report that instructs the Air Force on the $150 million the Air Force is to consider for procurement of wide-bodied aircraft.

It has come to the attention of the gentleman in the well there are some surplus wide-bodied aircraft, such as the 747, KC-10's and DC-10's, that are not being used now and might be turned back or taken out of service, and there is a possibility these planes could be bought at a very, very reasonable price. As the gentleman knows, the chairman of the procurement subcommittee, there is certainly a shortage of airlift capability. I would hope that the Air Force would consider making purchases of these wide-bodied aircraft for cargo use and also for movement of personnel. I suggest consideration be given to putting these aircraft in the Air National Guard, who I have been informed have the capability to provide pilots, mechanics, and hangar space. I think this proposal should be considered by the Air Force.

I hope the gentleman will comment on this suggestion that is in the report on page 38.

Mr. STRATTON. Mr. Chairman, if the gentleman will yield to me, I certainly would be very happy to comment on it.

On page 38 of our report, the committee spells out the fact that no request was made by the Department of Defense for authorizing the procurement of wide-bodied airlift aircraft in 1982; but actually there was an excess of money requested for R. & D. on the CX, so the committee recommended that $150 million of that amount of $245.7 million be transferred for the specific procurement for wide-bodied aircraft in fiscal year 1982, pending decisions by the Secretary of Defense that might result from the congressionally mandated mobility study.

We indicated in the report on page 39, to satisfy near-term airlift requirements, the Air Force is expected to consider the procurement of KC-10's, additional C-5's, and 747's and other existing wide-bodied aircraft.

I think the gentleman's request is an excellent one. There are a number of Reserve and Air National Guard units who are involved specifically in the airlift mission. I have one in my own

district at the Schenectady Airport. They service the ice cap up at Thule and the procurement that we are urging the Department of Defense to make should be for aircraft that can be utilized not only by the regular forces, but also by the Reserve and the National Guard.

Mr. MONTGOMERY. I thank the gentleman for his comments.

It seems to me that if the Air Force could make a good reasonable buy of these aircraft and you could convert them by putting lifts and heavy floors in them, it certainly makes a lot of sense and I hope the Reserve and National Guard would be considered to handle this capability.

As I understand it, it would improve our airlift capabilities as much as 5 percent, which would mean a lot in the short term.

Mr. STRATTON. Well, I would assure the gentleman that the Subcommittee on Procurement, of which I have the honor to be chairman, will follow this through and insist that we be filled in as to exactly what it is doing, because as the gentleman knows, we have a real serious shortage of airlift capacity and the sooner we fill that gap, the safer we will be.

Mr. MONTGOMERY. Well, as the gentleman knows, our airlift capability, including that need for the Rapid Deployment Force, is short, but if we cannot get our forces in, if we cannot get the cargo and tanks there, our Armed Forces are no good to us.

Mr. STRATTON. Well, I heard someone who said that the Rapid Deployment Force was like the Holy Roman Empire. It was not holy. It was not Roman, and it was not an empire. The Rapid Deployment Force is not rapid. It is not deployed and it is not yet a force.

So I am glad the gentleman has made this suggestion. It will move us along a little bit more rapidly toward our objective.

Mr. DICKINSON. Mr. Chairman, will the gentleman yield?

Mr. MONTGOMERY. I would be glad to yield to the gentleman from Alabama.

Mr. DICKINSON. I want to make sure that I understand the suggestion of the gentleman. It is not an amendment, but it is a suggestion to give some direction to the Air Force to give consideration to using part of the $150 million that our R. & D. subcommittee directed should go toward the acquisition of wide bodies, that a portion of it at least should go to that.

The CHAIRMAN pro tempore (Mrs. BOUQUARD). The time of the gentleman from Mississippi has expired.

(By unanimous consent, Mr. MONTGOMERY was allowed to proceed for 1 additional minute.)

Mr. DICKINSON. Madam Chairman, if the gentleman will yield further, the suggestion of the gentleman by the colloquy here and the interest shown by the Members on the floor is that we suggest to the Air Force that a portion of this at least go to the Air National Guard or Air Reserve.

Mr. MONTGOMERY. Yes.

Mr. DICKINSON. Could the gentleman tell me how much of the airlift now is carried by either the Guard or the Reserve?

Mr. MONTGOMERY. Currently 30 percent of the tactical airlift is carried by the Air Guard and then the Air Reserve provides crews for a significant portion of the capability of Regular Air Force. The crews are air reservists. They do not have the planes assigned to them. I would say 40 percent of those crews of the Air Force are reservists on airlift duties and as I said the Air Guard provides 30 percent of the tactical airlift capability.

Mr. DICKINSON. If the gentleman would and could provide this for the record, it would be appreciated; but it is my recollection that over 50 percent of the total airlift of the Air Force is flown either by the Reserve or by the Guard.

The CHAIRMAN pro tempore. The time of the gentleman from Mississippi has again expired.

(At the request of Mr. STRATTON and by unanimous consent, Mr. MONTGOMERY was allowed to proceed for 1 additional minute.)

Mr. STRATTON. Madam Chairman, will the gentleman yield further?

Mr. MONTGOMERY. I would be happy to yield.

Mr. STRATTON. The staff of our committee advises me that it is actually 57 percent, so the gentleman from Alabama is on target, actually a little bit low. That certainly is a tremendous job that the Reserve and the Guard are doing.

Mr. MONTGOMERY. It just makes sense if you can buy these aircraft at a reasonable price, they are already built, and as I understand it, for a reasonable cost we can put the lift equipment in them and also the heavy floors and the cargo doors and give us increased capability for airlift.

Mr. STRATTON. Well, I am sure as long as we leave it up to the Secretary of Defense, he will strike a good bargain for those planes and get them at the lowest possible price.

Mr. MONTGOMERY. I thank the gentleman.

The CHAIRMAN pro tempore. Are there any amendments to title II?

AMENDMENT OFFERED BY MR. ADDABBO

Mr. ADDABBO. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ADDABBO: Page 9, strike lines 11 through 18.

Mr. ADDABBO. Madam Chairman, this amendment strikes section 204 of the bill. Section 204 removes the requirement that the Secretary of Defense submit an annual report to the Congress on the independent research and development activities of defense contractors. The surveys and investigations staff of the Committee on Appropriations recently began a study of these activities and is expected to report its findings by next January. Until that time, I do not believe that the Department of Defense should be released from reporting what has been useful and relevant information. If the investigation by our S. & I. staff reveals that the information is readily available elsewhere, and that the cost of preparing the report exceeds the benefit it provides, the requirement can be stricken in next year's bill. I believe that retaining this report 1 more year is prudent.

Mr. DICKINSON. Madam Chairman, I move to strike the last word.

We had a discussion in the Subcommittee on Research and Development about this. We felt this was redundant and not needed. It was for this reason we took the action we did.

If the chairman of the Subcommittee on Defense Appropriations feels that they do need an additional year at least in order to maintain oversight, we have no objection to it. We thought it was unnecessary and redundant, but if the gentleman feels strongly about it, as far as this side is concerned, we will accept the amendment.

Mr. PRICE. Madam Chairman, if the gentleman will yield, in the capacity the gentleman serves, if he feels that they need that report, we will go along with it.

Mr. ADDABBO. I thank the chairman and the ranking minority member.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New York (Mr. ADDABBO).

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there further amendments to title II?

AMENDMENT OFFERED BY MR. HANSEN OF UTAH

Mr. HANSEN of Utah. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HANSEN of Utah: Page 8, strike out line 5 and all that follows through page 9, line 10, and insert in lieu thereof the following new section:

MX MISSILE SYSTEM BASING MODE

SEC. 203. (a) Of the amount authorized to be appropriated by section 201 for research, development, test, and evaluation for the Air Force, $2,423,200,000 is available for appropriation of funds for research, development, test, and evaluation for the MX intercontinental ballistic missile system.

(b) No funds appropriated pursuant to the authorization for the MX missile system in subsection (a) may be obligated or expended with respect to a basing mode for the MX missile until—

(1) the President selects a specific basing mode for the MX missile system and certifies to the Congress in writing a description of the basing mode selected;

(2) the Secretary of Defense submits to the Committees on Armed Services of the Senate and House of Representatives a report in writing (A) justifying the selection of the President referred to in paragraph (1), and (B) containing a comparison and evaluation of alternative basing modes to the basing mode selected by the President and;

(3) a period of 60 days has elapsed after the certification under paragraph (1) has been received by the Congress and during which both Houses of Congress have not adopted resolutions of their respective Houses expressing disapproval of the development of the basing mode selected by the President.

(c) Development of the MX missile system shall continue so as to achieve an initial operational capability (IOC) for the MX missile system not later than December 31, 1986, as required by section 202(b) of the Department of Defense Authorization Act, 1981 (Public Law 96-342; 94 Stat. 1079).

Mr. HANSEN of Utah (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

Mr. HANSEN of Utah. Madam Chairman, in the short time available, I would like to highlight the compelling reasons for passage of this amendment.

First, let me express my strong and continued support for the MX missile itself. There is no doubt in my mind about the need for this next generation of missiles. The MX would shore up our aging and increasingly vulnerable strategic deterrent of 20-year-old Titan and 10-year-old Minuteman missiles. The missile itself will in no way be delayed by the amendment. The $1.3 billion approximated for the MX missile in this bill shall not be affected.

Second, the current Congress, the Secretary of Defense, and the President, have not taken a stand on MX basing.

The final and most comprehensive study on MX basing by the Towns Commission will soon be completed. It would be premature to obligate or to expend $1.1 billion in this bill for the MPS or shell game system until both branches have made a final decision on MX basing.

Having the provision that mandates the Congress to act within 60 days of the President's recommendation insures the initiation of the construction of a basing mode to house the MX within a reasonable time frame. Otherwise, continued and prolonged debate on the matter after an executive decision could delay the missile system indefinitely.

Third, the amendment would bring H.R. 3519 into conformity with previous bills that have passed the Congress, including the Supplemental Appropriations Act, the Senate and House versions of the military construction authorization bill and the Senate version of this DOD authorization bill as amended by Senators TOWER and WARNER.

□ 1700

Fourth, if the President and Congress stay within the amendment schedule, funding for any MX basing mode should not be delayed as this bill would not take effect until the next fiscal year.

Finally, this amendment serves as a vehicle to serve notice that the Congress is not irrevocably committed to the MSP basing mode. Any basing mode which could be arrived at which would better serve our strategic deterrent should be considered with any prior commitments to a potentially less desirable basing scheme.

Mr. CRAIG. Madam Chairman, will the gentleman yield?

Mr. HANSEN of Utah. I yield to the gentleman from Idaho.

Mr. CRAIG. I thank the gentleman for yielding.

Madam Chairman, I would like to stand in support of my colleague, the gentleman from Utah, today in this particular amendment addressing section 2 and specifically the authorization of expenditure for the MX and the MSP basing mode. I think he has clearly outlined our concern and the reason for the amendment specifically that it complies with past actions of Congress to open and allow flexibility in the decisionmaking of the administration as to the basing of the MX.

I do not stand in opposition to the MX. More importantly, I stand in support of the kind of flexibility that I think is based on information that has been supplied to me and my colleagues in the Special Land Subcommittee of the House Committee on Interior and Insular Affairs that in the development of this new generation of ICBM missiles, clearly we need to be concerned about the flexibility of deployment and also the viability of that deployment. I am one who does not believe that the MSP mode offers those alternatives. I stand in support of the amendment.

Mr. STRATTON. Madam Chairman, I rise in opposition to the amendment.

Madam Chairman, I think this is a very damaging amendment, and I think it would be foolish, indeed, for this House to allow the amendment to pass without even any discussion of it. The MX missile is one which is absolutely necessary if this country is going to achieve any kind of missile capability and equality with the Soviet Union. Secretary Brown in the last administration and Secretary Weinberger in this administration have all acknowledged that the MX missile is the only thing that can help to neutralize the Soviet capability for a first strike wiping out essentially all of our land-based missile force, the Minuteman structure on which we today rely. If we move rapidly, it is conceivable that we might be able to close that window of vulnerability in 5 years. Even if we proceed immediately with the MX missile, we are going to be vulnerable to a devastating first strike which we have no way of resisting for a period of at least 5 years, and if we delay any longer, that window is going to be even greater.

I can understand how an individual may not want to have the MX based in his State. I can understand how he might not want to have it based in his backyard. But it seems to me that if we are serious about our effort to build up a strong American defense, to which the President of the United States is committed and to which the Secretary of Defense is committed—he wants to rearm America—how can we possibly talk about rearming America if we are not even willing to move swiftly with a determination to close that gap so that in terms of ICBM's we have an invulnerable system rather than a vulnerable one?

I can understand the people of Utah and Nevada saying, "Do not put it in my State." But unfortunately when the security of the Nation as a whole is involved, somebody has got to give, and something has got to give. If one State is in a position to veto a system that is absolutely essential for our survival, this country is not going to last very long. We are certainly not going to give an impressive picture of assurance and determination either to our Soviet adversaries or to our European allies. Our European allies say, "Look, here you are. You want us to take the neutron bomb; you want us to take the theater nuclear force; you want us to take all of these other things, but you are not even willing to put missiles in your own country to close the gap that makes you basically vulnerable to Soviet attack." That is the kind of picture we are going to give, and those people are going to say, "These people are a paper tiger."

I realize that there are all kinds of ideas as to where you can put them. You can put them in little bitty submarines; you can put them on trolleys; you can put them on tracks somewhere. But the fact of the matter is that the best minds in this country have devoted themselves to this subject. They have come up with the basing mode that the committee supports.

Unless we move on that basing mode immediately, we are not going to be able to close the gap. We certainly are not going to present any position of credibility to our allies or to our potential adversaries.

This amendment says that we had better fish or cut bait, and we have said that the committee, having exam-

ined this, supports the basing mode that would put them in Nevada and Utah. Unless the President comes up with a statement that says that there is some basic reason why we should not put them there, and unless that is backed up by both Houses of the Congress, we have got to go ahead in that direction. I do not think that we want to change that language as the gentlemen's amendment would do.

The CHAIRMAN pro tempore. The time of the gentleman from New York (Mr. STRATTON) has expired.

(By unanimous consent, Mr. STRATTON was allowed to proceed for 5 additional minutes.)

Mr. HANSEN of Utah. Will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from Utah.

Mr. HANSEN of Utah. I thank the gentleman. I appreciate that. I would just like to point out if the gentleman read this carefully, I really do not think it alludes to what he has been talking about, if I may say so. The gentleman finds himself in a situation that this runs to the idea that a committee, and possibly not the one the gentleman is referring to, responds to whether or not the President says he accepts a certain deploying mode.

As far as the MX missile in and of itself is concerned, there is no backing away from that. I would be the first to say that the people from Utah and Nevada would not back away after it was determined, after you look at all other sources, that this is the best way to use that particular MX missile.

I would like to point out this does not allude to the MX missile in and of itself. We strongly supported that the MX missile be built, and it just holds up until the President makes that determination.

Mr. STRATTON. This is exactly what we are waiting for now. We are waiting for two very vital decisions on the part of the Secretary of Defense, and I am sure both of those decisions are ultimately going to be made by the President of the United States. One of them is the question of the B-1 bomber. The other is the question of the MX missile. The gentleman's amendment sets up another committee, if I understand it. I did not listen to it very carefully. In fact, I do not think the gentleman had it read. But I do not want to let something slip by us here because we are in a friendly mood, and then go to find out we have destroyed the security of the country because we postponed it.

We have had the greatest minds in defense matters in the country reviewing this thing. There is no painless way to establish any kind of missile system. It is going to hurt somebody or other.

We even have bombers flying over the ski runs of upstate New York and upsetting some of these ski teams of the individual Members, but we have to put up with that kind of inconvenience. I think that this is going to allow the Secretary and the President to stall in an area where they should not be allowed to stall. We have got to get that thing quickly.

The gentleman says they are all in favor of the MX missile, but he may remember that it was Archimedes, I think, who said, "Give me a place to stand and I can move the world." We have got to put the MX's somewhere. They have got to stand somewhere. Unfortunately, in the gentleman's State—and I have had the privilege of driving through it—you can go for miles and miles and miles and not see anybody. So I think you could put those missiles there without their being in your backyard or in your neighbor's backyard 125 miles away.

Mr. HANSEN of Utah. Let me just respond, if I may. I have no argument with what the gentleman says except this: There is no committee formed by this amendment the gentleman is looking at. There is no committee. We are not delaying anything. We are looking at the money for fiscal year 1982, so there is no delay. And the best minds have not concluded this. Those were the three points the gentleman made.

One was the best minds. The best minds have not given a recommendation. There is no committee, and there is no holding up of any money, so those three areas are not really to the point, if I may respectfully say so. We are just holding this off for money in fiscal year 1982. Another committee is being formed. We have no obligation. There is no fight. There is nothing in here, about whether, it goes into Utah or Nevada.

Mr. SKELTON. Madam Chairman, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from Missouri.

Mr. SKELTON. I thank the gentleman for yielding.

I would like to agree with the position of the gentleman from New York (Mr. STRATTON) in that the committee did the right thing in causing the administration to fish or cut bait. We must receive a decision on the MX. The MX is very, very important. I would like to address myself to the gentleman regarding some of his comments a moment ago. The MX missile must go somewhere. It must go somewhere in the continental United States obviously.

Let me say this: I represent a district that has 150 ICBM Minuteman II missiles in it. You do not hear people complaining about them. You do not hear any farmers saying, "I wish they would come and take them off of my land." I have yet to hear an unpatriotic comment from a farmer with a missile silo on his place.

I say to the gentleman, hopefully, we will have a good civil defense in the near future. That is what we should be addressing ourselves to, not trying to keep it out of a State, because that hurts our national defense.

Mr. STRATTON. I thank the gentleman for his comments. I have visited the gentleman's district and saw one of those missile sites. It is settled in a quiet, peaceful, rolling area of the country, and I never realized how happy the people are around there.

So I am sure the gentleman from Utah (Mr. HANSEN) will find the same experience.

AMENDMENT OFFERED BY MR. SIMON TO THE AMENDMENT OFFERED BY MR. HANSEN OF UTAH

Mr. SIMON. Madam Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. SIMON to the amendment offered by Mr. HANSEN of Utah: Strike out paragraph (3) of subsection (b) in the matter proposed to be inserted and insert in lieu thereof the following:

(3) a period of 60 days has elapsed after the certification under paragraph (1) has been received by the Congress during which each House of Congress has adopted a resolution of that House stating in substance that that House approves development of the basing mode selected by the President.

Mr. SIMON. Madam Chairman, first of all I want to apologize to the chairman of the full committee and to the minority leader. I do not ordinarily put in amendments without giving them to the committee in advance. I think that is a courtesy that makes for good legislation, but we have moved more rapidly here than ordinarily we would.

The gentleman from New York (Mr. STRATTON) has mentioned that we are a paper tiger. Let me by way of explanation say that what I do to the Hansen amendment is simply require affirmative action rather than negative. It frankly toughens that amendment somewhat. But there is no question in my mind that if the President's Commission reports and says we want to have a land-based racetrack missile, there is no question that we are going to get a majority in the House and the Senate to support it.

□ 1715

But before we spend what the GAO now says is going to be $56 billion, we ought to know what we are doing. That seems to me not an unreasonable request. My colleague, the gentleman from New York (Mr. STRATTON), for whom I have great respect, says the United States will appear to be a paper tiger.

Now, we do have defense needs. But those defense needs, I happen to believe, are in the area primarily, No. 1, of personnel. One of these days we are going to do what this Nation, as almost the only major nation on the

face of the Earth does not do, and that is, we are going to have a draft one of these days. We avoid it. We skid around it. We pretend all kinds of things are going to solve our problems. But one of these days we are going to have to face up to that. That is the No. 1 need of this Nation, and let us not fool ourselves. We do not solve the problems of this Nation and its defense needs by simply pouring more and more and more money after something. And here we have a proposal that has deeply divided the defense community.

I would point out to the Members that we have one former Secretary of Defense who has questioned this, we have two former Chairmen of the Joint Chiefs of Staff, we have a former head of the Central Intelligence Agency, we have a former head of the NSA, all of whom have said, not on an economic basis, but on a strictly strategic defense point of view, this racetrack system does not make any sense whatsoever. And it will be, if we go ahead, the second largest expenditure in the history of civilization on any single project, second only to the Interstate Highway System.

So what I am saying with my amendment, to strengthen the Hansen amendment—and I would like to make clear that if my amendment is defeated I will support the Hansen amendment—before we make this kind of an expenditure which defense leaders say, many of them say, is not only a waste of money, it is counterproductive, let us know what we are doing.

A second thing I would point out—and if I may have the attention of my good colleague, the gentleman from New York, on this, because I think this is important—I serve on the Budget Committee, and right now it may look like for defense needs it is a bottomless well. My friends, it is not. And if you put $56 billion into this fancy system that will not be completed, according to estimates, until 1989, and then may be useless, if you put this kind of money in there, you are taking it away from the ships for the Navy, you are taking it away from aircraft we need, you are taking it away from other things that are real defense needs of this country.

The CHAIRMAN pro tempore. The time of the gentleman from Illinois (Mr. SIMON) has expired.

(By unanimous consent, Mr. SIMON was allowed to proceed for 1 additional minute.)

Mr. SIMON. So what I am asking is not that we stop the missile, but that we do what a great many defense leaders have told us we ought to be doing, and that is look carefully.

I would ask, finally, that each and every one of you who may be perplexed by this issue call someone you know at the Pentagon. I do not know who that person is. But someone relatively high. And just say to them, "Off the record—and you are not going to be quoted—tell me, do you think that this is a sensible expenditure of the Nation's money? And will this help our Nation's defense?"

And I think I know the answer you are going to get.

Mr. CONYERS. Madam Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from Michigan.

The CHAIRMAN pro tempore. The time of the gentleman from Illinois (Mr. SIMON) has again expired.

(On request of Mr. CONYERS and by unanimous consent, Mr. SIMON was allowed to proceed for 2 additional minutes.)

Mr. CONYERS. Is the gentleman suggesting that privately most military people do not support this thing?

Mr. SIMON. I can tell the gentleman from Michigan that privately the military leaders that I have talked to have given me that opinion. I can tell the gentleman also I had one experience where the wife of a very high military officer came to me, came to my office, and said, "Now, I want you to know that I am just speaking for myself, I am not speaking for anyone else, but you have got to do something to stop this disaster that is about to befall the Nation."

Now, it may very well be that she was speaking only for herself and not for anyone else. I have an idea it was more than that.

Mr. CONYERS. I thank the gentleman.

Mr. WOLPE. Madam Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from Michigan.

Mr. WOLPE. I thank the gentleman for yielding.

Madam Chairman, I want to commend the gentleman in the well for his observations, and I would like to associate myself fully with his remarks, particularly in the emphasis the gentleman has drawn to the opposition that has come to the MX missile system from conservatives and from military leaders all across this country. It should be clear to all of us that this MX project is the biggest boondoggle in the history of mankind, a colossal waste of taxpayer's dollars, and that this country just cannot afford, from a military or an economic standpoint, to go through with this program.

Madam Chairman, I will incorporate within this RECORD a list of quotations of conservatives and military leaders which has been prepared by the Council for a Livable World that I believe should shed some light on this issue and reinforce the point that the gentleman has made so effectively in his remarks this afternoon:

OPPOSITION TO THE MX BASING MODE IS WIDESPREAD: WHAT A NUMBER OF CONSERVATIVES AND MILITARY LEADERS ARE SAYING

PRESIDENT RONALD REAGAN OPPOSES THE MX BASING MODE

Q. A number of leaders from western states, including some of your strong supporters, oppose the MX fixed-rail siting because it's going to use up so much range land. How do you feel about that?

A. I have to tell you that, while I can't claim that I've had enough input to make a final decision on anything, I'm not enamored of that fixed-rail system. I believe the missile is necessary. I don't believe in the basing method that has been suggested so far.

Q. Because of the land use?

A. It's not only that. It's so elaborate, so costly, and I'm not sure that it is necessary or would be effective. It's again an indication of this whole effort, such as in the SALT talks, to have verifiability so you create a great, elaborate costly system in which you can hide the missile except that the enemy has to know that the missile is there. And it doesn't make much sense to me.

Q. Does that mean that the sea-based option is under active consideration?

A. Oh, I think there are any number of them, ranging all the way from silos such as we presently have. Silo, sea-based, they're all being looked at.

Q. So the siting question. You've been committed to the missile, but the siting of it is still a wide-open question as far as you're concerned?

A. Yes.

Interview in The Washington Post with President Reagan, March 29, 1981.

COLUMNIST JAMES J. KILPATRICK OPPOSES THE MX WEAPON SYSTEM

"The Pentagon's budget drips with fat. In the MX missile system, beloved of the generals, the taxpayers face the biggest boondoggle of all time—a $60 or $70 billion squandering of public funds."

Kilpatrick column in The Washington Star, February 10, 1981.

FORMER DEFENSE INTELLIGENCE AGENCY DIRECTOR AND CO-CHAIR OF COALITION FOR PEACE THROUGH STRENGTH, GEN. DANIEL GRAHAM, OPPOSES THE MX

"The problem is that MX is the grotesque child of bad strategy. It's grotesque to take a missile that's designed for counterforce—that is, to hit certain of the most dangerous Soviet weapons before they can hit you—and then deploy it in a system that is supposed to absorb all the effects of those weapons before you fire. That's grotesquery, from a military standpoint."

"And then to put $50-$60 billion into that grotesquery is absolutely stupid. The MX deployment scheme should be rejected, not because it's going to endanger the pronghorn antelope or the desert tortoise, but because it is the final offspring of very bad strategy."

Interview with Gen. Graham in The Washington Star, March 22, 1981.

FORMER NIXON DEFENSE SECRETARY MELVIN R. LAIRD SAYS THAT MX SHOULD BE PUT AT SEA

"Beyond sheer cost, however, the land-based, mobile MX would involve a profound environmental impact upon an area in Utah and Nevada roughly twice the size of New Jersey. It would affect land, water and mineral resources, rural and small-town lifestyles (because of the influx of construction workers and military personnel and their

families) and the activities of thousands of outdoors lovers. Environmental interests are certain to fight the project, and apparently will have plenty of support from residents, more than 50 percent of whom, according to local polls, oppose it. Given the strong opposition to be expected wherever land deployment is recommended, I think it is arguable whether the MX will ever be deployed on land in the United States."

"So where do we put them? The answer may well lie at sea."

Laird article in Reader's Digest, September 1980.

MAJ. GEN. W. T. FAIRBOURN OF THE U.S. MARINE CORPS, FORMER SENIOR STRATEGIC PLANNER WITH THE U.S. JOINT CHIEFS OF STAFF, OPPOSES MX DEPLOYMENT PLAN

"To continue the development of a system that is already vulnerable, that cannot be fully deployed for 10 years, that cannot accomplish its mission when deployed, that increases the attractiveness of the United States as a target; while failing to investigate reasonable concepts such as presented herein is in the author's judgment strategic lunacy."

Fairbourn article in the Desert News, Utah, January 14-15, 1981.

SENATOR JAKE GARN HAS SERIOUS DOUBTS ABOUT THE PROPOSED MX DEPLOYMENT

"Public opinion has really turned. You have serious problems in my state and in Nevada. You have serious problems with me. And you could never accuse me of being anti-defense."

Garn quoted in The Washington Star, article by Mark Schaprio, February 22, 1981.

FORMER CIA DIRECTOR STANSFIELD TURNER OPPOSES PRESENT PLANS FOR THE MX

"I believe the MX project as presently conceived is a serious mistake . . . There is little time left to reverse the momentum of the MX. A dramatic commitment by the new Administration will be needed to accomplish such a reversal, and the key word is 'commitment.' There are great vested and parochial interests in the military and in industry that are intent upon going ahead with the project. But the United States cannot let such interests dictate the course of its security, and indeed, the security of the world. A new program is needed to correct the strategic imbalance—to the extent that it does exist—but, especially, to correct the perception that the United States itself has generated that it is falling behind. Thus, a prompt but thorough review of where the MX may be taking us, as well as what alternatives there are to the MX, is crucial to America's long-term security."

Turner article in The New York Times Sunday Magazine, March 29, 1981.

SENATOR ERNEST HOLLINGS OPPOSES THE MX BASING MODE

"Supporting the MX missile and supporting the racetrack basing mode are two entirely different things. MX is the right missile, but the racetrack basing is nonsensical extravagance. It is a budget-buster of the first order, and in terms of cost-effectiveness fails miserably to make the grade. I have looked at the matter of costs, and I can say that, without doubt, an MX system with the racetrack basing mode is going to cost the American taxpayer somewhere between $30 billion and $90 billion. If there were no other way to do it, and given the need to do whatever we must to insure the safety of our people, we would be justified in going ahead. But there are other, less costly options."

Senator Hollings on the Senate floor, CONGRESSIONAL RECORD, Nov. 9, 1979.

GEN. MAXWELL TAYLOR QUESTIONS THE NEED FOR THE MX

"Thus far, it is my opinion that the proponents of the MX have not made a convincing case either as to the need for a new weapons system to replace our silobased ICBMs or as to the claims of the MX as the preferred replacement. On these issues, I would need to be convinced that, during the next decade, there is a strong probability that the Soviets will launch a surprise attack upon our ICBMs, despite the risk of incurring a destructive retaliation in response. There must also be reason to believe that such an attack would destroy most of the ICBMs. I am unconvinced on both points and would give a very low probability rating to this threat."

Letter from Maxwell D. Taylor, General, U.S. Army, retired, to Representative Paul Simon, April 17, 1980.

WILLIAM F. BUCKLEY JR. OPPOSES THE MX

"We should advise the Russians that unless they bury their 308 SS-18s—those jobbies that knock out whole states at a time, and make our Minutemen worthless—we will take measures. Not the Disneyland $30 billion sunroofed air-conditioned 1,000 square-mile Arthur Murray studio where we teach our missiles dancing in a hurry so as to fool the SS-18s. But a straightforward anti-missile defense system, for which we have the technology and could, at $10 billion, protect the land-based leg of our famous triad."

Column in The Washington Star, September 26, 1979.

COMMITTEE ON THE PRESENT DANGER CALLS FOR SLOWING MX DEVELOPMENT

The Committee on the Present Danger on May 9, 1980 released a report calling for the spending of $260 billion more in the military budget over the next six years. At the same time, according to a New York Times account of the report, the Committee "says that the Administration's program for building the MX mobile missile should be slowed in favor of deploying a new version of the Minuteman rocket in a mobile basing system."

Description of report in New York Times, May 11, 1980.

ADM. THOMAS MOORER OPPOSES THE MX AND FAVORS SEA BASED ALTERNATIVE

"I do not think it is wise for the United States to continue to focus more and more missiles in the very center of our populated area so that the populated area would be in jeopardy * * * I think what has been said by General Graham and Dr. Van Cleave in particular is very important and should be fully considered before we launch forth on this ever changing launching concept which is going to affect the environment and require inordinate amounts of cement and is going to affect the water problem in the areas of Utah and Nevada."

Adm. Moorer's testimony May 7, 1980 before the Defense and Military Construction Subcommittees of the Senate Appropriations Committee.

RETIRED REAR ADM. HENRY E. ECCLES CALLS FOR ABANDONING THE MX

"The nature and degree to which the MX system would influence Soviet action is purely conjectural. The present situation with both "strategic" and "theatre" weapons is complex and dangerous enough, without spending enormous resources on a project which will further complicate the situation without any assurances of accomplishing its supposed objective."

"Therefore, we should abandon the MX missile system program, continue to depend on the present general system of nuclear weaponry to provide deterrence against nuclear attack, make every effort to reduce nuclear weaponry, and accept an acknowledged risk in so doing."

Eccles statement placed in the Congressional Record, April 2, 1980, by Senator Claiborne Pell.

BISHOP WILLIAM K. WEIGAND OF THE ROMAN CATHOLIC DIOCESE OF SALT LAKE CITY MORALLY OPPOSES MX

"I oppose not just the land deployed mode in Utah and Nevada, but the MX itself. I do so on moral grounds. I think this stance is the logical application of the teachings of the Church and our Holy Father, the Pope."

Bishop William K. Weigand editorial in the Intermountain Catholic, April 10, 1981.

SENATOR HENRY JACKSON QUESTIONS THE MX BASING MODE

"In arguing for proceeding with the MX missile, I have no intention of supporting the racetrack basing mode that has been discussed—more, one sometimes thinks, in the press than among the scientists and engineers who will have to make it work. I have profound reservations about the racetrack basing mode. It strikes me as cumbersome, risky, and expensive. It is a concept developed less by American engineers than by Soviets negotiators, and that troubles me deeply."

Senator Jackson on the Senate floor, Congressional Record, Nov. 9, 1979.

Mr. SIMON. I thank the gentleman from Michigan.

Madam Chairman, I would simply point out that groups like the National Taxpayers Union, not radical groups, are saying, "This thing does not make sense." And I simply ask my colleagues in this body, before we just go pellmell down the road on this thing, let us listen to the military leaders who say, "Hold on, you better be sure you know what you are doing."

Mr. DICKINSON. Madam Chairman, I rise in opposition to this amendment and to the amendment which it purports to amend, and I would like to take a few minutes, if I might, to review the legislative history as it pertains to the MX missile system.

In considering the deployment of the MX missile, it should be kept in mind that, as initially envisioned during the administration of President Ford, the system's initial operational capability, or IOC, as we call it, was to be in 1984 because of the realization that we would be in a period of maximum strategic vulnerability during the mid- to late-1980's.

Now, what does that phrase mean, "maximum vulnerability"?

Well, it simply means that we have been able to monitor the testing of the new ICBM systems that the Soviets have in place or are proposing to put in place, that we have been able to tell, as time went by, and as more and

more testing occurred, that they were increasing the accuracy of their ICBM systems.

Going back, initially, there were two concepts. We went for a smaller warhead because we had a greater accuracy. The Soviets did not have the technology that the United States was able to field, and so in order to make sure that they had a kill capability because they could not get as close to the target as we could, they went for a larger yield, a bigger warhead. So it is for this reason that the Soviets have built larger missiles with greater megatonnage and throw-weight.

We have gone down two different roads in the United States vis-a-vis the Soviet Union. We have built smaller warheads, we have built fewer warheads, and we feel we can hit with more precision. But we have seen the Soviets during SALT I, when they could not deploy additional missiles, continue to increase and have seen their research and development develop to the point where their accuracy is now approaching that of the United States.

For that reason, our intelligence community says that, knowing their rate of development and being able to extrapolate or look ahead between 1982 to 1985, somewhere in that time frame, the Soviets will have developed accuracy of their ICBM's to the point where our Minuteman-3 silos are vulnerable and that as many as half or more could be taken out with any one exchange of ICBM's.

For this reason, our Defense Department and some of the brightest people in the country have said, "If you are going to protect your ICBM's, you have got to have them mobile, you have to have them where they will not be a fixed target. You have to have the ability to move so our potential adversary cannot always target with accuracy. Keep them guessing."

So it is for this reason that in this so-called window of 1982 to 1987—most people in the defense community believe that it is this side of 1985, not the other—that we are going to have to develop and have in place mobile missiles so that they will not be vulnerable fixed targets because of the Soviet's improved accuracy.

So the Congress, following the dictates of its conscience and following the recommendations and the very strong recommendations of the Department of Defense, has gone forward with the concept of protecting this leg of the Triad concept of strategic deterrence.

The CHAIRMAN pro tempore. The time of the gentleman from Alabama (Mr. DICKINSON) has expired.

(By unanimous consent, Mr. DICKINSON was allowed to proceed for 5 additional minutes.)

Mr. DICKINSON. So we have these three legs of the Triad. We have a manned bomber, which we will be discussing here later on in this bill. We have our Polaris and soon-to-be Trident submarines at sea. And then we have our ICBM's that are land based.

We know, then—and I have to take the word of our scientists and people who are most knowledgeable in this field—that our land-based ICBM's are going to become very vulnerable in the short term. So if we are to protect this leg—and we have already seen what happened to the B-1, the only thing we have to rely on there is the old B-52, and many of the pilots are younger than the planes that they are flying—so we have decided to go forward with this.

Mr. SIMON. Madam Chairman, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Illinois.

Mr. SIMON. Is it not true, when you talk about vulnerability, that since there is no SALT II agreement, all the Soviets have to do, even if by the time this is completed they have not developed the technology to find in what hole we have it—and there is a reasonable possibility that that may happen—even assuming they do not develop that technology, since there is no SALT II all they have to do is develop enough missiles to cover every hole we have, and that is it? Is that not the case? While if you put the same missile in a submarine, there is a much greater likelihood that you have less vulnerability.

Mr. DICKINSON. Well, I am not going to fall behind the screen of sensitive material and say I cannot answer fully, but let me answer like this: There is proposed under this system to build, I think it is, 4,200 MPS's, multiple protective shelters, to house the missiles that will be moving around. It would be so tremendously exensive as to be prohibitive, in my opinion and in the opinion of the Department of Defense, for the Soviets to build 4,200 missiles to target each one of our hardened shelters. It is for that reason we are playing the pea-under-the-shell game. This country could not afford it, nor do I think the Soviet Union could afford it, even if we had the uranium, which we do not, to build that many warheads.

□ 1730

So, the gentleman is right about our forces at sea, and they are the less vulnerable at the present time, but if he is talking about breakthroughs, technological breakthroughs, it is not unlikely that at some point in the near future—and we know both sides are working on this—that there will be a possibility of detecting submarines while at sea and at deep levels. If this should be so, then they would not be the less vulnerable; they might be the most vulnerable. This is the problem and this is why the committee has felt and why the Department of Defense feels that we should go forward with this and do not put up any more stumbling blocks. We have put the burden on the President to make a finding of fact and to declare a base, but in the meantime we have said, "all right, we have already spend x number of dollars, already made a commitment, and we are going forward with this until you tell us a better way to go."

I would resist the amendments because in effect they stop the basing program until an affirmative finding is made.

Mr. SIMON. I have just one final comment. I do not mean to monopolize the time of the gentleman from Alabama, but is it not true that there is greater likelihood of vulnerability even aside from the fact that the Soviets can build those additional missiles, and it would be expensive for them, no question about it, but up to this point there is—remember, you have that expense as stopping them from going ahead, but is it not also true that from a strictly technology point of view it is more likely that they will develop the technology for finding where the missiles are than where the submarines are?

Mr. DICKINSON. Well, let me answer the gentleman like this: We in 1962 had almost a nuclear monopoly. Then came the Cuban missile crisis, and the story as related to us by then Director of CIA Helms concerning the meeting between the Special Ambassador Kuznetzov representing Khrushchev, and our Special Ambassador McCloy, at McCloy's farm in Connecticut. They were sitting outside on a fence so that they could not be overheard, and Kuznetzov said:

> All right, Mr. Ambassador, we will release our IL-28 bombers from Cuba and we will keep our word, but I want you to know this is the last time the United States will ever be in a position to dictate to us our foreign policy, what we can and cannot do.

Whether that story is true or not, and I believe it is, we can judge from the level of effort of the Soviets from then, from almost a monopoly on our part to where they have far surpassed us in numbers of missiles, warhead, throw weight, however you want to classify it. So, we know that the ability is there. We know that the will is there. We know our vulnerability is here, and what I am saying and what the committee feels very strongly is, if we do not go forward with an effort, then we have got nothing to go to SALT II to talk about.

We have an arms limitation. It is just like throwing away the B-1 bomber. We could have at least traded something for it, but we did not. So, we feel that rather than stopping the momentum we should go forward now and develop the technology, go forward with the completion of the re-

search and development, and before anything is built or in place certainly the President will make a definitive finding of what the basic mode should be.

The B-1 study was mandated by Congress on DOD, and it was due June 1. The MX study was mandated by the Congress, and that study was due July 1. It is my information they both have been completed. It is my information that the President is very close to making an announcement as relates to the B-1 or not. I think because of the timing that there is linkage between the MX study and what form it will take and the B-1. As a matter of fact, there is a meeting called to discuss this very problem, I am told, at the White House this Friday, the day after tomorrow. The chairman and ranking minority members of both bodies will be there.

So in the meantime, though, I think we would be tremendously foolish to derail what we have done so far. I think we should go forward until the President says this is not the way to do it. I think the administration has the right to make its decision and to tell us what that decision is. Then, we can support it or not, but in the meantime we have said in the past that we will go forward unless you tell us not to.

Mr. CRAIG. Madam Chairman, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Idaho.

Mr. CRAIG. Madam Chairman, I certainly appreciate the scenario and the history that the gentleman has given us that brought us to date with the MX and with the amendments. I have to say, though, that I cannot concur with the gentleman that we are blocking or stopping. We are merely saying with good evidence that the MPX basing mode that we have been set by the Air Force for a good long time really ought to be questioned, and then along came an administration and made the decision, coupled with the Air Force, that that was the right direction to go.

When we talk about vulnerability of the Minuteman II and the fixed silo, we also have to recognize that that vulnerability came about in 1972, and progressively since then with the SALT I treaty and the inability of us to block their existing ICBM missiles with ABM's. Now, there are options available and there are strong grounds that have been presented to us, and the gentleman has even alluded to them, about the ability of the Soviets to detect in this grand shell game that has been proposed, what is full and what is empty, or what is real and what is dummied.

We have seen no evidence from the Soviets that they would not be willing to continue to build, and now OTA tells us that at the end of this deployment period another strong issue we really have not addressed effectively, that is, deployment and time and closure of window and the ability to deploy MX-MPS in a staged manner so that we develop some degree of protection during the period of the development of it in the Great Basin or wherever it might be racetracked. Whereas, we have alternatives for closing the window in a staged way into the decade of the 1980's and into the early 1990's.

The CHAIRMAN. The time of the gentleman from Alabama has again expired.

(At the request of Mr. CRAIG and by unanimous consent, Mr. DICKINSON was allowed to proceed for 2 additional minutes.)

Mr. CRAIG. So, what we are saying by the original amendment is that we are now allowing ourselves not to be locked into a mode that may well be obsolete by giving the President some flexibility. We are accepting the argument that we need MX. We need greater throw power. We need greater accuracy to counterbalance the Soviets. But, we are not giving that kind of additional effort on the part of our defense system in what I believe and what many of us now believe to be an obsolete, locked-in system that will drain the resources of this country at a time when we need to expend in the defense posture in a variety of areas to do the very thing the gentleman is talking about, enhance and strengthen the Triad.

Mr. HUNTER. Madam Chairman, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from California.

Mr. HUNTER. Is it not true that at this point the danger that is manifest in the 308 SS-18's of the Soviets in fact is a present danger, and it is the estimate and the opinion of most of the learned people in the strategic area in this Nation that we are rapidly approaching this period of vulnerability; it is upon us right now?

Mr. DICKINSON. Well, I think there is no disagreement that the vulnerability will be there. It is just a question of whether it will be in 1982, 1983, 1984, or perhaps today. We do not know with that degree of precision, but no one argues the fact that there will be upon us shortly a period of very real vulnerability of the Minuteman III.

Mr. HUNTER. The Russians can build a reentry vehicle presumably to cover all 4,600 shelters, but we would have the ability to definitely outspend them in that area, and to build that many reentry vehicles would be prohibitive in cost.

The CHAIRMAN. The time of the gentleman from Alabama has again expired.

(At the request of Mr. BEDELL and by unanimous consent, Mr. DICKINSON was allowed to proceed for 2 additional minutes.)

Mr. HUNTER. My question is simply, Would it not be prohibitive for the Soviets to build reentry vehicles to cover 4,600 sites?

Mr. DICKINSON. I do not think the Soviets, even with all their resources, have the uranium or the human resources to pay for that many vehicles. That is my opinion.

Mr. BEDELL. Madam Chairman, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Iowa.

Mr. BEDELL. Madam Chairman, the gentleman indicated, if I understood him correctly, that the logic for going ahead was to use it as a bargaining chip for SALT II negotiation.

Mr. DICKINSON. That is one of the elements.

Mr. BEDELL. One of the reasons.

Mr. DICKINSON. Yes.

Mr. BEDELL. Does the gentleman have any assurance or indication when SALT II negotiations might be resumed? Are we building a bargaining chip that we may be able to use, or building a bargaining chip for some game that is never going to be paid? That is my question.

Mr. DICKINSON. Let me say this: We are not building it for a bargaining chip.

Mr. BEDELL. That is part of what we are building it for.

Mr. DICKINSON. If we go forward with it, then quite obviously if we get into arms limitation agreement or into a SALT II, this would obviously be the subject of such treaty or agreement. I think without a doubt that we will sit down with the Soviets. The gentleman read the paper as well as I, when it is speculated as to whether or not international events such as Afghanistan or the conduct of the Russians, would determine when we would sit down with them. So, I have no information, and I wish I could help the gentleman, but I am convinced in my own mind—I would support a SALT II if I thought it was fair. I think everyone in this room would. I am convinced that the administration is anxious and willing to sit down and negotiate SALT II.

Mr. CONYERS. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I move to strike the requisite number of words because in this colloquy I forgot what it was we were doing, and I would like to bring the House back.

We have been in Connecticut with conversations between special envoys. We have linked the B-1 to the MX, which is really a treat, and now I would like to find out what the amendment of the gentleman from Illinois actually does to the pending amendment. I would yield to him for those purposes.

Mr. SIMON. What my amendment does to the amendment offered by the gentleman from Utah is, it simply says that 60 days after the President reports, Congress must take some kind of affirmative action before we proceed with this most expensive expenditure, as I said before, ever in the area of defense.

Mr. CONYERS. Well, as we get more involved in this I begin to find that there are different groupings in the House on the subject of the MX. I thought it was a simple for-or-against proposition, but now I find there are a group of sea-base supporters of MX who are in conflict with land-based groups of MX supporters, who are all against the no-based group of MX people, so we have at least three clear groupings here. I have never seen anything published in the RECORD or in the committee reports about how we line up, and I guess that means that there are bright people on each of the three sides of these questions.

I have been told there are bright people that support the MX and there are bright people that oppose the MX. I have been advised, as all the Members have, to call a top friend in the military and get his secret, personal view, which I am going to do. I do not know how far up I am going to get over there at the Pentagon, but I am going to reach into the highest ranks that I can and privately canvass what their real view of it is.

□ 1745

But it seems to me ultimately sound that we hold up funding the MX racetrack until the Congress of the United States, which is the institution that is supposed to make this decision, has had a chance to vote, and if I understand the amendment offered by the gentleman from Illinois (Mr. SIMON), that is precisely what we are doing; we are saying that we are not going to start building this thing until the Congress has finally made the decision to do it. We are saying that we are not going to sneak out ahead with some multiyear contracting and get this off the ground so that by the time we decide, we will be told that "we have been 8 months in production, only we forgot to tell you."

Mr. STRATTON. Madam Chairman, will the gentleman yield to me?

Mr. CONYERS. I yield, with pleasure, to the gentleman from New York.

Mr. STRATTON. Madam Chairman, the distinguished gentleman from Michigan (Mr. CONYERS) may well have forgotten, but the decision on this has been made by the Congress of the United States.

Mr. CONYERS. I see. Well, I will ask my friend, the gentleman from New York, to stop right there. I decline to yield further to my friend, and the reason is that that decision has been made, but we are here today deciding what to put in the budget, so the decision may not have been made. If a majority of the House votes against this, that decision is going to be unmade today.

So I disagree with the gentleman that this has been finally cast and that we are now just deciding on what goes into the 1982 budget. Nothing could be further from the truth, and nothing could more mislead the American people.

Mr. SEIBERLING. Madam Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Madam Chairman, of course, in the supplemental authorization bill which we passed a month or so ago, we adopted the same language that is in the Hansen amendment, so that is the only decision that the Congress has made on this subject, and it seems to me at the very least that we should be consistent and adopt that same amendment protecting the prerogatives of both the Congress and the President to make sure that we have all of the input that is already in the works and is about to be completed before we make a final decision.

I certainly think that since that is a decision that could cost this country $100 billion, a decision which could result in another spiral in the terribly accelerating spiral of nuclear arms proliferation, the very least we should do is make sure we act on the most informed basis possible in a reasonable time, and that we not stack the deck before we even have that information.

The CHAIRMAN pro tempore. The time of the gentleman from Michigan (Mr. CONYERS) has expired.

(On request of Mr. STRATTON, and by unanimous consent, Mr. CONYERS was allowed to proceed for 3 additional minutes.)

Mr. CONYERS. Madam Chairman, I would like to point out to my friend, the gentleman from New York (Mr. STRATTON), that one of the biggest differences between our system and the system of the Soviets is that we debate these things freely and publicly and we arrive at decisions, and decisions made in a previous Congress or by a previous administration or by previous chiefs of staff are just as subject to reversal as anything else we do around here.

So I think that the attitude that we have already decided, and that it is just a matter of how big the budget is going to be on this item and that is the only thing we are doing here, is precisely what is going to get the MX missile in a lot of trouble.

Mr. STRATTON. Madam Chairman, will the gentleman yield to me, since I got additional time for him?

Mr. CONYERS. I am pleased to yield to the gentleman from New York.

Mr. STRATTON. Madam Chairman, let me just say that the gentleman's position and the actions of the gentleman from Illinois remind me a little bit of the French Parliament in the days before World War II. They were debating and they were debating and they were debating, but they never got anybody on the line. And we are going to presumably debate and debate.

The gentleman from Ohio (Mr. SEIBERLING) said he was in favor of the Hansen amendment, but the Hansen amendment says, 60 days in case nobody has voted the thing down. The amendment offered by the gentleman from Illinois (Mr. SIMON) says, 60 days, and there have to be expressions of approval by both Houses.

Mr. CONYERS. Madam Chairman, I am not going to debate the contradictions between the two amendments. I do not think the gentleman is for either one of them, so I do not know what difference it makes.

I am hoping that we will be able to examine this question as carefully as we can, and I really feel very disappointed that there are Members here who feel that we have already made a decision on MX, and that all we are going to do is put as large a piece as we can into this right now. I do not think this question is resolved. It is not resolved, in my mind, and that is the way I am going to conduct myself through the balance of this debate on the military authorization bill.

Mr. LOWRY of Washington. Madam Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Washington.

Mr. LOWRY of Washington. Madam Chairman, I thank the gentleman for yielding.

I find the discussion of the French Parliament very apropos to this debate. The maginot line is the greatest single correlation to the MX that I can think of. Nothing is more against our national security than spending $56 billion and not knowing if that is the right place to be spending it.

Mr. CONYERS. Madam Chairman, I yield back the balance of my time.

Mr. HANSEN of Utah. Madam Chairman, I move to strike the requisite number of words, and I rise in opposition to the Simon amendment to the Hansen amendment.

Madam Chairman, let me point out that, coming from a State legislature, perhaps I do not understand the rules here, because normally we have to consider what is germane to the issue. I respectfully point out that I have great respect for the gentleman from Illinois (Mr. SIMON), who put in this amendment, and I have great respect for the gentleman from Missouri and the gentleman from New York.

I apologize to all the Members for not putting my amendment forward earlier than I have, because apparent-

ly none have gotten the opportunity to read the amendment. It has really nothing to do with where the MX is going to be based. It has nothing to do with the patriotism of the people in Missouri or Utah. But what I would like to point out—and I will get right to the point, because I have the greatest respect for the gentleman from Illinois (Mr. SIMON)—is that what happens in his particular amendment is that if the Congress is dilatory and does not act within 60 days, we lose the whole thing, and I do not feel we want to go that way.

So, very frankly, if the Simon amendment passes as I understand it from the gentleman from Illinois, then I would be in the position that I would have to vote against my own amendment.

Mr. SIMON. Madam Chairman, will the gentleman yield?

Mr. HANSEN of Utah. I am happy to yield to the gentleman from Illinois.

Mr. SIMON. Madam Chairman, I would like to make clear that what my amendment says is simply that the President has to report and there has to be some kind of action by Congress before we go into this massive expenditure, and I would think the people of Utah and the people elsewhere in this Nation would want us to be prudent.

The gentleman is a new Member of Congress, but let me assure him that if the President's Commission reports that we ought to have this racetrack system, he is going to vote against it and I am going to vote against it, but it will breeze through this House and the Senate.

So in fact if my amendment is adopted, it is not going to hold things up for 5 minutes, but it does take affirmative action by this body, there is no question about that. But let me make clear that if my amendment should be defeated, I will support the amendment offered by the gentleman from Utah (Mr. HANSEN), and I do not think he serves his own best self-interests and his viewpoint, as I understand it, by voting against my amendment.

Mr. HANSEN of Utah. Madam Chairman, I appreciate the gentleman's comment and what he has said, but let me reply to him respectfully, if I may.

Mr. PRICE. Madam Chairman, I move that the Committee do now rise.

The CHAIRMAN pro tempore. Does the gentleman from Utah (Mr. HANSEN) yield back the balance of his time?

Mr. HANSEN of Utah. Madam Chairman, I would like to respond, if I may, to my friend, the gentleman from Illinois (Mr. SIMON).

The CHAIRMAN pro tempore. The gentleman from Utah (Mr. HANSEN) has time remaining, and he may continue.

Mr. HANSEN of Utah. Madam Chairman, let me say that I have great confidence in the ability of Congress. However, it would frighten me if this thing goes through and Congress does not move. I think we would lose it.

And I would have to say one other thing. If it comes down to it, if it goes to the MPS system in Utah and Nevada, I would vote for it if it would be the only thing that is good for the country.

Mr. SKEEN. Madam Chairman, will the gentleman yield?

Mr. HANSEN of Utah. Madam Chairman, may I inquire, do I have anymore time?

The CHAIRMAN pro tempore. The gentleman has time remaining.

Mr. HANSEN of Utah. I yield to my colleague, the gentleman from New Mexico.

Mr. SKEEN. Madam Chairman, I thank the gentleman for yielding.

Madam Chairman, I have some concern in this, too, since New Mexico is an alternative site for the racetrack basing mode. I think this argument this afternoon has been so wide ranging as to lose focus on what I assume the gentleman from Utah was trying to do originally, and that was to get some policy determination from the administration or from wherever on just what is going to happen.

I want to understand the amendment offered by the gentleman from Illinois (Mr. SIMON), and I wonder if he would answer a question for me, please.

Mr. SIMON. I would be pleased to answer, if the gentleman from Utah will yield.

Mr. SKEEN. Madam Chairman, if the gentleman's amendment would be placed on the amendment offered by the gentleman from Utah (Mr. HANSEN), what would be the consequences if no policy determination was made within 60 days? Does this cancel out the whole program?

Mr. SIMON. No. Madam Chairman, if the gentleman will yield, what it does do is require affirmative action by Congress before we can move ahead, and that would not be a difficult thing.

Clearly, the Armed Services Committee favors going ahead. If the President says, "Let us go ahead," that will breeze out of the Armed Services Committee. So this will not hold it up, but it does cause us to take another look at where we are going, a little stronger look, frankly, than is offered by the gentleman from Utah, and I think that is a healthy thing.

But again I would like to make it clear that since I think prudence is wise, I believe those who think money ought to be spent wisely and those who believe this is going to be a drain on defense expenditures will want to support my amendment. If my amendment is defeated, I am going to support the amendment offered by the gentleman from Utah (Mr. HANSEN).

Mr. SKEEN. Madam Chairman, if the gentleman will yield further to me, I thank the gentleman from Illinois (Mr. SIMON), and I would just like to state one other problem.

The CHAIRMAN pro tempore. The time of the gentleman from Utah (Mr. HANSEN) has expired.

For what reason does the gentleman from Illinois (Mr. PRICE) rise?

Mr. PRICE. Madam Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mrs. BOUQUARD, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3519) to authorize appropriations for fiscal year 1982 for the Armed Forces for procurement, for research, development, test, and evaluation, and for operation and maintenance, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, to authorize appropriations for such fiscal year for civil defense, and for other purposes, had come to no resolution thereon.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST H.R. 4035, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS, 1982

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 97-165) on the resolution (H. Res. 170) waiving certain points of order against the bill (H.R. 4035) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1982, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST H.R. 4034, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT APPROPRIATIONS, 1982

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 97-166) on the resolution (H. Res. 171) waiving certain points of order against the bill (H.R. 4034) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1982, and for other purposes, which was re-

ferred to the House Calendar and ordered to be printed.

PERMISSION FOR SUBCOMMITTEE ON ADMINISTRATIVE LAW AND GOVERNMENTAL RELATIONS OF COMMITTEE ON THE JUDICIARY TO SIT DURING 5-MINUTE RULE ON TOMORROW

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent that the Subcommittee on Administrative Law and Governmental Relations of the Committee on the Judiciary be permitted to sit while the House is reading for amendment under the 5-minute rule on tomorrow, Thursday, July 9, 1981.

Mr. Speaker, I wish to point out that I have cleared this request with the minority members.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

SMALL BUSINESS PARTICIPATING DEBENTURES

(Mr. ECKART asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ECKART. Mr. Speaker, for many years, Congress has considered various forms of relief for our Nation's small businesses. Unfortunately, these efforts have met with mixed success—the small businessman of today is still struggling under the burden of high interest rates and a lack of access to capital.

I recently introduced legislation that will go a long way in addressing the small businessman's need for capital. It provides for the creation of a new financial instrument called a small business participating debenture, or SBPD.

The small business participating debenture was among the proposals recommended by last year's White House Conference on Small Business. In addition, the SBPD concept has been endorsed by the National Small Business Association, the National Association of Small Business Investment Cos., and many other small business organizations.

The SBPD is a hybrid security, that is to say, it is a cross between a stock and a bond. It is a fixed-term debt instrument structured to carry both a nominal interest rate and a percentage of profit to the investor. The issuing company pays a premium for the use of capital for a limited period of time, in contrast to giving equity rights that allow the investor to participate in a company's earnings long after the borrowed funds have been repaid. The specific terms of the SBPD, such as interest rate, maturity date, and share of earnings would be determined by the market for the security.

Mr. Speaker, it is the tax treatment accorded SBPD's which will make them particularly attractive to investors and small businessmen alike. The interest and profit payments made by the issuing firm would both be fully deductible. On the investor side, the interest would be taxable at ordinary rates, but the profit portion would be taxed at the more favorable long-term capital gain rate.

Certain limitations are embodied in this legislation to insure that the benefits would go to the companies most seriously affected by the capital formation problem—small- to medium-sized companies who may need loans too small for venture capitalists to make. Pursuant to this legislation, a SBPD can only be issued by a domestic trade or business, whether or not incorporated, which has a net equity of less than $10 million. Additionally, no company can have more than $1 million in SBPD's outstanding at one time.

Mr. Speaker, as I stated earlier, the small business participating debenture is a concept that has achieved considerable visability in small business circles. It recognizes the fact that an infusion of new equity into a small business is not necessarily the answer to the capital needs of a business, and it provides an alternative form of financing.

As we all know, a strong, vigourous small businessman is important to our Nation. The passage of this legislation would be a big first step toward real economic growth for our small businesses, and a strengthening of the backbone of our national economy. Therefore, I strongly urge my colleagues to join me in cosponsoring H.R. 4015.

U.S. ENERGY MOVES FORWARD

(Mr. COLLINS of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLLINS of Texas. Mr. Speaker, there is a new forward momentum carrying U.S. energy to self-sufficiency. When Congress acted for less Government and more private enterprise, the oil wheels began to roll. It now looks like the United States can expect 9 percent per year real growth to 1990 in drilling activity.

President Ronald Reagan's policies in the White House have renewed the confidence and spirit of America. The oil and gas outlook in an open market is encouraging. Abbott Sparks, president of Energy Publications, consolidates the facts well in this presentation in the Petroleum Engineer. Here are the key sections from Sparks' current report:

There is a slang expression in the oil patch—"turning to the right." It means making progress in the hole, with the drill bit rotating.

Impressive progress is now being made toward solution of U.S. and international energy problems. Here is what's happening in both theaters and how they relate.

IN THE UNITED STATES

Energy development is a complex and inter-dependent set of economics, politics, logistics, technology, operations. And for the first time in nearly a quarter century, economic incentives and improved political climate have U.S. exploration, drilling, production rolling forward on a broad front.

Over the past year, 100 drilling rigs a month have been added, and drilling activity appears headed for 7 percent to 9 percent per year real growth to 1990. U.S. exploration dollars per year will double or triple in the same period, not only with more drilling, but deeper and more sophisticated.

Some evidence of U.S. energy progress:

[Dollars in billions]

	1980	1979	Percent change
Average number of active rigs	2,916	2,185	+33.6
Total well completions	62,462	51,263	+21.8
Exploration/development spending (U.S. only)	$32.4	$24.5	+32.2
Total imports (crude plus product)	6,759,000	8,389,000	−19.4
Total oil consumption	17,042,000	18,513,000	−7.5
Gasoline consumption	6,586,000	8,034,000	−18.0

IN THE WORLD

The rest of the world is almost virgin territory, as reflected in the chart below, "Worldwide Concentration of Oil Drilling." About 80 percent of all the wells that our industry has drilled are in the U.S., where drilling activity has quadrupled in the last nine years. But the opportunities overseas are tremendous. Reputable geologists consider that of the accessible sedimentary rocks of the world, only about 9.6 percent are in the U.S. So we expect to see rapid drilling growth throughout the rest of the world, in line with growing international competition for energy.

For 1981, we project about 3,700 U.S. land rigs-running average, whereas the Free World (outside U.S.) projects about 1,400 of the same. Over the next ten years the Free World rig-count may match U.S. figures through escalating growth.

We concur with Kenneth Derr, Chevron, in regard to total oil balance in the world and the U.S. when he projects, "Total Free World oil demand of about 59,000,000 b/d by the year 2000." (That compares with 49,000,000 b/d in 1980, for a growth rate of 1 percent to 2 percent.)

The interesting aspect of this projection is that it would require OPEC crude oil production of only about 27,000,000 b/d average for the remainder of this century, which is very little more than OPEC produced in 1979. Importantly, this could lead to more realistic economics and stability as a price competitive energy market emerges, and eventually escapes or strengthens against OPEC leverage. Over that time-frame other renewable energy sources should make a growing contribution to more stable supply and prices.

REVISIONS IN CAMPAIGN FINANCE LAWS ARE NEEDED TO FORTIFY THE INTEGRITY OF THE CONGRESS

The SPEAKER pro tempore (Mr. DANIELSON). Under a previous order of the House, the gentleman from Kansas (Mr. GLICKMAN) is recognized for 40 minutes.

● Mr. GLICKMAN. Mr. Speaker, starting in 1971, the Congress began a process of restoring integrity to the electoral process. Progress has been made, but there are still reforms that are critically needed if we are serious about restoring public confidence in the electoral process and in the Congress itself. To that end, my colleagues, MIKE SYNAR of Oklahoma and JIM LEACH of Iowa, and I are today introducing a bill which would, simply put, do three things. It would impose a statutory limit of $75,000 on the total amount of contributions which a candidate for election to the House of Representatives can accept from political action committees (PAC's) (in the case of a run-off, that limit would be $100,000); in the case of Senate races, the limit would be $37,500 times the number of representatives in the particular State (or $50,000 times the applicable number of representatives in the case of a runoff), but in no case exceeding $500,000. The proposal would raise from $1,000 to $2,500 the limit on contributions from individuals to congressional candidates for each election. And the bill would modify the present tax credit for political contributions by allowing a 50 percent credit up to $100 or $200 in the case of joint returns for contributions to candidates and political action committees and an identical separate tax credit for contributions to the political parties either through their national, State or local committees or through the Democratic or Republican Congressional and Senatorial Campaign Committees.

The intent of this legislative package is to bring into balance the relative roles of individuals, political action committees and the political parties themselves in the election of Members of Congress, and, as a result, in the legislative process. Just looking at the trends over the last several elections points up the fact that political action committees have aggressively moved to the forefront in campaign finance. In the 1974 election, PAC's contributed $12.5 million to House and Senate candidates; just 4 years later, PAC contributions had grown to over $35 million during the 1978 election; and preliminary figures for the 1980 election show that that has increased again to $50 million. Over the same time span, from 1974 to the most recent election, the number of PAC's has also grown dramatically, from about 600 to nearly 2,300.

While the role of these political action committees representing for the most part groups interested in just one or a narrow spectrum of issues has increased so dramatically, the relative importance of the political parties has diminished. While, in 1972, House candidates relied on party funds for 17 percent of their campaign dollars, by 1978, financial support from the parties had dropped to 4.5 percent of total campaign funds in those House races. In the 1978 election, while PAC's contributed over $35 million, the parties contributed and spent directly on behalf of candidates only $11.2 million. For every dollar which the parties have been putting into races, special interest PAC's have been spending three. When our parties have traditionally served as consensus builders, is it at all surprising that the relative decline in the level of financial support they are able to provide has paralleled the growing fragmentation in our political process? I think that is not a simple coincidence. Their role as the backbone of our political system has been broken as has been their consensus building capability.

The problem of PAC giving is complicated by the fact that those moneys can be so easily targeted at particular members, and we are naive if we do not believe that they are targeted because of what individual Members of the Congress, through their positions or committee assignments, are able to do for a group that has a PAC of its own. Though there are obviously no stated "quid pro quos" in all of this, study after study has shown a very high correlation between funds received and the way some key votes have been cast. It appears that our election law reforms have taken us away from an era when Presidential campaign contributions seemed to "buy" ambassadorships to an era when contributions to congressional campaigns seem to do much the same in terms of formulating legislation. Both situations are bad, and I am glad we have moved away from the problems of the early 1970's, but in that the problem today directly affects the laws of the land, we cannot ignore the fact that—in terms of long range implications—we have a much more grevious problem.

The pressure that hits Capitol Hill in the aftermath of an election season well greased by PAC contributions comes from every angle. In the 1980 election, I understand that contributions from business PAC's to congressional candidates were twice as great as those from labor PAC's but just 4 years earlier the situation was just the reverse. In addition to those, contributions come in from PAC's with all sorts of ideological persuasions and axes to grind. In short, there is no single culprit in all of this.

Clearly, we cannot decide simply to ban PAC contributions; to do so would fly in the face of constitutional protections. But we can put a limit on what is coming into the campaign chests of candidates for election to the Senate and House of Representatives. The legislation we are introducing today would set limits on PAC contributions in these elections. But, when we put a limit on funds from this source, to be realistic we are going to have to open up other sources of funding to help candidates cover the ever-increasing costs of political campaigns. Some have supported public financing of congressional campaigns similar to the system now in effect for Presidential elections, and, in ideal terms, I would like to see us have that. But, budgetary constraints make that impossible. Therefore, this bill would help out by increasing the limitation on contributions by individuals to campaigns from the present $1,000 per election to $2,500. Part of that increase has already been eaten away by the inflation since the limit was set in 1974, but it does give some additional space for "real" contribution growth above and beyond inflation. Further, by increasing the tax credit which is presently allowed for political contributions to $100 or $200 in the case of joint returns from the present $50/$100 level, and by separating out an additional identical tax credit for contributions specifically for political party committees, we will have increased the direct incentive to individuals to get involved in the political process by contributing funds. At the same time, by allowing the separate tax credit for contributions to political party organizations, we hope to strengthen the parties' roles in this whole process and to reverse the trend which has led their financial support to the candidates which they endorse and, in fact, nominate to pale in insignificance next to the special interest money which PAC's pour into their races.

There is cost involved in expanding the tax credit. The present tax credit results in revenue loss of $20 million in most years and $35 million in Presidential election years. We have not yet received precise revenue loss projections, but if the increased tax credit were fully used by those who have used the credits in the recent past, the additional revenue loss would be in the range of $60 to $105 million yearly. That is a small price to pay for making our political process more responsive to people and not to interest groups. In fact, when you consider the amount of money from the Federal Treasury that ends up serving special interest purposes because of the access PAC contributions afford, I do not think it is unreasonable to expect that the campaign finance reforms we propose

to actually help get the budget balanced.

I am sure my colleagues who are initial cosponsor join me in hoping that others in the House will join with us in this effort and that we will be able to move it forward at an early date so we can turn this situation around.●

● Mr. LEACH of Iowa. Mr. Speaker, The Campaign Finance Reform Act of 1981 represents a kind of a domestic SALT agreement between big business and big labor; an agreement which is likely to be disliked by each, but which should work to the stark advantage of the individual citizen and taxpayer.

It is debatable how nefarious or constructive PAC participation has been in recent campaigns, but if the fivefold increase in total PAC giving to congressional campaigns since 1974 is a guide to the future, it would appear that both labor and business PAC's are girding for future Armageddons—political campaigns that in quantum magnitudes are likely to be more expensive than Americans have ever experienced.

If this trend toward more expensive races and thus heavier financial obligations for candidates is not curbed, individuals elected to the Congress of the United States will increasingly become indebted to either big business or big labor. Congress will become a legislative body where the small businessman, the farmer, the worker and ordinary citizen are only secondarily represented. In fact, it is no accident today that the middle class frequently bears a heavier tax burden than the rich; that small companies lack the tax advantages of the integrated oil companies; that discussions in Congress of tax cuts all too often lack reference to tax equity; and that inflation is the economic issue of the day.

I would like to stress this last point: inflation is not unrelated to campaign financing abuses.

The roots of inflation begin in Federal spending and Federal spending begins in promises and obligations, and all this begins with politicians. It begins, in the way campaigns are run; in politics as usual; in commitments to large contributors, no matter who they are.

In America today the most effective way for a candidate to achieve support in a bid for legislative office is to isolate every identifiable group—especially moneyed groups—and announce support for that group's vested interest. Unfortunately, going along with the most powerful interest groups inevitably leads either to the proliferation of Federal programs or to the weakening of the tax structure. Fiscal balance and equitability are impossible to maintain after lawmakers, that is, the successful candidates, have committed themselves in advance to support specific tax advantages or Government programs favoring those having made generous campaign contributions. America may be a society of individuals, but power groupings—not individuals—are represented in legislative bodies where money is the key determinant of election outcome.

A government of the people, by the people and for the people cannot be a government where influence is purchasable through substantial campaign contributions. The subordination of individual rights to indiscriminate moneyed influence is the subordination of representative democracy to institutional oligarchy.

It is simply a fact of life that when big money in the form of group contributions enters the political arena, big obligations are entertained. Groups seldom reflect the same collective judgment as all their members. This is particularly true in labor unions today where more than 95 percent of labor PAC funds go to candidates of one political party, but where in many instances almost half the actual membership vote goes to candidates of the other. But this problem is not exclusively one of labor leadership being out of step with membership. It is also true in many farm and corporate organizations where not infrequently individual farmers and corporate executives oppose the very candidates who the managers of their PAC's support.

This membership-leadership divergence of judgment is natural and largely irreconcilable since uniformity of views regarding political parties and candidates is not a hallmark of any part of the American free enterprise system as we know it today. If PAC funding battles go unchecked, however, it is quite conceivable that American political parties could increasingly become copies of European parties, and that group self-interests rather than individual views will be fought out in the electoral process.

Decisions for most organizations occur at the top not the bottom of the leadership ladder and whether it be a corporate or union PAC there is implicit peer or advancement pressure to contribute. In the case of larger corporations and unions, abdication of local control over funds leads to the aggrandizement of power for a very few within organizations and thus within any government channel where the organization's impact is felt. Individuals who control other peoples' money become power brokers in an elitist society. Their views, not the small contributors to their association, become the views that carry influence.

Our forefathers designed a representative democracy for America—a democracy where the particular views of every State and congressional subdivision would be reflected in the legislative process.

But the views of power-brokers who control PAC funds are frequently the views of out-of-State interests rather than the concerns of individual constituents. The giving of a significant policy voice to people who have no ties with the State or area from which a Member of Congress is elected is one of the most unfortunate ingredients of modern politics. It weakens constituent ties to a Representative once elected; it also undercuts the desire of constituents either to contribute campaign funds in modest amounts or participate enthusiastically in volunteer activity.

This out-of-State giving problem is more than theoretical fancy. It is forcefully relevant to the nuts and bolts politics of rural America today. In my home State of Iowa, for instance, it is impressive how often in the last decade candidates for office from both principal political parties have found a determinative portion of their financial support coming from corporate or union groupings with few ties to the agricultural and small business base that is Iowa's heritage.

Finally, it should be stressed that without prudent restrictions on PAC giving there is a clear danger that large numbers of challengers will never be given a reasonable competitive chance. The stultification of incumbency will continue as the hallmark of congressional elections.

Statistically, by a 3.3-to-1 margin in the last congressional election, PAC funds were doled out to one definable group; namely, incumbents. In a sense, all Members of Congress have a common incumbency self-interest—a self-interest which amounts to the exercise of monopoly power as the 96 percent electoral success of congressional incumbents in the five elections of the 1970's so vividly evidences.

Monopolies in the political arena apparently can only be broken up by the exercise of countervailing monopoly power—that is, labor versus business Armageddons—or by placing reasonable restrictions on exercise of the power of the purse string.

The Campaign Finance Reform Act of 1981 is designed to be a model of responsible restraint. It is a good first step toward protecting the traditional and the best in American politics. I urge its serious consideration.●

● Mr. SYNAR. Mr. Speaker, all of us who have the privilege of serving in this Chamber are aware of the influence various interest groups are able to exert on the legislative process. And whether or not we like to admit it, we must realize that a fundamental element of this influence is the political action committee campaign contribution. I am not suggesting here that PAC contributions buy votes in the Congress, but it would be naive in the extreme to ignore the "quid pro quo" implicit in PAC giving. Whether it be to buy access to Members or to reward legislative allies, PAC contributions

are given for a reason—and that reason is to influence the legislative process. Because of this, I believe we in the Congress have an institutional responsibility to be mindful of the effects of PAC contributions on the integrity of our system of representative democracy.

Mr. Speaker, I am concerned that the recent proliferation of special interest group political action committees, coupled with the increasing reliance of candidates for Congress on PAC contributions to finance their campaigns, has placed the national interest at jeopardy. In short, I fear the greater national interest may be replaced by a conglomeration of special interests. It is out of that concern that I have today joined my colleagues Mr. LEACH of Iowa and Mr. GLICKMAN of Kansas in introducing the Campaign Finance Reform Amendments of 1981.

The purpose of our bill is to limit the amount of PAC financing candidates for the U.S. Congress may accept and to provide greater incentives for the participation of private citizens and political parties in congressional campaign financing. It is my hope that, once enacted, these amendments will reverse the current trend in campaign financing away from reliance on narrowly focused special interests and toward greater emphasis on the broader based support of individuals and political parties.

Specifically, the bill we are introducing today places a limit of $75,000 on PAC contributions which candidates for the House of Representatives may accept during a 2-year election cycle. Candidates for the Senate would be limited to between $75,000 and $500,000 per election cycle, depending on the size of the State involved. Further, our bill increases the existing limit on individual contributions from $1,000 per election to $2,500. And it also increases the current tax credit for individual contributions to candidates or political action committees from $50 for individuals and $100 for couples filing jointly to $100 for individuals and $200 for couples. In addition, the bill creates a separate tax credit for individual contributions to local, State, and National political parties. This new credit would also amount to $100 for individuals and $200 for couples. The bill provides for additional PAC financing in the event of run-off elections and would become effective for any election after December 31, 1982.

For those who may doubt the need for legislation of this type, let me present a few facts here which tell the story of PAC development since their inception. In 1974 total PAC contributions to candidates for the House were $12.5 million. By the 1980 elections, that figure had increased by nearly fivefold, to an estimated $60 million. Six years ago there were just over 600 PAC's registered with the Federal Election Commission; today that figure is well over 2,000. And this growth is just the beginning. At this point fewer than 20 percent of all firms with assets of over $100 million have registered PAC's.

Those figures in and of themselves are not necessarily cause for alarm. However, I am concerned about the growing reliance of candidates for the Congress on PAC giving. In 1978, 136 Members of the House received at least 40 percent of their contributions from PAC's. That same year PAC's contributed more than three times as much money to congressional candidates as did the organized political parties. In fact, financing by parties has declined dramatically as a percentage of total contributions to House candidates—from 17 percent in 1972, to a mere 4.5 percent in 1978. This shift from the broad-based support of the organized political parties to the narrowly defined support of special interest groups can only fragment the political process.

There will be some in the House who might support our bill in principle, but will be concerned about the ramifications of openly supporting it. Clearly many interest groups will oppose this bill as an attack on their influence. But I want to point out to those Members where the American people are on this issue. A 1980 Lou Harris poll showed that 68 percent of the people polled favored limiting the amount of money candidates for Congress may accept from political action committees. And in my most recent questionnaire to the constituents of my rural Oklahoma District—admittedly not a scientific sample—80.4 percent of the respondents indicated they "would favor legislation limiting the total amount of campaign contribution that a congressional candidate can accept from 'special interest' groups."

In summary, Mr. Speaker, I urge my colleagues to consider this legislation from the perspective of their own experience. The Members of this House know better than anyone the impact special interest groups have on our democracy. I am confident that this bill can be enacted, and the public perception of the Congress can be improved, if the Members of this Congress vote their conscience on this important issue.●

THE 100TH ANNIVERSARY OF UNITED BROTHERHOOD OF CARPENTERS AND JOINERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. PHILLIP BURTON) is recognized for 5 minutes.

● Mr. PHILLIP BURTON. Mr. Speaker, on August 8, 1981, the United Brotherhood of Carpenters and Joiners of America will celebrate the 100th anniversary of their founding. This date marks one full century during which the United Brotherhood of Carpenters has been an effective and strong voice in behalf of the rights of working people and their families.

For a full century the United Brotherhood of Carpenters has strengthened the fabric of our society by espousing the cause of justice for working people.

In 1881 Secretary-Treasurer Peter J. McGuire of the Carpenters played a strong and leading role in the creation of the American Federation of Labor. In August 1881, he called for the founding convention of the Federation of Organized Trades and Labor Unions which later evolved into the American Federation of Labor.

The following month, September 1881, he issued a call for the Structural Alliance, a forerunner of the present AFL-CIO Building and Construction Trades Department. Peter McGuire was the presiding chairman of the 1886 convention when the American Federation of Labor was established.

Since the days of their first officers, President Gabriel Edmonston and Secretary-Treasurer Peter J. McGuire, the United Brotherhood of Carpenters and its members have always been in the forefront of those who espouse the twin ideals of a free democratic society and trade unionism.

They have consistently fought to better the wages, benefits, and conditions of working Americans and to serve the communities in which their members reside and work.

From these beginnings the United Brotherhood of Carpenters has grown from a small band of craftsmen to approximately 800,000 working men and women in a wide variety of skills and industrial pursuits.

The commitment to their founding principles has continued to grow and to be strengthened. Virtually every segment of our society and virtually every community in our Nation has been served by them in the past century.

I am pleased to call this important anniversary in the American labor movement to the attention of my colleagues and I invite them to join with me in extending to President William Konyha, Secretary John S. Rogers, Treasurer Charles E. Nichols, and to the members of the United Brotherhood of Carpenters and Joiners of America a sincere congratulations on the 100th anniversary of their founding and best wishes for their continued growth and service to our Nation.●

OLYMPIC COIN PROPOSAL DENOUNCED AS "GLUTTONY"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, there has been much interest generated over proposals to have the U.S. Mint strike commemorative coins for the 1984 Olympics to be held in Los Angeles, Calif.

As chairman of the Consumer Affairs and Coinage Subcommittee, I have introduced a bill, H.R. 3879, which would authorize a commemorative silver dollar for the 1984 Olympics.

A different bill, calling for 29 gold, silver, and cupro-nickel coins in 53 varieties has been introduced in both the Senate, S. 1230, and the House, H.R. 3958. Those bills are supported by the Los Angeles Olympic Organizing Committee—LAOOC. An editorial in Numismatic News has remarked that "gluttony * * * is evident in the LAOOC's proposal."

In the interest of keeping the Members of this House fully informed on the issue, I want to share the editorial comments of Numismatic News on the Senate bill. Numismatic News is a nationally circulated weekly newspaper for coin collectors that is widely read and respected in the coin collecting community. The News endorses the concept of an Olympic commemorative coin. Yet, the News calls the Senate bill—identical to H.R. 3958—"a dark, foreboding cloud on the horizon" of commemorative coinage.

The editorial points out that the face value alone of the 53 coin set would be $1,525. According to the News "it is conceivable that a full set of 1984 Olympic coins would cost $10,000 or more." This hardly makes it a series for the average collector to acquire.

Numismatic News further points out that "for anyone choosing to collect a 'basic' 29-piece set including one coin of each design . . . the overall cost would run into the thousands." I do not understand how such an expensive set of coins can be in the best interest of collectors.

Numismatic News also considered the cost to coin collectors and investors and the adverse effect on the hobby. Remember, however, that the coins would be sold for several times their face values, so that—

The LAOOC's plan assumes that coin collectors worldwide would be willing to shell out $534 million for mementos of the 1984 Olympic games. The actual drain on numismatic-investment capital resources would run into several billion dollars. * * * [W]e doubt that the worldwide numismatic marketplace could—or would—absorb such a large quantity of coins with such high face and premium values.

Numismatic News also took a broad look at the effect of such an ambitious program on collectors, the mint and the public. It points out that the 29-coin program averages out to nearly a coin per month over the 3-year program. After such overkill it predicts "everyone but the most devoted hobbyist could be sick and tired of commemoratives and the Olympic hype surrounding them." The editorial concludes that the bill supported by the Los Angeles Olympic Organizing Committee evidences "gluttony."

So that Members may have the benefit of the entire editorial, it is reprinted here in full:

OLYMPICS CAST CLOUD

For more than two decades now, the *News* has been working for the reintroduction of U.S. commemorative coinage. The prospects are good that we will have a new commemorative coin next year marking the 250th anniversary of George Washington's birth. Then everything's fine! Right?

Wrong! Everything is not fine where the resumption of commemorative coinage is concerned. There's a dark, forboding cloud on the horizon.

We refer, of course, to the bill recently introduced in the U.S. Senate to authorize the production of a "series" of commemorative coins for the 1984 Olympic Games to be held in Los Angeles. (See news story on page 1.)

Before going any further, however, we want to emphasize that we enthusiastically endorse the "concept" of an Olympic Coinage Program. We think it would be a shame if the United States breaks the tradition of issuing commemorative coins marking the quadrennial sporting event. But, at the same time, we feel compelled to question the advisability of attempting such an expansive program as envisioned by the Los Angeles Olympic Organizing Committee.

For openers, the LAOOC's proposal would require the production of 56.4 million coins, 26.4 million of which would be gold or silver issues. It would involve 29 different designs to be struck in a total of 53 proof and uncirculated versions. The face value alone of a 53-piece set would total $1,525, but the inclusion of gold and silver specimens would necessarily push the overall cost to several times that amount. Add on the 15 percent production surcharge, distribution costs, etc., and it is conceivable that a full set of 1984 Olympic coins could cost $10,000 or more.

The prospects are only half as bright for anyone choosing to collect a "basic" 29-piece set including one coin of each design. Face value would be $765 and the overall cost would run into the thousands.

Based on face value alone, the LAOOC's plan assumes that coin collectors and investors worldwide would be willing to shell out $534 million for mementos of the 1984 Olympic Games. Remember, however, that the coins would be sold for several times their face values, so the actual drain on numismatic-investment capital resources would run into several billion dollars. Therefore, even if the LAOOC's plan is adopted, we doubt that the worldwide numismatic marketplace could (or would) absorb such a large quantity of coins with such high face and premium values.

Another of our concerns involves the mandatory language of the bill itself. It states that ". . . the Secretary of the Treasury shall mint . . ." the various denominations up to their statutory limits. What happens if the Mint is required to strike the 56.4 million coins and the Olympic sponsors can't pay for all of them? It appears Congress learned little by requiring the Mint to strike 45 million of the three-coin silver Bicentennial sets, several million of which remain in Treasury vaults.

Additionally, we are concerend about the kind of overkill impact the introduction of a 29-coin "series" would have on collectors, the public and the Mint. After all, 29 coins in three years would average out to almost one a month. Sure, such a program would attract the public's attention, but after three years everyone but the most devoted hobbyist could be sick and tired of commemoratives and the Olympic hype surrounding them. As a result, outlook for a regular series of U.S. commemoratives could be jeopardized by the gluttony that is evident in the LAOOC's proposal.

As we said earlier, we endorse an Olympic Coinage Program for the L.A. games, but we believe a more prudent approach would be to reduce the number of issues and allow the Mint some discretion where production is concerned. Based on the original bill, it appears the Olympic's sponsors want the numismatic fraternity and related investors to underwrite the entire cost of the games, which is a situation we cannot endorse.●

ISRAELI RAID STATEMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado (Mr. WIRTH) is recognized for 5 minutes.

● Mr. WIRTH. Mr. Speaker, 1 month has now passed since Israel's raid on the Osirak nuclear reactor in Iraq. That Israel's very survival depended on this action should now be clear.

From a political standpoint, the strike against Iraq's nuclear capability could hardly have come at a worse time. The Congress and administration were battling over the sale of offensive F-15 enhancements and AWACS aircraft to Saudi Arabia. The Habib mission was working to resolve the conflict over Syrian missiles in Lebanon. A meeting between Prime Minister Begin and President Sadat had given new momentum to the Arab-Israeli peace initiative. Suddenly, the raid seemingly disrupted these delicate processes. And from this surprise sprung much of the criticism of Israel, and the call for sanctions against it.

But Israel had no choice about timing. The failure of the U.S. nonproliferation policy, coupled with the willingness of France and Italy to be nuclear merchants to violent regimes, virtually guaranteed that Iraq would have soon had a nuclear weapons capability. And even sooner, the Osirak facility would have become hot—and it would have been too late to strike without heavy civilian casualties.

There can be no doubt that Iraq, given the capacity to manufacture nuclear weapons, would have used them to threaten Israel. Iraq remains in a state of war with Israel, having refused to sign the 1949 armistice agree-

ment signed by Egypt, Jordan, Lebanon, and Syria. Even today, Iraq refers to Israel as the "Zionist entity"—or the "Zionist enemy"—implicitly denying its right to exist.

The Iraqi regime—headed by the militant and reckless Saddam Hussein—is a known supporter of international terrorism and is proud of that fact. Last year it invaded Iran in a direct contravention of the 1975 Algiers agreement on the Iran-Iraq border. The same nations that today call for sanctions against Israel were silent when Iraq started the world's most recent war.

Given an adequate delivery system—a compact car driven into Tel Aviv, for example—a small, crude nuclear weapon could destroy an Israeli city. How could Israel accept that threat with equanimity? The parallels between Israel's experience and the Cuban missile crisis have already been drawn—both situations required decisive action in the face of a direct challenge to national security.

Israel's use of force against Iraq contrasts vividly with the diplomatic processes that are working to bring peace to the Mideast. However valuble, diplomacy failed to prevent the most brutal regime in the region from arming itself—threatening not only Israel, but the entire world, with nuclear terror.

Predictably enough, Israel has been castigated in the United Nations for its actions. I was sorry to see the United States join in the condemnation. It is now time to recognize fully and finally that Israel acted in courageous defense not only of itself, but of the region and the world. Let the United States return once again to unequivocal support of its best and truest ally in the Mideast.●

H.R. 1400—THE VETERANS EDUCATIONAL ASSISTANCE ACT OF 1981

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi (Mr. MONTGOMERY) is recognized for 15 minutes.

● Mr. MONTGOMERY. Mr. Speaker on June 24, 1981, the distinguished gentleman from Pennsylvania, BOB EDGAR, the chairman of our Subcommittee on Education, Training, and Employment, and I appeared before the House Armed Services Subcommittee on Military Personnel and Compensation to present testimony on H.R. 1400, The Veterans Educational Assistance Act of 1981. On May 19, 1981, the Committee on Veterans' Affairs, by voice vote, reported the bill to the House.

Mr. Speaker, BOB EDGAR has worked diligently in bringing this bill through our committee. He and his subcommittee listened to well over 100 witnesses in Washington and in the field. Although H.R. 1400 was initially introduced by me, the bill as amended in committee has BOB EDGAR's stamp on it and many features of the bill as amended are those recommended by him following extensive hearings.

H.R. 1400, as amended, is an excellent bill and we hope it will move expeditiously through the Armed Services Committee as it did in the Committee on Veterans' Affairs. My colleagues will be interested in the remarks of the distinguished chairman of the subcommittee when he testified before the Armed Services Committee this morning. His remarks follow:

I want to thank you, Mr. Chairman for your invitation to appear before your subcommittee to present my view of H.R. 1400, "The Veterans Educational Assistance Act of 1981." I greatly appreciate your cooperation and that of the ranking minority member of the subcommittee, Don Mitchell, in agreeing to these early hearings on the bill.

H.R. 1400 has received considerable attention on Capitol Hill in recent months. One hundred and twenty members of the House, including over half the members of the House Armed Services Committee have joined us in cosponsoring the legislation. We are very grateful for the assistance of the members of this subcommittee and the subcommittee staff in preparation for this hearing. Both Congressman Duncan Hunter and Congressman Bill Whitehurst testified before our committee in support of a new GI bill for the all volunteer force. We are pleased to return the favor today.

As you know, H.R. 1400, as originally introduced, came under the jurisdiction of the House Veterans Affairs Subcommittee on Education, Training and Employment. As chairman of that subcommittee, in conjunction with ranking minority member Margaret Heckler, I scheduled a series of six hearings. Our purpose was two fold. First, we wanted to review the purpose and effectiveness of previous GI bills. Second, we wanted to draw on the experience in shaping a new education program which would provide the incentive to improve the qualify of recruits and retention rates within the all volunteer force. After hearing testimony from nearly 200 witnesses in Washington and in the field, I believe we have met those goals. I believe the bill before you today is a good bill, one that will appeal to recruiters, recruits and career military personnel alike.

We learned from our hearings that the GI bill continues to be a valuable readjustment benefit for veterans with wartime service. Apart from that fact, we also documented that education benefits have been a powerful incentive for a cross-section of Americans to join the military and follow a military career. We were told by members of the uniformed services, as well as noted defense manpower and personnel experts, that with proper redesign, a new GI bill can again be a valuable investment in the defense of the United States.

The Congress has voted in recent weeks, at the request of the President, the greatest budget reduction in recent history. At the same time is has mightily increased defense spending. Many decisions will be made in the months ahead on how best to utilize those funds. Certainly there will be arguments over weapons systems, technology and military hardware. But no matter how advanced the hardware, the effectiveness of our defense force rests in the quality of those who will man those weapons.

As the President said recently at West Point, "Weaponry alone does not mean security." Quoting General George Patton, he said, "Wars may be fought with weapons, but they are won by men." And, as he added, won by women as well. "It is the spirit of the men (and women) who follow and the men (and women) who lead that will gain the victory."

Certainly those who serve on this subcommittee are well aware of that quote and its meaning. Your record is very clear among the troops in the field we interviewed. Service personnel and their families within the all volunteer force expressed their gratitude over and over again in finally seeing the long-awaited increases in pay and bonuses passed out of this subcommittee.

Salary improvements have reversed, to some degree, the serious decline in recruits and deteriorating retention rates for mid-careerists that we noted during the last half of the 1970's. However, it was very plain from our hearings that salary increases and bonuses alone, while helping cure the short-term problem, could not be totally effective in developing a comprehensive benefit package for all volunteer service.

A panel of top Army and Air Force recruiters from across the country told our subcommittee in Boston that, indeed, in the past few months, enlistments are up. While at first glance they were encouraged by these numbers, these same recruiters were still concerned about the quality of the recruits they were signing up.

Said one Air Force recruiter: "Increases in pay and bonuses, coupled with today's inflation rates have only made the present military an alternative to unemployment and welfare."

"We are trying to get a high quality military," said an Army recruiter. "We need to be giving potential recruits something more substantial."

Our testimony showed that recruitment incentives based solely on compensation were directed toward a pool of recruits seeking a way out of hard times and not a meaningful route into a quality career in the military. The result is a form of economic conscription even more inequitable than the draft.

According to these witnesses, education incentives, as contained in H.R. 1400, could effectively balance this benefit equation.

Most of the younger recruits we interviewed, out of more than 100 service personnel, said they joined the service to: better themselves; to learn a skill; to acquire a profession; and to get an education. Of course, the money was important to them, but the quality troops had their eye on more long-term goals.

In Norfolk, Virginia, when given a theoretical choice between a $5,000 reinlistment bonus now, or $10,000 of education benefits down the road, the majority of witnesses felt the money would be nice, but the promise of an education had more intrinsic value.

Certainly, an awakening sense of patriotism throughout the country is playing a part as well in raising the recruitment rate. But as the president said, again at West Point, "other than instilling a new feeling of patriotism, there is another way of rewarding those who serve in the military." Expressing his full confidence in the concept of the all volunteer force, he said: "We need to reward (military personnel) on a scale commensurate with what we ask of them."

In other words, patriotism cannot be bought, but it should be rewarded.

The drawing power of the G.I. Bill was clearly demonstrated in the closing months of 1976 when recuiting offices around the country were swamped with potential enlistees trying to take advantage of the last days of eligibility for the Vietnam Era education program. From that point on we have been trying to operate an all volunteer force and encourage recruitment with education benefits far below those offered to military personnel under draft conditions. Many of our witnesses agreed that the drastic reduction in the quality and quantity of recruits from 1976 to 1980 is directly attributable to that loss in education benefits. While at the same time, billions of dollars were authorized for federal education grants to students who had no obligation for national service.

Both the Veterans' Administration and the troops in the field have called the contributory "Veterans Educational Assistance Program" (VEAP), which replaced the Vietnam Era G.I. Bill, an abysmal failure. Participation rates for training within the VEAP program have consistently fallen below projected levels. Out of approximately 350,000 service personnel who have paid into the program since 1976, nearly half, (157,000) have either stopped making contributions (59,000) or have cashed out of the program entirely requesting refunds (98,000) according to the Veterans' Administration.

One Army specialist stated the problem with VEAP quite clearly at our Boston hearing.

"I've talked to a lot of troops in my unit (and asked) how VEAP helped or hindered them." he said. "If (the young soldier) has a choice of $50 for VEAP, or $50 to pay the utility bill, VEAP falls by the wayside."

For this man, and for many others we spoke with, VEAP was only "money out of pocket." In addition, the short-term sacrifice was not worth the long-term benefit in total education purchasing power. Supporters of VEAP and other contributory proposals have said that such programs can work if salaries and benefits are raised. However, to be truly effective and equitable, any contributory program would have to rely on major across-the-board salary increases for service personnel of all ranks. In reality, the present military incremental salary scale and the proposed targeted increases for the all volunteer force would always discriminate for education benefits in favor of the "have's" against the "have nots." Such a program does, and would continue to discriminate against the young recruit trying to build a future for himself and his family within the all volunteer force.

Through April, 1981 out of the entire all volunteer force, only 6,267 VEAP participants have entered training. Almost one thousand (984) of those individuals are currently listed on the VA's books as "accounts receivable", owing outstanding overpayments to the Federal Government. This fact alone demonstrates the administrative difficulties and the potential abuse inherent in this or any other contributory program.

While the VEAP program provides no recruitment incentive, the 1989 termination date of the Vietnam era G.I. bill is, according to our testimony, forcing many experienced mid-career service personnel to leave the service early in order to utilize that benefit. H.R. 1400 would grandfather them into the new program.

From the standpoint of education benefits the all volunteer force is in a vacuum. I can applaud the rationale used by this committee last year in authorizing an expansion of the current test education programs. The current movement to steer toward the reinstitution of the G.I. bill stemmed from that effort. However, I am concerned about both the expense and the morale problems caused by offering such a wide variety of benefits in so many different locations throughout the country. I believe we have enough information, based on our past and current experience with the G.I. bill to proceed with a simple straightforward education program now.

We were impressed during our hearings and interviews with service personnel with the confidence and pride they held in their service. However, we also noted a growing sense of frustration over a perceived decline in the quality of military life. In many instances this decline in the quality of life for military personnel and their families was not commensurate with the demands placed upon them by their service. Faced with the attractions and rewards of civilian life, including education benefits for themselves and their families, many of these individuals had already considered or were planning to leave the service.

As one Navy petty officer in Norfolk put it: "When you are called out at 2 a.m. in the morning, or are on-board ship for six months at a stretch, you can take pride in your work, but you worry about your family. You worry about being away from them; and you worry about your future and theirs." He went on to say, "bonuses and pay increases are necessary if you want to keep bread on the table, or just to keep your head above water. But there is very little incentive in just making ends meet."

In Boston, a captain in the Special Forces, not without a certain amount of outrage, presented our subcommittee with a two page list of NCO's in his unit who were planning on leaving the Army by June 1. He said: "Special Forces has the reputation of being good, and one reason is stability. They know their jobs. But when you start replacing people every two years you lose that stability."

Only one month before, Army Chief of Staff General Edward C. Meyer made the same statement before our subcommittee. He cited turbulence caused by attrition and deteriorating retention rates as one of the most serious problems facing the Army today.

Both in our hearings in Washington and in the field there was a general consensus among these individuals and many others that a solid education program could help stabilize the all vounteer force and reverse this attrition. Included within H.R. 1400, apart from the basic and supplemental benefits, are two major retention incentives: A leave of absence provision, and an option to transfer educational entitlement to dependents.

Mr. Chairman, I would like to submit for the record several charts depicting H.R. 1400, and while doing so explain the graduated benefit levels provided by the legislation.

[Charts not available for printing in the RECORD.]

Following the basic $300 recruitment benefit and the early career booster supplemental, H.R. 1400 authorizes servicemembers to transfer that entitlement after ten years to their dependents if they so wish.

Transferability may be the most controversial provision of H.R. 1400. However, it was clear from our testimony that it was the most crucial and also the most popular retention device within the legislation. I believe that the testimony from the six hearings we held will fully substantiate this fact. For the servicemember concerned about the welfare of his family and the long range implications of a military career, transferability affords that individual an opportunity to make a concrete investment in his family through his own service.

One of the major modifications we made in H.R. 1400 was to expand the original authorization for transferability, originally targeted only to critical skills, to a universal provision available to all military personnel. Service personnel from company commanders to privates told us of the inequity of providing an education benefit for some dependents and not others. They indicated that they could accept the concept of using pay and bonuses as an incentive for critical skills. But that a basic benefit such as education or health care ought to be provided across-the-board.

One army major stated, "linking transferability to certain M.O.S's would create turbulence by encouraging soldiers to jump from one M.O.S. to another."

Another first lieutenant asked: "How can you ask someone to be cold, wet and miserable in the combat arms if that soldier was denied transferability while others were granted it."

We feel that universal transferability can be an effective retention incentive. We also strongly urge and recommend that it be made available across-the-board to both spouse and child.

I realize that the cost of H.R. 1400 is of some concern to the members of this subcommittee. As you can see the cost is split between the Veterans' Administration and the Department of Defense. The VA will administer the program and be responsible for the cost of the basic benefit after three years. The Department of Defense will pay for the supplemental benefits after six years, and the transferability provision after ten. There is no appreciable cost to the program until 1984.

I understand the Congressional Budget Office will testify before the subcommittee on the cost estimates they have provided the House Committee on Veterans Affairs. While CBO may be reporting on the costs of the legislation, I believe it is important to note the cost savings and the benefits derived from the bill.

In 1979 the Government Accounting Office reported that 444,000 first term volunteers had left the service between 1974 and 1977 before completing their initial enlistments. The cost of the Federal Government for this loss was $5.2 billion.

At the same time the Department of Defense projected that up to an estimated one-third of active duty male first term enlistees from FY 1976 to FY 1978 failed to complete three years of initial service, "mostly because of lack of aptitude or motivation."

Current DOD data indicates that high school graduates are twice as likely to complete their full enlistments than are high school dropouts. H.R. 1400 would attract only high school graduates.

The GAO estimates that each attrition case costs the Government $12,000, including basic enlistment costs, initial training and service costs.

For those at the mid-career level, especially those trained in critical specialty fields the cost of attrition in even greater. The Air Force estimates that it pays $6.8 million to train and keep an F-15 pilot with the rank

of captain proficient in flight skills. It would lose about half that much again for a C-130 or F-4 pilot who leaves the service to fly for a commercial airline.

Dr. Charles Moskos, the noted military sociologist from Northwestern University, testified before our subcommittee that merely cutting the military attrition rate in half would result in manpower savings in excess of $600 millon per year.

Furthermore, judging from our past experience with previous G.I. bills, for every dollar invested in an education program, the Federal Government has received three in return from higher taxes paid by those who have received that education.

Apart from being cost efficient, H.R. 1400 will be a good investment in the all volunteer force. The investment made in improving the quality of personnel will pay off in improved efficiency and a more effective defense for the United States. The incentive provided by education benefits will not only improve the quality of military personnel, but will attract and draw on a more representational and equitable cross-section of the Nation's population.

In closing, the recruiters, the military personnel, and the experts in Washington and in the field taught us a very valuable lesson. They said:

"Give us a new G.I. bill. Make it simple, easy for recruiters to explain, and recruits to understand. Make it equitable. Use pay incentives and bonuses for critical skills, but education should be across-the-board. Allow us all the opportunity to educate our families. Do not discriminate between different branches of the service, or different occupations within those branches. Make the benefit levels high enough to be meaningful, but not too high to force people out of the system to use that benefit. Make the G.I. bill permanent," they said, "It is time to stop switching signals on the education benefits for the all volunteer force. And, above all," they said, "we need this recruitment and retention tool now."

I realized that is a tall order. But we have attempted to include the spirit of those guidelines within H.R. 1400.

As I mentioned in the beginning of my statement, I believe we have brought a good bill before your subcommittee. I want to thank you, Mr. Chairman and the members of the Subcommittee for your invitation to testify today. I also want to express my deep appreciation to the chairman of the House Committee on Veterans Affairs, Sonny Montgomery, the original author of H.R. 1400, for his great assistance and strong support for the amendments we made in his bill.●

PEERING INTO AMTRAK'S FUTURE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 10 minutes.

● Mr. REUSS. Mr. Speaker, I wish to place in the CONGRESSIONAL RECORD an article which appeared in today's Chicago Tribune, concerning the future of Amtrak. The article, by columnist Bob Wiedrich, provides a look at what America's rail passenger service could be in 1990 if the Rail Passenger Systems Act of 1981, which I introduced on June 25, becomes law.

The Rail Passenger Systems Act, H.R. 4028, is aimed at creating in the United States high-speed rail passenger systems equal to or better than those of the other industrialized nations.

H.R. 4028 would also provide an excellent start in reindustrializing America. For the next generation, we could be busy making rail locomotives and cars, new track, electrification systems, and the other things needed to redevelop our rail system. Just as automobiles made the 1920's, and television made the 1950's, we could have, in the 1980's, an American revival based on the revitalization of our railroads. And by 1990 we could have top-notch, high-speed rail passenger service between our major cities, as Bob Wiedrich describes in his Chicago Tribune piece, which follows:

[From the Chicago Tribune, July 8, 1981]

PEERING INTO AMTRAK'S FUTURE

(By Bob Wiedrich)

It is 1990. And Rep. Henry S. Reuss' dream of high-speed, high technology rail passenger service for the United States has been realized.

In 1982, Congress approved the Milwaukee Democrat's proposals for a Rail Passenger Systems Act to get Uncle Sam out of the transportation subsidy business and bring private financing into the picture.

In the intervening years, 19 congressionally designated corridors have been constructed to link major population centers across the nation with a frequency of high-speed service that can compete with the airlines.

So today, you buy a ticket at Chicago's Union Station, board an electric train designed and manufactured in the U.S., and minutes later are propelled down a privately financed right of way at speeds in excess of 100 miles an hour.

As the train roars along, no freight trains appear to impede its progress. The track was purchased from an existing railroad when the Reuss act took effect.

So the right of way is operated exclusively for passenger trains. And once the express has cleared the urban area, it slinks onto another right of way installed in the median strip of an interstate highway.

Because of the high frequency of service, the train is paying its own way. Passengers can board the train in downtown Chicago and get off in downtown Milwaukee or Detroit or St. Louis. A jet flight between the same cities is shorter.

However, by taking the train instead, a passenger eliminates the time lost getting to and from the airport. And because the trains operate at half-hour intervals or less, a passenger also doesn't waste time waiting at the airport for a flight.

Critics of rail passenger service as an outmoded means of conveyance will scoff at Rep. Reuss' dream. But Reuss believes it can become a reality that will meet America's energy needs for rapid mass transportation between urban centers without bankrupting the federal treasury.

He has backed that faith with legislation introduced in the House June 25. And he intends to hold the first of a series of hearings on the bill by the end of July before the Joint House-Senate Economic Committee he chairs.

Under the measure, Amtrak would continue operating the national rail passenger network currently authorized by present law.

But because its long distance trains are never expected to pay for more than 50 percent of their keep, Reuss wants to induce private capital into building a viable, high-speed rail system that will make money and save taxpayers dollars.

The present Amtrak limit of $900 million in federal loan guarantees would be expanded to $2 billion. The guarantees would provide the incentive for private speculators to get involved. And Rep. Reuss is certain there would be no shortage of either domestic or foreign capital available if the short haul routes of 500 miles or less are carefully planned.

In some instances, Amtrak would be empowered to purchase or condemn existing rights of way. In other cases, new rights of way would have to be acquired. Interstate highway median strips also would be a possibility. And all corridors should be electrified to take advantage of excess generating capacity, Reuss said.

In constructing the corridors, Reuss continued, every effort should be made to eliminate the 26,000 grade crossings that endanger speed and safety.

Long-term contracts would be arranged for acquisition of high technology locomotives, rolling stock, and other equipment from American manufacturers, thereby generating jobs and giving U.S. industry an economic boost.

"I realize that we're talking about a large capital investment," Reuss said. "But we have tremendous capital in this country which we should retain instead of permitting it to leak overseas. Also, there is foreign capital eager to invest in the U.S."

Reuss pointed out that Japan's so-called "Bullet Trains" have shown a profit every year except their first in 1965. In 1978, profits reached $1.3 billion.

Each corridor would be financed and constructed independently of the others. The Secretaries of Transportation and Treasury would have to confirm that each was economically feasible.

"We are not going to succeed by running Amtrak as it is," Reuss said. "So we must start over and create a whole new system."●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. HAGEDORN (at the request of Mr. MICHEL), for today, on account of a death in the family.

Mr. FRENZEL (at the request of Mr. MICHEL), for today and the balance of the week, on account of medical reasons.

Mr. BARNARD (at the request of Mr. WRIGHT), for this week, on account of the death of his mother.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. HATCHER) to revise and extend their remarks and include extraneous material:)

Mr. GLICKMAN, for 40 minutes, today.

Mr. PHILLIP BURTON, for 5 minutes, today.
Mr. LAFALCE, for 20 minutes, today.
Mr. GONZALEZ, for 15 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. WIRTH, for 5 minutes, today.
Mr. MONTGOMERY, for 15 minutes, today.
Mr. REUSS, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. DORNAN of California, during debate on H.R. 3519 in the Committee of the Whole today.

Mr. BEREUTER, to revise and extend his remarks in support of fiscal year 1982 Defense Authorization Act and that his remarks be placed in the RECORD after the remarks after the last speaker in general debate.

Mr. WOLPE, and to include extraneous matter, on H.R. 3519, in the Committee of the Whole today.

(The following Members (at the request of Mr. SKEEN) and to include extraneous matter:)

Mr. YOUNG of Florida in five instances.
Mr. MICHEL.
Mr. DERWINSKI in two instances.
Mr. BROOMFIELD.
Mr. HOPKINS.
Mr. FINDLEY.
Mr. RITTER.

(The following Members (at the request of Mr. HATCHER) and to include extraneous matter:)

Mr. PEYSER in two instances.
Mr. REUSS.
Mr. MAZZOLI.
Mr. ANDERSON in 10 instances.
Mr. GONZALEZ in 10 instances.
Mr. ROSENTHAL in 10 instances.
Mrs. BOUQUARD in five instances.
Mr. HAMILTON in 10 instances.
Mr. BROWN of California in 10 instances.
Mr. ANNUNZIO in six instances.
Mr. JONES of Tennessee in 10 instances.
Mr. BONER of Tennessee in five instances.
Mr. SANTINI.
Mr. WIRTH in two instances.
Mr. CORRADA.
Mr. SIMON in three instances.
Mr. FRANK in two instances.
Mr. CLAY in two instances.
Mr. MILLER of California.
Mr. ST GERMAIN.
Mr. SKELTON in two instances.
Mr. MOFFETT.
Mr. LONG of Louisiana.
Mr. BRODHEAD.
Mr. SAVAGE.
Mr. WHITE in three instances.
Mr. HAWKINS in two instances.
Mr. AUCOIN
Mr. EDWARDS of California.
Mr. HUBBARD.
Mrs. SCHROEDER.
Mr. HEFTEL.
Mr. WALGREN.
Mr. BINGHAM in 10 instances.
Mr. CONYERS.

SENATE JOINT RESOLUTIONS REFERRED

Joint resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 12. Joint resolution to authorize and request the President to designate November 14, 1981, as "Operating Room Nurses Day"; to the Committee on Post Office and Civil Service;

S.J. Res. 64. Joint resolution designating August 13, 1981, as "National Blinded Veterans Recognition Day"; to the Committee on Post Office and Civil Service;

S.J. Res. 73. Joint resolution to designate the week beginning June 6, 1982, and ending June 12, 1982, as "Management Week in America"; to the Committee on Post Office and Civil Service; and

S.J. Res. 91. Joint resolution to designate July 1981 as "National Peach Month"; to the Committee on Post Office and Civil Service.

ENROLLED BILL SIGNED

Mr. HAWKINS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 3520. An act to amend the Clean Air Act to provide compliance date extensions for steelmaking facilities on a case-by-case basis to facilitate modernization.

BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. HAWKINS, from the Committee on House Administration, reported that that committee did on June 29, 1981, present to the President, for his approval, bills and a joint resolution of the House of the following titles:

H.R. 3807. An act to make technical corrections in the Defense Officer Personnel Management Act;

H.R. 3991. An act to amend the Food Stamp Act of 1977 to increase the authorization for appropriations for fiscal year 1981, and to amend Public Law 93-233 to continue, through August 1, 1981, the cash-out of food stamp program benefits of certain recipients of supplemental security income; and

H.J. Res. 238. Joint resolution to approve a constitution for the U.S. Virgin Islands.

ADJOURNMENT

Mr. HATCHER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 2 minutes p.m.) the House adjourned until tomorrow, Thursday, July 9, 1981, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1707. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting notice of the location, nature, and estimated cost of various construction projects proposed to be undertaken by the Navy Reserve, pursuant to 10 U.S.C. 2233a(1); to the Committee on Armed Services.

1708. A letter from the Secretary of the Navy, transmitting notice of decision to convert to contractor performance the Key Entry function at the Naval Supply Center, Oakland, Calif., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

1709. A letter from the Assistant Secretary of the Army (Installations, Logistics, and Financial Management), transmitting notice of the proposed conversion to contractor performance of installation support function at the National Training Center, Fort Irwin, Calif., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

1710. A letter from the Acting Assistant Secretary of the Air Force (Research, Development and Logistics), transmitting notice of decision to convert to contractor performance the power production function at King Salmon Airport, Alaska, pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

1711. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact of U.S. readiness of the Army's proposed sale of certain defense equipment to Japan (Transmittal No. 81-59), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

1712. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact of U.S. readiness of the Air Force's proposed sale of certain defense articles to Japan (Transmittal No. 81-60), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

1713. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact of U.S. readiness of the Army's proposed sale of certain defense articles to Saudi Arabia (Transmittal No. 81-62), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

1714. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact of U.S. readiness of the Army's proposed sale of certain defense articles to Tunisia (Transmittal No. 81-64), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

1715. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact of U.S. readiness of the Air Force's proposed sale of certain defense equipment to Saudi Arabia (Transmittal No. 81-66), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

1716. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact of U.S. readiness of the Navy's proposed sale of certain defense articles to Portugal (Transmittal No. 81-67),

pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

1717. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Army's proposed sale of certain defense articles to Jordan (Transmittal No. 81-70), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

1718. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Army's proposed sale of certain defense equipment to Saudi Arabia (Transmittal No. 81-71), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

1719. A letter from the Director, Selective Service System, transmitting a semiannual report for the period October 1, 1980, through March 31, 1981, pursuant to section 10(g) of the Military Selective Service Act, as amended; to the Committee on Armed Services.

1720. A letter from the Assistant Director, Defense Logistics Agency, transmitting notice of the decision to retain Defense Contract Administration Services Regions; to the Committee on Armed Services.

1721. A letter from the Secretary of Housing and Urban Development, transmitting the second annual report on the impact and effectiveness of the congregate housing services program, pursuant to section 408(b) of Public Law 95-557; to the Committee on Banking, Finance and Urban Affairs.

1722. A letter from the Acting Comptroller of the Currency, transmitting the annual report for 1980, pursuant to section 3333 of the Revised Statutes; to the Committee on Banking, Finance and Urban Affairs.

1723. A letter from the Secretary of Education, transmitting proposed final regulations for special educational programs for students whose families are engaged in migrant and other seasonal farm work—high school equivalency program and college assistance migrant program, pursuant to section 431(d) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

1724. A letter from the Director, ACTION Agency, transmitting copy of the final regulation entitled: "VISTA Trainee Deselection and Volunteer Early Termination Procedures", pursuant to section 420(d) of Public Law 93-113, as amended; to the Committee on Education and Labor.

1725. A letter from the Secretary of Commerce, transmitting the annual report on the Department's activities under the Fair Packaging and Labeling Act, covering fiscal year 1980, pursuant to section 8 of the act; to the Committee on Energy and Commerce.

1726. A letter from the Secretary of Federal Trade Commission, transmitting the 10th annual report of the Federal Trade Commission concerning the impact on competition and on small business of the development and implementation of voluntary agreements and plans of action to carry out provisions of the international energy program, pursuant to section 252(i) of the Energy Policy and Conservation Act of 1975, as extended by Public Law 97-5; to the Committee on Energy and Commerce.

1727. A letter from the Acting Administrator, Energy Information Administration, Department of Energy, transmitting the quarterly report for the period January through March 1981, on imports of crude oil, residual fuel oil, refined petroleum products, natural gas, and coal; reserves and production of crude oil, natural gas, and coal; refinery activities; and inventories; together with data on exploratory activity, exports, nuclear energy, and electric power, pursuant to section 11(c)(2) of the Energy Supply and Environmental Coordination Act of 1974, as amended; to the Committee on Energy and Commerce.

1728. A letter from the General Counsel, Department of Energy, transmitting notice of meetings relating to the international energy program to be held on July 9 and 10, 1981, in Paris, France; to the Committee on Energy and Commerce.

1729. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense articles and services to Japan (Transmittal No. 81-59), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

1730. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Air Force's intention to offer to sell certain defense articles and services to Japan (Transmittal No. 81-60), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

1731. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense articles and services to Saudi Arabia (Transmittal No. 81-62), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

1732. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Navy's intention to offer to sell certain defense articles and services to Saudi Arabia (Transmittal No. 81-65), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

1733. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense articles and services to Tunisia (Transmittal No. 81-64), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

1734. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Air Force's intention to sell certain defense articles and services to Saudi Arabia (Transmittal No. 81-66), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

1735. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Navy's intention to offer to sell certain defense articles and services to Portugal (Transmittal No. 81-67), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

1736. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense articles and services to the United Kingdom (Transmittal No. 81-69), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

1737. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense articles and services to Jordan (Transmittal No. 81-70), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

1738. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense articles and services to Saudi Arabia (Transmittal No. 81-71), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

1739. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

1740. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of the State Department's intention to a request by the Government of Italy for permission to transfer certain U.S.-origin defense equipment to the Government of Greece, pursuant to section 3(d) of the Arms Export Control Act; to the Committee on Foreign Affairs.

1741. A letter from the Assistant Director for Administration, Office of Management and Budget, Executive Office of the President, transmitting copies of a proposed new system of records for the Office of Management and Budget, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

1742. A letter from the Assistant Attorney General for Administration, Department of Justice, transmitting proposal to modify an existing system of records entitled "Civil Division Case File System, JUSTICE/CIV-001", pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

1743. A letter from the Assistant Attorney General for Administration, Department of Justice, transmitting copies of a proposed new system of records for the Department, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

1744. A letter from the Under Secretary of the Interior, transmitting notice of the leasing systems to be used in oil and gas lease sale No. 56, Outer Continental Shelf offshore the South Atlantic States, to be held on August 4, 1981, pursuant to section 8(a)(8) of the Outer Continental Shelf Lands Act, as amended; to the Committee on Interior and Insular Affairs.

1745. A letter from the Chairman, U.S. Nuclear Regulatory Commission, transmitting a status report on the feasibility and value of licensing plant managers and senior licensee officers responsible for the operation of nuclear power facilities, pursuant to section 307(b) of Public Law 96-295; jointly to the Committees on Interior and Insular Affairs and Energy and Commerce.

1746. A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting an addition to a draft of proposed legislation to increase the efficiency of Government-wide efforts to collect debts owed the United States, to require the Office of Management and Budget to establish regulations for reporting on debts owed the United States, and to provide additional procedures for the collection of debts owed the United States; to the Committee on the Judiciary.

1747. A letter from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders suspending deportation under the authority of section 244(a)(1) of the Immigration and Nationality Act, together with a list of the persons involved, pursuant to section 244(c) of the act; to the Committee on the Judiciary.

1748. A letter from the Chairman, U.S. Commission of Civil Rights, transmitting a

report of the Ohio Advisory Committee to the U.S. Commission on Civil Rights, "Policing in Cincinnati, Ohio: Official Policy vs. Civilian Reality"; to the Committee on the Judiciary.

1749. A letter from the Secretary, Aviation Hall of Fame, Inc., transmitting its annual report and financial audit, pursuant to section 15(b) of Public Law 88-372; to the Committee on the Judiciary.

1750. A letter from the Acting Chairman, National Advisory Committee on Oceans and Atmosphere, transmitting the committee's 10th annual report, pursuant to section 4 of Public Law 95-63; to the Committee on Merchant Marine and Fisheries.

1751. A letter from the Chairwoman of the Merit Systems Protection Board, transmitting the second annual report of the Merit Systems Protection Board for calendar year 1980, pursuant to 5 U.S.C. 1209(b); to the Committee on Post Office and Civil Service.

1752. A letter from the Secretary of Transportation, transmitting the quarterly report covering the second quarter of fiscal year 1981 on Urban Mass Transportation Administration grants approved by State and recipient, October 1, 1970, through March 31, 1981, as well as cumulative obligations and the balance of available, unobligated sums as of March 31, 1981, pursuant to section 4(h)(1) of the Urban Mass Transportation Act, as amended; to the Committee on Public Works and Transportation.

1753. A letter from the Administrator, General Services Administration, transmitting a prospectus proposing continued occupancy under a succeeding lease for space in EG and G Building, 933 Bradbury Street, Albuquerque, N. Mex., pursuant to section 7 of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

1754. A letter from the Chairman, Interstate Commerce Commission, transmitting the Commission's first annual report to Congress on section 8, pursuant to section 8 of the Motor Carrier Act of 1980; to the Committee on Public Works and Transportation.

1755. A letter from the Board of Trustees, Federal Old-Age and Survivors Insurance and Disability Insurance Trust Fund, transmitting the 1981 annual report of the Board, pursuant to section 201(c) of the Social Security Act; to the Committee on Ways and Means.

1756. A letter from the Board of Trustees, Federal Hospital Insurance Trust Fund, transmitting the 1981 annual report of the Board, pursuant to section 1817(b) of the Social Security Act; to the Committee on Ways and Means.

1757. A letter from the Secretary of Health and Human Services, transmitting notice of delay in submitting the report on summary of State assessments of day care programs funded under title XX, pursuant to section 1001(c) of Public Law 96-499; to the Committee on Way and Means.

1758. A letter from the U.S. Trade Representative, Executive Office of the President, transmitting the first report on labor surplus areas of implementation under U.S. law of the International Government Procurement Agreement, pursuant to section 306(b) of the Trade agreements Act; to the Committee on Ways and Means.

1759. A letter from the Fiscal Assistant Secretary of the Treasury, transmitting the 10th annual report on the financial condition and results of the operations of the Airport and Airway Trust Fund, covering fiscal year 1980, pursuant to section 208(e)(1) of the Airport and Airway Revenue Act of 1970, as amended; to the Committee on Ways and Means.

1760. A letter from the Chairman, U.S. International Trade Commission, transmitting the Commission's 26th quarterly report on trade between the United States and nonmarket economy countries, pursuant to section 410 of the Trade Act of 1974; to the Committee on Ways and Means.

1761. A letter from the Acting Secretary of Agriculture, transmitting the fourth quarterly commodity and country allocation table showing the planned programing of food assistance under title I/III of the Agricultural Trade Development and Assistance Act for fiscal year 1981, pursuant to section 408(b) of the act; jointly to the Committees on Agriculture and Foreign Affairs.

1762. A letter from the Board of Trustees, Federal Supplementary Insurance Trust Fund, transmitting the 1981 annual report of the Board, pursuant to section 1841(b) of the Social Security Act; jointly to the Committees on Energy and Commerce and Ways and Means.

1763. A letter from the Acting Comptroller General of the United States, transmitting a report on logistics concerns over the Navy's guided missile frigate FFG-7 class (PLRD-81-34, July 7, 1981); jointly to the Committees on Government Operations and Armed Services.

1764. A letter from the Acting Comptroller General of the United States, transmitting a report on logistics planning for the M-1 tank; implications for reduced readiness and increased support costs (PLRD-81-22, July 1, 1981); jointly to the Committees on Government Operations and Armed Services.

1765. A letter from the Acting Comptroller General of the United States, transmitting a report on the gains and shortcomings in resolving regulatory conflicts and overlaps (PAD-81-76, June 23, 1981); jointly to the Committees on Government Operations and the Judiciary.

1766. A letter from the Acting Comptroller General of the United States, transmitting a report on contractor-operated stores selling automotive replacement parts and civil engineering supplies on military installations (MASAD-81-27, July 8, 1981); jointly to the Committees on Government Operations and Armed Services.

1767. A letter from the Comptroller General of the United States, transmitting a report on the consistent criteria needed to assess small-business innovation initiatives (PAD-81-15, July 7, 1981); jointly to the Committees on Government Operations and Small Business.

1768. A letter from the Administrator, Bonneville Power Administration, Department of Energy, transmitting a report on interregional resource potentials, pursuant to section 6(1) of Public Law 96-501; jointly to the Committees on Energy and Commerce and Interior and Insular Affairs.

1769. A letter from the Acting Comptroller General of the United States, transmitting a report on transportation contingency plans for future gas shortages (CED-81-79, July 1, 1981); jointly to the Committees on Government Operations, Energy and Commerce, and Public Works and Transportation.

1770. A letter from the Comptroller General of the United States, transmitting a report on the examination of the Panama Canal Commission's financial statements for fiscal year 1980, the first year of operation under the Panama Canal Treaty of 1977, and on treaty-related issues (ID-81-49, June 29, 1981); jointly to the Committees on Government Operations, Foreign Affairs, and Merchant Marine and Fisheries.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ST GERMAIN: Committee on Banking, Finance and Urban Affairs. Report pursuant to section 302(b) of the Congressional Budget Act of 1974 (Rept. No. 97-164). Referred to the Committee of the Whole House on the State of the Union.

Mr. BEILENSON: Committee on Rules. House Resolution 170. Resolution waiving certain points of order against H.R. 4035, a bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1982, and for other purposes (Rept. No. 97-165). Referred to the House Calendar.

Mr. MOAKLEY: Committee on Rules. House Resolution 171. Resolution waiving certain points against H.R. 4034, a bill making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1982, and for other purposes (Rept. No. 97-166). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DOWNEY:

H.R. 4069. A bill to establish an Interagency Committee on Arson Control to coordinate Federal antiarson programs, to amend certain provisions of the law relating to programs for arson investigation, prevention, and detection, and for other purposes; jointly, to the Committees on the Judiciary, Banking, Finance and Urban Affairs, and Science and Technology.

Mr. GLICKMAN (for himself, Mr. SYNAR, AND MR. LEACH of Iowa):

H.R. 4070. A bill to amend the Federal Election Campaign Act of 1971 to change certain contribution limits for congressional elections and to amend the Internal Revenue Code of 1954 to increase the tax credit for contributions to candidates for public office; jointly, to the Committees on House Administration and Ways and Means.

By Mr. DUNCAN:

H.R. 4071. A bill to amend the Internal Revenue Code of 1954 to provide that the limitations of section 280A will not apply to rentals under shared equity financing arrangements; to the Committee on Ways and Means.

By Mr. EVANS of Georgia (for himself and Mr. HARTNETT):

H.R. 4072. A bill to provide for contribution of damages attributable to an agreement by two or more persons to fix, maintain, or stabilize prices under section 4, 4A, or 4C of the Clayton Act, and for other purposes; to the Committee on the Judiciary.

By Mr. HUNTER:

H.R. 4073. A bill to grant a Federal charter to the Navy Wives Clubs of America; to the Committee on the Judiciary.

By Mr. JONES of North Carolina (for himself, Mr. SNYDER, Mr. BIAGGI, and Mr. MCCLOSKEY):

H.R. 4074. A bill to revise the laws pertaining to the Maritime Administration; to the Committee on Merchant Marine and Fisheries.

By Mr. NOWAK (for himself and Mr. KEMP) (by request):

H.R. 4075. A bill to suspend the duty on bulk fresh carrots; to the Committee on Ways and Means.

By Mr. ST GERMAIN:

H.R. 4076. A bill to amend section 924(c) of title 18, United States Code regarding mandatory penalties for crimes committed involving the use of firearms; to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

144. By the SPEAKER: Memorial of the Legislature of the State of Alaska, relative to construction of the Crater Lake stage of the Snettisham hydroelectric project; to the Committee on Appropriations.

145. Also, memorial of the Legislature of the State of North Carolina, relative to credit policies of the Federal Reserve Board; to the Committee on Banking, Finance and Urban Affairs.

146. Also, memorial of the Legislature of the State of California, relative to the repeal of the industrial homeworkers' regulations; to the Committee on Education and Labor.

147. Also, memorial of the Legislature of the State of New York, relative to the reauthorization of the Community Services Administration; to the Committee on Education and Labor.

148. Also, memorial of the Legislature of the State of Michigan, relative to retaining the modified emergency standby energy allocation provisions of the Emergency Petroleum Allocation Act of 1973; to the Committee on Energy and Commerce.

149. Also, memorial of the Legislature of the State of New York, relative to a mutual, verifiable nuclear weapons moratorium between the United States and the Soviet Union; to the committee on Foreign Affairs.

150. Also, memorial of the Legislature of the State of Montana, relative to the Federal Land Policy and Management Act of 1976; to the Committee on Interior and Insular Affairs.

151. Also, memorial of the Legislature of the State of California, relative to the language minority provisions of the Federal Voting Rights Act; to the Committee on the Judiciary.

152. Also, memorial of the Legislature of the State of California, relative to Continental Airlines; to the Committee on Public Works and Transportation.

153. Also, memorial of the Legislature of the State of Alaska, relative to the need for congressional hearings on Arctic science policy; to the Committee on Science and Technology.

154. Also, memorial of the Legislature of the State of Nevada, relative to its opposition to Federal control of public retirement systems; jointly, to the Committees on Education and Labor and Ways and Means.

155. Also, memorial of the Legislature of the State of Nevada, relative to legislation to control strictly the populations of wild horses and burros on public lands; jointly, to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. DICKINSON:

H.R. 4077. A bill for the relief of Grietje Rhea Pietens Beumer, Johan Christian Beumer, Cindy Larissa Beumer, and Cedric Grant Beumer; to the Committee on the Judiciary.

By Mr. FRENZEL:

H.R. 4078. A bill for the relief of Anthony McCartney; to the Committee on the Judiciary.

By Mr. GRADISON:

H.R. 4079. A bill for the relief of Carol Heather Guthrie and Annie (Scott) Boyle; to the Committee on the Judiciary.

By Mr. McCLORY:

H.R. 4080. A bill for the relief of Krzysztof Szylowicz and Renata Giers Szylowicz; to the Committee on the Judiciary.

By Mr. RAHALL:

H.R. 4081. A bill for the relief of Dr. Bahaa El-Din Shaker; to the Committee on the Judiciary.

By Mr. UDALL:

H.R. 4082. A bill for the relief of Josephine Graff; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 27: Mr. MORRISON.

H.R. 33: Mr. CONTE.

H.R. 374: Mr. FORD of Tennessee.

H.R. 375: Mr. RODINO, Mr. FOGLIETTA, Mr. FORD of Michigan, Mr. OTTINGER, Mr. DELLUMS, Mr. FINDLEY, and Mr. KOGOVSEK.

H.R. 467: Mr. MOLLOHAN.

H.R. 484: Mr. ATKINSON.

H.R. 621: Mr. COELHO, Mr. DAUB, Mr. ENGLISH, Mr. GRISHAM, Mr. HANCE, Mr. HEFTEL, and Mr. MARRIOTT.

H.R. 881: Mr. HOWARD.

H.R. 907: Mr. PRITCHARD.

H.R. 911: Mr. YOUNG of Alaska.

H.R. 1005: Mr. APPLEGATE, Mr. LIVINGSTON, Mr. SWIFT, and Mr. MOTTL.

H.R. 1007: Mr. BINGHAM and Mr. CONYERS.

H.R. 1313: Mr. ZABLOCKI, Mr. SMITH of Iowa, and Mr. LELAND.

H.R. 1353: Mr. MCKINNEY.

H.R. 1400: Mr. KASTENMEIER.

H.R. 1765: Mr. SHAW.

H.R. 1918: Mr. COELHO, Mr. FLIPPO, Mr. HAGEDORN, Mr. HAWKINS, and Mr. NEAL.

H.R. 1919: Mr. FRANK.

H.R. 2022: Mr. SANTINI.

H.R. 2129: Mr. MCKINNEY and Mr. WHITTAKER.

H.R. 2606: Mr. MILLER of Ohio, Mr. OTTINGER, Mr. SOLARZ, and Mr. WOLPE.

H.R. 2973: Mr. STOKES and Mr. ROE.

H.R. 2990: Mr. STOKES, Mr. JEFFRIES, Mr. MONTGOMERY, and Mrs. BOGGS.

H.R. 3003: Mr. SMITH of Alabama.

H.R. 3022: Mr. CONYERS, Mr. DWYER, Mr. FAUNTROY, Mr. FRANK, Mr. MOFFETT, Mr. OTTINGER, Mr. PATTERSON, Mr. RINALDO, Mr. SEIBERLING, and Mr. SIMON.

H.R. 3083: Mrs. HOLT, Mr. ANDREWS, Mr. BAILEY of Pennsylvania, Mr. BETHUNE, and Mr. COLLINS of Texas.

H.R. 3231: Mr. SCHEUER, Mr. PRITCHARD, Mr. DOWNEY, Mr. DWYER, Mr. RODINO, Mr. LAFALCE, Mr. BARNES, Mr. CORRADA, Mr. MOAKLEY, Mr. D'AMOURS, Mr. CONYERS, Mr. FAUNTROY, Mr. MCCLOSKEY, Mr. BONIOR of Michigan, Mr. MCHUGH, Mr. EDGAR, Mr. WASHINGTON, Mr. SCHUMER, Mr. KILDEE, Mr. MITCHELL of Maryland, Mr. HARKIN, Mr. SEIBERLING, Mr. VENTO, Mr. FOWLER, Mr. DAUB, Mrs. COLLINS of Illinois, Mr. BEDELL, Mr. PEPPER, and Mr. WIRTH.

H.R. 3232: Mr. SCHEUER, Mr. CLAY, and Mr. CORRADA.

H.R. 3269: Mr. MATSUI, Mr. DE LA GARZA, Mr. BADHAM, Mrs. BOGGS, Mr. GRAMM, Mr. WILSON, Mr. WHITTEN, Mr. MURPHY, Mr. DAN DANIEL, Mr. CORCORAN, Mr. ANTHONY, and Mr. HOPKINS.

H.R. 3339: Mr. BOWEN.

H.R. 3464: Mr. TRIBLE, Mr. WOLPE, and Mr. MILLER of Ohio.

H.R. 3498: Mr. WILSON, Mr. BAFALIS, and Mr. SHAW.

H.R. 3575: Mr. ANDREWS, Mr. CLAUSEN, Mr. DONNELLY, Mr. MCKINNEY, Mr. WALKER, Mr. WEBER of Minnesota, Mr. WORTLEY, and Mr. YOUNG of Alaska.

H.R. 3599: Mr. RAILSBACK and Mr. MOTTL.

H.R. 3614: Mr. WYDEN, Mr. ROE, Mrs. BOUQUARD, Mr. GORE, Mr. RINALDO, Mr. ST GERMAIN, Mr. BONER of Tennessee, Mr. FOUNTAIN, Mr. NEAL, Mr. DONNELLY, Mr. SHAW, Mr. AUCOIN, Mr. DASCHLE, Mr. ROBERTS of South Dakota, Mr. QUILLEN, and Mr. MCCOLLUM.

H.R. 3644: Mr. CAMPBELL, Mr. MITCHELL of Maryland, Mr. BAILEY of Pennsylvania, Mr. BENJAMIN, Mr. FORD of Tennessee, Mr. COELHO, Mr. WALGREN, Mr. WILSON, Mr. OTTINGER, Mr. BAFALIS, Mr. RODINO, Mr. SEIBERLING, Mr. ECKART, Mr. ERTEL, Mr. HERTEL, Mr. PANETTA, Mr. SAWYER, Mr. MINETA, Ms. MIKULSKI, Mr. HARKIN, Mr. YATRON, Mr. LEHMAN, Mr. WOLPE, and Mr. COLLINS of Texas.

H.R. 3656: Mr. RICHMOND, Mr. FOGLIETTA, Mr. CLAY, Mrs. FENWICK, Mr. FORSYTHE, Mr. MURPHY, Mr. PICKLE, Mr. PANETTA, Mr. MCKINNEY, Mr. SCHEUER, Mr. RODINO, Mr. BEDELL, Mr. TAUKE, Mr. GREGG, Mr. CONYERS, and Mr. LEHMAN.

H.R. 3696: Mr. RAHALL.

H.R. 3697: Mr. RAHALL, Mr. EDGAR, Mr. ROE, Mr. HOWARD, and Mr. RINALDO.

H.R. 3721: Mr. LUJAN, Mr. GINGRICH, Mr. EDGAR, and Mr. HANCE.

H.R. 3856: Mr. ROE.

H.R. 3890: Mr. FOWLER.

H.R. 3984: Mr. COLEMAN, Mr. BAILEY of Missouri, Mr. TAYLOR, Mr. ROBERTS of Kansas, Mr. WHITTAKER, Mr. SKELTON, Mr. WEBER of Minnesota, Mr. HANSEN of Idaho, Mr. BEARD, Mr. ERDAHL, Mr. KOGOVSEK, and Mr. NAPIER.

H.R. 4033: Mr. WATKINS, Mr. LELAND, Mr. LOTT, Mr. BREAUX, Mr. LOEFFLER, Mr. MURPHY, Mr. HEFNER, Mrs. BOUQUARD, Mr. BENEDICT, Mr. MOLINARI, Mr. GRISHAM, Mr. BAILEY of Pennsylvania, Mr. PERKINS, Mr. FORSYTHE, Mr. ENGLISH, and Mr. KINDNESS.

H.R. 4046: Mr. AKAKA.

H.J. Res. 72: Mr. PHILIP M. CRANE, Mr. UDALL, Mr. HUBBARD, Mr. WATKINS, Mr. LOWERY of California, Mr. HATCHER, and Mr. NEAL.

H.J. Res. 128: Mr. KRAMER.

H.J. Res. 162: Mr. NAPIER.

H.J. Res. 211: Mr. TRIBLE.

H.J. Res. 259: Mr. PATTERSON, Mr. GUARINI, Mr. REGULA, Mr. MCCURDY, Mr. SAVAGE, Mr. ZEFERETTI, Mr. SHAMANSKY, Mr.

STANGELAND, Mr. CARMAN, Mr. LUNDINE, Mr. BAILEY of Pennsylvania, Mr. GRAY, Mr. JENKINS, Mr. WYDEN, and Mr. DOUGHERTY.

H.J. Res. 271: Mr. JOHN L. BURTON.

H.J. Res. 273: Mr. EDWARDS of California, Mr. SILJANDER, Mr. ERDAHL, Mr. FORD of Tennessee, Mr. COLLINS of Texas, and Mrs. HOLT.

H.J. Res. 291: Ms. FERRARO.

H. Con. Res. 27: Mr. CHAPPELL and Mr. FOGLIETTA.

H. Con. Res. 124: Mr. OBEY and Mrs. COLLINS of Illinois.

H. Res. 124: Mr. ARCHER, Mr. MCKINNEY, and Mrs. SCHROEDER.

H. Res. 142: Mr. ROEMER, Mr. WOLPE, Mr. BINGHAM, Mr. PEASE, Mr. RODINO, Mr. LANTOS, Mr. WAXMAN, Mr. LEACH of Iowa, Mr. GOLDWATER, Mr. BEDELL, Mr. DAUB, and Mr. HARKIN.

H. Res. 158: Mr. BLANCHARD and Mr. BOLAND.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

124. By the SPEAKER: Petition of City Council, New York, N.Y., relative to subsidy by the Federal Government of the installation of smoke detectors in the apartments of low-income senior citizens; to the Committee on Banking, Finance and Urban Affairs.

125. Also, petition of the City Council, Sunrise, Fla., relative to the Clean Air Act; to the Committee on Energy and Commerce.

126. Also, petition of City Council, Philadelphia, Pa., relative to the State of Israel's attack against nuclear reactor in Iraq; to the Committee on Foreign Affairs.

127. Also petition of the Civil Rights Commission, Michigan, relative to the Voting Rights Act of 1965; to the Committee on the Judiciary.

128. Also, petition of Linda S. Klock, management analyst, Federal Aviation Administration, Department of Transportation, Los Angeles, Calif., relative to reorganization of regional FAA offices; to the Committee on Public Works and Transportation.

129. Also, petition of Bonnie J. Oliver, Los Angeles, Calif., relative to the Veterans' Administration hospital, West Los Angeles, Calif.; to the Committee on Veterans' Affairs.

130. Also, petition of International Brotherhood of Electrical Workers, Westborough, Mass., relative to opposition to reduction of social security benefits; to the Committee on Ways and Means.

131. Also, petition of Charles A. Stone, president, Gardner Savings Bank, Gardner, Mass., relative to the All Savers Act; to the Committee on Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3380

By Mr. SIMON:

—Page 9, after line 22, add the following new section:

BONUS FOR FOREIGN LANGUAGE PROFICIENCY

SEC. 6. (a) Chapter 5 of title 37, United States Code, is amended by adding after section 316 the following new section:

"317. Special pay: bonus for foreign language proficiency

"(a) After September 30, 1981, the Secretary concerned shall pay a bonus in the amount of $500 to any member of the armed forces for each native language, other than English, of any nation in which the member is stationed which the member is proficient in while stationed in such nation.

"(b) In determining whether a member of the armed forces is proficient in a native language for purposes of subsection (a), the foreign language proficiency requirements for members of the Foreign Service who are to be assigned abroad, established pursuant to section 702(a) of the Foreign Service Act of 1980 (22 U.S.C. 4022(a)), shall be considered.

"(c) No member of the armed forces receiving a bonus, special or incentive pay, or additional compensation, under any other section of this title or any other law or regulation, because of knowledge of a foreign language may receive any compensation under this section.

"(d) This section shall be administered under regulations prescribed by the Secretary of Defense for the armed forces under his jurisdiction and by the Secretary of Transportation for the Coast Guard when it is not operating as a service in the Navy."

(b) The table of sections at the beginning of chapter 5 of title 37, United States Code, is amended by adding after the item relating to section 316 the following new item:

"317. Special pay: bonus for foreign language proficiency.".

Page 10, line 2, strike out "SEC. 6." and insert in lieu thereof "SEC. 7.".

Page 11, line 5, strike out "SEC. 7." and insert in lieu thereof "SEC. 8.".

Page 11, line 18, strike out "SEC. 8." and insert in lieu thereof "SEC. 9.".

Page 12, line 9, strike out "SEC. 9" and insert in lieu thereof "SEC. 10.".

Page 15, line 7, strike out "SEC. 10." and insert in lieu thereof "SEC. 11.".

Page 15, line 5, strike out "SEC. 11." and insert in lieu thereof "SEC. 12.".

Page 16, line 8, strike out "section 6" and insert in lieu thereof "section 7".

H.R. 3519

By Mr. HARKIN:

—Page 7, strike out lines 18–22 and insert in lieu thereof:

(2) the Congress, before the end of 60 legislative days beginning on the date of the receipt of such certification, fails to adopt a concurrent resolution stating in substance that it disapproves such determination by the President.

By Mr. HANSEN of Utah:

—Page 8, strike out line 5 and all that follows through page 9, line 10, and insert in lieu thereof the following new section:

MX MISSILE SYSTEM BASING MODE

SEC. 203. (a) Of the amount authorized to be appropriated by section 201 for research, development, test, and evaluation for the Air Force, $2,423,200,000 is available for appropriation of funds for research, development, test, and evaluation for the MX intercontinental ballistic missile system.

(b) No funds appropriated pursuant to the authorization for the MX missile system in subsection (a) may be obligated or expended with respect to a basing mode for the MX missile until—

(1) the President selects a specific basing mode for the MX missile system and certifies to the Congress in writing a description of the basing mode selected;

(2) the Secretary of Defense submits to the Committees on Armed Services of the Senate and House of Representatives a report in writing (A) justifying the selection of the President referred to in paragraph (1), and (B) containing a comparison and evaluation of alternative basing modes to the basing mode selected by the President and;

(3) a period of 60 days has elapsed after the certification under paragraph (1) has been received by the Congress and during which both Houses of Congress have not adopted resolutions of their respective Houses expressing disapproval of the development of the basing mode selected by the President.

(c) Development of the MX missile system shall continue so as to achieve an initial operational capability (IOC) for the MX missile system not later than December 31, 1986, as required by section 202(b) of the Department of Defense Authorization Act, 1981 (Public Law 96-342; 94 Stat. 1079).

By Mr. LOWRY of Washington:

—At the end of title I (page 5, after line 23), add the following new section:

LIMITATION ON PROCUREMENT OF PERSHING II MISSILES AND GROUND-LAUNCHED CRUISE MISSILES

SEC. 104. None of the funds appropriated pursuant to the authorization of appropriations in section 101 for missiles for the Army may be obligated or expended for procurement of Pershing II missiles, and none of the funds appropriated pursuant to the authorization of appropriations in such section for missiles for the Air Force may be obligated or expended for procurement of ground-launched missiles, until the President has certified to the Congress that the United States has forwarded to the Soviet Union initial proposals for limitations on theater nuclear force (TNF) weapons in Europe within the framework of strategic arms limitation talks (SALT).

By Mr. McCLOSKEY:

—Page 59, strike out lines 14 through 19 and insert in lieu thereof the following:

REPEAL OF VINSON-TRAMMEL ACT PROFIT-LIMITATION PROVISIONS

SEC. 911. (a) Sections 2382 and 7300 of title 10, United States Code, are repealed.

(b)(1) The table of sections at the beginning of chapter 141 of such title is amended by striking out the item relating to section 2382.

(2) The table of sections at the beginning of chapter 633 of such title is amended by striking out the item relating to section 7300.

By Mr. PAUL:

—Page 30, strike out line 6 and all that follows through line 25 on page 31 (and redesignate the following sections accordingly).

By Mr. SKELTON:

—At the end of the bill, add the following new section:

CHANGE OF TITLE OF NEW PERMANENT FLAG GRADE FOR THE NAVY FROM COMMODORE ADMIRAL TO COMMODORE

SEC. . (a) Section 5501 of title 10, United States Code, is amended by striking out "admiral" in clause (4) after "Commodore".

(b)(1) The following sections of title 10, United States Code are amended by striking out "admiral" after "commodore" each place it appears: 101(41), 601(c)(2), 611(a), 612(a)(3), 619(a)(2)(B), 619(c)(2)(A)(ii), 625(a), 625(c), 634, 635, 637(b)(2), 638(a)(3), 638(b), 638(c), 645(1)(A)(ii), 5138(a), 5149(b), 5155(c), 5442, 5444, 5457(a), and 6389(f).

(2) Section 5444 of such title is amended by striking out "commodore admirals" in subsections (a) and (f) and inserting in lieu thereof "commodores".

(3) The tables in section 5442(a) and 5444(a) of such title are amended by striking out "commodore admirals" and inserting in lieu thereof "commodores".

(4)(A) The heading of section 625 of such title is amended by striking out "admiral" after "commodore".

(B) The item relating to such section in the tables of sections at the beginning of subchapter II of chapter 36 of such title is amended by striking out "admiral" after "commodore".

(5)(A) The headings of sections 635, 5442, and 5444 of such title are amended by striking out "commodore admirals" and inserting in lieu thereof "commodores".

(B) The items relating to such sections in the tables of sections at the beginning of subchapter III of chapter 36 of such title and in the table of sections at the beginning of chapter 533 of such title are amended by striking out "commodore admirals" and inserting in lieu thereof "commodores".

(6) The table in section 741(a) of such title is amended by striking out "admiral" after "Commodore".

(c) The table in section 201(a) of title 37, United States Code, is amended by striking out "admiral" after "Commodore" in the third column.

(d)(1) Section 614 of the Defense Officer Personnel Management Act (94 Stat. 2946) is amended by striking out "admiral" after "commodore" each place it appears.

(2) The heading of such section is amended to read as follows:

"TRANSITION PROVISIONS TO NEW COMMODORE GRADE".

(3) The item relating to such section in the table of contents in section 1(b) of such Act is amended to read as follows:

"Sec. 614. Transition provisions to new commodore grade.".

(e) The amendments made by this section shall take effect on September 15, 1981.

By Mr. SKELTON:

—At the end of the bill, add the following new section:

RESTRICTION ON PURCHASE OF FOREIGN-MADE MOTOR VEHICLES

SEC. . (a) Chapter 141 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 2391. Restriction on purchase of foreign-made administrative motor vehicles.

"(a) The Secretary of a military department may not make a contract or agreement in the amount of $50,000 or more for the purchase of administrative motor vehicles that are manufactured outside the United States or Canada unless—

"(1) the Secretary submits to the Congress a report containing a notification of the justification for the proposed contract or agreement; and

"(2) a period of 30 legislative days has passed from the date of the submittal of such report during which the Congress had not adopted a concurrent resolution stating in substance that it does not approve of the proposed contract or agreement.

"(b) For the purpose of subsection (a)(2), a legislative day is a day on which both Houses of Congress are in session.".

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"2391. Restriction on purchase of foreign-made administrative motor vehicles.".

By Mr. SIMON:

—Page 9, after line 10 insert the following subsection:

SEC. 203. (e) It is the sense of Congress that in determining the position under Sec. 203 the Congress and the Administration shall give great weight to the views of the governor and the legislature in any state in which the MX system is proposed to be located.

—Page 9, after line 10 insert the following new subsection:

(d)(1) It is the sense of the House that the President is to be commended for his full and comprehensive review of the MX missile basing mode as evidenced by his selection of an independent commission to re-evaluate the MX basing system proposed in September 1979 for Nevada and Utah.

(2) It is further the sense of the House that the President be encouraged to select a specific basing mode for the MX missile system other than the multiple protective structures (MPS) proposed for Nevada and Utah.

—Page 53, after line 3, add the following new section:

STUDY ON FOREIGN LANGUAGE REQUIREMENTS

SEC. 913. (a) The Secretary of Defense shall conduct a study on the feasibility of requiring each cadet and midshipman at the United States Military Academy, the United States Naval Academy, and the United States Air Force Academy and each member of the Senior Reserve Officers' Training Corps program to study at least one foreign language and to increase existing requirements for foreign language study at such academies and in such program.

(b) A report on the study conducted pursuant to subsection (a) shall be submitted by the Secretary of Defense to the Congress not later than the date occurring 12 months after the date of the enactment of this section.

By Mr. SOLOMON:

—At the end of title VII (page 24, after line 14), add the following new section:

EXTENSION OF REDUCTION IN NUMBER OF STUDENTS REQUIRED TO BE IN A UNIT OF THE JUNIOR RESERVE OFFICERS' TRAINING CORPS

SEC. 702. Section 602 of the Department of Defense Authorization Act, 1981 (Public Law 96-342; 94 Stat. 1087), is amended by striking out "August 31, 1981" and inserting in lieu thereof "August 31, 1982".

By Mr. VENTO:

—Page 60, after line 17, add the following new section:

F/A-18 FIGHTER/ATTACK AIRCRAFT

SEC. 912. None of the funds appropriated under any authorization contained in this Act may be used for research, development, test, evaluation, or procurement of any F/A-18 fighter/attack aircraft (commonly referred to as the "Hornet").

By Mr. WHITE:

—Page 47, strike out line 19 and all that follows through line 4 on page 48 and insert in lieu thereof the following:

"§ 375. Assistance by Department of Defense personnel

"(a) Subject to subsection (b), the Secretary of Defense, upon request from the head of an agency with jurisdiction to enforce the Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.) may assign personnel of the Department of Defense to operate and maintain or assist in operating and maintaining equipment made available under section 372 of this title with respect to any violation of either such Act and to take necessary action incidental to such operation or assistance.

"(b) No equipment made available under section 372 of this title may be operated in the land area of the United States (or of any territory or other possession of the United States) by or with the assistance of personnel assigned under subsection (a) except to the extent the equipment (1) is used for monitoring and communicating the movement of air and sea traffic, or (2) is entering or leaving the land area of the United States (or of any possession or other territory of the United States) incidental to a mission assigned to be accomplished only outside such area.".

Conform the table of sections after line 19 on page 45 accordingly.

EXTENSIONS OF REMARKS

THE 400TH ANNIVERSARY OF EL PASO, TEX.

HON. RICHARD C. WHITE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 8, 1981

● Mr. WHITE. Mr. Speaker, with all deference to Plymouth Rock, Jamestown, St. Augustine, and other venerable and revered locations in this country which lay certain claims to representing the genesis of Western European civilization in this great Nation, I should like to emphasize that El Paso, a city which I have the honor and privilege of representing in Congress, is this year celebrating its 400th birthday.

It was 400 years ago that the first of a long line of Spanish explorers and settlers first made their way through El Paso Del Norte, the Pass of the North, on their way into what is now the southwestern United States. The site is a natural passage occupied by the Rio Grande between the head end of the great Sierra Madre of Mexico and the tail end of the Rocky Mountain range in the United States.

Dating from that period, a series of settlements under Spanish rule were established along the banks of the Rio Grande at the Pass of the North, and those settlements today have evolved into a great international metroplex of over 1 million people comprised of El Paso, Tex., U.S.A. on the north bank and Juarez, Chihuahua, Mexico on the south bank. These unique twin cities are binational, bicultural, and bilingual with only the thin channeled line of the Rio Grande to say they are not one. A 400-year heritage continues uninterrupted.

Mr. Speaker, I suggest that the El Paso/Juarez international metroplex is the perfect location from which to pursue this country's avowed intentions of creating a modern and new inter-American alliance with Mexico which promises undreamed of benefits to both countries in the years ahead. At this location such an alliance has been in continuous effect for 400 years. To be sure, the complexities of the present have created problems inimical to the past, but the basic fiber of oneness and a most welcome interdependency yet exists.

The situation is best cited by Dr. W. H. Timmons, professor emeritus of history at the University of Texas at El Paso and official historian for the 4 Centuries 81 celebration now being staged in El Paso:

Although the river boundary divides the two cities, they are economically interdependent, but confronted with problems resulting from their unique border situation. There has been a need for a comprehensive program of education and information regarding the history of our area, and possible directions and goals that might be established concerning the El Paso-Juarez relationship in future years. During this year, as we examine and explore our 400 years of history, hopefully we will develop more sensitive insight into the complexities and uniqueness of our present existence, and the opportunities that lie ahead.

Hopefully, Mr. Speaker, we will do just that, and hopefully our accomplishments will spread northward and southward, and our two great nations will, indeed, enjoy a new inter-American alliance which will provide new strengths to us both not now imagined.●

MX ENVIRONMENTAL DRAWS CRITICISM

HON. JIM SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 8, 1981

● Mr. SANTINI. Mr. Speaker, the draft environmental impact statement submitted by the Air Force on the multiple protective shelter (MPS) basing mode for the MX missile has drawn considerable criticism and comment from all quarters. Those of us from the two States singled out by the Air Force as most desirable to host this scheme have followed the MPS plan from the beginning and have examined the DEIS in excruciating detail. We are enormously concerned about the impacts on the Great Basin—not just the physical environment but the whole social and economic fabric of our States.

However, I realize that other priorities have necessarily preoccupied many of my colleagues, who have not had an opportunity to review this massive draft environmental impact statement. An article in Aviation Week and Space Technology, June 22, 1981, summarizes perceptively the official comments submitted by the Governors of Nevada and Utah, as well as by those of Texas and New Mexico, whose States were accorded brief consideration as alternative sites for MX/MPS. I am inserting this article in the CONGRESSIONAL RECORD as a quick review of the reactions from those States currently destined to receive MX:

MX ENVIRONMENTAL DRAWS CRITICISM

(By Bruce A. Smith)

LOS ANGELES.—Release of the final environmental impact statement for the MX missile system has been delayed for more than a month due to the large number of comments received in response to the draft version of the report.

The draft report, released last December, discusses potential impacts that could occur as a result of basing the advanced intercontinental ballistic missile system in the Great Basin of Utah and Nevada, the Southern High Plains region of Texas, and New Mexico or in all four states. Basing the system in Utah and Nevada is the Air Force's preferred deployment plan.

The final impact report was to be released in mid-July, but the volume of written and verbal comments received from citizens, organizations and government agencies during the public comment period has delayed scheduled release of the document until Aug. 28. Program officials say the final statement may not be completed until fall.

PUBLIC RESPONSE

A total of 2,038 responses containing about 20,000 individual comments were received during the comment period. Release of the final report has been delayed in order to conduct additional research and possibly to reorganize the 1,900-page document. Program officials are currently considering rewriting parts of the report—such as comparative impacts of various basing alternatives—to make it more understandable.

Gov. Robert List of Nevada contends the draft statement contains numerous factual errors and underlying weaknesses.

"Taken together, these defects compel withdrawal of the document as a draft environmental impact statement," List said in a letter to top Air Force officials. "It should be revised and resubmitted to the state for comment and review. It is the only way in which the federal government will be in a position to make a decision concerning MX missile deployment that is based upon a realistic assessment of the strategic, environmental and fiscal consequences of the proposed action."

The governor said the report lacked adequate information on mitigation measures, specific information on various system impacts and consequences resulting from possible expansion of the system in the future. The basic MX force outlined by the Defense Dept. calls for 200 missiles that could be concealed among a total of 4,600 missile shelters, but the governor noted the report did not address the possibility of expanding the system to as many as 650 missiles and 15,000 shelters during the 1990s if necessary to keep pace with a growing threat. List's comments were made in a letter that accompanied Nevada's 1,200 page response to the draft impact report. His comments were echoed by officials from the other three states under consideration as deployment sites for the advanced ICBM.

Utah Gov. Scott M. Matheson, in a letter to Air Force Secretary Vern Orr, said the draft report does not address selection of the MX basing mode, inadequately considers basing alternatives in Texas and New Mexico and excludes other suitable basing sites in the Continental U.S.

"Because of the gross inadequacies . . . it is difficult to see now the final environmental impact statement could ever become a

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

satisfactory basis for decisionmaking," Matheson said. "All of this suggests a 'cosmetic' decisionmaking process on the part of the Air Force in which the real decisions have already been made, and in which this Tier 1 environmental impact statement—and the subsequent environmental assessments—are aimed at justifying those decisions, rather than as a basis for making an informed decision."

MX LOCATION

The governor said the issue of basing any portion of the MX system in the current configuration in Texas and New Mexico has not been satisfactorily considered and that this is indicated by the relatively small amount of information in the draft document regarding the two states.

"In this regard, it is my opinion that the draft environmental impact statement ignores its own data base and analysis in reaching tortured conclusions, apparently by the application of subjective policy preferences within the Air Force," Matheson said. "Specifically, I refer to the low ranking of split-basing and the full-basing Texas/New Mexico alternatives, even though the data presented in the DEIS (draft environmental impact statement) itself would objectively rank both of these alternatives as having a higher acceptability and lesser environmental impacts than the proposed action.

"It is also evident that other geotechnically suitable areas in the Continental U.S. were inappropriately excluded from consideration in the DEIS by using a set of questionable and artificial operational and security criteria to eliminate otherwise attractive basing areas. These exclusions appear to be primarily motivated by political considerations."

Matheson listed a series of 17 "generic" defects in the draft report—problems found in various sections of the document—including:

Ignoring impacts of siting MX missiles or any other activities outside what is termed a 12-county "region of influence." The report also does not account for complex, high-growth activities such as synthetic fuel development, fossil fuel exploration and processing, and the development and operation of coal-fired electrical generating plants in the vicinity of the proposed deployment area. "The decision-maker is led to believe that the MX deployment decision can be made in isolation, without recognition of immediately proximate and high-competitive development activities," Matheson said. "This deliberate attempt to avoid addressing potentially ruinous labor, materials, capital and equipment competition is totally unacceptable," Matheson said.

Inadequate discussion of decommissioning MX facilities in the future when the system's operational life has been completed. Matheson said there is no serious discussion of plans for disposition of missile shelters, road networks connecting shelters and other facilities, operating bases and electrical transmission lines. Utah officials believe specific plans for disposition of the system should be discussed in the draft report and that state and local governments should have full participation in such policies.

An assumption that water rights acquired by the Air Force for MX construction and operation will be permanently held by the U.S. government. According to Matheson, it is state policy that water rights granted the federal government for the MX system will be for a specific period and that they will revert to the state once MX operations have ceased.

The draft statement is critically deficient on the subject of impacts of a nuclear attack or an accidental detonation of one or more of the MX warheads, Matheson said. National Environmental Policy Act requirements mandate full disclosure of the consequences of significant occurrences, even though the possibility of such occurrences is remote, according to Matheson. "I believe the final environmental impact statement must thoroughly discuss the consequences of both of these possible catastrophic events in terms of their effect upon the deployment area and all areas downwind."

The draft report does not seriously acknowledge, attempt to quantify or propose ways to reduce severe inflationary impacts of such a massive project. In addition, measures outlined in the statement as means of mitigating impacts of the program are "mere laundry lists" of possible actions—which often are inconsistent, infeasible or illegal, according to Matheson.

The best and most current information is not used in the report, even when it was sent to the Air Force or its contractors in a timely manner for use in the draft document, according to the governor.

Paul T. Wrotenbery, director of the Texas budget and planning office, said the draft report has serious deficiencies and lacks understanding of local conditions and concerns in the Texas Panhandle. "It is recommended that additional tax dollars and time not be spent on revising this environmental impact statement, but rather that the MX deployment concepts be reassessed and the basing of the MX missile in existing Minuteman silos be reconsidered," he said.

New Mexico state officials contend the Air Force is in violation of the National Environmental Policy Act because it did not conduct meetings in the state to determine the scope of issues addressed in the draft report prior to preparation of the report. State officials also maintain the MX Texas/New Mexico deployment option did not receive equal analysis concerning possible environmental impacts in the draft document.●

CENTERDALE, R.I., VOLUNTEER FIRE DEPARTMENT

HON. FERNAND J. ST GERMAIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 8, 1981

● Mr. ST GERMAIN. Mr. Speaker, I would like to bring to your attention the upcoming 75th anniversary celebration of the Centerdale, R.I., Volunteer Fire Department. The men who have served this historic community heroically since the turn of the century certainly deserve our recognition and praise for their laudatory efforts.

The Centerdale Volunteer Fire Department was organized on July 18, 1906, by 20 young men who felt the need to provide their village with a sense of security through fire protection. The following October, the new fire department purchased its first pieces of equipment—200 feet of 2½-inch hose and a single nozzle. Then, in 1907, the town presented the volunteers with their first piece of rolling apparatus, a hand-drawn hose reel.

From these inauspicious beginnings, the Centerdale Volunteer Fire Department grew to fit the needs of a modern and rapidly expanding community. In 1967, the department initiated an emergency medical services wing. For all concerned, 1975 marks an important milestone in the department's, as well as Centerdale's history; the city of North Providence assumed responsibility for the daytime fire protection of Centerdale. Evening operations, however, remained under the jurisdiction of the volunteers, with a few organizational changes that added a more professional tone to their work and heightened the caliber of service to the community.

In this respect, the Centerdale Fire Department is still a volunteer force, comprised of citizens helping fellow citizens. The men who virtually donate their time to the protection of their community consistently perform competently and courageously under the most adverse conditions. In 1980, they responded to over 2,300 calls for assistance, and it seems evident that they will continue to provide this kind of service in the future.●

MORMON STATEMENT ON MX THOUGHTFUL

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 8, 1981

● Mr. SIMON. Mr. Speaker, on May 5, 1981, the Mormon Church released a statement against the MX missile program, an action which has been called parochial by many in the national media.

A close reading of the Mormon statement reveals that it is anything but parochial. The church states that, "Our feelings would be the same about concentration—of MX missiles—in any part of the Nation * * * ." It also deplores "the building of vast arsenals of nuclear weaponry."

I commend this statement to the attention of my colleagues.

A STATEMENT FROM THE MORMON CHURCH ON BASING OF THE MX MISSILE—MAY 5, 1981

We have received many inquiries concerning our feelings on the proposed basing of the MX missile system in Utah and Nevada. After assessing in great detail information recently available, and after the most careful and prayerful consideration we make the following statement, aware of the response our words are likely to evoke from both proponents and opponents of the system.

First, by way of general observation we repeat our warnings against the terrifying arms race in which the nations of the earth are presently engaged. We deplore in particular the building of vast arsenals of nuclear weaponry. We are advised that there is already enough such weaponry to destroy in

large measure our civilization, with consequent suffering and misery of incalculable extent.

Secondly, with reference to the presently proposed MX basing in Utah and Nevada, we are told that if this goes forward as planned, it will involve the construction of thousands of miles of heavy duty roads, with the building of some 4600 shelters in which will be hidden some 200 missiles, each armed with ten warheads. Each one of these ten nuclear warheads will have far greater destructive potential than did the bombs dropped on Hiroshima and Nagasaki.

We understand that this concept is based on the provisions of a treaty which has never been ratified, and that absent such a treaty, the proposed installation could be expanded indefinitely. Its planners state that the system is strictly defensive in concept, and that the chances are extremely remote that it will ever be actually employed. However, history indicates that men have seldom created armaments that eventually were not put to use.

We are most gravely concerned over the proposed concentration in a relatively restricted area of the West. Our feelings would be the same about concentration in any part of the nation, just as we assume those in any other area so selected would have similar feelings. With such concentration, one segment of the population would bear a highly disproportionate share of the burden, in lives lost and property destroyed, in case of an attack, particularly if such were to be a saturation attack.

Such concentration, we are informed, may even invite attack under a first-strike strategy on the part of an aggressor. If such occurred the result would be near annihilation of most of what we have striven to build since our pioneer forebears first came to these western valleys.

Furthermore, we are told that in the event of a first-strike attack, deadly fallout would be carried by prevailing winds across much of the nation, maiming and destroying wherever its pervasive cloud touched.

Inevitably so large a construction project would have an adverse impact on water resources, as well as sociological and ecological factors in the area. Water has always been woefully short in this part of the West. We might expect that in meeting this additional demand for water there could be serious long term consequences.

We are not adverse to consistent and stable population growth, but the influx of tens of thousands of temporary workers and their families, together with those involved in support services, would create grave sociological problems, particularly when coupled with an influx incident to the anticipated emphasis on energy development.

Published studies indicate that the fragile ecology of the area would likewise be adversely affected.

We may predict that with so many billions of dollars at stake we will hear much talk designed to minimize the problems that might be expected and to maximize the economic benefits that might accrue. The reasons for such portrayals will be obvious.

Our fathers came to this western area to establish a base from which to carry the gospel of peace to the peoples of the earth. It is ironic, and a denial of the very essence of that gospel, that in this same general area there should be constructed a mammoth weapons system potentially capable of destroying much of civilization.

With the most serious concern over the pressing moral question of possible nuclear conflict, we plead with our national leaders to marshal the genius of the nation to find viable alternatives which will secure at an earlier date and with fewer hazards the protection from possible enemy aggression which is our common concern.

SPENCER W. KIMBALL,
Church President.
N. ELDON TANNER,
First Counselor.
MARION G. ROMNEY,
Second Counselor.●

COMMEMORATING 40TH ANNIVERSARY OF LVIV PROCLAMATION

HON. WILLIAM S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 8, 1981

● Mr. BROOMFIELD. Mr. Speaker, 4 days prior to our own celebration of our 205th anniversary of this Nation's Declaration of Independence, our Ukrainian neighbors, on June 30, commemorated another very important occasion, the 40th anniversary of the Lviv Proclamation declaring the restoration of Ukrainian independence.

After Nazi Germany invaded Russia in June 1941, the Organization of Ukrainian Nationalists took advantage of the destabilization caused by the ensuing war to mount an attempt at reestablishing Ukrainian independence. On June 30, 1941, an independence proclamation was issued by the Organization of Ukrainian Nationalists together with a representative assembly of prominent Ukrainian leaders. A democratic provisional Ukrainian government was set up in Lviv, with Yaroslav Stetzko elected as its Prime Minister. Both the proclamation and the new government received enthusiastic support from the Ukrainian people.

Tragically, the return to free Ukraine was short lived. The Gestapo quickly arrested members of the new government, and tortured Prime Minister Stetzko and O.U.N. leader Stepan Bandera in an attempt to get them to rescind the liberation proclamation. When Stetzko and Bandera refused, they were deported to a Nazi concentration camp. Other prominent Ukrainians were imprisoned and murdered by the Gestapo as part of their brutal response to the Ukrainian liberation attempt.

Although constituting only a very brief period in Ukrainian history, the 1941 restoration of Ukrainian independence is a very significant event. It symbolizes the struggle and commitment of the Ukrainian people to regaining their far too long denied right to self-determination. More generally, it is an important date for all freedom-loving peoples, and serves to remind us of the continuing struggle of many peoples to secure their right to national sovereignty.

The Ukrainian people deserve praise and admiration for the fortitude and perseverance they have demonstrated throughout their long and costly struggle for freedom, a struggle which they have fought mostly while suffering under Soviet subjugation.

Prime Minister Stetzko, who was specifically honored by the Ukrainian community of southeastern Michigan on this 40th anniversary of the 1941 restoration of Ukrainian independence, exemplifies this unrelenting Ukrainian commitment to liberty.

Mr. Speaker, as we recall our own struggle for independence and show our thankfulness for the freedom it brought us, our hearts and our prayers should also go out to the Ukrainian people as they continue their struggle to secure the rights which are being denied them.●

THE OIL GLUT: QUESTIONS AND ANSWERS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 8, 1981

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, July 8, 1981, into the CONGRESSIONAL RECORD:

THE OIL GLUT: QUESTIONS AND ANSWERS

Some Hoosiers are ecstatic about it. Others are skeptical that it really exists. Still others want to hear more about it before they express an opinion. In recent letters and public meetings, I have noticed among Ninth District residents a growing interest in the so-called "oil glut." The following are questions that I have been asked often:

Is there an oil glut? The word "glut" probably should not be used to describe conditions in the world's oil market. It implies that problems of supply have been solved once and for all in favor of the oil-importing economies of the West, but this is not so. "Oversupply" is a better word because it does not suggest that we have entered a time in which oil will always be available. The western nations now have breathing room—1.5 million to 2 million barrels per day in excess of demand—but our position in the world's oil market is still very disadvantageous.

What effect will the oversupply of oil have on prices? It does not look as if there will be a sharp drop in prices in the short term. In the long term, it is even less clear how prices will move. It should be remembered that prices rose 170 percent in 1979 and 1980 after the "oil glut" of 1977 and 1978. Some experts believe that prices will continue to rise in the years ahead, but much more slowly than they have risen in the past few months.

How long will the oversupply of oil last? The oversupply could disappear in a matter of months. On the other hand, it could last well into 1982. Whether it will last depends on many factors, including the rate at which Saudi Arabia produces oil, the war in the Persian Gulf, and the discovery of oil not controlled by the Organization of Petro-

leum Exporting Countries (OPEC). Also important are the health of the western economies and the strength of our interest in efficient uses and alternative sources of energy. Rapid economic growth or less commitment to conservation and conversion could bring about a tight supply once again.

Why is there an oversupply of oil? Many observers agree that forces at work in the world's oil market were bound to cause an oversupply sooner or later. Rapidly escalating prices have cut down demand and induced a recession in the West, one result of which has been even less demand for oil. In the United States, for example, economic growth at the low rate of 1 percent in 1980 helped us consume 8 percent less oil than we did the year before, with imports down 20 percent to the lowest level since 1973. Also, rising prices have compelled us both to save oil and to turn to energy sources not controlled by OPEC. The drilling of wells is up, and domestic output of oil is leveling off after a period of decline. Coal production is expanding once again. Detroit is manufacturing gas-saving cars faster than anyone had expected, and people are insulating their homes at record rates. American industry has made valuable gains in energy-efficiency. It all means less demand for foreign petroleum—now and possibly in the future as well.

Does the oversupply of oil mean that we are breaking OPEC up or that we will not be hit by shortages in the future? No. OPEC is currently in disarray. Saudi Arabia is concerned that excessive price increases may erode the market for its oil, so it is seeking to restore price unity within OPEC by maintaining production at higher levels. Other members of OPEC would like to see Saudi Arabia cut production in order to protect present-day high prices. It is easy, however, to exaggerate the importance of OPEC's disarray. OPEC remains formidable, and its power must be considered alongside our allies' greater need for imports, the likely consequences of rapid economic growth in the Third World, and the real possibility that the Communist Bloc may eventually seek much broader access to the world's oil market. Moreover, we should keep in mind that past problems of supply were triggered by events independent of OPEC's control. Even if OPEC were to dissolve, we would still be subject to interruptions of supply. Oil is one of the most sensitive commodities that move in international trade today. Much of the world's supply is produced in regions known for their political instability. The shipping lanes on which oil moves pass through numerous "chokepoints" (such as the Straits of Hormuz), inviting targets in the event of war. Consequently, the entire system of oil supply is open to disruption. Its only constant feature is the uncertainty that it will continue to deliver adequate quantities of oil at tolerable prices.

What should the United States and other nations do to address the problems posed by dependence on imported oil? Comprehensive policies must be pursued. In the short term, the adverse effects of a sudden cutoff can be minimized by an expansion of the strategic stockpile of oil and an arrangement among oil importers to share supplies. In the long term, the adverse effects of dependence can be lessened by a policy which includes conservation by price mechanisms and tax incentives, a sustained effort to find more oil and natural gas, the replacement of oil and natural gas by coal (accompanied by bold initiatives to make coal less hazardous to the environment), the production of commercial quantities of synthetic fuels, the development of nuclear energy (combined with special programs to solve the problems of waste, proliferation, and safety), the development of energy from non-traditional sources, and other measures.●

OPPOSITION TO PAY PROPOSAL

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 8, 1981

● Mr. CLAY. Mr. Speaker, I opposed the Gramm-Latta amendment to reduce the annual adjustment in the pay of Federal employees from 5.8 percent, as the Committee on Post Office and Civil Service recommended, to 4.8 percent.

The Reagan administration found that, under existing law, Federal employees are entitled to a 13.5-percent increase during fiscal year 1982 in order to maintain comparable earnings with respect to their private sector counterparts. But through convoluted voodoo economics, encased in its discredited Federal pay "reform" proposal, the administration worked this 13.5 percent figure down to 4.8 percent. The administration—without qualifying its assumptions—claimed that Federal firefighters, Secret Service agents, scientists, civilian defense workers, and others should be paid 6 percent less than their private sector counterparts because of intangible fringe benefits.

The budget process which mandates committee action borders on arbitrariness. It is a tragic rejection of the needs of millions of people who have historically turned to the Government for support. It is a misguided economic policy which will lead our Nation to needless hardship and subvert the legislative process.

The issue before us was not simply whether the Congress should usurp the responsibilities of its standing committees—as it did through the reconciliation process—but whether, having done so, painful, deliberative decisions made by the committee should be discarded in order to accomplish arbitrary, savings which have no substance whatsoever in reality.

For these reasons and because Federal employees are falling behind their private sector employees—the committee could not—would not—accede to the voodoo logic of this insensitive administration. The recommended changes made by the committee in other areas allowed the committee to recommend a 5.8-percent increase in the pay of Federal employees. Even this amount was inadequate and, under the prevailing circumstances, we could go no further.

President Reagan has already announced his plans to reduce the Federal payroll by firing 100,000 Federal employees—while increasing the Federal budget by contracting out work to a shadow government of private contractors.

The committee recommendation afforded Federal employees some protection from abuse and exploitation by the administration. It provided that the pay adjustments recommended by the committee would, in fact, occur by prohibiting the President from submitting alternative pay proposals. This provision introduces stability into the lives of Federal employees—they would know what to expect—and allowed the committee an opportunity to carefully study the administration's assumptions and to develop a carefully considered pay reform plan.

Mr. Speaker, reducing the pay of Federal employees is demoralizing to the employees and counterproductive to the needs of our Nation. The committee's recommendation of only 5.8-percent increase—from the 13.5 percent that the administration itself says they are entitled to—is painful and unfair. Reducing this figure even further to 4.8 percent—on the basis of unsupportable economic assumptions—is unconscienable.●

A LAW THAT IS WORKING

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 8, 1981

● Mr. BIAGGI. Mr. Speaker, in Saturday's New York Times, an article appeared which I would like to bring to the attention of my colleagues. It has to do with the highly successful efforts of the U.S. Coast Guard in thwarting drug trafficking on the high seas.

Many observers believe the primary reason for this sudden increase in activity and effectiveness by the Coast Guard is a law passed last year by Congress. In its simplest form, the law, which I was proud to be the author, permits the Coast Guard to charge with a crime—persons operating vessels found in possession of a controlled substance. In the past, the Coast Guard's efforts were hampered by having to prove a conspiracy to distribute before being able to make an arrest.

If our Nation is to win the war against drugs, it must be prepared to fight it with every available resource we have. The easy shipment of drugs on the high seas must be curbed and based on the optimistic report in the Times article progress is being made.

At this point in the RECORD insert the aforementioned Times article entitled "Coast Guard Thwarting Marihuana Traffickers":

COAST GUARD THWARTING MARIJUANA TRAFFICKERS

(By George Volsky)

MIAMI, July 3—A golden marijuana leaf, painted on the mast of the Dauntless, a United States Coast Guard cutter, was unveiled here Wednesday at a ceremony attended by representatives of local law-enforcement agencies.

The distinction meant that the 210-foot cutter had joined the Steadfast, based in St. Petersburg, Fla., in becoming the Coast Guard's second "millionaire" vessel, having intercepted more than a million tons of marijuana.

"We are obviously hurting the drug traffic," said Comdr. Michael O. Murtagh, captain of the Dauntless, which has a crew of 85. "The best indication of this is that we have to go farther and farther out to interdict the marijuana boats."

Late last week, in a routine operation in the Coast Guard's nationwide effort to intercept the growing traffic in illegal drugs, two cutters escorted into the port of Miami a 55-foot fishing vessel with 17 and a half tons of marijuana and 10 crew members aboard.

MARIJUANA FOUND: 3,000 POUNDS

The vessel, which was not registered to any country, was intercepted while transporting marijuana to seven smaller boats in the Atlantic, some 60 miles southeast of Fort Pierce, Fla. One boat with 3,000 pounds of marijuana was seized, but the others escaped.

A few days earlier, a 351-foot Panamanian freighter had been brought here by the Coast Guard. The freighter, the Snow Flake, was boarded near the coast of Cuba after a 350-mile chase, but only three pounds of marijuana was found on board. It was, the Coast Guard suggested, the remnant of a much larger shipment that had been transferred to smaller vessels before the freighter was sighted.

Seizures of marijuana ships have been reported in all Coast Guard districts except Alaska. But the Seventh District, with headquarters here, accounts for well over 60 percent of all interceptions of illegal drugs by the Coast Guard.

VESSELS SEIZED: 114

According to the Coast Guard, the Miami district last year seized 114 vessels carrying 1.7 million pounds of marijuana, most of it from Colombian ports. This year, the service says, the amount seized is expected to be even larger.

Federal and local law-enforcement officials say cocaine, another South American export, is being smuggled into the United States mainly in private planes and by "mules," or passengers who arrive on commercial airlines.

Spokesmen for the Coast Guard estimate that its national effort has stopped from 15 to 20 percent of the marijuana traffic by sea.

The Seventh Coast Guard District, which has more than two million square miles of sea to patrol, has seven medium cutters and 14 patrol aircraft to do the job, according to Lieut. Comdr. David N. Russell, assistant chief of its intelligence and law-enforcement branch.

NEED FOR FEDERAL HELP

"Despite these limited resources, and only a handful of people, in the last two years our interdiction has been on the increase," he said. "We have been dedicating more time to this effort."

"But what we really need," he said, "is for the United States Government to become seriously concerned about stopping the drug traffic. We must declare an all-out war on drugs."

Lieut. Comdr. Terry Hart, chief of law enforcement for the Coast Guard, said the Reagan Administration's budget reductions had not changed any tactics for strategies on drug enforcement. "There was a reduction in the last quarter of this fiscal year on the West Coast only," he said.

Con Dougherty, a spokesman for the Drug Enforcement Administration, says the Miami area has not been affected by the cuts because it is a high target area since it is a "funnel where the marijuana and cocaine come in."

Commander Russell said most countries cooperated with the United States and often requested that vessels of their registry be boarded on the high seas.

"Some countries have requested the return of the seized vessels, which is done in due course," he said. "A few months later, however, we have boarded the same vessels carrying the same cargo, marijuana, but under different names and with different crews."

According to Coast Guard officers, the biggest problem is amateur smugglers.

"We have seized many medium-sized pleasure boats with marijuana aboard, owned by doctors, lawyers, and people who had had no police record, not even a traffic ticket," Commander Russell said. "During a vacation trip they had been approached in a Colombian or Jamaican bar by strangers who make them an offer they never dreamed of and couldn't refuse: to make $25,000 in a couple of days."

BOARDING ON HIGH SEAS

Larger boats, he said, run by professional smuggling organizations, know all the ruses and disguises to avoid prosecution and to smuggle the drugs into the United States. The Coast Guard has a "black list" of about 450 ships in the marijuana smuggling trade, he said.

The Coast Guard's authority to board suspected vessels far away from the United States shores derives from a law enacted Sept. 15 that says that vessels found on the high seas in possession of a controlled substance with intent to distribute it can be charged with a crime. Previously, the Government had to prove there was a conspiracy to bring such contraband into the United States.

The law has been challenged in the courts here by attorneys for persons arrested by the Coast Guard. Earlier this month, Judge Edward B. Davis of Federal District Court dismissed an indictment against crew members of a stateless ship stopped 400 miles from the United States with 40,000 pounds of marijuana aboard.

But Judge Davis said the prosecution had offered no proof that the marijuana was intended to be distributed in this country. "Not at issue," he said, "is the power of the United States to stop, search and seize a stateless vessel carrying controlled substance on the high seas."●

TRIBUTE TO ROBERT L. NEEL

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 8, 1981

● Mr. SKELTON. Mr. Speaker, recently my hometown of Lexington, Mo., was shocked to learn of the death of Robert L. Neel, our school superintendent. He was a warm and kind man with many useful ideas for our community. Delores Jordan of the Lexington newspaper, the News, wrote a most fitting tribute to Mr. Neel, and I ask that it be included in the CONGRESSIONAL RECORD:

On Tuesday, June 23 Lexington lost one of its prominent citizens with the death of Superintendent Robert L. Neel. The community was shocked to learn of the death of this devoted individual who had worked hard to provide the young citizens of the district with the best possible education they could receive.

Neel was a pillar of the school system. His hard work kept the district's head above water while some surrounding districts fell into financial difficulty.

The number of things Neel did for the schools and the community are too numerous to count. And, many will probably go unnoticed until they are missed.

Personally, my acquaintance with Mr. Neel was on a business level because I relied on him for the answers to questions which not only informed the community but also myself. In coming to Lexington two and a half years ago as a "rookie" fresh out of college, Mr. Neel was one of the many individuals of the community who provided the extra helping hand to allow me to make it through the hard times of the first few months.

The warm smile, kind words and caring for others which were assets of this man will be sadly missed, not only by myself but by the community he served during the last four years.●

NAILING THE COFFIN OF HOUSING HERE

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 8, 1981

● Mr. PEYSER. Mr. Speaker, at the request of Mr. Samuel LeFrak, I am entering the following article which appeared in the New York Times on Saturday, June 27, 1981. Mr. LeFrak has long been a leader in the housing industry and is now also involved in matters dealing with energy and other allied areas.

[From the New York Times, June 27, 1981]

(By Samuel J. LeFrak)

For the last 40 years, my talent, energy, and money has gone into providing housing for the average New Yorker. I now find myself frustrated, disillusioned, and angry. There's a concerted effort by the politicians directed against the professional owner and builder of apartment houses. Vote-getting at

any cost means that an average person has little chance of living in a decent New York apartment. Let me give you some examples:

There is no way our existing housing stock can be preserved under rent control and rent stabilization. With costs going up and income being limited by law, maintenance must diminish and capital improvements must be deferred. Hundreds of apartment houses in New York City need new roofing, brick-pointing, water-proofing. There's no way in which capital investment can be made under present conditions. Owners who can't make ends meet under the rent-control system are walking away from their property. The city has become the landlord of last resort. Despite the fact that the city does not pay real estate taxes or have to show a profit, it's losing millions and millions of dollars a year.

In an inflationary economy, goods and services reflect increased costs, whether it is a hotel room, a steak, or a bottle of milk. Only rent has been forced by the politicians into a rigid mold, with increases never catching up to the actual increased costs.

Senator Alfonse M. D'Amato has introduced an amendment that would allow rent-controlled apartments to command market rents when they become vacant. (Unfortunately, the amendment's fate is in question because of opposition in the House.) This amendment in no way would affect tenants in occupancy. It would give apartment owners hope for future profitability. By creating this hope, it would create the possibility of improving our housing stock. How has this bill been greeted? With the usual screams by outraged knee-jerk liberals who see a way of garnering votes by appealing to the short-range interests of tenants. Recently the courts have ruled that tenants may sublease apartments without approval of the owner. This means that tenants can legally introduce undesirables into an apartment building. It means total lack of control and loss of rights on the part of the owner. It means the "legal" rents an owner can collect are severely limited by law, while the "illegal" rents a tenant can collect are unlimited. This hammers another nail into the coffin of New York housing. The system in which tenants sublease their apartments for massive profits, and turn over apartments through profiteering arrangements on "key money" and the sale of furnishings and fixtures for sums that far exceed their values, is a black market in apartments, an illegal response to an intolerable situation.

An effective means of preserving housing has been the conversion of rental property to cooperative ownership. Cooperative conversion has meant improvement and neighborhood stability. For owners it has meant freeing capital that can go into the construction of new housing. The politicians have taken the short range vote-getting tactic. Current bills in the New York State Legislature make it difficult to convert rental housing to cooperative ownership.

The attitude of the courts toward housing has become typical of the worst kind of clubhouse politicking. Need I tell you we have an element of New Yorkers that has total disregard for property, public, or private? All you have to do is look at the condition of our subways, streets, and parks. I am not condeming the majority of New Yorkers. The majority of our tenants are responsible, law-abiding, hard-working. But there is a minority that is disruptive, dangerous, and destructive. In order to protect the rights of the majority, we must evict this minority. In order to do this, we need the aid and cooperation of the courts. It has become almost impossible to speedily evict a tenant for disruptive behavior or for nonpayment of rent.

Putting it all together, we see a pattern of disintegration and frustration affecting the boroughs of New York. For the very rich, Manhattan is the promised land. Every conceivable type of building from old lofts to antique firehouses is converted to apartments (at astronomical prices) that appeal of the new breed of professionals and internationalists that enliven the Manhattan community. But in Queens, the Bronx, Brooklyn, and Staten Island, decay, abandonment, and destruction is the pattern. Just as New York politicians led the city into near-bankruptcy through phony-baloney spending to gain short-term political benefits, the political forces continue their destructive attacks on housing in New York City in order to gain what they consider the single most precious thing in the world—the vote.●

GOVERNOR ROMERO-BARCELÓ SPEAKS OUT AGAINST TERRORISM

HON. BALTASAR CORRADA

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 8, 1981

● Mr. CORRADA. Mr. Speaker, Hon. Carlos Romero-Barceló, Governor of Puerto Rico recently addressed himself to the issue of political terrorism in an article published in the New York Daily News on Friday, May 22, 1981.

Acts of terrorism around the world continue to be of concern to us as terrorists seek to undermine the very foundation of our democratic society. We must be vigilant to insure that violent acts do not create a climate of fear among our people.●

RECONCILIATION: A TROUBLING PRECEDENT

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 8, 1981

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington report for Wednesday, July 1, 1981, into the CONGRESSIONAL RECORD:

RECONCILIATION: A TROUBLING PRECEDENT

A minor revolution is taking place in Congress this week.

Members of the House are voting on the biggest and most comprehensive bill ever considered by Congress. It is called the "Omnibus Reconciliation Act of 1981." In dealing with the bill (together with a tax cut that may come up next month), Congress is bringing about the most extensive change in federal spending and taxing ever made in a single session. The 20,000-line bill mandates 1,000 changes in 250 disparate programs and 100 laws—all at once. The scope of proposed legislation is truly unprecedented. Its sheer size has many legislators worried.

The reconciliation bill is part of the budget process which permits Congress to control the budget as a whole by setting a ceiling o*** BAD MAG TAPE ***n spending and a floor for revenue. The bill itself is the device Congress uses to require its committees to recommend changes in law, so that the overall limit on spending and taxing is respected. Only one such bill—a much smaller version—has ever come before Congress.

In the first budget resolution passed on May 21, 1981, the Congress instructed 29 of its committees in the House and Senate to save $35.1 billion in outlays in 1982. The committees had considerable flexibility in deciding how to achieve the savings, but each was directed to save a certain amount. The process of reconciliation, originally intended as a way to eliminate conflict between budget resolutions and actual decisions to cut spending, is now being used to force cuts. The bill pending in the House, for example, would carry out instructions with cuts of $37.8 billion in outlays for 1982. With cuts of $39.6 billion, the Senate bill would go further. These reductions are measured against present-day levels of spending for federal programs once increases for inflation have been factored in. There is some dispute about how much has actually been cut, but the general impression is that the cuts are real, deep, and consistent with the first budget resolution.

Congress instituted the budget process in 1974. The idea, of course, was to give Congress a stronger say in economic policy and to bring more discipline to its debates on spending and taxing. This year Congress is using reconciliation to apply the budget process in earnest. It is not clear that Congress will really get total control of the budget, but even so the implications of the process of reconciliation are enormous. Without reconciliation, it would be almost impossible to cut large amounts from the budget.

How Congress handles reconciliation bills tests its capacity to participate in the nation's economic decision-making. The consideration of such bills cannot be expected to unfold like clockwork—that would be too much to ask of an institution whose routine if filled with conflict and whose task is the balancing of divergent interests. Congress must show competence and self-control, however, or else forfeit its role as a full partner in the nation's economic decision-making. I hope that reconciliation will lead to a greater sense of realism in congressional budgeting.

Several problems cropped up when the reconciliation bill reached the floor of the House. One problem was procedural. If too many amendments were permitted and long discussion were encouraged, chaos would result and no bill would be passed. If there were too few amendments and debate were shut off, legislators would feel that they were deprived of the opportunity to work their will on policy. The minority party, of course, should be allowed to call up a responsible substitute. In this case, key amendments were not permitted but the minority did offer its substitute.

Another problem was the use of the reconciliation bill to make substantive changes in law unrelated to the budget. Dozens of measures covering alcohol fuels, housing, and programs for the elderly found their way into the bill. It is important, I believe, that reconciliation bills be restricted to budget items. They should not include hastly alterations in substantive provisions

of law. Congress should not make such alterations without going through the time-tested deliberative procedures of the committee system. The budget committees of the House and Senate have enough work to do without trying to replace all the standing committees of Congress. By giving the budget committees the power to guide fiscal policy, the budget process has already curbed the authority of the other committees to a significant degree.

Although I favor the reconciliation process and believe it can be a powerful tool to control spending, I am not persuaded that Congress performed well in reconciliation this year. A bill so large and complex establishes a harmful precedent and strains the legislative process to the breaking point. It contained so many provisions that members neither understood its impact nor knew exactly what was in it. That the bill was considered under a rule which only allowed minor modifications and a few hours of debate violates all we know about the necessity of following sound legislative practices to achieve lasting legislative results. My guess is that we will be working for many months to correct the problems the bill is bound to cause.●

MASSACHUSETTS LEGISLATURE URGES NUCLEAR WEAPONS FREEZE

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 8, 1981

● Mr. FRANK. Mr. Speaker, the increase in expenditures proposed in the Department of Defense authorization bill for fiscal year 1982 is a clear barometer of the direction our Nation is taking to control the growth of the arms race. The fiscal year 1982 budget for defense which the House will consider shortly after the Fourth of July recess is $27 billion more than was authorized in fiscal year 1981 and includes funds to move forward on a number of expensive, lethal, and controversial weapons programs.

The increase in the defense budget is anathema to a concerted effort to control the arms race. At a time when the United States is not currently engaged in arms control negotiations, at a time when the administration has rejected SALT II, and at a time when the United States is selling more arms to more countries around the globe, it is noteworthy that the Massachusetts State Legislature has recently adopted a resolution calling on the President and the Congress to enter into a nuclear weapons moratorium with the Soviet Union and further, that funds be transferred from the Defense Department to enriching the lives of Americans here at home.

When the administration is calling for a transfer of power from the Federal Government to the States, the administration would be well advised to listen to what the States are saying. The resolution of the Massachusetts State Legislature follows:

RESOLUTIONS

Whereas the United States and the Soviet Union are engaged in a nuclear weapons race and are testing, producing and deploying nuclear warheads, missiles and delivery systems; and

Whereas the Congress of the United States is expending huge sums of money for such testing, producing and deploying of nuclear warheads and weapons; therefore be it

Resolved, That the Massachusetts General Court memorialize the President and Congress of the United States to immediately initiate and enter into a mutual nuclear weapons moratorium with the Soviet Union; and be it further

Resolved, That the Massachusetts General Court further memorialize the Congress to transfer all funds appropriated for the construction, testing, production and deployment of nuclear warheads, missiles and delivery systems to the domestic betterment of the American way of life; and be it further

Resolved, That copies of these resolutions be transmitted forthwith by the Clerk of the Senate to the President of the United States, the Presiding Officer of each branch of Congress, and to the Members thereof from this commonwealth.●

NATIONAL TAXPAYERS' UNION CRITICIZES MX PROPOSAL

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 8, 1981

● Mr. SIMON. Mr. Speaker, the following is a cogent discussion of the MX system and some of the problems with it, from the perspective of the National Taxpayers Union. NTU concludes that a boondoggle—especially such a lethal one—can no longer get by in the shroud of national security.

I share this opinion and highly recommend their arguments to all concerned.

THE TAXPAYER'S CASE AGAINST THE MX

(By Sheldon Richman)

In the mind-boggling, nerve-jangling world of "national security" the MX is only the latest of the arcane abbreviations tossed around by policymakers. Should the U.S. develop an MX? What basing mode should be adopted for its deployment. Fixed? Mobile? Submarine? What is to become of the triad? The whole thing can be confusing. Only one matter is clear because it has been heard so many times before: The taxpayers will foot the enormous bill.

Unfortunately, too little attention is directed to bills when "national security" is the issue. Even the most budget-conscious feel, or have been made to feel, that raising the mundane question of the cost of security would be naive at best, unpatriotic at worst. Many budget-watchers, who have little trouble mustering a healthy skepticism when civilian bureaucrats speak of the urgency of some multi-billion project, see its equivalent on the military side as an expenditure of a different color. This has been convenient for the Pentagon spenders who perhaps hold expansion of their bailiwicks closer to the heart than the security of the American people. But the faith is misplaced. At least a decade of horror stories, such as the C-5A transport plane, has brought home the lesson that the interests of the tax-spenders and those of the taxpayers are not quite in accord.

MX stands for missile experimental. The Pentagon wants to develop this missile to replace the Minuteman missiles, which it believes will soon be vulnerable to Soviet intercontinental ballistic missiles (ICBMs). Each MX missile will weigh twice as much as the Minuteman III and carry ten warheads, seven more than the Minuteman. Each warhead will have 25 to 38 times the power of the Hiroshima atomic bomb (335-500 kilotons) and an accuracy of within 100 yards of the target.

More controversial than the missile itself is the basing proposal. Fearful that the Soviets are able to knock out America's land-based missiles, the Pentagon under President Carter proposed that the MX missiles be concealed in a giant shell game. Two hundred missiles would be moved by truck along a linear "drag strip" among 4600 shelters, 23 shelters for each missile. With the missiles moved from shelter to shelter, the Soviets would never know exactly where the missiles were. The Soviets would either have to undergo the huge cost of assuring they can hit all 4600 shelters, or give up the idea of knocking out the missiles. The Pentagon assumes they will take the second option, but it projects that more shelters could be built if they take the first.

Is the MX necessary for the security of the American people? What are the costs involved? Does an alternative exist?

WHAT PRICE SECURITY?

The MX project has been called the largest construction project in history. Its cost-estimates range from the Pentagon's $30 billion (two-and-a-half times the Alaska pipeline), to the General Accounting Office's $56 billion, to over $100 billion (an estimate that includes routine cost overruns). The operating costs in 1980 dollars are expected to run $440 million a year. The costs would have no limit if the Soviets try to match warhead for shelter.

Construction and operation would involve 10,000 square miles of valley floors in Nevada and Utah, 112 billion gallons of water during 20 years and enough cement to cause a severe shortage. Moreover, the Air Force estimates that 100,000 people—25,000 workers and 75,000 dependents—would move to the area, severely straining resources and services there. Besides this, the Air Force's own study predicts massive environmental upheaval, though it was pronounced "manageable." The damage would include destruction of 160,000 acres of vegetation, soil erosion, and the spread of poisonous weeds. These consequences have residents and politicians in Utah and Nevada worried. Even Sen. Jake Garn of Utah, an early MX enthusiast, favors some other deployment plan. In response to these fears, the Air Force has said the government will help farmers and ranchers find new grazing lands for their livestock, and Pentagon engineers believe new wells will prevent diminution of water supplies. But the skepticism remains. While MX opposition has been linked to the Sagebrush Rebellion—the protest against federal land-control—there is also resignation. As a Nevada official put it, "Washington isn't going to listen to us. We're just the victims."

WORTH THE COST?

No one disputes the significance of the costs, regardless of the estimate. The open issue is the benefits to be derived. What are

the promised benefits? Can they be obtained in alternate ways?

The basic benefit of the MX mobile missile system is said to be land-based-missile invulnerability. The desirability of untouchable missiles aimed at Soviet military installations is treated as an irreducible primary. But this answer is insufficient. Others have suggested that we can have something better than land-based-missile invulnerability if the U.S. scraps that stationary leg of the nuclear "triad" and relies solely on bombers and submarines. In this view, the U.S. land mass would then cease to be a target or "sponge" for Soviet missiles in a nuclear war, and new, expensive projects such as the MX would be unnecessary.

The MX in particular could make the American people even less secure. As noted above, the shell-game scheme could impel the Soviets to step up its part of the arms race by putting 30 warheads each on a portion of their missiles. (This would violate the 10-warhead limit of SALT II, but that treaty appears doomed anyway.) What is certain is that the Soviet Union will attempt to match or leapfrog the formidable position rendered by the MX. This is the pattern of the past.

Moreover, MX's first-strike capability could severely jeopardize U.S. security by making the Soviets think we have a first strike in mind. This impression is made by talk of other new weapons and other war-related matters. Some 74 percent of all Soviet nuclear weapons is on land-based missiles (compared to 23 percent of those in the U.S.) Our deployment of "invulnerable," highly accurate and powerful missiles—aimed at military targets—could aggravate traditional Soviet paranoia and induce a launch-on-warning strategy or even a preemptive first strike during an international crisis. So MX is hardly the ticket to security.

Why then is it proposed? The answer lies more in Pentagon politics than national security. Just as the U.S. has a triad because there are three service branches with weapons responsibilities, service rivalry explains why the plan is to replace, not eliminate, the land-based leg. Wayne Biddle, in his December 1979 Harper's article, "The Silo Busters: Misguided Missiles, the MX Project," reports that the Air Force was feeling slighted in the early 1970s because the Navy had just begun a new strategic submarine program. Biddle quotes Lt. Otto J. Glasser, who commented, "If, in the past, mobile systems have not been emphasized, then we must attribute this to the only defect in Air Force thinking that we might be guilty of—our concern about cost and, therefore, the desire to incrementally and inexpensively improve what we already have, rather than to go after brand new, completely innovative systems such as the Navy's Trident program."

Biddle explains this "petulent dig" by noting, "The Air Force needed new programs. If the Navy was going to take the counterforce ball and go for something as grand as the Trident, why shouldn't the Air Force play in the same league?" The Air Force naturally favored an air-mobile ICBM system. But the civilian leaders thought that too expensive. Meanwhile, the Air Force became convinced that the Minuteman missiles were vulnerable to Soviet attack. "Faced with both the prospect of surrendering its strategic role to the Navy because of the Minuteman's projected vulnerability by the mid-1980s and the prohibitive cost of its favorite solution, the Air Force yielded to civilian pressure," writes Biddle. The MX got the nod.

Since then the mobile system has taken on a life of its own, despite support in some establishment military quarters for a sea-based system. This support has come from former Defense Secretary Melvin Laird; Rear Adm. George H. Miller, former director of the Navy Strategic Offensive and Defensive Systems Office, and two former chairmen of the Joint Chiefs of Staff: Gen. Maxwell D. Taylor and Adm. Thomas H. Moorer. As Moorer put it, "I do not think it is wise for the United States to continue to focus more and more missiles in the very center of our populated area so that the populated area would be in jeopardy."

President Reagan says he also opposes the basing system, though not the missile, because it is too costly. So does Sen. Earnest Hollings (D-SC) who said, "It is a budget-buster of the first order."

CONCLUSION

The American political heritage holds that the function of government is to protect the rights and security of the people. The MX, perhaps more than any other recent creature of modern bureaucracy, has turned that principle on its head. The MX will divert billions of dollars, thousands of acres of land and billions of gallons of water from the productive uses chosen by consumers and funnel them into the hands of military bureaucrats. For what? To erect a mammoth, complex system of mobile missiles that will endanger the American people and threaten nuclear annihilation. The citizenry will pay dearly in two ways: First, it will be forced to forego the untold and unknown products that would have been offered in the civilian economy had the diverted capital, raw materials and labor been left there. Second, the people will be forced to stand exposed to the Soviets, whose suspicions of American leaders will be driven to new heights by this deadly and unnecessary missile system.

The American people, as taxpayers and as citizens with an interest in peace, will loudly object to this imposition from Washington. A boondoggle—especially such a lethal one—can no longer get by in the shroud of "national security."●

ANTITRUST LEGISLATION

HON. BILLY LEE EVANS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 8, 1981

● Mr. EVANS of Georgia. Mr. Speaker, today I am introducing legislation to provide rights of contribution and claim reduction in antitrust cases. It is urgent that this legislation be enacted to adjust antitrust remedies to correct the severe distortion of the antitrust remedial scheme that recently has developed in private antitrust cases.

During the last several years, an increasing number of large antitrust class actions have been characterized by coercive, whipsaw settlement tactics and by the saddling of smaller, less culpable companies with liability based on the actions of early settling defendants. As a result of a number of separate changes in the antitrust statutes and development of the common law, each defendant faces joint and several liability, class action certification, consolidation of many cases under the multidistrict rules, treble damages, and recovery of attorneys' fees. The coincidence of these and other changes in the law has led to situations in which small- and medium-sized companies and even large companies with small market shares in a given industry can no longer afford to defend themselves, even if innocent.

I strongly favor vigorous enforcement of the antitrust laws, and the statutory improvements of recent years have provided some excellent enforcement tools. What we are seeing in private antitrust cases, however, is that many small- and medium-sized companies are being swept up in massive antitrust class actions which expose them to potential liability so huge that the financial underpinnings of the company itself are threatened.

This bill will do nothing more than extend to antitrust cases the familiar rule of contribution among joint tortfeasors that long has been the rule in cases brought under the Federal securities laws and under many State statutes. The particular provisions in this bill are specifically designed to protect existing settlements and to insure that no defendant is exposed to damages of many multiples of the treble damage remedy plus attorneys' fees intended by Congress in enacting section 4 of the Clayton Act.

At the same time, it will not discourage fair settlements. The bill I am introducing today provides that claim reduction and contribution legislation will become available prospectively in pending antitrust treble damage price-fixing cases immediately upon enactment of this legislation, unless it would be unfair to do so, as well as in future cases. Additionally, the provisions of this bill expressly safeguard existing settlements.

One of the hallmarks of our system of justice is that justice should be evenhanded and that fairness should not be delayed. The benefits of this legislation should be applied immediately to prevent any further injustice.

This legislation will permit defendants to litigate and attempt to prove their own innocence and make sure they are not denied their day in court. It will insure parties the right to a fair trial in which they are exposed only to liability reasonably and properly related to their own activities.

If we delay in enacting this legislation, or enact a bill that delays availability of these rules, we will perpetuate the situation we now have, in which private parties themselves actually contract in settlement agreements and in collateral contracts to transfer liability to other parties in the litigation. The antitrust private trebel damage action is too important an

aspect of the enforcement of our antitrust laws for Congress to fail to give guidance, otherwise we will permit those private parties that may in a given instance possess superior bargaining strength to continue to impose their liability on other members of their own industry, perhaps even evading paying their own fair share of damages.

The Supreme Court recently has expressly indicated that this is an area for congressional action. For Congress to remain silent on this issue will be to abdicate the field to uncertainty and chaos. We must act to correct this distortion of the antitrust remedial scheme that is intended to protect competition and to do so fairly and with justice for all businesses in our country, large and small.●

CALIFORNIA LEGISLATURE OPPOSES DOMESTIC SWEATSHOPS

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 8, 1981

● Mr. MILLER of California. Mr. Speaker, the Subcommittee on Labor Standards held an investigatory meeting on Secretary of Labor Donovan's proposal to legalize domestic sweatshops on June 29 in Los Angeles. The testimony of every witness who appeared at this meeting, like the views of those who had earlier testified against the Secretary's proposal at our May 19 hearing in Washington, confirmed that elimination of the ban on industrial homework would stimulate the proliferation of domestic sweatshops, make enforcement of fair labor laws all but impossible, and undermine legitimate garment manufacturers and contractors who simply cannot compete with unscrupulous operators who would flourish in the absence of the rule.

Over 140 of our colleagues in the House have joined me in urging Secretary Donovan to abandon his plan to allow industrial homework in the garment industry. On the day of our meeting in Los Angeles, the city council unanimously called on Mr. Donovan to abandon his proposal.

On the same day, the California State Assembly joined the State senate in passing Senate Joint Resolution 22, which memorializes the President and Congress to oppose the Labor Department's plan to repeal the industrial homeworker regulation. The State of California has made great strides in recent years to control the manufacture of garments in order to assure adequate compensation and safe workplaces for employees. These actions include a toughening of the State ban on industrial homework, and a new garment manufacturers' and contractors' registration law which became effective on July 1.

It is evident that removal of the Federal ban on industrial homework would go in precisely the wrong direction—legitimizing unscrupulous work practices, sanctioning the use and exploitation of illegal aliens, and undermining the legitimate businessman. Now that the comment period has closed, I join my colleagues in the House and throughout the country who have urged Secretary Donovan to reconsider his position and withdraw his plan to remove the homework ban.

I would like to share the text of the California Legislature's resolution with my colleagues.

The text of the resolution follows:

SENATE JOINT RESOLUTION 22

Senate Joint Resolution No. 22—Relative to the repeal of the Industrial Homeworkers' Law.

LEGISLATIVE COUNSEL'S DIGEST

S.J. Res. 22, Montoya. Industrial homeworkers.

This measure would memorialize the President and the Congress to oppose the repeal of the industrial homeworkers' regulations.

Whereas the Wage and Hour Division of the United States Department of Labor has proposed the repeal of Part 530 (commencing with Section 530.1) of Chapter V of Title 29 of the Code of Federal Regulations, which regulates the employment of homeworkers in the women's apparel industry, the jewelry manufacturing industry, the knitted outerwear industry, the glove and mittens industry, the handkerchief manufacturing industry, the button and buckle manufacturing industry, and the embroideries industry; and

Whereas the proposal to repeal these regulations would result in the proliferation of sweatshops, exploitation of children, and an increase in the use of illegal aliens; and

Whereas this state has tightly regulated or banned the use of homework in the aforementioned industries because of their susceptibility to the use of substandard wages and working conditions; and

Whereas the increase in the use of homeworkers would undermine legitimate entrepreneurs and create an unfair tax burden for the general public: Now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to oppose the department's plan to repeal the industrial homeworkers' regulations; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States, and to the Secretary of Labor.●

THE SUGAR LOAN PROGRAM

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 8, 1981

● Mr. PEYSER. Mr. Speaker, the sugar loan program in the farm bill will unconscionably sweeten the pockets of the sugar producers at the expense of the American consumer. The sugar loan program could cost consumers an additional $8 billion by 1986. Additionally, the program will cost the U.S. Treasury $100 million in the first year and require the Government to borrow $1 billion to finance the 1982 sugar crop.

When the farm bill is considered by the House, I will offer an amendment to strike the 19.6 cents sugar loan program from the bill since there is clearly no need today for a statutory sugar program.

At this point in the RECORD, I would like to insert recent editorials by two major newspapers in the country, the New York Times and the St. Louis Post-Dispatch, which states succinctly the case against the proposed sugar loan program. I commend these editorials to my colleagues.

[From the New York Times, July 2, 1981]

UNCLE SUGAR PAYS OFF

Could President Reagan buy his vote in last month's battle over the Federal budget, a colleague asked Representative John Breaux? "No," replied the Louisiana Democrat, "I was rented."

Buy or rent, Mr. Breaux does not come cheap. The President apparently promised to drop his opposition to sugar price supports now being fought over in the House. That promise could cost consumers more than a billion dollars a year in higher prices for sugar and corn sweeteners.

Caribbean producers are currently happy to deliver sugar to the American market at about 18 cents a pound. At that price, however, only the most efficient producers of cane and beet sugar can make a profit. Rather than switch crops or simply hang on until the next boom, the domestic industry is lobbying hard for help from Uncle.

The sugar producers want to mortgage their crop to the Government for 19.6 cents a pound. That doesn't sound like much of a premium over the delivered world price of 18 cents. But that's not all the program would cost. To induce domestic producers to sell their output (rather than leaving it to ferment in Government warehouses), the deal must be sweetened to cover interest and shipping. Thus if the Government is to get its loan money back, tariffs on imported sugar must be set to insure that domestic American prices stay above 24 cents a pound.

Every penny increase in price would raise consumers' annual bill for sugar and competing corn sweeteners by about $300 million; a six-cent increase from 18 cents to 24 would add up to $1.8 billion. Subtract the Government's windfall from the higher tariff and the net cost of the sugar caper comes to $1.4 billion.

Would it be worth $1.4 billion to keep the sugar industry happy? It is hard to see why

it is worth anything to maintain a business with no strategtic value. Even the most zealous supporters of welfare for farmers should feel queasy about the cost of this program. Sugar is a relatively unimportant crop, representing just one percent of the acreage and revenues of the farm sector. And few sugar farmers are poor. In fact, most sugar is produced by multimillion dollar corporations.

Two years ago, Michigan Congressman David Stockman argued that "It is about time the Department (of Agriculture) stops playing nursemaid to the proliferating array of cry-baby commodity groups . . . let them start assuming the obligations of commercial businessmen." Where are you, Mr. Stockman, now that we need you?

[From the St. Louis Post-Dispatch, June 25, 1981]

UNCLE SAM, A SUGAR DADDY?

Administration budget cutters ought to take a hard look at part of the 1981 farm bill that could cost the government $1 billion to finance the 1982 sugar crop. As passed out of House and Senate committees, the farm bill would mandate a sugar loan program at not less than 44 percent of parity, or 19.62 cents a pound. The current world market price of raw sugar is about 17 cents a pound.

Based on experience, it is expected that more than 2 million tons of sugar would be placed under loan. To make it attractive for domestic sugar farmers to redeem their sugar and not default on their loans, the market price needs to be kept high enough to cover the cost of shipment to refineries and the interest rate charged when the sugar is claimed. With a 19.62-cent loan rate, the domestic market price would have to be kept at approximately 25 cents a pound—well above world prices—through fees and duties on imported sugar. This program, which costs consumers $300 million a year for each penny-a-pound increase, benefits only 1 percent of American farmers. Many sugar farmers could profitably switch to corn or soybeans and many others, whose costs have been running about 15 cents a pound, do not need loans.

Rep. Peter A. Peyser of New York has offered an amendment deleting the sugar loan program from the farm bill. It should be adopted. As he has said, the sugar support program is "an outrageous waste of tax dollars and unconscionable at a time when essential programs such as Social Security, Guaranteed Student Loans and Child Nutrition are being slashed by budget cuts."●

JEWS STILL FACE PROBLEMS LIVING IN ARAB NATIONS

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 8, 1981

● Mr. BIAGGI. Mr. Speaker, on June 24, 1981, I participated in a press conference in Washington sponsored jointly by the Jewish Identity Center of New York and the World Organization of Jews Living in Arab Nations.

The purpose of the press conference was to spotlight attention on the ongoing problems affecting Jews living in Arab nations and to express support for Israel's recent destruction of the nuclear reactor in Iraq.

Ms. Shiffa Hoffman, executive director of the Jewish Identity Center, spoke eloquently about the problem of Jewish refugees from Arab nations. She indicated that almost 60 percent of Israel's population is comprised of Jews who were forced to leave Arab nations yet have never been accorded refugee status. In light of this Ms. Hoffman expressed her organization's total opposition to any reparations being paid by Israel to Iraq as proposed by a recent United Nations resolution. Ms. Hoffman also expressed her organization's opposition to the sale of weapons to "Israel's enemies which plants the seeds of her destruction and annihilation."

Dr. Mark Lewitin dramatically illustrated the special problems facing the Jewish population in Iraq. At one time, there was a thriving Jewish community in Iraq with a population of almost 150,000. That number has been reduced to less than 300, Dr. Lewitin explained this drastic change as being the result of such atrocities as pogroms, hangings, confiscation of homes and businesses and forced expulsions. Dr. Lewitin surmised as many others have that this same Iraqi nation given a nuclear capability to produce offensive weapons, would in fact use them against Israel. This more than justified Israel's preemptive military raid.

Throughout her 33-year history, Israel has been forced to deal with a hostile Arab world. Only the genius of the Camp David peace accords has produced some hopes for accommodation. The courageous leadership of Anwar Sadat has not been followed by other Arab leaders.

I supported Israel's decision to destroy the Iraqi nuclear reactor. I oppose the administration's proposal to sell advanced AWACS missiles to Saudi Arabia—largely because of the Saudis failure to embrace the Camp David accords. I remain a steadfast supporter of Israel and consider her right to exist as a fundamental right. Moreover, a strong Israel is critical to the stability of the Middle East, which in turn is absolutely vital to our own national security.●

NATIONAL DEFENSE: WHERE ARE WE GOING?

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 8, 1981

● Mr. SKELTON. Mr. Speaker, recently, Maj. Gen. W. D. Crittenberger, U.S. Army, retired, brought to my attention a speech delivered to the 90th Continental Congress of the National Society of Daughters of the American Revolution by Gen. Richard G. Stilwell, who now serves as Deputy Under Secretary of Defense for Policy. General Stilwell compares the challenge our country faced 200 years ago to those that we now face in this increasingly dangerous world. I commend General Stilwell's speech to the Members of this body:

I am highly honored to have been invited to participate—however briefly—in the 90th Continental Congress of the National Society of Daughters of the American Revolution. This auspicious occasion has even prompted an old soldier to again don the uniform he wore so proudly for nearly four decades. There is—to be honest—a collateral reason for being thus attired. My executive officer informs me that, according to the vagaries of protocol, Stilwell the retired General outranks Stilwell the civil servant. (Perhaps I should have continued to tend my dear wife's garden!). In all seriousness, though, this uniform is intended to be a visible manifestation of my enduring respect and admiration for the illustrious institution that is the DAR—conspicuous guardian of the American tradition and legacy.

That tradition is evident in every inch of this magnificent shrine and radiates from this distinguished audience. What memories this hall and this assemblage evoke in someone who has spent his entire professional life in defense of our Constitution. One recalls, for example, the Battle of Cowpens—as brilliant a tactical operation as ever carried out on the soil of these United States. Psychologically, it turned the tide of that incredibly difficult, numbing, six year struggle we revere as the American Revolution. After Cowpens, in quick succession, came the Yorktown Campaign which assured Washington's gallant Army of victory and our colonies of nationhood. It is mete that there be a gala Bicentennial celebration of Yorktown for the debt we owe to the heroes of that period—men and women, in uniform and out—is incalculable. Their indomitable will and unflagging courage made it possible for us to be here tonight.

This organization, reinforced in a very personal way by the dedication of you, its members, has been eminently successful in perpetuating the deeds and the spirit of that band of true patriots who achieved American independence. For your steadfast pursuit of that noble objective, I tender a resounding salute! So, too, does Lt. Colonel Stilwell guarding the frontiers of freedom in far-off Korea.

As students of history will agree, there are striking similarities between the challenges our forebears faced some two centuries ago and those we Americans now face in this increasingly dangerous world. At issue, now as then, is the survival of our institutions, our value systems, our very way of life. Let me elaborate:

In broadest terms, the central drama of the last half of the 20th Century is the global competition to determine which of two totally different concepts of the future world order shall prevail. One concept—that which we espouse—is a loose alliance of sovereign, pluralistic societies, functioning under the rule of international law, wedded to the free enterprise system, dedicated to the protection of the rights of individual and family and supportive of maximum internation exchange, communication and understanding. The rival concept is a world community of closed societies, centrally su-

pervised by Moscow and featuring command economies, forced labor, denial of emigration and refusal to account for the human treatment of their citizenry.

We have been witness to this conflict for more than three decades. The Soviet threat to all of Europe in the late 40s and the Soviet engineered effort to overrun South Korea stimulated development of the international security framework which has bound together, under our aegis, the world's maritime nations. What gave sinew to that system of alliances and established the climate of confidence so indispensable for the vitality of the free world economy were the United States strategic nuclear superiority, our command of the world sea and air lanes, and our assured capability, in time of crisis, to reinforce and resupply the local defense forces or our allies in Europe and Asia. In combination, these strengths offset the longstanding Communist predominance in land armies. On the one hand, they assured that limited aggression could be promptly met with appropriate conventional counterforce. More importantly, the greater power and diversification of our nuclear weapons systems—in the United States and forward deployed—permitted us to credibly threaten escalation if the aggressor persisted. Thus the gain/risk calculus was unfavorable to the Soviet Union and thus equilibrium was maintained in the key areas of Western Europe, Northeast Asia, and the Middle East. The resolution of the 1962 Cuban Missile Crisis illustrates the cardinal principle that the adversary who can control the scope and intensity of potential conflict has a decisive advantage.

Over the past 15 years and most especially during the past four, there has been a steady erosion of that basic framework, due in part to our own inaction and, in greater part, to Soviet vigor. Intense preoccupation with the conflict in Vietnam deflected our attention from the main threat and we were further lulled by illusory benefits of an era of "detente" which could be witness to Soviet desistance from its aggressive policies. What we failed to recognize was that the Kremlin had its own definition of "detente" as a priceless opportunity to advance Communist aims by every strategem short of unambiguous war. What we forgot was that military power is the key instrumentality—indeed the only viable asset—for perpetuation of the Soviet police state, for control of its colonial empire that is Eastern Europe and for extension of Soviet influence abroad. As a result, we consistently and grossly underestimated the magnitude of the Soviet investment in its armed forces to ready them to fight and win at any level of warfare; and, more importantly, to optimize their utility in advancing Communist aims by means short of conflict.

To that end, the Soviets have sought to checkmate, one by one, the several interindependent components on which the defense of the Free World have rested. One must admire—however grudgingly—the progress achieved.

Overall, with an economy only half that of the United States, they have nonetheless devoted 50% more than we to their military establishment.

They have long since achieved parity in strategic nuclear systems and the momentum of such programs is evidence of a drive for superiority. This is what the acrimonious SALT II debate was all about.

They have markedly increased the combat capabilities of their ground forces and supporting air armies relative to those of NATO and China. Item for item, Ivan's equipment is on a par with or better than ours. And there is much more of it. Moreover, they have outmatched the West in the quantity and quality of the nuclear weapons systems covering the forces arrayed on the two sides of the German zonal boundary.

In the most spectacular development in the history of seapower, they have transformed a coastal defense navy into a powerful and diversified instrument with worldwide reach. There has been similar growth of the Soviet merchant marine, all out of proportion to the needs of a nation with only modest trade off the Eurasian continent—but explained by the fact that that merchant marine is an adjunct of the Soviet Navy and under its control. Together these maritime capabilities pose an unmistakable challenge to the sealanes on which the free nations of the world depend heavily for movement of commerce, for access to sources of energy and raw materials and, note well, for reinforcement and resupply in conflict situations.

Despite these enormous efforts to ready Soviet armed forces to fight and win either conventional or nuclear war—and in conditioning the populace for such eventuality—it is not the spectre of direct military conflict that should concern us most. The Soviet leadership is intent on prevailing without shedding Russian blood except as necessary to complete the rape of Afghanistan. Thus the primary role envisaged for the formidable Soviet war machine is to undergird political and economic actions in a step-by-step furtherance of the Soviet objectives of sapping the vitality of the international free trade area, completing the encirclement of China, de-coupling the United States from Western Europe and Northeast Asia, leaving the nations in these regions unable to defend themselves and bringing about an arrangement wherein their national leadership takes guidance from Moscow on all major issues.

As Soviet capabilities to project forces beyond Eurasia have increased, its ambitions have become global in scope. One can cite the equipping, transport and support of the many thousands of Cuban troops currently engaged in destabilizing Africa; the stockpiling of vast amounts of equipment in Libya; the increased utilization of the Cuban base itself; the open and clandestine support to Central American countries; the provocative military actions in the waters and on the islands immediately north of Japan, and Brezhnev's efforts to intimidate the Polish free trade union movement.

The portent is for heightened Soviet adventurism of a nature and in locales with which it will be increasingly difficult to cope. Of special concern is Soviet capacity to threaten the jugular vein of Western Europe and Northeast Asia: The oil resources of the Persian Gulf. The lifeline of nearly all the industrialized world flows from this small, unstable and remote region. Until newly developed energy resources are sufficient, the future of the West is hostage to this area.

None of this is new to you. What is relatively new is what is happening in America. About two years ago, the American public awoke to the realization that we had lost our clear military superiority, that we had lost our economic independence; that we had lost our credibility as an ally and a leader; and that we were perilously close to losing our ability to control our own destiny. Then—as always—the citizenry of this Great Republic re-asserted its inherent common sense.

Last November, in a dramatic repudiation of the domestic and foreign policies of the incumbent Administration, the American electorate put in the White House someone who understands fully the nature of the challenges posed to this country in the years ahead and what must be done to counter them. A man who has no inordinate fear of Soviet-style communism but appreciates that all the enormous problems confronting our world are made more difficult for solution by Soviet expansionist policies. A man who recognizes that the indispensable preconditions for re-assertion of Free World leadership are a sound economy, robust military forces and consistent foreign policy.

Sir John Slessor, a superb British air commander in World War II, once said "the greatest social service a government can render its people is to keep them alive and free". That thesis has undergirded President Reagan's decision to trim other government expenditures while expanding military budgets in the current and upcoming fiscal year. The increases make possible a number of key undertakings:

Expedited efforts to stabilize the strategic nuclear equation and thus prevent the Soviet Union from threatening use of nuclear weapons to attain political objectives.

Increased rates of purchase of needed modern equipment and other steps to ensure the readiness of our forces to perform their combat missions. The best deterrent to aggression is the clear capability to meet it head on.

Incentives for key personnel to remain in service. Mid-level leaders and technicians, both officer and non-commissioned personnel, are the backbone of any organization.

Initiation of a major naval ship building program. The aim is to re-establish a margin of maritime superiority, thereby ensuring that our navy can command the sealanes so essential to our allies and ourselves, in peace and crises.

Actions to enhance our ability to rapidly project military power to those areas of the world where we (and our allies, too) have vital interests. The Persian Gulf is such a region.

Steps to improve the responsiveness of the defense industrial base on which the staying power of our military establishment so utterly depends. The capability of our nation to harness its mobilizable potential is a major component of deterrence.

These initiatives will have multiple impact. In the first place, they make substantial contribution to the vital task of rebuilding American military strength. Beyond that they convey to our Allies the earnest of this Administration's seriousness of purpose in setting about repair of the Free World's sagging defenses. Concomitantly, they provide a firm foundation for encouraging our Allies—and particularly the larger nations of Western Europe and Japan—to make greater investments in the defense realm. Never before has the need for viable collective security arrangements been as pressing. And never before has such urgency attached to concerting a more equitable division of the common burden of confronting threats of now global dimensions.

In the years ahead, there is much to be done, by this nation and by our Allies, to secure, "peace with freedom," as Secretary Weinberger so aptly put it. We proceed from the historically proven promise that to prevent war, one must be ready to wage it—and do so effectively. This does not entail a requirement to match the Soviets in tanks,

ships and aircraft. It suffices to forge a posture which makes uncertain the outcome of any military gambit the Soviets might elect to pursue. Nonetheless, heavy costs will be associated with what must be in our own self-interest: redress of the strategic nuclear imbalance; maintenance of our forward deployments and Alliance commitments; fielding a Navy capable of ensuring untrammeled use of the seas that link our allies and ourselves together and to the precious resources our economies depend; ensuring that our strategic reserves have the readiness and mobility to respond to crises in distant areas and the staying power to see the crises through; honing of the long neglected national mobilization capability which has twice made America the arsenal of democracy; re-establishment of our technological superiority; and, finally, attainment of preeminence in the world of intelligence. All this adds up to an order of tremendous magnitude. And prompts two questions.

First, can we afford the weight of expenditures explicit in this partial list of tasks? I prefer to phrase the question differently. Can we afford not to afford the price of freedom?

Second, how long must this level of effort be maintained? Is there no end in sight to this deadly confrontation? The answer is that there is hope for optimism.

The purpose of our military shield is to deter aggressor states from resorting to armed conflict and thus channel the international competition in non-violent fields where our allies and we hold the high cards. It remains a valid thesis if we but have the perseverance to stay in this game of incredibly high stakes.

Apart from skill in the molding and manipulation of a formidable war machine and in the techniques of subversion, the Soviet socialist system has next to nothing to contribute to human advance, to the process of modernization or to the enhancement of international communication and understanding.

To the contrary, the weaknesses of that totalitarian regime are legion. The Kremlin's only claims to the legitimacy of Marxist-Leninism are superiority over free enterprise and overwhelming support of the masses. But the gap between promise and fulfillment grows apace. In the fields of non-defense industry, agriculture, public and social services, the Soviet Union has been a conspicuous failure. It has not harnessed the dynamism of its people. Instead, it has multiplied disincentives to individual and group effort, has engendered widespread resentment and dissidence. Its ideology is increasingly sterile, its policies manifestly racist, its non-Russian nationalities disadvantaged, its Eastern European satellites increasingly restive. The special challenge of the Free World is to find the ways and means to exploit these vulnerabilities in psychological offensive that exposes the fatal flaws of the Soviet system to the evolving nations of the Third World, gives hope to the shackled populations inside the Soviet orbit and induces those modifications of domestic policies and international behavior which will make Russia a co-operative member of the world community.

I do not underestimate the Soviet Union's determination to impose its vision of the future world order on mankind or the power it can muster, in the near term, to further its designs. Nonetheless I am confident our enlightened concept can and will prevail if our will is undaunted. The world we call free possesses two thirds of the globe's material assets, the overwhelming proportion of all creative potential, and, most of all, the limitless reservoirs of moral strength which flow from the treasures of thought and spirit of the magnificent civilizations of the East and the West and which constitute our priceless heritage.

I began this talk by drawing a parallel between our nation's circumstances two-hundred plus years ago and those of today, and I would like to end in the same manner. You all know that, at the time of America's birth, a substantial portion of the population was not supportive of the Revolution, not prepared to make the sacrifices and efforts entailed in forging an independent nation and a new way of life. We were indeed fortunate that there were such people as your forefathers; patriots with the vision, the spirit, the trust in God, the willingness to undergo unimaginable hardships and risks in order to provide for their future and that of their progeny.

In America today, a similar situation pertains. The President's programs ask us all to accept some hardships, to make some sacrifices, even to take some risks. And sadly there will again be people who will want to mortgage their future liberty in exchange for today's creature comforts. So, once again, the burden—or rather privilege—of supporting America's march to its rightful destiny will fall to the strong of heart and spine. Our country must be able to count on a cadre with the same patriotic vision, esprit, allegiance to God and sense of responsibility as those 55 men in Philadelphia, 205 years ago, who, with the enemy at the gate, staked their lives, their fortunes and their sacred honor in the cause of freedom. I am confident that the illustrious Society of the Daughters of the American Revolution will be in the vanguard of that select group that assures the flourishing of our beloved Nation.●

THE INTERNATIONAL NUCLEAR INSPECTION PROBLEM

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 8, 1981

● Mr. LaFALCE. Mr. Speaker, one of the strongest weapons that we have to limit nuclear proliferation around the globe has been and continues to be the International Atomic Energy Agency. The IAEA is an agency within the United Nations that draws its fundamental authority from the various nonproliferation agreements that the international community has drafted.

Since the Israeli attack on the Osirak reactor in Iraq, a number of probing questions have been asked about the capacity of the IAEA to discover improper uses of nuclear materials and to identify diversion of nuclear materials to weapons production activities. The work of the IAEA was called into question especially strongly when the present head, Dr. Sigvard Eklund, was quoted as saying that it was "practically impossible" for the Iraqis to be making plutonium for weapons at the Osirak reactor.

The problems inherent in expecting an international agency such as the IAEA, with dubious inspection authority and almost no enforcement authority, to do a reasonable job in protecting the world from nuclear proliferation, are legion. Roger Richter, a former inspector with the IAEA, testified about these problems at a recent Foreign Relations Committee hearing in the Senate. Several of his more pertinent comments appeared recently in the New York Times. I believe that the points made in this article provide a very strong condemnation, not so much of the IAEA itself, but rather of our folly in believing that an agency hamstrung as it is by international noncooperation could be expected to accomplish the enormous task that we have charged it with. Certainly, we can all learn a great deal about the problems in the system from Mr. Richter.

The article follows:

SUPPOSE YOU WERE A REACTOR INSPECTOR . . .

(By Roger Richter)

Imagine that you are a nuclear safeguards inspector who will shortly be going to Iraq to conduct an inspection. You have to imagine yourself as a national of the Soviet Union or another Eastern bloc country. Since 1976, all inspections performed in Iraq have been conducted by Soviets or Hungarians. Countries have the right to veto inspectors from whatever countries they choose—a right which they regularly exercise. As an accepted inspector, you must keep in mind that any adverse conclusions you might reach as a result of your inspections would have to take into account your country's sensitivity to how this information might affect relations with Iraq.

In preparing for the inspection, you must first give the government of Iraq several weeks' notice of your planned inspection and obtain a visa. The government may agree with the date or could, as has recently been the case, suggest you postpone or change your plans.

You are aware that, since Iraq is a signatory of the Nuclear Non-Proliferation Treaty, the only facilities subject to your examinations are those that Iraq has declared, to the International Atomic Energy Agency, as containing either thorium, natural or depleted uranium in metal or oxide form, or plutonium. Natural uranium in the form of U_3O_8, commonly known as yellowcake, is not subject to safeguards, despite its potential for easy conversion to target specimens for plutonium production. You are not entitled even to look at the other facilities if Iraq has not adhered to its obligation under NPT to report to the IAEA that material subject to safeguards is located in these facilities. You are aware that the role of the inspector is limited to verifying only material declared by Iraq or France. You have no authority to look for undeclared material. Your job is to verify that the declared material accountancy balance is correct. The IAEA does not look for clandestine operations. The IAEA, in effect, conducts an accounting operation.

The amount and level of enrichment of the reactor fuel elements is indicated on your computer printout. But you notice that 100 tons of uranium in the form of U_3O_8 is not on the list. This is not an oversight but a reflection of the fact that, even

though Portugal reported the shipment to the IAEA, it is only a formality: the 200,000 pounds of U_3O_8 is not subject to safeguards. Had this uranium been in a slightly reducted form, such as UO_2, it would have been unders safeguards; but this loophole could enable Iraq to do as it pleases with the U_3O_8. And so long as it does not report that the U_3O_8 has been converted into a material that is in the safeguarded category, you have no right to inquire of its whereabouts. You are disturbed by this because you realize that in the other Italian-supplied fuel-processing equipment, which is not under safeguards, Iraq possesses the capability to convert, in a rather simple fashion, the U_3O_8 to UO_2 or, even better, to uranium metal.

As much as 17 to 24 kilograms of plutonium could be produced each year with the Osirak reactor. Even if only one-third of this amount was produced in the first few years of operation of the reactor, through the use of the attendant processing facilities, Iraq could acquire a stockpile of plutonium sufficient to make several atomic bombs.

Equally disturbing to you as an inspector is the realization that under the present negotiated agreement between the IAEA and Iraq, you will be limited to only three inspections per year, usually spaced at approximately four-month intervals. By the time you arrive to verify the declared inventory of fuel elements that power the reactor, all evidence of illicit irradiations could be covered up.

You may now be wondering what exactly an inspector actually does in the course of performing a safeguard inspection of the Osirak nuclear complex. Your inspection assignment is actually quite narrowly focused. First, you will sit down with the operator of the nuclear reactor and review your computer listing of the nuclear material that has been declared to the IAEA. You will determine that the amount recorded by the operator is consistent with the amount reported to the IAEA by France.

If there is new, unirradiated fuel in the inventory, you will determine that the elements have not been replaced by dummy replica fuel. This is particularly important in the case of the Osirak fuel, since it would be a relatively easy matter to melt down the weapons-grade highly enriched uranium fuel plates for use in a nuclear bomb.

If the fuel elements are already in the reactor and have been irradiated, the inspection procedure normally requires that you visually identify the fuel elements. They can normally be observed under the approximately 20 feet of water. To confirm that these elements are not dummies, you have the right to ask the operator to turn on the reactor. You should then see a characteristic blue glow.

You will now return to Vienna and report that your inspection disclosed no discrepancies between the operator's records and that of the agency. The difficult part of the job is that you must prepare yourself mentally to ignore the many signs that may indicate the presence of clandestine activities going on in the facilities adjacent to the reactor—facilities that you were not permitted to inspect. You will try to forget that you have just been party to a very misleading process.

I was prompted a year ago to write of my concerns about Osirak to the Department of State U.S. mission to the IAEA:

"The available information points to an aggressive, coordinated program by Iraq to develop a nuclear weapons capability during the next five years.

"As a nuclear safeguards inspector at the IAEA, my concern and complaint is that Iraq will be able to conduct this program under the auspices of the Non-Proliferation Treaty and while violating the provisions of NPT. The IAEA safeguards are totally incapable of detecting the production of plutonium in large-size material test reactors under the presently constituted safeguards arrangements. Perhaps the most disturbing implication of the Iraqi nuclear program is that the NPT agreement has had the effect of assisting Iraq in acquiring the nuclear technology and nuclear material for its program by absolving the cooperating nations of their moral responsibility by shifting it to the IAEA. These cooperating nations have thwarted concerted international criticism of their actions by pointing to Iraq's signing of NPT while turning away from the numerous, obvious and compelling evidence which leads to the conclusion that Iraq is embarked on a nuclear weapons program."●

ENTERPRISE ZONES: AN ANSWER TO URBAN PROBLEMS

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 8, 1981

● Mr. MICHEL. Mr. Speaker, for the past 20 years or so, we have tried to deal with urban problems through massive Federal Government programs designed to alleviate existing problems. Given the amount of money involved, there were some cases in which temporary easing of specific problems occurred. But this kind of approach tried to treat the symptoms, not the disease of urban blight. What we need is an approach that gets to the heart of the matter. Instead of applying band-aids we have to get rid of the major causes of urban problems: unemployment, underinvestment, and overregulation that discourages would-be businessmen from creating new employment opportunities.

The enterprise-zone concept is a way of dealing directly with all these problems. A recent issue of Constructor magazine gives a view of this idea from the vantage point of the construction industry. It is worth reading.

At this time I wish to insert in the RECORD, "Enterprise Zones" from Constructor, June 1981.

[From Constructor, June 1981]

ENTERPRISE ZONES

A promising market for municipal-utilities contractors may be indirectly created with the passage of the Urban Jobs and Enterprise Zones Act.

The bill, sponsored by Respresentatives Jack Kemp [R-N.Y.] and Robert Garcia [D-N.Y.], was introduced to Congress earlier this month. It would create enterprise zones to stimulate new business and economic growth in depressed inner cities. The concept is based on the premise that there is currently an inadaquate number of jobs in America's inner cities for young, unskilled workers because the country has regulated, zoned and taxed smaller businesses almost out of existence.

Historically, smaller businesses create most of the jobs in the inner city, especially for unskilled persons. Capital for starting small businesses is traditionally obtained from savings and loans from friends, rather than through banks or the Small Business Administration. [Less than 3 percent of small companies in the United States use government aid to start their businesses.]

Representative Kemp recently explained the enterprise zone concept at AGC's convention. "The program basically revolves around the idea of dramatically changing the rates of return in areas designated by city, State and Federal Government which have high levels of poverty, a shrinking tax base and high levels of unemployment," he said. "If you create an area where a businessperson could get a greater reward for starting a new business or enterprise, there would be a dramatic increase in the rate of investment and job creation in that area. There are risks involved which would be worth taking because no taxes are being paid in these areas anyway. And, you can't very well lose tax revenues when there are none coming in anyway," he added.

In the past, when jobs were available in the inner cities, a small entrepreneur might start a firm in a rented basement and employ a few local youngsters, affording them the opportunity to step on the first rung of the employment ladder. Today, however, that same entrepreneur could certainly expect a line of Government regulators waiting for him when he opened his business—the OSHA inspector, the man from EPA and the zoning official, among others—all ready to close up his shop. In the event they didn't succeed, the tax collector surely might. Thus the businessman would be forced to leave, resulting in a weakening of the bond that holds a poor neighborhood together.

Things would be a little different under Kemp's enterprise zones. In various areas of depressed neighborhoods, there would be drastic cuts in taxes on business income and capital gains. Incentives would also be offered to local and state government, to streamline regulations, and the federal government could develop alternative regulations as long as they did not contradict any legislative mandates. Kemp feels a climate for innovation and enterprise would be created in these zones where redtape and taxes are minimal. The results would be genuine jobs, neighborhood businesses, a sense of opportunity, and a mix of the residential and business sectors.

The entire concept of enterprise zones originated in Britain through an unusual alliance of the left and right. Peter Hall, former chairman of the socialist Fabian Society, wrote a pamphlet that inspired Sir Geoffrey Howe, the conservative Chancellor of the Exchequer, to urge that it be tried. In April 1980, despite strong opposition from the Labor Party, the conservative government provided about $70 million for six enterprise districts in England, Scotland, Wales and Northern Ireland. Firms locating in these areas pay no local taxes, receive immediate and full tax write-offs for capital investment, and avoid the paperwork usually required for government training grants.

The passage of the enterprise zone bill into law would create a possible market for municipal-utilities contractors because anytime there is physical development or building activity in a city, there is a need for bringing the infrastructure up to par to accommodate the population growth. Specific jobs might involve repaving streets and side-

walks, installing new sewers, storm drains, natural gas pipelines, water systems and other utiltites. By requiring local governments to make a commitment to the proposed zone, the Kemp-Garcia bill increases the likelihood that new infrastructure development will take place in these areas.

It is evident that the enterprise zone concept offers real hope to inner cities. It would not require tax money—just the opposite—it would take people off welfare rolls and turn them into taxpayers. Suspending taxes on empty buildings or unemployed workers involves no loss to a city. Even the tax loss on occupied housing and commercial buildings would soon be recovered by increased revenue as new jobs were created and economic growth stimulated. And in many ways, the most important element of all would be the psychological benefit. Enterprise zones would break the spiral of defeatism in inner cities—the feeling that the road ahead consists only of handouts and subsidies. Instead, they offer a future with jobs that provide new skills and opportunities.

In 1970, in the South Bronx section of New York City, 66 percent of the inhabitants were black or Hispanic and 40 percent were below 18. One third of the population is now dependent on welfare, and although the South Bronx has lost 20 percent of its residents, it has lost fewer than 3 percent of its welfare cases. The effect of this on the city's overall tax base is, obviously, devastating.

Representative Kemp's bill would convert the South Bronxes of the United States into enterprise zones and make them attractive to small entrepreneurs—men and women with marketable skills and optimistic ideas but little capital to implement them. They are usually willing to devote long hours in poor working conditions to build up their businesses. And, in addition, the entrepreneurs would utilize the labor of family or neighbors to establish and conduct the enterprise. Studies have shown that such entrepreneurs generally have very little knowledge of business skills when they begin. However, the entire process of establishing a business serves as an apprenticeship and as the business grows, it draws in more and more local help. These employees may commence with low-paid, unskilled work, but they can acquire skills and responsibilities as the company develops.

"So why haven't small businesses moved into the South Bronx or other blighted areas across the country?" opponents of the bill ask. The reasons for this are excessive regulations, inflation, taxes and government paperwork. The enterprise zone concept would eliminate many of these inhibitions.

Opponents also claim that cutting taxes would decrease revenue and force more service reductions. "But what taxes are collected on empty commerical buildings or abandoned blocks of apartments?" supporters ask. Stimulating new activity would probably mean an increase in current revenue and certainly in future city income, they argue.

If the concept is implemented in certain areas of the United States there would be little chance that already established businesses would relocate to the enterprise zone because special concessions would be abandoned after the business reached a certain level of turnover and profitability. Most of the business attracted by the legislation would be new, predict supporters of the idea.

Representative Kemp calls the concept a bold departure from the traditional and unsuccessful solutions normally offered to inner city problems. Unlike most of these, it would not be the beginning of yet another ever expanding flow of federal dollars. Instead it would allow the innovative genius of the small entrepreneur to be turned to the issue, resulting in private money being risked and productive jobs being created.

Many cities are already moving rapidly on the enterprise zone concept. One community in Washington, D.C. is currently examining the idea closely, but the city's administration is "dragging its feet," according to supporters of the program. Spokesmen for the Reagan administration have made it clear that the enterprise zone concept will be pushed hard—Probably as a pilot project in several cities. Obviously those cities with plans in hand will have an advantage over others. It might be impossible to implement the entire enterprise zone plan in the United States, where congressional action is hard to stimulate and local ordinances sometimes are equally tough to change. Nonetheless, the idea of private enterprise succeeding where the bureaucracy has failed is a bold, optimistic plan that's worth a chance.●

H. TOD SMISER: DOCTOR OF DISTINCTION

HON. LARRY J. HOPKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 8, 1981

● Mr. HOPKINS. Mr. Speaker, I would like to direct the attention of my colleagues to the long and distinguished career of Dr. H. Tod Smiser of Cynthiana, Ky.

From the 1930's through World War II and up to the present day, Dr. Smiser has been serving the people of Cynthiana as a man whose skill and humanity have earned him the respect and admiration of all he has met.

June 14 was Dr. H. Tod Smiser Day in Harrison County, a tribute to a man who still charges only $6 for an office visit. Although he has limited his practice in the past several years, Dr. Smiser remains loved and remembered for his service to the community and the Nation. A recent article in the Cynthiana Democrat tells the story of the life and work of this wonderful man.

[From the Cynthiana Democrat, June 11, 1981]

JUNE 14 PROCLAIMED DR. H. TOD SMISER DAY IN HARRISON COUNTY

He is Brud, Tod, Doctor, or just Doc.

On official records he is Harmon Tod Smiser Jr., M.D. A more natural home grown Harrison County product is difficult to find.

He was born at home on July 30, 1906, and delivered by his father, Dr. Harmon Tod Smiser Sr. The home, on the corner of Church and Pike streets, was built before 1800 and served as living quarters and office for the doctor and his father before him, Dr. John Harmon Smiser. John Harmon practiced medicine beginning in the 1860s.

The child was named Harmon Tod Smiser Jr. by his father and mother, Katherine Whaley, but christened Brud by his older sister, Louise Smiser Butler.

Dr. Smiser Sr. took his son to open gates on home calls which was about 80 percent of his practice. The going rate for delivery was $15—either at home or at the hospital on Penn Street which opened in 1906. There were always two or three horses in the barn and Dr. Sr. signed a contract with his 9-year-old son for 25 cents a week to see that the horses were fed and watered. A big event was the purchase of a two-cylinder Lambert, the third car in Cynthiana. But by car or buggy someone still had to open gates.

Brud had a five-gaited Shetland stud which he rode to deliver The Kentucky Post for 50 cents a week. An after-school job at Megibbens grocery supplemented his winter income and for summer at $9 a week, room and board included, he worked on A. P. Adair's Farm in Bourbon County.

School included all grades on Bridge Street until it was destroyed by fire in 1918. Before it was rebuilt in 1920, the students assembled in every available space in Cynthiana.

The influenza epidemic of 1917-18 kept his father out on calls from 7 a.m. till after dark. Not only tending patients but delivering supplies to people who had no transportation. His father contracted tuberculosis during this time causing the family to move to Phoenix, Arizona, during Brud's freshman year.

H. Tod Smiser Sr. died in 1922 and the family returned to Cynthiana where Brud finished his sophomore year. He was interested in football, basketball, tennis, and baseball and a 5-foot, 2-inch blond named Katherine Ellis Wiglesworth, the last child of Harry Rhodes Wiglesworth Sr. and Allie Van Deren. Katy conveniently lived across the street from the rebuilt school on Miller and Bridge streets.

Brud was graduated in 1924 and went to college and medical school at the University of Louisville. For room and board and $35 a month, he worked at Norton Infirmary. During his junior year he delivered his first baby—the first of so many the writer was unable to determine.

For $30 a month, Brud interned at St. Joseph Hospital in 1930-31. In July of 1931, he was hired by the State Board of Health as health director of Nicholas County. He lived, worked and played baseball in Carlisle for the grand sum of $375 a month.

Katy and Brud were married Aug. 11, 1932 and set up housekeeping in Carlisle. On Feb. 11, 1933, they decided to return to Cynthiana where Brud opened an office in the Wiglesworth Building on Pike and Walnut streets and an office in Sunrise which was opened everyday from 7 a.m. to 11 p.m. Both offices were "come and wait" since there were few telephones in existence.

March 4, 1933 Roosevelt took office and on the 5th the banks were closed. That year Brud collected $568, total, but many people paid the doctor in produce. The young couple "ate more hog liver than anybody ever saw." They lived first in the Smiser home and then the Wiglesworth home, then bought a house on Reynolds Avenue for $4,500.

Katy and Brud begat Ann Katherine in April of 1938 and 15 months later begat Louise Van Deren. The couple settled down until . . .

On Dec. 7, 1941, while refinishing a rocking chair, Brud heard the news of the attack on Pearl Harbor. The next day he went to

Bowman Field and, with the aide of Dr. Rankin Blount, enlisted in the Army Air Corps as a first lieutenant. He trained at Randolph School of Aviation and became a flight surgeon attached to the First Air Commando Group in the China, Burma, India theater. After training in the school of tropical medicine in Calcutta, he alternated continuous duty between Asinsol, India and the Burma front, two weeks in each place. Colonel Phil Cochran was his superior officer and the model of Milton Caniff's character Flip Corkin in "Terry and The Pirates." Katy could follow Brud's experiences by following the comic strip.

Brud won an Air Medal for flying over 50 combat missions, but his main activities were treating wounded pilots and enlisted men and evacuating casualties for both the U.S. and the British 14th Army. While stationed in Asinsol he was promoted to major.

The war ended August, 1945, but Brud was not discharged until March, 1946. While waiting for his release he helped in a British Mission Hospital in Ranaghat, India, where he treated every conceivable illness and wound and assisted the British surgeon in charge of the hospital in all operations.

Brud returned to his family in Cynthiana and opened an office on Walnut Street. He was charter member of The American Academy of General Practice (now Family Medicine). He was a member of the staff of the Cynthiana hospital on Pike and Miller streets along with Drs. Brumback, McDowell, McIlvain, W. B. Moore, M. W. Moore, Martin, Manning, Moody, Rees and Swinford. Mrs. Mamie McMurtry was the hospital's administrator.

In 1946 the average charges were: $25 for child delivery, either home or hospital; $75 for an appendectomy; $25 for a tonsillectomy; and $100 for a hysterectomy—not so popular an operation then as it is now.

Brud, Katy and the two girls moved to his present home on the Leesburg Pike in 1951. When his mother died in 1961, the old Smiser home was torn down and an apartment-office complex was built. Brud still practices medicine on the spot where his grandfather lived and practiced.

On March 29, 1980, Katy Smiser died, ending 47 happy years of marriage. Brud feels all his accomplishments are due to Katy—they loved life together, at home and on their numerous trips to Europe and Asia—by boat whenever possible.

Brud discontinued surgery and delivery three years ago and now has a limited practice, charging only $6 for an office visit. He has no regrets and many friends in the community. He enjoys his practice and the companionship and efficiency of the hospital staff. He is known for his dry wit and one sign of his affection is the frequency of his practial jokes. Some of his best friends have been horses and dogs and his favorite TV program is, of course, M.A.S.H.

Dr. Smiser is loved by his family and many friends.●

NINE KILOHERTZ: FULL-TIME RADIO FOR MILLIONS OF AMERICANS

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 8, 1981

● Mr. FINDLEY. Mr. Speaker, for tens of millions of Americans, the Federal Communications Commission is about to make one of the most far-reaching decisions it has made since the Communications Act of 1934 was passed. In the next few weeks, the Commission will decide whether to reaffirm its policy to narrow channel spacing on the AM radio dial from 10 to 9 kilohertz. If the Commission reaffirms its earlier decision, millions of Americans will for the first time have a chance to listen to local full-time radio. But if the FCC bows to pressure from special interests worried only about their own pocketbooks, then over 2,000 radio stations, the thousands of communities they serve, and the almost 50 million Americans who live in and around them will continue to exist as second-class citizens, discriminated against by the very agency that was designed to protect them and to insure all Americans fair access to the Nation's airwaves.

The chief justification for the shift to 9 kHz is to free up 12 additional AM radio channels that can be used across the Nation to provide the first local nighttime radio service to communities that are currently without it. In Illinois and in most rural parts of the country, half the AM radio stations—2,300—are required by the FCC to go off the air each evening at sunset and stay off the air until the following morning. As a result, one-fifth of the American people do not have local nighttime radio service. Instead, from sunset to sunrise, if they are able to listen to radio at all, they may have to tune in to a station hundreds of miles away. If local weather conditions make certain roads impassable, if there is danger from flooding or a tornado, if schools are closed or community activities canceled or rescheduled, almost 50 million Americans have no way to find out about it until the Sun comes up the next morning and their local radio station resumes broadcasting.

You will hear arguments advanced against the 9 kHz plan by those who fear a little additional competition. But they misjudge the issue. To be sure, AM audiences have been shrinking in recent years as people increasingly tune to FM stereo programs. What AM radio needs to boost its audience is stereo, and the FCC is trying to provide AM stereo at an early date. And make no mistake about it, according to one of the largest broadcasting equipment firms in the world—the Harris Corp. of Melbourne, Fla.—AM stereo can operate just as effectively at 9 kHz as at 10 kHz.

The 9 kHz plan will not hasten the demise of AM listenership. Since many—perhaps most—of the daytime-only stations that could benefit from the shift to 9 kHz are located in towns where they are the sole AM radio station, there will be no increased competition if they remain on the air in the evening hours.

Another argument you may hear is that the switch could be disruptive to listeners. But the facts are that under the plan advanced by our Government no station would have to move more than 4 kHz from its present position. If you punch the button on your car radio for your favorite station after the switch has been made, you would find it still there. You might have to reset the dial to bring it in as clear as before, but you would certainly not lose it.

Finally, some broadcasters will object that shifting to 9 kHz will cost them money. It will—a few hundred, or perhaps even a few thousand dollars—depending upon the complexity of their current broadcast system. Now no one likes to spend money. But for that modest investment millions of Americans may have a chance for the first time to listen to local nighttime radio. For the first time the stations they listen to in the daytime may be able to remain on in the evening. Certainly that is worth a few thousand dollars.

At this point, of course, no one knows how many of the 12 new channels may be available for use in the United States, or for that matter, how many daytime-only broadcasters will have an opportunity to go full time. The number could range as high as 900 to 1,000, which could allow almost one-half of the existing daytimers to go full time. Since there are over 1,000 daytime-only stations located in communities where they are the only source of local radio broadcasting—AM or FM—this number is still not enough to solve all of the problems. But it is a good start and one which I want to encourage.

For my own part, I have introduced H.R. 3750, a bill directing the FCC to insure that, when it implements the 9 kHz plan, it insures that each community in the United States, regardless of size, is provided with the maximum local full-time radio service.

Text of H.R. 3750 follows:

H.R. 3750

A bill to ensure that each community in the United States, regardless of size, is provided with the maximum local full-time radio broadcasting service

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 307(b) of the Communications Act of 1934 is amended by adding at the end thereof the following: "In any proceeding to assign channels within the amplitude modulation (AM) radio broadcasting band the Federal Communications Commission shall, pursuant to adoption of a nine kilohertz channel spacing plan, ensure that each community in the United States, regardless of size, is provided with the maximum local full-time radio broadcasting services.".●

DRAZA MIHAILOVICH MOVEMENT'S 40TH ANNIVERSARY

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 8, 1981

● Mr. DERWINSKI. Mr. Speaker, it is with special pride and strong personal endorsement that I insert into the RECORD an address by Maj. Richard Fellman before the Organization of Serbian Chetniks of Ravna, Gora, Yugoslavia.

As a young officer, Major Fellman was a member of the Army Air Corps during World War II. After his plane was shot down over Yugoslavia, Major Fellman parachuted to the ground, where he was rescued from the Germans by the Chetnik forces under the command of Gen. Draza Mihailovich. Subsequently, under unusually difficult circumstances, General Mihailovich and his forces protected Major Fellman and his fellow American airmen until they reached safety and were flown out by American planes. In his speech, which follows, Major Fellman relates his experiences and his memories with heartfelt respect and admiration for the man who saved his life:

DRAZA MIHAILOVICH MOVEMENT'S 40TH ANNIVERSARY

(By Maj. Richard Fellman)

As you all know, it was on May 13, 1941 on the mountain top at Ravna Gora that Draza Mihailovich refused to capitulate to the German invader and proclaimed his resistance. Up until then, the German and Italian armies marched through Czechoslovakia, Poland, Holland, Belgium, Denmark, Norway, France, Hungary, Rumania, Bulgaria, Albania and Greece. But it was Mihailovich's resistance at Ravna Gora that marked the first time an occupied nation had defiantly stood up to Hitler . . . And from that moment on, his action was an inspiration to all occupied countries throughout Europe and gave them hope in a darkened world.

[Historians have since noted that because of Mihailovich's unexpected resistance and delaying guerrilla tactics in Yugoslavia, the German army failed to reach Moscow as they had planned before the dreaded winter set in and enabled the Red army to turn them back. For his help in saving Moscow and turning the tide of the war, the N.Y. Times suggested the Russians erect a statue to him in Red Square . . .] This is the man and the historic event we honor today. I am honored that you have asked me to share this day with you. Thank you and "Fala Lepo."

As always, whenever I get together with the Serbian people, it is like a family reunion for me with much joy and celebration, because to tell you the truth, "U mom srcu ja sam Srbin," but it is also one that fills me with deep emotion because of the great tragedies connected with it. If I may state it as briefly as possible: I owe my very life to General Mihailovich, the Chetniks and the Serbian people. Were it not for him, and the many Chetniks who lost their lives, as well as the Chetniks sitting in this audience, I would not be standing here before you today. I can never repay the many sacrifices that were made to save my life.

My feelings, however, go far deeper than just gratitude. I say that because when I was shot down in the Serbian section in Yugoslavia, I had the opportunity to know first hand what truly remarkable people the Serbians are, and the strong bond of brotherhood and respect which I developed during the war continued to grow in this country after the war. In each and every Serb I met, I found the same warmth, decency and integrity, the same love of freedom and the same sense of honor. And in this day and age I feel privileged to know people who still maintain these ageless values, and who have such an unshakeable commitment to their God, their family and their country.

If I may, I would like to tell you about the first Serb I met back in this country after the war. It was someone I'm sure you all knew and loved, the brilliant Bishop Nikolaj. It was in N.Y., in March of 1946. I had written some articles in the newspapers about the false charges against Mihailovich at his trial in Belgrade. Bishop Nikolaj had read them and called to thank me. I went to see him at his church on West 26th Street and immediately felt that I was in the presence of greatness. I'll never forget the manner in which he explained to me that saving Draza's life was not the important thing—that clearing his name was far more important. For as much as they loved Draza, "If he should die, another Draza will rise from the hills to lead the people, but his good name will live forever." To this day, I vividly remember that meeting with this brilliant man of God who spoke to me with such a beautiful Cambridge accent from a sick bed in a drafty old church attic.

As I reflect on Bishop Nikolaj, I am also reminded of some of the other great Serbian figures I was privileged to personally meet over the years. Unfortunately, time does not permit me to say all that is in my heart for them, but on this historic day in Serbian history I would like to recall the names of those who passed on and pay tribute to their cherished memory.

In Yugoslavia, beside meeting with Gen. Mihailovich, I also met Col. Dragisha Vasich, Dr. Djura Djurovich and Capt. Zvonko Vockovich. In this country, after my meeting with Bishop Nikolaj, I went on to Washington where I met with Ambassador Konstantin Fotitch and his military attache Major Zivan Knezneivich. Then in 1947 at the Hotel Carlisle in N.Y. I had the honor of meeting and being decorated by His Majesty King Peter II. Later on in Chicago I met the King's advisor and legal counsel, Dr. Ranko Brashich; and the Minister of Justice for the Government in Exile, Dr. Milan Gavrilovich. And on Vidovdan, in Chicago, I first met His Grace Bishop Dionisije and the two editors of "Sloboda" who met with such tragic deaths, Dr. Naumovic and Dragischa Kasikovich, may their souls rest in eternal peace.

As I recall the names of these great men, I look into the many young faces in the audience today and say to them, Thank God you were blessed with such a proud heritage. I have seen with my own eyes the blood shed by your parents and grandparents just so that it could be passed on to you. And, if I may, I would like to say to you: Be proud of the priceless tradition you have and preserve it the rest of your days.

So many of today's youth are troubled. They keep searching for answers in so many strange ways with no success. But you here today are blessed. You have all the answers you need right here in your own Church and in your heritage.

Now I would like to tell you of my first introduction to the Chetniks and how I won my Ravna Gora pin as an Honorary Chetnik. During World War II, I was returning from and air raid on the Ploesti oil fields in Rumania when my B-24 bomber was attacked by German fighter planes over Yugoslavia. We managed to shoot down two of the German ME-109's when our plane caught fire, and we were forced to bail out from 20,000 feet. As soon as I landed I was surrounded by about 20 Chetniks, and they were all shouting, "Amerikanas". Before I knew what was happening, they each took turns hugging and kissing me, As I had wounded my leg, they carried me to a nearby village for treatment. They had no medical supplies, but they did have a bottle of slivovitza and used it to clean my wound. Once that was done and there was still some left, we drank whatever was left in the bottle.

Shortly after that, an elderly man, well over eighty, motioned for me to follow him. I had no idea what he wanted but limped after him until we came to small wooden chapel. He then got down on his knees, crossed his hands in prayer and motioned for me to kneel beside him. It was and unforgetable sight! Here we were: two strangers from two different countries; we spoke two different languages and practiced two different religions, but in those few moments, the two of us kneeling together were united as brothers, giving thanks for my rescue to the one God we all worship. It was one of the most moving experiences of my life and an example I wish all mankind could follow.

It would be impossible for me to relate all the many wonderful things the Chetniks and the Serbian people did for me and my fellow Americans. As our numbers increased, each man would tell of his own personal experience, and they all followed the same pattern. They told how the people went hungry in order to give them what little food they had; how many of them slept on the floor so that the airmen could have the comfort of their beds; how they risked their lives in order to protect us from the German patrols. Not once did I hear any but the highest praise from the 500 Americans rescued by Gen. Milhailovich.

I would like to mention a few words about one of my favorite Chetniks, Corp. Miodrag Stepanovich from Bresnietsa, Chachak. Miodrag was assigned as my personal bodyguard and was to protect me at all times at the risk of his life. During the entire time I was in the Serbian hills, he was never more than a few feet away, and his greatest pleasure was rolling ibar cigarettes for me. He once told me that Mihailovich told him if ever he brought him news that one hair on my head had been harmed, he would be shot on the spot, for that meant he had not done his duty.

Miodrag was with me at all times while I was hiding out at different farmhouses. At night we would all sit around the fire talking about our families, our homes and our dreams for the future when the war was over. No matter where we went, he would always brag about how he taught me to count in Serbian. Let's see if I still remember: (jedan, dva, tree, chetiri, pet, shest, sedam, osam, devet, deset). He also taught me how to dance the kolo and drink slivovitza, and how to ask for things such as

"molim, dyj-me vode, pilie, jaja, gibanitza" and whenever we saw a pretty girl, he told me to say "lepa devojka."

There are many memories, pleasant and otherwise, that still live with me after all these years, but the one I am about to relate had the greatest effect on me because it contained all the values that Mihailovich and the Serbian people stand for.

A few days after the Germans had seen us bail out, they sent an ultimatum to the Chetnik commander in the hills. His ultimatum was: either he turn my crew over to them or they would wipe out an entire village of 200 women and children. Naturally, as strangers in their land, I expected we would turn ourselves in and be put in a prison camp with chance of escape. This we felt was small enough price to pay for saving the lives of 200 of their own people. But the Chetnik Colonel, Dragisha Vasich, told us he would hear none of it! He then went on to explain how life is just as precious to the Serb as it is to the American, but because it IS so precious, the price comes high. The Serb, he said, had spent almost his entire history fighting off different enemies in order to protect his freedom. We in America, who did not have to fight on our own land, might find it difficult to understand what seems a cruel thing. But to the Serb, life without his freedom meant nothing. One American flyer, dropping one bomb on the common enemy meant more to their cause of freedom than the sacrifice of 200 of their women and children. The Serbs had a saying he told me: "Bolje grob, nego rob"—"Better a grave than a slave." Their choice was as simple as that! The next day I watched the burning of the village.

I could go on for hours telling you of the many other moving experiences I had while with the Chetniks and Gen. Mihailovich, but knowing of the cruel fate that lay in store for him would only open up deep emotional wounds and make speaking very difficult.●

WHAT MANDATE? WHAT REALIGNMENT?

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 8, 1981

● Mr. LaFALCE. Mr. Speaker, I strongly believe that the Congress has a duty to cooperate with the administration in order to promote the common good. I do not believe that Congress has a duty to bow before the administration in abject submission, which is exactly what happened on June 26.

Members of this body were asked to agree to every scintilla of the administration's program without hearings, even without access beforehand to that package of far-reaching program changes.

What may be most interesting, Mr. Speaker, about this entire process is the rationale used to justify it. As soon as an objection was raised to that farcical process or to specific progam changes, proponents of the administration package would intone one word: "Mandate." Supposedly, every single aspect of the administration's package had received the support of the American people through their mandate for the President's program in November.

Thankfully, this charade may be ending. In a penetrating article in the June 28 edition of the Washington Post, Prof. Arthur H. Miller, senior study director of the 1980 American national election survey at the University of Michigan's Institute for Social Research, has debunked the concept of a Reagan mandate. His institute has undertaken a comprehensive and scholarly analysis of the voters' intentions and beliefs, and their findings do not support the purported existence of a mandate. Indeed, as Professor Miller says, "it certainly is nonsense and awfully, repetitious nonsense at that." His article is appropriately entitled, "What Mandate? What Realignment?" I hope that all of my colleagues read this article and avoid future references to the "Invented mandate."

The article follows:

WHAT MANDATE? WHAT REALIGNMENT?

(By Arthur H. Miller)

This may go down in political annals as the Year of the Invented Mandate.

Treasury Secretary Donald Regan, defending the administration's three-year tax cut plan, proclaims that the president "was elected on this basis." Vice President George Bush declares that congressional opponents of the president's spending and tax cut proposals would "in effect thwart the mandate of the people."

Budget chief David Stockman adds his assertions that cuts in social programs are dictated by the elections, and Nevada Sen. Paul Laxalt defends anti-abortion, pro-capital punishment and other conservative social causes by contending: "That's what the election was all about. It is part of the Reagan mandate."

All this may or may not be good politics but it certainly is nonsense, and awfully repetitious nonsense at that. If administration officials are going to keep it up, there is little choice but to repeat back, emphatically: That is not what the election was about. The accumulating evidence makes it quite clear that the November returns provided none of these claimed mandates, just as they did not represent the broader "historic political realignment" that more than a few observers have suggested.

The more limited and tentative messages of the election are particularly evident in the emerging findings of our 1980 American National Election Study at the University of Michigan's Institute for Social Research (ISR). These, I think, bear some scrutiny if we are to avoid, on this and other scores, the kind of inflated rhetoric which is not merely contrary to the majority's wishes but which may ultimately lead us back to deep disillusionment with our political system.

Consider, for example, Secretary Regan's imagined tax mandate. The reality, our study shows, is that less than half the Republicans and independents and only a third of the Democrats who voted for President Reagan favored his three-year tax cut proposal. The president clearly was not "elected on this basis," and later evidence gives no reason to believe his tax plan has inspired more confidence since November.

A nationwide poll taken in mid-April by the Los Angeles Times found that less than half of all registered voters interviewed thought a Reagan-style, across-the-board tax cut would get the economy moving again. Similarly, the separate May ISR Survey of Consumer Attitudes showed that only 41 percent of respondents thought they would be better off if President Reagan's plan to reduce federal taxes and spending were enacted.

The same holds for the administration's across-the-board cuts in social programs. The election provided no "mandate" for this drive, no matter what David Stockman pretends. On the contrary, our study confirms other findings showing that voters in 1980 continued to express their long-standing support for these programs. In the education area, voters in November even expressed a slightly increased preference for government spending, not the cuts the administration is now pushing through Congress.

Indeed, reductions in government outlays per se were not as important as some have argued in determining the election outcome. Substantially less than half the Democrats who defected to Reagan, for example, expressed a desire for lower government spending.

Nor has any significant shift in preferences for social programs been detectable since the election. In April the CBS/New York Times Poll even reported that those identifying themselves as conservatives opposed spending reductions for such programs as the Comprehensive Employment and Training Act (government jobs for the unemployed) or loans to college students, both currently on the Reagan chopping block.

One could scarcely find better evidence of popular opposition to domestic spending reductions, in fact, than the fears of Reagan supporters about voting on individual program cuts in the House budget battle last week.

Least of all can one find evidence of Sen. Laxalt's mythical "mandate" on a social issue like abortion. If it needs saying again, in November, as for a decade, the country was firmly committed to a woman's right to have an abortion.

What did the election say? It may leave political theologians on all sides unsatisfied, but the 1980 vote essentially was an expression of growing American worry about inflation and our slipping economic growth, as well as about U.S. military strength and prestige abroad—not a clear endorsement of specific means for solving these universally recognized concerns.

In other words, despite the striking Reagan sweep of the electoral college, the 1980 election was not ideological in terms of issues. Our study shows that ideology in fact played a less important role in 1980 than it did in 1976 or 1972.

A majority of both Carter and Reagan voters, for example, favored increased military spending. But they did not view this suddenly acquired preference—a response to events in Iran and Afghanistan—as a trade-off for reduced outlays in long-supported domestic social programs. Rather, our study makes clear, military increases were supported in addition to domestic programs.

Reagan administration officials understandably argue today that there is no way to attain an affordable compromise between "guns" and "butter," but voters in November accepted something else that candidate Reagan told them: that there is extensive

waste and incompetence in government. The support for reduced spending that voters did express in the 1980 election, our study shows, was more a response to the belief that waste and incompetence can be cut in all areas, defense as well as domestic, than an ideological rejection of all Great Society programs.

The Reagan emphasis on defense spending also indicates a conviction that the most effective way to deal with sagging prestige abroad is through an increased military capability. But our study shows that much of the concern voters expressed in this area was based on what they saw as an inconsistent Carter foreign policy and an overly conciliatory relationship with the Soviet Union. In other words, the study suggests a voter belief that creative and consistent diplomacy and international leadership would do more to restore our international prestige than would a stronger military presence.

Nor did ideology have as much influence on the election as did public dissatisfaction with President Carter's handling of inflation and Iran. In November, the study shows, voters had little regard for either Carter or Reagan, but their dissatisfaction was directed more intensely at Carter and overshadowed ideological distinctions.

It should be abundantly clear from all this that Reagan did not have a mandate for most of his policies at election time and has not yet succeeded in establishing a popular consensus. The administration's repeated claims to "mandates" can thus be seen as part of its attempt to in fact create such a consensus today, either by inventing popular wishes or using selective evidence to support its case.

Hence, the administration can cite survey results showing a majority favoring increased defense spending but ignore the majority supporting more outlays for social programs. It can invoke the majority calling for decreased federal powers but conveniently forget the majority that wants a federal gun control law.

Whether this and other strategies succeed in building a popular conservative mandate and an enduring political realignment clearly depends on an array of factors—Reagan's personal popularity (up significantly since the election), his job-performance rating (down lately), his ability to persuade, the corresponding ability of Democrats to emerge from disarray and articulate and persuade with popular candidates, to name just some.

Obviously, the chief factor will be whether Reagan succeeds in restoring health to the economy and American prestige abroad. If he does, he will no doubt be in a stronger position to promote other conservative changes and cement emerging Republican gains.

There has, of course, been an increase in persons identifying themselves as conservatives (from 37 percent in 1978 to 44 percent at the end of last year), even if such self-labeling does not indicate a concomitant shift to the right equally across policy areas.

Moreover, the South and the Mountain States have been experiencing what might be called a sectional partisan realignment. With the migration of more clerical and professional people to these regions have come both a larger Republican base and an increased population, giving Republicans greater clout in national elections.

In fact, this population shift, our study shows, played a more significant role than ideology in helping Republicans win control of the Senate, as did the precarious nature of Senate seats. (Contrary to popular perceptions, our studies have long shown that Senate seats generally have become less "safe" than House seats.)

Other groups in the past decade have also shown a steady shift from the Democrats and at least a potential for increased Republican identification. This has been particularly evident among Catholics and, to a lesser extent, among young people. While more than a third of adults today think of themselves as independents, they come disproportionately from younger age groups.

A serious political realignment, however, would still face major obstacles. Relatively few people switch party allegiances; it is rather those lacking party attachments—predominantly those younger persons—who present the chief opportunity for realignment, and these peope do not have homogeneous political views. Although young independents look like Republicans in their views on certain economic programs, their preferences on social issues lie much closer to those of the Democrats.

In addition, even if Reagan's policies were to improve the economic prospects of the young, the gain might not be dramatic enough to initiate a long-term partisan commitment or might not be seen as partisan at all. If any Reagan successes were seen as personal achievements rather than the result of partisan efforts, Republicans on the whole would not be likely to reap lasting benefits.

If the Reagan administration, on the other hand, fails to fulfill the large expectations which our studies show it has created—renewed prosperity, reduced inflation, lower joblessness, a more equitable tax burden and greater prestige abroad—certain results are fairly predictable.

Volatility in American politics would continue and Reagan would risk joining, involuntarily, the growing list of one-term presidents. Traditional party loyalties—Democratic as well as Republican—would suffer a further decline, accompanied by increased challenges from minority parties and independent candidates. Cries for more extreme remedies to our problems would likely grow louder, and citizen fervor for changes in the candidate selection system and the political decision-making process might intensify.

At the same time, citizen frustration with government failures and the feeling that voting doesn't make a difference would continue to grow. Trust in government, which our study shows sank to a historic low just before the November election, would also decay again, more than offsetting the short-term gains evident with the election of a new president.

Perhaps most important, there might be a qualitative shift toward what appears to be a new ideology of discontent, one directed not at reform but at dismantling government and its programs, regardless of future consequences. This ideology, based on an active rejection of political institutions and of authority, could take years to reverse.●

NATIONAL POW DAY: JULY 17

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 8, 1981

● Mr. GILMAN. Mr. Speaker, on July 17, our Nation will commemorate the sacrifices of our American servicemen who have given our Nation a special kind of service—those Americans who were held as prisoners of war during the Vietnam war, the Korean war, World Wars I and II. And at the same time we will have the opportunity to honor another group of loyal Americans—the Americans who never returned from the wars, our MIA's—our missing in action.

There are some 2,500 Americans whose fates have not been ascertained since the Vietnam war. Evidence is mounting that Americans may still be alive in Southeast Asia. Current reports are presently being analyzed by our Defense Department, as the struggle goes on to obtain a full accounting of our missing in action.

President Reagan, in signing a congressional proclamation, declared July 17 as National POW Day. Veterans posts all across our Nation will be participating in this commemorative day and all municipalities throughout our Nation are encouraged to participate.

This year, the annual meeting of the National League of Families of POW's and MIA's coincides with the ceremonies for National POW Day and these events will provide us an appropriate time to reflect upon the sacrifices of our brave POW's and MIA's.

Ceremonies at the Pentagon on July 17 will begin at 11 a.m. with all branches of the military participating. I urge my colleagues and our constituents throughout the Nation to join in the commemoration of this day, and to express to the families of our missing how much we appreciate the unique sacrifices of our POW's, our missing in action and their loved ones.●

DEVIOUS STRATEGY ON VOTING RIGHTS

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 8, 1981

● Mr. EDWARDS of California. Mr. Speaker, the following editorial from the June 30, 1981, Washington Star points out that the Voting Rights Act of 1965 already is nationwide, that the section 5 preclearance "trigger mechanism already applies to all States, when relevant."

The thoughtful editorial also notes that—

any "national" extension of the preclearance provision would involve unacceptable Federal surveillance of local election practices, especially burdensome at a time when a new census will occasion the view of hundreds of representational arrangements.

The full text of the editorial follows:

DEVIOUS STRATEGY ON VOTING RIGHTS

It is good to have President Reagan's assurance in yesterday's Denver address to the NAACP that he regards voting as "the

most sacred right of free men and women" and means to safeguard it.

But the president's sentiment is hardly controversial. What is controversial is how the right to vote is to be buttressed at a time when the 1965 Voting Rights Act (as amended) is nearing expiration and there is discord in Congress over its future and form.

In an impromptu interview in Los Angeles, the president seemed to agree with those who claim to believe that the 1965 act should be national—that it should, as he said, "apply to all the states." Mr. Reagan, whose commitment to racial equity is not to be doubted, must view this as a form of fair play—sauce for the gander. Unfortunately, not all those who raise this cry have fair play in mind and Mr. Reagan puts himself in the company of some members of Congress whose commitment to the right to vote is suspect.

The cry for a "national" voting rights act is obfuscatory. We already have such an act, the 15th Amendment. Congress need not enunciate a novel legal or constitutional principle, only see that the principle continues to be rigorously enforced where it was, before 1965, habitually and flagrantly abused.

Admittedly, the original "trigger" device by which the Act applied principally to Southern states (or parts of them) was crude, as such legislative devices tend to be. Congress decreed in 1965 that the Act would apply wherever fewer than half the eligible voting population had voted in 1964.

The device by design snared most Southern states, where the voting turnout was chronically low, even by U.S. standards, precisely because of the disfranchisement of blacks. In Mississippi, for instance, only 6.7 per cent of eligible blacks were registered in 1965.

The trigger mechanism already applies to all states, when relevant. What the proponents of national application claim to want is the extension of the Act's sometimes vexatious "pre-clearance" provision throughout the land.

Oddly, those who claim with one breath to want "pre-clearance" spread around the country complain with the next, of the inequity and inconvenience it entails where it is already in force.

There is some inequity and inconvenience, all right, how much is a matter of dispute that should be resolved by objective inquiry. We have had our own doubts about the preclearance mechanism in some pettier applications. Under it, any proposed changes in the structure of local or state government must be approved beforehand by the Justice Department or a federal court in Washington. Pre-clearance is designed to assure that local government does not resort to gerrymandering or other sharp practices to defeat or dilute the use of the ballot by minorities.

Unfortunately, the pre-clearance requirement sometimes results in the suspension of racially neutral changes in local government structures whose inspiration was not even remotely discriminatory. Moreover, the law contains no "bail-out" provision allowing local jurisdictions with otherwise spotless records of compliance to escape federal surveillance. Rep. Henry Hyde is writing an amendment to provide such an escape hatch. It should meet the anxieties of local jurisdictions in the South that have abandoned, or never practiced, racial discrimination at the polls. His amendment, depending on its final form, deserves consideration.

What does not deserve consideration is the devious strategy of those who urge a nationalized Voting Rights Act for tactical reasons. Any "national " extension of the preclearance provision would involve unacceptable federal surveillance of local election practices, especially burdensome at a time when a new census will occasion the review of hundreds of representational arrangements. That change in the law would be pointless and, so far as one may guess, is unlikely to pass Congress.

In expressing his agreement with this maneuver, Mr. Reagan lends unwitting support to those who would prefer to let the Voting Rights Act lapse. A case could be made for that, perhaps; but it would entail grave risk that some parts of the South would slide back from biracial politics. In fact, it is folly for any Southerner to oppose the extension of the Voting Rights Act, whatever its inconveniences. By enfranchising black voters in mass it has freed Southern politics from preoccupation with bigotry and race, in which unscrupulous demagogues flourished and politics of basic economic interest were submerged.

President Reagan has a duty to study the Act, examine its benefits and amend his incautious endorsement of the Thurmond strategy accordingly.●

UKRAINE'S 40TH ANNIVERSARY

HON. WILLIAM M. BRODHEAD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 8, 1981

● Mr. BRODHEAD. Mr. Speaker, unfortunately, the House was not in session on June 30, 1981, the 40th anniversary of the proclamation of the restoration of Ukraine's independence. On that date in 1941, leaders of the Organization of Ukrainian Nationalists, backed by the heroic efforts of Ukrainian freedom fighters, attempted valiantly to throw off the yoke of tyranny imposed upon Ukraine by the Soviet Government. This date bears tremendous significance for members of the Ukrainian community around the world, including the very active Ukrainian-American community in southeastern Michigan.

On July 12, the Ukrainian Congress Committee of America will hold a banquet in Warren, Mich., in honor of Yaroslav Stetsko, Prime Minister of the Ukrainian Provisional Government established in June 1941. Mr. Stetsko has had a long and active career in fighting for the freedom of the Ukraine, during which he suffered imprisonment in a Nazi concentration camp for his unflagging dedication to this cause. After 3 years in Nazi captivity, Mr. Stetsko escaped in 1944, and in 1946 he was elected president of the Anti-Bolshevist Bloc of Nations, a position he has held to this day.

Yaroslav Stetsko has made an invaluable contribution to keeping alive the hope of Ukrainian independence, a hope which is held so deeply by members of the Ukrainian community as well as many of us here today. It is fitting that he will be honored for these efforts at the upcoming banquet. I know that my colleagues join me in reflecting upon the tremendous suffering and injustice that have been visited upon Ukraine, and in renewing our commitment to seeing the eventual end of this oppression. I hope that they will also join me in wishing the Ukrainian Congress Committee of America every success with its banquet, which will unquestionably be a most moving and meaningful occasion.●

THE 125TH BIRTHDAY OF THE HONOLULU ADVERTISER

HON. CECIL (CEC) HEFTEL

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 8, 1981

● Mr. HEFTEL. Mr. Speaker, the Honolulu Advertiser marked its 125th birthday on July 2. Hawaii has been indeed fortunate to have a free and aggressive press and I would like to salute this newspaper on its history of service to the community. The Honolulu Advertiser's continuity could have come only from a dedication to the public's right to knowledge and the freedom to make its own choices.

As a birthday tribute to the Advertiser and its staff, I commend to the attention of my colleagues the following article depicting the vivid and eventful history of an institution that is so much a part of Hawaii's past as well as an important part of its future.

ADVERTISER AND ISLES: A HISTORY OF CHANGE

Henry M. Whitney in 1856 pulled the first copy of his Pacific Commercial Advertiser from an old hand press.

The Honolulu of that day was a dusty little community of perhaps 10,000 residents. But it and all of Hawaii were plunging into an era of headlong change when The Advertiser was born.

Whitney was only 32, but his life already had spanned much of Hawaii's evolution from a society governed by the traditions of ancient culture to a "modern" kingdom with an economy more and more oriented to commerce and agriculture.

Alexander Liholiho had come to the throne 18 months before, as Kamehameha IV, and the big story of Whitney's first issue was the two-week-old news of the king's wedding at Kawaiaihno Church.

That time lag wasn't so bad, though. Whitney listed the latest dates of foreign papers received in his office, and the most recent were those of June 4—almost a month old—from San Francisco. From London, the latest news was of April 19, more than 10 weeks old, and from Sydney, Australia, of April 5, more than 12 weeks old.

The Advertiser was not the first paper in town. There has been a series of Hawaiian language publications, and the government-sponsored weekly, The Polynesian, already was 16 years old.

In his prospectus, however, Whitney declared that "the necessity for a reliable do-

mestic newspaper devoted to interisland commerce, agriculture and whaling interests in the Pacific, and independent of government control and patronage, has long existed."

Whitney was remarkably well qualified to launch "our little bark . . . on the uncertain tide of life."

The son of missionary parents, he had been sent to the Mainland U.S. for schooling, and had learned the printer's trade after growing deafness forced him to give up the idea of college.

He gained editorial experience on the staff of the New York Commercial Advertiser, and he worked as head pressman for the publishing firm of Harper & Brothers before returning to the Islands in 1849. He was business manager of The Polynesian for several years before founding The Advertiser.

(Whitney also was Hawaii's first postmaster, and he printed the earliest Hawaiian postage stamps five years before The Advertiser was born. Today, the most complete collection of those stamps in existence is owned by The Advertiser.)

Whitney was thoroughly bilingual, and for the first several months his paper carried a page of news in the Hawaiian language under the separate masthead, Ka Hoku Loa o Hawaii, "The Morning Star of Hawaii."

As a New York-trained newspaperman, he wrote:

"In the outset of our enterprise, we might as well have a distinct understanding with our patrons. To each and all of them, we respectfully say, that in the form and style and general management of this paper and its contents, we must be left to our judgment, to act with entire independence.

"To commence on any other basis, would be to render our sheet what every former attempt has been, the tool of a party or the mouthpiece of a (Cabinet) minister."

But under the Hawaiian version of his name, Heneri M. Wini, he wrote in the Hawaiian language, with Polynesian rhetoric, saying:

"Aloha, o you close friends living in the towns, the country, the valleys and the beaches, from Hawaii to Kauai. Great aloha to you. Behold, today there is opening the dawn of the Morning Star of Hawaii, to be a torch illuminating your homes. . . ." With other news, he promised the newspaper would publish "the deeds and the words of enlightened men of foreign lands."

The paper's first major growth began with the appearance of "The North Pacific Whaleman's Shipping List" in October. It continued as a weekly feature each winter so long as whaling was an important Pacific industry.

The first tabulation listed 288 whaleships operating in the Pacific, though only a handful had reached the ports of Honolulu and Lahaina so early in the season.

One was the Java, under Capt. Wood, which had arrived in Honolulu on Aug. 26, 1856, having left New Bedford, Mass., more than a year earlier. It was most recently from Kodiak, with a catch for the whole voyage of 65 barrels of sperm oil and 2,000 barrels of whale oil. For the current season, it listed 65 barrels of sperm oil, 600 of whale oil, and 8,000 pounds of bone. The ship had sailed in September, homeward bound around the Horn.

By spring, the Whalemen's List was carrying similarly detailed information on more than 300 ships. The Advertiser had become firmly established as the $63 million industry's best source of trade news.

Whitney also was a zealous crusader.

He hated the hula, and regularly attacked it as a remnant of paganism and as an economic evil which lured Hawaiian workers away from their jobs.

He was a strong supporter of the Union during the Civil War, and he reported being assaulted because of his stand. (He also was caned once by an irate shipmaster who apparently mistook him for the editor of a rival paper that had been criticizing the conduct of mariners.)

Whitney attacked the Hawaiian government's direct participation in the contract labor system of importing Chinese and Japanese workers for the plantations, and thus incurred the opposition of powerful planters.

Economic pressures mounted, and finally he was forced to sell his newspaper in 1870, to the firm of Black & Auld.

The new owners at first adopted a more conciliatory attitude toward the government, but then moved gradually to a position of open criticism of King David Kalakaua and his friendship with Claus Spreckels, the San Francisco capitalist who had dreams of becoming the Island "sugar king."

The paper was sold again in 1880, presumably to the government, but actually, it seems, to Spreckels, who installed Walter Murray Gibson as editor. Gibson later was to become premier of the kingdom.

In the next eight years there apparently were several changes of ownership, not all of them announced. But amid the turmoil, in 1882, The Advertiser managed to become a daily.

Then, in 1888, the Hawaiian Gazette Co., which published a weekly, bought The Advertiser, and returned Whitney to the editor's chair.

Formation of the Gazette Co. in 1885 had marked the entry of Lorrin Andrews Thurston into the Island newspaper scene. A lawyer and the grandson of pioneer missionaries, he became secretary-auditor of the company.

When The Advertiser was purchased, Thurston was asked to assume control. From 1889 until his death in 1931, Thurston guided The Advertiser as its president and publisher. And, as a writer of fiery editorials, he strengthened it as a force in shaping community opinion.

Thurston also was active in community affairs.

He was elected to the Legislature in 1886, in Kalakaua's reign, helped to draft a new constitution, and led the fight for its adoption the following year. Under it, he was Kalakaua's minister of the interior.

Later, Thurston was a leader in the movement which finally deposed Queen Liliuokalani. He went to Washington in 1893, the year of the monarchy's overthrow, as member of a commission seeking Hawaii's annexation to the United States.

After that move was rejected, Thurston served in Washington for two years as minister plenipotentiary from the Republic of Hawaii to the United States.

Whitney's second term as editor continued until 1893. In 1894, Wallace R. Farrington—later to become publisher of the Star-Bulletin and governor of Hawaii—assumed the post for three years.

Whitney returned briefly, to be succeeded by a half-dozen others until 1922, when Raymond S. Coll began 37 years as editor, guiding the paper during a period of major growth for Hawaii and through the hectic years of World War II.

Coll became editor emeritus in 1959, and was succeeded by George Chaplin, who now has been editor for 22 years.

Upon Lorrin A. Thurston's death, he was succeeded as publisher by his son, Lorrin Potter Thurston, who remained in the post until March 21, 1961.

He, too, took an active part in the life of the community. He was chairman of the Hawaii Statehood Commission, a founder of the Pacific Area Travel Association, and head of the Hawaii Visitors Bureau.

He was followed by the present publisher and president, Thurston Twigg-Smith, grandson of Lorrin A. Thurston. He came to the position after 15 years in the newspaper's editorial, advertising, circulation and business departments.

In taking the post, he said:

"There is no ceiling on Hawaii's future, save only the ceiling we place upon ourselves. Hawaii's destiny can be as luminous as our poly-racial citizenry . . . seeks to make it.

"The Advertiser, forthrightly edited by George Chaplin and his excellent staff, is a paper of all the people. I pledge that it will continue to be so, but with the determination to be ever more helpful, ever more constructive, ever more vigilant in working for the advancement of our state, our nation, and our world."

Twigg-Smith has continued the tradition of leadership in community affairs. He has been trustee or board member for Punahou School, the Honolulu Academy of Arts, the Hawaiian Mission Children's Society, Friends of the East-West Center, and the Boys Club of Honolulu.

He headed the Hawaii Visitors Bureau for two years, was a member of the Police Commission and is a director and chairman of the board of governors of the Honolulu Symphony Society.

Chaplin was first introduced to Hawaii in World War II as editor and officer-in-charge of The Stars and Stripes, Mid-Pacific; published in The Advertiser's plant. He returned to an active newspaper career on the Mainland at the end of the war, finally coming back to the Islands in 1958 after 10 years as editor of the New Orleans Item.

Chaplin is a past president of the American Society of Newspaper Editors, had won numerous national and local journalistic awards, and is active in many community endeavors. He stimulated the Governor's Conference On The Year 2000 and other studies in alternative futures and co-edited the book "Hawaii 2000."

Chaplin's top aide at The Advertiser is Buck Buchwach.

A Phi Beta Kappa graduate of the University of Oregon, Buchwach became an Advertiser reporter upon his Army discharge in 1946. He was named city editor in 1955, managing editor in 1959, and has been executive editor since 1971. His many awards in 35 years of Hawaii journalism range from the Territory of Hawaii's "Award of Tribute for Distinguished Work in the Cause of Statehood" (1959) to a national award "For Distinguished Reporting" from the American Political Science Association (1964).

Among other key executives directing The Advertiser's daily publication are John Griffin, longtime Pacific specialist and editor of the editorial page; Mike Middlesworth, technological expert and managing editor; Gerry Keir, city editor and one of Hawaii's foremost exponents of the use of modern survey techniques for major news analyses.

A major step for The Advertiser came in 1962, when it entered into a mutual production plan with the Honolulu Star-Bulletin.

The newspapers, which are separate corporations, separately owned, share the same building but maintain separate editorial quarters and independent editorial policies. Their news staffs are fiercely competitive.

Non-editorial functions are performed for the two dailies by the Hawaii Newspaper Agency (HNA), a separate corporation which is owned by the two newspapers.

The Sunday paper, which bears the names of both papers on its masthead, contains separate news and feature and sports sections produced independently by the two papers and advertising sections produced by HNA. The Sunday paper's editorial page is that of The Advertiser alone.●

CAN WE DEPEND ON DETERRENCE?

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 8, 1981

● Mr. BINGHAM. Mr. Speaker, I commend to my colleagues and all readers of the CONGRESSIONAL RECORD the following excellent article by Gen. Maxwell D. Taylor, who was Army Chief of Staff under President Eisenhower and Chairman of the Joint Chiefs in the Kennedy and Johnson administrations. The article appeared in the Washington Post of June 30:

[From the Washington Post, June 30, 1981]

In the debate over the needs of our strategic forces, one controversial point is always in the foreground—or background—of the discussion: do we have forces capable of deterring the Soviets from initiating nuclear war? From the Eisenhower through the Johnson administrations, there was little doubt either as to the credibility or the indispensability of their deterrent effectiveness. It was credible because our forces were clearly able to destroy the Soviet Union as a viable nation. It was indispensable because, after the Soviets had acquired intercontinental missiles, it was generally accepted that strategic war would be mutually suicidal and that no defensive means, passive or active, existed that could make it less so.

Not only were defensive measures viewed as futile, but damage control was equally unpromising. One could never hope to foresee where and how to stockpile reserves of food, water, medicines, hospital beds, firefighting equipment and the like needed to deal simultaneously with hundreds of regional disasters. Even if there were warning of attack, how to relocate senior government officials without closing down government itself, how to evacuate urban populations without creating nationwide panic, and how to disperse industry at a time when all communications might be blotted out by nuclear explosions? And after the attack, how to put out fires, restore order and keep survivors alive while disposing of millions of dead?

Unable to answer such questions, most of my contemporaries concluded, as I did and do, that there is no conceivable way of hedging adequately against a failure of deterrence. We are not dealing with war in any rational, Clausewitzian sense—the use of military force as another means for a government to achieve political ends beneficial to the nation. In any major strategic exchange, the reciprocal damage would create conditions that would make victory and defeat virtually indistinguishable, save perhaps that the victors might survive a bit longer than the vanquished.

In recent years, there has been a progressive loss of faith in this doctrine, now derisively dubbed MAD (mutual assured destruction) by its critics. There is fairly broad acceptance of the possibility of a limited strategic attack concentrated on a limited target such as our silo-based ICBMs, a contingency used to justify the need for the new MX missile.

It is also widely asserted that deterrence is a dubious goal for our strategic forces because Soviet military writers never mention the word in discussing strategic doctrine. They make no sharp distinction between conventional and nuclear warfare as we do, and seem to expect to use both nuclear and conventional weapons in any combination as needed anywhere from the battle front to the heartland of the enemy. By using such blended military means, although expecting heavy losses, they seemingly anticipate ultimate victory pretty much as it was won against Germany in World War II.

The apparent existence of such a warfighting concept among Soviet leaders has convinced a considerable number of American experts on the subject that our own strategic forces are grossly inadequate to deter an enemy instilled with such a doctrine. They urge a drastic increase in our strategic forces to reinforce their visible strength and call for measures similar to the Soviets' for hedging against the failure of deterrence and fighting a nuclear war to a finish.

I am unconvinced by these arguments—in fact, I firmly believe that it should be easier for us to deter the Soviets from initiating nuclear war than it would be for them to deter us.

In the first place, the Soviets have superior conventional forces in close proximity to virtually all of their national interests that may require defense. Thus they would have no reason to resort to nuclear weapons for their protection.

Second, from their World War II experience, their leaders know how devastating conventional war can be. They also know nuclear war would be many times more so—that they would lose in a few hours more than they lost in four years fighting the Germans.

Third, they could not afford to fight or even "win" a strategic war with the United States. In doing so, their losses would so paralyze the nation as to make it easy prey to nearby enemies—wolves ready to take advantage of a stricken bear. Such enemies could include Chinese, Afghans, Turks, Germans, and Poles beyond Soviet borders, and non-Russian minorities within.

Finally, the past record of the Kremlin leaders indicates an extreme reluctance to run unnecessary risks, particularly if there is a safer way to gain the desired end. In this case they have such an alternative—to ride the tide of the present favorable correlation of forces, increasing its momentum when possible and exploiting every opportunity to further weaken the United States and its allies. This moderate course would not only promise gain at minimum risk, it also would allow crediting the ultimate victory to the fulfillment of the Marxist-Leninist prophecy of the inevitable collapse of capitalism from its internal weaknesses and contradictions. It would be an ideological triumph of considerable worth.

If the foregoing reasoning is sound, the probability of a deliberate Soviet attack is extremely low and the possibility of effecting enduring deterrence very high. But even so, we should never cease our efforts to improve the quality and survivability of our forces, particularly their command and communications systems, and thus assure continued maximization of their deterrent potential. The size and numbers of their weapons would be determined not by what the Russians have, but by the weapons needed to destroy enough targets causing Soviet losses equal to or exceeding those of World War II.

With an arsenal of such lethality to assure deterrence, it would be folly to race the Soviets further in numbers of weapons or to waste the finite resources available for national defense in profligate hedging against the failure of deterrence. We can apply the savings to far better purpose in strengthening the conventional forces necessary to defend our essential interests overseas, currently beyond the supporting range of our military power.●

LOW-INCOME ENERGY ASSISTANCE AND GRAMM-LATTA II

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 8, 1981

● Mr. MOAKLEY. Mr. Speaker, over the Independence Day district work period, the mistakes and hidden provisions contained in the hastily put together Gramm-Latta II have begun to come to surface.

One such slip up involves the low-income energy assistance program, which is so vital to many of the poor and elderly of the Northeast. In the Education and Labor Committee portion, the Republican package creates a home energy assistance block grant out of the categorical program for low-income energy assistance. The funding level is established at $1.875 million for the next 3 fiscal years, of which not more than 10 percent of the funds available could be used for low-income residential weatherization.

In the Ways and Means Committee section of the reconciliation package, low-income energy assistance is maintained as a categorical program and at a different funding level of $1.4 million in fiscal year 1982 and $1.6 million in fiscal year 1983.

Mr. Speaker, at a time when the average household energy bill in New England is over $1,300 annually and higher prices are bringing additional hardships for our senior citizens and other needy people, it is unfortunate that the Republican package seeks to weaken the Federal commitment to this valuable program with conflicting policies and reduced spending. We cannot abandon those most in need of assistance in meeting the demands of rapidly escalating energy prices, and I

urge the House to strengthen this program.●

TITLE X'S GOOD WORK

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 8, 1981

● Mr. CLAY. Mr. Speaker, although we have already approved the administration's block grant programs, our responsibility to insure that quality health-care services are available to all citizens continues. And, we have a special responsibility to develop an understanding of the special needs of youth. Family planning services directly aids the general public via clinics and other facilities.

For this reason, I would like to commend the following editorial as it summarizes the credibility of family planning services.

TITLE X'S GOOD WORK

For the past 10 years, federally financed family planning programs have served the nation's health and economy well by helping to prevent unwanted pregnancies and to hold down the numbers of abortions. Tens of millions of women have received assistance at clinics and facilities that receive funds through Title X of the Public Health Services Act. Title X has been an outstanding bargain. For each dollar that goes for family planning, $2—or in the case of teenagers, $2.90—is saved on health and welfare costs resulting from unwanted births.

Title X expires in September and, hence, Congress soon will have to decide whether to renew it. At first glance, a negative answer would seem unthinkable. According to the Alan Guttmacher Institute, a nonprofit family-planning research organization, nearly 800,000 unintended pregnancies are averted each year as a result of Title X programs. Had these pregnancies occurred, the institute estimates, more than half would have ended in abortion. This fact alone should recommend Title X, which contains a ban against its funds being used for abortions, to those who oppose them.

Even so, out of zeal to slash the federal budget or to abolish any government program that does not encourage childbirth, efforts are being mounted to curtail or destroy Title X. The Reagan administration is proposing to incorporate family planning services and nine other programs (including rat control and lead poisoning prevention) into a single preventive health services block grant. The grant would have an authorization of $260 million. Rep. Henry Waxman, a California Democrat, has introduced legislation that would authorize $280.8 million for family planning services, genetic screening and adolscent pregnancy programs. In fiscal 1981, $407.9 million was authorized by Congress for these services.

Of the two approaches, the administration's would do far more harm to family planning services. States would be authorized to decide how to distribute the block grant money. Where authorities are hostile to family planning services, as in Missouri, money for the programs is likely to be drastically reduced or even eliminated. Indeed, Missouri has not even applied for all available family planning funds.

An end of Title X would work a hardship on all women who need family planning assistance but it would be particularly cruel for those in their teens. Each year, 1.1 million teenagers become pregnant—only 25 percent intentionally and only 17 percent following marriage. The Guttmacher Institute reports that 40 percent of girls who are now 14 years old will become pregnant before they reach 20. In 1978, 434,000 abortions were performed on teenagers. It is scarcely farfetched to describe teenage pregnancies as a national epidemic.

For women so young, the burdens and penalties of pregnancy are frequently harsh. The rate of infant deaths for teenage mothers is twice that for women in their 20s. A majority of teenage mothers drop out of high school and find themselves mired in low-paying jobs. Of women in households receiving Aid to Families With Dependent Children 61 percent were teenage mothers.

If Congress cuts back sharply on Title X funds, or dilutes them through a block grant, it will be the same as turning its back on the problem of teenage pregnancies. Without family planning services, more teenagers will become pregnant. More will resort to abortions. More will be condemned to lives of ignorance, poverty and personal tragedy. That false economy will be a perverse investment in America's future.●

VICTIMS OF DISCRIMINATION TO RECEIVE BACK PAY

HON. GUS SAVAGE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 8, 1981

● Mr. SAVAGE. Mr. Speaker, in very important and far-reaching administrative litigation Harris Trust & Savings, Chicago's third largest bank, was recently ordered to pay $12,267,515 to 1,300 minority and women employees who were victims of discriminatory hiring, pay, and promotion practices.

The case dates back to 1974, when Women Employed first filed a complaint with the U.S. Treasury Department charging that Harris' employment practices violated Executive Order 11246, which requires affirmative action by firms doing business with the Federal Government. The U.S. Department of Labor entered the case in 1975, and in 1977 found Harris guilty of violating the Executive order. The Labor Department decision designated an affected class of 1,000 women and 300 minority employees who had been denied equal opportunity in pay, promotion, and training.

U.S. Administrative Law Judge Rhea Burrow's decision confirms the Labor Department's 1977 findings. Relying both on statistical data provided during the trial by the Government, and on the testimony of employee witnesses provided by Women Employed, Burrow said that Harris had:

Failed to rebut substantial evidence provided by the Government showing the continuing effects of discrimination.

Harris violated Executive Order 11246, Burrow found:

By engaging in various discriminatory practices well after the Executive order was enacted.

Harris Bank had announced plans to file exceptions to the decision with the Secretary of Labor. Women Employed views the case as an important test for the new Reagan administration.

Women Employed's case against Harris Bank has been watched closely because it is the first in which the Federal Government has sought to withdraw deposits from a bank because of discrimination, and the first time the Government has sought back wages for an affected class of bank employees through administrative sanctions. The case is also significant because it has resulted in development of a statistical approach for documenting discriminatory employment practices and for identifying women and minorities who are owed back wages because of these practices.

Women Employed is to be commended for its skill, tenacity, and commitment in combating race and sex discrimination in the banking industry.●

THE MX-MISSILE: DOMESTICATING NUCLEAR WEAPONS, OR, LEARNING TO LIVE WITH, AND LOVE, THE MX

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 8, 1981

● Mr. CONYERS. Mr. Speaker, there was a time, not too long ago, when nuclear weapons were treated with a healthy respect for their incredible destructiveness. The often-used phrase, "thinking the unthinkable," once referred to the horrendous possibility of unleashing nuclear war. Times, apparently, have changed. Nuclear weapons have come of age. They have become domesticated—and trivialized—as if they are just another consumer product, like all the others that crowd our lives.

The Pentagon has convinced the leadership of two administrations, and is desperately trying to convince the public, that we can learn to live with—and love—the MX missile. The old attitude of fear and loathing toward nuclear weapons is displaced by a new attitude of familiarity and fondness.

Evidence of this new attitude is the Reagan administration's frantic search for alternative ways to deploy and site the MX missile, which include novel basing arrangements on trucks that would travel interstate highways, truck-like launchers parked at military installations that could be moved around on interstate highways to escape detection, placement on barges that would travel inland waterways, and hydrofoils that would traverse the oceans.

What is fascinating about these alternative sitings for the MX missile is the close proximity they would have to human beings, cities, civilian roads, civilian and industrial waterways. The separation between civilian and military life, towns and cities, on the one hand, and military installations, on the other, indeed, between peace and war becomes further obliterated.

Imagine driving Interstate 95 to Richmond or Savannah, and cruising alongside trucks that have inside their cargoes, live MX missiles, ready for launch. Or boating down the Potomac River, and finding that you are alongside a barge loaded with an MX missile.

Does all of this sound fantastic, or imaginary? It shouldn't. These are some of the scenarios which the Pentagon now is considering.

The net effect of all of this is to make the MX missile system a cozy neighbor. The effect is to make us feel at home with this horrendous nuclear weapons system. The effect of this is to make us feel comfortable living next door to this weapon, so that human space, whether in cities, on highways or waterways, becomes just another military installation, the site of the MX missile.

For my colleagues' edification, I am attaching here for their review a recent U.S. News & World Report article, July 13, 1981, entitled, "Reagan's $68 Billion Decision on MX Missile," which discusses the various scenarios for deployment that I mentioned. It is positively hair raising—and hair brained—except that the Pentagon planners are absolutely serious.

The Mormon Church had the right idea about the MX missile system. They declared on May 5 they deplored the weapon and wanted to have nothing to do with it in Utah, the first choice for its siting under the Carter administration. Amen.

The article follows:

REAGAN'S $68 BILLION DECISION ON MX MISSILE

There's powerful opposition to a plan to shuffle huge nuclear weapons around the desert, forcing the President to restudy the whole idea.

A combination of political, legal and strategic problems is rekindling intense debate over America's most critical military decision in a decade—the fate of the MX supermissile.

There is wide agreement in the Reagan team that the weapon is vital to U.S. defenses. But Pentagon planners, and the President himself, are far from certain about how—or even where—the missile should be deployed.

Reagan's predecessor, Jimmy Carter, thought he had settled the matter two years ago when he decided on a plan to hide 200 mobile MX missiles in shelters scattered across Nevada and Utah.

But changing circumstances, plus the new Commander in Chief's own misgivings, are threatening to unravel that scheme. The upshot is a far-reaching reassessment of the entire MX system that the Air Force says can be built at a cost of 33 billion dollars. Other experts predict that the MX program could require 68 billion dollars or more—making it the single most expensive weapons program in the nation's history.

The MX issue is rapidly coming to a head. A panel of outside defense experts, convened by the Pentagon to study the range of MX options, was scheduled to make its recommendation in July.

Already completed is a study by the Office of Technology Assessment that casts doubt on all of the proposals Reagan is weighing. "Each of these alternatives has serious risks and drawbacks," concluded the congressional agency in a June 22 report.

The MX would supplement American's 1,052 land-based intercontinental ballistic missiles, which have gradually become vulnerable to Soviet attack. The Russians, especially in recent years, have added more warheads to their rocket arsenal and sharpened their accuracy. The MX is designed to counter this trend and give the U.S. the ability to retaliate with land-based missiles in the event its Minuteman and Titan ICBM's are knocked out.

Carter's plan for deploying the MX and protecting it from the Soviets amounts to an enormous "shell game." He wanted to shuttle 200 of the missiles, each fitted with 10 warheads, among 4,600 shelters in Utah and Nevada. The idea is to confuse Soviet targeters about the location of the missiles, since each one might be hidden in any of 23 separate places over a vast area.

But the plan has touched off widespread opposition in Utah and Nevada, even among major sources of Reagan's political support—wealthy landowners, ranchers and developers. Many residents believe deployment of the system would cause lasting environmental damage, drying up water supplies and killing off wildlife. Of major concern are the 9,000 miles of new highways that would be needed to shuttle rockets between shelters.

Residents also worry that the construction would replace a quiet way of life with an unwanted boom-town-atmosphere. The project would bring in 85,000 MX workers, plus thousands of others trying to profit from the work.

Some opposition is rooted in religion. Utah's politically potent Mormon Church, for instance, condemns the MX as a "mammoth weapons system potentially capable of destroying much of civilization.

That kind of grass-roots feeling—and possible political fallout—has led Reagan to consider putting some, and maybe all, of the missiles elsewhere. He could end up situating half of them in Texas and New Mexico. Another plan calls for placing some of them in Minuteman silos in the Great Plains region of the Dakotas.

But even if Reagan overcomes the political problems surrounding the MX, potentially serious legal problems remain. Environmental groups have vowed to tie up the project in endless court battles, no matter where it is built. Two Utah state senators already have filed one suit to block construction on environmental grounds.

New strategic results are an even graver problem. Analysts point out that Carter's MX plan assumed Russia would honor a proposed new treaty limiting nuclear arms, but Senate ratification is all but out of the question. Without limits, Russia would be free to build enough warheads to overwhelm the entire MX force.

Confronted by all these factors, Reagan is pressing the search for an alternative to Carter's approach. All 30 of the competing missile plans rejected by Carter are now getting a second look by the President and his advisers. Some of the candidates—

Midgetman. Rather than try to deceive the Soviets with mobile ICBM's, some experts feel the U.S. should deploy thousands of smaller missiles to dilute the effectiveness of a Russian strike. One idea calls for building 4,000 single-warhead missiles in fixed silos across remote U.S. desert areas.

But, whatever its merits, this plan would exceed even Carter's plan in cost. It also shapes up as an arms-control nightmare, since treaties restrict Washington to no more than 2,250 strategic weapons of all kinds.

Missile-defense system. Some analysts want to hold down the number of MX's and protect them with a system of interceptors—a so-called anti-ballistic-missile system—capable of shooting down incoming warheads.

Experts claim the technology already exists for building ABM's, but the cost would be high. Also, the U.S. would have to abrogate or renegotiate a 1972 U.S.-Soviet treaty that prohibits any substantial testing of such a system.

"Red Ball Express." Some experts would put MX—or even existing Minuteman missiles—aboard huge trucklike launchers, parked on military bases. In event of an alarm, transporters would travel public roads to launch sites. But, as with all other alternatives, there are serious problems with this scheme, which proponents call the "Red Ball Express." Among them: The possibility of traffic jams and the length of time it would take to reach the launching areas.

Surface vessels. In another plan, missiles encased in canisters would be placed aboard barges on inland waterways. Or they could be placed aboard special ships and hydrofoils that would move across the world's oceans. Major drawbacks: Satellites could track the ships, and command of such a widely scattered force would be a complex, perhaps impossible, job.

Jets and dirigibles. Among the more unconventional ideas is one that calls for basing the MX aboard wide-bodied jets and other aircraft. Advocates say that this plan would be just as confusing to the Soviets as Carter's proposal—but without its political drawbacks.

On the negative side is the fact that the cost would far exceed Carter's shell game and could require construction of hundreds of new air bases.

Equally serious problems offer an argument against use of another type of exotic launch pad—dirigibles. Little is known about how such heavily weighted craft would act in bad weather.

With so many difficulties facing the deployment of a new land-based ICBM system, some strategic experts are again questioning whether the U.S. should even attempt to base the weapons on American soil.

They argue that there is no obvious reason for a land-based system. Richard Garwin of Harvard University, for example, favors basing the MX missiles at sea, lashed to small submarines in shallow waters off American coasts, where they would be hard to detect.

Other MX critics say that whatever the theoretical vulnerability of Minuteman missiles, another land-based missile system is unnecessary. They maintain that even if America's existing ICBM's were wiped out, the U.S. could retaliate with its 656 subma-

rine-based missiles and thousands of atomic weapons aboard its 338 long-range bombers.

The administration, however, seems strongly committed to keeping an arsenal of land-based ICBM's. Officials contend that, with all of its missiles at sea, the U.S. would become vulnerable to breakthroughs in anti-submarine warfare. Soviet air-defense advances already imperil aging U.S. B-52 bombers.

Moreover, say many experts, only land-based ICBM's can fill the U.S. need for swift, certain and highly accurate retaliation against Russia. Bombers take hours to reach their destinations, and submarines are plagued by communications and targeting problems.

Also at stake in the MX debate is the perception of the U.S. by the rest of the world. Pentagon professionals warn that by putting its newest ICBM's aboard submarines, America would signal an inability to keep its own territory secure. These analysts contend further that the Soviets would be less likely to attack America itself than U.S. ships on distant seas.

Because of this widespread feeding within his administration, Reagan is inclined to put the MX on American soil. But within that strategic framework, all of the choices are controversial ones that cannot satisfy every MX critic.

Whatever his decision, the President is under mounting pressure to bite the bullet and act quickly. Says Defense Secretary Caspar Weinberger: "We don't feel that it is the kind of situation in which there should be delay. An extremely important part of the nation's security is at stake."●

ROGER WUNDERLICH'S CONTRIBUTION

HON. ANTHONY T. MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 8, 1981

● Mr. MOFFETT. Mr. Speaker, I am proud to pay tribute to Mr. Roger Wunderlich, a founder and long-time director of the Free Forum, a community participation, current events program based in Sharon, Conn.

In Roger's own words, the idea originated as "a monthly meeting of minds to provide a platform for the people of our Northwest Corner from Canaan to Cornwall and in between to express their views on important issues." The program gained enormous popularity from "its covering all shades of opinion, its complete avoidance of propaganda and its abstinence from officers, dues and the other trappings of organization that can so easily turn a cause into a system." But the largest share of credit for the Forum's success goes to Roger, for his enthusiasm and hard work in planning and organizing each event to elicit the utmost in citizen participation.

It is particularly noteworthy that during a decade known for public apathy, the Free Forum has flourished in its sponsorship of provocative community debates. I feel very fortunate to have taken part in a number of those debates on a variety of topics over the past 7 years. It meant a great deal to me to interact with the audience, to hear their thoughts firsthand, to challenge and be challenged.

I join with Roger's community in wishing him and his wife Frances much happiness and success in New York—we will miss them. Although the Forum will never be completely the same without his personal touch, I hope it will live on—it may well be the most important citizens' education program in my State.

The award-winning Lakeville Journal has called the Free Forum "an exercise in mind-stretching from which all can benefit." Following is an article from that publication that I wish to share with my colleagues.

[From the Lakeville Journal, June 11, 1981]

WUNDERLICH MOVES ON, FORUM FUTURE UNCERTAIN

(By Brian Gleeson)

Roger Wunderlich directed his final Free Forum in Sharon last week.

Wunderlich, the principal organizer of the Free Forum for nearly nine years, will move to Long Island this summer to resume his education at the State University of New York at Stony Brook. He intends to finish his bachelor of arts degree requirements, while taking graduate level courses toward a doctorate in history.

The fate of the Free Forum now rests in the hands of a small group of supporters who will decide if they will be able to resume the monthly debates in the fall.

The Free Forum grew out of anti-Viet Nam War demonstrations in 1972, and has offered people of the Northwest Corner a platform for voicing their views on political, social and moral issues ever since.

The force within Wunderlich that motivated him to initiate the Free Forum, and to "talk about the basic questions" that face us all, also compelled him to return to school after a 48-year hiatus.

"I grow old, while continually learning," said Wunderlich, quoting from the Athenian lawmaker, Solon.

Wunderlich served in many capacities at the Free Forum. Not only did he have a hand in virtually every step of the planning for each debate, but he also enjoyed the role of injecting the discussions with leading questions designed to stimulate the audience.

Sometimes he would rise from his chair in the midst of a discussion to speak his mind, and evoke a derisive comment from an otherwise friendly and complacent member of the audience. "That's the most asinine thing I've heard all night," the listener would respond to Wunderlich, and begin explaining why he felt his own opinion was more logical. Wunderlich would then sit down with a wry smile sneaking out from the corner of his mouth, satisfied that he had stirred one more Free Forum participant to action.

For Wunderlich, action is a word with a special meaning.

"I may not be the smartest man around, but I must say that I'm gifted with a lot of energy," Wunderlich noted.

Wunderlich is an independent sales representative for book publishers. Though he loathes the concentration of wealth in multi-national corporations, and blames this situation for distorting the values of the United States citizenry, he finds that he has been able to divorce his bookselling business from his political beliefs.

"I like selling books and find it a satisfactory way to make a living," Wunderlich said. "It's different from politics and discussing issues at the Free Forum, because when you sell books it is easy to come to a resolution. Either you make the sale or you don't. It is much more difficult to come to a resolution when you are dealing with issues."

In spite of being forced to drop out of Amherst College in 1933 when the depression struck, Wunderlich has always studied an eclectic group of scholars, philosophers and political theorists in his spare time.

He hopes to focus his energies in school to examine the roots of the American democracy. He is particularly attracted to the works of Thomas Jefferson, Alexander Hamilton, the 19th century abolitionists, and the utopian writers.

Wunderlich has at the heart of his goals a wish to show each man and woman that they are equal.

"I'm an American chauvinist; I love this country more than anything else," Wunderlich said. "I want to re-awaken this country to its heritage."●

BANKRUPTCY AND USURY LIMITS

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 8, 1981

● Mr. HUBBARD. Mr. Speaker, Mr. James R. Fugitte, executive vice president of Citizens Bank of Jackson, Jackson, Ky., has written a very comprehensive letter to me concerning the increased use of the Reformed Bankruptcy Act and usury limits. I feel that Mr. Fugitte's letter is one which should be shared with my colleagues and I wish to do so at this time. The letter follows:

DEAR CONGRESSMAN HUBBARD: Two areas of concern to us are the reformed bankruptcy act and usury limits. Both have significantly increased the cost of credit to our customers.

Until the reform act, bankruptcy was almost unheard of in Breathitt County. This was due to general public disapproval of the process and lack of adequate legal knowledge on the part of those individuals who badly needed relief. Banks in Breathitt County provide 80 to 90 percent of the credit extended to individuals and because of low losses and adequate earnings they were able to informally solve most situations in which the borrower was overextended. Adjustments usually resulted in a minor loss of principal and/or interest.

After the reform act, we have seen no increase in the number of legitimate filings or the amount of legal information being provided to customers who actually need debt relief. We continue to provide restructuring for customers who have a real problem in repayment. However, our ability to assist needy borrowers has been curtailed by borrowers who file bankruptcy without real need. Moreover when filings are made, the lengthy proceedings and the trustee's lack of regard for our collateral results in excess losses.

The new Act results in higher loan losses, less ability to provide for needy customers, and higher credit costs to all consumers. I urge you to support revision efforts by the Consumer Bankers Association and American Bankers Association to provide at least minimal protection for the property rights of creditors and imposes a test of need on the bankrupt candidate. (We currently have a secured loan to a bankrupt who has been discharged for over three months but the case isn't closed because the trustee hasn't had a chance to file his final report.)

Usury limits appear to be like motherhood and apple pie, but are actually a consumer trap. Kentucky limits us to approximately 18 percent on consumer loans. When other loan rates exceed 19 percent, we stop consumer lending except to those customers who have significant deposit balances. After sustained periods of high interest rates we leave loan interest at the maximum even when the market rates drop below 15 or 16 percent in order to recapture the dollars that we lost at the time that they exceeded 18 percent. The limit also prevents us from offering competitive deposit rates because we are unable to loan the money at sufficient return. To the extent we can't attract deposits they flow directly to money markets through Merrill Lynch and American Express and other unregulated depositories.

In both of these issues, we wish no special treatment for banks or the financial industry in general. However, we must obtain equity in order to continue to operate for the benefit of our community.

Sincerely yours,

JAMES R. FUGITTE,
Executive Vice President.●

REAGAN FOREIGN POLICY

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 8, 1981

● Mr. MOAKLEY. Mr. Speaker, the most disturbing aspect of the administration's foreign policy as it relates to the Soviet Union is that there seems to be no foreign policy as it relates to the Soviet Union. That is, unless you call an unlimited arms race a foreign policy.

How long will we have to wait until the Reagan administration will begin meaningful talks with the Soviet Union? I would like to share with my colleagues an article by George W. Ball from the Washington Post (July 6, 1981) which clearly states the pitfalls that the Reagan nonpolicy presents.

A text of the article follows:

[From the Washington Post, July 6, 1981]

THAT OLD COLD WAR OBSESSION

(By George W. Ball)

John Foster Dulles is alive and well and living in the White House. Once again we hear his passionate charge that the Soviet Union is the anti-christ threatening civilization with a pernicious doctrine. The Soviets, we are told by President Reagan and Secretary Haig, are responsible for all our international troubles—political turmoil in small Latin American countries, turbulence in the Middle East, tribal wars in Africa, and terrorism all over the world. Détente, they imply, is a deceit, strategic arms limitation talks a trap for the unwary. Our only hope is to scar the desert with the MX and mobilize our allies for Armageddon.

So, now once more, we shiver in the icy winds of the Cold War. Diplomacy is for sissies; a resolute America must build more and bigger weapons, while meanwhile arming any regime—no matter how corrupt or repressive—that shouts anti-Communist slogans. I strongly suspect there is a White House directive requiring that every administration speech include a denunciation of the evil Soviet Communists.

Such an attitude is not a policy but an obsession. Grotesquely oversimplified, it is also outdated. Whatever the situation 40 years ago, communism is no longer a powerful evangelical force; the gas has gone out of the ideological balloon. In the U.S.S.R. today, ideological passion has given way to the need to survive under an inhumane system by graft and deception. Communism is no longer a shining goal; it merely means party control and repression, while the hierarchical levels of advantage and privilege among the apparatchiks mock Marxist claims of equality. Reflecting the residue of genes, culture and politics left behind by the Mongol invasions of the 13th through 15th centuries, the U.S.S.R. increasingly resembles earlier Muscovite empires—boorish in its habits and manners, expansionist in its hegemonic ambitions and repressive in its methods. But it is no longer the effective center of a world revolutionary drive.

Yet, if the U.S.S.R. has become secularized and hence less bound by doctrine, the Reagan administration is itself falling into rigid doctrinal habits that negate diplomacy and, if continued, could destroy any hope of a diplomatic equilibrium. Our incessant and quite gratuitous hectoring of Moscow is alienating our Western allies and encouraging the emergence of an ominous neutralism. Western Europeans—particularly the West Germans—do not view détente as merely an improvement in manners; for them it is an essential precondition to measures that ameliorate a divided Europe's heartbreak.

If our current bindly reckless course worries our European friends, it should worry us fully as much. The administration seems bent on persuading the Soviet Union that it foresees an unlimited arms race and has lost interest in peaceful working relations. At a time when Moscow faces a changing of the guard, the administration's noisy posturing strengthens the hands of the military and other aggressive Soviet factions, while our decision to arm China confirms their alarmist suspicions. Repeatedly overrun from the East and twice in modern times invaded from the West, the Russians pathologically fear encirclement. If we were deliberately to try to incite them to reckless action, our best hope would be to aggravate the Russians' atavistic claustrophobia by threatening a collaboration of their enemies on two fronts.

In its total effect, the administration's current position denies all hope of a better future—or perhaps any future at all. George Kennan has somberly pointed out that we cannot go on forever perverting every scientific breakthrough to the macabre objective of mutual murder without facing an inevitable catastrophe. We have been lucky so far, for we have not yet blown the world up, but it is statistically absurd to think that such luck can last forever if we do not promptly shift direction.

We can halt the nuclear buildup only by agreement—unilateral action would be lunacy—yet the administration seems reluctant even to negotiate. It discloses the fatuity of its thinking by threatening that, if the Soviets should intervene with force in Poland or elsewhere, we would punish them by refusing to negotiate arms limitations. But how can any rational person treat a mutual effort to gain control over the current arms escalation as a favor we confer on the other side? As though it were something we could afford to deny Moscow by way of a sanction? Must we inevitably go on multiplying our capacity for overkill until some unlucky phasing of the moon leads to the ultimate explosion?

Equally imperative are urgent measures to stop nuclear weapons from continuing to fall into the hands of politically unstable nations, any one of which might well shoot off its lethal bomb in a moment of panic or revolutionary insanity. And then what? No one knows. But we can be sure that once such an action occurred the world would never be the same again.

Checking nuclear proliferation and coming to grips with the arms race are necessarily intertwined. Not only is progress on SALT an express condition of the Nuclear Non-Proliferation Treaty but we cannot expect others to show restraint if we do not practice it ourselves. With the installing of the Mitterrand Government in France, the time is right for prompt mobilization of the nuclear-producing nations toward tighter non-proliferation arrangements. It could be our last chance.●

TRIBUTE TO RAYFIELD MOOTY

HON. GUS SAVAGE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 8, 1981

● Mr. SAVAGE. Mr. Speaker, on July 19, Mr. Rayfield Mooty, longtime Chicago resident, nationally known union and civil rights activist, will be the guest of honor at a reception to be held in Chicago.

This event is being sponsored by more than 35 labor, political, and community leaders who have known and worked with Mr. Mooty for the past 50 years. I am proud to count myself among those who will pay tribute to this outstanding steelworker and fighter for justice, as the keynote speaker at this event.

Mr. Mooty's commitment to the cause of labor and the struggle against racial discrimination is simply and eloquently summed up in the following article from Labor Today:

You don't have to talk to him very long to know that Rayfield Mooty, now nearing his 75th birthday and his Golden Wedding Anniversary, has done a lot of living—and a lot of fighting. In a near half century of struggle he has had what amounts to three careers, each distinct and yet all intertwined, in a lifetime devoted to the cause of working people.

It all began innocently enough. Rayfield had landed a steady job—if there was such a thing for a Black man in 1935—at Wilson and Bennett. He had hardly checked in on

his first day when he, and millions like him, were swept up in the organizing campaigns of the CIO.

"It took us a couple of years. We had our set-backs and we had to start over once or twice, but we organized the place from the inside out and from the bottom up," Rayfield says. "I can still see Ola Bell Francis, A Black woman, climbing over the fence at lunch time and going down to the Steelworkers Organizing Committee office for cards. I became a Charter Member of what was to become Local 1422 of the United Steelworkers of America in February of 1938. From then until the day I retired in 1971, I was 'Rayfield Mooty, Steelworker'."

Mooty laughs a lot when he talks about those days or when he talks about the fights he had with management during the many years he served as an elected representative of his fellow workers. "It wasn't all fun and games," he says, "but it wasn't all sorrow and tears, either. And sometimes you have to laugh even when you feel like crying."

Rayfield's voice hardens and there's a certain determined set to his jaw when he talks about other things: Things like racism in the ranks of the labor movement. Or the brutal murder of Emmett Till, a distant relative, lynched in Mississippi in 1955.

Till had gone to Mississippi to spend the summer of 1955. In August his body was found in the Tallahatchee River, a bullet through his head, a weight tied to his throat with a piece of barbed wire.

When Till's casket arrived in Chicago, Mooty demanded it be opened. When the mutilated body of the 15-year old youth was revealed, a decision was made to take the casket to a nearby church. There, on Labor Day weekend of 1955, thousands and thousands of people passed by in silent anger. "From there we began a national campaign that helped lay the basis for the many civil rights struggles that were to follow," Mooty recalls.

After the flush of the organizing victories had passed, Rayfield was among those who recognized that the unity and solidarity that had forced Wilson and Bennett to knuckle under to the demands of Local 1422 were absent within the structure of the United Steelworkers of America. It didn't take him long to become involved in the battle to change things around. "We had a lot to learn and we tried a lot of things," Rayfield says in talking about the more than 25-year campaign against racist policies in the ranks of the USWA.

But learn they did. Sometime in the early '60s Rayfield helped organize and became the Chairman of the Ad Hoc Committee of Concerned Steelworkers. "Ad Hoc" had a 3-point program: The appointment of a Black head of the Civil Rights Department of the USWA, fair hiring and promotion policies applied to the 1,500 employees of the union and the election of a Black to the International Executive Board.

"We succeeded in building a movement around our program," Rayfield remembers. "Eventually we had the strength and support to put a picket line around the 1968 Constitutional Convention of the Union in Chicago. I'll tell you—we made important progress after that! But it took another 10 years before we finally got a Black steelworker on the Executive Board." And with that he allows himself a slight smile.

It's small wonder, then, that Rayfield Mooty was elected National Co-Chairman by the nearly 1,000 representatives who attended TUAD's Founding Convention in 1970. His 11 years of leadership in the struggles since need no elaboration and his decision to finally retire from active leadership needs no explanation.

He has earned that right. Although we'll miss him, we wish him well. But we add a word of caution to both Rayfield and Mensa: We are not going to let him get too settled down. After all, he's still got a contribution to make—and we mean to let him make it!●

ANTITRUST SUIT AGAINST A.T. & T.

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 8, 1981

● Mr. WIRTH. Mr. Speaker, as chairman of the House Telecommunications, Consumer Protection and Finance Subcommittee, I am deeply disturbed about recent reports that the administration is considering dropping the Justice Department's antitrust suit filed against A.T. & T. in 1974. After 4 months of trial, the Justice Department last week completed its side of the case, and the trial is scheduled to resume next month with A.T. & T. presenting its defense.

I have very recently written a letter to President Reagan strongly urging that the suit not be dropped. The letter sets out the reasons why it would be totally inappropriate to drop this suit, especially from the perspective of developing sound telecommunications policy for the Nation. Mr. Speaker, I wish to share this letter to the President with my colleagues:

SUBCOMMITTEE ON
TELECOMMUNICATIONS,
CONSUMER PROTECTION, AND FINANCE,
Washington, D.C., July 2, 1981.

PRESIDENT RONALD W. REAGAN,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: As Chairman of the House Subcommittee on Telecommunications, Consumer Protection, and Finance, I am writing to express my deep concern over recent reports that your Administration is about to drop the Justice Department's antitrust suit against the American Telephone and Telegraph Co. United States v. AT&T, Civil Action No. 74-1698 (D.C.D.C.). I wish to convey my belief that it would be inappropriate for this suit to be dropped, that the argumentation for dropping the suit is weak, and that to drop the case could have a damaging effect on the sound development of national telecommunications policy.

As you know, the Congress is strongly committed to seeking legislation to reform the Communications Act of 1934; through legislation we must deal with the new telecommunications environment that is evolving rapidly through the explosion of new technology. We are working toward the enactment of legislation, with the goal of achieving a fully competitive telecommunications marketplace, with deregulation where competition warrants.

Judge Harold H. Greene of the United States District Court for the District of Columbia is presently presiding over the liability phase of the AT&T case. During this phase of the trial, the Court is only addressing the issue of whether AT&T has violated the Sherman Act, as the government has charged, by abusing its position of market dominance by engaging in certain restrictive practices designed to preserve and extend its monopoly position. Many members of the antitrust bar, as well as many economists, consider this a very straightforward antitrust case involving no novel questions of antitrust theory. In fact, very recently Judge Greene has stated that the Justice Department "has presented a respectable case that the defendants violated the antitrust laws."

The present liability phase of the trial only addresses the question of whether AT&T's past conduct constituted a violation of law. The question of what relief it is appropriate to grant—and more precisely, whether divestiture of portions of AT&T is a proper remedy—are issues to be addressed by the Court only in the event that AT&T is found liable. Yet, those who have suggested dropping the suit argue that the reason to do so is that the remedy presently being sought by the Justice Department—divestiture—is ill advised.

Thus it is clear that the arguments raised in opposition to continuing this litigation are not aimed at the relative merits of the suit, but rather are directed only to the question of how to deal with the defendant if liability is found.

Other arguments against the suit allege that it poses a threat to national security, or could cause the United States to be less competitive in world telecommunications markets. Even if one were to ascribe merit to these positions, again they only go to the question of divestiture as a remedy. Even assuming AT&T is found liable, it is not clear that divestiture is the most appropriate relief to be granted in this case, particularly from the standpoint of developing the best possible telecommunications policy separate and apart from the purposes of enforcement of the antitrust laws. Whether one believes divestiture is appropriate or not, terminating the antitrust enforcement action itself prior to its completion would be nothing short of shielding AT&T from a judicial determination of the legality of its past conduct. No private entity should be entitled to such treatment, especially when to do so could have the effect of condoning what many have alleged to be seriously anticompetitive practices.

The question of relief aside, the only argument that goes to the issue of whether the trial itself should continue suggests that "uncertainty" is created in the investment community, that this uncertainty is costly and unnecessary, and therefore the suit should be dropped. This argument is plainly specious.

It is only AT&T which might be affected by such investment uncertainty, and even AT&T is not in any way adversely affected. In fact, AT&T recently issued and sold over 18 million new shares of common stock, valued at over one billion dollars, in the largest single stock offering in Wall Street history. Yet, Mr. Sherman Unger, Commerce Department General Counsel and director of the staff of the Cabinet Task Force on Telecommunications Policy, has recently stated the suit "inhibits the development of capital." Mr. Unger's statement and the allegations of uncertainty do not reflect the reality of the situation.

Finally, it is important to point out that the antitrust laws are often cited as the

principal tool for assuring a competitive marketplace in this industry if specifically imposed regulatory schemes are lifted. If your Administration were now to terminate the antitrust suit for reasons unrelated to AT&T's potential liability under the antitrust laws, this clear signal would undermine the credibility of antitrust enforcement as a basis for insuring a competitive environment in the telecommunications industry. This is the wrong message to send at a time when we are all seeking ways to deregulate the industry when competition warrants, especially when it appears that officials outside the Justice Department, not charged with antitrust enforcement, will make the decision about continuing to press the case.

All in all, this sequence of events, and the reasoning behind them, calls into question the credibility of the government's antitrust policy throughout the economy.

I look forward to working with you and your Administration on the development of telecommunications policy and legislation.

Sincerely yours,

TIMOTHY E. WIRTH,
Chairman, Subcommittee on Telecommunications, Consumer Protection, and Finance.●

THERE IS NO SUCH THING AS A FREE COST

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 8, 1981

● Mrs. SCHROEDER. Mr. Speaker, among the imaginary mandates the Reagan administration has fetched from its election victory is one to weaken occupational health and safety protections. The din we hear from the administration is "Cost/benefit analysis! Cost/benefit analysis!"

What the chanting really means is cut costs now and worry about the consequences later, since occupational diseases can take years, even decades, to show up.

Take a moment to read "Asbestos Injury Suits Mount, With Broad Business Impact." Asbestos damage claims by workers and their families are the largest and perhaps costliest bloc of product liability claims ever filed against an American industry. The end is nowhere in sight, with worst case predictions of $120 billion to $150 billion in damages.

[From the New York Times, July 3, 1981]

ASBESTOS INJURY SUITS MOUNT, WITH BROAD BUSINESS IMPACT

(By Barnaby J. Feder)

Damage claims by workers exposed to asbestos and by their families now constitute the largest, and potentially most costly, block of product liability litigation ever to confront the American industry.

Each month, more than 400 new suits are filed against the Johns-Manville Corporation of Denver by those claiming injury from exposure to asbestos. That is an increase from 150 a month last summer, and as of May Johns-Manville had been named in a total of 7,200 suits, many with several plaintiffs.

"It is impossible to predict when it will peak," Richard B. Von Wald, Johns-Manville's corporate counsel, said of the cases the company faces. Johns-Manville was once the nation's largest producer of asbestos, which at one time was one of the company's leading products.

Resolution of the cases holds broad implications for the liability of both manufacturing companies and their insurers and for the way that American industry deals with hazardous but economically valuable materials. Asbestos is one of the most widely used mineral products, as an insulator, a coating for cables and wires, and a component of floor and ceiling tiles.

About 25,000 people who believe they are victims have already filed 12,000 suits against 260 companies that manufacture, use or sell asbestos products, said Michael Mealey, editor of the Asbestos Litigation Reporter.

The worst may be yet to come. The current litigation represents a small part of the potential load because many of the tens of thousands of victims to date have failed to associate their cancers or lung disease with exposure to the mineral's microscopic fibers in decades past, according to Dr. Irving J. Selikoff, head of the Mount Sinai Hospital Environmental Sciences Laboratory, the leading independent asbestos disease research center. Dr. William Nicholson, who works with Dr. Selikoff, projects that 200,000 "excess cancer deaths" will be caused by asbestos over the next two decades.

All of this holds a special threat to business, which fears the litigation as a trend that could involve potentially hazardous chemicals, such as formaldehyde and benzene, and products that emit radiation. As with asbestos, millions of workers and consumers have been exposed to the chemicals and radiation, and they are suspected of causing cancers and other slow-to-appear diseases.

There is no way to ascertain the cost of settlements made to date because many have been sealed. However, last year's annual reports of publicly traded defendant companies disclosed hundreds of cases settled at average costs ranging from a few thousand dollars to, in Johns-Manville's case $23,000.

The Asbestos Compensation Coalition, an industry-led group attempting to build broad-based support for a fund that would be mandated by Congress with industrial, insurance and Federal Government contributions, estimated that the average cost of settlements and awards this year was $75,000 a plaintiff.

"The numbers scare the hell out of me," said William Bailey, the senior vice president at the Commercial Union Insurance Company, who is the head of the committee of American Insurance Association executives monitoring the asbestos litigation. Mr. Bailey's worst-case projections place the amount of money at stake between $120 billion and $150 billion, exclusive of the indirect costs that might result from bankrupting some businesses.

MICROSCOPIC STONE FIBERS

Asbestos has been recognized as a remarkable substance since the days of ancient Greece. It is a mineral consisting of microscopic stone fibers that can be processed—even woven—into other materials to lend them strength, flexibility, and resistance to corrosion, heat and fire. Asbestos is also a good insulator: it does not conduct electricity and because it does not react to most chemicals it is exceptionally stable. Asbestos is still used widely in hundreds of construction products, piping materials and friction products, such as the brake lining of trucks.

Since the turn of the century, however, evidence has been accumulating that inhalation of the fibers can cause certain forms of cancer and a sometime-disabling respiratory disease, asbestosis, many years, even decades, after initial exposure. The asbestos industry maintains that the true extent of the mineral's hazards were not understood until Dr. Selikoff's publication in 1964 of a study of asbestos-related diseases among insulation workers. Since then, they say, methods to protect workers and consumers from exposure have been developed and unsafe products have been removed from the market.

Nevertheless, since millions of Americans have already been significantly exposed, some accountants and businessmen are wondering whether Johns-Manville and other industrial defendants, and the insurance companies backing them, have the means to compensate all of the potential victims. Most defendants have far fewer resources that Johns-Manville, which last year earned $80.6 million on sales of $2.27 billion despite weaknesses in many of its major markets.

One major issue for which a vital precedent may be set is an insurance question: When a hazardous substance causes an injury that takes decades to appear, can the manufacturer resort to insurance held throughout the time the victims were exposed or only the policies held when the injury appeared?

RESOLUTION IS INCONSISTENT

"The insurance battle will determine not just who pays but for the amount of coverage and which companies will survive," said Stanley Levy, a prominent plaintiffs' attorney at the New York firm of Kriendler & Kriendler.

Another major concern of plaintiffs and defendants alike is the absence of any consistency in the resolution of asbestos cases. Some plaintiffs end up with huge awards, such as the Cleveland widow of an insulation worker who in May was awarded $850,000. Others who have similar diseases get nothing. The industry coalition estimates that three out of every four settlement dollars go to legal expenses rather than victims.

Even so, workers who are victims are expected to continue to prefer the courts over workmen's compensation claims, which are frequently small and difficult to win for occupational diseases.

Variations on asbestos injury cases include the following:

Asbestos products companies that sue their insurers to resolve the extent of the companies' coverage.

Asbestos products companies that sue the Federal Government, charging that they were damaged by its negligent standard setting and enforcement procedures in shipyards, the sites of many of the worst exposure problems.

The addition of the tobacco industry to the list of defendants, at the insistence of insurance companies. Medical research suggests that the hazards of asbestos exposure skyrocket for workers who are also smokers.

Spouses and children of asbestos workers and neighbors of asbestos plants who sue asbestos mining companies and manufacturers, based on growing medical evidence that those exposed to asbestos dust brought home on a worker's clothes or in the air

around a plant may develop asbestos diseases themselves.

Shareholders of asbestos companies who sue management alleging that failure to tell shareholders about the companies' vulnerability to asbestos litigation before the litigation become a major problem violated securities laws.

"I think there is a very real fear that we can't absorb it all," said Judge Harold A. Ackerman of the United States District Court in Trenton, who has overseen negotiation of a tentative group settlement ($9.5 million made public and the rest sealed) of the complaints of 680 former employees of a Raybestos-Manhattan Inc. plant, which made automotive products until it closed in 1973, and has hundreds of others on his docket. "It's not paranoia."

NEED TO PUNISH

It is not just a matter of money. Some victims want to punish major manufacturers that they charge hid information about the hazards of asbestos from workers while piling up decades of profits.

"Business just wants whatever seems to be the cheapest way out," said James Vermeulen, a 54-year old former Johns-Manville employee who has asbestosis and operates the 1,400-member Asbestos Victims of America Inc., a nonprofit organization, out of his home in Capitola, Calif. "That this industry is allowed to continue to operate is depriving my death of dignity."

Industry spokesmen object to such charges. They say that, to the extent that the industry understood the hazards, it acted to protect workers.

Some juries have apparently disagreed. This year, Johns-Manville and the Celotex Corporation, a subsidiary of the Jim Walter Corporation that produces building materials, were assessed $338,000 in punitive damages along with $1,787,000 in compensatory damages in 11 cases tried together before a jury in the Federal District Court in Philadelphia. Johns-Manville was also hit with $500,000 in punitive damages on top of a $350,000 award in a case before the Federal District Court in Cleveland. And the North American Asbestos Corporation, a former distributor of asbestos products, was found liable for punitive damages totaling $375,000 by a jury in an Indiana state court.

"To me, the punitive damages are crucial," said Morris Mark, an analyst at Goldman, Sachs who follows Johns-Manville. Typically, such damages are not covered by insurance. "It is very rare that you have a legal question that can actually affect a company's financial integrity," he said. "In this case, it is still more theoretical than real, but there is reason for caution."

Even without punitive damage problems, leading asbestos companies have been showing the strains of the exploding litigation. The major asbestos companies are confident that they can absorb their eventual liability. But independent accountants have qualified Johns-Manville's earnings statements for 1979 and 1980 and that of Raybestos-Manhattan Inc., the second most frequently named defendant, for 1980. That unusual step indicates that the accountants believe the companies' potential liability is so unpredictable that the earnings reports may not fairly represent their financial condition.

BANKRUPTCY FEARS

An attorney overseeing the litigation for another defendant named in thousands of the cases, who declined to be identified, said that a number of the other companies anticipate that their annual reports will also be qualified. And the Asbestos Litigation Reporter has reported that numerous small distributor-contractors fear bankruptcy and are being refused renewal of insurance policies.

Executives at many of the most frequently named defendants sometimes contend that their companies are also asbestos victims. Many of them that have not sold asbestos products in years are finding more and more management time and financial resources drained by the litigation.

The Keene Corporation, a small New York conglomerate with $210 million in annual sales that acquired Baldwin-Ehret-Hill Inc., a minor insulation producer, in 1968 is an example. By 1972, all asbestos was removed from the subsidiary's products.

"We had no idea of what we were getting into and never made any money selling those products." Howard Mileaf, the corporate secretary overseeing Kene's battery of lawyers, said.

Nevertheless, Kene is now tied up as a defendant in about 6,000 suits, up from some 2,300 at the beginning of 1980. "We get sued every day now, Mr. Mileaf said, "and it has been that way for a year and a half."

The situation is particularly poignant at the smaller distributor contractor concerns, where some executives who are defending the companies against the flood of litigation are former asbestos workers who themselves have asbestos-related diseases. James Sullivan, president of Pacor Industries of Philadelphia only last month learned that he was suffering from mesothelioma, an invariably fatal cancer associated with asbestos.●

DECONTROL OF NATURAL GAS

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 8, 1981

● Mr. MOAKLEY. Mr. Speaker, earlier this week, it was reported that the Department of Energy had completed a study that stated there are substantial benefits from a quick lifting of natural gas price controls.

Listed among the effects of full decontrol in 1982 were that the average price of gas to residential consumers would jump 54 percent, and prices received by gas producers would increase by more than twice the existing prices. The Council of Economic Advisers has estimated, in a separate study, that immediate decontrol would raise gas producer revenues by about $40 billion. At a time when the Federal Government is attempting to bring inflation under control, I would not term these two effects as substantial national economic benefits.

A major argument behind gas decontrol is that it will decrease our imports of foreign oil. While there could be a short-term decrease in imports, the study indicates in the long run decontrol of gas prices would have little impact on oil imports. By 1990, according to DOE, imports would be 110,000 barrels higher each day if all controls were ended next year than if the Natural Gas Policy Act runs its course.

Furthermore, in the short term, rising natural gas prices combined with dropping oil prices from excess supply could lead to higher oil imports as consumers switch energy sources, thereby increasing our balance-of-payments deficit.

Mr. Speaker, I urge the administration and my colleagues to closely view the costs and benefits of natural gas price decontrol.●

CLEVELAND PLAIN DEALER CALLS HOUSE BUDGET VOTE A MOCKERY

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 8, 1981

● Mr. SEIBERLING. Mr. Speaker, the Friday, July 3 edition of the Cleveland Plain Dealer contains an excellent editorial denouncing the vote adopting the Latta rule and amendments on budget reconciliation as making "a mockery" of the budget making process. As the editorial says:

The House, by voting on a bill many of its members had not read, seems to have subverted its committee structure and, quite possibly, voted to turn over a portion of its legislative power to the executive branch of government.

It is gratifying to see the editors of one of America's leading newspapers voicing the same concerns that some of us in the House felt and expressed prior to the adoption of the Latta rule and amendments.

The full text of the editorial follows these remarks:

[From the Cleveland Plain Dealer, July 3, 1981]

MESSING UP A TIDY PROCESS

In handing President Reagan an impressive political triumph in the battle of next year's budget, the House also has made a mockery of its fragile budget-making process. All the smoke has yet to clear. But the House, by voting on a bill many of its members had not read, seems to have subverted its committee structure and, quite possibly, voted to turn over a portion of its legislative power to the executive branch of government.

What was intended to be a document outlining federal spending ceilings and reductions of $37 billion next year was shaped by the president's allies—both Republicans and enough conservative Democrats—into something of far greater stature. What transpired in smoke-filled rooms and on the House floor leaves in shambles the intent of proper deliberation in the 1974 Congressional Budget Act.

Last-minute tactics, including handscrawled changes in wording and deletions of language in the budget document, have given the president a plentiful supply of political power. Essentially, the president seems to have won authority to eliminate some federal programs and fashion others as he desires without having to secure approval of congressional committees.

This budget document turned up on the House floor disheveled and practically indecipherable, a "clip and paste job" as Rep. Louis Stokes of Cleveland so aptly described it. Many House members were confused and didn't understand fully what they were voting for.

It is disturbing that most congressmen are not quite sure of the full impact of this budget bill. When Washington is retreating on social spending it is irresponsible for House members to vote for an array of budget items without fully understanding them.

We do know that monthly benefits to three million Social Security recipients—the majority of them women—will be reduced because of a last-minute change, which was made without the issue ever having been presented before a congressional committee. Some elderly people face losses of health care aid, depending on where they live. And who knows the effect of Congress' apparently transferring to David Stockman, the president's budget director, the power to define when people are poor?

We do not argue against the necessity of reducing federal spending and allowing the sun to set on wasteful and ineffective federal progams. We do object strenuously when a process intended by the Congressional Budget Act to be deliberative is bent out of shape in such an inofficious manner.

It is unlikely that the House and Senate in a conference committee will correct all the faults that are sure to be discovered. Any changes in the omnibus provisions of this budget probably will require separate legislative decisions by the House and Senate. The president's emerging majority in the Democratic-controlled House and the Republican-dominated Senate makes such changes difficult. We suggest that neither Republicans nor Democrats gain from such helter-skelter lawmaking.●

CENTENNIAL TRIBUTES

HON. RICHARD C. WHITE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 8, 1981

● Mr. WHITE. Mr. Speaker, it is worthy of note, I think, that several towns in the 16th District of Texas, which it is my pleasure to represent, are celebrating centennials this summer, and I would like to take a brief moment to pay them tribute. The citizens in each of these communities—Monahans, Odessa, Sierra Blanca, and Van Horn—have planned to do their 100th birthdays right, with plenty of rodeos and parades and barbecues and general celebrating. These festivities will correspond with our Nation's celebration of its 205th birthday, and not coincidentally with the 100th anniversary of the coming of the railroads to west Texas. In fact, the 1880's saw the development of nearly 70,000 miles of rail, much of it in Texas. As the Texas & Pacific worked its way across the State, it left in its wake a string of little towns that have grown into thriving cities and now, 100 years later, four of those towns will be remembering their beginnings. May their second 100 years be prosperous.●

OPPOSITION TO THE MX IS GROWING

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 8, 1981

● Mr. FRANK. Mr. Speaker, in recent months opposition to the MX missile system has grown significantly. The Governors of Utah and Nevada are opposed to the multiple shelter plan (MSP) that would wreck environmental havoc on huge tracts of land in the Southwest. On May 5, 1981, the Mormon Church issued a statement opposing the basing of the MX missile system in any concentrated area of the United States. Shortly thereafter, citizen opposition to the MX in Utah rose to 75 percent of those polled. Although no recent polls have been taken in Nevada, last November eight counties passed strong anti-MX resolutions. And a New York Times article dated June 8, 1981, reported that "political analysts in Nevada say that while they cannot make any precise estimates based on public opinion polling, they believe that opposition to the plan has grown in recent weeks."

Nationally, as well, I believe opposition is strong and growing. Passage of the Simon amendment to the Military Construction Authorization Act on June 4 was a clear setback to proponents of the MPS plan. In Cambridge, Mass., over 400 people on the Harvard campus have signed a petition condemning the MX missile and basing mode.

Mr. Speaker, I insert the statement signed by over 400 students in the RECORD. The statement follows:

WHAT IS THE MX?

The MX Missile System would consist of 200 new land-based intercontinental missiles shuttled about on large trucks between 4600 concrete missile shelters interconnected by thousands of miles of special roads. In this way, the location of the missiles would theoretically be unknown to an attacker, who would have to hit all the shelters in order to be sure to destroy all the missiles.

The MX missile, capable of carrying 10 independently targetable nuclear warheads, could also be deployed in conventional underground missile silos. Thus there are two issues: whether to build the high accuracy missiles, each of which will carry 230 times the explosive power of the Hiroshima bomb which killed more than 100,000 people, and whether to construct the mobile basing system, which would cover 40,000 square miles of Utah and Nevada, creating untold environmental and social consequences.

The MX missile will be more accurate than any present intercontinental missile, U.S. or Soviet. The accuracy of the MX missile is far and beyond that required of a deterrence weapon intended only for retaliation against cities and industry. It directly threatens reinforced political and military targets such as other land missiles in their silos.

THE MX DECREASES RATHER THAN INCREASES, AMERICA'S SECURITY

(1) Both the U.S. and the USSR are presently capable of mutual annihilation. The Pentagon claims the mobile MX is needed to supplement our current "vulnerable" Minuteman II and III land-based missiles. The Minuteman missiles carry only a quarter of the total U.S. nuclear strategic strength. The bulk of our explosive power is carried by our untargetable submarines, almost two thirds of which are safely hidden somewhere under the ocean at any time, and by our bombers, about one third of which are on constant high alert. Thus even if we imagine the Minuteman force completely eliminated, the U.S. would still have four thousand nuclear weapons—each larger than that which wrecked Hiroshima—ready to retaliate against the Soviet Union. This is far more than enough to destroy 75 percent of Russia's industry and kill 50 percent of its citizens. On the other hand, 70 percent of the Soviets' own nuclear retaliatory force is in fixed land-based systems, which will be vulnerable in the face of so powerful a potential first-strike force as the MX missile.

True, even with all its land-based missiles destroyed, the Soviet Union could still lay waste the U.S. with its fewer submarine-based missiles at sea. However, the high accuracy of the MX missile begins to threaten the Soviet missile force with a plausible first-strike capability. The Soviet response could likely be that of launch-on-warning. This strategy is fearful on either side, since a mere warning, false or real, might launch the entire arsenal of threatened ICBM's (intercontinental ballistic missiles). But it could appear a logical necessity against the first-strike threat posed by the MX.

A world in which both sides deploy first-strike forces will be seriously unstable in times of crisis, since each side may perceive some advantage in attacking first. The outcome would be an unmatched mutual catastrophe for the people of both nations and of the world.

(2) *The MX Missile system would not deter an attack as claimed.* Quite the opposite: Unfettered by the stalled SALT II agreement, which restricts the number of warheads per missile, the Soviets could load 20 or more warheads on each of their 300 largest missiles, enough to destroy the 4600 shelters of the present MX scheme.

Because of its vulnerability to attack by sufficiently large numbers of Soviet missiles, deployment of the MX system would induce the buildup of Soviet missile forces beyond the present treaty limits. Even if SALT II were to be ratified, the threat posed by the MX would put strong pressures on the Soviets not to renew it when it would expire in 1985. As in the past, one move is countered by another; the only likely results of deploying the MX are more Soviet warheads targeted for the southwestern U.S., and, in the event of a nuclear war, more nuclear megatonnage delivered, producing more fallout. States downwind (eastward) would experience lethal amounts of fallout, extending as far as the East Coast. The grain-producing Great Plains may become so contaminated as to be unusable for decades. The MX Missile System will fail to reduce the likelihood of nuclear war and will increase the cost in lives and destruction.

(3) *Even if never used, the MX system is a major environmental and economic hazard.* The Air Force plans to place in the fragile desert a project comparable to several hundred vast airport runway systems with thousands of miles of roads going nowhere, transporting missiles. The disruptive boomtown effects on life and work, the demands for big machinery and for much water, cement and fuel, the permanent damage to a thin and unresilient ecology are heavy prices for a useless and dangerous system.

The Pentagon says that the MX system will cost from $40 to $60 billion, Senator Proxmire predicts $100 billion. The Navy has won a new strategic program, the Trident submarine, while the Air Force lost the B1 bomber. Can the Air Force enthusiasm for the MX be a move to maintain their piece of the strategic missions and budget pie? Given our real defense needs, such as better pay to retain trained technicians; our need for heavy civil investment to revitalize our industrial capacity so that we may successfully compete with Japan and Germany; our need for new energy production and conservation technology, and for development of public transportation; our need for economically *productive* research and development; given all this, it is absurd to spend enormous sum of taxpayers' money for a weapons system which so endangers U.S. security.

THE DEFENSE WE REALLY NEED

We must recognize the inescapable fact that we cannot solve conflicts among nations by firing or even brandishing nuclear weapons. We certainly cannot guarantee the U.S. gasoline supply by nuclear warfare. Until such time as these weapons can be eliminated by mutual agreement, both sides need to realize that:

FIRST USE OF NUCLEAR WEAPONS CARRIES AN IMMENSE RISK OF ESCALATING TO NUCLEAR HOLOCAUST

The perception and potential of the MX as a first-strike weapon will seriously increase the risk of nuclear war.

The present danger stems from attempts by American as well as Russian militarists to introduce new nuclear delivery systems capable of upsetting the precarious deterrent balance.

In this climate of crisis, let us not yield to the excited campaign to legitimize the use of nuclear weapons. We have weapons in plenty. What are needed are sensible long range economic policies and prudent, steady diplomacy. We must revive the SALT process, complete the Comprehensive Test Ban Treaty, revitalize negotiations to ban antisatellite weapons, and begin to reduce nuclear arsenals.

Initial supporters of this statement at Harvard include:

Courtney Borden Cazden, Professor of Education; John T. Edsall, Professor Emeritus of Biochemistry; John Kenneth Galbraith, Professor of Economics; George Kistiakowsky, Professor Emeritus of Chemistry; Everett I. Mendelsohn, Professor of the History of Science; Matthew S. Meselson, Cabot Professor of Natural Science; Raymond Siever, Professor of Geology; Radcliffe-Harvard Peace Alliance; and Radcliffe-Harvard Anti-Nuclear Alliance.●

BANKRUPTCY ACT REFORM

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 8, 1981

● Mr. WOLF. Mr. Speaker, I would like to call to the attention of my colleagues a serious problem for which I am currently examining possible appropriate avenues of legislative relief—Bankruptcy Act reform. The shortcomings and abuses of existing law and the recent drastic increase in bankruptcy cases are causing severe financial distress for borrowers and consumer credit grantors alike. For example, many of the 24 federally chartered, member-owned credit unions in my congressional district have brought to my attention their difficulties caused in no small part by the 102 percent national increase in bankruptcy filings since the new code took effect October 1, 1979. I ask unanimous consent for inclusion in the RECORD the following letter from Mr. John J. Hutchinson, president of the National Association of Federal Credit Unions, which outlines this organization's concerns and recommendations for bankruptcy law reform.

NATIONAL ASSOCIATION OF
FEDERAL CREDIT UNIONS,
Arlington, Va., May 22, 1981.

Hon. FRANK R. WOLF,
Cannon House Office Building, U.S. House of Representatives, Washington, D.C.

DEAR CONGRESSMAN WOLF: On behalf of the members of the National Association of Federal Credit Unions (NAFCU)—the only national organization exclusively representing the interests of credit unions chartered by the Federal government—I seek your assistance in rectifying certain deficiencies in the Bankruptcy Act (Public Law 95-598). Reform in this area will not only significantly affect the continued viability of many of our nation's credit grantors during this period of extreme economic volatility, but will also determine the extent to which consumer credit will remain available to qualified borrowers.

A Federal credit union is unique among our nation's consumer credit grantors because it is a member-owned cooperative organized for the specific purpose of "promoting thrift among its members and creating a source of credit for provident or productive purposes." (12 U.S.C. 1752(1).) For many borrowers their credit union often is the only source of consumer credit at anything less than usurious rates.

There are more than 12,000 Federal credit unions in this country, representing more than 25 million member-owners. Recent surveys by this Association and others show that bankruptcy reform is a top priority among credit union officials. In fact, 98% of NAFCU members meeting in caucus last January established reform of the Bankruptcy Act as a number one legislative goal for the 97th Congress.

NAFCU recognizes the need for an equitable "fresh start" doctrine as an essential element of any bankruptcy code. While responsible consumers are generally able to keep up with their financial obligations in normal times, many lack the financial resources necessary to respond to unanticipated financial emergencies. In such instances, the "fresh start" available through bankruptcy proceedings may be the only equitable remedy for a consumer.

Yet, since implementation of the Bankruptcy Reform Act of 1978 eighteen months ago, our member credit unions have experienced a distressing increase in the number of bankruptcy petitions filed by their members. Information supplied by NAFCU members indicates a 102% increase in the average number of bankruptcy petitions filed by credit union members from calendar year 1979 to calendar year 1980. For credit unions recovering from the economic chaos of late 1979 and 1980, this increase in bankruptcy filings is causing severe financial pressures.

Bankruptcy losses affect credit unions differently than other consumer credit grantors. When a credit union member fails to repay, in whole or in part, a loan extended by the credit union, every member of that credit union may suffer direct economic injury in the form of reduced dividends, higher loan rates, and/or more restrictive loan policies.

On April 3, representatives of this Association appeared before the Senate Judiciary subcommittee on the courts to urge modification of the Bankruptcy Act to guarantee an equitable balance between the borrowers' rights and the lenders' remedies. We simply ask that an element of evenhandedness be added to the Act to remove apparent abuses and correct unforeseen problems. This could be accomplished if the Congress would amend the Bankruptcy Act (Public Law 95-598) to:

(a) Establish threshold criteria which must be met before a borrower may go forward in a bankruptcy proceeding;

(b) Allow borrowers to reaffirm their debts without court approval when they wish to do so;

(c) Deny the discharge of debts incurred by the use of false or fraudulent information;

(d) Require the borrower to notify secured creditors of what he or she intends to do with secured property within ten days of filing a bankruptcy petition; and

(e) Exclude from preference attack transactions made in the ordinary course of business to creditors such as credit unions who have no reason to know of the debtor's insolvency.

Credit unions are committed to continuing their longstanding tradition of providing loans at reasonable rates to their members. We merely ask Congress for some degree of certainty that loans extended in good faith will be repaid by borrowers who, in fact, have the resources to meet their contractual obligations.

Congressman Wolf, I believe these recommendations are fundamentally sound and equitable and would not undermine the fundamental premise upon which the Bankruptcy Act is based. I urge you to actively support these constructive changes to the Bankruptcy Act.

Should you have any questions concerning this or any other matter affecting Federal credit unions please do not hesitate to contact our executive vice president, Dick McConnell, or our director of government affairs, Bill Donovan, at 522-4770.

Thank you for your prompt consideration of this important matter.

Sincerely,

JOHN J. HUTCHINSON,
President.●

TIME WON'T STAND STILL FOR GRIEF

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 8, 1981

● Mr. CLAY. Mr. Speaker, I would like to take this time to share with my colleagues a letter about death's toll on life. We all know we cannot choose the number of years we will spend on this Earth. This special thing we call life has a value which can never be measured in time. However, it is the way we spend our time, which gives life its true meaning. Hardships are suffered more by some people than others. An untimely death, in particular, remains the most difficult with which to cope. Death has an unconditional toll in life which relates to a saying, "The old must die, and the young shall." As death takes its toll on loved ones, life and time continues.

Below is a letter printed in the Washington Star that illustrates death's toll on life. This letter, authored by a dear friend, tells about the prosperities of life taken away. I think it has a real meaning for all of us in Congress.

[From the Washington Star]

TIME WON'T STAND STILL FOR GRIEF

Thank you for Ruth Dean's beautiful and poignant story about Jenny Read, the lovely young sculptor from Chevy Chase who was slain five years ago in her studio in San Francisco ("A Sculptor's Premonition of Death?" April 19). I read of her many interests and felt I knew her.

We, too, lost a beautiful, talented daughter. Kathleen Marie was 25 when, last October 16, she was instantly killed when a truck struck her car from behind.

Her degree in medicine was awarded posthumously as she had already been accepted as a pediatrician at the Balboa Naval Hospital in San Diego. She was an accomplished photographer, singer, cyclist, and the writer of nine songs, 76 poems, and seven journals. She began her last journal last June 28, with the Biblical Psalm 90:12—"So teach us to number our days that we may apply our hearts unto wisdom."

Among her writings we found: "Don't sit too long. Don't think too hard. Time won't stand still while you grieve, and your life will pass as you are contemplating how little time there is to live." It was titled, "While You Grieve," and was dedicated to her brother, Lt. (jg) Patrick Kilcline, who died, also at the age of 25, when his F14 fighter plane went down in the Pacific in 1978.

Kathleen had a deep faith in God which she practiced daily. Like Jenny Read, she wrote of her need of solitude and space to air her mind. We are publishing Kathleen's poems and writings so others will remember her, too.

It seems our lives and the Reads' were touched by perfect children made in the likeness of our Saviour and called to their eternal home early because of that perfection. Thank you for letting me share our loss.

The night before she was slain, Jenny Read, a warm, sensitive, compulsive artist who prized her independence and solitude, wrote in her journal: "I dreamt I was in a tiny sports car which skidded off the road down the bank. I am being hunted, and dive under a green palette into a hole in the brambles. There are two men there and I'm not sure whether they are friends or enemies. We are not all brothers." Her murder is still unsolved.●

A CALL FOR PROMPT ACTION ON THE TAX BILL

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 8, 1981

● Mr. RITTER. Mr. Speaker, I join my colleagues today in urging you to make good on the promise made by Majority Leader WRIGHT and Chairman ROSTENKOWSKI to act on the tax bill before the August recess.

The American people have time and time again expressed their desire for timely action on the tax rate reductions. It is our duty and responsibility as their Representatives to honor this request.

If we continue to drag our feet, we will seriously jeopardize our Nation's economic recovery.

Let us emulate the example of our colleagues in the Senate and act promptly.

The American people should not be the victims of dilatory tactics.

The American people deserve better.

In this call for prompt action on the tax bill, I would like to share with my colleagues an article printed in today's Wall Street Journal. This article, written by David Smick, chief of staff for Congressman JACK KEMP, clearly articulates what we are trying to do here.

[From the Wall Street Journal, July 8, 1981]

WHAT REAGANOMICS IS ALL ABOUT

(By David M. Smick)

In the late 1930s, Chester Carlson had a revolutionary idea—an electrostatic printing process—which he tried to sell to the top mimeograph companies in America. Turned away time and again, he finally converted his kitchen into a workshop and went into business for himself. There was risk and a shortage of capital, but the tiny enterprise survived and prospered.

Today, we know it as Xerox.

Were Mr. Carlson alive, he probably would ask, "What ever became of those smug mimeograph companies?" The answer is that they fell victim to what Joseph Schumpeter, the economic theorist, called "the creative destruction of capital"—the process by which a new idea enters the marketplace, making existing capital worthless.

What sounds like some arcane concept is the heart of Reaganomics. It explains the President's understanding of how growth is produced in the private sector, and why he believes, against a multitude of critics, that his across-the-board tax cuts for people will lead directly to new jobs.

To give the President credit, most policymakers have in recent years understood the process of job creation about as well as John McEnroe has mastered the art of diplomacy. Mention "jobs" and the picture is of giants of industry like Chrysler and U.S. Steel either protecting existing jobs or expanding plant and equipment to create new ones.

Actually, the Fortune 500 have experienced a virtually no net job growth for more than a decade. The newest research shows instead that nearly all new jobs are coming from firms with precisely the opposite characteristics.

They are not only small, but miniscule. Neary 70 percent of new jobs come from firms with 20 or fewer employes. Almost 100 percent of net new jobs in the Northeast come from such firms.

They are young. Most new jobs come from firms 4 years old or less.

They are unpredictable and unstable. The more stable a firm is, the less likely it is to produce new jobs.

FAIL NATIONALLY AT SAME RATE

Many of these fledgling enterprises will go out of business (four out of five do so within the first year) with new ones springing up to take their place. Frostbelt or Sunbelt, such businesses fail nationally in metropolitan areas at roughly the same rate—8 percent a year. Booming Houston, according to David Birch of MIT, proportionally has more business failures today than the old cities of Boston, Baltimore, Hartford—indeed more than almost every other city in the United States.

What these facts and statistics create is a perfect object lesson. Houston's success stems not from a strong defense, but a strong offense. Entrepreneurs with new ideas are creating jobs at a pace far exceeding the rate jobs are lost, providing Houston a tremendous engine for prosperity.

The secret to maintaining high levels of national employment is hardly import quotas or Chrysler-like bailouts or even tax proposals aimed merely at modernizing existing plant and equipment.

The secret is creativity—encouraging a groundswell of men and women with fresh ideas to strike out on their own. The secret lies in the enterprises yet unborn, the oil wells yet undrilled, the inventions yet untried. Some of these fledgling entrepreneurs will fail, but others—like Chester Carlson—will replace today's capital and products with new and better ones, to the benefit of all of us.

The irony is that city planners, government growth economists and even successful corporate executives usually find this thinking unrealistic. The reason may be that productive change is not in their own vested interest. But it also may result from the great frustration that in this age of sophisticated econometric models and corporate "five-year plans," enterprise and job growth is just as unpredictable as it was decades ago. It still involves the dynamic process of two competing forces: success and failure. And perhaps most frustrating, it continues to depend directly on the creative implementation of new ideas by folks who, in the eyes of corporate America and the federal government, appear unpolished and relatively inexperienced.

If you have met a true entrepreneur even once, you know they tend to be nothing but crazy. Like Chester Carlson, they appear illogical dreamers, even though many have that inner genius for success. As a sophisticated business or government executive would you, or could you, take the risk of in-

vesting in such unpredictable characters knowing that many will end up as miserable failures? Perhaps this is why large institutions have not provided many permanent now jobs.

While entrepreneurs may be crazy, they are crazy like a fox. Most expect to lose money in the early years; still they make a careful calculation of current risk against future reward. They are society's dreamers and will endure incredible risk—far more than established business—with promise of great future reward.

In a sense, every individual is a potential entrepreneur. By that I mean that we have near limitless sources of both human and financial capital—professionals in high tax brackets working only 3 days a week, mid-level industry technicians teeming with new ideas but apprehensive of the risks of individual enterprise, and many others.

Notice this is not just capital formation, but capital mobilization. Capital is more than money. It is also productive ability and thus exists in the minds, hands and hearts of people. The question is, how do you encourage these potential new wealth and job creators to invest their talent and savings in a new enterprise instead of in real estate, elaborate tax shelters, money market funds or in doing nothing at all?

What they need is a climate of economic buoyancy, so necessary to individual initiative, and a system that capitalizes on human nature by strengthening the link between effort and reward.

House Speaker Tip O'Neill calls this "the whims of free enterprise." With all due respect, it is precisely such entrepreneurial risk-takers, now lining Route 128 outside Boston with small "hi-tech" firms, who are shouldering his city's job and tax base. If he simply visited these enterprises, the Speaker would discover that entrepreneurial success in America is taxed and harassed more than in just about any other free industrialized country. By the sheer force of logic, he would immediately help lower or eliminate the capital gains tax, lower the corporate rate, eliminate senseless overregulation and, most importantly, lower marginal tax rates on personal income across the board.

POTENTIAL ENTREPRENEURS

After all, 90 percent of American businesses still pay taxes through the personal schedules. These include proprietorships, partnerships and all the other noncorporate entities engaging in enterprise. Just as vital are potential entrepreneurs who, before entering a risk situation by pulling savings out of tax shelters, look instinctively to their personal tax bracket, which inflation has pushed higher and higher in recent years.

This is why President Reagan calls his across-the-board personal tax-rate reduction plan a "small-enterprise incentive" and why he favors the proposed end to the distinction between "earned" and "unearned" income (establishing a top tax rate on personal income of 50 percent now, with the goal of 35 percent as soon as is politically possible). Both increase the after-tax reward for greater entrepreneurial risk, for the direct creation of jobs.

Congress, with a false sense of sophistication, has always preferred more complicated solutions to the creation of jobs—the targeted gimmicks with built-in "triggers" that have failed for so many years. Yet the birth of an enterprise has an elusive, almost metaphysical quality that makes targeting, planning, certainty and "sophistication" most difficult. Something as common and essential as the ballpoint pen was conceived by, of all people, an insurance executive on his summer vacation. The arrival of the automatic transmission had little if anythig to do with the multi-million-dollar engineering departments of Detroit's Big Three.

Growth involves ideas and thus is unpredictable. All we can provide is buoyancy—that sense of economic boundlessness where a person can, with energy and intitiative, take a new idea as far and as high as he or she wants. If we can keep that initiative from being stifled, as it is today by an inefficient tax and regulatory system, people may once again follow their dreams. Allow entrepreneurs and potential entrepreneurs across-the-board worthwhile returns on their effort and they will start taking risks. Our entire economy will gain in production and jobs, and the nation will regain the energy and opportunity and spirit upon which its greatness depends.●

AVOID BRITAIN'S SUPPLY-SIDE MISTAKES

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 8, 1981

● Mr. HAWKINS. Mr. Speaker, there has been much talk recently in certain governmental circles which would seem to endorse British Prime Minister Thatcher's conservative economic policies. She has received praise from some for her faith in monetarist and supply-side theory. However, a new Joint Economic Committee report reveals that these policies, implemented in Britain over the past 2 years, are responsible for the worst recession since World War II. This is hardly a finding which would lead us to implement these policies in this country.

I insert an article from the Washington Post business section which discusses the JEC study.

[From the Washington Post, July 6, 1981]

SUPPLY-SIDE ECONOMICS BEHIND BRITISH RECESSION, JEC REPORT SAYS

(By Hobart Rowen)

British Prime Minister Margaret Thatcher's highly touted conservative economic policies, focusing on monetarist and supply-side theory, have resulted in "the worst recession since World War II," according to a staff report released yesterday by the Joint Economic Committee.

The report acknowledged that inflation in Britain has slowed, "but at a large cost in terms of increased unemployment." The jobless rate is now 11 percent, with 2.5 million unemployed, and the total is likely to reach 3 million, according to British sources.

"It is not clear, therefore, that the government's monetary and supply-side policies have found a new, less costly solution to inflation than older Keynesian demand-management policies," the report said.

These critical comments on the Thatcher policy were part of a study of anti-inflation, anti-recession policies of the past decade in Britain, Germany, France and Sweden. It was directed by James K. Galbraith of the JEC staff.

The central conclusion of the study is that monetarism—main reliance on the growth of the money supply to control inflation—is a "waning force" in Europe.

Another main theme is that selective credit policies are playing an increasingly decisive role in strategies for long-term industrial adjustment, even in France and Germany which, according to conventional views, are successful because they are free-market-oriented.

A JEC press release said 140 individuals in the four countries were interviewed, including senior Treasury officials, Central Bank officials, and leading businessmen, bankers and others in the private sector.

The report says monetarist techniques have been widely applied, but that "in pure form," they have not proved practical in any of the four countries. In Britain, the monetarist experiment "has proved difficult—if not impossible—to put into effect, although the consequences of trying have been severe." German authorities, according to the JEC report, recently have deemphasized use of monetary goals.

Countries such as France and Germany that have had the most success with long-term industrial strategies have depended heavily on selective credit policies, according to the report. Even the former Valery Giscard d'Estaing government, touted as free market and monetarist, "strengthened its system of credit controls, applied monetarism in only a half-hearted way, and pursued an aggressive, government-supported industrial policy," the report says. It predicts that the Socialist government of Francois Mitterrand will pursue different, "but equally aggressive industrial policies."

West Germany "is, in fact, far from" an unregulated free-market economy, the report says. The German Central Bank pursues its monetary targets as part of a coordinated strategy that involves government guidance on wages and prices. Beyond that, cooperation rather than confrontation between German labor and management has helped productivity growth, the report says.●

WILL MILITARY INVADE LAW ENFORCEMENT?

HON. JOHN SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 8, 1981

● Mr. SEIBERLING. Mr. Speaker, in connection with the debate on the Judiciary Committee amendment to the 1982 defense authorization bill, H.R. 3519, I offer for Members' consideration a very thoughtful article by Mr. David Landau, from the Los Angeles Times of July 7, 1981. The article follows:

WILL MILITARY INVADE LAW ENFORCEMENT?

(By David Landau)

Congress is about to authorize the use of military satellites to spy into homes, the use of Green Berets to train and advise civilian SWAT teams and the use of armored personnel carriers to patrol the borders.

Buried in the House and Senate versions of the annual Department of Defense authorization bills are provisions that would involve the Army in routine civilian law-enforcement matters.

The Senate bill, which that body has already passed, would permit the Defense Department to share with law-enforcement officials information collected during military

operations relevant to violations of civilian law. The Senate bill also would authorize the Pentagon to make equipment and base facilities available to local law-enforcement officials and to have members of the armed forces train officials in their use. The bill would prohibit this assistance if it adversely affected military preparedness, and would forbid participation by military personnel in search, seizure or arrest.

A bill recently reported by the House Armed Services Committee would go much further. In addition to the training, advice and information provisions of the Senate bill, the House committee would authorize direct participation of military personnel in the arrest of drug dealers and seizure of drugs. The military would be under the command of the Drug Enforcement Administration during these operations.

Using soldiers to assist police in drug busts sounds disturbingly similar to the practice earlier in this nation's history of using soldiers to assist police in rounding up fugitive slaves; 127 years ago, President Franklin Pierce's attorney general, Caleb Cushing, ruled that Army troops could be summoned off their military reservations to ride in the posses of the U.S. marshals to capture fugitive slaves. In reaction to this and other breaches of the American tradition of separation of civilian law enforcement and the military, Congress enacted a law prohibiting the army from enforcing the civilian law. It is this prohibition that is about to be repealed.

The law is known as the Posse Comitatus Act. "Posse comitatus" refers to the full body of men who are eligible and have been summoned by the sheriff to assist in keeping the peace. The act provides for criminal penalties for those who use Army or Air Force personnel as posse comitatus except where specifically exempted by statute. The Navy is not covered by the act. The law was enacted in 1878, in response to the not-infrequent deployment of troops in non-military situations—to maintain order at polls during elections or to serve legal summonses or collect taxes. It is by no means an anachronism.

The military's chief role in civilian law enforcement has always been as a backup force in emergency situations, when local police and state militias have demonstrated that they cannot handle the situation. The military is not used in routine maintenance of civil order.

This principle has served the nation well by preserving the primacy of civilians in law enforcement and strengthening the apolitical professionalism of our armed forces. When civilian primacy in law enforcement is adhered to, the use of the military—in flood relief, for example—has been generally well-received. But when it is swept by the wayside the consequences are dangerous. The massive Army surveillance of civilian anti-war protests and the military occupation of the campuses of some of our universities a decade ago are just two recent examples of the importance of the Posse Comitatus Act. The military itself has historically recognized that the law enhances its professionalism by avoiding entanglements in politically charged domestic crises.

Not surprisingly, then, the Defense Department opposes proposals that would substantially weaken the Posse Comitatus Act, and has proposed instead a more sensible approach. The department would like exemptions to the act to apply only to situations outside the United States and to conform to existing laws such as the Privacy Act. The department correctly recognizes that soldiers are trained for war, to kill reflexively in the heat of battle. Placing them in direct confrontations with American citizens must be limited to emergency situations such as insurrection. So far, not many members of Congress agree.

There is a sense in Congress that applying military expertise and personnel to civilian disturbances will reduce crime. But the answer to the nation's growing crime problem cannot be "Send in the Army."

Once again Congress is looking for a quick fix to problems that are complex. Like the death penalty and preventive detention, the repeal of the Posse Comitatus Act would fail to address the systemic problems within America's criminal-justice system, while luring the public into believing that something was being done. Fair and certain punishment—including the reform of the sentencing system and an increase in the number of judges, prosecutors and public defenders—would be a better place to start.

The measure to repeal the Posse Comitatus Act will reach the House floor shortly. Thus far it has been given cursory treatment. Neither the House nor the Senate Armed Services committee invited the public to testify, and the House Judiciary Committee held only one day of hearings. The proposal is lost in a bill that includes a maze of jet fighters, bombs, missiles, guns and ships. Such a radical departure from our tradition of separating law enforcement from the military deserves more thorough consideration.●

WHITE HOUSE USES SOCIAL SCIENCES, BUT CUTS FUNDING FOR RESEARCH

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 8, 1981

● Mr. WALGREN. Mr. Speaker, as chairman of the Subcommittee on Science, Research and Technology, I have been especially concerned about the cuts proposed by the administration for social and economic research programs of the National Science Foundation.

The Washington Post of June 29, illustrates the importance of the social and economic sciences and the inconsistency of the Reagan administration in dealing with them.

On the one hand, it is reported that the President and top officials and staff have begun a twice-monthly social science hour at the White House to gain understanding of social science information for making policy decisions. At the same time, the administration proposes sharp reductions in NSF and other research grants that make reliance on this information possible and provide the long-term studies necessary to measure and evaluate changes in our society, vital to proper government.

In terms of cost the article makes an interesting comparison with the military budget as follows:

At the NSF, basic research in three fields—social, behavioral and economic science—costs little more than half the price of maintaining the Pentagon's military bands. Nevertheless, social science has been hacked and the bands remain.

I recommend to my colleagues the excellent article by Philip J. Hilts from The Washington Post.

[From the Washington Post, June 29, 1981]

WHITE HOUSE USES SOCIAL SCIENCES, BUT CUTS FUNDING FOR RESEARCH

(By Philip J. Hilts)

The Reagan administration has begun a social science hour at the White House.

Twice a month, the president, vice president, Cabinet and senior White House staff views charts and graphs. They listen to statisticians sketch profiles of our changing society. The object is to understand the background social facts against which policy will be mapped.

The Reagan team is building a reputation for a more sophisticated appreciation of social science research than any previous administration. Yet even as the social science hour gets under way, budgeteers at the other end of the White House are ordering huge cuts in the programs that produce the very data the administration wants to use.

This seeming contradiction prompted one administration social scientists to comment: "Where the hell do they think these numbers come from? They don't fall out of the sky. They are taking these numbers and these ideas, and throwing out the programs that produced them. It's unbelievable."

Of all the hundreds of Reagan budget cuts, few have appeared to be so ideological. Few seem so contradictory to the style of the administration. Few that are so small have engendered so much concern and protest even from friends of the administration.

And few others have the distinction of appearing to be perhaps a simple blunder.

Office of Management and Budget Director David A. Stockman and others have complained for years that social sciences produce little or nothing useful, and that their studies are often used to support liberal social programs.

Sociologists admit there is biased social science in government, mission-oriented studies that discover exactly what the bureaucrats wanted to hear about their programs.

But that is not what has been cut by Stockman.

Although the intention apparently was to cut the loose, often partisan, mission-oriented social science carried on in some parts of the government, the cuts will kill the hardest, most neutral and most useful basic work in the social sciences. At the National Science Foundation in particular, the research is basic social science, the best in the field by all accounts.

At the NSF, basic research in three fields—social, behavorial, and economic science—costs little more than half the price of maintaining the Pentagon's military bands. Nevertheless, social science has been hacked and the bands remain. Stockman listed cuts in NSF grants for social, economic, and behavioral research—studies of everything from the gross national product to the origin of man—from $49 million in 1981 to $16 million in 1982.

All new social science grants at the Alcohol, Drug Abuse and Mental Health Administration (ADAMHA), between $10 million and $20 million, are targeted as well.

The fields of study being hit include economics, political science, sociology, cognitive psychology, linguistics, anthropology, and social and developmental psychology. In three areas—anthropology, economics and political science—the NSF is the only U.S. government agency that gives grants for basic research. Basic work in those sciences will be almost wiped off the federal government's books.

The Institute for Social Research in Ann Arbor, Mich., houses racks of brown plastic tape containing extraordinary volumes of data about this country—how Americans work, how they vote, look for houses, buy food, spend the minutes of their days, and make do when the money runs low. Thousands of questions and cross-questions about American behavior and feeling are logged here.

Now half its $15 million budget, and similar amounts at other major research centers, are threatened by the Reagan administration. The budget cuts will wipe out one-quarter to one-half of the entire field of basic research in social science, according to estimates by Harvard statistician Frederick Mosteller and others.

At the ISR, the research includes the National Election Studies, a collection of detailed information on every national election over the past three decades. The only resource of its kind, it is valued by politicians as well as political scientists, for it has triggered a transformation in politics: from a time when polls only followed the horse race to the current sophisticated analysis of voter attitudes and behavior that guides political strategy at all levels.

At the National Bureau of Economic Research in Boston, the work includes studies of Social Security, unemployment and monetary policy. One-third of the entire $6 million budget of the NBER is threatened. The bureau is considered the official arbiter of the business cycle in America because it tells us when we go into recession and when we recover. It has commanded respect from both Republican and Democratic administrations over the years for its nonpartisan scholarship.

At the National Opinion Research Center in Chicago, the celebrated General Social Survey, the broadest and most basic data we have about our society, is threatened.

Besides these three famous centers of research, every major university in the country gets federal money to conduct basic research in the social sciences,

Here are a few recent examples of the Reagan administration's use of all this research:

Richard Wirthlin, President Reagan's personal pollster and political strategist, spent several hours at the ISR a few weeks ago poring over the political and social data. Wirthlin sought data on patriotism, and how it has changed over the years, data on voters' distrust of government, and data on voters' feelings about America's leaders. The programs that provided him that data are now threatened.

The agency that made the drastic cuts in social science research, the president's Office of Management and Budget, uses it constantly.

Recently, OMB wanted to know about income trajectories—how people's income rises and falls over time; the ISR study on this is the only source of such information, and it now may be shut down.

On another occasion, the OMB wanted to know about the effects of budget cuts: What cities and what regions would be hit? The most accurate, accessible record of where federal dollars are spent is at the ISR, where they got the call just as they were getting ready to shut down the study because of the OMB cuts.

The administration's most important use of social science, however, may be at the new social science hour. The White House's chief planner, Richard Beal, started the sessions.

"It's a system for providing social and demographic information to the policy people in a systematic and regular way, in advance of policy debates," Beal says. "If we are going to look at health care, then a month ahead we'll have a briefing on the way the health care system works. It's like the briefings we give the president on international situations . . .

"The baby boom, the enormous change in population that we are getting, affects every piece of domestic legislation we deal with . . . You've got to know how the pig is moving through the python."

Beal believes that the White House policymakers need a sense of the scale and movement of things and how "everything has its cross-impacts on everything else in society . . . we want to give policymakers a view of that changing world through these numbers."

The administration doesn't see a contradiction in simultaneously using and cutting social science research, says Edwin Dale, OMB's associate director for public affairs. "Because the administration uses some kinds of social science research doesn't make all social science research a high-ranking candidate for federal funding," he said.

At the Institute for Social Research, F. Thomas Juster, its director, says more than half the budget comes from threatened long-term data base programs such as the national election and income dynamics studies. Tracking the same questions year after year, these are to social science what the telescope is to astronomy. Without such data it is impossible to follow change in society, to mark new trends or identify fundamental, unchanging rules.

"The administration is embarking on a major social experiment. And what? They want to eliminate the knowledge, information and understanding of the society at the same time? It's . . . it's . . . silly," Juster said.

The long-term study of income dynamics has interviewed annually for 14 years more than 5,000 families. The families over that time have come together and have split, have aged, and have sent off new, young families on their own. It is a tiny nation, counted, questioned and tabulated. All are asked about income and expenditures, their jobs, how they raise their kids, about housework and about food, about the age when the kids leave home, and when the grandparents return to it.

"After many years of following these people, you can't find anything about their behavior patterns, or their attitudes, or anything else, that has anything to do with their economic success or failure. It looks like a random event," says James Morgan, the ISR researcher in charge.

"Now that's an important issue for people who believe that the poor are poor because of their own indolence, nefariousness, or neglect.

"We also find that there really are two very different categories of poor people. There is a vast difference between the people who stay poor all the time and the people who are poor only once in a while," Morgan says. "That's important because we wasted a billion dollars in the 1980 census . . . they're counting the wrong thing!"

The federal statistics make no distinction between those who slip into poverty one year only and those who live in it all their lives. Distinguishing the two kinds of poor would allow money to go to the right places—poverty money to the hard-case poor, and unemployment, training, and other programs to the temporarily poor.

Another ISR long-term study, begun 17 years ago, uses diaries to record how Americans use their time. This time-use study maps a hidden terrain in the American economy, Juster says. Wealth and production should be measured not only in dollars, but also in the time available to people and how they spend it. Huge amounts of uncounted production occur in off hours—people grow food, repair houses, build additions, entertain families, do volunteer work.

Juster said this turned up a stunning bit of information: the much-discussed productivity lag in the United States may be an illusion, "a simple measurement error.

"From the diaries, we counted up the number of hours actually spent at work versus the number of hours off. We found that it was different than what is . . . used by the Bureau of Labor Statistics [on national productivity figures]. There is a 15 percent discrepancy. People spend a lot less time at work than the government figures say." Productivity may not have slumped as dramatically as experts thought.

Not only will this information be lost if the studies are closed, Morgan says, but it is unlikely that they will ever be restarted because of the difficulty in putting such projects together.

"You're not going to start another like this in a hurry," he says. ". . . now, to keep it going, the cost is $1 million a year. The first year, starting from scratch, you'd be in for $10 million before you turned around."

These anxieties at Ann Arbor are matched at other research centers and major universities across the country.

At the University of Washington, for instance, a researcher has challenged the centuries-old belief that the best evidence in criminal cases is an eyewitness. Elizabeth Loftus, using NSF funds that are being cut off, has found that eyewitnesses not only do not remember much accurately, but also inadvertently and unknowingly change their memories after the event.

At eastern universities, two researchers who have followed the lives of heroin addicts for decades have found that users commit crime when they are high, but not when they aren't. And they are caught less than 1 percent of the time.

While one wing of the Reagan administration is intrigued by social research days, another is explaining that social sciences are far less important than the natural sciences of biology, physics and mathematics. Those so-called "hard" sciences were given budget increases because they are more productive in the economy, says Frederick Khedouri, OMB associate director in charge of science.

He also contends that the natural sciences are less able to find funding outside the government. "In the social sciences it will be easier to seek nongovernment funds—from foundations and universities themselves," Khedouri said.

A year before he became budget chief, Stockman, then a Michigan congressman, joined with Texas Democrat Phil Gramm (now better known as cosponsor of the Gramm-Latta budget resolution) to draft an

alternative budget. Stockman and Gramm wrote that "soft" research produces no breakthroughs:

". . . Research in the social sciences, education, and economics may produce long-run improvements in social program design and operation, [but] there is a strong case to be made that overreliance on the pet theories of econometricians, educationists, and social science 'fixers' has created the vast gulf between federal spending and resultant social benefit that we now seek desperately to close. Given present fiscal realities, such research is a very low priority, and funding should be cut back drastically in the short term."

With these lines Stockman connects basic research in the social sciences with social programs such as those of the Great Society. Then he reduces social science research to "pet theories" that waste money and do not produce the social benefits promised.

"If that's what they believe then they just got it wrong factually," says Martin Feldstein, director of the National Bureau of Economic Research and a conservative economist with close ties to the administration. Feldstein not only supports the Reagan program but also did some of the economic research that backs up Reaganomics.

Feldstein contends that the National Science Foundation supports only pure, nonpartisan research that is unconnected in any way with social programs.

"If they thought what they were getting rid of was support for the Great Society programs, they were wrong . . . Many of the people, myself included, who have done the work critical of the Great Society programs, and the expansion during the Great Society period, were NSF funded—including things like [the work on] Social Security and its adverse impact on savings . . . ."

Social research has always been controversial politically. It was banned in the Soviet Union and until recently in China. During the 1950s, congressional committees sought out "communist influence" in social science projects.

Rep. John Ashbrook (R-Ohio) for years has excoriated the NSF for supposedly fostering "social engineering." Sen. William Proxmire (D-Wis.) has belittled NSF studies with his "Golden Fleece" award for wasted spending.

Stockman apparently relied on his earlier budget paper to make many cuts. "We were instructed to cut science education by half and to reduce support for the social sciences by [three-quarters]," says a budget officer.

At the alcohol and drug abuse agency, a major governmental center of basic social science research, the cuts were more subtle. An OMB official tells of being asked why the agency couldn't have money for any new research although the National Institutes of Health could.

"I said, I guess that's because ADAMHA does a lot of work that's not hard science." After this clue, the agency asked if it could have funding for new research if it cut social research. OMB said yes.

At the National Institute of Drug Abuse the cuts apparently were accidental. Someone asked a computer to list all the NIDA research that used the word "social" and that became the list for cutting—$9 million in studies, or 20 percent of the agency's budget.

In their own defense, social scientists say their studies of human behavior are easy targets for nonscientists who feel competent to criticize behavioral psychology or sociology but wouldn't dare try to judge biology or physics or astronomy. Aside from the lay criticism, however, some social scientists are prepared to concede that the practical results of their disciplines are unimpressive.

"I am afraid the record is a poor one. . . . We do not have any theories that allow us to predict events with more accuracy than intelligent laymen," says Allen Mazur of Syracuse University.

"Nor do we have any theories that allow us to construct better social systems—schools, police forces, cities, nations—than can be constructed by laymen. . . . I would not go so far as to say that professional social science has made no contribution at all, but what has been made is a little hard to find. Do not expect much from the social sciences. We are trying, but it is very hard work."●

HAPPY BIRTHDAY, ODESSA, TEX.

HON. RICHARD C. WHITE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 8, 1981

● Mr. WHITE. Mr. Speaker, there was no Fourth of July celebration that day in 1881. The nine men who were feverishly working did not have time for the usual fanfare of the Fourth. In less than 5 days, the southern transcontinental railroad link being laid several miles back would reach them and they had to finish building a section house and dig a water well.

These men of Irish and oriental descent did not realize at the time they were part of a catalyst that would set off a chain of events and effect the entire western part of Texas. These men, who did not have time to celebrate the Fourth were making history themselves they were hammering out the beginnings of Odessa, Tex.

Now, 100 years later on July 4, 1981, over 100,000 people joined together in rejoicing and thanksgiving for these men and the Texas and Pacific Railroad. It will be a day long remembered in Odessa as the city celebrates 100 years of phenomenal progress and growth that started from one small section house and evolved into a thriving oil-fertile metropolis. A city, with an economy so bountiful, it beckons to people from all over, promising a better quality of life. A city where over 100 of its clubs, churches, and organizations have planned events and activities during July to commemorate and celebrate its birthday.

On the morning of July 4, a huge parade with more than 200 units traveled down the main street of town depicting the city's culture and history. Following the parade, opening ceremonies at 11 a.m. on the courthouse lawn kicked off a citywide birthday party featuring a Texas-size, 100-foot, birthday cake. Colorful entertainment was continuously going on on two stages. Also were old-fashioned games and contests such as arm wrestling; log splitting, railroad spike driving, watermelon eating, and many others designed for the young and young-at-heart.

Food and display booths are operated by clubs, churches, and organizations providing a wide variety of culinary delights and novelties from the early era of Odessa.

Historical reenactments were staged. The first city council meeting played by current city council members; the first Ector County commissioner's court, acted out by present county commissioners; an old-time political rally, pitting Democrat against Republican and Populist, and a controversial courtroom trial staged by local attorneys contesting deed restrictions against the sale of liquor.

Rounding out the afternoon at 5, the famed Odessa Chuck Wagon Gang hosted a barbecue honoring Odessa and the oil economy. And at 8 p.m. another famous Odessa attraction, the Shakespeare Globe Theatre, raised the curtain on "Whenever It Rains," a historical pageant depicting the spirit of Odessa.

The day ended spectacularly at 10 p.m. with the Odessa Jaycees staging a fireworks display specially designed around the city's centennial.

I'm proud and honored to represent Odessa, Tex., home of over 100,000 spirited Texans who have built an outstanding community, and recognize the importance of remembering its history and the men, women, and events who indelibly forged the character of the town and branded it with independence, energy, vision, stability, and spirit.

Happy birthday, Odessa, Tex. You are to be congratulated, and may your next 100 years be as prosperous as your last.●

AN INDOMITABLE DUO RESHAPES PORTLAND

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 8, 1981

● Mr. AuCOIN. Mr. Speaker, I am pleased to offer the following article about two brothers in Oregon who are greatly responsible for the health and vitality of Portland—a city which, again, has been named the most attractive American city.

The article, which appeared in the national publication, "Historic Preservation," describes the work and dreams of Sam and Bill Naito, who have dedicated themselves to preserving the traditions and buildings of downtown Portland. I welcome this opportunity to share with my colleagues the Naitos' success story, which has been an essential component of Portland's success story.

The article follows:

AN INDOMITABLE DUO RESHAPES PORTLAND

BROTHERS SAM AND BILL NAITO WON THEIR GAMBLE ON OLD BUILDINGS AND LED THE WAY TO A NEW LOOK FOR DOWNTOWN PORTLAND, OREG.

(By John Guernsey)

Blessed with mountains and rivers, protected by an environmental consciousness that embraces not only air and water quality, but also historic buildings and heritage, Portland, Ore., ranks high among West Coast dream cities.

It's a sensible place, where bottles and cans are recycled and where people wear comfortable shoes and like to entertain at home. There's a good symphony, a respected art museum and an active historical society.

But 61 years ago, when Hide Naito opened his small gift shop on Morrison Street, Portland was a different place. Then, as now, the scenic hills snuggled up against the downtown streets, the crystal Willamette and Columbia rivers meandered practically within casting distance of the city's cast-iron buildings and snow-capped Mount Hood was a towering presence.

For Japanese-Americans like Hide Naito, however, the picture was blemished. State and local laws prevented Japanese and Chinese who weren't U.S. citizens from owning property, reflecting a pattern of discrimination throughout the West. And when World War II came, Naito and his family, along with thousands of other Japanese-Americans, were sent to internment camps outside the state, forced to leave homes and property.

"That was the day we forgot the Bill of Rights," says one of Naito's sons, Bill. "Our first stop was in the horse corrals at the old Portland Exposition Building."

After the war, Hide Naito returned and began rebuilding his business with the help of his sons, Bill and Sam. The discriminatory property laws were repealed, and the family prospered. It wasn't long before the two brothers had established their own successful import business. Then, quietly, they began buying old buildings that other developers wouldn't touch in places developers wouldn't go. And slowly, over the years, the brothers helped to give downtown Portland a new personality, reshaping not only the appearance of neighborhoods, but the city's attitude toward its architectural resources.

Yet until a few years ago, the Naito name was little known beyond Portland's small Japanese community, compared with headline grabbers like Neil Goldschmidt, Bill Roberts and George McMath. Goldschmidt, who was Jimmy Carter's Secretary of Transportation, was mayor of Portland from 1973 to 1979. Goldschmidt launched his annual state-of-the-city speeches with a tally of the houses and buildings being rehabilitated in the city. Businessman Roberts, the chairman of the Development Commission, bought and restored whole chunks of prime downtown property. And award-winning architect McMath spearheaded the drive to create the city's Landmarks Commission in 1968 and served as its chairman for a decade.

Today, because of pragmatic preservationists like the Naitos, Goldschmidt, Roberts and McMath, Portland is one of the few cities in America where historic preservation and neighborhood conservation are built into the planning process and supported with tax-reduction programs and low-interest loans.

"It's a rare city," says National Trust Vice President John Frisbee, former director of the Trust's Western Regional Office. "For some reason, everything clicks. There's a nice working relationship between the public and private sectors that creates an atmosphere conducive to restoration and new construction. And a combination of state and local legislation combined to kindle the fire of preservation." But, adds Frisbee, "They did tear stuff down back in the 1950s, including the Portland Hotel. That hasn't been forgotten."

Those were the days when the brothers began buying up old buildings and restoring them. The motivation was, at least at first, shrewd business sense and a willingness to take calculated risks. The brothers say they got involved in "clunkers," as they call their early building deals, for two reasons. New construction in the city then was costing up to $35 per square foot. The Naitos figured they could buy and recondition clunkers in "wino town" for about $25 per foot.

And, the area was also the city's "little Tokyo." Many Japanese still lived in the area, and Bill Naito had worked there as a youth. "At one time members of the Japanese Hotel Association ran about 25 small old hotels. There was a Japanese bank, bath house, restaurants, a doctor's office, Buddhist temple and a language school—a whole Japanese community.

"We would always have dead stock, so we would rent an old building and have a sale. We ended up buying the building, this was in about 1962, and Old Town then was a terrible area. Gradually the hotels became vacant, and then the wrecking balls started hacking away. We bought the Merchant Hotel building in the nick of time and it turned out to be one of the best-preserved buildings in the city."

The 90-year-old building, which had the first hydraulic elevator in Portland and sports a cast-iron facade, is one of many downtown gems. Walk through the Skidmore-Old Town area with Bill and Sam, and their eyes sparkle. They point at gilded entryways, rock arches, cast-iron pilasters, fountains and elaborate cornices. They revel in the plainness and sturdiness of the old Globe Hotel, the Skidmore Building and the Norton House, which they call "Portland traditional."

As they walk, part of their success formula becomes clear: There's nothing that goes on downtown that they don't know about, including how many people use which sidewalks on which days. They study the details of life downtown with the intensity of urban planners.

But it is the Naitos' current projects, and their dreams of the future, not past deals, that they like to talk about. They are importing aged streetcars from Portugal and plan to operate them in Old Town when the city's light-rail system is completed in about 1986. The trolleys will link the Old Town and Yamhill restoration districts and travel across the Willamette to connect east side hotels and the Memorial Coliseum convention center with major hotels on the west side.

"And the old Erickson tavern building over there," the brothers say almost in unison, pointing to a deteriorating, unoccupied building. "We're going to put the big bar back." The bar in the late 19th-century tavern was reputedly 684 feet long and encircled the interior of the massive structure.

The Naitos also hope to remove the asphalt that covers Old Town's original cobblestones. And they are promoting more activities in the city's little-used Waterfront Park.

They are also pumping about $18 million into a riverfront apartment complex between the Steel and Broadway bridges, that, in keeping with their practice of making something out of nothing, will utilize an old freight yard and warehousing area.

Their faith in the downtown area and willingness to gamble has not been confined to Old Town. They bought and reconditioned the historic Dekum Building downtown. And the city's main shopping area now has the hugely successful Galleria in the old building that housed Rhodes Department Store until the mid 1970s. The five-story building was considered a white elephant by developers, who pegged just the cost of tearing it down and preparing the site at $1 million.

But the Naitos saw it differently. They bought the building for a song—$565,000—and pumped in another $3 million for remodeling, and in the fall of 1976 they had people standing in line to lease the 42 specialty-shop spaces in the vertical shopping mall, which features seven restaurants, a forest of indoor plants and a dramatic 75-foot-tall atrium that lets the sun shine in.

In 1977 the Galleria received a national award from the Downtown Research and Development Center as one of the nation's finest projects.

"Portland is looking pretty good now," says architect McMath, whose firm, Allen-McMath-Hawkins, received its own restoration recognition, an award from the American Institute of Architects for its work on the historic Pioneer Court House building. The 111-year-old building is one of some 180 designated structures in the city that have been identified by the Landmarks Commission, which is now surveying historic buildings throughout the city and putting the list on a computer. The commission has review authority over the proposed demolition and restoration of historic buildings in the city and can stay a demolition for 120 days. The City Council can further delay demolition another four months.

"Our firm is as busy now as it has ever been, and about 50 percent of our work is in the rehabilitation field," McMath says. Although many Portlanders cherish the city's old buildings for aesthetic reasons, or nostalgia, McMath says that simple economics, tax incentives and higher new-construction costs, have persuaded more area businessmen to convert old buildings instead of tearing them down or building new ones.

To sweeten the pie, the state allows taxes to be frozen on rehabilitated old buildings for up to 15 years if they are listed in the National Register.

Such pragmatism, the Naitos and McMath agree, has made preservation successful in Portland. "It is important to make historic buildings suitable for modern use," the architect says. "We can't make them all museums. We need to keep good things of the past without sacrificing modern efficiency." In his restoration of the Pioneer Court House, for example, McMath made concessions to accommodate fire regulations and other codes, but he preserved the ironwork, courtrooms and other historic features.

The momentum fostered by activists like the Naitos and McMath paid off in 1979, when rank-and-file Portland citizens as well as preservationist, rose up to block a proposed $100-million downtown development project that would have razed four square blocks of older structures and replaced them with a modern retail-office-hotel complex. The Cadillac-Fairview project would have used a $20-million city subsidy.

Although the proposal is apparently dead, living on is the organization that it spawned—the Save Our Livable Downtown Committee. The group is now seeking a ballot measure to require a referendum on multi-block development proposals whenever the city subsidies are involved. "The growth of downtown is too important to be decided behind closed doors," the group says.

Not only have the Naitos found a bonanza in the city's old downtown buildings, they put in much time with civic and promotion groups to help make it happen. Sam is a member of the Port of Portland Commission, the county economic development group, the Japanese Garden Society, and he's on the boards of Metro Family Services and United Good Neighbors.

Equally busy Bill is on the Board of Providence Hospital and an active force with the Association for Portland Progress. He is a director of the Portland branch of the Federal Reserve Bank and was the thrust behind Portland's first Artquake, a fall festival of the arts.

The busy schedule doesn't leave much time for "hobbies." Bill puffs on his cigar and deadpans, George Burns style, "When I do find time for hobbies I like to drink—it clears the head." Sam allows that a bit of fishing is in order when he can find the time.

And there isn't much time for bitterness. "Such there were adversities in the early days," Bill says. "But I think adversities sharpen and toughen people. From adversity comes greater self-confidence and self-discipline, and the ability to face crises. Those people are the ones who come up with dreams."

Bill and Sam Naito know about nurturing dreams. Eighteen years ago they planted sweet gum trees in Old Town. Today many of the trees are nearly 50 feet tall.●

THE PROBLEMS OF THE NUCLEAR POWER INDUSTRY—I

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 8, 1981

● Mr. HAMILTON. Mr. Speaker, in the April 12 edition of the New York Times Magazine, Mr. Anthony Parisi describes the difficult situation of the nuclear power industry in the United States. Entitled "Hard Times For Nuclear Power," Mr. Parisi's piece is quite detailed and comprehensive. It raises questions of clear relevance for those of us who wish to understand the nuclear power industry's condition and prospects. I hope that my colleagues will give the article the close attention it deserves.

Drawing heavily on the information and opinion contained in "Hard Times For Nuclear Power," I addressed a series of questions to Mr. Hugh A. Barker, chairman of the board and chief executive officer of Public Service Indiana, a major utility in my State. In my view, Mr. Barker's careful response is a signal contribution to the debate on the future of nuclear power in our Nation. My correspondence with Mr. Barker is reprinted here for the benefit and use of my colleagues. I invite my colleagues to study it thoroughly.

HOUSE OF REPRESENTATIVES,
Washington, D.C., May 28, 1981.

Mr. HUGH A. BARKER,
Chairman of the Board and Chief Executive Officer, Public Service Indiana, Plainfield, Ind.

DEAR AL: I recently read an article entitled "Hard Times For Nuclear Power" in The New York Times Magazine of April 12, 1981. The author of the article, Mr. Anthony Parisi, is not known to me, but if his observations are accurate then he is raising several important points which must be addressed.

After studying the article quite closely and giving it a good deal of thought, it occurred to me that I ought to get your ideas on a number of matters. Your answers to the following questions would be greatly appreciated:

1. Mr. Parisi states that "nuclear power is shrinking in this country . . . under its own economic weight." He attributes the industry's financial plight to a slackening in demand for electricity in the face of higher prices for fuel. In your opinion, what does the slack demand (high price) referred to by Mr. Parisi mean for the industry in the short run? In the long run?

2. Mr. Parisi claims that existing nuclear facilities save consumers money that they would otherwise have to spend to buy coal or oil. He adds, however, that nuclear facilities ordered today would not achieve such savings. Do you agree or disagree with the general point? What are your reasons? What is the case with regard to Marble Hill?

3. Because of "slipping economic growth" and "the consumer's decision to shun high-priced energy . . . most utilities today have far more generating capacity on hand than they need," according to Mr. Parisi. Is this an accurate assessment of the situation nationwide? What is the situation in Indiana?

4. According to Mr. Parisi, analysts on Wall Street are beginning to take a dim view of nuclear facilities, calling them "an unattractive financial proposition" and "too expensive to build . . . to compensate investors adequately." How widespread are such views among analysts and investors? Does your experience lead you to believe that analysts and investors should be skeptical about nuclear power? What does such skepticism mean for the future of the industry?

5. On another question of finance, Mr. Parisi notes that "more than one power company now finds itself in a critical financial squeeze because of nuclear projects that have proved much more expensive than anyone had expected." Is this so? How far over initial estimates of cost is Marble Hill? What effect have overruns in cost and delays in construction at Marble Hill had on the financial condition of your company?

6. Mr. Parisi acknowledges that federal regulations have hit the industry hard. He then cites a study which concludes that there will be more, not less, regulation in the years ahead. To your way of thinking, how much of the industry's problem is due to unwarranted regulation? Is it your feeling that the conclusion of the above-mentioned study is correct? Are you making plans in the belief that even tougher standards will eventually be prescribed for Marble Hill?

7. According to Mr. Parisi, the "number of new safety problems being detected each year isn't falling, it's climbing—steeply." Is it your impression that he is correct? If so, how would you account for the trend? How would it be perceived by the public?

8. According to Mr. Parisi, groups of citizens who oppose nuclear power have caused companies like yours to incur only minimal additional expense. Do you agree or disagree with the general point? Have you tried to determine how much such groups have cost your company?

9. In commenting on the relationship between regulation and economic health in the industry, Mr. Parisi suggests that "even the ministrations of a sympathetic White House are unlikely to cure nuclear's malaise." He then makes the striking claim that "nothing short of a wholesale dismissal of the nuclear community's own safety policies would make a fundamental difference in the economics of nuclear power." What do you think of this point of view?

10. Mr. Parisi reports that among utilities there may now be more interest in coal-fired plants than in nuclear facilities. As concerns cost, he says that "virtually all the analyses show an unmistakable trend toward coal." Do you sense a growing interest in coal among your colleagues? Is coal in fact overtaking, or has it already overtaken, uranium as a less costly source of electricity? Has any thought been given to the building of a coal-fired plant in place of Marble Hill?

I understand that I have put a very large number of complex questions to you. I apologize for asking you to take time from your busy schedule, but I do want to get a better grasp on the issue of nuclear power and I am certain that you are a person whom I should consult. I sincerely hope that my letter is not too burdensome.

I have included a copy of Mr. Parisi's article for your review. Please feel free to make whatever additional comments on it you deem to be appropriate. I look forward to hearing from you at your convenience. In the meantime, do not hesitate to contact me if there is any way I can be of service to you.

With best wishes, I am
Cordially yours,

LEE H. HAMILTON,
Member of Congress.

PUBLIC SERVICE INDIANA,
Plainfield, Ind., June 29, 1981.

Congressman LEE H. HAMILTON,
House of Representatives,
Washington, D.C.

DEAR LEE: This letter is in response to your recent letter concerning the New York Times Magazine article on "Hard Times for Nuclear Power." You have raised a number of questions and I will address each one individually.

Through an industry contact we have learned that Mr. Parisi was a general assignment reporter for the New York Times covering primarily science and technology. We understand that he has since left the Times to become editor of "The Petroleum Intelligence Weekly" based in London. It seems to us that Mr. Parisi has unduly relied on Mr. Charles Komanoff. As Mr. Parisi stated in his "Hard Times . . ." article, Charles Komanoff has ". . . long campaigned against nuclear power . . . ." Mr. Komanoff was a witness of the Commonwealth of Kentucky in our hearings; his nuclear power plant predictions were rejected by the Atomic Safety and Licensing Board of the NRC as imprecise and, therefore, misleading. The ASLB also pointed out numerous, very serious errors in his methodology based on oppos-

ing testimony and cross-examination of Mr. Komanoff.

1. Mr. Parisi states that "nuclear power is shrinking in this country . . . under its own economic weight." He attributes the industry's financial plight to a slackening in demand for electricity in the face of higher prices for fuel. In your opinion, what does the slack demand (high price) referred to by Mr. Parisi mean for the industry in the short run? In the long run?

There is no question that the growth rate of electric energy demands, which was increasing in the 7-10% range prior to 1973, has slowed since that time. Electric energy demand forecasts for the 1980s and 1990s cover a wide range, but I believe that the consensus would be in the 2-5% range; the Sun Belt States are growing at a faster rate.

There are many reasons for this decrease in the demand growth rates—price, conservation and a growing awareness of scarcity of certain fuels. Probably first and foremost, however, is the increase in the price of all forms of energy, particularly oil and gasoline. Coupled with other aspects of inflation, most American families must control more closely the dollars they spend for all items, including energy.

In the short run, slack demand means that present generating facilities and those under construction will be able to serve the slower growth for a longer period of time. However, according to the 1980 U.S. Census, population in the Company's service area grew at a rate nearly double that of the rest of the State since 1970. Therefore, with such population growth, and the resulting need for jobs, electric energy demand in our service area will grow, and such demand will exceed present generating capacity.

Another factor that must also be considered is the need to replace older and aging capacity. I believe the industry, as well as Public Service Indiana, has older capacity which in noninflationary periods would be considered uneconomic. However, with the very rapidly escalating costs of new generating capacity, these older units become economic, but for all the wrong reasons. In spite of efforts to maintain these generating stations, they, like other machines, whether it be aircraft, ships, steel mills or automobiles, do not have a perpetual life, nor can they serve as reliable "base-load" capacity in the latter years of their lives. Such older plants are also subject to derating or closure due to environmental or other regulatory restrictions.

In summary, over the long run, we will need capacity both to serve increased electric energy demands and to replace older and uneconomic equipment.

2. Mr. Parisi claims that existing nuclear facilities save consumers money that they would otherwise have to spend to buy coal or oil. He adds, however, that nuclear facilities ordered today would not achieve such savings. Do you agree or disagree with the general point? What are your reasons? What is the case with regard to Marble Hill?

We agree that present nuclear facilities are very cost-effective compared with coal and oil. Just to cite one example, Commonwealth Edison has reported a cost advantage of up to 60 percent for its large nuclear units as compared to large fossil units in operation on its system.

There have been a number of recent studies, by well-known engineering firms, of comparative economics of coal vs. nuclear in the 1980's and 1990's which generally show that nuclear is cheaper than coal. Obviously, the assumptions as to capital and fuel costs, escalation rates and inflation will influence such estimates; however, it is my belief, based on these studies, that nuclear will continue to remain more economical than coal.

While we have not had an opportunity to study the report, a recent American Nuclear Society study for units going into service now through 1999 showed a nuclear advantage of 40%. Our own studies, which reflect the revised costs of Marble Hill, show that coal-fired generation costs for units built in the same time-frame would be at least 25% greater than Marble Hill generation costs. Nuclear units are not being ordered today because of the many political and regulatory uncertainties, not simply because of economics.

3. Because of "slipping economic growth" and "the consumer's decision to shun high-priced energy . . . most utilities today have far more generating capacity on hand than they need," according to Mr. Parisi. Is this an accurate assessment of the situation nationwide? What is the situation in Indiana?

We agree that slower rates of load growth in the past years have increased generating reserve margins above the established norms of the past. Due to the 10-15 year leadtime required to plan and construct new generating facilities, most capacity additions through the mid-1980s were initiated prior to 1973 when demand growth rates were running 7-10% per year. Because of lower demand growth, many companies have been able to defer or cancel new generating units.

In order to take advantage of the more efficient, larger scale units, temporarily large margins will result due to adding newly constructed units to an individual system. Even though the consumer will temporarily pay for capacity reserves above normal requirements until such "excess" capacity has been utilized, over the long run we believe he will receive substantial benefits because the cost of service used for establishing his rates will reflect the embedded costs of the 1970s and early 1980s.

As I indicated in the answer to Question 1, future load growth and the retirement of aging plants will utilize any over-capacity. A recent DOE report dated May, 1981 ("Estimated Electric Demand and Supply for Summer 1981—Contiguous United States") suggests that reserve margins in six electric regions could drop to levels considered inadequate to provide customers with reliable service if this summer's projected demands are reached. In the longer term, the Edison Electric Institute's and the Electrical Power Research Institute's forecasts, based on extensive research, are predicting a national generating capacity shortfall by the year 2000.

In our own case, capacity reserves will range from 20 percent plus to a temporary high of 40-50 percent immediately following the addition of large new generating units to our system; obviously, as our load increases, these percentages will decline. This is the best economic alternative for the consumer because deferral would add substantial costs for the future.

I do not have at hand the data for the balance of Indiana. However, Indianapolis Power & Light Company has deferred a unit to late 1985 indicating sufficient capacity up to that date; their next capacity is scheduled for 1990. Northern Indiana Public Service Company is building two coal-fired units scheduled for 1983 and 1985; Hoosier Energy's Merom plant will add about 1,000 MW of capacity in 1981 and 1982; and Indiana & Michigan Electric Company is building two units at their Rockport plant for service in the mid-1980s. Overall, I believe that Indiana will have sufficient capacity to supply its electric needs for the 1980s if the above units are completed on schedule.

4. According to Mr. Parisi, analysts on Wall Street are beginning to take a dim view of nuclear facilities, calling them "an unattractive financial proposition" and "too expensive to build . . . to compensate investors adequately." How widespread are such views among analysts and investors? Does your experience lead you to believe that analysts and investors should be skeptical about nuclear power? What does such skepticism mean for the future of the industry?

It is my impression and belief that the general attitude of analysts is not one of skepticism toward nuclear power itself, but rather the various financial and regulatory uncertainties in connection with any large construction progam. Briefly, I believe their concerns are as follows:

a. Escalating costs.

b. Lengthy construction period.

c. Unprecedented interest rate levels.

d. Necessity to sell large amounts of common stock below book value.

e. High percentage of earnings available for common equity represented by the Allowance For Funds Used During Construction. Since this is largely noncash, cash earnings are not available to support construction work in progress.

f. Adequate rate relief on a timely basis to provide not only for recovery of increasing expense levels but also for adequate earnings on common equity, which will attract new capital.

g. Potential disallowance of so-called "excess" generating capacity.

These concerns are generally applicable to any utility with a large construction budget, not just those building nuclear plants.

Investors, of course, are looking at alternative investment opportunities and analysts reflect this viewpoint. Because of the factors above, the electric industry no longer commands the attention of the investment community as in the period prior to 1973, while the electric industry has generally been able to finance its needs, it has done so at ever increasing costs.

I believe that the present skepticism will continue until a number of steps are taken to reverse the concerns or perceptions I have listed above.

5. On another question of finance, Mr. Parisi notes that "more than one power company now finds itself in a critical financial squeeze because of nuclear projects that have proved much more expensive than anyone had expected." Is this so? How far over initial estimates of cost is Marble Hill? What effect have overruns in cost and delays in construction at Marble Hill had on the financial condition of your company?

There is probably no question that a number of companies, due to reduced load growth, increases in costs of nuclear capacity, inadequate rate relief and/or other factors, have had to curtail or defer nuclear capacity as well as coal-fired capacity.

The initial Marble Hill estimates (for 2-1150 MW units) in August, 1974 was $1.2 billion and was subsequently increased to $1.9 billion in 1977. As you are aware, a new cost estimate of $3.4 billion was released in 1980. There are many reasons for this increase, but the principal reasons are a lengthened construction period, increased complexity of design, higher interest rates and higher levels of escalation reflecting the continuing

impact of inflation. In general, I believe it is fair to say that our experience of cost increases is generally similar to other companies building nuclear capacity in the same time-frame.

The lengthened construction period and increase in cost of Marble Hill will reduce the ultimate benefits to the consumer, but nuclear still remains the economic choice.

During the construction period when substantial amounts of outside capital will be required, it is essential that rate regulators be responsive to the Company's needs in order to maintain earnings levels sufficient to attract new capital at the most favorable rates.

The same concerns expressed in response to Question 4 also apply to Public Service Indiana. But none of them change the fact that nuclear generation is still the best economic alternative.

6. Mr. Parisi acknowledges that federal regulations have hit the industry hard. He then cites a study which concludes that there will be more, not less, regulation in the years ahead. To your way of thinking, how much of the industry's problem is due to unwarranted regulation? Is it your feeling that the conclusion of the above-mentioned study is correct? Are you making plans in the belief that even tougher standards will eventually be prescribed for Marble Hill?

This is a difficult question to answer. There is no question that the Three Mile Island accident focused unprecedented attention on safety; this focus will continue. Even though the expense of implementing such measures may be substantial, I have confidence that the economic advantages of nuclear power will still produce the most economical electric service for the ultimate consumer of the options available today.

However, we believe that the benefits of such additional expenses must be clearly weighed against the costs of producing such benefits. Going beyond this point does approach, in my opinion, unwarranted regulation. Such "unwarranted" regulation also takes other forms such as lengthy time periods for licensing reviews and the allowance of intervention on issues which have been addressed repeatedly by the NRC.

Tougher standards have already been mandated for the entire nuclear industry and these standards will be applicable to Marble Hill. Because of the present stage of construction of Marble Hill, we believe that we can incorporate these standards on a cost-effective basis prior to its operation.

As to the conclusions of the study to which Mr. Parisi made reference, there is serious doubt as to the validity of these conclusions.

7. According to Mr. Parisi, the "number of new safety problems being detected each year isn't falling, it's climbing—steeply." Is it your impression that he is correct? If so, how would you account for the trend? How would it be perceived by the public?

It would be our general impression that the number of new safety problems is not climbing steeply. There has, of course, been an increased level of investigations following the TMI accident and the media coverage has been extensive. However, to my knowledge, there have been few, if any, "new" safety issues raised—only refinements and precautions to preserve the safety record of nuclear power.

A tremendous amount of time and effort is being expended by the electric industry, nuclear equipment manufacturers and the Nuclear Regulatory Commission in addressing safety matters. We believe that the public would perceive these efforts as positive.

8. According to Mr. Parisi, groups of citizens who oppose nuclear power have caused companies like yours to incur only minimal additional expense. Do you agree or disagree with the general point? Have you tried to determine how much such groups have cost your company?

The cost of intervention or opposition, whether it be against nuclear power, a rate case or an environmental issue, is difficult to isolate. We have not attempted to segregate such costs relative to Marble Hill.

While such costs may not be significant during the early stages of construction, they are substantial when a unit is nearly completed and awaiting an operating license. As I pointed out in my letter to you, dated May 22, 1981, concerning proposed legislation dealing with such delays (HR 2330 and SB 1207), a Senate Committee Report accompanying SB 1207 found that just the replacement power alone for the 13 plants awaiting permission to commence operations was costing ratepayers tens of millions of dollars a month for each plant.

9. In commenting on the relationship between regulation and economic health in the industry, Mr. Parisi suggests that "even the ministrations of a sympathetic White House are unlikely to cure nuclear's malaise." He then makes the striking claim that "nothing short of a wholesale dismissal of the nuclear community's own safety policies would make a fundamental difference in the economics of nuclear power." What do you think of this point of view?

Mr. Parisi's conclusion is not well founded. It is absurd to even consider the dismissal of safety policies as an economic solution. While increased emphasis on safety has contribued to cost increases, certain of the safety design changes can be incorporated during construction. Others may require retrofitting but will not significantly alter the economics of nuclear generation. As mentioned in response to Question 6, the cost advantages of nuclear power are such that substantial additional dollars can be expended on safety hardware and still be the most economical method of producing electrical power.

A more significant factor is time—construction and licensing time. Substantial costs are added unnecessarily to nuclear projects by the undue lengthy regulatory process. By implementing reasonable timeframes for hearings and the issuance of construction and operating licenses, a significant reduction in total project cost can be achieved without any sacrifices, especially in safety. This recommendation was discussed in detail in my letter to you of May 22, 1981. This would be a major factor in improving the industry's financial health and result in significant savings to the consumer.

10. Mr. Parisi reports that among utilities there may now be more interest in coal-fired plants than in nuclear facilities. As concerns cost, he says that "virtually all the analyses show an unmistakable trend toward coal." Do you sense a growing interest in coal among your colleagues? Is coal in fact overtaking, or has it already overtaken, uranium as a less costly source of electricity? Has any thought been given to the building of a coal-fired plant in place of Marble Hill?

In light of all the political and regulatory uncertainties relative to nuclear power today, there is no question that the current trend is clearly toward coal, but not for economic reasons. Studies of comparative economics differ from system to system and depend on the replaced fuels, but typically, replacement fuel costs will be from three to six or eight times higher than uranium on a levelized basis.

When such uncertainties are resolved, and they must be resolved, I firmly believe that nuclear power, together with coal, will provide the energy base for our nation.

The question of replacing Marble Hill with a coal plant has been reviewed on several occasions. All of our studies have shown that it would be uneconomical to do so since the only major portions of the plant that could be utilized in connection with a coal-fired plant would be the cooling towers, the substation and the related transmission facilities. Not only would the consumer pay for a higher overall unit cost of electricity produced by coal, but he would also be required to pay for the investment we presently have in Marble Hill.

I hope that I have been reponsive to your questions and would be pleased to answer any further questions you may have.

Sincerely,

AL BARKER.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, July 9, 1981, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 10

9:00 a.m.

Energy and Natural Resources

Public Lands and Reserved Water Subcommittee

To continue to discuss public land acquisition and alternatives.

3110 Dirksen Building

Finance

Social Security and Income Maintenance Programs Subcommittee

To continue hearings on certain financial issues relating to the social security system.

2221 Dirksen Building

9:30 a.m.
Agriculture, Nutrition, and Forestry
Foreign Agricultural Policy Subcommittee
To hold oversight hearings on titles I and II, requiring that 50 percent of the commodities shipped must be transported on American vessels, of Public Law 84-480, the Food for Peace Act.
324 Russell Building

10:00 a.m.
Appropriations
Business meeting, to consider proposed subcommittee budget ceiling allocations for fiscal year 1982, as required by section 302(b) of the Congressional Budget Act.
Room S-128, Capitol

Environment and Public Works
Business meeting, to consider S. 548 and S. 1192, bills authorizing funds for completion of Union Station, Washington, D.C., and other pending calendar business.
4200 Dirksen Building

Foreign Relations
To continue hearings on the nomination of Edward L. Rowny, of Virginia, to be Special Representative for Arms Control and Disarmament Negotiations, with the rank of Ambassador while so serving.
4221 Dirksen Building

JULY 13

9:30 a.m.
Banking, Housing, and Urban Affairs
International Finance and Monetary Policy Subcommittee
To resume joint oversight hearings with Finance's Subcommittee on International Trade, on U.S. trade policy issues.
5302 Dirksen Building

Finance
International Trade Subcommittee
To resume joint oversight hearings with Banking, Housing, and Urban Affairs' subcommittee, on U.S. trade policy issues.
5302 Dirksen Building

Finance
Savings, Pensions, and Investment Policy Subcommittee
To hold hearings on S. 1310, proposed Urban Jobs and Enterprise Zone Act.
2221 Dirksen Building

10:00 a.m.
Environment and Public Works
To resume oversight hearings on the implementation of the Clean Air Act.
4200 Dirksen Building

Judiciary
To resume hearings on monopoly and competition in the telecommunications industry.
2228 Dirksen Building

Rules and Administration
To hold hearings on the nomination of Danford L. Sawyer, Jr., of Florida, to be U.S. Public Printer.
301 Russell Building

2:00 p.m.
Foreign Relations
To hold hearings on the nomination of Vernon A. Walters, of Florida, to be Ambassador at Large.
4221 Dirksen Building

Judiciary
Separation of Powers Subcommittee
Business meeting, to resume markup of S. 158, establishing a congressional finding and declaration that human life begins at conception.
5110 Dirksen Building

3:45 p.m.
Foreign Relations
To hold hearings on the nominations of H. Monroe Browne, of California, to be Ambassador to New Zealand, and to serve concurrently as Ambassador to Western Samoa, and Richard L. Walker, of South Carolina, to be Ambassador to Korea.
4221 Dirksen Building

JULY 14

9:30 a.m.
Small Business
To hold hearings on small businesses' participation in the production element of the defense sector.
424 Russell Building

Select on Ethics
To hold hearings on matters involving Senator Williams.
6226 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on S. 1230, proposed Olympic Coin Act.
5302 Dirksen Building

Environment and Public Works
Environmental Pollution Subcommittee
Business meeting, to mark up proposed amendments to the municipal wastewater treatment construction grants program of the Clean Water Act.
4200 Dirksen Building

Judiciary
Business meeting on pending calendar business.
2228 Dirksen Building

Labor and Human Resources
Investigations and General Oversight Subcommittee
To hold oversight hearings on the activities of the Occupational Safety and Health Administration.
4232 Dirksen Building

Select on Intelligence
Closed briefing on intelligence matters.
Room S-407, Capitol

Joint Economic
To hold hearings on economic issues which will be addressed by certain Western leaders at the forthcoming Ottawa Summit.
5110 Dirksen Building

2:00 p.m.
Foreign Relations
Business meeting, to consider pending nominations and treaties.
Room S-116, Capitol

Judiciary
To hold hearings on the prospective nomination of William W. Wilkins, Jr., to be U.S. District Judge for the District of South Carolina, and the nomination of William C. Lee, to be U.S. District Judge for the Northern District of Indiana.
2228 Dirksen Building

Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

JULY 15

9:30 a.m.
Banking, Housing and Urban Affairs
Financial Institutions Subcommittee
To resume hearings on S. 1406, proposed Credit Deregulation and Availability Act, and S. 963, authorizing loans at interest rates in excess of certain State usury ceilings.
5302 Dirksen Building

Commerce, Science and Transportation
Consumer Subcommittee
To hold oversight hearings on the Federal Trade Commission's activities relating to State-regulated professionals and professional organizations.
235 Russell Building

Judiciary
Constitution Subcommittee
To hold oversight hearings on the implementation of the Freedom of Information Act, and to hold hearings on S. 1247, S. 1235, and S. 587, bills providing for the protection of certain confidential information from the disclosure requirements of the Freedom of Information Act.
2228 Dirksen Building

Small Business
Innovation and Technology Subcommittee
To resume hearings on S. 881, to stimulate technological innovation and to increase economic productivity by using businesses more effectively in Federal research and development programs.
424 Russell Building

*Veterans' Affairs
To hold oversight hearings on procedures for the adjudication of certain claims, and to hold hearings on S. 349, providing for limited judicial review of the administrative action of the Veterans' Administration, and for reasonable fees to attorneys representing legal counsel for veterans.
412 Russell Building

Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

10:00 a.m.
Energy and Natural Resources
Energy Conservation and Supply Subcommittee.
To hold hearings on S. 1166, to provide grants to States for low-income weatherization assistance programs.
3110 Dirksen Building

Environment and Public Works
To resume oversight hearings on the implementation of the Clean Air Act.
4200 Dirksen Building

Foreign Relations
East Asian and Pacific Affairs Subcommittee
To hold hearings on U.S. policy in Southeast Asia.
4221 Dirksen Building

2:00 p.m.
Foreign Relations
To hold hearings on the agreement reached by the Governments of the United States, Israel, and Egypt on the stationing of a multinational force in Sinai.
4221 Dirksen Building

Governmental Affairs
Intergovernmental Relations Subcommittee
To hold hearings on State governments' implementation of Federal standards relating to the Clean Air Act.
3302 Dirksen Building

Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

JULY 16

9:30 a.m.
Banking, Housing, and Urban Affairs
International Finance and Monetary Policy Subcommittee
To hold hearings on S. 868, proposed Competitive Export Financing Act.
5302 Dirksen Building

Energy and Natural Resources
Energy and Mineral Resources Subcommittee
To hold hearings on S. 1032, and S. 1383, bills promoting the development of oil shale resources.
3110 Dirksen Building

Finance
Savings, Pensions, and Investment Policy Subcommittee
To resume hearings on S. 1310, proposed Urban Jobs and Enterprise Zone Act.
2221 Dirksen Building

Judiciary
Constitution Subcommittee
To resume hearings on Senate Joint Resolution 41, proposed constitutional amendment prohibiting the United States or any State from making or enforcing any law which makes distinctions on account of race, color, or national origin.
2228 Dirksen Building

Small Business
Innovation and Technology Subcommittee
To continue hearings on S. 881, to stimulate technological innovation and to increase economic productivity by using businesses more effectively in Federal research and development programs.
424 Russell Building

*Veterans' Affairs
To continue oversight hearings on procedures for the adjudication of certain claims, and to hold hearings on S. 349, providing for limited judicial review of the administrative action of the Veterans' Administration, and for reasonable fees to attorneys representing legal counsel for veterans.
412 Russell Building

Select on Ethics
To continue hearings on matters involving Senator Williams
6226 Dirksen Building

10:00 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To continue oversight hearings on the Federal Trade Commission's activities relating to State-regulated professionals and professional organizations.
235 Russell Building

Environment and Public Works
Water Resources Subcommittee
To resume hearings on S. 809, providing for the recovery of certain expenditures of the U.S. Army Corps of Engineers for operation, maintenance, and construction of deep draft channels and oceans and Great Lakes ports of the United States, and amendment No. 31 thereto, authorizing a program to expedite the construction of deep-draft harbors; S. 810, prescribing a system of user fees to be levied on commercial transportation on the inland waterway projects, and amendment No. 32 thereto, expediting the construction of inland waterway projects, and assuring that the users of such projects repay a fair percentage of the costs of such works; and related measures, including S. 68, S. 202, S. 576, S. 828, and S. 1094.
4200 Dirksen Building

Foreign Relations
To hold hearings on the nominations of Davis R. Robinson, of the District of Columbia, to be Legal Adviser of the Department of State, Dean E. Fischer, of Virginia, to be Assistant Secretary of State for Public Affairs, Joan M. Clark, of New York, to be Director General, U.S. Foreign Service, and Gilbert A. Robinson, of New York, to be Deputy Director of the International Communication Agency.
4221 Dirksen Building

Select on Indian Affairs
Business meeting, to further discuss S. 1088, promoting the goal of economic and social self-sufficiency for American Indians, Hawaiian Natives, and Alaskan Natives, and to discuss a proposed committee report on the adequacy of Federal supervision and monitoring of oil theft on Indian and Federal lease lands.
1224 Dirksen Building

Joint Economic
To resume hearings on economic issues which will be addressed by certain Western leaders at the forthcoming Ottawa Summit.
2128 Rayburn Building

2:00 p.m.
Environment and Public Works
Regional and Community Development Subcommittee
To hold oversight hearings on the implementation of the Disaster Relief Act, and to hold hearings on proposed legislation authorizing funds for disaster relief programs.
4200 Dirksen Building

Labor and Human Resources
To hold hearings on the scope of preventive health programs.
4232 Dirksen Building

Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

JULY 17

9:30 a.m.
Labor and Human Resources
To continue hearings on the scope of preventive health programs
4232 Dirksen Building

Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

10:00 a.m.
Environment and Public Works
Business meeting, to resume consideration of S. 548 and S. 1192, bills authorizing funds for completion of Union Station, Washington, D.C., and other pending calendar business.
4200 Dirksen Building

Foreign Relations
To hold hearings on the nomination of Richard T. Kennedy, of the District of Columbia, to be U.S. Representative to the International Atomic Energy Agency, with the rank of Ambassador.
4221 Dirksen Building

Rules and Administration
Business meeting, to consider Senate Resolution 20, providing for television and radio broadcasting of Senate Chamber proceedings; S. 778, authorizing additional funds to plan for the development of the area south of the original Smithsonian Institution building (South Garden Quadrangle); the nomination of Danford L. Sawyer, Jr., of Florida, to be U.S. Public Printer, and other legislative and administrative business.
301 Russell Building

2:00 p.m.
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

JULY 20

9:30 a.m.
Labor and Human Resources
To resume oversight hearings on the activities of the Office of Federal Contract Compliance Programs of the Department of Labor, focusing on Executive Order 11246, regulations relating to affirmative action.
4232 Dirksen Building

Select on Ethics
To resume hearings on matters involving Senator Williams.
6226 Dirksen Building

2:00 p.m.
Environment and Public Works
Environmental Pollution Subcommittee
To resume oversight hearings on the implementation of Public Law 96-510, providing for the adequate and safe treatment of hazardous substances released into the environment.
4200 Dirksen Building

Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

JULY 21

9:30 a.m.
Select on Intelligence
To hold hearings on S. 1273, providing relief to the Central Intelligence Agency and other components of the intelligence community from the burden of responding to certain types of information under the provisions of the Freedom of Information Act.
3110 Dirksen Building

Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

2:00 p.m.
Environment and Public Works
Regional and Community Development Subcommittee
To resume oversight hearings on the implementation of the Disaster Relief Act, and to resume hearings on proposed legislation authorizing funds for disaster relief programs.
4200 Dirksen Building

Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

JULY 22

9:00 a.m.
*Veterans' Affairs
To hold hearings on S. 5, S. 7, S. 25, S. 26, S. 48, S. 105, S. 248, S. 417, and S. 742, bills providing educational assistance to members of the Armed Forces.
318 Russell Building

9:30 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the conduct of monetary policy.
5302 Dirksen Building

Judiciary
Constitution Subcommittee
To resume oversight hearings on the implementation of the Freedom of Information Act, and to resume hearings on S. 1247, S. 1235, and S. 587, bills providing for the protection of certain confidential information from the disclosure requirements of the Freedom of Information Act.
2228 Dirksen Building
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

10:00 a.m.
Energy and Natural Resources
Energy Conservation and Supply Subcommittee
To hold hearings on S. 506, reinstating and validating certain numbered U.S. oil and gas leases.
3110 Dirksen Building
Environment and Public Works
Business meeting, to resume consideration of S. 548 and S. 1192, bills authorizing funds for completion of Union Station, Washington, D.C., and other pending calendar business.
4200 Dirksen Building

2:00 p.m.
Environment and Public Works
Environmental Pollution Subcommittee
To hold hearings on S. 1018, providing for the protection and conservation of fish and wildlife resources.
4200 Dirksen Building
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

JULY 23

9:00 a.m.
**Veterans' Affairs
To continue hearings on S. 5, S. 7, S. 25, S. 26, S. 48, S. 105, S. 248, S. 417, and S. 742, bills providing educational assistance to members of the Armed Forces.
1202 Dirksen Building

9:30 a.m.
Judiciary
Constitution Subcommittee
To resume hearings on S. 584 and S. 585, bills creating a Federal cause of action for the violations of a person's civil rights under color of State law relating to constitutional rights or laws providing for equal rights of citizens or all persons within U.S. jurisdiction.
5110 Dirksen Building
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the conduct of monetary policy.
5302 Dirksen Building
Energy and Natural Resources
Energy and Mineral Resources Subcommittee
To hold oversight hearings on the implementation of the Federal coal leasing program.
3110 Dirksen Building

1:30 p.m.
Banking, Housing, and Urban Affairs
International Finance and Monetary Policy Subcommittee, and the Securities Subcommittee
To resume joint hearings on S. 708, clarifying the intent and modifying certain provisions of the Foreign Corrupt Practices Act of 1977.
5302 Dirksen Building

2:00 p.m.
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

JULY 24

9:30 a.m.
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

10:00 a.m.
Environmental and Public Works
Water Resources Subcommittee
To resume hearings on S. 809, providing for the recovery of certain expenditures of the U.S. Army Corps of Engineers for operation, maintenance and construction of deep-draft channels and oceans and Great Lakes ports of the U.S., and Amendment No. 31 thereto, authorizing a program to expedite the construction of deep-draft harbors; S. 810, prescribing a system of user fees to be levied on commercial transportation on the inland waterway projects, and Amendment No. 32, thereto, expediting the construction of inland waterway projects, and assuring that the users of such projects repay a fair percentage of the costs of such works; and related measures, including S. 68, S. 202, S. 576, S. 828, and S. 1094.
4200 Dirksen Building

2:00 p.m.
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

JULY 27

9:30 a.m.
Finance
International Trade Subcommittee
To hold hearings on proposed legislation extending the President's authority to waive the freedom of immigration provision of the Trade Act.
2221 Dirksen Building
Labor and Human Resources
Alcoholism and Drug Abuse Subcommittee
To hold oversight hearings on research activities of the National Institute on Alcohol Abuse and Alcoholism and the National Institute on Drug Abuse.
4232 Dirksen Building
Select on Ethics
To resume hearings on matters involving Senator Williams.
6226 Dirksen Building

10:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Research and General Research Subcommittee
To hold hearings on proposed revisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), Public Law 96-539.
324 Russell Building
Environment and Public Works
Business meeting, to resume consideration of S. 548 and S. 1192, bills authorizing funds for completion of Union Station, Washington, D.C., and other pending calendar business.
4200 Dirksen Building

2:00 p.m.
Agriculture, Nutrition, and Forestry
Agricultural Research and General Research Subcommittee
To continue hearings on proposed revisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), Public Law 96-539.
324 Russell Building
Select on Ethics
To resume hearings on matters involving Senator Williams.
6226 Dirksen Building

JULY 28

9:30 a.m.
Labor and Human Resources
Aging, Family and Human Services Subcommittee
To hold hearings on adoption services in the United States.
4232 Dirksen Building
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

2:00 p.m.
Governmental Affairs
Intergovernmental Relations Subcommittee
To hold hearings to review alternatives for delivering public services, focusing on certain private sector involvement in social services.
3302 Dirksen Building

2:00 p.m.
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

JULY 29

9.00 a.m.
Governmental Affairs
Intergovernmental Relations Subcommittee
To continue hearings to review alternatives for delivering public services, focusing on certain private sector involvement in social services.
357 Russell Building

9:30 a.m.
Labor and Human Resources
To resume oversight hearings on the activities of the Office of Federal Contract Compliance Programs of the Department of Labor, focusing on Executive Order 11246, regulations relating to affirmative action.
4232 Dirksen Building
* Veterans' Affairs
Business meeting to mark up S. 349, providing for limited judicial review of the administrative action of the Veterans' Administration, and for reasonable fees to attorneys representing legal counsel for veterans, S. 266, implementing procedures and guidelines for the interagency sharing of health resources between the Department of Defense and the Veterans' Administration, and amendment No. 62, providing for greater coordination and sharing of the medical facilities of the VA and the Department of Defense, of S. 636, proposed Veterans' Administration health care amendments.
412 Russell Building
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

10:00 a.m.
Environment and Public Works
Business meeting, to resume consideration of S. 548 and S. 1192, bills authorizing funds for completion of Union Station, Washington, D.C., and other pending calendar business.
4200 Dirksen Building
Select on Indian Affairs
To hold hearings on S. 792, establishing a National Institute of Native American Culture and Arts Development.
5110 Dirksen Building
2:00 p.m.
Governmental Affairs
Intergovernmental Relations Subcommittee
To continue hearings to review alternatives for delivering public services, focusing on certain private sector involvement in social services.
357 Russell Building
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

JULY 30

9:00 a.m.
Governmental Affairs
Intergovernmental Relations Subcommittee
To continue hearings to review alternatives for delivering public services, focusing on certain private sector involvement in social services.
3302 Dirksen Building
9:30 a.m.
Select on Indian Affairs
To hold hearings on S. 159, authorizing the exchange of certain land held by the Navajo Tribe and the Bureau of Land Management, Department of the Interior, and S. 1340, providing for the use and distribution of judgment funds awarded to the Clallam Tribe of Indians, State of Washington.
3110 Dirksen Building
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building
10:00 a.m.
Judiciary
To hold hearings on S. 326, prohibiting a refiner, other than an independent or small refiner, from operating a gas station in the United States, and making it unlawful for a supplier to practice price discrimination in the sale of motor fuel.
2228 Dirksen Building
2:00 p.m.
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

JULY 31

9:30 a.m.
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building
2:00 p.m.
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

SEPTEMBER 16

9:30 a.m.
*Veterans' Affairs
Business meeting to mark up S. 5, S. 7, S. 25, S. 26, S. 48, S. 105, S. 248, S. 417, and S. 742, bills providing educational assistance to members of the Armed Forces.
412 Russell Building

SEPTEMBER 22

10:00 a.m.
Veterans' Affairs
To hold hearings on fiscal year 1982 legislative recommendations of the American Legion.
318 Russell Building